



# City of Cartersville

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## PLANNING AND DEVELOPMENT

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P.O. Box 1390 • 10 North Public Square • Cartersville, Georgia 30120  
Telephone: 770-387-5600 • Fax: 770-387-5605 • [www.cityofcartersville.org](http://www.cityofcartersville.org)

## MEMO

To: BZA  
From: Randy Mannino/David Hardegree/Zack Arnold  
CC: Keith Lovell  
Date: October 28, 2024  
Re: File # V24-26 19 Westover Rd.

**Summary: To allow a privacy fence in the front yard of a double frontage lot.**

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

Variance application by applicant, Stephan Koterski, for property located at 19 Westover Road, zoned P-D, Planned Development. Setbacks are Front- 20ft, Rear- 20ft and Side- 10ft. Said property contains approximately 0.24 acres. The lot is a double frontage lot with frontages along Westover Road and Doubletree Path.

The applicant wishes to construct a privacy fence to enclose the property to the rear of the home along a section of the Doubletree Path right-of-way. The fence ordinance, Sec. 4.16, requires privacy fences to be installed behind the front yard setback, less than 4ft tall, and non-opaque in a front yard.

It should be noted that this property has a 20' easement partially located on it (along the western property line), as shown on the attached plat. The easement extends 10' onto the property. It is against City Ordinance for any permanent structure, including fences, to be constructed in an easement. If approved, this variance does not allow for encroachment into any easement located on the property.

### **The variance request is for the following:**

1. To allow an 6ft. privacy fence to remain in the front yard of a double frontage lot (Sec. 4.16).

### **Section 2. Department Comments**

**Electric Department:** No comments received.

**Fibercom:** Takes no exception.

**Fire Department:** Takes no exception.

**Gas Department:** Takes no exception.

**Public Works Department:** The fence must be at least 17 feet from the curb (which is the right of way) and 10 feet from the rear property line for a drainage easement.

**Water Department:** Takes no exception.

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

None received as of 10/28/2024.

### **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. *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.

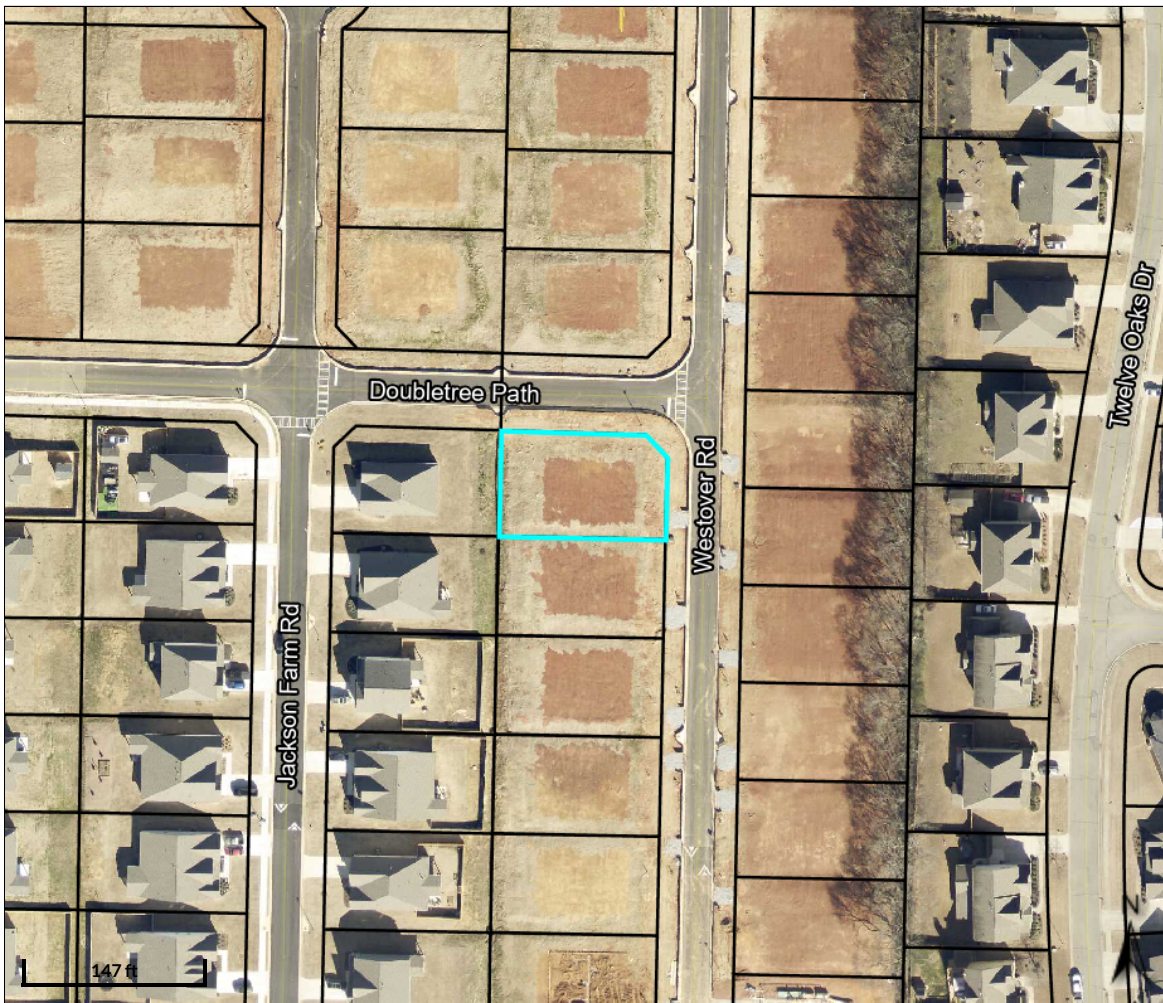
21.3.5. *Limitations on variances; improper variance requests.* Variances cannot be given to totally remove a requirement or to exempt a property or applicant entirely from a requirement. If a variance is being sought that is, in the judgment of the zoning administrator, a request that would constitute 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.

