



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes BOARD OF ZONING APPEALS

*Bobby Van Buren, Chairman
Rosser Southerland, Ward 1
J. K. Lowman, Ward 2
Mark Maloney, Ward 3
David Hunter, Ward 4
Juanita Carmichael, Ward 5
Donald Barth, Ward 7*

Monday, February 27, 2023

6:00 PM

City Hall Council Chambers

Present : Mark Maloney, Rosser Southerland, Juanita Carmichael, David Hunter, Donald Barth

Absent: Bobby Van Buren, J.K. Lowman

*Staff: Rusty Roth, Director, Department of Development Services;
Shelby Little, Planning and Zoning Manager;
Lisa Rajabnik, Planning and Zoning Coordinator*

CALL TO ORDER:

Vice Chairman Maloney called the Monday, February 27, 2023, Board of Zoning Appeals Regular Meeting to order at 6:00PM.

Vice Chairman Maloney explained the rules and procedures used in conducting public hearings.

MINUTES:

20230151 Monday, January 30, 2023 Board of Zoning Appeals Work Session and Regular Meeting Minutes

Approval of the January 30, 2023, Board of Zoning Appeals Work Session and Meeting Minutes.

Mr. Hunter made a motion, seconded by Mr. Southerland, to approve the January 30, 2023, Work Session and Regular Meeting Minutes. The motion carried with a vote of 5-0-0.

Approved and Finalized**Absent:** 2**Vote For:** 5**VARIANCES:****20220884** **V2022-35 [VARIANCE] ABEL ALEXANDER CHAVES MOLINA (JOHN M. AZAR)**

V2022-35 [VARIANCE] ABEL ALEXANDER CHAVES MOLINA (JOHN M. AZAR) are requesting a variance for property zoned LI (Light Industrial) located in Land Lot 290, District 17, Parcel 0040, 2nd Section, Marietta, Cobb County, Georgia, and being known as 514 Atlanta Street. Variance to allow an automotive repair shop to operate on a lot which is adjacent to or directly across the street from a single-family residential district; variance to reduce setback requirements to allow as-built conditions of building remain. Ward 1A.

Ms. Little presented the case and explained that the variance to reduce the setback requirements to allow as built conditions of the building to remain had been withdrawn from the request by the applicant.

A public hearing was held.

Mr. Adam Rozen represented the request. He explained the details of the property layout and provided photos showing efforts made to clear the lot. He pointed out that the stipulation letter dated February 27, 2023 addressed several staff concerns.

Mr. Barth asked if the proposed fencing would restrict access for the other tenants. Mr. Rozen explained that an agreement between parties would be required to allow for access through the fenced area.

Mr. Maloney asked the reason for the lapse of business license. A translator and representative offered comment on behalf of the applicant, Mr. Molina. He stated that the original business arrangement between the applicant and his partner had failed. As the applicant does not have legal status he was unable to apply for the license on his own behalf.

Mr. Maloney asked why the stipulation letter did not include a proposal to combine the lots. Mr. Rozen called Mr. Azur (Owner) to the podium to address the Board. Mr. Azur stated that he had owned the property for 30 years and during that time had made no changes or additions. He paid taxes on each lot individually and wished to continue to do so to avoid issues with the IRS as a result of changing what has been done over the past 30 years.

Ms. Little explained that 514 Atlanta Street does not meet the required minimum

lot size for a property zoned Light Industrial. Combining lot 514 with lot 518 would make it a functional lot and address the issue of structures which are built over current property lines.

Mr. Azur, based on his knowledge, disagreed the buildings were built over property lines. When asked by Mr. Maloney if he would be willing to combine the lots as recommended, Mr. Azur indicated significant objection for the need to do so. He stated that scheduling a survey and the process of reallocating the lots was unnecessary financial expense and inconvenience.

With no opposition or support for the request the public hearing was closed.

Mr. Southerland made a motion, seconded by Mr. Barth, to approve the request as stipulated on the grounds that granting the application is necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship. The vote carried 4-0-1. Ms. Carmichael abstained.

Approved Variance:

- 1) Variance to allow an automotive repair shop to operate on a lot which is adjacent to or directly across the street from a single-family residential district. [§708.26 (B.9.c)]

Stipulations:

- 1) Letter of Stipulations and variances from Mr. Adam J. Rozen, P.C., to Sarah Ciccone, Planning and Zoning Administrator for the City of Marietta, dated February 27, 2023.
- 2) Owner must combine the property, through the exemption plat process, with the adjacent property under the same ownership in order to eliminate 514 Atlanta Street as a substandard parcel by August 28, 2023.

Approved as Stipulated

Absent: 2
 Vote For: 4
 Abstain: 1

20230061

V2023-02 [VARIANCE] JOHN AUSTIN KAY (ALEXANDER FARRINGTON)

V2023-02 [VARIANCE] JOHN AUSTIN KAY (ALEXANDER FARRINGTON) are requesting variances for property zoned CRC (Community Retail Commercial) located in Land Lot 1213, District 16, Parcel 0750, 2nd Section, Marietta, Cobb County, Georgia, and being known as 917 Gresham Avenue. Variance to allow an animal kennel within 100 feet of residentially zoned property;

variance to allow animals outside of an enclosed building. Ward 5A.

Ms. Little presented the case.

A public hearing was held.

Mr. Austin Kay (Applicant) presented the request. He offered the Board a revised site plan in response to staff recommendation eliminating the necessity for a variance to allow an animal kennel within 100 feet of residentially zoned property. Mr. Kay described the proposed business plan and how the business would be operated and managed.

There was no opposition or support for the request.

Ms. Carmichael asked how Mr. Kay intended to respond to neighbor complaints. Mr. Kay offered that he is always mindful of nearby neighbors and would preemptively utilize practices to mitigate potential issues.

The public hearing was closed.

Ms. Carmichael made a motion, seconded by Mr. Barth, to deny the request. The vote carried 4-1-0. Mr. Southerland opposed.

Denied

OTHER BUSINESS:

ADJOURNMENT:

*The Monday, February 27, 2023,
Board of Zoning Appeals Meeting adjourned at 6:52PM.*



MARK MALONEY, VICE CHAIRMAN



LISA H. RAJABNIK, SECRETARY