



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, October 28, 2019

6:00 PM

City Hall Council Chambers

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

Staff:

Rusty Roth, Director, Development Services
Shelby Little, Planning & Zoning Manager
Jasmine Thornton, Planning & Zoning Administrator
Douglas Haynie, City Attorney
Ines Emblar, Secretary to the Board

CALL TO ORDER:

Chairman Van Buren called the October 28, 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:

20190930

September 30, 2019 Board of Zoning Appeals Meeting Minutes

Review and Approval of the September 30, 2019 Board of Zoning Appeals Meeting Minutes.

Mr. Lowman made a motion, seconded by Ms. Kirkpatrick that the September 30, 2019 Board of Zoning Appeals meeting minutes be approved. The Motion carried 7-0-0.

A motion was made by Board member Lowman, seconded by Board member

Kirkpatrick, that this matter be Approved and Finalized. The motion carried by the following vote:

Absent: 0

Vote For: 7

VARIANCES:

20190869 V2019-32 [VARIANCE] J. PARKER & MELISSA W. GILBERT

V2019-32 [VARIANCE] J. PARKER & MELISSA W. GILBERT are requesting a variance for property zoned R-4 (Single Family Residential - 4 units/acre), located in Land Lot 1158, District 16, Parcel 0780, 2nd Section, Marietta, Cobb County, Georgia, and being known as 243 Kennesaw Avenue. Variance to reduce the side yard setback from 10 feet to 0 feet for an accessory structure (fireplace); Variance to allow an accessory structure (fireplace) closer to the right of way than the principal structure on a corner lot. Ward 3A.

A public meeting was held.

Mr. and Mrs. Gilbert presented a request for a variance to reduce the side yard setback from 10 feet to 0 feet for an accessory structure (fireplace); Variance to allow an accessory structure (fireplace) closer to the right of way than the principal structure on a corner lot.

There was no opposition to this request.

Ms. Kirkpatrick asked if there were any fire hazard concerns with the trees near the fireplace proposed location. Mrs. Gilbert stated that they are putting the fireplace on a clearing. She said the church trees do not encroach on the area.

Chairman Van Buren asked if they understood the stipulation recommended by Staff. Mrs. Gilbert affirmed.

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. Lowman. The Motion carried 7-0-0.

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

Absent: 0

Vote For: 7

20190872

V2019-33 [VARIANCE] FREEMONT GRACE HOLDINGS (MARIETTA PROPERTIES, LLC)

V2019-33 [VARIANCE] FREEMONT GRACE HOLDINGS (MARIETTA PROPERTIES, LLC) are requesting variances for property zoned CRC (Community Retail Commercial), located in Land Lot 1240, District 16, Parcel 1210, 2nd Section, Marietta, Cobb County, Georgia, and being known as 119 Powers Ferry Road. Variance to reduce the minimum lot size from one acre to approximately 29,000 square feet for a homeless shelter; variance to allow a homeless shelter within 750 feet of residentially zoned property. Ward 7A.

A public meeting was held.

Mr. Mitchell Bryant presented a request for a variance to reduce the minimum lot size from one acre to approximately 29,000 square feet for a homeless shelter; variance to allow a homeless shelter within 750 feet of residentially zoned property.

There were five (5) in opposition to this request. Mr. Neal Goolsby, Mr. James Woodruff, Ms. Ronna M. Woodruff, Mr. Jason Caponi and Mr. Bill Morrell opposed.

The Board Members asked if he was currently operating at different location; how they could fit 50 children in 7 dorms and if they would be separated by age and gender. Mr. Bryant said state law requires 63 sq. ft. per child and all 7 rooms on the second floor would meet the state requirement. He said they would all be evaluated and separated by age and gender.

The Board Members asked what government referrals are from and what the primary funding is. Mr. Bryant said they are referred by HHS (Health & Human Services). They are children who arrive unaccompanied. He said this facility is like a wait station. This is the last 30 days of their process before they are placed. The primary funding is HHS.

Chairman Van Buren asked if he has any previous experience. Mr. Bryant said his experience is mostly operations but that he has a staff of clinicians as well as the support of the non-profit Bethany Christian who will assist with putting the program in place. He also has a Program Director.

Mr. Samples asked how many supervisors are on site and about security. Mr. Bryant said there is a Program Director, three workers that do the actual hands on part plus an additional 20 or so support staff. He said security is 24/7.

Mr. Lowman said that given the publicity, does he have any guidelines for dealing with gender identities. Mr. Bryant said that is part of the evaluation process when they sit down with the clinician and accommodations will be in place for it.

Chairman Van Buren asked who audits them. Mr. Bryant said there is an internal audit for financials and that the service end is audited by HHS.

