



CARTERSVILLE BOARD OF ZONING APPEALS MEETING

Council Chambers, Third Floor of City Hall
Thursday, August 10, 2023 at 5:30 PM

AGENDA

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. Minutes from 6.08.23

VARIANCE CASES

2. V23-16. 115 Mayflower St. Applicant: Monique Frazier, property owner.
3. V23-17. 138 Luckie St. Applicant: Joyce Huskins, property owner.

STAFF OR COMMITTEE COMMENTS

OTHER

The next meeting of the Board of Zoning Appeals will be September 14, 2023. 5:30pm.

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



BOARD OF ZONING APPEALS ITEM SUMMARY

MEETING DATE:	August 10, 2023
SUBCATEGORY:	Variance
DEPARTMENT NAME:	Planning and Development
AGENDA ITEM TITLE:	Minutes from 6.08.23
DEPARTMENT SUMMARY RECOMMENDATION:	Meeting Minutes for review and approval.
LEGAL:	N/A

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

The Cartersville Board of Zoning Appeals met in a regularly scheduled meeting on June 8, 2023, in the Council Chambers.

ROLL CALL

Board Members Present: Lamar Pendley, John Clayton, Malcolm Cooley, JB Hudson, and Patrick Murphy, Kevin McElwee, Linda Brunt

Absent:

Staff Present: Randy Mannino, David Hardegree, Zack Arnold, and Julia Drake

APPROVAL OF MINUTES

1. May 11, 2023

Board Member Hudson made a motion to approve the minutes from May 11, 2023. Board Member Clayton seconded the motion. Motion carried unanimously. Vote: 6-0

VARIANCE CASES

**2. V23-14 Grogan Rd at Cass- White Rd. Applicant: IDI Cartersville Ranch, LLC
*Variance: To reduce minimum parking space requirement.***

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 stating this is a variance application by IDI Cartersville Ranch LLC for property identified as C123-0001-001, located at the NE corner of Grogan Rd and Cass-White Rd. Zoning is H-I, Heavy Industrial. Said property contains approximately 165.60 acres. The site is located in the Business Park Overlay District. There are no guidelines in the Overlay District that address parking requirements.

This project will construct (4) distribution/ logistics warehouses each with their own parking lots.

The applicant is requesting a variance to reduce the min. parking requirement from 1,750 to 999 parking spaces across all (4) warehouses. This is a 57% decrease in the requirement. A breakdown of parking requirements by warehouse is provided in the justification letter in the application. Since the proposed warehouse facilities will be for distribution, less parking is required than warehouses requiring production workers employed in traditional shift work. The site is large enough that should additional parking be needed in the future, then there is space available for parking expansion.

In closing, Mr. Hardegree stated he met with Dean Bagwell who had concerns regarding storm water and he was relieved to see the parking space reduction will help towards the

stormwater run-off and supports the variance.

Chairman Pendley opened the public hearing.

Karl Lutjens, 114 Old Mill Road, came forward to represent the application and to answer any questions from the board members. Continuing Mr. Lutjens stated the required parking spaces of 1,750 would be reduced to 1,000.

With no one else to come forward to speak for or against the application, the public hearing was closed.

Board Member McElwee made a motion to approve V23-14. Board Member Brunt seconded the motion. Motion carried unanimously. Vote: 6-0

OTHER

Mr. Hardegree stated that legislature had passed HB1405. This adoption would affect this board as staff will lose their administrative variance options. Additionally, the state law will now require 30-day advertising notice vs the previous 15- day advertising notice.

With no other business to discuss, Board Member McElwee made a motion to adjourn at 5:39 P.M.

August 10, 2023
Date Approved

/s/ _____
Chair



BOARD OF ZONING APPEALS ITEM SUMMARY

MEETING DATE:	Aug 10, 2023
SUBCATEGORY:	Variance
DEPARTMENT NAME:	Planning and Development
AGENDA ITEM TITLE:	V23-16. 115 Mayflower St Applicant: Monique Frazier, property owner.
DEPARTMENT SUMMARY RECOMMENDATION:	Variance to allow a privacy fence in the front yard and to reduce setbacks for the privacy fence.
LEGAL:	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/Zack Arnold
 CC: Keith Lovell
 Date: July 12, 2023
 Re: File # V23-16

Summary: To allow a privacy fence in the front yard of a corner lot.

Section 1: Project Summary

Variance application by applicant, Monique Frazier, for property located at 115 Mayflower Street, zoned R-7 Residential. Setbacks are Front- 25ft (Ohio St), 20ft (Alley) and Side- 8ft. Said property contains approximately 0.23 acres. The lot is a corner lot with road frontages along Mayflower St., Ohio St. and an alley.

The applicant proposes to build a privacy fence to enclose the west and north sides of the property that include the front yards along the Ohio St. Right-of-Way and the alley. The property has been surveyed and the property lines have been marked with red flags. The fence ordinance for corner lots, Sec. 4.16, requires privacy fences to be installed behind the front yard setback, and to the rear of the house. A fence segment is proposed to the side of the house, but in the front yard along Ohio St. The fence segment along the eastern property line is compliant with the ordinance, but will enclose the gas and electric meters. 24/7 access to the meters and service lines is required by the utility departments. A double locking gate is required.

The property line is approx. 10ft, from the edge of payment along the alley. This fence section is not expected to interfere with trash service. A double gate will be installed for vehicular access to the property.

The variance request is for the following:

1. To allow an 8ft. privacy fence to be installed in the front yard of a corner lot (Sec. 4.16 (B))
2. To reduce the front yard setback from 25ft and 20ft to 0ft for the installation of the fence sections along Ohio St and the alley (Sec. 4.16 (B))

Section 2. Department Comments

Electric Department: Takes no exception. [P&D: 24/7 access to meter and supply line required.]

Fibercom: No comments received.

Fire Department: No comments received.

Gas Department: Takes no exception. [P&D: 24/7 access to meter and supply line required.]

Public Works Department: Takes no exception.

Water Department:

WATER SERVICE COMMENTS:

Takes no exception.

SEWER SERVICE COMMENTS:

Takes no exception.

Section 3. Public Comments Received by Staff

None received as of 7/12/2023.

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. - Fences and walls.

A. In all zoning districts:

1. No fence or wall shall constitute an obstruction to the vision for or create a hazard to vehicular traffic.
2. No fence or wall, including retaining walls, shall be constructed of exposed concrete block, tires, junk or other discarded materials.
3. The fencing standards as stated in this section shall not apply to fencing for detention ponds.
4. The wall standards as stated in this section shall not apply to retaining walls approved by the plan review process for planned developments.

