

Mayor Richard E. Roquemore

City Administrator Michael E. Parks City Council Robert L. Vogel III Taylor J. Sisk Jamie L. Bradley Joshua Rowan

AGENDA

Zoning Board of Appeals March 13, 2024 6:00 pm 1 Auburn Way

Call to Order

Old Business

Approval of the Minutes - February 14, 2024

Approval of the Agenda

Old Business: Tabled from February 14, 2024, meeting.

ZBA 23-006, application made by Chris Henderson to request a variance from (A) Section 17.60.090(A) to permit an accessory building within the front yard and from (B) Section 17.60.090(B) to permit more than one storage building on a residential property located at 283 Fiddlers Trail, Auburn, Georgia 30011.

Announcements

Adjournment



<u>Mayor</u> Richard E. Roquemore City Council
Robert L. Vogel III
Taylor Sisk
Jamie Bradley
Joshua Rowan

<u>City Administrator</u> Michael E. Parks

Board of Zoning Appeals Meeting Minutes February 14, 2024

Meeting Called to order by Sarah McQuade, City Planner
Meeting Operating Order was read by Sarah McQuade, City Planner

2024 Appointment of Officers:

Charles Sewell was nominated as Chair, nomination, 2nd & all in favor. Robin Jackson was nominated Vice Chair, nomination, 2nd & all in favor. Secretary Leigh Anne Bland, nominated, 2nd & all in favor.

Staff- Motion to Approve March 2023 Meeting Minutes. Motion, 2nd, vote-approved Staff-Motion to Approve Agenda for Feb. 14, 22024, motion-2nd, vote-approved

ZBOA Training Presentation Presented by City Planner, Sarah McQuade to members & public.

 Chairman Read Case: ZBA 23-006, application made by Chris Henderson to request a variance from (A) Section 17.60.090(A) to permit an accessory building within the front yard and from (B) Section 17.60.090(B) to permit more than one storage building on a residential property located at 283 Fiddlers Trail, Auburn, Georgia 30011.

The applicant spoke on his behalf on the reasoning as to why the building is located where it is currently is. Due to the location of the septic tank and field lines, mature trees, & fencing.

Board member Gallagher spoke briefly on researching in Gwinnett where the building used to be, applicant answered the inquiry, building has not changed. Board member Jackson also inquired about the location of the building; applicant stated building is behind driveway.

Speaking in Favor of the applicant:

288 Fiddlers Trail- Homeowner does not consider the building to be in the front yard-no problem with placement.

285 Fieldview Dr.-Homeowner states the building is not an eyesore, no problem with placement.

286 Fiddlers Trail -Homeowner has no problem with the building or placement of the building.

285 Fiddlers Trail- Homeowner does not consider building in the front yard, no problem with the location.

286 Fieldview Dr. Homeowner does not have any issue with the building at all.

Opposition- 292 Fieldview Dr. Homeowner has a problem with the building, referencing aluminum buildings in the code. Building location as well. He opposes the variance application.

The applicant & his wife Maria Henderson spoke again before the decision was being made.

Board Members Kelly, Riley, Gallagher & Jackson asked more questions of the applicant, The applicant is willing to paint the building to match the home.

Staff-City Planner read out the setbacks & building is within the setbacks required for R-100.

Chair asked for a motion to table to March 13, 2024, 6PM 1 Auburn Way: Jackson motioned to table the case, 2nd, vote taken-all approved.

Chairman Sewell called next case:

2. ZBA 23-005, applicant National Mentor Healthcare, LLC dba Georgia MENTOR, for a special exception request to allow for the continuation of a group day care home in the R-100 zoning district, on property located at 24 Autry Road, Auburn, GA 30011.

Attorney Kasey Strum, 3500 Lenox Rd., Atlanta Ga representing applicant GA Mentor for both addresses Special Exception Renewal Personal Care Home.

Motion to approve, 2nd & vote-all approved for extension to 4 years instead of 2 years with the same 6 conditions.

Chairman Sewell called next case:

1. ZBA 23-005-1, applicant National Mentor Healthcare, LLC dba Georgia MENTOR, for a special exception request to allow for the continuation of a group day care home in the R-100 zoning district, on property located at 33 2ND Avenue, Auburn, GA 30011.

Attorney Kasey Strum, 3500 Lenox Rd., Atlanta Ga representing applicant GA Mentor for both addresses Special Exception Renewal Personal Care Home.

Motion to approve, 2^{nd} & vote-all approved for extension as well for 4 years instead of 2 years with the same 6 conditions.

Kevin Wright, Columbia, SC now with GA Mentor was very appreciative.

Motion to adjourn: Motion, 2nd & all approved.

COMMUNITY DEVELOPMENT DEPARTMENT



CITY OF AUBURN 1369 FOURTH AVENUE AUBURN, GA 30011 PHONE: 770-963-4002

www.cityofauburn-ga.org

MEMORANDUM

TO: Zoning Board of Appeals Members

FROM: Sarah McQuade, City Planner

DATE: March 7, 2024

RE: 283 Fiddlers Trail Variance Request

Dear Zoning Board of Appeals Members,

At the Zoning Board of Appeals meeting held on February 14, 2024, there was a discussion regarding the interpretation of the term 'shall' and the extent of authority vested in the members of the Zoning Board of Appeals to grant a variance when the term is invoked.

The City Attorney has since offered clarification regarding the Zoning Board of Appeals' authority, particularly its discretionary power to grant variances based on the interpretation of the term 'shall' in the city code. He explained that the ZBA is empowered to grant variances, emphasizing that variances inherently involve some degree of relaxation or deviation from the code's requirements. Essentially, he pointed out that every provision of the code implies a mandatory action ('shall') in some form, whether explicitly stated or not.

In the Zoning Board of Appeals regulations, there's a clear delineation of the limitations on the board's authority to grant variances, outlined in code section <u>17.150.060(B)</u>. It specifies the circumstances where variances cannot be granted, including:

- 1. Variances cannot be granted for zoning conditions mandated by the city council during the approval of a rezoning application.
- 2. Variances cannot be granted for land or building uses that are prohibited by the zoning ordinance.
- 3. Variances cannot be granted to allow a use of property that would result in a higher level of development intensity than what is permitted without the need for a variance.

CITY OF AUBURN STAFF REPORT ZONING BOARD OF APPEALS

Applicant	Chris Henderson
Owner(s)	Maria Lopez
Contact	Chris Henerson, henderson56ga@gmail.com, 770-533- 3690
Present Zoning	Single Family Residential (R-100)
Request	(A) Accessory structure encroachment into the front yard on a corner lot (Section 17.60.090(A)) and (B) relief from the design guidelines for exterior finishes on accessory structures with a floor area greater than 120 square feet (Section 17.60.190(F) (1 and 3)).
Tax Parcels	AU12 022
Acreage	±0.77
Proposed Development	Accessory structure to be used for a woodworking shop and storage.
Public Hearing Date:	February 14, 2024

Project Data

The applicant is requesting a variance (A) from Section 17.60.090(A) for an accessory structure to be located in the front yard and a variance (B) from Section 17.60.090(F) (1 and 3) to not meet the design guidelines for exterior finishes on an accessory structure with a floor area great than 120 square feet to bring an existing accessory structure into compliance.

The zoning ordinance for the city requires that the exterior of accessory structures to be finished with brick or stone, or with materials and colors similar to that of the principal building, and that the roofing materials and pitch match that of the principal residence.

The applicant received a notice of violation from the City's Code Enforcement Officer on October 26, 2023, for the accessory structure and after meeting with city staff submitted the current request for variances from these standards on November 8, 2023. The existing accessory structure is 12 feet by 24 feet (288 square feet) and is 10 feet in height. This is a prefabricated metal building that is constructed with silver aluminum siding and is placed on a block foundation.

Section 17.30.020 states that "corner lots are to be considered to have two front yards" and this property is located at the intersection of Fiddlers Trail and Fieldview Drive. The proposed location of the accessory

structure is on the side of the house with frontage along Fiddlers Trail, whereas the front façade of the residence faces Fieldview Drive.

