

### CARTERSVILLE BOARD OF ZONING APPEALS

Council Chambers, Third Floor of City Hall Thursday, August 11, 2022 at 5:30 PM

### **AGENDA**

**BOARD MEMBERS:** 

CITY CLERK:

Julia Drake

Lamar Pendley – Chairman Linda Brunt

PLANNING DIRECTOR:

Randy Mannino

John Clayton
J.B. Hudson

CITY PLANNER: David Hardegree

Kevin McElwee

COLORAND CUTY ATTORNEY.

Malcolm Cooley Patrick Murphy ASSISTANT CITY ATTORNEY:

Keith Lovell

**CALL TO ORDER** 

**ROLL CALL** 

### APPROVAL OF MINUTES

1. June 9, 2022

### **VARIANCE CASES**

- 2. V22-13. 34 Jackson Farm Rd. Applicant: Anita Bartlett
- 3. V22-14. 1790 West Ave. Applicant: Dennis Graham

### STAFF OR COMMITTEE COMMENTS

### **OTHER**

The next meeting of the Board of Zoning Appeals will be September 8th. 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



# BOARD OF ZONING APPEALS ITEM SUMMARY

MEETING DATE:	July 14, 2022
SUBCATEGORY:	Approval of Minutes
DEPARTMENT NAME:	Planning and Development
AGENDA ITEM TITLE:	June 9, 2022
DEPARTMENT SUMMARY RECOMMENDATION:	The Board of Zoning Appeals Minutes have been uploaded for your 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 9, 2022, in the Council Chambers.

Board Members Present: Lamar Pendley, Malcolm Cooley, John Clayton, Linda Brunt and

Kevin McElwee

Absent: Patrick Murphy and JB Hudson

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

### **CALL TO ORDER**

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

#### **ROLL CALL**

#### APPROVAL OF MINUTES

### 1. Approval of Minutes: May 12, 2022

Chairman Lamar Pendley called for a motion on the May 12, 2022 BZA meeting minutes. Board Member Clayton made a motion to approve the minutes. Motion was seconded by Board Member Cooley and carried unanimously. Vote: 4-0

### VARIANCE CASES

#### 2. V22-12, 107 Mitchell Ave.

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 stated no exceptions were taken by departments.

**Applicant: Jerry Baker** 

Chairman Pendley opened the public hearing.

Jerry Baker, 107 Mitchell Ave., applicant, came forward and stated he was not aware he was in violation when the storage building was placed and apologized to the Board for the oversight and stated he would move the building and had planned to plant new covering vegetation to try to camouflage the storage building.

Libby Baker, 107 Mitchell Ave, came forward to speak for the variance case.

Lori Layton, 101 Terrell Dr., came forward to speak against the variance case. Ms. Layton stated she was concerned with the aesthetics of the neighborhood.

Mr. Hardegree reviewed the variance case before the Board again for clarification.

Mr Baker returned to the podium and stated he had met with an arborist and stated he was willing to plant fast growing trees that would provide coverage to the storage building once the building was moved.

With no other comments from the public and from the Board, the public hearing was closed.

Board Member Brunt made a motion to approve the variance with the following conditions:

- The storage building is to be moved to be in compliance with city ordinance,
- Owners of the building should keep the building painted and in good condition, and
- Owners are to install a landscape buffer within 90 days.

Board Member McElwee seconded the motion. Motion carried unanimously. Vote: 4-0

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

With no other business to discuss, Board Member McElwee made a motion to adjourn at 6:07 P.M.

June 9, 2022	/s/
Date Approved	Chair



# BOARD OF ZONING APPEALS ITEM SUMMARY

MEETING DATE:	August 11th, 2022	
SUBCATEGORY:	Variance	
DEPARTMENT NAME:	Planning and Development	
AGENDA ITEM TITLE:	V22-13. 34 Jackson Farm Rd. Applicant: Anita Bartlett	
DEPARTMENT SUMMARY	To allow a privacy fence in the front yard of a corner lot.	
RECOMMENDATION:		
LEGAL:	N/A	



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: August 3, 2022
Re: File # V22-13

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

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

Variance application by Anita Barnett for property located at 34 Jackson Farm Rd, zoned P-D, Planned Development with conditions. Said property contains approximately 0.26 acres. The lot is a corner lot with road frontages and front yards along Jackson Farm Rd. and Belfast Ave. Setbacks are Front- 20ft and Side- 10ft.

