

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
Howard Johnson, Planning and Zoning Coordinator

AGENDA

**Fayette County Zoning Board of Appeals
Fayette County Administrative Complex
Public Meeting Room
December 17, 2018
7:00 P.M.**

1. Election of Zoning Board of Appeals Secretary

PUBLIC HEARING

2. Petition No. A-692-18, Silvia A. Benedetti, Owners, requests the following: Variance to Section 110-133 R-70, (d)(6) to reduce the side yard setback from 25 feet to 3 feet to allow an existing shed to remain. The subject property is located in Land Lot 16 of the 9th District and fronts on Lees Lake Road.
3. Petition No. A-693-18, Geraldine A. Stinchcomb Trust / Estate, Owners, requests the following: Variances, as applicable, for all existing structures and improvements to remain in association with the subdivision of a lot for the Trading Post. The subject property is located in Land Lot 60 of the 5th District and fronts on State Route 85 South.

PETITION NO. A-692-18
Silvia A. Benedetti
639 Lees Lake Road
Fayetteville, GA 30214
Public Hearing Date December 17, 2018

The subject property is located at 639 Lees Lake Road, Fayetteville, GA 30214 and is zoned A-R. The applicant is requesting a Variance as follows:

Variance to Sec. 110-133. R-70, (d) (6) to reduce side yard setback from 25 feet to 3 feet to allow an existing shed/barn to remain.

History: The subject property is 10.667 acres. Tax Assessor's indicate that the house was built in 1976 and according to the deed the applicant purchased the property in 1998.

On October 20, 2016, the petitioner requested to remove the Final Plat of Benedetti Estates from the Planning Commission's agenda. This request was made after staff informed the petitioner that the shed/barn would have to come into compliance through a variance, or by removal once the Final Plat had been approved. By the petitioner requesting to remove the Final Plat of Benedetti Estates from the Planning Commission's agenda the barn/shed has been allowed to remain.

It is the petitioner's desire to obtain the variance before subdividing the property through a Final Plat to create a legal 2.455 acre lot for the purposes of the sale of the property.

The survey given for the property shows the shed/barn foundation three 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.

This barn consists of 25'x20 barn with cement floor, loft above with steps, two sheds with dirt floors to right and fish house and storage (wooden floor) to left. I believe this barn was built in 1976 when home was built by Linwood and Sarah Ham (both now deceased). The barn itself is 8" from property line but post for stairs are 3' from property line. On other side of property line is an erosion ditch. There are no other structures around and none can be built as this is now part of Tar Creek Wetlands. It is a beautiful part of Georgia's history we no longer see.

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.**

This structure has been standing with no problems for 42 years. It cannot be rebuilt due to Tar Creek wetlands. It is a beautiful part of Georgia's history.

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

It would be a total loss of a barn and sheds.

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

Yes, as it cannot be rebuilt.

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,**

No detriment to public good. There are no other property owners that would build anywhere near this particular building.

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

Yes.

DEPARTMENTAL COMMENTS

ENGINEERING: No comments.

ENVIRONMENTAL HEALTH: No comments.

ENVIRONMENTAL MANAGEMENT: 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.

A-692-18

Fulton County

**SUBJECT
PROPERTY**

Lee's Lake Road

Milam Road

Rivers Road

VARIANCE APPLICATION TO THE ZONING BOARD OF APPEALS

PROPERTY OWNERS: Silvia A. Benedetti

MAILING ADDRESS: 639 Lees Lake Road, Fayetteville, GA 30214

PHONE: 770-969-1135 Home * E-MAIL: silvia.bloves.tennis@comcast.net
678-713-0767 Cell

AGENT FOR OWNERS: N/A

MAILING ADDRESS: _____

PHONE: _____ E-MAIL: _____

PROPERTY LOCATION: LAND LOT 16 LAND DISTRICT 9th PARCEL 0902.047

TOTAL NUMBER OF ACRES OF SUBJECT PROPERTY: 10.667

ZONING DISTRICT: R-70

ZONING OF SURROUNDING PROPERTIES: R-70

PRESENT USE OF SUBJECT PROPERTY: Single Dwelling - Home + Barn

PROPOSED USE OF SUBJECT PROPERTY: Single Dwelling - Home + Barn

★

(THIS AREA TO BE COMPLETED BY STAFF): PETITION NUMBER: A-692-18

[] Application Insufficient due to lack of:

by Staff: _____ Date: _____

[☒] Application and all required supporting documentation is Sufficient and Complete

by Staff: CB Date: 11/8/2018

DATE OF ZONING BOARD OF APPEALS HEARING: December 17, 2018

Received from Silvia Benedetti a check in the amount of \$ 175.00

for application filing fee, and \$ 20.00 for deposit on frame for public hearing sign(s). \$195.00

