

**THE FAYETTE COUNTY ZONING BOARD OF APPEALS** met on May 22, 2017, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

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

**STAFF PRESENT:** Pete Frisina, Director of Community Services  
Chanelle Blaine, Zoning Administrator  
Chakevia Jones, Planning & Zoning Coordinator

**Welcome and Call to Order:**

**1. Motion to add the April 24, 2017 minutes to the agenda.**

Tom Waller made a motion to add the April 24, 2017 minutes to the agenda. Therol Brown seconded the motion. The motion passed 5-0. Necessary

**2. Consideration of the Minutes of the Meeting held on April 24, 2017**

Therol Brown made a motion to approve the minutes from April 24, 2017. John Tate seconded the motion. The motion passed 5-0.

**3. Consideration of the Minutes of the Meeting held on May 22, 2017.**

Therol Brown made a motion to approve the minutes from May 22, 2017. Tom Waller seconded the motion. The motion passed 4-0, Marsha Hopkins abstained because she absent from the meeting May 22, 2017.

**PUBLIC HEARING**

**4. Petition No. A-652-17, Carlino Construction, Owner, requests the following: Variance to Sec. 110-125. A-R, (d) (6) to reduce east side yard setback from 50 feet to 41 feet and west side yard setback from 50 feet to 39 feet to allow the construction of a single family residence. The subject property is located in Land Lot 223 of the 4th District and fronts on Bernhard Road.**

Mike Gable, an employee of Carlino Construction Company, is asking for a variance at this location to build a single family dwelling. We feel the variance conforms to the existing neighborhood and we just ask that you grant this variance.

Chairman Beckwith asked if there was anyone to speak in favor of this petition. Anyone to speak in opposition? Mr. Gable, you may have a seat. If there are any questions we'll give you a call up. Lady and gentlemen, do we have any discussion items?

Marsha Hopkins said you had mentioned it conforms to the rest of the neighborhood. Can you just elaborate on some of that detail?

Mike Gable said it's two houses, there are houses on either side, and they are the same distance to the border as this house would be should you grant this petition.

Chairman Beckwith asked Chanelle Blaine if this piece of property was a little over one (1) acre in a normally five (5) acre area.

Chanelle Blaine said yes, this is a nonconforming lot of record.

Chairman Beckwith stated this is a nonconforming lot which means it's smaller than the minimum required. Somehow the lots were set up so that it didn't meet the five (5) acre minimum. In this case it was a piece of property that somebody owns and the owner wants to build a residence on, so we're considering whether to vary the distance from the side line of the property to allow the property owner to build a residence there. Is that right Mr. Gable?

Mike Gable said yeah, that's right.

Chairman Beckwith asked if anyone had any questions, comments, or discussion.

Therol Brown made a motion to approve Petition No. A-652-17. John Tate seconded the motion.

Chairman Beckwith asked if there was any discussion on the motion. Basically what I stated is that the piece of property that, because of the wider, more restrictive building lines restricts the amount of area that can be built upon. In this case I agree, I think that's an appropriate decision. No other discussion items? The motion passed 5-0.

5. **Petition No. A-653-17, Casey & Christina Allen, Owners, requests the following: Variance to Sec. 110-125. A-R, (d) (4) (b) to reduce front yard setback from 75 feet to 62 feet to allow the construction of a detached garage. Variance to Sec. 110-125. A-R, (d) (5) to reduce rear yard setback from 75 feet to 55 feet to allow the construction of a detached garage. Variance to Sec. 110-125. A-R, (d) (6) to reduce side yard setback from 50 feet to 31 feet to allow the construction of a detached garage. Variance to Sec. 110-79. - Accessory structures and uses. (d)**

**Location on lot to allow the construction of a detached garage in the front yard. The subject property is located in Land Lot 190 of the 4th District and fronts on Old Highway 85.**

Christina Allen stated that they were asking for four variances to be granted for us to be able to build a storage building that's on the right of our home. Right now we're in a house that we just recently moved into and our plans were to do that. We got in there and the house does not have any attic, and of course with five (5) kids, and sports equipment, and a boat, and a four wheeler we'd like to have some where to store that stuff that looks aesthetically pleasing to the house that matches everything. Because we are zoned A-R we're in that legal nonconforming lot. To one side of our house we have somebody who is zoned R-45, and our other neighbor is zoned A-R, so we have to conform even though we're less than five (5) acres. So we're asking that the four (4) variances be granted so that we can build an out building to store all of our stuff in.

