

1. Virtual Participation Option

Online event:

[HTTPS://MARIETTAGA.WEBEX.COM/MARIETTAGA/J.PHP?
MTID=EFA2BBC6B8F6688DA08D1A57F0C84531B](HTTPS://MARIETTAGA.WEBEX.COM/MARIETTAGA/J.PHP?MTID=EFA2BBC6B8F6688DA08D1A57F0C84531B)

Event password: mariettabza

Audio:

United States Toll: +1-408-418-9388

Access code: 790 954 969

2. Board Of Zoning Appeals Agenda

Documents:

[_MAY 18, 2020 BZA AGENDA.PDF](#)

3. V2019-05 Williams Dr 1592

Documents:

[V2019-05 WILLIAMS DR 1592.PDF](#)

4. V2020-13 Bellemeade Dr 1177

Documents:

[V2020-13 BELLEMEADE DR 1177.PDF](#)

5. V2020-14 Frances Ave 133

Documents:

[V2020-14 FRANCES AVE 133.PDF](#)

6. V2020-15 S Fairground St 236

Documents:

[V2020-15 S FAIRGROUND ST 236.PDF](#)

7. V2020-16 Sandy Plains Rd 1053

Documents:

[V2020-16 SANDY PLAINS RD 1053.PDF](#)



City of Marietta

Meeting Agenda

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

BOARD OF ZONING APPEALS

*Bobby Van Buren, Chairman
Vacant, Ward 1
J. K. Lowman, Ward 2
Larry Zenoni, Ward 3
David Hunter, Ward 4
Ronald Clark, Ward 5
Tom Samples, Ward 7*

Monday, May 18, 2020

6:00 PM

City Hall Council Chambers

NOTE: Applicant and those in favor have a total of 20 minutes to make their presentation to the Board. Applicant may reserve any portion of this time for rebuttal. All those in opposition have a total of 20 minutes to present comments to the Board.

CALL TO ORDER:

MINUTES:

VARIANCES:

20190033 V2019-05 [VARIANCE] DOUGLAS & JANICE AMAN

V2019-05 [VARIANCE] DOUGLAS & JANICE AMAN are requesting a variance for property zoned LI (Light Industrial), located in Land Lot 782, District 16, Parcel 0210, 2nd Section, Marietta, Cobb County, Georgia, and being known as **1592 Williams Drive**. Variance to allow gravel as an acceptable parking surface; variance to allow a storage yard along an arterial roadway. Ward 5B.

**20200164
WITHDRAWN**

V2020-12 [VARIANCE] HICKS POOR (WATERWORKS NEIGHBORS LLC)

V2020-12 [VARIANCE] HICKS POOR (WATERWORKS NEIGHBORS LLC) are requesting variances for property zoned R-4 (Single Family Residential - 4 units/acre), located in Land Lot 1147, District 16, Parcel 0420, 2nd Section, Marietta, Cobb County, Georgia, and being known as **379 Campbell Hill Street**. Variance to reduce the southern side yard setback from 10' to 6'; variance to reduce the northern side yard setback from 10' to 6'; variance to reduce the front yard setback from 25' to 10'; variance to reduce the setback along Campbell Hill Street; variance to increase the maximum building coverage from 35% to 38%; variance to increase the impervious surface percentage from 50% to 55%; variance to allow crushed slate as a permitted parking surface. Ward 4B.

WITHDRAWN BY APPLICANT.

20200165

V2020-13 [VARIANCE] GLENN LANDRY (MARCOTULIO MAZARIEGOS)

V2020-13 [VARIANCE] GLENN LANDRY (MARCOTULIO MAZARIEGOS) is requesting a variance for property zoned CRC (Community Retail Commercial), located in Land Lot 66, District 17, Parcel 1200, 2nd Section, Marietta, Cobb County, Georgia, and being known as **1177 Bellemeade Drive**. Variance to allow off-site parking satisfy the minimum parking requirements for a place of assembly. Ward 2B.

20200251

V2020-14 [VARIANCE] RUSS MASTERSTON

V2020-14 [VARIANCE] RUSS MASTERSTON is requesting a variance for property zoned R-3 (Single Family Residential - 3 units/acre), located in Land Lot 1087, District 16, Parcel 0290, 2nd Section, Marietta, Cobb County, Georgia, and being known as **133 Frances Avenue**. Variance to reduce the side yard setback from 10 feet to 2 feet for an accessory structure (fireplace). Ward 4B.

20200321 V2020-15 [VARIANCE] MELISSA LAMARCHE (BELEN B. HICKMAN)

V2020-15 [VARIANCE] MELISSA LAMARCHE (BELEN B. HICKMAN) is requesting variances for property zoned NRC (Neighborhood Retail Commercial), located in Land Lot 1287, District 16, Parcel 0430, 2nd Section, Marietta, Cobb County, Georgia, and being known as **236 South Fairground Street**. Variance to reduce the minimum lot size from 10,000 sq. ft. to 6,400 sq. ft.; variance to reduce the minimum lot width from 75' to 73'; variance to reduce the buffer from 30' to 12'; variance to allow a substandard lot of record be developed. Ward 1A.

20200322 V2020-16 [VARIANCE] 1053MSP LLC

V2020-16 [VARIANCE] 1053MSP LLC is requesting a variance for property zoned CRC (Community Retail Commercial), located in Land Lot 07800, District 16, Parcel 0120, 2nd Section, Marietta, Cobb County, Georgia, and being known as **1053 Sandy Plains Road**. Variance to reduce the undisturbed buffer from 40' to 5' along the northern property line. Ward 6B.

OTHER BUSINESS:**20200225 Board of Zoning Appeals - Election of Vice Chairman**

Election of Vice Chairman to serve to April 2021.

ADJOURNMENT:



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2019-05 **Legistar #:** 20190033

Board of Zoning Appeals Hearing: Monday, May 18, 2020 – 6:00 p.m.

Property Owner: Douglas & Janice Aman
5384 Whitaker Trail.
Acworth, GA 30101

Applicant: Same as owner

Address: 1592 Williams Drive

Land Lot: 07820 **District:** 16 **Parcel:** 0210

Council Ward: 5B **Existing Zoning:** LI (Light Industrial)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to allow gravel as an acceptable parking surface. [§716.08 (B)]
2. Variance to allow a storage yard along an arterial roadway. [§710.07 (A)]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



Entrance at 1592 Williams Drive



View of lot in the rear (facing Canton Road Connector)

Recommended Action:

Approval. The owner and applicants, Douglas and Janice Aman, are requesting a variance for the subject property at 1592 Williams Drive. The subject property, which is zoned LI (Light Industrial), is approximately 1.66 acres in size and is bordered to the rear by Canton Road Connector, an arterial thoroughfare. All surrounding properties are also zoned LI.

The applicants would like to use the yard as an outdoor storage facility with no structure built on the lot. The variance being requested would allow the storage of large items such as cars, boats, trucks, trailers, RVs, heavy equipment, and other unspecified material on a gravel surface. The adjacent properties are used as warehousing/distribution, contractor businesses, landscaping companies, and office space. A screened, chain-link fence runs along the northern property line along the adjacent property. The subject property was previously used as a landscaping company until 2009 and has since remained unoccupied.

The use of this property is severely limited due to existing easements for above and below ground utilities, as well as natural drainage features. There is a 150' easement for a Georgia Power transmission line and a 10' easement for a natural gas main covering a large portion of the property. The applicant has received conditional authorization to allow storage within the power and gas easements from the appropriate entities. In addition, there is a creek with a 100-year floodplain lying along the eastern property line. On the eastern side of the creek, but still on the subject property, is a sanitary sewer main. The applicant wishes to keep the existing concrete barricades at the top of the creek bank to protect any spilling of gravel into the creek.

According to the Zoning Ordinance, surface parking standards regulate that any vehicle (including, but not limited to trailers and boats) on any lot must be parked on a treated and hardened surface, with materials such as asphalt, concrete, or brick. An existing concrete apron connects the property to Williams Drive. It should be noted that there is a portion of the property that has already been covered with gravel. The applicants would like to replenish approximately 10,000 square feet of previously graveled area with rocks a minimum of 3" diameter, as suggested by Public Works staff.

The subject property sits along the Canton Road Connector, an arterial roadway, and current regulations prohibit exterior storage yards along such roadways. Although the subject property is only accessed off Williams Drive, a collector road, a variance to allow the requested use will be necessary.

The number of easements and natural features severely restricts the options for using this property; the owner has limited the area of impact and provided measures to lessen possible detrimental effects to the nearby stream. As a result, *staff recommends approval.*

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Amendment to request for variance

Case V2019-05

Land Lot 07820 District 16 Parcel 0210

1592 Williams Drive, Marietta, Ga

Amendment to request for variance

Case V2019-05

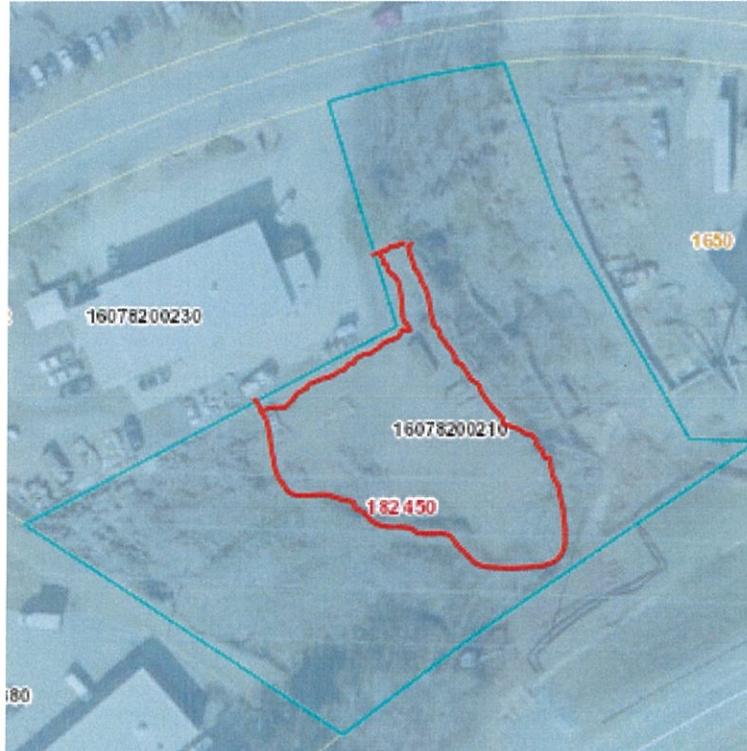
Land Lot 07820 District 16 Parcel 0210

1592 Williams Drive, Marietta, Ga

1) Application Revision:

The submitted variance application requested permission to use the property for storage of trailers, light/medium duty work trucks and vans, boats, RV's etc. on a gravel surface as opposed to the required hard surface. The request read "the entire property", it should have read the "useable space" (less than half of the entire property).

This amendment reduces the area to be used for parking and storage on gravel surfaces to the area that is graded and level which is approximately 10,000 square feet. This will allow approximately a dozen customers to park there. In the figure below, the area encompassed by the red line shows the revised area. It is graveled and previously used for parking and storage:



Marietta ordinance (710.07) excludes use of a parking/storage facilities adjoining an arterial highway. The reason for the ordinance is that drivers entering and leaving a high-speed arterial highway might create risk of an accident. The back of this property adjoins the Canton Road Connector.

It is noteworthy that the entrance/exit for the subject Williams Drive property is on Williams Drive. There is no curb cut to the Canton Road Connector and as a practical matter a curb cut will never be sought. This amendment seeks clarity and specifically requests permission to use the property notwithstanding that the rear of it adjoins the Canton Road Connector.

Below is an extract from the ordinance:

710.07 Storage A. Exterior storage yards (excluding vehicles for sale or lease) shall not be permitted in any districts except the CRC, RRC, OS, LI and HI districts. Exterior storage yards shall be enclosed by an opaque fence not less than 6 feet in height (except where otherwise stated and approved by the administrator) to provide visual screening. Such use shall not be located along an **arterial roadway** and is subject to the following: 1. The regulations of the applicable zoning district. 2. No open storage of wrecked or non-operative automobiles and trucks. 3. No parts or waste materials shall be stored outside any building

Source: <https://www.mariettaga.gov/DocumentCenter/View/396/Zoning-Ordinance---Division-710---Supplementary-District-Regulations-PDF>

2) Benefits to the City of Marietta

Approving this request will benefit the city in many ways:

A) Better perception: This property has been a problem property. Previously it was used for parking and storage of excess building materials. The company went out of business. The stored building materials degraded and became a nuisance rather than inventory with value. The owner abandoned the property. Over time the property became overgrown, unsightly and invited homeless camps. The property was in such a state of neglect that it was sold at a tax sale for opening bid. Collectively these reasons created a perception that the area was not safe. One neighbor (1650 Williams Dr) resorted to installing an electric fence to prevent vandalism thus increasing the unfavorable impression. Pictures of their sign on their gate is below:



I have been a good steward of the property. I stabilized a previously de-stabilized property. Dumpsters of the excess construction materials stored there were hauled off. The encamped homeless people were shooed away. A gate was installed. The street view of the property is now very attractive. In summary, if I am allowed to continue and build a storage/parking facility, the progress will continue and city will benefit by having a nice-looking functional property versus an abandoned, deteriorating property occupied by homeless people many of whom are on the lam from the law.

B) Fulfilling “The Roadmap to Marietta’s Future”: Approval of the variance is exactly what was envisioned in “The roadmap to Marietta’s Future”.

Page 89 Objective 2.6 Emphasize the redevelopment of existing underperforming commercial properties, obsolete or abandoned structures, and economically deteriorating areas.

Page 93 Objective 4.8 Encourage the reuse and revitalization of obsolete commercial and industrial facilities.

Page 94 Policy 4.21 Continue to market and encourage development on underdeveloped and vacant properties in Marietta

Source: <https://www.mariettaga.gov/DocumentCenter/View/886/Master-Comprehensive-Plan-PDF>

C) Better Police and Fire Service: If the variance is approved the city will benefit because a parking/storage facility will put less strain on city services like police and fire protection than an abandoned destabilizing property attracting vagrants.

D) Better property valuation: The current valuation for property tax purposes is a minimal \$5,000 because other than storage/parking there is no other legal use for the property. Under current ordinances storage/parking is not financially feasible because of the requirement calling for a concrete or asphalt surface. The current zoning drove the valuation down; so today it is almost valueless. If a variance is granted, the valuation will increase to normal values for property in the area. The City of Marietta tax digest will increase accordingly.

The exhibit below shows the current valuation by the county of a minimal \$5,000:

qPublic.net™ Cobb County, GA

Layers Report Map Search Results Sales Search Sales List Sales Results Pictometry Imagery Home Upcoming Visits Search More

Composite Summary

Parcel Number: 14078200210
 Location Address: WILLIAMS DR
 Property Class: C4 - Commercial Small Tracts
 Total Acres: 1.66
 Total Land SqFt: 72210
 Neighborhood: 42C -
 Tax District: (4) MARIETTA
 Subdivision:

Owner

Aman Doug &
 Aman Janice L
 3224 WHITAKER TRL
 ACWORTH GA 30101

Appraised Values

Year	Property Class	LUC	Appraised Land	Appraised Building Value	Total Appraised Value
2019	C4	200	\$5,000	\$0	\$5,000

Assessed Values

Year	Assessed Land	Assessed Building Value	Total Assessed Value
2019	\$2,000	\$0	\$2,000

Tax Information

[Tax Information Link](#)

Information

Cobb County, GA
 735 Whitlock Avenue,
 Suite 200
 Marietta, GA 30064
 (770) 578-3100
 Website

Announcements

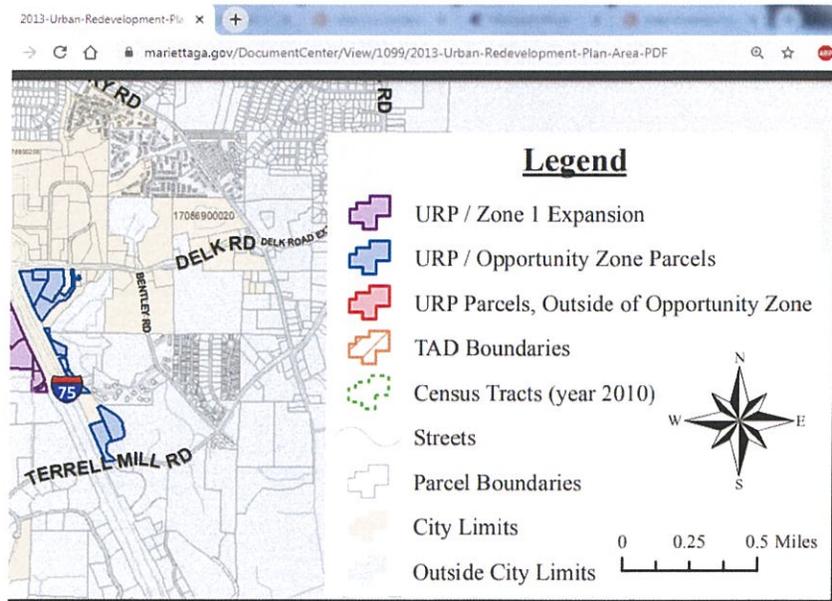
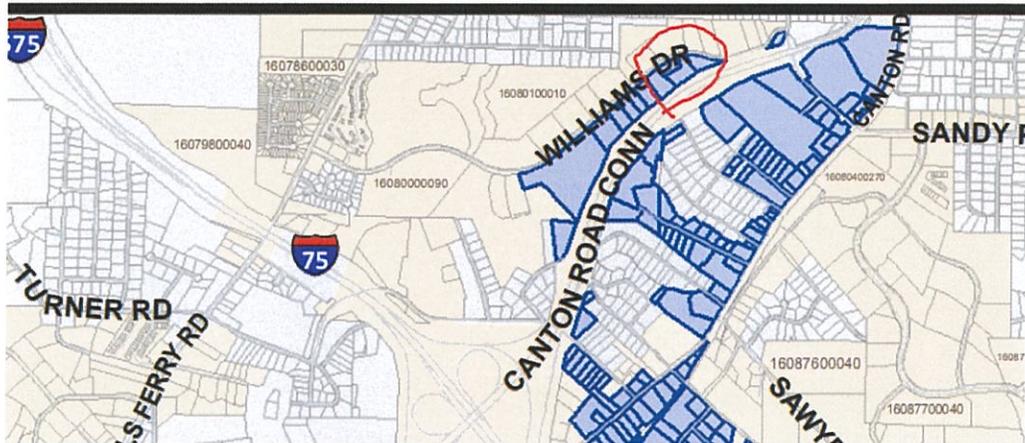
WELCOME TO OUR NEW WEB SITE VIDEO
 How to use the qPublic.net site - view Demo Videos
 Search across multiple counties with Guidepost!

E) Increased employment opportunities: The storage/parking facility will provide a place for contractors and start-up businesses to store their vehicles and equipment. This will provide increased employment opportunities for low and moderate income persons. Currently zoning and homeowner association regulations preclude storage of commercial vehicles and equipment (work trucks, work trailers, Bobcats, etc) in many residential areas. Consequently, often people in the trades (plumbers, electricians, roofers, cable installers, landscapers) must leave

Marietta in order to work. Our city is in short supply of licensed service people. In summary, granting the variance will provide opportunity and create middle class jobs in Marietta and provide services to the people of Marietta.

