



# CARTERSVILLE BOARD OF ZONING APPEALS

Council Chambers, Third Floor of City Hall  
Thursday, June 09, 2022 at 5:30 PM

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## AGENDA

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### BOARD MEMBERS:

Lamar Pendley – Chairman  
Linda Brunt  
John Clayton  
J.B. Hudson  
Kevin McElwee  
Malcolm Cooley  
Patrick Murphy

### CITY CLERK:

Julia Drake

### PLANNING DIRECTOR:

Randy Mannino

### CITY PLANNER:

David Hardegree

### ASSISTANT CITY ATTORNEY:

Keith Lovell

### CALL TO ORDER

### ROLL CALL

### APPROVAL OF MINUTES

1. May 12, 2022

### VARIANCE CASES

2. V22-12. 107 Mitchell Ave. Applicant: Jerry Baker

### STAFF OR COMMITTEE COMMENTS

### OTHER

The next meeting of the Board of Zoning Appeals will be July 14th. 5:30pm.

### OTHER

*Persons with disabilities needing assistance to participate in any of these proceedings should contact the human resources office, ADA coordinator, 48 hours in advance of the meeting at 770-387-5616.*

**P.O Box 1390 – 10 N. Public Square – Cartersville, Georgia 30120**  
**Telephone: 770-387-5616 – Fax 770-386-5841 – [www.cityofcartersville.org](http://www.cityofcartersville.org)**



## BOARD OF ZONING APPEALS ITEM SUMMARY

<b>MEETING DATE:</b>	June 9, 2022
<b>SUBCATEGORY:</b>	Approval of Minutes
<b>DEPARTMENT NAME:</b>	Planning and Development
<b>AGENDA ITEM TITLE:</b>	May 12, 2022
<b>DEPARTMENT SUMMARY RECOMMENDATION:</b>	The Board of Zoning Appeals Minutes have been uploaded for your review and approval
<b>LEGAL:</b>	N/A

**MINUTES  
OF  
THE CARTERSVILLE BOARD OF ZONING APPEALS**

The Cartersville Board of Zoning Appeals met in a regularly scheduled meeting on May 12, 2022, in the Council Chambers.

Board Members Present: Lamar Pendley, Malcolm Cooley, John Clayton, Patrick Murphy, and JB Hudson  
Absent: Linda Brunt and Kevin McElwee  
Staff Present: Randy Mannino, David Hardegree, Julia Drake, Michael Dickson, Brian Friery

**CALL TO ORDER**

Chairman Pendley called the meeting to order at 5:30 PM

**ROLL CALL**

**APPROVAL OF MINUTES**

**1. Approval of Minutes: April 14, 2022**

Chairman Lamar Pendley called for a motion on the April 14, 2022 BZA meeting minutes. Board Member Hudson made a motion to approve the minutes. Motion was seconded by Board Member Cooley and carried unanimously. Vote: 4-0

**VARIANCE CASES**

**2. V22-10. 502 S. Bartow St. Applicant: Dr. Linda Denham and Michael Weiss**

David Hardegree, Planning and Development Assistant Director, stated that all adjacent property owners had been notified and the property had been properly posted and advertised. Continuing, Mr. Hardegree gave an overview of the case and reviewed department comments. Construction on the wall/ fence began a couple of weeks ago. A Stop Work Order was issued 5/6/22 until the variance application is reviewed.

Linda Denham, the applicant, came forward to answer questions from the Board stating the fence will not exceed four feet in height at any point. After extensive questioning from the board, Michael Weiss, applicant, joined the meeting and clarified the fence, constructed of cement blocks, would be 6' in some areas with no more than 36" use for retaining wall.

Michael Dickson, Gas Department Director, came forward to state that an agreement had been made between the Gas Department and Mr. Weiss to address comments from Gas Department.

Board Member Clayton made a motion to approve V22-10 with the condition that no more than 36” of the 6’ retaining wall would be used as a retaining wall. Board Member Hudson seconded the motion. Motion carried unanimously. Vote: 4-0

**3. V22-11. 301 Grassdale Rd. Applicant: Debra Dickey**

David Hardegree, Planning and Development Assistant Director, stated that all adjacent property owners had been notified and the property had been properly posted and advertised. Continuing, Mr. Hardegree gave an overview of the case. The proposed privacy fence will replace an existing chain-link fence.

