



**CITY OF SNELLVILLE
PLANNING & DEVELOPMENT DEPARTMENT**

BOARD OF APPEALS

VARIANCE CASE SUMMARY

October 10, 2017

CASE NUMBER: #BOA 17-08

REQUEST: Variances from the Buffer, Landscape and Tree Ordinance and the Development Regulations

APPLICABLE SECTION(S): Article III, Landscape Ordinance of Chapter 19, Sec. 6.13(3)(b), Sidewalks of the Snellville Development Regulations to allow the existing landscape and sidewalk conditions on the property to remain "as-is".

LOCATION: 2417 Lenora Church Road, Snellville

PARCEL: 5026 298

ZONING: BG (General Business) District

OVERLAY: Corridor Overlay District

PROPERTY OWNER: Wesley and Susan Aikens
Snellville, Georgia 30078

APPLICANT/CONTACT: Wesley Aikens
(678) 990-5573 or waaikens@bellsouth.net

**PLANNING DEPARTMENT
RECOMMENDATION:** Approval with Conditions



**CITY OF SNELLVILLE
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BOARD OF APPEALS

VARIANCE CASE ANALYSIS

October 10, 2017

TO: Snellville Board of Appeals

DATE: October 10, 2017

FROM: Jason Thompson, Director
Department of Planning and Development

CASE NUMBER: #BOA 17-08

FINDING OF FACT:

The Department of Planning and Development has received an application from Wesley and Susan Aikens, requesting variances from the Landscape Ordinance and Development Regulations to allow the existing landscape and sidewalk conditions to remain 'as-is' and re-locate his accounting business, Aikens & Sutter, P.C., currently located at 2123 Easy Street, Ste. C, Snellville.

The 0.359± acre property is zoned BG (General Business) District and located within the Corridor Overlay District at the corner of Lenora Church Road and Henry Clower Blvd. The property was original developed in 1961 for a single-family residence and later converted to 1,866 sq. ft. of office use in 1999, serving as a travel agency under the name of Fantasia Travel, Inc. until relocation of the business in November, 2014. The property has remained vacant since. The Aikens purchased the property in March, 2017.

The adjacent BG zoned properties include Heritage Chiropractic Clinic to the north at 2407 Lenora Church Road (parcel 5026 071B), a similar type property that was converted from residential to office use in 1998, and the 1.79± acre undeveloped property to the west (parcel 5026 292).

VARIANCE REQUEST:

Because the property has been vacant and out of commerce for almost three (3) years now, and in accordance with Section 5.4(5) of Article V, Non-conforming Uses of the 2001 Zoning Ordinance requiring that the structure and premises in combination shall not be used except in conformity with the regulations of the district in which the property is located, the applicant is requesting relief from having to bring the property into compliance with several regulations where non-conformities currently exist. The requested variances are outlined below:

1. Allow for variance from Section 6.13.3(b) of the Development Regulations requiring a six (6) foot wide sidewalk for commercial developments.

There is an existing four (4) foot wide sidewalk adjacent to Lenora church Road and Henry Clower Boulevard.

2. Allow for variance from Section 19.74 of the Landscape Ordinance related to parking lot planter islands.

Applicant is requesting that the existing parking lot and islands remain 'as-is' as shown on the submitted variance plan.

3. Allow for variance from Section 19.73(c)(1) of the Landscape Ordinance relating to front, side and rear landscape strip requirements.

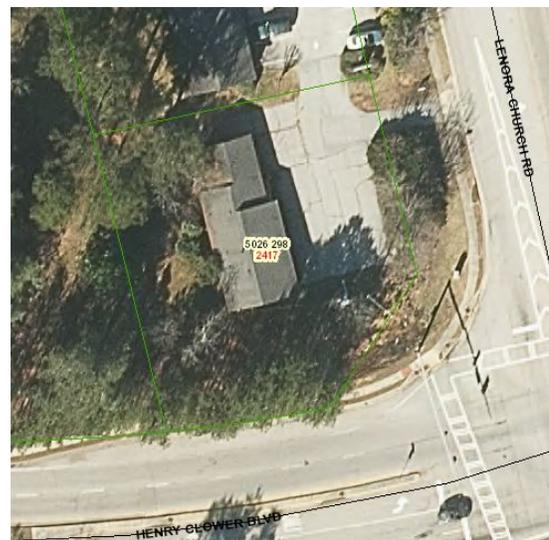
The applicant is requesting this variance to allow the existing parking lot to encroach into the landscape strip along the southeastern property line. The amount of encroachment is 9.6', as show on the submitted variance plan.

