



CARTERSVILLE BOARD OF ZONING APPEALS MEETING

Council Chambers, Third Floor of City Hall
Thursday, June 13, 2024 at 5:30 PM

AGENDA

BOARD MEMBERS:

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

CITY CLERK:

Julia Drake

PLANNING DIRECTOR:

Randy Mannino

CITY PLANNER:

David Hardegree

CITY ATTORNEY:

Keith Lovell

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES

- [1.](#) May 9, 2023

VARIANCE CASES

- [2.](#) V24-14. Center Rd. Townhomes. Parcel ID C108-0001-001. Applicant: WHM Chattahoochee Hills
- [3.](#) V24-15. 123 N Tennessee St. Applicant: 123 Tennessee LLC

STAFF OR COMMITTEE COMMENTS

OTHER

The next meeting of the Board of Zoning Appeals will be July 11th. 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:	June 11, 2024
SUBCATEGORY:	Approval of Minutes
DEPARTMENT NAME:	Planning and Development
AGENDA ITEM TITLE:	May 9, 2023
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 May 9, 2024, in the Council Chambers.

ROLL CALL

Board Members Present: Lamar Pendley, Linda Brunt, John Clayton, JB Hudson, and Jacqueline Hendricks
 Absent: Kevin McElwee and Patrick Murphy
 Staff Present: Randy Mannino, David Hardegree, Zack Arnold and Julia Drake

APPROVAL OF MINUTES

1. April 11, 2024

Board Member Clayton made a motion to approve the minutes from April 11, 2024. Board Member Hudson seconded the motion. Motion carried unanimously. Vote: 4-0

VARIANCE CASES

2. V24-12: 310 S. Tennessee St.

Applicant: Angie Vittur

Variance: To increase the area of a wall sign

Board Member Clayton recused himself from this case.

David Hardegree, Assistant Planning and Development Director stated that all adjacent property owners had been properly notified and property had been advertised. Continuing, he gave an overview of the case stating this was a variance application by applicant, Angie Vittur, for property located at 310 S. Tennessee St., zoned M-U (Multiple Use). Said property contains approximately 1.07 acres.

The applicant has painted a new wall sign on an accessory structure to promote her car sales business. The sign is approximately 8ft tall by 20ft long, totaling 160 square feet of sign area. The City Ordinance for wall signs, Sec. 20-26., requires wall signs to not exceed 2 square feet for every linear foot of building frontage, up to a maximum of 200 square feet in total area. The applicant's building has a frontage of 20ft, which would allow for 40 square feet of total sign area. The applicant's request is to exceed the allotted size by 120 square feet of sign area.

Chairman Pendley opened the public hearing.

Angie Vittur, 1382 Varner Road, Marietta, came forward to represent the application and to answer any questions from the board.

Dorothy Reavis, 308 List Lane, Acworth, came forward and stated she was the artist of the mural and to speak for the application.

Hannah Cook, Director of Art in Bartow, came forward to speak for the application.

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

Board Member Hudson made a motion to approve V24-12. Board Member Brunt seconded the motion. Motion carried unanimously. Vote: 4-0 with Chairman Pendley voting.

Board Member Clayton rejoined the meeting.

3. V24-13: 10 Bob White Trail

Applicant: Leonard Mathias

Variance: To allow an accessory structure to exceed 50% of the principal structure

Mr. Hardegree gave an overview of the case stating this was a variance application by applicant, Leonard Mathias for property located at 10 Bob White Trail, zoned R-20, Single-family Residential. Said property contains approximately 0.99 acres. Setbacks are Front/Rear- 20ft and Side- 10ft.

Mr. Mathias requests to add on to an existing auto garage. The existing garage is approximately 1,985 square feet which exceeds 50% of the size of the primary structure that is allotted by ordinance. Since the existing garage was constructed before the Zoning Ordinance was adopted, a variance was not necessary for the initial construction. The new addition Mr. Mathias is proposing would add 1,280 square feet to the structure, making the garage a total of 3,264 square feet.

The Zoning Ordinance referring to accessory structure (Sec. 4.9.) states that accessory building floor area shall be no larger than 50% of the principal structure area. According to tax records, Mr. Mathias' primary structure is 2,828 square feet. If approved, the request would increase the allotted accessory structure size to 115% of the primary structure.

The variance requests are for the following and per the submitted surveys and site plan sketch:

1. To increase the allowed floor area of an accessory structure from 50% to approx. 115% of the principal structures' floor area (Sec. 4.9, para. 3);

Chairman Pendley opened the public hearing.

Leonard Mathias came forward to represent the application and to answer questions from the board members. Continuing, he stated that he enjoys restoring old Mustangs and does take in cars to work on and simply needs more room. The proposed addition will be the same roof height and same color as the existing garage.

Board Member Brunt inquired if the applicant is running a business at this location, to which Mr. Mathias stated he was not. However, by definition, of the work that is being performed, it was determined that a business is being conducted in the garage. Additionally, Ms. Brunt inquired if any individual would be living in the garage, to which Mr. Mathias responded with 'no'.

Greg Culverhouse, 3 Bob White Trail, came forward to speak against the application for the purposes that a business is being operated in the garage and provided a handout for the Board which entailed advertising of said business on Facebook (see Exhibit A) and the applicant does not

possess an Occupational Tax Certificate. Additionally, this type of business is not allowed in a residential area. Continuing, this application does not meet any of the requirements for a variance.

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

Board Member Brunt made a motion to deny V24-13. Board Member Hendricks seconded the motion. Motion carried unanimously. Vote: 4-0

OTHER

Mr. Hardegree stated that Chairman Pendley and Board Member Hudson and Board Member Clayton terms were due to expire on June 1, 2024, and inquired if these members would be willing to continue to serve. Chairman Pendley and Board Member Hudson stated they would be willing to continue to serve for an additional four (4) years with a new term expiration of June 1, 2028.

Board Member Clayton stated that he would not be willing to continue to serve as he has accepted a seat on the Planning Commission.

With no other business to discuss, Board Member Brunt made a motion to adjourn at 6:21 P.M.

