

**CITY OF PINE LAKE  
AGENDA  
FEBRUARY 11, 2019  
7:00 PM**

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Call to order  
Pledge of Allegiance  
Announcements/Communication  
Adoption of Agenda  
Public Comments

**PUBLIC HEARING**

Public Hearing on Variance Request – Applicant Linda Dunlavy, on behalf of Bonnie McQuagge is seeking a variance /or special exception for setback relief on property located at 4616 Park Drive

**CONSENT AGENDA**

All matters listed under this item are routine or have been previously discussed by the City Council and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.
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Minutes of 01/14/19 Council Meeting

SEED Appointments:

- Carrie Linblad
- Jennifer Bridges – Chair

MAP Appointment

- Lalah Manley

**NEW BUSINESS**

Public Comments  
Mayor's Comments  
Council Comment  
Adjournment

City of Pine Lake, Georgia  
New Residential Construction

**MEMORANDUM**

TO: Valerie Caldwell, City Administrator

FROM: Bill Johnston, Zoning Administrator

SUBJECT: **VARIANCE** to allow renovation of a nonconforming building at 4616 Park Drive for use as a single family dwelling Addendum Report

DATE: Thursday, 10 January 2019

<b>Applicant</b>	Bonnie S. McQuagge
<b>Location</b>	4616 Park Drive
<b>Zoning</b>	R-1, Residential District
<b>Variance</b>	Reduction in rear yard setback from the required 10 feet to the actual 6.4 feet to permit renovation of a building for use as a single family dwelling

**APPLICATION SUMMARY**

Ms. McQuagge, owner of the property, has submitted additional information concerning an application for a variance that would reduce the rear yard setback on a corner lot from the required 10 feet to the actual 6.4 feet. The variance is necessitated to accommodate encroachment of an existing building into the rear yard setback. Application of the relevant standards of the Zoning Ordinance to be considered in deciding a variance application in this Addendum Report is based on the additional information. Those standards and characteristics of the property are further described below; the Findings contained in the original report remain applicable except as may be revised here:

**FINDINGS**

The additional information provided by Ms. McQuagge includes a "Written Justification" that applies the variance criteria found in Section 4. *Required findings for variances* of Chapter 6-3-14. *Variances* of the Pine Lake Ordinance. The first criteria of that Section states: "*There are extraordinary or exceptional conditions pertaining to the particular property because of its size, shape or topography.*" The applicant cites a definition of topography from Webster's Dictionary as "the configuration of a surface including its relief and the position of its natural and man-made features" or "the physical or natural features of an object or entity and their structural relationship," concluding that the term topography includes drainage features and trees. An alternate and more specific definition is found in the American Planning Association "A Planners Dictionary," Edited by Michael Davidson and Fay Dolnick. The term "topography" is defined several times therein as follows; none of the definitions includes trees as a topographic feature:

**VARIANCE** to allow renovation of a nonconforming building  
4616 Park Drive  
Thursday, 10 January 2019

**"Topography**

The physical land surface relief describing the terrain elevation and slope. (Interstate 81 Corridor Council)

In its broadest sense, topography includes land forms, water and other drainage features, and features such as gravel pits and mine tailings. A single feature (such as a mountain or valley) is called a topographic feature. (United States Census Bureau)

The configuration of a surface area showing relative elevations. (Iowa State University Extension Service )

The existing configuration of the earth's surface including the relative relief, elevations, and position of land features. (Cecil County, Md.)"

Even acceptance of trees as "topography" does not result in a conclusion that the trees comprise an extraordinary or exceptional condition as the neighborhoods of Pine Lake are characterized by an abundant tree canopy.

As concerns the drainage features, these may be identified by the contour lines comprising site topography. However, storm drainage via such surface flows is common in the swales found on many Pine Lake properties. Therefore, this condition is not extraordinary, exceptional or unique to the 4616 Park Drive property.

The second criteria states: *"Such conditions are unusual or peculiar to the particular piece of property involved."* As no extraordinary or exceptional conditions are present on the property, the application does not meet this criterion.

The third criteria states: *"The strict application of the zoning ordinance would create an unnecessary hardship."* As stated in the original report,

"Should the variance application be denied, a hardship would be realized as the only option available to the applicant would be relocating the building to comply with the 10-foot rear yard setback. However, the question becomes "Is the hardship unnecessary?" The hardship imposed on the applicant must be weighed in light of the purpose and intent of the Ordinance. These include securing safety from fire, panic and other dangers; providing adequate light and air; conserving the value of buildings; and creating sustained protection and stability of the single-family neighborhood; and protecting properties against blight and depreciation." Building setbacks are established to achieve these very purposes. The value to be gained by the adjacent owner and the public through adherence to the minimum rear yard setback indicates that the hardship may not be unnecessary."

