



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes

BOARD OF ZONING APPEALS

Bobby Van Buren, Chairman
Karen Kirkpatrick, Vice Chairwoman, Ward 1
J. K. Lowman, Ward 2
Larry Zenoni, Ward 3
David Hunter, Ward 4
Ronald Clark, Ward 5
Tom Samples, Ward 7

Monday, July 29, 2019

6:00 PM

City Hall Council Chambers

Present: Bobby Van Buren, J. K. Lowman, Larry Zenoni, David Hunter, Ronald Clark and Tom Samples

Absent: Karen Kirkpatrick

Staff:

Rusty Roth, Director, Development Services

Shelby Little, Planning & Zoning Manager

Robin Osindele, Urban Planner

Gregg Litchfield, City Attorney

Ines Embler, Secretary to the Board

CALL TO ORDER:

Chairman Van Buren called the July 29, 2019 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.

MINUTES:

20190654

June 24, 2019 Board of Zoning Appeals Meeting Minutes

Review and Approval of the June 24, 2019 Board of Zoning Appeals Meeting Minutes.

Mr. Samples made a motion, seconded by Mr. Hunter that the June 24, 2019 Board of Zoning Appeals meeting minutes be approved. The Motion carried 5-0-1. Ms. Kirkpatrick was absent. Mr. Clark abstained.

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

Absent: 1
Vote For: 5
Abstain: 1

VARIANCES:

20190595 V2019-22 [VARIANCE] ISAKSON FAMILY TRUST

V2019-22 [VARIANCE] ISAKSON FAMILY TRUST is requesting a variance for property zoned R-4 (Single Family Residential - 4 units/acre), located in Land Lot 1146, District 16, Parcel 0060, 2nd Section, Marietta, Cobb County, Georgia, and being known as 412 Campbell Hill Street. Variance to increase the allowable building footprint for an accessory structure from 50% to 75% of the primary structure; variance to reduce the northern side yard setback for the existing structure from 10' to 0.5'. Ward 4B.

A public meeting was held.

Mr. Andrew Isakson presented a request for a variance to increase the allowable building footprint for an accessory structure from 50% to 75% of the primary structure; variance to reduce the northern side yard setback for the existing structure from 10' to 0.5'.

There was one (1) in opposition to this request. Mr. Robert Potter opposed.

Mr. Potter expressed concerns over lifts inside the garage, noise, dust and paint fumes. He is concerned the compressor and air tools would be too noisy.

Mr. Isakson stated in his rebuttal that he would only doing mechanic work for himself, as a hobby and an occasional friend. He said he does not do any type of body shop work.

Chairman Van Buren and Mr. Hunter asked if he would be amenable to stipulations not allowing body work or painting and Mr. Isakson agreed.

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 Mr. Lowman. The Motion carried 6-0-0.

Variations approved:

1. Variations approved:

- 1. Variance to increase the allowable building footprint for an accessory structure from 50% to 75% of the primary structure;*
- 2. Variance to reduce the northern side yard setback for the existing structure from 10' to 0.5'*

Stipulations:

1. *The accessory structure shall not be converted to or used as a guest home in the future.*
2. *If any work is to be done on automobiles, it must be conducted within the garage, and not on the carport, driveway or parking pad.*
3. *No compressor, no body work and no painting allowed.*

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

Absent: 1

Vote For: 6

20190627

V2019-23 [SPECIAL LAND USE PERMIT] FLORESTINA R. BURKE-DAVIS

V2019-23 [SPECIAL LAND USE PERMIT] FLORESTINA R. BURKE-DAVIS is requesting a Special Land Use Permit for a personal care home with 9 residents and 2 staff at property located in Land Lot 1090, District 16, Parcel 0040, 2nd Section, Marietta, Cobb County, Georgia and being known as 574 Allgood Road, currently zoned R-3 (Single Family Residential - 3 units/acre). Ward 4B.

A public meeting was held.

Ms. Florestina Burke-Davis and Mr. Eny Umanah presented a request for a Special Land Use Permit for a personal care home with 9 residents and 2 staff.

There were five (5) in opposition to this request. Mr. Grayson Cody Collins, Ms. Katie Steele, Mr. Wesley Starling, Mr. Benjamin Burney and Mr. Grayson Brooks opposed.

The parties in opposition expressed concern over a business growing to commercial size in their neighborhood. They feel it would create traffic issues and said this would be the wrong direction for their neighborhood. They would like to keep their neighborhood residential.

