

City of Newnan Georgia



Board of Zoning Appeals

Agenda Book

March 1, 2022



City of Newnan
Board of Zoning Appeals

Agenda for March 1, 2022 Board of Zoning Appeals Meeting
10:00 AM, Richard A. Bolin Council Chambers, City Hall

TAB NUMBER	AGENDA CATEGORY / ITEM
TAB #1	Minutes of the February 1, 2022 Board of Zoning Appeals Meeting
TAB #2	Public Hearing – Variance Request – 34 Carmichael Street – (2022-03)
	Other Business and Comments by Members of Staff
	Public Comments
	Adjourn

Unless otherwise posted, all Board of Zoning Appeals Meetings
are held in the:

Richard A. Bolin Council Chambers, City Hall
25 LaGrange Street, Newnan, Georgia 30263

Any questions prior to the meeting
should be directed to the Planning and Zoning Department.

Phone: 770-254-2354

E-mail: tdunnavant@cityofnewnan.org



CITY OF NEWNAN
Board of Zoning Appeals
Meeting Minutes
February 1, 2022
10:00 a.m.

Board Members in Attendance: Cliff Smith, Ken Parker, Willie Walton, Skin Edge, Kris Lovell, Frank Flournoy

Board Members Absent: Sally Hensley

Others in Attendance: Tracy Dunnavant, Planning & Zoning Director
Dean Smith - Planner
Samantha Wood, Administrative Assistant to Planning & Zoning
Brad Sears, City Attorney

CALL TO ORDER

Chairman Edge called the meeting to order at 10:00 a.m. in the Richard A. Bolin Council Chambers, City Hall, 25 LaGrange Street.

READING OF THE MINUTES

Chairman Edge asked the Board if they had reviewed the minutes from the January 4, 2022 meeting. After no questions or discussion, Flournoy motioned to accept the minutes. Lovell seconded the motion.

MOTION CARRIED (5-0)

Ken Parker arrived at the meeting.

Variance Request – 43 Richard Allen Drive – 2022-02

Chairman Edge opened a public hearing on a variance request by Jeremy Emery to increase the height of a proposed fence in the front yard from 3 feet to 6 feet and reduce the setback for a residential accessory structure (shed) from 5 feet to 0 feet from a primary structure.

Dean Smith stated that the applicant would like to construct a 6-foot privacy fence along the portion of the property facing the street. He added that the applicant's reason for requesting the taller fence is to serve as a deterrent to crime that has been committed on the subject property. Dean Smith said the applicant also stated the reason he would like a privacy fence is

safety as there is a history of gunfire and he is hoping the privacy fence will deter people from using the driveway as a turnaround. He added that Staff recommends approval of the request with the condition that the fence be installed outside of the public right-of-way and the fence material would either be wrought iron or aluminum as the preferred material, thus providing the security being sought and avoiding visual obscurity and maintaining an aesthetic appeal that the ordinance desires that is more prevalent throughout the City of Newnan. He added that the material could be a discussion point for the Board.

Chairman Edge asked the Board if there were any questions for the staff:

Flournoy asked if a condition of approval could be that the fence must be maintained?

Dean Smith stated that yes, that could be a condition of the approval.

Parker expressed concern about the fence creating a safety issue in terms of sight distance and the ability for someone to hide behind it. Dean Smith explained that one of the reasons for the fence, as stated by the applicant, was safety for his family and the other tenants.

Parker asked if the fence would be behind the right of way. Smith stated that yes it would be behind the right of way.

The applicant Jeremy Emery was sworn in by Brad Sears. Emery stated he has had issues with shootings and people walking down the street and throwing rocks at his car windshield. He added that the construction of a shed would help with security as well.

Chairman Edge asked the Board if there were any questions for the applicant. Hearing none, Chairman Edge closed the public hearing and asked for a motion.

A motion was made by Flournoy to approve the height variance for the fence with the condition that it will be well maintained and to approve the construction of the shed with no setback from the primary structure. Lovell seconded.

MOTION CARRIED (6-0)

New Business

None

ADJOURN

Flournoy motioned to adjourn the meeting at 10:16 a.m. Parker seconded.

MOTION CARRIED (6-0)

Chairman Skin Edge



NEWMAN
GEORGIA

City of Newnan, Georgia – Board of Zoning Appeals

Date: March 1, 2022

Application Number: 2022-03

Agenda Item: Variance Request – 34 Carmichael Street

Prepared and Presented by: Chris Cole, Planner

Purpose: To hear a request for a variance to construct a patio that measures 6 feet wide by 13 feet in depth that is within five feet of a side property line (that is not allowed per the Zoning Ordinance). Note – The patio has already been constructed. The property owner applied for the Variance as he was made aware of the setback requirement.

Applicant/Property Owner: Eric Smith – Applicant/Owner
34 Carmichael Street
Newnan, GA 30263

Zoning: Urban Residential Dwelling District - Historical and Infill (RU-I)

Present Use: Single Family Residence

Proposed Use: The addition of a patio

Pertinent Regulations: Section 3-12(n), Table 3-C of the Zoning Ordinance

Applicant's Position: The applicant is seeking to obtain a variance to allow for a concrete patio to be located within five feet of a side property line. The subject property is 0.11 acre +/- . The applicant purchased the residence located at 34 Carmichael Street on July 26, 2021. A citizen complaint led to Code Enforcement involvement. Code Enforcement directed the applicant to contact the Planning and Zoning staff and began the variance application process. The applicant stated that the 5-foot setback requirement would create an unusual amount of hardship to his family. The application stated, "Since that time, we have been making improvements to the property to make it safer, more functional and more attractive. The home unfortunately unlike most of my neighbors, has only two exits - the front door and a side entry door. The side entry door has wooden steps that extend into the right-side yard (facing the home from street) approximately 45 inches and these steps had been constructed years ago prior to my ownership. The 24-foot wide home house sits approximately 76 inches, at the closest point, off of the side property line and the neighbor's house at 36 Carmichael Street sits approximately 8 feet from the side property line. This only leaves about 31 inches from the bottom of the steps to the side property line." Note – The fenced area (representing the applicant's entire side yard adjacent to the neighbor at 36 Carmichael Street) measures 3 feet by 36 feet equaling 216 square feet.

