



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2020-34 **Legistar #:** 20200695

Board of Zoning Appeals Hearing: Monday, September 28th, 2020

Property Owner: Andrew & Sheron Jo Poole
138 Durham Street
Marietta, GA 30064

Applicant: Same as above

Address: 138 Durham Street

Land Lot: 1228 **District:** 16th **Parcel:** 0110

Council Ward: 3A **Existing Zoning:** R-2 (Single Family Residential – 2 units/acre)

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

1. Variance to allow gravel as an acceptable parking surface for the existing driveway only.
[§716.08]

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



138 Durham Street



Existing driveway



Recommended Action:

Denial. The property owners, Andrew & Sharen Jo Poole, are requesting a variance to allow a gravel driveway remain at 138 Durham Street. The subject property is approximately 0.9 acres in size and zoned R-2 (Single Family Residential – 2 units/acre), as is the zoning of all adjacent properties.

The owner/applicant has recently completed a substantial renovation to the existing home. The project included a major interior remodel, rear addition, and connected carport on the front of the house. The cost of construction for the project exceeded 50% of the existing house’s replacement value, requiring any aspects of the site that do not meet current code to be brought into compliance. During review of the building permit for the project, the City noted that a paved (concrete, asphalt, or brick) driveway would be required to replace the existing gravel/dirt driveway. As construction is nearing completion, the applicant is now requesting to keep the existing gravel/dirt driveway instead of paving it due to environmental and financial constraints. However, the new carport includes a concrete slab for parking that was recently installed.

According to Section 716.08 of the zoning ordinance, a hardened surface of concrete, asphalt, or brick is the minimum standard to accommodate vehicles up to 8,000 pounds. Gravel is not a desirable surface, as it is spread by vehicles and gets out into the street and gutters.

The Board of Zoning Appeals has approved similar cases to allow gravel within parking areas, as listed below:

Case #	Address	Zoning
V-95052	1014 Industrial Park Dr	LI
V-96042	2032 Airport Ct	LI
V-98023	Dickson Rd	LI
V-98029	424 Glover St	LI
V2000-31	2068 Airport Ind Pk Dr	LI
V2001-01	279 Washington Ave	OI
V2001-03	1551 West Oak Dr	CRC
V2008-17	1018 Powder Springs St	R-2
V2013-08	33 Garrison Rd	OIT
V2014-26	336 Whitlock Ave	R-4
V2015-43	772 Allgood Rd	NRC
V2016-14	95 Kirkpatrick Dr	R-4
V2016-20	949 Springdale Dr	R-4
V2016-35	425 Wright St	R-2
V2017-12	148 Stewart Ave	R-4
V2017-34	167 Maxwell Ave	R-4
V2019-08	290 Grover St	R-4
V2019-11	84 Whitlock Ave	R-2



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

In some of the above-listed cases, the purpose was to allow gravel or slate for residential driveways; and the purpose for the others was to allow a gravel area for storage and light vehicle traffic.

The applicant has not provided a legitimate hardship that would not apply generally to other, similarly zoned properties. As a result, ***staff recommends denial of the requested variance.***

However, if the Board does wish to approve this variance, staff recommends that the following stipulation be included:

1. *If the gravel driveway surface is allowed, then a 20' deep paved apron from Durham Street must be constructed and the area frequently swept to prevent gravel from entering the street.*



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 #: V2020-34 Legistar #: 20200695 BZA Hearing Dt: 9-28-20
City Council Hearing Dt (if applicable) #: - PZ #: 20-233

This is a variance/appeal application for:



Board of Zoning Appeals



City Council

Owner's Name Andrew Poole & Sheron Jo Poole

EMAIL Address: Deepend.APC@gmail.com

Mailing Address 138 Durham St SW Zip Code: 30064 Phone Number 404-502-2908

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant: _____

EMAIL Address: _____

Mailing Address _____ Zip Code: _____ Phone Number _____

Address of subject property: 138 Durham St Date of Acquisition: 8-13-2020

Land Lot (s) 1228 District 16th Parcel 00110 Acreage .89 Zoned R2-Ward 3A FLU: LDR

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

Allow current gravel to remain in place.

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.

