

THE FAYETTE COUNTY ZONING BOARD OF APPEALS met on February 27, 2017, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

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

STAFF PRESENT: Pete Frisina, Director of Community Services
Chanelle Blaine, Zoning Administrator

Welcome and Call to Order:

1. Consideration of the Minutes of the Meeting held on January 23, 2017.

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

Pete Frisina suggested that they skip the elections portion of the agenda.

Larry Blanks agreed with Pete.

Bill Beckwith asked if he had a problem with them doing that.

Pete Frisina replied it's just if we are having new member established...

Larry Blanks interjected with give them a chance. He stated that we are going to table the election of the chairman, vice-chairman, and secretary.

Pete Frisina stated that rather than table them we are just not going to act on them because of the changes with the board. He said that tabling implies the act of vote to table.

2. Election of the Chairman.

3. Election of the Vice-Chairman.

4. Election of the Secretary

PUBLIC HEARING

5. Consideration of Petition No. A-643-17, Christopher Palmer & Bridgette Palmer, Owner, requests the following: Variance to Sec. 110-79 (d). Accessory structures and uses, to allow an existing swimming pool to remain located in the front yard. The subject property is located in Land Lot 73 of the 4th District and fronts on Grant Road.

Bridget Palmer stated that her husband and children were there because they all have a vested interest in this pool plus they thought it would be a great opportunity to give them a civics class. She said they live at 890 Grant Road Brooks, GA and our petition summarizes what we are asking for. She added that in 2013 they purchase the property at 890 Grant Road and on that property they live on 60 acres it includes the house and the pool. She stated that the pool was constructed in 2005, and at that time Fayette County issued a Certificate of Occupancy affirming the compliance of the swimming pool with the building laws and zoning ordinance of Fayette County. She said that in 2015 two (2) years after they purchased the property they had the property surveyed and was looking to divide their property into two (2) tracts a 10 acre tract and a 49 acre tract. She added that along the 10 acre tract is the house and the pool. She stated during that process it was noted that the swimming pool encroaches on the front yard according to Fayette County zoning ordinances. She said that the only way you can really see that is from an aerial view or looking at the survey. She added that you actually have to get a ruler or a protractor to figure out that on the survey. She stated that the aerial view in your packet does show where it is located. She said that she brought in a picture from Grant Road. She said that you can see from Grant Road there is no notable difference as far as where the pool is located. She added that the pool is on the left and the house is on the right. She stated that they would ask that they grant their variance and believe that they qualify for all five (5) requirements of a variance. She said that most notably the County has already approved this in 2005 when it was constructed and they relied on this when they purchased the property and one (1) of the reasons they decided to purchase this property was because of the swimming pool. She added that to deny the variance would be an undue hardship to them, and it would require the filling in of a pool which would cost multiple thousands of dollars and the construction of a new pool if they decided to that which would be tens of thousands of dollars. She stated that it would diminish the value of the reason we purchased the home. She said the encroachment doesn't adversely affect the public if you were looking at it with the naked eye from Grant Road. She added that the only neighbor they have is to the left of them and they were in existence when the pool was constructed. She asked that they respectfully grant their variance so that they can move forward with the minor subdivision plat and have the map recorded.

Chairman Blanks asked if anyone else had anything to say. Hearing none, he asked if anyone would like to speak against the variance. Hearing none he brought it back to the Zoning Board of Appeals for consideration.

Bill Beckwith stated that he was just curious and it really doesn't matter to their decision but what was the plan for the 49 acres.

Bridget Palmer replied that right now they just plan to own it they have a small farm here with a goat and a donkey they have considered cattle. She said to continue with the property.

Bill Beckwith asked why they split the 10 acres.

Bridget Palmer replied that they have a ranch house that was built in 1978 and needs some remodel work and they were hoping to do the remodel but to obtain financing it is better to get it on 10 acres than 60 acres because the banks become very limited.

Bill Beckwith stated that it sounds reasonable.

Tom Waller asked if they had the property in a conservation use program.

Bridget Palmer replied yes sir.

Tom Waller asked how long had it been there.