B. In all residential and commercial zoning districts:

1. Any fence or wall which extends into the front yard shall be ornamental or decorative, and shall not be opaque. Any such fence or wall may be constructed of brick, stone, wood, wrought iron, split rail, or other decorative material as approved by the zoning administrator.
2. Fences and walls shall not exceed four (4) feet in height in a front yard and shall not exceed eight (8) feet in height in a side or rear yard.
3. Chain-link fencing material may be used in the front yard with prior approval of a variance by the board of zoning appeals. No variance is required if chain link fencing material is used in a side or rear yard.
4. For a corner lot or double frontage lot, a screening or opaque fence may be installed to the rear of the principal structure at a maximum of eight (8) feet in height provided that the fence shall be located behind the required front yard setback and shall not be located adjacent to or abutting a collector or arterial street.
5. Razor wire (ribbon) shall be prohibited.

C. In all industrial zoning districts:

Fences or walls shall not exceed (8) feet in height in front, side and rear yards.

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.

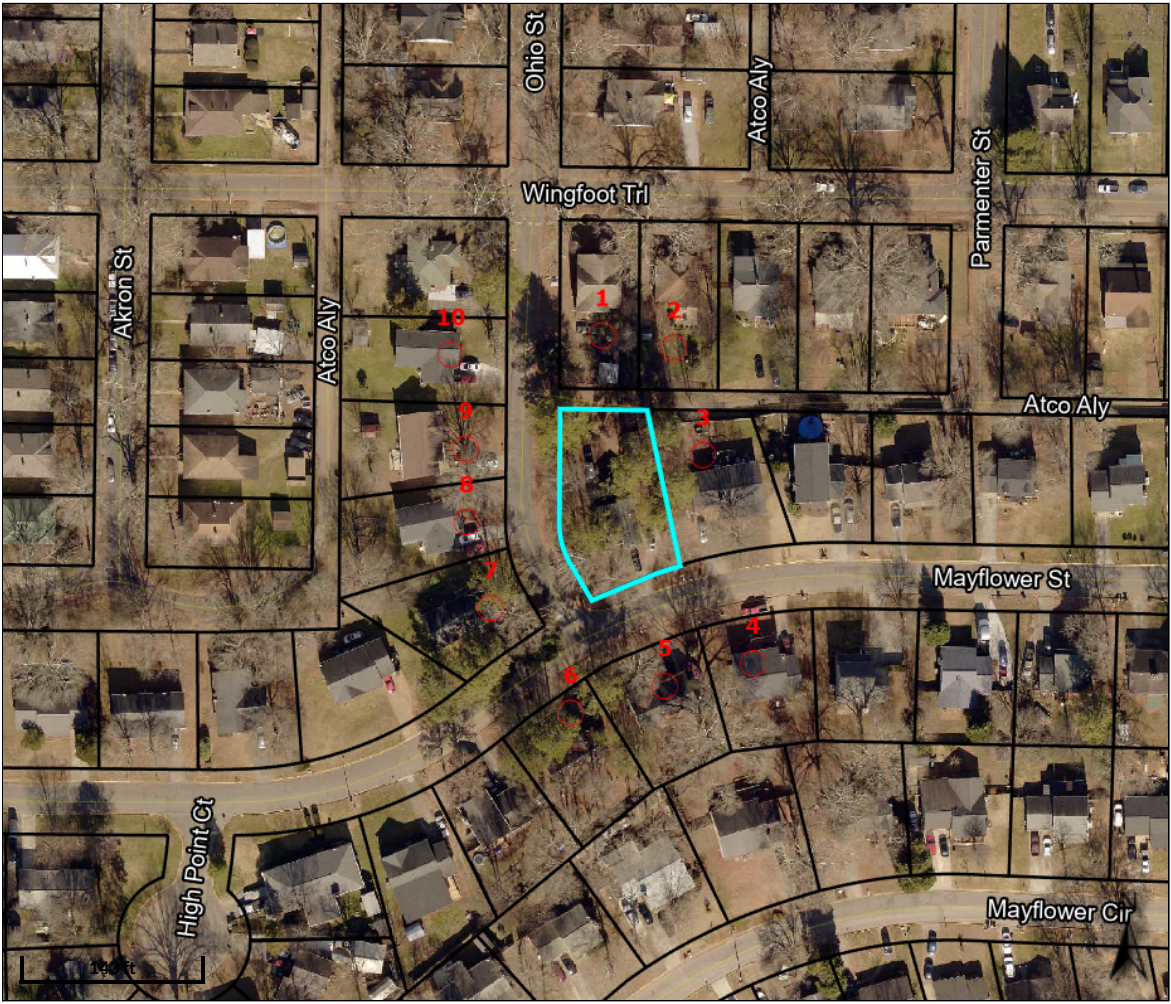
21.3.6. *Self-inflicted hardship.* The board shall not grant variances when the hardship was created by the property owner or his predecessor, and shall not grant hardship variances based on shape or topography for lots of record not existing prior to November 7, 1996. Configuring a subdivision to create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

STANDARDS FOR EXERCISE OF ZONING POWERS.

1. *The existing land uses and zoning of nearby property.*
The surrounding properties are zoned for residential and used for that purpose.
2. *The suitability of the subject property for the zoned purposes.*
The property is suitable for the zoned purposes.
3. *The relative gain to the public, as compared to the hardship imposed upon the individual property owner.*
The public gain would be minimal. A variance approval would allow the property owner to protect the property.
4. *Whether the subject property has a reasonable economic use as currently zoned.*
The property has a reasonable economic use as currently zoned.
5. *Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.*
The proposed variance would have no effect on the use of the subject or adjacent properties.
6. *Whether the proposed zoning will adversely affect the existing use or usability of adjacent or nearby property.*
The proposed variance will not have an adverse effect on the existing use or usability of adjacent or nearby property. The fence along Ohio St will not affect visibility.
7. *Whether the zoning proposal is in conformity with the current future development plan and community agenda of the comprehensive land use plan as currently adopted or amended in the future.*
The proposed variance has no impact on the Future Development Plan or Comprehensive Plan.
8. *Whether the zoning proposal will result in a use which will or could adversely affect the environment, including but not limited to drainage, wetlands, groundwater recharge areas, endangered wildlife habitats, soil erosion and sedimentation, floodplain, air quality, and water quality and quantity.*
No adverse environmental impact is anticipated.
9. *Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.*
The proposed variance will not increase the burden to streets, transportation, or utilities. A double locked gate will be required for 24/7 access to the electric and gas meters and supply lines.

10. *Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.*

There are no known conditions.



