



Case Number: VAR2506-001

Date of Staff Report Preparation: 07/17/25

Board of Zoning Appeals Public Hearing Date: 08/11/25

Applicant: Eligio Perez y Perez

Property Owner: Eligio Perez y Perez

Property Location: 3731 Cherokee Overlook Drive

Parcel ID: 14N24A 109

Zoning: PD-MU

Land Use: Single family home

Lot Area: .17 acres

Street Frontage: 60'

Existing Lot Coverage: N/A

Request(s): Applicant seeks relief from the platted front setback

District Standards:

Zoning District Standards (Primary Street)			
Impervious Surface (max.)	N/A	Front Yard Setback (min.)	30'
Open Space (min.)	N/A	Side Yard Setback (min.)	10'
Building Height (max.)	N/A	Rear Yard Setback (min.)	30'
Building Height (min.)	N/A	Buffer Planting (min.)	N/A
Zoning Buffer	N/A	Overlay Zone	N/A

Surrounding Land Uses and Zoning:

North – Single-family home, PD-MU

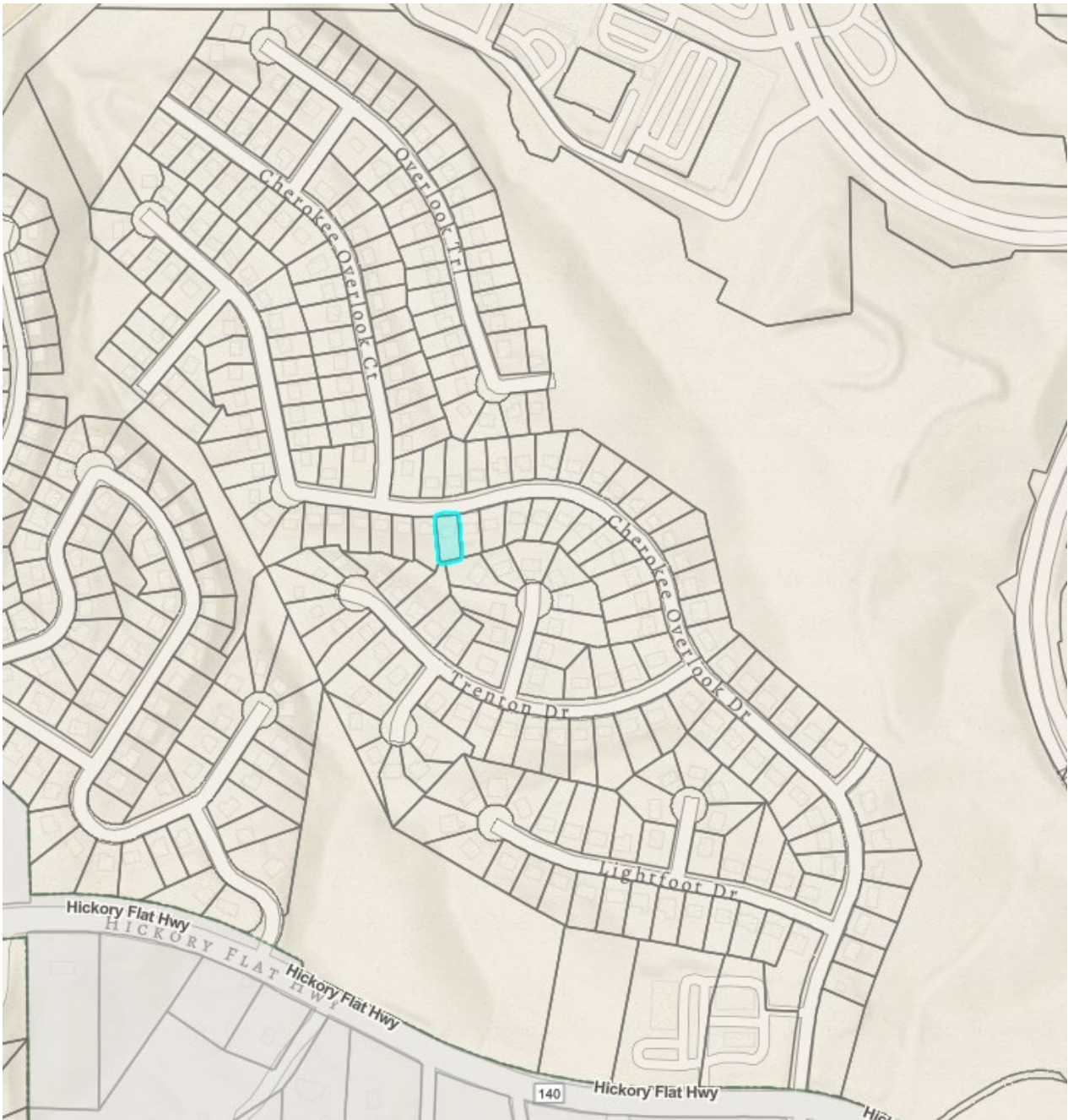
South – Single family home, PD-MU

East – Single family home, PD-MU

West – Single family home, PD-MU



Location Map





Site Description:

The property is currently occupied by a single-family home. The home is located within the Cherokee Overlook subdivision.

Site History:

On April 10, 2025, City of Canton Code Enforcement made contact with the property owner for construction of a deck without a building permit. A building permit application was submitted on April 21, 2025. Based on the preliminary site plan, it was determined by Staff that the new deck would be encroaching into the platted 30' front setback.

Staff met with the property owner and advised them to obtain a survey of the newly-constructed deck. The survey indicated that the deck was encroaching between 7' to 7.9' into the platted 30' front setback.

There was a previous front deck which the Owner chose to demolish due to safety concerns. The previous deck would have been considered a non-conforming structure and would have been permitted to be rebuilt to the same footprint. Because the new deck is of a larger footprint, the deck no longer maintains non-conforming status and requires the variance process.

CRITERIA TO BE APPLIED

1. The grant of the variance will not be detrimental to the public health, safety or welfare or injurious to property or improvements;
2. The variance request is based on conditions that are:
 - a. Unique to the subject property;
 - b. Not generally applicable to other properties in the same zoning district;
