



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: August 17, 2023
Re: File # V23-19

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

Section 1: Project Summary

Variance application by applicant, Carlos Stephenson, for property located at 8 Sunset Circle, zoned R-15 Residential. Setbacks are Front- 20ft, Rear- 20ft and Side- 10ft. Said property contains approximately 0.78 acres.

The applicant proposes to build an 8ft tall privacy fence to enclose the north side of the property that includes the front yard along the Sunset Circle Right-of-Way. This fence will replace a 4ft tall chain link fence that is currently installed. The fence ordinance for residential lots, Sec. 4.16, requires privacy fences to be installed behind the front yard setback, and to the rear of the house. A fence segment is proposed to the front and side of the home, and also encroaches into the front yard setback. Construction of this fence began without prior approval in early July, 2023. On July 7, 2023 Code Enforcement noticed the fence installation and notified the homeowner that a variance was required. Due to sight distance issues along the roadway the homeowner was required to remove a section of fence immediately. No further work on the fence has occurred.

The variance request is for the following:

1. To allow an 8ft. privacy fence to be installed in the front yard of a residential lot (Sec. 4.16)

Section 2. Department Comments

Electric Department: In addition to it not being in the R/W, they would also need to be sure not to enclose the electric meter inside the fencing.

Fibercom: Takes no exception.

Fire Department: Takes no exception.

Gas Department: The Gas System takes no exception to the following as shown in the attachments provided that only the side property line is proposed to be fenced and not the front property line hampering access to the existing natural gas service line.

Public Works Department: The fence would need to be around 26 feet from the center of the inside lane on Sunset Circle. Currently the fence is much closer to the center of that inside lane of Sunset Circle. A lower chain link fence that can be seen through might work but we need to have at least 155 feet of stopping sight distance (SSD) on Sunset Circle for safety per national AASHTO standards. See attached for further information.

Water Department: Takes no exception.

Section 3. Public Comments Received by Staff

None received as of 8/17/2023.

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. 4.16. - 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. *Variations.* 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 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 protect the 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 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.*
If constructed as proposed the fence would create a sight distance issue along Sunset Circle.

