

**MINUTES OF VARIANCE HEARING
COBB COUNTY BOARD OF ZONING APPEALS
FEBRUARY 14, 2024
1:30 P.M.**

The Board of Zoning Appeals Variance Hearing was held on Wednesday, February 14, 2024, at 1:30 p.m. in the second-floor public meeting room of Cobb County Building A, 100 Cherokee Street, Marietta, Georgia. Present and comprising a quorum of the Board were:

Barkley Russell, Chairwoman
Deidra Willis, Vice Chair
Fred Beloin
Kim Swanson
Alice Summerour

CHAIRWOMAN RUSSELL – CALL TO ORDER

Chairwoman Russell called the hearing to order at 1:31 p.m. and explained the procedures for the public hearing.

Mr. John Pederson, Zoning Division Manager, read in the following cases that were withdrawn or continued and then read in the Consent Agenda.

WITHDRAWN/CONTINUED CASES

V-110'²³ **PULTE HOME COMPANY, LLC** (Pulte Home Corporation, owner) requesting a variance to 1) reduce the setback from the required 15 feet to 10 feet adjacent to the south property line; and 2) reduce the setback from the required 40 feet to 27 feet adjacent to the north property line in land lot 237 of the 20th district. Property is located on the south side of Paul Samuel Road, on the west side of Turnwell Place, and on the north side of Whithorn Way (3754 Whithorn Way). *(Held by the BZA from the October 11, 2023, BZA hearing until the November 15, 2023, BZA hearing; Continued by Staff from the November 15, 2023, through the January 10, 2024, BZA hearings until February 14, 2024, BZA hearing; therefore, was not considered at this hearing). WITHDRAWN WITHOUT PREJUDICE*

V-20 **MICHAEL DILLARD** (Michael Dillard and Carol Dillard, owners) requesting a variance to 1) allow an accessory structure (approximately 1,176 square foot proposed out building) to the side of the principal building; 2) reduce the setbacks for an accessory structure over 650 square feet (approximately 1,176 square foot proposed out building) from the required 100 feet to 45 feet adjacent to the north property line and 47 feet adjacent to the south property line; and 3) allow a second electrical meter on a residential lot in land lots 1048 and 1049 of the 19th district. Property is located on the south side of Oglesby Road and on the north side of Meadows Road, west of C H James Parkway (4563 Meadows Road). **WITHDRAWN WITHOUT PREJUDICE**

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WITHDRAWN/CONTINUED CASES (CONT.)

V-26 **JON BURKE** (Jon R. Burke, owner) requesting a variance to reduce the minor side setback adjacent to the north property line from the required 10 feet to zero feet in land lots 249 and 250 of the 20th district. Property is located on the north corner of Old Mountain Road and Mountain Park Drive, south of Greymont Circle (1350 Mountain Park Circle).

Mr. Pederson presented the Applicant's request for a continuance; thereafter, the following motion was made:

MOTION: Motion by Beloin, second by Summerour, to **continue** V-26 until the March 13, 2024, Board of Zoning Appeals Variance Hearing.

VOTE: **ADOPTED** 5-0

Mr. Pederson presented the Applicant's request to continue V-25 (Marietta Community Church, Inc.). Due to opposition being present, V-25 was heard in its numerical order.

CONSENT AGENDA

MOTION: Motion by Willis, second by Summerour, to **approve** the following cases on the Consent Agenda, *as revised*:

V-13 **CARLA A. GARCIA** (Carla Ann Garcia and Mario Onil Garcia Lopez, owners) requesting a variance to reduce the side setback for an accessory structure over 650 square feet (approximately 700 square foot shed and overhang) from the required 100 feet to zero feet adjacent to the east property line in land lot 700 of the 19th district. Property is located on the north side of Pair Road, west of Cockspur Trail (1436 Pair Road). (*Previously continued by Staff from the January 10, 2024, BZA hearing until the February 14, 2024, BZA hearing*).

To **approve** V-13, subject to:

1. Department of Transportation comments and recommendations
2. Development and Inspections Division comments and recommendations
3. No living or commercial use of the accessory structure

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CONSENT AGENDA (CONT.)

