



**STAFF REVIEW AND RECOMMENDATION**

**Variance Case #:** V2020-02                      **Legistar #:** 20191148

**Board of Zoning Appeals Hearing:** Monday, January 27, 2020 – 6:00 p.m.

**Property Owner:** Terry Kemp & Christy Kemp  
102 Payton Loriane Dr  
Powder Springs, GA 30127

**Applicant:** Same as owner.

**Address:** 198 Chicopee Drive

**Land Lot:** 10880                      **District:** 16                      **Parcel:** 0740

**Council Ward:** 4B                      **Existing Zoning:** R-3 (Single Family Residential – 3units/acre)

**Special Exception / Special Use / Variance(s) Requested:**

1. Variance to reduce the front yard setback from 30 ft. to 26 ft. [*§708.03 (H)*]
2. Variance to reduce the rear yard setback from 30 ft. to 23 ft. [*§708.03 (H)*]
3. Variance to allow accessory structures closer to the right-of-way than the principal structure as shown on submitted plan. [*§708.03 (F.1)*]

**Statement of Fact**

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

**Criteria:**

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.

3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

**PICTURES**



**198 Chicopee Drive – subject area to be expanded**



**Fenced-in pool area with landscape**



**Piped stream with brick wall**



**Rear of subject property**

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**Recommended Action:**

**Approval.** The owner and applicant, Terry and Christy Kemp, wish to improve and expand the existing structure at 198 Chicopee Drive. The subject property lies at the corner of Chicopee and Etowah Drive. The property is zoned R-3 (Single Family Residential – 3units/acre) and is 0.588 acres in size. All adjoining properties are also zoned R-3 and the properties to the north, across Chicopee Drive, are zoned OI (Office Institutional).

The owners wish to add an attached garage to the front of their house. However, the property contains a piped stream and corresponding 20-foot drainage easement that restricts the development of permanent structures. In order to avoid the easement, the proposed two-car garage would be angled and attached to the existing structure. The garage would encroach by 4 feet into the front yard and therefore, the request would be to reduce the front yard setback from 30 feet to 26 feet.

Although the only expansion is the garage – the owners wish to improve the property with partial demo in the rear and interior renovation. The proposed improvements would exceed 50% of the building’s value – therefore, all development standards must comply with current code. Please note the existing structure encroaches into the rear building setback. The entire rear portion of the house is in the rear setback; however, the closest point only encroaches by approximately 7 feet.

Further, there is an existing pool and pergola east of the existing structure that shall remain. According to the Zoning Ordinance – it states, “*in cases of corner lots, the accessory structure may not be closer to any right-of-way than the principal building*”. The accessory structures are closer towards Etowah Drive than the principal building; therefore, a variance to remain in its current location is necessary.

With the proposed garage, the owners also wish to reconfigure the driveway/access to the property. The proposed driveway would allow for vehicles to turnaround on the property before exiting on to Chicopee Drive. Many surrounding properties have been recently redeveloped or renovated, so the proposed improvements will not be detrimental, but will complement the area; ***therefore, staff recommends approval.***



Department of Development Services
205 Lawrence Street
Marietta, GA 30060
Phone: 770-794-5440

APPLICATION FOR VARIANCE OR APPEAL

(Owner/Applicant/or Representative must be present at all public hearings)

(NOTE: CORRESPONDENCE IS HANDLED VIA EMAIL UNLESS OTHERWISE REQUESTED)

For Office Use Only:

Application #: V 2020-02 Legistar #: 20191148 BZA Hearing Dt: 1-27-20
City Council Hearing Dt (if applicable) #: - PZ #: 19-526

This is a variance/appeal application for:

X

Board of Zoning Appeals

City Council

Owner's Name Terry & Christy Kemp

EMAIL Address: caht94@bellsouth.net

Mailing Address 102 Payton Loriane Dr Zip Code: 30127 Phone Number 678-773-2290

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant: \_\_\_\_\_

EMAIL Address: \_\_\_\_\_

Mailing Address \_\_\_\_\_ Zip Code: \_\_\_\_\_ Phone Number \_\_\_\_\_

Address of subject property: 178 Chicopee Dr. Date of Acquisition: 8/29/2019

Land Lot (s) 10890 District 16 Parcel 0740 Acreage .588 Zoned R-3 Ward 4B FLU: LDR