Bridget Palmer replied that it was already in conservation when they bought it and they had to renew it in a year. She said that they had to apply for it to be continued for them, and then they asked for a new conservation in 2015. She added that it just started.

Chairman Blanks asked if you had to keep it in conservation for 10 years.

Bill Beckwith replied yes.

Bridget Palmer replied or pay a penalty.

Chairman Blanks stated that this is his favorite ordinance in the County with multiple front yards. He said that he lives on a flag lot as well.

Tom Mahon made a motion to approve an existing swimming pool to remain in the front yard. Tom Waller seconded the motion. The motion passed 5-0.

- 6. Consideration of Petition No. A-644-17, Dave Williams, Owner, and Josh Woods, Agent requests the following: Variance to Sec. 110-79 (d). Accessory structures and uses, to increase the square footage of floor area from 1,800 square feet to 2,800 square feet for the construction of a detached accessory structure and Variance to Sec. 110-133. R-70, (d) (5) to reduce rear yard setback from 50 feet to 25 feet to allow the construction of a detached accessory structure. The subject property is located in Land Lot 225 of the 5th District and fronts on Lees Mill Road.**

Josh Woods stated that in short they would like to request a variance on two (2) fronts for this particular location. He said the first being that of the limitation on the detached accessory square footage from 1800 square feet to 2800 square feet. He added that they would like that primarily because they are trying to preserve a preexisting historical structure. He stated that it was unusable for the parking of a vehicle or anything like that. He said that it was an old smokehouse and has been there since the early 1900's. He added that the home on the 133 Lees Mill Road property has been there the same length of time. He stated that they are trying to stay within the historical nature of the property. He said the other variance they would like to request a reduction in the setback parameter for a detached accessory structure from 50 feet to 25 feet. He added that the property was platted in 1978 before the standardized platting in

1980, and the current zonings only apply to properties that are two (2) acres or greater and we sit at 1.74 acres giving us a very small window to build in their yard.

Chairman Blanks asked where the septic lines running on the property.

Josh Woods replied that they are away from that structure and run from the back house if you're facing the house to the right away from the building.

Chairman Blanks asked if it was toward Highway 92.

Josh Woods replied yes sir toward Highway 92. He stated that one (1) of the steps in achieving the building permit is to get approval from the Planning Department to Environmental Health Department before Environmental Health can inspect for those standards.

Pete Frisina stated that Environmental Health had no objections.

Chairman Blanks stated that he just wanted to know where it was. He asked if anyone had anything to add to this. Hearing none, he asked if there was any opposition. Hearing none, he brought it back before the Zoning Board of Appeals. He stated that he wanted to know where the septic lines were in relation to why that garage was setback to where it was set of the new one (1).

Josh Woods stated that one (1) of the reasons we are placing that structure where we are is to allow for sufficient spacing between the home and the building for drainage between the two (2) properties. He said that it was very flat in that area and if they move it any further in it would (a) be touching the house impossible to transition from the elevation of the slab to the elevation of the home when attaching it; also any closer and not attach would be causing a drainage issue between the existing home and the structure.

Bill Beckwith asked what the structure with the green roof was.

Josh Woods replied that it was the old smokehouse that has been modified over the years.

Bill Beckwith asked if that would remain.

Josh Woods replied yes.

Bill Beckwith asked what the size was.

Josh Woods replied that it was around 600 feet in total.

Larry Blanks asked if all of the overhangs even though they are not enclosed are considered under roof square footage that applies.

Pete Frisina stated that he had discussed with Josh Woods the percentage that is enclosed to open meets the ordinance. He said that it is required that 50 percent of the building be enclosed. He added that he meets it and it has been counted.

Bill Beckwith asked how many square feet of building is on the property right now.

Josh Woods replied the outbuilding is 600. He said the building they would like to place there would be roughly 2200. He added that they are looking for a variance for 2800 square feet so they can leave the historical structure intact.

Bill Beckwith asked if the structure was viable.

Josh Woods replied not for the uses this structure would be for. He stated that he would not be able to park a vehicle in that building. He added that you really couldn't do much in that building but appreciate it for its historical value.