- V-14** **MARINO CERVANTES** (Marino Cervantes, owner) requesting a variance to 1) reduce the rear setback from the required 35 feet to 20 feet (existing); 2) reduce the side setback for an accessory structure under 650 square feet (proposed approximately 648 square foot covered patio) from the required 10 feet to eight feet adjacent to the east property line; 3) reduce the rear setback for an accessory structure under 650 square feet (proposed approximately 648 square foot covered patio) from the required 35 feet to 25 feet; 4) allow an accessory structure (proposed approximately 648 square foot covered patio) to the side of the principal building; and 5) allow a second electrical meter on a residential property in land lot 9 of the 17th district. Property is located on the north side of Pastel Drive, west of Cunningham Road (790 Pastel Drive).

To **approve** V-14, subject to:

- 1. No living or commercial use of the accessory structure**
- 2. No accessory structure to be used as a separate second residence**

- V-16** **AMANDA DESANTIS** (Cathy J. Turpin, owner) requesting a variance 1) allow an eight foot wall in front of or to the side of the house in a residential district, 2) reduce the rear setback for an accessory structure under 650 square feet (existing approximately 520 square foot carport #1) from the required 35 feet to six feet; 3) reduce the setbacks for an accessory structure over 650 square feet (existing approximately 4,696 square foot garage, shed, and overhang) from the required 100 feet to 58 feet adjacent to the rear property line and to 72 feet adjacent to the east property line; and 4) allow accessory structures (existing approximately 520 square foot carport #1; existing approximately 4,696 square foot garage, shed, and overhang; and existing approximately 576 square foot carport #2) to be located in front of or to the side of the principal building in land lot 179 of the 20th district. Property is located on the south side of Ellis Road, east of Mack Dobbs Road (3033 Ellis Road).

To **approve** V-16, subject to:

- 1. No living or commercial use of the accessory structure**

- V-17** **STEPHEN SHEPHERD** (Stephen Lee Shepherd, owner) requesting a variance to reduce the side setback from the required 10 feet to five feet adjacent to the east property line in land lot 759 of the 17th district. Property is located on the north side of Elmwood Circle, west of South Cobb Drive (2312 Elmwood Circle).

To **approve** V-17.

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CONSENT AGENDA (CONT.)

- V-18** **MARK S. HIATT AND MARY HIATT** (Mark Steven Hiatt and Mary Hiatt, owners) requesting a variance to reduce the side setback from the required 10 feet to one foot adjacent to the north property line in land lot 974 of the 16th district. Property is located on the east side of Fairfield Drive, north of Hampton Woods Drive (954 Fairfield Drive).

To **approve** V-18, subject to:

1. **Stormwater Management Division comments and recommendations**

- V-19** **ZAFAR KHAN AND SHAHNAZ KHAN** (Zafar Khan and Shahnaz Khan, owners) requesting a variance to allow a retaining wall up to 14 feet tall to be within one foot of the property line rather than the required 15 feet in land lot 88 of the 1st district. Property is located on the east side of Clarendon Drive, north of Upper Branden Place (1154 Clarendon Drive).

To **approve** V-19, subject to:

1. **Stormwater Management Division comments and recommendations**

- V-21** **DELANEY PROPERTIES, LLC** (Delaney Properties, LLC, owner) requesting a variance to 1) allow an accessory structure (proposed 4,225 square foot accessory building/shed) to be located to the side of the principal building; and 2) reduce the setback for an accessory structure over 650 square feet (proposed 4,225 square foot building) from the required 100 feet to 25 feet adjacent to the north property line in land lot 221 of the 20th district. Property is located on the south side of Stilesboro Road, east of Acworth Due West Road (4201 Stilesboro Road).

To **approve** V-21, subject to:

1. **Stormwater Management Division comments and recommendations**
2. **Fire Department comments and recommendations**
3. **No living or commercial use of the accessory structure**

- V-22** **PATRICK RAMSEY** (Patrick Lee Ramsey, owner) requesting a variance to 1) allow an accessory use (pool and associated decking) to the side of the principal building; and 2) reduce the setback for a pool from the required five feet to two feet adjacent to the northwest property line in land lot 340 of the 20th district. Property is located on the northeast corner of Catesby Road and Nuttail Lane (63 Nuttail Lane).

