



**City of Marietta**  
**Meeting Minutes**  
**BOARD OF ZONING APPEALS**

205 Lawrence Street  
Post Office Box 609  
Marietta, Georgia 30061

*J. K. Lowman, Ward 2, Chairman*  
*James A. Mills, Ward 3, Vice Chairman*  
*Roy L. Shults, Ward 1*  
*G. Marshall Dye, Ward 4*  
*Steven A. Carson, Ward 5*  
*Millard W. Slayton, Ward 6*  
*Neil Bishop, Ward 7*

**Monday, November 30, 2009**

**6:00 PM**

**City Hall Council Chambers**

Present: Roy L. Shults, J. K. Lowman, James Mills, Neil Bishop and Steven A. Carson  
Absent: Millard Slayton and G. Marshall Dye

*Staff:*

*Brian Binzer, Development Services Director*  
*Rusty Roth, Development Services Manager*  
*Patsy Bryan, Secretary to the Board*  
*Shelby Little, Urban Planner*  
*Kyethea Kirk, Urban Planner*  
*Daniel White, City Attorney*

**CALL TO ORDER:**

*The November 30, 2009 Board of Zoning Appeals meeting was called to order at 6:00 p.m. by Chairman Lowman.*

**MINUTES:**

**20091 084 September 28, 2009 Regular Board of Zoning Appeals Meeting Minutes**

Review and Approval of September 28, 2009 Board of Zoning Appeals Meeting Minutes

*Mr. Shults made a motion to accept the November 30, 2009 Board of Zoning Appeals Meeting Minutes, seconded by Mr. Carson. Motion carried 5 - 0.*

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

**Vote: 5 - 0 - 0**

**Approved and Finalized**

**VARIANCES:**

**20091 194 V2009-23 Gary R. Mills 764 Frasier Circle**

V2009-23 GARY R. MILLS request variances for property located in Land Lot 1286, District 16, Parcel 1220, and being known as 764 Frasier Circle. Variances to reduce the minimum length of the concrete parking pad from 20 ft. to 18 ft. and to reduce the minimum parking space requirement for single-family attached unit from 2 parking spaces per unit to 1 parking space per unit. Ward 1.

*File #20091194 (V2009-23) was presented by Mr. Roth for property located in Land Lot 1286, District 16, Parcel 1220 and being known as 764 Frasier Circle.*

*The applicant, Mr. Mills, is requesting a variance to reduce the minimum length of the concrete parking pad from 20 feet to 18 feet and a variance to reduce the minimum parking space requirement for single-family attached unit from 2 parking spaces per unit to 1 parking space per unit.*

*As Mr. Mills explained, the property is part of a development along Frasier Circle designed to have parking in the rear of each unit. It was the intent of the applicant to purchase the property to the east, therefore, allowing a shared driveway for both 764 and the unit to the east.*

*The following people spoke in opposition:*

*Robert Stein, attorney with Weissman, Nowack, Curry & Wilco, P.C., representing the Frasier Park Homeowners Association, Inc., submitted a preservation of constitutional rights stating the reasons for their opposition.*

*Hansell L. "Hap" Smith, attorney with Smith, Eubanks, Smith & Tumlin, P.C., representing Katherine and Logan Weber, submitted a constitutional letter stating the reasons for their opposition. Mr. and Mrs. Weber live in the unit immediately to the left side (west side), next door to subject unit.*

*Mr. Smith explained that Mr. Mills could purchase an easement and create a shared driveway.*

*David Dixon, President of the Frasier Park Homeowners Association, submitted 48 signatures opposing this variance and asked that it be rejected.*

*Mr. Mills returned for rebuttal where he stated that approving this request is the only solution. Conversations with Sergio Salano, owner of property to the east, indicate that he has no intention of providing an easement or selling his property. Many offers such as compensation and a new driveway with parking pad have been declined.*

*Mr. Shults made a motion to deny, seconded by Mr. Mills. Motion carried 5 - 0 - 0.*

**A motion was made by Board member Shults, seconded by Board member Mills, that this matter be Denied. The motion carried by the following vote:**

**Vote: 5 - 0 - 0**

**Denied**

**20091195 V2009-24 Timothy L. Hunt & Vickie Turner Hunt 90 Stewart Avenue**

**V2009-24 TIMOTHY L. HUNT AND VICKIE TURNER HUNT request variances for property located in Land Lot 11470, District 16, Parcel 0080, and**

being known as 90 Stewart Avenue. Variances to reduce side setback from 10 feet to approximately 3 feet and to reduce side building setback from 10 feet to .6 feet. Ward 4.

