

BOARD OF ZONING APPEALS

MEETING MINUTES

Thursday, October 12, 2006, 7:00 p.m.

Board Members Present: Al Pond (Chair), Mark King (Vice Chair), Ruth Coan - (Arrived 11:00 p.m. – V06-117), Paul Reale, Ron Carpinella, and Ken Moller

Members Absent (Excused): Oswald Hill

Staff Present: Michael Zehner, Cesar Geraldo, Christina Nelson, Josh Lontz, Mark Moore, Dennis Payne, Michael Barnett, Doug Trettin and Angela Lawson

Call to Order: Al Pond called the meeting to order at 7:00 p.m.

I. APPROVAL OF ACTION REPORT

ACTION: Ron Carpinella moved that the September 14, 2006 Action Report be approved. Mark King seconded. The Action Report for the previous meeting of September 14, 2006 was APPROVED (5-0).

II. DEFERRED

A. V06-048
6344 Roswell Road (SR9)
Applicant: Cornerstone Bank

Summary: Primary variance from section 12B.6.A.2, of the Zoning Ordinance to allow the erection of a second identification monument sign in a shopping center where only one sign is allowed.

(Invitation for public comment in support of and in opposition of application)

(Public Hearing closed. Board of Zoning Appeals questions and discussion)

ACTION: Paul Reale motioned to approve. Ken Moller seconded. The application was DENIED (2-3). Mark King, Al Pond and Ron Carpinella, *Against*.

B. VO6-060
110, 100, 106 Mount Paran Road
Applicant: Weyford Development

Summary: Primary variance from Section 8.5 of the Tree Preservation Ordinance to allow the removal of two (2) specimen trees and the encroachment into the critical root zone of two (2) specimen trees to allow for the subdivision of three (3) residential lots into six (6) residential lots.

(Invitation for public comment in support of and in opposition of application)

(Public Hearing closed. Board of Zoning Appeals questions and discussion)

ACTION: Applicant requested withdrawal of application. Ron Carpinella motioned approve withdrawal. Ken Moller seconded. The application was **WITHDRAWN (5-0)**.

III. NEW

- A. V06-068**
5030 Rebel Trail
Applicant: Aaron Baranan

Summary: Three (3) primary variances: 1) variance from Section 14.6.5.a (i) and (ii) of the Sandy Springs Land Development Regulations to reduce the 75 foot stream buffer to 13 feet, 2) variance from Section 6.2.3.B of the Zoning Ordinance to reduce the minimum front yard setback required from 60 feet to 49 feet, and 3) variance from Section 6.2.3.B of the Zoning Ordinance to reduce the minimum side yard setback required from 15 feet to 13 feet. All variances for the construction of a second-story addition to the existing single-family house.

(Invitation for public comment in support of and in opposition of application)

(Public Hearing closed. Board of Zoning Appeals questions and discussion)

ACTION: Ron Carpinella moved to approve with conditions. Paul Reale seconded. The application was **APPROVED (5-0)** subject to the following condition(s):

- 1. That the site be developed in accordance with the Site Plan, provided by the applicant dated received September 7, 2006 by the Department of Community Development, showing a stream buffer reduced to no less than thirteen (13) feet and showing the front yard setback reduced to no less than forty-nine (49) feet and showing the side yard setback reduced to no less than thirteen (13) feet where necessary to accommodate the portion of the encroachment only.**
- 2. All driveways, paths, or patios in the 75 foot stream buffer shall be constructed of pervious pavers.**
- 3. Downspouts shall not be located within the 75 foot stream buffer. Downspouts shall be directed away from the structure in such a way that sheet flow can occur or directed into a rain garden or other such flow directing device.**
- 4. When garages or parking pad are located inside the 75 foot stream buffer, grates used for drainage of these areas (where oil, grease or antifreeze might flow) shall have either soil**

for filtration before entering the stream or artificial filtration with proof of maintenance required.

5. Stream crossings shall be as narrow as possible and shall be pervious.

6. Streams shall not be channelized or straightened. Small-unnamed tributaries shall not have concrete poured along the banks. The applicant shall provide proper stream bank restoration if disturbance to the stream bank occurs.