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CONSENT AGENDA (CONT.)

V-22 PATRICK RAMSEY (CONT.)

To **approve** V-22, subject to:

1. Stormwater Management Division comments and recommendations

V-23 ASHLEY HAMLIN (Grant R. Hamlen and Ashley E. Hamlen, owners) requesting a variance to reduce the front setback from the required 45 feet to 15 feet in land lot 259 of the 20th district. Property is located on a private easement west of Acworth Due West Road, south of Turnwell Place (1041 Acworth Due West Road).

To **approve** V-23, subject to:

- 1. No garage may be used for commercial purposes or as an automobile repair facility**
- 2. Mechanical work conducted on any vehicles must be conducted inside the garage structures**

V-24 AMANDA DESANTIS (Marjory A. Johnson, owner) requesting a variance to increase the maximum allowable impervious coverage from 35% to 40% in land lot 180 of the 16th district. Property is located on the north side of Mystique Landing, east of Mabry Road (4409 Mystique Landing).

To **approve** V-24, subject to:

1. Stormwater Management Division comments and recommendations

V-27 DEREK BAKER (Derek Baker, owner) requesting a variance to allow an accessory use (proposed pool, spa, and associated decking) to the side of the principal building in land lot 523 of the 16th district. Property is located on the east side of Naz Court, east of Naz Trace (2565 Naz Court).

To **approve** V-27, subject to:

1. Stormwater Management Division comments and recommendations

V-28 BENFORD O. LACKEY, III (Supensri Lackey and Benford O. Lackey, III, owners) requesting a variance to reduce the setbacks for an accessory structure over 650 square feet (proposed 720 square foot detached garage) from the required 100 feet to 11 feet adjacent to the south property line and 10 feet adjacent to the east property line in land lot 93 of the 20th district. Property is located on the east side of Overlook Trail, west of Shiloh Trail West (3793 Overlook Trail).

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CONSENT AGENDA (CONT.)

V-28 BENFORD O. LACKEY, III (CONT.)

To **approve** V-28, subject to:

1. Fire Department comments and recommendations

V-29 SARAH HENSLEY (Sarah A. Hensley, owner) requesting a variance to 1) reduce the front setback from the required 35 feet to 26 feet (existing); 2) reduce the side setback from the required 10 feet to seven feet adjacent to the south property line (existing); 3) reduce the side setbacks for an accessory structure under 650 square feet (existing 313 square foot gazebo) from the required 10 feet to five feet adjacent to the south property line and to seven feet adjacent to the north property line (existing); 4) allow the pool equipment to the side of the house; and 5) increase the maximum allowable impervious coverage from 35% to 40.43% (existing) in land lot 676 of the 16th district. Property is located on the west side of Lakefront Court, north of Casteel Road (2355 Lakefront Court).

To **approve** V-29, subject to:

1. Stormwater Management Division comments and recommendations

V-30 MY POOL BUILDERS (Lawrence G. Chandler and Shirley H. Chandler, owners) requesting a variance to 1) increase the maximum allowable impervious coverage from 35% to 40%; and 2) reduce the side setback for an accessory use (proposed pool) from the required five feet to one foot adjacent to the west property line in land lot 1033 of the 16th district. Property is located on the south side of Grist Mill Road, east of Jenney Mill Court and west of Harness Mill Court (2594 Grist Mill Road).

To **approve** V-30, subject to:

- 1. Stormwater Management Division comments and recommendations**
- 2. Site Plan Review comments and recommendations**

V-32 JOE DIBENEDETTO (Joseph DiBenedetto, Jr., and Cynthia A. DiBenedetto, owners) requesting a variance to reduce the setbacks for an accessory structure over 650 square feet (proposed approximately 1,296 square foot expanded garage) from the required 100 feet to 10 feet adjacent to the east property line, 18 feet adjacent to the rear property line, and 76 feet adjacent to the west property line in land lot 269 of the 20th district. Property is located on the north side of First Cotton Drive, east of Weeping Willow Drive (716 First Cotton Drive).