Overview

Legend

- Parcels
- Roads

Parcel ID	C025-0004-008	Alternate ID	34972	Owner Address	KIMREY MONIQUE
Sec/Twp/Rng	n/a	Class	Residential		115 MAYFLOWER ST
Property Address	115 MAYFLOWER ST	Acreeage	0.23		CARTERSVILLE, GA 30120
District	Cartersville				
Brief Tax Description	LL 377 D 4 LOT 50 MAYFLOWER				
	<i>(Note: Not to be used on legal documents)</i>				

Date created: 7/3/2023
 Last Data Uploaded: 6/30/2023 9:03:22 PM

Developed by **Schneider**
 GEOSPATIAL

City of Cartersville
Application for Variance
Board of Zoning Appeals

Hearing Date: 8-10-2023 5:30pm

Application Number: V23-16

Date Received: 6-8-2023

Applicant Monique Kimrey Frazier Office Phone 470-439-6554
(printed name)
 Address 115 Mayflower Street Mobile/ Other Phone same
 City Cartersville State GA Zip 30120 Email mfrazier11120@gmail.com

Representative's printed name (if other than applicant) _____
 Phone (Rep) _____
 Email (Rep) _____

Representative Signature _____
 Applicant Signature [Signature]

Signed, sealed and delivered in presence of: _____
 My commission expires: 11/29/26

Notary Public [Signature]



* Titleholder Monique Kimrey Frazier Phone 470-439-6554
(titleholder's printed name)
 Address 115 Mayflower St Cartersville 30120 Email mfrazier11120@gmail.com
 Signature [Signature]

Signed, sealed, delivered in presence of: _____
 My commission expires: 11/29/26

Notary Public [Signature]



Present Zoning District _____ Parcel ID No. C025-0004-008

Acreage .23 Land Lot(s) 377 District(s) 04 Section(s) 3rd

Location of Property: 115 Mayflower Street, Cartersville GA 30120
(street address, nearest intersections, etc.)

Zoning Section(s) for which a variance is being requested: _____

Summary Description of Variance Request: To reduce setback from 20ft to 0ft for installation of a privacy fence on a corner lot per Sec 4.9 of zoning ordinance
(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 _____ Section 4.9 Subsection B1, B2, B4
 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: Adding a fence to my backyard would allow me
the ability to ~~control~~ ^{allow} my dog to play in my yard. I have unknown
parties walking through my yard (have evidence of this on cameras) to get
to my neighbor's home at 113 Mayflower St. My husband and I want to
do more work on our backyard to make us a outdoor place without having
strangers able to come onto property.



**SECTION ONE
MAYFLOWER SUBDIVISION**
PROPERTY IN THE CITY OF CARTERSVILLE
IN LAND LOTS 343, 344, 377, & 378,
4th DISTRICT, 3rd SECTION,
BARTOW COUNTY, GEORGIA

LOCATION MAP

DECLARATION OF PROTECTIVE COVENANTS ARE RECORDED IN DEED BOOK 505,
PAGE 544.

OWNER: LANDEL PROPERTIES, INC.
BILLY WOMACK & JOHN S. NEWMAN, OFFICERS.

WE, THE UNDERSIGNED OWNERS AND MORTGAGEE OF THE MAYFLOWER SUBDIVISION
HEREBY OFFER TO DEDICATE AND/OR RESERVE FOR PUBLIC USE THE STREET
RIGHTS-OF-WAYS, EASEMENTS, AND OTHER GROUND SO SHOWN ON THIS PLAT.

OWNERS AND MORTGAGEE DATE
Billy Womack President 2-25-86
John S. Newman SEC./TREAS 2-25-86
Paul R. Newman I.P. FEDERAL 2-25-86

APPROVED FOR RECORDING BY THE CARTERSVILLE PLANNING COMMISSION.
 SIGNED *Paul R. Newman* DATE 2-27-86

THIS PLAT IS RECORDED IN PLAT BOOK 28, PAGE 335.

FIELD TRAVERSE:
 CLOSURE: ONE FOOT IN 16,000 FEET
 USING A GTS-2 TOPCON
 ANGULAR ERROR: 0°00'05" PER ANGLE
 POINT USING A GTS-2 TOPCON
 ADJUSTED; USING THE COMPOUND RULE.
 SMITH & SMITH, LAND SURVEYORS, P.C.
 CARTERSVILLE, GEORGIA

*FIA FLOOD HAZARD MAP# 0001 C
 DATED SEPT. 7, 1979 SHOWS THIS
 PROPERTY IS NOT IN A FLOOD ZONE.

PLAT:
 CLOSURE: ONE FOOT
 IN 44,000 FEET.



A. Lee Smith
 REGISTERED LAND SURVEYOR No. 1309

LEGEND
 R/W — RIGHT OF WAY
 I.P.P. — IRON PIN PLACED
 I.P.F. — IRON PIN FOUND
 — CONCRETE MARKER
 — IRON PIN
 R — RADIUS
 L — LENGTH OF CURVE
 — LAND LOT LTNF
 — CENTER LINE
 CH. — CHORD

SCALE 1" = 50'
 FILE 2814-1

NOTE: IRON PINS ARE (1/2" RE-BAR).



PROPOSAL

235 Item 2.

405 OLD MILL ROAD
 CARTERSVILLE, GA 30120
 770-382-1223 • FAX 770-386-5922
 @cartersvillefence.com

DATE 5-16-23 INV.# _____
 CELL # 470-233-4857 OTHER # _____
 NAME AND ADDRESS Scott & Monique Frazier
115 Mayflower St.
Cartersville, GA 30120
 E-MAIL MFLAZIER11120@gsnad.com

PROPOSAL After Receipt of Signed Copy From Buyer, This Proposal When Accepted by Cartersville Fence Company, Inc., Becomes A Contract Between the Two Parties

