

# CITY OF BERKELEY LAKE

4040 Berkeley Lake Road  
Berkeley Lake, Georgia 30096

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## PLANNING AND ZONING COMMISSION HEARING

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January 23, 2001

**Call to Order:** Chairman George Sipe called the hearing to order at 7:33 p.m. on January 23, 2001 at City Hall.

**Present:** Chairman George Sipe, Bob Herb, and Skip Johnson

**Guests Present:** Craig Belt, Gerald Martell, Betty Covington, and Randy Kircus, Joe Voyles

**Old Business:** The December 19, 2000 minutes were read and unanimously approved.

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**48 Lakeshore Drive:** The variance is to replace a shed roof with a hip roof. This is a non-conforming structure. Joe Voyles presented plans which showed that the new rear hip roof would be below the existing ridge of the road and therefore not visible from the street. The roofline would basically stay the same. The existing roofline is below the road and there will be no change in the roof that can be viewed from the road. **Skip Johnson motioned to approve the variance for this structure; Bob Herb seconded the motion.** Chairman Sipe stated that there was really no change to the non-conforming aspect of this house. **There was no discussion and the vote to approve the variance was unanimous.**

**342 Lakeshore Drive:** Chairman Sipe state that this was currently a conforming structure with a carport and that the project is to enclose the carport; the property owners would like to construct a two car garage in front of the house. Mr. Kircus (the homeowner) presented drawings and plans to show the existing structure and the proposed changes. Mr. Kircus pointed out that the septic system in the existing house was more than 32 years old and needed to be replaced with an entire system which would include laying new septic lines. There was much discussion as to where the septic tank, pumping station and drain field would be placed. Bob Herb and Skip Johnson asked questions as to the exact location of the drain field. Mr. Kircus stated that the purpose for pointing out the septic system locations was to show that there was a limited space for the improvements desired. Mr. Kircus stated that the house is currently 54 feet from the edge of the road. The addition of the garage would make the distance 24 feet from the edge of

the road. This would be a difference of 30 feet. Bob Herb pointed out that the existing structure is already non-conforming. Skip Johnson asked if there would be anywhere else to place the garage other than on the front of the house. There was much discussion about adding the garage to the west side of the house. It was pointed out that there is land on that side of the house that would allow for improvements without setback restrictions. Skip Johnson cited a similar case at 336 Lakeshore where there was absolutely nowhere else to place a garage and the P&Z still could not allow the variance. Chairman Sipe pointed out that the concern is having so many houses pushing against the road, which gives the impression of high-density housing. He pointed out that there have been a good many houses that were “grand fathered” before this 65foot regulation was put into place. Mr. Kircus stated that adding the garage on the opposite side of the house would require them to walk through bedrooms to get to the kitchen with groceries. Bob Herb pointed out that the problem is that this is an extreme variance (as much as 40%). The P&Z has contemplated a few of these variances but they all had absolutely no alternatives; often there was an existing structure that was there and the homeowner just rebuilt or some other grand fathered aspect that had to be considered. This is a large lot and there is a lot of space to make conforming changes. Chairman Sipe also pointed out that although Mr. Kircus had obtained the blessings of his neighbors to make this non-conforming change, the P&Z considers the interest of the community first and therefore the blessings of the neighbors are a small part of the consideration process. Mr. Kircus also pointed out that he was trying to keep expenses down by using as much available roof space as possible. Mr. Voyles (Mr. Kircus builder) pointed out that one of the problems for adding on to the west side is the pumping station. Chairman Sipe explained that there could be many other locations for a pumping station. Skip Johnson asked if, aside from economics, is there any reason why the garage addition could not be placed on the west side of the house? There was much discussion with many suggestions for possibilities for making the addition without the tremendous encroachment on the road. Chairman Sipe asked if there was more discussion then asked for a motion. **Bob Herb motioned to deny this variance request and Skip Johnson seconded the motion.**

**Variance Guidelines:** *For a variance to be granted each one of the following needs to be true: 1. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape or topography. 2. The application of the Ordinance to this particular piece of property would create an unnecessary hardship to the owner of the property. 3. Such conditions are peculiar to the piece of property involved and such conditions are not the result of the individual property owner. 4. If granted, the Variance would not cause substantial detriment to the public nor impair the purposes or intent of this Ordinance. 5. The Variance is granted for use of land or building or structure that is not prohibited by this ordinance.*

\*Joe Voyles asked if the proposed entry actually required a Variance; he assumed that it would because of the set back issue. Chairman Sipe stated that it was not the responsibility of the P&Z to check its compliance and if the OEO has looked at the entry and looked at the plan and has determined that it is still within the scope of the ordinances then it is his function to do that. The job of the OEO is to grant a Use Permit

if what you want to do is 100% compliant. He cannot give the Permit if there is any aspect that is not compliant.

