



Meeting Minutes - Final
License and Variance Board

Wednesday, January 9, 2019

10:00 AM

Council Chambers

1. **Roll Call**

Present: 3 - Roy Acree, Tammi Saddler Jones and Mary Moore

Also Present: 2 - Elsa Thompson and Joey Staubes

2. **Call to Order**

The meeting of the License and Variance Board was called to order by Boardmember Tammi Saddler Jones at 10:00 am.

3. **Business**

A. **V19-001**

Public Hearing - Variance Request - V19-001 - Allow reduction of front setback from 50 feet to 20 feet - Land Lot 594 - 0.53 acres - 1639 Corn Road - The Woodberry Group - David Woodberry

Boardmember Tammi Saddler Jones called applicant David Woodberry to come forward. Todd Prinkey with the Woodberry Group advised that Mr. Woodberry was not present just yet - Mr. Woodberry arrived approximately 2 minutes later. He advised that they were requesting the setback reduction because of the "odd configuration of the property"; in addition they needed the distance in order to meet stormwater requirements.

Boardmember Roy Acree asked the applicant to describe the overall project. Mr. Woodberry advised that the project was for 5 townhomes that will be available for purchase (will not be rentals) - they will be front loaded, 2 story homes and they will be catered towards the age group of 55 and older with the master bedroom on the main floor. Mr. Acree reiterated Mr. Woodberry's summary of the need for the variance request. Mr. Woodberry stated that over time the property was subdivided and was not zoned for the current project and stormwater mitigation.

Ms. Saddler Jones asked Community Development Planner Joey Staubes to come forward. Mr. Staubes advised that the parcel was "irregularly shaped" which reduced the building footprint. He noted that the applicant was requesting the variances for stormwater management and not asking for greater density than allowed. Mr. Staubes advised that the setback variances would allow for better water management in the rear and that if the Board approved, more planning would take place in which the City Engineer and Community Development staff would be involved in. He advised that staff recommended approval with one condition:

1. Approval of the subject property for the requested variance shall be conditioned upon substantial compliance with the site plan submitted.

Ms. Saddler Jones asked the applicant if he accepted the condition as stated. Mr.

Woodberry accepted the condition.

Ms. Saddler Jones announced the public hearing.

Ms. Stacy Nory came forward and advised that she lived in Mosaic at Vinings townhome community (across from Corn Road). She stated that they were not notified of this hearing and noted that Mr. Woodberry contacted the current management company for the planning phase of the project but contacted the previous company about this hearing. She stated that she believed the project would affect their "nature area" and that the setbacks would affect property values. She advised that they already had "runoff issues. She inquired if permits were needed and requested that the Board reconsider approving the variance.

Ms. Saddler Jones asked Mr. Staubes if the item was properly posted. Mr. Staubes advised that there was a posting on the property and that notifications were sent.

Mr. Paul Kelly came forward. He stated that he was the son of the pastor (whom is deaf) of the Deaf Baptist Church. He advised that he wanted to make comments about the "RM-12 designation". He stated that he felt that the developer had not considered other options for the property that would not impact adjacent properties and that he believed a single family home would be "better suited for the property". He noted that he had a more comments but would reserve them for the side setback variance requests.

Ms. Lauren Guada stated that she lived in the Mosaic at Vining townhome community and made note that the posting at the property "was not visible to passersby". She clarified the plans for the property – were the 5 units for ages 55 and older and if the properties would be rentable.

Mr. Woodberry came forward and advised that stormwater issues at Mosaic Townhomes should not be affected by his project and noted that the City's standards were strict. He also advised that the units would be for sale, not rentals.

After no further discussions or comments, Ms. Saddler Jones called for a motion.

Mr. Acree interjected and asked to make a comment before the motion was made. He stated that he had been involved with the License and Variance Board for several years and that he was confident that staff would make sure that setback variance requests were strictly adhered to so that stormwater management would be properly addressed.

A motion was made by Boardmember Roy Acree to approve Variance Request V19-001 to allow a reduction of front setback from 50 feet to 20 feet in Land Lot 594 on 0.53 acres located at 1639 Corn Road by applicant The Woodberry Group represented by David Woodberry; seconded by Boardmember Mary Moore.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Mary Moore

B. [V19-002](#)

Public Hearing - Variance Request - V19-002 - Allow reduction of side setbacks from 35 feet to 10 feet - Land Lot 594 - 0.53 acres - 1639 Corn Road - The Woodberry Group - David Woodberry

Boardmember Tammi Saddler Jones asked applicant David Woodberry if he had any

further comments (as this was his 2nd request on the agenda). Mr. Woodberry advised that he had no additional comments.

Ms. Saddler Jones asked Community Development Planner Joey Staubes to come forward. Mr. Staubes advised that this request was due to the angle of the back corner of the property; he noted that the townhomes would face Corn Road and that the parcel angled on the side. He advised that staff recommended approval with one condition:

1. Approval of the subject property for the requested variance shall be conditioned upon substantial compliance with the site plan submitted.

Ms. Saddler Jones asked the applicant if he accepted the condition as stated. Mr. Woodberry accepted the condition.

Ms. Saddler Jones announced the public hearing.

Mr. Paul Kelly came forward. He stated that he was present with his father whom was the pastor of the Deaf Baptist Church. Mr. Kelly pointed to the church's boundaries on a copy of the site plan and advised that he felt that the project would be too close. He inquired why the applicant would not consider constructing "4 townhomes instead of 5". He stated that a fire would spread quickly since the properties would be so close in proximity. He advised that the deaf "listen to music really loudly" and feared it could potentially cause "friction" between residents and church. Mr. Kelly stated that the property was purchased with the thought that they would not have a property too close and would have to worry about noise issues. He stated that they may have to sound proof the auditorium which they could not afford to do. He also noted a printout that detailed where the properties bordered each other and stated that they were concerned about property values if they were to one day outgrow the space and have to sell their property – he stated that their property was zoned commercial and did not believe it would be "appealing" with residential property so close in proximity.

