

1. Board Of Zoning Appeals Meeting Agenda

Documents:

[01-26-26 BZA MEETING AGENDA.PDF](#)

1.I. V2025-41 Bolan St 544

Documents:

[V2025-41 BOLAN ST 544 PKG - WEB.PDF](#)

1.II. V2025-46 Airport Ind Park Drive 2070

Documents:

[V2025-46 AIRPORT IND PARK DRIVE 2070 PKG - WEB.PDF](#)

1.III. V2026-02 Moon St 82

Documents:

[V2026-02 MOON ST 82 PKG - WEB.PDF](#)

1.IV. V2026-03 Stewart Ave 318

Documents:

[V2026-03 STEWART AVE 318 - WEB.PDF](#)



City of Marietta

Meeting Agenda

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

BOARD OF ZONING APPEALS

Bobby Van Buren, Chairman

Rosser Southerland, Vice Chair

Walter Walker, Ward 2

Mark Maloney, Ward 3

David Hunter, Ward 4

Juanita Carmichael, Ward 5

Liore Friedman, Ward 7

Monday, January 26, 2026

6:00 PM

City Hall Council Chambers

NOTE: Applicant and those in favor have a total of 20 minutes to make their presentation to the Board. Applicants may reserve any portion of this time for rebuttal. All those in opposition have a total of 20 minutes to present comments to the Board.

CALL TO ORDER:

MINUTES:

20250053 Regular Meeting - December 19, 2024

Review and approval of the December 19, 2024, meeting minutes

VARIANCES:

20250854 V2025-41 [VARIANCE] JOSE MIGUEL BAENA MORALES

V2025-41 [VARIANCE] JOSE MIGUEL BAENA MORALES is requesting variances for property zoned R-3 (Single Family Residential - 3 units/acre) located in Land Lot 218, District 17, Parcel 0860, 2nd Section, Marietta, Cobb County, Georgia, and being known as 554 Bolan Street. Variance to reduce the rear setback for an accessory structure; variance allowing the height of an accessory structure exceed the height of the principal structure. Ward 1A.

20250957 V2025-46 [VARIANCE] CROWN TRANSMISSIONS, INC.

V2025-46 [VARIANCE] CROWN TRANSMISSIONS, INC. is requesting variances for property zoned LI (Light Industrial) located in Land Lot 660, 17th District, Parcel 0140, 2nd Section, Marietta, Cobb County, Georgia, and being known as 2070 Airport Industrial Park Drive. Variances to operate an auto sales lot on a parcel less than one acre and within 50 feet of property zoned for residential purposes; to allow a chain link fence as screening for the adjacent residential property. Ward 7A.

20251091 V2026-02 [VARIANCE] DAVID DARDEN

V2026-02 [VARIANCE] DAVID & MELISSA DARDEN are requesting variances for property zoned R-4 (Single Family Residential - 4 units/acre) located in Land Lot 1158, 16th District, Parcel 0480, 2nd Section, Marietta, Cobb County, Georgia, and being known as 82 Moon Street. Variance to allow a shale driveway; variance to reduce the front setback. Ward 3A.

20260014 V2025-27 [VARIANCE] JAMES THRAILKILL

V2025-27 [VARIANCE] JAMES THRAILKILL is requesting variances for property zoned R-3 (Single Family Residential - 4 units/acre) located in Land Lot 1149, District 16, Parcel 0060, 2nd Section, Marietta, Cobb County, Georgia, and being known as 318 Stewart Avenue. Variances to rebuild a nonconforming structure and reduce the side building setback for a principal structure. Ward 4A

OTHER BUSINESS:**ADJOURNMENT:**



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2025-41 Legistar #: 20250854

Board of Zoning Appeals Hearing: Monday, January 26th, 2026 – 6:00 pm

Property Owner: [REDACTED]

Applicant: Same as above

Address: 554 Bolan Street

Land Lot: 02180 District: 17 Parcel: 0860

Council Ward: 1A Existing Zoning: R3 (Single Family Residential – 3 units/acre)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to reduce the rear setback to 4' for an accessory structure exceeding 15 feet in height. [§708.03 (F.4)]
2. Variance to allow the height of an accessory structure exceed that of the principal structure. [§708.03 (F.5)]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

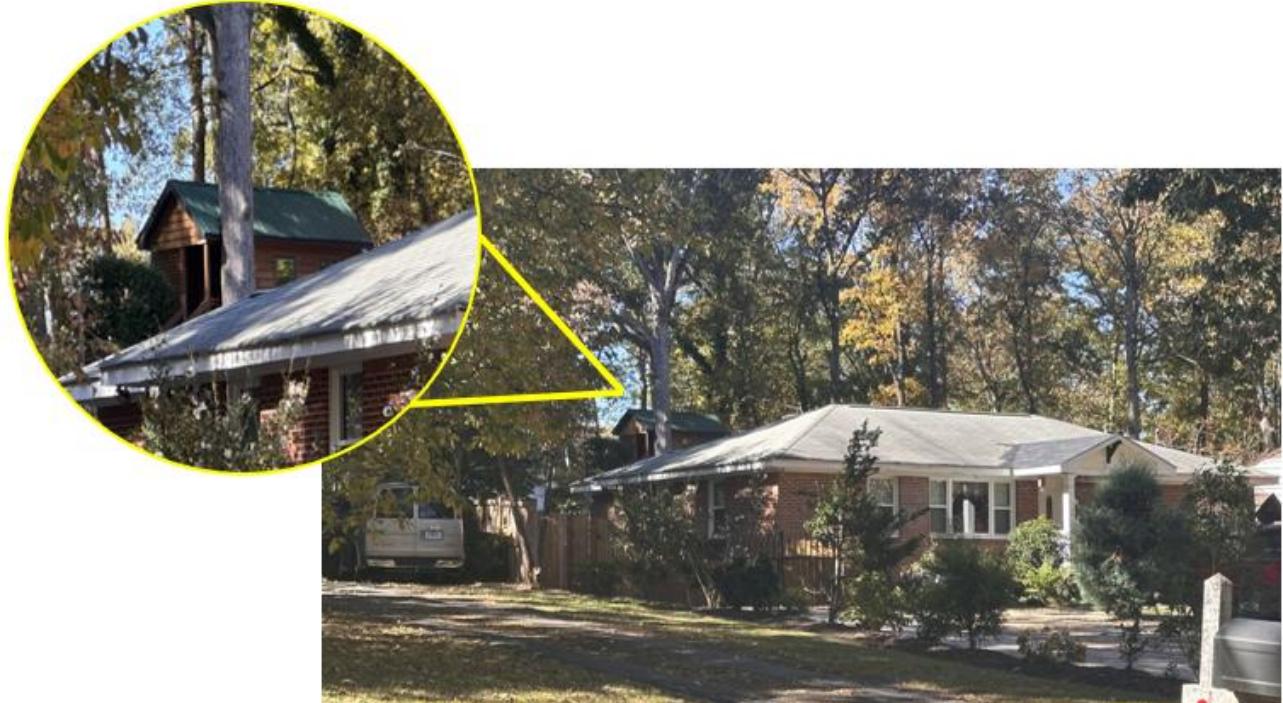
Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



View of subject property from Bolan Street



View of the accessory structure (treehouse) from Bolan Street



Additional pictures taken during initial Code Enforcement visit on 9/15/2025

Recommended Action: Denial.

The applicant, [REDACTED], is requesting variances to allow for an existing accessory structure to remain on the property located at 554 Bolan Street. The subject property is zoned R3 (Single Family Residential – 3 units/acre) and is approximately 0.44 acres. All surrounding properties share the R4 zoning designation.

The applicant is requesting variances to allow for the recently constructed accessory structure, a treehouse, to remain within 7 feet of the rear property line and to exceed the height of the principal structure. Under R3 zoning regulations, accessory structures over 15 feet in height must be set back at least a distance equal to their height. While the exact height is unknown, its elevation above the principal structure indicates it exceeds 15 feet and therefore requires a greater rear setback than currently provided.

The applicant did not obtain a building permit prior to constructing the treehouse, which is understandable given that many people may not associate a treehouse with formal permitting requirements. However, due to the magnitude of the structure – its substantial height and overall scale – it meets the threshold where a building permit is required. **The structure functions more like a raised accessory building than a typical play feature.** The applicant was made aware of applicable zoning and building requirements following a complaint, which prompted a site inspection by Code Enforcement on September 15, 2025.

Following the Code Enforcement citation (25 00002395), the applicant submitted a building permit on September 19, 2025 (BLDG2509064949) and a variance application on September 30, 2025 (VARIANCE 2025.1964). While the structure was built without prior approval, these actions demonstrate the applicants' prompt efforts to address the issue and pursue compliance through the appropriate review process.

In this case, the applicant has not identified a specific hardship beyond having constructed the treehouse without regard to zoning and permitting requirements. The structure does not utilize a tree for support, functioning more as a freestanding elevated playhouse than a traditional treehouse. While it is understandable that zoning and permitting requirements may be overlooked for a structure intended for children's recreation, the scale and height of this particular build exceed what is typically expected. The backyard of the subject property appears to have adequate space to accommodate a play structure in a compliant location; however, the height would need to be reduced to meet zoning standards, as accessory structures are not permitted to exceed the height of the principal building.



Aerial Imagery of the subject property showing sufficient backyard space.

While the Board of Zoning Appeals has approved setback and height variances for accessory structures in the past, this request is unique in that it involves a treehouse-style structure of notable scale and placement – an accessory type not previously approved for variances by the board.

Due to the lack of hardship presented and adequate backyard area for relocation, ***staff recommends denial of the variances requested.***

Alternatively, should the Board decide to approve the request, staff recommends a five-year approval period. Should the applicants wish to retain the accessory structure beyond that timeframe, they may return to request an extension at that time.

1/5/2026 Update:

At the November 24, 2025 meeting, the Board of Zoning Appeals requested additional information regarding the exact height of the accessory structure and the primary structure. An inspection was conducted by Jeff Duckett, Chief Building Official for the City, on December 2, 2025. The following observations were noted:

The accessory structure sits on slightly raised ground at the back of the property. The surrounding ground becomes flat about 6 feet away from it. The building is **17 feet 6 inches tall** when measured from the average ground level. It is positioned **4 feet 6 inches** from the back property line.

The primary structure on the property is 15 feet and 6 inches in height.

Please note: Should the Board decide to approve the variances requested, the variance must reflect the actual distance from the rear property line – 4 feet 6 inches – rather than the 7 feet originally requested by the applicant in the November BZA meeting.





Department of Development Services
205 Lawrence Street
Marietta, GA 30060
Rusty Roth, AICP, Director

APPLICATION FOR VARIANCE OR APPEAL

(Owner/Applicant/or Representative must be present at all public hearings)

(NOTE: CORRESPONDENCE IS HANDLED VIA EMAIL UNLESS OTHERWISE REQUESTED)

For Office Use Only:

Application #: V2025-41 Legistar #: 20250854 BZA Hearing Dt: JAN 26, 2026

~~Nov 24, 2025~~

City Council Hearing Dt (if applicable) #: _____ PZ #: 25-074

This is a variance/appeal application for:



Board of Zoning Appeals



City Council

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant: _____

EMAIL Address: _____

Mailing Address _____ Zip Code: _____ Phone Number: _____

Address of subject property: 554 Bolan Street SE Date of Acquisition: 7/9/2015

Land Lot (s) 0218 District 17 Parcel 0860 Acreage .44 Zoned R3 Ward 1A FLU: MDR

List the variance(s) or appeal requested (please attach any additional information):

Required Information

1. Application fee (Residential - \$250; Non-residential - \$350)
2. Completed notarized application. The original application must be submitted with ALL original signature(s) – Copies of the application or signature(s) will NOT be accepted.
3. Copy of the deed that reflects the current owner(s) of the property. Documentation showing names of Principals authorized to sign application is **required for Corporations**.
4. Letter describing the reason for the variance request, stating why strict adherence to the code would result in a particular hardship (as distinguished from a mere inconvenience or desire to make more money).
5. **Site plan – drawn to scale.** Site plans must illustrate property lines and all relevant existing information and conditions in addition to proposed additions or modifications within the referenced property lines of the tract(s).
Copies Required: One (8 1/2" x 11") -or- One (11" x 17") drawn to scale.
Optional Additional Plat size: (24"x 36"). If providing (24"x 36") then 5 copies REQUIRED of the plat size pages.
6. Copy of current tax bill showing payment or documentation certified by the City of Marietta Tax Office.

Note: The Department of Development Services reserves the right to obtain additional information that reasonably may be required in order that an informed decision may be made.

OVER



Variance



Address	Parcel Number	Acreage	Ward	Zoning	FLU
554 BOLAN ST	17021800860	0.439	1A	R3	MDR
Property Owner:					
Applicant:					
BZA Hearing Date:	NOV 24, 2025 Jan 26, 2026				
Acquisition Date:					
Case Number:	V2025-41				

09-30-2025

Subject: Scope of Work and Statement of Use – Treehouse Project

I submit this letter to outline the scope of work and intended use for the construction of a treehouse located on my property.