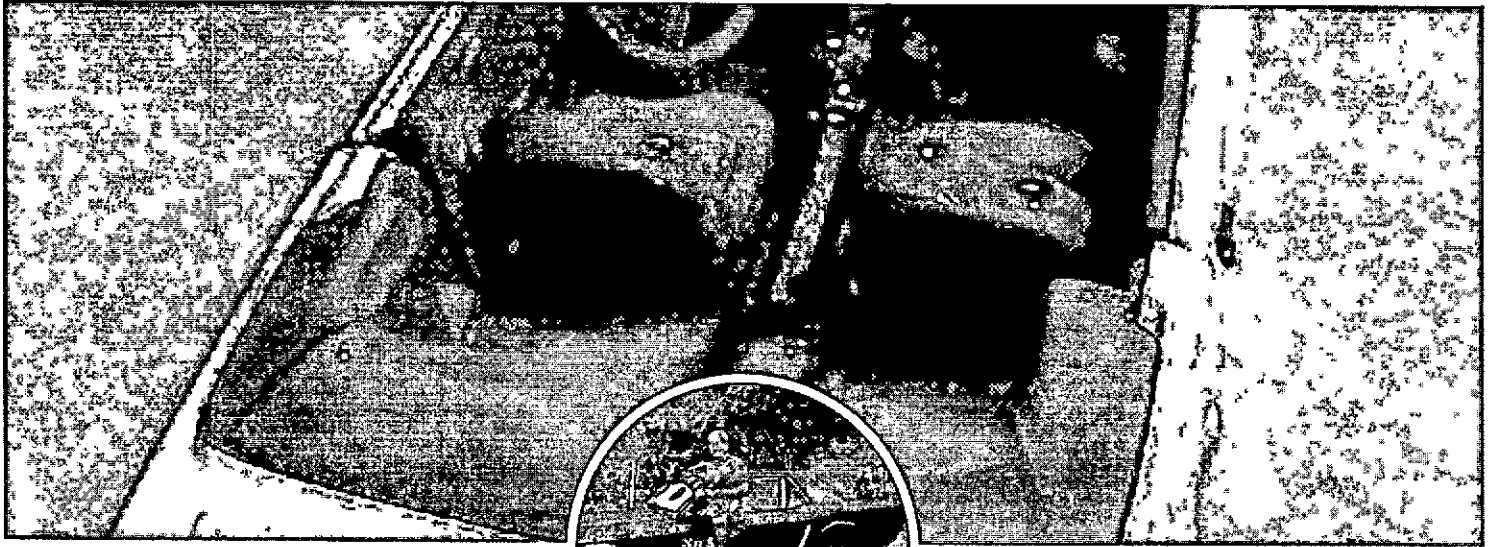
June 11, 2024
Date Approved

/s/ _____
Chairman



2

Item 1.



Mustang Farm Restoration Service

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Intro

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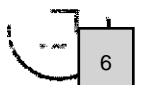
Page · Motor vehicle company

10 Bob White Trl, Cartersville, GA, United States, Georgia

(678) 986-1656

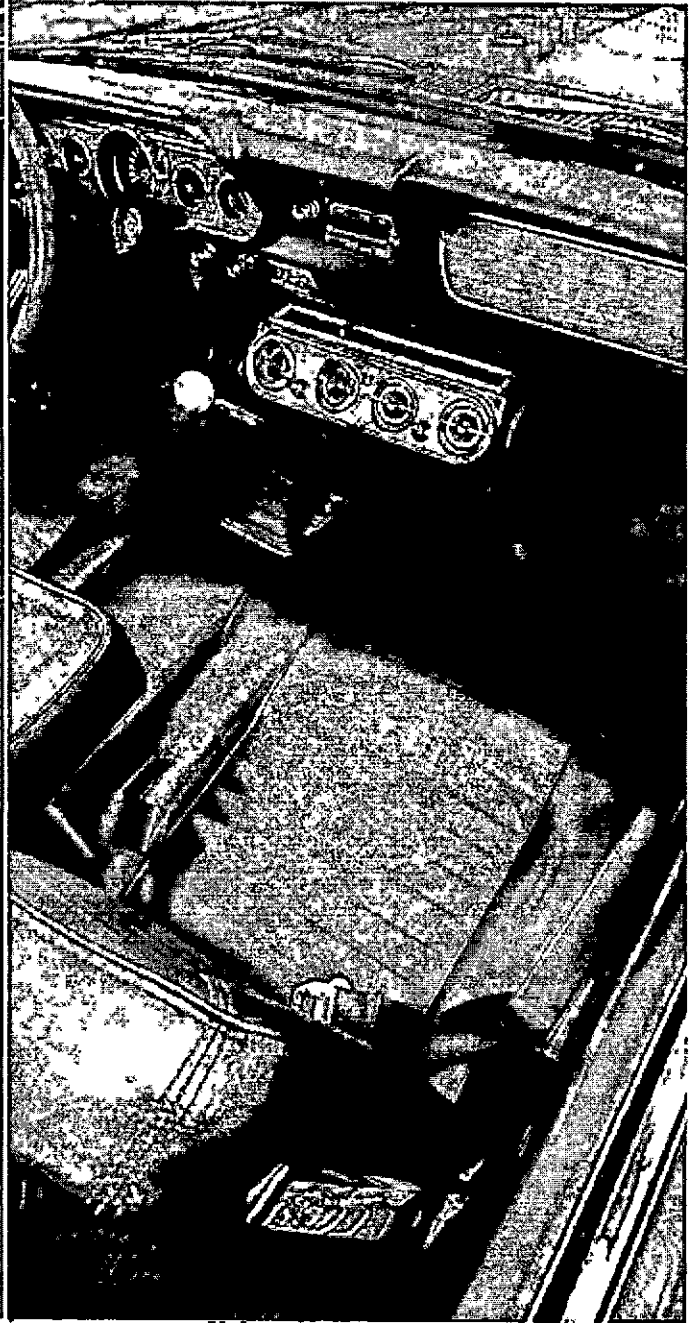
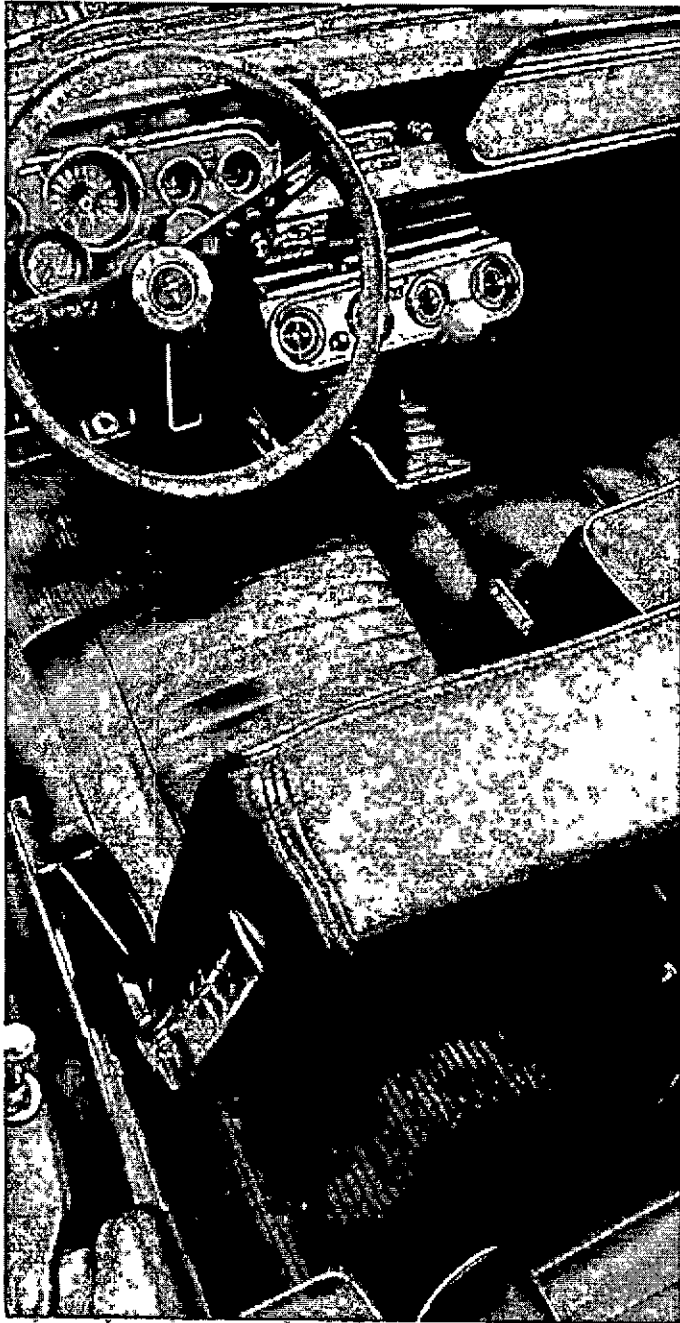
shelbysailor@yahoo.com

