



**STAFF REVIEW AND RECOMMENDATION**

**Variance Case #:** V2016-32      **Legistar #:** 20160500  
**Board of Zoning Appeals Hearing:** Monday, June 27<sup>th</sup>, 2016 – 6:00 p.m.  
**Property Owner:** John Patterson  
519 Church Street  
Marietta, GA 30060  
**Applicant:** Square Roots Group  
Sterling Wharton  
29 North Park Square  
Marietta, GA 30060  
**Address:** 380 North Sessions Street  
**Land Lot:** 1147      **District:** 16      **Parcel:** 0580  
**Council Ward:** 4B      **Existing Zoning:** NRC (Neighborhood Retail Commercial)

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

1. Variance to reduce the required number of parking spaces from four (4) spaces to two (2) spaces. [§716.07]

**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**



**380 N Sessions St**



**380 N Sessions St**

---

**Recommended Action:**

**Approval with a stipulation.** The applicant, Sterling Wharton, is requesting a variance on behalf of Square Roots Group - prior to purchase of the property at 380 North Sessions Street. The subject property is zoned NRC (Neighborhood Retail Commercial); and is located at the intersection of Sessions Street and Campbell Hill Street. The properties to the rear and across North Sessions Street are also zoned NRC but are being used as single family homes. Across Campbell Hill Street to the east are other single family homes that are zoned R-4 (Single Family Residential – 4 units/acre).

This property will be located along the Kennesaw Mountain to Chattahoochee River Trail that is currently under construction; the trail will run along the North Sessions Street frontage when completed. As a result of the project, the number of parking spaces available for the building has been reduced from six (6), which is what was shown for the previous tenant, to two (2) or three (3) spaces. The vehicular access from North Sessions Street will also be eliminated. Based on the square footage of the restaurant (525 sq. ft.) and patio (150 sq. ft.), four (4) spaces are required (one space for every 175 sq. ft.). Because the former tenant, operating as Sessions Street Grill, failed to seek and obtain a variance for the reduction in parking, the restaurant was not able to renew the occupational license for 2015. The prospective new owner would like to operate a bakery out of this location, mainly to prepare items for sale at another location, but would also like the option of serving customers in-house.

City code requires parking spaces to be nine (9) feet by twenty (20) feet. The parking lot will need to be restriped to define the layout, as the current parking lot has many different and conflicting variations of striped spaces. The applicant will need to provide more detailed information as to how the parking configuration will work. Restriping the parking area will require compliance with the Americans with Disabilities Act.

Staff would like make note that there are many other aspects of the site that do not meet current codes, including, but not limited to, lot size, lot width, impervious surface coverage, setbacks, trees, and landscaping. The City's redevelopment clause (Section 708, Nonconforming Uses) requires that all nonconformities on the site must be brought into compliance if the construction cost to rebuild, alter or repair over a 12 month period exceed 75% of the replacement costs of the building, as calculated according to the Square Foot Construction Costs table produced by the International Code Council, or the total appraised building value as shown on the current tax record, or an appraisal made by a licensed appraiser; whichever is the greater value of the three options. If work is being done to the entire site and/or the building footprint or existing square footage increases, the threshold increases to 50%.

***Staff recommends approval of this variance request with the stipulation that the parking layout be clearly striped and provides the necessary ADA parking space(s).***



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

**APPLICATION FOR VARIANCE OR APPEAL**  
 (Owner/Applicant/or Representative must be present at all public hearings)

For Office Use Only:

Application #: V 2016-32 Legistar #: 20160500 BZA Hearing Dt: 6-27-16  
 City Council Hearing Dt (if applicable) #: \_\_\_\_\_ PZ #: 16-271

This is a variance/appeal application for:



Board of Zoning Appeals



City Council

Owner's Name John Patterson  
 Address 519 Church St Marietta GA Zip Code: 30060

Telephone Number: \_\_\_\_\_ Email Address: \_\_\_\_\_

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

Applicant Square Roots Group / Sterling G. Warron  
 Address 29 N. Park Square Zip Code: 30060  
 Telephone Number \_\_\_\_\_ Email Address: sterlingwarron@gmail.com

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

380 N. Sessions St. Date of Acquisition: \_\_\_\_\_

Land Lot (s) 11470 District X Parcel 0580 Acreage .071 Zoned NRC Ward 4B FLU NAC

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

Allowed to operate business with three parking spots rather than the formally required four. See attached.

