

BOARD OF APPEALS

John Tate, Chair
Marsha Hopkins, Vice-Chair
Tom Waller
Bill Beckwith
Anita Davis

STAFF

Chanelle Blaine, Zoning Administrator

AGENDA

**Fayette County Zoning Board of Appeals
Fayette County Administrative Complex
Public Meeting Room
March 28, 2022
7:00 P.M.**

1. Consideration of the Minutes of the Meeting held on January 24, 2022.
2. Consideration of the Minutes of the Meeting held on February 28, 2022.

PUBLIC HEARING

3. Petition No. A-787-22, David Battle, Owner, request the following: 1) Variance to Section 110-133 (d)(6), to reduce the side yard setback from 25 feet to 7 feet to allow an existing residential accessory structure (garage) to remain. 2. Variance to Sec. 110-79. (c) (1) (a) Number and size, to allow for the number of permitted residential accessory structures on the lot be increased from two (2) to three (3). 3. 2. Variance to Sec. 110-79. (c) (1) (a) Number and size, to increase the square footage amount from 1800 square feet to 3142 square feet for residential accessory structures on lots less than five (5) acres. The subject property is located in Land Lot 227 of the 4th District and fronts on Thomas Trail and is zoned R-70.
4. Petition No. A-790-22, David Battle, Owner request the following: Variance to Section 110-133 (d) (5), to reduce the rear yard setback from 50 feet to 42 feet to allow an existing residential accessory structure to remain. The subject property is located in Land Lot 227 of the 4th District and fronts on Thomas Trail and is zoned R-70.
5. Petition No. A-789-22, W&W Realty, Owner, and All Span Builders Inc/Neal Brown, Agent, request being as follows: 1) Variance to Section 110-173. Transportation corridor overlay zone. (1) General state route overlay zone (i) Special location and spatial requirements. (1) To increase the percentage of required parking from 50 percent to 57 percent to be located in the front yard along the state route as established by the front building line of any structure located on the site. This property is located in Land Lot(s) 253 of the 4th District, fronts on SR 85 S, and is zoned C-H.
6. Petition No. A-791-22, Kevin & Debbie McFarland, Owners, request the following: 1) Variance to Section 110-79. Residential accessory structures and their uses. (f)

Guesthouses. To increase the number of allowed guesthouses from one (1) to two (2) per individual lot. 2) Variance to Section 110-79. Residential accessory structures and their uses (f) Guesthouses. To increase the maximum allowed square footage from 700 to 972 square feet. 3) Variance to Section 110-125. A-R (d)(4)(b), to reduce the front yard setback from 75 feet to 34 feet to allow an existing residential accessory structure (pole barn) to remain. This property is located in Land Lot(s) 04 of the 1st District, fronts on Mask Road, and is zoned A-R.

PETITION NO. A-787-22
David Battle
130 Thomas Trail
Fayetteville, GA 30215
Public Hearing Date March 28, 2022

The subject property is located at Thomas Trail, GA 30205 and is zoned A-R. The applicant is requesting a Variance as follows:

1. Variance to Section 110-133 (d)(6), to reduce the side yard setback from 25 feet to 7 feet to allow an existing residential accessory structure (garage) to remain.
2. Variance to Sec. 110-79. (c) (1) (a) Number and size, to allow for the number of permitted residential accessory structures on the lot be increased from two (2) to three (3).
3. Variance to Sec. 110-79. (c) (1) (a) Number and size, to increase the square footage amount from 1800 square feet to 3142 square feet for residential accessory structures on lots less than five (5) acres.

History: The Major Final Plat of Rest Station was recorded on August 27, 1999, in Plat Book 32 and Page 105. Tax Assessor's records indicate that the applicant purchased the property in May 2016 in Deed Book 4449 and Page 0505. The lot is 2.02 acres. There is no record of building permits being requested for the accessory structures on the property.

As part of the building permit process for a pool permit, a foundation survey is required. Through the review staff discovered the violation. The survey and aerial provided shows the garage located 7 feet from the side yard property line, an additional accessory structure, and an increase in the amount of square footage allowed for accessory structures with lots less than five (5) acres.

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 a variance of 7 feet due to the fact there was a pre-existing garage built on property when purchased.

I plan to purchase a pool for the property and a permit issue came along the existing garage. The previous owners had installed and want to address so that we can move forward with the permitting of the pool.

Gazebo 16 X 18 = 288 square feet
Garden House 9 ½ X 8' 9" = 73 square feet
Garage = 2,781 square feet
Total= 3142 square feet

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

N/A

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

Yes, it would create a practical difficulty due to build being already set in place when property was purchased had no knowledge that property building was unpermitted and too close to the property line.

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

N/A

- 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,**

Would not cause substantial detriment to public good or anything in that nature due to face it was already built.

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

Yes, this would deprive the applicant due to the fact it's a garage that was preexisting when property was purchased.

DEPARTMENTAL COMMENTS

ENVIRONMENTAL HEALTH: This office approved the placement of a 34' x 14' foot pool on January 11, 2022. This pool must be built according to specifications and site plan approved by this office. This office has no objection to the proposed variances. The current septic system is in the front of the home. This property has also performed a repair system (original system on right/back of home). Accessory structures may hinder septic placement in the future. Owner takes full responsibility.

ENVIRONMENTAL MANAGEMENT: N/A approved.

FIRE MARSHAL: No comment.

PUBLIC WORKS/ENGINEERING: No impact/ no comments regarding traffic

WATER SYSTEM: FCWS has no objection to the proposed variance. Water is available at this location and provided by an 8" PVC water main along Thomas Trail.

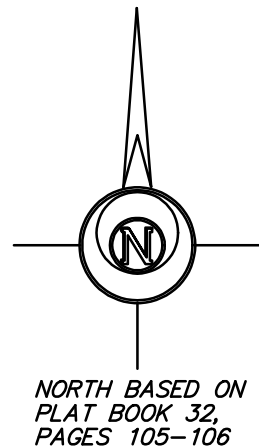
A-787-22
Aerials

**SUBJECT
PROPERTY**

Thomas Trail

Travis Trail





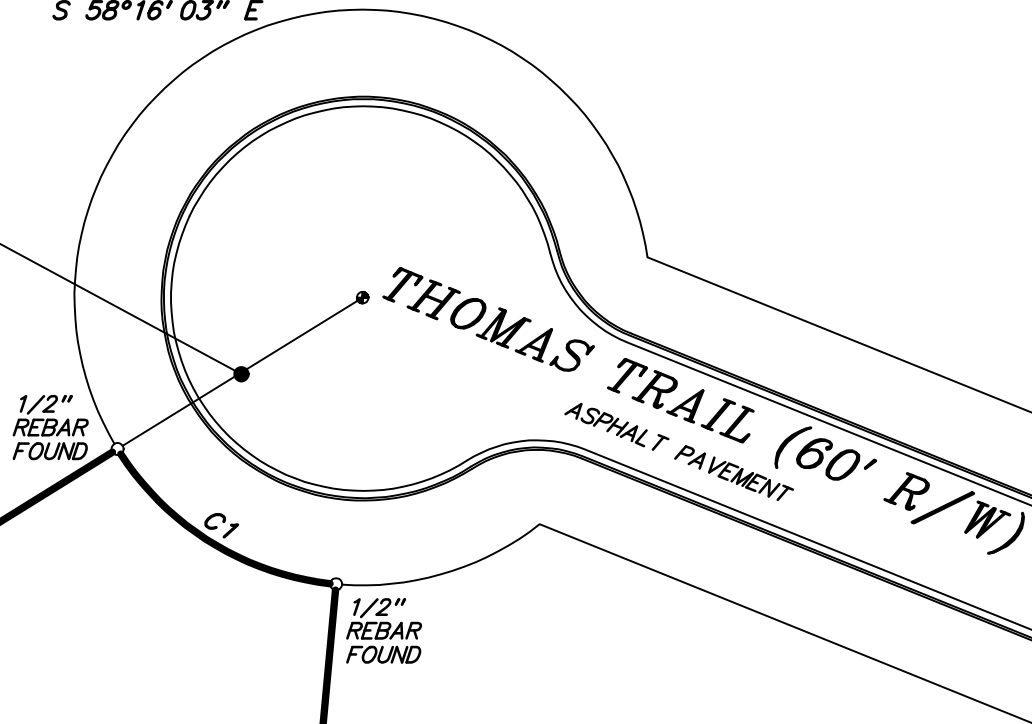
**LOT 4
REST STATION**
PLAT BOOK 32, PAGES 105-106

