



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2015-34 **Legistar #:** 20150606
Board of Zoning Appeals Hearing: Monday, July 27, 2015 – 6:00 p.m.
Property Owner: Powers Ferry Plaza (Thomas Jorglewich)
P.O. Box 1707
Cartersville, GA 30120 - 1679
Address: 124 Powers Ferry Road
Land Lot: 12400 **District:** 16 **Parcel:** 0800
Council Ward: 7A **Existing Zoning:** CRC (Community Retail Commercial)

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

1. Variance to allow the finished siding of the fence to face inward. [*§710.04 (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



124 Powers Ferry Road (South end of plaza)



Dense vegetation



Subject Property (North end of plaza)

Recommended Action:

Approval. The owner, Thomas Jorglewich, is requesting a variance to allow the finished siding of the existing fence to face inward on the property at 124 Powers Ferry Road. The requested variance would allow the unfinished side of the fence face the exterior. The subject property is zoned CRC (Community Retail Commercial) and located on Powers Ferry Road – an arterial road – where majority of the properties are zoned CRC. However, the properties west of the property – located behind the fence – are zoned R-4 (Single Family Residential – 4 units/acre). Section 710.04 (A) of the Zoning Ordinance states that *“In all cases, the finished side of a fence shall be to the exterior.”* The owner’s reasons to leave the unfinished side facing the exterior include that he believes it gives the property a nicer look; the neighbors would not be able to see it with the existing vegetation; and that it would be difficult and expensive to have the fence re-built with the panels facing the exterior of the property.

The owner has stated that his intention was to replace the rotten wood panels as part of the general maintenance of the property, and the fence had originally been constructed with the finished side facing inward. However, the majority of the fence panels had to be replaced, and they were erected in the same manner with the panels facing inward. In addition, the owners of the adjacent lots have placed chain link fences abutting the subject property, and vegetation growing between the fences is mature and - in some areas - overgrown.

Although the Board of Zoning Appeals has not heard many variance requests regarding exterior fencing, there were a couple in 2013 – March 2013 and April 2013 – in which the Board approved similar variance requests for fences, as described below:

- ***V2013-16: 156 Normandy Drive*** ***March 25, 2013***
 1. Variance to request the allowance of the unfinished side of a fence to be to the exterior.

- ***V2013-18: 192 Hedges Street*** ***April 29, 2013***
 1. Variance to request the allowance of the unfinished side of a fence to be to the exterior.

The fence in question is behind the commercial plaza, and the existing trees and vegetation help to provide a visual buffer to both the fence and the property, and it is not directly visible to vehicular traffic. Allowing the existing fence to be completed with the finished side facing inward should not affect any of the surrounding properties with the existing dense vegetation is. Since the proposal should not be detrimental to public safety, the surrounding properties, or overall community, ***Staff recommends approval of this variance request.***



Department of Development Services
 205 Lawrence Street
 Marietta, Georgia 30060
 Brian Binzer, AICP, Director

APPLICATION FOR VARIANCE OR APPEAL

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

Application #: V2015-34 Hearing: 7-27-15 Registrar # P2 15-299

This is a variance/appeal application for:

Board of Zoning Appeals

City Council

Owner's Name Powers Ferry Plaza

Address P.O. Box 1707 Cartersville GA Zip Code: 30120-1679

Telephone Number: 404.579.3777 Email Address: thomas@tobanpartners.com

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant _____

Address _____ Zip Code: _____

Telephone Number _____ Email Address: _____

Address of property for which a variance or appeal is requested:

124 Powers Ferry Road 30067 Date of Acquisition: July 2012

Land Lot (s) 12400 District 16 Parcel 0800 Acreage .89 Zoned CR Ward 7A FLU RAC

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

710.04(A) - The finished side of fence shall be to exterior.

Since fence was built with Property in 1992 It was other way & we just replace cotton wood panels on existing Fence parts.

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. ✓ Legal description of 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 - 25 copies of 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).
6. ✓ Copy of current tax bill showing payment or documentation certified by the City of Marietta Tax Office.
7. Documentation authorizing applicant to submit application by property owners if applicant is not owner.

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

POWERS FERRY PLAZA

Approximately 302 feet of fence board was replaced in November 2014 at a cost of \$4063 because the wood panels were all rotten and looked un-professional. We had hired Marietta Fence to make repairs and all they did was replace all rotten wood on existing fence. While they installed the panels the exact same way the original fence was built we had signed a contract with them which stated they were to install according to codes. When we recently called Marietta Fence back to let them know they needed to come back out and fix it they declined stating they were not responsible even though they signed our contract which stated they were. Given the amount of vegetation and current fencing that is behind the wood fence it would be extremely difficult and very expensive to install a different way. All of the vegetation would need to be removed so someone could fit behind to fix. There is also in large sections a chain link fence installed directly behind this wood fence that belongs to the property owners behind ours and would have to be removed in order for someone to be able to screw wood panels on from the other side.

