

**SEPTEMBER 17, 2013 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 3**

ITEM #6

PURPOSE

To consider granting a Special Exception for backyard chickens as recommended by the Board of Zoning Appeals from their August 14, 2013 Variance Hearing regarding Variance Application:

V-78 John and Jennifer Riser

BACKGROUND

In accordance with a Zoning Ordinance Amendment adopted by the Board of Commissioners on February 26, 2013, Section 134-94(4), the Board of Commissioners shall consider granting a Special Exception for backyard chickens, as pets or food source, after approval by the Board of Zoning Appeals. The Variance Analysis is attached for review. The Board of Zoning Appeals considered this appeal at the August 14, 2013 Variance Hearing and recommended approval of the Special Exception.

FUNDING

N/A

RECOMMENDATION

The Board of Commissioners consider granting a Special Exception for backyard chickens as recommended by the Board of Zoning Appeals for Variance case:

V-78 John and Jennifer Riser

ATTACHMENTS

Variance Minutes and Variance Analysis

MINUTES OF VARIANCE HEARING
COBB COUNTY BOARD OF ZONING APPEALS
AUGUST 14, 2013
PAGE 4

REGULAR CASES

By consensus, the order of business was amended and application V-78 was moved forward on the agenda for consideration.

V-78 **JOHN AND JENNIFER RISER** (John W. Riser, Jr. and Jennifer G. Riser, owners) requesting a variance to appeal related to the minimum lot size of two acres required to maintain poultry as pets or food source in Land Lot 392 of the 16th District. Located on the northwest terminus of Old Sutton's Way, north of Dexter Way (3523 Old Sutton's Way). *(Previously held by the Board of Zoning Appeals from their July 10, 2013 hearing)*

The public hearing was opened and Mr. John Riser, Ms. Jennifer Riser, Ms. Judith Denny-Lybbert, Mr. Barney Gruggel, Ms. Meghan Garcia-Salas, Ms. Lynda Stromberg, Mr. Thomas Wayne Stephens and Mr. Harold Wiesen addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Poteet, second by Hovey, to **approve** variance request **subject to**:

- **Approval is for 12 months**
- **No more than four hens allowed**
- **Coop to be located per drawing contained in the Variance Analysis (attached and made a part of these minutes)**
- **Chicken manure/waste to be placed into the on-site compost area**
- **Final ratification of lot size reduction by the Board of Commissioners at their September 17, 2013 Zoning Hearing**

VOTE: **ADOPTED** 4-0, Williams absent

Clerk's Note: The Board of Zoning Appeals individually offered comments regarding Cobb County Code section 134-94 and thereafter unanimously suggested that Staff perform an *immediate* review of this code section.

Note: Mr. Homan called for a brief recess at 2:11 p.m. The meeting was reconvened at 2:22 p.m.

COBB COUNTY GEORGIA
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2013 MAY -8 AM 9:17

(22) COBB COUNTY ZONING DIVISION

AREA
 0.631 ACRE

V-78 (2013)

MAGNETIC

PANEL NO. B672035F
 LOCATION 1222B
 ZONE 1X

I HAVE THIS MAP EVALUATED THE
 "MAGNETIC" AND FOUND REFERENCED POLAR (ND) IN AN AREA HAVING SPECIAL FLOOD HAZARD

THE FIELD DATA UPON WHICH THIS MAP OR PLAN IS BASED HAS
 BEEN CHECKED BY MEASUREMENTS AND FOUND TO BE ACCURATE
 WITHIN THE LIMITS OF THE INSTRUMENTS USED AND THE
 ADAPTED LEVING COMPASS RULE. THIS MAP OR PLAN HAS
 BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE
 WITHIN ONE FOOT IN 50,000 FEET.