List the variance(s) or appeal requested (please attach any additional information):

Setbacks for garage

Required Information

- 1. Application fee (\$250)
2. Completed notarized application. The original application must be submitted with ALL original signature(s) - Copies of the application or signature(s) will NOT be accepted.
3. Copy of the deed that reflects the current owner(s) of the property.
4. Letter describing the reason for the variance request, stating why strict adherence to the code would result in a particular hardship (as distinguished from a mere inconvenience or desire to make more money).
5. Site plan - drawn to scale. Site plans must illustrate property lines and all relevant existing information and conditions in addition to proposed additions or modifications within the referenced property lines of the tract(s).
Copies Required: One (1) - (8 1/2" x 11") -or- (11" x 17") drawn to scale.
Optional Additional Plat size: (24"x 36"). If providing (24"x 36") then 25 copies REQUIRED.
6. Copy of current tax bill showing payment or documentation certified by the City of Marietta Tax Office.

Note: The Department of Development Services reserves the right to obtain additional information that reasonably may be required in order that an informed decision may be made.

OVER

**CAMPAIGN CONTRIBUTIONS**

The Owner and Applicant herein certify that he/she  has  has not made campaign contributions or gifts aggregating \$250.00 or more to the Mayor, any member of Council or any member of the Board of Zoning Appeals within the two (2) years preceding the filing of this application.

TJK  
Signature of Owner

\_\_\_\_\_  
Signature of Applicant

Terry Kemp  
Print Name

\_\_\_\_\_  
Print Name

**FINANCIAL INTEREST**

The Applicant herein certifies that he/she  has  has not a financial interest in the property which is ten percent (10%) or more.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature of Applicant

**APPLICANT CERTIFICATION**

- The Applicant certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Applicant's knowledge and belief. Should any portion not be true, then the application may be rejected.
- Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.

TJK  
Signature of Applicant

12/10/2019  
Date

Terry Kemp  
Please Print

**OWNER CERTIFICATION**

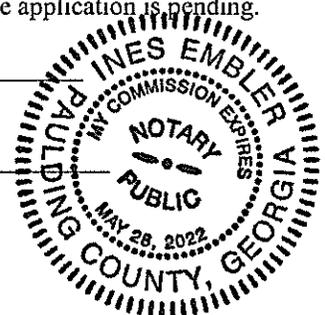
- The Owner certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Owners's knowledge and belief. Should any portion not be true, then the application may be rejected.
- Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.
- The Owner hereby gives permission to enter on the property for inspection during the time application is pending.

TJK  
Signature of Owner

Terry Kemp  
Please Print

102 Payton Loriane Dr.  
Address

12/10/2019  
Date



Signed, sealed and delivered in the presence of:

[Signature]

My Commission Expires: 5-28-22

Note: Owner, Applicant or Representative must be present at meeting in order for case to be heard.

The requested Application for Variance results from an effort to update the existing structure to include a garage. As currently constructed, 198 Chicopee Drive has no such amenity. Below is a view of the home as it stands today.

Current



The desired location for the attached two car garage is the left side (when viewed from Chicopee Dr.) of the current home. Below is an artistic rendering showing only the side location and approximate angle the garage would have. This addition can also be viewed on the attached Site Plan

Artistic Rendering Showing Side Location and Approximate Angle



This Site Plan places a corner of the garage approximately 5-10 feet into the 30-foot Chicopee Dr. setback while also avoiding the 10-foot buffer for the underground pipe in the vicinity. Details of this area can be seen on the Site Plan provided with the application.

Additional setback issues within the property will be addressed with the following actions:

- A room addition, approximately 28' x 18', currently on the rear of the home will be demolished. It is marked as "Portion of Structure to be Removed" on the attached Site Plan and attached original Property Survey.
- An outbuilding, approximately 10' x 8', currently standing just off the rear property line will be demolished. It is not shown on the attached Site Plan but can be viewed on the attached original Property Survey.

All other setback issues not specifically addressed in this letter will be left and hopefully approved by the Application for Variance.

