

**APRIL 11, 2012 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 4**

ITEM # 1

PURPOSE

To consider amending the stipulations for Javier Gonzalez Zuniga regarding V-109 (Anne Taylor) of 2007, for property located in Land Lot 224 of the 17th District, at the northeast intersection of Austell Road and Barber Road (1491 Austell Road).

BACKGROUND

The subject property received a zoning variance on September 12, 2007 relating to five zoning criteria. One of the stipulations restricted the property’s use for a real estate office only, with use change to be approved by the Board of Zoning Appeals. The applicant would like to amend the use of the property from a real estate office to a restaurant. The property had been used for a restaurant prior to the variance in 2007. If approved, all other zoning stipulations would remain in effect.

FUNDING

N/A

RECOMMENDATION

The Board of Zoning Appeals conduct a Public Hearing and consider the proposed stipulation amendment.

ATTACHMENTS

Other Business Application and zoning stipulations.

Application for "Other Business"

Cobb County, Georgia

(Cobb County Zoning Division - 770-528-2035)

BZA

Hearing Date Requested: 4-11-12

Applicant: JAVIER GONZALEZ ZUNIGA Phone #: 770-298-1486
(applicant's name printed)

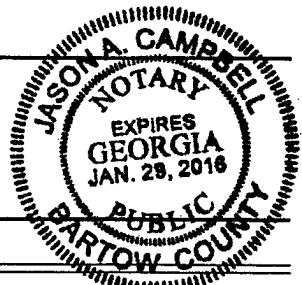
Address: 2871 BETULA DR, AUSTELL, GA 30106 E-Mail: _____

Javier Gonzalez Zuniga Address: _____
(representative's name, printed)

Javier Gonzalez Z Phone #: _____ E-Mail: _____
(representative's signature)

Signed, sealed and delivered in presence of: Texas ID# 26010324

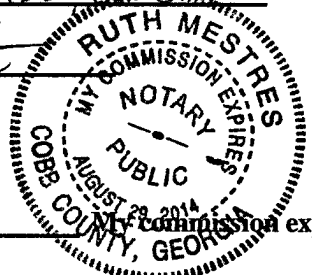
Jason A. Campbell My commission expires: _____
Notary Public



Titleholder(s): JAVIER GONZALEZ ZUNIGA Phone #: 770-298-1486
(property owner's name printed)

Address: 2871 BETULA DR, AUSTELL, GA 30106 E-Mail: _____

X Javier Gonzalez Z
(Property owner's signature)



Signed, sealed and delivered in presence of: _____
Notary Public My commission expires: August 29, 2014

Commission District: 4 Variance Zoning Case: V-109 (2007)

Date of ~~Zoning~~ ^{Variance} Decision: 9-12-07 Original Date of Hearing: 9-12-07

Location: 1491 AUSTELL ROAD, MARIBETTA, GA 30008
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 224 District(s): 17

State specifically the need or reason(s) for Other Business: _____

Change of use to "RESTAURANT"

(List or attach additional information if needed)

Pd. CK 1029
\$ 219.00 (Appl. 300.00
- 700.00) | Rec. 01093

Application for Variance Cobb County

(type or print clearly)

Application No. V-109

Hearing Date: 9-12-07

Applicant ANNE TAYLOR Business Phone 7707398948 Home Phone 6785718838

ANNE Michelle Taylor Address 1491 Austell Rd, Marietta
(representative's name, printed) (street, city, state and zip code)

AMT Business Phone 7707398948 Cell Phone 6785718838
(representative's signature)

Signed, sealed and delivered in presence of:

My commission Notary Public, Cobb County, Georgia
June 21, 2010
My Commission Expires June 21, 2010

W. N. A. B. G.
Notary Public

Titleholder Owner ANNE TAYLOR Business Phone 7707398948 Home Phone 6785718838

Signature AMT Address: 1491 Austell Rd, Marietta GA 30067
(attach additional signatures, if needed) (street, city, state and zip code)

Signed, sealed and delivered in presence of:

My commission Notary Public, Cobb County, Georgia
June 21, 2010
My Commission Expires June 21, 2010

W. N. A. B. G.
Notary Public

Present Zoning of Property GC

Location 1491 AUSTELL ROAD
(street address, if applicable; nearest intersection, etc.)

Land Lot(s) 224 P42 District 17 Size of Tract .12 Acre(s)

Please select the extraordinary and exceptional condition(s) to the piece of property in question. The condition(s) must be peculiar to the piece of property involved.

Size of Property _____ Shape of Property _____ Topography of Property _____ Other _____

The Cobb County Zoning Ordinance Section 134-94 states that the Cobb County Board of Zoning Appeals must determine that applying the terms of the Zoning Ordinance without the variance would create an unnecessary hardship. Please state what hardship would be created by following the normal terms of the ordinance.

