

**BOARD OF APPEALS**

Marsha A. Hopkins, Chairman  
Tom Waller, Vice-Chair  
Therol Brown  
John Tate  
Bill Beckwith

**STAFF**

Pete Frisina, Director of Community Services  
Chanelle Blaine, Zoning Administrator  
Chakevia Jones, Planning and Zoning Coordinator

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**AGENDA**

**Fayette County Zoning Board of Appeals  
Fayette County Administrative Complex  
Public Meeting Room  
March 26, 2018  
7:00 P.M.**

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1. Consideration of the Minutes of the Meeting held on February 26, 2018.

**PUBLIC HEARING**

2. Petition No. A-679-18, Ronald & Kathleen Ludwig, Owner, request the following: Variance to Section 110-125. A-R, Agricultural-Residential District. (d) (5) to reduce rear yard setback from 75 feet to 50 feet to allow the construction of a detached barn. The subject property is located in Land Lot(s) 189 of the 4<sup>th</sup> District and fronts on Porter Road. **Application taken in error by staff.**
3. Petition No. A-680-18, John F. Rutledge, Owner, request the following: Variance to Section 110-133. R-70, (d) (a) (2) to reduce front yard setback from 75 feet to 73 feet to maintain the construction of a new residence. The subject property is located in Land Lot(s) 41 & 42 of the 7<sup>th</sup> District and fronts on Adams Road.

VARIANCE APPLICATION TO THE ZONING BOARD OF APPEALS

PROPERTY OWNERS: John F. Rutledge

MAILING ADDRESS: 158 Adam Rd. Fayetteville, GA 30214

PHONE: 770-757-5129 E-MAIL: john-rutledge@ymail.com

AGENT FOR OWNERS: N/A

MAILING ADDRESS: \_\_\_\_\_

PHONE: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

PROPERTY LOCATION: LAND LOT 42+55 41 and 42 LAND DISTRICT 7th PARCEL 0712050

TOTAL NUMBER OF ACRES OF SUBJECT PROPERTY: 4.016

ZONING DISTRICT: OK 17th District

ZONING OF SURROUNDING PROPERTIES: R-70

PRESENT USE OF SUBJECT PROPERTY: Residential

PROPOSED USE OF SUBJECT PROPERTY: Residential

(THIS AREA TO BE COMPLETED BY STAFF): PETITION NUMBER: A-680-18

☐ Application Insufficient due to lack of:

by Staff: \_\_\_\_\_ Date: \_\_\_\_\_

☒ Application and all required supporting documentation is Sufficient and Complete

by Staff: [Signature] Date: 2/16/18

DATE OF ZONING BOARD OF APPEALS HEARING: \_\_\_\_\_

Received from John F. Rutledge a check in the amount of \$ \_\_\_\_\_

for application filing fee, and \$ \_\_\_\_\_ for deposit on frame for public hearing sign(s).

Date Paid: 2/16/2018

Receipt Number: 6153293-sign (20.00)  
6153237-app. (175.00)

PROPERTY OWNER CONSENT AND AGENT AUTHORIZATION FORM

(Applications require authorization by ALL property owners of subject property).

Name(s) of All Property Owners of Record found on the latest recorded deed for the subject property:

John F. Rutledge

Please Print Names

Property Tax Identification Number(s) of Subject Property: 0712050

(I am) (we are) the sole owner(s) of the above-referenced property. Subject property is located in Land Lot(s) of the ~~East~~ District, and (if applicable to more than one land district) Land Lot(s) 55+42 of the District, and said property consists of a total of 4.016 acres (legal description corresponding to most recent recorded plat for the subject property is attached herewith).

(I) (We) hereby delegate authority to N/A to act as (my) (our) Agent in this request. As Agent, they have the authority to agree to any and all conditions of approval which may be imposed by the Board.

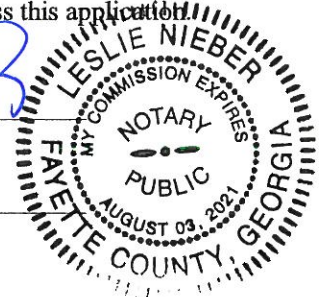
(I) (We) certify that all of the information filed with this application including written statements or showings made in any paper or plans submitted herewith are true and correct to the best of (my) (our) knowledge and belief. Further, (I) (We) understand that this application, attachments and fees become part of the official records of the Fayette County Zoning Department and may not be refundable. (I) (We) understand that any knowingly false information given herein by me/us will result in the denial, revocation or administrative withdrawal of the application or permit. (I) (We) further acknowledge that additional information may be required by Fayette County in order to process this application.

