

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

**MEMBERS PRESENT:** Marsha Hopkins, Vice-Chairman  
Tom Waller  
John Tate  
Therol Brown

**MEMBERS ABSENT:** Bill Beckwith, Chairman

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

**Welcome and Call to Order:**

**1. Swearing in of John Tate and Therol Brown.**

Pete Frisina administered the Oath of Office to John Tate and Therol Brown.

**2. Election of the Chairman.**

Marsha Hopkins made a motion to nominate Bill Beckwith as Chairman. Therol Brown seconded the motion. The motion passed 4-0. Bill Beckwith was absent from the meeting.

**3. Election of the Vice-Chairman.**

Therol Brown made a motion to nominate Marsha Hopkins as Vice-Chairman. John Tate seconded the motion. The motion passed 4-0. Bill Beckwith was absent from the meeting.

**4. Election of the Secretary.**

Tom Waller made a motion to nominate Chanelle Blaine as ZBA Secretary. John Tate seconded the motion. The motion passed 4-0. Bill Beckwith was absent from the meeting.

**5. Consideration of the Minutes of the Meeting held on February 27, 2017.**

Marsha Hopkins made a motion to approve the minutes. Therol Brown seconded the motion. The motion passed 4-0. Bill Beckwith was absent from the meeting.

**PUBLIC HEARING**

6. **Consideration of Petition No. A-646-17, Mary Frances Butler, Owner, and Jay McCoy, Agent, requests the following: Variance to Sec. 110-125 to reduce side yard setback from 50 feet to nine (9) feet to allow an existing accessory structure to remain. The subject property is located in Land Lot 118 of the 4th District and fronts on Lowery Road.**

Pete Frisina asked if Mary Francis Butler wanted to go ahead or request a table to the next the meeting.

Mary Francis Butler replied tabled.

Pete Frisina stated that they would like to request a table to the next meeting.

Marsha Hopkins made a motion to table Petition A-646-17 to April 24, 2017. John Tate seconded the motion. The motion passed 4-0. Bill Beckwith was absent from the meeting.

7. **Consideration of Petition No. A-647-17, Lance Schoon, Owner, requests the following: Variance to Sec. 110-125 to reduce side yard setback from 50 feet to 35 feet to allow the construction of an addition to an existing single family residence and Variance to Sec. 110-125 to reduce rear yard setback from 75 feet to 63 feet to allow the construction of an addition to an existing single family residence. The subject property is located in Land Lot 137 of the 4th District and fronts on Malone Road.**

Pete Frisina asked Lance Schoon if he would like to move ahead or do you wish to table.

Lance Schoon replied that he would like to move forward.

Pete Frisina stated that he could make his presentation now.

Lance Schoon asked if there were any specific questions that weren't addressed in the application.

Marsha Hopkins replied that they generally like to hear from the petitioner what it is they would like to do and anything that they would like for us to know. She said that they will ask if there is any opposition to that, then they will have a discussion, and then they will make a motion and take a vote. She added that the floor was his on what he wanted them to know about this.

Lance Schoon stated that they are requesting to build a utility room on the back part of the house. He said that he wasn't aware until he started this process that has five (5) acres were divided into a one (1) acre that the house sits on and the rest of the four (4) acres on the back and side that makes it a total of five (5). He added that it was brought to his attention where they want to put their addition on is less than what's require to the edge of that to its particular acre. He stated that is why they are applying for the variance. He said that they need the utility room is because when the original owner built that house they didn't make room for a coat closet, laundry room or any of that so all of that packs into a small bathroom. He added that they really need the space for a coat closet, laundry, and that type of stuff. He stated that where they want to put this room there is already a deck.

Marsha Hopkins asked Pete Frisina if they could ask questions or if they had to hear the opposition first.

Pete Frisina stated that he would open the floor for comments.

Marsha Hopkins asked Lance Schoon if he had anything else he wanted to add.

Lance Schoon replied that he talked to his neighbors and none of them have any opposition to it at all. He stated that they think it is a wise choice given their circumstances. He said their house is located close enough to the center of their property from their neighbors. He added that there was enough of a buffer that they won't be able to see our house anyway.

Marsha Hopkins asked if anyone would like to speak in favor or opposition to this petition. Seeing none she made a motion that they discuss it.

Pete Frisina stated that if there any questions or discussions you could make a motion, but if you want to ask questions you're able to do so now.

Tom Waller asked if he was on a five (5) acre tract behind this one (1) acre tract.

Lance Schoon replied that it is an additional four (4) acres behind the one (1) acre so it makes it a total of five (5).

Tom Waller asked if there was separate road entry and how they got to that property.

Lance Schoon replied that it is basically their backyard.

