AGENDA
Fayette County Zoning Board of Appeals
Fayette County Administrative Complex
Public Meeting Room
July 22, 2019
7:00 P.M.

1. Consideration of the Minutes of the Meeting held on June 24, 2019.

PUBLIC HEARING

2. Petition No. A-703-19, Lenora and Isaiah Mitchell, request the following: Variance to Sec. 110-137.(d)(4)(b) to reduce the front yard setback from 40 feet to 32 feet to allow for the construction of a single-family residence. The subject property is located in Land Lot 253 of the 5th District and fronts on Benjamin Circle.

3. Petition No. A-704-19, Rhonda P. Cathy, Owner and Brett Baker, Agent, requests the following: Variance to Sec. 110-125.(d)(6) to reduce the side yard setback from 50 feet to 45 feet to allow an existing barn to remain. The subject property is located in Land Lot 181 of the 4th District and fronts on Mud Bridge road.
The subject property is zoned A-R and located at 1469 Antioch Road. The applicant is requesting a Variance as follows:

Variance to Sec. 110-137.(d)(4)(b) to reduce the front yard setback from 40 feet to 32 feet to allow for the construction of a single-family residence.

**History:** The Minor Revision to a Final Plat of Franklin Farms Unit IV was recorded on March 30, 2018 in Book 50 and Page 166. Tax Assessor’s records indicate that the applicant purchased the property in 2017.

As part of the permitting process for a single-family residence, a foundation survey is required. Through the survey staff discovered the violation. The foundation survey given for the building permit shows the single-family residence foundation 32 feet from the front property line.

The applicant provides the following information:

**VARIANCE SUMMARY**

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

I am requesting that my front setback request be changed from 40 feet to 32 feet in order that I might have enough suitable soil for both my house and sceptic tanks.

If this request is granted there will be enough suitable soil for building and I will not be in danger of encroaching on state waters and the 100 year flood plains.
The Fayette County Zoning Ordinance, Sec. 110-242. (b) states that in order to grant a variance, the Zoning Board of Appeals shall and must find that all five (5) conditions below exist.

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

   The topography of this lot dictates that both house and septic systems be located as close to the front property line as possible. This lot has a 100 year flood elevation and wetlands that are under the jurisdiction of the U.S. Army Corps of Engineer. Every effort is being made to build this house and co-exist with these environmental challenges.

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

   If the present setback is adhered to finding suitable soil conditions to place house foundation would create (has created) an unusual hardship. That being finding enough suitable soil for both house and septic systems.

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

   Because of the 4 different soil types and the wetlands comprising 2/3 of the lot, it is difficult to find enough soil suitable for a house and septic system. The best and most suitable soil is located at the very front and left of the lot which has been appropriated by the health department for reserved future system and drain fill lines.

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

   A floor plan has been selected to conform and blend with other homes in the neighborhood. Size, materials, and color have all been chosen to add beauty and harmony to this established neighborhood.

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

   Granting me a variance to move the house forward will not impact the rights of other
neighbors nor in any way affect the property value of the subdivision.

DEPARTMENTAL COMMENTS

ENVIRONMENTAL HEALTH: No objection to variance.

ENVIRONMENTAL MANAGEMENT: No comment.

FIRE MARSHAL: The Bureau of Fire Prevention will neither approve nor deny request that fall outside the scope of fire prevention code requirements.

WATER SYSTEM: No conflict.
VARIANCE APPLICATION TO THE ZONING BOARD OF APPEALS

PROPERTY OWNERS: Lenora Mitchell & Isaiah Mitchell

MAILING ADDRESS: 125 Wesley Forest Dr. Fayetteville, GA 30214

PHONE: 678-429-0943 E-MAIL: None

AGENT FOR OWNERS: Lenora Mitchell

MAILING ADDRESS: 125 Wesley Forest Dr. Fayetteville, GA 30214

PHONE: 678-429-0943 E-MAIL: None

PROPERTY LOCATION: LAND LOT 253 LAND DISTRICT 5TH PARCEL

TOTAL NUMBER OF ACRES OF SUBJECT PROPERTY: 3.409

ZONING DISTRICT: R-40

ZONING OF SURROUNDING PROPERTIES: R-40

PRESENT USE OF SUBJECT PROPERTY: Vacant land

PROPOSED USE OF SUBJECT PROPERTY: Home For Daughter & Grandson

(THIS AREA TO BE COMPLETED BY STAFF): PETITION NUMBER: A-703-19

[ ] Application Insufficient due to lack of:

by Staff: _______________________________ Date: _______________________________

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

by Staff: _______________________________ Date: 6/27/19

DATE OF ZONING BOARD OF APPEALS HEARING: July 22, 2019

Received from Lenora Mitchell a check in the amount of $175.00 for application filing fee, and $20.00 for deposit on frame for public hearing sign(s).

