

**MARCH 9, 2016 VARIANCE HEARING  
“OTHER BUSINESS”  
COMMISSION DISTRICT 2**

**ITEM 001**

To consider amending the stipulations for Larry Epstein regarding variance application V-1 (Larry Joel Epstein and Bonnie Irlyn Epstein) of 2013, for property located on the northern end of Wellington Lane, east of Johnson Ferry Road in Land Lots 678 and 754 of the 16<sup>th</sup> District.

**BACKGROUND**

The applicant submitted a variance application in 2013 in order to maintain poultry on a lot with less than two acres. The poultry consist of domesticated ducks the applicant keeps on his property to aid in the disabled owners’ therapy. The ducks have been here since 1985 without causing any problems. The applicant’s 2013 variance request was denied with a condition Code Enforcement defer any action until May 8, 2016. This would give time to allow the ducks to pass away without any new ducks being hatched. Since 2013, a few ducks have passed away. The applicant needs a deferment extension regarding Code Enforcement action for this variance case for three more years (until May 8, 2019).

**RECOMMENDATION**

The Board of Zoning Appeals consider granting a deferment extension until May 8, 2019 regarding Code Enforcement action for variance case V-1 of 2013.

**ATTACHMENTS**

Other Business application, minutes and variance analysis

# Application for Variance "Other Business"

## Cobb County, Georgia

(Cobb County Zoning Division - 770-528-2035)

BZA Hearing Date Requested: 3-9-16

Applicant: Larry Epstein Phone #: 770-565-4955  
(applicant's name printed)

Address: 1963 Wellington Lane E-Mail: lary0409@bellsouth.net

Larry Epstein Address: 1963 WELLINGTON LANE  
(representative's name, printed)

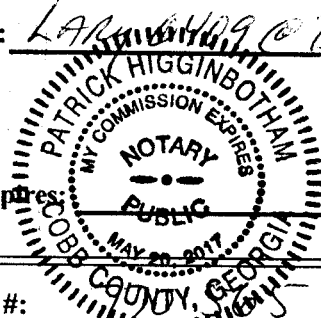
Larry Epstein Phone #: 770-565-4955 E-Mail: LARRY0409@BELL SOUTH.NET  
(representative's signature)

Signed, sealed and delivered in presence of:

JAN 25 2016

My commission expires:

Notary Public



Titleholder(s): Larry Epstein Phone #: 770-565-4955  
(property owner's name printed)

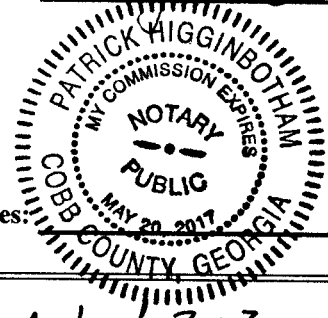
Address: 1963 Wellington Lane Marietta E-Mail: lary0409@bellsouth.net  
30062

(Property owner's signature)

Signed, sealed and delivered in presence of:

My commission expires:

Notary Public



Commission District: 2 Variance Case: V-1. of 2013

Date of Original Variance Hearing: 1-9-13

Location: 1963 Wellington Ln  
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 687 District(s): 16

State specifically the need or reason(s) for Other Business: see Attached

(List or attach additional information if needed)

We are applying to have our variance extended that was granted to us May 2013.

BZA 03-001-2016

Everything here is the same. A few of the ducks have passed away from natural causes. There have been no new babies born during this time.

Larry is still under the care of the same drs. and everyday goes out to care for his pets. It has been wonderful for him to be able to continue to do this.

I have gotten the signatures of the 3 houses that border us.

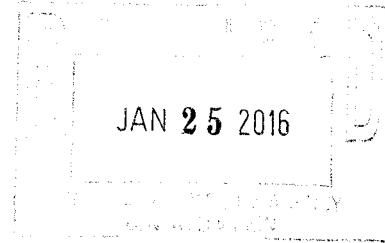
We have had no problems with anyone in the past 3 years.

If you need anymore information, please feel free to contact me.

Thank you



Bonnie Epstein  
1963 Wellington Lane  
Marietta, Ga. 30062  
770-565-4955  
[lary0409@bellsouth.net](mailto:lary0409@bellsouth.net)



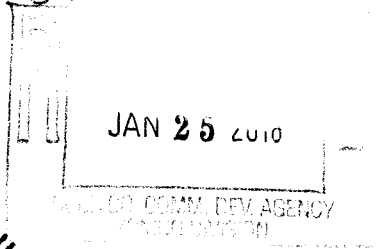
1/25/2016

title holder:  
Bonnie Epstein

BZA OB-001-2016

770 565 4955  
lary0409@bellsouth.net  
1963 Wellington Lane  
Marietta, Ga 30062

