



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes

BOARD OF ZONING APPEALS

Bobby Van Buren, Chairman
Karen Kirkpatrick, Vice Chairwoman, Ward 1
J. K. Lowman, Ward 2
Larry Zenoni, Ward 3
David Hunter, Ward 4
Ronald Clark, Ward 5
Tom Samples, Ward 7

Monday, January 27, 2020

6:00 PM

City Hall Council Chambers

Present: Bobby Van Buren, Karen Kirkpatrick, Larry Zenoni, David Hunter, Ronald Clark and Tom Samples

Absent: J. K. Lowman

Staff:

Rusty Roth, Director, Development Services

Shelby Little, Planning & Zoning Manager

Robin Osindele, Urban Planner

Gregg Litchfield, City Attorney

Ines Embler, Secretary to the Board

CALL TO ORDER:

Chairman Van Buren called the January 27, 2020 meeting of the Board of Zoning Appeals to order at 6:00 PM.

Chairman Van Buren explained the rules and procedures used in conducting the public hearings.

MINUTES:

20200032

December 16, 2019 Board of Zoning Appeals Meeting Minutes

Review and Approval of the December 16, 2019 Board of Zoning Appeals Meeting Minutes.

Ms. Kirkpatrick made a motion, seconded by Mr. Clark that the December 16, 2019 Board of Zoning Appeals meeting minutes be approved. The Motion carried 5-0-1. Mr. Samples abstained and Mr. Lowman was absent.

A motion was made by Board member Kirkpatrick, seconded by Board member Samples, that this matter be Approved and Finalized. The motion carried by the following vote:

Absent: 1

Vote For: 5

Abstain: 1

VARIANCES:

20190944 V2019-35 [VARIANCE] KORAY AGIRBAS

V2019-35 [VARIANCE] KORAY AGIRBAS is requesting a variance for property zoned CRC (Community Retail Commercial), located in Land Lot 1162, District 16, Parcel 1370, 2nd Section, Marietta, Cobb County, Georgia, and being known as 230 North Fairground Street. Variance to reduce the required minimum lot size of 1.46 acres to 1.23 acres to operate automobile sales and other businesses. Ward 1A.

A public meeting was held.

Mr. Agirbas presented a request for a variance to reduce the required minimum lot size of 1.46 acres to 1.23 acres to operate automobile sales and other businesses.

There was no opposition to this request.

The Board Members asked what the scope of work is and whether there would be any paint and body work done. Mr. Agirbas said they sell cars and some require mechanic work and they fix customer cars. He said it would not be used for any type of paint or body work.

Chairman Van Buren asked if he saw the City's recommendations in their report. Mr. Agirbas said he did and that almost all has been corrected.

Ms. Kirkpatrick asked if he ever leased the property and perhaps a tenant caused all those violations. Mr. Agirbas said he's never rented the property out.

The Board Members asked if they have spoken with the Fire Department; how long have they been doing mechanical work on the premises and status of the tires. Mr. Agirbas said they have spoken with the Fire Department and that they have made all of the corrections; they have been doing mechanical work for three years and all of the tires are now gone.

The public hearing was closed.

A motion was made by Ms. Kirkpatrick to deny this application. It was seconded by Mr. Samples. The Motion carried 4-2-0. Chairman Van Buren and Mr. Hunter opposed.

A motion was made by Board member Kirkpatrick, seconded by Board member Samples, that this matter be Approved and Finalized. The motion carried by the following vote:

- Absent: 1
- Vote For: 4
- Vote Against: 2

20191148 V2020-02 [VARIANCE] TERRY & CHRISTY KEMP

V2020-02 [VARIANCE] TERRY & CHRISTY KEMP are requesting variances for property zoned R-3 (Single Family Residential - 3 units/acre), located in Land Lot 1088, District 16, Parcel 0740, 2nd Section, Marietta, Cobb County, Georgia, and being known as 198 Chicopee Drive. Variance to reduce the front yard setback from 30 feet to 26 feet; variance to reduce the rear yard setback from 30 feet to 23 feet; variance to allow accessory structures closer to the right-of-way than the principal structure as shown on submitted plan. Ward 4B.

A public meeting was held.

Mr. Kemp presented a request for a variance to reduce the front yard setback from 30 feet to 26 feet; variance to reduce the rear yard setback from 30 feet to 23 feet; variance to allow accessory structures closer to the right-of-way than the principal structure as shown on submitted plan.

There was no opposition to this request.

Ms. Kirkpatrick asked if the request for variance #2 to reduce the rear yard setback from 30' to 23' was for the existing structure and Mr. Kemp affirmed.

