



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2020-39 **Legistar #:** 20200774

Board of Zoning Appeals Hearing: Monday, October 26th, 2020 – 6:00 p.m.

Property Owner: Mike & Jennifer Foushee
566 Church Street
Marietta, GA 30060

Applicant: Roger Balko
643 Etowah Drive
Marietta, GA 30060

Address: 566 Church Street

Land Lot: 1087 **District:** 16th **Parcel:** 0230

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 northern side setback for the existing home from 10 ft. to 4 ft. [*§708.03 (H)*]
2. Variance to reduce the minimum lot size from 10,000 sq. ft. to 8,700 sq. ft. [*§708.03 (H)*]
3. Variance to reduce the minimum lot width from 85 ft. to 49 ft. [*§708.03 (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 yard of subject property at 566 Church Street



Front yard setback showing accessory structure towards rear property (two-car garage)

Recommended Action:

Approved. The applicant, Roger Balko, is requesting multiple variances for their property at 566 Church Street., which is zoned R-3 (Single Family Residential – 3 units/acre). Mr. Balko is requesting the variances on behalf of the property owners, Mike and Jennifer Foushee. The properties surrounding the subject property are also used residentially and zoned R-3, except the property to the north is zoned OI (Office Institutional) and used as a medical office. The applicant would like to build an addition to the existing structure (towards the rear of the property) and create a second story. The applicant is requesting variances to reduce the building setbacks, minimum lot width, and minimum lot size based on the existing principal structure.

The variance requests were first brought to city staff attention by way of a building permit. The plans show the project would include removing the roof and adding a second story only to a portion of the existing structure. The project also includes minor renovations within the main structure itself (relocating electrical panels, changing out cabinets, renovating stairs).

The existing structure is approximately 1,558 square feet. The total cost of construction for the work exceeds the City's threshold for allowing nonconformities to remain and therefore, requires the entire site to be compliant with all zoning requirements for properties zoned R-3. The applicant has also stated additional minor interior renovations will occur on the main level as well as a proposal to add a roof to the rear patio and a fireplace. The proposed second story would add an additional height of 11.9 feet on to the home, which would make the new height of the structure 20.5 feet total.

Previously, the applicant requested a variance for the subject property in order to build an accessory structure (two-car garage) towards the rear portion of the property (V2014-18). The following variance requests were approved:

- Variance to reduce the required southern side yard setback for the new accessory structure from 10 ft to 1.5 ft which will maintain the current southern side yard setback [*§708.03 (F.1)*]
- Variance to reduce the required southern rear setback for the new accessory structure from 22 ft to 5 ft [*§708.03 (F.4)*]

It should be noted that the requested addition and extension of the roof line was approved at the June 1st, 2020 Historic Preservation Commission meeting being that the subject property is located in the Church-Cherokee Streets Historic District.

The Marietta Fire Marshall has determined if the cost of construction exceeds the tax assessed value, fire protection sprinklers will be required to be installed throughout. Engineering has noted that that the proposed improvements will have to include a dry well to attenuate the high impervious density of the small lot.

The property is located in an older part of the city where it is not uncommon to find many of the homes and structures to not comply with more contemporary and spacious setback requirements - staff estimates platting for this area dates back to the 1930's. In such areas, there is an established precedent for approving residential side setback variances, both for main structure and detached accessory structures. However, it should be noted that the applicant would not be further encroaching into the setbacks, being that the major renovation is adding to the existing structure vertically and would remain within the maximum building height. Since the main structure is already encroaching into the northern side setback and the applicant does not plan to further encroach into the setback with the proposed addition/remodel, ***staff recommends approval of the requested variances.***



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 #: V2020-39 Legistar #: 20200774 BZA Hearing Dt: 10-26-20
City Council Hearing Dt (if applicable) #: - PZ #: 20-251

This is a ~~variance~~/appeal application for:

Board of Zoning Appeals

City Council

Owner's Name Mike & Jennifer Foushee

EMAIL Address: m.foushee@brasfieldgoprie.com

Mailing Address 566 Church St. Zip Code: 30060 Phone Number 404-569-0201

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant: ROGER BALKO

EMAIL Address: ROGER@RBALKO.COM

Mailing Address 643 Etowah Dr Zip Code: 30060 Phone Number 404-314-3639

Address of subject property: 566 Church St. Date of Acquisition: 2014

Land Lot (s) 10870 District 16th Parcel 0230 Acreage 0.203 Zoned R3 Ward 4B FLU: LDR
1087 00230 .207

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

- variance to allow for nonconformities to remain at the existing, historic home in its original location.

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

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.

