

**BOARD OF APPEALS**

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

**STAFF**

Pete Frisina, Director  
Chanelle Blaine, Zoning Administrator  
Howard Johnson, P & Z Coordinator

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**AGENDA**

**Fayette County Zoning Board of Appeals  
Fayette County Administrative Complex  
Public Meeting Room  
July 27, 2020  
7:00 P.M.**

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1. Consideration of the Minutes of the Meeting held on May 18, 2020.
2. Consideration of the Minutes of the Meeting held on June 22, 2020.

**PUBLIC HEARING**

3. Petition No. A-729-20, Justin and Andrea Johnson, Owners, request the following: 1) Variance to Sec. 110-126. C-S, Conservation Subdivision District, (f) (6) to reduce the side yard setback from 20 feet to 11 feet to allow for the construction of a pergola. 2) Variance to Sec. 110-126. C-S, Conservation Subdivision District, (f) (4) (a) (2) to reduce the front yard setback from 75 feet (as required by plat) to 65 feet to allow for the construction of a pergola. 3) Variance to Sec. 110-126. C-S, Conservation Subdivision District, (f) (4) (a) (2) to reduce the front yard setback from 75 feet (as required by plat) to 17 feet to allow for the construction of a shed. The subject property is located in Land Lot 49 of the 7<sup>th</sup> District and fronts on Elysian Drive and Coastline Drive.
4. Petition No. A-730-20, Martin Padilla, Owner, requests the following: Variance to Section 110-137. R-40 (d) (6), to reduce the side yard setback from 15 feet to 10 feet for the renovation of an existing pool deck and open roof. The subject property is located in Land Lot 156 of the 5<sup>th</sup> District and fronts on Red Oak Drive.
5. Petition No. A-731-20, Andrew and Cindy Schultz, request the following: 1) Variance to Section 110-137. R-40 (d) (4) (b), to reduce the front yard setback from 40 feet to 20 feet for the construction of a detached garage. 2) Variance to Section 110-79. Residential accessory structures and their uses (e) (2) when a residential accessory structure is located in a secondary front yard adjacent to a street that is designated as an Internal Local the required setback increase of 20 feet will not apply. The subject property is located in

Land Lot 184 of the 4<sup>th</sup> District and fronts on Hammock Bay Drive, Porchview Court, and Antioch Road.

6. Petition No. A-732-20, Dawn Scarbrough, requests the following: Variance to Section 110-242 (h), Request for an illegal lot to be deemed a nonconforming lot, due to the lot having less road frontage than is required for its zoning to be a nonconforming lot. The subject property is located in Land Lot(s) 186, 187, 198 and 199 of the 4<sup>th</sup> District and fronts on Snead Road.

This Public Hearing will be live-streamed at:

<https://livestream.com/accounts/4819394?query=fayette%20county&cat=account>

The call-in number of 770-305-5277 is provided for those who would like to make public comment during this Public Hearing.

**PETITION NO. A-729-20**  
**Justin and Andrea Johnson**  
**135 Elysian Drive**  
**Fayetteville, GA 30214**  
**Public Hearing Date July 27, 2020**

The subject property is located at 135 Elysian Drive Fayetteville, GA 30214 and is zoned C-S. The applicant is requesting a Variance as follows:

- 1) Variance to Sec. 110-126. C-S, Conservation Subdivision District, (f) (6) to reduce the side yard setback from 20 feet to 11 feet to allow for the construction of a pergola.
- 2) Variance to Sec. 110-126. C-S, Conservation Subdivision District, (f) (4) (a) (2) to reduce the front yard setback from 75 feet (as required by plat) to 65 feet to allow for the construction of a pergola.
- 3) Variance to Sec. 110-126. C-S, Conservation Subdivision District, (f) (4) (a) (2) to reduce the front yard setback from 75 feet (as required by plat) to 17 feet to allow for the construction of a shed.

**Section 110-3. Definition.**

**Lot, through,** means a lot other than a corner lot, having frontage on more than one street.

**Section 110-79.**

**Residential accessory structures and their uses. (3)(e),** On a through lot, only the area between the street from which the lot is accessed and the front building line shall be treated as a front yard with regard to the location of residential accessory structures.

**History:** The Minor Revision to Final Plat of Elysian Fields was recorded on July 16, 2018. Tax Assessor's records indicate that the house was built in 2018 and the applicant purchased the property in 2019.

As part of the building permit process, a site plan is required. Through the site plan staff discovered the violations. The site plan given shows the proposed pergola 11 feet from the side yard property line and 65 feet from the front property line. It also shows the proposed shed 17 feet from the front property line.

**DEPARTMENTAL COMMENTS**

**ENGINEERING:** No Engineering comments on variance requests.

**ENVIRONMENTAL HEALTH:** Department has no issues with proposed variance.

**ENVIRONMENTAL MANAGEMENT:** No comment.

**FIRE MARSHAL:** Approved.

**WATER SYSTEM:** No comment at this time.

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.**

Accessory Structure 1-Pergola:

We are requesting the variance to add a Pergola to our backyard. This will be a 18' x 18' structure and will be placed 13 feet off the back-right side of the house and 6 feet deep. The material will be wood with shingles that match the house. The location of this structure has been selected as it is the most cost-effective location to place a concrete pad in the back yard due to the grade of the land and direction of water run-off.

Accessory Structure 2 - Tool Shed:

We are also requesting the variance to add a Tool Shed to our backyard. This will be a 20' x 20' structure that will be placed 52 feet from the back of the house. The material will consist of either siding or brick with shingles depending on design guidelines that govern the Community. The location of this structure has been selected it gives us the advantage of placing the tool shed in a more discrete location, unaffected by water run-off and preserves the sod purchased with the home.

### **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.**

You will find that the placement of the house is approximately 14 feet off the rear setback. I have been able to research and obtain evidence from the Environmental Health Department that the placement of the septic tank takes precedence over placement of the house. For safety of the public, the septic tank must be placed in good soils. The good soils on Land Lot 49 were in what is now considered the front lawn pushing the house further back on the lot. Due to Coastline Road, an exterior public access road, being in close proximity to the home, about 100 feet behind the house, the setback is set at 75 feet off the property line.



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

The application of these regulations creates a practical difficulty because I don't have any room to build accessory structures in my back yard. A major reason for the purchase of this home for me was the belief that it could be my forever home and that I had room on 1 acre of land to build out additional structures as needed which is a major consideration for most buyers. I was never made aware of these regulations as part of the home buying process and am learning as I go. With these regulations in place, and the house being placed so close to the setback I have unknowingly bought a property where I have little room to make the property mine.

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

a. There are 43 total homes in the Elysian Fields community. Approximately 10 of those homes have long driveways which would lead one to believe they have septic tanks placed in the front of the home as well. Considering my circumstances (front septic placement and 75 foot setback), the following properties are probably affected as well on Elysian Drive: 115,125,135,145, and 155.

**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,**

a. If relief is granted it would not cause substantial detriment to the neighbors, or the public, as these additional structures will still be on the lot in question and still provide adequate spacing between the property line and public access road behind. Additionally, if relief is granted it will not impair the purposes and intent of these regulations because as stated before there will still be clearance between the property line and public access road.

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

a. Along with potentially 4 other neighbors, within the same zoning district and neighborhood, the majority of residents will be allowed to build accessory structures in their back yard because they do not have similar constraints (homes are built with reduced setbacks and their homes do not have as much front yard due to septic placement).

A-729-20

VARIANCE APPLICATION TO THE ZONING BOARD OF APPEALS

PROPERTY OWNERS: Justin Johnson and Andrea Johnson

MAILING ADDRESS: 135 Elision Dr Fayetteville GA 30214

PHONE: (404) 275-5833 E-MAIL: ABUJOHNSON82@yahoo.com

AGENT FOR OWNERS: N/A

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

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

PROPERTY LOCATION: LAND LOT 49 LAND DISTRICT 7th PARCEL 070906004

TOTAL NUMBER OF ACRES OF SUBJECT PROPERTY: 1

ZONING DISTRICT: C-5

ZONING OF SURROUNDING PROPERTIES: \_\_\_\_\_

PRESENT USE OF SUBJECT PROPERTY: \_\_\_\_\_

PROPOSED USE OF SUBJECT PROPERTY: \_\_\_\_\_

(THIS AREA TO BE COMPLETED BY STAFF): PETITION NUMBER: A-729-20

[ ] Application Insufficient due to lack of:

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

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

by Staff: P. B. Date: 6/25/2020

DATE OF ZONING BOARD OF APPEALS HEARING: July 27, 2020

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: \_\_\_\_\_

A 729-20

# 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:

Justin Johnson & Andrea Johnson  
Please Print Names

Property Tax Identification Number(s) of Subject Property: 07-0906-004

(I am) (we are) the sole owner(s) of the above-referenced property. Subject property is located in Land Lot(s) 49 of the 7<sup>th</sup> 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.