4. Allow a general variance for the site to be approved in its current condition, except for the additional items requested on the submitted variance plan.

STAFF ANALYSIS:

Originally built as a single-family residence in 1961, the property and structure was converted in 1999 for office use with minimal improvements being made to the property, except for additional parking being added with a one-way drive connection to the adjacent property.

The most obvious external factor affecting the site is the location of the Lenora Church Road and Henry Clower public right-of-way that was acquired for the construction and continuation of Henry Clower Boulevard east to E. Main Street (U.S. Highway 78) and more recent additional right-of-way acquisition



The property owner is also requesting a variance to allow the existing four (4) feet wide public sidewalk adjacent to Lenora Church Road and Henry Clower Boulevard to remain 'as-is' and not be required to widen (or replace) it to six (6) feet as required by the Development Regulations for commercial properties. This request is reasonable since the sidewalks were originally installed by Gwinnett D.O.T. during the Henry Clower Boulevard extension.

STANDARDS FOR CONSIDERATION:

Pursuant to Section 14.5, Powers and Duties, of the City of Snellville Zoning Ordinance, the City finds the following standards are relevant in considering all applications for a Variance.

1. 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 district;

The property and structure were originally built as a single-family residential property and was later rezoned for office use. Because of the location of the original structure and layout of the property, strict adherence to today's regulations would require total redevelopment of the property.

2. That literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Zoning Ordinance;

The property was in use in its current designation, office, when the current Snellville regulations and ordinances were adopted. Thus, it would take a substantial investment to bring the property up to all current provisions. The applicant argues that this would deprive him of rights commonly enjoyed by other properties of the same zoning district.

3. That the special conditions and circumstances do not result from the actions of the applicant;

The applicant has only recently purchased the property, and no special conditions or circumstances have arisen due to the actions of the applicant.

4. That granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands, structures, or buildings in the same district.

Granting the applicant the variances requested will not confer on the applicant any special privileges denied by the zoning ordinances or development regulations to other lands, structures or buildings in the same district.

However, similar variances have been granted by the Board for properties located within the same zoning district. Section 14.5(2)(f) allows the Board of Appeals to make a

finding that granting of the variance “will be in harmony with the general purpose and intent of the Zoning Ordinance, and will not injurious to the neighborhood, or otherwise detrimental to the public welfare.”

STAFF RECOMMENDATION:

In conclusion, the Department of Planning and Development recommends **Approval** of the requested variances with the following **conditions**:

1. The property shall be developed in general accordance with the submitted site plan, entitled “Variance Plan For: Aiken’s Office”, sealed and dated 08/30/2017 (stamped Received 9-29-2017), with modifications to meet conditions of zoning or State, County, and City regulations;
2. The property owner shall submit a Landscape Plan for review and approval by the Director of Planning and Development with plantings designed to beautify and help stabilize any soil erosion within the ten (10) foot landscape strip along Lenora Church Road including the area along the miter where Lenora Church Road intersects with Henry Cower Boulevard. Said improvements shall be implemented within six (6) months of variance approval. The property owner shall coordinate any landscaping improvements made within any Gwinnett D.O.T. right-of-way;
3. No evergreen or deciduous trees shall be cut or removed from the property including within any landscape strip unless approved for removal as shown on a Tree Replanting/Landscape Plan approved by the Director of Planning and Development;
4. The existing non-conforming pylon sign shall be removed prior to receiving any Certificate of Occupancy. Any new signage shall conform to the City’s Sign Ordinance and require an approved sign permit;
5. Use of the property shall be limited to uses in the BN and BG Districts that meet the City’s parking and loading requirements of Article XI of the Zoning Ordinance;
6. Signs higher than 15 feet and larger than 225 square feet in area are prohibited;
7. Uses involving adult entertainment, including any sale or display of adult magazines, books, or videos and as further defined by the Adult Entertainment Ordinance in effect on the date this condition is imposed, are prohibited; and
8. These variances shall remain in effect until such time as the property is redeveloped, consolidated into and made part of a larger development, or triggered upon issuance of a Substantial Building Permit, at which time all variances shall be come null and void.