

**MAY 20, 2008 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 4**

ITEM #1

PURPOSE

To consider granting a Special Exception for reducing the required lot size as recommended by the Board of Zoning Appeals from their May 14, 2008 Variance Hearing regarding Variance Application:

V-44 FRANK M. LEGATE, III

BACKGROUND

In accordance with a Zoning Ordinance Amendment adopted by the Board of Commissioners on September 13, 2000, and amended on July 8, 2003, Section 134-271 (8), any use proposed for a parcel or tract of land which does not have the minimum lot size required, approval of a Special Exception by the Board of Commissioners is required after approval by the Board of Zoning Appeals. Attached is the Variance Analysis and recommendation of the Board of Zoning Appeals for the case that were considered at the May 6, 2008 Variance Hearing that required a Special Exception.

FUNDING

N/A

RECOMMENDATION

The Board of Commissioners consider granting a Special Exception for reduction in the required minimum lot size as recommended by the Board of Zoning Appeals for V-44 FRANK M. LEGATE, III.

ATTACHMENTS

Variance Analysis
Board of Zoning Appeals Recommendations

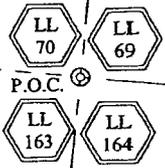
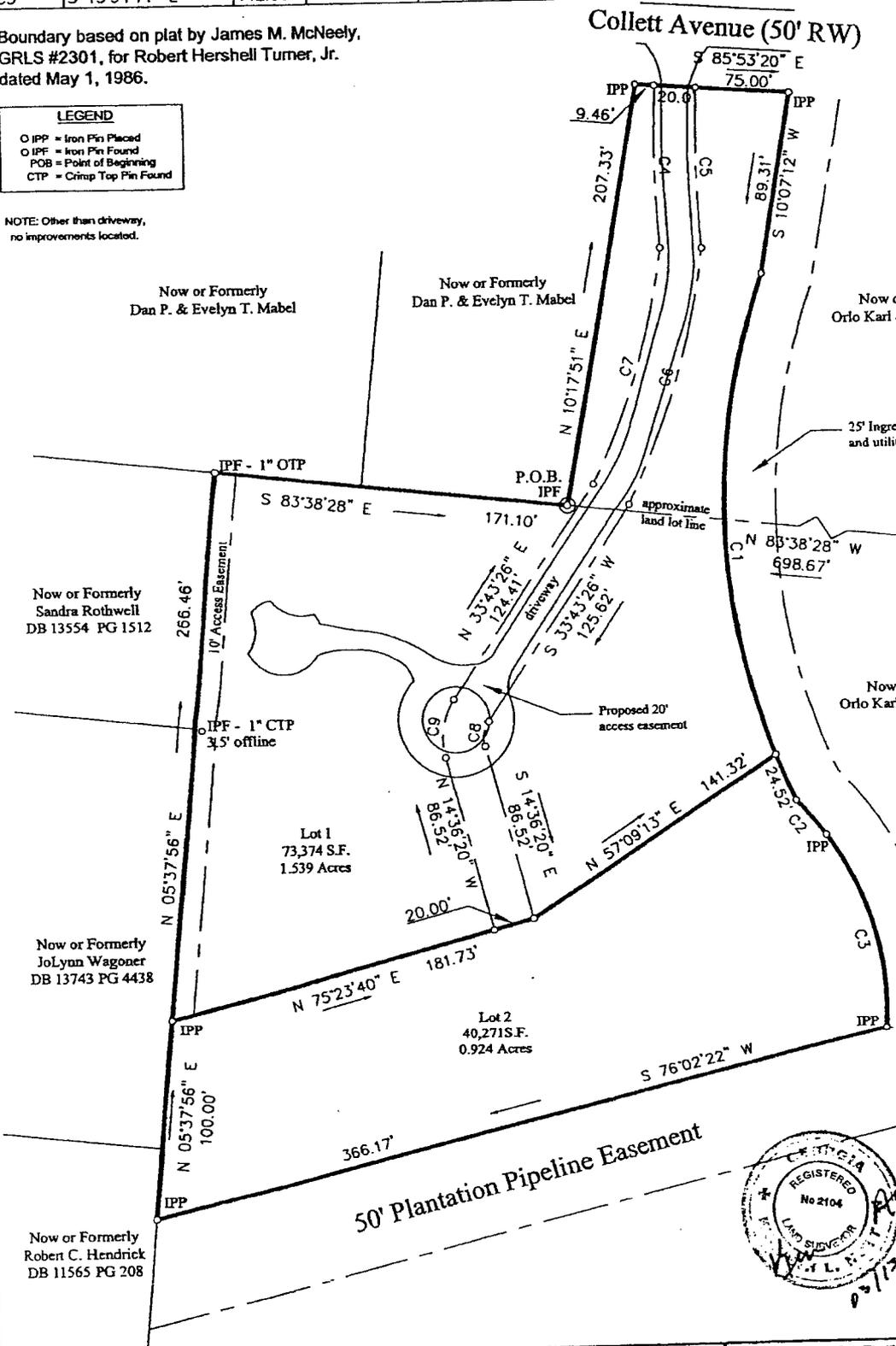
NUMBER	CHORD DIRECTION	RADIUS	ARC LENGTH	CHORD
C1	S 02°39'22" E	332.02	264.14	264.14
C2	S 40°23'59" E	142.96	22.24	22.24
C3	S 15°54'14" E	142.96	100.00	97.97