Ms. Barnett would like to enclose the backyard for privacy. The fence will encroach 9ft into the front yard along Belfast Ave. The length of the encroachment is approximately 45 ft. as shown on the applicant's sketch. The fence will be installed approximately 2ft offset from the edge of a drainage easement and parallel to Lot 111.

Belfast Ave. is classified as a "local street" on the street classification map.

The zoning conditions do not affect the variance.

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

1. To allow a portion of a 6ft. privacy fence be installed in the front yard of a corner lot (Sec. 4.16 (B) (1), (2) & (4)).

### **Section 2. Department Comments**

**Electric Department:** Takes No exception.

Fibercom: No comment

Fire Department: Takes No exception.

Gas Department: Takes No exception.

**Public Works Department:** No exception [from my standpoint] as long as drainage easement remains in perpetuity and is not encroached upon.

**Water Department:** The requested variance will not affect water service to this site. The requested variance will not affect sewer service to this site.

### Section 3. Public Comments Received by Staff

None as of 8/3/22.

### **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:
  - 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:
  - 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.
  - 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:
  - 1. 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.

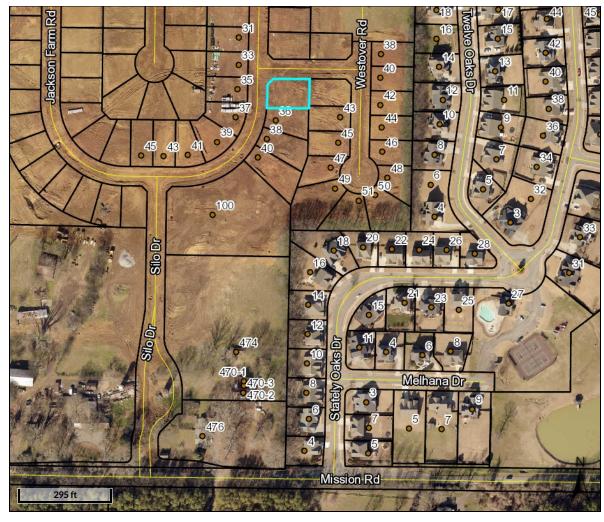
The board of zoning appeals shall have the following powers and duties:

- 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.

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

## 



Alternate ID 49353

Residential

0.26

Class

Acreage

### Overview



### Legend

☐ Parcels

### Structural Numbers

- <all other values>
- Abandoned or Inactive
- Active
- Proposed
- Roads

 Parcel ID
 C025-0011-112

 Sec/Twp/Rng
 n/a

Property Address 34 JACKSON FARM ROAD

**District** Cartersville

**Brief Tax Description** LL 416, 449 D4 3rd SEC Jackson Farm Lot 112

(Note: Not to be used on legal documents)

