



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2016-58 **Legistar #:** 20161104
Board of Zoning Appeals Hearing: Monday, November 28, 2016 – 6:00 p.m.
Property Owner: Kassie Jones
167 Maxwell Avenue
Marietta, GA 30064
Applicant: Ron Lester
2980 Fallwood Drive
Marietta, GA 30064
Address: 167 Maxwell Avenue
Land Lot: 1229 **District:** 16 **Parcel:** 0440
Council Ward: 3A **Existing Zoning:** R-4 (Single Family Residential – 4 units/acre)

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

1. Variance to reduce the rear yard setback from 30’ to 20.’ [§708.04 (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



Front of subject property (along Maxwell)



Rear of subject property adjacent neighbor



Recommended Action:

Approval. The property owner, Kassie Jones, represented by Ron Lester, is requesting a setback variance for the property at 167 Maxwell Avenue. The subject property is a 0.34 acre parcel zoned R-4 (Single Family Residential – 4 units/acre), as are the adjacent properties to the south and east. Across Maxwell Avenue to the north and Northcutt Street to the west are other single family residences zoned R-2 (Single Family Residential – 2 units/acre) and PRD-SF (Planned Residential Development – Single Family). This property is located at the southeastern corner of the intersection of Northcutt Street and Maxwell Avenue.

The owner and applicant are proposing to demolish the existing home and build a new single family dwelling on the property. However, the footprint of the proposed house extends 10 feet into the 30 foot rear setback, causing the back of the home to only be 20 feet from the rear property line. (The shape of the proposed house is such that one side is approximately 100 feet in length.)

However, a driveway lies along the property line of the property to the east that would be most impacted by the location of the new structure. More separation is provided between the structures due to the fact that the neighbor's driveway runs along that side of the house. The Marietta Fire Department requires compliance with the Marietta Sprinkler Ordinance if the distance from the adjacent structure is less than 20 feet, so there would be no such requirement in this case. At this time, Staff has not heard back from any neighbors regarding the proposed variance request.

It does appear that the location of the proposed house could be shifted approximately 5 feet to the north, and provide a 25 foot rear setback; thereby reducing the amount of the variance requested by 5 feet.

As such, *staff recommends approval of this variance request, but only to the least distance required to accommodate the house.*



Department of Development Services
205 Lawrence Street
Marietta, GA 30060
Brian Binzer, AICP, Director

APPLICATION FOR VARIANCE OR APPEAL
(Owner/Applicant/or Representative must be present at all public hearings)

For Office Use Only:

Application #: V2016-58 Legistar #: 20161104 BZA Hearing Dt: 11-28-16
City Council Hearing Dt (if applicable) #: - PZ #: 16-586

This is a variance/appeal application for:

Board of Zoning Appeals checkbox

Board of Zoning Appeals

City Council checkbox

City Council

Owner's Name Kassie Jones
Address 167 Maxwell Avenue Zip Code: 30064
Telephone Number: 4.516.6664 Email Address: KassieJones53@hotmail.com

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant Ron Lester
Address 2980 Fallwood Drive Zip Code: 30064
Telephone Number 44560373 Email Address: Ron@GeorgiaContractorGroup.com

Address of property for which a variance or appeal is requested:

167 Maxwell Ave Date of Acquisition:
Land Lot (s) 12290 District 16 Parcel 0440 Acreage .35 Zoned R4 Ward 3A FLU LDR

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

Reduce rear setback to 20'

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.
7. Documentation authorizing applicant to submit application by property owners if applicant is not owner.

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

TO: Marietta Daily Journal
FROM: City of Marietta
RUN DATE: November 11, 2016

**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 variance requests. The Board of Zoning Appeals will consider the following requests on **Monday, November 28, 2016 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

V2016-58 [VARIANCE] KASSIE JONES (RON LESTER) is requesting a variance for property located in Land Lot 1229, District 16, Parcel 0440, 2nd Section, Marietta, Cobb County, Georgia and being known as 167 Maxwell Avenue. Variance to reduce the rear setback from 30' to 20.' Ward 3A.