Signature of Property Owner 1

158 Adams Rd. Fayetteville, GA  
Address

Signature of Notary Public

2/14/18  
Date



Signature of Property Owner 2

Address

Signature of Notary Public

Date

Signature of Authorized Agent

Address

Signature of Notary Public

Date

## VARIANCE INFORMATION

Complete the chart below with the information pertaining to each request. If additional space is needed, please provide the information on a separate sheet of paper.

Ordinance/Section	Requirement	Proposed	Variance Amount
Setback	75' Front 50' Back 20' sides	73' Front 50' Back 20' sides	2 feet Front

## VARIANCE SUMMARY

Provide a detailed and specific summary of each request. If additional space is needed, please attach a separate sheet of paper.

I am not a professional home builder, but I am building my own home. In pouring my foundation I placed one corner of it 13 inches over the build line. The amount it is over is a triangle whose base is about 13 inches and right angle side is less than 3 feet. The area of this triangle is less than 3 square feet.

There were several contributing factors in making this mistake not the least of which was my inexperience. They were: A large amount of rock in areas of the lot. Large areas where the topography makes it very difficult to build. My reliance on the county tax map which moves my front boundary line by 25 feet. I am now aware that that map does not replace a survey.

I am now requesting a variance of 2 feet by four feet from the existing build line where I am over, which will correct my mistake and not impinge on any other.

## JUSTIFICATION OF REQUEST

The Fayette County Zoning Ordinance, Section 110-242 (b) states that in order to grant a variance, the Zoning Board of Appeals shall and must find that all five (5) conditions below exist. Please read each standard below and then address each standard with a detailed response. Attach additional information/documentation as necessary.

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

More than half of this lot has either large rock areas or has rough topography which would have made it extremely difficult to build. However there is room to set a house, I just missed it by about 13 inches on one corner. In placing the house I used the county tax map (which I have learned is not reliable) to try to find the front build line. Problem is the tax maps adds 25 feet to my front boundary.

2. The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship.

I am seeking a variance of the front setback from 75 feet to 73 feet. If I do not get that variance I will have to cut a 2 foot by 4 foot corner off of my poured walls on my crawl space, which I believe to be a practical difficulty or is an unnecessary hardship.

3. Such conditions are peculiar to the particular piece of property involved.

The need to request a variance to remedy a violation for crossing setback by 13 inches is peculiar to this particular piece of property and need not involve any other

4. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of these regulations; provided, however, no variance may be granted for a use of land, building, or structure that is prohibited herein.

Receiving a Variance of 76 feet to 73 Feet would not cause substantial detriment to the public good nor impair the purposes and intent of these regulations. Denying a small Variance could set a precedent to deny other small variances which could prove to be a detriment to the public good

5. A literal interpretation of this Ordinance would deprive the applicant of any rights that others in the same zoning district are allowed.

The home at the beginning of my road frontage, that borders my property in the back, is only about 10 Feet from my property boundary. The home on this Lot was remodeled well after my Lot was created by subdivision. Someone must have granted them a variance. I am hoping for the same consideration so I won't have to pay a larger amount for my mistake.



Doc ID: 008589090001 Type: WD  
 Recorded: 06/02/2011 at 02:10:00 PM  
 Fee Amt: \$55.00 Page 1 of 1  
 Transfer Tax: \$45.00  
 Fayette, Ga. Clerk Superior Court  
 Sheila Studdard Clerk of Court  
 BK **3763** PG **79**

Return Recorded Document to:  
 B. D. MURPHY, III, P.C.  
 370 WEST STONEWALL AVENUE  
 FAYETTEVILLE, GA 30214

# WARRANTY DEED

STATE OF GEORGIA

COUNTY OF FAYETTE

File #: 11-1086

This Indenture made this 1st day of June, 2011 between CASA BANANA, LLC, of the County of FAYETTE, State of Georgia, as party or parties of the first part, hereinafter called Grantor, and JOHN F. RUTLEDGE, as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

