



City of Cartersville

PLANNING AND DEVELOPMENT

P.O. Box 1390 • 10 North Public Square • Cartersville, Georgia 30120
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MEMO

To: BZA
From: Randy Mannino/David Hardegree
CC: Keith Lovell
Date: May 25, 2022
Re: File # V22-12

Summary: To allow an Accessory Structure (storage shed) in the front yard of a corner lot.

Section 1: Project Summary

Variance application by owner/applicant Jerry Baker for property located at 107 Mitchell Avenue, zoned R-20 Residential. Setbacks are Front- 20ft and Side- 10ft. Said property contains approximately 0.98 acres. The lot is a corner lot with road frontages and front yards along Mitchell Ave. and Terrell Dr.

The applicant bought the home in October 2021 and placed a storage shed in the front yard along the Terrell Dr. in April. Code Enforcement received a complaint from a neighbor and notified Mr. Baker of the zoning ordinance requirements and that a variance review would be needed. The zoning ordinance for corner lot accessory structures, Sec. 4.9, requires accessory structures to be installed within a side yard while complying with the side yard setback for the district.

The current location of the storage shed does not encroach into the Terrell Dr. right-of-way, is behind the 20ft front yard setback, and is located at least 15ft. behind the front face of the neighboring house at 101 Terrell Dr. However, it is currently placed less than the required 15ft. from the side property line, in addition to being in the front yard, as defined by the zoning ordinance.

The variance request is for the following and per the submitted site plan sketch:

1. To allow a storage shed to be placed in the front yard of a corner lot.

Section 2. Department Comments

Electric Department: The Electric System takes no exception.

Fibercom: Cartersville FiberCom takes no exception to the variance request for 107 Mitchell Avenue.

Fire Department: V22-12- CFD takes no exceptions to the request to allow a storage building in the front yard of 107 Mitchell Ave.

Gas Department: The Gas System takes no exception to the following as shown in the attachment.

Public Works Department: We do not oppose this variance.

Water Department: The Cartersville Water Department takes no exception the variance request V22-12.

Section 3. Public Comments Received by Staff

4/20/22: Property owner/ resident at 101 Terrell Dr. called Code Enforcement about the shed. Code enforcement investigated on 4/22, and advised Mr. Baker to apply for a variance for the shed.

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. - Accessory uses, buildings or structures.

- A. Accessory uses, buildings, or structures on residential lots shall be located within a rear yard only and be a minimum of five (5) feet from all property lines which do not abut a street right-of-way. A detached garage or carport may be allowed in a side yard of a residential lot and, if so placed, shall comply with the side yard setback requirements of the district. In the case of a residential corner lot, in which a lot abuts or adjoins the intersection of two (2) or more streets other than an alley, an accessory structure may be allowed in a side yard and, if so placed, shall comply with the side yard setback requirements of the district.

- B. Accessory uses, buildings, or structures on nonresidential lots shall not be allowed in the front yard and must comply with side and rear yard requirements established for the zoning district in which such accessory buildings or uses are located. The following accessory uses, buildings, or structures on nonresidential lots may be allowed in a front yard of a nonresidential lot and, if so placed, shall comply with the front yard setback requirements of the district: ATMs (automated teller machines) and service stations.
- C. All accessory uses, buildings, or structures in all zoning districts shall be subordinate to the principal structure. An accessory building's floor area shall be no larger than fifty (50) percent of the principal structure floor area. Accessory structures shall not exceed the height of the most prevalent roof top of the principal building on the property.
- D. Outdoor play structures or play sets in commercial districts, commonly associated with fast-food eating establishments, shall be located in a side or rear yard only and shall comply with the required yard setbacks of the district.
- E. All site plans for multifamily, commercial, and industrial buildings shall include a solid waste container pad that has easy and safe access for a front-end loader. Solid waste containers shall be screened from all streets and adjoining properties with a solid, opaque fence or wall which shall be a minimum of six (6) inches taller than the container.
- F. An amenity, as defined by this chapter, shall not be considered an accessory structure.

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.*



Code Enforcement Record

Printed: 5/26/2022

Page: 2

Inspection Type: Reinspection

Inspector: Donna Fritz

Inspection Date: 05-May-22

Outcome: In Compliance

Comments: The Baker's have filed for a variance through P&D. The hearing is set for 06/09/22 at 5:30. I spoke with the complainant today and advised her of this. I also told her she should be receiving notification in the mail. I am closing my case.

Activities:

Activity Type: Attach Pictures

Inspector: Donna Fritz

Date Completed: 20-Apr-22

Outcome: Complete

Comments:

Activity Type: Door Hanger

Inspector: Donna Fritz

Date Completed: 20-Apr-22

Outcome: Reinspect Location

Comments:

Conditions:

Date:

Source:

Status:

Code:

Description:

Condition:

Graphics:

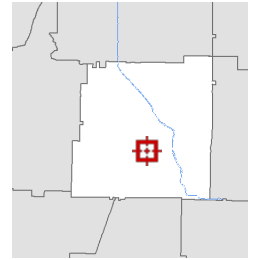
Description:

- 3F91B9B9-6AA4-4FA3-AC51-6C3B15F5AA23.jpeg
- 8803D8F8-1996-4001-9D00-008FC5839ADF.jpeg
- E9388401-3EF5-4575-8D00-6F64F6B1964C.jpeg
- 107 Mitchell Ave email from Z. Arnold


