



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2015-36 **Legistar #: 20150608**
Board of Zoning Appeals Hearing: Monday, July 27, 2015 – 6:00 p.m.
Property Owner: Lars M. Finderup
262 Seminole Dr NE
Marietta, GA 30060
Address: 262 Seminole Drive NE
Land Lot: 10880 **District:** 16 **Parcel:** 56
Council Ward: 4B **Existing Zoning:** R-3 (Single Family Residential – 3 units/acre)

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

1. Variance to reduce the side yard setback for an unenclosed porch from 5’ to 0.’ [§708.03 (H.) & §710.14 (A)]
2. Variance to reduce the eastern side yard setback for the existing home from 10’ to 5.’ [§708.03 (H)]
3. Variance to allow an accessory structure’s footprint exceed half that of the principal structure. [§708.03 (F.5)]
4. Variance to reduce the side yard setback for an accessory structure from 10’ to 5.’ [§708.03 (F.1) & [§708.03 (F.4)]
5. Variance to reduce the rear yard setback for an accessory structure from 22’ to 5.’ [§708.03 (F.4)]

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



262 Seminole Dr



Existing driveway/garage from Chicasaw Dr



Existing garage



Existing porch along eastern property line



Property line between subject property and 274 Seminole Dr (to the east)

Recommended Action:

Approval, with stipulations. The applicant, Lars M. Finderup, is requesting multiple variances for his property at 262 Seminole Drive, which is zoned R-3 (Single Family Residential – 3 units / acre). This is the applicant’s primary residence and it is surrounded by other properties that are used residentially and zoned R-3. The subject property is approximately 1/3 an acre in size and is located at the southeastern corner of Seminole Drive and Chicasaw Drive. The applicant is seeking variances in order to reconstruct a dilapidated porch and to construct a detached garage with attached workspace.

It is worth noting that the survey provided is not clear or recent, and the proposed improvements are superimposed on the survey rather than drafted by the original surveyor. Section 718.03 (A) requires “*site plans and other development plans required to be submitted under the provisions of this article shall be prepared only by those currently registered for such work in accordance with applicable state laws; plans for structures whose value exceeds \$10,000 shall be prepared by a registered engineer or architect.*” Considering the precision and proximity involved in this project, engineered plans will be required prior to the issuance of any building permits - should these variances be approved.

Detached Garage

The new detached structure would take the place of a smaller, existing garage that is accessed from Chicasaw Drive. The new garage would be 22 feet tall and be located 5 feet from both the rear and side property lines. Section 708.03 (F.4) states that if the detached structure is over 15 feet tall, then the rear setback becomes equal to the height - this would dictate the rear setback to be 22 feet. Side yard setbacks for accessory structures are 10 feet.

Section 708.03 (F.5) also restricts the size of an accessory structure to being no more than 50% the size of the principal structure's footprint. Although the plans provided are not properly scaled and the dimensions not entirely noted, it appears the area of the garage will be larger than half the footprint of the principal structure.

The property owner to the south (rear) has provided a general letter of support of the proposed renovations, but has expressed many concerns about details of the proposed plans for the new detached structure. This neighboring property owner has requested - should the application be approved - for stipulations to mitigate impacts to her property concerning drainage, privacy, aesthetics, occupancy, and height. While most of the requested stipulations are supported by the City's Code, there are a few that are not. First, Section 716.08 does not allow vehicles to drive or be parked on a surface other than asphalt, brick, or concrete; despite having a negative effect on drainage. The neighbor has also asked for three (3) stipulations restricting the use of windows, dormers, or solar panels/satellite dishes on the side of the garage facing her property. Zoning codes do not regulate fenestration, roof-mounted solar panels, or other architectural elements in most residential districts as long as all building codes are followed. According to the Chief Building Official, a setback of 5 feet or more would not restrict the use of windows.

Further, the fire department has the following objections per fire codes and city ordinances:

- *The proposed structure is within 10 feet of the property line, and thus requires compliance with the city's fire sprinkler ordinance. Owner may request an exemption from the ordinance by submitting that request in writing to the Fire Marshal.*

Porch Reconstruction/House Addition

The applicant is also proposing to add a small addition off the rear of the main house and to reconstruct a porch that is in disrepair. The proposed addition would not interfere with setback requirements and does not require variances. However, there is an enclosed part of the house and an existing covered porch, with a portion of the roof encroaching one foot over the property line to the east due to an improper subdivision of the parcel in the 1970s. Unenclosed projections such as porches, stoops, and eaves may project 50% into the setback; so in this case, a five (5) foot setback would be required. The applicant wishes to remove the enclosed section of the house that extends to the property line; and rebuild a covered, but unenclosed, porch up to the property line rather than provide the five (5) foot setback. The remaining enclosed portion of the home would remain five (5) feet from the property line. The City does not have the authority to allow the existing roof overhang to be reconstructed over the property line. Further, since the porch is to be re-built, it should be set back at least two (2) feet from the property line and should not be allowed to go right to the property line because of water run-off from the roof and other drainage issues.