ROGER BALKO
Applicant Print Name

[Signature]
Signature of Applicant

OWNER / APPLICANT CERTIFICATION

- The Owner or 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.
- The Owner or Applicant hereby gives permission to enter on the property for inspection during the time application is pending.
- **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 Planning Commission within the two (2) years preceding the filing of the this application.

[Signature]
Applicant Signature (if not the Owner)

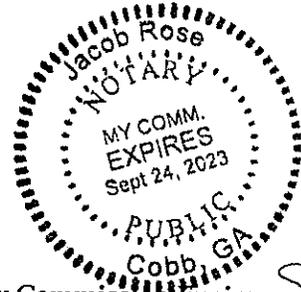
ROGER BALKO
Please Print

Jennifer Foushee
Owner Signature

JENNIFER FOUSHEE
Please Print

566 Chuech St, Marietta, GA 30060
Mailing Address

9-14-20
Date



Signed, sealed and delivered in the presence of:

Jacob Rose

My Commission Expires: Sept. 24, 2023

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



643 Etowah Dr NE
Marietta, GA 30060

404.314.3639

RBALKO.COM

The City of Marietta, GA Board of Zoning Appeals
September 14, 2020

Members of the Board,

I, Roger Balko, am writing to request a variance to the property owned by my clients, Mike and Jennifer Foushee, located at 566 Church St., Marietta, GA 30060. It is their desire to add a second story to their home.

The Zoning ordinance states if exterior alterations are performed and renovation costs meet or exceed 50% of the home's assessed value, then the entire site must be brought up to current code. They desire to perform that level of renovation to the home.

I am asking that the City grant variance to the Zoning ordinance to allow for the previously-permitted structures and existing, original home to remain in their current locations within the setbacks so that the desired exterior alterations can be made to the home without having to move the existing structures. Without a granted variance, exorbitant undue cost would be incurred and further improvements to the property would be prevented. This would put 566 Church St. at a distinct disadvantage in the neighborhood, as other such homes and structures are common within the mandated setbacks.

I would greatly appreciate your consideration voting in favor of this variance to allow for the further development and improvement of the property at 566 Church St.

Sincerely,
Roger Balko

R. BALKO

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TO: Marietta Daily Journal
FROM: City of Marietta
RUN DATE: October 9, 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, October 26th, 2020 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

V2020-39 [VARIANCE] ROGER BALKO (MIKE & JENNIFER FOUSHEE) is requesting a variance for property zoned R-3 (Single Family Residential – 3 units/acre), located in Land Lot 1087, District 16, Parcel 0230, 2nd Section, Marietta, Cobb County, Georgia, and being known as 566 Church Street. Variance to reduce the northern side setback for the existing home from 10 feet to 4 feet; variance to reduce the minimum lot size from 10,000 sq. ft. to 8,700 sq. ft.; variance to reduce the minimum lot width from 85’ to 49.’ 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. You may also review the property file at www.mariettaga.gov and enter the case # in the search box.