Regarding the particular provisions or requirements of the Ordinance that prevent the proposed construction on, or use of, the property, the applicant indicated, "I hereby request the following variance from the provisions of section 3-12(n) of the Zoning Ordinance/Subdivision Regulations:

"Patos, Paved Terraces, and Decks At or above Ground. No patio, paved terrace or deck shall be located within 5 feet of any property line or within the required building setback line and the street line or public right-of-way. It is my strong position that Application of the ordinance to the particular piece of property known as 34 Carmichael Street, Newnan, Georgia would create an unnecessary hardship."

Regarding the special conditions, circumstances or characteristics of the land, building or structure that prevent the use of the land in compliance with the requirements of the Ordinance, the applicant indicated in part, "Because the two neighboring residences are so close to the property line, the side yard close to my home stays wet and muddy making it a safety hazard. The modified concrete landing now only extends 6 feet from my residence (approximately 4 inches inside the property line) and in order to comply with the 5-foot requirement, 83% of the newly installed concrete landing would need to be removed, as well as the bottom three wooden steps. Removing the three steps and concrete under the three wooden steps would make the steps unpassable and non-compliant with safety and building codes and create a major safety hazard."

Regarding the particular hardship that would result if the specified provisions or requirements of the Ordinance were to be applied to the subject property, the applicant indicated in part, "Removing the smooth concrete landing area could create a trip hazard if pavers or alternative materials were required to be placed on the ground. Because the side yard is so poorly lit, walking to the backyard would be much more dangerous at night time to be able to access the rear yard for our dogs. My wife and I would be more likely to slip and fall while trying to escort the dogs to and from their "potty" area. Complying with a five-foot requirement would mean that the majority (over 80%) of the remaining concrete pad that was installed recently to assist with ground water runoff issues and water control would need to be removed and as a result possibly create additional water intrusion issues for me in the future. This would only leave a 1-foot-wide strip of concrete against my home."

The applicant added, "Application of the ordinance and the 5-foot setback requirement would represent additional financial hardship to be able to remove any concrete, as well as making the area much less safe for pedestrian traffic when walking our dogs when the yard is wet and muddy. Having to remove 83% (65 square feet) of the landing area will actually make exiting the home and fenced area much less safe in the event of a necessary quick exit in the event of a fire or physical threat as we will have to exit the gate area without the benefit of a smooth and safe surface to walk on to get to the front of the home. The current extended concrete landing allows for sufficient structural support for the wooden steps, adequate storage space for one trash can, additional area for our two dogs to stand so that they do not have to stand in mud, and safe passage through the gate into the front yard. Having to comply with a 5-foot setback would create severe negative impact or consequence for all of those activities and enjoyment of the property. As you can see from the photo, most of the fenced-in area is pine-strawed covered ground and is not concreted."

Regarding the minimum extent to which it would be necessary to vary the requirements of the Ordinance in order to permit the proposed construction on, or use of, the property, the applicant indicated in part, "The side setback requirement of five feet would need to be waived or considered not applicable to this specific instance as the concrete landing area completely contained within our fenced yard is for can storage, pet purposes, and safe pedestrian access to the front yard."

Note - Please see the attached addendum titled "Attn: Board of Zoning Appeals" for the complete narrative from the applicant.

Basis for Granting Variance:

The Board of Zoning Appeals shall base its required findings of fact upon particular evidence presented to it in each specific case where the property owner can show all of the following to be true:

- A. The strict application of the terms of this Ordinance would effectively prohibit or unreasonably restrict utilization of the property because of all of the following:
 - ✓ There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography; and,
 - ✓ Such conditions are peculiar to the particular piece of such property involved; and,
 - ✓ Such conditions were not imposed by the action or will of the owner of the property; and,
 - ✓ The application of the Ordinance to the particular piece of property would create an unnecessary hardship other than a financial hardship in which the applicant would receive a lower rate of financial return on the use of the property if the variance is denied; and,
 - ✓ Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this Ordinance.

- B. In addition, the Board of Zoning Appeals shall affirmatively determine that:
 - ✓ The granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant.
 - ✓ The condition or situation of the property which gives rise to the need for such variance is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.

Recommendation:

Regarding the variance request to construct a patio that is within five feet of a side property line, staff believes the concrete patio is appropriate and will present no negative impacts. Staff believes this proposal works within the restrictions of the lot's size, shape, and topography. It should also be emphasized that the concrete area will not be visible to neighbors or the general public due to the recently installed fencing.

The variance is being requested in order to allow for a safer area for the applicant and his family to utilize and enjoy. Regarding the subject property itself, the lot is very small at approximately 0.11 acre. In particular, the applicant's side yard that is adjacent to the neighbor at 36 Carmichael Street is extremely limited in size (measuring 216 square feet totally within the recently fenced area). The attached pictures demonstrate the limited space in this side yard. Staff believes that the original placement of the applicant's home (constructed in 1900) and the resulting small side-yard area under review severely limit the opportunity for practical use and enjoyment of this side yard. Staff also agrees with the applicant that the patio provides useful and practical purposes such as improved pedestrian ingress and egress, as well as water run-off control.

According to the application materials, this side yard is naturally muddy and slippery. Water also collects in this side yard and this has led to flooding in the applicant's crawl space over time. To remedy this, the applicant had the entire right side of the home (facing the home from Carmichael Street) dug up and waterproofed. He also had a French drain installed and dirt replaced. As a means to keep water away from the foundation, it was further suggested by the applicant's contractor that that he have concrete poured against the house (along the areas that had the most water intrusion) and sloped away from the home and toward the rear of the property.