In order to allow the property owners to make improvements to their home, ***Staff recommends approval with the following stipulations in order to protect the adjacent property owners:***

- 1. Property lines be surveyed and staked prior to beginning construction.***
- 2. Site plans for the improvements and submitted for permitting must be prepared by a registered engineer or surveyor.***
- 3. Submitted plans must provide a detailed exhibit addressing how stormwater runoff will be captured and directed away from the adjacent properties.***



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

-
4. *The detached garage will not be converted to a separate dwelling unit.*
 5. *The porch that is to be re-built must be set back at least two (2) feet from the side property line.*
 6. *The detached structure will be limited to 22' in height.*



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

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

Application #: V2015-36 Hearing: 7-27-15 Registrar # P2.15-301

This is a variance/appeal application for:

Board of Zoning Appeals

City Council

Owner's Name LARS M. FINDERUP

Address 262 SEMINOLE DRIVE NE Zip Code: 30060

Telephone Number: 7709800550 Email Address: LMFINDERUP@GMAIL.COM

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant _____

Address _____ Zip Code: _____

Telephone Number _____ Email Address: _____

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

262 SEMINOLE DRIVE NE Date of Acquisition: FEB 19, 1997

Land Lot (s) 10880 District 14 Parcel 56 Acreage 0.3 Zoned R3 Ward 4B FLU LDR
 ↳ 0470

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

VARIANCE FROM PRESCRIBED MINIMUM SIDE AND REAR YARD SETBACKS. SEE ATTACHED LETTER AND DRAWINGS.

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. ✓ Legal description of 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 - 25 copies of 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).
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

City of Marietta
Planning & Zoning Division
2nd Floor, City Hall
205 Lawrence Street

RE: 262 Seminole Drive NE, Marietta, GA 30060

We hereby request a variance from the prescribed side and rear yard setbacks for our property located at 262 Seminole Drive NE. This variance is necessary to allow us to increase the utilization of our property and make it consistent with that of other properties in the neighborhood. Our plans are modest and involve a design that is respectful of, and in harmony with the historic integrity of the existing property.

The property currently has a small one story single-family home facing Seminole Drive and a detached two car garage on the southeastern corner of the lot, both constructed in 1925 on what was originally one lot of 140 by 180 feet. A room used as maid's quarters was built east of the garage but has since been torn down. Partial foundations and utilities remain as evidence of its existence.

Subsequently, about 1970, the property was apparently subdivided, creating a non conforming lot of 70 by 180 feet, with the new eastern boundary aligned with the existing back porch, five feet from the east face of the house. The resulting property, now zoned R-3, presents unique challenges for the design of structures and landscaping that will allow its full utilization without disrupting the historic integrity of both the structure and the site itself. The lot is bisected by a Civil War era stone wall (shown on the attached site plan), and we believe it is our obligation to continue to protect it. Finally, the constraints of a corner lot are imposed, making the buildable area extremely limited.

This request consists of two elements. The first one will modify the primary residence by replacing the existing porch on the east side with a more durable open porch, built with a concrete floor on the existing masonry foundation and non combustible columns and roof. It will further replace an existing wooden walkway with a covered one of the same construction as the porch. A new master bathroom and open, covered porch on the south side of the residence will also be added.

The second element will replace the existing garage with a new, larger one story structure, creating a two car garage with adjacent shop and studio space by extending its current dimensions along the southern edge of the lot while maintaining the current distance to the property line. The new structure will be protected with a sprinkler system conforming with NFPA 13D.

The primary residence is currently 1712 sq ft, with a planned master bath addition of 151 sq ft, for a total area of 1863 sq ft. The proposed garage structure is 930 sq ft, not exceeding 50% of the primary structure's area.

The height of the accessory structure, 22 feet at the ridge, will not exceed the height of the primary residence. The new total developed area will be 2793 sq ft, approximately 22% of the lot area of 12602 sq ft.

A visual review of the Cherokee Heights neighborhood clearly indicates that there is ample precedent for a variance of this sort. Historically, almost every property has or has had an accessory structure built with five feet or less of the property lines. We are merely asking for a comparable condition.

We have reviewed our plans in detail with our neighbors, Ann Parsons at 574 Chicasaw Drive, and Terri Hendricks at 274 Seminole Drive. Neither of them has expressed any objections to our request and we expect to have letters of support from them in time for the hearing.

We ask for a favorable review of this variance request with full consideration of the fact that our design has been carefully created to be consistent with the historic district in which we live and to be respectful of the neighbors with whom we share it. Respectfully submitted.



Lars M. Finderup
770 980 0550
Lmfinderup@gmail.com

June 8, 2015

City of Marietta
Department of Development Services
205 Lawrence Street
Marietta, GA 30060

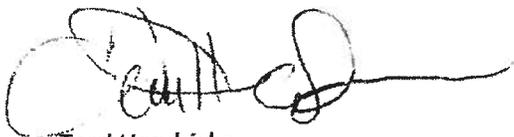
To Whom It May Concern:

It is my understanding that Lars Finderup and Donna Barnhart, my neighbors at 262 Seminole Drive NE, have applied for a variance in order to make additions and modifications to their existing home and garage. They have reviewed their plans with me and have demonstrated to my satisfaction that the modifications will:

- Enhance the appearance of their property, and by extension the appearance of the neighborhood.
- Honor the historic integrity of the 90-year-old property.
- Be extensions of their existing structures, the setbacks of which will be consistent with the existing structures, and therefore will not infringe upon my enjoyment of my neighboring property.
- Enable them to fully utilize their corner lot to the same extent as other properties in the neighborhood.
- Tastefully enhance the value of their property, and by extension the values of neighboring properties.
- Be accomplished in an efficient and conscientious manner with as little disruption to neighboring properties as possible.

For these reasons, I am happy to lend my support to the property enhancements and ask that you include my opinion in your deliberations. Thank you for your consideration.

