

**FULTON COUNTY BOARD OF ZONING APPEALS
MEETING MINUTES
AUGUST 18, 2005**

The regular meeting of the Fulton County Board of Zoning Appeals was held on Thursday, August 18, 2005 beginning at 1:18 p.m. in the Fulton County Government Center Assembly Hall, 141 Pryor Street, Atlanta, Georgia. Board members and staff attending this meeting were:

BOARD OF ZONING APPEALS

M. Rose Shane, Vice Chairperson
Donne Bland
Douglas M. Gray
Aasia Mustakeem

ENVIRONMENT AND COMMUNITY DEVELOPMENT DEPARTMENT

Alice Wakefield, Deputy Director
Madolyn Spann, Planner
Shirley King, Zoning Coordinator
Bettie Jones, Administrative Coordinator II
M.A. Meleka, E&CD
Mark Moore, Public Works

LEGAL DEPARTMENT

Valerie Ross

ALL REFERENCE TO THE WORD "DOCKET" IN THE FOLLOWING MINUTES APPLIES TO THE FILE KEPT IN A LARGE ENVELOPE DULY ENTITLED IN EACH CASE AND ON RECORD IN THE FULTON COUNTY ENVIRONMENT & COMMUNITY DEVELOPMENT DEPARTMENT. THE DOCKET CONTAINS ALL PAPERS AND DOCUMENTS REQUIRED BY THE FULTON COUNTY ZONING RESOLUTION, SHOWING METES, BOUNDS, COURSES AND DISTANCES, AND AS INCORPORATED BY REFERENCES AS PART OF THESE MINUTES. RECORDING TAPES OF THE PROCEEDINGS OF THIS MEETING ARE ON FILE IN THE ENVIRONMENT AND COMMUNITY DEVELOPMENT DEPARTMENT.

THESE MINUTES REFLECT ONLY THE ACTION BY THE BOARD OF ZONING APPEALS ON EACH CASE.

PUBLIC HEARING

The cases noted on the following pages were sounded by and acted upon by the Board of Zoning Appeals.

APPROVAL OF JULY 2005 MINUTES

The Board of Zoning Appeals approved the July 2005 Minutes. The motion for approval was made by Mr. Gray and seconded by Ms. Mustakeem. Ms. Shane abstained as she was not present for the August hearing. The motion was carried by majority vote.

ADJOURNMENT OF MEETING

The meeting adjourned at 4:22 p.m.

SUBMITTED BY:

Steven R. Cover, AICP, Director
Environment & Community Development
Executive Secretary to the Board of
Zoning Appeals

APPROVED BY:

Chairperson

PREPARED BY:

Bettie J. Jones
Administrative Coordinator II

Case # 2005V-078 FCN
(Held from Jul '05)

310 HAMMOND DRIVE

Appeal of Janel Marks and Romi Alavi seeks a variance to the Fulton County Zoning Resolution in a C-1 (Community Business District) zoning classification as follows:

Request:

To allow property under 40,000 square feet to maintain the existing free-standing sign along Hammond Drive (Ref: Article XII.B.2.6, Section A.1).

Property located at 310 Hammond Drive, in Land Lot 89 of District 17, Fulton County, Georgia.

Purpose: To allow an existing 32 square foot sign to remain for the Psychic Readings business.

After review and discussion by Board Members, Mr. Bland made a motion to APPROVE CONDITIONAL to sign being no taller than existing sign and compliant with the required 32-square foot maximum sign area, and the maximum 6 feet of height, Case # 2005V-078 FCN, in accordance with Article XXII. This motion was seconded by Ms. Mustakeem and unanimously carried.

Reason: Applicant presented a hardship in keeping with Article 22.3.1 of the Zoning Resolution.

Attendance: Scott Peters spoke in support of the project; there was no opposition present.

Case # 2005VS-114 FCS
(Held from Jul '05)

FULTON INDUSTRIAL BLVD

Appeal of Gerald Davis seeks variances to the Fulton County Zoning Resolution in an M-2 (Heavy Industrial District) zoning classification as follows:

Request:

- (1) To delete the requirement for sidewalk along the Fulton Industrial Boulevard frontage (Ref: Article XXXIV.5.3).**
- (2) To delete the requirement for sidewalk along the Camp Creek Parkway frontage (Ref: Article XXXIV.5.3).**

Property located at 5887 Fulton Industrial Boulevard, in Land Lots 115, 134, and 135 of District 14F in Fulton County, Georgia.

Purpose: To appeal Environment and Community Development's decision to provide sidewalks.

