



# CARTERSVILLE BOARD OF ZONING APPEALS MEETING

Council Chambers, Third Floor of City Hall  
Thursday, March 09, 2023 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. February 9, 2023

### VARIANCE CASES

2. V23-03. 6 Woodland Dr. Applicant: Jonathan Pressley
3. V23-04. 12 Euharlee Rd. Applicant: 12 Euharlee Rd, LLC.

### STAFF OR COMMITTEE COMMENTS

### OTHER

The next meeting of the Board of Zoning Appeals will be April 13, 2023.

### 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>	March 9, 2023
<b>SUBCATEGORY:</b>	Approval of Minutes
<b>DEPARTMENT NAME:</b>	Planning and Development
<b>AGENDA ITEM TITLE:</b>	February 9, 2023
<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 February 9, 2023, in the Council Chambers.

**ROLL CALL**

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

Chairman Lamar Pendley stated that tabled item V22-23 would not be heard tonight.

**APPROVAL OF MINUTES**

**1. Approval of Minutes: January 12, 2022**

Board Member McElwee made a motion to approve the January 12, 2023, Minutes. Board Member Brunt seconded the motion. Motion carried unanimously. Vote: 4-0

Board Member Malcolm Cooley joined the meeting at 5:32pm

**VARIANCE CASES**

**2. V23-01: 108 Mitchell Ave.**

**Applicant: Charles Adams**

*Variance: To increase maximum allowed building height.  
To allow an accessory structure in the front yard; and,  
To allow a privacy fence in the front yard of a double frontage lot.*

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 a detailed overview stating this variance application is by applicant Charles Adams for property located at 108 Mitchell Ave, zoned R-20 Residential. Setbacks are Front- 20ft and Side- 10ft. Said property contains approximately 1.46 acres. This lot has road frontages and front yards along Mitchell Ave. and Plymouth Dr. The applicant is in the process of constructing a new home on the property.

There are three variance requests:

The applicant is proposing to construct a new house and wishes to increase the maximum allowed building height from 35ft. to an average height of 36'-7" from grade. Sec 6.1.3 of the R-20 Development Standards, requires all primary structures to be less than 35ft or two and one-half stories in height.

Additionally, the applicant wishes to construct a detached garage, accessory structure, to the side and rear of the home that will encroach into the front yard along Plymouth Dr. The proposed location of the accessory structure is behind the front yard setback for Plymouth Dr and the 10ft. western side yard setback. Sec. 4.9. requires accessory structures to be placed in

the rear yard, at least 5ft off the property line. Accessory structures are allowed in the side yard of multi-frontage lots but must comply with the side yard setback.

Item 1.

Finally, the applicant proposes to build a privacy fence to enclose the property that will include the front yard along the Plymouth Drive right-of-way. The proposed fence is partially constructed and encroaches into the front yard setback along Plymouth Dr. The fence ordinance for a double frontage lot, Sec. 4.16, requires privacy fences to be installed behind the front yard setback, and to the rear of the house. The fence is proposed to the rear of the house as seen from Mitchell Ave, but in the front yard along Plymouth Dr.

In closing, Mr. Hardegree reviewed the department comments stating the only department with comments was Public Works with the comment that grading within the right of way is not allowed.

Chairman Pendley opened the public hearing.

Matt Womack, General Contractor, 716 West Ave., came forward to represent the application and to answer questions from the board.

Charles Adams, 15 Carrington Dr., applicant, came forward to state the previous fence that was on the property was also on the property line.

Andy Boez, 108 Plymouth Dr., came forward to speak against the application, and requested that the fence be moved back to the 20' setback to allow shrubs and foliage to be planted to camouflage the fence.

Donna Popham, 87 Bates Rd., came forward and stated that she, too, would like to see the fence moved back to the 20' setback to allow for foliage to be planted. Additionally, she stated she had started to see run off coming from the applicant's property onto her property.

Keith Lovell, Assistant City Attorney, stated that she could contact the City Engineer to have an assessment done to determine the cause of the run off onto her property or handle through private litigation.

With no one else to come forward, Chairman Pendley closed the public hearing.

Board Member McElwee asked that voting be separated for each item.

Board Member Brunt made motion to approve the increase of maximum allowed building height to 36' 7". Board Member McElwee seconded the motion. Motion carried unanimously. Vote: 5-0

Board Member McElwee made a motion to allow the detached garage (accessory structure) in the front yard. Board Member Murphy seconded the motion. Motion carried unanimously. Vote: 5-0

Discussion commenced regarding the fencing and previous foliage that was in place.

Mr. Womack returned to the podium to reiterate the improvement of the corner lot since the old foliage had been removed and the improvement in sight distance.

