



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2020-23 **Legistar #:** 20200533

Board of Zoning Appeals Hearing: Monday, July 27, 2020 – 6:00 p.m.

Property Owner: Michael Farley and Jennifer Meier
349 Saint Mary’s Lane
Marietta, GA 30064

Applicant: Same as above

Address: 349 Saint Mary’s Lane

Land Lot: 1084 **District:** 16th **Parcel:** 00130

Council Ward: 4A **Existing Zoning:** R-2 (Single Family Residential – 2 units/acre)

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

1. Variance to allow accessory structure to be closer to the public right of way than the primary structure [§708.02 (F.1)]
2. Variance to reduce the setback from 2’ to 0’ to allow a fence along the right of way [§710.04]
3. Variance to allow existing accessory structures to remain closer to public right of way than the main structure [§708.02 (F.1)]

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:

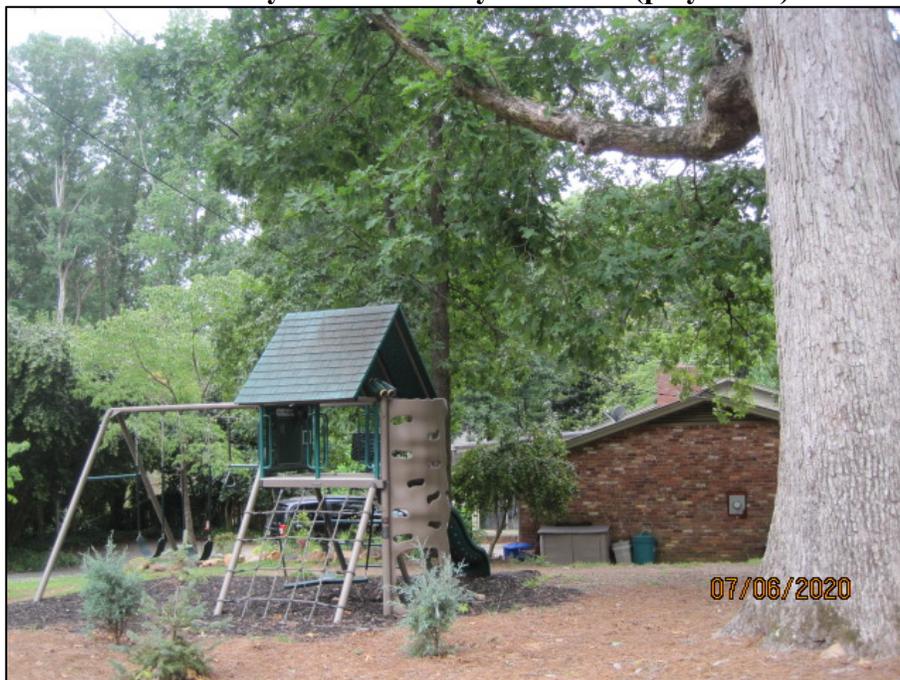
1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.

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



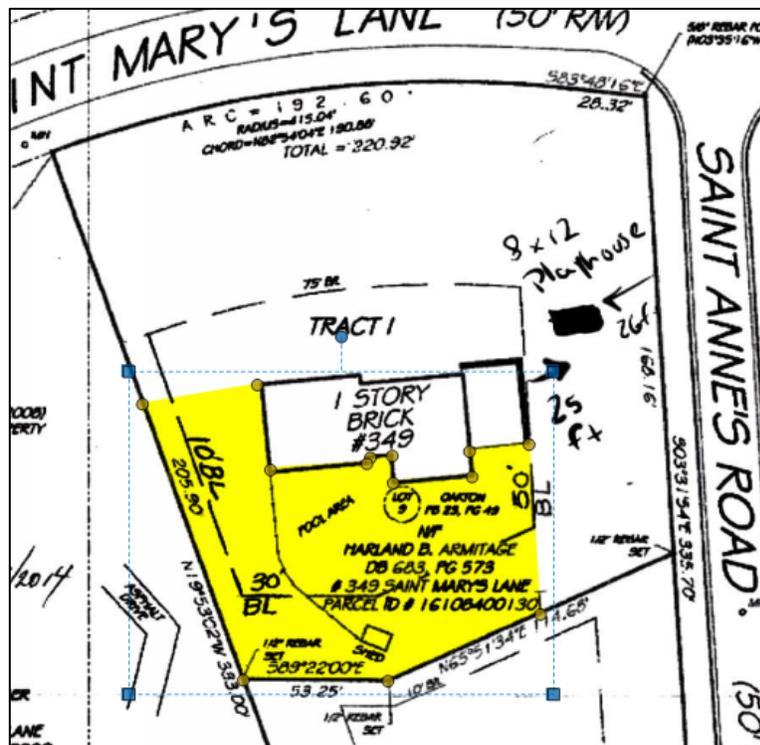
Partially built accessory structure (playhouse)



