



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2014-34 **Legistar #:** 20140855

Board of Zoning Appeals Hearing: Monday, August 25, 2014 – 6:00 p.m.

Property Owner: Marcel & Annette Copeland
412 Fort Street
Marietta, GA 30060

Address: 108 Rigby Street

Land Lot: 12160 **District:** 16 **Parcel:** 0800

Council Ward: 5A **Existing Zoning:** R-4 (Single Family Residential 4 units/acre)

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

1. Variance to allow an accessory structure on a lot without a principal building. [§708.04 (F.3)]
2. Variance to reduce the side yard setback for an accessory structure from 10’ to 4.’ [§708.04 (F.1)]

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



View of accessory structure from Rigby Street



View of accessory structure from Fort Street



Recommended Action:

Approval #1; Denial #2. Mr. and Mrs. Copeland are requesting variances to allow an accessory structure on the property at 108 Rigby Street. The subject property is located on the corner of Rigby Street and Fort Street, is approximately 0.129 acres in size, and is zoned R-4 (Single Family Residential – 4 units/acre), as are all the surrounding properties. The applicants live in the house located at 412 Fort Street, which is the adjacent property to the east. The accessory structure was recently placed on the subject property at 108 Rigby Street to serve as additional storage for their residence.

Zoning regulations for R-4 prohibits the placement of an accessory structure on a lot before the principal structure; and also requires a setback of at least ten feet (10) between the shed and the side or rear property lines. Although the exact location of the property line cannot be verified, it appears that the shed is approximately four (4) feet from the side (southern) property line – an adjacent residential lot.

This particular shed is very attractive and does not detract from the neighborhood in any way. However, since a permit was not obtained to place the structure – and no building inspections - there is concern about the safety of the foundation/piers supporting the shed. Because the shed will likely need to be shifted in order to properly fortify the foundation, **staff recommends denial of the setback variance**, since the shed can be moved to meet the ten (10) foot side setback during that time.

However, since the presence of the shed on the lot should not negatively impact the surrounding area, **staff recommends approval of the variance to allow an accessory structure on a lot without a principal structure.**