

BOARD OF APPEALS

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

STAFF

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

AGENDA

**Fayette County Zoning Board of Appeals
Fayette County Administrative Complex
Public Meeting Room
June 28, 2021
7:00 P.M.**

1. Consideration of the Minutes of the Meeting held on May 24, 2021

PUBLIC HEARING

2. Petition No. A-764-21, Orlando A. Battle, Sr, Owner, and Tina Battle, Agent, request the following: Variance to Sec. 110-79. Accessory structures and uses, (g) Architectural standards, to allow for the construction of a metal accessory structure with vertical pattern siding, as opposed to the required horizontal pattern. The subject property is located in Land Lot 43 of the 5th District and fronts on Middlebury Court.
3. Petition No. A-765-21, Larry and Alyson Otto, Owners, request the following: Variance to Sec. 110-125. A-R, (d) (6) to reduce the side yard setback from 50 feet to 40 feet to allow an existing carport to remain. The subject property is located in Land Lot 163 of the 4th District and fronts on Old Highway 85.

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-764-21
Orlando A. Battle Sr.
160 Middlebury Court
Fayetteville, GA 30215
Public Hearing Date June 28, 2021

The subject property is located at 160 Middlebury Court, Fayetteville, GA 30215 and is zoned R-20. The applicant is requesting a Variance as follows:

- 1) Variance to Sec. 110-79 Accessory structures and uses, (g) Architectural standards, to allow for the construction of a metal accessory structure with vertical pattern siding, as opposed to the required horizontal pattern.

History: The Final Plat for Bailey Oaks Phase 2 was recorded on October 21, 1995. Tax Assessor's records indicate that the house was built in 1997 and the applicant purchased the property in 2017.

As part of the permitting process, a site plan and construction plans are required. Through the review process staff discovered the violation. The construction plans given shows the proposed metal accessory structure with vertical siding.

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.

Requesting approval of barn-shed and with a vertical pattern siding with electric power for purpose of exercise room, some storage and part she-shed. Barn-shed provides excellent curb appeal and adds value to property.

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.**

Barn-shed allows property to maintain architectural character and appeal consistent with residential structure.

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

Yes the regulation would create an unnecessary hardships as the barn-shed is an improvement to the property and the landscape beautification intentions.

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

Regulations are peculiar as the metal barn-shed withstands environmental better, long; maintains color and sharpness than wood siding residence exterior painted-but scheduled for repainting to maintain consistent architectural façade.

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,**

Neighbors are excited about the barn-shed and have requested information to obtain similar barn-shed for their property – relief would not cause detriment.

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

Ordinance is creating conflict by depriving us of the ability to improve residence and keep neighborhood looking pristine, clean, and free of junk and debris in yard to include lawn maintenance equipment.

DEPARTMENTAL COMMENTS

ENGINEERING: No comments.

ENVIRONMENTAL HEALTH: This Dept. has no objections to proposed variance.

ENVIRONMENTAL MANAGEMENT: No comments.