Other Fields:



Overview



Legend

-  Parcels
-  Roads

Date created: 4/29/2022
Last Data Uploaded: 4/29/2022 9:16:13 AM

Developed by  Schneider
GEOSPATIAL

City of Cartersville
Application for Variance
Board of Zoning Appeals

Hearing Date: 6-9-2022 5:30pm

Application Number: V22-12

Date Received: 4-29-2022

Applicant <u>JERRY BAKER</u> <small>(printed name)</small>		Office Phone _____	
Address <u>107 Mitchell Ave</u>		Mobile/ Other Phone <u>678.488.4062</u>	
City <u>Cartersville</u>	State <u>Ga</u>	Zip <u>30120</u>	Email <u>Jerrybaker55@Comcast.NET</u>
Representative's printed name (if other than applicant) _____		Phone (Rep) _____	
Representative Signature _____		Email (Rep) _____	
Signed, sealed and delivered in presence of: <u>[Signature]</u> Notary Public		Applicant Signature <u>[Signature]</u> My commission expires: <u>1-23-23</u>	

* Titleholder <u>JERRY T. BAKER</u> <small>(titleholder's printed name)</small>		Phone <u>678.488.4062</u>	
Address <u>107 Mitchell Ave</u>		Email <u>Jerrybaker55@Comcast.NET</u>	
Signature <u>[Signature]</u>		My commission expires: <u>1-23-23</u>	
Signed, sealed, delivered in presence of: <u>[Signature]</u> Notary Public		My commission expires: <u>1-23-23</u>	

Present Zoning District <u>R20</u>
Acreage <u>.98</u> Land Lot(s) <u>557</u> District(s) <u>4</u> Section(s) <u>3</u>
Location of Property: <u>107 Mitchell Ave</u> <small>(street address, nearest intersections, etc.)</small>
Zoning Section(s) for which a variance is being requested: <u>Art 4, Sec 4.9</u>
Summary Description of Variance Request: <u>PLACING STORAGE BUILD IN SIDE YARD/BACKYARD</u> <u>but side yard is considered front yard AS it is a CORNER lot</u> <small>(Additional detail can be provided on Justification Letter)</small>

CONDITIONS VERIFICATION

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

Article 4 Section 4.9 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

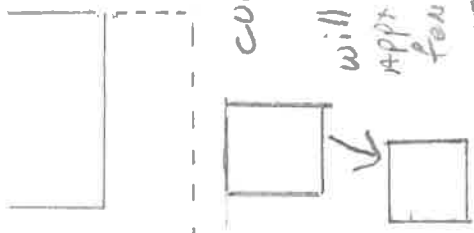
Additional Comments by Applicant: The storage building was painted to match the home and trim and is difficult to see from the road due to the many trees on property and being approximately 75' from the road. Where I put the build is close to my neighbor's side yard fence which she does not like. I will be moving it appx 25' further away close to my house and add an evergreen tree to help with the view from her house. To do this I am having to take down 2 trees to move the building so it will take some time but should be completed prior to the meeting.

Not to scale

Terrell Dr.

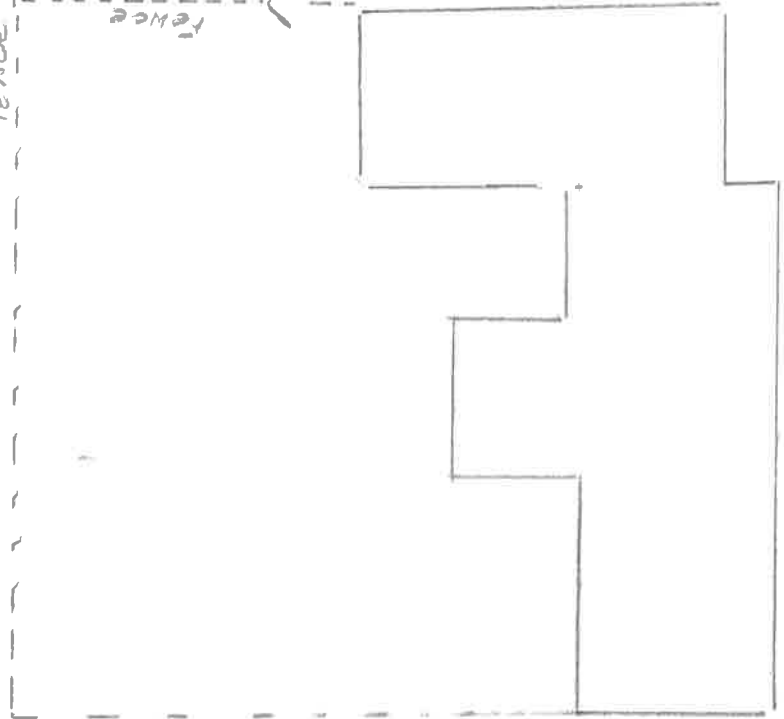
CURRENT Location

will MOVE to
APPT 25' from High built
fence.
OVER 70' from
Terrell Dr.



Fence

Fence



107

Mitchell AVE

Images taken May 10th.





Images taken May 24th.