7. The thirteen (13) foot buffer shall remain undisturbed in its current state; grass shall not be planted in the thirteen (13) foot buffer.

8. All footings for bridges crossing streams and all pipes located under such bridges shall not be located in the streambed(s). All bridge spans shall be sufficiently wide to prevent any obstruction to the flow of water.

9. Stream bank restoration shall be installed as required by the Director of the Community Development Department.

10. The owner/developer shall provide for the swimming pool water overflow to discharge through a vegetated area before sheet flowing through a stream buffer, as approved by the Environmental Engineer.

11. No work shall occur outside the existing foundation.

12. Extra care shall be taken in the preparation for and construction of the proposed second story.

13. Any disturbance of land resulting from adding the proposed second story shall be restored.

14. The proposed second story addition shall not encroach into any required setback or stream buffer beyond what the existing one (1) story house currently encroaches.

B. V06-086
1205 Tynecastle Way
Applicant: Steven Pames

(Invitation for public comment in support of and in opposition of application)

(Public Hearing closed. Board of Zoning Appeals questions and discussion)

ACTION: Paul Reale motioned to approve application with conditions. Ken Moller seconded. The application was APPROVED (5-0) subject to the following condition(s):

1. That the site be developed in accordance with the Site Plan provided by the applicant dated received July 28, 2006 by the Department of Community Development showing the rear yard setback reduced to not less than thirty (30) feet where necessary to accommodate the portion of the encroachment only.

C. V06-087

85 Johnson Ferry Road

Applicant: Shahrzad Moghangard

Summary: Primary variance from Section 6.4.3F of the Zoning Ordinance to reduce the minimum lot width for an R-3 lot from 100 feet to 98 feet to allow for the construction of a single-family house.

(Invitation for public comment in support of and in opposition of application)

(Public Hearing closed. Board of Zoning Appeals questions and discussion)

ACTION: Paul Reale moved to approve with conditions. Ken Moller seconded. The application was APPROVED (5-0) subject to the following condition(s):

1. That the site be developed in accordance with the Site Plan provided by the applicant dated received September 20, 2006 by the Department of Community Development.

D. V06-088

5635 Claire Rose Lane

Applicant: BWC Properties, LLC

Summary: Three (3) primary variances: 1) variance from Section 14.6.5.a. (ii) of the Sandy Springs Land Development Regulations to reduce the 75 foot stream buffer to 50 feet, 2) variance from Section 6.3.3.B of the Zoning Ordinance to reduce the minimum front yard setback from 60 feet to 25 feet, and 3) variance from Section 8.5 of the Tree Preservation Ordinance to encroach into the critical root zone of two (2) specimen trees. All variances for the construction of a single-family house.

(Invitation for public comment in support of and in opposition of application)

(Public Hearing closed. Board of Zoning Appeals questions and discussion)

ACTION: Ken Moller moved for denial of this application. Mark King seconded. The motion to deny FAILED (1-4). Mark King, Al Pond, Paul Reale, Ron Carpinella, *Against*.

Ron Carpinella moved to approve with conditions. Paul Reale seconded. The application was APPROVED (4-1). Ken Moller, *Against*. Recommendation for approval was subject to the following condition(s):

1. That the site be developed in accordance with the Site Plan, provided by the applicant dated received September 29, 2006 by the Department of Community Development, showing the buffer reduced to no less than fifty (50) feet where necessary to accommodate the portion of the encroachment only.
2. That a remedial root mitigation plan by an ISA certified arborist shall be provided for the specimen tree(s) requested to have critical root encroachment.
3. All on-site driveways, walkways, patios, and decks shall be constructed of pervious pavers.
4. Downspouts shall not be located within the seventy-five (75) foot stream buffer. Downspouts shall be directed away from the structure in such a way that sheet flow can occur or directed into a rain garden or other such flow directing device.
5. When garages or parking pads are located inside the seventy-five (75) foot stream buffer, grates used for drainage of these areas (where oil, grease or antifreeze might flow) shall have either soil or filtration before entering the stream or artificial filtration with proof of maintenance required.
6. Stream crossings shall be as narrow as possible and shall be pervious.
7. Streams shall not be channelized or straightened. Small-unnamed tributaries shall not have concrete poured along the banks. The applicant shall provide proper stream bank restoration if disturbance to the stream bank occurs.
8. The fifty (50) foot buffer shall remain undisturbed in its current state; grass shall not be planted in the fifty (50) foot buffer.
9. All footings for bridges crossing streams and all pipes located in the streambed(s). All bridge spans shall be sufficiently wide to prevent any obstruction to the flow of water.
10. Stream bank restoration shall be installed as required by the Director of Community Development Department.
11. The owner/developer shall provide for swimming pool water overflow to discharge through a vegetated area before sheet flowing through a stream buffer, as approved by the Environmental Engineer.

