

**MINUTES
OF
THE CARTERSVILLE BOARD OF ZONING APPEALS**

The Cartersville Board of Zoning Appeals met in a regularly scheduled meeting on April 13, 2023, in the Council Chambers.

ROLL CALL

Board Members Present: Lamar Pendley, John Clayton, Malcolm Cooley, Linda Brunt and Patrick Murphy
Absent: Kevin McElwee and JB Hudson
Staff Present: Randy Mannino, David Hardegree, Zack Arnold and Julia Drake

APPROVAL OF MINUTES

1. Approval of Minutes: March 9, 2023

Board Member Hudson made a motion to approve the February 9, 2023, Minutes. Board Member Clayton seconded the motion. Motion carried unanimously. Vote: 4-0

OLD BUSINESS

2. V22-23 REV 2: 21 AND 23 Ashwood Dr. Applicant: Kerley Family Homes
Variance: To allow encroachment into the City's 25ft. impervious stream bank buffer.

David Hardegree, Planning and Development Assistant Director stated this item is tabled and would need to be removed from the table.

Continuing, Mr. Hardegree gave an overview of the case stating this is a variance application by Kerley Family Homes, for two properties located at 21 & 23 Ashwood Drive and zoned R-20 (Single Family Residential) and P-D (Planned Development). Both properties contain approximately 0.2 acres. These lots are currently undeveloped.

The applicant wishes to construct homes on these lots that will encroach into the City's 25ft. impervious buffer. No encroachment is proposed in the twenty-five foot (25ft) State streambank buffer or twenty-five foot (25ft) City Vegetative buffer. The current mitigation plan is acceptable to Public Works.

The proposed encroachment at 21 Ashwood Drive (Lot 1380) includes 422 square feet of the home constructed in the impervious streambank buffer. The proposed encroachment at 23 Ashwood Drive (Lot 1379) includes 178 square feet of the home constructed in the impervious streambank buffer. The applicant proposes to install filter strips, sod and landscaping as the mitigation solutions for each property.

Side slopes are proposed to be graded to drain into the filter strips. A berm on the backside of the filter strip will aid in directing stormwater into the strips.

The development regulation for which relief is sought is 7.5-205 (a)(2).

The variance request is for the following:

1. For 21 Ashwood Drive, allow the home to encroach into the impervious buffer for approx. 422sf; and
2. For 23 Ashwood Drive, allow the home to encroach into the impervious buffer for approx. 178sf.

Furthermore, if the variances are approved, Planning and Development staff recommend the following condition for each site:

- 1) *The City Engineer is to inspect and approve compliance of the mitigation plan for each lot prior to issuance of Certificate of Occupancy.*

Board Member Brunt made a motion to remove V22-23 from the table. Board Member Murphy seconded the motion. Motion carried unanimously. Vote: 4-0

Public hearing was opened.

Shelby Thompson, Kerley Family Homes representative, came forward to represent the application and answer any questions from the Board Members.

After extensive discussions regarding the mitigation proposal, and no one else to speak for or against the application, the public hearing was closed.

Board Member Brunt made a motion to approve the application with the following conditions:

- City Engineer be given access to inspect the mitigation area for compliance with the agreed improvements once they are installed.
- Kerley Family Homes, as owner, shall include an easement to the City of Cartersville for access to the mitigation area for periodic inspections.
- There shall be a notation on the plat of record filed with the Clerk of Courts that indicates the mitigation area and that the mitigation area is the responsibility of the subsequent owner. Responsibility of the mitigation area goes with the lot.
- Initial warranty deed from Kerley Family Homes to the first purchaser include a notation to the same effect that there is a mitigation area and should be shown on a plat that is attached to the warranty deed.
- There shall be an indication on the warranty deed that the property owner is responsible for maintenance and upkeep of the mitigation area.

Board Member Clayton seconded the motion. Motion carried unanimously. Vote: 4-0

VARIANCE CASES

3. **V23-05: 215 Leake St.**
Variance:

Applicant: Katherine Quick

- *To allow an accessory structure (prefabricated building) in the front yard of a corner lot.*
- *To allow accessory structure encroachment into side yard setback.*

Board Member Brunt recused herself from this application and left the room.

Mr. Hardegree stated that all adjacent property owners had been notified and the property had been properly posted and advertised.

Continuing, Mr. Hardegree gave a detailed overview stating variance application by applicant Katherine Quick for property located at 215 Leake St. It is a corner lot at the intersection of Leake Street and Etowah Drive. Zoning is P-S, Professional Services. Setbacks are Front - 20ft and Side- 10ft. Said property contains approximately 0.33 acres.