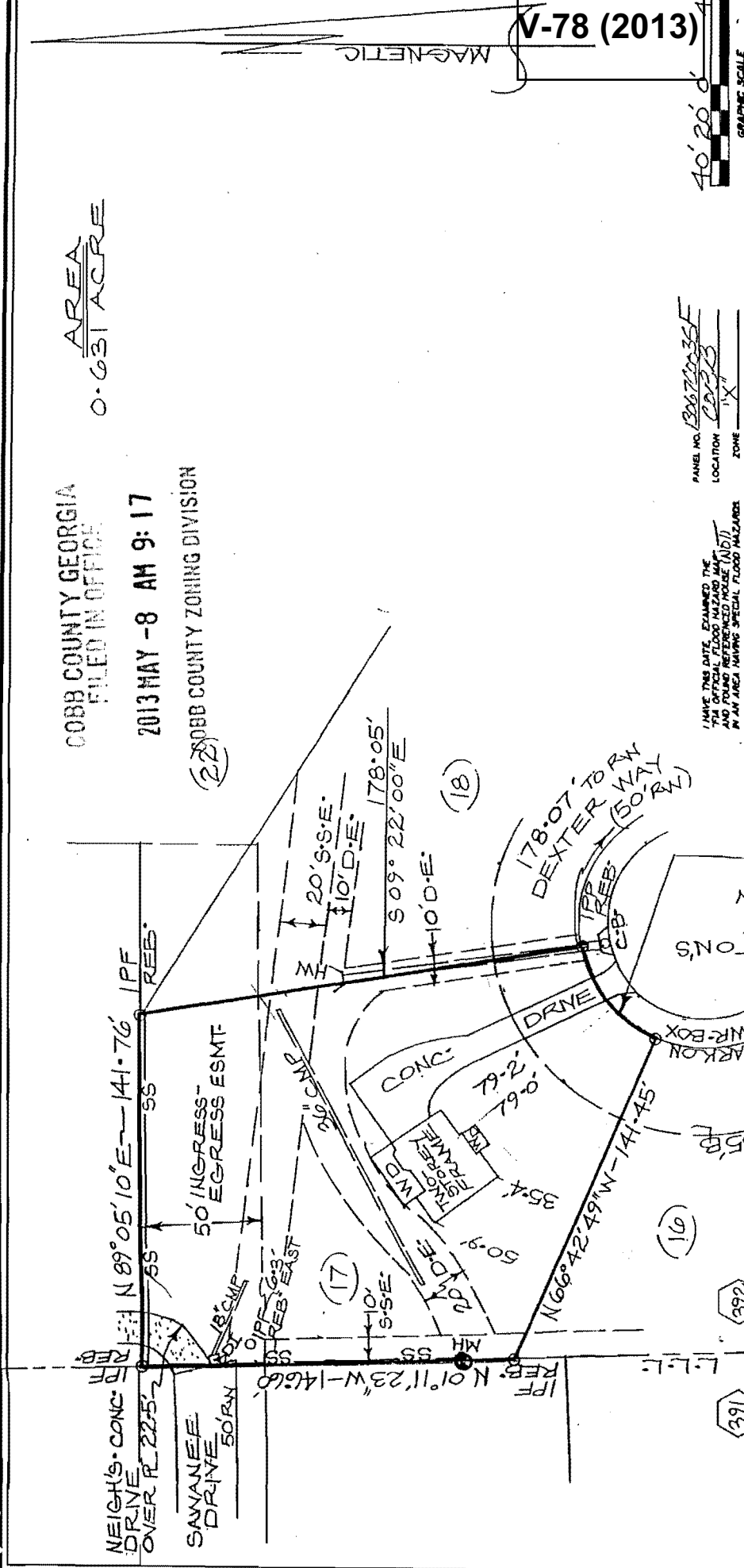
EQUIPMENT USED:
 TOPCON 675-2(B) & TRANSIT W/200' STEEL TAPE.
 IN MY OPINION, THIS PLAN IS A CORRECT
 REPRESENTATION OF THE LAND PLATTED AND
 THE MEASUREMENTS AND REQUIREMENTS OF LAW.

J.A. EVANS
 SURVEYING CO. INC.
 SMYRNA, GEORGIA
 PH. 770 435-755

SURVEY FOR:
 ROBERT M-M HOLTACKERS
 AND
 MARY ANN ADRANO-HOLTACKERS

LOT	BLK.	UNIT	REVISIONS
17			
SUTTON'S ORCHARD			
LAND LOT 392			
DISTRICT 16TH SECTION 2ND			
COBB COUNTY, GEORGIA			
PLAT BOOK 80 PAGE 170			
DATE: 2-27-97 SCALE: 1" = 40'			

END.



ARC-49.67'
 S 52° 23' 57" W
 CHD-47.65'
 RAD-50.00'

5/16/13
 12/18/13

APPLICANT: John and Jennifer Riser

PETITION No.: V-78

PHONE: 770-565-5736

DATE OF HEARING: 07-10-13

REPRESENTATIVE: Jennifer Riser

PRESENT ZONING: R-15

PHONE: 770-565-5736

LAND LOT(S): 392

TITLEHOLDER: John W. Riser, Jr. and Jennifer G. Riser

DISTRICT: 16

PROPERTY LOCATION: On the northwest terminus of Old Sutton's Way, north of Dexter Way (3523 Old Sutton's Way).

