

1. Board Of Zoning Appeals Agenda

Documents:

[\\_SEP 28, 2020 BZA AGENDA.PDF](#)

2. V2020-32 Cobb Pkwy 1633 N

Documents:

[V2020-32 COBB PKWY 1633 N.PDF](#)

3. V2020-33 Cobb Pkwy 628 S

Documents:

[V2020-33 COBB PKWY 628 S.PDF](#)

4. V2020-34 Durham St 138

Documents:

[V2020-34 DURHAM ST 138.PDF](#)

5. V2020-35 Kennesaw Ave 632

Documents:

[V2020-35 KENNESAW AVE 632.PDF](#)

6. V2020-36 Powder Springs St 1137

Documents:

[V2020-36 POWDER SPRINGS ST 1137.PDF](#)



# City of Marietta

205 Lawrence Street  
Post Office Box 609  
Marietta, Georgia 30061

## Meeting Agenda

### BOARD OF ZONING APPEALS

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

Monday, September 28, 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:

**20200764 August 31, 2020 Board of Zoning Appeals Meeting Minutes**

Review and Approval of the August 31, 2020 Board of Zoning Appeals Meeting Minutes.

#### VARIANCES:

**20200685 V2020-32 [VARIANCE] RICK BAIER**

**V2020-32 [VARIANCE] RICK BAIER** is requesting a variance for property zoned LI (Light Industrial), located in Land Lot 941, District 16, Parcel 0030, 2nd Section, Marietta, Cobb County, Georgia, and being known as **1263 Cobb Parkway North (aka 1161 Bells Ferry Road)**. Variance to allow metal siding on the sides of a building facing a roadway. Ward 4B.

**20200686 V2020-33 [VARIANCE] EDILBERTO VIANA**

**V2020-33 [VARIANCE] EDILBERTO VIANA** is requesting a variance for property zoned CRC (Community Retail Commercial), located in Land Lot 507, District 17, Parcel 0030, 2nd Section, Marietta, Cobb County, Georgia, and being known as **628 Cobb Parkway South**. Variance to allow auto sales on a lot less than 1 acre. Ward 1A.

**20200695      V2020-34 [VARIANCE] ANDREW POOLE & SHERON JO POOLE**

**V2020-34 [VARIANCE] ANDREW POOLE & SHERON JO POOLE** are requesting a variance for property zoned R-2 (Single Family Residential - 2 units/acre), located in Land Lot 1228, District 16, Parcel 0110, 2nd Section, Marietta, Cobb County, Georgia, and being known as **138 Durham Street**. Variance to allow gravel as an acceptable parking surface for the existing driveway only. Ward 3A.

**20200701      V2020-35 [VARIANCE] ANDREW & KELLY HAIRETIS**

**V2020-35 [VARIANCE] ANDREW & KELLY HAIRETIS** are requesting a variance for property zoned R-2 (Single Family Residential - 2 units/acre), located in Land Lot 1085, District 16, Parcel 0030, 2nd Section, Marietta, Cobb County, Georgia, and being known as **632 Kennesaw Avenue**. Variance to reduce the lot width from 100 feet to 82 feet for Tract I and from 100 feet to 74 feet for Tract II. Ward 4A.

**20200716      V2020-36 [VARIANCE] ALFRED MILLER**

**V2020-36 [VARIANCE] ALFRED MILLER** is requesting a variance for property zoned CRC (Community Retail Commercial), located in Land Lot 67, District 17, Parcel 0020, 2nd Section, Marietta, Cobb County, Georgia, and being known as **1137 Powder Springs Street**. Variance to allow an animal kennel/clinic within 100 feet of residentially zoned property. Ward 2B.

**ADJOURNMENT:**



**STAFF REVIEW AND RECOMMENDATION**

**Variance Case #:** V2020-32                      **Legistar #:** 20200685  
**Board of Zoning Appeals Hearing:**              **Monday, September 28<sup>th</sup>, 2020 – 6:00 p.m.**  
**Property Owner:** Rick Baier  
4706 Broadway  
Suite 240  
Kansas City, MO 64112  
**Applicant:** Same as above  
**Address:** 1263 Cobb Parkway N  
**Land Lot:** 0941    **District:** 16th                      **Parcel:** 00030  
**Council Ward:** 4B                      **Existing Zoning:** LI (Light Industrial)

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

1. Variance to allow metal siding as an appropriate building material facing a roadway.  
[§708.16 (G.3)]

**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**



*Future site of Veteran's Affairs Outpatient Clinic at subject property 1263 Cobb Parkway North*



*Future site of Veteran's Affairs Outpatient Clinic at subject property*



**Recommended Action:**

**Approval.** The applicant, Rick Baier, is requesting a variance for the proposed Veterans Administration Cobb County Community Based Outpatient Clinic (CBOC) to be located at 1263 Cobb Parkway North. This variance would allow the installation of aluminum composite metal (ACM) panels on the front and side walls facing a public roadway. The subject property is zoned LI (Light Industrial) and is approximately 13.76 acres in size. Most of the surrounding properties are zoned CRC, LI (Light Industrial), and HI (High Industrial). Towards the eastern and southern portion of the property are parcels located in unincorporated Cobb County that are zoned GC (General Commercial) and HI (Heavy Industrial). The property lies at the corner of Cobb Parkway North, Bells Ferry Road, and Old 41 Highway to the rear.

The proposed project involves the development of a new VA outpatient clinic at the subject property, and is proposed to include the use of ACM (aluminum composite material) panels on the front and side walls of the proposed structure. It should be noted that the applicant stated that they would have a “wood-look” metal panel as well as a metal panel rainscreen. Section 708.16.G.3 of the Zoning Ordinance states that *“Building design and materials may be of the developer’s choosing; however, structures which utilize metal siding shall be constructed with brick, stone, rock or wood covering any facade of the building facing a roadway.”* The proposed metal siding will be visible from Cobb Parkway, which is a road made up of a mixture of commercial and industrial uses (e.g. fast food restaurants, gas stations, churches, and contractor’s offices). It should also be noted that the subject property is lined with large canopy street trees along Cobb Parkway North to provide partial screening from the roadway.

Both the Marietta Board of Zoning Appeals and City Council have heard and approved requests for metal exterior materials. Below is a list of approvals for metal building materials.

Case #	Address	Organization
V2013-10	2150 Cobb Pkwy S	Buick GMC
Z2013-27	810 Cobb Pkwy S	Mercedes of Marietta
V2013-34	1450 Williams Dr	Hal Bayless & Nick Bayless
V2014-02	1865 Cobb Pkwy S	Pugmire Lincoln Mercury
V2014-53	708 Cobb Pkwy S	Toyota Used Car Center
V2015-19	1998 Delk Ind Blvd	Red Hare Brewing
V2016-01	2165 Cobb Pkwy S	Steve Rayman
V2016-05	2103 Cobb Pkwy S	Voyles Family Partnership
V2016-12	1141 Cobb Pkwy S	JBE Realty Holdings
V2016-45	55 S Marietta Pkwy	Wendy’s
V2017-17	530 Collins Rd	ST Metal Works Inc



**Department of Development Services**  
205 Lawrence Street  
Marietta, Georgia 30060  
Rusty Roth, AICP, Director

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Although this property fronts a highly visible and highly traveled arterial corridor within the City of Marietta (Cobb Parkway North), a clear and consistent precedent has been set. In addition, the ACM panels provide a modern, attractive design feature, and are not a metal façade typical of industrial buildings. In addition, the applicant has stated that VA healthcare facilities, used for government space, must be located in a modern building composed of permanent materials (as stated by Solicitation for Offers within the VA). For that, the project development team incorporated wood-look metal panels into the renderings for the proposed development in order to comply with this Federal policy. This proposal is substantially similar to the previously noted cases, and as a result, *staff recommends approval of this variance request.*



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 #: V2020-32 Legistar #: 20200685 BZA Hearing Dt: 9-28-20
City Council Hearing Dt (if applicable) #: - PZ #: 20-234

This is a variance/appeal application for:

X

Board of Zoning Appeals

City Council

Owner's Name Rick Baier

EMAIL Address: rbaier@usfpc.com

Mailing Address 4706 Broadway, Ste 240 Zip Code: 64112 Phone Number (816) 285-9552

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant:

EMAIL Address:

Mailing Address Zip Code: Phone Number

Address of subject property: 1263 Cobb Pkwy N AKA: 1161 Bells Ferry Rd Date of Acquisition:

Land Lot (s) 0941 District 16 Parcel 00030 Acreage 13.5 Zoned LI Ward 4B FLU: CAC 13.76

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

Variance to allow the use of formed metal wall panels on building facade facing roadway.

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

**FINANCIAL INTEREST**

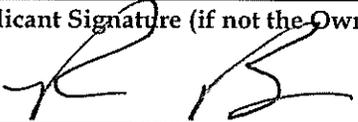
The Applicant herein certifies that he/she  has  has not a financial interest in the property which is ten percent (10%) or more.

Rick Baier  
Applicant Print Name

  
Signature of Applicant

**OWNER / APPLICANT CERTIFICATION**

- The Owner or 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.
- The Owner or Applicant hereby gives permission to enter on the property for inspection during the time application is pending.
- **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 Planning Commission within the two (2) years preceding the filing of the this application.

Applicant Signature (if not the Owner)  


\_\_\_\_\_  
Please Print  
  
Rick Baier

Owner Signature

\_\_\_\_\_  
Please Print

4706 Broadway, Ste 240, Kansas City, MO 64112

Mailing Address

08/14/20  
Date

Signed, sealed and delivered in the presence of:

 My Commission Expires: 11/4/21



KRISTI STUEDLE  
My Commission Expires  
November 4, 2021  
Clay County  
Commission #13473833

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



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August 13, 2020

Attn: Ines Embler  
Planning & Zoning Coordinator  
City of Marietta  
PO Box 609  
Marietta, GA 30061

**RE: Proposed Veterans Administration Clinic  
1263 Cobb Pkwy N  
Marietta, GA 30060**

Dear Ines Embler:

This letter is to provide you with additional information describing the reason for a variance request of utilizing a formed metal wall panel rainscreen system on the new VA Cobb County Community Based Outpatient Clinic (CBOC).

The VA Cobb County Community Based Outpatient Clinic (CBOC) will be one of the largest outpatient clinics in the region, with plans to serve thousands of our Veterans, and provide much-needed state-of-the-art healthcare services to the area.

To ensure the professional and high quality building design of all VA healthcare facilities, the VA states in the Solicitation For Offers that government space must be located in a modern building composed of permanent materials subject to review and approval of the Contracting Officer. The new VA Cobb County CBOC must comply with these requirements as they are federally mandated requirements.

