



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes BOARD OF ZONING APPEALS

Bobby Van Buren, Chairman
James A. Mills, Vice Chairman
Karen Kirkpatrick, Ward 1
J. K. Lowman, Ward 2
David Hunter, Ward 4
Ronald Clark, Ward 5
Tom Samples, Ward 7

Monday, April 30, 2018

6:00 PM

City Hall Council Chambers

Present: Bobby Van Buren, James Mills, Karen Kirkpatrick, David Hunter and Ronald Clark

Absent: J. K. Lowman and Tom Samples

Staff:

Rusty Roth, Director, Development Services
Robin Osindele, Urban Planner
Sarah Hegener, Associate City Attorney
Ines Embler, Secretary to the Board

CALL TO ORDER:

Chairman Van Buren called the April 30, 2018 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:

20180452 March 26, 2018 Board of Zoning Appeals Meeting Minutes

Review and Approval of the March 26, 2018 Board of Zoning Appeals Meeting Minutes.

Mr. Hunter made a motion, seconded by Mr. Clark that the March 26, 2018 Board of Zoning Appeals meeting minutes be approved. The Motion carried 5-0-0. Mr. Lowman and Mr. Samples were absent.

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

Absent: 2

Vote For: 5

VARIANCES:**20180223****V2018-08 [VARIANCE] BANOVA PROPERTIES, LLC**

V2018-08 [VARIANCE] BANOVA PROPERTIES, LLC is requesting variances for properties zoned OI (Office Institutional), located in Land Lot 1087, District 16, Parcels 0350 & 0340, 2nd Section, Marietta, Cobb County, Georgia, and being known as 108 & 116 Margaret Avenue. Variance to reduce the rear yard setback from 35 feet to 20 feet; variance to reduce the residential buffer from 30 feet to 0 feet. Ward 4B.

A public meeting was held.

Mr. Adam Rosen, Esq., for the Applicant, presented a request for a variance to reduce the rear yard setback from 35 feet to 20 feet; variance to reduce the residential buffer from 30 feet to 0 feet.

There were five (5) in opposition to this variance. Mr. Joseph Parker, Mr. Jim Morris, Mr. John Thur, Mr. Russ Masterson and Mrs. Tanya Thur opposed.

The parties in opposition expressed concern over the buffer. They feel it is inconsistent with the required buffers between residential and commercial property. They feel that the applicant has not shown exceptional or extraordinary conditions. They also expressed concern about traffic, noise and safety. Mrs. Thur stated that visitors to Dr. Banov's office walk over to the end of the property and smoke and that her children are directly behind that fence playing. They also believe that Dr. Banov intends to lease out the new space.

Chairman Van Buren asked the opposition if they are aware that if Dr. Banov moves away a new owner could possibly come in and build a five (5) story building, staying within the setbacks as allowed in the current zoning of LI (Light Industrial). Mr. Parker said they are aware and will fight those battles in the future if appropriate.

Mr. Rozen stated in his rebuttal that Dr. Banov is not leasing the new space to other parties, he is expanding his business and needs more space for his practice. He stated that topography is a hardship in developing this property.

The Board Members asked Mr. Rozen about the buffer and whether more trees could be planted in front of the current row of trees and if he would be amenable to an eight (8) foot fence. Mr. Rozen said it could not be done because right in front of the current trees is the parking lot. They would be amenable to an eight (8) foot fence.

Chairman Van Buren asked Mr. Rozen what Dr. Banov's options are if this request is not approved. Mr. Rozen said it is possible that he may sell and move to another location.

The public hearing was closed.

A motion was made by Mr. Hunter to grant the application for Variances 1 and 2 with stipulations. The motion died for lack of a second.

A second motion was made by Ms. Kirkpatrick to deny the application. It was seconded by Mr. Clark. The Motion carried 4-1-0. Mr. Hunter opposed.

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

Absent: 2
Vote For: 4
Vote Against: 1

20180342 V2018-12 [VARIANCE] DIAMOND POINT DEVELOPMENT LLC

V2018-12 [VARIANCE] DIAMOND POINT DEVELOPMENT LLC is requesting a variance for property zoned CRC (Community Retail Commercial), located in Land Lot 1170, District 16, Parcels 0040, 2nd Section, Marietta, Cobb County, Georgia, and being known as 1745 Roswell Road. Variance to increase the floor area ratio from 0.5 to 1.0; variance to reduce the side yard setback from 15' to 0' against the buffer; variance to allow grading within the 40' undisturbed buffer. Ward 5A.