**Summary:** Chairman Sipe stated that there are clear alternatives, which are available in terms of cost and functionality. The P&Z has had many cases in the past where people have been pointed to a lot more expensive solutions to accomplish the project. Not having a garage does not meet the test of “unreasonable hardship.” The P&Z has turned down a Variance on what would have been a less imposing structure.

There was discussion about if the Variance is denied could the homeowner apply for another Variance within a year. Chairman Sipe stated that as long as the Variance was for a different Variance that it would be legal. There was discussion to have the homeowner withdraw the Variance request and be given time to draw new plans to be approved. The P&Z discussed possible alternatives and made suggestions for the homeowner to consider.

Chairman Sipe explained the options to the homeowners. There was much discussion about the conformity of the existing structure especially at the side setback. Mr. Kircus stated that he did not want to go further with building this structure unless it was determined with finality whether his structure was conforming or non-conforming. Chairman Sipe stated that as far as the P&Z is concerned, the structure is conforming because the OEO has not asked for a Variance for a non-conforming structure.

Skip Johnson suggested that the homeowner ask to postpone the request so that the hearing could be simply postponed rather than having to go through the legalities of the waiting period again. Chairman Sipe stated that the hearing could be rescheduled by simply notifying the parties in attendance; the hearing has already been advertised and everyone who wanted to attend is here.

The meeting was postponed until January 31, 2001 at 7:30 p.m.

The hearing adjourned at 8:40 p.m.

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JANUARY 31, 2001  
PLANNING AND ZONING  
CONTINUED HEARING FROM JANUARY 23<sup>RD</sup>

CALL TO ORDER

Chairman Sipe called the meeting to order at 7:36 p.m. at City Hall. This meeting is a continuation of the postponed meeting from January 23<sup>rd</sup>. The purpose of the meeting is to continue the discussion of the Variance request for 342 Lakeshore Drive.

Presentation of Modification of Request - Mr. Kircus presented the modified plans and drawings for the garage addition to 342 Lakeshore. He stated that they would be asking for a 21/2 foot Variance on the front of the house. The distance in the back of the house from the lakeshore is 47 feet. The existing driveway will be left and the circular drive

will connect to it. Chairman Sipe stated that in terms of encroachment into the setback, the structure will be only 21/2 feet more than the existing structure and that this is a big difference from the previous plan. The plans were viewed and discussed.

**A motion was made by Skip Johnson and seconded by Bob Herb to accept the proposed Variance for the 21/2-foot extension into the front setback. The Variance was unanimously approved. Bob Herb withdrew the original motion to deny the Variance.**

OTHER NEW BUSINESS:

Selection of Chairman for 2001: Bob Herb nominated George Sipe to continue as Chairman for next year. Skip Johnson seconded the motion and approval was unanimous.

Berkeley Field Construction: Bob Herb pointed out that construction has begun on a piece of property on the corner of Berkeley Field and S Berkeley Lake Road. Bob stated that there was supposed to be a privacy fence installed along South Berkeley Lake Road. The fence was part of the conditions for a previous Variance approval that has not been fulfilled. There was much discussion. Chairman Sipe pointed out that the home that is being built now does not have any Variances. It was determined that the house across the street is the house that had the original Variance. Charles Sewell pointed out that the home is fifty feet from South Berkeley Lake Road as well as Lakefield Bend. Chairman Sipe stated that Charles Sewell granted a Use Permit for the structure based on the fact that the structure is fully conforming and therefore no Variance applies. He further stated that the current owner who innocently bought this lot and who has no legal relationship to the lot across the street is intending to build a completely conforming structure. The P&Z has no legal interest in this property.

