



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2014-55 **Legistar #:** 20141155
Board of Zoning Appeals Hearing: Monday, November 24, 2014
Property Owner: L. Alan Downey & Kimberly R. Downey
353 Nelson Street
Marietta, GA 30064
Applicant: same as above
Address: 353 Nelson Street
Land Lot: 10840 **District:** 16 **Parcel:** 0410
Council Ward: 4 **Existing Zoning:** R-1

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

1. Variance to reduce the required front yard setback for a new single family residential house from 35 feet to 25 feet. [§ 708.01 (H)]
2. Variance to reduce the required side yard setback for a new single family residential house from 25 feet to 10 feet. [§ 708.01 (H)]
3. Variance to reduce the minimum lot size for a septic tank from 1 to 0.423 acres. [§ 732.03 (B)]
4. Variance to reduce the minimum road frontage for a septic tank from 100 feet to 84 feet. [§ 732.03 (B)]

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 353 Nelson Street from Nelson Street



View of 353 Nelson Street from Nelson Street



View of 353 Nelson Street from driveway of 353 Nelson Street

Recommended Action:

Approval, with conditions. The applicant and property owner Alan and Kimberly Downey are requesting several variances for the property at 353 Nelson Street. The applicant's intent to build a new single family home on the property; and in doing so, they are requesting variances to reduce the front and side yard building setbacks. In addition, since the city sewer lines are not available along Nelson Street, variances from the lot size and lot width requirements for a septic tank will be needed as well. The subject property is zoned R-1 (Single Family Residential (1 unit/acre)). The abutting properties to the west and south are zoned R-2 (Single Family Residential (2 unit/acre)) along with the northern property across the street. The property to the east is zoned R-1.

The applicant stated in the application that they acquired the parcel with a house on it that was over 100 years old. They had no idea of the current zoning for the parcel was R-1, which has greater building setback restrictions. They demolished the home with the intention of building a newer single family home. Similar lots in the neighborhood are zoned R-2 and have similar new construction of larger single family homes.

Section 708.01 (H) of the zoning code, under Bulk and Area regulations, states that the required side yard building setback (on each side) is 25 ft., and the front building setback in 35 ft. Given the small size of the parcel (0.423 acres), and the current building setback regulations; the area for a building space for a reasonably size home is substantially reduced. Thus, in order to be able to build upon the current property, either variances would be needed to reduce the front and side setbacks, or the property would have to be rezoned. Similar single family homes are common in this residential neighborhood that is mostly zoned R-2.

In addition, the City of Marietta does not provide sewer lines to the subject property and subject area, and so a septic must be used. Section 732.03 (B) states that *“whenever a sanitary sewage system is not available within a reasonable distance, septic tanks may be permitted upon obtaining special permission of the Cobb County Health Department. For septic tank installation, the minimum lot size shall be one acre with 100 feet frontage, or greater if so required by the health department.”* The subject property parcel size is 0.423 acres and has a front road frontage of 84 ft. thus needing these two variances.

At this time, the applicant has not provided any documentation that the Cobb County Health Department has reviewed and/or approved this lot to be serviced by a septic tank.

There are several other small-sized lots in the area that have been developed with single family homes, so a reduction of the side and front setback would be inconsistent with development patterns in the area, and would not negatively impact the surrounding properties. In addition, other properties have received approval from the health department for septic tanks in similar situations. Thus, given that the variances address existing conditions that are common to other lots on this street, **staff recommends approval of these variances, under the condition that the Cobb County Health Department grants their approval for this lot to be serviced by a septic tank.**