



**CITY OF SNELLVILLE
PLANNING & DEVELOPMENT DEPARTMENT
BOARD OF APPEALS**

VARIANCE CASE SUMMARY

October 8, 2019

CASE NUMBER:	#BOA 19-06
REQUEST:	Variances to allow a 192 SF storage building to be located in the corner side yard and one-foot from the rear property line
APPLICABLE SECTION(S):	Section 7.1, Accessory Structures
LOCATION:	3045 Elizabeth Ln., Snellville
PARCEL:	5036 381
ZONING:	RS-180 (Single-family Residence) District
PROPERTY OWNER:	Federico Palmeros Snellville, Georgia 30078
APPLICANT/CONTACT:	Federico Palmeros 770-873-0459
PLANNING DEPARTMENT RECOMMENDATION:	Approval with Conditions

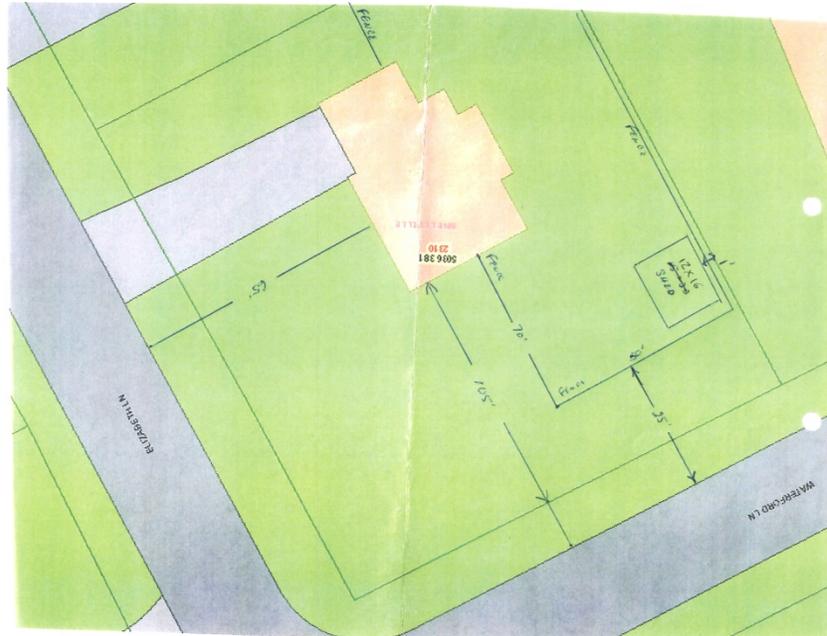
owner in January 2017.

Mr. Palmeros recently partially completed the construction of a 12' x 16' storage shed (192 sq. ft.) unaware that an approved building permit was required from the City before the start of construction. After receiving a complaint from a neighbor, Code Enforcement visited the property and advised the applicant of the violation. Mr. Palmeros made application to the City for a building permit.



During the application review, it was

determined that a permit could not be approved as the storage shed was constructed in the corner side yard, instead of the required rear yard, and also located one-foot from the rear property line, instead of the required five-foot setback.



Mr. Palmeros was advised that variance approval by the Board of Appeals was necessary to allow the shed to remain at its current location before a building permit could be approved.

On August 21, 2019 the Planning Department received a variance application from Mr. Palmeros.

VARIANCE REQUEST:

The applicant is requesting two (2) variances from Section 7.1, Accessory Structures of Article VII of the Snellville Zoning Ordinance as described below:

1. Variance from Section 7.1(1)(a), Roofed Accessory Structures shall be located no closer than 5-feet from any property line.
2. Variance from Section 7.1(1)(b), Roofed Accessory Structures shall be located within the rear yard.

VARIANCE ANALYSIS:

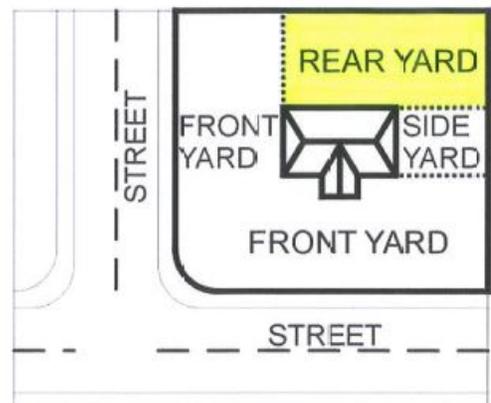
Section 7.1 of Article VII of the Zoning Ordinance contains provisions for the regulation of roofed accessory structures as follows:

Roofed Accessory Structures: The construction of any roofed accessory structure larger than twenty (20) square feet requires the issuance of a building permit by the City. All permit applications shall indicate the proposed use of the structure and shall include a drawing that shows the exact location on the property with distance(s) from the adjacent property line(s).

