



Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Brian Binzer, Director

STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2009-05

Board of Zoning Appeals Hearing: Monday, March 30, 2009

Applicant: Anita S. Barton, Director
Cobb County Youth Museum, Inc.
649 Cheatham Hill Drive
Marietta, GA 30064

Property Owner: Cobb County Youth Museum, Inc.
393 Terrell Drive a/k/a
649 Cheatham Hill Drive
Marietta, GA 30064

Address: 393 Terrell Drive a/k/a 649 Cheatham Hill Drive

Land Lot: 00410 **District:** 19 **Parcel:** 0020

Council Ward: 2 **Existing Zoning:** R-2 (Single Family Residential)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to reduce the required side setback from 10 feet to 8 inches. [Section 708.02.H]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.

2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will 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.

PICTURES



Front view of pavilion frame



Pavilion frame at side property line



Traincar under existing pavilion

Recommended Action:

Approval with stipulation. The applicant, Anita Barton, is requesting a side setback variance for the property located at 393 Terrell Drive (649 Cheatham Hill Drive) in order to construct an unenclosed pavilion to protect an F-84F jet from potential weather damage. This property is home to the Cobb County Youth Museum and is zoned R-2. Properties to the north and east are zoned R-2 and contain single family dwelling units, which are surrounded by thick forest. Directly to the west and south is the Kennesaw Mountain National Battlefield Park.

The purpose of the pavilion is to protect the airplane from the weather. Marietta's Zoning Ordinance states that unenclosed porches or terraces may project no more than 50% into the required setback [Section 710.14.A], which would allow the pavilion be no closer than 5 feet to the side property line. The applicant has requested the setback be reduced to 8". Although no survey was submitted with the application, the airplane appears to be a few feet from the property line, marked with a stake and most likely following the barbed-wire, chainlink fence. Due to its age, it is unlikely that the plane could be successfully moved. Should the variance be approved, the applicant and contractor will need to exercise care during construction, as to not exceed the scope of the variance and potentially encroach onto the neighboring property.

The current owners of the property directly adjacent to the plane's location have submitted a letter proclaiming their support of the construction of the pavilion. In addition, the placement of a pavilion so close to the property line should not pose a problem with the neighbors' enjoyment of their property. No structure currently exists on the parcel directly east of the plane's location (1380 Sumter Drive). However, this does not prevent the construction of one in the future.

Staff recommends the approval of this variance request with the stipulation that only the portion of the side setback affected by the proposed pavilion be reduced. This would require any future construction abide by all appropriate setbacks. Granting approval will 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.