

THE FAYETTE COUNTY ZONING BOARD OF APPEALS met on June 24, 2019, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

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

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

STAFF ABSENT: Pete Frisina, Director of Community Services

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, Chanelle Blaine and Howard Johnson.

1. Consideration of the Minutes of the Meeting held on May 20, 2019.

Tom Waller made a motion to approve the minutes of the meeting held on May 20, 2019. John Tate seconded the motion. The motion passed 5-0.

PUBLIC HEARING

2. Petition No. A-700-19, Berachah Bible Church, Inc., requests the following: Variance to Sec. 110-137. R-40, (d)(4)(a)(1) to reduce the front yard setback from 60 feet to 40 feet to bring the existing building on this reconfigured lot into compliance. The subject property is located in Land Lot 202 of the 5th District and fronts on Corinth Road.

Randy Boyd introduced himself and he asked that Howard Johnson distribute to the members of the Zoning Board of Appeals, an enlarged version of the recorded plat of Lot 1 Northbend Subdivision developed in August 1983. He further explained that the church purchased the property in 2017 and the church also owns the adjacent property to the south, which contains the main campus. He also described that the plat on the first page (highlighted in yellow) shows how the lot exists currently which contain a house. He stated that the subdivision shows that the front building line is 40 feet, and the house currently sits at the 40 feet building line. He continued to explain that the church wanted to reconfigure the lots instead of the shape of a triangle to the final configuration shown in the orange color (shown on Page 2). He noted that this project went before the Planning Commission in January of this year seeking approval to add a portion of that to the subdivision and seeking permission to revise the final plat on that one (1) lot. He said they received unanimous approval by the Planning Commission and the Board of Commissioners. He then noted that when he began to draft the final subdivision plat, he learned that he had to apply all of the new standards that are in place now. He then asked the ZBA members for relief to maintain the 40 foot building line as it exist now. He explained that a 40 foot building line was not a mistake and was not made when the house was build. He said, however, today's standards along Corinth Road, (collector) now require a 60 foot frontage which places the building in front of the front setback line. He then

explained that he feels that the old configuration (shown in orange) is a better configuration (shown in yellow) than the old triangular-shape because it gives the church the frontage in front of the actual building so that the patrons can see the property instead of the corner of the adjacent property. He stated, in conclusion, that the request was to seek to maintain the 40 foot front building line and not apply the 60 foot front building line. He thanked the ZBA for their consideration.

Chairperson Hopkins asked if there was anyone to speak in favor of the Petition.

Ron Newton, an Elder at the Berachah Bible Church introduced himself and stated that he handles these type of issues for the church. He explained that the church purchased the house to use for visiting pastors and missionaries and they then realized it had a weird-shaped lot because the property line came almost to the front of the driveway of the church. He also stated that the property shape was encroaching on the church and this reconfiguration just squared off the lot to make it more like a subdivision lot. He noted that the square footage of the house and the square footage of the lot did not change and it allows the church to have a more straight back right-of way line, providing both a better view and better access to the road. In conclusion, he said that an additional reason to square off the lot was the concern that whomever lives in the house may not maintain it, resulting in a very bad looking front yard for the church. He stated the church desires to ensure the home is properly maintained.

Chairperson Hopkins asked if there was anyone to speak in favor of the Petition. Being none, she asked if there was anyone in opposition. Being none, she moved the item to the members of the ZBA for discussion.

Bill Beckwith stated this is a situation whereby the initial property was zoned appropriately and the setback was applied, the setback changed and the applicant was caught in this situation.

Bill Beckwith made a motion to approve a variance to reduce the front yard setback from 60 feet to 40 feet to bring the existing building on this reconfigured lot into compliance. Tom Waller seconded the motion. The motion passed 5-0.

3. **Petition No. A-701-19, Shelley Anthony, requests the following: Variance to Section 110-173. (3)(d)(1) to reduce roof pitch from the minimum of 4.5 inches in one foot to 1.25 inches in one foot. The subject property is located in Land Lot 199 of the 13th District and fronts on State Route 314.**

Shelly Anthony stated that he secured financing for this project in 2017, and from September 2017 until December 2017 he was trying to decide what type of building to use. He decided in December 2017 that it would be easier for him to use a pre-fab building. He stated that he spoke with Planning and Zoning from December 2017 to February 2018 and learned that he could use a pre-fab building. He noted that afterwards he encountered some obstacles finding a pre-fab company who could provide the specs (architectural specifications) for the materials, roofing, the siding and elevations needed for review by the County.

