

BOARD OF APPEALS

Marsha Hopkins, Chairman
Kyle McCormick, Vice-Chairman
John Tate
Brian Haren
Latisha Roebuck

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
October 26, 2026
7:00 P.M.**

***Please turn off or 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 September 28, 2026.

PUBLIC HEARING

5. Consideration of Petition No. **A-949-26-A** – Lutgardo Carlos Aguilera and Gesenia Aguilera, Owners. Applicants are requesting a variance in the P-U-D Zoning District, Single-Family. A) Variance to Sec. 110-149(d)(6)(d). Rear yard setback requirement, to reduce the rear yard setback from 40 feet to 5 feet in the PUD-PRD zoning district to allow a swimming pool to be constructed to the south side of the property. The subject property is located in Land Lot 2 of the 6th District and fronts Troon Drive.
6. Consideration of Petition No. **A-949-26-B** – Lutgardo Carlos Aguilera and Gesenia Aguilera, Owners. Applicants are requesting a variance in the P-U-D Zoning District, Single-Family. B) Variance to Sec. 110-149(d)(6)(d). Rear yard setback requirement, to reduce the rear yard setback from 40 feet to 5 feet in the PUD-PRD zoning district to allow a pool house with pool equipment to be constructed to the south side of the property. The subject property is located in Land Lot 2 of the 6th District and fronts Troon Drive.

Minutes 09/28/2026

THE FAYETTE COUNTY ZONING BOARD OF APPEALS met on September 28, 2026, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

MEMBERS PRESENT: Marsha Hopkins, Chairman
Kyle McCormick, Vice-Chairman
John Tate
Brian Haren
Latisha Roebuck

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 Marsha Hopkins called the September 28, 2026, meeting to order at 7:00 pm.*
 2. Pledge of Allegiance. *Chairman Marsha Hopkins offered the invocation and led the audience in the Pledge of Allegiance.*
 3. Approval of Agenda. *Brian Haren made the motion to approve the agenda. John Tate seconded the motion. The motion carried 4-0. Board Member Latisha Roebuck was absent.*
 4. Consideration of the Minutes of the Meeting held on August 24, 2026. *Vice-Chairman Kyle McCormick made a motion to APPROVE the Minutes as presented for the August 24, 2026, meeting. John Tate seconded the motion. The motion passed 4-0.*

PUBLIC HEARING

5. Consideration of Petition No. **A-929-26** – Faisal Ali Razavi Ghavamzadeh, Owner, and James Carroll, Agent. Applicants are requesting a variance to Sec. 110-125(d)(6).-A-R, Agricultural-Residential Single-Family. To allow an accessory structure from 50 feet to 41 feet to remain. This property is located in Land Lots 59 and 60 of the 5th District and fronts Highway 85 South.

Ms. Debbie Bell advised the Board that Petition A-929-26 had been removed from consideration because further staff review determined that the proposed action did not require a variance. The matter was therefore withdrawn from the agenda.

Removed by Staff, Staff advised the Board that Petition A-929-26 had been removed from consideration because further staff review determined that the proposed action did not require a variance.

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6. Consideration of Petition No. **A-942-26** – Jamilah Shakir Rashid Living Trust, Owners. Applicants are requesting a variance in the R-20 zoning, Single- Family Residential, to Sec. 110-79(c)(1)(a), Residential accessory structures and their uses. To increase the maximum number of accessory structures allowed on a lot with a minimum of five acres from three (3) to five (5) to allow existing accessory structures to remain. This property is located in Land Lot 107 of the 5th District and fronts on County Line Road.

Ms. Bell explained that the property consists of approximately 19.5 acres and contains a residence and five existing accessory structures. The property was created in 1998. The residence and attached garage were constructed in 1998, before foundation surveys were required. Staff determined that the property generally meets the applicable dimensional requirements, but the number of accessory structures exceeds the ordinance limit. Staff did not find sufficient evidence of hardship to support the requested variance. The limitation on the number of accessory structures applies generally to similarly situated residential properties.

No objections had been received from neighboring property owners or other departments. Staff also noted that the environmental features on the property did not affect the variance request and that the existing structures generally met applicable setback requirements.

Chairman Marsha Hopkins asked if the petitioner was present.

Mr. Kofi Rashid explained that the property was purchased the previous year with the five existing accessory structures already in place. The issue was discovered when a contractor sought a permit to replace the existing swimming pool. He stated that the accessory structures are relatively small and are primarily clustered around the pool. Several provide shade for the family, while another is used as a gym and another as a tool shed for maintaining the approximately 20 acre property.

Mr. Rashid stated that removing two of the structures would provide little practical benefit and would reduce available shade and storage. He also noted that the structures were not constructed by the current owners.

Public Comment

No additional speakers appeared in support of or opposition to the request.

The Board discussed the fact that the structures were already present when the property was purchased, the size of the property, and the absence of neighborhood opposition. The relatively small size of the accessory structures. The distinction between allowing existing structures to remain and permitting future construction of additional structures. The importance of applying the variance criteria consistently.

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Board members expressed concern about departing from the ordinance while also considering the circumstances surrounding the existing structures and asked for legal advice.

Ms. Allison Cox, County Attorney, commented that the Board motion could be applied only to the accessory structures that currently exist on the property as of the date of approval. If any of the approved structures are removed in the future, the variance does not authorize replacement or construction of another accessory structure without further approval.

Brian Haren made a motion as CONDITIONAL APPROVAL for Petition No. A-942-26. John Tate seconded the motion. The motion passed 4-0.

CONDITIONS:

The Approval applies to the five (5) existing structures currently existing on the site.

7. Consideration of Petition No. **A-946-26** – Ar-Rahman A. Person and Ayana T. Raines, Owners. Applicants are requesting a variance in the R-40 zoning, Single-Family Residential. Per Sec. 110-137(d)(5) to reduce the rear yard setback from 30 feet to 28.6 feet to allow an existing deck to remain. This property is located in Land Lot 227 of the 13th District and fronts on Covered Bridge Way.

Ms. Bell explained that the original residence was constructed in approximately 1991 and that records concerning older structures were incomplete because county records had been destroyed in the 1982 Fayette County Courthouse fire. The requested variance would allow an existing deck and enclosed sunroom to remain approximately 28.6 feet from the rear property line rather than the required 30 feet.

Staff determined that the request met several, but not all, of the applicable variance criteria. The existing deck had been reconstructed and slightly extended as part of the renovation. No objections had been received from neighboring property owners or other departments.

Chairman Marsha Hopkins asked if the petitioner was present.

