



STAFF REVIEW

Variance Case #: V2020-06 **Legistar #:** 20191166

City Council Hearing: Wednesday, February 12, 2020 – 7:00 p.m.

Property Owner: 191 Marietta Properties, LLC
180 Cherokee Street
Marietta, GA 30060

Applicant: The Bottoms Group, LLC
180 Cherokee Street
Marietta, GA 30060

Agent: Kevin Moore – Moore Ingram Johnson & Steele, LLP
326 Roswell Street
Marietta, GA 30060

Address: 191 Cherokee Street

Land Lot: 1159 **District:** 16 **Parcel:** 0540

Council Ward: 3A **Existing Zoning:** OI (Office Institutional)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to reduce the minimum lot size from 20,000 sq.ft. to 10,200 sq.ft. [§708.23 (H)]
2. Variance to reduce the front yard setback from 40 ft. to 12 ft. [§708.23 (H)]
3. Variance to reduce the major side setback from 25 ft. to 6 ft. [§708.23 (H)]
4. Variance to reduce the minor side setback from 15 ft. to 5.5 ft. [§708.23 (H)]
5. Variance to allow new a/c units within 10 ft. of the property line. [§708.23 (F.7.)]
6. Variance to allow a monument sign within 5 ft. of the property line. [§714.04 (F.2.)]
7. Variance to waive the Commercial Corridor Overlay District-Tier B standards. [§712.09(G)]
8. Variance to waive 10-foot landscape strip on both frontages. [§712.08 (G.2.)]
9. Variance to reduce the required parking ratio for professional office from 1 per 350 sq.ft. to 1 per 369 sq.ft. [§716.07 (E)]
10. Variance to reduce the width of a paved 2-way driveway from 20 ft. to 19.25 ft.[§716.06(B)]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning

appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



191 Cherokee Street



Rear parking area

Staff Review:

The applicant and owner are requesting multiple variances for the redevelopment of 191 Cherokee Street. The subject property is only 0.23 acres in size, is zoned OI (Office Institutional), and is located at the northwestern corner of Cherokee Street and Ardis Street. It has functioned as a medical office building since it was built in 1991. Properties immediately to the north and east across Cherokee Street are also zoned OI. The adjacent property to the west was rezoned in 2018 (Z2018-19) from OI to R-4 (Single Family Residential – 4units/acre); and the property to the south across Ardis St is zoned CBD (Central Business District). The applicant is proposing to construct a new building but will need numerous variances in order to comply with current codes.

The applicant is proposing a new two-story, 5,158 square foot structure. The new building will be built in the same general location as the existing building, but the applicant is proposing to keep the parking area and sidewalks as-is. However, a new monument sign, new landscaping walls, and new air conditioning units would be a part of the redevelopment project.

Lot Size

The minimum lot size for properties zoned OI is 20,000 square feet. The size of the subject property is 10,208 square feet (0.23 ac), which is approximately half the required size for the parcel to be considered buildable. Often parcels that do not meet the minimum lot size face challenges meeting other development standards; however, the submitted plan indicates compliance with the maximum Floor Area Ratio of 0.75 and impervious surface limit of 80%. A two-story building totaling 5,158 square feet would yield a floor area ratio of 0.5 and the impervious surface percentage is shown to be 71.2%. For this parcel to be eligible for redevelopment, a variance to reduce the minimum lot size would be necessary.

Building Setbacks

The existing building, which was constructed in 1991, does not comply with current setback requirements. However, the proposed building would be closer to both Ardis Street and Cherokee Street. Based on the submitted site plan and existing zoning classification, the applicant is proposing to reduce the front yard setback on Cherokee Street from forty (40) feet to twelve (12) feet, the major side yard setback on Ardis Street from twenty-five (25) feet to six (6) feet, and the interior side yard setback from fifteen (15) feet to 5.5 feet. Considering the proximity of this property to Downtown Marietta, the building location with the proposed reduced setbacks would be similar to other properties the area.

Air Conditioning Units

Heating and air conditioning units may encroach five (5) feet into the required side yard setback. Since OI has a fifteen (15) foot side setback requirement, the units are required to be at least ten (10) feet from the side property line. Although the submitted plan shows the new units to be in the least conspicuous portion of the property - between the new building and the northern property line - a variance would be necessary to locate these units two (2) feet from the side property line.

Monument Sign

The zoning ordinance allows one freestanding sign along any road with at least 75 feet of frontage. Based on the collector thoroughfare road classification, the new monument style sign could be up to ten (10) feet in height with a maximum sign copy area of fifty (50) square feet. A new sign is shown at the corner of Ardis Street and Cherokee Street, but no renderings of the sign were provided. The site plan indicates the sign to be within the 5-foot sign setback. It is unclear whether this variance is necessary, as there appears to be room to move the sign to meet the requirement.

