



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: June 8, 2021
Re: File # V21-12. 707 MLK Jr. Dr.

#V21-12: Applicant requests a variance to allow a privacy fence in the front yard.

Section 1: Project Summary

Variance application by Trent McMurtrey for property located at 707 Martin Luther King Drive Jr, zoned GC (General Commercial). Said property contains approximately 0.39 acres.

Code Enforcement Officer John Goworek noticed the fence encroachment and that it was part of extensive home renovations. Mr. Goworek informed the applicant of the violation and that a variance was needed. The applicant promptly submitted the application.

The privacy fence was only installed on the east side of the property and extends from the rear property line to approx. 10-12ft from the front property line, a distance of approx. 165ft. The house is sited about 90 feet from the front property line, so the front yard is much deeper than adjacent properties whose front yards range from 45-65ft deep, approximately.

Per ordinance Sec. 4.16 (B)(1), privacy fences are not allowed in front yards.

The variance request is for the following:

1. To allow a 6ft privacy to encroach into the front yard.

Section 2. Department Comments

Electric Department: No Comments Received.

Fibercom: No comments regarding this variance

Fire Department: Takes No Exception

Gas Department: Takes No Exception

Public Works Department: No comments regarding this variance

Water Department: Takes No Exception

Section 3. Public Comments Received by Staff

5/21: Sara Tiggs. Received notice. General Inquiry.

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. Section 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:
1. 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.

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

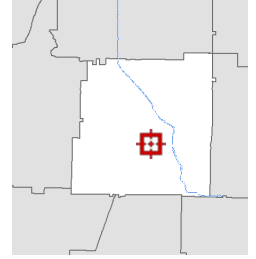


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Bartow County, GA



Overview



Legend

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

Parcel ID C005-0002-001

Sec/Twp/Rng n/a

Property Address 707 MARTIN LUTHER KING DR

District Cartersville

Brief Tax Description LL335 LD4

(Note: Not to be used on legal documents)

Alternate ID 32824

Class Residential

Acreage 0.4

Owner Address MCMURTREY TRENT A

24 GAINES RD NW

CARTERSVILLE, GA 30121

Date created: 4/30/2021

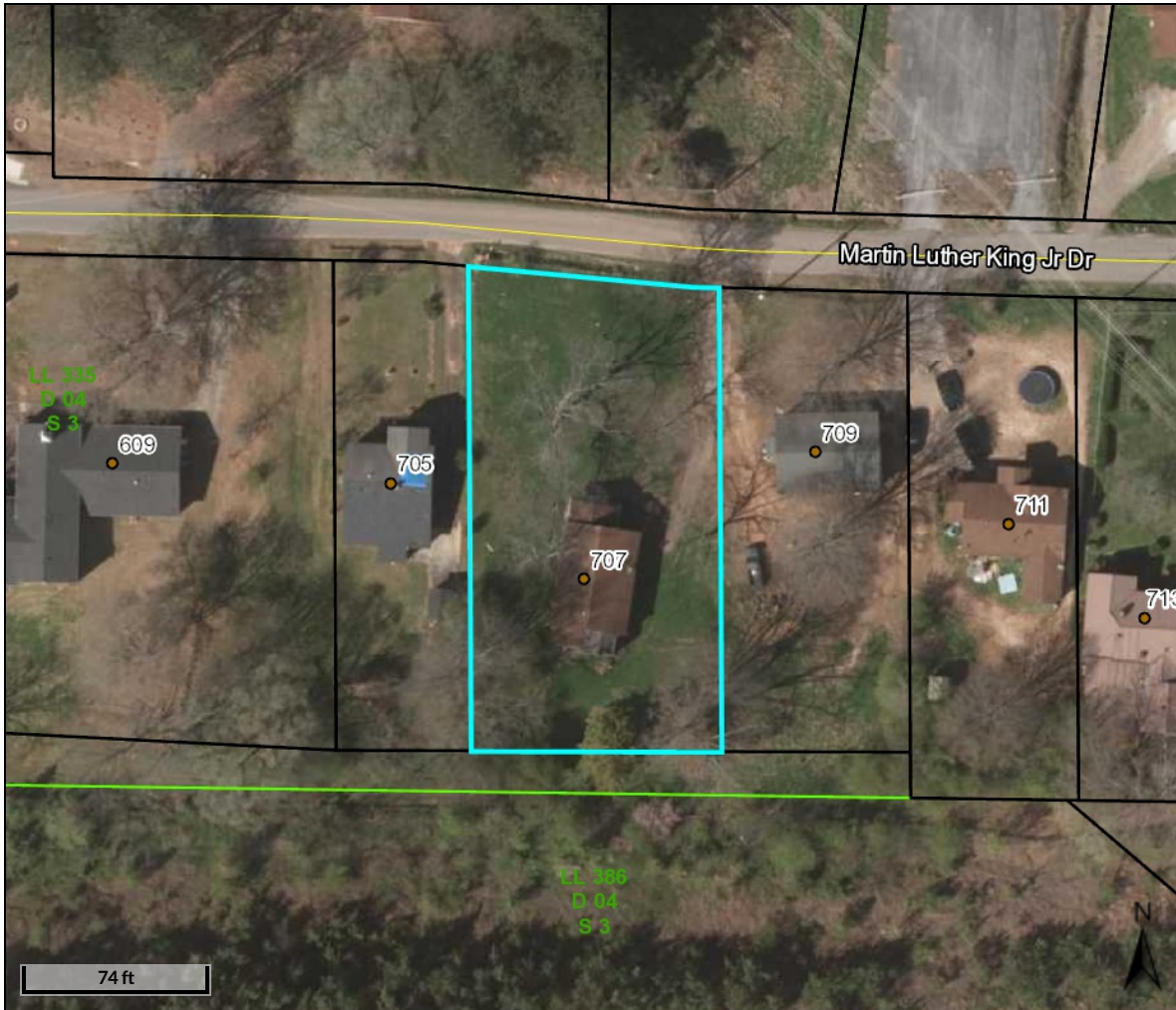
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Developed by Schneider
GEOSPATIAL