SIZE OF TRACT: 0.63 acre

COMMISSION DISTRICT: 3

TYPE OF VARIANCE: Appeal related to the minimum lot size of two acres required to maintain poultry as pets or food source.

OPPOSITION: No. OPPOSED PETITION No. SPOKESMAN

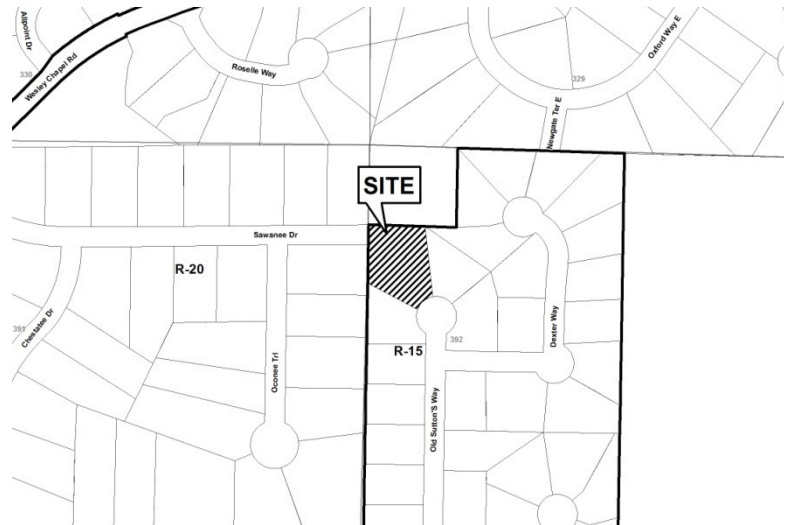
BOARD OF APPEALS DECISION

APPROVED MOTION BY

REJECTED SECONDED

HELD CARRIED

STIPULATIONS:



APPLICANT: John and Jennifer Riser

PETITION No.: V-78

COMMENTS

TRAFFIC: This request will not have an adverse impact on the transportation network.

DEVELOPMENT & INSPECTIONS: No comment.

SITE PLAN REVIEW: No comment.

STORMWATER MANAGEMENT: No comments.

HISTORIC PRESERVATION: After examining Civil War trench maps, Cobb County historic property surveys, county maps, and various other resources, staff has no comments regarding the impact or treatment of historic and/or archaeological resources.

DESIGN GUIDELINES: No comment.

CEMETERY PRESERVATION: No comment.