X Since purchasing the building I have had several costly and unforeseeable problems. I purchased building on behalf of a relative who became very ill & could not complete his obligation to me. I have worked outside of Cobb County for years & would like the opportunity to have my office here.

List type of variance requested: WAIVE THE LOT SIZE FROM A MINIMUM OF 20,000 SQFT TO 5432 SQFT

ORIGINAL DATE OF APPLICATION: 09-12-07

APPLICANT'S NAME: ANNE TAYLOR

**THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE COBB
COUNTY BOARD OF ZONING APPEALS**

**THE BELOW STYLED VARIANCE WAS HEARD BY THE COBB COUNTY
BOARD OF ZONING APPEALS ON SEPTEMBER 12, 2007**

ANNE TAYLOR (owner) requesting a variance to: 1) waive the minimum lot size from the required 20,000 square feet to 5,432 square feet; 2) waive the front setback from 50 feet to 0 feet; 3) waive the major side setback from 25 feet to 0 feet; 4) waive the required parking lot dimensions to allow a 19 foot wide drive aisle (24 foot required) and 16 foot deep parking stalls (19 feet required); and 5) waive the maximum allowable impervious surface from 70% to 100% in Land Lot 224 of the 17th District. Located at the northeast intersection of Austell Road and Barber Road (1491 Austell Road).

The public hearing was opened and Ms. Anne Taylor addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Homan, second by Williams, to **approve** variance request
subject to:

- final ratification of lot size reduction by the Board of Commissioners at the zoning hearing on September 18, 2007, at 9:00 a.m.
- letter of agreeable conditions from Ms. Anne Michelle Taylor submitted at the September 12, 2007 public hearing *with the exception of the listed prohibited uses* (attached and made a part of these minutes)
- per stated agreement by the Applicant at the public hearing and as described in the submitted letter – use restricted to real estate office *only*, with use change to be approved by the Board of Zoning Appeals
- wall signage only – no freestanding signs
- Development and Inspections Division comments and recommendations
- Stormwater Management Division comments and recommendations
- Water Division comments and recommendations
- Cobb DOT comments and recommendations

VOTE: **ADOPTED 4-0**

Min. Bk. 13 Petition No. V-109
Doc. Type Letter of
agreeable conditions
Meeting Date 9-12-07

To: Board of Zoning Appeals- September 12, Wednesday at 1 p.m.
Murray Homan, Bob Hovey, Bob Ott, Christi Trombetti, Judy Williams

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From: Anne Michelle Taylor

Re: 1491 Austell Road, Marietta, GA, 30008

I am requesting a variance to allow me to perform real estate activities at the above mentioned location. I initially acquired the building in an effort to help a family member pursue his business goals. However, he subsequently developed, and survived, congestive heart failure. In the same time frame his wife developed breast cancer. At this time my uncle advised me he could no longer take possession of the property.

This location will NOT be engaged in the following activities:

- ~~SELLING TIRES~~
- ~~AUTO SUPPLIES OR MAKE AUTO REPAIRS~~
- ~~POOL HALL~~
- ~~ADULT BOOKSTORE~~
- ~~CHECK CASHING~~
- ~~PAWN/TITLE SHOP~~

real estate office only

Very importantly, this location will not cause any traffic problems and not be a major gathering place for any reason.

This location Will be the following:

- PROJECT A PROFESSIONAL APPERANCE
- PROPERLY MAINTAINED
- CONTRIBUTE VALUABLE TAX DOLLARS
- BE A POSITIVE ASSEST TO THE COMMUNITY

The vast majority of my business is Internet based. I get referrals from organizations across the U.S ,and I in turn, via the Internet- send listings for rental, purchasing and selling of real estate. Homes are bought and sold on the Internet and this is the cutting edge of this industry. Similar to banks and other Internet only firms, its the new way to do business.

Most, if not all personal client contact will be held at the Vinings Club, a private membership facility that I joined five years ago for the purpose of meeting and entertaining. I have been brokering real estate for over nine years and I've always been a good neighbor. I will continue to be a good business partner for the Cobb county area and specifically Austell road.

Although I will have people working with me, this location I repeat ,will not be a gathering place for my business but an automatic advertising vehicle that will increase my visibility in the community and allow my business to secure more clients.