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2



13

3

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Ric Anderson
Happy Birthday!

39w Like Reply



Comment as Greg Culverhouse





2

Item 1.



Mustang Farm Restoration Service

Last Mustang Club meeting before the Hardy Ford show. One Mustang for here and a 72 convertible for their home in Germany. My two favorite Mustangers always show up when they are in the country



👍❤️ 12

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Comment as Greg Culverhouse



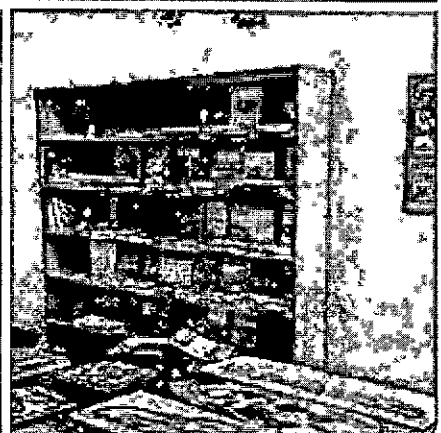
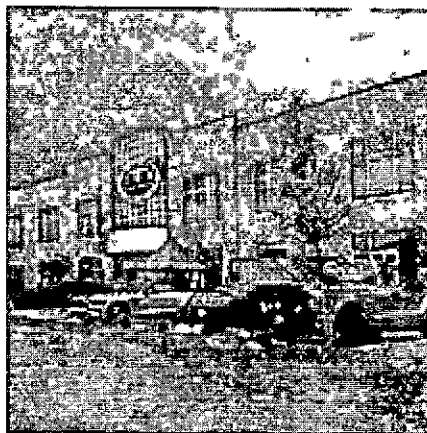
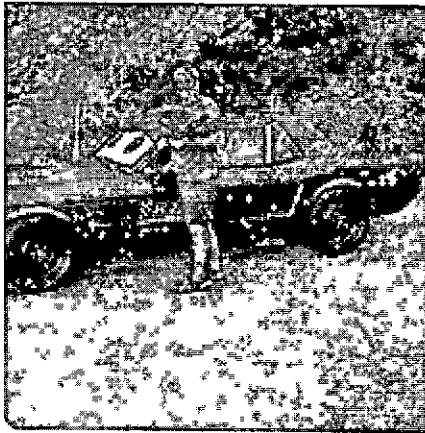
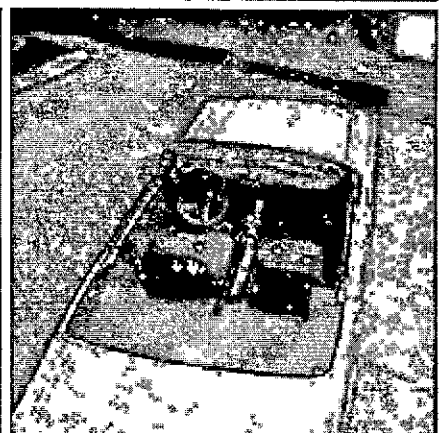
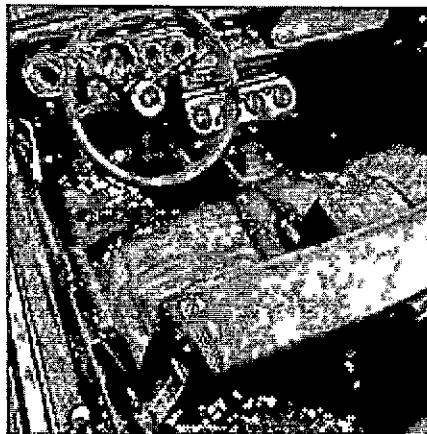
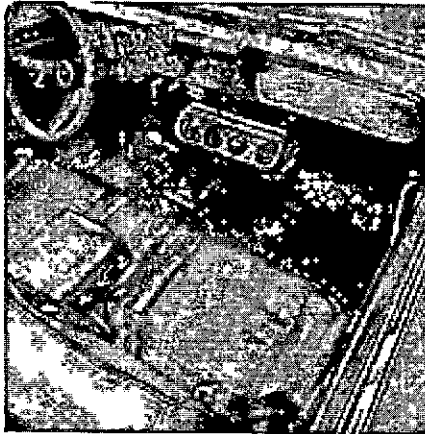


