



# 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  
CC: Keith Lovell  
Date: May 12, 2022  
Re: File # V22-10

**Summary: To allow a privacy fence/wall in the front yard of a corner lot.**

### **Section 1: Project Summary**

Variance application by owner/applicant Linda Denham and Michael Weiss for property located at 502 South Bartow St, zoned R-20 Residential. Setbacks are Front- 20ft and Side- 10ft. Said property contains approximately 0.37 acres. The lot is a corner lot with road frontages along South Bartow Street and Boatner Avenue.

The applicant proposes to build a block privacy fence/wall to enclose the side of the property that will include the front yard along the Boatner Avenue right-of-way. The fence ordinance for corner lots, Sec. 4.16, requires privacy fences/walls to be installed behind the front yard setback, and to the rear of the house. A fence/wall segment is proposed to the side of the house, but in the front yard along Boatner Avenue.

Construction on the wall/ fence began a couple of weeks ago. A Stop Work Order was issued 5/6/22 until the variance application is reviewed.

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

1. To allow a 6ft. privacy fence/wall to be installed in the front yard of a corner lot.

## **Section 2. Department Comments**

**Electric Department:** The Electric System takes no exception to the requested variance as long as the proposed fencing remains off of the road r/w.

**Fibercom:** No comments received

**Fire Department:** No comments received

**Gas Department:** No comments received

**Public Works Department:** No comments received

**Water Department:** No comments received

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

No public comments received as of 5-4-22.

## **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.

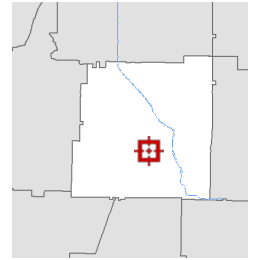
21.3.5. *Limitations on variances; improper variance requests.* Variances cannot be given to totally remove a requirement or to exempt a property or applicant entirely from a requirement. If a variance is being sought that is, in the judgment of the zoning administrator, a request that would constitute 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.

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



**Overview**



**Legend**

- Parcels
- Roads

<b>Parcel ID</b>	C016-0010-001	<b>Alternate ID</b>	34038	<b>Owner Address</b>	DENHAM LINDAS
<b>Sec/Twp/Rng</b>	n/a	<b>Class</b>	Residential		502 S. BARTOW ST
<b>Property Address</b>	502 S BARTOW ST	<b>Acreage</b>	0.37		CARTERSVILLE, GA 30120
<b>District</b>	Cartersville				
<b>Brief Tax Description</b>	LL555 LD4 LT45 DAVIS				
	(Note: Not to be used on legal documents)				

Date created: 5/6/2022  
 Last Data Uploaded: 5/5/2022 9:45:48 PM

Developed by **Schneider**  
 GEOSPATIAL

4125

City of Cartersville  
Application for Variance  
Board of Zoning Appeals

Hearing Date: May 12th 5:30pm

Application Number: V22-10

Date Received: 3-30-22

Applicant DR LINDA DENHAM  
MICHAEL WEISS  
(printed name) Office Phone 828-989-8413

Address 502 South Bartow ST Mobile/ Other Phone 828-989-8413

City Cartersville State GA Zip 30120 Email juanncacc@gmail.com

Representative's printed name (if other than applicant) \_\_\_\_\_ Phone (Rep) \_\_\_\_\_

\_\_\_\_\_ Email (Rep) \_\_\_\_\_

Representative Signature \_\_\_\_\_ Applicant Signature [Signature]

Signed, sealed and delivered in presence of: \_\_\_\_\_ My commission expires: 10/6/2025


[Signature] Notary Public 

\* Titleholder DR LINDA DENHAM  
Michael Weiss  
(titleholder's printed name) Phone 828-989-8413

Address 502 South Bartow Email juanncacc@gmail.com

Signature [Signature]

Signed, sealed, delivered in presence of: \_\_\_\_\_ My commission expires: 10/6/2025

[Signature] Notary Public 

Present Zoning District R-20

Acreage 0.37 Land Lot(s) 555 District(s) 4 Section(s) 3

Location of Property: 502 S. Bartow ST  
(street address, nearest intersections, etc.)