Professionally yours,


Anne Michelle Taylor

ORIGINAL DATE OF APPLICATION: 09-12-07APPLICANTS NAME: ANNE TAYLOR

**THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE
COBB COUNTY BOARD OF COMMISSIONERS**

BOC DECISION OF 09-18-07 ZONING HEARING:

**OTHER BUSINESS ITEM #3 – TO CONSIDER GRANTING A SPECIAL
EXCEPTION FOR REDUCING THE REQUIRED LOT SIZES AS
RECOMMENDED BY THE BOARD OF ZONING APPEALS FROM THEIR
SEPTEMBER 12, 2007 VARIANCE HEARING**

To consider granting Special Exceptions for reducing the required lot sizes as recommended by the Board of Zoning Appeals from their September 12, 2007 Variance Hearing regarding Variance Application V-109:

V-109 ANNE TAYLOR (owner) requesting a variance to: 1) waive the minimum lot size from the required 20,000 square feet to 5,432 square feet; 2) waive the front setback from 50 feet to 0 feet; 3) waive the major side setback from 25 feet to 0 feet; 4) waive the required parking lot dimensions to allow a 19 foot wide drive aisle (24 foot required) and 16 foot deep parking stalls (19 feet required); and 5) waive the maximum allowable impervious surface from 70% to 100% in Land Lot 224 of the 17th District. Located at the northeast intersection of Austell Road and Barber Road (1491 Austell Road).

Mr. Mark Danneman, Zoning Division Manager, provided information regarding V-109 (Anne Taylor). Following presentation and discussion, the following motion was made:

MOTION: Motion by Kesting, second by Olens, to approve a Special Exception pursuant to Zoning Ordinance Amendment adopted September 12, 2000 and amended July 8, 2003, Section 134-271(8) for V-109 (Anne Taylor) to waive the minimum lot size from the required 20,000 square feet to 5,432 square feet.

VOTE: **ADOPTED** unanimously

SUBJECT PROPERTY

OWNER: ANN TAYLOR
 SITE ADDRESS: 1491 AUSTELL ROAD, HARRETTA, GA 30008
 AREA: 0.12 ACRES ±
 ZONED: G0 - GENERAL COMMERCIAL
 ZONING REQUIREMENTS:
 FRONT SETBACK = 50' ON AUSTELL STREET
 REAR SETBACK = 40' ON LOCAL STREET
 SIDE SETBACK = 10'
 REFERENCE: DEED BOOK 11478 PAGE 143
 STRUCTURE ON THE SUBJECT PROPERTY IS OVER 35' IN HEIGHT
 ENTIRE PARCELS WITHIN SETBACK LINES

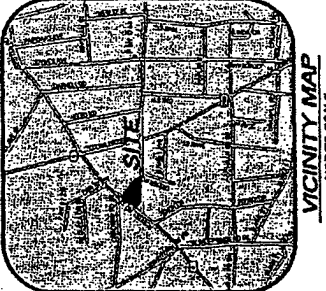
LEGAL DESCRIPTION
 ALL THAT TRACT OR PARCELS OF LAND LYING AND BEING PLAND LOT 224, 17TH DISTRICT, 2ND SECTION, COBB COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
 BEGINNING AT A 1/4 REBAR LOCATED AT THE INTERSECTION OF THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF AUSTELL ROAD IN THE N1/4 CORNER OF BARBER ROAD IN 40-FOOT WIDE RIGHT-OF-WAY LINE OF BARBER ROAD ALONG SAID SOUTHEASTERN RIGHT-OF-WAY LINE OF AUSTELL ROAD, NORTH 35°31'56" EAST, 71.40 FEET TO A W REBAR TOWARD THE SOUTHEAST; SOUTHEASTERN RIGHT-OF-WAY LINE OF AUSTELL ROAD AND BARBER ROAD, SOUTH 52°30'20" EAST, 87.00 FEET TO A W REBAR TOWARD THE SOUTHEAST; SAID SOUTHEASTERN RIGHT-OF-WAY LINE OF AUSTELL ROAD, SOUTH 89°00'00" WEST, 100.00 FEET TO A W REBAR TOWARD THE SOUTHWEST; SAID SOUTHWESTERN RIGHT-OF-WAY LINE OF AUSTELL ROAD, SOUTH 30°00'00" WEST, 224.11 FEET TO A W REBAR LOCATED AT THE INTERSECTION OF THE SOUTHEASTERN RIGHT-OF-WAY LINE OF AUSTELL ROAD AND THE NORTHERN RIGHT-OF-WAY LINE OF BARBER ROAD SAID W REBAR BEING THE TRUE POINT OF BEGINNING.
 SAID TRACT CONTAINS 0.12 ACRES OR 5,432 SQUARE FEET, MORE OR LESS.

