



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/Zack Arnold
CC: Keith Lovell
Date: July 14, 2023
Re: File # V23-17

Summary: To reduce side and rear yard setbacks for construction of accessory structure.

Section 1: Project Summary

Variance application by owner/applicant Joyce Huskins for property located at 138 Luckie St, zoned R-7 Residential. Setbacks are Front and Rear- 20ft and Side- 8ft. Said property contains approximately 0.24 acres.

The applicant proposes to build a detached garage at the end of her driveway and in the rear yard. The ordinance pertaining to accessory structures on residential lots, Sec. 4.9, requires all accessory structures be located in the rear yard and 5ft off all property lines. The proposed garage will encroach into the required 5ft setback in the side and rear yard. The proposed encroachment is approximately 3.5ft in the side yard and 1.2ft in the rear yard.

The house is approximately 1800sf. The 16' x 28' garage is 448 sf. The proposed garage is compliant with the square footage requirement. Also, the garage may not be taller than house. There is no indication that the garage will exceed the height of the house.

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

1. To reduce side and rear yard setbacks from 5ft to 1.2ft (max.) for construction of accessory structure (Sec. 4.9)

Section 2. Department Comments

Electric Department: Takes no exception.

Fibercom: No comments received.

Fire Department: No comments received.

Gas Department: Takes no exception.

Public Works Department: Takes no exception.

Water Department: Takes no exception.

Section 3. Public Comments Received by Staff

No public comments received as of 7-14-2023

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. 4.9. 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.

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.

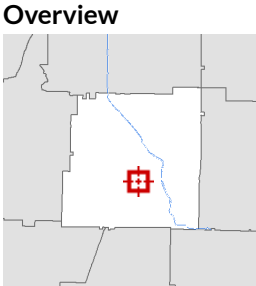
Sections 21.3.7, *Place of worship*, and 21.3.8, *Group homes*, omitted. *Not applicable.*

STANDARDS FOR EXERCISE OF ZONING POWERS.

1. *The existing land uses and zoning of nearby property.*
The surrounding properties are zoned for residential and used for that purpose.
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. A variance approval would allow the property owner to provide covered parking and protection of personal property.
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 effect 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.



Legend
 □ Parcels
 — Roads

Parcel ID	C016-0019-009	Alternate ID	34133	Owner Address	HUSKINS JOYCE B
Sec/Twp/Rng	n/a	Class	Residential		138 LUCKIE STREET
Property Address	138 LUCKIE ST	Acreage	0.24		CARTERSVILLE, GA 30120
District	Cartersville				
Brief Tax Description	LT 8 SUNSET PARK LL 554 LD 4				
	(Note: Not to be used on legal documents)				

Date created: 7/14/2023
 Last Data Uploaded: 7/13/2023 9:01:30 PM

Developed by  **Schneider**
 GEOSPATIAL

City of Cartersville
Application for Variance
Board of Zoning Appeals

Hearing Date: 8-10-2023 5:30pm

Application Number: V23-17

Date Received: 6-9-2023

Applicant Joyce Huskins Office Phone _____
(printed name)
Address 138 Luckie Street Mobile/ Other Phone 678-431-1770
City Cartersville, State GA Zip 30120 Email huskinshaven@bellsouth.net
678-431-1770
678-431-1770
Representative's printed name (if other than applicant) _____ Phone (Rep) _____
Email (Rep) _____
Representative Signature _____ Applicant Signature Joyce Huskins
Signed, sealed and delivered in presence of: _____ My commission expires: _____
Notary Public _____

* Titleholder Joyce Bevil Huskins Phone 678-431-1770
(titleholder's printed name)
Address 138 Luckie Street Email huskinshaven@bellsouth.net
Signature Joyce Huskins
Signed, sealed, delivered in presence of: _____ My commission expires: _____
Notary Public _____

Present Zoning District R-7 Parcel ID No. C014-0019-009
Acreage .24 Land Lot(s) 554 District(s) 4 Section(s) 3
Location of Property: 138 Luckie Street
(street address, nearest intersections, etc.)
Zoning Section(s) for which a variance is being requested: Article IV Sections 4.9
Summary Description of Variance Request: The setbacks are too restrictive to
place garage
(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 4.9 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 setbacks are too restrictive.
It makes most sense to be able to pull straight
into garage from driveway.

