

**MINUTES OF VARIANCE HEARING
COBB COUNTY BOARD OF ZONING APPEALS
JANUARY 15, 2025
1:30 P.M.**

The Board of Zoning Appeals Variance Hearing was held on Wednesday, January 15, 2025, at 1:30 p.m. in the second-floor public meeting room of the David Hankerson Building, 100 Cherokee Street, Marietta, Georgia. Present and comprising a quorum of the Board were:

Barkley Russell, Chairwoman
Deidra Massey, Vice Chairwoman
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 case that was continued and then read in the Consent Agenda.

CONTINUED CASES

V-130²⁴ **JENNIFER AND TREY CAMBERN** (Jennifer Cambern, owner) requesting a variance to 1) increase the maximum impervious coverage allowed from 35% to 50%; 2) reduce the rear setback from the required 40 feet to 14 feet; 3) reduce the front setback from the required 45 feet to 19 feet; 4) reduce the side setback from the required 12 feet to nine feet adjacent to the west property line; and 5) allow parking and maneuvering of vehicles on a non-hardened and treated surface (existing gravel drive) in land lot 756 of the 16th district. Property is located on the south side of Bishop Lake Road, north of Spring Circle (4540 Bishop Lake Road). *(Continued by the BZA from the October 9, 2024, BZA hearing until the November 13, 2024, BZA hearing; Held by the BZA from the November 13, 2024, BZA hearing until the December 11, 2024, BZA hearing; Continued by Staff from the December 11, 2024, and January 15, 2025, BZA hearings until the February 12, 2025, BZA hearing; therefore, was not considered at this hearing).*

CONSENT AGENDA

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

At the call for petition V-129²⁴ (Charles Brown, Diane Benson-Brown), opposition was present; therefore, V-129²⁴ was pulled from the Consent Agenda and heard on the Regular Agenda in its numerical order (see page 5 of these minutes).

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CONSENT AGENDA (CONT.)

- V-1** **RONDA LAIFER** (Ronda Laifer, owners) requesting a variance to 1) reduce the rear setback from the required 35 feet to 23 feet along the east property line; and 2) reduce the rear setback from the required 35 feet to 21 feet along the south property line (existing) in land lot 182 of the 20th district. Property is located at the eastern terminus of Northbrook Ridge, west of Duck Hollow Drive (2284 Northbrook Ridge).

To **approve** V-1, subject to:

- 1. No commercial use of any structures**
- 2. No turbo charged engines in any vehicle**

- V-2** **7 OAKS STABLES LLC** (7 Oaks Stables LLC, owner) requesting a variance to allow a second electrical meter on a residential lot in land lots 257 and 320 of the 17th district. Property is located on the southeast side of Cooper Lake Road, west of Civitania Road (300 Cooper Lake Road).

To **approve** V-2.

- V-3** **RAMONA AND DONALD YOUNG** (Donald C. Young and Ramona Hook Young, owners) requesting a variance to reduce the front setback from the required 35 feet to 30 feet in land lot 269 of the 17th district. Property is located on the east side of Woodview Drive, south of Woodview Lane (3386 Woodview Drive).

To **approve** V-3, subject to:

- 1. Site Plan Review comments and recommendations**

- V-4** **ERIKA GABBARD** (Terry Gabbard and Erika Gabbard, owners) requesting a variance to 1) allow an inground pool to be located to the side of the principal structure; 2) reduce the setback for an accessory structure (existing inground pool) from the required five feet to one foot adjacent to the east property line; and 3) to allow an accessory structure (existing approximately 252 square-foot shed) to be located to the front and side of the principal structure in land lot 119 of the 17th district. Property is located on the south side of Covered Bridge Road, south of the East-West Connector (4064 Covered Bridge Road).

To **approve** V-4, subject to:

- 1. Stormwater Management Division comments and recommendations**

CONSENT AGENDA (CONT.)

- V-5** **WILMER A. RUIZ AND MARIA TREJO ZELAYA** (Wilmer A. Ruiz Molina and Maria I. Zelaya Trejo, owners) requesting a variance to 1) allow an eight-foot fence in the front and to the side of a house in a residential district; 2) reduce the setback for an accessory structure under 650 square feet (existing approximately 380 square-foot carport) from the required 10 feet to four feet adjacent to the north property line; and 3) reduce the rear setback for an accessory structure (existing approximately 380 square-foot carport) from the required 35 feet to 25 feet in land lot 270 of the 18th district. Property is located on the west side of Mableton Parkway, south of Nash Circle (6420 Mableton Parkway).

