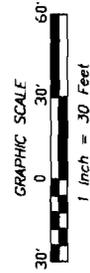
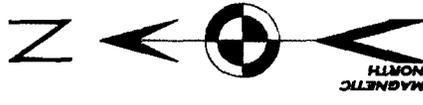


PROPOSED SITE CONDITIONS PER VARIANCE REQUESTS

PROPOSED FOOTINGS SURVEY

LEGEND

---	PROPERTY LINE
---	STREAM BUFFER
---	BEARING SETBACK LINE
---	RAILING SETBACK LINE
---	WATER LINE
---	UNDERGROUND ELECTRIC LINE
---	OVERHEAD ELECTRIC LINE
---	GAS LINE
---	SANITARY SEWER LINE
---	STORM DRAIN PIPE
---	WATER VALVE
---	FIRE HYDRANT
---	GAS VALVE
---	POWER METER
---	SANITARY SEWER MANHOLE
---	DROP INLET
---	DOUBLE-WING CATCH BASIN
---	CAPPED REBAR
---	REBAR
---	FOUND
---	LIGHT POLE



CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH
C1	500.00'	43.05'	510.6833'
C2	500.00'	62.91'	509.2713'
C3	50.00'	75.87'	51.87117'

LINE TABLE

LINE	BEARING	DISTANCE
L1	S02°57'52"E	31.68'

SURVEYOR'S CERTIFICATION

I CERTIFY THAT THIS PLAT IS A TRUE REPRESENTATION OF THE SURVEY MADE BY ME OR AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY SUPERVISION.

FILED IN OFFICE OF THE CLERK OF SUPERVISORS

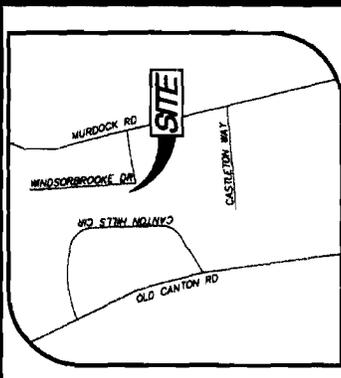
COBBS COUNTY GEORGIA

SEP 11 PM 2:55

COBBS COUNTY ZONING DIVISION

PER COBBS COUNTY

MITCHELL LOWERY GEORGIA ELS# 3109



VICINITY MAP AND NOT TO SCALE SURVEY NOTES

REFERENCE PLATS
 FINAL WINDSORBROOKE PLAT OF UNIT 2, CANTON HILLS PREPARED BY JAMES GURBANTE D.B.# 134177 PG#64815 IS RECORDED IN PLAT BOOK 98, PAGE 188, COBBS COUNTY RECORDS.

2) SUBDIVISION RECORD PLAT OF WINDSOR STREET UNIT 10, PREPARED BY AMERICAN ENGINEERS AND SURVEYORS, DATED DECEMBER 18, 1977, LAST REVISED SEPTEMBER 8, 1978 AND RECORDED IN PLAT BOOK 86, PAGE 106, COBBS COUNTY RECORDS.

3) VARIANCE PLAT FOR NORMAN DETWAIL & MATHY DETWAIL, BY SOUTHWEST SURVEYING AND MAPPING COMPANY, DATED FEBRUARY 18, 1980 (NO RECORDING FORMATION).

FIELD SURVEY DATE: DECEMBER 21, 2012

THE FIELD DATA UPON WHICH THIS PLAT IS BASED WAS A COMBINATION OF "AS-BUILT" WITH AN ANGULAR ERROR OF 02 SECONDS PER ANGLE POINT AND WAS ADJUSTED USING THE COMPASS METHOD.

A TOPCON GPT-3003 TOTAL STATION TOPCON WHEATON ILL. RECEIVER AND GARMIN SVT100+ DATA COLLECTOR WERE USED FOR FIELD SURVEY MEASUREMENTS.

THIS PLAT HAS A MAP CLOSURE IN EXCESS OF 1" IN 100,000.

