

**HALL COUNTY BOARD OF COMMISSIONERS
STAFF REPORT**

Applicant Alma Nely Perez

Request **Variance to Section 4.3** | to reduce the minimum yard

Proposed Use Accessory structures

Size 1.04± acres

Zoning Residential 1 (R-1)

Location **5292 Hopewell Lane** | Tax Parcel 15030J000013

Commission District Three

Commission Date August 13, 2026

Staff Recommendation **Denial**, as no hardship exists pursuant to the criteria of 11.1.1.D.11

Record Number HVAR26-0025

Staff recommends DENIAL of the applicant's request. However, if the Commission chooses to approve this request, staff recommends the following conditions:

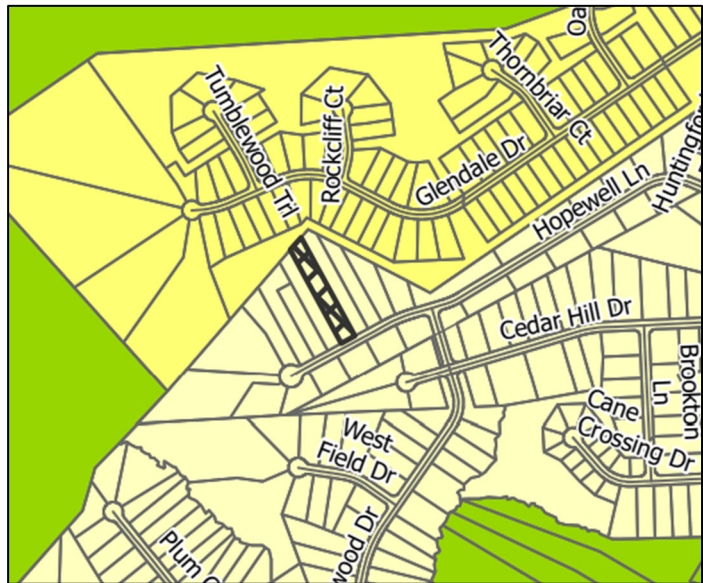
1. The property shall be developed in accordance with the site plan received June 2, 2026, and as described in the project narrative dated June 2, 2026, modified as necessary for compliance with conditions herein and development standards enforced at the time of site plan approval.
2. A retroactive Land Disturbance Permit and retroactive Building Permits shall be obtained for all site work performed and structures built without permits.
3. All violations identified by the Public Works and Utilities department shall be resolved prior to issuance of any building permit.
4. Any business operating from the site shall obtain a Business License in compliance with applicable standards or cease otherwise.

Summary Analysis

The applicant is requesting a variance from Section 4.3 to reduce the side yard setbacks from 10 feet to 5 feet along the eastern property boundary and from 10 feet to 4 feet along the western property boundary for two accessory structures. The subject property is approximately 1.04± acres in size and zoned Residential 1 (R-1).

The property is currently developed with a 1,336 square foot single-family residence, constructed in 2003 (RES2002-00209). Surrounding properties are zoned Residential 1 (R-1) and Planned Residential District (PRD) and are developed with single-family residences.

Based on historical records of the subject property, several development-related actions have occurred over the past five years. In 2021, a land disturbance permit was submitted after the homeowner graded over an existing drainage ditch, installed a shed, and laid gravel from the house to the shed. A stop work order was issued for this work (HLD2021-00037). Later that same year, a building permit application for a proposed storage building (RES2021-01126) was submitted but denied due to encroachment into the required side-yard setback.



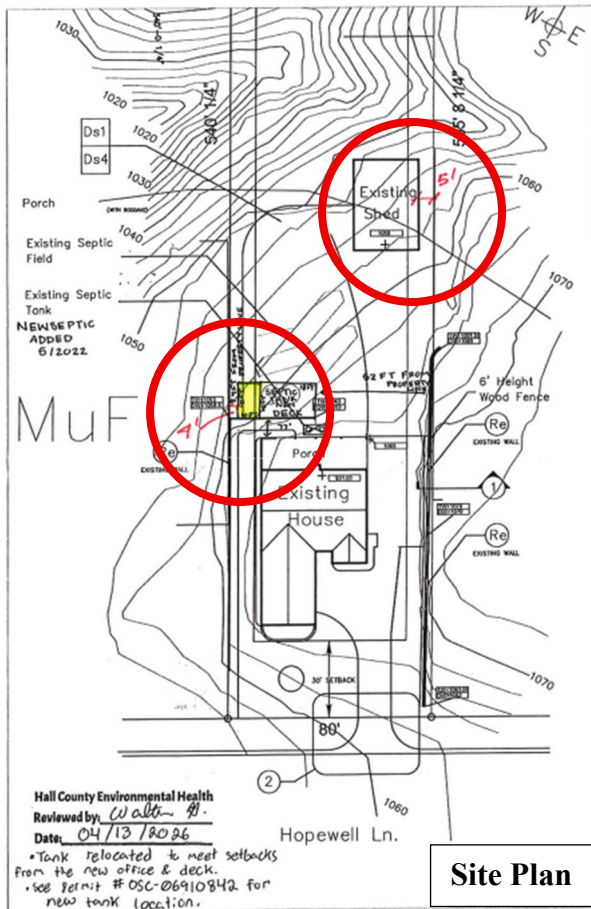
In 2022, a building permit application for a porch addition was approved but later expired (RES2022-01761). Most recently, in 2026, a retroactive building permit application for a deck and a detached office building was denied due to encroachment into the side-yard setback (HRADD26-0213).