After review and discussion by Board Members, Ms. Mustakeem made a motion to APPROVE CONDITIONAL Case # 2005VS-114 FCS, to site plan submitted, and providing sidewalks along Fulton Industrial Boulevard, and deleting sidewalk requirement along Camp Creek Parkway, and agreement with E&CD Plan Review staff as outlined in an E&CD memo dated August 18, 2005, from M.A. Meleka. The motion was seconded by Ms. Shane and carried unanimously.

Reason: Applicant presented a hardship in keeping with Article 22.3.1 of the Zoning Resolution.

Attendance: Mr. Gerald Daws spoke in support; there was no opposition present.

Case # 2005V-118 FCN
(Held from Jul '05)

11005 JONES BRIDGE ROAD

Appeal of Kandice Williams seeks variances to the Fulton County Zoning Resolution in a C-1 (Community Business District) zoning classification as follows:

Requests:

- (1) To allow the sign face to be smaller than the sign base (Ref: Article XII.E.6.A).
- (2) To increase the size of the monument sign from 32 square feet to 78 square feet (Ref: Article XII.E.6).
- (3) To allow 12 tenant panels on the monument sign (Ref: Article XII.E.6).

Property located at 11005 Jones Bridge Road, in Land Lot 167 of District 1-1 in Fulton County, Georgia.

Purpose: To allow development of a shopping center.

After review and discussion my Board Members, Mr. Bland made a motion to DEFER Case # 2005V-118 FCN for 60 days at the request of the applicant to allow opportunity to meet with Johns Creek Community Association. The motion was seconded by Mr. Gray and unanimously carried.

Reason: To allow applicant the opportunity to work with the Johns Creek Community Association.

Attendance: Ralph Mulligan and Jeff Berlin spoke in support. There was no opposition present; one letter of opposition was filed.

Case # 2005V-121 FCN
(Held from Jul '05)

CRABAPPLE ROAD

Appeal of Paul Hass seeks variances to the Fulton County Zoning Resolution in a MIX (Mixed Use District) zoning classification as follows:

Requests:

- (1) To allow two identification monument signs along Crabapple Road at each project entrance (Ref: Article XIIH(1).8.A.2.C).**
- (2) To allow second wall signs per business (opposite faces of businesses) on non-street facing walls Ref: Article XII.H(1).8.B.5).**
- (3) To allow wall signs to be constructed of wood letters set on a hardi plank freeze (Ref: Article XIIH (1).8.B.4).**

Property located at Crabapple Road, in Land Lots 1135 and 1170 of District 2-2 in Fulton County, Georgia.

Purpose: To allow development of the Crabapple Station, a mixed residential (65 units) and commercial (19,000 square feet) development.

After review and discussion by Board Members, Mr. Gray made a motion to DENY Case # 2005V-121 FCN. The motion failed due to lack of a second. After further discussion, Ms. Shane made a second motion to APPROVE CONDITIONAL request #2 to a parallel wall sign being no more than 6 square feet. Requests 1 and 3 were WITHDRAWN at the applicant's request. The motion was seconded by Ms. Mustakeem and carried by majority vote. Mr. Gray opposed the vote.

Reason: Applicant presented a hardship in keeping with Article 22.3.1 of the Zoning Resolution.

Attendance: William De St Aubin and Tad Braswell spoke in support; Julie Bailey, representing the neighbors, and Scott Kilgore spoke in opposition. Eight letters of opposition are on file.

Case # 2005V-103 FCN

264 ELDEN DRIVE

The appeal of Matthew Kane seeks a variance to the Fulton County Zoning Resolution in an R-3 (Single Family Dwelling District) zoning classification as follows:

Request:

To reduce the minimum required side yard setback from 10 feet to 5 feet along the west property line (Ref: Article VI.4.3, Section C).

Property located at 264 Elden Drive, in Land Lot 4 of District 17 in Fulton County, Georgia.

Purpose: To allow the addition of a second garage bay to the side of the existing garage.

After review and discussion by Board Members, Mr. Bland made a motion to APPROVE Case # 2005V-103 FCN in accordance with Article XXII. This motion was seconded by Ms. Mustakeem, supported by Ms. Shane and carried by majority vote. Mr. Gray opposed the vote.

Reason: Applicant presented a hardship in keeping with Article 22.3.1 of the Zoning Resolution.

Attendance: Matthew and Melinda Kane spoke in support; John Adams spoke in opposition.

Case # 2005V-127 FCN

10070 MEDLOCK BRIDGE RD

The appeal of Kevin Massey seeks a variance to the Fulton County Zoning Resolution in a C-1 (Community Business District) zoning classification as follows:

Request:

To allow steel security window strips interior to the store front facing Medlock Bridge Road (Ref: Article XII.E.4, Section D-4).