Staff agrees with the applicant's assertion that applying the ordinance would be, "making the area much less safe for pedestrian traffic when walking our dogs when the yard is wet and muddy. Having to remove 83% (65 square feet) of the landing area will actually make exiting the home and fenced area much less safe in the event of a necessary quick exit in the event of a fire or physical threat as we will have to exit the gate area without the benefit of a smooth and safe surface to walk on to get to the front of the home." Another limiting factor is that the home's "second" door (besides the front door) opens into this small yard area. Related to this second-door access, staff believes the applicant and his family have a reasonable expectation to improve this side yard that has been negatively affected by water.

Per the applicant, the water issue has been made worse due to the close proximity of the adjacent home at 36 Carmichael Street, as well as the close proximity of the applicant's home, to the side property line. The applicant also stated the water issue has been affected by the sloping of the subject property from the front of the lot to the rear (as told by phone on February 21, 2022). Overall, staff agrees with the assertion that the patio provides for very useful and practical purposes such as improved pedestrian ingress and egress (as well as water run-off control).

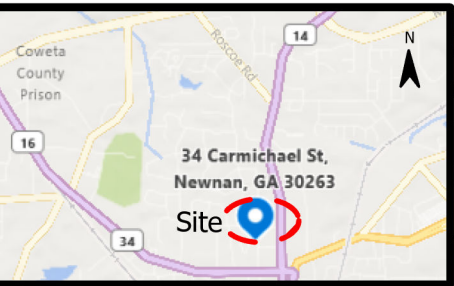
It should be noted that the applicant constructed the patio and side-yard fence earlier this year in a manner that was not in compliance with the Zoning Ordinance (specifically violating the 5-foot patio setback requirement). The applicant obtained a fence permit from the City before building the fence. Code Enforcement visited the subject property and notified the applicant to coordinate with Planning and Zoning staff regarding the noncompliant patio (leading to this variance application). It should be also pointed out that on February 3, 2022, the property owner at 36 Carmichael Street (Ms. Jerri White) informed staff that the poured patio and fence crossed onto her property. Ms. White proceeded to have her side property line surveyed and provided staff evidence that indeed the applicant had crossed her property line with the new fencing and patio. The applicant proceeded to coordinate with his contractors to have the fence and the concrete pad "cut back" to the correct property line. This correction was done the week of February 14, 2022.

Note - See the attached pictures that show the fence and the concrete pad totally off Ms. White's property. As of the date of this report, staff has received three inquiries regarding this request. Please see the email correspondence from Ms. White within this packet.

After reviewing the information presented by the applicant and comparing it to the basis for granting variances, as outlined in the Zoning Ordinance, staff recommends approval of the variance request based on the following reasons. The strict application of the terms of the Ordinance would *unreasonably* restrict utilization of the property because the application of the Ordinance to the particular piece of property would create a non-financial, *unnecessary* hardship. Also, relief from the Ordinance would not cause substantial detriment to the public good or impair the purposes and intent of the Ordinance.

Attachments:

Application



CITY OF NEWNAN

Project Location



CITY OF NEWNAN
PLANNING DEPT.
25 LAGRANGE STREET
NEWNAN, GEORGIA 30263
www.cityofnewnan.org

1 = 1,200 feet

Date: 1/27/2022 9:01 AM



Project Location

Parcel # N06 0007 027

ADDRESS
34 Carmichael St,
Newnan, GA 30263

34 Carmichael Street – Variance

View of applicant's home (with property line marked with a blue arrow in front of fence)



34 Carmichael Street – Variance

View of neighbor to the south of the subject property at 32 Carmichael Street



34 Carmichael Street - Variance

View of former Papp Clinic across Carmichael Street from subject property



View of neighbor to the north of subject property at 36 Carmichael Street (Note – This property is adjacent to the concrete pad under review. In addition, the fence shown is the former fence placement that was corrected.)





Photo from Code Enforcement after concrete pad pour and before fence installation (received 1-24-2022) – The portion of the pad and the entire fence were found to be on the neighbor's property and was corrected the week of February 14, 2022.

34 Carmichael Street – Variance

Photo to the Left shows the completed patio and fence area. Photo to the Right shows the corrected property line between the subject property and the neighbor at 36 Carmichael Street looking towards the rear yard.



34 Carmichael Street – Variance



This photo demonstrates the corrected property line between the subject property and the neighbor at 36 Carmichael Street.

34 Carmichael Street – Variance

Photo on the left shows the patio and the access to the front yard.

Photo to the right shows the corrected property line between the subject property (to the left) and 36 Carmichael Street (to the right)



34 Carmichael Street – Variance



View of fenced area looking
towards Carmichael Street



CITY OF NEWNAN, GEORGIA

25 LaGrange Street
Newnan, Georgia 30263
770-254-2354

APPLICATION FOR VARIANCE

Name of Applicant Eric Smith
Mailing Address 34 Carmichael Street Newnan GA 30263
Telephone 770 527 4380 E-Mail: EKSGROUP@GMAIL.COM
Property Owner (Use back if multiple names) Eric Smith
Mailing Address 34 Carmichael Street Newnan GA 30263
Telephone 770 527 4380
Address/Location of Property 34 Carmichael Street Newnan GA 30263
Tax Parcel No: N060007027
Present Zoning Classification: Residential RU-1C
Present Land Use Residential
Intended Use Residential

Any person owning property, or having a possessory or contract interest in property and the consent of the owner, may file an application for variance in regard to such property with the Board.

