

BOARD OF APPEALS

John Tate, Chairman
Marsha Hopkins, Vice-Chairman
Bill Beckwith
Brian Haren
Kyle McCormick

STAFF

Deborah L. Bell, Planning and Zoning Director
Deborah Sims, Zoning Administrator
Maria Binns, Zoning Coordinator
E. Allison Ivey Cox, County Attorney

AGENDA

**Fayette County Zoning Board of Appeals
Fayette County Administrative Complex
Public Meeting Room
July 28, 2025
7:00 P.M.**

***Please turn off or turn to mute all electronic devices during the
Zoning Board of Appeals Meetings**

1. Call to Order.
2. Pledge of Allegiance.
3. Approval of Agenda.
4. Consideration of the Minutes of the Meeting held on June 23, 2025.

PUBLIC HEARING

5. Consideration of Petition No. A-899-25 – Lawrence and Nancy Boyle, Owner(s).
Per Sec. 110-125(d)(6), the side yard setback in the A-R Zoning District is required to be 50'. Applicants are requesting a variance to reduce the side yard setback from 50' to 25' to allow the construction of a detached garage. The subject property is located in Land Lot 100 of the 4th District and fronts Morgan Mill Road.

Minutes 06/23/2025

THE FAYETTE COUNTY ZONING BOARD OF APPEALS met on June 23, 2025, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

MEMBERS PRESENT: John Tate, Chairman
Marsha Hopkins, Vice-Chairman
Bill Beckwith
Brian Haren
Kyle McCormick

STAFF PRESENT: Debbie Bell, Planning and Zoning Director
Deborah Sims, Zoning Administrator
E. Allison Ivey Cox, County Attorney
Maria Binns, Zoning Secretary

-
1. Call to Order. *Chairman John Tate called the June 23, 2025, meeting to order at 7:01 pm.*
 2. Pledge of Allegiance. *Chairman John Tate offered the invocation and led the audience in the Pledge of Allegiance.*
 3. Approval of Agenda. *Bill Beckwith made a motion to approve the agenda. Kyle McCormick seconded the motion. The motion passed unanimously. Marsha Hopkins, Vice-Chairman, Commissioner Brian Haren, and Zoning Administrator Deborah Sims were absent.*
 4. Consideration of the Minutes of the Meeting held on May 27, 2025. *Bill Beckwith made the motion to approve the minutes of the meeting held on May 27, 2025. Kyle McCormick seconded the motion. The motion carried 3-0.*

PUBLIC HEARING

5. **Consideration of Petition No. A-897-25** – Amari Capital Investments, LLC, Owner. Applicant is requesting a variance to Sec. 110-137(d)(5) to reduce the rear yard setback in the R-40 zoning from 30 feet to 12.7 feet to allow the construction of a new pool and pool deck. The subject property is located in Land Lots 217 & 218 of the 13th District and fronts Ensley Point.

Before reading the item, Ms. Deborah Bell asked the petitioner if, because there was not a full Board present, they could request to table the petition to the next meeting.

Sherri McKelvey, Agent, on behalf of the applicant, chose to continue with the hearing.

Mrs. Bell read petition A-897-25 and stated the applicant is requesting a variance of 17.3 feet to reduce the rear yard setback from 30 feet to 12.7 feet to allow the construction of an inground pool and pool deck. The parcel is a legal lot of record as shown on the plat recorded at located in Legacy Hills Phase II Subdivision, zoned R-40 with 1.1 acres. Staff mentioned the encroachment is not likely to have an adverse impact on the neighbors or traffic, and that the lot contains a stormwater detention pond, which significantly limits the available area in the backyard.

Ms. Sherri McKelvey, Agent with Premier Pools & Spas, on behalf of the applicant, stated that they tried to adjust the pool location to accommodate it from the setbacks and the drainage easement.

No one spoke in favor or opposition to this request.

Mr. Bill Beckwith commented that since there wasn't another location in the property to place the pool, he thinks it's situated well without having to move the septic system.

Mr. Kyle McCormick asked if the aluminum fence exists.

Ms. McKelvey responded No, that is a proposal.

Chairman Tate mentioned that the request is only asking for one section that will encroach upon the boundaries, and everything else appears to be in order. Then he asked Have you spoken or had any comments from the neighbors?

Ms. McKelvey responded No, that she's aware of. The owner is not yet living in the home.

Mr. Harold Smith, President of the Homeowners Association for Legacy Hills Subdivision, commented that he wasn't in opposition to the request, and he just wanted to make sure that the approved proposal submitted to them would remain in the back of the property as presented.

Kyle McCormick made a motion to APPROVE Petition No. A-897-25. Bill Beckwith seconded the motion. The motion passed unanimously.

6. **Consideration of Petition No. A-898-25** – Toddman and Carolyn Ray, Owners, Applicants are requesting a variance to Sec. 110-125(d)(6) to reduce the side yard setback in an A-R zoning from 50 feet by 38.6 feet to 11.4 feet to allow an accessory structure to remain. The subject property is located in Land Lots 60 of the 7th District and fronts Ebenezer Road.

