

**COBB COUNTY BOARD OF ZONING APPEALS**  
**VARIANCE HEARING “OTHER BUSINESS”**  
**May 9, 2012**

**ITEM #1**

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 17<sup>th</sup> District, at the northeast intersection of Austell Road and Barber Road (1491 Austell Road).

**MAY 9, 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 17<sup>th</sup> 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. This item was heard by the Board of Zoning Appeals on April 11, 2012 and was held so the applicant could address potential stipulations for the property. If approved, all other 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)

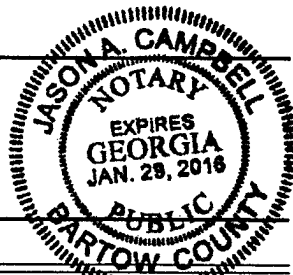
Address: 2871 BETULA DR, AUSTELL, GA 30106 E-Mail:

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  
Notary Public

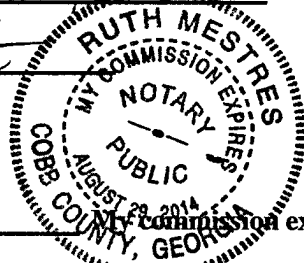
My commission expires:

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:

Ruth Mestres  
Notary Public

My commission expires: August 29, 2014

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

Date of <sup>Variance</sup> ~~Zoning~~ Decision: 9-12-07 Original Date of Hearing: 9-12-07Location: 1491 AUSTELL ROAD, MARIETTA, 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)

REVISED December 13, 2011

Pd. CK 1029

# 219.00

Appl. 300.00

Rec. 01093

# Application for Variance

## Cobb County

(type or print clearly)

Application No. V-109

Hearing Date: 7-12-07

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)

AM 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

N. B. G.  
Notary Public

Titleholder Owner ANNE TAYLOR Business Phone 7707398948 Home Phone 6785718838

Signature AM 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

N. B. G.  
Notary Public

Present Zoning of Property GCE

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 17<sup>th</sup> 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 APPEARANCE  
PROPERLY MAINTAINED  
CONTRIBUTE VALUABLE TAX DOLLARS  
BE A POSITIVE ASSET 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, it's 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:

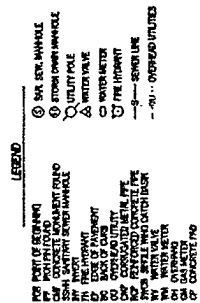
**V-109 ANNE TAYLOR** (owner) requesting a variance to: 1) waive the minimum lot size from the required 20,000 square feet to 5,432 square feet; 2) waive the front setback from 50 feet to 0 feet; 3) waive the major side setback from 25 feet to 0 feet; 4) waive the required parking lot dimensions to allow 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

OWNER: ANITA LOR  
SITE ADDRESS: 1491 AUSTELL ROAD, MARBETTA, GA 30008  
1936 ± 0.12 ACRES ±  
ZONED: GC - GENERAL COMMERCIAL  
PLANNED DEVELOPMENT  
FRONT SETBACK - 40' ON AUSTELL STREET  
SIDE SETBACK - 40' ON COLLECTOR STREET  
REAR SETBACK - 10' ON LOCAL STREET  
REAR SETBACK - 30'  
REFERENCE: DEED BOOK 11478 PAGE 143  
STRUCTURE ON THE SUBJECT PROPERTY IS OVER 30' HIGH  
EXTREME PARCEL LIES WITHIN SETBACK LINES

[illegible]

THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF A TITLE REPORT WHICH MAY REVEAL ADDITIONAL CONSTRAINTS, EASEMENTS, OR RIGHTS OF WAY NOT SHOWN HEREON.

REPORTING USED FOR ANGULAR AND LINE MEASUREMENTS: LOCAL TOWN 1103  
REPORTING DATE OF LAST FIELD TRIP: 7/13/07

THE FIELD DATA WERE TAKEN BY SURVEYOR J. BLASZUS AS A CLOSELY PRECISION  
ONE FOOT IN 100,000 FEET, AND AN ANGULAR ERROR OF 0.0 PER ANGLE.

THE PLAT HAS BEEN CALCULATED FOR CLOSURE, AND IS FOUND TO BE ACQUAITE  
TO WITHIN ONE FOOT IN 62,892 FEET.

BEARINGS SHOWN ON THIS SURVEY ARE FROM GRID NORTH. (EA 63 WEST ZONE)  
NO PORTION OF THIS PROPERTY IS LOCATED IN A SPECIAL FLOOD AREA AS PER  
FEMA COMMUNITY PRACTICE NO. 130002 DATED 12/07/07 AUGUST 18, 1992.

THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM ABOVE  
GROUND FIELD SURVEY INFORMATION. THE SURVEYOR MAKES NO GUARANTEES  
THAT THE UNDERGROUND UTILITIES ARE ACCURATELY LOCATED. THE SURVEYOR  
NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT  
LOCATION INDICATED, ALTHOUGH THEY ARE LOCATED AS ACCURATELY AS  
PRACTICABLE. THE SURVEYOR HAS NOT PHYSICALLY  
LOCATED THE UNDERGROUND UTILITIES.

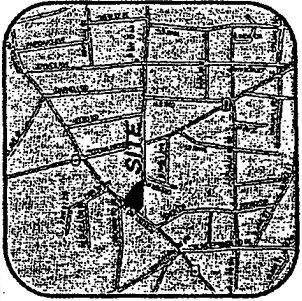
GRAPHIC SCALE IN FEET  
1" = 20'

A BOUNDARY SURVEY PREPARED BY:  
 POINT TO POINT  
 LAND SURVEYORS  
 810 Jackson Street  
 LOCUS  
 (p) 67  
 4497

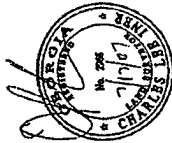


LAND LOT: 224  
DISTRICT: 17TH  
SECTION: 2ND  
CITY: WARETTA  
COUNTY: COBB  
STATE: GEORGIA  
DATE: JULY 17, 2007  
DRAWN BY: 1  
CHECK BY: P2P  
APPROVED BY: C. NGR  
JOB #: 2007.406  
FILE #: 07C-066  
SHEET NUMBER

1 OF 1 SHEETS



**VICINITY MAP**  
**NOT TO SCALE**



**GRAND NORTH**