

THE FAYETTE COUNTY ZONING BOARD OF APPEALS met on November 27, 2017, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

MEMBERS PRESENT: Bill Beckwith, Chairman
Marsha Hopkins, Vice-Chairman
Tom Waller
John Tate
Therol Brown

STAFF PRESENT: Pete Frisina, Director of Community Services
Chanelle Blaine, Zoning Administrator
Chakevia Jones, Planning and Zoning Coordinator

Welcome and Call to Order:

1. Consideration of the Minutes of the Meeting held on October 23, 2017.

Therol Brown made a motion to approve the minutes from the October 23, 2017 meeting. John Tate seconded the motion. The motion passed 5-0.

PUBLIC HEARING

**2. Petition No. A-659-17, Richard E. Carne, Owner, requests the following:
Variance to Sec. 110-79. Accessory structures and uses. (c) (1) (c) to allow the construction of a detached garage with a footprint of 3,600 square feet on a lot with less than two (2) acres of contiguous area. The subject property is located in Land Lot 167 of the 4th District and fronts on Stable Creek Road.**

Richard E. Carne stated he and his wife purchased this property in the late 70's. He stated that the appeal for this lot is that it is primarily hardwoods. He added it is in a subdivision that as was originally 40 sites, but it's been reduced to 37 home sites in the subdivision; three (3) were deemed unbuildable because of water issues from the lake on the opposite side of the street from where I live. He said the area I would propose to situate this structure, in keeping with trying to save as many hardwoods as possible, is in the corner. He added that the triangular piece next to the property is not buildable; the property to the immediate right is vacant; and the property across the street is a lot that has also been deemed unbuildable because of the water issues and the fact that there are not quite two contiguous acres. He stated that the creek, which is really the genesis for having to come before you all, will come in roughly before the curve in the road, makes a sharp left parallel to the side yard, and exits at the left rear corner. He said because of that, setbacks, and water issues it is not quite two (2) contiguous acres. He added that it is his intention not to build a 3600 square foot footprint, but something in the 2000 to 2500 square foot footprint. He added that he has a very Georgian style home, and that he and his wife tried to copy the characteristics of the George Wythe House in Williamsburg, Virginia. He said if it is approved it's his intention to put the garage access on the rear of that structure or on the side, so it wouldn't be seen from the street. He stated that

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depending on what water experts determine, it would be at least 200 feet from the street. He added that the reason for this is because I've got some antique cars, some old Model As and Model Ts, and some old Corvettes and I've outgrown my garage. He said he has some of the cars at his parent's house in Stone Mountain; a friend has two at their place, and that's the motivation for coming to you all.

Chairman Beckwith said the ordinance says a lot must have a minimum of five (5) acres and a minimum contiguous area of two acres clear of zoning setbacks, watershed protection buffers and setbacks, jurisdictional wetlands, 100-year floodplain area, and easements of any kind for a structure to be built at the size of 3600 square feet, which is what Mr. Carne would like to do. He added that the contiguous area is part of the ordinance and the entire two (2) acres must be connected. He stated that the situation here is that there are not two contiguous acres on this 5.74 acre property and Mr. Carne is asking for a variance in that regard. He added that the other option if it's not approved is to build a structure of 1800 square feet.

John Tate asked what part of the acreage is left when the creek is running through it.

Richard E. Carne stated that he believes there is a 150 foot setback off the creek. He added that there is 1.7 acres of contiguous area that is not affected by floodplains.

John Tate asked if the creek runs through the entire property or just through a portion of it.

Richard E. Carne stated that the genesis of that is just at the curve in the road and it runs about 150 feet off the back of the house; at some points it's almost parallel with the house. He added that the topography is 10-12 feet higher than what it would be at the creek level.

Therol Brown asked Mr. Carne if he considered rechannelization of the creek in order to get his remnant a little larger.

Richard E. Carne stated that it's a creek, but it's not a running creek, it's almost a canal really. He said it would be cost prohibitive if he tried that and he would lose more trees.

Marsha Hopkins asked if the Mr. Carne had said the way the property was developed initially did not materialize because drainage issues occurred.

