

**MARCH 17, 2015 ZONING HEARING  
“OTHER BUSINESS”  
COMMISSION DISTRICT 4**

**ITEM OB-017**

**PURPOSE**

To consider granting a Special Exception for backyard chickens as recommended by the Board of Zoning Appeals from their February 11, 2015 Variance Hearing regarding Variance Application:

V-24            Jonathan Smith

**BACKGROUND**

In accordance with a Zoning Ordinance Amendment adopted by the Board of Commissioners on February 26, 2013, and amended on March 11, 2014, 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 February 11, 2015 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-24            Jonathan Smith

**ATTACHMENTS**

Variance analysis and minutes.

**SURVEY NOTES**

1. STORM SEWER, SANITARY SEWER AND OTHER BURIED UTILITIES MAY HAVE BEEN PAVED OR COVERED OVER. THE LOCATION OF UNDERGROUND UTILITIES AS SHOWN HEREON ARE BASED ON ABOVE GROUND STRUCTURES AND RECORD DRAWINGS PROVIDED TO THE SURVEYOR. LOCATIONS OF UNDERGROUND UTILITIES MAY VARY FROM LOCATIONS SHOWN HEREON. ADDITIONAL BURIED UTILITIES MAY BE ENCOUNTERED. NO EXCAVATIONS WERE MADE DURING THE PROGRESS OF THIS SURVEY TO LOCATE BURIED UTILITIES. BEFORE EXCAVATIONS ARE BEGUN, PLEASE CALL ALL LOCAL UTILITY PROVIDERS.



2. SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, OR RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS THAT A CURRENT TITLE SEARCH MAY DISCLOSE.

3. THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS OR ENTITY NAMED HEREON. THIS PLAT DOES NOT EXTEND TO ANY UNNAMED PERSON, PERSONS, OR ENTITY WITHOUT THE EXPRESS RECERTIFICATION OF THE SURVEYOR NAMING SUCH PERSON, PERSONS OR ENTITY.

4. THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 10,000+ AN ANGULAR ERROR OF 02" PER ANGLE POINT, ADJUSTED USING COMPASS RULE. THIS PLAT HAS CALCULATED FOR CLOSURE AND IS FOUND TO BE WITHIN ONE FOOT IN 100,000+ FEET. LINEAR ANGLE MEASUREMENTS WERE OBTAINED BY USING A TOTAL STATION.

5. BEARINGS SHOWN WERE COMPUTED FROM ANGLE FROM A SINGLE MAGNETIC OBSERVATION.

6. THIS PLAT NOT INTENDED FOR RECORDING.

V-24  
(2015)

TOTAL AREA= 0.401± ACRES  
OR 17,479± SQ. FT.