Andrew Poole
Signature of Owner
ANDREW POOLE
Sheron S. B. Poole
Print Name

Andrew Poole
Signature of Applicant
ANDREW POOLE
Sheron S. B. Poole
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.

Andrew Poole
Signature of Applicant
Sheron S. B. Poole
Print Name

Andrew Poole
Signature of Applicant
Sheron S. B. Poole
Print Name

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.

Andrew Poole
Signature of Applicant
ANDREW POOLE
Sheron S. B. Poole
Please Print

August 13, 2020
Date

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.

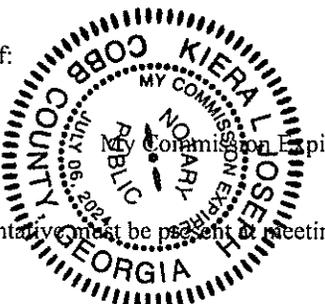
Andrew Poole
Signature of Owner
Sheron S. B. Poole
Please Print

138 DURHAM ST SW MARIETTA GA 3006X
Address

8-13-2020
Date

Signed, sealed and delivered in the presence of:

Kiera L Joseph



My Commission Expires: July 6, 2024

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

MR & MRS ANDREW POOLE ARE SUBMITTING A VARIANCE FOR 138 DURHAM ST SW MARIETTA, GA 30064; LAND-DISTURBING ACTIVITY PERMIT # LDP-20-01-000507 (BLDG 1902023019).

THE BASES FOR A VARIANCE IS ENVIRONMENTAL & FINANCIAL, THE CURRENT LOCATION OF TWO WELL ESTABLISHED TREES, A MAGNOLIA GRANDIFLORA AND AN OAK TREE. BOTH TREES ARE EITHER ON OR NEXT TO CURRENT ORIGINAL GRAVEL DRIVE IT'S WELL DOCUMENTED (www.southernliving.com/home-gardens/magnolia-trees), "SEEDLINGS OFTEN TAKE 10 YEARS AFTER PLANTING BEFORE THEY COME INTO BLOOM". THE MAGNOLIA IN QUESTION IS OVER 40 FEET TALL ESTIMATED BEING THERE FOR OVER 30 YEARS, THE OAK IS OVER 100 FEET TALL ESTIMATED OVER 40 YEARS OLD. DENSE SHADE & SHALLOW ROOTS MAKE IT VERY DIFFICULT OR NEAR IMPOSSIBLE TO GROW GRASS BENEATH ITS CANOPY AND THE ROOTS OFTEN CRACK AND LIFT PAVEMENTS I.E. DRIVEWAYS; IF THE TREE IS LOCATED OR PLANTED BETWEEN DRIVEWAY OR WALKWAY (CONCRETE OR PAVERS OR ASPHALT). SINCE THESE TREES GROW AS WIDE AS OF 40 FEET; THIS GROWTH PROVIDES A PERFECT SHADE TO CURRENT HOUSE THAT ENHANCES THE ENERGY EFFICIENCY OF THE LIVING SPACE OF HOUSE. TRANSPLANTING IS NOT AN OPTION DUE TO THE LIKELY HOOD OF SUCCESS IS LOW.

SECOND: ISSUE OR CONCERN PROMPTING THIS VARIANCE IS THE OPPOSING SIDE OF THE MAGNOLIA TREE IS A 100 FOOT PLUS - 27 INCH DIA OAK TREE THAT BORDERS THE EXISTING GRAVEL DRIVE. IF THE AREA OR EARTH IS DISTURB TO PREPARE THE DEPTH TO POUR CONCRETE OR ANY OTHER HARD DRIVEWAY SURFACE RECOMMENDED BY THE STRICT CODES: TO PREPARE THE AREA WILL REQUIRE AT LEAST A BASE OF GRAVEL OF 2-4 INCHS DEEP OR THICKNESS THEN A 4-5 INCHS OF HARD SURFACE (CONCRETE, ASPHALT OR PAVERS) TOTALING A DEPTH BELOW CURRENT GRADE OF 8-9 INCHS DEEP. THIS DEPTH OF 8-9 INCHS WILL DEFINITELY DISTURB BOTH TREES, CAUSING A POTENTIAL DISASTER OF A FALLEN TREE THAT ITS ENVIROMENT WAS COMPROMISED.