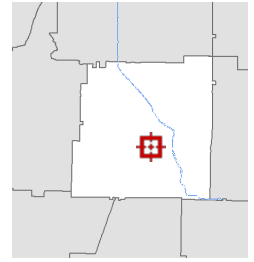


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GEOSPATIAL

City of Cartersville
Application for Variance
Board of Zoning Appeals

Hearing Date: Mon. 6/14/21 5:30pm

Application Number: V21-12

Date Received: 4/30/21

Applicant <u>Trent A. McMurtrey</u> (printed name)		Office Phone <u>(678) 221-7070</u>
Address <u>707 MLK JR DRIVE</u>		Mobile/ Other Phone <u>(678) 221-7070</u>
City <u>CARTERSVILLE</u>	State <u>GA</u>	Zip <u>30120</u> Email <u>tmcguard28@gmail.com</u>
Representative's printed name (if other than applicant) _____		Phone (Rep) _____
Representative Signature _____		Email (Rep) _____
Signed, sealed and delivered in presence of _____		My commission expires: <u>03/18/2022</u>
<u>Kylie Postell</u> Notary Public		

* Titleholder <u>Trent A. McMurtrey</u> (titleholder's printed name)		Phone <u>(678) 221-7070</u>
Address <u>24 Gaines Rd</u>		Email <u>tmcguard28@gmail.com</u>
Signature _____		
Signed, sealed, delivered in presence of: _____		My commission expires: <u>03/18/2022</u>
<u>Kylie Postell</u> Notary Public		

Present Zoning District <u>G-C</u>	<u>G 087-0003-012</u>		
Acreage <u>0.39</u>	Land Lot(s) <u>335</u>	District(s) <u>4H</u>	Section(s) <u>3rd</u>
Location of Property: <u>707 MLK JR DR</u> (street address, nearest intersections, etc.)			
Zoning Section(s) for which a variance is being requested: <u>G-C (General Commercial)</u>			
Summary Description of Variance Request: <u>6' Privacy Fence encroachment into 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.

Chapter 26
Article IV Section 4.16 Subsection _____
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: _____

Justification Letter

Per officer J. Goworek the fence must be 4' tall from the front corner of the house.

We installed a 6' privacy fence along the left side of the property to avoid looking over into the neighbor's yard/house. It also provides a sense of security and safety for the property located at 707 MLK Jr Drive Cartersville, Ga 30120.

