



**CITY OF SNELLVILLE
PLANNING & DEVELOPMENT DEPARTMENT**

BOARD OF APPEALS

VARIANCE CASE SUMMARY

January 9, 2018

CASE NUMBER: #BOA 18-02

REQUEST: Variances from Zoning Ordinance

APPLICABLE SECTION(S): Section 7.7 and 11.3 of the Zoning Ordinance;
Articles III and IV of the Landscape and Tree Ordinance

LOCATION: Snellville Oaks Shopping Center
2133 Main Street E., Snellville

PARCEL: 5038 185

ZONING: BG (General Business) District

OVERLAY: Corridor Overlay District

PROPERTY OWNER: RCG-Snellville, LLC
Atlanta, Georgia 30305

APPLICANT/CONTACT: Shane Lanham, Esq.
770-232-0000 or slanham@mptlawfirm.com

**PLANNING DEPARTMENT
RECOMMENDATION:** Approval with Conditions



**CITY OF SNELLVILLE
PLANNING & DEVELOPMENT DEPARTMENT**

BOARD OF APPEALS

VARIANCE CASE ANALYSIS

January 9, 2018

TO: Snellville Board of Appeals

DATE: January 9, 2018

FROM: Jason Thompson, Director
Department of Planning and Development

CASE NUMBER: #BOA 18-02

FINDING OF FACT:

The Department of Planning and Development has received an application from Shane Lanham of Mahaffey Pickens Tucker, LLP on behalf of RCG-Snellville, LLC requesting variances from the Snellville Zoning Ordinance and Landscape and Tree Ordinance.

The subject 0.439± acre property, zoned BG (General Business) District, is an outparcel of the Snellville Oaks Shopping Center, located at 2133 Main Street E., Snellville. The adjacent properties are all part of Snellville Oaks Shopping Center, zoned BG and owned by RCG-Snellville, LLC. The adjacent property to the south is the NCG Cinema which just opened after undergoing a \$650K building renovation.

The subject property was originally developed in 1995 for Marcello's Italian Restaurant, on an outparcel of the Snellville Oaks Shopping Center developed in 1992 with Walmart serving as the original anchor tenant. The property consists primarily of a single-story concrete block building totaling 3,624± square feet with related parking and minimal landscaping.

The property has been vacant since closure of the Stillwaters restaurant in early 2013 and was also the former location for Apollon, Milano's, and Marchello's restaurants. Since closure of the Stillwaters restaurant in 2013, the property has remained vacant for more than eighteen (18) months, resulting in the loss of all of its grandfathering privileges relating to the non-conformities of the property and building.

In accordance with Sec. 5.4(5), Non-conforming Uses:

“When a nonconforming use of structure, or structure and premises in combination, is discontinued or abandoned for eighteen (18) consecutive months or for 36 months during any five-year (5) period (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located. The nonconformity of the structure and premises shall be calculated from the date of adoption of this amended section of this Ordinance (adopted 3-22-2010).”

Therefore, unless granted variance(s) approval, the property must be brought into full compliance with the current requirements of the Zoning Ordinance before issuance of any Certificate of Occupancy (CO) may be issued.

VARIANCE REQUEST:

The applicant is requesting five (5) variances from the Snellville Code of Ordinances including the Snellville Zoning Ordinance and Buffer, Landscape and Tree Ordinance as outlined below:

1. Variance from Section 19.73 of the Landscape and Tree Ordinance regarding Landscape Strips to remove the requirements for landscape strips on the subject property.
2. Variance from Section 19.74 of the Landscape and Tree Ordinance regarding Parking Area Landscaping to allow no additional landscaping to be installed, except for the enhancement of the existing planting areas.
3. Variance from Section 19.76 of the Landscape and Tree Ordinance to waive the TDU requirements for the site not met by the existing trees.
4. Variance from Section 7.7 of the Zoning Ordinance regarding Architectural Design Standards to allow the material used on the elevations to remain as-is. The current requirement states that split-face block and concrete masonry is not allowed on any building under 10,000 sq. ft., while the current building is roughly 3,600 square feet.
5. Variance from Section 11.3 of the Zoning Ordinance regarding parking requirements, to lower the required amount of spaces for a structure of this size from 33 to 15, the amount currently provided on the property.

STAFF ANALYSIS:

The outparcels including the subject property were part of the larger 36.367± acre Snellville Oaks Shopping Center development which was originally master-planned and constructed in 1992; prior to any significant City mandated landscaping regulations including minimum front, side and rear landscape strips and tree density unit (TDU) minimum. Most of the center's

parking is being provided on the two larger 16± and 19± acre parcels with fifteen (15) parking spaces being provided on the subject property. The 3,624 sq. ft. existing building has 6-7 foot separation from the adjacent NCG Cinema building. The building architecture and use of exterior materials is similar to the design and materials which are common to the shopping center.

Although the subject property is identified by its own property boundary/parcel line and having a unique tax parcel number (5038 185), it continues to be owned by RCG-Snellville, LLC the same group that owns the Snellville Oaks Shopping Center and functions as an associated use within the shopping center.

Because the subject property is part of the master-planned shopping center development, each of the three variances relating to the tree and landscaping requirements; variance from the Architectural Design Standards to allow the exterior building materials to remain 'as-is'; and variance for the minimum number of parking spaces are reasonable and justified in the applicant's Letter of Intent.

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;

Special conditions do exist in that the subject property was developed as part of the master-planned Snellville Oaks Shopping Center and developed prior to the adoption of many of today's current landscaping and architectural design regulations.

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;

Literal interpretation would deprive the applicant of the right to operate a business, as there is functionally no way to fully comply with the ordinance without necessitating a complete redevelopment of the property.

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

The property was developed according to the codes and ordinances of the time in which it was built. The City has since amended or change said requirements through no action 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.

The renovation of the subject property is part of an effort by the applicant to renovate the entire shopping center. Approval would not confer any special privileges, and would in fact aid in the ultimate goal of bringing the property back into use.

STAFF RECOMMENDATION:

In conclusion, the Department of Planning and Development recommends the following with regard to each of the five requested variances:

Table 1

Variance Request	Planning Department Recommendation
1. From Section 19.73 of the Landscape and Tree Ordinance regarding Landscape Strips to remove the requirements for landscape strips on the subject property.	Approval
2. From Section 19.74 of the Landscape and Tree Ordinance regarding Parking Area Landscaping to allow no additional landscaping to be installed, except for the enhancement of the existing planting areas.	Approval
3. From Section 19.76 of the Landscape and Tree Ordinance to waive the TDU requirements for the site not met by the existing trees.	Approval
4. From Section 7.7 of the Zoning Ordinance regarding Architectural Design Standards to allow the material used on the elevations to remain as-is. The current requirement states that split-face block and concrete masonry is not allowed on any building under 10,000 sq. ft., while the current building is roughly 3,600 square feet.	Approval
5. From Section 11.3 of the Zoning Ordinance regarding parking requirements, to lower the required amount of spaces for a structure of this size from 33 to 15, the amount currently provided on the property.	Approval

In conjunction with the variance recommendations above, the Planning Department recommends the following conditions:

1. Any and all variances granted herein shall become null and void upon redevelopment of the property, as determined by the Director of Planning & Development;
2. Applicant shall implement and complete the additional landscape improvements as shown on the submitted plan entitled “Conceptual Landscape Enhancements”, dated 12-1-2017 prior to issuance of any Certificate of Occupancy;

3. New signs higher than 15 feet and larger than 225 square feet are prohibited; and
4. Use of non-concealed neon or LED light strips on the exterior of the building is prohibited.