Date created: 8/4/2022 Last Data Uploaded: 8/3/2022 10:03:23 PM



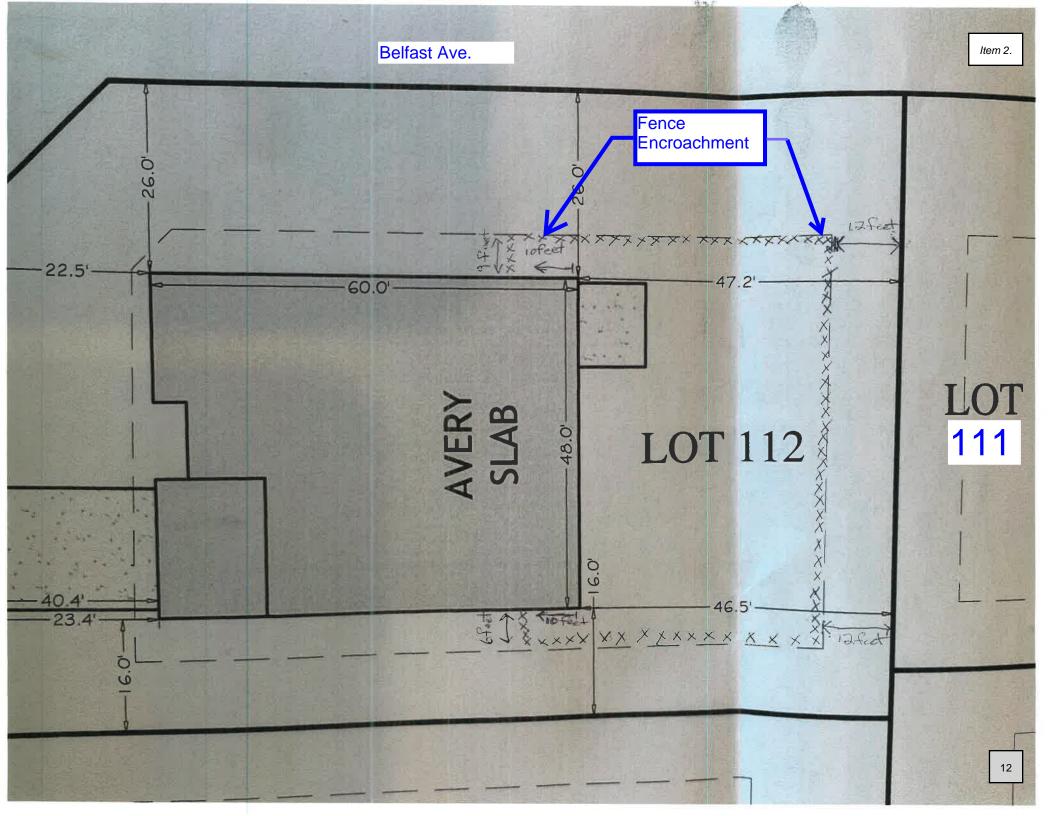
Owner Address SDH ATLANTA LLC 110 VILLAGE TRAIL STE 215 WOODSTOCK, GA 30188

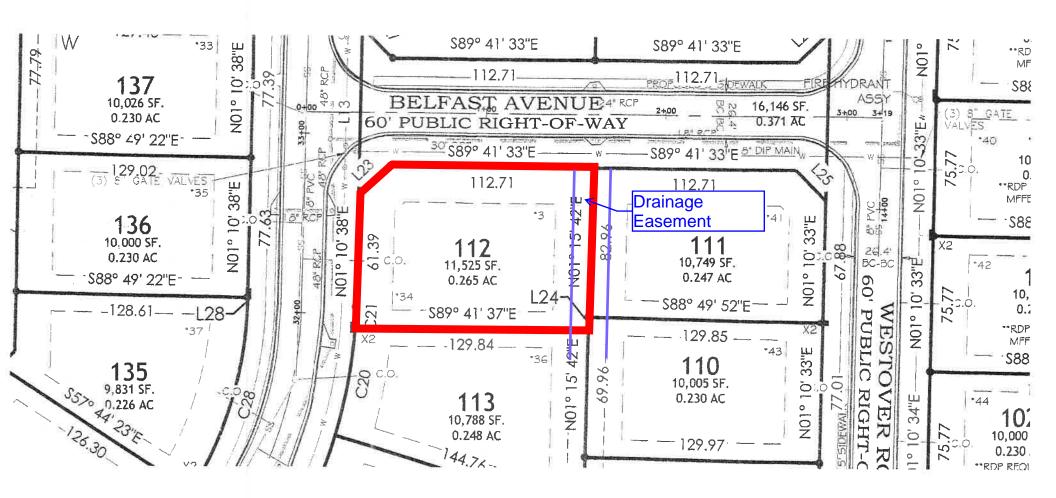
### **City of Cartersville Application for Variance**