CURVE TABLE

#	Radius	Delta	Length	Chord	Tangent	Chord Bearing
1	60.00'	53°00' 38"	55.51'	53.55'	29.92'	S 58°16' 03" E

The field data upon which this survey is based has been computed for closure by latitudes and departures and has a closure precision of one foot in 25,465 ft. and an angular error of 7 seconds per angle point, and is UNADJUSTED. A GEOMAX ZOOM 90 was used to obtain linear and angular measurements. It is my professional opinion, that this plat is true and correct representation of the land platted, has been prepared to meet the minimum standards and requirements of law, and has been computed for closure and has been found to be accurate within one foot in 377,343 feet.

N 58°18' 01" E 60.02' TO A MAGNETIC NAIL FOUND IN THE APPROXIMATE CENTERLINE OF CUL-DE-SAC



RESERVED FOR CLERK OF SUPERIOR COURT

LEGEND

B/L = BUILDING LINE
N/F = NOW OR FORMERLY
R/W = RIGHT-OF-WAY

NOTES:

- THIS IS A RETRACEMENT SURVEY OF AN EXISTING TRACT AS RECORDED IN DEED BOOK 4449, PAGE 505 AND PLAT BOOK 32, PAGES 105-106, FAYETTE COUNTY, GEORGIA RECORDS.
- CURRENT OWNER: DAVID J. BATTLE PER DEED BOOK 4449, PAGE 505, FAYETTE COUNTY, GEORGIA RECORDS AS OF 05-05-2016.
- THIS SURVEY WAS AUTHORIZED BY DAVID BATTLE.
- ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES.
- RECORD BEARING APPLIED TO EAST PROPERTY LINE.
- OTHER STRUCTURES AND FEATURES ARE ON THE PROPERTY, BUT WERE NOT LOCATED PER REQUEST OF CLIENT.

PER THE STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS RULE 180-6-.09 THE TERM CERTIFICATION AS USED IN BOARD RULE 180-6-.09(2) AND (3) AND RELATING TO PROFESSIONAL ENGINEERING OR LAND SURVEYING SERVICES SHALL MEAN A SIGNED STATEMENT BASED UPON FACTS AND KNOWLEDGE KNOWN TO THE REGISTRANT AND IS NOT A GUARANTEE OR WARRANTY, EITHER EXPRESS OR IMPLIED.

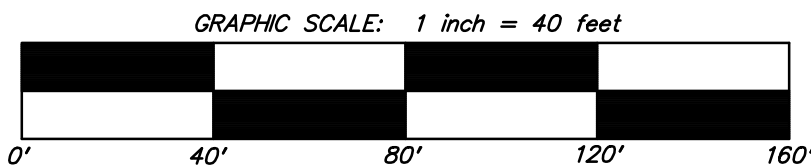
THIS PROPERTY IS SUBJECT TO ALL EASEMENTS, RESTRICTIONS, COVENANTS, ZONING ORDINANCES, ENVIRONMENTAL RESTRICTIONS, BUFFERS, AND RIGHTS-OF-WAY SHOWN OR NOT SHOWN, RECORDED OR NOT RECORDED.

W.D. GRAY AND ASSOCIATES, INC. HAS MADE NO INVESTIGATION AS TO THE EXISTENCE OR NON-EXISTENCE OF UNDERGROUND UTILITIES AND/OR STRUCTURES. BEFORE ANY LAND DISTURBANCE ACTIVITY BEGINS, UNDERGROUND UTILITIES SHOULD BE IDENTIFIED AND LOCATED. W.D. GRAY AND ASSOCIATES, INC. ASSUMES NO LIABILITY FOR LOSS OR DAMAGES CAUSED BY THE DISCOVERY OF OR DISTURBANCE OF UNDERGROUND UTILITIES AND/OR STRUCTURES.

THIS SURVEY WAS DONE WITHOUT THE BENEFIT OF A TITLE REPORT. THEREFORE, THE UNDERSIGNED SURVEYOR AND W.D. GRAY AND ASSOCIATES, INC. MAKE NO GUARANTEES, REPRESENTATIONS, OR WARRANTY REGARDING INFORMATION SHOWN HEREON PERTAINING TO RIGHTS-OF-WAY, EASEMENTS, RESTRICTIONS, RESERVATIONS, AGREEMENTS, SETBACK LINES, BUFFERS, AND OTHER SIMILAR MATTERS. OTHER CONDITIONS OR DOCUMENTS MAY EXIST THAT WOULD AFFECT THIS PROPERTY. NO LIABILITY IS ASSUMED FOR LOSS RELATING TO ANY MATTER THAT MIGHT BE DISCOVERED BY AN ABSTRACT OR TITLE SEARCH OF THE PROPERTY.

This plat is a retracement of an existing parcel or parcels of land and does not subdivide or create a new parcel or make any changes to any real property boundaries. The recording information of the documents, maps, plats, or other instruments which created the parcel or parcels are stated hereon. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY PURPOSE OF THE LAND. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. Section 15-6-67.

Larry C. Shimshick
Larry C. Shimshick, Ga. PLS No. 2343
Date 12-17-2021



THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS, OR ENTITY NAMED HEREON. NO CERTIFICATION OR LIABILITY IS EXTENDED TO ANY UNNAMED PERSON, PERSONS OR ENTITY WITHOUT A RECERTIFICATION BY THE SURVEYOR NAMING SAID PERSON, PERSONS OR ENTITY.



LOT 2
REST STATION
PLAT BOOK 32, PAGES 105-106

LOT 3
REST STATION
PLAT BOOK 32, PAGES 105-106

LOT 5
REST STATION
PLAT BOOK 32, PAGES 105-106

**LOT 4
2.02 ACRES +/-**



In my professional opinion, this property does not lie within the 100 year flood plain as shown on the FLOOD INSURANCE RATE MAP. Map Number: 13113C0113E Dated: SEPTEMBER 26, 2008

**W.D. Gray and
Associates, Inc.**

LSF000701

land surveyors - planners

160 GREENCASTLE ROAD SUITE B TYRONE
GEORGIA 30290
PH. 770-486-7552 FAX 770-486-0496

PREPARED FOR:

DAVID BATTLE

LAND LOT: 227

4th DISTRICT

FAYETTE COUNTY, GA.