3. Because of the particular conditions, shape, size, orientation or topographic conditions, the strict application of the requirements of this zoning ordinance would deprive the property owner of rights and privileges enjoyed by other similarly situated property owners;
4. The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other similarly situated properties;
5. The literal interpretation and strict application of the applicable provisions or requirements of this zoning ordinance would cause undue hardship or practical difficulty, as distinguished from a mere inconvenience; and



6. The requested variance would be consistent with the spirit and purpose of this zoning ordinance and the comprehensive plan.

CONDITIONS FOR CONSIDERATION

Should the Zoning Board of Appeals approve the requested variance(s), conditions of approval to consider are:

- 1.

Site Photos



July 17, 2025
Eligio Perez y Perez
3731 Cherokee Overlook Dr.
Canton, GA 30115
4704208349
nesmaperez8@gmail.com

Re: Request for Variance from Front Setback Requirement –
3731 Cherokee Overlook Dr. Canton, GA 30115

To Whom It May Concern,

I am submitting this Letter of Intent in support of a request for a variance from the current front setback requirement for my property located at 3731 Cherokee Overlook Dr. in Canton, Georgia. The City of Canton Zoning Ordinance requires a 30-foot front setback from the property line for structures. However, I am requesting a variance to allow a front deck that encroaches into the 30-foot setback area.

The deck in question was constructed as a replacement and improvement upon a previously existing front deck that was already located within the 30-foot front setback area. The original deck, which had aged beyond repair, served as the primary entry point to the residence. The newly constructed deck replaces a much smaller original deck that measured approximately 4 feet by 6 feet. The current structure is approximately 8 feet deep by 18 feet wide and provides a safe and functional landing area at the front entrance, which the original deck did not adequately support. The new deck extends approximately 8 feet into the front setback, placing the front edge of the deck approximately 22 feet from the front property line.

The updated structure is necessary for both safety and accessibility, especially considering the elevation of the front entrance, which requires steps and a stable landing. The 30-foot setback line runs directly to the front wall of the home, leaving no alternative space for a code-compliant deck. This expansion was made to meet modern safety expectations.

