



BOARD OF ZONING APPEALS

OFFICIAL MINUTES

NOVEMBER 16, 2023

DEPARTMENT OF COMMUNITY DEVELOPMENT

ALPHARETTA CITY HALL | 2 PARK PLAZA | 5:30 PM

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I. CALL TO ORDER

❖ Chairperson Gelber called the meeting to order at 5:30 P.M.

II. ROLL CALL

A. Board Members Present

- Marc Gelber
- Kirk Driskell
- Cliff Cobb
- Dereje Teshale
- Donna Shaw Murphy
- Mike Perry

B. Board Members Absent

- Lisa Shippel
- Anne Holcombe

C. Staff Present:

- Michael Woodman, Planning + Development Services Manager
- Nikisha Mistry, GIS Specialist/Planner
- Elle Taylor, Planning + Zoning Coordinator

III. APPROVAL OF MEETING MINUTES

I. APPROVAL OF MEETING MINUTES

Chairperson Gelber postponed the minutes from 10-19-2023 until the next meeting.

IV. ITEMS FROM BOARD MEMBERS

V. ITEMS FROM STAFF

VI. PUBLIC HEARING

A. V-23-18 1060 Gramercy Lane

Micheal Woodman, Planning and Development Services Manager, presented consideration of a variance to allow for a swimming pool on a single-family residential lot. A variance is requested to Unified Development Code (UDC) Subsection 2.3.3(B) Accessory Uses and Structures, Swimming Pools to reduce the rear setback from 20' to 11.5'. The property is located at 1060 Gramercy Lane and is legally described as being located in Land Lots 1202 & 1203, 2nd District, 2nd Section, Fulton County, Georgia.

Ashley Barton, Georgia Classic Pool, presented for the Applicant.

There was no public comment.

After discussion of:

- Location of proposed pool.
 - Floodplain area owned by HOA.
 - Site Plan.
 - Size of Pool.
 - No specimen trees are impacted.
 - Unusual shape of home.
 - Stream buffer.
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- ❖ Board Member Shaw Murphy offered a motion to approve with Staff's recommendation.
 - Board Member Perry seconded the motion.
 - Motion carried (6-0)

Final Conditions:

Approve V-23-18 Barton/1060 Gramercy Lane Rear Setback Variance, subject to the following conditions:

1. Swimming pool shall be permitted as depicted on the plans prepared by Georgia Classic Pools dated April 07, 2023, and with an 11.5-foot rear setback.
2. Limits of disturbance shall be kept outside of the floodplain.

B. V-23-16 265 Dania Drive

Micheal Woodman Planning and Development Services Manager presented consideration of a variance to allow for a tear down and rebuild of a single-family detached home on 1.02 acres. A variance is requested to Unified Development Code (UDC) Subsection 2.2.1(D) AG

agriculture, District Regulations to reduce the side setback from 25' to 12.5' on the south side of the property. The property is located at 265 Dania Drive and is legally described as being located in Land Lot 1177, 2nd District, 2nd Section, Fulton County, Georgia.

- Applicant initially requested a front setback to save a specimen tree (52" Southern Red Oak).
- Examples of previous variance approvals to reduce building setbacks in the Dania Hills subdivision as well as similar construction activities that have been permitted on other properties in the same subdivision.
- Variance review criteria
- Applicant responded to Citizen petition opposing original proposal of a reduced 50' front setback and 12.5' setbacks to the property. Applicant revised proposed site plan to comply with suggestions outlined in the petition.

Staff Recommendation:

Approve V-23-16 265 Dania Drive Setback Variance, subject to the following conditions:

1. Site layout shall be permitted as depicted on Exhibit A, and with a 12.5' side setback on the south side of the property.
2. Tree #TOQ1 (17" Pecan) and #BO1 (38" Southern Red Oak) shall be saved and encroachment into the Critical Root Zone (CRZ) shall not exceed 20 percent, as approved by Staff.
3. Driveway width shall be limited to no more than 12' wide, not including the portion of the driveway directly in front of the garage. Driveway and portion of driveway directly in front of the garage shall maintain a 5' setback from the northern side property line.
4. Developer shall plant a row of evergreen trees and shrubs between the driveway and the northern property line, as well as along the southern property line and beginning at the 100' front setback line to the eastern edge of the proposed rear-loaded garage in order to provide a screen, as approved by Staff.

Shawn Shakib, Applicant, presented.

- Challenges of lot
- Replacement of Septic Tank
- Lot Size
- Agreement with recommended conditions

Public Comment:

1. Nicholas Cardamone 255 Dania Dr.

Concerns:

1. Possibility of setting precedent for subdivision

2. Lack of foresight of Applicant with first proposal.
3. Height of privacy screen.
4. No true hardship.

There was discussion from the Board:

- Front elevation.
- Staff Conditions.
- Tree Species for Evergreen Rows.
- Adding Condition for City Arborist to approve.
- Which tree will be saved.
- Loss of privacy for adjacent homes.
- Concern of setting a precedent for the neighborhood for future requests.
- Communication between property owners and Applicant.
- Side setbacks approved for approved variances in the neighborhood were 25'.
- Nonconforming homes older homes that don't meet setbacks.
- Communication on conditions #3 and #4 with neighborhood.
- Reasons for previous denial.

- ❖ Board Member Perry offered a motion to deny.
- Board Member Shaw Murphy seconded the motion.
- Motion carried (3-2-1) (Perry, Shaw Murphy, Cobb) (Driskell, Teshale) (Gelber)

Although it was announced during the meeting that the above motion to deny failed, upon review the City Attorney determined the motion to deny carried. Three members voted in favor of the motion, which was sufficient to carry the motion. Accordingly, the application was denied.

A subsequent motion to postpone to gather more information, to soften some of the concerns, and gather information on history of variances in the neighborhood, non-conforming setbacks, and response from Community to Conditions #3 and #4 was made by Board Member Driskell. Board Member Cobb seconded the motion. All members voted in favor of the motion to postpone. However, due to the aforementioned denial of the application, this vote to postpone was null and of no force or legal effect.

C Adjournment

Chairperson Gelber Adjourned the meeting at 6:26 P.M.