



City of Cartersville

PLANNING AND DEVELOPMENT

P.O. Box 1390 • 10 North Public Square • Cartersville, Georgia 30120
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MEMO

To: BZA
From: Randy Mannino/David Hardegree/Meredith Ulmer
CC: Keith Lovell
Date: May 18, 2021
Re: File # V21-04

#V21-04: Applicant requests a variance to allow a privacy fence to encroach into the front yard setback of a corner lot.

Section 1: Project Summary

Variance application by Darla Montgomery for property located at 2 Huntcliff Drive, zoned R-7 (Residential). Said property contains approximately 0.23 acres. The property is at the southeast corner of the Huntcliff Dr. and Thornwood Dr. intersection.

The applicant installed the fence earlier this year. The fence is compliant with all zoning requirements except its' location along the Thornwood Drive property line. Code enforcement officer John Goworek noticed the fence encroached into the front yard and made contact with the applicant. The applicant was informed that this fence would have to be relocated behind the setback line or receive a variance for the location.

By ordinance, a privacy fence on a corner lot must be at or behind the front yard setback. In this case the front yard setback is 25ft which is where the house is sited. The property line is located 12ft behind back of curb. The fence is currently located 6'-4" behind back of curb which is on the public right-of-way(ROW) and must be moved off the public right of way. Based on GIS the fence may be installed on top of the City waterline.

Four trees are located approximately 10'-12' behind back of curb and may be on the ROW. The trees were planted between 2000 and 2004 per Google Earth images and by a previous owner.

Th BZA should determine what is an appropriate distance for the fence to be located off the public ROW. The range of distance is between 0ft and 25ft. off the property line or 12ft to 37ft behind back of curb.

The applicant's variance request is in regards to **Section 4.16, Fences and Walls, Item (B)(4)**. See **Section 4** below.

The variance request is for the following:

1. To allow a 6ft privacy fence to encroach into the front yard setback of a corner lot.

Section 2. Department Comments

Electric Department: No comments received. Not in service area.

Fibercom: Takes no exception.

Fire Department: No comments received

Gas Department: Takes no exception. Not in service area.

Public Works Department: The fence at this location will be required to be removed from the right of way. A variance cannot be obtained for its setback, since it is located on public right of way.

Water Department: Takes No Exception.

Bartow County Water Dept: No comments received.

Section 3. Public Comments Received by Staff

5/19. Johnathan Lewis. Adjacent neighbor. Received notification. 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.*

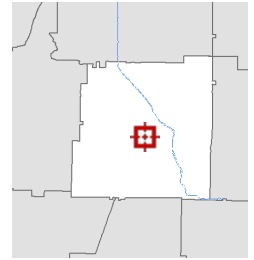


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Bartow County, GA



Overview



Legend

- Parcels
- Roads

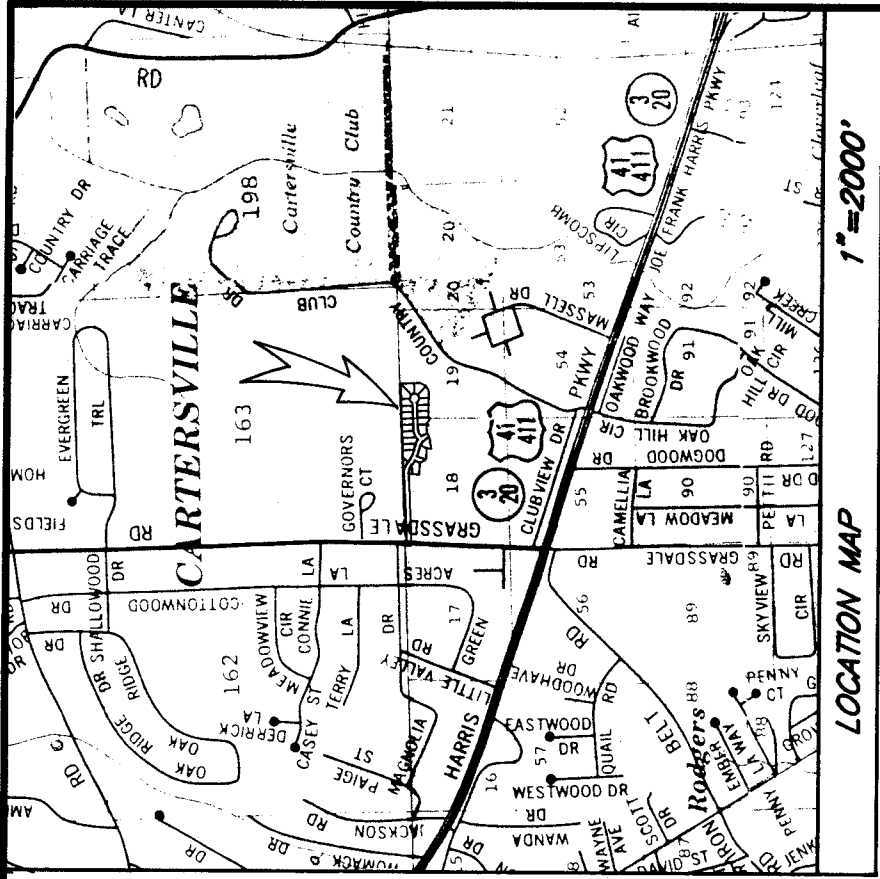
Parcel ID	C082-0002-008	Alternate ID	37475	Owner Address	MONTGOMERY DARLA
Sec/Twp/Rng	n/a	Class	Residential		2 HUNTCLIFF DRIVE
Property Address	2 HUNTCLIFF DR	Acreage	n/a		CARTERSVILLE, GA 30121
District	Cartersville				
Brief Tax Description	LL18 LD4 S3 LT114 THORNWOOD I				

