



# 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 28, 2021  
**Re:** File # V21-09

**#V21-09: To allow a new house addition to encroach into the side yard setback.**

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

Variance application by Gerardo Lopez for property located at 15 Collins St, zoned RD Residential Duplex. Said property contains approximately 0.13 acres. The applicant would like to build an extension onto the front of his house to accommodate a growing family. The house currently encroaches into the side yard setback on the south side. The new addition includes a carport, and extra room. The addition would extend the south building face toward Collins St. and thereby continue the side yard setback encroachment.

The side yard setback is 8ft.in the RD district. The current house setback ranges from 1.5ft to 1.9ft. The new addition will be approximately 2.1ft from the side property line at the SW (front) corner.

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

1. To allow a new house addition to encroach into the side yard setback.

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

**Electric Department:** No comments received.

**Fibercom:** Takes no exception.

**Fire Department:** No comments received.

**Gas Department:** Takes No Exception.

**Public Works Department:** Takes No Exception.

**Water Department:** No comments received.

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

None.

### **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).*

#### **Chapter 26, Zoning, Sec. 6.6.3. Development standards for the Residential Duplex Zoning District.**

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:

- Eight (8) feet (each noncommon wall).
- Zero (0) feet (common wall).

D. Rear yard setback: Twenty (20) feet.

E. Minimum lot area: Seven thousand (7,000) square feet per dwelling unit.

F. Minimum lot width at the building line on non-cul-de-sac lots:

- Single-family detached shall be sixty (60) feet;
- Single-family duplex (per dwelling unit) shall be fifty (50) feet.

G. Minimum lot frontage: Thirty-five (35) feet adjoining a street.

H. Minimum heated floor area, per unit: Nine hundred (900) square feet.

I. Minimum open space requirements. Proposed developments consisting of more than five (5) acres shall reserve a minimum of twenty (20) percent of the gross acreage of the site as open space with common areas provided.

J. Accessory use, building and structure requirements. See section 4.9 of this chapter.

K. Minimum buffer requirements. In addition to required setbacks, a fifteen-foot-wide buffer shall be required along all property lines which abut a single-family residential district or use to provide a visual screen in accordance with section 4.17 of this chapter.

#### **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: 5-17-2021 5:30pm

Application Number: V21-09

Date Received: 3-26-2021

Applicant <u>Gerardo Lopez</u> <small>(printed name)</small>		Office Phone _____	
Address <u>15 Collins St</u>		Mobile/ Other Phone _____	
City <u>Cartersville</u>	State <u>GA</u>	Zip <u>30120</u>	Email <u>Kesia Lopez12@gmail.com</u>
Representative's printed name (if other than applicant) _____		Phone (Rep) _____	
Representative Signature _____		Email (Rep) _____	
Signed, sealed and delivered in presence of: <u>[Signature]</u> Notary Public		Applicant Signature <u>Gerardo Lopez</u> My commission expires: <u>10/31/22</u> 	

* Titleholder <u>Gerardo Lopez</u> <small>(titleholder's printed name)</small>		Phone <u>470-315-3532</u>	
Address <u>15 Collins St</u>		Email <u>Kesia Lopez12@gmail.com</u>	
Signature <u>Gerardo Lopez</u>		My commission expires: <u>10/31/22</u>	
Signed, sealed, delivered in presence of: <u>[Signature]</u> Notary Public		<u>10/31/22</u> 	

Present Zoning District <u>Cartersville R-D</u>			
Acreage <u>0.13</u>	Land Lot(s) <u>N/A</u>	District(s) <u>Crille</u>	Section(s) _____
Location of Property: <u>15 Collins St Cartersville GA</u> <small>(street address, nearest intersections, etc.)</small>			
Zoning Section(s) for which a variance is being requested: _____			
Summary Description of Variance Request: <u>Need to make a room for my daughter. The house only has two bedrooms and I have 4 kids.</u> <small>(Additional detail can be provided on Justification Letter)</small>			

\* 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 6                      Section 5                      Subsection 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: Need to make an expansion to house in order to make another bedroom. The house currently only has two bedrooms and I have a family of six.

Encroach in side yard setback to build addition.



LEGEND	
○	= PROPERTY CORNER
●	= IRON PIN FOUND
●	= 1/2" REBAR FOUND
○	= 1/2" REBAR SET
—	= PROPERTY LINE
---	= LAND LOT LINE
⚡	= POWER POLE
—E—	= POWER LINE
-X-	= FENCE LINE

THIS BLOCK RESERVED FOR THE CLERK OF THE SUPERIOR COURT.

**GENERAL NOTES**

THE FIELD DATA UPON WHICH THIS MAP OR PLAT IS BASED HAS A CLOSURE PRECISION OF 1' IN 18,400 FEET, AND AN ANGULAR ERROR OF 03" PER ANGLE POINT, AND WAS ADJUSTED USING THE COMPASS RULE. A GEOMAX ZOOM 90 TOTAL STATION WAS USED FOR THIS SURVEY.