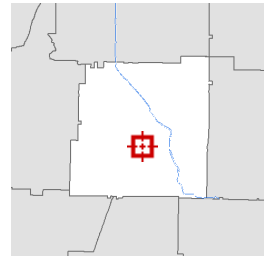
#### **STANDARDS FOR EXERCISE OF ZONING POWERS.**

- 1. *The existing land uses and zoning of nearby property.*  
**The surrounding properties are zoned residential.**



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.**
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. The fence may not be installed within the western drainage easement.**
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. The fence may not be installed within the western drainage easement.**
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.**
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** C025-0011-192  
**Sec/Twp/Rng** n/a  
**Property Address** 19 WESTOVER RD

**Alternate ID** 51887  
**Class** Residential  
**Acreage** 0.24

**Owner Address** KOTERSKI JR STEPHAN J A T L  
WOO MYUNG H  
19 WESTOVER ROAD SE  
CARTERSVILLE, GA 30120

**District** Cartersville  
**Brief Tax Description** LL 416, 449 D4 3rd SEC Jackson Farm Lot 172  
(Note: Not to be used on legal documents)

Date created: 11/8/2024  
Last Data Uploaded: 11/7/2024 10:44:26 PM

Developed by  **SCHNEIDER**  
GEOSPATIAL



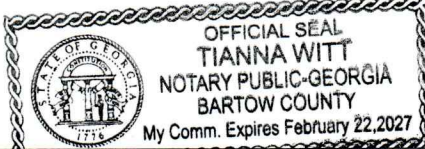
**City of Cartersville**  
**Application for Variance**  
**Board of Zoning Appeals**


Hearing Date: 11-14-2024

**5:30pm**

Application Number: V24-26

Date Received: 9-11-2024

Applicant <u>Stephan J.A.T.L. Koterski Jr</u> (printed name)	Office Phone <u>n/a</u>
Address <u>19 Westover Rd SE</u>	Mobile/ Other Phone <u>678-217-3433</u>
City <u>Cartersville</u> State <u>GA</u> Zip <u>30120</u>	Email <u>stevekoterski@yahoo.com</u>
Phone (Rep) _____	
Email (Rep) _____	
Representative's printed name (if other than applicant) _____	
Representative Signature _____	Applicant Signature <u>[Signature]</u>
Signed, sealed and delivered in presence of: _____ My commission expires: <u>02/22/27</u>	
<u>[Signature]</u> Notary Public	

* Titleholder <u>Stephan J.A.T.L. Koterski Jr</u> (titleholder's printed name)	Phone <u>678-217-3433</u>
Address <u>19 Westover Rd, Cartersville, GA 30120</u>	Email <u>stevekoterski@yahoo.com</u>
Signature <u>[Signature]</u>	
Signed, sealed, delivered in presence of: _____ My commission expires: <u>02/22/27</u>	
<u>[Signature]</u> Notary Public	

Present Zoning District <u>P-D</u>	Parcel ID No. <u>C025-0011-192</u>
Acreage <u>.24</u>	Land Lot(s) <u>416</u> District(s) <u>4</u> Section(s) <u>3</u>
Location of Property: <u>19 Westover Road</u> (street address, nearest intersections, etc.)	
Zoning Section(s) for which a variance is being requested: <u>4.16</u>	
Summary Description of Variance Request: <u>Privacy fence in front yard.</u>	
_____ (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 IV Section 4.11 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. X \_\_\_\_\_ 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. X \_\_\_\_\_ The requested variance relief may be granted without substantially impairing the intent and purpose of this ordinance

Additional Comments by Applicant: \_\_\_\_\_

#3 = The north side of the property (toward the rear of the house) is sloped downward toward the south side. That slope is less usable for general usage, recreational usage. Granting the variance affords us more level space within the fenced area.