Chairman Beckwith asked if there was anyone to speak in favor of this petition. Anyone to speak in opposition? I'll bring it back to the board for their consideration. Lady and gentlemen, do we have any questions?

Therol Brown asked Pete Frisina if the drawing is to scale it looks like a front yard setback would not be required.

Chanelle Blaine stated that when you look at the drawing it looks like the garage is 62.7 and then the front yard or the house is 73 feet.

Therol Brown oh I see it. I didn't see that earlier. Sorry.

Pete Frisina said you're not the only one who questioned it; we had to call the surveyor.

Christina Allen said yeah, it looks weird that way.

Chairman Beckwith asked if they were less than an acre in kind of a narrow, restricted, trapezoidal lot. Mrs. Allen is there a reason you have the garage where you have it versus perhaps moving it so it's in compliance with the setback.

Christina Allen said if you look at it anywhere you put it on the property, because of the size of the lot and the way it's shaped, we would have to apply for variances. We put it there so that it looks nice from road frontage. If you're facing our house to the left there are a ton of trees that you would have to take down, and we really didn't to cut all that down because it looks nice. That area was already cleared there. We turned in letters from all of our neighbors

to make sure they didn't care, and for us it was the most efficient place to put it where you didn't have to do a lot of work that looked nice.

On the other side we have a septic tank in the front to the left of the house. On the right there's no utilities, no water lines, there's nothing that have to be moved or changed.

Chairman Beckwith asked Chanelle Blaine what the setback is from the rear property line.

Chanelle Blaine stated that it is 75 feet.

Chairman Beckwith said so the house is in violation basically. In a case like this we take each of the variances by themselves and vote on them. Y'all understand, if the garage were built there, why it's actually considered to be in the front yard?

Christina Allen stated they were told because of the way our lot sits you can't really change it to look anyway else. They all checked on it, and we went ahead and just applied for it.

Chairman Beckwith said another way to look at it is the house is 73 feet from the front property line. Even though it looks like it's behind the house, it's kind of an optical illusion. Where the proposed garage is it's 63 feet, or 62.7 feet. So that's where the confusion came in I think.

Christina Allen said it's just a really odd shaped lot.

Chairman Beckwith asked if there were any questions or comments. Do I hear a motion for variance number one (1) to reduce the front yard setback?

Marsha Hopkins made a motion to approve the variance to reduce the front yard setback. Tom Waller seconded the motion. The motion passed 5-0.

Chairman Beckwith said number one (1) is approved. Number two (2), reduce the rear yard setback from 75 feet to 55 feet.

Therol Brown made a motion to approve the variance to reduce rear yard setback. John Tate seconded the motion. The motion passed 5-0.

Chairman Beckwith said third variance to reduce side yard setback from 50 feet to 31 feet to allow the construction of a detached garage.

John Tate made a motion to approve the variance to reduce side yard setback. Therol Brown seconded the motion. The motion passed 5-0.



Chairman Beckwith said and the big one. Not really, just the one that looks the worst, number four (4), accessory structures location on lot to allow the construction of a detached garage in the front yard. Which it's really not, but that's the way it has to be looked at.

Marsha Hopkins made a motion to approve the variance to allow the construction of a detached garage in the front yard. John Tate seconded the motion. The motion passed 5-0.

Chairman Beckwith said good luck, you have all four. I hope it fits where you want it.

