



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2012-02

Legistar #: 20111199

Board of Zoning Appeals Hearing: Monday, February 27, 2012 – 6:00 p.m.

Applicant: Lucas Mejia
Presto Latin Cantina
1157 Roswell Road
Marietta, GA 30062

Property Owner: Nancy Dong
Kung Wang, LLC
5353 Blue Iris Court
Norcross, GA 30092

Address: 1157 Roswell Road

Land Lot: 12110 **District:** 16 **Parcel:** 0680

Council Ward: 6 **Existing Zoning:** CRC (Community Retail Commercial)

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

1. Variance to increase the wall sign allowance from 15% to 25.3% along the south facing wall.
[Section 714.04.B.]
2. Variance to increase the wall sign allowance from 15% to 20.5% along the east facing wall.
[Section 714.04.B.]

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



Recommended Action:

Denial. Lucas Mejia, the petitioner for the owner, Kung Wang LLC., is requesting variances for signs on the building at 1157 Roswell Road to increase to area of wall signage allowed. The property is zoned CRC (Community Retail Commercial), and is mainly surrounded by other CRC (Community Retail Commercial) properties, except to the rear where the subject property abuts Lassiter Mobile Home Park (MHP) and some R2 (Single Family Residential 2units/acre) zoned properties. To the south of the subject property, across Roswell Street the properties are zoned CRC (Community Retail Commercial).

The petitioner, Mr. Mejia is requesting variances to increase the wall sign allowance on the building walls that are facing Roswell Road to the south and Chert Road to the east. The sign murals were painted on the building walls before applications were made for sign permits, as required by the zoning ordinance. The signs were brought to the attention of the Code Enforcement Office, and the business was subsequently cited for having the signage without a proper sign permit.

Current sign regulations limit the size of wall signs to 15% of the wall upon which the sign is located. The area of a sign is defined below:

***Sign area:** The entire face of a sign, its supporting structure and all wall work including illuminated tubing incidental to its decoration. In the case of an open sign made up of individual letters, figures, or designs attached directly to the building or standard, the space between such letters, figures or designs shall be included as part of the sign area. When a sign has parallel sides or where the interior angle formed by the faces is less than 45°, the sign shall be considered double-faced. The calculation for a double-faced sign shall be the area of one face only. The copy area of all "V" or "L" shaped signs with an internal angle of greater than 45° shall be considered as a single face. If the faces of a double-face sign are of unequal area, the area of the sign shall be taken as the area of the larger face.*

After being notified by Code Enforcement that permits were necessary for signs painted on a building or wall, the applicant submitted the necessary applications. However, the two submitted sign applications for the sign murals were denied by the Planning & Zoning Office on December 8, 2011. The sign permits were denied because both sign murals encompassed more than 15% of the face of the wall upon which they were painted [Sec. 714.04.B.]. The sign mural on the south wall covered 25.3% (7 ft. tall and 14.6 ft. wide) and the sign mural on the east wall covered 20.5% (4.7 ft. tall and 39.2 ft. wide).

Although the signs are attractive and have been professionally painted, there are no extraordinary circumstances or conditions regarding the signs that would influence a variance request; and, except for the cost of bringing the signs into compliance, there is no demonstrated hardship that would apply to the applicant that would warrant recommending approval a of the variance. As such, **staff recommends denial of this variance request.**

This item was tabled at the January 30, 2012 meeting of the Board of Zoning Appeals in order for the applicant to work with Staff on a potential solution.