4208 BROOKWOOD DRIVE  
AUSTELL, GEORGIA

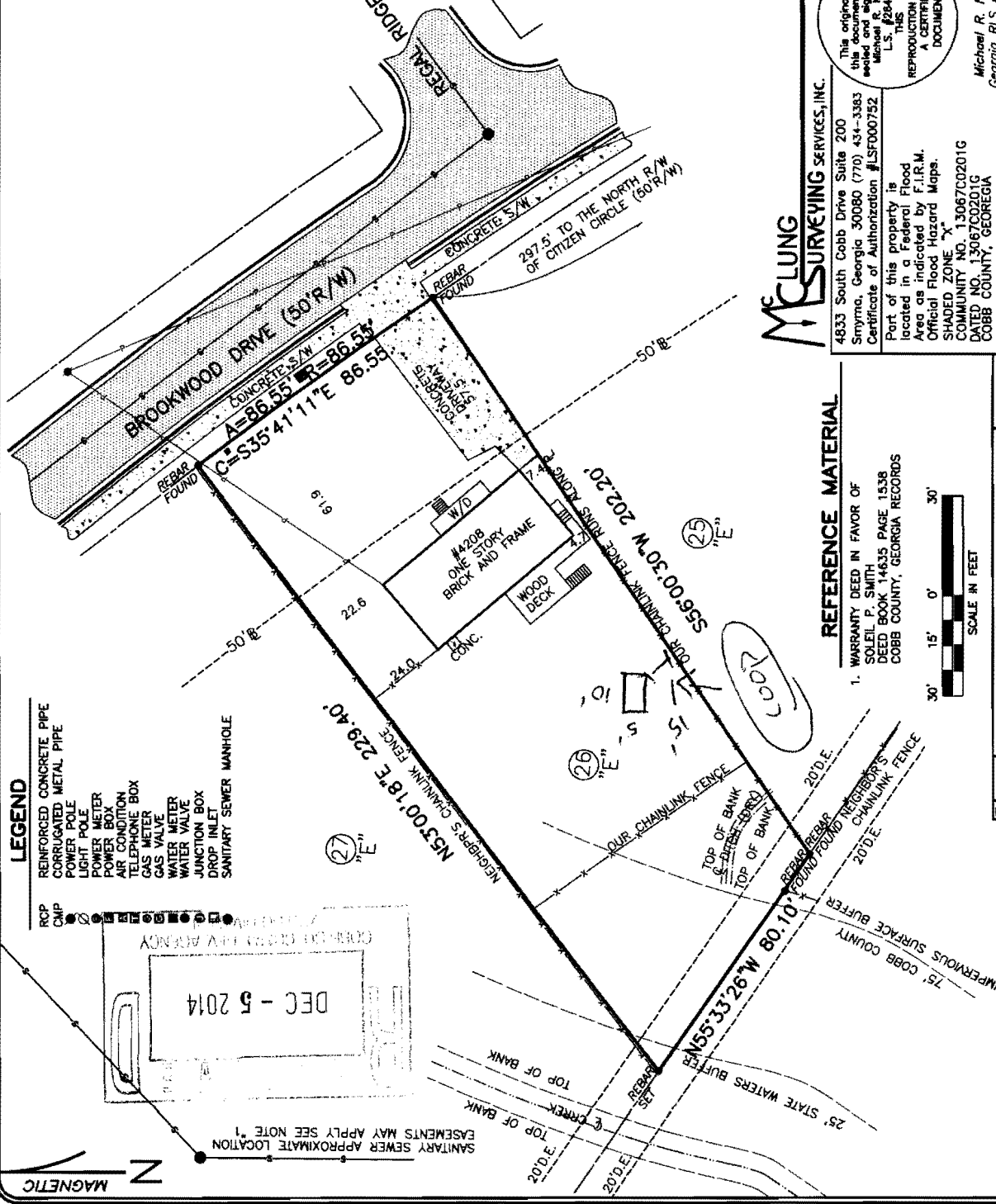
SURVEY FOR  
JONATHAN SMITH  
SOLEIL SMITH

LOT 26 BLOCK "E"  
HERITAGE HILLS - UNIT TWO

LAND LOT 996  
DISTRICT 19TH 2ND SECTION  
COBB COUNTY  
GEORGIA

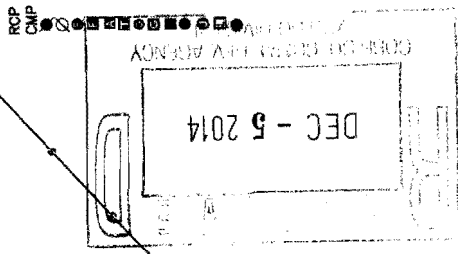
PLAT PREPARED: 6-20-14  
FIELD: 6-17-14 SCALE: 1"=30'

PG 42  
PG 4



**LEGEND**

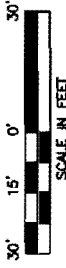
- REINFORCED CONCRETE PIPE
- CORRUGATED METAL PIPE
- POWER POLE
- LIGHT POLE
- POWER METER
- POWER BOX
- AIR CONDITION
- TELEPHONE BOX
- GAS METER
- GAS VALVE
- WATER METER
- WATER VALVE
- JUNCTION BOX
- DROP INLET
- SANITARY SEWER MANHOLE



EASEMENTS MAY APPLY SEE NOTE 1

**REFERENCE MATERIAL**

1. WARRANTY DEED IN FAVOR OF SOLEIL P. SMITH DEED BOOK 14315 PAGE 1538 COBB COUNTY, GEORGIA RECORDS



| No. | Revision | Date |
|-----|----------|------|
| 1   |          |      |



4833 South Cobb Drive Suite 200  
Smyrna, Georgia 30080 (770) 434-3383  
Certificate of Authorization #LSF000752

Part of this property is located in a Federal Flood Area as indicated by F.I.R.M. Official Flood Hazard Maps.

SHADED ZONE COMMUNITY NO. 13067C0201G DATED NO. 13067C0201G COBB COUNTY, GEORGIA

In my opinion this plat is a correct representation of the land platted.

This plat was prepared and signed by Michael R. Nolea L.S. #2646. REPRODUCTION IS NOT A CERTIFIED DOCUMENT.

