

**BOARD OF APPEALS**

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

**STAFF**

Pete Frisina, Director of Community Services  
Chanelle Blaine, Zoning Administrator  
Howard Johnson, Planning and Zoning Coordinator

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**AGENDA**  
**Fayette County Zoning Board of Appeals**  
**Fayette County Administrative Complex**  
**Public Meeting Room**  
**February 25, 2019**  
**7:00 P.M.**

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1. Election of the Chairman.
2. Election of the Vice-Chairman.
3. Election of the Secretary.
4. Consideration of the Minutes of the Meeting held on November 26, 2018.

**PUBLIC HEARING**

5. Petition No. A-694-19, Ellarie Noel, Owner, and J&M Pools Services, Agent request the following: Variance to Section 110-126. C-S. (f) (5) to reduce side yard setback from 30 feet to 18 feet to allow for the construction of swimming pool with a surrounding deck. The subject property is located in Land Lot 49 of the 7<sup>th</sup> District and fronts on Elysian Drive.

VARIANCE APPLICATION TO THE ZONING BOARD OF APPEALS

PROPERTY OWNERS: Ellarie Noel

MAILING ADDRESS: 210 Elysian Dr, Fayetteville GA 30214

PHONE: 770 366 9196 E-MAIL: missellarie@yahoo.com

AGENT FOR OWNERS: J&M Pool Services LLC

MAILING ADDRESS: 200 Will Banks Rd Senoia, GA 30276

PHONE: 678 665 4148 E-MAIL: michael@jmpools.com

PROPERTY LOCATION: LAND LOT ~~118~~ 49 LAND DISTRICT ~~01~~ 7 PARCEL 070907006

TOTAL NUMBER OF ACRES OF SUBJECT PROPERTY: 1.07

ZONING DISTRICT: ~~R-3~~ C-S

ZONING OF SURROUNDING PROPERTIES: ~~R-3~~ C-S

PRESENT USE OF SUBJECT PROPERTY: Private Residence

PROPOSED USE OF SUBJECT PROPERTY: Private Residence with Inground Swimming Pool

(THIS AREA TO BE COMPLETED BY STAFF): PETITION NUMBER: A-694-19

[ ] Application Insufficient due to lack of:

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

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

by Staff: *COB* Date: 1-15-2019

DATE OF ZONING BOARD OF APPEALS HEARING: February 25, 2019

Received from J&M Custom Pools a check in the amount of \$ 195.00

for application filing fee, and \$ 175.00 for deposit on frame for public hearing sign(s). 20.00

Date Paid: 1/15/2019 Receipt Number: 6621348 - Application  
6621350 - Sign



## 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.

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Attached - Printed

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

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Attached - Printed

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

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Attached - Printed

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

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

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Attached - Printed

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

We purchased this home with the intention of building a swimming pool in our backyard, so we could enjoy a private swimming pool like so many other Fayette county residents. The home is zoned R3 with a Setback of 30' on the rear of the property. Due to the some unavoidable factors including current topography, septic system location, and water drainage, there is very minimal amount of working area to build a swimming pool with a surrounding deck in our backyard between the home and the existing 30' Setback. We are requesting a 12' Variance on the rear setback. This will (1) allow for the entire pool and surrounding deck area to be installed as designed and (2) will also allow us to locate the swimming pool equipment in a location level with the pool (required for proper circulation) and further away from our neighbor's homes. As illustrated on the property plat with the proposed pool location, the additional 12' of available space on the rear side of the property would allow for the room necessary to put an attached deck all the way around the pool, as well as locate our equipment in the rear of the property.

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

There is a significant grade change of over 8' from the rear of the house to the property line. With a majority of that elevation dropping 8' about 30' off the rear of the house, there is minimal room to put the swimming pool and surrounding deck between this grade change and the 30' setback as the land currently lays. The pool cannot be moved to the side of the property because of the location of the septic system and field lines. Installing the pool closer to the rear of the home and within the setback is not a feasible option without significantly disturbing the current topography of the land, which could affect surrounding neighbor's and natural water flow.

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

Due to the aforementioned topography issues and septic locations, the proposed area to install the pool is the only practical location available. Trying to make a pool fit within the current setbacks would result in a practical difficulty and unnecessary hardship because we would end up with a swimming pool that lacked practical and functional use already enjoyed by other Fayette county residents with private swimming pools (no deck around the pool).

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

The conditions are peculiar to this particular property because of the natural slope and significant drop off of the land between the rear of the home and the rear property line. With the additional 12' Variance, the pool can be located in an area without causing major impact or significant change to the current topography of the property. Minimizing the topography change will have less impact on erosion, and water drainage on our property and the properties surrounding us.

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

This request is the result of locating the equipment on the rear of the property AND a small area of the proposed deck around the swimming pool protruding into the current 30' Setback. The majority of the proposed swimming pool project and 100% of the swimming pool footprint falls within the current 30' setback. The deck and equipment location that is the result of our 12' Setback Variance request will not cause any substantial detriment to the public good or impair the purposes and intent of these regulations.

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

The literal interpretation of this Ordinance deprives us of the right to enjoy a swimming pool in our backyard. Many owners of pools in the Fayette county area have set back variances up to 15' to make the addition of a swimming pool at their home feasible due to similar topography conditions. We are respectfully requesting for that we are granted that same right and privilege of owning a private pool with your approval of the 12' setback.



After Recording Return To:  
McMichael & Gray, P.C.  
120 Howard Lane  
Fayetteville, GA 30215

Order No.: CON-182085-PUR

Property Appraiser's Parcel I.D. Number  
070407006

I CERTIFY THAT THIS IS A TRUE  
AND CORRECT COPY OF THE  
ORIGINAL

### LIMITED WARRANTY DEED

STATE OF GEORGIA

COUNTY OF FULTON

THIS INDENTURE, made this 12th day of October, 2018, between

**D. R. Horton, Inc., a Delaware Corporation**

of the County of Rockdale, State of Georgia, as party or parties of the first part,  
hereinafter called Grantor, and

**Ellarie Noel**

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

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

All that tract or parcel of land lying and being in Land Lots 48 and 50 of the 7th District, Fayette County,  
Georgia, being Lot 18, Elysian Fields, as shown on Final Subdivision Plat for Elysian Fields recorded in  
Plat Book 43, pages 153-158, Fayette County, Georgia Records, which plat is incorporated herein by this  
reference.


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

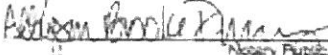
**TO HAVE AND TO HOLD** the said tract or parcel of land, with all and singular the  
rights, members and appurtenances thereof, to the same being, belonging, or in  
anywise appertaining, to the only proper use, benefit and behoof of the said Grantee  
forever in **FEE SIMPLE**.

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

[Remainder of Page Intentionally Left Blank]

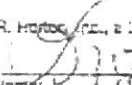
IN WITNESS WHEREOF, the Grantor has signed and sealed this deed, the day and year above written.

Signed, sealed and delivered in the presence of:  
  
\_\_\_\_\_  
Unofficial Witness

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 1/23/2021



D. R. Horton, Inc., a Delaware Corporation  
BY:   
Name: Lisa Wagner  
Its Assistant Secretary

(Corporate Seal)



