

City of Newnan Georgia



Board of Zoning Appeals

Agenda Book

February 1, 2022



City of Newnan
Board of Zoning Appeals

Agenda for February 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 January 4, 2022 Board of Zoning Appeals Meeting
TAB #2	Variance Request – 43 Richard Allen Drive – 2022-02
	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
January 4, 2022
10:00 a.m.

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

Board Members Absent: Frank Flournoy, Sally Hensley

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

CALL TO ORDER

Chairman Walton 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 Walton asked the Board if they had reviewed the minutes for the December 7, 2021 meeting. After no questions or discussion, Parker motioned to accept the minutes. Edge seconded.

MOTION CARRIED (5-0)

Public Hearing – Variance Request – 50 Jackson Street – 2022-01

Chairman Walton opened a public hearing on a variance request by John Paulk

Chris Cole stated that the applicant is proposing to construct three new structures on the subject property which include an accessory residential apartment, a carport, and a garage. The applicant is requesting a variance for the 1,155 square foot accessory apartment that exceeds the maximum 750 square feet allowed to accommodate the applicant's father-in-law due to health reasons. Cole indicated that the applicant is requesting the increase in square footage to be able to provide a guest house that is handicap accessible as well as to have a second bedroom to provide a place for a caregiver to stay in the future. He added that the proposed guest cottage will replace the previous four-car carport and storage shed that was removed in 2020 as well as the current tool shed. The building will be built and designed to match the period and historical architecture of the surrounding homes and also match the

scale of their current home. Cole discussed the drainage issues and how the project would improve the situation for all three neighbors. He closed by stating that staff recommended approval of the request.

The applicant, John Paulk, was sworn in by Brad Sears. Paulk provided details for his request and added that he would be going with vertical siding to match the neighborhood.

Chairman Walton asked the Board if there were any questions for the applicant. Hearing none, Chairman Walton asked for a motion.

Smith made a motion to approve the variance request for the 1,155 square foot accessory apartment. Parker seconded.

MOTION CARRIED (5-0)

Variance Request – 43 Richard Allen Drive – 2022-02 - (Applicant is requesting a continuance to the February meeting)

Tracy Dunnavant informed the Board that the applicant is asking for this item be continued to the February meeting.

Edge made a motion to continue the Variance Request to the February meeting. Lovell seconded.

MOTION CARRIED (5-0)

New Business

Tracy Dunnavant informed the Board that they would need to appoint a Chair and Vice Chair.

Parker made a motion to elect Skin Edge as Chairman. Smith seconded.

MOTION CARRIED (5-0)

Parker made a motion to elect Kris Lovell as Vice Chair. Edge seconded.

MOTION CARRIED (5-0)

ADJOURN

Edge motioned to adjourn the meeting at 10:11 a.m. Smith seconded.

MOTION CARRIED (5-0)

Chairman Skin Edge



City of Newnan, Georgia – Board of Zoning Appeals

Date: February 1, 2022

Application Number: 2022-02

Agenda Item: Variance request – 43 Richard Allen Drive

Prepared and Presented by: Dean Smith, Planner

Purpose: To hear a request for a variance to increase the height of a proposed fence in the front yard from the regulation height of 3 feet to 6 feet and a variance to reduce the setback for a residential accessory structure (shed) from 5 feet to 0 feet from a primary structure.

Property Location: 43 Richard Allen Drive, Newnan, GA 30263
Tax Parcel No.: N07-0002-002

Applicant/Property Owner: Jeremy Emery
43 Richard Allen Drive, Apt. A
Newnan, GA 30263

