

**HALL COUNTY PLANNING COMMISSION  
RECOMMENDATION REPORT**

**Applicant** ..... Nicholas DiQuollo

**Request** ..... Variance | 17.240.010 to reduce the left side yard setback

**Proposed Use** ..... Detached garage

**Size** ..... 0.26± acres

**Zoning** ..... Vacation Cottage (V-C, 17.50)

**Location** ..... **4199 Perry Drive** | Tax Parcel 10117 000024

**Commission District** ..... Three

**Planning Commission Date** ..... May 6, 2024

**Staff Recommendation** ..... **Approval, with conditions**, as a hardship exists pursuant to the criteria of 2.60.030.

**Record Number** ..... HVAR24-0011

**Planning Commission Recommendation** ..... **Approval, with conditions**  
**Vote: 5-0**

**Planning Commission Conditions:**

1. The property shall be developed in accordance with the site plan submitted on March 9, 2024, with the left side yard setback being reduced from 10 feet to 5 feet from the property line.
2. All conditions of zoning shall be made part of any plats created for the property.
3. 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.
4. Foundation to be staked by surveyor prior to issuance of building permit.

## Excerpts from the minutes of the May 6, 2024 meeting

### Applicant's Presentation:

Katie Greenway, Planning and Zoning Administrator, presented a summary of the request.

Nicholas DiQuollo, 4199 Perry Drive, Gainesville, presented the request. The applicant stated that they attempted to place the detached garage in the back yard but it cannot be done due to the placement of the septic tank.

### Public Forum:

Sam Bagwell, 330 Northside Drive, Gainesville, spoke in opposition. Concerns were placement of the detached garage within the side setback and lack of hardship.

George Lee, 4193 Perry Drive, Gainesville, spoke in opposition. Concerns were placement of the detached garage and impact to his property value.

### Planning Commission Comments:

Mr. Braswell stated that nine letters of support were submitted by neighbors. Mr. Hunt stated that the applicant should ensure that his silt fence is not located on his neighbor's property. The applicant stated that his property was inspected, approved, and the silt fence has been taken down. Mr. Hunt stated that the new retaining wall is allowed to be close to the property line but not over the line. The applicant states that the issue with the location of the garage is due to the turning radius into the garage.

**Motion: A motion to approve, with conditions was made by Mr. Hunt and seconded by Ms. Pilcher. Vote: 5-0**

### *Conditions:*

1. The property shall be developed in accordance with the site plan submitted on March 9, 2024, with the left side yard setback being reduced from 10 feet to 5 feet from the property line.
  2. All conditions of zoning shall be made part of any plats created for the property.
  3. 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.
  4. Foundation to be staked by surveyor prior to issuance of building permit.
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**Staff recommends APPROVAL of the applicant's request, with the following conditions:**

1. The property shall be developed in accordance with the site plan submitted on March 9, 2024, with the left side yard setback being reduced from 10 feet to 5 feet from the property line.
2. All conditions of zoning shall be made part of any plats created for the property.
3. 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.

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**Summary Analysis**

The applicant is requesting a left side yard setback variance from 10 feet to 5 feet from the property line for the construction of a detached garage. The property measures approximately 0.26± acres and is located within the Vacation Cottage (V-C, 17.50) zoning district. The property is currently developed with a single-family residence that was built in 2006 under residential building permit RES2005-01664.

Per the submitted site plan, the applicant intends to build a 22 foot by 24 foot two-car detached garage on the east side of the existing residence. The applicant states in the Statement of Hardship that there are significant limitations on the buildable area available due to the location of the septic system, the small lot size, and the location of the existing residence.

One (1) **variance** related to the left side yard setback requirements will be required if the site plan, as presented, is approved.

- Left side yard setback requirement of 10 feet from the property line as found in Table 17.240.010 for the Vacation Cottage (V-C, 17.50) District
  - The applicant is proposing a left side yard setback of 5 feet from the property line.

**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 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 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 parcel's buildable area is severely limited by the location of the septic system, the existing dwelling, and the lot size.**

2. The application of the requirements of Title 17 to this particular piece of property would create an unusual hardship; **The buildable area of the lot restricts the applicant's ability to construct the two-car detached garage as proposed.**
3. Such conditions are peculiar to the particular piece of property involved and are not common to other properties in the neighborhood; **The parcel is similar to other parcels in the surrounding neighborhood; of note, two properties in the surrounding neighborhood were granted variances for similar uses.**
  - a. **4217 Perry Drive, located approximately 369 feet northwest from the subject parcel, was granted approval to vary the right side yard setback from 10 feet to 5 feet on December 3, 2007 (VAR2007-00041).**
  - b. **4223 Perry Drive, located approximately 533 feet northwest from the subject parcel, was granted approval to vary the left side yard setback from 10 feet to 6 feet on May 4, 2020 (VAR2020-00009)**
4. Such conditions are not the result of any actions of the property owner; **The property owner purchased the lot in 2000. The proposed construction of a two-car detached garage would be a direct action of the property owner.**
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. **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of Title 17.**

#### **Development Support and Constraints**

##### **Hall County Environmental Health**

In an email dated April 2, 2024, Emily McGahee stated "All proposed structures must meet all residential permitting requirements and/or required setbacks to existing septic system."

##### **Hall County Fire Marshal**

In an email dated April 3, 2024, John Hornick, NPQ Fire Inspector 1, Plans Review Lieutenant stated, "No comments as proposed."

##### **Hall County Public Works and Utilities**

In a memorandum from Public Works and Utilities dated April 4, 2024, Director Bill Nash stated the following:

##### **Engineering:**

No comment.

##### **Traffic:**

No comment.

**Utilities:**

No comment.

**Georgia Department of Transportation**

In an email dated April 4, 2024, Veronica Chavers, D1TO Civil Engineer III, stated “No GDOT coordination required.”