

APPLICANT: Earl E. Smith

PETITION No.: V-16

PHONE: 770-429-1499

DATE OF HEARING: 01-13-2016

REPRESENTATIVE: John H. Moore

PRESENT ZONING: R-30

PHONE: 770-429-1499

LAND LOT(S): 147, 148

TITLEHOLDER: Earl Edward Smith, as Trustee of the Earl Edward Smith Revocable Trust Under Agreement Dated April 14, 2005, as Amended and Restated in the First Amendment and Restatement of the Earl Edward Smith Revocable Trust Dated June 7, 2013

DISTRICT: 20

PROPERTY LOCATION: At the northeast intersection of Giles Road and Mars Hill Road (2980 Mars Hill Road).

SIZE OF TRACT: 14.46 acres

COMMISSION DISTRICT: 1

TYPE OF VARIANCE: 1) Waive the front setback for proposed lot 4 from the required 45 feet to 19.3 feet; 2) waive the front setback for proposed lot 5 from the required 45 feet to 11.7 feet; 3) waive the side setback for proposed lot 5 from the required 25 feet to 7.94 feet; and 4) waive the front setback for proposed lot 1 from the required 50 feet to 38.12 feet.

OPPOSITION: No. OPPOSED **PETITION No.** **SPOKESMAN**

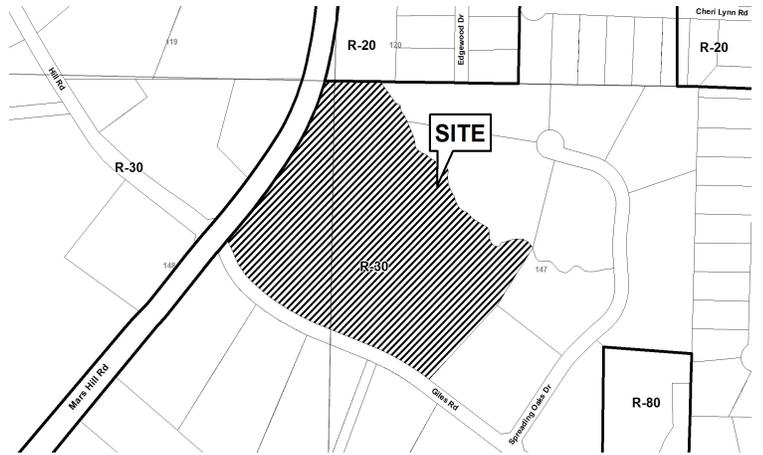
BOARD OF APPEALS DECISION

APPROVED **MOTION BY**

REJECTED **SECONDED**

HELD **CARRIED**

STIPULATIONS:



APPLICANT: Earl E. Smith

PETITION No.: V-16

COMMENTS

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

DEVELOPMENT & INSPECTIONS: No comments.

SITE PLAN REVIEW: A plat must be recorded with the Clerk of Superior Court prior to the issuance of any building permits for this property. If this variance is approved, the plat must show all variance conditions and reference the variance case. The surveyor must submit the plat to the Site Plan Review Section, Community Development Agency for review and approval prior to recording. Call 770-528-2147.

STORMWATER MANAGEMENT: No adverse stormwater management impacts are anticipated.

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: Staff has determined that the subject sites are not within the boundaries of approved design guidelines study areas; therefore do not have to comply with design guidelines requirements. No comments.

CEMETERY PRESERVATION: There is no significant impact on the cemetery site listed in the Cobb County Cemetery Preservation Commission's Inventory Listing which is located in this, or adjacent land lot.

WATER: No conflict.

SEWER: No conflict. Connection to sewer not required if lots are >80,000 feet². Applicant should be aware of 2 County sewer force mains along frontage of Giles Road, which may or may not be completely in the public Right-Of-Way.

