

# Minutes 08/26/2024

**THE FAYETTE COUNTY ZONING BOARD OF APPEALS** met on August 26, 2024, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

**MEMBERS PRESENT:** Bill Beckwith, Chairman  
Brian Haren, Vice-Chairman  
Marsha Hopkins  
John Tate  
Anita Davis

**STAFF PRESENT:** Debbie Bell, Planning and Zoning Director  
Deborah Sims, Zoning Administrator  
E. Allison Ivey Cox, County Attorney  
Maria Binns, Secretary

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1. Call to Order
2. Pledge of Allegiance
3. Approval of Agenda *John Tate made a motion to approve the agenda. Brian Haren seconded the motion. The motion passed 5-0.*
4. Consideration of the Minutes of the Meeting held on July 22, 2024. *Brian Haren made a motion to approve the amended Minutes of the Meeting on July 22, 2024, Anita Davis was present. Marsha Hopkins seconded the motion. The motion passed 5-0.*

## **PUBLIC HEARING**

5. Consideration of Petition No. A-869-24-A-B – Anthony Holloway, Owner, request A-869-24-A. Variance to reduce the front yard setback for Wesley Forest Subdivision from 75' to 46.8 to allow an existing primary structure to remain. A-869-24-B. Variance to reduce the front yard setback for Wesley Forest Subdivision from 75' to 70.9 to allow an existing primary structure to remain.

Ms. Bell presented the property as a whole and each of the two variances will require separate votes. She explained that the property is located in central Fayette County and is zoned R-70, the lot is at the corner of Ginger Cake and Wesley Forest, so there is no environmental impact to the lot and showed the different maps and survey presented. There is a slide variation and originally, we advertised a variance to reduce from 100' to 46.8' from the front yard setback along Ginger Cake however the ordinance for R-70 only required a setback of 75', so the variance for tonight's is to reduce the 75' to 46.8' that is item "A". Item "B" is to reduce the front yard setback for Wesley Forest from 75' to 70.9', the house is a legal lot of record and was build on 2004 the nonconformances are not the result of actions by

the current property owner. In the setback that originally be 75' the plat shows 100' along Ginger Cake and that was an option pursued by the developer. Staff is just presenting these setbacks to you the board.

Mr. Bill Beckwith asked the petitioner to explain his case.

Mr. Antony Holloway stated that he would like for the board to reduce the setbacks, he stated that he purchased the house in 2018, was already built, there was nothing added to the premise, and he would like the petition to get approved so they don't have to go through this process again in case they would like to add anything to his home in the future.

Mr. Beckwith thanked the petitioner for the explanation and asked him to remain seated nearby in case the board had some questions for him, then he asked if anyone would like to speak in favor of the petition.? No one responded. He asked if anyone would like to speak in opposition.? No one responded. He brought the case back to the board for discussion.

Mr. John Tate asked the petitioner if he wanted to build something on the premises. Mr. Holloway responded yes, but it was going to be on the opposite side on the left side, he added they were trying to get a permit, and looked at the survey they noticed his house was out of compliance.

Mr. John Tate asked if his home was 46.8' off Ginger Cake.? Mr. Holloway responded yes. Mr. Tate asked if he wanted to put the structure that faces Ginger Cake.? The petitioner responded no, it's on the opposite side.

Mr. Beckwith added this happens a lot and explained the county has to look into that so it can meet the setbacks.

Mr. Brian Haren asked if the structure was out of compliance on both in Ginger Cake and Wesley Forest side.? Mr. Holloway, yes. The Wesley Forest is on the front side.

Ms. Anita Davis asked Ms. Bell if this home was R-70 and the first variance was originally requested for the front yard setback from 100' to 46.8', so it's really from 50' to 46.8'.

Ms. Bell responded it should be 75' to 46.8' the developer did a larger than required setback on the subdivision, so the ordinance called for a 75' front setback.

Mr. Beckwith asked for a motion after no further comments. **A-869-24-A John Tate made a motion to approve Petition No. A-869-24-A. Marsha Hopkins seconded the motion. The motion passed 5-0.** **A-869-24-B Brian Haren made a motion to approve Petition No. A-869-24-B. John Tate seconded the motion. The motion passed 5-0.**

6. Consideration of Petition No. A-870-24 – Helen Goodman, Owner, requests a variance to Sec. 110-125. (d)(4)a.2, Reduce the front yard setback from 100' to 95.6' to allow an existing home to remain.