6. **Petition No. A-654-17, Michael & Angela Healy, Owners, requests the following: Variance to Sec. 110-125. A-R, (d) (4) a. to reduce the front yard setback from 100 feet to 21 feet to maintain and rebuild an existing barn. The subject property is located in Land Lot 148 of the 7th District and fronts on Trickum Creek Road and Fayetteville-Palmetto Road.**

Angela Healy said she was here to ask for a variance in reference to the older barn that sits on our property and ask that it can remain and be untouched. It's just a lovely barn and a lot of people on that road remember it growing up on that property. It would be a hardship to have to move because I don't think we could actually move it and get the stone foundation underneath it to actually set right. I'm hoping you will allow us to leave it as is.

Chairman Beckwith asked if there was anyone to speak in favor of this application. Yes sir. If you will state your name and right your address.

Jeffery Simpson said he lives right next to the barn in question. My statement is that I'm a 50 year Fayette County resident and Mike and Angie are my neighbors. I want to speak today about preserving this historic barn. The barn was the reason that attracted Mike and Angie to purchase the property to begin with. They envisioned having a horse farm, and were attracted to the beautiful property, rustic barn, and purchased the property. Later Mike, Angie's husband, had a permit issued to put electricity in the barn. Mike and myself installed outlets and lights, and the permit was granted to install the lights in the barn for Angie. Next, the permit was closed; the tax assessor came out, reevaluated the property, and increased its value.

Chairman Beckwith asked what year was that.

Jeffery Simpson said he wasn't sure. It was about six (6) or seven (7) years ago.

Chairman Beckwith said that's ok because there's some dates in here I want to talk about.

Also in the audience with us tonight is Kelly Potter. Her father was born in the house adjacent to the barn in question. He's now 72 years old. The house and the barn were built by Kelly's grandfather. I'm hoping that myself, Mike, Angie, neighbors, and countless people that traverse Palmetto Road on a daily basis will join us in preserving this historic building and not tearing it down.

Chairman Beckwith said thank you Mr. Simpson. Is there was anyone else to speak in favor? Anyone to speak in opposition? I'll bring it back to the board. The reason I asked Mrs. Healy about the dates is according to the documentation we have something said the subject property was subdivided by a survey and recorded May 4, 2004. At that time county regulation did not require staff approval to subdivide property where resulting lots were greater than five (5) acres in size. Chanelle, is that a significant fact?

Chanelle Blaine said yes, it is. If we were able to review it we would have told them they would have needed to get a variance for the barn in 2004.

Chairman Beckwith stated that since the barn was there before 24 January 2008 the structure now falls within a new easement. Is that a similar situation?

Chanelle Blaine said I'm not quite sure on that. I believe that was written by the petitioner.

Chairman Beckwith asked Mrs. Healy if she knew anything about that.

Pete Frisina stated that they may have been using the term easement to mean setback.

Chairman Beckwith said those were the two things he wanted to ask about. Have y'all built a residence on the property?

Angela Healy said yes sir, we're about a week away from moving in.

Chairman Beckwith asked is it close to the road. Is it farther back?

Angela Healy said yes sir, it's pretty much in the middle of the property.

Chairman Beckwith asked if it was a log cabin type. I drove out and saw it the other day. I don't have anything right now. Does anybody else have any other questions?

Marsha Hopkins asked was it in this building process that you discovered you had to ask for the variance. If the barn had been there since 1939, and you purchased the property in 2004, it wasn't an issue then.

Angela Healy stated that it became an issue when we actually started building our home, probably about a fourth of the way in.

Chairman Beckwith said Mr. Simpson stated that nothing was mention when the approval was given for the electrification. Is that right?

Angela Healy said no sir, no they didn't. My husband's 25 years retired full bird colonel in the army, trust me he follows every little rule and detail.

Chairman Beckwith asked if anyone else had any questions or comments.

Therol Brown stated that he rode by the site and looked at it. It's a beautiful place and I concur that the barns been there, it's rustic looking, it adds to the place she's got. I think she's appropriately asking a variance.