As part of the application materials, the applicant provided images of the existing structure from various angles on the property. As part of these materials, the applicant provided three (3) renderings of the accessory structure painted in a brown color similar to the color of the principal residence.

Existing Land Use:

The subject parcel (AU12 022) falls within the Single Family Residential (R-100) zoning district and is ± 0.77 acres in area. Per the Barrow County property tax information, the existing home is a 1,260 heated square foot single family home constructed with masonry veneer.

This property is within the Brookfield subdivision and all surrounding properties are zoned Single Family Residential (R-100).

Comprehensive Plan Future Land Use:

The future land use designation of the Comprehensive Plan identifies the parcel as Single Family Residential. The general single family residential future land use designation recommends conventional residential subdivisions, as well as conservation subdivisions, with supportive recreational amenities and small-scale public/institutional uses.

The site is already developed with a single-family residence and it is customary for single family residences to have accessory structures.

Wetlands, Streams, and Floodplain

There are no wetlands, streams, or floodplain located on the property.

Development Review

The development shall be subject to the regulations described in The Auburn Georgia Municipal Code and apply to and provide guidance for the development of lands within the incorporated areas of the city.

The Barrow County Environmental Health Services have approved the proposed location of the accessory structure.

Transportation

No traffic study was required as part of this application.

Zoning Analysis

Section 17.90.020 – the purpose of the single-family residential district includes existing low density residential areas and vacant or open areas where similar residential development is appropriate. The regulations for this district are designed to encourage low density one-family residential development.

Variance Analysis

Per the requirements of Section 17.150.060, powers of the zoning board of appeals (ZBOA), the ZBOA may authorize such variances from the terms of this zoning title as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this zoning title shall be observed, public safety and welfare secured, and substantial justice done. The variances may be granted in the individual cases of unnecessary hardship upon a finding by the zoning board of appeals that:

a. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape, or topography,

The variance request for the accessory structure to be located in the front yard may be appropriate due to the location of the existing structures, the location of the septic field, and existing landscaping (mature trees) on the subject property. The proposed location is 30.8 feet from the rear property line and 47.9 feet from Fiddlers Trail.

The alternative location shown on the applicant's site plan would also require a setback variance due to the requirements of a 15-foot setback requirement from the septic field, required by Barrow County Environmental Health.

The variance request from the design guidelines for exterior materials is neither extraordinary nor exceptional. The structure is a prefabricated metal building and does not match that of the principal residence. The applicant has indicated that the structure can be painted in colors similar to the principal residence.

 The application of the zoning ordinance to this particular piece of property would create an unnecessary hardship,

The strict application of the zoning ordinance would not create an unnecessary hardship. However, due to the fact that the property is a corner lot and has two front yards, the location of the existing structures, and the location of the septic field there is limited area where an accessory structure can be located. To locate the accessory structure in the rear would require the removal of mature trees and a rear setback variance.

The design guidelines for exterior materials would not create an unnecessary hardship. However, there may be difficulties adding exterior materials to a prefabricated metal building.

c. Said conditions are peculiar to the particular piece of property involved,

The conditions are not peculiar to this particular piece of property. There are multiple corner lots within this subdivision that are held to the same standards, though the location of the septic tanks and their associated septic fields is unknown for other lots.

d. Said conditions are not the result of any actions of the property owner, and

The size, location, and material of the accessory structure are direct actions of the property owner.

e. Relief, if granted, would not cause substantial detriment to the public good nor impair the purposes or intent of the zoning ordinance.

Relief, if granted, would not cause substantial detriment to the public good. However, relief, if granted, would impair the purpose and intent of the zoning ordinance.

Standards Governing the Exercise of Zoning

Suitability of Use

The proposed accessory structure is a suitable use for this property.

Adverse Impacts

Recommended conditions could minimize effects on adjacent properties.

Impact on Public Facilities

There should be no increase in traffic, utilities usage, stormwater runoff as a result of this request.

Conformity with Policies

The development is compatible with the Comprehensive Plan.

Conditions Affecting Zoning

Development may be appropriate with staff recommended conditions.

Staff Recommended Conditions

Staff recommends approval of the variance request from Section 17.60.090(A) to allow an accessory structure in the front yard as the request meets hardship criteria b. Staff recommends the following condition:

1. The property shall be developed in accordance with the site plan titled "Overlaid Plan."

Staff recommends approval of the variance request from Section 17.60.190(F) (1 and 3) to allow for an aluminum accessory structure as the request meets hardship criteria b. Staff recommends the following condition:

1. The accessory structure, including the roof, shall be painted in colors similar to those in images labeled as 18, 19, and 20, provided in the submitted application materials.

Zoning/Special Exception

VARIANCE APPLICATION

Type of Request:	Zoning/Special Exception	☐ Administrative	□ Sign	□ Stream I	Buffer	□ Other
Applicable Zoning/Sign (
Nature of Request:	Required	Proposed		m Setback rements		osed Setback quirements
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□ Sign						
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Name of Project/Subd	ivision: Brook	field		Present Z	oning:	RO
Property Address/Loc	ation:283Fidd	levs Trail, Aubur	n 30011	Tax Parce	IID: A	112022
		sson, buildir				
Owner Name: May						
Address: 283 ‡	iddlers Tra				LAUMMIN	
Phone: 770 53	333690	Email: Nende	vscm	<u>569a @</u>	gmo	ul. com
Applicant Name (if dlf	ferent from above):	Christopher	Hend	evscn		
Address:						
Phone:		Email:				
to be necessary, I unders Ordinance. I understand Requirements of the Aul	stand that I am respons that fallure to supply a purn Zoning Ordinance)	lication form Is correct and tible for filing additional ma Il required information (per will result in the rejection of regarding Campaign Discla	aterials as sp the relevant of this applic	pecified by the Applicant Cl Cation. I have Signed Campa	e City of hecklists read the	Auburn Zoning and provisions of
Owner/Applicant Sign		Lerling		ate; 2/	7/24	1
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CONFLICT OF INTEREST DISCLOSURE

The undersigned below, making application for Rezoning has complied with the Official Code of Georgia Section 3 and has submitted or attached the required information	66-67A-1, et. sec., Conflict of Interest in Zoning Actions,
Signature of Applicant	Signature of Owner
11/8/2023	11/3/2023
Date	Date FODIL
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Notice of Parties	Notary Public Notary Public
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MANAGE OF THE PROPERTY OF THE	AMPAIGN CONTRIBUTIONS
DISCLOSURE OF C	AMPAIGN CONTRIBUTIONS
Have you, within the two years immediately preceding the aggregating \$250.00 or more to a member of the City Coany other government officials who may consider this ag	ouncil, Planning Commission, Zoning Board of Appeals, or
(Check one) YES _ NO	Your Name:
Name and position of government official(s):	
Date and amount (which aggregated \$250 or more) of	the contribution(s):
C	
Signature of Applicant	Signature of Applicant's Attorney/Representative
Date: 11 (8 2023	Date:



CERTIFICATIONS

In the event an owner's agent or contract purchaser is filing this application, both the owner's and agent's certifications must be completed. If the owner is filing the application, only the owner's certification must be completed.

OWNER'S CERTIFICATION

The undersigned below, hereby declares that they are	e the owner(s) of the property, located at
283 FIDDLERS TRAIL	AUBURN, GA 30011
as shown in the records of Barrow or Gwinnett Coun	ty, GA.
	11/8/2023
Signature	Date l
Appeared before me personally this day of	11-08-2023
Signature of the Public of ARI OF Aug. 19 Aug.	Date

METES AND BOUNDS FOR 283 FIDDLERS TRAIL

PARCEL ID# AU12 022

AUBURN, GA. 30011

+/- .77 ACRES

Beginning at the Northernmost point of the parcel bearing on the corner pin the Northeastern property line bears Southeasterly (at 139 degrees from true North) and runs for 133'-4" to the edge of the right-of-way where it makes a 90 degree turn to the Southwest. This property line delineates AU12 021 and AU12 022. The Southeast property line fronts on the right-of-way of Fieldview Drive for 224'-8" and runs Southwest (at a bearing of 229 degrees from true North) until it meets the intersection of Fieldview Drive and Fiddlers Trail. At the intersection of Fieldview Drive and Fiddlers Trail the property frontage follows the right of way of Fiddlers Trail on a Northwesterly direction (at a bearing of 304 degrees from true North) for 108'-11" where it meets a slight deviation to the North-Northwest and continues for another 38'-9" (at a bearing of 322 degrees from true North) where it makes the final 90 degree turn to the Northeast. This property line delineates AU12 022 and AU12 023 and runs for 250'-11" (at a bearing of 52 degrees from true North) until it terminates at the point of beginning.