*File #20091195 (V2009-24) was presented by Mr. Roth for property located in Land Lot 11470, District 16, Parcel 0080 and being known as 90 Stewart Avenue.*

*The applicants, Timothy L. Hunt and Vickie Turner Hunt, are requesting a variance to reduce side setback from 10 feet to approximately 3 feet and a variance to reduce side building setback from 10 feet to 0.6 feet for a proposed addition.*

*Mr. Hunt indicated to Chairman Lowman that he would continue with the same side building line for the new addition.*

*Chairman Lowman made a motion, seconded by Mr. Carson, to approve the variances, as they will not have any significant impact on the use or value of the adjoining properties, and is in basic conformance with allowing the owners to get beneficial use of their property. These variances shall include the following stipulations:*

- (1) The encroachment by the addition shall be no more than that of the adjacent wall; and,*
- (2) If the property improvements exceed 50% of the replacement cost, the gravel driveway shall be paved with concrete, asphalt, or brick according to Section 706.03 of the City Code.*

*Mr. Hunt agreed to the stipulations recommended by staff. Motion carried 5 - 0 - 0.*

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

**Vote: 5 - 0 - 0**

**Approved as Stipulated**

**20091 196**

**V2009-25 Eddie R. Gomez 712 Lawrence Street**

V2009-25 EDDIE GOMEZ request variance for property located in Land Lot 12140, District 16, Parcel 0910, and being known as 712 Lawrence Street. Variance to re-establish a non-conforming use to allow the subject property to be used as a residence for 6 - 10 months. Ward 5.

*File #20091196 (V2009-25) was presented by Mr. Roth for property located in Land Lot 12140, District 16, Parcel 0910 and being known as 712 Lawrence Street.*

*Eddie Gomez, representing his wife Pam Gomez who is the property owner, is requesting a variance to re-establish a non-conforming use to allow the subject*

*property to be used as a residence for 6 to 10 months.*

*Mr. Gomez is trying to help the father of his son-in-law by allowing him to use the property as a temporary residence. Previously the property was a ceramic shop.*

*Bob Lipop, the current resident, stated that he would like to use the structure as a temporary residence.*

*At this time, Daniel White explained the different scenarios involved in using the property as a residence versus commercial.*

*A great deal of discussion continued regarding the current and proposed use.*

*Mr. Carson made a motion, seconded by Mr. Lowman, to move this item to the January 25, 2009 Board of Zoning Appeals meeting. Motion carried 5 - 0.*

**A motion was made by Board member Carson, seconded by Board member Lowman, that this matter be Tabled. The motion carried by the following vote:**

**Vote: 5 - 0 - 0**

**Tabled**

#### **OTHER BUSINESS:**

##### **20091120 2010 Board of Zoning Appeals Calendar of meeting dates**

Review and approval of the 2010 Board of Zoning Appeals Calendar.

*Mr. Mills made a motion to accept the 2010 Board of Zoning Appeals meeting dates, seconded by Mr. Lowman. Carried 5 - 0.*

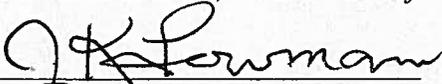
**A motion was made by Board member Mills, seconded by Board member Lowman, that this matter be Approved and Finalized. The motion carried by the following vote:**

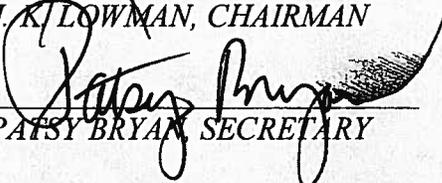
**Vote: 5 - 0 - 0**

**Approved and Finalized**

#### **ADJOURNMENT:**

*The November 30, 2009 Board of Zoning Appeals meeting adjourned at 6:47 p.m.*

  
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J. K. LOWMAN, CHAIRMAN

  
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PATSY BRYAN, SECRETARY