The applicant chose to continue with the hearing.

Mrs. Bell continued by reading petition A-898-25, the applicant is requesting to reduce the side yard setback to 11.4 feet to allow a detached garage that was constructed in 2012 to remain. Staff find this unlikely have an impact on the neighboring properties; the immediately adjacent neighbor is a relative of the applicants and has expressed support for the variance request. When the applicant came to permit something else, they realized the structure was too close. Ms. Bell commented that W.D. Gray prepared a letter statement that verifies the distances of the garage from the property line. She states they submitted a site plan for a building permit at the time, and though that's how far they were from the property line, they didn't request foundation surveys, and it's never come out since it was family owned.

Mark Jones, Contractor, on behalf of the applicant, stated that the detached garage was constructed in 2012, with a proposed distance of 78 feet from the property line. There is a survey indicates the house was 50.8 feet from the property line, and with this, the garage encroaches into the side yard. He's not sure about that missed calculation.

No one spoke in favor or opposition to this request.

Mr. Bill Beckwith asked the petitioner if he knew if the garage was built at the same time as the house.

Mr. Jones responded that the house was built in the 90's the garage in 2012.

Mr. Kyle McCormick asked if it is confirmed on the other side that it is 126 feet from the house?

Mr. Jones stated he wouldn't know.

Chairman Tate asked for clarification back in 2012 when the garage was built. Were the same owners?

Mr. Jones responded Yes, he honestly thinks it was a contractor error, and no, the owners.

Chairman Tate asked if the property that's located next to the structure in review? And what size is that parcel?

Mr. Jones responded That's a family member, Mrs. Davis, the mother of the property owner, and approximately close to two hundred acres.

Chairman John Tate made a motion to APPROVE Petition No. A-898-25. Kyle McCormick seconded the motion. The motion passed unanimously.

*Kyle McCormick moved to adjourn the June 23, 2025, Zoning Board of Appeals meeting.
Chairman John Tate seconded the motion. The motion carried 3-0.*

The meeting adjourned at 7:32 p.m.

**ZONING BOARD OF APPEALS
OF
FAYETTE COUNTY**

JOHN TATE, CHAIRMAN

**DEBORAH BELL
DIRECTOR, PLANNING & ZONING**

PETITION NO: A-899-25

Requested Actions: Applicant is requesting a variance to reduce the side yard setback from 50' to 25' to allow the construction of an accessory structure.

Location: 217 Morgan Mill Road, Brooks, Georgia 30205

Parcel(s): 0422 035

District/Land Lot(s): 4th District, Land Lot(s) 100

Zoning: A-R, Agriculture-Residential

Lot Size: 5.0 Acres

Owner(s): Lawrence M. Boyle and Nancy J. Boyle

Agent: N/A

Zoning Board of Appeal Public Hearing: July 28, 2025

REQUEST

Applicant is requesting the following:

Per Sec. 110-125(d)(6), Side yard setback in the A-R Zoning District is required to be 50'. The applicant requests to reduce the setback by 25', to a setback of 25', to allow the construction of a detached garage.

STAFF ASSESSMENT

The location of the existing garage and driveway do present some practical difficulties in siting the detached garage. The reduction of the setback is unlikely to pose any problems for neighboring properties.

VARIANCE SUMMARY & CRITERIA FOR CONSIDERATION

Staff Assessment

Please refer to the application form for the applicant's justification of criteria.

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

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

The parcel is rectangular-shaped and the house is situated east of center. In order to build a garage on the west side of the house, the driveway would have to go through the front yard. It cannot go through the back yard because of the location of the septic system. This would also put the garage a long distance from the main entrance.

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

The parcel is subject to the same requirements as all other A-R zoned properties in the county.

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

The location of the house on the parcel makes it difficult to locate the garage elsewhere.

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

The reduction of the setback is not likely to have an adverse impact on the neighbors.

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

The applicant will continue to have the same rights as all other residents in the A-R zoning district. The garage might be sited elsewhere on the lot, but it would be farther from the house and not as easy to drive the car inside the structure.

HISTORY

This parcel is a legal lot of record documented in the Final Plat for Christopher Edwards, recorded on October 3, 1997, in Plat Book 29 Pages 185.