Sincerely,

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

Terri Hendricks
274 Seminole Drive NE
Marietta, GA 30060

June 15, 2015

To: Shelby Little, Marietta Zoning Administrator

From: Ann Parsons
574 Chicasaw Drive
Marietta, Georgia 30060

RE: Request for variance by Lars Finderup and Donna Barnhart at 262 Seminole Drive NE

On Wednesday, June 10, 2015, Lars Finderup and Donna Barnhart met with me to review their plans for building a garage with additional space for a studio, shop, and bathroom. They provided a pdf showing the plans, but without details of building heights or setbacks. They explained they were requesting a variance to place the building 5' from the property line. Their proposed building will extend to the rear corner of their property and is considerably larger than the existing garage.

I spoke with you on Monday, June 15, 2015 to more fully understand the City's residential zoning requirements and discuss concerns.

Below are the concerns I have regarding the impact of my neighbor's proposed project on my property. I appreciate your consideration and would like the variance/permit to reflect/include the following stipulations:

- Drainage – plans to provide and maintain gutters and drainage on and around the building to direct water and runoff away from my property and onto the property at 262 Seminole Drive
- Drainage – plans to provide porous, drainable surface for the driveway so that water and runoff is directed away from my property
- Property line – surveyed, staked and agreed upon by both parties prior to construction
- Privacy – window sills set at 6' or higher on the side of the proposed building that faces 574 Chicasaw Drive
- Long term plans – no dormers to be placed on the side facing 574 Chicasaw Drive.
- Long term plans – no solar panels or satellite dishes to be placed on the side facing 574 Chicasaw Drive
- The structure will not be considered a habitable space and will not be turned into an apartment or rentable space.
- The structure will be limited to a one story building.

Regarding the setback of 5 feet: I think some additional research is needed to determine the impact of building this structure 5' from the rear and side property lines before a variance is approved.

I appreciate the plans of my neighbors to enhance their property. I hope that my concerns will be considered in the request for a variance.

Thank you,



Ann Parsons
574 Chicasaw Drive

TO: Marietta Daily Journal
FROM: City of Marietta
RUN DATE: July 10, 2015

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, July 27, 2015 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

V2015-36 [VARIANCE] LARS M. FINDERUP is requesting variances for property located in Land Lot 10880, District 16, Parcel 0470, 2nd Section, Marietta, Cobb County, Georgia and being known as 262 Seminole Drive. Variance to reduce the side yard setback for an unenclosed porch from 5' to 0'; variance to reduce the eastern side yard setback from 10' to 5'; variance to allow an accessory structure's footprint exceed half that of the principal structure; variance to reduce the side yard setback for an accessory structure from 10' to 5'; variance to reduce the rear yard setback for an accessory structure from 22' to 5.' 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.

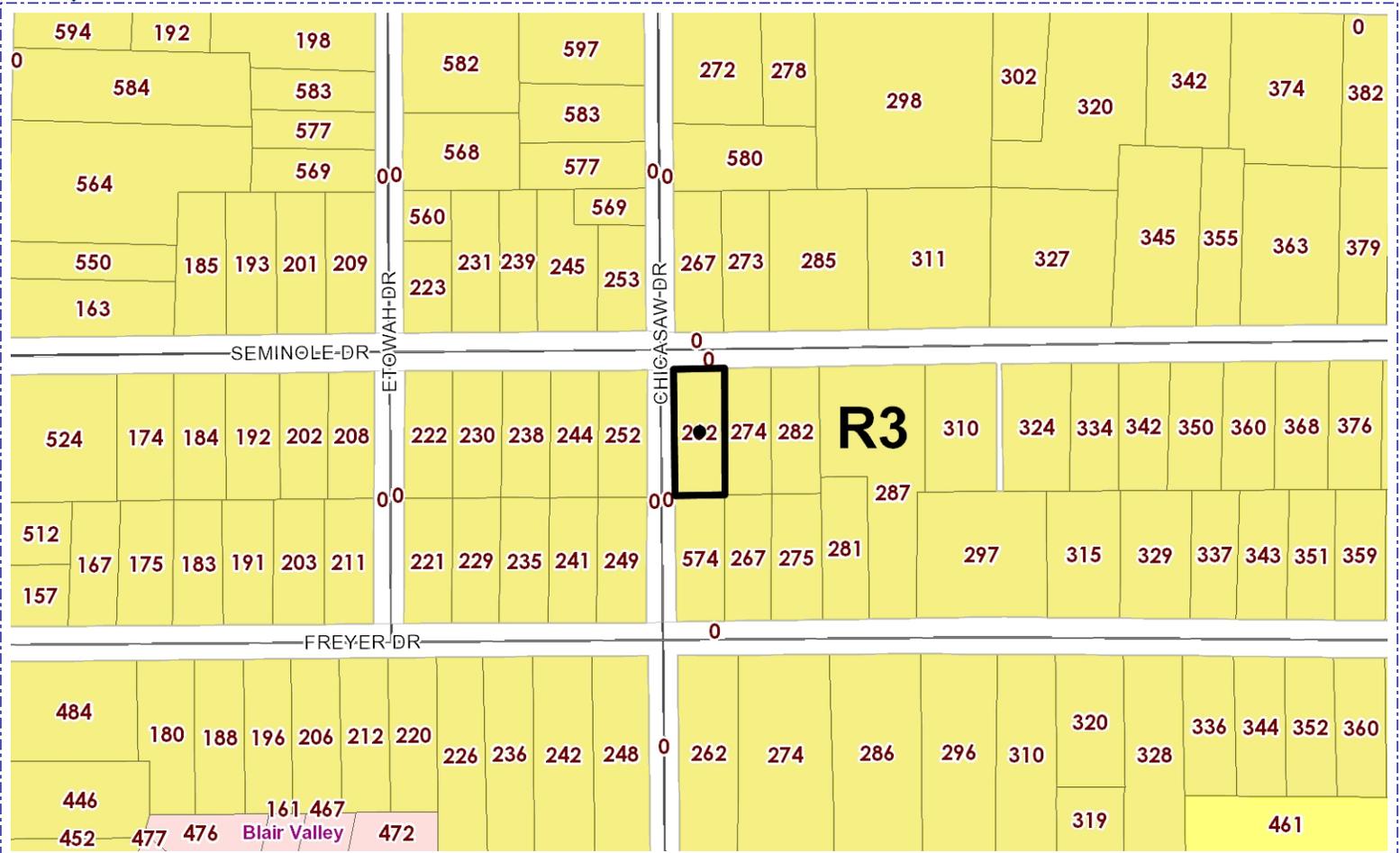
For additional information please call the Planning and Zoning Office (770) 794-5669.

