

# Minutes 07/22/2024

**THE FAYETTE COUNTY ZONING BOARD OF APPEALS** met on July 22, 2024, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

**MEMBERS PRESENT:** Bill Beckwith, Chairman  
Brian Haren, Vice-Chairman  
Marsha Hopkins  
John Tate  
Anita Davis

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

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1. Call to Order.
2. Pledge of Allegiance.
3. Approval of Agenda. ***Brian Haren made a motion to approve the agenda. John Tate seconded the motion. The motion passed 5-0.***
4. Consideration of the Minutes of the Meeting held on June 24, 2024. Bill Beckwith asked the board if they had any thoughts or corrections about the minutes.? No one responded., if no he asked for a motion. ***Marsha Hopkins made a motion to approve the Minutes of the Meeting on June 24, 2024. John Tate seconded the motion. The motion passed 5-0.***

## **PUBLIC HEARING**

5. Consideration of Petition No. A-863-24 - Bill Entrekin, Agent, for Flat Creek Baptist Church, Owner, requests a variance to Sec. 110-169(n), request to reduce the front yard setback from 100' to 50 to allow for the reconstruction of the small chapel to be in line with the main sanctuary and the cemetery. Ms. Bell explained the church is located between Fayetteville and Peachtree City just outside Highway 54 the parcel is a legal lot of record, and the property is zoned A-R agricultural residential, there is no history of rezoning. The church was constituted in 1836 and moved to its current location in 1910. The sanctuary that they want to rebuild was built in 1957. Churches are Conditional Uses, per Sec. 110-169.(2)n. In most instances, a variance is not allowed for a conditional use. However, Sec. 110-242.(b) provides an exception for legal nonconforming conditional uses to be eligible to be considered for a variance. Because this Church has been in this location since 1910, it is a legal nonconforming use. It is nonconforming because it doesn't meet the front yard building setbacks. The road was on a prescriptive easement at the time of establishment and there were no specified building setbacks at that time. Right of Way for Flat Creek Trail was acquired in the 1960s. The staff

assessment of the start nature of the church and cemetery should be considered in this request. The main sanctuary is already located with the 50' setback, as a result of the approval of A-297-88, in which a request for a 50' setback for the sanctuary was approved on August 23, 1988. This current request is to maintain the alignment of all structures and the cemetery along the road frontage. Ms. Bell proceeded to show different types of maps, showing the type of zoning, aerial, etc. She explained there are no environmental factors affecting this site, as well as a survey of the property. Mr. Bill Entrekin explained he is the project manager on a volunteer basis at Flack Creek Baptist Church, he states they intend to remove the building that is no longer useful, and we need a different kind of space in different on some of those areas. We would like to replace it with a very similar size and shape, even located one foot or another, to serve weddings, funerals, and smaller church services. He explained as Ms. Bell mentioned before a variance was granted a few years back for the main sanctuary and on the opposite side of the right of the structure we are talking about standing in Flack Creek facing the building, to the left of it is a cemetery that I don't know the age of it but, the cemetery and the new sanctuary structure are in line with one another in terms of the street as is the building we are trying to tear it down, it our intention to replace it with a building that does not extend any further forward than the cemetery or the sanctuary and it goes back just like it its right now. Bill Beckwith asked if anyone was in favor of the petition.? No one responded. He also asked if anyone was in opposition.? Since no one responded he brought the item back to the board. Mr. Beckwith asked the board if they had any questions regarding the petition. Mr. Brian Haren asked for clarification on item two, removal of the older Chappel will automatically cause the setback to revert from 50 feet to the original 100-foot setback rounding that portion of the property insurable. He asked Mr. Entrekin if the structure being replaced was going to be extended any further than the current one, correct.? Mr. Entrekin responded that is correct, and the reason was when the original setback was established, we were asking for a variance for the sanctuary and it was granted for the purpose of building a sanctuary, so they did not remove permanently the 100 foot setback to 50 foot for the entire length of our property, only for that building, for that time being if you will. So, when we tear that building down it will automatically reverse back to a 100 foot setback. We might shift the building left or right a little bit but nothing significant. Bill Beckwith asked for any other comments.? If not, he asked for a motion. ***Brian Haren made a motion to approve Petition No. A-863-24. John Tate seconded the motion. The motion passed 5-0.***