A PORTION OF THIS PARCEL OF LAND IS IN THE 100 YEAR FLOOD PLAIN AND IS IN ZONE "X" AND "SPECIAL ZONE X" ACCORDING TO FEMA FLOOD INSURANCE MAP # 13040027012N, DATED 07/15/09. THE PARCEL IS SUBJECT TO ANNUAL FLOOD WITH ANNUAL CHANCE OF FLOOD OF AREAS OF 1% AND 0.2% ANNUAL CHANCE OF FLOOD OF LESS THAN 1% AND 0.1% ANNUAL CHANCE OF FLOOD OF LESS THAN 0.1% ANNUAL CHANCE OF FLOOD OF LESS THAN 0.1% ANNUAL CHANCE OF FLOOD.

VERTICAL DATUM BASED UPON NORTH AMERICAN VERTICAL DATUM 1988 (NAD 83) IS USED FOR ALL ELEVATIONS AND ELEVATION OBSERVATIONS PERFORMED BY LOWERY & ASSOCIATES AND SUBMITTED TO GPS-S FOR POST PROCESSING.

NO EFFORT TO OBTAIN THE LOCATION OF UNDERGROUND UTILITIES WAS MADE DURING THE COURSE OF THIS SURVEY. UTILITIES OTHER THAN THOSE SHOWN HEREON MAY EXIST. LOWERY & ASSOCIATES DOES NOT WARRANT THE ACCURACY OF THE EXISTENCE OR NON-EXISTENCE OF SAID UTILITIES.

EXISTENCES OR ENCUMBRANCES OTHER THAN THOSE SHOWN HEREON MAY EXIST.

ZONINGS

ZONING FOR THIS PROPERTY IS CURRENTLY CLASSIFIED AS "R-20" (SINGLE-FAMILY RESIDENTIAL), SETBACKS AND RESTRICTIONS ARE AS FOLLOWS:

MINIMUM FRONT YARD: 25 FEET (PER VARIANCE)
 MINIMUM SIDE YARD: 10 FEET
 MINIMUM REAR YARD: 10 FEET
 MINIMUM BUILDING HEIGHT: 35 FEET
 MINIMUM LOT SIZE: 20,000 SQUARE FEET

ZONING AND SETBACK INFORMATION FOR THE COBBS COUNTY COMMUNITY DEVELOPMENT AGENCY, ALL INFORMATION STATED HEREON IS BASED UPON THE RECORDS OF THE COMMUNITY DEVELOPMENT AGENCY AND IS NOT GUARANTEED BY THE COBBS COUNTY BOARD OF APPEALS ON 5-11-13. ALL APPLICATIONS MUST BE FILED WITH THE BOARD OF APPEALS ON 5-11-13.

