



CITY OF DAHLONEGA
BOARD OF ZONING APPEALS AGENDA
MONDAY, NOVEMBER 01, 2021 AT 6:00 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 Bill Schmid, City Manager.

Call to Order

Pledge of Allegiance

Old Business

1. BZA 21-9 Rhett Stringer
The applicant is requesting to vary from front setbacks requirements.
Planning Commission recommend approval for the reduction of the building setback from 60' to 15'.
Jameson Kinley, Planning and Zoning Administrator
2. BZA-21-7 - Neva Garrett
Jameson Kinley, Planning & Zoning Administrator

New Business

Adjournment



STAFF REPORT

BZA 21-9

Applicant: Rhett Stinger
Owner: E. Paul Stringer
Location: 2718 South Chestatee Street (081-037)
Acreage: +/- 5 Acres
Current Zoning Classification: B-2/R-2
Reason: Reduction of the front building setback for the purpose of building a structure closer than allowed by zoning
City Services: All city services in close proximity to the site

Applicant Proposal

The applicant is requesting variance from the required 60' front setback in order to build a structure closer to the right of way. The reason being is there is a hardship in development between the right of way and the stream buffer.

History and Surrounding Uses

The property has operated as a business for the last five plus years. The majority of the surrounding area is vacant land or river.

The Following are questions from Article XXVI Section 2607 of Zoning Code

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**

Due to the restraints of the right of way and river buffer, there is minimal area to develop.

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 property owner desires to expand an already existing business by adding a restaurant and related parking. A strict enforcement of the general standard would create an unnecessary hardship.

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**

Given the unusual circumstances of this property, this is somewhat a unique scenario and should be taken case-by-case. Nonetheless, similar variances have been granted and the practice of granting variances, based on specific conditions, should continue.

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, this variance would allow for this area to continue to be developed in a way that would benefit the neighborhood and general welfare consistent with the purpose of our regulations.

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

Correct. The circumstances were not created by the applicant.

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

The applicant's request seeks approval for more setback than is required to accommodate the building. Staff recommends only to grant what is requested on the site plan.

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.**

Correct

Staff Analysis

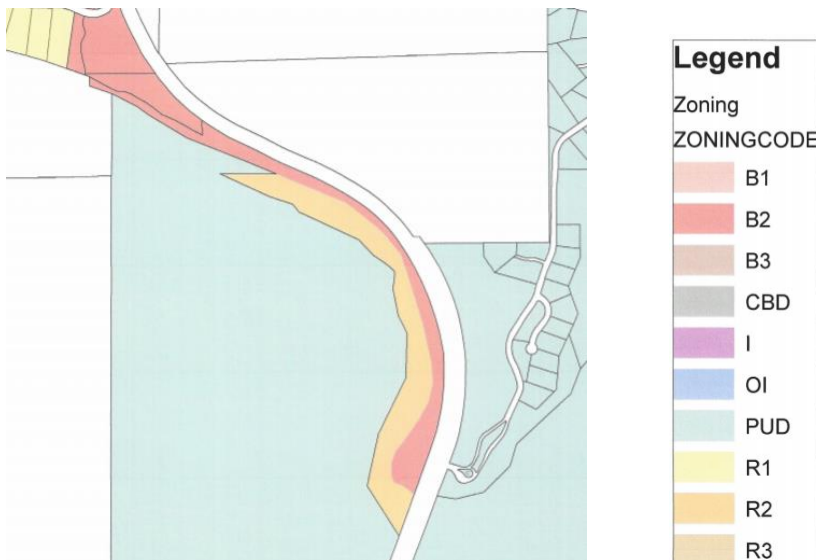
Given the circumstance with EPD stream buffers and the right of way, Staff recommends approval of this variance. However, it is unusual to get a variance for the entire setback without a site plan utilizing the entire variance. Therefore, staff recommends the granting of a variance to reduce the front setback from 60' to 15' per the site plan provided for this application. It should also be noted that the applicant has received an approval from GDOT for extension of the parking lot into the GDOT right of way.



Aerial view of the Parcel:



Current Zoning:





Staff Recommended Motion:

Motion to recommend approval/approve Variance Application BZA-21-9 for the reduction of the building setback from 60' to 15'.



City of Dahlonega, Georgia

09/03/2021

BZA-21-9

Variance Application

Status: Active**Date Created:** Aug 9, 2021

Applicant

Rhett Stringer

m

Location

2718 SOUTH CHESTATEE ST
DAHLONEGA, GA 30533

Owner:

Variance Information

Describe Variance Request

We are requesting a variance on the City's sixty foot setback from the State right of way to help increase the usable space on our property.

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.

Due to the State's 150 foot right of way on SR 60/South Chestatee Street, the City's 60 foot setback and the 25 foot stream buffer, our usable land on this piece of property is reduced drastically.

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.

With the current setbacks and state right of way there is only approximately .75 acres available for building. This portion that is available is pressed between the river and the road. Having an extra 60 feet would allow us to build an appropriate building for the proposed use.

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.

This is a unique piece of property with the Chestatee River Bridge at this location, the state has a large amount of right of way to access or perform maintenance on the bridge on the front of the property and the rear is compressed by the state waters

setback. Granting this variance will not grant any special privileges given the circumstances at hand.

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 unreasonably affect their value.

This will not in any way negatively affect any surrounding properties as both the current use and proposed additional use is allowable and encouraged in the current zoning. The existing buildings are well within the setback.

The special circumstances are not the result of the actions of the applicant.

This is a very unique piece of property along a state road, at a bridge and bound by a sharp bend in the river. However, with the variance of the building setback, we believe we can make it even more of an asset for our community to enjoy.

The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.

We feel the State's large right of way along the property is more than enough setback from the street.

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 current use and future use of the new building are both allowable uses in the properties current zoning.

A legal description of the property to be considered in the application. The legal description shall be by metes and bounds.



Boundary Survey



Site Plan



Parcel Number or Numbers

081 037

Total Acreage of Site Requesting Variance

3

Property Owner Signature

E. Paul Stringer
03/29/2021

BZA Information

Approved for recording, however
Tract B is not approved as a
separate building lot.
7-21-15

Tract B 2.896 Acres

TRACT B WAS CREATED BY
PREVIOUS SURVEYS OF RECORD.
HOWEVER, IN MY OPINION THE
TRACT IS TO BE COMBINED WITH
TRACT A

SURVEY NOTES

1. THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A
CLOSURE PRECISION OF ONE FOOT IN 30,000 FEET AND AN
ANGULAR ERROR OF 02" PER ANGLE POINT, AND WAS ADJUSTED
USING THE COMPASS RULE.
2. THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS
FOUND TO BE ACCURATE WITHIN ONE FOOT IN +100000 FEET.
3. EQUIPMENT USED: TOPCON GPT 9022W FOR ANGULAR AND
LINEAR MEASUREMENTS
4. THIS SURVEY WAS PREPARED WITHOUT THE AID OF A TITLE
SEARCH AND IS SUBJECT TO ANY AND ALL DISCLOSURES THAT
A TITLE SEARCH MAY PRODUCE.
5. IN MY OPINION, THIS PLAT IS A CORRECT REPRESENTATION OF
THE LAND PLATTED AND HAS BEEN PREPARED IN CONFORMITY
WITH THE MINIMUM STANDARDS AND REQUIREMENTS OF THE
GEORGIA PLAT ACT OCGA 15-6-67.