This variance request is being made based on practical difficulty and hardship, as the strict enforcement of the 30-foot front setback renders the front entrance inaccessible without the use of a deck or similar structure. Given that the previous deck existed in this location for many years, the use of this portion of the property for a deck is well established and compatible with the residential character of the area.

Additionally, the new deck has been constructed in a visually harmonious manner that complements the existing residence and surrounding properties. The scale and design do not disrupt the aesthetic of the neighborhood nor infringe upon the rights or views of neighboring properties.

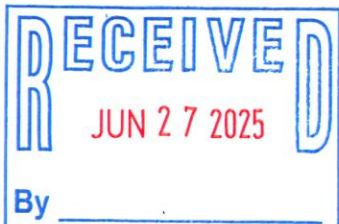
I respectfully request that City of Canton grant a variance from the front setback requirement to allow the continued existence of the newly constructed front deck at my residence. The deck is a necessary feature for access and safety, and the practical difficulty posed by the topography and layout of the lot makes adherence to the current setback requirement infeasible. I believe this

request aligns with the spirit of the zoning ordinance and maintains the character and integrity of the neighborhood.

Thank you for your time and consideration of this variance request. Please feel free to contact me should any additional documentation or information be required.

Sincerely,

Eligio Perez y Perez



Community Development Department
110 Academy Street, Canton, Georgia 30114
770-704-1500

VARIANCE APPLICATION

Project # VAR 2506 - 001

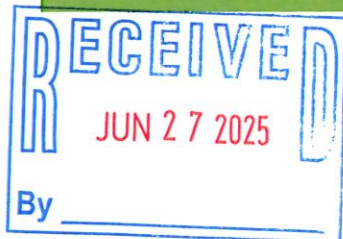
- Application Requirements:** All applications must be complete and include required support materials (listed on the reverse side of this application form). Incomplete applications will not be forwarded to the Canton Board of Appeals (BOA) for review. Applications shall be submitted through the City's online permitting portal system found here: <https://canton.onlama.com/>. Two (2) paper copies should also be furnished to the Community Development Department.
- Pre-Submittal Meeting:** A Pre-Submittal Meeting with Community Development Staff must be scheduled by the Applicant prior to submittal of the application.
- Application Deadline:** Applications and support materials must be submitted by the last Monday of the month, subject to change based on City Holidays. Please refer to the schedule listed on the reverse side of this application form for deadlines and meetings.
- Application Representation:** The Applicant or authorized representative of the Applicant must be present at the Public Hearing to support the application.
- Building Permit Requirements:** If a previously submitted building permit is being held pending variance action, the building permit will only be issued upon submittal of an action letter confirming variance approval.
- Perpetuity:** Unless otherwise conditioned by the Canton Board of Appeals or Mayor and City Council, an approved variance is held in perpetuity with the subject property so long as the property remains in its current configuration. Any future modification to the subject property as a result of assemblage or subdivision would deem the approved variance null and void.
- Adjacent Property Notification:** Applicants are required to notify adjacent property owners of the proposed variance as required by the City of Canton Unified Development Code Section 105.10.03. Such notification shall be forwarded to all contiguous property owners and their respective homeowner's association utilizing the City of Canton formatted notification letter located in this Application. Applicants should furnish a copy of each forwarded notification letter and one copy of a certified Certificate of Mailing from the United States Postal Service to the Community Development Department no later than fifteen (15) days prior to the Public Hearing meeting.
- Extension and Withdrawal:** The Applicant is allowed two (2) requests for extensions beyond the scheduled Public Hearing. If the request for extension is received after the Notice of Public Hearing is published, a \$500.00 readvertising fee will be assessed for each extension. An application may be withdrawn without prejudice (no waiting time to re-file) at any time prior to the Public Hearing. A request for withdrawal without prejudice must be made in writing.
- Appeal:** Any party aggrieved by any decision of the Board of Appeals may appeal the decision by submitting a Letter of Appeal to the Community Development Department no later than ten (10) days after the Board of Appeals decision has been rendered. The City Council will determine whether or not to hear the appeal, and if heard, will act accordingly on the appeal. Please refer to Section 105.14.02 of the Unified Development Code for more details regarding the appeals process. Any aggrieved party of the decision of the City Council may appeal the final decision to the Cherokee County Superior Court via writ of certiorari, submitted within thirty (30) days of the final decision.