THIS MAP OR PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN 1' IN 74,230 FEET.

"FEMA FLOOD HAZARD MAP" 13015C0266H DATED OCTOBER 05, 2018, SHOWS THIS PROPERTY OUT OF FLOOD ZONE.

THIS PLAT IS MADE FOR THE SOLE USE AND BENEFIT OF THE PERSONS NAMED HEREON. THIS FIRM ASSUMES NO LIABILITY TO PERSONS NOT NAMED HEREON AND ANY USE BY UNNAMED PARTIES WILL BE DONE AT THEIR OWN RISK.

**SURVEYOR CERTIFICATION:**

This plat is a retracement of an existing parcel or parcels of land and does not subdivide or create a new parcel or make any changes to any real property boundaries. The recording information of the documents, maps, plats, or other instruments which created the parcel or parcels are stated hereon. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. Section 15-6-87.

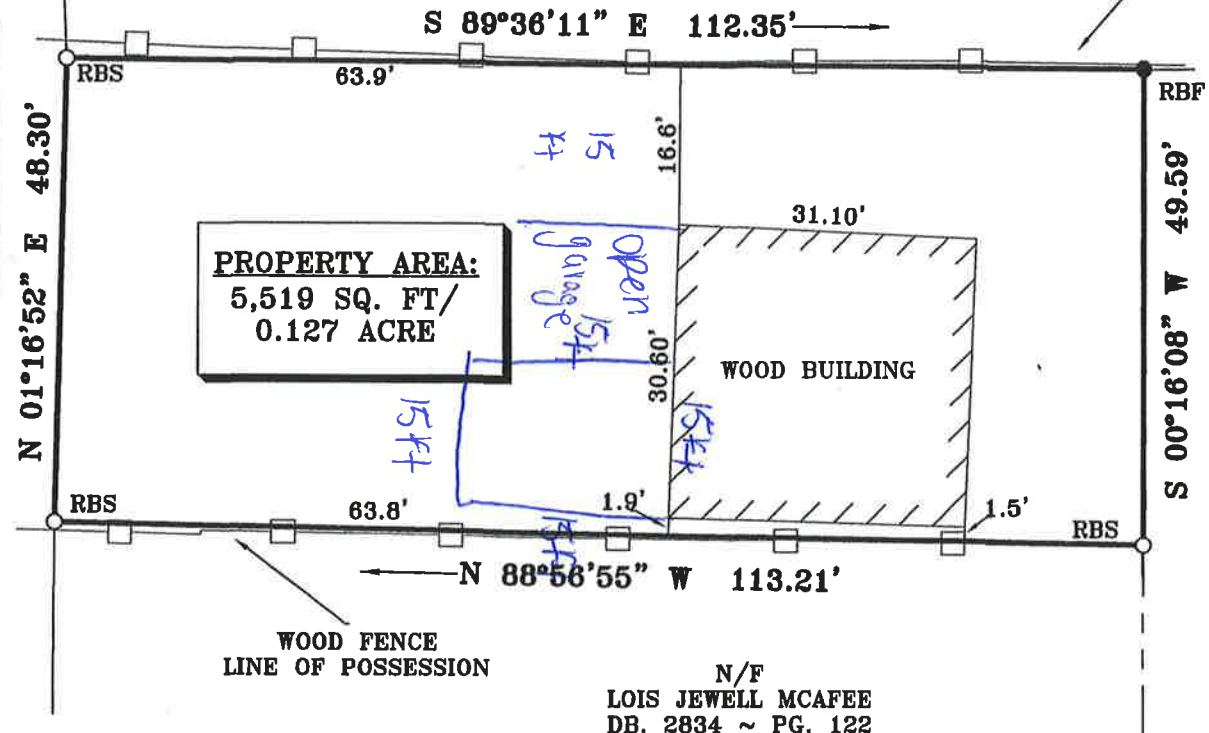
*Johnny R. Knight Jr.*  
 Johnny R. Knight Jr. Ga. PLS/NO. 3323      03/25/2021      DATE

**COLLINS STREET  
(30' PUBLIC R/W)**

POB: N 02°35'19" W 160.13'  
 TO THE SOUTHERLY R/W  
 INTERSECTION OF MARTIN  
 LUTHER KING JR. DRIVE.