GEORGIA HIGHWAY 60/19N 22' ASPHALT SURFACED 150' RW

Tract A 16.736 Acres

TAX PARCEL 081-037
NF PAUL STRINGER
DEED BOOK C35-172

TAX PARCEL 081-003
NF CHESTATEE HOLDING CO., LLC
PLAT BOOK 1-144-61
DEED BOOK 1024-545

FILED 02:00 PM 7/23/2015
LUMPKIN COUNTY
RITA HARKINS, CLERK
Cabinet 1 Side 204 Plat 80

TAX PARCEL 081-003
NF CHESTATEE HOLDING CO., LLC
PLAT BOOK 1-144-61
DEED BOOK 1024-545

TAX PARCEL 062B-080
NF BEN LACHANCE
PLAT BOOK 1-116-59-59
DEED BOOK 122-53

TAX PARCEL 081-003
NF CHESTATEE HOLDING CO., LLC
PLAT BOOK 1-144-61
DEED BOOK 1024-545

THIS LINE DELINEATES LAND LOT LINE AS
CREATED BY MICHAEL SCUPIN IN 1987.
HOWEVER, BASED ON 1928 LAND LOT MAP OF
LUMPKIN COUNTY, LAND LOT 167 DID NOT EXIST.
THE ORIGINAL LAND LOT MAPS SHOW LAND LOT
145 EXTENDING TO THE CENTERLINE OF THE
RIVER. IT IS MY OPINION THAT THE DEEDED
PHRASE "THE NORTHWEST CORNER OF LAND LOT
145 OR THE CENTERLINE OF THE CHESTATEE
RIVER" WAS INTENDED AND UNDERSTOOD TO
MEAN ONE AND THE SAME POINT. THIS WOULD
APPEAR TO REFER TO THE POINT WHERE THE
WEST LINE OF LAND LOT 145 INTERSECTS THE
CHESTATEE RIVER AND LABELED POINT 'A'
ABOVE.
IT IS THEREFORE MY OPINION THAT LAND LOT
167 WAS ERRONEOUSLY CREATED BY THE
MICHAEL SCUPIN SURVEY AND SUBSEQUENT
RETRACEMENT SURVEYS THEREOF.

THIS LINE DELINEATES PROPERTY
LINE AND MEANDERING LINE ALONG
FOOT OF BLUFF AS DESCRIBED IN
PLAT BOOK 18, PAGE 116 PREPARED
BY MICHAEL SCUPIN DATED
10-20-1987 AND AS SHOWN ON PLAT
OF SURVEY FOR OWENS PREPARED
BY M.C. WIGHT.

THIS LINE DELINEATES PROPERTY
LINE AND MEANDERING LINE ALONG
FOOT OF BLUFF AS DESCRIBED IN
PLAT BOOK 18, PAGE 116 PREPARED
BY MICHAEL SCUPIN DATED
10-20-1987.

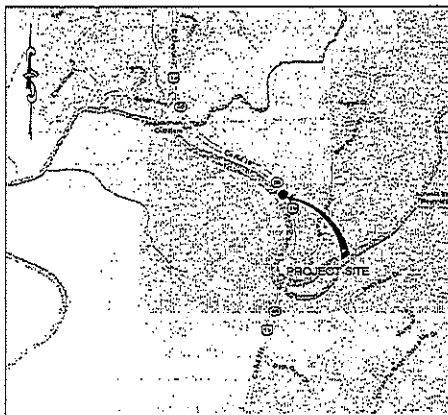
THIS LINE DELINEATES PROPERTY
LINE AND MEANDERING LINE ALONG
FOOT OF BLUFF AS DESCRIBED IN
PLAT BOOK 18, PAGE 116 PREPARED
BY MICHAEL SCUPIN DATED
10-20-1987.

LEGEND

- INF. ANGLE IRON FOUND
- CMF. CONCRETE MONUMENT FOUND
- CMP. CORRUGATED METAL PIPE
- DB, PG. DEED BOOK, PAGE
- PH. FIRE HYDRANT
- IPF. IRON PIN FOUND
- IPF. IRON PIN SET (98" REBAR)
- LL. LAND LOT
- LL. LAND LOT LINE
- MH. MANHOLE
- NF. NOW OR FORMERLY
- OTP. OPEN TOP PIPE
- P. POWER LINE
- P/C. PROPERTY CORNER
- P/L. PROPERTY LINE
- PG, PG. PLAT BOOK, PAGE
- POB. POINT OF BEGINNING
- PP. POWER POLE
- RW. RIGHT-OF-WAY

LINE	BEARING	DISTANCE
L1	S 65°30'04" E	178.07'
L2	N 25°57'25" E	124.65'
L3	N 24°35'20" E	169.12'
L4	N 26°21'33" E	146.58'
L5	N 23°40'15" W	141.87'
L6	N 12°10'46" W	187.07'
L7	N 08°30'23" E	89.20'
L8	N 02°56'22" W	48.15'
L9	N 44°48'20" W	80.55'
L10	N 55°17'35" W	108.28'
L11	N 48°30'51" W	141.46'
L12	N 63°30'11" W	199.53'
L13	N 59°30'58" W	92.48'
L14	N 71°03'19" W	179.29'
L15	N 64°05'35" W	127.12'
L16	N 81°49'40" W	31.66'
L17	N 87°18'07" W	58.59'
L18	N 57°54'37" W	74.89'
L19	N 59°07'34" W	48.12'
L20	N 73°28'35" W	27.04'
L21	N 60°46'01" W	34.49'
L22	N 44°44'28" W	45.54'
L23	N 31°47'02" W	38.12'
L24	N 51°27'04" W	30.88'
L25	N 74°28'38" W	27.37'
L26	N 60°10'12" W	33.50'
L27	N 36°26'45" W	25.50'
L28	N 81°54'34" W	26.93'
L29	N 85°11'31" W	38.20'
L30	N 54°24'09" W	78.57'
L31	N 47°03'18" W	31.19'
L32	N 42°44'28" W	63.63'
L33	N 60°32'25" W	20.13'
L34	N 81°45'15" W	48.49'
L35	N 62°04'29" W	57.68'
L36	S 74°52'49" W	37.18'
L37	N 00°18'38" E	139.08'
L38	S 61°48'49" E	160.80'
L39	S 57°32'35" E	187.12'

