



# CARTERSVILLE BOARD OF ZONING APPEALS MEETING

Council Chambers, Third Floor of City Hall  
Monday, May 17, 2021 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  
Malcom 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. April 19, 2021

### VARIANCE CASES

2. V21-06. 226 Summit Street.
3. V21-07. 1136 N Tennessee Street.
4. V21-08. 101 Savoy Lane
5. V21-09. 15 Collins St.

### STAFF OR COMMITTEE COMMENTS

### OTHER

The next meeting of the Board of Zoning Appeals will be June 14, 2021 at 5:30 P.M.

### 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>	May 17, 2021
<b>SUBCATEGORY:</b>	Approval of Minutes
<b>DEPARTMENT NAME:</b>	Planning and Development
<b>AGENDA ITEM TITLE:</b>	April 19, 2021
<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 April 19, 2021 in the Council Chambers.

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

Absent: Linda Brunt

Staff Present: Randy Mannino, David Hardegree, Meredith Ulmer, Julia Drake

**1. Call to Order**

Chairman Pendley called the meeting to order.

**2. Roll Call**

**3. Approval of Minutes: February 15, 2020**

Board Member Clayton called for a motion on the February 15, 2020 BZA meeting minutes. Board Member Cooley made a motion to approve the minutes. Motion was seconded by Board Member Murphy and carried unanimously. Vote: 5-0.

**4. Old Business: None**

**5. New Business:**

- A. V21-03: 2197 Hwy 411      Applicant: Cartersville Land Holdings, LLC**  
Variance to reduce the billboard setbacks.

David Hardegree, City Planner, stated that all adjacent property owners had been notified and the property had been properly posted and advertised. Mr. Hardegree gave an overview of the case stating the request was to decrease the 50' setback requirement to 20' due to topographical issues that limits the visibility of the billboard. In addition to the reduction of the setback requirements, the applicant was requesting a reduction in the distance requirement for billboard signs to residential. Currently, the requirement is 500' from the residential district. The nearest residence is 470'. The request is to allow the reduction to 470'. The applicant was present.

Ron Goss, 120 W. Cherokee Ave. and applicant, came forward to represent V21-03.

Public hearing opened.

Board Member McElwee asked for sign measurement clarification. Mr. Goss explained that the billboard would be 20' off of the ground and 10' tall, reaching the max height allowed of 30'.

Board Member Murphy inquired about the structures located between the church (proposed sign location) and the tractor business. Mr. Goss explained that there is a house located between the two businesses, however, due to the house zoned industrial, it was not required to be considered residential and meet the residential distance requirements. In addition, Mr. Goss stated that there were some storage buildings located between the two properties as well.

Board Member Clayton and Chairman Pendley inquired about the churches ability to control the content on the sign to which Mr. Goss replied that statutes are in place to limit certain types of advertisements on the billboard.

With no one else to come forward to speak for or against V21-03, the public hearing was closed.

A motion was made to approve V21-03: 2197 Hwy 411 by Board Member McElwee and seconded by Board Member Hudson. Motion carried unanimously. Vote: 5-0

**B. V21-05: 746 West Ave. Applicant: Gary and Sharon Nichols**

Variance to allow an accessory structure (swimming pool) in the front yard of a corner lot.

Mr. Hardegree stated that all adjacent property owners had been notified and the property had been properly posted and advertised. Mr. Hardegree gave an overview of the case stating that the applicant resides on a corner lot and was wanting to place a pool on the Terrell Rd. side of the corner lot and a portion of the pool will encroach into the right of way. Furthermore, Mr. Hardegree stated that this case would also be heard in front of the Historic Preservation Commission on Tuesday, April 20, 2021. Applicant was present.

Public hearing was opened.

Trey Jordan, 1 W Church St. and representative of applicant, came forward to represent Mr. and Mrs. Nichols. He stated the intent of the variance was to allow the pool in the front yard and to reduce the front yard setbacks from 20' to 0'. The plan is to have the fencing around the pool on the property line.

Gary Nichols, applicant and homeowner, came forward to inquire why most property lines along West Ave. extend to the sidewalk, however, his lot has a 20' setback requirement.

Keith Lovell, Assistant City Attorney, explained setbacks were designed to allow for utilities to be installed. He welcomed Mr. Nichols to reach out to Public Works to see if that 20' setback is currently being used for utilities. If not, he can go through the proper channels to request to have his setbacks changed.

With no one else to come forward to speak for or against V21-05, the public hearing was closed.

A motion was made to approve V21-05 by Board Member Hudson and seconded by Board Member Cooley. Motion carried unanimously. Vote: 5-0

With no further business, a motion to adjourn the meeting was made by Board Member McElwee.

Meeting was adjourned at 6:13 P.M.

\_\_\_\_\_  
Date Approved

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



## PLANNING COMMISSION ITEM SUMMARY

<b>MEETING DATE:</b>	May 17 <sup>th</sup> , 2021
<b>SUBCATEGORY:</b>	Variance
<b>DEPARTMENT NAME:</b>	Planning and Development
<b>AGENDA ITEM TITLE:</b>	V21-06. 226 Summit Street.
<b>DEPARTMENT SUMMARY RECOMMENDATION:</b>	Variance request to allow a privacy fence to encroach into the front yard setback of a corner lot.
<b>LEGAL:</b>	N/A



# City of Cartersville

PLANNING AND DEVELOPMENT

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

## MEMO

**To:** BZA  
**From:** Randy Mannino/David Hardegree/Meredith Ulmer  
**CC:** Keith Lovell  
**Date:** April 27, 2021  
**Re:** File # V21-06

**#V21-06: To allow a privacy fence to encroach into the front yard setback of a corner lot**

### Section 1: Project Summary

Variance application by owner/applicant Juana Leon for property located at 226 Summit Street, zoned R15 Residential. Said property contains approximately 0.31 acres. The lot is a corner lot located at the SW corner of Summit St and Buford St. Each street Right-of-way is approximately 40ft in width. The applicant would like to install a privacy fence on a portion of the property line along both Summit St. and Buford St. The fence along Summit Street will begin/ end at the house so as to enclose the south side of the house. The fence along Buford St. will begin/ end at the NE corner of the house so as to enclose the north side of the house.

### **The variance requests are for the following:**

To allow a privacy fence to encroach into the front yard setback of a corner lot

### Section 2. Department Comments

**Electric Department:** The Electric System approves the application as noted: The fencing along Buford street shall be installed at least at least 3' behind the pole line so that there is room for the poles to be accessible all the way around and to replace a pole when needed.

**Fibercom:** No comments received.

**Fire Department:** Takes No exception.

**Gas Department:** In response to the following, the Gas System takes exception to the proposed placement of the fence shown in the attachment. The proposed placement will prevent access to the existing natural gas service line serving the residence. It will be necessary to either relocate the existing natural gas meter and service line location to the building wall not to be fenced at the expense of the Customer or construct a double swing gate centered over the existing natural gas service line allowing unobstructed access to the existing natural gas service



line. If the gate option is chosen and gate is to be locked, the Customer shall make provisions to interlock the gate with a Gas System lock from the outside by contacting the Gas System offices at the telephone number in my signature.

**Public Works Department:** Public Works opposes this variance due to potential sight distance issues caused by the proposed placement of this fence.

**Water Department:** No comments received.

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

4/27/2021: Comments against the variance were received by Senate Wilson at 224 Summit Street. A letter explaining his concerns is attached. See below.

### **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.

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


City of Cartersville  
Application for Variance  
Board of Zoning Appeals

Hearing Date: 5/17/21 5:30pm


Application Number: V21-06

Date Received: 3/24/21

Applicant Juana Chaca Leon Spanish Office Phone \_\_\_\_\_  
 (printed name)  
 Address 226 Summit St Mobile/ Other Phone 678-368-5333  
 City Cartersville State GA Zip 30120 Email \_\_\_\_\_  
 Representative's printed name (if other than applicant) Eduardo Duarte English Phone (Rep) 470-348-9820  
 Email (Rep) \_\_\_\_\_  
 Representative Signature Eduardo Duarte Applicant Signature Juana Leon  
 Signed, sealed and delivered in presence of \_\_\_\_\_ My commission expires: 1/23/23  
 Notary Public \_\_\_\_\_



\* Titleholder Juana Chaca Leon Phone 678-368-5333  
 (titleholder's printed name)  
 Address 226 Summit St Email \_\_\_\_\_  
 Signature Juana Leon  
 Signed, sealed, delivered in presence of: \_\_\_\_\_ My commission expires: 1/23/23  
 Notary Public \_\_\_\_\_



Present Zoning District R-15  
 Acreage 0.31 Land Lot(s) 311 District(s) 4 Section(s) 3  
 Location of Property 226 Summit St. Cartersville, GA  
 (street address, nearest intersections, etc.) 30120  
 Zoning Section(s) for which a variance is being requested: \_\_\_\_\_  
 Summary Description of Variance Request: U311U4LT 45-46 Northside Sub  
 \_\_\_\_\_  
 (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 Subsection 16  
 Article \_\_\_\_\_ Section \_\_\_\_\_ Subsection \_\_\_\_\_  
 Article \_\_\_\_\_ Section \_\_\_\_\_ Subsection \_\_\_\_\_

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

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

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

Additional Comments by Applicant: The home owner is needing to construct on or around the property line.

Building a fence based on the city requirements meeting the 10' to 20' allowance. The owner wishes to exceed the 10' and 20' allowance to boarder the edge of the property line with the fence.

Also on the same property a side porch was damaged and removed the owner is asking to replace that again as well.



**Legend**  
 □ Parcels  
 — Roads

<b>Parcel ID</b>	C010-0009-005	<b>Alternate ID</b>	33359	<b>Owner Address</b>	CHACAJ LEON JUANA R
<b>Sec/Twp/Rng</b>	n/a	<b>Class</b>	Residential		226 SUMMIT ST
<b>Property Address</b>	226 SUMMIT ST	<b>Acreage</b>	0.31		CARTERSVILLE, GA 30120
<b>District</b>	Cartersville				
<b>Brief Tax Description</b>	LL311 LD4 LT 45-46 NORTHSIDE SUB (Note: Not to be used on legal documents)				

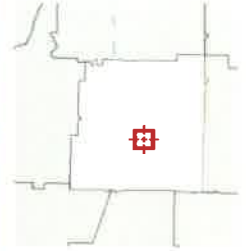
Date created: 3/25/2021  
 Last Data Uploaded: 3/24/2021 10:01:59 PM

Developed by  Schneider  
 GEOSPATIAL

*x: 6-8ft privacy fence  
 along property line*



Overview



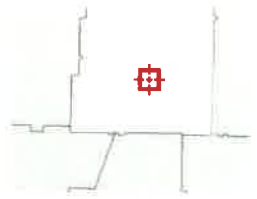
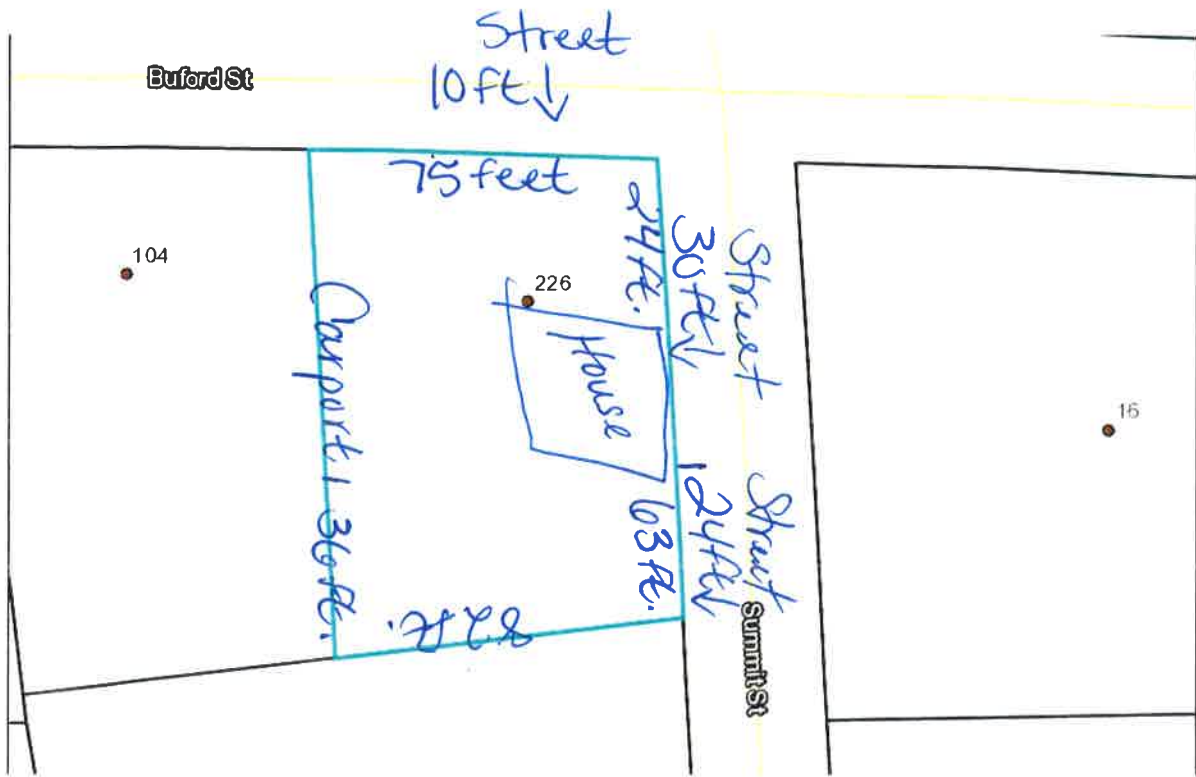
Legend

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

<b>Parcel ID</b>	C010-0009-005	<b>Alternate ID</b>	33359	<b>Owner Address</b>	CHACAJ LEON JUANAR
<b>Sec/Twp/Rng</b>	n/a	<b>Class</b>	Residential		226 SUMMIT ST
<b>Property Address</b>	226 SUMMIT ST	<b>Acreage</b>	0.31		CARTERSVILLE, GA 30120
<b>District</b>	Cartersville				
<b>Brief Tax Description</b>	LL311 LD4 LT 45-46 NORTHSIDE SUB				
	(Note: Not to be used on legal documents)				

Date created: 3/19/2021  
 Last Data Uploaded: 3/18/2021 9:59:38 PM

Developed by Schneider  
 GEOSPATIAL



Legend

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



2

DOC# 000909  
FILED IN OFFICE  
1/22/2020 10:52 AM  
BK:3157 PG:167-168  
MELBA SCOGGINS  
CLERK OF SUPERIOR COURT  
BARTOW COUNTY

Item 2.