Signature of Property Owner 1

135 Elysian Dr. Fayetteville, GA 30804  
Address

Signature of Property Owner 2

135 Elysian Dr. Fayetteville, GA 30804  
Address

Signature of Notary Public

Date

Signature of Notary Public

Date

Signature of Authorized Agent

Address

Signature of Notary Public

Date



**POSTING OF PROPERTY**

**PETITION NO:** A-729-20

**OWNER:** Justin and Andrea Johnson  
135 Elysian Drive  
Fayetteville, GA 30214

**LOCATION:** Land Lot(s) 49 of the 7th District  
Fronts on Elysian Drive & Coastline Drive.

**REQUEST:** 1) Variance to Sec. 110-126. C-S, Conservation Subdivision District, (f) (6) to reduce the side yard setback from 20 feet to 11 feet to allow for the construction of a pergola. 2) Variance to Sec. 110-126. C-S, Conservation Subdivision District, to reduce the rear yard setback from 75 feet (as required by plat) to 65 feet to allow for the construction of a pergola. 3) Variance to Sec. 110-126. C-S, Conservation Subdivision District, to reduce the rear yard setback from 75 feet (as required by plat) to 17 feet to allow for the construction of a shed.

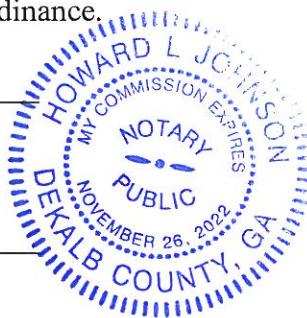
I hereby certify that a sign was posted for the above-referenced application in conformance with Article VII of the Fayette County Zoning Ordinance.

B. Hittman

OFFICIAL

7-10-20

DATE



Sworn to and subscribed before me this

13th day of July, 2020

Howard L. Johnson

NOTARY



Number of signs posted 2.

Date sign posted 7/10/2020

### 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
Sec. 110-126 (F)(6)	Side yard setback of 20'	11 ft to construct a pergola	9 feet
Sec. 110-126 (F)(4)(a)(2)	Front yard setback 75'	65 ft to construct pergola	10 feet
Sec. 110-126 (F)(F)(a)(2)	Front yard setback 75'	17 feet	58 feet

### VARIANCE SUMMARY

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

See Attached

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**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.

See Attached

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

See Attached

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

See Attached

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.

See Attached

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

See Attached

Accessory Structure 1 – Pergola:

We are requesting the variance to add a Pergola to our backyard. This will be a 18' x 18' structure and will be placed 13 feet off the back-right side of the house and 6 feet deep. The material will be wood with shingles that match the house. The location of this structure has been selected as it is the most cost-effective location to place a concrete pad in the back yard due to the grade of the land and direction of water run-off.

Accessory Structure 2 – Tool Shed:

We are also requesting the variance to add a Tool Shed to our backyard. This will be a 20' x 20' structure that will be placed 52 feet from the back of the house. The material will consist of either siding or brick with shingles depending on design guidelines that govern the Community. The location of this structure has been selected it gives us the advantage of placing the tool shed in a more discrete location, unaffected by water run-off and preserves the sod purchased with the home.



1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography.
  - a. You will find that the placement of the house is approximately 14 feet off the rear setback. I have been able to research and obtain evidence from the Environmental Health Department that the placement of the septic tank takes precedence over placement of the house. For safety of the public, the septic tank must be placed in good soils. The good soils on Land Lot 49 were in what is now considered the front lawn pushing the house further back on the lot. Due to Coastline Road, an exterior public access road, being in close proximity to the home, about 100 feet behind the house, the setback is set at 75 feet off the property line.
2. The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship.
  - a. The application of these regulations creates a practical difficulty because I don't have any room to build accessory structures in my back yard. A major reason for the purchase of this home for me was the belief that it could be my forever home and that I had room on 1 acre of land to build out additional structures as needed which is a major consideration for most buyers. I was never made aware of these regulations as part of the home buying process and am learning as I go. With these regulations in place, and the house being placed so close to the setback I have unknowingly bought a property where I have little room to make the property mine.
3. Such conditions are peculiar to the particular piece of property involved.
  - a. There are 43 total homes in the Elysian Fields community. Approximately 10 of those homes have long driveways which would lead one to believe they have septic tanks placed in the front of the home as well. Considering my circumstances (front septic placement and 75 foot setback), the following properties are probably affected as well on Elysian Drive: 115,125,135,145, and 155.
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.
  - a. If relief is granted it would not cause substantial detriment to the neighbors, or the public, as these additional structures will still be on the lot in question and still provide adequate spacing between the property line and public access road behind. Additionally, if relief is granted it will not impair the purposes and intent of these regulations because as stated before there will still be clearance between the property line and public access road.
5. A literal interpretation of this Ordinance would deprive the applicant of any rights that others in the same zoning district are allowed.
  - a. Along with potentially 4 other neighbors, within the same zoning district and neighborhood, the majority of residents will be allowed to build accessory structures in their back yard because they do not have similar constraints (homes are built with reduced setbacks and their homes do not have as much front yard due to septic placement).

**Lawnmaster** Naples 12 ft. x 12 ft.  
Cedar Pergola Pavilion (Shingles not  
Included)

A 729.20







A-729-20



**White Flags represent where the Pergola will be placed:**



**Additional View of where the Pergola will be placed:**





**Back Patio to the fence 52 Feet: Tool Shed door will be at the fence**



**Fence to the Property Line 37.84 Feet, beyond that is a buffer of common area and then Coastline Road:**



## GEORGIA DEPARTMENT OF PUBLIC HEALTH

## APPLICATION FOR CONSTRUCTION PERMIT AND SITE APPROVAL

## For On-Site Sewage Management System

County: Fayette

Permit Number: OSC05602962

Property Address: 135 ELYSIAN DR FAYETTEVILLE, GA 30214

Property Owner: DR Horton

## PRESCRIBED TANK LOCATION / REMARKS:

right, front from house

## PRESCRIBED ABSORPTION FIELD LOCATION:

locate house according to site plan. To be done according to site plan & sketch below utilizing a state approved drainline product that provides for a max. length reduction factor of 35% (length reduction reflected on permit). Dept. was advised by applicant of drainline product preference. Note test hole location below. Keep system 10' from unsleeved portion of water line & 15' from concentrated surface water drainage/swell. Keep drainline 5' from driveway & confined within boundary of soil approved for installation. Primary drainline should be installed in an area that will enable the majority of the replacement drainline to be located in soil area mapped as Cecil.

## GEORGIA DEPARTMENT OF PUBLIC HEALTH

## APPLICATION FOR CONSTRUCTION PERMIT AND SITE APPROVAL

## For On-Site Sewage Management System

County: Fayette

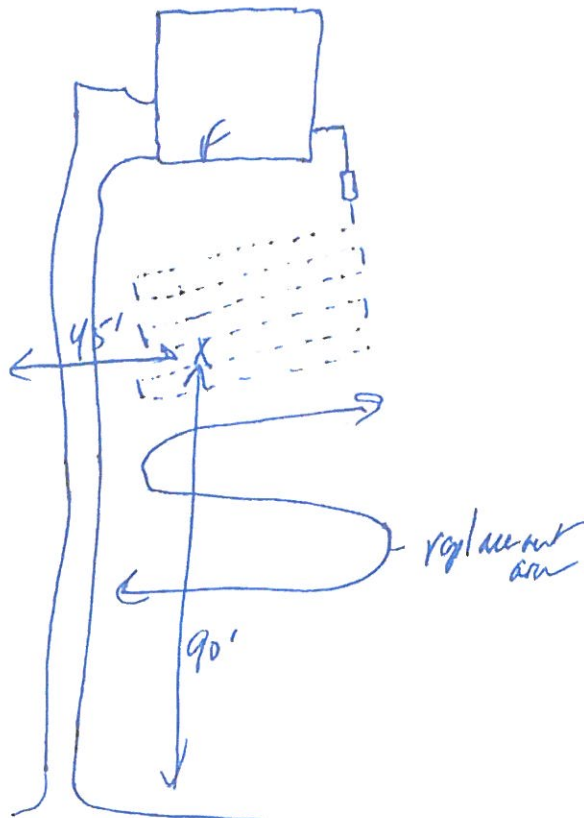
Permit Number: OSC05602962

Property Address: 135 ELYSIAN DR FAYETTEVILLE, GA 30214

Property Owner: DR Horton

## Proposed System Layout/Design:

11/13/18. permit raised from 6 to 5 bedrooms JLC



(X) approx location of  
6.5' test hole

June 16, 2020

To whom it may concern:

We, The Board of Directors for the Elysian Field Home Owners Association, have reviewed the appeal provided by Justin Johnson to build on his property, Lot 4 and Land Lot 49. Currently, the Community Covenant does not have provisions in place to build detached structures of any kind within the Elysian Fields Community. Due to the Environmental Health's placement of the septic tank and health soil, the home on Lot 4 and Land Lot 49 was constructed with only 14 feet off the setback. For this reason, The Board of Directors for the Elysian Fields Home Owners Association supports Justin Johnson's request to Fayette County's Planning and Zoning Commission to be granted clearance to build outside of the 75-foot setback detailed on the foundational survey. The Board of Directors for the Elysian Fields Home Owners Association is not, however, providing an approval to build a detached structure until specifications have been detailed within the Community Covenant to build detached structures within the Elysian Fields Community. Once specifications have been detailed, Mr. Johnson will be required to submit a request for the desired structure to the Board for review. After submission, the Board of Directors reserves the rights to approval or deny the submitted request.

Respectfully,

A handwritten signature in black ink, appearing to read 'Antonio Long', with a large, stylized loop at the end.

Antonio Long, President

Elysian Fields Home owners Association



To whom it may concern,

This letter is to confirm that Mr. Johnson has explained his case, and presented supporting documents. As an immediate neighbor, I am confirming that building the two structures outside of the set-back would not cause any substantial detriment to me or the neighbors of the community. I fully support Mr. Johnson's desire to build the two accessory structures as long as they abide by the design guidelines that govern the Elysian fields community.

A handwritten signature in black ink, appearing to read 'Efrain Tucker', with a stylized, cursive script.

Efrain Tucker

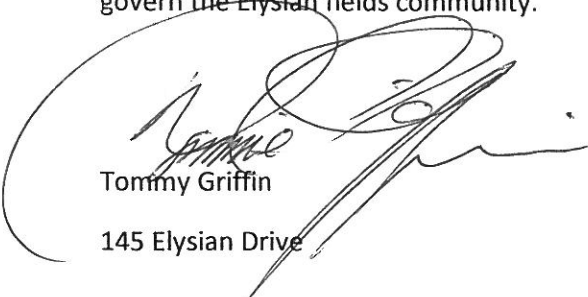
125 Elysian Drive



A-729-20

To whom it may concern,

This letter is to confirm that Mr. Johnson has explained his case, and presented supporting documents. As an immediate neighbor, I am confirming that building the two structures outside of the set-back would not cause any substantial detriment to me or the neighbors of the community. I fully support Mr. Johnson's desire to build the two accessory structures as long as they abide by the design guidelines that govern the Elysian fields community.



Tommy Griffin

145 Elysian Drive

A-729-20

Coastline Road

SUBJECT  
PROPERTY

Elysian Drive



**PETITION NO. A-730-20**  
**Martin Padilla**  
**155 Red Oak Drive**  
**Fayetteville, GA 30214**  
**Public Hearing Date July 27, 2020**

The subject property is located at 155 Red Oak Drive Fayetteville, GA 30214 and is zoned R-40. The applicant is requesting a Variance as follows:

Variance to Section 110-137. R-40 (d) (6), to reduce the side yard setback from 15 feet to 10 feet for the renovation of an existing pool deck and open roof.

**Sec. 110-79.**

**Residential accessory structures and their uses. (k) Swimming pool, pool deck, pool equipment enclosure, and pool screened enclosure.** The pool deck, pool equipment enclosure, and pool screened enclosure shall comply with the required setbacks.

**History:** The Final Plat of Hamilton Square Unit Four was recorded on October 24, 1980. Tax Assessor's records indicate that the house and pool was built in 1980 and the applicant purchased the property in 2016.

As part of the building permit process, a site plan is required. Through the site plan staff discovered the violations. The site plan given shows the proposed pool deck 10 feet from the side yard property line.

**DEPARTMENTAL COMMENTS**

**ENGINEERING:** No Engineering comments for the proposed variance request to reduce the side yard setback.

**ENVIRONMENTAL HEALTH:** No objection to proposed variance.

**ENVIRONMENTAL MANAGEMENT:** No comment.

**FIRE MARSHAL:** Approved.

**WATER SYSTEM:** No comment at this time.

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.**

The pool decking will be a total of 10 feet from the property line as well and the open roof, The reason for this is being is that there was already an existing pool and deck at this same location and all that I will be doing is remodeling my pool and deck, I cannot relocate my pool or deck because on the other side of my yard due to the fact that I have my septic tank system and I cannot have them both in the same location.

## **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.**

The pool decking and open roof will be 10 feet from the property line, all that will be done is remodeling of both pool decking and open roof. These items cannot be relocated due to septic tank system being on the other side of my backyard.

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

The remodeling of the pool deck and open roof will not harm anyone or anything in anyway. The location of these items will remain in the same place being 10 feet from the property line.

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

The sizing of the pool deck and open will be the same but they are being remodeled due to the fact that the pool had a crack which caused it to leak, and the pool deck was cracked in many areas as well and needed to be remodeled to prevent from someone being hurt.

- 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,**

The pool deck and open roof will not be resized nor have new add on , they will only be remodeled to fix cracks in both, the location of the pool deck and open roof will also be in the location being 10 feet from the property line.

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

The remodeling of my pool deck and open roof will be used for my personal use only.



VARIANCE APPLICATION TO THE ZONING BOARD OF APPEALS

PROPERTY OWNERS: Martin Padilla

MAILING ADDRESS: 155 Red Oak Dr Fayetteville GA 30214

PHONE: 610-802-1388 E-MAIL: Martin@marlyseptic-tank-service.com

AGENT FOR OWNERS: \_\_\_\_\_

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

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

PROPERTY LOCATION: LAND LOT 156 LAND DISTRICT 5 PARCEL 053009051

TOTAL NUMBER OF ACRES OF SUBJECT PROPERTY: 1.206

ZONING DISTRICT: R40

ZONING OF SURROUNDING PROPERTIES: R40

PRESENT USE OF SUBJECT PROPERTY: Residential

PROPOSED USE OF SUBJECT PROPERTY: Residential

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(THIS AREA TO BE COMPLETED BY STAFF): PETITION NUMBER: A-730-20

[ ] 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: July 27, 2020

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:

Please Print Names

Property Tax Identification Number(s) of Subject Property: 05 300 9051

(I am) (we are) the sole owner(s) of the above-referenced property. Subject property is located in Land Lot(s) of the 5 District, and (if applicable to more than one land district) Land Lot(s) 156 of the District, and said property consists of a total of 1.206 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.

Signature of Property Owner 1  
155 Red Oak Drive, Fayetteville  
GA 30214

Signature of Property Owner 2  
Address

Signature of Authorized Agent  
Address

Signature of Notary Public  
Date  
Notary Public Seal: DEEY YUKARI IBARRA, COMMISSION EXPIRES MARCH 20, 2023, FAYETTE COUNTY, GEORGIA

Signature of Notary Public  
Date

Signature of Notary Public  
Date

### 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.

Please refer to attachment.

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

Refer to attachment.

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

Refer to attachment

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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.

Refer to attachment

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

Refer to attachment

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### 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.

- The pool Decking will be 10 ft from property line
- A OPEN Roof will be 10 ft from property line  
(Refer to attachment)

### VARIANCE SUMMARY

**Answer:**

The pool decking will be a total of 10 feet from the property line as well and the open roof, the reason for this is being is that there was already an existing pool and deck and this same location and all that I will be doing is remodeling my pool and deck, I can not relocate my pool or deck because on the other side of my yard due to the fact that I have my septic tank system and I can not have them both in the same location.

### JUSTIFICATION REQUEST

**Questions #1 Answer:**

The pool decking and open roof will be 10 feet from the property line, all that will be done is a remodeling of both pool decking and open roof, these items can not be relocated due to our septic tank system being on the other side of my backyard.