**WITNESSETH that:** Grantor, for and in consideration of the sum of TEN AND 00/100'S (\$10.00) Dollars and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee,

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOTS 42 AND 55, 7TH DISTRICT, FAYETTE COUNTY, GEORGIA, BEING PARCEL KNOWN AS "TRACT A ADAMS RD", CONTAINING 4.5 ACRES, MORE OR LESS, ON A CERTAIN PLAT OF SURVEY PREPARED BY JOHN E. CHAPMEN, JR., DATED February 8, 1988, AND RECORDED IN PLAT BOOK 18, PAGE 170, IN THE OFFICE OF THE CLERK OF THE SUPERIOR COURT OF FAYETTE COUNTY, GEORGIA WHICH PLAT IS INCORPORATED HEREIN BY REFERENCE.



This Deed is given subject to all easements and restrictions of record, if any.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee forever in **FEE SIMPLE**.

AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons whomsoever.

IN WITNESS WHEREOF, Grantor has hereunto set grantor's hand and seal this day and year first above written.

Signed, sealed and delivered in the presence of:

Witness   
 Notary Public 

CASA BANANA, LLC

 (Seal)  
 ALDINE S. RUTLEDGE MANAGER/MEMBER

\_\_\_\_ (Seal)

\_\_\_\_ (Seal)

\_\_\_\_ (Seal)

MISCELLANEOUS PAYMENT RECPT#: 6153293  
FAYETTE COUNTY, GA  
140 Stonewall Avenue, West  
BE  
FAYETTEVILLE GA 30214

DATE: 02/20/18 TIME: 09:18  
CLERK: 9597cbia DEPT:  
CUSTOMER#: 0

COMMENT: A-680-17 SIGN  
CHG:  
ZS-Z A-680-17 SIGN 20.00

AMOUNT PAID: 20.00

PAID BY: JOHN F. RUTLEDGE  
PAYMENT METH: CHECK  
1090

REFERENCE:

AMT TENDERED: 20.00  
AMT APPLIED: 20.00  
CHANGE: .00



MISCELLANEOUS PAYMENT RECPT#: 6153237  
FAYETTE COUNTY, GA  
140 Stonewall Avenue, West  
BE  
FAYETTEVILLE GA 30214

DATE: 02/20/18 TIME: 09:17  
CLERK: 9597cbia DEPT:  
CUSTOMER#: 0

COMMENT: A-680-17 APP

CHG:  
ZA-Z A-680-17 APP 175.00

AMOUNT PAID: 175.00

PAID BY: JOHN F. RUTLEDGE  
PAYMENT METH: CHECK  
1090

REFERENCE:

AMT TENDERED: 175.00  
AMT APPLIED: 175.00  
CHANGE: .00

**POSTING OF PROPERTY**

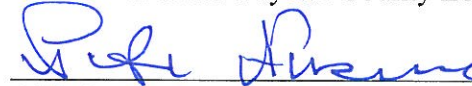
**PETITION NO:** A-680-18

**OWNER:** John F. Rutledge  
158 Adams Court  
Fayetteville, Georgia  
30214

**LOCATION:** Land Lot(s) 42 & 55 of the 7th District  
Fronts on Adams Road.

**REQUEST:** Variance to Sec. 110-133. R-70, (d) (4) to reduce front yard setback from 75 feet to 73 feet to maintain the construction of a new residence.


I hereby certify that a sign was posted for the above-referenced application in conformance with Article VII of the Fayette County Zoning Ordinance.

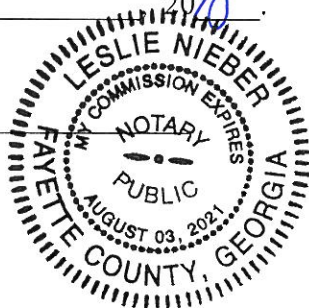
  
\_\_\_\_\_  
OFFICIAL

3/7/18  
\_\_\_\_\_  
DATE

Sworn to and subscribed before me this

7<sup>th</sup> day of March, 2018.

  
\_\_\_\_\_  
NOTARY



Number of signs posted 1.

Date sign posted 3/7/18.



