



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/Meredith Ulmer
CC: Keith Lovell
Date: April 27, 2021
Re: File # V21-06

#V21-06: To allow a privacy fence to encroach into the front yard setback of a corner lot

Section 1: Project Summary

Variance application by owner/applicant Juana Leon for property located at 226 Summit Street, zoned R15 Residential. Said property contains approximately 0.31 acres. The lot is a corner lot located at the SW corner of Summit St and Buford St. Each street Right-of-way is approximately 40ft in width. The applicant would like to install a privacy fence on a portion of the property line along both Summit St. and Buford St. The fence along Summit Street will begin/ end at the house so as to enclose the south side of the house. The fence along Buford St. will begin/ end at the NE corner of the house so as to enclose the north side of the house.

The variance requests are for the following:

To allow a privacy fence to encroach into the front yard setback of a corner lot

Section 2. Department Comments

Electric Department: The Electric System approves the application as noted: The fencing along Buford street shall be installed at least at least 3' behind the pole line so that there is room for the poles to be accessible all the way around and to replace a pole when needed.

Fibercom: No comments received.

Fire Department: Takes No exception.

Gas Department: In response to the following, the Gas System takes exception to the proposed placement of the fence shown in the attachment. The proposed placement will prevent access to the existing natural gas service line serving the residence. It will be necessary to either relocate the existing natural gas meter and service line location to the building wall not to be fenced at the expense of the Customer or construct a double swing gate centered over the existing natural gas service line allowing unobstructed access to the existing natural gas service

line. If the gate option is chosen and gate is to be locked, the Customer shall make provisions to interlock the gate with a Gas System lock from the outside by contacting the Gas System offices at the telephone number in my signature.

Public Works Department: Public Works opposes this variance due to potential sight distance issues caused by the proposed placement of this fence.

Water Department: No comments received.

Section 3. Public Comments Received by Staff

4/27/2021: Comments against the variance were received by Senate Wilson at 224 Summit Street. A letter explaining his concerns is attached. See below.

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 variations 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.*


City of Cartersville
Application for Variance
Board of Zoning Appeals

Hearing Date: 5/17/21 5:30pm


Application Number: V21-06

Date Received: 3/24/21

Applicant Juana Chaca Leon Spanish Office Phone _____
(printed name)
Address 226 Summit St Mobile/ Other Phone 678-368-5333
City Cartersville State GA Zip 30120 Email _____
Representative's printed name (if other than applicant) Eduardo Duarte English Phone (Rep) 470-348-9820
Email (Rep) _____
Representative Signature Eduardo Duarte Applicant Signature Juana Leon
Signed, sealed and delivered in presence of _____ My commission expires: 1/23/23
Stinner Notary Public



* Titleholder Juana Chaca Leon Phone 678-368-5333
(titleholder's printed name)
Address 226 Summit St Email _____
Signature Juana Leon
Signed, sealed, delivered in presence of: _____ My commission expires: 1/23/23
Stinner Notary Public



Present Zoning District R-15
Acreage 0.31 Land Lot(s) 311 District(s) 4 Section(s) 3
Location of Property 226 Summit St. Cartersville, GA
(street address, nearest intersections, etc.) 30120
Zoning Section(s) for which a variance is being requested: _____
Summary Description of Variance Request: U311U4LT 45-46 Northside Sub

(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 Subsection 16
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: The home owner is needing to construct on or around the property line.

Building a fence based on the city requirements meeting the 10' to 20' allowance. The owner wishes to exceed the 10' and 20' allowance to boarder the edge of the property line with the fence.

Also on the same property a side porch was damaged and removed the owner is asking to replace that again as well.



