

16-00095  
BOA-16-02



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MAR 03 2016

# BOARD OF APPEALS APPLICATION

CITY OF SNELLVILLE  
PLANNING & DEVELOPMENT

## APPLICATION FOR VARIANCE, APPEAL, OR WAIVER

City of Snellville  
Planning & Development Department  
2342 Oak Road, 2<sup>nd</sup> Floor  
Snellville, GA 30078  
Phone 770.985.3513 Fax 770.985.3551 [www.snellville.org](http://www.snellville.org)

1740 SCENIC HWY  
#1600095 BOA VARIANCE/APPEAL #16-02  
PARCEL- 5056 009  
PARK PLACE CRACKER BARREL

Applicant is: (check one)  
 Owner's Agent  
 Contract Purchaser  
 Property Owner

LVP 15-02 RZ15-02  
ORIGINAL SITE ZONING CASE  
Owner (if not the applicant):  Check here if there are additional property owners and attach additional sheets.

ADAMS HILL, LLC for CRACKER BARREL  
Name (please print) OLD COUNTRY STORE  
3928 CARRIZO DR.  
Address  
PLANO, TX 75074  
City, State, Zip Code  
409-644-3198  
Phone Number(s) Fax

Park Place Snellville LLC  
Name (please print)  
1505 Lakes Parkway Ste. 190  
Address  
Lawrenceville GA 30043  
City, State, Zip Code  
678-584-9377 678-584-9988  
Phone Number(s) Fax  
maadecaberg@abernathytimberlake.com

Contact Person: PATRICIA HILL  
Cell Phone: 469-644-3198

Phone: 409-644-3198 Fax: ---  
E-mail: patricia.hill@me.com

Application for: (check one)  
 Appeal  Variance from Zoning Ordinance  Variance from Municipal Code  Waiver of Development Regulations

Section(s) of Zoning Ordinance VARIANCE request is for: SECTION 7.7(4)(B)  
Section(s) of Municipal Code VARIANCE request is for: N/A  
Section(s) of Development Regulations WAIVER request is for: N/A  
Property Address/Location: 1740 Scenic Hwy District 5 Land Lot 56 Parcel(s) 5056 009 PART OF:

State the purpose of this request: VARIANCE FROM RATIO AMT OF ALLOWED BLDG MATERIALS (TABLE 1) TO ALLOW USE OF STUCCO ON FRONT BLDG ELEVATION AND EXCEED 25% MAX. LIMIT FOR USE ON SIDE AND REAR BLDG ELEVATION.

At a minimum, the following items are required with submittal of this application. **INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED.**

- 1. Pre-submittal appointment recommended a minimum of five (5) business days prior to Application deadline to ensure application is complete, accurate, and includes all required attachments/exhibits and required signatures;
- 2. Payment of the appropriate application, public notice sign, and adjoining property owner notification fees. Make checks payable to City of Snellville;
- 3. Letter of Intent explaining the reason (and demonstrated hardships) for the request for the variance, appeal, or waiver;
- 4. The names, addresses, and original signatures of the owners of the subject parcel(s) and their agents, if any;
- 5. Analysis of impact (if variance application) or details of grievance (if appeal) or details of waiver request (if waiver) as per Section 14.5;
- 6. A current legal description of the subject parcel(s). If the property proposed for a variance, appeal, or waiver includes multiple parcels, provide a separate legal description for each individual parcel, together with a composite legal description for all parcels;
- 7. Warranty Deed or Certificate of Title (for all parcels subject to this application) to provide proof of property ownership;
- 8. VARIANCE or WAIVER applications only: Nine (9) copies and one (1) original of the proposed Site and Concept Plan and one (1) 11" x 17" (or smaller) reduction of the plan, drawn to scale, showing: (a) north arrow; (b) district, land lot(s) and parcel number(s); (c) the dimensions with bearing and distance; (d) acreage; (e) location of the tract(s), (f) the present zoning and land use classification of all adjacent parcels, (g) the proposed location of structures, driveways, parking and loading areas; (h) the location and extent of required buffer areas; and (i) location of floodplains. Site and Concept Plan shall be prepared by an architect, engineer, landscape architect, or land surveyor whose Georgia state registration is current and valid. Site plan must be stamped and sealed by one of the four above-mentioned professionals no more than six (6) months prior to the date of submittal. All documents must be folded to 8-1/2" x 11";
- 9. Exhibits and accompany documentation to support application and request for variance, appeal, or waiver;
- 10. Nine (9) stapled or bound copies of: (a) completed application; (b) Letter of Intent; and (c), Exhibits and all supporting documents. In addition, one (1) unbound application (original) bearing original signatures and all other required documents; and
- 11. A CD-ROM containing a digital file of: (a) site plan in .pdf and .dwg file formats, (b) legal description(s) in .pdf file format, and (c) completed and signed Variance, Appeal, and Waiver application (and all supporting documents) in .pdf file format.

