

TRACT AREA= 0.293 ACRES (12,747 S.F.)

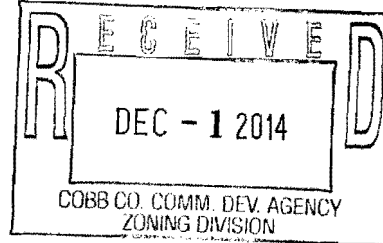


ALL DIMENSIONS ARE CALCULATED
FROM A SINGLE MAGNETIC OBSERVATION
AT THE TIME OF SURVEY.

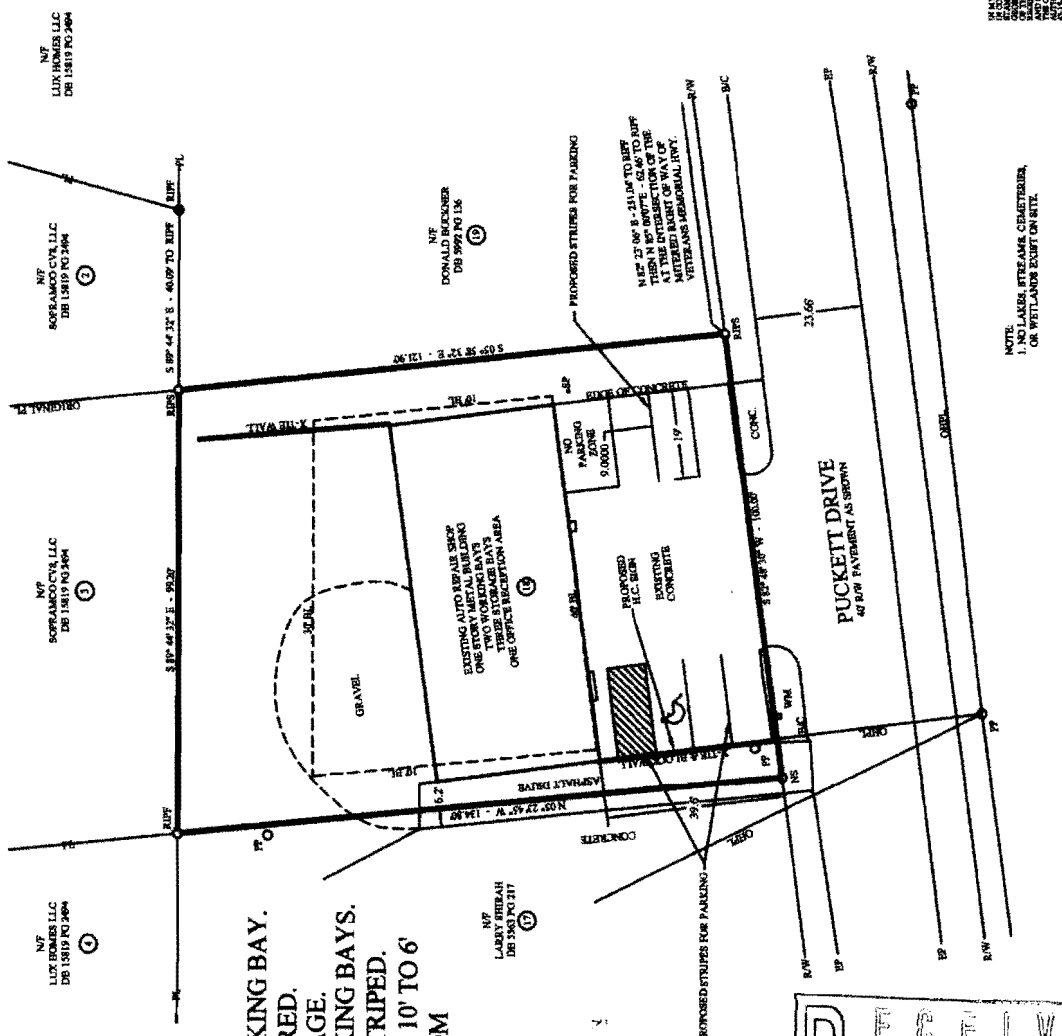
- GENERAL NOTES:**
1. CURRENT ZONING GC TO REMAIN GC.
 2. REQUIRED PARKING 3 SPACES PER WORKING BAY.
 - 2 WORKING BAYS X 3 = 6 SPACES REQUIRED.
 - 3 NON WORKING BAYS USED FOR STORAGE.
NO PARKING PROVIDED FOR NON WORKING BAYS.
 3. PARKING PROVIDED AS SHOWN ONCE STRIPED.
 4. VARIANCE REQUIRED ON SIDE BL FROM 10' TO 6'
 5. VARIANCE REQUIRED ON FRONT BL FROM 40' TO 39'.
 6. VARIANCE REQUIRED FOR LOT SIZE.
REQUIRED LOT SIZE 20,000 S.F.
EXISTING LOT SIZE 12,747 S.F.