EXHIBIT C

1749 WINDSORBROOKE DRIVE
COBBS COUNTY PARCEL 1 0081800230

PREPARED FOR:
WILCHER PROPERTIES GROUP

DATE: SEPTEMBER 3, 2013

STATE: GEORGIA

LAND LOT: 818

DISTRICT: 18TH

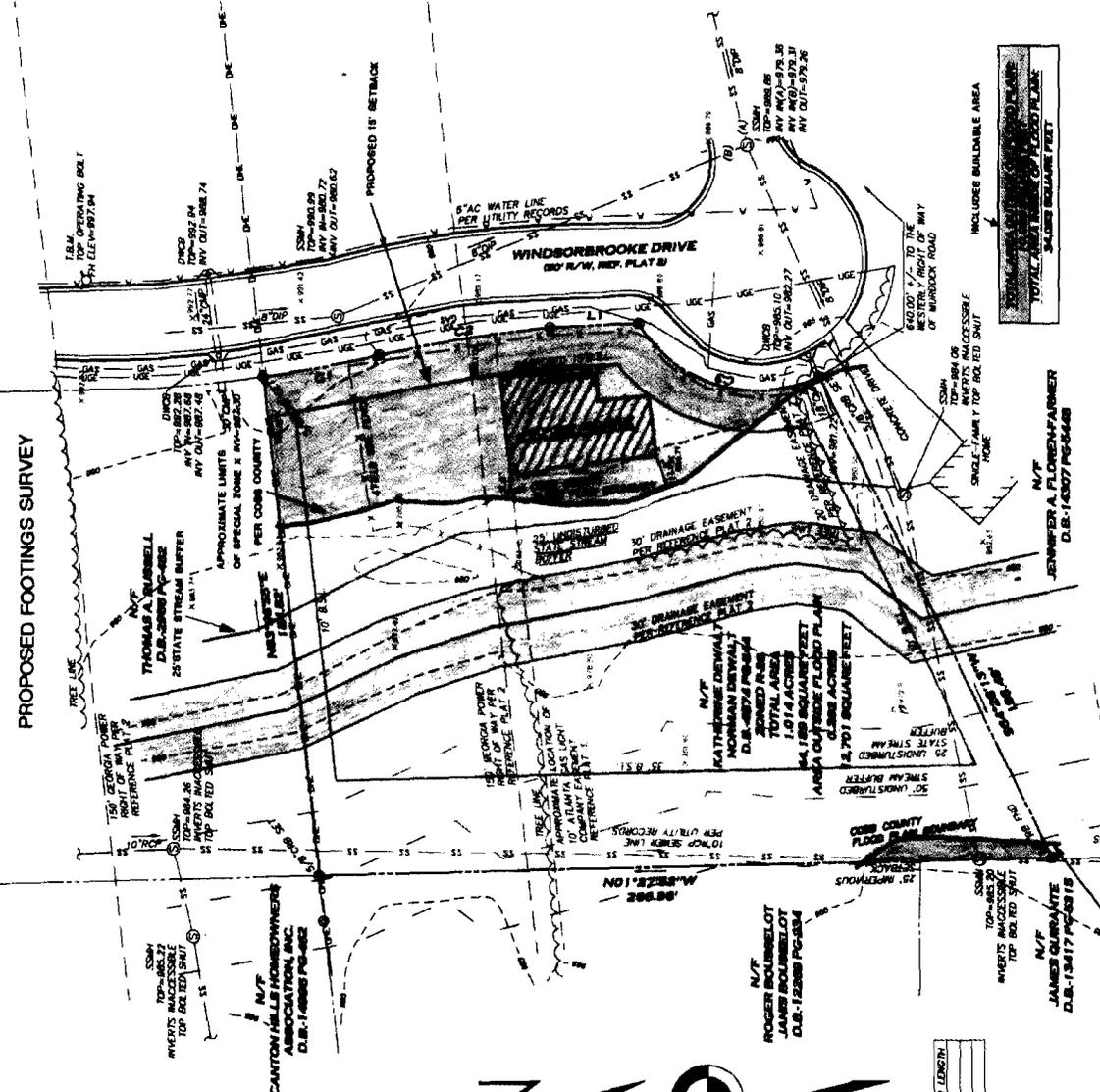
SECTION: 8ND

JOB #: 130-001

SHEET: 1 OF 1

LOWERY & ASSOCIATES
LAND SURVEYING, LLC
 1575 HIGHWAY 411, SUITE 104
 CARTERSVILLE, GA 30121
 770-334-9186
 770-278-8985
 WWW.LOWERYLANDSURVEYERS.COM

- PROPERTY LINE SETBACKS
- BUILDABLE AREA
- LIMITS OF 30' DRAINAGE EASEMENT
- PROPOSED SINGLE FAMILY RESIDENCE



APPLICANT: Windsorbrooke, LLC **PETITION No.:** V-131
PHONE: 404-661-5482 **DATE OF HEARING:** 11-13-2013
REPRESENTATIVE: Jeffrey Soble **PRESENT ZONING:** R-20
PHONE: 770-587-9300 x111 **LAND LOT(S):** 819
TITLEHOLDER: Windsorbrooke, LLC **DISTRICT:** 16
PROPERTY LOCATION: On the west side of **SIZE OF TRACT:** 1.01 acres
Windsorbrooke Drive, west of Murdock Road **COMMISSION DISTRICT:** 3
(1749 Windsorbrooke Drive).