Legend
 Parcels
 Roads

Parcel ID	C010-0009-005	Alternate ID	33359	Owner Address	CHACA LEON JUANA R
Sec/Twp/Rng	n/a	Class	Residential		226 SUMMIT ST
Property Address	226 SUMMIT ST	Acreage	0.31		CARTERSVILLE, GA 30120
District	Cartersville				
Brief Tax Description	LL311 LD4 LT 45-46 NORTHSIDE SUB (Note: Not to be used on legal documents)				

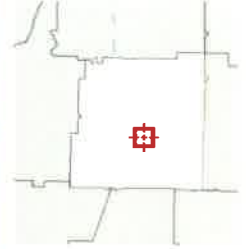
Date created: 3/25/2021
 Last Data Uploaded: 3/24/2021 10:01:59 PM

Developed by  Schneider
 GEOSPATIAL

*x: 6-8ft privacy fence
 along property line*



Overview



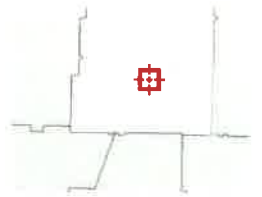
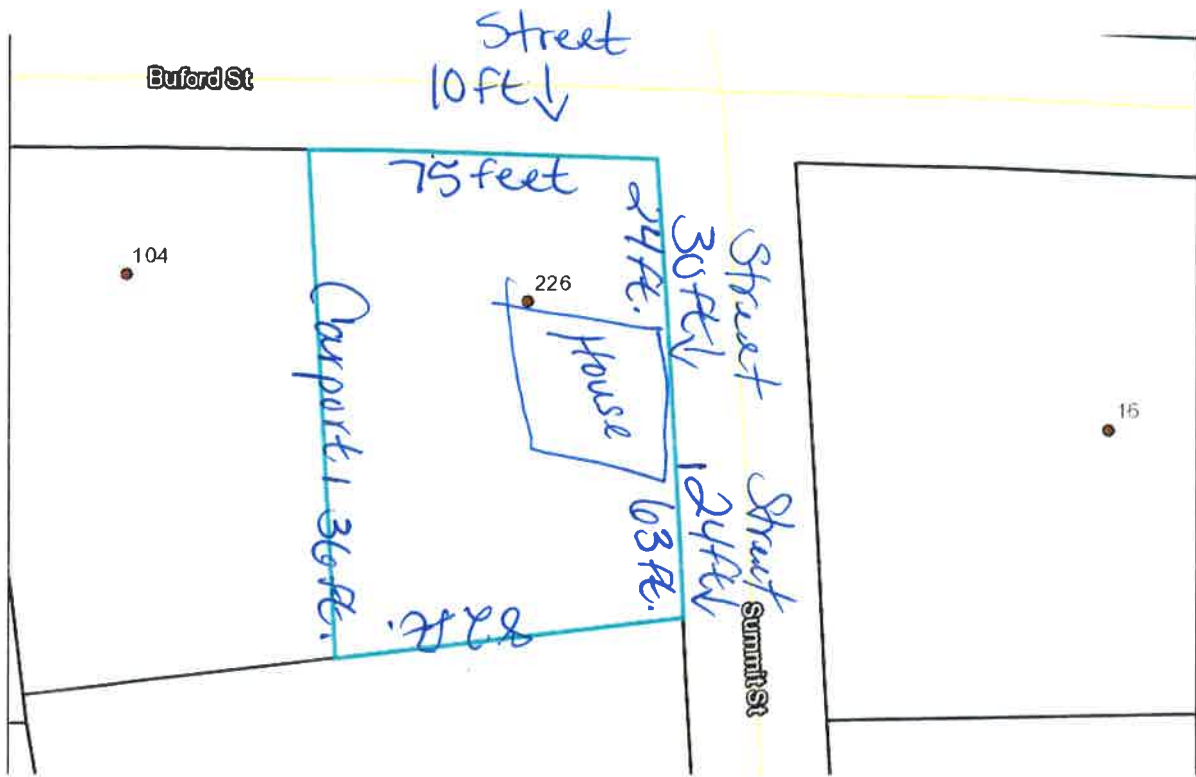
Legend