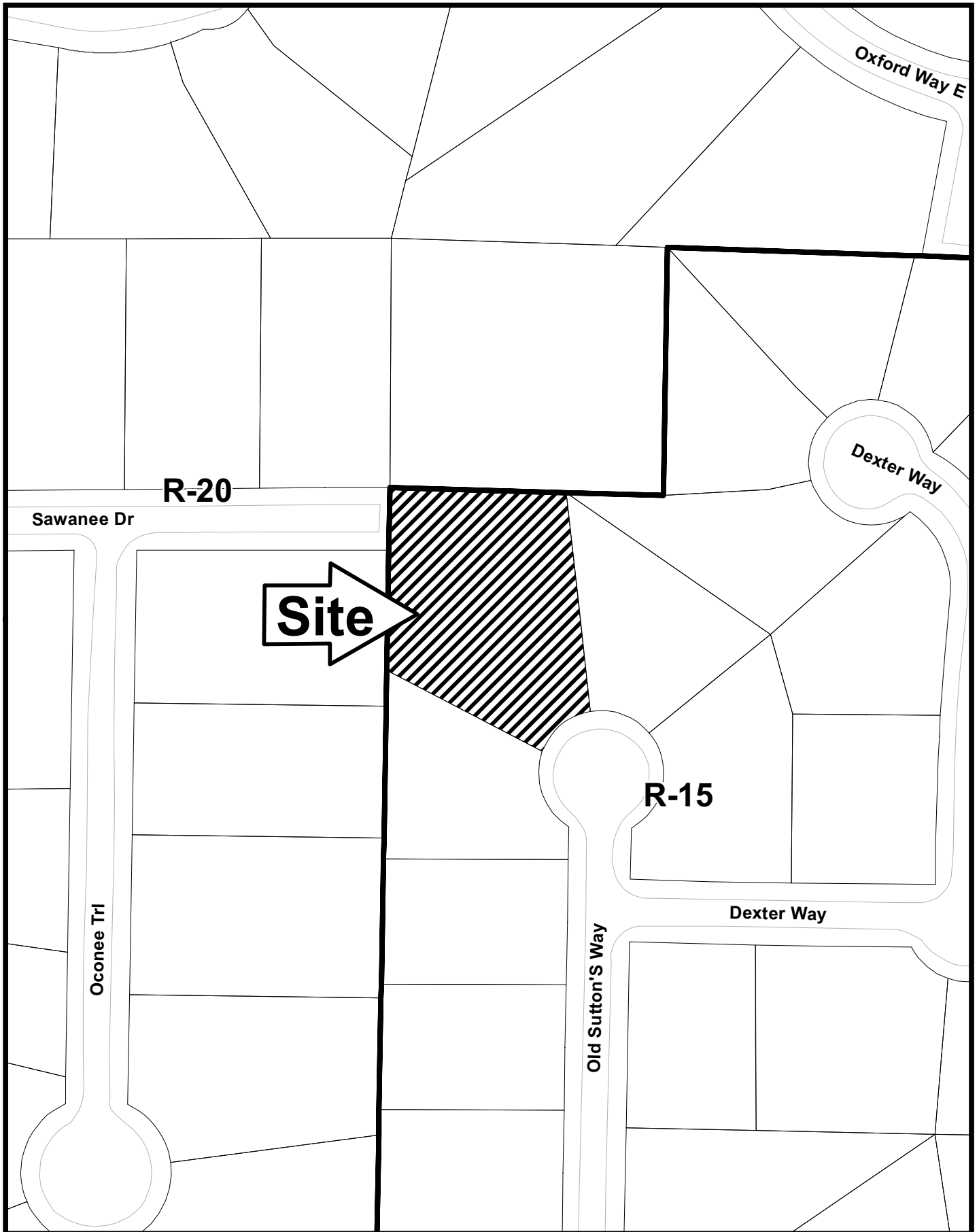
WATER: No conflict.

SEWER: If the coop is not moveable/portable, it must be located at least 10 feet from the edge of the sanitary sewer easement.

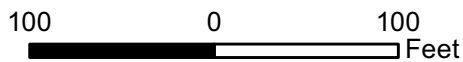
APPLICANT: John and Jennifer Riser **PETITION No.:** V-78



FIRE DEPARTMENT: After analyzing the information presented for a Preliminary Review, the Cobb County Fire Marshal's Office is confident that all other items can be addressed during the Plan Review Stage.

V-78



This map is provided for display and planning purposes only. It is not meant to be a legal description.



-  City Boundary
-  Zoning Boundary

COBB COUNTY GEORGIA
FILED IN OFFICE

Application for Variance

Cobb County

2013 MAY -8 AM 9:17

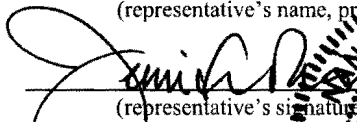
(type or print clearly)

Application No. V-78
Hearing Date: 7/10/13

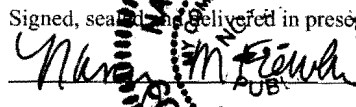
COBB COUNTY ZONING DIVISION

Applicant John & Jennifer Riser Phone # (770) 565-5736 E-mail jennriser@comcast.net

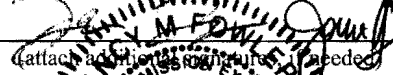
same (Jennifer Riser) Address 3523 Old Suttons Way Marietta, GA 30062
(representative's name, printed) (street, city, state and zip code)

 Phone # (770) 565-5736 E-mail jennriser@comcast.net
(representative's signature)

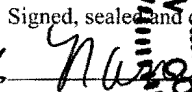
My commission expires: _____

Signed, sealed and delivered in presence of
 5/8/2013
Notary Public

Titleholder John Riser, Jr. Phone # (770) 565-5736 E-mail jennriser@comcast.net

Signature  Address: 3523 Old Suttons Way Marietta, GA 30062
(attach additional signatures if needed) DL 05478233 (street, city, state and zip code)

My commission expires: _____

Signed, sealed and delivered in presence of
 5/8/2013
Notary Public

Present Zoning of Property Residential

Location 3523 Old Suttons way Marietta GA 30062
(street address, if applicable; nearest intersection, etc.)

