

**THE FAYETTE COUNTY ZONING BOARD OF APPEALS** met on February 25, 2019, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

**MEMBERS PRESENT:** Marsha Hopkins, Chairman  
Bill Beckwith  
John Tate  
Therol Brown

**MEMBERS ABSENT:** Tom Waller, Vice-Chairman

**STAFF PRESENT:** Chanelle Blaine, Zoning Administrator  
Howard Johnson, Planning & Zoning Coordinator

**Welcome and Call to Order:**

Marsha Hopkins welcomed everyone to the meeting and introduced each member of the Zoning Board of Appeals. She also introduced the two staff members, Howard Johnson and Chanelle Blaine.

**1. Election of the Chairman.**

Bill Beckwith made a motion to approve the appointment of Marsha Hopkins as Zoning Board of Appeals Chairperson. John Tate seconded the motion. The motion passed 4-0. Tom Waller was absent from the meeting.

**2. Election of the Vice-Chairman.**

Bill Beckwith made a motion to approve the appointment of Tom Waller as Zoning Board of Appeals Vice-Chairman. John Tate seconded the motion. The motion passed 4-0. Tom Waller was absent from the meeting.

**3. Election of the Secretary.**

Marsha Hopkins made a motion to approve the appointment of Howard Johnson as Zoning Board of Appeals Secretary. Therol Brown seconded the motion. The motion passed 4-0. Tom Waller was absent from the meeting.

**4. Consideration of the Minutes of the Meeting held on November 26, 2018.**

Therol Brown made a motion to approve the minutes of the meeting held on November 26, 2018. John Tate seconded the motion. The motion passed 4-0. Tom Waller was absent from the meeting.

Chairperson Hopkins stated that we have one (1) petition tonight and a panel of four (4) ZBA members. She said when we have a panel of four (4), you may want to consider how you proceed, because we may have a deadlock; two (2) for and two (2) against and we wouldn't have a tie breaker. She added that we give petitioners options if they so choose to table this meeting and come back to a subsequent meeting when we have a full panel. She stated that it is your call entirely. She asked if Chanelle Blaine had any additional information.

Chanelle Blaine reiterated that if it is a two (2) two (2) vote it will be considered a denial and you will need at least three (3) votes to move forward.

Chairperson Hopkins stated if you wish to proceed we will and if not we can certainly table it until next meeting or a subsequent meeting. She asked do you wish to proceed.

Timothy Fairley replied yes.

### **PUBLIC HEARING**

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

Austin Goodell stated that he was the agent and would be speaking on behalf of the Noel family. He stated that we are in the setback about 10 feet roughly and asked for a motion that you reduce the setback in the rear from 30 feet to 18 feet. He said that the actual pool is within the setback except for the concrete and the equipment pad. He added that I have this document if you would like to look at it.

Chairperson Hopkins asked if there was any other information that you would like to present.

Austin Goodell replied I have some photos on my personal phone if you would like to see. He stated the reason we picked this particular location for the pool is because on the left side is a drainfield replacement area and it's a very steep grade and not really a good location for a swimming pool. He said that the reason it is set so far back from the house is because it is on a slope and there are two (2) levels of existing retention wall and were put in place prior during the construction of the home. He added that we would be building our pool on the lowest tier of that level which is the rear of the concrete into the actual setback.

Chairperson Hopkins asked if anyone else would like to speak on behalf of the petitioner. Hearing none, she asked if anyone would like to speak in opposition to the petitioner. Hearing none, she stated I will bring it back before the ZBA Board for discussion.

Bill Beckwith asked at what level the pool would be, regarding the retaining wall.

Austin Goodell replied it would be at that bottom level. He stated that bottom step would be our

zero (0) elevation.

Bill Beckwith stated it looks to me that would be a swale area from the other property coming down.

Austin Goodell stated that it would be partially exposed but we would build up and have the deck.

Bill Beckwith stated that I guess it's going to be an in ground pool.

Austin Goodell replied yes sir.

Bill Beckwith asked if it was going to be a wooden deck.

Austin Goodell replied no sir. He stated that it would be a concrete deck and that there will be drainage in place.