6. Consideration of Petition No. A-864-24-A – Arthur Ash, III, and Allison Ash, Owners, request a variance to Sec. 110-79(c)(1)a., requesting to increase the permitted number of accessory structures on a lot of five acres or less from two (2) to four (4). Ms. Bell explained where the property was located and the parcel information This parcel is a legal lot of record; it is Lot 15 in Forrest Lake II Subdivision. The house meets or exceeds the minimum house size for the R-40 zoning district and was properly permitted in 1985. The current owner applied for and received a permit to construct a new detached garage. He had already moved 2 accessory structures onto the lot and was unaware that there were setback requirements for small garden sheds, as an existing garden shed was already

located in the setback. The encroachments were discovered when the applicant submitted the foundation survey for the new garage. The zoning is R-40, and it has very similar residential land use plans all around it, she shows the different maps of the site and also the foundation survey for the garage. The staff's opinion is, that while the logistics of removing an accessory structure are challenging due to the location of the new building foundation boards, this is not due to the geographical/topographical condition of the lot. Mr. Arthur Ash stated he wanted to ask for two variances, the first one is to keep the three existing sheds on the property, and the second one is to allow them to sit where they currently are which is 10 feet from the rear property. He mentioned the board they moved in 2019 from Coweta County and brought the two sheds they had at their old home to the new one, the original cost for the sheds was about eleven thousand dollars and they relied on them for their business, since he didn't encounter any zoning issues previously, he was not aware of any zoning regulations when they moved to Fayette County. He also states he is building the garage himself and did research on what was needed to obtain the building permits to start the process. I was informed that he was building so close to the side yard setbacks he was going to need a survey done with some foundation form board to be set. I found my two side yard boundary stakes pulled the streamline between the two and then marked fifteen feet over from that line and told the concrete contractor to build the forms there which happens to be exactly in line with the existing driveway, so he thought that was going to work perfectly, however, once the surveyor came out told me the streamlines weren't accurate and the forms were fourteen feet from the property lines. I was informed but the zoning department I will have to remove the foundation site and have it re-survey, which we did and have moved a foot and a half just to be safe. The total of that was twenty-four hundred dollars and I was notified I have to remove two out of the three buildings since I had more than allowed on the site. However, since the foundation site has already moved over, and the foundation footer has been ducked down there isn't currently enough room to fit equipment between the building site and a platform deck that we have on the other side of the foundation. Mr. Ash also stated that he called some towing companies to see if it was possible to move the sheds and all said they wouldn't be able to do so since there was not enough site clearance to move between the foundation site and the platform deck. He added that going back to the setback issues moving the building forward isn't feasible either for a few reasons. The first reason is that moving the sheds forward to comply with the rear setback will block our only gate to our backyard. This is the only access to the septic drain fill, if ever needed repair this will not be possible to access it. The second reason is the structural integrity of the middle shed, it's been there for a long time and will not survive to be moved the last reason is the equipment issue mentioned before they can't get past the foundation site and the platform. Mr. Ash also stated he spoke to all four of his neighbors and they have no objections whatsoever. All sheds are in use and full, one is full of lawn equipment and the other two are used for our full-time business, which we have a home base business, and our attached garage is also full. We need these buildings to keep our business running and they also have a storage unit that is one hundred and nine dollars in rent another cost to put up in our finance. He asked the board for his

petitions to be approved. Bill Beckwith asked if anyone wanted to talk in favor or opposition of the petition, but no one responded. He brought back the petition to the board; Ms. Anita Davis asked the petitioner if he was building a new garage and would use the garage for the purpose to be storing vehicles or business.? Mr. Ash responded it was mixed-use, but he wanted to get the vehicle out and put business stuff in the attached garage that they have. Ms. Davis also asked if we planning on expanding business operations.? He responded yes, since he recently quit his job; two years ago, to focus on the business, he also added there is photos that show the property with the buildings. Mr. Beckwith acknowledged they had the photos in the agenda package. Mr. John Tate asked Mr. Ash for a particular photo that shows the deck and two of the sheds are located, he asked what the space is between the wood deck and the fence.? Mr. Ash responded between the deck and the fence, between the foundation foam boards are nine and a half foot. Mr. Tate responded It looks like there is a lot of space on this photo, twenty feet at least. Mr. Ash responded no, I measured it yesterday in the rain, and it's about nine and a half feet between the fence and the platform and nine feet between the platform deck and the wooded fence. Mr. Tate asked he thought he stated he drove his truck back there. Mr. Ash responded no, that between where the platform deck is now and between the foundation is where we just have to drive the truck, I don't drive the truck now, but now I will have to drive between the foundation and the platform deck. Mr. Tate asked when was the platform built.? He responded during covid 2020 it was my stay-at-home project. Mr. Tate asked when were the sheds brought in.? Mr. Ash responded when they moved there, the middle one, the gray one was an existing shed, and the other two on either side were brought in, they were placed in line as far as distance to the rear of the property line. Mr. Tate asked if he did not check with any county officials to see if those sheds were in violation.? He responded no, because we already had those sheds and another detached building in Coweta County so he didn't know of anything like that would be needed. Mr. Beckwith asked if anyone else on the board had any more questions.? Ms. Bell responded that the staff was unaware that the buildings are being used for home occupation use and that the plan for the garage is to be used for support of a home occupation use and that is not allowed so he will not be able to use those for storage for support a home occupation. Mr. Beckwith asked Ms. Bell if he could apply for permission to do that.? Ms. Bell responded no, a home occupation is a conditional use, and it isn't subject to variance except for those very unique situations like the church where is a legal nonconforming use already. Mr. Beckwith states he knows some cases where people do have a home occupation and there are allowed to use their residence for that. Ms. Bells responded they're allowed to use their residence, but the accessory buildings are not supposed to be used to support or conduct the home occupation. Mr. Beckwith asked Ms. Bell if she had any suggestions.? Ms. Bell responded in terms of the home occupation he will need to move the storage of his stock into a storage unit and not use the accessory buildings to support the home occupation. Mr. Beckwith asked but he could use them for storage.? Ms. Bell replied he could use them for storage or personal items. Mr. Beckwith asked what about the garage he is building.? Ms. Bell responded the same would apply to the garage, any of the accessory buildings are subject to that same use requirements. Mr. Beckwith