We purchased this property as a run down property back in 2012 when it was only 35% occupied and was an eye sore to the community. We have spent a great deal of money on making this property look much nicer which in turn makes the surrounding community look much nicer as well. The wood fence is behind the building so it is out of the direct public viewing. It would be a substantial cost to flip the fence around and the nicer side of the fence would be facing a bunch of bushes and trees. The homeowners in the back would never even be able to see it. It is on these grounds that we ask that you please grant us this variance.

Thank you.

TO: Marietta Daily Journal
FROM: City of Marietta
RUN DATE: July 10, 2015

PUBLIC NOTICE OF VARIANCES

The City of Marietta hereby gives notice that a public hearing will be held to give consideration to the following variance requests. The Board of Zoning Appeals will consider the following requests on **Monday, July 27, 2015 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

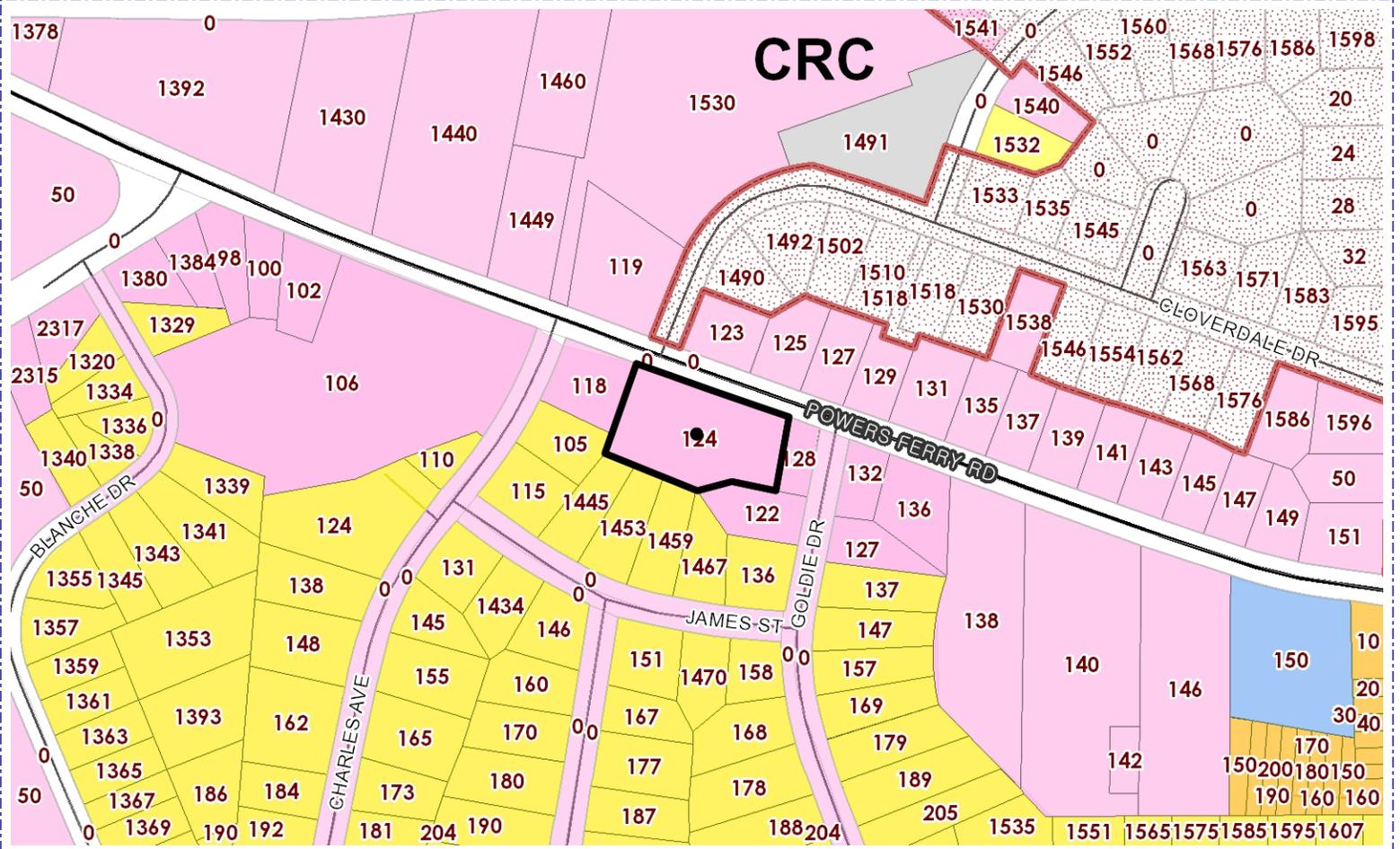
V2015-34 [VARIANCE] POWERS FERRY PLAZA is requesting a variance for property located in Land Lot 12400, District 16, Parcel 0800, 2nd Section, Marietta, Cobb County, Georgia and being known as 124 Powers Ferry Road. Variance to allow the finished siding of the fence to face inward. Ward 7A.