Parking Area

Based on information from the Cobb County Board of Tax Assessors, the existing building (2,122 sq. ft.) is less than half the size of the proposed building (5,158 sq. ft.). However, the applicant wishes to keep the parking area as it exists with no new improvements. There is a total of 14 spaces with one curb cut along Ardis Street. The zoning ordinance requires professional offices to provide a minimum of 1 space for every 350 square feet; whereas the existing spaces would only provide 1 space for every 369 square feet. Also, the minimum width for a two-way driveway is twenty (20) feet; the driveway between the parking spaces only measures 19.25 feet in width. However, the applicant is requesting the necessary variances that would allow the parking lot to remain as currently configured.

Planted Border Area

The Tree Ordinance requires a 10-foot wide planted border along all road frontages. Because of the configuration of the existing parking lot and the proposed setback encroachments, there are sections of this border where the full ten (10) feet cannot be provided. The 10-foot planted border is to contain a minimum of one (1) tree for every 30 feet of frontage. However, the application requests a complete waiver of the border area and presumably includes a waiver of the required street trees. The submitted plans only propose a 12-inch-thick landscape wall along Cherokee Street with “seasonal landscaping” in the front yard and rear yard. There are multiple locations where street trees could feasibly be planted to enhance the aesthetic of the corridor. The site will still be expected to meet the minimum tree density of 17 units per acre, which accounts for approximately seven (7) trees with a diameter of at least 3 inches.

Commercial Corridor Design Overlay District

A small portion of the property lies within the Commercial Corridor Overlay District – Tier B because of its proximity to North Marietta Parkway, from which it will not be visible. The zoning ordinance allows a waiver of the Overlay requirements for properties not visible from the principal thoroughfare. Compliance with the underlying zoning district (OI) and any other zoning codes will still be required if the overlay standards are waived.

Other Issues

- Currently the site slopes downward towards both road frontages; the existing building appears to have been built on a higher elevation than the grade of the road. A new 2.5-foot-tall brick wall is shown in the front yard and a twelve (12) inch thick landscape wall is being proposed on the property line directly behind the sidewalk. When a fence or wall is being placed in the front yard on a public/private street, then the zoning ordinances states *it shall be no taller than 4 feet and not be constructed within 2 feet of a public right-of-way...* Therefore, these walls must be four (4) feet tall or less and constructed at least two (2) feet from the property/right of way line.
- While there is a residential property to the rear (west) of the property, the standard 30-foot buffer would not be required because the residential property was rezoned more recently than the subject property. The property at 192 Church Street was rezoned to R-4 in 2018. Section 710.05 (H.) states *“No buffer shall be required in circumstances in which the rezoning of a parcel or parcels of property creates a condition in which a buffer would be required along the boundary of an adjacent property or properties, where no buffer had previously been required.”*
- No architectural elevations have been provided for the proposed building but will be required prior to permitting.
- Full site development plans will be required prior to permits being issued; if the new or replaced impervious area is 5,000 square foot or greater, then stormwater management for quality and quantity will be required.
- The Fire Department has stated that the new structure will be required to have a NFPA 13 sprinkler system with a remote FDC/PIV (minimum 40’ from building) and DDCV in a vault at the water main.

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Department of Development Services
205 Lawrence Street
Marietta, GA 30060
Phone: 770-794-5440

APPLICATION FOR VARIANCE OR APPEAL

(Owner/Applicant/or Representative must be present at all public hearings)

(NOTE: CORRESPONDENCE IS HANDLED VIA EMAIL UNLESS OTHERWISE REQUESTED)

For Office Use Only:

Application #: V2020-06 Legistar #: 20191166 BZA Hearing Dt:
City Council Hearing Dt (if applicable) #: 02/04/2020 PZ #: 02/12/2020 19-535

This is a variance/appeal application for:

Board of Zoning Appeals checkbox

Board of Zoning Appeals

City Council checkbox (checked)

City Council

Owner's Name 191 Marietta Properties, LLC

EMAIL Address: gbottoms@thebottomsgroup.com

Mailing Address 180 Cherokee Street Zip Code: 30060 Phone Number (770) 425-9989

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant's & Owner's Representative: J. Kevin Moore - Moore Ingram Johnson & Steele, LLP
Applicant: The Bottoms Group, LLC

