



**STAFF REVIEW AND RECOMMENDATION**

**Variance Case #:** V2020-26                      **Legistar #:** 20200619

**Board of Zoning Appeals Hearing: Monday – August 31, 2020 – 6:00 p.m.**

**Property Owner:** Leon & Barbara Leake  
368 Freyer Dr  
Marietta, GA 30060

**Applicant:** Same as owner.

**Address:** 368 Freyer Drive

**Land Lot:** 1089    **District:** 16                      **Parcel:** 00700

**Council Ward:** 5A    **Existing Zoning:** R-3 (Single Family Residential – 3units/acre)

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

1. Variance to reduce the side setback along the eastern property line from 10 feet to 4 feet.  
[§708.03(H)]

**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.

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**PICTURES**



**368 Freyer Drive**

**Recommended Action:**

**Approval.** The owners and applicants, Leon and Barbara Leake, are requesting a variance in order to expand and renovate their property and home. The 0.318 parcel is zoned R-3 (Single Family Residential – 3units/acre); the properties surrounding the subject parcel are also zoned R-3, except the parcel to the rear (south) of the property is zoned R-4 (Single Family Residential – 4units/acre). The subject property and its neighboring properties appear to have setback encroachments with their principal and accessory structures. The 72-foot lot width does not comply with the current code of a minimum 85-foot lot width, but this existing condition is legally non-conforming. There are also existing setback encroachments to the rear yard setback and to both side yard setbacks.

According to the city’s zoning ordinance, the subject property may build up to 10 feet from the side property lines. The applicants would like to expand the rear portion of their existing house along the southeastern side of the existing structure to provide more living space and outdoor space. The applicants have stated they would like to build an “owner’s suite” and covered porch. The owner’s suite addition would be built up to approximately 4 feet 8 inches from the eastern side property line. This new encroachment would add approximately 838 square feet of space. In 2011, the Board of Zoning Appeals granted a variance (V2011-29) to reduce the western side yard setback from 10 feet to 2 feet for a building attached by a covered walkway.



Department of Development Services  
205 Lawrence Street  
Marietta, Georgia 30060  
Rusty Roth, AICP, Director

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Staff was provided a letter of support with no objection from the neighbor most impacted by the new encroachment. Even with the additional structures, the lot would remain under the allowable impervious coverage. Given that the lot widths for the subject property and surrounding neighbors are non-conforming, the character of the neighborhood commonly has structures built closer to their side property lines. The proposed project would not have any noticeable impact to the neighborhood. ***Therefore, staff recommends approval.***

*Fire comments:*

*The site plan is not of sufficient quality to properly review. If the existing condition is already non-compliant with the fire protection sprinkler ordinance, then no action is required. If the exterior wall is currently > 10' from the property line or 20' from the adjacent structure, and the resulting improvement is less than those prescribed distances, then the fire sprinkler ordinance will apply and the building will require installation of fire sprinklers.*

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**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 #: V2020-26 Legistar #: 20200619 BZA Hearing Dt: 8-31-20  
City Council Hearing Dt (if applicable) #: - PZ #: 20-213

This is a variance/appeal application for:

Board of Zoning Appeals

City Council

Owner's Name Leon & Barbara Leake  
EMAIL Address: leon.leake@gmail.com  
Mailing Address 368 Freyer Zip Code: 30060 Phone Number 770 335 4646

**COMPLETE ONLY IF APPLICANT IS NOT OWNER:**

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

Address of subject property: 368 Freyer Dr. Date of Acquisition: January 1998  
Land Lot (s) 1089 District 16 Parcel 00700 Acreage .318 Zoned R3 Ward 5A FLU: LDR

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

Setbacks

**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 5 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.

F. Leon Leake  
Signature of Owner

F. Leon Leake  
Signature of Applicant

F. Leon Leake  
Print Name

F. Leon Leake  
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.

F. Leon Leake  
Print Name

F. Leon Leake  
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.

F. Leon Leake  
Signature of Applicant

14 July 2020  
Date

F. Leon Leake  
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.

F. Leon Leake  
Signature of Owner

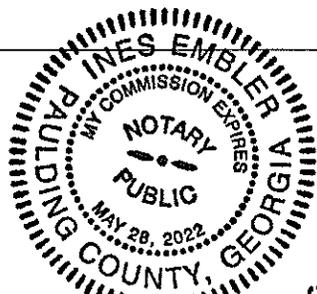
F. Leon Leake  
Please Print

368 Freyer Dr  
Address

14 July 2020  
Date

Signed, sealed and delivered in the presence of:

[Signature]



My Commission Expires: 5-28-2022

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

July 8, 2020

Shelby Little  
Planning and Zoning Manager  
205 Lawrence Street  
Marietta, GA 30060

Dear Ms. Little,

As owner of the property located at 368 Freyer Dr. in Marietta and pursuant to the requirements of a Variance Application for said property, I am writing this letter of description of the intended project that necessitates a variance.