**A-680-18  
Aerials**

**Adams Road**

**SUBJECT  
PROPERTY**







Building Lines  
Front - 75'  
Side - 20'  
Rear - 50'

All lots to share  
common drive as per  
plat book 18 page 170

Legend

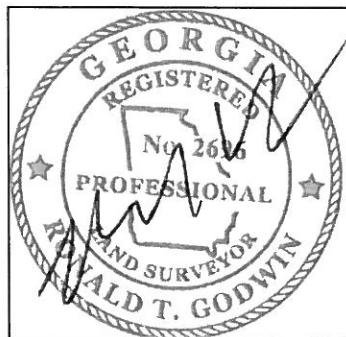
- OTP=Open Top Pipe  
RBF=Rebar Found  
RBS=Rebar Set  
R/W=Right of Way  
IPF= Iron Pin Found  
P.O.B.=Point of Beginning  
B/L=Building Line  
D.E.=Drainage Easement  
N/F=Now or Formerly  
F.W.P.D.=Field Work Performed Date  
⊗=Gas Valve  
⊕=Water Meter  
⊙=Utility Pole  
⊞=Drop Inlet  
⊛=Fire Hydrant  
⊙=Light Pole  
—X—=Fence  
⊙=Drainage Manhole  
—OHE—=Over Head Electric Line

Closure Data

Field closure=1'IN 10,000+  
Angle point error=< 20"  
Equipment used=Topcon 3005W,  
Sokkia SX, & Topcon hyper GA GPS System  
adjustment method=Compass rule  
Plat closure=1'IN 100,000+

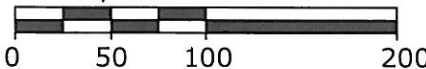
This survey does not constitute a title search by surveyor. All  
information regarding record easements, adjoining and other  
documents that might affect the quality of title to tract shown  
were not supplied to this office.

Declaration is made to original purchaser of the survey. Any  
use by third parties is at their own risk. Survey is valid only  
if print has original seal and original signature of surveyor.



In my opinion this property appears  
not to lie within a 100 year flood plain  
according to F.I.R.M. #13113C0083E  
Dated 09/26/2008.

Graphic Scale 1"=100'

