

Board of Appeals Meeting

700 Doug Davis Drive
Hapeville, GA 30354

February 27, 2020 6:00 PM

Agenda

1. Welcome and Introduction
2. Approval of Minutes
 - 2.I. Approval of Minutes - January 23, 2020

1. MINTUES - 01-23-2020_draft

3. Old Business
 - 3.I. 3240 Lake Avenue Variance Request

Background:

Beatriz Arroyo is requesting to reduce the front yard and side yard setback at 3240 Lake Avenue, Parcel Identification Number 14-0099-0003-073-7. The property is zoned R-SF, Residential-Single Family, and is subject to the zoning regulations under Section 93-22.1-1 of the City of Hapeville Zoning Ordinance. *This item was tabled at the January 23, 2020 Board of Appeals meeting.*

Staff Comment

Applicant Comment

Public Comment

Documents:

1. Application - 3240 Lake Avenue, Variance Request_Redacted
 2. Planners Report 3240 Lake Ave BoA v2
 3. Legal Adv. - 01-23-2020, Board of Appeals
4. Next Meeting Date

5. Adjourn

Public involvement and citizen engagement is welcome as Hapeville operates a very open, accessible and transparent government. We do however remind our attendees/residents that there are times allocated for public comments on the agenda. In order for council to conduct their necessary business at each meeting, we respectfully ask that side-bar conversations and comments be reserved for the appropriate time during the meeting. This will allow the City Council to conduct the business at hand and afford our meeting attendees ample time for comments at the appropriate time during the meeting.

Board of Appeals Meeting

700 Doug Davis Drive, Hapeville, GA 30354

January 23, 2020

6:00 PM

MINUTES

1. Welcome and Introduction

Chairman Michael Simpson called the meeting to order at 6:00 p.m. in the City of Hapeville Municipal Annex located at 700 Doug Davis Drive, Hapeville, Georgia 30354. Members in attendance included Vice Chairman Jan Bolien, Gabriel Cojocarescu, Rod Mack, Larry Martin, Billy Slocumb and John Stalvey. City Planner Michael Smith and Secretary Adrienne Senter were also present.

2. Election of Officers

2.I. Election of Officers

Chairman:

MOTION ITEM: Jan Bolien made a motion, Gabriel Cojocarescu seconded to re-elect Michael Simpson as Chairman of the Board of Appeals. Motion Carried: 6-0.

Vice Chairman:

MOTION ITEM: John Stalvey made a motion, Larry Martin seconded to re-elect Jan Bolien as Vice Chairman of the Board of Appeals. Motion Carried: 6-0.

3. Approval of Minutes

3.I. Minutes of November 14, 2019

MOTION ITEM: Larry Martin made a motion, John Stalvey seconded to approve the minutes of November 14, 2019 as submitted. Motion Carried: 6-0.

4. New Business

4.I. 3277-3275 Russell Street

Variance Request

Background

Wilbur Steve Lamb and Dorthy Jane Mann are requesting to reduce the front yard setback from 15' to 0" to allow for the construction of an access ramp at 3277-3275 Russell Street, Parcel Identification Number 14-0095-0010-075-7. The property is zoned R-O, One-Family Detached, and is subject to the zoning regulations under Section 93-22.1-1 of the City of Hapeville Zoning Ordinance.

Staff Comment:

The ramp, while attached to the primary structure, is functionally the equivalent of the walkway connecting the dwelling to the street. The previously existing condition prevented reasonable use of the property for its current occupant; the ramp is providing a necessary service to a resident of the dwelling, who otherwise has difficulty accessing the property. Further, the Design Review Committee has approved the design of the ramp. Staff recommends approval of the conditional variance for the period that the house is owned by the current owner. Should the property be sold or rented, the ramp should be removed.

Applicant Comment:

The applicant stated the property is occupied by his sister and she cannot access the property by steps. The ramp was constructed over the existing steps up to the front porch for access.

Public Comment: None.

End of Public Comment.

Commissioner Bolien inquired regarding the conditional approval based upon the ownership/occupancy.

Commissioner Martin asked if the requested variance is 81" or 0" and if the existing concrete walkway is attached to the house. Mr. Smith stated that concrete walkways are not subject to the setbacks and the ramp extends to the existing sidewalk. – 10.06.

In addition, Commissioner Martin ask Mr. Lamb if he was aware of the staff recommendation that the ramp would be removed if the property was sold or rented.

The applicant agreed that if the property was sold or rented, the wooden ramp would be removed.

MOTION ITEM: John Stalvey made a motion, Larry Martin seconded to approve the variance request at 3277/3275 Russell Street provided that if the property is sold, rented or no longer needed, the ramp should be removed. Motion Carried: 6-0.