He explained that he closed on the purchased building in early 2018 and in early May 2018 he entered into a contract with an Engineer who proceeded on the project until early December 2018 when he received a review comment stating that the elevations did not meet the roof pitch for the Overlay District. He said he was baffled because he thought that item that was approved. He stated

that he was in back and forth conversations with Chanelle Blaine about the materials, the building, and the even use of a modular building within the Overlay District. He explained that there were several back and forth conversations because he wanted to ensure that he was okay before he started the project. He noted that in December 2018, he was notified that he could not use the pre-fab building because the roof pitch was off, therefore he searched and searched to find contractors and/or roofing experts who could help resolve the roof pitch issue to meet the County (Overlay District) code. He explained that six (6) months later, he visited Ms. Blaine to find out his options, since he could not use the \$100,000 building. He said Ms. Blaine replied that she would find out from Pete Frisina if he could apply and request a variance. He said that she later responded, that he could request a variance from the ZBA. He stated that he definitely did not rush through this project, he exercised a lot of due diligence, and asked his father and others who had been through this process. He said he had conversations back and forth with Ms. Blaine before proceeding ahead and that he was under the assumption that after the building materials, and elevation drawings were submitted, he thought it was a final approval but now he is trying to figure out the best way to resolve this situation. He noted that the building has been built and has been sitting idle for more than a year and he has an extensive landscaping plan whereby the area from curbside to the building will be very nice using pervious pavement which costs three (3) times more than normal pavement. He explained that since the lot size is very small and limited, he had to choose the more expensive options to meet the County specifications. He re-stated that he thought he had a final approval for the modular building that he had purchased and he would not have purchased that modular building if he knew it would not meet the County requirements. He concluded that he has reviewed a lot of modular buildings from many companies that could not provide the needed specifications.

Chairperson Hopkins asked if there was anyone to speak in favor of the Petition.

Chairperson Hopkins asked if there was anyone to speak in opposition of the Petition, being none she turned the item to the members of the ZBA for discussion.

Therol Brown said Mr. Anthony, you thought you had approval, but in my package I see at least four (4) emails from Ms. Blaine corresponding back to your engineer and you, stating that you have a conditional approval, but they still needed the elevation drawings pointing out that the slope of the roof meets the overlay requirements. He added I don't know at what point and time you purchased the building but throughout the process.... Chanelle correct me if I am wrong.

Chanelle Blaine interjected that she did not give a verbal approval for the building. She stated that she did speak to Mr. Anthony when he first came in regards to the property being a non-conforming lot because the lot was so small. She said, we were trying to figure out whether the lot was legal lot of record, which we did. She stated that they never received any elevations to approve until November. She added she would not have just given a verbal okay for a new building. She emphasized that a lot of times when I talk to customers, I take the zoning ordinance with me, just in case for things like this, or if I do not know I tell them I will get back with them. She noted that the email correspondence from her to Mr. Anthony was from August to the first of this year. She stated that if you look at the first email I sent, my first comments in regards to the site plan that he gave me, I asked for the elevations. She said the comments were also sent to his engineer Joey Scanlon. She concluded, that I did not do that, and for his predicament he will need the roof pitch to be reduced. She added that in the area, there are flat roofs, but the overlay requires that it be 4.5 inches per foot.

Therol Brown stated that his position is... if there is evidence that the County, be it Chanelle or anyone else, told you it was okay verbally or in writing, I think they should honor that, but we don't find that in the emails. He said the other thing where I am a little puzzled is... you just said it ... and it is included in your application, that the size of the lot would cause problems in the pitch the roof. He added, I don't understand that, what difference does it makes if you have a half-acre or 20 acres as far as the pitch of the roof of a building.

Shelly Anthony replied that it definitely doesn't, sir. He explained, Auto Zone owns the back half of the land, when I bought the first piece of land I wanted to get the back piece as well. He said, so by getting the actual modular building it will allow me somewhere down the line, if Lord's will, if I hope to buy the back piece of the land to expand the actual lot. He added that when he was going back and forth with Ms. Blaine, my father was coaching me along the way, so I was going back and forth getting verbals on what I need, my father kept on saying make sure that you keep on going back and forth to the County to make sure you are good before you go, and that's exactly what I was doing when I ...

Therol Brown interjected that it appears that you didn't do anything wrong in getting a modular building, that's nothing wrong with that, it's just the pitch of that modular building. He explained, if you paid around \$100,000 for the modular building, in my opinion, Madam Chairman, you need to evaluate the costs you got in that building and the cost of getting someone to construct a 4.5 pitch roof on it. He said, I am not telling you what to do, and I am not an expert on it, but looks like it to me, that it may be cheaper for you to get a roof put on that modular building and go back to business, than it would be for it to sit there and not use it.

Shelly Anthony replied, from the verbal that I received and I hate to put her in the situation of where it is a he said, she said but just from the verbal ...