2



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Mustang Farm Restoration Service

August 7, 2023 · 🌐



BOARD OF ZONING APPEALS ITEM SUMMARY

MEETING DATE:	June 13, 2024
SUBCATEGORY:	Variance
DEPARTMENT NAME:	Planning and Development
AGENDA ITEM TITLE:	V24-14. Center Rd. Townhomes. Parcel ID C108-0001-001. Applicant: WHM Chattahoochee Hills
DEPARTMENT SUMMARY RECOMMENDATION:	Variance to allow front access parking for a 199 unit townhome development.
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: May 6, 2024
 Re: File # V24-14 **Variance to allow front entry townhomes**

#V24-14: Variance to allow front entry townhomes

Variance application by WHM Chattahoochee Hills for property located along Center Road adjacent to and west of I-75 in Land Lots 115, 173, 174, 187, and 188 of the 4th District, 3rd Section, and zoned RA-12 (Single-Family Attached & Detached Residential). Said property contains approximately 103.85 acres.

In 2024, said property was rezoned from R-20 (single family residential) to RA-12 (Residential Attached, townhomes) with conditions per Z23-06. The conditions are attached, but are not impacted by the variance request. Per the RA-12 zoning, parking for townhome units must be limited to the rear yard with an alley or private drive constructed for rear yard access (Ordinance Sec. 6.7.3(M)(3)).

Per the concept site plan submitted with the 2023 zoning application, all the 199 town home units would require front access parking due to site topography. Front access parking requires parking in the front yard which is not an allowed location.

Per City Public Works comments, the developer will be required to maintain the streets as private streets with a 60ft wide utility and access easement instead of a 60ft Right-of-way. This is allowed per ordinance *Sec. 7.5-71. - Private streets*. A private street provides the developer flexibility with on-street parking requirements.

Traffic on Center Rd. will not be affected by front access or front yard parking for the townhome development.

The variance request is for the following:

- 1) *To allow on street, side, & front yard parking*

Department Comments Received:

Electric Department: No comments received.

Fibercom: Takes no exception.

Fire Department: No comments received.

Gas Department: Takes no exception.

Public Works Department: Public works has the following comments:

1. Inadequate parking is often a concern in townhome developments with front entry driveways. This situation encourages on-street parking of overflow vehicles. Excessive on-street parking creates traffic safety concerns due to reduced sightlines and can pose the risk of impediment for the public as well as public safety vehicles.
2. City Solid Waste Services has experienced major difficulties in servicing similar developments for the reasons stated above. Inadequate sight distance of oncoming traffic presents safety hazards for Solid Waste workers.

Water Department: Takes no exception.

Planning Department: The planning department would approve of the variance with the following conditions:

- 1) That all other development regulations associated with Sec. 7.5-71, Private Streets, be met prior to the issuance of an LDP, including, but not limited to, review and approval of construction plans by all required city departments. This condition should cover other city department comments regarding on street parking.

Public Comments Received by Staff: None received as of 5-21-2024.

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. 6.7.3 (M) – Other Required Standards (RA-12 townhome requirements)

6.7.3. Development standards.

- A. Height regulations. Buildings shall not exceed a height of thirty-five (35) feet or two and one-half (2½) stories, whichever is higher.

- B. Minimum lot area per dwelling unit: Two thousand (2,000) square feet.
- C. Maximum density: Twelve (12) units per gross acre.
- D. Minimum lot width: Twenty (20) feet.
- E. Minimum lot frontage:
- Single-family detached units: Thirty-five (35) feet.
 - All other uses: Twenty (20) feet.
- F. Minimum lot depth: One hundred (100) feet.
- G. Minimum development area: One-half (0.5) acres.
- H. Minimum heated floor area: One thousand (1,000) square feet.
- I. Setbacks:
- Front yard: Ten (10) feet.
 - Side yard: Ten (10) feet (each end of row).
 - Rear yard: Twenty (20) feet.
- J. [Gable or hip roofs.] Gable or hip roofs shall have a minimum roof pitch of 6/12. Both gable and hip roofs shall provide overhanging eaves on all sides that extend a minimum of one (1) foot beyond the building wall.
- K. Accessory use, building and structure requirements. See section 4.9 of this chapter.
- L. Minimum buffer requirements. In addition to required setbacks, a fifteen-foot wide buffer is required along all property lines which abut a single-family district or use to provide a visual screen in accordance with section 4.17 of this chapter.

M. Other required standards

1. No fewer than three (3) dwelling units in a row shall be allowed.
2. Alley or private drive access required.
3. Required parking shall be allowed in the rear yard only.
4. Principal buildings shall front a private drive or public right-of-way.
5. Principal structures on lots within the RA-12 district shall have a minimum of fifty (50) percent finish product on the exterior walls of the buildings consisting of brick, stone, hard-coat stucco, or fiber cement siding.
6. A metal panel exterior finish product shall not be allowed on metal buildings exceeding one hundred fifty (150) square feet in gross floor area constructed or placed on lots within the RA-12 district.

