



# City of Cartersville

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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: November 28, 2023  
Re: File # V23-31

**Summary: To reduce the side yard setback for construction of house addition/outdoor patio.**

### **Section 1: Project Summary**

Variance application by owner/applicant Susie Gazaway for property located at 709 S. Bartow St., zoned R-20 Residential. Setbacks are Front and Rear- 20ft and Side- 10ft. Said property contains approximately 0.37 acres.

The applicant has partially constructed an outdoor patio with a roof as an addition to the home in the side yard. The addition is approximately 16x16. This addition encroaches approximately 8.5ft into the side yard setback. The zoning ordinance section, Sec. 6.1., for the R-20 zoning district requires a side yard setback of 10ft.

City Code Enforcement noticed this addition and contacted the homeowner on 9-25-2023. The homeowner was asked to discontinue work at this time. The existing construction was completed without applicable building permits. To finish construction in the current location the homeowner must receive a variance for setback encroachment as well as obtain all required building permits.

Variance case V19-05, approved on 4-22-2019, reduced the side yard setback on the property from 10ft to 2ft for the construction of an enclosed garage only. A variance is needed for this patio/ roof structure encroachment.

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

1. To reduce the side yard setback from 10ft to 2.5ft for construction of outdoor patio with a roof structure (Sec. 6.1.).

## **Section 2. Department Comments**

**Building Department:** The structure will have to have a one-hour fire rating to a point five feet from the property line.

**Electric Department:** Takes no exception.

**Fibercom:** Takes no exception.

**Fire Department:** CFD takes exception to the variance request for a covered patio at 709 S. Bartow St. This patio intrudes greatly into the side yard setback. The side setback helps to establish a minimum safe distance between properties in case of fire or collapse. Structures built too close could allow for a fire to travel between houses creating a risk to the neighboring property. All effort should be taken to maintain all minimum setbacks.

**Gas Department:** Takes no exception.

**Public Works Department:** No comments received.

**Water Department:** Takes no exception.

## **Section 3. Public Comments Received by Staff**

No public comment received as of 11-28-2023

## **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. 6.1. R-20 Single-family dwelling district.**

6.1.1. *R-20 district scope and intent.* Regulations set forth in this section are the R-20 district regulations. The R-20 district encompasses lands devoted to low density residential areas and closely related uses as further described in section 3.1.2 of this chapter.

6.1.2. *Use regulations.* Within the R-20 district, land and structures shall be used in accordance with standards herein. Any use not specifically designated as permitted shall be prohibited.

A. *Permitted uses.* Structures and land may be used for only the following purposes:

- Accessory buildings or uses.
- Accessory apartments (SU).\*
- Amateur radio transmitter.
- Amenities (as defined by this chapter).
- Bed and breakfast inn (SU).\*
- Clubs or lodges (noncommercial) (SU).\*
- College and universities.
- Day care facilities (SU).\*
- Family day care.
- Golf courses.
- Group homes (SU).\*
- Guest house.
- Home occupations.
- Parks, private.
- Personal care homes (SU).\*
- Places of assembly (SU).\*
- Public utility facilities.
- Religious institutions (SU).\*
- Schools, private (SU).\*
- Single-family detached dwellings.

\* Special use approval required.

6.1.3. *Development standards.*

A. *Height regulations.* Buildings shall not exceed a height of thirty-five (35) feet or two and one-half (2½) stories, whichever is higher.