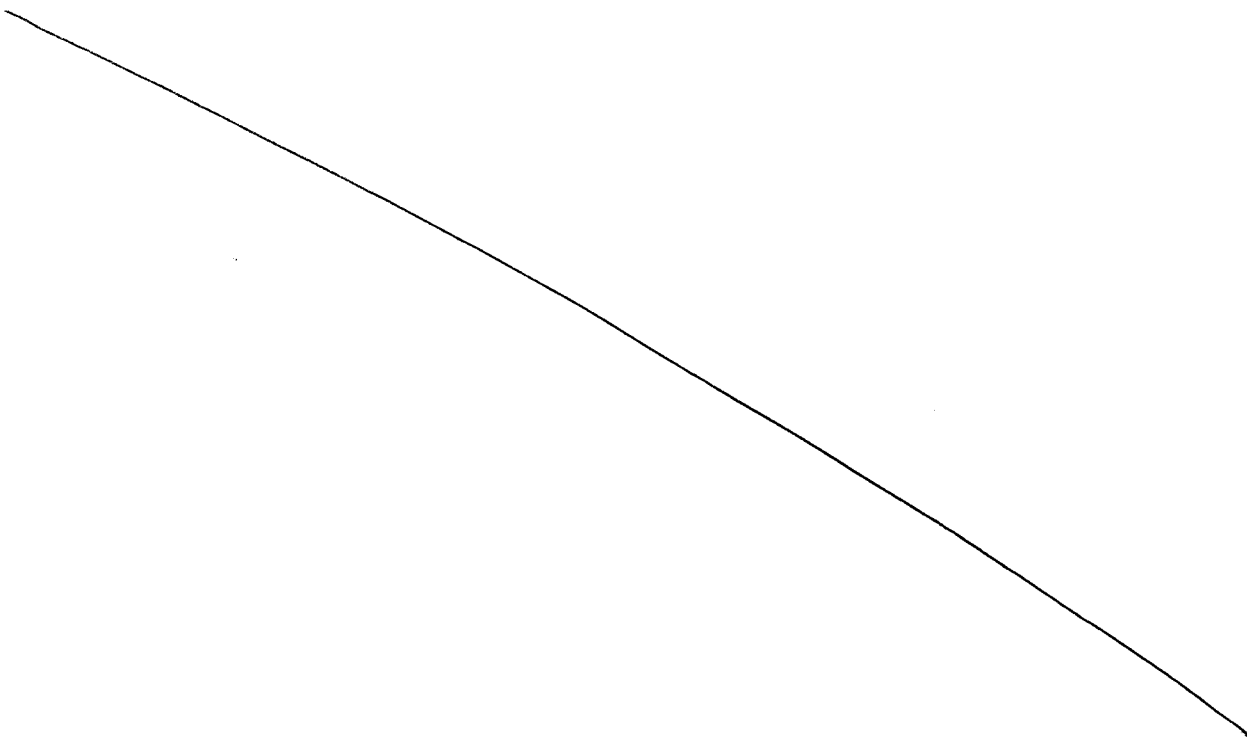
Bonnie Epstein



2014, Jan, 2016

Patrick Higginbotham

*[Handwritten signature of Patrick Higginbotham]*



CONSENT OF CONTIGUOUS OCCUPANTS OR LAND OWNERS TO ACCOMPANY APPLICATION FOR THE PURPOSE OF VARIANCE OTHER BUSINESS REQUEST

By signature, it is hereby acknowledged that I give my consent/or have no objection that Larry Epstein / Bonnie Epstein intends to make an application to the appropriate Cobb County Authorities for a variance request for the purpose of wave lot size on the premises described in the application.

Table with 3 columns: Signature, Printed name, Address. Rows 1-20. Row 1: Stanley Menezes, 1965 Wellington, 30062. Row 2: Janko Gupta, 1961 Wellington Lane 30062. Row 3: Amy Kuznicki, 4028 Blackwell Park Dr 30062. Includes a date stamp: JAN 25 2016.

(Attach additional pages if necessary)

# Application for Variance Cobb County

OCT 1 6 2012

(type or print clearly)

Application No. V-1

Hearing Date: 1-9-13

Applicant Larry Epstein Bonnie Epstein Phone # 770 565 4955 E-mail lary0409@bellsouth.net

(representative's name, printed)

Address 1963 Wellington Lane Marietta Ga 30062  
(street, city, state and zip code)

Phone # \_\_\_\_\_

E-mail \_\_\_\_\_

(representative's signature)

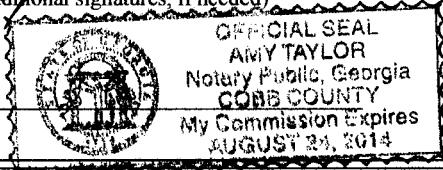
Signed, sealed and delivered in presence of: \_\_\_\_\_

My commission expires: \_\_\_\_\_

Notary Public

Titleholder Larry Epstein Phone # 770 565 4955 E-mail lary0409@bellsouth.net

Signature [Signature] Address: 1963 Wellington Lane Marietta Ga 30062  
(attach additional signatures, if needed) (street, city, state and zip code)



My commission expires: \_\_\_\_\_

Signed, sealed and delivered in presence of: \_\_\_\_\_

[Signature]

Notary Public

Present Zoning of Property R-20

Location 1963 Wellington Lane Marietta, Ga. 30062  
(street address, if applicable; nearest intersection, etc.)

