



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: October 28, 2024
Re: File # V24-23

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

Section 1: Project Summary

Variance application by applicant, Phillip Kimsey, for property located at 17 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 encroaches 10ft into the Double Tree Path front yard. See site plan. 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 (2) 20' easements partially located on it (one along the northern property line and one along the western line), as shown on the attached plat. Both easements extend 10' onto the property. The site plan shows the fence encroaching approx.. 6ft into the western drainage easement. No encroachment is indicated along the northern easement per the site plan. It is against City Ordinance for any permanent structure, including fences, to be constructed in utility or drainage easements. If approved, this variance does not allow for encroachment into the easements located on the property. The western fence segment must be located out of the easement.

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: There are storm drain easements on the West and North property line. They will be 10 feet onto this lot and 20 feet total width. That is the only concerns from Public Works.

Water Department: Cartersville Water Department takes no exceptions to variance request V24-23. There does exist a water easement along Doubletree Path, but as long as the fence is located off of the easement (10' on either side of pipe), like shown, there should be no issues.

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.

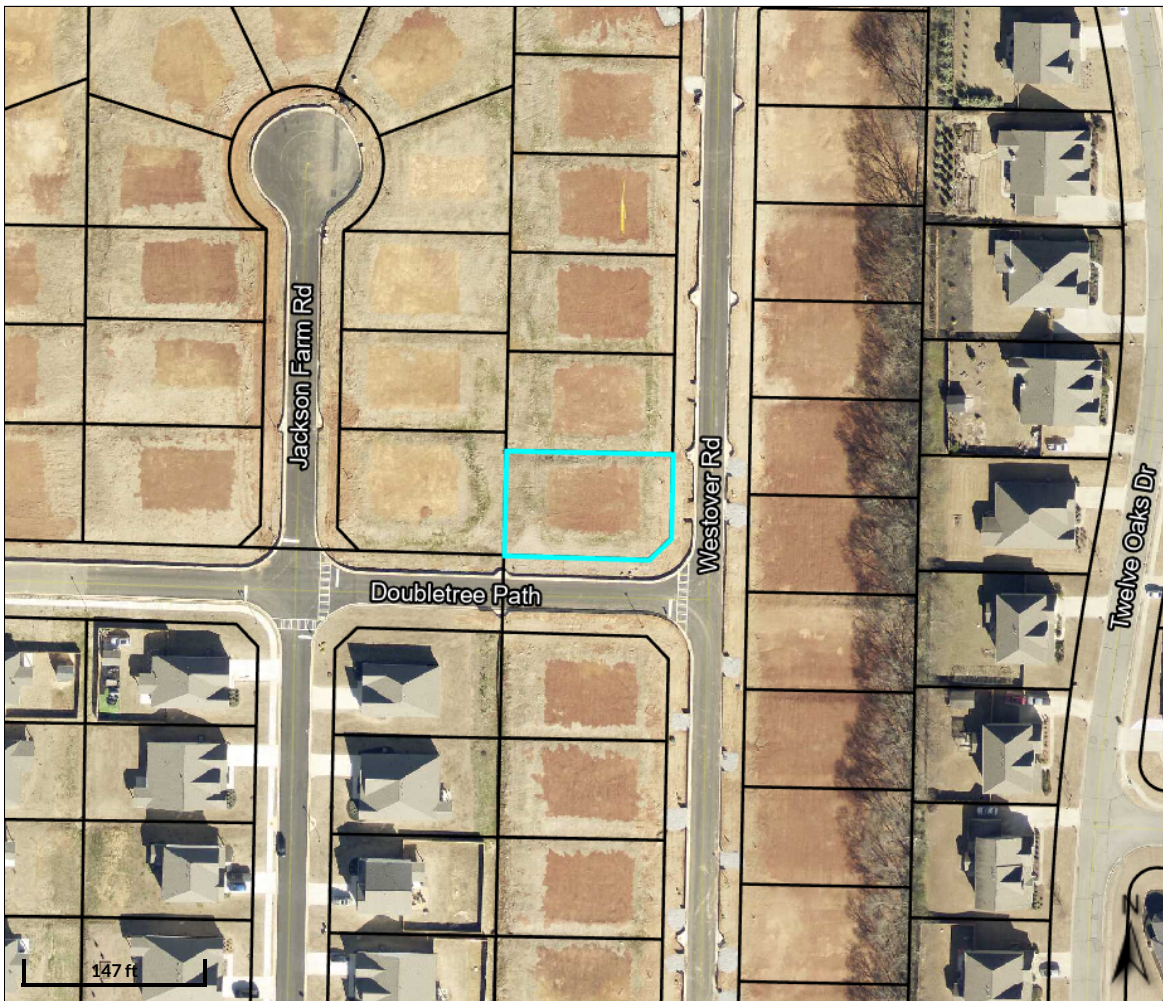
Variance decisions shall be issued in writing within ten (10) business days of the hearing.