Mr. Adams returned to the podium to address his neighbors concerns.

Darri Adams, wife of applicant, came forward to state that it was their intent to keep foliage on the outer fence.

Board Member Brunt made a motion to allow the applicant to encroach no more than ten feet (10') into the required 20' setback. Board Member McElwee seconded the motion. Motion carried unanimously. Vote: 5-0

3. V23-02: 27 Arrowhead Dr./Etowah Dr. Tax Parcel No C016-0025-013

Applicant: Amanda Rice

***Variance: To allow an 8ft privacy fence to encroach into the front yard setback.***

Mr. Hardegree gave an overview stating the variance application is by applicant Amanda Rice for property located on Etowah Dr, Tax ID No. C016-0025-013. Zoning is R-7 Residential. Setbacks are Front and Rear- 20ft and Side- 8ft. Said property contains approximately 0.27 acres. This property adjoins 27 Arrowhead Dr.

The applicant proposes to build a privacy fence to enclose the property that will include the front yard along the Etowah Drive right-of-way. Though associated to 27 Arrowhead Dr, this property is a standalone property. The fence is partially installed, posts only, and replaces a chain link fence in the same, approximate location.

The fence ordinance, Sec. 4.16, requires privacy fences to be installed behind the front yard setback, and to the rear of the house. Since there is no structure on this lot, this fence should be installed at or behind the 20ft. front yard setback. Using aerial photography and property surveys submitted with the application, staff determined that the previous chain link fence and proposed privacy fence is approx. 10ft. from the property line. Therefore, the front yard setback encroachment is approx. 10ft.

Chairman Pendley opened the public hearing.

Amanda Rice, 27 Arrowhead Dr., came forward to represent the application and to answer questions from the board. Furthermore, she stated that the request is a for an 8' feet but some areas will only be 6' as the top of the fence will be straight.

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

Board Member McElwee made a motion to approve the fence under the understanding that the fence is exact as pictured. (See below). Board Member Hudson seconded the motion. Motion carried unanimously. Vote: 5-0.



With no other business to discuss, Board Member McElwee made a motion to adjourn at 6:15 P.M.

March 9, 2023 \_\_\_\_\_  
Date Approved

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



## BOARD OF ZONING APPEALS ITEM SUMMARY

<b>MEETING DATE:</b>	March 9th
<b>SUBCATEGORY:</b>	Variance
<b>DEPARTMENT NAME:</b>	Planning and Development
<b>AGENDA ITEM TITLE:</b>	V23-03. 6 Woodland Dr. Applicant: Jonathan Pressley
<b>DEPARTMENT SUMMARY RECOMMENDATION:</b>	Applicant proposes multiple accessory structures in the front yards of a multi-frontage lot. The property is bounded by three streets.
<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/Zack Arnold  
 CC: Keith Lovell  
 Date: March 2, 2023  
 Re: File # V23-03

**Summary: To allow accessory structures in multiple front yards of a multi-frontage lot.**

### Section 1: Project Summary

Variance application by applicant Jonathan Pressley for property located at 6 Woodland Dr. Zoning is R-20, Single Family Residential. Setbacks are Front- 20ft and Side- 10ft. Said property contains approximately 3.98 acres. This is a corner lot with street frontages along Woodland Dr, Woodview Dr, and Pine St.

The applicant proposes to build a pool, approx. 20ft x 40ft, to the rear of the home which is in the front yard of Woodview Dr. The pool cabana, approx. 20ft. x 20ft, is proposed to the rear and side of the home, but in the front yards of Woodview Dr. and Pine St. The structures will meet all building setbacks for accessory structures. Despite having multiple stormwater pipes in this area. the pool can be located to avoid conflicts with the stormwater pipes.

A detached carport (covered parking) is proposed to the west side of the house and in the front yard of Woodland Dr. This encroachment is due primarily to the curvature of the driveway. The proposed location can meet the front and side yard setbacks for the zoning district. However, there is a conflict with the 24" storm pipe as shown on the site plan. The separation distance from the centerline of the stormwater pipe to the carport should be 5-10ft. This is to avoid damaging the carport structure or its support footing if heavy equipment is used for maintenance or replacement of the pipe. The city attorney is checking records for an existing utility or drainage easement.

The city zoning ordinance requires that all accessory structures be located in a side or rear yard and that certain building setbacks be met.