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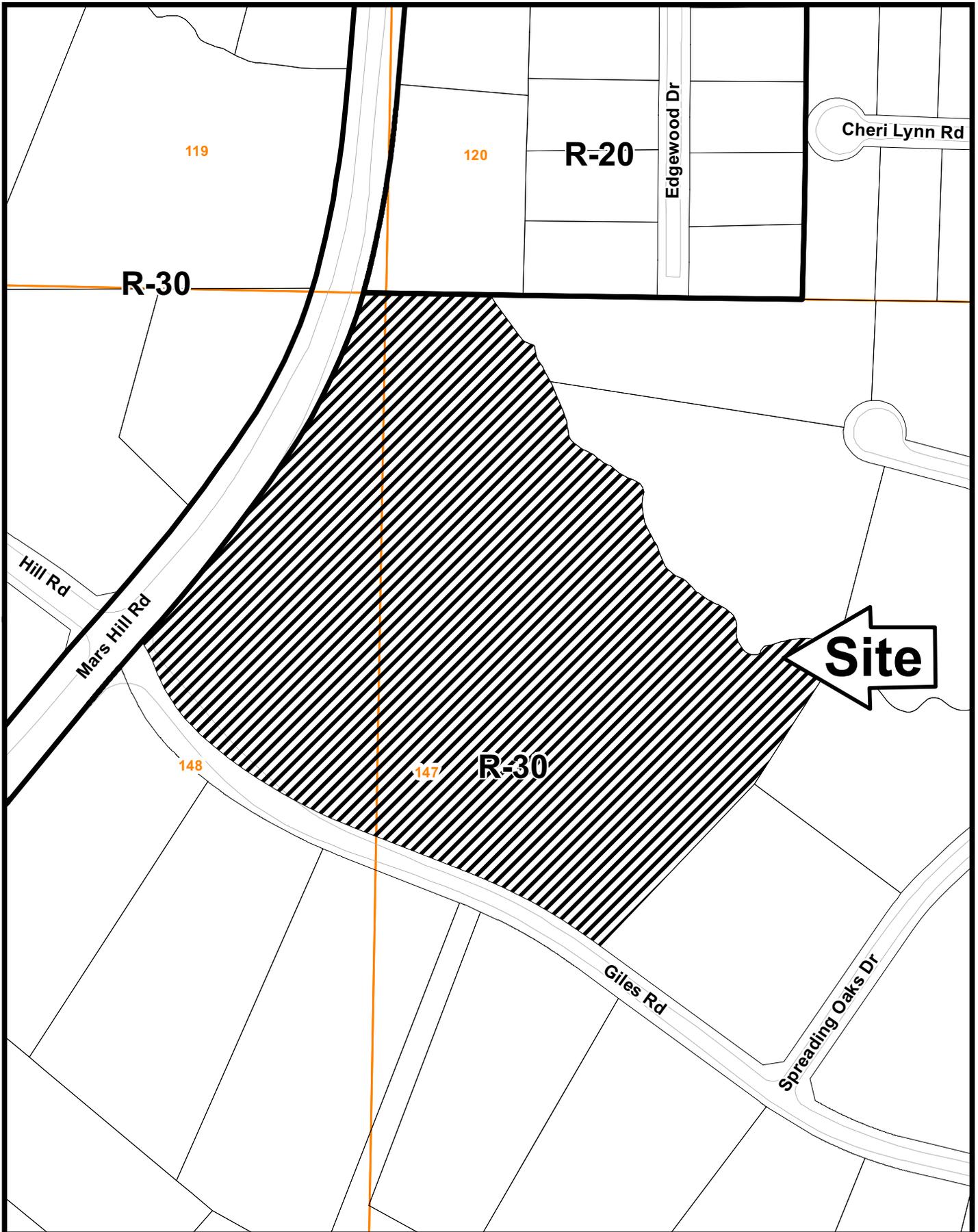
FIRE DEPARTMENT: Fire apparatus access roads shall extend to within 150 feet of all portions of the facility or any portion of the exterior wall of the first floor (State Modifications IFC 503.1 2006 Edition).

All access roads shall meet the American Association of State and Highway Transportation Officials (AASHTO) design manual live load standard HS20 (75,000 lbs.) with an unobstructed width of not less than 20 feet, 25 foot inside radius, 50 foot outside turning radius and unobstructed vertical clearance of not less than 13 feet 6 inches.

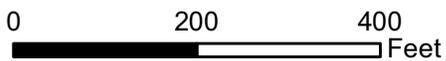
Maximum slope of the access road in reference to the apparatus is 10% Front to Back and 5% Side to Side. Maximum grade of roadways leading to Fire Access roads refer to the Cobb County Development Standard Section 400: 14% for Non-Residential. Maximum angle of departure is 8.5%.

Dead-end access roads in excess of 150 feet shall be provided with a turn-around (IFC 503.2.5 2006 Edition). Cul-de-sac with or without an island: minimum 60-foot radius to outside curb, measured to inside of curb and a minimum lane width = 24 feet (Cobb County Development Standard 401.09). Single-Family cul-de-sac without island: 38-foot outside radius with island reverts to commercial dimensions. Hammerhead turn-around: total of 110 feet needed (45 feet + 20 feet wide roadway + 45 feet).