**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 25 copies REQUIRED.
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**



Subject: Variance Request for 380 Sessions Street Summary:

Dear Sirs/Madams:

We have a contract to purchase 380 Sessions St by July 31, 2016.

We are requesting a variance to reduce the number of parking spaces required for 380 Sessions Street, Marietta GA 30060 from 4 to 3. The reduction is a result of reduced space on the property after imminent domain condemnation proceedings which took a portion of the property to accommodate a planned bike path.

Current parking requirements:

- 1 space per 175 Square feet - Building size of 525 requires 3 parking spaces --
- Outdoor Patio of approx. 150 Square feet would require a 4<sup>th</sup> parking space

We do NOT plan for indoor guests/seating. The intended use is only for walk up residents from the immediate neighborhood, lofts, and hospital as well as catering to visitors bike path that will run next to the property.

Providing a 4<sup>th</sup> parking spot would require eliminating the outdoor patio, along with any and all seating for guests we hope to serve, potentially making the project & property no longer financially viable.

We will provide multiple bike racks to accommodate bike costumers in anticipation the path will bring new life to the area and continue to help make Marietta the most desirable place to live, play and work in metro Atlanta.

Our desire is revive this building and bring new life to a dilapidated corner of Marietta. The only way to do so with the land available is to continue business with three parking spots and make a great experience for our local residents, biking and walk up guests.

Thank you for your consideration.

Sincerely,

  
Sterling G. Wharton

**TO: Marietta Daily Journal**  
**FROM: City of Marietta**  
**RUN DATE: June 10, 2016**

**PUBLIC NOTICE OF VARIANCES and SPECIAL LAND USE PERMITS**

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, June 27, 2016 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

**V2016-32 [VARIANCE] SQUARE ROOTS GROUP** is requesting a variance for property located in Land Lot 1147, District 16, Parcel 0580, 2<sup>nd</sup> Section, Marietta, Cobb County, Georgia and being known as 380 North Sessions Street. Variance to reduce the required parking for a restaurant from 4 spaces to 2 spaces. Ward 4B.