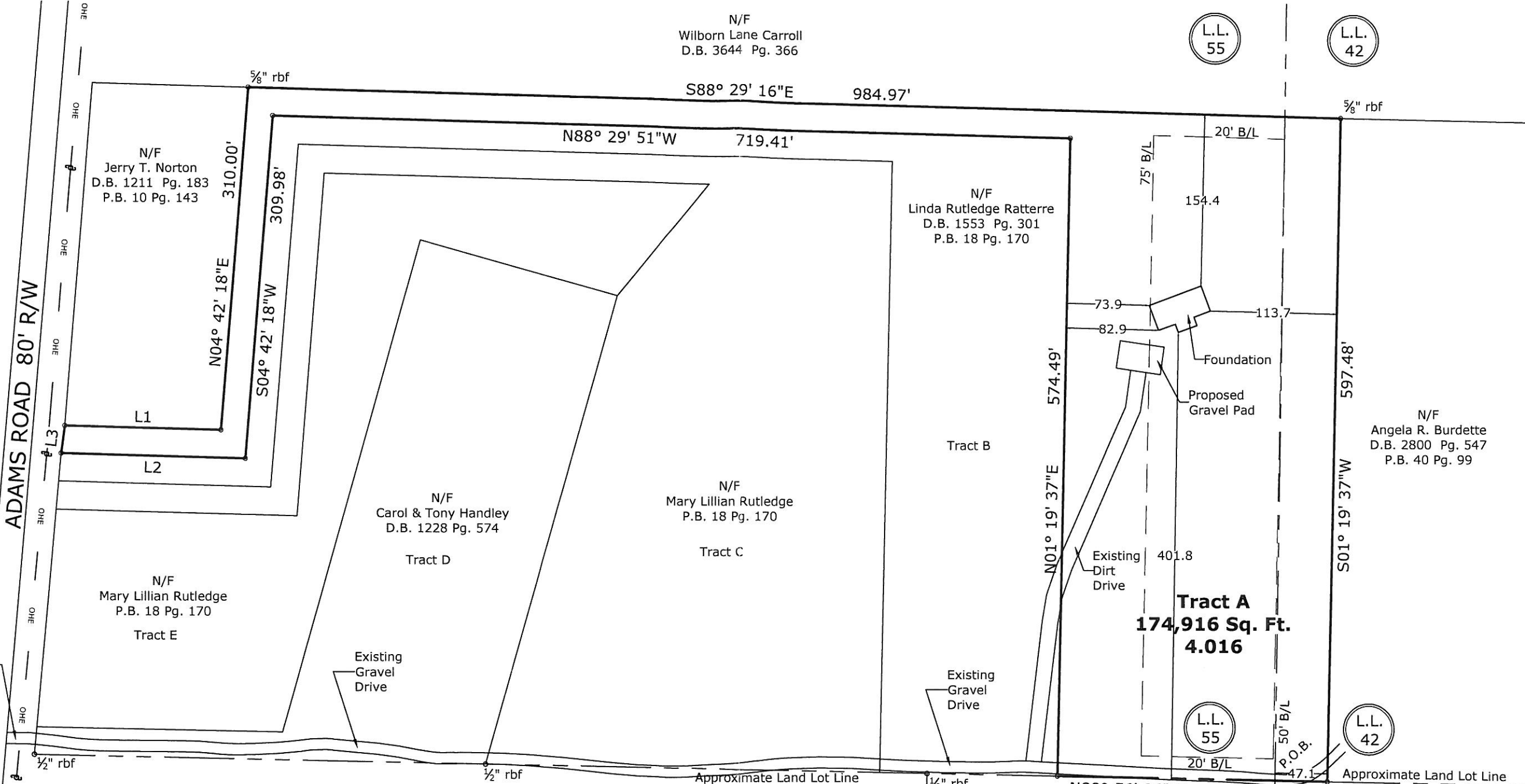


ADAMS ROAD 80' R/W

Line Table		
Line #	Direction	Length
L1	S88° 32' 42"E	140.74'
L2	N88° 32' 42"W	166.03'
L3	N07° 33' 24"E	25.15'

Impervious Square Footage

House	1,345 Sq. Ft.
Existing Drive	2,778 Sq. Ft.
Proposed Gravel Pad	1,000 Sq. Ft.



**FOUR CORNERS SURVEYING**  
P.O. BOX 15 Tyrone, GA 30290 770-560-3910 & 770-823-9377  
FOUR\_CORNERS@BELL-SOUTH.NET

Page: 170  
Plat/Deed Book P.B. 18

Subdivision: Rutledge Acres  
Lot: A Land Lot: 55 & 42 District: 7th County: Fayette County, Georgia  
Scale: 1" = 100' F.W.P.D.: 02/02/18 Date: 02/05/18 Drawn By: JCB Job No: 18-031

Prepared For: **John F. Rutledge**  
Address: Adams Road

All Electrical Work to comply with  
Current Adopted Version of the  
(NEC) National Electric Code

