



CITY OF PEACHTREE CORNERS
ZONING BOARD OF APPEALS MINUTES
June 21, 2017
7:00PM

The City of Peachtree Corners held a Zoning Board of Appeals meeting. The meeting was held at City Hall, 147 Technology Parkway, Suite 200, Peachtree Corners, GA, 30092. The following were in attendance:

Zoning Board of Appeals: Wayne Knox, Post B
Marcia Brandes, Post A
Amreeta Regmi, Post C - Absent
Matthew Gries, Post D
James Blum, Post E

Staff: Diana Wheeler, Com. Dev. Director
Jeff Conkle, Planning & Zoning Admin.
Rocio Monterrosa, Deputy City Clerk

AGENDA: Approval of the June 21, 2017 agenda.

MOTION TO APPROVE THE JANUARY 18, 2017 AGENDA.
By: James Blum
Seconded: Marcia Brandes
Vote: (4-0) (Blum, Brandes, Knox, Gries)

MINUTES: Approval of March 15, 2017 Minutes.

MOTION TO APPROVE THE SEPTEMBER 21, 2016
By: Matthew Gries
Seconded: Marcia Brandes
Vote: (4-0) (Gries, Brandes, Knox, Blum)

NEW BUSINESS:

V2017-005 Tracy & Brad Leimbach. Consideration of the following variances to the City of Peachtree Corners Zoning Ordinance: Article XIII, Section 1301, to allow the keeping of livestock for personal pleasure and Article VI, Section 600, to allow an accessory structure in the front yard of a residential property. These variance requests are for 4040 Gunnin Road, located in Dist.6, Land Lot 315, Peachtree Corners, GA

Diana Wheeler, Community Development Director, provided background information regarding the applicant's request. The applicant would like to keep chickens on a 2.74-acre property zoned R-100 and to have an accessory structure used for housing the chickens in the front yard of an existing single-family property. The minimum lot size for the keeping of chickens is 3 acres. Additionally, accessory structures cannot be located in the front yard and must be 100' from all property lines when housing chickens. Both the chickens and chicken coop (a prefabricated shed) have been in existence on the property for the past four years. Code Enforcement was unaware of this situation until 3 months ago when a complaint call was received. The property in question is a large residential parcel on Gunnin Road approximately one-half mile north of Spalding Drive. The property is steeply sloped with the home and usable yard area elevated above the road. The house was built in 1973. A petition stating specific neighbor opposition was then circulated among neighbors and submitted to the City. The applicant's letter of intent indicated that their hardship is derived from the fact that their property is steeply sloped and has little flat land available for accessory structures other than in the front yard. Additionally, they stated that it would be a hardship to try to move the structures. The applicant's letter of intent also indicated that their hardship is derived from the fact that the chickens currently housed on the property are family pets and would have nowhere to go if they were to be removed. Staff received multiple emails and phone calls from surrounding property owners in opposition to this request. The petition indicates that the basis for the opposition is concern related to factors such as noise, odor, and runoff. In response to the concerns raised in the petition, staff visited the applicant's property to assess the existing site conditions, determine if hardships exist and if neighbor concerns can be substantiated. Based on Staff's site visit, the following observations were offered:

1. The applicant's property is not typical for the neighborhood. Its topography, size, and shape are unique.
2. The house sits at the top of a hill and the only level part of the property is located in front of the house. The back and side yards are steep slopes with almost no usability.
3. There are 17 chickens housed in a prefabricated shed with an attached deck located in the front yard. The entire area where the chickens are kept is fenced, well maintained, and decorated as an outdoor feature, not as a utilitarian part of the property.
4. Staff heard no noise from the chickens. The sound the chickens made would not have been audible beyond the property line. No roosters are kept on the property and the applicant stated that none have ever been kept on the property.
5. With regard to odor and runoff, Staff did not smell any unusual odors and did not observe any areas where runoff contaminated by chicken waste was present. The area where the chickens are kept was very clean and if runoff occurs during wet weather, the slope of the property would carry the water toward the street at the front, not the properties to the rear.

6. With regard to food issues, Staff did not observe any stockpiling of food in uncontained areas of the property. Any food and water provided appears to be stored within the shed.

Staff noted that the petition opposing the applicant's request was written in future tense. This suggests that some of the neighbors may not be aware that the chickens and shed have been in existence on the applicant's property for the past 4 years. There were no complaints from any property owners until three months ago. Although located in the front yard, the chickens are not visible from the street. In fact, the steep topography hampers visibility of any of the improvements on the property from the roadway. The applicant has indicated that they are trying to acquire additional land from neighbors so that they will have the code-required 3 acres. If they are successful in purchasing additional land, then the lot size variance will become unnecessary.

After reviewing the applicant's request and the variance criteria for setback and location request (accessory structure housing chickens), staff found that the setback and location variance requests can be supported due to the specific, unique topographic conditions of this property. The use request for keeping of chickens, staff finds that a hardship would be difficult to justify since the hardship created was self-imposed by purchasing chickens to be kept on a property that does not meet the minimum lot size to permit such use. If approved, staff recommends the following conditions if variances are considered:

1. A 4' high fence shall be constructed in the front yard of the property, parallel to Gunnin Rd. and located at the top of the hillside.
2. There shall be no other livestock kept on the property beyond the 17 chickens currently housed on the property.
3. No roosters shall be kept on the property.