Sec. 7.5-71, Private Streets

(1) *Definitions.*

- (a) *City engineer* shall be the individual designated by the city manager to perform said functions.
- (b) *City of Cartersville Development Standards*. The City of Cartersville Zoning Ordinance, City of Cartersville Development Regulations and all codes and ordinances adopted by the City of Cartersville.
- (c) *Director* refers to the City of Cartersville Director of Planning and Development.
- (d) *Subdivision* for the purpose of this section, subdivisions include only the following uses:
 - (1) Single-family residential units; and
 - (2) Fee simple town home units, fee simple condominiums or other fee simple ownership of the individual residential units.
- (2) *Private streets permitted*. Private streets may, upon application, be permitted by the planning commission within subdivisions, subject to the requirements of this section. Applications for approval of private street shall be considered by the planning commission at the time of preliminary plat approval by the planning commission. Following a recommendation by the public works director or city engineer to authorize private streets in a major subdivision, the planning commission shall consider the application and may impose conditions on the approval of private street to ensure various public purposes and to mitigate potential problems with private streets. No final plat involving a private street shall be approved unless said final plat conforms to the requirements of this section.
- (3) *Engineering plans required*. It shall be unlawful for any person, firm, or corporation to construct a new private street or alter an existing private street or to cause the same to be done without first obtaining approval of engineering and construction plans from the public works director and the city engineer in accordance with the requirements of this article and the City of Cartersville Development Standards.
- (4) *Standards*. All private streets shall be constructed to all standards for public street including all related appurtenances as required by the City of Cartersville Development Standards, applicable construction specifications of the city engineer, and as approved by the city engineer.
 - (a) If a gate or other controlled access is installed at the entrance to the development, a place which provides emergency access to the development by emergency agencies must first be approved by the emergency agencies of the City of Cartersville. Access must also be provided to anyone providing utilities to said development; there shall be an automatic gate opening on any power disconnect.
 - (b) All provisions of the zoning ordinances of the city shall apply to the development of said development.
 - (c) There shall be only one (1) entrance/exit from the development to a public street unless otherwise recommended by the city engineer, fire and police department or other emergency services and approved by the planning commission. In no event shall a private street be constructed so as to permit said street, in any configuration, to serve as a connecting street between two (2) public streets. Other than the entrance/exit to the private development, no private street shall adjoin any property outside the limits of the private development;
 - (d) There shall be an independent certified inspector approved by the city provided by the developer to determine compliance with the specific rules and requirements for streets and utilities during the entire project.
- (5) *Street names and signs*. Private streets shall be named, subject to the approval of the director. The subdivider of land involving a private street shall install street signs with content containing the street name and the designation "private," as approved by the director. The sign signifying the private street may be required by the director to be a different color than that of street signs provided for public streets in order to distinguish maintenance responsibilities in the field.
- (6) *Easements*. Easements for private streets shall be designated on final plats as general-purpose public access and utility easements, along with the name of said private street. Said easement shall at minimum be of the same width as that required for the right-of-way of a public street by the major thoroughfare plans and the city engineer for the type of public street (local, collector, etc.) most closely

resembling the proposed private street. Easements for private streets shall not be included in any calculation of minimum lot size or density limitations established by local land use regulations. In the cases of private streets, the general-purpose public access and utility easement for the private street shall either:

- (a) Be shown in a manner on the final plat such that each lot fronting the private street shall extend to the edge of the curb, right-of-way, or easement for said private street. No lot shall be permitted to be divided by the general purpose public access and utility easement required and established for a private street; or
 - (b) Shall be drawn as its own discrete parcel to be dedicated to a private homeowners association (i.e. not shown to be a part of any lot).
 - (c) All utility easements as required by the City of Cartersville Development Standards must be installed and dedicated to the city.
- (7) *Maintenance.* The city shall not maintain, repair, resurface, rebuild, or otherwise improve streets, signs, drainage improvements or any other appurtenances within general purpose public access and utility easements established for private streets. A private maintenance covenant recorded with the Bartow County Clerk of the Superior Court shall be required for any private street and other improvements within general purpose public access and utility easements established for private streets. The covenant shall set out the distribution of expenses, remedies for noncompliance with the terms of the agreement, rights to the use of easements, and other pertinent considerations. The covenant shall specifically include the following terms.
- (a) The covenant shall establish minimum annual assessments in an amount adequate to defray costs of ordinary maintenance and procedures for approval for additional needed assessments. The covenant shall also specify that the funds from such assessments will be held by a homeowners or property owners association in all cases.
 - (b) The covenant shall include a periodic maintenance schedule.
 - (c) The covenant for maintenance shall be enforceable by any property owner served by the private street.
 - (d) The covenant shall establish a formula for assessing maintenance and repair costs equitably to property owners served by the private street.
 - (e) The covenant shall run with the land.
 - (f) The planning commission may, at its discretion, as a condition of approving private street, require a performance bond and/or maintenance bond and/or letter of credit be submitted by the subdivider and held by a homeowners or property owners association, or the planning commission may require that the sub-divider pay an amount of money as recommended by the city engineer into an escrow account or other suitable account for the maintenance and repair of private streets and stormwater management improvements, to be drawn from by the homeowners or property owners association as maintenance and repair needs may arise.
 - (g) All agreements, restrictive covenants and other documentation related to the development shall be furnished and approved by the director prior to commencement of development.
- (8) *Specification for final plats involving private streets.* The director shall not approve for recording any final plat involving a private street unless and until it shall contain the following on the face of the plat:
- (a) Deed book and page reference to the recorded covenant required by this section;
 - (b) "WARNING The City of Cartersville, Georgia has no responsibility to build, improve, maintain, or otherwise service the private street, drainage improvements and other appurtenances contained with the general public purpose access and utility easement or easements for private streets shown on this plat unless otherwise indicated hereon."
 - (c) "Grant of Easement. The general purpose public access and utility easement(s) shown on this plat for private street(s) is hereby granted and said grant of rights shall be liberally construed to

provide all necessary authority to the City of Cartersville, Georgia and to public or private utility companies serving the subdivision, for the installation and maintenance of utilities, including, but not limited to, electric lines, gas lines, telephone lines, water lines, sewer lines, cable television lines, and fiber optic cables, together with the right to trim interfering trees and brush, together with a perpetual right of ingress and egress for installation, maintenance and replacement of such lines. Signature of Property Owner;" and

- (d) (The following certificate of dedication shall be required by the city unless the mayor and city council waives the dedication requirement).

