



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2020-08 **Legistar #:** 20191201

Board of Zoning Appeals Hearing: Monday, January 27, 2020 – 6:00 p.m.

Property Owner: Eugenia Kelley Ricks
318 Chinquapin Drive
Marietta, GA 30064

Applicant: Same as above

Address: 336 Martin Court

Land Lot: 504 **District:** 17 **Parcel:** 0400

Council Ward: 1A **Existing Zoning:** CRC (Community Retail Commercial)

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

1. Variance to allow the expansion of a nonconforming use and building. [§706.02 (C) & §706.03 (A)]
2. Variance to reduce the side yard setback from 7.5’ to 5’ for an unenclosed projection. [§708.16 (H) & 710.14 (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



336 Martin Court



New shed roof on left side



Recommended Action:

Denial. Eugenia K. Ricks is requesting variances for improvements recently made at 336 Martin Court. The subject property is zoned CRC (Community Retail Commercial) but has a continuous history of being used as a single-family home. The surrounding neighborhood, while also zoned CRC, is a mixture of residences and businesses operating out of former homes.

Section 706 allows commercially zoned properties that have always been used as residences to continue being used as residences. However, residential uses on commercially zoned property are not to be expanded, extended, or enlarged in any manner which would increase its nonconformity.

During a routine neighborhood inspection in early December 2019, Marietta Code Enforcement observed that a new carport structure had been constructed - without permits - on the left side of the house and that the yard was being used for the storage of appliances and old tires. The site plan provided by the applicant indicates the new shed addition is between 5' and 12' away from the southern side property line. The required setback for an unenclosed porch is 7.5' from the side property line in CRC zoning district. As a result, the applicant is requesting a variance to reduce the side yard setback for an unenclosed projection from 7.5' to 5' for a shed roof on the southern side. According to the letter provided by the applicant, this area would be used for an outdoor eating and playing area.

The site plan provided with the variance application also includes a proposed master bedroom and bathroom addition off the back of the house, as well as a front porch addition. These additions and alterations are unquestionably residential in nature and prohibited by the property's commercial zoning classification. If the long-term goal is to use and improve the property as a residence, then the property owner needs to rezone the property rather than address piecemeal alterations.

A permit for a new driveway on the right (north) side of the home was obtained in October 2019 so the property owner is aware of the City's permitting process.

The Marietta Fire Department has stated that if the cost of construction of the project is greater than the assessed value at the time of the application for a building permit, then the property could be subject to fire protection ordinance. There is also concern that the plans submitted do not accurately reflect the garage/shed in the rear of the property.

A new fence along the southern property line has been recently installed. The fence has been installed incorrectly with the finished side facing inward instead of outward.

While granting these variances will not be injurious or detrimental to residents and property owners in and around the subject property, there are also no exceptional circumstances that apply to this situation other than disregard of local zoning ordinances and permitting processes. ***Staff recommends denial of these variance requests.***



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 #: V2020-08 Legistar #: 20191201 BZA Hearing Dt: 1-27-20
City Council Hearing Dt (if applicable) #: PZ #: 19-542

This is a variance/appeal application for:

X

Board of Zoning Appeals

City Council

Owner's Name Eugenia Kelley Ricks

EMAIL Address: geniericks@gmail.com

Mailing Address 318 Chinguapin Dr Zip Code: 30064 Phone Number 770-422-8948

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant:

EMAIL Address:

Mailing Address Zip Code: Phone Number

Address of subject property: 336 Martin Court Date of Acquisition: 12/23/2019

Land Lot (s) P504 District 17 Parcel 00400 Acreage .03 Zoned CRC Ward X FLU: CAC
339 1A

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

Add a shed roof to left side of the house.

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.

Eugenia Kelly Ricks
Signature of Owner

Eugenia Kelly Ricks
Signature of Applicant

Eugenia Kelley Ricks
Print Name

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.

Eugenia K Ricks
Signature of Owner

Eugenia K. Ricks
Please Print

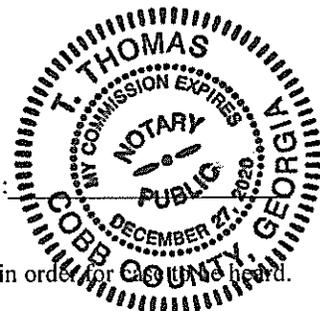
318 Chinguapin Drive Marietta, Ga 30064
Address

12/23/2019
Date

Signed, sealed and delivered in the presence of:

T. Thomas

My Commission Expires:



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

December 27, 2019

To Whom it May Concern:

I would like to ask your permission to add the following to my home at 336 Martin Court.

1. A 20' x 45' carport to be used as an outdoor eating and playing area. To be added on the left side of the house and down 45' and 20' wide.
2. A front porch 12' x 34'. It is to extend the entire length of the front. To use used as an outdoor sitting area.
3. A master bedroom and bath to be added to the back. From the left side 30 feet down and 20 feet wide. A total of 600 square feet.