E. **V06-089**
 5625 Clair Rose Lane
 Applicant: BWC Properties, LLC

Summary: Three (3) primary variances: 1) variance from Section 14.6.5.a. (ii) of the Sandy Springs Land Development Regulations to reduce the 75 foot stream buffer to 52 feet, 2)

variance from Section 6.3.3.B of the Zoning Ordinance to reduce the minimum front yard setback from 60 feet to 38 feet, and 3) variance from Section 8.5 of the Tree Preservation Ordinance to encroach into the critical root zone of one (1) specimen tree. All variances for the construction of a single-family house.

(Invitation for public comment in support of and in opposition of application)

(Public Hearing closed. Board of Zoning Appeals questions and discussion)

ACTION: Ken Moller motioned to approve with conditions. Ron Carpinella seconded. The application was APPROVED (5-0) subject to the following condition(s):

- 1. That the site be developed in accordance with the Site Plan, provided by the applicant dated received September 21, 2006 by the Department of Community Development, showing the buffer reduced to no less than fifty-five (55) feet and showing the front yard setback no less than thirty-eight (38) feet where necessary to accommodate the portion of the encroachment(s) only.**
- 2. That a remedial root mitigation plan by an ISA certified arborist shall be provided for the specimen tree requested to have critical root encroachment.**
- 3. All on-site driveways, walkways, patios, and decks shall be constructed of pervious pavers.**
- 4. Downspouts shall not be located within the seventy-five (75) foot stream buffer, and that the applicant provide for an independent engineering firm to perform a hydrological study regarding the possibility of water flow from downspouts directed and piped into the neighborhood's existing water detention area – the applicant shall make any necessary changes to the existing detention area as required to allow it to handle the directed and piped water flow that results from the proposed construction.**
- 5. When garages or parking pads are located inside the seventy-five (75) foot stream buffer, grates used for drainage of these areas (where oil, grease or antifreeze might flow) shall have either soil or filtration before entering the stream or artificial filtration with proof of maintenance required.**
- 6. Stream crossings shall be as narrow as possible and shall be pervious.**
- 7. Streams shall not be channelized or straightened. Small-unnamed tributaries shall not have concrete poured along the banks. The applicant shall provide proper stream bank restoration if disturbance to the stream bank occurs.**
- 8. The fifty-two (52) foot buffer shall remain undisturbed in its current state; grass shall not be planted in the fifty-two (52) foot buffer.**

9. All footings for bridges crossing streams and all pipes located in the streambed(s). All bridge spans shall be sufficiently wide to prevent any obstruction to the flow of water.

10. Stream bank restoration shall be installed as required by the Director of Community Development Department.

11. The owner/developer shall provide for swimming pool water overflow to discharge through a vegetated area before sheet flowing through a stream buffer, as approved by the Environmental Engineer.

12. The hydrology study from an independent firm shall be conducted to ensure that the existing subdivision master detention pond can accommodate the new development.

F. V06-091
5330 High Point Road
Applicant: High Point Manor, LLC

Summary: Primary variances from Section 8.5 of the Tree Preservation Ordinance to allow the removal of five (5) specimen trees for the construction of a single-family development.

(Invitation for public comment in support of and in opposition of application)

(Public Hearing closed. Board of Zoning Appeals questions and discussion)

ACTION: Ron Carpinella motioned to approve this application with conditions. Paul Reale seconded. The application as APPROVED (5-0) subject to the following condition(s):

1. That the site be developed in accordance with the Site Plan provided by the applicant dated received July 28, 2006 by the Department of Community Development.