The public hearing was closed.

A motion was made by Mr. Hunter to approve this application on the basis that it would not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare. It was seconded by Ms. Kirkpatrick. The Motion carried 6-0-0.

Variances approved:

- 1. Variance to reduce the front yard setback from 30 feet to 26 feet. [§708.03 (H)]*
- 2. Variance to reduce the rear yard setback from 30 feet to 23 feet. [§708.03 (H)]*
- 3. Variance to allow accessory structures closer to the right-of-way than the principal structure as shown on submitted plan. [§708.03 (F.1)]*

A motion was made by Board member Hunter, seconded by Board member Kirkpatrick, that this matter be Approved and Finalized. The motion carried by the following vote:

- Absent: 1
- Vote For: 6

20191162

V2020-03 [VARIANCE] TIDAL WAVE (TRACEY DIEHL)

V2020-03 [VARIANCE] TIDAL WAVE (TRACEY DIEHL) are requesting variances for property zoned CRC (Community Retail Commercial), located in Land Lot 7, District 17, Parcel 0390, 2nd Section, Marietta, Cobb County, Georgia, and being known as 1255 Powder Springs Street. Variance to allow a digital sign within 200 feet of a residential property line; variance to allow a digital sign to be placed above the static copy area. Ward 2B.

A public meeting was held.

Ms. Diehl presented a request for a variance to allow a digital sign within 200 feet of a residential property line; variance to allow a digital sign to be placed above the static copy area.

There was no opposition to this request.

Chairman Van Buren asked for affirmation that they would be agreeable to placing the digital sign below the static sign as per City Ordinance; what the hours of operation are and if the digital display would be flashing or static. Ms. Diehl affirmed agreement to placing the digital sign below the static sign and said they would comply with whatever the Ordinance allows; the hours of operation are 8:00AM to 8:00PM.

Ms. Little stated that City Ordinance allows for a digital display message to change every 20 seconds.

The public hearing was closed.

A motion was made by Mr. Zenoni to approve this application as stipulated on the basis that it would not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare. It was seconded by Mr. Hunter. The Motion carried 6-0-0.

Variances approved:

- 1. Variance to allow a digital sign within 200 feet of a residential property line [§714.04 (F.4)]*
- 2. Variance to allow a digital sign to be placed above the static copy area [§714.04 (F.4)]*

Stipulations:

- 1. Digital sign will be placed below the static sign as per City Ordinance.*
- 2. Digital sign to be dimmed from 9:00PM to 8:00AM.*

A motion was made by Board member Zenoni, seconded by Board member Hunter, that this matter be Approved as Stipulated. The motion carried by the following vote:

Absent: 1

Vote For: 6

20191163

V2020-04 [VARIANCE] PAMELA & DAVID WILLEY

V2020-04 [VARIANCE] PAMELA & DAVID WILLEY are requesting variances for property zoned R-4 (Single Family Residential - 4 units/acre), located in Land Lot 1157, District 16, Parcel 0850, 2nd Section, Marietta, Cobb County, Georgia, and being known as 273 Camp Street. Variance to reduce the side yard setback from 10 feet to 4 feet; variance to reduce front yard setback from 25 feet to 24 feet for the existing structure; variance to allow an accessory structure remain within 10 feet of the rear property line. Ward 4A.

A public meeting was held.

Mr. & Mrs. Willey presented a request for a variance to reduce the side yard setback from 10 feet to 4 feet; variance to reduce front yard setback from 25 feet to 24 feet for the existing structure; variance to allow an accessory structure remain within 10 feet of the rear property line.

There was no opposition to this request.

Mr. Willey passed out three emails from adjoining neighbors in support. The neighbors are on either side and across the street.

There were no questions from the Board Members.

The public hearing was closed.

A motion was made by Mr. Hunter to approve this application on the basis that it would not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare. It was seconded by Ms. Kirkpatrick.

The Motion carried 6-0-0.

Variances approved:

- 1. Variance to reduce the southern side yard setback from ten (10) feet to four (4) feet for the expansion of an existing structure [§708.04 (H)]*
- 2. Variance to reduce front yard setback from twenty-five (25) feet to twenty-four (24) feet for an existing structure [§708.04 (H)]*
- 3. Variance to allow an accessory structure (framed shed) to remain within ten (10) feet of the rear property line [§708.04 (F.1)]*

A motion was made by Board member Hunter, seconded by Board member Kirkpatrick, that this matter be Approved and Finalized. The motion carried by the following vote:

Absent: 1

Vote For: 6

20191165

V2020-05 [VARIANCE] JIMMY D. & KATE R. BERRY (DAVID MEYER)

V2020-05 [VARIANCE] JIMMY D. & KATE R. BERRY (DAVID MEYER) are requesting variances for property zoned R-3 (Single Family Residential - 3 units/acre), located in Land Lot 1148, District 16, Parcel 0110, 2nd Section, Marietta, Cobb County, Georgia, and being known as 160 Stewart Avenue. Variance to reduce the rear yard setback from 30' to 15'; variance to reduce the major side yard setback from 25' to 6'; variance to reduce the minimum lot size from 10,000 square feet to 9,148 square feet; variance to reduce the minimum lot width from 85' to 81.' Ward 4A.