Ms. Bell explained the petition and said the house was built in 1968 so it's currently a legal nonconforming structure, they would like to subdivide the property in the future and a variance is needed to do that. At the time of construction, Lowery Road was unpaved and only a prescriptive right-of-way, so the location of the house was not a violation. Ms. Bell states is in the southeast

corner of the county, zoned A-R, with the land use plan as agricultural residential. She shows the different maps where no environmental conditions where it will impact the variance and just encroach a very small amount, she also shows a structure that is already there but is in compliance.

Mr. Micah Goodman, son of Helen Goosman spoke in the representation of his mother who lives in an assistance home. They want to sell the property and divide the parcel into two-acre lots, where they will demolish the existing barn, and everything will be in compliance.

Mr. Beckwith asked if anyone was in favor of the petition.? No, one responded, then he asked the public if anyone was in opposition but again there was no response. Mr. Beckwith brought the item back to the board for discussion and asked if they had any questions. The board didn't have any questions.

Mr. Beckwith asked for a motion. ***Brian Haren made a motion to approve Petition No. A-870-24. John Tate seconded the motion. The motion passed 5-0.***

7. Consideration of Petition No. A-871-24-A-B-C – Wright Chancy McBride, LLC, Owner, request A-871-24-A. Variance to Sec. 110-125(d)(2) to reduce the lot width at building line from 250' to 120' to allow development of a legal nonconforming lot. A-871-24-B. Variance to Sec. 110-125(d)(4)(a)(2) to reduce the front yard setback from 100' to 55' to allow development of a legal nonconforming lot. A-871-24-C. Variance to Sec. 110-125(d)(6) to reduce the side yard setback from 50' to 25' to allow development of a legal nonconforming lot.

Ms. Bell explained that petition A-871-24 has three components but item A-871-24-A, legal has advised that the zoning board of appeals does not have the authority to consider reducing the lot width at building line, with this staff would like to request to omit that and just consider items A-871-24-B & A-871-24-C from the front and size yard setback, this is 1.374-acre lot and its located in Antioch road in the southeast part of the county, zoned A-R. This lot is a legal lot of record but it's a nonconforming lot, seems small and unusual shape, it in an area as a rural residential R-3. It doesn't have any environmental factors affecting it, but size and configuration are not usual.

Mr. Bill Beckwith asked if anyone was in the room to represent the owner of the property.?

Alan Bell stood and spoke in favor of the petition, stating that he didn't know why the staff was taking one of the petitions off, because there are other lots in the county that have less than 250' at the building line. He asked the staff to explain to the board a little better the situation.

Allison Cox, County Attorney stated that according to the ordinances of the county, the zoning board of appeals is not authorized to grant any variances to lot size, lot width, or road frontage, there is a section I can show you where specific that. It was not brought to his attention until this evening, I didn't catch it until this evening but even if you were to grant that it wouldn't be legal. You can hear it, but a grant will have no legal impact.

Mr. Alan Bell asked what the attorney was saying that the board didn't have the authority to make decisions in this county.? Is that what we are saying.?

Ms. Cox answered him that on this particular decision, they have not been authorized to do so, their authority comes from the board of commissioners through our regulations, and they have not been authorized to grant that particular sort of thing.

Mr. Alan asked who has the power to do so.? Ms. Cox responded that it is more likely that this is not a buildable lot... where MR. Alan stated is a lot of record and there are many lots like this at there in the county. He asked again who would be the person that could change this.?

Ms. Cox responded that the board of commissioners would have to change their code. Unfortunately, is a 1.3-acre lot and Agriculture Residential with 5 acres... Mr. Alan responded but this is nonconforming. Ms. Cox but even if a conforming lot of 5 acres would come before this board they count grant this variance.

Mr. Alan added that he wanted the petition A-871-24-A to be heard by the ZBA so they could deny it and if it gets denied he would like to hold his constitutional rights to appeal it to a higher party.

Mr. Beckwith asked if could deny the entire petition.?