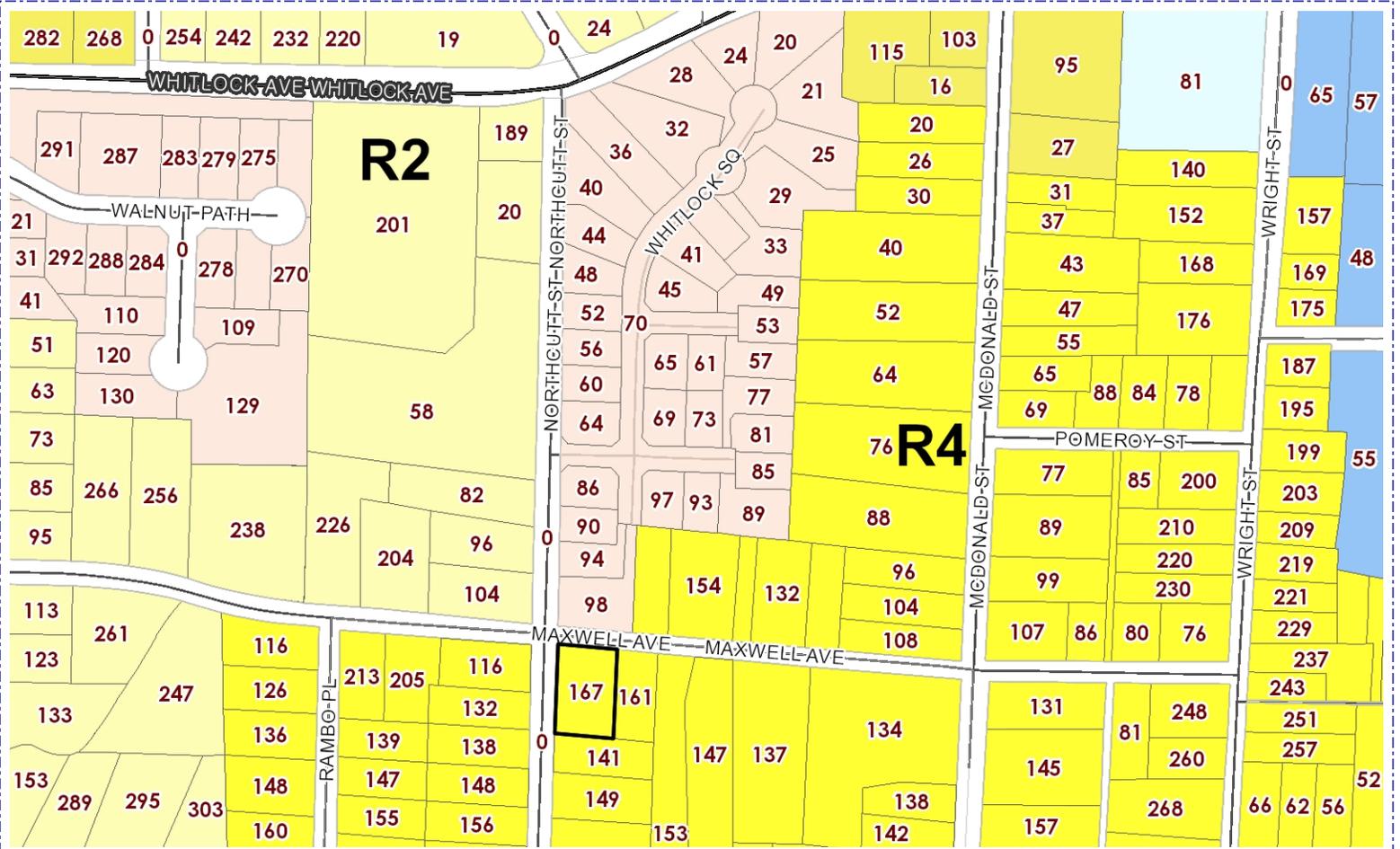
A description and plat of the property sought for the variances are on file in the Planning and Zoning Office, City Hall, and are available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto.

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 Mr. Patrick Henley, ADA Coordinator, at 770-794-5558 (voice) or 770-794-5560 (TDD) 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
167 MAXWELL AVE	16122900440	0.351	3A	R4	LDR

Property Owner:	Kassie Jones
Applicant:	Ron Lester
BZA Hearing Date:	11/28/2016
Acquisition Date:	
Case Number:	V2016-58
<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

NOTES:

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, AUTHORITY O.C.G.A. SECS. 15-6-67, 43-15-4, 43-15-6, 43-15-19, 43-15-22.

