



STAFF REPORT

MORGAN COUNTY PLANNING COMMISSION

PETITION FOR: VARIANCE

Property location: 1440 Wood Cove Road, Buckhead, GA 30625
Property tax parcel: 065-078
Acreage: 1 acre
Applicant: Paul & Mary Turner, 1440 Wood Cove Road, Buckhead, GA 30625
Applicant's Agent: N/A
Property Owner: Paul & Mary Turner, 1440 Wood Cove Road, Buckhead, GA 30625
Existing Use: Single family dwelling

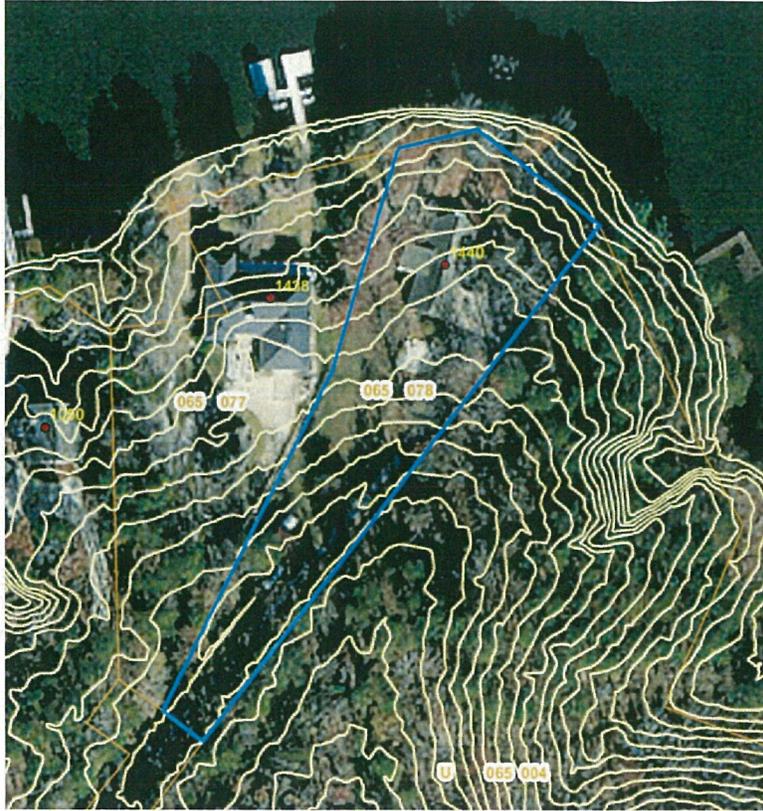
Summary

Paul and Mary Turner have requested a variance to the side setback at their lake property in order to construct additions to their house. The one acre property is zoned Lakeshore Low Residential (LR1) (LR1 typically requires a minimum of 1.5 acres, but the property is grandfathered at the smaller acreage). The side setback required for LR1 is 15 feet.



The property is a narrow lot at the end of Wood Cove Road. The lot to the right is a 200+ acre property owned by Georgia Power. That land is currently held as a utility property, but is developable land. There is an easement running alongside the Turner's property line to access a dock. This easement is 30 foot wide and would prevent development from coming directly to the Turner's property line. However, the easement is not permanent.

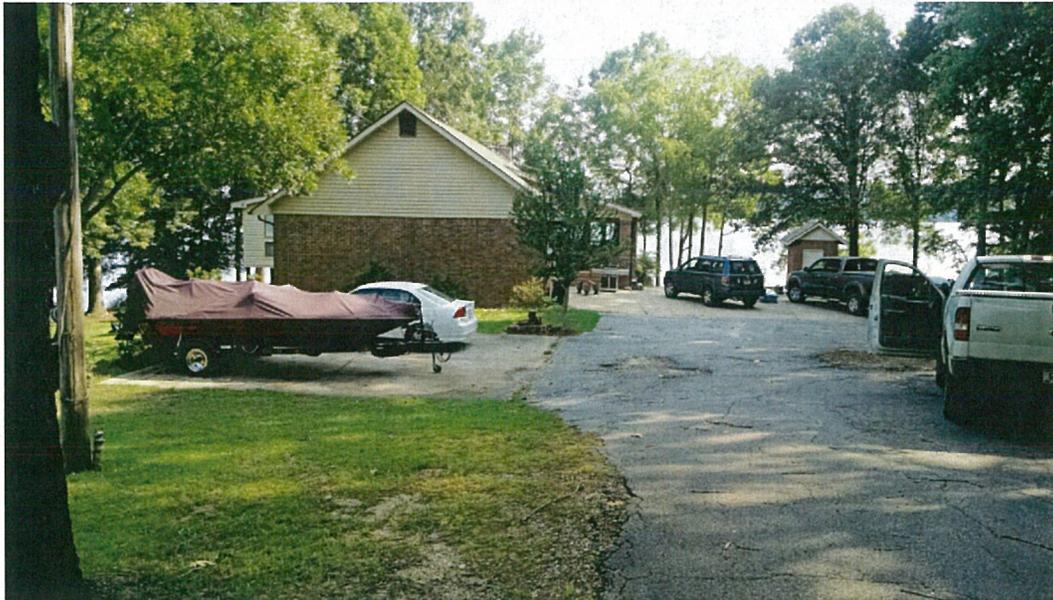
According to the Morgan County Tax Assessor's, the Turners purchased the property in August 2014. The c. 1984 home is approximately 1,435 square feet with a full basement. They currently have an open building permit (issued 4-29-15) to remodel the home.



