



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes

BOARD OF ZONING APPEALS

Bobby Van Buren, Chairman
Rosser Southerland, Ward 1
J. K. Lowman, Ward 2
Mark Maloney, Ward 3
David Hunter, Ward 4
Juanita Carmichael, Ward 5
Donald Barth, Ward 7

Monday, March 27, 2023

6:00 PM

City Hall Council Chambers

Present: Bobby Van Buren, Rosser Southerland, Mark Maloney, David Hunter, Donald Barth

Absent: Juanita Carmichael

Staff: Rusty Roth, Director, Department of Development Services;
Shelby Little, Planning and Zoning Manager;
Lisa Rajabnik, Planning and Zoning Coordinator
Greg Litchfield, City Attorney

CALL TO ORDER:

Chairman Van Buren called the Monday, March 27, 2023, Board of Zoning Appeals Regular Meeting to order at 6:00PM.

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

MINUTES:

20230265 Monday, February 27, 2023 Board of Zoning Appeals Work Session and Regular Meeting Minutes

Approval of the February 27, 2023, Board of Zoning Appeals Work Session, and Meeting Minutes.

Mr. Hunter made a motion, seconded by Mr. Southerland, to approve the February 27, 2023, Work Session, and Regular Meeting Minutes. The motion carried with a vote of 5-0-0.

Approved and Finalized**VARIANCES:****20230183 V2023-03 [VARIANCE] STEPHEN M. MCCUNE**

V2023-03 [VARIANCE] STEPHEN M. MCCUNE is requesting variances for property zoned R-2 (Single-Family Residential - 2 units/acre) located in Land Lot 1293, District 16, Parcel 0070, 2nd Section, Marietta, Cobb County, Georgia, and being known as 332 North Woodland Drive. Variance to reduce the minimum side yard setback for an accessory structure from 10 ft. to 5 ft.; variance to reduce the minimum rear yard setback for an accessory structure from 20 ft. to 5 ft.; variance to allow an accessory structure to exceed the height of the principal structure. Ward 3A.

Ms. Little presented case V2023-03.

A public hearing was held.

Mr. Stephen McCune represented the request.

Mr. McCune explained that he was nearing retirement and wished to build a detached garage/storage building on his property to keep his classic car and provide additional household storage. The location of the building has been determined by creek and floodplain constraints. The appearance and design of the building is cohesive with the house and the size of the building is for the purpose of providing a functional workspace. The building is not designed for accommodations. Mr. McCune explained that activities on site would not include automobile painting, body repair or engine repair. The vehicle which he owns has been professionally restored off site. He wishes to enjoy 'tinkering' and maintaining the vehicle in the workshop.

Several individuals presented in opposition.

Ms. Marla Blackstone (co-owner 354 N. Woodland Drive) asked for those in opposition to stand. Approximately 10 individuals stood, and Ms. Blackstone indicated they were all Ward 3 residents. Continuing, Ms. Blackstone stated concerns for 'potential noxious odors and jarring noises' from automobile restoration activities. She stated if the variances were approved for this residence, there would be no grounds for denying other such requests resulting in property devaluation. Ms. Blackstone introduced Paul Southern, Paul Stewart, Marta Stewart, Wayne Blackstone.

Wayne Blackstone (co-owner 354 N. Woodland Drive) stated that car restoration was not a hardship and did not meet the criteria for allowing variances. Mr. Blackstone stated that the proposed building would be 30 ft from his bedroom window and if he had known of Mr. McCune's proposal,

would not have recently purchased the property.

Paul Stewart (Real Estate Broker) said the proposed building would cause a 15% to 25% decrease in property values.

Mr. Van Buren asked Mr. Stewart to explain how property value would be affected.

Mr. Stewart responded that allowing the building to be built and used as an auto body shop could potentially turn into a motor bike repair shop in the future if the property was to be sold. He also stated that noise disturbance would negatively affect the value of the neighboring property as the building was proposed to be 30ft from the bedroom window.

Ms. Marta Stewart (Real Estate Broker) suggested that Mr. McCune's activities in the shop at undesirable hours would disturb the Blackstones because of the proximity to their bedroom window. She continued, in her experience, front entrance garages were not appealing to potential buyers and the value of the property would be negatively affected.

Mr. McCune returned to the podium to respond to the opposition. He stated that he was disturbed by the method in which his new neighbors choose to handle the opposition. As a longtime resident, he said he could have taken the opportunity to bring supporters who lived in the neighborhood.

Mr. Maloney stated that he intended to make a motion designed around compromise which may not appeal to both sides. He suggested to all present that there was opportunity for the applicant and neighbors to discuss the plan with each other to see if a resolution could be reached.

Mr. Van Buren offered the option to table or to request the Board vote and explained the process for each.

Mr. McCune stated he would offer open negotiation and compromise to try to resolve concerns with Mr. & Mrs. Blackstone if they so desired.

The Blackstone's stated their preference was to have the Board proceed with a vote on the matter.

The public hearing was closed.