THE FIELD DATA UPON WHICH THIS PLAT IS BASED WAS OBTAINED USING A GPT-3005W TOTAL STATION. AND HAS A LINEAR PRECISION RATIO OF ONE FOOT IN 22,338 FEET AND AN ANGULAR ERROR OF 05 SECONDS PER ANGLE AND WAS NOT ADJUSTED.

THIS PLAT HAS BEEN CHECKED FOR MATHEMATICAL ACCURACY AND CLOSES WITHIN ONE FOOT IN 138,225 FEET.

TOTAL AREA = 14,821 SQUARE FEET OR 0.34 ACRES.

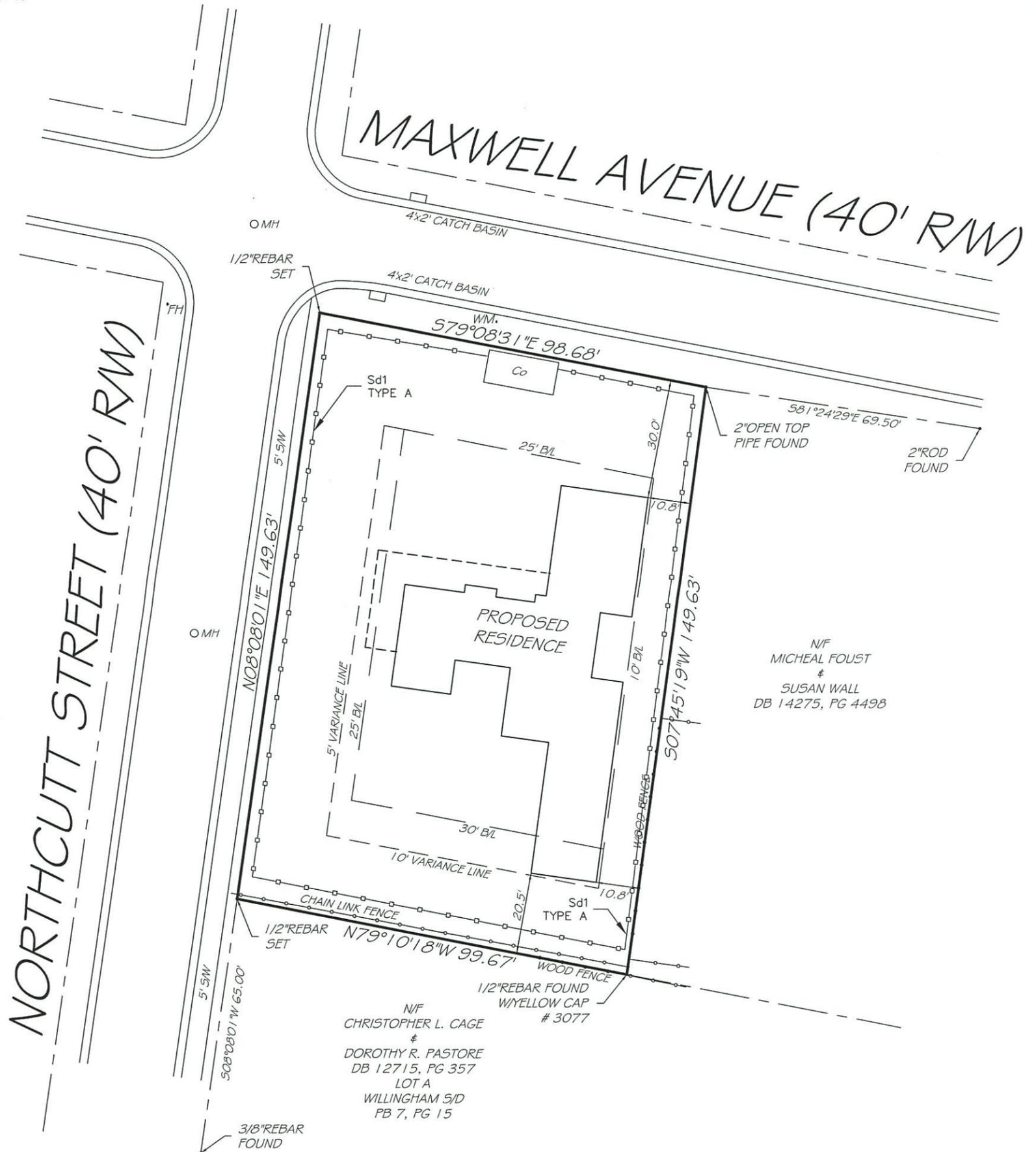
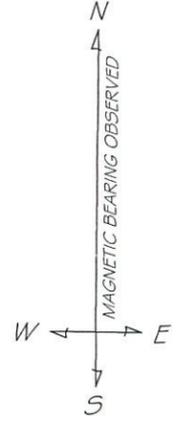
PROPERTY MAY OR MAY NOT BE SUBJECT TO PROTECTIVE OR RESTRICTIVE COVENANTS AS PER FINAL PLAT AND OR CITY/COUNTY ORDINANCES INCLUDING ALL EASEMENTS AND RIGHTS OF WAY.

THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE SEARCH, THERE MAY BE BURDENS, EASEMENTS, RESTRICTS AND OR RIGHTS OF WAYS NOT SHOWN OR REFERENCED THAT A CURRENT TITLE REPORT WOULD REVEAL.

THE LOCATION OF UNDERGROUND UTILITIES WERE NOT LOCATED FOR THIS SURVEY. UTILITIES SHOWN ARE BASED UPON VISIBLE AND PHYSICAL EVIDENCE. THERE MAY BE UTILITIES ON OR CROSSING THIS PROPERTY THAT ARE NOT SHOWN. CALL THE UTILITIES PROTECTION CENTER (# 811) BEFORE ANY EXCAVATIONS ARE BEGUN TO ENSURE AND VERIFY THE CORRECT LOCATION AND DEPTH OF ALL UTILITIES.

REFERENCES:

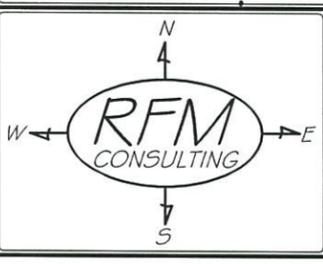
DEED BOOK 15307, PAGE 66
 PLAT BOOK 42, PAGE 47



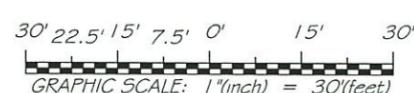
NF
 MICHEAL FOUST
 #
 SUSAN WALL
 DB 14275, PG 4498

NF
 CHRISTOPHER L. CAGE
 #
 DOROTHY R. PASTORE
 DB 12715, PG 357
 LOT A
 WILLINGHAM S/D
 PB 7, PG 15

**SITE PLAN
 FOR
 # 167 MAXWELL AVENUE
 LOCATED IN
 LAND LOT 1229
 16th DISTRICT, 2nd SECTION
 CITY OF MARIETTA
 COBB COUNTY, GEORGIA
 DATE: 09-20-2016
 SCALE: 1" (INCH) = 30' (FEET)**



R.F.M. CONSULTING, LLC
 707 WHITLOCK AVENUE
 BUILDING A-37
 MARIETTA, GA 30064
 (770) 757-3977
 EMAIL: RFMCON@BELLSOUTH.NET



DATA COLLECTION & DRAFTING, LLC
 Party Chief / Survey Technician
 Mack R. Price, Jr., 678-313-9270
 FILE: MAXWELL AVENUE 167 SITE PLAN