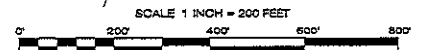
CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	1448.44'	2175.72'	1977.59'	S 22°31'57" E	85°08'14"



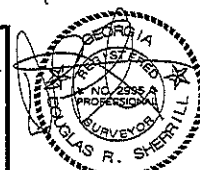
Vicinity Map

NTS

DATE SIGNED: 3/29/2015



LAND SURVEYING AND PLANNING
GA #2955 NC #4597
95 Turner Road Dahlonega, Georgia
30533
Office: 706.867.0007
Fax: 706.867.0478
www.landog.com
drs2955@att.net



Revision Number	Date:	Date:
	4/28/2012	
	FIELD CREW: DRS	
	DRAWN BY: DRS	
	DWG FILE: STRINGER	
	Field Date: 8/12/2012	
	Job #: 3279.001	
	Checked By: DRS	
	Field Book: TDS Recon	

Boundary Survey for

Paul Stringer

Located In:
Land Lots 145 + 11th District - Org. Hall County
City of Dahlonega
Lumpkin County, Georgia

- LEGEND
- PROPERTY CORNER
 - IRON PIN FOUND/SET (IPF/IPS)
 - P.O.B. POINT OF BEGINNING
 - P.O.C. POINT OF COMMENCEMENT
 - R/W RIGHT OF WAY
 - P/L PROPERTY LINE
 - N/F NOW OR FORMERLY
 - IPS 1/2" ROD/CAP
 - CTP CRIMPED TOP PIPE
 - OTP OPEN TOP PIPE
 - RCP REINFORCED CONCRETE PIPE
 - U/P UTILITY POLE
 - CMP CORROGATED METAL PIPE

REFERENCES:

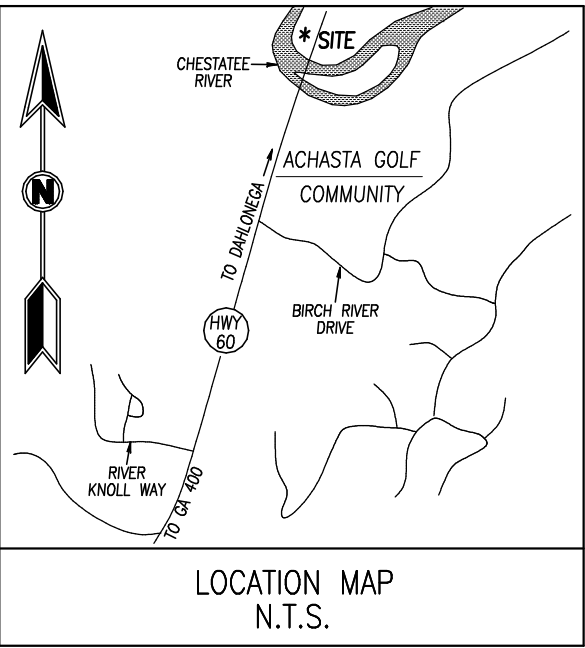
BOUNDARY INFORMATION FROM PLAT OF SURVEY FOR PAUL STRINGER
BY LAND PLAN GROUP DATED 3/29/15, RECORDED IN PB 1-204, PG 80.

TOPOGRAPHIC INFORMATION FROM LUMPKIN COUNTY TOPOGRAPHIC DATA.

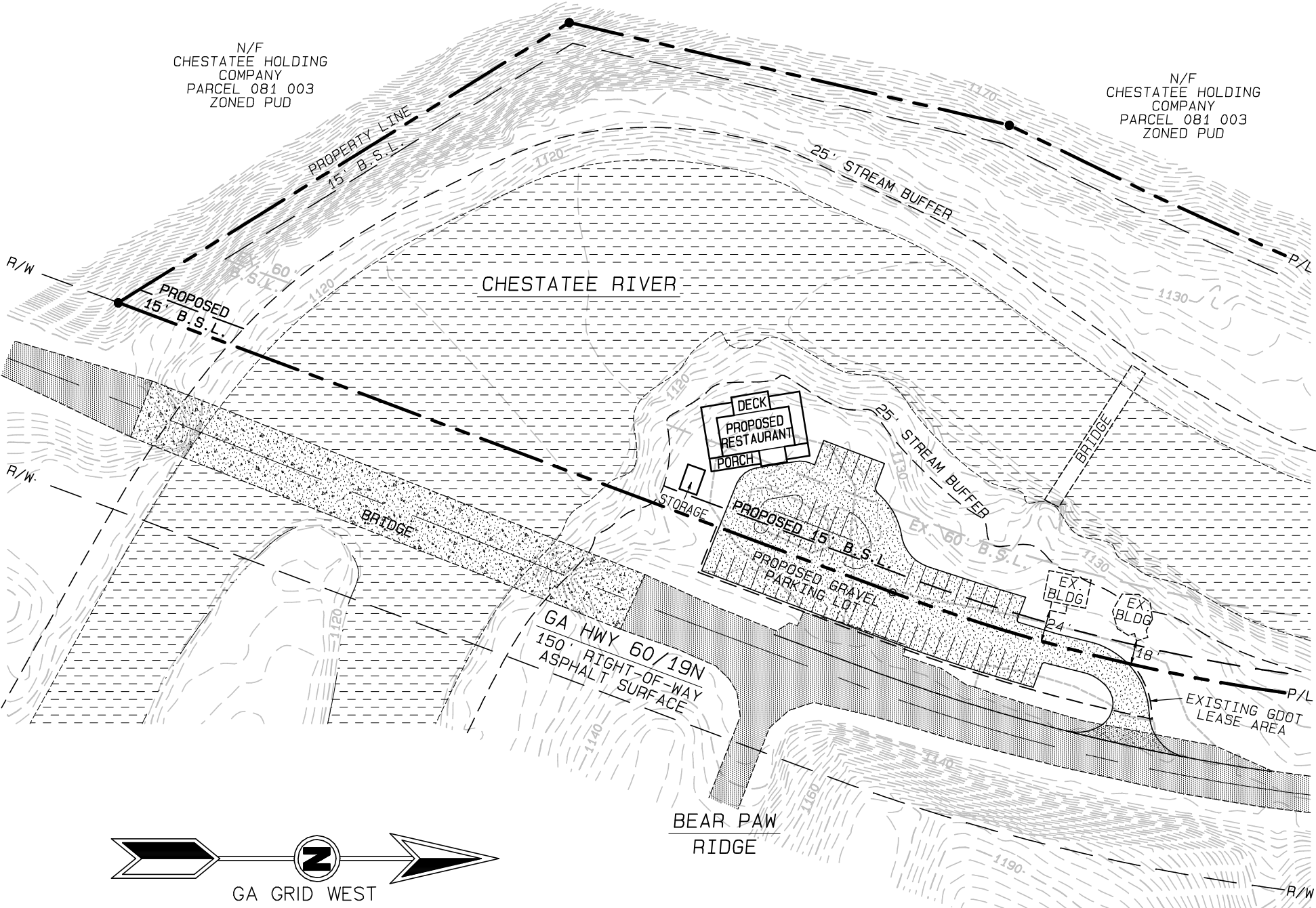
CONTOUR INTERVAL = 2'

A PORTION OF THIS PROPERTY IS LOCATED WITHIN A
100 YEAR FLOOD PRONE AREA PER FEMA MAP 13187C0164D.