If request is for an APPEAL, please discuss your grievance in detail. You may attach additional sheets and provide additional documentation as appropriate:

N/A

A VARIANCE from the terms of the Snellville Zoning Ordinance or Development Regulations shall not be granted by the Board of Appeals unless and until the applicant has **demonstrated** the following. You may attach additional sheets and provide additional documentation as appropriate:

1) **Demonstrate** that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures, or buildings in the same zoning district. CRACKER BARREL IS A NATIONALLY BRANDED DESIGN AS TO ARCHITECTURE AND AESTHETICS, AND ITS "LOOK" IS CRUCIAL TO ITS SUCCESS IN A NEW LOCATION. PROPOSED MATERIALS ARE OF HIGH QUALITY, AND MAINTENANCE OF SAME IS OF HIGH IMPORTANCE TO CB'S CORPORATE OWNER AND OPERATIONS TEAM.

2) **Demonstrate** that literal interpretation of the provisions of the Zoning Ordinance or Development Regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance or Development Regulations. SIMILAR VARIANCES HAVE BEEN GRANTED TO OTHER NATIONALLY BRANDED USERS/STRUCTURES IN BG DISTRICT, INCLUDING ACADEMY SPORTS, CHIPOTLE AND OLD NAVY.

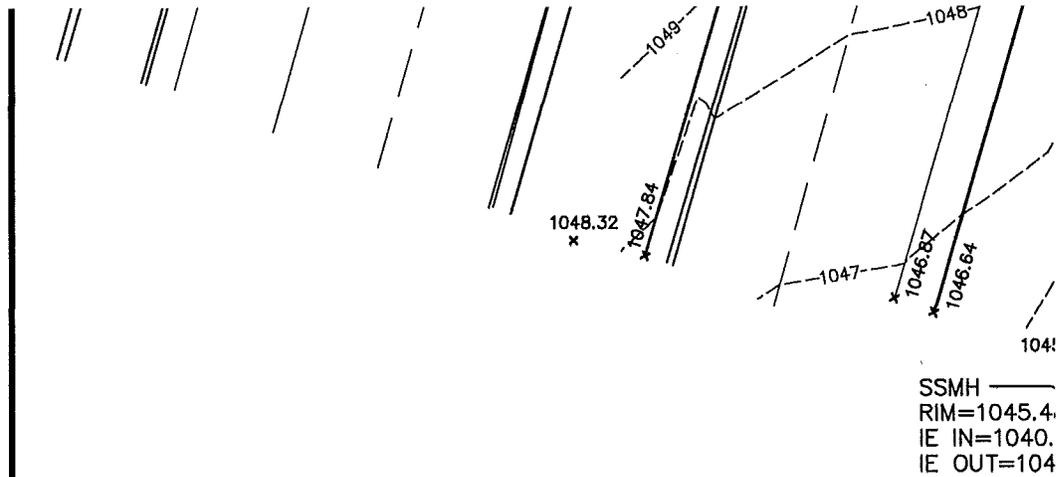
3) **Demonstrate** that the special conditions and circumstances do not result from the actions of the applicant. "ACTIONS" OR INACTIONS HAVE NO PART IN THIS REQUEST. CRACKER BARRELS BUILDING IS CRACKER BARRELS BUILDING, A STAPLE IN ITS BRAND RECOGNITION.