515 Walnut Street
Background

Variance Request

Asha Pittman on behalf of Gregory Evans requested a variance to reduce the west

setback from 15' to 13' at 515 Walnut Street, Parcel Identification Number 14 0094-0003-064-1. The property is zoned R-SF, Residential Single Family, and is subject to the zoning regulations under Section 93-22.1-1 of the City of Hapeville Zoning Ordinance.

Staff Comment:

The applicant has not provided evidence of an unnecessary hardship based on the peculiar conditions of the lot. The lot is typical of corner lots in Hapeville and can reasonably accommodate a new single-family dwelling of at least 1,000 square feet of floor area within the minimum setbacks. Based upon these requirements for variance consideration, staff does not recommend approval of the variance.

Planning Commission met on January 14, 2020 and approved the site plan with a recommendation to the Board of Appeals to approve the variance.

Applicant Comment:

Ms. Pittman stated that portions of the home, specifically the chimney and the dining room area exceed the 15' setback. In addition, Ms. Pittman stated that the actual footprint of the home encroached into the setback by 1' and an additional 1' for the roofline.

Public Comment: None.

End of Public Comment.

MOTION ITEM: Jan Bolien made a motion, Rod Mack seconded to deny the application for 515 Lake Drive.

Discussion: Larry Martin asked the applicant if she had explored an alternative solution to the location of the chimney and overhang. The applicant stated the chimney and the dining area both encroach into the setback and when she met with the Design Review Committee about an alternative design, but any modification would limit the overall living space. John Stalvey stated that the Chairman of the Design Review Committee recommended eliminating the hallway and moving the stairwell which would allow for additional space and remove the need for a variance. Gabriel Cojocarescu asked why the setback requirement for a corner lot is different than for a regular interior lot? Mr. Smith stated that it creates uniformity for neighborhoods.

After further discussion, the following action was taken:

Jan Bolien withdrew her motion to deny. Rod Mack withdrew his second.

MOTION ITEM: Larry Martin made a motion, Gabriel Cojocarescu seconded to grant the variance request for 515 Walnut Street as requested.

Motion

Carried: 6-0.

Gabriel Cojocarescu recused himself from the following item:

4.III . 3240 Lake Avenue

Variance Request

Background

Beatriz Arroyo is requesting to reduce the front yard and side yard setback at 3240 Lake Avenue, Parcel Identification Number 14-0099-0003-073-7. The property is zoned R-SF, Residential-Single Family, and is subject to the zoning regulations under Section 93-22.1-1 of the City of Hapeville Zoning Ordinance.

Staff Comment:

This application is a subdivision application which would create two lots with one (accessory) structure non- conforming to a setback of less than 1 foot (.84'). The applicant has not demonstrated an unnecessary hardship imposed by the lot or the requirement to develop newly subdivided lots in accordance with the zoning code. Granting a variance would impair the intent of the R-SF zoning district to ensure new development is built to current standard. Removal of the structure would make constructing an accessory structure on an adjacent property at 643 North Avenue more feasible. Staff recommends against granting the variance.

Furthermore, the applicant has not provided enough information to determine if the dwelling can be used as an accessory structure for any new primary dwelling. The applicant must provide the size and height of the accessory building, the size of the proposed primary dwelling, the distance between the primary dwelling and the accessory structure, and, should the space continue to be used as a dwelling, all information required to determine compliance with Sec. 93-2-26 – Accessory dwelling units (ADU) – of the City's Zoning Code. Granting a variance for the setback will not guarantee the dwelling will be viable as an accessory structure.

Applicant Comment:

Jan Bolien asked the applicant if the structure is an apartment. Ms. Arroyo stated that the structure is an apartment and she intend to construct a new single-family home on the front portion of the property. Staff was unaware that the accessory structure was being utilized as an apartment. Further, staff stated that the Board of Appeals does not have authority to grant a use variance.

Public Comment: None.

End of Public Comment.

After further discussion, staff asked the Board of Appeals to table this item and allow staff to obtain additional information.

MOTION ITEM: John Stalvey made a motion, Rod Mack seconded to table this item until February 27, 2020.

Discussion: Larry Martin asked if the only issue stemmed from the structure being used as an apartment? Chairman Simpson stated that the Board is unclear if the existing structure meets the zoning regulations.

Motion Carried: 5-0-1; Gabriel Cojocarescu abstained.

4.IV 3409 North Fulton Avenue

Variance Request

Background

Aliksandr Holub requested a variance to reduce the required minimum rear yard setback for an accessory structure located on a corner lot from 25' to 9' at 3409 North Fulton Avenue, Parcel Identification Number 14-0095-0004-004-5. The property is zoned R-SF, Residential-Single Family, and is subject to the zoning regulations under Section 93-2-5 of the City of Hapeville Zoning Ordinance.