- 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.

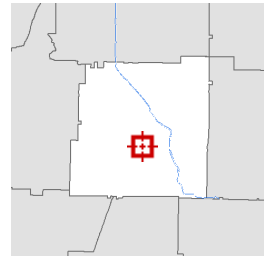
STANDARDS FOR EXERCISE OF ZONING POWERS.

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. The fence cannot be located within the drainage easements.
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 cannot be located within the drainage easements.
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.*
 The fence cannot be located within the drainage easements. No adverse environmental impact is anticipated to areas other than the 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 C025-0011-072
Sec/Twp/Rng n/a
Property Address 17 WESTOVER RD

Alternate ID 51852
Class Residential
Acreage 0.24

Owner Address HARRIS KRISTA K
KIMSEY PHILLIP & VIRGINIA
17 WESTOVER ROAD
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: November 14 5:30pm

Application Number: V24-23

Date Received: 8-29-2024

Applicant Phillip D. Kimsey Office Phone na
(printed name)
Address 301 Iron Hill Rd. Mobile/ Other Phone 770-387-5904
City Taylorville State GA Zip 30178 Email phillip.kimsey@gmail.com
P
Representative's printed name (if other than applicant) Phone (Rep) _____
Email (Rep) _____
Phillip Kimsey Phillip Kimsey
Representative Signature Applicant Signature
Signed, sealed and delivered in presence of: My commission expires: 1/11/2025
Crystal Owen
Notary Public

* Titleholder Krista K. Harris, Phillip D. Kimsey Phone 770-841-5688; 770-387-5904; 770-655-2024
(titleholder's printed name) Virginia W. Kimsey
Address 17 Westover Rd. Email gkharris92703@gmail.com
Signature Phillip D. Kimsey phillip.kimsey@gmail.com
ginkim_2000@yahoo.com
Signed, sealed, delivered in presence of: My commission expires: 1/11/2025
Crystal Owen
Notary Public

Present Zoning District P-D Parcel ID No. CD25-0011-072
Acreage .24 Land Lot(s) 414 District(s) 4 Section(s) 3
Location of Property: 17 Westover Rd., Cartersville, GA 30120
(street address, nearest intersections, etc.)
Zoning Section(s) for which a variance is being requested: Zoning Section 3
Summary Description of Variance Request: Privacy fence along Doubletree Path

(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.