The house now has 680 square feet. This would make the total 1280 square feet of living space.

The family living there consists of husband, wife, and their 4 children.

I believe this would improve the neighborhood and our city. Thank you for considering this request.

Sincerely,

Eugenia K Ricks

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TO: Marietta Daily Journal

FROM: City of Marietta

RUN DATE: January 10, 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, January 27, 2020 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

V2020-08 [VARIANCE] EUGENIA K RICKS is requesting variances for property zoned CRC (Community Retail Commercial), located in Land Lot 504, District 17, Parcel 0400, 2nd Section, Marietta, Cobb County, Georgia, and being known as 336 Martin Court. Variance to allow the expansion of a nonconforming use and building; variance to reduce the side yard setback from 7.5' to 5' for an unenclosed projection. Ward 1A.

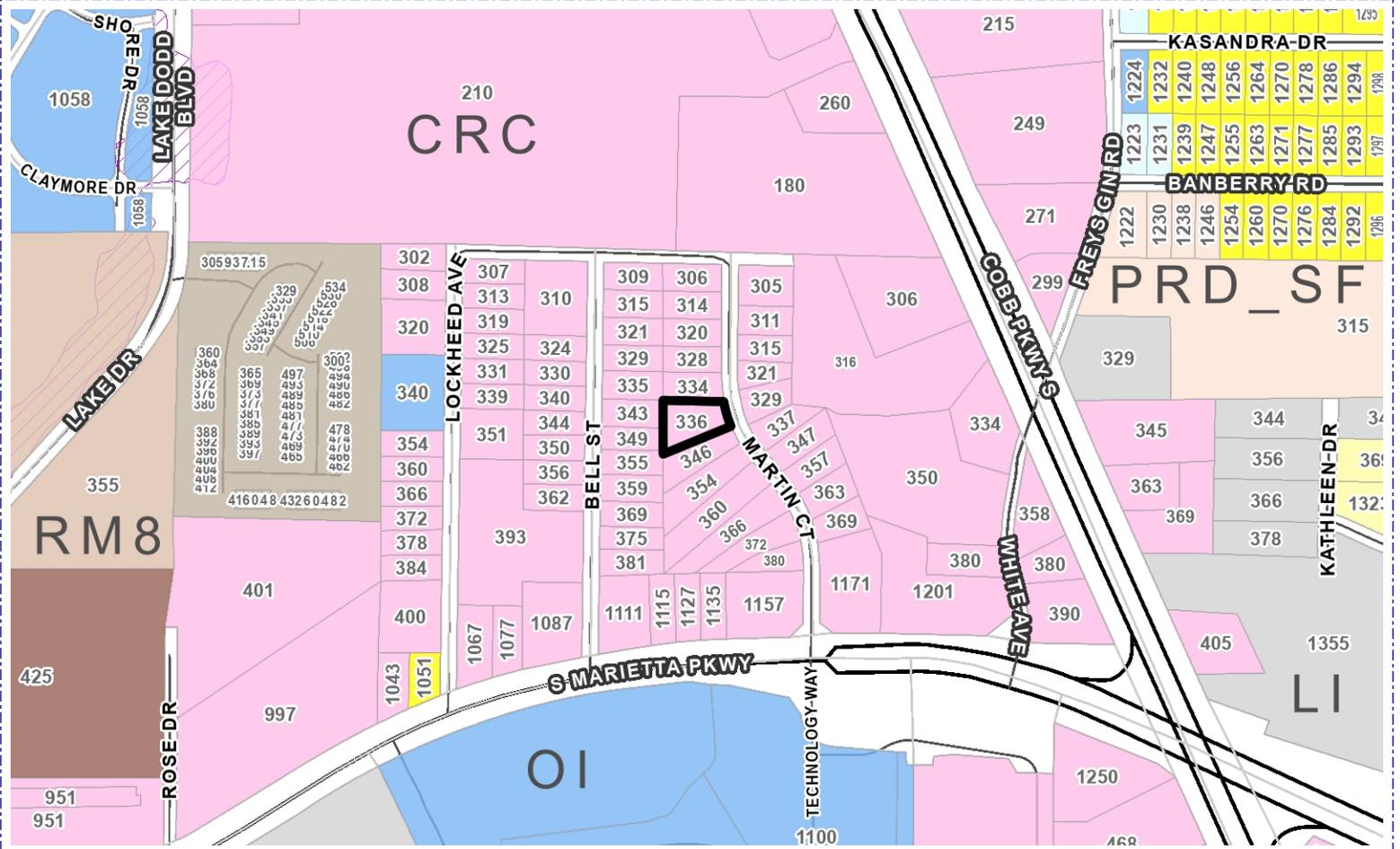
A description and plat of the property sought for the variances are on file in the Planning and Zoning Office, City Hall, and are available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto. You may also review the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