A public meeting was held.

Mr. Meyer presented a request for a variance to reduce the rear yard setback from 30' to 15'; variance to reduce the major side yard setback from 25' to 6'; variance to reduce the minimum lot size from 10,000 square feet to 9,148 square feet; variance to reduce the minimum lot width from 85' to 81.'

There was one in support and no one in opposition to this request. Ms. Brenda Sulmonetti spoke in support.

Mr. Meyer passed out pictures of the concept of what they are trying to build. He said it is actually a carport and not an enclosed garage. He explained that they took measurements on site and that for variance #2 the reduction of the major side yard setback is actually from 25' to 7' instead of 6'.

Ms. Little asked if they are building any wall in the carport and Mr. Meyer said there would be one wall against the house.

Chairman Van Buren asked if he read the City's recommendation in their report and he said he did but he feels pretty confident that it's unlikely that the City would expand the road as this is a local road that only services those houses. He also said the Berry's have no intention of regularly parking cars there.

Ms. Sulmonetti spoke in support stating that she is the neighbor that would be most impacted and she is in full support even with the requested setbacks.

The public hearing was closed.

A motion was made by Mr. Hunter to approve this application with a change to variance #2 to reduce the major side yard setback from 25' to 7' rather than 6' on the basis that it would not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare. It was seconded by Mr. Zenoni. The Motion carried 6-0-0.

Variances approved:

- 1. Variance to reduce the rear yard setback from 30' to 15.' [§708.03 H.]*
- 2. Variance to reduce the major side yard setback from 25' to 7.' [§708.03 H.]*
- 3. Variance to reduce the minimum lot size from 10,000 square feet to 9,148 square feet. [§708.03 H.]*
- 4. Variance to reduce the minimum lot width from 85' to 81.' [§708.03 H.]*

A motion was made by Board member Hunter, seconded by Board member Zenoni, that this matter be Approved and Finalized. The motion carried by the

following vote:

Absent: 1

Vote For: 6

20191201 V2020-08 [VARIANCE] EUGENIA K RICKS

V2020-08 [VARIANCE] EUGENIA K RICKS is requesting variances for property zoned CRC (Community Retail Commercial), located in Land Lot 504, District 17, Parcel 0400, 2nd Section, Marietta, Cobb County, Georgia, and being known as 336 Martin Court. Variance to allow the expansion of a nonconforming use and building; variance to reduce the side yard setback from 7.5' to 5' for an unenclosed projection. Ward 1A.

A public meeting was held.

Ms. Ricks presented a request for a variance to allow the expansion of a nonconforming use and building; variance to reduce the side yard setback from 7.5' to 5' for an unenclosed projection.

There was no opposition to this request.

Chairman Van Buren asked if there was a carport already there that was built without a permit and if they are remaining as CRC or applying to rezone to residential.

Ms. Ricks said she is going to rezone but would like approval tonight of the carport that's there. She said the tenant built it and he didn't know he needed a permit.

The public hearing was closed.

A motion was made by Chairman Van Buren to approve this application as stipulated on the basis that it would not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare. It was seconded by Mr. Hunter. The Motion carried 6-0-0.

Variances approved:

- 1. Variance to allow the expansion of a nonconforming use and building. [§706.02 (C.) & §706.03 (A.)]*
- 2. Variance to reduce the side yard setback from 7.5' to 5' for an unenclosed projection. [§708.16 (H) & 710.14 (A.)]*

Stipulation:

- 1. Variance #1 to allow the expansion of a nonconforming use and building only applies to the new shed roof and any future expansion will require a separate variance application.*

A motion was made by Board member Van Buren, seconded by Board member Hunter, that this matter be Approved as Stipulated. The motion carried by the following vote:

Absent: 1

Vote For: 6

ADJOURNMENT:

The January 27, 2020 meeting of the Board of Zoning Appeals was adjourned at 6:58PM

BOBBY VAN BUREN, CHAIRMAN

INES EMBLER, SECRETARY