If you have any questions concerning this process, you may call the Planning and Zoning Department at (770) 254-2354. Office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday. The Board of Zoning Appeals meets on the first Tuesday of each month. Applications must be submitted by 9:00 a.m. at least thirty (30) days prior to that date. Incomplete applications or applications submitted after the deadline will not be accepted.

I (We) hereby request the following variance from the provisions of section(s) 3-12(n) of the Zoning Ordinance/Subdivision Regulations: See attached

In order for the Board to consider the request, it must be claimed "application of the Ordinance to the particular piece of property would create an unnecessary hardship". Please answer the following criteria questions:

1. What are the particular provisions or requirements of the Ordinance that prevent the proposed construction on, or use of, the property?
See attached
2. What is the existing zoning of the property, including any previously approved modifications, conditions, or proffers?
See attached

3. What are the special conditions, circumstances or characteristics of the land, building or structure that prevent the use of the land in compliance with the requirements of the Ordinance?
See attached
4. What is the particular hardship that would result if the specified provisions or requirements of the Ordinance were to be applied to the subject property?
See attached
5. What is the minimum extent to which it would be necessary to vary the requirements of the Ordinance in order to permit the proposed construction on, or use of, the property?
See attached

The Board of Zoning Appeals shall base its required findings upon the particular evidence presented in each specific case where the property owner can show:

A. The strict application of the terms of the Ordinance would effectively prohibit or unreasonably restrict utilization of the property because:

- ✓ There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.
- ✓ Such conditions are peculiar to the particular piece of such property involved.
- ✓ Such conditions were not imposed by the action or will of the owner of the property.
- ✓ The application of the Ordinance to the particular piece of property would create an unnecessary hardship. Such hardship does not include financial hardship in that if the variance were granted, the applicant could receive a higher rate of financial return on the use of the property and without the variance, a lesser but still reasonable return could be realized.
- ✓ Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Ordinance.

B. The granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant.

C. The condition or situation of the property, which give rise to the need for such variance, is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Ordinance.

Included with the application, the following information is required:

- ✓ Plat of property, illustrating existing development and requested variance.
- ✓ Plans or drawings necessary to illustrate the requested variance.
- ✓ Check for applicable fees (**\$250.00 Per Variance Requested**).
- ✓ Legal description of property.
- ✓ List of all the names and addresses of all property owners within 250 feet of subject property. This information can be found at the Coweta County Tax Assessors Office.

I (We) do hereby certify the information provided herein is both complete and accurate to the best of my (our) knowledge, and I (we) understand any inaccuracies may be considered just cause for invalidation of this application, and any action taken on this application. I (We) do hereby understand a variance of any requirement does not exempt the development from any other requirements of the Zoning Ordinance, Subdivision Regulations, or other City or State Regulations.

ERIC SMITH

Applicant(s) Name(s) (Please Print)

[Signature]

Signature of Applicant(s)

FOR OFFICIAL USE ONLY

RECEIVED BY Chris Cole

DATE OF FILING 1-27-2022

BZA MEETING DATE 3-1-2022

DATE OF NOTICE PUBLICATION 2-9-2022

ACTION TAKEN (DATE) _____



City of Newnan, Georgia
Attachment A

Property Owner's Authorization

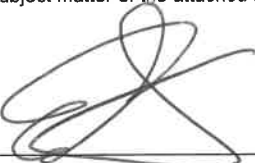
The undersigned below, or as attached, is the owner of the property which is the subject of this application. The undersigned does duly authorize the applicant named below to act as applicant in the pursuit of a variance for property.

Name of Property Owner Eric Smith

Telephone Number 770 527 4380

Address of Subject Property 34 Carmichael Street
Newnan GA 30263

I swear that I am the owner of the property which is the subject matter of the attached application, as it is shown in the records of Coweta County, Georgia.

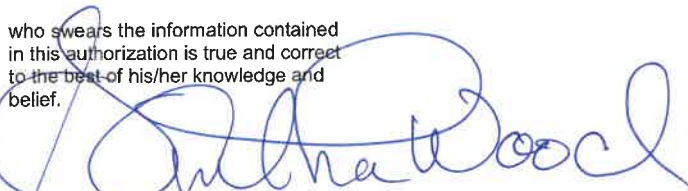


Signature of Property Owner

Personally appeared before me

Eric Smith

who swears the information contained
in this authorization is true and correct
to the best of his/her knowledge and
belief.



Notary Public

Notary Public

1/27/2022
Date



(Affix Raised Seal Here)

DOC#: 2021-021628
FILED IN OFFICE
7/28/2021 3:35:00 PM
BK: 5378 PG: 581-581
CINDY G BROWN
CLERK, SUPERIOR COURT
COWETA COUNTY, GA

Cindy G Brown

RETURN TO:
GLOVER & DAVIS, P.A.
P.O. DRAWER 1038
NEWNAN, GA. 30264

REAL ESTATE TRANSFER TAX
PAID: \$200.00 ✓

PT-61 038-2021-005452

LIMITED
WARRANTY DEED

STATE OF GEORGIA
COUNTY OF COWETA

FILE #: 2021-0342

THIS INDENTURE made this 26th day of July, 2021, between Miller Keith Andrews and Twyla Miller Wilson, of the County of COWETA and State of GA, as party or parties of the first part, hereinunder called Grantor, and Eric Kirby Smith, as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations in hand paid, at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee.

All that certain tract or parcel of land situate lying in the City of Newnan, Coweta County, Georgia, and more particularly described as Lot 2, as per plat of survey prepared for J. W. Bass, Jr. and Joan Bass by John R. Christopher, G.R.L.S., dated November 21, 1978, and recorded at Plat Book 24, Page 263, Coweta County, Georgia Records. Reference to said plat is hereby made for a more complete and accurate description of said Lot 2.

The above-described property is conveyed subject to the following:

- (1) All matters as shown on plat of record at Plat Book 24, Page 263, COWETA County, Georgia Records.