**RECEIVED**  
Clerk of Superior Court - Bartow Co. Ga  
01/22/2020 10:40 AM

*Melba Scoggins*

Please return to:  
John T. Mroczko, P.C.  
162 West Main Street, Suite 302  
Cartersville, Georgia 30120  
File No.: 2011007

REAL ESTATE TRANSFER  
TAX PAID: \$179.00

PT-61 008-2020-000222

### LIMITED WARRANTY DEED

STATE OF Georgia  
COUNTY OF Bartow

THIS INDENTURE, made this 16th day of January, 2020, between Johnette Flowers Stewart, as party or parties of the first part, hereinafter called Grantor, and Juana R. Chacaj Leon, as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee, the following described property:

**SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF**

**THIS CONVEYANCE is made subject to all zoning ordinances, easements and restrictions of record affecting said bargained premises.**

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behalf of the said Grantee forever in FEE SIMPLE.

AND THE SAID Grantor will warrant and forever defend the right and title to the above-described property unto the said Grantee against the claims of all persons claiming by, through or under Grantor, but not otherwise.

IN WITNESS WHEREOF, Grantor has hereunto set grantor's hand and seal this first day and year first above written.

Signed, sealed and delivered in the presence of:

*[Signature]*  
Unofficial Witness  
*[Signature]*  
Notary Public  
My Commission expires:

*[Signature]*  
Johnette Flowers Stewart



**EXHIBIT "A"**

**Tract 1:**

**ALL THAT TRACT OR PARCEL OF LAND** lying and being in the 4th District and 3rd Section of Bartow County, Georgia, and being a part of Subdivision Lot 45 of Northside Subdivision a Plat of which is recorded in Plat Book 2, page 99 of the Clerk's office of said county and state and more particularly described as follows:

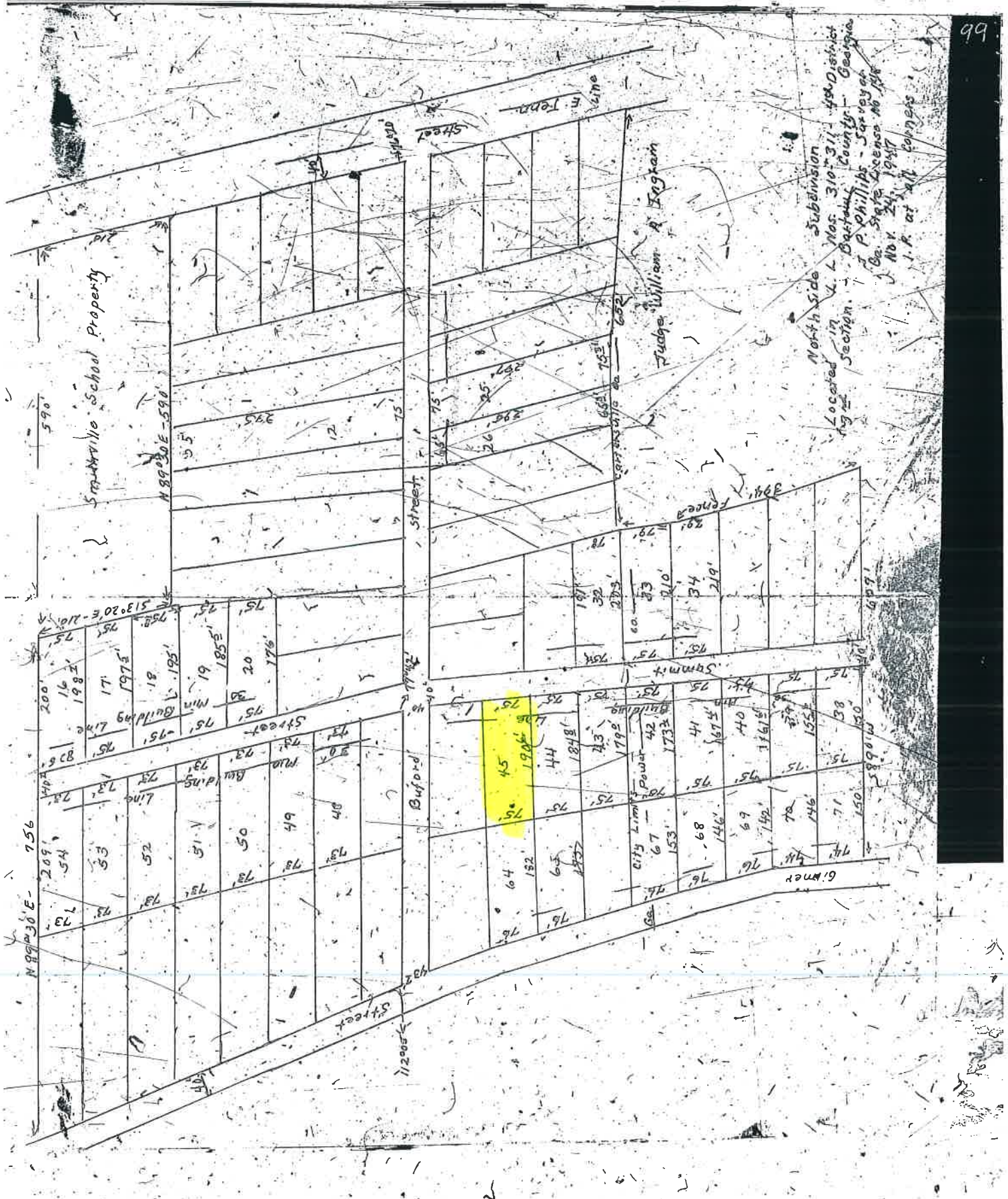
**BEGINNING** at an iron stake on the West side of Summit Street, the same being the Southeast corner of Subdivision Lot 46, and running 100 feet in a Westerly direction along the South boundary of Subdivision Lot 46 to an iron stake; thence 50 feet in a Southerly direction parallel with Summit Street to an iron stake; thence 100 feet in an Easterly direction parallel with the South boundary of Subdivision Lot 46 to an iron stake on the West boundary of Summit Street; thence 50 feet in a Northerly direction along the West boundary of Summit Street to the beginning point.

**Tract 2:**

**ALL THAT TRACT OR PARCEL OF LAND** lying and being in the City of Cartersville, Bartow County, Georgia, a part of Subdivision lot number 46 of the North Side Subdivision, as shown by a plat recorded in Plat Record Number One page 139 in the Office of the Clerk of the Superior Court of said county, and more particularly described as follows:

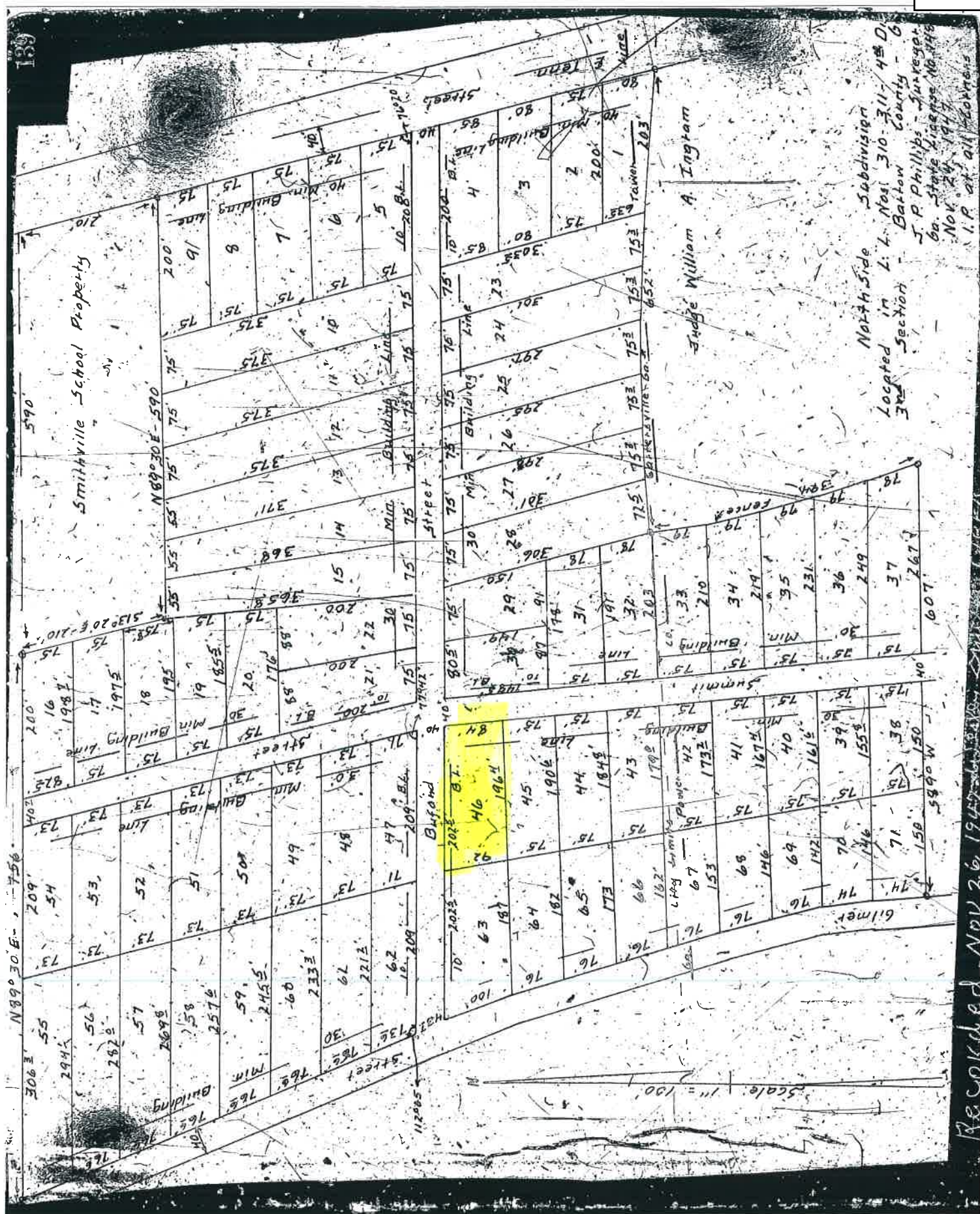
**BEGINNING** at the point where the west side of Summit Street intersects with the south side of Buford Street, thence South along the west side of Summit Street 84 feet; thence westward along the south line of said lot # 46, 100 feet; thence northward 88 feet, to Buford Street; thence eastward along the south side of Buford Street 102 feet, 5 inches, to Summit Street and the point of beginning.





99







## RECEIPT OF PAYMENT

**Receipt Number:** 2021001487  
**Receipt Date:** 03/23/2021  
**Date Paid:** 03/23/2021  
**Full Amount:** \$125.00

<b>Payment Details:</b>	<b>Payment Method</b>	<b>Amount Tendered</b>	<b>Check Number</b>
	Cash	\$125.00	

**Amount Tendered:** \$125.00  
**Change / Overage:** \$0.00  
**Contact:** CHACAJ LEON JUANA R, Address:226 SUMMIT ST

### FEE DETAILS:

<b>Fee Description</b>	<b>Reference Number</b>	<b>Amount Owning</b>	<b>Amount Paid</b>
BZA Variance Fee (Home Owner)	MS202100169	\$75.00	\$75.00
Com. Dev. - Advertising	MS202100169	\$50.00	\$50.00

## David Hardegree

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**From:** Meredith Ulmer  
**Sent:** Monday, April 26, 2021 8:33 AM  
**To:** 'Yvonne Jenkins'  
**Cc:** David Hardegree  
**Subject:** RE: [External]Variance Application for Juana Leon, 226 Summit Street, Case #V21-06

Your comments have been received, and documented in our file.

Thank you for reaching out.

Sincerely,  
 Meredith Ulmer  
 770-607-3947

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**From:** Yvonne Jenkins <yvonnewjenkins@yahoo.com>  
**Sent:** Friday, April 23, 2021 4:13 PM  
**To:** Meredith Ulmer <mulmer@cityofcartersville.org>  
**Subject:** [External]Variance Application for Juana Leon, 226 Summit Street, Case #V21-06

**CAUTION : This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Dear Ms. Ulmer,

My name is Yvonne Jenkins and I am writing on behalf of my parents, Senate & Dottie Wilson, residents @ 224 Summit Street, Cartersville, Ga 30120. They are unable to attend the Board of Appeals meeting in person due to age and health issues that prevent them from being as mobile as they would like to be. A family member may try to attend the meeting on their behalf.

They would like the Board Of Appeals for Case #V21-06 to know that they are against the variance that would allow Ms. Leon and family to install a privacy fence that would encroach the front yard setback and is 6'-8' tall at the address of 226 Summit Street, Cartersville, GA 30120. A privacy fence of this size and range would not be appropriate at all for a lot of this size and at this location.

Senate & Dottie are 93 and 91 years old and have lived in their home on Summit Street for 60+ years. The address requesting the variance is a corner lot directly adjoining their property from the back yard to the street. Installing a privacy fence of this size and going all the way to the street would completely block their view of the adjoining street (Buford Street). It would also possibly block emergency vehicles from being able to locate their home from the intersecting street. They also feel that this would lower the property value of their home and surrounding homes. They are pretty much completely home bound and feel that this would hinder their ability even more to be aware of what's going on in their neighborhood.

My parents do not have an issue with a traditional wood privacy fence of a normal height being installed where a current chain link fence has been, but a fence the size and proportion they are requesting is not acceptable.

The family requesting to install such a large fence has had issues with other code violations on the property. They have enclosed a storage building for people to live in without getting a permit, they frequently prepare and sell food from their home and Mr. Wilson has understood from some of them that they plan to have a "church" in the other part of the storage area they are enclosing. The Leon family also had a tree to fall on a chain link fence that separated the properties and the fence has never been completely removed or repaired.



Mr. and Mrs. Wilson respectfully request that this variance request be denied and that another more suitable fence be installed on and between the properties.

