



# City of Marietta

## Meeting Minutes

### BOARD OF ZONING APPEALS

205 Lawrence Street  
Post Office Box 609  
Marietta, Georgia 30061

*Bobby Van Buren, Chairman*  
*Rosser Southerland, Ward 1*  
*Walter Walker, Ward 2*  
*Mark Maloney, Ward 3*  
*David Hunter, Ward 4*  
*Juanita Carmichael, Ward 5*  
*Donald Barth, Ward 7*

Monday, June 26, 2023

6:00 PM

City Hall Council Chambers

*Present : Bobby Van Buren, Rosser Southerland, Mark Maloney, David Hunter, Donald Barth, Juanita Carmichael*

*Absent: Walter Walker*

*Staff : Rusty Roth, Director, Department of Development Services*  
*Shelby Little, Planning and Zoning Manager;*  
*Paige Dunson, Urban Planner*  
*Lisa Rajabnik, Planning and Zoning Coordinator*  
*Douglas Haynie, City Attorney*

#### CALL TO ORDER:

*Chairman Van Buren called the Monday, June 26, 2023, Board of Zoning Appeals Regular Meeting to order at 6:00PM.*

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

#### MINUTES:

#### 20230551 **Wednesday, May 31, 2023 Board of Zoning Appeals Work Session and Regular Meeting Minutes**

Approval of the May 31, 2023, Board of Zoning Appeals Work Session, and Meeting Minutes.

*Mr. Maloney made a motion, seconded by Mr. Barth, to approve the May 31, 2023, Work Session, and Regular Meeting Minutes. The motion carried with a vote of 6-0-0.*

#### Approved and Finalized

**Absent: 1**

**Vote For: 6**

**VARIANCES:**

**20230441**

**V2023-17 [VARIANCE] ANA CAROLINA MURANO (MILTON FRITZEN)**

**V2023-17 [VARIANCE] ANA CAROLINA MURANO (MILTON FRITZEN)**

are requesting variances for the property zoned LI (Light Industrial) located in Land Lot 1138, District 16, Parcels 0300 & 0310, 2nd Section, Marietta, Cobb County, Georgia, and being known as 1296 & 1306 Carolyn Street. Variance to allow an automotive repair shop to be located directly across the street from any single-family residential district; variance to allow outdoor storage in the front and side of the principal structure, enclosed by a fence less than 8 feet in height. Ward 5A.

*Ms. Little presented variance request V2023-17.*

*Mr. Murano represented the request. He stated he was before the Board to request permission to continue to operate an automotive repair business at the location. He continued, he was unaware of the zoning restriction of the property until he applied for a business license and was denied because of the property's vicinity to residential property.*

*There was no support for or opposition to the request.*

*The Board asked Mr. Murano how long he had been operating his business without a license and Mr. Murano responded that he had been operating from the location since September 2022. When asked why he waited till April 2023 to apply for a license he responded he had been involved in a license issue with his other business located at 1798 Lower Roswell Road and was not eligible to apply for another license until the issue was resolved.*

*Mr. Van Buren questioned Mr. Murano about cars parked on the street. Mr. Murano stated the cars were personal vehicles and were parked on the road only during business hours. Mr. Van Buren stated that numerous cars were parked at all times including after business hours. Mr. Murano disagreed.*

*With no further questions or comments, Mr. Van Buren closed the public hearing.*

*Ms. Carmichael made a motion, seconded by Mr. Barth, to deny the request. The motion carried 6-0-0.*

**Denied**

**Absent: 1**

**Vote For: 6**

20230473

**V2023-18 [VARIANCE] JDS AUTO (ANDRE C. MOREIRA & ARIANE MOREIRA)**

**V2023-18 [VARIANCE] JDS AUTO (ANDRE C. MOREIRA & ARIANE MOREIRA)** are requesting variances for property zoned LI (Light Industrial) located in Land Lot 1138, District 16, Parcels 0410, 0400, & 0390, 2nd Section, Marietta, Cobb County, Georgia, and being known as 450 Wallace Road (aka 1299, 1309, & 1315 Carolyn Street). Variance to allow an automotive repair shop to be located directly across the street from any single-family residential district; variance to allow outdoor storage in the front and side of the principal structure, enclosed by a fence less than 8 feet in height. Ward 5A.