This Deed is given subject to all easements and restrictions of record.

TO HAVE AND TO HOLD the said tract or parcel of land, together with all and singular the rights, members and appurtenances thereof, to the same being, belonging or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee, forever in **FEE SIMPLE**.

AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons by, through and under the above named grantor.

IN WITNESS WHEREOF, Grantor has hereunto set grantor's hand and seal this day and year first above written.

Signed, sealed and delivered in presence of:

Witness: *[Signature]*

[Signature] (SEAL)
Miller Keith Andrews

[Signature] (SEAL)
Twyla Miller Wilson

[Signature]
Notary Public

My Commission Expires:



1/25
[Signature]

GEORGIA COWETA COUNTY CLERK SUPERIOR COURT
 FILED IN OFFICE THIS 15 DAY OF April
 1980 AT 3:55 PM. RECORDED IN BOOK 24
 PAGE 243 THIS 15 DAY OF April 1980

Virginia Hobbins
 CLERK
 PL 2-00



SEEN BY THE SUPERIOR COURT
 FILED IN BOOK 24 AT PAGE 243
 THIS 15 DAY OF April 1980
 CLERK

THIS PLAT SUBJECT TO ANY R/W OR EASEMENT

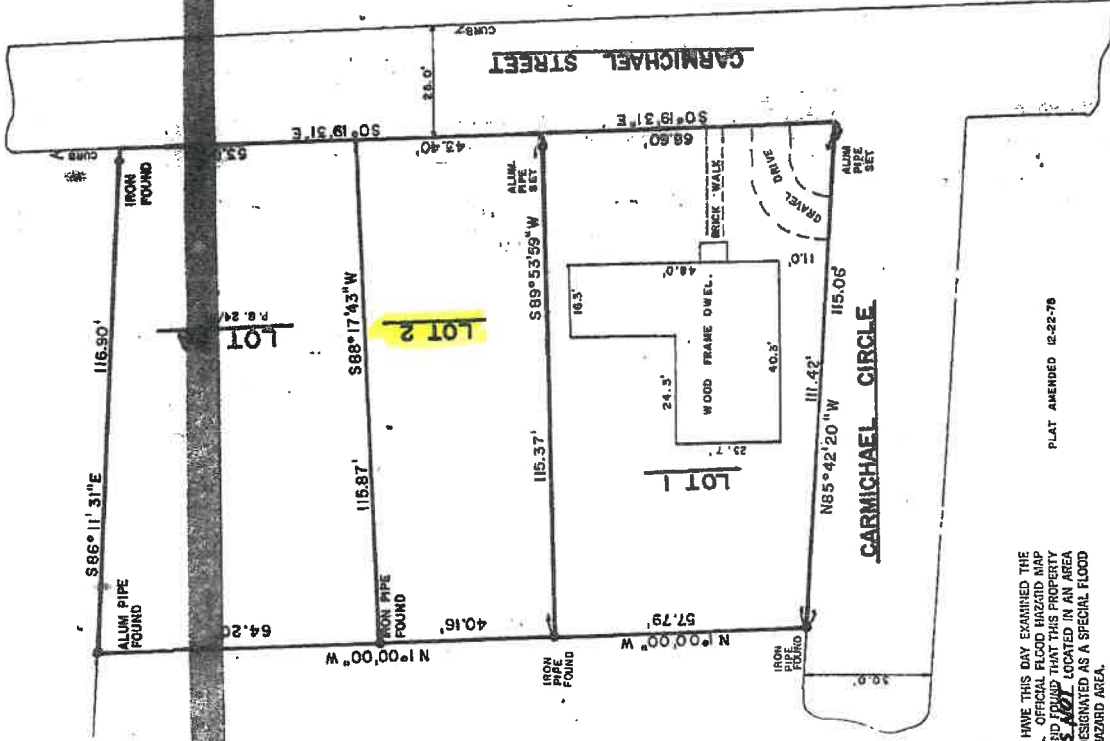


IN MY OPINION, THIS IS A TRUE
 AND CORRECT REPRESENTATION
 OF THE PLATTED PROPERTY AND
 HAS BEEN PREPARED IN CON-
 FORMITY WITH THE STANDARDS
 AND REQUIREMENTS OF LAW

SURVEY FOR:

J.W. BASS JR. & JOAN BASS

SCALE: 1" = 20'	APPROVED BY:	DATE: 11-21-78
LOT 1 OF PLAT MR. & MRS. C.J. SMITH PROP. P.B. 3/67		
CITY OF NEWNAN COWETA COUNTY GEORGIA		
SURVEY BY: <i>C.H. R. Christopher</i>		BLANKET NUMBER: 78192



I HAVE THIS DAY EXAMINED THE
 F. OFFICIAL FLOOD HAZARD MAP
 AND FOUND THAT THIS PROPERTY
 IS ~~NOT~~ LOCATED IN AN AREA
 DESIGNATED AS A SPECIAL FLOOD
 HAZARD AREA.