4) **Demonstrate** that granting the variance (or waiver) requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance or Development Regulations to other lands, structures, or buildings in the same zoning district. VARIOUS VARIANCE REQUESTS HAVE BEEN GRANTED BY CITY BOA OVER PAST YEAR, INCLUDING BOA 15-09, BOA 15-11, AND ESPECIALLY 15-07. EACH PERTAINED TO ARCHITECTURAL REQUIREMENTS AND EACH WAS IN BG DISTRICT. BOA 15-07 SPECIFICALLY DEALT WITH INCREASE IN ALLOWED EXTERIOR BUILDING MATERIAL PERCENTAGE. SUBJECT REQUEST IS SETTING NO PRECEDENCE

**Please Note:** Non-conforming uses of adjacent properties cannot be considered as grounds to justify a variance. Peculiar conditions or circumstances which are the result of actions of the owner of property covered by this application cannot be considered as grounds justifying a variance. A "use variance", i.e. a variance for the purpose of using land or a structure, or combination thereof for a purpose prohibited by the present zoning classification of the property covered by this application will not be granted.



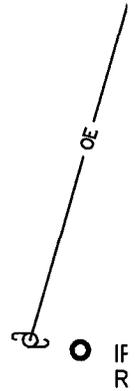




### PARCEL DESCRIPTION:

All that piece, parcel or tract of land, lying and being located Land Lot 56, 5th District, City of Snellville, Gwinnett County, State of Georgia, being a portion of property described in Deed Book 14257, page 120, and being more particularly described as follows:

Beginning at a point located on the proposed eastern right-of-way of Georgia Hwy. 124 (Scenic Hwy -variable width right-of-way), said point located approximately 1004.5 feet in a northeasterly direction along the eastern right-of-way of Georgia Hwy. 124 from its intersection of Pharrs Road; thence along said right-of-way along a curve concave to the west having a radius of 23041.31 feet and a chord bearing and distance of N 15°45'03"E for 259.82 feet to a point; thence leaving said proposed right-of-way, S 75°27'57"E for 309.08 feet to an iron pin; thence S 15°04'21"W for 180.21 feet to an iron pin; thence S 15°47'39"W for 61.73 feet to a point; thence N 74°12'22"W for 269.20 feet to a point; thence S 15°47'39"W for 24.69 feet to a point; thence N 74°12'22"W for 41.88 feet to the Point of Beginning. Said tract contains 1.722 acres (75,000 sq. ft.), more or less.





# ACCOUNT DETAIL

[View/Pay Your Taxes](#) / [Account Detail](#)

## Tax Account

## Pay Online

### Mailing Address:

PARK PLACE SNELLVILLE LLC  
1505 LAKES PKWY STE 190  
LAWRENCEVILLE, GA 30043-5891

### SITUS:

1690 SCENIC HWY

### Tax District:

SNELLVILLE

No payment due for this account.

[Change Mailing Address](#)

### Parcel ID

R5056 009

### Property Type

Real Property

### Last Update

2/19/2016 1:01:08 PM



## Legal Description

PHARRS RD



[Click here for map](#)

## Tax Bills

Note: Four years of tax information is available online. Email [tax@gwinnettcountry.com](mailto:tax@gwinnettcountry.com) to request other years.

Tax Year	Net Tax	Total Paid	Penalty/Fees	Interest	Due Date	Amount Due
2015	\$0.00	\$0.00	\$0.00	\$0.00	10/15/2015	\$0.00
2014	\$0.00	\$0.00	\$0.00	\$0.00	10/1/2014	\$0.00
2013	\$0.00	\$0.00	\$0.00	\$0.00	10/3/2013	\$0.00
2012	\$0.00	\$0.00	\$0.00	\$0.00	10/15/2012	\$0.00
<b>Total</b>						\$0.00

[Print Tax Bill](#)

**Click to view and print your Aug 2015 tax bill.**

\* This bill is good through Oct 15, 2015 only.