Tom Waller asked if they sold it, would they have the road coming through their property.

Lance Schoon replied that what he understands is they can't sell it and must maintain it as a full five (5) acres.

Pete Frisina stated to Mr. Waller that the other portion does have road frontage. He said that they would be able to access from Malone Road.

Lance Schoon agreed that it is wide enough if they wanted to put in another driveway they could. He stated that they have no intentions to do so.

Marsha Hopkins stated that she had a couple of questions for clarification and that maybe Pete could handle this. She said that she was a little confused based on the materials. She added that the lot is a five acre lot that has been subdivided into four (4) acres and one (1) acre. She stated that your setbacks are being reduced from the one (1) acre. She asked how long had he lived on that property.

Lance Schoon replied that they've been there real close to five (5) years.

Marsha Hopkins asked when he purchased the property was the condition of sale at the time that it was already subdivided.

Lance Schoon replied that he had no clue that it was set up that way. He stated that they thought they were just buying five (5) acres. He said that once he got his first tax bill he knew something funny was going on. He added that he didn't realize the second one (1) was his so he called in and once he got it clarified that is when he first found out. He stated that he had no idea why it was done that way.

Marsha Hopkins asked Pete how it came about.

Pete Frisina replied it appears back in 1979 that this property was subdivided. He stated that there was a survey recorded for the one (1) acre and the four (4) acre in August 6, 1979. He said shortly after that was when the County blanket zoned the entire County, and created the A-R district with five (5) acres. He added that we would consider this a legal non-conforming lot for both of them, because they were subdivided prior to that benchmark of November 13, 1980. He stated the house was built in 1979 and would assume that it was built after that subdivision, but we have no real building permits prior to 1982 because of the courthouse fire.

Marsha Hopkins stated that back in 1979 is when the subdivision occurred, and it was non-conforming at that time.

Pete Frisina interjected saying that we pretty much use the benchmark of November 30, 1980 anything that was on the ground at that point before the County instituted a brand new zoning district and zoned a whole County we consider it a non-conforming lot. He stated that it was on the ground prior to that date.

Marsha Hopkins asked if the two (2) lots can be bought separately.

Pete Frisina replied yes.

Marsha Hopkins asked Mr. Schoon at the time you purchased it you were buying five (5) acres. She asked if he had two separate deeds or if it was all in one (1) deed.

Lance Schoon replied that he didn't bring any of that information with him.

Pete Frisina stated that the deed describes Tract A and Tract B as two (2) parcels.

Therol Brown asked if both of the parcels would be non-conforming.

Pete Frisina replied yes both are. He said that refers back to a survey recorded on June 29, 1979 of a one (1) acre and a four (4) acre.

Therol Brown stated if that be the case he could sell off the other four (4) acres if he chose to.

Pete Frisina replied that it is a separate parcel.

Lance Schoon asked if there was something on the books that said that every property down there has to be five (5) acres or more.

Pete Frisina replied that if you were creating a new lot after 1980 yes. He stated that these lots were created prior to 1980. He said we use the term grandfathered.

Lance Schoon stated that he doesn't know of any property down there that is less than five (5).

Pete Frisina stated that there are hit and miss non-conforming lots all over the County. He said that he wasn't the only one (1).

Marsha Hopkins stated that the only reason this comes before us is that no previous homeowner on the non-conforming lot wanted to make any changes that would trigger the setback.

Pete Frisina replied not that I am aware of. He stated that if you look at the drawing the building that he is adding on to is already in the setback.

John Tate stated that building the structure here would put it in non-compliance; is there any reason why the extra space could not go on the other part of the house. He said for instance the garage area is there some reason why it couldn't go there as opposed to where you got it plan.

Lance Schoon stated it would be a matter of convenience because of the layout of the house where we would be putting the addition would be where we have a deck that we

don't really use right off of the back door. He said the only other access into the house would be the very front door which would be facing Malone Road or the other entry door that comes into the kitchen from the carport. He added that he didn't know if they could put something like that at the front of the house because it would change the whole appearance of the house from the curb. He stated that it would make it look kind of funny. He said the only other option would be to put it in the carport but he is not sure on anywhere else. He added since there is already a deck where we want to put it and it doesn't get used much we just figured that would probably be the best place to put it. He stated that if they tried to put it anywhere on that backside of that house it would move it closer to the edge of that one (1) acre. He said the only other option would be the front of the house or at either end of the house. He added that at one (1) end there is already a bathroom and a bedroom and on the other end is the carport.

Therol Brown asked how many total square feet was he adding.

Lance Schoon replied that he thinks it is 200.

Marsha asked if there was already a portion of it in the setback.

