

THE FAYETTE COUNTY ZONING BOARD OF APPEALS met on September 23, 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
John Tate

MEMBERS ABSENT: Therol Brown

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

Welcome and Call to Order:

1. Consideration of the Minutes of the Meeting held on August 26, 2019.

Bill Beckwith made a motion to table the minutes of the meeting held on August 26, 2019. Tom Waller seconded the motion. The motion passed 4-0.

PUBLIC HEARING

2. Petition No. A-707-19, Fred and Cecilia Taylor, owners, request the following variance: Variance to Sec. 110-137. R-40, (d)(5), to reduce the rear yard setback from 30 feet to 4 feet to allow an existing pool to remain. The subject property is located in Land Lot 24 of the 5th District and fronts on Bunny Lane.

Chairperson Hopkins stated since we don't have a full panel tonight you do have the option to ask us to table this until the next meeting, or else you can proceed.

Cecilia Taylor stated I would like to proceed. She said we bought this house back in 1985 and it had the pool there when we bought it. She added this last year we added an addition on to our home. She stated the builder did everything right; he got permits and everything. She said we told him that we would finish up the deck out back, they had to tear out the old one (1) to add the bedroom on the main floor. She said when went to get the permit to put the deck on because we do have a four (4) foot drop out of the double door where we don't have a deck, and if our kitchen were to catch on fire that's the only way we would have to get out of our house. She added we are getting kind of old and it would hurt if we were to fall four (4) feet now. She stated that we have been working for months to try and get this permit, and when it went to planning and zoning that's when they did a survey and found out that the pool was too close to the property line. She said that is why I am here now to ask you to please don't make us move our swimming pool to put a deck in our house.

Chairperson Hopkins asked if there was anyone else who wanted to speak in favor of your proposal.

Fred Taylor said the only statement that I have is that our nearest neighbors are more than 50 feet away, and it doesn't affect any of the surroundings or people that are near us.

Cecilia Taylor stated that we have had the same neighbors since we moved there and they are aware of the issue they know that our fence is that close to their property over 25 years ago when we talked to them and they never asked us to move it.

Fred Taylor stated that the pool has been there since we bought the place and it doesn't affect anything we are wanting to do.

Chairperson Hopkins asked if there was anyone else who wanted to speak in favor of the proposal. She then asked if there was anyone who wanted to speak in opposition to it. Hearing none she brought it back to the board for discussion.

Bill Beckwith stated Mrs. Taylor you mention that it was an extension of your home which is not what we are talking about tonight. He said the extension to your home was already made and permits were...

Cecilia Taylor interjected permits were already obtained for the addition to the home. She stated that Bob Adams was the builder.

Bill Beckwith asked when that was.

Cecilia Taylor replied he finished it in February of this year.

Bill Beckwith asked if at that time he noticed the pool was too close.

Cecilia Taylor replied no, it was only the last two (2) months that it was brought up that the pool was too close.

Bill Beckwith said when you wanted to put the deck on.

Cecilia Taylor replied right when we wanted to put the deck on.

Bill Beckwith stated that it is strange when a major modification was done nobody mentioned it then but then all of a sudden you have this.

Fred Taylor stated that we didn't even know there was a problem or a variance necessary because we had been living there for over 30 years; we didn't even know that there were any restrictions on the pool.

Bill Beckwith stated what normally happens is if you own a house and you just move along and you just live your life and you want to do something different like add on to the house that's when somebody will come out and see something. He said I'm just surprised that it didn't happen the first time.

Cecilia Taylor said and we don't have a Certificate of Occupancy just yet because the deck has to be put on before we can get it. She said Mr. Adams did check with the County and got permission to extend it until January for the Certificate of Occupancy.

Tom Waller asked how large the pool is.

Cecilia Taylor replied I say 16 X 32.

Fred Taylor said it's more like 12 X 30, but it's a full built in-ground pool.

Tom Waller stated the addition you put on to your house is built, but you don't have a deck behind the addition or steps going down to the ground, is that correct.

Cecilia Taylor replied that is correct.

Tom Waller said and you were permitted to build it that way.

Fred Taylor replied the way that was set up was they knew that we would finish the deck, and we thought the permit had already been taken care of, then found out we had to get an extended permit to do the deck.

Tom Waller stated I still don't understand how you got the addition made without an exit coming out that back door that works. He said you said you were planning to put a deck in as part of the addition.

Cecilia Taylor stated we asked the builder to let us do the deck because we could do it for a quarter of the cost for what he could do the deck for. She said that's why we said we could do the deck.

Tom Waller stated you said you would take care of the deck.

Cecilia Taylor stated my husband's a carpenter and we have two sons that are carpenters.

Fred Taylor stated we thought we would go straight to construction of the deck during the add-on, and then we ran into this issue.

Tom Waller stated in reality you could put steps coming off of that door coming to the ground you don't necessarily have to have a deck connection.

Fred Taylor okay, so we wouldn't have to have a permit to put steps down.

Tom Waller asked if you would need a permit to put steps down for this now. He said I am confused I wish I had Pete here for this one (1).

Chanelle Blaine stated that you do need a permit for steps.

Tom Waller asked they need a permit to put steps down for an addition they built.

Chanelle Blaine replied yes, anytime you are increasing the footprint of the building you need a permit.

Fred Taylor stated that one (1) of the things we are dealing with is that we had a deck that was built-in when we bought the place but it is several feet away from the new addition. He said we could add on to that deck or build a new deck either one (1).

Tom Waller replied ok. He asked do you have to get a Certificate of Occupancy for an addition like that.

Fred Taylor replied yes.

Tom Waller asked had you received the Certificate of Occupancy.

