



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2020-25 **Legistar #:** 20200576

Board of Zoning Appeals Hearing: Monday, July 27, 2020 – 6:00 p.m.

Property Owner: Gregg E. Litchfield
118 Frances Avenue
Marietta, GA 30060

Applicant: Same as above

Address: 515 Cherokee Street

Land Lot: 1087 **District:** 16 **Parcel:** 0720

Council Ward: 4B **Existing Zoning:** R-3 (Single Family Residential – 3 units/acre)

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

1. Variance to allow accessory structures to be constructed on a lot without a principal building.
[§708.03 (F.3.)]

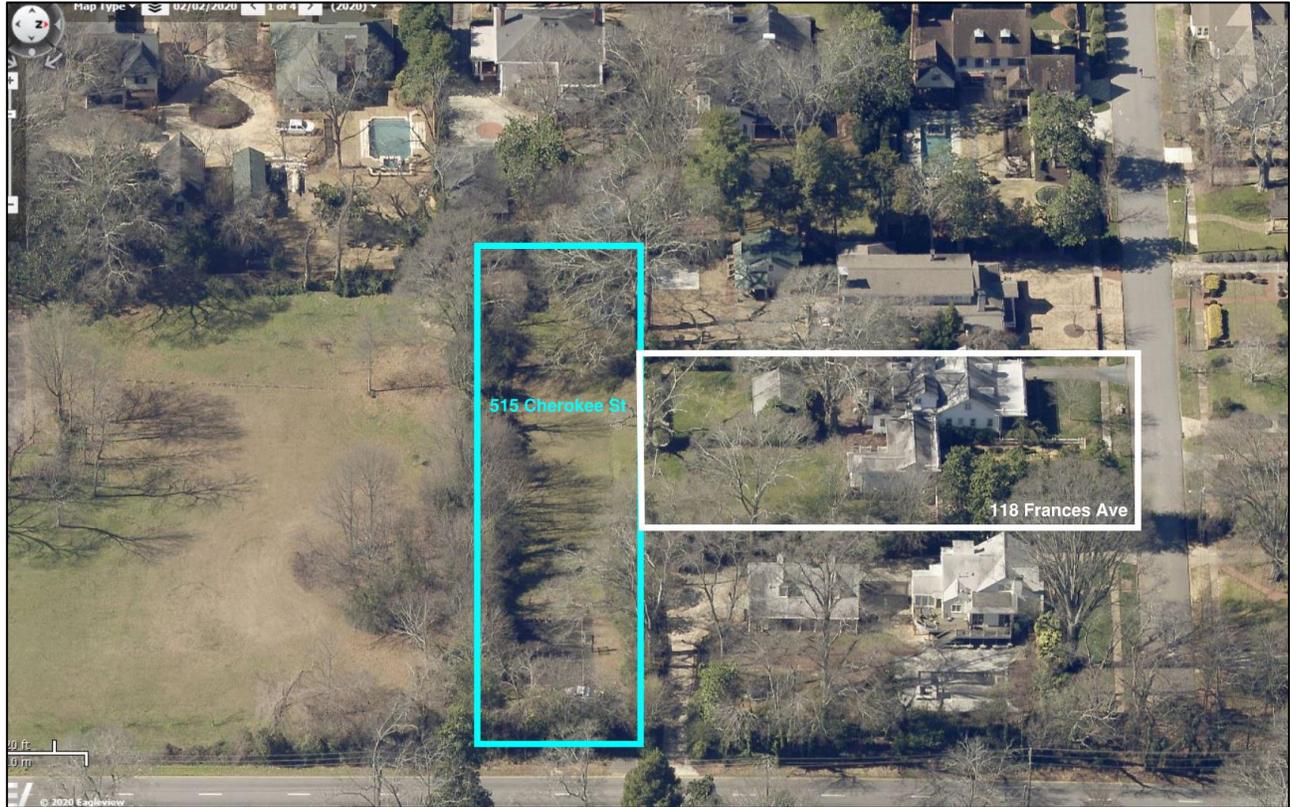
Statement of Fact

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



515 Cherokee Street frontage



Recommended Action:

Denial. Gregg Litchfield, owner of 515 Cherokee Street, is requesting variances that would allow the construction of a new pool and pool house on the property, which backs up to his residence on Frances Avenue. The subject property, 515 Cherokee Street, is zoned R-3 (Single Family Residential – 3 units/acre) and is surrounded by other properties also zoned R-3. The subject property is mostly vacant but does contain a blacktop area striped for a half-court for basketball and a few storage buildings in the far rear (west). There is gated, vehicular access from Cherokee Street that is paved up to the blacktop area.

Pools, pool houses, and sheds are all considered accessory structures. Per Section 708.03 (F.3). “no accessory building shall be construed upon a lot before the principal building.” The property at 515 Cherokee Street was acquired by the applicant over 20 years ago and functions as an extension of the backyard for 118 Frances Avenue, despite being a separate tax parcel. The applicant has not indicated any reason for maintaining the lot as a separated parcel. The simplest option for the applicant would be to combine the two parcels by exemption plat, which would eliminate the need for the variance. However, without providing any supporting reason or hardship for the request, the applicant has requested a variance from the regulations.

This property is part of the locally designated Church Cherokee Streets Historic District, which was established in August 2016. Any exterior work visible from the public right of way would have to be approved by the Historic Preservation Commission prior to permitting.

The Board of Zoning Appeals considered similar variances and has approved one such request and denied the other. In August 2014, a variance was requested for 108 Rigby Street (V2014-34) and was approved. However, in August 2017, the variance request for a nearby property at 564 Cherokee Street (V2017-36) was denied.

Lacking any hardship associated with this request, *staff recommends denial of this variance.*

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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 #: V2020-25 Legistar #: 2020 0576 BZA Hearing Dt: 7-27-2020
City Council Hearing Dt (if applicable) #: n/a PZ #: 20-186

This is a variance/appeal application for:

X

Board of Zoning Appeals

City Council

Owner's Name: Gregg E. Litchfield
EMAIL Address: gel@hlw-law.com
Mailing Address: 118 Frances Ave Zip Code: 30060 Phone Number: 404-713-7317

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant:
EMAIL Address:
Mailing Address Zip Code: Phone Number

Address of subject property: 515 Cherokee St Date of Acquisition:

Land Lot (s) 1087 District 10th Parcel 1010870720 Acreage .56 Zoned R3 Ward 4B FLU: LDR

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

Allow for an accessory structure (pool + pool house) on a property without a principal building

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 (as distinguished from a mere inconvenience or desire to make more money).
5. Site plan - drawn to scale. Site plans must illustrate property lines and all relevant existing information and conditions in addition to proposed additions or modifications within the referenced property lines of the tract(s).
Copies Required: One (1) - (8 1/2" x 11") -or- (11" x 17") drawn to scale.
Optional Additional Plat size: (24"x 36"). If providing (24"x 36") then 5 copies REQUIRED.
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

CAMPAIGN CONTRIBUTIONS

The Owner and Applicant herein certify that he/she has has not made campaign contributions or gifts aggregating \$250.00 or more to the Mayor, any member of Council or any member of the Board of Zoning Appeals within the two (2) years preceding the filing of this application.

[Signature]
Signature of Owner

[Signature]
Signature of Applicant

Gregg E. Litchfield
Print Name

Gregg E. Litchfield
Print Name

FINANCIAL INTEREST

The Applicant herein certifies that he/she has has not a financial interest in the property which is ten percent (10%) or more.

Gregg E. Litchfield
Print Name

[Signature]
Signature of Applicant

APPLICANT CERTIFICATION

- The Applicant certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Applicant's knowledge and belief. Should any portion not be true, then the application may be rejected.
- Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.