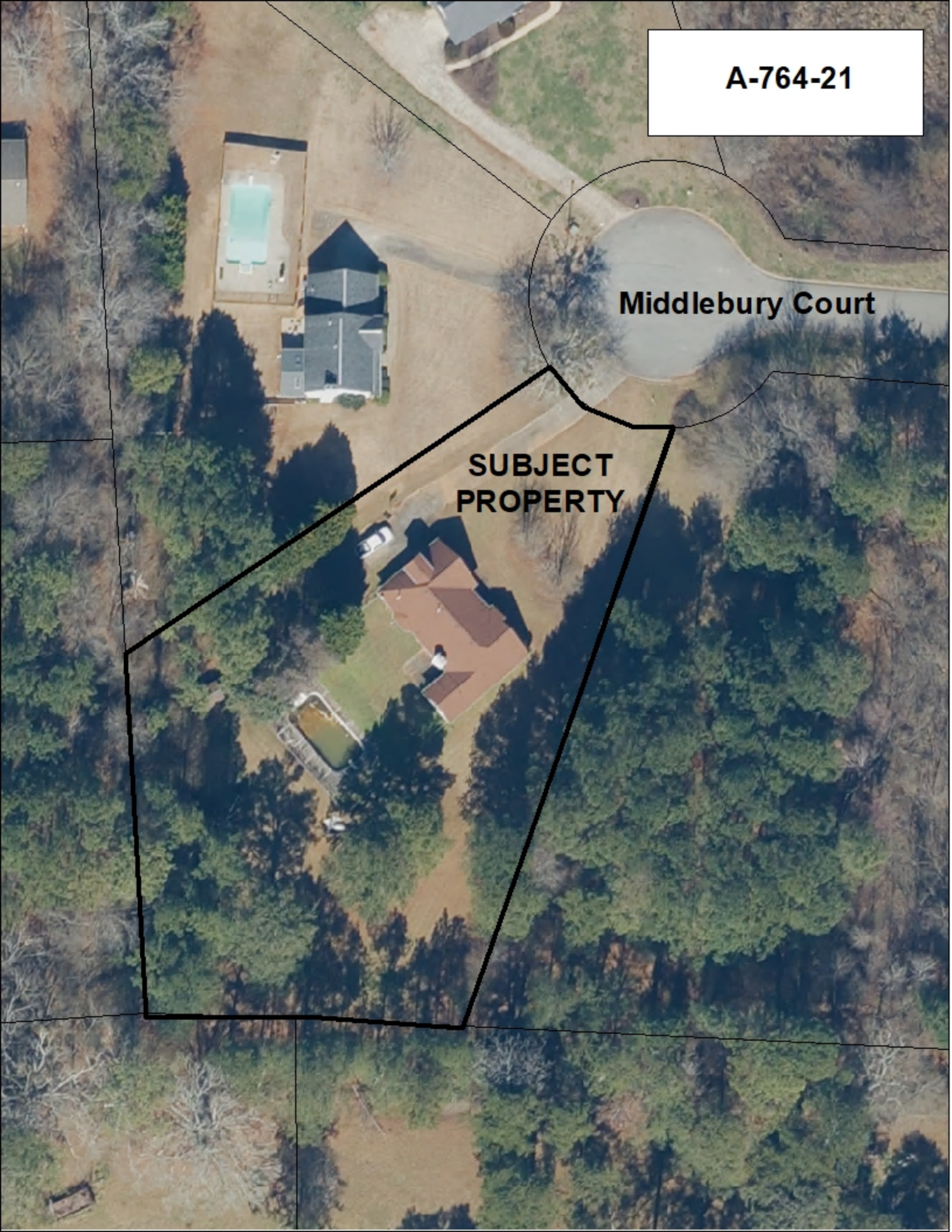
FIRE MARSHAL N/A.

WATER SYSTEM: FCWS has no concern with the proposed variance. Water availability is at Middlebury Ct. and is served by a 6-inch PVC water main.