Existing accessory structure in major side yard



Rear portion of subject property to be enclosed by proposed fence



Acceptable locations for accessory structures on corner lots

Recommended Action:

Approval. The applicants, Michael Farley and Jennifer Meier, are requesting variances for the property at 349 Saint Mary's Lane. The subject property is approximately 0.874 acres in total and lies at the corner of Saint Anne's Road and Saint Mary's Lane. The subject property is zoned R-2 (Single Family Residential – 2units/acre) and the surrounding area is completely made up of properties zoned R-2 as well. The applicants are requesting variances for accessory structures (existing and proposed) and as well as for the placement of a new fence.

Accessory Structures

According to the zoning ordinance, accessory structures “*shall be located upon the same lot and to the side or rear of the principal use at least 10 feet from side or rear lot lines...In cases of corner lots, the accessory structure may not be closer to any right-of-way than the principal building.*” This variance was brought to city staff attention by way of a building permit application for the construction of an accessory structure (8' x 12' playhouse). Staff indicated the zoning regulations would require the structure to be relocated to the southwestern portion of the property at least ten (10) feet away from the rear and side yard property lines. The building permit was approved earlier this month with the proposed accessory structure being placed (50) feet from Saint Anne's Road.

The applicants have stated that there is a pool and a steep hill towards the rear of the property and the areas indicated by city staff are not suitable locations for a playhouse. Currently, there is a playset as well as a dome structure (existing accessory structures) in the area where the applicant has proposed the 8' x 12' playhouse. The applicant has stated they wish to keep the current playset and dome structure. Since the house is situated so far away from both streets and the pool takes up much of the back yard, there is no better area to place the playhouse so that it is not closer to the right of way than the main structure. *As such, staff recommends approval of the variance request.*

Fence

The applicants also wish to build a four (4) foot fence around the major side yard and accessory structures in order to provide an enclosed area for their children to play. The proposed fence would span from the eastern section of the major side around to the rear yard, completely enclosing the existing and proposed playsets. The applicants wish to place the fence 9.5 feet from the road due to existing vegetation. However, the plat indicates the property line is eleven (11) feet from the back of curb against Saint Anne's Road and there is a water main running along the western side of Saint Anne's Road. Further, the BZA cannot authorize a fence to be placed within the right-of-way. However, BZA may reduce the setback for a fence from two (2) to zero (0) feet from the property line as long as the fence does not block visibility. The nearby intersection is a four-way stop so visibility should not be an issue. As a result, *staff recommends approval to reduce the fence setback from 2' to 0' with the condition that the applicants be responsible for ensuring the fence is not installed within the right of way.*



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 #: V 2020-23 Registrar #: 20200533 BZA Hearing Dt: 7-27-20
City Council Hearing Dt (if applicable) #: — PZ #: 20-173

This is a variance/appeal application for:

Board of Zoning Appeals

City Council

Owner's Name Micheal Farley and Jennifer Meier
EMAIL Address: micheal.scott.farley@gmail.com jkatiemeier@gmail.com
Mailing Address 349 Saint Mary's Ln Zip Code: 30064 Phone Number 404 395 2785
678 642 8470

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant: _____

EMAIL Address: _____

Mailing Address _____ Zip Code: _____ Phone Number _____

Address of subject property: 349 Saint Mary's Ln Date of Acquisition: 4/2014

Land Lot (s) 1084 District 16 Parcel 00130 Acreage .87 Zoned R2 Ward 4A FLU: LDR

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

fence + playhouse placement

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.

Michael Farley
Signature of Owner

J. Meier
Signature of Applicant

Michael Farley
Print Name

Jennifer Katherine Meier
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.

Michael Farley
Print Name

Michael Farley
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.