Michael R. Nolea  
Georgia RLS #2646  
Member SAMSOG  
JOB#236800

**APPLICANT:** Jonathan Smith  
**PHONE:** 770-653-3191  
**REPRESENTATIVE:** Johnathan Smith  
**PHONE:** 770-653-3191  
**TITLEHOLDER:** Soleil P. Smith  
**PROPERTY LOCATION:** On the west side of  
Brookwood Drive, north of Citizen Circle  
(4208 Brookwood Drive).

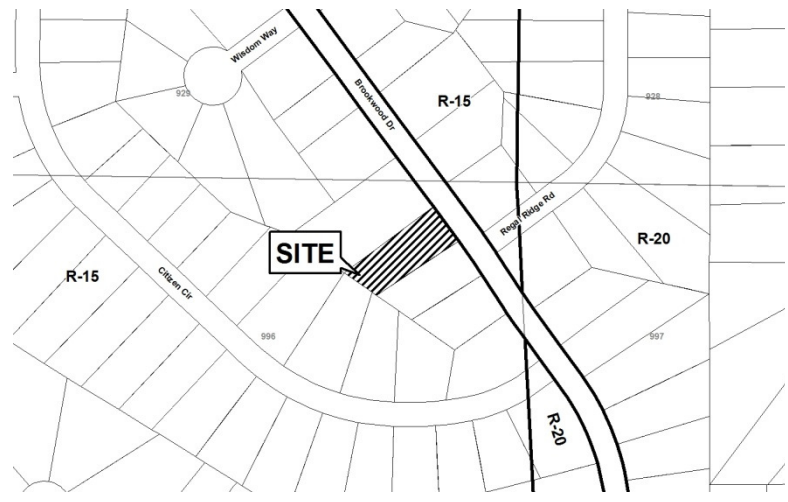
**PETITION No.:** V-24  
**DATE OF HEARING:** 02-11-2015  
**PRESENT ZONING:** R-15  
**LAND LOT(S):** 996  
**DISTRICT:** 19  
**SIZE OF TRACT:** 0.40 acre  
**COMMISSION DISTRICT:** 4

**TYPE OF VARIANCE:** 1) Waive the side setback from the required 10 feet to 4.7 feet adjacent to the southern property line, and 2) an authorization upon 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:** Jonathan Smith

**PETITION No.:** V-24

\*\*\*\*\*

**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:** 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.

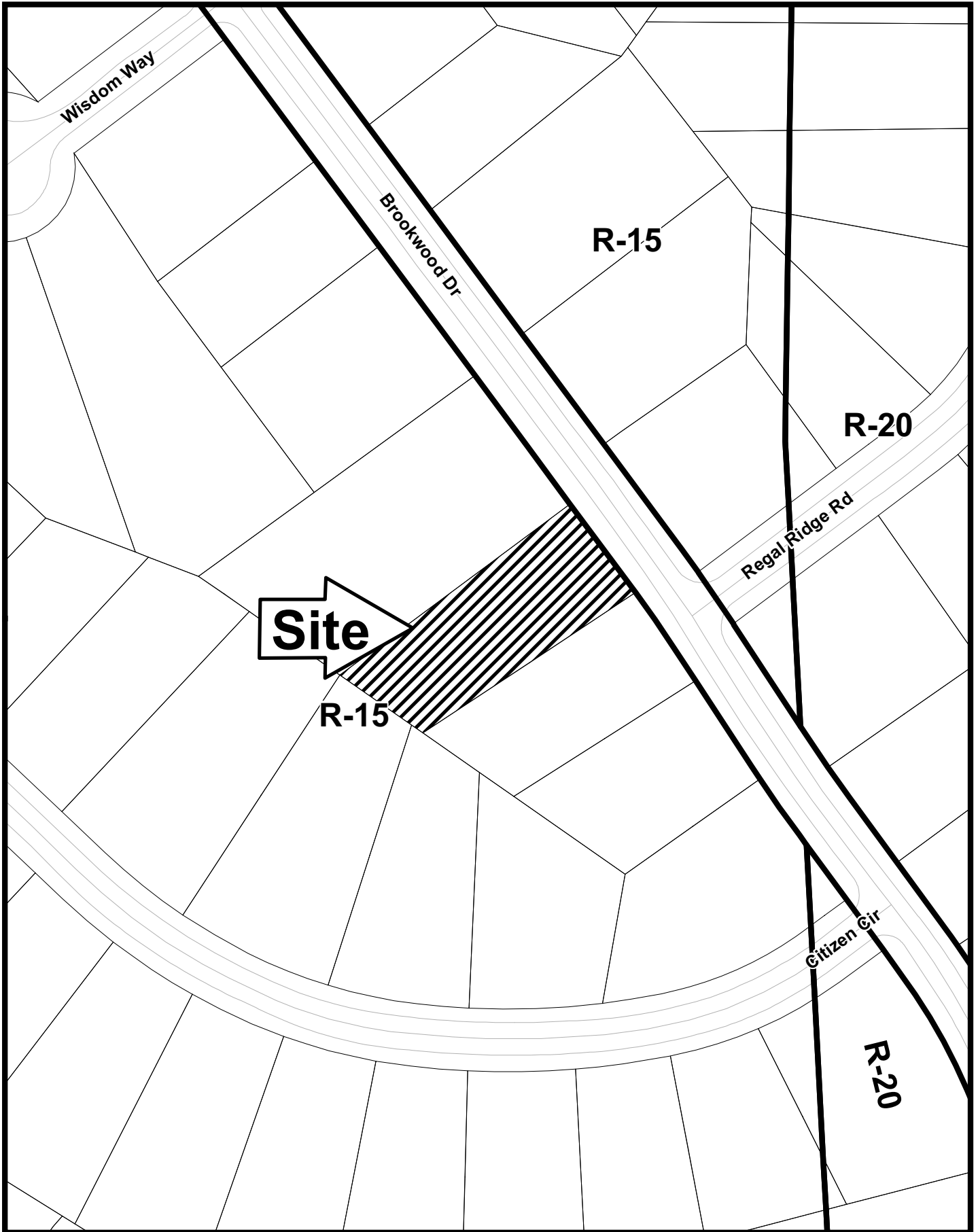
**SEWER:** No conflict.

