



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

STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2013-32 Legistar #: 20130813

Board of Zoning Appeals Hearing: Monday, August 26, 2013 – 6:00 p.m.

Property Owner: MSB Cobb
 Attn: Stuart Meddin
 1708 Peachtree Street, Suite 208
 Atlanta, GA 30309

Applicant: Marc Feinberg
 1551 Cobb Parkway South
 Marietta, GA 30062

Address: 1553 Cobb Parkway South

Land Lot: 06570 District: 17 Parcel: 0100

Council Ward: 1 Existing Zoning: CRC (Community Retail Commercial)

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

1. Variance to reduce required acreage for auto sales and additional businesses from 1.46 acres to 1.04 acres. [§708.16]

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



Looking at 1553 Cobb Parkway (Penske Truck Rental) from the rear of 1551 Cobb Parkway.



Looking westward at 1553 Cobb Parkway (Penske Truck Rental) from 1551 Cobb Parkway.



Looking westward at the rear of 1553 Cobb Parkway (Penske Truck Rental).

Recommended Action:

Marc Feinberg, petitioner and applicant for the property owner, MSB Cobb, is requesting a variance to store vehicles for auto sales on property that currently rents trucks. The property does not have sufficient acreage to operate a truck rental and auto sales lot which would require two (2) business licenses, as the code requires a minimum of one (1) acre for auto sales and a minimum lot size of 20,000 sq. ft. for all other businesses. However, the applicant is only proposing to store vehicles for sale as overflow and/or showcasing. The subject property is a 1.04 acre parcel located at 1553 Cobb Parkway South, and is zoned CRC (Community Retail Commercial). The subject property does not have road frontage, but has access from 1551 Cobb Parkway, is just south of Franklin Road, and is surrounded by other businesses that are zoned CRC (Community Retail Commercial) and LI (Light Industrial). To the north of the subject property is Pep Boys Automotive, and to the south is a vacant building; which both are zoned CRC (Community Retail Commercial). To the rear of the subject property is a vacant parcel zoned LI (Light Industrial). Across the street, to the west of the subject property is Dobbins Air Reserve Base, which is outside of the City limits.

The applicant is requesting a variance to allow Hertz Cars to store vehicle inventory as overflow parking and for showcasing cars on subject property, which sales would be conducted on the front parcel at 1551 Cobb Parkway. Therefore, Penske Truck Rental business and overflow parking from 1551 Cobb Parkway would be operated on the subject property. According to City Code (§708.16), a property that operates auto sales is required to have a minimum of 1 acre, and any additional businesses - 1 or more - that operate on the same property is required to have an additional 20,000 square feet, for a total of 63,560 square feet, or 1.46 acres. The survey indicates that the subject property has 1.04 acres/45,099.4 square feet, which would be insufficient to conduct both auto sales and truck rental businesses. However, the applicant proposes to only utilize the subject property for an existing truck rental business and overflow parking from adjacent property located at 1551 Cobb Parkway.

It should also be noted that the subject property is located to the rear of Hertz Cars and access is provided from Cobb Parkway through the Hertz property (1551 Cobb Parkway South). However, the survey that has been submitted does not identify an access easement to the property at 1553 Cobb Parkway South. Although the properties are owned by two different owners, there may be some opportunity for Hertz to obtain additional property in order to meet automobile sales regulations.

The subject property as well as 1551 Cobb Parkway is very congested due to the volume of trucks and the number of cars stored on the site, and as a result, access and circulation around the site is difficult, which could be a safety hazard for emergency vehicles. With the current area of the parcel, the property can continue to be used for either truck rental or for vehicle sales, but not both according to the code. However, storing vehicles for sale on the subject property would not be a violation to the code.

As a result, **Staff recommends denial of this variance request.** However, should the variance be approved, a stipulation should be added to require the property owner to maintain clear 20 foot driveway aisles throughout the property.