Richard E. Carne said that's probably correct. He stated that Alex Thompson was the original developer and unfortunately he was not able to maintain service on that. He added that when the bank came in they did a reanalysis and determined that the two lots across from this portion of my property are unbuildable. He said I don't think that's a problem with my property because as I stated I'm a good 10-12 feet higher than what it would be at the creek level.

Marsha Hopkins asked since you lived on the property have you had any water or drainage issues.

Richard E. Carne said no, the rain we had in 1994 got up pretty good, but it was gone in half a day's time. He added that the portion of the property I'm looking at doesn't have those problems, it has a very large drop off.

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Marsha Hopkins asked where are the vehicles you want to store located at now.

Richard E. Carne said that he has two wings on my home housing four Model A's and a Model T in one, and a Corvette and another Model A in the other one. He added that a friend has two and a nephew has another.

Tom Waller asked if the facility will look like a house. Will it have a septic system?

Richard E. Carne stated that the picture you have is a rendering, that's the style I plan to do.

Tom Waller asked if there will garage doors on the back? Are you going to put this on a concrete slab?

Richard E. Carne stated that his intention is to have a garage and perhaps a living space upstairs.

Chairman Beckwith said the ordinance says you can have up to 700 square feet heated living space.

Tom Waller made a motion to approve Petition A-659-17. Therol Brown seconded the motion. The motion passed 5-0.

- 3. Petition No. A-670-17, Alison Equities, Owner, requests the following: (1) A continuance of a legal nonconforming use of the property under Section 110-170. (k) Continuance of a legal nonconforming use, to re-establish the legal nonconforming use of the property. (2) A change of the legal nonconforming use of a structure under Section 110-170. (i) Request for change of the legal nonconforming use of a structure, to establish a metal fabrication shop. The subject property is located in Land Lot 198 of the 5th District and fronts on Longview Road.**

Arlene Tauber stated that the property has always been used as a commercial property. She added that it was used as a tire shop years ago. She said when it was sold we didn't realize that that the grandfathered variance wasn't kept. She stated that someone wants to buy the property, but it can't be sold as a residence. She added that in order for the purchase to go through it needs to have a variance.

Larry Lee stated that he lives at Longview Road and Highway 314. He said there is no parking in that area and that he's against approving the variance.

Chairman Beckwith asked if Mr. Lee's home is tight next to the property.

Larry Lee replied that his entrance is almost in front of it, but not quite.

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Alvin Holt stated that this area is zoned R-20, why is a business allowed to go in R-20. He added that this place was built in the 1970's, and it has housed two cabinet shops, DOT storage, a car lot, AAA Hydraulics, and a junk store. He stated that this property is a traffic hazard, they park anywhere. He added that he goes down that street to go places, and when the limo service left it was a junk yard and a traffic hazard. He said this building has been an eyesore. He added that he didn't know what kind of business they were talking about, maybe you all can explain. He asked where are these semi-truck's going to park? He stated the only place they can park a semi-truck is in the street. He said if they start piling metal up it's going to look like a car lot. He stated there's no septic, just county water and gas. He added please, as you are the Zoning Board, stop this business from coming. He said declare it unfit for public use. He said thank you in advance.

Daniel Bailey said the problem is it's been used for anything without any enforcement from the county. He added that he had an office building that he had rezoned for office only. He said that the property is an eyesore. He stated that there are plenty of industrial zoning areas in the county. He lets clean up that end of the county; everybody wants to rezone it when it's always been residential.

Arlene Tauber said that she understands the complaints of the residents. She added that they've had to foreclose on the property, but she cannot speak on the metal fabrication business.

Anthony Crawley stated he has fabrication skill that deals with CAD. He said he designs components for the aerospace industry. He added that the machinery needed to perform the work is more than one piece. He said if this variance is allowed this property would look like a normal residential home. He stated that he will grind and use a hammer, but not late at night. He added that he knows what his capabilities are, and he is willing to provide whatever is needed. He stated that he understand the concerns of the community.

Chairman Beckwith asked what kind of material is being fabricated.

Anthony Crawley replied that he uses high end stainless steel. He stated that we have the metal at my 4000 square foot shop.

Chairman Beckwith asked what size will the product be.