If there are any questions about the Variance application process, procedures, or policies, please contact the Community Development Department at (770) 704-1500.

BY SIGNING BELOW, I ACKNOWLEDGE THAT I HAVE FULLY READ AND UNDERSTAND THE ABOVE POLICIES AND PROCEDURES OF SUBMITTING A VARIANCE APPLICATION WITH THE CITY OF CANTON.

X 
APPLICANT SIGNATURE

X Eligio Perez y Perez
PRINT NAME



Community Development Department
110 Academy Street, Canton, GA 30114
(770) 704-1500

VARIANCE PUBLIC HEARING APPLICATION

Project #(s):

VAR2506-001

This Application is for a:

☐ Pre-Construction Variance

☒ Post-Construction Variance

1. Please check all information supplied on the following pages to ensure that all spaces are filled out completely and accurately before signing this form. State **N/A**, where Not Applicable.
2. If you are not paying online, please make your check payable to "**City of Canton.**"
3. If you have questions regarding this form, please contact the Community Development Department by calling (770) 704-1500.

Applicant Information:

Name: Eligio Perez y Perez
Address: 3731 Cherokee Overlook Dr.
City: Canton
State: GA ZIP Code: 30115
Telephone: 470 420 8349
Email Address: rusmaperez78@gmail.com

Owner Information:

Name: Eligio Perez y Perez
Address: 3731 Cherokee Overlook Dr.
City: Canton
State: GA ZIP Code: 30115
Telephone: 470 420 8349
Email Address: rusmaperez78@gmail.com

I, Eligio Perez y Perez, do solemnly swear and attest, subject to criminal penalties for false swearing, that the information provided in the Variance Application is true and correct and contains no misleading information. I, Eligio Perez y Perez, have received and thoroughly read the Public Hearing Procedures.

This 25th day of June, 2025.

Applicant Signature:

Print Name:

Eligio Perez y Perez



Community Development Department
110 Academy Street, Canton, GA 30114
(770) 704-1500

AUTHORIZATION OF OWNER AND APPLICANT

Project #(s):

VAR 2506-001

This form is to be executed under oath. I, Eligio Perez Y Perez, do solemnly swear and attest, subject to criminal penalties for false swearing, that I am the owner of the property, which is the subject matter of the attached application, as is shown in the records of Cherokee County, Georgia.

I hereby authorize the City of Canton and its representatives to inspect the property, which is the subject of this application, and post any notices required thereon.

This 27 day of June, 2025.

Owner Signature:

Print Name:

Eligio Perez Y Perez

I, the above signed legal owner of the subject property, do hereby authorize the following application to be submitted to the City of Canton and do hereby authorize the following person named below to act as Applicant in the pursuit of a request for a:

☐ Pre-Construction Variance

☒ Post-Construction Variance

Authorized Applicant Name:

Eligio Perez Y Perez

Signature:

Mailing Address:

3731 Cherokee Overlook Dr

City: Canton GA

State + ZIP: 30115

Email: Nesma Perez @ gmail . com

Telephone: 470 420 7349

Applicant Status:

- ☒ Owner
☐ Option to Purchase
☐ Lessee
☐ Area Resident
☐ Other (explain: _____)

This Authorization of Owner and Applicant Form has been completed and the property owner's signature is

Sworn To and Subscribed Before Me This 27
Day Of June, 2025.

Notary Signature:

Jason Taylor
Notary Public
Cobb County Georgia
My Commission Expires 01-30-2026

(Seal)



Community Development Department
110 Academy Street, Canton, GA 30114
(770) 704-1500

PROPERTY INFORMATION

Project #:

VAR 2506-001

Address(es):

3731 Cherokee Overlook Dr. Canton, GA 30115

Land Lot(s): 232 District: 14 Section: 2 Parcel ID(s) 14N24A 109

Existing Zoning Of Property: PD-MU ☒ City ☐ County Total Acreage Of Property: 0

Existing Use(s) Of Property Residential home

ADJACENT PROPERTY/OWNER INFORMATION:

Please provide the following information for all adjacent properties, including property connected by public rights-of-way. Attach additional sheets as necessary.