- Parcels
- Structural Numbers**
 - <all other values>
 - Abandoned or Inactive
 - Active
 - Proposed
- Roads

Parcel ID	C010-0009-005	Alternate ID	33359	Owner Address	CHACAJ LEON JUANAR
Sec/Twp/Rng	n/a	Class	Residential		226 SUMMIT ST
Property Address	226 SUMMIT ST	Acreage	0.31		CARTERSVILLE, GA 30120
District	Cartersville				
Brief Tax Description	LL311 LD4 LT 45-46 NORTHSIDE SUB				
	(Note: Not to be used on legal documents)				

Date created: 3/19/2021
 Last Data Uploaded: 3/18/2021 9:59:38 PM

Developed by  **Schneider**
 GEOSPATIAL



Legend

- Parcels
- Structural Numbers**
- <all other values>
- Abandoned or Inactive
- Active
- Proposed
- Roads

2

DOC# 000909
FILED IN OFFICE
1/22/2020 10:52 AM
BK:3157 PG:167-168
MELBA SCOGGINS
CLERK OF SUPERIOR COURT
BARTOW COUNTY

Melba Scoggins

RECEIVED
Clerk of Superior Court - Bartow Co. Ga
01/22/2020 10:40 AM

Please return to:
John T. Mroczko, P.C.
162 West Main Street, Suite 302
Cartersville, Georgia 30120
File No.: 2011007

REAL ESTATE TRANSFER
TAX PAID: \$179.00

PT-61 008-2020-000222

LIMITED WARRANTY DEED

STATE OF Georgia
COUNTY OF Bartow

THIS INDENTURE, made this 16th day of January, 2020, between Johnette Flowers Stewart, as party or parties of the first part, hereinafter called Grantor, and Juana R. Chacaj Leon, as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee, the following described property:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

THIS CONVEYANCE is made subject to all zoning ordinances, easements and restrictions of record affecting said bargained premises.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behalf of the said Grantee forever in FEE SIMPLE.

AND THE SAID Grantor will warrant and forever defend the right and title to the above-described property unto the said Grantee against the claims of all persons claiming by, through or under Grantor, but not otherwise.

IN WITNESS WHEREOF, Grantor has hereunto set grantor's hand and seal this first day and year first above written.

Signed, sealed and delivered in the presence of:

[Signature]
Unofficial Witness
[Signature]
Notary Public
My Commission expires:

[Signature]
Johnette Flowers Stewart

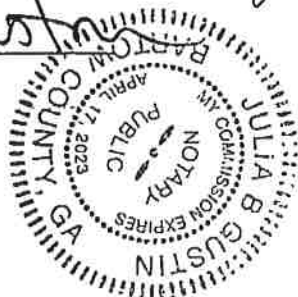


EXHIBIT "A"

Tract 1:

ALL THAT TRACT OR PARCEL OF LAND lying and being in the 4th District and 3rd Section of Bartow County, Georgia, and being a part of Subdivision Lot 45 of Northside Subdivision a Plat of which is recorded in Plat Book 2, page 99 of the Clerk's office of said county and state and more particularly described as follows:

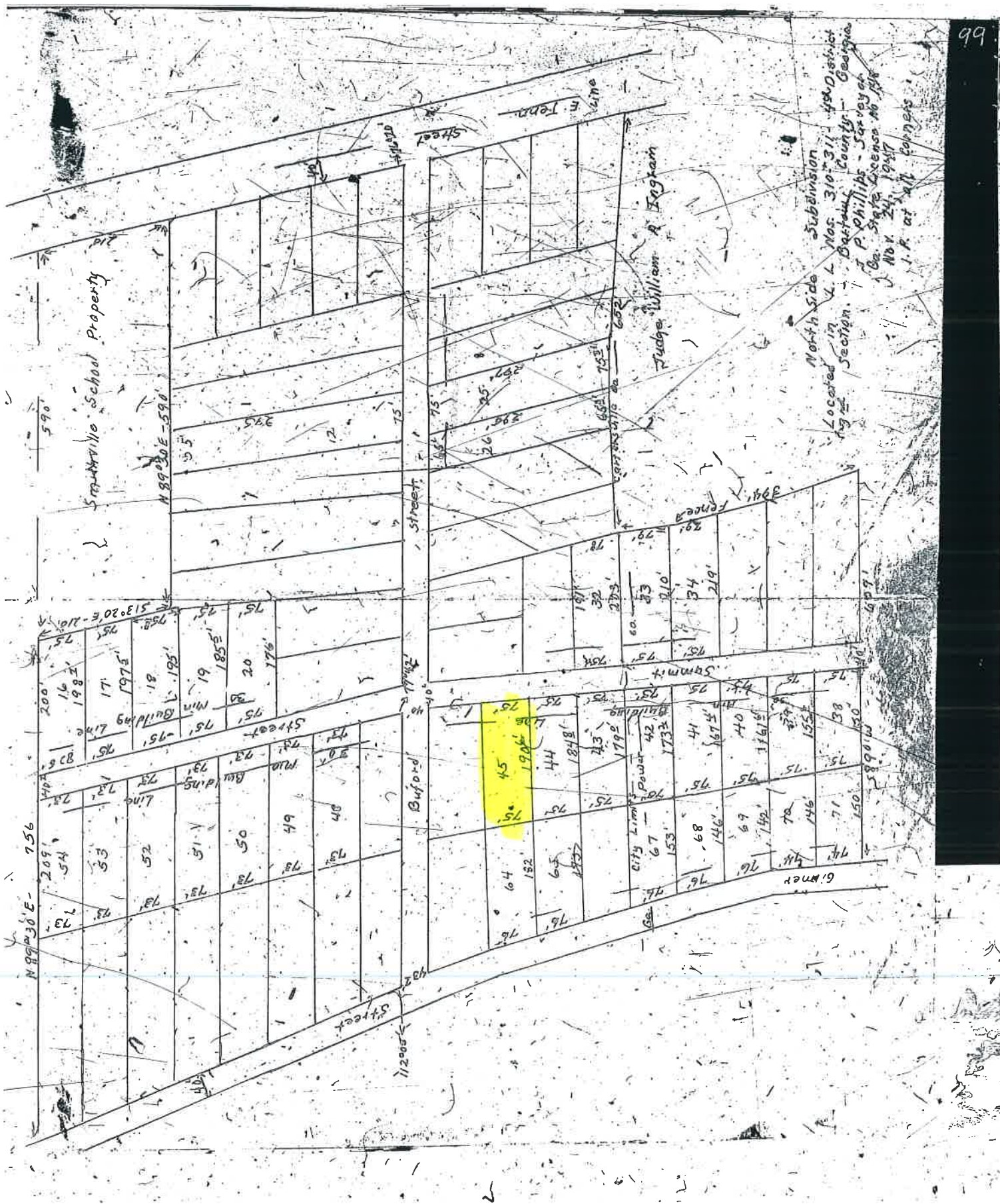
BEGINNING at an iron stake on the West side of Summit Street, the same being the Southeast corner of Subdivision Lot 46, and running 100 feet in a Westerly direction along the South boundary of Subdivision Lot 46 to an iron stake; thence 50 feet in a Southerly direction parallel with Summit Street to an iron stake; thence 100 feet in an Easterly direction parallel with the South boundary of Subdivision Lot 46 to an iron stake on the West boundary of Summit Street; thence 50 feet in a Northerly direction along the West boundary of Summit Street to the beginning point.