SCALE: 1" = 40'

DATE OF SURVEY: 12-06-21

DATE OF DRAWING: 12-17-21

REVISED:

JOB NO. 2111026

* 130 Thomas Trail

VARIANCE APPLICATION TO THE ZONING BOARD OF APPEALS

PROPERTY OWNERS: David Battle

MAILING ADDRESS: 16218 Pennsbury Dr. Bowie MD 20716

PHONE: (912)220-8628 or (240)483-7754 E-MAIL: Davidbattle86@gmail.com

AGENT FOR OWNERS: Na

MAILING ADDRESS: Na

PHONE: Na E-MAIL: Na

PROPERTY LOCATION: LAND LOT 4227 LAND DISTRICT 4th PARCEL 045005004

TOTAL NUMBER OF ACRES OF SUBJECT PROPERTY: 2.02 acres

ZONING DISTRICT: ~~4th~~ R-70

ZONING OF SURROUNDING PROPERTIES: A-R, R-70

PRESENT USE OF SUBJECT PROPERTY: Residential


PROPOSED USE OF SUBJECT PROPERTY: Residential

(THIS AREA TO BE COMPLETED BY STAFF): PETITION NUMBER: A-787-22

☐ Application Insufficient due to lack of:

by Staff: _____ Date: _____

☒ Application and all required supporting documentation is Sufficient and Complete

by Staff:  Date: 1/7/2022

DATE OF ZONING BOARD OF APPEALS HEARING: February 28, 2022

Received from David Battle a check in the amount of \$ 175.00

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

Date Paid: 1/7/2022 Receipt Number: 013481

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:

David Battle

Please Print Names

Property Tax Identification Number(s) of Subject Property: 045005004

(I am) (we are) the sole owner(s) of the above-referenced property. Subject property is located in Land Lot(s) of the 4th District, and (if applicable to more than one land district) Land Lot(s) 227 of the District, and said property consists of a total of 2 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]
Signature of Property Owner 1

16218 Pennsbury dr Bowie Md 20716
Address

Signature of Property Owner 2

Address

Signature of Authorized Agent

Address

[Signature]
Signature of Notary Public

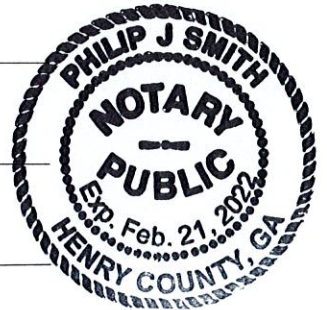
1/7/2022
Date

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
Sec. 110-133 R-7D (d)(6)	25'	7'	18'
Sec. 110-179(c) Number & size (1)(a)	2 residential structures	3 structures	1
Sec. 110-179(c) Number & size (1)(a)	1800 sq.ft.	3142 sq.ft.	1342 sq.ft.

VARIANCE SUMMARY

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

Requesting a variance of 7 feet due to the fact there was a
pre-existing garage built on property when purchased

I plan to purchase a pool for the property and a Permit issue
came along for the existing garage The previous owners had
Install and want to address so that we can move forward with the
Permitting of the pool

Gazebo 16x18= 288 sq.ft

Total= 3142 sq.ft

Garden House = 9' 1/2" x 8' 9" = 73 sq.ft.

Garage = 2,781 sq.ft

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.

N/A.

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

Yes it would create a practical

Difficulty due to build being already set in place when property was

- Purchased I had no Knowledge that property building was unpermitted and too close the property line

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

N/A.

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.

Would not cause substantial detriment to public good or
anything in that nature due to face it was already 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 this would deprive the applicant due to the fact it's a garage that was pre
Existing when property was purchased**

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PETITION NO. A-790-22
David Battle
130 Thomas Trail
Fayetteville, GA 30215
Public Hearing Date March 28, 2022

The subject property is located at 130 Thomas Trail Fayetteville, GA 30215 and is zoned R-70. The applicant is requesting a Variance as follows:

1. Variance to Section 110-133 (d)(5), to reduce the rear yard setback from 50 feet to 42 feet to allow an existing residential accessory structure (garage) to remain.

History: The Major Final Plat of Rest Station was recorded on August 27, 1999, in Plat Book 32 and Page 105. Tax Assessor's records indicate that the applicant purchased the property in May 2016 in Deed Book 4449 and Page 0505. The lot is 2.02 acres. There is no record of building permits being requested for the accessory structures on the property.

As part of the building permit process for a pool permit, a foundation survey is required. Through the review staff discovered the violation. The survey and provided shows the garage located 42 feet from the rear yard property line.

The applicant provides the following information:

VARIANCE SUMMARY

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

Continuation of variance petition A-787-22 for encroachment of the garage in the rear setback.

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

N/A

2. The application of these regulations to this particular piece of property would create

a practical difficulty or unnecessary hardship; and,

Yes, it would create a practical difficulty due to build being already set in place when property was purchased. Had no knowledge that the property building was not permitted and too close to the property line.

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

N/A

- 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,**

Would not cause substantial detriment to public good or anything in that nature. Due to the fact it was already built.

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

Yes, this would deprive the applicant due to the fact it's a garage that was pre-existing when the property was purchased.

DEPARTMENTAL COMMENTS

ENVIRONMENTAL HEALTH: This office has no objection to the proposed variance.

ENVIRONMENTAL MANAGEMENT: No comments.

FIRE MARSHAL: N/A

PUBLIC WORKS/ENGINEERING: No comments.

WATER SYSTEM: FCWS has no objection to the proposed variance. The property has water availability along Thomas Trail served by an 8" water main.

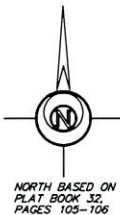
**A-790-22
Aerials**

**SUBJECT
PROPERTY**

Thomas Trl.

Travis Trl.





**LOT 4
REST STATION**
PLAT BOOK 32, PAGES 105-106

RESERVED FOR CLERK OF SUPERIOR COURT

LEGEND

B/L = BUILDING LINE
N/F = NOW OR FORMERLY
R/W = RIGHT-OF-WAY

NOTES:

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3. THIS SURVEY WAS AUTHORIZED BY DAVID BATTLE.
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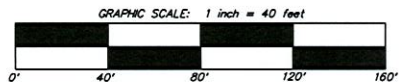
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THIS SURVEY WAS DONE WITHOUT THE BENEFIT OF A TITLE REPORT. THEREFORE, THE UNDERSIGNED SURVEYOR AND W.D. GRAY AND ASSOCIATES, INC. MAKE NO GUARANTEES, REPRESENTATIONS, OR WARRANTY REGARDING INFORMATION SHOWN HEREON PERTAINING TO RIGHTS-OF-WAY, EASEMENTS, RESTRICTIONS, RESERVATIONS, AGREEMENTS, SETBACK LINES, BUFFERS, AND OTHER SIMILAR MATTERS. OTHER CONDITIONS OR DOCUMENTS MAY EXIST THAT WOULD AFFECT THIS PROPERTY. NO LIABILITY IS ASSUMED FOR LOSS RELATING TO ANY MATTER THAT MIGHT BE DISCOVERED BY AN ABSTRACT OR TITLE SEARCH OF THE PROPERTY.

This plat is a retracement of an existing parcel or parcels of land and does not subdivide or create a new parcel or make any changes to any real property boundaries. The recording information of the documents, maps, plats, or other instruments which created the parcel or parcels are stated hereon. THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY PURPOSE OF THE LAND. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. Section 15-6-67.

Larry C. Shimshick
Larry C. Shimshick, Ga. PLS No. 2343
12-17-2021
Date



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CURVE TABLE

Radius	Delta	Length	Chord	Tangent	Chord Bearing
60.00'	53°00'38"	53.51'	53.55'	29.92'	S 58°16'03" E

The field data upon which this survey is based has been computed for closure by latitudes and departures and has a closure precision of one foot in 23,452 ft., and an angular error of 7 seconds per angle point, and is UNADJUSTED. A GEOMAX 700M 90 was used to obtain linear and angular measurements. It is my professional opinion, that this plat is true and correct representation of the land plotted, has been prepared to meet the minimum standards and requirements of law, and has been computed for closure and has been found to be accurate within one foot in 377,343 feet.