N/F  
 MONTG, LLC.  
 DB. 2337 ~ PG. 288  
 PB. 24 ~ PG. 498

WOOD FENCE  
 LINE OF POSSESSION



N/F  
 HOMELESS SHELTER ACTION  
 COMMITTEE, INC.  
 DB. 2787 ~ PG. 681  
 PB. 67 ~ PG. 72  
 LOT 7

N/F  
 LOIS JEWELL MCAFEE  
 DB. 2834 ~ PG. 122

**PROPERTY ADDRESS:**  
 15 COLLINS ST.  
 CARTERSVILLE, GA. 30120



**REVISIONS**

NO.	BY	DATE	DESCRIPTION
1	RK	03/25/2021	INITIAL ISSUE.

DATE OF PLAT: 03/25/2021

DATE OF FIELD WORK: 03/03/2021, 03/19/2021.

REF. DEED: DB. 3230 ~ PG. 876

**BOUNDARY SURVEY FOR:**

**GERARDO LOPEZ**

**0.127 ACRE LOCATED IN LAND LOT 383,  
 4TH. DISTRICT, 3RD. SECTION,  
 CITY OF CARTERSVILLE,  
 BARTOW COUNTY, GEORGIA**

**J. R. KNIGHT LAND SURVEYING, LLC.  
 23 MOSS WAY NW  
 CARTERSVILLE, GEORGIA 30120  
 PHONE: (770) 607-9667  
 EMAIL: rayksurveyor@gmail.com**



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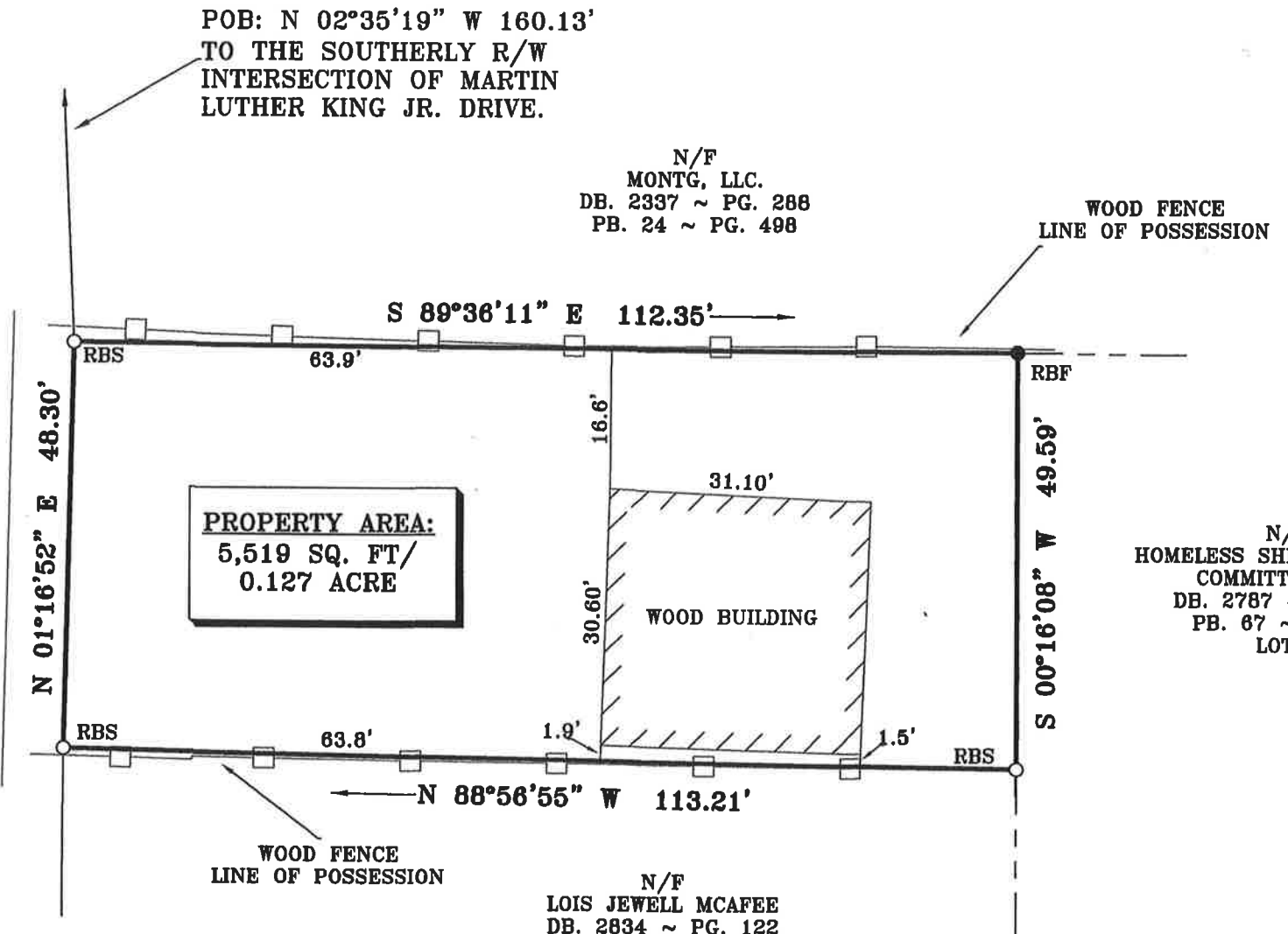
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COLLINS STREET  
(30' PUBLIC R/W)



