



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
Roy L. Shults, Ward 1
James A. Mills, Ward 3
G. Marshall Dye, Ward 4
Samuel Elliott, Ward 5
Millard W. Slayton, Ward 6
Neil Bishop, Ward 7

Monday, January 29, 2007

6:00 PM

City Hall Council Chambers

Present: Roy L. Shults, J. K. Lowman, James Mills, Samuel Elliott, Millard Slayton, Neil Bishop and G. Marshall Dye

Staff:

Brian Binzer, Development Services Director
Rusty Roth, Development Services Manager
Patsy Bryan, Secretary to the Board
Julie McQueen, Urban Planner
Nathan Lawrence, Urban Planner
Daniel White, City Attorney

CALL TO ORDER:

Chairman Lowman called the January 29, 2007 Board of Zoning Appeals Meeting to order at 6:00 p.m.

MINUTES:

Vote: 0 - 0 - 0

20070075 December 18, 2006 Regular Board of Zoning Appeals Meeting Minutes

Review and Approval of December 18, 2006 Board of Zoning Appeals Meeting Minutes

Mr. Mills made a motion to accept the December 18, 2006 Regular Board of Zoning Appeals Minutes as submitted, seconded by Mr. Slayton. Motion carried 7 - 0.

A motion was made that this matter be Approved. The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved

VARIANCES:

20070047 V2007-03 1785 Cobb Parkway South Wolverton & Associates, LLC (WalMart)

V2007-03 Wolverton & Associates, Inc. request variances for property located in Land Lot 07300, 17th District, Parcel 0014, 2nd Section of Cobb County, Marietta, Georgia and being located at 1785 Cobb Parkway South. (1) Variance to allow an outside storage area to be temporarily located in the front yard of the subject property [708.16.G.1].; (2) Variance to eliminate the requirement that a sidewalk at least eight feet in width be provided along the side of the subject property abutting Cobb Parkway South [708.16.B.45.7]; (3) Variance to reduce the required sidewalk width along the side of the subject property abutting Terrell Mill Road from eight feet to five feet [708.16.B.45.7]; (4) In regards to the required continuous internal pedestrian walkway between the right-of-way of Cobb Parkway and the principal customer entrance, variance to reduce the width of this walkway from eight feet to five feet [708.16.B.45.8]; (5) In regards to the required continuous internal pedestrian walkway between the right-of-way of Cobb Parkway and the principal customer entrance, variance to eliminate the requirement that the required landscape area adjoining the walkway include trees, shrubs or benches [708.16.B.45.8]; (6) In regards to the required continuous internal pedestrian walkway between the public sidewalk along Terrell Mill Road and the principal customer entrance, variance to reduce the width of this walkway from eight feet to five feet [708.16.B.45.8]; (7) In regards to the required continuous internal pedestrian walkway between the public sidewalk along Terrell Mill Road and the principal customer entrance, variance to eliminate the requirement that the required landscape area adjoining the walkway include trees, shrubs or benches [708.16.B.45.8]. Ward 1.

File #20070047 (V2007-03) was presented by Ms. McQueen for property located in Land Lot 07300, 17th District, Parcel 0014 and being known as 1785 Cobb Parkway South.

Walmart, being represented by David Kirk with the law firm of Troutman Sanders, introduced Chris Manes, Project Engineer from Wolverton & Associates and Jim Gallagher, Project Architect.

As Mr. Kirk pointed out, several variances are being requested; however, the applicant is withdrawing variances #5, #6 and #7 as indicated in the staff report and combining #1 and #8.

A variance previously granted on April 24, 2006 allowed for the temporary location of garden center for 9 months; however, the bid process took longer than 9 months and applicant is seeking a period of 12 months in order to put project back out for bid. The 12-month window would start tonight per discussion between Chairman Lowman and David Kirk.