G. V06-092
86, 106, and 116 West Belle Isle
Applicant: Estes Shields Engineering, Inc.

Summary: Primary variance from Section 8.5 of the Tree Preservation Ordinance to allow the removal of six (6) specimen trees and the encroachment into the critical root zone of one (1) specimen tree to subdivide three (3) existing lots into six (6) lots for the construction of six (6) single-family homes.

(Invitation for public comment in support of and in opposition of application)

(Public Hearing closed. Board of Zoning Appeals questions and discussion)

ACTION: Ron Carpinella motioned to approve 30 day deferral to allow the applicant to work with the neighborhood to minimize the affect of trees by reducing the amount of proposed lots. Paul Reale seconded. The application was DEFERRED (5-0).

H. V06-094
440 Kenbrook Drive
Applicant: Neal Creech

Summary: Primary variance from Section 8.5 of the Tree Preservation Ordinance to allow the removal of one (1) specimen tree and the encroachment into the critical root zone of two (2) specimen trees to allow for the construction of a single-family home.

(Invitation for public comment in support of and in opposition of application)

(Public Hearing closed. Board of Zoning Appeals questions and discussion)

ACTION: Paul Reale motioned to approve with conditions. Ken Moller seconded. The application was APPROVED (5-0) subject to the following condition(s):

1. That the site be developed in accordance with the Site Plan provided by the applicant dated received July 31, 2006 by the Department of Community Development and amended at the hearing to show the house shifted five (5) feet to the east.
2. That a remedial root mitigation plan by an ISA certified arborist shall be required for the remaining specimen trees(s) requested to have critical root encroachment.

I. V06-095
Conway Point Drive, lot #3
Applicant: Vinings Building Group

Summary: Two (2) primary variances: 1) variance from Section 14.6.5.a. (i) and (ii) of the Sandy Springs Land Development Regulations to reduce the 75 foot stream buffer to 27 feet and 2) variance from Section 6.4.3.D of the Zoning Ordinance to reduce the minimum rear yard setback from 35 feet to 29 feet. Both variances to allow for the construction of a single-family house.

(Invitation for public comment in support of and in opposition of application)

(Public Hearing closed. Board of Zoning Appeals questions and discussion)

ACTION: Ron Carpinella moved to approve 30-day deferral. Mark King seconded. Ron Carpinella RESCINDED the motion.

Ron Carpinella motioned to deny the application. Ken Moller seconded. The application was DENIED (5-0).

J. V06-096
1024 & 1030 Pitts Road
Applicant: David Webster

Summary: Primary variances from Section 14.11.B of the Zoning Ordinance to reduce the minimum distance required for a gate to be located from the right-of-way from 20 feet to 13 feet.

(Invitation for public comment in support of and in opposition of application)

(Public Hearing closed. Board of Zoning Appeals questions and discussion)

ACTION: Paul Reale moved to approve with conditions. Ken Moller seconded. The application was APPROVED (5-0) subject to the following condition(s):

1. That the site be developed in accordance with the Site Plan provided by the applicant dated received August 3, 2006 by the Department of Community Development, showing the setback from the right-of-way reduced to no less than thirteen (13) feet where necessary to accommodate the portion of the encroachment only.

K. V06-097
94 Silverwood Road
Applicant: Sylvia Jones

Summary: Primary variance from Section 6.4.3.C of the Zoning Ordinance to reduce the minimum west side yard setback from 10 feet to 2 feet to allow for the expansion of the existing carport and the construction of a second-story addition.

(Invitation for public comment in support of and in opposition of application)

(Public Hearing closed. Board of Zoning Appeals questions and discussion)

ACTION: Ken Moller motioned to approve 30-day deferral to allow the applicant to work with the adjoining neighbor and architect to finalize a site plan. Mark King seconded. The application was APPROVED (5-0).

L. V06-098
5685 Cross Gate Drive
Applicant: William Fadul

Summary: Primary variance from Section 6.3.3.C of the Zoning Ordinance to reduce the minimum side yard setback from fifteen (15) feet to five (5) feet for the construction of a sunroom at the location of an existing deck.

