



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: David Archer
Date: September 28, 2022
Re: File # V22-19

Summary: To allow a portion of a privacy fence to encroach into the front yard of a corner lot.

Section 1: Project Summary

Variance application by applicant Hudson and Co. Inc. for property located at 32 Cassville Rd, zoned R-20 Residential. Setbacks are Front- 20ft and Side- 10ft. Said property contains approximately 4.25 acres. The lot is a corner lot with road frontages along Charles St. and Cassville Rd.

The applicant proposes to build a privacy fence along the western property line to provide additional privacy to the rear of the home. The privacy fence will encroach approx. 100ft. into the Charles St. front yard, but will be no closer than 58ft. to the Charles St. ROW. See attached plan.

The HPC reviewed the encroachment at the September 20th meeting and approved the request with a condition that the privacy fence have pickets on both sides of the fence. See attached approval letter for case, COP22-17.

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

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

Section 2. Department Comments

Electric Department: Takes No Exception

Fibercom: No comments received

Fire Department: The Cartersville Fire Department takes no exception to this V22-19 as long we can gain firefighting access to the property. We asked that a gate key switch override be added at each gate. The gate key switch can be order from Knoxbox.com

Gas Department: Takes No Exception

Public Works Department: Takes No Exception.

Water Department:

WATER SERVICE COMMENTS:

This property is located in the City of Cartersville Water Department's water service area. The requested variance will have no affect on water service to this site , provided the fence is not located over the existing Cartersville Water Department water main. Also the fence has to be located so that the existing water meter does not end up inside the fenced area.

SEWER SERVICE COMMENTS:

This property is located in the City of Cartersville Water Department's sewer service area. The requested variance will have no affect on sewer service to this site.

Section 3. Public Comments Received by Staff

9/28: Anonymous caller. General Inquiry.

Several email communications with adjacent owners opposing the decorative perimeter fence, but not the privacy fence.

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.*



Cartersville Historic Preservation Commission
10 N. Public Square
P.O. Box 1390
Cartersville, Georgia 30120

September 23, 2022

Hudson & Company, Inc.
PO Box 367
Cartersville, GA 30120

RE: COP22-17. 32 Cassville Rd. Hearing Results Letter.

Mr. Hudson,

This letter confirms the outcome of your Certificate of Preservation (COP) application to the Cartersville Historic Preservation Commission (HPC) for property located at 32 Cassville Rd. On September 20th, 2022 the HPC **approved with a condition** the following task item per the HPC Application:

1. Allow a 6ft privacy fence, approximately 100ft. in length, to extend into the front yard near Charles St with a condition that the privacy fence have pickets on both sides.

If you modify or make additions to the approved scope of work, you must reapply to the Historic Preservation Commission and receive approval before continuing the project.

A variance is also required for the privacy fence. The variance, V22-19, will be reviewed by the Board of Zoning Appeals on Oct. 13th at 5:30pm.

On September 20th, 2022 the HPC **denied** the following per the HPC Application:

1. Remove the existing condition on the property originating from COP20-32 that prohibits the addition of a fence around the perimeter of the property.

You may appeal this decision to City Council within 30 days of the hearing date. Contact me for instructions.

If you have any questions, please contact me directly or by calling the City of Cartersville Planning Department at 770-387-5600.