**Question #2 Answer:**

The remodeling of the pool deck and open roof will not harm anyone or anything in anyway, The location of these items will remain in the same place being 10 feet from the property line.

**Question #3 Answer:**

The sizing of the pool deck and open roof will be the same but they are being remodeled due to the fact that the pool had a crack which caused it to leak, and the pool deck was cracked in many areas as well and needed to be remodeled to prevent from someone being hurt.

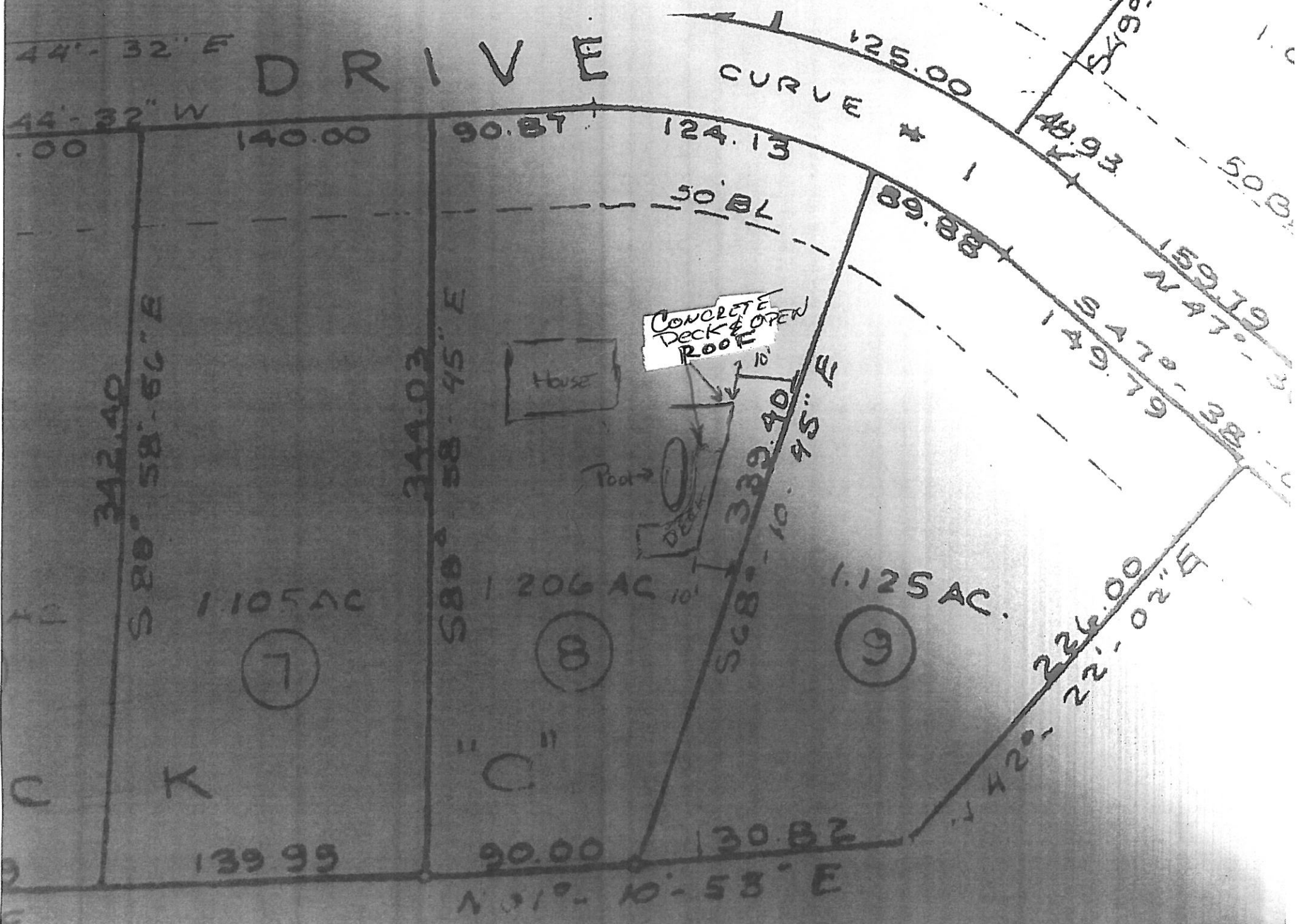
**Question #4 Answer:**

The pool deck and open roof will not be resized nor have new add on, they will only be remodeled to fix cracks in both, the location of the pool deck and open roof will also be in the location being 10 feet from the property line.

**Question #5 Answer:**

The remodeling of my pool deck and open roof will be used for my personal use only.

Concept A-730-20





A-730-20

**SUBJECT  
PROPERTY**

Red Oak Drive





**PETITION NO. A-731-20**  
**Andrew and Cindy Schultz**  
**200 Hammock Bay Drive**  
**Fayetteville, GA 30215**  
**Public Hearing Date July 27, 2020**

The subject property is located at 200 Hammock Bay Drive Fayetteville, GA 30215 and is zoned R-40. The applicant is requesting a Variance as follows:

1. Variance to Section 110-137. R-40 (d) (4) (b), to reduce the front yard setback from 40 feet to 20 feet for the construction of a detached garage.
2. Variance to Section 110-79. Residential accessory structures and their uses (e) (2) when a residential accessory structure is located in a secondary front yard adjacent to a street that is designated as an Internal Local the required setback increase of 20 feet will not apply.

**Section 110-3. Definition.**

**Lot, corner,** means a lot located at the intersection of two or more streets.

**Yard, primary front,** means, on a corner lot, the area parallel to the street between a property line adjacent to a street and the principle structue front, extending the full width of a lot.

**Yard, secondary front,** means, on a corner lot, the area parallel to the street between a property line adjacent to a street and the principal structure outside of the primary front yard.

**Section 110-79. Residential accessory structures and their uses. (3)(e)**

On a **corner lot**, the area between the streets and the front building lines shall be treated as a primary front yard or secondary front yard(s) with regard to the location of residential accessory structures.

**History:** The Final Plat of Hammock Bay at Lake Horton was recorded on February 13, 2007. Tax Assessor's records indicate that the house was built in 2016 and the applicant purchased the property in 2017.

As part of the building permit process, a site plan is required. Through the site plan staff discovered the violations. The site plan given shows the proposed residential accessory structure is 20 feet from the secondary front yard property line.

## **DEPARTMENTAL COMMENTS**

**ENGINEERING:** There are no Engineering issues with the requested front yard setback.

**ENVIRONMENTAL HEALTH:** Department has no issues with proposed variance.

**ENVIRONMENTAL MANAGEMENT:** No comment.

**FIRE MARSHAL:** Approved.

**WATER SYSTEM:** No comment at this time.

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.**

Andrew and Cindy Schultz request a variance of the setback on the north property line to 20 feet. This will allow placement of an out-building with the dimensions of 32' long and 24' wide.

The setback is currently 40 feet from the property line. This current setback would place the out-building directly behind the house and disrupt the site lines of the backyard and would significantly increase the cost of the build (due to the concrete to the new building) financial setback due to additional concrete. Additionally, the owners are planning a deck/patio in the back aspect of the house to extend an outdoor living area (which would essentially sit in the proposed outbuilding space). Additionally, if the out-building is placed with the current setbacks this proposed deck/patio would have impeded views of the backyard

One of the beautiful features of this house is the very large flat backyard area which allows the children to play without obstructions from view or activity. This building would also provide much needed privacy for the rear of the house from the public right-of-ways.

## 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.**

Due to property being at the entrance of the subdivision, the ordinance states there shall be two (2) front yards requiring a setback to be 40 feet in the front yard and side yard. The area in this yard is the North and West line of the property. The driveway comes in on the north side of the house. If the setback is adhered to the new outbuilding would have to sit directly behind the house significantly reducing the amount of usable space in the backyard.

The construction of the property within the current setback lines would place the out-building within the main part of the backyard where the elevation decreases from the north side the property to the south side by approximately 3+ feet. This would cause potential flooding due to runoff from the front yard and house.

The proposed position for the new out-building would be directly in line with the current driveway. This would create most common sense of flow from the garage to the new outbuilding and it would not obstruct any site-lines from the house for child safety.

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

The construction of the property within the current setback lines would place the out-building with the main part of the backyard where the amount of concrete that would have to poured would significantly increase the cost of the project and place the outbuilding in the proposed future patio in the rear of the house.