PLAT AMENDED 12-22-78

- Sketch A

 Denotes area enclosed by wood fence.
 ↳ measures 6 feet wide by 36 feet deep @

 Concrete slab
 ↳ measures 6 feet wide by 13 feet deep @

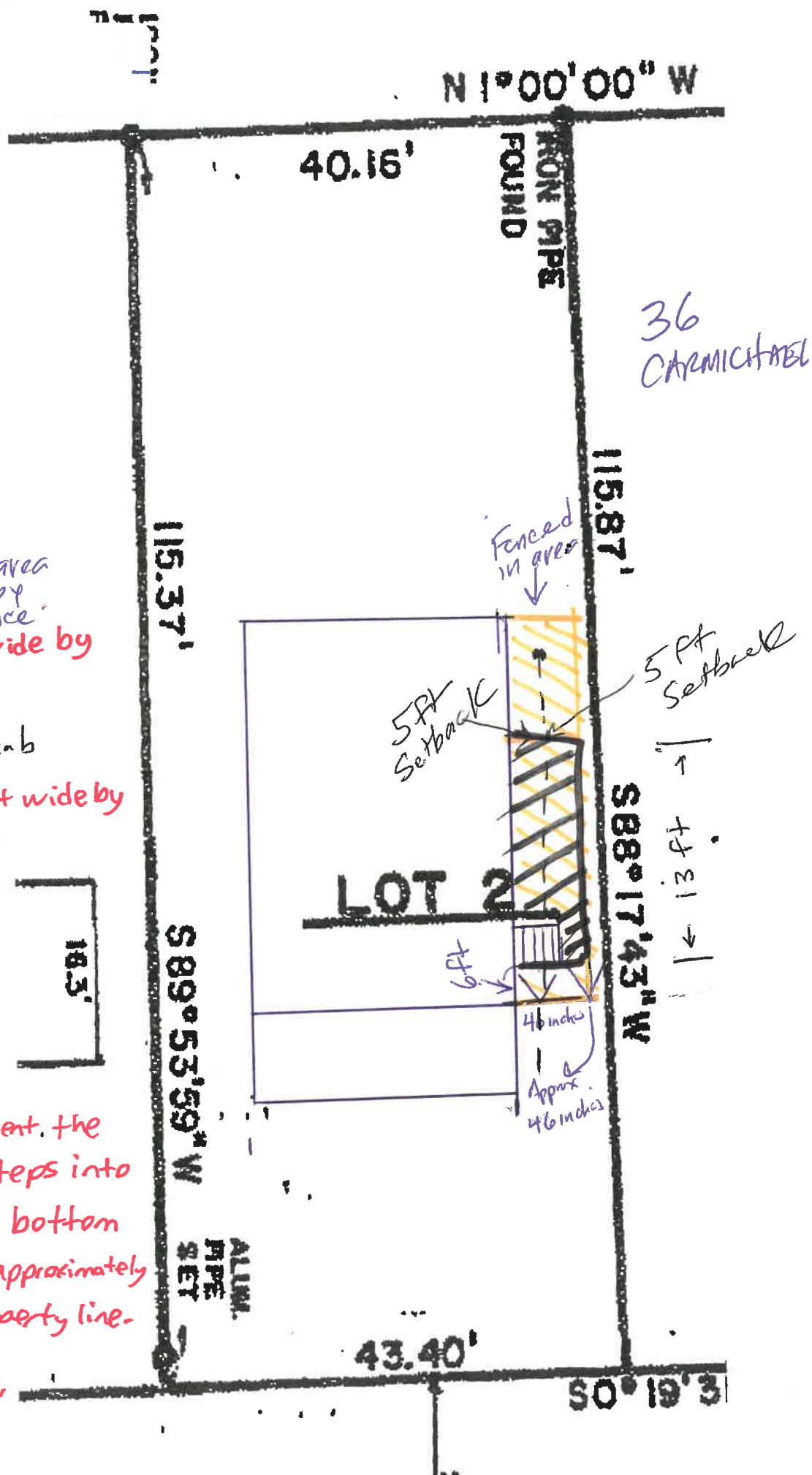
Represents 5 ft Setback line

Staff Note -

The 46 inches noted represent the distance of the existing steps into the side yard. From the bottom of the steps there are approximately 31 inches to the side property line.

CC

"From application materials"





APPEARANCE STATEMENT

Public Hearing Attendance Requirements

To process an application for an item requiring a Public Hearing, the applicant or applicant's designated representative must be present and in attendance at said hearing. This includes any items to be presented to the Board of Zoning Appeals; Mayor and City Council; and the Planning Commission.

Failure to appear at a Public Hearing may result in denial of the request, or an extended waiting period before the next available meeting. Certain requests, i.e. variances or special exceptions, if denied cannot be re-submitted for consideration for a term not less than one (1) year from the date of denial by that particular governing body.

The Board of Zoning Appeals will hear your request on March 1 at 10:00 AM

The Mayor and City Council will hear your request on _____ at _____ PM

The Planning Commission will hear your request on _____ at 7:00 PM

IMPORTANT

A zoning sign will be affixed and posted on the property in question. Owner/applicant shall notify the Planning & Zoning Department immediately if the sign is removed, defaced, incorrect, etc. After the Public Hearing date, City personnel will remove the zoning sign.

Applicant's Name: Eric Smith

(Please Print)

Applicant's Signature: [Signature]

Date: 1-26-2022

All meetings are held in the Richard A. Bolin Council Chambers located at 25 Lagrange Street, Newnan, GA 30263, unless otherwise stated.

Attn: Board of Zoning Appeals

Re: Application for variance

I hereby request the following variance from the provisions of section 3-12(n) of the Zoning Ordinance/Subdivision Regulations:

“Patios, Paved Terraces, and Decks At or above Ground. No patio, paved terrace or deck shall be located within 5 feet of any property line or within the required building setback line and the street line or public right-of-way.”

It is my strong position that Application of the ordinance to the particular piece of property known as 34 Carmichael Street, Newnan, Georgia would create an UNNECESSARY hardship.

Question 1: What are the particular provisions or requirements of the Ordinance that prevent the proposed construction on, or use, of the property?

Answer: Application of the 5 feet setback requirement would create an unusual amount of hardship to our family. I, Eric Smith, purchased the residence located at 34 Carmichael Street Newnan, Georgia on July 26, 2021. Since that time, we have been making improvements to the property to make It safer, more functional and more attractive. The home unfortunately unlike most of my neighbors, has only two exits- the front door and a side entry door. The side entry door has wooden steps that extend into the right side yard (facing home from street) approximately 45 inches and these steps had been constructed years ago prior to my ownership.