Mrs. Ayana Raines and Mr. Ar-Rahman Person explained that they purchased the property in 2001 and had believed the existing deck was in satisfactory condition and over time, the deck deteriorated and became unsafe. They obtained professional advice and determined that the deck needed to be removed and reconstructed. They also proposed enclosing a portion of the deck as a sunroom. During the permitting and survey process, they discovered that a portion of the reconstructed deck extended approximately 1.4 feet into the required setback. The applicants stated that modifying the deck to comply would require additional reconstruction and would substantially alter the intended design.

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Public Comment

No one appeared in opposition to the request.

The Board discussed the relatively small extent of the setback encroachment and the absence of an original foundation survey. The condition of the existing deck and the fact that the applicants had

followed the permitting process and worked with staff. The practical consequences of removing the encroaching portion.

Staff clarified that the applicable R-40 setback requirements had not materially changed and that the requested variance was limited to the existing configuration.

Chairman Marsha Hopkins made a motion to APPROVE Petition No. A-946-26. John Tate seconded the motion. The motion passed 4-0.

8. Consideration of Petition No. **A-947-26** – Charles E. and Beatriz Williams, Owners. Applicants are requesting a variance in the R-40 zoning, Single- Family Residential, to Sec. 110-137(d)(6) to reduce the side yard setback from 15 feet to 13.1 feet to allow a newly constructed detached garage to remain in the existing location. This property is located in Land Lot 196 of the 5th District and fronts on Berkley Place.

Ms. Bell explained the subject property is approximately 2.038 acres and is a legal lot of record in the Berkeley Park subdivision. The applicable side yard setback is 15 feet. Staff found that the property did not have extraordinary conditions relating to size, shape, or topography that would justify the variance. The garage could potentially be brought into compliance by revising the property boundary or removing the encroaching portion. No specific objections have been received from the county departments. Staff recommended denial.

Chairman Marsha Hopkins asked the petitioner to present and provide comments regarding the request.

Mr. Charles Williams explained that he constructed the garage and had inadvertently moved a survey stake during construction and failed to replace it in its original location, and that the garage complied with the setback requirement at the front but was approximately 13 feet from the property line at the rear. Mr. Williams stated that he had discussed the matter with his neighbor, who indicated that the encroachment was not a problem because the adjacent area was wooded.

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Public Comment

Ms. Gloria Cotton, a neighboring property owner, stated that she did not object to the garage's location, but she raised concerns about drainage and mud runoff that had occurred during construction and asked about her rights if additional construction were proposed.

Staff and the Board clarified that the present hearing concerned only the setback variance for the existing garage.

Board Members discussed the possibility of resolving the encroachment through a boundary adjustment between the adjoining properties.

Ms. Bell explained that the neighboring property owners could potentially modify the shared boundary so that the garage would comply with the required setback. Such a change would require an appropriate survey and legal property transfer.

The Board also discussed the fact that the setback issue resulted from an error during construction rather than an unusual characteristic of the property.

Staff advised that the applicant would have to correct the encroachment or remove it within the applicable timeframe if the variance was denied. A subsequent variance request would also be subject to the applicable waiting period.

The Board and staff explained that the applicant could work with the adjoining property owner and a surveyor to explore a boundary adjustment. If the property line were legally revised so that the structure complied with the setback, the matter could proceed administratively without another variance hearing, subject to all applicable requirements.

Chairman Marsha Hopkins made a motion to DENY Petition No. A-947-26. Brian Haren seconded the motion. The motion passed 4-0.

9. Consideration of Petition **A-948-26** – 1246 Highway 314, LLC, Owner and Randy Boyd, Agent. Applicants are requesting a variance in the A-R zoning, Agricultural-Residential Single-Family, to reduce the side yard setback from 50 feet to 6.5 feet to allow an existing barn to remain in the existing location. This property is located in Land Lot 219 of the 13th District and fronts on Highway 314.

Ms. Bell explained that the property was rezoned from R-40 to AR on February 26, 2026. As a result of the rezoning, the existing barn lost its previous nonconforming status and became subject to the AR district's 50 foot setback requirement. The property consists of approximately 53 acres and contains significant environmental features, including a lake, floodplain areas, and stream buffers. Staff determined that sufficient buildable area remained elsewhere on the property to relocate the barn with approximately 12 feet by 12 feet and has been used for storage of landscaping equipment. The Department of Building

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Safety advised that a structural engineer would need to determine whether the barn could safely be moved before relocation. Staff recommended denial.

Mr. Randy Boyd, Applicant's Agent, explained that the property had previously been a working farm and that the barn existed before the current owner acquired the property and is used to store landscaping equipment, chainsaws, weed trimmers, and similar materials. Mr. Boyd stated that the barn is located beneath large trees and has limited impact on neighboring property. The applicant requested permission to allow the existing barn to remain and stated that the property was rezoned with the intention of potentially developing a wedding venue and related recreational uses.

Public Comment

No one appeared in support of or opposition to the request.

The Board discussed the effect of the recent rezoning on the barn's status.

Staff clarified that the barn had been legally existing under the former R-40 zoning and the rezoning to A-R eliminated its prior nonconforming status. The required setback increased from 15 feet to 50 feet. The barn had not been identified during the original rezoning review but was later identified in the survey submitted for the required combination of the parcels as a condition of the rezoning, and if the variance were denied, the barn would need to be relocated or removed to comply with the A-R district requirements.

The Board also discussed the potential consequences of approving a variance before any future conditional use application for a wedding venue.

Ms. Allison Cox, County Attorney, commented that the concern was that granting a permanent variance could create a future legal or nonconforming use issue if the property owner later sought approval for a conditional use.

Board Members concluded that approval could create complications that would not arise if the structure were required to be brought into compliance.

Board Members noted that property transfers or boundary adjustments may require approval from lenders or other parties with an interest in the property. These considerations should be taken into account when applicants are advised to pursue boundary modifications

Chairman Marsha Hopkins made a motion to DENY Petition No. A-948-26. John Tate seconded the motion. The motion passed 4-0.

With no further business before the Board, a motion was made and seconded to adjourn.

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Brian Haren moved to adjourn the September 28, 2026, Zoning Board of Appeals meeting. John Tate seconded the motion. The motion passed 4-0.

The meeting adjourned at 8:33 pm.

**ZONING BOARD OF APPEALS
OF
FAYETTE COUNTY**

Respectfully Submitted by:

MARSHA HOPKINS, CHAIRMAN

MARIA BINNS, ZBA SECRETARY

PETITION NO: A-949-26-A-B

Requested Action:

A. Applicant is requesting a variance to reduce the rear yard building setback in the PUD-PRD from 40' to 5' to reduce the rear yard setback from 35' to 5' to allow a swimming pool to be built to the south side of the property.