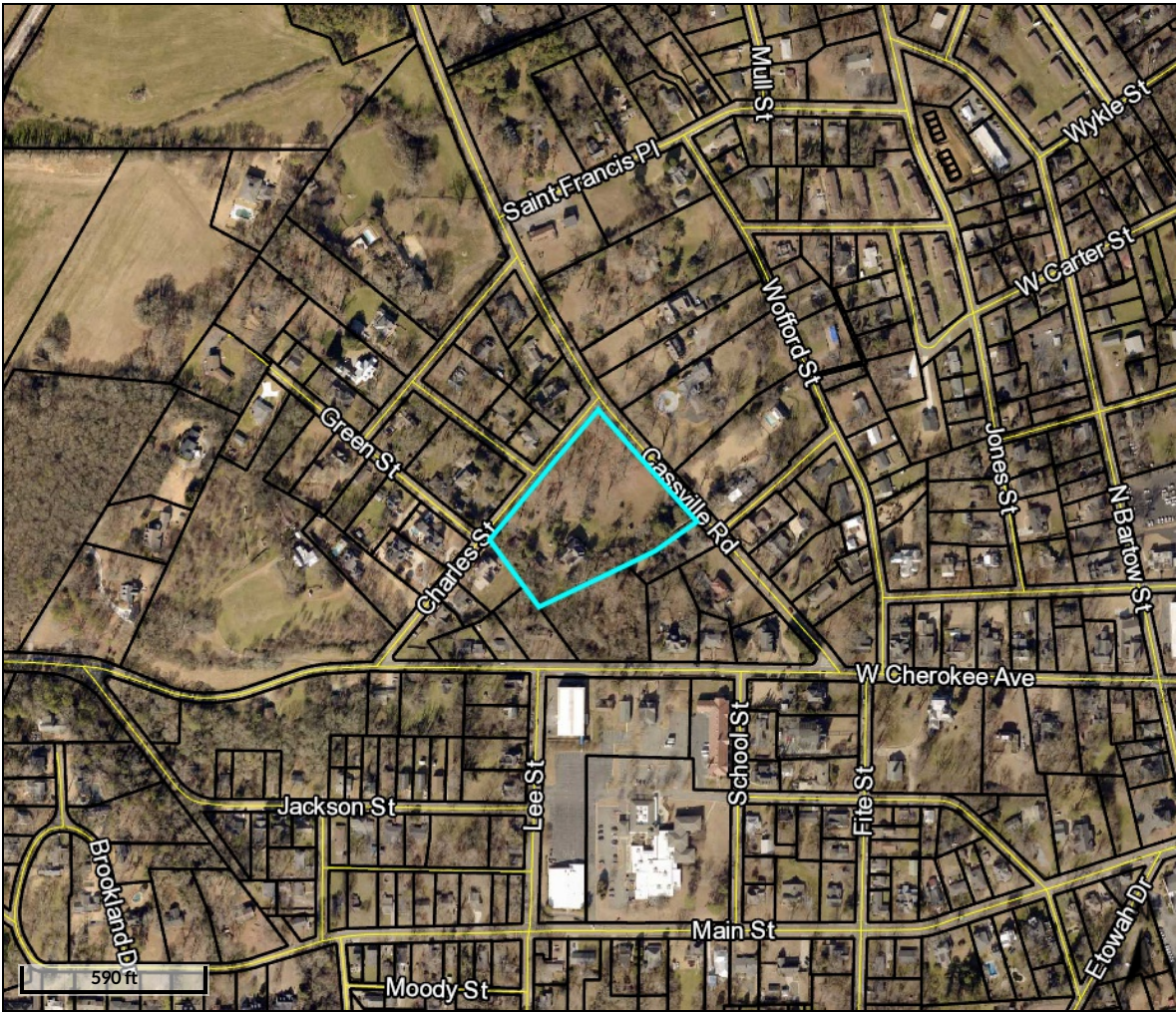
Sincerely,

David Hardegree, AICP

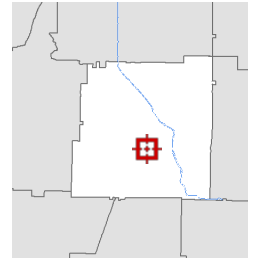
City Planner

O: 770-387-5614

dhardegree@cityofcartersville.org



Overview



Legend

-  Parcels
-  Roads

Parcel ID	C002-0016-007	Alternate ID	32251	Owner Address	EVANS CALVIN H & TAMMY
Sec/Twp/Rng	n/a	Class	Residential		PO BOX 1505
Property Address	32 CASSVILLE RD	Acreeage	4.25		CARTERSVILLE, GA 30120
District	Cartersville				
Brief Tax Description	LL452-3 LD4				

(Note: Not to be used on legal documents)

Date created: 9/27/2022
 Last Data Uploaded: 9/26/2022 10:55:45 PM

Developed by  Schneider
 GEOSPATIAL

City of Cartersville
Application for Variance
Board of Zoning Appeals

Hearing Date: 10-13-2022 5:30pm

Application Number: V22-19

Date Received: 8-29-2022

Applicant Hudson & Company, Inc Office Phone 770-383-9200
(printed name)
 Address PO Box 367 Mobile/ Other Phone 770-480-1598
 City Cartersville State GA Zip 30120 Email john@hudsoncompanyga.com
JOHN B HUDSON Phone (Rep) 770-480-1598
 Representative's printed name (if other than applicant) Email (Rep) john@hudsoncompanyga.com
 Representative Signature _____ Applicant Signature _____
 Signed, sealed and delivered in presence of: _____ My commission expires: _____
 Notary Public Jeanita Strain