N 58°18'01" E 60.02' TO A MAGNETIC NAIL FOUND IN THE APPROXIMATE CENTERLINE OF CUL-DE-SAC

THOMAS TRAIL (60' R/W)
ASPHALT PAVEMENT

LOT 5
REST STATION
PLAT BOOK 32, PAGES 105-106

LOT 4
2.02 ACRES +/-

LOT 3
REST STATION
PLAT BOOK 32, PAGES 105-106

LOT 2
REST STATION
PLAT BOOK 32, PAGES 105-106



Variance to reduce setback from 50' to 42 feet.

In my professional opinion, this property does not lie within the 100 year flood plain as shown on the FLOOD INSURANCE RATE MAP. Map Number: 13113C0113E Dated: SEPTEMBER 26, 2008

**W.D. Gray and
Associates, Inc.**

LSF000701

land surveyors - planners

160 GREENCASTLE ROAD SUITE B TYRONE
GEORGIA 30290
PH. 770-486-7552 FAX 770-486-0496

PREPARED FOR:

DAVID BATTLE

LAND LOT: 227	DATE OF SURVEY: 12-06-21
4th DISTRICT	DATE OF DRAWING: 12-17-21
FAYETTE COUNTY, GA.	REVISED:
SCALE: 1" = 40'	JOB NO. 2111026

VARIANCE APPLICATION TO THE ZONING BOARD OF APPEALS

PROPERTY OWNERS: David BattleMAILING ADDRESS: 16318 Pennsbury Drive Bowie, MD 20716PHONE: 912-220-8628 or 240-483-7754 E-MAIL: duvidbattle86@gmail.comAGENT FOR OWNERS: N/A

MAILING ADDRESS: _____

PHONE: _____ E-MAIL: _____

PROPERTY LOCATION: LAND LOT 327 LAND DISTRICT 4th PARCEL 045005004TOTAL NUMBER OF ACRES OF SUBJECT PROPERTY: 2.02 acresZONING DISTRICT: R-70ZONING OF SURROUNDING PROPERTIES: A-R + R-70PRESENT USE OF SUBJECT PROPERTY: ResidentialPROPOSED USE OF SUBJECT PROPERTY: Residential

(THIS AREA TO BE COMPLETED BY STAFF): PETITION NUMBER: _____

☐ Application Insufficient due to lack of:

by Staff: _____ Date: _____

☐ Application and all required supporting documentation is Sufficient and Completeby Staff:  Date: ~~Feb~~ February 18, 2022DATE OF ZONING BOARD OF APPEALS HEARING: March 28, 2022Received from David Battle a check in the amount of \$ WAIVEDfor application filing fee, and \$ WAIVED for deposit on frame for public hearing sign(s).Date Paid: WAIVED Receipt Number: ~~1234~~

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:

David Battle

Please Print Names

Property Tax Identification Number(s) of Subject Property: 045005004

(I am) (we are) the sole owner(s) of the above-referenced property. Subject property is located in Land Lot(s) of the 4th District, and (if applicable to more than one land district) Land Lot(s) 227 of the District, and said property consists of a total of 2 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

Signature of Notary Public

16218 Pennsbury dr Bowie Md 20716
Address

1/7/2022
Date

Signature of Property Owner 2

Signature of Notary Public

Address

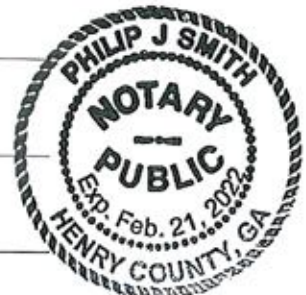
Date

Signature of Authorized Agent

Signature of Notary Public

Address

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.

N/A.

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

Yes it would create a practical

Difficulty due to build being already set in place when properly was

- Purchased I had no Knowledge that property building was unpermitted and too close the property line

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

N/A.

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.

Would not cause substantial detriment to public good or anything in that nature due to face it was already 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 this would deprive the applicant due to the fact it's a garage that was pre Existing when property was purchased

SLEPIAN SCHWARTZ & LANDGAARD
42 EASTBROOK BEND
PEACHTREE CITY, GEORGIA 30269
(770) 486-1220
16-0385DD/CASSI

STATE OF GEORGIA
COUNTY OF FAYETTE

LIMITED WARRANTY DEED

THIS INDENTURE made this 2nd day of May, 2016, by and between WYMAN M. WOFFORD AND CATHY M. WOFFORD, as party or parties of the first part, hereinafter referred to as "Grantor," and DAVID J. BATTLE, as party or parties of the second part, hereinafter referred to as "Grantee";

WITNESSETH:

That Grantor for and in consideration of the sum of TEN DOLLARS, in hand paid, at or before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, has granted, bargained, and conveyed, and by these presents does hereby grant, bargain, and convey unto Grantee, their heirs, successors and assigns, the following described property:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 227 OF THE 4TH DISTRICT, FAYETTE COUNTY, GEORGIA, BEING LOT 4, OF REST STATION SUBDIVISION, AS PER PLAT RECORDED AT PLAT BOOK 32, PAGES 105-106, FAYETTE COUNTY, GEORGIA RECORDS, WHICH PLAT IS HEREBY INCORPORATED AND MADE A PART HEREOF BY REFERENCE.

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

TO HAVE AND TO HOLD the Property, 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 Grantee, their heirs, successors and assigns forever, in Fee Simple.

AND THE GRANTOR will warrant and forever defend the right and title to the above-described property unto the Grantee, their heirs, successors and assigns, against the claims of all persons claiming by, through or under Grantor, subject only to the Permitted Exceptions.

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

Signed this 2nd day of May, 2016 in the presence of:

Unofficial Witness

Notary Public

My Commission Expires:

[Notary Seal]



Book: 4449 Page: 505 Seq: 1

PETITION NO. A-789-22
W&W Realty Co., LLP
1552 Highway 85 South
Fayetteville, GA 30215
Public Hearing Date March 28, 2022

The subject property is located at 1552 Highway 85 South, Fayetteville, GA 30215 and is zoned C-H. The applicant is requesting a Variance as follows:

- 1 Variance to Section 110-173. Transportation corridor overlay zone. (1) General state route overlay zone (i) Special location and spatial requirements. (1) To increase the percentage of required parking from 50 percent to 57 percent to be located in the front yard along the state route as established by the front building line of any structure located on the site.

Section 110-3.-Definitions

Building line, front, means a line running parallel to the street which touches the nearest point of the principal structure to the street.

Section 110-173-Transportation corridor overlay

(1) General state route overlay zone. All property and/or development which have road frontage and/or access on state routes with nonresidential use or zoning shall be subject to the following regulations, in addition to the zoning district requirements and other development regulations which apply. This overlay zone specifically excludes SR 54 West Overlay Zone, SR 85 North Overlay Zone, SR 74 North Overlay Zone, SR 138 and North SR 314 Overlay Zone and the Starr's Mill Historic District Overlay Zone at the SR 74, SR 85, & Padgett Road Intersection. The architectural standards of this overlay zone specifically excludes the L-C zoning district, for which other architectural standards have been established.

i. Special locational and spatial requirements.

1. No more than 50 percent of the required parking can be located in the front yard along the state route as established by the front building line of any structure located on the site.

History: C-H zoning appears on the 1971 Zoning Map. Staff has been unsuccessful in finding the petition and files for the zoning. Tax Assessor's records indicate that the convenience store with gas station was built in 1960 and the applicant purchased the property in 2012.