Land Lot(s) 0687 District 16 Size of Tract 3/4 Acre(s) (0.7379 Acre)

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.

We moved here in 1986 and have had ducks ever since we moved here. Never a complaint. These ducks have been raised by Larry and will not survive in the wild. Ever since Larry's car accident (almost 15 yrs ago) - he is now disabled - he gets up every day to take care of his pets. (see back)

List type of variance requested: lot size - (hardship)  
have lot size from 2 acres to 3/4 acre for farm animals - Ducks - domesticated - they are not livestock - not used for food or sale - used only as pets and therapy for disabled owner.

Revised: December 6, 2005

15 Ducks since 1985.

The ducks are enclosed in fencing - all sides and the top - They are pets and are not used for food. All eggs are thrown away. These animals have been a major part of his therapy. 5-1-2012

ORIGINAL DATE OF APPLICATION: 01-09-13

APPLICANT'S NAME: LARRY JOEL EPSTEIN AND  
BONNIE IRLYN EPSTEIN

**THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE COBB  
COUNTY BOARD OF ZONING APPEALS**

**THE BELOW STYLED VARIANCE WAS HEARD BY THE COBB COUNTY  
BOARD OF ZONING APPEALS ON MAY 8, 2013**

**LARRY JOEL EPSTEIN AND BONNIE IRLYN EPSTEIN** (owners) requesting a variance to permit poultry (ducks) on a lot containing less than two acres in Land Lots 687 and 754 of the 16<sup>th</sup> District. Located on the northern end of Wellington Lane, east of Johnson Ferry Road (1963 Wellington Lane). *(Previously continued by Staff until the May 8, 2013 Board of Zoning Appeals hearings)*

The public hearing was opened and Ms. Bonnie Epstein and Ms. Jill Flamm addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Swanson, second by Hovey, to **deny** variance request, *with deferment of Code Enforcement action until May 8, 2016* **subject to:**

- **No additional/new ducks (eggs to be removed and not hatched)**
- **Approval is for this Applicant *only***

VOTE: **ADOPTED** unanimously





**APPLICANT:** Larry Joel Epstein and Bonnie Irlyn Epstein **PETITION No.:** V-1

**PHONE:** 770-565-4955 **DATE OF HEARING:** 01-09-13

**REPRESENTATIVE:** Larry and Bonnie Epstein **PRESENT ZONING:** R-20, R-15

**PHONE:** 770-565-4955 **LAND LOT(S):** 687, 754

**TITLEHOLDER:** Larry Joel Epstein and Bonnie Irlyn Epstein **DISTRICT:** 16

**PROPERTY LOCATION:** On the northern end of Wellington Lane, east of Johnson Ferry Road (1963 Wellington Lane). **SIZE OF TRACT:** 0.7379 acre