24 HOUR CONTACT:
RHETT STRINGER
2718 S. CHESTATEE STREET
DAHLONEGA, GA 30533
770-540-2436
rhettstringer7@gmail.com



DES DAVIS
ENGINEERING & SURVEYING
133 PROMINENCE COURT
SUITE 210
DAWSONVILLE, GA 30534
PH: (706) 265-1234
DAVISENGINEERS.COM



GENERAL NOTES:

1. PARCEL ID#: 081 037
2. CURRENT ZONING: B2
3. TOTAL ACREAGE: 16.73 AC.
4. TOTAL BUILDING AREA: 2,300 SF
PORCHES/DECKS: 1,660 SF
5. TOTAL PARKING PROVIDED: 50 SPACES
6. WATER/SEWER SOURCE: CITY OF DAHLONEGA
PUBLIC UTILITIES
7. BUILDING SETBACKS:
FRONT = 60'
FRONT: 15' (PROPOSED)
REAR = 20'
SIDE = 20'

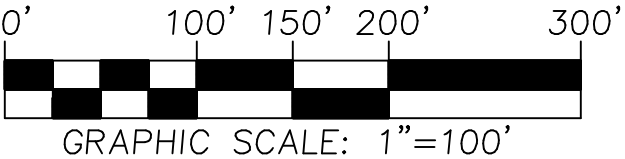
VARIANCE EXHIBIT FOR:
RHETT STRINGER
LAND LOT 145
11TH DISTRICT, 1ST DISTRICT
CITY OF DAHLONEGA
LUMPKIN COUNTY, GEORGIA

DRAWN BY: PSA
FIELD CREW: N/A
DWG DATE: 8-5-21



CALL BEFORE YOU DIG!
1-800-282-7411

IF ANY CONFLICTS, DISCREPANCIES, OR ANY OTHER UNSATISFACTORY CONDITIONS ARE DISCOVERED, EITHER ON THE CONSTRUCTION DOCUMENTS OR FIELD CONDITIONS, THE CONTRACTOR MUST NOTIFY THE ENGINEER IMMEDIATELY AND SHALL NOT COMMENCE FUTHER OPERATION UNTIL THE CONFLICTS, DISCREPANCIES, OR OTHER UNSATISFACTORY CONDITIONS ARE RESOLVED.



SHEET NO.

1 OF 1

PROJECT NO.

20-273



Community Development Department

STAFF REPORT

BZA-21-7

Applicant:	Neva Garrett
Owner:	Greenbriar of Dahlongega c/o Roberta Green Garrett
Location:	77 Memorial Drive (Parcel # D11-192)
Acreage:	7.36 Acres
Current Zoning Classification:	B-2 Highway Business
Current Use of Property:	Mixed Use Commercial Center (Furniture Store, Fitness Center, Retail, Offices, Restaurant, Hair Salon)
Proposed Use:	Setback variance from MM Parkway to allow the addition of a performance theatre with less than the otherwise required standard parking via a shared parking arrangement
General Land Use:	Commercial
City Services:	All city services are available at the site
Traffic Impact:	Limited by hours of operation

Please see material provided by the applicant incorporated herein by reference.

Application, Conceptual Site Plan, Legal Description

The applicant's request is for the addition of a 174-seat 5,000 square feet performance theater ("Menagerie") to the existing 63,000 square feet Greenbriar Shopping Center. This addition was identified in a 1996 site plan as "Future Build Area". A small portion of building associated with the theater's box office is proposed to be constructed within 35-feet of East Main Street right-of-way. Its area of encroachment will be for no more than 100 square feet, will be no closer than 25 feet from the right-of-way and will not limit driver sight distance. Also, because performance hours are planned to be after peak hours of operation of the existing mix of businesses, a shared use parking plan is proposed to increase commercial activity without adding impervious area for additional parking.

Staff recommends conditional approval. Staff analysis and recommendations follow.

The Area

The area bounded by East Main Street, Morrison Moore Parkway and Memorial Drive is a well-established commercial retail area built between 1980 and 2005. East Main and MM are on the state highway system. The subject parcel (outlined below in blue) adjoins property on all sides zoned B-2 Highway Business. The parcel across East Main to the northwest of the site is zoned R-2 Multiple Family but is used for the Lumpkin County Sheriff's office and jail.



Subject Parcel

The subject parcel has existed since 1980, if not earlier. The property was developed in 1980 as a shopping center. The property has an existing variance which was approved in 1994 to allow variance to the paving setback and curbcut requirements to allow construction of the building which Bratzeit restaurant now occupies.

The property has dual roadway frontage with approved commercial driveways providing ingress and egress from/to East Main Street and Memorial Drive. The parking lot and finished floor grades of the shopping center are below both driveway access points. City-owned utilities are within the site and the connection of the proposed building addition to utilities can be accommodated at developer expense.

The subject property adjoins and wraps around a 0.90-acre corner parcel at the intersection of Memorial with East Main, which is a Wells Fargo bank. The bank has an existing variance which was approved March 2, 1992, to reduce the setback to 23.22 feet to allow building expansion.

Street Classification and Front Setback

The standard minimum front setback in the Highway Business (B-2) zoning district is either 60 or 35 feet, depending on street classification. This is because the B-2 district occurs either along major arterial roadways (ex. Morrison Moore Parkway) or along major collector roadway (ex. North Grove and East Main). Section 2001 of the Zoning Ordinance depicts a front setback of 60 feet from arterials and 35 feet from other streets.

Section 301 defines Arterial Streets and Collector Streets as follows:

Street, Arterial: Unless otherwise specified by the Comprehensive Plan, Transportation element of the Comprehensive Plan or Major Thoroughfare Plan, arterial streets are those streets and highway facilities, including full and partial access controlled highways and major urban area entrance highways, which are designed to carry the highest traffic volumes and the longest trips through and within an urban area.

Street, Collector: Unless otherwise specified by the Comprehensive Plan, Transportation element of the Comprehensive Plan or Major Thoroughfare Plan, collector streets are those streets that collect traffic from minor streets or other collector streets and channel it to the arterial system. Collector streets provide land access and traffic circulation within residential neighborhoods, commercial and industrial areas.