(Note: Not to be used on legal documents)

Date created: 5/17/2021

Last Data Uploaded: 5/14/2021 10:12:28 PM

Developed by Schneider
GEOSPATIAL



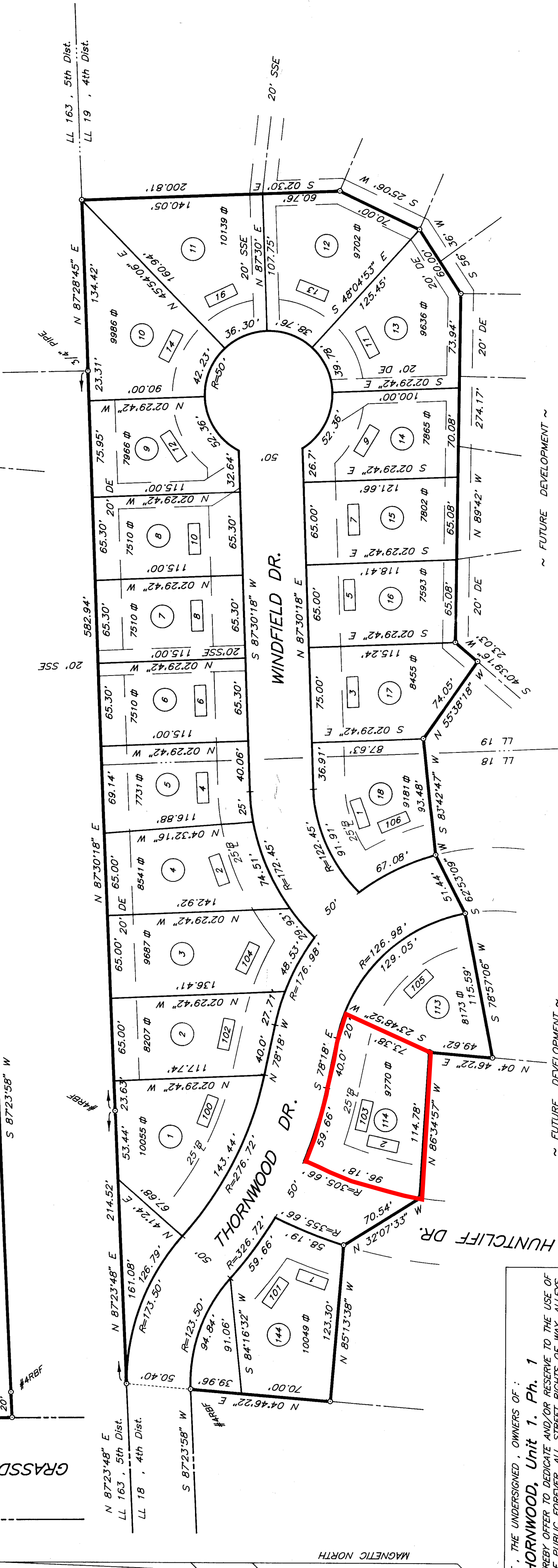
GRASSDALE RD. 80' R/W

LL 163, 5th Dist.
LL 18, 4th Dist.
N 87°23'48" E
S 87°23'58" W

THORNWOOD DRIVE

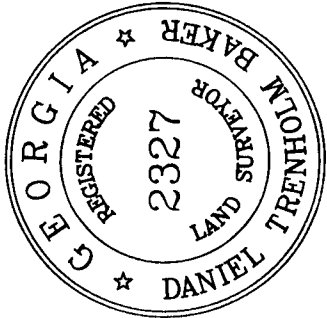
754.00'

749.51'



~ FUTURE DEVELOPMENT ~

~ FUTURE DEVELOPMENT ~



I HEREBY CERTIFY THAT THE PLAT SHOWN AND DESCRIBED HEREON IS A TRUE AND CORRECT SURVEY MADE ON THE GROUND UNDER MY SUPERVISION AND THAT THE MONUMENTS HAVE BEEN PLACED AS SHOWN HEREON (# # REINFORCING BAR AT EACH LOT CORNER).