THIS BOX RESERVED FOR THE CLERK OF SUPERIOR COURT

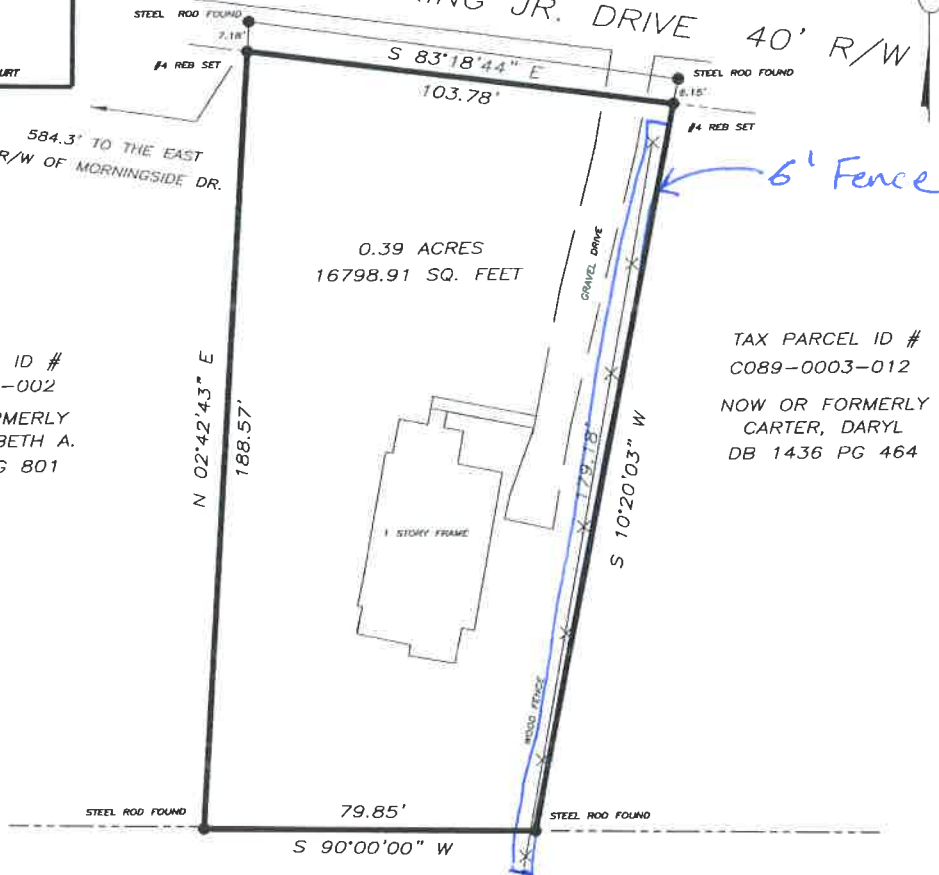
MARTIN LUTHER KING JR. DRIVE 40' R/W

584.3' TO THE EAST
R/W OF MORNINGSIDE DR.

0.39 ACRES
16798.91 SQ. FEET

TAX PARCEL ID #
C005-0002-002
NOW OR FORMERLY
JONES, ELIZABETH A.
DB 2695 PG 801

TAX PARCEL ID #
C089-0003-012
NOW OR FORMERLY
CARTER, DARYL
DB 1436 PG 464



SUBJECT PROPERTY

TAX PARCEL ID # C005-0002-001
NOW OR FORMERLY
McMURTRY, TRENT A.
DB 3228 PG 387

THIS PLAT IS A RETRACEMENT OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT SUBDIVIDE OR CREATE A NEW PARCEL OR MAKE 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.

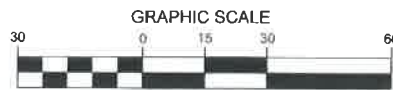
FURTHERMORE, THE UNDERSIGNED LAND SURVEYOR CERTIFIES THAT THIS PLAT COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN THE RULES AND REGULATIONS OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN O.C.G.A. SECTION 15-6-67.

GEORGIA REGISTERED LAND SURVEYOR

PLS # 2604

04/25/2021

DATE



1 inch = 30 ft

NOTES:

- 1) ANGLES AND DISTANCES MEASURED WITH A TOPCON ROBOTIC TOTAL STATION & iGAGE X90 DUAL FREQUENCY GPS RECEIVER.
- 2) THIS PLAT IS PREPARED BASED ON A FIELD SURVEY USING A 2 SECOND EDM MAKING REDUNDANT MEASUREMENTS TO ACHIEVE A RELATIVE POSITIONAL TOLERANCE OF 0.05" AND HAS A CLOSURE OF ONE FOOT IN 55,520 FEET. THE TRAVERSE NETWORK WAS ADJUSTED USING THE COMPASS RULE METHOD.
- 3) THIS MAP OR PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 142,000+ FEET.
- 4) THIS SURVEY WAS CONDUCTED WITHOUT THE BENEFIT OF A TITLE REPORT, ALL MATTERS OF TITLE ARE EXCEPTED.