The City does not have a recent Major Thoroughfare Plan and the current Comprehensive Plan does not specify which streets are Arterials or Collectors. A new Comprehensive Plan is under development.

The section of East Main between Morrison Moore and Memorial is part of the federal highway and state highway systems (US Highway 19 Business and Georgia State Route 60 Business). It has a posted speed of 35 miles per hour has several connecting side streets and numerous curbcuts and driveways. It functions as a Collector.

As one travels west toward the site a large radius curve to the left on slight incline occurs. Maintenance of safe sight lines at the driveway intersection is critical to provide adequate safe stopping distances for turning.



The front of the lot is generally assumed to be along the road frontage and the front setback generally parallels the right-of-way. A reduction in front setback of 10 feet from 35 feet to 25 feet would allow construction of the proposed building. It should be noted the City's actual definition for Setback is:

Setback: The minimum horizontal distance between a street, alley, or the property boundary lines of a lot and the front, rear, or side lines **of a building located on that lot.** (emphasis added)

The architectural floor plan and front elevation show the “front” of the building to be oriented not to East Main, but to the parking lot and ultimately Memorial Drive. Thus, the wall paralleling East Main can be argued to be a side of the building and by our ordinance could be suggested to instead be subject to a side setback. A side setback in the B-2 district is only 15 feet, which is likely not suited to a location between the East Main driveway entrance and the northeastern property line.

Parking

The City's off-street parking requirements are found in Article VI of the Zoning Ordinance. Despite common public perception, with respect to location of parking spaces Dahlonge has some of the most flexible regulations in the state if not the country. Most jurisdictions simply mandate required parking be within the same parcel as the building or use cross-access easement rights. Section 601 is copied for reference below:

Sec. 601. Off-street parking and loading spaces required.

Off-street automobile parking and loading spaces shall be provided, as specified in this Article, for uses and structures hereafter established in all zoning districts at the time of initial construction of any principal building, unless otherwise exempted from this Article. For developments phased in timing, parking and loading requirements may also be phased in accordance with the requirements applying for each particular time phase of development.

Any building or use that is subsequently enlarged or converted to another use shall meet the off-street parking and loading space requirements of this Article, for the enlarged or new use.

Required parking and loading spaces shall be maintained and shall not be encroached upon by refuse containers, signs or other structures, unless an equal number of spaces are provided elsewhere in conformance with these regulations.

Required parking and loading spaces shall be provided with vehicular access to a public street or alley, unless such access is prohibited by these regulations.

In all zones except B-3 and CBD, off-street parking and loading facilities required shall be located on the same lot as the principal building or use. However, as much as fifty (50%) percent of the required number of parking spaces may be located within four hundred (400) feet of the principal building or use, provided proof of ownership or a valid lease agreement for use of such premises is provided to the Community Development Director or their designee. Such distance shall be measured between the nearest point of the parking facility and the nearest point of the principal building or use.

In the B-3 and CBD zoning districts off-street parking and loading facilities up to one hundred (100%) percent of the required number of parking spaces may be located within one thousand (1,000) feet of the principal building or use, provided proof of ownership or a valid lease agreement for use of such premises is provided to the Community Development Director or their designee. Such distance shall be measured between the nearest point of the parking facility and the nearest point of the principal building or use.

In B-3 and CBD, applicants may seek administrative variance approval for reduced parking space number using applications provided by the City. The Community Development Director shall have authority to grant an administrative variance reducing otherwise required spaces by an amount not to exceed twenty-five percent (25%) provided good cause for variance is shown. The request shall be accompanied by a parking study conducted by a licensed Professional Engineer or a Certified Planner which demonstrates suitability of the site for single-use or shared multi-use parking at reduced amounts.

(Ord. No. 91-9(Amd. 21), 9-6-2016 ; Ord. No. 2019-12, 7-1-2019)

A staff-level administrative variance process is approved for the downtown B-3 and CBD districts, but this process is not available to property zoned B-2. New lots and developments zoned B-2 can have up to 50% of the required parking provided up to 400 feet away.

In this case one of the largest private parking lots in the city is underutilized and is immediately adjacent to the proposed new use on property under common ownership. There are not practical other options as shown below (400-foot radius circle from location of the new theatre is shown).



In the current case the property is not being subdivided, so no new lot is being created. Instead, an existing use is being expanded. Notably, the expanded use is targeted to hours of activity that do not coincide with operations of the existing established businesses. However, the ordinance does not address this possibly beneficial consideration, so the variance process before the Planning Commission and Board of Zoning Appeals is warranted.

The applicant's site plan shows the site has 63,000 square feet of retail area and 274 existing parking spaces (265 regular and 9 handicapped). It suggests a "Mixed Commercial Use" parking requirement of one space for each 250 square feet. This makes sense, as it is a standard found in

other jurisdictions and may even be desirable here, but the Dahlonge Code does not currently recognize such a use as a basis to determine the number of spaces required.

If the theater were to be built as a standalone offsite B-2 zoned facility with independent parking, it would require 32 spaces and a loading zone. If it were to be built offsite as B-2, but within 400 feet of the existing parking lot, up to 50% of the spaces (16) could be administratively approved without the variance process. In this instance being integrated with an existing parking lot is beneficial to the environment by not increasing the amount of stormwater runoff.

If a reservation of 111 spaces for the 22,200 square feet anchor retail space (currently empty) is included, the existing mix of businesses show a total need for 267 spaces based on the City's parking standards. The apparent surplus of only seven spaces would not make sense to support an additional 5,000 square feet of use, if that use were to occur during normal business hours. In her application and by phone conversation the applicant affirms this is not the case, because performances will be at night and weekend hours when many of the center's other businesses are closed. As part of a shared parking lot no additional loading zone spaces are required.

Parking standards and local retail shopping practices have changed dramatically over the past 10-15 years. As a recent local example, a national retailer with more than 1,900 sites across the country determined a proposed local store would only need/warrant/justify 63 spaces. The city's current standards would require 112 spaces.

More recent approaches to municipal parking standards for individual land uses set maximum parking ratios instead of or in conjunction with minimums, or they incorporate parking standards based on recommendations from specific land use studies and parking generation rates by the Institute for Traffic Engineers (now in its fifth edition).

Where shared parking is an option, a key resource is the joint recommendations of the Urban Land Institute (ULI), the National Parking Association (NPA) and International Council of Shopping Centers (ICSC) found in their publication "Shared Parking". Considered ground-breaking when published in 1983, it was updated in 2005 and most recently re-published in 2020 as the third edition.

Conditions of Hardship

1. Are there 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.

Staff – No, there are not extraordinary conditions of size, shape or topography, but the current standards overlook the 24-hour-a-day potential of private off-street parking for shared use strategies to encourage complementary uses. By virtue of its location the site does not have viable options for offsite parking within 400 feet that might otherwise be available elsewhere.

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.