Bill Beckwith asked when it was built.

Josh Woods replied early 1900's.

Bill Beckwith asked what the value of the building if you can't do anything with it.

Josh Woods replied only the historical significance.

Someone asked if it was going to fall down.

Josh Woods replied no. He stated that he had not inspected nor had he contracted with an engineer to inspect it. He said that it was standing and is dry on the inside.

Bill Beckwith asked who built the building.

Dave Williams replied that his grandfather built the smokehouse and then some years ago a tree fell on part of it and that is why it has a green roof. He stated that the tree didn't hurt the structure it just demolished the metal roof.

Bill Beckwith asked if he planned to park new vehicles and stored them.

Dave Williams replied yes.

Bill Beckwith asked if they were stored in trailers.

Dave Williams replied that they were stored in the County.

Chairman Blanks stated that he is not as worried about the square footage as he is about the distance to the back property line.

Josh Woods stated that it was his understanding if the lot had been appropriately zoned based on its size would have been significantly reduced from what it is now.

Pete Frisina stated that this is a two (2) acre zoning district and they basically have just under an acre. He said that it was a nonconforming lot of record.

Josh Woods stated that there is 46,900 square feet of property and due to the setback parameters there is only 15,000 square feet that is useable.

Pete Frisina stated that what you have is two (2) acre setback parameters being applied to a slightly less than one (1) acre parcel.

Bill Beckwith asked if that was caught up in the 1980 rezoning.

Pete Frisina replied that was there prior to the rezoning of the County.

Josh Woods stated that as far as affecting the neighbors it would be invisible from anyone visually that would be affected.

Chairman Blanks stated that he understood and had looked at the woods behind it and even in the winter time there is no visibility. He said that during the summer he believes it will fill in completely. He added that it is not the visibility but the 50 percent reduction in setback. He asked if the building was going to be built long ways in the back.

Josh Woods replied yes.

Dave Williams stated that everything matches the house from the side. He said that is the reason why he got Josh to match the peaks.

Josh Woods stated that the ridges would be parallel to each other not perpendicular.

Bill Beckwith asked who owns the property to the left with the children playground to your left.

Dave Williams replied that he owned the other property there.

Bill Beckwith asked if it was the one (1) with the tree house.

Dave Williams replied that was Mr. Griffin's property.

Bill Beckwith stated that property was his and is not connected to the property where the house is on.

Dave Williams stated that the reason why he wants to put his garage right there is because he doesn't want to walk so far and he can keep his cars close by. He said that it would be better for the parking of his vehicles. He added that he has thought about putting it other place in the past but never could bring himself to do it because he didn't think it would look right.

Chairman Blanks asked if the overhang was over the back of the shed.

Josh Woods replied no, it would be facing the property to the rear.

Chairman Blanks asked if that was removed would you still need the 25 foot variance.

Josh Woods replied yes sir. He stated that section of the building is only 10 foot projected from the foundation of the structure.

Chairman Blanks stated that instead of a 25 foot variance you would need a 15 foot variance.

Josh Woods replied that they would still need a variance to be inside the 50 foot setback.

Chairman Blanks stated that he understood that part but is concerned about the 50 percent request. He said normally when they grant something that dramatic it sets a precedent, and someone else may say that you have offer 50 percent decreases before why can't I have one (1).

Josh Woods stated that their hardship in that particular situation is this lot being subjected to setback parameters that should be applicable to a two (2) acre lot.

Chairman Blanks stated that he understood.

Dave Williams stated that they're very narrow from the front of the road to the house because Lee's Mill was paved and how they came over on the property. He reiterated that they have a very narrow lot.

Josh Woods stated that this structure would not encroach further into the setback parameters then the existing historical structure.

Chairman Blanks asked if they wanted to do this in two (2) separate motions.

Bill Beckwith stated that it would have to be two (2).

Tom Waller asked how many vehicles you were looking at putting into this structure.

Dave Williams replied four (4) possibly five (5).

Chairman Blanks asked if he owned the lot next door.

Dave Williams replied yes.

Chairman Blanks asked if it that lot had a separate deed for it.