PROPERTY DESCRIPTION:

707 MARTIN LUTHER KING JR DRIVE
CARTERSVILLE, GEORGIA 30120
LAND LOT 335, 4th DISTRICT,
3rd SECTION, CITY OF CARTERSVILLE,
BARTOW COUNTY, GEORGIA

SURVEY TYPE: BOUNDARY

DATE OF FIELD SURVEY: 04/23/2021

MAP ISSUE DATE: 04/25/2021

PROJECT No.: 2021/McMURTRY

BOUNDARY
SURVEY
PREPARED
FOR
TRENT A. McMURTRY

LAND SURVEYORS &
CONSULTANTS, LLC.

Surveying • Elevation Certificates • Consulting
12 Centerport Drive
White, GA 30184
678-435-1998
Email: mebartenfeld@yahoo.com

THIS BOX RESERVED FOR THE CLERK OF SUPERIOR COURT

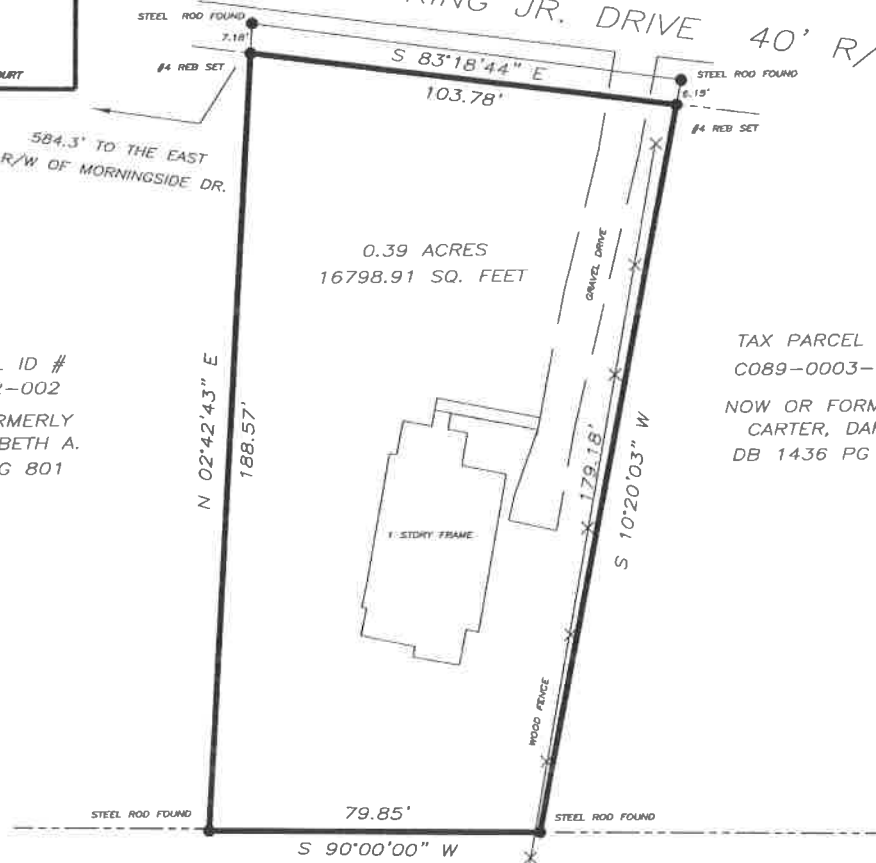
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MAGNETIC NORTH

SUBJECT PROPERTY

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PROJECT No.: 2021/McMURTREY

BOUNDARY
SURVEY
PREPARED
FOR
TRENT A. McMURTREY

LAND SURVEYORS &
CONSULTANTS, LLC.

Surveying • Elevation Certificates • Consulting
12 Centerport Drive
White, GA 30184
070-435-1998
Email: mebartenfeld@yahoo.com



Image taken 5-19-21







Property pin visible with pink flagging