Item 2.

With Best Regards

Senate and Dottie Wilson  
224 Summit Street  
Cartersville, GA 30120  
770-382-4618

Item 2.







## PLANNING COMMISSION ITEM SUMMARY

<b>MEETING DATE:</b>	May 17 <sup>th</sup> , 2021
<b>SUBCATEGORY:</b>	Variance
<b>DEPARTMENT NAME:</b>	Planning and Development
<b>AGENDA ITEM TITLE:</b>	V21-07. 1136 N Tennessee Street.
<b>DEPARTMENT SUMMARY RECOMMENDATION:</b>	Variance request to omit rear access and rear parking for townhomes
<b>LEGAL:</b>	N/A

**Utilities Protection Center, Inc.**



**IF YOU DIG GEORGIA  
CALL US FIRST!  
1-800-282-7411  
It's The Law!**

**24 Hr Emergency Contact:**

Colin Bennett  
770-608-4086

**\*\*\* ELEVATION NOTE \*\*\***

TOPOGRAPHIC INFORMATION PROVIDED BY STEPHENSON ENGINEERING, INC. IT IS THE CONTRACTOR'S RESPONSIBILITY TO FIELD VERIFY ALL EXISTING AND PROPOSED ELEVATIONS AND GRADES ON STREET, STORM DRAINS, AND UTILITIES PRIOR TO CONSTRUCTION. IF AN DISCREPANCY IS FOUND THEN IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO NOTIFY THE ENGINEER.

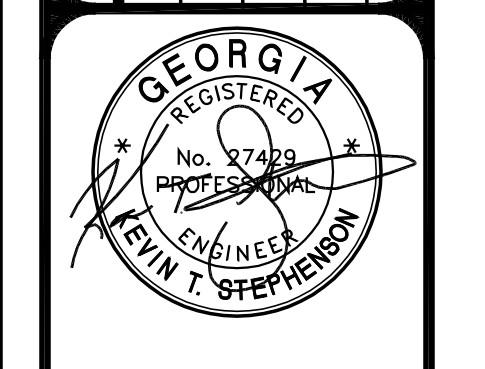
**\*\*\* CAUTION \*\*\***

THE UTILITIES SHOWN HEREON ARE FOR THE CONTRACTOR'S CONVENIENCE ONLY. THERE MAY BE OTHER UTILITIES NOT SHOWN ON THESE PLANS. THE ENGINEER ASSUMES NO RESPONSIBILITY FOR THE LOCATIONS SHOWN AND IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO VERIFY ALL UTILITIES WITHIN THE LIMITS OF THE WORK. IF THERE ARE ANY DISCREPANCIES THE ENGINEER MUST BE NOTIFIED. ALL DAMAGE MADE TO EXISTING UTILITIES BY THE CONTRACTOR SHALL BE THE SOLE RESPONSIBILITY OF THE CONTRACTOR.



STEPHENSON ENGINEERING, INC.  
CIVIL ENGINEERING, LAND PLANNING & DEVELOPMENT CONSULTING  
110 N. TENNESSEE ST., SUITE D  
CARTERSVILLE, GEORGIA 30130  
PHONE: (770)82-2967 FAX: (770)82-3742

REVISION	DATE



THE HOLDER OF THIS DOCUMENT WAIVES ALL CLAIMS AGAINST STEPHENSON ENGINEERING, INC. FOR ANY UNAUTHORIZED CHANGES OR REUSE OF THE DOCUMENT. THE DOCUMENT IS AN INSTRUMENT OF SERVICE OF STEPHENSON ENGINEERING, INC. AND THE HOLDER RETAINS ALL RIGHTS OF COPYRIGHT LAW, STATUTE AND COMMON LAW THEREBY.

**OWNER/DEVELOPER:**  
Smith Douglas Homes  
110 Village Trail, Suite 215  
Woodstock, GA 30188  
24 hr Contact: Colin Bennett  
email: cbennett@smithdouglass.com  
Phone: 770-608-4086

**The Felton Walk - Phase 1**  
Located in Land Lot 266  
4th District, 2nd Section  
City of Cartersville, Georgia

PROJECT# 19-002	DATE 4-15-21
SHEET TITLE Preliminary Plan	
SHEET NO. P1	



# 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/Meredith Ulmer  
**CC:** Keith Lovell  
**Date:** May 10, 2021  
**Re:** File # V21-07

**#V21-07: To omit the townhouse requirement for rear access and rear parking.**

### Section 1: Project Summary

Variance application by Colin Bennett, Smith-Douglas Homes, for property located at 1136 N. Tennessee St, and zoned M-U, Multiple Use. Said property contains approximately 7.45 acres. The applicant proposes the construction of (45) townhomes within eight (8) townhouse blocks. The variance request is to omit the requirement for rear access to the townhomes and rear parking.

The property has been through two (2) zoning reviews with the planning commission and city council. The first review, SU18-05, requested a special use permit to allow residential units above, below and behind commercial space for a mixed-use development. The mixed-use concept would eliminate the car wash at 1138 N Tennessee St to create a 3-story residential development over retail. A combination of mixed-use, retail, office and parking was planned for 1136 N Tennessee St. The special use was approved with conditions. Approval letter attached.

The second zoning review, Z19-06, requested a change in zoning from O-C and G-C to M-U and G-C due to financing issues with the mixed-use concept. The change in zoning was to eliminate the mixed-use concept and provide a majority residential development. The car wash would remain in place. This zoning request was approved with conditions. Approval letter attached.

For Z19-06, the site plan concept presented (37) townhomes with rear access. A parking lot and office block were included. The concept plan presented in this variance application replaces the parking lot and office block with (2) additional townhouse blocks. The townhouse blocks are pushed closer to the street to eliminate the rear access requirement. This site does allow for additional driveway length and structure distance from the street than what has been reviewed on similar projects like Everton Estates (Etowah Preserve).

All other townhouse requirements in the M-U district can be met. Table provided below.

**The variance requests are for the following:**

1. To omit the rear access requirement for townhouses (Sec. 9.2.3 (R)(2)(c)); and
2. To omit the rear parking requirement (Sec. 9.2.3 (R)(2)(d)).

**Section 2. Department Comments**

**Electric Department:** No comments received.

**Fibercom:** Takes no exception.

**Fire Department:** Based on the concept drawing, Cartersville Fire Department does not deem the reduction to be a danger to the public or to the neighboring property. Therefore, CFD takes no exceptions to the request.

**Gas Department:** No comments received.

**Public Works Department:** No comments received.

**Water Department:** As stated in the attached comments the Cartersville Water Department is recommending against consideration of the proposed variance request until more detailed plans are presented.

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

None.

**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).*

**Chapter 26, Zoning, Sec. 9.2.3. Development standards for the Multiple Use Zoning District.**  
See table.

## 9.2 M-U zoning district- Townhouse Requirements

Code Sec.	Description and/ or Requirements	Required	Proposed	Notes
9.2.1	District scope and intent: Regulations in this section are the M-U district regulations. The M-U district is intended to provide land areas for medium to high density residential land uses and commercial uses complimentary to office and institutional uses as further described in section 3.1.15 of this chapter and where existing and projected traffic patterns encourage such development. The M-U district is intended to: A. Encourage the development of tracts of land in the community; B. Encourage flexible, innovative, and creative concepts in site planning; C. Encourage efficient use of land; D. Provide a stable multiple use environment compatible with surrounding uses; and E. Protect neighboring residential properties by locating less intense uses adjacent to residential developments or by locating buffers between nonresidential and residential uses.			
9.2.2	Use Regulation	---	---	---
9.2.3	Development Standards	---	---	---
A	Single-family residential buildings shall not exceed a height of thirty-five (35) feet or two and one-half (2½) stories, whichever is higher; multifamily and nonresidential buildings shall not exceed a height of forty-five (45) feet or three and one-half (3½) stories, whichever is higher.	35ft/ 2.5 stories	35ft/ 2.5 stories	---
B	Front yard setback: Ten (10) feet	10ft.	10ft. Min.	---
C	Side yard setback: Ten (10) feet. If single-family attached, ten (10) feet end of each row.	10ft.	10ft. Min.	---
D	Rear yard setback: Twenty (20) feet.	20ft.	20ft. Min.	---
E	Minimum lot area: Townhouse/attached: Two thousand (2,000) square feet.	2000sf	2000sf Min.	---
F	Maximum Density: Townhouse/attached: Twelve (12) dwelling units per acre.	12 un/ac	6 un/ac	---
G	Minimum lot width at building line: Townhouse: Twenty (20) feet per lot.	20ft.	24ft.	---
H	Minimum lot frontage: Townhouse: Twenty (20) feet per lot.	20ft.	24ft.	---
I	Minimum heated floor area per unit: Townhouse/attached: One thousand (1,000) square feet.	1000sf	1700sf. Min. (1918sf max. on fl plns)	---
I	Accessory use, building and structure requirements. See section 4.9 of this chapter.	---	---	Addressed during plan review. No indication of non-compliance



Code Sec.	Description and/ or Requirements	Required	Proposed	Notes
J	[Metal panels, metal sheathing, standard gray concrete block.] The use of metal panels or metal sheathing and/or standard gray concrete block on the exterior walls of any building or structure shall be prohibited with the exception that such materials may be used if finished with a product consisting of brick, stone, hard-coat stucco, or fiber cement siding.	---	---	Addressed during plan review. No indication of non-compliance
K	[Air conditioning units and HVAC systems.] Air conditioning units and HVAC systems shall be thoroughly screened from view from the public right-of-way and from adjacent properties by using walls, fencing, roof elements, or landscaping on multifamily and nonresidential properties.	---	---	Addressed during plan review. No indication of non-compliance
L	[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.	---	---	Addressed during plan review. No indication of non-compliance.
M	[Front building facade.] The front building facade of all principal buildings shall be oriented toward street fronts or adjacent arterial street fronts.	Front Faces Street	Front Faces Street	---
N	Minimum buffer requirements. In addition to required setbacks, all nonresidential and/or multifamily property uses within the M-U district which abut a single-family residential district or use shall provide a minimum fifteen-foot wide buffer, five (5) feet of which can be within required setback, to provide a visual screen in accordance with section 4.17 of this chapter.	Yes	Yes	Buffer required along Northpoint Subdiv. Buffer provided. No indication of non-compliance.
O	Minimum open space.	NA	---	---
P	Maximum commercial building floor area:	NA	---	---
Q	Accessory structure requirements. See section 4.9 of this chapter.	---	---	Addressed during plan review. No indication of non-compliance.
R	Other standards.	---	---	---
1	Townhouse developments shall have a minimum development area of one-half (½) acre.	0.5ac. Min.	7.45 +/- ac.	---
2	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.	Yes	Yes	Buffer required along Northpoint Subdiv. Buffer provided. No indication of non-compliance.

Code Sec.	Description and/ or Requirements	Required	Proposed	Notes
(a)	Minimum lot depth: one hundred (100) feet.	100ft.	100ft. Min.	No indication of non-compliance.
(b)	No fewer than three (3) dwelling units in a row shall be allowed	Min. 3	Min. 4	---
(c)	Alley or private drive access required	Yes	No	Front Access to Townhomes using existing street
(d)	Required parking shall be allowed in the rear yard only.	Yes	No	Eliminate requirement with proposed Front Access Townhomes
(e)	Principal buildings shall front a private drive or public right-of-way.	Yes	Yes	---

### 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.*



# City of Cartersville

PLANNING AND DEVELOPMENT

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October 16, 2018

Baha Kharazmi  
c/o Tri Unity Holdings LLC  
6524 Buford Hwy NE  
Atlanta, GA 30340

RE: SU18-05: 1136/1138 N. Tennessee St. Special Use Permit results letter

Mr. Kharazmi,

This letter serves as verification of the outcome of your Special-Use Permit application, SU18-05, to the City Council for:

*Allowing apartments and condominiums, above, below, or behind commercial and office uses in the same building*

The application was **APPROVED with the following condition** by City Council on October 4<sup>th</sup>, 2018:

*Council Member Hodge made a motion to approve SU18-05 subject to the fence style and location as approved by the Planning and Development and Gas Departments. The motion was seconded by Council Member Wren. Motion carried unanimously. Vote: 6-0.*

No further action is required regarding this Special-Use application.

The next steps in the project approval process require building and site plans be reviewed and approved by the City of Cartersville. I will be the point of contact for the site plan approval process. David Dye, Building Official, will be the point of contact for the building plan review.

Please contact me with any questions.

Sincerely,

David Hardegree, AICP  
City Planner  
O. 770-387-5614  
[dhardegree@cityofcartersville.org](mailto:dhardegree@cityofcartersville.org)



# City of Cartersville

PLANNING AND DEVELOPMENT

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Telephone: 770-387-5600 • Fax: 770-387-5605 • [www.cityofcartersville.org](http://www.cityofcartersville.org)

December 20, 2019

Tri Unity Holdings, LLC  
ATTN: Baha Kharazmi  
1138 N. Tennessee St.  
Cartersville, GA 30120

**RE: Z19-06. Zoning Approval Letter for property located at 1136 N. Tennessee St.**

Dear Mr. Kharazmi,

The zoning application, Z19-06, was **APPROVED with conditions** by City Council on December 5, 2019, for the following:

*Change zoning from O-C (Office Commercial) and G-C (General -Commercial) to M-U (Multiple-Use) and G-C (General-Commercial) zoning. Said property contains approximately 7.42 acres.*

The conditions are:

1. Allow Bradshaw Loop to remain open for use by adjacent property owners;
2. ...[install an 8ft. tall privacy fence along the Pointe North subdivision property line] subject to the fence style and location as approved by the Planning and Development and Gas Departments (per SU18-05).

See attached Ordinance No.42-19 for language specific to the zoning case. No further action is required regarding this rezoning application.

Please contact me with any questions.

