



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: May 21, 2024
Re: File # V24-15

Summary: To allow a 6ft tall chain link fence in the front yard of a double frontage lot.

Section 1: Project Summary

Variance application by applicant, 123 Tennessee, LLC, for property located at 123 N. Tennessee St, zoned M-U, Multiple-Use. Setbacks are Front- 10ft, Rear- 20ft and Side- 10ft. Said property contains approximately 0.78 acres. The lot is a double frontage lot with frontages along N. Tennessee St., and Howard St.

The applicant requests to construct a 6ft. tall chain link fence to enclose the property to the north and east of the business along a section of the Howard St. right-of-way. The fence ordinance, Sec. 4.16, requires fences installed in a front yard to be less than 4ft tall. Sec. 4.16. also requires all request for chain link installation in a front yard go before the Board of Zoning Appeals.

The variance request is for the following:

1. To allow a 6ft. tall fence to in the front yard of a double frontage lot (Sec. 4.16).
2. To allow chain link fence to be installed in a front yard (Sec. 4.16).

Section 2. Department Comments

Electric Department: No comments received.

Fibercom: Cartersville FiberCom takes no exception to a fence being installed at 123 N Tennessee Street, but we will need it set back at least 4 feet from the existing utility poles along the North property line for us to safely access the utility poles or we will need gated access for a bucket truck to access the utility poles.

Fire Department: CFD takes no exceptions to the request provided that no fire hydrants are obstructed by the fencing. A minimum of 36” of clearance is required around all fire hydrants in order to allow for full operation. All other adopted city ordinances and codes should be followed.

Gas Department:

1. A natural gas main exists along the southern right-of-way of Howard Street serving 123 North Tennessee Street. The Gas System takes no exception provided the proposed fence presuming to be shown in the color “blue” in the attachment is to be constructed a minimum of 5’ from the existing natural gas main.

2. A natural gas service line and natural gas meter serving 123 North Tennessee Street will be within the limits of the proposed fence presuming to be shown in the color “blue” in the attachment. The Gas System takes no exception provided a proposed double 6’ swing gate is to be provided for equipment and personnel access to the existing natural gas facilities and the proposed swing gate is to be interlocked with a chain and a Gas System provided lock. The property owner shall contact the Gas System at 770.387.5642 to request interlocking of the proposed swing gate. The Gas System takes no further exception provided the proposed fence is in no way to be constructed over the existing natural gas service line serving 123 North Tennessee Street and a minimum of 5’ of separation is maintained from the existing natural gas service line. At the request of the property owner, the existing natural gas service line and/or meter can be relocated outside of the limits of the proposed fence at the property owner’s expense.

Public Works Department: Takes no exception.

Water Department: CWD takes the following exception:

The fence on Howard Street side will need to be 10 feet from the property line to remain outside of the sewer easement.

Section 3. Public Comments Received by Staff

None received as of 5/21/2024.

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.


City of Cartersville
Application for Variance
Board of Zoning Appeals

Hearing Date: 6/13/24 5:30pm

Application Number: V2415

Date Received: 4-23-24

Applicant 123 Tennessee LLC Office Phone 770 386 0040
(printed name)
Address 1 North Tennessee St Mobile/ Other Phone _____
City Cartersville State GA Zip 30120 Email beth.tilley@bellsouth.net
Guy Taff Phone (Rep) _____
Representative's printed name (if other than applicant)
Email (Rep) _____
w Guy T Representative Signature Applicant Signature
Signed, sealed and delivered in presence of: My commission expires: 1/22/26
Nancy B. Pollock Notary Public



* Titleholder 123 Tennessee LLC Phone 770 386 0040
(titleholder's printed name)
Address 1 North Tennessee St. Email beth.tilley@bellsouth.net
Signature B. Tilley
Signed, sealed, delivered in presence of: My commission expires: 1/22/26
Nancy B. Pollock Notary Public



Present Zoning District M-U Parcel ID No. C004-0005-006
Acreage .78 Land Lot(s) 409 District(s) 4 Section(s) 3
Location of Property: 123 N. Tennessee Street
(street address, nearest intersections, etc.)
Zoning Section(s) for which a variance is being requested: Chapter 26, Article IV, Sec 4.116, B2, B3
Summary Description of Variance Request: See attached letter

(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. 2.#3.
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: See attached letter.

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NOTE: THIS PLAT IS NOT VALID FOR RECORDING PURPOSES UNLESS SURVEYOR'S SIGNATURE APPEARS IN ORIGINAL BLACK INK OVER THE EMBOSSED SEAL.

© Latest Date Hereon

IN MY OPINION THIS PLAT IS A CORRECT REPRESENTATION OF THE LAND SURVEYED AND HAS BEEN PREPARED IN CONFORMITY WITH MINIMUM TECHNICAL STANDARDS AND REQUIREMENTS OF LAW.