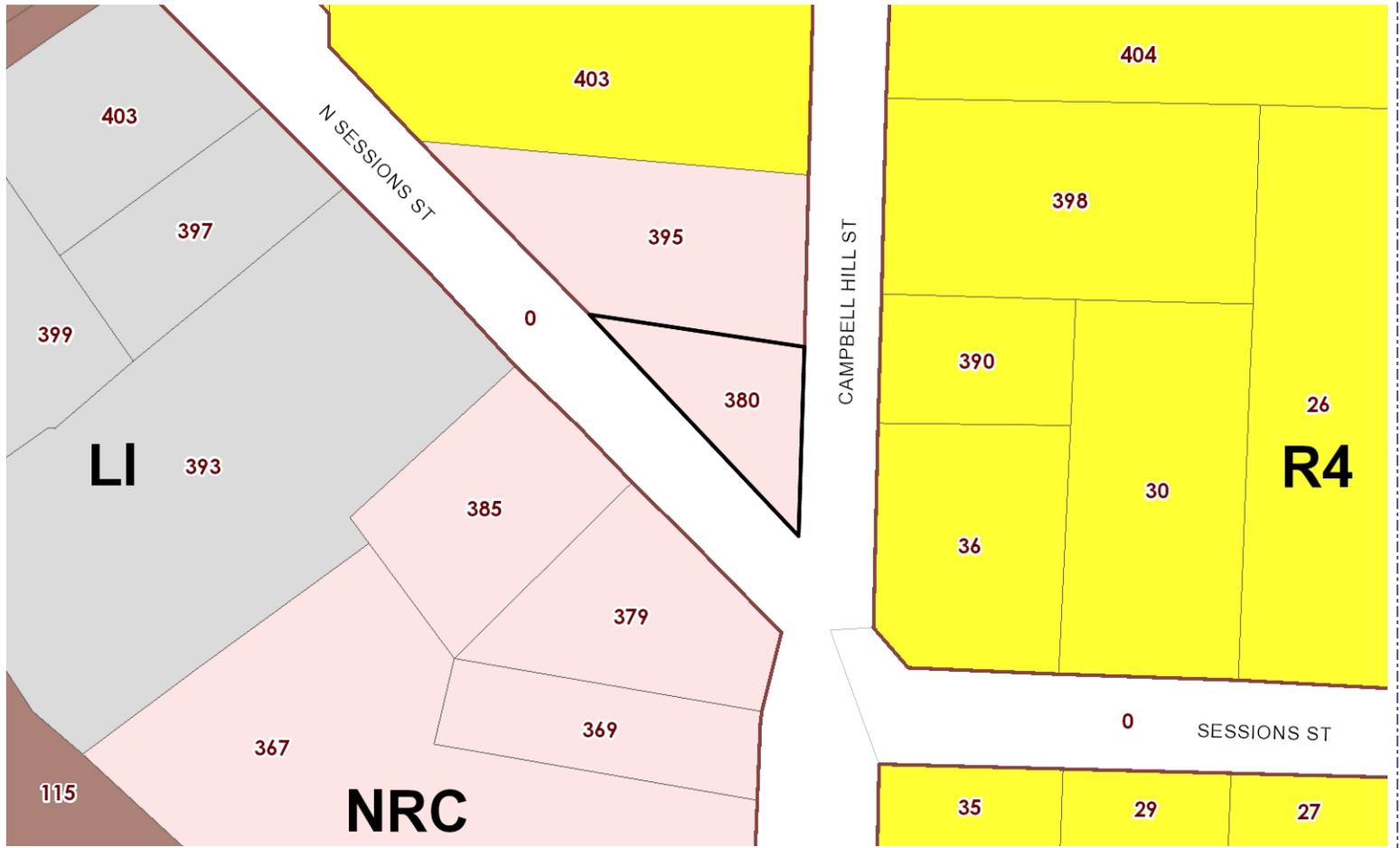
A description and plat of the property sought for the variances are on file in the Planning and Zoning Office, City Hall, and are available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto.

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

# Variance



Address	Parcel Number	Acreage	Ward	Zoning	FLU
380 N SESSIONS ST	16114700580	0.071	4B	NRC	NAC

Property Owner:	John Patterson
Applicant:	Square Roots Group/Sterling Wharton
BZA Hearing Date:	06/27/2016
Acquisition Date:	
Case Number:	V2016-32
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

KCRQ2903

1 STORY BUILDING  
"SESSIONS FOLK ART"  
#379

7 STEPS

1 STORY HOUSE  
#385

415+00

IPF  
1/2" REBAR

CONST  $\phi$

414+00

N SESSIONS STREET

EXIST R/W

LT  
NG

SVP50707  
DI  
TOP=1109.82  
INV=

SMH  
1108.96  
VEFIC

CONCRETE

PAVED PARKING

SIDEWALK  
ROCK  
PATTO

"NICKS GRILL"