Sincerely,

David Hardegree, AICP  
Planning and Development Department  
770-387-5614  
[dhardegree@cityofcartersville.org](mailto:dhardegree@cityofcartersville.org)

**Ordinance**  
**of the**  
**City of Cartersville, Georgia**  
**Ordinance No. 42-19**  
**Petition No. Z19-06**

**NOW BE IT AND IT IS HEREBY ORDAINED** by the Mayor and City Council of the City of Cartersville, Georgia, that all that certain tract of land owned by Tri Unity Holdings, LLC. Property is located 1136 N Tennessee Street. Said property contains 7.42 acres located in the 4<sup>th</sup> District, 3<sup>rd</sup> Section, Land Lot 530 as shown on the attached plat Exhibit "A". Property is hereby rezoned from O-C (Office Commercial) and G-C (General Commercial) to M-U (Multiple Use) and G-C (General Commercial) Proposed Use: Townhomes, Office Space and Parking Lot (M-U); Parking Lots (G-C) with the following conditions: allows access for adjacent property owners to use Bradshaw Loop and keep the condition of an eight-foot fence between Point North Subdivision and this property per the condition approved on SU18-05. Zoning will be duly noted on the official zoning map of the City of Cartersville, Georgia.

**BE IT AND IT IS HEREBY ORDAINED.**

**First Reading this 21<sup>st</sup> day of November 2019.**  
**ADOPTED this 5<sup>th</sup> day of December. Second Reading.**



**ATTEST:**

*/s/ Matthew J. Santini*  
**Matthew J. Santini**  
**Mayor**

*/s/ Meredith Ulmer*  
**Meredith Ulmer**  
**City Clerk**



**LOT 3**  
 1.11 ACRES  
 CURRENT ZONING: G-C  
 NO CHANGE- SUP TO REMAIN

**Building 1 (4 STORIES)**  
 Retail Area = 20,000sf  
 Required Parking = 60spaces  
 45 Residential Condos  
 Required Parking = 90 Spaces

**Bldg 1**

REWORK EXISTING  
 ROADWAY- OPTIONAL  
 PARKING SPACES TO BE  
 PROVIDED IF POSSIBLE-

**LOT 2**  
 0.90 ACRES  
 CURRENT ZONING: O-C  
 ADD THIS PORTION TO  
 THE G-C LOT

**LOT 1**  
 6.80 ACRES  
 CURRENT ZONING: O-C  
 PROPOSED ZONING: M-U  
 TOWNHOMES, OFFICE  
 CONDO AND PARKING

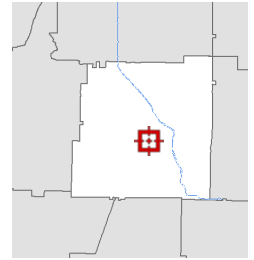
**FELTON WALK TOWNHOMES**

**The FELTON WALK - A MULTIPLE-USE DEVELOPMENT**  
 NORTH TENNESSEE St, CARTERSVILLE, BARTOW COUNTY, GA





Overview



Legend

-  Parcels
-  Roads

<b>Parcel ID</b>	C032-0003-015	<b>Alternate ID</b>	35878	<b>Owner Address</b>	TRI UNITY HOLDINGS LLC
<b>Sec/Twp/Rng</b>	n/a	<b>Class</b>	Commercial		6524 BUFORD HWY NE
<b>Property Address</b>	1136 N TENNESSEE ST	<b>Acres</b>	7.45		ATLANTA, GA 30340
<b>District</b>	Cartersville				
<b>Brief Tax Description</b>	LL 166 D 4				

(Note: Not to be used on legal documents)

Date created: 5/13/2021  
Last Data Uploaded: 5/12/2021 10:16:53 PM

Developed by 

**David Hardegree**

---

**From:** Colin Bennett <cbennett@smithdouglas.com>  
**Sent:** Monday, April 19, 2021 12:13 PM  
**To:** David Hardegree  
**Subject:** [External]Felton Walk - Updated Variance Application  
**Attachments:** SMITH DOUGLAS CONCEPT-4-15-21.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**CAUTION : This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

David,

I would like to revise my initial variance submitted to remove the rear access and allow front access townhomes.

Also, I would like to pose a 5' setback reduction variance for unit one, from 20' to 15'.

Thanks,

**Colin Bennett**  
*Land Acquisition Manager*  
[cbennett@smithdouglas.com](mailto:cbennett@smithdouglas.com)

C: 770.608.4086  
110 Village Trail, Suite 215 Woodstock, GA 30188

Variance not required.  
Setback is 10ft for west side of Unit 1.



City of Cartersville  
Application for Variance  
Board of Zoning Appeals

Hearing Date: 5/17 5:30pm

Application Number: V21-07  
Date Received: 3/24/21

Applicant COLIN BENNETT, SMITH DOUGLAS HOMES Office Phone 770 608 4086  
 (printed name)  
 Address 90 TOM JONES RD. Mobile/ Other Phone \_\_\_\_\_  
 City KINGSTON State Ga Zip 30145 Email cbennett@smithdouglas.com  
 Representative's printed name (if other than applicant) \_\_\_\_\_ Phone (Rep) \_\_\_\_\_  
 \_\_\_\_\_ Email (Rep) \_\_\_\_\_  
 Representative Signature \_\_\_\_\_ Applicant Signature [Signature]  
 Signed, sealed and delivered in presence of: Jill F Witter My commission expires: 9.5.21  
[Signature] Notary Public **Jill F Witter**  
**NOTARY PUBLIC**  
**Cherokee County, GEORGIA**  
**My Comm. Expires 09/05/2021**

\* Titleholder Baha Kharazmi Phone 404.510-2242  
 (titleholder's printed name)  
 Address 3534 Darentry LN Email baha2242@yahoo.com  
 Signature [Signature]  
 Signed, sealed, delivered in presence of: [Signature] My commission expires: 6/2024  
[Signature] Notary Public **SUZETTE GREEN**  
**NOTARY PUBLIC**  
**BARTON CO. GEORGIA**

Present Zoning District M-U  
 Acreage 7.45 Land Lot(s) 530 District(s) 4th Section(s) 3rd  
 Location of Property: 1136 N. Tennessee Street, Felton Rd + Tennessee St.  
 (street address, nearest intersections, etc.)  
 Zoning Section(s) for which a variance is being requested: \_\_\_\_\_  
 Summary Description of Variance Request: Mixed Use (MU) to front entry townhomes  
 \_\_\_\_\_  
 (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 IX                      Section 9.2.3                      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: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



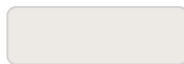
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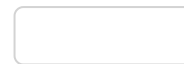
BRICK  
Harper Creek



DOOR  
Peppercorn



GARAGE  
Snowbound



GUTTERS  
White



SHAKE  
Cityscape



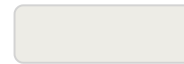
SHINGLES  
Weathered



SHUTTERS  
Tuxedo Grey



SIDING  
Argos

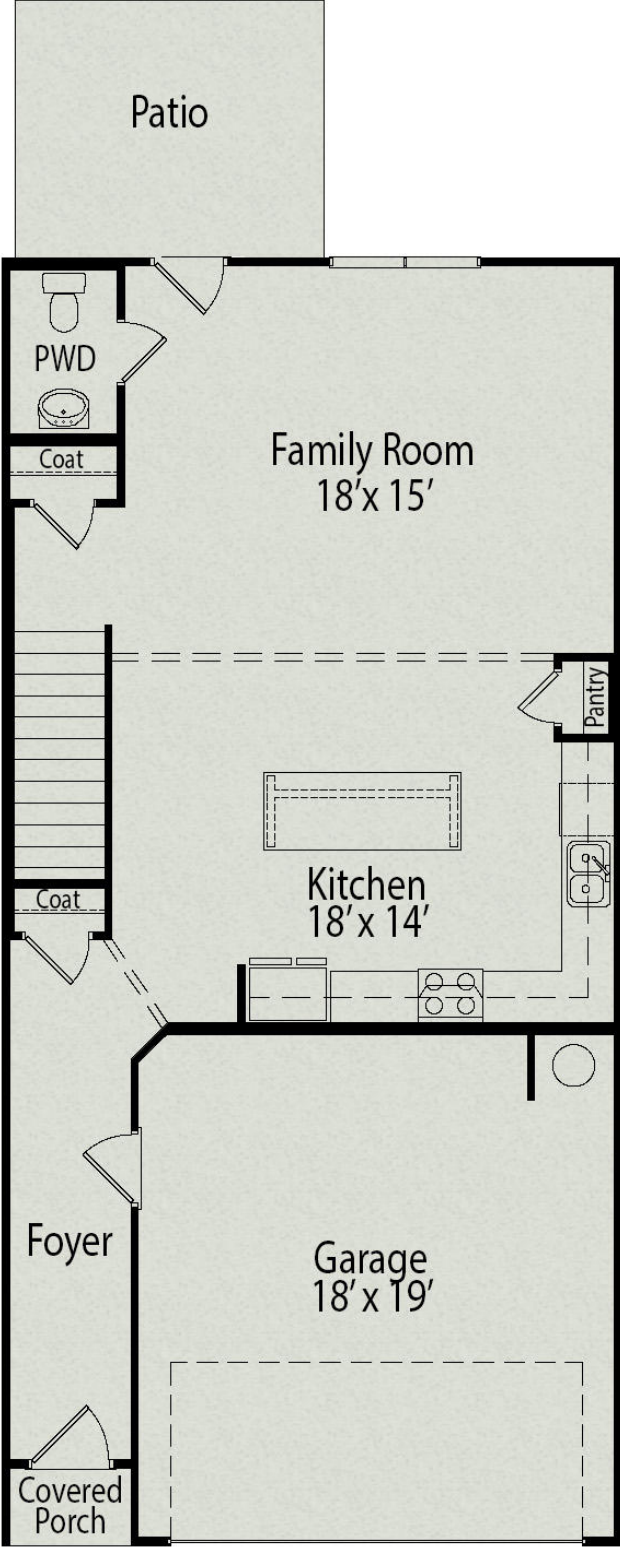


TRIM  
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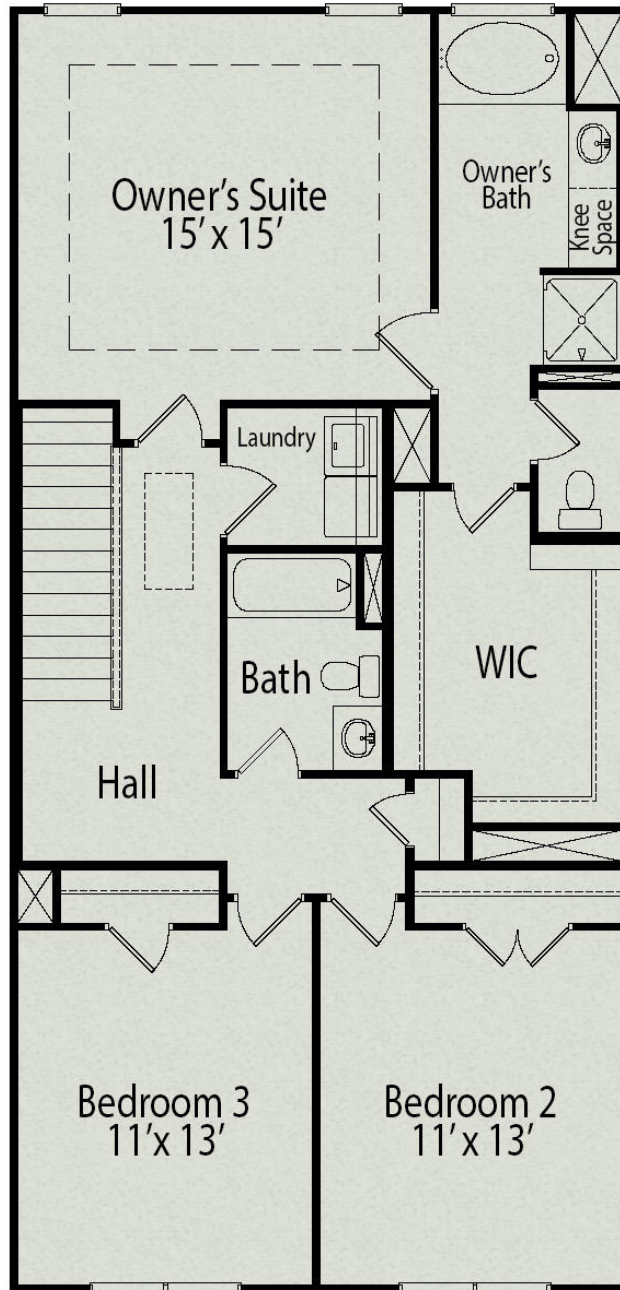