Property located at 10070 Medlock Bridge Road, in Land Lot 327 of District 1-1 in Fulton County, Georgia.

Purpose: To allow a recently located Edwin Watts Golf Shop located within a small strip commercial center to maintain existing security windows.

After review and discussion by Board Members, Ms. Shane made a motion to APPROVE CONDITIONAL to written agreement with Johns Creek Community Association dated August 18, 2005 by Bret Thrasher of the law firm of Thompson, O'Brien, Kemp & Nasuti, PC, Case # 2005V-127 FCN, in accordance with Article XXII. This motion was seconded by Ms. Mustakeem and carried unanimously.

Reason: Applicant presented a hardship in keeping with Article 22.3.1 of the Zoning Resolution.

Attendance: Bret Thrasher spoke in support. Jeff Berlin, Johns Creek Community Association, supports the variance as long as it complies with the agreement with JCCA. There was no opposition present, but two letters of opposition were filed.

Case # 2005V-132 FCN

105 WYNDHAM DRIVE

The appeal of Joseph Gondolfo seeks a variance to the Fulton County Zoning Resolution in an R-3 and R-2A (Single Family Dwelling District) zoning classification as follows:

Request:
To reduce the minimum required front yard setback from 50 feet to 30 feet (Ref: Article VI.4.3, Section B).

Property located at 105 Wyndham Drive, in Land Lot 127 of District 17 in Fulton County, Georgia.

Purpose: To allow the construction of a single family dwelling in the Wyndham Hills Subdivision.

After review and discussion by Board Members, Mr. Gray made a motion to DENY Case # 2005V-132 FCN due to failure of applicant to present a hardship and negative impact on subdivision. This motion failed as Ms. Mustakeem and Ms. Shane abstained. After further discussion and determination by applicant's statement that lot is a legal lot that he purchased for \$37,000, Mr. Gray made a second motion to DENY. Mr. Bland seconded this motion. Ms. Mustakeem opposed and the vote was carried by majority.

Reason: Failure of applicant to present hardship in keeping with Article 22.3.1 of the Zoning Resolution.

Attendance: Joseph Gondolfo spoke in support. Clark Price, Eugene Jordan, representing Home Owners' Association, and John Langsfeld, representing the neighbors, spoke in opposition. There was also overwhelming opposition in the form of petitions from 150 neighbors.

Case # 2005V-133 FCN 305 CARPENTER DRIVE

The appeal of Masoud Zahedi seeks a variance to the Fulton County Zoning Resolution in an A-L (Apartment Limited District) zoning classification a follows:

Request:
To allow a mezzanine level (loft) to be greater than 1/3 of the floor area of room below (Ref: Section 505.2, 2000 International Building Code).

Property located at 305 Carpenter Drive in Land Lot 70 of District 17 in Fulton County Georgia.

Purpose: To seek interpretation of Building Code requiring mezzanine level to be counted as 4th floor level rather than the three stories proposed.

After review and discussion by Board Members, Ms. Mustakeem made a motion to APPROVE CONDITIONAL to applicant modifying plans per E&CD memo from Mary Miller, Plan Review, dated July 13, 2005, Case # 2005V-133 FCN in accordance with Article XXII. The motion was seconded by Mr. Gray and unanimously carried.

Reason: Applicant presented a hardship in keeping with Article 22.3.1 of the Zoning Resolution.

Attendance: Masoud Zahedi spoke in support, and Mary Miller, E & CD explained the Department's position relative to International Building Code standards.

Case # 2005V-134 FCN 5640 LONG ISLAND DRIVE

The appeal of James Gallaso seeks a variance to the Fulton County Zoning Resolution in an R-1 (Single Family Dwelling District) zoning classification as follows:

Request:

To delete the required three-foot setback for fences/walls along the right-of-way (Ref: Article IV.11, Section D.4).

Property located at 5640 Long Island Drive, in Land Lot 122 of District 17 in Fulton County, Georgia.

Purpose: To allow existing columns and fencing to be constructed along the right-of-way.

After review and discussion by Board Members, Mr. Gray made a motion to DENY Case # 2005V-134 FCN in accordance with Article XXII. This motion was seconded by Ms. Shane. Mr. Bland made a friendly amendment that columns be removed from the R-O-W because they present a safety problem to the public. Ms. Shane seconded the friendly amendment that was unanimously carried.

Reason: Failure of applicant to present hardship and the columns present a danger and safety problem to the public.