**VARIANCE** to allow renovation of a nonconforming building

4616 Park Drive

Thursday, 10 January 2019

Findings associated with the remaining criteria are also unchanged in light of the additional information and are reprinted below for convenience:

*Relief if granted would not cause substantial detriment to the public good, safety or welfare, or impair the purpose and intent of the zoning ordinance of the City of Pine Lake.*

Variations are reserved for properties that exhibit an extraordinary or exceptional condition. Pine Lake has established a relatively small minimum lots size and associated, moderate building setbacks. This has resulted in a compact, walkable community. However, varying from these moderate setbacks when these setbacks can be met could cause substantial detriment to public safety as building setbacks also have a relationship to life safety codes. Such codes assume a certain building separation associated with different types of construction. As importantly, granting of relief through variance when such conditions are not present can impair the purpose and intent of the zoning ordinance as the criteria established for consideration of a variance would be ignored. Such decisions can question the validity of the development standards, including building setbacks, adopted in the Ordinance.

*Any proposed variance shall be granted only upon additional findings that the requirements of the tree ordinance are met and the requirements of the stormwater ordinance are met.*

Granting of the variance would not affect any trees or stormwater flow.

#### **RECOMMENDATION**

Based on the above findings, denial of the variance is appropriate. The property is not characterized by extraordinary or exceptional conditions. Any hardship to the applicant is offset by the gain to the public in terms of fulfillment of the purposes of the Ordinance. Approval of variances absent the requisite conditions characterizing the property can jeopardize the integrity of the Ordinance, particularly development standards related to life safety, neighborhood stability and property values.

City of Pine Lake, Georgia  
New Residential Construction

**MEMORANDUM**

TO: Valerie Caldwell, City Administrator  
FROM: Bill Johnston, Zoning Administrator  
SUBJECT: **SPECIAL EXCEPTION** to preserve trees at 4616 Park Drive  
DATE: Friday, 1 February 2019

<b>Applicant</b>	Bonnie S. McQuagge
<b>Location</b>	4616 Park Drive
<b>Zoning</b>	R-1, Residential District
<b>Special Exception</b>	Approval to allow renovation of a building for use as a single family dwelling as moving the building to comply with the rear yard setback would unreasonably impact large trees on the property.

**APPLICATION SUMMARY**

Ms. McQuagge, owner of the property, has submitted an application for a Special Exception that would allow renovation of an existing building without the need to relocate the building to comply with the rear yard setback. Ms. McQuagge is seeking such relief to preserve one of more large trees shown on a survey of the property dated April 3, 2018 by Jonathan M. Coe who is a Registered Land Surveyor.

**FINDINGS**

Ms. McQuagge is proposing renovation of a nonconforming building for the purpose of converting the building into a single family dwelling. The building does not comply with the rear yard setback, as it is located at the rear of the lot some 6.4 feet from the rear property boundary. Sec. 4. Yards and Lots of Chapter 6-3-7. R-1 Single Family Residential District of the City of Pine Lake Zoning Ordinance establishes a rear yard setback of ten (10) feet. The building must be moved 3.6 feet to achieve compliance with this setback. The Critical Root Zone of a number of large trees, likely qualifying as "Protected Trees," may be damaged by such an action.

Chapter 6-3-14. Variances, Section 8. *Special exceptions to preserve trees and to reduce parking* establishes the following authority vested in Mayor and Council: "In addition to the special exceptions that council is empowered to consider and that are enumerated in Chapter 13 Special Permits, council may also grant the following special exceptions, whether as a single special exception request or together with a variance request."

## Special Exception to Preserve Trees

4616 Park Drive

Friday, 1 February 2019

Page 2

1. Special exception to preserve mature trees: Council may grant a special exception to reduce or increase required setbacks in order to preserve mature trees, upon recommendation by the Tree Board, provided that if any tree dies as a consequence, direct or indirect, of construction despite the granting of the variance, the tree shall be replaced at the owner's expense in accordance with a tree replacement plan approved by the tree board."

Chapter 6-3-13. Special Permits, Section 5. *Criteria for administrative approval of a minor request authorizes zoning official* "...to consider and grant minor requests for variances and special exceptions. The criteria for a minor request are "A variance or special exception request is considered a minor request, when approval would result in a ten (10) percent or less variation in a requirement that has a numerical value of number, distance, length, width, height, depth, circumference, area, or volume. ." The reduction in rear yard from 10 feet to 6.4 feet exceeds the 10 percent threshold and accordingly, the zoning official is not authorized to render such a special exception.