To **approve** V-5, subject to:

- 1. Design Guidelines**
- 2. Remove barbed wire portion of the fence within 30 days**

- V-6** **JENNIFER AND BRENT EMORE** (Brent A. Emore and Jennifer L. Emore, owners) requesting a variance to reduce the rear setback from the required 30 feet to 19 feet in land lot 183 of the 16th district. Property is located at the northeast terminus of Chapel Grove Lane, north of Chapel Grove Drive (4408 Chapel Grove Lane).

To **approve** V-6.

- V-7** **FACTORY DIRECT REMODELING OF ATLANTA** (Rita Deniston, owner) requesting a variance to reduce the rear setback from the required 30 feet to 19 feet in land lot 15 of the 20th district. Property is located at the northwest corner of Hamby Road and Oak Hollow Drive (5001 Oak Hollow Drive).

To **approve** V-7.

- V-8** **EMMA SWORD** (Emma M. Sword and Matthew Sword, owners) requesting a variance to reduce the setbacks for an accessory structure over 1,000 square feet (proposed 1,120 square-foot, one story garage) from the required 100 feet to 10 feet adjacent to the south property line, 44 feet adjacent to east property line, and 76 feet adjacent to the north property line in land lot 863 of the 17th district. Property is located on the east side of Holt Road, north of Lower Roswell Road (64 Holt Road).

To **approve** V-8, subject to:

- 1. No commercial or residential dwelling use of the detached garage**

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CONSENT AGENDA (CONT.)

- V-9** **KEVIN WOJCIK AND TRUDY HEARN** (Trudy Hearn and Kevin Wojcik, owners) requesting a variance to reduce the exterior side setback from the required 20 feet to five feet adjacent to the east property line in land lots 559 and 594 of the 16th district. Property is located on the north side of Fairview Drive, east of Bob Bettis Road (1647 Fairview Drive).

To **approve** V-9.

- V-10** **JOHN EVANS** (John Evans, Carol Evans, and Robert Evans, owners) requesting a variance to reduce the rear setback from the required 30 feet to 22 feet in land lot 597 of the 16th district. Property is located at the northern terminus of Sandstone Place, east of Watercrest Court (2474 Sandstone Place).

To **approve** V-10.

- V-11** **ASHLEY DOVER** (Brett Patrick McQuilkin and Brooke Lee McQuilkin, owners) requesting a variance to 1) allow for accessory structures (proposed inground pool and pool equipment) to be on the side of the house; 2) allow for an accessory structure (proposed inground pool) to be located closer to the side street right-of-way line than the principal structure; and 3) reduce the rear setback from the required 40 feet to 36 feet (existing) in land lot 273 of the 16th district. Property is located at the northeast corner of Matty Drive and Maybreeze Road (3394 Matty Drive).

To **approve** V-11, subject to:

1. Sewer Division comments and recommendations

- V-12** **KATHERINE AND JOSHUA STUTLER** (Katherine Stutler and Joshua Michael Stutler, owners) requesting a variance to reduce the rear setback from 35 feet to 22 feet in land lot 291 of the 20th district. Property is located at the southern terminus of New Salem Trace, west of New Salem Road (2383 New Salem Trace).

To **approve** V-12.

- V-13** **AMANDA AND DAVID LINDER** (David S. Linder and Amanda C. Linder, owners) requesting a variance to 1) allow an accessory structure (an existing 293 square-foot shed) to be located in the front and to the side of the principal structure; 2) allow an accessory structure (an existing 445 square-foot chicken coop) to be located in the front and to the side of the principal structure; and 3) allow an accessory structure (an existing 166 square-foot pole barn) to be located in the front and to the side of the principal structure in land lot 547 of the 19th district. Property

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CONSENT AGENDA (CONT.)

V-13 AMANDA AND DAVID LINDER (CONT.)

is located on the south side of Mellor Lane, north of Sugar Creek Drive (2099 Mellor Lane).

To approve V-13.

V-14 BLAKE HEAD (Blake Head, owner) requesting a variance to 1) reduce the side setback from the required 12 feet to nine feet adjacent to the north property line (existing); and 2) reduce the side setback from the required 12 feet to seven feet adjacent to the south property line in land lot 957 of the 17th district. Property is located on the east side of Farmington Drive, north of Farmington Lane (3083 Farmington Drive).