### **The variance request is for the following:**

1. To allow a pool (accessory structure) in the Woodview Drive front yard (Sec. 4.9)
2. To allow a pool cabana (accessory structure) in the Woodview Drive and Pine Street front yards (Sec. 4.9)
3. To allow a detached carport (accessory structure) in the Woodland Drive front yard (Sec. 4.9)



## **Section 2. Department Comments**

**Electric Department:** Takes no exceptions.

**Fibercom:** Takes no exceptions.

**Fire Department:** No comments received.

**Gas Department:** Takes no exceptions.

**Public Works Department:** Per phone call with Wade Wilson, city engineer, the detached carport should be offset from edge of 24” stormwater pipe at least 5ft. if no easement is recorded.

**Water Department:** Takes no exceptions.

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

2/21: Adina Wood. 10 Woodview Dr. Received letter. General Inquiry.

\* See (2) emails stating support for project from adjacent neighbors.

## **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:

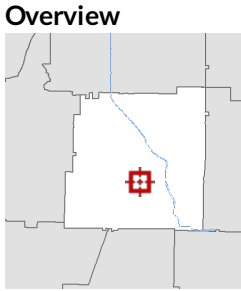
- 21.3.1. *Appeals.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the zoning administrator in the enforcement of this chapter. Appeals to the board of appeals may be taken by any person aggrieved or by any officer, department, 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. *Variations.* 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.*



**Legend**  
 □ Parcels  
 — Roads

<b>Parcel ID</b>	C015-0001-031	<b>Alternate ID</b>	33760	<b>Owner Address</b>	PRESSLEY JONATHAN D & LAUREN M
<b>Sec/Twp/Rng</b>	n/a	<b>Class</b>	Residential		6 WOODLAND DRIVE
<b>Property Address</b>	6 WOODLAND DR	<b>Acreage</b>	3.98		CARTERSVILLE, GA 30120
<b>District</b>	Cartersville				
<b>Brief Tax Description</b>	LL556-557 D 4 LT 56-61& 106 TERRELL HEIGHTS				
	<i>(Note: Not to be used on legal documents)</i>				

Date created: 3/3/2023  
 Last Data Uploaded: 3/2/2023 10:26:42 PM

Developed by Schneider  
 GEOSPATIAL

City of Cartersville  
Application for Variance  
Board of Zoning Appeals

Hearing Date: 3-9-23 5:30pm

Application Number: V23-03

Date Received: 1-27-23

Applicant Jonathan Pressley Office Phone \_\_\_\_\_  
(printed name)


Address 6 Woodland Drive Mobile/ Other Phone 678-899-5430

City Cartersville State GA Zip 30120 Email jpressley@evergreendres.com

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

Representative Signature \_\_\_\_\_ Applicant Signature Jonathan Pressley

Signed, sealed and delivered in presence of: \_\_\_\_\_ My commission expires: \_\_\_\_\_  
Luke Freiler  
 Notary Public




\* Titleholder Jonathan Pressley Phone 678-899-5430  
(titleholder's printed name)

Address 6 Woodland Drive Cartersville Email jpressley@evergreendres.com  
GA 30120

Signature Jonathan Pressley

Signed, sealed, delivered in presence of: \_\_\_\_\_ My commission expires: \_\_\_\_\_  
Luke Freiler  
 Notary Public



Present Zoning District R 20 Parcel ID No. C015-0001-031

Acreage 3.98 Land Lot(s) 556-557 District(s) 4 Section(s) 3

Location of Property: 6 Woodland Drive Cartersville, GA 30120  
(street address, nearest intersections, etc.)

Zoning Section(s) for which a variance is being requested: Article IV Section 4.9

Summary Description of Variance Request-  
 Our property is multi-frontage lot and I am requesting to build a pool and pool cabana in what I consider my back yard. I am also requesting approval to build a covered parking area adjacent to the driveway and slightly in front of the house due to the curvature of the driveway.  
provided on Justifation Letter (Additional detail can be

\* 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 \_\_\_\_\_ Subsection \_\_\_\_\_  
Section \_\_\_\_\_ Article \_\_\_\_\_ Subsection \_\_\_\_\_  
Section \_\_\_\_\_

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. X The property contains other extraordinary or exceptional conditions; and
- 4. \_\_\_\_\_ There are other existing extraordinary or exceptional circumstances; and
- 5. X 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. X The requested variance relief may be granted without substantially impairing the intent and purpose of this ordinance

Additional Comments by Applicant: My property is surrounded by three streets which means that I technically have three front yards and the ordinance states that auxiliary buildings can't be built in the front yard. We have submitted for a pool permit and we plan to build a small (roughly 24x24 ) covered pavilion near the pool in what I consider my back yard. This area is heavily wooded and though I understand and agree with the ordinance, I do believe this variance approval is appropriate in this case. I am also seeking approval to build a covered parking area next to my house that will be slightly in front of the corner of the house due to topo and the curvature of the driveway. I understand that in most cases covered parking would be in line with or recessed from the front of the house but in this case with the extreme topo and a circular driveway the covered parking area as designed makes sense.