Debra Dickey, applicant, came forward to address any comments or concerns from the board.

With no comments from the board or public, Board Member Hudson made a motion to approve V22-11. Board Member Clayton seconded the motion. Motion carried unanimously. Vote: 4-0

With no other business to discuss, Board Member Murphy made a motion to adjourn at 6:02 P.M.

June 9, 2022

Date Approved

/s/ \_\_\_\_\_  
Chair



## BOARD OF ZONING APPEALS ITEM SUMMARY

<b>MEETING DATE:</b>	June 9th, 2022
<b>SUBCATEGORY:</b>	Variance
<b>DEPARTMENT NAME:</b>	Planning and Development
<b>AGENDA ITEM TITLE:</b>	V22-12. 107 Mitchell Ave. Applicant: Jerry Baker
<b>DEPARTMENT SUMMARY RECOMMENDATION:</b>	To allow an accessory structure in the front yard of a corner lot.
<b>LEGAL:</b>	N/A



# City of Cartersville

## PLANNING AND DEVELOPMENT

P.O. Box 1390 • 10 North Public Square • Cartersville, Georgia 30120  
 Telephone: 770-387-5600 • Fax: 770-387-5605 • www.cityofcartersville.org

## MEMO

To: BZA  
 From: Randy Mannino/David Hardegree  
 CC: Keith Lovell  
 Date: May 25, 2022  
 Re: File # V22-12

**Summary: To allow an Accessory Structure (storage shed) in the front yard of a corner lot.**

### **Section 1: Project Summary**

Variance application by owner/applicant Jerry Baker for property located at 107 Mitchell Avenue, zoned R-20 Residential. Setbacks are Front- 20ft and Side- 10ft. Said property contains approximately 0.98 acres. The lot is a corner lot with road frontages and front yards along Mitchell Ave. and Terrell Dr.

The applicant bought the home in October 2021 and placed a storage shed in the front yard along the Terrell Dr. in April. Code Enforcement received a complaint from a neighbor and notified Mr. Baker of the zoning ordinance requirements and that a variance review would be needed. The zoning ordinance for corner lot accessory structures, Sec. 4.9, requires accessory structures to be installed within a side yard while complying with the side yard setback for the district.

The current location of the storage shed does not encroach into the Terrell Dr. right-of-way, is behind the 20ft front yard setback, and is located at least 15ft. behind the front face of the neighboring house at 101 Terrell Dr. However, it is currently placed less than the required 15ft. from the side property line, in addition to being in the front yard, as defined by the zoning ordinance.

**The variance request is for the following and per the submitted site plan sketch:**

1. To allow a storage shed to be placed in the front yard of a corner lot.

## **Section 2. Department Comments**

**Electric Department:** The Electric System takes no exception.

**Fibercom:** Cartersville FiberCom takes no exception to the variance request for 107 Mitchell Avenue.

**Fire Department:** V22-12- CFD takes no exceptions to the request to allow a storage building in the front yard of 107 Mitchell Ave.

**Gas Department:** The Gas System takes no exception to the following as shown in the attachment.

**Public Works Department:** We do not oppose this variance.

**Water Department:** The Cartersville Water Department takes no exception the variance request V22-12.

## **Section 3. Public Comments Received by Staff**

4/20/22: Property owner/ resident at 101 Terrell Dr. called Code Enforcement about the shed. Code enforcement investigated on 4/22, and advised Mr. Baker to apply for a variance for the shed.

## **Section 4. Variance Justification:**

*Please review the following findings, as stated in the Zoning Ordinance, that are to be utilized in determining justification for approval or denial of variance request(s).*

### **Sec. 4.16. - Accessory uses, buildings or structures.**

- A. Accessory uses, buildings, or structures on residential lots shall be located within a rear yard only and be a minimum of five (5) feet from all property lines which do not abut a street right-of-way. A detached garage or carport may be allowed in a side yard of a residential lot and, if so placed, shall comply with the side yard setback requirements of the district. In the case of a residential corner lot, in which a lot abuts or adjoins the intersection of two (2) or more streets other than an alley, an accessory structure may be allowed in a side yard and, if so placed, shall comply with the side yard setback requirements of the district.