City of Auburn Police Department



A Community Oriented Law Enforcement Agency

1361 Fourth Avenue Auburn, Georgia 30011 Telephone 770-513-8657 Fax 770-682-4428

Linda Blechinger Mayor

October 26, 2023

Mr. Chris Henderson 283 Fiddlers Trail Auburn, GA 30011

Dear Mr. Henderson,

Thank you for coming by and speaking with us today regarding your accessory structure permitting. While you were there, an email was sent to our city planner and she confirmed the building does NOT conform to the ordinances set forth.

There are two areas in which the building does not conform to the ordinances. One is the location of the building. Ordinance 17.60.090 sets forth that all accessory structures be located in the rear yard. According to 17.30.020, yards are defined as follows:

- y.1 "Yard:" An open space on a lot situated between the principal building or use on the lot and a lot line, and unoccupied by any structure except as otherwise provided in this title.
- y.2 "Yard, front:" An open, unoccupied space on the same lot with a principal building or use, extending the full width of the lot and located between the street line and the front line of the building projected parallel to the street to the side lines of the lot. Corner lots shall be considered to have two front yards.
- y.3 "Yard, rear:" An open space on the same lot with a principal building or use, unoccupied except by an accessory building or use, extending the full width of the lot and located between the rear line of the lot and the rear line of the building or use projected to the side lines of the lot.
- y.4 "Yard, side:" An open, unoccupied space on the same lot with a principal building or use, located between the building or use and the side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.

The other portion of the ordinance in which it is non-conforming is ordinance 17.60.090, which in part states

Accessory buildings greater than one hundred twenty square feet in floor area:

Exterior walls shall be finished with brick or stone or with materials and colors similar to that of the principal building.

Roofing materials and colors shall match that of the principal building. Roof pitch shall be commensurate with the roof pitch of the principal building.



City of Auburn Police Department



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1361 Fourth Avenue Auburn, Georgia 30011 Telephone 770-513-8657 Fax 770-682-4428

Linda Blechinger Mayor

At this point, the only way we could issue a permit is if you apply for a variance and that is approved. Otherwise, the structure will have to be moved or relocated to another property. I have included in this letter the information regarding the variance process. Please evaluate your options and decide which avenue works best for you and your family. Please let me know via email by November 7, 2023 what your decision will be. At that time, we will be better able to determine timelines for compliance.

Thank you again for following up on this and thank you in advance for your hard work in getting this resolved.

Angie Thompson Code Enforcement Officer City of Auburn Police Dept. (770 513-8657 Letter of intent for 283 Fiddlers Trail
Auburn, Georgia 30011
Parcel ID# AU12 022

Our intent is to have permission granted to have my accessory building located on our property next to our driveway (where it is currently located).

I, Chris Henderson, purchased my woodworking building/storage building in November of 2005 (18 years ago) as part of my inheritance from my grandfather after he passed away. The building is a manufactured portable building that is 12' x 24' x 10' tall at the peak (288 square feet). The building is clad in silver aluminum siding as is typical of these portable buildings. I have had it at 4 other properties (all in Gwinnett County). I had it moved to our property after my wife, Maria (Lopez) Henderson, and I got married and I moved out of my previous residence in Sugar Hill. It cost me \$800 to have it professionally moved and leveled. It is currently positioned where I would like it to be, which happens to be the only practical place I have to put it. I was made aware by City Code Enforcement via citation that I was out of compliance with the City Code and that I was supposed to get a building permit to have an accessory structure on my property. As it turns out, this is more difficult than I ever thought it would be as the position, exterior finishes, and the fact that I have a corner lot are all against me. I have been trying to work in good faith with Auburn Code Enforcement, Barrow County Environmental Protection, and Auburn Permits and Licensing to remedy this issue, but the process has brought me here.

I have gone to Barrow County Environmental Protection Agency, and they have approved my building to stay where it is as it:

- 1) does not encroach or impede or endanger the 35-year-old septic system.
- has the least impact to the environment as trying to place it anywhere in the fenced portion of the "rear yard" requires removing fence(s), gates, or removing established trees.
- is in the defined "rear yard" according to the definitions and diagrams of Barrow County.

In addition, the City Code 17.30.020 y.2 states "Yard, front:" An open, unoccupied space on the same lot with a principal building or use, extending the full width of the lot and located between the street line and the front line of the building projected parallel to the street to the side lines of the lot. Corner lots shall be considered to have two front yards." The word "considered" is an umbrella term and individual cases should be considered when looking at practical applications and usage. All the while the diagram that is on the fence regulations that is publicly published and currently available on the City website https://www.cityofauburn-