Zoning Section(s) for which a variance is being requested: Article IV Sec. 4.16

Summary Description of Variance Request: Privacy fence in front yard of  
Corner lot.

(Additional detail can be provided on Justification Letter)

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

Privacy Fence - Bartow  
High of GA



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## Residential Permit Application

NOTICE: THIS FORM MUST BE COMPLETED, SIGNED AND SUBMITTED BEFORE A PERMIT MAY BE ISSUED. NO WORK MAY COMMENCE BEFORE THE ISSUANCE OF THE PERMIT

**\*ATTACH SITE PLAN THAT INDICATES LOCATION OF THE STRUCTURE AND SETBACKS\***

**\*ORIGINAL SIGNATURE OF GC REQUIRED ON EACH APPLICATION\***

SUBDIVISION: Davis Subdivision LOT # 45

PROJECT ADDRESS: 502 South Bartow St Cartersville GA 30120

OWNERS NAME: Michael Weiss / Linda Denham ADDRESS: 502 S Bartow PHONE#: 828-989-8413

CONSTRUCTION TYPE: VB VALUATION/CONSTRUCTION COST 10K SQ. FT: 600 BATHROOMS 0 BEDROOMS: 0

NEW HOME  ADDITION  REMODEL EXTERIOR  REMODEL INTERIOR  DETACHED ACCESSORY BUILDING

# OF STORIES: 1 SPLIT LEVEL:  GARAGE:  BASEMENT: YES  or NO  HISTORIC DISTRICT: YES  or NO  FLOODPLAIN YES  or NO

DESCRIBE WORK shed and wall to waterfall for Pond, R/R chain link fence / more back to meet code and Block fence

Contractors Name: SELF

EMAIL: Juanneacc@gmail.com CELL # 828-989-8413

ADDRESS: 502 South Bartow Cartersville GA 30120

STATE LICENSE #: n/a EFFECTIVE 7/1/07 BUSINESS LICENSE #: n/a

SIGNATURE: [Signature] NAME OF CITY/COUNTY ISSUING LICENSE: \_\_\_\_\_

\*\*\*THIS MUST BE SIGNED IN FRONT OF PERMIT CLERK\*\*\*

\*\*\*\*\*OFFICIAL USE ONLY\*\*\*\*\*

Z=R-20

SETBACKS DETACHED GARAGE @ 20' From pil. (ALIGNED w/ House IS Good)

NOTES Block wall FOR FENCE SHOULD BE DECORATIVE and Not exposed concrete Block PER. SEC 4.16(A)(2), Attached.

APPROVAL: ZONNING ADMINASTRATOR \_\_\_\_\_ DATE \_\_\_\_\_

APPROVAL: BUILDING INSPECTIONS CW DATE 3.22.22



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## OWNER BUILDING PERMIT AFFIDAVIT

PERMIT NO. \_\_\_\_\_

PROPERTY ADDRESS 502 South Barlow Cartersville, GA 30120

The undersigned hereby applies for special consideration as a property owner desiring to perform construction on his/her own residence/building. In making this request for an "owner building" permit, the undersigned states the following to be true.

- Applicant agrees that the building or structure is on real property owned by said applicant and is intended upon completion for use or occupancy solely by that person and his/her family, firm, or corporation and its employees and not for use by the general public and not offered for sale or lease.
- Applicant shall serve as the general contractor and accept inherent responsibilities for the work authorized by the approved permit in accordance with Georgia's licensing law pertaining to Residential and General Contractors.
- If applicant is not installing the electrical, plumbing, and HVAC as the owner, then applicant agrees to hire properly licensed contractors (mechanical, plumbing, and electrical). As general contractor, applicant may contract with Traditional Specialty Contractors or Limited Service Specialty Contractors who are not required to hold a license as a residential or general contractor if performing within their specialty as provided for under O.C.G.A. 43-41-7.
- If applicant sells the structure within 24 months from the issuance of the certificate of occupancy, applicant will not be allowed to permit another building as owner unless such owner obtains a Georgia license as required by Georgia law.
- Applicant agrees to build in accordance with all applicable codes and strictly adhere to the inspection as required by the jurisdiction. Undersigned acknowledges that inspections must be performed in an established sequence and that work done in violation of the building codes must be corrected or be ordered removed.