The director may add to said dedication as may be required for the particular project.

"Certificate of Dedication. All water and sewer lines and other utilities installed within the general purpose access and utility easement(s) shown on this plat for private street(s) are hereby dedicated to City of Cartersville, Georgia. Signature of Property Owner."

- (9) *Requirement of purchaser's acknowledgement of private responsibilities.* Prior to the sale or as a condition of the closing of a real estate transaction involving any lot served by a private street in the City of Cartersville, Georgia, the subdivider or seller of said lot shall execute a notarized purchaser's acknowledgement of private street construction and drainage maintenance responsibilities as set forth below. A copy of the purchaser's acknowledgement shall be retained by the purchaser and shall be required to be submitted as a condition of a building permit for a principal building on said lot:

"Purchaser's Acknowledgement of Private Street and Drainage Maintenance Responsibility

(I)/(We) have read the Declaration of Covenant which pertains to the lot that is the subject to this real estate transaction _____(insert address or attach legal description). (I)/(We) understand that the Declaration of Covenant applies to the lot that (I am)/(we are) purchasing and requires (me)/(us) to provide a specified percentage or amount of the financing for the construction and maintenance of any private street and drainage facilities serving the lot which (I am)/(we are) purchasing, and that owners of other lots in this plat may sue for and recover those costs which this covenant requires (me)/(us) to pay, plus their damages resulting from (my)/(our) refusal to contribute, plus reasonable attorneys fees. (I)/(We) further understand that the City of Cartersville, Georgia has no obligation to assist with the maintenance and improvement of the private street, drainage facilities, and other appurtenances within the general purpose public access and utility easement for the private road serving the lot in question. (I) (We) understand that a copy of this purchaser's acknowledgement shall be required as a condition of the issuance of a building permit for a principal building on the lot (I am)/(we are) purchasing."

Purchaser

Purchaser

- (10) *[Approval by director.]* All agreements, restrictive covenants and other documentation related to the development shall be furnished and approved by the director prior to commencement of development.

(Ord. No. 25-07, § 1, 6-7-07; Ord. No. 51-08, § 1, 12-4-08)

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

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.


City of Cartersville
Application for Variance
Board of Zoning Appeals

Hearing Date: 6/13/24 5:30pm


Application Number: V2A-14

Date Received: 4/15/24

Applicant WHM Chattahoochee Hills Office Phone 404-495-9577
 (printed name)
 Address 8000 Capps Ferry Mobile/ Other Phone 678-378-5939
 City Douglasville State GA Zip 30135 Email apearce@merriltrust.com
Southland Engineering, Inc. Phone (Rep) 770-387-0440
 Representative's printed name (if other than applicant) Email (Rep) kari@southlandengineers.com
 Representative Signature [Signature] Applicant Signature [Signature]
 Signed, sealed and delivered in presence of: My commission expires:
[Signature] Notary Public



WHM Chattahoochee Hills
 * Titleholder Investments, LLC Phone 404-495-9577
 (titleholder's printed name)
 Address 8000 Capps Ferry Douglasville, GA 30135 Email apearce@merriltrust.com
 Signature [Signature]
 Signed, sealed, delivered in presence of: My commission expires:
[Signature] Notary Public



Present Zoning District RA-12 Parcel ID No. C108-0001-001
 Acreage 103.85 Land Lot(s) 115,173,174,187,188 District(s) 4th Section(s) 3rd
 Location of Property: Center Road
 (street address, nearest intersections, etc.)
 Zoning Section(s) for which a variance is being requested: 6.7.3
 Summary Description of Variance Request: Requesting variance to allow for front entry town homes.

 (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 6 Section 7 Subsection 3

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. X The property contains exceptional topographic conditions,
- 3. _____ The property contains other extraordinary or exceptional conditions; and
- 4. X 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 topography does not lend itself for rear entry townhomes.

**City of Cartersville
10 N. Public Square
Cartersville, GA 30120**

RE: Justification Statement – Center Road Townhomes SLE #23123

To whom it may concern:

Southland Engineering, on behalf of WHM Chattahoochee Hills, is requesting a variance in zoning article 6 section 7 subsection 3 to allow for front-entry townhomes.

The property located off of Center Road near I-75 S has topography that does not lend itself to rear entry townhomes.

Thank you,

Southland Engineering, INC.

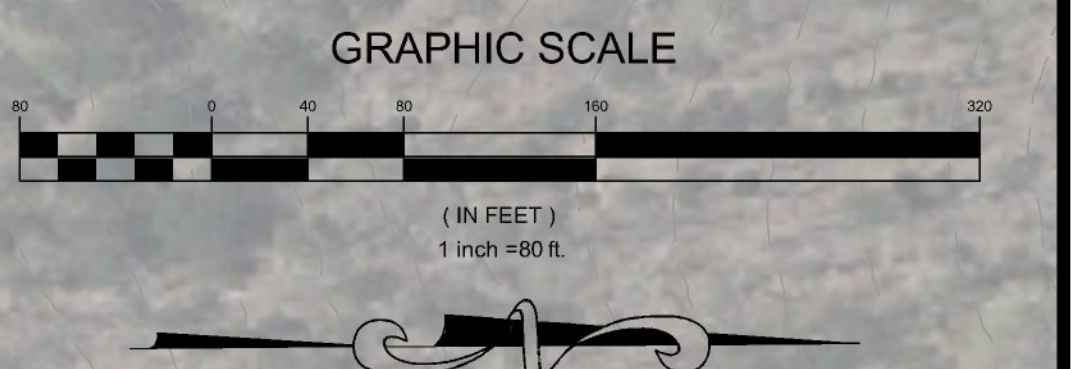


SITE NOTES:
 TOTAL PROPERTY ACREAGE = 103.88 AC
 PROJECT AREA = 33.48 AC(SUBDIVIDED FROM 103.88 AC)
 CURRENT ZONING= R-20
 PROPOSED ZONING = RA-12