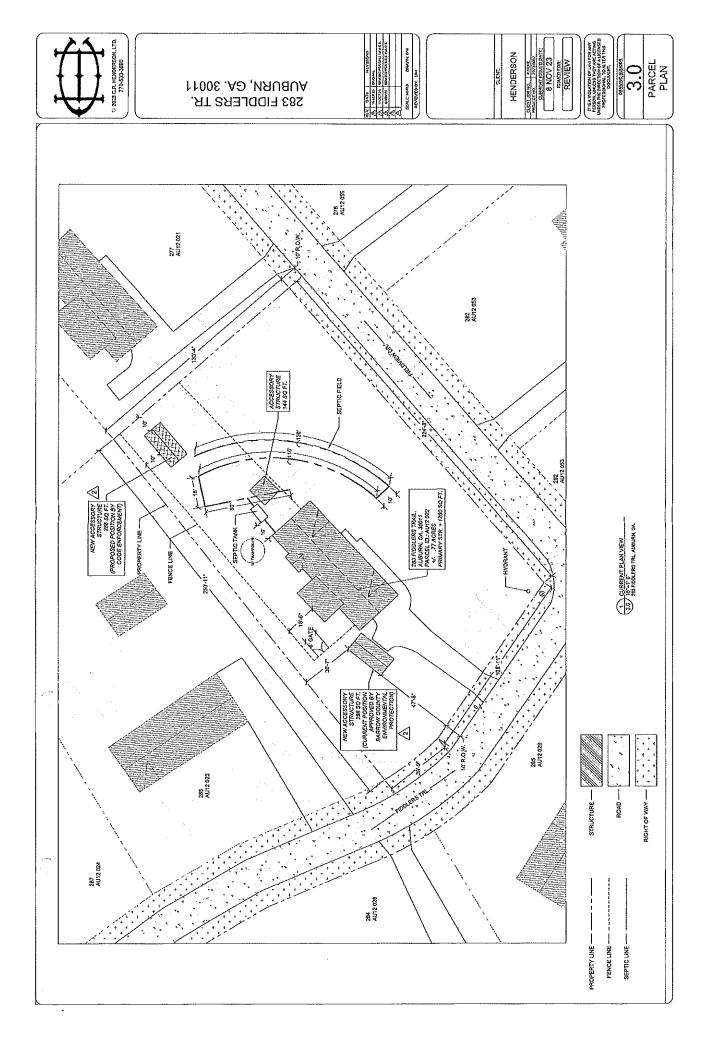
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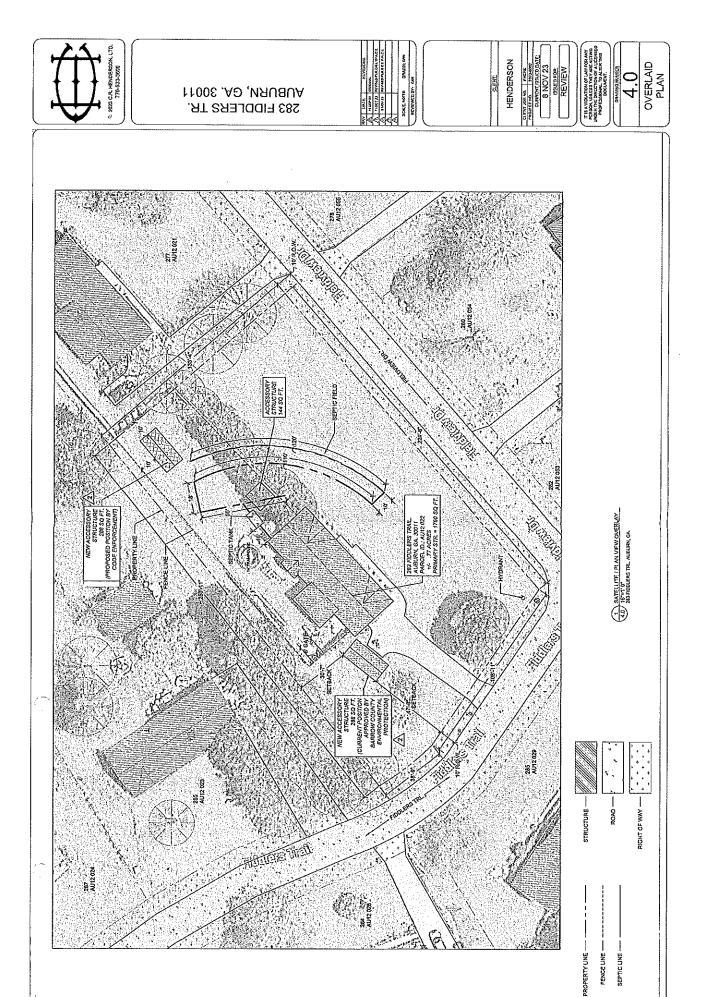
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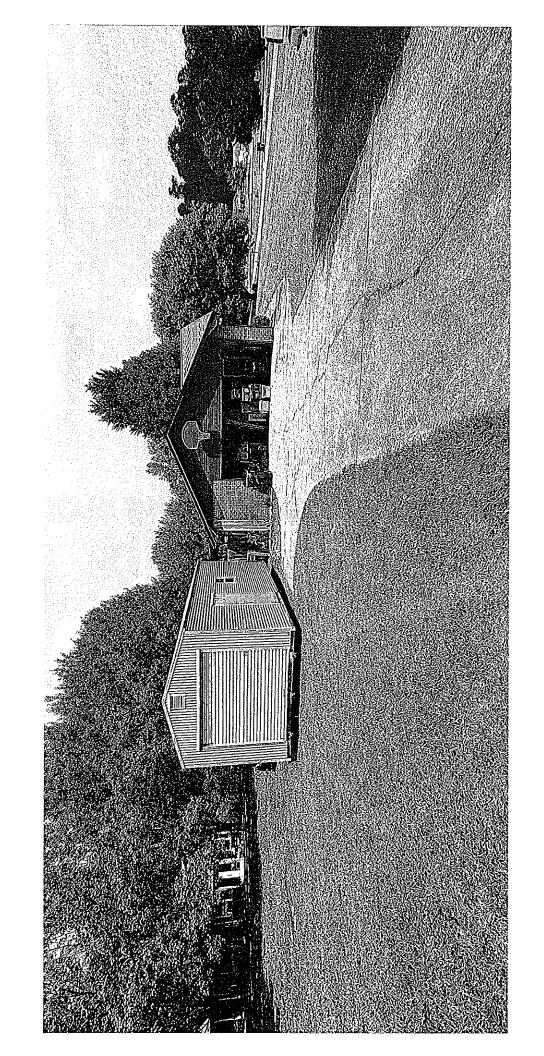
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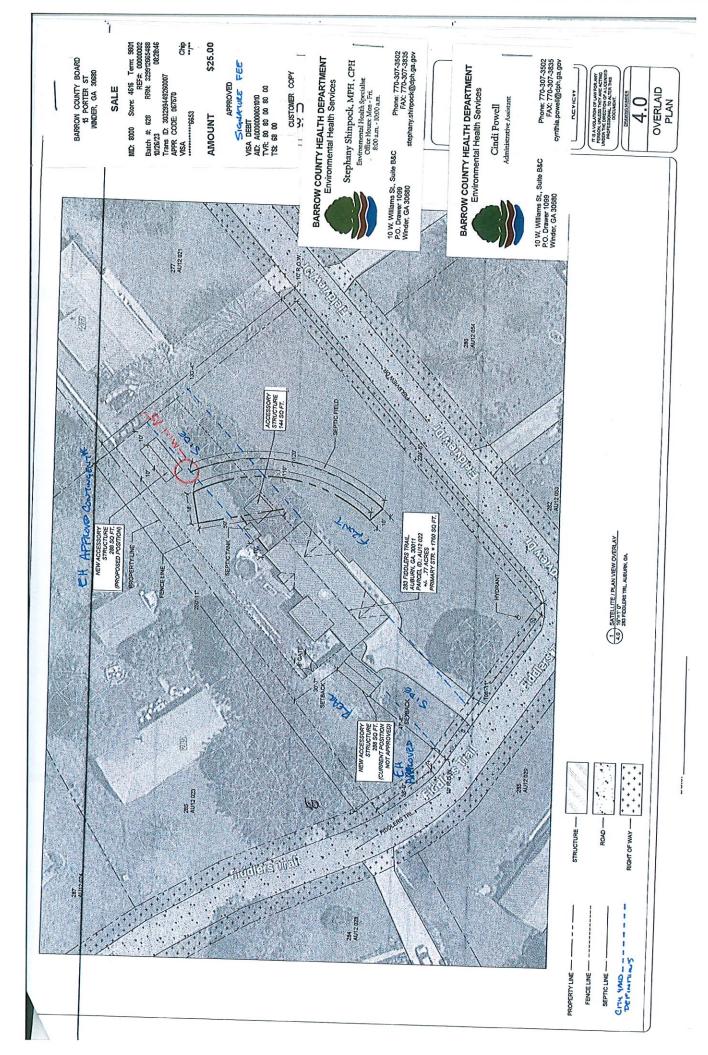