Pete Frisina replied if you look at the drawing he provided it shows you the setback on the lot and the area he is adding kind of has a cross hatch on it that whole portion there is in the side yard setback. He stated that the existing portion of the house is in the side yard setback right now.

Marsha Hopkins stated that without any available history we wouldn't be able to see if anything had been applied for them to do that.

Pete Frisina stated that he is not aware of any variances. He said that he didn't know what the setbacks were back in the 70's. He added that it was on the ground when we rezoned the County. He stated that he assumes they got a permit and was built to whatever standards were required at that time.

John Tate asked if the house was 35 feet into the setback.

Pete Frisina replied that a portion of the existing house is at least 35 feet from the side yard setback. He stated that the rear seems to be in compliance on that site unless you're talking about that bump on the side. He asked if that bump was a well house.

Lance Schoon replied that there really isn't a well house. He stated that it is a little piece of the deck kind of built over that. He said that it was strange because it was just open to the outside air and they had some freeze up problems. He added after they have the addition put on they will add a little structure over the well house so it cannot freeze up anymore.

Marsha Hopkins stated that this was really perplexing to her and wonder how her other esteemed colleagues felt about this. She said that when someone wants to do something for convenience and it requires a variance that is one (1) thing; and admittedly a lot of this is for your personal convenience, but the circumstances around it at least by my reading of these materials really seems to lock you in, because of the previous non-conforming lot and part of it is already in the setback area. She added to do what you want to do; absent of an alternative and you asked if there was some other way; I'm not sure and am very perplexed on how you would accomplish it under these circumstances. She asked the Zoning Board of Appeals members if they had any thoughts.

Therol Brown stated that he tends to agree with her since it's already in the setback and is already a non-conforming lot and what he is asking is basically for a 15 foot variance for the side and a 12 foot variance in the rear.

Therol Brown made a motion to approve A-647-17 variance. Marsha Hopkins seconded the motion. The motion passed 4-0. Bill Beckwith was absent from the meeting.

**8. Consideration of Petition No. A-648-17, Morten Buch & Michael J. Taylor, Owners, requests the following: Variance to Sec. 110-137 to reduce side yard setback from 15 feet to five (5) feet to allow the construction of a detached accessory structure.**

Sheree Mann stated that she was standing in for Mr. Taylor and Mr. Buch at 1060 Oak Ridge Drive. She said the client wishes to do a detached two (2) car garage as shown in the packet. She added that drawings were submitted to show what it is going to look like. She stated that it was very simple and that there was only one (1) other accessory structure on the lot which is also shown on the site plans. She said that the breakdowns of the total square footages are at the top left of the site plan sheet. She added that they are requesting a five (5) foot variance from a 15 foot setback on the left side of the lot. She stated that Ms. Renee Miller also submitted a letter saying that she was on board, and she pretty much abuts up to the lot. She said that they are very far off the rear setback and doesn't see that as an issue. She added that it is pretty much placed to the rear, side and behind the front of the house. She stated that they were hoping to use the existing turnabout and radiuses that are already established. She said if you look on the site plan you can see a little truck right there and that is Mr. Taylor's truck right now, and that is pretty much the end of the turnabout area. She added that they were just hoping to reuse that area and allow enough area for the turnabout for the electric cars. She stated that her clients would be purchasing a second electric car, and that they own three (3) cars currently one (1) electric, one (1) truck, and one (1) antique car that is being restored in Arizona that they would like to bring home. She said that the detached carport would be for the electric cars, an outlet out there for the electric car charger, and a small storage under roof that will be all in the same building. She added that they have minimum of a 10 foot setback away from the buildings for fire lanes and this just seem to work a lot



more apropos. She stated that attaching it would raise the budget at least two (2) ½ times. She stated that she didn't want to get into that water and grading issue. She added that this side of the house is already set up for the garage, as you can see they have the existing garage on the side of the house, and one (1) of my clients is handicap and needs access into it. She asked if they had any questions. She stated that she had another piece of paper that would give a little bit more of information but only had one (1) copy of it.

Tom Waller asked if there was anything that was precluding them from going 10 feet back.

Marsha Hopkins asked if it was part of a subdivision.

Sheree Mann replied that it is a part of Fayette Village Lot 3B. She stated that it is the third house in on the right when you turn left in the subdivision. She said that they have extended the subdivision back on since this was built. She added that the homeowners have been there about 10 years or so.

Therol Brown stated that Ms. Mann mentioned the electric car and that one (1) of the residence was handicap. He asked what bearing would either one of them have on this.

Sheree Mann replied that she mentioned it so they won't put the carport at the back of the lot or something to far away from the house.

Therol Brown stated he understood if from the handicap standpoint but where the electric car standpoint it really wouldn't matter if the car was electric or gasoline.