SITE ADDRESS:

BRAKE CITY
632 PUCKETT DRIVE
MABLETON, GA. 30126
DB 14893 PG 6279
TAX ID # 17003700160



- LEGEND**
- BC - BACK OF CURB
 - BL - BUILDING SETBACK LINE
 - BN - BOUNDARY
 - DR - DEDICATED DRIVE
 - DE - DEED BOUNDARY
 - DM - DRIVE
 - DI - DRIVE
 - BL - BOUNDARY
 - LL - LAND LOT
 - LN - LOT NUMBER
 - NS - NAIL SET
 - OP - OVERHEAD POWER LINE
 - PL - PLAT BOOK
 - PL - PROPERTY LINE
 - PP - POWER POLE
 - SP - REBAR IRON PIN FOUND
 - ST - SURVEY TIE
 - SW - SIDEWALK
 - SP - SIGN POLE
 - WM - WATER METER



NOTE:
1. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
2. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
3. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
4. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.



FRANKLIN L. MILLINES

PAUL LEE CONSULTING ENGINEERING ASSOCIATES, INC.
PLANNING - ENGINEERING - LAND SURVEYING
3982 AUSTELL-POWDER SPRINGS ROAD - POWDER SPRINGS, GEORGIA 30127
PH. (770) 435-3376 - EMAIL: paul.lee@plce.com

LOT 18 R.P. GLORE ESTATES SUBD. PB 11 PG 59
LAND LOT 37 17TH DISTRICT 2ND SECTION
COBB COUNTY, GEORGIA
DATE: 11-26-14
SCALE: 1"= 20'

COMP. _____
JOB. _____
2014061

V-22
(2015)

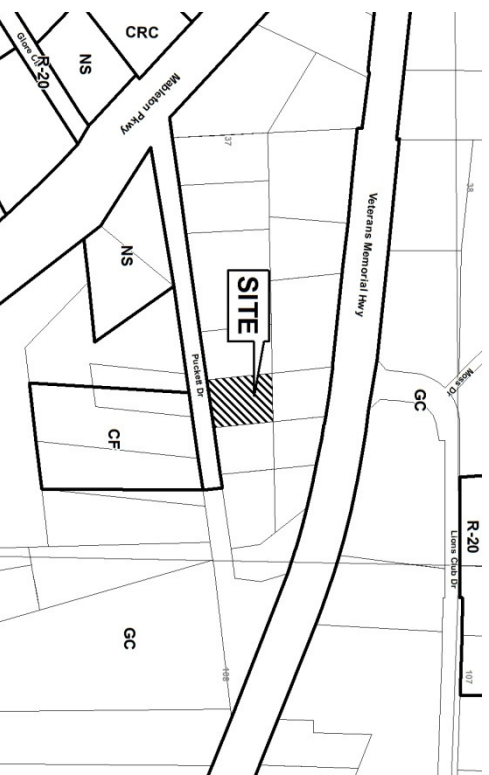
APPLICANT: Franklin L. Millines **PETITION No.:** V-22
PHONE: 770-948-8885 **DATE OF HEARING:** 02-11-2015
REPRESENTATIVE: Harvey Millines, Sr. **PRESENT ZONING:** GC
PHONE: 770-948-8885 **LAND LOT(S):** 37
TITLEHOLDER: Franklin L. Millines **DISTRICT:** 17
PROPERTY LOCATION: On the north side of **SIZE OF TRACT:** 0.29 acre
Puckett Drive, west of Veterans Memorial Highway **COMMISSION DISTRICT:** 4
(632 Puckett Drive).

TYPE OF VARIANCE: 1) Waive the side setback from the required 10 feet to 6 feet adjacent to the western property line; 2) waive the front setback from the required 40 feet to 39 feet; 3) waive the minimum number of parking spaces from the required 16 spaces to 6 spaces; and 4) waive the required 8 foot landscape enhancement strip along the entire road frontage.

OPPOSITION: No. **OPPOSED** _____ **PETITION No.** _____ **SPOKESMAN** _____

BOARD OF APPEALS DECISION

APPROVED _____ **MOTION BY** _____
REJECTED _____ **SECONDED** _____
HELD _____ **CARRIED** _____
STIPULATIONS: _____



COMMENTS

TRAFFIC:

Recommend no parking on the right-of-way
Recommend no on street parking.