**Applicant acknowledges that he/she is aware that a permit issued under the provisions of the code may be revoked for false statements or misrepresentations as to the material fact in the application on which the permit was based. Applicant further acknowledges that he/she is aware that any knowingly false statements made in the permit application will subject said applicant to possible prosecution. Georgia Criminal Code, Article 2, Section 16-10-20 (False Swearing) calls for a possible fine of not more than \$1,000.00 or imprisonment for not less than one (1); nor more than five (5) years, or both.**

Sworn to and subscribed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Michael Wass  
Applicant's Printed Name

[Signature]  
Applicant's Signature

NOTARY \_\_\_\_\_

Commission Expires \_\_\_\_\_

(SEAL)



CURVE DATA—R/V:

Delta	Degree	Radius	Tangent	Length
Curve No. 1 Inside				
47°20'	63°39.72'	90.00'	39.44'	74.35'
Curve No. 2 Inside				
47°20'	44°04.42'	130.00'	56.98'	107.40'
Curve No. 3 Inside				
45°15½'	33°18.69'	172.00'	71.70'	135.86'
Curve No. 4 Inside				
15°15½'	27°01.58'	212.00'	88.37'	167.46'
Curve No. 5 Inside				
10°39½'	53°17.75'	100.00'	101.16'	158.23'
Curve No. 6 Outside				
10°39½'	40°55.53'	140.00'	141.62'	221.52'

Radius	Delta	Tangent	Length
No. 1	91°55'	15.51'	24.06'
No. 2	88°05'	14.51'	23.06'
No. 3	87°55'	14.46'	23.02'
No. 4	94°00'	16.09'	24.61'
No. 5	87°55½'	14.47'	23.02'
No. 6	92°04½'	15.55'	24.11'
No. 7	89°30'	14.87'	23.43'
No. 8	90°30'	15.13'	23.69'
No. 9	90°39½'	15.17'	23.73'
No. 10	89°20½'	14.83'	23.39'
No. 11	90°00'	15.00'	23.56'

At all Street Intersections, 150 Ft. Radius was used.



Bearings are based on a magnetic observation with no variation offset.  
 All lot corners are marked by iron pins.  
 This subdivision has been computed and adjusted for error of closure.  
 All curve data over 18°00' was computed by arc definitions.  
 I hereby certify that this plat is a true and correct representation of conditions on this property.