Staff Comment:

In 2014, Aliksandr Holub applied for the design review of a proposed garage and carport to be located at 3409 North Fulton Avenue. During his review in 2014, then city planner Bill Johnston raised numerous concerns regarding the application and proposed design. The Design Review Committee approved the plans on the condition that the deficiencies would be addressed prior to construction. However, the accessory structure as built does not reflect the conditions of the DRC and was therefore not constructed in compliance with the City of Hapeville's Zoning Code or Architectural Design Standards. Further, its current use as an accessory dwelling was never permitted. In order to comply with current regulations, Mr. Holub has been instructed to complete the following:

1. Bring the structure and site into compliance with the current Zoning Code and/or request and receive approvals for Variances from the Board of Appeals.
2. Bring the structure into compliance with the Architectural Design Standards based on updated plans approved by the Design Review Committee.
3. Apply for a certificate of occupancy to operate as an accessory dwelling unit.

The applicant met with the Design Review Committee on December 18, 2019 and has indicated his intent to bring the structure itself into compliance with the structural and design requirements of the Zoning code and the Architectural Design Standards with the

exception of one condition related to the placement of the structure. Mr. Holub submitted a variance application to the City to reduce the rear yard setback for accessory buildings on corner lots from 25' to 9'. If the variance is not granted, the structure is non-compliant and will need to be removed.

Recommendation

The applicant has not demonstrated an inherent unnecessary hardship imposed by the conditions of the lot. However, the placement of the structure was done in accordance with the City's setback requirements at the time, which did not have any additional setback requirement for accessory buildings on corner lots. The structure was built along the same plane as a pre-existing structure, and had the applicant built the structure in accordance with the approved plans, would now be legal non-conforming. Relief would not cause substantial detriment to the public good or impair the purpose and intent of this chapter. Staff recommends approval of the Variance.

Applicant Comment:

Ms. Holub stated in 2014, he completed an addition on an existing garage and met the development standards at that time. In 2018, he began living in the structure and he was not aware the structure encroached into the setback. He stated the adjacent property is located far off the road and creates minimal impact to the adjacent property.

There was discussion regarding the 25' setback requirement. Mr. Gojocarescu stated he did not support limiting accessory structures located on a corner lot to 25'.

Public Comment: None.

End of Public Comment.

MOTION ITEM: Larry Martin made a motion, Billy Slocumb seconded to approve the variance request at 3409 North Fulton Avenue as requested.

Discussion: Larry Martin commented regarding the issue related to the roof height. He does not support the 14' roof height requirement. Staff stated the applicant may request a design exception and if the Design Review Committee deny his request, the applicant may appeal that decision to the Board of Appeals.

Motion Carried: 6-0.

4.V. Administrative Variance

Text Amendment

Background

Consideration of a text amendment to create Section 93-1-3.1 (Administrative Variances) for the purpose of allowing the City Planner to grant Administrative Variances.

Staff Comment

Staff stated the proposed ordinance amendment is pending final legal review and requested this item be postponed.

MOTION ITEM: Jan Bolien made a motion, Rod Mack seconded to table this item pending legal review. Motion Carried: 6-0.

5. Next Meeting Date

Thursday, February 27, 2020 at 6:00 p.m.

6. Adjourn

MOTION ITEM: Jan Bolien made a motion, Rod Mack seconded to adjourn the meeting at 7:22 p.m. Motion Carried: 6-0.

Respectfully submitted,

Chairman, Michael Simpson

Secretary, Adrienne Senter

2020-BOA-DI-02

**CITY OF HAPEVILLE
ECONOMIC DEVELOPMENT DEPARTMENT
VARIANCE APPLICATION**

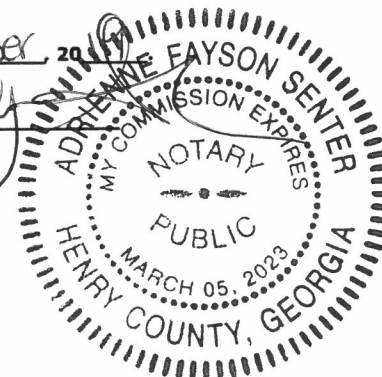
Name of Applicant A & B Home Improvement LLC
Mailing Address 2810 Players Dr Jonesboro Ga
Telephone _____ Mobile # [REDACTED] Email arroyo-betty@hotmail.com
Property Owner (s) A & B Home Improvement LLC
Mailing Address 2810 Players Dr Jonesboro Ga
Telephone _____ Mobile # [REDACTED]
Property Address/Location: 3240 Lake Av
Parcel I.D. # (INFORMATION MUST BE PROVIDED): 14 0099 000 30737
Square Foot of Property 19414 Building Size 1350 Zoning R-SF
Present Land Use R SF
Variance Requested ① side setback exist. structure ② use exist. structure as accessory structure
Applicable Code Section _____