[Signature]
Signature of Applicant

10-22-20
Date

Gregg E. Litchfield
Please Print

OWNER CERTIFICATION

- The Owner certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Owners's knowledge and belief. Should any portion not be true, then the application may be rejected.
- Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.
- The Owner hereby gives permission to enter on the property for inspection during the time application is pending.

[Signature]
Signature of Owner

Gregg E. Litchfield
Please Print

118 Frances Ave Marietta GA 30060
Address

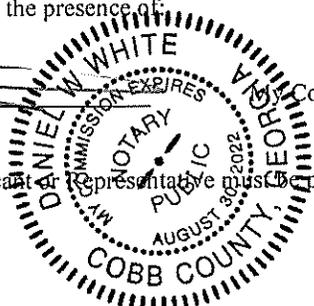
10-22-20
Date

Signed, sealed and delivered in the presence of:

[Signature]

Commission Expires: _____

Note: Owner, Applicant or Representative must be present at meeting in order for case to be heard.



Gregg E. Litchfield
118 Frances Ave
Marietta, GA 30060

Board of Zoning Appeals
205 Lawrence St
Marietta Ga 30060

Dear Chairman and Members.

I am the owner of 515 Cherokee St. This undeveloped lot is contiguous to my residence at 118 Frances Avenue. I would like to build a pool and pool house on this separate lot. In order to build the pool and pool house I need a variance because the Marietta Code does not allow an accessory structure on a property without a principal residence.

I have owned this lot since 1994. At present there is a well house and tool shed (existing when I purchased said lot) and a basketball court on the property. I have maintained this lot as part of my residence even though it is a separate tax parcel.

My hope is the Board finds this request reasonable and hope that they will grant the variance.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregg E. Litchfield", followed by a small horizontal line.

Gregg E. Litchfield
404-713-7317

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TO: Marietta Daily Journal
FROM: City of Marietta
RUN DATE: July 10, 2020

**CITY OF MARIETTA
PUBLIC NOTICE OF VARIANCES**

The City of Marietta hereby gives notice that a public hearing will be held to give consideration to the following requests. The Board of Zoning Appeals will consider the following requests on **Monday, July 27th, 2020 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

V2020-25 [VARIANCE] GREGG E. LITCHFIELD is requesting a variance for property zoned R-3 (Single Family Residential – 3 units/acre), located in Land Lot 1087, District 16, Parcel 0720, 2nd Section, Marietta, Cobb County, Georgia, and being known as 515 Cherokee Street. Variance to allow accessory structures be constructed on a lot without a principal building. Ward 4B.

A description and plat of the property sought for the variances are on file in the Planning and Zoning Office, City Hall, and are 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.mariettaga.gov and enter the case # in the search box.