Bill Beckwith asked if this was the standard pool or if it was custom.

Austin Goodell asked Bill Beckwith to define standard pool.

Bill Beckwith asked have you done this type of pool before.

Austin Goodell replied similar, yes sir.

Bill Beckwith asked is it custom designed for this lot.

Austin Goodell replied yes.

Bill Beckwith stated what we like to do is look at possible options because what we would do if we granted a variance is to allow you or the pool to be breaking the law. He said that setbacks have been established for certain reasons. He asked if the design of the pool can be modified such that it won't be as much decking that it be over the 30 foot setback line. He added maybe by reducing the decking on the other side of the pool. He stated that is why I asked if it was a custom design.

Austin Goodell replied that it's a custom design pool so there are alternatives from different dimensions to the shape of the pool it's not a rectangle or a free form. He stated that it is a little bit different but it is an enlarged pool. He added that the reason we have encroached on the actual setback is just functionality of the swimming pool to give these guys a little more deck space for the enjoyment of their family.

Therol Brown asked how many feet is the rear decking that is encroaching the setback.

Austin Goodell replied roughly about 10 feet.

Therol Brown stated you mention two (2) retaining walls that are in place, what would be involved

if you remove one of those retaining walls and went back towards the house.

Austin Goodell replied that it would involve an extensive amount of grading and we would need to get engineering involve and have a redesign for a new wall.

Therol Brown stated you got one (1) wall and when you step down you have another retaining wall, correct?

Austin Goodell replied yes sir.

Therol Brown stated you wouldn't need another retaining wall design if you went back on the decking that is facing the house was up to the first retaining wall. He asked how much would you gain by doing that. He stated I know there would be some regrading.

Austin Goodell reiterated that it would be quite extensive on the regrading because it's a two (2) tier and if we were to remove that entire bottom tier, and push that wall back to the other wall it would put us over. He said anything that puts us over three (3) feet we have to get engineered by a professional engineer and a cost would be involved. He stated it would be a cost to redesign the entire backyard. He added it wouldn't the best cost effective for the customer.

Therol Brown interjected but it would be legal.

Austin Goodell replied yes sir it would be legal but it would be extensive.

Therol Brown asked if the drainfield replacement area is there not enough room to shift it into there and move it back toward the north.

Austin Goodell replied if we have to reposition the pool we would have to build more retaining walls because that area has a very steep slope.

Therol Brown asked if it would be just field material.

Austin Goodell replied not field material.

Therol Brown asked if would be additional material to field the area.

Austin Goodell replied it depends on the elevation and the more left you go there is actually a detention pond on that side of the property. He stated they may get into a flood zone.

Therol Brown asked approximately how far the detention pond would be from the existing layout you have here.

Austin Goodell replied maybe 150 feet or so.

Therol Brown asked if you have that much it wouldn't interfere with the 50 foot would it. He stated what I was thinking was if you shift this over 20 feet it would not require you to have a

variance. He added that I know you would have some field material.

Austin Goodell asked Mr. Brown if he was talking about moving it more to the right on the plat page.

Therol Brown replied this is the driveway, this is the house, and this is the back of the property line; what I was talking about was shifting it this way.

Austin Goodell replied like I said that area is a very steep grade so it would require more detention wall. He asked if within a flood plain you have to be 150 feet.

Therol Brown replied I'm not sure.

Bill Beckwith stated that whole area is a swale going down to the retention area especially for the upper part of it. He said it seems to me reducing the width of the decking on both ends gets you a lot closer to the setback lines. He added move each one six (6) or eight (8) feet. He stated that one (1) corner is what interferes with the setback.

Therol Brown agreed that if it wasn't for that one (1) corner you wouldn't need a variance.

John Tate asked what the dimensions were for the equipment pad.

Austin Goodell replied that it would be a 3 ½ foot X 5 foot concrete pad that we would like to have equipment on. He stated we like to have that on a lower grade of the pool. He said as far as placement of that there are certain places we could put it but that is about the best. He added that the customer prefers it there.

Bill Beckwith stated that is not going to be an encroachment it's the deck itself.

Therol Brown stated no, that would be an encroachment.