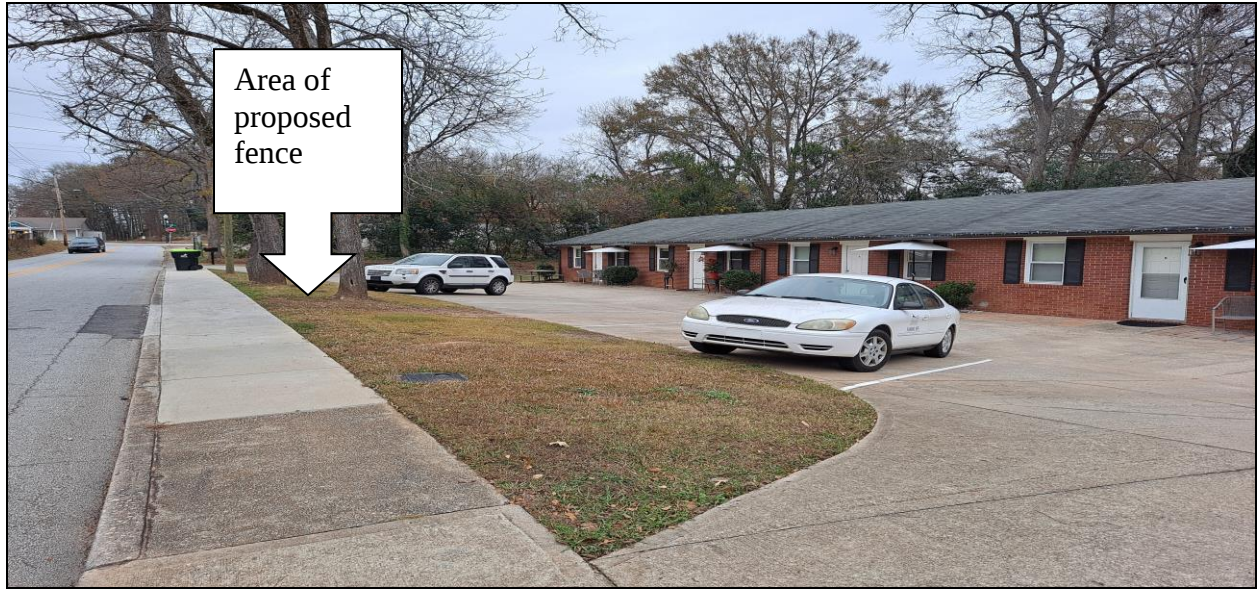
Zoning: Urban Residential Dwelling District-Historical & Infill (RU-I)