**TO: Marietta Daily Journal**  
**FROM: City of Marietta**  
**RUN DATE: January 10, 2020**

**CITY OF MARIETTA  
PUBLIC NOTICE OF VARIANCES**

The City of Marietta hereby gives notice that a public hearing will be held to give consideration to the following requests. The Board of Zoning Appeals will consider the following requests on **Monday, January 27, 2020 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

**V2020-02 [VARIANCE] TERRY & CHRISTY KEMP** are requesting variances for property zoned R-3 (Single Family Residential – 3 units/acre), located in Land Lot 1088, District 16, Parcel 0740, 2<sup>nd</sup> Section, Marietta, Cobb County, Georgia, and being known as 198 Chicopee Drive. Variance to reduce the front yard setback from 30 feet to 26 feet; variance to reduce the rear yard setback from 30 feet to 23 feet; variance to allow accessory structures closer to the right-of-way than the principal structure as shown on submitted plan. Ward 4B.

A description and plat of the property sought for the variances are on file in the Planning and Zoning Office, City Hall, and are available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto. You may also review the property file at [www.mariettaga.gov](http://www.mariettaga.gov) and enter the case # in the search box.

For additional information please call the Planning and Zoning Office (770) 794-5669.

**Accessibility to Meetings:** If you believe you may need the City/BLW to provide special accommodations in order to attend/or participate in any of the above meetings, please call ADA Coordinator, at 770-794-5558 no later than 48 hours before the date of the above meeting.

City of Marietta  
205 Lawrence Street  
Marietta, Georgia 30060



# Variance



Address	Parcel Number	Acreage	Ward	Zoning	FLU
198 CHICOPEE DR	16108800740	0.613	4B	R3	LDR

Property Owner:	Terry & Christy Kemp	<b>Zoning Symbols</b> - - - Railroads City Limits Cobb County Pockets NA R1 - Single Family Residential (1 unit/acre) R2 - Single Family Residential (2 units/acre) R3 - Single Family Residential (3 units/acre) R4 - Single Family Residential (4 units/acre) RA4 - Single Family Residential - Attached RA6 - Single Family Residential - Attached RA8 - Single Family Residential - Attached MHP - Mobile Home Park PRD-SF - Planned Residential Dev. Single Family RM8 - Multi Family Residential (8 units/acre) RM10 - Multi Family Residential (10 units/acre) RM12 - Multi Family Residential (12 units/acre) RHR - Residential High Rise PRD-MF - Planned Residential Dev Multi Family NRC - Neighborhood Retail Commercial CRC - Community Retail Commercial RRC - Regional Retail Commercial PCD - Planned Commercial Development LI - Light Industrial HI - Heavy Industrial PID - Planned Industrial Development MXD - Mixed Use Development CBD - Central Business District OIT - Office Institutional Transitional LRO - Low Rise Office OI - Office Institutional OS - Office Services OHR - Office High Rise
Applicant:		
BZA Hearing Date:	01/27/2020	
Acquisition Date:		
Case Number:	V2020-02	
City of Marietta Planning & Zoning		

