



City of Cartersville

PLANNING AND DEVELOPMENT

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

MEMO

To: BZA
From: Randy Mannino/David Hardegree/Zack Arnold
CC: Keith Lovell
Date: January 3, 2024
Re: File # V24-05

Summary: To allow a privacy fence in the front yard of a double frontage lot.

Section 1: Project Summary

Variance application by applicant, Paul Pena, for property located at 13 Rock Foot Way, zoned P-D, Planned Development. Setbacks are Front- 20ft, Rear- 20ft and Side- 10ft. Said property contains approximately 0.25 acres. The lot is a double frontage lot with frontages along Rock Foot Way., and Doubletree Path.

The applicant has constructed a privacy fence to enclose the property to the rear of the home along a section of the Doubletree Path right-of-way. The fence ordinance, Sec. 4.16, requires privacy fences to be installed behind the front yard setback, less than 4ft tall, and non-opaque in a front yard.

The fence is currently encroaching into a City storm line easement along the southern and western property lines. The applicant was notified on 11-28-2023 that the fence would need to be removed from the easement. If approved, the City Code Enforcement Division is prepared to give the applicant 30 days to relocate the sections of the fence encroaching into the City's easement.

The variance request is for the following:

1. To allow an 6ft. privacy fence to remain in the front yard of a double frontage lot (Sec. 4.16).

Section 2. Department Comments

Electric Department: Takes no exception.

Fibercom: Takes no exception.

Fire Department: Takes no exception.

Gas Department: Takes no exception.

Public Works Department: Public Works will not support approval of a variance that encroaches into their easement.

Water Department: Takes no exception.

Section 3. Public Comments Received by Staff

None received as of 1/3/2024.

Section 4. Variance Justification:

Please review the following findings, as stated in the Zoning Ordinance, that are to be utilized in determining justification for approval or denial of variance request(s).

Sec. 4.16. - Fences and walls.

A. In all zoning districts:

1. No fence or wall shall constitute an obstruction to the vision for or create a hazard to vehicular traffic.
2. No fence or wall, including retaining walls, shall be constructed of exposed concrete block, tires, junk or other discarded materials.
3. The fencing standards as stated in this section shall not apply to fencing for detention ponds.
4. The wall standards as stated in this section shall not apply to retaining walls approved by the plan review process for planned developments.

B. In all residential and commercial zoning districts:

1. Any fence or wall which extends into the front yard shall be ornamental or decorative, and shall not be opaque. Any such fence or wall may be constructed of brick, stone, wood, wrought iron, split rail, or other decorative material as approved by the zoning administrator.

2. Fences and walls shall not exceed four (4) feet in height in a front yard and shall not exceed eight (8) feet in height in a side or rear yard.
3. Chain-link fencing material may be used in the front yard with prior approval of a variance by the board of zoning appeals. No variance is required if chain link fencing material is used in a side or rear yard.
4. For a corner lot or double frontage lot, a screening or opaque fence may be installed to the rear of the principal structure at a maximum of eight (8) feet in height provided that the fence shall be located behind the required front yard setback and shall not be located adjacent to or abutting a collector or arterial street.
5. Razor wire (ribbon) shall be prohibited.

C. In all industrial zoning districts:

Fences or walls shall not exceed (8) feet in height in front, side and rear yards.

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

The board of zoning appeals shall have the following powers and duties:

- 21.3.1. *Appeals.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the zoning administrator in the enforcement of this chapter. Appeals to the board of appeals may be taken by any person aggrieved or by any officer, department, board, or agency of the City of Cartersville affected by any decision of the zoning administrator. Such appeal shall be taken within thirty (30) days of said decision by filing with the zoning administrator a written notice of appeal specifying the grounds thereof. Decisions on appeals shall be issued in writing within ten (10) business days of the hearing on the appeal.
- 21.3.2. *Continuance of a nonconforming use.* The board of zoning appeals may allow a nonconforming use to be reestablished after discontinuance for twelve (12) consecutive months. The procedure for the request shall be the same as if it was a variance. If it is deemed by the board of zoning appeals that one (1) or more of the following apply, the board may grant said request.
 - A. The design, construction, and character of the building is not suitable for uses permitted in the district in which the nonconforming use is situated; and
 - B. Undue hardships to the property owner would result in not allowing the building to be reopened for a nonconforming use; and
 - C. Adjacent property would not be unduly damaged by such use of the building; and
 - D. The use is to be identical or similar to the prior nonconforming use of the building.