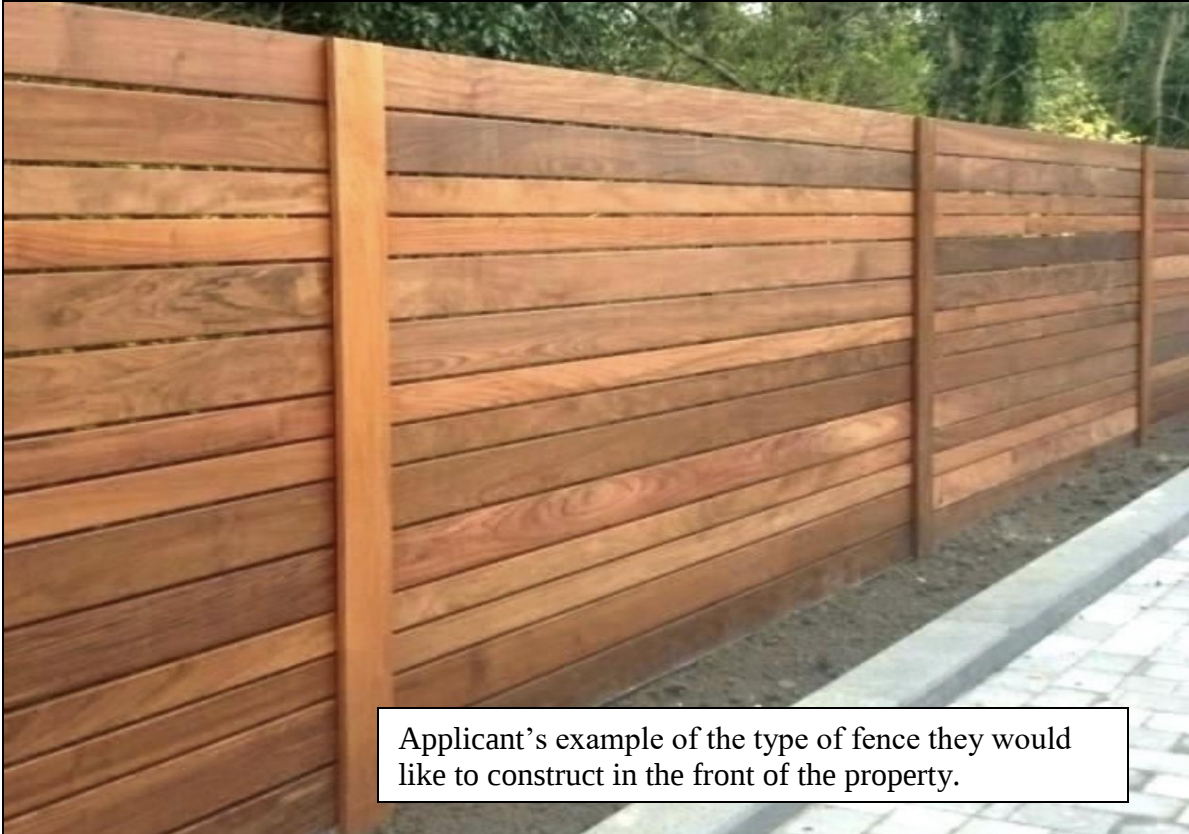
Present Use: Multi-Family Residential

Proposed Use: Multi-Family Residential

Pertinent Regulations: Article 3, Section 3-6 of the Zoning Ordinance.

Applicant's Position: "...I would like to construct a 6 foot privacy fence along the street facing portion of the property [Street front yard side]...." The applicant has stated that the reason for the higher fence is to serve as a deterrent to crime that has been committed on the subject property. "...The reason we would like a privacy fence is safety....There has been history of gunfire, most recently shots were fired right out on New Years Eve, and I think a wood fence would be a solid barrier to any stray bullets...I was also hoping the privacy fence would deter people from using the driveway as a turnaround, I was clipped by a speeding car when I stepped out of my apartment and my 3 year old daughter was nearly hit...





“...Idea of a wall between the driveways, as you can see it really discourages turning around...”



“...This fence is around 14 dent street. It’s dilapidated and I would make sure to use much more quality materials and treat them so they would look beautiful and be durable.....”



Another example of an apartment complex in nearby area with a 6 foot fence in front of complex.



Bases for Granting Variance

The Board of 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.

Options

- A. Approve the variances
- B. Approve the variances, with conditions
- C. Deny the variances

Recommendation

There are four apartment units that comprise the current structure which, according to tax records, was built in 1984. The existing use and structure of apartments in the RU-I zoning district is a legal, non-conforming use. The existing neighborhood is a mixture of single-family detached residential structures, multi-family residential structures, commercial uses and a City Park.



The proposed fence extends approximately 92 feet along a grassed area in front of the apartment units. There is no proposal to gate or enclose the two ingress/egress points for the apartments.

The subject property is also in close proximity to commercial uses and a major road. The property is located on a pedestrian-friendly path for residents in the neighborhood to access the commercial establishments nearby. Sidewalk for pedestrian traffic is only on the applicant's property along this section of Richard Allen Drive. This feature invites more foot traffic adjacent to the applicant's property. Furthermore, on further down Richard Allen Drive are some older, existing rental property units with fences in the front yards over 3 feet tall.

Fence Height Variance - The desire of the applicant to reduce the required fence height is not unreasonable and should present no impact upon the neighbors. Furthermore, an increase to the required fence height will pose no danger to future enforcement of the Ordinance, as the intention of the Ordinance is not to irrationally prohibit reductions of required fence heights.

Staff recommends Option B, approving the variance with a condition, based upon the following standards:

- Such conditions are peculiar to the particular piece of such property involved.
- 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.
- Relief from the Ordinance would not cause substantial detriment to the public good or impair the purposes and intent of the Ordinance.

The condition would be that the fence be installed outside of the public right-of-way and that 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. The City understands the applicant's desire for a wood privacy fence and that is a discussion point for the Board to consider.

Accessory Structure Setback Variance - The desire of the applicant to have a shed attached to the structure is not unreasonable and should present no impact upon neighboring properties.

Staff recommends Option B, to approve the variance with a condition that the applicant consult with the Building Department and obtain approval on the shed construction, and based upon the following standard:

- 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, GEORGIA

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

APPLICATION FOR VARIANCE

Name of Applicant Jeremy Emery
Mailing Address 43 Richard Allen Dr. Apt. A. Newnan GA 30263
Telephone 808-462-7060 E-Mail: Emery Group LLC@gmail.com
Property Owner (Use back if multiple names) Jeremy + Talita Emery
Mailing Address 43 Richard Allen Dr. Apt A.
Telephone 808-462-7060
Address/Location of Property 43 Richard Allen Dr. Newnan GA 30263
Tax Parcel No: N07 0002 002
Present Zoning Classification: Multi family
Present Land Use Quadplex
Intended Use same

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) _____ of the Zoning Ordinance/Subdivision Regulations: _____

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?
Front Fencing height
Sheds at least 5 Feet away from structure
2. What is the existing zoning of the property, including any previously approved modifications, conditions, or proffers?
Multi family

Application For Variance

City of Newnan, Georgia

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?