To approve V-14, subject to:

1. No living or business use of the addition
2. Addition is for cars and storage use *only*

CONSENT VOTE: **ADOPTED 5-0**

REGULAR AGENDA

V-129'²⁴ CHARLES BROWN, DIANE BENSON-BROWN (Diane Benson-Brown and Charles D. Brown, owners) requesting a variance to 1) reduce the setbacks for an accessory structure (proposed approximately 182 square-foot shed) from the required 35 feet to two feet adjacent to the rear property line and from the required 10 feet to zero feet adjacent to the south property line; 2) allow an eight-foot privacy fence on the side yard property line; and 3) increase the impervious surface percentage from 35% to 41% in land lot 990 of the 16th district. Property is located on the west side of Brickleberry Lane, north of Oak Trail Drive (979 Brickleberry Lane). *(Continued by Staff from the October 9, 2024, through the December 11, 2024, BZA hearing until the January 15, 2025, BZA hearing).*

The public hearing was opened; Adam Rozen and Reed Howard addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Swanson, second by Massey, to approve V-129'²⁴, subject to:

1. Development and Inspections Division comments and recommendations
2. Structure to be permitted and inspected
3. No residential or commercial use of the accessory structure

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REGULAR AGENDA (CONT.)

V-129'²⁴ CHARLES BROWN, DIANE BENSON-BROWN (CONT.)

4. Applicant and neighbor to review the buffer plan, with the County Landscape Architect having final approval
5. Applicant to maintain the water runoff swale system which is filled with rocks to capture the water coming off the roofline, down into the rocks, and exiting onto Applicant's property

VOTE: **ADOPTED 5-0**

V-147'²⁴ KEVIN CLAYTON (T. Kevin Clayton and Karen M. Clayton, owners) requesting a variance to 1) reduce the setbacks for an accessory structure over 1,000 square feet (proposed 6,340 square-foot sports court) from the required 100 feet to 19 feet adjacent to the east property line and 26 feet adjacent to the north property line; and 2) increase the height of a wall from six feet to eight feet along Paper Mill Road in land lot 1260 of the 16th district. Property is located on the east side of Woodlawn Drive, north of Paper Mill Road (4445 Paper Mill Road. *(Continued by the BZA from the November 13, 2024, BZA hearing until the December 11, 2024, BZA hearing; Continued by Staff from the December 11, 2024, BZA hearing until the January 15, 2025, BZA hearing).*

The public hearing was opened; Parks Huff, LeAnn Freeman, and Mike Dennis addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Summerour, second by Massey, to **approve** V-147'²⁴, subject to:

1. **Letter of agreeable conditions from Parks Huff dated January 15, 2025 (attached and made a part of these minutes)**

VOTE: **ADOPTED 5-0**

V-150'²⁴ KOFFI NOGBE (Koffi D. Nogbe, owner) requesting a variance to 1) allow encroachment of the 65-foot undisturbed stream buffer; and 2) increase the maximum allowable impervious coverage from 40% to 57.98% in land lot 520 of the 16th district. Property is located on the west side of Shaw Road, north of Mitchell Falls Court (1400 Mitchell Falls Court). *(Previously continued by the BZA from the December 11, 2024, BZA hearing until the January 15, 2025, BZA hearing).*

The public hearing was opened; Koffi Nogbe and William Souder addressed the Board. Following presentation and discussion, the following motion was made:

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REGULAR AGENDA (CONT.)

V-150'²⁴ KOFFI NOGBE (CONT.)

MOTION: Motion by Summerour, second by Beloin, to **hold** V-150'²⁴ until the February 12, 2025, Board of Zoning Appeals Variance Hearing.

VOTE: **ADOPTED 5-0**

APPROVAL OF MINUTES

MOTION: Motion by Beloin, second by Massey, to **approve** the following minutes, *as presented*:

December 11, 2024 – Board of Zoning Appeals Variance Hearing

VOTE: **ADOPTED 5-0**

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

January 6, 2025 – Special Called Meeting/Agenda Review Work Session

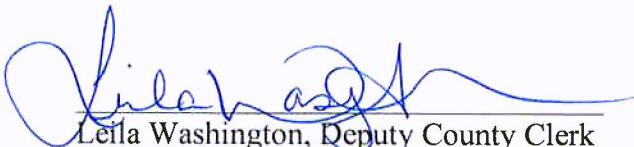
VOTE: **ADOPTED 5-0**

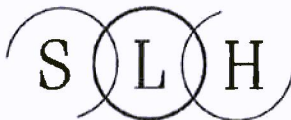
ADJOURNMENT

MOTION: Motion by Massey, second by Summerour, to **adjourn** the hearing.