V-44

Boundary based on plat by James M. McNeely, GRLS #2301, for Robert Hershell Turner, Jr. dated May 1, 1986.

LEGEND
 O IPP = Iron Pin Placed
 O IPF = Iron Pin Found
 POB = Point of Beginning
 CTP = Crimp Top Pin Found

NOTE: Other than driveway, no improvements located.



RECEIVED
 V-44
 MAR 13 2008
 COBB CO. COMM. DEV. AGENCY
 ZONING DIVISION

GEORGIA
 REGISTERED
 No 2104
 LAND SURVEYOR
 [Signature]
 3/13/08

Job #: 000207
 Revised 3/13/08

- All iron pins are 1/2" Rebar unless otherwise noted.
 - Equipment used: Topcon GTS Total Station
 - The field data upon which this plat is based has a closure precision of 1 foot in 25,000 feet and an angular error of 03 seconds per angle point, and was adjusted using Compass Rule.
 - This plat has been calculated for closure and is found accurate within one foot in 20,000+ feet.
 - This plat subject to all easements public and private.

Survey for Guest House for Frank Legate

520 Collett Drive
 Land Lot 70 & 163, 18th District, 2nd Sect.
 Cobb County, Georgia

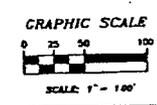
Area = 107,320 Sq. Ft. (2.464 Acres)

This plat may be based on a recorded plat from iron pins referenced on said plat for closure tie in.

According to F.I.R.M. Community Panel # 130052 0085F, dated 08-18-1992, this property is not located in an area having special flood hazards.

Computed by: JMC
 Drawn by: JMC
 Checked by: KLN

Party Chief: KN-CP
 Date Surveyed: 04/17/07
 Date Drawn: 05/09/07



Perimeter Surveying & Development Co.
 1065 Sandtown Road, Marietta, GA 30008
 Phone: (770) 425-6824 Fax: (770) 425-6768

Plat Book: _____ Page: _____
 Deed Book: _____ Page: _____

APPLICANT: Frank M. LeGate, III
PHONE: 770-941-2229
REPRESENTATIVE: same
PHONE: same
PROPERTY LOCATION: Located on the southern side of Collett Avenue, west of Anne Drive (520 Collett Avenue).

PETITION NO.: V-44
DATE OF HEARING: 05-14-08
PRESENT ZONING: R-20
LAND LOT(S): 70, 163
DISTRICT: 18
SIZE OF TRACT: 2.463 acres
COMMISSION DISTRICT: 4

TYPE OF VARIANCE: 1) Waive the public road frontage to allow one home off of a private easement; 2) waive the lot size for a lot without public road frontage from the required 80,000 square feet to 40,271 square feet; 3) waive the front setback on lot 2 from the required 35 feet to 25 feet and the rear setback from the required 35 feet to 10 feet; and 4) waive the width of an easement from 25 feet to 20 feet.

COMMENTS

TRAFFIC: This request will not have an adverse impact on traffic.

DEVELOPMENT & INSPECTIONS: If this variance request is approved, a lot split plat must be recorded reflecting the conditions of the variance. The surveyor must submit the plat to the Site Plan Review Section, Community Development Agency for review and approval prior to recording. Call 770-528-2147.

STORMWATER MANAGEMENT: No objection.

