



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes

BOARD OF ZONING APPEALS

Bobby Van Buren, Chairman
David Hunter, Vice Chairman, Ward 4
Vacant, Ward 1
J. K. Lowman, Ward 2
Larry Zenoni, Ward 3
Juanita Carmichael, Ward 5
Tom Samples, Ward 7

Monday, May 18, 2020

6:00 PM

City Hall Council Chambers

Present: Bobby Van Buren, Larry Zenoni, David Hunter, Juanita Carmichael and Tom Samples (Virtual)

Absent: J. K. Lowman

Staff:

Rusty Roth, Director, Development Services

Shelby Little, Planning & Zoning Manager

Robin Osindele, Urban Planner

Daniel White, City Attorney

Ines Embler, Secretary to the Board

CALL TO ORDER:

Chairman Van Buren called the April 27, 2020 meeting of the Board of Zoning Appeals to order at 6:00 PM.

Chairman Van Buren explained the rules and procedures used in conducting the public hearings.

The minutes from last meeting were inadvertently omitted from the Agenda. Mr. Hunter made a motion to add the minutes from the January 27, 2020 meeting to the Agenda. It was seconded by Mrs. Carmichael. The Motion carried 5-0-0. Mr. Lowman was absent. Mr. Samples was present through virtual participation.

MINUTES:

20200228

January 27, 2020 Board of Zoning Appeals Meeting Minutes

Review and Approval of the January 27, 2020 Board of Zoning Appeals Meeting Minutes.

Mr. Zenoni made a motion, seconded by Mr. Hunter that the January 27, 2020 Board of Zoning Appeals meeting minutes be approved. The Motion carried 5-0-0. Mr. Lowman was absent and Ward 1 is vacant.

A motion was made by Board member Zenoni, seconded by Board member Hunter, that this matter be Approved and Finalized. The motion carried by the following vote:

Absent: 1

Vote For: 5

VARIANCES:

20190033 V2019-05 [VARIANCE] DOUGLAS & JANICE AMAN

V2019-05 [VARIANCE] DOUGLAS & JANICE AMAN are requesting a variance for property zoned LI (Light Industrial), located in Land Lot 782, District 16, Parcel 0210, 2nd Section, Marietta, Cobb County, Georgia, and being known as 1592 Williams Drive. Variance to allow gravel as an acceptable parking surface; variance to allow a storage yard along an arterial roadway. Ward 5B.

A public meeting was held.

Mr. & Mrs. Aman presented a request for a variance to allow gravel as an acceptable parking surface; variance to allow a storage yard along an arterial roadway.

There was no opposition to this request.

The Board Members asked if the vehicles will all be operational; how many vehicles will be in the lot; anticipated traffic issues and if there will be security on site.

Mr. Aman said all the vehicles are operational and none would need to be towed. He said there would be between 12-15 vehicles in the lot. Traffic is not expected to be a concern as people will be bringing their vehicles in and out of the lot at different times. There will be self-monitored security cameras on site.

Mrs. Carmichael asked if there would be a possibility for there to be 20-25 vehicles at any time and what the other business around there were. Mr. Aman said the lot is not large enough and that the maximum capacity would be 15 vehicles. He said the other businesses surrounding him are plumbing, flooring, landscaping, truck storage and a warehouse.

The public hearing was closed.

A motion was made by Chairman Van Buren to approve this application on the basis that it would 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. It was seconded by Mr. Hunter. The Motion carried 5-0-0.

Variances approved:

1. *Variance to allow gravel as an acceptable parking surface. [§716.08 (B)]*
2. *Variance to allow a storage yard along an arterial roadway. [§710.07 (A)]*

A motion was made by Board member Van Buren, seconded by Board member Hunter, that this matter be Approved and Finalized. The motion carried by the following vote:

Absent: 1

Vote For: 5

20200165

V2020-13 [VARIANCE] GLENN LANDRY (MARCOTULIO MAZARIEGOS)

V2020-13 [VARIANCE] GLENN LANDRY (MARCOTULIO MAZARIEGOS) is requesting a variance for property zoned CRC (Community Retail Commercial), located in Land Lot 66, District 17, Parcel 1200, 2nd Section, Marietta, Cobb County, Georgia, and being known as 1177 Bellemeade Drive. Variance to allow off-site parking satisfy the minimum parking requirements for a place of assembly. Ward 2B.

A public meeting was held.

