

**FULTON COUNTY BOARD OF ZONING APPEALS
MEETING MINUTES
JANUARY 20, 2005**

The regular meeting of the Fulton County Board of Zoning Appeals was held on Thursday, January 20, 2005 beginning at 1:30 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

Karen Thurman, Chairperson
Donne Bland
Rosemary Lawson-Edge
Douglas M. Gray

ENVIRONMENT AND COMMUNITY DEVELOPMENT DEPARTMENT

Alice Wakefield, Deputy Director
Madolyn Spann, Planner
Shirley King, Zoning Coordinator
Bettie Lawson, Administrative Coordinator II

LEGAL DEPARTMENT

Steve Rosenberg

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 NOVEMBER 2004 MINUTES

The Board of Zoning Appeals deferred approval of the November 2004 Minutes until February 2005.

ADJOURNMENT OF MEETING

The meeting adjourned at 3:30 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. Lawson
Administrative Coordinator II

Case # 2004V-191 FCS

WEST STUBBS ROAD

The appeals of Woody Galloway seek variances to the Fulton County Zoning Resolution in a CUP (Community Unit Plan District) zoning classification as follows:

Requests:

- (1) To increase the maximum height of the monument signs located on each side of the subdivision entrance from six (6) feet to 17 feet and 7 inches (Ref: Article XXXIII.5, Section 3.a).
- (2) To allow the sign structures to exceed 3 ½ times the size of the sign face. The total sign face equals 14.09 square feet and the sign structure equals 100.34 square feet along the front elevation (Ref: Article XXXIII.4, Section 9).

Property located at West Stubbs Road in Land Lots 34, 35, 33, 156, 157, 162, 43, and 44, of District 9C in Fulton County, Georgia.

Purpose: To bring into compliance an existing identification monument sign for the Walden Park Development from the West Stubbs Road entrance.

After review and discussion by Board Members, Mr. Gray made a motion to **APPROVE** Case # 2004V-191 FCS 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: Woody Galloway, applicant, and Marcus Carter, representing the homeowners' association, spoke in support. There was no opposition present.

Case # 2004V-215 FCN

DEERFIELD PARKWAY

The appeal of Bret Jefferson seeks a variance to the Fulton County Zoning Resolution in a TR (Townhouse Residential District) zoning classification as follows:

Request:

To allow sign face to be less than the width of the sign base (Ref: Article XXII.G.5, Section A –State Route 9).

Property located at Deer Park Lane in Land Lots 1046 and 1115 of District 2-2 in Fulton County, Georgia.

Purpose: To allow a standard monument sign at entrance to the Lake Deerfield Town home project from Deerfield Parkway.

After review and discussion by Board Members, Mr. Bland made a motion to **APPROVE** Case # 2004V-215 FCN in accordance with Article XXII. This 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: Cliff Cole spoke in support. There was no opposition present.

Case # 2004V-216, 217, 218 FCN

8085 BRANDON MILL ROAD

The appeals of Terry Turk seek variances to the Fulton County Zoning Resolution in an A (Medium Density Apartment District) zoning classification as follows:

Requests:

- (1) To allow existing sign structure to encroach by three feet into the Brandon Mill Road right-of-way (Sign “C”) (Ref: Article IV.3.5). Phase II – 2004V-216.
- (2) To allow existing retaining/sign wall to reduce setback from three feet to 0 feet at the development entrance along Brandon Mill Road (Sign “D”) (Ref: Article IV.3.5.) Phase II – 2004V-216.
- (3) To allow entry wall along both sides of apartment entrance, reducing the setback from three feet to 0 feet, Sign E (Ref: Article XXXIII.4.9). Phase III – 2004V-217.
- (4) To reduce the sign setback from 10 feet to 5 feet for Sign “A” along Roswell Road (Ref: Article XXXIII.4.9). Phase I – 2004V-218.
- (5) To allow sign within the median (right-of-way) of Grogan Ferry Road (Ref: Article IV.3.5). Phase I – 2004V-218.
- (6) To increase the sign height for sign “A” from six feet to nine feet (Ref: Article XII.B.6., Section 2.9). Phase I – 2004V-218.
- (7) To reduce the sign setback from 10 feet to 7 feet for Sign “B” along Brandon Mill Road (Ref: Article XXXIII.4.9). Phase I 2004V-218.