A-764-21

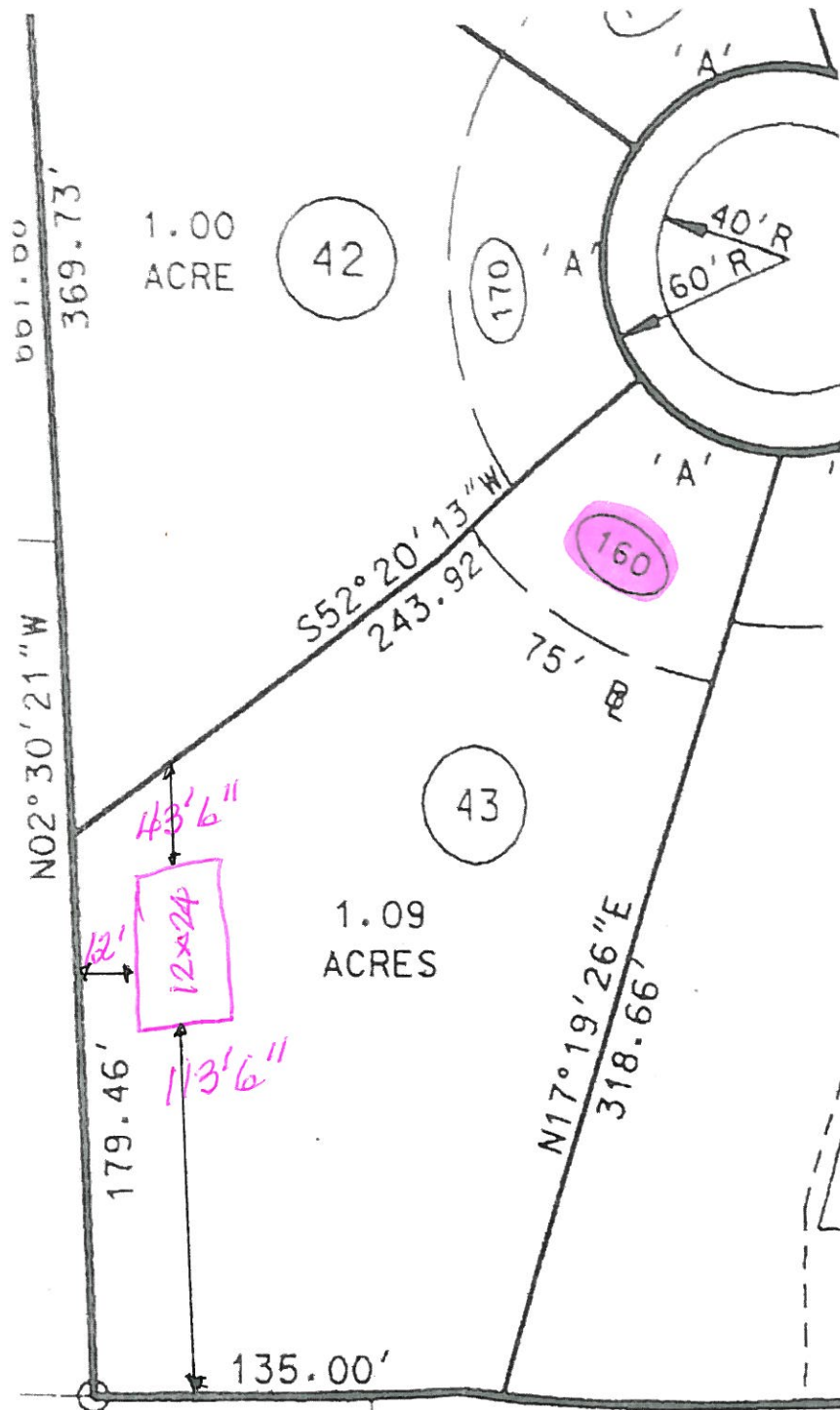
Middlebury Court

**SUBJECT
PROPERTY**



A 764.21

SHED
electricity



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Euch

4

BATTLE 160 Middlebury Ct 30215

A-764-21



A 764-21

VARIANCE APPLICATION TO THE ZONING BOARD OF APPEALS

PROPERTY OWNERS: Orlando A. Battle Sr
MAILING ADDRESS: 160 Middlebury Ct Fayetteville 30215
PHONE: 404 787 1031 E-MAIL: orlando.battle1@yahoo.com
AGENT FOR OWNERS: Tina Battle
MAILING ADDRESS: 160 Middlebury Ct Fayetteville 30215
PHONE: 404 425 2888 E-MAIL: tinabattle@live.com
PROPERTY LOCATION: LAND LOT 43 LAND DISTRICT 5TH PARCEL 0513/0011
TOTAL NUMBER OF ACRES OF SUBJECT PROPERTY: 1.09
ZONING DISTRICT: _____
ZONING OF SURROUNDING PROPERTIES: R20
PRESENT USE OF SUBJECT PROPERTY: Residential
PROPOSED USE OF SUBJECT PROPERTY: Weight room/exercise, storage