ANN TAYLOR

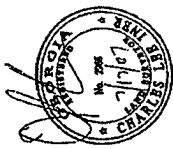
POINT TO POINT LAND SURVEYORS



LAND LOT: 224	DISTRICT: 17TH
SECTION: 2ND	CITY: HARRETTA
COUNTY: COBB	STATE: GEORGIA
DATE: JULY 17, 2007	DRAWN BY: 1
CHD BY: P2P	APPROVED BY: C. INER
JOB #: 2007.406	FILE #: 07-2066
SHEET NUMBER: 1	OF 1 SHEETS

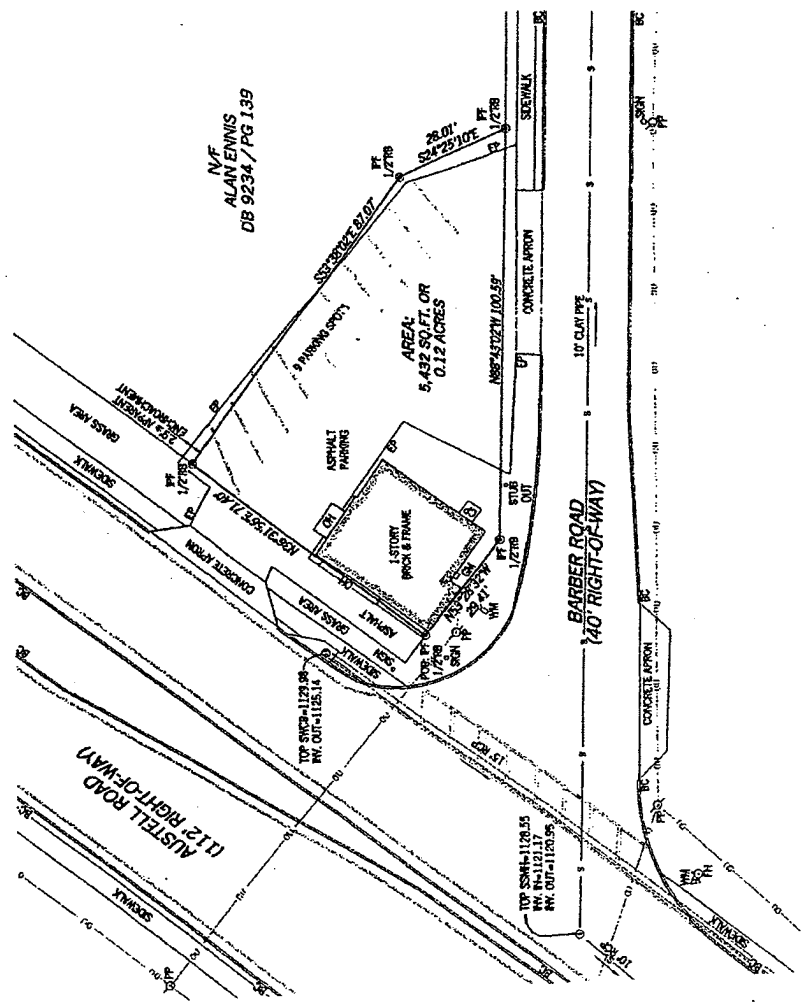


VICINITY MAP NOT TO SCALE



GENERAL NOTES

THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF A TITLE REPORT WHICH MAY REVEAL ADDITIONAL CONCURRENCES, EASEMENTS, OR RIGHTS-OF-WAY NOT SHOWN HEREON.
 EQUIPMENT USED FOR ANGULAR MEASUREMENTS: LEICA TCRN 1103 ROBOTIC STATION; FOR DISTANCE MEASUREMENTS: LEICA DISTANCE MEASUREMENT UNIT (DMU) WITH REFLECTOR.
 THE PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE TO WITHIN ONE FOOT IN 62,092 FEET.
 BEARINGS SHOWN ON THIS SURVEY ARE FROM GRID NORTH, (EA 83 WEST ZONE) FEDERAL COMMUNITY MODEL NO. 1, 53082.0000, DATED AUGUST 18, 1992.
 NO PORTION OF THIS PROPERTY IS LOCATED IN A SPECIAL FLOOD AREA AS PER FLOOD INSURANCE RATE MAP NO. 13082-0001-DATED AUGUST 18, 1992.
 THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED BY THE SURVEYOR USING GROUND PENETRATING RADAR (GPR) AND OTHER AVAILABLE RECORDS. ALL SUCH UTILITIES IN THIS AREA, OTHER THAN SHOWN, ARE ASSUMED TO BE LOCATED AT THE SAME DEPTH AS SHOWN. THE SURVEYOR PARTIES DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE THE EXACT LOCATION OF SUCH UTILITIES. A GROUND PENETRATING RADAR (GPR) LOCATED THE UNDERGROUND UTILITIES. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.



- LEGEND**
- ☉ SURVEY STATION
 - SINK
 - ☐ STATION OWNERSHIP
 - ◊ UTILITY POLE
 - △ WATER VALE
 - WIRE INSULATION
 - ◊ CONCRETE METAL PIPE
 - PIPE WITH VALVE
 - STAKE
 - CONCRETE PAD
 - SINK
 - STATION OWNERSHIP
 - UTILITY POLE
 - △ WATER VALE
 - WIRE INSULATION
 - ◊ CONCRETE METAL PIPE
 - PIPE WITH VALVE
 - STAKE
 - CONCRETE PAD