To comply with these federally mandated requirements, the project development team made design decisions to incorporate wood-look metal panel and a metal panel rainscreen system. The wood-look metal panel is provided near the building entry facing Cobb Pkwy. This material provides warmth and distinction to the entry, while also providing the government with a long-lasting, durable material. It also serves as a natural, organic link and transition between the outdoor landscape and internal waiting space forming a holistic healing environment for the veterans. A metal panel rainscreen system was utilized in distinct areas around the building to accent the architectural precast panels that predominate the façade. The metal panels create a prominent signage area on the north façade and is integrated seamlessly into the roof-top mechanical screen. The high-end, formed metal wall panels applied provide a prestigious, first-class commercial development for the VA and the veteran community served.

August 13, 2020  
Page Two

Upon award of this project, the Contracting Officer for the VA approved the design and materiality of this clinic and as a development team we are obligated to provide what was promised to and approved by the federal government. The design was also presented at the City Project Introduction meeting on April 14, 2020, in which the building materiality was established and received positive feedback from city officials. It was noted in this meeting that metal panels cannot assume the majority of the exterior skin and that no corrugated, prefab metal buildings would be allowed. The architects maintained this design intent by using primarily precast concrete panels and glass around the building envelope and accenting with high quality metal panels.

The various requirements mentioned above are necessary for the viability of this VA clinic and are mandated design and development requirements under the federal Solicitation for Offers. Revisions to the exterior façade design would cause significant delays in the schedule. The current project schedule has been approved by the federal government and cannot be delayed or it risks abandonment of the development entirely. We hope this letter of clarification will provide a better understanding of the unique requirements for the proposed VA facility and support the application for modification of the zoning stipulations related to the exterior design. We appreciate the City of Marietta's understanding and support of the mission of this facility and the much-needed support of our veteran community, and we look forward to working with you on this important project.

Regards,

A handwritten signature in black ink, appearing to read 'R. Baier', with a stylized flourish extending from the end.

Rick Baier  
Principal/Manager  
[rbaier@usfpc.com](mailto:rbaier@usfpc.com)  
(816) 285-9552

**TO: Marietta Daily Journal**  
**FROM: City of Marietta**  
**RUN DATE: September 11, 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, September 28<sup>th</sup>, 2020 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

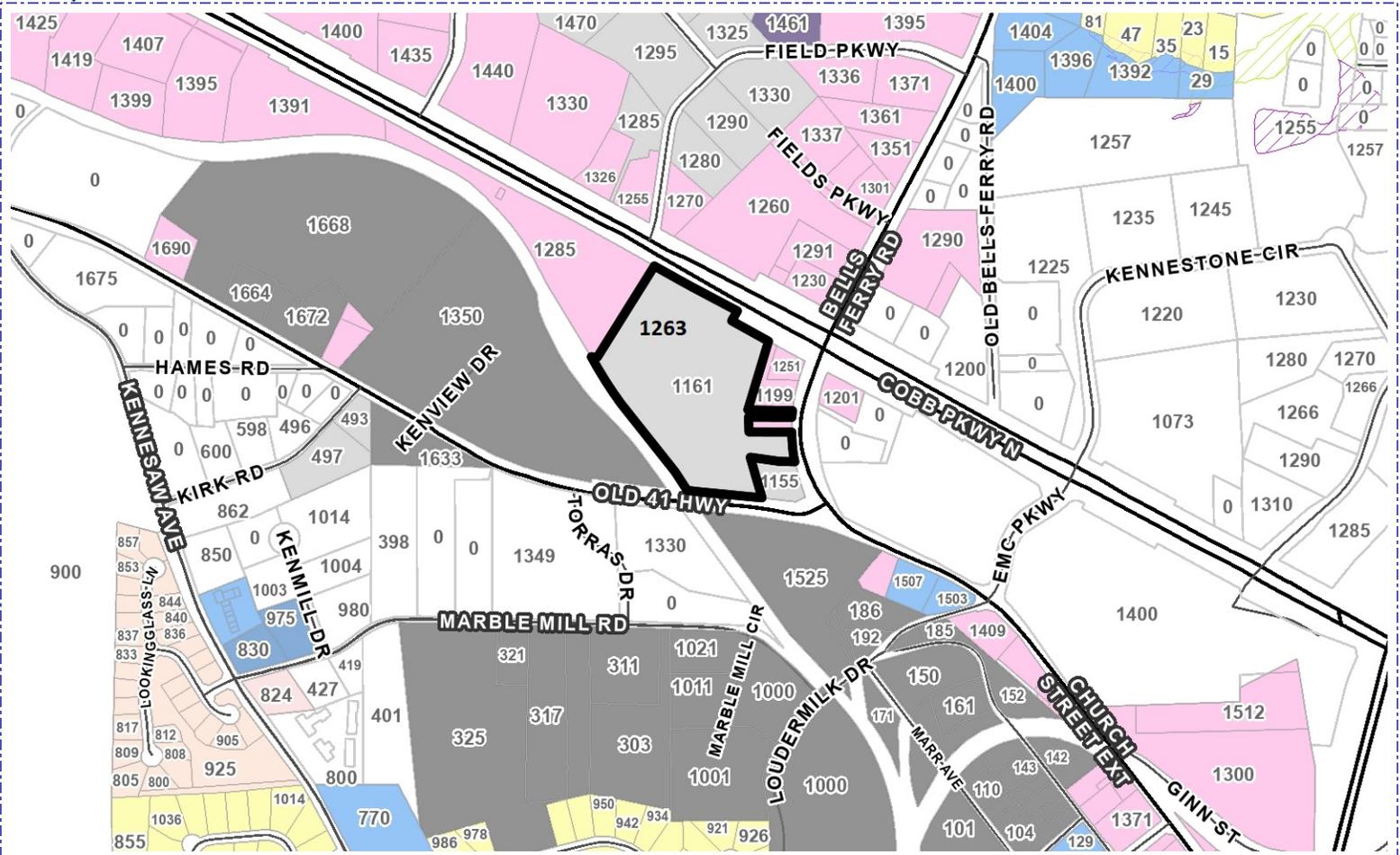
**V2020-32 [VARIANCE] RICK BAIER** is requesting a variance for property zoned LI (Light Industrial), located in Land Lot 941, District 16, Parcel 0030, 2<sup>nd</sup> Section, Marietta, Cobb County, Georgia, and being known as 1263 Cobb Parkway North (aka 1161 Bells Ferry Road). Variance to allow metal siding on the sides of a building facing a roadway. 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](http://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



Address	Parcel Number	Acreage	Ward	Zoning	FLU
1263 Cobb Pkwy N (AKA:1161 BELLS FERRY RD)	16094100030	13.76	4B	LI	CAC

Property Owner:	Rick Baier
Applicant:	
BZA Hearing Date:	09/28/2020
Acquisition Date:	
Case Number:	V2020-32
<h2>City of Marietta Planning &amp; Zoning</h2>	

**Zoning Symbols**

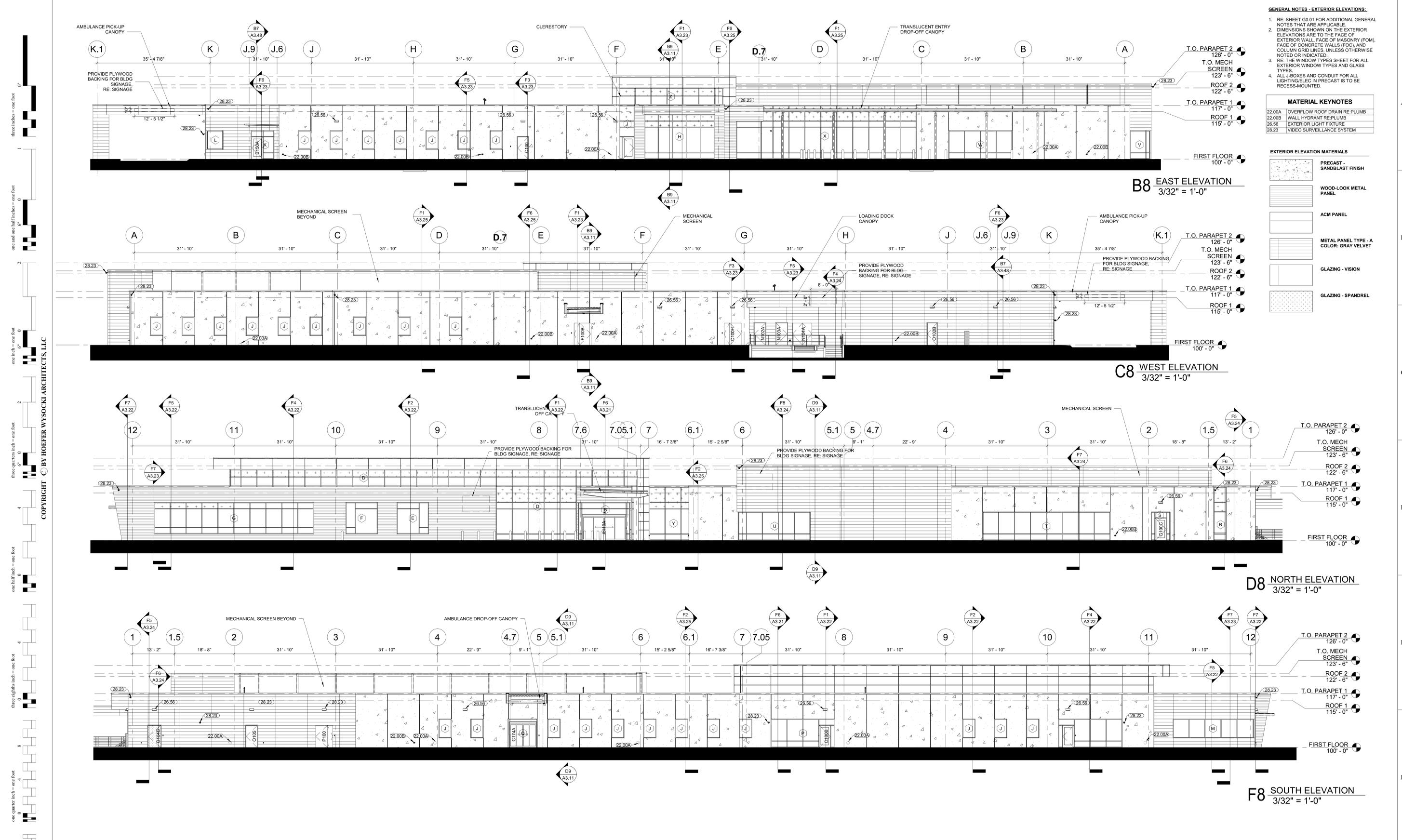
- Railroads
- City Limits
- Cobb County Pockets
- NA
- R1 - Single Family Residential (1 unit/acre)
- R2 - Single Family Residential (2 units/acre)
- R3 - Single Family Residential (3 units/acre)
- R4 - Single Family Residential (4 units/acre)
- RA4 - Single Family Residential - Attached
- RA6 - Single 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







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NO.	Description	Date

**CONSULTANTS:**

BOB D. CAMPBELL & CO., INC. Structural Engineers - Since 1957

**ARCHITECT/ENGINEERS:**

**HOEFER WYSOCKI**

PROFESSIONAL SEAL

Drawing Title:  
**EXTERIOR ELEVATIONS**

Approved: Project Director

Project Status: 100% CONSTRUCTION DOCUMENTS

Project Title:  
VA COBB COUNTY CBOC

Project Number:  
174151

Building Number:

Location: 1161 BELLS FERRY ROAD, MARIETTA, GA 30066

Date: 31 JULY 2020

Checked: Drawn:

Drawing Number:  
**A2.11**

Dwg. of

**Office of Construction and Facilities Management**

**U.S. Department of Veterans Affairs**



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**



*Structure at subject property 628 Cobb Parkway South*



*Structure at subject property*

**Recommended Action:**

**Denial.** The applicant, Edilberto A. Viana, Jr., is requesting a variance that would allow the subject property, 628 Cobb Parkway South, to be used for automobile sales. The subject property is zoned CRC (Community Retail Commercial) and is approximately 0.715 acres in size. Most of the surrounding properties are also zoned CRC except for property directly east is zoned OI (Office Institutional). The applicant is requesting the variance to reduce the minimum lot size required to operate an automobile dealership.