The applicant proposes to install a prefabricated storage shed (accessory structure) along the front yard with Etowah Drive. The property has three (2) front yards. Accessory structures are to be located in the side and rear yards per Zoning Ordinance Sec. 4.9, *Accessory uses, buildings or structures*. The applicant is also requesting to allow the accessory structure to encroach into the side yard setback approximately 9'8". The side yard setback is 10ft per sec. 9.1, *P-S Professional services district*.

The HPC reviewed the shed and approved the shed with conditions at the March 21st meeting. COP23-06. Those conditions are as follows:

- BZA review and approve the variance requests for the shed.
- The proposed storage must have cosmetic requirements for curb appeal.
 - Paint to match house.
 - Shutters to match house.
 - Tin roof to match house.

A storage shed previously existed in the same area of the yard but was replaced by this proposed shed. No variance was requested for the previous shed, but HPC did review the previous shed and approved it on 8-18-09, COP09-09.

Chairman Pendley opened the public hearing.

Katherine Quick, 215 Leake St., came forward to represent the application and answer any questions from the Board Members.

Susan Wade, 27 Etowah Dr., came forward to speak against the application.

With no one else to come forward, Chairman Pendley closed the public hearing.

Chairman Pendley clarified that voting would be separated for each item.

Board Member Murphy made a motion to approve the accessory structure with the recommended conditions from Historic Preservation Commission. Board Member Cooley seconded the motion. Motion carried unanimously. Vote: 4-0 w/ Chairman Pendley voting.

Board Member Brunt made a motion to approve V23-04 with the understanding that the fence will be moved off of the right of way. Board Member Clayton seconded the motion. Motion carried unanimously. Vote: 4-0

5. V23-07: 329 Brown Farm Rd. Applicant: Kyle Hoyt, PE (Rep.)
Variance: To omit the sidewalk requirement for site development

Mr. Hardegree stated that all adjacent property owners had been notified and the property had been properly posted and advertised. Continuing, he gave an overview stating the variance application by Southern Freight Lines for property located at 329 Brown Farm Road, zoned H-I, Heavy Industrial. Said property contains approximately 139.95 acres. The lot has approx. 1,950ft of frontage along Brown Farm Road.

The topography and utility conflicts along this section of Brown Farm Road make sidewalk installation challenging. Sidewalk requirements along the south side of Brown Farm Road have been omitted previously along the southern side of Brown Farm and along Friction Drive per V08-19.

Chairman Pendley opened the public hearing.

Mattson Wiksell, 346 Seacoast Pkwy. Mt. Pleasant, SC., came forward to represent the application and to answer any questions from Board Members.

Accompanying Mr. Wiksell, Gary Berenni joined the podium to also address the Board Members.

With no one else to come forward to speak for or against the application, the public hearing was closed.

Board Member Brunt made a motion to approve the application. Board Member Murphy seconded the motion. Vote: 3-1 with Board Member Clayton in opposition.

Julia Drake, City Clerk, stated the motion did not pass since this board requires four votes to pass.

Chairman Pendley called for a motion again to allow himself to vote.

Board Member Brunt made a motion to approve the application. Board Member Murphy seconded the motion. Vote: 4-1 with Board Member Clayton in opposition and Chairman Pendley voting.

6. V23-08: 10 Charley Harper Dr. Applicant: Village Hill Eckstein, LLC
Variance: To allow Accessory Structures (Trash Compactor and Loading Dock) in the front yard of a commercial site.

Mr. Hardegree stated that all adjacent property owners had been notified and the property had been properly posted and advertised. Continuing, he gave an overview stating the Variance application by Village Hill Eckstein, LLC for property located at 10 Charlie Harper Drive, zoned G-C (General Commercial). Setbacks are Front- 20ft and Side- 10ft. Said property contains approximately 3.04 acres.

The applicant has submitted site plans for two (2) 17,280 S.F. warehouses on the property. City Development Regulations require the site to have a dumpster pad. The proposed layout of the site puts the dumpster pad in the front yard along Charlie Harper Drive. The site also purposes a loading dock to service the warehouses. This is also located in the front yard along Charlie Harper Drive. The zoning ordinance for commercial accessory structures, Sec. 4.9, requires accessory structures to be installed within a side or rear yard while complying with the setbacks for the district.

The proposed location of the dumpster pad and loading dock does not encroach into the Charlie Harper Drive right-of-way and is behind the 20ft front yard setback.

Chairman Pendley opened the public hearing.

Mark Harris, 700 Douthit Ferry Rd., came forward to represent the application and answer questions from Board Members.

With no one else to come forward, the public hearing was closed.

Board Member Clayton made a motion to approve V23-08. Board Member Brunt seconded the motion. Motion carried unanimously. Vote: 4-0

With no other business to discuss, Board Member Murphy made a motion to adjourn at 6:32 P.M.

May 11, 2023
Date Approved

/s/ _____
Chair