THIRD: CONCERN THE ADDITION OF A CONCRETE OR HARD SURFACE DRIVEWAY VS. A CURRENT GRAVEL DRIVE WILL ~~HA~~ NEGATIVELY IMPACT WATER RUN OFF TO AN ALREADY FEMA FLOOD ZONE NEIGHBORING ~~THREE~~ FOUR PROPERTIES # # # 144 150 160 DURHAM ST SW 30064 #165

WE ARE REQUESTING APROVAL OF OUR VARIANCE TO ALLOW A CURRENT GRAVEL DRIVE TO REMAIN IN PLACE. THANK YOU ANDREW POOLE Andrew Poole 8-13-2020

ADDED
Notes
Pg 3

ADDED NOTES OF INTEREST:

- 1) A VARIANCE WAS GRANTED FOR 167 MAXWELL, MARIETTA 30064 IN 2019 FOR A GRAVEL DRIVE WHICH WAS A TEAR DOWN + NEW BUILD ??? WHY
- 2) OVER 1500 SQ FT OF CONCRETE OR ASPHALT WILL CAUSE A FINANCIAL HARDSHIP OF \$10,000.00 AT THE END OF MY PROJECT NOT BUDGETED
- 3)



8-13-2020

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TO: Marietta Daily Journal
FROM: City of Marietta
RUN DATE: September 11, 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, September 28th, 2020 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

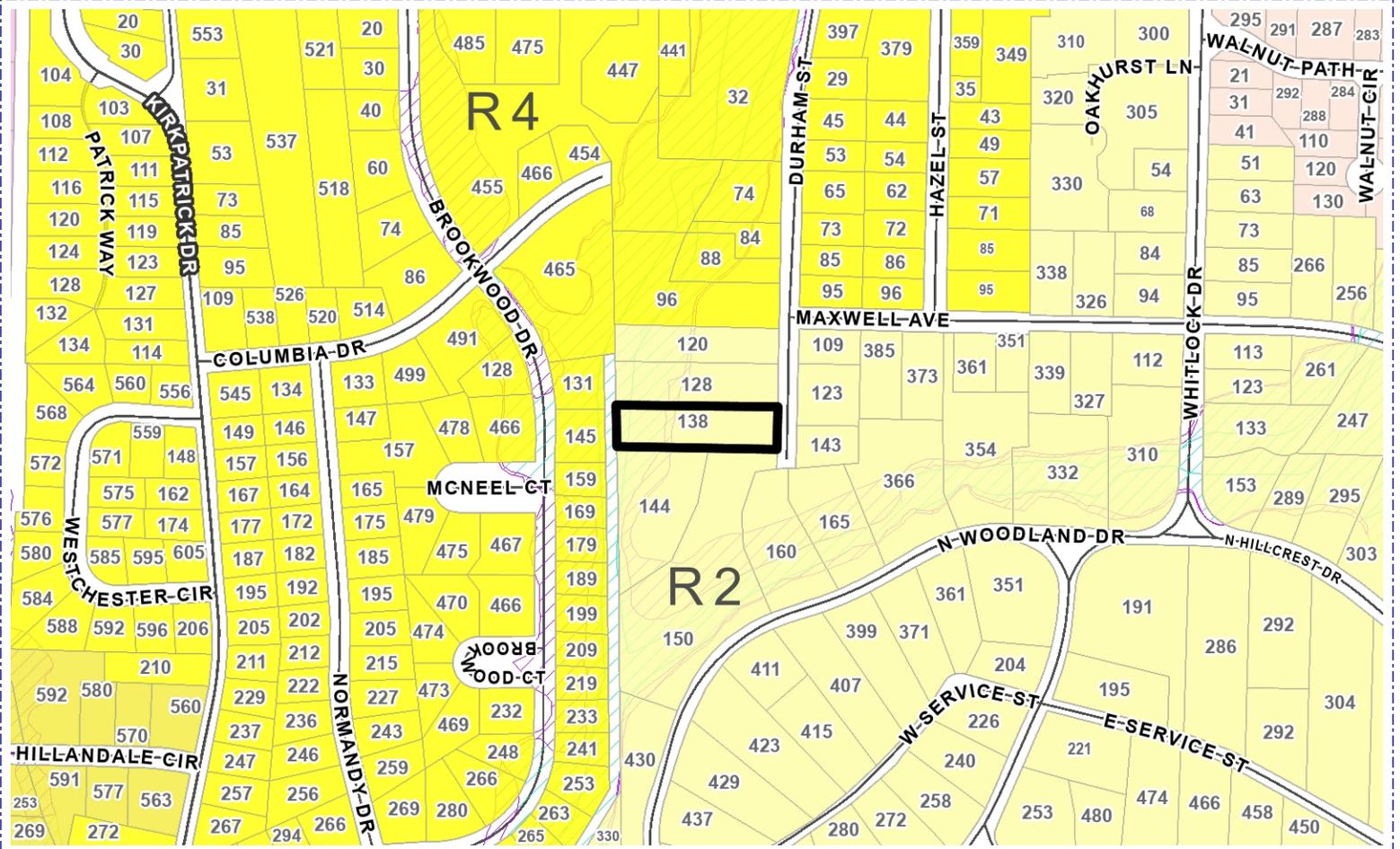
V2020-34 [VARIANCE] ANDREW POOLE & SHERON JO POOLE are requesting a variance for property zoned R-2 (Single Family Residential – 2 units/acre), located in Land Lot 1228, District 16, Parcel 0110, 2nd Section, Marietta, Cobb County, Georgia, and being known as 138 Durham Street. Variance to allow gravel as an acceptable parking surface for the existing driveway only. Ward 3A.