**COMMISSION DISTRICT:** 2

**TYPE OF VARIANCE:** To permit poultry (ducks) on a lot containing less than two acres.

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

**BOARD OF APPEALS DECISION**

APPROVED \_\_\_\_\_ MOTION BY \_\_\_\_\_

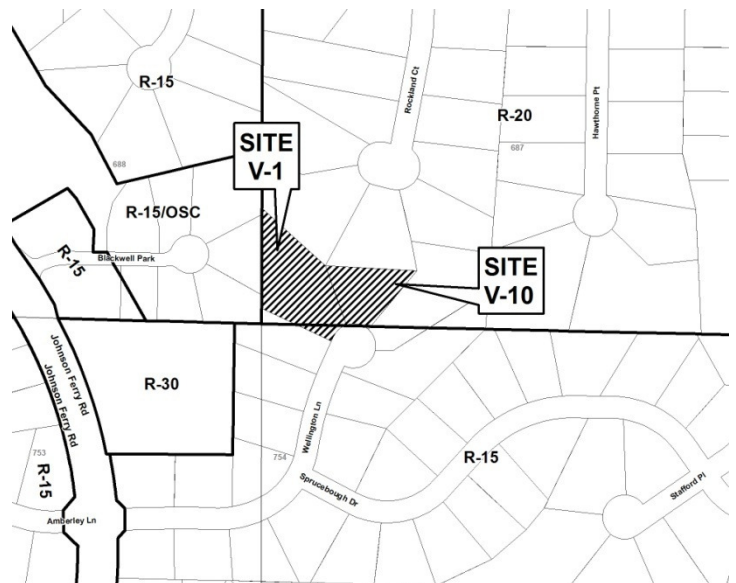
REJECTED \_\_\_\_\_ SECONDED \_\_\_\_\_

HELD \_\_\_\_\_ CARRIED \_\_\_\_\_

STIPULATIONS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



**APPLICANT:** Larry and Bonnie Epstein      **PETITION No.:** V-1

\*\*\*\*\*

**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:** If approved, applicant must demonstrate how runoff from duck habitat is treated for water quality.

**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

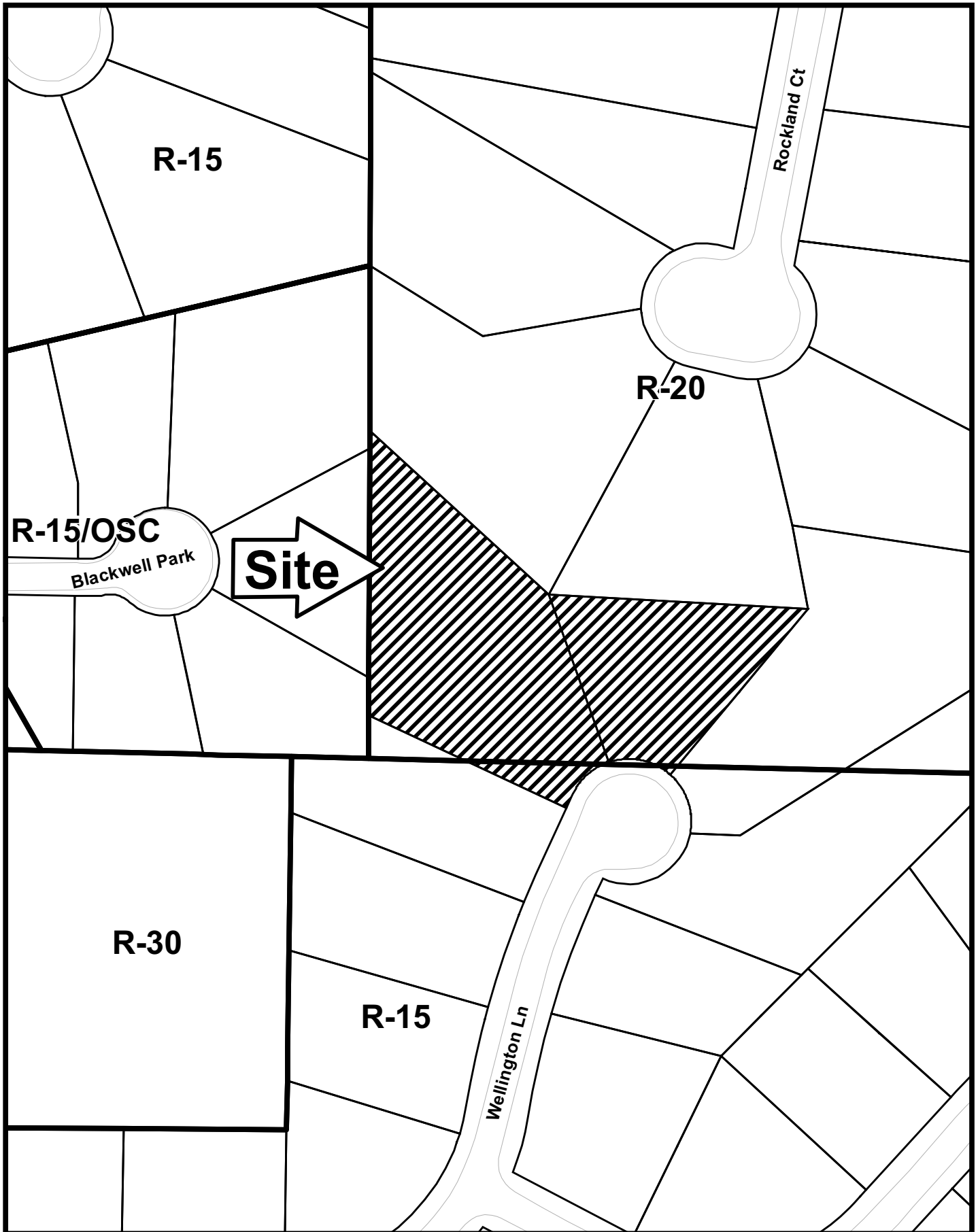
**SEWER:** No conflict

**APPLICANT:** Larry and Bonnie Epstein    **PETITION No.:** V-1

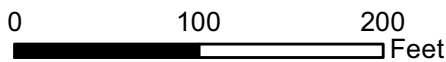
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**FIRE DEPARTMENT:** After analyzing the information presented for a Preliminary Review, the Cobb County Fire Marshal's Office is confident that all other items can be addressed during the Plan Review Stage.