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

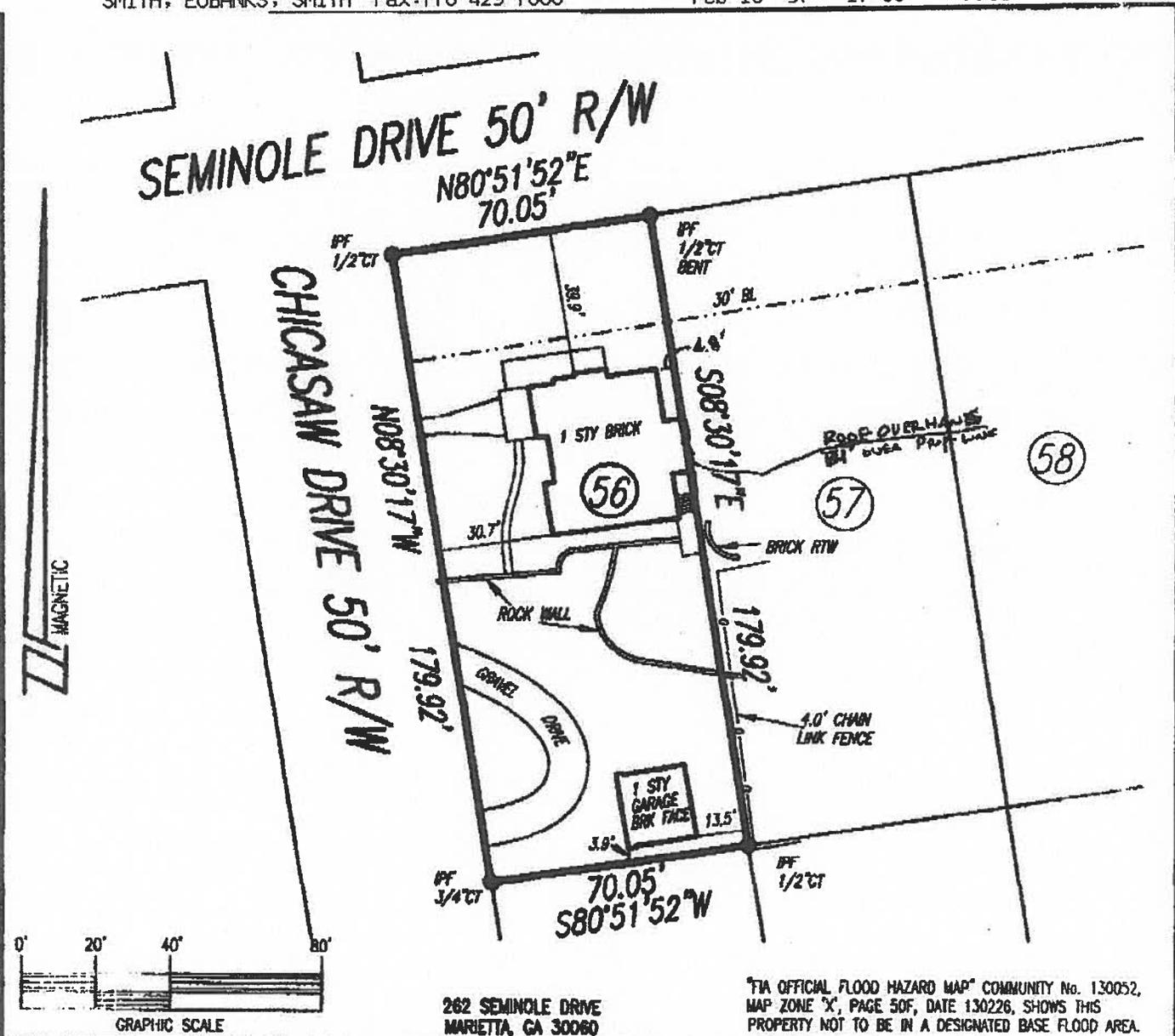


Variance



Address	Parcel Number	Acreage	Ward	Zoning	FLU
262 SEMINOLE DR	16108800470	0.301	4B	R3	LDR

Property Owner:	Lars M. Finderup	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
Applicant:		
BZA Hearing Date:	07/27/2015	
Acquisition Date:		
Case Number:	V2015-36	
City of Marietta Planning & Zoning		



262 SEMINOLE DRIVE
 MARIETTA, GA 30060

"FIA OFFICIAL FLOOD HAZARD MAP" COMMUNITY No. 130052,
 MAP ZONE 'X', PAGE 50F, DATE 130226, SHOWS THIS
 PROPERTY NOT TO BE IN A DESIGNATED BASE FLOOD AREA.