I hereby make application to the City of Hapeville, Georgia for the above referenced property. I do hereby swear or affirm that the information provided here and above is true, complete and accurate, and I understand that any inaccuracies may be considered just cause for invalidation of this application and any action taken on this application. I understand that the City of Hapeville, Georgia, reserves the right to enforce any and all ordinances regardless of any action or approval on this application. I further understand that it is my/our responsibility to conform with all of City of Hapeville's Ordinances in full. I hereby acknowledge that all requirements of the City of Hapeville shall be adhered too. I can read and write the English language and/or this document has been read and explained to me and I have full and voluntarily completed this application. I understand that it is a felony to make false statements or writings to the City of Hapeville, Georgia pursuant to O.C.G.A. 16-10-20 and I may be prosecuted for a violation thereof.

Beatriz Arroyo
Applicant's signature
Date: 12/11/19

Sworn to and subscribed before me

This 11th day of December, 2019
Adrianne G. Kelly
Notary Public



CITY OF HAPEVILLE
ECONOMIC DEVELOPMENT DEPARTMENT
VARIANCE APPLICATION

WRITTEN SUMMARY

In detail, explain any extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that would qualify for a variance.

the structure is existing, another structure was demolished
this lot is very deep, this structure is set back
from the street very far.

if this property could be used as an accessory
structure, a new single family home could be
built in front of it, this new construction
would provide setback consistent with the
adjoining homes

Explain how the application of the ordinance to this particular piece of property would create an unnecessary hardship.

the cost would be too high to move structure

Explain how these conditions are peculiar to the particular piece of property involved.

it may have been built before setback regulation

The existing structure was built at the rear of the lot, leaving the
front empty

What, if any, detriment to the public good would the proposed project have if a variance was granted?

none, the structure is in great condition

CITY OF HAPEVILLE
ECONOMIC DEVELOPMENT DEPARTMENT
VARIANCE APPLICATION

AUTHORIZATION OF PROPERTY OWNER

I CERTIFY THAT I AM THE OWNER OF THE PROPERTY LOCATED AT:

3240 Lake Ave

City of Hapeville, County of Fulton, State of Georgia

WHICH IS THE SUBJECT MATTER OF THIS APPLICATION. I AUTHORIZE THE APPLICANT NAMED BELOW TO ACT AS THE APPLICANT IN THE PURSUIT OF A VARIANCE FOR THE PROPERTY.

Name of Applicant

Address of Applicant

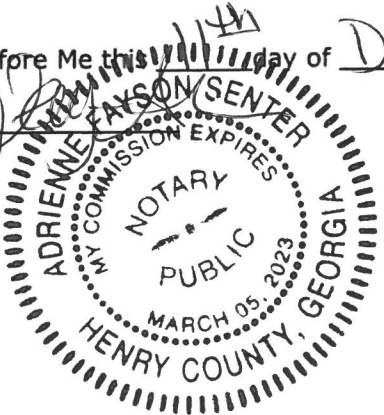
Telephone of Applicant

Beatriz Arroyo
Signature of Owner

BEATRIZ ARROYO
Print Name of Owner

Personally Appeared Before Me this 11th day of December, 2019.

Adrienne Kayson Senter
Notary Public





3595 Canton Road
Suite 116, PMB 272
Marietta, GA 30066
Ph. (678) 355-9905
Fax (678) 355-9805
www.frontlinesurveying.com

LEGAL DESCRIPTION – 0.24 ACRES – Tract 1

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 99 of the 14th District, of Fulton County, Georgia and being more particularly described as follows:

BEGINNING at a point (Iron Pin Found, ½ inch Open Top) located on the easterly right-of-way of Lake Avenue (apparent 50' R/W), said point being a distance of 100 feet along said easterly right-of-way of Lake Avenue from the northerly right-of-way of North Avenue (30' R/W), said point being the TRUE POINT OF BEGINNING;

THENCE, from said Point of Beginning thus established, proceed along said eastern right-of-way North 00°40'59" West a distance of 42.44 feet to a point (Iron Pin Set, #4 Capped Re-Bar); Thence leaving said right-of-way, proceed South 88°57'44" East a distance of 243.81 feet to a point (Iron Pin Set, #4 Capped Re-Bar); Thence proceed South 00°43'21" West a distance of 42.20 feet to a point (Iron Pin Set, #4 Capped Re-Bar); Thence proceed North 89°30'25" West a distance of 120.89 feet to a point (Iron Pin Found, 1 inch Open Top); Thence proceed North 88°29'03" West a distance of 121.89 feet to a point, said point being the POINT OF BEGINNING.

Together with and subject to all covenants, easements, and restrictions of record.

Tract described herein containing 0.24 acres of land (10,414 Square feet), more or less, described as Tract 1 on a survey by Frontline Surveying & Mapping, Inc., job number 69232, dated 9/12/2019, last revised 12/05/2019.