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.*

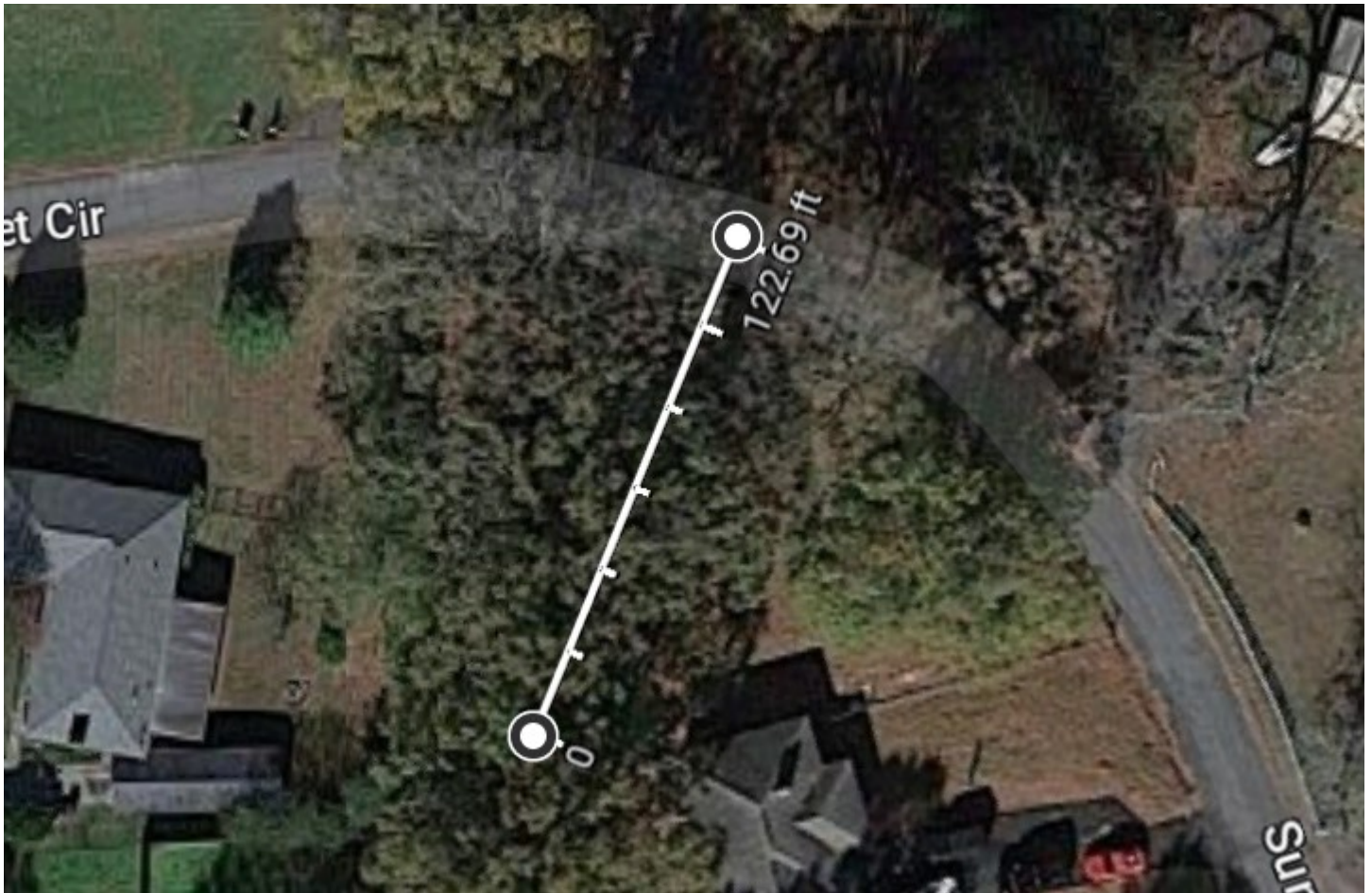
There are no known conditions.

Zack Arnold

From: Steven Foy
Sent: Thursday, August 3, 2023 10:39 AM
To: Zack Arnold
Cc: Amrie Lisse; Brent Beck; Chad Prater; Charlie Waits; Clifton Blalock; David Hardegree; Derek Hampton; Eric Williams; Jason Amerson; Jason Hubbard; Lynn Gayton; Mark Hathaway; Michael De Leon; Steven Foy; Steven Grier; Todd Jessee; Tommy Rozier; Wade Wilson; Greg Thacker; Jacob O'Bryant; Jason Hubbard; Michael Dickson
Subject: FW: Reply to "V23-19 Variance Request - 8 Sunset Circle"
Attachments: 1.jpg; Panel Removed.JPG; 3.jpg; Application.pdf; 2.jpg

Good morning,

CPW takes exception the privacy fence as proposed due to the American Association of State Highway and Transportation Officials (AASHTO) standard minimum stopping sight distance (SSD) for a 25 mph not being met with proposed variance. Below is a rough estimation of the Sunset Circle curve radius which is used to determine what the minimum horizontal sightline offset should be for Sunset Circle which is assumed to be a 25-mph road.