THE SURVEY SHOWN HEREON WAS PREPARED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE; THEREFORE, THE UNDERSIGNED AND C&C LAND SURVEYORS, INC. MAKE NO GUARANTEES OR REPRESENTATIONS REGARDING INFORMATION SHOWN HEREON PERTAINING TO EASEMENTS, RIGHTS-OF-WAY, SETBACK LINES, AGREEMENTS, RESERVATIONS, AND OTHER SIMILAR MATTERS. THE UTILITIES SHOWN ARE SHOWN FOR THE CLIENTS' CONVENIENCE ONLY. THERE MAY BE OTHER UNDERGROUND UTILITIES NOT SHOWN. THE SURVEYOR ASSUMES RESPONSIBILITY ONLY FOR THE UTILITIES SHOWN. THIS PLAT IS FOR THE BENEFIT OF THE PARTIES IN THE TITLE BLOCK. ANY USE BY THIRD PARTIES IS AT THEIR OWN RISK. THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE IN N/A FEET AND AN ANGULAR ERROR OF N/A PER ANGLE POINT AND WAS NOT ADJUSTED. OPEN ENDED TRAVERSE UTILIZED TO GATHER FIELD DATA. THIS PLAT HAS BEEN CALCULATED AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 1,000,000+ FEET. EQUIPMENT UTILIZED: ANGULAR - TOPCON 303, LINEAR - E.D.M.



- LEGEND:**
- R - Radius
 - CH - Chord
 - MH - Manhole
 - OI - Drop Inlet
 - AI - Angle Iron
 - MW - Manwall
 - EOP - Edge of Pavement
 - CONC - Concrete
 - L - Arc Length
 - OT - Open Top
 - CT - Crimp Top
 - CB - Catch Basin
 - JB - Junction Box
 - RI - Building Line
 - DE - Drainage Easement
 - IPF - Iron pin found
 - IPS - Iron pin set
 - 14RB - 1/4" Rebar
 - 38RB - 3/8" Rebar
 - R/W - Right-of-way
 - BOC - Back of Curb
 - SE - Sewer Easement

SURVEY FOR:
LARS M. FINDERUP

SUBDIVISION - CHEROKEE HEIGHTS SUBDIVISION		
LOT - 56	BLOCK -	UNIT -
LAND LOT - 1088	DISTRICT - 16	SECTION - 2
CITY - CITY OF MARIETTA		
COUNTY - COBB	STATE - GEORGIA	
REFERENCE PLAT BOOK/PAGE - 1/158	DISC - WIN076	
FIELD SURVEY DATE : 2-15-97	SCALE: 1" = 40'	
CAD DRAFTING DATE : 2-18-97		
REVISIONS :		

JOB No.: A 97-0075

C & C LAND SURVEYORS, INC.
 P.O. BOX 837, ACWORTH, GEORGIA 30101
 (770) 975 - 3933

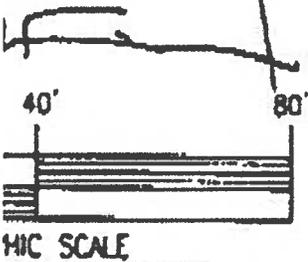
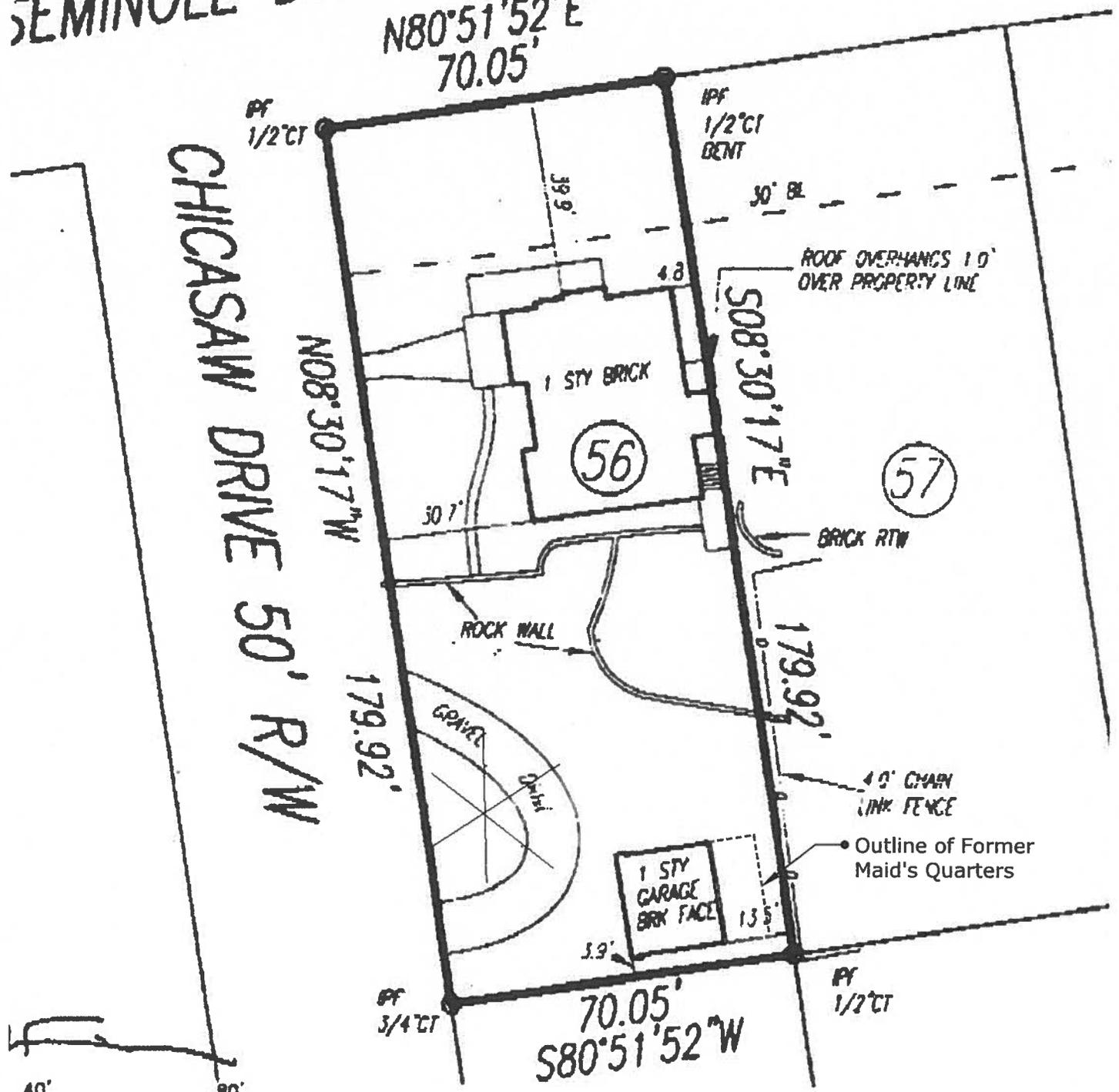
Survey