Michael Farley
Signature of Applicant

6/15/2020
Date

Michael Farley
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.

Michael Farley
Signature of Owner

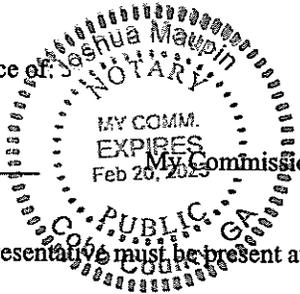
Michael Farley
Please Print

349 St. Mary's Ln NW Marietta, GA 30064
Address

6/15/2020
Date

Signed, sealed and delivered in the presence of:

[Signature]



My Commission Expires: 02/20/2023

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

To whom it concerns,

We are requesting a variance for fence placement and playhouse placement on our property at 349 Saint Mary's Lane NW. There are several reasons we require placement in the requested location. We would also like to note that the playhouse area is surrounded by plantings which will entirely obscure it from view within eighteen months to two years.

1. Our yard is a very steep slope and this area is the most flat terrain we have to provide a play area for our four children. We also really just do not have a "backyard" area other than a large pool area, a narrow and extraordinarily steep hill area and a secondary driveway leading to our garage. We would actually have to remove a driveway and a pool in order to have any "backyard".
2. The original lot for our home was split and now overlooking our backyard is an approximately 20 foot retaining wall which holds a swimming pool for a large new construction home. There is no privacy therefore in the limited area behind our home. Behind this neighbor's wall there is frequent flooding further making anything to the rear of our home inappropriate for any play area for our children.
3. The area we are requesting provides us with adequate visibility to our children. Obviously, we cannot allow our children to play unsupervised by the pool area. We also have a child with some special medical needs who cannot be out of sight for us for any extended periods.
4. We are requesting to put a fence around this area to protect our children from the constant flow of cut through traffic. The issue of speeding and running the stop sign is well known in our area and we sit at the intersection.
5. We need our four foot fence to sit at approximately 9.5 feet off the road due to our extensive mature trees. The 9.5 foot line is our only clear line for fencing to maintain an attractive fence appearance and maintain any area for play without removing many large, centuries-old trees. This does not interfere with any visibility on the road but will provide a bit of safety and privacy for our family. The road is frequently walked by the community. Though we love our community there have been times that strangers have attempted unusual conversations with our children.

Thank you,

Micheal Scott Farley
Jennifer Katherine Meier

BLANK PAGE

TO: Marietta Daily Journal
FROM: City of Marietta
RUN DATE: July 10, 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, July 27th, 2020 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

V2020-23 [VARIANCE] MICHEAL FARLEY & JENNIFER MEIER are requesting variances for property zoned R-2 (Single Family Residential – 2 units/acre), located in Land Lot 1084, District 16, Parcel 0130, 2nd Section, Marietta, Cobb County, Georgia, and being known as 349 Saint Mary’s Lane. Variance to allow accessory structure to be closer to the public right of way than the primary structure; variance to reduce the setback from 2’ to 0’ for a fence along the right of way; variance to allow existing accessory structures to remain closer to public right of way than the main structure. Ward 4A.