	OWNER NAME AND ADDRESS/PARCEL ID	CURRENT ZONING	CURRENT LAND USE
NORTH			
SOUTH			
EAST	Vasquez, Esbin 3729 Cherokee Overlook Dr. Canton, GA 30115	PD-MU	
WEST	Fanga Achille A + Cange Weddyne 3735 Cherokee Overlook Dr. Canton, GA 30115	PD-MU	
OTHER			
OTHER			
OTHER			

Ordinance section(s) for which a variance is requested: Section related to PD-MU minimum front yard setback requirement of 30 feet.

Please explain the reasoning for the requested variance:

The front of the existing home sits directly on the 30-foot setback line, leaving no room to construct a code-compliant entry deck. A new front deck (approximately 8 feet deep by 18 feet wide) was constructed to replace a much smaller, outdated one (4 feet by 6 feet) that no longer met safety or usability standards. This variance is necessary to allow a safe and functional front entry due to the topography and elevation of the home.

(This should additionally be addressed in the required Letter of Intent)



Community Development Department
110 Academy Street, Canton, GA 30114
(770) 704-1500

VARIANCE REVIEW CRITERIA

Project #:

VAR2506-001

Are there any extraordinary or exceptional conditions pertaining to the subject property because of its size, shape, or topography? Yes. The front setback line reaches the front door, and the home's

elevation requires a raised deck for entry, leaving no room for compliant access:

Would the application of the Zoning Code standards as they relate to the subject property create an unnecessary hardship? Yes. Enforcing the 30 foot setback prevents any safe and functional front

entry, which is a basic residential necessity.

Does a literal interpretation of the Zoning code deprive the Applicant of any rights that others in the same district are allowed? Yes. Other homes can accommodate entryways outside the setback; this

lot cannot due to house placement.

Has the condition from which relief or variance is sought been a result from action by the Applicant?

No. The house was built at the setback line, and the deck replacement was necessary for safety.

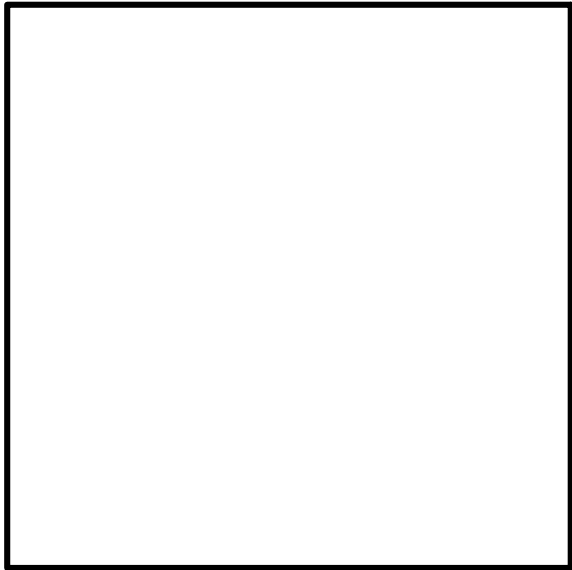
Are there conditions peculiar to the subject property? Yes. The house's placement and lot depth

make a compliant front entry ~~physically~~ physically impossible without encroachment.

Would relief, if granted, cause substantial detriment to the public good or impair the purpose and intent of the Zoning Code? Specifically, would the variance impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals or general welfare or the inhabitants or the City? No. Granting the variance ~~would~~ would

not cause any detriment to the public good. The deck is modest, safe, fits the neighborhood, and does not ~~impact~~ impact light, air, traffic, or property values.

(These criteria should additionally be addressed in the required Letter of Intent.)



RESERVED FOR CLERK OF THE SUPERIOR COURT

GRAPHIC SCALE



(IN FEET)
1 inch = 30 ft.