Staff – No, no deprivation of commonly enjoyed rights for the B-2 district would be created or result, but literal interpretation of the current Code limits the consideration of a commonsense approach to improving the utilization of a large under-utilized existing parking lot.

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.

Staff - Approval of these recommendations will not confer special privileges denied to others. Administrative variance is allowed for B-3 and CBD properties for up to 25% of their parking need and properties in these districts can meet parking requirements for 100% of their need up to 1,000 feet away by way of parking agreements.

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.

Staff – Yes – Relief is appropriate and in harmony with the purpose and intent of the City's regulations without being injurious to the area or general welfare.

5. The special circumstances are not the result of the actions of the applicant.

Staff – The special circumstances are the size of the existing parking lot, which is the result of land development actions by the owner. The applicant seeks a creative approach to facilitate better use of an existing expanse of parking lot.

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

Staff – Yes - The variance recommended is the minimum that would make possible the legal use of the land, building, or structure which was originally identified in 1996.

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

Staff – No - This variance is not a request to permit a use of land, building or structure which is not permitted by right in the district involved. The theatre and parking lot are specifically listed as Permitted Uses in the B-2 Highway Business district.

Community Development Department Recommendations

Approval of a variance for building setback line from East Main is recommended to be no closer than 25 feet from the right-of-way for a horizontal distance of no more than 25 feet associated with the theatre box office, provided the applicant can demonstrate by further survey analysis that adequate sightlines will be maintained for approaching and exiting vehicles at the East Main driveway intersection.

Approval of a variance to allow shared use of an existing parking lot to meet the otherwise required parking standards for the proposed 174 seat 5,000 square feet performance theatre, provided the applicant provides documentation to show the shared use nature of parking is known to the tenants of Greenbriar and shows the 274 spaces are sufficient to meet parking demand during hours of peak combined operation.

Possible Motions

I move to approve both variances sought by Ms Garrett in the manner recommended by the Planning Commission as supported in the staff report.

I move to approve the (setback and/or parking) variances sought by Ms Garrett subject to the following conditions (list).

I move to deny one or both of the variances sought by Ms Garrett for the following reasons (list).

Prepared by:

Bill Schmid, Acting Community Development Director and City Manager

Planning Commission Recommendations:

The Planning Commission met August 9, 2021. Five of the seven members were present. After conducting a public hearing on the matter the PC voted 4-0 with the Chair not voting to recommend approval to the the City Council to approve both variances as recommended in the staff report.

Board of Zoning Appeals Action:

TBD as of August 10, 2021



City of Dahlonega, Georgia

07/13/2021

BZA-21-7**Variance Application****Status:** Active**Date Created:** Jul 9, 2021**Applicant**

Neva Garrett
mellodramaproductions@hotmail.com
4881 Camp Wahsega Road
Dahlonega, GA 30533
7064828561

Location

406 MAIN ST E Unit S
Unit S
DAHLONEGA, GA 30533

Owner:

Roberta Green Garrett
406 East Main Street Dahlonega, GA 30533

Variance Information**Describe Variance Request**

- 1) Requesting a variance on the added parking.
- 2) Requesting a reduction from 35' feet setback to a 30' foot setback for the building.

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.

This is a very large parking lot servicing businesses that are not highly frequented.

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.

There is no physical way to add parking to this land lot. All land available already contains either marked parking or overflow parking in a gravel area behind the building.

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.

Indeed granting this variance would not confer any special privileges, as many local businesses have a smaller ratio of parking vs patronage.

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 unreasonably affect their value.

I am appealing on the basis of 2 facts. First, the parking lot in question is never, and has never been, more than 1/3 full of cars. I have photos, taken at different times, to attest to this fact. I even have a photo of the parking lot minutes before the July 4th parade that started just a couple blocks from the parking lot. Second, the hours of operation for the Menagerie will be after all of the other businesses (with the exception of the gym which is 24 hours) have closed their operations for the day and will require no parking. Also, additional parking is available, albeit gravel, and completely unused, behind the building.

The special circumstances are not the result of the actions of the applicant.

The available land is already quite covered in parking spaces.

The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.

A variance requested would make the use possible.

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 would permit a use that is permitted by right in the district involved.

A legal description of the property to be considered in the application. The legal description shall be by metes and bounds.



Boundary Survey



Site Plan



Parcel Number or Numbers

D11 064

Total Acreage of Site Requesting Variance

7.36

Property Owner Signature

Roberta Green Garrett

07/09/2021

BZA Information

BZA Case #

--

Status

--

BZA Determination Date

--

Vote Tally




--

Primary Variance

--

Variance Request





Variance Granted**BZA Conditions****Attachments**

-  Menagerie site plan 7-12.pdf
Uploaded by Neva Garrett on Jul 12, 2021 at 10:55 pm
-  Menagerie site plan 7-12.pdf
Uploaded by Neva Garrett on Jul 12, 2021 at 10:55 pm
-  Menagerie site plan 7-12.pdf
Uploaded by Neva Garrett on Jul 12, 2021 at 10:55 pm

History

Date	Activity
Jan 29, 2021 at 4:01 pm	Neva Garrett started a draft of Record BZA-21-7
Jul 9, 2021 at 10:02 pm	Neva Garrett submitted Record BZA-21-7
Jul 13, 2021 at 9:43 am	Tim Martin changed Describe Variance Request from "Requesting a variance on the added parking." to "1) Requesting a variance on the added parking. 2) Requesting a reduction from 35' feet set" on Record BZA-21-7

Timeline

Label	Status	Activated	Completed	Assignee	Due Date
 Application Review	Active	Jul 9, 2021 at 10:02 pm	-	-	-
 Variance Fee	Pending	-	-	-	-
 Variance Approval	Pending	-	-	-	-
 Approval Notice	Pending	-	-	-	-

Property Owner's Certification

I hereby request the action contained with this application relative to the property shown on the attached plats and site plan and further request that this item be placed on both the Planning Commission and City Council's agenda(s) for a public hearing.

I understand that the Planning and Development staff may either accept or reject my request upon review. My request will be rejected if all the necessary data is not presented.

I understand that I have the obligation to present all data necessary and required by statute to enable the Planning Commission and City council to make an informed determination on my request. I will seek the advice of an attorney if I am not familiar with the zoning and land use requirements.

I understand that my request will be acted upon at the Planning Commission and City Council hearings and that I am required to be present or to be represented by someone able to present all the facts. I understand that failure to appear at the public hearing may result in the postponement or denial of my application. I further understand that it is my responsibility to be aware of relevant public hearing dates and time regardless of notification from the City of Dahlenega.

I herby certify that I have read the above and that the above information as well as the attached information is true and accurate.

I certify that I am the owner of the property described in the attached legal description, that all information contained in this application is true and correct to the best of my knowledge, and that the applicant and/or agent listed above is authorized to act as the applicant and/or agent in the pursuit of rezoning of this property.