B. *Front yard setback:* Twenty (20) feet.

- C. *Side yard setback*: Ten (10) feet.
- D. *Rear yard setback*: Twenty (20) feet.
- E. *Minimum lot area*: Twenty thousand (20,000) square feet.
- F. *Minimum lot width at the building line on noncul-de-sac lots*: One hundred (100) feet.
- G. *Minimum lot frontage*: Thirty-five (35) feet adjoining a street.
- H. *Minimum heated floor area*: One thousand three hundred (1,300) square feet.
- I. *Metal building exterior finish materials*. A metal panel exterior finish product shall not be allowed on metal buildings exceeding one hundred fifty (150) square feet in gross floor area constructed or placed on lots within the R-20 district.
- J. *Accessory use, building, and structure requirements*. [See section 4.9 of this chapter.]
- K. *Optional density bonus*. Proposed developments may contain lots with minimum areas of seventeen thousand (17,000) square feet if one (1) of the following items is met:
1. Submittal of an affidavit certifying that all units will meet certification standards of the EarthCraft House certification program or will be LEED certified homes.
  2. Submittal of an affidavit certifying that all units will be clad with exterior finishes of brick, stone, or hard-coat stucco on sixty-seven (67) percent or more of wall surfaces and one hundred (100) percent architectural roofing shingles.
  3. A donation of land to the City of Cartersville for one (1) of the following: community greenway facility including surface trails if directly accessible from the development, or a neighborhood park with public access. In either case, the minimum total area to be donated shall be ten (10) percent of the total acreage of the property. All legally necessary documents, including, but not limited to, a property deed to convey land to the City of Cartersville, shall be completed at time of approval of any final plats.
- [L. *Reserved*.]
- M. *Guest house*. In addition to standards required in this chapter, the following standards shall be met for a guest house:
1. No more than one (1) guest house structure per lot.
  2. A minimum lot size of fifteen thousand (15,000) square feet shall be required.
  3. A guest house shall be occupied by relatives, employees that work on the property, or guests only.
  4. Heated floor area shall not exceed fifty (50) percent of the heated floor area of the principal building.
  5. A guest house structure shall comply with the principal setbacks of the district.
  6. A guest house shall not be allowed in the front yard.
  7. A guest house shall not exceed the height of the principal building on the lot.

8. Requires owner-occupancy of the principal building on the lot.

6.1.4. *Other regulations.* The headings below contains additional, but not necessarily all, provisions applicable to uses allowed in the R-20 district.

- City of Cartersville Landscaping Ordinance.
- City of Cartersville Sign Ordinance.