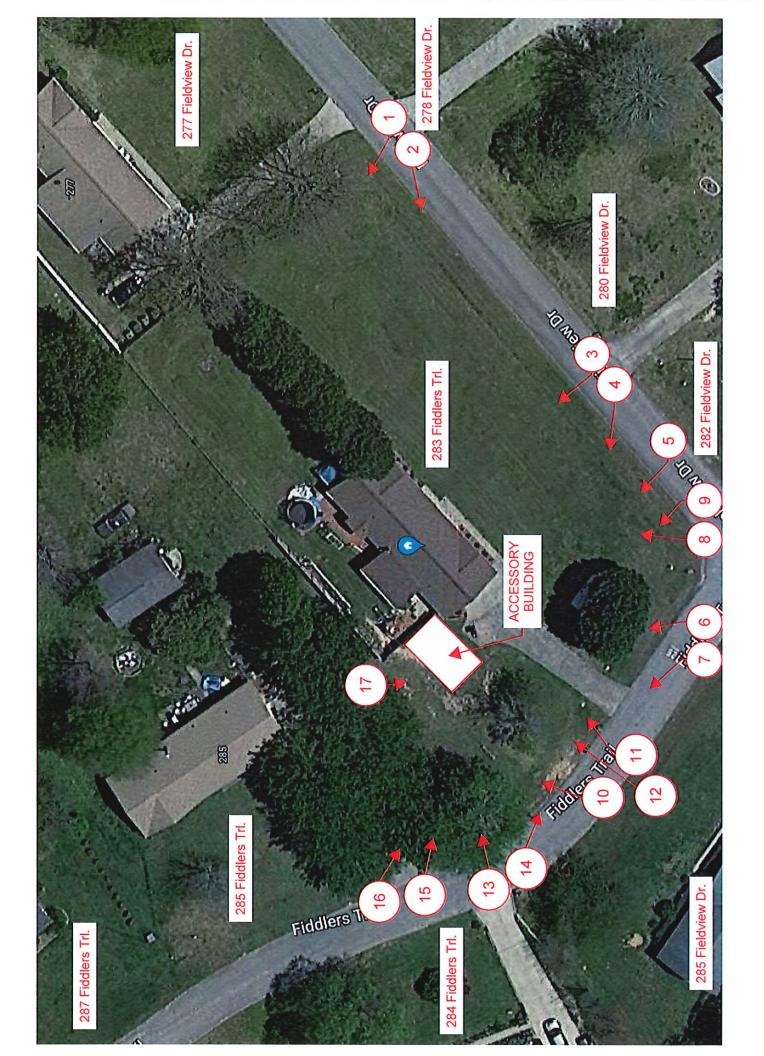




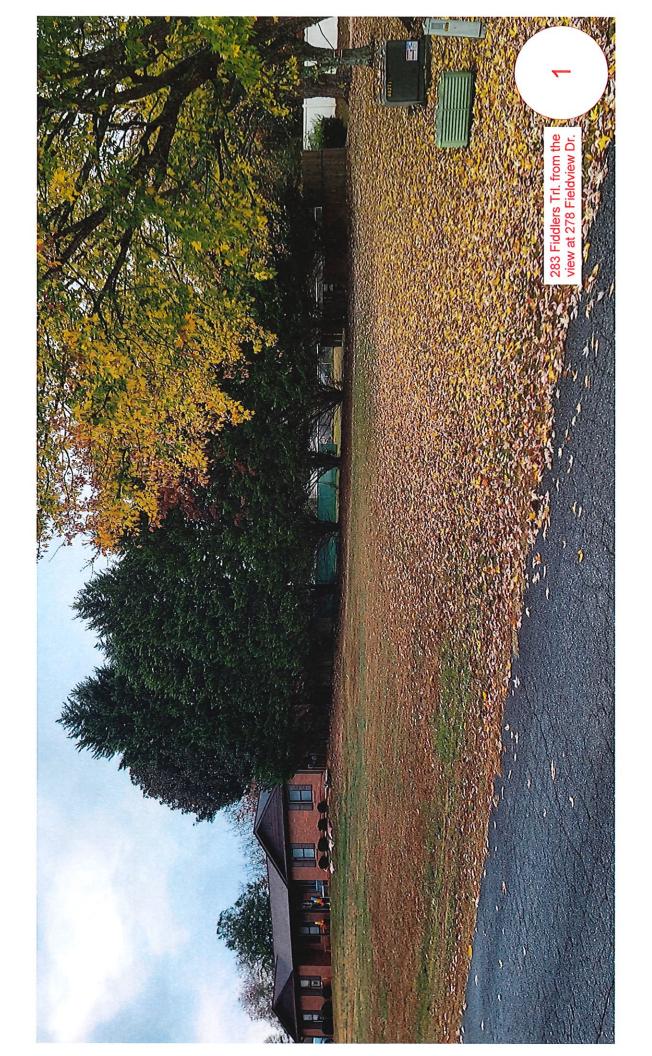


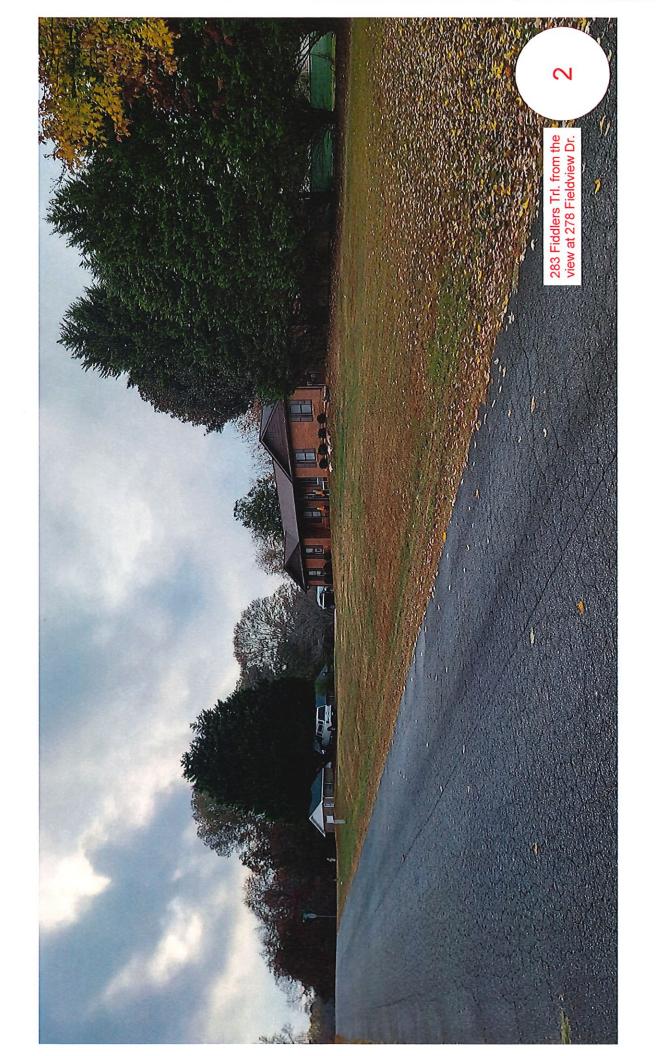
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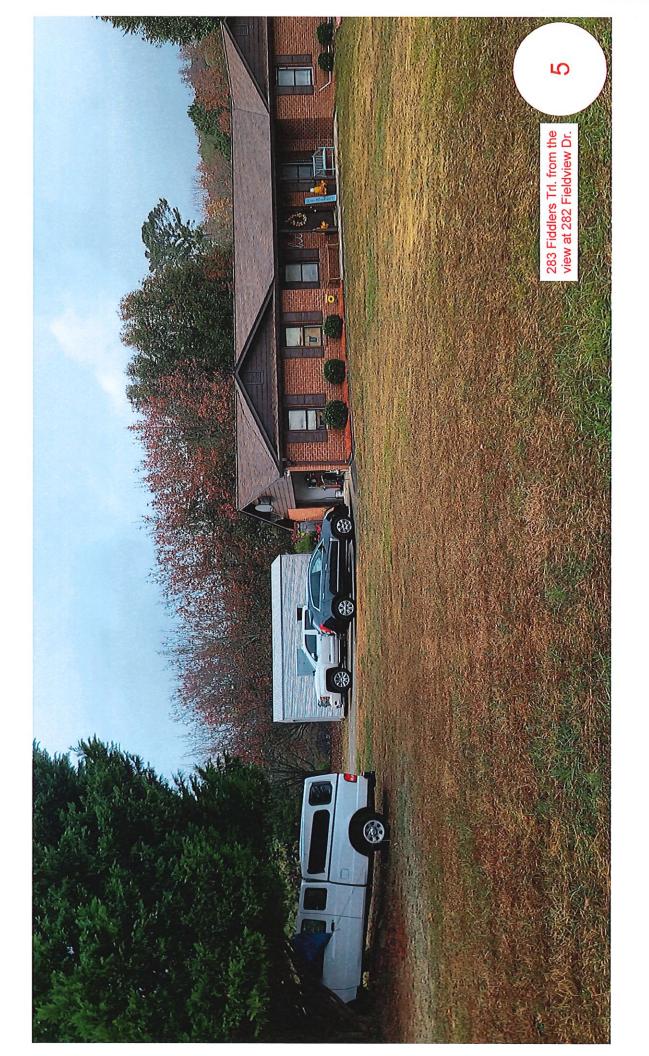