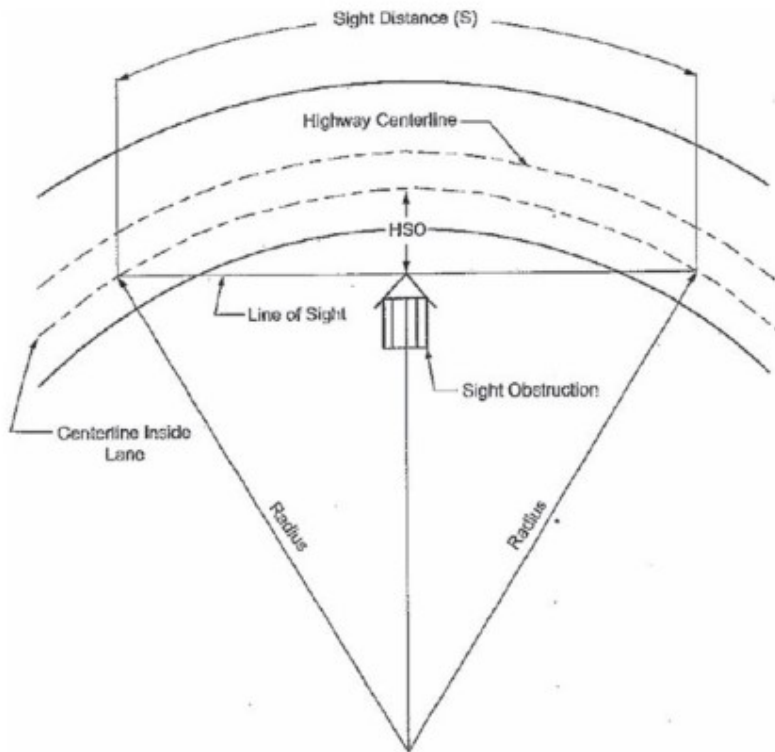


Figure 1. Diagram illustrating components for determining horizontal sight distance (AASHTO 2011).

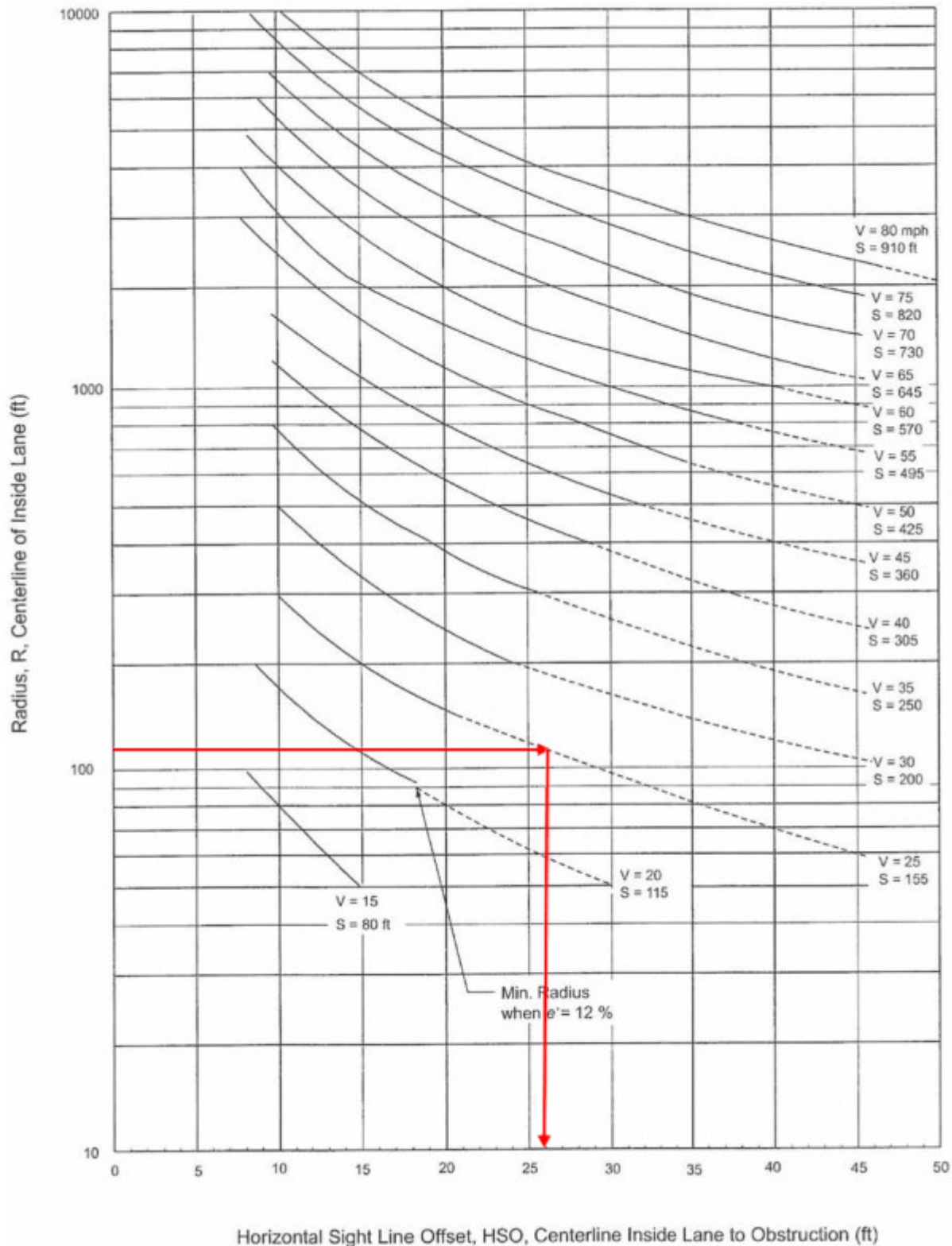
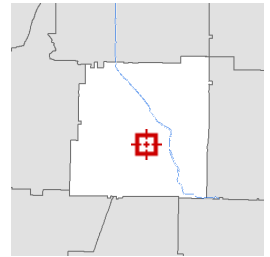


