



**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**





Looking at the rear of property where proposed barrier will be constructed. The test barrier is shown and stands 20 ft. tall.



Looking at the rear of property where proposed barrier (phase 1) will be constructed.



Looking to the rear of property from the front east side where proposed barrier (phase 2) will be constructed.



Looking to the rear of property from the front east side where proposed barrier (phase 2) will be constructed.



Viewing barrier from 942 James Street. Test barrier is shown through the trees.

**Recommended Action:**

**Approval.** James Balli is the petitioner and attorney representing the property owner, Snapfinger Properties (Marietta Recycling Corp.), and is requesting a variance to construct a 20 foot metal acoustic sound barrier at 303 Marble Mill Road. The property is zoned HI (Heavy Industrial) and is surrounded to the east, west and north by other properties zoned HI. To the south are single family homes in the Kennesaw Battle subdivision, which are zoned R-2 (Single Family Residential – 2 units/acre). The subject property is comprised of 4.674 acres.

According to *Section 724 Definitions*, a fence is defined as an artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land, and the proposed sound barrier is considered a fence/wall for zoning regulation purposes. Section 710.04(B) of the zoning regulations states that fences or walls located on property zoned LI, HI or PID are limited to 8 feet in height, and are to be constructed of wood, brick, stone, or wrought iron in all zoning districts. Therefore, in order for the proposed acoustic sound barrier/wall to be constructed as proposed, the petitioner is requesting 2 variances:

- Requests a height variance from 8 ft. to 20 ft.
- Requests to construct the acoustic barrier of metal material.

The variances that are being requested would allow the applicant to construct an acoustic sound barrier/wall, as shown on the attached plans, along the side and rear of the subject property. The barrier will be over 90 feet away from the abutting residential properties, and will be located on the interior side of the existing 12 foot fence/wall. (On October 27, 2008, the Board of Zoning Appeals approved a 4 ft. wood fence atop an 8 ft. concrete wall along the rear and side of the subject property.) This wall is at the top of a rather steep slope that puts the subject property at a higher elevation (approximately 25 feet) than the residential properties to the rear.

The applicant has consulted with a company called Merck & Hill – a design firm specializing in acoustics – who have recommended this acoustic sound barrier/wall. It is their opinion that the acoustic sound barrier/wall will reduce the amount of noise, and thereby reduce the impact on the surrounding residents.

The applicant is proposing to construct the acoustic sound barrier/wall as an attempt to go beyond the required buffer regulations in order to create a more effective buffer between the industrial property and the adjacent residential properties. The intent of the 20 ft. acoustic sound barrier is to absorb and/or deflect the sound produced by the recycling facility, and reduce the impact on the abutting residential homes; thus shielding the residential neighborhood from the sound/noise generated from the daily business operations. The site plan identifies two phases of construction: 1) phase 1 is to construct the barrier along the rear of the property; and 2) phase 2 is to complete the rear barrier along the east rear portion of the property, and along the west rear side. The sound barrier would be located beyond the existing 50 ft. landscape buffer and the 40 ft. rear building setback.

While the proposed 20 foot acoustic sound barrier/wall may not be visually attractive, it does appear to be a worthwhile attempt to reduce the negative impacts of noise from the industrial facility on the adjacent residences. As a result, Staff recommends approval of the requested variances with the following stipulations:

1. No demolition or other significant noise producing operation of the business occur within 100 feet from the rear property line or any other property line that is adjacent to a residential zoned area.
2. The barrier/wall shall be painted pale or sky blue, and shall be regularly cleaned and maintained.

***On August 29, 2011, the Board of Zoning Appeals tabled this item until the October meeting and requested that the applicant submit additional information regarding the proposed fence/barrier. Specifically, the Board was interested in more concise and definite information to back up their claim that the sound would be reduced by using the proposed fence/barrier. At this time, and after several requests, Staff has not received any additional information from the applicant.***