### **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.

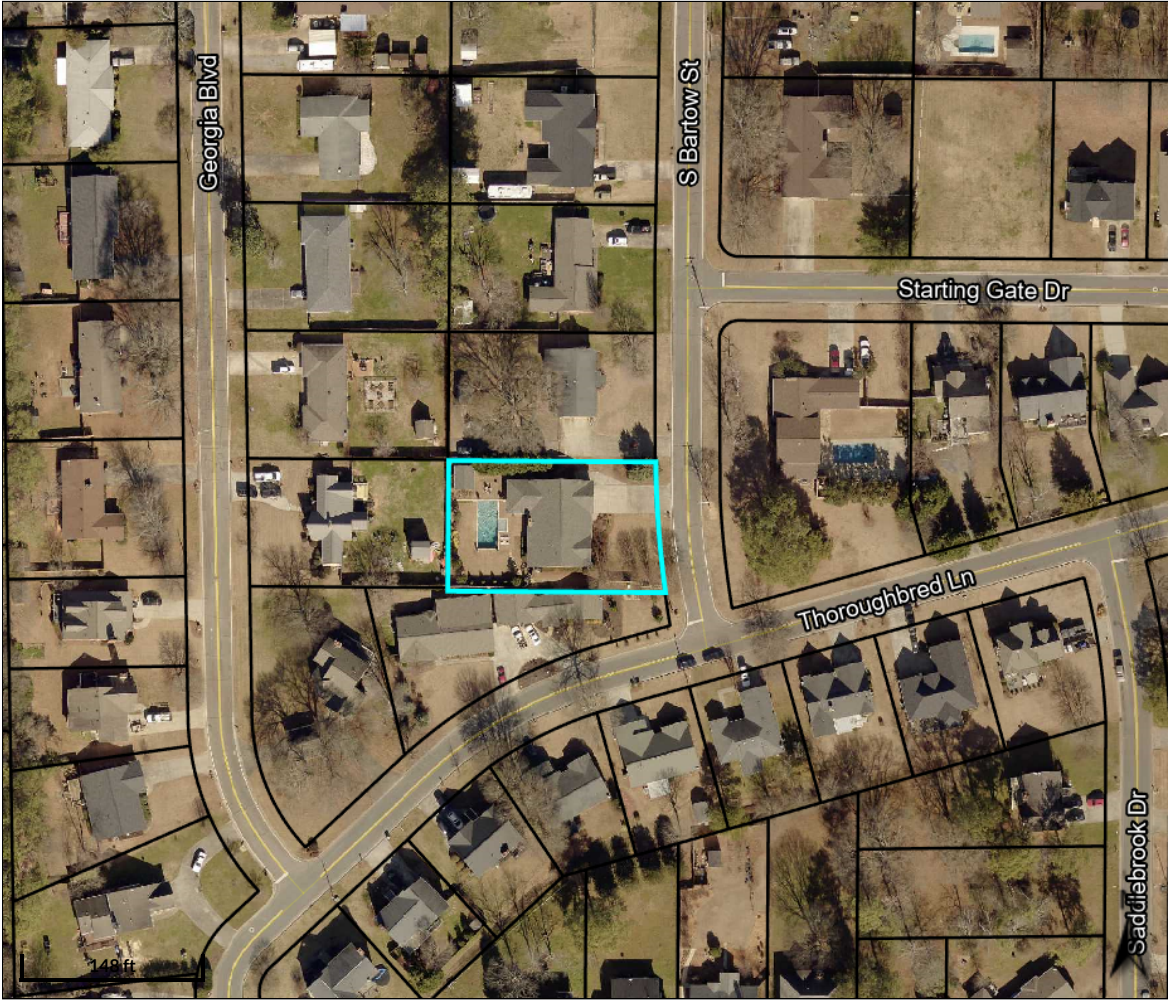
Sections 21.3.7, *Place of worship*, and 21.3.8, *Group homes*, omitted. *Not applicable.*

### **STANDARDS FOR EXERCISE OF ZONING POWERS.**

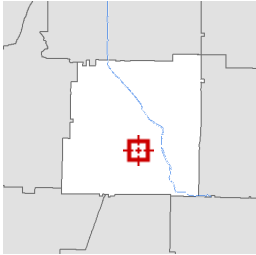
1. *The existing land uses and zoning of nearby property.*  
**The surrounding properties are zoned for residential and used for that purpose.**
2. *The suitability of the subject property for the zoned purposes.*  
**The property is suitable for the zoned purposes.**
3. *The relative gain to the public, 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 add an addition to the house.**

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. The fire department does have safety concerns about the structures proximity to the property line.**
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.*  
**It is possible that this project could adversely affect drainage to the adjacent property.**
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.*  
**This project will not affect utilities or local infrastructure.**
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

<b>Parcel ID</b>	C020-0003-044	<b>Alternate ID</b>	34639	<b>Owner Address</b>	GAZAWAY SUSIE H
<b>Sec/Twp/Rng</b>	n/a	<b>Class</b>	Residential		709 SOUTH BARTOW ST
<b>Property Address</b>	709 S BARTOW ST	<b>Acreage</b>	0.37		CARTERSVILLE, GA 30120
<b>District</b>	Cartersville				
<b>Brief Tax Description</b>	LL 598 D 4 LOT 36 TINSLEY PARK				
	<i>(Note: Not to be used on legal documents)</i>				