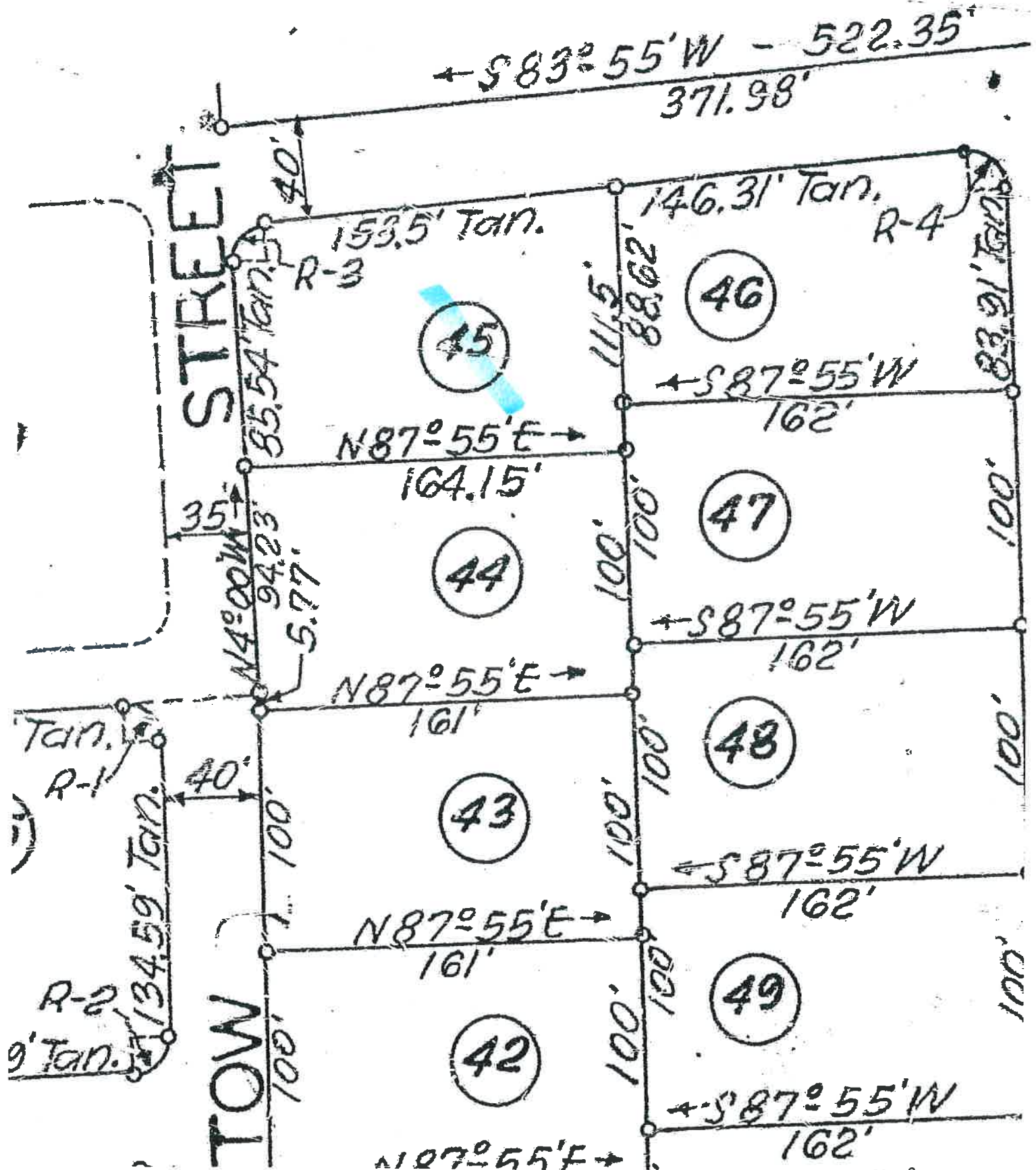
*H. S. Sanders*  
 H. L. Sanders  
 Ga. Reg. C.E. No. 2393  
 Ga. Reg. Surv. No. 848