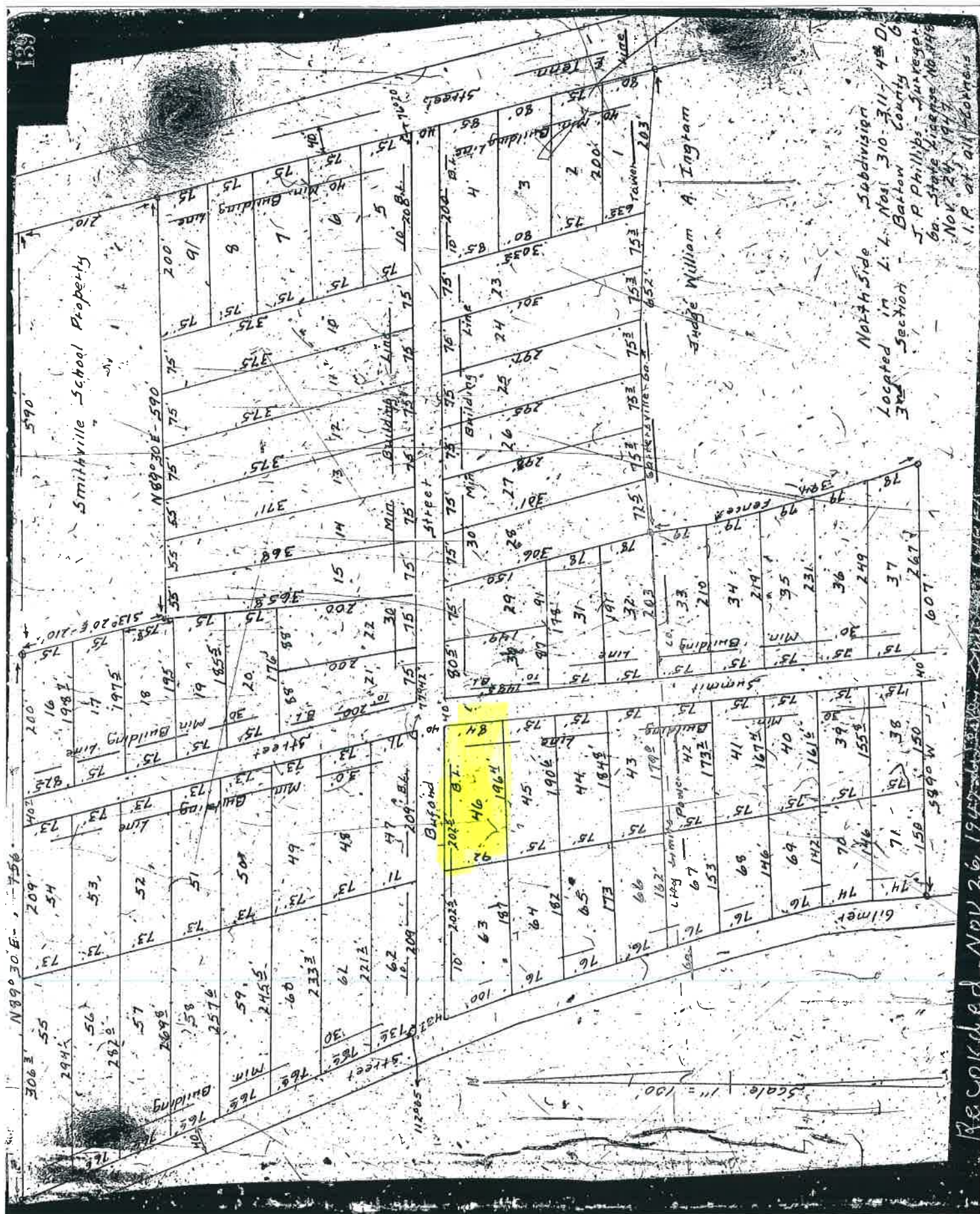
Tract 2:

ALL THAT TRACT OR PARCEL OF LAND lying and being in the City of Cartersville, Bartow County, Georgia, a part of Subdivision lot number 46 of the North Side Subdivision, as shown by a plat recorded in Plat Record Number One page 139 in the Office of the Clerk of the Superior Court of said county, and more particularly described as follows:

BEGINNING at the point where the west side of Summit Street intersects with the south side of Buford Street, thence South along the west side of Summit Street 84 feet; thence westward along the south line of said lot # 46, 100 feet; thence northward 88 feet, to Buford Street; thence eastward along the south side of Buford Street 102 feet, 5 inches, to Summit Street and the point of beginning.