**Board of Zoning Appeals** 

Hearing Date: $6-11-2022$	5:30pm	Application Number: $\sqrt{22-13}$
		Date Received: 6-23-2322
Applicant Anita Barnet		Office Phone 678-899-9507
Address 34 Jackson Fac		Mobile/ Other Phone
city <u>Cartersville</u> st	ate <u>GA</u> zir	30120Email Anita. Barnett930@gmail Co
Representative's printed name (if other than	applicant)	Phone (Rep)
Representative Signature	applicant,	Email (Rep)
Signed, sealed and delivered in presence of:	ZIII CALL	My commission expires:
Notary Public	AS BARY	PUBLIC ST SEE TO OTO S
<u>.</u>	7,111	COUNTING
* Titleholder Smith Das as Phone 770-334-3744  (titleholder's printed name) Swite 215 Woodstock GA 30188		
Address 110 Village trail 3	whe ars	HIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIII
Signature m.		MARL SBURCHFIEld Snith daylow.com
Signed, sealed, delivered in presence of:	SACON	My commission expires:
Notary Public	BERNON CHOIR	UBL\ \\ \\ \\ \\ \\ \\ \\ \\ \\ \\ \\ \\ \
	11111	Only
Present Zoning District P-D		
Acreage 126 Land Lot(s) 416		District(s) Section(s)
Location of Property: 34 Jack	(500 F	Farm Road
Zoning Section(s) for which a variance is being requested: A Fiche 4, Section 4.16, Subsection B		
Summary Description of Variance Request:	Regus	Atoboild fence infront
yard of Corner	104.	
(Additional detail can be provided on Justification Letter)		

<sup>\*</sup> Attach additional notarized signatures as needed on separate application pages.

















# BOARD OF ZONING APPEALS ITEM SUMMARY

MEETING DATE:	August 11th, 2022
SUBCATEGORY:	Variance
DEPARTMENT NAME:	Planning and Development
AGENDA ITEM TITLE:	V22-14. 171 West Ave. Applicant: Dennis Graham
DEPARTMENT SUMMARY	To omit the sidewalk requirement for new development.
RECOMMENDATION:	
LEGAL:	N/A



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: August 4, 2022
Re: File # V22-14

Summary: To omit the sidewalk requirement from a development project

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

Variance application by Dennis Graham for property located at 1790 West Ave. (Hwy 113), zoned H-I, Heavy Industrial. Said property contains approximately 16.80 acres. The lot has approx. 691ft of frontage along West Ave.

Highway 113 is a state highway. The most recent road widening project provided adequate shoulder width, curb and gutter and sidewalks at a stop/start point approx. 1300 feet to the northeast in front of property identified as 1 River Ct. The sidewalk and curb and gutter continue east from the 1300ft. mark.

The paved road shoulder width narrows from approx. 12ft. to 6ft at a point approx. 875ft. northeast of the applicant's property and continues at a narrow width southwest towards the airport.

There are no known plans for GDOT to add sidewalks along this section of West Ave.

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

1. Omit the sidewalk requirement along West Ave required per Development Regulation 7.5-65. Street Design Criteria, Item 10 (A) & (B).

### **Section 2. Department Comments**

**Electric Department:** Takes No exception.

**Fibercom:** No comment

**Fire Department:** No comments received.

**Gas Department:** Takes No exception.

Public Works Department: No comments received.

Water Department: No comments received.

### Section 3. Public Comments Received by Staff

None as of 8/4/22.

### **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).

### 7.5-65. Street Design Criteria

(10) Sidewalks:

- A. Sidewalks shall be required on at least one side of all new streets in residential developments and are required along property frontage of all new developments on existing streets.
- B. Sidewalks shall be a minimum of five (5) feet in width and shall be constructed in accordance with Section 7.5-70, Standard Details, Detail 3.8.15 and located as shown in Detail 3.8.14.
- C. Sidewalks shall be backfilled and landscaped.
- D. Sidewalks shall include handicap ramps at all street intersections to meet the Americans with Disabilities Act (ADA) requirements. See Section 7.5-70, Standard Details, Detail 3.8.16a, 3.8.16b, 3.8.16c and 3.8.16d.