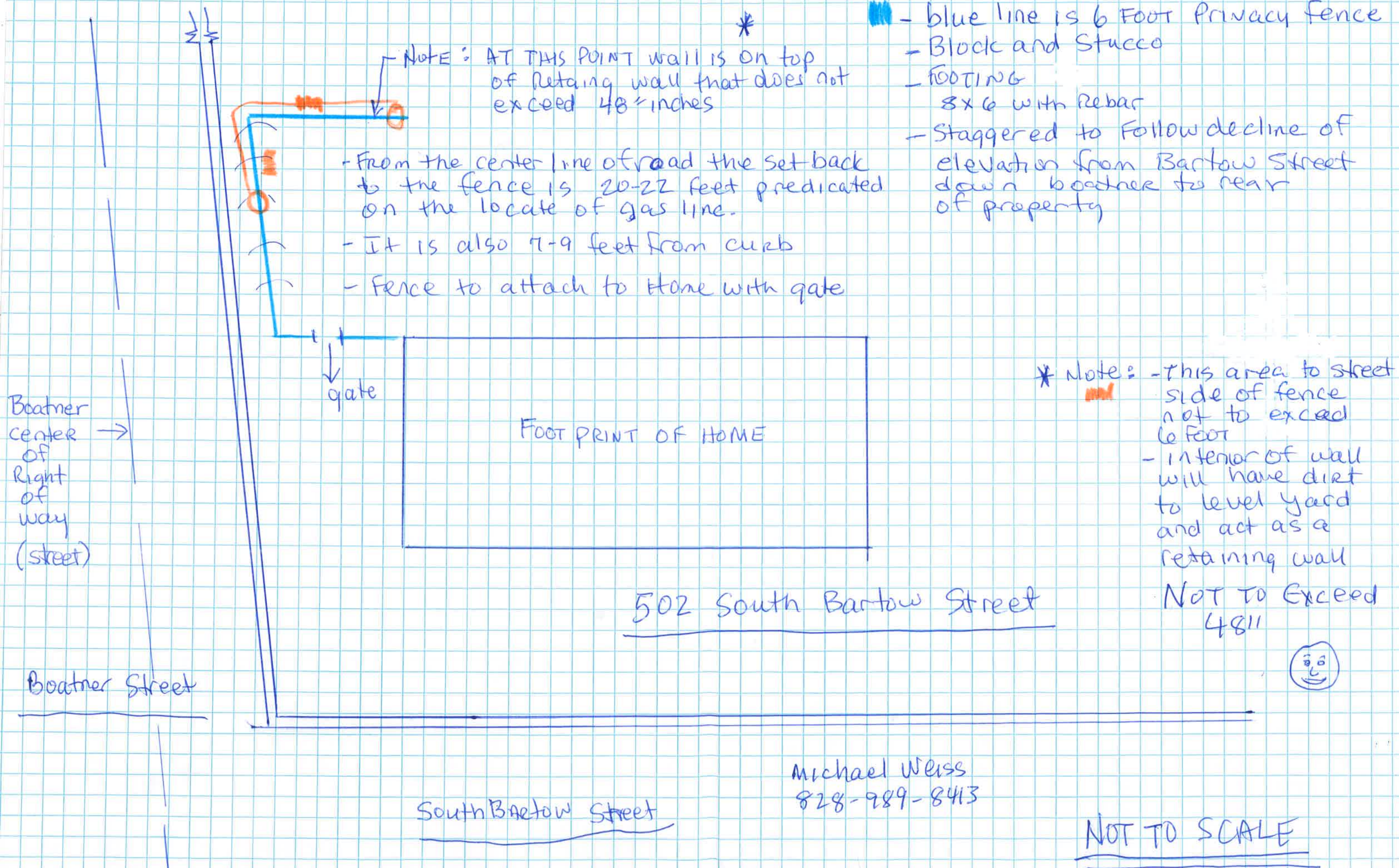
The governing body of the City of Cartersville, Georgia do hereby adopt, approve and accept this plan for subdivision, with the minimum building restriction lines as shown, and streets as shown for transfer and dedication to public use.  
 Signed \_\_\_\_\_

# DAVIS SUBDIVISION

SITUATED IN LAND LOT NO 555 4 TH DISTRICT 3RD SECTION CITY OF CARTERSVILLE BARTOW COUNTY GEORGIA  
 February 22, 1956

SANDERS ENGINEERING COMPANY  
 CONSULTING ENGINEERS  
 AUSTELL GEORGIA  
 CARTERSVILLE GA. SCALE: 1" = 100.0 FT.





\* NOTE: AT THIS POINT wall is on top of Retaining wall that does not exceed 48" inches

- blue line is 6 Foot Privacy fence
- Block and Stucco
- FOOTING 8x6 with rebar
- Staggered to follow decline of elevation from Bartow Street down boathouse to rear of property

- From the center line of road the set-back to the fence is 20-22 feet predicated on the locate of gas line.
- It is also 7-9 feet from curb
- Fence to attach to stone with gate

\* Note: - This area to street side of fence not to exceed 6 foot  
 - interior of wall will have dirt to level yard and act as a retaining wall  
 NOT TO EXCEED 48"



Michael Weiss  
 828-289-8413

NOT TO SCALE

## David Hardegree

---

**From:** David Hardegree  
**Sent:** Thursday, September 2, 2021 2:02 PM  
**To:** 'juanncacc@gmail.com'  
**Cc:** Caity Hungate  
**Subject:** 502 S. Bartow St.--- Fence/wall, pool and detached garage  
**Attachments:** Tax map.pdf; Sec. 4.9\_AccStructures\_Cartersville, GA Code of Ordinances.pdf; tax map\_dims.pdf; ORD20-21\_T21-01.pdf; PictometryExport.pdf

Mr. Weiss,

I have analyzed your property in regards to your proposal to construct a privacy fence/wall, pool and detached garage. Below are my findings:

- Zoning is R-20.
- Property is a corner lot with Boatner Ave. Corner lots have two front yards and two side yards by zoning standards.
- Frontyard setback is 20ft. Sideyard setback is 10ft. Since the house is existing the front and side yards are established by the house location. (See attachment, Tax Map)
- The Boatner Ave. right of way (ROW) width is 40ft. To find the approx. property line measure 20ft. from the centerline of the road. Measure between the front of curbs and divide distance by 2 to find the centerline. I'm assuming Boatner Ave. is centered on the ROW and not offset to the north or south. (See tax map\_dims)
- The chain link fence along Boatner Ave. appears to be on the ROW.
- A natural gas line appears to be located behind the fence, but on the ROW. (See attachment- Pictometry).

### Recommendations:

- Call 811 for a utility locate. The gas line needs to be accurately located.
- Find your property line using the centerline method described above for planning purposes. For truer accuracy have a surveyor mark it for you or at least find the corner property pins.
- Any modifications to the fence will require that the modified fence or wall be located off the ROW. If the new or modified fence/ wall is to be a privacy structure (opaque) then the fence/wall has to be located behind the front yard setback per Ord. Sec. 4.16, Item B(4) or a variance is needed. There is some gray area with walls since they are opaque by nature. (See attached ORD20-21).
- A building permit is needed for a retaining wall that is 4ft in height or taller as measured from the bottom of the footing to the top of wall.
- The pool and detached garage needs to be 10ft off the side property lines and behind the Boatner Ave front yard demarcation. (See attached, tax map & Sec 4.9).
- A site plan will be needed for the pool and garage building permits.
- Building permit (Residential Application), Pool permit and retaining wall permit and information docs can be found here- <https://www.cityofcartersville.org/building-department>
- Contact me if any of the setback requirements cannot be met. I will guide you through the variance process.

Hope this is helpful. Contact me with any questions.

David

David Hardegree, AICP  
City of Cartersville  
Planning and Development Department  
2<sup>nd</sup> Floor, City Hall  
10 N. Public Square

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- The pool and detached garage needs to be 10ft off the side property lines and behind the Boatner Ave front yard demarcation. (See attached, tax map & Sec 4.9).
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David

David Hardegree, AICP  
City of Cartersville  
Planning and Development Department  
2<sup>nd</sup> Floor, City Hall  
10 N. Public Square

Sec. 4.9. - Accessory uses, buildings or structures.

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.