Date created: 12/6/2023  
 Last Data Uploaded: 12/5/2023 9:05:24 PM



**City of Cartersville**  
**Application for Variance**  
**Board of Zoning Appeals**

Hearing Date: 12-14-2023 5:30pm

Application Number: V23-31

Date Received: 9-25-2023

Applicant Jusie GAZAWAY Office Phone \_\_\_\_\_  
(printed name)  
 Address 709 S. BARTOW Mobile/ Other Phone \_\_\_\_\_  
 City CARTERSVILLE State GA Zip 30120 Email JusieGAZAWAY@AOL.COM  
 Phone (Rep) 770-387-8507  
 Representative's printed name (if other than applicant) \_\_\_\_\_  
 Email (Rep) \_\_\_\_\_  
 Representative Signature \_\_\_\_\_ Applicant Signature [Signature]  
 Signed, sealed and delivered in presence of: \_\_\_\_\_ My commission expires: 11/29/26  
 Notary Public [Signature]



\* Titleholder Jusie GAZAWAY Phone 770 387-8507  
(titleholder's printed name)  
 Address 709 S. BARTOW Email JusieGAZAWAY@AOL.COM  
 Signature [Signature]  
 Signed, sealed, delivered in presence of: \_\_\_\_\_ My commission expires: 11/29/26  
 Notary Public [Signature]



Present Zoning District R-20 Parcel ID No. C 020-0003-044  
 Acreage .137 Land Lot(s) 548 District(s) 4 Section(s) 3  
 Location of Property: 709 S. BARTOW ST.  
(street address, nearest intersections, etc.)  
 Zoning Section(s) for which a variance is being requested: \_\_\_\_\_  
 Summary Description of Variance Request: ADD 16x16 PAVILLION TO  
SIDE OF HOUSE  
(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 VI Section 61.3 Subsection C  
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.

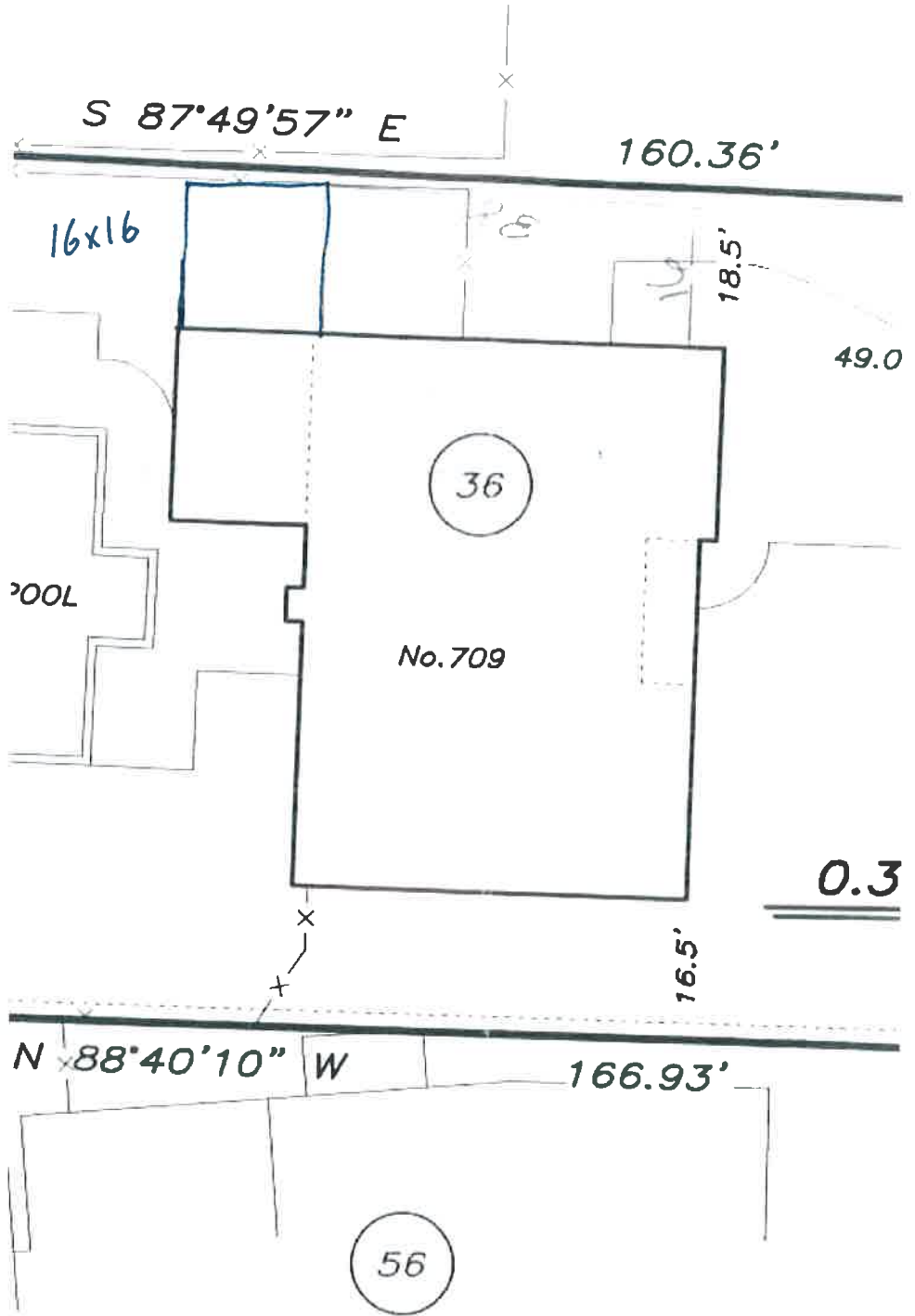
To assist staff and the Board of Zoning Appeals in the analysis of the variance application, please check all of the following conditions that apply to your variance request:

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: Approval for a 17x17  
Roof over concrete slab adjoining my fireplace

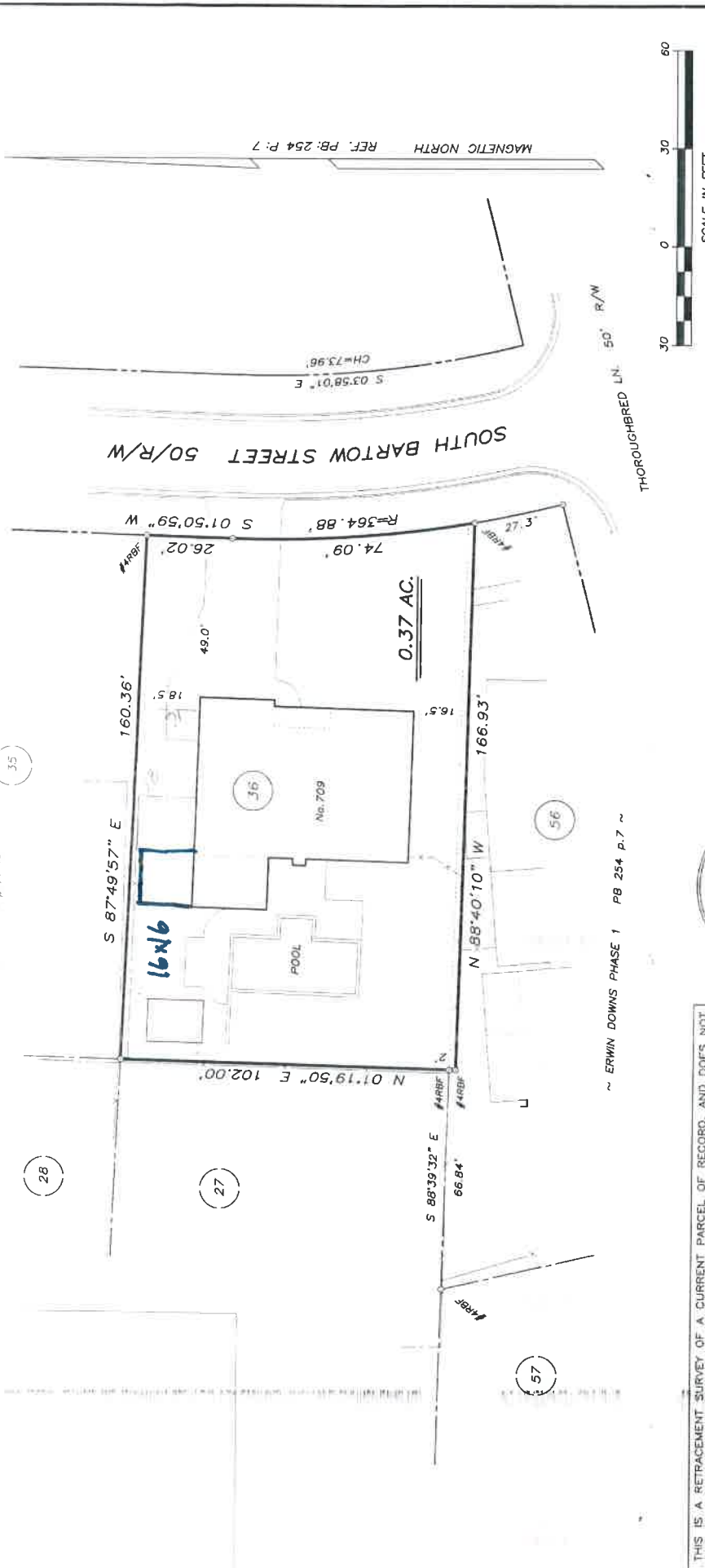
3 PB 7 p.11 ~

35



PHASE 1 PB 254 p.7 ~

TINSLEY PARK ESTATES SECTION 3 PB 2 p. 11 ~



BOUNDARY RETRACEMENT SURVEY FOR:

**MARK SMITH**

LOT 36 TINSLEY PARK ESTATES  
& PART OF  
LOT 56, ERWIN DOWNS, PHASE 1  
LOCATED IN L.L. 598  
4th DIST., 3rd SECT.,  
BARTOW COUNTY, GA.  
CITY OF CARTERSVILLE

DATE : 02-13-19  
SCALE : 1"=30'  
DRAWN BY : DTB  
CHECKED BY : MEB  
019\tinsley park\top36

**DANIEL BAKER, PC**  
**LAND SURVEYORS**

Post Office Box 2047  
CARTERSVILLE, GEORGIA 30120  
(770) 382-5999



THIS IS A RETRACEMENT SURVEY OF A CURRENT PARCEL OF RECORD, AND DOES NOT SUBDIVIDE OR REARANGE PARCELS OR MAKE ANY CHANGES TO ANY REAL PROPERTY BOUNDARIES. THE RECORDING OF THIS SURVEY DOES NOT IMPLY APPROVAL OF THIS PLAT OR THE