EMAIL Address: gbottoms@thebottomsgroup.com

Mailing Address 180 Cherokee Street Zip Code: 30060 Phone Number (770) 425-9989

Address of subject property: 191 Cherokee Street Date of Acquisition: 10/23/2019

Land Lot (s) 11590 District 16 Parcel 0540 Acreage 0.23± Zoned OI Ward 3A FLU: CAC

List the variance(s) or appeal requested (please attach any additional information):

See Attached Exhibit "C"

Lot size, setbacks, landscape buffer

Required Information

- 1. Application fee (\$250)
2. Completed notarized application. The original application must be submitted with ALL original signature(s) - Copies of the application or signature(s) will NOT be accepted.
3. Copy of the deed that reflects the current owner(s) of the property.
4. Letter describing the reason for the variance request, stating why strict adherence to the code would result in a particular hardship...
5. Site plan - drawn to scale. Site plans must illustrate property lines and all relevant existing information...
6. Copy of current tax bill showing payment or documentation certified by the City of Marietta Tax Office.

Note: The Department of Development Services reserves the right to obtain additional information that reasonably may be required in order that an informed decision may be made.

OVER

EXHIBIT "A" - ATTACHMENT TO APPLICATION FOR VARIANCE

(Page Two of Three)

(Amended December 19, 2019 to Correct Property Owner's Name)

Application No.: V2020-06
Legistar No.: 20191166
Hearing Date: February 12, 2020

Applicant: The Bottoms Group, LLC
Property Owner: 191 Marietta Properties, LLC

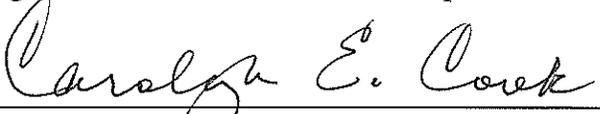
MOORE INGRAM JOHNSON & STEELE, LLP

BY: 
J. Kevin Moore
Georgia Bar No. 519728

Attorneys for Property Owner

Date Executed: December 19, 2019

Signed, sealed, and delivered in the presence of:



Notary Public
My Commission Expires: January 10, 2023

[Notary Seal]



Applicant/Property Owner Address:

191 Marietta Properties, LLC
180 Cherokee Street
Marietta, Georgia 30060
(770) 425-9989
E-mail: gbottoms@thebottomsgroup.com

EXHIBIT "C" - ATTACHMENT TO APPLICATION FOR VARIANCE
(Amended December 19, 2019 to Correct Property Owner's Name)

Application No.: V2020-06
Legistar No.: 20191166
Hearing Date: February 12, 2020

Applicant: The Bottoms Group, LLC
Property Owner: 191 Marietta Properties, LLC

Listing of Requested Variance(s) and Statement of Hardship:

The property which is the subject of the Application for Variance is located at 191 Cherokee Street (hereinafter "Property" or "Subject Property") and is currently zoned OI. Applicant desires to remove the existing one-story frame structure and construct a two-story building, being approximately 5, 158 square feet, as shown on the Site Plan filed with the Application for Variance. Due to the size, location, and current zoning of the Subject Property, variances are required to ensure Applicant's plans for construction of the new two-store building and landscaping of the parking and grounds area can be accomplished. Therefore, Applicant seeks the following variances:

- (1) Waiver of required minimum lot size of 20,000 square feet to 10,208 square feet;
- (2) Waiver of front setback from required fifty (50) feet to 5.6 feet;
- (3) Waiver of side setback (along northerly property line) from required fifteen (15) feet to 5.6 feet;
- (4) Waiver of side setback (along Ardis Street) from required fifteen (15) feet to six (6) feet; and
- (5) Waiver of required ten (10) foot landscape strip along Ardis and Cherokee Streets.

If the Ordinances related to the above requested variances which govern the Subject Property are strictly adhered to, Applicant would be unable to reasonably or economically construct the proposed building on the Property, as zoned.

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TO: Marietta Daily Journal

FROM: City of Marietta

RUN AD DATE: January 17, 2020

**CITY OF MARIETTA
PUBLIC NOTICE OF REZONINGS, SPECIAL LAND USE PERMITS, and VARIANCES**

The City of Marietta hereby gives notice that a public hearing will be held to give consideration to the following variance requests at the City Council meeting held on **Wednesday, February 12th, 2020, 7:00 p.m.**, City Hall, for a final decision to be made.