Attendance: James Gallaso and Dorothy Knight, a neighbor, spoke in support;

Bill Mark Moore, Department of Public Works, Fulton County, and Skalin spoke in opposition. Four letters of opposition were filed.

Case # 2005V-136 FCN

16170 HOPEWELL ROAD

The appeal of Thomas and Shannon Hurney seeks variances to the Fulton County Zoning Resolution in an AG-1 (Agricultural District) zoning classification as follows:

Requests:

- (1) To delete the requirement for sidewalk along the frontage of Hopewell Road (Ref: Article VIII.2.4, Sub Regs.).
- (2) To delete the requirement for sidewalk along the frontage of Longstreet Road (Ref: Article VIII.2.4, Sub Regs.).

Property located at 16170 Hopewell Road, in Land Lots 321 and 322, of District 2-2 in Fulton County, Georgia.

Purpose: To allow construction of a single family dwelling on 1.9 acres taken from 21.9 acres where sidewalks are required by the Subdivision Regulations along approximately 424 feet of Hopewell Road, and approximately 655 feet along Longstreet, Road.

After review and discussion by Board Members, Mr. Bland made a motion to Approve Conditional Case # 2005V-136 FCN in accordance with Article XXII. This motion was seconded by Mr. Gray. Ms. Shane amended the motion to say “sidewalk requirement deleted as long as property is not further subdivided beyond the present two lots.” The vote was unanimously carried.

Reason: Applicant presented a hardship in keeping with Article 22.3.1 of the Zoning Resolution.

Attendance: Shannon Hurney and Julie Bailey spoke in support. Six letters of opposition are on file. There was no opposition present.

Case # 2005V-138 FCN

10475 MEDLOCK BRIDGE RD

The appeal of John Barrow seeks variances to the Fulton County Zoning Resolution in a C-1 (Community Business District) zoning classification as follows:

Requests:

(1) To increase sign area from 32 square feet to 92 square feet
(Ref: Article XII.E.6).

(2) To increase the number of tenant panels from four panels to eight panels (Ref: Article XII.E.6).

(3) To allow sign base wider than face and tenant panels (Ref: Article XII.E.6, Section A).

- (4) To delete the requirement for sign material to be same as building exterior materials (Ref: Article XII.E.6, Section C.)

Property located at 10475 Medlock Bridge Road, in Land Lots 324 and 325 of District 1-1 in Fulton County, Georgia.

Purpose: To allow a wall-like monument sign at the corner (NE) of Medlock Bridge and Wilson Roads for the Ivy Falls Shopping Center.

After review and discussion by Board Members, Ms. Shane made a motion to APPROVE Case # 2005V-138 FCN with height of sign being 3 feet in accordance with Article XXII. The motion was seconded by Ms. Mustakeem and unanimously carried.

Reason: Applicant presented a hardship in keeping with Article 22.3.1 of the Zoning Resolution.

Attendance: Woody Galloway, representing applicant, and Jeff Berlin, representing the Johns Creek Community Association, spoke in support. There was no opposition present.

Case # 2005VS-140 FCN HICKORY FLAT ROAD

The appeal of Jim Courson seeks a variance to the Fulton County Zoning Resolution in an AG-1 (Agricultural District) zoning classification as follows:

Request: To reduce the required 50-foot setback for a new street to 10 feet for approximately 200 feet beginning at the subdivision's entrance from Hickory Flat Road (Ref: Article XXXIV.5.7).

Property located at Hickory Flat Road, in Land Lots 272, 304, 305, and 345 of District 2-2 in Fulton County, Georgia.

Purpose: To appeal the Director's Denial of Administrative Variance (2005VA-128) to allow relocation of subdivision entrance in order to provide the required declaration lane placing the new street within 10 feet of the west property line.

After review and discussion by Board Members, Mr. Bland made a motion to DENY Case # 2005VS-140 FCN in accordance with Article XXII. This motion was seconded by Mr. Gray and unanimously carried.

Reason: Failure of applicant to present hardship in keeping with Article 22.3.1 of the Zoning Resolution.

Attendance: Jim Courson spoke in support. Corrie Keesee, Scot Kilgore and Julie Z. Bailey spoke in opposition. Twelve letters of opposition were filed.

Case # 2005V-144 FCN

565 TRIMBLE LAKE CT

The appeal of Cecile Marks seeks a variance to the Fulton County Zoning Resolution in a CUP (Community Unit Plan) zoning classification as follows:

Request:

To reduce the minimum required side yard setback from 10 feet to 7 feet for pool and spa area to rear of dwelling (south property line)

Ref: Article XIX.3.12, Section B.1).