TYPE OF VARIANCE: 1) Waive the front setback from the required 25 feet (previous variance V-115 of 1988) to 15 feet; and 2) waive the 12,500 square foot requirement of land 18 inches above the base flood elevation to 10,096 square feet (per Cobb County Code Section 58-53).

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

BOARD OF APPEALS DECISION

APPROVED _____ **MOTION BY** _____
REJECTED _____ **SECONDED** _____
HELD _____ **CARRIED** _____
STIPULATIONS: _____



APPLICANT: Windsorbrooke, LLC

PETITION No.:

V-131

COMMENTS

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

DEVELOPMENT & INSPECTIONS: No comment.

SITE PLAN REVIEW: If this variance request is approved, a subdivision plat revision must be recorded prior to the issuance of the certificate of occupancy showing all improvements on the lot and referencing the variance case in the standard plat revision note. 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: The Stormwater Management Division is not in favor of providing a variance for the 12,500 square foot buildable area requirement. The County's Flood Damage Prevention Ordinance was put in place to protect life and property. This variance would place a residential structure too close to the regulatory floodplain.

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.

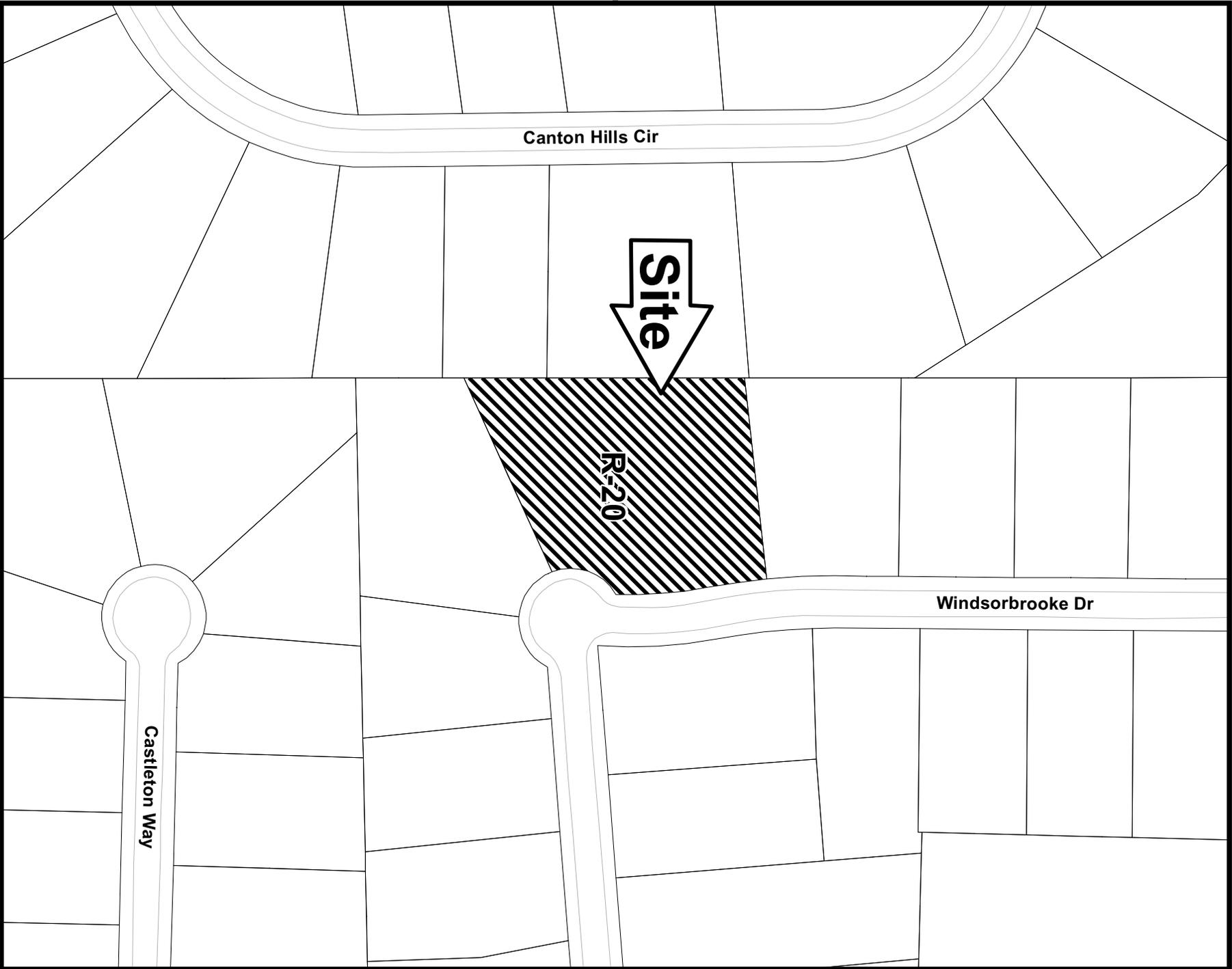
SEWER: No conflict. Proposed structure is outside the required sanitary sewer easement setback.