Therol Brown made a motion to approve Petition No. A-655-17. Tom Waller seconded the motion. The motion passed 5-0.

7. **Petition No. A-655-17, Wendell & Karen Ramsey, Owners, requests the following: Variance to Section 110-125. A-R (d) (5) to reduce rear yard setback from 75 feet to 47 feet to allow the construction of a pergola. Variance to Section 110-125. (d) (5) to reduce rear yard setback from 75 feet to 43 feet to allow the construction of a bath house. Variance to Section 110-125. (d) (5) to reduce rear yard setback from 75 feet to 55 feet for an existing pool. The subject property is located in Land Lot 27 of the 4th District and fronts on Mask Road.**

Karen Ramsey stated she and her husband Wendell Ramsey were in the middle of a pool project that was started right before Christmas. The pool was something we decide we would do after we retired. We were thinking about downsizing so we decided we're going to fix it up and do everything we've been wanting to do over the years. We wanted to do it the right way knowing our kids would be the one who would have to take care of it. We had a designer design the pool. We gave them what we wanted to have done; it included a spa, a pool, a pergola, a bath house, and a pump house. When the design was done they told us it was a conceptual drawing, that they would not do the actual building. They would put the pool in and clear for the buildings, we would have to have someone else to build it. Our builder's here, Jay Knight. So I went through and got the bath house connect to our septic tank and that was fine. The pool got built to the point where we were going to have the concrete put around the outside. When they told us they were going to do the buildings I had a survey done and the survey came back and said that the bath house was encroaching about seven (7) feet. I talked to Chanelle and she said the survey was done incorrectly and it had to be turned to where the 100 foot setback was toward Mask Road. When it was turned that way we found the bath house was completely into the setback, the pergola was about 75 percent into the setback, and the pool was actually encroaching and it's already in the ground. I don't know how we're going to move that. We're asking for permission to go ahead and finish this project as we had planned because we can't move anything. We're kind of land locked. We've got area in front of the pool that not very wide and our driveway is there. On the side is our drainage spill. On the other side where they dug in to put our pool in it created kind of a wall in our well

house there with all of our pipes. Then behind us is the only thing we have where we can build any accessory buildings. So we're asking that we be granted a variance to go ahead and complete the pool project.

We're in the back of a 25 acre tract and the people who own the property behind us have been there since before 1992 when we moved there and she said she's not planning to move or sell or anything. She actually signed a paper saying she did not mind if we built closer to the 75 foot setback.

Chairman Beckwith asked if there was anyone to speak in favor of this petition.

Jay Knight said that the Ramsey's were friends and that he was in the home building business and actually we build here in Fayette. The pool permit application did not require a survey. When we were going to permit the vertical construction the bathhouse is just a small building that contains a half bath that the Ramsey's got approved to run into the existing septic system. Basically these buildings are essentially building you could buy at Home Depot and asset in place. It's arguable whether you'd need that type of variance for that type of building except for the fact that they'll have electricity and plumbing. The unfortunate thing is I don't know if they had very many options, even if they had survey the pool before application. Mr. Beckwith I think you visited he sight. Even though they're at the back of a 2500 foot driveway nobody will ever see this swimming pool. You would attest to that. The people who live behind them live literally 3000 feet away from this property. They won't be closer than 43 feet at the closest point with the corner of this half bath. They're very limited on options and they're trying to do the right thing and I don't think anybody would be negatively impacted if this construction continued.

Chairman Beckwith asked if there was anyone to speak in favor of this petition. Anyone to speak in opposition? Let me just tell you, I'm not being nasty or looking down my nose at you, but just because it's 2500 feet from the road or 3000 from another house really doesn't matter. Unfortunately, as you mentioned, the back property line is based on Mask Road 2500 feet away and that's where the 100 foot setback is taking place. We've had another situation years ago in which an 11,000 square foot house was built and they put the pool in the back yard but the house faced away from the road so the back yard was really the front yard according to where the road was. That was one of those strange situations. In this situation I understand where you're coming from, but what I don't understand is how the survey was made. Mr. Ramsey mentioned something about the first person you talked said you can skew the way the pool sits regarding the back of the setback lines.