Chairman Van Buren asked if they were renovating at the same time or just adding additions; how many bedrooms currently in the house and how many were they adding. He asked what kind of services they provide. Ms. Burke-Davis and Mr. Umanah said they are only doing additions; there are currently 4 bedrooms and they would be adding 3 more. They provide same services as a nursing home with a few exceptions.

Mr. Litchfield, City Attorney, asked for clarification as to how many residents they want to have because the application states 9 residents and 2 staff, but they are only adding 3 bedrooms. Ms. Burke-Davis said the original request was for 9 residents but that they are now only requesting 7 residents. Ms. Burke-Davis said she plans on adding a privacy fence so as not to disturb the neighbors.

Chairman Van Buren asked if the residents drive and what the parking situation was. Ms. Burke-Davis and Mr. Umanah said the residents do not drive. There is parking for twelve vehicles in the back.

Mr. Zenoni asked Ms. Burke-Davis if she resides at the house and how many staff members reside there. Ms. Burke-Davis said one staff member resides there 24/7 and that she does not reside there but is there every day.

The public hearing was closed.

A motion was made by Mr. Hunter to deny this application. It was seconded by Mr. Lowman. The Motion carried 4-2-0. Chairman Van Buren and Mr. Clark opposed.

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

Absent: 1

Vote For: 4

Vote Against: 2

APPEAL:

20190705 Appeal of AV2019-11 Lawrence Street 440

Appeal by Cathi Julian of the administrative variance to reduce the side yard setback from 10' to 7' for 440 Lawrence Street granted on July 16, 2019.

A public meeting was held.

Mr. Rusty Roth, Development Services Director, explained the City's decision to approve the request for an Administrative Variance to reduce the side yard setback from 10' to 7' and explained the process necessary in order to obtain an Administrative Variance.

Mr. Zenoni asked if the Administrative Variance was for one side only and asked if they move the house three feet over if they could build without a variance. Ms. Little, Staff, explained that they would have to meet setback requirements from the other side as well and Mr. Roth said in order to build without variances they would need to have ten (10) foot setbacks on each side.

Ms. Cathi Julian, Appellant, objects to the Administrative Variance stating erosion and privacy concerns. She experience previous negative experiences with a similar situation and would like assurances from the City that they will be willing to compensate her in the event that she would have to fix any damages occurred by this building being so close to her property. She resides next door, on the side where the setback would be reduced. She also expressed concern about water flowing into her property. She also would like the City to perform zoning studies.

Chairman Van Buren explained that the study requested is not something they can decide at this meeting and Ms. Little explained that the erosion and water concerns would be addressed during the permitting process.

Mr. Kolb, for the Applicant, passed around a picture of what the house will look like. He acknowledged that there is erosion and said they have already discussed putting walls there. At Mr. Hunter's suggestion, he is also willing to put some type of curb in place along the driveway in order to ensure that the water would drain into the street. He said this is the smallest house plan they have and that if this appeal is granted they would not be able to build there.

The public hearing was closed.

A motion was made by Mr. Zenoni to deny the Appeal. It was seconded by Mr. Lowman. The motion failed to pass. There were three in support and three opposed. Mr. Lowman, Mr. Zenoni and Mr. Hunter were in support. Chairman Van Buren, Mr. Clark and Mr. Samples opposed.

A second motion was made by Mr. Lowman to grant the appeal. The facts do not support the Director's decision that "the intent of the article could be achieved and equal performance obtained by a grant of the variance." Concerns of erosion and privacy may impede the Appellant. It was seconded by Mr. Hunter. Chairman Van Buren asked Mr. Hunter for clarification on his support. Mr. Hunter rescinded his second.

A third motion was made by Mr. Lowman to grant the appeal. The facts do not support the Director's decision that "the intent of the article could be achieved and equal performance obtained by a grant of the variance." Concerns of erosion and privacy may impede the Appellant. It was seconded by Mr. Clark. The motion carried 4-2-0. Mr. Zenoni and Mr. Hunter opposed.

A motion was made by Board member Lowman, seconded by Board member Clark to grant the Appeal. The facts do not support the Director's decision that "the intent of the article could be achieved and equal performance obtained by a grant of the variance." Concerns of erosion and privacy may impede the Appellant. The motion carried by the following vote:

Absent: 1

Vote For: 4

Vote Against: 2

ADJOURNMENT:

The July 29, 2019 meeting of the Board of Zoning Appeals was adjourned at 7:21PM

BOBBY VAN BUREN, CHAIRMAN

INES EMBLER, SECRETARY