*Ms. Little presented variance request V2023-18.*

*A public hearing was held.*

*Mr. Andre Moreira (owner) represented the request.*

*There was no support for or opposition to the request.*

*Mr. Van Buren asked Mr. Moreira if the items from the January 2023 BZA meeting had been addressed.*

*Mr. Moreira responded, an 8ft fence was installed to screen stored vehicles, the chain link fence in front of the property was replaced with a 6ft wood fence with three trees planted in front, inoperable cars removed, and finally lots 1, 2 and 3 incorporated into one and a plat recorded.*

*Mr. Van Buren clarified that an 8ft fence had also been stipulated by the Board at the front of the property. Mr. Moreira apologized and offered to replace the 6ft with 8ft.*

*Mr. Van Buren asked about the trees. Mr. Moreira apologized for the trees not being the specified 3" caliper stating he did not understand the requirement.*

*Mr. Barth questioned if Mr. Moreira had genuine intention to comply with the requirements of the Board as, to date, the items had not been satisfactorily completed. He reminded Mr. Moreira that the request had been in front of the board since September 2022 and regardless of the opportunities extended, including 90 days in which to complete everything, still came in front of the Board with his request. Mr. Moreira apologized and explained there were prohibitive financial constraints and delays finalizing the plat.*

*Mr. Van Buren asked if Mr. Moreira considered the work completed. He responded all work was complete other than anything the Board considered outstanding.*

*Mr. Barth asked for an explanation of the gap in the fence at the front of the property. Mr. Moreira stated the opening was for pedestrian access and a gate had been ordered to close the gap. Mr. Barth questioned the response as there is a significant gully in that location which would prohibit pedestrian access. Mr. Moreira offered to close the gap with additional fencing.*

*There was further discussion about landscaping maintenance, the front fence height, the front gate, trees and parked vehicles. Mr. Moreira responded accordingly.*

*Mr. Van Buren closed the public hearing.*

*Mr. Barth made a motion, seconded by Ms. Carmichael, to deny the request. The motion failed with a vote of 3-3-0. Mr. Van Buren, Mr. Hunter and Mr. Maloney opposed.*

*The Board members further discussed considerations for the efforts made to date by Mr. Moreira.*

*Mr. Van Buren made a motion, seconded by Mr. Maloney, to approve the variances with stipulation as granting the application will 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. The motion carried with a vote of 4-2-0. Mr. Barth and Ms. Carmichael opposed.*

**Approved Variances:**

- 1) Variance to allow an automotive repair shop to be located directly across the street from any single-family residential district. [§708.26 (B.9.c)]*
- 2) Variance to allow outdoor storage to the side (not the front) of the principal structure and only if behind an 8-foot-tall opaque fence. [§708.26 (B.9.d)]*

**Stipulations:**

- i) Issuance of auto repair business license for this location is contingent upon an approved exemption plat recorded with the Cobb County Superior Court Clerk.*
- ii) Street trees must be installed along Wallace Road and Carolyn Street. Street trees are to be a minimum of 3" caliper, medium or large canopy trees from the Tree Species Selection List, Section 712.08, Tree Protection and Landscaping.*
- iii) An 8ft wooden fence to be installed at the front of the building, along Wallace Road, without proposed pedestrian access.*
- iv) The applicant must complete in full all stipulations within 30 days or appear again, before the Board of Zoning Appeals on July 31, 2023.*

**Approved as Stipulated**

**Absent: 1**

**Vote For: 4**

**Vote Against: 2**

**OTHER BUSINESS:**

**ADJOURNMENT:**

*The Monday, June 26, 2023 Board of Zoning Appeals meeting  
adjourned at 6:52pm.*



BOBBY VAN BUREN, CHAIRMAN



LISA H. RAJABNIK, SECRETARY