Date Paid: 11/8/2018 Receipt Number: 6518863 - Application
6518864 - Sign

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:

Silvia A. Benedetti

Please Print Names

Property Tax Identification Number(s) of Subject Property: 09-02-047

(I am) (we are) the sole owner(s) of the above-referenced property. Subject property is located in Land Lot(s) of the 16 District, and (if applicable to more than one land district) Land Lot(s) _____ of the District, and said property consists of a total of 10.667 acres (legal description corresponding to most recent recorded plat for the subject property is attached herewith).

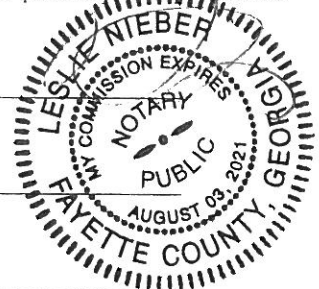
(I) (We) hereby delegate authority to N/A to act as (my) (our) Agent in this request. As Agent, they have the authority to agree to any and all conditions of approval which may be imposed by the Board.

(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.

Silvia A. Benedetti
Signature of Property Owner 1
639 Lees Lake Road
Fayetteville, GA 30214
Address

Leslie Nieber
Signature of Notary Public

11/8/18
Date



Signature of Property Owner 2

Signature of Notary Public

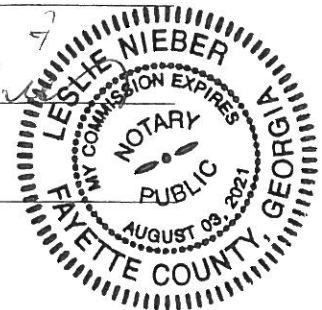
Address

Date

Signature of Authorized Agent

Leslie Nieber
Signature of Notary Public

11/8/18
Date



Address

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
	25 feet setback	3 feet (stair posts)	22 feet

VARIANCE SUMMARY

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

Barn + sheds measure 58' wide x 20' deep.

This barn consists of 25'x20' barn w/cement floor, 10ft above w/steps, 2 sheds w/dirt floors to right and fish house and storage (wooden floor) to left. I believe this barn was built in 1976 when home was built by Linwood + Sarah Ham (both now deceased). The barn itself is 8' from property line but posts for stairs are 3' from property line. On other side of property line is an erosion ditch.

There are no other structures around and none can be built as this is now part of Tar Creek Wetlands. It is a beautiful part of Georgia's history we no longer see.



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.

This structure has been standing with no problems for 42 years.

It cannot be rebuilt due to Tar Creek wetlands. It is a beautiful part of Georgia's history.

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

It would be a total loss of a barn and sheds.

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

yes, as it cannot be rebuilt.

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.

No detriment to public good. There are no other property owners that would build anywhere near this particular building.