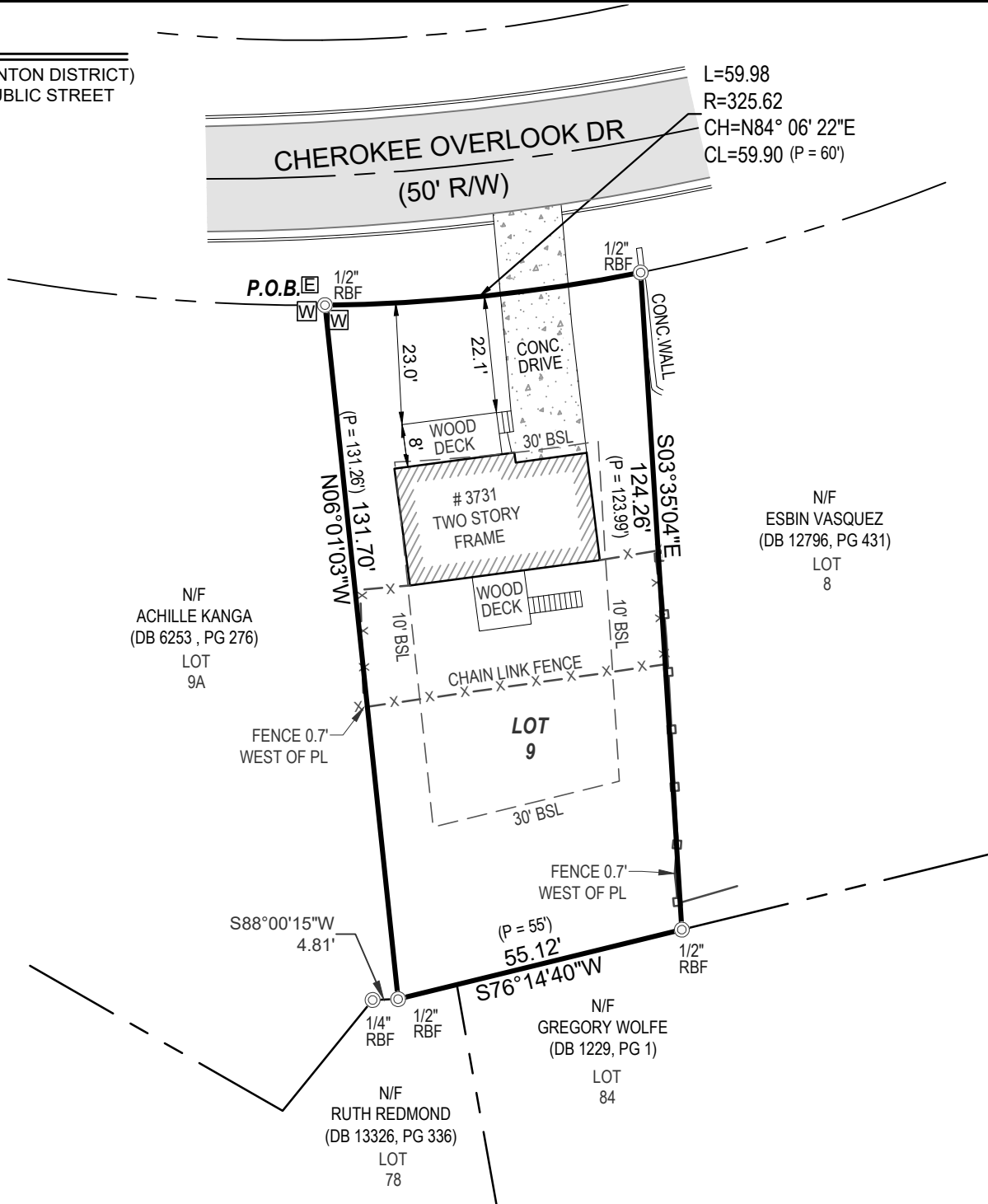
SURVEYORS CERTIFICATION

THIS PLAT IS A RETRACEMENT OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT SUBDIVIDE OR CREATE A NEW PARCEL OR MAKE ANY CHANGES TO ANY REAL PROPERTY BOUNDARIES. THE RECORDING INFORMATION OF THE DOCUMENTS, MAPS, PLATS, OR OTHER INSTRUMENTS WHICH CREATED THE PARCEL OR PARCELS ARE STATED HEREON. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. FURTHERMORE, THE UNDERSIGNED LAND SURVEYOR CERTIFIES THAT THIS PLAT COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN THE RULES AND REGULATIONS OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN O.C.G.A. SECTION 15-6-67.

