



CITY OF DAHLONEGA
BOARD OF ZONING APPEALS AGENDA
MONDAY, OCTOBER 16, 2023 AT 4:00 PM
CITY HALL - MAYOR MCCULLOUGH COUNCIL
CHAMBER

In compliance with the Americans with Disabilities Act, those requiring accommodation for Board of Zoning Appeals meetings please contact the City Manager.

Vision – Dahlonega will be the most welcoming, thriving, and inspiring community in North Georgia

Mission Statement - Dahlonega, a City of Excellence, will provide quality services through ethical leadership and fiscal stability, in full partnership with the people who choose to live, work, and visit. Through this commitment, we respect and uphold our rural Appalachian setting to honor our thriving community of historical significance, academic excellence, and military renown.

CALL TO ORDER AND WELCOME

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

OLD BUSINESS

NEW BUSINESS

1. Reduce a Side Setback - (Parcel No. D05-043)
Doug Parks, City Attorney

ADJOURNMENT



DATE: 10/16/2023
TITLE: Reduce a Side Setback - (Parcel No. D05-043)
PRESENTED BY: Doug Parks, City Attorney

AGENDA ITEM DESCRIPTION:

This is a request to reduce a side setback for land owned by Patrick and Samantha Fuerstenberg (BZA23-3)– the request is to reduce a side setback to three feet on property zoned R-1 and located on Skyline Drive, Dahlonega, Georgia (D05-043).

HISTORY/PAST ACTION:

The Planning Commission vote was for denial.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

Staff recommends denial.

SUGGESTED MOTIONS:

This a Board of Zoning Appeals matter. Action will be taken at this meeting. In light of the staff recommendation and the vote by the planning commission the suggested motion is for denial.

ATTACHMENTS:

Staff report is attached.



STAFF REPORT

BZA 23-3

Applicant: Patrick and Samantha Fuerstenberg
Owner: Patrick and Samantha Fuerstenberg
Location: 151 Skyline Drive (Tax Parcel D05 043)
Acreage: +/- 0.677 Acres
Current Zoning Classification: R-1: Single-Family Residential District
Requested Variance: Left side yard from 15 feet to 3 feet
Current Use of Property: Developed / Single-family residence
Proposed Land Use: Developed / Single-family residence with attached garage
City Services: The property is in the Dahlonega Water Service Area

Applicant Proposal

The applicants are requesting a left side yard setback variance on a 0.577± acre (29,490 square feet) parcel located on Skyline Drive (Tax Parcel D05 043). The applicants are requesting a reduction in the required 15-foot side yard setback to 3 feet for the purpose of constructing an attached garage.

The Letter of Intent submitted by the applicants states that the purpose of the request is to replace an existing open-sided carport, which was placed on the property by a previous owner. The site plan shows proposed garage located in the approximately same location as the existing carport, which encroaches into the side yard setback. The garage is located to the rear of the residence and is connected via a small breezeway.

History and Surrounding Uses

The subject property is zoned R-1: Single-Family Residential District. It is lot 5 of the H.H. Lancaster Subdivision, recorded in Plat Book 76, Page 119B of the Lumpkin County Records. The property tax records show that the property has been in the ownership of the current property owners since April 26, 2019. It is developed with a 1,433 square foot residence, constructed in 1949, and a shed.



North: Directly north of the subject property, across Skyline Drive, are other R-1: Single-Family Residential District zoned parcels.

South: The parcels directly south of the subject property are also zoned R-1: Single-Family Residential District.

East and West: To the east and west of the subject parcel are other parcel zoned R-1: Single-Family Residential District parcel and developed with single-family residences.

Staff Analysis

The applicants are requesting a reduction in the required 15-foot side yard setback to 3 feet for the purpose of constructing an attached garage.

The below table summarizes the zoning standards of the R-1: Single-Family Residential and the proposal:

Lot Dimensions	Current: R-1: Single-Family Residential	Subject Property
Minimum Lot Area	30,000 sq. ft.	29,490 sq. ft.*
Minimum Lot Width	100 ft.	103.38 ft.
Minimum Floor Area	1,200 sq. ft.	1,433 sq. ft.
Maximum Density	1.5 du/a	NA
Front Setback (Arterial Streets)	60 ft.	NA
Front Setback (Other Streets)	35 ft.	90± ft,
Side Setback (Right)	15 ft.	17.4 ft. (Residence)
Side Setback (Left)	15 ft.	33± ft. (Residence)
<i>Side Setback (Left, proposed)</i>	<i>15 ft.</i>	<i>3 ft. (Proposed Garage)</i>
Rear Setback	15 ft.	155± ft.
Accessory Structure Setback (detached)	5 ft.	0 ft. (Shed – encroaches 1.3 ft. into adjacent parcel)
*Per Sec. 502, non-conforming lots of record, the subject parcel qualifies as a lot of record, having been recorded Plat Book 76, Page 119B of the Lumpkin County Records.		