- 1). All such accessory structures shall meet the following requirements:
 - a) **Located no closer than five-feet (5') from any property line(s);**
 - b) **Located within the rear yard;**
 - c) No higher than two (2) stories;
 - d) No more than two (2) roofed accessory structures may be constructed on any one (1) lot;
 - e) The combined sum of roofed accessory structures shall not exceed seven-hundred-fifty (750) square feet;
 - f) The façade shall be constructed of the following exterior-grade materials: wood; vinyl; brick; stone; stucco, and/or hardiplank siding;
 - g) Roofing materials shall be limited to asphalt shingles or manufactured pre-painted metal roof sheeting; and
 - h) Paints, stains, etc. applied on the exterior of the structure shall match the primary structure on the lot.
- 2). Roofed accessory structures located on property in excess of one (1) acre will not be restricted to size as long as the building meets building codes and other requirements of this ordinance.

Although not defined in the City's Zoning Ordinance, a lot that abuts two or more streets at their intersection is a corner lot. Corner lots are considered to have two front yards – the primary front yard and secondary front yard known as the corner side yard.

The graphic on the right shows the orientation and relationship of the primary front yard, secondary front yard (corner side yard), side yard and rear yard (highlighted in yellow).



The graphic below depicts the subject property according to the Gwinnett County GIS with the same yards identified and the rear yard highlighted in yellow and the approximate location of the 12' x 16' storage shed and privacy fence.

The fence is 14± feet from the corner side property line (25± feet from the Waterford Ln. curblineline) and the storage shed is 7± feet from the fence (21± feet from the corner side property line).

The applicant contends the storage building is located approximately 1 foot from the rear property line.



The picture on the right is the view from Waterford Ln. of the privacy fence and partially completed storage shed.

Mr. Palmeros intends to attach masonry type siding to the rear of the structure, leaving the gable area above the top beam open on the front and rear.

Although no formal survey has been provided, it is believed the structure is approximately one-foot from the rear property line.



Included with Mr. Palmeros' variance application submittal are letters of support from three area residents praising the Palmeros' for the landscaping and aesthetic improvements they have made to the property that once sat vacant for a couple of years. Included is a letter from Raphael Mitchem, the homeowner whose property is directly behind the storage shed, stating *"I have no issues with the construction of the structure in his backyard."*

STANDARDS FOR CONSIDERATION:

Pursuant to Section 14.5, Powers and Duties, of the City of Snellville Zoning Ordinance, the City finds the following standards are relevant in considering all applications for a Variance.

1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures, or buildings in the same district.

Special conditions and circumstances exist as the lot is a corner lot, and like all corner lots, the size of the rear yard area is reduced, which limits the locations where accessory structures can be located. There are no special conditions or circumstances for the rear yard setback reduction.

2. That literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Zoning Ordinance.

Literal interpretation of the provisions of the Zoning Ordinance would not deprive the applicant of rights commonly enjoyed by other properties in the same district. However it would require the structure to be relocated approximately 22-feet toward the center of the backyard.

3. That the special conditions and circumstances do not result from the actions of the applicant.

The special conditions and circumstances were created when the subdivision was platted in 1988 and house was located on the corner lot in its current configuration in 1991.

4. That granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands, structures, or buildings in the same district.

Granting these variances would confer on the applicant special privileges that are denied by the Zoning Ordinance to other lands, structures, or buildings in the same district.

However, Section 14.5(2)(f) allows the Board of Appeals to make a finding that granting of the variance “will be in harmony with the general purpose and intent of the Zoning Ordinance, and will not injurious to the neighborhood, or otherwise detrimental to the public welfare.”

CONCLUSION AND STAFF RECOMMENDATION:

Given the overall aesthetics of the structure and that a portion of the structure is hidden from view from the public right-of-way because of the location of the privacy fence and letter of support from the adjacent property owner to the rear, the Department of Planning and Development recommends:

- **Approval** of the variance to reduce the rear setback from 5-feet to 1-foot; and
- **Approval** of the variance to allow the structure to be located in the corner side yard instead of the rear yard.

Said recommendation shall be subject to the following recommended **Conditions**:

1. The applicant shall obtain a building permit approved by the Director of Planning and Development for the existing structure;
2. The structure shall meet all other requirements of Sec. 7.1 for roofed accessory structures and be completed within 60-days; and
3. The existing six-foot high privacy fence shall remain in place at all times and be maintained structurally sound and in good repair.