DEVELOPMENT & INSPECTIONS: No comment.

SITE PLAN REVIEW: If this variance request is approved, a subdivision plat revision must be recorded prior to the issuance of the certificate of occupancy showing all improvements on the lot and referencing the variance case in the standard plat revision note. The surveyor must submit the plat to the Site Plan Review Section, Community Development Agency for review and approval prior to recording. Call 770-528-2147.

STORMWATER MANAGEMENT: No apparent adverse stormwater management issues were observed for these existing conditions.

HISTORIC PRESERVATION: After examining Civil War trench maps, Cobb County historic property surveys, county maps, and various other resources, staff has no comments regarding the impact or treatment of historic and/or archaeological resources.

DESIGN GUIDELINES: No comment.

CEMETERY PRESERVATION: There is no significant impact on the cemetery site listed in the Cobb County Cemetery Preservation Commission's Inventory Listing which is located in this, or adjacent land lot.

WATER: No conflict.

SEWER: No conflict.

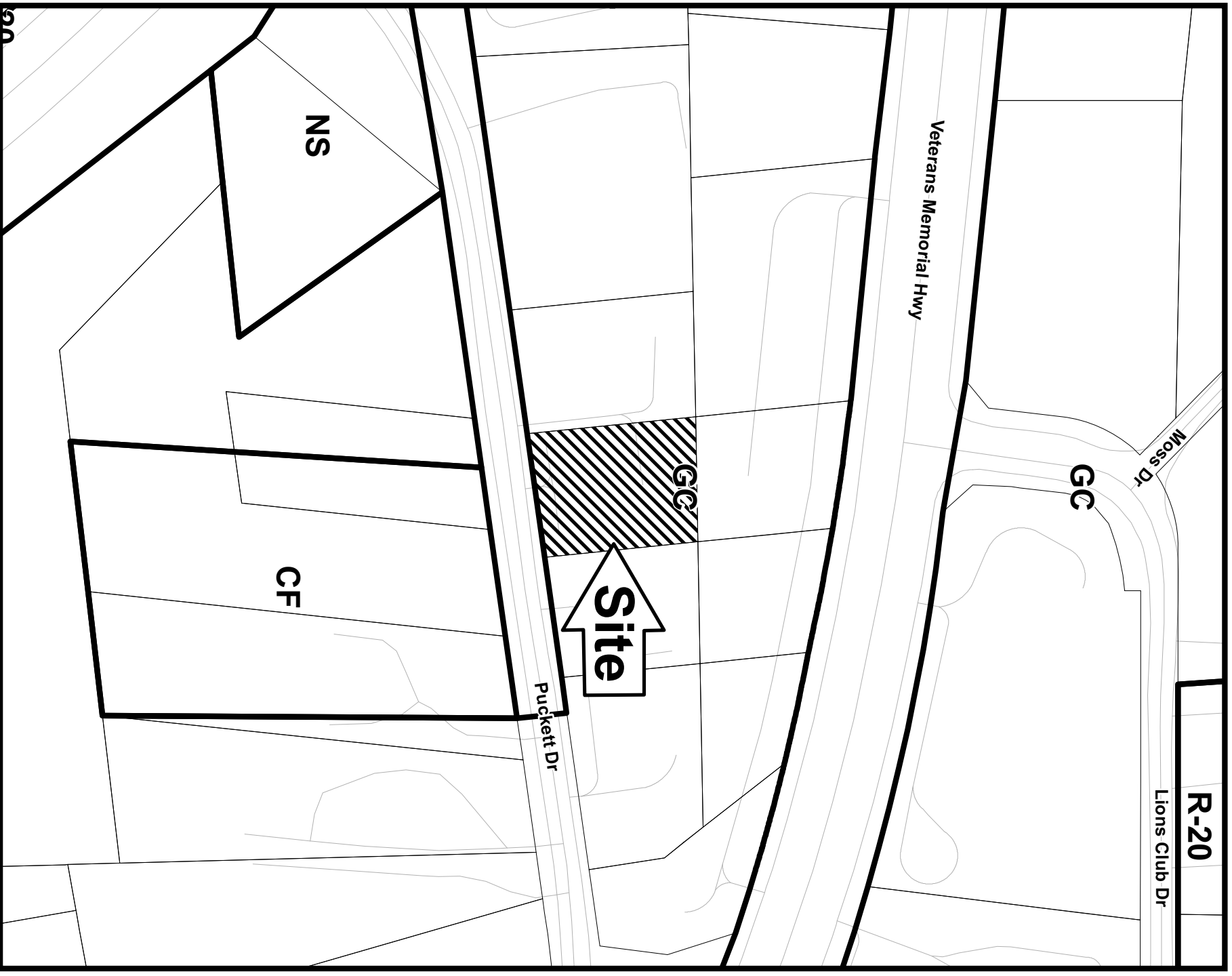
APPLICANT: Franklin L. Millines

PETITION No.: _____

V-22

FIRE DEPARTMENT: After analyzing the information presented for a Preliminary Review, the Cobb County Fire Marshal's Office is confident that all other items can be addressed during the Plan Review Stage.