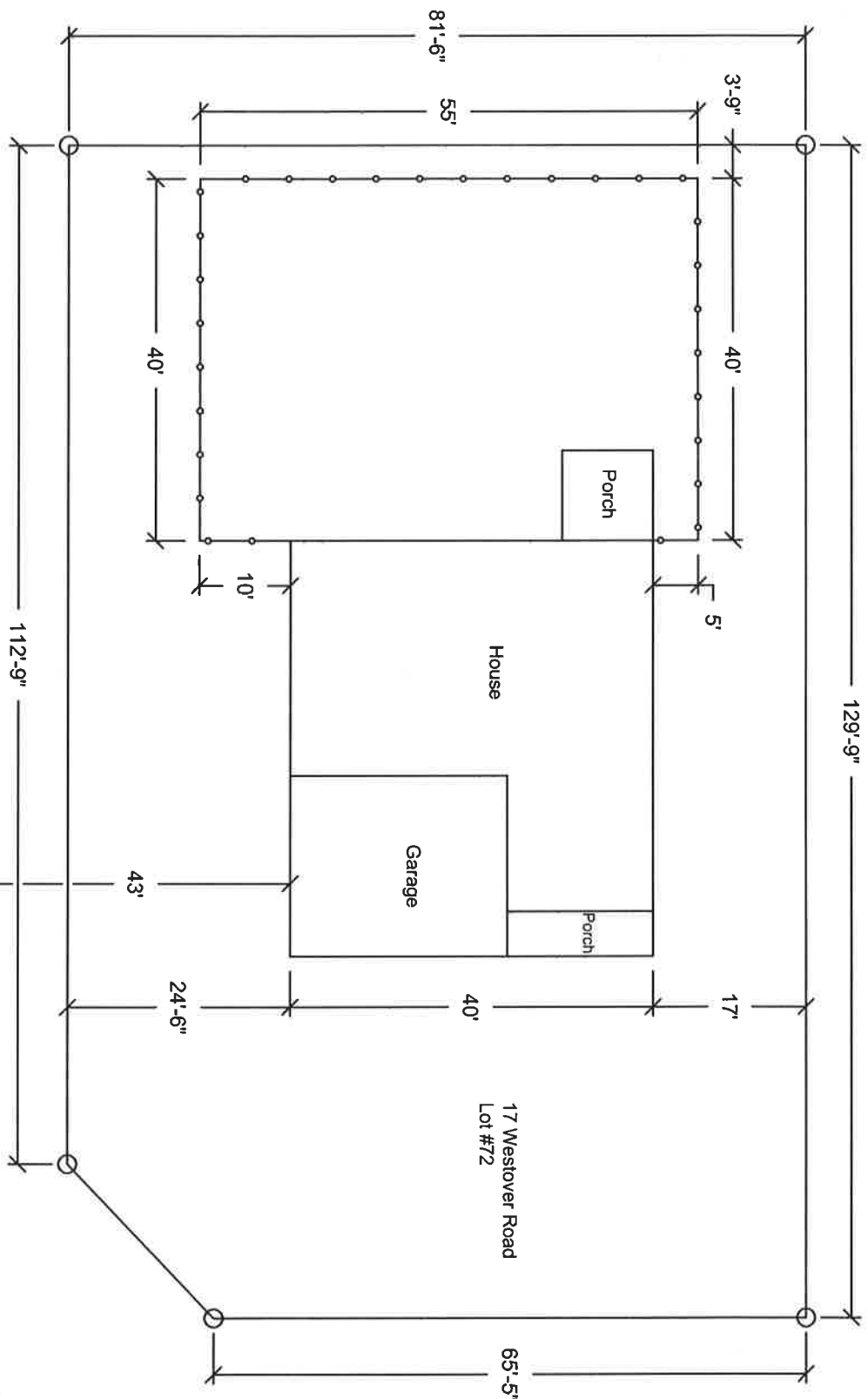
Article IV Section 4.16 Subsection B
Article _____ Section _____ Subsection _____
Article _____ Section _____ Subsection _____

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: We want to place a privacy fence
around our backyard. A portion of the fence will run
along Doubletree Path since our lot is on the corner of
Westover Road and Doubletree Path.



