

**THE FAYETTE COUNTY ZONING BOARD OF APPEALS** met on June 22, 2015, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

**MEMBERS PRESENT:** Bill Beckwith, Chairman  
Larry Blanks, Vice-Chairman  
Marsha A. Hopkins  
Tom Mahon  
Tom Waller

**STAFF PRESENT:** Dennis Dutton, Zoning Administrator  
Peter Frisina, Director Community Services

**Welcome and Call to Order:**

**1. Swearing in of New Zoning Board of Appeals Member, Marsha A. Hopkins.**

Pete Frisina read the following:

Do you (Marsha A. Hopkins) solemnly swear to uphold and obey the Constitution and laws of the United States of America, the Constitution and laws of the State of Georgia, the regulations of Fayette County and perform your duties as a member of the Fayette County Zoning Board of Appeals in a professional manner for the best interest of Fayette County as a whole, so help you God.

Marsha A. Hopkins replied "I do."

**2. Recognition of Vic Bolton for past service on the Zoning Board of Appeals.**

The members of the Zoning Board of Appeals expressed their appreciation for Vic Bolton's service on the Board and presented a high grade acrylic paperweight to him.

**3. Consideration of the Minutes of the Meeting held on January 26, 2015.**

Tom Mahon made a motion to approve the minutes. Tom Waller seconded the motion. The motion passed 4-0-1. Marsha Hopkins abstained.

**PUBLIC HEARING**

**4. Consideration of Petition No. A-620-15, Karla Jo Martin, Owner and Steven Martin, Agent requests a Variance from Sec. 110-125. A-R: Agricultural-Residential Zoning District, to reduce the front yard setback from 100 feet to 89 feet for a single-family residence to remain. The subject property is located in Land Lot 95 of the 4<sup>th</sup> District and fronts on Morgan Mill Road.**

Steven Martin said he was building a garage so he went to the Zoning Department to find out what he had to do and through the building permit process it was discovered that the survey indicated the front porch of the house was within the 100 foot front setback. He said Planning and Zoning pulled the original permit and it indicated that the house was to be set at 105 feet from the front property line. He added that the County did not require a foundation survey at that time. He stated that a front porch which is part of the attic is located on the front of the house and that is what is actually encroaching into the front setback. He said the builder did not put the house in the right spot when it was built and he can't tear the porch off of the house because he would have a 10 foot hole in his attic and he is actually 520 feet from the road because the lot is a flag lot. He added that he wants the variance for the front porch which will put his lot in good standing for a future permit for a barn.

Chairman Beckwith asked if there was anyone who would like to speak in favor of the petition. Hearing none he asked if there was anyone who would like to speak in opposition to the petition. Hearing none he brought it back to the board.

Larry Blanks said I know you (Steven Martin) didn't build the house but could you explain how you came about the house and when.

Steven Martin said the previous owner of the land gave his daughter this property to build the house and she lost it in a foreclosure and he and his wife bought the property in 2012.

Larry Blanks said then you didn't create the problem.

Steven Martin said he did not.

Tom Mahan asked Mr. Martin if he was building a garage and did he already have a garage.

Steven Martin said he has an attached garage that he is turning into a family room and the new garage has to be attached to the house with a sun room.

Larry Blanks said you have received your permit for the new garage.

Steven Martin said he had been issued a permit for the new garage as it has no issues with any setbacks. He said the problem is the front porch that is in the front setback.

Larry Blanks asked Pete Frisina if the new criteria recently added the ordinance would give us the opportunity to fix these type things.

Pete Frisina said this is a simple variance and the ZBA has always had the opportunity to determine if the petitioner created the problem.

Tom Mahan said he had some issues with the request based on the Adams Road property the ZBA heard years ago where the building had to be reduced because the building had moved into the setback and granted this gentlemen didn't cause that. He added that one of the problems we have is when we make decisions we set a precedent and I have been on the Board since 1981 and I have seen different things happen and I have an issue with it because you already have a garage.

Larry Blanks said Mr. Martin got the permit for the new garage.

Pete Frisina said for clarification, the variance is for an existing front porch that was built with the house in 2003. He said the County issued the permit for the new garage once Mr. Martin applied for the variance and the new garage is not an issue.

Tom Mahan said he understands now.

Chairman Beckwith said you inherited the problem when you bought the house.

Mr. Martin said yes.

Tom Mahon made a motion to approve the Variance. Larry Blanks seconded the motion. The motion passed 5-0.

5. **Consideration of Petition No. A-621-15, Bettie Sue Walker, Owner, and Rusty Walker, Agent requests the following: (1) Variance to Sec 110-79 (b) to allow an existing accessory structure to remain prior to a principal structure (lot 1). (2) Variance to Sec 110-79 (d) to allow an existing accessory structure to remain in the front yard (lot 1). (3) Variance to Sec 110-138 to reduce the front yard setback from 40 feet to 8 feet for an existing accessory structure to remain (lot 1). (4) Variance to Sec 110-138 to reduce the rear yard setback from 30 feet to 14 feet for an existing accessory structure to remain (lot 2). The subject property is located in land Lot 118 of the 5<sup>th</sup> District and fronts on County Line Road and Odith Road.**

Nina Adams said this is her parent's property and her father passed away and her mother is currently living in an assisted living facility. She said they are trying to sell the lot with the house and keeping the other two (2) lots and lot 1 has a barn that was built in the 60's where all of her mother's things are stored. She added that when they subdivided the lots the barn on lot 1 became an existing secondary structure, which you can't have, it's too close to the road and it's in a front yard and needs three (3)

variances. She said the barn on lot 2 has been there since the mid 60's and reclaimed lumber from old house was used to build the barn and it is too close to the rear property line. She added that they are requesting the variances so the buildings can remain as they are and we can sell the property.