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

Due to the property being at the entrance of the subdivision there are “2 front yards.” This causes an excessive setback on the north aspect of the yard of 40 feet versus the traditional side yard of 15 feet. Additionally, this imposes an unfair requirement that the majority of the homeowners in the subdivision do not have to contend with.

**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,**

The current HOA, which are resident board members, have approved the construction of the out-building according to the HOA bylaws. The out-building will match the house in appearance,



elevation, and in dimension. (Please refer to email from the HOA board approving construction of the out-building).

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

Due to the particular shape of this property, its location at the front of the subdivision, and with its current setback of 40 feet; it is not reasonable to place an out building within these parameters that would make logical sense. With the position of the house and driveway the flow to the out-building makes most sense to be placed in-line with the current driveway.

The majority of the properties in this subdivision have side setbacks of the 15 feet that would allow them to place an out-building in-line with their driveway creating direct access to an outbuilding, which we are currently deprived of within the aforementioned parameters.

VARIANCE APPLICATION TO THE ZONING BOARD OF APPEALS

PROPERTY OWNERS: Andrew and Cindy Schultz  
MAILING ADDRESS: 200 Hammock Bay Dr, Fayetteville, GA 30215  
PHONE: (951) 972-7925 E-MAIL: andrew.schultz20@gmail.com  
AGENT FOR OWNERS: self  
MAILING ADDRESS: N/A  
PHONE: N/A E-MAIL: N/A  
PROPERTY LOCATION: LAND LOT ~~280~~ 184 LAND DISTRICT 4th PARCEL 043304001  
TOTAL NUMBER OF ACRES OF SUBJECT PROPERTY: 1.025 acres  
ZONING DISTRICT: R-40  
ZONING OF SURROUNDING PROPERTIES: R-40 + A-R  
PRESENT USE OF SUBJECT PROPERTY: Residential  
PROPOSED USE OF SUBJECT PROPERTY: Residential

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(THIS AREA TO BE COMPLETED BY STAFF): PETITION NUMBER: A-731-20

☐ 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: July 27, 2020

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: \_\_\_\_\_

A-731-20

## 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:

Andrew and Cindy Schultz  
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 4<sup>th</sup> District, and (if applicable to more than one land district) Land Lot(s) 184 of the District, and said property consists of a total of 1.025 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.

Andrew M. Schultz  
Signature of Property Owner 1  
NOTARY PUBLIC  
Fayette County, GEORGIA  
My Comm. Expires 06/15/2021

[Signature]  
Signature of Notary Public

200 HAMMOCK BAY DR, FAYETTEVILLE, GA  
Address

06/18/2020  
Date

Cindy P. Schultz  
Signature of Property Owner 2  
NOTARY PUBLIC  
Fayette County, GEORGIA  
My Comm. Expires 06/15/2021

[Signature]  
Signature of Notary Public

200 HAMMOCK BAY FAYETTEVILLE, GA  
Address

06/18/2020  
Date

\_\_\_\_\_  
Signature of Authorized Agent

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Address

\_\_\_\_\_  
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.

*See Attached Form*

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### 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.

See Attached form

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

See Attached form

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

See Attached form

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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.

See Attached Form

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

See Attached Form

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### **Variance Summary**

Andrew and Cindy Schultz request a variance of the setback on the north property line to 20 feet. This will allow placement of an out building with the dimensions of 32' long and 24' wide.

The setback is currently 40 feet from the property line.

This current setback would place the out-building directly behind the house and disrupt the site lines of the backyard and would significantly increase the cost of the build (due to the amount of additional concrete required to bridge the existing concrete to the new building) financial setback due to additional concrete. Additionally, the owners are planning a deck/patio in the back aspect of the house to extend an outdoor living area (which would essentially sit in the proposed outbuilding space). (additionally) If the out-building is placed within the current setbacks this proposed deck/patio would have impeded views to the backyard.

One of the beautiful features of this house is the very large flat backyard area which allows the children to play without obstructions from view or activity. This building would also provide much needed privacy for the rear of the house from the public right of ways.

### **Justification of Request to**

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

Due to property being at the entrance of the subdivision, the ordinance states there shall be two front yards requiring a setback to be 40 feet in the front yard and side yard. The area in this yard is the North and West line of the property. The driveway comes in on the north side of the house. If the setback is adhered to the new outbuilding would have to sit directly behind the house significantly reducing the amount of usable space in the backyard.

The construction of the property within the current setback lines would place the out-building within the main part of the backyard where the elevation decreases from the north side of the property to the south side by approximately 3+ feet. This would cause potential flooding due to runoff from the front yard and house.

The proposed position for the new out-building would be directly in line with the current driveway. This would create the

most common sense of flow from the garage to the new out-building and it would not obstruct any site-lines from the house to the backyard or from the backyard to the house for child safety.

A-731 20

#2 The implications regulations of this particular piece of property would create a practical difficulty or unnecessary hardship.

àThe construction of the property within the current setback lines would place the out-building within the main part of the backyard where the amount of concrete that would have to poured would significantly increase the cost of the project and place the outbuilding in the proposed future patio in the rear of the house.

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

àDue to the property being at the entrance of the subdivision there are "2 front yards." This causes an excessive setback on the north aspect of the yard of 40 feet versus the traditional side yard of 15 feet. Additionally, this imposes an unfair requirement that the majority of the homeowners in the subdivision do not have to contend with.

#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.

àThe current HOA, which are resident board members, have approved the construction of the out building according to the HOA bylaws. The out-building will match the house in appearance, elevation, and in dimension. (Please refer to email from the HOA board approving construction of the out-building.)

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

àDue to the particular shape of this property, its location at the front of the subdivision, and with its current setback of 40 feet; it is not reasonable to place an out building within these parameters that would make logical sense. With the position of the house and driveway the flow to the out-building makes most sense to be placed in-line with the current driveway.

The majority of the properties in this subdivision have side setbacks of 15 feet that would allow them to place an out-building in-line with their driveway creating direct access to an outbuilding, which we are currently deprived of within the

aforementioned parameters.

A-731-20



**S.A. GASKINS  
& ASSOCIATES, LLC.**  
SURVEYORS PLANNERS DEVELOPMENT CONSULTANTS  
P.O. BOX 321 Brooks, Ga. 30205  
rdgaskins79@gmail.com 678-571-3054 JOHN 3:16