(Invitation for public comment in support of and in opposition of application)

(Public Hearing closed. Board of Zoning Appeals questions and discussion)

ACTION: Ron Carpinella moved to approve with conditions. Ken Moller seconded. The application was **APPROVED (5-0)** subject to the following condition(s):

1. That the site be developed in accordance with the Site Plan, provided by the applicant dated received August 1, 2006 by the Department of Community Development, showing the side yard setback reduced to no less than five (5) feet where necessary to accommodate the portion of the encroachment only.

M. V06-099
1265 Mount Vernon Highway
Applicant: Windsor at Mount Vernon Place, LLC

Summary: Two (2) primary variance from Section 33.6.8 of the Zoning Ordinance to reduce an identification monument sign minimum setback from the right-of-way from ten (10) feet to zero (0) feet and 2) variance from Section 33.7.c.2 of the Zoning Ordinance to allow an identification monument sign to exceed the thirty-two (32) square feet maximum sign area allowed.

(Invitation for public comment in support of and in opposition of application)

(Public Hearing closed. Board of Zoning Appeals questions and discussion)

ACTION: Ron Carpinella moved to approve with conditions. Paul Reale seconded. The application was **APPROVED (5-0)** subject to the following condition(s):

1. That the sign shall be located not less than zero (0) feet from the right-of-way, pursuant to the Site Plan provided by the applicant dated received August 1, 2006 by the Department of Community Development. (Exhibit 3)

2. That the sign area shall not exceed thirty-eight (38) square feet, pursuant to the sign design detail for Windsor at Mount Vernon, LLC, submitted by the applicant, dated received August 1, 2006 by the Department of Community Development. (Exhibit 4)

N. V06-100
155 Mount Vernon Highway
Applicant: Office Depot

Summary: Two primary variances: 1) Variance from Section 33.7.F.5 of the Zoning Ordinance to allow one (1) sign on a wall that is not an exterior wall of the business and 2) variance from Section 33.7.F.5 of the Zoning to allow the sign to exceed the 5% of the applicable wall area.

(Invitation for public comment in support of and in opposition of application)

(Public Hearing closed. Board of Zoning Appeals questions and discussion)

ACTION: Ron Carpinella motioned to approve with conditions. Mark King seconded. The application was APPROVED (5-0) subject to the following condition(s):

1. That the wall sign shall be installed pursuant to the sign location detail (Exhibit 9) for Office Depot, submitted by the applicant, dated received August 2, 2006 by the Department of Community Development.
2. That the wall sign for Office Depot shall not exceed 183.64 square feet, and be installed pursuant to the sign design detail (Exhibit 10) submitted by the applicant, dated received September 18, 2006 by the Department of Community Development.
3. That Office Depot is not to install or attach a wall sign to the exterior wall of their tenant space.

O. V06-103
2460 Spalding Drive
Applicant: Seth Weissman

Summary: Primary variance from Section 5.1.3.C of the Zoning Ordinance to reduce the minimum side yard setback from 25 feet to 10 feet for the construction of an attached garage addition to a single-family home.

(Invitation for public comment in support of and in opposition of application)

(Public Hearing closed. Board of Zoning Appeals questions and discussion)

ACTION: Paul Reale motioned to approve with conditions. Ken Moller seconded. The application was APPROVED (5-0) subject to the following condition(s):

1. That the site be developed in accordance with the Site Plan provided by the applicant dated August 1, 2006 by the Department of Community Development.

P. V06-115
468 Tara Trail
Applicant: Abraham Kamor

Summary: Two (2) primary variances: 1) variance from Section 8.5 of the Tree Preservation Ordinance to allow the removal of one (1) specimen tree and 2) variance from Section 14.6.5.a (ii) of the Sandy Springs Development of Regulations to reduce the 75-foot stream buffer from 60 feet . Both variances to construct a single-family home.