asked Mr. Ash if he understood the situation, and he responded that the end result would be everything business would be in the attached garage, he wanted to take the car out of there and put it in the new detached garage and all of the stuff in the accessory buildings will also have room to go into the detached garage since he uses the room above of that garage as well for his home office and everything will be within the footprint of the home. Ms. Bell responded that would be satisfactory. Ms. Marsha Hopkins asked about the three units right now, eventually the things that are in it that are related to the business will come to the attached garage.? Mr. Ash responded yes. Ms. Hopkins replayed back, once the units are empty what are those units will be for.? Mr. Ash responded to the middle for the use of the lawn and the other two for future project cars. Mr. John Tate asked for clarification that there should only be two accessory structures, there are already three on the property but now they are asking for a four-one which he states he hasn't found a justification for that allowance for a property that only allows for two. Ms. Anita Davis asked Mr. Ash for clarification once you move your items from your accessory structures into the newly created, it's there any way you can have those two accessory buildings removed.? Mr. Ash responded there was no way to physically move them because he called several towing companies, they looked at it and they said their truck were big the sheds were ten foot wide. Ms. Davis asked if he could have them removed.? Mr. Ash responded he would not want them to tear them down. They are expensive and in impeccable condition and it will be a waste, they are well built because they are portable, it will be difficult for us to do that, we can't afford another storage building. Ms. Davis asked when you moved into the home you were able to get them back there because of the deck you built wants there. He responded yes, the deck was not there or the foundation. Mr. Beckwith asked if anyone had other discussions.? Ms. Hopkins asked about the items that are related to the business, within the scope that we are looking up tonight It is a none issue for us if we approve all four of these or if we approve the setbacks, it is what it is, and the use is not a consideration for this decision. Am I correct.? Ms. Bell responded that it was correct. Mr. Beckwith asked for any more discussions regarding petition A-864-24-A which is the permitted number of accessory structures from 2-4. Ms. Hopkins added this is a 1.14-acre property and statically it seems like four structures is a lot amount of acres she understands everything the petitioner presented and they have other petitioners moving from other counties and they weren't aware of the zonings but that is just not an always a justification but I heard what you are saying about the financial aspect but, I have concerns about four structures in a small amount of acre. She asked the board If anyone could add any other concerns.? Ms. Davis responded that her concern is that what if future neighbors don't like this. Mr. Brian Haren stated that over the last several months in meetings, we let people who didn't do their diligence and lay out their new construction, we let them skate. He explained different situations, but he stated that Mr. Ash did his diligence but did it twice, and because of that he found that he was out of compliance with these structures, I have a problem with the number of structures, but he did move the forms to come in compliance and because of that I will be in support this petition. He is one of the few that fixed the problems he encountered and move forward to get in compliance. Mr. John Tate added

doesn't agree Mr. Ash didn't do his diligence initially and hopes residents will do more often but he can't find a justification for the four structures in this type of property. Mr. Beckwith states that different people moved from other parts of the county and the blind side because they didn't check but Mr. Ash is done, and he agreed with Mr. Haren supporting this petition part A. Then he asked for a motion if no more discussion. Ms. Hopkins added she fell in the middle, sometimes it gets more than what is reasonable under the circumstances, what can we do when it gets to that level.? But he rectifies what was pointed at him and she will be in support of this petition. Mr. Beckwith asked for a motion. ***Brian Haren made a motion to approve Petition No. A-864-24-A. Bill Beckwith seconded the motion. The motion passed 4-1 with John Tate voting in opposition.***