For additional information 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
336 MARTIN CT	17050400400	0.339	1A	CRC	CAC

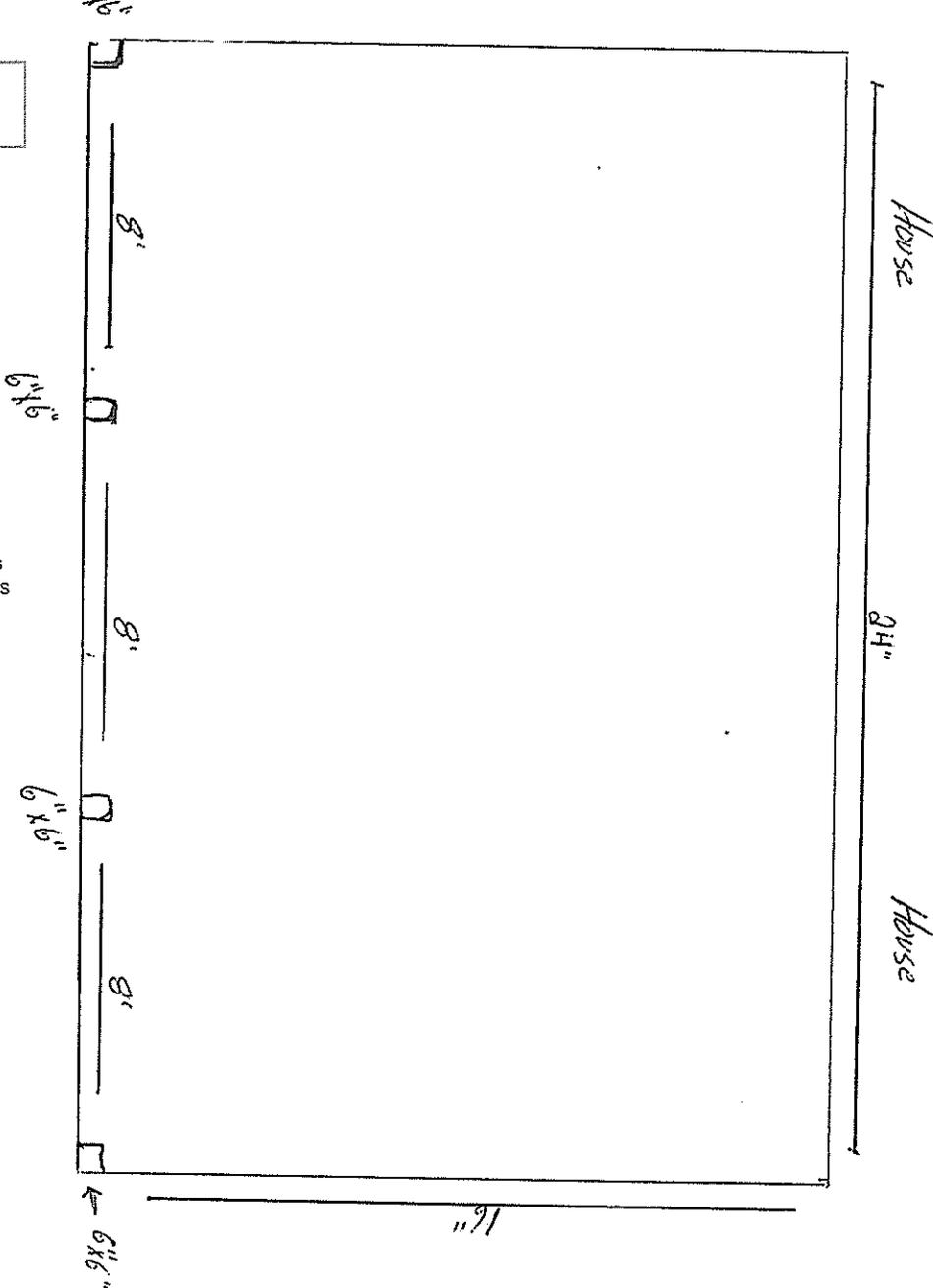
Property Owner:	Eugenia Kelley Ricks	Zoning Symbols
Applicant:		
BZA Hearing Date:	01/27/2020	
Acquisition Date:		
Case Number:	V2020-08	
City of Marietta Planning & Zoning		

Disapproved
Engineering PW - Keith Person
12/17/2019 11:00:26 AM

Need site plan

Disapproved
Dec/18/2019 6:29:38 AM
City of Marietta Building inspections
Jeff Duckett
jduckett@marietta.gov

1. Please provide footing details
2. Please provide framing details and how it will be attached to existing structure.
3. Will there be any electrical outlets, lights, etc?



336 Martin Court Marietta
16'x24' shed roof

CASE PHOTOGRAPHS
19-00004105
336 Martin Ct



CASE PHOTOGRAPHS

19-00004049

336 Martin Ct