ZONING REQUIREMENTS

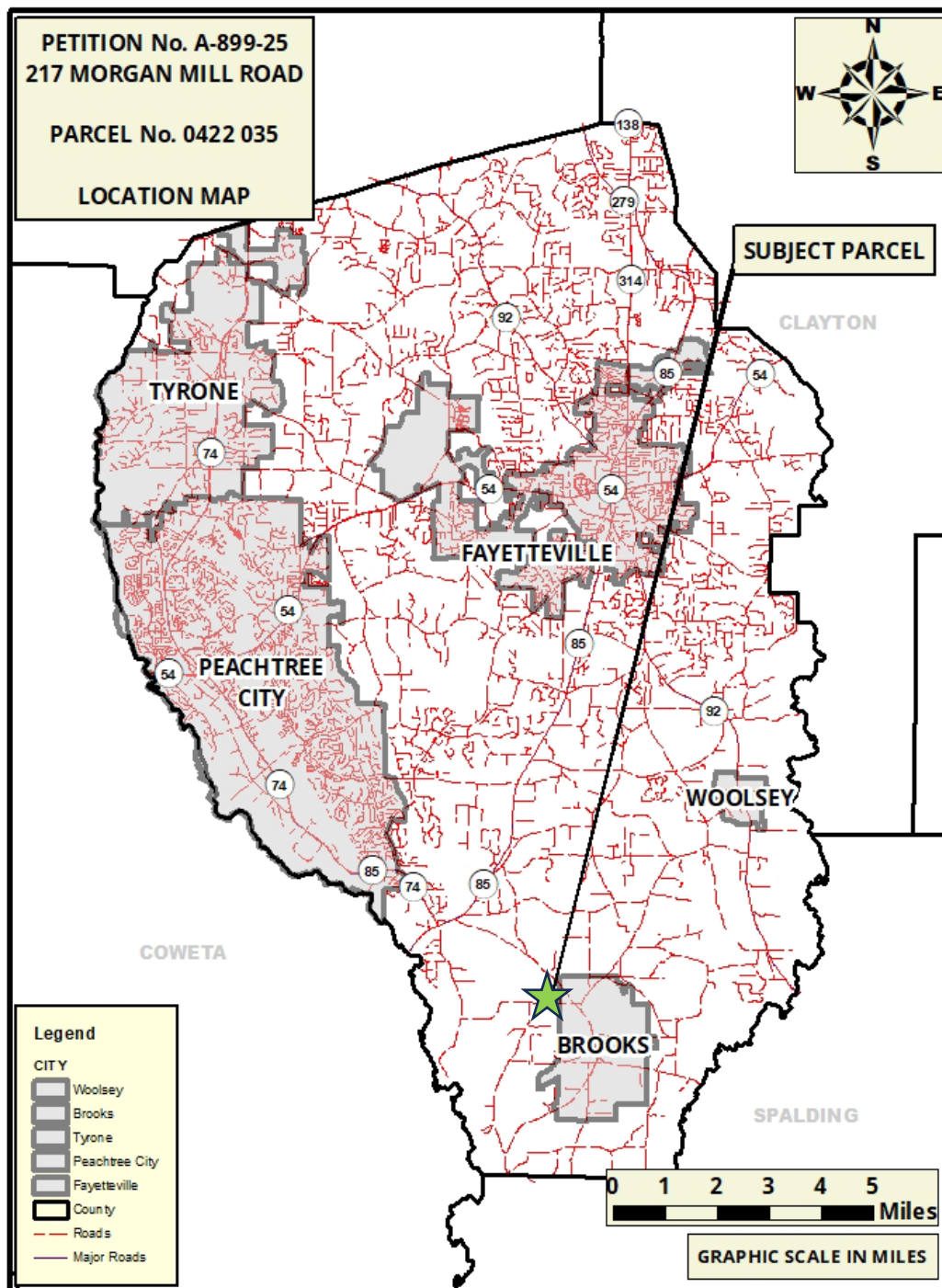
Sec. 110-125. A-R, Agricultural-Residential District.