BK 53495 PG 0839

FILED & RECORDED  
CLERK SUPERIOR COURT  
GWINNETT COUNTY, GA.

2015 APR 15 PM 4:28

RICHARD ALEXANDER, CLERK

302722

PT-61 # 07.2015-007948  
GWINNETT CO GEORGIA  
REAL ESTATE TRANSFER TAX  
\$ 1311.50  
RICHARD T ALEXANDER, JR. CLERK OF  
SUPERIOR COURT

After Recording Return To,  
MAHAFFEY PICKENS TUCKER, LLP  
1550 North Brown Road, Suite 125  
Lawrenceville, Georgia 30043  
File #2209-0008 (ALC/brp)

**LIMITED WARRANTY DEED**

STATE OF GEORGIA  
COUNTY OF GWINNETT

THIS INDENTURE, Made the 14<sup>th</sup> day of April, 2015, by and between, **SUSIE D. BRISCOE**, as party or parties of the first part, hereinafter referred to as "Grantor," and **PARK PLACE SNELLVILLE, LLC**, a Georgia limited liability company, as party or parties of the second part, hereinafter called "Grantee" (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits)

WITNESSETH that. Grantor, for and in consideration of the sum of TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATIONS (\$10.00) in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee,

All THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 56 of the 5<sup>th</sup> District, Gwinnett County, Georgia, and being more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference.

Said property is conveyed subject to those permitted title exceptions set forth on Exhibit "B" attached hereto and made a part hereof by this reference.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise

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**BK 53495 PG 0840**

appertaining, to the only proper use, benefit and behoof of the said Grantee forever in FEE SIMPLE.

AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of Grantor and all others claiming by, through or under Grantor.

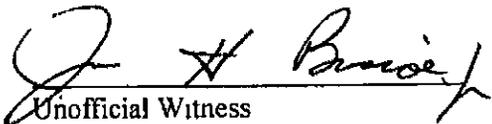
[SIGNATURES ON FOLLOWING PAGE]

BK 53495 PG 0841

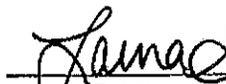
IN WITNESS WHEREOF, the Grantor has signed and sealed this deed, the day and year above written.

Signed, sealed and delivered  
in the presence of:

GRANTOR:

  
Unofficial Witness

 (SEAL)  
SUSIE D. BRISCOE

  
Notary Public  
[NOTARY SEAL]



BK 53495 P00842

**EXHIBIT "A"**

PROJECT NO.: DPI-0202 (001) CT.2  
P. I. NO.: 122720  
PARCEL NO.: 5

COUNTY: GWINNETT

All that tract or parcel of land lying and being in Land Lot 56 of the 5th Land District of Gwinnett County, Georgia, as shown in plat by Robert J. Cagle, registered surveyor, dated July 21, 2014 for the Georgia Department of Transportation, and being more particularly described as follows:

TRACT 2

BEGINNING at a three quarter inch rebar found on the existing easterly right-of-way of SR124 on the southerly property line of N/F DDR Southeast Snellville, LLC; Thence proceeding S75°31'53"E for a distance of 50.03 to an iron pin set and the TRUE POINT OF BEGINNING; Thence proceeding S75°31'53"E for a distance of 309.03 feet to point; Thence proceeding S15°01'11"W a distance of 399.02 feet to a one inch square rod found; Thence proceeding N75°42'23"W a distance of 315.42 feet to an iron pin set; Thence proceeding 400.10 feet along a curve said curve having a radius of 22941.31 feet and a chord distance of 400.10 feet on a bearing of N15°55'58"E back to the TRUE POINT OF BEGINNING.

Said property contains 2.87 acres, more or less.

This conveyance is made subject to any easement of record and any utilities facilities permitted by the Department of Transportation.

