



# City of Marietta

205 Lawrence Street  
Post Office Box 609  
Marietta, Georgia 30061

## Meeting Minutes BOARD OF ZONING APPEALS

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

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Monday, June 28, 2010

6:00 PM

City Hall Council Chambers

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*Present:* Roy L. Shults, J. K. Lowman, Neil Bishop, G. Marshall Dye, and James A. Mills

*Absent:* Steven A. Carson and Millard W. Slayton

*Staff:*

Rusty Roth, Planning & Zoning Manager  
Patsy Bryan, Secretary to the Board  
Shelby Little, Urban Planner  
Kyethea Clark, Urban Planner  
Daniel White, City Attorney

### CALL TO ORDER:

*Chairman Lowman called the June 28, 2010 Board of Zoning Appeals Meeting to order at 6:00 p.m.*

### MINUTES:

**20100681**

*File #20100681 – Mr. Mills made a motion to approve the May 24, 2010 Regular Board of Zoning Appeals Meeting Minutes, as submitted, seconded by Mr. Dye. Motion carried 5 – 0 – 0.*

**A motion was made by Board member James A. Mills, seconded by Board member G. Marshall Dye, that this matter be Approved and Finalized. The motion carried by the following vote: 5 – 0 – 0.**

**VARIANCES:****20100686** V2010-15 Jason D. Treadaway, Esq. 890 Franklin Road

V2010-15 JASON D. TREADAWAY, ESQ. request variances for property located in Land Lot 07160, District 17, Parcel 0130 and being known as 890 Franklin Road. Variance to increase the maximum height of a fence in a yard fronting a public/private street from 4 ft. to 6 ft.; variance to waive the requirement for a fence to be ornamental or decorative in nature in a yard fronting a public/private street in order to allow a chain link fence. Ward 7.

*File #20100686 (V2010-15) was presented by Mr. Roth for property located in Land Lot 07160, District 17, Parcel 0130, and being known as 890 Franklin Road.*

*Jason D. Treadaway, Esq., representing Loc Van Ho, the owner of Franklin Auto Repair, is requesting a variance to increase the maximum height of a fence in a yard fronting a public/private street from 4 feet to 6 feet and a variance to waive the requirement for a fence to be ornamental or decorative in nature in a yard fronting a public/private street in order to allow a chain link fence.*

*Mr. Treadaway stated that on January 10, 2010, a Mexican national, illegally in this country by the name of Eloy Aguilera Herrera, and who was under the influence of alcohol at the time, ran through a fence surrounding the property located at 890 Franklin Road, crashed into and completely totaled beyond any feasible repair, three parked vehicles waiting for repair. A huge portion of the existing fence was also damaged beyond repair.*

*Afterwards, Mr. Ho contacted Marietta Fence Company to have fence repaired. Marietta Fence repaired fence to match existing fence at a cost of \$5,648. No discussion took place regarding code for replacing fence. Mr. Herrera's insurance company, 21st Century Insurance Company, out of Phoenix, Arizona paid around \$1,200 to cover only the portion of the fence Mr. Herrera damaged.*

*Mr. Treadaway presented photos of the damage and the condition of the fence prior to the damage by Mr. Herrera's vehicle.*

*Mr. Ho paid Marietta Fence Company to erect a 6' tall, brand new, galvanized chain link fence. Mr. Ho is now aware that the old fence was grandfathered and the new fence should be no higher than 4' and be decorative or ornamental in nature.*

*Mr. Treadaway discussed prices for the new fence to be removed and a decorative or ornamental fence to be installed.*

*Mauldin Fence Company quoted \$28,876 to take down the fence installed by Marietta Fence Company and install a new fence that would meet code. Mr. Treadaway told Chairman Lowman that this price would include a decorative metal (wrought iron) fence, which would include a 26' gate guarding the entryway to the business and also a 17' gate on another portion of the front entrance fronting Franklin Road.*

*Marietta Fence Company quoted approximately \$10,000 to take down the new fence and replace it in order to meet code.*

*Fox Fence Company quoted \$7,000 for a wood fence.*

*Mr. Treadaway presented additional photos and described the fence before the accident as unattractive, rusted, sagging, with high tension chain link on top.*

*Mr. Treadaway respectfully submitted that the Board approve this request based on the fact that it has no negative aesthetic effect to the area and the cost that Mr. Ho would incur. Mr. Ho's property at 890 Franklin Road has had an incredible amount of theft in the past, including 5 lawnmowers, televisions and also robbed at gunpoint.*

*For the record, Daniel White pointed out that Hodges Management and Leasing Company sent a letter of opposition to staff dated June 25, 2010.*

*Mr. Bishop made a motion, seconded by Mr. Lowman, to allow a variance to increase the maximum height of a fence in a yard fronting a public/private street from 4 to 6 feet and to allow a variance to waive the requirement for a fence to be ornamental or decorative in nature in a yard fronting a public/private street in order to allow a chain link fence. Rationale being that the fence is already put back in place and it would be cost prohibited to redo a decorative ornamental fence. Mr. Lowman commented that the fence is better than what was there before, both aesthetically and from a security standpoint. Motion carried 5 – 0 – 0.*

**A motion was made by Board member Neil Bishop, seconded by Board member J. K. Lowman, that this matter be Approved and Finalized. The motion carried by the following vote: 5 – 0 – 0.**

## **ADJOURNMENT:**

*The June 28, 2010 Board of Zoning Appeals Meeting adjourned at 6:13 p.m.*

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*J. K. LOWMAN, CHAIRMAN*

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*PATSY BRYAN, SECRETARY*