7. Consideration of Petition No. A-864-24-B – Arthur Ash, III, and Allison Ash, Owners, request a variance to Sec. 110-137(d)(5), requesting to reduce the rear yard building setback in the R-40 zoning district from 30' to 10' to allow the existing accessory structures to remain. Mr. Beckwith asked Mr. Ash if he would like to make a comment about the petition.? He responded when the two other buildings brought the existing gray shed and came from the neighbor's house and the previous owner moved it in there and told us it was ten feet away from the property line. When brought the other ones, I told the tow truck drivers to align them with the one that was already there. That was why I was asking for this variance. Mr. Beckwith asked if anyone was in favor of this petition.? No one responded, then he asked if anyone was in opposition.? No one responded. He brought the item back to the board for comments. Mr. Beckwith added that while Mr. Ash was doing his diligence in one area, he assumed that the location was okay. Basically, he was putting barriers to moving them from their location. He asked for a motion to the board. ***Brian Haren made a motion to approve Petition No. A-864-24-B. Anita Davis seconded the motion. The motion passes 4-1 with John Tate voting in opposition.***
8. Consideration of Petition No. A-865-24-A – Roland E. Sasser, Jr., Owner, request a variance to Sec. 110-79.(e)(1)a., a detached garage located in the front yard is required to be within 35' of the principal structure. The applicant is requesting approval for a detached garage in the front yard that is located 169' from the house. Ms. Bell added the other two components so that you are aware of them as we go to the presentation to allow a detached garage in the front yard that does not match the general residential architectural style of the dwelling. And to allow a detached garage in the front yard to omit the connecting breezeway, deck, or pergola. The property is located at 139 Lees Lake Road in Fayetteville, and it is zoned R-70, 5.7 acres most of the abjection property is also zoned R-70 and the land use plan is rural residential. Ms. Bell showed the maps to the board and explained to them where the house was on them. As well as the survey of the property. It appears that there is room to locate the garage closer to the house, but it would be difficult to locate the garage behind the house. There is no apparent zoning hardship to support omitting the architectural standards for a detached garage in the front yard. She states that we have some letters in support from the

neighbors, they were passed to the board by the secretary. Mr. Beckwith asked Mr. Sasser to sign the sheet and explained to the board his petitions. Mr. Sasser presented himself and stated he had lived in Fayette County for 24 years; he was a soldier for 30 years and deployed. He explained he is retired now and moved a year ago and bought a second home where he is trying to build a storage building without plumbing or electricity, we need it to store our yard equipment and other miscellaneous items. I submitted plans to the county and found that to build it to code we need to require approval of three variances, where the building will be placed, variance for a connected path to the building, which is normally required for a garage, but this is not a garage is a storage building and the exterior of the building simulate or look like my home. I have been attempting to complete this process for many months now and it's been a lot of factors he explained. He had expenses close to three thousand dollars. He referred to the maps and explained to the board the location of the house and he stated the back of the house is very steep there, and that house from the front to the backdrops about fifteen feet just to the back of the house where to build it up to put a building in either one of those places on the side is nearly impossible. That's why he was requesting to put the building in the front which is the only flat spot basically that exists to put the building there. He also stated you cannot change the elevation where the house is located, the shape and the elevation of the land house are already there. There is a lake on the back, and he will take down some oak trees close to one hundred years old other than building back there will not be a way to enter the space other than building an additional road around to the other side and it not doable and we will no other use for that road. I also think will be dangerous a safety issue to pour that much concrete into the back of the house or even on the side of the house. He showed the board exactly where the best place to build it was in the front. He spoke to his neighbor, and he has no problem with the building. The other variance for me to match my house will require me to build a brick building and will be very expensive to do and I don't see why there should be requirements since it will be that far away from the house. Almost everyone in that part of the county has a building for storage and I don't need that because it is not anywhere near to be seen near the house or can be seen from the road. He asked the board if they granted his petitions. Mr. Beckwith stated the board was going to take those three petitions one at a time. Ms. Allison Cox, County Attorney added according to the new information that they just got about being this an accessory structure and not an attached garage we got a suggestion from legal I will say that instead of considering these three separate variances this could be considered a front yard accessory which will be a variance to Sec 110-179(e) which you have in your package and it says that no residential accessory structure should be located in the front yard except a detached garage which we thought we were considering but that isn't what we are hearing it says this is a storage area. Well, if it is a storage area then the architectural standards do not apply and neither does the distance from the home, that wouldn't apply either, so could deny the first and the last variances and consider the second one as a variance to 110-179 (e) and that can grant it or deny based on the fact that this is an accessory structure in the front yard that isn't a detached garage. We are lining up the variance request with reality a little bit. Mr. Beckwith responded that would trim a couple of items, Ms.