The Zoning Ordinance requires a property contain at least one acre in order to use a property for automobile sales in the CRC zoning district. The one-acre requirement is intended to ensure sufficient area to have an orderly display of vehicles. The subject property has been vacant since 2015; prior to that, the property operated as a pawn shop from 2009 to 2015. The surrounding area along Cobb Parkway South is made up of a variety of commercial businesses such as fast-food restaurants, motels, banks, rental car offices, car dealerships, and pawn shops.

The applicant has operated Germany Auto Brothers within the City of Marietta for over three (3) years at their South Marietta Parkway location and would like to change its current business as an auto broker to an auto dealership at the subject property. The applicant plans on keeping the site as-is and using the current structure. The city allows auto brokers' offices to operate on commercial property containing less than an acre as long as no inventory is kept on site. The applicant is requesting to allow inventory at the subject property.



The numerous automobile sales lots operating on parcels that do not meet the minimum acreage requirement have been an ongoing concern for the city. One of the major problems caused by the lack of area is that when inventory is being delivered, the delivery trucks often stop in the street to unload the vehicles and this causes issues such as roadblocks and congestion. The maneuvering of inventory, lack of customer parking, and poor access to the property is also a concern with smaller parcels. These issues are even greater since the subject property is located on Cobb Parkway – a major thoroughfare that is heavily travelled.

The Board of Zoning Appeals has considered the following cases regarding automobile sales on sites that do not meet the one-acre requirement:

Case #	Address	Acreage	Zoning	Ruling	Stipulations
V2000-07	1960 Airport Ind Park Drive	0.46	LI	Approved	None
V2000-12	1326 Cobb Pkwy N	0.64	CRC	Approved	6 car limit
V2000-16	2072 Airport Ind Pk Drive	0.65	LI	Approved	None
V2001-02	484 Cobb Pkwy N	0.611	CRC	Denied	
V2001-07	1195 Cobb Pkwy S	0.426	CRC	Approved	None
V2004-21	44 N Fairground Street	0.3	CRC	Approved	Yes
V2006-06	1791 Roswell Road	0.7	CRC	Denied	
V2007-05	1955 Airport Ind Park Dr	0.348	LI	Approved	None
V2013-03	927 & 929 S Marietta Pkwy	0.77	CRC	Denied	
V2013-46	927 & 929 S Marietta Pkwy	0.77	CRC	Denied	
V2014-28	1245 Bellemeade Drive	0.557	CRC	Approved	None
V2015-40	1101 Cobb Pkwy S	0.346	CRC	Approved	Site specific
V2016-09	1912 Lower Roswell Rd	0.989	CRC	Approved	Yes
V2017-02	749 Roswell Road	0.88	CRC	Approved	
V2018-55	1999 Davis Lane	0.586	CRC	Denied*	*Overturned by City Council
V2019-24	863 Roswell Street	0.59	CRC	Denied	

The one-acre requirement is intended to ensure sufficient area to provide required parking and to have an orderly display of vehicles. The subject property has never been used for auto sales and does not have the minimum required acreage necessary, nor has the applicant stated a hardship as to why they feel the property should be used as an auto dealership with inventory. **Therefore, staff recommends denial of this variance request.**

If, however, the Board decides to approve this request, staff recommends the following stipulations:

1. **The subject property shall be limited to only one (1) active used car dealership.**
2. **The use shall not be reestablished after discontinuance for a continuous period of 6 months.**

9939529



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 #: V2020-33 Registrar #: 20200686 BZA Hearing Dt: 9-28-20  
City Council Hearing Dt (if applicable) #: - PZ #: 20-232

This is a variance/appeal application for:

Board of Zoning Appeals (Parbhu T. Patel)

City Council

Owner's Name Parbhu T. Patel

EMAIL Address: PT Patel (SA) @ Yahoo.com 404.387.2651 MISS PATE.

Mailing Address 628 Cobb Pkwy SE Zip Code: 30060 Phone Number 770-833-6552

**COMPLETE ONLY IF APPLICANT IS NOT OWNER:**

Applicant: EDILBERTO A. VIANA JR

EMAIL Address: GERMANY AUTO BROTHERS @ GMAIL.COM  
GERMANY AUTO BROTHERS @ GMAIL.COM

Mailing Address: 1400 SOUTH MARIETTA PKWY Zip Code: 30067 Phone Number 478 2882440  
MARIETTA STE 203

Address of subject property: 628 COBB PKWY S Date of Acquisition: \_\_\_\_\_  
MARIETTA GA 30060

Land Lot (s) 0507 District 17 Parcel 06030 Acreage .715 Zoned CRC Ward 1A FLU: CAC

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

Auto dealer less than bre-deer. sell cars only

**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**

**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.

EDILBERTO VIANA  
Applicant Print Name

[Signature]  
Signature of Applicant

**OWNER / APPLICANT CERTIFICATION**

- The Owner or 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.
- The Owner or Applicant hereby gives permission to enter on the property for inspection during the time application is pending.
- **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 Planning Commission within the two (2) years preceding the filing of the this application.

[Signature]  
Applicant Signature (if not the Owner)

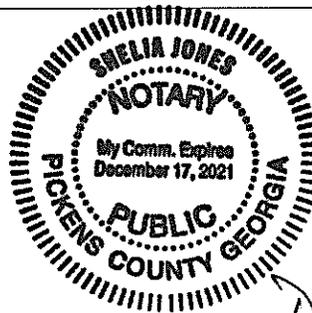
EDILBERTO VIANA  
Please Print

[Signature]  
Owner Signature

P. T. BATEL  
Please Print

638 Cobb Pkwy S.E.  
Mailing Address

8-12-20  
Date



Signed, sealed and delivered in the presence of:

[Signature]

My Commission Expires: December 17, 2021

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



REAZON FOR VARIANCE REQUEST

I, EDILBERTO VIANA ONWER OF GERMANY AUTO BROTHERS,

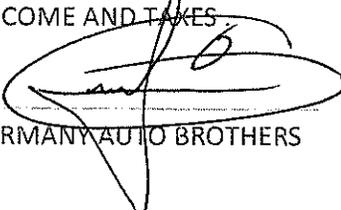
REQUEST VARIANCE ( PROPERTY LESS ACRE AND NOT GRANDFATHER AREA )

GERMANY AUTO BROTHERS LOCATE IN MARIETTA OVER 3 YEARS AND KEEP OVER 30 CARS FOR SALE

NO FEET ACTUAL LOCATION

PROPERTY :628 COBB PKWY S MARIETTA GA 30060 IS VACANT, AVAILABLE AND FEET OVER 40 CARS .

WE SOLD OVER 160 CARS IN 2019 AND 2020 READY OVER 70 CARS SOLD .THIS WILL INCREASE CASH FLOW ,INCOME AND TAXES.

  
GERMANY AUTO BROTHERS

Date: \_\_\_/\_\_\_/2019.

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**TO:** Marietta Daily Journal  
**FROM:** City of Marietta  
**RUN DATE:** September 11, 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, September 28<sup>th</sup>, 2020 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

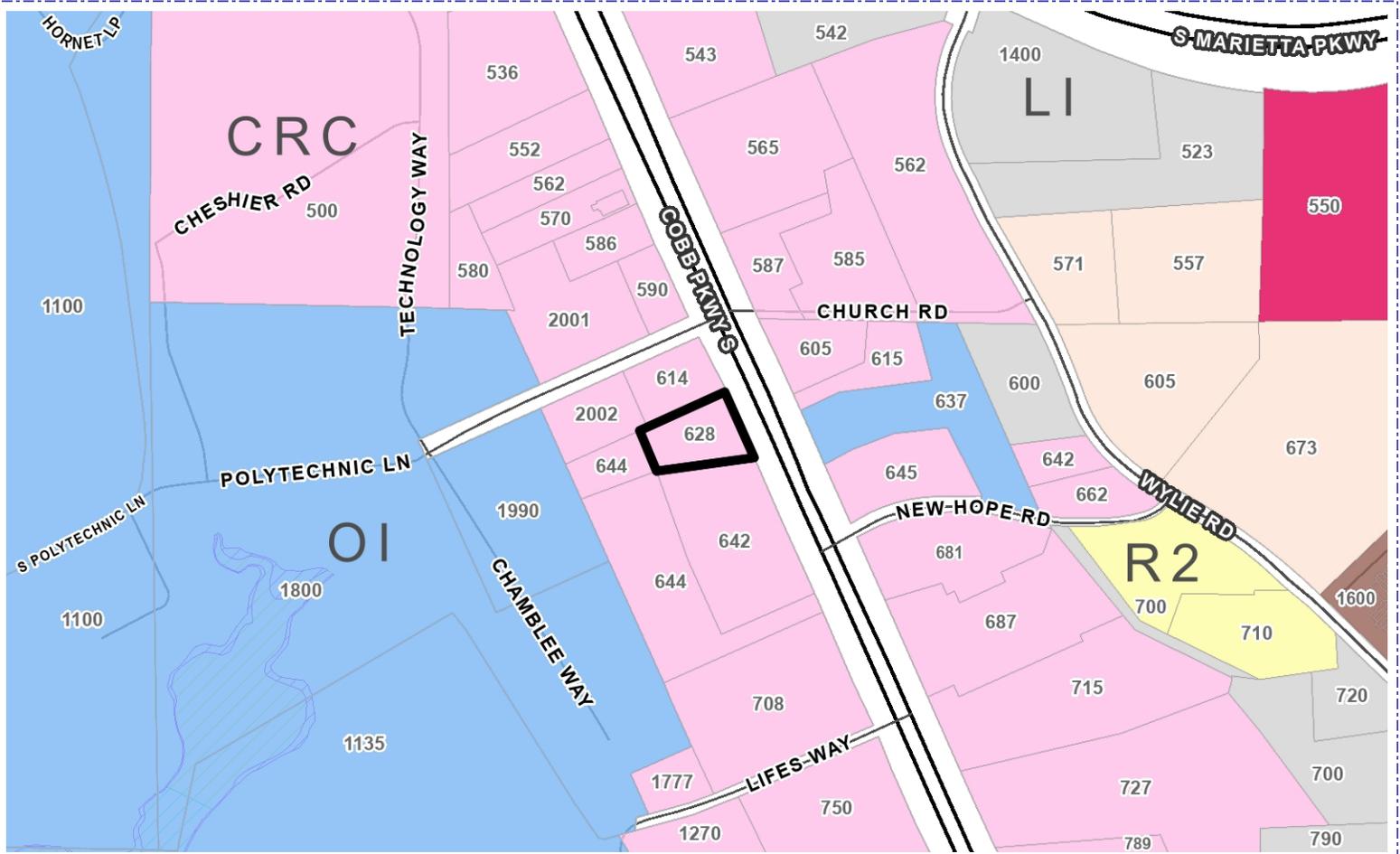
**V2020-33 [VARIANCE] EDILBERTO VIANA** is requesting a variance for property zoned CRC (Community Retail Commercial), located in Land Lot 507, District 17, Parcel 0030, 2<sup>nd</sup> Section, Marietta, Cobb County, Georgia, and being known as 628 Cobb Parkway South. Variance to allow auto sales on a lot less than 1 acre. 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](http://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