WINDOW FRAME  
White

First Floor



Second Floor

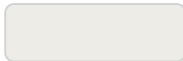




**SCHEME: AF-20A**



DOOR  
Curio Gray



GARAGE  
Pure White



GUTTERS  
White



SHAKE  
Worldly Gray



SHINGLES  
Weathered



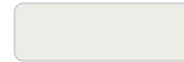
SHUTTERS  
Clay



SIDING  
Waterloo



STONE  
Oak Island  
LedgeStone



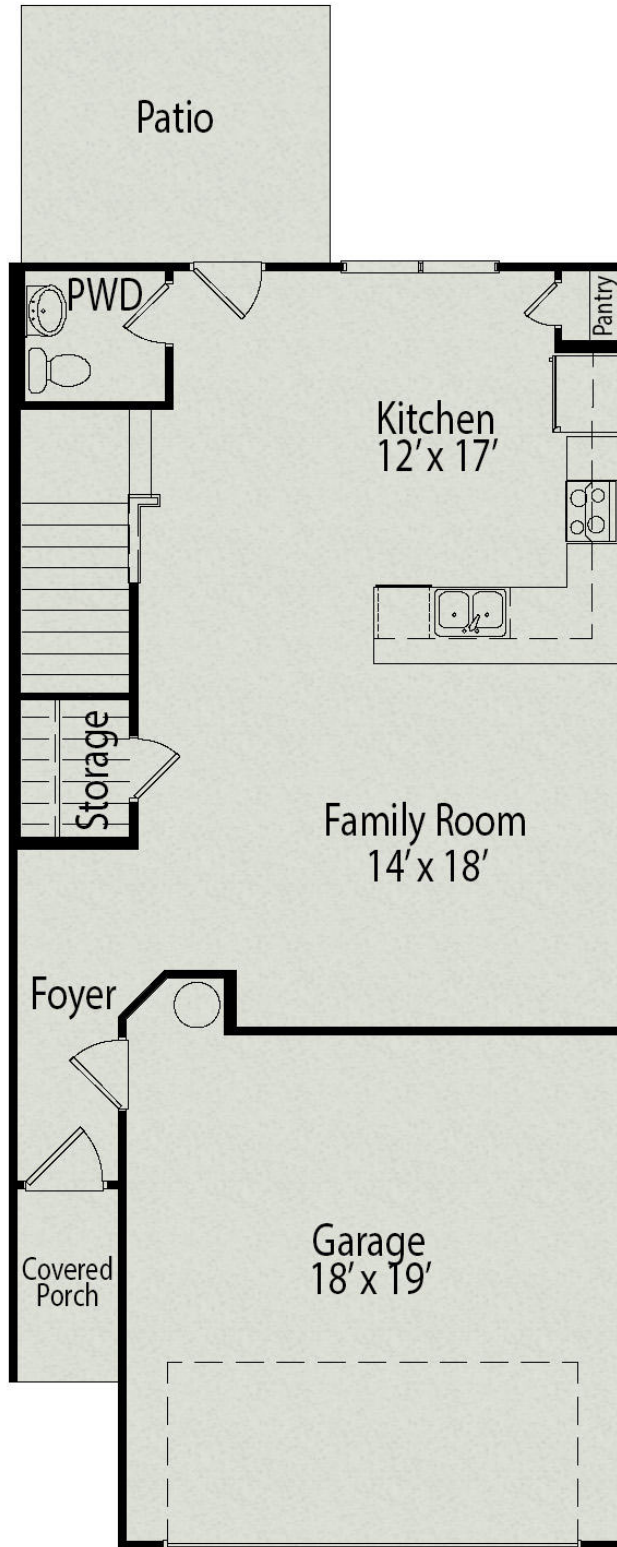
TRIM  
Pure White



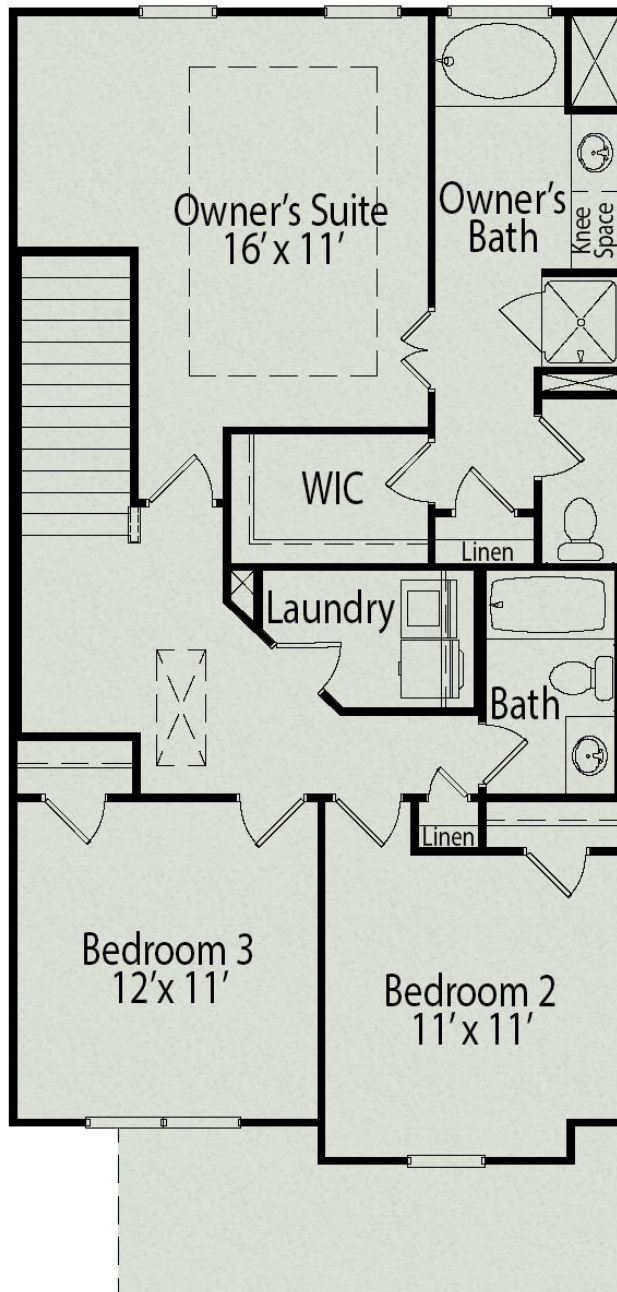
WINDOW FRAME  
White



First Floor



Second Floor

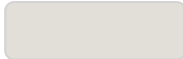




**SCHEME: AF-15C**



DOOR  
Rainstorm



GARAGE  
Eider White



GUTTERS  
White



SHAKE  
Felted Wool



SHINGLES  
Weathered



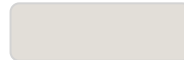
SHUTTERS  
Classic Blue



SIDING  
Mindful Gray



STONE  
Columbia  
LedgeStone

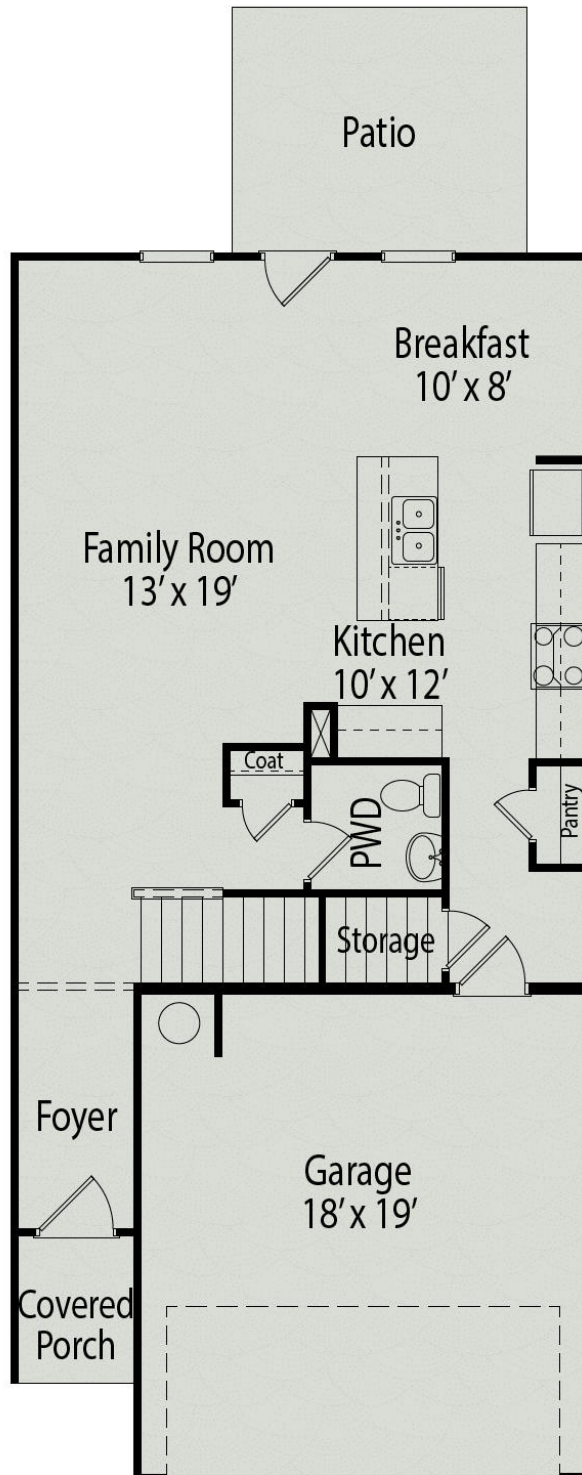


TRIM  
Eider White

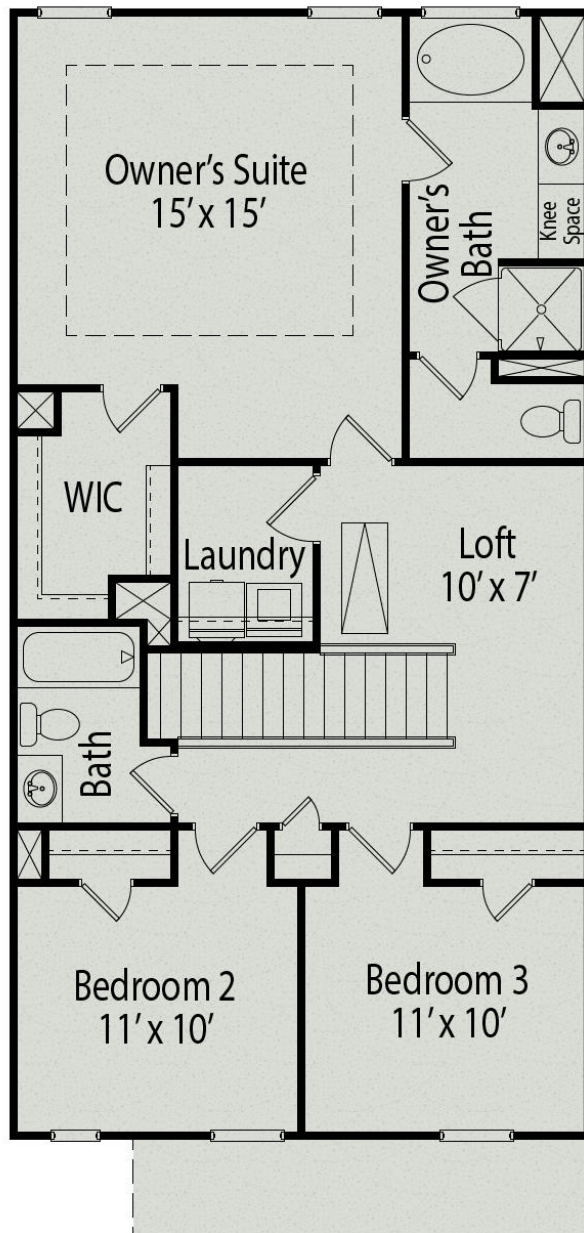


WINDOW FRAME  
Almond

First Floor



Second Floor



















## PLANNING COMMISSION ITEM SUMMARY

<b>MEETING DATE:</b>	May 17 <sup>th</sup> , 2021
<b>SUBCATEGORY:</b>	Variance
<b>DEPARTMENT NAME:</b>	Planning and Development
<b>AGENDA ITEM TITLE:</b>	V21-08. 101 Savoy Lane
<b>DEPARTMENT SUMMARY RECOMMENDATION:</b>	Variance to increase the area of a wall sign.
<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/Meredith Ulmer  
**CC:** Keith Lovell  
**Date:** April 27, 2021  
**Re:** File # V21-08

**#V21-08: To increase the sign area of a wall sign from 200sf to 244 sf.**

### Section 1: Project Summary

Variance application Anverse, Inc. for the Savoy Museum property located at 101 Savoy Lane, zoned G-C, General Commercial. Said property contains approximately 36.94 acres. The applicant would like to install a wall sign over the allowable square footage of 200 sq ft. The sign proposed is 244.1 sq ft. The sign will be installed on the museum wall facing Hwy 20 (West), but will also be visible from north bund traffic on Hwy 411 and possibly traffic from Hwy 41. The percentage increase of the wall sign is approximately 22%.

The only wall sign will be located between the main entrance and the round portion (theater) of the building. It will be located on the theater exterior (round portion of the building). There will not be a sign over the main entrance. There are no current plans for a sign on the 411 side of the building. There most likely will be a sign on the corner of 411 and Hwy 20 but that has not been designed and likely will not exceed the current sign ordinance.

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

1. To increase the allowable wall sign area from 200sf. to 244sf.

### Section 2. Department Comments

**Electric Department:** No comments received.

**Fibercom:** Takes no exception.

**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.

### **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. 20-26. - Wall signs; canopy signs; awning signs; projecting signs; and window signs.**

All signs under this section require a permit. Wall signs, canopy signs and awning signs for all nonresidential use properties except the DBD district shall comply with the following:

(1) *Area.* Wall signs shall have an aggregate area not to exceed two (2) square feet for each linear foot of building face, not to exceed two hundred (200) square feet in area. Canopy and awning signage shall be deducted from allocated wall sign area.

#### **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.*

Consideration should be given to the following criteria when reviewing a sign variance application:

**Sec. 20-39. Variance.**

- (a) *Limitations.* The board of zoning appeals shall be allowed to grant variances to this article.
- (b) *Procedure.* Except as modified by this article, the procedures for requesting a variance from the standards of this article shall be the same procedures as that for seeking a variance from the city's ordinances regulating zoning.
- (c) *Standards.* The standards which shall be considered for granting a variance from the standards of this article shall be only the following:
  - (1) Relief to this article may only be granted where existing foliage or structures bring about a hardship whereby a sign meeting the maximum letter size, square footage and height requirements cannot be read from an adjoining road;
  - (2) The application of the particular provision of this sign ordinance to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its size, shape, or topography, would create an unnecessary hardship for the owner while causing no detriment to the public; or
  - (3) Conditions resulting from existing foliage or structures bring about a hardship whereby a sign meeting minimum letter size, square footage and height requirements can not be read from adjoining public road.
- (d) *Timing.* The board of zoning appeals shall hear and decide upon a variance within eighty (80) days of the submission of a complete and accurate application.
- (e) The fee assessed pursuant to this section is as referenced on the fee schedule in the City of Cartersville Code subsection 17-90(c).