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CONSENT AGENDA (CONT.)

V-32 JOE DIBENEDETTO (CONT.)

To **approve** V-32, subject to:

1. Stormwater Management Division comments and recommendations
2. No living or commercial use of the accessory structure
3. No garage may be used for commercial purposes or as an automobile repair facility
4. Mechanical work conducted on any vehicles must be conducted inside the garage structures

CONSENT VOTE: **ADOPTED** 5-0 (Russell recused from case V-17 due to a conflict)

REGULAR AGENDA

V-15 ALEXANDER PROPP (Alexander Propp, owner) requesting a variance to allow an eight-foot fence adjacent to a public road right-of-way and in front of or to the side of the house in a residential district in land lot 1156 of the 19th district. Property is located on the south side of Clay Road, west of Brawner Lake Drive (2125 Clay Road).

The public hearing was opened; Alexander Propp and Monica Baxter addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Willis, second by Swanson, to **hold** V-15 until the March 13, 2024, Board of Zoning Appeals Variance Hearing.

VOTE: **ADOPTED** 5-0

V-25 MARIETTA COMMUNITY CHURCH, INC. (Marietta Community Church, Inc., owner) requesting a variance to 1) to allow parking in the required front yard of any R district for a non-single-family residential use; and 2) to allow parking on a non-hardened and treated surface (gravel or mulch) in land lot 318 of the 20th district. Property is located on the east side of Ernest Barrett Parkway, and on the south side of Rocky Ridge Road (3121 Ernest Barrett Parkway).

The public hearing was opened; Joel Larkin, Rusty Smith, Zack Carden, and Stephen Hyde addressed the Board. Following presentation and discussion, the following motion was made:

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REGULAR AGENDA (CONT.)

V-25 MARIETTA COMMUNITY CHURCH, INC (CONT.)

MOTION: Motion by Beloin, second by Willis, to **hold** V-25 until the March 13, 2024, Board of Zoning Appeals Variance Hearing.

VOTE: **ADOPTED 5-0**

V-31 ANDREI TCACENCO (Louis Titmas, owner) requesting a variance to 1) allow an accessory structure (approximately 60 square foot firewood storage) to be located to the side of the principal building; 2) reduce the setback for an accessory structure under 144 square feet (approximately 60 square foot firewood storage) from the required five feet to zero feet adjacent to the north property line; 3) reduce the side setback for an accessory structure (existing approximately 63 square foot wood shed) from the required five feet to four feet; 4) reduce the side setback for an accessory structure (existing approximately 72 square foot wood playground) from the required five feet to three feet; and 5) reduce the side setback from the required 10 feet to zero feet adjacent to the north property line in land lot 283 of the 16th district. Property is located at the northwest corner of Lansing Drive and Lansing Court, north of Bells Ferry Road (3901 Lansing Court).

The public hearing was opened; Naomi Titmas and Mark Curtis addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Summerour, second by Beloin, to **deny** V-31, subject to:

1. **All accessory structures to be removed within 45 days**

VOTE: **ADOPTED 5-0**

APPROVAL OF MINUTES

MOTION: Motion by Willis, second by Summerour, to **approve** the following minutes, *as presented*:

January 10, 2024 – Board of Zoning Appeals Variance Hearing

VOTE: **ADOPTED 5-0**

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APPROVAL OF MINUTES (CONT.)

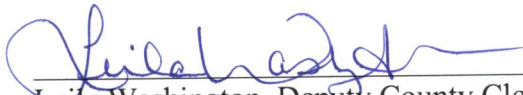
MOTION: Motion by Summerour, second by Swanson, to **approve** the following minutes,
as presented:

February 12, 2024 – Special Called Meeting/Work Session Agenda Review

VOTE: **ADOPTED** 5-0

ADJOURNMENT

The hearing adjourned at 2:47 p.m.



Leila Washington, Deputy County Clerk
Cobb County Board of Zoning Appeals