Figure 9. SSD on horizontal curves (AASHTO 2011).



According to the AASHTO chart above using approximately 120 feet as a rough estimate of the radius of the curve on Sunset Circle and a 25-mph design speed, the fence would need to be around 26 feet from the center of the inside lane on Sunset Circle. Currently the fence is much closer to the center of that inside lane of Sunset Circle. A lower chain link fence that can be seen through might work but we need to have at least 155 feet of stopping sight distance (SSD) on Sunset Circle for safety per national AASHTO standards.



Overview



Legend

-  Parcels
-  Roads

Date created: 8/24/2023
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GEOSPATIAL

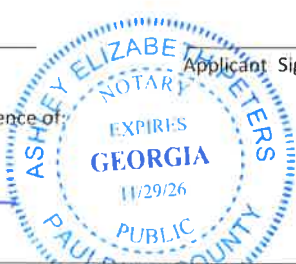
City of Cartersville
Application for Variance
Board of Zoning Appeals

Hearing Date: 9-14-2023 5:30pm

Application Number: V23-19

Date Received: 7-14-2023

Applicant Carlos Stephenson Office Phone _____
(printed name)
Address 8 Sunset Circle Mobile/ Other Phone 470-452-9178
City Cartersville State GA Zip 30120 Email Carlos.Stephenson@rocketmail.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: 11/29/26
Notary Public _____



* Titleholder BENJAMIN STEPHENSON Phone (770) 882-8527
(titleholder's printed name)
Address 8 Sunset Circle Email _____
Signature Benjamin Stephenson
Signed, sealed, delivered in presence of: _____ My commission expires: 11/29/26
Notary Public _____



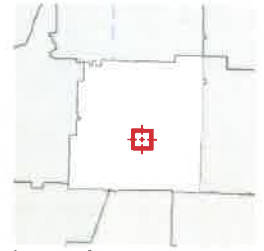
Present Zoning District R-15 Parcel ID No. C029-0002-008
Acreage .78 Land Lot(s) 266 District(s) 4 Section(s) 3
Location of Property: 8 sunset circle
(street address, nearest intersections, etc.)
Zoning Section(s) for which a variance is being requested: Sec. 4.16
Summary Description of Variance Request: Privacy fence in front yard

(Additional detail can be provided on Justification Letter)