Please see attachment for detailed information concerning the proposed pool location.

The proposed pool will be approximately 20'x40' with a 12' deck around the pool. Per the attached site plan I propose to install the pool deck 2' off of the edge of the storm easement which will allow room for the necessary fencing.

**David Hardegree**

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**From:** Adele Wenzell <awzell@yahoo.com>  
**Sent:** Monday, February 27, 2023 2:58 PM  
**To:** jpressley@evergreendres.com  
**Subject:** Re: 6 Woodland Drive Variance Pressley

To whom it may concern,

I have reviewed the development plans for 6 Woodland Dr., Cartersville, Georgia. I, Adele Wenzell, the homeowner of 5 Woodland Dr., Cartersville, Georgia, have no objections or concerns about the new construction planned for the address mentioned above.

Adele Wenzell  
5 Woodland Dr  
Cartersville, Georgia 30120  
404-754-9877

[Sent from Yahoo Mail for iPhone](#)

On Wednesday, February 22, 2023, 4:33 PM, jpressley@evergreendres.com wrote:

Hey Adele,

Attached is the site plan showing where the front covered parking is planned as well as the pool and pool cabana located in the rear yard. I know we discussed in person but do you mind responding to this email that you are in favor of this variance approval.

Thank You

Jonathan Pressley

678-899-5430



**David Hardegree**

---

**From:** Scooter Dawkins <scooterdawkins@gmail.com>  
**Sent:** Monday, February 27, 2023 10:30 PM  
**To:** jpressley@evergreendres.com  
**Subject:** Re: 6 Woodland Drive Variance Pressley

Yes, I am in favor of approving this variance.

Scooter Dawkins  
12 Woodview Dr, Cartersville, GA 30120

On Mon, Feb 27, 2023 at 4:07 PM <[jpressley@evergreendres.com](mailto:jpressley@evergreendres.com)> wrote:

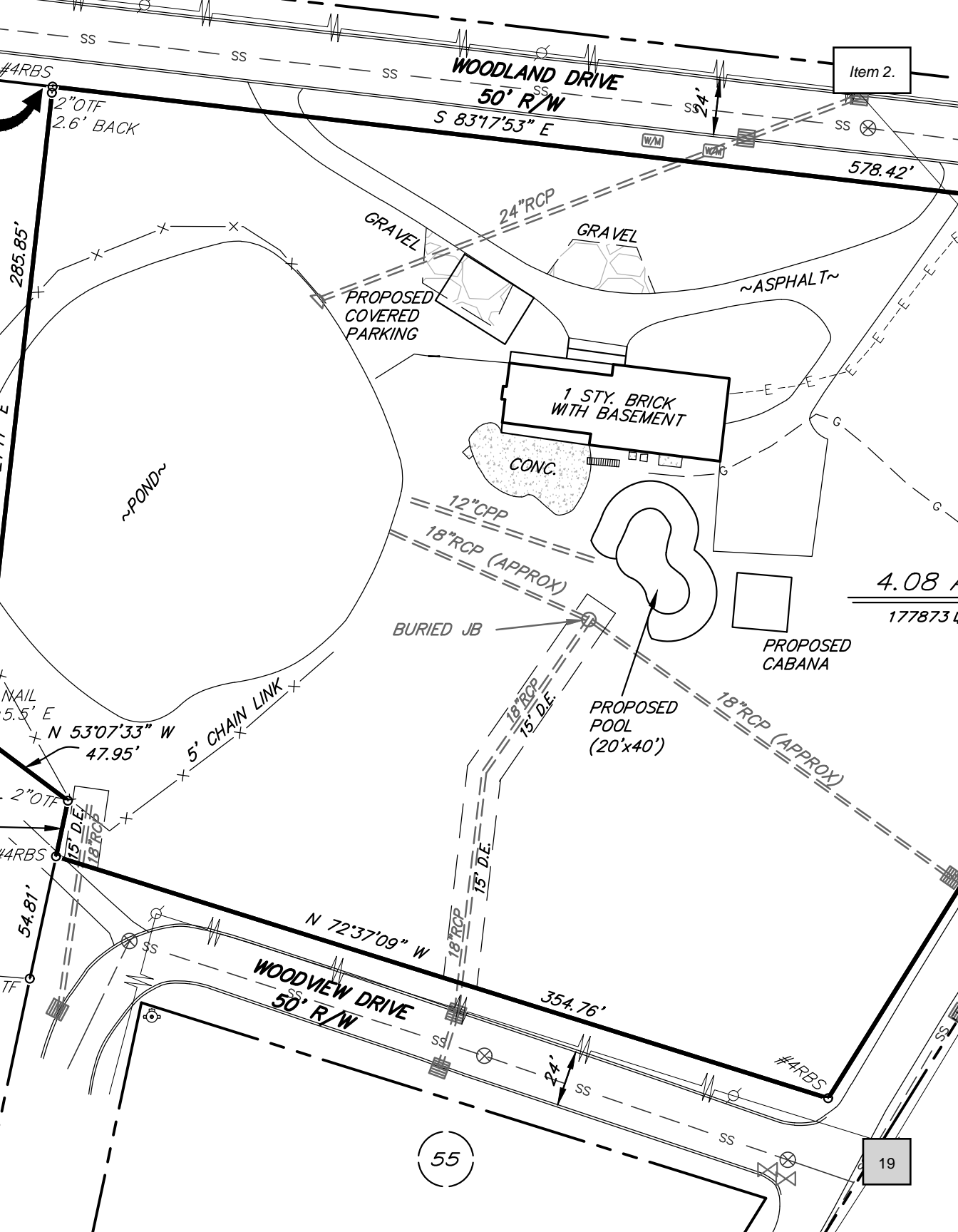
Hey Scooter,

Attached is the site plan showing where the front covered parking is planned as well as the pool and pool cabana located in the rear yard. I know we discussed in person but do you mind responding to this email that you are in favor of this variance approval.

Thank You

Jonathan Pressley





Item 2.

WOODLAND DRIVE

50' R/W

S 83°17'53" E

578.42'

24" RCP

GRAVEL

GRAVEL

~ASPHALT~

PROPOSED COVERED PARKING

1 STY. BRICK WITH BASEMENT

CONC.

4.08

1778734

PROPOSED CABANA

BURIED JB

PROPOSED POOL (20'x40')

18" RCP (APPROX)

~POND~

5' CHAIN LINK

12" CPP

18" RCP (APPROX)

18" RCP

15' D.E.

15' D.E.

18" RCP

15' D.E.

18" RCP

15' D.E.

N 72°37'09" W

WOODVIEW DRIVE

50' R/W

354.76'

#4RBS

55

19

2" OTF  
2.6' BACK

285.85'

NAIL  
5.5' E

N 53°07'33" W  
47.95'

2" OTF

#4RBS

54.81'

TF

SS

SS

SS

SS

24'

SS

W/M

W/M

SS

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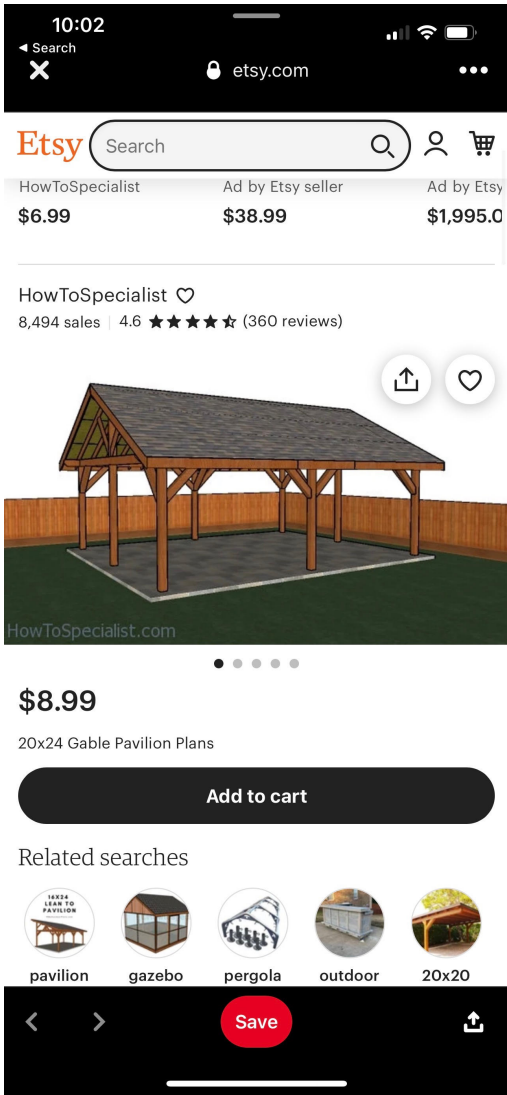
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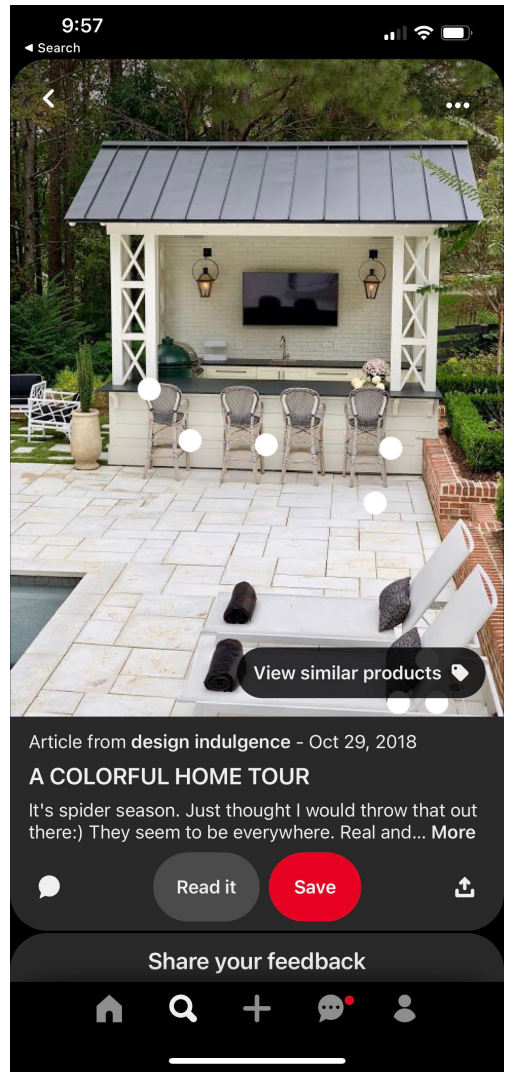
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Example of Carport