HISTORIC PRESERVATION: After examining Civil War trench maps, Cobb County historic property surveys, county maps, and various other resources, staff has no comments regarding the impact or treatment of historic and/or archaeological resources.

CEMETERY PRESERVATION: There is no significant impact on the cemetery site listed in the Cobb County Cemetery Preservation Commission's Inventory Listing which is located in this, or adjacent land lot.

WATER: Available. Meter must be set on Collett Avenue right-of-way.

SEWER: Sewer not available to property. Health Department approval/permit required for guest house septic system.

OPPOSITION: NO. OPPOSED **PETITION NO.** _____ **SPOKESMAN** _____

BOARD OF APPEALS DECISION
APPROVED w/s **MOTION BY** J. Williams
REJECTED _____ **SECONDED** T. McCleskey
HELD _____ **CARRIED** 5 - 0
STIPULATIONS: Subject to Board of Commissioners granting a special exception for reduction in lot size.
(See draft minutes attached)



Cobb County Fire and Emergency Services

Applicant Name: Frank LeGate

Petition Number: V-44

Date: 4.1.2008

Fire Marshal Comments

Fire Apparatus Access Road

All access roads shall have an all weather driving surface capable of supporting 75,000 pounds with an unobstructed width of not less than 20 feet, 25 feet inside turning radius, 50 foot outside turning radius and unobstructed vertical clearance of not less than 13 feet 6 inches.

Access road shall extend to within 150-feet of all portions of the facility or any portion of the exterior wall of the first floor.

Dead-end access roads in excess of 150-feet shall be provided with a turn-around by one of the following methods:

Residential subdivision: Cul-de-sac with an island – minimum 60 foot radius to outside curb, measured to inside of curb, minimum lane width 24 feet **or** Cul-de-sac without an island – 38 foot outside radius **or** Hammerhead turn-around – total of 110 feet needed (45 feet + 20 foot wide roadway + 45 feet).

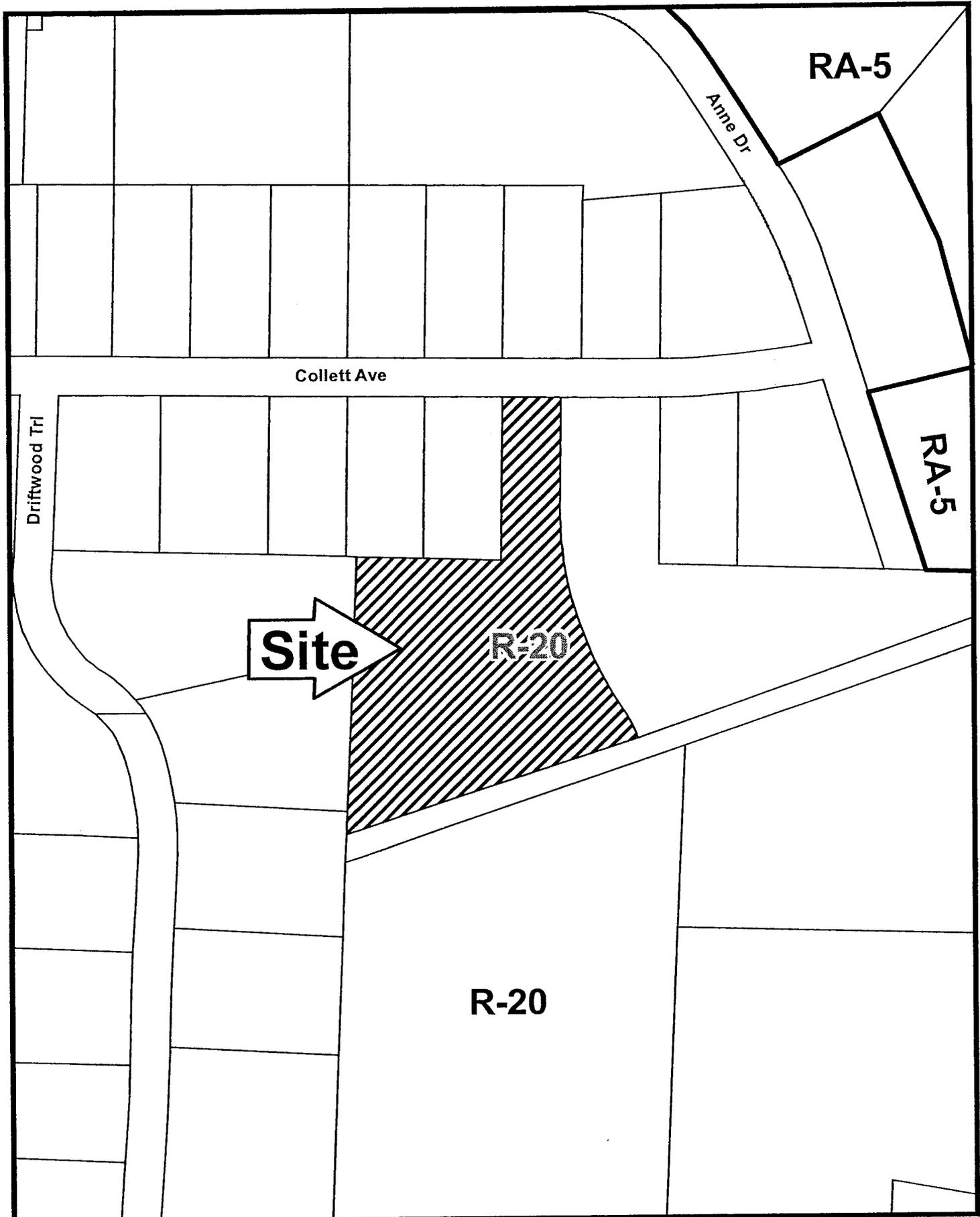
Driveway access to a single family home must be 10 feet wide. A hammer head turnaround or cul-de-sac is required when a driveway exceeds 1000 feet. (See requirements for dimensions under residential subdivision).