# V-1

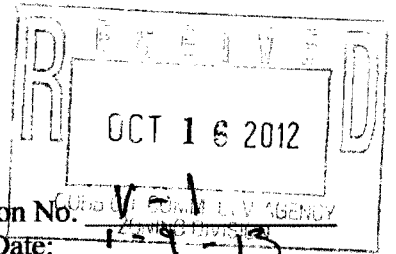


This map is provided for display and planning purposes only. It is not meant to be a legal description.



-  City Boundary
-  Zoning Boundary

# Application for Variance Cobb County



(type or print clearly)

Application No. V-1

Hearing Date: 1-9-13

Applicant Larry Epstein Bonnie Epstein Phone # 770 565 4955 E-mail lary0409@bellsouth.net

Address 1963 Wellington Lane Marietta Ga (street, city, state and zip code) 30062

Phone # \_\_\_\_\_ E-mail \_\_\_\_\_  
(representative's signature)

Signed, sealed and delivered in presence of:

My commission expires: \_\_\_\_\_

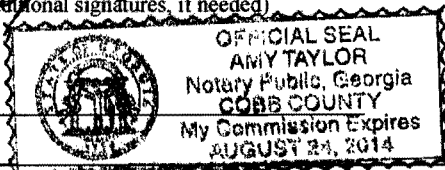
Notary Public

Titleholder Larry Epstein Phone # 770 565 4955 E-mail lary0409@bellsouth.net

Signature [Signature] Address: 1963 Wellington Lane Marietta Ga (street, city, state and zip code) 30062  
(attach additional signatures, if needed)

Signed, sealed and delivered in presence of:

My commission expires: \_\_\_\_\_



[Signature]  
Notary Public

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List type of variance requested: lot size - (hardship)  
wave lot size from 2 acres to 3/4 acre for farm animals - Ducks - domesticated - they are not livestock - not used for food or sale - used only as pets and therapy for disabled owner.