Dave Williams replied yes, and that it was his uncle's property.

Bill Beckwith made a motion to approve the increase in square footage of floor area. Tom Waller seconded the motion.

Chairman Blanks asked if there was any discussion.

Bill Beckwith replied that his only discussion would be that they're constrained because the house was already there; it got rezoned and got put into a much smaller confined space and would like room to store valuable vehicles and other things.

Chairman Blanks stated that it is a good justification in his opinion. He said that the home has been sitting there since 1930.

Dave Williams interjected saying the home itself was built between 1894 and 1896 and his father purchased it in 1936.

Chairman Blanks said the paving of the road just ate up the property. He added that it put Mr. Williams at a disadvantage.

The motion passed 5-0.

Bill Beckwith made a motion to approve the rear yard setback variance. Marsha Hopkins seconded the motion.

Chairman Blanks asked if there was any discussion. He stated that there wouldn't be any impact from the neighbor behind him because of the woods.

Bill Beckwith asked how many houses were behind him.

Dave Williams replied two (2) or three houses. He stated that you can barely see anything because of the trees.

The motion passed 5-0

7. Consideration of Petition No. A-645-17, Charles & Patricia Tomlin, Owner, requests the following: Variance to Sec. 110-79 (d). Accessory structures and uses, to allow an existing swimming pool to remain located in the front yard. The subject property is located in Land Lot 52 of the 7th District and fronts on Adams Road.

Charles Tomlin stated that it was a carbon copy of what they heard from the Palmer's earlier. He said they are on a larger lot that is not visible from the road and they also permitted their pool 10 or 11 years ago. He added that they were terribly surprised when all of this popped up with the survey. He stated that they are just requesting a simple variance just like theirs. He said that they received good comments from everyone in the report, but thought the most important thing was under section four (4) where it says, will this be any kind of substantial detriment to the public good or impair the purposes and intent of these regulations; it's very clear just like in their case and our case there is no way it's going to cause any detriment to the public. He added that they are meeting all of the intent. He showed them some aerial pictures. He stated that the setback may have change some or the interpretation has change some from 75 feet. He said they got this approved at 75 feet with the builder. He added that the pool was approved over 10 years ago. He stated that the reality of it is their house faces north and the pool or any other structure is visible from the house or the driveway. He reiterated that number four (4) is still the most important one (1) to him and that there was no real detriment here. He said if they were unable to get the variance it would be a substantial hardship for a pool that was approved 10 years ago to be torn down. He asked if any of the Zoning Board members had any questions.

Chairman Blanks asked if anyone else had anything to say. Hearing none he brought it back to the board. He stated that was so confused with the address for the property. He said that he

thought it was the house on the corner. He added that he saw the sign down there behind it off of Sandy Creek, but he couldn't find a way to get in there.

Pete Frisina stated that it has two (2) road frontages one (1) off of Adams and the other off of Sandy Creek. He said that the lot is still an 18 acre parcel with two (2) road frontages.

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Charles Tomlin stated that he has way more road frontage on Sandy Creek. He said that he didn't want to confuse the issue but his house is oriented toward where he has more road frontage which is Sandy Creek.

Pete Frisina stated that his address is Adams.

Charles Tomlin stated that he wasn't involve with what was the front of the house to get that approved so I have to plead ignorance there because I don't know those type of details. He said that he knows a lot of houses on the corner where they have a driveway on the side but the front of the house is face something else so there address would be Adams Road also but the front of their house is facing Sandy Creek.

Chairman Blanks stated that it doesn't matter because there is still two (2) front yards. Hearing no other comments Chairman Blanks brought it back before the Zoning Board of Appeals for a motion or discussion.

Tom Mahon made a motion to approve an existing swimming pool to remain in the front yard. Tom Waller seconded the motion. The motion passed 5-0.

There being no further business, Bill Beckwith made the motion to adjourn the meeting and the meeting adjourned at 7:49 pm.

**ZONING BOARD OF APPEALS
OF
FAYETTE COUNTY**



Vice CHAIRMAN



CHANELLE BLAINE, ZBA SECRETARY