- Proposed -

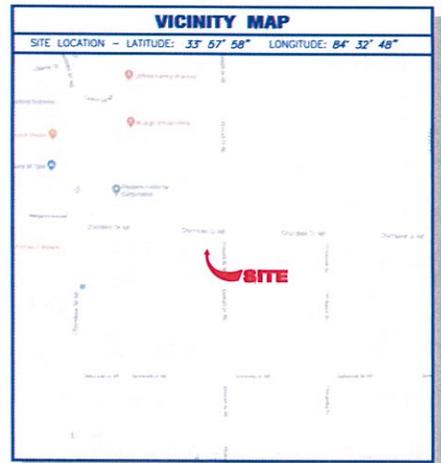


**Know what's below.**  
**Call before you dig.**  
**Dial 811**  
 Or Call 800-282-7411

**IF YOU DIG**

**LEGEND**

- STANDARD ABBREVIATIONS**
- AC AIR CONDITIONER
  - CI CURB INLET
  - CMF CORRUGATED METAL PIPE
  - CPED DROP INLET CONCRETE PIPE
  - DIP DUCTILE IRON PIPE
  - DWCB DOUBLE WING CATCH BASIN
  - FENCE FENCE
  - FND FOUND
  - JB JUNCTION BOX
  - OTP OPEN TOP PIPE
  - PM POWER METER
  - POB POINT OF BEGINNING
  - POC POINT OF COMMENCING
  - RPC REINFORCED CONCRETE PIPE
  - RBR IRON REINFORCING BAR
  - S/STRIB SET
  - SMH SEWER MANHOLE
  - SS SANITARY SEWER
  - CB CATCH BASIN
- STANDARD SYMBOLS**
- POWER POLE
  - GUY WIRE
  - POWER LINE
  - LIGHT POLE
  - ELECTRIC TRANSFORMER
  - GAS VALVE
  - GAS METER
  - WATER VALVE
  - WATER METER
  - FIRE HYDRANT
  - PHOTO POSITION INDICATOR
  - TREE POSITION INDICATOR



**GENERAL NOTES**

THIS SURVEY HAS BEEN PREPARED FOR THE EXCLUSIVE USE OF THE PERSON OR ENTITIES NAMED HEREON. NO EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE INFORMATION SHOWN HEREON IS TO BE EXTENDED TO ANY PERSONS OR ENTITIES OTHER THAN THOSE SHOWN HEREON.

THIS SURVEY HAS BEEN PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE INSPECTION REPORT. EASEMENTS OR OTHER ENCUMBRANCES MAY EXIST ON PUBLIC RECORD BUT NOT BE SHOWN HEREON.

THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA BASED ON THE FLOOD INSURANCE RATE MAP FOR THIS AREA. THE MAP NUMBER FOR THIS AREA IS 13067C0108L AND THE DATE OF SAID MAP IS MARCH 4, 2013. THIS DETERMINATION WAS MADE BY GRAPHICALLY DETERMINING THE POSITION OF THIS SITE ON SAID FIRM MAPS UNLESS OTHERWISE NOTED.

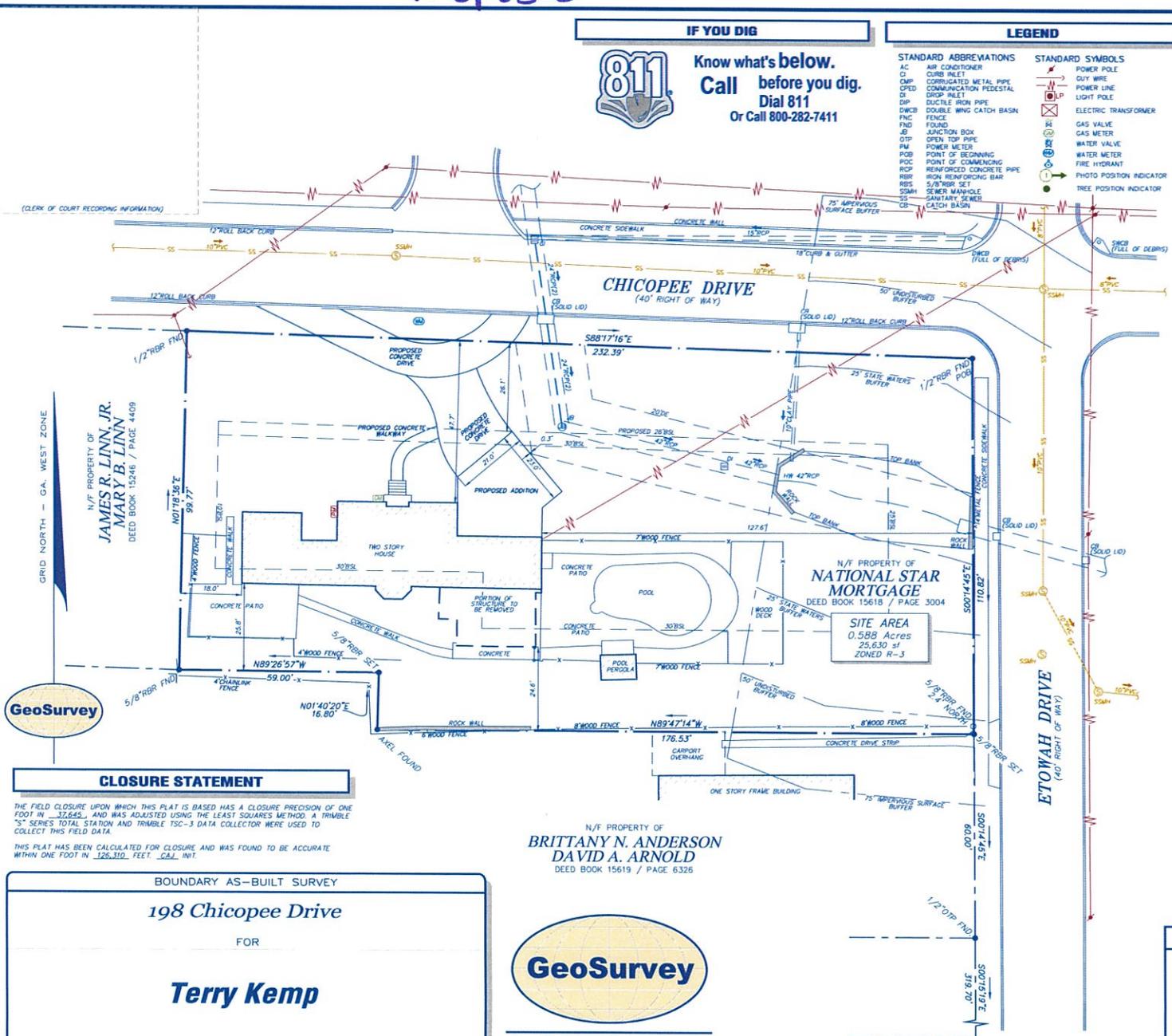
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NO ZONING REPORT OR ZONING LETTER WAS PROVIDED TO THE SURVEYOR. THE SITE IS ZONED "R-3" (SINGLE FAMILY RESIDENTIAL DISTRICT) AS SHOWN ON THE ZONING MAP OF THE CITY OF MARIETTA. THE MINIMUM YARD SETBACKS ARE: FRONT - 30 FEET; SIDE - 25 FEET (STREET) INTERIOR SIDE - 10 FEET; AND REAR - 30 FEET.