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

Yes



GOOGLE EARTH

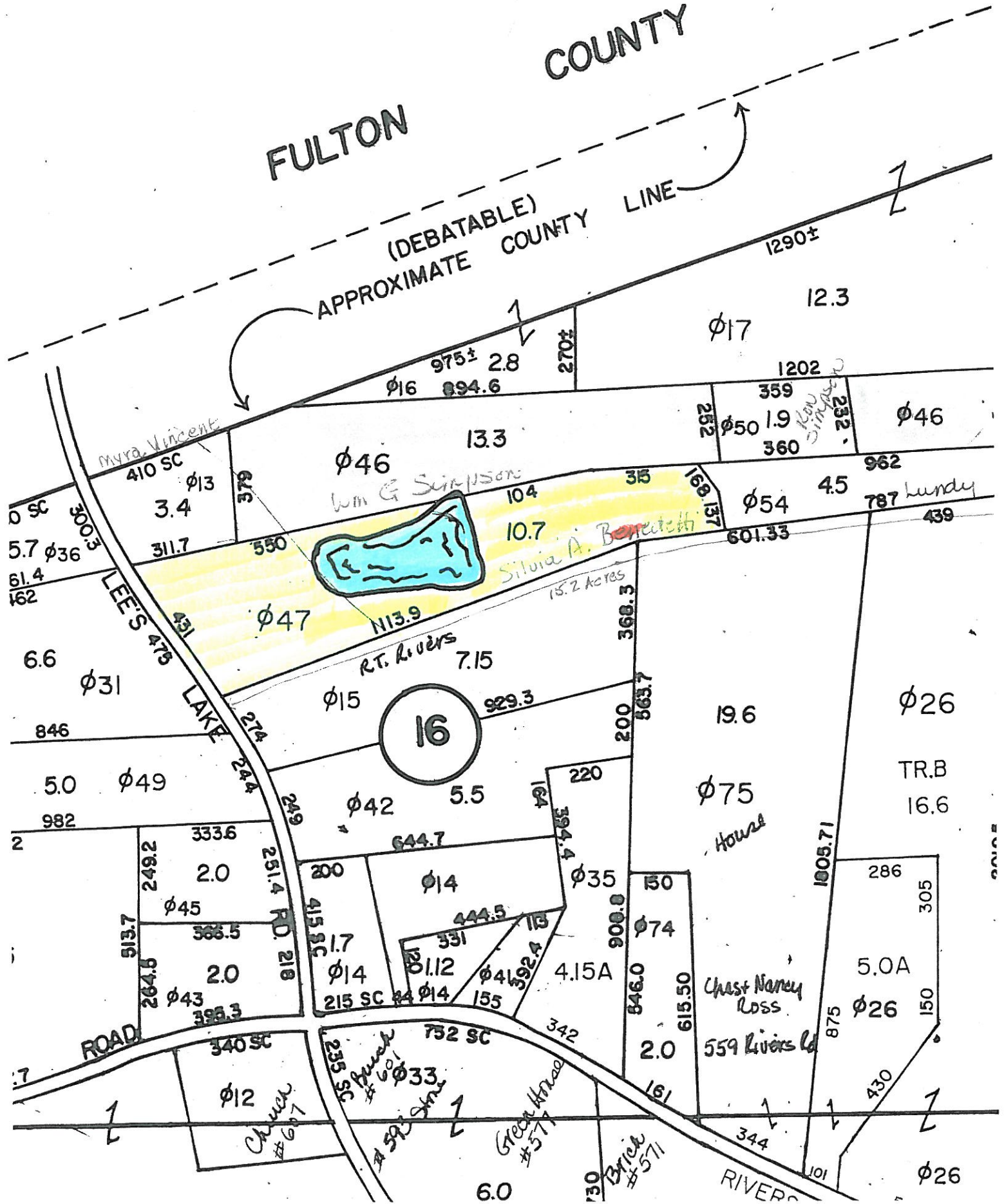
○ = House

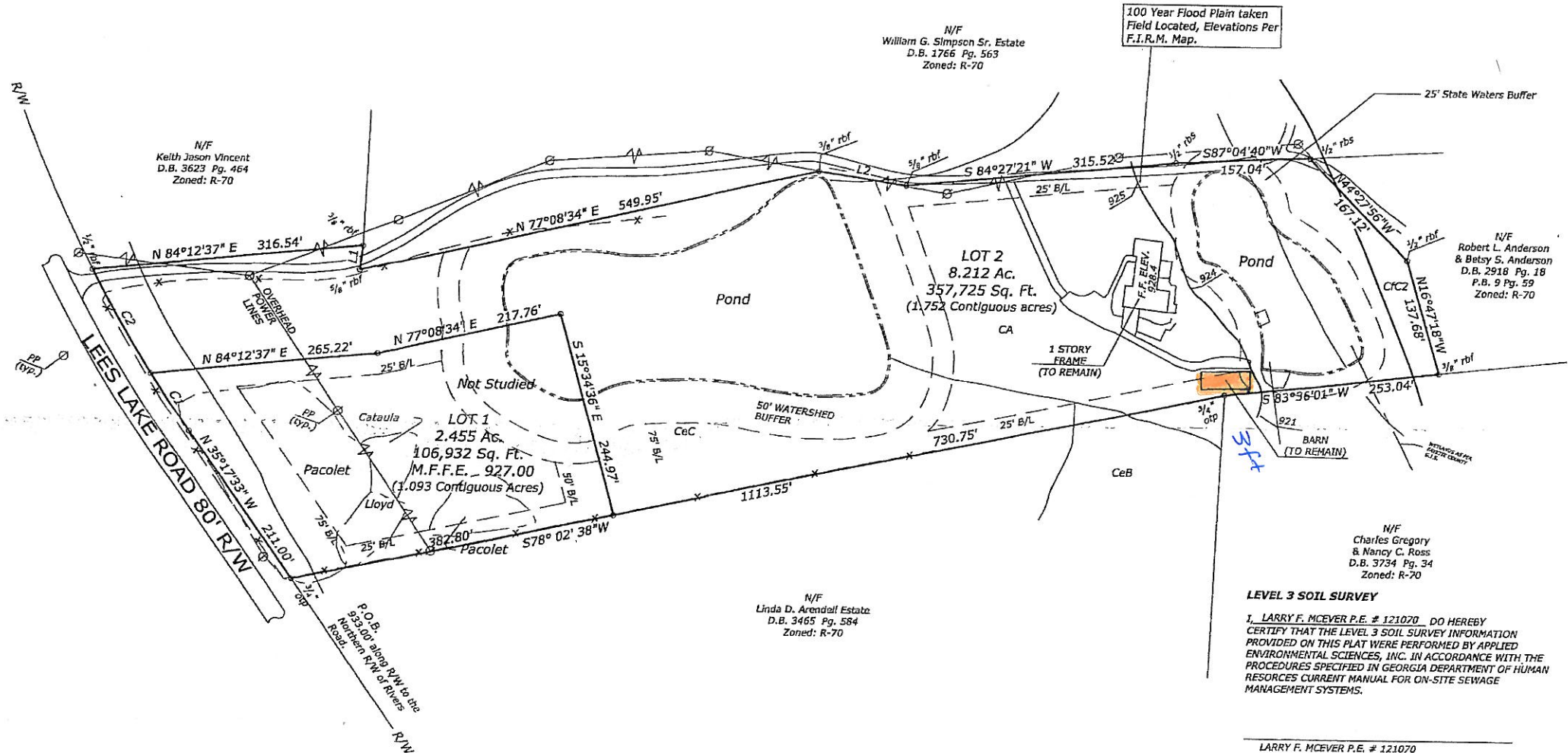


FULTON

COUNTY

(DEBATABLE)
APPROXIMATE COUNTY LINE



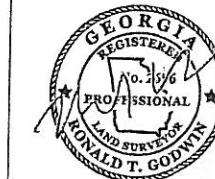
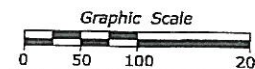


Legend

OTP=Open Top Pipe
RBF=Rebar Found
RBS=Rebar Set
R/W=Right of Way
MAG=Magnetic
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
G=Gas Valve
W=Water Meter
U=Utility Pole
D=Drop Inlet
H=Fire Hydrant
L=Light Pole
F=Fence
M=Drainage Manhole
OHE=Over Head Electric Line

CURVE TABLE				
CURVE	LENGTH	RADIUS	CHORD	CHORD-BEARING
C1	81.73'	1656.78'	81.72'	N33°52'46"W
C2	139.51'	1656.78'	139.47'	N30°03'14"W

LINE TABLE		
LINE	LENGTH	BEARING
L1	28.61	S06°56'37"W
L2	103.94	S81°35'20"E



Prepared For:

SILVIA A. BENEDETTI

Subdivision: 639 Lees Lake Road

Lot: N/A D.B. 1238 ~ PG. 575

Land Lot: 16 District: 9th

County: FAYETTE, GA F.W.P.D. 04/01/16

Scale: 1" = 100' Date: 08/08/16 Job No: 16-040

FOUR CORNERS SURVEYING

P.O. BOX 15
Tyrone, GA 30290
770-560-3910
& 770-823-9377

PETITION NO. A-693-18
Geraldine A Stinchcomb Trust/Estate
1279 Jackson Springs Road
Macon GA 31211
Public Hearing Date December 17, 2018

The subject property is located at 1045 SR 85 South, Fayetteville, GA 30215 and is zoned C-C. The applicant is requesting variances, as applicable, for all existing structures and improvements to remain in association with the subdivision of a lot for the Trading Post as follows:

Article III. - General Provisions, Sec. 110-143. - C-C, Community Commercial District, and Sec. 110-173. - Transportation corridor overlay zone.

History: Rezoning petition #9-61 for C-1 zoning was approved by the Board of Commissioners on March 6, 1962. The area rezoned is described as approximately 1,000 feet parallel to Highway 85 and begins at applicant's present driveway. Tax assessor records indicate that the building was built in 1965. In October of 1971, the Board of Commissioners approved a new zoning ordinance and zoning map and the C-1 zoning district was replaced with the C-C zoning district. On November 13, 1980, the Board of Commissioners approved another new zoning ordinance and zoning map and the C-C zoning district was retained in the new ordinance.