As part of the 2026 building application, the Environmental Health Department found that the existing septic system had been covered up by the unpermitted deck addition, and the property owner was required to crush and fill the existing tank and relocate the septic system. They noted in their comments for this variance request, that the "...25' x 35' accessory building was not requested to be evaluated."

In a supplemental memorandum dated July 22, 2026, the Public Works and Utilities Department noted several violations during a site visit on July 15, 2026, including grading without a permit, no coverage of graded area within 14 days, and starting an inert landfill in a drainage easement.

The property additionally has a record of two code enforcement cases, including a 2021 violation involving construction of an unpermitted rear addition (COD2021-00074) and a 2026 case pertaining to an unpermitted accessory structure in the backyard (ENEF26-0132).

Collectively, these records reflect ongoing development activity on the property, along with several instances where construction proceeded without required approvals or in conflict with established setback requirements.



Site Plan



Topo

In the Statement of Hardship, the applicant states that the “shed is used to store equipment needed for landscaping business.” There is no business license for this property, and the applicant has not provided details as to the scope of this business.

Per the Statement of Hardship, the applicant states that the property slopes downward, and a drainage ditch and creek run along the rear of the parcel. According to the applicant, these site conditions further restrict the buildable area, and the topography of the property limits feasible building locations, creating a hardship that necessitates the proposed reduced setbacks.

Staff has ascertained that there is not a documented creek running through the property. Rather, a drainage easement is identified on the recorded plat.

Two (2) **variances** will be required if the site plan, as presented, is approved.

- Side yard setback requirement of 10 feet from the property line as found in Section 4.3 for the Residential 1 (R-1) zoning district.
 - A side yard setback from 10 feet to 5 feet along the northeast property line to allow for an accessory structure.
 - A side yard setback from 10 feet to 4 feet along the southwest property line to allow for an accessory structure.

Zoning Analysis

The Commission may grant variances in individual cases of unnecessary hardship upon a finding of the board that:

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 property is developed with a single-family residence that meets setback requirements. The subject parcel size, shape and topography are similar to other properties in the area. While there is a steep slope north of the garage, the grade of the property does not prevent the detached garage or office addition from meeting the side yard setback.**
2. The application of the requirements of this UDC to this particular piece of property would create an unusual hardship; **No unusual hardship would result from applying the requirements of this UDC to the property. The subject parcel is developed with a single-family residence. The location and size of the existing and unpermitted accessory structures could be modified to meet the applicable setback.**
3. Such conditions are peculiar to the particular piece of property involved and are not common to other properties in the neighborhood; The conditions are not unique to this property. **Other lots within the vicinity are similar in size and shape. The property does not have unique conditions that would justify a variance.**
4. Such conditions are not the result of any actions of the property owner; **The size, shape, and topography of the lot are not the result of any actions of the property owner. The location and size of the accessory structures are 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 this UDC; provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by this UDC or for a Conditional Use Permit which has been denied by the Planning Commission; **Relief, if granted, would not cause substantial detriment to the public good, but granting the variance could undermine the intent of the UDC. The setback standards exist to maintain consistent development patterns with reasonable setbacks. All surrounding properties are zoned R-1 and subject to these standards, as well as building permit approval prior to construction.**

Development Support and Constraints

Hall County Environmental Health

In a memorandum dated July 7, 2026, the Hall County Environmental Health Department stated, "Environmental Health provided the applicant a completed Existing System Evaluation for the home office structure on April 13, 2026; however, the 25' x 35' accessory building was not requested to be evaluated. All proposed structures must meet all residential permitting requirements and/or required setbacks to existing septic system"

Georgia Department of Transportation

In an email dated July 2, 2026, Christopher Hash, P.E. D1 Traffic Operations Supervisor, stated, “Off system. No impacts expected, no coordination with Georgia DOT required.”

Hall County Public Works and Utilities

In a memorandum dated July 15, 2026, Jorge Gomez, Director of Public Works and Utilities, provided the following comments:

Engineering:

No comment

Traffic:

There are no concerns from traffic for the proposed setback variance.

Utilities:

No comment. This property is located in the Gainesville/Hall County sewer district, but sewer infrastructure is not located in this area.

In a supplemental memorandum dated July 22, 2026, Jorge Gomez, Director of Public Works and Utilities, provided the following comments:

Engineering:

Engineering staff performed a site visit on 7/15/2026 and observed several violations of grading without a permit, failure to provide coverage of graded area within 14 days and starting an inert landfill in drainage easement. Images of the violations are attached. We recommend no issuance of a building permit until such time as these violations are resolved satisfactorily.

Hall County Fire Marshal

In a memorandum dated July 10, 2026, the Hall County Fire Marshal’s Office stated, “The Hall County Fire Marshal’s Office has no comments as proposed.”

Hall County Building Inspections

In a memorandum dated July 15, 2026, Kristie Turner, Director of Building Inspections, provided the following comment:

HRADD26-0213 retroactive permit for a 10 x 18 deck and an office with a ½ bath was submitted on 05/28/2026. The permit was denied due to the need for a variance. Additionally, there is another unpermitted storage building which will also require a retroactive permit to bring it into compliance.