Land Lot(s) 392 District 16TH Size of Tract 0.631 Acre(s)

Please select the extraordinary and exceptional condition(s) to the piece of property in question. The condition(s) must be peculiar to the piece of property involved.

Size of Property _____ Shape of Property _____ Topography of Property _____ Other

The Cobb County Zoning Ordinance Section 134-94 states that the Cobb County Board of Zoning Appeals must determine that applying the terms of the Zoning Ordinance without the variance would create an unnecessary hardship. Please state what hardship would be created by following the normal terms of the ordinance (If applying for Backyard Chickens pursuant to Sec.134-94(4), then leave this part blank).

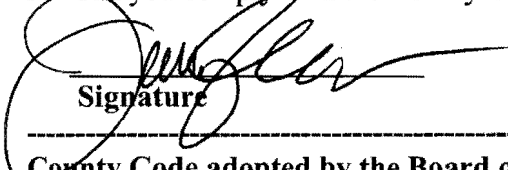
List type of variance requested: request to have backyard chickens

Application No. V-78

Hearing Date: 7/10/13

Applicant's information for requesting backyard chickens

- 1. Is there a Homeowners Association (HOA) that oversees the property or subdivision? YES ___; NO ✓.
- 2. Does the HOA support your request? YES ✓; NO ___; N/A- No HOA ___.
- 3. Are there valid covenants or restrictions on the property that prohibit backyard chickens? YES ___ NO ✓.
(If there are valid covenants or restrictions prohibiting backyard chickens, then this application will not be heard by the Board of Zoning Appeals; This application will not be accepted, or will be withdrawn).
- 4. How many hens do you propose (no male birds allowed)? 5.
- 5. Can you comply with the County Code Sec-134-94(4)(a-j) below? YES ✓ NO ___.


Signature

Jennifer Riser
Print Name

County Code adopted by the Board of Commissioners February 26, 2013:

Sec. 134-94 (4) Authorize upon appeal in specific cases related to the minimum lot size of two acres required to maintain poultry as pets or food source.

Poultry meaning a female pullet or hen of the Gallus gallus domesticus; also referred to as backyard chickens which are or may be raised for the purpose of providing food or companionship as a pet considering the following minimum conditions:

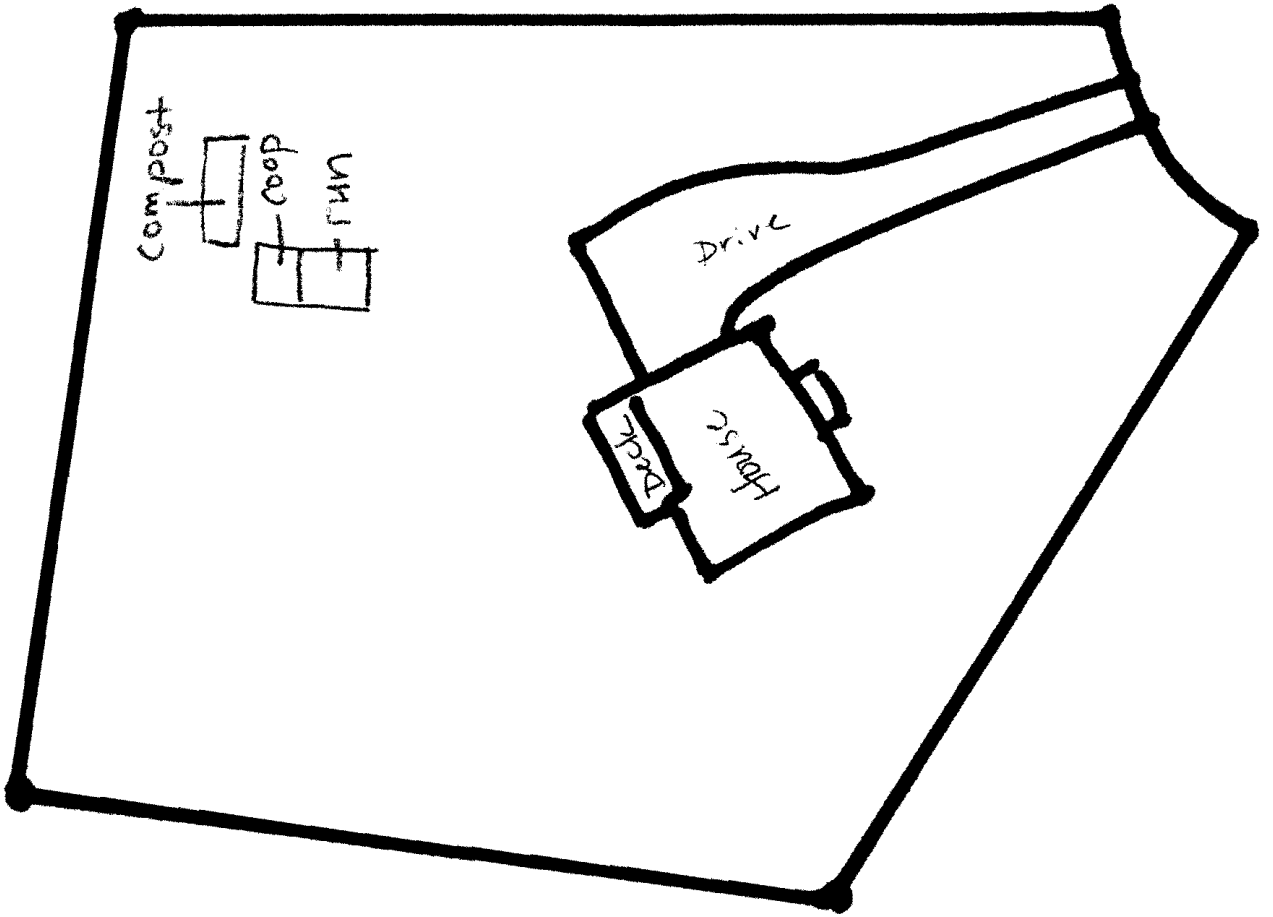
- (a) Written consent or opposition of adjacent property owners, including the homeowners association, if applicable;
- (b) The poultry shall be kept/ maintained within a fenced area;
- (c) Coops, or other buildings used for the poultry shall be located at least ten feet from any property line and/or in compliance with the accessory structure requirements in each zoning district;
- (d) The owner of the poultry shall keep the property maintained in a fashion that eliminates odors, pollution or other negative effects resulting from the poultry;
- (e) The poultry shall not cause a nuisance, as defined by State Law;
- (f) There shall be a maximum ratio of one bird per 5,000 square foot of lot area on any lot less than two acres;
- (g) The slaughter of any hen on site is strictly prohibited;
- (h) The fee for the variance application shall be \$150.00;
- (i) The duration of any Variance approved for Poultry as Pets or Food Source shall not exceed 2 years; renewable for subsequent 2 year terms thereafter;
- (j) Any Variance approved for Poultry as Pets or Food Source shall be considered by the Board of Commissioners' in accordance with Section 134-271(8).

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2013 MAY - 8 AM 9:17
COBB COUNTY ZONING DIVISION

IMPORTANT NOTE: The following announcement concerns variance applications requesting backyard chickens relating to the Official Code of Cobb County, Chapter 134-94(4), adopted by the Board of Commissioners on February 26, 2013. Applicants are advised that variance applications requesting backyard chickens which are approved by the Board of Zoning Appeals take the form of a recommendation to the Board of Commissioners (BOC), who makes a final determination whether to grant a special exception for the backyard chickens. The BOC determination will take place the following month at the scheduled Zoning Hearing.
(page revised 03-06-2013)

V-78 (2013)

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COBB COUNTY ZONING DIVISION



REVISED 8-5-13 J.P.P.

Requirements for Variance Application

Page 4

Application No. V-78

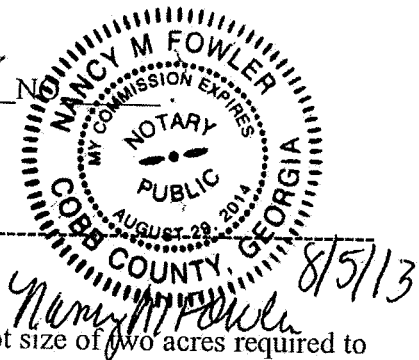
Hearing Date: rev. 8/14/13

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- 2. Does the HOA support your request? YES ; NO ; N/A- No HOA .
- 3. Are there valid covenants or restrictions on the property that prohibit backyard chickens? YES NO .
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[Signature]
Signature

Jennifer Riser
Print Name



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