Cecilia Taylor replied no we have not received that yet and we have an extension until January because of the deck issue. She said we cannot receive a Certificate of Occupancy until we get a deck on the house or steps on the house.

Chanelle Blaine stated remember that we are here for a pool and not the deck.

Tom Waller stated I remember we are here for a pool variance. He said the pool was put in 1983.

Cecilia Taylor said no the home was built in 1985 so we assume the pool was built in 1986 and we heard the couple that built the home divorced a year or two (2) after they had built the home and put the pool in; they then sold the home to the couple we bought the home from. She added we were the third owners.

Fred Taylor stated that the house is about 50 feet from any structures and the pool is about 50 feet from everybody. He said it doesn't affect anybody the fact that it is on the line.

Cecilia Taylor stated that pool is not close to where we are placing the deck.

Fred Taylor agreed it's a long way from the deck.

Bill Beckwith stated so basically you bought a house where the pool is right now, which is where it is not supposed to be and so you're stuck.

Cecilia Taylor replied yes.

Bill Beckwith stated that's the bottom line in this whole thing.

Cecilia Taylor stated we didn't mean to do anything wrong.

Bill Beckwith replied I know, you didn't, someone else did, but whoever put the pool in didn't check how far back it should have been.

Cecilia Taylor stated and we have to pay for their mistake and we understand that.

Chairperson Hopkins asked are we ready for a motion? She asked any questions.

John Tate stated no questions, I just think under the circumstances the pool already existed from the time they bought it and it's not based upon something they did.

John Tate made a motion to approve Petition No. A-705-19. Bill Beckwith seconded the motion. The motion passed 3-1. Tom Waller voted to deny the petition and Therol Brown was absent.

3. **Petition No. A-708-19, Richard R. Anwyl, Owner, requests the following: Variance to Sec. 110-125. A-R, (d) (6), to reduce the side yard setback from 50 feet to 46 feet to allow construction of an accessory structure. The subject property is located in Land Lot 72 of the 7th District and fronts on Brittany Way.**

Richard Anwyl stated my wife and I are petitioning respectfully for a four (4) foot variance for an accessory building in our backyard. He said the uses for the building will be for agricultural supplies, partly storage for hydrated lime and fertilizer for the lake. He added the other part will be for an office and a greenhouse. He stated that it's in a non-conforming lot and we own both lots. He said the way it is situated if we move four (4) feet our arborist has told us we are going to damage some trees that are close by if we go the other direction in the back yard we start to infringe on the septic field sits there, so that's why we are requesting the variance. He added the footprint of the building itself is 326 feet and the overall building with the roof over it is about 1200 square feet.

Chairperson Hopkins asked if there was anyone else who wanted to speak in favor of the proposal. She then asked if there was anyone who wanted to speak in opposition to it. Hearing none she brought it back to the board for discussion.

Chairperson Hopkins stated given the size of the structure which is about 1200 square feet; will you have electricity and plumbing in there?

Richard Anwyl replied yes, the positioning on it we can utilize the electrical and water from the house and it allows us to walk directly there from the house.

Chairperson Hopkins asked anyone else.

Bill Beckwith stated Chanelle this seems to be a little bit unusual, the distance is from a property line that they own which is one (1) tract of the property.

Chanelle Blaine replied yes. She stated tract 4 is what we call a legal non-conforming lot, where you see it's two (2) acres but it's zoned A-R. She said it has those large setbacks on a two (2) acre parcel so he really did not have any space to put it on the two (2) acre parcel the Tract 4. She explained he wants to put it on Tract 1 which he also owns because of the way that lot was created he still has to be 50 feet off of that Tract 4 property line. She added he also has issues because of the pond on the property so he has watershed buffers he has to adhere to as well. She concluded this is really the only place he could place that accessory structure.

Bill Beckwith stated the reason you wanted there Mr. Anwyl is because you don't want to interfere with any of the trees.

Richard Anwyl stated if we go any closer to the lake we are going to damage those trees and we don't want to damage those trees. He added we are 900 feet from the nearest public road and 1200 feet from the nearest neighbor; and this structure will be obscure from the nearest neighbor that is 1200 feet away.

Bill Beckwith stated I really don't have a good idea on where that structure is going to be. He asked do you already have someone who is going to build it if it is approved.

Richard Anwyl replied yes, Chung Binal was going to be the builder on it and it was designed by the architect Keith Summerhour who has been doing some work at Pinewood.

Bill Beckwith asked if you could move that four (4) feet you would not be infringing on the setback from the pond or lake, is that right, to make it 50 feet instead of 46 feet.

Richard Anwyl replied correct, but we be killing two (2) trees. He stated we are trying to be sensitive to the root system on those guys because they are substantially old.

Bill Beckwith stated no further questions.

Tom Waller stated that it intrigues me that you have four (4) tracts here.

Richard Anwyl replied it is pretty peculiar I must admit.

Tom Waller asked did you purchase this in its entirety and then divided it up.

Richard Anwyl replied when we purchased it the property was configured the way it's configured. He said we have done nothing in terms of reconfiguring it.

Tom Waller said thank you.

Chairperson Hopkins asked if there were any other questions. She asked if they were ready for a motion.

Tom Waller made a motion to approve Petition No. A-706-19. Bill Beckwith seconded the motion. The motion passed 4-0. Therol Brown was absent.

There being no further business, John Tate made the motion to adjourn the meeting. It was seconded by Tom Waller. The motion passed 4-0. Therol Brown was absent.

The meeting adjourned at 7:26 pm.

**ZONING BOARD OF APPEALS
OF
FAYETTE COUNTY**



MARSHA HOPKINS, CHAIRPERSON



HOWARD L. JOHNSON, ZBA SECRETARY