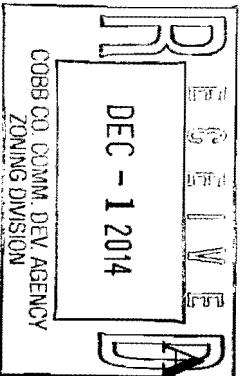
V-22



This map is provided for display and planning purposes only. It is not meant to be a legal description.



City Boundary
Zoning Boundary



Application for Variance Cobb County

(type or print clearly)

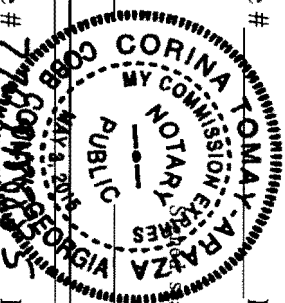
Application No. V-22
Hearing Date: 2-11-15

Applicant FRANKLIN L MILLINES Phone # 770-948-8825 E-mail NONE

Address Hansen Millines Sr, 632 PUCKETT DR MARLBORON, GA 30126
(street, city, state and zip code)

Signature Franklin Millines Phone # _____ E-mail _____
(representative's signature)

My commission expires: MAY 03, 2015

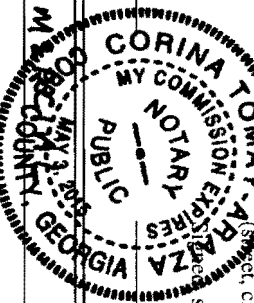


[Signature]
Notary Public

Titleholder FRANKLIN L MILLINES Phone # 770-948-8825 E-mail NONE

Signature Franklin Millines Address 632 PUCKETT DR MARLBORON, GA 30126
(attach additional signatures, if needed)

My commission expires: MAY 03, 2015



[Signature]
Notary Public

Present Zoning of Property C-3 COMM

Location 632 PUCKETT DR (street address, if applicable; nearest intersection, etc.)

Land Lot(s) 028 37 District R17 Size of Tract 0.29 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.

Requesting variance to meet the terms of the zoning ordinance. The location does not have enough parking spaces to meet the zoning ordinance.

List type of variance requested: PARKING Variance is requested

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF
JAMES A. BALLI

SUITE 100
376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

770-422-7016
TELEPHONE
770-426-6583
FACSIMILE

ADAM J. ROZEN

SLHB-LAW.COM

January 12, 2015

VIA EMAIL:

Mr. John P. Pederson, AICP, Division Manager
Cobb County Community Development Agency
1150 Powder Springs Road, Suite 400
Marietta, GA 30064

Re: Variance Application of Franklin L. Millines (No. V-22)

Dear John:

This firm was recently engaged by and will be representing the Applicant who is also the Property Owner concerning the above-captioned Variance Application. The Application is scheduled to be heard by the Cobb County Board of Zoning Appeals ("BZA") on February 11, 2015.

The subject matter of the Variance Application is a business known as Quality Auto Service Center, LLC, d/b/a Brake City which is located at 632 Puckett Drive in Mableton ("subject property"). As a part of the ongoing Code Enforcement sweep along the Veterans Memorial Highway Corridor, my client was cited for not striping the parking lot.

Mr. Millines and his family have been in business since 1970 and relocated to the subject property in 2011 (formerly known as "Stephens Body Shop"). At all times, the property has been and is still being utilized for minor auto repair and brake repair. The business' hours of operation are from 8:00 a.m. until 6:00 p.m., Monday through Saturday with the business being closed on Sunday. The business has one (1) full-time employee who is Franklin Millines and his son, Leon, who sometimes assists Mr. Millines. The building itself is approximately 5,760 sq. ft. in size but utilizes only two (2) of the bays located therein for car work with the other bays being utilized exclusively for storage.

The subject property is zoned General Commercial ("GC") and is located within a Community Activity Center ("CAC") under the Future Land Use Map; therefore, it is a non-conforming, but "grandfathered" exemption. Nevertheless, even after paying a fine in the Magistrate Court of Cobb County for not striping the parking spaces within the parking area on the property, my client filed his Application for a Variance.