CHIMNEYS REQUIRED  
TO MEET - 3 - 2 - 10  
HEIGHT / CLEARANCE RULE

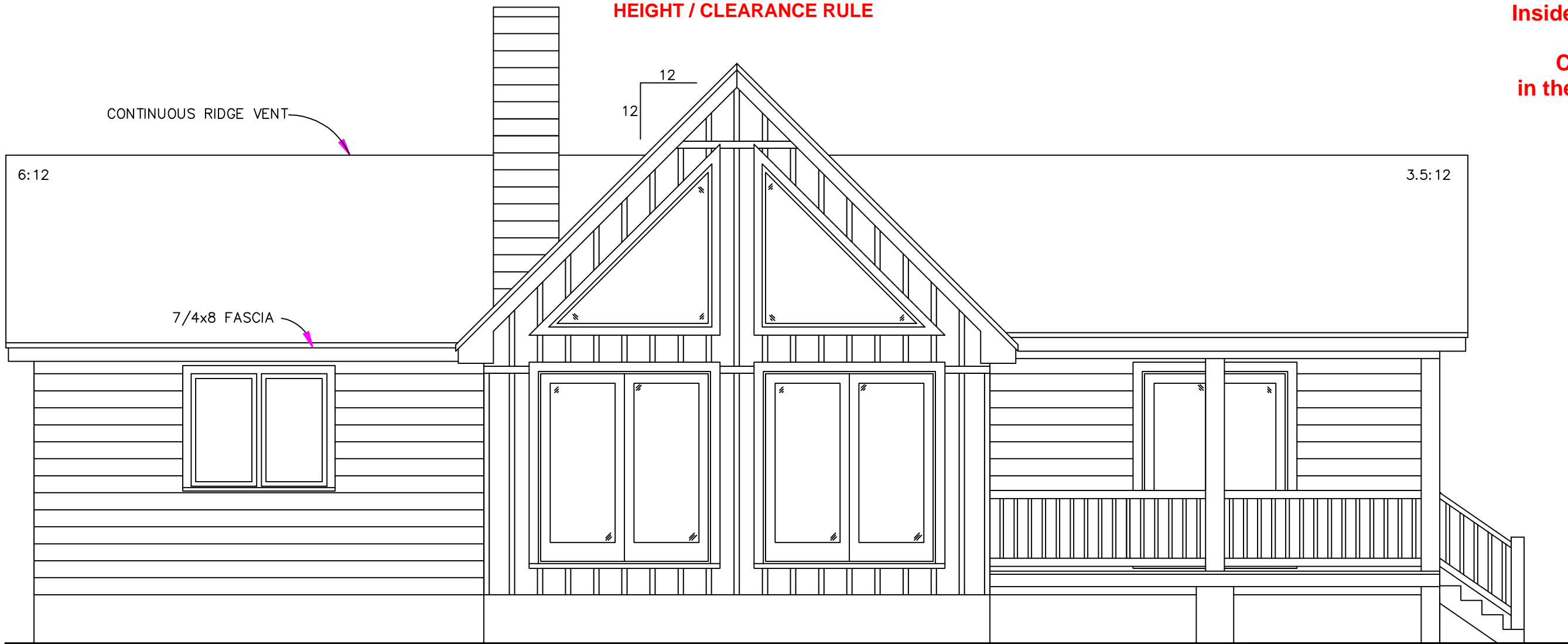
Smoke Alarms Required  
Inside & Outside All Sleeping Rooms = (SA)  
&  
Carbon Monoxide Alarms Required  
in the vicinity of each Sleeping Room = (C)

Tamper Resistant Receptacles  
Required in all areas specified in the  
Current Approved Version of the NEW  
for all 125-volt 15 / 20 amp receptacles