Wendell Ramsey stated that a surveyor came out to survey to do the out buildings cause we wanted those permitted properly. He evidently had turned the setbacks so that the 100 foot wasn't a question; it was between the side and the back because it's 75 and 50. So it fit when it was done that way.

Karen Ramsey said that when the original survey was done Chanelle let me know it was drawn incorrectly, it was turned sideways. I had talked with the surveyor when he came out and he said he's been doing it for 30 years and I was like surely someone who's been doing it for 30 years knows what they're doing. So I called him and he said 'well I work all over the whole state and there are counties that will allow you to turn the setbacks so that the project will better fit'. So I called Chanelle and she said 'well Fayette County doesn't allow that so he's going to have to turn it the right way where the 100 foot setback is toward the Mask Road area'. So that's when they did that and it made the actual pump house which was just about seven (7) feet of encroachment from the pergola and the bath house they were pretty much completely into the setback. Not only that, it showed that portions of the spa and across the steps of the pool that were already dug and concreted in was also falling into the encroaching area. I contacted the pool people and they said they were 73 feet off and I was like gosh, they knew it was 75 and they were the 73 it only gave me a couple of feet to work with and they knew we were going to have buildings, they cleared for it. And they told us they needed to be twelve (12) foot building to fit their pipes and the plumbing for the pool, yet they didn't say anything about it so that they could have changed the shape of the pool or put the buildings in a different place. It was already cleared and the pool was in. That's where we had a problem because either the company that's building the pool knew we were going to have encroachment problems and didn't tell us or they mismeasured. I couldn't go by what the pool company told me, I had to go by what the survey and that's all that y'all have to go by because otherwise it's just their word.

Chairman Beckwith asked if they depended on their word.

Karen Ramsey replied yeah, it thought they would be honest and professional.

Wendell Ramsey said they told us they would take care of all the permitting and that that wouldn't be an issue, when we started working with Jay we ran into this problem. That's our conundrum.

Karen Ramsey said the other thing is that when I talked to the pool man I asked him if he would be putting in the plumbing and he said oh yeah, we can do that, we may have to tear your driveway up. So I told Jay and Jay said oh, he must have a permit. I said I don't know anything about a permit. So he called him and he said he was going to do everything unpermitted and I said no, no, no I want it permitted because I watched enough HGTV to know that those things are not good. If you don't have a permit they'll make you tear it down and our kids would be the ones to have to deal with that so I was like I want everything done right. So that's why we're here, we would like everything done right.

Chairman Beckwith asked if anyone else had any questions or discussion items. As Mr. Knight mentioned I was out there today and I looked at the situation. Except for a little more work, you have a big whole in your ground that's going to be your pool. Unfortunately, because you depend on the advice of other people, you got it where it is. I think what I did ask Mr. Ramsey when I was out there was the relocation of the other buildings. As he explained to me there was no other place to put them because of the septic tank drain field and other utilities in the area. I understood that's where you are right now. Anything you folks would like to bring up? If not we have three variances to consider.

Tom Waller made a motion to approve the variance to reduce rear yard setback to allow the construction of a pergola. Therol Brown seconded the motion. The motion passed 5-0.

Therol Brown made a motion to approve the variance to reduce rear yard setback from 75 feet to 43 feet to allow the construction of a bath house. Marsha Hopkins seconded the motion. The motion passed 5-0.

Marsha Hopkins made a motion to approve the variance to reduce rear yard setback. John Tate seconded the motion. The motion passed 5-0.