A handwritten signature in black ink, appearing to be 'JHS', is located at the bottom center of the page.





Recorded Nov 26 1947

RECEIPT OF PAYMENT

Receipt Number: 2021001487
Receipt Date: 03/23/2021
Date Paid: 03/23/2021
Full Amount: \$125.00

Payment Details:	Payment Method	Amount Tendered	Check Number
	Cash	\$125.00	

Amount Tendered: \$125.00
Change / Overage: \$0.00
Contact: CHACAJ LEON JUANA R, Address:226 SUMMIT ST

FEE DETAILS:

Fee Description	Reference Number	Amount Owing	Amount Paid
BZA Variance Fee (Home Owner)	MS202100169	\$75.00	\$75.00
Com. Dev. - Advertising	MS202100169	\$50.00	\$50.00

David Hardegree

From: Meredith Ulmer
Sent: Monday, April 26, 2021 8:33 AM
To: 'Yvonne Jenkins'
Cc: David Hardegree
Subject: RE: [External]Variance Application for Juana Leon, 226 Summit Street, Case #V21-06

Your comments have been received, and documented in our file.

Thank you for reaching out.

Sincerely,
Meredith Ulmer
770-607-3947

From: Yvonne Jenkins <yvonnewjenkins@yahoo.com>
Sent: Friday, April 23, 2021 4:13 PM
To: Meredith Ulmer <mulmer@cityofcartersville.org>
Subject: [External]Variance Application for Juana Leon, 226 Summit Street, Case #V21-06

CAUTION : This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Ms. Ulmer,

My name is Yvonne Jenkins and I am writing on behalf of my parents, Senate & Dottie Wilson, residents @ 224 Summit Street, Cartersville, Ga 30120. They are unable to attend the Board of Appeals meeting in person due to age and health issues that prevent them from being as mobile as they would like to be. A family member may try to attend the meeting on their behalf.

They would like the Board Of Appeals for Case #V21-06 to know that they are against the variance that would allow Ms. Leon and family to install a privacy fence that would encroach the front yard setback and is 6'-8' tall at the address of 226 Summit Street, Cartersville, GA 30120. A privacy fence of this size and range would not be appropriate at all for a lot of this size and at this location.

Senate & Dottie are 93 and 91 years old and have lived in their home on Summit Street for 60+ years. The address requesting the variance is a corner lot directly adjoining their property from the back yard to the street. Installing a privacy fence of this size and going all the way to the street would completely block their view of the adjoining street (Buford Street). It would also possibly block emergency vehicles from being able to locate their home from the intersecting street. They also feel that this would lower the property value of their home and surrounding homes. They are pretty much completely home bound and feel that this would hinder their ability even more to be aware of what's going on in their neighborhood.

My parents do not have an issue with a traditional wood privacy fence of a normal height being installed where a current chain link fence has been, but a fence the size and proportion they are requesting is not acceptable.

The family requesting to install such a large fence has had issues with other code violations on the property. They have enclosed a storage building for people to live in without getting a permit, they frequently prepare and sell food from their home and Mr. Wilson has understood from some of them that they plan to have a "church" in the other part of the storage area they are enclosing. The Leon family also had a tree to fall on a chain link fence that separated the properties and the fence has never been completely removed or repaired.

Mr. and Mrs. Wilson respectfully request that this variance request be denied and that another more suitable fence be installed on and between the properties.

With Best Regards

Senate and Dottie Wilson
224 Summit Street
Cartersville, GA 30120
770-382-4618

Photos taken 5-10-21