F) URP Redevelopment Zone: The property is in Marietta's 2013 Urban Redevelopment Zone. Per public policy, development in this area should be encouraged. Approving the variance achieves some of this public policy objective. The URP Opportunity zone map is depicted below:

→ ↻ 🏠 🔒 mariettaga.gov/DocumentCenter/View/1099/2013-Urban-Redevelopment-Plan-Area-PDF



Source: <https://www.mariettaga.gov/DocumentCenter/View/1099/2013-Urban-Redevelopment-Plan-Area-PDF>

3) Meeting the Dept. of Development Services Stipulations:

The Department conducted a review and their report listed seven stipulations. The stipulations have been addressed and I am agreeable to meeting all of them. Below in italics is the stipulation followed by the status in regular brown font:

- A) *Such use must be enclosed by an opaque fence or wall no less than 8 feet in height which provides continuous screening.* Status: A fabric screen was placed on the gate so motorists or pedestrians cannot see onto the property from the street. Photo follows.
- B) *Parking and storage is to be limited to no more than 50% of the subject property.* Status: The initial application was intended to be for only the useable space which is less than 50% of the entire area. This application is amended to be just the area already graded and graveled which is for approximately 9,000 square feet.
- C) *Rock must be 3" diameter or larger.* Status: Recycled concrete which meets this size specification (greater than 3 inches) has been brought in and spread out. Photos follow.
- D) *A barrier (curb, concrete barricades, etc.) approved by Marietta Public Works must be placed along the top of the creek bank to prevent gravel from spilling into the creek.* Status: Concrete barriers measuring 2 feet high by 2 feet deep and 4 feet long and weighing over 3,500 pounds each were placed along the top. This will assure that somebody doesn't drive down into the waterway and to assure that gravel doesn't migrate there. Photos follow
- E) *No grading or land disturbance shall be allowed on the site without the approval of engineered site plans.* Status: This application is amended to be just the area already graded and graveled which is for approximately 9,000 square feet.
- F) *Written authorization must be obtained from the appropriate entities regarding and storage above the gas main or below transmission lines.* Status: The gas company and power company were contacted and written authorization was granted. Copy of the authorization follows.
- G) *No storage shall be permitted within a Special Flood Hazard Zone as determined by the federal Emergency Management Agency.* Status: This application is amended to be just the area already graded and graveled which is not in the Special Flood Hazard Zone.

McCrary, Josh <tmccrary@southernco.com>

Jun 21, 2019,
3:06 PM

DougAman@Gmail.com

Doug,

You're OK to proceed with the parking lot as described below, assuming there is no removal of existing cover. Also please notify Atlanta Gas Light in the future in the event of heavy equipment crossings i.e. logging trucks, dozers, or commodity tandem trucks.

Thanks

Josh McCrary
Division Engineer
Engineering Design

(404) 584-3637 office
(404) 623-7255 mobile
tmccrary@southernco.com

Wed, Feb 27,
2019, 12:20 PM

Hang, Who <X2WHANG@southernco.com>
to Glenn, DougAman@Gmail.com

Mr. Aman: You may use all of the easement area as temporary parking if it's within the boundaries of your property, but with the following Georgia Power stipulations:

- No grading other than just some leveling.
- Encroachment area is used only for parking of vehicles, boats on trailers, RV's, trailers, trucks, etc. (No storage materials).
- All vehicles or trailers parked in the right-of-way should not exceed fifteen (15) feet in height.
- All vehicles and trailers must have wheels, be movable upon request, and placed in a manner where our crews will still have access to ingress/egress within the easement.
- All vehicle and trailers must kept at least 25 feet away from the transmission structures and/or attachments.
- Washing or other activities requiring persons to be on top of vehicles is not allowed.

Please understand this transmission line carries 500,000 Volts, so safety of the lines and the people working beneath them are a priority. If you would like to proceed with the encroachment, I will need you to provide an exhibit showing the requested encroachment area (parking area) in relation to the overhead transmission line (wires) and GPC easement. Please no color aerial imagery and prefer 8.5" x 11". The survey you screenshotted below would work.

Thank you,

Who Hang

Georgia Power Company | Transmission Right-of-Way Specialist

Bin 20034 | 241 Ralph McGill Blvd | Atlanta, GA 30308

Office: 404-506-7047 | Cell: 209-323-9582

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1592



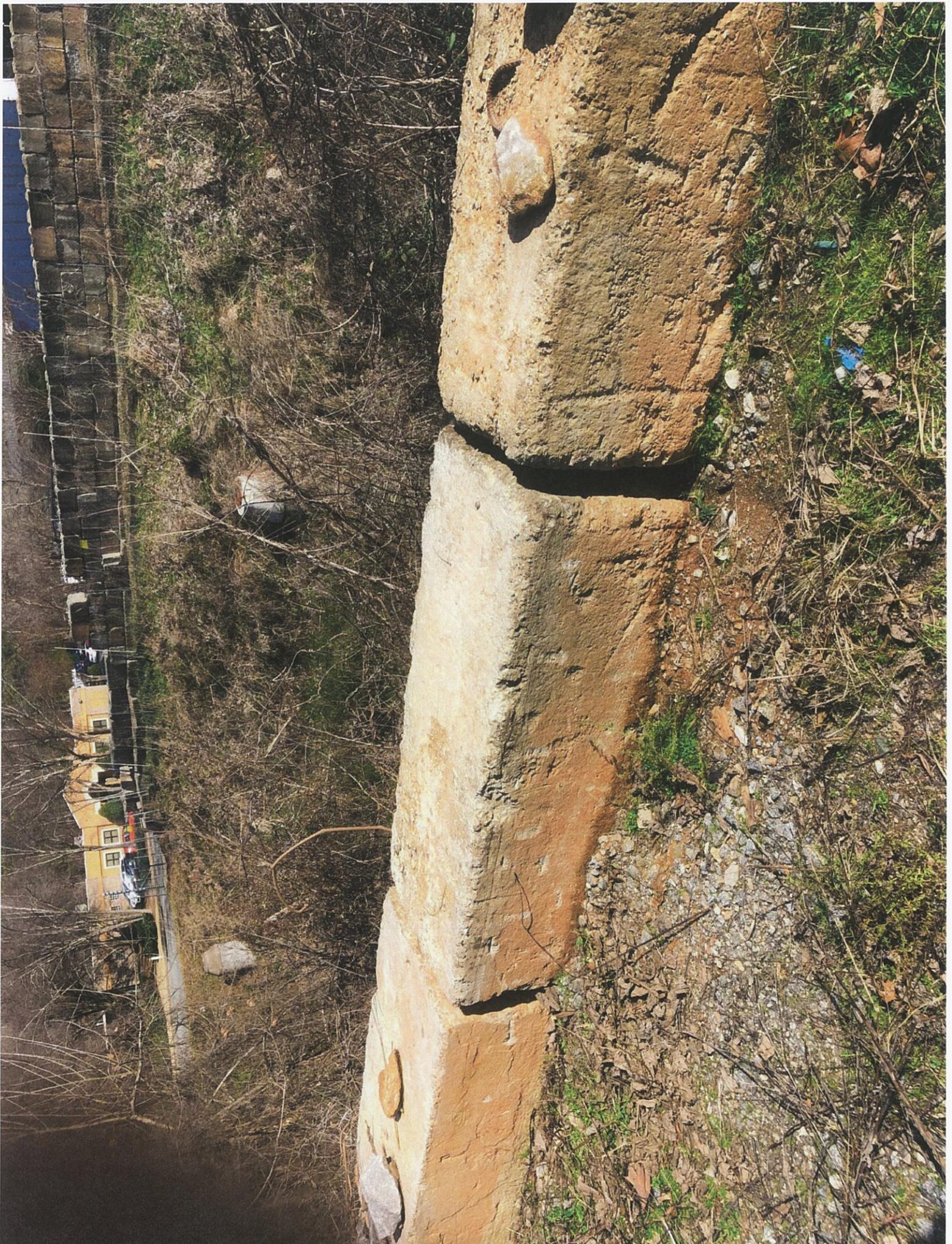




















Department of Development Services
205 Lawrence Street
Marietta, GA 30060
Phone: 770-794-5440

APPLICATION FOR VARIANCE OR APPEAL

(Owner/Applicant/or Representative must be present at all public hearings)

(NOTE: CORRESPONDENCE IS HANDLED VIA EMAIL UNLESS OTHERWISE REQUESTED)

For Office Use Only:

Application #: V2019-05 Legistar #: 20190033 BZA Hearing Dt: 3-30-20
City Council Hearing Dt (if applicable) #: ~ PZ #: 19-24

This is a variance/appeal application for:

[X] Board of Zoning Appeals

[X] City Council

Owner's Name DOUGLAS AND JANISE AMAN

EMAIL Address: DOUGAMAN@GMAIL.COM

Mailing Address 5384 WHITAKER TRAIL Acworth Zip Code: 30101 Phone Number (678) 873-3624

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant:

EMAIL Address:

Mailing Address Zip Code: Phone Number

Address of subject property: 1592 WILLIAMS DRIVE Date of Acquisition: 3/6/2018

Land Lot(s) 0787 District 16 Parcel 00210 Acreage 1.66 Zoned LI Ward SB FLU: IW

List the variance(s) or appeal requested (please attach any additional information):

PLEASE SEE ATTACHED.

Allow storage rental

Required Information

- 1. Application fee (\$250)
2. Completed notarized application. The original application must be submitted with ALL original signature(s) - Copies of the application or signature(s) will NOT be accepted.
3. Copy of the deed that reflects the current owner(s) of the property.
4. Letter describing the reason for the variance request, stating why strict adherence to the code would result in a particular hardship (as distinguished from a mere inconvenience or desire to make more money).
5. Site plan - drawn to scale. Site plans must illustrate property lines and all relevant existing information and conditions in addition to proposed additions or modifications within the referenced property lines of the tract(s).
Copies Required: One (1) - (8 1/2" x 11") -or- (11" x 17") drawn to scale.
Optional Additional Plat size: (24"x 36"). If providing (24"x 36") then 25 copies REQUIRED.
6. Copy of current tax bill showing payment or documentation certified by the City of Marietta Tax Office.

Note: The Department of Development Services reserves the right to obtain additional information that reasonably may be required in order that an informed decision may be made.

OVER

CAMPAIGN CONTRIBUTIONS

The Owner and Applicant herein certify that he/she has has not made campaign contributions or gifts aggregating \$250.00 or more to the Mayor, any member of Council or any member of the Board of Zoning Appeals within the two (2) years preceding the filing of this application.

[Signature]
Signature of Owner

[Signature]
Signature of Applicant

DOUGLAS AMAN
Print Name

DOUGLAS AMAN
Print Name

FINANCIAL INTEREST

The Applicant herein certifies that he/she has has not a financial interest in the property which is ten percent (10%) or more.

DOUGLAS AMAN
Print Name

[Signature]
Signature of Applicant

APPLICANT CERTIFICATION

- The Applicant certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Applicant's knowledge and belief. Should any portion not be true, then the application may be rejected.
- Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.

[Signature]
Signature of Applicant

1/13/19
Date

DOUGLAS AMAN
Please Print

OWNER CERTIFICATION

- The Owner certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Owners's knowledge and belief. Should any portion not be true, then the application may be rejected.
- Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.
- The Owner hereby gives permission to enter on the property for inspection during the time application is pending.

[Signature]
Signature of Owner

DOUGLAS AMAN
Please Print

5384 WHITAKER TR ACWORTH GA 30101
Address

1/13/19
Date

Signed, sealed and delivered in the presence of:

Cheryl Nelson

My Commission Expires: 09-8-20



Note: Owner, Applicant or Representative must be present at meeting in order for case to be heard.

To: Board of Zoning, Marietta City Council

1/14/2019

From: Doug Aman

Subject: Variance or special land use permit for property located at 1592 Williams Drive, Marietta

The subject property is a flag shaped lot that is barely visible from the street. It is currently zoned LI (light industrial) which allows storage of cars, boats, trucks, trailers, RV's, equipment, material etc. The prior owner, a landscaping company, stored their landscaping trucks, trailers, and equipment on the lot on a gravel surface. Unfortunately, the prior owner also turned the property into a dumping ground under the premise that they were storing landscaping materials. Consequently, the property became filled with debris, left over landscaping materials, and dirt.

The prior owner then declared bankruptcy. The property taxes were left unpaid and went to delinquent tax auction. I purchased the property. Since the property was used for parking and storage previously, I believed that once the debris and other stored materials were hauled off, use of the property for parking and storage could resume since that use is allowed under the LI zoning classification. Since a gravel surface was used previously and gravel surfaces are commonly used in adjoining properties, I believed its use would be grandfathered and could continue.

Attached are photos showing some of the debris hauled off. It is presented to demonstrate that my actions to date have greatly improved the appearance of the property and the value of adjoining properties.

Also attached are photos of neighboring properties to show the proposed use of the property is consistent with nearby property and does not threaten their property values.

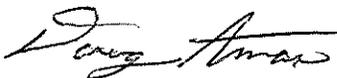
Also attached are photos of competing businesses that shows that those businesses use gravel and requiring that I pave the area would put me at an impossible disadvantage.

This request is to allow the property to be used for rental of spaces to the general public and businesses for the purpose of storing cars, boats, trucks, trailers, RV's, equipment, and material etc. on a gravel surface with a privacy screen to create opaque fencing where ever topographically possible (the terrain prevents fencing in some areas but vehicles parked will not be seen from the street).

This request also includes permission that I can resume removal of debris and stored material (mostly landscaping items and dirt) and doing so does not constitute regrading but rather returning the property to its original state so engineered plans are not required.

Because of power line and natural gas easement rights, parking and storage on gravel is the only economically viable use of the property.

Thank You



Doug Aman

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TO: Marietta Daily Journal

FROM: City of Marietta

RUN DATE: May 1, 2020

**CITY OF MARIETTA
PUBLIC NOTICE OF VARIANCES**

The City of Marietta hereby gives notice that a public hearing will be held to give consideration to the following requests. The Board of Zoning Appeals will consider the following requests on **Monday, May 18, 2020 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

V2019-05 [VARIANCE] DOUGLAS & JANICE AMAN are requesting a variance for property zoned LI (Light Industrial), located in Land Lot 782, District 16, Parcel 0210, 2nd Section, Marietta, Cobb County, Georgia, and being known as 1592 Williams Drive. Variance to allow gravel as an acceptable parking surface; variance to allow a storage yard along an arterial roadway. Ward 5B.

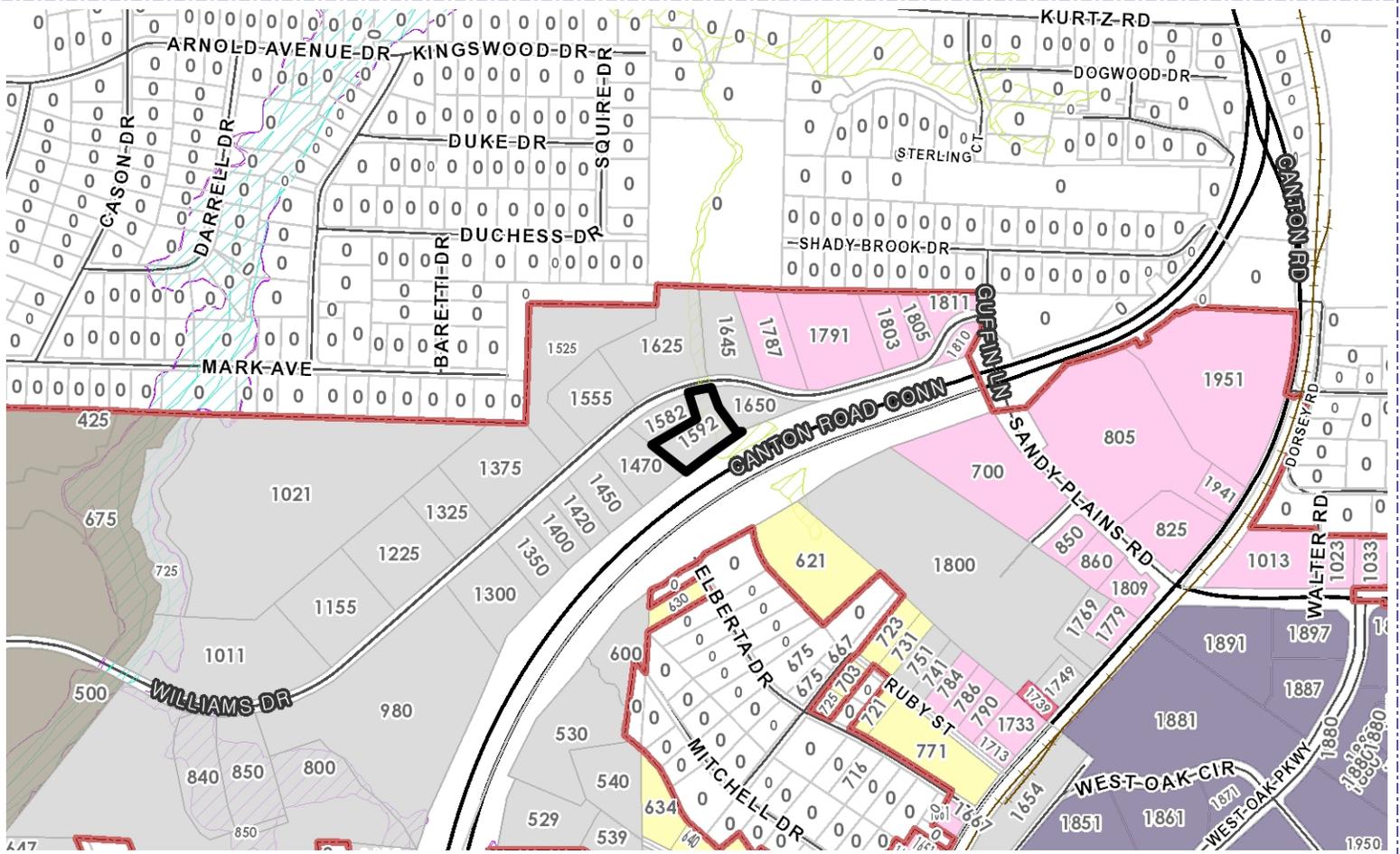
A description and plat of the property sought for the variances are on file in the Planning and Zoning Office, City Hall, and are available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto. You may also review the property file at www.mariettaga.gov and enter the case # in the search box.

For additional information please call the Planning and Zoning Office (770) 794-5669.

Accessibility to Meetings: If you believe you may need the City/BLW to provide special accommodations in order to attend/or participate in any of the above meetings, please call ADA Coordinator, at 770-794-5558 no later than 48 hours before the date of the above meeting.

City of Marietta
205 Lawrence Street
Marietta, Georgia 30060

Variance



Address	Parcel Number	Acreage	Ward	Zoning	FLU
1592 WILLIAMS DR	16078200210	1.697	5B	LI	IW

Property Owner: Douglas & Janice Aman

Applicant:

BZA Hearing Date: 05/18/2020

Acquisition Date:

Case Number: V2019-05

City of Marietta Planning & Zoning

Zoning Symbols

- Railroads
- City Limits
- Cobb County Pockets
- NA
- R1 - Single Family Residential (1 unit/acre)
- R2 - Single Family Residential (2 units/acre)
- R3 - Single Family Residential (3 units/acre)
- R4 - Single Family Residential (4 units/acre)
- RA4 - Single Family Residential - Attached
- RA6 - Single Family Residential - Attached
- RA8 - Single Family Residential - Attached
- MHP - Mobile Home Park
- PRD-SF - Planned Residential Dev. Single Family
- RM8 - Multi Family Residential (8 units/acre)
- RM10 - Multi Family Residential (10 units/acre)
- RM12 - Multi Family Residential (12 units/acre)
- RHR - Residential High Rise
- PRD-MF - Planned Residential Dev Multi Family
- NRC - Neighborhood Retail Commercial
- CRC - Community Retail Commercial
- RRC - Regional Retail Commercial
- PCD - Planned Commercial Development
- LI - Light Industrial
- HI - Heavy Industrial
- PID - Planned Industrial Development
- MXD - Mixed Use Development
- CBD - Central Business District
- OIT - Office Institutional Transitional
- LRO - Low Rise Office
- OI - Office Institutional
- OS - Office Services
- OHR - Office High Rise

NOTES:
 THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF 1/50,000 AND AN ANGLE ERROR OF 30 SECONDS PER ANGLE AND WAS ADJUSTED USING LEAST SQUARE ADJUSTMENT. EQUIPMENT USED WAS A NIKON NPL-352.