Signature of Property Owner:

Roberta Green Garrett

Printed name of Property Owner :

Roberta Green Garrett

Date of Signature:

7/13/21

Signature of Witness:

Neva G Garrett

DISCLOSURE OF CAMPAIGN CONTRIBUTION

(Applicant(s) and Representative(s) of rezoning)

Pursuant to OCGA Section 36-37 A-3.A, the following disclosure is mandatory when an applicant or any representation of application for rezoning has been made within two (2) years immediately preceding the filing of the applicant's request for re-zoning & campaign contributions aggregating \$250.00 or more to a local government official who will consider the application for rezoning.

It shall be the duty of the applicant and the attorney representing the applicant to file a disclosure with the governing authority of the respective local government showing the following information:

1. The name of the local official to whom the campaign contribution was made:

_____.

2. The dollar amount and/or description of each campaign contribution made by the applicant to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution:

Amount \$ _____

Date: _____

Amount \$ _____

Date: _____

3. Enumeration and description of each gift when the total value of all gifts is \$250.00 or more made to the local government official during the 2 years immediately preceding the filing application for rezoning:

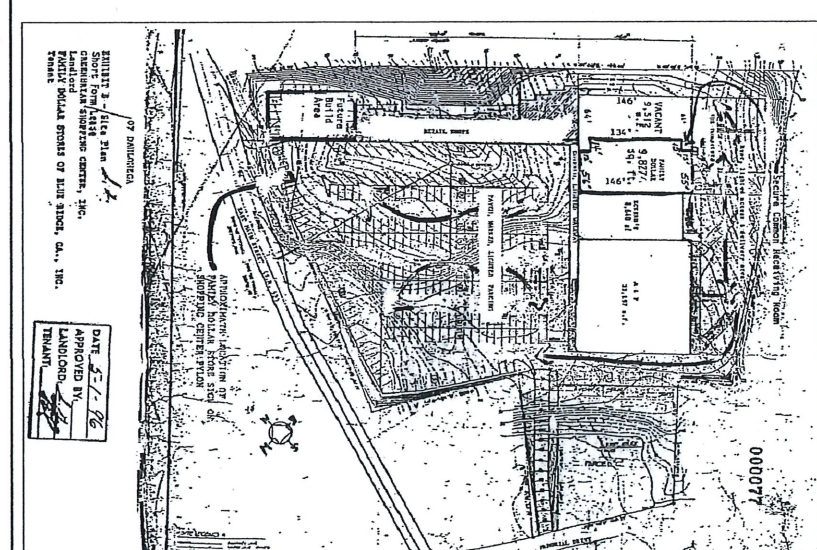
Signature of Applicant/

Representative of Applicant: _____

Date: _____

By not completing this form you are making a statement that no disclosure is required because no contributions have been made.

This form may be copied and additional pages attached if necessary.

[illegible]

IF ANY CONTRACT, AGREEMENT, OR ANY OTHER UNSATISFACTORY CONDITIONS ARE DISCOVERED, EITHER ON THE CONSTRUCTION DOCUMENTS OR FIELD CONDITIONS, THE CONTRACTOR MUST NOTIFY THE ENGINEER IMMEDIATELY AND SHALL NOT COMMENCE FURTHER OPERATION UNTIL THE CONTRACT DISCREPANCIES OR OTHER UNSATISFACTORY CONDITIONS ARE RESOLVED.



GEORGIA 811
www.Georgia811.com

THIS SITE DOES NOT LET WINN A 100 YEAR FLOOD
ELIMINATION AS DENIED BY THE FEDERAL EMERGENCY
MANAGEMENT AGENCY (FEMA) MAP OF CITY OF
DUNDREDE, CA. COMMUNITY PHIL NABERS
11/10/2016/1610, DATED 4/1/2018.

OWNER
GREENBRIAR OF DAHLONEGA
SHOPPING CENTER
C/O ROBERTA GREEN
60 EAST MAIN STREET
DAHLONEGA, GA 30533

DEVELOPER
NEVA GARLITT
(706) 482-8561
meliodrumproductions@gmail.com

SITE DEVELOPMENT DATA		B2 (7TH PHASE, DT-182)	
CURRENT ZONING:		BUILDING ADDITION	
PROPOSED REZONING:			
EXISTING BUILDING SQUARE FOOTAGE:	45,000 SF		
PROPOSED BUILDING SQUARE FOOTAGE:	5,000 SF		
TOTAL BUILDING SQUARE FOOTAGE:	60,000 SF		
TOTAL SITE AREA:	42.8 ACRES		
ANNUAL FRONT SETBACK FROM ADJACENT STREETS:	50 FEET		
ANNUAL SIDE SETBACK FROM ADJACENT STREETS:	15 FEET		
ANNUAL REAR SETBACK:	15 FEET		
PROPOSED PARKING CAPACITY:	15 VEHICLES		
ADJACENT PARKING CAPACITY:			
ADJACENT COMMERCIAL USE: 1 SPACE/290 SF			
ADJACENT RESIDENTIAL USE: 250 SPACES			
ADJACENT INDUSTRIAL USE: 250 SPACES			

DRYING BR.	12B
CHECKED BY:	JMD
LAB LOT:	884
DESIGN:	12TH
SECTION:	1ST
OTR:	DMA/DHCH
COUNT:	11/10/09
DIN:	7/8/2001

SHEET NO.

1 OF 1

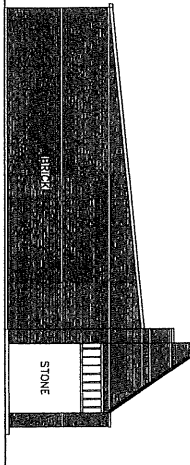
PROJECT NO.

2021-305

CONCEPTUAL SITE PLAN
GREENBRIAR SHOPPING CENTER – MENAGERIE
PARCEL # D11 192
LAND LOT 984
12TH DISTRICT, 1ST SECTION
CITY OF DAHLONEGA – LUMPKIN COUNTY, GA

[illegible]

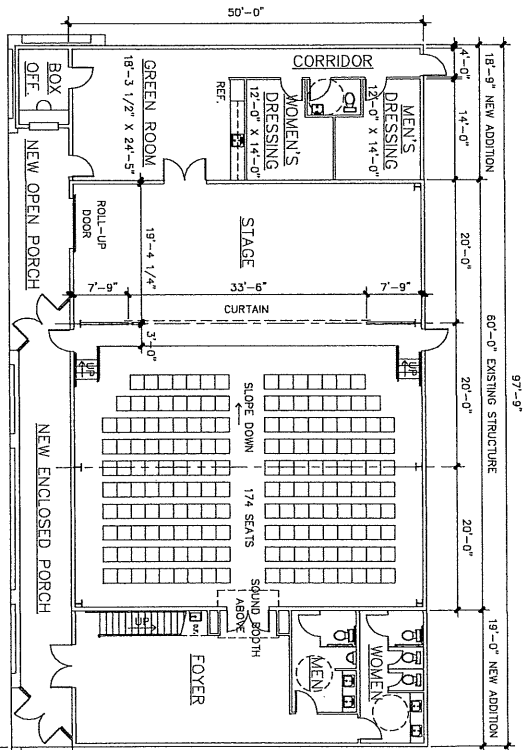
IDES
DAVIS
ENGINEERING & SURVEYING
133 WILMINGTON COLLEGE
SUITE 210
DARTONVILLE, GA 30534
PHONE: (706) 265-1214
DAVIS@IDES.COM