APPLICANT: Windsorbrooke, LLC

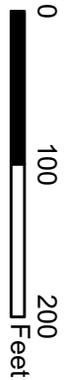
PETITION No.:

V-131

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.



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

2013 SEP 11 PM 2: 54
COBB COUNTY ZONING DIVISION

(type or print clearly)

Application No. V-131
Hearing Date: Nov. 13, 2013

Applicant Windsorbrooke, LLC Phone # 404-661-5482 E-mail arikowalsky@homevestors.com

Jeffrey Soble Address 3115 Roswell Road, Suite 203 Marietta, GA 30062
(representative's name, printed) (street, city, state and zip code)

[Signature] Phone # 770-587-9300 x-111 E-mail jsoble@wilcher1.com
(representative's signature)

My commission expires: Nov 1, 2015 Signed, sealed and delivered in presence of:
[Signature] Chica Thomas 9/11/2013
Notary Public

Titleholder Windsorbrooke, LLC Phone # 404-661-5482 E-mail arikowalsky@homevestors.com
Signature [Signature] Address: 4675 Shallowford Road, Suite 109 Atlanta, GA 30338
(attach additional signatures, if needed) (street, city, state and zip code)

My commission expires: Nov. 1, 2015 Signed, sealed and delivered in presence of:
[Signature] Chica Thomas 9/11/2013
Notary Public

Present Zoning of Property R-20 Single Family Residential

Location 1749 Windsorbrooke Drive Marietta, GA 30062
(street address, if applicable; nearest intersection, etc.)

Land Lot(s) 819 District 16 Size of Tract 1.014 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).

PLEASE SEE ATTACHED DOCUMENTATION

List type of variance requested:

We propose to move the existing setback at the front of the property from 25', (set in place by an existing variance, application #115 and approved on May 11, 1988), to 15', to give us enough depth to place the entire home outside of the floodplain without having to perform volume balancing, which would significantly disrupt the existing and natural topography of the floodplain itself.
Revised: March 5, 2013

Application for Variance Cobb County

2013 SEP 11 PM 2: 54

(type or print clearly)

Application No. 1431
Hearing Date: Nov. 13, 2013

Cobb County Zoning Division

Applicant Windsorbrooke, LLC Phone # 404-661-5482 E-mail ari.kowalsky@homevestors.com

Jeffrey Soble Address 3115 Roswell Road, Suite 203 Marietta, GA 30062
(representative's name, printed) (street, city, state and zip code)


(representative's signature)