Coz responded it would, but it also lines things up with expectations in the room a little bit we are not looking for a detached garage we are looking for an accessory structure. So, we should be considering that which is a different variance. Ms. Beckwith thanked the county attorney and proceeded with the regular statement where he asked if there was anyone in support of the petition.? No one responded. Then he asked if there was anyone in opposition.? No one responded. Mr. Beckwith brought back the item to the board for discussion and state if he understood the suggestion that they can deny petitions "A" and "C". Ms. Cox added to have the hearing and everything as normal since we advertised them but "B" if a motion it's made it should be a motion to allow a variance to Sec 110-179 (e) to allow an accessory structure in the front yard. Mr. Beckwith asked for a motion to A-865-24-A. **Brian Haren made a motion to deny Petition No. A-865-24-A. John Tate seconded the motion. The motion passed 5-0.**

9. Consideration of Petition No. A-865-24-B – Roland E. Sasser, Jr., Owner, requests a variance to Sec. 110-79(e)(1)b, a detached garage located in the front yard shall have a residential architectural style. The applicant is requesting to approval to construct a detached garage located in the front that does not meet these architectural standards. Ms. Bell read the amendment petition A-865-24-B as variance to request Sec. 110-79(e) with the request to allow an accessory structure in the front yard. Mr. Brian Haren asked that they must first vote to approve the amendment and then vote on approval or denial.? Ms. Cox responded if the motion is made properly is not an amendment, but we do have to have the hearing. Mr. Beckwith asked if there were anyone in the audience who would like to speak in favor of the petition.? No one responded. Then he asked if anyone would like to speak in opposition.? No one responded. He brought the petition to the board. **Allison Cox, County Attorney recommended presenting this as a variance to Sec 110-79 (e) to allow an accessory structure in the front yard. John Tate made a motion to approve Petition No. A-865-24-B. to Sec 110-79 (e) to allow an accessory structure in the front yard and construction of the building. Brian Haren seconded the motion. The motion passed 5-0.**
10. Consideration of Petition No. A-865-24-C – Roland E. Sasser, Jr., Owner, requests a variance to Sec. 110-79(e)(1)d, a detached garage located in the front yard shall be attached to the principal dwelling by a breezeway, deck, or pergola. The applicant is requesting to allow a residential accessory structure located in the front that does not have a connecting breezeway, deck, or pergola. The board asked to go to this particular petition first to make a motion since they have spoken about it in petition A-865-A. Mr. Bill Beckwith asked if there was anyone in support of the petition A-865-C? No one responded. Then he asked if there was anyone in opposition A-865-C? No one responded. Then he brought the petition back to the board for a motion. **John Tate made a motion to deny Petition No. A-865-24-C. Bill Beckwith seconded the motion. The motion passed 5-0.**
11. Consideration of Petition No. A-866-24 – Tim Hester, Owner, requests a variance to Sec. 110-79.(c)(1)b., a residential lot is limited to one accessory structure with a footprint not to exceed 1800 square feet. The applicant is requesting a variance