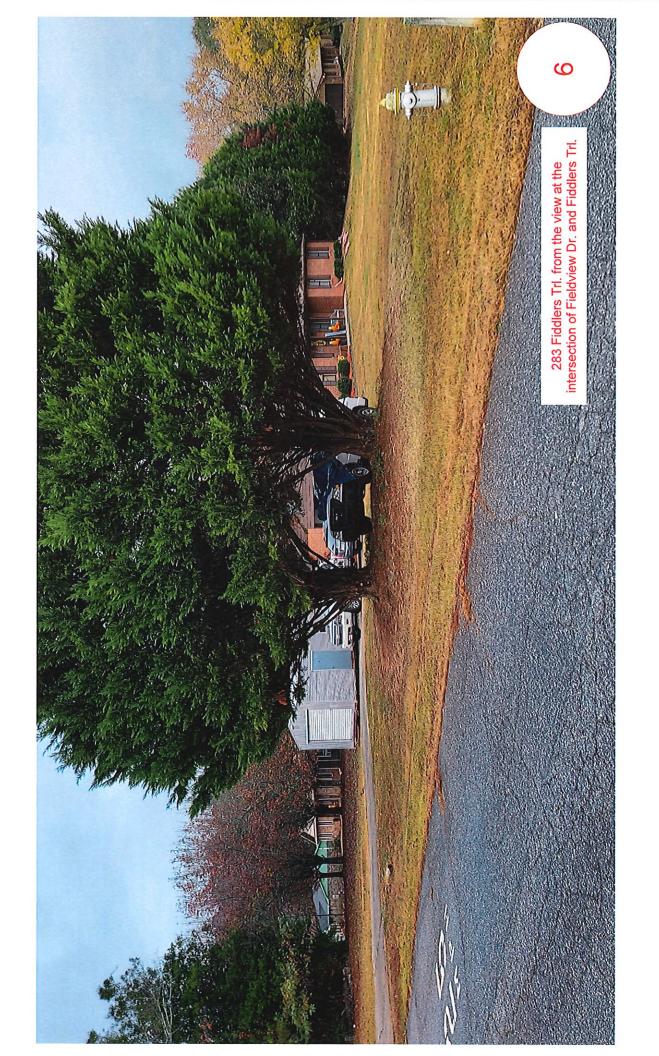




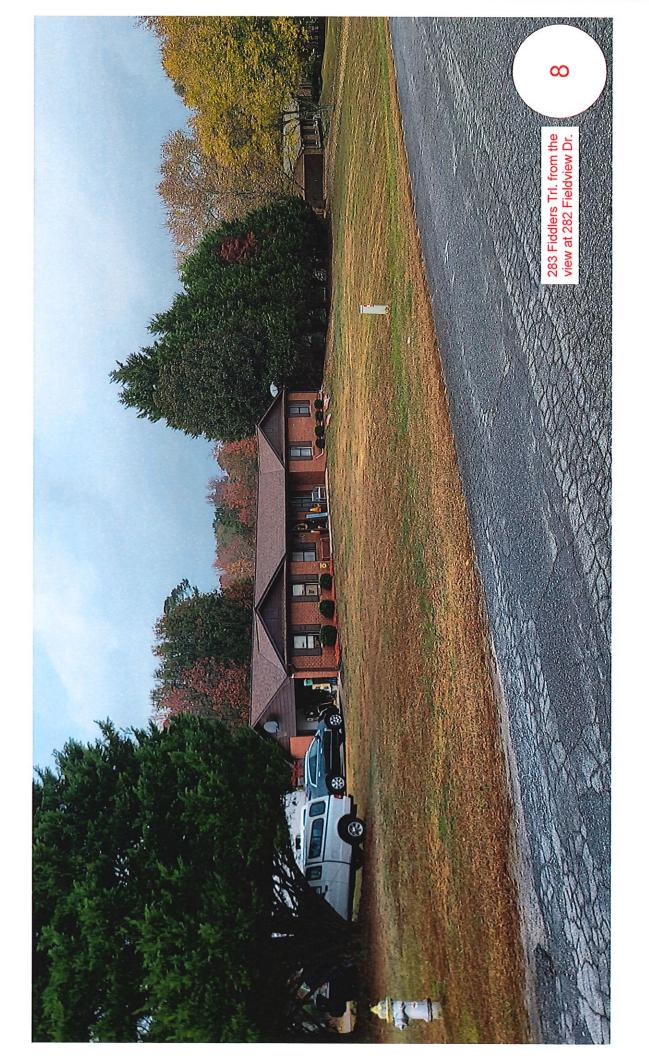


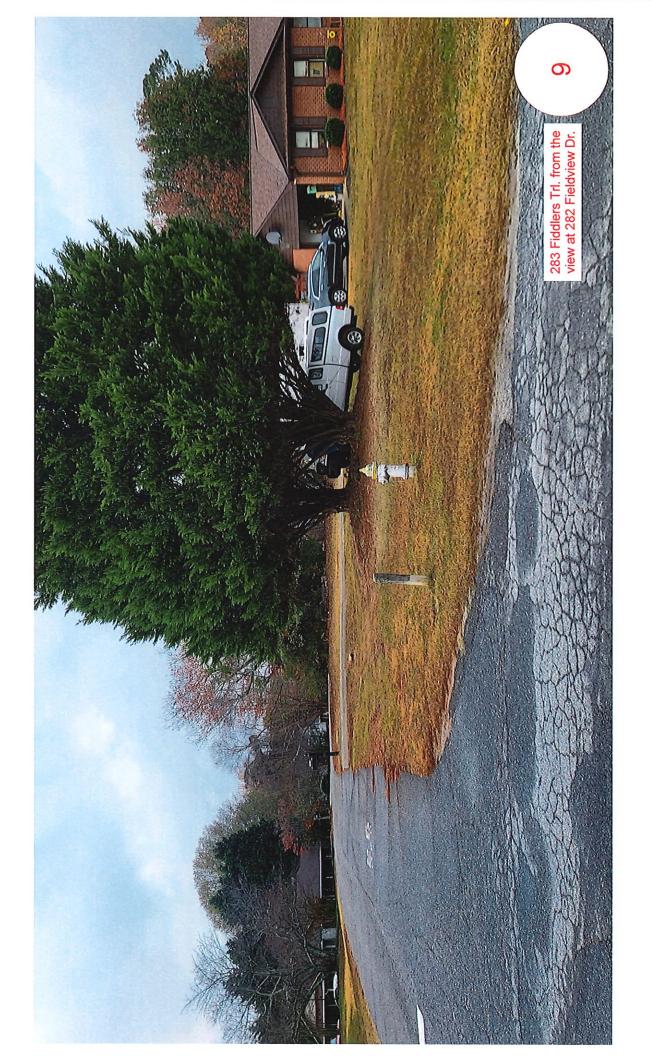




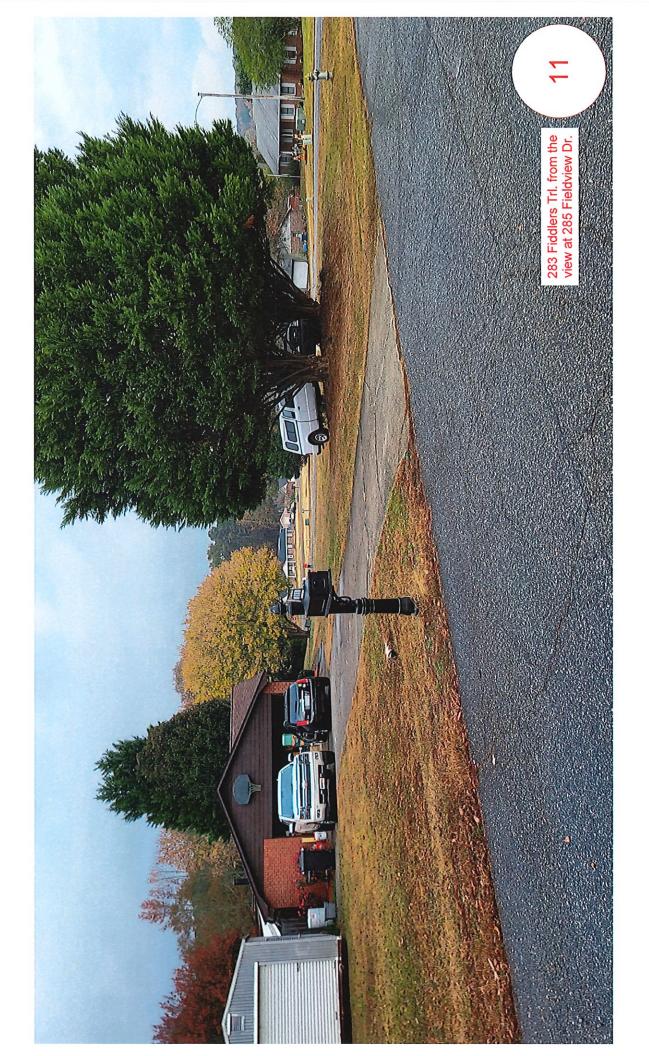






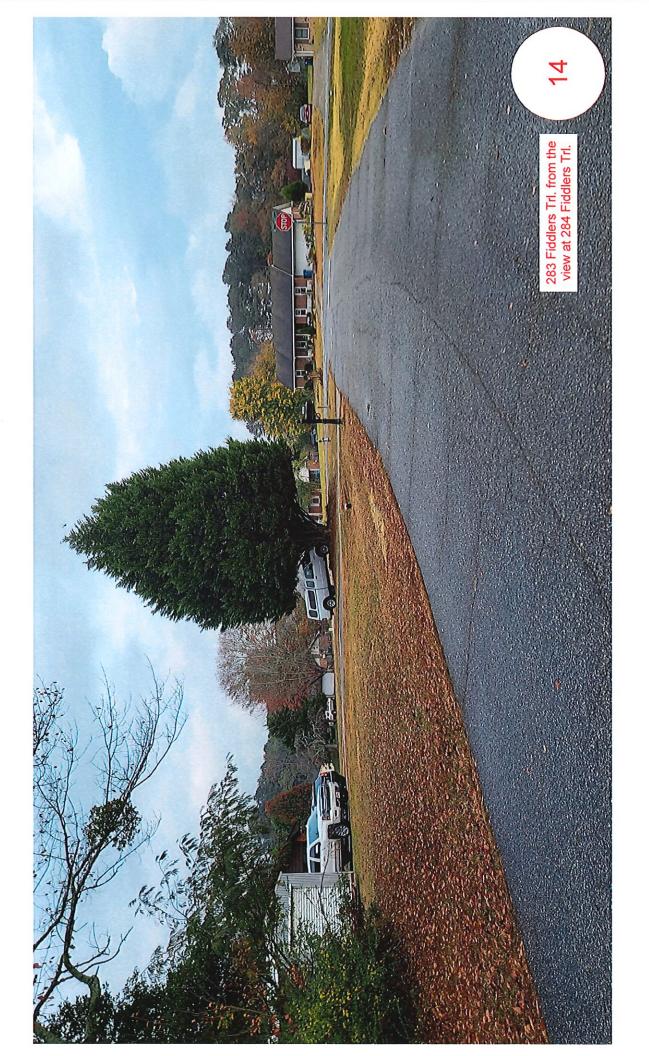


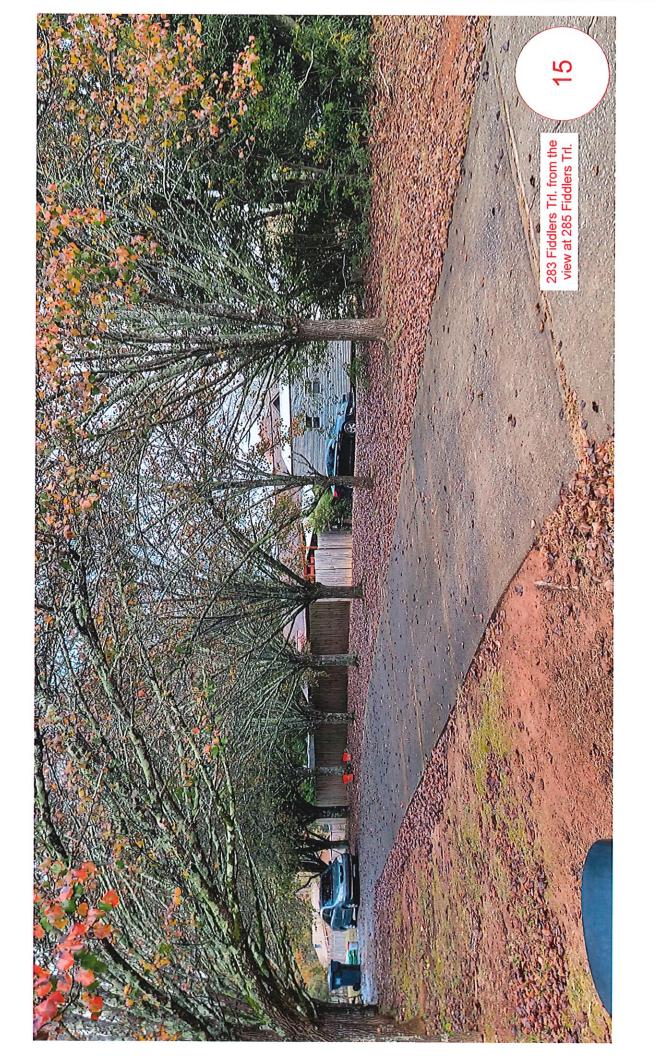




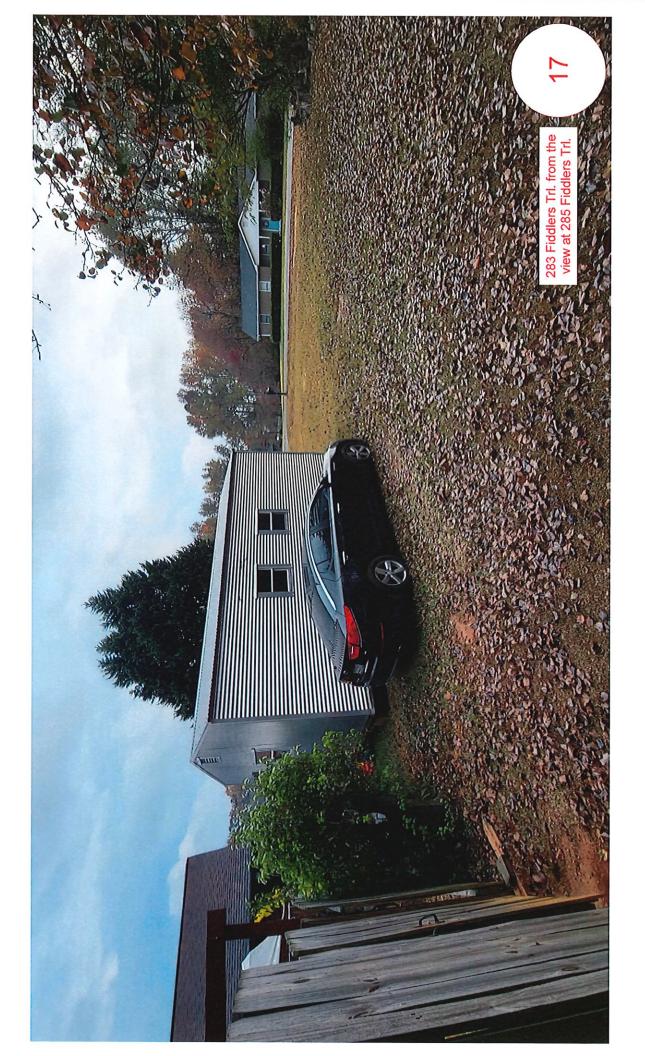


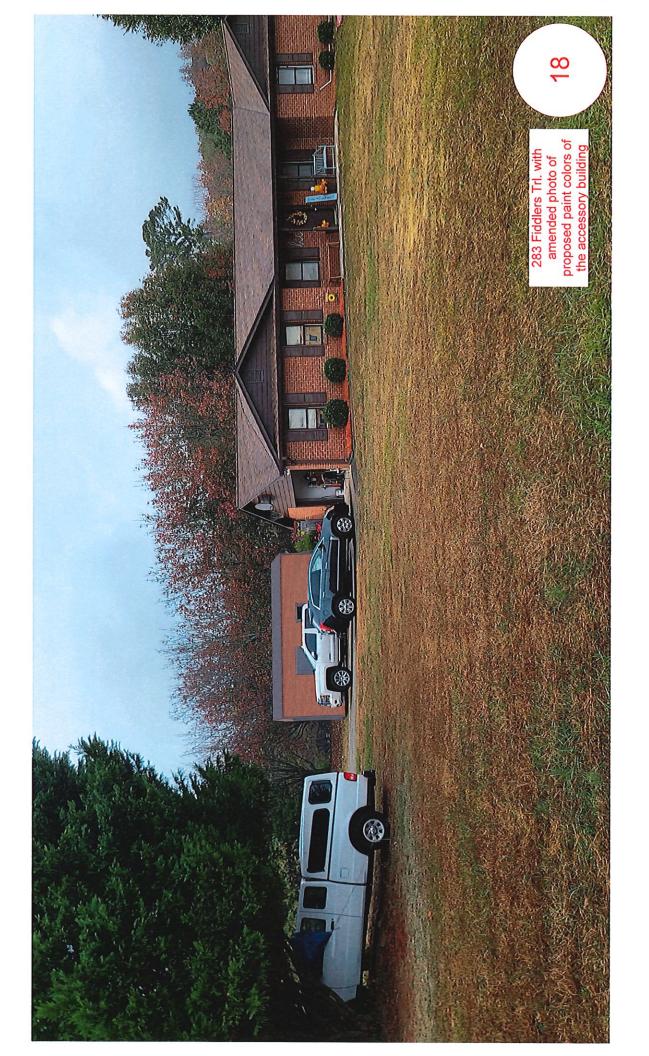




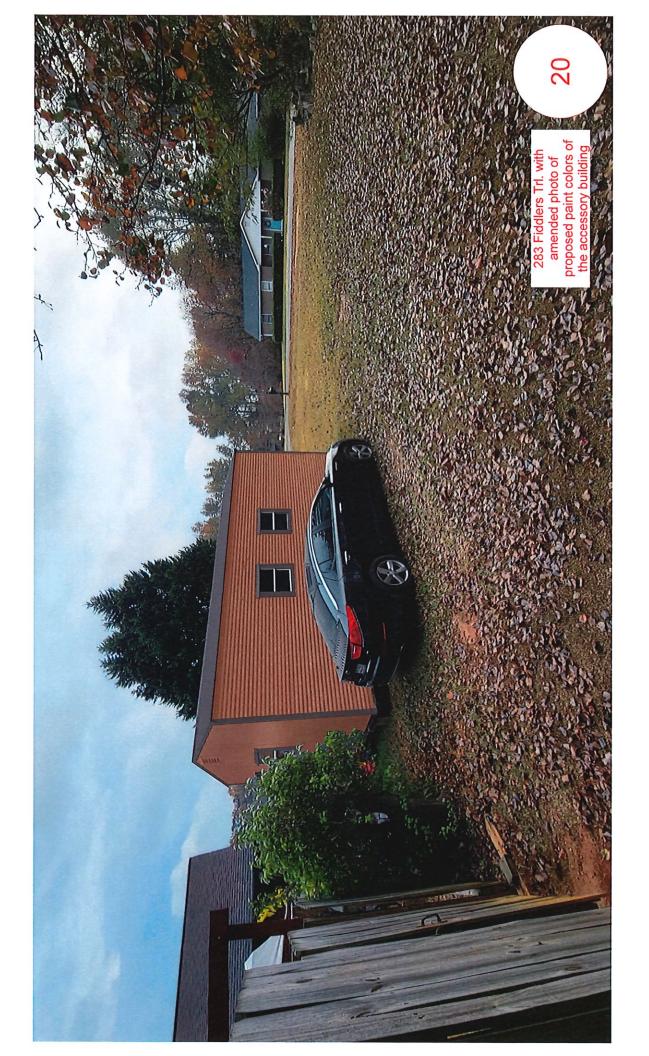












Where do I get a fence permit?

Fence permits may be obtained at City of Aubum License and Permits Department which is located at 1369 Fourth Ave. Auburn, GA 30011

To submit a permit you must have the following:

- A complete Auburn building permit application.
- the entire lot, which show existing structures. Plan should also indicate the location of the fence within the boundaries of the lot and add a notation indicating the height of the fence.
- A drawing or photograph of fence design.
- Permit fee of \$60.00.

After presenting the required materials, your plans and application will be reviewed for all required trades. If approved, you will be issued a building permit. Normally a fence permit is issued while you wait. Downtown Overlay I ict will take longer due to the review requirements by the Planning and Zoning Commission.