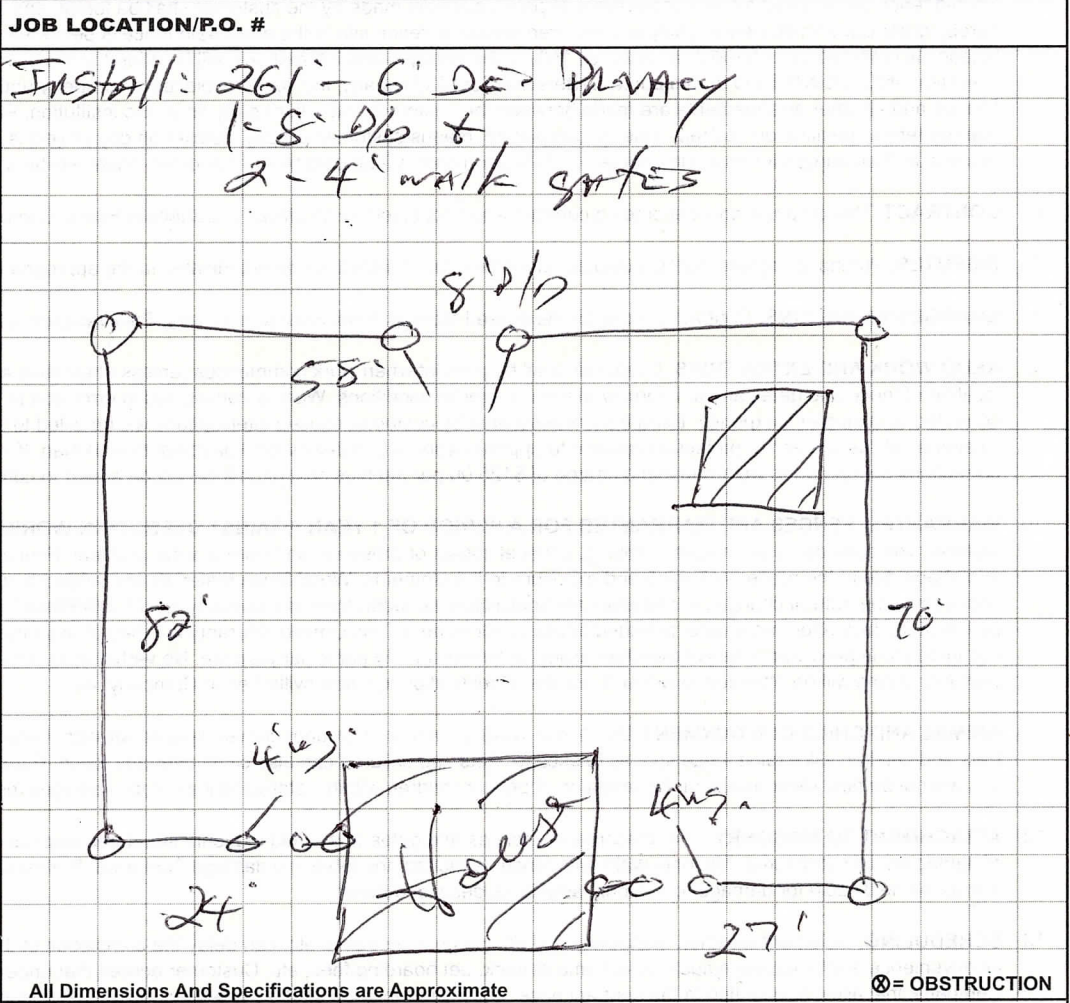
WOOD FENCE COMPONENTS, WHEN EXPOSED TO THE ELEMENTS ARE SUBJECT TO IMMEDIATE WARPAGE, SHRINKAGE, CRACKING, ETC. SPECIFIED SPACE BETWEEN PICKETS AND BOARDS IS A ROUGH APPROXIMATION WHICH WILL VARY SUBSTANTIALLY. NO WARRANTY IS OFFERED OR IMPLIED AGAINST THESE CONDITIONS.

- ### CUSTOMER CHECKLIST
- Clearing - None To Be Done By Customer

(If area not cleared by customer at time of installation Cartersville Fence to clear line for Additional Amount listed below)

\$ _____ Cartersville Fence to Clear Line
 - Customer Is Responsible for:
 - Location of underground utilities and pipe, etc. Utility identification service can be reached at: 1-800-282-7411
 - Cartersville Fence Company, Inc. is not responsible for any unmarked underground systems (pipes, drains, wires, cabling, Sprinklers, etc.)
 - Property Pins - Identified and Marked
 - Customer unable to locate -Go off diagram
 - Customer to be present at time of initial installation to ID exact location of fence
 - Customer to mark desired location of fence (Ends, Corners, Gate Posts) prior to installation - Instructions given.
 - Payment terms and conditions

*If all boxes are not checked, do not proceed with job.