Sheree Mann replied no sir. She stated that there are no codes in relation to that sort of thing.

Marsha Hopkins stated that her concern is 15 feet to five (5) feet in it of itself doesn't seem like a lot but in this circumstance it will only leave five (5) feet and that is not a lot of space.

Sheree Mann asked Pete Frisina if there was a five (5) foot planting strip in your area.

Pete Frisina replied that it is not required.

Sheree Mann stated that she could comfortably move it over seven (7) feet and still maintain her turning radius and use the existing turnabout where the garage is. She said that horizontal distance on the last thing she brought up is about 12 feet in order to maintain her 10 foot; 12 feet is nicer your 10 foot radius a couple feet back and there not giant cars.

John Tate stated that after listening to the presentation and reviewing the statements that were presented he finds it difficult to justify this based upon the factors which go into



getting the variance. He said that he really doesn't see any hardship with granting the variance in all those categories.

Sheree Mann stated if she is moving it over 10 other feet she is literally off the edge two (2) other feet of the existing garage, and 10 feet back to keep her 10 foot building separation, and will still be a little further back. She said that it will be a little precarious and doesn't look the best either. She added that she would like to stay away from that water, the way they have it graded because it comes all downhill up front. She stated that they have it graded where it cuts out to the back of the neighbor's lot and then the front takes on down to the street. She added that you have to maintain that six (6) percent off the house to keep it from pouring up around the house.

Tom Waller asked if she was looking at a slab.

Sheree Mann replied yes sir. She stated the worst case scenario it's a slab but you might have instead of a turndown putting edge you may have an eight (8) inch block that will give it a little of height on the back left corner, because it does drop down there and it will go straight in.

Marsha Hopkins stated that role is to say yes or no and they don't have a full board tonight. She asked Pete Frisina if the option to revisit this is still there.

Pete Frisina replied if you wish to continue it based on you need more information or you would like to see something different that is justifiable for you guys to initiate the tabling to the next meeting if you would like to see something different.

Marsha Hopkins stated that she would like to see what other approaches; I know you said that some of them weren't aesthetically appropriate and that drainage is an issue. She said that she has concerns with the amount of setback going to be left once this is all said and done.

Michael Taylor stated that the carport is directly straight up off the driveway. He said if you move it off its going to make it odd shaped structure with the layout of the property that is already there. He added that if you move it over you will be cutting into the fire line that you have to have 10 feet between the house and the carport. He stated that it is most aesthetic to go straight up to the drive and put it right there.

Sheree Mann asked about a seven (7) foot setback. She asked what would make them happy on that left side setback.

Marsha Hopkins stated that we don't take a position on telling you on what it should be; our position we want to adhere as best we can to the requirements of the setback. She said I still feel as though I would like to see more information on how it would be if there was room for a few more feet some additional information to demonstrate that.

Michael Taylor stated that if the move it too much to the left they would interfere with the septic.

Sheree Mann stated that she think she can make it work with a seven (7) foot off the property line without tearing to much up and not adding to the drainage issues.

Marsha Hopkins stated that she is still in the posture of wanting to have some additional information to see how much of the setback we can maintain under these circumstances. She said that she appreciates the information that they provided. She added that we can table the petition for this month until we get that additional information to support that.

Sheree Mann asked what were they looking for either the 15 feet or as much as they can possibly get.

Therol Brown stated that if they could get the 15 feet they wouldn't need a variance.

Sheree Mann agreed.

Michael Taylor stated he doesn't understand why they are obstructing such a nice structure when people build such horrible things on their property. He said that she has design a beautiful structure that will add to the community. He added that the structure would add to the aesthetics of his property. He stated that the neighbor has signed a letter saying that it was fine to be there. He said that he doesn't understand, but they make the decisions. He added that it was upsetting.

Sheree Mann asked if they wanted her to submit some more drawings to Mr. Pete for the next hearing. She asked if we can agree to setback today.

Marsha Hopkins replied that it isn't that we agree on a setback we just need additional information.

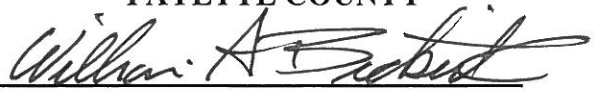
Marsha Hopkins made a motion to table Petition A-648-17 to April 24, 2017. Therol Brown seconded the motion. The motion passed 4-0. Bill Beckwith was absent from the meeting.

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There being no further business, Marsha Hopkins made the motion to adjourn the meeting and the meeting adjourned at 7:50 pm.

**ZONING BOARD OF APPEALS  
OF  
FAYETTE COUNTY**

  
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**CHAIRMAN**

  
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**CHANELLE BLAINE, ZBA SECRETARY**