**APPLICANT:** Jonathan Smith                      **PETITION No.:** V-24

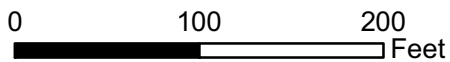
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**FIRE DEPARTMENT:** After analyzing the information presented for a Preliminary Review, the Cobb County Fire Marshal's Office is confident that all other items can be addressed during the Plan Review Stage.

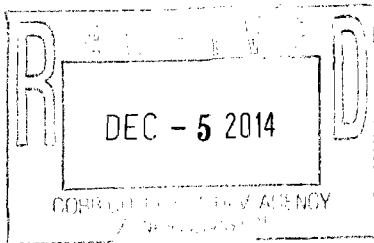
# V-24



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

(type or print clearly)

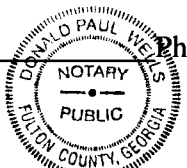
Application No. V-24  
Hearing Date: 2-11-15

Applicant Jonathan Smith Phone # 770-653-3191 E-mail Jesusworship819@yahoo.com

Jonathan Smith  
(representative's name, printed)

Address 4208 Brookwood Dr Austell GA 30106  
(street, city, state and zip code)

Jonathan Smith  
(representative's signature)



Phone # 770-653-3191 E-mail Jesusworship819@yahoo.com

Signed, sealed and delivered in presence of:

Donald Wells

Notary Public

My commission expires: \_\_\_\_\_  
My Commission Expires March 24, 2017

Titleholder Soleil Smith Phone # 770-653-3191 E-mail \_\_\_\_\_

Signature Soleil Smith  
(attach additional Signatures if needed)



Address: 4208 Brookwood Dr Austell GA 30106  
(street, city, state and zip code)

Signed, sealed and delivered in presence of:

Donald Wells

Notary Public

My commission expires: \_\_\_\_\_  
My Commission Expires March 24, 2017

Present Zoning of Property \_\_\_\_\_

Location 4208 Brookwood Dr Austell GA 30106  
(street address, if applicable; nearest intersection, etc.)

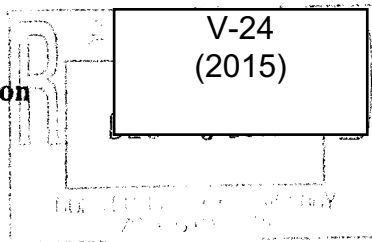
Land Lot(s) 996 District 19th 2nd Section Size of Tract .401 Acre(s)

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: Chickens



Application No. \_\_\_\_\_

Hearing Date: \_\_\_\_\_

**Applicant's information for requesting backyard chickens**

1. How many hens do you propose (no male birds allowed)? 3 .
2. Have you mailed a notice of your application and its information to your Homeowners Association (if such exists. Instructions for identifying whether or not Homeowners Associations exist are available for downloading via the Community Development webpage. YES  ; NO  ; NO HOA  .
3. Can you comply with the County Code Sec-134-94(4)(a-i) below? YES  NO  .