21.3.3. *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.

STANDARDS FOR EXERCISE OF ZONING POWERS.

- 1. *The existing land uses and zoning of nearby property.*

The surrounding properties are zoned residential.

2. *The suitability of the subject property for the zoned purposes.*
The property is suitable for the zoned purposes.
3. *The relative gain to the public, as compared to the hardship imposed upon the individual property owner.*
The public gain would be minimal.
4. *Whether the subject property has a reasonable economic use as currently zoned.*
The property has a reasonable economic use as currently zoned.
5. *Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.*
The proposed variance would have no affect on the use of the subject or adjacent properties.
6. *Whether the proposed zoning will adversely affect the existing use or usability of adjacent or nearby property.*
The proposed variance will not have an adverse effect on the existing use or usability of adjacent or nearby property.
7. *Whether the zoning proposal is in conformity with the current future development plan and community agenda of the comprehensive land use plan as currently adopted or amended in the future.*
The proposed variance has no impact on the Future Development Plan or Comprehensive Plan.
8. *Whether the zoning proposal will result in a use which will or could adversely affect the environment, including but not limited to drainage, wetlands, groundwater recharge areas, endangered wildlife habitats, soil erosion and sedimentation, floodplain, air quality, and water quality and quantity.*
No adverse environmental impact is anticipated.
9. *Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.*
The proposed variance will not increase the burden to streets, transportation, or utilities.
10. *Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.*
There are no known conditions.

City of Cartersville
Application for Variance
Board of Zoning Appeals

Hearing Date: 1-11-2024 5:30pm

Application Number: V23-36

Date Received: 11/1/23

Applicant Paul Peña Office Phone _____
(printed name)
Address 13 Rock Foot Way Mobile/ Other Phone 254-371-6411
City CARTERSVILLE State ga Zip 30120 Email paulpena2000@yahoo.com
Representative's printed name (if other than applicant) _____
Phone (Rep) _____
Email (Rep) _____
Representative Signature _____ Applicant Signature 
Signed, sealed and delivered in presence of: _____ My commission expires: _____
 10/6/2025
Notary Public

* Titleholder Paul Peña Phone 2543716411
(titleholder's printed name)
Address 13 Rock Foot Way Email paulpena2000@yahoo.com
Signature 
Signed, sealed, delivered in presence of: _____ My commission expires: _____
 10/6/2025
Notary Public

Present Zoning District P-D Parcel ID No. C025-0011-172
Acreage .25 Land Lot(s) 416 District(s) 4 Section(s) 3
Location of Property: 13 Rock Foot Way SE
(street address, nearest intersections, etc.)
Zoning Section(s) for which a variance is being requested: SEC 4.16
Summary Description of Variance Request: _____
PRIVACY FENCE FRONT CORNER LOT
(Additional detail can be provided on Justification Letter)

* Attach additional notarized signatures as needed on separate application pages.

CONDITIONS VERIFICATION

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

Article IV Section 4.16 Subsection B
Article _____ Section _____ Subsection _____
Article _____ Section _____ Subsection _____

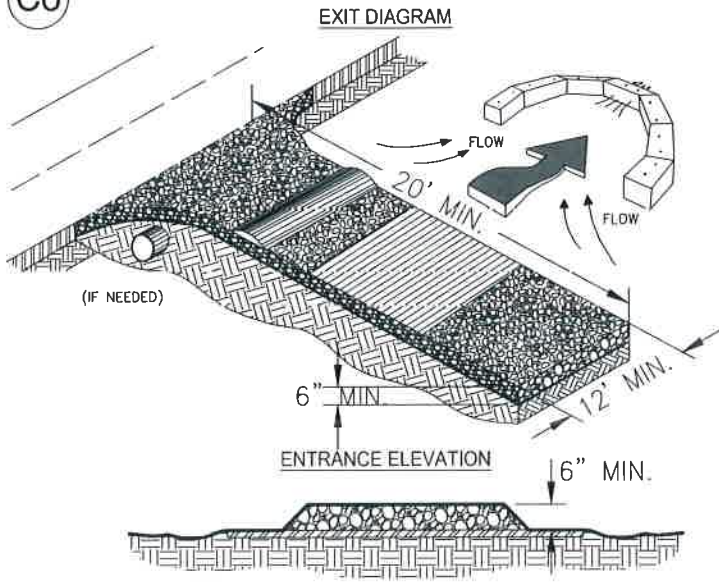
The Board of Zoning Appeals was established to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the zoning administrator in the enforcement of the zoning ordinance. The Board has the power to hear requests for variances from the 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: _____