Chapter 6-3-13. Special Permits, Section 1. *Intent and types of special permits*, subsection 3. Special exceptions establishes the following guidance:

"Special exceptions are intended to be used in conjunction with cases where consideration of effects on surrounding property is of principal importance. Unlike variances, which required a property owner to demonstrate hardship because of unusual on-site characteristics, such on-site hardship is not a principal prerequisite of special exception approval. Special exceptions are acted upon by council, subject to the requirements of the zoning procedures act."

The effect on surrounding property is not of principal importance here, rather the survival of large trees is of principal importance. The zoning procedures law requires that any public hearing be advertized and held by City Council according to procedures adopted in the Zoning Ordinance.

Chapter 6-3-13. Special Permits, Section 11. *Special exception, additional application requirements* establish a list of requirements for application for a special exception. Most, if not all of these, have been fulfilled by the variance application. The survey submitted and produced by a Registered Land Surveyor identifies a number of large trees that could be adversely impacted by moving the existing building to comply with the rear yard setback.

However, the Tree Board in forming their recommendation to City Council is guided by the Tree Ordinance. That Ordinance defines "Qualified Professional" as "Any individual possessing a degree in forestry, urban forestry, landscape architecture, or horticulture, having been trained by the City of Pine Lake in the implementation of this ordinance, and tree protection in building construction."

**Special Exception to Preserve Trees**

4616 Park Drive

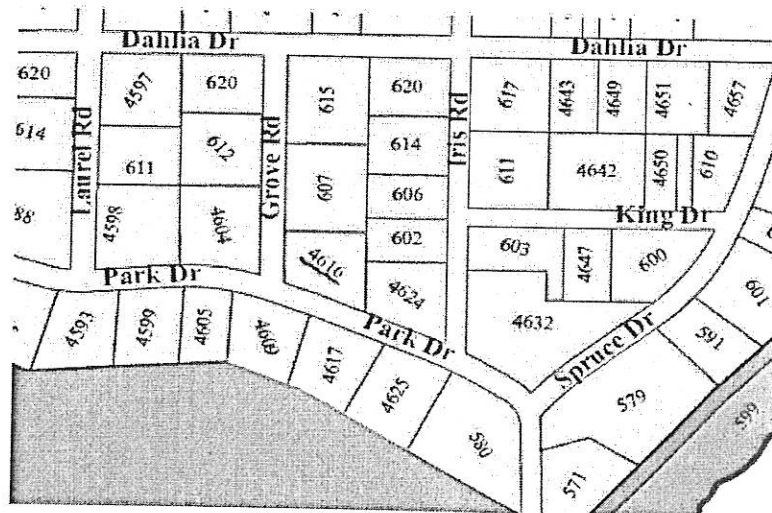
Friday, 1 February 2019

Page 3

The Tree Ordinance also requires that a Site/Tree Conservation Plan (STCP) be prepared by a Qualified Professional for review by the City of Pine Lake. The STCP must document the species, (dbh), critical root zone and location of all existing Trees and Critical Root Zones on the property; the location, species, and caliper size of all proposed mitigation planting trees; and the location of all proposed building construction and land development activities, including grading, drainage, proposed utility locations and all proposed tree protection measures.

Given these requirements, it seems reasonable to require the applicant to document the species, dbh, critical root zone and location of all existing Trees and Critical Root Zones that would be impacted in the event the building was moved to comply with the rear yard setback. That information must be generated by a Qualified Professional. This is particularly true as the survey submitted with the variance application does not address Critical Root Zones, a factor that would be considered by a Qualified Professional and should be considered by the Tree Board. In addition, Chapter 6-3-13. Special Permits, Section 5. *Criteria for administrative approval of a minor request* provides that the zoning official may determine the application requirements as follows:

"2. Application requirements for a minor request for a variance or a special exception: Application requirements shall be the same as the requirements for a variance or a special exception, or as determined by the zoning official in the particular case."