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:

Leonora Mitchell or Isaiah Mitchell

Please Print Names

Property Tax Identification Number(s) of Subject Property: 054905005 + 054905004

(I am) (we are) the sole owner(s) of the above-referenced property. Subject property is located in Land Lot(s) of the 5th District, and (if applicable to more than one land district) Land Lot(s) 253 of the District, and said property consists of a total of 31.409 acres (legal description corresponding to most recent recorded plat for the subject property is attached herewith).

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

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

Signature of Property Owner 1

Signature of Notary Public

Address

Date

Signature of Property Owner 2

Signature of Notary Public

Address

Date

Signature of Authorized Agent

Signature of Notary Public

Address

Date
VARIANCE INFORMATION

Complete the chart below with the information pertaining to each request. If additional space is needed, please provide the information on a separate sheet of paper.

<table>
<thead>
<tr>
<th>Ordinance/Section</th>
<th>Requirement</th>
<th>Proposed</th>
<th>Variance Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-40</td>
<td>Front 40'</td>
<td>Front 32'</td>
<td>8 ft. of frontage</td>
</tr>
<tr>
<td>Sec. 110-137.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td></td>
<td></td>
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</tbody>
</table>

VARIANCE SUMMARY

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

I am requesting that my front setback request be changed from 40' to 32' in order that I might have enough suitable soil for both my house and septic tanks.

If this request is granted, there will be enough suitable soil for building and I will not be in danger of encroaching on State waters and the 100 year flood plains.
JUSTIFICATION OF REQUEST

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

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography.
   The topography of this lot dictates that both house and septic systems be located as close to the front property line as possible. This lot has a 100 year flood elevation and wetlands that are under the jurisdiction of the U.S. Army Corps of Engineers. Every effort is being made to build this house and co-exist with those environmental challenges.

2. The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship.
   If the present setback is adhered to finding suitable soil conditions to place house foundation would create (has created) an unusual hardship. That being finding enough suitable soil for both house and septic systems.

3. Such conditions are peculiar to the particular piece of property involved.
   Because of the 11 different soil types and the wetlands comprising 2/3 of the lot, it is difficult to find enough soil suitable for a house and septic system. The best and most suitable soil is located at the very front and rest of the lot which has been appropriated by the health department for reserved failure system and drain field lines.
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 floor plan has been selected to conform and blend with other homes in the neighborhood. Size, materials, and color have all been chosen to add beauty and harmony to this established neighborhood.

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

Granting me a variance to move the house forward will not impact the rights of other neighbors nor in any way affect the property value of the subdivision.
WARRANTY DEED

STATE OF GEORGIA
COUNTY OF FAYETTE

THIS INDENTURE, made the 29th day of AUGUST, 2017, between CDS BUILDERS, INC., a Georgia corporation, as party of the first part, hereinafter called Grantor, and LENORA MITCHELL, as party of the second part, hereinafter called Grantee (the words “Grantor(s)” and “Grantee(s)” to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of TEN AND 00/100 DOLLARS ($10.00) and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee(s), the following described property:

All that tract or parcel of land lying and being in Land Lot 253 of the 5th Land District of Fayette County, Georgia, and being known as Lots 59 and 60 of Unit IV of Franklin Farms Subdivision, according to a plat of survey recorded in Plat Book 15, Page 21 of the Fayette County, Georgia Deed Records, said plat and the record thereof is incorporated herein by reference thereto for a more complete and accurate description of said property. Said Lot 59 being known as 225 Benjamin Circle and said Lot 60 being known as 235 Benjamin Circle according to the present system of numbering property in Fayette County, Georgia.

This deed is given subject to all easements, covenants and restrictions of record, if any.