If variances are not granted, then a timeline for removal of the chickens and front yard structures should be established.

Board members asked about the visibility of the structure from the street, gravel backyard and the chicken waste run off. Chairman Knox stated that there are two issues to decide for this applicant. One the structure and another the keeping of chickens on the property.

The property owners, Tracy and Brad Leimbach were present at the meeting. Mrs. Leimbach stated that the chickens (all hens) are their pets and that the building that houses the chickens can not be seen from the street and that there is no other place on their property to place the structure. Mr. Leimbach stated that they are already working in putting a 4ft. fence around their property to keep any part of the structure from being seen from the street.

Chairman Knox opened the floor to anyone wanting to speak in favor or opposition to the application. There were three people who spoke in support stating that having the chickens supports self sustainability and the owners have had them for three years and never received complains until now.

Ten people spoke against application. Concerns from opposition were contamination in water runoff from chicken waste, decrease in property value,

drawing predators to the community, and potential for setting a president on allowing chickens on property less than 3 acres and the visibility of the structure from the street.

Mrs. Leimbach stated that the chicken droppings are done on wheat hay and inside the structure there is pine shavings that also collect any chicken waste. It is also picked up consistently and thrown in the garbage and it does not run off on any neighboring property. In regards to drawing predators, the chickens are enclosed in the structure every night at sunset and reopen at 6 AM.

Three motions were made after discussion, among other items, the applicant does not meet all of the required conditions to grant variance. They did not check with City/County to see if having chickens was allowed and that there is no need for structure.

1. Variance request for raising chickens:

BASED ON A THOROUGH REVIEW OF THE ENTIRE RECORD AND THE HEARING BEFORE THIS BODY, I MOVE THAT THE ZONING BOARD OF APPEALS MAKE THE FOLLOWING FINDINGS AND CONCLUSIONS AND DENY THE VARIANCE ON THE BASES THAT (1) THERE ARE NO EXTRAORDINARY AND EXCEPTIONAL CONDITIONS PERTAINING TO THIS PARTICULAR PROPERTY IN QUESTION BECAUSE OF ITS SIZE, SHAPE OR TOPOGRAPHY; AND, (2) THE REQUIREMENTS ON THIS PARTICULAR PIECE OF PROPERTY WOULD NOT CREATE UNNECESSARY HARDSHIP; AND, (3) SUCH CONDITIONS ARE NOT PARTICULAR PIECE OF PROPERTY INVOLVED; AND, (4) SUCH CONDITIONS ARE THE RESULT OF ANY ACTIONS OF THE PROPERTY OWNER; AND, (5) RELIEF, WOULD CAUSE SUBSTANTIAL DETRIMENT TO THE PUBLIC GOOD AND IMPAIR THE PURPOSES OR INTENT OF THE RESOLUTION

By: Marcia Brandes

Seconded: Matthew Gries

Vote: (4-0) (Brandes, Gries, Knox, Blum)

2. Variance to keep structure:

BASED ON A THOROUGH REVIEW OF THE ENTIRE RECORD AND THE HEARING BEFORE THIS BODY, I MOVE THAT THE ZONING BOARD OF APPEALS MAKE THE FOLLOWING FINDINGS AND CONCLUSIONS AND DENY THE VARIANCE ON THE BASES THAT (1) THERE ARE NO EXTRAORDINARY AND EXCEPTIONAL CONDITIONS PERTAINING TO THIS PARTICULAR PROPERTY IN QUESTION BECAUSE OF ITS SIZE, SHAPE OR TOPOGRAPHY; AND, (2) THE REQUIREMENTS ON THIS PARTICULAR PIECE OF PROPERTY WOULD NOT CREATE UNNECESSARY HARDSHIP; AND, (3) SUCH CONDITIONS ARE NOT PARTICULAR PIECE OF PROPERTY INVOLVED; AND, (4) SUCH CONDITIONS ARE THE RESULT OF ACTIONS OF THE PROPERTY OWNER; AND, (5) RELIEF, WOULD

**CAUSE SUBSTANTIAL DETRIMENT TO THE PUBLIC GOOD AND
IMPAIR THE PURPOSES OR INTENT OF THE RESOLUTION**

By: Marcia Brandes

Seconded: Matthew Gries

Vote: (4-0) (Brandes, Gries, Knox, Blum)

**3. MOTION TO IMPOSE A NINETY (90) DAY DATELINE FOR THE
REMOVAL OF THE CHICKENS AND THE ACCESSORY STRUCTURE**

By: James Blum

Seconded: Marcia Brandes

Vote: (4-0) (Blum, Brandes, Knox Gries)

CITY BUSINESS ITEMS:

None.

COMMENTS BY BOARD MEMBERS:

None.

The Zoning Board of Appeals meeting concluded at 8:58 PM.

Approved,



Wayne Knox, Chairman

Attest:



Rocio Monterrosa, Deputy City Clerk