PLEASE NOTE: ZONING AND SETBACKS SHOULD BE CONFIRMED AND VERIFIED BY PLANNING AND ZONING PRIOR TO DESIGN OR CONSTRUCTION ACTIVITIES.

RIGHT-OF-WAY LINES SHOWN ON THIS SURVEY THAT ARE NOT ACTUAL BOUNDARIES OF THE SUBJECT TRACT(S) ARE DEPICTED GRAPHICALLY AND ARE SHOWN APPROXIMATELY FOR INFORMATIONAL PURPOSES ONLY. SAID RIGHT-OF-WAY LINES SHOULD NOT BE UTILIZED FOR DESIGN PURPOSES.



**CLOSURE STATEMENT**

THE FIELD CLOSURE UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 32,645, AND WAS ADJUSTED USING THE LEAST SQUARES METHOD. A TRIMBLE "S" SERIES TOTAL STATION AND TRIMBLE TSC-3 DATA COLLECTOR WERE USED TO COLLECT THIS FIELD DATA.

THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND WAS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 326,310 FEET. C.A.L. INT.

BOUNDARY AS-BUILT SURVEY		198 Chicopee Drive	
FOR		Terry Kemp	
GS JOB NO: 20196237	DRAWING SCALE: 1" = 20'	SURVEY DATE: 08-28-2019	
FIELD WORK: MN	CITY: MARIETTA STATE: GA	REVISIONS	
PROJ MGR: CAJ	COUNTY: COBB	1. 08/09/2019	Revised Buffers
REVIEWED: JRC	LAND LOT: 1088	2. 09/30/2019	Revised setbacks and Storm Pipe
DWG FILE: 20196237.dwg	DISTRICT: 16TH SECTION: 2ND		



Land Surveying • 3D Laser Scanning

1660 Barnes Mill Road  
 Marietta, Georgia 30062

Phone: (770) 795-9900  
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 Certificate of Authorization #LSF-000621