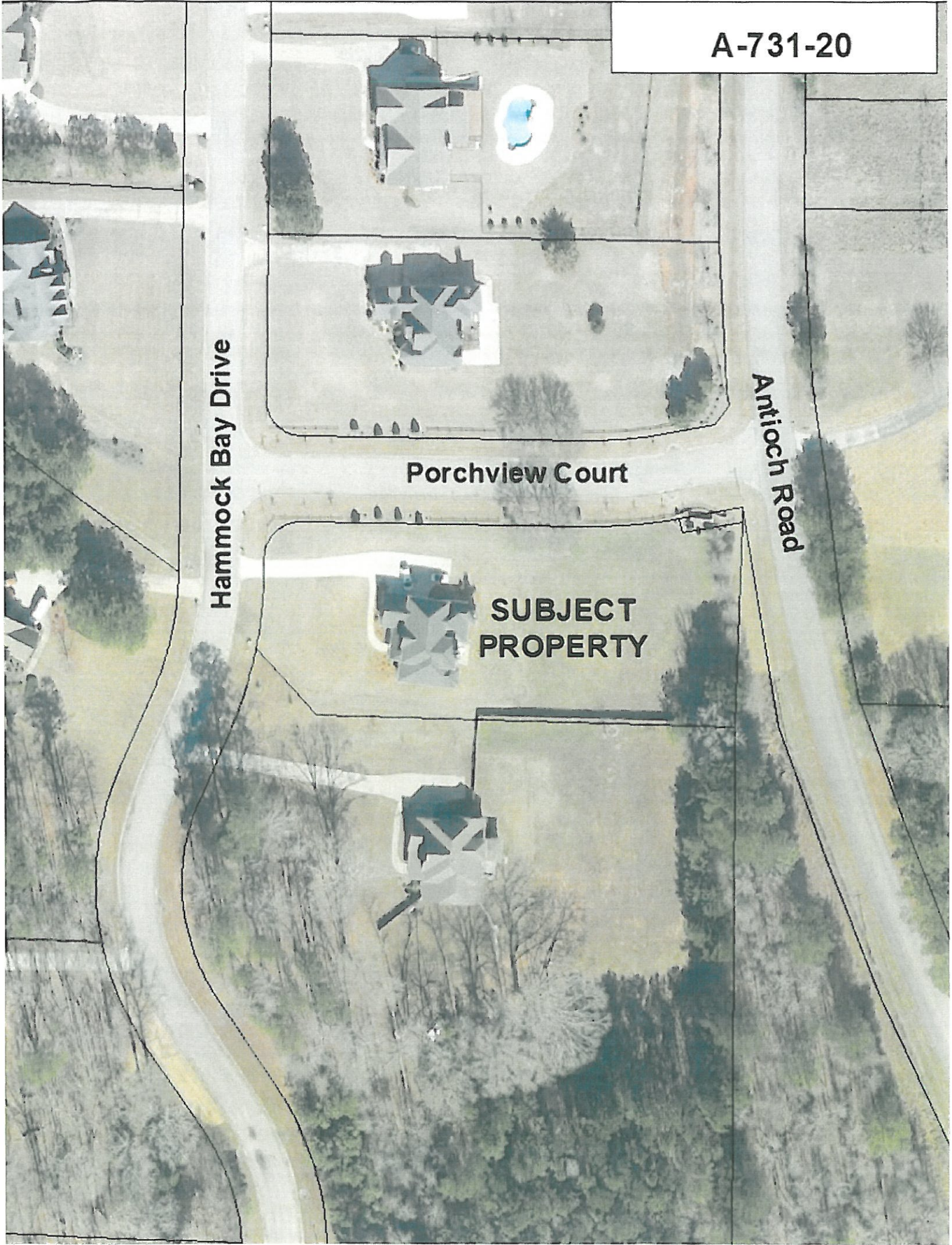
A-731-20

Hammock Bay Drive

Porchview Court

Antioch Road

**SUBJECT  
PROPERTY**





**PETITION NO. A-732-20**  
**Dawn Scarbrough**  
**West of 406 Snead Road (Parcel # 0440015)**  
**Fayetteville, GA 30215**  
**Public Hearing Date July 27, 2020**

The subject property is located west of 406 Snead Road (Parcel No. 0440015) Fayetteville, GA 30215 and is zoned A-R. The applicant is requesting a Variance as follows:

1. Variance to Section 110-242 (h), Request for an illegal lot to be deemed a nonconforming lot, due to the lot having less road frontage than is required for its zoning to be a nonconforming lot.

**Section 110-242. Powers and duties.**

- (h) **Request for an illegal lot to be deemed a nonconforming lot.** The zoning board of appeals may deem, upon appeal in specific cases, an illegal lot which is smaller than the minimum lot size for its zoning district, more narrow than the minimum lot width required for its zoning district, or has less road frontage than is required for its to be a nonconforming lot. The zoning board of appeals shall employ the following factors for an illegal lot seeking to be deemed a nonconforming lot:
- (1) The transaction giving the appellant/petitioner ownership in the subject property was more than five years from the date of the appeal/petition or if the period of ownership is less than five years the subject property was made illegal more than ten years from the date of the appeal/petition;
  - (2) The appellant/petitioner is not the person, or an immediate family member of the person, who caused the subject property to be an illegal lot. For purposes of these procedures, "immediate family" is defined as the spouse, child, sibling, parent, step-child, step-sibling, step-parent, grandparent, grandchild, aunt, uncle, niece or nephew of the person who caused the subject property to be an illegal lot; and
  - (3) No adjacent property is available to add to the subject property to allow the subject property to meet the minimum requirements for its zoning district. In determining whether adjacent property is available, if adding any adjacent property to the subject property would no longer allow the adjacent property to meet the minimum requirements of the adjacent property's zoning district, then the adjacent property is not available. Additionally, any adjacent property which is part of an illegal lot shall not be deemed available for purposes of these variance procedures, unless the adjacent illegal lot is unimproved and the entirety of the adjacent illegal lot is combined with the subject property. If adjacent property is available, the cost of acquiring the adjacent property shall not be a factor in determining the availability of the adjacent property.

**History:** Amendments to Section 110-242 (h) of the Zoning Ordinance, approved on May 28, 2020 by the Board of Commissioners, now allows an applicant to request that an unimproved illegal lot be deemed a nonconforming lot by the Zoning Board of Appeals. Prior to the amendment, only improved illegal lots could apply for this procedure.

Tax Assessor's records indicate that the applicant purchased the property in 2015 and the deed refers to a survey that was done in 2015.

## **DEPARTMENTAL COMMENTS**

**ENGINEERING:** No Engineering issues with request to be deemed a nonconforming lot due to road frontage.

**ENVIRONMENTAL HEALTH:** Department has no objection to the proposed variance.

**ENVIRONMENTAL MANAGEMENT:** No comment on A-732-20.

**FIRE MARSHAL:** Approved.

**WATER SYSTEM:** No comment on this petition at this time.

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 purchased this property on 8/3/2015, assuming it was a legal lot even though it had less than 100' of road frontage. I honestly thought I had either called or emailed the zoning department to confirm this, but I have not been able to locate any proof of this. I incorrectly assumed it could still be used to construct one home since it had a parcel number and since I'm aware of other such properties that have homes but less than 100' of road frontage. My sister lives on such a lot on Bankstown Road.

In 2020 I discovered that the property is not a legal lot due to the road frontage and was not eligible for a variance due to the date the lot was "created" and due to it being an unimproved lot. This lot was apparently "created" when surrounding land was sold off over the years leaving this odd-shaped parcel as the remaining piece of the original Mclean lands: originally 88.057 acres, PB 1 /162 from 1958.

- 1) 9.378 ac sold 1995, deed 996/144
- 2) 10.5 ac sold 2003, deed 2160/ 109
- 3) 8.66 ac sold 2003, deed 2399/574
- 4) 7.8 ac sold 2004, deed 2569/549
- 5) 5 ac sold 2004, deed 2610/32
- 6) 6.042 ac sold 2005, deed 2731 /721
- 7) 5.14 ac sold 2006, deed 3017 /61

## JUSTIFICATION OF REQUEST

1. **The transaction giving the appellant/petitioner ownership in the subject property was more than five years from the date of the appeal/petition or if the period of ownership is less than five years the subject property was made illegal more than ten years from the date of the appeal/petition;**

I purchased the property on 8/3/2105, so slightly less than five years ago. However, this property was created by the formation of surrounding properties with the last adjoining parcels being created in 2004, so technically my property was created more than ten years ago.

2. **The appellant/petitioner is not the person, or an immediate family member of the person, who caused the subject property to be an illegal lot. For purposes of these procedures, "immediate family" is defined as the spouse, child, sibling, parent, step-child, step-sibling, step-parent, grandparent, grandchild, aunt, uncle, niece or nephew of the person who caused the subject property to be an illegal lot; and**

I am not related to any of the persons involved with the creation of this lot. I had nothing to do with the creation of this lot.

3. **No adjacent property is available to add to the subject property to allow the subject property to meet the minimum requirements for its zoning district. In determining whether adjacent property is available, if adding any adjacent property to the subject property would no longer allow the adjacent property to meet the minimum requirements of the adjacent property's zoning district, then the adjacent property is not available. Additionally, any adjacent property which is part of an illegal lot shall not be deemed available for purposes of these variance procedures, unless the adjacent illegal lot is unimproved and the entirety of the adjacent illegal lot is combined with the subject property. If adjacent property is available, the cost of acquiring the adjacent property shall not be a factor in determining the availability of the adjacent property.**

The adjacent properties cannot be used to increase the road frontage of my lot because one (406 Snead) is also a flag-shaped lot with only 100.1 4' of road frontage, and the other being exactly five acres (or slightly less), which is the minimum lot size for AR zoning.

A-732-20

**ILLEGAL LOT VARIANCE APPLICATION TO THE ZONING BOARD OF APPEALS**

PROPERTY OWNERS: DAWN SCARBROUGH

MAILING ADDRESS: 518 MAIN ST., PALMETTO, GA 30268

PHONE: 678-429-2903 E-MAIL: dawnscarbrough@remax.net

AGENT FOR OWNERS: N/A

MAILING ADDRESS: 518 MAIN ST., PALMETTO, GA 30268

PHONE: 678-429-2903 E-MAIL: dawnscarbrough@remax.net

PROPERTY LOCATION: LAND LOT 187+ LAND DISTRICT 4th PARCEL       

TOTAL NUMBER OF ACRES OF SUBJECT PROPERTY: 33.97

ZONING DISTRICT: AR

ZONING OF SURROUNDING PROPERTIES: AR & R-20

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(THIS AREA TO BE COMPLETED BY STAFF): PETITION NUMBER: A-732-20

[ ] 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: July 27, 2020

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: \_\_\_\_\_



A-782-20

# 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:

**DAWN SCARBROUGH**

Please Print Names

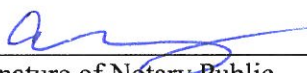
Property Tax Identification Number(s) of Subject Property: **0440 015**

**(I am) (we are)** the sole owner(s) of the above-referenced property and 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.