The applicant also states in the letter that topography is an issue on the property. The topography map shows the contour lines at 2 foot intervals, indicating that the property does not have significant topography, especially for a lake property.



A view of the property where the additions are proposed. The shed roof seen extending from the house is proposed to be removed and replaced with a larger addition, then the addition of a breezeway and garage.



A view of the house from further up the driveway. The property has a flat concrete pad in front of the house as well as the concrete pad to the right where the additions are proposed.

Criteria for Consideration

From the Morgan County Zoning Ordinance. Chapter 20.3.1, Required Findings for Variance Approval. Note that the criteria are bulleted in the zoning ordinance; they are numbered here for ease of use. (staff comments are in blue):

1. There are extraordinary and exceptional conditions pertaining to the property because of size, shape and topography. The lot is narrow, but the house and associated outbuildings are currently within the required setbacks. There is space to add the desired additions without a variance if the design was changed. The topography is not exceptional, especially for a lake lot.
2. The literal application of this Ordinance would create an unnecessary hardship. "Hardship" is not defined by Morgan County's zoning ordinance, but the American Planning Association provides the following definition: *A restriction on property so unreasonable that it results in an arbitrary and capricious interference with basic property rights. Hardship relates to the physical characteristics of the property, not the personal circumstances of the owner or user, and the property is rendered unusable without the granting of a variance.* Based on this definition, the Ordinance does not create a hardship.
3. A variance would not cause substantial detriment to public good and impair the purposes and intent of this Ordinance. A variance would not cause detriment to the general public. The Board of Commissioners has allowed a reduced setback for a carport addition in the past. In the comparisons below, David and Marcia Cole were allowed to place a carport within 3 feet of the property line. The main difference between this example and the current request is that the

Coles had no additional space between the house and property line and could not shift the carport location away from the property line.

4. A variance would not confer upon the property of the applicant any special privilege denied to other properties in the district. A variance would constitute a special privilege, and discussions regarding another variance request in the district eventually resulted in a redesign of the proposed construction to work within an administrative variance (see Pritchard in comparisons below).
5. The special circumstances surrounding the request for the variance are not the result of acts of the applicant. The circumstances are directly related to acts of the applicant, as the proposed additions could be redesigned to work within the existing setbacks. The large garage could be added to the side without the breezeway, or part of the design could be moved to the front of the house where another concrete pad currently exists.
6. The variance is not a request to permit a use of land, buildings, or structures which is not permitted by right or by conditional use in the district. Residential additions are permitted in the LR1 zoning district.
7. The zoning proposal is consistent with all standards and criteria adopted by Morgan County. The variance request does not meet all of the criteria for a variance request.
8. The variance is the minimum variance that will make possible an economically viable use of the land, building or structure. The property is economically viable without the proposed additions and the Zoning ordinance does not prevent additions to the existing house.

Former variance requests for comparison

David and Marcia Cole, Variance request for the side setback for car port, January 2012

Minutes, Morgan County Planning Commission -January 26, 2012:

- I. A petition has been received from David and Marcia Cole in regard to a variance to the side setback for property located at 3420 Sandy Creek Road, Madison, Georgia.