Property located at 565 Trimble Lake Court, in Land Lot 14 of District 17 in Fulton County, Georgia.

Purpose: To allow the construction of a pool and spa at the 7-foot minimum setback required for principal structures.

After review and discussion by Board Members, Mr. Gray made a motion to APPROVE Case # 2005V-144 FCN in accordance with Article XXII. The motion was seconded by Ms. Mustakeem and unanimously carried.

Reason: Applicant presented a hardship in keeping with Article 22.3.1 of the Zoning Resolution.

Attendance: Cecile Marks spoke in support. There was no opposition present.

Case # 2005V-145 FCN

NESBITT FERRY RD-HOLCOMB BR RD

The appeal of Lynn Oliver seeks variances to the Fulton County Zoning Resolution in a C-1 (Community Business District) zoning classification as follows:

Requests:

- (1) To increase the height of a freestanding monument sign from eight (8) feet to ten (10) feet (Ref: Article XII.E.6).
- (2) To increase the maximum sign area from 32 square feet to 56 square feet (Ref: Article XII.E.6).
- (3) To increase the maximum number of tenant panels from four (4) to eight (8) panels (Ref: Article XII.E.6).
- (4) To allow a second monument sign in addition to existing Rivermont Station Kroger signage (Ref: Article XII.E.6).

Property located at 8465 Holcomb Bridge Road, in Land Lots 877 and 878 of District 2-2 in Fulton County, Georgia.

Purpose: To allow a second monument sign along the Holcomb Bridge frontage for the Rivermont Station Shopping Center providing signage for Shopping Center tenants.

After review and discussion by Board Members, Mr. Bland made a motion to DEFER for 60 days, Case # 2005V-145 FCN at the request of the applicant. This motion was seconded by Mr. Gray and unanimously carried.

Reason: To allow applicant opportunity to file a modification and to meet with the Newtown Coalition.

Attendance: Lynn Oliver spoke in support. Dale Nesbit, Newtown Coalition, spoke in opposition.

Case # 2005V-146 FCN

11201 STATE BRIDGE ROAD

The appeal of Amy Page seeks variances to the Fulton County Zoning Resolution in an A-L (Apartment Limited District) zoning classification as follows:

Requests:

- (1) To allow an increase in the maximum entry wall height from 8 feet to 10 feet (Ref: Article IV.11, Section E).
- (2) To allow two 16-square foot sign panels on one wall structure on

one side of the development's entrance at State Bridge Road (Article XXXIII.5, Section C.2).

Property located at 11201 State Bridge Road, in Land Lots 153, 154 of District 1-1 in Fulton County, Georgia.

Purpose: To allow name change of existing Caswyck Apartments Development to Century State Bridge, utilizing the existing brick monument structure.

After review and discussion by Board Members, Ms. Mustakeem made a motion to APPROVE CONDITIONAL to no portion of fencing around detention pond being removed except for ordinary repair and maintenance, Case # 2005V-146 FCN, in accordance with Article XXII. The motion was seconded by Ms. Shane and unanimously carried.

Reason: Applicant presented a hardship in keeping with Article 22.3.1 of the Zoning Resolution.

Attendance: Michael Norton spoke in support; Jeff Berlin, Johns Creek Community Association, spoke. One letter of opposition was filed.

Case # 2005V-148 FCN

13540 HWY 9 – CUMMING HWY

The appeal of Ken Murphy seeks variances to the Fulton County Zoning Resolution in an AG-1 (Agricultural District) zoning classification as follows:

Requests:

- (1) To allow a project identification monument with the sign face not equal to sign base (Ref: article XII.G.5, Section A).
- (2) To increase the maximum height from 6 feet to 8 feet and 2 inches for the column portion of the sign monument (Ref: Article XII.G.5, Section D).

Property located at 13540 Highway 9, in Land Lot 2-2 of Fulton County, Georgia.

Purpose: To allow the Stone Creek Church to construct a stacked stone monument sign (32 minimum square feet) at its entrance from State Route 9.

After review and discussion by Board Members, Ms. Shane made a motion to APPROVE Request #1 as requested, and to APPROVE CONDITIONAL Request # 2, to allow sign columns at a maximum height of seven feet, in accordance with Article XXII. This motion was seconded by Mr. Bland and unanimously carried.

Reason: Applicant presented a hardship in keeping with Article 22.3.1 of the Zoning Resolution.

Attendance: Eric Roche, Ken Murphy and Roger Young spoke in support; there was no opposition present. Three letters of opposition are on file.