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LOT 7

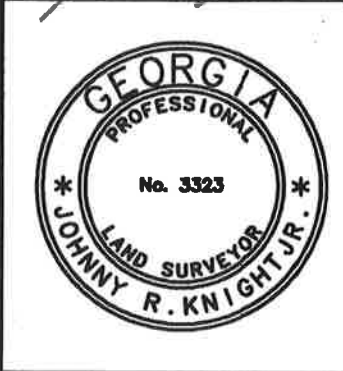
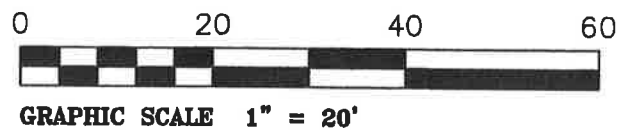
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*Johnny R. Knight Jr.*  
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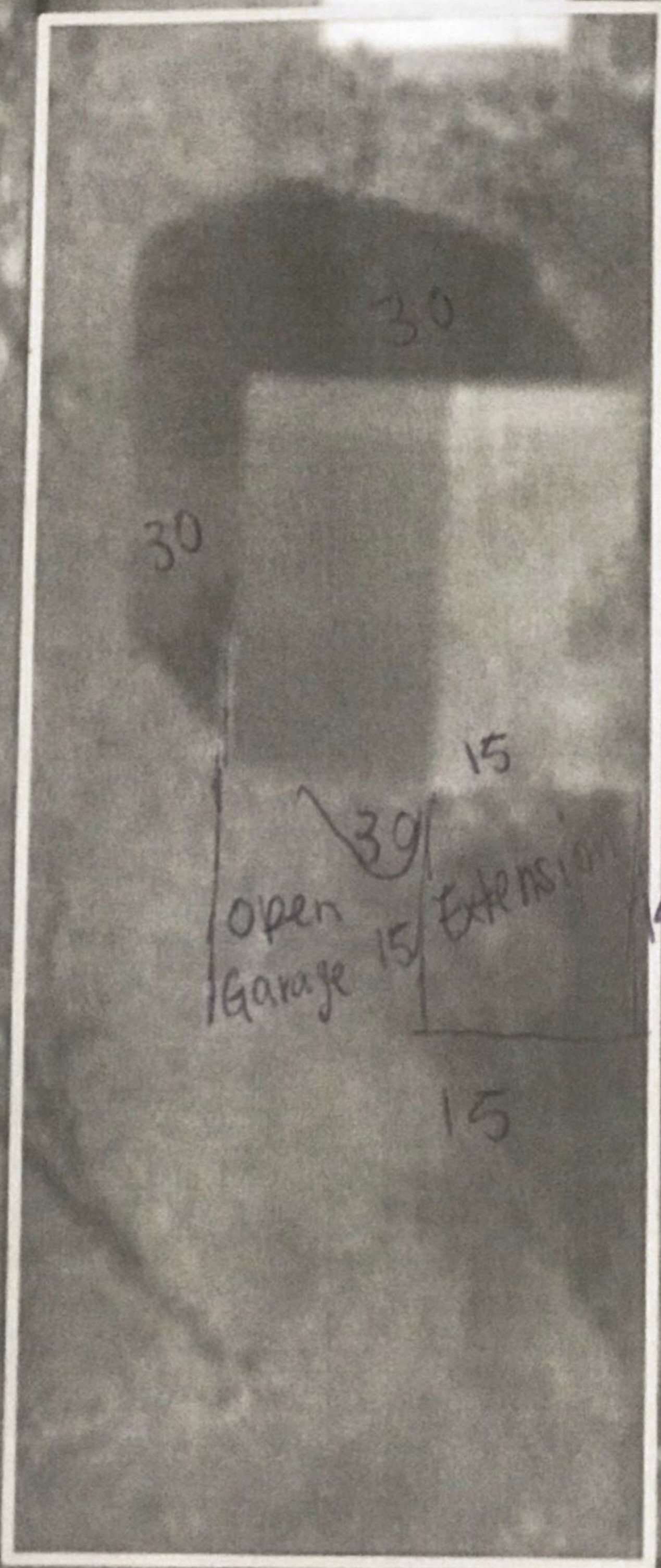
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CARTERSVILLE, GEORGIA 30120  
PHONE: (770) 607-9667  
EMAIL: rayksurveyor@gmail.com







Gilins St



Photos taken 5-10-21