Thomas E. Peay, Jr. Ga. RLS 2402
For the Firm of Frontline Surveying & Mapping, Inc.



3595 Canton Road
Suite 116, PMB 272
Marietta, GA 30066
Ph. (678) 355-9905
Fax (678) 355-9805
www.frontlinesurveying.com

LEGAL DESCRIPTION – 0.24 ACRES – Tract 2

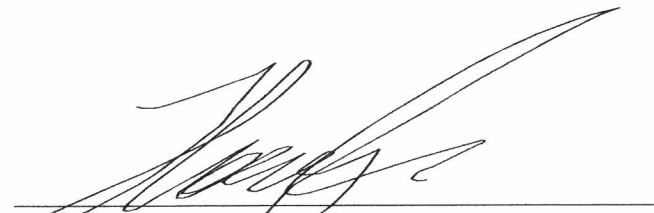
ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 99 of the 14th District, of Fulton County, Georgia and being more particularly described as follows:

BEGINNING at a point (Iron Pin Set, #4 Capped Re-Bar) located on the easterly right-of-way of Lake Avenue (apparent 50' R/W), said point being a distance of 142.44 feet along said easterly right-of-way of Lake Avenue from the northerly right-of-way of North Avenue (30' R/W), said point being the TRUE POINT OF BEGINNING;

THENCE, from said Point of Beginning thus established, proceed along said eastern right-of-way North 00°40'59" West a distance of 42.43 feet to a point (Iron Pin Found, ½ inch Open Top); Thence leaving said right-of-way, proceed South 89°01'07" East a distance of 244.85 feet to a point (Iron Pin Set, #4 Capped Re-Bar); Thence proceed South 00°43'21" West a distance of 42.74 feet to a point (Iron Pin Set, #4 Capped Re-Bar); Thence proceed North 88°57'44" West a distance of 243.81 feet to a point, said point being the POINT OF BEGINNING.

Together with and subject to all covenants, easements, and restrictions of record.

Tract described herein containing 0.24 acres of land (10,414 Square feet), more or less, described as Tract 2 on a survey by Frontline Surveying & Mapping, Inc., job number 69232, dated 9/12/2019, last revised 12/05/2019.



Thomas E. Peay, Jr. Ga. RLS 2402
For the Firm of Frontline Surveying & Mapping, Inc.

LOT SPLIT SURVEY FOR:
ME IMPROVE
3240 LAKE AVENUE
LAND LOT 99
14th DISTRICT
FULTON COUNTY, GEORGIA
CITY OF HAPEVILLE
EXISTING ZONING: R-SF
PIN: 14 009900030737

TRACT 1	TRACT 2
10,414 SQ FT	10,414 SQ FT
0.24 ACRES	0.24 ACRES

SITE MAP (NTS)

CRID GA WEST (NAD 1983)

NO A.G.S. MONUMENT WAS FOUND WITHIN 500 FEET OF THIS PROPERTY. THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS OR ENTITY NAMED HEREIN, AND IS NOT TO BE REPRODUCED OR COPIED FOR THE USE OF ANY OTHER PERSONS, OR ENTITY WITHOUT EXPRESS RECOGNITION BY THE SURVEYOR NAMING SAID PERSON, PERSONS OR ENTITY. THESE DOCUMENTS, AS INSTRUMENTS OF SERVICE REMAIN THE PROPERTY OF FRONTLINE SURVEYING & MAPPING, INC. AND NO PART THEREOF MAY BE USED, COPIED OR REPRODUCED IN ANY FORM WITHOUT WRITTEN PERMISSION. COPYRIGHT ©2019 FRONTLINE SURVEYING AND MAPPING, INC.

NTLINE
3 MAPPING, INC.

3595 Canton Road
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Marietta, GA 30066
Ph. (678) 355-9905
Fax (678) 355-9805




www.frontlinesurveying.com

www.frontlinesurveying.com

DATE	09/12/2019
SCALE	1" = 20'
FULTON COUNTY, GEORGIA	
ON	BY: DATE:
N	T/LA 9/24/19
	T/LA 11/12/19
PER INFO.	T/LA 11/14/19
WATER METER	T/LA 11/14/19
	T/LA 11/22/19
	T/LA 12/05/19

SURVEY FOR:
A & B HOME IMPROVEMENT, LLC

99	14th DISTRICT
PART OF B BLOCK UNIT PHASE I HAVE THIS DATE EXAMINED THE "TIA OFFICIAL FLOOD HAZARD MAP" AND FOUND THAT BY GRAPHIC PLOTTING ONLY THE REFERENCE PARCEL (S) (S NOT) IN AN AREA HAVING SPECIAL FLOOD MAP ID: 131Z1C0308F EFFECTIVE DATE: 09/18/2013	ADD WATER CITY COMA CITY WATER RELOCATE CITY COMA SURVIVOR
PG 81-42	
PG 82	