**Cartersville Planning & Development  
Planning Board**

10 N. Public Square  
Cartersville, GA 30120

11 September, 2024

Re: Justification letter for variance application

Good day:

We are applying for a variance to the applicable City of Cartersville ordinances governing the location and dimensions of fences located on corner lots.

Reasons that we feel a variance is justified:

- Having a fenced-in area afforded by a full fence (as opposed to the abbreviated fence required by the city ordinances) extends the square footage of the privacy space of the yard by about a third.
  - o We feel this benefits current and future occupants by adding to the aesthetic value of the home and will add to the property value (over time) as well.
- A full fence will be more aesthetically pleasing to neighbors and others who view the property from outside.
  - o A full fence fits the neighborhood's general appearance better and more consistently given that only two homes in the subdivision (so far) have the abbreviated fence design. All other corner lots with fences have the extension of the fence into the side front yard. From the perspective of general appearance and consistency, an abbreviated fence would be an exception where full fences are the rule and our home would better fit in.
- A full fence affords ground space for stowing trash cans out of view of the street, while not forcing the trash/recycling/yard waste bins to be stored in view of the home's windows.
  - o This would be at the north-face of the fence. With an abbreviated fence, the trash bins would need to be stored in sight of the windows or next to the south face of the fence. This is problematic as the south side of the property declines away from the house, making it physically difficult to pull the trash bins—especially full, heavy bins—from behind the fence to the street.
- Also, storing the trash bins away from the home's windows and doors reduces the occurrence of flies and other pests (attracted by human trash/waste) from entering the home through doors opened for passage.
- A full fence better supports the potential future addition of a shed at a future time, without a disproportionate loss of privacy space within the fenced area.
- A full fence better supports the potential future addition of a front yard automated in-ground irrigation system (i.e., sprinklers) by reducing the coverage space for sprinklers and thus reducing the cost of the front yard sprinkler system.

**Stephan J.A.T.L Koterski Jr & Myung H. Woo**

19 Westover Road SE  
Cartersville, GA 30120

**FOX**  
FENCE COMPANY  
(770) 975-5858

WATER	ELECTRIC	SPRINKLER
(Y) / N	(Y) / N	(Y) / N

e-box  
1 mark on curb  
Finished side of fence faces out unless otherwise specified.  
Fence to follow natural terrain. Fox Fence Company does not do any painting or staining.

Authorized Signature Steve Lyons  
Note: This proposal may be withdrawn by us if not accepted within 7 days.  
Customer Signature X Stephan J.A.T.L Koterski Jr  
Form No. 1 - 1/87  
Copyright © 1987 by J. A. Koterski, Jr. All rights reserved.

Jackson Farm Community Association  
3950 Cobb Parkway NW; Ste 902  
Acworth, GA 30101  
Phone: (770) 222-5955 Fax: (770) 222-5994  
Website: acmga.com

September 05, 2024

Stephan J.A.T.L. Koterski Jr. & Myung H. Woo

19 Westover Road SE

Cartersville, GA 30120

Re: 19 Westover Road SE

Dear Stephan J.A.T.L. Koterski Jr.,

On behalf of Jackson Farm Community Association, your request for an Architectural Modification has been **Approved**. We appreciate your cooperation in submitting this request. Specifically, your request for the following change:

**Fence - New Fence**

**Approved with the following conditions:**

- 1. The fence must be within your property lines.**
- 2. If sharing a section of fencing with a neighbor, you, must have written permission from them.**
- 3. If you have a drainage easement on your property, you must avoid fence entering this area.**

Please note that the Board reserves the right to make a final inspection of the change to ensure that your project matches what you submitted, and that it is compliant with the Architectural Design Standards for the community.


If you have any questions, please log-in to your owner portal at [portal.acmga.com](http://portal.acmga.com). Click on the 'My Items' and send a response to us or send an email to [ARC@ACMGA.com](mailto:ARC@ACMGA.com).

Sincerely,

Jackson Farm Community Association

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This Community is Professionally Managed by:  
Action Community Management

**From:** Action Community Management customerservice@acmga.com   
**Subject:** Your ARC Request for Jackson Farm Community Association - [#XN176870]  
**Date:** September 5, 2024 at 21:09  
**To:** stevekoterski@yahoo.com

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If you would like to respond to this notification, please place your response above the dotted line.

Dear Stephan J.A.T.L. Koterski Jr.,

This is a notice to inform you that your applications for improvements (ARC request) for your property at 19 Westover Road SE has been approved as submitted. Please see the attached letter for details.