(THIS AREA TO BE COMPLETED BY STAFF): PETITION NUMBER: A-764-21

[] Application Insufficient due to lack of:

by Staff: _____ Date: _____

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

by Staff:  _____ Date: 4/19/2021

DATE OF ZONING BOARD OF APPEALS HEARING: June 28, 2021

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. 764.21

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:

Orlando A. Battle Sr

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 5th District, and (if applicable to more than one land district) Land Lot(s) 43 of the District, and said property consists of a total of 1.09 acres (legal description corresponding to most recent recorded plat for the subject property is attached herewith).

(I) (We) hereby delegate authority to Tim A. Battle 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
160 Middlebury Ct 30215
Address

Signature of Notary Public
Date

Signature of Property Owner 2
Address

Signature of Notary Public
Date

Signature of Authorized Agent
160 Middlebury Ct 30215
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
16-79	horizontal pattern	vertical pattern	

VARIANCE SUMMARY

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

requesting approval of barn-shed and installation of electric power for purpose of exercise room, some storage and part shed. barn-shed provides excellent curb appeal and adds value to property.

Orlando Battle Sr 160 Middlebury Ct Fayetteville 30215

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.

barn-shed allows property to maintain architectural character and appeal consistent with residential structure

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

yes the regulation would create an unnecessary hardship - as the barn-shed is an improvement to the property and the landscape beautification intentions

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

regulations are peculiar as the metal barn-shed withstands environmental better, longer; maintains color and sharpness than wood siding - ~~and just~~ residence ^{exterior} painted - but scheduled for repainting to maintain consistent architectural facade.

Orlando Battle Sr 160 Middlebury Ct Fayetteville 20215

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.

Neighbors are excited about the barn-shed and have requested information to obtain similar barn-shed for their property - relief would not cause detriment.

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

Ordinance) is creating conflict by depriving us of the ability to improve residence and keep neighbor^{hood} looking pristine, clean, and free of junk and debris in yard - to include lawn maintenance equipment

Orlando Battle Sr 160 Middlebury Ct Fayetteville 38215

RETURN TO:
Brown, Barbour, & Thraill, P.C.
P.O. Box 142908
Fayetteville, GA 30214

Doc ID: 010289250002 Type: QCD
Recorded: 12/19/2017 at 04:25:00 PM
Fee Amt: \$12.00 Page 1 of 2
Transfer Tax: \$0.00
Fayette, Ga. Clerk Superior Court
Sheila Studdard Clerk of Court
BK 4690 PG 540-541

STATE OF GEORGIA
COUNTY OF FAYETTE

QUITCLAIM DEED

THIS INDENTURE, made this 13 day of December, 2017, between SHARON E. BATTLE (hereinafter called "Grantor") and ORLANDO A. BATTLE (hereinafter called "Grantee").

(The words "Grantor" and "Grantee" shall include their respective heirs, successors and assigns, where the context requires or permits, and shall include the singular and plural, and the masculine, feminine, and neuter, as the context requires.)

WITNESSETH that Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, has bargained, sold, and does by these presents, bargain, sell, remise, release, and forever quitclaim to Grantee all (100% interest to ORLANDO A. BATTLE) the right, title, interest, claim, or demand which the Grantor has or may have in and to the following described Property, to wit:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 43 OF THE 5TH DISTRICT, FAYETTE COUNTY, GEORGIA, BEING LOT 43 OF BAILEY OAKS, PHASE II SUBDIVISION, AS PER PLAT RECORDED IN PLAT BOOK 25, PAGE 200, FAYETTE COUNTY, GEORGIA RECORDS.