VOTE: **ADOPTED 5-0**

The hearing adjourned at 3:40 p.m.


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



Min. Bk. 24 Petition No. V-147'²⁴
Doc. Type letter
Meeting Date 1-15-2025

GARVIS L. SAMS, JR.

(RETIRED)

JOEL L. LARKIN

PARKS F. HUFF

SAMS, LARKIN & HUFF

A LIMITED LIABILITY PARTNERSHIP
SUITE 100

376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

770•422•7016

TELEPHONE

770•426•6583

FACSIMILE

January 15, 2025

VIA EMAIL

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
1150 Powder Springs Road, Suite 400
Marietta, GA 30064

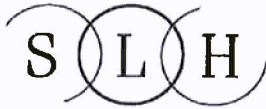
Re: Variance Application of Kevin Clayton regarding a 4.386± Acre Tract, located in
Land Lot 1260, 16th District, 2nd Section, Cobb County, Georgia;
4445 Paper Mill Road; (V-147 [2024])

Dear John:

Mr. and Mrs. Clayton hired a professional contractor to install a tennis court on their property on Paper Mill Road. The tennis court was partially installed when another contractor informed the Claytons that the setbacks required a variance. The Claytons weren't familiar with the zoning ordinance and relied upon the contractor's statement that a permit wasn't required. Once, informed of the need for a variance, the Claytons stopped the completion of the tennis court even though the only thing remaining to be completed was installing the tennis surface on the asphalt and installing the net and sought the proposed variance. During the pendency of the application, the two neighbors directly behind the Claytons' property expressed concerns about the tennis court and the grading that included a retaining wall and tree removals.

After email and a phone conference to understand the neighbors' concerns, below are a list of conditions to ameliorate the concerns from the neighbors.

- 1) There will only be one tennis court.
- 2) The tennis court will be for personal use only with no outside use or commercial use such as lessons for others.
- 3) The tennis court will not be lighted.



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VIA EMAIL

Mr. John P. Pederson, AICP, Manager
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- 4) All outdoor lighting will be downcast or shielded so it doesn't shine towards adjacent properties.
- 5) A retaining wall was installed along the northern property line that was completed and received a county CO in 2021. The wall is fifteen feet from the northern property line and the northern neighbors have concerns about erosion and soil settling. To address this concern, the Claytons will have a contractor inspect the area and compact any loose soils and ensure proper grown cover. If the neighbors' privacy fences are unstable due to erosion, the Claytons will pay for any repairs to the privacy fences.
- 6) The applicants will plant a row of evergreen plantings along the bottom of the retaining wall and maintain the existing evergreen plantings that are on top of the retaining wall that is adjacent to the northern property line.

The Claytons have asked the neighbors if additional evergreen plantings would be helpful and remain open to additional suggestions on mitigation for the partially installed tennis court.

Please do not hesitate to contact me should you or your staff have any questions or require any additional information or documentation. With kind regards, I am

Very truly yours,

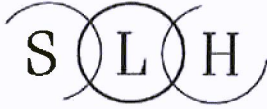
SAMS, LARKIN & HUFF, LLP

A handwritten signature in black ink, appearing to read "Parks F. Huff".

Parks F. Huff
phuff@samslarkinhuff.com

PFH/jac

cc: ON FOLLOWING PAGE



Petition No. V-147'24
Meeting Date 1-15-2025
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VIA EMAIL

Mr. John P. Pederson, AICP, Manager
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cc: Members, Cobb County Board of Zoning Appeals (via email)
Ms. Jessica Guinn, AICP, Director (via email)
Mr. Terry Martin, AICP, CNU-A, Senior Planner (via email)
Mr. LeDarius Scott, *AICP Candidate*, CNU-A, Planner III (via email)
Mr. Cameron Jones, Planner II (via email)
Ms. Jessica Berman, Planner I (via email)
Ms. Pam Mabry, County Clerk (via email)
Ms. Robin Stone, Deputy County Clerk (via email)
Ms. Leila Washington, Deputy County Clerk (via email)
Mr. Jeff Byrd, Fire Marshal's Office (via email)
Ms. Ligia Florim, Cobb DOT (via email)
Mr. Andrew Heath, P.E., Stormwater Management Division (via email)
Mr. Wilson Collins, P.E., Engineer, Water System (via email)
Mr. Kevin Clayton (via email)