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

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

IN WITNESS WHEREOF, Grantor has signed and sealed this deed, this 29TH day of AUGUST, 2017 in the presence of:

[Signatures]

Unofficial Witness

Notary Public
[Signature]
[Commission expires 01/19/19]
The subject property is zoned A-R and located at 263 Mud Bridge Road. The applicant is requesting
a Variance as follows:

Variance to Sec. 110-125.(d)(6) to reduce the side yard setback from 50 feet to
38 feet to allow an existing barn to remain.

History: The subject property’s survey was recorded on October 15, 1990 in Plat Book 21 and Page
111. Tax Assessor’s records indicate that the applicant purchased the property in 2017.

As part of the permitting process for an electrical permit for the existing barn, the building inspector
required the petitioner to consult with zoning. Through the consultation staff discovered the
violation. The foundation survey given to staff shows the barn foundation 45 feet from the front
property line.

The applicant provides the following information:

VARIANCE SUMMARY

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

This variance request is made to address the location of an existing barn previously constructed
over 20 years ago by previous owners. This structure apparently encroaches into the 50 foot side
setback as defined under current zoning ordinances. No additions to this structure are proposed
the existing encroachment is not proposed to be increased. It is worth nothing that taxes based
on a value including this barn have been paid for several years.
JUSTIFICATION OF REQUEST

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

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

   This is an existing condition performed over 20 years ago by previous owners. The conditions causing the placement of this barn in its location are unknown.

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

   This barn is actively used for equipment storage and removal of this structure would cause a significant financial hardship to replace and potentially damaged equipment.

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

   This is a single barn constructed several years prior.

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

   This barn has existed for over 20 years with not detriment or complaints from public use of barn is to remain the same.

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

   Not allowing this variance could result in the loss of use of a barn that previous owners have been able to use.
DEPARTMENTAL COMMENTS

ENVIRONMENTAL HEALTH: Denied – This department is unable to support approval of requested variance as the septic system serving barn in question has not received final approval from this department (see attached inspection report pending approval 5/6/09). Owner will need to address outstanding issue and complete final inspection for septic system approval with this department.

ENVIRONMENTAL MANAGEMENT: No comment.

FIRE MARSHAL: The Bureau of Fire Prevention will neither approve nor deny request that fall outside the scope of fire prevention code requirements.

WATER SYSTEM: No conflict.
VARIANCE APPLICATION TO THE ZONING BOARD OF APPEALS

PROPERTY OWNERS: Rhonda P. Cathy

MAILING ADDRESS: 263 Mud Bridge Road GA 30215

PHONE: ____________________________ E-MAIL: ____________________________

AGENT FOR OWNERS: Brett Baker

MAILING ADDRESS: 417 Rising Star Road Brooks GA 30205

PHONE: (678) 794-2100 E-MAIL: bokk@bellsouth.net

PROPERTY LOCATION: LAND LOT 181 LAND DISTRICT 4TH PARCEL

TOTAL NUMBER OF ACRES OF SUBJECT PROPERTY: 10.880

ZONING DISTRICT: AR

ZONING OF SURROUNDING PROPERTIES: AR

PRESENT USE OF SUBJECT PROPERTY: Residential

PROPOSED USE OF SUBJECT PROPERTY: Residential

(PETITION NUMBER: A-704-19)

[ ] Application Insufficient due to lack of:

by Staff: ____________________________ Date: ____________________________

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

by Staff: ____________________________ Date: 6/27/2019

DATE OF ZONING BOARD OF APPEALS HEARING: July 22ND, 2019

Received from ____________________________ a check in the amount of $175.00

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

Date Paid: 6-21-2019 Receipt Number: 6837808 - sign

6837806 - app
VARIANCE INFORMATION

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<tbody>
<tr>
<td>110-125 A-R DISTRI</td>
<td>50' SIDE SETBACK</td>
<td>38' SIDE SETBACK</td>
<td>12'</td>
</tr>
<tr>
<td></td>
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</tbody>
</table>

VARIANCE SUMMARY

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

THIS VARIANCE REQUEST IS MADE TO ADDRESS THE LOCATION OF AN EXISTING BARN PREVIOUSLY CONSTRUCTED OVER 20 YEARS AGO BY PREVIOUS OWNERS. THIS STRUCTURE APPEARENTLY ENCOMPASSED INTO THE 50' SIDE SETBACK AS DEFINED UNDER CURRENT ZONING ORDINANCES. NO ADDITIONS TO THIS STRUCTURE ARE PROPOSED. THE EXISTING ENCOMPASSMENT IS NOT PROPOSED TO BE INCREASED. IT IS WORTH NOTING THAT TAXES BASED ON A VALUE INCLUDING THIS BARN HAVE BEEN PAID FOR SEVERAL YEARS.
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.