(Ord. No. 20-21, § 1, 4-1-2021)

### 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.

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

# **@ qPublic.net** Bartow County, GA

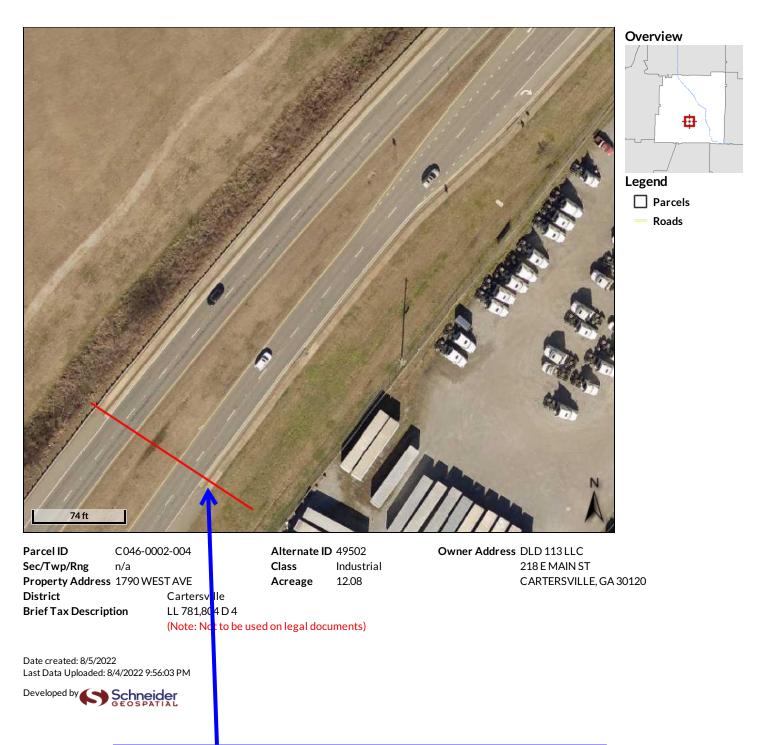


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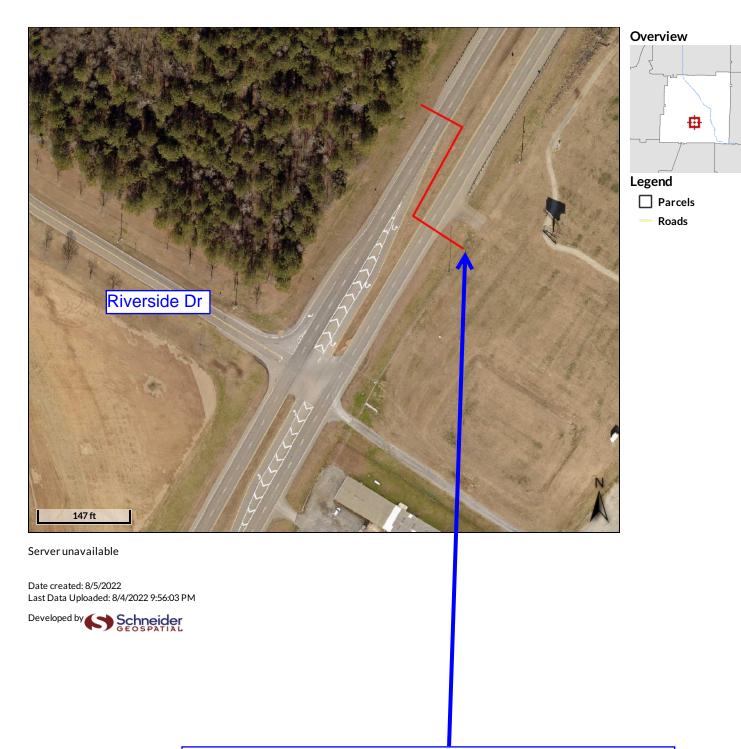


## **@qPublic.net**™ Bartow County, GA



Red line indicates stop/ start point of sidewalk constructed by GDOT. Location is 1 River Ct. Approx. 1300ft northeast of applicants' property.

