

**HALL COUNTY PLANNING COMMISSION
RECOMMENDATION REPORT**

Applicant Nave Edelstein

Request (A) Variance | left side yard setback from 10 feet to 3 feet
(B) Variance | right side yard setback from 10 feet to 4 feet

Proposed Use Construct a residential addition and bring the existing residence into compliance

Size 0.24± acres

Zoning Vacation Cottage (V-C, [17.50](#))

Location **6178 Lake Lanier Heights Road** | Tax Parcel 07353 001025

Commission District Two

Planning Commission Date August 7, 2023

Planning Commission Recommendation.....**(A) Approval, with conditions**
Vote: 5-0
(B) Approval, with conditions
Vote: 5-0

Planning Commission Conditions:

(A)

1. The property shall be developed in accordance with the site plan submitted as part of this request.
2. Pursuant to [2.60.060](#), all applications approved by the board, whether a request for variance from the terms of [Title 17](#), a request for conditional use, a request for the enlargement, change or continuance of a nonconforming use or a request to appeal a decision by an administrative official in the enforcement of [Title 17](#), shall be effective for a period of six months. If no action is taken by the applicant to implement the purpose of the application by obtaining the proper permit and/or license and proceeding with the building, occupancy or establishment of business within six months from the date of approval by the board, said approval shall become null and void.

(B)

1. The property shall be developed in accordance with the site plan submitted as part of this request.

2. Pursuant to [2.60.060](#), all applications approved by the board, whether a request for variance from the terms of [Title 17](#), a request for conditional use, a request for the enlargement, change or continuance of a nonconforming use or a request to appeal a decision by an administrative official in the enforcement of [Title 17](#), shall be effective for a period of six months. If no action is taken by the applicant to implement the purpose of the application by obtaining the proper permit and/or license and proceeding with the building, occupancy or establishment of business within six months from the date of approval by the board, said approval shall become null and void.

Public Forum 8-7-2023 PC Meeting:

Jane Range, 200 E.E. Butler Parkway, Gainesville, spoke in opposition. Concerns were emergency vehicle access.

John Evans, 6176 Lake Lanier Heights Road, Buford, spoke in opposition. Concerns were the proximity of the homes.

Public Forum 7-24-2023 PC Meeting:

Holly Neyman, 6200 Lake Lanier Heights Road, Buford, spoke in opposition. Concerns were the size of the lot and proximity to her property.

Jane Range, 200 E.E. Butler Parkway, Gainesville, spoke in opposition. Concerns were the design, setbacks, and not being a hardship.

John Evans, 6178 Lake Lanier Heights, Buford, spoke in opposition. Concerns were proximity of home and fire hazard.

Kevin Gearhart, 6745 Bass Circle, Buford, spoke in opposition. Concerns were short term rentals, development, and the size of the home.

Summary Analysis

The applicant is requesting a left side yard setback from 10 feet to 3 feet and a right side yard setback from 10 feet to 4 feet for the purpose of constructing a residential addition as well as bringing the existing residence into compliance with the setback requirements of the Vacation Cottage (V-C, [17.50](#)) zoning district.

The existing residence sits 7.32 feet from the left side property line and 4.70 feet from the right side property line. The proposed addition is to the front of the home that will result in new stairs located 3.22 feet from the left property line. The addition will not be any closer than the existing home currently is located to the right property line. Tax records indicates that the existing residence was built in 1964; this date is prior to the adoption of the Official Code of Hall County which occurred in August of 1978.

Two (2) **variances** related to setback requirements will be required if the site plan, as presented, is approved because the structure does not meet the side yard setback requirements.

- Left side yard setback requirement of 10 feet as found in [Table 17.240.010](#) for the Vacation Cottage (V-C, [17.50](#)) district and right side yard setback requirement of 10 feet as found in [Table 17.240.010](#) for the Vacation Cottage (V-C, [17.50](#)) district.

Zoning Analysis

The Planning Commission is hereby authorized to grant variances from the strict application of this Resolution upon proof by a preponderance of the evidence that [2.60.030.J](#) provided the request meets the criteria set forth in [2.60.030.K](#).

1. There are extraordinary and exceptional conditions pertaining to the particular lot in question because of its size, shape or topography (the hardship must relate to the physical character of the lot and not to a personal or economic hardship); **The subject property is small in area and width, but the need for a variance has been created by the applicant’s proposed additions to the home as opposed to the site conditions.**
2. The application of the requirements of this [Title 17](#) to this particular piece of property would create an unusual hardship; **The subject property can continue to be utilized as currently zoned, though the additions to the existing home would have to be modified to meet the 10 foot side yard setback and the existing home would remain encroaching into the side yard setbacks as it is currently located.**
3. Such conditions are peculiar to the particular piece of property involved and are not common to other properties in the neighborhood; **The conditions requiring the variance are specific to this property.**
4. Such conditions are not the result of any actions of the property owner; **The applicants are not responsible for the existing encroachment that occurred when the home was constructed in 1963, but the proposed improvements are designed by the applicant.**
5. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of [Title 17](#); provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by [Title 17](#) or for a conditional use which has been denied by the county planning commission. **Any proposed land use would be limited by the use, bulk, and density regulations applied to the property based on the designated zoning district. The applicant is not proposing any uses not allowable within Vacation Cottage (V-C, [17.50](#)) district, and staff does not find that there will be any substantial detriment to the public good, if the variances are approved.**

Development Support and Constraints –Departmental /agency comments

Hall County Environmental Health

In an email dated June 22, 2023, Emily McGahee stated “Any proposed additions must meet all residential permitting requirements. All Proposed structures must meet required setbacks to existing septic system. Further determination will be made at time of application.”