STEVEN B. PROVENSON
GEORGIA R.L.S. #2852

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PLAT ABBREVIATIONS

IFF - IRON PIN FOUND
IPS - IRON PIN SET
BK - BOOK
PG - PAGE
PB - PLAT BOOK
MF - NOW or FORMERLY

SURVEY NOTES

THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A CURRENT TITLE INSPECTION REPORT. ENCUMBRANCES OR OTHER ENCUMBRANCES MAY EXIST IN THE PUBLIC RECORD BUT NOT SHOWN.

THE LOCATION OF UNDERGROUND UTILITIES SHOWN IS BASED ON SURFACE EVIDENCE AND CERTIFICATION IS MADE AS TO THE ACCURACY OR TRULIENESS OF THE UNDERGROUND UTILITIES SHOWN. AS PER GEORGIA LAW, THE UNDERGROUND UTILITIES PROTECTION SERVICE MUST BE CALLED PRIOR TO THE COMMENCEMENT OF ANY AND ALL EARTH DISTURBING ACTIVITIES.

THE FIELD DATA UPON WHICH THIS PLAT IS BASED WAS OBTAINED BY AN ANGULAR ERROR OF ONE PER ANGLE POINT AND A PRECISION OF 1 FOOT IN 10,000 FEET AND WAS ADJUSTED BY THE COMPASS RULE.

THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 1,000 FEET.

LINEAR AND ANGULAR MEASUREMENTS OBTAINED USING TOPOGON INSTRUMENT.

FIELD WORK COMPLETED 28 MAY, 2007.

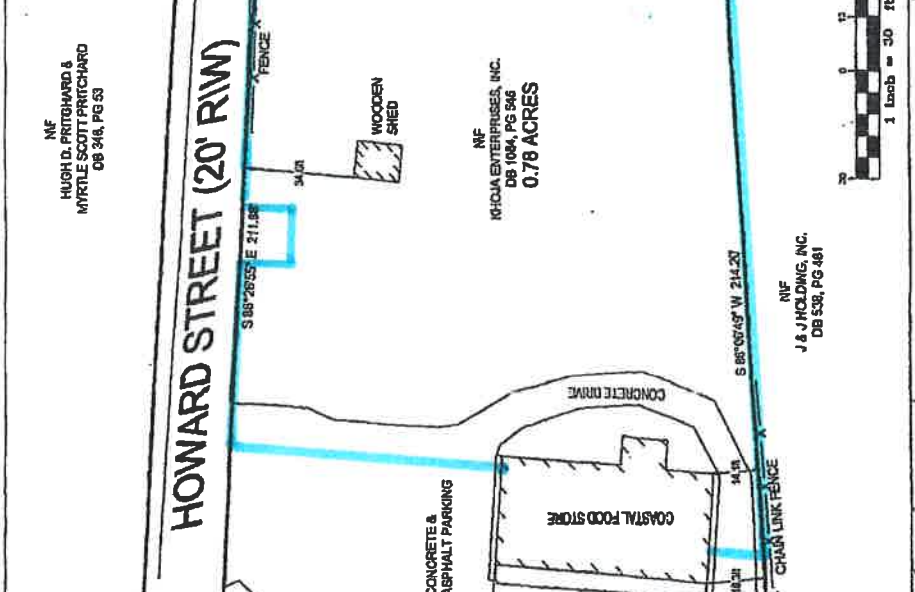
REFERENCE 06-072

ALL MATTERS OF TITLE ARE EXCEPTED

LEGEND

THESE STANDARD SYMBOLS WILL BE FOUND IN THIS DRAWING

GUY WIRE
 POWER POLE
 IRON PIN FOUND
 FENCE



BOUNDARY SURVEY FOR

LAND LOT 409
4th DISTRICT & SECTION
BARTOW COUNTY
CITY OF CARTERSVILLE, GEORGIA

Eagle Surveying, Inc.
59 Ferguson Drive
Euharrie, Georgia 30145
Phone (770) 607-9539 Fax (770) 607-9777

EHANI SABZULI

PLAY ABBREVIATIONS

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IPS - IRON PIN SET
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DIG SAFELY
UNIVERSITY MICROFILMS INTERNATIONAL
1-800-282-7411
www.digsafely.com

SHEET NUMBER
OF 1

DATE 27 MAY 2007

DRAWING
COAS

FIELD BY SP

DRAWN BY SP

CHECKED BY SP

JOB NUMBER 07-207

COORD FILE 07-208

April 23, 2024

Justification Letter

We are requesting approval to allow a chain-link fence along the front of our property which abuts Howard Street as shown on the description of the property that we have included in this application.

We are also asking to increase the height of said fence to six (6) feet.

The purpose of this request is so that we may better secure the subject property.

We have had continuous and ongoing problems with unauthorized parking and trespassing on the property, and by fencing the property we will be able stop this activity from occurring and reduce our liability.

Thank you.



Beth L. Tilley

May 22, 2024 at 13:57:26
203 N Tennessee St
Cartersville GA 30120
United States



May 22, 2024 at 13:57:36
203 N Tennessee St
Cartersville GA 30120
United States



May 22, 2024 at 13:57:44
203 N Tennessee St
Cartersville GA 30120
United States