# **@qPublic.net**<sup>™</sup> Bartow County, GA



Red line indicates point that ROW shoulder narrows from approx. 12ft to 6ft. Location is approx. 675ft northeast of applicants' property.

## City of Cartersville Application for Variance

**Board of Zoning Appeals** 

Hearing Date: 8/11/2022 5:30pm	Application Number:	
	Date Received: 6/21/2022	
(printed name)	Phone 678-873-6873	
City Cartersville State GA Zip 30120		
Southland Engineering, Inc.  Representative's printed name (if other than applicant)	Phone (Rep) 770-387-0440  Email (Rep) mgonzalez@southladnengineers.com  nature  My commission expires:   0   11   2025	
* Titleholder DLD 113, LLC Phone 678-873-6873  (titleholder's printed name)  Address 218 E. Main St. Cartersville, Ga 30120 dennis@grahamcommercial.org  Signature OTARY  Signed, sealed, delivered in presence of:  My commission expires: 101112025		
Signed, sealed, delivered in presence of:  Notary Public  Notary Public		
Present Zoning District H-I		
Acreage <u>16.802</u> Land Lot(s) 732, 781 & 804 District(s)	4th Section(s) 3rd	
Location of Property: 1790 West Ave. Cartersville, Ga 30120 State F	oute 113	
(street address, nearest intersections, etc.) Zoning Section(s) for which a variance is being requested:	7.5-65 (10) (A) & (B)	
Summary Description of Variance Request: Requesting to allow the	sidewalk extension be waved due to the shoulders along	
state route 113 not being adequate.		
(Additional detail can be provi	ded on Justification Letter)	

<sup>\*</sup> Attach additional notarized signatures as needed on separate application pages.

### **CONDITIONS VERIFICATION**

Subsection\_\_\_\_\_

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

Section 7.5-65 (10) (A) & (B)

Article Development Regulations

Article	Section	Subsection	
Article	Section	Subsection	
any order, red the zoning ord coning ordina	quirement, decision, or determination maddinance. The Board has the power to hear nce, Article XXI APPEALS. See Section 21.3 and the Board of Zoning Appeals in the ar	nd decide appeals where it is alleged there is error in de by the zoning administrator in the enforcement of requests for variances from the provisions of the 3 for additional information pertaining to conditions.	
the following	g conditions that apply to your variance	e request:	
1	The property is exceptionally narrow, sl	hallow or unusually shaped,	
2	The property contains exceptional topo	ographic conditions,	
3	The property contains other extraordin	ary or exceptional conditions; and	
4	There are other existing extraordinary of	or exceptional circumstances; and	
5	The strict application of the requiremento, or undue hardship upon, the owner	nts of this ordinance would result in practical difficulties of this property;	
5	The requested variance relief may be granted without substantially impairing the intent and purpose of this ordinance		
Additional C	omments by Applicant: The shoulders ald	ong state route 113 are not adequate for a sidewalk extension.	
	TO THE R		



June 20, 2022

City of Cartersville Board of Zoning Appeals
City Hall
10 N. Public Square
Cartersville, Georgia 30120

**RE:** Graham Mini Storage Variance

To whom it may concern,

Please let this letter serve as a justification for the variance request referenced above. We are requesting a variance to Development Regulations 7.5-65 (10) (A) & (B). We ask that the sidewalk extension be waved due to the shoulders along State Route 113 not being adequate for said extension.