Address	Parcel Number	Acreage	Ward	Zoning	FLU
628 COBB PKWY S	17050700030	0.715	1A	CRC	CAC

Property Owner:	Parbta T. Patel
Applicant:	Edilberto A. Viana, Jr.
BZA Hearing Date:	09/28/2020
Acquisition Date:	
Case Number:	V2020-33
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

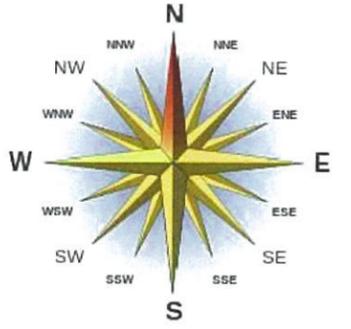
# SITE PLAN

Address: 628 Cobb Pkwy SE

City, State, ZIP: Marietta, GA 30060

Country: USA

Scale 1":30'





**STAFF REVIEW AND RECOMMENDATION**

**Variance Case #:** V2020-34                      **Legistar #:** 20200695

**Board of Zoning Appeals Hearing:** Monday, September 28<sup>th</sup>, 2020

**Property Owner:** Andrew & Sheron Jo Poole  
138 Durham Street  
Marietta, GA 30064

**Applicant:** Same as above

**Address:** 138 Durham Street

**Land Lot:** 1228                      **District:** 16th                      **Parcel:** 0110

**Council Ward:** 3A                      **Existing Zoning:** R-2 (Single Family Residential – 2 units/acre)

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

1. Variance to allow gravel as an acceptable parking surface for the existing driveway only.  
[§716.08]

**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**



*138 Durham Street*



*Existing driveway*



**Recommended Action:**

**Denial.** The property owners, Andrew & Sharen Jo Poole, are requesting a variance to allow a gravel driveway remain at 138 Durham Street. The subject property is approximately 0.9 acres in size and zoned R-2 (Single Family Residential – 2 units/acre), as is the zoning of all adjacent properties.

The owner/applicant has recently completed a substantial renovation to the existing home. The project included a major interior remodel, rear addition, and connected carport on the front of the house. The cost of construction for the project exceeded 50% of the existing house’s replacement value, requiring any aspects of the site that do not meet current code to be brought into compliance. During review of the building permit for the project, the City noted that a paved (concrete, asphalt, or brick) driveway would be required to replace the existing gravel/dirt driveway. As construction is nearing completion, the applicant is now requesting to keep the existing gravel/dirt driveway instead of paving it due to environmental and financial constraints. However, the new carport includes a concrete slab for parking that was recently installed.

According to Section 716.08 of the zoning ordinance, a hardened surface of concrete, asphalt, or brick is the minimum standard to accommodate vehicles up to 8,000 pounds. Gravel is not a desirable surface, as it is spread by vehicles and gets out into the street and gutters.

The Board of Zoning Appeals has approved similar cases to allow gravel within parking areas, as listed below:

Case #	Address	Zoning
V-95052	1014 Industrial Park Dr	LI
V-96042	2032 Airport Ct	LI
V-98023	Dickson Rd	LI
V-98029	424 Glover St	LI
V2000-31	2068 Airport Ind Pk Dr	LI
V2001-01	279 Washington Ave	OI
V2001-03	1551 West Oak Dr	CRC
V2008-17	1018 Powder Springs St	R-2
V2013-08	33 Garrison Rd	OIT
V2014-26	336 Whitlock Ave	R-4
V2015-43	772 Allgood Rd	NRC
V2016-14	95 Kirkpatrick Dr	R-4
V2016-20	949 Springdale Dr	R-4
V2016-35	425 Wright St	R-2
V2017-12	148 Stewart Ave	R-4
V2017-34	167 Maxwell Ave	R-4
V2019-08	290 Grover St	R-4
V2019-11	84 Whitlock Ave	R-2



Department of Development Services  
205 Lawrence Street  
Marietta, Georgia 30060  
Rusty Roth, AICP, Director

---

In some of the above-listed cases, the purpose was to allow gravel or slate for residential driveways; and the purpose for the others was to allow a gravel area for storage and light vehicle traffic.

The applicant has not provided a legitimate hardship that would not apply generally to other, similarly zoned properties. As a result, ***staff recommends denial of the requested variance.***

However, if the Board does wish to approve this variance, staff recommends that the following stipulation be included:

1. *If the gravel driveway surface is allowed, then a 20' deep paved apron from Durham Street must be constructed and the area frequently swept to prevent gravel from entering the street.*



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 #: V2020-34 Legistar #: 20200695 BZA Hearing Dt: 9-28-20
City Council Hearing Dt (if applicable) #: - PZ #: 20-233

This is a variance/appeal application for:



Board of Zoning Appeals



City Council

Owner's Name Andrew Poole & Sheron Jo Poole

EMAIL Address: Deepend.APC@gmail.com

Mailing Address 138 Durham St SW Zip Code: 30064 Phone Number 404-502-2908

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant: \_\_\_\_\_

EMAIL Address: \_\_\_\_\_

Mailing Address \_\_\_\_\_ Zip Code: \_\_\_\_\_ Phone Number \_\_\_\_\_

Address of subject property: 138 Durham St Date of Acquisition: 8-13-2020

Land Lot (s) 1228 District 16th Parcel 00110 Acreage .89 Zoned R2-Ward 3A FLU: LDR

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

Allow current gravel to remain in place.

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.

Andrew Poole  
Signature of Owner  
ANDREW POOLE  
Sheron S. B. Poole  
Print Name

Andrew Poole  
Signature of Applicant  
ANDREW POOLE  
Sheron S. B. Poole  
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.

Andrew Poole  
Sheron S. B. Poole  
Print Name

Andrew Poole  
Sheron S. B. Poole  
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.

Andrew Poole  
Sheron S. B. Poole  
Signature of Applicant  
ANDREW POOLE  
Sheron S. B. Poole  
Please Print

August 13, 2020  
Date

**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.

Andrew Poole  
Sheron S. B. Poole  
Signature of Owner  
ANDREW POOLE  
Sheron S. B. Poole  
Please Print

138 DURHAM ST SW MARIETTA GA 3006X  
Address

8-13-2020  
Date

Signed, sealed and delivered in the presence of:

Kiera L Joseph



Notary Commission Expires: July 6, 2024

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

MR & MRS ANDREW POOLE ARE SUBMITTING A VARIANCE FOR 138 DURHAM ST SW MARIETTA, GA 30064; LAND-DISTURBING ACTIVITY PERMIT # LDP-20-01-000507 (BLDG 1902023019).

THE BASES FOR A VARIANCE IS ENVIRONMENTAL & FINANCIAL, THE CURRENT LOCATION OF TWO WELL ESTABLISHED TREES, A MAGNOLIA GRANDIFLORA AND AN OAK TREE. BOTH TREES ARE EITHER ON OR NEXT TO CURRENT ORIGINAL GRAVEL DRIVE IT'S WELL DOCUMENTED ([www.southernliving.com/home-gardens/magnolia-trees](http://www.southernliving.com/home-gardens/magnolia-trees)), "SEEDLINGS OFTEN TAKE 10 YEARS AFTER PLANTING BEFORE THEY COME INTO BLOOM". THE MAGNOLIA IN QUESTION IS OVER 40 FEET TALL ESTIMATED BEING THERE FOR OVER 30 YEARS, THE OAK IS OVER 100 FEET TALL ESTIMATED OVER 40 YEARS OLD. DENSE SHADE & SHALLOW ROOTS MAKE IT VERY DIFFICULT OR NEAR IMPOSSIBLE TO GROW GRASS BENEATH ITS CANOPY AND THE ROOTS OFTEN CRACK AND LIFT PAVEMENTS I.E. DRIVEWAYS; IF THE TREE IS LOCATED OR PLANTED BETWEEN DRIVEWAY OR WALKWAY (CONCRETE OR PAVERS OR ASPHALT). SINCE THESE TREES GROW AS WIDE AS OF 40 FEET; THIS GROWTH PROVIDES A PERFECT SHADE TO CURRENT HOUSE THAT ENHANCES THE ENERGY EFFICIENCY OF THE LIVING SPACE OF HOUSE. TRANSPLANTING IS NOT AN OPTION DUE TO THE LIKELY HOOD OF SUCCESS IS LOW.

SECOND: ISSUE OR CONCERN PROMPTING THIS VARIANCE IS THE OPPOSING SIDE OF THE MAGNOLIA TREE IS A 100 FOOT PLUS - 27 INCH DIA OAK TREE THAT BORDERS THE EXISTING GRAVEL DRIVE. IF THE AREA OR EARTH IS DISTURB TO PREPARE THE DEPTH TO POUR CONCRETE OR ANY OTHER HARD DRIVEWAY SURFACE RECOMMENDED BY THE STRICT CODES: TO PREPARE THE AREA WILL REQUIRE AT LEAST A BASE OF GRAVEL OF 2-4 INCHS DEEP OR THICKNESS THEN A 4-5 INCHS OF HARD SURFACE (CONCRETE, ASPHALT OR PAVERS) TOTALING A DEPTH BELOW CURRENT GRADE OF 8-9 INCHS DEEP. THIS DEPTH OF 8-9 INCHS WILL DEFINITELY DISTURB BOTH TREES, CAUSING A POTENTIAL DISASTER OF A FALLEN TREE THAT ITS ENVIROMENT WAS COMPROMISED.