Project Description:

The proposed project is the construction of a **14-foot by 8-foot elevated treehouse structure**. The treehouse will be supported by cedar logs posts, include safety railings on three sides, and feature an opening for staircase access at the front. A **gable-style slanted roof with metal roofing sheets**.

Scope of Work:

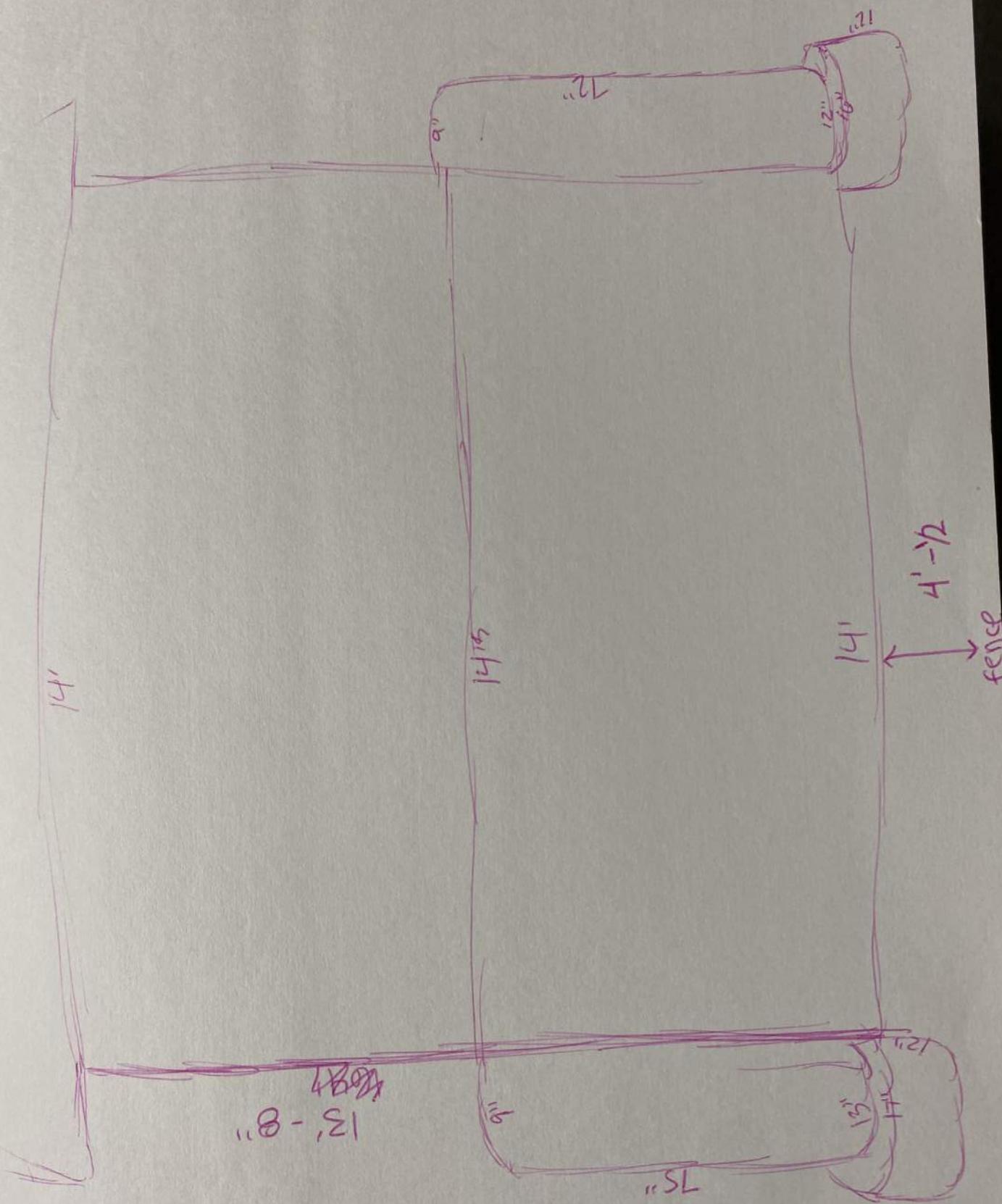
- Build a **14 x 8 ft raised wooden platform** by cedar logs for stability.
- Install **safety railings** on three sides of the platform, leaving an opening for staircase access.
- Construct and secure a **staircase** for safe entry and exit.
- Install a **gable-style metal roof**.
- Ensure all construction methods and materials meet appropriate **safety and durability standards** for long-term use.

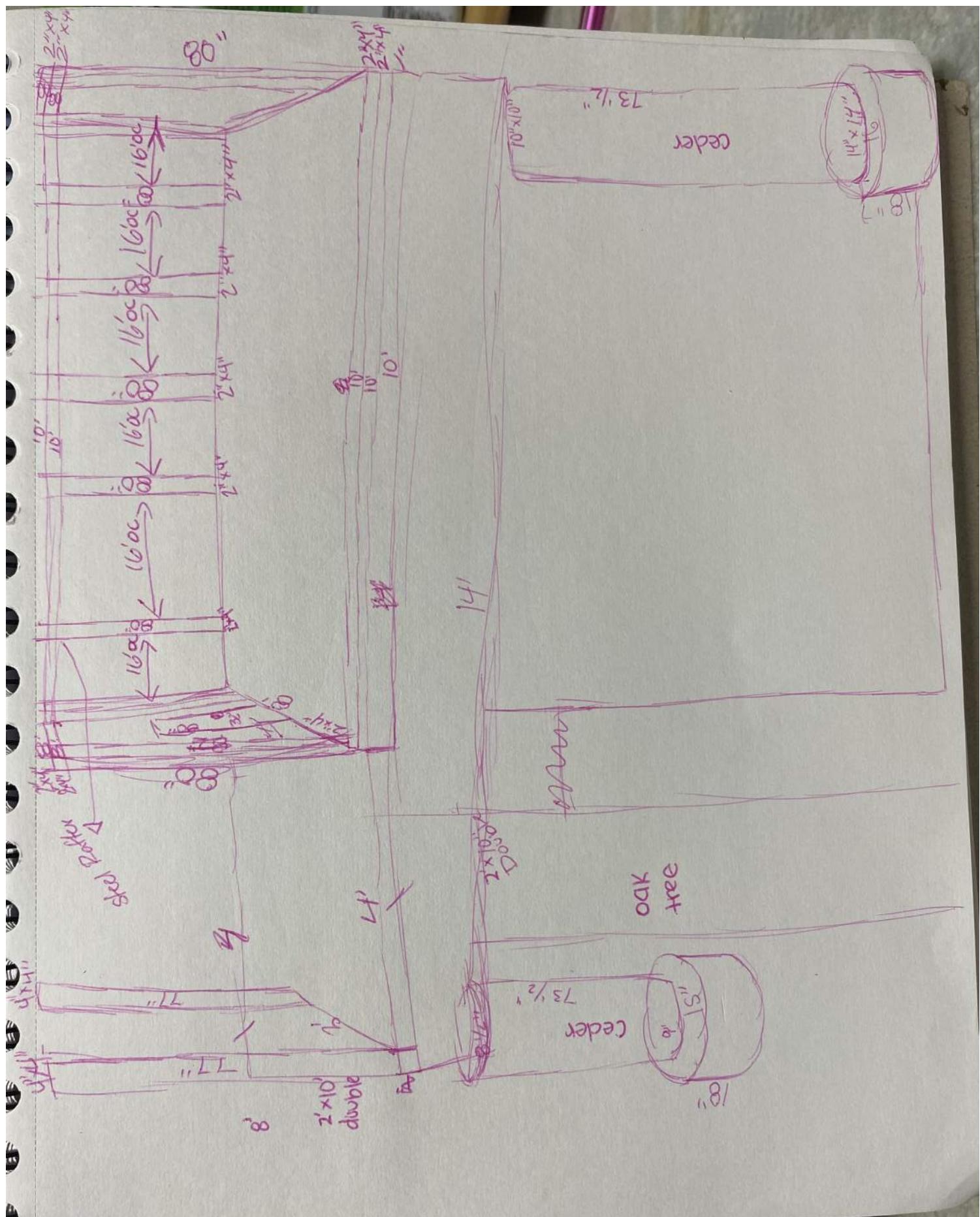
Statement of Use:

The completed treehouse will serve exclusively as a **recreational and play structure** for family use. Its purpose is to provide a safe, secure, and creative outdoor space for children with safety considerations. The design prioritizes durability, weather resistance, and minimal neighborhood impact.

Thank you for your attention and review of this project plan. Please let me know if additional documentation or approvals are required.

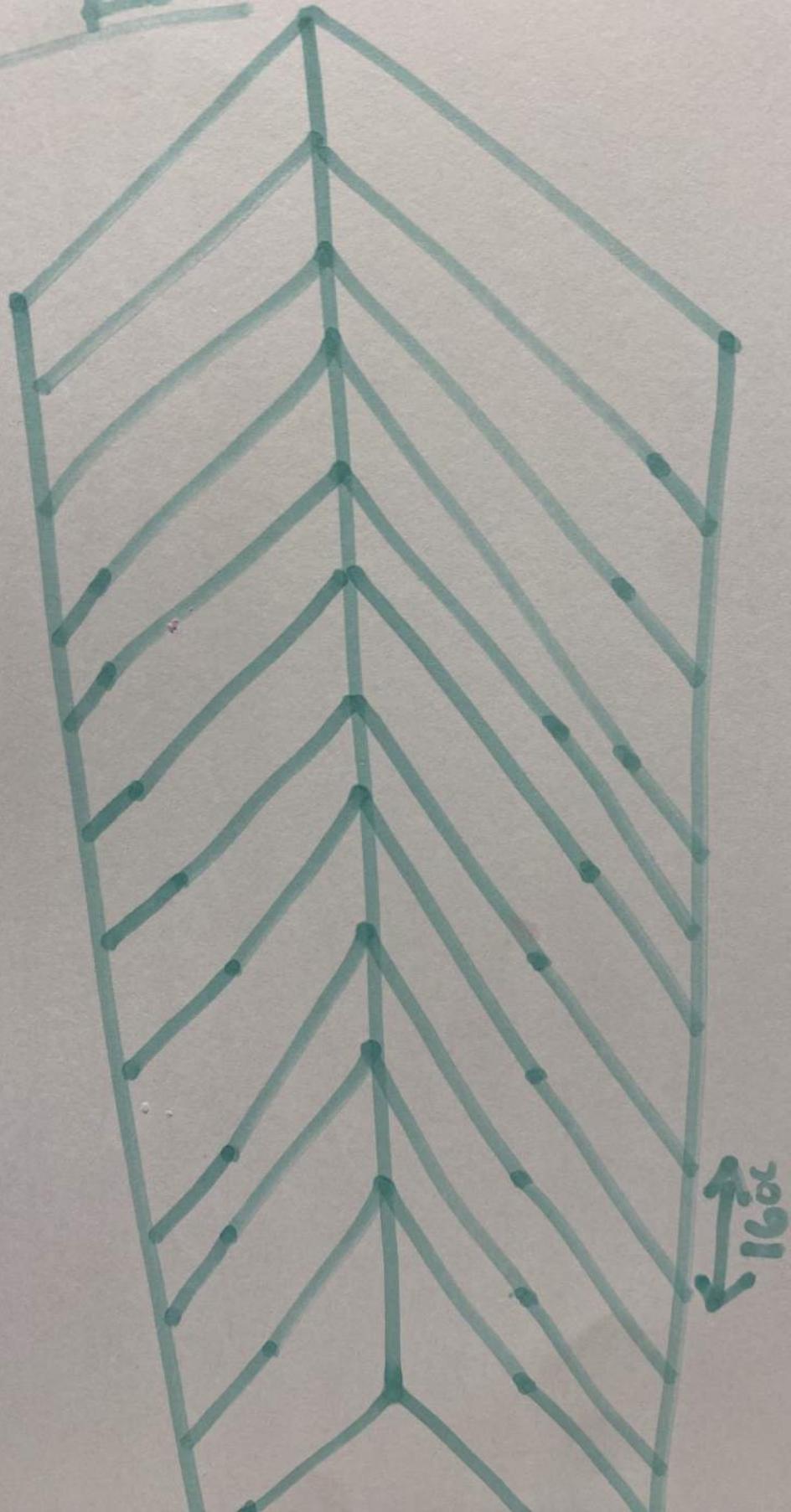
Sincerely,





Top Roof

8-12



554 Bolan St Site for Tree House



Parcels	
Parcels	
Railroads	
Kennesaw Mountain Ntl Ba	
Parks	
Streets	
INTERSTATE	
ARTERIAL	
COLLECTOR	
LOCAL	
Dobbins Runway	
Dobbins Boundary	

DISCLAIMER NOTE: This map is prepared for the inventory of real property found within this jurisdiction and is compiled from aerial photography, recorded deeds, plats and other imagery, data and public records. Users of this map are hereby notified that the aforementioned primary public information sources should be consulted for verification of the information contained on this map. This jurisdiction, and the mapping companies involved in preparing it, assume no legal responsibilities for the information contained on this map.