Chuck Jarrell presented the staff report on behalf of Morgan County. He explained that Mr. & Mrs. Cole wished to construct a car port on their existing concrete parking pad. The house and parking pad are currently located very near the property line. The proposed car port would be approximately 5 feet from the property line at the front corner and 3 feet from the property line at the rear corner. The house has not been moved nor the footprint altered by the Coles, who purchased the house in 1997. The neighbor adjacent to the proposed car port location sent a letter to the Planning Commission stating support for the application. The distance between the houses was noted in the presentation. Mr. Cole was present but did not speak.

No one spoke in opposition of the application.

Mr. Joiner stated concern for setting a precedent, but also noted that the current proximity to the property line was not created by the Coles, the neighbor's house was at a distance that minimized any fire hazard, and the neighbor supported the application.

Motion: Mr. Joiner made a motion to recommend approval of the Variance request in regard to the side setback.

Second: Ms. Craft

Vote: 5:1:1 The motion to recommend approval of the Variance request in regard to the side setback was approved. Mr. McMahon dissented. Mr. Benkoski abstained from the vote.

Minutes, Morgan County Board of Commissioners-February 7, 2012

1. Petition from David and Marcia Cole in regard to a variance to the side setback for property located at 3420 Sandy Creek Road, Madison, Ga.

Tara Cooner, Senior Planner, stated that David and Marcia Cole are seeking a variance to the 15' side yard setback for property located at 3420 Sandy Creek Road (AR). The Coles wish to construct a carport on their existing driveway parking pad.

Although the Planning Commission stated concern for setting a precedent, they also noted that the current proximity to the property line was not created by the Coles, the neighbor's house was at a distance that minimized any fire hazard, and the neighbor supported the application. The Planning Commission voted to recommend approval of the variance request 5:1 with one abstention.

Chairman Warren allowed proponents and opponents to speak. There were no proponents or opponents.

MOTION by Comm. Bohlen, seconded by Comm. Harris to approve the petition from David and Marcia Cole in regard to a variance to the side setback for property located at 3420 Sandy Creek Road, Madison, Ga. Unanimously Approved.

William and Renee Pritchard, Variance request for the rear setback for a pool, June 2013

Minutes, Morgan County Planning Commission-June 27, 2013

- II. A petition has been received from Candace Carlson on behalf of William and Renee Pritchard for a variance to the rear setback for property located at 1000 Apalachee Way, Buckhead, Georgia (Tax Parcel 058A-030).

Mr. McMahon recused himself and left the room.

Chuck Jarrell presented the staff report on behalf of Morgan County. He explained that the subject property was vacant and the property owners were proposing a new home and pool. The applicant was requesting a variance of 20' into the setback for the pool. He questioned if the variance was needed and

presented two diagrams that showed the house and pool located on the property, one with only an administrative variance.

Bill and Renee Pritchard (964 Harper Street), property owners, spoke in favor of the application and noted the difficult setbacks. They presented photos of the topography and explained the proposed location of the pool and their hope to reduce grading.

Candace Carlson (1651 Doster Road), design professional, explained the hardships on the property, including the double front setbacks, the narrow lot, and grading concerns. She addressed the diagrams presented by staff and stated that both would cause grading issues. She admitted that there was a desire to be closer to the lake.

Ms. Booth questioned the property owners regarding their knowledge of the lot prior to purchase and explained that a variance required a hardship. Mr. Pritchard said the lot was covered in vegetation that had made examination difficult, and Ms. Carlson reiterated that the lot was narrow and had large setbacks, including 80' from the lake. Ms. Booth stated that those factors were known at the time of purchase and asked if the house design could be modified. Ms. Carlson answered by noting the small buildable area on the lot. Mr. Benkoski asked about the proposed square footage. Ms. Carlson stated that the design shown was representative, but the desired house was approximately 2400 square feet on the main floor with a second floor and a basement. The design goals were to have the house face the lake and to reduce the grading costs. Ms. Carlson stated that the property owners had letters of support from two neighbors, but copies were not given.

The Planning Commission asked about structures currently located within the setback and past variances given.

Steve Michael (1920 Apalachee Woods Trail) spoke in favor of the application and stated that he felt the new construction would be an asset to the community.

Marvin Kennedy (1400 Apalachee Woods Trail) spoke in favor of the application. He stated that there were existing structures encroaching into the setback and noted the requirements of Green County.

No one spoke in opposition to the application.

Motion: Mr. McCarthy made a motion to recommend approval of the variance request.