THIRD: CONCERN THE ADDITION OF A CONCRETE OR HARD SURFACE DRIVEWAY VS. A CURRENT GRAVEL DRIVE WILL ~~HA~~ NEGATIVELY IMPACT WATER RUN OFF TO AN ALREADY FEMA FLOOD ZONE NEIGHBORING ~~THREE~~ FOUR PROPERTIES # # # 144 150 160 DURHAM ST SW 30064 #165

WE ARE REQUESTING APPROVAL OF OUR VARIANCE TO ALLOW A CURRENT GRAVEL DRIVE TO REMAIN IN PLACE. THANK YOU ANDREW POOLE Andrew Poole 8-13-2020

ADDED  
Notes  
Pg 3

## ADDED NOTES OF INTEREST:

- 1) A VARIANCE WAS GRANTED FOR 167 MAXWELL, MARIETTA 30064 IN 2019 FOR A GRAVEL DRIVE WHICH WAS A TEAR DOWN + NEW BUILD ??? WHY
- 2) OVER 1500 SQ FT OF CONCRETE OR ASPHALT WILL CAUSE A FINANCIAL HARDSHIP OF \$10,000.00 AT THE END OF MY PROJECT NOT BUDGETED
- 3)

Andrew Cole 8-13-2020

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**TO: Marietta Daily Journal**  
**FROM: City of Marietta**  
**RUN DATE: September 11, 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, September 28<sup>th</sup>, 2020 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

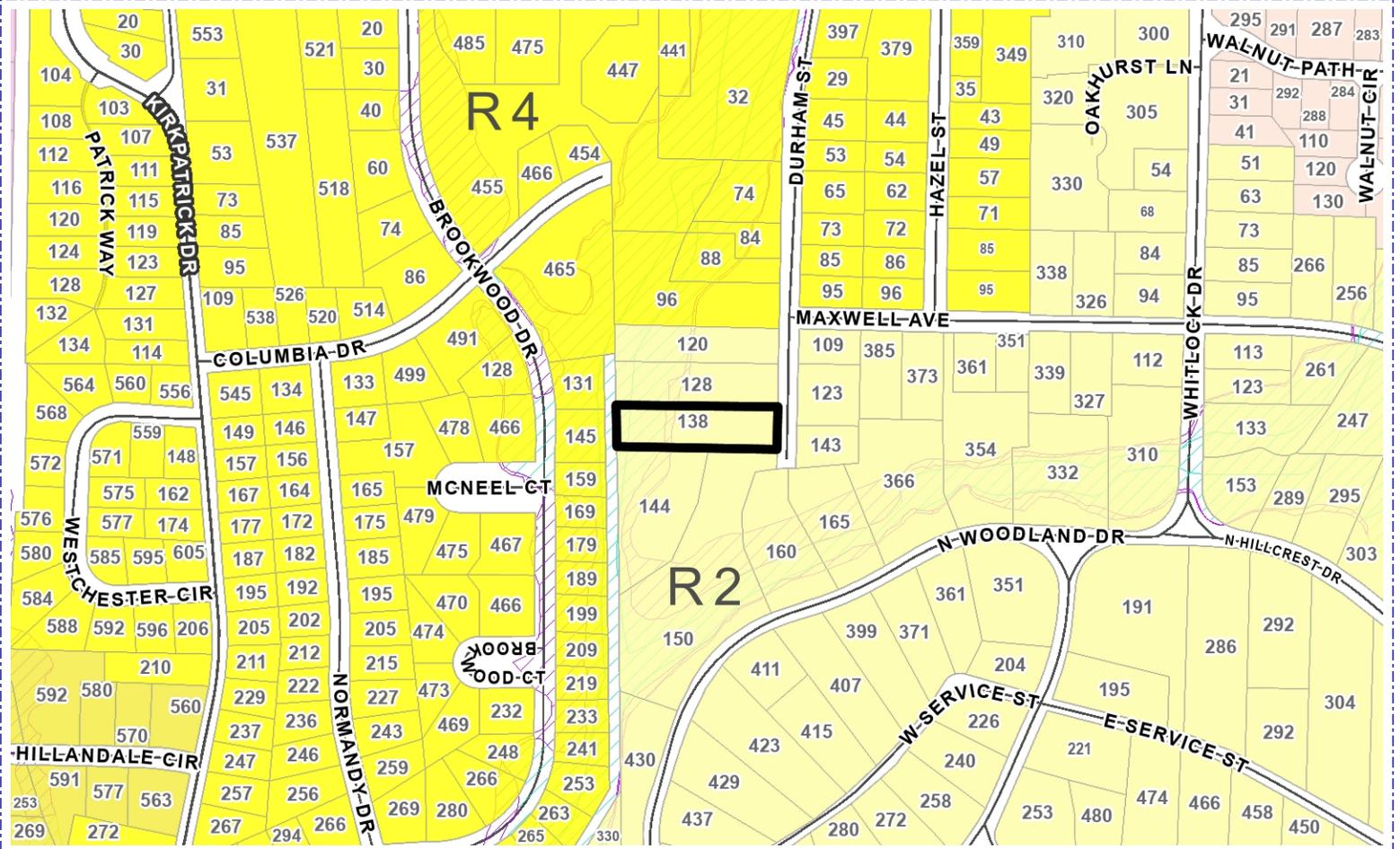
**V2020-34 [VARIANCE] ANDREW POOLE & SHERON JO POOLE** are requesting a variance for property zoned R-2 (Single Family Residential – 2 units/acre), located in Land Lot 1228, District 16, Parcel 0110, 2<sup>nd</sup> Section, Marietta, Cobb County, Georgia, and being known as 138 Durham Street. Variance to allow gravel as an acceptable parking surface for the existing driveway only. Ward 3A.

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.marietta.ga.gov](http://www.marietta.ga.gov) and enter the case # in the search box.

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City of Marietta  
205 Lawrence Street  
Marietta, Georgia 30060



Address	Parcel Number	Acreage	Ward	Zoning	FLU
138 DURHAM ST	16122800110	0.896	3A	R2	LDR

Property Owner:	Andrew Poole & Sheron Jo Poole
Applicant:	
BZA Hearing Date:	09/28/2020
Acquisition Date:	
Case Number:	V2020-34
<p>City of Marietta Planning &amp; 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)
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- RA6 - Single Family Residential - Attached
- RA8 - Single Family Residential - Attached
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- 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

OFFICE LENS

**APPROVED**  
City of Marietta Planning & Zoning Division  
Shelby Little  
01/24/2020 7:19:11 AM

**APPROVED AS NOTED**  
PUBLIC WORKS - FLOODPLAIN  
Jennifer Kobylus 01/29/2020

A FEMA ELEVATION CERTIFICATE WILL BE REQUIRED FOR "FINISHED CONSTRUCTION". FINAL GRADING AND BUILDING INSPECTIONS WILL NOT BE APPROVED AND THE CERTIFICATE OF OCCUPANCY WILL NOT BE ISSUED UNTIL THE FEMA ELEVATION CERTIFICATE FOR "FINISHED CONSTRUCTION" HAS BEEN APPROVED BY THE CITY'S STORMWATER ENGINEER, JENNIFER KOBYLUS.

**FLOOD HAZARD STATEMENT**  
A PORTION OF THIS PROPERTY IS IN A FLOOD HAZARD AREA AS PER THE FIRM FLOOD HAZARD MAP FULTON COUNTY, GEORGIA, COMMUNITY PANEL NUMBER 13067C 0104H, DATED 03/04/13  
The field data upon which this plot is based has a closure precision of one foot in 15,000 feet and an angular error of 05 seconds per angle point and was adjusted using the Compass Rule. This plot has been calculated for closure and is found to be accurate within one foot in 100,000 feet.  
Equipment used: Topcon GTS-213 Total Station.

SCALE  
1" = 50 FT

**Approved**  
Public Works - Engineering  
Keith Person 01/29/2020  
Project must comply with City Code Section 7-8-12-040 "Minimum requirements for erosion, sedimentation and pollution control using best management practices."

S.S.  
HARD LINED ON SEWER SITE PLAN REQUESTED BY M. MUSSER CYCLE 2

Carport must be 10' from side property line

ITEMS #8-11 REQUESTED BY M. MUSSER CYCLE 3 LOCATIONS BY ZONE ID

ID#	ZONE	DESCRIPTION
#8	5C	EXISTING (NOT NEW) WATER METER LOCATION 90' FROM BLDG FRONT 4T' SOUTH (LEFT) 53' NORTH (RIGHT) 10' FROM P.L. (EAST)
#9	5F	2ND SEWER CO FOR FULL BATHROOM 75' FROM BLDG BACK WALL 270' FROM REAR P.L.
#10	5F	1ST SEWER CO FULL BATHRM 3' FROM BLDG BACK WALL 8' FROM PORCH (RIGHT SIDE) 27' FROM NORTH B.L.
#11	4E	1/2 BATH SEWER LINE
#12	36	SS LOCATED REAR PROPERTY CYCLE 2
#13	48	ADDED NOTE PER M. MUSSER REF TRAFFIC RATED COVERS

ZONE ID	#	DESCRIPTION
4E	#7	GREAT ROOM EXTENDED 5 FEET. 28' FROM NORTH B.L. 244' FROM REAR (WEST) B.L.
5E	#6	BED ROOM WINDOW SEAT SEAT 15'6" FROM R.L.
5D	#5	BEDROOM WINDOW SEAT 15' FROM 43' FROM FRONT SIDE B.L. B.L.
4D	#4	FRONT PORCH 22'0" FROM FRONT B.L.
4D	#3	2 CAR CARPORT 13'0" FROM FRONT B.L.
4D	#2	BEDROOM WINDOW SEAT 43'0" FROM FRONT B.L.
4E	#1	SCREENED PORCH 9' FROM SOUTH 10' B.L. 250' FROM REAR (WEST) B.L.