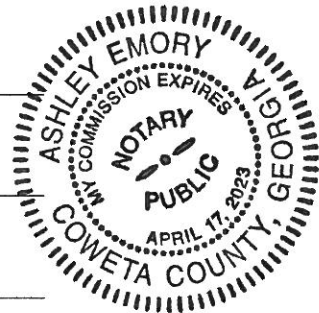
**(I) (We)** certify that all of the information filed with this application including written statements or showings made in any paper or plans submitted herewith are true and correct to the best of **(my) (our)** knowledge and belief. Further, **(I) (We)** understand that this application, attachments 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

**518 Main St., Palmetto GA 30268**  
Address

  
Signature of Notary Public

**6/18/20**  
Date



Signature of Property Owner 2

Signature of Notary Public

Address

Date

Signature of Authorized Agent

Signature of Notary Public

Address

Date

## ILLEGAL LOT VARIANCE INFORMATION

### VARIANCE SUMMARY

Provide a summary of the request.

SEE ATTACHED

### FACTORS FOR CONSIDERATION

1. The transaction giving the appellant/petitioner ownership in the subject property was more than five years from the date of the appeal/petition or if the period of ownership is less than five years the subject property was made illegal more than ten years from the date of the appeal/petition;

SEE ATTACHED

2. The appellant/petitioner is not the person, or an immediate family member of the person, who caused the subject property to be an illegal lot. For purposes of these procedures, "immediate family" is defined as the spouse, child, sibling, parent, step-child, step-sibling, step-parent, grandparent, grandchild, aunt, uncle, niece or nephew of the person who caused the subject property to be an illegal lot; and

SEE ATTACHED

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- 
- 
3. No adjacent property is available to add to the subject property to allow the subject property to meet the minimum requirements for its zoning district. In determining whether adjacent property is available, if adding any adjacent property to the subject property would no longer allow the adjacent property to meet the minimum requirements of the adjacent property's zoning district, then the adjacent property is not available. Additionally, any adjacent property which is part of an illegal lot shall not be deemed available for purposes of these variance procedures, unless the adjacent illegal lot is unimproved and the entirety of the adjacent illegal lot is combined with the subject property. If adjacent property is available, the cost of acquiring the adjacent property shall not be a factor in determining the availability of the adjacent property.

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SEE ATTACHED

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#### CHECKLIST OF ITEMS REQUIRED TO BE SUBMITTED

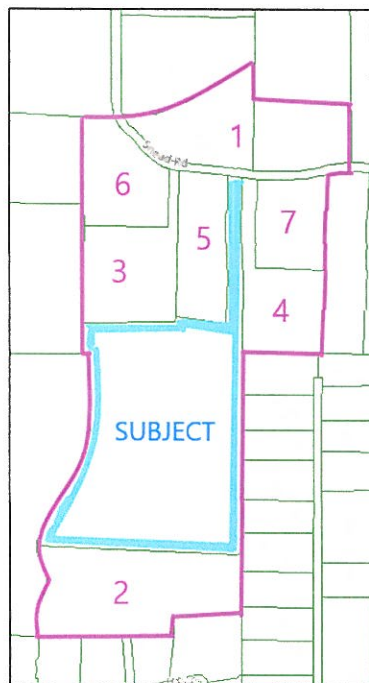
- ☒ 1. Application form and all required attachments, completed, signed, and notarized (if applicable).
- ☒ 2. Copy of latest recorded deed, including legal description of the boundaries of the subject property.
- ☒ 3. Fifteen (15) copies of the survey plat of the property (if larger than 11" x 17"), drawn to scale with accurate dimensions, including total acreage
- ☒ 4. Application filing fee.



## VARIANCE SUMMARY:

I purchased this property on 8/3/2015, assuming it was a legal lot even though it had less than 100' of road frontage. I honestly thought I had either called or emailed the zoning department to confirm this, but I have not been able to locate any proof of this. I incorrectly assumed it could still be used to construct one home since it had a parcel number and since I'm aware of other such properties that have homes but less than 100' of road frontage. My sister lives on such a lot on Bankstown Road.

In 2020 I discovered that the property is not a legal lot due to the road frontage and was not eligible for a variance due to the date the lot was "created" and due to it being an unimproved lot. This lot was apparently "created" when surrounding land was sold off over the years leaving this odd-shaped parcel as the remaining piece of the original McLean lands:



originally 88.057 acres, PB1/162 from 1958

- 1) 9.378 ac sold 1995, deed 996/144
- 2) 10.5 ac sold 2003, deed 2160/109
- 3) 8.66 ac sold 2003, deed 2399/574
- 4) 7.8 ac sold 2004, deed 2569/549
- 5) 5 ac sold 2004, deed 2610/32
- 6) 6.042 ac sold 2005, deed 2731/721
- 7) 5.14 ac sold 2006, deed 3017/61

## FACTORS FOR CONSIDERATION:

- 1) I purchased the property on 8/3/2015, so slightly less than five years ago. However, this property was created by the formation of surrounding properties with the last adjoining parcels being created in 2004, so technically my property was created more than ten years ago.
- 2) I am not related to any of the persons involved with the creation of this lot. I had nothing to do with the creation of this lot.
- 3) The adjacent properties cannot be used to increase the road frontage of my lot because one (406 Snead) is also a flag-shaped lot with only 100.14' of road frontage, and the other being exactly five acres (or slightly less), which is the minimum lot size for AR zoning.



# SUBJECT PROPERTY

OWNER:

SITE ADDRESS: SNEAD ROAD, FAYETTEVILLE, GA 30215

AREA: 33.97 ACRES ±

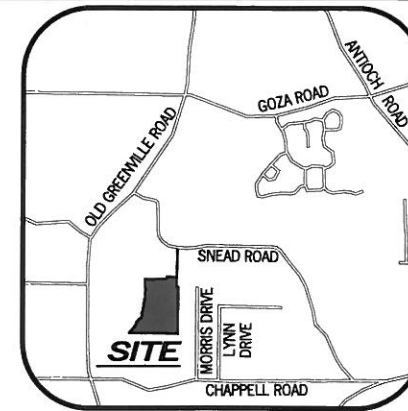
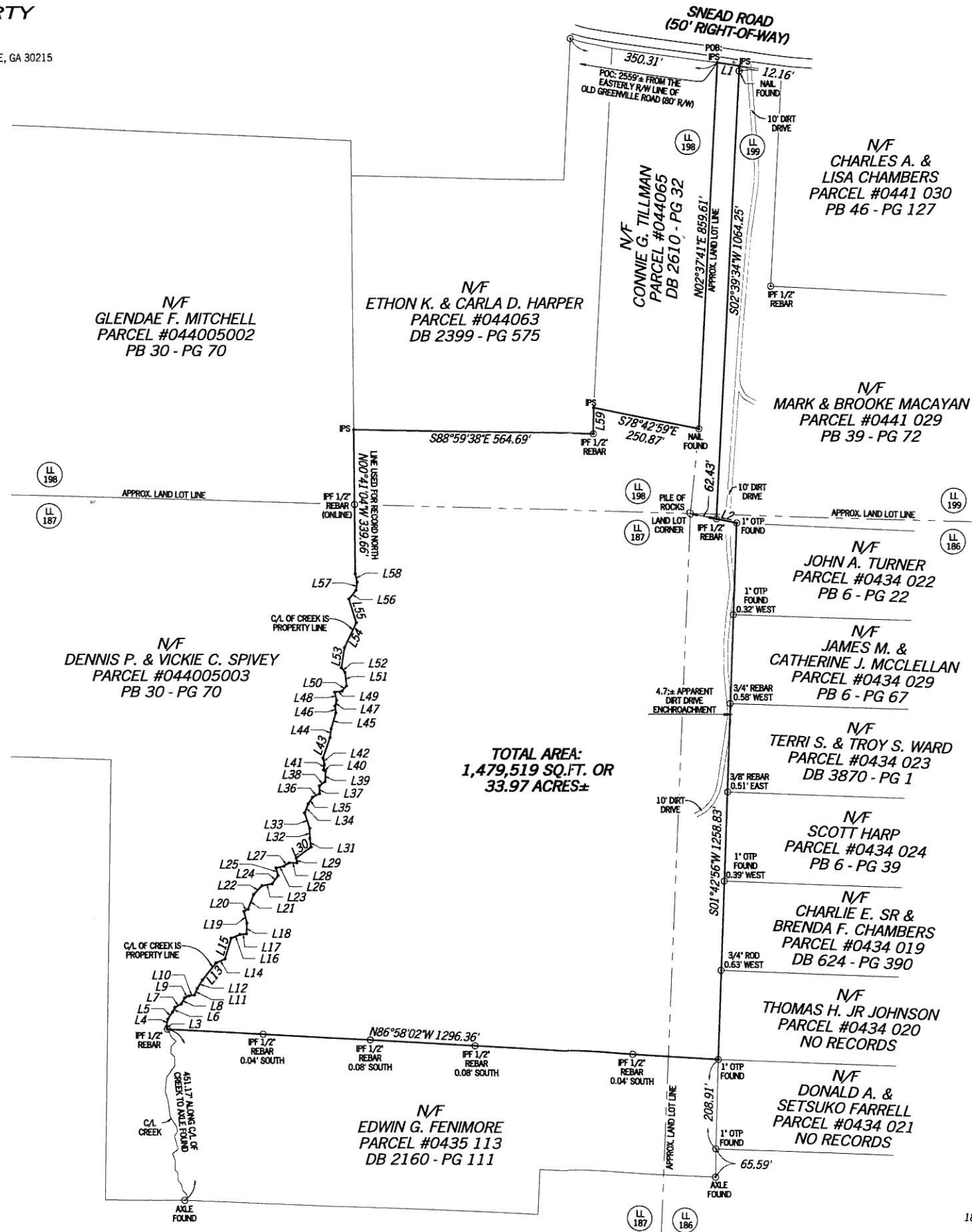
REFERENCE: DEED BOOK 624 - PAGE 390  
DEED BOOK 2160 - PAGE 111  
DEED BOOK 2399 - PAGE 575  
DEED BOOK 2610 - PAGE 32  
DEED BOOK 3870 - PAGE 1  
PLAT BOOK 1 - PAGE 162  
PLAT BOOK 6 - PAGE 20  
PLAT BOOK 6 - PAGE 22  
PLAT BOOK 6 - PAGE 39  
PLAT BOOK 6 - PAGE 67  
PLAT BOOK 7 - PAGE 161  
PLAT BOOK 30 - PAGE 70  
PLAT BOOK 39 - PAGE 72  
PLAT BOOK 46 - PAGE 127

## LINE TABLE

LINE	BEARING	DISTANCE
L1	S81°34'42"E	52.51'
L2	S78°43'04"E	48.25'
L3	N15°18'46"W	7.20'
L4	N09°10'20"E	16.42'
L5	N33°54'10"E	20.63'
L6	N28°00'37"E	12.16'
L7	N60°41'04"E	16.66'
L8	N28°45'21"E	16.34'
L9	N66°15'58"E	11.03'
L10	N81°27'04"E	12.98'
L11	N24°04'19"E	17.10'
L12	N31°18'16"E	23.03'
L13	N38°10'06"E	50.75'
L14	N66°12'58"E	22.40'
L15	N16°35'26"E	50.84'
L16	N66°51'28"E	22.37'
L17	N84°38'48"E	14.96'
L18	N02°35'22"E	25.42'
L19	N14°50'47"W	28.09'
L20	N60°48'02"E	10.98'
L21	N21°04'37"E	37.21'
L22	N43°01'31"E	28.15'
L23	N79°53'34"E	24.09'
L24	N35°51'58"E	23.60'
L25	N15°24'34"W	18.70'
L26	N77°28'33"E	18.79'
L27	N56°19'02"E	14.16'
L28	N89°10'33"E	18.32'
L29	N06°23'15"W	11.58'
L30	N53°14'24"E	42.40'
L31	N07°41'05"W	20.53'
L32	N00°43'59"W	23.66'
L33	N18°21'15"W	37.58'
L34	N21°23'27"E	23.47'
L35	N32°23'22"E	17.85'
L36	N61°44'40"E	18.90'
L37	N02°08'49"W	17.77'
L38	N51°40'09"E	17.07'
L39	N01°42'26"E	24.12'
L40	N55°37'07"W	5.41'
L41	N10°28'36"E	12.48'
L42	N13°40'52"W	16.04'
L43	N18°37'20"E	50.83'
L44	N06°58'07"E	20.99'
L45	N16°33'35"E	39.08'
L46	N07°40'42"W	15.90'
L47	N15°38'36"E	14.02'
L48	N13°18'27"W	19.72'
L49	N82°38'10"E	17.20'
L50	N40°09'18"E	16.46'
L51	N06°33'06"W	31.68'
L52	N37°55'35"W	14.15'
L53	N08°52'12"E	47.69'
L54	N25°12'57"E	64.71'
L55	N17°14'36"W	58.77'
L56	N38°44'20"E	26.23'
L57	N08°41'55"E	19.28'
L58	N13°10'59"W	20.30'
L59	N00°31'55"E	61.61'

## LEGEND

POB POINT OF BEGINNING  
POC POINT OF COMMENCEMENT  
IPS IRON PIN SET  
IPF IRON PIN FOUND  
OTF OPEN TOP PIPE  
EP EDGE OF PAVEMENT  
N/F NOW OR FORMERLY  
R/W RIGHT-OF-WAY  
LL LAND LOT  
C/L CENTERLINE  
PB PLAT BOOK  
DB DEED BOOK  
PG PAGE



VICINITY MAP  
NOT TO SCALE

## GENERAL NOTES

THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF A TITLE REPORT WHICH MAY REVEAL ADDITIONAL CONVEYANCES, EASEMENTS, OR RIGHTS-OF-WAY NOT SHOWN HEREON.

EQUIPMENT USED FOR ANGULAR & LINEAR MEASUREMENTS: LEICA TCRA 1103 ROBOTIC (DATE OF LAST FIELD VISIT: JULY 8, 2015)

THE FIELD DATA UPON WHICH THIS SURVEY IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 32,497 FEET AND AN ANGULAR ERROR OF 0.3" PER ANGLE POINT AND WAS NOT ADJUSTED.

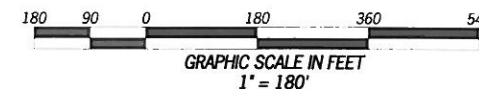
THE PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE TO WITHIN ONE FOOT IN 1,138,535 FEET.

BEARINGS SHOWN ON THIS SURVEY ARE FROM RECORD NORTH. (PLAT BOOK 30 - PAGE 70)

NO PORTION OF THIS PROPERTY IS LOCATED IN A SPECIAL FLOOD AREA (ZONE X) AS PER F.L.R.M. COMMUNITY PANEL NO. 13113 C 0155 E DATED SEPTEMBER 26, 2008.

THIS SURVEY WAS PREPARED IN CONFORMITY WITH THE TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN CHAPTER 180-7 OF THE RULES OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN THE GEORGIA PLAT ACT O.C.G.A. 15-6-67.

CERTIFICATE OF AUTHORIZATION: LSF001206



RELEASE DESCRIPTION

DATE:

A BOUNDARY SURVEY PREPARED FOR:

DAWN  
SCARBROUGH

A BOUNDARY SURVEY PREPARED BY:

S&W LAND  
SURVEYORS, LLC  
PROPERTY MANAGEMENT SPECIALIST  
1115 Fairview Road  
Brooks, Georgia 30205  
(p) 404.798.2003

LAND LOTS: 186,187,198 & 199

DISTRICT: 4TH

SECTION: N/A

CITY: (UNINCORPORATED)

COUNTY: FAYETTE

STATE: GEORGIA

DATE: JULY 10, 2015

DRAWN BY: NDW

CHKD BY: SDW

APPROVED BY: RDM

JOB #: 2015.128

SHEET NUMBER:

1

OF 1 SHEETS



A-732-20

SUBJECT  
PROPERTY

Snead Road

Old Greenville Road

Morris Drive

Hall Place

Chappell Road