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 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



Address	Parcel Number	Acreage	Ward	Zoning	FLU
138 DURHAM ST	16122800110	0.896	3A	R2	LDR

Property Owner:	Andrew Poole & Sheron Jo Poole
Applicant:	
BZA Hearing Date:	09/28/2020
Acquisition Date:	
Case Number:	V2020-34
<p>City of Marietta Planning & Zoning</p>	

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

OFFICE LENS

APPROVED
City of Marietta Planning & Zoning Division
Shelby Little
01/24/2020 7:19:11 AM

APPROVED AS NOTED
PUBLIC WORKS - FLOODPLAIN
Jennifer Kobylus 01/29/2020

A FEMA ELEVATION CERTIFICATE WILL BE REQUIRED FOR "FINISHED CONSTRUCTION". FINAL GRADING AND BUILDING INSPECTIONS WILL NOT BE APPROVED AND THE CERTIFICATE OF OCCUPANCY WILL NOT BE ISSUED UNTIL THE FEMA ELEVATION CERTIFICATE FOR "FINISHED CONSTRUCTION" HAS BEEN APPROVED BY THE CITY'S STORMWATER ENGINEER, JENNIFER KOBYLUS.

FLOOD HAZARD STATEMENT
A PORTION OF THIS PROPERTY IS IN A FLOOD HAZARD AREA AS PER THE FIRM FLOOD HAZARD MAP FULTON COUNTY, GEORGIA, COMMUNITY PANEL NUMBER 13067C 0104H, DATED 03/04/13
The field data upon which this plot is based has a closure precision of one foot in 15,000 feet and an angular error of 05 seconds per angle point and was adjusted using the Compass Rule. This plot has been calculated for closure and is found to be accurate within one foot in 100,000 feet.
Equipment used: Topcon GTS-213 Total Station.

SCALE
1" = 50 FT

Approved
Public Works - Engineering
Keith Person 01/29/2020
Project must comply with City Code Section 7-8-12-040 "Minimum requirements for erosion, sedimentation and pollution control using best management practices."