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.

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 Mr. Patrick Henley, ADA Coordinator, at 770-794-5558 (voice) or 770-794-5560 (TDD) no later than 48 hours before the date of the above meeting.

City of Marietta
205 Lawrence Street
Marietta, Georgia 30060



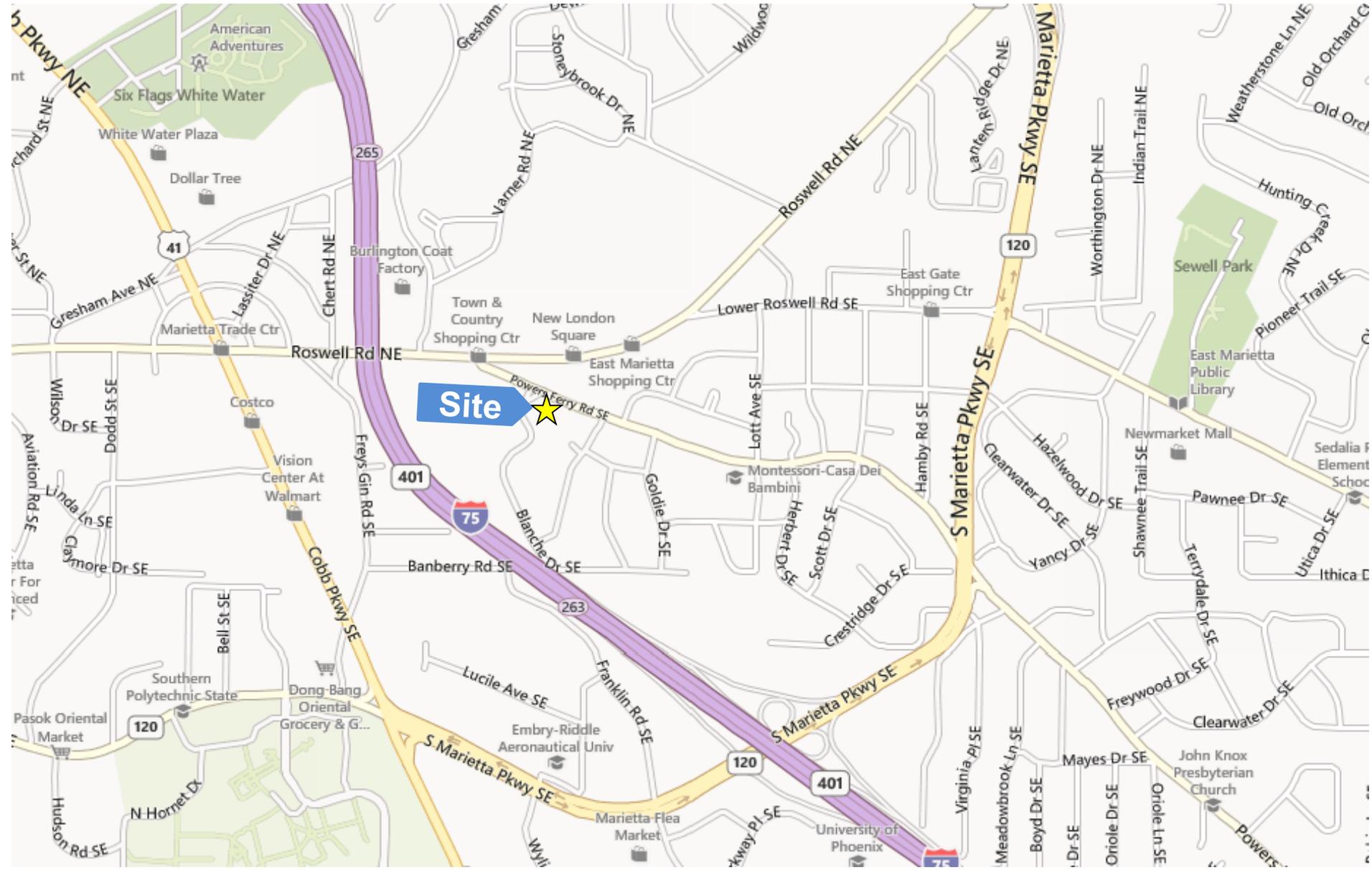
Address	Parcel Number	Acreage	Ward	Zoning	FLU
124 POWERS FERRY RD	16124000800	0.926	7A	CRC	RAC

Property Owner:	Powers Ferry Plaza
Applicant:	
BZA Hearing Date:	07/27/2015
Acquisition Date:	
Case Number:	V2015-34
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

POWERS FERRY PLAZA



POWERS FERRY PLAZA



Replaced rotten wood panels on existing fence approximately 302 feet long



Powers Ferry Rd SE



This was how fence originally was installed since property was built in 1991. Thick vegetation behind fence and additional chain link fence would make it extremely difficult to flip fence around as well as very costly.