At some point in the middle 1980's, the tax assessor created a one (1) acre lot for the Trading Post for taxing purposes (see Tax Assessor comments below). However, this split does not constitute a legal subdivision of property as, to date, no deed or survey recorded with the Clerk of Superior Court creating a separate lot has been found. It is the desire of the applicant to subdivide the property through a Final Plat to legally create the aforementioned one (1) acre lot for the Trading Post for the purposes of the sale of the property. These variances are required for the approval of a Final Plat.

DEPARTMENTAL COMMENTS

ENGINEERING: No Engineering/Public Works comments on this variance request. We understand any change to the property (such as parking) would require additional plans and approval by County.

ENVIRONMENTAL HEALTH: Our department has no comment regarding the structure called the Trading Post and located at 1045 State Route 85 South, Fayetteville, Ga. 30215. Our department has reviewed our on-site installation inspection records. Given the construction date of the structure listed in the tax records, the proximity of the septic tank on the septic tank record compared to the septic tank location on the variance survey dated (drawing) 11/29/18 and the proximity of the structure to the pond, it appears we were able to locate the installation inspection record. A copy of the document is attached to our report.

ENVIRONMENTAL MANAGEMENT: All improvements made in 1965 or earlier. No new improvements proposed. 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.

TAX ASSESSOR: In reviewing the records of the Fayette County Tax Assessors, we are unable to locate any deed or survey creating two separate parcels of 0510 002 and 0510 002A. It is my assumption that this tax split was done to benefit the taxpayer for tax purposes. This would have allowed the property to maintain separate valuations for both commercial and conservation use on their own respective tax bills.

WATER SYSTEM: Water Available

VARIANCE SUMMARY

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

There is a pending sales contract between a purchaser and the heirs and current owners of property located at 1045 Highway 85 South, Fayetteville, GA 30215 which is a clothing business known as The Trading Post. This is a 4000 sq. ft. building with egress to Highway 85 including parking lot. This lot is identified by tax records as one acre and is considered to be commercial property located on an original zoning of C-1 in 1961. The building was constructed in the early 1960's.

The owners' father, Hugh M. Stinchcomb, built this property on his farm and did not have it surveyed with a deed to himself. From its beginning, the tax assessor accepted the property and, at some point, an "as built" line notation was made to county plats denoting its location on tax maps. As of this writing, a survey is being conducted that describes the "as built" one (1) acre of the property.

The applicants are requesting that this survey be accepted "as built" and in conformity with its current usage. We also ask that variance from any current regulations be granted that would hinder, delay, alter the saleability, or deny its sale due to unattainable or unreasonable stipulations, and allow the sale to be accomplished. The purchaser's offer is to acquire the property "as built" and accept its current use and limitations.

Furthermore, as the owners of all property adjacent to The Trading Post, we are in concurrence with any outcomes resulting from the granting of necessary variances.

JUSTIFICATION OF REQUEST

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

In the early 1960's, our father, Hugh M. Stinchcomb, built a building on the Highway 85 side of his farm. He requested and received approval for a C-1 zoning, approximately 1000 feet in length from the driveway of his house, to the southeast corner of his original property purchase from S. D. Dorsey in 1955. The 4000 sq. ft building, known as The Trading Post, was leased to T.T. Davis as a clothing store. Because the property backed up to his lake, our father built a concrete retaining wall behind the property on the west and north side. The parking lot has angled entrances on the north and south ends. The building is served by a septic tank and drain field on the south side of the building.

Our father never had the property surveyed as a deed to himself, but did report to the Fayette County Tax office that he had a commercial property of one (1) acre at this location. Since the beginning, the Tax Commissioner's office has recognized the property and taxes have been paid by the family each year since. The current tax payer identification is **Mrs. Hugh Stinchcomb Estate**, Map Code: **0510 002 REAL**, Description: **HWY 85 Store**, Location: **1045 Highway 85 S**, Bill No: **2018-37939**, District: **01 County**.

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

At the time our father built this property, he complied with any necessary zoning and construction requirements and property tax notification in effect at that time. The current regulations regarding setbacks, wetland issues and other 2018 requirements would make it impossible to build on this location today. An offer to purchase The Trading Post property and its one acre lot has been accepted by the heirs and current owners (the children of Hugh and Geraldine Stinchcomb: Harriett S. Hazelton, Sandra S. Barge, and Hugh Gerald Stinchcomb) of this property as is. The purchaser would void this sale if new conditions were attached which changes the property configuration. He also understands that he cannot expand the footprint of the building.