Ms. Cox responded that they would need a separate vote for each petition or make a motion to this board can hear the side yard back setbacks, the front yard setbacks, it is only that lot width that's the problem and she said is their writing that way because the board of commissioners is expressing their interesting from keeping lots like this from developing without the proper road frontage.

Mr. Beckwith added they had never been excised before, it's in the ordinance.

Ms. Cox responded if the board of commissioners wants to change it, they can, it's just a matter of taking them to them and asking them if we have these lots around the county that we can develop, can we do something about it.?

Mr. Beckwith asked for a motion for item "A". A-871-24-A **Brian Haren made a motion to Deny Petition No. A-871-24-A because the Board does not have the legal authority to grant a variance for this request. John Tate seconded the motion. The motion passed 5-0.**

Mr. Beckwith asked if anyone was in favor or opposition on any of the other two items "B" or "C".? No one responded. He brought the petitions back to the board. He asked if the board had any questions about these two items.?

Mr. Haren added he doesn't have a problem with any of the items and he states they deal with these issues all the time; he made a motion. A-871-24-B **Brian Haren made a motion to approve Petition No. A-871-24-B. Bill Beckwith seconded the motion. The motion passed 5-0.** A-871-24-C **Bill Beckwith made a motion to approve Petition No. A-871-24-C. Brian Haren seconded the motion. The motion passed 5-0.**

8. Consideration of Petition No. A-872-24-A-B-C – Wright Chancy McBride, LLC., Owner, request A) Variance to Sec. 110-125(d)(2) to reduce the lot width at building line from 250' to 200' to allow development of a legal nonconforming lot. B) Variance to Sec. 110-125(d)(4)(a)(2) to reduce the rear setback from 75' to 37.5' to allow development of a legal nonconforming lot. C) Variance to Sec. 110-

125(d)(6) to reduce the front setbacks from 50' to 25' to allow development of a legal nonconforming lot.

Ms. Bell explained that the petition is a multicomponent variance request, staff is requesting to table this to the September 23<sup>rd</sup> meeting because of the multicomponent they needed to readvertise we missed one of the setbacks in the initial advertisement, so staff is requesting to table A-872-24-A-B-C to the September 23<sup>rd</sup> meeting.

Mr. John Tate asked if this was a similar situation that we just did.? We don't have that authority.?

Ms. Bell responded that the lot width at building line is still going to be an issue, we will work with the applicant to discuss this before the September 23<sup>rd</sup> meeting, but they did indicate they want to proceed with the setback variances, so we are sticking with this request until September. ***Staff requested to table the petition until September 23<sup>rd</sup>, 2024. John Tate made a motion to Table Petition No. A-872-24-A-B-C to September 23<sup>rd</sup>, 2024. Anita Davis seconded the motion. The motion passed 5-0***

9. Consideration of Petition No. A-873-24 – Veterans Pkwy and Lees Mill South, LLC., Owner, request a variance to Variance to the maximum building height of 35' to allow the construction of the new soccer training facility building to exceed the height by 5'-6".

Ms. Bell did the presentation on the petition, she explained this petition was for the soccer facility at Lees Mill and Veterans Parkway in the north part of the county it is zoned A-R (Agricultural Residential) those parcels have since been combined but that has not been reflected on the tax map yet, those updates don't happen instantaneously. She showed the aerial view maps along with the topography map of the side that looks more or less away from the road, and she presented an illustration with the section of the building view of the elevations where the building would look like at road level, it will appear at approximately same height as a building that would not exceed that height at 35' limit, but with the large expand structure like this it has a larger roof expand to accommodate the architectural structure and it has this clear windows. So, the area about the 35' mark is not a habitable space, and that reason is key because that 35' is predicated on fire, safety, equipment, and things like that. So, this is not a habitable space, and areas that exceed 35' are clear story windows, she showed where in the illustration.

Mr. Beckwith asked if the office space obviously will be occupied, is that a problem.?

Ms. Bell responded no because the area above the 35' in the office space is also not a habitable space that's just clear story window space so both of these parts of the building have the same sort of request in the area that exceeds the building height is not habitable space.

Mr. Beckwith asked what we see in the office area if we were looking at the windows we would see people. Ms. Bell responded that you wouldn't see people if you looked at those upper windows, they are just clear windows to provide an architectural fixture and to provide natural light within the office area.