Cullen Preston Hardee
CULLEN PRESTON HARDEE
REGISTERED LAND SURVEYOR #3144
6/13/2025
DATE

CURRENT ZONING

ZONED: PD-MU (CITY OF CANTON DISTRICT)
MIN. YARD ADJACENT TO PUBLIC STREET
SETBACKS PER PLAT
FRONT YARD: 30 FEET
SIDE YARD: 10 FEET
REAR YARD: 30 FEET



LEGEND

- POWER POLE
- FIRE HYDRANT
- WATER VALVE
- WATER METER
- JUNCTION BOX
- SANITARY SEWER MANHOLE
- DROP INLET
- R/W MONUMENT
- SINGLE WING CATCH BASIN
- DOUBLE WING CATCH BASIN
- CURB INLET
- HEADWALL
- GAS METER
- GAS VALVE
- ELECTRIC TRANSFORMER
- TELEPHONE PEDESTAL
- LIGHT POST
- 1/2 IRON PIN SET (IPS)
- REBAR FOUND (RBF)
- CONC. MONUMENT FOUND (CMF)
- CALCULATED POINT
- CHAIN LINK FENCE
- CRIMP TOP PIPE FOUND
- OPEN TOP PIPE FOUND
- IRON PIN OR ROD FOUND

AREA
7,269 sq.ft.
0.17 acres

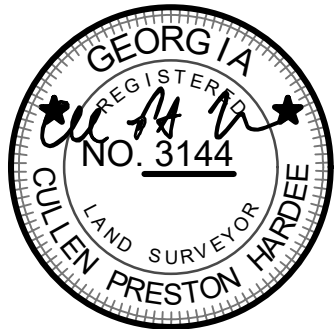
SURVEY NOTES

- EQUIPMENT USED : TOPCON ROBOTIC D2 TOTAL STATION - TOPCON RTK GPS ROVER.
- THE FIELD DATA UPON WHICH THIS MAP OR PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 10,000 FEET AN ANGULAR ERROR OF 02" PER ANGLE POINT AND WAS ADJUSTED USING COMPASS RULE.
- THIS MAP OR PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 100,000 FEET.
- THIS PROPERTY IS SUBJECT TO ALL ZONING ORDINANCES, SETBACK LINES AND EASEMENTS OF RECORD LYING WITHIN.
- AS SHOWN ON FLOOD INSURANCE RATE MAPS OF CITY OF CANTON, CHEROKEE COUNTY, GEORGIA COMMUNITY PANEL NUMBER 13057C0252E THIS PROPERTY IS NOT LOCATED WITHIN A 100 YEAR FLOOD ZONE.

THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS, OR ENTITY NAMED IN THE CERTIFICATE HEREON. SAID CERTIFICATE DOES NOT EXTEND TO ANY UNNAMED PERSON WITHOUT AN EXPRESS RE-CERTIFICATION BY THE SURVEYOR NAMING SAID PERSON.

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JOB NUMBER:
25-232



PLAT DATE: 6/13/2025
FIELD DATE: 5/21/2025
SCALE: 1" = 30'
DRAWN BY: C.E.M.
REVIEWED BY: C.P.H.

REVISIONS

1.	
2.	
3.	
4.	

LEGAL REFERENCE:

DEED BOOK: 14316	PAGE: 380
PLAT BOOK: 48	PAGE: 8

SHEET 1 OF 1

AS-BUILT BOUNDARY SURVEY FOR:
NESMA PEREZ
LOT 9, UNIT II
CHEROKEE OVERLOOK SUBDIVISION
LAND LOT 232, 14TH DISTRICT
2ND SECTION, CHEROKEE COUNTY
GEORGIA

1258 CONCORD ROAD SE SUITE 103
SMYRNA, GEORGIA 30080
Ph. (678) 293-5232

VISIT US ON OUR WEBSITE:
www.united-uls.com

UNITED LAND SURVEYING
COA NO. LSF 001321