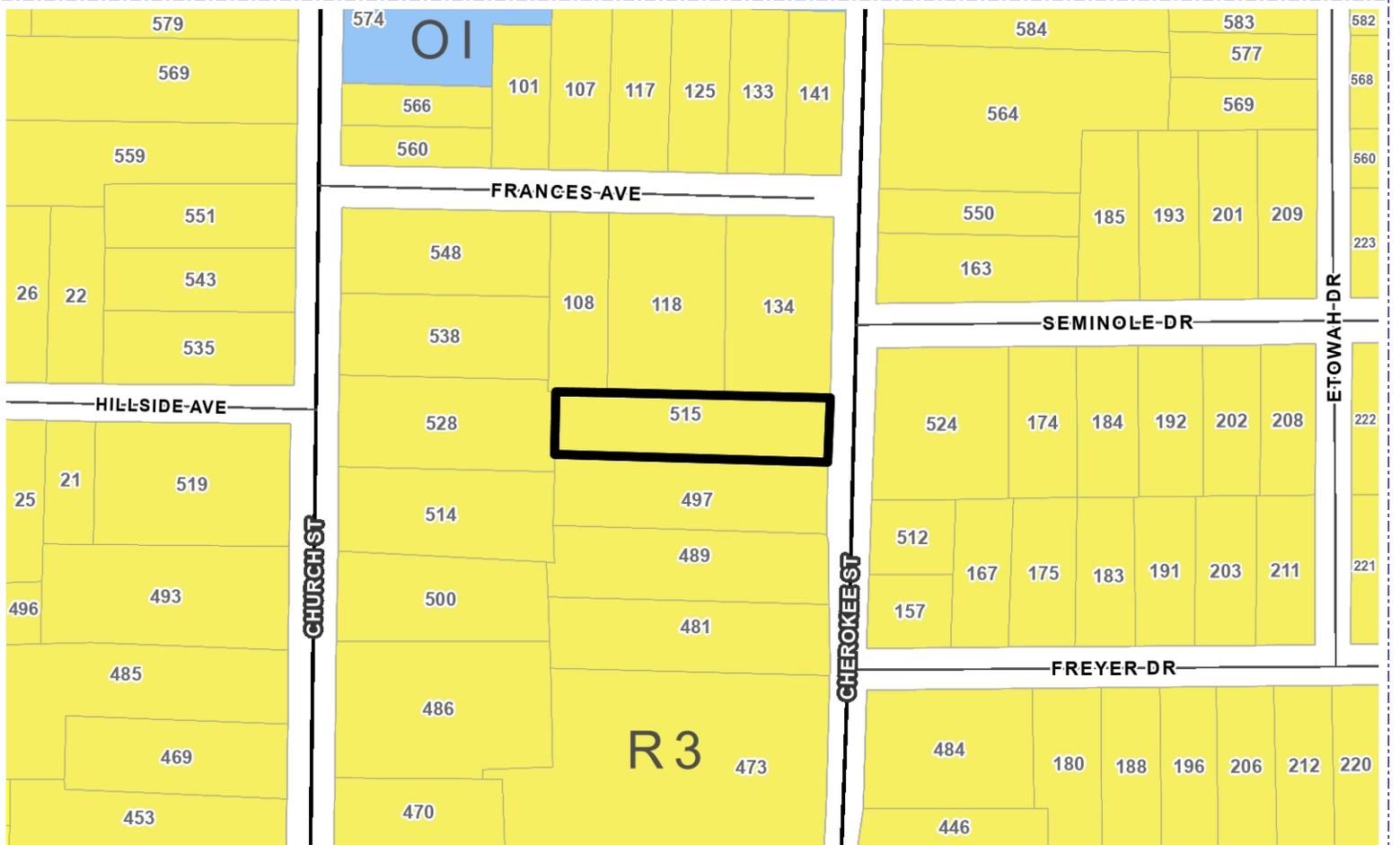
For additional information including questions about virtual participation, please call the Planning and Zoning Office (770) 794-5669.