The 24 foot wide home house sits approximately 76 inches, at the closest point, off of the side property line (see photo #1 and sketch A) and the neighbor's house at 36 Carmichael Street sits approximately 8 feet from the side property line. (See Photo2) This only leaves about 31 inches from the bottom of the steps to the property line.

On January 8, 2022, I applied for and received a permit from the City of Newnan Building Department to construct a wooden fence on the right side of the residence. I had the fence installed according to the plan I submitted, being careful to not encroach into my neighbor's yard. I referenced the most recent survey on record which was prepared by John Christopher and recorded in 1980. I carefully proceeded to measure 43 feet off of the front left corner pin that was located eight inches below ground surface. The front street width of the property is actually 43.4 feet. The purpose of installing the fence was to provide a private and secure area for my wife to use for our two dogs to be able to access their "potty" area and our backyard which is completely fenced in with a 4 feet chain link fence that appears to have been installed many years ago. Without the new fenced in area, it impossible to safely escort the dogs especially at night time or during rain from the side door to the rear yard. The other purpose for installing the wooden fenced area was to provide storage area to garbage cans from the street view making it more attractive to the neighbors and people passing in the front. (Additional note: After the fence was carefully installed as described above, it was brought to our attention that a mistake had been made and our fence was actually encroaching into the neighbor's yard at 36 Carmichael Street. Said neighbor had a surveyor install stakes on the side property line. I informed my neighbor at 36 Carmichael that if the surveyor was correct and if

we had inadvertently encroached that I would do the right thing and have it removed as soon as possible. I promptly hired Jason Turner with Turner Land Surveyors to verify the corner pins, side lines and stakes and he confirmed we had in fact encroached into my neighbor's yard by approximately 12-16 inches. Apparently, the front left aluminum pin that we used as a starting reference point that was found 8 inches below surface had been moved by someone approximately 12-16 inches inside the actual property line. Based on the depth of the pin, the relocation of the pin occurred many years ago. Because this pin was in the wrong location, our measurements were off by this same amount. I was notified of this fact on Friday, February 10, 2022 by Jason Turner and I promptly called the fence installer who returned on February 15, 2022 and proceeded to remove the fence and cut the concrete landing so that the fence could be reinstalled ensuring that no part of the fence or concrete landing was on the neighbor's property. They did the job very carefully and expeditiously. The result is that the entire fenced area was moved in over approximately 16 inches and the concrete landing cut so that the remaining concrete area is now only 6 feet by 13 feet. After the fence was reinstalled, the installer did a great job returning the one foot strip back to nearly its original condition as evidenced by photo attached.)

One unfortunate fact of the home is that there has been substantial water intrusion into the crawl space as a result of foundation and ground water coming into the crawl space between my home and the home located at 36 Carmichael Street. Recent heavy rains contributed to 10 inches of water standing in the crawl space which represented major safety, structural and health issues. In an effort to correct this problem, I had the entire right side of the home (facing the home from the street) dug up, waterproofed, had

a French drain installed and dirt replaced. As a means to keep the water away from the foundation, it was further suggested by the contractor that I have concrete poured against the house (along the areas that had the most water intrusion) and sloped away from the home and toward the rear of the property. Because the houses (34 & 36 Carmichael) sit so close to the property line, there was really not sufficient room to regrade the side yard without displacing water back onto my neighbor's yard. Because the side yard gets very little sun, it tends to stay muddy and slippery. I actually slipped and fell as a result of the slick mud and nearly broke my arm after a heavy rain storm. Since the 3 feet wide wooden steps previously mentioned were constructed without a concrete landing, and had wood to earth contact (no concrete whatsoever), we decided to extend the concrete landing at least to the bottom step. Because we also had intended to be able to safely walk through the area to the front yard, we extended the landing area to the inside of the fence thus allowing a walk path big enough for one person to be able to safely exit the area as well as wheel a garbage can. See photo #3 and #4. This brought the concrete area originally out 7 feet 6 inches from my house. As mentioned earlier once we realized that the fence was encroaching, the fence was repositioned and the concrete was cut and removed so that the remaining concrete area now only extends 6 feet from my home. Since we also intended to also use the area for our dogs during periods of rain, we decided to extend the concrete landing 9 feet toward the back of the home to reduce mud. The concrete landing was originally 7 feet 6 inches wide x 13 feet in depth but now measures only 6 feet x 13 feet. (See photo attached). I was under the impression that as long as the extended landing area was completely contained within the fenced area and unseen from the

outside of the fence (i.e. from neighbor's yard or front) that the extension of the concrete landing would be permissible. As evidenced by photo #5, the concrete landing cannot be seen from the outside and represents no aesthetic, safety or encroachment issues whatsoever to our neighbor at 36 Carmichael Street. No structures of any kind will be constructed on the concrete landing area and this concrete landing area will serve to provide a safe exit route from our residence in case of a fire.

Application of the ordinance and the 5 foot set back requirement would represent additional financial hardship to be able to remove any concrete as well as making the area much less safe for pedestrian traffic when walking our dogs when the yard is wet and muddy. Having to remove 83% (65 square feet) of the landing area will actually make exiting the home and fenced area much less safe in the event of a necessary quick exit in the event of a fire or physical threat as we will have to exit the gate area without the benefit of a smooth and safe surface to walk on to get to the front of the home. The current extended concrete landing allows for sufficient structural support for the wooden steps, adequate storage space for one trash can, additional area for our two dogs to stand so that they do not have to stand in mud and safe passage through the gate into the front yard. Having to comply with a five foot setback would create severe negative impact or consequence for all of those activities and enjoyment of the property. As you can see from the photo most of the fenced in area is pine strawed covered ground and is not concreted.

Question 2. What is the existing zoning of the property, including any previously approved modifications, conditions, or proffers?