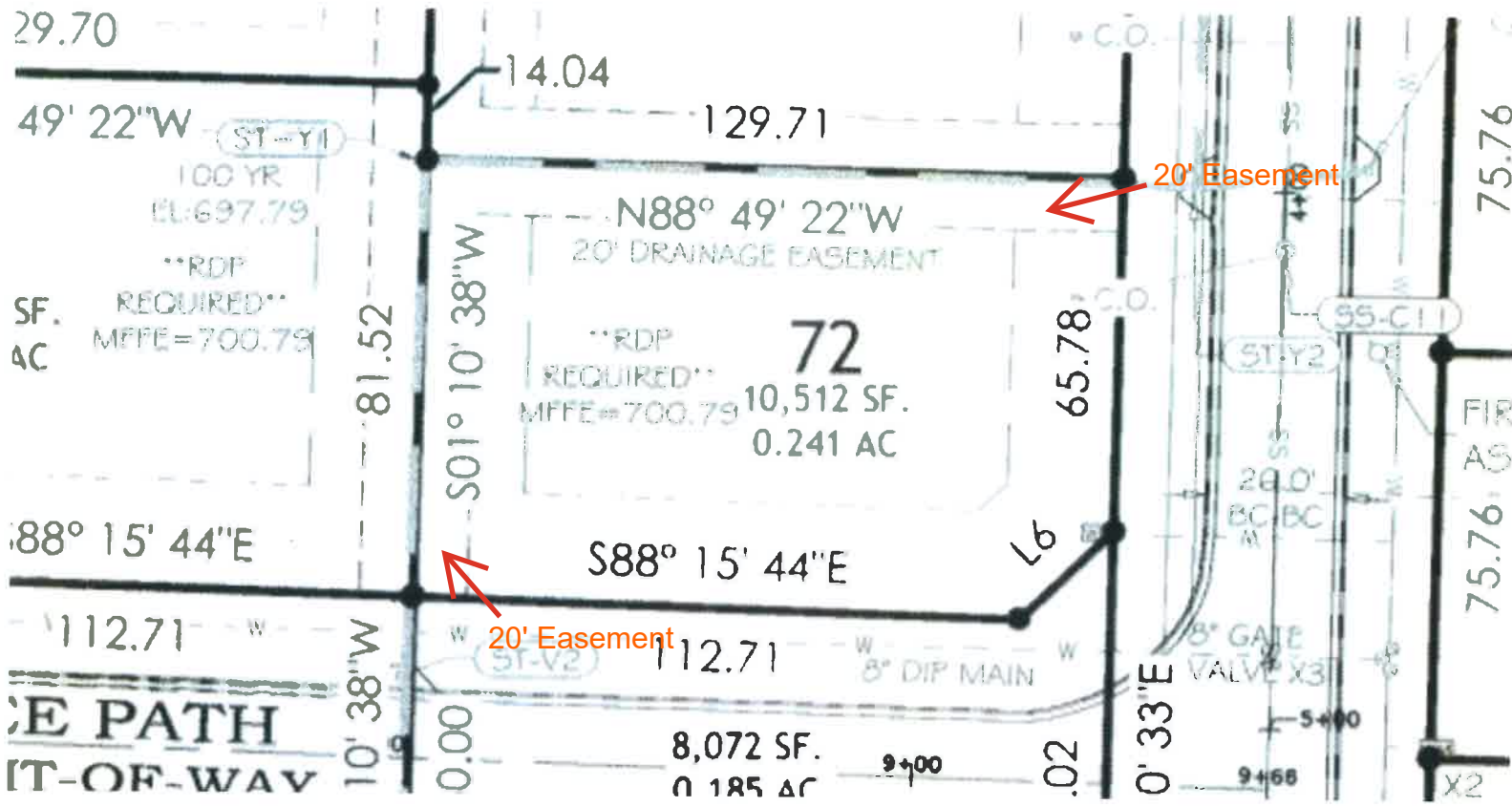
Double Tree Path

Westover Rd

Krista Harris

Crop





Krista Harris
17 Western Rd.
Lot 72

Urban Signage
 1710 N. GUNN
 SUITE 100
 BARTOW, FL 34609
 (813) 535-1111

General Notes

1. The owner warrants that the information provided in this plat is true and correct to the best of their knowledge.
2. The owner warrants that the information provided in this plat is true and correct to the best of their knowledge.
3. The owner warrants that the information provided in this plat is true and correct to the best of their knowledge.
4. The owner warrants that the information provided in this plat is true and correct to the best of their knowledge.
5. The owner warrants that the information provided in this plat is true and correct to the best of their knowledge.
6. The owner warrants that the information provided in this plat is true and correct to the best of their knowledge.
7. The owner warrants that the information provided in this plat is true and correct to the best of their knowledge.
8. The owner warrants that the information provided in this plat is true and correct to the best of their knowledge.
9. The owner warrants that the information provided in this plat is true and correct to the best of their knowledge.
10. The owner warrants that the information provided in this plat is true and correct to the best of their knowledge.

Survey Certificate

I, the undersigned, being a duly qualified and licensed Professional Engineer in the State of Florida, do hereby certify that the foregoing is a true and correct copy of the original survey as shown to me by the owner or his agent, and that the same has been compared with the original and found to be a true and correct copy of the original.

 Date: 12/19/2023
 Signature: [Signature]

Continuity Statement

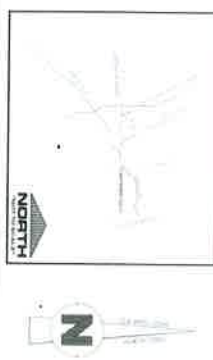
The owner warrants that the information provided in this plat is true and correct to the best of their knowledge.

Owner's Certificate

I, the undersigned, being a duly qualified and licensed Professional Engineer in the State of Florida, do hereby certify that the foregoing is a true and correct copy of the original survey as shown to me by the owner or his agent, and that the same has been compared with the original and found to be a true and correct copy of the original.