(Ord. No. 26-12, 5-3-12)

Source:

[https://library.municode.com/ga/cartersville/codes/code\\_of\\_ordinances?nodetid=COOR\\_CH20SIOUAD\\_ARTIISIOR\\_S20-39VA](https://library.municode.com/ga/cartersville/codes/code_of_ordinances?nodetid=COOR_CH20SIOUAD_ARTIISIOR_S20-39VA)



City of Cartersville  
Application for Variance  
Board of Zoning Appeals

Hearing Date: May 17<sup>th</sup> 5:30pm

Application Number: V21-08  
Date Received: 3/25/2021

Applicant Anverse, Inc. Office Phone 770 607-8870  
(printed name)  
 Address P.O. Box 3188 Mobile/ Other Phone \_\_\_\_\_  
 City Cartersville State GA Zip 30120 Email forrestm@reicon.com  
Forrest McClain  
 Representative's printed name (if other than applicant) Phone (Rep) 678 721 0251 ext. 334  
 Email (Rep) \_\_\_\_\_  
 Representative Signature  Applicant Signature  
 Signed, sealed and delivered in presence of: My commission expires: April 27, 2021  
  
 Notary Public

\* Titleholder Highlands Development Assoc., LLC - Land Phone 770 607-8870  
Anverse, Inc. - Building  
(titleholder's printed name)  
 Address P.O. Box 3188, Cartersville, GA Email forrestm@reicon.com  
 Signature   
 Signed, sealed, delivered in presence of: My commission expires: April 27, 2021  
  
 Notary Public

Present Zoning District G0  
 Acreage 36.94 Land Lot(s) 22, 23, 50 District(s) 4th Section(s) 3rd  
 Location of Property: 3 Savoy Lane, Cartersville, GA 30121 (Hwy. 411 and Hwy. 20)  
(street address, nearest intersections, etc.)  
 Zoning Section(s) for which a variance is being requested: 3rd  
 Summary Description of Variance Request: ± 22% increase in sign square  
footage area.  
(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 20 Section 26 Subsection 1  
 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. X \_\_\_\_\_ The requested variance relief may be granted without substantially impairing the intent and purpose of this ordinance

Additional Comments by Applicant: The size of the building requires a building sign that matches the scale of the building. The building is set back 390 feet from Hwy. 20, requiring the sign to be increased in size.

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**LIST OF ADJACENT PROPERTY OWNERS  
(Not required if City mails public notices)**

The following are all of the individuals, firms, or corporations owning property on the sides, rear, and in front of (across street from) the subject property:

	<u>NAME</u>	<u>ADDRESS</u>
1.	Brenda Hudson,	42 Old Tennessee Road, Cartersville, GA 30121
2.	Henry Owens,	39 Old Tennessee Road, Cartersville, GA 30121
3.	Robert Beeler,	25 Oak Dr., NE, Cartersville, GA 30121
4.	David Edwards,	33 Oak Dr., NE, Cartersville, GA 30121
5.	Patricia Fortner,	41 Oak Dr., NE, Cartersville, GA 30121
6.	Keith Baker,	47 Oak Dr., NE, Cartersville, GA 30121
7.	Board of Regents,	5441 Hwy. 20, Cartersville, GA 30121
8.	Family Savings Credit Union,	3 Ryan Blvd., NE, Cartersville, GA 30121
9.	Highlands Investment Holdings,	7 Ryan Blvd., NE, Cartersville, GA 30121
10.	Speedway, LLC c/o Real Estate Dept.,	1395 Hwy 411, Cartersville, GA 30121
11.		
12.		
13.		
14.		
15.		

Attach additional names if necessary.

(Indicate property owned by the above persons on plat accompanying this application.)



**SAVOY**

AUTOMOBILE MUSEUM



30'



4'-10"



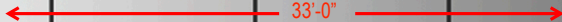
12'-0"



4'-0"

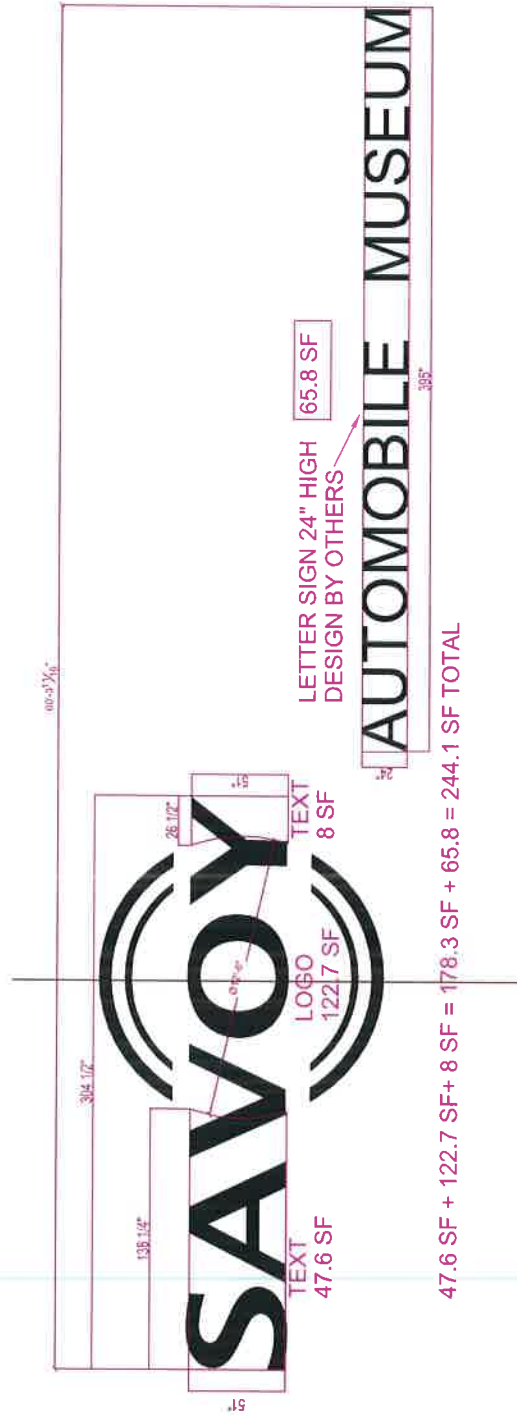


28'-10"

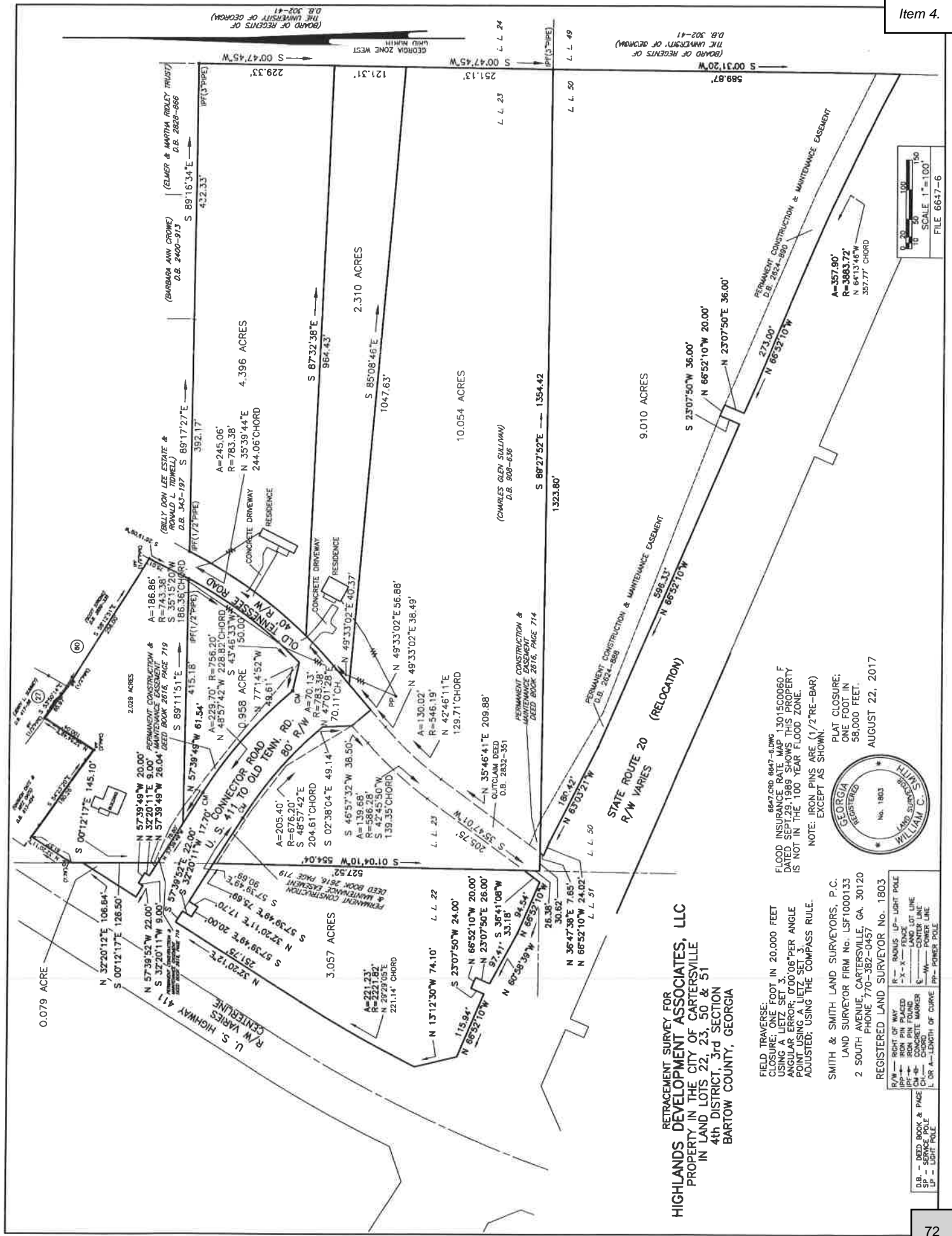


33'-0"

2'-0"



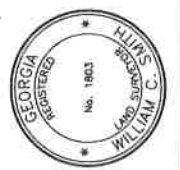




RETRACEMENT SURVEY FOR  
**HIGHLANDS DEVELOPMENT ASSOCIATES, LLC**  
 PROPERTY IN THE CITY OF CARTERSVILLE  
 IN LAND LOTS 22, 23, 50 & 51  
 4th DISTRICT, 3rd SECTION  
 BARTOW COUNTY, GEORGIA

FIELD TRAVERSE: FOOT IN 20.000 FEET  
 USING A LETZ SET 3  
 ANGULAR ERROR: 0'00.06\"/>

SMITH & SMITH LAND SURVEYORS, P.C.  
 LAND SURVEYOR FIRM NO. LSF1000133  
 2 SOUTH AVENUE, CARTERSVILLE, GA. 30120  
 PHONE 770-382-0457  
 REGISTERED LAND SURVEYOR No. 1803



6647.0RD 6647-5.DWG  
 FLOOD INSURANCE RATE MAP 13015C0060 F  
 DATED SEPT.29,1989 SHOWS THIS PROPERTY  
 IS NOT IN THE 100 YEAR FLOOD ZONE.  
 NOTE: IRON PINS ARE (1/2\"/>

PLAT CLOSURE:  
 ONE FOOT IN  
 56,000 FEET.  
 AUGUST 22, 2017

- R/W - RIGHT OF WAY
- IR - IRON PIN PLACED
- IP - IRON PIN FOUND
- CH - CONCRETE MARKER
- W - CENTER LINE
- P - POWER LINE
- L OR A - LENGTH OF CURVE
- IP - LIGHT POLE
- R - RADIUS OF CURVE
- X - LAND LOT LINE
- W - CENTER LINE
- P - POWER LINE
- L OR A - LENGTH OF CURVE
- IP - LIGHT POLE



FILE 6647-6



SPACE FOR CLERK OF SUPERIOR COURT

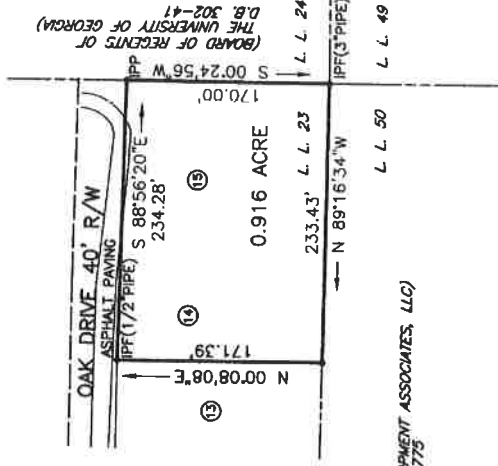
RETRACEMENT SURVEY FOR  
**HIGHLANDS DEVELOPMENT ASSOCIATES, LLC**  
 LOTS 14 & 15, BLOCK 1  
 OAKLAND HEIGHTS  
 IN LAND LOT 23  
 4th DISTRICT, 3rd SECTION  
 BARTOW COUNTY, GEORGIA  
 TOTAL AREA = 2.373 ACRES

This plat is a retracement of an existing parcel or parcels of land and does not subdivide or create a new parcel or make any changes to any real property boundaries. The recording information of the documents, maps, plats, or other instruments which create the parcel or parcels are stated herein. RECOGNITION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. Section 15-6-67.



*William C. Smith*

WILLIAM C. SMITH, GEORGIA REGISTERED LAND SURVEYOR No. 1803  
 DATE OF LAST FIELD SURVEY WORK: 9-03-2019



(HIGHLANDS DEVELOPMENT ASSOCIATES, LLC)  
 D.B. 2948-775

FIELD TRAVERSE:  
 CLOSURE: ONE FOOT IN 20,000 FEET  
 USING A LIETZ SET 3  
 ANGULAR ERROR: 0'00'06"PER ANGLE  
 POINT USING A LIETZ SET 3  
 ADJUSTED; USING THE COMPASS RULE.

SMITH & SMITH LAND SURVEYORS, P.C.  
 LAND SURVEYOR FIRM No. LSF1000133  
 2 SOUTH AVENUE, CARTERSVILLE, GA. 30120  
 PHONE 770-382-0457

REGISTERED LAND SURVEYOR No. 1803

- R/W - RIGHT OF WAY
- IPP - IRON PIN PLACED
- IPF - IRON PIN FOUND
- CH - CHORD
- L OR A - LENGTH OF CURVE
- R - RADIUS
- LP - LIGHT POLE
- X - X - FENCE
- LAND LOT LINE
- CENTER LINE
- POWER LINE
- PP - POWER POLE

- D.B. - DEED BOOK & PAGE
- SP - SERVICE POLE
- LP - LIGHT POLE

6647.CRD 6647-12.DWG  
 FLOOD INSURANCE RATE MAP 13015C0258 H  
 DATED OCT. 5, 2018 SHOWS THIS PROPERTY  
 IS NOT IN THE 100 YEAR FLOOD ZONE.  
 NOTE: IRON PINS ARE (1/2"RE-BAR)  
 EXCEPT AS SHOWN.

PLAT CLOSURE;  
 ONE FOOT IN  
 174,000 FEET.