FOR THE FIRM FRONTLINE SURVEYING
& MAPPING, INC. (SF#000631)

JOB # 69232

JOB # 69232

LEGEND:

CURRENT ZONING:
RSF

FRONT SETBACK= 15'
SIDE YARD = 5'
REAR SETBACK= 20'
ACCESSORY STRUCTURE
SIDE YARD = 5'
REAR SETBACK= 5'

MINIMUM LOT FRONTAGE= 40'
MINIMUM LOT AREA= 4000 SF
MINIMUM LOT COVERAGE= 70%

SURVEY NOTES:

-

DRAINAGE STATEMENT:

The landowner acknowledges that The City of Hapeville assumes no responsibility for erosion or overflow of natural or artificial drains beyond the extent of the street right-of-way, or for the extension of culverts beyond the point shown on the approved and recorded subdivision plat and that the city does not assume responsibility for maintenance of pipes and drainage ditches in drainage easements beyond the city right-of-way. Structures other than storm drainage structures are not permitted in drainage easements.

Owner's Acknowledgement and Dedication:

(STATE OF GEORGIA) (FULTON COUNTY) The owner of the land shown on this plat and whose name is subscribed thereto, and in person or through a duly authorized agent, acknowledges that this plat was made from an actual survey, and dedicates by this Declaration to the use of the public forever all streets, easements, sanitary sewers and appurtenances, potable water mains and appurtenances, storm drains and appurtenances, and other public facilities and appurtenances thereon shown.

Signature of Subdivider

Date Signed _____

A & B HOME IMPROVEMENT, LLC

Printed or Typed Name of Subdivider

Signature of Owner
BEATRIZ ARROYO, DIRECTOR,

Date Signed _____

Final Surveyor's Certificate:

I hereby certify that this plot is true and correct as to the property lines and all improvements shown thereon, and was prepared from an actual survey of the property made by me or under my supervision; that all monuments and markers shown thereon actually exist, and their location, size, type and materials are correctly shown. The field data upon which this plot is based was obtained from a traverse of the property lines, and the bearings and distances were taken at one point, and was adjusted using the Least Squares method. This plot has been calculated for closure and is found to be accurate within one foot in 112,968 feet and the property shown contains a total of 0.45 acres. The equipment used to obtain the bearing and distance measurements herein was a TRIMBLE ELEC. TOTAL STATION & TOWER 5600 GPS RECEIVER UTILIZING CHAMBERLAIN GPS/ACPS NETWORK.

By: [Signature] 12-05-19
Date
Registered Georgia Land Surveyor No. 24021 Date of Expiration 12/31/2019

Final Plot Approval:

This subdivision plat has been reviewed by the Planning Commission and the City Engineer and found to be in compliance with Zoning Ordinance, Conditions of Zoning Approval, City of Hapeville Development Regulations and Subdivision Regulations, as amended, and that it has been approved by all other affected City and County Departments, as appropriate. The Mayor and City Council hereby approve this Final Plat, subject to the provisions and requirements of the City's regulations and the provisions and requirements of the Development Performance and Maintenance Agreement executed for this development between the Owner and the City of Hapeville.

City Clerk -On Behalf of Mayor and Council

Date _____

Chairman, Planning Commission

Date _____

City Engineer

Date _____

SURVEYOR'S CERTIFICATION:

SURVEYORS' CERTIFICATION
 AS REQUIRED BY SUBSECTION (D) OF O.C.G.A. SECTION 15-6-67, THIS PLAT HAS BEEN
 PREPARED BY LAND SURVEYOR AND APPROVED BY ALL APPLICABLE LOCAL
 JURISDICTIONS FOR RECORDING AS EVIDENCED BY APPROVAL CERTIFICATES, SIGNATURES
 STAMPS, OR STATEMENTS HEREON. SUCH APPROVALS OR AFFIRMATIONS SHOULD BE
 CONFIRMED WITH THE APPROPRIATE GOVERNMENTAL BODIES BY ANY PURCHASER OR
 USER OF THIS PLAT AS TO INTENDED USE OF ANY PARCEL. FURTHERMORE, THE
 TECHNICIAN/LAND SURVEYOR CERTIFIES THAT THIS PLAT COMPLIES WITH THE MINIMUM
 REQUIREMENTS AND STANDARDS FOR RECORDING AS SET FORTH IN O.C.G.A. SECTION
 15-6-67, 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.