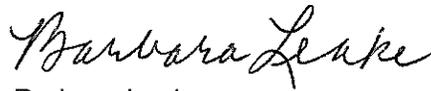
It is our desire to add an extension on the southeast side of our home that will include an owner's suite and screened in porch. A portion of the east facing wall of the owner's suite will be 4'8" from the property line and a portion will be 6'8".

Please see attached drawings.

Thank you,



leon leake  
Owner  
368 Freyer



Barbara Leake  
Owner  
368 Freyer

July 8, 2020

Shelby Little  
Planning and Zoning Manager  
205 Lawrence Street  
Marietta, GA 30060

Dear Ms. Little,

My name is Orié Wade. I am the owner and resident of the property located at 376 Freyer Dr in Marietta. I am writing this letter on behalf of my adjacent neighbors to the west (Leon & Barbara Leake at 368 Freyer Dr.) in support of their variance application for a proposed Master Suite addition to their home.

Leon & Barbara have thoroughly reviewed with me the drawings for this addition. I understand that a portion of this structure will be 4' 8" from my property line and the remaining will be 6' 8" from my property line. I have no objection to this placement.

I have been neighbors with Leon & Barbara for over 20 years and am looking forward to there being many more. The addition of a master suite to their home will be a very positive impact on property values in our neighborhood.

Sincerely,

A handwritten signature in black ink, appearing to read 'Orié Wade', with a long horizontal flourish extending to the right.

Orié Wade

**TO: Marietta Daily Journal**  
**FROM: City of Marietta**  
**RUN DATE: August 14, 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, August 31<sup>st</sup>, 2020 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

**V2020-26 [VARIANCE] LEON & BARBARA LEAKE** are requesting a variance for property zoned R-3 (Single Family Residential – 3 units/acre), located in Land Lot 1089, District 16, Parcel 0700, 2<sup>nd</sup> Section, Marietta, Cobb County, Georgia, and being known as 368 Freyer Drive. Variance to reduce the side setback along the eastern property line from 10 feet to 4 feet. Ward 5A.