The subject property is developed with a 1,433 square foot single-family residence, constructed in 1949 per the Lumpkin County Tax Assessors records. The property falls below the minimum lot size requirement of the R-1 district and as a result is considered a non-conforming lot a record. Sec. 301 defines a lot of record as “a lot which is part of a subdivision, a plat of which has been recorded in the records of the County Superior Court Clerk; or a parcel of land, the deed of which has been recorded in the same office as of November 6, 1979.” A survey of the subject property was approved for recording as a lot of record by the City of Dahlonega and subsequently recorded with the Lumpkin County Clerk of Court on August 29, 2002, in Cabinet 1, Slide 76, Page 119B.



Per Sec. 502, non-conforming lots of record, a single-family dwelling and customary accessory buildings may be erected on a lot of record which fails to meet the district requirements for area or width, providing the yard dimensions conform. The proposed garage addition is 3 feet from the left side property line, which does not conform to the yard dimensions for the R-1 district, resulting in the current request.

Sec. 711. - Accessory buildings and uses.

Accessory buildings and uses shall be permitted only in side or rear yards, except as otherwise provided by these regulations. Accessory buildings, structures and uses shall be permitted only if they meet the following:

<u>Standard</u>	<u>Compliance?</u>	<u>Notes</u>
Sec. 711(1) - No accessory building shall be erected on a lot prior to the time of construction of the principal building to which it is accessory	Compliant	The property is developed with a single-family residence constructed in 1949.
Sec. 711(2) - Only two (2) accessory buildings shall be permitted on a residential lot.	Compliant	The property contains a non-compliant shed (encroaches 1.3 feet into the adjoining property). The proposed garage appears to be attached to the residence via a breezeway, making it part of the primary structure.
Sec. 711(3) - Accessory buildings and uses shall be setback a minimum of five (5) feet from any lot line.	NA to current request.	Note: the existing shed is deficient to this standard.
Sec. 711(4) - Where an accessory building or structure is structurally attached to a principal building, it shall be subject to and must conform to all regulations applicable to the principal building.	Deficient	The proposed garage is 3 feet from the left side property line, requiring a 12 foot reduction in the required setback.
Sec. 711(5) - In the case of double frontage lots, accessory buildings and structures shall observe front yard requirements on both streets.	NA to current request.	Not applicable to current request.
Sec. 711(6) - Accessory buildings and structures in residential districts shall not be used for any type of commercial operation, whether permanent, part-time or as part of a home occupation	NA to current request.	Not applicable to current request.
Sec. 711(7) - No accessory building or structure on a residential lot shall exceed a height of twenty (20) feet.	Likely	The height of the proposed addition is unknown, but will be confirmed at time of permitting, if approved.
Sec. 711(8) - Detached accessory buildings and structures shall be	NA to current request.	The proposed structure is attached to the primary structure.



located a minimum often (10) feet from the principal building on a lot, except for ground-level structures such as patios and walkways.		
Sec. 711(9) - In no instance shall an accessory building exceed the gross ground floor area of the principal building.	Likely	The square footage of the proposed garage is unknown, but it appears to be smaller than that of the primary residence per the submitted site plan.

Article XXIV Sec. 2406. - Variances.

The Board of Zoning Appeals is hereby empowered to authorize upon application in specific cases such variance from the terms of these regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations will in an individual case, result in unnecessary hardship, so that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done. The existence of a non-conforming use of neighboring land, buildings or structures in the same zoning district or of permitted or non-conforming uses in other districts shall not constitute a reason for the requested variance. A variance may be granted in an individual case of unnecessary hardship, after appropriate application in accordance with Article XXVI, upon specific findings that all of the following conditions exist. The absence of any one (1) of the conditions shall be grounds for denial of the application for variance.

- 1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other land or structures in the same district; and**

The need for a variance is the result of the current property and proposed development. More specifically, the location of the residence, driveway, and carport have led to the request for the variance, not the size, shape, or topography of the land.