SEPTEMBER 3, 2019

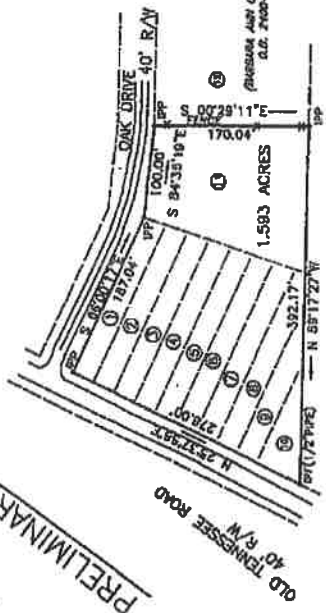


FILE 6647-12

SPACE FOR CLERK OF SUPERIOR COURT

RETRACEMENT SURVEY FOR  
**HIGHLANDS DEVELOPMENT ASSOCIATES, LLC**  
 LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 & 11, BLOCK 1  
 OAKLAND HEIGHTS  
 IN LAND LOT 23  
 4th DISTRICT, 3rd SECTION  
 BARTOW COUNTY, GEORGIA

PRELIMINARY  
 OLD TENNESSEE ROAD  
 40' R/W



WILLIAM C. SMITH  
 REGISTERED LAND SURVEYOR NO. 18033  
 DATE OF LAST FIELD SURVEY WORK: 02-28-2018



This plan is a retracement of an existing parcel or parcels of land and does not include or create a new parcel or make any changes to any real property boundaries. It is intended to show the location of the corners, poles, posts, or other monuments which create the parcel or parcels shown. It is not a subdivision of land and does not create any new parcels. It is not a plat and does not require recording. COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR ANY OTHER APPLICABLE REGULATIONS, IS THE RESPONSIBILITY OF THE LANDOWNER. THE SURVEYOR'S LIABILITY IS LIMITED TO THE TECHNICAL STANDARDS FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN O.C.G.A. SECTION 15-6-67.

FIELD TRAVERSE  
 CLOSURE, ONE FOOT IN 20,000 FEET  
 USING A LEITZ SET 3,  
 PIVOT USING A 1/2" DIAMETER ANGLE  
 ADJUSTED; USING THE COMPASS RULE.

SMITH & SMITH LAND SURVEYORS, P.C.  
 LAND SURVEYOR FIRM NO. L5FT000133  
 2 SOUTH PHONE 770-382-0457  
 CARTERSVILLE, GA 30120



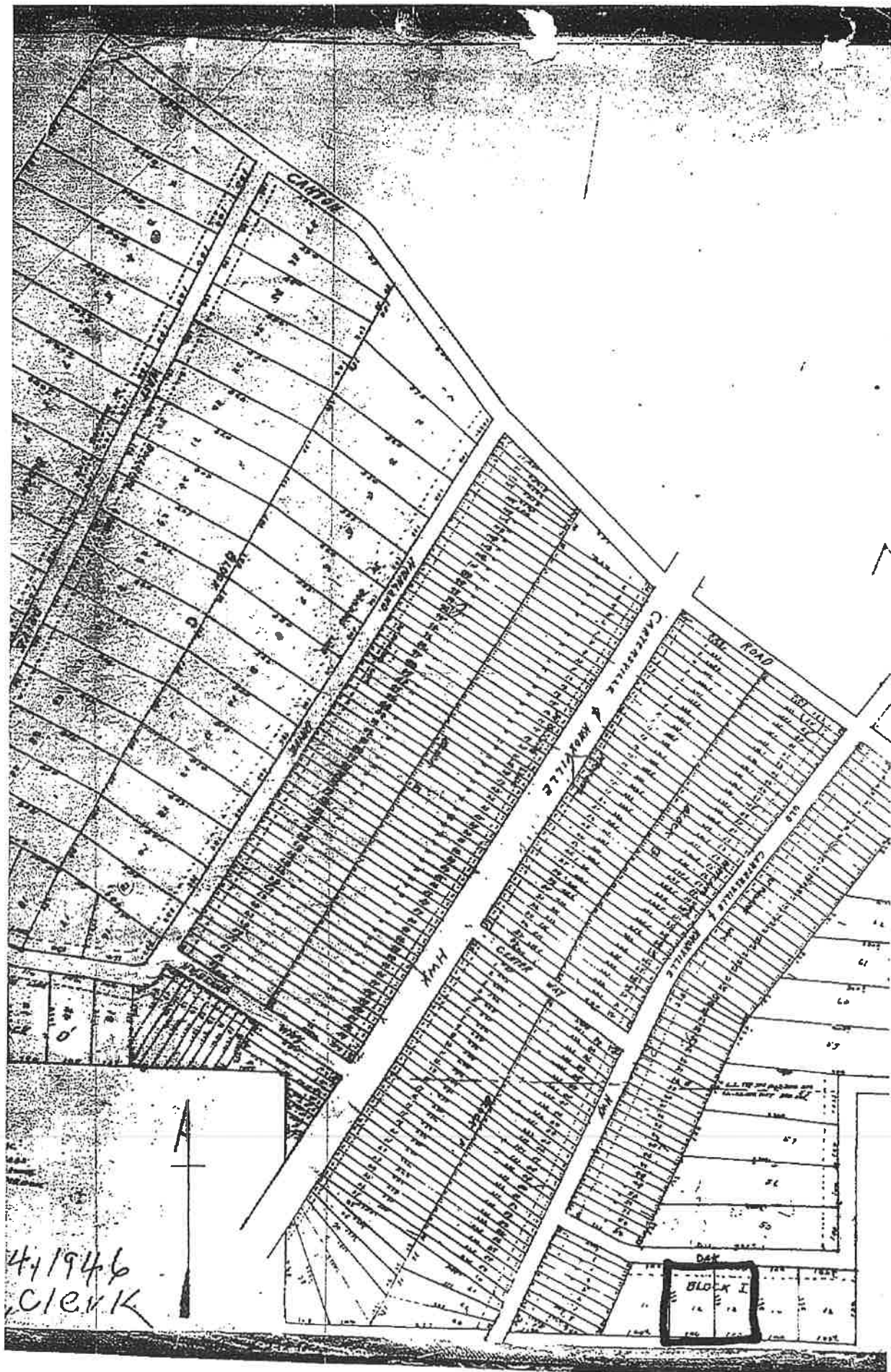
NOTE: IRON PINS ARE (1/2" DIA - 6" LONG)  
 EXCEPT AS SHOWN.

PLAT CLOSURE:  
 ONE FOOT IN  
 341,000 FEET.

FEBRUARY 28, 2018

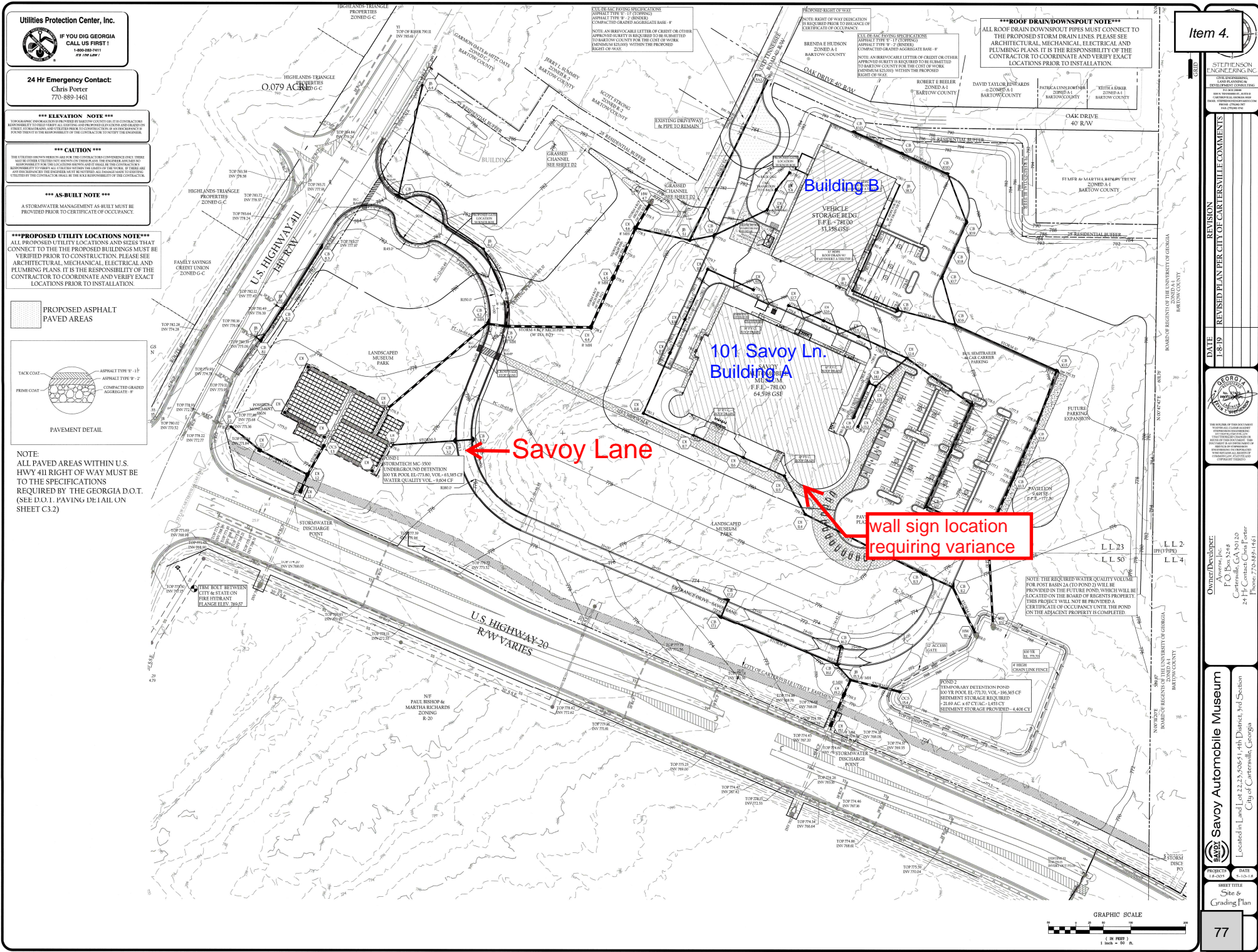
REGISTERED LAND SURVEYOR No. 18033  
 WILLIAM C. SMITH  
 LAND SURVEYOR FIRM No. L5FT000133  
 2 SOUTH PHONE 770-382-0457  
 CARTERSVILLE, GA 30120

FILE 8847-9  
 SCALE 1"=100'  
 1"=100'



4/19/46  
CIEVK





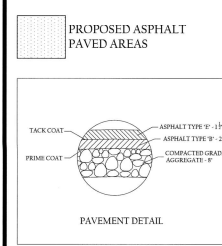
**Utilities Protection Center, Inc.**  
**IF YOU DIG GEORGIA**  
**CALL US FIRST!**  
 1-800-891-1461  
 24 Hr Emergency Contact:  
 Chris Porter  
 770-889-1461

**\*\*\* ELEVATION NOTE \*\*\***  
 ELEVATIONS SHOWN ARE FOR THE PROPOSED CONSTRUCTION. THE CONTRACTOR SHALL VERIFY THE ACCURACY OF THESE ELEVATIONS PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE ELEVATIONS SHOWN ON THESE PLANS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE ELEVATIONS SHOWN ON THESE PLANS.

**\*\*\* CAUTION \*\*\***  
 THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE ELEVATIONS SHOWN ON THESE PLANS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE ELEVATIONS SHOWN ON THESE PLANS.

**\*\*\* AS-BUILT NOTE \*\*\***  
 A STORMWATER MANAGEMENT AS-BUILT MUST BE PROVIDED PRIOR TO CERTIFICATE OF OCCUPANCY.

**\*\*\* PROPOSED UTILITY LOCATIONS NOTE \*\*\***  
 ALL PROPOSED UTILITY LOCATIONS AND SIZES THAT CONNECT TO THE PROPOSED BUILDINGS MUST BE VERIFIED PRIOR TO CONSTRUCTION. PLEASE SEE ARCHITECTURAL, MECHANICAL, ELECTRICAL AND PLUMBING PLANS. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO COORDINATE AND VERIFY EXACT LOCATIONS PRIOR TO INSTALLATION.



**NOTE:**  
 ALL PAVED AREAS WITHIN U.S. HWY 411 RIGHT OF WAY MUST BE TO THE SPECIFICATIONS REQUIRED BY THE GEORGIA D.O.T. (SEE D.O.T. PAVING DETAIL ON SHEET C32)

**\*\*\* ROOF DRAIN/DOWNPOUT NOTE \*\*\***  
 ALL ROOF DRAIN/DOWNPOUT TYPES MUST CONNECT TO THE PROPOSED STORM DRAIN LINES. PLEASE SEE ARCHITECTURAL, MECHANICAL, ELECTRICAL AND PLUMBING PLANS. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO COORDINATE AND VERIFY EXACT LOCATIONS PRIOR TO INSTALLATION.

wall sign location requiring variance

**Item 4.**

ST. THOMPSON ENGINEERING  
 2150 W. BROADWAY  
 SUITE 100  
 ATLANTA, GEORGIA 30333  
 (404) 525-1111

OWNER/DEVELOPER:  
 Savoy Automobile Museum  
 22 Cantrellville Center  
 City of Cantrellville, Georgia

PROJECT:  
 Savoy Automobile Museum  
 Located in Land Lot 22, 23, 24, 25, 14th District, 3rd Section  
 City of Cantrellville, Georgia

DATE:  
 9-22-18

SHEET TITLE:  
 Site & Grading Plan

77



## PLANNING COMMISSION ITEM SUMMARY

<b>MEETING DATE:</b>	May 17 <sup>th</sup> , 2021
<b>SUBCATEGORY:</b>	Variance
<b>DEPARTMENT NAME:</b>	Planning and Development
<b>AGENDA ITEM TITLE:</b>	V21-09. 15 Collins St.
<b>DEPARTMENT SUMMARY RECOMMENDATION:</b>	To allow a new house addition to encroach into the side yard setback.
<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/Meredith Ulmer  
**CC:** Keith Lovell  
**Date:** April 28, 2021  
**Re:** File # V21-09

**#V21-09: To allow a new house addition to encroach into the side yard setback.**

### Section 1: Project Summary

Variance application by Gerardo Lopez for property located at 15 Collins St, zoned RD Residential Duplex. Said property contains approximately 0.13 acres. The applicant would like to build an extension onto the front of his house to accommodate a growing family. The house currently encroaches into the side yard setback on the south side. The new addition includes a carport, and extra room. The addition would extend the south building face toward Collins St. and thereby continue the side yard setback encroachment.