Fire Hydrant

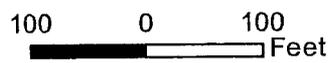
Residential: Fire hydrant within 500 feet of structure.

“No comments for this request, however, not to be used for a group home or personnel care home without Fire Department approval.”

V-44



This map is provided for display and planning purposes only. It is not meant to be a legal description.



Application for Variance Cobb County

(type or print clearly)

Application No. V-44

Hearing Date: 5-14-08

Applicant FRANK M. LUGATE III Business Phone 770-941-2229 Home Phone 770-941-2229

FRANK M. LUGATE Address 520 COLLETT AVE. S.W. MABLETON, GA
(representative's name, printed) (street, city, state and zip code) 30126

[Signature] Business Phone 770-941-2229 Cell Phone NA
(representative's signature)

My commission expires: _____

Signed, sealed and delivered in presence of:

Cindy Jackson

Notary Public

Titleholder FRANK M. LUGATE III Business Phone 770-941-2229 Home Phone 770-941-2229

Signature [Signature] Address: 520 COLLETT AVE. S.W. MABLETON, GA 30126
(attach additional signatures, if more than one) (street, city, state and zip code)

My commission expires: _____

Signed, sealed and delivered in presence of:

Cindy Jackson

Notary Public

Present Zoning of Property R-20

Location 520 COLLETT AVE. SW MABLETON, GEORGIA 30126
(street address, if applicable; nearest intersection, etc.)

Land Lot(s) 163,0070 P7 District 1B Size of Tract 2.463 Acre(s)

Please select the extraordinary and exceptional condition(s) to the piece of property in question. The condition(s) must be peculiar to the piece of property involved.

Size of Property 2.463 Acres Shape of Property See Plat Topography of Property See Topo Other _____

The Cobb County Zoning Ordinance Section 134-94 states that the Cobb County Board of Zoning Appeals must determine that applying the terms of the Zoning Ordinance without the variance would create an unnecessary hardship. Please state what hardship would be created by following the normal terms of the ordinance.

SEE ATTACHED SHEET (EXHIBIT A)

List type of variance requested: VARIANCE FOR EXEMPTION ACCESS TO PROPERTY AND
ADDITIONAL OR BUILDING SETBACK LINES
WAVE THE REAR SETBACK ON LOT 2 FROM REQUIRED
35 FT TO TEN FEET, WAVE THE FRONT SETBACK
FROM 35 FT TO 25 FT

