



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: August 17, 2023
Re: File # V23-18

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

Section 1: Project Summary

Variance application by applicant, Edwin Bonayan, for property located at 12 Aspen Lane, zoned P-D Residential. Setbacks are Front- 20ft, Rear- 20ft and Side- 5ft. Said property contains approximately 0.25 acres. The lot is a corner lot with road frontages along Aspen Ln., and Ashwood Dr.

The applicant proposes to build a privacy fence to enclose the west and south sides of the property that include the front yard along Ashwood Dr. Right-of-Way. The fence ordinance for corner 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 rear of the house, but in the front yard along Ashwood Dr. This property does have a 20 ft. storm line easement on the eastern boundary. The Stormwater Department does support the fence installation location provided gates are installed and they retain 24/7 access to the underground storm pipe and associated detention pond to the north of the property.

The variance request is for the following:

1. To allow an 6ft. privacy fence to be installed in the front yard of a corner 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: The additional double gates shown do satisfy the PW requirements.

Water Department: Not in service area.

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. *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 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.

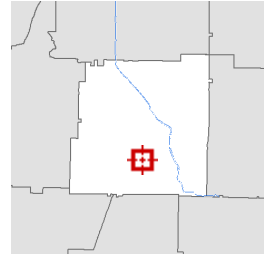
8. *Whether the zoning proposal will result in a use which will or could adversely affect the environment, including but not limited to drainage, wetlands, groundwater recharge areas, endangered wildlife habitats, soil erosion and sedimentation, floodplain, air quality, and water quality and quantity.*
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.*
The proposed variance will not increase the burden to streets, transportation, or utilities. A double gate will be required for 24/7 access to the detention pond.



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.



Overview



Legend

-  Parcels
-  Roads

Parcel ID	C125-0001-387	Alternate ID	42307	Owner Address	MATTHEWS JOHNATHON E O'ROURKE-MATTHEWS KATHLEEN M 833 FRANK KIRK RD NW KENNESAW, GA 30152
Sec/Twp/Rng	n/a	Class	Residential		
Property Address	12 ASPEN LN	Acreage	0.25		
District	Cartersville				
Brief Tax Description	LT J1387 CARTER GROVE S/D PH I S J <i>(Note: Not to be used on legal documents)</i>				

Date created: 7/31/2023
Last Data Uploaded: 7/28/2023 9:03:38 PM

City of Cartersville
Application for Variance
Board of Zoning Appeals


Hearing Date: Sept. 14 5:30pm

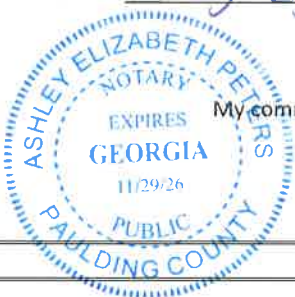
Application Number: VZ3-18

Date Received: 6-28-2023

Applicant <u>Edwin Bonayan</u> <small>(printed name)</small>	Office Phone _____
Address <u>12 Aspen LN SE</u>	Mobile/ Other Phone <u>608-395-4600</u>
City <u>Cartersville</u> State <u>GA</u> Zip <u>30120</u> Email <u>abonayan@gmail.com</u>	
Representative's printed name (if other than applicant) _____	Phone (Rep) _____
	Email (Rep) _____
Representative Signature _____	Applicant Signature _____
Signed, sealed and delivered in presence of:  Notary Public	My commission expires: <u>11/29/26</u>



* Titleholder <u>Edwin Bonayan</u> <small>(titleholder's printed name)</small>	Phone <u>608-395-4600</u>
Address <u>12 Aspen LN SE</u>	Email <u>abonayan@gmail.com</u>
Signature _____	
Signed, sealed, delivered in presence of:  Notary Public	My commission expires: <u>11/29/26</u>



Present Zoning District <u>P-D</u>	Parcel ID No. <u>C125-0001-387</u>
Acreege <u>0.25</u> Land Lot(s) _____ District(s) <u>4</u> Section(s) <u>3</u>	
Location of Property: <u>12 Aspen LN SE, Cartersville GA 30120</u> <small>(street address, nearest intersections, etc.)</small>	
Zoning Section(s) for which a variance is being requested: <u>SEC. 4.16</u>	
Summary Description of Variance Request: <u>fence in double frontage lot</u>	
<small>(Additional detail can be provided on Justification Letter)</small>	

* 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. The requested variance relief may be granted without substantially impairing the intent and purpose of this ordinance

Additional Comments by Applicant: _____



Image Taken 8-11-23