V2020-06 [VARIANCE] THE BOTTOMS GROUP, LLC is requesting variances for property located in Land Lot 1159, District 16, Parcel 0540, 2nd Section of Cobb County, Marietta, Georgia and being known as 191 Cherokee Street. Variance to reduce the minimum lot size from 20,000 square feet to 10,200 square feet; variance to reduce the front yard setback from 40' to 12'; variance to reduce the major side setback from 25' to 6'; variance to reduce the minor side setback from 15 feet to 5.5 feet; variance to allow new a/c units within 10 feet of the property line; variance to allow a monument sign within 5' of the property line; variance to waive the Commercial Corridor Overlay District – Tier B standards; variance to waive 10 foot landscape strip on both frontages; variance to reduce the required parking ratio for professional office from 1 space for every 350 square feet to one space for every 369 square feet; variance to reduce the paved width for a two-way driveway from 20 feet to 19.25 feet. Ward 3A.

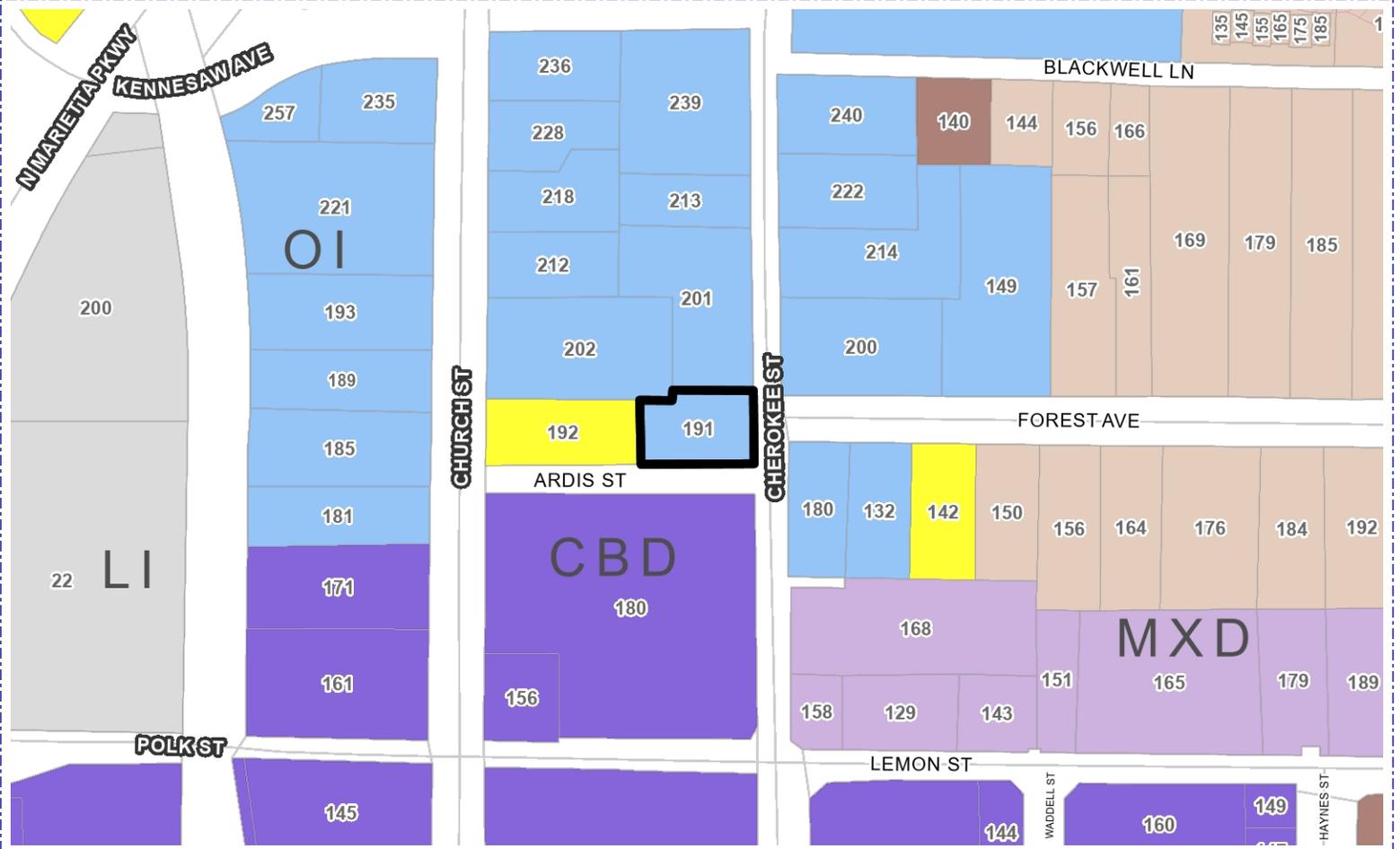
A description and plat of the property sought for the rezoning, special land use permit, and variances are on file in the Planning and Zoning Office, City Hall, and is available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto. You may also review the property file at www.marietta.ga.gov and enter the case # in the search box.