Hall County Fire Marshal

In an email dated June 22, 2023 from John Hornick, NPQ Fire Inspector 1, Plans Review Lieutenant stated, "The Hall County Fire Marshal's Office has no comments as proposed."

Hall County Public Works and Utilities

In a memorandum from Public Works and Utilities dated June 20, 2023, Director Bill Nash stated the following:

Engineering:

No comment.

Traffic:

No comment.

Utilities:

No comment.

Georgia Department of Transportation

In an email dated June 21, 2023, Parker Niebauer, D1TO Traffic Operations Supervisor, stated GDOT coordination would not be required for this request.

➤ **Excerpts from the minutes of the August 7, 2023 meeting**

Applicant's Presentation:

Randi Doveton, Planning Director, presented a summary of the request.

Nave Edelstein, 6178 Lake Lanier Heights Road, Buford, presented the request. The applicant stated that the home would be used as a vacation and weekend home by himself and his business partner.

Rebuttal

The applicant stated that they are willing to work with the neighbors regarding fire safety and install fire rated walls on both sides of the home.

Public Forum:

Jane Range, 200 E.E. Butler Parkway, Gainesville, spoke in opposition. Concerns were emergency vehicle access.

John Evans, 6176 Lake Lanier Heights Road, Buford, spoke in opposition. Concerns were the proximity of the homes.

Planning Commission Comments:

Mr. Hunt questioned if the stairs and patio were already existing. The applicant stated they are existing, they are just looking to replace and renovate since the wood is rotting. Mr. Sosebee requested the applicant speak on the short term rental option for the property. The applicant stated that they will not be utilizing it as

a short term rental, it will be used personally. Mr. Braswell questioned if there could be a condition to restrict the home from becoming a short term rental. Ms. Doveton stated that was an option. Mr. Sosebee stated the option shouldn't be taken away since anyone on that street has the option to become a short term rental.

Motion: A motion to approve, with conditions was made by Mr. Sosebee and seconded by Ms. Pilcher.

Vote: 5-0

Conditions:

1. The property shall be developed in accordance with the site plan submitted as part of this request.
2. Pursuant to [2.60.060](#), all applications approved by the board, whether a request for variance from the terms of [Title 17](#), a request for conditional use, a request for the enlargement, change or continuance of a nonconforming use or a request to appeal a decision by an administrative official in the enforcement of [Title 17](#), shall be effective for a period of six months. If no action is taken by the applicant to implement the purpose of the application by obtaining the proper permit and/or license and proceeding with the building, occupancy or establishment of business within six months from the date of approval by the board, said approval shall become null and void.

5 (B)

Motion: A motion to remove from the table was made by Ms. Pilcher and seconded by Mr. Varner. Vote: 5-0

Background Information:

The applicant is requesting a left side yard setback from 10 feet to 3 feet and a right side yard setback from 10 feet to 4 feet for the purpose of constructing a residential addition as well as bringing the existing residence into compliance with the setback requirements of the Vacation Cottage (V-C, [17.50](#)) zoning district.

Applicant's Presentation:

See item 5 (A).

Public Forum:

See item 5 (A).

Planning Commission Comments:

See item 5 (A).

Motion: A motion to approve, with conditions was made by Mr. Sosebee and seconded by Ms. Pilcher.

Vote: 5-0

Conditions:

1. The property shall be developed in accordance with the site plan submitted as part of this request.

2. Pursuant to [2.60.060](#), all applications approved by the board, whether a request for variance from the terms of [Title 17](#), a request for conditional use, a request for the enlargement, change or continuance of a nonconforming use or a request to appeal a decision by an administrative official in the enforcement of [Title 17](#), shall be effective for a period of six months. If no action is taken by the applicant to implement the purpose of the application by obtaining the proper permit and/or license and proceeding with the building, occupancy or establishment of business within six months from the date of approval by the board, said approval shall become null and void.

➤ **Excerpts from the minutes of the July 24, 2023 meeting**

Applicant's Presentation:

Randi Doveton, Planning Director, presented a summary of the request.

Public Forum:

Holly Neyman, 6200 Lake Lanier Heights Road, Buford, spoke in opposition. Concerns were the size of the lot and proximity to her property.

Jane Range, 200 E.E. Butler Parkway, Gainesville, spoke in opposition. Concerns were the design, setbacks, and not being a hardship.

John Evans, 6178 Lake Lanier Heights, Buford, spoke in opposition. Concerns were proximity of home and fire hazard.

Kevin Gearhart, 6745 Bass Circle, Buford, spoke in opposition. Concerns were short term rentals, development, and the size of the home.

Planning Commission Comments:

Mr. Braswell stated that the public forum was closed. Mr. Braswell stated that due to the applicant's absence and the amount of opposition, the applications should be tabled.

Motion: A motion to table to August 8, 2023 was made by Mr. Sosebee and seconded by Mr. Hunt. Vote: 5-0