1/40" Scale

SEMINOLE DRIVE 50' R/W

N80°51'52"E
70.05'

CHICASAW DRIVE 50' R/W



262 SEMINOLE DRIVE
MARIETTA, GA 30060

FIA OFFICIAL FLOOD HAZARD MAP C
MAP ZONE 'X', PAGE 50F, DATE 130
PROPERTY NOT TO BE IN A DESIGNA

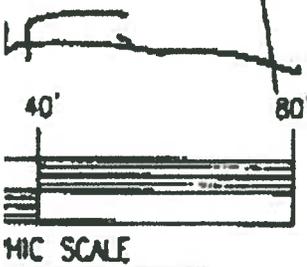
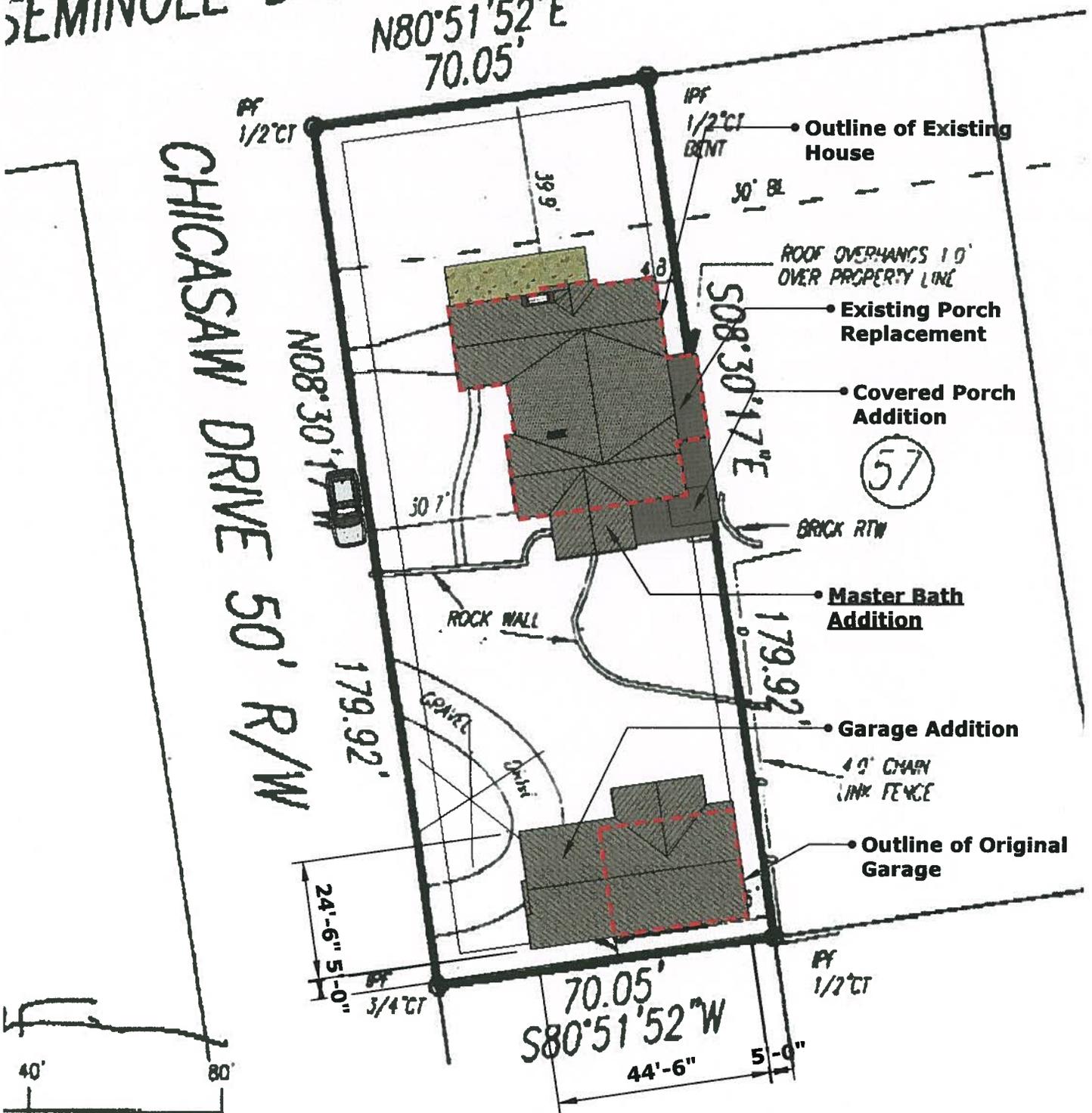
FINDERUP RESIDENCE, RENOVATION AND ADDITION 262 SEMINOLE DRIVE, MARIETTA, GA 30060