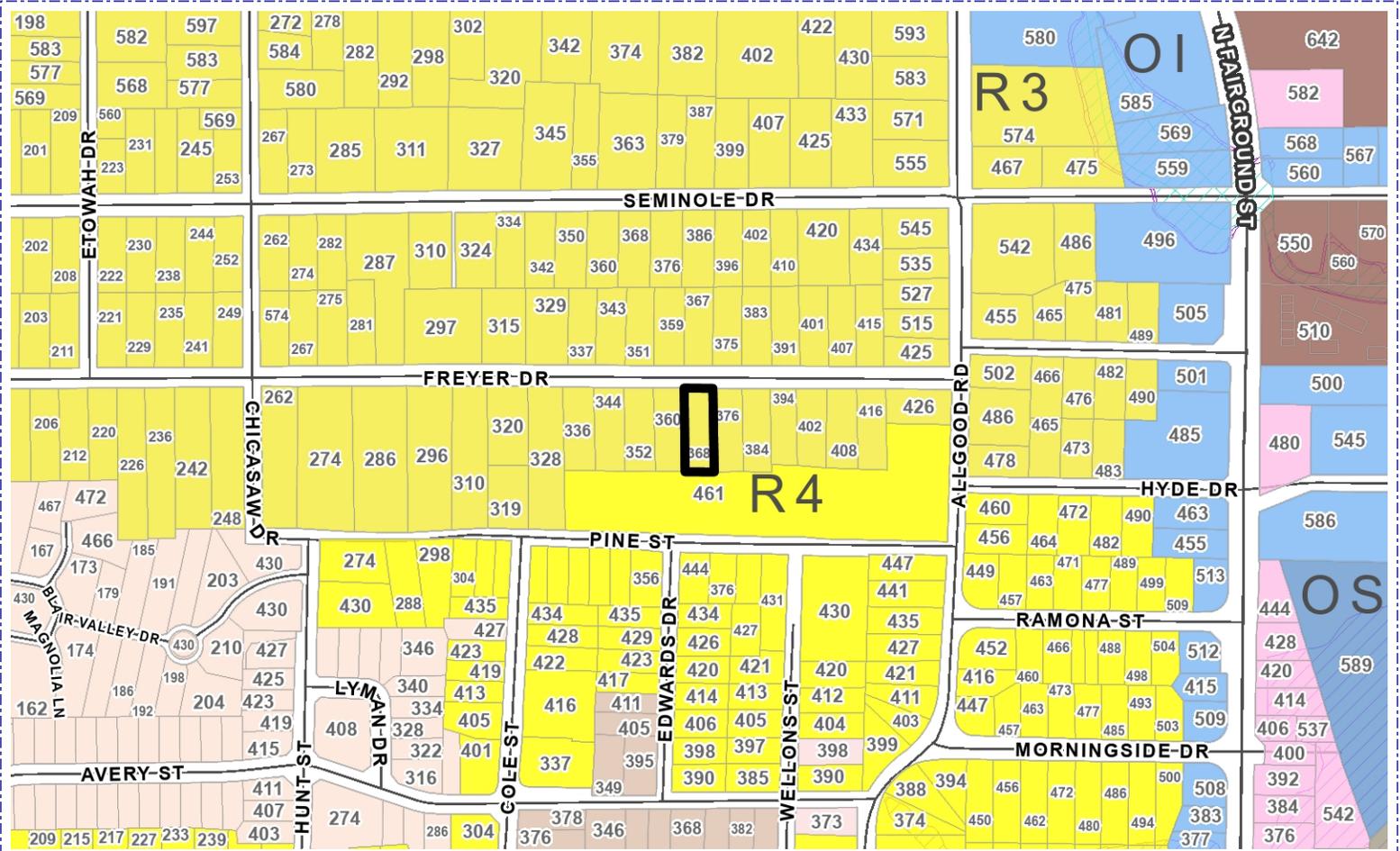
A description and plat of the property sought for the variances are on file in the Planning and Zoning Office, City Hall, and are available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto. You may also review the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