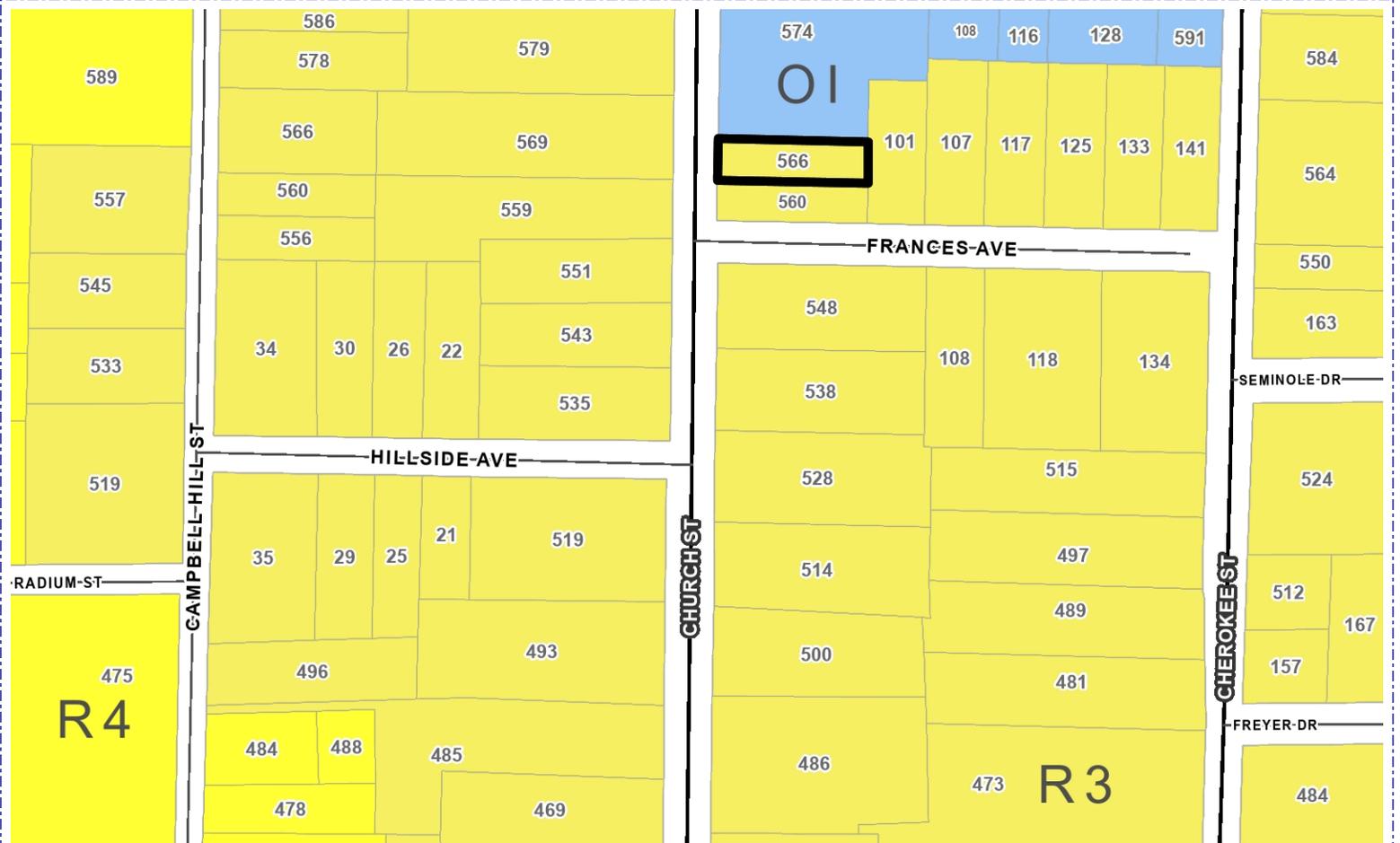
For additional information please call the Planning and Zoning Office (770) 794-5669.

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



Variance



Address	Parcel Number	Acreage	Ward	Zoning	FLU
566 CHURCH ST	16108700230	0.207	4B	R3	LDR

Property Owner:	Mike & Jennifer Foushee
Applicant:	Roger Balko
BZA Hearing Date:	10/26/2020
Acquisition Date:	
Case Number:	V2020-39
City of Marietta Planning & Zoning	

Zoning Symbols

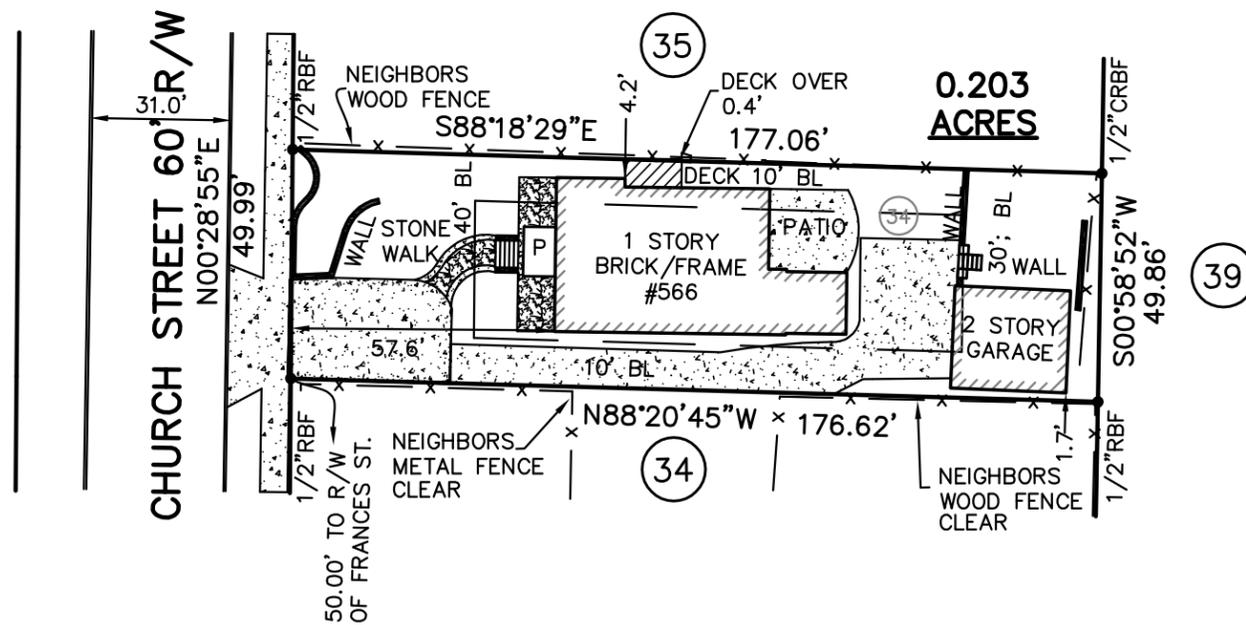
- Railroads
- City Limits
- Cobb County Pockets
- NA
- R1 - Single Family Residential (1 unit/acre)
- R2 - Single Family Residential (2 units/acre)
- R3 - Single Family Residential (3 units/acre)
- R4 - Single Family Residential (4 units/acre)
- RA4 - Single Family Residential - Attached
- RA6 - Single 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