Bill Beckwith asked would that be an encroachment.

Therol Brown stated I would like to see the project complete and to the satisfaction of the homeowner, but we are also obligated to look at alternatives. He said I just think that there may be some options and you may have to downsize a little bit. He added if you give a little bit maybe the County will give a little bit. He stated you have a large lot over an acre and maybe some slight compromising on size; I don't think you need a variance.

Chanelle Blaine stated that the concrete pad along with the deck will be an encroachment.

Therol Brown stated Austin just said you can resituate a pad and it can be left to right rather than the rear. He said the rear is where a lot of people like to have it because it is out of the way. He added that since it violates the setback requirements the best option may be left to right. He stated that would not kill the appearance of your yard; I don't think.

Chairperson Hopkins asked if this was a Home Owners Association Subdivision and if they had to run this by them.

Ellarie Noel replied yes.

Bill Beckwith clarified did they approve the pool the location or what?

Ellarie Noel replied yes.

Bill Beckwith asked even though it shows it encroaching in the setback they approved it.

Ellarie Noel replied yes.

Bill Beckwith stated that we don't really deal with the Home Owners Association that much because they are looking out for themselves and not really what the County requirements are.

Chairperson Hopkins stated I always look at what else is around and how significant is the pushback into the setback, and so I see on here on the other side of the retention pond is a common area for recreational purposes right?

Austin Goodell replied yes mam, so there is the detention pond and where the proposed pool is going to be and on their property line is a small partition of trees and then several hundred feet away is the back of the adjoining property. He said there is not a house that is looking directly on the pool. He stated they do not have a cookie cutter neighborhood and so an encroachment would not be an eye sore to anyone else.

Bill Beckwith asked if the Planning Commission would consider tabling this until the next meeting. He said so we can see if Mr. Goodell can rework this layout so it fits with the requirements and keeps the homeowners happy too. He added if we deny it you will have to wait six (6) months before it can be heard again.

Therol Brown asked if you would be agreeable to that. He stated if you resolved the issue to where you don't need a variance, you won't need a Zoning Board of Appeals decision anymore. He said if you work with it and you can't come up with a solution; then you have the option to bring it back and we will make a decision up or down.

Ellaire Noel asked the ZBA who would make the decision about the new site plan for the pool.

Bill Beckwith asked Chanelle Blaine who would make the decision about the location of the pool.

Chanelle Blaine replied I would make the decision.

Therol Brown stated we are not trying to stop you from building a nice pool; you have a nice property and we realize that, but we have an obligation to try and protect the ordinance. He said we don't write the ordinance. He added we look at it and try to abide by the ordinance and look for alternatives out of respect for the citizens of the County.



Bill Beckwith made a motion to table Petition A-694-19 until the next public hearing of the Zoning Board of Appeals scheduled for March 25, 2019. Therol Brown seconded the motion.

Timothy Fairley asked if we decide to withdraw do we go through this young lady again.

Chanelle Blaine replied if you guys decide to withdraw the contractor will submit a site plan showing the decking is not encroaching on the setback. She stated if he shows me that we're okay. She also said he would need to type me up an email that says I would like to withdraw my petition from the upcoming Zoning Board of Appeals meeting and it will be withdrawn.

Bill Beckwith stated that right now you will be scheduled for March meeting but in the mean time you need to get to work with Mr. Goodell and work it out. He said hopefully it works out and your point of contact will be Chanelle.

Timothy Fairley replied okay, thank you.

Chairperson Hopkins asked for a vote on the motion. She restated the motion is to table this until next month to give the homeowner an opportunity to see if any further modifications can be made or takes some other course of action that may result in them not having to come before us we're raising the motion to table it. All in favor to tabling it.

The motion passed 4-0. Tom Waller was absent from the meeting.

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There being no further business, Chairperson Hopkins made the motion to adjourn the meeting and the meeting adjourned at 7:32 pm.

**ZONING BOARD OF APPEALS  
OF  
FAYETTE COUNTY**

  

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**MARSHA HOPKINS, CHAIRWOMAN**

  

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**HOWARD L. JOHNSON, ZBA SECRETARY**