The side yard setback is 8ft.in the RD district. The current house setback ranges from 1.5ft to 1.9ft. The new addition will be approximately 2.1ft from the side property line at the SW (front) corner.

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

1. To allow a new house addition to encroach into the side yard setback.

### Section 2. Department Comments

**Electric Department:** No comments received.

**Fibercom:** Takes no exception.

**Fire Department:** No comments received.

**Gas Department:** Takes No Exception.

**Public Works Department:** Takes No Exception.

**Water Department:** No comments received.

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

None.

### **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).*

#### **Chapter 26, Zoning, Sec. 6.6.3. Development standards for the Residential Duplex Zoning District.**

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. Front yard setback: Twenty (20) feet.

C. Side yard setback:

- Eight (8) feet (each noncommon wall).
- Zero (0) feet (common wall).

D. Rear yard setback: Twenty (20) feet.

E. Minimum lot area: Seven thousand (7,000) square feet per dwelling unit.

F. Minimum lot width at the building line on non-cul-de-sac lots:

- Single-family detached shall be sixty (60) feet;
- Single-family duplex (per dwelling unit) shall be fifty (50) feet.

G. Minimum lot frontage: Thirty-five (35) feet adjoining a street.

H. Minimum heated floor area, per unit: Nine hundred (900) square feet.

I. Minimum open space requirements. Proposed developments consisting of more than five (5) acres shall reserve a minimum of twenty (20) percent of the gross acreage of the site as open space with common areas provided.

J. Accessory use, building and structure requirements. See section 4.9 of this chapter.

K. Minimum buffer requirements. In addition to required setbacks, a fifteen-foot-wide buffer shall be required along all property lines which abut a single-family residential district or use to provide a visual screen in accordance with section 4.17 of this chapter.

#### **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.*

City of Cartersville  
Application for Variance  
Board of Zoning Appeals

Hearing Date: 5-17-2021 5:30pm


Application Number: V21-09

Date Received: 3-26-2021

Applicant Gerardo Lopez Office Phone \_\_\_\_\_  
(printed name)  
 Address 15 Collins St Mobile/ Other Phone \_\_\_\_\_  
 City Cartersville State GA Zip 30120 Email Kesia Lopez12@gmail.com  
 Representative's printed name (if other than applicant) \_\_\_\_\_  
 Phone (Rep) \_\_\_\_\_  
 Email (Rep) \_\_\_\_\_  
 Representative Signature \_\_\_\_\_ Applicant Signature Gerardo Lopez  
 Signed, sealed and delivered in presence of: \_\_\_\_\_ My commission expires: 10/31/22  
 Notary Public \_\_\_\_\_



\* Titleholder Gerardo Lopez Phone 470-315-3532  
(titleholder's printed name)  
 Address 15 Collins St Email Kesia Lopez12@gmail.com  
 Signature Gerardo Lopez  
 Signed, sealed, delivered in presence of: \_\_\_\_\_ My commission expires: 10/31/22  
 Notary Public \_\_\_\_\_



Present Zoning District Cartersville R-D  
 Acreage 0.13 Land Lot(s) N/A District(s) Crille Section(s) \_\_\_\_\_  
 Location of Property: 15 Collins St Cartersville GA  
(street address, nearest intersections, etc.)  
 Zoning Section(s) for which a variance is being requested: \_\_\_\_\_  
 Summary Description of Variance Request: Need to make a room for my daughter. The house only has two bedrooms and I have 4 kids.  
(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 5                      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.  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: Need to make an expansion to house in order to make another bedroom. The house currently only has two bedrooms and I have a family of six.

Encroach in side yard setback to build addition.

LEGEND	
○	= PROPERTY CORNER
●	= IRON PIN FOUND
●	= 1/2" REBAR FOUND
○	= 1/2" REBAR SET
—	= PROPERTY LINE
---	= LAND LOT LINE
⚡	= POWER POLE
—E—	= POWER LINE
-X-	= FENCE LINE

THIS BLOCK RESERVED FOR THE CLERK OF THE SUPERIOR COURT.

**GENERAL NOTES**

THE FIELD DATA UPON WHICH THIS MAP OR PLAT IS BASED HAS A CLOSURE PRECISION OF 1' IN 18,400 FEET, AND AN ANGULAR ERROR OF 03" PER ANGLE POINT, AND WAS ADJUSTED USING THE COMPASS RULE. A GEOMAX ZOOM 90 TOTAL STATION WAS USED FOR THIS SURVEY.

THIS MAP OR PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN 1' IN 74,230 FEET.

"FEMA FLOOD HAZARD MAP" 13015C0266H DATED OCTOBER 05, 2018, SHOWS THIS PROPERTY OUT OF FLOOD ZONE.

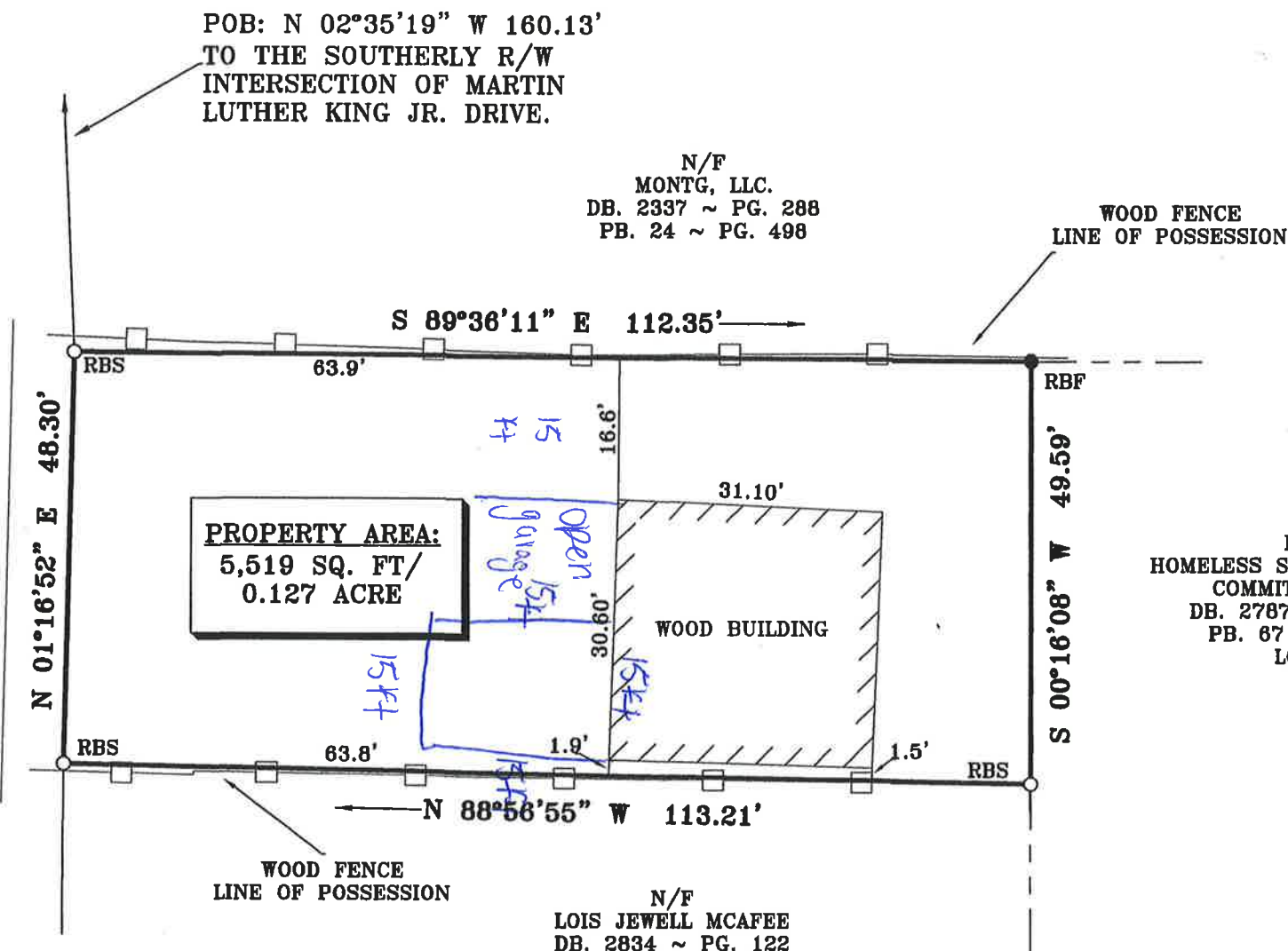
THIS PLAT IS MADE FOR THE SOLE USE AND BENEFIT OF THE PERSONS NAMED HEREON. THIS FIRM ASSUMES NO LIABILITY TO PERSONS NOT NAMED HEREON AND ANY USE BY UNNAMED PARTIES WILL BE DONE AT THEIR OWN RISK.

**SURVEYOR CERTIFICATION:**

This plat is a retracement of an existing parcel or parcels of land and does not subdivide or create a new parcel or make any changes to any real property boundaries. The recording information of the documents, maps, plats, or other instruments which created the parcel or parcels are stated hereon. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. Section 15-6-87.

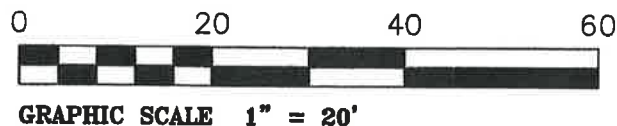
*Johnny R. Knight Jr.*  
 Johnny R. Knight Jr. Ga. PLS/NO. 3323      03/25/2021      DATE

**COLLINS STREET  
(30' PUBLIC R/W)**



N/F  
 HOMELESS SHELTER ACTION  
 COMMITTEE, INC.  
 DB. 2787 ~ PG. 681  
 PB. 67 ~ PG. 72  
 LOT 7

**PROPERTY ADDRESS:**  
 15 COLLINS ST.  
 CARTERSVILLE, GA. 30120



**REVISIONS**

NO.	BY	DATE	DESCRIPTION
1	RK	03/25/2021	INITIAL ISSUE.

DATE OF PLAT: 03/25/2021  
 DATE OF FIELD WORK: 03/03/2021, 03/19/2021.

REF. DEED: DB. 3230 ~ PG. 876



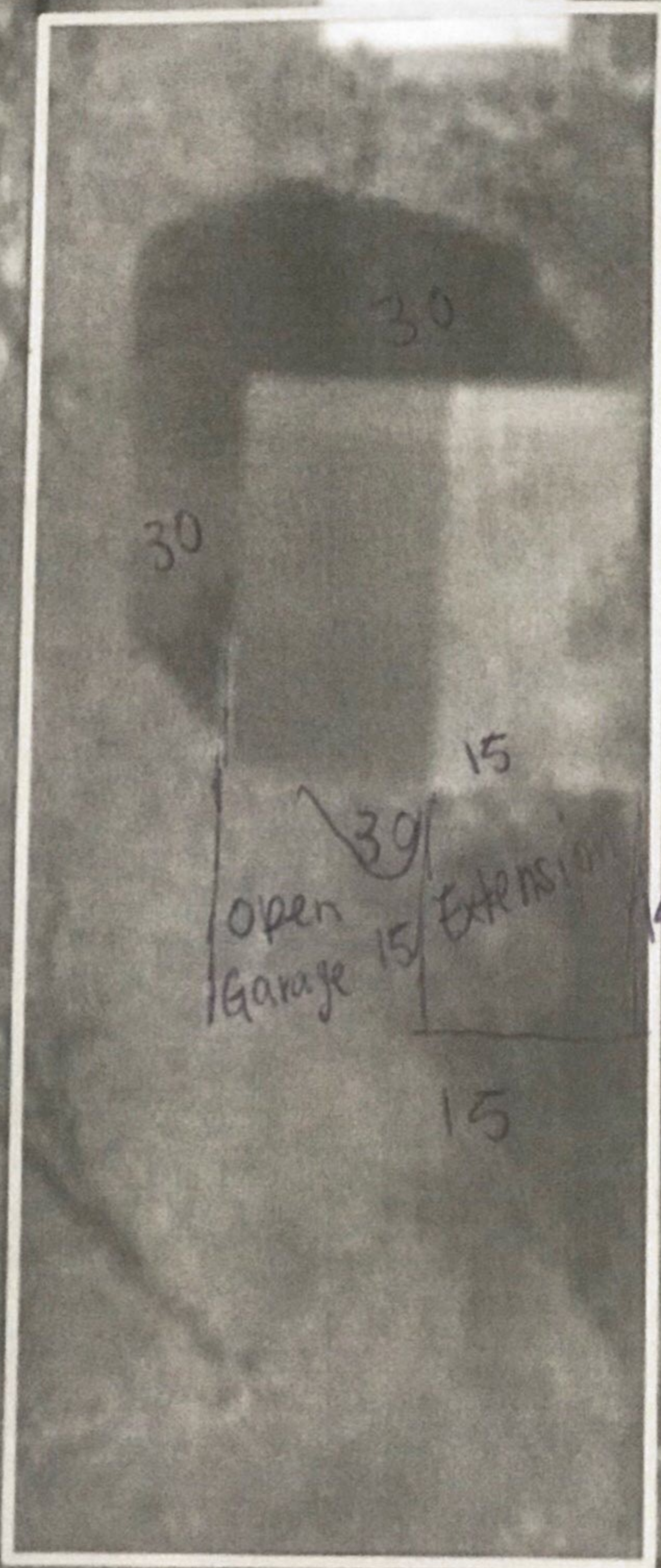
**BOUNDARY SURVEY FOR:**

**GERARDO LOPEZ**

**0.127 ACRE LOCATED IN LAND LOT 383,  
 4TH. DISTRICT, 3RD. SECTION,  
 CITY OF CARTERSVILLE,  
 BARTOW COUNTY, GEORGIA**

**J. R. KNIGHT LAND SURVEYING, LLC.  
 23 MOSS WAY NW  
 CARTERSVILLE, GEORGIA 30120  
 PHONE: (770) 607-9667  
 EMAIL: rayksurveyor@gmail.com**





Gilins St