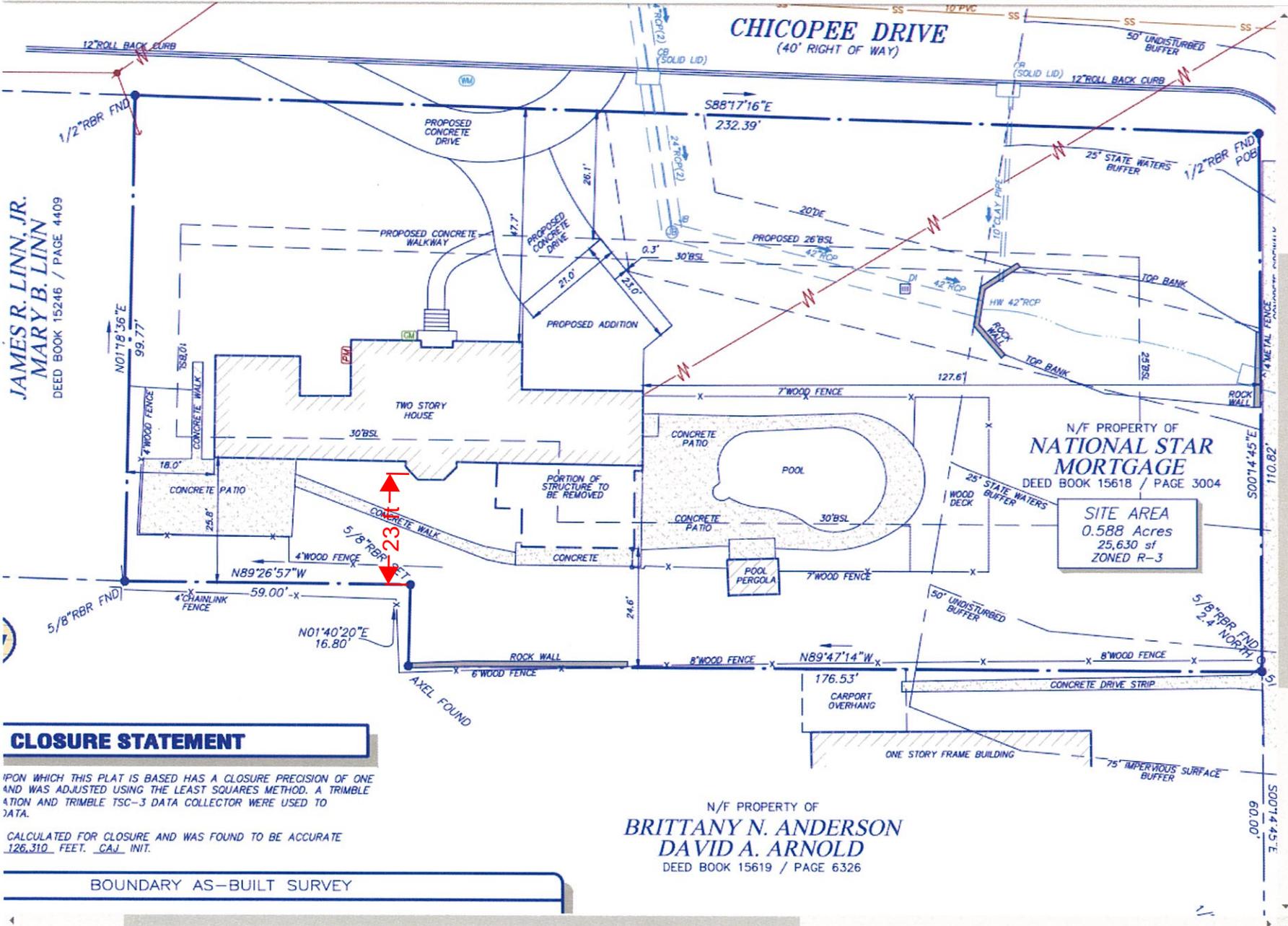
**CERTIFICATION FOR RETRACEMENT SURVEYS**

**SURVEYOR CERTIFICATION**

This plat is a retracement of an existing parcel or parcels of land and does not subdivide or create a new parcel or make any changes to any real property boundaries. The recording information of the documents, maps, plats, or other instruments which created the parcel or parcels are stated hereon. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. Section 15-6-67.