# CITY OF BERKELEY LAKE

4040 Berkeley Lake Road  
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## PLANNING AND ZONING COMMISSION HEARING

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February 27, 2001

**Call to Order:** Chairman George Sipe called the hearing to order at 7:35 p.m. on February 27, 2001 at City Hall.

**Present:** Chairman George Sipe, Bob Herb, and Skip Johnson and Juan Armendariz

**Guests Present:** Tom Kitchens, Randy Kircus, Betty Covington, Carl Arrigoni and Craig Belt.

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**Old Business:** The January 23<sup>rd</sup> and 31<sup>st</sup> minutes were read and a correction to the January 31<sup>st</sup> minutes to clarify paragraph two sentence two was made. The sentence should read as follows: He stated that they would be asking for a 2.5-foot variance on the front of the house. Approval of the corrected minutes was unanimous.

**342 Lakeshore Drive** – Variance to modify a non-conforming structure; variance to build within side setback at 10’ vs. the required 12.5’. In the last P&Z hearing Mr. Kircus presented the modified plans for the garage addition which were approved by the Commission. At that time we realized that this house is actually a non-conforming structure because of the side setback being only 10’ rather than 12.5’. This hearing is to “cross the T’s and dot all of the I’s.” **Skip Johnson motioned to approve the variance; Bob Herb seconded the motion. There was no discussion and the vote to approve the variance was unanimous.**

**21 Lakeshore Drive** – Chairman Sipe stated that this request is to modify a non-conforming structure by building a sunroom on top of an existing deck. Mr. Arrigoni presented his plans for the structure. Skip Johnson pointed out that there is a steep lot directly in back of the proposed structure therefore the structure would not be seen from the street. **Skip Johnson motioned to approve the variance. Bob Herb seconded the motion.** Chairman Sipe stated that this structure is too close to the rear line and this variance will increase the degree of imposition into the rear line. However, the topography in this particular situation doesn’t allow for a house to be built close to the rear setback of the lot in back of this structure. This is a unique situation and therefore is

a candidate for a variance. **There being no further discussion the vote to approve the variance was unanimous.**

**150 Bayway Circle** – Chairman Sipe stated that the last variance is for two unattached non-conforming structures. One is a house and the other is a garage/guest house. The variance request is to replace the existing shed roofs with hip roofs. Mr. Kitchens presented the plans for the new roof. The existing structure is too close to the side setback and therefore is non-conforming. There were questions asked about the maximum height of the proposed roof. It was stated that the height would be a maximum of 16 feet. **Bob Herb motioned to approve the variance; Skip Johnson seconded the motion.** Chairman Sipe stated that the major issue with this variance would be that the structure is too close to the lake and therefore is imposing on the lake. The things that make that less of an issue are the large trees and secondly the property is very flat and the imposition on the lake is not as much as some of the other houses that border the lake. **There being no further discussion approval of the variance was unanimous.**

**\*Variance Guidelines:** *For a variance to be granted each one of the following needs to be true: 1. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape or topography. 2. The application of the Ordinance to this particular piece of property would create an unnecessary hardship to the owner of the property. 3. Such conditions are peculiar to the piece of property involved and such conditions are not the result of the individual property owner. 4. If granted, the Variance would not cause substantial detriment to the public nor impair the purposes or intent of this Ordinance. 5. The Variance is granted for use of land or building or structure that is not prohibited by this ordinance.*

There being no further new business, Chairman Sipe adjourned the meeting at 8:00 PM.

# CITY OF BERKELEY LAKE

4040 Berkeley Lake Road  
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## PLANNING AND ZONING COMMISSION HEARING

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July 17, 2001

**Call to Order:** Chairman George Sipe called the hearing to order at 7:35 p.m. on July 17, 2001 at City Hall.

**Present:** Chairman George Sipe, Bob Herb, and Skip Johnson, Juan Armendariz and David Hanson

**Guests Present:** Joe Black and Craig Belt.

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**Old Business:** The February 27<sup>th</sup> minutes were read and unanimously approved.

**4070 South Berkeley Lake Road** – Variance requested is to modify a non-conforming structure and secondly to build within the side setback at six feet rather than the required twelve and a half feet. Mr. Black presented plans, which described the intention of the structure. The roofline would have to be extreme in order to maintain the current guidelines and the area beneath would be severely constricted. The area above would be cantilevered in excess of three feet and a structural engineer would at least require a support on that corner; Mr. Black would still need a support within the setback area. The property next door belongs to the City, and there would probably not be anything built by the City that close to another structure. The request is to build within the side setback at six feet rather than the required twelve and a half.