- 8. Petition No. A-656-17, Merrill S. Johnson, Owner, requests the following: Variance to Sec. 110-133. R-70, (d) (6) to reduce side yard setback from 25 feet to 23 feet to allow an existing residence to remain in its current location. The subject property is located in Land Lot 85 of the 7th District and fronts on Flowers Lane.**

Merrill S. Johnson stated he purchased the property a little over a year ago. It was the remaining piece of property from the Flowers Field subdivision. I bought it with the intent of remodeling and trying to keep it in as much of its existing state as we could. I bought it and came up with a couple different plans for it and finally decided the best thing to do would be to take the old porch off the front, part of the back off it, and leave the middle existing structure. So got a permit for that, proceed, and got to the point of needing inspections. The roofs on, started framing, siding, windows are in, and I was informed that I needed to do a foundation survey. I was questioning that and Chanelle was very helpful. I thought 'why, the house is in the same spot it's been for the last 100 years'. So, still had to go through the survey. We had the foundation survey done and come to find out that the plat is incorrect and the existing house sits the setback by one (1) foot and nine (9) inches. Now this is after removing the two stone fire places. On the east side we would have been encroaching by another three (3) feet so since I took the fireplace down at least we reduced that to only 1.9. We stand now with a second floor built on it, roof on it, windows, siding and now I'm encroaching by a foot nine (9) in the side yard setback. The adjacent property owners, the Scarborough's, have submitted a letter, they are supporting the variance. My side yard, their rear has a fifty (50) foot setback and mine is twenty-five (25). So with 75 feet we'd be encroaching. We're asking to grant a variance for the 1.9 to be able to leave the structure where it is. I've done



the majority of the work myself, my son and I. We've got a ton time, energy, cost, etc. in it and at this point to try and have to move it would be very a difficult thing. That's what we're asking for and I hope you'll understand.

Chairman Beckwith asked if there was anyone to speak in favor of this. Anyone to speak in opposition? We'll bring it back to the board. I think what you said was the approved plat was wrong?

Merrill S. Johnson said that's correct. So when the Scarborough's divided that entire Flowers Field the surveyor set that property line. This was two years ago when he set that. So he supposedly came off the house, but if you look at the plat it's twenty-five (25) feet off the house. That is incorrect and it's off by 1.9.

Chairman Beckwith asked if there were any comments. Less than two feet. You know, certain things the county has told the planning department, it doesn't matter much the difference is the planning department can't grant even a small property line. It has to come through this process, that's why we're here.

Merrill S. Johnson stated that he asked Pete about it, whether there was any staff approvals and he said no.

Chairman Beckwith said it was soundly defeated by the Board of Commissioners when we asked to do this. Anyone have any more questions?

Therol Brown asked if it was considerable that the two feet difference was due to measurements from the old road versus the new street that was put in.

Merrill S. Johnson said no sir; they just mislocated the house in the plat.

Chairman Beckwith asked if there were any other questions.

Therol Brown made a motion to approve Petition No. A-656-17. John Tate seconded the motion. The motion passed 5-0.

9. **Petition No. A-657-17, John TerBeek, Owner, requests the following: Variance to Sec. 110-79. Accessory structures and uses.(c) (1) (b) to increase floor area from 1,800 square feet to 3,200 square feet for an existing garage. The subject property is located in Land Lot 52 of the 7th District and fronts on Lees Mill Road and Lake Road.**

John TerBeek stated that he was asking for a variance from 1,800 square feet to 3,200 square feet for a garage.

Chairman Beckwith said explain the situation with the stairs.



John TerBeek stated they got added during the permitting process. It was just a misunderstanding. They're there now. I invested money into putting them there and I don't want to take them out, so I'm here tonight.

Chairman Beckwith said if you'll kind of explain how everything happened and why you're asking for that.

John TerBeek stated that during the permitting process during the garage you have your rough framing, that's what I was going for. So rough framing you get your garage dried in. You're Mr. Scarborough right? He can attest to that, he probably knows more than I do. So rough framing, you get your windows dried in, and I had the siding done and the garage was painted and everything. I called for the permit.

Chairman Beckwith asked if this is a tall garage.