9/17/2025 9:52 AM



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2025-46

Legistar #: 20250957

Board of Zoning Appeals Hearing: Monday, January 26, 2025 at 6:00pm

Property Owner: [REDACTED]

Applicant: [REDACTED]
as above

Address: 2070 Airport Industrial Park Drive SE

Land Lot: 660 District: 17 Parcel: 0140

Council Ward: 7A Existing Zoning: LI (Light Industrial)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to operate an auto sales lot on a parcel less than one acre in size [*§708.26 B.8.a.*]
2. Variance to operate an auto sales lot within 50 feet of property zoned for residential purposes [*§708.26 B.8.c.*]
3. Variance to permit a chain link fence to provide screening for the adjacent residential property [*§708.26 B.8.d.*]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

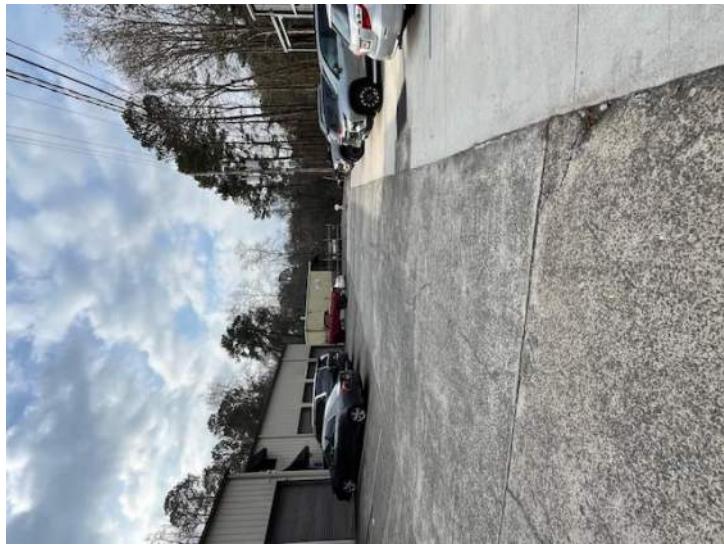
Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



Above - The subject property, which is kept in a meticulously clean and orderly state.



Left - Access to the property is via an easement through others' parcels. Although maneuvering large carrier vehicles in and out of the drive area could be problematic, the applicant has stated that he only intends to sell a low volume of inventory, capable of being delivered by smaller tow trucks.

Recommended Action: Denial based on strict interpretation of zoning code. Approval with stipulations could be merited, though, based on the belief (following a site visit and discussion with applicant) that the public interest will not be compromised if variances are granted.

████████ owner of 2070 Airport Industrial Park Drive, is requesting variances so that cars can be sold from his property, zoned LI (Light Industrial). █████ has operated an auto repair business, Crown Transmissions, from the property since August 1995, but states in the variance application that transmission repair work has considerably shrunk in recent years as car technology has evolved. The applicant therefore wishes to begin selling cars to “save the company.”

Per zoning code, automobile sales are allowed only under the following conditions in LI districts:

- a) Minimum one acre lot size.
- b) All vehicles shall be set back at least 10 feet from the street right of way line.
- c) Such use shall be located at least 50 feet from any properties zoned for residential purposes.
- d) A solid fence or wall no less than six feet in height shall be maintained to provide a visual screening between the residential and commercial properties.

The subject property, however, is too small by code (0.9 acres) to accommodate a car sales lot and is located adjacent to an apartment complex, The Park on Windy Hill. Additionally, only a chain link fence currently separates the property from the residential use next door.

Arguments against the granting of variances

Code states that the granting of variances must be based on evidence showing:

- “*The existence...of a nonconforming structure or physical condition at a time prior to the adoption of the Zoning Ordinance of the City of Marietta, or amendments thereto, [which] requires the continuance of such nonconforming structure or physical condition*” [§720.03 A.2.a.], or
- “*There are extraordinary and exceptional conditions creating a substantial hardship to the applicant which pertain to the particular piece of property or building in question because of its size, shape or topography*” [§720.03 A.2.b.]

By these metrics, Staff must conclude that variances are not warranted: No nonconforming structure is being considered, and the apartment complex was built in the 1970s prior to the subject property ever being developed, making the 50-foot distance argument moot. While the lot size mentioned in the second point is a limiting factor, being under an acre is not an “extraordinary or exceptional condition” in itself; rather, the mandated minimum lot size was imposed to serve as “guardrails” on the use to ensure the parcel is large enough to accommodate car sales while maintaining the standard of development expected by the City.

A further consideration is that a stream is located on the property (with associated stream buffer requirements), and floodplain is present. No new paving could be installed to expand the usable lot area, then, without stream buffer variances being granted. As such, the actual lot size that could

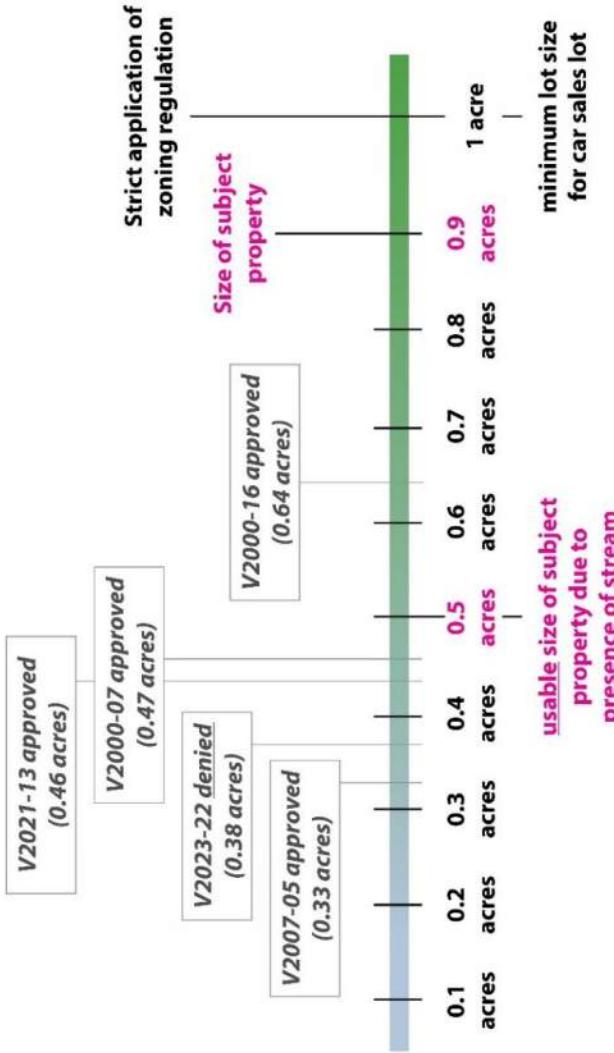
be used for car sales is much smaller than the total 0.9 acres, with only approximately half (0.5) an acre grandfathered in for use. The applicant additionally relayed to Staff that he intends to maintain some degree of transmission assembly work on the property, potentially restricting the area dedicated to car sales even further.

The ordinance also states, however, that variances may be granted if strict application of regulations would result in unnecessary hardship, *if the broader public interest can still be upheld*. Fortunately, several parallel examples exist which track the impact of granting allowances for “smaller than standard” car lots to operate along Airport Industrial Park Drive. At least four (4) other used car dealers have requested variances to sell cars on lots less than an acre in size (from 0.33 acres to 0.64 acres) since 2000 on that street alone, with only one (1) recent case being denied in 2023 (on 0.38 acres). Since being granted variances to operate small car lots:

- 1960 Airport Industrial Park Drive (V2000-07; 0.47 acres) has been cited multiple times by Code Enforcement for parking on grass and unpaved surfaces and for excessive weeds/rubbish.
- 2072 Airport Industrial Park Drive (V2000-16; 0.64 acres) has been cited multiple times by Code Enforcement for vehicles parked on dirt, flooding of premises, people living on site, and excessive weeds and trash.
- 1955 Airport Industrial Park Drive (V2007-05; 0.33 acres) has been cited multiple times by Code Enforcement for severe erosion/potholes, junk stored outside improperly, trash, and an illegal temporary structure.
- 1960 Airport Industrial Park Drive received further variances to expand their businesses on site (V2021-13) and has since been cited multiple times for vehicles parked on dirt/grass and for potholes.

Airport Industrial Park Drive Properties

Variance cases for car lots under 1 acre in size



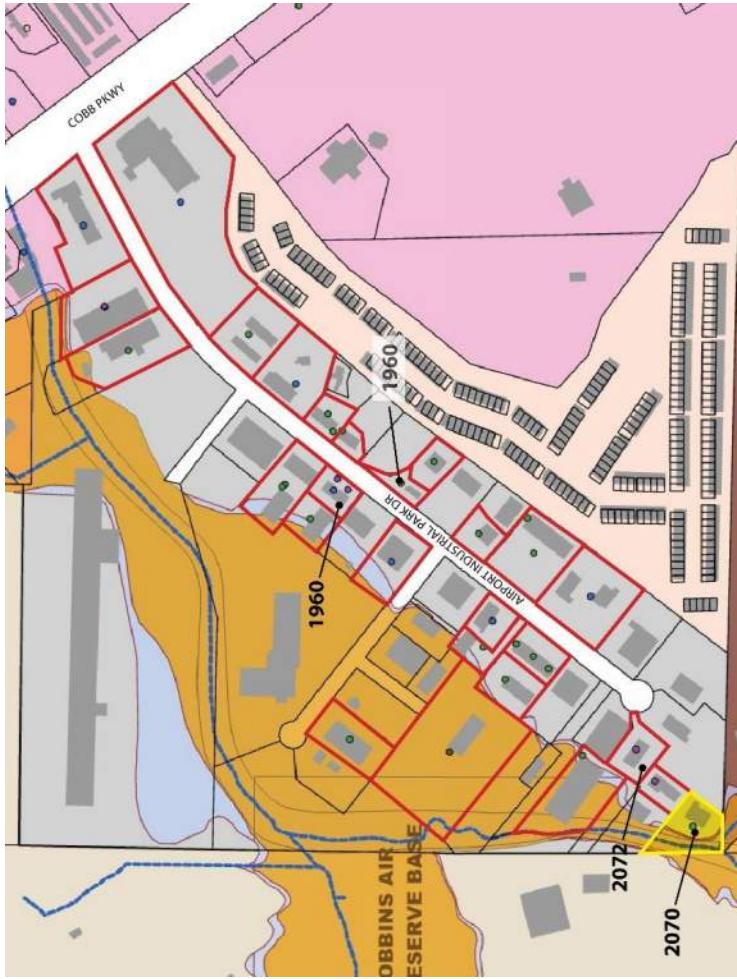
The rationale cited in each case for granting the variances was:

“Granting the application will not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.”

This rationale should be informed by experience, particularly where ramifications of granting variances can be so clearly established. For example, the fact that one of the properties granted variances to operate a car sales lot on less than an acre, 2072 Airport Industrial Park Drive, neighbors the subject property (and shares an access drive from the street – see map below), might be a reason for concern. If past examples hold true, the likelihood of code violations to emerge on the subject property seems strong – perhaps in this case, however, with adverse impacts to the floodway or stream buffers if additional space was to be paved to accommodate more vehicles.

Arguments for the granting of variances

At the same time, the character of the half-mile Airport Industrial Park Drive has arguably already been established as an auto-centered corridor. The diagram below shows the locations of all of the auto-oriented businesses currently operating on the street, including auto sales lots, auto brokerages, auto repair shops, rental agencies, etc. As pointed out above, a number of the properties have been granted variances over the years, which has helped solidify this quality. One way to consider the case at hand, then, is if this character is to be embraced, or if change is desired.



Parcels containing auto-oriented businesses (auto sales, repair, brokerages, rentals, etc.) are outlined in red and the subject property highlighted in yellow. Properties which were granted variances to operate car sales on “small lots” are also identified.

Staff suggests that rather than impeding the continuing auto-oriented character of the corridor (and perhaps others such as Cobb Parkway), specific regulations facilitating the operation of car businesses at this location could be investigated. Ideas include allowing smaller car lots along the street, but mandating that each has to be striped to hold cars in an orderly fashion. Another possibility is potentially establishing loading and unloading areas for vehicle deliveries along the right-of-way so that the smaller lots could function better, without needing extra space for the car carriers to maneuver.

Perhaps most importantly for this variance request in particular, however, is that the subject property was found by Staff on an impromptu site visit to be kept meticulously clean and well-organized. The applicant conveyed disappointment in the state of many of the properties in the vicinity, including that of the neighbor who has received multiple code violations. When Staff inquired about how inventory would be kept and managed on less than an acre, the applicant insisted that he intends to be only a low-volume dealer, with only one (1) or two (2) cars being delivered at the same time on a given day. As such, only smaller vehicles, such as tow trucks, would have to access the property, making maneuvering of large car-carriers less of a concern. He was amenable also to the idea of potentially striping parking spaces on the lot to further aid its organization. When the stream on the property was discussed, the applicant said he had no intention of developing the wooded area. With an engineering background, he said he was aware of the complexities of embarking on such a project and the cost that would be entailed to transform it in the right way. Such assurances alleviate many concerns Staff has, then, about potential adverse impacts the granting of variances may have.