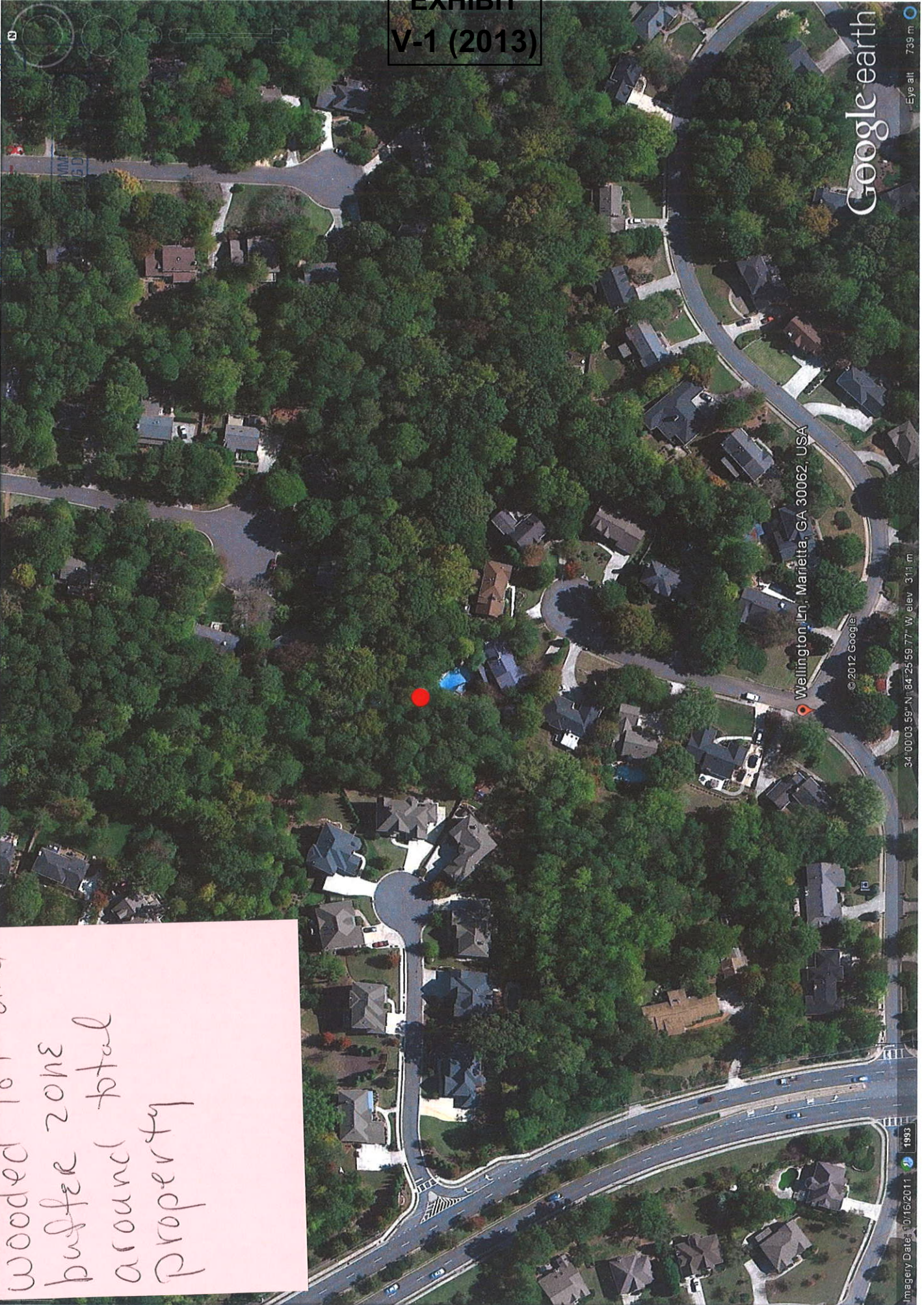
Revised: December 6, 2005

15 Ducks since 1985.

This shows our wooded lot and buffer zone around total property

RECEIVED

EXHIBIT V-1 (2013)



Google earth

Wellington Ln, Marietta, GA 30062, USA

Eye alt 739 m

© 2012 Google  
34°00'03.59" N, 84°25'59.77" W, elev 311 m

Imagery Date: 10/16/2011 1983

● SUBJECT

1993 10/16/2011 2011

1963 Wellington Ln, Marietta, GA 30062, USA

© 2012 Google

34°00'02.89" N 84°25'57.88" W elev 311 m

Imagery Date: 10/16/2011 1993

Google earth

Eye alt 494 m





**EMORY HEALTHCARE**  
**EMORY HEART & VASCULAR CENTER**



November 5, 2012

To Whom It May Concern:

Mr. Larry Epstein has been a patient of mine for the last twenty-five years. During that time he has had significant medical problems, including left testicular cancer and chronic severe back pain resulting from an automobile accident in 1998. The automobile accident necessitated several back surgeries. In spite of the surgeries he has had intractable severe chronic back pain, and has needed significant analgesic treatment in an attempt to control the pain. Having to live with this pain has been a persistent negative, both mentally and physically, in his daily existence.

Over the past fourteen years, he has been able to get some relief by spending time with his pets, which happen to be thirty-one ducks (for which he is the caregiver), which have lived on the back of his property for the past twenty-five years. These creatures have been a great source of pleasure to him. He knows them all by name, and they spend time with him, even sitting on his lap.

I am not familiar with the Cobb County laws governing pets, but I truly believe removing these ducks from Mr. Epstein's life would have a very negative effect on his health, as they are indeed very therapeutic for him.

Thanks for your consideration.

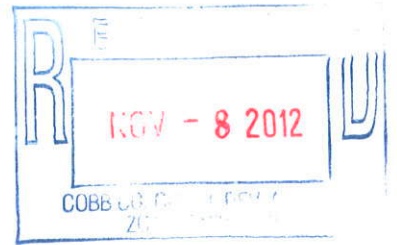
David L. Steinberg, M.D.

*Advancing the Possibilities®*

Over the years we have had many ducks - but as stated in our letter - we throw away the eggs so as the older ducks have died the number of ducks keep decreasing.

ROBERT & CYNTHIA MODUGNO  
1977 Stafford Place  
Marietta, GA. 30062.

November 6, 2012.



To whom it may concern.

This is to confirm that we have been neighbors and personal friends of Harry and Bonnie Epstein since December 1986.

In all those years Harry has always had pets, dogs and ducks. Our children who grew up with the Epstein children would go over a visit with the "pets".

Several years ago Mr. Epstein suffered debilitating injuries resulting from a car accident but throughout his convalescence his pets have been part of his therapy.

In all the 26 years that we have known them, there has never, to our knowledge, been any complaints about any of their pets. Since the animals have been his constant companions over the years, hopefully they will not be removed at this time when they are, often, the reason

Mr. Epstein gets motivated to get up and about, to take care of them.

If you need any further information or help in this matter, please call either of us at (770) 578-0765.

Yours sincerely,

Robert & Cynthia Rodugno.

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November 7, 2012

To whom it may concern:



This letter is written regarding  
to the Ovariance Issue for  
Mr. & Mrs. Larry Epstein. We have  
known the Epsteins for 28 years.  
Mr. Epstein was in a major accident  
13 years ago and been unable to  
partake in activities. The ducks are  
his therapy and very important to him.  
It would be a mistake to take this  
away from his well being that he  
receives everyday from the animals.