Craig A. Jennings  
 Georgia Registered  
 Land Surveyor # 3043

- Proposed -



JAMES R. LINN, JR.  
MARY B. LINN  
DEED BOOK 15246 / PAGE 4409

N/F PROPERTY OF  
**NATIONAL STAR MORTGAGE**  
DEED BOOK 15618 / PAGE 3004

**SITE AREA**  
0.588 Acres  
25,630 sf  
ZONED R-3

N/F PROPERTY OF  
**BRITTANY N. ANDERSON**  
**DAVID A. ARNOLD**  
DEED BOOK 15619 / PAGE 6326

**CLOSURE STATEMENT**

UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE AND WAS ADJUSTED USING THE LEAST SQUARES METHOD. A TRIMBLE 4700 AND TRIMBLE TSC-3 DATA COLLECTOR WERE USED TO OBTAIN DATA.

CALCULATED FOR CLOSURE AND WAS FOUND TO BE ACCURATE TO  $\pm 0.01$  FEET. CAJ INIT.

**BOUNDARY AS-BUILT SURVEY**

- Existing -

IF YOU DIG



Know what's below.  
Call before you dig.  
Dial 811  
Or Call 800-282-7411

LEGEND

STANDARD ABBREVIATIONS  
AC AIR CONDITIONER  
CI CURB INLET  
CMP CORRUGATED METAL PIPE  
CPED PEDESTAL  
DI DUCTILE IRON PIPE  
DWCB DOUBLE WING CATCH BASIN  
FNC FENCE  
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IB SANCTION BOX  
ITP OPEN TOP PIPE  
PM POWER METER  
POB POINT OF BEGINNING  
POC POINT OF COMMENCING  
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RBR IRON REINFORCING BAR  
RBS RATCHER SET  
SOMH SEMI MANHOLE  
SS SANITARY SEWER  
CB CATCH BASIN

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GAS METER  
WATER VALVE  
WATER METER  
FIRE HYDRANT  
PHOTO POSITION INDICATOR  
TREE POSITION INDICATOR

VICINITY MAP

SITE LOCATION - LATITUDE: 33° 57' 58" LONGITUDE: 84° 32' 48"



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PLEASE NOTE: ABOVE GROUND UTILITIES ARE SHOWN HEREON. NO UNDERGROUND UTILITIES WERE MARKED OR LOCATED.

THE DATUM FOR THIS SITE WAS ESTABLISHED UTILIZING GLOBAL POSITIONING SYSTEMS AND BASED ON POSITIONAL VALUES FOR THE VIRTUAL REFERENCE STATION NETWORK DEVELOPED BY EPOS SOLUTIONS. THE HORIZONTAL REFERENCE FRAME IS NORTH AMERICAN DATUM OF 1983(2011)-STATE PLANE COORDINATE SYSTEM OF GEORGIA-WEST ZONE. THE VERTICAL REFERENCE FRAME IS NORTH AMERICAN VERTICAL DATUM OF 1988. ANY DIRECTIONS OR DIMENSIONS SHOWN ARE A RECTANGULAR, GROUND LEVEL PROJECTION OF THE STATE PLANE COORDINATE SYSTEM.

NO ZONING REPORT OR ZONING LETTER WAS PROVIDED TO THE SURVEYOR. THE SITE IS ZONED "R-3" (SINGLE FAMILY RESIDENTIAL DISTRICT) AS SHOWN ON THE ZONING MAP OF THE CITY OF MARIETTA. THE MINIMUM YARD SETBACKS ARE: FRONT - 30 FEET; SIDE - 25 FEET (STREET) INTERIOR SIDE - 10 FEET; AND REAR - 30 FEET.

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DEED BOOK 15619 / PAGE 6326



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BOUNDARY AS-BUILT SURVEY

198 Chicopee Drive

FOR

Terry Kemp

GS JOB NO:	20196237	DRAWING SCALE:	1" = 20'	SURVEY DATE:	08-28-2019
FIELD WORK:	MN	CITY:	MARIETTA	STATE:	GA
PROJ MGR:	CAJ	COUNTY:	COBB		
REVIEWED:	JRC	LAND LOT:	1088		
DWG FILE:	20196237.dwg	DISTRICT:	16TH	SECTION:	2ND



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Phone: (770) 795-9900  
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www.geosurvey.com  
EMAIL: info@geosurvey.com  
Certificate of Authorization #LSF-000621