Phone # 770-587-9300 x:111 E-mail jsoble@wilcher1.com

Signed, sealed and delivered in presence of:

My commission expires: Nov 1, 2015


Shreea Thomas 9/11/2013
Notary Public

Titleholder Windsorbrooke, LLC Phone # 404-661-5482 E-mail ari.kowalsky@homevestors.com

Signature Ari Kowalsky Address: 4675 Shallowford Road, Suite 109 Atlanta, GA 30338
(attach additional signatures, if needed) (street, city, state and zip code)

My commission expires: Nov 1, 2015

Shreea Thomas 9/11/2013
Notary Public

Present Zoning of Property R-20 Single Family Residential

Location 1749 Windsorbrooke Drive Marietta, GA 30062
(street address, if applicable; nearest intersection, etc.)

Land Lot(s) 819 District 16 Size of Tract 1.014 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).

PLEASE SEE ATTACHED DOCUMENTATION

List type of variance requested:

We request a variance for relief of the 12,500 square foot requirement of land 18" above the base flood elevation on this property to 10,096 square feet in order to avoid disturbing the land inside the floodplain itself.



COBB COUNTY ZONING DIVISION
2013 SEP 11 PM 2:54
COBB COUNTY GEORGIA
FILED IN OFFICE

Subject Property: 1749 Windsorbrooke Drive
Marietta, GA 30062
Tax/Parcel ID #16-0819-0-023-0
Total Acreage: 1.014AC
Cobb County Classification – R20 Single Family Residential
FEMA Flood Zone – Type X Shaded

The subject property is a vacant lot located on the cul-de-sac corner of Windsorbrooke Dr. in unincorporated Marietta, GA.

There are several features existing on this property that are affecting the usability of the property for construction of a single family residence. These features include a state waters stream, a Georgia Power overhead easement and underground utility easements.

There are not any local/subdivision HOA that exists on the property.

Setbacks:

Front setback – 25’ (As approved by variance)
Side setback – 10’
Rear setback – 35’

Note: A variance was approved on May 11, 1988 (applicant #115) resetting the front setback to 25’ in lieu of the standard 35’. It is our understanding that this setback is recorded in perpetuity.

The subject property is owned by our client, Windsorbrooke, LLC; Ari Kowalsky, who’s purchase was contingent upon initial county approvals during the entitlement stage. At that time, it was owned by Norman and Kathy DeWal. We received approval from Community Development for buffer averaging and relief of the county 50’/75’ stream buffer setback in favor of the state 25’ stream buffer setback on February 12, 2013, Exhibit A and subsequently applied for a conservation easement as was required as a stipulation of approval. That easement has been recorded with the Court. Mr. Kowalsky then closed on the purchase of the property on February 27, 2013.

3115 Roswell Road • Suite 204 • Marietta, GA • 30062
Main 770-587-9300 • Fax 678-501-5128

EXHIBIT

V-131 (2013)

Much of the information required on the survey for the buffer averaging, limits of the floodplain, setbacks off the stream, land area outside the floodplain, etc..., was provided by storm water management and is the same as what is required for passage by their department.

When submitted for a building permit, the plans were stopped at stormwater management due to a discrepancy of the location of the limits of the floodplain on the east side of the stream, where the home is intended to be erected. At that time, we were made aware that the county was and is relying on information prepared by Dewberry Engineering, during an aerial survey and ‘interpolated between cross sections just upstream and downstream of the property’. While our survey was prepared from information provided by FEMA, and gathered through multiple static GPS observations by Lowery & Associates on the ground.

The county’s usage of the Dewberry information creates a difference in the size of the floodplain of 2,605 square feet and in effect would be to place a large portion of the structure of the home inside the limits of the floodplain, as is shown on Exhibit B. By using information provided by FEMA, which is standard practice, we were able to avoid do that. More damaging, however, is that the more eastward location of the floodplain’s limits makes it impossible for us to attain the necessary 12,500 square feet of land 18” above the base flood elevation or outside the floodplain with the current topography, as is required in the county ordinance. We now have only 10,096 square feet, a shortage of 2,404 square feet.