in the amount of 3000 square feet, to allow an airplane hangar with a footprint of 4800 square feet. This lot is at 100 Berry Ridge Road, Fayetteville, GA, is zoned R-40, and is 4.2 acres in Coventry Estates, the parcel is a legal lot of record documented in a final plat for Coventry Estates in September 1969. The house meets or exceeds the minimum house size for the zoning. The current owner applied for a permit to construct a new airplane hangar. The unique factor here is that Coventry Estates is a flying community, airplane hangars are standard structures in the subdivision, so its zoned R-40, and there is a limitation on the footprints of those accessory structures but many of the other homes in this neighborhood do have airplane hangars since is an airplane community and Mr. Hester has provided letters of support from his neighbors and they are in the packet. Ms. Bell showed the board the proposal on the maps and explained he wanted to remove a couple of carports and replace them with the airplane hangar along the side property line. Mr. Hester told the board that they moved in 2003 mainly because of the runway and he is a retired pilot. He states he has three airplanes, and they need to be protected from the elements. He asked the board would like to get his petition approved so he can have the new hangar with an electrical door for access, where he said would keep his other lawn equipment and hope this will increase the value of the home if they ever decide to sell it. He spoke to his neighbors and members of the group having their support. Mr. Bill Beckwith asked if there was anyone in support of the petition.? No one responded. Then he asked if there was anyone in opposition.? No one responded. Then he brought the petition back to the board. Mr. Beckwith asked the petitioner if he knew the square footage of each structure he already had on the property. Mr. Hester responded they were 45x35, there was about eight or nine foot between the two, and one of the two was sticking out in the sun which I don't like that either. Mr. Beckwith noticed that on the picture too, and he responded he had almost four thousand square feet right now. Mr. Hester responded they had been there twenty years. Mr. Beckwith asked if anyone on the board had any discussion or any questions.? Mr. Brian Haren asked if the two existing structures were permitted.? Mr. Hester responded he did not think so, he spoke to the building gentleman who told him the temporary building permits were not required, so he put them up and left. Mr. Haren asked in today's date within in a flying community, I assume if it is a total of four thousand square footage is that adequate.? For storage or protection of general aviation aircraft.? Mr. Hester responded what they would like to do is an 80x60 and that would be enough for all three. Mr. Haren asked is the community was a PUD or anything like that is it.? Ms. Bell responded no; it was developed in 1967 so it didn't anticipate some of the zoning regulations that we have now. Mr. Haren asked if there was nothing in zoning that talks about hangars.? Ms. Bell responded typically they are permitted in A-R with less limitations and a lot squarer footage is allowable she thinks up to five thousand square feet but because of the age of the subdivision and the R-40 zoning, we have the limit on the footprint for accessory structures. Mr. Beckwith added this is what is known as willow farms on Lester Road. Mr. Haren recommended the petitioner to advise the subdivision to pursue a change to the zoning to allow larger hangar structures. Mr. John Tate asked if there were other accessory structures on the property.? Mr. Hester responded no. Mr.

Beckwith asked Ms. Bell, what are the maximum number of square feet.? Ms. Bell responded typically for a lot this size the maximum will be 1,800 sq ft. Mr. Tate asked if there was nothing in the zoning that covers hangars.? Ms. Bell responded hangars are allowed in A-R but because of the type of zoning (R-40) because of the age of that neighborhood. Mr. Beckwith asked the petitioner if there were any other sizes of hangars he could choose.? Mr. Hester responded if he needed to downsize, he probably would, but he wouldn't have all of his stuff covered and that's why he was requesting this approval. Mr. Haren asked if his property was part of that development.? Mr. Hester responded yes. Mr. Tate commented he have no problem approval for the petition, and he also made a motion.

***John Tate made a motion to approve Petition No. A-866-24. Marsha Hopkins seconded the motion. The motion passed 5-0.***

12. Consideration of Petition No. A-867-24 – BWR Midgard Self Storage 3, LLC, Owner, and Robert Copenhaver, Agent, request a variance to Sec. 110-173.(3)c.2.(i), the front yard setback on State Route 85 N shall be 100 feet. Applicant is requesting a variance to reduce the front yard setback from 100 feet to 98.6 feet, to allow Building “D” to encroach into the front yard setback by 1.4 feet as is build. This is located on North Highway 85; the parcel is a legal lot of record and has been zoned C-H (Highway Commercial) since 1971. It was originally developed as a retail shopping center in 1994, as the J&R Plaza. Midgard is redeveloping the existing buildings and adding new buildings to serve as a self-storage business. Building D received a building permit on November 7, 2023. Their site plan was initially approved on November 7, 2023. Is zoned C-H (Commercial Highway). Ms. Bell shows the location of the proposal on the different maps, she states there is some floodplain in the north part of the property, what you see is a parking lot not building encroachment, which is not an issue. The building plans show the building in the correct location, however, was constructed and discovered it was over that front setback. It is staff's opinion that there are no exceptional conditions about the parcel that would justify the variance. The approved site plans were developed using the current property lines, which reflect a GDOT right-of-way acquisition that occurred in 2021, well before this project was permitted. The building was not built according to the site plans. Mr. Jonathan Kasper states he is the council for Midgard, he was there with Moshe director of planning development. He explained that the foundation goes into the setback line about 1.6 feet, which is minor, and the building structure is there they are seeking a variance because a denial will cause a teardown of the building that is already there and a great expense. Mr. Beckwith asked if anyone was in favor of the petition.? No one responded, anyone in opposition, he asked.? No one responded. He brought the petition back to the board. Mr. Beckwith asked the petitioner what happened, why was 1.6 feet over.? Did it have foamboards out.? Mr. Moshe responded yes to the second question first and then he added he doesn't know exactly how that happened if they had the survey layout. Mr. Brian Haren asked again if no foundation survey was done before construction proceeded.? And the person that set the foamboards did not make sure was correct.? Mr. Moshe responded maybe someone bumped into and they thought