**ARC Decision - Approved has been approved.**

Sincerely,

Jackson Farm Community Association

This Community is Professionally Managed By:

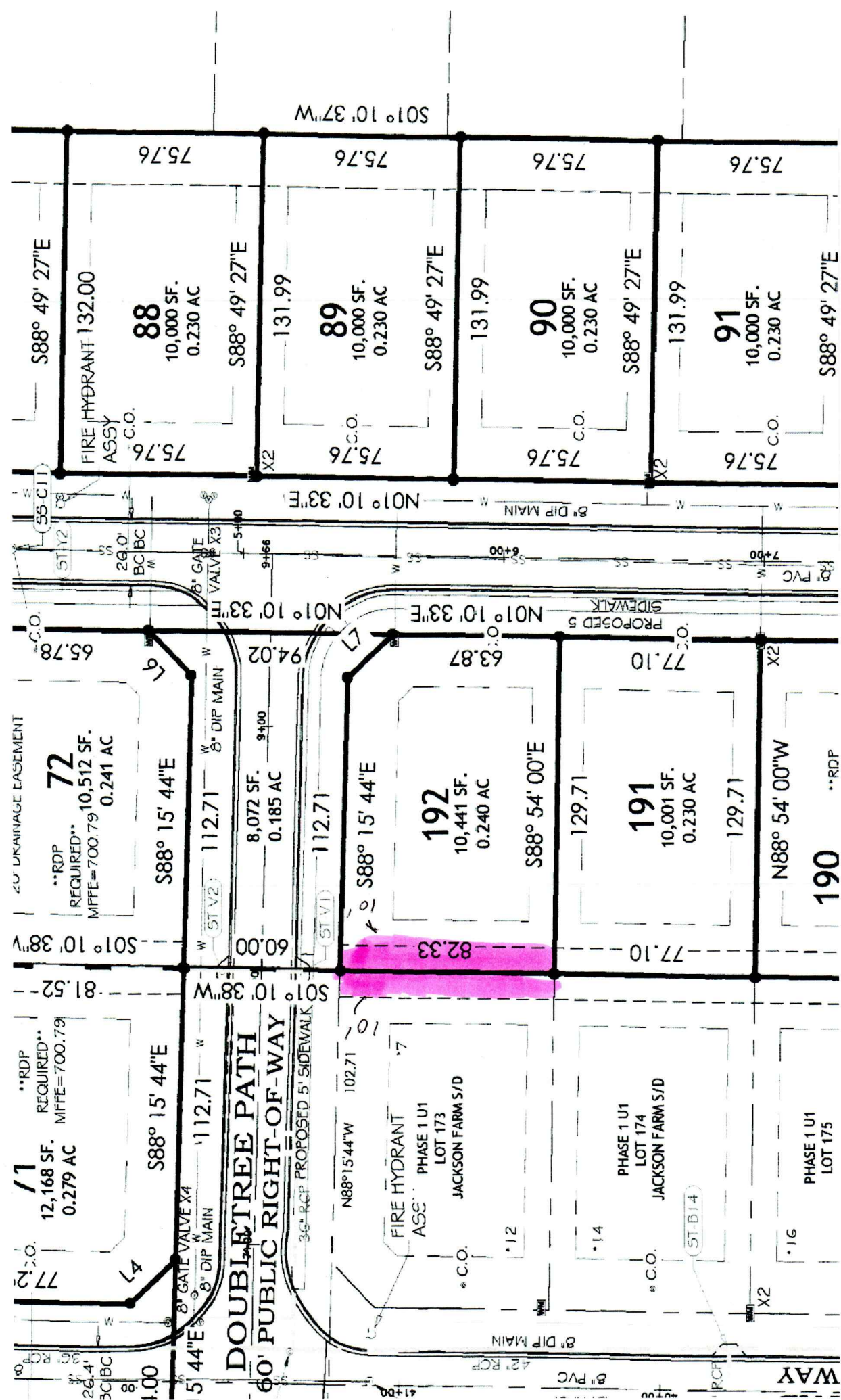
Action Community Management

(770) 222-5955 | acmga.com

Jackson Farm Community Association  
3950 Cobb Parkway NW; Ste 902  
Acworth, GA 30101


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**CITY OF CARTERSVILLE**  
**VARIANCE NOTICE**  
CASE NO. V24-26  
APPLICATION HAS BEEN MADE  
TO THE CITY OF CARTERSVILLE  
BOARD OF ZONING APPEALS  
FOR VARIANCE ON THIS  
PROPERTY.  
A PUBLIC HEARING WILL BE  
HELD AT CITY HALL  
10 NORTH PUBLIC SQUARE  
AT 5:30PM ON 11-14-2024  
FOR ADDITIONAL INFORMATION CONTACT THE  
DEPARTMENT OF PLANNING & DEVELOPMENT  
AT 770-387-5600