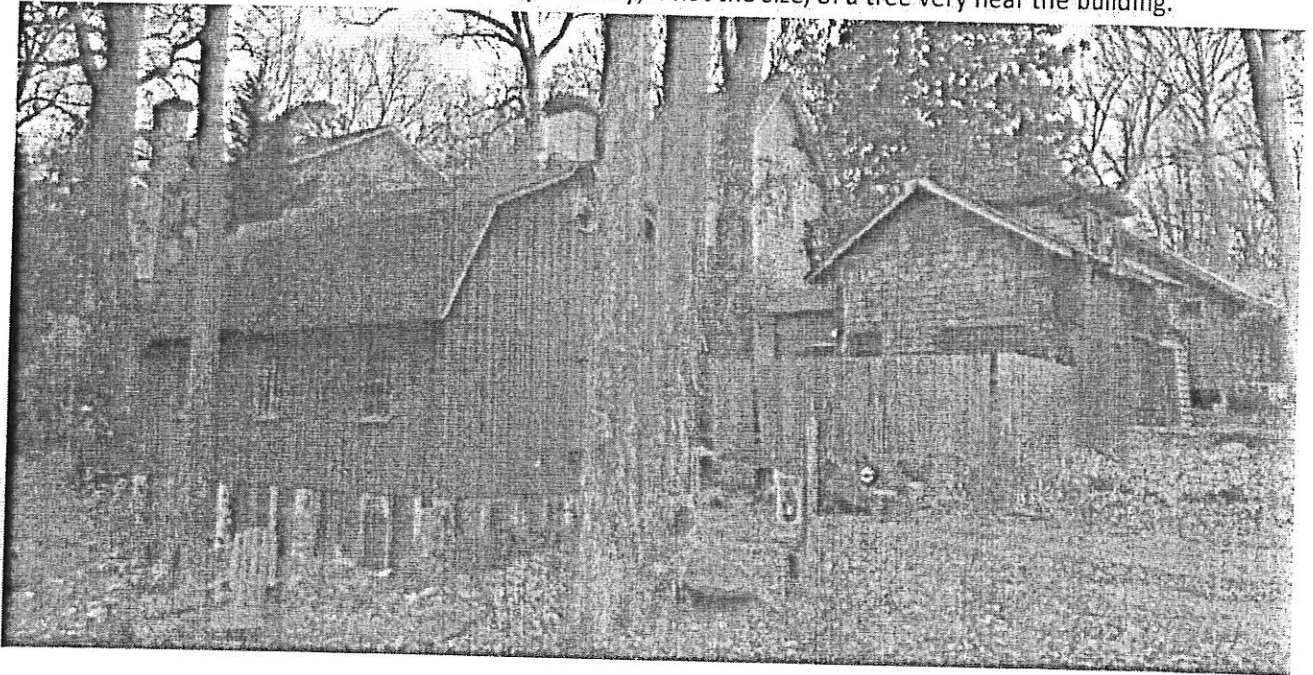
**Special Exception to Preserve Trees**

4616 Park Drive

Friday, 1 February 2019

Page 4

The Google Image below clearly shows the proximity, if not the size, of a tree very near the building.



**Process for Consideration of a Special Exception**

Chapter 6-3-13. Special Permits, Section 14. *Special exception, authorization and procedure states*

"1. Authorization: The council may authorize special exceptions for structures and uses, which are so designated as requiring a special exception under district regulations, and which are otherwise prohibited from being established.

2. Recommendations submitted: In addition to other required notice of public hearing, the city clerk shall also give notice to any board or city official that may be appointed by the mayor to make recommendations to council. Such board or city official shall review the facts of each application, submit recommendations including any recommended conditions, and present such findings of fact and recommendations to council at the public hearing for such application.

3. Council: Before granting any requests for special exceptions, council shall make findings regarding the facts in the particular case, as set forth in this chapter and in other chapters of this part, and shall find that the granting of the special exception will not adversely affect the public interest. Such findings shall be clearly stated in the minutes of the meeting at which the action is taken."



**Special Exception to Preserve Trees**

4616 Park Drive

Friday, 1 February 2019

Page 5

Chapter 6-3-13. Special Permits, Section 6. *Conditions attached to special permits* provides guidance as to conditions that may be assigned any approval of a special exception:

“The following applies to conditions attached to council approvals of special use permits, special exceptions, or appeals of administrative actions; and applies to conditions placed on special administrative permits including any administrative approvals, administrative permits and administrative approvals of minor requests.

1. Council may attach any conditions or safeguards to special use permits and special exceptions, and the zoning official may attach any conditions or safeguards to administrative permits, as may be determined necessary in the particular case to accomplish the reasonable application of the requirements for findings, standards, criteria and other authorizations; to protect the public interest; and to protect the use and enjoyment of adjacent property.”

**RECOMMENDATION**

Based on the above findings, approval of the Special Exception to preserve trees is appropriate provided that a “Qualified Professional” as defined in the Tree Ordinance has submitted documentation certifying that the impact on the Critical Root Zone of a class of trees that are “Protected Trees” or above in the hierarchy described in the Tree Ordinance would be irreparably harmed by relocation of the building on the property to comply with the rear yard setback. In the absence of such documentation, the application should be denied.