- B. Accessory uses, buildings, or structures on nonresidential lots shall not be allowed in the front yard and must comply with side and rear yard requirements established for the zoning district in which such accessory buildings or uses are located. The following accessory uses, buildings, or structures on nonresidential lots may be allowed in a front yard of a nonresidential lot and, if so placed, shall comply with the front yard setback requirements of the district: ATMs (automated teller machines) and service stations.
- C. All accessory uses, buildings, or structures in all zoning districts shall be subordinate to the principal structure. An accessory building's floor area shall be no larger than fifty (50) percent of the principal structure floor area. Accessory structures shall not exceed the height of the most prevalent roof top of the principal building on the property.
- D. Outdoor play structures or play sets in commercial districts, commonly associated with fast-food eating establishments, shall be located in a side or rear yard only and shall comply with the required yard setbacks of the district.
- E. All site plans for multifamily, commercial, and industrial buildings shall include a solid waste container pad that has easy and safe access for a front-end loader. Solid waste containers shall be screened from all streets and adjoining properties with a solid, opaque fence or wall which shall be a minimum of six (6) inches taller than the container.
- F. An amenity, as defined by this chapter, shall not be considered an accessory structure.

### **Sec. 21.3. - Powers and duties of the board of zoning appeals.**

The board of zoning appeals shall have the following powers and duties:

- 21.3.1. *Appeals.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the zoning administrator in the enforcement of this chapter. Appeals to the board of appeals may be taken by any person aggrieved or by any officer, department, board, or agency of the City of Cartersville affected by any decision of the zoning administrator. Such appeal shall be taken within thirty (30) days of said decision by filing with the zoning administrator a written notice of appeal specifying the grounds thereof. Decisions on appeals shall be issued in writing within ten (10) business days of the hearing on the appeal.
- 21.3.2. *Continuance of a nonconforming use.* The board of zoning appeals may allow a nonconforming use to be reestablished after discontinuance for twelve (12) consecutive months. The procedure for the request shall be the same as if it was a variance. If it is deemed by the board of zoning appeals that one (1) or more of the following apply, the board may grant said request.
  - A. The design, construction, and character of the building is not suitable for uses permitted in the district in which the nonconforming use is situated; and



- B. Undue hardships to the property owner would result in not allowing the building to be reopened for a nonconforming use; and
- C. Adjacent property would not be unduly damaged by such use of the building; and
- D. The use is to be identical or similar to the prior nonconforming use of the building.

21.3.3. *Variances.* The board of appeals has the power to hear requests for variances from the provisions of this chapter. Variance may be granted only if the board finds all of the following to exist:

- A. That one (1) of the following is true, through no action or fault of the property owner or predecessor:
  1. The property is exceptionally narrow, shallow or unusually shaped;
  2. The property contains exceptional topographic conditions;
  3. The property contains other extraordinary or exceptional conditions; or
  4. There are existing other extraordinary or exceptional circumstances; and
- B. That the strict application of the requirements of this chapter would result in practical difficulties to, or undue hardship upon, the owner of this property; and
- C. That the requested variance relief may be granted without substantially impairing the intent and purpose of this chapter.

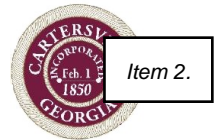
Variance decisions shall be issued in writing within ten (10) business days of the hearing.

21.3.4. *Conditions.* In granting a variance, the board of appeals may attach such conditions regarding the location, character and other features of the proposed building, structure, property, development standards or use as it may deem advisable so that the purpose of this chapter will be served, public safety and welfare secured and substantial justice done.

21.3.5. *Limitations on variances; improper variance requests.* Variances cannot be given to totally remove a requirement or to exempt a property or applicant entirely from a requirement. If a variance is being sought that is, in the judgment of the zoning administrator, a request that would constitute a text amendment, then the application shall not be accepted. The applicant shall instead be directed to file for a text amendment. Furthermore, the board of appeals shall not be authorized to grant a density variance or a use variance to permit a use in a district in which the use is prohibited. A variance application shall not be accepted if the variance seeks something that cannot be varied. A variance application shall not be accepted if the variance is contradictory to the ordinance.