1 STORY BUILDING

REQ'D  
R/W

410+67.39

28.00 LT

SVP50709

STA 410  
28.00 L

SVP51249

SVP50710

30

N/F  
NICK ZAIMIS  
SEE SHEETS 20,35  
395 CAMPBELL  
HILL STREET  
MARIETTA, GA 30060  
TAX ID NO.16-1147-057

31

N  
JOHN M F  
SEE S  
20  
912 PINI  
WOODSTOC  
TAX ID NO

29

N/F  
NICOLAUS ZAIMIS  
SEE SHEET 35  
395 CAMPBELL  
HILL STREET

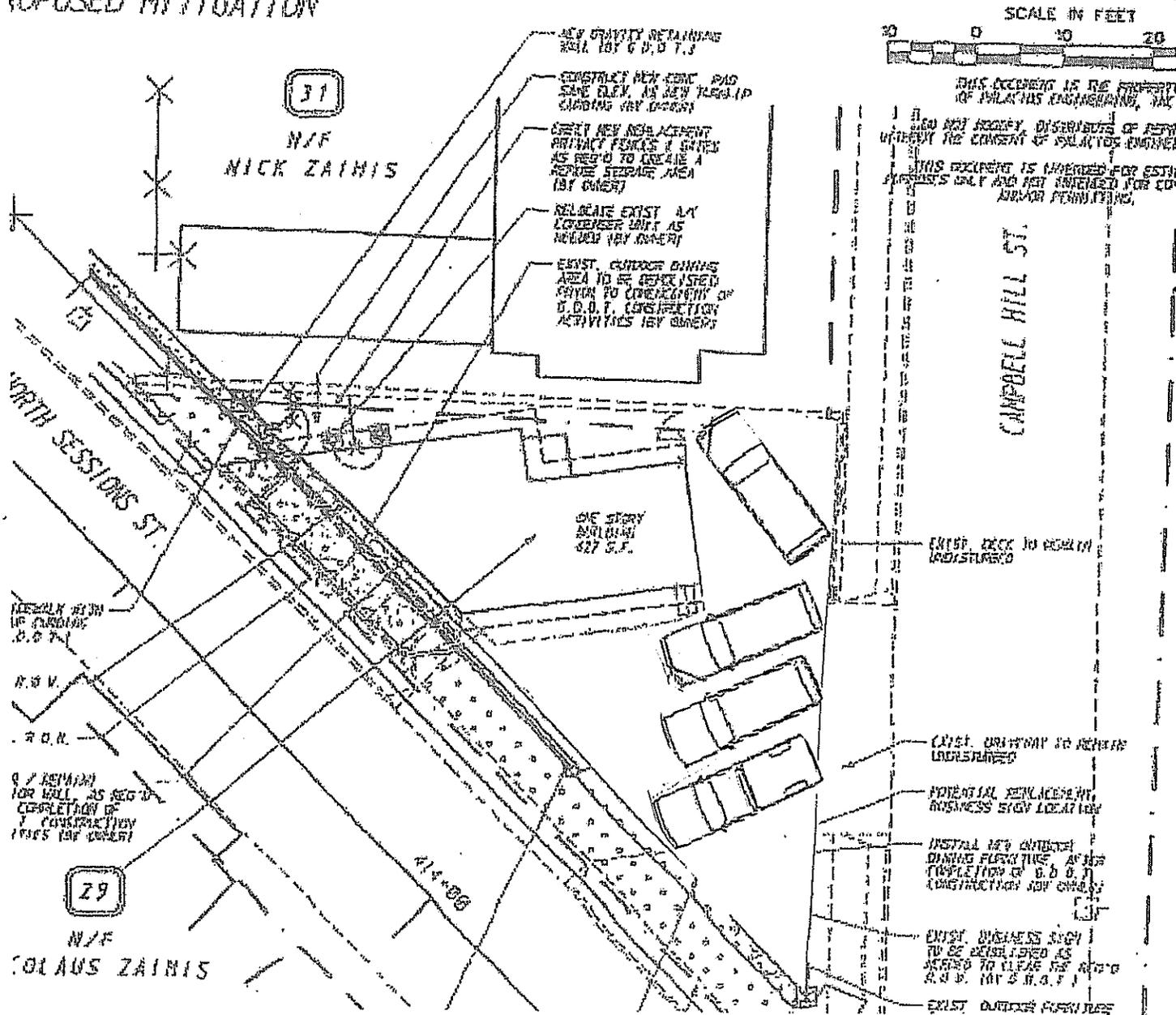
ESA - CHURCH  
STREET  
CHEROKEE STREET

EXIST R/W

SEE



# PROPOSED MITIGATION



THIS DOCUMENT IS THE PROPERTY OF SYLACTUS ENGINEERING, INC. IT IS NOT TO BE REPRODUCED, COPIED, OR DISTRIBUTED WITHOUT THE CONSENT OF SYLACTUS ENGINEERING. THIS DOCUMENT IS INTENDED FOR ESTH. PURPOSES ONLY AND NOT INTENDED FOR CONSTRUCTION PERMITTING.