



**City of Marietta**  
**Meeting Minutes**  
**BOARD OF ZONING APPEALS**

205 Lawrence Street  
Post Office Box 609  
Marietta, Georgia 30061

**James A. Mills, Ward 3, Chairman**  
**Roy L. Shults, Ward 1**  
**J. K. Lowman, Ward 2**  
**G. Marshall Dye, Ward 4**  
**Steven A. Carson, Ward 5**  
**Millard W. Slayton, Ward 6**  
**Neil Bishop, Ward 7**

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**Monday, August 25, 2008**

**6:00 PM**

**City Hall Council Chambers**

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Present: J. K. Lowman, James Mills, Millard Slayton, Neil Bishop, G. Marshall Dye and Steven A. Carson  
Absent: Roy L. Shults

*Staff:*

*Brian Binzer, Development Services Director*

*Rusty Roth, Development Services Manager*

*Patsy Bryan, Secretary to the Board*

*Shelby Little, Urban Planner*

*Michael Cullen, Urban Planner*

*Daniel White, City Attorney*

**CALL TO ORDER:**

*Chairman Mills called the August 25, 2008 Board of Zoning Appeals Meeting to order at 6:00 p.m.*

**MINUTES:**

**20080983 July 28, 2008 Regular Board of Zoning Appeals Meeting Minutes**

Review and Approval of July 28, 2008 Board of Zoning Appeals Meeting Minutes

*Mr. Lowman made a motion to approve the July 28, 2008 Board of Zoning Appeals Meeting Minutes, as submitted, seconded by Mr. Bishop. The motion carried by the following vote:*

*In favor: Mr. Bishop, Mr. Carson, Mr. Lowman, and Mr. Dye.*

*Abstained: Mr. Mills and Mr. Slayton as they were not at the July 28, 2008 Board of Zoning Appeals Meeting.*

*Motion carried 4 - 0.*

**A motion was made by Board member Lowman, seconded by Board member Bishop, that this matter be Approved. The motion carried by the following vote:**

**Vote: 4 - 0 - 2**

**Approved**

**Abstain: 2 - James Mills and**

**Millard Slayton**

*Chairman Mills changed the order of the agenda since the applicant for V2008-14, Mr. Don Martin, was running late.*

**VARIANCES:****20080931 V2008-16 Life University 1269 Barclay Circle**

V2008-16 LIFE UNIVERSITY request variances for property located in Land Lots 501, 502, 507 and 508, 17th District, Parcel 11, 2nd Section of Cobb County, Marietta, Georgia and being located at 1135 (1269) Barclay Circle. Variance to allow tree sampling as a method of establishing the Site Density Factor. Ward 1.

*File #20080931 (V2008-16) was presented by Mr. Roth for property located at 1135 (1269) Barclay Circle.*

*On behalf of Life University, Kevin Norton with Paulson Mitchell, Civil Engineer for project, is requesting a variance to allow tree sampling as a method of establishing the Site Density Factor. Life University Representative and Place Properties Development Services Representative, Tammy Bullard, was also present.*

*Chairman Mills pointed out on drawing L4.01 that the required density was based on total acreage less the power easement but not listed on application as a requested variance. Chairman Mills asked Mr. Norton if he wanted to proceed with the one variance listed or table to next month in order to work things out. Mr. Norton asked to continue as the request is listed in a letter to Mr. Roth dated July 23, 2008. Staff and board members took a moment to review letter.*

*Chairman Mills sought advice from Daniel White, Board Attorney, as to how to proceed since letter is different from application.*

*Mr. Norton clarified that he did fill out the application himself and Daniel White informed him that we only advertised for the variance to allow the tree sampling method.*

*In Mr. White's opinion, the only variance that could be granted would be for allowing the tree density sampling method. The variance request to exclude the easement area should not be debated.*

*Mr. Norton continued by describing the property as being a 26.43 acre site with an existing parking lot on campus. A 4.5 acre tract north of Rottenwood Creek and power easement will be used to accomplish density.*

*Chairman Mills asked if there was any objection if the sampling was required to be done by an arborist and to submit plan and findings to the review of the city arborist. Tammy Bullard agreed.*

*Mr. Bishop made a motion to approve the variance for tree sampling as a method of establishing the site density with the rationale being that granting the application 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.*

*Mr. Bishop agreed to include Chairman Mills' stipulation regarding the arborist.*

*Therefore, the new motion is to approve the variance with the stipulation that the tree sampling must be conducted by a certified arborist and that the proposed landscape plan and sampling method shall be subject to review of the city arborist prior to issuance of the land disturbance permit, seconded by Mr. Lowman.*

*Motion carried 6 - 0.*

**A motion was made by Board member Bishop, seconded by Board member Lowman, that this matter be Approved as Stipulated. The motion carried by the following vote:**

**Vote: 6 - 0 - 0**

**Approved as Stipulated**

**20080924**

**V2008-14 Heavy Constructors Leasing 168 Freys Gin Road**

V2008-14 DON R. MARTIN (HEAVY CONSTRUCTORS LEASING) request variances for property located in Land Lot 12380, 16th District, Parcel 0190, 2nd Section of Cobb County, Marietta, Georgia and being located at 168 Freys Gin Road. Variance to construct a fence in a yard fronting a public/private street that is 6 ft. in height. Variance to construct a chain link fence in a yard fronting a public/private street. Variance to allow fence to contain barbed wire within 6 feet of ground level and adjacent to a commercial use. Ward 5.

*File 20080924 (V2008-14) was presented by Mr. Roth for property being located at 168 Freys Gin Road.*

*The applicant and property owner, Don Martin of Heavy Constructors Leasing, is seeking variances to construct a chain link fence in a yard fronting a public or private street and to allow a fence to contain barbed wire within 6 feet of ground level.*

*Mr. Martin is trying to secure the property from criminal and vagrant activity on the property with a fence and shrubs.*

*Mr. Martin agreed with Mr. Lowman that in addition to approving the fences, he would accept the stipulation to landscape the strip along Freys Gin Road per city requirements.*

*Mr. Bishop made a motion that barbed wire not be allowed on fence, seconded by*

*Mr. Lowman. No action taken as discussion had not concluded.*

*Mr. Carson made a motion to deny barbed wire fence but allow applicant to erect a 6-foot fence instead of one with barbed wire and to also allow him to use fence with black or green vinyl coating and to improve the 10-foot landscape area in front of property with hardwood trees and evergreen shrubs. Mr. Carson agreed with Chairman Mills to amend his motion to include mixed hardwoods and evergreens to be approximately every 10 feet and the stipulation that no barbed wire be allowed on new fence, however, the existing barbed wire can remain. This motion was seconded by Mr. Slayton.*

*Motion carried 6 - 0.*

**A motion was made by Carson, seconded by Board member Slayton, that this matter be Approved as Stipulated. The motion carried by the following vote:**

**Vote: 6 - 0 - 0**

**Approved as Stipulated**

**ADJOURNMENT:**

*The August 25, 2008 Board of Zoning Appeals Meeting adjourned at 6:27 p.m.*

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*JAMES A. MILLS, CHAIRMAN*

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*PATSY BRYAN, SECRETARY*