



**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

Unchecked 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 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 Powder Spring St. Date of Acquisition:
Marietta GA 30084

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

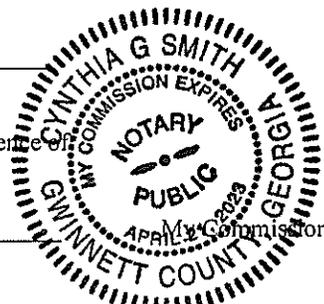
DON GOODMAN, Agent  
Please Print

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.

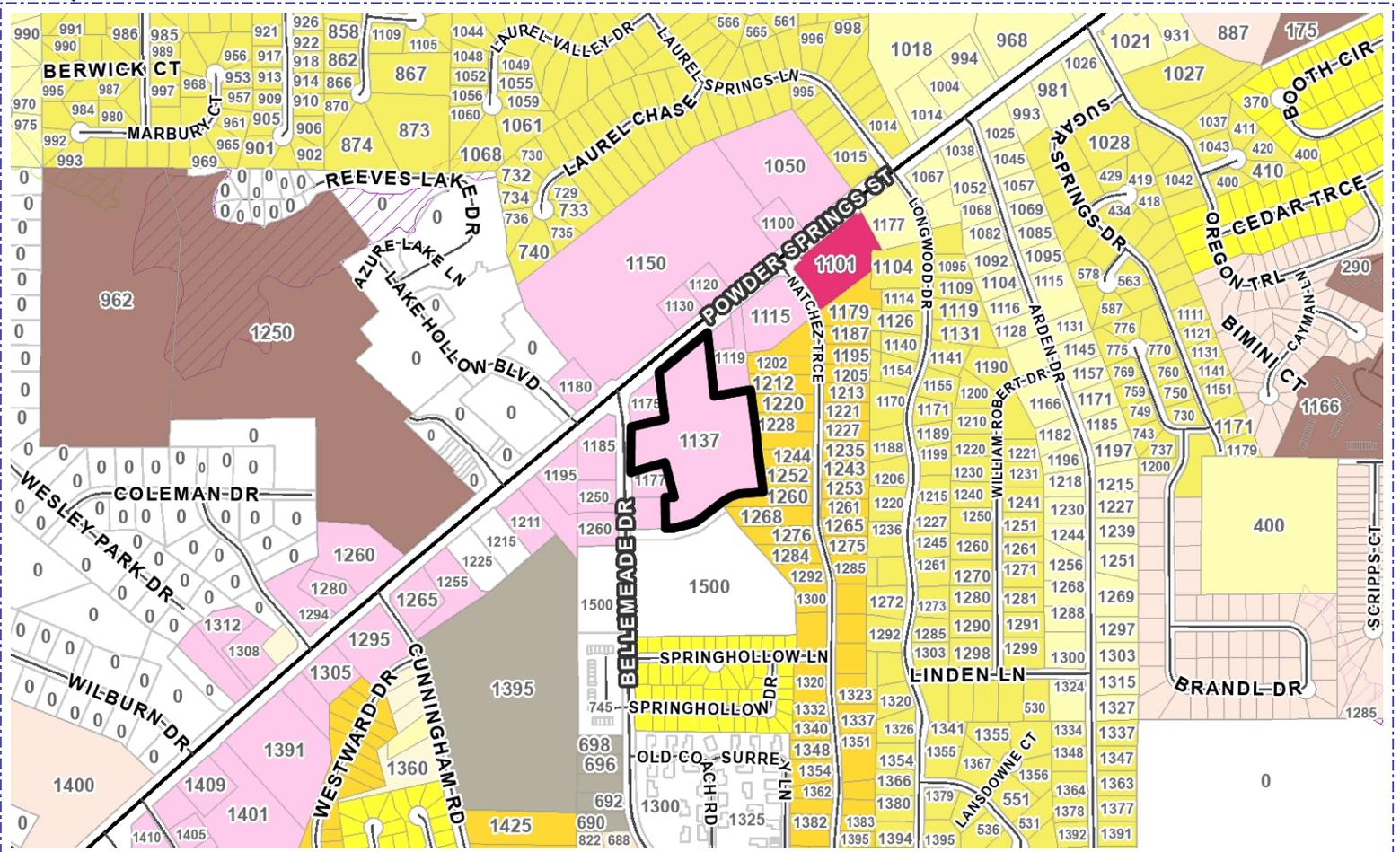
**V2020-36 [VARIANCE] ALFRED MILLER** is requesting a variance for property zoned CRC (Community Retail Commercial), located in Land Lot 67, District 17, Parcel 0020, 2<sup>nd</sup> Section, Marietta, Cobb County, Georgia, and being known as 1137 Powder Springs Street. Variance to allow an animal kennel/clinic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