Answer: Residential

Question 3: What are the special conditions, circumstances or characteristics of the land, building or structure that prevent the use of the land in compliance with the requirements of the Ordinance?

Answer: Because the two neighboring residences are so close to the property line, the side yard close to my home stays wet and muddy making it a safety hazard. The modified concrete landing now only extends 6 feet from my residence (approximately 4 inches inside the property line) and in order to comply with the 5 feet requirement, 83% of the newly installed concrete landing would need to be removed as well as the bottom three wooden steps. Removing the three steps and concrete under the three wooden steps would make the steps unpassable and non-compliant with safety and building codes and create a major safety hazard.

Question 4: What is the particular hardship that would result if the specified provisions or requirements of the Ordinance were to be applied to the subject property?

Answer: Removing the smooth concrete landing area could create a trip hazard if pavers or alternative materials were required to be placed on the ground. Because the side yard is so poorly lit, walking to the backyard would be much more dangerous at night time to be able to access the rear yard for our dogs. My wife and i would be

more likely to slip and fall while trying to escort the dogs to and from their “potty” area. Complying with a five-foot requirement would mean that the majority (over 80%) of the remaining concrete pad that was installed recently to assist with ground water runoff issues and water control would need to be removed and as a result possibly create additional water intrusion issues for me in the future. This would only leave a 1-foot-wide strip of concrete against my home.

Question 5: What is the minimum extent to which It would be necessary to vary the requirement of the Ordinance in order to permit the proposed construction on, or use of the property?

Answer: The side setback requirement of five feet would need to be waived or considered not applicable to this specific instance as the concrete landing area completely contained within our fenced is for can storage, pet purposes and safe pedestrian access to the front yard. I would respectfully suggest that the small concrete area does not meet the generally accepted definition of a “patio, paved terrace or deck”. The intent is not to create a gathering area for socializing. Because the area is so small there is very little room for any outdoor living. The current open concrete apron area is only 9 ft x 6ft and doesn’t allow for sufficient sitting area in order to not obstruct access to the rear yard. You can only fit one chair in the space without blocking the walk space and I would suggest that the lack of sitting space prohibits the space from being what most would consider a “patio” area. (See photo of fenced area.) No structure, plumbing, or utilities will ever be installed in or on the concrete landing area. I would think that the intent of the original

ordinance was not to prohibit the installation of a concrete landing area and apron sidewalk such as this but to specifically prohibit the construction of offensive and intrusive improvements that could interfere with the enjoyment and use of a neighboring property owner. A typical “patio” would represent an area where a social gathering could occur thus creating potential for noise and disturbance. As you can clearly see from the evidence presented, the concrete landing area is so small that it represents no such threat and is an attractive improvement to the property while serving very useful and practical purposes such as improved pedestrian ingress and egress and water run off control.

Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Ordinance. Allowing this existing concrete area to remain will not impact any neighbor as it cannot be seen from outside of the fenced area, does not encroach into the neighbor’s property and does not represent any safety issues whatsoever. If anything the fenced area and concrete landing actually improves the value of the subject property thus producing indirect financial benefit for my neighbors.

Eric Smith

Owner, 34 Carmichael Street Newnan, Ga 30263

Chris Cole

From: Jerri White <littlepeepsnursery@gmail.com>
Sent: Friday, February 4, 2022 9:30 AM
To: Chris Cole
Subject: Encroachment into 36 Carmichael Street

Mr. Cole,

Thank you for your response. I want to clarify a statement I made in an email yesterday. I stated that we are vehemently opposed to the patio which violates the city codes. We are opposed to any part of the patio that violates the code that prohibits such within 5 feet of the property line. We acknowledge the right of property owners to exist within the boundaries of the established City of Newnan codes.

Thank you,

Jerri White
Carlton McKoy

On Thursday, February 3, 2022, Chris Cole <ccole@cityofnewnan.org> wrote:

Ms. White,

Good afternoon. Thank you for the information.



Chris Cole

Planner

Main: (770) 254-2354

Desk: (678) 673-5488

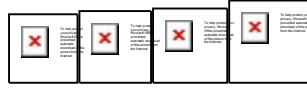
ccole@cityofnewnan.org

<https://link.edgepilot.com/s/eb6f22a7/cmawuYFMPUpLSxrvUPq5g?u=http://www.cityofnewnan.org>

[City of Newnan](#)

[25 LaGrange Street](#)

Newnan, Georgia 30263



From: Jerri White <littlepeepsnursery@gmail.com>

Sent: Thursday, February 3, 2022 2:44 PM

To: Chris Cole <ccole@cityofnewnan.org>; Tracy Dunnavant <TDunnavant@cityofnewnan.org>; Matt Murray <mmurray@cityofnewnan.org>; George Alexander <GAlexander@cityofnewnan.org>

Subject: Re: Encroachment into 36 Carmichael Street

In addition to the encroachment, the patio is causing the flow of water from 34 Carmichael Street to divert into my property. This issue has never been a problem before the patio was installed.

On Thursday, February 3, 2022, Jerri White <littlepeepsnursery@gmail.com> wrote:

Thank you,

Jerri White

Carlton McKoy

Chris Cole

From: Jerri White <littlepeepsnursery@gmail.com>
Sent: Thursday, February 3, 2022 2:18 PM
To: Chris Cole; Tracy Dunnavant; George Alexander; Matt Murray
Subject: Encroachment into 36 Carmichael Street
Attachments: 85381287-3974-4CDD-A0B2-8F14BEEAE029.jpeg;
F642141E-0738-471E-86A4-387D4DD7BF36.jpeg

City Planning and Zoning Department:

I'm sending some pictures of the surveyor's work that shows the encroachment of the 34 Carmichael Street fence and patio into my property, 36 Carmichael Street. We are vehemently opposed to the patio which violates the city codes. More pictures will follow as the file size per email is limited,

Thank you,

Jerri White