Example of Pool Cabana



View north from Pine St @ Woodview Dr Intersection



View north from 12 Woodview Dr



View south to Woodview Dr from area where pool is proposed



Views to proposed detached carport area









## BOARD OF ZONING APPEALS ITEM SUMMARY

<b>MEETING DATE:</b>	March 9th
<b>SUBCATEGORY:</b>	Variance
<b>DEPARTMENT NAME:</b>	Planning and Development
<b>AGENDA ITEM TITLE:</b>	V23-04. 12 Euharlee Rd. Applicant: 12 Euharlee Rd, LLC.
<b>DEPARTMENT SUMMARY RECOMMENDATION:</b>	Applicant proposes to add an accessory structure (ice machine) to the front yard of a commercial corner lot.
<b>LEGAL:</b>	N/A



# City of Cartersville

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## 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: March 2, 2023  
 Re: File # V23-04

**Summary: To allow an accessory structure (Ice machine) in the front yard of a commercial corner lot.**

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

Variance application by applicant 12 Euharlee Rd, LLC, for property located on 12 Euharlee Rd. It is a corner lot at the intersection of Euharlee Rd and the old Euharlee Rd. Zoning is O-C, Office- Commercial. Setbacks are Front - 20ft and Side- 10ft. Said property contains approximately 1.08 acres.

The applicant proposes to install an ice machine (accessory structure) along the outer drive-thru lane on the western edge of the property. Due to the unusual shape of the property located at the split of the old Euharlee Rd and Euharlee Rd intersection, the accessory structure is proposed in a front yard. The property has three (3) front yards. Accessory structures are to be located in the side and rear yards per Zoning Ordinance Sec. 4.9, *Accessory uses, buildings or structures*.

### **The variance request is for the following:**

To allow an accessory structure (Ice machine) in the front yard of a commercial corner lot. (Sec. 4.9)

## **Section 2. Department Comments**

**Building Department:** Machine will have to be permanently anchored to have power connection.

**Electric Department:** CES takes no exceptions.

**Fibercom:** No comments received.

**Fire Department:** No comments received.

**Gas Department:** Project Not In Service Area

**Public Works Department:** No comment.

**Water Department:** No comments received.

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

2/28: General Inquiry from neighbor. 38 Euharlee Rd.

## **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.

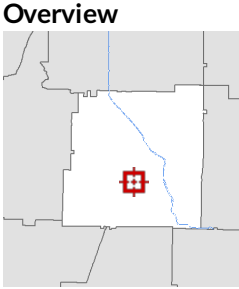
Variance decisions shall be issued in writing within ten (10) business days of the hearing.