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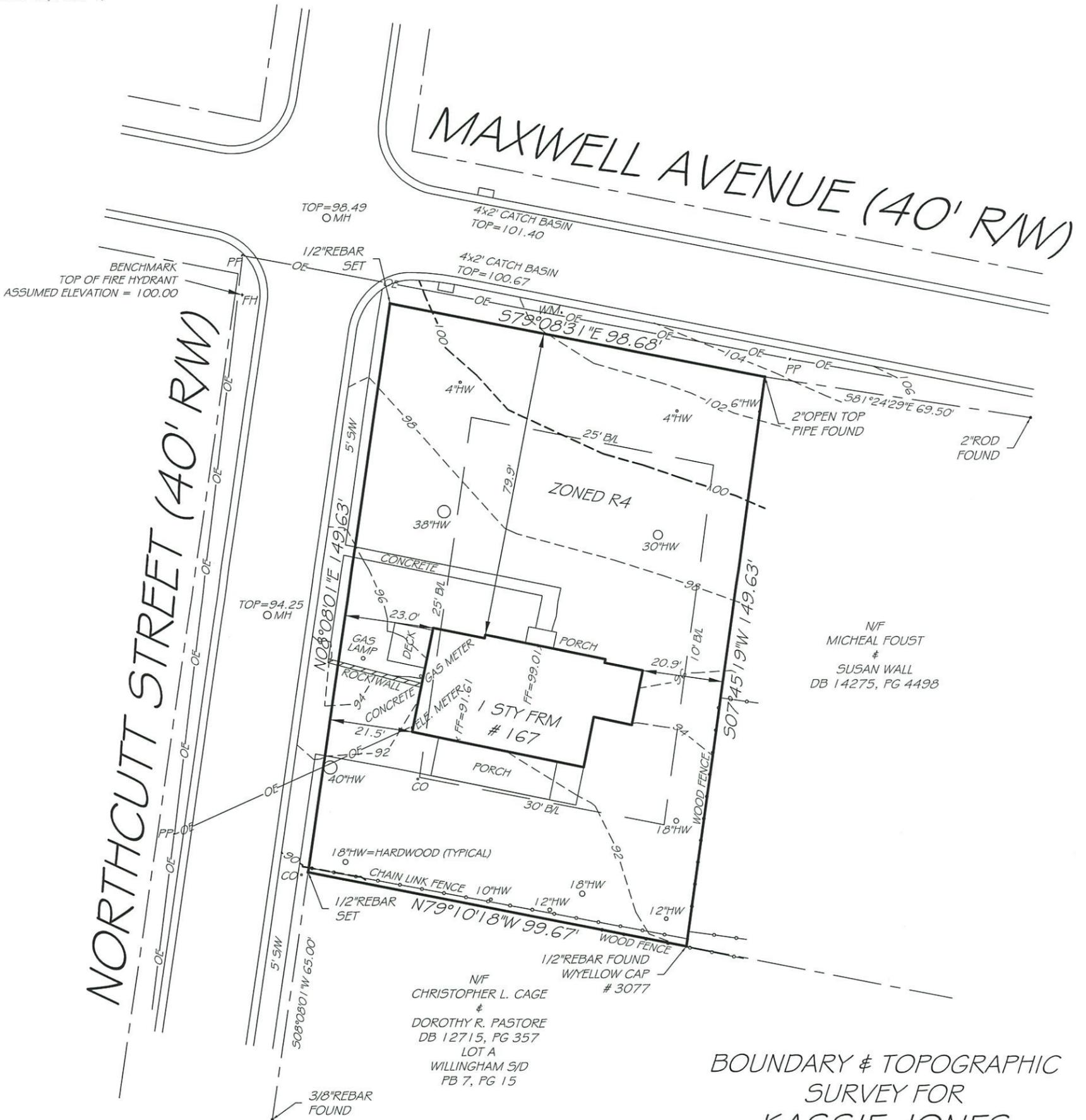
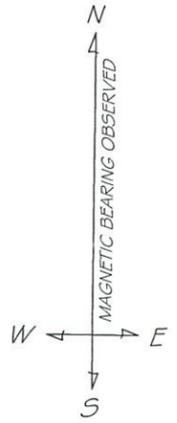
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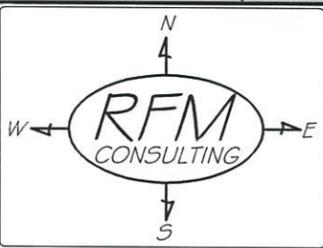


N/F
 MICHEAL FOUST
 &
 SUSAN WALL
 DB 14275, PG 4498

N/F
 CHRISTOPHER L. CAGE
 &
 DOROTHY R. PASTORE
 DB 12715, PG 357
 LOT A
 WILLINGHAM S/D
 PB 7, PG 15

**BOUNDARY & TOPOGRAPHIC
 SURVEY FOR
 KASSIE JONES**

BEING
167 MAXWELL AVENUE
 LOCATED IN
 LAND LOT 1229
 16th DISTRICT, 2nd SECTION
 CITY OF MARIETTA
 COBB COUNTY, GEORGIA
 FIELD DATE: 02-16-2016
 PLAT DATE: 02-22-2016
 SCALE: 1" (INCH) = 30' (FEET)