No conditions of approval that would be specific to the Special Exception appear necessary in this instance.

**CITY OF PINE LAKE  
CITY COUNCIL MEETING MINUTES  
JANUARY 14, 2019  
7:00 PM**

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**Call to order**

The meeting was called to order by Mayor Melanie Hammet at 7:00 pm. Also present were Council members Megan Pulsts, Augusta Woods, Jean Bordeaux, Brandy Hall and Kris Casariego. Valerie Caldwell, City Administrator was also present.

**Pledge of Allegiance** was led by Hammet.

**Announcements/Communication**

- Hall communicated that Will Sellers with the Food Alliance will hold the first community forum February 6<sup>th</sup> at the Beach House at 7:00 pm.  
Announced ELEMTo Eco Systems reached out for a venue space to host a free event on ecological restoration. Hammet will ask SEED to co-sponsor on January 24.
- Bordeaux communicated that she and Woods attended a PRISM meeting about cityhood. New cities are not eligible for the new SPLOST funds.
- Woods attended the PRISM meeting and gave a brief update regarding Greenhaven.

**Adoption of Agenda**

The agenda was amended to include update on Commercial Work Group, Use of Pine Lake Facilities for PRISM meetings, Scheduling of State of the City Address Town Hall and Council Retreat, and unauthorized alterations of City property. Motion to approve as amended by Pulsts, seconded by Bordeaux and approved 5-0.

**Public Comments** - There were not any comments.

**PUBLIC HEARING**

**Public Hearing on Variance Request – Applicant Bonnie McQuagge is seeking a variance for setback relief on property located at 4616 Park Drive**

Hammet announced at the mutual agreement of counsel, the hearing was deferred to the 02/11/19 meeting.

**CONSENT AGENDA**

- Approval of meeting minutes from 12/10/18 and 12/17/18 meetings
- Adoption of 2019 meeting calendar
- Annual Appointments –
  - City Attorney- Laurel Henderson
  - Municipal Judge - L'Erin Wiggins
  - City Auditor - James Whittaker

- o Legal Organ – DeKalb County News (Champion)

The Consent Agenda unanimously approved on motion by Hall and seconded by Bordeaux.

## **NEW BUSINESS**

### **Susan Tarnower, Commercial Development Task Force Update**

Tarnower stated that the Task Force has been working with David Burt, Community Development Consultant and a group of residents to participate in the vision statement for the Rock Bridge Road Corridor. She said that a survey was provided and had good participation with 185 replies; 129 was residents and 56 non-residents. She communicated that a tour was conducted for vision of the future and that of the members of the task force attended a place making event in Newnan, GA. Tarnower stated that Burt and Bordeaux visited the businesses to get their input on ideas, complaints and ideas for the future. The next meeting will be February 24<sup>th</sup> to develop strategic initiatives and a report will be presented at the February 26<sup>th</sup> Council Meeting.

### **Appointment of Mayor Pro-Tem**

Bordeaux was nominated by Hall and unanimously approved.

### **Adoption of Resolution # 01-2019 calling an election to elect a mayor and council posts # 1 and # 2**

Resolution # 01-2019 was unanimously approved upon motion by Hall and seconded by Bordeaux.

### **City Council Retreat**

The City Council Retreat is scheduled for 03/16/19 at location to be determined.

### **The Town Hall Meeting and State of the City**

The Town Hall Meeting and State of the City Address is scheduled for Wednesday, 01/30/19 at the Beach House at 7:00 PM.

### **Use of City Facilities for PRISM meetings**

The use of the Council Chambers was approved if not conflicting with Court or Council with use of Clubhouse only when anticipating attendance in excess of what Council Chambers could accommodate and was approved upon motion by Casariego and seconded by Woods 4-1 with Pulsts voting in opposition.

### **Unauthorized Alteration of City Property**

There was a brief discussion on unauthorized alteration of city property. A tree was planted on Turtle Island as a gift to someone with a red bow affixed to it. Information will be posted on the website requiring from the city's governing body before placing anything on city property. Council member Pulsts volunteered to communicate with the parties involved.

**Public Comments** – Jonathan Phillips, Constituent Liaison for the New Super District 7, Lorrain Carter Johnson she brings greetings to the city and is excited to have a great relationship.

**Mayor's Comments**

Hammet thanked Pulsts for personally speaking to the owners that planted the tree on Turtle Island.

**Council Comments**

Pulsts asked if an emissions statement could be issued for the leaf truck.

**Adjournment** upon motion by Pulsts at 8:28 pm.

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Missye Varner, Administrative Assistant

DRAFT