Second: Mr. Campbell

Vote: 6:2 The motion to recommend approval of the variance request was approved. Ms. Booth and Mr. Tonge dissented.

Minutes, Morgan County Board of Commissioners- July 2, 2013

1. Petition from Candace Carlson on behalf of William and Renee Pritchard for a variance to the rear setback for property located at 1000 Apalachee Way, Buckhead, Georgia (Tax Parcel 058A-030).

Tara Cooner, Senior Planner, stated Candace Carlson, on behalf of Bill and Renee Pritchard, is requesting a variance to the rear yard setback for property located at 1000 Apalachee Way. This is the 40' rear setback to the Georgia Power property line. The 1.05 acre lot is currently vacant and is located on a cul-de-sac and a corner, so it is a wedge shaped lot with double front setbacks. The request is to allow a pool to be located behind the proposed house. The zoning ordinance allows a variance when there are hardships or exceptional conditions on the property, and the circumstances surrounding the variance request cannot be of the applicant's own making. Bill & Renee Pritchard spoke in favor of the application and explained that the property had topography issues. The design professional, Candace Carlson, addressed what she felt were two hardships: the double front setback on the property, which reduces the building area, and the topography, which both she and the Pritchards said would greatly increase grading costs. Neighboring property owners Arlon Kennedy and Steve Michaels spoke in favor of the application. The Planning Commission discussed the setbacks of immediately surrounding properties, one of which is within the 40' setback, the others conform with the zoning ordinance. Also discussed was the fact that the lot is vacant and whether the house could be designed to work with the lot shape. Specifically, one Planning Commission member addressed that the Pritchards knew or should have known the lot size and topography when they purchased the lot. The house design was discussed and, according to Ms. Carlson, the house shown on the submitted drawing is representative, but not the final design. The desired house is approximately 2400 square feet at ground level and will have a second floor and at least a partial basement. Finally, a couple of diagrams presented by staff were examined. One shows that the submitted house plan and pool will fit within the building area if rotated. The second shows the submitted house and pool in the same orientation, but pushed back. The slight overlap into the front setback may be addressable by an administrative variance. Both of these options were rejected by the applicant; the first because it does not face the lake and the second because of grading concerns. No one spoke in opposition to the application and the Planning office received no comments. The Planning Commission voted 6-2, with one recusal, to recommend approval of the variance request. Connie Booth and Jonathon Tonge dissented on the basis that the applicant should have been aware of the issues on the lot and has, therefore, created the circumstances surrounding the request. Staff visited the site yesterday and took additional photos of the lot to show the topography. The lot does have a natural terrace in one area, but the overall grade to the lake is not severe. Staff also looked at several other vacant lots in the neighborhood and those lots had significantly greater topo issues. Also a consideration is that the design of the house with a basement will require significant grading regardless of the topography. Of more concern to staff is the fact that this request, should it be approved, will set a precedent. Very few of the homes in that neighborhood have pools and most of the homes are built on the rear setback. Allowing this variance would basically give a green light to any of those houses that wanted to install a pool inside the rear setback.

Chair Warren allowed proponents to speak.

Candace Carlson, 1651 Doster Road, Madison, speaking on behalf of the Pritchards, stated they are requesting a variance to the rear yard setback. The applicant requests relief from the rear lakeside setback of 40' to 20'. They were unaware of the setbacks on this lot and their builder had told them that the house and pool were buildable. She stated they were trying to work with the topo of the lot. The lot is pie shaped and they feel there are hardships.

Renee Pritchard, 964 Harper Street, Madison stated that their neighbors were supportive. They have always had a pool and will probably not build if they can't build a pool. She stated that we are asking for a 20' setback.

Commissioner Clack stated that he could not see this as a hardship. He further stated that the owners should have researched their proposed house and pool plans with the Planning office before purchasing this lot and therefore created a hardship on themselves. Commissioner Milton stated he would like to see a home built on this site and asked if they could go back and work with Planning.

Chair Warren allowed other proponents or opponents to speak. There were none.

MOTION by Comm. Ainslie, seconded by Comm. Milton to table the petition for a variance for the property located at 1000 Apalachee Way, Buckhead until the next regular meeting August 6, 2013 (Tax Parcel 058A-030). Unanimously Approved.