SEMINOLE DRIVE  
(RIGHT OF WAY LINE)

GRAPHIC SCALE



CERTIFICATION FOR RETRACEMENT SURVEYS

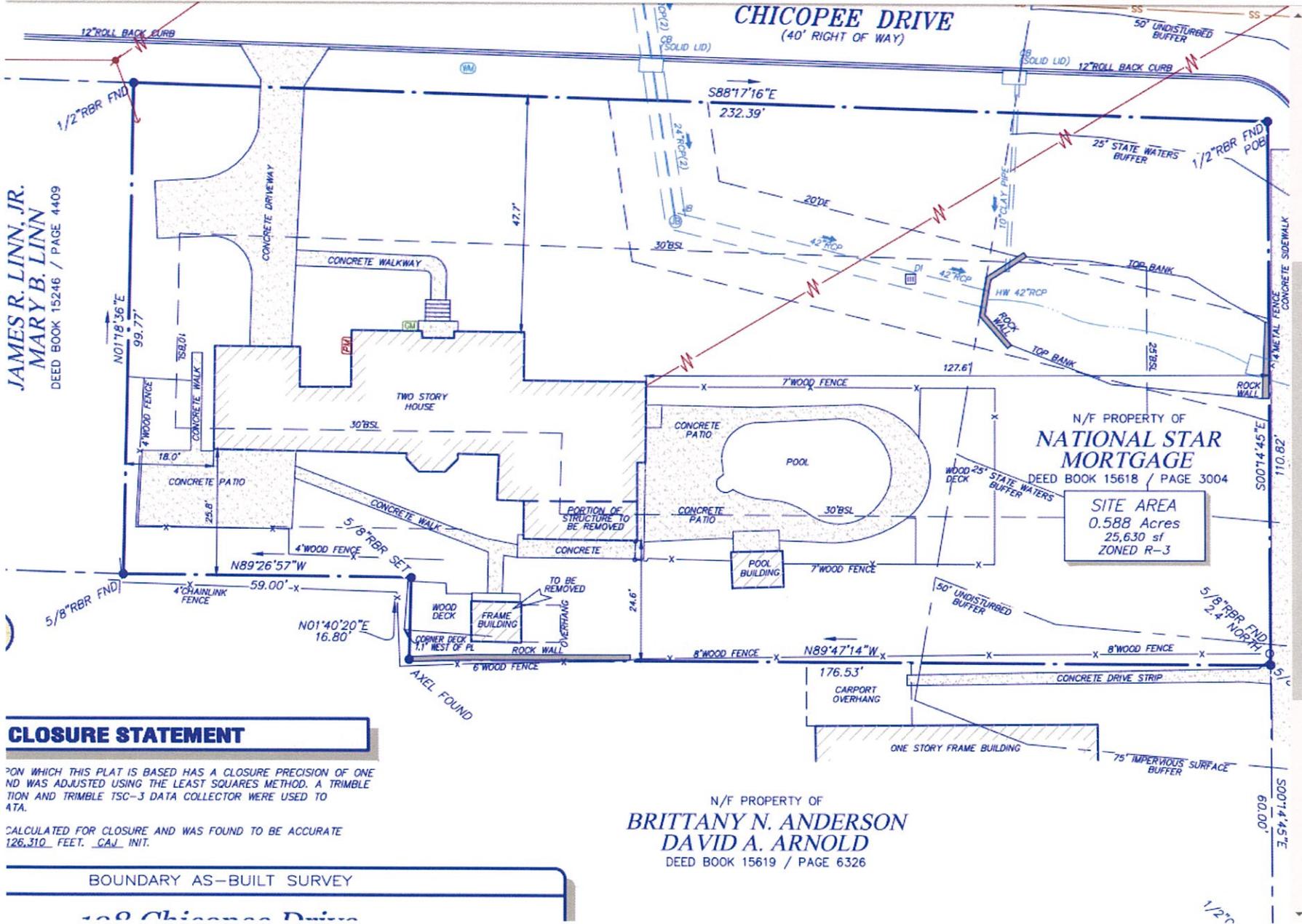
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 47A.

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 126,310 FEET. \_CAJ\_ INIT.

BOUNDARY AS-BUILT SURVEY

N/F PROPERTY OF  
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