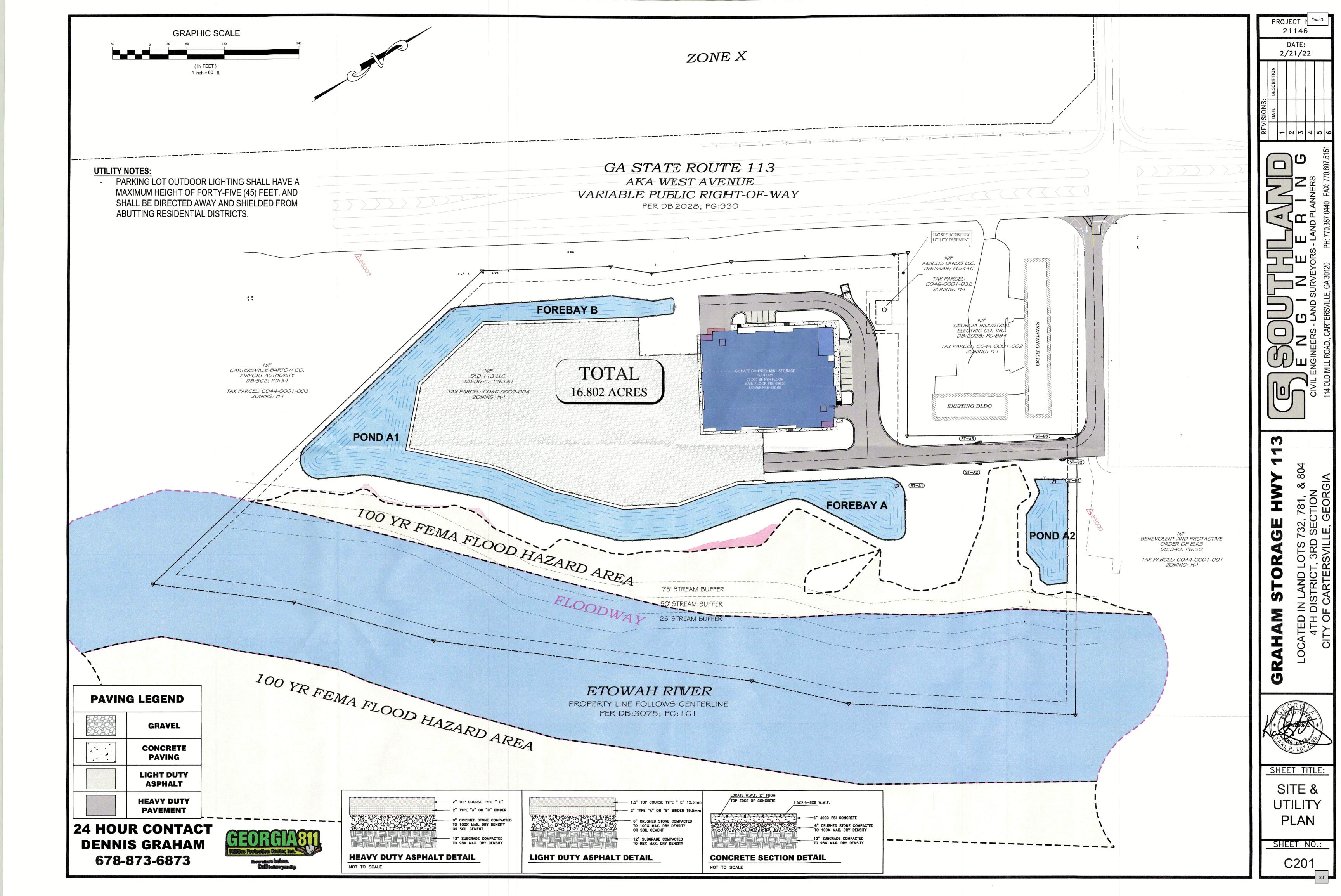
Thank you,

Southland Engineering, Inc.

114 Old Mill Road Cartersville, Georgia 30120 P: 770.387.0440 F: 770.607.5151

26

Item 3.







## Images taken 8/5/22



View NE in front of applicants' property. Narrower shoulder.



View NE in front of applicants' property- sloping shoulder



View SW in front of applicants' property



View NE near 1 River Ct.- wide shoulder. Sidewalk begins/ ends in distance



View NW in front of 1 River Ct where sidewalk/ begins/ end.





View SW from 1 River Ct. Sidewalk begins/ends. Wider shoulder.