(Invitation for public comment in support of and in opposition of application)

(Public Hearing closed. Board of Zoning Appeals questions and discussion)

ACTION: Paul Reale motioned to approve with condition(s). Ken Moller seconded. The application was APPROVED (5-0) subject to the following condition(s):

- 1. That the site be developed in accordance with the Site Plan, provided by the applicant dated received October 2, 2006 by the Department of Community Development, showing the buffer reduced to no less than sixty (60) feet where necessary to accommodate the portion of the encroachment only.**
- 2. All driveways, paths, or patios located both outside and inside the seventy-five (75) foot stream buffer shall be constructed of pervious pavers with the exception of a sixty (60) foot highly sloped portion of the driveway within the seventy-five (75) foot stream buffer where the applicant may choose to install two concrete tracks, having grassed areas between them.**
- 3. Downspouts shall not be located within the seventy-five (75) foot stream buffer. Water flow from downspouts shall be directed away from the structure in such a way that sheet flow can occur or directed into a rain garden or other such flow directing device.**
- 4. When garages or parking pads are located inside the seventy-five (75) foot stream buffer, grates used for drainage of these areas (where oil, grease or antifreeze might flow) shall have either soil for filtration before entering the stream or artificial filtration with proof of maintenance required.**
- 5. Stream crossings shall be as narrow as possible and shall be pervious.**
- 6. Streams shall not be channelized or straightened. Small unnamed tributaries shall not have concrete poured along the banks. The applicant shall provide proper stream bank restoration if disturbance to the stream bank occurs.**
- 7. The sixty (60) foot buffer shall remain undisturbed in its current state; grass shall not be planted in the sixty (60) foot buffer.**
- 8. All footings for bridges crossing streams and all pipes located under such bridges shall not be located in the streambed(s). All bridge spans shall be sufficiently wide to prevent any obstruction to the flow of water.**
- 9. Stream bank restoration shall be installed as required by the Directory of the Community Development Department.**
- 10. The owner/developer shall provide for the swimming pool water overflow to discharge through a vegetated area before sheet flowing through a stream buffer, as approved by the Environmental Engineer.**

Q. V06-117
4535 Roswell Road (SR9)
Applicant: Paradise Development Group, LLP

Summary: Primary variance from Section 8.5 of the Tree Preservation Ordinance to allow the removal of two (2) specimen trees for the construction of a retail/pharmacy store.

(Invitation for public comment in support of and in opposition of application)

(Public Hearing closed. Board of Zoning Appeals questions and discussion)

ACTION: Ron Carpinella moved to approve with conditions. Ken Moller seconded. The application was **APPROVED (5-0-1)**. Ruth Coan, *Abstained*. The recommendation for approval was subject to the following condition(s):

1. That the site be developed in accordance with the Site Plan provided by the applicant dated received September 12, 2006 by the Department of Community Development.

R V06-118
4785 Dudley Lane
Applicant: Dar-Court Builders, LLC

Summary: Primary variance from Section 34.5.10.A of the zoning Ordinance to reduce a building setback from a pipeline easement from forty (40) feet to zero (0) feet to allow for the construction of single-family house.

(Invitation for public comment in support of and in opposition of application)

(Public Hearing closed. Board of Zoning Appeals questions and discussion)

ACTION: Ron Carpinella motioned to approve with condition(s). Ken Moller seconded. The application was **APPROVED (6-0)** subject to the following condition(s):

1. That the site be developed in accordance with the Site Plan provided by the applicant dated received September 14, 2006 by the Department of Community Development, showing the pipeline easement setback reduced to zero (0) feet where necessary to accommodate the portion of the encroachment only.

2. That the applicant submit a letter of intent as a part of this application and prior to a building permit stating his responsibility to install a water retention area to successfully and properly improve drainage after all subject property improvements are completed.

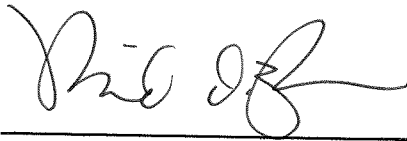
The meeting was adjourned at 12:00 a.m.

APPROVAL SIGNATURE PAGE

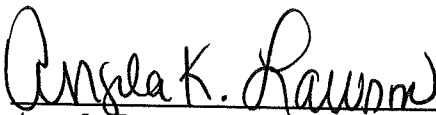
Date Approved: 12/14/06



Al Pond, Chairperson



Michael Zehner
Assistant Director – Planning and Zoning



Angela Lawson
Administrative Assistant/Transcriber