RECORDING OF OTHER INSTRUMENTS CREATING THIS PARCEL OR THE RECORDING OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY JURISDICTION, AVAILABILITY, PERIOD OF COMPLIANCE WITH LOCAL REGULATIONS, REQUIREMENTS, OR SUITABILITY FOR ANY INTENDED USE OF THE PROPERTY. THE UNDERSIGNED CERTIFIES THAT THIS PLAT IS MADE IN ACCORDANCE WITH THE MINIMUM TECHNICAL STANDARDS, FOR LAND SURVEYS AS SET FORTH IN O.C.G.A. §15-16-17.

Georgia Land Surveyor Registration No. 2327  
Date 2019-02-13

THIS PLAT IS PREPARED FROM A FIELD SURVEY USING A FIVE SECOND DIGITAL THEODOLITE AND ELECTRONIC DISTANCE METER; LINEAR PRECISION OF TRAVERSE: 1/44,443 ; ANGULAR PRECISION: 05" yr. THE TRAVERSE WAS ADJUSTED USING THE COMPASS RULE. LINEAR PRECISION OF THIS PLAT: 1/67,829. MATTERS OF TITLE ARE EXCEPTED.

~ ERWIN DOWNS PHASE 1 PB 254 p. 7 ~

(28)

(27)

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Images Taken 11-13-23