The hardship imposed by the county’s regulations violate the rights of the property owner according to the 5th and 14th amendments of the US Constitution, and therefore, under these conditions, a taking is occurring. The regulations are depriving the owner of use of his property for economic gain without proper due process and just compensation. This is further strengthened by the 1992 US Supreme Court decision, *David H. Lucas v. The South Carolina Coastal Commission*. In the affirmation, Justice Alito stated, “The 5th Amendment is violated when land-use regulation... denies and owner economically viable use of his land.” Additionally, “when the owner of real property has been called upon to sacrifice all economically beneficial uses in the name of the common good, that is, to leave his property economically idle, he has suffered a taking”, and that, “the fact that a particular use has long been engaged in by similarly situated owners ordinarily imports a lack of any common-law prohibition... so also does the fact that other landowners, similarly situated, are permitted to continue the use denied to the claimant.”

As we understand things, our only remaining options are either to perform a volume balancing, changing the topography of the floodplain to attain the required 12,500 square feet or have a variance granted, giving us relief of the 2,404 square feet that we are under in conjunction with a variance to move the front setback from 25’ as was granted in the 1988 variance, to 15’, thus giving us enough depth to place the entire home outside of the floodplain without having to perform a volume balancing, which would significantly disrupt the existing and natural topography of the floodplain itself. Something we very much wish to avoid. We therefore make those requests.

It is curious that we would be permitted to perform a volume balancing to attain the 12,500, essentially destroying the natural topography inside the floodplain, yet the stipulation blocking our ultimate approval deals with land entirely outside the floodplain of which an

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Main 770-587-9300 ▪ Fax 678-501-5128

EXHIBIT

V-131 (2013)

overwhelming majority is not to be touched at all by our plans, and in no way affects our land, the natural storm flow of the property inside the floodplain, the roadway itself, the easements on the property or anybody else's property. In fact, the county ordinance would seem to suggest a desire to not disturb the floodplain. Section 58-30 states, "It is the purpose of this article.... (is to) 3. Limit the alteration of natural floodplains, stream channel, and natural protective barriers, which are involved in the accommodation of floodwaters; 4. Control filling, grading, dredging and other development which may increase erosion or flood damage; 5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and 6. Protect the stormwater management, water quality, streambank protection, stream corridor protection, wetland preservation and ecological function of natural floodplain areas." I'm sure that we can all agree that for all parties involved and/or affected, including the existing property owners in and around the neighborhood, it would make more sense to grant us the variance on the 12,500 square feet, in addition to the variance request to move the front property line setback to 15', allowing us to construct the entire structure outside of the floodplain while leaving it and its natural topography intact. The results of the variance requests, if approved, are shown on Exhibit C.

We believe that moving the front setback would not disrupt the existing appearance of the neighborhood. There are not any existing homes on either side that are sitting in-line at any depth to our proposed project as 1 side is a major 150' Georgia Power easement and the home on the other side sits in the cul-de-sac on an angle.

We have consulted with a well accomplished attorney, here in Atlanta, who specializes in takings law. We are assured that a very legitimate case against the county exists if we are denied a building permit based on this situation. In fact, if we are denied these variances and thus a building permit, then a taking is occurring and my client will have every intention to seek any and all legal recourse at his disposal. If it ends up in a court of law, this very well may turn out to be a watershed case, no pun intended, and place the county in a very difficult position. If the county were to choose to stand by its regulation of the required 12,500 square feet while at the same time refusing to grant a variance to those properties and owners who can meet all other regulations, then the county is rendering all of those properties useless and valueless, essentially condemning every single one in Cobb County where these conditions apply. And if the court were to decide against the county, it will be forced to either revise or remove said regulation and/or be forced to purchase every single one of these properties from their current owners.

It is not our desire to end up in the courts. We would much prefer to be granted these variances allowing our project to proceed.