* Titleholder CALVIN & TAMMY EVANS Phone 770-382-5064
(titleholder's printed name)
 Address PO BOX 1505 Email calvin@augsburginvestments.com
 Signature _____
 Signed, sealed, delivered in presence of: _____ My commission expires: _____
 Notary Public Jeanita Strain



Present Zoning District R-20
 Acreage 4.25 Land Lot(s) 452-3 District(s) _____ Section(s) _____
 Location of Property: 32 CASSVILLE ROAD
(street address, nearest intersections, etc.)
 Zoning Section(s) for which a variance is being requested: _____
 Summary Description of Variance Request: TO ALLOW 6' PRIVACY FENCE TO ENCROACH INTO FRONT YARD
(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 4.16 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: PROPERTY IS A CORNER LOT AND AS SUCH ZONING
LANGAUGE DOES NOT ALLOW FOR PRIVCAY FENCES TO BE PLACE IN "FRONT YARD".
WE ARE ASKING FOR A VARIANCE TO ALLOW FOR A PORTION OF 6' PRIVACY FENCE TO
BE INSTALLED INTO THE FRONT YARD ON THE WESTERN LINE OF THE PROPERTY
THE PRIVACY FENCE WILL BE NO NEARER THAN APPROX. 58' FROM PROPERTY CORNER
AT CHARLES ST.

**REQUIREMENTS FOR FILING
AN APPLICATION FOR ZONING VARIANCE
CITY OF CARTERSVILLE, GA**

Completed applications must be submitted to the City of Cartersville Planning & Development Department, located at 10 N. Public Square, 2nd Floor. Cartersville, GA 30120.

Requirements

- ✓ 1. **Completed Application:** Include all signatures. If multiple owners are involved in the Variance petition, each owner must fill out an individual application, though only a single filing fee is required per property. The application and all associated documents must be submitted no later than the established filing deadline date. Associated documents should include or demonstrate:
 - a. Existing conditions
 - b. Proposed conditions or project
- ✓ 2. **Boundary Survey/Plat:** Include a copy of the boundary survey/plat which shall include the metes and bounds description. Please indicate property lines with dimensions, location of buildings and other structures, north arrow, scale, street numbers, lot and/or parcel numbers, and locations of setback lines or other dimensional requirements.
- ✓ 3. **Conditions Verification Form:** Complete the Conditions Verification form (attached).
4. **Justification Letter:** Submit a statement explaining the reason(s) the variance is needed.
5. **Adjacent Property Owners:** Provide a list of all current owners of record for properties located immediately adjacent to or directly across a public street or railroad right-of-way from the subject property. (Form attached). See also Item 7 below. *City to mail*
6. **Filing Fee:** If the variance is for a residential property and the applicant is the owner-occupier of said property: \$75
For all other cases: \$300
All fees are non-refundable.
7. **Public Notice Fee (Optional):** The applicant may choose to have city staff prepare and manage the public notification process outlined in **item 8** below. If this option is requested, there is an additional, non-refundable fee of \$50.00 which covers the cost of the newspaper ad, and the costs of printing, printing supplies, postage and proof of mailing.