Jonathan Smith  
Signature

Jonathan Smith  
Print Name

**County Code adopted by the Board of Commissioners March 11, 2014:**

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. In considering whether to authorize the keeping of poultry as provided in this paragraph, the board of zoning appeals shall take into account the impact upon the adjoining property. For the purposes of this section, adjoining shall mean those properties that are directly contiguous and not separated by a public or private roadway. Further, all such applications recommended by the board of zoning appeals for approval shall be subject to the following requirements:

- (a) The poultry shall be kept/ maintained within a fenced area to the rear of the house;
- (b) Coops, or other buildings used for the poultry shall be located at least ten feet off any property line and/or in compliance with the accessory structure requirements in each zoning district;
- (c) 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;
- (d) The poultry shall not cause a nuisance, as defined by State Law;
- (e) There shall be a maximum ratio of one bird per 5,000 square foot of lot area on any lot less than two acres;
- (f) The slaughter of any hen on site is strictly prohibited;
- (g) The fee for the variance application shall be \$150.00; renewal fees shall be \$100.00
- (h) The duration of any Variance approved for Poultry as Pets or Food Source shall not exceed two years; renewable for up to two year terms thereafter;
- (i) Any Variance approved for Poultry as Pets or Food Source shall be considered by the board of commissioners in accordance with Section 134-271. The board of commissioners may add, delete or modify any of the board of zoning appeals stipulations pertaining to this section.

**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 March 11, 2014. 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). The Board of Commissioners may add, delete or modify any of the board of zoning appeals stipulations pertaining to this section. The BOC determination will take place the following month at the scheduled Zoning Hearing.



**MINUTES OF VARIANCE HEARING  
COBB COUNTY BOARD OF ZONING APPEALS  
FEBRUARY 11, 2015  
PAGE 3**

**CONSENT AGENDA (CONT.)**

~~V-23 **JESSE MARINKO** (Jesse J. Marinko and Heather Marinko, owners) requesting a variance to waive the maximum height of a fence adjacent to a public road right-of-way and within the required setback in a residential district from the required 6 feet to 6 feet 6 inches in Land Lot 402 of 16<sup>th</sup> District. Located on the southwest corner of Shallowford Road and North Hembree Road (3425 North Hembree Road).~~

~~To approve variance request subject to:~~

- ~~• **Water Division comments and recommendations**~~

V-24 **JONATHAN SMITH** (Soleil P. Smith, owner) requesting a variance to: 1) waive the side setback from the required 10 feet to 4.7 feet adjacent to the southern property line, and 2) an authorization upon appeal related to the minimum lot size of two acres required to maintain poultry as pets or food source in Land Lot 996 of the 19<sup>th</sup> District. Located on the west side of Brookwood Drive, north of Citizen Circle (4208 Brookwood Drive).

To approve variance request subject to:

- **Approval is for 24 months**
- **Maximum of three hens**
- **The chicken coop to be moved within 15 feet of the rear of the house, along the rear of the house**

~~V-25 **HABITAT FOR HUMANITY OF NORTHWEST METRO ATLANTA, INC.** (Sajid Choudhary, Habitat for Humanity of Northwest Metro Atlanta, Inc. owners) requesting a variance to: 1) waive the minimum lot width at right-of-way for R-20 area from the required 75 feet to 73 feet; 2) waive the minimum lot width at the front setback line for the R-20 area from the required 75 feet to 72 feet; 3) waive the minimum lot width at right-of-way for RM-12 area from the required 75 feet to 69 feet; 4) waive the minimum lot width at the front setback line for the RM-12 area from the required 75 feet to 69 feet; 5) waive the exterior side setback adjacent to the east property line from the required 20 feet to 10 feet; and 6) waive the minimum lot area for the RM-12 area from the required 80,000 square feet to 79,279 square feet in Land Lot 41 of the 18<sup>th</sup> District. Located on the south side of Lee Road, west of Garner Road (381, 411, and 431 Lee Road).~~

~~To approve variance request subject to:~~

- ~~• **Site Plan Review comments and recommendations**~~
- ~~• **Stormwater Management Division comments and recommendations**~~