All inspections require
a 24-hour notice
Please call (770) 963-4002 ext. 206
to set your appointment.

City of Auburn Permits and License Dept.

Jay Miller City Planner (770)963-4002 ext. 229 cityplanner@cityofauburn-ga.org

Permits and Licenses Clerk (770)963-4002 ext.206

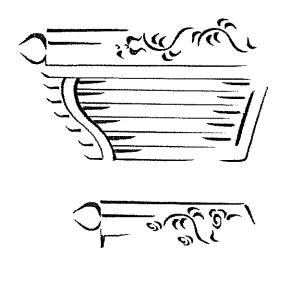
City of Auburn

PO Box 1059 Auburn, GA 30011 (770) 963-4002 ext. 200 (770)513-9255 Fax

Monday-Friday 8:30 am— 4:30 pm This brochure is one in a series designed to provide you information or various regulations administered and enforced by the City of Auburn. The purpose of the brochure is to provide citizens with basic, easy- to- use information regarding city codes and services.



FENCE PERMIT REQUIREMENTS FOR RESIDENTIAL PROPERTIES



www.cityofauburn-ga.org

Residential Fences

The City of Auburn is committed to Cooperation of the community, Auburn Fas maintained a high standard. This Drochure highlights some of the major Provisions of the city's ordinance about ce construction for residential areas. and With an attractive community. Daintained Providing

Why are permits required for fences?

Permits are required to construct fences to location of fences as well as to insure assure compliance regarding the height and *Ppropriate design, safety and allow adequate ir, light and vision.