Glenn and John Inge  
Howard and Lynette Antonoff

Larry and Bonnie Epstein

1963 Wellington Lane

Marietta, Ga. 30062

770-565-4955



We are applying for a variance on our property to continue to have pet ducks.

We have lived here since 1985 and have had pet ducks ever since we moved here. Never once has there been a complaint.

A neighbor up the street has put in this complaint. He also has lived here since 1985. He was in an altercation with another neighbor which my husband witnessed for 10 seconds. My husband did not see what had started the fight and when questioned by the police, that is what he told them. This neighbor wanted Larry to state he saw the other neighbor hit first. Larry would not.

All the other neighbors on our street have signed the variance application form.

The ducks are my husband's pets. 13 years ago he was in an automobile accident ( stopped for school bus and was hit from behind ) and became disabled. He has had 4 back surgeries. These ducks—his pets—are his therapy. We do not eat them and we throw away the eggs. Therefore, as the ducks get older (die from old age) , they will not be replaced. The habitat that was built is a fenced in area ( even fencing on top ). The ducks do not fly or make noise. There is no odor from this area. It is cleaned on a daily basis. They eat out of his hands. There is also a play area ( also fenced ) that has a bench that my husband goes to every day. He is under dr. care monthly pain management . These hours during the day gives him the best therapy we could ask for.

The ducks are very well taken care of. They would not survive in the wild.

Thank you for your consid



**Eric & Monica Haydock**  
**1960 Wellington Lane**  
**Marietta, GA 30062**



November 6 2012

To whom it may Concern,

Please find attached a copy of a police report dated 9-19-2012. On this occasion while my wife and I were walking our dog and Mr. Lawrence and Mrs. Lawrence were walking their dog, Mr. Lawrence and I had a heated verbal altercation. Mr. Lawrence tried to punch me in the face (took a swing at me). I am much smaller than Mr. Lawrence and avoided it, I retaliated and pushed Mr. Lawrence and he fell backwards. My wife and I then left and went home.

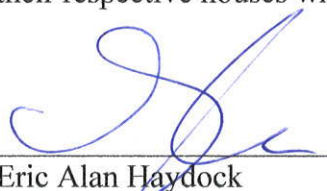
A short time later (10-15 minutes) a police officer knocked on my door and asked me what happened, I explained as per above. The police officer left and returned to inform me that one of the neighbors had verified what I had said and the officer then left.

The next I heard of the incident was later that evening, while walking to pick up the mail, I saw and heard Mr. Lawrence shouting very loudly at the front door of Mr. Epstein, who is our neighbor across the street. The next day, my wife, from our front lawn, saw Mr. Lawrence again banging very loudly at the neighbors door and then she heard more shouting from Mr. Lawrence. I do not know Mr. Epstein very well, but I called him to ask if everything was OK, he said yes.

The next I heard of the incident, mid-October when Mrs. Epstein, the wife of the neighbor across the street asked my wife and I if we knew that they had ducks as pets, we did not. Mrs. Epstein asked if we objected to their ducks and we said we did not and thus we were happy to sign the form she had stating same. Mrs. Epstein explained that Mr. Lawrence had threatened Mr. Epstein, as a result of the incident between me and Mr. Lawrence in September, and that he had also complained to the authorities about various things. Mr. Lawrence and Mr. Epstein were friends, so he knew of Mr. Epstein's pets as Mr. Epstein had previously told him.

I have never seen nor heard any noise whatsoever; from Mr. Epstein's pets in the time we have lived here. If I had not been informed by Mrs. Epstein we would not have known they existed.

We have lived in this house since for 22 years; both Mr. Lawrence and Mr. Epstein lived in their respective houses when we arrived in the subdivision.

  
Eric Alan Haydock

Date: Nov 6 - 2012

  
Monica White Haydock

Date: Nov. 6, 2012

# INCIDENT/INVESTIGATION REPORT

Agency Name  
**Cobb County Police**

ORI  
**GA 0330200**

Case# **12-102293**

Date / Time Reported  
**09/18/2012 21:10 Tue**

Last Known Secure  
**09/18/2012 20:00 Tue**

At Found  
**09/18/2012 20:07 Tue**

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Location of Incident <b>1959 Wellington Ln, Marietta GA 30062-</b>		Premise Type <b>Roadway</b>	Zone/Tract <b>C, 413</b>
#1	Crime Incident(s) <b>Simple Assault/simple Battery 1313</b>	(Com) M	Weapon / Tools <b>HANDS/FEET/TEETH</b>
		Entry	Exit
		Security	
#2	Crime Incident	( )	Weapon / Tools
		Entry	Exit
		Security	
#3	Crime Incident	( )	Weapon / Tools
		Entry	Exit
		Security	