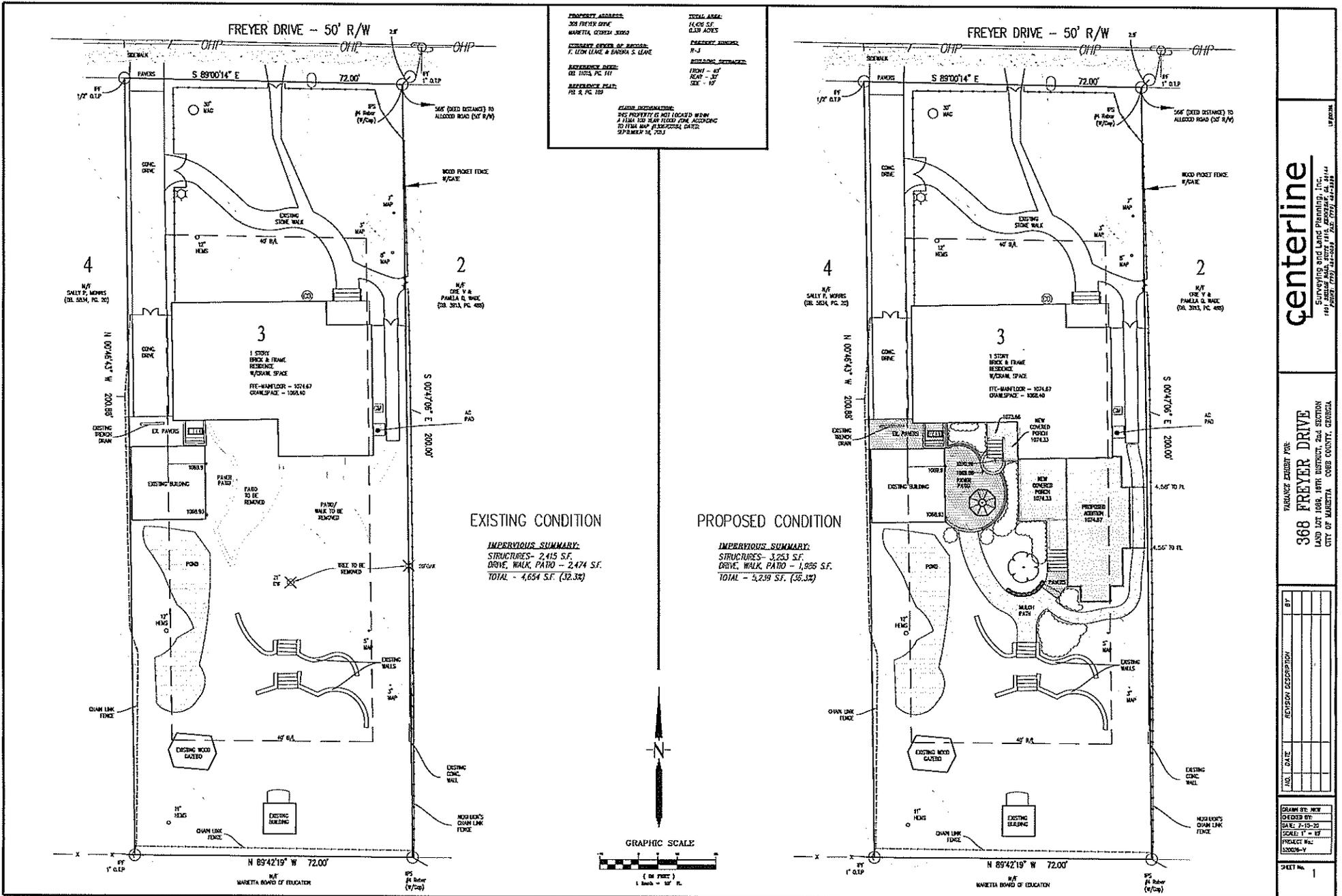


Address	Parcel Number	Acreage	Ward	Zoning	FLU
368 FREYER DR	16108900700	0.318	5A	R3	LDR

Property Owner:	Leon & Barbara Leake
Applicant:	
BZA Hearing Date:	08/31/2020
Acquisition Date:	
Case Number:	V2020-26
City of Marietta Planning & Zoning	

**Zoning Symbols**

- 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



**centerline**  
Surveying and Land Planning, Inc.  
160 W. PARKWAY #100, SUITE 100  
MARIETTA, GEORGIA 30067

**368 FREYER DRIVE**  
LAND LOT 108B, 18TH DISTRICT, 2nd SECTION  
CITY OF MARIETTA, COBB COUNTY, GEORGIA

NO.	DATE	REVISION DESCRIPTION	BY

DRAWN BY: NEW
CHECKED BY:
DATE: 7-10-20
SCALE: 1" = 10'
PROJECT NO.: 130026-V
SHEET NO.: 1

- GENERAL NOTES**
- All notes are suggested minimum requirements only. Refer to and comply with all local codes.
  - All dimensions of existing conditions are approximate and shall be verified in field before proceeding with work.
  - Contractor shall verify all conditions and dimensions at the building site before beginning construction. Any discrepancy or errors on the plans shall be reported to the architect for justification and/or correction before proceeding with the work. Contractor shall assume all responsibility for errors that are not reported.
  - Architect assumes no responsibility for any changes or modifications made to these plans by others.
  - All work shall be performed in accordance with all applicable national, state and local codes and regulations.
  - All dimensions shall be read or calculated from the plans and never off-sites.
  - All concrete, steel and wood structural members shall meet all national, state and local codes where applicable.