- 2. A literal interpretation of the provisions of these zoning regulations would create an unnecessary hardship and would deprive the applicant of rights commonly enjoyed by other property owners within the district in which the property is located; and**

The application of the setback requirement will not create an unnecessary hardship for the applicant. The applicant’s current residence has a 1 car garage and it is likely that the size of the garage can be reduced so not to encroach into the setback or relocated to another place on the property.



- 3. Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located; and**

The applicants would be permitted to construct a structure within the side yard setback, which other R-1 zoned properties are not allowed to do by-right.

- 4. Relief, if granted, will be in harmony with the purpose and intent of these regulations and will not be injurious to the neighborhood or general welfare in such a manner as will interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonable affect their value; and**

If granted, the relief would be consistent with the intent of the regulations and the proposed structure would not be injurious to the neighborhood or general welfare of the adjacent land.

- 5. The special circumstances are not the result of the actions of the applicant; and**

The variance is needed to accommodate the proposed site plan, as submitted by the applicants.

- 6. The variance requested is the minimum variance that will make possible the legal use of the land, building, or structure; and**

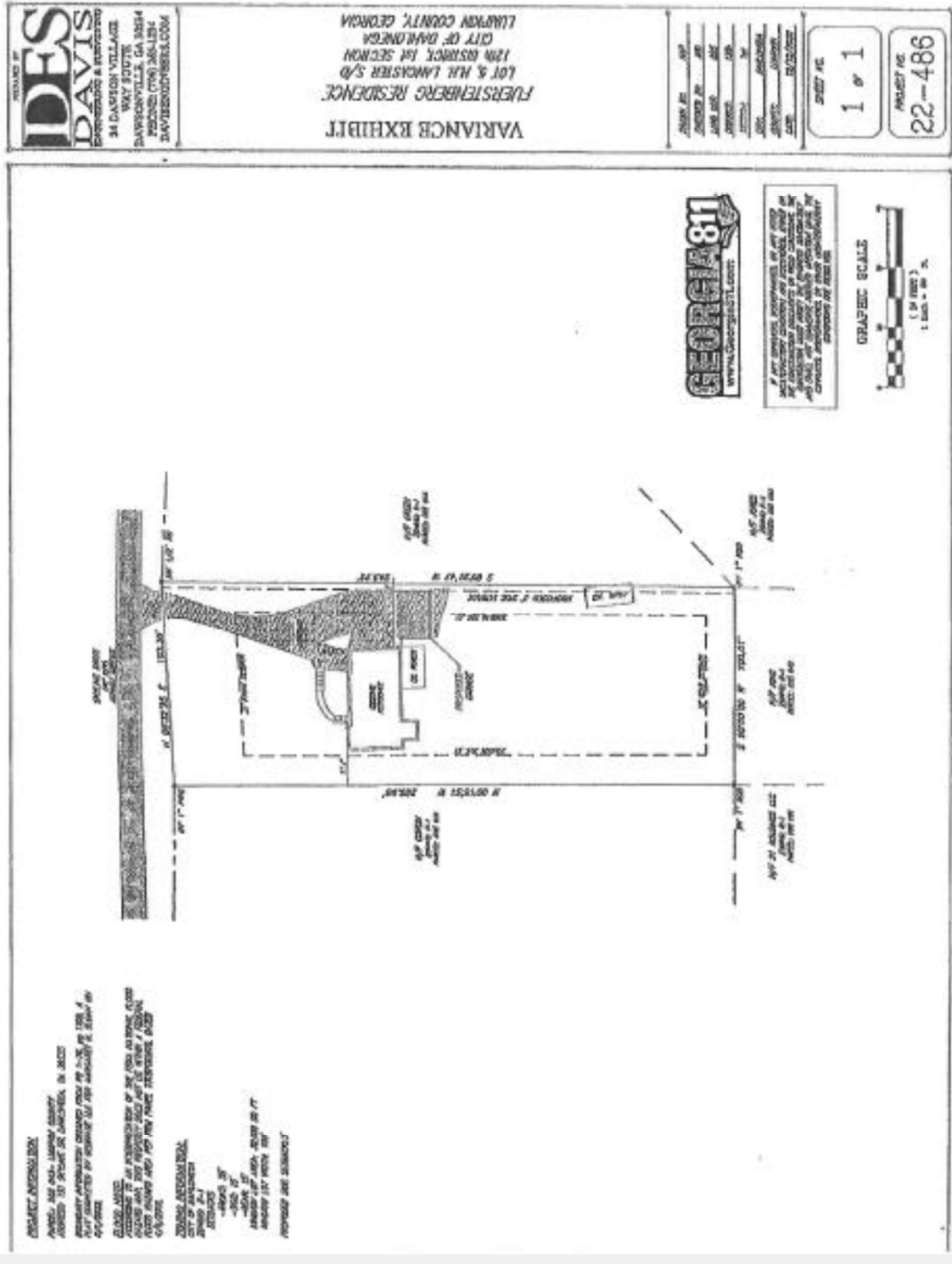
The requested variance is the minimum variance needed to make possible the legal use of the land as proposed.

