



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

STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2009-10

Board of Zoning Appeals Hearing: Monday, May 18, 2009 – 6:00 p.m.

Applicant: Renspec, Inc.
Mike Visiliadas
3295 River Exchange Drive
Norcross, GA 30092

Property Owner: Edward & Lara Ferreira
176 Stewart Avenue
Marietta, GA 30064

Address: 176 Stewart Avenue

Land Lot: 11480 District: 16 Parcel: 0090

Council Ward: 4 Existing Zoning: R-3

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

1. Variance to reduce the minimum lot width from 85 feet to 70 feet. [Section 708.03 (H)]
2. Variance to reduce the side yard setback from 10 feet to 3.9 feet. [Section 708.03 (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



176 Stewart Avenue



Rear yard and location of proposed improvements



Recommended Action:

Approval. The applicant, Mike Visiliadas of Renspec, Inc., is requesting variances to allow renovations and additions at property located at 176 Stewart Avenue. The subject property is zoned R-3 and is surrounded by other single family detached homes to the north, east and west. Across Stewart Avenue are more single family homes; however, these homes on the south side of Stewart Avenue are zoned R-4.

The applicant wishes to make improvements to the existing house as well as construct an addition linking the detached garage to the main house. Section 706.03 of the Zoning Ordinance, Continuance of a nonconforming building or structure, states that any nonconforming building may be retained as long as it is not “*rebuilt, altered or repaired if such construction costs would exceed 50% of its replacement cost.*” Typically, the applicant would be allowed to maintain the house in its nonconforming state so long as the cost of any improvements did not exceed \$67,685 (50% of \$135,370). Although the applicant is not certain of the exact amount, the construction costs of the proposed improvements are expected to exceed 50% of the replacement cost of the existing house, which will require any existing nonconformities to be corrected.

The minimum lot width for R-3 properties is 85 feet. Although the subject property does not meet this requirement, the property mimics the predominant shape of most other lots in the neighborhood. This area of the City was obviously developed under different regulations, and certainly prior to the current ordinance. Adherence to this regulation would not only cause unreasonable property loss or unnecessary hardship to the applicant, it could potentially impact the composition and consistency of the neighborhood.

The existing detached garage, which is now considered an accessory structure, currently sits within 3.91 feet of the side property line. The proposed addition will convert the garage to part of the principal structure. An existing deck on the left side of the property is slated to be removed during the renovations and should limit the amount of activity occurring in this area of the property. Neither the proposed addition nor the main house will come any closer to the property line than the existing garage and, therefore, should not be detrimental or injurious to the neighbors, public health, safety, or general welfare.

According to the Marietta Fire Department, the applicant will be applying for relief from the sprinkler ordinance.

Staff recommends approval of both variances.