Mr. Beckwith added that from the point when he and Mr. Brian Haren were on the planning commission when this was discussed where Fayette County at the time didn't have a large enough ladder truck to reach out up to that height about 30' to rescue people if not a non-habitable is a moving point but the ordinance still in effect.?

Ms. Bell responded the ordinance was still in effect because it still applies to habitable space, but the Fire Marshals did not have an objection to this from a safety standpoint.

Mr. Beckwith asked if anyone from the petitioner would like to speak.?

Mr. John Simoneaux with Impact Development Management representing the U.S. Soccer, Mr. Simoneaux thanked staff for the presentation of the petition and stated that the variance to increase building height from 35' to 40 and a half feet so it is a 5 and a half foot, variance anything above that 35' is clear story windows unhabitable space, the north facility it does sits 900' approximately on lees mill right of way. We are lowering the grades and the location of that building by 15' from Lees Mill will blow that height requirement, we are also doing landscaping along the frontage and the western property border to help screen the view.

Mr. Beckwith asked if they would have vegetation.?

Mr. Simoneaux responded from the western property line it drops down 15' to the building and they would have a vegetation buffer then along Lees Mill we will have trees planted that would help screen that view on the facility. They show the board a graphic explaining where all the vegetation along the area will be.

Mr. Beckwith asked if anyone in the audience would like to speak in favor of the petition.? No one responded, then he asked if anyone would like to speak on opposition.?

Mr. John Fonzo resides at 258 Lees Mill Road, he stated that with 317 acres of land, you cannot create your own hardship, they choose the location of the property. He proposed that if the board grants a variance include some conditions, like screening, translucent windows that might block the light because that is the primary concern, curtains or something. But the most cost-effective to live the hardship choose a different location. Mr. Fonzo left 23 seconds for the next opposition person to speak.

Ms. Jamie Wyatt was the next person to speak in opposition with the remaining 23 seconds left and stated that she lives right next door to where the facility will be and all the glass lights will be coming in her kitchen window, already had two security lights so bright that there is no need for them to turn on their light to go in their kitchen. They had a 1600' soccer center at the east side of our property line this is a big disruption, she added they are not against they just would like some consideration.

Mr. Beckwith asked if the proponents would like to use their remaining time for rebuttal.?

Mr. Simoneaux responded to our interpretation of the code that MR. Fonzo stated that from the base of the foundation to the top of the wall that supported the trust was what that building height base, so that height as you can see in the graphic is 40 and half feet so that is 5 and a half feet above that 30'.

With regards to the lights coming out of the windows I had referred to these clear windows that are translucent panels and with an orientation of it facing east west not north south. Referring to the location of the building figuring out where to place a lot of soccer fields on this property. A lot of thought went into the layout of where each element will be at. This was the most beneficial place for that building.

Mr. Beckwith asked about the windows which might disturb some people, will that barrier block some of the light from the neighbor's view.?

Mr. Simoneaux stated it can be said for a fact it will block all light, but they will have a pretty dense vegetated buffer, there is the surrounding property that has gone untouched, there will be a fence line, and we will plant some more trees. Mr. Brian Haren asked if Mr. Simoneaux would show where on the diagram which of those lines represent the 40' 6 inches.? He did and other questions the board regarding the height shown on the graphic.

Ms. Anita Davis asked if there would be any sort of concession to the windows to the light from those windows after dark.?

Mr. Simoneaux responded that they had provided landscaping, but I don't know what would be available to make that happen.

Ms. Anita Davis responded that would be easier and less expensive to hang some sort of blinds than to grow a 65' tree just something that can be considered.

Mr. Haren expressed his concern about the lights after dark that will disrupt the quality of life for the neighbors is there anything you can adopt or paneling that would block that light.?

Mr. Daven Hicks with U.S. Soccer would do all from our resources from providing any lighting to exiting the building, we are very cautious about how we use this building, and this will use for community events, and meetings and will go back and talk to our architects to solve this problem to reduce the light.

Another person from the opposition side wanted to speak but Mr. Beckwith thought since the last person used all their time wouldn't be fair to do so.