THIS PLAT HAS BEEN CALCULATED FOR A CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 3,702.86 FEET.

THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT.

THIS PLAT IS FOR THE EXCLUSIVE USE OF THE PARTY OR PARTIES, SHOWN HEREON, AND IS NOT INTENDED FOR ANY OTHER THIRD PARTY.

THIS SURVEY IS SUBJECT TO ALL RIGHTS-OF-WAY, BUFFERS, AND EASEMENTS SHOWN OR NOT SHOWN.

ZONING IS LI AS PER REFERENCE #3.

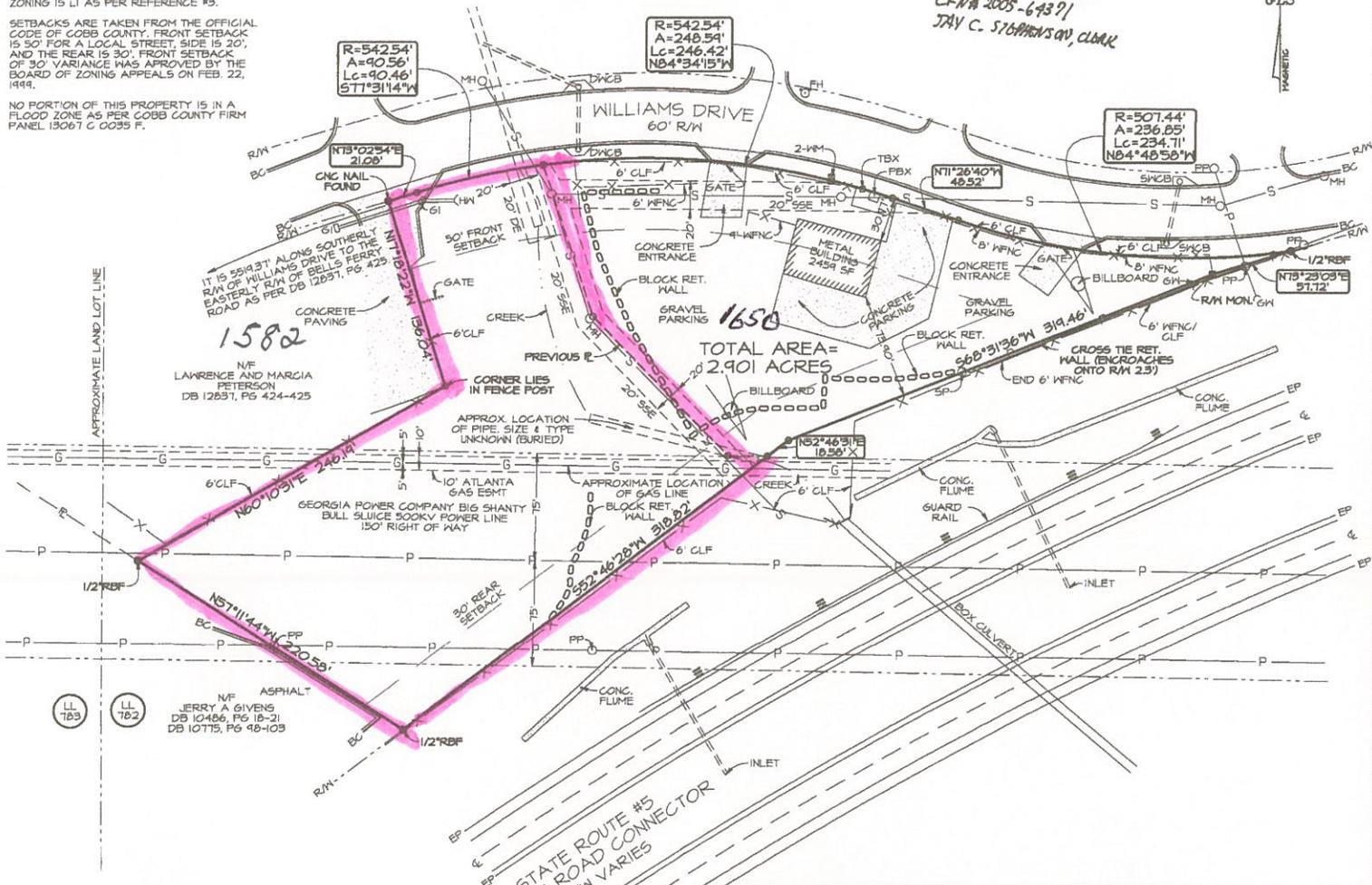
SETBACKS ARE TAKEN FROM THE OFFICIAL CODE OF COBB COUNTY. FRONT SETBACK IS 50' FOR A LOCAL STREET, SIDE IS 20', AND THE REAR IS 30'. FRONT SETBACK OF 30' VARIANCE HAS APPROVED BY THE BOARD OF ZONING APPEALS ON FEB. 22, 1994.

NO PORTION OF THIS PROPERTY IS IN A FLOOD ZONE AS PER COBB COUNTY FIRM PANEL 13067 C 0035 F.

REFERENCES:

- DEED UNDER POWER OF SALE EXECUTED ON THE 7TH DAY OF DECEMBER, 2004 TO BRANCH BANKING AND TRUST RECORDED IN DEED BOOK 14082, PG 3194-3197.
- FINAL PLAT OF NOTHSGATE CORPORATE CENTER, FKA CANTON 75 S/D BY RUIHLING & RUIHLING LAND SURVEYORS, DATED OCTOBER 25, 1986, LAST REVISED NOV. 19, 1986 AND RECORDED IN PLAT BOOK III, PGS 76-79.
- DESIGN PLAN FOR ALLIED LANDSCAPE MATERIALS, INC BY BRASWELL ENGINEERS, INC. DATED 1/3/1994.
- ALL OTHER REFERENCES SHOWN HEREON.

FILED ON 4-15-08
 PLATBOOK 239 PAGE 66
 CF#M 2005-64371
 JAY C. SIBBENS ON, CLM

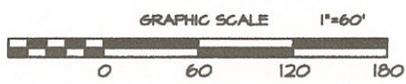


Legal Description.

All that tract or parcel of land lying and being in Land Lot 782, 16th District, 2nd Section, Cobb County, Georgia containing 2.901 acres according to Survey for Cornerstone Wall Systems, Inc. prepared by Griffin Land Surveying, Inc. dated 2/23/05 and being more particularly described as follows:

Beginning at the intersection of the easterly right of way of Bells Ferry Road and the southerly right of way of Williams Drive thence 5519.37' along southerly right of way of Williams Drive to the Point of Beginning; thence along the southerly right of way of Williams Drive (60') North $73^{\circ}02'54''$ East, a distance of 21.08 feet; thence continuing along said right of way along a curve to the right having a radius of 542.54 feet and being subtended by a chord which bears North $77^{\circ}31'14''$ East 90.46 feet; thence continuing along said curve a distance of 90.56 feet to a point; thence continuing along said right of way along a curve to the right having a radius of 542.54 feet and being subtended by a chord which bears South $84^{\circ}34'15''$ East 246.42 feet; thence continuing along said curve a distance of 248.54 feet to a point; thence along said right of way South $71^{\circ}26'40''$ East tangent to said curve, a distance of 48.52 feet to the beginning of a curve tangent to said line; thence continuing along said right of way along a curve to the left having a radius of 507.44 feet and being subtended by a chord which bears South $84^{\circ}48'58''$ East 234.71 feet; thence continuing along said curve a distance of 236.85 feet to a 1/2" rebar found at the intersection of said right of way with the northerly right of way of State Route #5, a.k.a. Canton Road Connector; thence with Canton Road Connector right of way South $73^{\circ}23'03''$ West, a distance of 57.12 feet to a right of way monument found; thence continuing along said right of way South $68^{\circ}31'36''$ West, a distance of 319.46 feet; thence along said right of way South $52^{\circ}46'28''$ West, a distance of 18.58 feet; thence continuing along said right of way South $52^{\circ}46'28''$ West, a distance of 318.82 feet to a 1/2" rebar found; thence leaving said right of way North $57^{\circ}11'44''$ West, a distance of 220.58 feet to a 1/2" rebar found; thence North $60^{\circ}10'31''$ East, a distance of 246.19 feet to a chain link fence corner; thence North $17^{\circ}18'22''$ West, a distance of 136.04 feet to a concrete nail found, the Point of Beginning;

- LEGEND
- BC - BACK OF CURB
 - BL - BUILDING LINE
 - CMP - CORRUGATED METAL PIPE
 - CL - CENTER LINE
 - CLF - CHAIN LINK FENCE
 - CPF - CORRUGATED PLASTIC PIPE
 - CNC - CONCRETE
 - CTP - CRIMP TOP PIPE
 - DB/PG - DEED BOOK, PAGE
 - FH - FIRE HYDRANT
 - G - GAS
 - GH - GUY WIRE
 - HM - HOOD
 - HMF - HOSE WIRE FENCE
 - IPF - IRON PIN FOUND
 - IPB - IRON PIN SET-1/2" REBAR
 - J - JUNCTION
 - LL - LAND LOT
 - LLC - LAND LOT CORNER
 - LLL - LAND LOT LINE
 - MH - MAN HOLE
 - NF - NOW OR FORMERLY
 - OTF - OPEN TOP PIPE
 - FBX - POWER TRANSFORMER BOX
 - P - OVER HEAD POWER
 - PL - PROPERTY LINE
 - PP - POWER POLE
 - PTP - POWER & TELEPHONE POLE
 - RF - REBAR FOUND
 - RCF - ROCK CORNER FOUND
 - RCP - REINFORCED CONCRETE PIPE
 - R/W - RIGHT-OF-WAY
 - SF - SQUARE FEET
 - SP - SERVICE POLE
 - SS - SANITARY SINKER
 - SSS - SANITARY SINKER EASEMENT
 - T - TELEPHONE
 - OTF - OVER HEAD TELEPHONE
 - TP - TELEPHONE POLE
 - WL - WATER LINE
 - WF - WOOD FENCE
 - WM - WATER METER
 - WV - WATER VALVE



INFORMATION REGARDING THE REPUTED PRESENCE, SIZE, CHARACTER AND LOCATION OF EXISTING UNDERGROUND UTILITIES AND STRUCTURES IS SHOWN HEREON. THERE IS NO CERTAINTY OF THE ACCURACY OF THIS INFORMATION AND IT SHALL BE CONSIDERED IN THAT LIGHT BY THOSE USING THIS DRAWING. THE LOCATION AND ARRANGEMENT OF UNDERGROUND UTILITIES AND STRUCTURES SHOWN HEREON MAY BE INACCURATE AND UTILITIES AND STRUCTURES NOT SHOWN MAY BE ENCOUNTERED. THE OWNER, THEIR EMPLOYEES, THEIR CONSULTANTS, AND THEIR CONTRACTORS SHALL HEREBY DISTINCTLY UNDERSTAND THAT THE SURVEYOR IS NOT RESPONSIBLE FOR THE CORRECTNESS OR SUFFICIENCY OF THIS INFORMATION.

PROJ. NAME: S TOWNE
 DWG. NAME: BNDY

DATE	ISSUE	NO.	DESCRIPTION	DATE	BY	APPR.
2/23/05	SCALE: HORIZ. 1" = 60' VERT.					
	SURVEYED: JH/CE/JJS					
	DRAWN: JH					
	CHECKED: JHG					
	APPROVED: JHG					

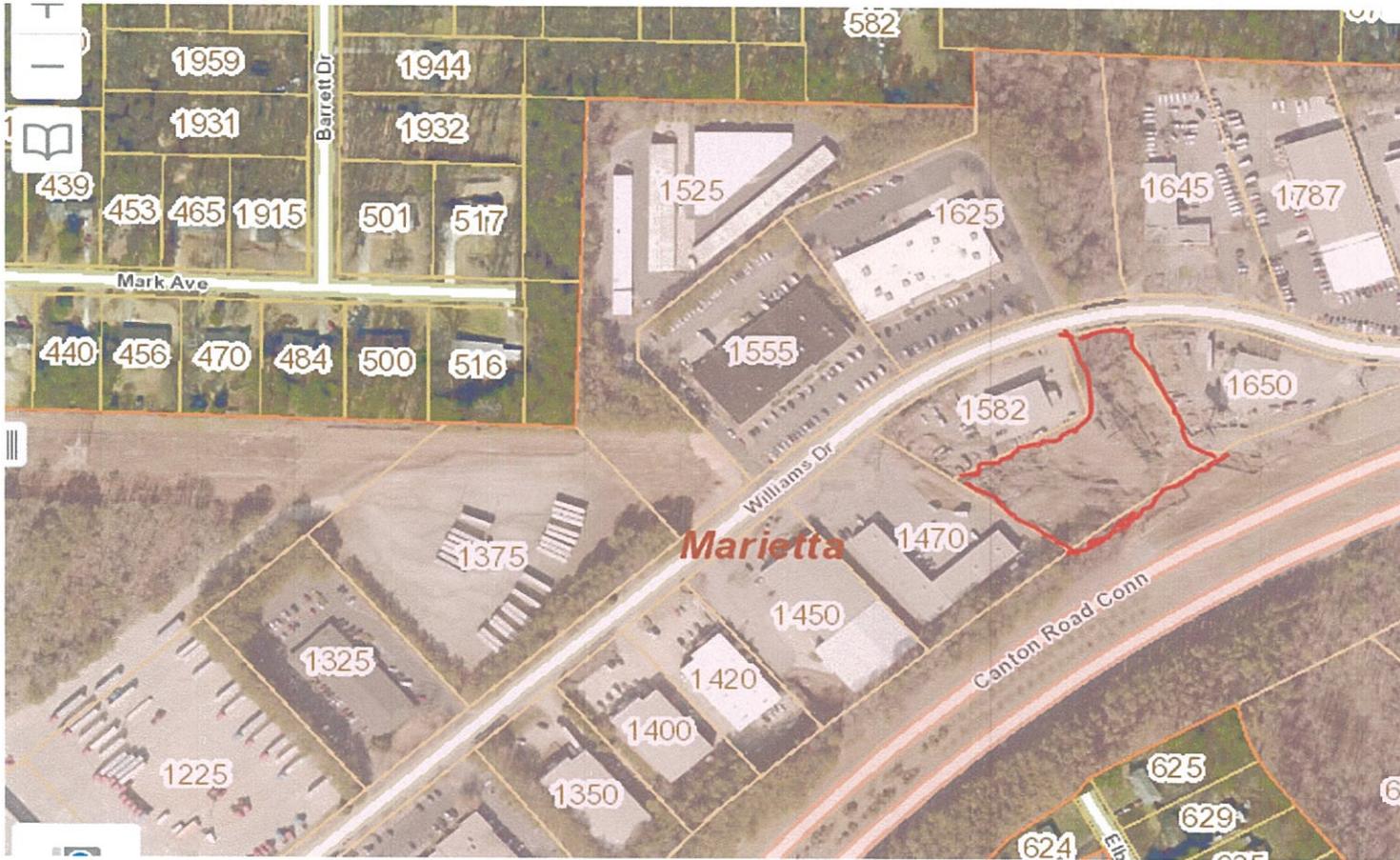


SURVEY FOR
CORNERSTONE WALL SYSTEMS, INC.
 BEING PARCEL 12, A PORTION OF PARCEL 13, AND A PORTION OF PARCEL 14 OF NOTHSGATE CORPORATE CENTER LOCATED IN LAND LOT 782, 16TH DISTRICT, 2ND SECTION COBB COUNTY, GEORGIA

GRIFFIN LAND SURVEYING, INC.
 2274 AZALEA DR. SUITE 4
 LAWRENCEVILLE, GA 30043
 770-955-9723



1592 Williams Drive is shown in red





STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2020-13 **Legistar #: 20200165**

Board of Zoning Appeals Hearing: Monday, May 18, 2020 – 6:00 p.m.

Property Owner: Marcotulio Mazariegos
405 Pat Mell Rd SW
Marietta, GA 30060

Applicant: Glenn Landry
870 Oaklen View Dr
Buford, GA 30518

Address: 1177 Bellemeade Drive

Land Lot: 0066 **District:** 17 **Parcel:** 01200

Council Ward: 2B **Existing Zoning:** CRC (Community Retail Commercial)

Special Exception / Special Use / Variance(s) Requested:

- 1. Variance to allow off-site parking to satisfy the minimum parking requirements for a place of assembly. [*§716.07 (A)*]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

- 1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
- 2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.

3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



1177 Bellemeade Drive



Off-Site Parking area

Recommended Action:

Approval with stipulation. On behalf of the owner, Marcotulio Mazariegos, Glenn Landry is requesting a variance at 1177 Bellemeade Drive in order to operate a place of assembly. The subject property is 0.616 acres and zoned CRC (Community Retail Commercial). The adjacent properties are also zoned CRC. The applicant is requesting a variance to meet the minimum parking standards by providing parking spaces off-site at the adjacent property at 1137 Powder Springs Street.

The owner recently purchased the property last June with the intent to remodel the space from a restaurant to an event hall. However, the owner was notified during the business license and tenant move-in process that he could not proceed due to insufficient parking. The previous restaurant use only required 27 parking spaces (1 space per 175 sq.ft); but according to the Zoning Ordinance a place of assembly with no fixed seating must provide 1 space for every 40 square feet of the largest assembly area. The floor plan for the facility shows one assembly area, approximately 4,200 square feet in total, which includes a stage, dance floor, seating, and bar area. As such, 105 parking spaces are required, but the site only contains 33 parking spaces.

The owner of the shopping plaza adjacent to the site has agreed to grant a revocable lease agreement to allow the use of 72 parking spaces for use by the events facility. With that agreement, the event facility would have 105 parking spaces available for their use. Technically, the shopping plaza only exceeds their minimum parking requirements by 16 spaces, but the hours of operation of the event hall would not usually conflict with the shopping center's daily traffic activity.