Mr. Landry presented a request for a variance to allow off-site parking satisfy the minimum parking requirements for a place of assembly.

There was no opposition to this request.

Chairman Van Buren asked for affirmation that this venue would be for events only and not an every-day type of use. Mr. Landry affirmed stating that there would be no kitchen or food preparation of any type.

Chairman Van Buren asked if there is a bar on site. Mr. Landry said he thinks there is a bar there, but there is no intent to use the bar. He said people would be responsible for bringing in their own food and alcoholic beverages for their private event; they will not offer any type of food or bar service.

Mr. Samples expressed concern that the venue would be used as an event center when booked, but then used as a bar or entertainment type place during other times. Mr. Landry said this venue will strictly be used for private events such as weddings and celebrations.

The public hearing was closed.

A motion was made by Mr. Zenoni to approve this application as stipulated on the basis that it would 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. It was seconded by Mr. Hunter. The Motion carried 5-0-0.

Variances approved:

1. *Variance to allow off-site parking to satisfy the minimum parking requirements for a place of assembly. [§716.07 (A)]*

Stipulation:

1. *The business license is contingent on having an active lease for the 73 parking spaces on the adjacent property.*

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

Absent: 1

Vote For: 5

20200251

V2020-14 [VARIANCE] RUSS MASTERSTON

V2020-14 [VARIANCE] RUSS MASTERSTON is requesting a variance for property zoned R-3 (Single Family Residential - 3 units/acre), located in Land Lot 1087, District 16, Parcel 0290, 2nd Section, Marietta, Cobb County, Georgia, and being known as 133 Frances Avenue. Variance to reduce the side yard setback from 10 feet to 2 feet for an accessory structure (fireplace). Ward 4B.

A public meeting was held.

Mr. Masterson presented a request for a variance to reduce the side yard setback from 10 feet to 2 feet for an accessory structure (fireplace).

There was no opposition to this request.

Chairman Van Buren asked if the neighbor directly affected has expressed any opposition. Mr. Masterson said they do not have any objection and that he provided a letter in agreement with the variance application.

The public hearing was closed.

A motion was made by Mr. Hunter to approve this application as stipulated on the basis that it would 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. It was seconded by Mrs. Carmichael. The Motion carried 5-0-0.

Variations approved:

1. *Variance to reduce the side yard setback from 10 feet to 2 feet for an accessory structure (fireplace). [§708.03 (F.1)]*

Stipulation:

1. *The variance shall only apply to the proposed fireplace. Any new accessory structure would have to comply with regulations or seek an additional variance.*

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

Absent: 1

Vote For: 5

20200321 V2020-15 [VARIANCE] MELISSA LAMARCHE (BELEN B. HICKMAN)

V2020-15 [VARIANCE] MELISSA LAMARCHE (BELEN B. HICKMAN) is requesting variances for property zoned NRC (Neighborhood Retail Commercial), located in Land Lot 1287, District 16, Parcel 0430, 2nd Section, Marietta, Cobb County, Georgia, and being known as 236 South Fairground Street. Variance to reduce the minimum lot size from 10,000 sq. ft. to 6,400 sq. ft.; variance to reduce the minimum lot width from 75' to 73'; variance to reduce the buffer from 30' to 12'; variance to allow a substandard lot of record be developed. Ward 1A.

A public meeting was held.

Dr. Lamarche presented a request for a variance to reduce the side yard setback from 10 feet to 2 feet for an accessory structure (fireplace).

There was no opposition to this request.

Chairman Van Buren asked if there will be any handicapped spaces. Dr. Lamarche said yes, that would be her ideal.

Ms. Hickman, the property owner, spoke and explained that the property size was reduced because the City acquired a strip of land along Fairground Street with the street widening project. That's one of the reasons why they are looking for a variance for the reduced size.

The public hearing was closed.

A motion was made by Mr. Hunter to approve this application on the basis that it would 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. It was seconded by Mr. Samples. The Motion carried 4-0-1. Mrs. Carmichael abstained.