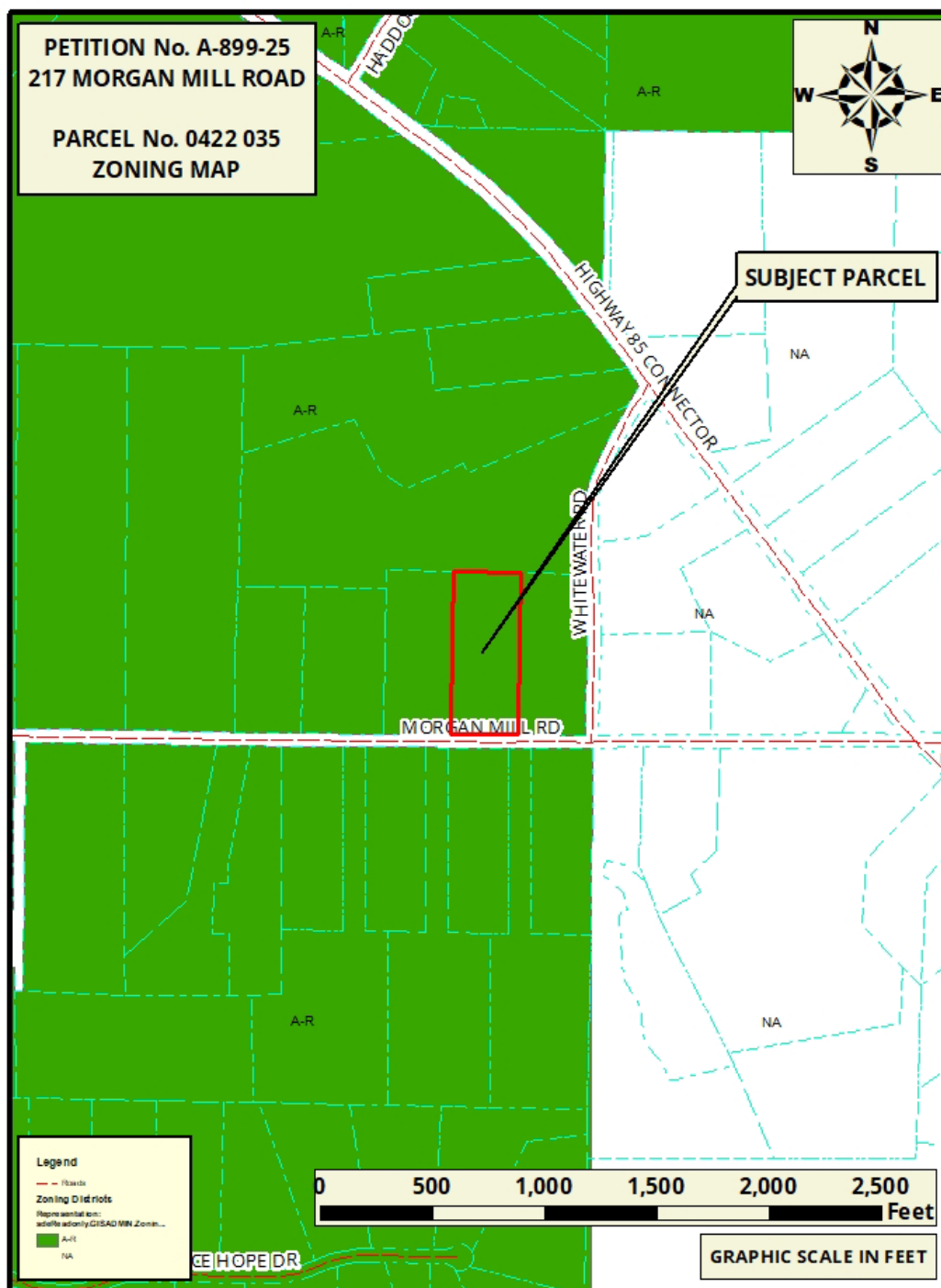
(d) *Dimensional requirements.* The minimum dimensional requirements in the A-R zoning district shall be as follows:

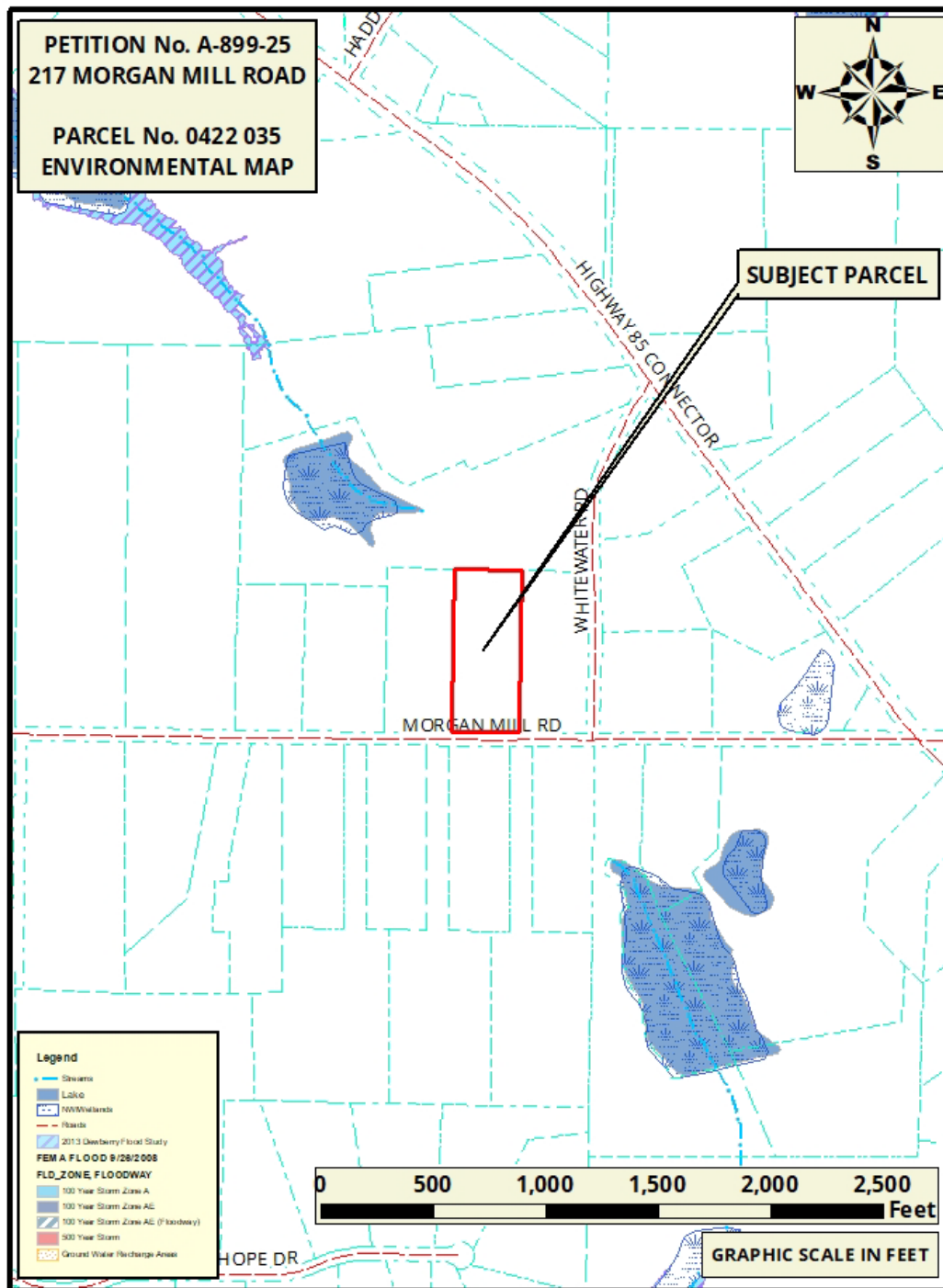
(6) Side yard setback: 50 feet.