The adjacent property shares a dedicated access drive with the subject property so the traffic pattern should be safe and predictable. Since the operation of the event facility would likely be during the off-hours of the shopping center, ***staff recommends approval with the following stipulation:***

- 1. The owner of the event facility/place of assembly shall maintain a current lease agreement with the adjacent property owner (1137 Powder Springs Street) for the use of the additional spaces.***

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Department of Development Services
205 Lawrence Street
Marietta, GA 30060
Phone: 770-794-5440

APPLICATION FOR VARIANCE OR APPEAL

(Owner/Applicant/or Representative must be present at all public hearings)

(NOTE: CORRESPONDENCE IS HANDLED VIA EMAIL UNLESS OTHERWISE REQUESTED)

For Office Use Only:

Application #: 12020-13 Legistar #: 20200165 BZA Hearing Dt: 3-30-20
City Council Hearing Dt (if applicable) #: - PZ #: 20-64

This is a variance/appeal application for:

X

Board of Zoning Appeals

City Council

Owner's Name Marcotulio Mazariegos
EMAIL Address: info@diamondevents hall.com
Mailing Address 405 Pat Mell Rd SW Zip Code: 30060 Phone Number

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant: Glenn Landry
EMAIL Address: macord@bellsouth.net
Mailing Address 870 OAKLEN VIEW DR, BUFORD, GA, Zip Code: 30518 Phone Number 770-652-7440

Address of subject property: 1177 Bellemeade Dr Date of Acquisition: 6/17/2019

Land Lot (s) 66 District 17th Parcel 01200 Acreage 0.616 Zoned CRC Ward 2B FLU: CAC

List the variance(s) or appeal requested (please attach any additional information):

Parking Spaces

Required Information

- 1. Application fee (\$250)
2. Completed notarized application. The original application must be submitted with ALL original signature(s) - Copies of the application or signature(s) will NOT be accepted.
3. Copy of the deed that reflects the current owner(s) of the property.
4. Letter describing the reason for the variance request, stating why strict adherence to the code would result in a particular hardship (as distinguished from a mere inconvenience or desire to make more money).
5. Site plan - drawn to scale. Site plans must illustrate property lines and all relevant existing information and conditions in addition to proposed additions or modifications within the referenced property lines of the tract(s).
Copies Required: One (1) - (8 1/2" x 11") -or- (11" x 17") drawn to scale.
Optional Additional Plat size: (24"x 36"). If providing (24"x 36") then 5 copies REQUIRED.
6. Copy of current tax bill showing payment or documentation certified by the City of Marietta Tax Office.

Note: The Department of Development Services reserves the right to obtain additional information that reasonably may be required in order that an informed decision may be made.

OVER

CAMPAIGN CONTRIBUTIONS

The Owner and Applicant herein certify that he/she has has not made campaign contributions or gifts aggregating \$250.00 or more to the Mayor, any member of Council or any member of the Board of Zoning Appeals within the two (2) years preceding the filing of this application.

[Signature]
Signature of Owner

Marcotulio R Mazariegos
Print Name

[Signature]
Signature of Applicant

Glenn A. Laundry
Print Name

FINANCIAL INTEREST

The Applicant herein certifies that he/she has has not a financial interest in the property which is ten percent (10%) or more.

[Signature]
Print Name

[Signature]
Signature of Applicant

APPLICANT CERTIFICATION

- The Applicant certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Applicant's knowledge and belief. Should any portion not be true, then the application may be rejected.
- Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.

[Signature]
Signature of Applicant

2-17-2020
Date

Glenn A. Laundry
Please Print

OWNER CERTIFICATION

- The Owner certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Owners's knowledge and belief. Should any portion not be true, then the application may be rejected.
- Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.
- The Owner hereby gives permission to enter on the property for inspection during the time application is pending.

[Signature]
Signature of Owner

Marcotulio Mazariegos
Please Print

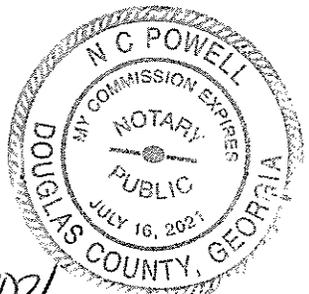
405 Pat Mell Rd. SW., Marietta, GA 30060
Address

2-17-2020
Date

Signed, sealed and delivered in the presence of:

[Signature]

My Commission Expires: July 16, 2021



Note: Owner, Applicant or Representative must be present at meeting in order for case to be heard.

The Diamond Hall, LLC

1177 Bellemeade Dr.

Marietta, GA 30008

February 17, 2020

City of Marietta
Board of Zoning
205 Lawrence St.
Marietta, GA 30060

RE: Request for Variance – 1177 Bellemeade Dr.

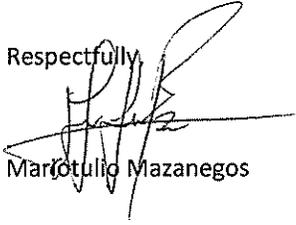
Dear Sir/Madame,

Please accept this letter of Request For Variance for the above mentioned property. We acquired this property June, 2019 which previous use was a restaurant. Our intent is to convert the property into an event center, where families in the community and outside of the community can hold family events and make memorable moments.

Upon submission of the plans for a building permit, it was revealed that the property has inadequate parking for use. The shopping center owner(s) has agreed to allow use of adjacent parking which will meet the required parking. Without this agreement and approval of variance, a hardship exist in that the property as purchased with the intended use cannot produce income and will not be of use since it does not and cannot meet the code parking requirements on its own.

Therefore, we request this variance be granted and we can move forward to making this a successful, dream come true business endeavor.

Respectfully,



Maritullio Mazanegos

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REVOCABLE LICENSE AGREEMENT

THIS LICENSE AGREEMENT is made and entered into this 14th day of February 2020, by and between Boyd Georgia Property, LLC (hereinafter referred to as "Licensor") and The Diamond Hall, LLC (hereinafter referred to as "Licensee").

In consideration of the mutual covenants set forth herein, and other good and valuable consideration, Landlord does hereby license to Licensee, that portion of the parking lot as more particularly shown on Exhibit "A" attached hereto and made a part hereof (hereinafter referred to as the "Licensed Property") which Licensed Property is a part of that property known as Bellemeade Plaza located at 1135 - 1171 Powder Springs Street, SW, Marietta, Cobb County, Georgia, 30064, which, together with any existing improvements located thereon or any improvements which may be subsequently added thereto (hereinafter referred to as the "Property").

1. Grant of License. Licensee shall have the right, but not the obligation, during the term of this Revocable License to use the Licensed Property under the terms and conditions set forth herein.
2. Term. The Term of this Revocable License shall commence on April 1, 2020 and terminate the date that is seven (7) days after Licensor or Licensee provides written notice of termination to the other.
3. Compensation. In consideration of Licensee's use of the Licensed Property, Licensee shall pay Licensor, in advance, the amount of Three Thousand and no/100 dollars (\$3,000.00) per month for April 2020 and May 2020 and thereafter Six Thousand and no/100 dollars (\$6,000.00) per month through the rest of the Term due on the 1st day of each month. Said amount shall not be pro-rated in the event either party terminates whereby only a partial month of the Licensed Property is used.
4. Limitations on Use. Licensee shall have the non-exclusive use of the Licensed Property in common with Licensor and its invitees, tenants and patrons of Licensor's with seven (7) days per week during the hours of 6:00 PM to 4:00 AM. Licensee shall only have the right to use the highlighted portion of the Licensed Property as shown in Exhibit A of this License Agreement, hereinafter defined as (Licensee's Parking). At no time shall Licensee be required to use the Licensed Property or perform any activities on behalf of the Licensor. Licensee shall have the right to use the Licensee's Parking only for short term automobile parking during events associated with Licensee's business located at 1177 Bellemeade Drive, SW, Marietta, Cobb County, Georgia, 30008 which is adjacent to the Property. Licensee hereby agrees to provide priority parking in the Licensed Area to Licensor, its tenants and invitees. "Licensee's Use" shall hereinafter be defined as any time period during which an employee or invitee of Licensee is parking in the Licensed Property. Licensee shall not use the Licensed Property for any other purpose other than for parking during an event of Licensee and at the hours stipulated herein.
5. "As-is" condition of Parking Lot. Licensee accepts the Licensed Property "as-is." Licensor shall have no obligation whatsoever to make any alterations or improvements or to provide any services specifically for the purpose of allowing Licensee to make full use of the Licensed Property.
6. Unlawful Use. Licensee shall not knowingly allow or permit any unlawful or illegal activity on the Licensed Property in connection with "Licensee's Use." "Licensee's Use" shall not knowingly create any nuisance on the Licensed Property.
7. Governmental Licenses and Permits. Licensee shall obtain, at its expense, any licenses or permits required for its use hereunder.
8. Assumption of Risk. Licensor shall not be liable for damage to persons or property of non-Users arising from or connected with "Licensee's Use" of the Licensed Property.
9. Indemnity. Licensee hereby agrees to indemnify and hold harmless Licensor, from any and all loss, liability, cost, claims, demands, damages, actions, causes of action, suits or expenses (including without limitation reasonable attorneys fees and expenses) arising out of, in any manner related to, or connected with, the actions of Licensee or the employees, agents, guests, or invitees of Licensee during "Licensee's Use." This paragraph shall survive the termination of this License Agreement.

Handwritten signature and date "1/13".

10. Insurance. Licensee shall at his sole cost and expense keep in force throughout the term of this License a commercial general liability policy in an amount not less than Two Million Dollars (\$2,000,000.00), each occurrence and general aggregate which includes broad form property damage, contractual, personal injury and completed operations coverage with respect to the Licensed Property and shall add Licensor as an additional insured to such policy, all in such form as shall be reasonably satisfactory to Licensor. Evidence of the foregoing requirements shall be furnished to Licensor by valid certificate of insurance issued by or on behalf of Licensee's, insurance carrier which certificate shall be delivered to Licensor prior to commencement of Licensee's use of the Licensed Property.

11. Interest Created. This agreement is a License and shall not create any easement rights, leasehold interests or other interests in land. The rights of Licensee in and to the Licensed Property created under this Revocable License shall not be subject to levy, sale, assignment or subletting.

12. Notices. Any notices to a party under this License shall be to that party at the address shown below:

Licensor:
The Diamond Hall, LLC
405 Pat Mell Road
Marietta, GA 30060

Licensor:
Boyd Georgia Property, LLC
c/o Equitable Management Corporation
1215 Hightower Trail Suite B-200
Atlanta, GA 30350

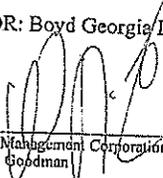
12. Changes to the License. This License incorporates all of the terms of our agreement concerning the use of the Licensed Property. No change to the terms of this Revocable License shall be effective unless it is in writing signed by both of the parties hereto.

13. Security/Maintenance. Throughout the term, Licensee shall be fully responsible for keeping the Licensed Property clean and free of all debris resulting from Licensee's Use. During Licensee's Use, Licensee shall employ exterior security during all hours that the Licensed Property is used.

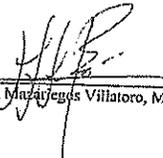
14. Advanced Payment. Upon execution of this License Agreement, Licensee shall remit \$3,000.00 to Licensor which shall be non-refundable and applicable to the compensation due Licensor for April 2020.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed under seal as of the day and year first above written.

LICENSOR: Boyd Georgia Property, LLC

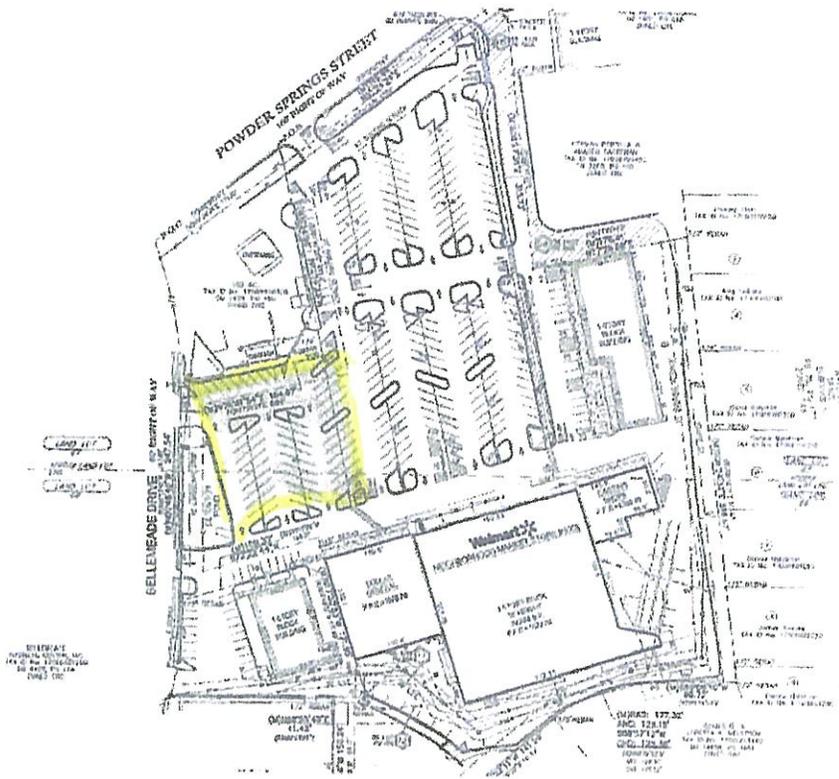
By: 
Equitable Management Corporation, Agent
Donald L. Goodman

LICENSEE: The Diamond Hall, LLC

By: 
Marcotulla R. Mazarijegos Villatoro, Manager

1/1: 4

EXHIBIT "A"
Licensed Property



PM

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TO: Marietta Daily Journal
FROM: City of Marietta
RUN DATE: May 1, 2020

**CITY OF MARIETTA
PUBLIC NOTICE OF VARIANCES**

The City of Marietta hereby gives notice that a public hearing will be held to give consideration to the following requests. The Board of Zoning Appeals will consider the following requests on **Monday, May 18, 2020 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

V2020-13 [VARIANCE] GLENN LANDRY (MARCOTULIO MAZARIEGOS) is requesting a variance for property zoned CRC (Community Retail Commercial), located in Land Lot 66, District 17, Parcel 1200, 2nd Section, Marietta, Cobb County, Georgia, and being known as 1177 Bellemeade Drive. Variance to allow off-site parking satisfy the minimum parking requirements for a place of assembly. Ward 2B.

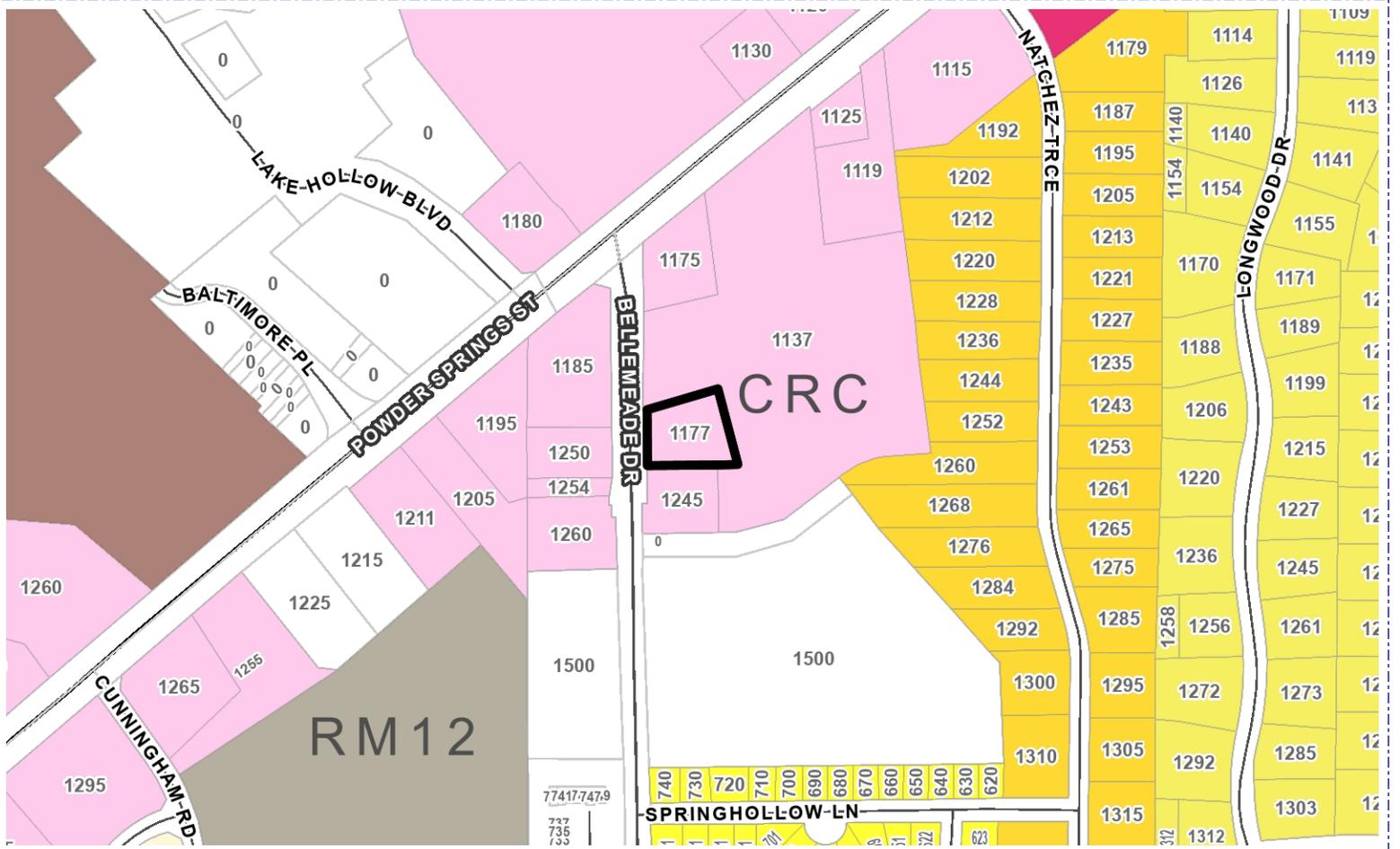
A description and plat of the property sought for the variances are on file in the Planning and Zoning Office, City Hall, and are available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto. You may also review the property file at www.mariettaga.gov and enter the case # in the search box.

For additional information please call the Planning and Zoning Office (770) 794-5669.

Accessibility to Meetings: If you believe you may need the City/BLW to provide special accommodations in order to attend/or participate in any of the above meetings, please call ADA Coordinator, at 770-794-5558 no later than 48 hours before the date of the above meeting.

