



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes

BOARD OF ZONING APPEALS

Bobby Van Buren, Chairman
David Hunter, Vice Chairman, Ward 4
Craig Smith, Ward 1
J. K. Lowman, Ward 2
Larry Zenoni, Ward 3
Juanita Carmichael, Ward 5
Cecedrick Lockett, Ward 7

Monday, April 26, 2021

6:00 PM

City Hall Council Chambers

Present: Bobby Van Buren, David Hunter, J. K. Lowman, Larry Zenoni, Juanita Carmichael and Cecedrick Lockett

Absent: Craig Smith

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 April 26, 2021 meeting of the Board of Zoning Appeals to order at 6:01 PM.

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

MINUTES:

20210342 March 29, 2021 Board of Zoning Appeals Meeting Minutes

Review and Approval of the March 29, 2021 Board of Zoning Appeals Meeting Minutes.

Mr. Lowman made a motion, seconded by Mr. Hunter that the March 29, 2021 Board of Zoning Appeals meeting minutes be approved. The Motion carried 6-0-0. Mr. Smith was absent.

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

Absent: 1

Vote For: 6

VARIANCES:

20210258 V2021-20 [VARIANCE] ALAN W. & LINDLEY K. DAVIS

V2021-20 [VARIANCE] ALAN W. & LINDLEY K. DAVIS are requesting variances for property zoned R-3 (Single Family Residential - 3 units/acre), located in Land Lot 1147, District 16, Parcel 0650, 2nd Section, Marietta, Cobb County, Georgia, and being known as 139 Atwood Drive. Variance to reduce the rear yard setback from 30' to 10' for an accessory dwelling unit; variance to allow an accessory structure to exceed the height of the principal structure. Ward 4A.

A public meeting was held.

Mr. Don Sutton presented a variance request to reduce the rear yard setback from 30' to 10' for an accessory dwelling unit; variance to allow an accessory structure to exceed the height of the principal structure.

There was no opposition to this request.

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 Mr. Lowman. The Motion carried 6-0-0.

Variance approved:

- 1. Variance to reduce the rear yard setback from 30 ft. to 10 ft. for an accessory dwelling unit. [§708.03 (C.1)]*
- 2. Variance to allow an accessory structure to exceed the height of the principal structure. [§708.03 (F.5)]*

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

Absent: 1

Vote For: 6

20210260

V2021-21 [VARIANCE] DAN UNDERWOOD

V2021-21 [VARIANCE] DAN UNDERWOOD is requesting variances for property zoned R-4 (Single Family Residential - 4 units/acre), located in Land Lot 1146, District 16, Parcel 0320, 2nd Section, Marietta, Cobb County, Georgia, and being known as 15 Sessions Street. Variance to reduce the side yard setback from 10' to 3'; variance to reduce the rear yard setback from 30' to 6'; variance to increase the allowable impervious surface from 50% to 65%; variance to increase the building coverage from 35% to 40%; variance to reduce the front yard setback from 25' to 20' for the existing house; variance to reduce the minimum lot width from 75' to 59'; variance to reduce the minimum lot size from 7,500 square feet to 5,723 square feet. Ward 4B.

A public meeting was held.

Mr. Dan Underwood presented a variance request to reduce the side yard setback from 10' to 3'; variance to reduce the rear yard setback from 30' to 6'; variance to increase the allowable impervious surface from 50% to 65%; variance to increase the building coverage from 35% to 40%; variance to reduce the front yard setback from 25' to 20' for the existing house; variance to reduce the minimum lot width from 75' to 59'; variance to reduce the minimum lot size from 7,500 square feet to 5,723 square feet.

There were two (2) in opposition to this request. Ms. Brenda Lyle and Mr. John Schupp opposed.

Ms. Lyle and Mr. Schupp are both directly impacted by variance requests #2, 3 and 4. They opposed siting encroachment issues as well as additional impermeable surfaces would adversely affect their property.

Mr. Underwood said variance # 1; reduce the side yard setback from 10ft. to 3 ft. was incorrect. It should be 6 feet rather than 3 feet. Ms. Little read his letter received with the application stating he requested 3 feet.

The Board Members asked questions pertaining to the opposition's concerns. Mr. Underwood was unable to reach an amicable solution for variances 2, 3 and 4.

The Board Members asked questions pertaining to the remaining variances and Mr. Underwood replied satisfactorily.

Chairman Van Buren asked Mr. Underwood if he would like to table this request to allow further discussion and planning and Mr. Underwood said the changes being requested are likely not to change and he would prefer a decision due to financial hardship.

Chairman Van Buren asked if he would be amenable to tabling the variances that affect his neighbors so he can have time to discuss with his Architect and neighbors and then the Board Members would reach a decision on the other variances tonight. Mr. Underwood agreed.

The public hearing was closed.

A motion was made by Chairman Van Buren to table the request for variances # 2, 3 and 4 and approve this application for variances 1, 5, 6 and 7 with the correction to variance 1;

that the variance side yard setback is 10 ft. to 6 ft. rather than 10 ft. to 3 ft. as originally applied for, 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 5-1-0. Mr. Hunter opposed.