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

The lake west and behind the property, defined by the concrete wall, represents an impossibility to expand the depth of the one (1) acre lot.

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,

This store and parking lot have been in use for over fifty years. The adjacent property owners are the heirs identified in condition # 2 above. We accept that no burden or hardships will accrue to our property. Also, as stated, the purchaser understands that The Trading Post property is limited under current regulations. As the sellers, we have also stipulated that egress to the easement that adjoins the south end of The Trading Post property will be maintained. We understand that it will continue to be a clothing store.

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

We understand the property in question is similar to other Fayette County properties from the time period of its existence. It may not be the practice to use the term “Grandfather” as a verb in allowing it to be sold as built, but this would seem appropriate. The fact that our father did not have the property surveyed and deeded to himself, we believe, is not a failure on his part, but rather was a common practice of the time. We also understand the Tax Commissioner’s office is not the entity to allocate by survey a property of record, but a de facto interpretation has existed between Fayette County and the owners of the property since it was built. We did not discover that a proper survey and deed were never created until we proceeded with the sale of the property. We have currently engaged a surveyor to produce such a survey so that a deed can be conveyed to the purchaser as well as providing this survey information to the Fayette County Office of Planning and Zoning staff.

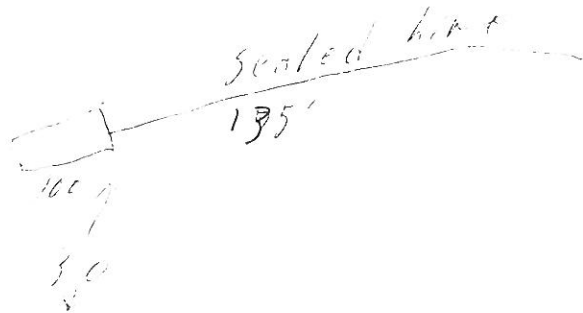
Timing is critical, not for the sale of the property by the owners, but for the impact of the sale on the current tenants of The Trading Post. They are the nephew, and his wife, of the original tenant who operate the business and have extensive investment. Under the terms of the sales contract to the purchaser, they have been told that the property must be vacated prior to February 1, 2019. If there is to be a delay due to this application for variance, it is critical that we know this immediately so the tenants can be notified and have some pressure of time abated.

F. H. A. Case No. 855

SEPTIC TANK RECORD

NAME Hugh Stinchcomb Address Hwy 85 N. South Fayetteville
WATER SUPPLY: City _____; Other _____ Distance from Well _____ Protected _____
TANK SIZE: Length 100 feet; Width _____ feet; Liquid depth _____ feet; Distribution Box N.O.
FIELD: Total length 310 feet; No. of lines 1; Length each line 310 feet.
Lot line _____ feet; Distance between lines _____ feet; From Foundation _____ feet.
Trench width 30 inches; Depth of tile 32 inches.
FILTER MATERIAL: Gravel _____; Broken Stone ✓; Cinders _____; Other _____
Depth of Material under line 4 inches. Over line 2 inches.
CONTRACTOR L. V. Fincher Address Riverdale
PLUMBER _____ Address _____
Date Completed 6-22-65 Percolation Time _____ Minutes.
Inspector W. M. Clarke

SKETCH ON BACK



300'



48'



late

late

A-693-18

Trading Post

**SUBJECT
PROPERTY**

SR 85 South

Royal Ridge Way



VARIANCE APPLICATION TO THE ZONING BOARD OF APPEALS

Stinchcomb

PROPERTY OWNERS: HARRIETT S. HAZELTON, Sandra S. Barge, Hugh Gerald

MAILING ADDRESS: 1279 Jackson Spring Road Macon, GA 31211

PHONE: 478-957-8801

E-MAIL: Green Jackie 50@gmail.com

AGENT FOR OWNERS: _____

MAILING ADDRESS: _____

PHONE: _____ E-MAIL: _____

PROPERTY LOCATION: LAND LOT 60 LAND DISTRICT 5th PARCEL 0510002
002A

TOTAL NUMBER OF ACRES OF SUBJECT PROPERTY: 25

ZONING DISTRICT: A-R + L-L

ZONING OF SURROUNDING PROPERTIES: L-H, A-R, R-90

PRESENT USE OF SUBJECT PROPERTY: Store + Single-Family Res

PROPOSED USE OF SUBJECT PROPERTY: Store

(THIS AREA TO BE COMPLETED BY STAFF): PETITION NUMBER: A-653-18

[] Application Insufficient due to lack of:

by Staff: _____ Date: _____

[] Application and all required supporting documentation is Sufficient and Complete

by Staff: _____ Date: _____

DATE OF ZONING BOARD OF APPEALS HEARING: _____

Received from _____ a check in the amount of \$ _____

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

Date Paid: _____ Receipt Number: _____

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:

HARRIETT S. HAZELTON

Please Print Names

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

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

(I (We)) hereby delegate authority to _____ 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.