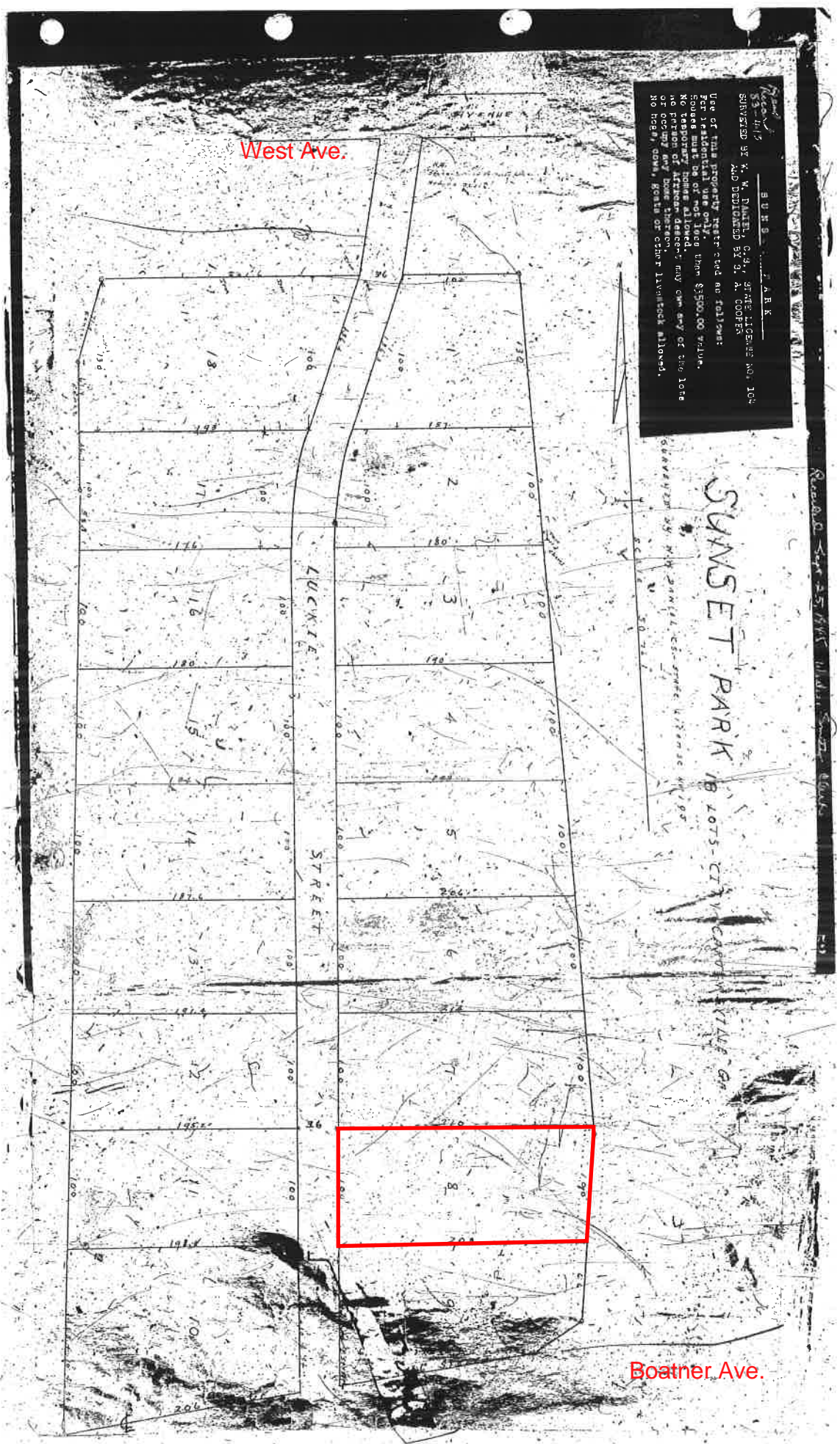
SUNSET PARK
 SUBDIVISION BY W. M. PAULI, C.E., STATE LICENSE NO. 104
 AND DEDICATED BY J. A. COOPER
 Use of this property restricted as follows:
 Residential use only.
 House must be of not less than \$1500.00 value.
 No temporary houses allowed.
 No portion of adjacent streets may open any of the lots
 or occupy any portion of other lots.
 No hotels, clubs, resorts or other livestock allowed.

SUNSET PARK

18 LOTS - CITY

West Ave.

Boatner Ave.





N04°19'16"E 94.79

S85°14'09"E 116.32

S06°22'32"W 89.99

4RB 987 N87°47'54"W 107.66

INTERSECTION WITH
ERN R/W OF BOATNER
ER DB:3458; PG:279

N/F
FREDIA HALL
DB:3458; PG:279

TAX PARCEL:
C016-0019-010

0.7'+/- FENCE/DRIVEWAY
ENCROACHMENT

L1



Cartersville, Georgia

Google Street View

Jun 2022

See more dates