BK 53495 PG 0843

**EXHIBIT "B"**

**Permitted Title Exceptions**

- 1 All general and special taxes and assessments for the year 2015 and subsequent years, liens not yet due and payable and any additional taxes, interest and/or penalties which may be assessed for prior tax years by virtue of adjustment, re-appraisal, re-assessment, appeal or other amendment to the tax records of the city or county in which the subject property is located.
2. All matters as shown on that plat of survey recorded at Plat Book G, Page 10-B, Gwinnett County, Georgia Records
- 3 Right of Way Deed from G. W. Pharr to State Highway Board of Georgia, dated August 8, 1989, recorded at Deed Book 54, Page 605, aforesaid records.
- 4 Right of Way Deed from James H. Briscoe to Department of Transportation, dated July 26, 1990, recorded at Deed Book 6131, Page 171, aforesaid records
5. Right of Way Deed from James H. Briscoe and Susie D. Briscoe to Department of Transportation, dated June 3, 1997, recorded at Deed Book 14257, Page 120, aforesaid records

BK 53495 P00835

FILED & RECORDED  
CLERK SUPERIOR COURT  
GWINNETT COUNTY, GA.

2015 APR 15 PM 4:28

RICHARD ALEXANDER, CLERK

PT-81# 67. 2015-007946  
GWINNETT CO. GEORGIA  
REAL ESTATE TRANSFER TAX  
\$ None  
RICHARD T. ALEXANDER, JR. CLERK OF  
SUPERIOR COURT

302721 - 36

*Mahaffey Pickens*  
1530 N. Brown Rd GEORGIA DEPARTMENT OF TRANSPORTATION  
Suite 125 QUITCLAIM DEED  
Lawrenceville GA 30043

STATE OF GEORGIA  
COUNTY OF FULTON

PROJECT: DPI-0202(001) CT.2  
GWINNETT COUNTY  
PARCEL 5, PI # 122720  
PM # 3054

THIS INDENTURE, made this 13<sup>th</sup> day of MARCH, 2015, between the  
DEPARTMENT OF TRANSPORTATION, an agency of the State of Georgia (herein called  
"Grantor") and SUSIE D. BRISCOE (herein called "Grantee")

WITNESSETH: that the Grantor for and in consideration of the sum of ONE DOLLAR  
(\$1.00) AND OTHER GOOD AND VALUABLE CONSIDERATION, cash in hand paid, the  
receipt of which is hereby acknowledged, has bargained, sold, and does by these presents  
bargain, sell, remise, release, and forever QuitClaim to Grantee all the right, title, interest, claim  
or demand which Grantor has or may have had in and to all that right of way as described in  
Exhibit "A" and shown on the attached plat marked as Exhibit "B".

TO HAVE AND TO HOLD the said described premises, together with all and singular  
the rights, privileges and appurtenances thereto, or in anywise appertaining, to the only proper  
use, benefit and behoof of the Grantee, his heirs and assigns, forever.

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BK 53495 PG 0836

IN WITNESS WHEREOF, the Grantor, acting by and through the Commissioner of the Department of Transportation, has hereunto caused the hand and seal of the Department of Transportation to be set to these presents the day and year first above written.

DEPARTMENT OF TRANSPORTATION  
An agency of the State of Georgia

Signed, Sealed and Delivered this the  
13<sup>th</sup> day of March, 2015 in the  
Presence of

BY: [Signature] (Seal)  
Russell R. McMurry, P.E.  
Commissioner

Charis R. Madani  
Witness

ATTEST: [Signature] (Seal)  
Angela O. Whitworth  
Treasurer

[Signature]  
Notary Public  




BK 53495 PG 0837

**EXHIBIT "A"**

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P. I. NO.: 122720  
PARCEL NO.: 5

COUNTY: GWINNETT

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Said property contains 2.87 acres, more or less.

This conveyance is made subject to any easement of record and any utilities facilities permitted by the Department of Transportation.



## **Adjoining Property Owner**

North- and northeast-adjacent to subject site:

Property owner name: DDR Southeast Snellville, LLC

Current mailing address: 3300 Enterprise Pkwy  
Beachwood, OH 44122-7200

Tax parcel number: 5056 008

Tax parcel number: 5056 012