For additional information please call the Planning and Zoning Office (770) 794-5669.

Accessibility to Meetings: If you believe you may need the City/BLW to provide special accommodations in order to attend/or participate in any of the above meetings, please call ADA Coordinator at 770-794-5558 no later than 48 hours before the date of the above meeting.

City of Marietta
205 Lawrence Street
Marietta, Georgia 30060

Variance



Address	Parcel Number	Acreage	Ward	Zoning	FLU
191 CHEROKEE ST	16115900540	0.226	3A	OI	CAC

Property Owner:	Marietta Properties	Zoning Symbols
Applicant:	The Bottoms Group	
City Council Hearing Date:	02/12/20	
Acquisition Date:		
Case Number:	V2020-06	
City of Marietta Planning & Zoning		



Proposed New Office Space for
191 Cherokee Street NE



Greg Busch, Architects A.I.A.

91 West Vienna Road
Atlanta, Georgia 30342
phone: (404) 252-8073
fax: (404) 252-8074
gb@gregbusch.com

All drawings, as instruments of service, are the property of Greg Busch Architects. They shall not be reproduced, modified, or used in any way without the written consent from and proper compensation to Greg Busch Architects.
The contractor shall check and verify all dimensions, structural notes and existing conditions and make any discrepancies to Greg Busch Architects before proceeding with the work.

THE BOTTOMS GROUP, LLC

191 CHEROKEE STREET NE | MARIETTA, GEORGIA 30060

stamps

issue

date FEBRUARY 06, 2020

scale

drawn ZL checked GB

title

sheet number

PROGRESS SET
NOT FOR CONSTRUCTION

SITE

N ~ F
202 CHURCH STREET LLP
DB 10529 PG. 235

N ~ F
201 CHEROKEE INC.
DB 9639 PG. 292

N ~ F
ANDREW & KELLY HAIRETIS
DB 15575 PG. 4729

8' WOODEN PRIVACY FENCE

N 02°06'55" E 5.10'
S 88°23'10" E 34.88'
#4RBF

3' CHAIN LINK FENCE

N 89°33'05" E 93.58'

28'

N 00°12'11" W 75.65'

- 1 BRICK WALL
- 2
- 3
- 4
- 5
- 6
- 7
- 8

BRICK WALL

SEASONAL LANDSCAPING

- 14
- 13
- 12
- 11
- 10
- 9

CROSS-TIE WALL
1 STORY FRAME

191

RAMP

EXISTING PARKING TO REMAIN

EXISTING A/C UNIT TO BE RELOCATED NEAR OTHER UNITS

COVERED ENTRY

10208 #

PROPOSED 5,158 SQ.FT. 2-STORY BUILDING

PROPOSED FOOTPRINT (2,624 SQ.FT.) OF NEW STRUCTURE

P.O.B.

26'

ASPHALT PAVEMENT
W/ CONC. CURB

ARDIS STREET APPARENT

40' 15" CMP
R/W

N 89°49'16" W 129.83'

15" CHEROKEE STREET APPARENT VARIABLE R/W
15" CMP

DASHED CIRCLES INDICATE NEW TREE W/ MINIMUM 3" TRUNKS (MINIMUM 7 TOTAL)

30' HT. BRICK WALL

EXISTING SIDEWALK TO REMAIN

SEASONAL LANDSCAPING

DASHED CIRCLES INDICATE NEW TREE W/ MINIMUM 3" TRUNKS (MINIMUM 7 TOTAL)

12" THICK LANDSCAPING WALL ALONG SIDEWALK

NEW FREESTANDING SIGN PER 714.04.F.3

FOREST AVENUE 50' R/W

IMPERVIOUS SURFACE		
EXISTING FOOTPRINT:	2,205	SQ.FT.
PROPOSED ADDITIONAL FOOTPRINT:	424	SQ.FT.
ENTRY PORCH:	78	SQ.FT.
LANDSCAPE WALLS:	140	SQ.FT.
EXISTING PAVING:	4,182	SQ.FT.
EXISTING BRICK WALL:	187	SQ.FT.
TOTAL IMPERVIOUS:	7,216	SQ.FT.
LOT SIZE:	10,208	SQ.FT.
(7,216) / (10,208) =	70.6%	

1 SITE PLAN
SCALE: 1/8" = 1'-0"

Received
02/10/2020 1:23:11 PM