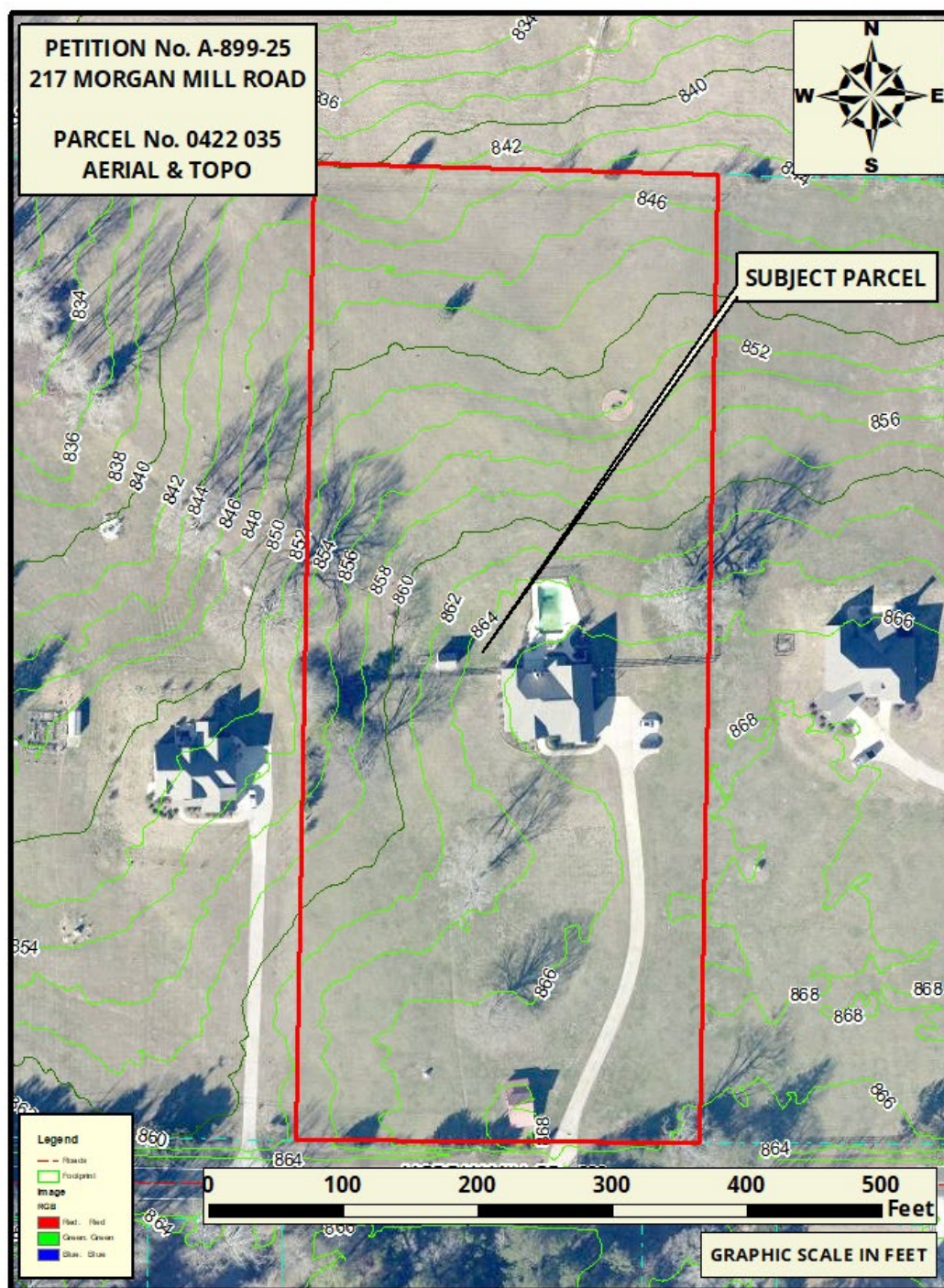
DEPARTMENTAL COMMENTS

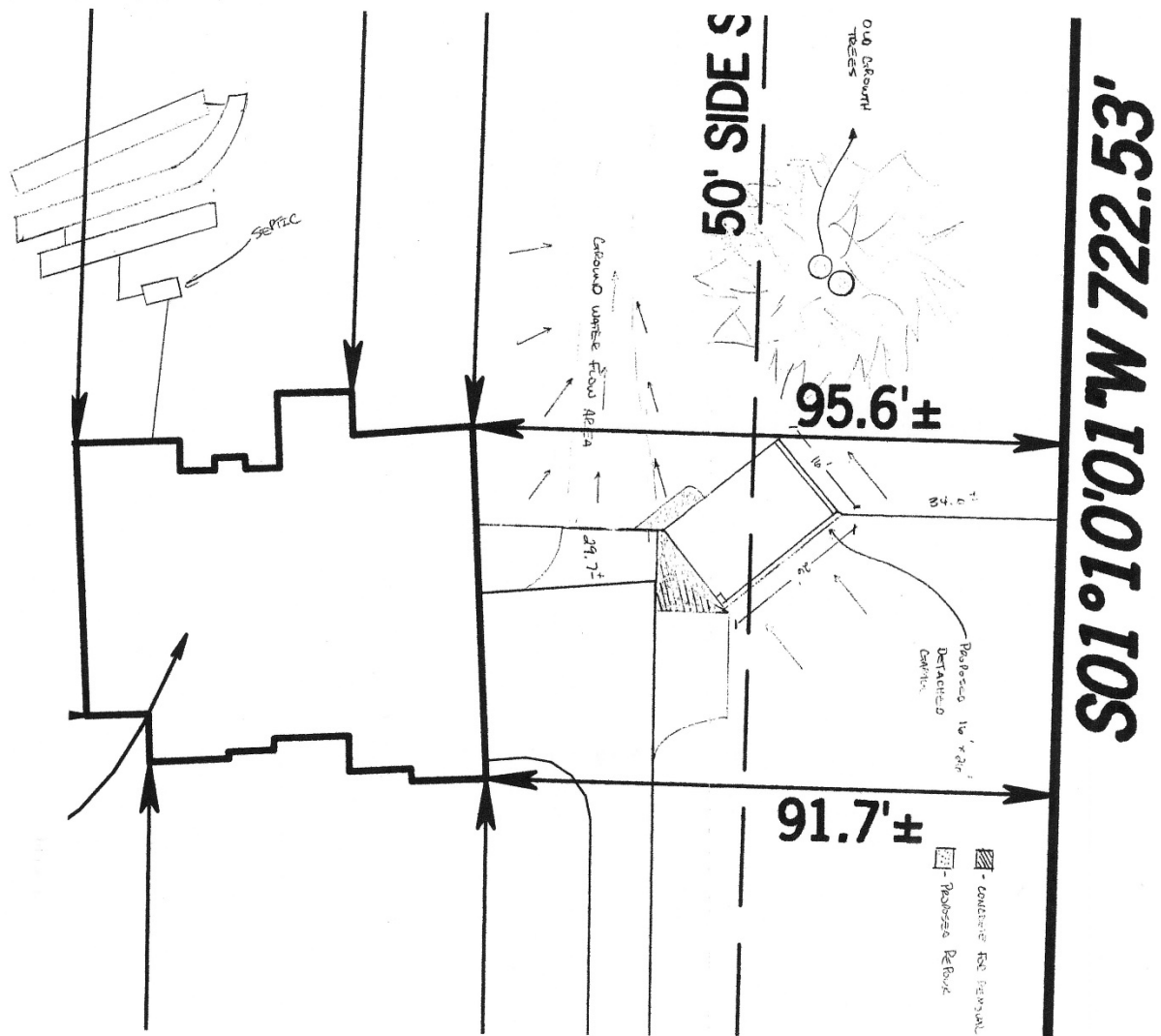
- ☐ **Water System** –No comments.
- ☐ **Public Works** – No objections.
- ☐ **Environmental Management** – No objections.
- ☐ **Environmental Health Department** – No objections.
- ☐ **Fire** – No objections.