City of Marietta
205 Lawrence Street
Marietta, Georgia 30060

Variance



Address	Parcel Number	Acreage	Ward	Zoning	FLU
1177 BELLEMEADE DR	17006601200	0.61	2B	CRC	CAC

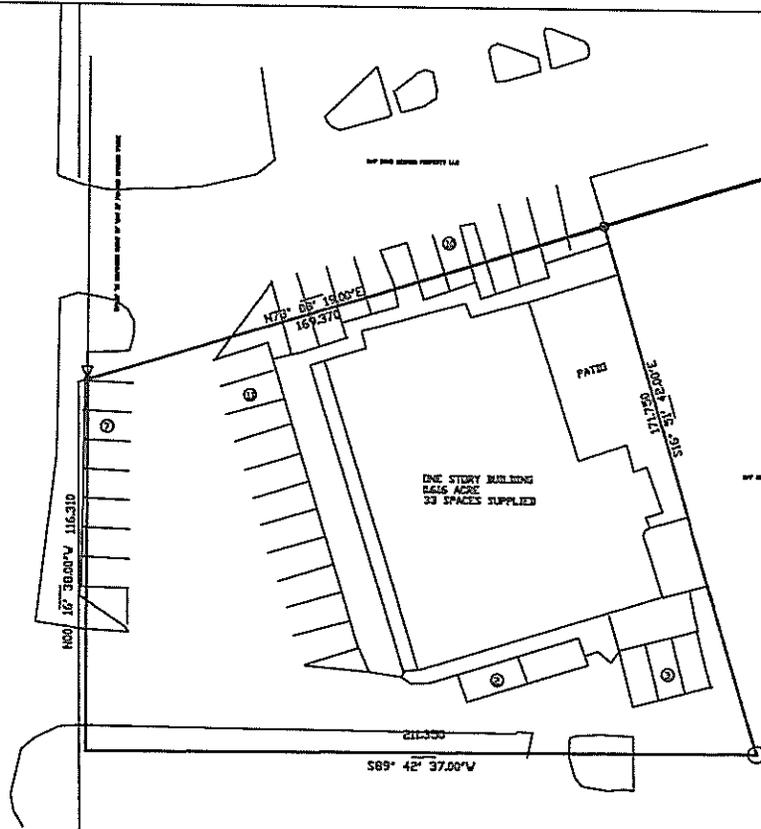
Property Owner:	Marcotulio Mazariegos
Applicant:	Glenn Landry
BZA Hearing Date:	05/18/2020
Acquisition Date:	
Case Number:	V2020-13
City of Marietta Planning & Zoning	

Zoning Symbols

- Railroads
- City Limits
- Cobb County Pockets
- NA
- R1 - Single Family Residential (1 unit/acre)
- R2 - Single Family Residential (2 units/acre)
- R3 - Single Family Residential (3 units/acre)
- R4 - Single Family Residential (4 units/acre)
- RA4 - Single Family Residential - Attached
- RA6 - Single Family Residential - Attached
- RA8 - Single Family Residential - Attached
- MHP - Mobile Home Park
- PRD-SF - Planned Residential Dev. Single Family
- RM8 - Multi Family Residential (8 units/acre)
- RM10 - Multi Family Residential (10 units/acre)
- RM12 - Multi Family Residential (12 units/acre)
- RHR - Residential High Rise
- PRD-MF - Planned Residential Dev Multi Family
- NRC - Neighborhood Retail Commercial
- CRC - Community Retail Commercial
- RRC - Regional Retail Commercial
- PCD - Planned Commercial Development
- LI - Light Industrial
- HI - Heavy Industrial
- PID - Planned Industrial Development
- MXD - Mixed Use Development
- CBD - Central Business District
- OIT - Office Institutional Transitional
- LRO - Low Rise Office
- OI - Office Institutional
- OS - Office Services
- OHR - Office High Rise



SITE



N/T RIVAS MARCOS A
1245 BELLEMEADE DR



01-23-20

LEGEND

Existing Center	---	Radius	R
Proposed Center	---	Guard Bearing	G
Start Spot Elev.	SP	Guard	G
Proposed Spot Elev.	SP	Service Pole	S
Surveying Station	ST	Lamp Pole	L
Fire Hydrant	HY	Downfall Utility Line	D
24" Force	F	New Pole	N
Water Line	W	Catch Basin	C
Traffic Pole	TP	Utility Box	U
Power Pole	PP	Drop Box	D
Gas Line	G	Manhole	M
Iron Pin Set	IP	Corroded Metal Pipe	CM
Iron Pin Found	IF	Reinforced Concrete	RC
Concrete Monument Found	CF	Cement Brick	CB
Monument	MO	Sewer Easement	SE
Mail & Gas	MG	Drainage Easement	DE
Force Center	FC	Water Valve	WV
Force	FO	Water Meter	WM
Open Top Pin	OT	Gas Valve	GV
Close Top Pin	CT	Gas Meter	GM
Refracting Sur	R	Gas	GA
Centerline	C	Underground Electricity	UE
By-By-Way	B/W	Underground Telephone	UT
		To Be Removed	TR

THIS PLAT WAS COMPLETED WITHOUT BENEFIT OF TITLE REPORT
AND IS SUBJECT TO ANY ITEMS FOUND IN REPORT.

30 YEARS 2025 DE 28 with page 200 (4) 05-08
ACME AMERICAN LLC
architects engineers planners surveyors

REFERENCE DB 15639 PG 457
PLAT BY WATSON BROWNING ENGINEERS, INC

title. VARIANCE PLAT
project. for **MARCOTULIO MAZAVIEGOS**
1177 BELLEMEADE DRIVE
MARIETTA, Georgia

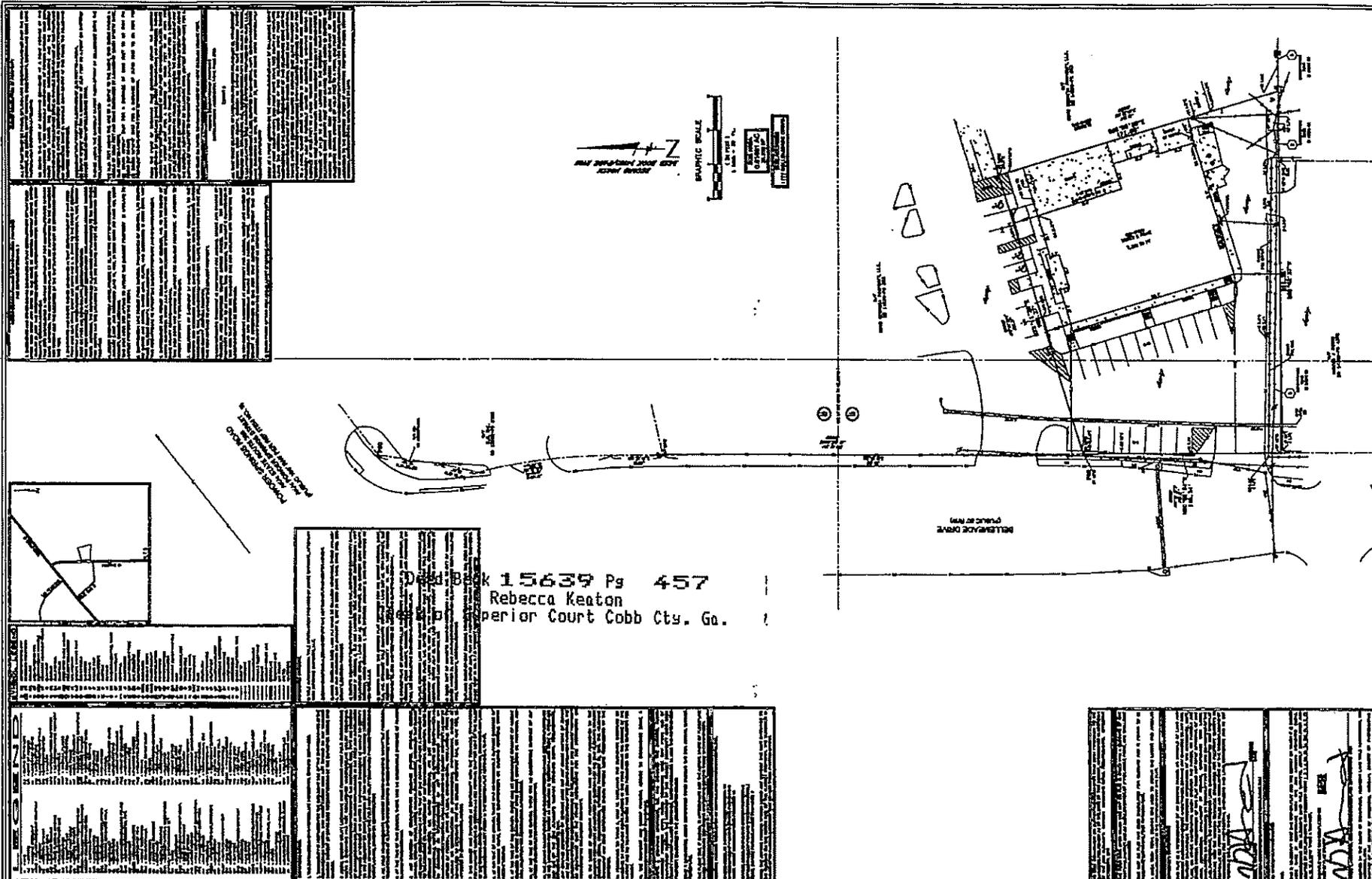
LAND LOT 66
17th DISTRICT, 2nd SECTION
COBB COUNTY, GEORGIA

0 50 100
GRAPHIC SCALE (IN FEET)
1"=20'

revisions:
date: 01-23-20
dwg. by: jwp
chkd. by: jwp
sheet number

B-1 of 1

Exhibit '15

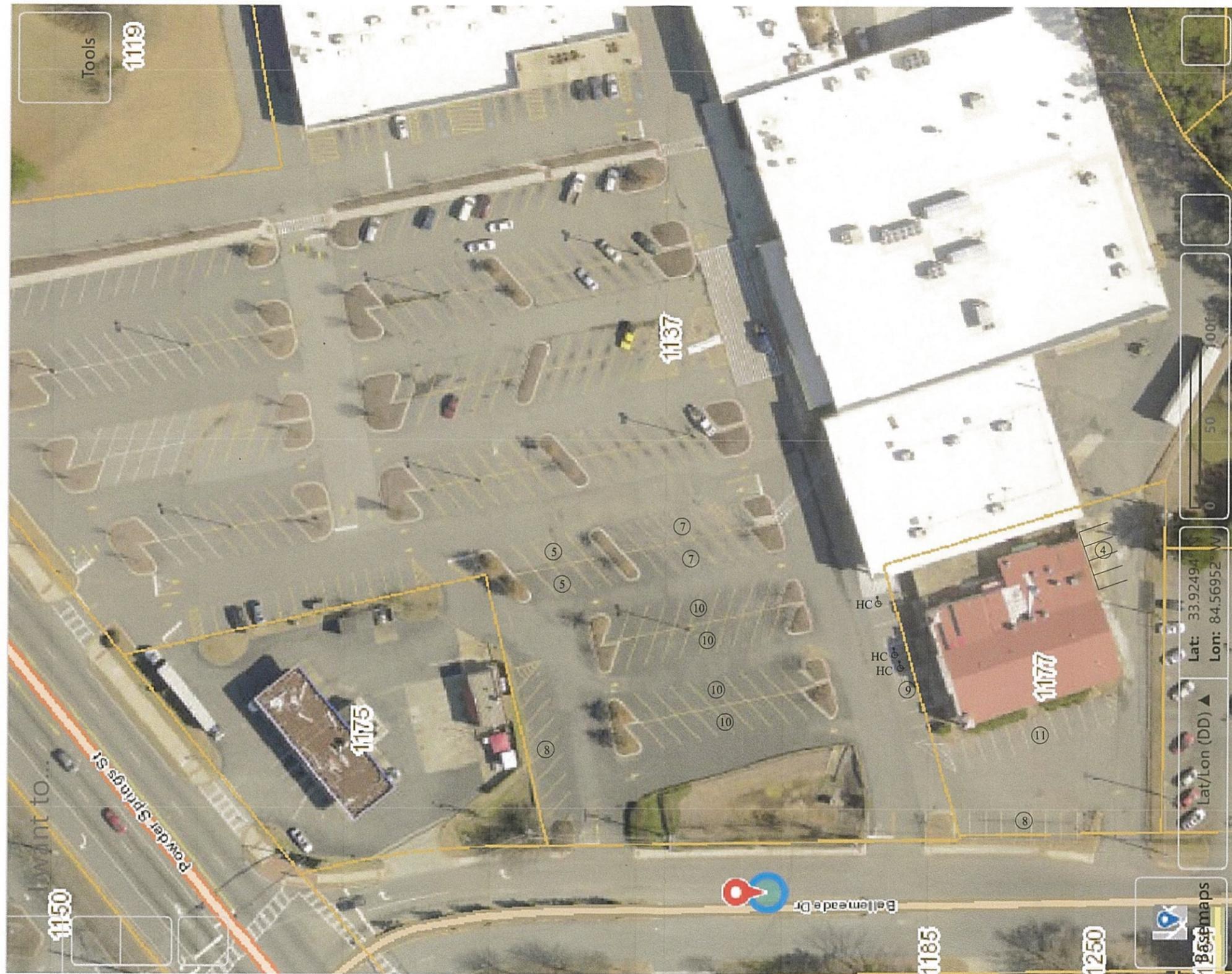


ALTA NSPS LAND TITLE SURVEY FOR
MARCOTULIO MAZAVIEGOS
 LOCATED IN
 LAND LOT 88, 17TH DISTRICT, 2ND SECTION
 CITY OF MARIETTA
 COBB COUNTY, GEORGIA



W&B
 SURVEYING & ENGINEERING, INC.
 1000 W. BENTLEY AVENUE
 MARIETTA, GA 30067
 (770) 429-1111
 www.wandb.com

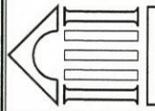
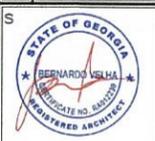
Map City **My Neighborhood: Cobb County, Georgia** is visible on Cobb Roads. 57 features visible on Parcels. Longitude: 84.5718 degrees West. Visible Features: 6
1177 Bellemeade Dr.



1 SITEPLAN
C100 SCALE: 1"=30'

NUMBER OF SEATS 3766/40=94 SPACES
100 PARKING SPACES PROVIDED.
3 HANDICAP SPACES ARE EXISTING.

RELEASED FOR CONSTRUCTION

 <p>319 Atlanta Street, Unit 240, Marietta, Georgia 30060 ACME AMERICAN, L.L.C. Architects, Construction Managers, Engineers voice (770) 425-6890 - fax (770) 425-5777</p>	
PROJECT#	
<p>SITEPLAN</p> <p>THE DIAMOND HALL 1177 BELLEMEADE DRIVE MARIETTA, GEORGIA 30008</p>	
 <p>10-14-19</p>	 <p>10-14-19</p>
revisions:	
date: 10-14-19	
dwg. by: JTD	
chkd. by: JWP	
sheet:	
C100	



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2020-14 **Legistar #:** 20200251

Board of Zoning Appeals Hearing: Monday – May 18, 2020 – 6:00 p.m.

Property Owner: Russ Masterson
133 Frances Ave
Marietta, GA 30060

Applicant: Same as owner.

Address: 133 Frances Avenue

Land Lot: 1087 **District:** 16 **Parcel:** 00290

Council Ward: 4B **Existing Zoning:** R-3 (Single Family Residential – 3 units/acre)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to reduce the side yard setback from 10 feet to 2 feet for an accessory structure (fireplace). [§708.03 (F.1)]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



133 Francis Avenue



133 Francis Avenue

Recommended Action:

Approval with stipulation. The owner, Russ Masterson, is requesting a variance for a new accessory structure at 133 Frances Avenue. This property is located in the Church and Cherokee Historic District and is zoned R-3 (Single Family Residential – 3 units/acre). Properties to the south, west and east are also zoned R-3. The properties immediately to the north are zoned OI (Office Institutional) and are either vacant or contain an office building. The owner wishes to revitalize their rear yard to an outdoor recreation space with an outdoor fireplace and other amenities such as fire pit, grill island and seating area. The proposed location of the outdoor fireplace is located within the required side yard setback.

The applicant wishes to enhance their landscaping between the back of the house and their garage (labeled carriage house). The design of the outdoor space appears to aim for entertainment purposes. Along the eastern side of the property a wooden fence with wooden benches will be aligned with a slate chip gravel walking path. In addition, the outdoor fireplace would be placed along the eastern property line along the fence line at 2 feet from the property line. However, the proposed location of the fireplace, which is considered an accessory structure, does not comply with the current zoning standards. According to the zoning ordinance, *an accessory structure shall be located upon the same lot and to the side or rear of the principal use at least 10 feet from side or rear lot lines.*

If required to accommodate the required 10-foot distance from the side property line, the fireplace would be placed in the center of the entertainment area. Although the applicant has not explicitly provided a hardship, supporting letters from all the adjacent residential neighbors, including those across Francis Street to the south, have been provided.

A similar request was granted by the Board of Zoning Appeals in October 2019 for the construction of a fireplace in the front yard of 243 Kennesaw Avenue (V2019-32).

The lot is landscaped with mature evergreens along the eastern property line. It is not clear if the trees would be removed in order to build the fireplace at its proposed location. Also, the height of the fireplace is unknown but it cannot exceed the height of the main building, so it will not be seen from the road. Therefore, staff recommends approval of this variance request with the following stipulation:

- 1. The variance shall only apply to the proposed fireplace. Any new accessory structure would have to comply with regulations or seek an additional variance.***

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Department of Development Services
205 Lawrence Street
Marietta, GA 30060
Phone: 770-794-5440

APPLICATION FOR VARIANCE OR APPEAL

(Owner/Applicant/or Representative must be present at all public hearings)

(NOTE: CORRESPONDENCE IS HANDLED VIA EMAIL UNLESS OTHERWISE REQUESTED)

For Office Use Only:

Application #: V2020-14 Legistar #: 20200251 BZA Hearing Dt: 4-27-20
City Council Hearing Dt (if applicable) #: - PZ #: 20-90

This is a variance/appeal application for:

Checked box for Board of Zoning Appeals

Board of Zoning Appeals

Unchecked box for City Council

City Council

Owner's Name RUSS MASTERSON

EMAIL Address: RUSSMASTERSON@GMAIL.COM

Mailing Address 133 FRANCES AVE. Zip Code: 30060 Phone Number 404.502.8605

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant:

EMAIL Address:

Mailing Address Zip Code: Phone Number

Address of subject property: 133 FRANCES AVE. Date of Acquisition: 7/2013

Land Lot (s) 1078 District 16 Parcel 00290 Acreage .31 Zoned R3 Ward 4B FLU: LDR
1087

List the variance(s) or appeal requested (please attach any additional information):

- Build covered patio with 3' of eastern property line and fireplace
would be within 2' of eastern property line.

Required Information

- 1. Application fee (\$250)
2. Completed notarized application. The original application must be submitted with ALL original signature(s) - Copies of the application or signature(s) will NOT be accepted.
3. Copy of the deed that reflects the current owner(s) of the property.
4. Letter describing the reason for the variance request, stating why strict adherence to the code would result in a particular hardship (as distinguished from a mere inconvenience or desire to make more money).
5. Site plan - drawn to scale. Site plans must illustrate property lines and all relevant existing information and conditions in addition to proposed additions or modifications within the referenced property lines of the tract(s).
Copies Required: One (1) - (8 1/2" x 11") -or- (11" x 17") drawn to scale.
Optional Additional Plat size: (24"x 36"). If providing (24"x 36") then 5 copies REQUIRED.
6. Copy of current tax bill showing payment or documentation certified by the City of Marietta Tax Office.

Note: The Department of Development Services reserves the right to obtain additional information that reasonably may be required in order that an informed decision may be made.

OVER

CAMPAIGN CONTRIBUTIONS

The Owner and Applicant herein certify that he/she has has not made campaign contributions or gifts aggregating \$250.00 or more to the Mayor, any member of Council or any member of the Board of Zoning Appeals within the two (2) years preceding the filing of this application.

[Signature]
Signature of Owner

[Signature]
Signature of Applicant

Russ Masterson
Print Name

Russ Masterson
Print Name

FINANCIAL INTEREST

The Applicant herein certifies that he/she has has not a financial interest in the property which is ten percent (10%) or more.

Print Name

Signature of Applicant

APPLICANT CERTIFICATION

- The Applicant certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Applicant's knowledge and belief. Should any portion not be true, then the application may be rejected.
- Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.

Signature of Applicant

Date

Please Print

OWNER CERTIFICATION

- The Owner certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Owners's knowledge and belief. Should any portion not be true, then the application may be rejected.
- Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.
- The Owner hereby gives permission to enter on the property for inspection during the time application is pending.

[Signature]
Signature of Owner

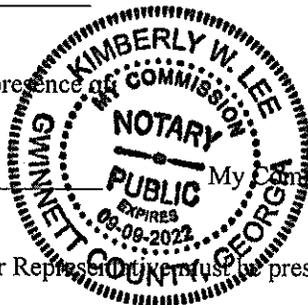
RUSS MASTERSON
Please Print

133 FRANCES AVENUE MARIETTA, GA 30060
Address

March 6, 2020
Date

Signed, sealed and delivered in the presence of

[Signature]



My Commission Expires: 9/9/2022

Note: Owner, Applicant or Representative must be present at meeting in order for case to be heard.

Agreement to Variance Application by 133 Frances Avenue

Date: 3/3/2020

Name: Iedd Mendelsohn

Address: 141 Frances Ave.