Chairman Beckwith asked if there was anyone who would like to speak in favor of the petition. Hearing none he asked if there was anyone who would like to speak in opposition to the petition. Hearing none he brought it back to the board.

Tom Waller asked if there is any historic value in any of these buildings.

Nina Adams there is no historic value to anyone but the family.

Tom Waller asked if they are over 75 years old.

Nina Adams replied no.

Tom Waller asked if there are other properties in the area that have buildings like these between the road and the primary structure.

Nina Adams said lot 1 doesn't have a primary structure because the property has been subdivided and she didn't know if other properties in the area had buildings like these between the road and the primary structure.

Tom Waller asked if the subdivision was approved based on you removing these building.

Nina Adams said the subdivision was approved based on applying for these variances.

Tom Waller said, now you are before us because you don't want to remove these buildings.

Nina Adams said they do not want to remove these buildings.

Tom Waller said you wanted to subdivide the property to make it more marketable.

Nina Adams said they want to sell one of the lots and keep lot 1 with the storage building to store her Mother's belongings.

Chairman Beckwith said so you are selling lot 2.

Nina Adams said they are selling lot 2 with the house and one of the barns.

Chairman Beckwith said he was a little confused about the three (3) lots and he asked what is on lot 1.

Nina Adams said a barn.

Chairman Beckwith asked what was on lot 2.

Nina Adams said the house and another barn.

Chairman Beckwith asked what was on lot 3.

Nina Adams said it was vacant and part it will probably be taken for the East Fayetteville Bypass.

Chairman Beckwith said so without the variance you may not be able to sell lot 2.

Nina Adams said correct.

Larry Blanks said he drove by the property and didn't see a barn.

Nina Adams said the building is to the rear of the property on Odith Road.

Pete Frisina asked the ZBA if they have the subdivision plat.

The members of the ZBA said they did not receive a subdivision plat.

Pete Frisina handed out subdivision plats to the ZBA.

Larry Blanks asked what the County did to Odith Road.

Nina Adams said years ago the County decided Odith Road would be a county road and over the years the road changed course from a straight road to a curved road.

Pete Frisina said the road probably started out a driveway to multiple properties but became a prescriptive easement over the years as the County started to maintain the road. He added that through the subdivision process they did dedicate right-of-way on Odith Road.

Chairman Beckwith said it appears from this plat that if the road had continued to stay straight the building on lot 1 would not be a problem and the problem seems to be caused by the County maintaining the curve of the road.

Larry Blanks said he agreed.

Tom Mahan said by subdividing the original property you have created new lots.

Pete Frisina said by subdividing the property you now have to bring the structures into compliance.

Larry Blanks asked the Chairman how we should proceed with the four (4) variances on the different lots.

Pete Frisina said we have four (4) variances and you can vote on them together or they can be voted on individually.

Tom Mahan said it would better to vote on them individually.

Larry Blanks made a motion to approve Variances 1, 2 and 3. Chairman Beckwith seconded the motion.

Tom Waller said the variance for the building setback on lot 1 is too great in his opinion.

Larry Blanks said his reasoning for the building on lot 1 is it dates back to the 60's and the problem has occurred due to the realignment of the road.

Chairman Beckwith said he agreed.

Marsha Hopkins said if this property had not been recently subdivided they would not need the variances and they did donate the right-of-way for the road and based on those facts I agree with the variances for lot 1.

Chairman Beckwith called the question. The motion passed 4-1. Tom Waller voted against the motion.

Chairman Beckwith Variance 4 is for the building on lot 2 and he asked when it was constructed.

Nina Adams said in the in 60's.

Chairman Beckwith asked when the house was built.

Nina Adams said in the 50's.

Larry Blanks asked if there are any homes behind the building on lot 2.

Nina Adams said not close by.

Larry Blanks asked if the building is on a concrete slab.

Nina Adams said there may be a partial slab and there is not power to the building.

Tom Mahan said this was caused by the property owner by subdividing the property and he does not support the variance.

Tom Waller said he agreed.

Tom Mahon made a motion to deny Variance 4. Tom Waller seconded the motion. The motion passed 5-0. It was the consensus of the ZBA that the petitioner removes the accessory structure from the setback within 30 days per the time allotted by the Fayette County Zoning Ordinance.

- 6. Consideration of Petition No. A-622-15, Stephen and Kimberly Powell, Owners, request a Variance from Sec. 110-125. A-R Agricultural-Residential District, to reduce the rear yard setback from the required 75 feet to 50 feet to locate a patio/covered patio in the rear yard. The subject property is located in land lot 128 of the 4th District and fronts on Lost Creek Court and Padgett Road.**

Stephen Powell said he is asking to reduce the rear yard setback to construct a covered patio behind the pool we are building. He said they have some issues with locating the patio such as due to covenants all structures have to be behind the house and to the side of the pool is the septic area and one of the lines had to be moved for the pool. He added that his neighbor's house behind his lot is about 150 feet from the property line.

Chairman Beckwith asked if there was anyone who would like to speak in favor of the petition. Hearing none he asked if there was anyone who would like to speak in opposition to the petition. Hearing none he brought it back to the board.

Chairman Beckwith said the ZBA does not take covenants into consideration.

Larry Blanks said the septic area precludes building in that area which leaves the area behind the pool as the only area to build. He added that this is a reasonable request in his opinion.

Tom Mahan said he agrees.

Tom Waller made a motion to approve the Variance. Larry Blanks seconded the motion. The motion passed 5-0.

.....  
There being no further business, Larry Blanks made the motion to adjourn the meeting and the meeting adjourned at 8:05 pm.

ZONING BOARD OF APPEALS  
OF  
FAYETTE COUNTY

  
BILL BECKWITH, CHAIRMAN

  
ATTEST