LEGEND

- RBF REBAR FOUND (1/2" REBAR)
- CRS CAPPED REBAR SET (1/2" REBAR)
- CRBF CAPPED REBAR FOUND
- OTF OPEN TOP FOUND
- CTF CRIMP TOP FOUND
- ☼ LIGHT POLE
- BL BUILDING LINE
- C.L.F CHAIN LINK FENCE
- R/W RIGHT-OF-WAY
- TPED PHONE PEDASTAL
- CATV CABLE BOX
- WM WATER METER
- ▣PB TRANSFORMER
- (12.34'D) DEED DISTANCE
- 12.34'(M) MEASURED DISTANCE
- DE DRAINAGE EASEMENT
- SSE SEWER EASEMENT
- HW HEADWALL
- JB JUNCTION BOX
- CB CATCH BASIN
- P PORCH
- C/P CARPORT



NOTE: THE PUBLIC RECORDS REFERENCED HEREON REFLECT ONLY THOSE RECORDS NECESSARY TO ESTABLISH THE BOUNDARIES SHOWN HEREON, AND REFERENCE TO THE SAME DOES NOT AND IS NOT INTENDED TO CONSTITUTE A TITLE SEARCH OR OPINION. EASEMENTS OR OTHER ENCUMBRANCES MAY EXIST ON PUBLIC RECORD BUT NOT BE SHOWN HEREON.



GENERAL NOTES

THIS PLAT HAS BEEN CALCULATED FOR CLOSURE BY LATITUDES AND DEPARTURES AND IS FOUND ACCURATE TO WITHIN ONE FOOT IN 65,668 FEET.

THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 10,000+ FEET AND AN ANGULAR ERROR OF 02" PER ANGLE POINT AND WAS ADJUSTED USING COMPASS RULE.

A NIKON - TOTAL STATION WAS USED TO OBTAIN THE LINEAR AND ANGULAR MEASUREMENTS USED IN THE PREPARATION OF THIS PLAT.

FENCES SHOULD NOT BE PLACED USING SIDE DIMENSIONS FROM HOUSE OR STRUCTURE.

CERTIFICATION IS MADE TO PERSON(S) NAMED ON THIS PLAT AND IS NOT TRANSFERABLE TO OTHERS.

UTILITIES SHOWN ARE LOCATIONS OF GROUND IDENTIFIABLE ITEMS. ADDITIONAL UTILITIES MAY EXIST ABOVE OR BELOW GROUND. THE SURVEYOR ACCEPTS NO RESPONSIBILITY FOR THE COMPLETENESS OF THIS DATA.

THIS PROPERTY IS SUBJECT TO ALL RIGHT OF WAYS AND EASEMENTS SHOWN OR NOT SHOWN, RECORDED OR UNRECORDED

FLOOD NOTE:

BASED ON GRAPHIC DETERMINATION, THIS PROPERTY DOES NOT LIE WITHIN A FEMA/FIRM SPECIAL FLOOD HAZARD AREA PER COMMUNITY PANEL NO. 13067C0108J DATED 3/4/13.



IN MY OPINION, THIS PLAT IS A CORRECT REPRESENTATION OF THE LAND PLATTED AND HAS BEEN PREPARED IN CONFORMITY WITH THE MINIMUM STANDARDS AND REQUIREMENTS OF LAW.

SCI Development Services

ENGINEERS - SURVEYORS - LAND PLANNERS
 2020 WESTSIDE COURT-STE E-SNELLVILLE GEORGIA 30078
 (770) 736-7666 FAX (770) 736-4623
 MAIL@SURVEYCONCEPTS.NET



PROJECT: 51406
 DWG BY: DCP
 CHKD BY: JAS
 DATE: 10/9/20
 SCALE: 1"=40'

SURVEY FOR:
MIKE FOUSHEE
 PART OF LOT 34
 SUBDIVISION: FREYER
 LAND LOT 1087 16th DISTRICT 2nd DISTRICT
 CITY OF MARIETTA
 COBB COUNTY, GEORGIA
 REFERENCED IN PLAT BOOK 3, PAGE 145