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# of Victims <b>1</b>	Type: <b>INDIVIDUAL( NON LE)</b>	Injury: <b>Abrsions/bruises</b>		Domestic: <b>N</b>	
VI	Victim/Business Name (Last, First, Middle) <b>LAWRENCE, JOHN AUGUST</b>	Victim of Crime # <b>1</b>	DOB <b>11/19/1942</b> Age <b>69</b>	Race <b>W</b>	Sex <b>M</b>
Home Address <b>1959 WELLINGTON LN, Marietta, GA 30062-</b>		Relationship To Offender <b>NE</b>	Resident Status <b>Resident</b>	Military Branch/Status	
Employer Name/Address <b>UNKNOWN</b>		Business Phone <b>770-552-9991</b>	Home Phone <b>770-565-6985</b>		
VYR	Make	Model	Style	Color	Lic/Lis
					VIN

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E  
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CODES: V- Victim (Denote V2, V3) O = Owner (if other than victim) R = Reporting Person (if other than victim)

Type:	Injury:				
Code	Name (Last, First, Middle)	Victim of Crime #	DOB Age	Race	Sex
Home Address		Relationship To Offender	Resident Status	Military Branch/Status	
Employer Name/Address		Business Phone	Home Phone		
Type:	Injury:				
Code	Name (Last, First, Middle)	Victim of Crime #	DOB Age	Race	Sex
Home Address		Relationship To Offender	Resident Status	Military Branch/Status	
Employer Name/Address		Business Phone	Home Phone		

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1 = None 2 = Burned 3 = Counterfeit / Forged 4 = Damaged / Vandalized 5 = Recovered 6 = Seized 7 = Stolen 8 = Unknown  
("OJ" = Recovered for Other Jurisdiction)

VI #	Code	Status Frm/To	Value	OJ	QTY	Property Description	Make/Model	Serial Number

Officer/ID# **GREEN, D. R. (2524, PCT4) (1798)**

Invest ID# **(0)**

Supervisor **CARNEY, B. L. (2524, PCT4) (0508)**

Status: Complainant Signature Case Status **Exceptionally 09/18/2012** Case Disposition: Page 1

# Incident Report Additional Name List

Cobb County Police

OCA: 12-102293

Additional Name List

Page 2

NameCode/#	Name (Last, First, Middle)	Victim of Crime #	DOB	Age	Race	Sex
1) WI 1	LAWRENCE, PAMELA A		04/27/1944	68	W	F
	Address 1959 Wellington Ln, Marietta, GA 30062-					
	Emp/Addr					
			H: 770-565-6985			
			B: 678-428-4734			
			Mobile #:			



# INCIDENT/INVESTIGATION REPORT

By: SKELLM, 6447 09/21/2012 16:08

Cobb County Police

Case#	12-102293
-------	-----------

Status Codes	1 = None 2 = Burned 3 = Counterfeit / Forged 4 = Damaged / Vandalized 5 = Recovered 6 = Seized 7 = Stolen 8 = Unknown				
IBR	Status	Quantity	Type Measure	Suspected Type	Up to 3 types of activity

Assisting Officers

Suspect Hate / Bias Motivated:

**NARRATIVE**

On 09/18/2012 I responded to 1959 Wellington Ln in reference to an altercation that had already occurred. I met with the victim John Lawrence. He stated that he was out walking with his wife when a neighbor, Eric Haydock, attacked him over their dogs fighting. Lawrence did have a few bruises from the incident that took place. I conducted an investigation and spoke to all the involved parties. Also found an independent witness that gave a testimony similar to Haydock. Given the statements there was not an arrest made and I advised both parties on warrant procedures.

Nothing further.

# Incident Report Suspect List

Cobb County Police

OCA: 12-102293

<b>1</b>	Name (Last, First, Middle) <i>Haydock, Eric Alan</i>					Also Known As					Home Address <i>1960 WELLINGTON LN MARIETTA, GA 30062 404-977-2193</i>				
	Business Address														
	DOB. <i>05/07/1954</i>	Age <i>58</i>	Race <i>W</i>	Sex <i>M</i>	Eth	Hgt <i>510</i>	Wgt <i>165</i>	Hair <i>BRO</i>	Eye <i>HAZ</i>	Skin	Driver's License / State. <i>012317585 GA</i>				
Sears, Marks, Tattoos, or other distinguishing features															
<b>Reported Suspect Detail</b>															
Suspect Age		Race	Sex	Eth	Height		Weight			SSN					
Weapon, Type	Feature	Make	Model			Color	Caliber	Dir of Travel		Mode of Travel					
Veh Yr/Make/Model		Drs	Style		Color	Lic/St			VIN						
Notes							Physical Char								