SAMS, LARKIN, HUFF & BALLI
A LIMITED LIABILITY PARTNERSHIP

VIA EMAIL:


Mr. John P. Pederson, AICP, Division Manager
Cobb County Community Development Agency
January 12, 2015
Page 2

During the course of preparing the site plan, our engineer, Mark G. Lee, P.E., also discerned, in addition to the striping and designation of parking spaces, that as-built circumstances warranted that a side setback from ten feet (10') to six feet (6'); a front setback from forty feet (40') to thirty-nine feet (39'); and, a variance waiving the required lot size from 20,000 sq. ft. to 12,747 sq. ft. would be in order from a "house-keeping" perspective. Those additional issues were not, of course, a part of the Code Enforcement Citation.

I trust that you will ensure that the Planner assigned to this case receives a copy of this letter and that it is placed in the official Zoning file. Please let me know if there is any further information or documentation which you need from me in order to formulate the Variance Analysis which will be prepared by the professional staff. In the interim, attached is a Constitutional Challenge regarding the Variance Application. With kind regards, I am

Very truly yours,

SAMS, LARKIN, HUFF & BALLI, LLP



Garvis L. Sams, Jr.
gsams@slhb-law.com

GLS/dsj
Attachment

cc: Mr. Murray Homan, BZA Chairman (via email w/attachment)
Mr. Robert L. Hosack, Jr., AICP Director (via email w/attachment)
Mr. Dana Johnson, AICP Deputy Director (via email w/attachment)
Mr. Jason Campbell, Planner III (via email w/attachment)
Mr. Terry Martin, Planner II (via email w/attachment)
Messrs. Frank and Jack Millines (via email w/attachment)

ADDENDUM TO APPLICATION FOR VARIANCE

Hearing Date: February 11, 2015

BEFORE THE COBB COUNTY BOARD OF ZONING APPEALS

CONSTITUTIONAL CHALLENGE

COMES NOW the Applicant, FRANKLIN L. MILLINES (hereinafter referred to as the "Applicant") and asserts the following:

1. By Application for Variance, the Applicant has applied for a Variance as to requirements of the Cobb County Zoning Ordinance (hereinafter the "Ordinance") which impose certain requirements as same apply to the property more particularly set forth in said Application (hereinafter referred to as the "Subject Property").

2. The Applicant states that a literal interpretation and enforcement of Ordinance provisions creates a hardship.

3. Enforcement of Ordinance requirements concerning the Subject Property creates an unnecessary and unreasonable hardship with no resulting substantial benefit to the public good.
- 4.

The variances sought by the Applicant concerning the subject property will not impair the purpose, spirit and intent of the Ordinance and stand to alleviate any

and all non-compliance of the foregoing requirements while causing no substantial detriment to the public good.

5.

Applicable Ordinance provisions concerning the required variances are unconstitutional as applied to the Subject Property in that same deprive the Applicant of property under and pursuant to Article I, Section I, Paragraphs I and II of the Georgia Constitution of 1983 and the Equal Protection and Due Process Clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States of America. This deprivation of property without due process violates the constitutional prohibition against the taking of private property without just compensation.

6.

Applicable Ordinance provisions, as applied to the Subject Property, violate the Applicant's right to the unfettered use and development of the Subject Property in conformity with the existing Ordinance in that the Ordinance creates an unreasonable hardship totally unrelated to public health, safety, morality, or general welfare and is therefore confiscatory and void. Further, same is unconstitutional in that it is arbitrary, unreasonable and injurious resulting in relatively little gain or benefit to the public while at the same time inflicting serious injury and loss upon the Applicant.


7.

The Ordinance is further unconstitutional in that the procedures contained therein pertaining to the public hearing held in connection with Applications for Variances also violate Article I, Section I, Paragraphs I, II and XII of the Georgia Constitution of 1983 in that said procedures impose unreasonable time restraints,

contain the absence of rebuttal, contain the inability to confront witnesses, contain the lack of procedural and evidentiary safeguards, do not restrict evidence received to the issue at hand and are controlled wholly and solely by political considerations rather than the facts and considerations required by law. These procedures fail to comport with the due process requirements of the Constitution of the State of Georgia 1983 and the due process requirements of the Constitution of the United States of America.

This 12TH day of January, 2015.

SAMS, LARKIN, HUFF & BALLI, LLP

By: 
GARVIS L. SAMS, JR.
~~Attorney for Applicant~~
Ga. Bar No. 623950