R.F.M. CONSULTING, LLC
 707 WHITLOCK AVENUE
 BUILDING A-37
 MARIETTA, GA 30064
 (770) 757-3977
 EMAIL: RFMCON@BELLSOUTH.NET

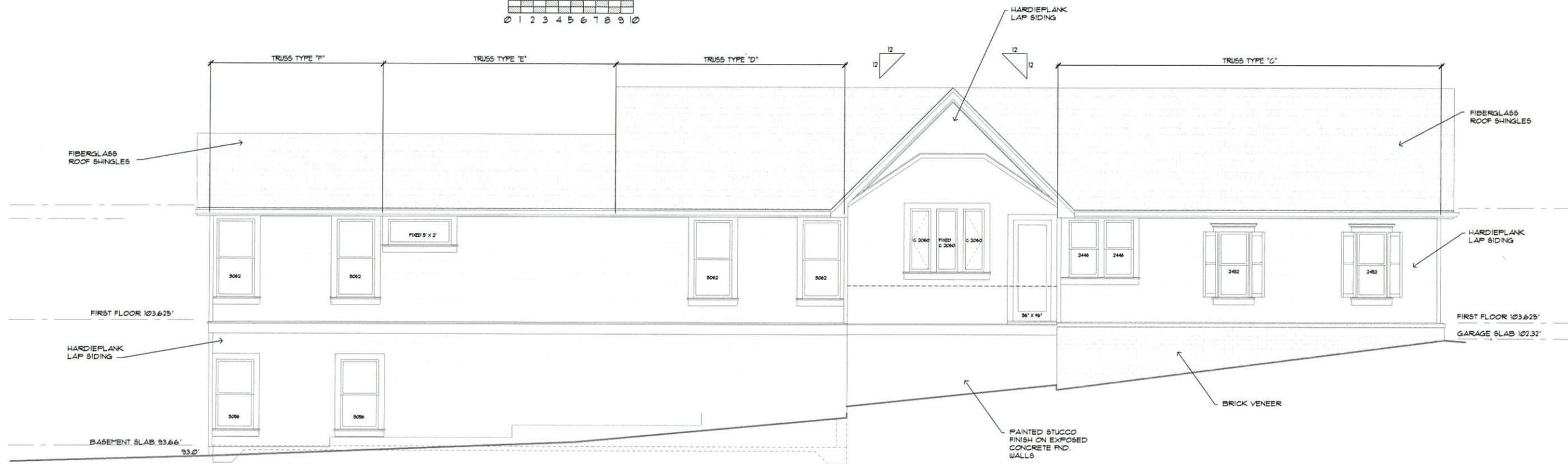
30' 22.5' 15' 7.5' 0' 15' 30'

GRAPHIC SCALE: 1"(inch) = 30'(feet)

DATA COLLECTION & DRAFTING, LLC
 Party Chief / Survey Technician
 Mack R. Price, Jr., 678-313-9270
 FILE: MAXWELL AVENUE 167.dwg



1 SOUTH ELEVATION
 A2.2 1/4" = 1'-0"
 GRAPHIC SCALE (FT.)
 0 1 2 3 4 5 6 7 8 9 10



2 EAST ELEVATION
 A2.2 1/4" = 1'-0"
 GRAPHIC SCALE (FT.)
 0 1 2 3 4 5 6 7 8 9 10

REVISION

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 OR TRANSMITTED IN ANY FORM OR
 BY ANY MEANS, WITHOUT THE
 WRITTEN CONSENT OF THE ARCHITECT.

MICHAEL J. O'KEEFE, ARCHITECT
 1256 RUSTIC RIDGE DRIVE
 BROOKHAVEN, GEORGIA 30319
 678. 938. 2531

A NEW HOME FOR
 KASSIE JONES
 15 MAXWELL AVENUE
 MARIETTA, GEORGIA 30064

12 SEPT., 2016

A2.2