- 7. The variance is not a request to permit a use of land, building or structures which are not permitted by right in the district involved.**

The variance is not a request to permit a use of a building that is not already permitted by right in the R-1 district. The proposed accessory structure is an attached garage with a finished second level. The plans for the second story are unknown, but it should be noted within the R-1 district only a single residence is permitted. If the second story is intended to contain a bedroom, it cannot be rented or otherwise occupied as a second residence on the property.

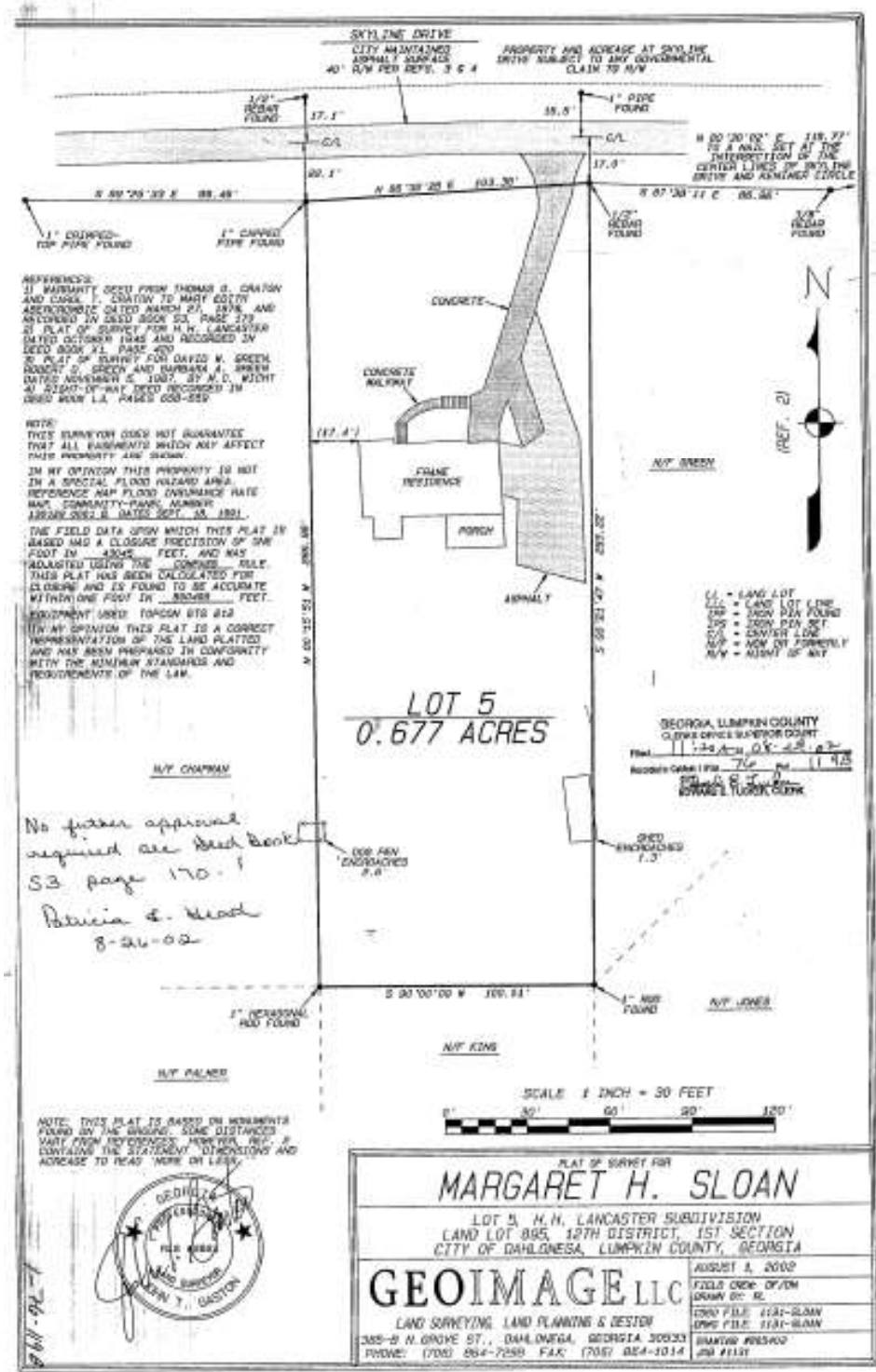


Site Plan:





Recorded Plat:





Subject Property Images (Pictures from the Lumpkin County Tax Assessor):





Aerial:

Results:

Parcel ID - D05 043
 Real Key / Acct - 8495
 Address - 151 SKYLINE DRIVE
 Owner - FUERSTENBERG PATRICK & SAMANTHA
 Acres - 0.68
[View Report](#) | [Distometry](#)
[Imagery](#) | [Apply for Permit](#) | [Google Maps](#)

Parcel ID: D05 043
 Real Key / Acct: 8495
 Class Code: Residential
 Taxing District: Dahlonega
 Acres: 0.68
 (Note: Not to be used on legal documents)

Owner: FUERSTENBERG PATRICK & SAMANTHA
 Physical Address: 151 SKYLINE DRIVE
 Assessed Value: \$239235

Last 2 Sales	Price	Reason	Qual
Date			
4/26/2019	\$185000	FM	Q
7/6/2015	\$144000	FM	Q

100 ft

POWERED BY esri

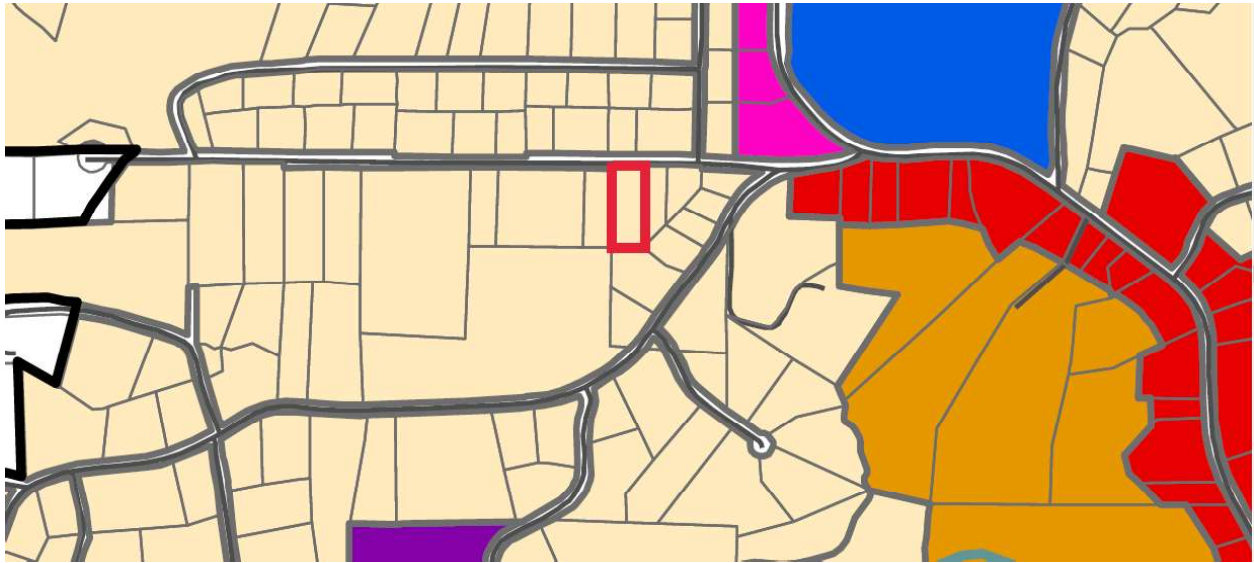


Current Zoning:





Comprehensive Plan:



Legend

Dahlonega Character Areas	Office/Institutional	Parcels	Rivers and Streams	
University Of North Georgia	Park/Recreation/Conservation	City of Dahlonega	Lakes and Ponds	
Gateway Corridors	Public Square	Roads		
Industrial	Residential	Railroads		
Mixed Use Residential	Village Commercial			

0 2,000 4,000 6,000 8,000 US Feet

Georgia Mountains Regional Commission



Staff Recommended Motion:

Per the requirements of Sec. 2610. - Recommendation by zoning administrative officer, Staff recommends disapproval of application BZA 23-3, request to reduce the left side yard setback from 15 feet to 3 feet based on the finding that no hardship exists pursuant to the criteria of Sec. 2406.