Conclusion

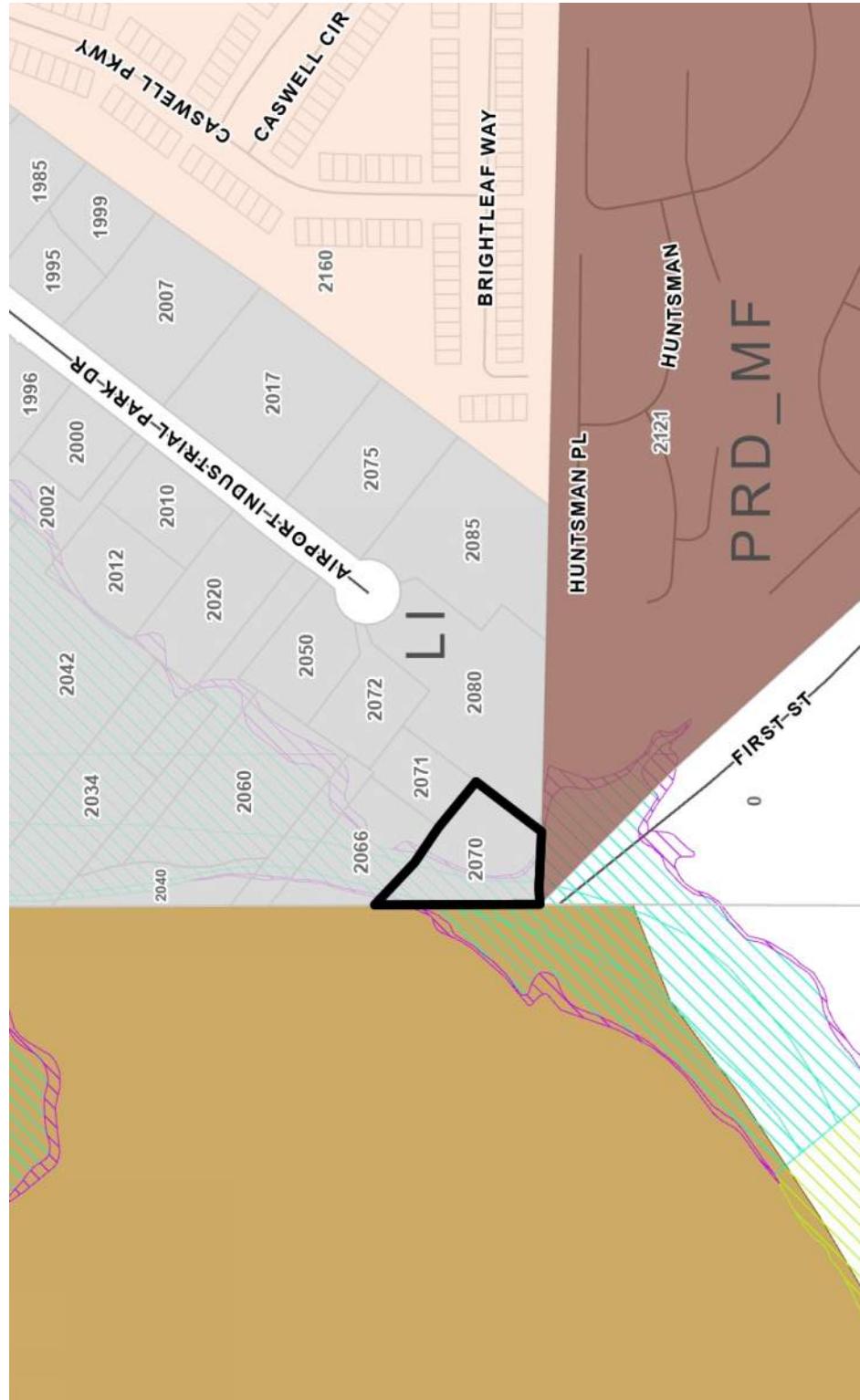
Staff believes the case has not been sufficiently made in the strictest sense to warrant the granting of variances, in that no existing non-conformities or physical attributes of the lot are “extraordinary or exceptional” conditions. A desire to boost revenue through auto sales is not considered a hardship. (Perhaps other forms of auto repair could be explored beyond transmission work, or a tenant be brought in to lease a bay from the owner to supplement income.)

While this conclusion may constitute a “black and white” interpretation of the zoning code, the Board of Zoning Appeals will ultimately decide if the question at hand is in fact more “grey,” and ultimately what the trajectory of the property – and more widely, the corridor - should be.

Should the Board wish to grant variances, Staff recommends the following stipulations accompany approval:

- Create a parking lot to standard for the orderly arrangement/storage of vehicles.
- Applicant agrees to remain a low-volume dealer, forgoing the need for large-scale deliveries and accommodation of excessive cars.
- No trees or vegetation can be disturbed for expansion of the existing paved area without submitting for a Land Development Permit so that potential impacts on the stream can be assessed. Further, no trees are to be removed without obtaining a Tree Removal Permit.
- The right-of-way is not to be used and/or blocked for the delivery of auto inventory.

Variance



Address	Parcel Number	Acreage	Ward	Zoning	FLU
2070 AIRPORT IND PARK DR	17066000140	0.936	7A	LI	W
Property Owner:	CROWN TRANSMISSION, INC.				
Applicant:	[REDACTED]				
BZA Hearing Date:	01/26/2026				
Acquisition Date:					
Case Number:	V2025-46				

Zoning Symbols

- Railroads
- City Limits
- Coob County Pockets
- NA
- R1 - Single Family Residential (1 unit/acre)
- R2 - Single Family Residential (2 units/acre)
- R3 - Single Family Residential (3 units/acre)
- R4 - Single Family Residential (4 units/acre)
- RA4 - Single Family Residential - Attached
- RA6 - Single Family Residential - Attached
- MHP - Mobile Home Park
- PRD-SF - Planned Residential Dev. - Single Family
- RM8 - Multi Family Residential (8 units/acre)
- RM10 - Multi Family Residential (10 units/acre)
- RM12 - Multi Family Residential (12 units/acre)
- RHR - Residential - High Rise
- PRD-MF - Planned Residential Dev. - Multi Family
- NRC - Neighborhood Retail Commercial
- CRC - Community Retail Commercial
- RRC - Regional Retail Commercial
- PCD - Planned Commercial Development
- MXD - Mixed Use Development
- CBD - Central Business District
- QIT - Office Institutional Transitional
- LRO - Low Rise Office
- OI - Office Institutional
- OS - Office Services
- OHR - Office High Rise

City of Marietta Planning & Zoning



Aerial Map



Address	Parcel Number	Acreage	Ward	Zoning	FLU
2070 AIRPORT IND PARK DR	17066000140	0.936	7A	LI	IW
Property Owner:	CROWN TRANSMISSION, INC.				
Applicant:					
City Council Hearing Date:					
Planning Commission					
Hearing Date:					
BZA Hearing Date:	01/26/2026			Case Number:	V2025-46
Comments:					



Department of Development Services
205 Lawrence Street
Marietta, GA 30060
Rusty Roth, AICP, Director

APPLICATION FOR VARIANCE OR APPEAL

(Owner/Applicant/or Representative must be present at all public hearings)

(NOTE: CORRESPONDENCE IS HANDLED VIA EMAIL UNLESS OTHERWISE REQUESTED)

For Office Use Only:

Application #: V2025-46 Legistar #: 20250957 BZA Hearing Dt: Dec 15, 2025

City Council Hearing Dt (if applicable) #: PZ #: 25-081

This is a variance/appeal application for:



Board of Zoning Appeals

Owner's Name:

Documentation showing names of Principals authorized to sign application is **required for Corporations**.

EMAIL Address:

Mailing Address:

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant:

EMAIL Address:

Mailing Address:

Zip Code: Phone Number:

Address of subject property: 2070 Airport Industrial Park Dr. SE, Marietta, GA, 30060 Date of Acquisition:

Land Lot (s) 17 District 17 Parcel 170660004 Acreage 0.1 Zoned C3 Ward 3 FLU:

List the variance(s) or appeal requested (please attach any additional information):

Required Information

1. Application fee (Residential - \$250; Non-residential - \$350)
2. Completed notarized application. The original application must be submitted with ALL original signature(s) – Copies of the application or signature(s) will NOT be accepted.
3. Copy of the deed that reflects the current owner(s) of the property. Documentation showing names of Principals authorized to sign application is **required for Corporations**.
4. Letter describing the reason for the variance request, stating why strict adherence to the code would result in a particular hardship (as distinguished from a mere inconvenience or desire to make more money).
5. **Site plan – drawn to scale.** Site plans must illustrate property lines and all relevant existing information and conditions in addition to proposed additions or modifications within the referenced property lines of the tract(s).
Copies Required: One (8 1/2" x 11") –or- One (11" x 17") drawn to scale.
Optional Additional Plat size: (24" x 36"). If providing (24" x 36") then 5 copies REQUIRED of the plat size pages.
6. Copy of current tax bill showing payment or documentation certified by the City of Marietta Tax Office.

Note: The Department of Development Services reserves the right to obtain additional information that reasonably may be required in order that an informed decision may be made.

OVER

" Exhibit A "

Dear City of Marietta Board Members:

IT Has been our Pleasure and Privilege to serve the City of Marietta and the surrounding area's Transmission needs since August of 1995. For the last 30 years plus, we have serviced Transmission here in Marietta from the same location By the same owner.

Due to changes in Vehicle Technology and newer vehicles operating more Electronically than Hydrostatically, the demand for Transmission Rebuilding (Repair) has declined considerably and therefore sales have plummeted to an all time low, to a point that if No Action is taken now, our 30 years of hard work and dedication will vanish.

We are eager to save the company and continue our journey of serving the City of Marietta By operating as CROWN TRANSMISSIONS INC DBA CROWNS AUTO SALES.

Our goal and promise to the City of Marietta is to conduct business by practice of following Rules, guidelines and all protocols exactly as they are written without deviation or exception.

Our promise is to have even more happy customers and present them with high quality products, great service and an all the way around pleasant experience which we are certain that it will earn us as many more 5 star reviews.

Thank you in advance for your consideration.

Owner













CROWN
TRANSMISSION

TRANSMISSION REBUILD 770-956-1344

PRO-CHECK SYN BLD
MOTUL
MOTUL 102501

MOTUL
MOTUL 102501



REST ROOMS







STAFF REVIEW AND RECOMMENDATION

Variance Case #: **V2026-02** Legistar #: **20251086**

Board of Zoning Appeals Hearing: Monday, January 26th, 2026 – 6:00 pm

Property Owner: [REDACTED]

Applicant: **Same as above**

Address: **82 Moon Street**

Land Lot: 11580 **District: 16** **Parcel: 0480**

Council Ward: 3A **Existing Zoning: R-4 (Single Family Residential – 4 units/acre)**

Special Exception / Special Use / Variance(s) Requested:

1. Variance to reduce the front setback from 25' to 24'. [§708.04 (H)]
2. Variance to allow shale as an acceptable parking surface. [§716.08 (B)]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



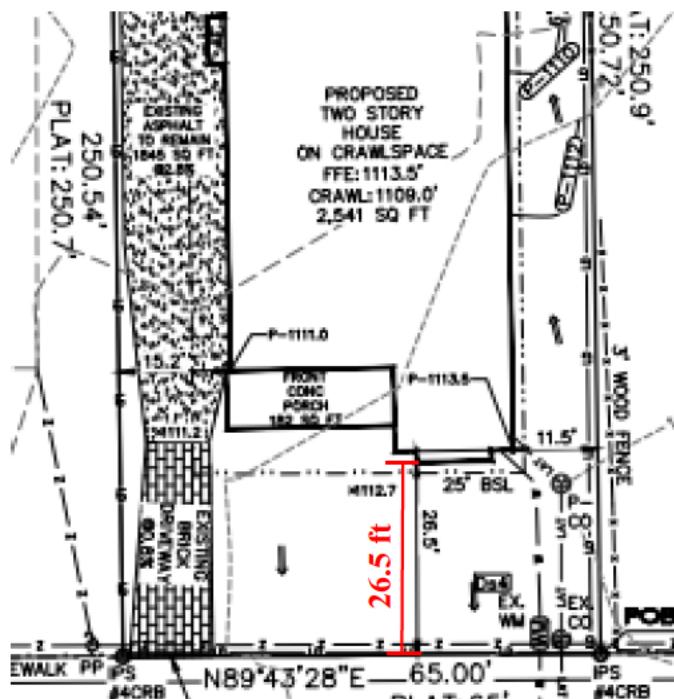
Views of subject property from Moon Street

Recommended Action: Approval & Denial.

The applicant, [REDACTED], is requesting variances to construct a shale driveway and to allow an already completed 6-inch encroachment into the front setback at 82 Moon Street. The subject property, along with the surrounding properties, is zoned R4 (Single Family Residential – 4 units/acre) and is approximately 0.37 acres.