REQUESTED BY K. PERSON & S. LITTLE  
CYCLE 1 # ITEMS 1-7

**VARIANCE**  
Driveway and parking area must be paved (concrete, asphalt, brick)

- LEGEND**
- IPF = 1/2" REBAR FOUND
  - IPB = 1/2" REBAR PIN SET
  - LL = LAND LOT LINE
  - PL = PLANNED LOT LINE
  - PL = PLANNED LOT LINE
  - BL = BUILDING LINE
  - CL = CENTERLINE
  - R/W = RIGHT-OF-WAY
  - S.S. = SANITARY SEWER EASEMENT
  - D.E. = DRAINAGE EASEMENT
  - MH = MANHOLE
  - CB = CATCH BASIN
  - J.B. = JUNCTION BOX
  - H.W. = HEADWALL
  - PP = POWER/UTILITY POLE
  - F.H. = FIRE HYDRANT
  - I.E. = INVERT ELEVATION
  - F.F.E. = FINISHED FLOOR ELEVATION
  - F.F.G. = FINISHED FLOOR GARAGE
  - BP = BACK OF CURB
  - EP = EDGE OF PAVEMENT
  - N/A = NOT FOUND
  - N/B = NOT FOUND
  - SS = SANITARY SEWER LINE/PIPE
  - X-X-X- = FENCE LINE
  - O- = FLOOD HAZARD ZONE LINE
  - W- = STORM SEWER LINE/PIPE
  - W- = WATER LINE
  - G- = GAS LINE
  - F- = FLOW WELL
  - C.E. = CONSTRUCTION EASEMENT
  - C.S. = CONSTRUCTION EASEMENT
  - LS = LIGHT STANDARD
  - OPF = OPEN TOP PIPE FOUND
  - CIP = CRIMP TOP PIPE FOUND
  - WD = WOOD DECK
  - CO = CLEAN OUT

THIS SURVEY WAS PREPARED IN CONFORMITY WITH THE TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN CHAPTER 180-7 OF THE RULES OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN THE GEORGIA PLAT ACT O.C.G.A. 15-6-67



ALPHA LAND SERVICES  
138 DURHAM ROAD  
TAX PARCEL: 16122800110  
SURVEY FOR:  
LOT: L & S BLOCK  
DISTRICT: COBB  
COUNTY: GEORGIA  
FIELD DATE: 10/28/19  
PLAT DATE: 10/30/19  
JOB NO.: 19-10-518

ANDREW J. KONGOP  
DB: 15383 PG: 37/80

JERRY L. MANN  
DB: 15028 PG: 39/76

LORENTE M. STRAW  
DB: 15104 PG: 32/61

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**STAFF REVIEW AND RECOMMENDATION**

**Variance Case #:** V2020-35                      **Legistar #:** 20200701

**Board of Zoning Appeals Hearing: Monday, September 28, 2020 – 6:00 p.m.**

**Property Owner:** Andrew & Kelly Hairetis  
192 Church St NE  
Marietta, GA 30060

**Applicant:** Same as owner.

**Address:** 632 Kennesaw Avenue

**Land Lot:** 1085                      **District:** 16                      **Parcel:** 00030

**Council Ward:** 4A                      **Existing Zoning:** R-2 (Single Family Residential – 2units/acre)

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

1. Variance to reduce the lot width from 100 feet to 82 feet for Tract I. [*§708.02 (H)*]
2. Variance to reduce the lot width from 100 feet to 74 feet for Tract II. [*§708.02 (H)*]

**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**



**632 Kennesaw Avenue – Tract I**



**632 Kennesaw Avenue – Tract II**

**Recommended Action:**

**Denial.** The owners, Andrew and Kelly Hairetis, are seeking the necessary variances in order to split their existing parcel into two (2) parcels. The subject property is approximately 1.598 acres in size and is zoned R-2 (Single Family Residential – 2units/acre). The adjacent properties to the northwest and west (across Kennesaw Avenue) are also zoned R-2. *The Oaks* residential development, zoned R-4 (Single Family Residential – 4units/acre), lies to the north. South of the subject property is an office complex zoned OI (Office Institutional). Railroad tracks run along the eastern side of the property. The owners wish to divide the subject property into two parcels and sell one parcel.

When creating a new parcel, the parcel shall meet all minimum standards of the zoning designation. Any non-conformities caused from the new property line must be addressed prior to recording with Cobb County Superior Court Clerk. Although the existing structure has encroached into the building setbacks – the new property line does not create the non-conformity. Therefore, a variance for the existing encroachments are not necessary. However, dividing the parcel reduces the lot width below the minimum lot width of 100 feet. Based on the submitted plans, “Tract I” lot width is being reduced to 82 feet and “Tract II” lot width is being reduced to 74 feet. According to definitions, “*Lot width is the distance between the side lot line measured along the front building line of the lot as determined by the prescribed minimum front setback requirement.*” Please note that Kennesaw Avenue is a collector road; therefore, the front setback is 35 feet.

In order to legally separate the subject property into two tracts, a variance to reduce the lot widths would be necessary. There is a local street (Nelson Street) across from the subject property and Kennesaw Avenue is a collector road which experiences a lot of vehicular traffic. Although the future plans for the new lots are not noted, adding another residential driveway could cause a safety concern along Kennesaw Avenue. Therefore, the owners should consider a shared driveway easement for the two parcels to alleviate multiple curb cuts. The lots along this section of Kennesaw Avenue provide wide road frontages to allow for vehicular turn arounds when entering/exiting the property. The newly created lots could create vehicular safety concerns on a highly traveled road; ***therefore, staff recommends denial.***

*Engineering comment: Because these lots are being created/platted after 2006, they will not be eligible for local stream buffer variances. Local stream buffer variances will not be considered when the actions of a property owner have created their own conditions of hardship, known as “self-imposed hardship”. Only if the Georgia Environmental Protection Division grants a State stream buffer variance will the city consider granting a local stream buffer variance. (Section 7-10-050 B.4.)*

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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 #: 2020-35 Legistar #: 20200701 BZA Hearing Dt: 9-28-20
City Council Hearing Dt (if applicable) #: - PZ #: 20-235

This is a variance/appeal application for:

[x] Board of Zoning Appeals [ ] City Council

Owner's Name Andrew Hairetis and Kelly Hairetis

EMAIL Address: controln@gmail.com

Mailing Address 192 Church St NE Marietta GA Zip Code: 30060 Phone Number 678-301-0065

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant:

EMAIL Address:

Mailing Address Zip Code: Phone Number

Address of subject property: 632 Kennesaw Ave, Marietta GA 30060 Date of Acquisition: March 9 2020

Land Lot (s) 1085p District 16 Parcel 30 Acreage 1.598 Zoned R2 Ward 4A FLU: CSI

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

Split 1.7 ac lot into two lots- one measuring approx .5ac and the second measuring approx 1.2 ac.

Add one driveway curb cut for lot of 1.2 ac.

Reduce Minimum Lot Width

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

**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.

ANDREW HAIRETIS  
Applicant Print Name

[Signature]  
Signature of Applicant

**OWNER / APPLICANT CERTIFICATION**

- The Owner or 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.
- The Owner or Applicant hereby gives permission to enter on the property for inspection during the time application is pending.
- **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 Planning Commission within the two (2) years preceding the filing of the this application.

\_\_\_\_\_  
Applicant Signature (if not the Owner)

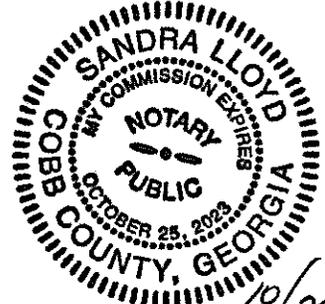
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Please Print

[Signature]  
Owner Signature

ANDREW HAIRETIS  
Please Print

192 CHURCH ST MARIETTA GA 30060  
Mailing Address

8/14/2020  
Date



Signed, sealed and delivered in the presence of:

[Signature]

My Commission Expires: 10/25/2023

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

Many business have been affected by the COVID-19 pandemic and our business is no exception. When we purchased the property on Kennesaw Ave our plans were to renovate the home and possibly move-in in the future - after we sold our existing home. Once our business was shut down earlier this year, we had to re-evaluate our plans and take a more conservative approach to our finances, including changing course on the Kennesaw property.

Our plan now is to subdivide the lot into two smaller lots and sell one. This would free up resources to allow us to pursue other options for the bigger lot which includes on it the existing house that need renovation.

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**TO: Marietta Daily Journal**

**FROM: City of Marietta**

**RUN DATE: September 11, 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, September 28<sup>th</sup>, 2020 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

**V2020-35 [VARIANCE] ANDREW & KELLY HAIRETIS** are requesting a variance for property zoned R-2 (Single Family Residential – 2 units/acre), located in Land Lot 1085, District 16, Parcel 0030, 2<sup>nd</sup> Section, Marietta, Cobb County, Georgia, and being known as 632 Kennesaw Avenue. Variance to reduce the lot width from 100 feet to 82 feet for Tract I and from 100 feet to 74 feet for Tract II. Ward 4A.

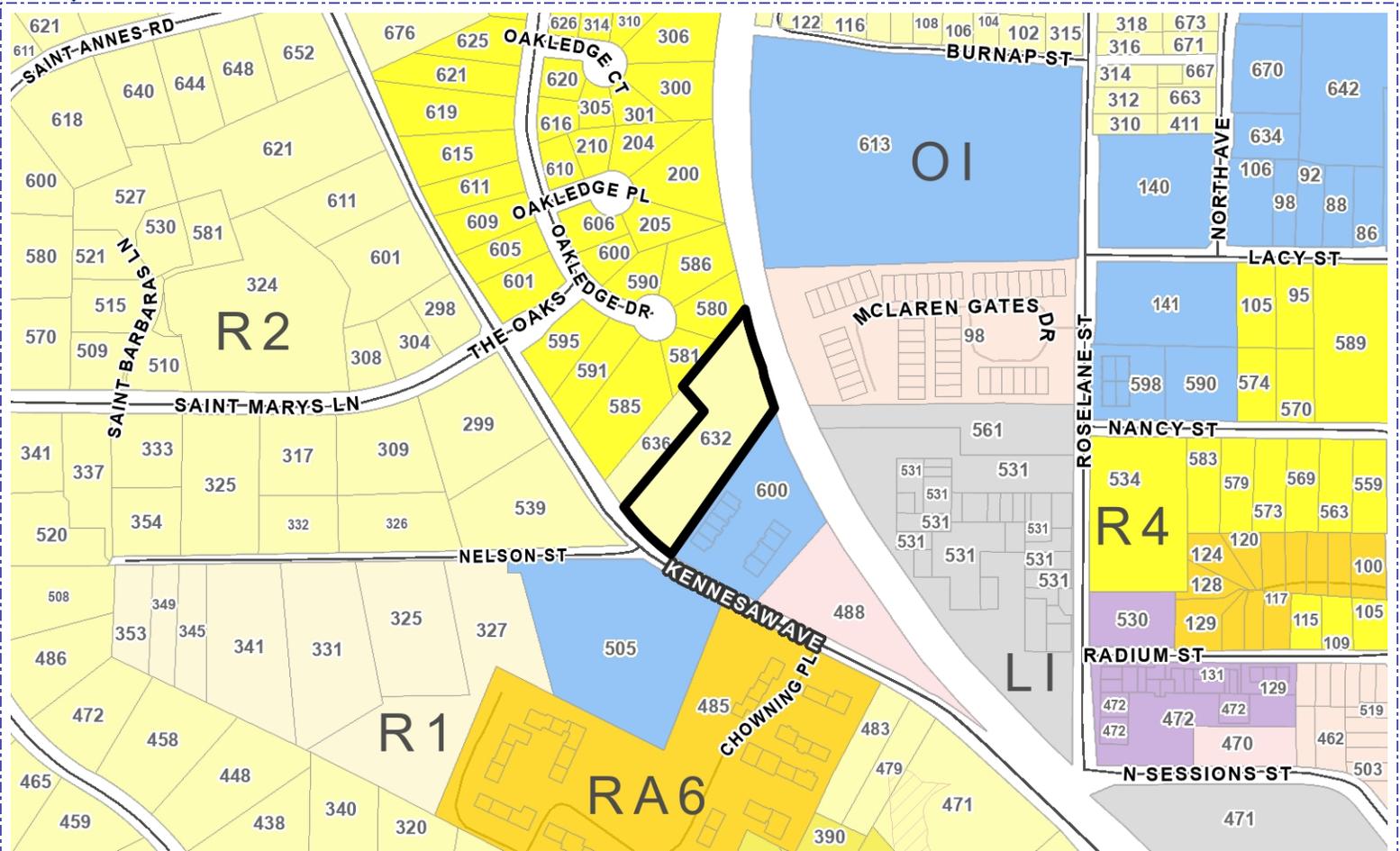
A description and plat of the property sought for the variances are on file in the Planning and Zoning Office, City Hall, and are available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto. You may also review the property file at [www.marietta.gov](http://www.marietta.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
632 KENNESAW AVE	16108500030	1.598	4A	R2	CSI