Anthony Crawley stated he takes a 4X8 sheet, makes a design on the computer, and if the company likes it they order maybe 500.

Chairman Beckwith asked how the product is shipped.

Anthony Crawley said UPS.

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Tom Waller asked if Mr. Crawley's family looks after the shop when he's out of town.

Anthony Crawley replied that his wife drives by to check on it, but he welds the doors shut and there is no water.

Tom Waller said if a fire department came they'd have to break down the welded doors.

Anthony Crawley replied there is no reason for a fire.

John Tate asked how that equipment would be bought into the shop.

Anthony Crawley said he has a trailer and half ton truck. He added that he can estimate the amount of metal needed based on the computers.

John Tate asked if he would bring in a certain amount per day.

Anthony Crawley replied he would bring the metal in per week; it's not constant traffic for me.

Chairman Beckwith stated that the zoning board of appeals may allow a legal nonconforming use to be re-established after discontinuance for six consecutive months where it is deemed by the zoning board of appeals.

Therol Brown said the confusion was that the two-thirds acre lot be zoned highway commercial. He added that even though it was approved it was never used. He asked Pete if the 2017 tax statement received had C-H as the zoning designation. He said if it's C-H, why are we discussing it.

Pete Frisina said that that's a tax classification.

Therol Brown asked if the previous tenants were grandfathered in.

Pete Frisina stated that they came back, but it wasn't approved.

Chairman Beckwith said first decide on a whether to approve the continuance of a legal non-conforming use. It's zoned R-20.

Patrick A. Stough said that if the first variance fails, there is no need to vote on the second variance.

Therol Brown made a motion to deny Petition A-670-17. John Tate seconded the motion. The motion passed 5-0.

- 4. Petition No. A-671-17, Jeff and Deborah Kilgore, Owners, request the following: Variance to Section 110-127. EST. (g) (6) to reduce side yard setback from 25 feet to 13 feet to maintain an existing accessory structure (well house). The subject property is located in Land Lot(s) 140 & 141 of the 4th District and fronts on Lace Court.**

Jeff Kilgore stated that he and his wife purchased this property in 2015. He said they were advised by a neighbor that the structure was too close to the property line. He added that it's not a well house; I use it for storing machinery and lawn mowers. He said there's a concrete ramp that accesses the structure, and as you can see on the map, there are a good bit of trees between the structure and the house.

Therol Brown said I thought it was a well house. He added that in your package you say it's not mobile. He asked if it was feasible to move it 13 to 14 feet. He said I think you'll find it is.

Jeff Kilgore replied that it's not on wheels.

Therol Brown said the worst thing that will happen is the slab will crack.

Marsha Hopkins asked Mr. Kilgore if his neighbor didn't have any issues, why did he bring it to your attention.

Jeff Kilgore replied that there were several things conveyed to him from the neighbor about what was known about the property. He added that he didn't know for sure if the previous property owners knew about the issues because the structure did not have to be permitted.

Tom Waller said I'm recusing myself. He stated that Mr. Kilgore is a friend and that they're probably related.

Chairman Beckwith stated that if the petition is denied, Mr. Kilgore has up to 60 days to remove or demolish the structure.

Bill Beckwith made a motion to deny Petition A-671-17. Therol Brown seconded the motion. The motion passed 4-0. Tom Waller abstained from voting.

Chairman Beckwith made a motion to grant petitioner 60 days to come into compliance. John Tate seconded the motion. The motion passed 4-0. Tom Waller abstained from voting.

- 5. Petition No. A-672-17, cannot be heard this month due to the signage being incorrectly placed and the public notice requirement could not be met.**
- 6. Petition No. A-673-17, Carlino Construction, Owners, request the following: Variance to Section 110-125. A-R. (d) (6) to reduce side yard setback from 50 feet to 39 feet to allow the construction of an accessory structure. The subject property is located in Land Lot 223 of the 4th District and fronts on Bernhard Road.**

Mike Gable stated that he was asking for a variance. He added that when he went to get the permit for the house he was told he would need a second permit for a detached garage.

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Therol Brown said at the previous meeting you gained approval for the house. He asked Mr. Gable if he had a walkway.

Chanelle Blaine replied that he just had the single family residence. She added that it's the same distance, just not what he requested.