CONCEPT

Petition # A-899-25
(assigned by staff)

FAYETTE COUNTY, GEORGIA
VARIANCE APPLICATION TO THE ZONING BOARD OF APPEALS

PROPERTY INFORMATION:

Parcel No. 0422035 Acreage: 5 Land Lot: 100 Land District: 4th
Address: 217 Morgan Mill Road Brooks GA 30205
Zoning: A-R Zoning of Surrounding Properties: A-R
Use: Residential Dwelling

PROPERTY OWNER INFORMATION

Name Lawrence M Boyle
Email [REDACTED]
Address 217 Morgan Mill Road
City Brooks
State GA Zip 30205
Phone [REDACTED]

AGENT/DEVELOPER INFORMATION (If not owner)

Name _____
Email _____
Address _____
City _____
State _____ Zip _____
Phone _____

(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 Complete

by Staff: Myia Couris Date: 22 May 2025

DATE OF ZONING BOARD OF APPEALS HEARING: 28 JULY 2025

Received payment from LAWRENCE BOYLE a check in the amount of \$ 175⁰⁰

for application filing fee, and \$ 20⁰⁰ for deposit on frame for public hearing sign(s).

Date Paid 22 May 2025 Receipt Number: MISCP2-05-2025-089489

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:

Lawrence M Boyle / Nancy J Boyle

Please Print Owners' Names

0422035

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

100

(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) _____ of the District, and said property consists of a total of 5 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.

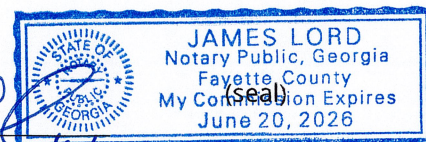
SIGNATURES

Signature Lawrence M Boyle
Name: Lawrence M Boyle
Address: 217 Morgan Mill Road
City/State/Zip: Brooks / GA / 30205
Date: _____

Owner/
Agent
One:

Notary: _____

Commission Exp.: 06/20/2026

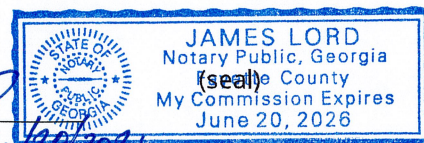


Signature NJ Boyle
Name: Nancy J Boyle
Address: 217 Morgan Mill Road
City/State/Zip: Brooks / GA / 30205
Date: _____

Owner/
Agent
Two:

Notary: _____

Commission Exp.: 06/20/2026



Signature _____
Name: _____
Address: _____
City/State/Zip: _____
Date: _____

Owner/
Agent
Three:

Notary: _____

Commission Exp.: _____

(seal)

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	50 foot set back on right side of property when viewed from Morgan Mill Rd.
Proposed Change	Reduce the setback to 25 feet
Variance Amount	25 feet

Ordinance/Section	
Requirement	
Proposed Change	
Variance Amount	

Ordinance/Section	
Requirement	
Proposed Change	
Variance Amount	

VARIANCE SUMMARY

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

Reduce the set back on the right side of property line between lot B and lot C to 25 feet to allow for the construction of a detached single car garage

JUSTIFICATION OF REQUEST

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

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography.
In order to be useable, the planned detached garage needs to have access from the existing driveway. The requested location for the new garage provides this access from the driveway and does not impede existing drainage water flow. Due to the topography of the land and the location of the existing driveway, moving the new garage to accommodate the existing setback would require significant grading and the removal of two 100-year-old trees to maintain proper drainage.
2. The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship.
If the existing setback is not modified the new garage would require extensive grading of the yard and removing two old growth, 100-year-old trees to provide proper drainage. These trees improve the appearance of the existing lot and match similar trees on lots on both sides of the existing lot.
3. Such conditions are peculiar to the particular piece of property involved.
The natural contours of the property provide drainage from driveway and front yard to a sloping back yard. The new detached garage is planned to work with the existing property contour to maintain proper drainage without the requirement to significantly regrade the yard including the removal of two old growth trees in order to maintain proper drainage.
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.
If this variance is granted, the new structure will still be more that 100 feet from the nearest building on the adjacent lot and will have no negative impacts to neighbors' access or site lines for their property. Installation of the new garage in planned location will have no impact to existing utilities on existing property or surrounding lots.
5. A literal interpretation of this Ordinance would deprive the applicant of any rights that others in the same zoning district are allowed.
If this variance is not granted, it will not be possible to add a detached garage on the property with access to the existing driveway in a location that will provide adequate drainage and maintain the two existing old growth trees that enhance the appearance of the area.