B. Applicant is requesting a variance to reduce the rear yard building setback in the PUD-PRD from 40' to 5' to reduce the rear yard setback from 35' to 5' to allow a pool house with pool equipment to be built to the south side of the property.

Location: 105 Troon Drive, Fayetteville, GA 30215

Parcel(s): 0601 02009

District/Land Lot(s): 6th District, Land Lot(s) 2

Zoning: PUD-PRD

Owner(s): Lutgardo Carlos Aguilera, V, and Gesenia Aguilera

Agent: N/A

Zoning Board of Appeal Public Hearing: October 26, 2026

REQUEST

Applicant is requesting the following variances to reduce the rear and side yard setbacks:

- A. Variance to Sec. 110-149(d)(6)(d). Rear yard setback requirement, to reduce the rear yard setback from 40 feet to 5 feet in the PUD-PRD zoning district to allow a swimming pool to be constructed to the south of the property.
- B. Variance to Sec. 110-149(d)(6)(d). Rear yard setback requirement, to reduce the rear yard setback from 40 feet to 5 feet in the PUD-PRD zoning district to allow a pool house with pool equipment to be constructed to the south of the property.

STAFF RECOMMENDATION

- A. Given the unique shape of the cul-de-sac lot, combined with the riparian buffer on the west side of the lot, there is limited available area to construct the pool. Staff recommends approval of the request for a variance to reduce the rear yard setback.
- B. Given the unique shape of the cul-de-sac lot, combined with the riparian buffer on the west side of the lot, there is limited available area to construct the pool house and equipment pad. Staff recommends approval of the request for a variance to reduce the rear yard setback.

HISTORY

Prestwick Down at Whitewater Creek was rezoned to PUD-PRD per Ordinance 465-83 on August 25, 1983. The final plat was recorded June 14, 1989, and the house with a garage connected by a covered deck was constructed in 1999. The lot is a legal lot of record and there are no violations associated with the property.

ZONING REQUIREMENTS

Sec. 110-149. PUD – Planned Unit Development

(d) Planned Residential Development

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

d. Rear yard setback: 30 feet.

DEPARTMENTAL COMMENTS

- ☐ **Water System** – FCWS has no objection to the proposed variance.
- ☐ **Public Works/Environmental Management** – Site is located within 200ft of state waters and **Erosion, Sedimentation & Pollution Control Plans will be** required by a licensed professional for land-disturbing activities. Plans must be submitted to the local issuing authority and approved before work begins
- ☐ **Environmental Health Department** – This office has no objection to the proposed variance. However, this lot is limited on space for the replacement septic system area. Final approval for a pool and pool house must be granted through our office via an evaluation. Prior to submitting the application, a Level 3 soil report must be obtained and submitted to ensure sufficient soil conditions and spacing.
- ☐ **Building Safety** – No issues.

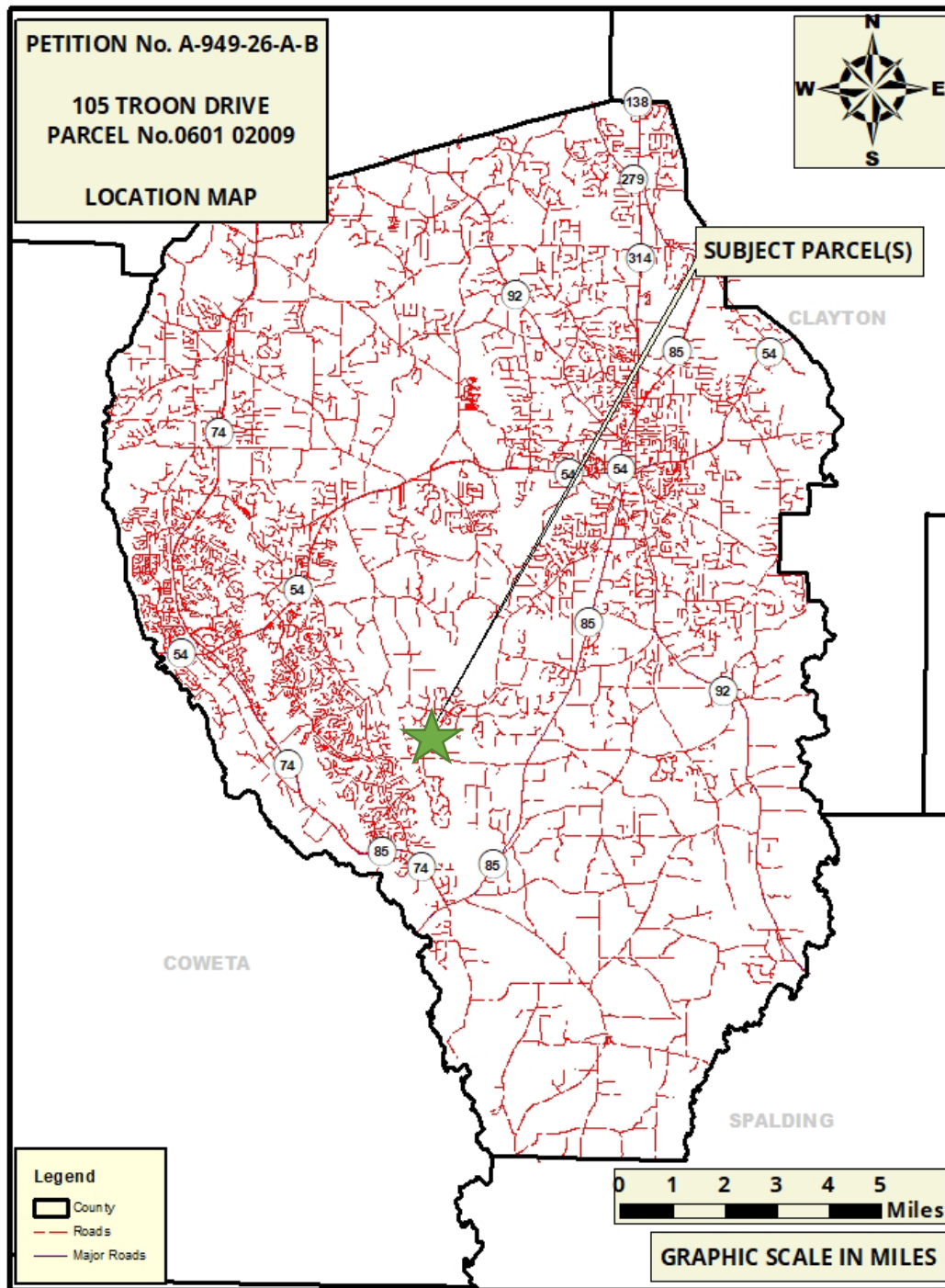
CRITERIA FOR CONSIDERATION OF A VARIANCE