Marietta, GA 30060

Phone Number: 770-514-1225

Re: Variance application by Russ Masterson at 133 Frances Avenue, Marietta, GA 30060

Dear Board of Zoning Appeals

I have reviewed the site plan for the future covered patio as being presented by Russ and Kristy Masterson for variance. I believe this addition of roof structure and patio will add value to their home and the homes around it. I also have no issue with the design of this to encroach into the setback along the eastern property line. I understand this patio will be at 3' from the eastern side property line and the fireplace will be at 2' from the eastern side property line.

I believe this design will keep the home at 133 Frances Avenue at best possible design to merge with the existing historic home and utilize the backyard for maximum value for the property.

Sincerely,



Agreement to Variance Application by 133 Frances Avenue

Date: 3/7/2020

Name: Cameron Clark + Katie Clark

Address: 125 Frances Avenue

Marietta GA 30060

Phone Number: 770-337-9428

Re: Variance application by Russ Masterson at 133 Frances Avenue, Marietta, GA 30060

Dear Board of Zoning Appeals

I have reviewed the site plan for the future covered patio as being presented by Russ and Kristy Masterson for variance. I believe this addition of roof structure and patio will add value to their home and the homes around it. I also have no issue with the design of this to encroach into the setback along the eastern property line. I understand this patio will be at 3' from the eastern side property line and the fireplace will be at 2' from the eastern side property line.

I believe this design will keep the home at 133 Frances Avenue at best possible design to merge with the existing historic home and utilize the backyard for maximum value for the property.

Sincerely,

Two handwritten signatures in black ink. The top signature is 'Cameron Clark' and the bottom signature is 'Katie Clark'. Both are written in a cursive, flowing style.

Agreement to Variance Application by 133 Frances Avenue

Date: _____

Name: Gregg Litchfield

Address: 222 Washington Ave

Marietta GA 30060

Phone Number: 404-713-7317

Re: Variance application by Russ Masterson at 133 Frances Avenue, Marietta, GA 30060

Dear Board of Zoning Appeals

I have reviewed the site plan for the future covered patio as being presented by Russ and Kristy Masterson for variance. I believe this addition of roof structure and patio will add value to their home and the homes around it. I also have no issue with the design of this to encroach into the setback along the eastern property line. I understand this patio will be at 3' from the eastern side property line and the fireplace will be at 2' from the eastern side property line.

I believe this design will keep the home at 133 Frances Avenue at best possible design to merge with the existing historic home and utilize the backyard for maximum value for the property.



Sincerely,

Agreement to Variance Application by 133 Frances Avenue

Date: 3/1/2020

Name: MATTHEW MELGEE

Address: 134 FRANCES AVE NE
MARIETTA, GA. 30060

Phone Number: 404.433.8111

Re: Variance application by Russ Masterson at 133 Frances Avenue, Marietta, GA 30060

Dear Board of Zoning Appeals

I have reviewed the site plan for the future covered patio as being presented by Russ and Kristy Masterson for variance. I believe this addition of roof structure and patio will add value to their home and the homes around it. I also have no issue with the design of this to encroach into the setback along the eastern property line. I understand this patio will be at 3' from the eastern side property line and the fireplace will be at 2' from the eastern side property line.

I believe this design will keep the home at 133 Frances Avenue at best possible design to merge with the existing historic home and utilize the backyard for maximum value for the property.

Sincerely,



TO: Marietta Daily Journal
FROM: City of Marietta
RUN DATE: May 1, 2020

**CITY OF MARIETTA
PUBLIC NOTICE OF VARIANCES**

The City of Marietta hereby gives notice that a public hearing will be held to give consideration to the following requests. The Board of Zoning Appeals will consider the following requests on **Monday, May 18th, 2020 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

V2020-14 [VARIANCE] RUSS MASTERSTON is requesting a variance for property zoned R-3 (Single Family Residential – 3 units/acre), located in Land Lot 1087, District 16, Parcel 0290, 2nd Section, Marietta, Cobb County, Georgia, and being known as 133 Frances Avenue. Variance to reduce the side yard setback from 10 feet to 2 feet for an accessory structure (fireplace). Ward 4B.

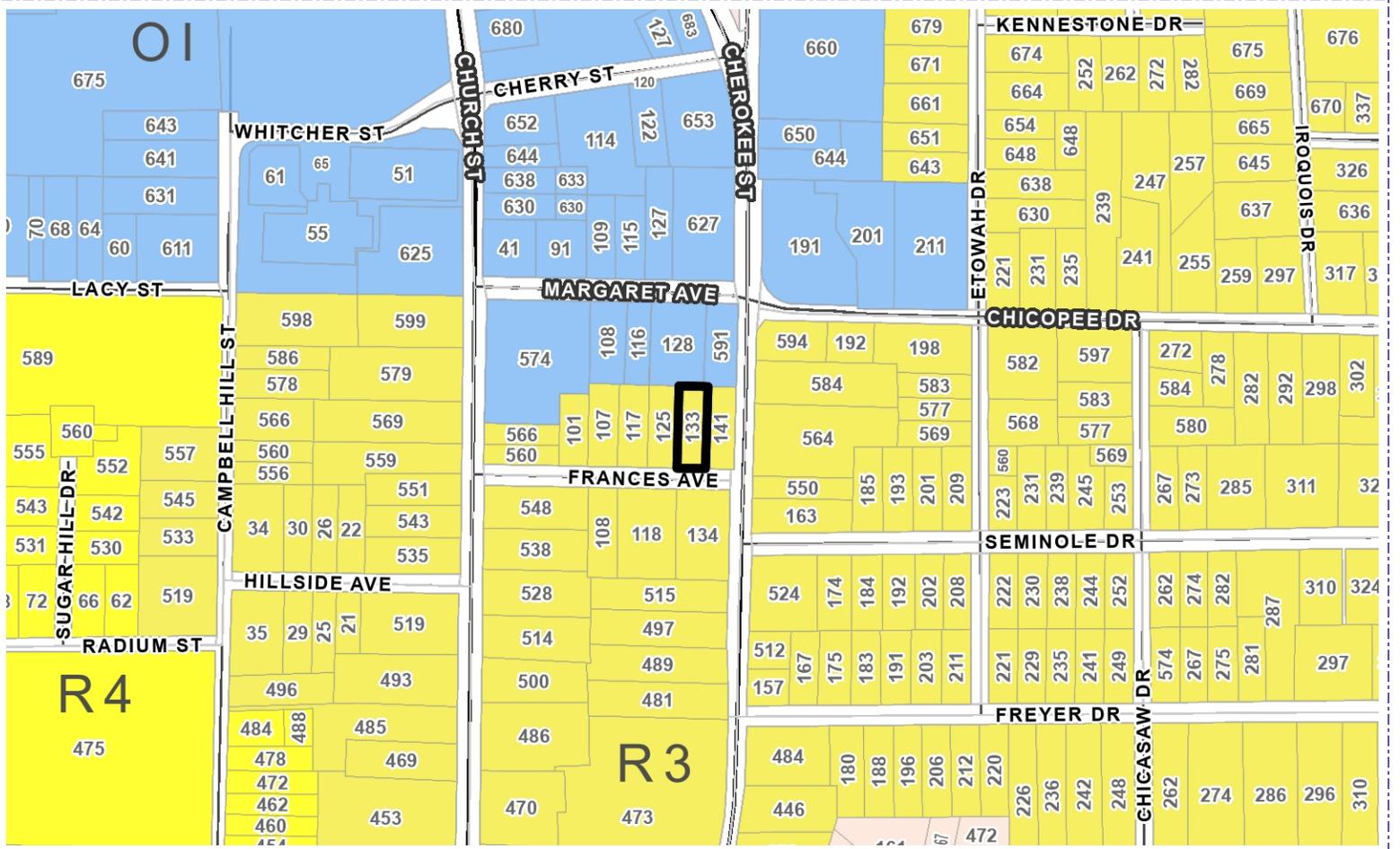
A description and plat of the property sought for the variances are on file in the Planning and Zoning Office, City Hall, and are available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto. You may also review the property file at www.mariettaga.gov and enter the case # in the search box.

For additional information please call the Planning and Zoning Office (770) 794-5669.

Accessibility to Meetings: If you believe you may need the City/BLW to provide special accommodations in order to attend/or participate in any of the above meetings, please call ADA Coordinator, at 770-794-5558 no later than 48 hours before the date of the above meeting.

City of Marietta
205 Lawrence Street
Marietta, Georgia 30060

Variance



Address	Parcel Number	Acreage	Ward	Zoning	FLU
133 FRANCES AVE	16108700290	0.313	4B	R3	LDR

Property Owner:	Russ Masterson	Zoning Symbols
Applicant:		
BZA Hearing Date:	05/18/2020	
Acquisition Date:		
Case Number:	V2020-14	
City of Marietta Planning & Zoning		

NOTES:

THE FIELD DATA UPON WHICH THIS PLAT IS BASED WAS OBTAINED USING A GPT-3005W TOTAL STATION, AND HAS A LINEAR PRECISION RATIO OF ONE FOOT IN 32,216 FEET AND AN ANGULAR ERROR OF 05 SECONDS PER ANGLE AND WAS NOT ADJUSTED.

THIS PLAT HAS BEEN CHECKED FOR MATHEMATICAL ACCURACY AND CLOSES WITHIN ONE FOOT IN 2,712,500 FEET.

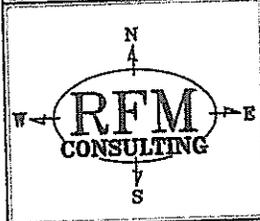
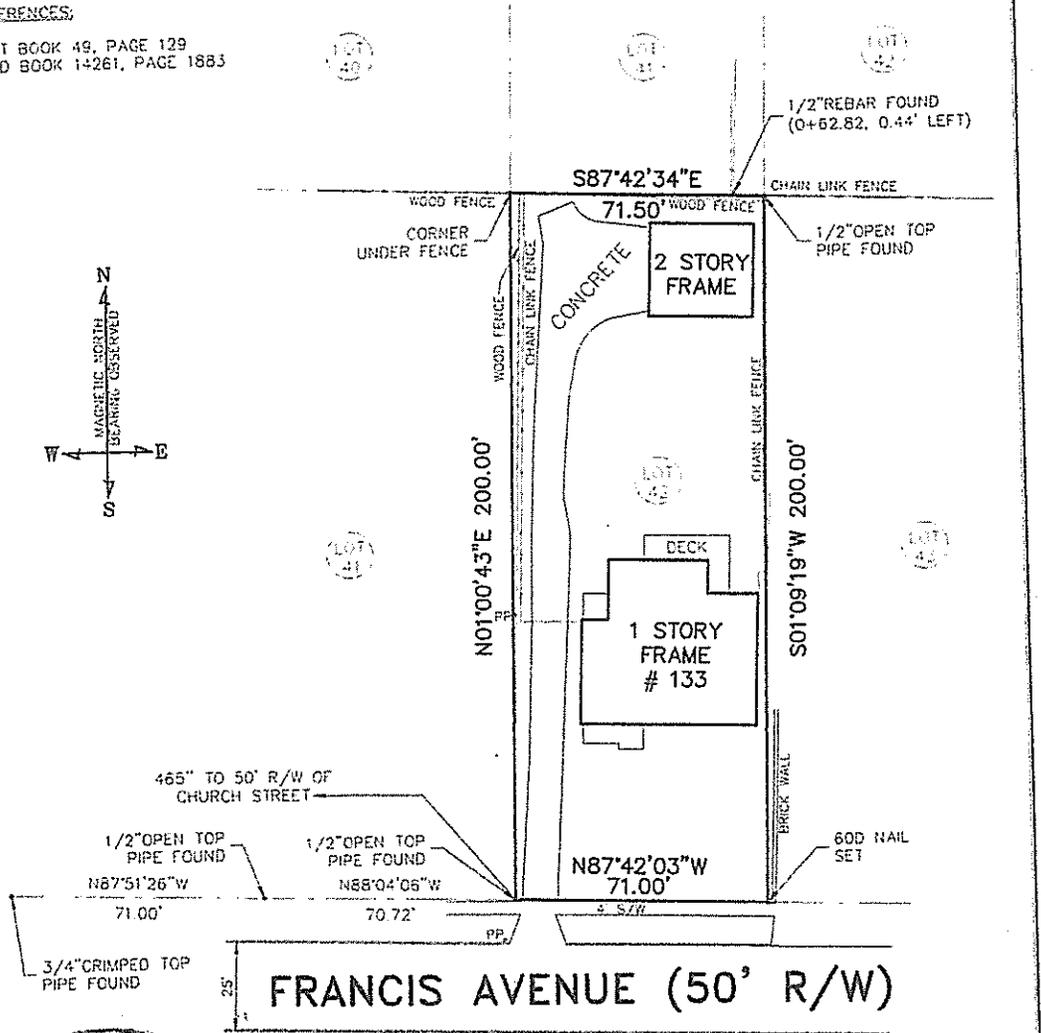
TOTAL AREA = 14,246 SQUARE FEET OR 0.33 ACRES.

PROPERTY MAY OR MAY NOT BE SUBJECT TO PROTECTIVE OR RESTRICTIVE COVENANTS AS PER FINAL PLAT AND OR CITY/COUNTY ORDINANCES INCLUDING ALL EASEMENTS AND RIGHTS OF WAY.

THE LOCATION OF UNDERGROUND UTILITIES WERE NOT LOCATED FOR THIS SURVEY. UTILITIES SHOWN ARE BASED UPON VISIBLE AND PHYSICAL EVIDENCE. THERE MAY BE UTILITIES ON OR CROSSING THIS PROPERTY THAT ARE NOT SHOWN. CALL THE UTILITIES PROTECTION CENTER (1-800-282-7411) BEFORE ANY EXCAVATIONS ARE BEGUN TO ENSURE AND VERIFY THE CORRECT LOCATION AND DEPTH OF ALL UTILITIES.

REFERENCES:

PLAT BOOK 49, PAGE 129
DEED BOOK 14261, PAGE 1883



R.F.M. Consulting, LLC
707 WHITLOCK AVENUE
BLDG. A-37
MARIETTA, GA 30064
PHONE (770) 757-3977
FAX (770) 499-8496
EMAIL: RFMCON@BELLSOUTH.NET

IN WITNESS WHEREOF, THIS PLAT IS A CORRECT REPRESENTATION OF THE LAND PLATTED AND HAS BEEN PREPARED IN ACCORDANCE WITH THE GEORGIA STANDARDS AND REQUIREMENTS OF LAW.

R. Frank Meaders

SURVEY OF
#133 FRANCIS AVENUE
LOT 42
FREYER SUBDIVISION
LOCATED IN LAND LOT 1087
16th DISTRICT, 2nd SECTION
CITY OF MARIETTA
COBB COUNTY, GEORGIA
DATE: 06/14/2013
SCALE: 1"=40'

Drawing By Mark R. Price, Jr.
Ced. 678-313-9270
FILE FRANCIS AVENUE.dwg

Graphic scale bar showing 0, 20, 40, and 60 feet.

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**PARADIGM
LANDSCAPE**

1000 W. BROADWAY, SUITE 100
ATLANTA, GEORGIA 30308
404.525.1111

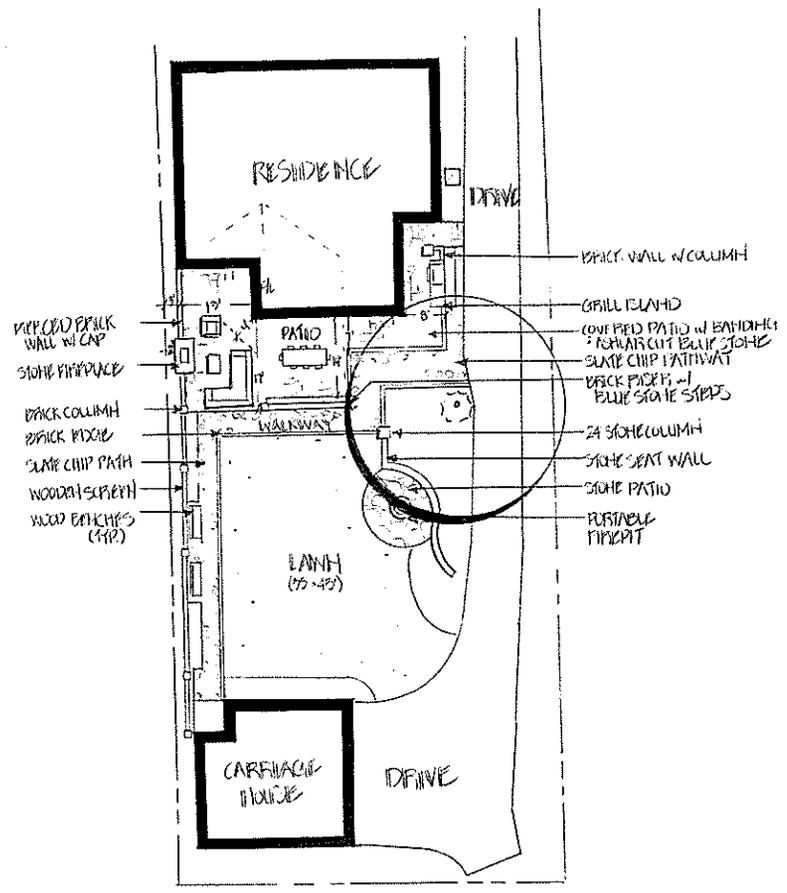
MASHERSON RESIDENCE

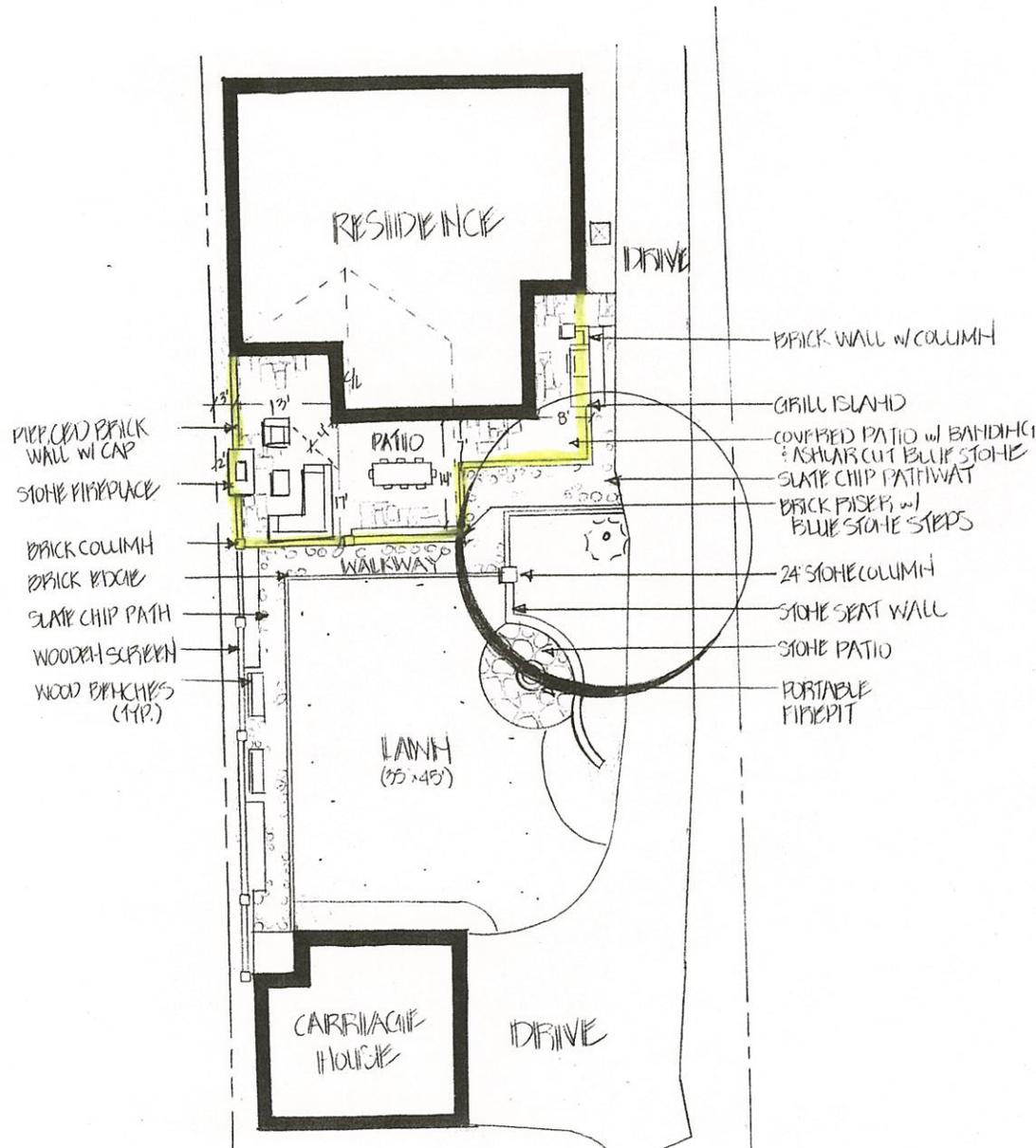
100 FRANKS AVE NE
MARIETTA, GEORGIA

10-100

DATE	REVISION
2/17/20	

THE PLANS, SPECIFICATIONS, SCHEDULES, AND OTHER DOCUMENTS REFERENCED ARE THE PROPERTY OF PARADIGM LANDSCAPE. CLIENTS ARE NOT TO REPRODUCE, COPY, REUSE, OR MAKE FROM THEM PARTS THEREOF WITHOUT THE WRITTEN CONSENT OF PARADIGM LANDSCAPE. PARADIGM LANDSCAPE SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED HEREON. PARADIGM LANDSCAPE SHALL NOT BE RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THE PLANS, SPECIFICATIONS, SCHEDULES, AND OTHER DOCUMENTS. PARADIGM LANDSCAPE SHALL NOT BE RESPONSIBLE FOR ANY CHANGES TO THE PLANS, SPECIFICATIONS, SCHEDULES, AND OTHER DOCUMENTS MADE BY ANY OTHER PARTY. PARADIGM LANDSCAPE SHALL NOT BE RESPONSIBLE FOR ANY DELAYS OR DISRUPTIONS TO THE PROJECT CAUSED BY ANY OTHER PARTY. PARADIGM LANDSCAPE SHALL NOT BE RESPONSIBLE FOR ANY INADEQUACIES OF THE PROJECT OR THE QUALITY OF THE WORKMANSHIP OF THE CONTRACTOR.