 Date: 12/19/2023
 Signature: [Signature]

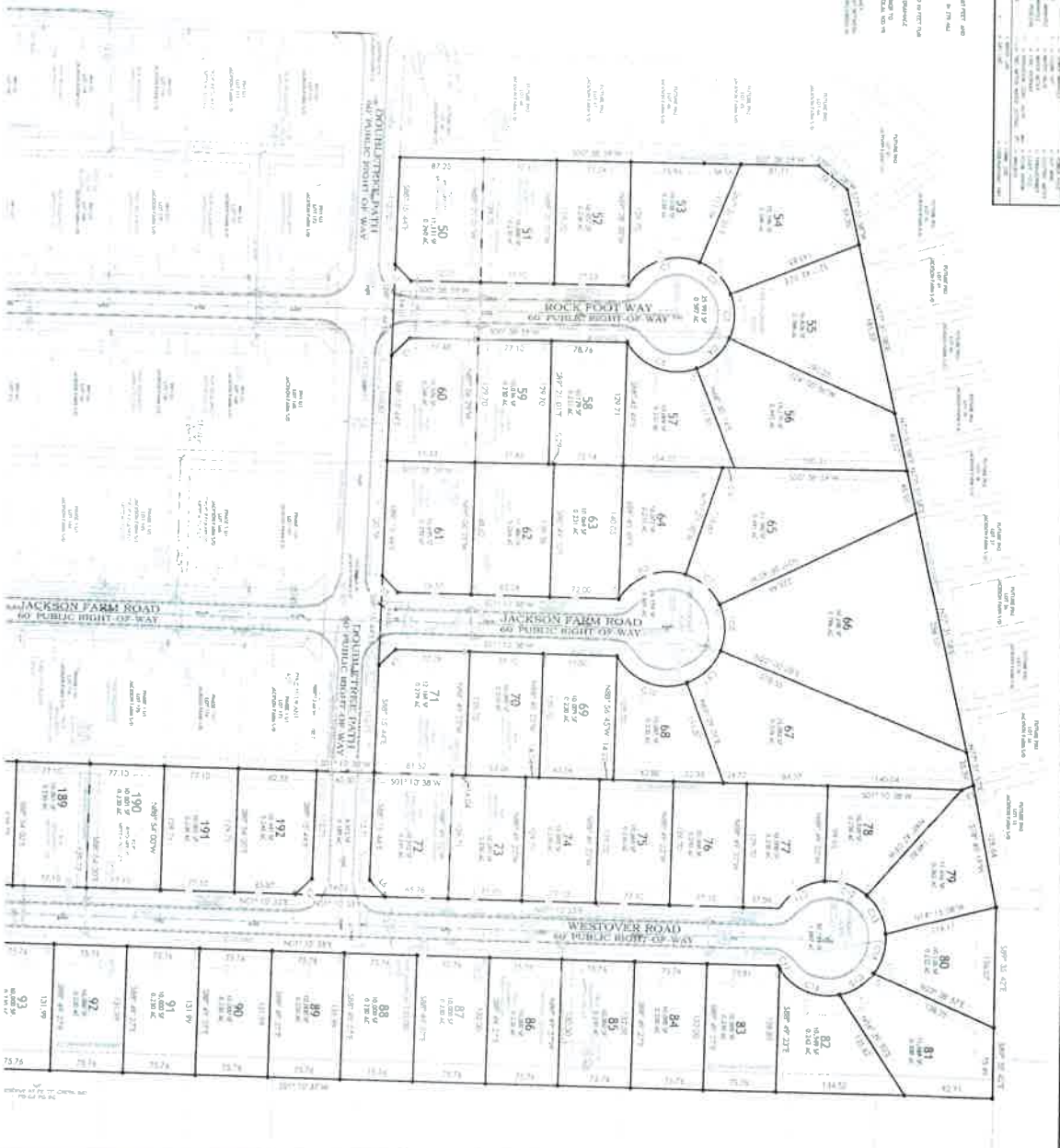
Vicinity Map



City of Carterville Certification

I, the undersigned, being a duly qualified and licensed Professional Engineer in the State of Florida, do hereby certify that the foregoing is a true and correct copy of the original survey as shown to me by the owner or his agent, and that the same has been compared with the original and found to be a true and correct copy of the original.

 Date: 12/19/2023
 Signature: [Signature]



Krista Harris
17 Westover Rd.
Lot 72

SOUTHLAND ENGINEERING
 CIVIL ENGINEERS - LAND SURVEYORS - LAND PLANNERS
 1710 N. GUNN, SUITE 100, BARTOW, FL 34609
 (813) 535-1111

FINAL PLAT
JACKSON FARM
PHASE 2 UNIT 1
 LOCATED IN LAND LOT(S) 418 & 449,
 4TH DISTRICT, 14D SECTION,
 CITY OF CARTERVILLE, BARTOW COUNTY, GEORGIA

Flood Statement
 The property is not in a flood zone.
Owner/Developer
 [Signature]

Zoning Notes
 The property is zoned [Zoning Code].
 [Additional zoning notes]

SHEET 1 OF 3




CITY OF CARTERSVILLE

VARIANCE NOTICE

CASE NO. **V24-23**

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