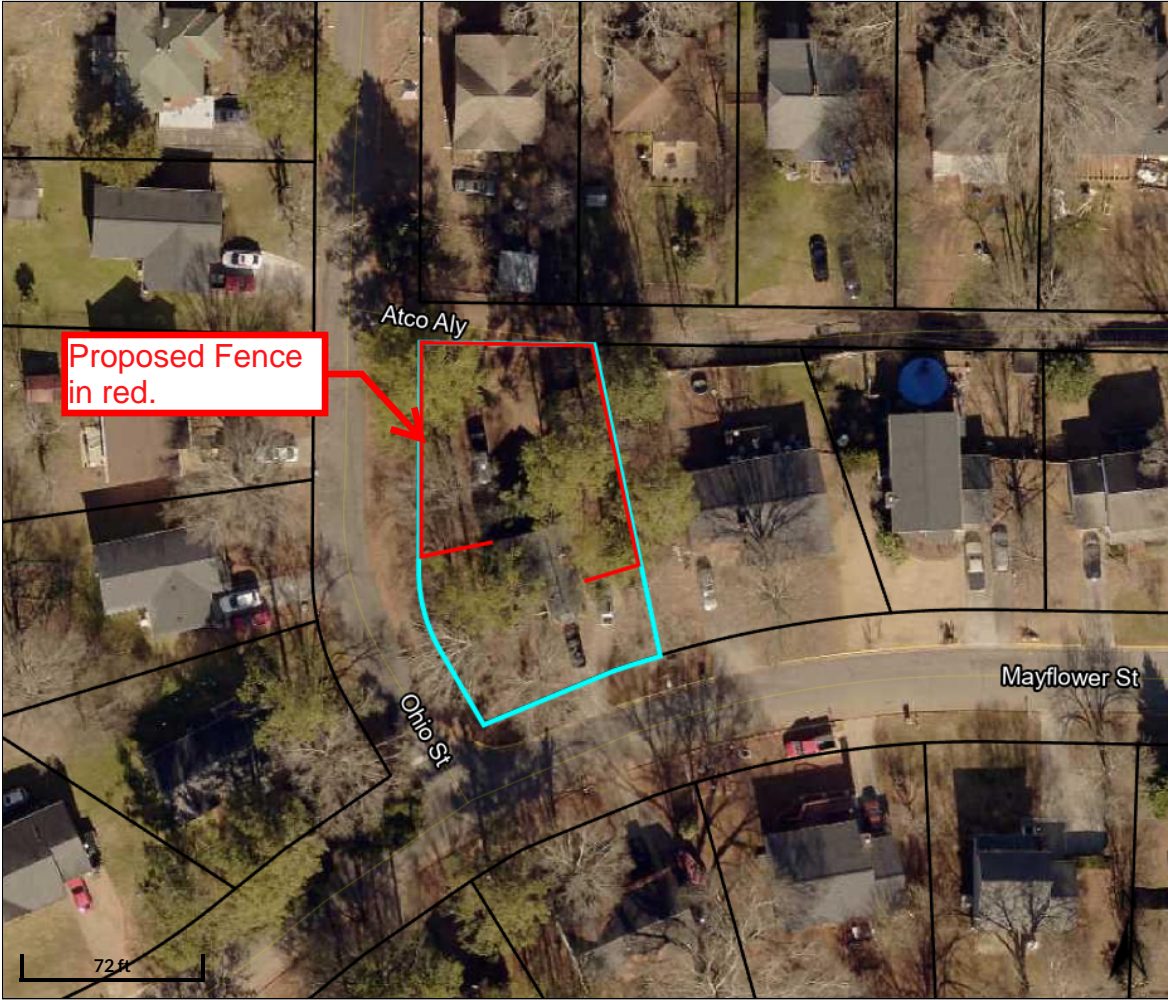


THIS QUOTATION IS GOOD FOR _____ DAYS	
PRICE \$ <u>8094</u>	Revisions If Necessary \$ _____
DEPOSIT \$ <u>4856</u>	\$ _____
BALANCE \$ <u>3238</u>	\$ _____
TERMS: NET <u>60% DN + 40% @ finish</u>	_____ DAYS
ESTIMATOR <u>[Signature]</u>	ACCEPTANCE OF PROPOSAL
ACCEPTED BY <u>[Signature]</u> C'VILLE FENCE	The above prices, specifications and conditions, as well as the conditions on the reverse side, are satisfactory and are hereby accepted. You are authorized to do the work as specified.
	SIGNATURE _____
	DATE _____

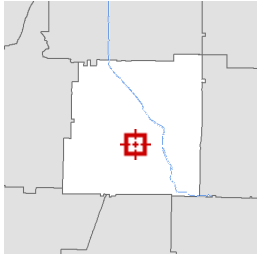
MATERIAL STIPULATION:
 ALL MATERIALS REMAIN THE PROPERTY OF CARTERSVILLE FENCE COMPANY, INC. UNTIL PAID FOR AND CAN BE REMOVED FOR NON-PAYMENT.

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Customer is solely responsible for locating property lines. Liability insurance and workman's compensation will be furnished by the

SUBJECT TO CONDITIONS ON REVERSE SIDE



Overview



Legend

- Parcels
- Roads

Parcel ID	C025-0004-008	Alternate ID	34972	Owner Address	KIMREY MONIQUE
Sec/Twp/Rng	n/a	Class	Residential		115 MAYFLOWER ST
Property Address	115 MAYFLOWER ST	Acreage	0.23		CARTERSVILLE, GA 30120
District	Cartersville				
Brief Tax Description	LL 377 D 4 LOT 50 MAYFLOWER				
	(Note: Not to be used on legal documents)				

Date created: 7/19/2023
 Last Data Uploaded: 7/18/2023 9:01:46 PM

Developed by Schneider
 GEOSPATIAL



View to alley along sideyard with Ohio St. on the left and property line flags along inside edge of trees





View to sideyard from Ohio St. Property line flags along inside edge of trees



View along sideyard with Ohio St. on the right and property line flags along inside edge of trees.



View across backyard with alley on the left and property line flags between trees



View across backyard with alley on the right and property line flags.



Privacy fence to enclose electric and gas meters. Double lock on gate needed for city utility access.





BOARD OF ZONING APPEALS ITEM SUMMARY

MEETING DATE:	August 10, 2023
SUBCATEGORY:	Variance
DEPARTMENT NAME:	Planning and Development
AGENDA ITEM TITLE:	V23-17. 138 Luckie St. Applicant: Joyce Huskins, property owner
DEPARTMENT SUMMARY RECOMMENDATION:	Variance to reduce setbacks for a detached garage
LEGAL:	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/Zack Arnold
 CC: Keith Lovell
 Date: July 14, 2023
 Re: File # V23-17

Summary: To reduce side and rear yard setbacks for construction of accessory structure.

Section 1: Project Summary

Variance application by owner/applicant Joyce Huskins for property located at 138 Luckie St, zoned R-7 Residential. Setbacks are Front and Rear- 20ft and Side- 8ft. Said property contains approximately 0.24 acres.

The applicant proposes to build a detached garage at the end of her driveway and in the rear yard. The ordinance pertaining to accessory structures on residential lots, Sec. 4.9, requires all accessory structures be located in the rear yard and 5ft off all property lines. The proposed garage will encroach into the required 5ft setback in the side and rear yard. The proposed encroachment is approximately 3.5ft in the side yard and 1.2ft in the rear yard.

The house is approximately 1800sf. The 16' x 28' garage is 448 sf. The proposed garage is compliant with the square footage requirement. Also, the garage may not be taller than house. There is no indication that the garage will exceed the height of the house.

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

1. To reduce side and rear yard setbacks from 5ft to 1.2ft (max.) for construction of accessory structure (Sec. 4.9)

Section 2. Department Comments

Electric Department: Takes no exception.

Fibercom: No comments received.

Fire Department: No comments received.

Gas Department: Takes no exception.

Public Works Department: Takes no exception.

Water Department: Takes no exception.

Section 3. Public Comments Received by Staff

No public comments received as of 7-14-2023

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. 4.9. Accessory uses, buildings or structures.

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.

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.

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.

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.

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.

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.*

STANDARDS FOR EXERCISE OF ZONING POWERS.

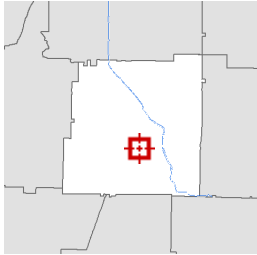
1. *The existing land uses and zoning of nearby property.*
The surrounding properties are zoned for residential and used for that purpose.
2. *The suitability of the subject property for the zoned purposes.*
The property is suitable for the zoned purposes.
3. *The relative gain to the public, as compared to the hardship imposed upon the individual property owner.*
The public gain would be minimal. A variance approval would allow the property owner to provide covered parking and protection of personal property.
4. *Whether the subject property has a reasonable economic use as currently zoned.*
The property has a reasonable economic use as currently zoned.
5. *Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.*
The proposed variance would have no effect on the use of the subject or adjacent properties.
6. *Whether the proposed zoning will adversely affect the existing use or usability of adjacent or nearby property.*
The proposed variance will not have an adverse effect on the existing use or usability of adjacent or nearby property.
7. *Whether the zoning proposal is in conformity with the current future development plan and community agenda of the comprehensive land use plan as currently adopted or amended in the future.*
The proposed variance has no impact on the Future Development Plan or Comprehensive Plan.
8. *Whether the zoning proposal will result in a use which will or could adversely affect the environment, including but not limited to drainage, wetlands, groundwater recharge areas, endangered wildlife habitats, soil erosion and sedimentation, floodplain, air quality, and water quality and quantity.*
No adverse environmental impact is anticipated.
9. *Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.*
The proposed variance will not increase the burden to streets, transportation, or utilities.