S.S.
HARD LINED ON SEWER SITE PLAN REQUESTED
BY M. MUSSER
CYCLE 2

Carport must be 10' from side property line

ITEMS #8-11
REQUESTED BY
M. MUSSER
CYCLE 3
LOCATIONS BY ZONE ID

ID#	ZONE	DESCRIPTION
#8	5C	EXISTING (NOT NEW) WATER METER LOCATION 90' FROM BLDG FRONT 4T' SOUTH (LEFT) 53' NORTH (RIGHT) 10' FROM P.L. (EAST)
#9	5F	2ND SEWER CO FOR FULL BATHROOM 75' FROM BLDG BACK WALL 270' FROM REAR P.L.
#10	5F	1ST SEWER CO FULL BATHRM 3' FROM BLDG BACK WALL 8' FROM PORCH (RIGHT SIDE) 27' FROM NORTH B.L.
#11	4E	1/2 BATH SEWER LINE
#12	36	SS LOCATED REAR PROPERTY CYCLE 2
#13	48	ADDED NOTE PER M. MUSSER REF TRAFFIC RATED COVERS

ZONE ID	#	DESCRIPTION
4E	#7	GREAT ROOM EXTENDED 5 FEET. 28' FROM NORTH B.L. 244' FROM REAR (WEST) B.L.
5E	#6	BED ROOM WINDOW SEAT SEAT 15'6" FROM R.L.
5D	#5	BEDROOM WINDOW SEAT 15' FROM 43' FROM FRONT SIDE B.L.
4D	#4	FRONT PORCH 22'0" FROM FRONT B.L.
4D	#3	2 CAR CARPORT 13'0" FROM FRONT B.L.
4D	#2	BEDROOM WINDOW SEAT 43'0" FROM FRONT B.L.
4E	#1	SCREENED PORCH 9' FROM SOUTH 10' B.L. 250' FROM REAR (WEST) B.L.

REQUESTED BY
K. PERSON & S. LITTLE
CYCLE 1 # ITEMS 1-7

VARIANCE
Driveway and parking area must be paved (concrete, asphalt, brick)

- LEGEND**
- IPF = 1/2" REBAR FOUND
 - IPB = 1/2" REBAR PIN SET
 - LL = LAND LOT LINE
 - PL = PLANNED LOT LINE
 - PL = PLANNED LOT LINE
 - BL = BUILDING LINE
 - CL = CENTERLINE
 - R/W = RIGHT-OF-WAY
 - S.S.E. = SANITARY SEWER EASEMENT
 - D.E. = DRAINAGE EASEMENT
 - MH = MANHOLE
 - C.B. = CATCH BASIN
 - J.B. = JUNCTION BOX
 - H.W. = HEADWALL
 - H.P. = HEADPOST
 - PP = POWER/UTILITY POLE
 - F.H. = FIRE HYDRANT
 - I.E. = INVERT ELEVATION
 - F.F.E. = FINISHED FLOOR ELEVATION
 - F.F.G. = FINISHED FLOOR GARAGE
 - B.O.C. = BACK OF CURB
 - EP = EDGE OF PAVEMENT
 - N/A = NOT FOUND
 - N/B = NOT FOUND
 - SS = SANITARY SEWER LINE/PIPE
 - X-X-X- = FENCE LINE
 - O- = FLOOD HAZARD ZONE LINE
 - S-S- = STORM SEWER LINE/PIPE
 - W- = WATER LINE
 - G- = GAS LINE
 - F-W- = FLOW WELL
 - C.E. = CONSTRUCTION EASEMENT
 - C.S. = CONSTRUCTION EASEMENT
 - LS = LIGHT STANDARD
 - OPF = OPEN TOP PIPE FOUND
 - CIP = CRIMP TOP PIPE FOUND
 - WD = WOOD DECK
 - CO = CLEAN OUT

NOTE
#13
ANY WATER METER OR SANITARY SEWER CLEAN-OUT IN A PAVED AREA WILL BE PROTECTED WITH A TRAFFIC RATED BOX AND COVER PER MARIETTA WATER STANDARDS.

THIS SURVEY WAS PREPARED IN CONFORMITY WITH THE TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN CHAPTER 180-7 OF THE RULES OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN THE GEORGIA PLAT ACT O.C.G.A. 15-6-67



ALPHA LAND SERVICES
138 DURHAM ROAD
TAX PARCEL: 16122800110
SURVEY FOR:
LOT: L & S BLOCK
DISTRICT: COBB
COUNTY: GEORGIA
FIELD DATE: 10/28/19
PLAT DATE: 10/30/19
JOB NO.: 19-10-518

1 2 3 4 5 6 7 8