Co CRUSHED STONE CONSTRUCTION EXIT



- NOTES:**
1. AVOID LOCATING ON STEEP SLOPES OR AT CURVES ON PUBLIC ROADS.
 2. REMOVE ALL VEGETATION AND OTHER UNSUITABLE MATERIAL FROM THE FOUNDATION AREA, GRADE, AND CROWN FOR POSITIVE DRAINAGE.
 3. AGGREGATE SIZE SHALL BE IN ACCORDANCE WITH NATIONAL STONE ASSOCIATION K-2 (1.5"-3.5" STONE).
 4. GRAVEL PAD SHALL HAVE A MINIMUM THICKNESS OF 6".
 5. PAD WIDTH SHALL BE EQUAL FULL WIDTH AT ALL POINTS OF VEHICULAR EGRESS, BUT NO LESS THAN 20'.
 6. A DIVERSION RIDGE SHOULD BE CONSTRUCTED WHEN GRADE TOWARD PAVED AREA IS GREATER THAN 2%.
 7. INSTALL PIPE UNDER THE ENTRANCE IF NEEDED TO MAINTAIN DRAINAGE DITCHES.
 8. WHEN WASHING IS REQUIRED, IT SHOULD BE DONE ON AN AREA STABILIZED WITH CRUSHED STONE THAT DRAINS INTO AN APPROVED SEDIMENT TRAP OR SEDIMENT BASIN (DIVERT ALL SURFACE RUNOFF AND DRAINAGE FROM THE ENTRANCE TO A SEDIMENT CONTROL DEVICE).
 9. WASHRACKS AND/OR TIRE WASHERS MAY BE REQUIRED DEPENDING ON SCALE AND CIRCUMSTANCE. IF NECESSARY, WASHRACK DESIGN MAY CONSIST OF ANY MATERIAL SUITABLE FOR TRUCK TRAFFIC THAT REMOVE MUD AND DIRT.
 10. MAINTAIN AREA IN A WAY THAT PREVENTS TRACKING AND/OR FLOW OF MUD ONTO PUBLIC RIGHTS-OF-WAYS. THIS MAY REQUIRE TOP DRESSING, REPAIR AND/OR CLEANOUT OF ANY MEASURES USED TO TRAP SEDIMENT.

LINE	BEARING	LENGTH
L54	S43°48'22"E	24.27
L55	S00°38'59"W	67.69

RDP APPROVAL

THIS RESIDENTIAL DRAINAGE PLAN HAS BEEN REVIEWED FOR GENERAL COMPLIANCE WITH THE DEVELOPMENT REGULATIONS OF BARTOW COUNTY, GEORGIA, AND IS APPROVED FOR ISSUANCE OF A BUILDING PERMIT FOR THE RESIDENTIAL STRUCTURE AND OTHER IMPROVEMENTS SHOWN HEREON. [NO FRAMING INSPECTION WILL BE APPROVED UNTIL A CERTIFICATION OF THE ELEVATION OF THE LOWEST FLOOR, AS-BUILT, PREPARED BY A REGISTERED LAND SURVEYOR OR PROFESSIONAL ENGINEER, HAS BEEN RECEIVED AND ACCEPTED BY THE ENGINEERING DEPARTMENT.] THIS APPROVAL IS GRANTED WITH THE PROVISION THAT A FINAL INSPECTION AND/OR CERTIFICATE OF OCCUPANCY SHALL NOT BE ISSUED FOR COMPLETION OF CONSTRUCTION UNTIL CONFORMANCE TO THIS RESIDENTIAL DRAINAGE PLAN HAS BEEN FIELD VERIFIED AND AS-BUILT CERTIFIED BY THE DESIGN PROFESSIONAL.

ENGINEERING DEPARTMENT

DATE

EROSION CONTROL LEGEND

- Co CONSTRUCTION ENTRANCE/EXIT
- Sd1 SEDIMENT BARRIER
- LIMITS OF DISTURBANCE
- DS1 DISTURBED AREA STABILIZATION (WITH MULCHING ONLY)
- DS2 DISTURBED AREA STABILIZATION (WITH TEMPORARY SEEDING)
- DS3 DISTURBED AREA STABILIZATION (WITH PERMANENT VEGETATION)

NOTE: ALL EROSION CONTROL MEASURES AND SYMBOLS ARE REFERENCED FROM THE MANUAL FOR EROSION AND SEDIMENT CONTROL IN GEORGIA, LATEST EDITION.