Exhibit A
V-44/2008

ATTACHMENT: APPLICATION FOR VARIANCE IN COBB COUNTY

Applicant: Frank M. LeGate

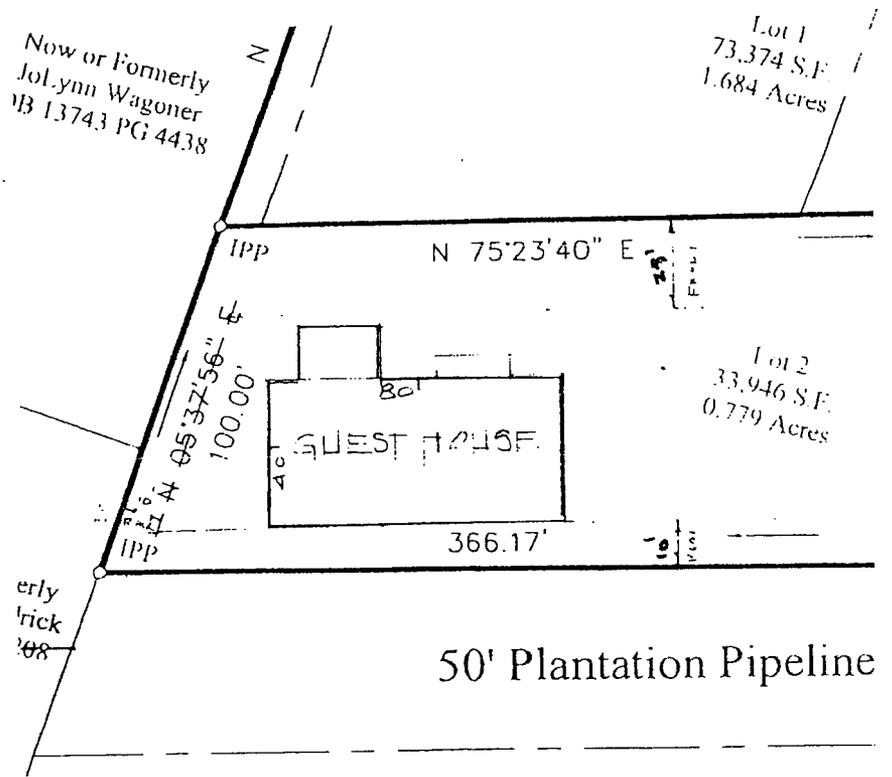
The hardship problem appertaining to the attached Application for Variance in Cobb County concerns mainly the existing physical condition of the site. The greater area of the site has steep topography, many boulder outcroppings and is heavily wooded with hardwood trees.

The most logical location for the Guest House is on a portion of the site where the contours are gentle in slope and there are no trees or boulder outcroppings. The site is adjacent to a fifty foot wide pipeline easement. The twenty feet of the pipeline easement nearest to the site will never have pipelines installed because the pipeline easement narrows to only thirty feet in width as it continues over my previous address at 6059 Driftwood Trail. By modifying the setback lines as requested, adequate area to construct the Guest House will be possible. There is no imposition to light and air accessibility for adjacent residential properties. The requested modification to the setback lines is for a 25' front setback and a 10' rear setback adjacent to the 50' pipeline easement.

The existing residence on the subject property is of non-combustible construction. It is earth sheltered with a geothermal heating and cooling system. The proposed Guest House when designed will also be of non-combustible construction.

The greater area of the total 2.463 acre site is committed as a wildlife preserve and will never be disturbed.

Frank M. LeGate, Architect



MINUTES OF ZONING HEARING
COBB COUNTY PLANNING COMMISSION
MAY 6, 2008

DRAFT

V-44

FRANK M. LEGATE, III (owner) requesting a variance to: 1) waive the public road frontage to allow one home off of a private easement (for Lot 2 0.924 acre); 2) waive the lot size for a lot without public road frontage from the required 80,000 square feet to 40,271 square feet; 3) waive the front setback on Lot 2 from the required 35 feet to 25 feet and the rear setback from the required 35 feet to 10 feet; and 4) waive the width of an easement from 25 feet to 20 feet in Land Lots 70 and 163 of the 18th District. Located on the southern side of Collett Avenue, west of Anne Drive (520 Collett Avenue).

MOTION: Motion by Williams, second by McCleskey, as part of the Consent Agenda, to **approve** variance request **subject to**:

- **final ratification of lot size reduction by the Board of Commissioners at the zoning hearing on May 20, 2008, at 9:00 a.m.**
- **Fire Marshall comments and recommendations**
- **Development and Inspections Division comments and recommendations**
- **Water and Sewer Division comments and recommendations**

VOTE: **ADOPTED** unanimously