A public meeting was held.

Mr. Jason Sommer presented a request for a variance to increase the floor area ratio from 0.5 to 1.0; variance to reduce the side yard setback from 15' to 0' against the buffer; variance to allow grading within the 40' undisturbed buffer.

There was no opposition to this variance.

There were no questions from the Board Members.

The public hearing was closed.

A motion was made by Mr. Clark to grant the application as requested 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. Mills. The Motion carried 5-0-0.

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

Absent: 2
Vote For: 5

20180360 V2018-14 [VARIANCE] 41 SOUTH CREATIVE

V2018-14 [VARIANCE] 41 SOUTH CREATIVE is requesting variances for property zoned OHR (Office High Rise), located in Land Lot 647, District 17, Parcel 0030, 2nd Section, Marietta, Cobb County, Georgia, and being known as 1810 Parkway Place (aka 1800 Parkway Place). Variance to allow a projecting sign above the parapet wall; variance to allow signage to extend above the roof of the building; variance to increase the allowable wall coverage from 15% to 46.5%. Ward 7A.

A public meeting was held.

Mr. Richard Calhoun presented a request for a variance to allow a projecting sign above the parapet wall; variance to allow signage to extend above the roof of the building; variance to increase the allowable wall coverage from 15% to 46.5%.

There was no opposition to this variance.

Chairman Van Buren asked if this was the corporate office and how many floors they occupy. Mr. Calhoun said it is the administrative office and they occupy seven (7) floors.

The public hearing was closed.

A motion was made by Mr. Mills to grant the application as requested 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 4-1-0. Ms. Kirkpatrick opposed.

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

Absent: 2

Vote For: 4

Vote Against: 1

20180368

V2018-15 [VARIANCE] TERRI LYNN WILBOURN

V2018-15 [VARIANCE] TERRI LYNN WILBOURN is requesting a variance for property zoned R-2 (Single Family Residential - 2 units/acre), located in Land Lot 1083, District 16, Parcel 0290, 2nd Section, Marietta, Cobb County, Georgia, and being known as 357 Saint Mary's Lane. Variance to reduce the side yard setback for an existing shed from 10' to 3.5'. Ward 4A.

A public meeting was held.

Mr. Cliff Poston, for the applicant, presented a request for a variance to reduce the side yard setback for an existing shed from 10' to 3.5'.

There was no opposition to this variance.

Ms. Kirkpatrick asked if he was the property owner to the right of where the shed is located. Mr. Poston affirmed and said that is their back yard.

Chairman Van Buren asked if he purchased that extra piece from Mrs. Wilbourn just to have room for a swimming pool and Mr. Poston said yes.

The public hearing was closed.

A motion was made by Mr. Hunter to grant the application as requested 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 Ms. Kirkpatrick. The Motion carried 5-0-0.

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

Absent: 2
Vote For: 5

20180432 V2018-18 [VARIANCE] BRYAN P. GALAT

V2018-18 [VARIANCE] BRYAN P. GALAT is requesting a variance for property zoned R-4 (Single Family Residential - 4 units/acre), located in Land Lot 1230, District 16, Parcel 0230, 2nd Section, Marietta, Cobb County, Georgia, and being known as 89 McDonald Street. Variance to reduce the side yard setback for an existing accessory structure from 10' to 4'. Ward 3A.

A public meeting was held.

Mr. Bryan Galat presented a request for a variance to reduce the side yard setback for an existing accessory structure from 10' to 4'.

There was no opposition to this variance.

There were no questions from the Board Members.

The public hearing was closed.

A motion was made by Mr. Mills to grant the application as requested 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.

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

**Absent: 2
Vote For: 5**

ADJOURNMENT:

The April 30, 2018 meeting of the Board of Zoning Appeals was adjourned at 7:16PM

BOBBY VAN BUREN, CHAIRMAN

INES EMBLER, SECRETARY