STAFF ASSESSMENT OF CRITERIA

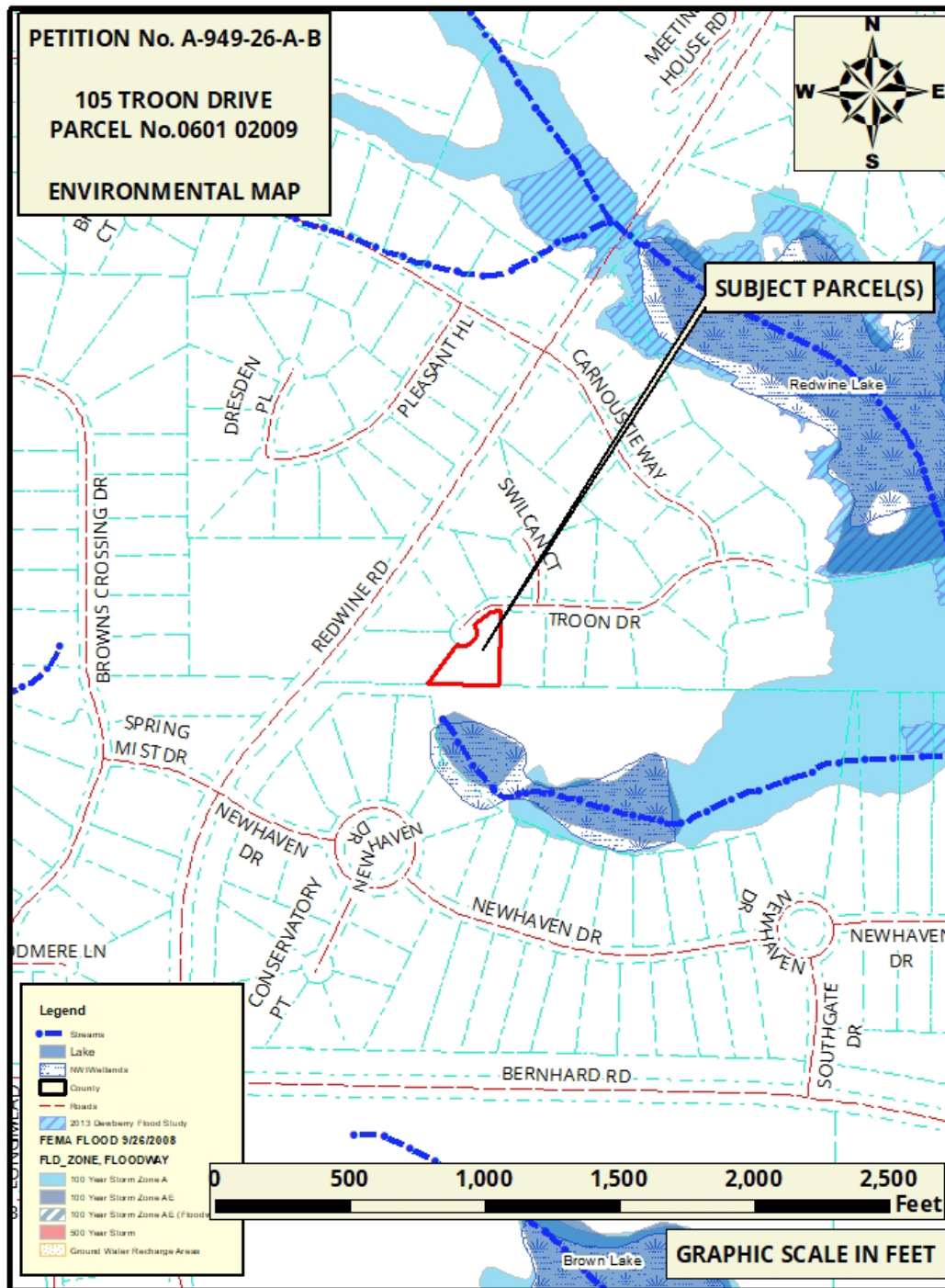
(Please see the attached application package for the applicant's responses to the criteria.)

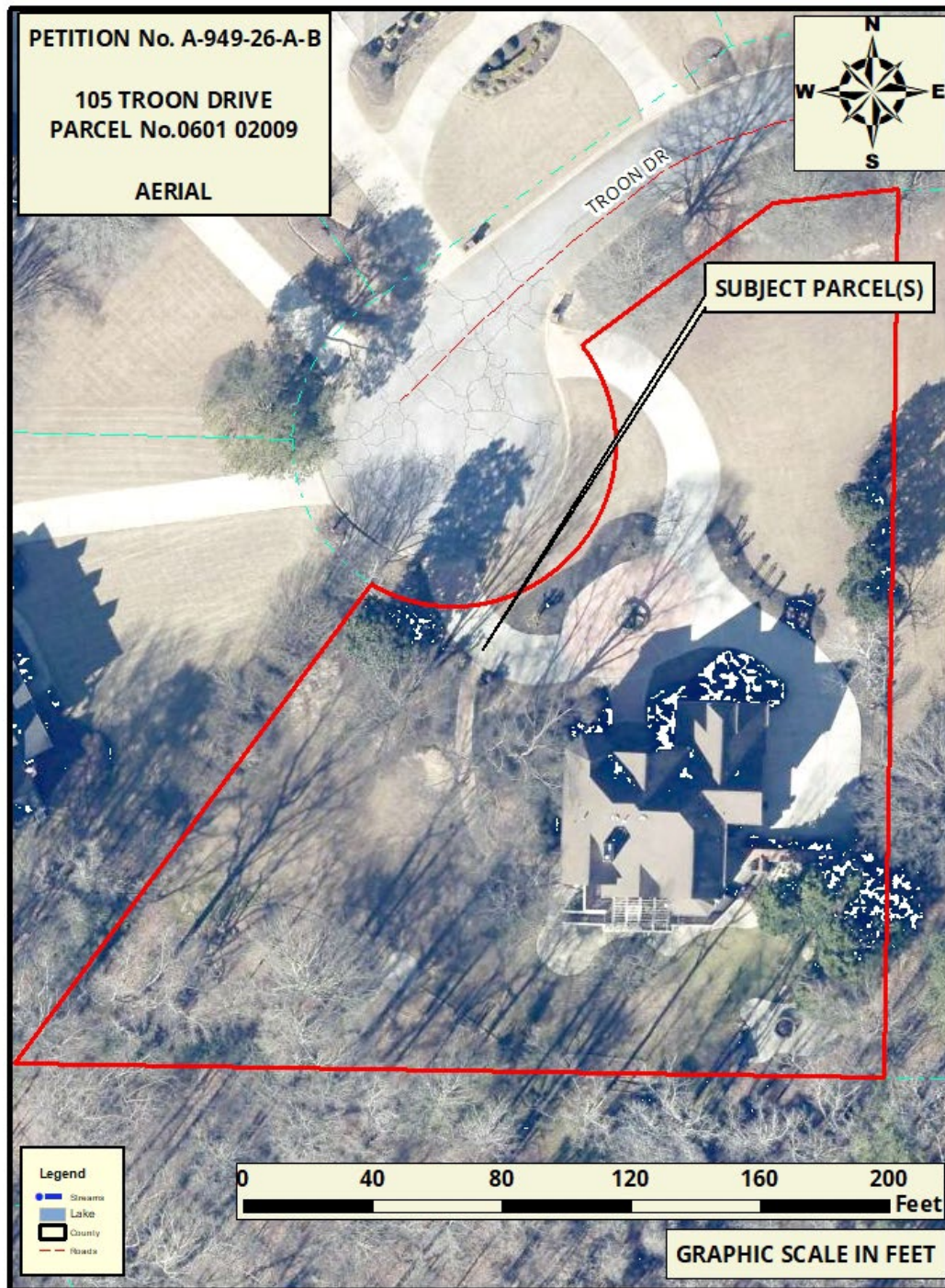
The Fayette County Zoning Ordinance, Sec. 110-242. (b) states that in order to grant a variance, the Zoning Board of Appeals shall and must find that all five (5) conditions below exist. Please read each standard below and then address each standard with a detailed response. Attach additional information/documentation 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 unique shape of the cul-de-sac lot, combined with the riparian buffers on the west side of the lot, limit the available buildable area.
- 2. The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship; and,**
The application would create a practical difficulty. The pool and pool house are not proposed to be extremely large structures.
- 3. Such conditions are peculiar to the particular piece of property involved; and,**
Conventionally shaped lots in the neighborhood have more room in the back yard for accessory structures.
- 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,**
Staff has not received any complaints about the proposed variance. The HOA supports the request.
- 5. A literal interpretation of this Ordinance would deprive the applicant of any rights that others in the same District are allowed; and,**
This property would continue to have the same rights and privileges as other properties, but the area available for a pool would be greatly reduced.