10. *Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.*

There are no known conditions.



Overview



Legend

- Parcels
- Roads

Parcel ID	C016-0019-009	Alternate ID	34133	Owner Address	HUSKINS JOYCE B
Sec/Twp/Rng	n/a	Class	Residential		138 LUCKIE STREET
Property Address	138 LUCKIE ST	Acreage	0.24		CARTERSVILLE, GA 30120
District	Cartersville				
Brief Tax Description	LT 8 SUNSET PARK LL 554 LD 4				
	(Note: Not to be used on legal documents)				

Date created: 7/14/2023
 Last Data Uploaded: 7/13/2023 9:01:30 PM

Developed by **Schneider**
 GEOSPATIAL

City of Cartersville
Application for Variance
Board of Zoning Appeals

Hearing Date: 8-10-2023 5:30pm

Application Number: V23-17

Date Received: 6-9-2023

Applicant Joyce Huskins Office Phone _____
(printed name)
Address 138 Luckie Street Mobile/ Other Phone 678-431-1770
City Cartersville, State GA Zip 30120 Email huskinshaven@bellsouth.net
Phone (Rep) _____
Representative's printed name (if other than applicant) _____
Email (Rep) _____
Representative Signature _____ Applicant Signature Joyce Huskins
Signed, sealed and delivered in presence of: _____ My commission expires: _____
Notary Public _____

* Titleholder Joyce Bevil Huskins Phone 678-431-1770
(titleholder's printed name)
Address 138 Luckie Street Email huskinshaven@bellsouth.net
Signature Joyce Huskins
Signed, sealed, delivered in presence of: _____ My commission expires: _____
Notary Public _____

Present Zoning District R-7 Parcel ID No. C014-0019-009
Acreage .24 Land Lot(s) 554 District(s) 4 Section(s) 3
Location of Property: 138 Luckie Street
(street address, nearest intersections, etc.)
Zoning Section(s) for which a variance is being requested: Article IV Sections 4.9
Summary Description of Variance Request: The setbacks are too restrictive to
place garage
(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 IV Section 4.9 Subsection _____
 Article _____ Section _____ Subsection _____
 Article _____ Section _____ Subsection _____

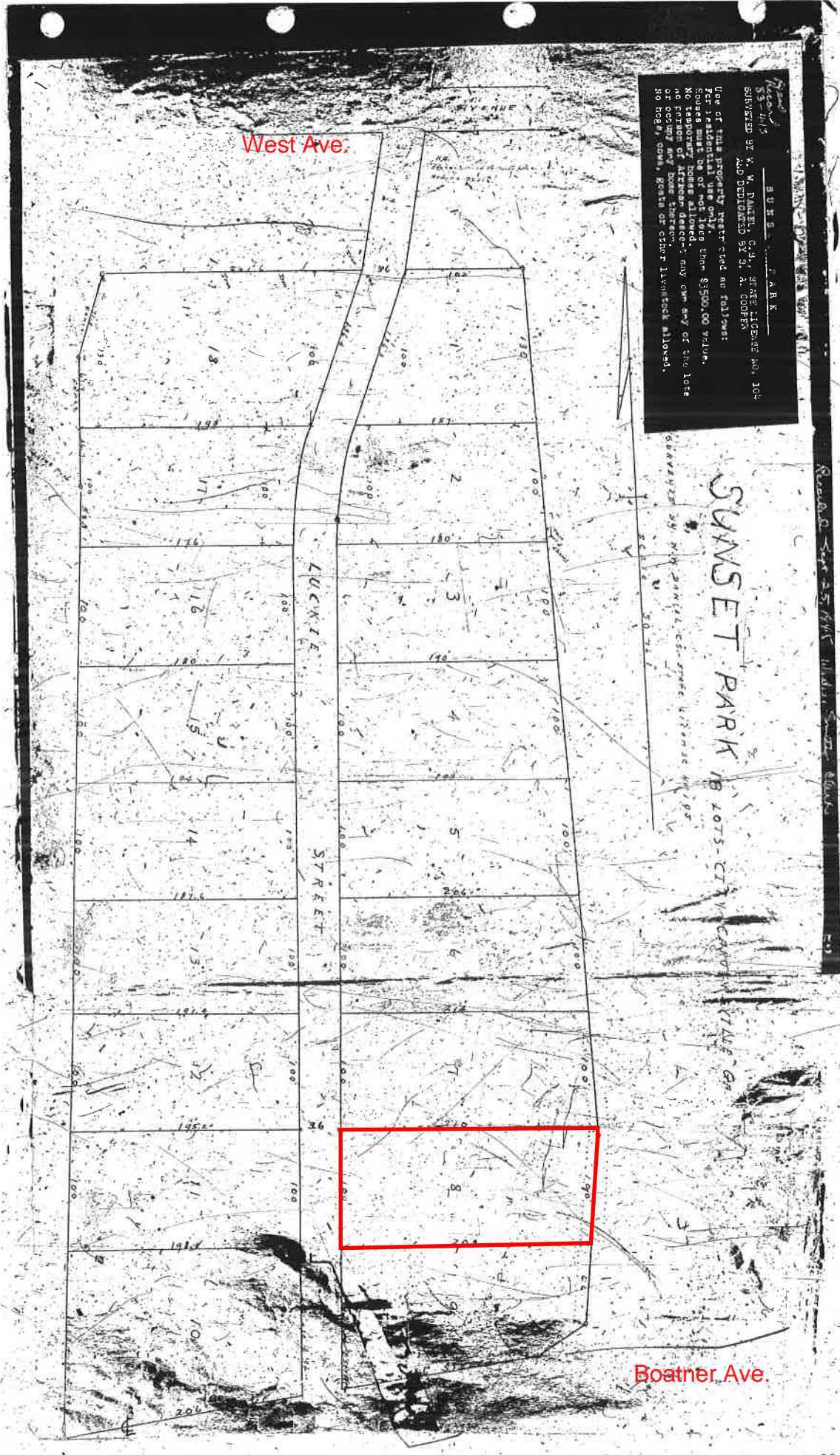
The Board of Zoning Appeals was established to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the zoning administrator in the enforcement of the zoning ordinance. The Board has the power to hear requests for variances from the 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 setbacks are too restrictive.
It makes most sense to be able to pull straight
into garage from driveway.