- January 25, 2021 the Zoning Board of Appeals approved a variance (A-745-20) to Section 110-144, C-H (d) (3)(a)(1), to reduce the front yard setback from 75 feet to 35 feet to allow the construction of a fuel island canopy.
- April 26, 2021 the Zoning Board of Appeals approved a variance (A-754-21) to Section 110-173, (3)(d)(1), to allow a flat roof with parapet walls instead of a gabled roof with a minimum pitch of 4.5 inches in one foot.

As part of the site plan process staff discovered the violation of 57 percent of parking being located in the front yard along the state route as established by the front building line.

VARIANCE SUMMARY

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

After two previous variance submittals and two plan reviews, an issue was found concerning the above ordinance. Due to property configuration, a 50 % ratio cannot be obtained without compromising front traffic patterns. The plan submitted equates to 57% of parking spaces in the front. All efforts have been attempted to place as many spaces in rear and sides by Engineer. We are asking approval due to space constraints and the fact that two closest similar developments have 57 % current ratio and greater in front of building. With the potential of four separate business operation in the center, parking is crucial. Thank you for continuing patience during this review process.

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.**

Yes, issues with shape, property narrows in the rear.

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

Yes, the property configuration does not allow for 50% behind front building line without compromising front yard traffic patterns between gas canopy and front parking spaces.

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

Yes, because of shape of 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,**

There would be no detriment to the public good.

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

Yes.

DEPARTMENTAL COMMENTS

GA DEPARTMENT OF TRANSPORTATION: There are no comments concerning this variance from GDOT; however if the existing accesses are modified in any form a GDOT special encroachment will need to be obtained, the applicant should be made aware of this.

ENVIRONMENTAL HEALTH: Due to the potential impact of the increase in parking spaces to the septic areas, an updated, scaled site plan must be reviewed by this office prior to approval. This property is already showing constraints on system area and no application or other required documentation has been submitted to this office to assist in determining adequate area for septic system(s). Based on previous notes for this property, proper rezoning of neighboring lots may be required to provide sufficient septic system area.

ENVIRONMENTAL MANAGEMENT: EMD has no comment for the zoning overlay. Stormwater and Tree ordinances apply to modifications to the current plan.

FIRE MARSHAL: No comment from Fire Marshal's office.

WATER SYSTEM: FCWS has no objections to the proposed variance.

PUBLIC WORKS / ENGINEERING: ENG has no comment for the zoning overlay.

A-789-22
Aerial

SR 85 S

**SUBJECT
PROPERTY**



1. TOTAL AREA OF SITE: 2.71 ACRES
2. PARCEL NUMBER(S): 0450 070
3. THIS SITE LIES WITHIN A GENERAL STATE ROUTE OVERLAY ZONE
4. PROPERTY CURRENT ZONING: C-H (HIGHWAY COMMERCIAL DISTRICT)
MIN. LOT AREA: 0.565 ACRE (1.00 ACRE)
MIN. FRONT SETBACK: 75'
MIN. SIDE SET: 15'
MIN. REAR SETBACK: 15'
50' TRANSITIONAL BUFFER WHERE ADJOINS RESIDENTIAL ZONED PROPERTY
5. NO WETLANDS OR STATE WATERS ARE PRESENT ON THIS SITE OR WITHIN 200 FEET OF THIS SITE.
6. PROPERTY TO BE SERVED BY FAYETTE COUNTY WATER SYSTEM.
7. PROPERTY SERVED BY INDIVIDUAL SEPTIC TANK AND DRAIN FIELD.
8. THERE ARE NO EXISTING EASEMENTS ASSOCIATED WITH THE PROPERTY.
9. PROPERTY IS NOT LOCATED WITHIN A GROUNDWATER RECHARGE AREA.
10. SEE COVER SHEET (C1.1) FOR VARIANCE APPROVAL CONCERNING PETITION NO. A-754-21 AND PETITION NO. A-745-20
11. PROPOSED BUILDING IS ONE-STORY AND THREE UNITS.

- TOTAL EXISTING IMPERVIOUS SURFACE REMOVED: ±70,502 FT² (1.62 AC.)
- PROPOSED IMPERVIOUS SURFACE: ±66,534 FT² (1.53 AC.)
- A NET TOTAL OF ±3,968 FT² (0.09 AC.) OF IMPERVIOUS SURFACE IS BEING REMOVED FROM THE PROPOSED SITE.

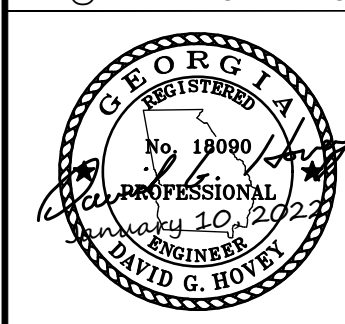
- RETAIL STORE REQUIREMENTS: 1 SPACE PER 300 FT² OF GROSS FLOOR AREA
- REQUIRED PARKING: $\pm 8,050 \text{ FT}^2 / 300 = 27 \text{ SPACES}$
- TOTAL PARKING SPACES PROVIDED: 30 SPACES + 2 H.C. SPACES + 12 GAS PUMP SPACES = 44 TOTAL SPACES
- PERCENTAGE OF PARKING SPACES LOCATED IN FRONT YARD (ALONG HWY 85): $18/32 \text{ SPACES} \times 100 = 56.25\%$

N/F
BELTRAN
DB. 4393 PG. 453
PB. 48 PG. 18
0450 090
ZONED R-70

1. NO WORK IS PROPOSED WITHIN GA HWY 85 RIGHT OF WAY, WITH EXCEPTION OF WATER LINE INSTALLATION.
2. ALL CONCRETE SHOWN SHALL BE 6" THICK (3,500 P.S.I. MINIMUM)
3. PROPOSED TOTAL BUILDING SIZE: ±8,030 FT²
4. TYPICAL PARKING SPACE SIZE: 20'X10'
5. ALL DIMENSIONS (EXCEPT PARKING SPACES) AND RADII ARE TO BACK OF CURB.
6. REFER TO ARCHITECTURAL PLANS FOR BUILDING DIMENSIONS
7. SUITE A AND B WILL BE RENTAL SUITES AND THE PROPOSED USE IS UNKNOWN.

N/F
LAMB
DB. 4476 PG. 68.
0450 087
ZONED: A-R

PREPARED FOR:
ALL SPAN BUILDERS, INC
240 PATRICIA LANE
FAYETTEVILLE, GA 30214
24 HOUR CONTACT:
NAME: NEAL BROWN
PHONE: 770-231-8964
EMAIL:
NEAL@ALLSPANBUILDERS.COM



HOVEY & ASSOCIATES, INC.	
LIC. #PEF003647	ACTIVE
SCALE: HORIZONTAL	1" = 20'
VERTICAL	N/A

NO.	DATE	DESCRIPTION	REVISED BY:
7			
8			
5			
4			
3			
2			

DRAWN BY:
M. GRAY

DESIGNED BY:
D. HOVEY

CHECKED BY:
D. HOVEY

ISSUE DATE
11/30/2021

PROJECT NUMBER
2021-24



CONSTRUCTION PLANS
FOR
GEO. H. GREEN OIL, INC. & ALL SPAN BUILDERS, INC.
GREEN OIL - GAS STATION/CONVENIENCE STORE/ENCLOSURE
LAND LOT 253 - 4th DISTRICT
FAYETTE COUNTY

SHEET
C3.1

© H&A 2016

Feb 14, 2022 - 2:18pm - C:\BACKUP\HA\Projects\Jobs\GREEN OIL COMPANY\HWY 85 - GAS STATION\CONSTRUCTION\SHEET FILES\ARCHIVE\00C-301 PARKING SITE PLAN (24X36).dwg