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

PROPERTY INFORMATION:

Parcel No. 060102009 Acreage: 1.0 Land Lot: 2 Land District: 6
Address: 105 Troon Dr, Fayetteville, GA 30215
Zoning: PUD - Planned Unit Development Zoning of Surrounding Properties: PUD
Use: Single Family Residential

PROPERTY OWNER INFORMATION

Name Lutgardo Carlos Aguilera V Gesenia Aguilera
Email [REDACTED]
Address 105 Troon Dr
City Fayetteville
State GA Zip 30215
Phone [REDACTED]

AGENT/DEVELOPER INFORMATION (if not owner)

Name N/A
Email
Address
City
State Zip
Phone

(THIS AREA TO BE COMPLETED BY STAFF):
PETITION NUMBER: A-949-26-A-B

☐ Application Insufficient due to lack of:

by Staff: Date:

☒ Application and all required supporting documentation is Sufficient and Complete

by Staff: Maria Binns Date: 09/01/2026

DATE OF ZONING BOARD OF APPEALS HEARING: October 26, 2026

Received payment from Gesenia Aguilera a check in the amount of \$ 200.00

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

Date Paid 09/01/2026 Receipt Number: 028584

RECEIVED
SEP 01 2026
BY: M.B.

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:

Lutgardo Carlos Aguilera V and Gesenia Aguilera

Please Print Owners' Names

Property Tax Identification Number(s) of Subject Property: 060102009

(I am) (we are) the sole owner(s) of the above-referenced property. Subject property is located in Land Lot(s) 2 of the 6th District, and (if applicable to more than one land district) Land Lot(s) N/A of the District, and said property consists of a total of 1.001 acres (legal description corresponding to most recent recorded plat for the subject property is attached herewith).

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

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

SIGNATURES

Signature: 
Name: LUTGARDO AGUILERA
Owner/ Agent One: Address: 105 TROON DR
City/State/Zip: FAYETTEVILLE, GA 30215
Date: 9/1/2024

Notary: Stefanie D Bogan Griffith (seal)

Commission Exp.: 10/28/2029
Stefanie D Bogan Griffith
NOTARY PUBLIC
Henry County, GEORGIA
My Commission Expires 10/28/2029

Signature: 
Name: GESENIA AGUILERA
Owner/ Agent Two: Address: 105 TROON DR
City/State/Zip: FAYETTEVILLE, GA 30215
Date: 9/1/2024

Notary: Stefanie D Bogan Griffith (seal)

Commission Exp.: 10/28/2029
Stefanie D Bogan Griffith
NOTARY PUBLIC
Henry County, GEORGIA
My Commission Expires 10/28/2029

Signature: 
Name: _____
Owner/ Agent Three: Address: _____
City/State/Zip: _____
Date: _____
Phone: _____
Email: _____

(seal)

Commission Exp.: _____

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	Fayette County Zoning Ordinance - PUD rear yard setback requirement applicable to Lot 19 at Whitewater Creek (minimum rear yard setback of ~~50~~ feet) <u>40 feet</u>
Requirement	<u>Minimum rear yard setback of ~~50~~ feet <u>40 feet</u></u>
Proposed Change	<u>Reduce the minimum rear yard setback to 5 feet</u>
Variance Amount	<u>Variance amount 45 feet reduction <u>35 feet reduction</u></u>

1. Sec. 110-149(d)(6)(d).-Planned Unit Development, to reduce the rear yard setback from 40 feet to 5 feet to allow the construction of a pool.

Ordinance/Section	<u>2. Sec. 110-149(d)(6)(d).-Planned Unit Development, to reduce the rear yard setback from 40 feet to 5 feet to allow the construction of a Pool House.</u>
Requirement	
Proposed Change	<u>5 feet</u>
Variance Amount	<u>35 feet reduction</u>

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.

The applicant requests a variance to reduce the required rear yard setback on Lot 19, Prestwick Down at Whitewater Creek (105 Troon Drive, Fayetteville, Georgia), from 50 feet to 5 feet, in order to construct an in-ground swimming pool and an accessory open-air pool pavilion within the rear yard. The existing wood deck, brick outdoor kitchen, and fire pit currently occupying a portion of the rear yard will be removed in their entirety to accommodate the proposed improvements.