By: Thomas E. Peay, Jr. Registered Ga. Land Surveyor #2402 Date 12-05-19
Frontline Surveying & Mapping, Inc.
 3595 Canton Rd.
 Suite 116, PMB-272
 Marietta, Ga. 30066

12-05-19
2402 Date

SHEET 1 OF 1

\\PE2950\Shares\Z_Drive\dwg 2018\69232.dwg, RSUB 3240 LAKE AVE, 12/5/2019 12:31:54 PM, CAD-123



DATE: February 18, 2020
TO: Adrienne Senter
FROM: Michael Smith
RE: Variance Application for 3240 Lake Avenue

BACKGROUND

The City of Hapeville has received a variance application from A & B Home Improvement LLC to allow for a reduction in the minimum south side setback from 5' to 0.84' for Tract 1 of the proposed subdivision of 3240 Lake Avenue. The applicant wishes to subdivide the lot into two parcels for the purpose of constructing two single-family dwellings. To subdivide, all properties must be compliant with setback requirements. There is one existing building on the lot, a two-story apartment complex with two 600 square foot units. This structure is sitting within the south side setback Tract 1 of the proposed subdivision by 4.16', which is not compliant. The applicant wishes to keep the building at its current location to use it as an accessory building to a future primary dwelling.

The property is currently zoned R-SF, Residential Single-Family.

CODE

Chapter 90 – SUBDIVISIONS

Sec. 90-1-3. - General requirements and minimum standards of design.

(i) *Zoning or other regulations.*

- (1) No final plat of land within the force and effect of an existing zoning ordinance will be approved unless it conforms to that ordinance.
- (2) Whenever there is a discrepancy between minimum standards or dimensions noted herein and those contained in zoning regulations, the building code or other official regulations, the highest standard shall apply.

Chapter 93 – Zoning

ARTICLE 11.3. - R-SF ZONE (RESIDENTIAL SINGLE-FAMILY)

Sec. 93-11.3-1. - Intent.

The R-SF zone is established in order to protect residential areas currently developed with one-family detached dwellings, and adjoining areas undeveloped, likely to be developed for residential purposes by allowing single-family homes and prohibiting other uses. The regulations of the R-SF zone are specifically intended to:

- (1) Ensure the best use of the land;
- (2) Ensure and protect the orderly and proper future development of the land according to its best indicated potential use for single-family dwellings;
- (3) Protect and promote a suitable environment for family life;
- (4) Discourage any use which would generate other than usual residential traffic on minor streets; and
- (5) Discourage any use which, because of its character or size, would create excessive requirements or costs for public service.

ARTICLE 2. - GENERAL PROVISIONS

Sec. 93-2-5. - Accessory uses, accessory buildings, yard requirements of accessory buildings, outbuildings and fences.

Special requirements for accessory buildings are as follows:

- (e) Except as herein provided, the minimum yard requirements of section 93-22.1-1 of this chapter also apply to accessory buildings. However, accessory buildings may be located in rear yards within five feet of a rear or side lot line. In addition to these yard requirements, the horizontal separation of accessory buildings from the dwelling on the same lot and the horizontal separation of accessory buildings from dwelling on adjacent lots shall comply with standards in Table C—Distance from dwelling for very large accessory buildings. All distances shall be measured from outside wall to outside wall.

Sec. 93-22.1-1 Dimensional Requirements

R-SF Zoning dimensional requirements for single-family detached uses are as follows:

Lot Frontage (Feet)	Min. Lot Area Sq. Ft.	Lot Area/DU Square Feet	Floor Area/DU Sq. Ft.	Max Lot Coverage	Minimum Front Yard		Minimum		Maximum		Min. Parking Spaces	Max. Unit Per Bldg. Lot
					Minor Col.	Maj. Arterial	Side	Rear	Stories	Feet		
40	4,000	4,000	1,000	70	15	15	5	20	2½	35	2 DU	1

FINDINGS

Sec. 87-3-3. - Powers and duties.

(2) Variances. To authorize, upon appeal in specific cases, those variances from the provisions of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will, in an individual case, result in unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done. A variance may be granted in any individual cases of practical difficulty or unnecessary hardship only upon a finding by the board of appeals that:

a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography;

There are no extraordinary or exceptional conditions for this property based upon the size, shape or topography.

b. The application of this chapter to this particular piece of property would create an unnecessary hardship;

The applicant stated the cost to move the structure would be prohibitively expensive. Financial concerns alone cannot be considered an unnecessary hardship.

c. Such conditions are peculiar to the particular piece of property involved; and

The responsibility to relocate or remove nonconforming structures when developing a parcel is not unique to this particular piece of property.

d. Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of this chapter.

Relief, if granted, would impair the intent of this chapter to "Ensure and protect the orderly and proper future development of the land according to its best indicated potential use for single-family dwellings." In addition, per Sec. 93-2-5, granting this variance would prevent the owner of 643 North Avenue to the south from constructing their own accessory structure within 9' of their rear property line.