HARRIETT S. HAZELTON
Signature of Property Owner 1
140 BUTTERNUT CT.
FAYETTEVILLE, GA 30214
Address

Signature of Property Owner 2

Address

Signature of Authorized Agent

Address

[Signature]
Signature of Notary Public

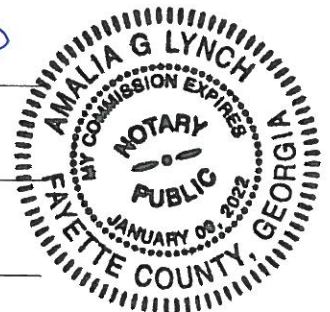
NOVEMBER 16, 2018
Date

Signature of Notary Public

Date

Signature of Notary Public

Date



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:

Sandra Stinchcomb Barge

Please Print Names

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

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

(I) (We) hereby delegate authority to _____ 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.

Sandra Stinchcomb Barge

Signature of Property Owner 1

631 Laurelwood

Address

Santee, GA 30571

Signature of Property Owner 2

Address

Signature of Authorized Agent

Address

Kathleen C. ...

Signature of Notary Public

Date

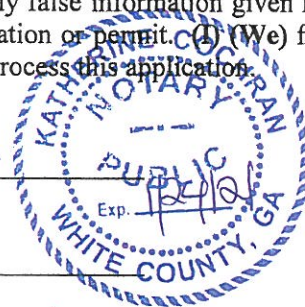
11/17/18

Signature of Notary Public

Date

Signature of Notary Public

Date



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:

HARRIETT S HAZELTON, SANDRA S. BARGE, HUGH GERALD STINCHCOMB
Please Print Names

Property Tax Identification Number(s) of Subject Property: 0510 002 REAL

(I am) (we are) the sole owner(s) of the above-referenced property. Subject property is located in Land Lot(s) 59260 of the 5th District, and (if applicable to more than one land district) Land Lot(s) _____ of the District, and said property consists of a total of 1 acres (legal description corresponding to most recent recorded plat for the subject property is attached herewith).

(I) (We) hereby delegate authority to _____ 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.

Hugh Gerald Stinchcomb
Signature of Property Owner 1
1279 JACKSON SPRINGS RD.
MACON, GA 31211-1731
Address

Vance Gregory Meadows
Signature of Notary Public
11/19/2018
Date

VANCE GREGORY MEADOWS
NOTARY PUBLIC
Houston County
State of Georgia
My Comm. Expires Oct. 16, 2022

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

VARIANCE SUMMARY

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

There is a pending sales contract between a purchaser and the heirs and current owners of property located at 1045 Highway 85 South, Fayetteville, GA 30215 which is a clothing business known as The Trading Post. This is a 4000 sq. ft. building with egress to Highway 85 including parking lot. This lot is identified by tax records as one acre and is considered to be commercial property located on an original zoning of ~~C-H~~. The building was constructed in the early 1960's..

L-1

The owner's father, Hugh M. Stinchcomb, built this property on his farm and did not have it surveyed with a deed to himself. From its beginning, the tax assessor accepted the property and, at some point, an "as built" line notation was made to county plats denoting its location on tax maps. As of this writing, a survey is being conducted that describes the "as built" one (1) acre of the property.

The applicants are requesting that this survey be accepted "as built" and in conformity with its current usage. We also ask that variance from any current regulations be granted that would hinder, delay, alter the saleability, or deny its sale due to unattainable or unreasonable stipulations, and allow the sale to be accomplished. The purchaser's offer is to acquire the property "as built" and accept its current use and limitations.

Furthermore, as the owners of all property adjacent to The Trading Post, we are in concurrence with any outcomes resulting from the granting of necessary variances.

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.