Lot 19 is an irregularly shaped, pie-shaped (radial) lot situated on the curved terminus (bulb) of the
(Continued on next page)

Variance Summary (continued)

Troon Drive cul-de-sac. Per the boundary survey prepared by McClung Surveying, Inc. (Job #269276, field-dated August 20–21, 2026), the lot has only approximately 35.98 feet of frontage along Troon Drive at the front property line, widening to approximately 283.66 feet at the rear property line — a total lot area of 1.001± acres (43,611± sq ft).

Because the applicable build lines require a 50-foot setback from both the front and rear property lines (with 15-foot side setbacks), and because the lot's narrow frontage sharply limits the buildable depth available near the front of the parcel, the existing residence is sited essentially at the 50-foot rear line shown on the survey. As a direct result, no usable yard exists beyond the rear building line, and the only outdoor living space presently available to the property — a concrete patio, wood deck, brick outdoor kitchen, and fire pit — sits within the narrow band between the house and the rear setback line. There is no location on this lot where a pool and pavilion of ordinary residential size could be constructed in full compliance with the 50-foot rear setback.

This variance requests the minimum relief necessary to allow construction of a pool and pavilion of typical residential scale, subject to appropriate safety, drainage, and screening conditions, as addressed in the justification below.

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.

See attached

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

See attached

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

See attached

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.

See attached

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

See attached

Justification of Request (Parcel No. 060102009)

Fayette County Zoning Ordinance, Section 110-242(b), requires the Zoning Board of Appeals to find that all five of the following conditions exist before a variance may be granted. Each standard is addressed below.

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

Lot 19 is an irregularly configured, pie-shaped lot fronting on the curved terminus of the Troon Drive cul-de-sac. As shown on the attached boundary survey, the lot narrows to only approximately 36 feet of frontage at Troon Drive before widening to nearly 284 feet at the rear property line — a radial configuration typical of cul-de-sac lots but markedly different from the conventional rectangular lots found throughout the remainder of the district. This shape, fixed at the time of subdivision platting, is an extraordinary and exceptional condition within the meaning of this standard: it is not a function of lot size or ordinary topography, but of a geometry that concentrates nearly all of the lot's buildable width at the rear while sharply constricting it at the front. Combined with the mandatory 50-foot front and 50-foot rear setbacks that apply uniformly regardless of lot shape, this configuration leaves the property with materially less usable buildable area, and materially less usable rear yard, than a rectangular lot of the same 1.001-acre size would have.

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

Strict application of the 50-foot rear setback to this lot leaves no usable rear yard. The existing residence is sited at the 50-foot rear building line, as shown on the survey, and the only outdoor living space on the property — a concrete patio, wood deck, brick outdoor kitchen, and fire pit — occupies the narrow band between the house and that setback line. A pool and pavilion, both ordinary and common residential improvements throughout this district, cannot be constructed anywhere on this lot without a reduction in the rear setback, because no buildable area exists beyond the required setback line. This is not a matter of inconvenience or reduced yard size; it is the practical elimination of any location for a common residential accessory use, created entirely by the lot's shape rather than by any choice of the applicant. Denial of the variance would impose a hardship not experienced by owners of conventionally shaped lots in the same district, who can accommodate a pool and pavilion within their standard rear setback.

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

The lot's pie shape results directly from its location on a cul-de-sac, where lots fan out from the curved street frontage — narrow at the front and widening toward the rear. Because the lot narrows sharply at the front, the 50-foot front and 50-foot rear setbacks together consume a disproportionate share of buildable depth at the lot's narrow end, pushing the home's build line — and the house itself — into the rear portion of the property. The existing wood deck, brick outdoor kitchen, and fire pit, which will be removed to accommodate the proposed pool and pavilion, currently occupy the only usable outdoor space remaining outside the rear setback line; without relief, no comparable outdoor living space can be restored in their place. This combination of front-end tapering and dual 50-foot setbacks is not shared by the typical rectangular lot in the district. Fixed at platting, this condition is peculiar to this parcel and the small subset of similarly situated cul-de-sac lots, not a condition common to lots generally in the district or attributable to the applicant.

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

A pool and pool pavilion are permitted accessory uses in the PUD district. This is a dimensional (setback) variance, not a use variance — the improvement is one the code already allows; only the setback line is at issue. The pool will comply with all applicable state and local pool barrier and safety code requirements regardless of the setback reduction, so public safety protections are unaffected. Drainage and pool backwash

will be managed on-site consistent with a grading plan to be submitted with the building permit, with no discharge to neighboring parcels. Because the pie-shaped lot widens toward the rear, actual separation between the proposed pool/pavilion and the nearest structures on adjoining and adjacent property remains substantial in absolute terms, notwithstanding the percentage reduction in the setback line itself. The core purposes of a rear setback — light, air, privacy, fire separation, and open character — remain protected: the pool and pavilion are low, open-air improvements that do not block light or air the way a habitable addition would; appropriate fencing and landscape screening will preserve privacy along the reduced setback line; fire separation is governed independently by fire code and will be met regardless of the zoning setback; and overall lot coverage remains consistent with other improved lots in the district. Denying the variance would not advance any of these purposes — it would simply leave the rear yard permanently unusable due to lot geometry alone.

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

Property owners throughout this PUD district may build pools and pool pavilions as of right — a common, expected use of a residential rear yard, not a special privilege. On a conventional rectangular lot, a 50-foot rear setback still leaves a usable yard for this improvement. On this pie-shaped lot, the same setback consumes the entire rear yard, eliminating the possibility of a pool altogether — a burden not imposed on similarly zoned neighbors with regularly shaped lots. Because this deprivation stems from lot geometry set at platting, not from anything within the applicant's control, literal application singles out this property for a practical prohibition the ordinance does not impose district-wide. Relief is needed to restore the same right other owners in the district already exercise.