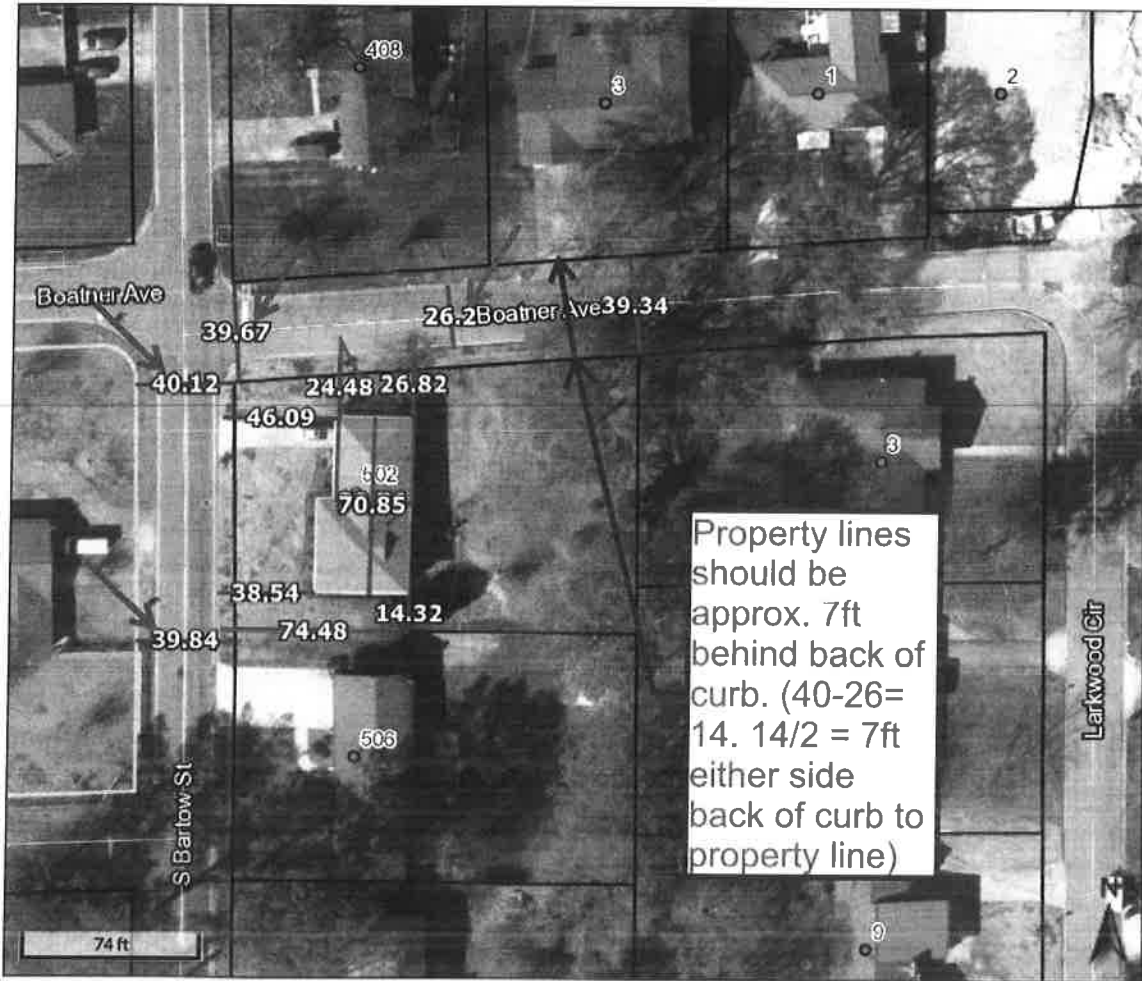
Accessory uses, buildings, or structures on nonresidential lots shall not be allowed in the front yard and must comply with side and rear yard requirements established for the zoning district in which such accessory buildings or uses are located. The following accessory uses, buildings, or structures 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.

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.

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.

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.

An amenity, as defined by this chapter, shall not be considered an accessory structure.