Therol Brown said no, excuse me for interrupting, it's not he said, she said, there is an email back and forth to you and your engineer that says you need the 4.5 pitch roof for every 12 inches of roof slope.

Shelly Anthony replied honestly, what I truly believed is when those messages were going to my engineer, I was already talking to my engineer beforehand and he kind of knew what I was going through by going back and forth to the County making sure the actual building materials, the specs and the elevation were right. He also stated, yes, it most definitely slipped but it slipped because in our understanding, it already had a verbal approval and that was just information that the County didn't have or I could just shoot it to them in a blink of an eye because it was already approved. He explained, honestly, when it came to the elevations, I wasn't looking at that particular email and that was because and the engineer and I had already confirmed that I was good for the elevation and so, it wasn't this huge problem.

He said I think we went back and forth with submitting the site plan, and I went back about four (4) times and that piece of it already had a verbal approval on the list. He added, it definitely fell to the back burner, because I thought that my materials and my elevations was already verbally approved.

Bill Beckwith asked Mr. Shelly do you have anything that backs up the verbal approval.

Mr. Shelly replied, no sir, that is from taking in paperwork that I get walking in asking, can I do this and can I do that, and Ms. Blaine is 110 percent right, she went to the book and came back and showed me, you can do this, you can't do that. He explained that some of my materials for my roof and my siding were in parenthesis, where I guess how the law reads it was in my favor. He said, she is right, she went to the book saying yes, I can do this, no you can't do this, I don't know about this, she is 100 percent right, but when it came to the elevation, I do believe that it was an oversight, and it wasn't on my behalf.

John Tate asked when did you purchase the building.

Shelly Anthony replied that he purchased the building at the end of February 2018.

John Tate asked in emails that came from Ms. Blaine starting in August, was there someone who was actually reviewing what had been requested and making sure those things were covered.

Shelly Anthony replied my engineer was getting me the comments that he got back from the County. I honestly thought he already had it and it was just an oversight. He stated that because some things that I was going back and forth with Ms. Blaine about, she said well I probably already have that, but I need to double check and see, so she had some of my information and that's honestly what I thought it was.

John Tate responded what I see here is that, I am just looking at two checklists, on the first one it says number 15, please provide a copy of the elevation drawings and I see that same notation on the second checklist... so I am just curious, I also see that on the 3rd checklist. He added, what I am curious about is who is was responding to this and other certain things that are required, my question is who was making sure that these things were taking care of.

Shelley Anthony replied I hired the engineer , but at the end of the day is was 110% my fault, I just thought I had a verbal approval, when I came in with all of my stuff, I just thought I had a verbal approval, by her not saying no, that was a yes.

John Tate asked wouldn't the written request for elevation drawings put you on notice that you didn't have an approval.

Shelly Anthony replied, I got knowledge in late November or early December there was problem with my elevations. He explained there were comments along the road, but when I found out the problem was that I couldn't use the building, it was in late November or early December so I came in to figure out what's was going on. Since then until now I have been trying to figure out how to correct this.

Chanelle Blaine stated that she wanted to interject that she did not receive the elevations until that time, so that why he got the notice of an issue with the elevations, but from August until November she was requesting elevations, so it kind of hard to tell you that something is wrong with your elevations if I don't see them. I just want to make sure that is on the record.

Bill Beckwith stated it looks like there are at least four (4) emails stating the 4.5 pitch is required

whenever the elevations come in and that a lot of notifications that were not followed.

Shelly Anthony replied that I will definitely try to do my due diligence on just trying to fix the problem because from December to now, I have been searching high and low on how to fix it. He said that with this project alone, I secured financing in 2017 when I started paying the financing back, I wasn't in rush to do the project, so I would not be in a situation like this. He explained the time factor for me wasn't a huge issue, unlike some people who to have it right now. He added that I just wanted to do it slow to just to make sure I was doing it right. He concluded that when I left the office, I apologize, I was under the interpretation that my building was good to go when came to the materials and the elevation.

Chairperson Hopkins asked if the members were ready for a motion.

Bill Beckwith commented it looks to me that there has been some delay and a lot a notifications of what is appropriate for the building in the overlay for the proper pitch on the roof and it seems to me that someone dropped the ball whether it was the engineer or you but it wasn't followed, I don't know who it was. He added, but it seems to me that proper notifications and multiple notifications were given, it seems because of that the elevations did not show what was required for the building.