Dan Baker
GEORGIA REGISTERED LAND SURVEYOR # 2327

THIS PLAT IS APPROVED FOR RECORDING IN THE OFFICE OF THE CLERK OF SUPERIOR COURT.

Rachel H. Miller
PLANNING COMMISSION
31 Aug 1993
DATE

WE, THE UNDERSIGNED, OWNERS OF:
THORNWOOD, Unit 1, Ph. 1
HEREBY OFFER TO DEDICATE AND/OR RESERVE TO THE USE OF THE PUBLIC FOREVER, ALL STREET RIGHTS OF WAY, ALLEYS, PARKS, WATER COURSES, DRAINS, EASEMENTS, AND PUBLIC PLACES SHOWN HEREON, FOR THE PURPOSE AND CONSIDERATION HEREIN EXPRESSED.

OWNER:	DATE
<i>Judith G. Davis</i>	8/30/93
<i>D. J. Baker</i>	8/30/93
<i>Stephen D. James</i>	8/30/93
<i>Carl J. ...</i>	8/30/93
<i>Daniel P. ...</i>	8/30/93

THIS PLAT IS PREPARED FROM A FIELD SURVEY USING A FIVE SECOND DIGITAL THEODOLITE AND ELECTRONIC DISTANCE METER; LINEAR PRECISION OF TRAVERSE: 1/10,000+; ANGULAR PRECISION: 23" +/-; THE TRAVERSE WAS ADJUSTED USING THE COMPASS RULE. LINEAR PRECISION OF THIS PLAT: 1/134,071. MATTERS OF TITLE ARE EXCEPTED.

THIS PARCEL OF LAND IS NOT IN THE 100 YEAR FLOOD PLAIN, ACCORDING TO FEMA (F.I.A.) COMMUNITY PANEL # 13015 C 0086 F. DATED SEPTEMBER 29, 1989.

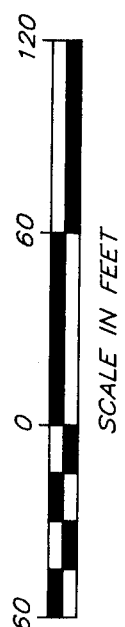
DATE	: 8-26-93
SCALE	: 1"=60'
DRAWN BY	: DTB
CHECKED BY	: DTB
	: 2509/500/GRAS1-1

GASKINS & BAKER
LAND SURVEYORS

CARTERSVILLE, GEORGIA
(404) 382-5869

THORNWOOD
Unit 1, Ph. 1

LOCATED IN L.L. 18 & 19
4th DIST., 3rd SECT.,
BARTOW COUNTY, GA.
CITY OF CARTERSVILLE







City of Cartersville
Application for Variance
Board of Zoning Appeals

Hearing Date: 4/19/21 5:30pm

Application Number: V21-04
Date Received: 2/15/2021

Applicant <u>DARLA Montgomery</u> <small>(printed name)</small>	Office Phone _____
Address <u>2 Huntcliff Drive</u>	Mobile/ Other Phone <u>410 430 8275</u>
City <u>Cartersville</u> State <u>GA</u> Zip <u>30121</u>	Email <u>babygirl00432@gmail.com</u>
Representative's printed name (if other than applicant) _____	
Phone (Rep) _____	
Email (Rep) _____	
Representative Signature _____	Applicant Signature <u>DMonty</u>
Signed, sealed and delivered in presence of: _____	
My commission expires: <u>1/23/23</u>	
	

* Titleholder <u>DARLA Montgomery</u> <small>(titleholder's printed name)</small>	Phone <u>410 430 8275</u>
Address <u>2 Huntcliff Drive</u>	Email <u>babygirl00432@gmail.com</u>
Signature <u>DMonty</u>	
Signed, sealed, delivered in presence of: _____	
My commission expires: <u>1/23/23</u>	
	

Present Zoning District <u>R-7</u>	
Acreage _____	Land Lot(s) <u>18</u> District(s) <u>4</u> Section(s) <u>3</u>
Location of Property: <u>2 Huntcliff Drive Cartersville GA 30121</u> <small>(street address, nearest intersections, etc.)</small>	
Zoning Section(s) for which a variance is being requested: _____	
Summary Description of Variance Request: <u>My fence is in place already. It does not hinder walking traffic or obstruct the view from oncoming traffic.</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.

Chapter

~~Article~~ 26 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: I had the fence placed just outside of the border of trees that surround my property. I have six children and a dog, and I wanted a fence for their safety. The placement was also to benefit my family and pet with as much of the yard that the trees take up. At the stop sign, on my property, you are able to view incoming traffic with no obstruction from my fence. I also don't have the financial means of being able to relocate my fence.