Chairman Sipe suggested walking next door and seeing where the structure would be located. There were many questions asked and there was much discussion. Chairman Sipe read and explained the following:

**\*Variance Guidelines:** *For a variance to be granted each one of the following needs to be true:* 1. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape or topography. 2. The application of the Ordinance to this particular piece of property would create an unnecessary hardship to the owner of the property. 3. Such conditions are peculiar to the piece of property involved and such conditions are not the result of the individual property owner. 4. If granted, the Variance would not cause substantial detriment to the

*public nor impair the purposes or intent of this Ordinance. 5. The Variance is granted for use of land or building or structure that is not prohibited by this ordinance.*

Chairman Sipe further explained that the existing deck is probably non-conforming. If the deck were in fact non-conforming, Mr. Black would have been permitted to keep it in place indefinitely. But because it has been removed, it cannot be put back without a variance. The stream on Mr. Black's property was discussed and Mr. Armendariz suggested that Mr. Black be sufficiently aware of the State requirements for buffer zones near streams. Chairman Sipe explained that State buffer zones are not the City of Berkeley Lake's responsibility to enforce.

**David Hanson moved to approve the variance request. Bob Herb seconded the motion.**

Mr. Hanson stated that if the original builder had placed the house on the lot a little bit differently, Mr. Black probably would not have needed a variance. The encroachment will be in a greenspace area of City property, which will probably never be used. There were more questions and discussion.

**Juan Armendariz amended the motion to state that the structure be approved by a licensed engineer. The engineer should put his seal on the drawings.**

There were no additional questions.

**Approval of this variance request was unanimous.**

There being no further new business, Chairman Sipe adjourned the meeting at 8:15 PM.

**CITY OF BERKELEY LAKE**  
4040 Berkeley Lake Road  
Berkeley Lake, GA 30096-3016

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**PLANNING AND ZONING COMMISSION**  
Hearing August 21<sup>st</sup> 2001

**Call to Order:** Chairman George Sipe called the meeting to order at 7:35 on August 21, 2001 at City Hall.

**Present:** George Sipe, Juan Armendariz and David Hanson

**Guests Present:** 4

**Old Business: George Sipe** began by asking if all approved the minutes from the last meeting. The minutes were unanimously approved.

**334 Lakeshore Drive: Jim and Lisa Alexander** -To expand a non-conforming structure. The structure is too close to the side setback and too close to the street. The expansion appears to be totally in the back. This is simply a request to expand a nonconforming structure. There is no other variance requested and there are no new nonconforming additions. The request package contains a cover letter and a drawing (attached to these minutes). There was a variance requested in the last twelve months, which automatically disqualifies it for an administrative variance. **Juan Armendariz motioned to approve the variance. David Hanson seconded the motion.** Chairman Sipe stated that he believes that the construction will be invisible from the street side and that it in no way accentuates the nonconformance. There was no further discussion. Chairman Sipe called the question and approval was unanimous.

**82 Lakeshore Drive – Billy Castles** -To expand a nonconforming structure and a request to build within the side setback at 10 feet vs. 12.5 feet. Mr. Castles presented drawings and the commissioners asked many questions. If a nonconforming structure is torn down, it cannot be reconstructed without a variance. The commission cannot approve a variance greater than what was advertised. In this case we cannot approve a side setback greater than 10 feet. There was more discussion about how to construct so that there would be no discrepancy. **David Hanson motioned to approve the variance as requested. Juan Armendariz seconded the motion.** Chairman Sipe pointed out that there would actually be a reduction in one significant nonconforming aspect of the structure by allowing the extension. Chairman Sipe called the question and approval was unanimous.

**356 Lakeshore Drive** - An administrative variance was granted to expand a nonconforming structure. The garage is too close to the road, which makes the house nonconforming. The request is to enclose the front porch area, which is part of the conforming portion of the house. The sign must be in front of the home for a minimum of fifteen days so that the public has appropriate notice.

There being no other new business, the meeting adjourned at 8:11 PM.

***Variance Guidelines:** For a Variance to be granted each one of the following should be true: 1. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape, or topography. 2. The application of the Ordinance to this particular piece of property would create an unnecessary hardship to the owner of the property. 3. Such conditions are peculiar to the piece of property involved and such conditions are not the result of the individual property owner. 4. If granted, the Variance would not cause substantial detriment to the public nor impair the purposes or intent of this Ordinance.*