Variance #1 – Front Setback

The applicant is seeking a variance to allow a minor encroachment of approximately 6 inches into the required 25-foot front setback. A building permit (BLDG-2025-030289) was issued on February 28, 2025, based on a submitted survey and site plan indicating that the proposed home would sit 26.5 feet from the front property line. As construction neared completion, however, an updated survey revealed that the structure was actually built at a distance of 24.6 feet from the front property line, resulting in a 6-inch encroachment.



Site plan from approved building permit (BLDG-2025-030289), February 28, 2025

The applicant is now seeking a variance to address the as-built condition, as the setback discrepancy appears to be the result of an unintentional error rather than a deliberate change from the approved plans. Although the request does not demonstrate a traditional hardship, requiring the homeowner to alter or remove a nearly completed structure would create an unnecessary burden. Considering the very small scale of the encroachment and the lack of any clear impact on neighboring properties, ***staff recommends approval of the variance*** as a reasonable outcome.

Variance #2 – Shale Driveway

Section 716.08(B) of the Zoning Ordinance states that only concrete, asphalt, or brick may be used as an allowable surface for parking areas intended to accommodate vehicles up to 8,000 pounds. The approved building permit for this property showed that the existing asphalt and brick driveway was to remain in place.



Google Earth Imagery of the former brick/asphalt driveway at the subject property

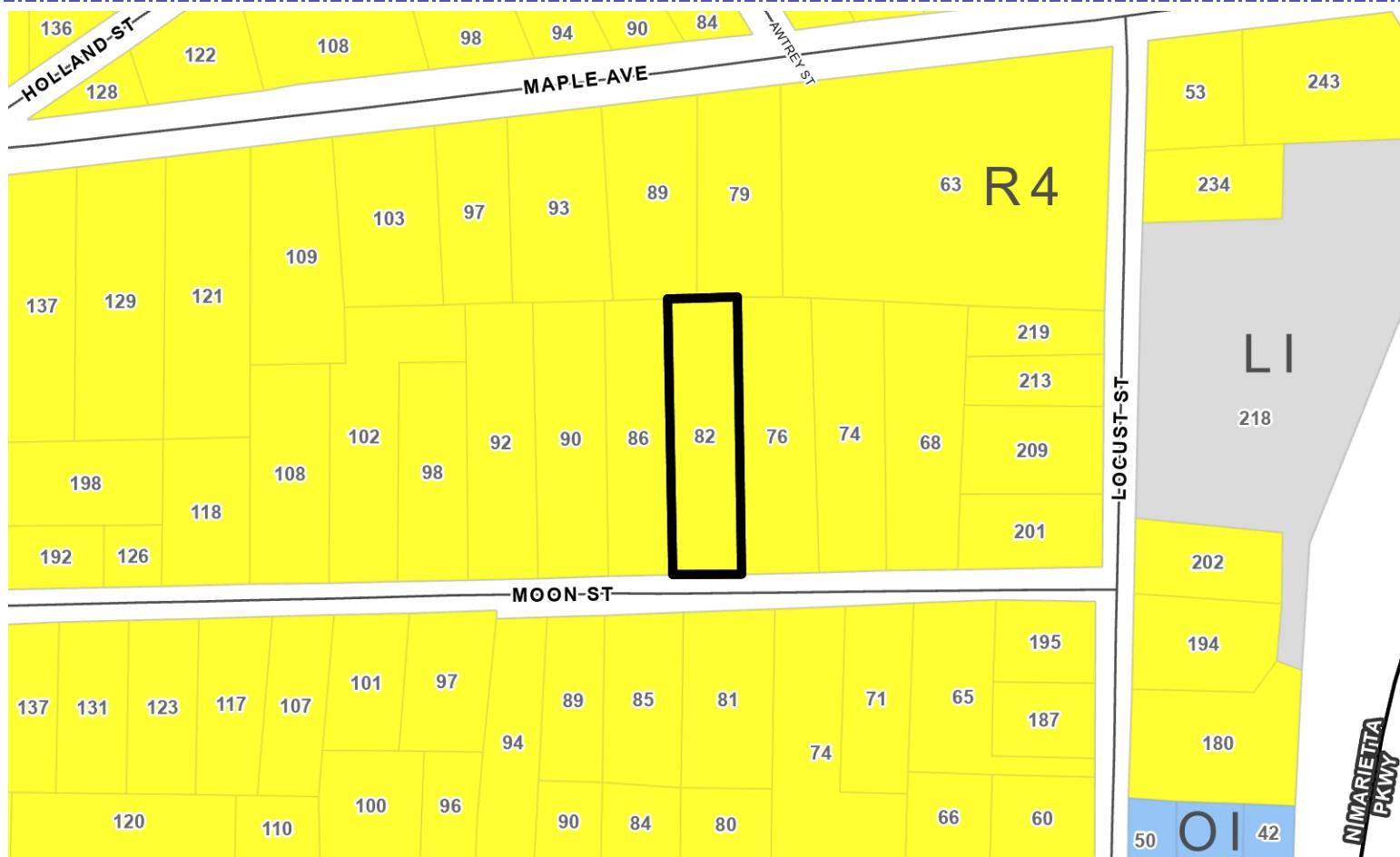
However, during the replacement of the private sewer line that services the home, the driveway was removed and could not be preserved. The applicant is now requesting a variance to replace the former driveway with a shale surface rather than one of the permitted materials.

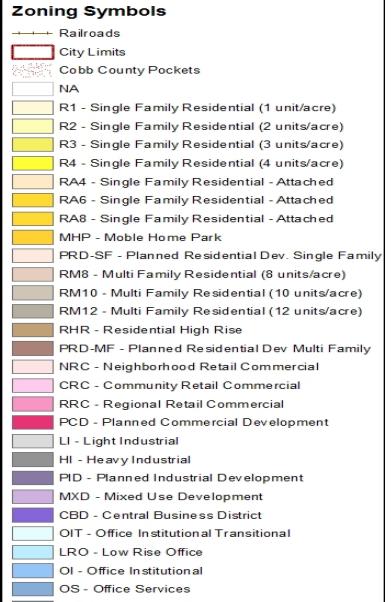
The Board of Zoning Appeals has considered similar requests in the past, and in some cases, gravel or comparable surfaces were allowed with stipulations—such as requiring pavement of an acceptable surface for the first 20 feet of the driveway—to prevent loose material from migrating into the public right-of-way. Public Works has also noted that, **at minimum, a 5-foot apron is required** between the sidewalk/right-of-way and the proposed shale driveway to ensure that no shale enters the street. It is important to note that prior proposals to amend the ordinance to allow gravel or similar materials more broadly have been repeatedly denied by City Council.

As shale is not permitted as an acceptable parking surface and no hardship has been demonstrated that would prevent installation of a compliant paved driveway, **staff recommends denial of this variance request.**

Alternatively, should the Board decide to approve the second variance requested, Staff recommends requiring pavement of an acceptable surface for the first 20 feet of the driveway.

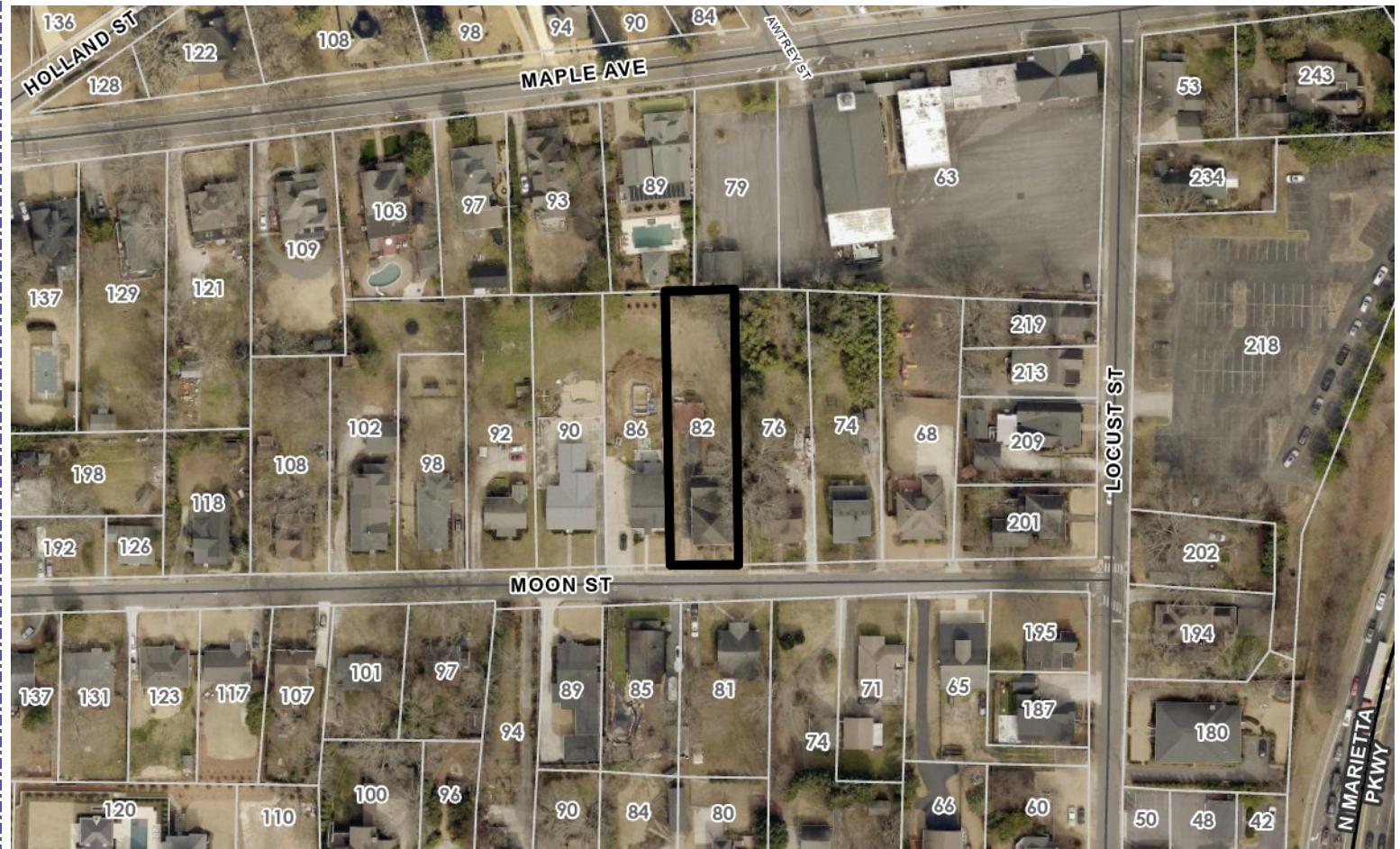
Variance



Address	Parcel Number	Acreage	Ward	Zoning	FLU
82 MOON ST	16115800480	0.367	3A	R4	MDR
Property Owner:	David [REDACTED]				
Applicant:					
BZA Hearing Date:	01/26/26				
Acquisition Date:					
Case Number:	V2026-02				
City of Marietta Planning & Zoning					
Zoning Symbols  <ul style="list-style-type: none"> Railroads City Limits Cobb County Pockets NA R1 - Single Family Residential (1 unit/acre) R2 - Single Family Residential (2 units/acre) R3 - Single Family Residential (3 units/acre) R4 - Single Family Residential (4 units/acre) RA4 - Single Family Residential - Attached RA6 - Single Family Residential - Attached RA8 - Single Family Residential - Attached MHP - Mobile Home Park PRD-SF - Planned Residential Dev. Single Family RM8 - Multi Family Residential (8 units/acre) RM10 - Multi Family Residential (10 units/acre) RM12 - Multi Family Residential (12 units/acre) RHR - Residential High Rise PRD-MF - Planned Residential Dev Multi Family NRC - Neighborhood Retail Commercial CRC - Community Retail Commercial RRC - Regional Retail Commercial PCD - Planned Commercial Development LI - Light Industrial HI - Heavy Industrial PID - Planned Industrial Development MXD - Mixed Use Development CBD - Central Business District OIT - Office Institutional Transitional LRO - Low Rise Office OI - Office Institutional OS - Office Services OHR - Office High Rise 					



Aerial Map



Address	Parcel Number	Acreage	Ward	Zoning	FLU		
82 MOON ST	16115800480	0.367	3A	R4	MDR		
Property Owner:	David [REDACTED]						
Applicant:							
City Council Hearing Date:							
Planning Commission Hearing Date:							
BZA Hearing Date:	01/26/26	Case Number:	V2026-02				
Comments:							
City of Marietta Planning & Zoning							

Legend

- Railroads
- City Limits
- Cobb County Pockets



Department of Development Services
205 Lawrence Street
Marietta, GA 30060

APPLICATION FOR VARIANCE OR APPEAL

(Owner/Applicant/or Representative must be present at all public hearings)

(NOTE: CORRESPONDENCE IS HANDLED VIA EMAIL UNLESS OTHERWISE REQUESTED)

For Office Use Only:

Application #: **V2026-02**

Legistar #: **20251091**

BZA Hearing Dt: **Jan 26, 2026**

City Council Hearing Dt (if applicable) #:

PZ #: **25-086**

This is a variance/appeal application for:

Board of Zoning Appeals

City Council

Owner's Name:

Documentation showing names of Principals authorized to sign application is required for Corporations.