**SQUARE FOOTAGES**

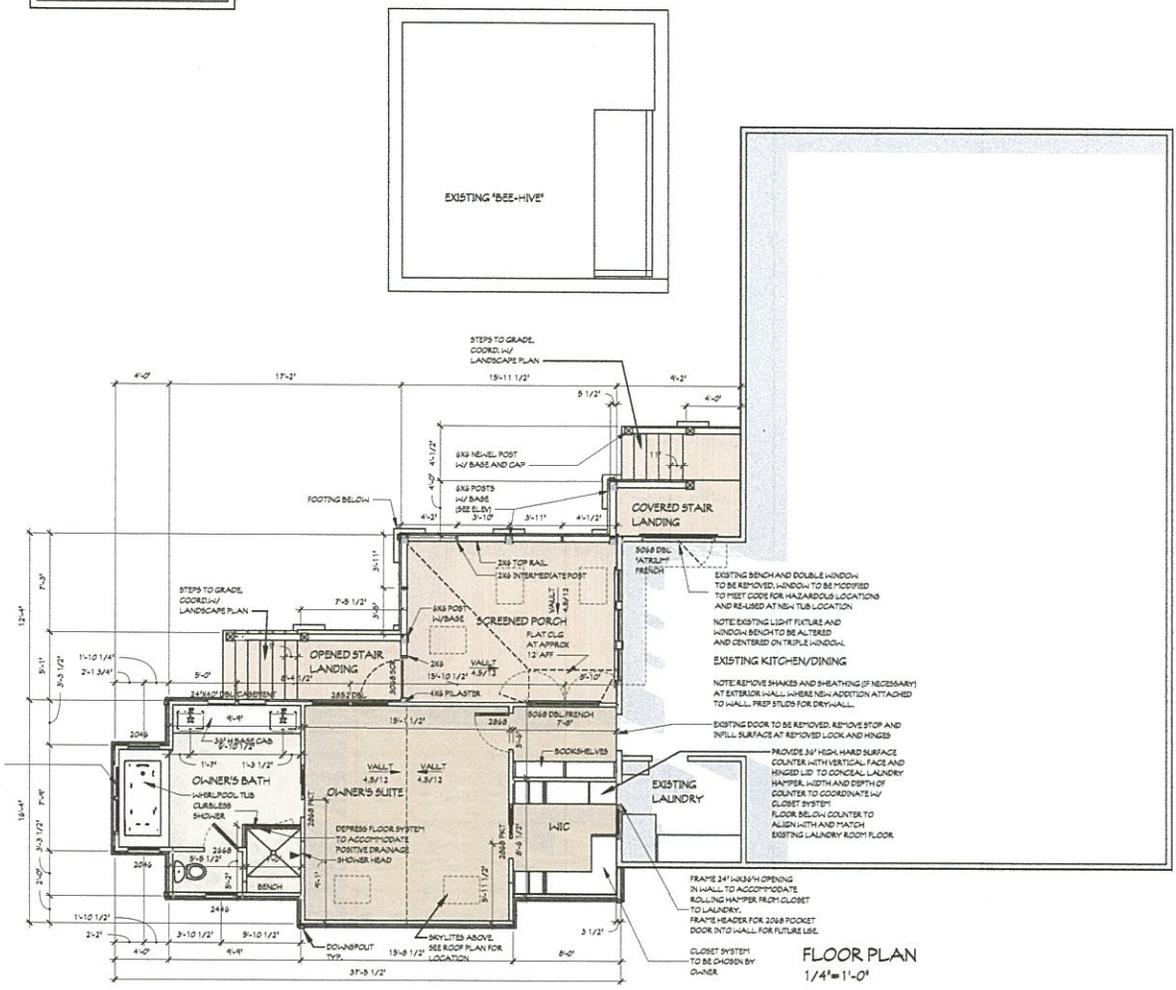
CONDITIONED SPACE	538 SQ. FT.
SCREENED AND COVERED PORCH	204 SQ. FT.

- FRAMING NOTES**
- All walls are shown and dimensions to FACE OF STUD. Where new construction shall existing remove any remaining drywall or finish material to measure for framing or F&S adjust as needed.
  - Header and/or ceiling heights shall match existing. All new framing shall be level and flush with existing so that there is no perceivable difference in the old and new construction.
  - All joists and rafters shall be aligned over studs below.
  - All exterior/interior and outside corners shall be braced as is required by all applicable codes.
  - All framed wall dimensions are based on 2x4 studs unless otherwise noted.

Please note that this plan in whole or in part is the property of Peek Design Group, Inc. and may not be duplicated or reproduced or reused without the expressed written consent of Peek Design Group, Inc.

Peek Design Group, Inc. assumes no liability for any structure built from these plans. Further, it is the responsibility of the builder to ensure the following:

- \*Verify ALL dimensions PRIOR to construction
- \*Verify compliance with ALL applicable building codes where structure is to be built
- \*Engineering aspects must incorporate actual site conditions - the plan indicates locations only.



A CUSTOM ADDITION  
FOR  
THE LAKE RESIDENCE  
MARIETTA, GEORGIA

**REVISIONS**

NO.	DATE	DESC.

DESCRIPTION  
Floor Plan

PLANNING DATE: 4/28/20

**A3**

**FLOOR PLAN**  
1/4" = 1'-0"

**PEEK DESIGN GROUP**

Suite 501  
3950 Cobb Parkway, NW  
Acworth, Georgia 30101

Phone: 770.322.4343  
www.peekdesign.com