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
- ☒ A letter from the ownership of the homeowners' association (HOA) in a residential subdivision, or a property owner's association (POA) or developer/property management entity in a nonresidential subdivision, approving the petition application
- ☒ One copy of the ^{site plan} survey plat of the property, drawn to scale with accurate dimensions, with the following indicated:
 - a. _____ 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. _____ Minimum setbacks and buffers from all property lines of subject property required in the zoning district.
 - c. _____ Location of exits/entrances to the subject property.
 - d. _____ 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. _____ Location of all utilities, including well or water lines.
 - f. _____ Location of septic tank, drainfield, and drainfield replacement area.
 - g. _____ Location and elevation of the 100-year flood plain and watershed protection buffers and setbacks (if applicable).
 - h. _____ Location of on-site stormwater facilities to include detention or retention facilities (if applicable).
 - i. _____ Parking locations, number of parking spaces, and parking bay and aisle dimensions (if applicable).
 - j. _____ 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 MFFE:	Side Setback:	
Stream Buffers:	Rear Setback:	
Number of Frontages	House Size:	

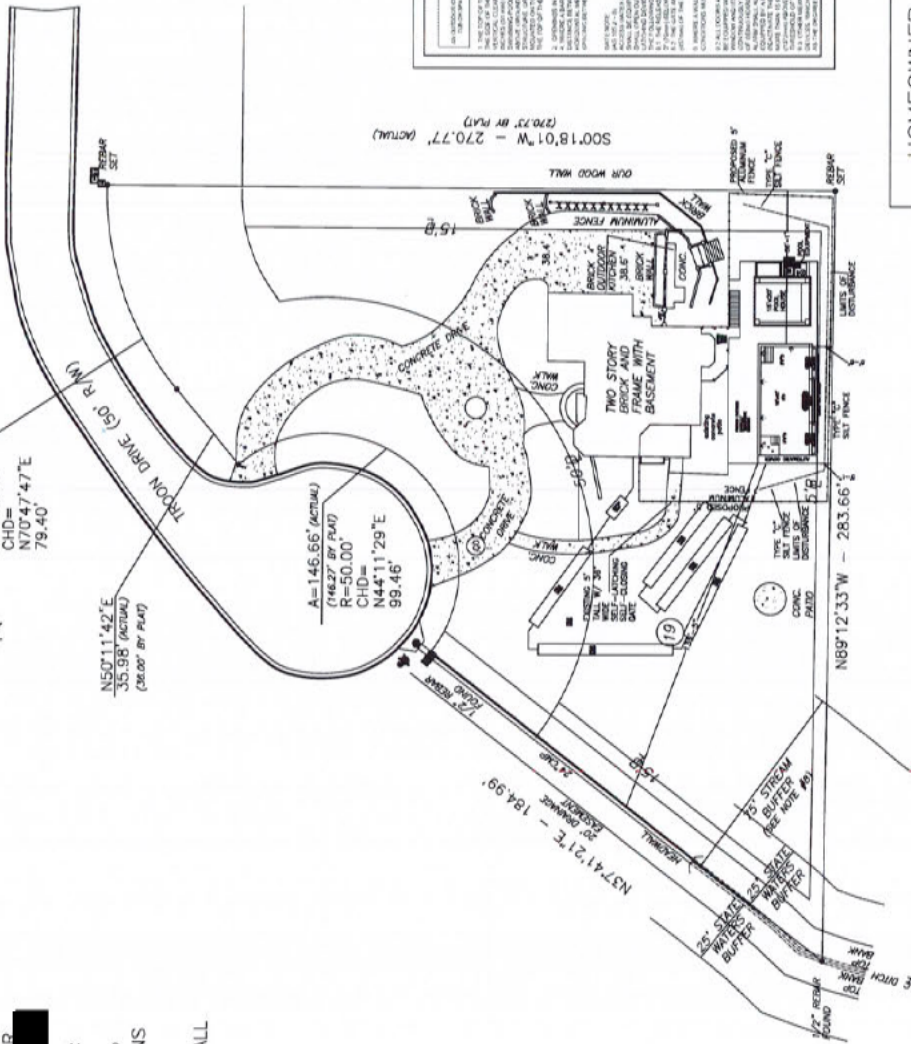
CONTRACTOR INFO:
ARTISTIC POOLS INC.
3884 NORTH
PEACHTREE RD.
ATLANTA GA 30341

LOT AREA:
43,611 sf.
1.001 ACRES

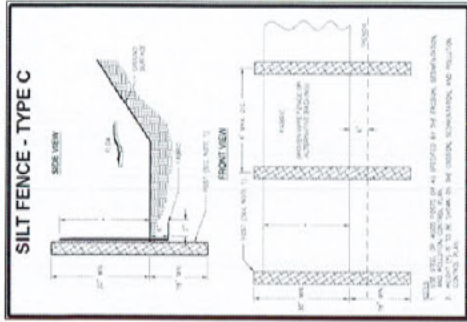
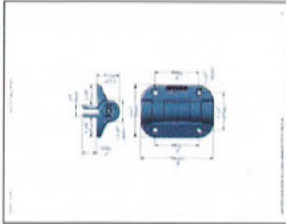
24HR CONTACT INFO
BOW COKER JR

POOL SPECS:
18'X40'
3'6"X5' DEEP
14,326 GALLONS
NO WALL TO
EXCEED 4' TALL

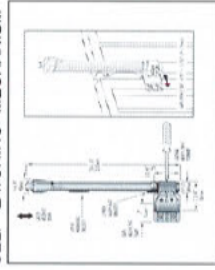
NOTES: PROPERTY ON SEPTIC
NO STATE WATER EXISTS WITHIN
200' OF PROJECT SITE



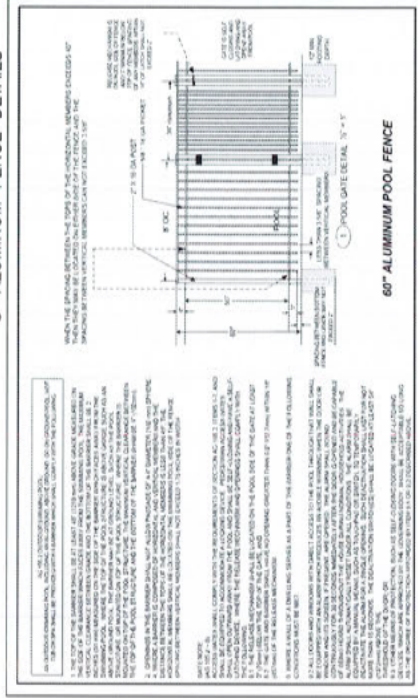
SELF CLOSING MECHANISM TYPE "C" SILT FENCE DETAILS



SELF LATCHING MECHANISM



5' ALUMINUM FENCE DETAILS



60" ALUMINUM POOL FENCE

• Work hours and construction deliveries are:
Monday - Friday 7:00am - 7:00pm
Saturday 8:00am - 5:00pm

HOMEOWNER INFO
LOU AGUILERA
105 TROON COURT
FAYETTEVILLE GA. 30215



SITE PLAN FOR		105 TROON DRIVE	
ARTISTIC POOLS INC.		FAYETTEVILLE, GEORGIA	
3884 NORTH PEACHTREE ROAD		DISTRICT 6	
ATLANTA, GA 30341		COUNTY	
PROJECT NO.		JOB NO.	
DEED BOOK		DEED DATE	
5587		28-12-51	
P. 120-122		P. 120-122	
LOT: 19		LOT: 19	
BLOCK: 2		BLOCK: 2	
SUB: WHITEWATER CREEK		SUB: WHITEWATER CREEK	
AREA = 1.001 ACRES		AREA = 1.001 ACRES	

Whitewater Creek CA, Inc

P.O. Box [REDACTED]
Fayetteville GA 30214

August 31, 2026

Lutgardo & Gesenia Aguilera
105 Troon Drive
Fayetteville GA 30215

RE: 105 Troon Drive

NOTICE OF APPROVED REQUEST

Dear Lutgardo & Gesenia Aguilera:

On behalf of your Architectural Control Committee (ACC), we are pleased to inform you that:

The unique characteristics of this lot provide a reasonable basis for the exception request to reduce the rear setback to 5 feet. Granting the variance would benefit the property without creating a material adverse impact on neighboring properties along Whitewater Creek; therefore, the Whitewater Creek HOA approves the petition application."