RECOMMENDATION

The applicant has submitted a subdivision application which would create two lots with one existing structure non-conforming to a setback of less than 1 foot (.84'). This application is specifically for a variance to the setback requirements of Sec. 93-22.2-1 – *Chart of Dimensional Requirements* for the existing structure. The applicant has not demonstrated an unnecessary hardship imposed by the lot or the requirement to develop newly subdivided lots in accordance with the zoning code. Granting a variance would impair the intent of the R-SF zoning district to ensure new development is built to current standards. Staff recommends against granting the variance.

The applicant had additionally requested in their application that this body consider allowing the use of this structure to continue as an accessory structure. This board cannot make that determination as the structure stands alone on the lot and is currently not accessory to any building. Other than stating a general intent to build a primary structure, the applicant has neither applied for nor proposed any other structure on the lot. The suitability of the building for use as an accessory structure depends on the existence of a primary use, and without any existing or proposed separate primary use, there are no

applicable specific restrictions from which the applicant is seeking relief.

The application submitted is seeking relief for the existing structure to remain within the south setback as an accessory structure as part of a subdivision application. Since the existing structure is the sole structure on the property and no plans have been provided for building of a primary structure, neither Staff nor the Board can ensure this structure will be limited in use as an accessory structure. Furthermore, as the applicant has not demonstrated a hardship with regard to the size, shape or topography of the lot to support the variance, staff does not recommend granting this variance.

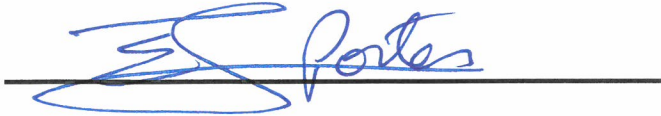
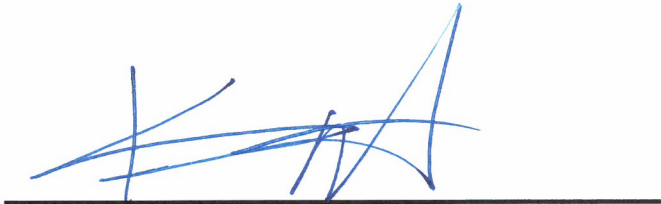


3240 Lake Avenue

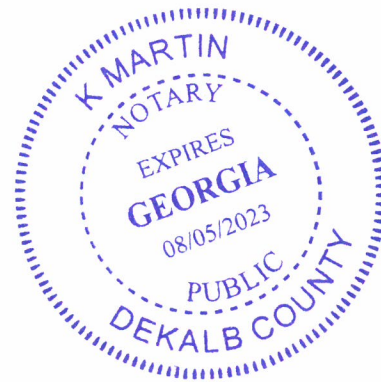
PUBLISHER'S AFFIDAVIT

STATE OF GEORGIA
COUNTY OF FULTON

Before me, the undersigned, a Notary Public, this day personally came the undersigned who, being duly sworn, according to law, says she is an agent of ALM Media, LLC., publishers of the **Daily Report**, the official newspaper published in Atlanta, GA, in said county and state, and that the publication, of which the annexed is a true copy, was published in said newspaper as provided by law on the following dates: 01/07/2020.

A handwritten signature in blue ink, appearing to read "E. Porter", is written over a solid black horizontal line.A handwritten signature in blue ink, consisting of stylized, overlapping strokes, is written over a solid black horizontal line.

Subscribed and sworn to before me this January 7, 2020



**NOTICE
City of Hapeville
Board of Appeals Meeting**

There will be a Board of Appeals on Thursday, January 23, 2020 in the City of Hapeville Municipal Court Annex located at **700 Doug Davis Drive, Hapeville, Georgia 30354 at 6:00 PM** to consider the following requests:

Variance Request:

Variance request to reduce the front yard setback from 15' to 81" to allow for the construction of an access ramp at 3275 Russell Street, Parcel Identification Number 14-0095-0010-075-7. The property is zoned R-O, One-Family Detached, and is subject to the zoning regulations under Section 93-22.1-1 of the City of Hapeville Zoning Ordinance.

Applicant: Wilbur Steve Lamb and Dorothy Jane Mann

Variance Request:

Variance request to reduce the front yard and side yard setback at 3240 Lake Avenue, Parcel Identification Number 14-0099-0003-073-7. The property is zoned R-SF, Residential-Single Family, and is subject to the zoning regulations under Section 93-22.1-1 of the City of Hapeville Zoning Ordinance.

Applicant: Beatriz Arroyo

Variance Request:

Variance request to reduce the west setback from 15' to 13' at 515 Walnut Street, Parcel Identification Number 14 0094-0003-064-1. The property is zoned R-SF Residential Single Family, and is subject to the zoning regulations under Section 93-22.1-1 of the City of Hapeville Zoning Ordinance.

Applicant: Gregory Evans
#0000448299:01/07-1EP