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.*



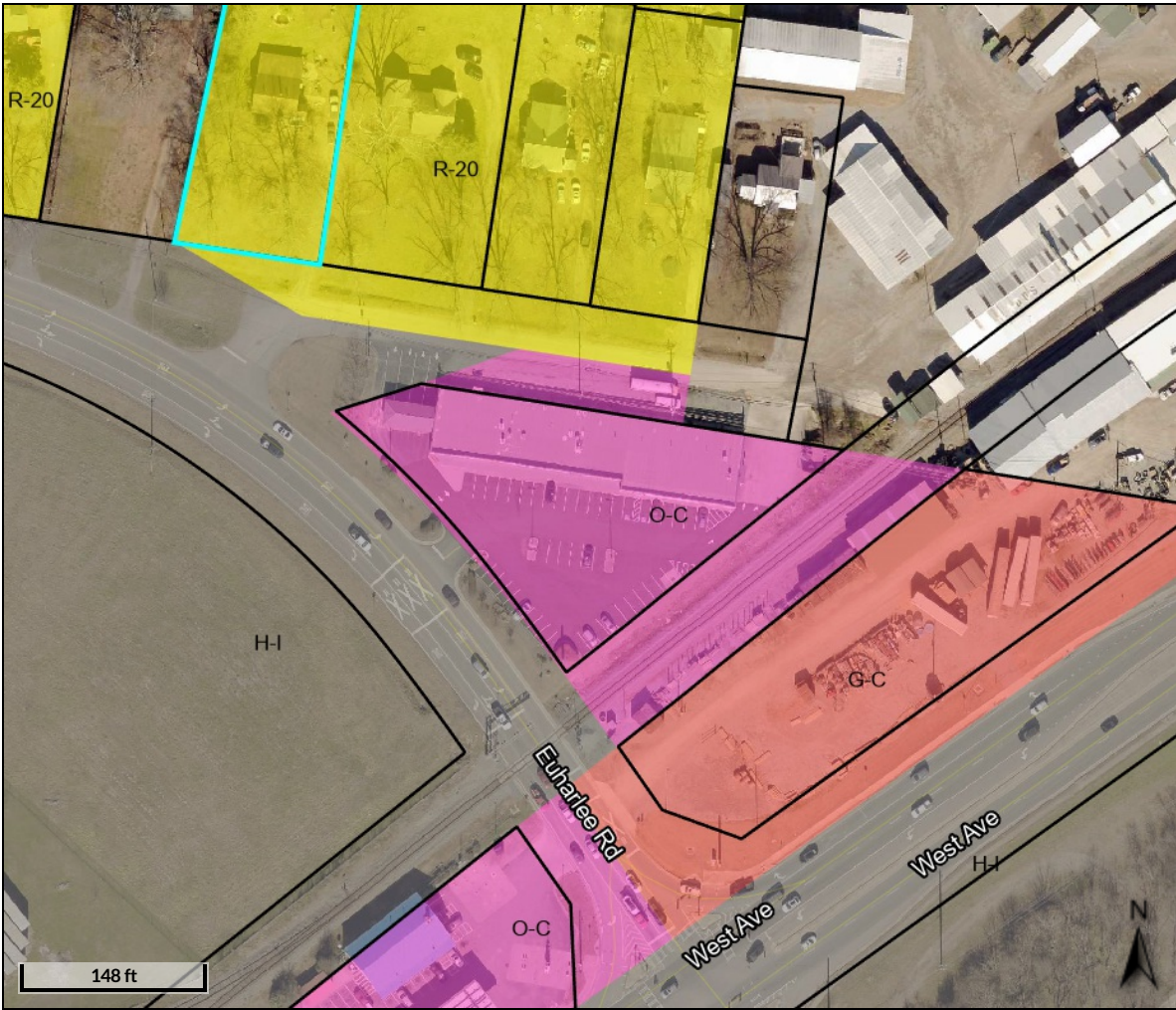
**Legend**  
 □ Parcels  
 — Roads

<b>Parcel ID</b>	C054-0663-001	<b>Alternate ID</b>	36492	<b>Owner Address</b>	12 EUHARLEE RD LLC
<b>Sec/Twp/Rng</b>	n/a	<b>Class</b>	Commercial		162 W MAIN ST STE 101
<b>Property Address</b>	12 EUHARLEE RD	<b>Acreeage</b>	1.08		CARTERSVILLE, GA 30120
<b>District</b>	Cartersville				
<b>Brief Tax Description</b>	LL 634 635 663 D 4				

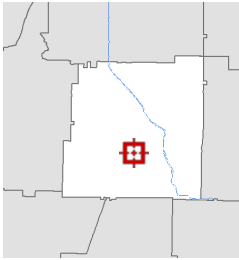
(Note: Not to be used on legal documents)