SUNSET PARK
 SUBDIVISION BY W. M. PAULI, C.E., STATE LICENSE NO. 104
 AND DEDICATED BY J. A. COOPER
 Use of this property restricted as follows:
 Residential use only.
 House must be of not less than \$1500.00 value.
 No temporary houses allowed.
 No portion of adjacent lots may be used for the
 location of sheds, kennels or other livestock allowed.
 No hotels, clubs, resorts or other livestock allowed.



BOUDARY SURVEY FOR:
MICHAEL MCMILLAN

LOCATED IN LAND LOTS 526 & 555
 4th DISTRICT, 3rd SECTION
 CITY OF CARTERSVILLE, BARTOW COUNTY, GEORGIA

DATE: JUNE 06, 2023 REV: JOB NO: 23074-2

DATE OF FIELDWORK: MAY 30, 2023

DRAWN BY: JPC CHECKED BY: KNC APPROVED BY: KNC

○	= IRON PIN FOUND	△	= DOUBLE WING CATCH BASIN	⊗	= GAS VALVE	⊙	= SEWER MANHOLE	⊕	= POWER POLE
□	= CONCRETE MON. FOUND	○	= SINGLE WING CATCH BASIN	⊗	= GAS METER	⊙	= CLEAN OUT	⊕	= GUY WIRE
●	= IRON PIN PLACED	⊙	= JUNCTION BOX	⊗	= TELEPHONE MANHOLE	⊙	= WATER VALVE	⊕	= ELECTRIC METER
△	= BREAK POINT	⊕	= CURB INLET	⊙	= ELECTRIC MANHOLE	⊕	= WATER METER	⊕	= TRANSFORMER
⊕	= PHOTO REFERENCE	⊕	= YARD INLET	⊕	= TELEPHONE PEDESTAL	⊕	= FIRE HYDRANT	⊕	= LIGHT POLE
⊕	= EXCEPTIONS	⊕	= DROP INLET	⊕	= SIGN	⊕	= IRRIGATION CONT. VALVE	⊕	= FLOW ARROW
⊕	= PARKING BOLLARD	⊕	= HEADWALL	⊕	= BENCHMARK	⊕	= WELL	⊕	= MAILBOX

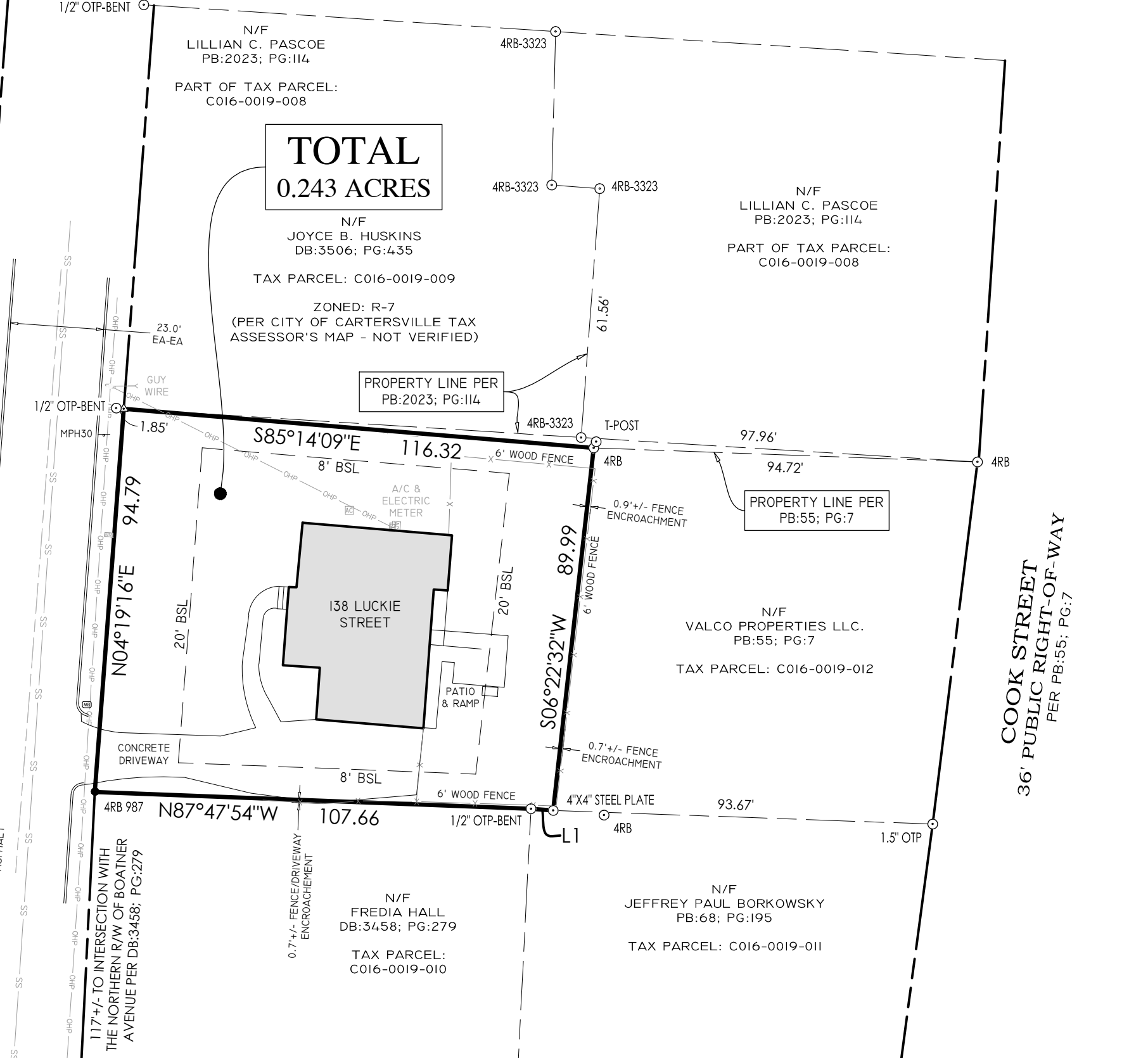
—	= STORM PIPE	—	= OVERHEAD PWR.	—	= WATER LINE	—	= COMM. LINE
—	= SEWER PIPE	—	= FENCE LINE	—	= GAS LINE	—	= UNDERGROUND PWR.