Property located at 8085 Brandon Mill Road, in Land Lot 30 of District 17 in Fulton County, Georgia.

Purpose: To allow the re-facing of existing sign monuments for the Spring Creek Apartments – Phases I, II and III.

After review and discussion by Board Members, Mr. Bland made a motion to **APPROVE CONDITIONAL to an indemnification agreement for sign structures located within the right-of-way, and the applicant meeting with the Department of Public Works regarding traffic concerns as addressed in the memo from Alex Hofelich dated January 19, 2005**, Case # 2004V-216, 217, and 218 FCN in accordance with Article XXII. This 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: Tracy O'Connor spoke in support. There was no opposition present.

Case # 2004V-219 FCN

801 MOUNT PARAN ROAD

The appeal of Larry Lord seeks a variance to the Fulton County Zoning Resolution in an R2 (Single Family Dwelling District) zoning classification as follows:

Request:

To allow the construction of an accessory building within the front yard (Ref: Article VI.2.3, Section I).

Property located at 801 Mount Paran Road in Land Lot 162 of District 17 in Fulton County, Georgia.

Purpose: To allow the construction of a detached workshop/studio setback approximately 300 feet from Mount Paran Road in front of the existing dwelling.

After review and discussion by Board Members, Ms. Thurman made a motion to **Approved Conditional to workshop/studio not ever being used for living quarters**, Case # 2004V-219 FCN, in accordance with Article XXII. This motion was seconded by Ms. Lawson-Edge and unanimously carried.

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

Attendance: Larry Lord spoke in support. There was no opposition present.

Case # 2004V-220 FCN

240 RIVER NORTH DRIVE

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

Request:

To reduce the required rear yard setback from 40 feet to 15 feet (Ref: Article 6.3.3.D).

Property located at 240 River North Drive in Land Lot 127 of District 17 in Fulton County, Georgia.

Purpose: To allow the construction of a detached garage within the rear yard.

After review and discussion by Board Members, Mr. Gray made a motion to **APPROVE CONDITIONAL to the site plan submitted with the request**, Case # 2004V-220 FCS 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: Wade Chappell spoke in support. There was no opposition present.

Case # 2004V-221 FCN

4559 NORTHSIDE DRIVE

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

Request:

To reduce the minimum required side yard (south property line) setback from 25 feet to 19 feet and six inches (Ref: Article VI.1.3, Section C).

Property located at 4559 Northside Drive in Land Lot 162 of District 17 in Fulton County, Georgia.

Purpose: To bring into compliance the existing side yard encroachment along the south property line.

After review and discussion by Board Members, Mr. Bland made a motion to **APPROVE CONDITIONAL to the site plan submitted with the request**, Case # 2004V-220 FCN, in accordance with Article XXII. This motion was seconded by MS. Thurman and unanimously carried.

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

Attendance: John Carpenter spoke in support. There was no opposition present.

Case # 2004V-222 FCN

335 BENITA TRACE

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

Request:

To reduce the minimum required rear yard setback from 40 feet to 29 feet (Ref: Article VI.3.3, Section D).

Property located at 335 Benita Trace in Land Lot 172 of District 17 in Fulton County, Georgia.

Purpose: To allow an addition onto the rear of the existing single-family dwelling.

After review and discussion by Board Members, Mr. Gray made a motion to **APPROVE CONDITIONAL to site plan submitted with the request** Case # 2004V-222 FCN, 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: David Roberts spoke in support. There was no opposition present.

Case # 2004V-223 FCN

7865 ROSWELL ROAD

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

Request:

To reduce the minimum required setback for a sign from 10 feet to 1 foot from the Roswell Road right-of-way (Ref: Article XXXIII.4.3.5)

Property located at 7865 Roswell Road in Land Lot 30, of District 17 in Fulton County, Georgia.

Purpose: To allow the construction of a new monument sign for the Bimmer Store.