1552 Hwy 85S
F-rille, GA 30215

VARIANCE APPLICATION TO THE ZONING BOARD OF APPEALS

PROPERTY OWNERS: W+W Realty ED Wyatt

MAILING ADDRESS: PO Box 127 Fairburn GA 30213

PHONE: 770 964 6125 E-MAIL: EDWyatt@Greenoilco.com
JMCOOK@Greenoilco.com

AGENT FOR OWNERS: All Span Builders Inc / Neal Brown

MAILING ADDRESS: 240 Patricia Lane Fayetteville, GA 30214

PHONE: 770 231 8964 E-MAIL: Neal@Allspanbuilders.com

PROPERTY LOCATION: LAND LOT 253 LAND DISTRICT 4th PARCEL 0450070

TOTAL NUMBER OF ACRES OF SUBJECT PROPERTY: 2.712

ZONING DISTRICT: C-H

ZONING OF SURROUNDING PROPERTIES: A-R / R70

PRESENT USE OF SUBJECT PROPERTY: convenience store with gas

PROPOSED USE OF SUBJECT PROPERTY: same

A

(THIS AREA TO BE COMPLETED BY STAFF): PETITION NUMBER: A-789-22

☐ Application Insufficient due to lack of:

by Staff: _____ Date: _____

☐ Application and all required supporting documentation is Sufficient and Complete

by Staff:  Date: 2/15/2022

DATE OF ZONING BOARD OF APPEALS HEARING: March 28, 2022

Received from Neal Brown a check in the amount of \$ 175.00

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

Date Paid: 2/15/2022 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:

WtW Realty Co. LLP Edward C. Wyatt William P Wyatt
Please Print Names

Property Tax Identification Number(s) of Subject Property: 0450070

(I am) (we are) the sole owner(s) of the above-referenced property. Subject property is located in Land Lot(s) of the 4th District, and (if applicable to more than one land district) Land Lot(s) 253 of the District, and said property consists of a total of 2.712 acres (legal description corresponding to most recent recorded plat for the subject property is attached herewith).

(I) (We) hereby delegate authority to Neal Brown / Ainslie Bick 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.

Edward C. Wyatt
Signature of Property Owner 1

[Signature]
Signature of Notary Public



Address

Date 2/15/22

William P. Wyatt
Signature of Property Owner 2

[Signature]
Signature of Notary Public

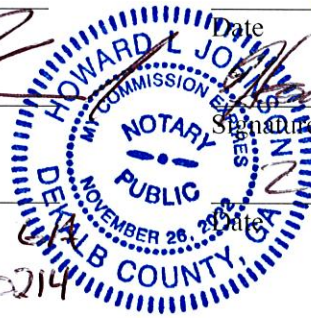


Address

Date 2/15/22

[Signature]
Signature of Authorized Agent

[Signature]
Signature of Notary Public



240 Patricia Lane
Address

2-15-2022

Fayetteville GA 30214

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
110-173 1-I-1	50%	57% ¹ / ₂	16%

VARIANCE SUMMARY

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

After two previous variance submittals and two plan reviews, an issue was found concerning above ordinance. Due to property configuration, a 50% ratio cannot be obtained without compromising front traffic patterns. The plan submitted equates to 66% of parking spaces in the front. All efforts have been attempted to place as many spaces in rear and sides by Engineer. We are asking approval due to space constraints and the fact that the two closest similar developments have 68% current ratio and greater in front of building. With the potential of four separate businesses operating in the center, parking is crucial.

Thank you for your continuing patience during this review process.

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.

Yes, issues with shape, property narrows in the rear.

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

Yes, the property configuration does not allow for 50% behind front building line without compromising front yard traffic patterns between gas canopy and front parking spaces.

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

Yes, because of shape of 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.

There would be no detriment to the public good.

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

Yes.

A-745-20
Deed A-754-21

Doc ID: 008896910001 Type: VD
Recorded: 08/07/2012 At 09:05:00 AM
Page 1 of 1
Fee Amt: \$350.00
Transfer Tax: \$340.00
Fayette, Ga. Clerk Superior Court
Shelia Studdard Clerk of Court
BK 3927 PG 640

Record and Return to:
Glover & Davis, P.A.
1125 Commerce Drive, Suite 300
Peachtree City, GA 30269
12P22018 Co.

WARRANTY DEED

STATE OF GEORGIA
COUNTY OF FAYETTE

THIS INDENTURE, made the 30th day of July, 2012, between T & D Grocery & Gas, Inc., a Georgia Corporation, as party or parties of the first part, hereinafter called Grantor, and W & W Realty Co., LLP, as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of TEN AND 00/100 (\$10.00) DOLLARS in hand paid at and before the sealing and delivery of these presents, and for other valuable consideration, 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 253 of the 4th District of Fayette County, Georgia, being more particularly described as follows:

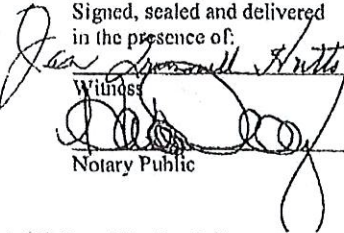

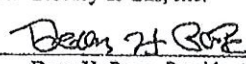

BEGINNING AT A POINT on the southeasterly right-of-way of Georgia Highway 85 (130-foot right-of-way) which said point is located 881.22 feet Southwesterly, as measured along the Southeasterly right-of-way of said Georgia Highway 85, from the intersection of the southeasterly right-of-way of said Georgia Highway 85 with the North line of said Land Lot 253, said District, thence South 21 degrees 13 minutes 05 seconds East a distance of 440.05 feet to a point; thence South 29 degrees 15 minutes 51 seconds West a distance of 85 feet to a point; thence South 84 degrees 56 minutes 03 seconds West a distance of 411.27 feet to a point on the Southeasterly right-of-way of said Georgia Highway 85; thence North 29 degrees 15 minutes 51 seconds East along the southeasterly right-of-way of said Georgia Highway 85 a distance of 596.89 feet to the Point of Beginning, being improved property with a retail store and gasoline station located thereon.

SUBJECT to restrictive covenants and general utility easements of record.

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

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

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

Signed, sealed and delivered
in the presence of:

Notary Public

T & D Grocery & Gas, Inc.

Dean H. Pope, President

(CORPORATE SEAL)

PETITION NO. A-791-22
Kevin & Debbie McFarland
478 Mask Road
Brooks, GA 30205
Public Hearing Date March 28, 2022

The subject property is located at 478 Mask Road Brooks, GA 30205 and is zoned A-R. The applicant is requesting a Variance as follows:

1. Variance to Section 110-79. Residential accessory structures and their uses. (f) Guesthouses. To increase the number of allowed guesthouses from one (1) to two (2) per individual lot.
2. Variance to Section 110-79. Residential accessory structures and their uses (f) Guesthouses. To increase the maximum allowed square footage from 700 to 972 square feet.
3. Variance to Section 110-125. A-R (d)(4)(b), to reduce the front yard setback from 75 feet to 34 feet to allow an existing residential accessory structure (pole barn) to remain.

Section 110-3. Definitions

- **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.
- **Nonconformance, legal**, means a legally existing lot, use, building or structure which fails to comply with the provisions herein, as of the effective date of November 13, 1980, or as the result of subsequent amendments, or due to the acquisition of property for a public purpose, a rezoning, or a variance.

Section 110-79. Residential structures and their uses.