TOTAL NUMBER OF LOTS = 207
 TOTAL NUMBER OF BUILDING LOTS TOWNHOME = 199
 LOT DENSITY = 5.95 LOTS PER ACRE

MINIMUM LOT SIZE = 2,000 SF
 MINIMUM LOT WIDTH = 24 FEET
 MINIMUM FRONT SETBACK = 10 FEET
 MINIMUM SIDE SETBACK = 10 FEET(END OF ROW WHEN ADJ STREET)
 MINIMUM REAR SETBACK = 20 FEET

DESIGN CONDITIONS
 TOWNHOMES ARE REQUESTED TO BE FRONT ENTRY



PROJECT NO. 23123
 DATE: 09/22/23

REVISIONS:	DATE	DESCRIPTION
1		
2		
3		
4		
5		
6		

SOUTHLAND ENGINEERING
 CIVIL ENGINEERS - LAND SURVEYORS - LAND PLANNERS
 114 OLD MILL ROAD, CARTERSVILLE, GA 30120 PH: 770.387.0440 FAX: 770.607.5151

MERRILL'S RIDGE TOWNHOMES
 CARTERSVILLE, GEORGIA



SHEET TITLE:
SITE PLAN

SHEET NO.:
C201



BOARD OF ZONING APPEALS ITEM SUMMARY

MEETING DATE:	June 13, 2024
SUBCATEGORY:	Variance
DEPARTMENT NAME:	Planning and Development
AGENDA ITEM TITLE:	V24-15. 123 N Tennessee St. Applicant: 123 Tennessee LLC
DEPARTMENT SUMMARY RECOMMENDATION:	Variance to allow a 6ft chain link fence in the front yard of a commercial corner lot.
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: May 21, 2024
 Re: File # V24-15

Summary: To allow a 6ft tall chain link fence in the front yard of a double frontage lot.

Section 1: Project Summary

Variance application by applicant, 123 Tennessee, LLC, for property located at 123 N. Tennessee St, zoned M-U, Multiple-Use. Setbacks are Front- 10ft, Rear- 20ft and Side- 10ft. Said property contains approximately 0.78 acres. The lot is a double frontage lot with frontages along N. Tennessee St., and Howard St.

The applicant requests to construct a 6ft. tall chain link fence to enclose the property to the north and east of the business along a section of the Howard St. right-of-way. The fence ordinance, Sec. 4.16, requires fences installed in a front yard to be less than 4ft tall. Sec. 4.16. also requires all request for chain link installation in a front yard go before the Board of Zoning Appeals.

The variance request is for the following:

1. To allow a 6ft. tall fence to in the front yard of a double frontage lot (Sec. 4.16).
2. To allow chain link fence to be installed in a front yard (Sec. 4.16).

Section 2. Department Comments

Electric Department: No comments received.

Fibercom: Cartersville FiberCom takes no exception to a fence being installed at 123 N Tennessee Street, but we will need it set back at least 4 feet from the existing utility poles along the North property line for us to safely access the utility poles or we will need gated access for a bucket truck to access the utility poles.

Fire Department: CFD takes no exceptions to the request provided that no fire hydrants are obstructed by the fencing. A minimum of 36” of clearance is required around all fire hydrants in order to allow for full operation. All other adopted city ordinances and codes should be followed.

Gas Department:

1. A natural gas main exists along the southern right-of-way of Howard Street serving 123 North Tennessee Street. The Gas System takes no exception provided the proposed fence presuming to be shown in the color “blue” in the attachment is to be constructed a minimum of 5’ from the existing natural gas main.

2. A natural gas service line and natural gas meter serving 123 North Tennessee Street will be within the limits of the proposed fence presuming to be shown in the color “blue” in the attachment. The Gas System takes no exception provided a proposed double 6’ swing gate is to be provided for equipment and personnel access to the existing natural gas facilities and the proposed swing gate is to be interlocked with a chain and a Gas System provided lock. The property owner shall contact the Gas System at 770.387.5642 to request interlocking of the proposed swing gate. The Gas System takes no further exception provided the proposed fence is in no way to be constructed over the existing natural gas service line serving 123 North Tennessee Street and a minimum of 5’ of separation is maintained from the existing natural gas service line. At the request of the property owner, the existing natural gas service line and/or meter can be relocated outside of the limits of the proposed fence at the property owner’s expense.

Public Works Department: Takes no exception.

Water Department: CWD takes the following exception:

The fence on Howard Street side will need to be 10 feet from the property line to remain outside of the sewer easement.

Section 3. Public Comments Received by Staff

None received as of 5/21/2024.

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. *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.

City of Cartersville
Application for Variance
Board of Zoning Appeals

Hearing Date: 6/13/24 5:30pm

Application Number: V2415

Date Received: 4-23-24

Applicant 123 Tennessee LLC Office Phone 770 386 0040
 (printed name)
 Address 1 North Tennessee St Mobile/ Other Phone _____
 City Cartersville State GA Zip 30120 Email beth.tilley@bellsouth.net
Guy Taff Phone (Rep) _____
 Representative's printed name (if other than applicant)
 Email (Rep) _____
w Guy T Applicant Signature
 Representative Signature
 Signed, sealed and delivered in presence of: My commission expires: 1/22/26
Nancy B. Pollock Notary Public


* Titleholder 123 Tennessee LLC Phone 770 386 0040
 (titleholder's printed name)
 Address 1 North Tennessee St. Email beth.tilley@bellsouth.net
 Signature B. Tilley
 Signed, sealed, delivered in presence of: My commission expires: 1/22/26
Nancy B. Pollock Notary Public


Present Zoning District M-U Parcel ID No. C004-0005-006
 Acreage .78 Land Lot(s) 409 District(s) 4 Section(s) 3
 Location of Property: 123 N. Tennessee Street
 (street address, nearest intersections, etc.)
 Zoning Section(s) for which a variance is being requested: Chapter 26, Article IV, Sec 4.116, B2, B3
 Summary Description of Variance Request: See attached letter

 (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.