EMAIL Address:

Mailing Address:

Phone Number

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant:

EMAIL Address:

Mailing Address Zip Code: Phone Number

Address of subject property: 82 Moon St Marietta 30064 Date of Acquisition:

Land Lot (s) 115B District 16 Parcel 480 Acreage _____ Zoned R Ward _____ FLU: _____

List the variance(s) or appeal requested (please attach any additional information):

Approval of shale driveway, slight intrusion of front setback

Required Information

1. Application fee (Residential - \$250; Non-residential - \$350)
2. Completed notarized application. The original application must be submitted with ALL original signature(s) – Copies of the application or signature(s) will NOT be accepted.
3. Copy of the deed that reflects the current owner(s) of the property. Documentation showing names of Principals authorized to sign application is required for Corporations.
4. Letter describing the reason for the variance request, stating why strict adherence to the code would result in a particular hardship (as distinguished from a mere inconvenience or desire to make more money).
5. **Site plan – drawn to scale.** Site plans must illustrate property lines and all relevant existing information and conditions in addition to proposed additions or modifications within the referenced property lines of the tract(s).
Copies Required: One (8 1/2" x 11") -or- One (11" x 17") drawn to scale.
Optional Additional Plat size: (24"x 36"). If providing (24"x 36") then **5** copies REQUIRED of the plat size pages.
6. Copy of current tax bill showing payment or documentation certified by the City of Marietta Tax Office.

Note: The Department of Development Services reserves the right to obtain additional information that reasonably may be required in order that an informed decision may be made.

OVER

VARIANCE REQUEST - 82 Moon St.

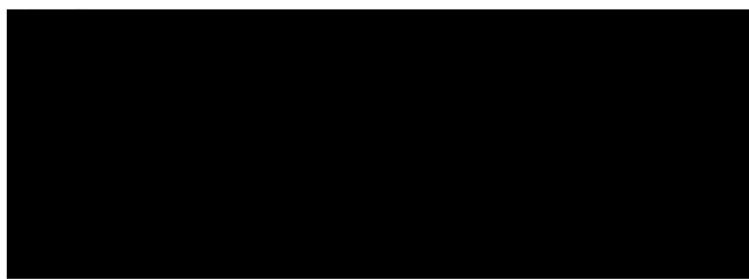
Parcel No. 1611 5800 480

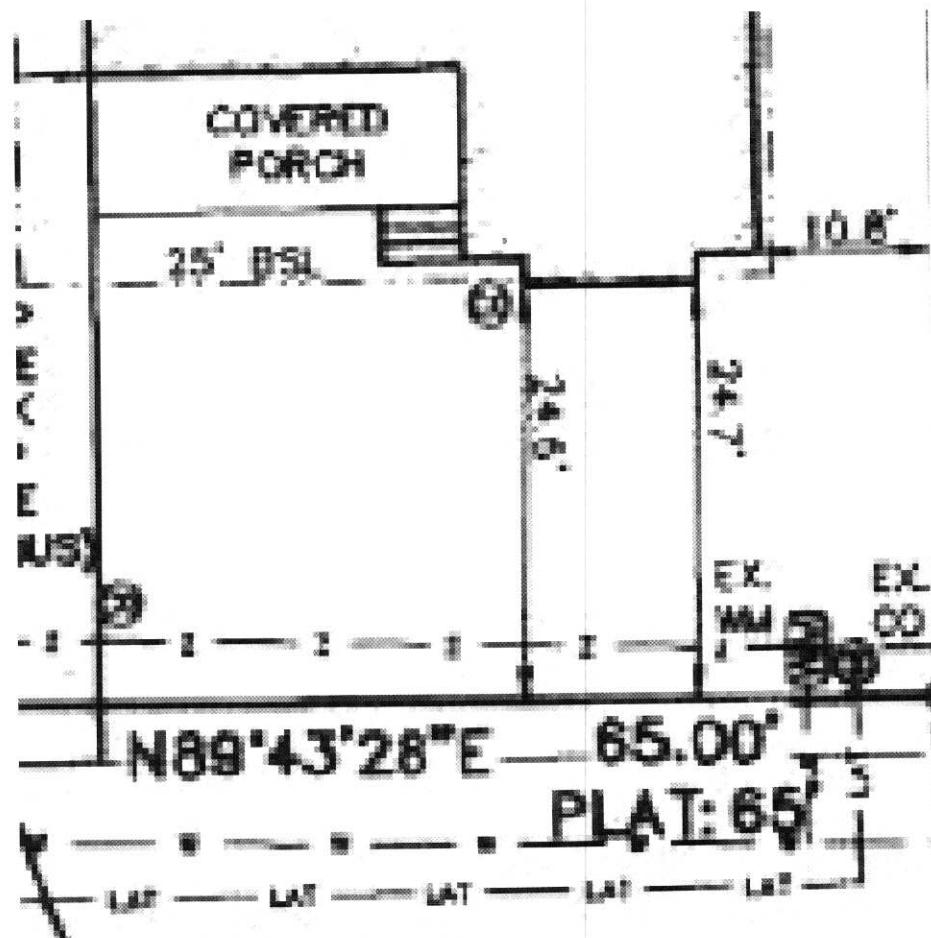
SCOPE OF WORK

Pervious driveway. Construction of new home. Prior drive was impervious and was destroyed in replacing sewer line. Earlier proposal of partial shale and retaining portion of old drive is now moot.

Scope: Construction and installation of shale driveway.

Variance for front setback incursion. Applicant seeks variance for slight incursion into front setback. A change in construction method caused a very slight incursion (6") of bay window foundation into the front setback space.







THIS BLOCK RESERVED FOR THE CLERK
OF THE SUPERIOR COURT.

LEGEND: 85

CURRENT ZONING:

FRONT SETBACK = 25'
SIDE SETBACK = 10'
REAR SETBACK = 30'
MIN LOT WIDTH = 75'
MIN LOT SIZE = 7,500 SF
MAX BLDG COVER = 35%
PERV SURFACE = 50%

RESIDENTIAL AS-BUILT SURVEY FOR:
UPPERCUT HOMES, INC.

82 MOON STREET
LAND LOT 1158
16th DISTRICT - 2nd SECTION
COBB COUNTY, GEORGIA
CITY OF MARIETTA
EXISTING ZONING: R-4
PIN: 16005800480
16,290 SQ FT
0.37 ACRES

RICHARD & JILL LEONARD 2022 TRUST DB 14843, PG 5875 ZONED: R-4 PIN: 16115800340 89 MAPLE AVE	N/F MAPLE AVE UNITED METHODIST CHURCH DE 1988, PG 147 ZONED: R-4 PIN: 16115800350 83 MAPLE AVE
--	---

N/F
MAPLE AVE UNITED
METHODIST CHURCH
DB 1988, PG 147
ZONED: R-4
PIN: 16115800350
63 MAPLE AVE

PLAT = PLAT DISTANCE M = MEASURED

SURVEY NOTES:

HORIZONTAL DATUM IS GEORGIA STATE PLANE WEST ZONE 30, 1983 (NAD83).
VERTICAL DATUM IS NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).

1. THE OWNER'S DEFENCES SHOWN HEREIN ARE RECORDED IN THE CLERK OF SUPERIOR COURT OFFICE OF COBB COUNTY, GEORGIA. THE OWNER'S DEFENCES ARE THE OWNER'S DEFENDED REFERENCES ACCESSED VIA SUPERIOR COURT RECORDS SOURCE AND ATTORNEY'S MANNER OF PRESENTATION. THE ATTORNEY'S MANNER OF PRESENTATION IS NOT TO BE CONSTRUED AS A TESTIMONY AS TO THE ACCURACY OR COMPLETENESS.

2. THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF AN ABSTRACT TITLE. ALL MATTERS PERTAINING TO TITLE ARE DISCUSSED IN THE DEEDS.

3. STRUCTURES VISIBLE WITHIN THE SUBJECT PROPERTY ARE NOT PART OF THE DATE OF SURVEY AS SHOWN HEREIN.

4. LOCATIONS ARE APPROXIMATE. THE DATE OF SURVEY AND DISTANCES SHOWN ON THE PLAT ARE HORIZONTAL. GROUND.

5. THIS PROPERTY MAY CONTAIN METALS. ALL METALS ARE THE PROPERTY OF THE STATE OF GEORGIA. THE STATE ENGINEER AND/OR THE STATE OF GEORGIA DEPARTMENT OF NATURAL RESOURCES, LOT OWNERS, ARE SUBJECT TO PENALTY FOR REMOVING METALS FROM THE PROPERTY OR AREAS WITHOUT THE PROPER PERMIT APPLICATION AND APPROVAL FROM THE STATE ENGINEER.

6. THIS PROPERTY IS NOT LOCATED IN SPECIAL FLOOD HAZARD AREAS. THE STATE ENGINEER'S MANAGEMENT OF FLOOD INSURANCE RATE MAP (FIRMs) IS CURRENT AS OF 03-04-2013.

7. THIS CERTIFICATE SHOWN HEREIN IS PURELY A STATEMENT OF PROFESSIONAL OPINION BASED ON THE INFORMATION PROVIDED BY THE OWNER AND ON EXISTING FIELD EVIDENCE AND DOCUMENTARY EVIDENCE AVAILABLE. THE STATE ENGINEER IS NOT AN EXPERT IN IMPLIED WARRANTY OR GUARANTEES.

8. DEED/PLAT DISCLAIMER: THIS PLAT IS NOT CONFIRMED AND/OR PLAT OF RECORD DUE TO SEVERAL FACTORS INCLUDING, BUT NOT LIMITED TO, THE STATE OF THE ADVANCES IN SURVEYING TECHNOLOGY SUCH AS ELECTRONIC SURVEYING, THE STATE OF THE STATE ENGINEER'S EQUIPMENT, AND THE ADEPT OF SATELLITE SURVEYING TECHNIQUES USED. "GPS" AND "GLONASS" SATELLITE CONSTELLATIONS PROVIDED BY THE STATE ENGINEER ARE NOT RELATED TO THE GEORGIA STATE PLANE COORDINATE SYSTEM AND USE OF THESE SYSTEMS IS NOT RELATED TO THE "MAGNETIC" NORTH.

9. INFORMATION REGARDING THE RELATED PREVIOUS SITE SURVEY AND LOCATION OF EXISTING UNDERGROUND UTILITIES AND STRUCTURES IS SHOWN HEREIN. THERE IS NO DETERMINATION AS TO WHETHER THESE UTILITIES AND STRUCTURES ARE IN A DANGEROUS POSITION, OR WHETHER THEY SHOULD BE CONSIDERED IN THAT LIGHT BY USE OF THIS DRAFT PLAT. THE OWNER IS RESPONSIBLE FOR LOCATING EXISTING UNDERGROUND UTILITIES AND STRUCTURES SHOWN HEREIN DURING THE CONSTRUCTION PHASE. THE STATE ENGINEER IS NOT SHOWN MAY BE ENCOUNTERED. THE OWNER, HIS EMPLOYEES, HIS CONSULTANTS, HIS CONTRACTORS, AND HIS AGENTS HAVE BEEN ADVISED THAT UNDERGROUND UTILITIES ARE NOT RESPONSIBLE FOR THE CORRECTNESS OR ACCURACY OF THIS PLAT. THE STATE ENGINEER IS NOT RESPONSIBLE FOR UNDERGROUND INFORMATION.

10. THIS PLAT IS NOT A STATEMENT OF THE CORRECTNESS OR ACCURACY OF THE COORDINATES OF EXISTING PLATES OF TRAVEL UNLESS NOTED OTHERWISE.

11. THIS PLAT IS PROVIDED FOR THE USE AS SET FORTH IN 17-12-104.1, THE GEORGIA SURVEYING AND CONSTRUCTION LSP §31 UNLESS OTHERWISE STATED.

12. GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS, THE RULES OF THE GEORGIA CONSTITUTED (DOCA) 70-6-67 AS AMENDED BY HB 875 (2017), IN THAT A CONFLICT EXISTS BETWEEN THESE RULES AND THE PLAT, THE REQUIREMENTS OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS SHALL PREDOMINATE.

13. BOUNDARY WORK PERFORMED 07-12-2024 BY FRONTLINE SURVEYING & MAPPING, INC.

14. COUPLED USED: GLOBAL POSITIONING SYSTEM, TOTAL STATION & NETWORK, GPS RECEIVER UTILIZING CHAMPION GPS/GPS NETWORK.

15. COUPLED USED: 1" FOR PLAT, 2" FOR ANGLE.

16. RAW FIELD PRECISION: 1.76337.

17. ADJUSTED BY LEAST SQUARES.

18. COUPLED USED: 1" FOR PLAT, 2" FOR ANGLE.

19. COUPLED USED: 1" FOR PLAT, 2" FOR ANGLE.

20. COUPLED USED: 1" FOR PLAT, 2" FOR ANGLE.

TOPOGRAPHIC NOTE:
TOPOGRAPHIC CONTOURS SHOWN WERE FIELD RUN 07-12-2024 BY
FRONTLINE SURVEYING & MAPPING, INC.
OFF-SITE CONTOURS ARE FROM 2019 AND WERE RETRIEVED FROM
NOAA DATA ACCESS VIEWER TOPOGRAPHICAL CONTOUR DOWNLOAD
TOOL (<https://coast.noaa.gov/daac/htmls/contour/>).