they were in the right place for it went off a little. Mr. Haren added that this happens a lot in this county. Mr. Beckwith states he drove by in that day, and they had a big activity. Mr. Jonathan explained that this was an error, they did provide the construction company with the proper survey and where the physical structure should be located. Unfortunately, this is out of my client's control, and wouldn't be known if Mr. Moshe would process any foundation survey. Mr. Beckwith asked Ms. Bell if this had something to do with GDOT prior to the setback.? Ms. Bell responded no it doesn't, the site plans and the architecture of the plans were all based on the new right-of-way line, I checked those measurements to make sure there were no discrepancies but the old property line did show on some of the old documents that survey submitted to like three years after the acquisition had occurred, she states she checked those measurements on all of the approved buildings plans and they were correct with the new property lines and that difference was like twenty feet, the property lines were twenty feet so it wasn't a thigh distance between the old and property lines. Mr. Beckwith asked if there was something done to the highway.? Do they expand it.? Ms. Bell responded they are in the process of doing some improvements now, most are in Clayton County, but this project includes up to the top of the hill at the intersection on Highway 279 as part of that improvement so it's under construction now. Mr. Haren asked is that DOT work would come south to this property.? Ms. Bell responded its in front of this property, GDOT acquired twenty feet of the right of way all the way down Highway 85 on that side but that was three years ago they completed that acquisition. Do you know if there are any other work plans around.? Mr. Haren asked Ms. Bell. She responded there was going to be a continuance of the GA 85 improvements going from down past Corinth Road to make some improvements at the corner past Corinth Road intersection. Part of the county's participation in that project is an extension of Corinth Road to provide traffic light access to Kenwood Business Park but that will be a couple of years from now. But regarding this property, they won't do anything else that is already set. Mr. Haren added the measurements for this encroachment are based on the center line of the road.? Ms. Bell responded, no, they are based on the property line to the distance current of the building, and the issue is the building structure itself. Mr. Beckwith asked if anyone else had questions.? Mr. Tate this is not a usual case they were a survey done and the structure was put in someone did a modification in the field. Mr. Beckwith asked if it was asphalt-based or concrete.? Mr. Moshe responded was concrete footing set on a "U" shape and inside that there is asphalt and explained how the building and the soundings were positioned and built. Mr. Beckwith asked when this project was supposed to be completed.? Mr. Moshe replied that it was past due but if approved as soon as possible. Ms. Anita Davios commented she understood the expenses of the construction of the building but for future projects to be careful. Mr. Moshe responded they had set up a policy he would check before any concrete was poured and had the same contractor do the same in another job in another state. Mr. Beckwith added if they disapprove the petition will put the owner in big loss financially, but he knows will make a difference and he would like to make a motion to approve it.

***Bill Beckwith made a motion to approve Petition No. A-867-24. Marsha Hopkins seconded the motion. The motion passed 5-0.***