Justification Letter

6' Privacy Fence encroachment into Front yard

**32 Cassville Road
Cartersville, GA 30120**

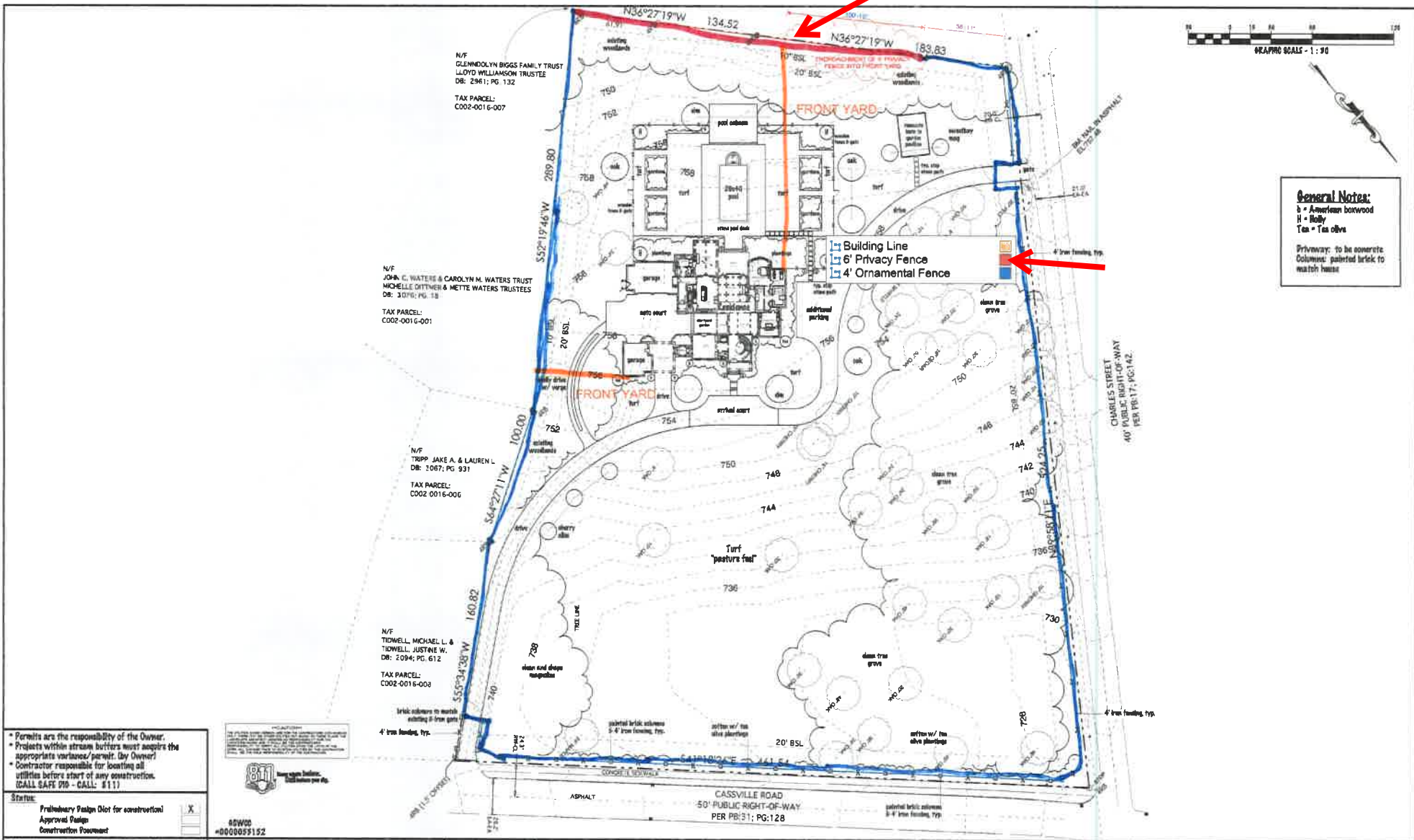
We are seeking relief from Article IV Section 4.16 Subsection B of the adopted zoning ordinance for the City of Cartersville.

This section does not allow opaque privacy fences to be placed in the front yard of a property.

We feel our varaince to allow encroachment of a 6' privacy fence is justified based on the fact that this lot has multiple road frontges and thus has no side yard. We belive that the proposed placment of this 6' privacy fence meets the intent of the Zoning ordinance

Respcectfully


John B Hudson
8/29/2022



General Notes:
 b = American boxwood
 H = Holly
 T = Tax olive
 Priveway: to be concrete
 Columns: painted brick to match house

• Permits are the responsibility of the Owner.
 • Projects within stream buffers must acquire the appropriate variances/permit. (by Owner)
 • Contractor responsible for locating all utilities before start of any construction. (CALL SAFE PD - CALL: #111)

Status: Preliminary Design (not for construction) X
 Approval Design
 Construction Document

This drawing, as a guide for service, is and will remain the property of the Landscape Architect. This document shall not be reproduced, published or used without the permission of the Landscape Architect. The Contractor is responsible for verification of all dimensions and existing conditions at this site before proceeding with all phases of his work. E. Graham Pittman is not responsible for any structures or landscaping. This plan is for conceptual purposes only. It is the Contractor's responsibility to verify structures & layout with an Engineer or Consultant.
 All Federal, State, Local Codes, Ordinances, Regulations, Etc. shall be considered as part of considerations for this drawing and shall take precedence over anything shown, described or implied where there are a variance.

