



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

STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2010-04

Legistar #: 20100089

Board of Zoning Appeals Hearing: Monday, February 22, 2010 - 6:00 p.m.

Applicant: Khosrow Moradi
313 Marble Mill Road
Marietta, GA 30060

Property Owner: MRW Properties, Inc.
Attn: Jeff Marlow
P. O. Box 1717
Kennesaw, GA 30152

Address: 313 Marble Mill Road

Land Lot: 1005 **District:** 16 **Parcel:** 280

Council Ward: 5 **Existing Zoning:** HI (Heavy Industrial)

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

1. Variance to allow an automotive repair shop (including paint and body) on a parcel adjacent to a single family residential district. [Section 708.27.B.37.c]

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



313 Marble Mill Road



Cars along western property line 1/28/10



Fence with tarps at "150' Limit Line"



Subject property looking north



Storage behind building

Recommended Action:

Approval with stipulations. Mr. Khosrow Moradi is requesting a variance to establish an automobile repair facility, which includes paint and body work, at 313 Marble Mill Road. The property contains approximately 2.07 acres and is zoned Heavy Industrial (HI). The properties to the east and west of the subject property are also zoned HI and contain recycling facilities. Properties to the north, across Marble Mill Road, are also zoned HI in Cobb County. To the south are single family residential homes, zoned R-2 (Single Family Residential – 2 units/acre).

The subject property is very long and narrow and has already established a planted buffer along the property line adjacent to residential. The buffer planting was required as part of the applicant's Special Land Use Permit, granted July 8, 2009 per Z2009-13, to operate a plastic recycling facility. Based on the letter provided with this application, the applicant wishes to conduct an auto repair business until it is economically feasible to pursue plastic recycling.



Auto service stations, maintenance facilities, and repair shops are allowed in HI zones. However, paint and/or body work is not permitted if the site is adjacent to a single family residential district. The application states that no activity will occur past the "150 Foot Limit Line," as shown on the variance application plan, dated January 10, 2010. Since all the repairs are to occur inside a permanent building and the buffer is already established, the residential properties to rear should not be negatively impacted by the activity.

The applicant was granted the ability to use the existing "crush and run" for trucks and parking on the back half of the property. However, the storage area 150 feet to the rear of the property is unimproved and would require an approvable paving surface, such as brick, concrete or asphalt. In addition, the Building Department will require permits to improve the interior of the building to accommodate auto repair and painting. More comments regarding site development from Public Works are attached.

During a site visit, staff noted some discrepancies that are cause for concern. The definition of automobile repair in the Zoning Code states that "*Such engines, motor vehicles, trailers, or parts thereof may remain in an inoperable condition for a maximum of 30 days.*" Staff noted a large number of wrecked cars lining the western property line and located outside the "150 Foot Limit Line," despite the application stating that only five cars are to be completed per month. These cars appear to be inoperable and were noted by Code Enforcement on November 19, 2009. The storage of any cars not being restored to operating condition within 30 days is classified as an automobile wrecking yard and requires a Special Land Use granted by City Council. The applicant has stated that the wrecked cars are leftover from a prior business at another location and will be removed by February 12, 2010.

Staff recommends approval of the variance allowing car repair (paint and body) to occur on a property adjacent to single family residential, as the depth of the lot and planted buffer adequately protect the homes to the south. The applicant should also be aware that current zoning regulations require that all automotive repair must take place within the enclosed building. However, the following stipulations are recommended to prevent the property from turning into an automobile wrecking yard:

- Applicant will authorize City of Marietta Code Enforcement to make monthly inspections to verify that no inoperable vehicles remain on site for more than 30 days.
- All vehicles will be stored on an approvable surface (concrete, brick, or asphalt) north of the "150 Foot Limit Line."

COMMENTS FROM MARIETTA PUBLIC WORKS DEPARTMENT

- Approved Site Plans will be required for construction, as well as issuance of a Land Disturbing Activity Permit. Site plans must include, parking, driveways, streets, erosion and sediment control, stormwater management, stormwater quality, 10% downstream analysis, and any other applicable improvements required by City Code and Georgia Stormwater Management Manual. Additional comments will be made at time of site plan submittal. There can be no point discharge onto adjacent property which is not into a stream, defined drainageway, or storm sewer. Discharge will not be allowable at the property line. If easements are required for drainage through adjacent property, then the owner is to obtain.
- The provisions of the Post Development Stormwater Ordinance are to be met. Currently, there is a broad drainageway at approximately the property mid-point which drains onto the Blaze Recycling property to the west. The rear ¼ of the property drains to the south toward adjacent residential properties. In initial conversations, the owner stated that no changes to the rear of the property will occur, however, the plan as submitted do not reflect proposed uses or changes which could adversely impact the existing residential lots.
- Special considerations must be provided for a planned automotive facility for Stormwater Quality of the runoff. All repairs and liquids installed MUST remain indoors. Polluted stormwater shall not be allowed to exit the site.
- It is strongly advised to obtain an easement for stormwater to the nearby stream (tributary of Noses Creek adjacent Blaze and BFI). Since there is no defined channel, runoff or stormwater outfall will not be approved to the residential area to the south.
- A NPDES Industrial Stormwater Permit will be required for the site and facility – from the Georgia Environmental Protection Division.
- Renovations to the building will require Building Permits from the Building Inspections Division (770-794-5659) of the Dept of Public Works.
- Access onto Marble Mill Road must be in accordance with the Cobb County Dept of Transportation requirements, and possible permitting. Proper radii (minimum 25', or as required by the Fire Dept) are required.
- The Marietta Fire Dept must review the proposed site and building plans.
- There is insufficient data, design, and concept to understand proposed uses, and the adverse impact, if any, on adjacent properties to be overcome. More planning and design is required to determine the impact of the property on adjacent land.
- There appears to be insufficient width for truck turn-around at the rear of the building, without backing into the facility. Additionally, concrete or asphalt surface must be installed to accommodate trucks, and trailer / storage.