City Attorney, Mr. Haynie asked if they are subject HHS regulations and state regulations and who issues the regulations. Mr. Bryant said yes they are and that HHS issues regulations as well as the state and that if there are any conflicts between the regulations, he will use the strictest of the two.

Mr. Goolsby opposed. He expressed concern that this will lower his property values.

Mr. Woodruff opposed. He stated he is surprised the federal government is in the business of fostering children. He asked if these unaccompanied children are coming in from the border and feels this business Mr. Bryant is describing is a bit nebulous. He is afraid this will be more of a homeless shelter.

Ms. Woodruff is an attorney at the adjacent property and said she has vast experience with what happened there when it was the Hartman House. Children would escape all of the time and police would come out and ask her to review her security tapes. She said Mr. Bryant told her he would have security drive around her property. She feels she has her own security and if Mr. Bryant is offering security then there are anticipated problems. She asked for a stipulation that there would be no comings and goings. She also said that if teen moms will be there, then by definition they are adults. She said when Hartman was there they didn't need variances, so why now. Mr. Roth, City Staff said the regulations may have changed. She is concerned over there not being any play area for the children and how they plan on protecting an infant from a 17-year old if they are all housed together.

Mr. Caponi is concerned that the variance request leaves unanswered questions. He said the children will be living in dilapidated conditions. He said the church that was there previously only used part of the building because of the poor condition the building is in. He feels the quality of life for the children is not good in that building with no play area. He also stated that the area is changing; improving, with Andretti's coming in there is revenue for the City and this will not help with the improvements that are happening in the area.

Mr. Morrell said his property is adjacent and that his concerns are similar to the ones already mentioned. He feels the children will be better served in another location. This facility is run down and too small for what they are trying to do. He asked if the children will be going to use the Public School System.

Mr. Bryant, in his rebuttal said they are renovating the building and that the building is large enough that they will have indoor spaces for recreation. They will also have an assembly room, day room, reading room and a library. He said the kids will have scheduled time to play outside as well and that they will be supervised at all times. The children will not be using the Public School System. All education will be in house. He said there will be security 24/7 and all children will be housed together based on their age.

Mr. Hunter asked if they will be leaving the premises at any time. Mr. Bryant said there will be field trips but always under constant supervision.

The Board Members asked what the transition for teen parents is and if background checks are done for the personnel and the children. Mr. Bryant said if a teen mother were to have the child on day 34 for example, it's possible that HHS would extend their stay another six weeks. He said every single person in the facility has had a background check and that the children's background checks were done prior to them arriving at this facility.

Concern was expressed over the facility becoming a detention center and asked where the children are coming from. Mr. Bryant said he could not say 100% where they were coming from, but that they come across the border on their own and that they have a sponsor.

Chairman Van Buren asked what the timetable was. Mr. Bryant said the deadline to apply for funding is November 12th. He said he needs the C.O. in order to get funding.

The public hearing was closed.

A motion was made by Chairman Van Buren 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 4-2-1. Ms. Kirkpatrick and Mr. Hunter Opposed. Mr. Samples abstained.

Stipulations:

- 1. The facility shall be a temporary residential housing for children, not a homeless shelter.*
- 2. The facility will not provide care for homeless adults nor will walk-in services be provided.*
- 3. Children staying at the facility will come from government referrals.*
- 4. The maximum capacity of the facility will be limited to no more than fifty (50) children.*
- 5. Facility staff will be continuously on-site 24-hours a day, seven (7) days a week.*
- 6. The applicant will adhere to all comments from Public Works and Marietta Fire.*
- 7. All facilities shall comply with the criteria established for residential uses as per Southern Building Code Congress International (SBCCI), as amended.*
- 8. Approval is contingent upon obtaining the necessary funding for the facility to do the renovations.*
- 9. If funding is not received a similar business will not be established on the premises.*
- 10. The applicant must at all times comply with all federal and state regulations and licensing requirements.*

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

Absent: 0

Vote For: 4

Vote Against: 2

Abstain: 1

OTHER BUSINESS:

20190929 2020 Board of Zoning Appeals Calendar of Meeting Dates

Review and Approval of the 2020 Board of Zoning Appeals Calendar.

Mr. Lowman made a motion, seconded by Mr. Samples to approved to the 2020 Board of Zoning Appeals Calendar. The Motion carried 7-0-0.

A motion was made by Board member Lowman, seconded by Board member Samples, that this matter be Approved and Finalized. The motion carried by

the following vote:

Absent: 0

Vote For: 7

ADJOURNMENT:

The October 28, 2019 meeting of the Board of Zoning Appeals was adjourned at 7:07PM

BOBBY VAN BUREN, CHAIRMAN

INES EMBLER, SECRETARY