(f) Guesthouses. Only **one guesthouse is allowed per individual lot** (see also subparagraph w. of section 110-169(2)). Any living area included in a residential accessory structure is a guesthouse. A guesthouse shall not be used as tenant space. A guesthouse shall not exceed **700 square feet of heated and finished floor area**.

History: Tax Assessor's records indicate that the applicant purchased the property in July 2021 in Deed Book 5320 and Page 365-366. The lot is 10.588 acres. There is no record of building permits being requested for the accessory structures on the property.

Leslie Nieber, Assistant Director of Building Safety issued a stop work order on October 21, 2021 for a fence. She informed Planning & Zoning that the homeowners were doing some work without the proper permits. Through her investigation staff discovered the violations.

The survey and aerial provided shows the existing southern pole barn located 34 feet from the

secondary front yard property line, additional guesthouses, and an increase in the amount of square footage allowed for guesthouse.

Some of the buildings on the property have been identified as legal nonconforming structures, the buildings in need of variances are not.

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 that the existing “guesthouses” (2) be allowed to remain and granting the combined square feet of both be approved from 700 square feet to 972 square feet.

Request that existing pole barn (approximate 30 years old) be allowed to continue to be used for hay storage. Need variance increased/changed as it is only 35+/- feet. From Lynch Road (gravel) rather than the 75 feet requirement.

The Fayette County Zoning Ordinance, Sec. 110-242. (b) states that in order to grant a variance, the Zoning Board of Appeals shall and must find that all five (5) conditions below exist. 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 property and layout of the building were well planned out for it to be a working farm and family home. It would be a hardship and difficulty financially to do away with what exists and is in use.

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

It would seem unnecessary to remove perfectly good structures in contrast to what would be unsightly or in disrepair which have existed for decades.

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

It is a working farm that is well laid out and planned utilizing 10.55 acres in the corner of the County on a gravel road with no opposition from neighbors/nearby property owners.

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,**

There would be no detriment to the public as nothing is being changed or added that hasn't already been in place and accepted for decades.

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

The working farm has existed for decades. The neighboring property owners fully support its existence as is and does not deprive them or favor us in anyway.

DEPARTMENTAL COMMENTS

ENVIRONMENTAL HEALTH: This office has no objection to the 3 proposed variances. However, this office has record of the septic system for any structures on the property. A tank is present in the back, right of the home (near the pool) and the system appears to extend further.

ENVIRONMENTAL MANAGEMENT: N/A approved.

FIRE MARSHAL: No comment from Fire Marshal's office.

PUBLIC WORKS/ENGINEERING: Has no comment for the current request.

WATER SYSTEM: FCWS has no objection to the proposed variance. This is outside our current service area therefore there is no water availability at this location.

**A-791-22
Aerials**

**SUBJECT
PROPERTY**

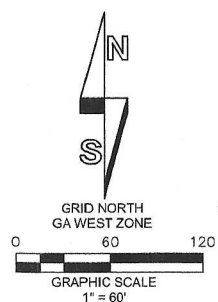
Mask Road



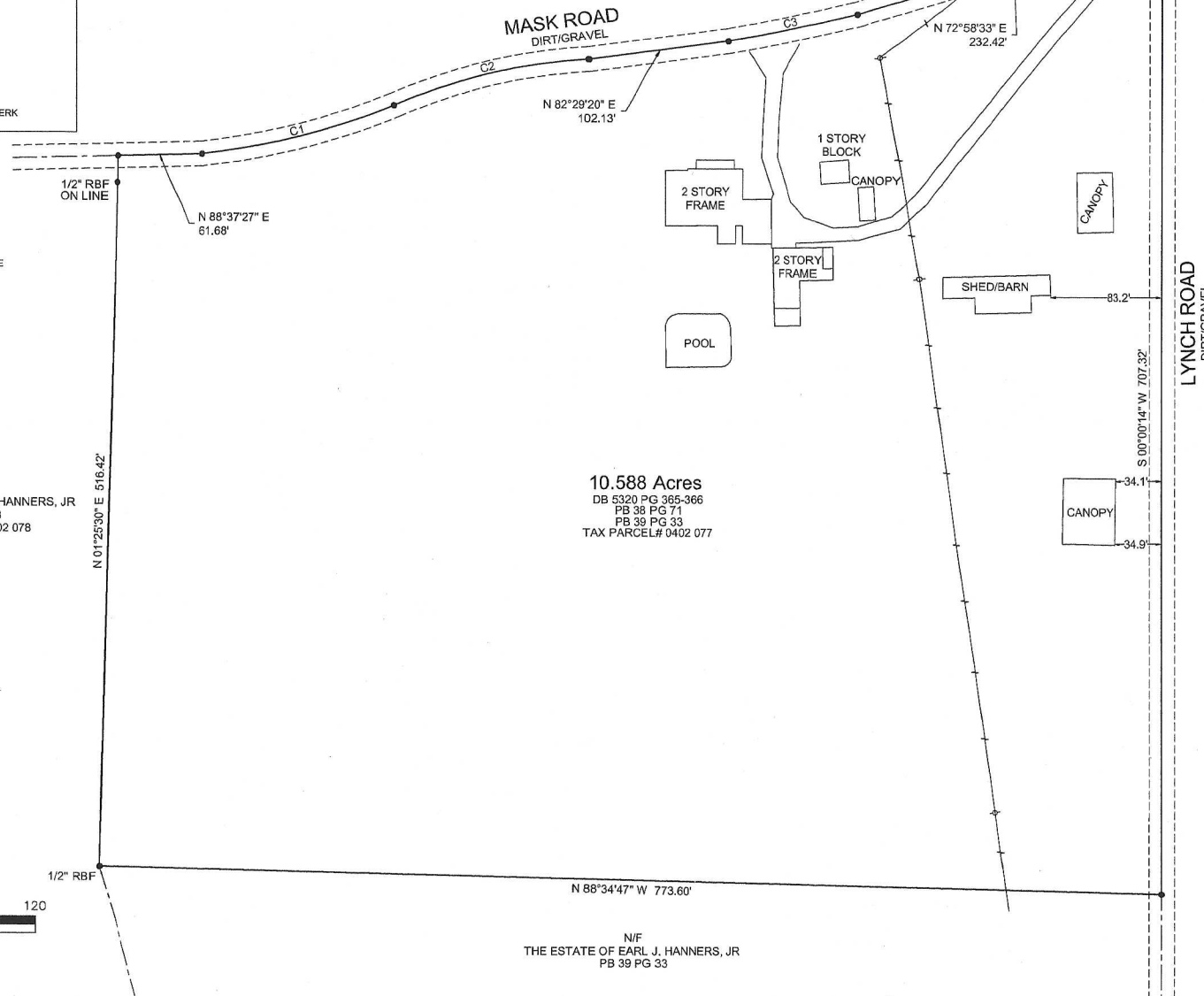
THIS BLOCK RESERVED FOR THE CLERK
OF THE SUPERIOR COURT.

LEGEND
RBF=REBAR FOUND
RBS=REBAR SET
CTP=CRIMP TOP PIPE
L.L.=LAND LOT
L.L.L.=LAND LOT LINE
P.L.=PROPERTY LINE
CO=CONSTRUCTION ENTRANCE
EP=EDGE OF PAVEMENT
P.O.B.=POINT OF BEGINNING
B/L=BUILDING SETBACK LINE
D.E.=DRAINAGE EASEMENT
N/F=NOW OR FORMERLY
F.W.P.D.=FIELD WORK
PERFORMED DATE
O/F=OUT OF FLOOD PLAIN
DB=DEED BOOK
PG=PAGE
PB=PLAT BOOK
###=HOUSE NUMBER

N/F
THE ESTATE OF EARL J. HANNERS, JR
PB 39 PG 33
TAX PARCEL# 0402 078



CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	144.17'	516.46'	15°59'40"	N 75°40'53" E	143.70'
C2	146.29'	412.83'	20°18'14"	N 76°32'16" E	145.53'
C3	96.69'	1288.44'	4°17'59"	N 78°18'27" E	96.67'



SURVEYORS CERTIFICATION:

This plat is a retracement of an existing parcel or parcels of land and does not subdivide or create a new parcel or make any changes to any real property boundaries. The recording information of the documents, maps, plats, or other instruments which created the parcel or parcels are stated hereon. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. Section 15-6-67.