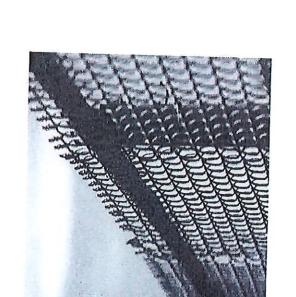
When is a fence permit required?

A permit is required if you are constructing a ce in the front yard.



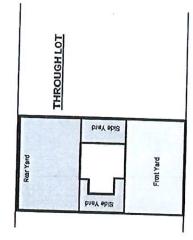
Fence Regulations

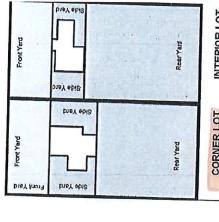
- Maximum height 4 ft. Decorative · Front Yard- Permit Required. styles only. NO CHAIN LINK.
- Maximum height 8 ft. All materials allowed. Wood fences shall have Side Yard- No permit required. decorative side facing out.
- Maximum height 8 ft. All materials allowed. Wood fences shall have • Rear Yard- No permit required. decorative side facing out.
- pools require an automatically latching ◆ Entrance for swimming



same lot extending the full width of t located between the street line and the fi the building parallel to the street. Come Front Yard-The open, unoccupied st be considered to have two front yards.

Side Yard- The open, unoccupied spa same lot located between the building at lot line and extending from the rear ol yard line to the front of the rear yard line Rear Yard-The open unoccupied spa same lot extending the full width of th located between the rear lot line and the of the building.





CORNER LOT

INTERIOR LOT