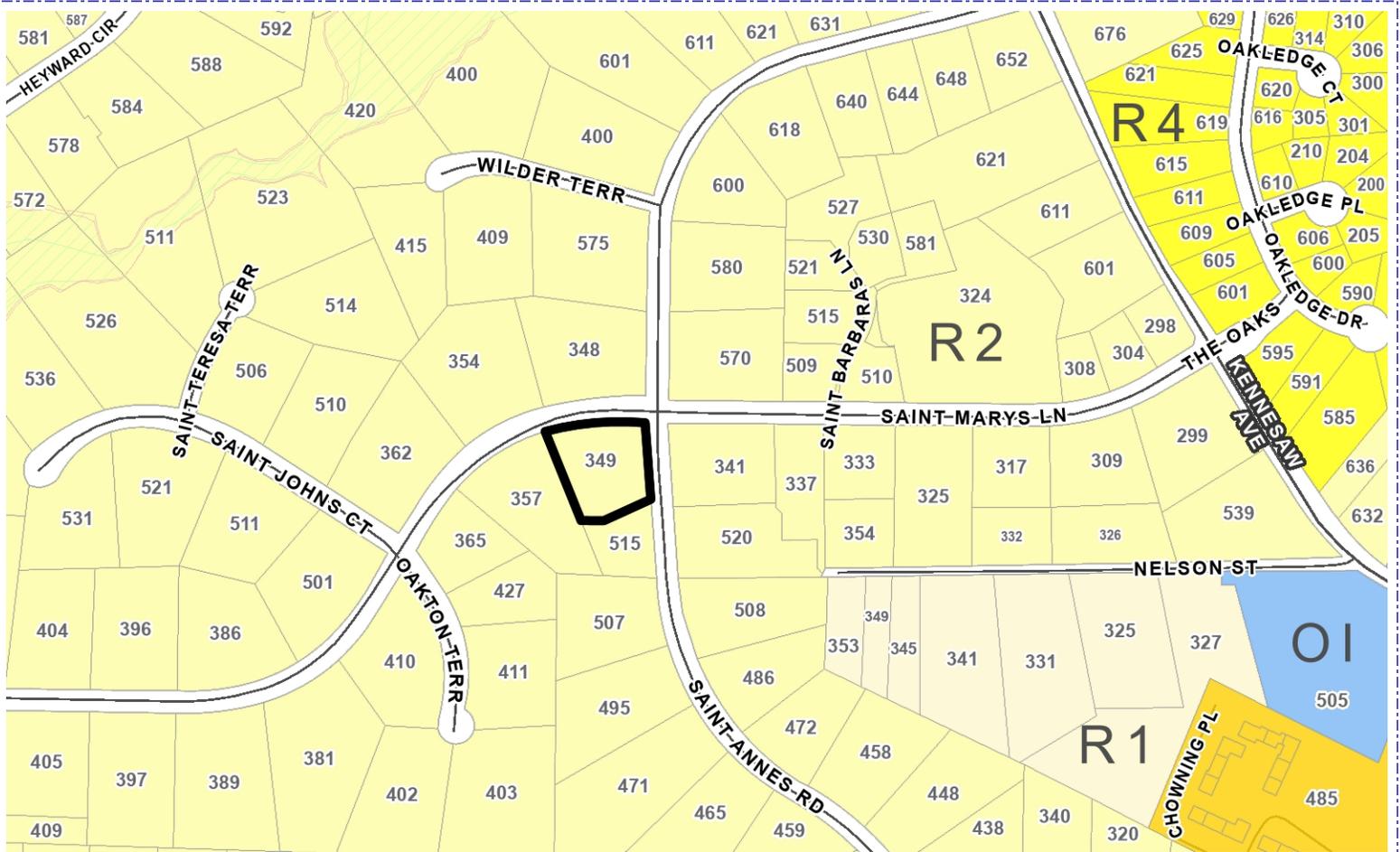
A description and plat of the property sought for the variances are on file in the Planning and Zoning Office, City Hall, and are available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto. You may also review the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

For additional information including questions about virtual participation, 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
349 SAINT MARYS LN	16108400130	0.874	4A	R2	LDR

Property Owner:	Micheal Farley & Jennifer Meier
Applicant:	
BZA Hearing Date:	07/27/2020
Acquisition Date:	
Case Number:	V2020-23
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

2 6 0
5.04
242 190.88
TAL = 220.92

Reset

Save

28.32

75' BL

TRACT 1

Fence from St Annes

1 STORY
BRICK
#349

DOCL AREA

LOT 9

OWNED
FB 23, PG 49

150' BL

NF

HARLAND B. ARMITAGE
DB 683, PG 573

349 SAINT MARYS LANE

PARCEL ID # 16108400130

1/2' RETAIL SET

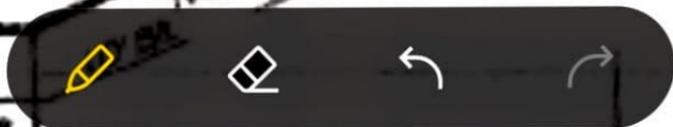
2200'E

N65°51'34"E 114.68'

3.25'



1/2' REBAR SET



1 STORY
BRICK
#349

POOL AREA

LOT
9

OWDON
PG 23, PG 49

MARLAND B. ARMITAGE
DB 683, PG 573

349 SAINT MARYS LANE
PARCEL ID # 16108400

25
ft

26
168.15'

50'
79'

30'
BL

1/2 REBAR
SHT
389°220'

903°3154E 3'