CHECKLIST OF ITEMS REQUIRED TO BE SUBMITTED FOR ZBA REQUESTS

(All applications/documentation must be complete at the time of submittal, or the application will not be accepted)

- ☒ Application form and all required attachments, completed, signed, and notarized (if applicable).
- ☒ Copy of latest recorded deed, including legal description of the boundaries of the subject property, including total acreage.
- ☒ One copy of the survey plat of the property, drawn to scale with accurate dimensions, with the following indicated:
 - a. X Location and size of existing structures (principal and accessory) and improvements on the parcel, including type (residential or non-residential), floor area, and accessory uses. Structures proposed to be removed must be indicated and labeled as such.
 - b. X Minimum setbacks and buffers from all property lines of subject property required in the zoning district.
 - c. X Location of exits/entrances to the subject property.
 - d. X Location of all existing and proposed easements and streets on or adjacent to the subject property, indicating width of existing and proposed easements, width of right-of-way, and centerline of streets.
 - e. X Location of all utilities, including well or water lines.
 - f. X Location of septic tank, drainfield, and drainfield replacement area.
 - g. na Location and elevation of the 100-year flood plain and watershed protection buffers and setbacks (if applicable).
 - h. na Location of on-site stormwater facilities to include detention or retention facilities (if applicable).
 - i. na Parking locations, number of parking spaces, and parking bay and aisle dimensions (if applicable).
 - j. X Location of landscaped areas, buffers, or tree save areas (if applicable).
- ☒ Application filing fee.

PLANNING AND ZONING STAFF INFORMATION BELOW

Staff Reviewed By	Requirements	Proposed
Name:	Lot Size:	
Lot:	Width at Building Line:	
Zoning:	Front Setback:	
Flood: Yes/ No MFEE:	Side Setback:	
Stream Buffers:	Rear Setback:	
Number of Frontages	House Size:	

Please return to:
Lawson & Beck, LLC
1125 Commerce Drive, Suite 300
Peachtree City, GA 30269
File # 17-LAW-2297

Doc ID: 010217670001 Type: WD
Recorded: 08/28/2017 at 09:25:00 AM
Fee Amt: \$496.90 Page 1 of 1
Transfer Tax: \$486.90
Fayette, Ga. Clerk Superior Court
Sheila Studdard Clerk of Court
BK 4648 PG 281

STATE OF GEORGIA
COUNTY OF FAYETTE

LIMITED WARRANTY DEED

THIS INDENTURE made this 18th day of August, 2017 between

Upscale Homes, Inc.

as party or parties of the first part, hereinafter called Grantor, and

Lawrence M. Boyle and Nancy J. Boyle as Joint Tenants With Right of Survivorship

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 DOLLARS and other good and valuable consideration (\$10.00) 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, the following described property:

ALL THAT TRACT or parcel of land lying and being in Land Lot 100 of the 4th District of Fayette County, Georgia, being Tract B, as shown on that certain plat of survey prepared by Conkle-Lane & Associates for Christopher C. Edwards, dated September 23, 1997, recorded in Plat Book 29, Page 185, Fayette County, Georgia records, said plat being incorporated herein and made a part hereof by reference.

Subject to restrictive covenants and 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.

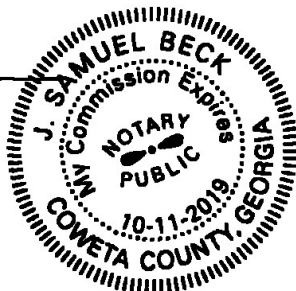
AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons claiming by through or under Grantor.

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

Signed, Sealed and delivered in the presence of:

Unofficial Witness

Notary Public



Upscale Homes, Inc.

BY: *Staci Donaldson*
Staci Donaldson, Attorney in Fact



Book: 4648 Page: 281 Seq: 1

PETITIONS FOR VARIANCE(S)/
ADMINISTRATIVE APPEAL(S)/
ON CERTAIN PROPERTIES IN
UNINCORPORATED AREA OF
FAYETTE COUNTY, GEORGIA

PUBLIC HEARING to be held by
the Zoning Board of Appeals of
Fayette County on Monday, July
28, 2025, at 7:00 P.M., Fayette
County Administrative Complex,
Public Meeting Room, 140 Stone-
wall Avenue West, first floor.

Petition No.: A-899-25

Owner: Lawrence and Nancy Boyle
Property Address: 217 Morgan
Mill Road

Parcel: 0422 035

Zoning District: A-R

Area of Property: 5.0 acres

Land Lot(s): 100

District: 4th

Road Frontage: Morgan Mill
Road

Request: Applicant is requesting
the following: Variance to Sec. 110-
125(d)(6) to reduce the side yard
setback in an A-R zoning from 50
feet to 25 feet to allow the construc-
tion of a detached garage.

LIMITED WARRANTY DEED

Legal Description

ALL THAT TRACT or parcel of land
lying and being in Land Lot 100 of
the 4th District of Fayette County,
Georgia, being Tract B, as shown
on that certain plat of survey pre-
pared by Conkle-Lane & Associates
for Christopher C. Edwards, dated
September 23, 1997, recorded in
Plat Book 29, Page 185, Fayette
County, Georgia records, said plat
being incorporated herein and
made a part hereof by reference.
Subject to restrictive covenants
and easements of record.

06/18