21.3.6. *Self-inflicted hardship.* The board shall not grant variances when the hardship was created by the property owner or his predecessor, and shall not grant hardship variances based on shape or topography for lots of record not existing prior to November 7, 1996. Configuring a subdivision to create lots that are difficult to build is an example of a hardship created by the property owner or predecessor, that does not justify a variance.

Sections 21.3.7, *Place of worship*, and 21.3.8, *Group homes*, omitted. *Not applicable.*



Code Enforcement Record

Printed: 5/26/2022

Page: 1

Citation Number: CEZONE202200250

Citation Date: Inspector: Donna Fritz  
Cited By: Donna Fritz Status: Open

Violator:

107 MITCHELL AVE  
CARTERSVILLE GA 30120  
USA

Phone:  
Fax:  
Cellular:  
Email:

Filer:

LAYTON RONALD L & LAYTON LORI  
101 TERRELL DR  
CARTERSVILLE GA 30120

Phone: (770) - 851-3585  
Cell:  
Fax:

Email:

Fee Amount:

Receipts: \$ 0.00

Violations:

Descriptor: Zoning Miscellaneous Violations

Comments: Sec. 1.4. - Purpose and relationship to the Comprehensive Plan. The City of Cartersville Zoning Ordinance is designed to implement the provisions of the Comprehensive Plan for the development and use of land. The purpose of these regulations shall be to: Promote the health, safety, morals, order, prosperity, and general welfare of the City;

Inspections:

Inspection Type: Initial Inspection/Record Violations

Inspector: Donna Fritz Inspection Date: 20-Apr-22

Outcome: Door Hanger

Comments: Neighbor called and stated her next door neighbor at subject property had a storage building installed recently. She said it is next to her front yard, because her house faces Terrell Drive. Upon inspection, I noted subject house has to road frontages, Terrell Drive and Mitchell Ave. The storage shed is within 5 feet of the property line, but is within the front yard of Terrell Drive. The homeowner will have to apply for a variance or remove the building. No one came to the door, I left my business card and a door hanger asking them to call me regarding their accessory structure.

Inspection Type: Reinspection

Inspector: Donna Fritz Inspection Date: 22-Apr-22

Outcome: Re-Inspection

Comments: Ms. Baker called me today. I explained the violation and what her options were. She will speak with her husband and will probably apply for a variance.

Code Enforcement Record

Printed: 5/26/2022

Page: 2

**Inspection Type:** Reinspection

**Inspector:** Donna Fritz

**Inspection Date:** 05-May-22

**Outcome:** In Compliance

**Comments:** The Baker's have filed for a variance through P&D. The hearing is set for 06/09/22 at 5:30. I spoke with the complainant today and advised her of this. I also told her she should be receiving notification in the mail. I am closing my case.

**Activities:**

**Activity Type:** Attach Pictures

**Inspector:** Donna Fritz

**Date Completed:** 20-Apr-22

**Outcome:** Complete

**Comments:**

**Activity Type:** Door Hanger

**Inspector:** Donna Fritz

**Date Completed:** 20-Apr-22

**Outcome:** Reinspect Location

**Comments:**

**Conditions:**

**Date:**

**Source:**

**Status:**

**Code:**

**Description:**

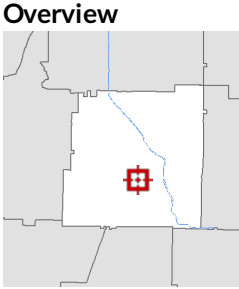
**Condition:**

**Graphics:**

**Description:**

- 3F91B9B9-6AA4-4FA3-AC51-6C3B15F5AA23.jpeg
- 8803D8F8-1996-4001-9D00-008FC5839ADF.jpeg
- E9388401-3EF5-4575-8D00-6F64F6B1964C.jpeg
- 107 Mitchell Ave email from Z. Arnold

**Other Fields:**



**Legend**  
□ Parcels  
— Roads

Date created: 4/29/2022  
Last Data Uploaded: 4/29/2022 9:16:13 AM

Developed by  **Schneider**  
GEOSPATIAL

City of Cartersville  
Application for Variance  
Board of Zoning Appeals

Hearing Date: 6-9-2022 5:30pm

Application Number: V22-12

Date Received: 4-29-2022

Applicant JERRY BAKER Office Phone \_\_\_\_\_  
(printed name)