RESIDENCE

DRIVE

- MIXED BRICK WALL w/ CAP
- STONE FIREPLACE
- BRICK COLUMN
- BRICK RIDGE
- SLATE CHIP PATH
- WOODEN SCREEN
- WOOD BRANCHES (112)

LAWN
(35' x 45')

PATIO

WALKWAY

CARRIAGE HOUSE

DRIVE

BRICK WALL w/ COLUMN

GRILL ISLAND

COVERED PATIO w/ BANDING

ASHLAR CUT BLUE STONE

SLATE CHIP PATHWAY

BRICK BASE w/ BLUE STONE STEPS

24" STONE COLUMN

STONE SEAT WALL

STONE PATIO

PORTABLE FIREPIT

STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2020-15 **Legistar #:** 20200321
Board of Zoning Appeals Hearing: **Monday, May 18th, 2020 – 6:00 p.m.**
Property Owner: Belén B. Hickman
Applicant: Melissa Lamarche
Address: 236 South Fairground Street
Land Lot: 1287 **District:** 16 **Parcel:** 0430
Council Ward: 1A **Existing Zoning:** NRC (Neighborhood Retail Commercial)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to reduce the minimum lot size from 10,000 sq. ft. to 6,400 sq. ft. [§708.15 (H)]
2. Variance to reduce the minimum lot width from 75’ to 73’. [§708.15 (H)]
3. Variance to reduce the buffer from 30’ to 12’. [§708.15 (H).] [§710.05 (B) & (E)]
4. Variance to allow a substandard lot of record be developed. [§710.09]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



236 South Fairground Street



Location of parking extension

Recommended Action:

Approval. The applicant, Melissa Lamarche, is requesting variances for the property at 236 South Fairground Street in order to provide additional parking for a new chiropractic office. The property is zoned NRC (Neighborhood Retail Commercial) and is located at the southwestern corner of Frasier Street and South Fairground Street. The adjacent property to the south is also zoned NRC but does not have an active business license. A parking lot owned and used by First Christian Church, which operates across Frasier Street to the north, is directly to the west and is zoned R-4 with a SLUP that was approved in 2016 (Z2016-01). Properties across South Fairground Street to the east are zoned LRO (Low Rise Office) and NRC.

The subject property is quite small and was likely built as a residence in 1942. However, City zoning maps indicate it has been zoned Neighborhood Retail Commercial since at least the 1960s. The minimum lot size for NRC zoning is 10,000 square feet. The lot was created in 1942 by plat and at the time was approximately 8,000 square feet. Based on right-of-way acquisition deeds and exhibits from January 2019 (DB 15602 PG 6077), the site is now approximately 6,418 square feet in area.

As such, the lot is considered legally nonconforming; and Section 706, Nonconforming Uses, prohibits any action that increases an existing nonconformity. For this property to be considered a buildable lot, variances to reduce the lot size and lot width would be necessary.

The applicant would like to expand the parking area behind the existing structure. Aerial images indicate the existing parking pad (30'x13') to be thirty (30) feet from the western property line, indicating adherence to the buffer requirement. However, the existing buffer only contains one or two trees and a wooden fence. Based on the submitted drawing, the applicant wishes to add 864 square feet of paving to the west and 300 square feet of paving to the east of the existing pad. To expand the pad westward would require a reduction in the buffer from 30 feet to approximately 12 feet. The existing fence and vegetation currently provide a suitable buffer, however this buffer is provided only for the church parking lot.

Because the adjacent property is a parking lot and is not being used residentially, staff recommends approval of the buffer reduction. In addition, since the property was reduced in size by City Streetscape projects, staff recommends approval of the remaining variances so the property can provide some economic purpose to the owner and tenant.

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APPLICATION FOR VARIANCE OR APPEAL

(Owner/Applicant/or Representative must be present at all public hearings)

(NOTE: CORRESPONDENCE IS HANDLED VIA EMAIL UNLESS OTHERWISE REQUESTED)

For Office Use Only:

Application #: ✓ 2020-15 Legistar #: 20200321 BZA Hearing Dt: 5-18-20
City Council Hearing Dt (if applicable) #: - PZ #: 20-115

This is a variance/appeal application for:



Board of Zoning Appeals



City Council

Owner's Name BELÉN B HICKMAN
EMAIL Address: belen @ his-company.com
Mailing Address 213 INDIAN HILLS TRL Zip Code: 30068 Phone Number 404-245-2444

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant: Melissa Lamarche
EMAIL Address: drmbolchiro@gmail.com
Mailing Address 1870 Hays Farm Walk Zip Code: 30064 Phone Number 9707788500

Address of subject property: 236 S FAIRGROUND ST Date of Acquisition: 10/2005
Land Lot (s) 1287 District 16 Parcel 39 Acreage .167 Zoned NRC Ward 1A FLU: CAC
00430

List the variance(s) or appeal requested (please attach any additional information):

Parking w/in 30' of a residential Property Line

Required Information

1. Application fee (\$250)
2. Completed notarized application. **The original application must be submitted with ALL original signature(s) – Copies of the application or signature(s) will NOT be accepted.**
3. Copy of the deed that reflects the current owner(s) of the property.
4. Letter describing the reason for the variance request, stating why strict adherence to the code would result in a particular hardship (as distinguished from a mere inconvenience or desire to make more money).
5. **Site plan – drawn to scale.** Site plans must illustrate property lines and all relevant existing information and conditions in addition to proposed additions or modifications within the referenced property lines of the tract(s).
Copies Required: One (1) - (8 ½" x 11") -or- (11" x 17") drawn to scale.
6. **Optional** Additional Plat size: (24"x 36"). If providing (24"x 36") then 5 copies REQUIRED.
6. Copy of current tax bill showing payment or documentation certified by the City of Marietta Tax Office.

Note: The Department of Development Services reserves the right to obtain additional information that reasonably may be required in order that an informed decision may be made.

OVER

CAMPAIGN CONTRIBUTIONS

The Owner and Applicant herein certify that he/she has has not made campaign contributions or gifts aggregating \$250.00 or more to the Mayor, any member of Council or any member of the Board of Zoning Appeals within the two (2) years preceding the filing of this application.

[Signature]
Signature of Owner

[Signature]
Signature of Applicant

BELEN B HICKMAN
Print Name

BELEN B HICKMAN
Print Name

FINANCIAL INTEREST

The Applicant herein certifies that he/she has has not a financial interest in the property which is ten percent (10%) or more.

BELEN B HICKMAN
Print Name

[Signature]
Signature of Applicant

APPLICANT CERTIFICATION

- The Applicant certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Applicant's knowledge and belief. Should any portion not be true, then the application may be rejected.
- Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.

[Signature]
Signature of Applicant

4/06/2020
Date

BELEN B HICKMAN / Melissa Lamarche
Please Print

OWNER CERTIFICATION

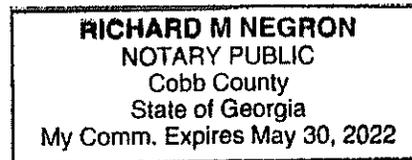
- The Owner certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Owners's knowledge and belief. Should any portion not be true, then the application may be rejected.
- Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.
- The Owner hereby gives permission to enter on the property for inspection during the time application is pending.

[Signature]
Signature of Owner

BELEN B HICKMAN
Please Print

213 INDIAN HILLS TRAIL, MARIETTA, GA 30068
Address

4/06/2020
Date



Signed, sealed and delivered in the presence of:

[Signature]

My Commission Expires: May 30, 2022

Note: Owner, Applicant or Representative must be present at meeting in order for case to be heard.

April 6, 2020

To: Department of Development Services
205 Lawrence St.,
Marietta, GA 30060

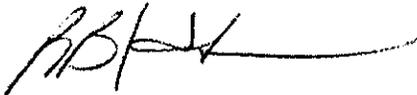
To whom it may concern,

This letter is in reference to the property located at 236 S. Fairground St, Marietta, GA 30060. This property is currently zoned as NRC (Neighborhood Retail Commercial). To perform as a retail center, more off street parking is needed to accommodate both staff and patrons to the given business. Off street parking is desirable for this location due to inadequate on street parking availability that allows ease of access to the business. 236 S. Fairground St is located at the intersection of S. Fairground and Frasier St, with parking access from Frasier Street. Due to egress toward S. Fairground St., street parking on Frasier St. is limited. This same intersection is about to be expanded and modified by the City of Marietta, thus encroaching on any previously available street parking for this location. It is also reasonable to consider the needs of any person needing handicapped parking at this location.

The current parking pad is 390 sq. ft., can accommodate 2 vehicles and is 30' from the property line of 569 Frasier St., Marietta, GA 30060 which is zoned residential. Although 569 Frasier St, is zoned residential, the entire property is a parking lot and provides overflow parking for the First Christian Church of Marietta. Due to the fact that the adjacent lot next to desired parking is indeed a parking lot, I am asking for a zoning variance to allow increased off street parking at 236 S. Fairground St., to be within less than 30' of the neighboring residential property line on the west side of the property.

I look forward to your favorable decision.

Sincerely,

A handwritten signature in black ink, appearing to read 'Belen Hickman', with a long horizontal flourish extending to the right.

Belen Hickman

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TO: Marietta Daily Journal
FROM: City of Marietta
RUN DATE: May 1, 2020

**CITY OF MARIETTA
PUBLIC NOTICE OF VARIANCES**

The City of Marietta hereby gives notice that a public hearing will be held to give consideration to the following requests. The Board of Zoning Appeals will consider the following requests on **Monday, May 18th, 2020 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

V2020-15 [VARIANCE] MELISSA LAMARCHE (BELEN B. HICKMAN) is requesting variances for property zoned NRC (Neighborhood Retail Commercial), located in Land Lot 1287, District 16, Parcel 0430, 2nd Section, Marietta, Cobb County, Georgia, and being known as 236 South Fairground Street. Variance to reduce the minimum lot size from 10,000 sq. ft. to 6,400 sq. ft.; variance to reduce the minimum lot width from 75' to 73'; variance to reduce the buffer from 30' to 12'; variance to allow a substandard lot of record be developed. Ward 1A.

A description and plat of the property sought for the variances are on file in the Planning and Zoning Office, City Hall, and are available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto. You may also review the property file at www.mariettaga.gov and enter the case # in the search box.

For additional information including questions about virtual participation, please call the Planning and Zoning Office (770) 794-5669.

Accessibility to Meetings: If you believe you may need the City/BLW to provide special accommodations in order to attend/or participate in any of the above meetings, please call ADA Coordinator, at 770-794-5558 no later than 48 hours before the date of the above meeting.

City of Marietta
205 Lawrence Street
Marietta, Georgia 30060



Variance



Address	Parcel Number	Acreage	Ward	Zoning	FLU
236 S FAIRGROUND ST	16128700430	0.167	1A	NRC	CAC

Property Owner:	Belen B Hickman
Applicant:	Melissa Lamarche
BZA Hearing Date:	05/18/2020
Acquisition Date:	
Case Number:	V2020-15
<p>City of Marietta Planning & Zoning</p>	

Zoning Symbols

- Railroads
- City Limits
- Cobb County Pockets
- NA
- R1 - Single Family Residential (1 unit/acre)
- R2 - Single Family Residential (2 units/acre)
- R3 - Single Family Residential (3 units/acre)
- R4 - Single Family Residential (4 units/acre)
- RA4 - Single Family Residential - Attached
- RA6 - Single Family Residential - Attached
- RA8 - Single Family Residential - Attached
- MHP - Mobile Home Park
- PRD-SF - Planned Residential Dev. Single Family
- RM8 - Multi Family Residential (8 units/acre)
- RM10 - Multi Family Residential (10 units/acre)
- RM12 - Multi Family Residential (12 units/acre)
- RHR - Residential High Rise
- PRD-MF - Planned Residential Dev Multi Family
- NRC - Neighborhood Retail Commercial
- CRC - Community Retail Commercial
- RRC - Regional Retail Commercial
- PCD - Planned Commercial Development
- LI - Light Industrial
- HI - Heavy Industrial
- PID - Planned Industrial Development
- MXD - Mixed Use Development
- CBD - Central Business District
- OIT - Office Institutional Transitional
- LRO - Low Rise Office
- OI - Office Institutional
- OS - Office Services
- OHR - Office High Rise



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2020-16

Legistar #: 20200322

Board of Zoning Appeals Hearing:

Monday, May 18, 2020 – 6:00 p.m.

**Property Owner: 1053MSP LLC/Rutvik Emil Dmello
1 Glenlake Parkway NE
Suite 700
Atlanta, GA 30328**

**Agent: Parks Huff, Esq.
Sams, Larkin, & Huff, LLP
376 Powder Springs Street
Suite 100
Marietta, GA 30064**

Address: 1053 Sandy Plains Road

Land Lot: 0780 District: 16th Parcel: 0120

Council Ward: 6B Existing Zoning: CRC (Community Retail Commercial)

Special Exception / Special Use / Variance(s) Requested:

- 1. Variance to reduce the undisturbed buffer from 40 ft. to 5 ft. along the northern portion of the property line [*§716.08 (I)*]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



Rear portion of 1053 Sandy Plains Rd abutting residential properties



Subject property along Sandy Plains Rd

Recommended Action:

Approval with stipulations. The property owner, 1053MSP LLC, is requesting a variance for the property at 1053 Sandy Plains Road in order to reduce the undisturbed buffer adjacent to residential homes. The property is approximately 0.93 acres in area and is located near the corner of Sandy Plains and Addison Road. Adjacent properties immediately to the east and west are also zoned CRC and include a car wash and a fast food restaurant. To the north, the adjacent properties are located in unincorporated Cobb County and are zoned R-20 (Single-Family Residential – 20,000 square foot lot size); the property directly south of the subject property, across Sandy Plains Road, is zoned PID (Planned Industrial Development).

The property is a wooded lot that has never been developed. The applicant would like to develop a two-story commercial building with first floor retail businesses and second story offices. The Zoning Ordinance requires properties zoned CRC to maintain a forty (40) foot wide undisturbed buffer that is intended to screen views and diffuse sound along any property line abutting a residential district. Building setbacks are to be applied in addition to (not overlapping) the buffer.

As shown on the proposed site plan, the owner is requesting to reduce the undisturbed buffer to five (5) feet with a wooden privacy fence in order to provide forty-three (43) parking spaces for the 11,900 square foot building. Parking requirements for retail space is one for every 250 square feet, while offices require one for every 350 square feet. The applicant has provided all parking

towards the rear of the property, away from public view, which allows the front setback to be reduced up to 50% [\S 716.07 (F)].

Two (2) residential properties, 1048 and 1050 Plainview Drive in Cobb County, would be directly impacted by the buffer reduction. The application claims the buffer reduction is necessary because the property is small and narrow. However, the site is nearly an acre in size and the buffer encroachment could be minimized or eliminated by reducing the building area. The applicant has stated that they would replace the existing chain-link fence with an opaque fence along the rear of the property.

The fast food restaurant immediately to the west (1043 Sandy Plains Road) was granted a reduction in the 50 ft. buffer as part of a rezoning case in 1990. Per Z-9021, the buffer was reduced to 10 ft. wide on the north and east side of the property with the installation of a 6' tall wood fence. The car wash immediately to the east, 1813 Addison Road, was granted a reduction in the required buffer from 40' to 20' with an 8' tall wood fence (Z2004-29).

To maintain consistency with what has been granted for surrounding properties, ***staff recommends approval of the requested variance with the following stipulations:***

- ***The buffer may be reduced to no less than twenty (20) feet but may be disturbed and replanted.***
- ***The existing chain link fence be replaced with a 6' tall wood privacy fence with the finished side facing the exterior.***
- ***The buffer shall contain two (2) staggered rows of evergreen trees, with 10 ft. spacing, and at a minimum height of 5 ft. at installation.***

Although unrelated to variance request, the following site requirements should be noted:

- Two-way driveways must be at least 20' wide, exclusive of curb and gutter. One-way driveways must be at least 14' wide, exclusive of curb and gutter.
- A planter island is required in between every twelve (12) parking spaces and be a minimum 125 square feet in area and contain at least one non-pine species tree (minimum two-inch caliper and ten feet in height). One additional planter island will be required in the row of sixteen (16) continuous parking spaces towards the northern portion of the property.
- CRC is limited to 80% impervious surface coverage.
- Accessory structures must be at least 10' from any property line.
- Metal siding may not be used on any side of a building facing a roadway.