Mr. Maloney made a motion, seconded by Mr. Van Buren, to deny Variance #1, approve as amended Variance #2, and to approve as submitted Variance #3, on the grounds that granting the application is necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship. The vote carried 5-0-0.

Variance denied:

- 1) Variance to reduce the minimum side yard setback for an accessory structure from 10 ft. to 5 ft. [708.02 (F.1)]*

Variance approved as amended:

- 2) Variance to reduce the minimum rear yard setback for an accessory structure from 20 ft. to 10 ft. [708.02 (F.4)]*

Variance approved as submitted:

- 3) Variance to allow an accessory structure to exceed the height of the principal structure. [708.02 (F.5)]*

Approved as Amended

Absent: 2
Vote For: 5

20230186

V2023-04 [VARIANCE] MARBLE MILL PROPERTIES, LLC.

V2023-04 [VARIANCE] MARBLE MILL PROPERTIES, LLC. is requesting variances for property zoned HI (Heavy Industrial) located in Land Lot 1003, District 16, Parcel 0280, 2nd Section, Marietta, Cobb County, Georgia, and being known as 145 Marble Mill Road. Variance to reduce the side yard setback from 20' to 15'; variance to reduce the rear yard setback from 40' to 15'; variance to reduce the minimum lot size from 40,000 sq. ft. to 19,900 sq. ft. for the existing property; variance to allow gravel as an acceptable parking and driving surface; variance to reduce required minimum parking spaces from 5 to 3. Ward 5B

Ms. Little presented case V2023 04.

A public hearing was held.

Mr. Adam Rozen, PC represented Marble Mill Properties, LLC. He explained the details of the plan and referred to changes made in the stipulation letter and revised site plan dated March 27, 2023. He explained that the variance to reduce the required minimum parking spaces was no longer required as the minimum requirement had been met with the revised plan. He also noted that two (2) items had been added to the plan as stipulations. A minimum 6' opaque, privacy fence and a screen of evergreen landscaping along designated boundary lines to be included.

There was opposition to the request.

Mr. Philip Starkweather (owner, 143 Marble Mill Road) in opposition to all requested variances for the property. Mr. Starkweather explained that he and his wife had resided on Marble Mill Road for over 30 years. They have witnessed and contributed to improvements to the area. Over the years the character of the area has predominantly gravitated towards residential and medical offices. He believes the proposed building would have a negative effect on property values as it is too large for the lot and uncharacteristic with surroundings.

Ms. Susan Clark (majority property owner) owns 6 of the homes located on Marble Mill Road. She is in opposition to the proposed building because the road is predominantly residential and medical offices. Ms. Clark is concerned the building is too large for the property. She believes the applicant is misrepresenting the area and disregarding the community which has grown over the years.

Ms. Vicky Starkweather (owner, 143 Marble Mill Road) is in opposition to the building plan as she feels the plan does not conform to the area usage. Understanding the area is zoned HI, Ms. Starkweather requests the Board consider the actual use of the neighboring properties and not approve the requested variances.

Mr. Rozen returned to the podium to respond to the opposition. He stated that consideration for the area use was incorporated in the plans and, beyond HI zoning requirements, includes enhanced landscape screening and privacy fencing. Mr. Rozen continued that HI zoning in the City had to be preserved and with consideration for the specifics of the property the proposed development would be conducive and appropriate.

The public hearing was closed.

Mr. Barth made a motion to approve as stipulated, seconded by Mr. Hunter, on the grounds that granting the application is necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship. The vote carried 4-1-0. Mr. Van Buren opposed.

Variances approved as submitted:

- 1) *Variance to reduce the side yard setback from 20' to 15'. [§708.27 (H)]*
- 2) *Variance to reduce the rear yard setback from 40' to 15'. [§708.27 (H)]*
- 3) *Variance to reduce the minimum lot size from 40,000 sq. ft. to 19,900 sq. ft. for the existing property. [§708.27 (H)]*

Variance amended and approved:

- 4) *Variance to allow gravel as an acceptable parking and driving surface in the area specified on revised site plan included with stipulation letter from Adam Rozen, PC., dated March 27, 2023 to Sarah Ciccone, City of Marietta Planning & Zoning Administrator. [§708.27 (H)]*

Variance withdrawn by applicant:

- 5) *Variance to reduce required minimum parking spaces from 5 to 3. [§716.07 (E)]*

Stipulations:

1. *Stipulation letter from Adam Rozen, PC. to Sarah Ciccone, City of Marietta Planning and Zoning Administrator dated March 27, 2023.*
 - i) *Stipulation #4 to be revised from 'opaque privacy fence' to 'solid wood paneled privacy fence'.*

OTHER BUSINESS:**ADJOURNMENT:**

*The Monday, March 27, 2023,
Board of Zoning Appeals meeting adjourned at 7:34PM.*



Bobby Van Buren
BOBBY VAN BUREN, CHAIRMAN



Lisa H. Rajabnik
LISA H. RAJABNIK, SECRETARY