Crime in the neighborhood.

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?

potential property damage / bodily harm / theft

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?

I would like to construct a 6 FT privacy fence along the street facing portion of the property and build a shed attached to the building.

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.~~

Application For Variance

City of Newnan, Georgia

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.

Jeremy Emerus

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

[Signature]

Signature of Applicant(s)

FOR OFFICIAL USE ONLYRECEIVED BY Dean SmithDATE OF FILING 11/29/21BZA MEETING DATE 1/4/22

DATE OF NOTICE PUBLICATION _____

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 Jeremy Emery

Telephone Number 808-462-7060

Address of Subject Property 43 Richard allen Dr
Newnan GA 30263

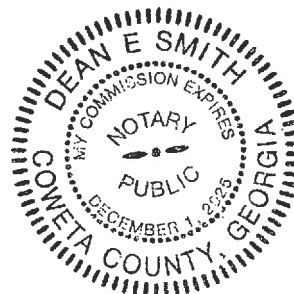
I swear that I am the owner of the property which is the subject matter of the attached application, as it is shown in the records of Coweta County, Georgia.


Signature of Property Owner

Personally appeared before me

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


Notary Public



(Affix Raised Seal Here)

11-29-21
Date





DOCH 004801
FILED IN OFFICE
4/1/2019 10:50 AM
BK:4831 PG:515-516
CINDY G BROWN
CLERK OF SUPERIOR COURT
COWETA COUNTY

Cindy G. Brown

REAL ESTATE TRANSFER TAX
PAID: \$220.00 ✓

FT-61 038-2019-001242

Record and Return to:
✓ Lueder, Larkin & Hunter, LLC
1933 Highway 34 E
Newnan, GA 30265
File No.: GA-NW-19-0049-PUR

LIMITED WARRANTY DEED

STATE OF GEORGIA
COUNTY OF COWETA

THIS INDENTURE, made this 15th day of March, 2019, between

✓ Paul S Guillot and Barbara Guillot

as party or parties of the first part, hereinafter called Grantor, and

✓ Jeremy D Emery and Talita F Emery

As Joint Tenants with Rights of Survivorship and Not as Tenants in Common

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 00/100'S (\$10.00) Dollars and other good and valuable consideration 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, the following described property, to wit:

All that tract or parcel of land lying and being in the County of Coweta, City of Newnan, Georgia, formally known as 43 Duncan Street and presently known as 43 Richard Allen DR. according to the system of numbering presently used in the City of Newnan, and being more particularly described as follows:

Begin at an iron pin on the easterly right of way of Duncan Street at a point 185.50 feet southerly as measured along the easterly side of Duncan Street with the southerly right of way of Temple Ave. and from said beginning point run thence South 83 degrees 32 minutes 00 seconds East 115 feet to an iron pin set; thence run South 7 degrees 34 minutes 00 seconds West 159.50 feet to an iron pin set, thence run North 82 degrees 55 minutes 00 seconds West 110.05 feet to an iron pin

212
DL

Subject to all easements and restrictions of record.

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

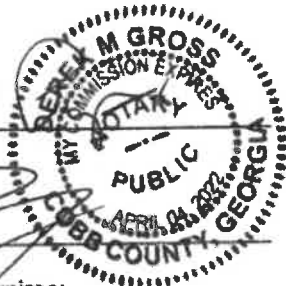
AND THE SAID GRANTOR will warrant and forever defend the right and title to the above described property against the claims of all persons owning, holding, or claiming by, through and under the said Grantor.

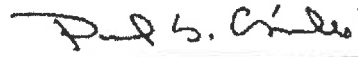
IN WITNESS WHEREOF, Grantor has hereunto set Grantor's hand and seal this day and year first above written.

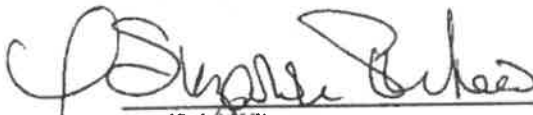
Signed, sealed and delivered
in the presence of:

GRANTOR:


Unofficial Witness


Notary Public
My Commission Expires:
[Notary Seal]


Paul S Guillot (SEAL)


Unofficial Witness


Barbara Guillot (SEAL)


Notary Public
My Commission Expires:
[Notary Seal]