Shelly Anthony responded before you guys make a verdict, I do want you to know I was trying to be as attentive as I literally knew how, obviously my father built several from the ground-up projects, while I was a child, and I was going at the slow route, getting his advice the whole way down the line. He explained, the only thing I could have done was to have her sign-off, when I brought in my materials and elevations as what the building was going to look like. He said, the other thing that I didn't do at that point was to have her pre-sign for something that I was about to purchase. He added that she probably didn't know the intensity behind the questions that I was asking because that was going to be a decision maker for me, whether I was going to do it or I wasn't going to do it, when it came to actual building. He concluded, I was definitely being slow trying to make sure I am doing it right and not rushed and I know that can be probably overlooked, but it is going on about two (2) years where I have been literally walking slow just trying to make sure I am doing it right and that is just the truth.

Therol Brown made a motion that the petition be denied, he said, I think he had ample notice and Mr. Anthony I respectfully disagree with you, I am not trying to be argumentative, but your mistake was not having someone document things, your mistake apparently was not reading or your engineer not reading the emails that said you have a certain pitch requirement on the roof, it's not debatable, there's how many, Bill, four emails or at least three (3) Chanelle.

Chanelle Blaine interjected that were at least four (4) emails, because he had four (4) submittals.

Therol Brown continued, that says conditional approval but you still need to get the elevation requirements to where a 4.5 inch roof pitch is required, that where the ball was dropped for that reason I have to deny.

John Tate seconded the motion,

Bill Beckwith asked to make one statement. He asked, Chanelle if this is disapproved, if Mr. Anthony comes in with a plan with a 4.5 pitch roof

Chanelle Blaine responded that the site plan will be approved. She said, the site plan is basically conditionally approved based on the elevations. So, everything else will be approved and he can start building.

Bill Beckwith clarified that if he comes in with that, and he builds it that way, he will be good to go.

Chairman Hopkins stated that we have a motion and a second to deny the petitioner's request, so all those in favor of the motion to deny.

The motion to deny passed 5-0.

4. **Petition No. A-702-19, Judy Abigail Looper, requests the following: Variance to Sec. 110-125 (d)(6) to reduce the side yard setback from 50 feet to 25 feet to allow for the construction of a swimming pool. The subject property is located in Land Lot 118 of the 4th District and fronts on Antioch Road and Lowery Drive.**

David Brown with Brown Pools introduced himself as the agent representing Ms. Looper. He stated that her property sits at the corner of two main roads, therefore she has two front yards. He explained that her house backs up to one of the side yards which had a setback of 50 feet and he requested to reduce the side setback to 25 feet to allow for the construction of a swimming pool. He explained that they obtained a letter from the neighbor (Tammy Mashburn) of the side closest to the proposed pool. He also stated that Tammy Mashburn has already installed a privacy fence along the side yard. He then requested a reduction of the setback for the pool.

Abigail Looper, the homeowner, stated that she desired to place the pool at the behind the house for privacy since there are two main roads along the house. She noted that since she has a young son and nieces and nephews she wants to always easily see the pool at all times.

Chairperson Hopkins asked if there was anyone else to speak in favor of the Petition.

Chairperson Hopkins asked if there was anyone in opposition of the Petition, being none she turned the item to the members of the ZBA for discussion.

Bill Beckwith stated that he visited the property and he noticed on the east side of the property are numerous large trees and a creek (not shown on photos), therefore placing a pool in that area maybe not be feasible. He also stated that due to the two front yard problem, the septic field is located on the west side. He explained that the safety of children should be taken into consideration and there are no windows on the east side of the house and that he understands why Ms. Looper wanted the pool at that location.

Chairman Hopkins asked Bill Beckwith to clarify the location of the septic system and the drainage issues.

Bill Beckwith replied that the septic field is located on the west side but he is not sure there is a drainage issue but there in the area east of the storage shed, there is a creek and numerous amount of large trees, and since it is not an open lot, developing in that area would be a problem. He stated that he spoke with Ms. Looper about an alternate location, however the alternate locations did not look feasible.

John Tate questioned whether the biggest problem was the trees, or the drainage, or the creek.

Therol Brown replied that is the outfall area for the creek.

Bill Beckwith also replied that the area east of the storage shed contains large trees and land drops off to a low land and probably a creek. He stated that the aerial photo does not shows a lot trees before the house was built. The house is now located on the center portion of the lot.

Chairperson Hopkins asked if there were any further questions.


Tom Waller made a motion to approve a variance to reduce the side yard setback from 50 feet to 25 feet to allow for the construction of swimming pool. Therol Brown seconded the motion. The motion passed 5-0.

There being no further business, John Tate made the motion to adjourn the meeting.

The motion passed 5-0. The meeting adjourned at 7:41 pm.

**ZONING BOARD OF APPEALS
OF
FAYETTE COUNTY**


MARSHA HOPKINS, CHAIRPERSON


HOWARD L. JOHNSON, ZBA SECRETARY