After review and discussion by Board Members, Ms. Thurman made a motion to **APPROVED CONDITIONAL to the sign setback being reduced from 10 feet to 5 feet as supported by the Sandy Springs Design Review Board (SSDRB)**, Case # 2004V-223 FCN, 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 Gregory spoke in support. There was no opposition present.

Case # 2004V-224 FNC

13850 HOPEWELL ROAD

The appeals of Sally Shupert seek variances to the Fulton County Zoning Resolution in an AG-1 (Agricultural District) zoning classification as follows:

Requests:

- (1) To reduce the minimum required exterior side yard setback from 40 feet to 30 feet (Ref: Article V.1.3, Section C).
- (2) To allow an accessory structure within the front yard along Bethany Road, setback approximately 60 feet from Hopewell Road (Ref: Article V.1.3, Section I).

Property located at 13850 Hopewell Road in Land Lot 837, of District 2-2 in Fulton County, Georgia.

Purpose: To allow the enclosure of the existing front porch for additional living space and a carport construction in the area of the existing paved driveway.

After review and discussion by Board Members, Ms. Thurman made a motion to **APPROVE** Case # 2004V-224 FCN in accordance with Article XXII. This 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: Sally Shupert spoke in support. There was no opposition present.

Case # 2004V-244 FCS

6149 OLD NATIONAL HIGHWAY

The appeals of John Tennant seek variances to the Fulton County Zoning Resolution in a MIX (Mixed Use District) zoning classification as follows:

Requests:

- (1) To allow outside sales in parking lot (Ref: Article XII.D.3.E.7).
- (2) To allow two (2) additional identification monument signs (Article 12.D.4.1).
- (3) To reduce the out parcel frontage from 200' to 170' for out parcel 1 (Ref: Article IV.13.C).
- (4) To reduce the out parcel frontage from 200' to 190' for out parcel #2 (Ref: Article IV.13.C).

- (5) To allow parking lot islands every 15 spaces instead of every six spaces (Ref: Article IV, 23.2).
- (6) To allow steel roll-down curtains (Ref: Article XII.D.3.12).
- (7) To disturb the required 25-foot buffer and 10-foot improvement setback average of 6-feet to a maximum of 12-feet and replant to buffer standards (Ref: Article IV.23.1 – Old National Overlay District).

Property located at 6149 Old National Highway in Land Lot 125, of District 13 in Fulton County, Georgia.

Purpose: To redevelop the Pine View Plaza into a Wal-Mart Super Center.

After review and discussion by Board Members, Ms. Thurman made a motion to **APPROVE CONDITIONAL** Case # 2004V-244 FCS. This motion was seconded by Ms. Lawson-Edge and unanimously carried

Requests 1, 2, 3, 4, 6 & 7 Approved; request #5 was withdrawn. The applicant provided alternative parking lot landscaping subject to Arborist's approval.

Approved Conditions:

- (a) Outside sales permitted four times a year for not more than two weeks in duration; not to exceed six weeks per year excluding Holiday sales during November and December.
- (b) Tenants other than Wal-Mart are limited to sidewalk sales/displays once per quarter for not more than two weeks in duration; not to exceed six weeks per year in conjunction with a shopping center event coordinated with Fulton County.
- (c) The display of outdoor merchandise only is allowed along the Wal-Mart store sidewalk for not more than 200 linear feet of store front.
- (d) Display of outdoor plants is allowed in areas along the remainder of store sidewalk.
- (e) Other plants and landscape materials are allowed in a designated area in the parking lot not to exceed an allowable 6500 square feet of area.
- (f) No storage trailers allowed in parking lot.
- (g) The terms of agreement as stated in a letter dated January 14, 2005 (Community Memorandum of Understanding) between Old National

Merchants Association and Hendon Properties, LLC, not in conflict with these conditions.

- (h) Per the memo from Gene Callaway, Senior Arborist, Department of Environment and Community Development, dated January 20, 2005.

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

Attendance: Michael Hightower, John Tennant, Amy Kennedy, David Kirk and David Matson spoke in support. Michael Venable spoke in opposition, and Willie Kimball registered his concern for due process in this case.