Date created: 3/2/2023  
 Last Data Uploaded: 3/1/2023 10:30:30 PM

Developed by  Schneider  
 GEOSPATIAL



Overview



Legend

- Parcels
- Roads

Cartersville Zoning

- AG
- DBD
- G-C
- G-C\*
- H-I
- H-I\*
- L-I
- L-I\*
- M-U
- M-U\*
- MF-14
- MF-14\*
- MN
- O-C
- O-C\*
- P-D
- P-D\*
- P-I
- P-S
- P-S\*
- R-10
- R-10\*
- R-15
- R-15\*
- R-20
- R-20\*
- R-7
- R-7\*
- R-D
- RA-12
- RA-12\*
- RSL

Property Address 38 EUHARLEE RD      Acreage 1.11      38 EUHARLEE RD  
 District Cartersville      LL 635 4D 4 SHAW S/D P/T  
 Brief Tax Description      (Note: Not to be used on legal documents)

Date created: 3/2/2023  
 Last Data Uploaded: 3/1/2023 10:30:30 PM

Developed by Schneider GEOSPATIAL

Parcel ID C070-0001-004      Alternate ID 36829      Owner Address POPHAM VIRGINIA J &  
 Sec/Twp/Rng n/a      Class Residential      DUPREE ANGELA ELIZABETH

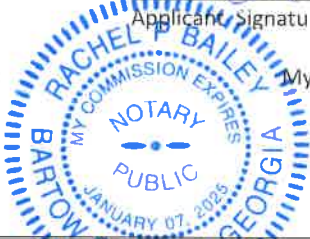
City of Cartersville  
Application for Variance  
Board of Zoning Appeals

Hearing Date: 3/9/23 5:30pm

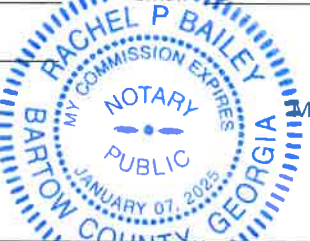
Application Number: V23-04

Date Received: 1/30/23

Applicant 12 Eucharlee Road, LLC Office Phone 770-547-4535  
(printed name)  
 Address 162 W. main St Suite 101 Mobile/ Other Phone \_\_\_\_\_  
 City Cartersville State GA Zip 30120 Email chase@riersoncpa.com  
Chase Rierson  
 Representative's printed name (if other than applicant) Phone (Rep) 770-547-4535  
 Email (Rep) chase@riersoncpa.com  
 Representative Signature \_\_\_\_\_ Applicant Signature \_\_\_\_\_  
 Signed, sealed and delivered in presence of: \_\_\_\_\_ My commission expires: 01/07/2025  
Rachel P. Bailey  
 Notary Public



\* Titleholder 12 Eucharlee Road, LLC Phone 770-547-4535  
(titleholder's printed name)  
 Address 12 Eucharlee Rd Cartersville Email chase@riersoncpa.com  
 Signature Ch  
 Signed, sealed, delivered in presence of: \_\_\_\_\_ My commission expires: 01/07/2025  
Rachel P. Bailey  
 Notary Public



Present Zoning District O-C Parcel ID No. C054-0663-001  
 Acreage 1.08 Land Lot(s) 634 District(s) 04 Section(s) \_\_\_\_\_  
 Location of Property: 12 Eucharlee Rd, Cartersville, GA 30120  
(street address, nearest intersections, etc.)  
 Zoning Section(s) for which a variance is being requested: Article 5 Sect. 3  
 Summary Description of Variance Request: installing an ice machine on  
commercial property  
(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 \_\_\_\_\_

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: Please review attached proposed  
drawing of machine placement, as well as machine  
specs and example

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# 12 Euharlee Road, LLC

162 W Main St, Suite 101  
Cartersville, GA 30120

1/17/2023

Dear City of Cartersville Zoning Department:

We are seeking a variance on the property located at 12 Euharlee Rd, Cartersville, GA 30120. We are wanting to install an ice vending machine, similar to the picture provided in the application, to the left of the building, adjacent to the drive through lanes. The variance is needed due to the odd shape of the lot.

Sincerely,



Chase Rierson  
12 Euharlee Road, LLC



Item 3.



# QUICK SPECS

## Everest VX Series Ice And Water Vending Machines

<b>WIDTH</b>	45 in.
<b>DEPTH</b>	55 in.
<b>HEIGHT</b>	96.5 in.
<b>WEIGHT</b>	1600 lbs.
<b>ELECTRICAL REQUIREMENTS</b>	208-230 volt / 30 amp
<b>STORAGE CAPACITY</b>	550 lbs. of ice
<b>WATER VOLUME PER VEND</b>	0.025 gal. – 5 gal. (Adjustable)
<b>REQUIRED HOOKUP</b>	½ in. Water Line, ¾ in. Drainage