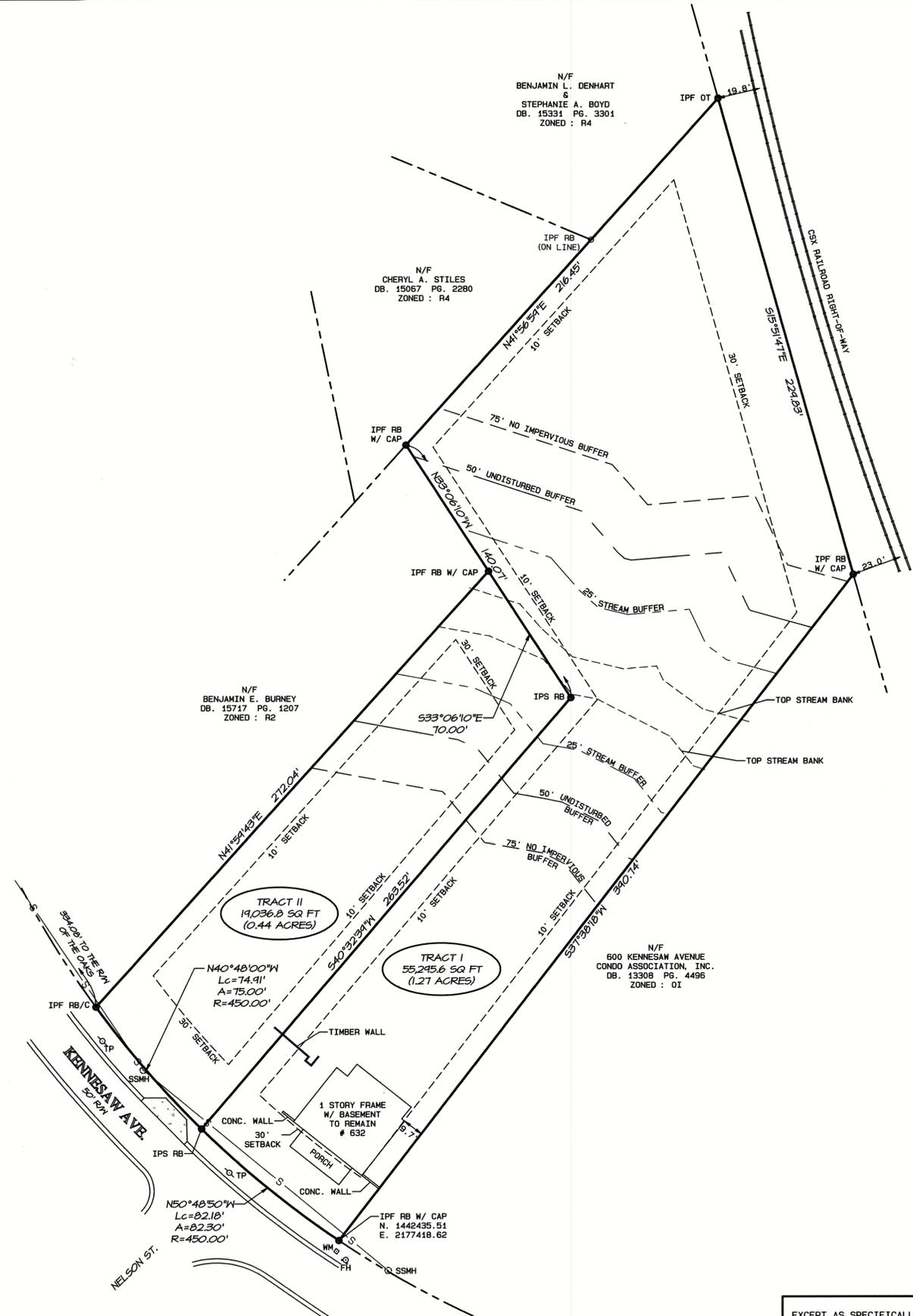
Property Owner:	Andrew & Kelly Hairetis	<b>Zoning Symbols</b> --- Railroads City Limits Cobb County Pockets NA R1 - Single Family Residential (1 unit/acre) R2 - Single Family Residential (2 units/acre) R3 - Single Family Residential (3 units/acre) R4 - Single Family Residential (4 units/acre) RA4 - Single 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
Applicant:		
BZA Hearing Date:	09/28/2020	
Acquisition Date:		
Case Number:	V2020-35	
City of Marietta Planning & Zoning		

THIS PLAT IS A RETRACEMENT OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT SUBDIVIDE OR CREATE A NEW PARCEL OR MAKE ANY CHANGES TO ANY REAL PROPERTY BOUNDARIES, MAPS, PLATS, OR OTHER INSTRUMENTS WHICH CREATED THE PARCEL OR PARCELS ARE STATED HEREON. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. FURTHERMORE, THE UNDERSIGNED LAND SURVEYOR CERTIFIES THAT THIS PLAT COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN THE RULES AND REGULATIONS OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN O.C.G.A. SECTION 15-6-67.

*John O. Huffman* 8-17-2020  
 JOHN O. HUFFMAN RLS 2034



- REFERENCES :
- DEED BOOK 15738, PAGE 6479, COBB COUNTY RECORDS.
  - BOUNDARY SURVEY FOR T-MOBILE SOUTH, LLC. BY BAILEY LAND GROUP, DATED 08-08-2018, PROJECT NO. 18.136



IT IS HEREBY CERTIFIED THAT THIS PLAT IS TRUE AND CORRECT PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION ON THE GROUND.

*John O. Huffman*  
 REGISTERED LAND SURVEYOR # 2034

THE UNDERSIGNED, AS PUBLIC WORKS DIRECTOR OF THE CITY OF MARIETTA, GEORGIA, HEREBY APPROVES THIS PLAT FOR THE RECOEDING OF SAME IN THE OFFICE OF THE CLERK OF THE SUPERIOR COURT OF COBB COUNTY.

\_\_\_\_\_  
 PUBLIC WORKS DIRECTOR DATE  
 CITY OF MARIETTA

THE UNDERSIGNED, AS DEVELOPMENT SERVICES DIRECTOR OF THE CITY OF MARIETTA, GEORGIA, HEREBY APPROVES THIS PLAT FOR THE RECORDING OF SAME IN THE OFFICE OF THE CLERK OF THE SUPERIOR COURT OF COBB COUNTY.

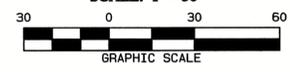
\_\_\_\_\_  
 DEVELOPMENT SERVICES DIRECTOR DATE  
 CITY OF MARIETTA

OWNER,  
 ANDREW HAIRETIS  
 632 KENNESAW AVE. NW  
 MARIETTA GA. 30060  
 PH : 678-301-0065

\_\_\_\_\_  
 SIGNATURE DATE

THE PURPOSE OF THIS PLAT IS TO CREATE NEW TRACT II FROM TRACT I (16 10850 0030).

EXEMPTION PLAT FOR  
**ANDREW HAIRETIS & KELLY HAIRETIS**  
 LOCATED IN LAND LOT 1085  
 16th. DISTRICT, 2nd. SECTION  
 CITY OF MARIETTA  
 COBB COUNTY, GEORGIA  
 SCALE: 1" = 30'



DATE OF SURVEY : JULY 31, 2020  
 DATE OF DRAWING : AUGUST 10, 2020

THIS SURVEY WAS PREPARED IN CONFORMITY WITH THE TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN CHAPTER 180-7 OF THE RULES OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN THE GEORGIA PLAT ACT O.C.G.A. 15-6-67.

CERTIFICATE OF AUTHORIZATION NUMBER LSF 000196

- ZONING NOTES :
- PROPERTY IS ZONED : R-2
  - MINIMUM LOT SIZE : 15,000 SQ. FT.
  - SETBACKS : FRONT : 30'  
 MAJOR SIDE : 25'  
 MINOR REAR : 10'
  - MINIMUM FLOOR AREA : 1,600 SQ. FT.

EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS PLAT, THIS SURVEY DOES NOT PURPORT TO REFLECT ANY OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT REAL ESTATE: EASEMENTS, OTHER THAN POSSIBLE EASEMENTS THAT WERE VISIBLE AT THE TIME OF MAKING OF THIS SURVEY; BUILDING SETBACK LINES; RESTRICTIVE COVENANTS; SUBDIVISION RESTRICTIONS; ZONING OR OTHER LAND USE REGULATIONS; AND ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.

ACCORDING TO AN EXAMINATION OF THE OFFICIAL F.I.R.M. FLOOD MAPS, THIS PROPERTY DOES NOT HAVE ANY SPECIAL FLOOD HAZARD CONDITIONS.

EQUIPMENT USED : GEOMAX ZOOM90

THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 21,231 FEET, AND AN ANGULAR ERROR OF 0" PER ANGLE POINT, AND WAS ADJUSTED USING: NO ADJUSTMENT

THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 218,874 FEET.