**Overview**



**Legend**

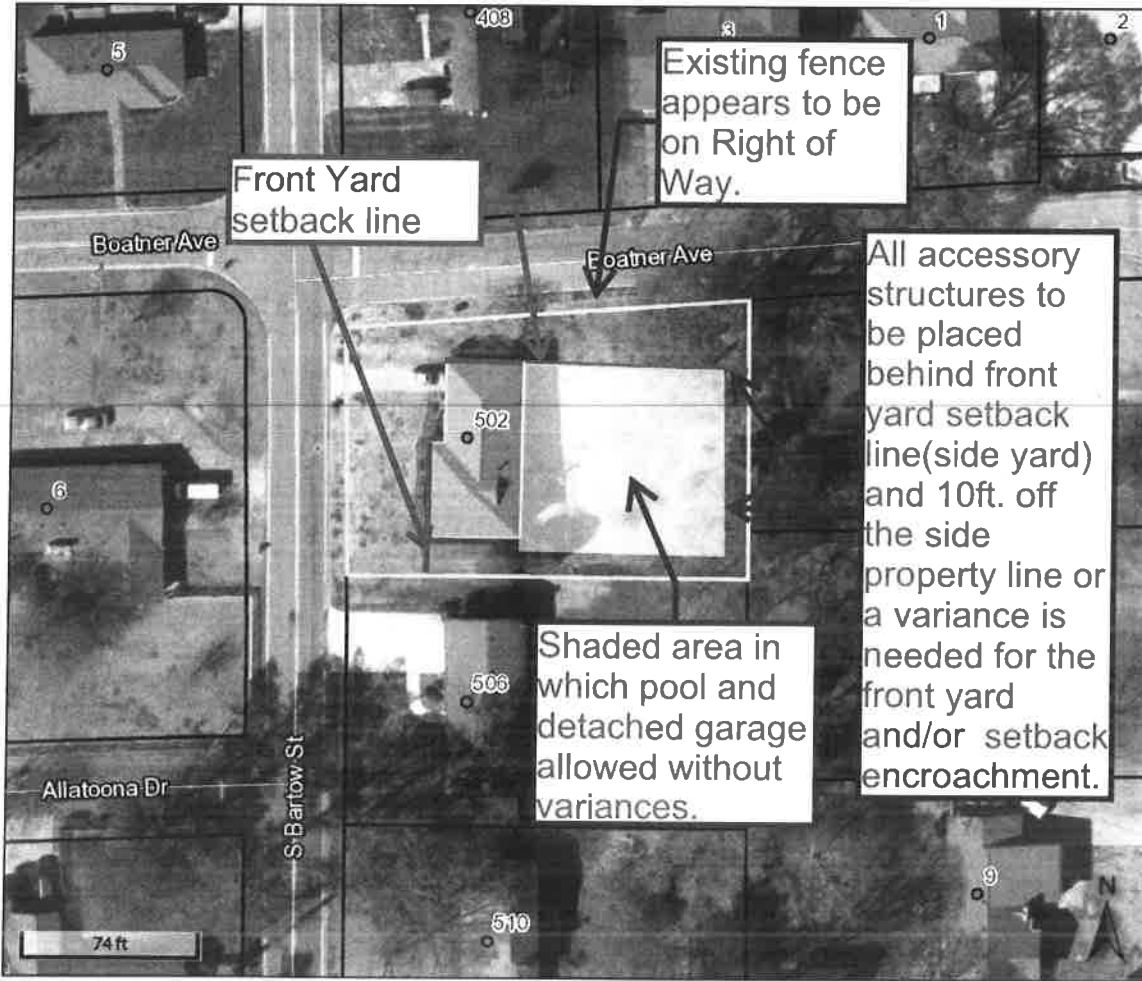
- Parcels
- Structural Numbers**
  - <all other values>
  - Abandoned or Inactive
  - Active
  - Proposed
- Roads**
- Flood Hazard Area**
  - Bartow Regulatory
  - FEMA

<b>Parcel ID</b>	C016-0016-007	<b>Alternate ID</b>	34107	<b>Owner Address</b>	MEDFORD AUSTIN & CHELSEA
<b>Sec/Twp/Rng</b>	n/a	<b>Class</b>	Residential		6 BOATNER AVE.
<b>Property Address</b>	6 BOATNER AV	<b>Acreage</b>	0.4		CARTERSVILLE, GA 30120
<b>District</b>	Cartersville				
<b>Brief Tax Description</b>	LL 555 LD 4 LT 9 COOK STREET SUB (Note: Not to be used on legal documents)				

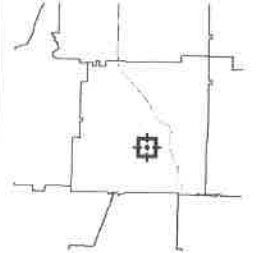
Date created: 8/27/2021  
 Last Data Uploaded: 8/26/2021 10:02:58 PM

Developed by  Schneider  
 GEOSPATIAL

Attachment #2



**Overview**



**Legend**

- Parcels
- Structural Numbers**
  - <all other values>
  - Abandoned or Inactive
  - Active
  - Proposed
- Roads**
- Flood Hazard Area**
  - Bartow Regulatory
  - FEMA

<b>Parcel ID</b>	C016-0010-001	<b>Alternate ID</b>	34038	<b>Owner Address</b>	WARDLAW CAROLE M RAINES PAT M 502 S BARTOW STREET CARTERSVILLE, GA 30120
<b>Sec/Twp/Rng</b>	n/a	<b>Class</b>	Residential		
<b>Property Address</b>	502 S BARTOW ST	<b>Acreage</b>	0.37		
<b>District</b>	Cartersville				
<b>Brief Tax Description</b>	LL555 LD4 LT45 DAVIS (Note: Not to be used on legal documents)				

Date created: 5/27/2021  
Last Data Uploaded: 5/26/2021 10:30:26 PM

Developed by Schneider  
GEOSPATIAL

Attachment  
#1



Images taken 5-4-22



Images taken  
5-4-22



Stop Work Order

Images taken  
5-6-22



Images taken 4-20-22