Department of Development Services
205 Lawrence Street
Marietta, GA 30060
Phone: 770-794-5440

APPLICATION FOR VARIANCE OR APPEAL

(Owner/Applicant/or Representative must be present at all public hearings)

(NOTE: CORRESPONDENCE IS HANDLED VIA EMAIL UNLESS OTHERWISE REQUESTED)

For Office Use Only:

Application #: V2020-16 Registrar #: 20200322 BZA Hearing Dt: 5-18-20
City Council Hearing Dt (if applicable) #: - PZ #: _____

This is a variance/appeal application for:



Board of Zoning Appeals



City Council

Owner's Name 1053MSP LLC / Rutvik Emil Dmello

EMAIL Address: emil@riverbrokers.com

Mailing Address 1 Glenlake Pkwy NE #700 Atlanta, GA Zip Code: 30328 Phone Number (770) 415-9940

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant: ^{REP:} Parks Huff, Esq. - Sams, Larkin, & Huff, LLP

EMAIL Address: phuff@samslarkinhuff.com

Mailing Address _____ Zip Code: _____ Phone Number _____

Address of subject property: 1053 Sandy Plains Rd, Marietta, GA 30066 Date of Acquisition: January 27, 2020

Land Lot (s) 779/780 District 16 Parcel 16078000120 Acreage 0.911 Zoned CRC Ward 6B FLU: NAC
0780 00120 .926

List the variance(s) or appeal requested (please attach any additional information):

Reduction of 40 feet buffer with adjoining residential lot in the back.

Required Information

- Application fee (\$250)
- Completed notarized application. **The original application must be submitted with ALL original signature(s) – Copies of the application or signature(s) will NOT be accepted.**
- Copy of the deed that reflects the current owner(s) of the property.
- Letter describing the reason for the variance request, stating why strict adherence to the code would result in a particular hardship (as distinguished from a mere inconvenience or desire to make more money).
- Site plan – drawn to scale.** Site plans must illustrate property lines and all relevant existing information and conditions in addition to proposed additions or modifications within the referenced property lines of the tract(s).
Copies Required: One (1) - (8 1/2" x 11") -or- (11" x 17") drawn to scale.
Optional Additional Plat size: (24"x 36"). If providing (24"x 36") then 5 copies REQUIRED.
- Copy of current tax bill showing payment or documentation certified by the City of Marietta Tax Office.

Note: The Department of Development Services reserves the right to obtain additional information that reasonably may be required in order that an informed decision may be made.

OVER

CAMPAIGN CONTRIBUTIONS

The Owner and Applicant herein certify that he/she has has not made campaign contributions or gifts aggregating \$250.00 or more to the Mayor, any member of Council or any member of the Board of Zoning Appeals within the two (2) years preceding the filing of this application.

Emil Dmello
Signature of Owner

Emil Dmello
Signature of Applicant

Rutvik Emil Dmello, Member of 1053MSP LLC
Print Name

Rutvik Emil Dmello, Member of 1053MSP LLC
Print Name

FINANCIAL INTEREST

The Applicant herein certifies that he/she has has not a financial interest in the property which is ten percent (10%) or more.

Rutvik Emil Dmello, Member of 1053MSP LLC
Print Name

Emil Dmello
Signature of Applicant

APPLICANT CERTIFICATION

- The Applicant certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Applicant's knowledge and belief. Should any portion not be true, then the application may be rejected.
- Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.

Emil Dmello
Signature of Applicant

April 6, 2020
Date

Rutvik Emil Dmello, Member of 1053MSP LLC
Please Print

OWNER CERTIFICATION

- The Owner certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Owners's knowledge and belief. Should any portion not be true, then the application may be rejected.
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- The Owner hereby gives permission to enter on the property for inspection during the time application is pending.

Emil Dmello
Signature of Owner

Rutvik Emil Dmello, Member of 1053MSP LLC
Please Print

1 Glenlake Pkwy NE #700, Atlanta, GA 30328

Address

April 6, 2020

Date

Signed, sealed and delivered in the presence of:

Kavita R. Purohit
NOTARY PUBLIC
Fulton County, Georgia
My Commission Expires 1/22/2021

KAVITA PUROHIT [Signature]

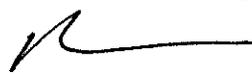
My Commission Expires: 1/22/21

Note: Owner, Applicant or Representative must be present at meeting in order for case to be heard.

CAMPAIGN CONTRIBUTIONS

The Owner and Applicant herein certify that he/she has has not made campaign contributions or gifts aggregating \$250.00 or more to the Mayor, any member of Council or any member of the Board of Zoning Appeals within the two (2) years preceding the filing of this application.

Signature of Owner



Signature of Applicant

Print Name

Parks F. Huff, Attorney for Applicant

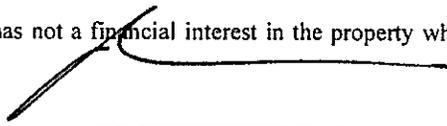
Print Name

FINANCIAL INTEREST

The Applicant herein certifies that he/she has has not a financial interest in the property which is ten percent (10%) or more.

Parks F. Huff, Attorney for Applicant

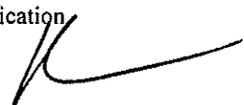
Print Name



Signature of Applicant

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Signature of Applicant

4/6/2020

Date

Parks F. Huff, Attorney for Applicant

Please Print

OWNER CERTIFICATION

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Signature of Owner

Please Print

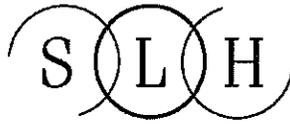
Address

Date

Signed, sealed and delivered in the presence of:

My Commission Expires: _____

Note: Owner, Applicant or Representative must be present at meeting in order for case to be heard.



GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP
SUITE 100
376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

770-422-7016
TELEPHONE
770-426-6583
FACSIMILE

April 6, 2020

LETTER OF INTENT

VIA EMAIL: slittle@mariettaga.gov

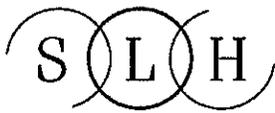
Ms. Shelby Little, AICP
City of Marietta
Department of Development Services
205 Lawrence Street
Marietta, GA 30060

Re: Variance Application of 1053MSP LLC regarding a .911± Acre Tract located in Land Lots 779 and 780, 16th District, known as 1053 Sandy Plains Road, City of Marietta, Cobb County, Georgia.

Dear Shelby:

This firm has been engaged by and represents 1053MSP LLC concerning the above-captioned Variance Application. The property is zoned CRC and is in a Neighborhood Activity Center. The property fronts on Sandy Plains road and there are a series of other commercial businesses on this section of Sandy Plains Road. To the rear of the property are residential properties. The applicant proposes a commercial building that will have retail businesses and offices. The uses will be quieter than adjacent uses such as car washes, fast food restaurants, landscaping businesses and convenience stores. The applicant proposes to reduce the 40-foot buffer adjacent to residential property to a 5-foot replanted buffer with a wooden privacy fence. The buffer reduction is necessary because the property is relatively small and narrow. The proposed buffer is consistent with the other buffers in the area.

For all the reasons stated herein above and with all of the information and documentation which is before you, we respectfully request that the Variance Application be approved. Of course, during the pendency of the Application, I will be providing you and your staff with any necessary additional information, documentation and stipulations in order to facilitate the approval of this Application. In the interim, please do not hesitate to contact me should you have any questions whatsoever regarding these matters.



April 6, 2020
Page 2

Sincerely,

SAMS, LARKIN & HUFF, LLP

A handwritten signature in black ink, appearing to be 'Parks F. Huff'.

Parks F. Huff

phuff@samslarkinhuff.com

AJR/jcc

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TO: Marietta Daily Journal
FROM: City of Marietta
RUN DATE: May 1, 2020

**CITY OF MARIETTA
PUBLIC NOTICE OF VARIANCES**

The City of Marietta hereby gives notice that a public hearing will be held to give consideration to the following requests. The Board of Zoning Appeals will consider the following requests on **Monday, May 18th, 2020 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

V2020-16 [VARIANCE] 1053MSP LLC is requesting a variance for property zoned CRC (Community Retail Commercial), located in Land Lot 07800, District 16, Parcel 0120, 2nd Section, Marietta, Cobb County, Georgia, and being known as 1053 Sandy Plains Road. Variance to reduce the undisturbed buffer from 40' to 5' along the northern property line. Ward 6B.

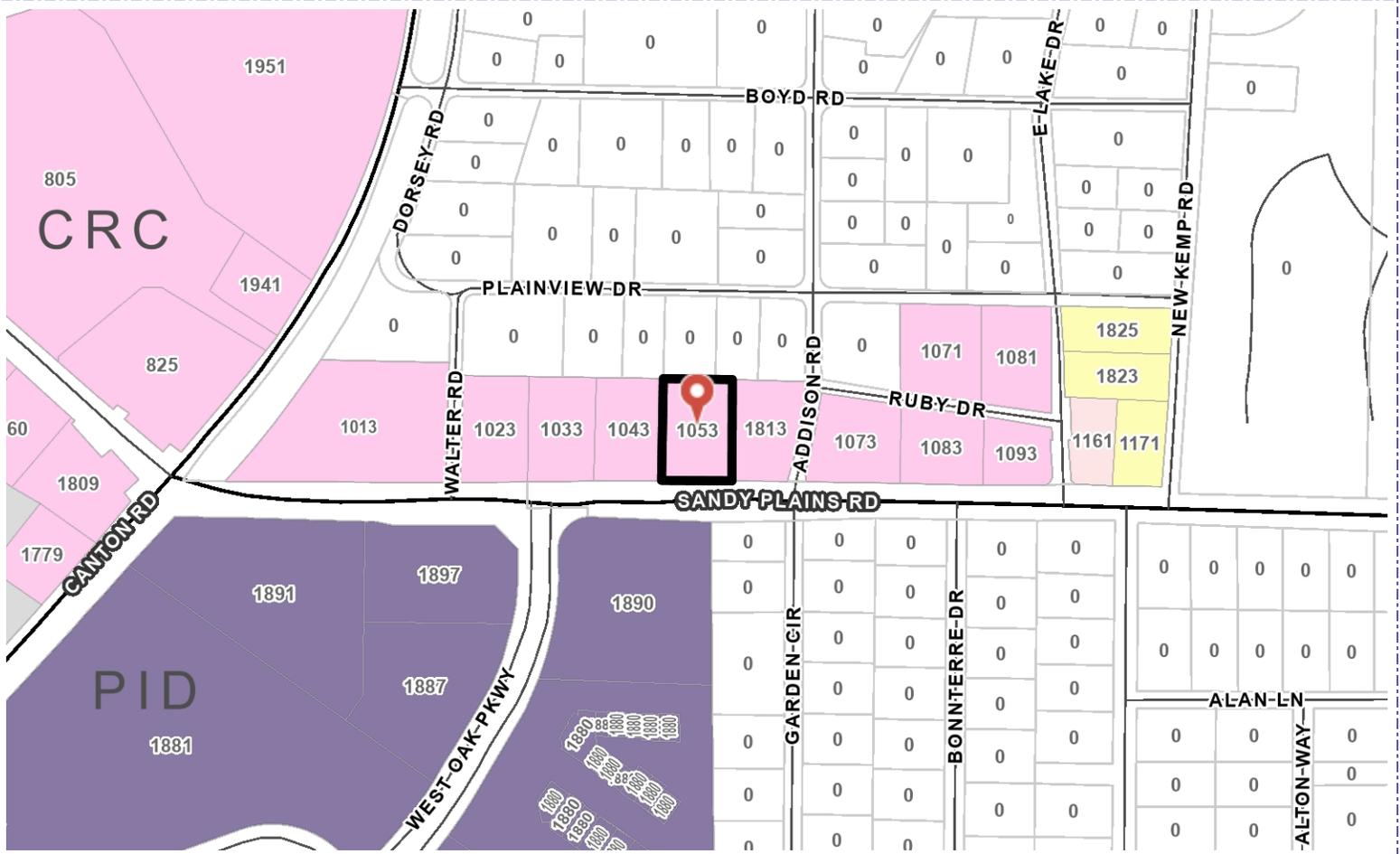
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City of Marietta
205 Lawrence Street
Marietta, Georgia 30060

Variance



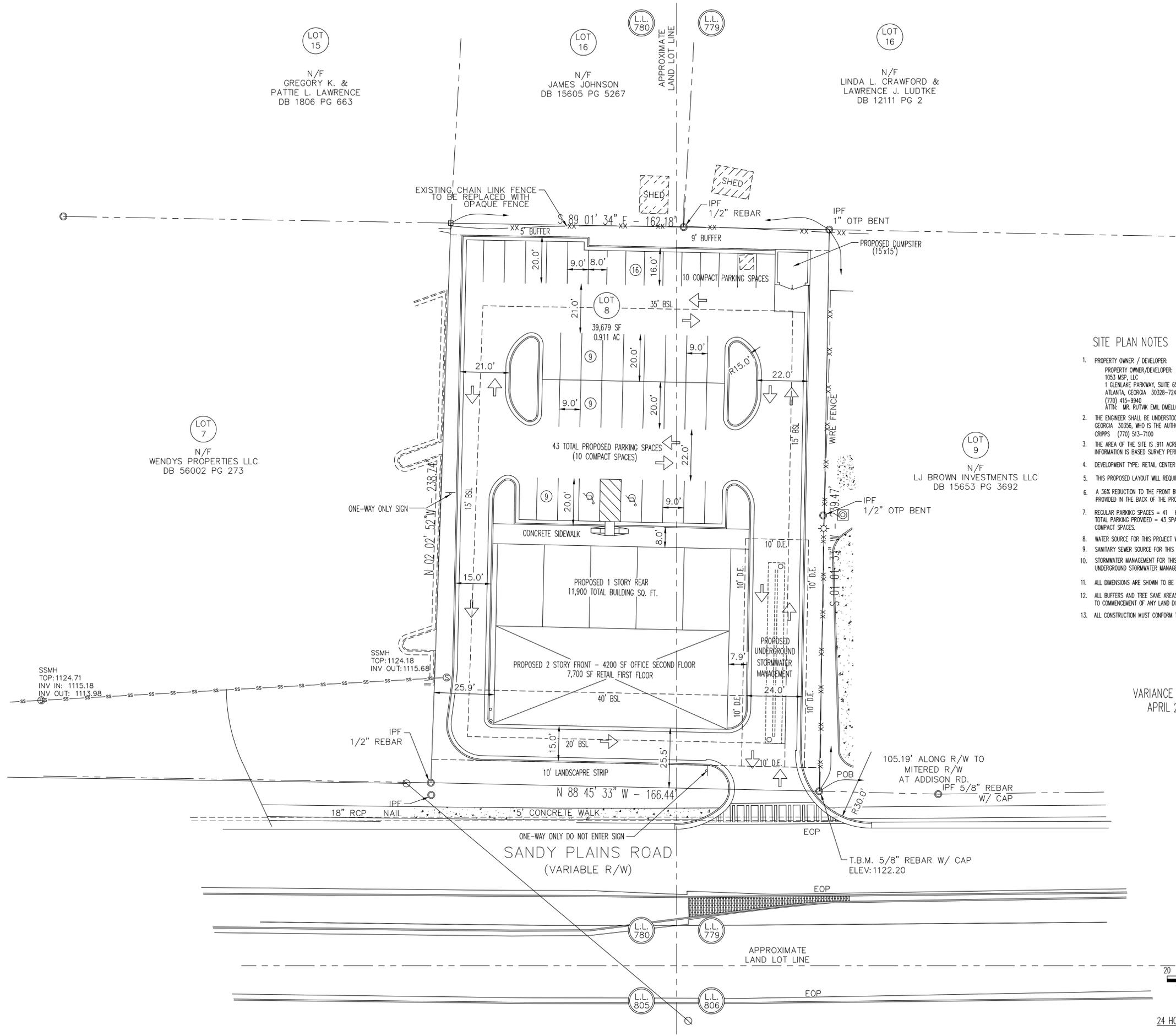
Address	Parcel Number	Acreage	Ward	Zoning	FLU
1053 SANDY PLAINS RD	16078000120	0.926	6B	CRC	NAC

Property Owner:	1053MSP LLC/Rutvik Emil Dmello	Zoning Symbols
Applicant:		
BZA Hearing Date:	05/18/2020	
Acquisition Date:		
Case Number:	V2020-16	
City of Marietta Planning & Zoning		

Potential Design subject to City's preference.



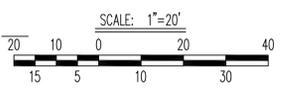
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SITE PLAN NOTES

- PROPERTY OWNER / DEVELOPER:
PROPERTY OWNER/DEVELOPER:
1053 MSP, LLC
1 CLENLAKE PARKWAY, SUITE 650
ATLANTA, GEORGIA 30328-7249
(770) 415-9940
ATTN: MR. RUTVIK EMIL DMELLO
- THE ENGINEER SHALL BE UNDERSTOOD TO MEAN LANDWORKS ASSOCIATES, INC., P.O. BOX 88834, ATLANTA, GEORGIA 30356, WHO IS THE AUTHORIZED REPRESENTATIVE OF THE OWNER. CONTACT PERSON: WILLIAM CRIPPS (770) 513-7100
- THE AREA OF THE SITE IS .911 ACRES. DISTURBED AREA IS .77 ACRES. BOUNDARY AND TOPOGRAPHIC INFORMATION IS BASED SURVEY PERFORMED BY BOUNDARY ZONE, INC. DATED DECEMBER 13, 2019
- DEVELOPMENT TYPE: RETAIL CENTER ZONING = CRC (COMMUNITY RETAIL COMMERCIAL)
- THIS PROPOSED LAYOUT WILL REQUIRE A VARIANCE TO ELIMINATE THE 40' BUFFER AT REAR OF PROPERTY.
- A 36% REDUCTION TO THE FRONT BUILDING SETBACK HAS BEEN TAKEN WITH ALL PROPOSED PARKING BEING PROVIDED IN THE BACK OF THE PROPOSED BUILDING.
- REGULAR PARKING SPACES = 41 HANDICAP PARKING SPACES = 2 TOTAL PARKING SPACES = 43 TOTAL PARKING PROVIDED = 43 SPACES, 25% OF THE TOTAL SPACES PROVIDED, WILL INCLUDE 10 COMPACT SPACES.
- WATER SOURCE FOR THIS PROJECT WILL BE PROVIDED BY MARIETTA WATER
- SANITARY SEWER SOURCE FOR THIS PROJECT WILL BE PROVIDED BY MARIETTA WATER
- STORMWATER MANAGEMENT FOR THIS PROPOSED DEVELOPMENT WILL BE PROVIDED FOR BY INSTALLING AN UNDERGROUND STORMWATER MANAGEMENT SYSTEM TO BE LOCATED ON THE PROPERTY.
- ALL DIMENSIONS ARE SHOWN TO BE TO "BACK OF CURB" OR OTHERWISE SPECIFIED.
- ALL BUFFERS AND TREE SAVE AREAS ARE TO BE CLEARLY IDENTIFIED BY FLAGGING AND/OR FENCING PRIOR TO COMMENCEMENT OF ANY LAND DISTURBANCE.
- ALL CONSTRUCTION MUST CONFORM TO CITY OF MARIETTA DEVELOPMENT STANDARDS AND REGULATIONS.

VARIANCE SITE PLAN
APRIL 2 2020



24 HOUR CONTACT: MR. RUTVIK EMIL DMELLO
(770) 415-9940

GSWCC LEVEL II
CERT. No. 001389

Landworks Associates, Inc.
P.O. BOX 88834
ATLANTA, GEORGIA 30356
(770) 513-7100 environments2013@yahoo.com

PROJECT DESCRIPTION
SNADY PLAINS RETAIL/OFFICE CENTER
LAND LOTS 779 & 780, 16TH LAND DISTRICT, 2ND SECTION,
CITY OF MARIETTA, COBB COUNTY, GEORGIA

SHEET TITLE
VARIANCE
SITE PLAN

DATE: 04-02-20
JOB: 557-200305
DRW: WJC
CHK: JGA

SHEET NUMBER
C-1