MOON STREET
F/K/A GROVES STREET
30' R/W

A graphic scale consisting of a horizontal line with tick marks and numerical labels. The line is divided into four equal segments by vertical tick marks. The first segment is labeled '0' at its right end. The second segment is labeled '10' at its right end. The third segment is labeled '20' at its right end. The fourth segment is labeled '30' at its right end. The entire scale is labeled 'GRAPHIC SCALE' at the top center and '(IN FEET)' at the bottom center.

SURVEYOR'S CERTIFICATION	
<p>THE PLAT OR MAP IS A RECORD OF THE BOUNDARIES, LINES, 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, AND SURVEYS ARE ACCURATE AND CORRECT AS OF THE DATE OF THIS CERTIFICATION. THE INFORMATION IS FOR THE USE OF THE RECORDING OFFICE ONLY AND IS NOT FOR PUBLIC RELEASE.</p>	
<p>AVAILABILITY OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL REGULATIONS, APPROVALS, OR PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR AVAILABILITY FOR ANY USE, OR PURPOSE, ON THE LAND OR PROPERTY. THE UNDERSIGNED CERTIFIES THAT THE PLAT IS PREPARED IN ACCORDANCE WITH THE STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN THE RULES AND REGULATIONS OF THE GEORGIA DEPARTMENT OF COMMERCE, DIVISION OF CHARTERS AND LAND SURVEYS AND AS SET FORTH IN G.O.C.A. SECTION 15-6-67.</p>	
 <i>[Handwritten signature]</i> E. Peay, Jr. / Registered Ge. Land Surveyor #2402 Foothills Surveying & Mapping, Inc. 3050 Conkin Rd. Suite 102 Marietta, GA 30060 404-348-2000	
FOR THE FIRM Foothills Surveying & Mapping, Inc. #2402	12/02/25
By	

Frontline Surveying

3595 Can't
SUITE 312
Marietta, GA
Ph. (678) 3
Fax (678) 3
www.frontlinesurveying.com

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FINAL SURVEY FOR: **INDENGERIT MOVES INC**



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2026-03 Legistar #: 20260014

Board of Zoning Appeals Hearing: Monday, January 26th, 2026 at 6:00pm

Property Owner: [REDACTED]

Applicant: As above

Address: 318 Stewart Avenue

Land Lot: 1149 District: 16 Parcel: 0060

Council Ward: 4A Existing Zoning: R-3 (Single-Family Residential, 3 units/acre)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to rebuild a nonconforming structure. [§706.03 (B.)]
2. Variance to reduce the western side setback of the principal building from 10' to 7'.
[§708.03 (H.)]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.

3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



Front view of the subject property prior to demolition.



Subject property after demolition (1/7/25), in the process of rebuilding.



A construction worker stands at the edge of the part of the house in question which the applicant wishes to rebuild, which encroaches three (3) feet into the required 10-foot side setback.



Recommended Action: Approval, on condition of impacted neighbor's approval.

The applicant/property owner, [REDACTED], is requesting variances to rebuild a house that was demolished (without permit) seven (7) feet from the westerly side property line, three (3) feet beyond the required 10-foot setback by code. [REDACTED] received building permits to renovate both the house and a garage in the backyard (the garage having been granted variances in September 2025 to also build closer to the easterly side setback line than permitted by code, V2025-27). Although the approved building permit showed the house encroaching into the western side setback, work proposed was only cosmetic and to the interior of the space. Since the non-conformity was not to be expanded, it was permitted to remain grandfathered/in place as-is.

The applicant states that during renovations, it was discovered that much of the structure of the house was beyond repair. Rather than applying for a demolition permit, however, the applicant razed the structure completely, leaving only the foundation intact. Per Section 706.03 (B.):

“Any nonconforming building or structure existing as of June 9, 2010, may be retained, except that it shall not be...rebuilt...if such construction costs would exceed 50% of the replacement costs of the building...”

Since the building was knocked down, construction costs represent a complete replacement. Or, for an alternative interpretation of the same section:

“Any nonconforming building or structure existing as of June 9, 2010, may be retained, except that it shall not be...expanded, extended or enlarged in any manner which increase its non-conformity.” [Section 706.03 (A.)]

Given that the only remaining part of the former house was the foundation, building new walls on the non-conforming footprint would expand it vertically, which would increase the non-conforming slab.

While building plans have already been drawn up and approved based on the old footprint, the applicant could feasibly remove the non-conforming portion of the foundation and build the house according to current zoning code. Unfortunately, the portion of the house in question which encroaches into the side setback (and therefore would be lost) is supposed to contain a bathroom, making a redesign including plumbing more challenging than simply losing square footage. Still, as of January 8, the applicant has chosen to continue building the rest of the house in hopes that the variance request will be successful.

Only with recent updates to the Zoning Procedures Law (ZPL) was such a “small” variance not permitted to be handled administratively by the Director of Development Services. Before the ZPL update, the Director could grant a side setback variance up to four (4) feet if no neighbors objected. While the law has changed, the BZA might instead consider judging the variance request through the lens of degree of impact inflicted on the neighbor, and if that impact merits the denial of the



three (3)-foot setback variance being requested today. If the impacted neighbor is amenable, and the applicant is given the benefit of the doubt – potentially unaware of the need to submit a demolition permit application as well as that the remaining foundation did not itself preserve the grandfathering of the setback encroachment – then Staff has no significant qualms with the request.

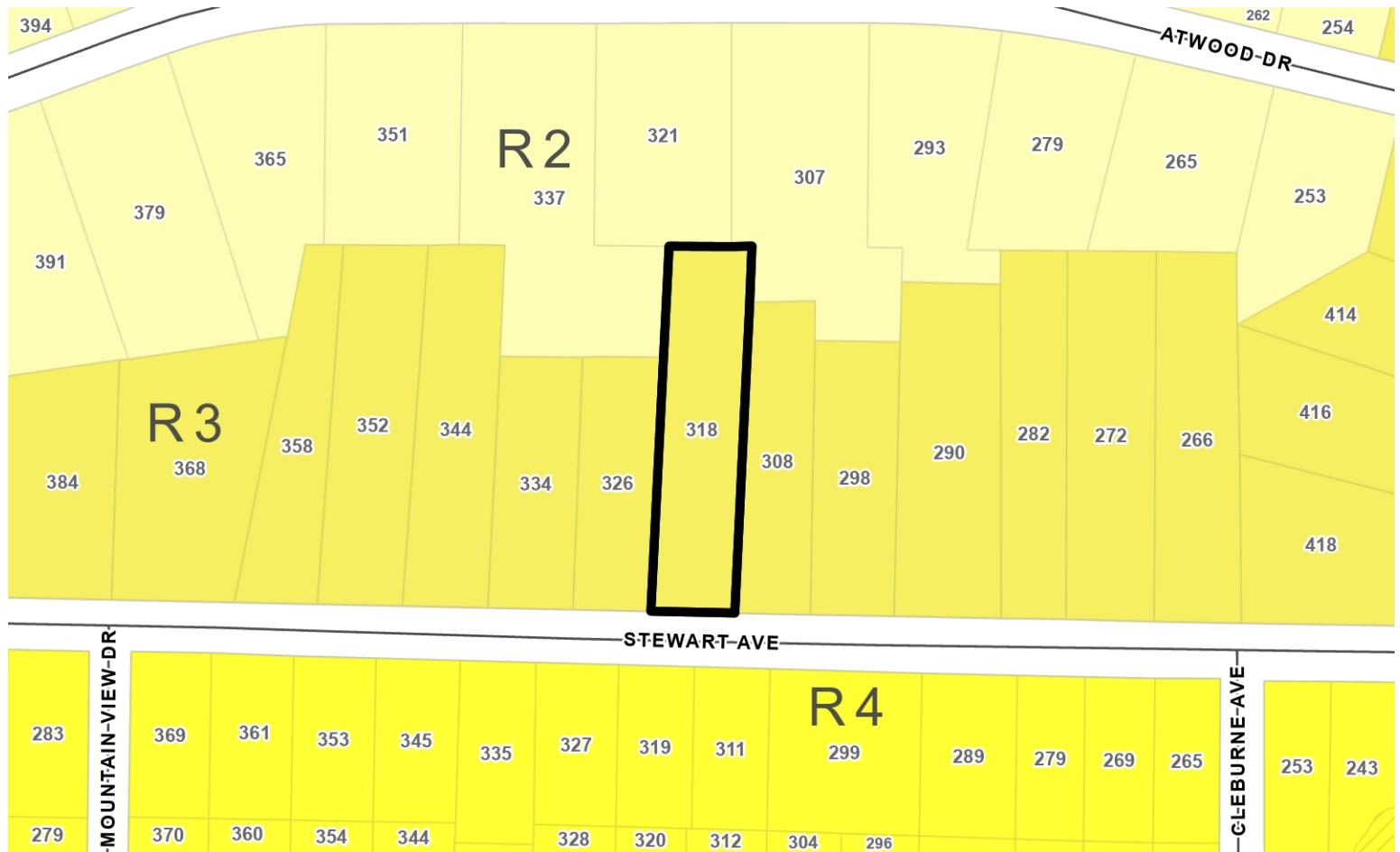
Note, however, that the Fire Department will have to be consulted regarding the need for the house to be sprinklered as it will be built back within 10 feet of a property line.

Fire Department Comments:

This proposed building will be required to be protected by a fire protection sprinkler system in accordance with Marietta Code 2-6-140.

Fire protection systems (Fire Alarm, Fire Sprinkler, etc.) must be permitted separately from the main building permit. Plans and calculations will be required for permitting and review through the Fire Marshal's Office.

Variance



Address	Parcel Number	Acreage	Ward	Zoning	FLU					
318 STEWART AVE	16114900060	0.593	4A	R3	LDR					
Property Owner:										
Applicant:										
BZA Hearing Date:	01/26/2026									
Acquisition Date:										
Case Number:	V2026-03									
City of Marietta Planning & Zoning										
Zoning Symbols  <ul style="list-style-type: none"> Railroads City Limits Cobb County Pockets NA R1 - Single Family Residential (1 unit/acre) R2 - Single Family Residential (2 units/acre) R3 - Single Family Residential (3 units/acre) R4 - Single Family Residential (4 units/acre) RA4 - Single Family Residential - Attached RA6 - Single Family Residential - Attached RA8 - Single Family Residential - Attached MHP - Mobile Home Park PRD-SF - Planned Residential Dev. Single Family RM8 - Multi Family Residential (8 units/acre) RM10 - Multi Family Residential (10 units/acre) RM12 - Multi Family Residential (12 units/acre) RHR - Residential High Rise PRD-MF - Planned Residential Dev Multi Family NRC - Neighborhood Retail Commercial CRC - Community Retail Commercial PCD - Planned Commercial Development LI - Light Industrial HI - Heavy Industrial PID - Planned Industrial Development MXD - Mixed Use Development CBD - Central Business District OIT - Office Institutional Transitional LRO - Low Rise Office OI - Office Institutional OS - Office Services OHR - Office High Rise 										

Aerial Map



Address	Parcel Number	Acreage	Ward	Zoning	FLU
318 STEWART AVE	16114900060	0.593	4A	R3	LDR
Property Owner:	Thraikill	Legend			
Applicant:					
City Council Hearing Date:					
Planning Commission Hearing Date:					
BZA Hearing Date:	01/26/2026	Case Number:	V2026-03		
Comments:					
City of Marietta Planning & Zoning					





Department of Development Services
205 Lawrence Street
Marietta, GA 30060

APPLICATION FOR VARIANCE OR APPEAL

(Owner/Applicant/or Representative must be present at all public hearings)

(NOTE: CORRESPONDENCE IS HANDLED VIA EMAIL UNLESS OTHERWISE REQUESTED)

For Office Use Only:

Application #: V2026-03 Legistar #: 20260014 BZA Hearing Dt: Jan 26, 2026
City Council Hearing Dt (if applicable) #: _____ PZ #: 25-087

This is a variance/appeal application for:

Board of Zoning Appeals

City Council

Owner's Name _____

Documentation showing names of Principals authorized to sign application is **required for Corporations**.