BEING THE SAME PROPERTY CONVEYED TO SHARON E. BATTLE AND ORLANDO A. BATTLE, AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP AND NOT AS TENANTS IN COMMON, BY DEED FROM DAVID J. BENEDICT AND PAM L. BENEDICT, RECORDED 08/04/2003, IN DEED BOOK 2282, PAGE 512, IN THE OFFICE OF THE CLERK OF THE SUPERIOR COURT OF FAYETTE COUNTY, GEORGIA.

TOGETHER WITH all the rights, members, and appurtenances to the said described Property in anywise appertaining or belonging.

PETITION NO. A-765-21
Larry & Alyson Otto
210 Old Highway 85
Fayetteville, GA 30215
Public Hearing Date June 28, 2021

The subject property is located at 210 Old Highway 85, Fayetteville, GA 30215 and is zoned A-R. The applicant is requesting a Variance as follows:

Variance to Sec. 110-125 A-R, (d) (6) to reduce the side yard setback from 50 feet to 40 feet to allow an existing carport to remain.

History: The survey for Karl Gardner was recorded on March 2, 1994. Tax Assessor's records indicate that the house was built in 1999 and the applicant purchased the property in 2020. The Building Safety Department has no record of a building permit for the garage.

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.

Property at 210 Old Highway 85, Fayetteville was purchased on 12-7-2020. The week of 4-19, we were informed by a neighbor that our carport might be encroaching the side setback of the property. We called the zoning office and they confirmed the setback to be 50 feet from the property line to the side. A week or so later a code enforcement officer came by and confirmed that the carport was 40 feet from the boundary thus encroaching the setback. He advised that we could either move it over 10 feet or request a variance. Since the structure was here when we purchased the property we would like to request a variance for the existing structure (carport).

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 extraordinary and exceptional conditions pertaining to the particular piece of property in question is that the structure (carport) of concern is an existing structure which was have when we purchased the property on 12-7-2020.

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

The structure of concern (carport) is a permanent structure and would pose a practical difficulty and an unnecessary hardship if moved or demolished.

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

The condition of the property is peculiar because the structure of concern (carport) was/is an existing structure when we purchased the property.

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 variance if granted would not cause a detriment to the public because it's been there since likely 1999 when the house was built.

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

Yes, it would.

DEPARTMENTAL COMMENTS

ENGINEERING: No comments.

ENVIRONMENTAL HEALTH: This Dept. has no objections to proposed variance.

ENVIRONMENTAL MANAGEMENT: No comments.

FIRE MARSHAL N/A.

WATER SYSTEM: FCWS has no concerns with the proposed variance. There is no water availability from FCWS at this location.