Dr. Bruce Kelly (pastor of Deaf Baptist Church) – made comment with son, Paul Kelly, as the signing interpreter. Mr. Kelly asked his parishioners, whom were in the audience, to rise. He stated that he had a signed petition that detailed how many people were opposed to the variance requests. He felt that they would be affected and wanted it noted on the record. Boardmember Roy Acree inquired if the City had received a copy of the petition prior to today's hearing. Dr. Kelly stated that they had not but that they brought a copy for the City to have today; he then handed a copy of the signed petition to Mr. Acree. Dr. Kelly then advised that his church was the only deaf congregation in Cobb County – out of approximately 500 churches in the County and that he only knew of "one other deaf church in the metropolitan area". He stated that it was difficult to find a property at a reasonable price and thought that this property was "perfect" because it did not have any adjacent properties and low traffic – which was important for the deaf as to not have to worry about not hearing cars. Dr. Kelly advised that they did not want to bother neighbors – they have been there for 8 years and worried that the development in their backyard could possibly lead to noise complaints and that the possibility of having to move in the future which would not be affordable for them.

Ms. Saddler Jones inquired if Mr. Woodberry had any prior contact with the church before today's hearing. Mr. Woodberry stated that he "reached out to the church about selling to him but they were not interested" and that he had sent them notice about the variance requests. He stated that he did not believe that they would have issues violating noise ordinances – then noted that he felt the only unit that would be possibly affected was the end unit. Ms. Saddler Jones clarified if it would be unit #5. He agreed

and stated that they could add insulation to the walls to mitigate the issue – called it a “cheap, easy fix”. Ms. Woodberry stated that the “back corner” would be the only issue.

Mr. Acree stated that he would be comfortable adding the stipulation to include sound insulation in the walls. He inquired if the applicant was in agreement with adding the stipulation. Mr. Woodberry agreed. Mr. Acree stated that they would officially add that stipulation to Item 3B. He proceeded to say that the public comment portion of the hearing was only for comments not for “questions and answers”. He commended the Smyrna Fire Department and made note that “a lot of people want to live here so it may be shoulder to shoulder” and advised that Mr. Woodberry agreed to adding sound proofing insulation. He commended Dr. Kelly and his church. Ms. Saddler Jones stated that she hoped that everyone could be “good neighbors” and that she felt this would be a “win, win” for both the developer and the church.

Ms. Laura Guada (lived in neighboring property, made public comment on item 3A) came forward and inquired how the stormwater runoff would be handled during construction. Mr. Acree stated that this hearing “was only phase 1” of the process and that the developers would have a “one on one with the city engineer” to develop a plan; he noted that the developer had a “rigorous path to follow”.

Dr. Kelly came forward (with son, Paul Kelly, as his signing interpreter) and pointed out – on the site plan – how close the 5th unit would be to their church. He made note that the church was 25 feet high and that the townhomes would be about 30 feet high and stated that he was concerned about the visibility issue.

After no further discussions or comments, Ms. Saddler Jones called for a motion.

A motion was made by Boardmember Roy Acree to approve Variance Request V19-002 to allow the reduction of side setbacks from 35 feet to 10 feet in Land Lot 594 on 0.53 acres located at 1639 Corn Road by applicant The Woodberry Group represented by David Woodberry; seconded by Boardmember Mary Moore.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Mary Moore

C. [V19-003](#)

Public Hearing - Variance Request - V19-003 - Allow reduction of rear setback from 40 feet to 35 feet - Land Lot 594 - 0.53 acres - 1639 Corn Road - The Woodberry Group - David Woodberry

Boardmember Tammi Saddler Jones asked applicant David Woodberry if he had any further comments (as this was his 3rd request on the agenda). Mr. Woodberry had no additional comments.

Ms. Saddler Jones asked Community Development Planner Joey Staubes to come forward. Mr. Staubes advised that this request was to reduce the rear setback and noted that this request was based on the “same rationale” as the previous variances for the property. He made comment about everyone’s concerns about the stormwater management and advised that they would improve because the developer was required to reduce existing conditions by 10% plus the impact post development. He also advised that construction between townhomes required firewalls and stated that made them safer than a single family residence.

Ms. Saddler Jones announced the public hearing. No one came forward.

After no further discussions or comments, Ms. Saddler Jones called for a motion.

Ms. Saddler Jones asked the applicant if he accepted the condition for this item. Mr. Woodberry accepted the condition.

A motion was made by Boardmember Mary Moore to approve Variance Request V19-003 to allow a rear reduction setback from 40 feet to 35 feet in Land Lot 594 on 0.53 acres located at 1639 Corn Road by applicant The Woodberry Group represented by David Woodberry; seconded by Boardmember Roy Acree.

The motion to approve carried by the following vote:

Aye: 3 - Roy Acree, Tammi Saddler Jones and Mary Moore

4. Approval of Minutes:

A. [2019-16](#) Approval of the December 12, 2018 License and Variance Board Meeting Minutes

A. 2019-16 Approval of the December 12, 2018 License and Variance Board Meeting Minutes

Aye: 3 - Roy Acree, Tammi Saddler Jones and Mary Moore

5. Adjournment

Boardmember Tammi Saddler Jones adjourned the meeting of the License and Variance Board at 10:44 am.