13. Consideration of Petition No. A-868-24-A – James Keith Berggren, Owner, and Cole Antley, Agent, request a variance to Sec. 110-125(d)(4)a.2., requesting to reduce the front yard setback in the A-R zoning district from 100' to 50' to allow the construction of a single-family dwelling. Ms. Bell explained the property and showed the maps of where is located near Brooks and it is zoned A-R (agricultural residential) This parcel is a legal lot of record; it is Lot 4 in Kenley Park subdivision, recorded on September 4, 1996. The lot is at the corner of Bankstown Road and Kenley Drive. It is zoned A-R and all standard building setbacks apply. It is staff's opinion that, while there are some geometric restrictions on the lot, namely the double-frontage setbacks, there is still ample room to build on the lot. It also has some floodplain and riparian buffer constraints. The topography of the lot slopes toward the stream on the southeast side of the property. It is a flying community. The front yard setback for zoning purposes runs parallel to the road, in this case, the front yard setback is a trunk carried by a little bit of the runway setback. Ms. Bell explained more about the location of the property on the maps, and she added the runway setback is not negotiable and he is asking to put a hangar on the other side of the property probably on an angle which will cause encroachment on the side property line reducing it to a potential 30 feet. Mr. Bill Beckwith asked if anyone was in favor of the petition.? No one responded. Ms. Bell responded the applicant was not present. Mr. Beckwith stated the board will have to continue without the applicant and stated that the zoning board of appeals cannot comment or take any actions for the homeowner's association which is a separate legal body. Whatever the HOA says, they will have to decide on the size of the hangar, and the location that's the HOA's responsibility, but what we can do is comment on either approved or disapproved county setbacks, and this case has three different petitions. Does anyone like to speak in support? No one responded. Anyone would like to speak in opposition to petition A-868-24-A.? Melissa Sanford explained the neighborhood description, she opposed the petition because she thinks if approved, it will be a safety issue for everyone else. She states this lot is at the top of the hill, the top of the runway, if permitted this variance would block the view for pedestrians, the pilots, and cars. She is unnecessary and should be denied. Ms. Davis commented that the proposed building seems unnecessarily close to the proper line, and she can't see why can be built within the proper setbacks. Mr. Beckwith added that all they can do is approve or disapprove the setback that is requested, whatever happens after that is the HOA's responsibility. Mr. Haren asked the staff if any other properties in the subdivision have been granted a waiver for a front-back setback.? Ms. Bell responded no. Ms. Hopkins asked if there was a vacant lot.? Ms. Bell responded there had never been a house on this lot. Mr. Tate commented that there was a better place to build the structure and in the absence of that he didn't seem basis to approve this petition and he made a motion for denial.

***John Tate made a motion to deny Petition No. A-868-24-A. Anita Davis seconded the motion. The motion passed 5-0.***



14. Consideration of Petition No. A-868-24-B – James Keith Berggren, Owner, and Cole Antley, Agent, request a variance to Sec. 110-125(d)(4)b., requesting to reduce the front yard setback on Kenley Drive from 75 feet to 50 feet to allow the construction of an airplane hangar. Mr. Beckwith asked for anyone in support of the petition.? No one responded. He asked if there was anyone in opposition.? Mr. Kent Gillen introduced himself, he is on the board of the HOA for the subdivision. He states they have rules and regulations and that the setback he is asking for is closer to Kenley Drive it is a curve road, and the hangar will block the view. Mr. Russell Sanford this year is the president of the HOA and there are only nine lots there and the objections remain the same, we invested a lot of money to be there and it's a great neighborhood and in the community, no one wants it. Mr. Beckwith asked if anyone else would like to speak in opposition.? But no one responded, Mr. Beckwith brought the item back to the board. Marsha Hopkins comment is based on the criteria that we have to evaluate this case, the information, and that the petitioner is not present she said she does not see anything that is responsive, and because of this she will deny this request. Mr. Brian Haren asked Mr. Stanford for the HOA the covenant speaks at all of air navigation safety and obstruction mitigation.? He responded, no that will be the 200 back set from the runway is not buildable, and the other rules they are park association. Mr. Haren asked him if the association evaluates does as safety issues.? Mr. Stanford said that the hangar would obstruct the view, you wouldn't be able to see what is coming walking, and you wouldn't be able to see that coming from the runway. Mr. Haren replied even not was not a fly issue, it was about moving aircraft. ***Brian Haren made a motion to deny Petition No. A-868-24-B. Anita Davis seconded the motion. The motion passed 5-0.***
15. Consideration of Petition No. A-868-24-C – James Keith Berggren, Owner, and Cole Antley, Agent, request a variance to Sec. 110-125(d)(6), requesting the side yard setback on the southwest property line from 50 feet to 35 feet to allow the construction of an airplane hangar. Mr. Beckwith asked if anyone would like to speak in favor.? No one responded, then he asked if anyone would like to in opposition.? Mr. Nathan Miller, he states he lives in the adjacent lot and wanted to ask the board if they received the letter they sent.? Mr. Beckwith replied yes. Mr. Miller explained in his letter that the proposal for this variance would damage his view, this particular lot has more buildable area than more of the other lots in the subdivision, and the proponent approached them and said is everything or nothing and again has been said these would not pass the standards of the architectural committee. Mr. Beckwith brought the item back to the board. Mr. Haren and Davis commented they didn't see a reason to approve this petition. ***Brian Haren made a motion to deny Petition No. A-868-24-C. John Tate seconded the motion. The motion passed 5-0.***

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*John Tate made a motion to adjourn. Bill Beckwith seconded the motion.  
The motion passed unanimously.*

The meeting adjourned at 9:10 p.m.

**ZONING BOARD OF APPEALS  
OF  
FAYETTE COUNTY**

  
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**BILL BECKWITH, CHAIRMAN**

  
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**MARIA BINNS, ZBA SECRETARY**