Therol Brown made a motion to approve Petition A-673-17. Marsha Hopkins seconded the motion. The motion passed 5-0.

- 7. Petition No. A-674-17, Ronald & Loren Reid, Owners, request the following: Variance to Section 110-137 R-40 (d) (5) to reduce rear yard setback from 30 feet to 15 feet to allow the construction of a swimming pool. The subject property is located in Land Lot 159 of the 4th District and fronts on Burkwood Court.**

Ronald Reid stated that our rear setback is 30 feet and we're asking for a variance to reduce it to 15 feet. He added that part of our basement is exposed. He said that if we put the pool close to the house it will obstruct water flow. He stated that a civil engineer recommended we move it back 15 feet.

Chairman Beckwith asked if the neighbor's pool was 15 feet of the property line.

Ronald Reid said yes, but they're zoned for the setback.

Therol Brown asked if you construct a retaining wall will it change the flow.

Ronald Reid replied yes.

Tom Waller asked if there was an HOA in Mr. Reid's subdivision. He also asked if there was a community pool.

Ronald Reid replied the yes, there is an HOA, but there is no community pool.

Tom Waller made a motion to approve Petition A-674-17. Marsha Hopkins seconded the motion. The motion passed 5-0.

- 8. Petition No. A-675-17, Thomas & Melanie Lewis, Owners, request the following: (1) Variance to Section 110-125 A-R (d) (4) (a) (2) to reduce front yard setback from 100 feet to 45 feet to allow the construction of an addition (with a length of up to 60 feet) to an existing home. (2) Variance to Section 110- 79. - Accessory structures and uses (d) to allow an existing accessory structure to remain located**

in the front yard. (3) Variance to Section 110-125 A-R (d) (4) (a) (2) to reduce the front yard setback from 100 feet to five (5) feet to allow an existing accessory to remain. The subject property is located in Land Lot 221 of the 4th District and fronts on Stolen Hours Lane.

Pete Frisina stated that this variance also includes a covered deck.

Thomas Lewis stated that we tried to stay away from the pool problems, but we ask to vary it by five feet based on the foundation. He said that we would like to be able to cover our deck and extend it. He added that the shed was present when we bought the property. He also mentioned that it's close to the property line, but we've tried to make it fit in with the architecture.

Julie Herbert said we have no problem with the shed.

Terriann Howel said I don't have a problem with what they're trying to do.

Larry Blanks stated that he lives across the street. He said this is a flag lot, and there is an ordinance that says any side of your house the fronts a road is a front yard. He added that Bernhard Road is considered his front yard. He said the Lewis' driveway was actually on the Slaughter's property. He stated that the out building was probably within limits, but the survey was off.

Chairman Beckwith asked what the shed is used for.

Thomas Lewis replied the shed is used for lawn equipment. He added that I'm just trying to do the right thing.

Tom Waller stated that this is one of about seven (7) or eight (8) flag lots. He asked if Mr. Lewis had a private road or if it's a common private road? He also asked if there was one common road on one of these flag lots at the courtesy of the owner.

Chairman Beckwith replied that everybody who lives there owns the road.

Therol Brown asked Pete Frisina if the county assumed ownership of the road would that still be a front yard. He also asked what the logic behind the ordinance is.

Pete Frisina said flag lots are a problem.

Therol Brown made a motion to approve the variance to reduce front yard setback from 100 feet to 45 feet to allow the construction of an addition (with a length of up to 60 feet) to an

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existing home. Marsha Hopkins seconded the motion. The motion passed 5-0.

Therol Brown made a motion to approve the variance to allow an existing accessory structure to remain located in the front yard. John Tate seconded the motion. The motion passed 5-0.

Therol Brown made a motion to approve the variance to reduce the front yard setback from 100 feet to five (5) feet to allow an existing accessory to remain. Chairman Beckwith seconded the motion. The motion passed 5-0.

There being no further business, Marsha Hopkins made the motion to adjourn the meeting and the meeting adjourned at 8:59 pm.

**ZONING BOARD OF APPEALS
OF
FAYETTE COUNTY**



CHAIRMAN



CHANELLE BLAINE, ZBA SECRETARY