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



Overview



Legend

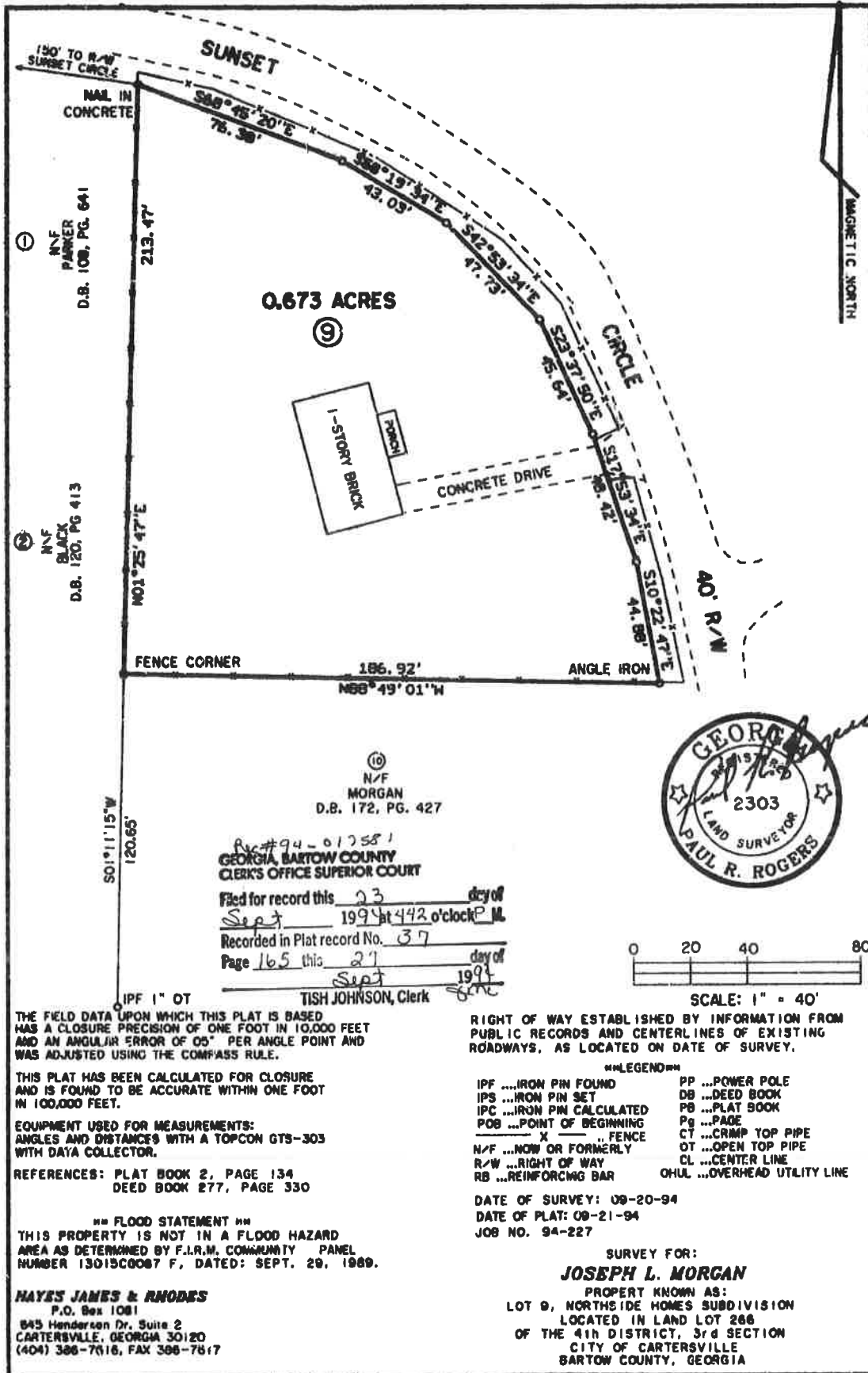
- Parcels
- Roads

Parcel ID	C029-0002-008	Alternate ID	35444	Owner Address	STEPHENSON BENJAMIN
Sec/Twp/Rng	n/a	Class	Residential		8 SUNSET CIR
Property Address	8 SUNSET CR	Acreage	0.78		CARTERSVILLE, GA 30120
District	Cartersville				
Brief Tax Description	LL266 LD4 LT 9 Northside				

(Note: Not to be used on legal documents)

Date created: 7/12/2023
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130' TO R/W
SUNSET CIRCLE