V-16



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



-  City Boundary
-  Zoning Boundary

Application for Variance Cobb County

NOV 12 2015

(type or print clearly)

Application No. v-14 (2016)
Hearing Date: 01/13/2016

Applicant Earl E. Smith Phone # _____ E-mail _____
Moore Ingram Johnson & Steele, LLP Emerson Overlook, 326 Roswell Street
John H. Moore Address Marietta, GA 30060
(representative's name, printed) (street, city, state and zip code)

BY: [Signature] Phone # (770) 429-1499 E-mail jmoore@mijls.com
(representative's signature) Georgia Bar No. 519800



My commission expires: January 10, 2019

Signed, sealed and delivered in presence of:

[Signature]
Notary Public

Titleholder Earl Edward Smith, Phone # _____ E-mail _____
as Trustee
Signature See Attached Exhibit "A" Address: Post Office Box 801010, Acworth, GA
(attach additional signatures, if needed) (street, city, state and zip code) 30101

Signed, sealed and delivered in presence of:

My commission expires: _____
Notary Public

Present Zoning of Property R-30

Location Southeasterly side of Mars Hill Road and the northeasterly side of Giles Road
(street address, if applicable; nearest intersection, etc.)

Land Lot(s) 147, 148 District 20th Size of Tract 14.46± 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 X

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).

See Exhibit "B" attached hereto and incorporated herein by reference.

List type of variance requested: See Exhibit "B," page 2, for listing of requested variances.

V-16
(2016)
Exhibit

EXHIBIT "A" - ATTACHMENT TO APPLICATION FOR VARIANCE

Application No.: V-16 _____ (2016)
Hearing Date: January 13, 2016

Applicant: Earl E. Smith
Titleholder: Earl Edward Smith, as Trustee of the
Earl Edward Smith Revocable Trust Under
Agreement Dated April 14, 2005, as Amended
and Restated in the First Amendment and
Restatement of the Earl Edward Smith
Revocable Trust Dated June 7, 2013


Earl Edward Smith, as Trustee

Address: Post Office Box 801010
Acworth, Georgia 30101

Signed, sealed, and delivered in the presence of:


Notary Public
Commission Expires: 01-10-2019

[Notary Seal]



V-16
(2016)
Exhibit

EXHIBIT "B" - ATTACHMENT TO APPLICATION FOR VARIANCE

NOV 12 2015

Application No.: V- 14 (2016)
Hearing Date: January 13, 2016

BEFORE THE COBB COUNTY BOARD OF ZONING APPEALS

Applicant: Earl E. Smith
Property Owner: Earl Edward Smith, as Trustee

Please state what hardship would be created by following the normal terms of the ordinance:

Applicant and Property Owner (hereinafter collectively "Applicant") are the owner of property located in Land Lots 147 and 148, 20th District, 2nd Section, Cobb County, Georgia (hereinafter the "Property" or "Subject Property"). The Property had been approved and platted for a development to be known as "Spreading Oaks Farm Subdivision, Unit II," and consisted of five (5) single-family residential lots, with a minimum lot size of approximately 1.94 acres. Subsequent to plat approval, and prior to commencement of any development activities, the Property was the subject of a condemnation action by Cobb County, Georgia; and specifically the Cobb County Department of Transportation, for intersectional improvements at the intersection of Mars Hill Road and Giles Road. As a result of the condemnation, setbacks for Lots 1, 4, and 5 of the proposed development were affected. To allow for development of the stated lots, waivers of the required setbacks on Mars Hill and Giles Road must be approved. Applicant seeks the approval of the variances, as required by Cobb County, even though the variances are required as a result of actions and events not caused by Applicant, but by Cobb County, Georgia. To grant the requested variances and allow the proposed development to proceed would result in minimal impact, if any at all, upon the Subject Property or any other adjacent or surrounding properties.

List type of variances requested:

- (1) Waiver of required front setback for proposed Lot 4 (along Giles Road) from the required forty-five (45) feet to 19.3 feet. (See § 134-196(4)(d));
- (2) Waiver of required front setback for proposed Lot 5 (along Giles Road) from the required forty-five (45) feet to 11.7 feet. (See § 134-196(4)(d));
- (3) Waiver of required side setback for proposed Lot 5 (along Mars Hill Road) from the required twenty-five (25) feet to 7.94 feet. (See § 134-196(4)(d)); and
- (4) Waiver of required front setback for proposed Lot 1 (along Mars Hill Road) from the required fifty (50) feet to 38.12 feet. (See § 134-196(4)(d)).