In the early 1960's, our father, Hugh M. Stinchcomb, built a building on the Highway 85 side of his farm. He requested and received approval for a C-1 zoning, approximately 1000 feet in length from the driveway of his house, to the southeast corner of his original property purchase from S. D. Dorsey in 1955. The 4000 sq. ft building, known as The Trading Post, was leased to T.T. Davis as a clothing store. Because the property backed up to his lake, our father built a concrete retaining wall behind the property on the west and north side. The parking lot has angled entrances on the north and south ends. The building is served by a septic tank and drain field on the south side of the building.

Our father never had the property surveyed as a deed to himself, but did report to the Fayette County Tax office that he had a commercial property of one (1) acre at this location. Since the beginning, the Tax Commissioner's office has recognized the property and taxes have been paid by the family each year since. The current tax payer identification is **Mrs. Hugh Stinchcomb Estate**, Map Code: **0510 002 REAL**, Description: **HWY 85 Store**, Location: **1045 Highway 85 S**, Bill No: **2018-37939**, District: **01 County**.

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

At the time our father built this property, he complied with any necessary zoning and construction requirements and property tax notification in effect at that time. The current regulations regarding setbacks, wetland issues and other 2018 requirements would make it impossible to build on this location today. An offer to purchase The Trading Post property and its one acre lot has been accepted by the heirs and current owners (the children of Hugh and Geraldine Stinchcomb: Harriett S. Hazelton, Sandra S. Barge, and Hugh Gerald Stinchcomb) of this property as is. The purchaser would void this sale if new conditions were attached which changes the property configuration. He also understands that he cannot expand the footprint of the building.

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

The lake west and behind the property, defined by the concrete wall, represents an impossibility to expand the depth of the one (1) acre lot.

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.

This store and parking lot have been in use for over fifty years. The adjacent property owners are the heirs identified in condition # 2 above. We accept that no burden or hardships will accrue to our property. Also, as stated, the purchaser understands that The Trading Post property is limited under current regulations. As the sellers, we have also stipulated that egress to the easement that adjoins the south end of The Trading Post property will be maintained. We understand that it will continue to be a clothing store.

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

We understand the property in question is similar to other Fayette County properties from the time period of its existence. It may not be the practice to use the term "Grandfather" as a verb in allowing it to be sold as built, but this would seem appropriate. The fact that our father did not have the property surveyed and deeded to himself, we believe, is not a failure on his part, but rather was a common practice of the time. We also understand the Tax Commissioner's office is not the entity to allocate by survey a property of record, but a *de facto* interpretation has existed between Fayette County and the owners of the property since it was built. We did not discover that a proper survey and deed were never created until we proceeded with the sale of the property. We have currently engaged a surveyor to produce such a survey so that a deed can be conveyed to the purchaser as well as providing this survey information to the Fayette County Office of Planning and Zoning staff.

Timing is critical, not for the sale of the property by the owners, but for the impact of the sale on the current tenants of The Trading Post. They are the nephew, and his wife, of the original tenant who operate the business and have extensive investment. Under the terms of the sales contract to the purchaser, they have been told that the property must be vacated prior to February 1, 2019.. If there is to be a delay due to this application for variance, it is critical that we know this immediately so the tenants can be notified and have some pressure of time abated.

VARIANCE SURVEY
RELEASED FOR REVIEW ONLY

THE PROPERTY SHOWN IS A PORTION OF THE LAND DESCRIBED IN DEED BOOK 1081, PAGES 527-528 AND IS CURRENTLY OWNED BY THE GERALDINE A. STINCHCOMB TRUST DATED JULY 23, 1996

THIS SURVEY HAS NOT YET BEEN FINALIZED. ADDITIONAL WORK REMAINS TO BE DONE INCLUDING SETTING MONUMENTS AT THE BOUNDARY CORNERS. THIS DRAWING WAS RELEASED FOR REVIEW ONLY AND SHOULD NOT BE USED FOR ANY OTHER PURPOSE.

IN MY OPINION, BY GRAPHIC SCALING ONLY,
THIS PROPERTY DOES NOT
LIE WITHIN THE 100 YEAR FLOOD PLAIN AS
SHOWN ON THE FLOOD INSURANCE
RATE MAP. 13113C 0112E
DATED: SEPTEMBER 26, 2008

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PREPARED FOR:
BERALDINE A. STINCHCOMB
RUST DATED JULY 25, 1996
AND LOT 60, 5TH DISTRICT
AYETTE COUNTY, GA.
CALE 1st = 20.
LAST DATE OF FIELD WORK: 11/28/2018
DATE OF DRAWING: 11/29/2018

W.D. GRAY

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