As a reminder, the ACC's approval of your plans and specifications is not for engineering or structural integrity, but only within their rights and responsibilities with regards to the Association's Declaration of Covenants, Conditions and Restrictions. Also, you are responsible for obtaining any permits that may be required by your local government authority and for any damage caused to HOA or adjoining property.

The Association reserves the right to make a final inspection of the change to confirm it matches the request you submitted for approval. Please follow the plan you submitted or submit an additional request form if you cannot follow the original plan.

We appreciate you being a responsible homeowner by following the guidelines of the approval process for your community. If we may be of any future assistance, please feel free to contact us.

Sincerely,

COMMUNITY ASSOCIATION MANAGEMENT, LLC
Agent for Whitewater Creek CA, Inc

[REDACTED]
Lee Mason, CMCA®, AMS®, PCAM®

Prepared By:
Weissman PC
5909 Peachtree Dunwoody Road, Suite 100
Atlanta, GA 30328

File No.: W-C-02153-23-PC

Parcel ID: 060102009

Type: WD
Recorded: 3/17/2023 5:12:00 PM
Fee Amt: \$810.00 Page 1 of 3
Transfer Tax: \$785.00
Fayette, Ga. Clerk Superior Court
Sheila Studdard Clerk of Court

Participant ID(s): 2979894615,
7067927936

BK 5597 PG 120 - 122

LIMITED WARRANTY DEED

**STATE OF GEORGIA
COUNTY OF FAYETTE**

THIS INDENTURE, made this 13th day of March, 2023 by and between **Kenna W. Toomey and Christine M. Toomey**, as party or parties of the first part, hereinafter called Grantor, and **Lutgardo Carlos Aguilera, V and Gesenia Aguilera**, as JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP and not as tenants in common, as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of TEN DOLLARS AND NO/100 (\$10.00) AND OTHER 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, the following described property, to-wit:

SEE ATTACHED EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE HERETO

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

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, only to the proper use, benefit and behoof of the said Grantee, as joint tenants and not as tenants in common, for and during their joint lives, and upon the death of either of them, then to the survivor of them in FEE SIMPLE together with every contingent remainder and right of reversion, and to the heirs and assigns of said survivor.

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 herein.

THIS CONVEYANCE is made pursuant to Official Code of Georgia Section 44-6-190, and is the intention of the parties hereto to hereby create in Grantee a joint tenancy estate with right of survivorship and not as tenants in common.

IN WITNESS WHEREOF, the Grantor has signed and sealed this Deed, on the date and year above written.

Signed, sealed and delivered
in the presence of:

Pamela Hill
Unofficial Witness
Steph Constanzo
Notary Public

My Commission Expires: 12/15/2023

Signed, sealed and delivered
in the presence of:

Pamela Hill
Unofficial Witness
Steph Constanzo
Notary Public

My Commission Expires: 12/15/2023

Kenna W. Toomey (Seal)

Stephanie Constanzo
NOTARY PUBLIC
Fayette County, GEORGIA
My Commission Expires 12/15/2023

Christine M. Toomey (Seal)

Stephanie Constanzo
NOTARY PUBLIC
Fayette County, GEORGIA
My Commission Expires 12/15/2023

EXHIBIT "A"

File No.: W-C-02153-23-PC

All that tract or parcel of land lying and being in Land Lot 2 of the 6th District, Fayette County, Georgia, being Lot 19, Block P, Prestwick Down at Whitewater Creek Subdivision, as per plat recorded at Plat Book 20, Pages 126-128, Fayette County, Georgia records, being incorporated herein and made a part hereof by reference.

The above described property is the same property conveyed by Warranty Deed recorded in Deed Book 2649, Page 721, aforesaid records. The legal description on said deed references Prestick Dawn but should be Prestwick Down and references Block P but there are no Block(s) in the development.

FOR INFORMATIONAL PURPOSES ONLY: Said property is known by address as 105 Troon Drive, according to the present system of numbering property in Fayette County, Georgia

FAYETTE COUNTY

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, Octo-
ber 26, 2026, at 7:00 P.M., Fayette
County Administrative Complex,
Public Meeting Room, 140 Stone-
wall Avenue West, first floor.

Petition No.:A-949-26-A-B

Owner:Lutgardo C. Aguilera V. and
Gesenia Aguilera

Property Address:105 Troon Drive

Parcel:060102 009

Zoning District:P-U-D

Area of Property: 1.001 acres

Land Lot(s): 2

District: 6th

Road Frontage: Troon Drive

Request: Applicant is requesting
the following:

A)Variance to Sec. 110-149(d)(6)
(d) - Planned Unit Development, to
reduce the rear yard setback in the
PUD zoning district from 40 feet to
5 feet to allow the construction of
a pool.

B) Variance to Sec. 110-149(d)(6)
(d) - Planned Unit Development,
to reduce the rear yard setback
from 40 feet to 5 feet to allow the
construction of a pool house.

Legal Description

EXHIBIT A

File No.: W-C-02153-23-PC

All that tract or parcel of land lying
and being in Land Lot 2 of the 6th
District, Fayette County, Georgia,
being Lot 19, Block P, Prestwick
Down at Whitewater Creek Subdi-
vision, as per plat recorded at Plat
Book 20, Pages 126-128, Fayette
County, Georgia records, being in-
corporated herein and made a part
hereof by reference. The above de-
scribed property is the same prop-
erty conveyed by Warranty Deed
recorded in Deed Book 2649, Page
721, aforesaid records. The legal
description on said deed references
Prestick Dawn but should be Prest-
wick Down and references Block
P but there are no Block(s) in the
development.

FOR INFORMATIONAL PURPOS-
ES ONLY: Said property is known
by address as 105 Troon Drive,
according to the present system
of numbering property in Fayette
County, Georgia

09/30