FINAL SURVEYORS CERTIFICATE

IT IS HEREBY CERTIFIED THAT THIS PLAT IS TRUE AND CORRECT AND WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE BY ME OR UNDER MY SUPERVISION, THAT ALL MONUMENTS SHOWN HEREON ACTUALLY EXIST OR ARE MARKED AS "FUTURE" AND THEIR LOCATION, SIZE, TYPE, AND MATERIAL ARE CORRECTLY SHOWN. THIS PLAT CONFORMS TO ALL REQUIREMENTS OF THE GEORGIA PLAT ACT (O.C.G.A. SECTION 15-6-67).

BY: SWINSON A. GASKINS, Sr. GEORGIA
REGISTERED LAND SURVEYOR NO. 1620
DATE: 12/21/21

CLOSURE STATEMENT

THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 42,167 FEET AND AN ANGULAR ERROR OF 00° 00' 02" PER ANGLE POINT AND HAS BEEN ADJUSTED USING THE COMPASS RULE METHOD.

THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 100,000+ FEET.

ANGULAR & LINEAR MEASUREMENTS WERE OBTAINED USING A LEICA 403 TCR TOTAL STATION

FLOOD STATEMENT

ACCORDING TO FEMA FLOOD INSURANCE RATE MAP NUMBER 13113C0155E, DATED SEPTEMBER 26, 2008, THIS PROPERTY DOES NOT LIE WITHIN A SPECIAL FLOOD HAZARD AREA.

Job No. 21-094

Drawn By: R.D.G. Reviewed By: R.M.S.

Issue Date: 12/21/21

F.W.P.D.: 12/17/21

Revisions Date



Prepared For:

KEVIN McFARLAND
AND
DEBORAH McFARLAND

Property Location

Land Lot 4 Of The 4th Land District
Fayette County, Georgia

S.A. GASKINS & ASSOCIATES, LLC

surveyors planners development consultants
981 CAMPGROUND ROAD GRIFFIN, GA 30223
678-571-3054
rdgaskins79@gmail.com

VARIANCE APPLICATION TO THE ZONING BOARD OF APPEALS

PROPERTY OWNERS: KEVIN & DEBBIE MCFARLAND

MAILING ADDRESS: 478 MASK ROAD, BROOKS, GA., 30205

PHONE: 404-326-4340 E-MAIL: KEVINMCFARLAND@COMCAST.NET

AGENT FOR OWNERS: SELF

MAILING ADDRESS: SAME AS ABOVE

PHONE: _____ E-MAIL: _____

PROPERTY LOCATION: LAND LOT 04 LAND DISTRICT 01 PARCEL 0402 077

TOTAL NUMBER OF ACRES OF SUBJECT PROPERTY: 10.55 ~~0.0004~~ ACRES

ZONING DISTRICT: _____

ZONING OF SURROUNDING PROPERTIES: SAME

PRESENT USE OF SUBJECT PROPERTY: A4 - AGRICULTURE SMALL TRACTS
SINGLE FAMILY HOME/FARM

PROPOSED USE OF SUBJECT PROPERTY: NOT PROPOSING ANY CHANGE FOR USE

(THIS AREA TO BE COMPLETED BY STAFF): PETITION NUMBER: A-791-22

[] Application Insufficient due to lack of:

by Staff: _____ Date: _____

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

by Staff: [Signature] Date: 2/18/2022

DATE OF ZONING BOARD OF APPEALS HEARING: March 28, 2022

Received from Kevin & Debbie McFarland a check in the amount of \$ 325.00

for application filing fee, and \$ 40.00 for deposit on frame for public hearing sign(s).

Date Paid: 2/18/2022 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:

KEVIN MCFARLAND - DEBORAH MCFARLAND

Please Print Names

Property Tax Identification Number(s) of Subject Property: 0402077

(I am) (we are) the sole owner(s) of the above-referenced property. Subject property is located in Land Lot(s) of the 01 District, and (if applicable to more than one land district) Land Lot(s) 04 of the District, and said property consists of a total of 10.55 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]

Signature of Property Owner 1

478 MASK ROAD, BROOKS

Address

[Signature]

Signature of Property Owner 2

478 MASK ROAD BROOKS

Address



[Signature]

Signature of Notary Public

2-18-2022

Date

[Signature]

Signature of Notary Public

2-18-2022

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
110-79	ONLY 1 GUEST HOUSE ALLOWED PER LOT.	ALLOWING THE TWO EXISTING TO REMAIN.	+ 1 GUESTHOUSE
110-79 Residential Structure & Use	GUEST HOUSE SHALL NOT EXCEED 700 SQ FT	INCREASE COMBINED AMOUNT TO EXISTING 972 SQ. FT.	+ 272 SQ FT. COMBINED SPACE
110-125 A-R Zoning	75 REQUIRED SET BACK	ALLOW EXISTING POLE BARN TO REMAIN. 34'	4 FT 4 FT SET BACK



1

VARIANCE SUMMARY

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

REQUESTING THAT THE EXISTING "GUEST HOUSES"
(2) BE ALLOWED TO REMAIN AND GRANTING THE
COMBINED SQ. FT. OF BOTH BE APPROVED FROM
700 SQ FT TO 972 SQ. FT.

REQUEST THAT EXISTING POLE BARN (APPROX 30
YEARS OLD) BE ALLOWED TO CONTINUE TO BE
USED FOR HAY STORAGE. NEED VARIANCE
INCREASED/CHANGED AS IT IS ONLY 35 +/-
FT. FROM LYNCH RD (GRAVEL) RATHER THAN
THE 75 FT REQUIREMENT.

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 PROPERTY AND LAYOUT OF THE BUILDINGS WERE WELL PLANNED OUT FOR IT TO BE A WORKING FARM AND FAMILY HOME. IT WOULD BE A HARDSHIP AND DIFFICULTY FINANCIALLY TO DO AWAY WITH WHAT EXISTS AND IS IN USE.

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

IT WOULD SEEM UNNECESSARY TO REMOVE PERFECTLY GOOD STRUCTURES IN CONTRAST TO WHAT WOULD BE UNSIGHTLY OR IN DISREPAIR WHICH HAVE EXISTED FOR DECADES.

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

IT IS A WORKING FARM THAT IS WELL LAID OUT AND PLANNED UTILIZING 10.55 ACRES IN THE CORNER OF THE COUNTY ON A GRAVEL ROAD WITH NO OPPOSITION FROM NEIGHBORS/NEARBY PROPERTY OWNERS.

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.

THERE WOULD BE NO DETRIMENT TO THE
PUBLIC AS NOTHING IS BEING CHANGED OR
ADDED THAT HASN'T ALREADY BEEN IN PLACE
AND ACCEPTED FOR DECADES.

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

THE WORKING FARM HAS EXISTED FOR DECADES.
THE NEIGHBORING PROPERTY OWNERS FULLY
SUPPORT ITS EXISTANCE AS-IS AND DOES NOT
DEPRIVE THEM OR FAVOR US IN ANY WAY.