(CONSTRUCTION EXIT IS TO BE 12 FEET x 20 FEET.)

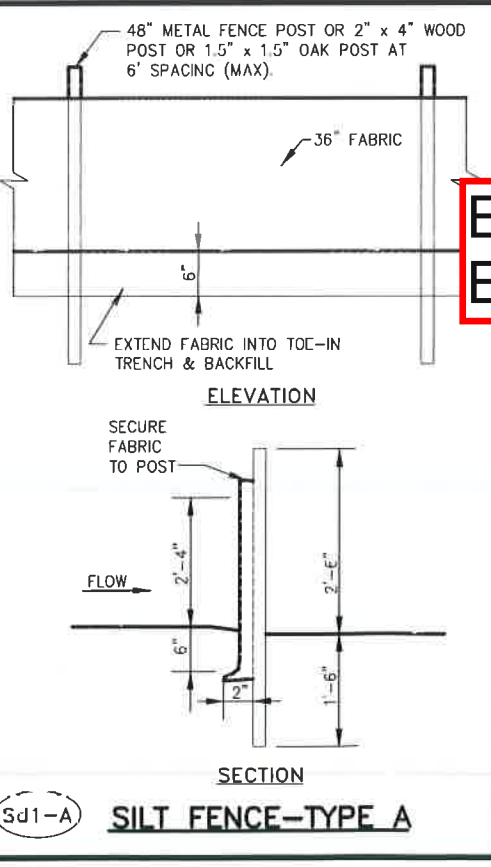
EXISTING CONTOUR DATA PER DESIGN PLANS BY SOUTHLAND ENGINEERING.

PROPOSED GRADES SHOWN ARE INTENDED TO GIVE A GENERAL GUIDELINE OF HOW TO MEET INTENDED DESIGN STANDARDS. CHANGES MAY BE NECESSARY DEPENDANT UPON ACTUAL LOT CONDITIONS.



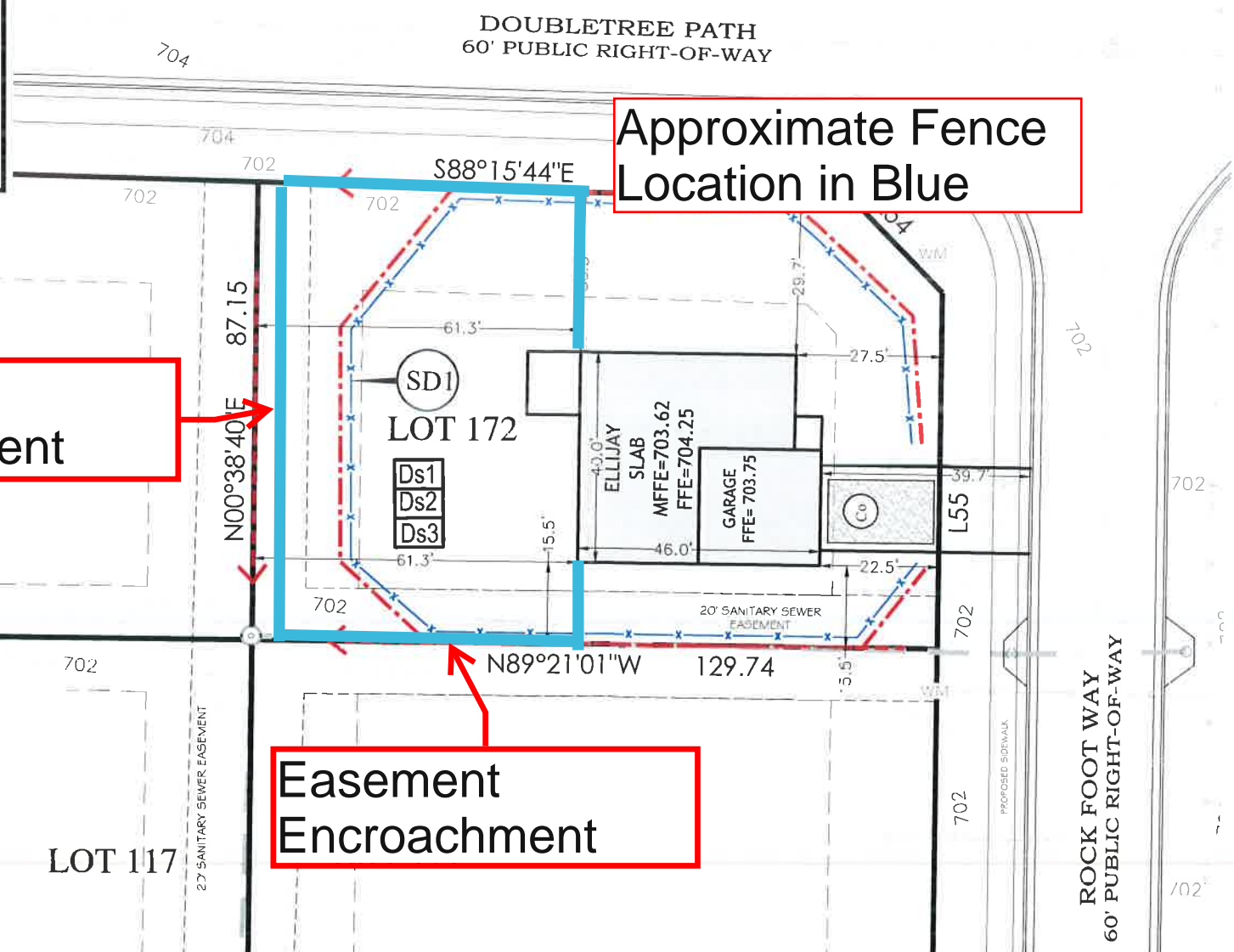
SMITH DOUGLAS COMMUNITIES
MR. ERIC MULLINS
110 VILLAGE TRAIL
SUITE 215
WOODSTOCK, GEORGIA 30188
EMULLINS@SMITHDOUGLAS.COM