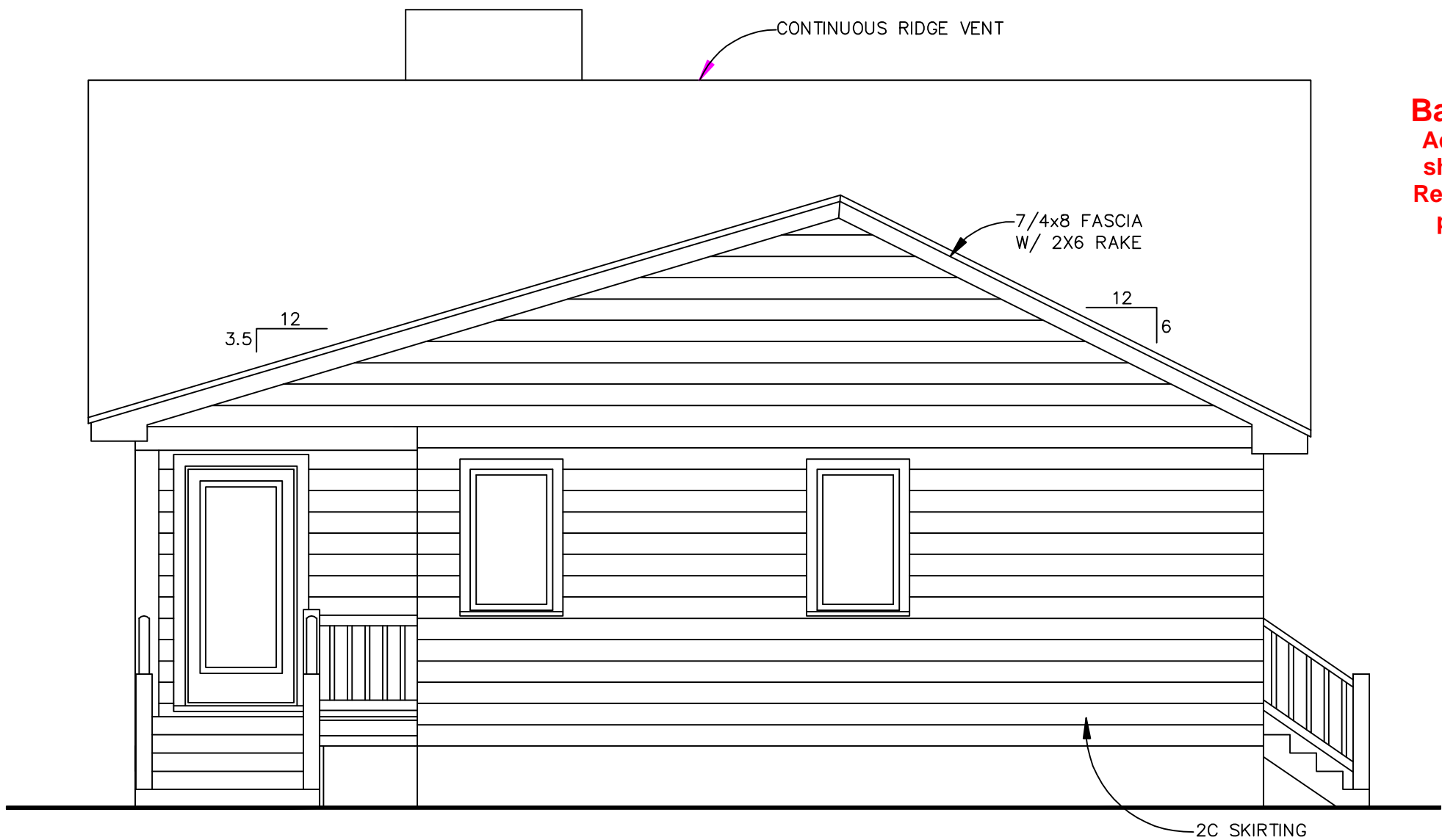
Ground-Fault Circuit Interrupter (GFCI)  
protection required where receptacles  
are installed to serve kitchen countertop  
surfaces, bathrooms, sink areas,  
garages, outdoors, unfinished  
basements, crawlspaces and  
boathouses.  
= (G)

ARC-Fault Circuit Interrupter (AFCI) protection of  
the Listed Combination Type is required to protect  
all 15 and 20 ampere branch circuits supplying  
outlets installed in dwelling unit family rooms,  
dining rooms, living rooms, parlors, libraries,  
dens, bedrooms, sunrooms, recreation rooms,  
closets, hallways or similar rooms or areas.

Balconies, Decks & Porches  
Accessible from inside the dwelling  
shall have at least one (1) Electrical  
Receptacle Outlet installed within the  
perimeter of the balcony, deck or  
porch



FRONT ELEVATION  
SCALE: 1/4" = 1'-0"



RIGHT ELEVATION  
SCALE: 1/4" = 1'-0"

BUILDING ENVELOPE TIGHTNESS  
TEST  
"Blower Door"  
-----  
DUCT TIGHTNESS TEST  
"Duct Blaster"  
REQUIRED

Georgia Energy Code  
Compliance Certificate  
  
Required to be posted and readily  
accessible on or near the electrical  
distribution panel or air handler  
  
- Prior To -  
Rough Inspections

REVIEWED FOR  
CODE  
COMPLIANCE  
11/07/2017  
FAYETTE COUNTY  
Department of Building Safety  
  
Revision required for any  
changes from Original  
Approved Plans

The permitting, plans examination or inspection conducted with regard to a building or structure in accordance with the code, constitutes a public duty and does not warrant or ensure the absence of any hazard, deficiency or other matter. The code shall not be construed to relieve from or lessen the responsibility of any person, firm or corporation owning, operating or controlling any building or structure for any damages to persons or property caused by defects, nor shall the Department of Building Safety or Fayette County be held as assuming any such liability for reasons of the inspections or plans examinations authorized by the code or any permits or certificates issued under the code.

The permitting, plans examination or inspection of any building, structure, system, element or construction document shall not be construed as a warranty of the physical condition or adequacy of such building, structure, system, element or construction document. Including without limitation, a representation or warranty that a building or structure is complete, that it is in compliance with the code or any other law, that it was inspected, that it is safe or ready for occupancy or that it meets any particular degree of quality or workmanship.