A-765-21

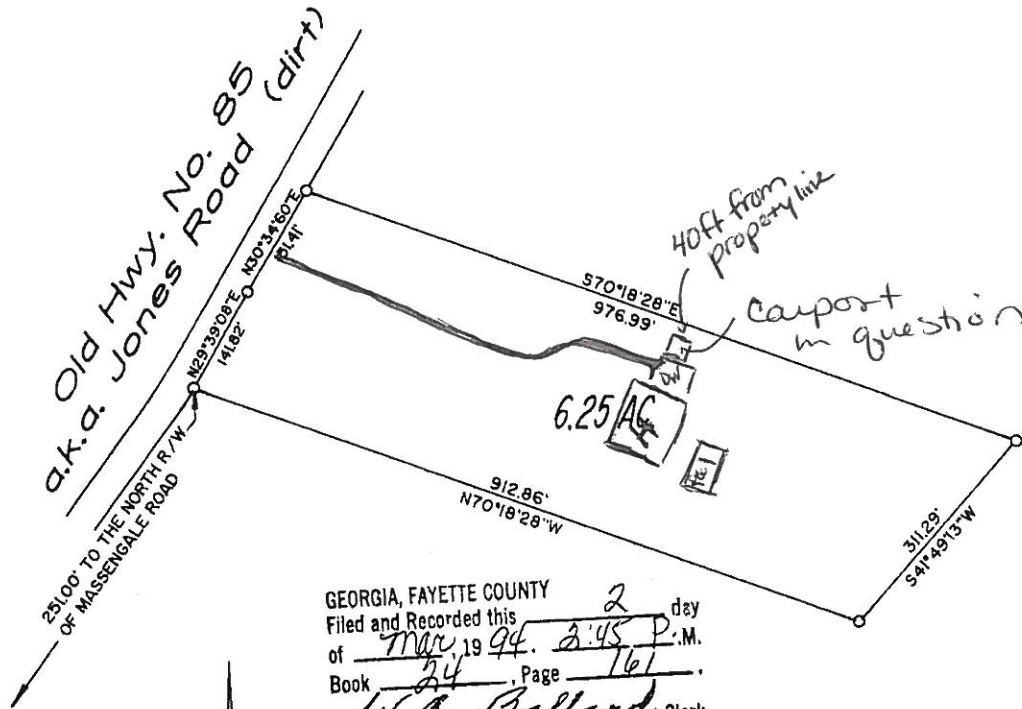
Old Highway 85

**SUBJECT
PROPERTY**



A-765-21

210 Old Highway 85



GEORGIA, FAYETTE COUNTY
Filed and Recorded this 2 day
of Mar, 19 94. 2:45 P.M.
Book 24, Page 161.
W.A. Ballard Clerk

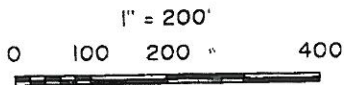


Linear measurement made with E.D.M.
angular measurements made with 10"
theodolite apparent angle error of .01'
per angle point, no adjustment made
Error of closure 1/32,500'

In my opinion this is a correct representation
of the land platted, and was prepared in con-
formity with the minimum requirements of the
law from a survey of the property under my
supervision.

G. Tim Conkle

Ga. Reg. Land Surveyor No. 2001



prepared by
conkle - lane & associates
planning consultants - land surveyors
griffin, georgia
404-228-8400

PROPERTY SURVEY FOR

KARL GARDNER

LOCATED IN LANDLOT 163
OF THE 4TH LAND DISTRICT
FAYETTE COUNTY, GEORGIA
SCALE: 1" = 200' -x- DATE: JAN. 26, 1994

6603F6431

A-765-21



A-765-21



A-765-21

VARIANCE APPLICATION TO THE ZONING BOARD OF APPEALS

PROPERTY OWNERS: Larry + Alyson Otto

MAILING ADDRESS: 210 Old Highway 85, Fayetteville, GA

PHONE: 425-422-4062 E-MAIL: laryson@ymail.com 30215

AGENT FOR OWNERS: _____

MAILING ADDRESS: _____

PHONE: _____ E-MAIL: _____

PROPERTY LOCATION: LAND LOT 1163 LAND DISTRICT 4th PARCEL 0436072

TOTAL NUMBER OF ACRES OF SUBJECT PROPERTY: 6.25 acres

ZONING DISTRICT: Fayette County

ZONING OF SURROUNDING PROPERTIES: Agriculture-Residential

PRESENT USE OF SUBJECT PROPERTY: Agriculture Residential

PROPOSED USE OF SUBJECT PROPERTY: Agriculture Residential

(THIS AREA TO BE COMPLETED BY STAFF): PETITION NUMBER: A-765-21

☐ Application Insufficient due to lack of:

by Staff: _____ Date: _____

☐ Application and all required supporting documentation is Sufficient and Complete

by Staff: [Signature] Date: 5/21/2021

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: _____

17/10/21

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:

Larry W. Otto, Alyson Otto
Please Print Names

Property Tax Identification Number(s) of Subject Property: 0436072

(I am) (we are) the sole owner(s) of the above-referenced property. Subject property is located in Land Lot(s) 163 of the 4th District, and (if applicable to more than one land district) Land Lot(s) _____ of the District, and said property consists of a total of 6.25 acres (legal description corresponding to most recent recorded plat for the subject property is attached herewith).