GSWCC LEVEL II
CDP #3417, EXP. 12/25



Easement Encroachment

Easement Encroachment



- CO = CLEAN OUT
- ICV = IRRIGATION VALVE
- IPF = IRON PIN FOUND
- IPP = IRON PIN PLACED
- OTP = OPEN TOP PIPE
- CTP = CRIMPED TOP
- R/W = RIGHT OF WAY
- CM = CONCRETE MONUMENT
- N/F = NOW OR FORMERLY
- SSE = SANIT. SEWER EASEMENT
- WM = WATER METER
- WV = WATER VALVE
- L.L. = LAND LOT
- L.L.L. = LAND LOT LINE
- PP = POWER POLE
- P- = POWER LINE
- X- = FENCE LINE
- CH. = CHORD
- A or L = ARC LENGTH
- DE = DRAINAGE EASEMENT

RESIDENTIAL DRAINAGE PLAN FOR:
SMITH DOUGLAS
LOT 172 JACKSON FARMS
L.L. 416, 4th DIST, 3rd SECT
CITY OF CARTERSVILLE, BARTOW COUNTY, GEORGIA



DATE: MAY 10, 2023	REV:	JOB NO: 19088
DATE OF FIELDWORK: N/A		

Dec 29, 2023 at 13:04:58
Doubletree Path
Cartersville GA 30120
United States

Fence is
encroaching
approximately 5'
into easement.



Dec 29, 2023 at 13:05:05
Doubletree Path
Cartersville GA 30120
United States

PK-02
COK

Dec 29, 2023 at 13:06:21
75 Jackson Farm Rd
Cartersville GA 30120
United States

Fence is
encroaching
approximately 5'
into easement.



Dec 29, 2023 at 13:07:16
13 Rock Foot Way
Cartersville GA 30120
United States

Fence is
encroaching
approximately 5'
into easement.



Dec 29, 2023 at 13:09:05
Doubletree Path
Cartersville GA 30120
United States



Dec 11, 2023 at 14:52:30
13 Rock Foot Way
Cartersville GA 30120
United States



CITY OF CARTERSVILLE
VARIANCE NOTICE
CASE NO. V24-05
APPLICATION HAS BEEN MADE
TO THE CITY OF CARTERSVILLE
BOARD OF ZONING APPEALS
FOR VARIANCE ON THIS
PROPERTY.
A PUBLIC HEARING WILL BE
HELD AT CITY HALL
10 NORTH PUBLIC SQUARE
AT 5:30PM ON 1-11-2024
FOR ADDITIONAL INFORMATION CONTACT THE
DEPARTMENT OF PLANNING & DEVELOPMENT
AT 770-387-5600