First element of Variance #2 has to do with the sidewalk connecting the CCT bus stop located on Cobb Parkway South to the internal walkway. Applicant requested that this be reduced in width from 8 feet to 5 feet; however, after discussion the 8 foot section will be installed from CCT bus stop location and

taper down to the 5-foot width at entrance of site.

Second element of Variance #2 relates to 150' section along Cobb Parkway that is north of the site, which is separated from the Walmart drive by an out-parcel that Walmart does not control, and crosses a culvert. Chris Manes spoke on the difficulty of installing a sidewalk on this 150' foot section along Cobb Parkway due to topographical limitations.

Item #3 in the staff analysis relates to the 8-foot sidewalk requirement on Terrell Mill Road. A 5-foot sidewalk currently exists.

David Kirk closed by stating that the applicant cannot encroach into the Georgia DOT right-of-way without their approval.

Mr. Shults made a motion to approve item #1 and item #8 (combined), seconded by Mr. Slayton. Motion was amended to give applicant 12 months from tonight. Motion carried 7 - 0.

On Variance 2, Mr. Shults made a motion to deny, seconded by Mr. Slayton. Motion failed.

Mr. Mills clarified that this is the 8-foot to 5-foot section between the Public Storage Facilities and the property. Chairman Lowman clarified that this includes the part that will require culvert work. Mr. Mills stated that he does not see a reason for the 8-foot although Code says 8-foot. If located closer to main parking lot Mr. Mills would agree, but with possible problem with GDOT, 8-foot is not really required and would like to see it changed to 5 feet. Mr. Bishop seconded Mr. Mills's motion.

According to David Kirk's explanation of the culvert, restriction and topography, their preference would be 5 foot.

Mr. Mills again explained that his recommendation would be to make the entire area along Cobb Parkway to 5 feet.

Mr. Shults made a substitute motion to approve with the stipulation that the sidewalk will be reduced from 8 feet to 5 feet subject to GDOT approval, along all Walmart property bordering Cobb Parkway, seconded by Mr. Slayton.

Motion to approve carried 7 - 0.

Variance #3 - Mr. Shults made a motion to deny, seconded by Mr. Slayton.

Mr. Mills disagreed, as everything else is 5 feet and not abutted up against the store. Mr. Shults commented that no hardship has been demonstrated other than cost.

Motion to deny carried 4 - 3. Mr. Bishop, Mr. Mills and Mr. Elliott were opposed to denying request. Chairman Lowman, Mr. Dye, Mr. Shults and Mr. Slayton in favor of denying.

Variance #4 - Mr. Shults made a motion to approve, seconded by Mr. Slayton.

Motion carried 7 - 0.

SPECIAL NOTE:

In Legistar #20070047 (V2007-03), the applicant withdrew variances 5, 6 and 7 and combined 1 and 8. Therefore, variances 2, 3 and 4 were voted on as follows:

Variance #1 and #8: Mr. Shults made a motion to approve item #1 and #8 (combined), seconded by Mr. Slayton and that the 12 month window would start January 29, 2007. Motion carried 7 - 0.

Variance #2: Mr. Shults made motion to approve with the stipulation that the sidewalks will be reduced from 8 feet to 5 feet along all Walmart property bordering Cobb Parkway and subject to GDOT approval, seconded by Mr. Slayton. Motion carried 7- 0.

Variance #3: Mr. Shults made a motion to deny, seconded by Mr. Slayton. Motion carried 4 - 3. Mr. Bishop, Mr. Mills and Mr. Elliott opposed to denying request. Chairman Lowman, Mr. Dye, Mr. Shults and Mr. Slayton in favor of denying.

Variance #4: Mr. Shults made a motion to approve, seconded by Mr. Slayton. Motion carried 7 - 0.

ADJOURNMENT:

Mr. Mills made a motion to adjourn, seconded by Chairman Lowman.

The January 26, 2007 Board of Zoning Appeals meeting adjourned 6:44.

KEN LOWMAN, CHAIRMAN

PATSY BRYAN, SECRETARY