



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

STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2011-38

Legistar #: 20111020

Board of Zoning Appeals Hearing: Monday, November 28, 2011 – 6:00 p.m.

Property Owner: David G. Zurn, Jr.
579 Wilshire Avenue
Marietta, GA 30062

Applicant: Same as above

Address: 579 Wilshire Avenue

Land Lot: 10920 District: 16 Parcel: 0900

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

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

1. Variance to reduce side setback from 10 ft. to 3 ft. (Section 708.04.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



Viewing 579 Wilshire Ave. Shed, carport and attached storage bin is shown to the right in the rear.





Recommended Action:

The applicant and owner, David Zurn, is requesting a variance to reduce the side yard setback from 10' to 3' in order to allow an existing 2 bay carport and storage sheds to remain in the side yard of the subject property. The subject property is zoned R4 (Single Family Residential 4 units/ acre) and is identified at 579 Wilshire Avenue. The subject property is located in a residential neighborhood and is surrounded by single family houses that are zoned R4 (Single Family Residential 4 units/ acre).

This variance request is a result of a Code Enforcement inspection regarding the subject property's carport and attached storage bin that is located to the side rear yard, which the property owner built without obtaining a building permit. The owner currently has a 2 bay carport with attached storage bin, as well as another shed. The shed does not violate any setback requirements, but is located in the floodplain. The subject property is completely located in the 100 year floodplain, and the enclosed structures will have to be raised.

The variances that the owner is seeking, is to reduce the north side setback of his property from 10 ft. to 3 ft. in order for the structures to remain.

According to Public Works Staff's review and analysis, the following must be performed for the storage bin and shed to be in compliance with City Code:

1. Raise each enclosed structure approximately 12" + above existing grade with concrete piers to allow flood waters to flow under the sheds.
2. Anchor the storage bin and shed to prevent flotation in accordance with the requirements of the Dept of Public Works – Building Inspections Division.

Since the carport is an open structure, and in an event of a flood, water would be able to flow through with less damage or impact to the open structure, no alterations are recommended for the carport.

The owner of the subject property would have to make recommended changes to the existing accessory structures that are enclosed to bring the structures into compliance with the City Code. **If the property owner is willing to make the recommendations listed by the PW department it is Staff's recommendation to approve the requested variance.**

If the property owner is unwilling to make the recommended changes, Staff's recommendation is to deny the requested variance.