Variances approved:

- 1. Variance to reduce the minimum lot size from 10,000 sq. ft. to 6,400 sq. ft. [§708.15 (H).]*
- 2. Variance to reduce the minimum lot width from 75' to 73.' [§708.15 (H).]*
- 3. Variance to reduce the buffer from 30' to 12.' [§708.15 (H).] [§710.05 (B.)& (E).]*
- 4. Variance to allow a substandard lot of record be developed. [§710.09]*

A motion was made by Board member Hunter, seconded by Board member Samples, that this matter be Approved and Finalized. The motion carried by the following vote:

Absent: 1

Vote For: 4

Abstain: 1

20200322

V2020-16 [VARIANCE] 1053MSP LLC

V2020-16 [VARIANCE] 1053MSP LLC is requesting a variance for property zoned CRC (Community Retail Commercial), located in Land Lot 07800, District 16, Parcel 0120, 2nd Section, Marietta, Cobb County, Georgia, and being known as 1053 Sandy Plains Road. Variance to reduce the undisturbed buffer from 40' to 5' along the northern property line. Ward 6B.

Mr. Adam Rozen, Esq., for the Applicant, presented a request for a variance to reduce the undisturbed buffer from 40' to 5' along the northern property line.

There were five (5) in opposition to this request. Mr. James Johnson, Jack Ludtke, Ms. Penny Morgan, Ms. Christine Hartney and Ms. Linda Crawford opposed.

The opposition expressed concern over the setback being too close to their property if they don't keep it at 20 feet. They are concerned with privacy issues even with the proposed buffer and are requesting an 8-foot high fence. They also expressed concern that the dumpster would bring rodents into their homes. Mr. Johnson stated that last year he was told by zoning that he could not build a 3-car garage with a shop because he did not meet the setback requirements. Therefore, he feels the Applicant should also be made to stay within their required setbacks.

Chairman Van Buren asked if keeping the chain link fence would cause them to move further into the buffer and if they have any idea where the dumpster will go. Mr. Rozen said they are not sure but that they will adhere to the buffer if they keep the chain link fence and they have not determined where the dumpster will go.

The Board Members asked further questions pertaining to the buffer plantings and fence height and Mr. Rozen replied satisfactorily.

Chairman Van Buren asked if they have a type of retail that would go there. The Applicant stated that they have not figured that out yet. She said she understands the opposition's concerns, however, they plan on holding the property for 30 plus years. She said the maintenance of the property will be the owner's responsibility and not the tenants, so it does not matter who leases the property, it will always be maintained properly.

Mr. Hunter asked if they would be willing to do an additional 10-foot buffer. The Applicant said the project would not be viable.

Chairman Van Buren asked if the rear boundary line has been established. The Applicant said they've already had the lot surveyed so they know what will fit there.

Regarding the plantings, Mr. Rozen said that the City Ordinance has allowable types of plantings and that they will abide by that.

The public hearing was closed.

Chairman Van Buren was in the process of making a motion to approve with stipulations when Mrs. Carmichael interrupted and said she would like to have a substitute motion. She asked for a motion to table this request. Mr. White, Counsel for the City stated that the Board cannot table a request without the Applicant's consent. Chairman Van Buren opened the public hearing and asked the Applicant if they would be willing to table this request for 30 days in order them time to work with the owners or if they would like to proceed with a decision. He said he would also waive the re-advertising fee. The Applicant was hesitant to table, but at the recommendation of her attorney, she agreed.

A motion was made by Mrs. Carmichael to table this request for 30 days to allow Applicant to work with owners. The re-advertising fee to be waived. It was seconded by Mr. Hunter. The Motion carried 5-0-0.

A motion was made by Board member Carmichael, seconded by Board member Hunter, that this matter be Tabled. The motion carried by the following vote:

Absent: 1
Vote For: 5

OTHER BUSINESS:

20200225 Board of Zoning Appeals - Election of Vice Chairman

Election of Vice Chairman to serve to April 2021.

Chairman Van Buren opened the floor for nominations for the position of Vice Chairman for the term of one year to April 2021.

Chairman Van Buren nominated Mr. Hunter for election as Vice Chairman. Hearing no other nominations, the nominations were closed.

Chairman Van Buren made a motion to elect Mr. Hunter, seconded by Mrs. Carmichael. The motion carried 4-0-1. Mr. Hunter abstained.

A motion was made by Board member Van Buren, seconded by Board member Carmichael, that this matter be Approved and Finalized. The motion carried by the following vote:

Absent: 1
Vote For: 4
Abstain: 1

ADJOURNMENT:

The May 18, 2020 meeting of the Board of Zoning Appeals was adjourned at 7:33PM

BOBBY VAN BUREN, CHAIRMAN

INES EMBLER, SECRETARY