811
 Call before you dig.
 800.485.5844

40W00
 #000059152

Drawing Dates:
 11.18.2020
 02.25.22

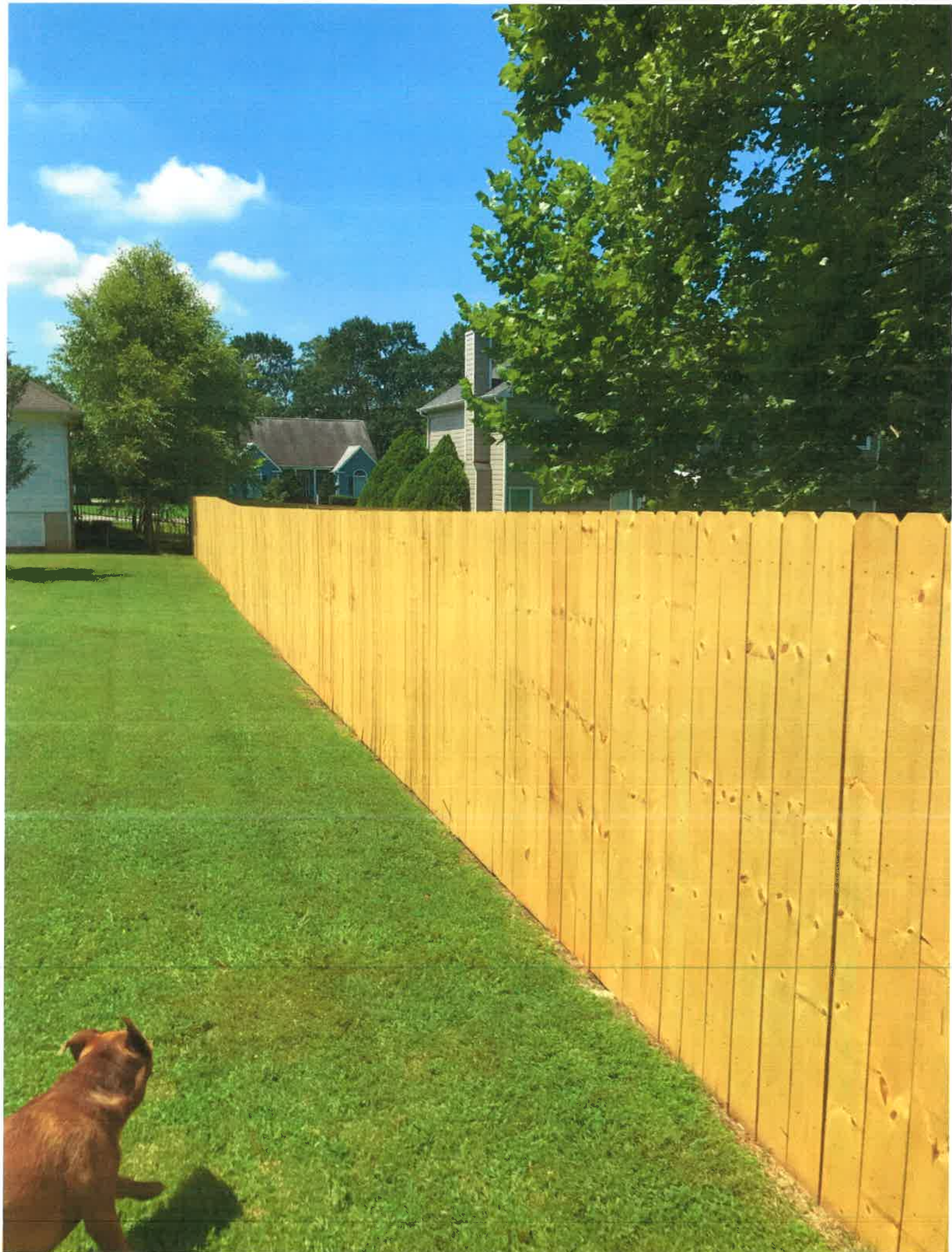
Scale: 1:50



E. Graham Pittman, BLA, RLA
 Landscape Architect
 email: graham.pittman@gmail.com
 1217 John Poughas Drive, SW - Marietta, Georgia 30084 - Office/Mb: 770.480.9814

Calvin & Tammy Evans Residence
 92 Cassville Road
 Cartersville, Georgia
 30120

Overall Site Plan
 L-1
 Evans - 92 Cassville Road, Cartersville Ga.



← Charles St Cartersville, Georgia

STOP 6' PRIVACY FENCE



Google Earth
© 2022 Google



Camera: 233 m

← 2 Charles St Cartersville, Georgia



STOP 6' PRIVACY FENCE



Google Earth
© 2022 Google



Camera: 233 m

Images Taken 9-27-22