LEGEND

MH - MANHOLE	IPF - IRON PIN FOUND
MON - MONUMENT	IPS - IRON PIN SET
FH - FIRE HYDRANT	RB - REBAR
WV - WATER VALVE	OT - OPEN TOP
WM - WATER METER	CT - CRIMP TOP
CO - CLEAN OUT	SR - SOLID ROD
GM - GAS METER	CB - CATCH BASIN
GV - GAS VALVE	JB - JUNCTION BOX
FFE - FINISH FLOOR	DI - DROP INLET
ELEVATION	WI - WEIR INLET
PP - POWER POLE	YI - YARD INLET
LP - LIGHT POLE	SS - SANITARY SEWER

**H. B. & P. SURVEYING, LLC**  
 850 KENNESAW AVE.  
 SUITE 8  
 MARIETTA, GA. 30060  
 PHONE (770) 425-0141  
 FAX (770) 425-8579  
 JOB # 20-079



**STAFF REVIEW AND RECOMMENDATION**

**Variance Case #:** V2020-36                      **Legistar #:** 20200716

**Board of Zoning Appeals Hearing:** Monday, September 28, 2020 – 6:00 p.m.

**Property Owner:** Don Goodman  
1215 Hightower Trail  
Atlanta, GA 30350

**Applicant:** Alfred Miller  
1605 Longwood Dr.  
Marietta, GA 30008

**Address:** 1137 Powder Springs Street

**Land Lot:** 0067                      **District:** 17                      **Parcel:** 00020

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

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

1. Variance to allow an animal kennel clinic within 100 feet of residentially zoned property. [§708.16 (B.3)]

**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**



**1139 Powder Springs Street – 2019 Aerial**



**Rear of subject property**

**Recommended Action:**

**Approval with stipulation.** The applicant, Alfred Miller, is requesting a variance in order to operate a pet store and dog kennel facility. The specific property, 1139 Powder Springs Street, is located within a 7.89 acre shopping center addressed as 1137 Powder Springs Street and zoned CRC (Community Retail Commercial). All other surrounding properties are also zoned CRC except to the east and southeast the properties are zoned RA-8 (Single Family Residential Attached – 8units/acre). A multi-family residential development zoned RM-12 (Multi-Family Residential) in unincorporated Cobb County is located to the south. The applicant wishes to operate the business in a suite at the northeast section of the shopping plaza.

The Zoning Ordinance states that animal kennels shall be located within an enclosed space at least 100 feet from any property zoned for residential purposes. There is an approximate distance of 50 feet from the proposed facility to the nearby residential property line. There is an additional 150 feet of existing vegetation between the two structures (facility and residential building) that serves as a visual and noise barrier. Collectively, the business would be operating 200 feet from a residential structure. In this case, the phrasing of the ordinance requires the distance be measured from the animal facility building to the nearest residential property line.

The applicant was approved a business license based on a pet store; however, after more details were disclosed on a building permit, the business is more aptly defined as an animal kennel. As stated within their building permit, the business's primary focus will be to service dogs including breeding, selling, boarding as well as retail functions. After conversations with the City's Stormwater Engineer, the applicant has stated that there will be no use of exterior space. There is also an existing Veterinary Clinic/Animal Hospital operating as a legal non-conforming use within the shopping plaza. Business license records indicate operations since at least 1989. Within a development of similar uses and an established vegetated barrier; ***staff recommends approval with the following stipulation:***

- 1. All activities must remain indoors including, but not limited to, play area, potty training, visitation, etc.***

*Engineering comment: In the future, outdoor operations would require submittal of plans to confirm compliance with water quality.*

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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 #: 12020-36 Registrar #: 2020-0716 BZA Hearing Dt: 9-28-20
City Council Hearing Dt (if applicable) #: - PZ #: 20-239

This is a variance/appeal application for:

Checked box for Board of Zoning Appeals

Board of Zoning Appeals

Empty box for City Council

City Council

Owner's Name DON Goodman

EMAIL Address: DGOODMAN@EMC.ATLANTA.COM

Mailing Address: 1215 HIGHTOWER TRAIL Atlanta GA 30350 Zip Code: 30350 Phone Number: 770-738-2007

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant: ALFRED MILLER

EMAIL Address: MILLER1605@COMCAST.NET

Mailing Address: 1605 LONGWOOD DR Marietta Ga Zip Code: 30008 Phone Number: 678-464-6852

Address of subject property: 1139 POWDERSPRING ST. Date of Acquisition:

Land Lot (s) 0067 District 17 Parcel 00020 Acreage 7.6 Zoned CRC Ward 2B FLU: CAC

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

General Variance Pet store w/animals

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 of Owner

Alfred Miller  
Signature of Applicant

\_\_\_\_\_  
Print Name

Alfred Miller  
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.

Alfred Miller  
Print Name

Alfred Miller  
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.

Alfred Miller 8-17-20  
Signature of Applicant Date

Alfred Miller  
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 Agent

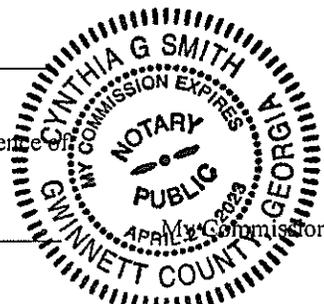
DON GOODMAN, Agent  
Please Print

215 Highton Ave Tract, B200 Atlanta GA 30350  
Address

8-17-2020  
Date

Signed, sealed and delivered in the presence of

Cynthia N. Smith



Commission Expires: 4/21/23

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

August 17, 2020

To: Marietta Department of Development Services

The purpose of this letter is to request a general variance that will allow Kings & Queens Pets Worldwide to open at 1139 Powder Springs St, Marietta GA. The building that we are requesting to open has been unoccupied for several years. We currently have signed a two-year lease in the proposed location. We believe by opening a pet store in this area will have a positive impact on the community and provide many needed services for working people with pets. We believe the following pertains to the requested variance.

1. The requested variance is not contrary to public interest or to the intent and purpose of this ordinance.
2. The requested variance does not establish a use that is not permitted by right or by a special use permit in the zoning district.
3. The requested variance does not create an adverse effect upon properties in the immediate vicinity or in the district.
4. The requested variance is not a recurrent nature to require a change in zoning ordinance.
5. The requested variance is for property under the control of the applicant.
6. The requested variance was not self-created by the applicant or the property owner.
7. There is not an alternative that will allow the improvement to the property without the requested variance.
8. The requested variance is the minimum amount necessary to still permit the reasonable use of the land.
9. Although the ordinance requires 100 feet between property lines there is more than 200 feet between buildings and there is heavy forest.
10. There is currently a veterinarian office less than 100 feet away from our proposed location in the same shopping center.

Thank you

Alfred Miller

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**TO: Marietta Daily Journal**  
**FROM: City of Marietta**  
**RUN DATE: September 11, 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, September 28<sup>th</sup>, 2020 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

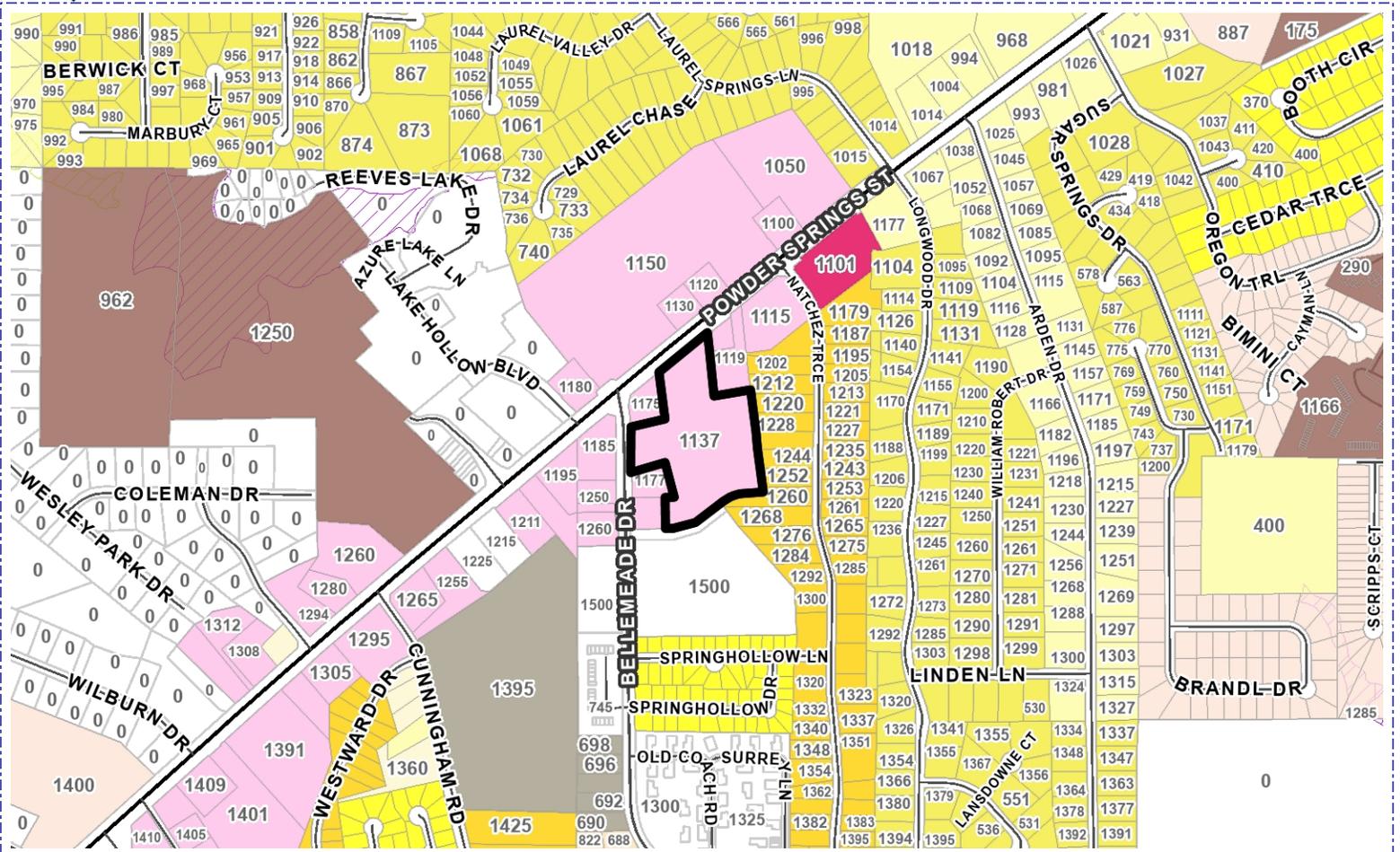
**V2020-36 [VARIANCE] ALFRED MILLER** is requesting a variance for property zoned CRC (Community Retail Commercial), located in Land Lot 67, District 17, Parcel 0020, 2<sup>nd</sup> Section, Marietta, Cobb County, Georgia, and being known as 1137 Powder Springs Street. Variance to allow an animal kennel/clinic within 100 feet of residentially zoned property. 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](http://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



Address	Parcel Number	Acreage	Ward	Zoning	FLU
1137 POWDER SPRINGS ST	17006700020	7.614	2B	CRC	CAC

Property Owner:	Don Goodman
Applicant:	Alfred Miller
BZA Hearing Date:	09/28/2020
Acquisition Date:	
Case Number:	V2020-36
<p>City of Marietta Planning &amp; 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