EMAIL Address: _____

Mailing Address _____

Phone Number: 300 64

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant: _____

EMAIL Address: _____

Mailing Address _____

Zip Code: _____

Phone Number: _____

Address of subject property: 318 Stewart Ave Date of Acquisition: 3/31/25

Land Lot (s) 1149 District 16th Parcel 161149 Acreage .59 Zoned R3 Ward _____ FLU: _____
00068

List the variance(s) or appeal requested (please attach any additional information):

Letter of Variance Requested is attached

Required Information

1. Application fee (Residential - \$250; Non-residential - \$350)
2. Completed notarized application. The original application must be submitted with ALL original signature(s) – Copies of the application or signature(s) will NOT be accepted.
3. Copy of the deed that reflects the current owner(s) of the property. Documentation showing names of Principals authorized to sign application is **required for Corporations**.
4. Letter describing the reason for the variance request, stating why strict adherence to the code would result in a particular hardship (as distinguished from a mere inconvenience or desire to make more money).
5. **Site plan – drawn to scale.** Site plans must illustrate property lines and all relevant existing information and conditions in addition to proposed additions or modifications within the referenced property lines of the tract(s).
Copies Required: One (8 1/2" x 11") -or- One (11" x 17") drawn to scale.
Optional Additional Plat size: (24"x 36"). If providing (24"x 36") then 5 copies REQUIRED of the plat size pages.
6. Copy of current tax bill showing payment or documentation certified by the City of Marietta Tax Office.

Note: The Department of Development Services reserves the right to obtain additional information that reasonably may be required in order that an informed decision may be made.

Variance Request Letter

To:
Planning and Zoning Division
City of Marietta
205 Lawrence Street
Marietta, GA 30060

Subject: Request for Zoning Variance – 318 Stewart Ave, Marietta, GA 30064

Dear Board of Zoning Appeals,

I am writing to formally request a zoning variance for the property located at *318 Stewart Ave*, which I own. This request is submitted in accordance with the City of Marietta's zoning ordinance and variance application procedures.

The specific variance I am seeking is to replace an existing section of the house that currently resides inside the 10' building restriction to an adjacent property. An 18' section of the left side of the house is currently located approximately 8' from the adjacent property line. The approved building plans allowed modifications to this section of the house, i.e. raising the ceiling by 1 foot and adding a new roof on this 18'x2' section of the house. As we started the remodel process, we discovered significant structural deficiencies and safety concerns.

Issues Identified

- Floor joists were not level; most boards were sagging, and some were rotting.
- Joists were not properly attached to the foundation.
- No pressure-treated seal plate or foundation anchors were present.
- Floors were uneven throughout the house.

The section of the house we are seeking the exception for will only be replaced, there is no change to the location of the house or the approved plans. The approved plans did not call for any new building in the area which would be non-compliant by today's building code.

Based on a current hardship I have we designed the new floorplan to utilize the existing footprint and to provide an open floor plan to accommodate easy movement and mobility throughout the house. This will allow me to Age-In-Place.

The current hardship I have is Familial Amyloidosis; it progresses as misfolded proteins build up in organs, causing damage, usually starting subtly with nerve/autonomic issues (numbness, tingling, GI problems, blood pressure drops) and eventually affecting the heart (stiffness, heart failure), kidneys, and eyes, leading to severe disability (wheelchair-bound) and potentially organ failure, with progression rates varying but often accelerating over time, impacting quality of life significantly.

The proposed variance is being requested to manage my Amyloidosis hardship. Allowing me to focus on energy conservation, fall prevention, and maximizing independence by modifying spaces with easy-reach items, clear pathways (no clutter), ergonomic furniture (raised toilet, shower seat), and technology (voice control), making the bathroom and kitchen highly accessible with grab bars, non-slip surfaces, and lowered counters, potentially using a professional designer to create "activity centers" for seated tasks, and considering major changes like first-floor bedrooms or stairlifts if needed.

In addition, granting this variance will not adversely affect the surrounding properties or the public interest. The proposed use and modifications are consistent with the character of the neighborhood and will maintain the intent of the zoning ordinance. The neighbor to the adjacent property has no concerns with the proposed plans.

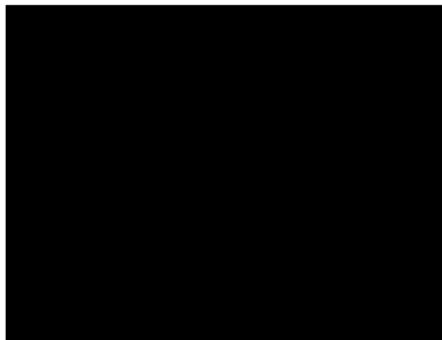
A professional survey, as of 12/15/25, has been requested and scheduled and will be provided as soon as it becomes available.

Attached to this letter are the following documents, including:

- Completed and notarized variance application
- Copy of the deed
- Current tax bill showing payment
- Supporting documentation and visuals

I respectfully request that this application be scheduled for review at the next available Board of Zoning Appeals hearing. I am available to attend the public hearing and provide any additional information needed.

Thank you for your consideration.



CLERK'S FILING STAMP BOX



SURVEY NOTES

THERE IS A 25' NON-DISTURBANCE BUFFER(WARM WATER STREAMS) AND A 50' NON-DISTURBANCE BUFFER(TROUT STREAMS) ADJACENT TO ANY STREAM OR BODY OF WATER MANDATED BY THE STATE AND THERE MAY BE ENHANCED BUFFERS PLACED ON THESE WATERS BY COUNTIES OR MUNICIPALITIES. THE PROPER AUTHORITY SHOULD BE CONTACTED BEFORE BEGINNING ANY DISTURBANCE NEAR THESE AREAS.

THIS PLAT WAS PREPARED FOR EXCLUSIVE USE BY THE PERSONS AND/OR ORGANIZATIONS NAMED HEREON. THIS PLAT DOES NOT EXTEND TO OTHERS WITHOUT THE PERMISSION OF THE SURVEYOR.

ORIGINAL PLATS, NOTES AND OTHER DRAWINGS PREPARED BY THE SURVEYOR AND HIS ASSOCIATES, INCLUDING ELECTRONIC FILES, ARE INSTRUMENTS OF SERVICE AND ARE THE PROPERTY OF THE SURVEYOR.

IF BUILDING SETBACKS ARE SHOWN HEREON THEY ARE BASED ON THE SURVEYORS BEST INTERPRETATION AND SHOULD BE RELIED UPON AFTER AFFIRMATION BY THE MARIETTA ZONING DEPARTMENT.

THERE MAY BE OTHER UTILITIES EXISTING ON THIS PROPERTY THAT ARE NOT SHOWN.

ALL DISTANCES SHOWN ARE HORIZONTAL GROUND DISTANCES.

LEGEND

CORNER MONUMENTATION:

—●— = IPS = CORNER SET WITH A 1/2" STEEL REINFORCING ROD

—○— CORNER FOUND

—△— UNMONUMENTED CORNER

—⊗— CORNER TO BE SET WHEN CONSTRUCTION PERMITS

—X— X— FENCE LINE

RR = STEEL REINFORCING ROD

OTP = OPEN TOP WATER PIPE

CTP = CRIMPED TOP WATER PIPE

PP = POWER POLE = ☐

C/L = CENTERLINE = ——

B/L = BUILDINGLINE = ——

R/W = RIGHT OF WAY

L.L.L. = LAND LOT LINE = ——

WATER MAINS = —W— W— W— W—

OVERHEAD POWER LINES = —E— E— E—

GAS MAINS = —G— G— G— G—

SANITARY SEWER MAIN = —SS— SS— SS—

N/F = NOW OR FORMERLY OWNED BY

NSAB = NAIL SET AT BASE

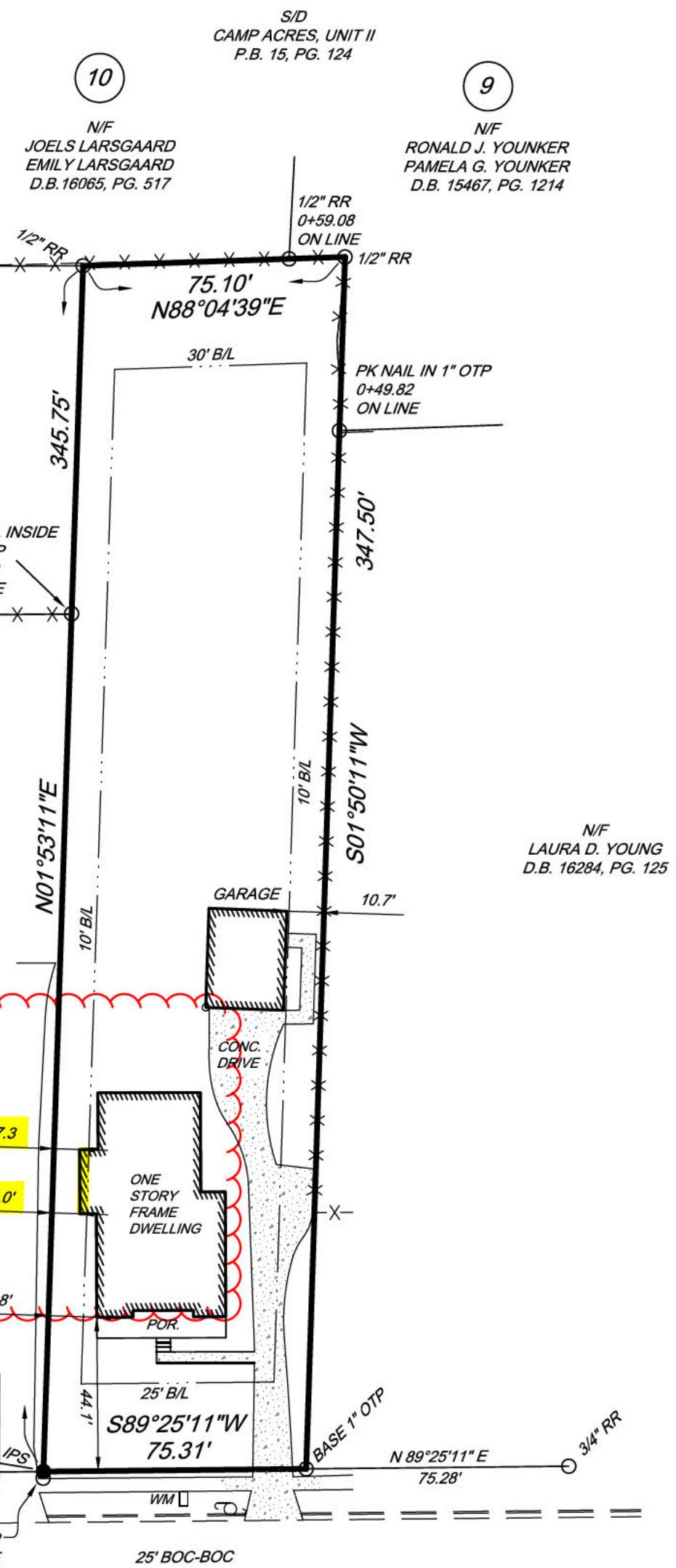
NFAB = NAIL FOUND AT BASE

D.B. = DEED BOOK

P.B. = PLAT BOOK

R/W MON. = CONCRETE RIGHT OF WAY MONUMENT

WM = WATER METER



STEWART AVENUE
(50' R/W)

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 FOR 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 THE O.C.G.A SECTION 15-6-67.

Benjamin W. Cruselle
BENJAMIN W. CRUSSELLE RLS. 2841

/ 12/19/2025
DATE

PLAT OF RETRACEMENT SURVEY FOR

LOCATED IN LAND LOT 1149, 16TH DISTRICT, 2ND SECTION,
COBB COUNTY, GEORGIA
CITY OF MARIETTA
BEING A PART OF BLOCK "M" OF M.M. SESSIONS
SUBDIVISION AS PER PLAT RECORDED P.B. 1, PG. 171

318 STEWART AVENUE

PARCEL AREA = 0.598 ACRES
26,028 SQ. FT.

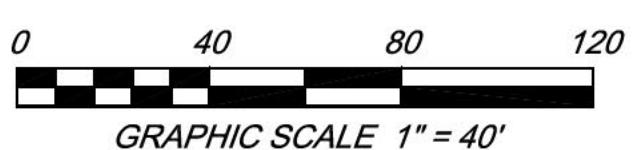
ADDITIONAL SURVEY REFERENCES
SUBJECT PROPERTY DEED: D.B. 16270, PG. 3052

FLOOD STATEMENT

I HAVE THIS DATE EXAMINED THE FLOOD INSURANCE RATE MAPS, COMMUNITY PANEL NO: 13067C0108J
EFFECTIVE DATE: MARCH 4, 2013
THE MAP GRAPHICALLY DEPICTS THE SUBJECT PROPERTY TO LIE IN ZONE: "X"
"X" = AREAS DETERMINED TO BE OUTSIDE THE 100 YEAR (1% ANNUAL CHANCE) FLOODPLAIN

TECHNICAL DATA

TRAVERSE PRECISION: 1/23,740
ANGLE ERROR: 2 SEC. PER ANG.
SURVEY ADJUSTMENT: LEAST SQUARES
EQUIPMENT: SOKKIA IM50 TOTAL STATION
PLAT PRECISION: 1/231,220



REVISIONS

DATE	DESCRIPTION



THE CRUSSELLE COMPANY
PROFESSIONAL LAND SURVEYORS
2981 POWDER SPRINGS ROAD
MARIETTA, GEORGIA 30064
(770) 943-5903
E-MAIL: BEN@CRUSSELLE.COM

PROJ. NO. C07612 FILE: C07612.DWG
FIELD SURVEY DATE: 12/16/2025
PLAT DATE: 12/19/2025 SCALE: 1" = 40'