Minutes, Morgan County Board of Commissioners-August 6, 2013

1. Petition from Candace Carlson on behalf of William and Renee Pritchard for a variance to the rear setback for property located at 1000 Apalachee Way, Buckhead, Georgia (Tax Parcel 058A-030).
(Tabled from July 2, 2013 Regular Board Meeting)

Tara Cooner, Senior Planner, stated that the variance for a swimming pool requested by Candace Carlson on behalf of Bill and Renee Pritchard was formally withdrawn. Staff met with Ms. Carlson and the Pritchards on site and discussed options. The revised plan submitted by Ms. Carlson showed the pool within the distance allowed for an administrative variance. Based on that plan, the Pritchards requested to withdraw their variance request in favor of working with the Director of Planning and Development to remain at or behind the 8 ft. administrative variance limit of 32 ft.

Staff Comments

The variance request does not meet required findings for a variance request, as listed in the Morgan County Zoning Ordinance. Specific criteria are: 1, 2, 3, 4, 5, 7 and 8. Staff would be happy to work with the applicant regarding an administrative variance, which would reduce the setback from 15 feet to 12 feet, but realizes this approach would require a redesign of the house additions.

May 10, 2015

To whom it may concern:

We, Paul and Mary Turner, of 1440 Wood Cove Road, Buckhead, GA 30625 – Morgan County are requesting a side lot, property line, set back variance to build a garage. (See attachment 1 and 2).

Attachment 1: Deed

Attachment 2: Plat map

The variance is to build a 30' X 30' exterior dimension garage. The size of the garage was determined due to the need to store a 27' boat trailer and 2 vehicles one of which is a 23' pick- up truck. A 24' X 24' exterior dimension garage would not hold either.

The garage would affect the 15' side lot setback required by the ordinance with the street side corner approximately 5 feet from the property line and then as the wall moves toward the lake side corner it moves away from the side property line and inside the variance to 16 feet off the property line. (See attachment 3).

Attachment 3: Engineer drawings/plans/site map(Large and small scale views attached)

The home was originally built in 1984 and was part of a family farm (original owners prior to the lake being flooded) and the home was built slightly twisted on the lot and not parallel with the side property lines.

The property line in question is shared with us and Georgia Power who own the adjacent 200+ acres which are located in Morgan County and partially in Putnam County. Adjacent to the property line in question on the Georgia Power side is a 30 foot easement granted by Georgia Power to the home owners of 1511 Wood Road, Buckhead, Ga 30625. The easement is for the lifetime of that home. So, no one can develop on the Georgia Power side for a minimum of 30 feet from our shared property line. (See attachments 4-7).

Attachment 4: Our parcel map showing the property line in question and the 30' easement.

Attachment 5: A zoomed out view of the parcel map to show the home with the easement in relation to ours and the area the variance will effect.

Attachment 6: A further zoomed out view of the parcel map showing the relationship between our property and Georgia Power, Morgan County acreage.

Attachment 7: Finally, a zoomed out view of the parcel map showing the Georgia Power property in relation to Putnam County.

We have spoken with Georgia Power and sent them the engineering drawings, erosion plan, and site survey demonstrating our request for a variance prior to our application. After review, they stated in an informal email that they would be okay with the design. (See attachment 8).

Attachment 8: Email thread from Georgia Power - (pages 1-4)

We have spent 7 months in an attempt to create a design plan for this home with the least amount of conflict to the existing property. Other options met with obstacles:

- A smaller garage would not allow us to store our vehicles and trailer indoors and force outdoor storage.(Current garage will not hold boat trailer.) This option shortens the life of the equipment and aesthetically, is not how we want to maintain the property.
- The opposite side of the home supports our water supply line, septic tank and laterals
- Building a garage toward the street would further complicate drainage issues and grade would bring challenge to functionality.
- Building a garage more toward the lake side also has grade issues and infringes on the lake side set back requirements.

The current plan which requires a variance seems to have the least amount of conflict to the environment, surrounding neighbor's property, water drainage, and infrastructure of our property.

Again, the garage wall in question would, at the closest point, be 5 feet from the property line and move away from the property line at an angle and end 16 feet from the property line. No one can develop or build on the property directly adjacent to the garage wall in question due to easement rights. Beyond the easement is 200+ acres of forest.

Our intent is to remodel this home and property and maintain it in such a way that the surrounding area with maintain and/or increase the overall property value. (See attachment 9).

Attachment 9: Architectural plans

Thank you for your time and consideration.

Sincerely,

Paul and Mary Turner