Site Plan

1/40" Scale

SEMINOLE DRIVE 50' R/W
N80°51'52"E
70.05'

CHICASAW DRIVE 50' R/W



262 SEMINOLE DRIVE
MARIETTA, GA 30060

*FIA OFFICIAL FLOOD HAZARD MAP C
MAP ZONE 'X', PAGE 50F, DATE 1.30
PROPERTY NOT TO BE IN A DESIGNA

FINDERUP RESIDENCE, RENOVATION AND ADDITION
262 SEMINOLE DRIVE, MARIETTA, GA 30060

Main South Elevation Before

1/8" Scale



Main South Elevation After

1/8" Scale

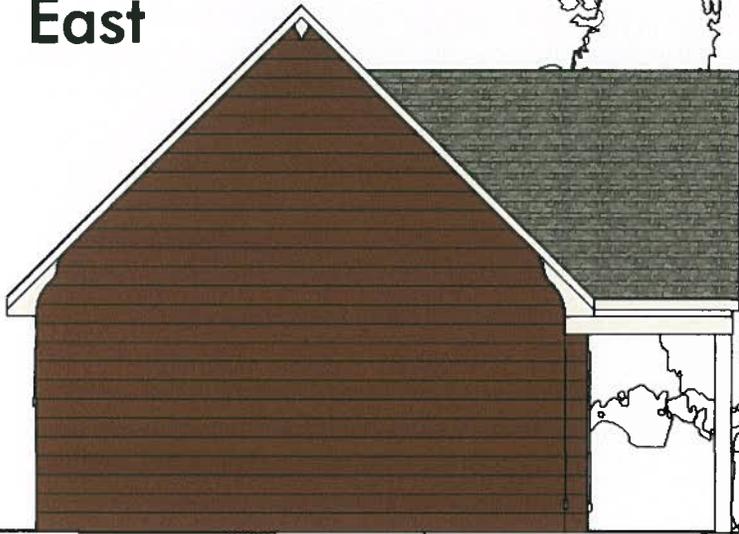


FINDERUP RESIDENCE, RENOVATION AND ADDITION
