



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2014-44 **Legistar #:** 20140961

Board of Zoning Appeals Hearing: Monday, September 22, 2014 – 6:00 p.m.

Property Owner: Wayne McKendree
1188 Button Hill Road
Kennesaw, GA 30152

Address: 1188 Button Hill Road

Land Lot: 02500 **District:** 20 **Parcel:** 0280

Council Ward: 4C

Existing Zoning: R-1 (Single Family Residential/Agriculture (1 unit/acre).

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

1. Variance to reduce the rear yard setback for an accessory structure from 30 ft. to 3.5 ft.
[§708.01 (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.

PICTURES



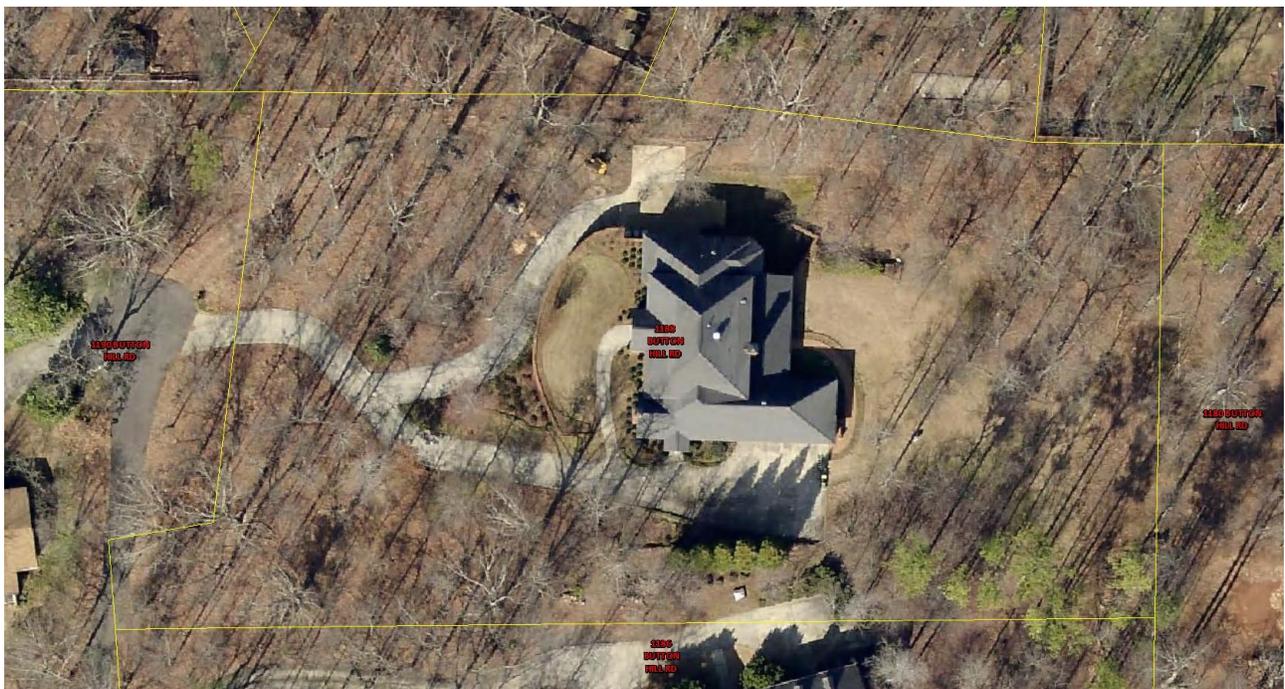
Accessory building at 1188 Button Hill Road



Accessory building at 1188 Button Hill Road



Rear setback for accessory building at 1188 Button Hill Road



Aerial view of 1188 Button Hill Road

Recommended Action:

Denial. Mr. Wayne McKendree is requesting a variance to reduce the rear yard setback for an accessory structure from 30 feet to 3.5 feet. The subject property and adjacent properties to the north, south and west are zoned R1 (Single Family Residential (1 unit/acre)). The property abuts properties within Cobb County's jurisdiction to the east, and contains a neighborhood of single family homes.

The R-1 zoning regulations require that all accessory structures must be located upon the same lot, and to the side and rear of the principal use. It also states that if an accessory structure is greater than 15 feet in height - but less than 35 feet in height - that a rear setback of 30 feet is required, along with the standard 10 foot setback to the side. The drawings that have been provided indicate that the structure is almost 17 feet in height; therefore the required rear yard setback for this building is 30 feet.

The applicant indicated that he was told by someone at the City of Marietta that if the structure was to be less than 800 sq. ft. that he would not need a building permit. However, this information is not correct, and it is not clear how such misinformation could have been conveyed.

Mr. McKendree has also indicated that he chose this location for the building in order to save several trees that are on the property. However, given that the property is approximately 1.8 acres in area, it seems unlikely that this would be the only location for such a building.

Mr. McKendree also indicated that prior to putting up the accessory structure, he asked the neighboring property owner to the rear of his property, and they stated that they had no objections. In addition, Mr. McKendree stated that he asked all three property owners that would be in within eye sight of the structure if they had any objections and there was none. At this time, Staff has received no confirmation from any neighbors to these statements.

Lacking any hardship or any confirmation from neighbors that they do not object to the location of this accessory building, **staff recommends denial of the requested variance.**