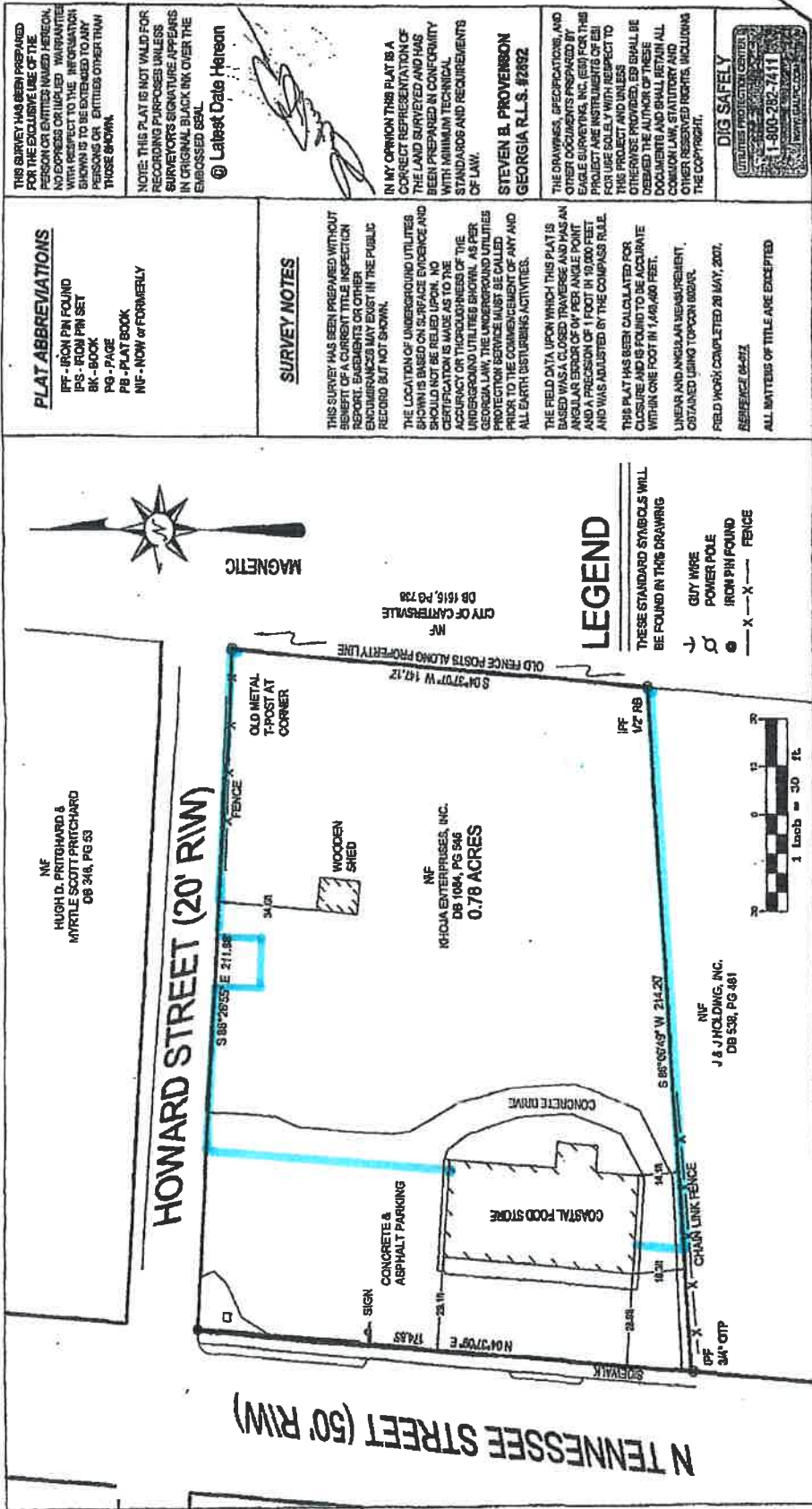
Article IV Section 4.16 Subsection B. 2.#3.
 Article _____ Section _____ Subsection _____
 Article _____ Section _____ Subsection _____

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: See attached letter.



Eagle Surveying, Inc.
 59 Ferguson Drive
 Euclid, Georgia 30145
 Phone (770) 607-9539 Fax (770) 607-9177

BOUNDARY SURVEY FOR
LAND LOT 409
4th DISTRICT & SECTION
BARTOW COUNTY
CITY OF CARTERSVILLE, GEORGIA
EHANI SABZULI

DIG SAFELY
 UNITED PROTECTIVE CENTER
 1-800-282-7411
 WWW.DIGSAFELY.COM

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IN MY OPINION THIS PLAT IS A CORRECT REPRESENTATION OF THE LAND SURVEYED AND HAS BEEN PREPARED IN CONFORMITY WITH MINIMUM TECHNICAL STANDARDS AND REQUIREMENTS OF LAW.

STEVEN B. PROVENSON
 GEORGIA R.L.S. #2852

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DATE 27 MAY 2007
DRAWING COAS

SHEET NUMBER 01 OF 01

FIELD BY: SP
DRAWN BY: SP
CHECKED BY: SP
JOB NUMBER: 07-207
COORD FILE: 07-208

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DATE 27 MAY 2007
DRAWING COAS

SHEET NUMBER 01 OF 01

FIELD BY: SP
DRAWN BY: SP
CHECKED BY: SP
JOB NUMBER: 07-207
COORD FILE: 07-208

April 23, 2024

Justification Letter

We are requesting approval to allow a chain-link fence along the front of our property which abuts Howard Street as shown on the description of the property that we have included in this application.

We are also asking to increase the height of said fence to six (6) feet.

The purpose of this request is so that we may better secure the subject property.

We have had continuous and ongoing problems with unauthorized parking and trespassing on the property, and by fencing the property we will be able stop this activity from occurring and reduce our liability.

Thank you.



Beth L. Tilley

May 22, 2024 at 13:57:20
203 N Tennessee St
Cartersville GA 30120
United States



May 22, 2024 at 13:57:50
203 N Tennessee St
Cartersville GA 30120
United States



May 22, 2024 at 13:57:44
203 N Tennessee St
Cartersville GA 30120
United States