   THIS IS AN EXISTING CONDITION PERFORMED OVER 20 YEARS AGO BY PREVIOUS OWNERS. THE CONDITIONS CAUSING THE PLACEMENT OF THIS BARN IN ITS LOCATION ARE UNKNOWN.

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

   THIS BARN IS ACTUALLY USED FOR EQUIPMENT STORAGE AND REMOVAL OF THIS STRUCTURE WOULD CAUSE A SIGNIFICANT FINANCIAL HARDSHIP TO REPLACE AND POTENTIALLY DAMAGE EQUIPMENT.

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

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

   THIS BARN HAS EXISTED FOR OVER 20 YEARS
   WITH NOT DETRIMENT OR COMPLAINTS FROM PUBLIC.
   AND USE OF BARN IS TO REMAIN THE SAME.

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

   NOT ALLOWING THIS VARIANCE COULD
   RESULT IN THE LOSS OF USE OF A BARN THAT
   PREVIOUS OWNERS HAVE BEEN ABLE TO USE.


AFTER RECORDING, RETURN TO:
Christine L. Stamper
5200 Buffington Road
Atlanta, Georgia 30349

QUITCLAIM DEED

THIS INDENTURE is made this 20th day of November, 2010 between
DAN T. CATHY, individually (hereinafter referred to as “Grantor”) and RHONDA P. CATHY, individually (hereinafter referred to as “Grantee”) (the terms Grantor and Grantee shall include their respective heirs, legal representatives, successors and assigns where the context permits or requires).

WITNESSETH:

THAT GRANTOR, for and in consideration of the sum of Ten and No/100 Dollars ($10.00), and other good and valuable consideration, in hand paid at and before the sealing and delivery of these presents, the receipt, adequacy and sufficiency whereof are hereby acknowledged, does by these presents remise, release and forever quit-claim unto Grantee all of her right, title and interest in and to all that tract or parcel of land lying and being in Fayette County, Georgia and being more particularly described on Exhibit “A” attached hereto and by this reference incorporated herein (hereinafter referred to as the “Property”).

TO HAVE AND HOLD said Property unto Grantee, so that neither Grantor nor any entity or entities claiming under Grantor shall, at any time, by any means or ways, have, claim or demand any right, title or interest in or to the Land or its appurtenances, or any rights thereof.

(Signature Appears on Following Page)
EXHIBIT “A”

The Property

263 Mudbridge Road

All that tract or parcel of land lying and being in Land Lot 181 of the 4th District of Fayette County, Georgia and being more particularly as follows:

BEGINNING at a 1” rod found at the common corner of Land Lots 204, 181,180 and 205 of the 4th District; THENCE South 84 degrees 55 minutes 21 seconds West a distance of 344.69 feet to a 1/2” rebar found on the Southern limit of county maintenance of Mud Bridge Road (30’ County Maintained) being the TRUE POINT OF BEGINNING; THENCE South 01 degrees 31 minutes 15 seconds East a distance of 1376.42 feet to a 3/8” rebar found; THENCE South 88 degrees 11 minutes 55 seconds West a distance of 343.95 feet to a 3/8” rebar found; THENCE North 01 degrees 30 minutes 45 seconds West a distance of 1380.38 feet to a 3/8” rebar found on the Southern limit of county maintenance of Mud Bridge Road (30’ county maintained); THENCE along said limit of county maintenance North 88 degrees 51 minutes 36 seconds East a distance of 343.75 feet to the POINT OF BEGINNING, and containing 10.880 acre(s) of land, more or less and as shown on a survey for Dan T. Cathy and Rhonda Cathy, Origin Title & Escrow, Inc., Southern Title Insurance Company and Commonwealth/ LandAmerica Title Insurance Company by W.D. Gray and Associates, Inc. dated January 28, 2009.

BEING THE SAME PROPERTY conveyed to Dan T. Cathy and Rhonda P. Cathy from Fred M. Green and Betty H. Green, his wife, by (i) Quitclaim Deed dated January 30, 2009, recorded in Deed Book 3478, Page 541, Fayette County, Georgia records; and by (ii) General Warranty Deed dated January 30, 2009, recorded in Deed