THIS BLOCK RESERVED FOR THE CLERK OF THE SUPERIOR COURT.

LINE TABLE		
LINE	BEARING	LENGTH
L1	N85°27'21"W	5.50

LUCKIE STREET
 36' PUBLIC RIGHT-OF-WAY
 PER PB:55; PG:7

COOK STREET
 36' PUBLIC RIGHT-OF-WAY
 PER PB:55; PG:7



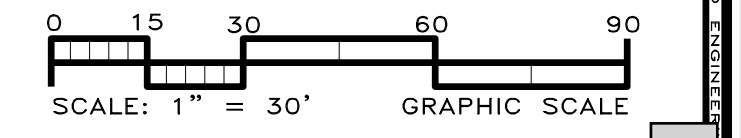
General Notes

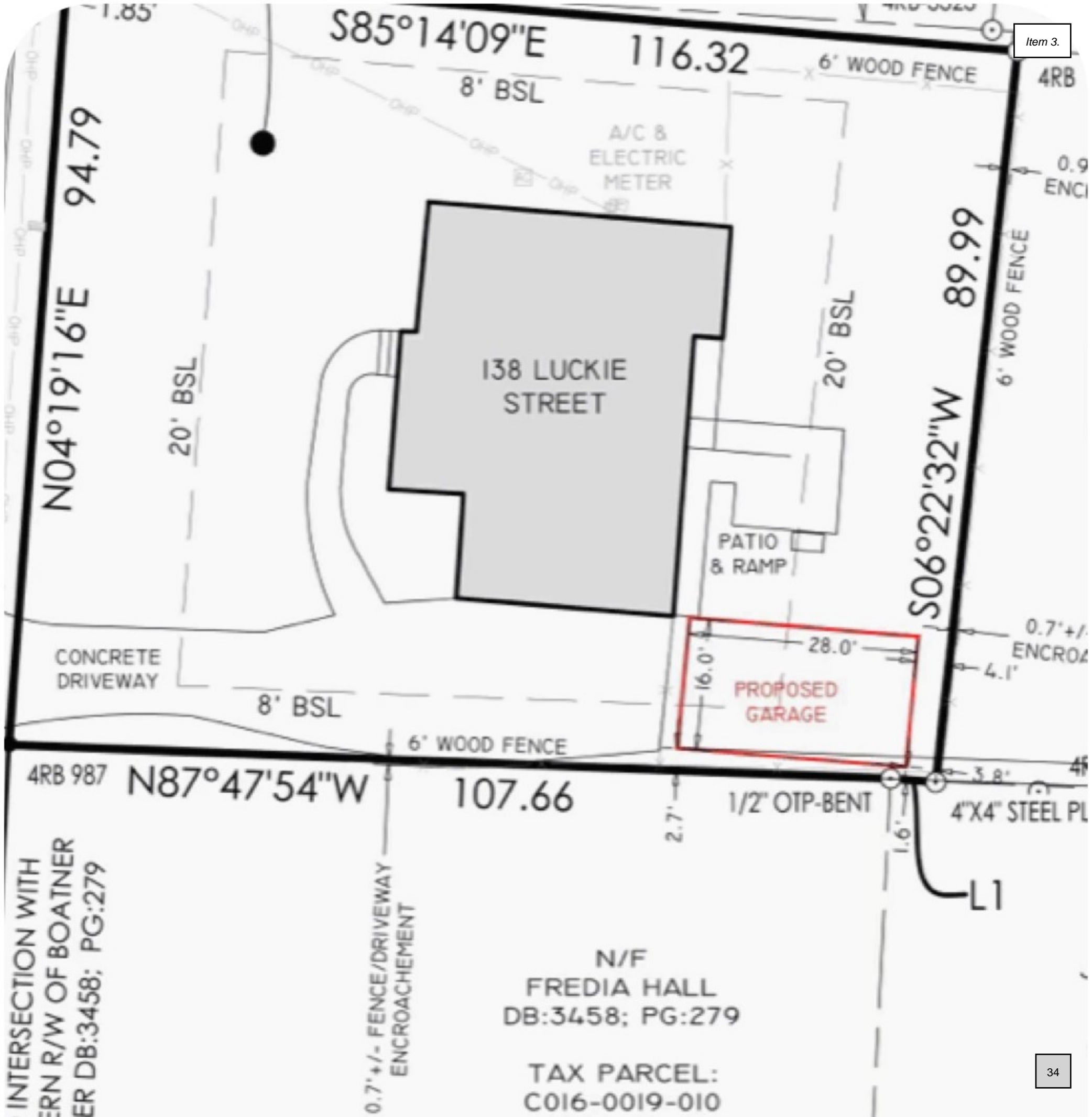
- ALL PROPERTY CORNERS ARE 1/2" REBAR, EXCEPT AS SHOWN.
- THE FIELD DATA UPON WHICH THIS SURVEY IS BASED WAS COLLECTED USING NETWORK ADJUSTED RTK GPS WITH POSITIONAL ACCURACIES OF +/- 0.07' VERTICAL AND +/- 0.05' HORIZONTAL.
- THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN 1' IN 92,058 FEET.
- EQUIPMENT USED: TOPCON 3005W TOTAL STATION, EGPS 20T BASE AND ROVER, WITH DATA COLLECTOR.
- RIGHTS OF WAY ARE BASED UPON PINS FOUND AND/OR CENTERLINES OF PATHS OF TRAVEL.
- THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND IS SUBJECT THERETO. THEREFORE, THERE MAY EXIST ENCUMBRANCES WHICH AFFECT THE PROPERTY NOT SHOWN HEREON.

Conformity Statement

THIS PLAT IS A RETRACEMENT OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT SUBDIVIDE OR CREATE A NEW PARCEL OR MAKE ANY CHANGES TO ANY REAL PROPERTY BOUNDARIES. THE RECORDING INFORMATION OF THE DOCUMENTS, MAPS, PLATS, OR OTHER INSTRUMENTS WHICH CREATED THE PARCEL OR PARCELS ARE STATED HEREON. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. FURTHERMORE, THE UNDERSIGNED LAND SURVEYOR CERTIFIES THAT THIS PLAT COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN THE RULES AND REGULATIONS OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN O.C.G.A. SECTION 15-6-67.

KEVIN COONEY - GA PLS 2980





INTERSECTION WITH
 ERN R/W OF BOATNER
 ER DB:3458; PG:279

N/F
 FREDIA HALL
 DB:3458; PG:279
 TAX PARCEL:
 C016-0019-010



Cartersville, Georgia
Google Street View
Jun 2022 See more dates



Image capture: Jun 2022 © 2023 Google