ELEVATIONS

PLANS FOR:  
John Rutledge  
Fayetteville, GA  
Fayette County

DATE: 09-21-2017  
DRAWN BY: A GARCIA  
SCALE: AS NOTED  
CUST. ID #: 713714055  
REVISIONS:

SHEET NO.  
1

**PETITION NO. A-680-18**  
**John F. Rutledge**  
**Tract A Adams Road**  
**Fayetteville, GA 30214**  
**Public Hearing Date March 26, 2018**

The subject property is located on Tract A Adams Road, Fayetteville, GA 30214 and is zoned R-70. The applicant is requesting a Variance as follows:

Variance to Section 110-133. R-70. (d) (4) (2) to reduce front yard setback from 75 feet to 73 feet to allow the construction of a single-family residence.

**History:** Final Plat of Rutledge Acres was recorded on February 2, 1998 in Book 18 and Page 170. Tax Assessor's records indicate that the house is under construction in 2018 and according to the deed the applicant purchased the property in 2011.

As part of the permitting process for a single-family residence, a foundation survey is required. Through the foundation survey staff discovered the violation. The survey given for the single-family residence permit shows the residence foundation 73 feet from the property line.

The applicant provides the following information:

**VARIANCE SUMMARY**

**Provide a detailed and specific summary of each request. If additional space is needed, please attach a separate sheet of paper.**

I am not a professional home builder, but I am building my own home. In pouring my foundation I placed one corner of it 13 inches over the build line. The amount it is over is a triangle whose base is about 13 inches and right angle side is less than three (3) feet. The area of this triangle is less than three (3) square feet.

There were several contributing factors in making this mistake not the least of which was my inexperience. They were: A large amount of rock in areas of the lot. Large areas where the topography makes it very difficult to build. My reliance on the county tax map which moves my front boundary line by 25 feet. I am now aware that map does not replace a survey.

I am now requesting a variance of two (2) feet by four (4) from the existing build line where I am over, which will correct my mistake and not impinge on any other.

## **JUSTIFICATION OF REQUEST**

**The Fayette County Zoning Ordinance, Sec. 110-242. (b) states that in order to grant a variance, the Zoning Board of Appeals shall and must find that all five (5) conditions below exist.**

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

More than half of this lot has either large rock areas or has rough topography which would have made it extremely difficult to build. However there is room to set a house, I just missed it by about 13 inches on one (1) corner. In placing the house I used the county tax map (which I have learned is not reliable) to try to find the front build line. Problem is the tax maps add 25 feet to my front boundary.

- 2. The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship; and,**

I am seeking a variance of the front setback from 75 feet to 73 feet. If I do not get that variance I will have to cut a two (2) foot by four (4) foot corner off of my poured walls on my crawl space, which I believe to be a practical difficulty or is an unnecessary hardship.

- 3. Such conditions are peculiar to the particular piece of property involved; and,**

The need to request a variance to remedy a violation for crossing setback by 13 inches is peculiar to this particular piece of property and need not involve any other.

- 4. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of these regulations; provided, however, no variance may be granted for a use of land or building or structure that is prohibited by this Ordinance; and,**

Receiving a variance of 75 feet to 73 feet would not cause substantial detriment to the public good nor impair the purposes and intent of these regulations. Denying a small variance could set a precedent to deny other small variances which could prove to be a detriment to the public good.

- 5. A literal interpretation of this Ordinance would deprive the applicant of any rights that others in the same District are allowed.**

The home at the beginning of my road frontage, that borders my property in the back, is only about 10 feet from my property boundary. The home on this lot was remodeled well after my



lot was created by subdivision. Someone must have granted them a variance. I am hoping for the same consideration so I won't have to pay a larger amount for my mistake.

### **DEPARTMENTAL COMMENTS**

**ENGINEERING:** No comments.

**ENVIRONMENTAL HEALTH:** No objections to variance

**ENVIRONMENTAL MANAGEMENT:** EMD has no comments

**FIRE MARSHAL:** The bureau of fire prevention will neither approve nor deny request that fall outside the scope of ISO requirements.

**WATER SYSTEM:** No conflict.