262 SEMINOLE DRIVE, MARIETTA, GA 30060

North



East



West



Garage South Elevation

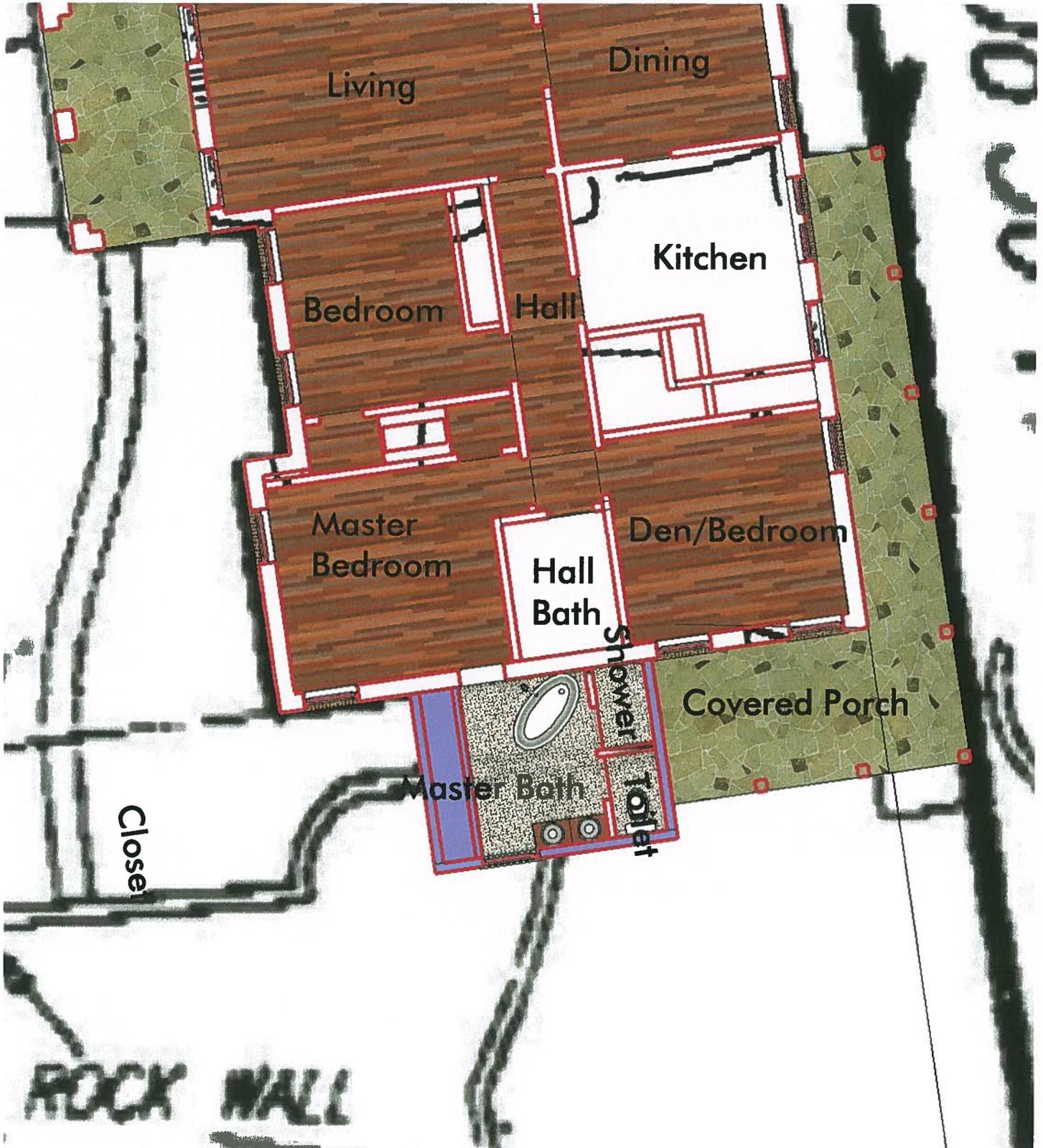
1/8" Scale



FINDERUP RESIDENCE, RENOVATION AND ADDITION
262 SEMINOLE DRIVE, MARIETTA, GA 30060

Main Plan

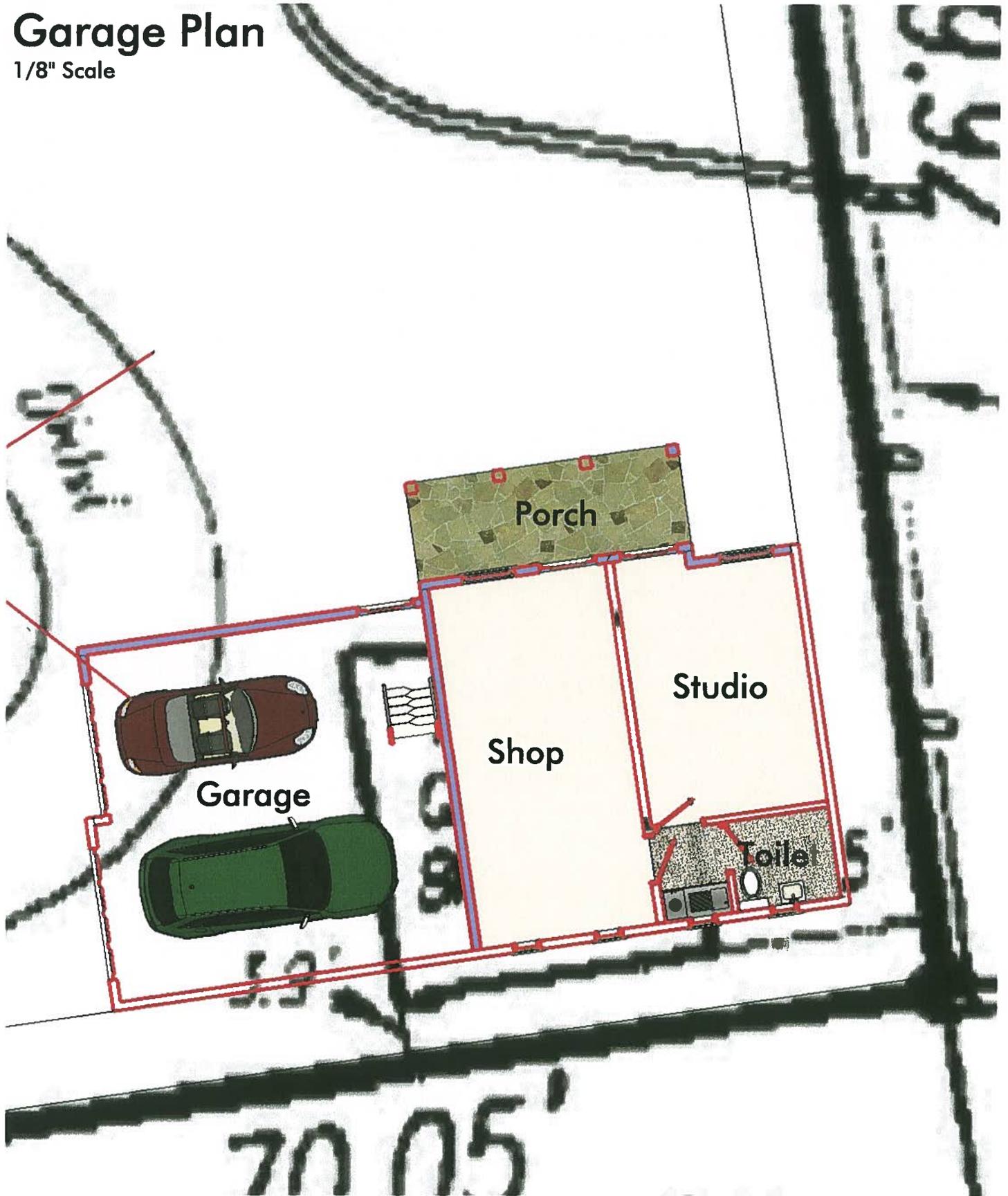
1/8" Scale



FINDERUP RESIDENCE, RENOVATION AND ADDITION
262 SEMINOLE DRIVE, MARIETTA, GA 30060

Garage Plan

1/8" Scale



FINDERUP RESIDENCE, RENOVATION AND ADDITION
262 SEMINOLE DRIVE, MARIETTA, GA 30060