Address 107 Mitchell Ave Mobile/ Other Phone 678.488.4062

City Cartersville State Ga Zip 30120 Email Jerrybaker55@Comcast.NET


Representative's printed name (if other than applicant) \_\_\_\_\_ Phone (Rep) \_\_\_\_\_

Representative Signature \_\_\_\_\_ Email (Rep) \_\_\_\_\_

Applicant Signature Jerry Baker

Signed, sealed and delivered in presence of: \_\_\_\_\_ My commission expires: 1-23-23

Stimmer  
Notary Public



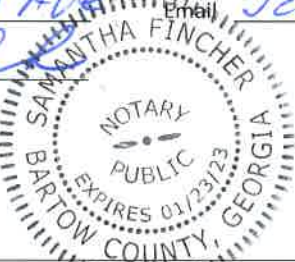
\* Titleholder JERRY T. BAKER Phone 678.488.4062  
(titleholder's printed name)

Address 107 Mitchell Ave Email Jerrybaker55@Comcast.NET

Signature Jerry Baker

Signed, sealed, delivered in presence of: \_\_\_\_\_ My commission expires: 1-23-23

Stimmer  
Notary Public



Present Zoning District R20

Acreage .98 Land Lot(s) 557 District(s) 4 Section(s) 3

Location of Property: 107 Mitchell Ave  
(street address, nearest intersections, etc.)

Zoning Section(s) for which a variance is being requested: Art 4, Sec 4.9

Summary Description of Variance Request: PLACING STORAGE BUILD IN SIDE YARD/BACKYARD  
but side yard is considered front yard AS IT IS A CORNER LOT  
(Additional detail can be provided on Justification Letter)

\* Attach additional notarized signatures as needed on separate application pages.

### CONDITIONS VERIFICATION

List the Article(s), Section(s) and Subsection(s) of the Zoning Ordinance for which a variance is requested.

Article 4 Section 4.9 Subsection \_\_\_\_\_  
 Article \_\_\_\_\_ Section \_\_\_\_\_ Subsection \_\_\_\_\_  
 Article \_\_\_\_\_ Section \_\_\_\_\_ Subsection \_\_\_\_\_

The Board of Zoning Appeals was established to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the zoning administrator in the enforcement of the zoning ordinance. The Board has the power to hear requests for variances from the provisions of the zoning ordinance, Article XXI APPEALS. See Section 21.3 for additional information pertaining to conditions.

To assist staff and the Board of Zoning Appeals in the analysis of the variance application, please check all of the following conditions that apply to your variance request:

1. \_\_\_\_\_ The property is exceptionally narrow, shallow or unusually shaped,
2. \_\_\_\_\_ The property contains exceptional topographic conditions,
3. \_\_\_\_\_ The property contains other extraordinary or exceptional conditions; and
4. \_\_\_\_\_ There are other existing extraordinary or exceptional circumstances; and
5.  The strict application of the requirements of this ordinance would result in practical difficulties to, or undue hardship upon, the owner of this property;
6.  The requested variance relief may be granted without substantially impairing the intent and purpose of this ordinance

Additional Comments by Applicant: The storage building was painted to match the home and trim and is difficult to see from the road due to the many trees on property and being approximately 75' from the road.

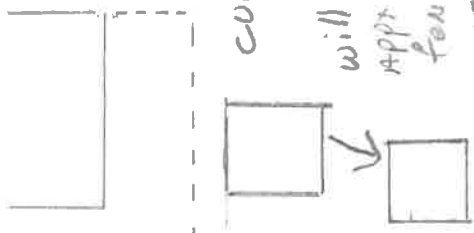
Where I put the build is close to my neighbor's side yard fence which she does not like. I will be moving it appx 25' further away close to my house and add an evergreen tree to help with the view from her house. To do this I am having to take down 2 trees to move the building so it will take some time but should be completed prior to the meeting.

Not to scale

Terrell Dr.

CURRENT Location

will MOVE to  
APPT 25' from Neighbor's  
fence.  
OVER 70' from  
Terrell Dr.



Fence

Fence

107

Mitchell AVE

Images taken May 10th.