NAIL IN
CONCRETE

①
N/F
PARKER
D.B. 109, PG. 641

②
N/F
BLACK
D.B. 120, PG 413

213.47'

NO1°25'47"E

0.673 ACRES



CONCRETE DRIVE

FENCE CORNER 186.92'

ANGLE IRON

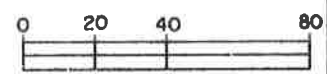
NO8°49'01"W

40' R/W

⑩
N/F
MORGAN
D.B. 172, PG. 427

FILE # 94-017581
GEORGIA, BARTOW COUNTY
CLERK'S OFFICE SUPERIOR COURT

Filed for record this 23 day of
Sept 1994 at 4:42 o'clock P.M.
Recorded in Plat record No. 37
Page 165 this 27 day of
Sept 1994
TISH JOHNSON, Clerk



SCALE: 1" = 40'

THE FIELD DATA UPON WHICH THIS PLAT IS BASED
HAS A CLOSURE PRECISION OF ONE FOOT IN 10,000 FEET
AND AN ANGULAR ERROR OF 05" PER ANGLE POINT AND
WAS ADJUSTED USING THE COMPASS RULE.

THIS PLAT HAS BEEN CALCULATED FOR CLOSURE
AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT
IN 100,000 FEET.

EQUIPMENT USED FOR MEASUREMENTS:
ANGLES AND DISTANCES WITH A TOPCON GTS-303
WITH DATA COLLECTOR.

REFERENCES: PLAT BOOK 2, PAGE 134
DEED BOOK 277, PAGE 330

== FLOOD STATEMENT ==
THIS PROPERTY IS NOT IN A FLOOD HAZARD
AREA AS DETERMINED BY F.I.R.M. COMMUNITY PANEL
NUMBER 13019C0087 F, DATED: SEPT. 29, 1989.

HAYES JAMES & RHODES
P.O. Box 1081
845 Henderson Dr. Suite 2
CARTERSVILLE, GEORGIA 30120
(404) 386-7416, FAX 386-7817

RIGHT OF WAY ESTABLISHED BY INFORMATION FROM
PUBLIC RECORDS AND CENTERLINES OF EXISTING
ROADWAYS, AS LOCATED ON DATE OF SURVEY.

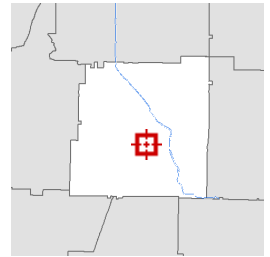
- ==LEGEND==
- IPF ...IRON PIN FOUND
 - IPS ...IRON PIN SET
 - IPC ...IRON PIN CALCULATED
 - POB ...POINT OF BEGINNING
 - N/F ...NOW OR FORMERLY
 - R/W ...RIGHT OF WAY
 - RB ...REINFORCING BAR
 - PP ...POWER POLE
 - DB ...DEED BOOK
 - PB ...PLAT BOOK
 - Pg ...PAGE
 - CT ...CRIMP TOP PIPE
 - OT ...OPEN TOP PIPE
 - CL ...CENTER LINE
 - OHUL ...OVERHEAD UTILITY LINE

DATE OF SURVEY: 09-20-94
DATE OF PLAT: 09-21-94
JOB NO. 94-227



SURVEY FOR:
JOSEPH L. MORGAN
PROPERTY KNOWN AS:
LOT 9, NORTHSIDE HOMES SUBDIVISION
LOCATED IN LAND LOT 286
OF THE 4TH DISTRICT, 3rd SECTION
CITY OF CARTERSVILLE
BARTOW COUNTY, GEORGIA



Overview



Legend

-  Parcels
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7/7/23, 1:32 PM
8 Sunset Cir



7/7/23, 1:30 PM
8 Sunset Cir



7/7/23, 1:30 PM
8 Sunset Cir



Jul 19, 2023 at 10:03:54 AM
8 Sunset Cir
Cartersville GA 30120



Image Taken 8-11-23