Variances approved:

1. Variance to reduce the side yard setback from 10 ft. to 6 ft. [§708.04 (H)]
5. Variance to reduce the front yard setback from 25 feet to 20 feet for the existing house. [§708.04 (H)]
6. Variance to reduce the minimum lot width from 75 feet to 59 feet. [§708.04 (H)]
7. Variance to reduce the minimum lot size from 7,500 sq.ft. to 5,723 sq.ft. [§708.04 (H)]

Tabled to the June 28, 2021 meeting:

2. Variance to reduce the rear yard setback from 30 ft. to 6 ft. [§708.04 (H)]
3. Variance to increase the allowable impervious surface from 50% to 65%. [§708.04 (H)]
4. Variance to increase the building coverage from 35% to 40%. [§708.04 (H)]

A motion was made by Board member Van Buren, seconded by Board member Zenoni, that this matter be Approved for Variances 1, 5, 6 and 7 and Variances # 2, 3 and 4 be Referred to the BOARD OF ZONING APPEALS, due back on 6/28/2021. The motion carried by the following vote:

Absent: 1

Vote For: 5

Vote Against: 1

20210292 V2021-22 [VARIANCE] AMAROK, LLC (DANAND INVESTMENTS LLC)

V2021-22 [VARIANCE] AMAROK, LLC (DANAND INVESTMENTS LLC) are requesting variances for property zoned LI (Light Industrial), located in Land Lot 944, District 16, Parcel 0050, 2nd Section, Marietta, Cobb County, Georgia, and being known as 1069 Canton Road. Variance to increase the allowable height for a fence or wall from 8' to 10'; variance to allow a fence contain an electric charge from ground level up to 10.' Ward 5B.

A public meeting was held.

Ms. Tye Costa and Mr. Jeremiah Smith presented a variance request to increase the allowable height for a fence or wall from 8' to 10'; variance to allow a fence contain an electric charge from ground level up to 10'.

There was no opposition to this request.

The Board Members asked questions pertaining to the voltage and possible injury to people as well as how it compares to cattle containment fences. Ms. Costa explained that the voltage is much less powerful than cattle containment fences. The voltage is about three times less intense than the cattle fences and also cattle fences tend to be connected directly

to the main power where their fence is only 12v DC. She said there is no harm to people, they would feel a zap similar to static shock.

Mrs. Carmichael expressed concern over the possibility of children messing with the fence and getting shocked. Ms. Costa and Mr. Smith re-iterated that the shock value is equivalent to static shock and also explained that the electric fence will be behind the existing fence. Therefore, there is no way for any passerby to get shocked unless they jump the first fence.

The public hearing was closed.

A motion was made by Mrs. Carmichael to deny this application. The motion failed for lack of a second.

A motion was made by Mr. Lowman to approve this application on the basis that it does not influence or affect any of the property values that surround this property. It was seconded by Mr. Hunter. The Motion carried 5-1-0. Mr. Carmichael opposed.

Variances approved:

1. Variance to increase the allowable height for a fence or wall from 8' to 10.' [§710.04 (E)]
2. Variance to allow a fence to contain an electric charge from ground level up to 10.' [§710.04 (G)]

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

Absent: 1

Vote For: 5

Vote Against: 1

20210295 V2021-23 [VARIANCE] TYLER BOSS (EXCELL INTOWN PROPERTIES, LLC)

V2021-23 [VARIANCE] TYLER BOSS (EXCELL INTOWN PROPERTIES, LLC) are requesting a variance for property zoned CRC (Community Retail Commercial), located in Land Lot 799, District 17, Parcel 0020, 2nd Section, Marietta, Cobb County, Georgia, and being known as 2370 Delk Road. Variance to allow two freestanding signs remain along the same road frontage. Ward 7A.

A public meeting was held.

Mr. Tyler Boss presented a variance request to allow two freestanding signs remain along the same road frontage.

There was no opposition to this request.

There were no questions from the Board Members.

The public hearing was closed.

A motion was made by Mr. Lockett 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 Mr. Hunter. The Motion carried 6-0-0.

Variations approved:

- 1. Variance to allow two freestanding signs remain along the same road frontage. [§714.04 (F) and §714.04 (C.6)]*

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

Absent: 1

Vote For: 6

OTHER BUSINESS:

20210343 Board of Zoning Appeals - Election of Chairman

Election of Chairman to serve for one year to April 2022.

Chairman Van Buren, opened the floor for nominations for the position of Chairman for the term of one year to April 2022.

Mr. Hunter nominated Mr. Zenoni for election as Chairman. Mr. Zenoni declined the nomination. Mr. Hunter nominated Mr. Van Buren for election as Chairman. Hearing no other nominations, the nominations were closed.

Mr. Hunter made a motion to elect Mr. Van Buren, seconded by Mr. Lowman. The motion carried 6-0-1. Mr. Van Buren Abstained.

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

Absent: 1

Vote For: 5

Abstain: 1

20210344 Board of Zoning Appeals - Election of Vice Chairman

Election of Vice Chairman to serve for one year to April 2022.

Chairman Van Buren opened the floor for nominations for the position of Vice Chairman for the term of one year to April 2022.

Mrs. Carmichael nominated Mr. Zenoni for election as Vice Chairman. Hearing no other nominations, the nominations were closed.

Mrs. Carmichael made a motion to elect Mr. Zenoni, seconded by Mr. Hunter. The motion carried 6-0-1. Mr. Zenoni abstained.

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

Absent: 1
Vote For: 5
Abstain: 1

ADJOURNMENT:

The April 26, 2021 meeting of the Board of Zoning Appeals was adjourned at 7:11PM

BOBBY VAN BUREN, CHAIRMAN

INES EMBLER, SECRETARY