STREET ELEVATION

1/8" = 1'-0"

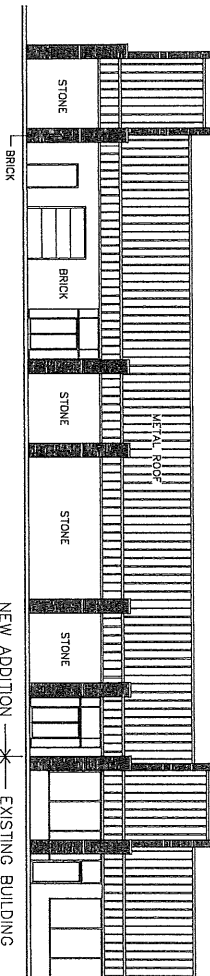
NEW ADDITION



MAIN FLOOR PLAN

1/8" = 1'-0"

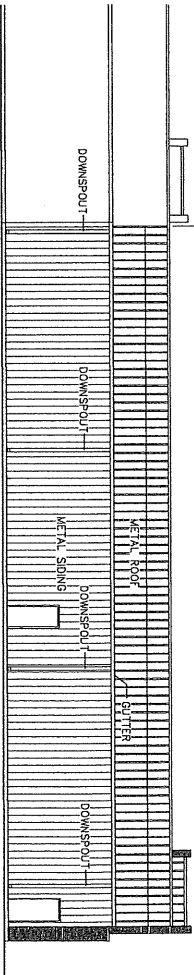
NEW ADDITION —*— EXISTING BUILDING



FRONT ELEVATION

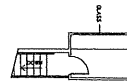
1/8" = 1'-0"

EXISTING BUILDING —*— NEW ADDITION



REAR ELEVATION

1/8" = 1'-0"



SOUND BOOTH PLAN

1/8" = 1'-0"

MENAGERIE
DAHLONEGA, GEORGIA

Bailey Associates

Architects
Cohesville
Georgia 30501
770 534 0612



Project No 21051
Drawn By JKB
Checked By
Date APR. 13, 2021
Revisions

A1

OF 1

STATE OF GEORGIA, County of LUMPKIN

This INDENTURE, Made this 17th day of December in the
Year of Our Lord One Thousand Nine Hundred and Eighty between
Roberta B. Green (AKA KENNEDY as Roberta Green)
of the State of Georgia and County of Lumpkin, party of the first part, and
Greenbriar of Dahlonega Shopping Center, Inc. a Georgia corporation,
of the State of Georgia and County of Lumpkin, party of the second part,

WITNESSETH: That the said party of the first part, for and in consideration of the sum of
Ten (\$10.00) Dollars,
in hand paid, at and before the sealing and delivery of these presents, the receipt of which
is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents
do grant, bargain, sell and convey unto the said party of the second part, its
heirs and assigns, all that tract or parcel of land lying and being in
Land Lots 984, 985, 998 and 997, 12th District, 1st Section of Lumpkin County, Georgia,
and being more particularly described on Exhibit "A" attached hereto.

LUMPKIN COUNTY GEORGIA
REAL ESTATE TRANSFER TAX
PAID \$10.00
DATE 12-17-80
EDWARD E. TUCKER
CLERK OF SUPERIOR COURT

GEORGIA, LUMPKIN COUNTY
CLERK'S OFFICE SUPERIOR COURT
FILED FOR RECORD
AT 11:00 A.M. 12-17-80
RECORDED IN BOOK 84 PAGE 779-780
THIS 17th DAY OF Dec 19 80
EDWARD E. TUCKER, CLERK

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 behoof of the said party of the second part, its
heirs and assigns, forever, in Fee Simple.

AND THE SAID party of the first part, for her heirs,
executors and administrators, will warrant and forever defend the right and title to the above
described property, unto the said party of the second part, its heirs and assigns,
against the claims of all persons whomsoever.

IN WITNESS WHEREOF, the said party of the first part has hereunto set her
hand and seal, the day and year above written.

Signed, sealed and delivered in presence of:

Roberta B. Green (Seal)
Roberta B. Green (Seal)
Edward E. Tucker (Seal)

Notary Public, Georgia, State at Large
My Commission Expires May 17, 1982

080

ALL THAT TRACT OR PARCEL of land lying and being in Land Lots 984, 985, 998 and 999, 12th District, 1st Section of Lumpkin County, Georgia and being more particularly described as follows:

BEGINNING, at an iron pin located on the northeasterly edge of the right-of-way of Memorial Drive, said pin being located South 61 degrees 51 minutes East, a distance of 200 feet along said right-of-way from a nail and cap which marks the intersection of the southeasterly edge of the right-of-way of State Route 52 and the northeasterly edge of the right-of-way of Memorial Drive; thence from said POINT OF BEGINNING the property is described by running North 37 degrees 34 minutes East a distance of 212 feet to an iron pin; thence North 61 degrees 51 minutes West a distance of 200 feet to an iron pin located on the southeasterly edge of the right-of-way of State Route 52; thence the following courses along the southeasterly edge of the right-of-way of State Route 52: North 19 degrees 22 minutes East a distance of 85.66 feet; North 17 degrees 45 minutes East a distance of 224.62 feet; North 22 degrees 23 minutes East a distance of 88.66 feet; North 25 degrees 32 minutes East a distance of 13.37 feet; North 31 degrees 22 minutes East a distance of 77.03 feet to an iron pin; thence leaving said right-of-way run South 54 degrees 20 minutes East a distance of 95.05 feet to an iron pin; thence South 47 degrees 05 minutes East a distance of 439.68 feet to an iron pin; thence South 48 degrees 48 minutes East a distance of 205.28 feet to an iron pin; thence South 54 degrees 43 minutes West a distance of 429.98 feet to an iron pin; thence North 43 degrees 57 minutes West a distance of 72.5 feet to an iron pin; thence South 44 degrees 20 minutes West a distance of 166.2 feet to an iron pin on the northeasterly edge of the right-of-way of Memorial Drive; thence North 61 degrees 51 minutes West a distance of 188.39 feet along the right-of-way of Memorial Drive to the POINT OF BEGINNING.

P. G.
EXHIBIT A