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

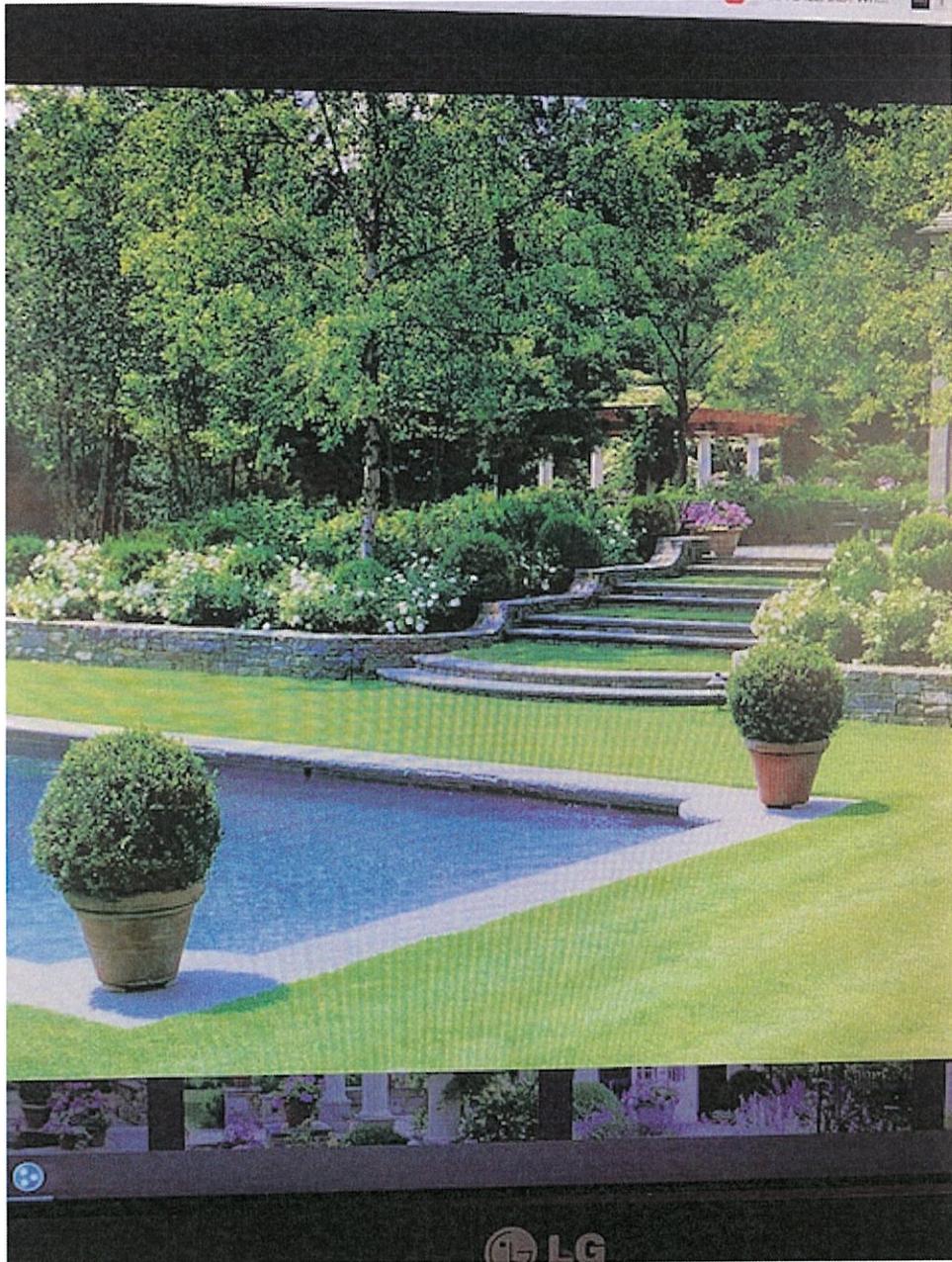


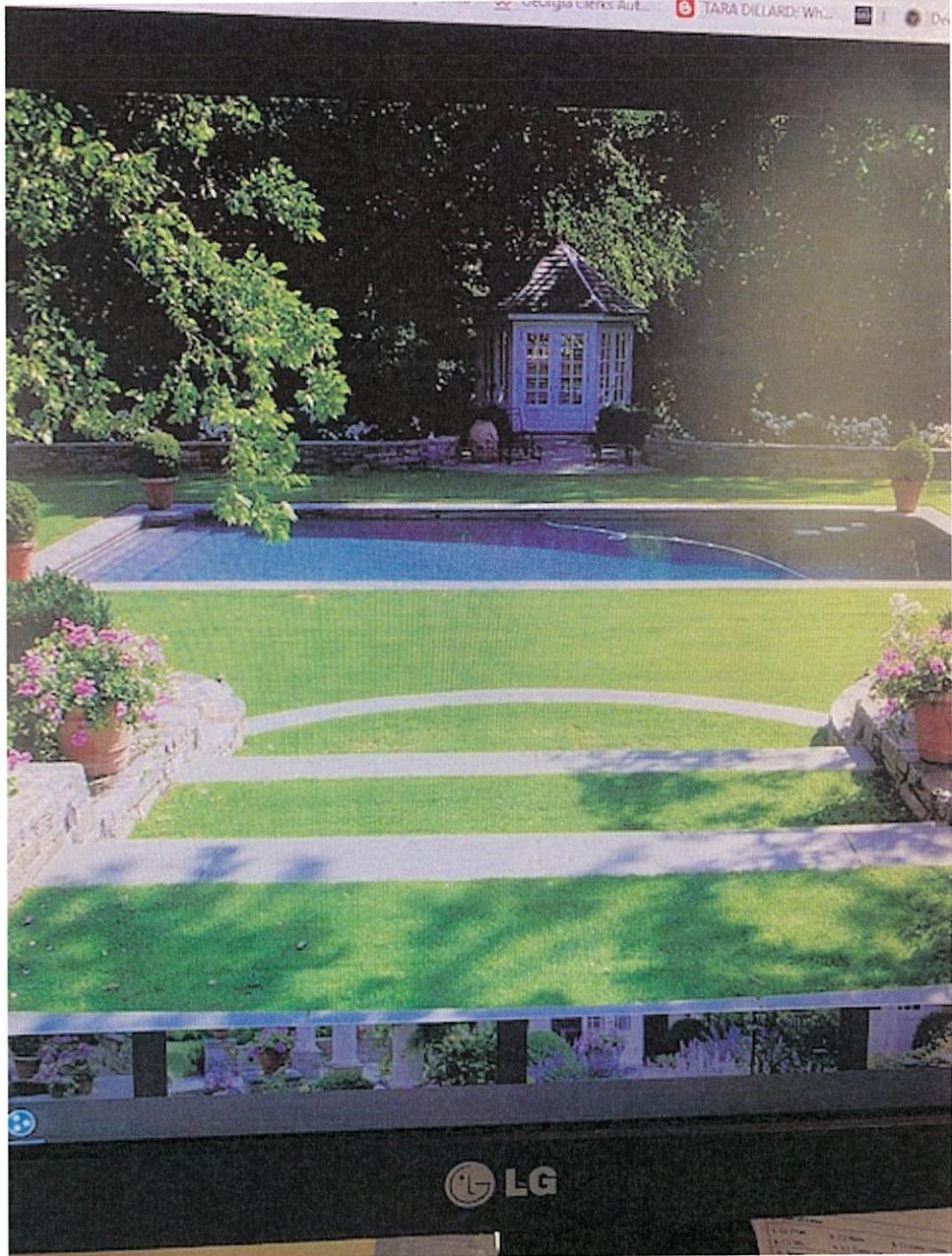
Variance

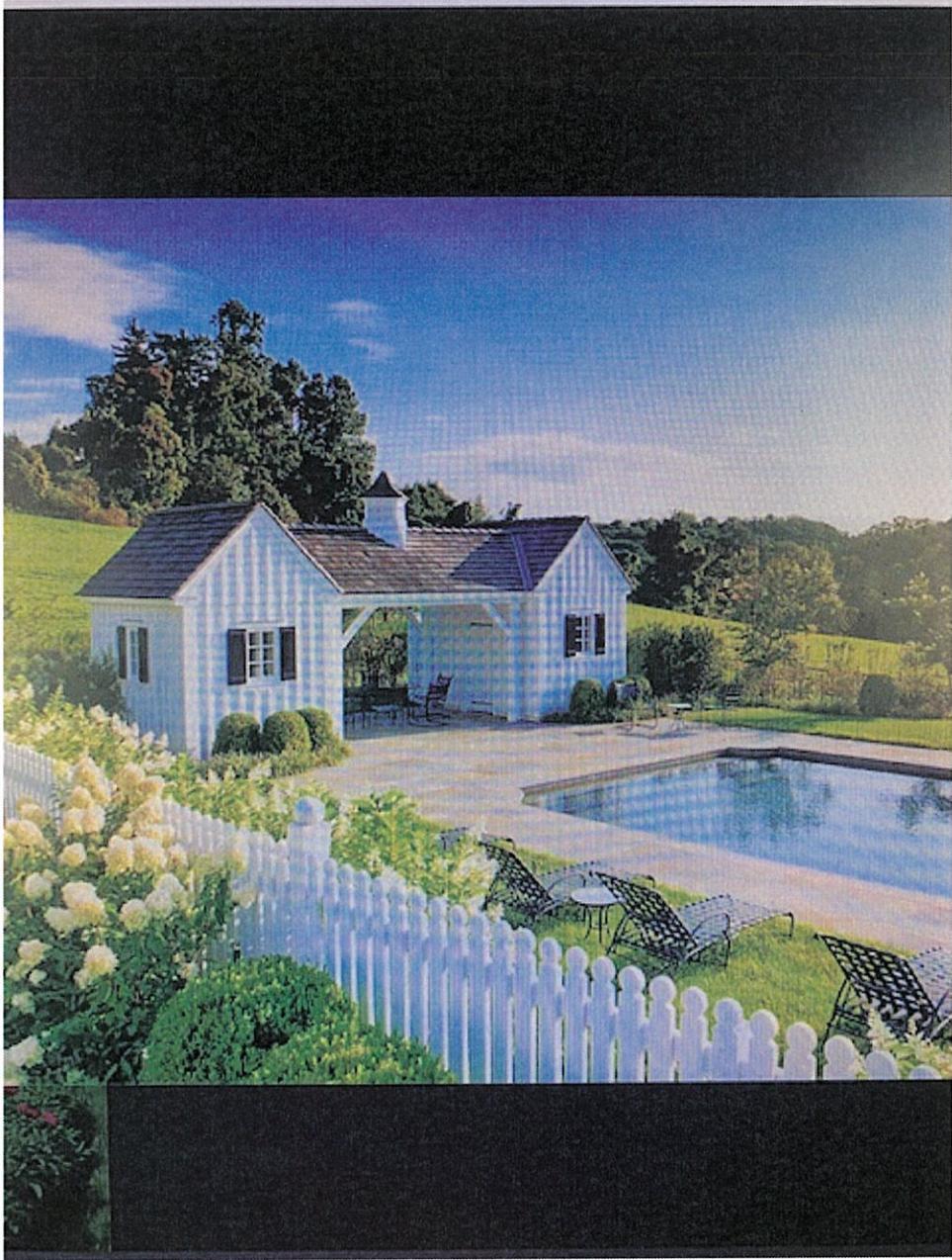


Address	Parcel Number	Acreage	Ward	Zoning	FLU
515 CHEROKEE ST	16108700720	0.577	4B	R3	LDR

Property Owner:	Gregg E. Litchfield	Zoning Symbols - - - Railroads City Limits Cobb County Pockets NA R1 - Single Family Residential (1 unit/acre) R2 - Single Family Residential (2 units/acre) R3 - Single Family Residential (3 units/acre) R4 - Single Family Residential (4 units/acre) RA4 - Single Family Residential - Attached RA6 - Single Family Residential - Attached RA8 - Single Family Residential - Attached MHP - Mobile Home Park PRD-SF - Planned Residential Dev. Single Family RM8 - Multi Family Residential (8 units/acre) RM10 - Multi Family Residential (10 units/acre) RM12 - Multi Family Residential (12 units/acre) RHR - Residential High Rise PRD-MF - Planned Residential Dev Multi Family NRC - Neighborhood Retail Commercial CRC - Community Retail Commercial RRC - Regional Retail Commercial PCD - Planned Commercial Development LI - Light Industrial HI - Heavy Industrial PID - Planned Industrial Development MXD - Mixed Use Development CBD - Central Business District OIT - Office Institutional Transitional LRO - Low Rise Office OI - Office Institutional OS - Office Services OHR - Office High Rise
Applicant:		
BZA Hearing Date:	07/27/2020	
Acquisition Date:		
Case Number:	V2020-25	
City of Marietta Planning & Zoning		







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