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

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

[Signature]
Signature of Property Owner 1
210 Old Highway 85, Fayetteville GA
Address 30215

Signature of Property Owner 2

Address

Signature of Authorized Agent

Address

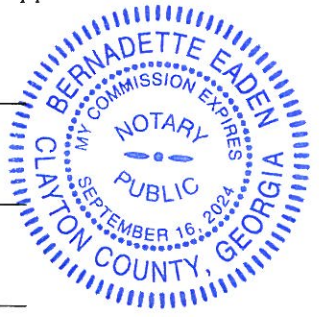
[Signature]
Signature of Notary Public
5-21-2021
Date

Signature of Notary Public

Date

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
AR Dist. Zoning Section 110-125 Subsection D	50'	40'	10'

VARIANCE SUMMARY

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

Property at 210 Old Highway 85, Fayetteville was purchased on 12-7-2020. The week of 4-19, we were informed by a neighbor that our carport might be encroaching the side setback of the property. We called the zoning office and they confirmed the setback to be 50 feet from the property line to the side. A week or so later a code enforcement officer came by and confirmed that the carport was 40 feet from the boundary thus encroaching the setback. He advised that we could either move it over 10 feet or request a variance. Since the ~~prop~~ structure was there when we purchased the property we would like to request a variance for the existing structure (carport).

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.

The extraordinary and exceptional conditions pertaining to the particular piece of property in question is that the structure (carport) of concern is an existing structure which was there when we purchased the property on 12-7-2020.

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

The structure of concern (carport) is a permanent structure and would pose a practical difficulty and an unnecessary hardship if moved or demolished.

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

The condition of the property is peculiar because the structure of concern (carport) was/is an existing structure when we purchased the property.

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 variance if granted would not cause a detriment to the public because its been there since likely 1999 when the home was built.

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

Yes it would.


A-765-21
Dred

①

After Recording Return To:
McMichael & Gray, P.C.
1215 Eagles Landing Parkway, #207
Stockbridge, GA 30281

Order No.: STK-201359-PUR

Property Appraiser's Parcel I.D. Number:
0436-072


Doc ID: 011075630002 Type: WD
Recorded: 12/09/2020 at 12:30:00 PM
Fee Amt: \$575.00 Page 1 of 2
Transfer Tax: \$550.00
Fayette, Ga. Clerk Superior Court
Sheila Studdard Clerk of Court
BK **5171** PG **304-305**

LIMITED WARRANTY DEED

STATE OF GEORGIA

COUNTY OF FULTON

THIS INDENTURE, made this 7th day of December, 2020, between

James D. Duncan and Christi C. Duncan

of the County of Fayette, State of Georgia, as party or parties of the first part, hereinafter called Grantor, and
Larry W. Otto and Alyson Otto
as Joint Tenants with Rights of Survivorship and not as Tenants in Common

as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of Ten And No/100 Dollars (\$10.00) and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee,

All that tract or parcel of land lying and being in Land Lot 163 of the 4th District, Fayette County, Georgia, being 6.25 acres, Survey for Karl Gardner, more or less, as shown on that certain plat recorded in Plat Book 24, Page 161, Fayette County, Georgia Records, reference to which plat is hereby made for a more accurate description of the metes and bounds of said 6.25 acres.

This conveyance is made subject to all zoning ordinances, easements and restrictions of record affecting said bargained premises.

SUBJECT to all zoning ordinances, easements and restrictions of record affecting said premises.

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

AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons owning, holding or claiming by, through or under the said Grantor.

A-765-21
Dx11

IN WITNESS WHEREOF, the Grantor has signed and sealed this deed, the day and year above written.

Signed, sealed and delivered in the presence of:

[Signature]
Unofficial Witness

James D. Duncan (Seal)
James D. Duncan

[Signature]
Notary Public

Christi C. Duncan (Seal)
Christi C. Duncan

My Commission Expires: _____
[Notary Seal]