Mr. Bryan Strad from the U.S. Soccer contractor, wanted to make a suggestion to sit down on the condition where the variance can be approved with some conditions.

Mr. Beckwith responded that they cannot approve that without a specific condition or the purpose of table it for all sides to get together and see if there is something as defined as a condition. Perhaps if we can give you another 30 days.

Ms. Cox added that we will have time to readvertise and won't be until October not September and there will be a need for the body to gather more information there is not enough information here to make a decision and I will say this is not a rezoning so we do need to be more specific of what are we soliciting, the light of the building make sense but all of the other things like the landscaping unless they specifically address the problem at really not relevant, we are only talking about the height of the building, not the rest of the development of the complex is not on the table. If the board decides to table, the meeting the next date will be October 28<sup>th</sup>.

Mr. Haren added that would support tabling the petition because he thinks there are technical issues that need to be worked on.

Mr. Simoneaux explained that they are working to get a permit in early October 5<sup>th</sup> and in order to keep that time will make some concessions to block that light, I think we can block 70% of the outcoming light.

Mr. Haren responded that without a lighting expert, he doesn't want him to make any promises that he can keep. Mr. Beckwith added their good points that were made, but unfortunately, you don't have the commitment to this petition. What do we need to do.?

Ms. Cox responded to make a motion and table with a specific day and a reason to get the petition adequate time to address interior lighting issues to be reheard on October 28<sup>th</sup>.

Mr. Simoneaux asked for a point of order, if you vote tonight will go to the board of commissioners.? Mr. Beckwith responded no; we are the decision makers.

Ms. Cox responded if we denied you have to wait six months to hear again.

Ms. Nikki Vanderslice with the Fayette County Development Authority and I'm the one who brought this project back in December originally for rezoning, she explained US Soccer has done a great job, they had demonstrated they are going to be a good neighbor in our community if they delay the sixty days it will have a significant negative impact and they will not be able to meet the delivering of this building by march 2026 mark line prior to the world cup.

Mr. Haren asked Ms. Vanderslice what would you say to your Fayette County neighbors who are experiencing issues right now with the site the way is been built.? Ms. Vanderslice responded the security piece is that we have a safe community, and the neighbors would like to have some light for unwanted incidents, she understands their concern and the history of the property.

Mr. Beckwith asked Mr. Fonzo if he represented an organization or just a group of people.? Mr. Fonzo responded he spoke for himself and represented his neighbors' concerns who have been in communication since this project started.

Mr. Ed Wyatt expressed about the height of the building and stated that it was not accurate. The light is his concern since he will be so close to that building. He spoke to Brian Strack and asked him to block the light for our house.?

Mr. Beckwith asked Mr. Ed if he trusted him to do that.? Mr. Ed responded he didn't think he had the authority to do so. He also states there is not a sign on Lees Mills Road.

Ms. Bell responded there was a sign posted on both road frontages.

Mr. Neil Burthe, he is the chief Communications Officer for US Soccer, explained he is one of the closest persons to make the decision maker but not the one to make the final decision, and he states will take into consideration what the neighbors have brought to them.

Mr. John Tate added what are we requesting to do for this petition is basically the building height, he understands the concerns of everyone else but what the actual petition is about. He just asked for clarification on this part.

Mr. Beckwith commented Mr. Tate was right! What is before us is whether to approve the building height or not.

Ms. Marsha Hopkins added that the applicant has provided supporter documentation from all areas and was very comprehensive and addressed what we needed to look up when we are reviewing this type of request.

Ms. Anita Davis commented that she appreciates and respects the facility that has been built and how much economic development is going to bring to our community and if approved that they wouldn't forget some of the comments that have been made by the residents.

Mr. Bill Beckwith thanked everyone for the comments and asked if anyone would like to make a motion. ***John Tate made a motion to approve Petition No. A-873-24. Marsha Hopkins seconded the motion. The motion passed 5-0.***

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***Brian Haren made a motion to adjourn. Bill Beckwith seconded the motion. The motion passed 5-0.***

The meeting adjourned at 8:41 p.m.

**ZONING BOARD OF APPEALS  
OF  
FAYETTE COUNTY**



**BILL BECKWITH, CHAIRMAN**



**MARIA BINNS, ZBA SECRETARY**