John TerBeek said it's got twelve (12) foot ceilings on the first story, ten (10) foot bay doors, it's got a 10-12 roof pitch, so it's sizeable. I built it, called for rough framing, and failed the first inspection. Just normal stuff that I missed, the top plate wasn't supported. So I added that, called for another inspection. A design note inspection worksheet said to add some stairs so I called my builder, added some steps, fixed the top plate, and added a stud. Called for the next inspection, they found some stuff upstairs. Fixed that, called for another inspection, passed rough framing then I moved on to release electric so I wired the garage myself. Called for that, failed that once, fixed some stuff they requested; they wanted a light and a light switch put over the stairs. I added that stuff, called them again, release electric, and then the stairs had to be added. That's when I called, got it figured out, and filed for a variance.

Chairman Beckwith said so what are you asking about then.

John TerBeek stated so the steps can remain. Cause if the steps are there they're permanent now so it adds square footage to the upstairs even though it's just storage.

Chairman Beckwith asked how many square feet are in the upper level.

John TerBeek said it's 1800 square feet, it covers the whole first floor. Since it's a 10-12 roof pitch I got like a knee wall, jack wall that's like four (4) feet from the outside edge so it's sizeable; about 1200, 1400 above.

Chairman Beckwith asked if he was saying it's a total of 3200 square feet.

John TerBeek said yeah, that's a rough estimate.

Chairman Beckwith asked if that was it. Is there was anyone to speak in favor. Anyone to speak in opposition? I'll bring it back to the board. Channele what's the situation here?

Chanelle Blaine said basically he applied for an accessory structure permit for an 1800 square foot permit and I guess Mr. Scarborough went out to his place and saw that he had a hole in the ceiling and told him he need to add steps. By him adding the step it increased the square footage. And that's where we have this problem.

Chairman Beckwith asked the minimum square feet.

Chanelle Blaine stated that because he had that whole in the ceiling and by him adding the steps it increased the square footage. Which gives us a problem. That's why he's here.

Chairman Beckwith asked if went ahead and built it. Is it an attic or a second floor? Mr. TerBeek?

John TerBeek said I would consider it an attack because that's where I stores garage stuff. If I'm working on something store stuff up there. I mean at what point does an attic become a second story.

Chairman Beckwith said I guess that's the question here. If t stairs stay there's additional square footage. If the stairs go there's not.

John TerBeek said well it'll always be there. It was my intention to use it to store stuff cause I work on things and I don't want to kick it around on the bottom floor so I bring it up there.

John Tate asked if they were outside stairs or inside stairs.

John TerBeek stated they were inside in a corner.

Therol Brown asked what square footage was put on the application for permit.

John TerBeek said 1800. The steps were not on the approved plans for permit.

Therol Brown asked Joe Scarborough if o put 1800 square feet on my application, show you the materials, and so forth. You come out and check it at certain stages; at what point do you tell me I'm exceeding my square footage?

Joe Scarborough said in this situation I can probably shed a lot of light on how we got to this point. Originally the permit was for an 1800 square foot single story detached garage. The plans that were approved showed a pull down opening. This permit went on for a period of time and expired for lack of activity. We extended the permit and right before it expired the second time Mr. TerBeek submitted for a revision, a revised plan, which we approved. The revision stated we were adding different floor joist, ceiling joist, some electrical work, and they were relocating the attic access. In doing the plan review, the plan reviewer, unless stairs

were mentioned as part of the scope of the project, would have looked at those plans and assumed that the new stair opening which was drawn was approved the first time because there was no mention of stairs. Inadvertently it was approved. I go out on the framing inspection and I can't do the framing inspection because there's a second story and a framed opening for stairs. I rejected the inspection and said incomplete inspection; install the stairs to allow me to complete the inspection. That's what Mr. TerBeek did. He had his contractor come in and install stairs in his framed stair opening. The recall framing inspection was done by one of my other inspectors, I haven't gone out since. The final electrical inspection was called in for and Mr. James Massey, my electrical inspector, had approved the rough. On the next inspection, since the stairs had been installed, there should be different code requirements and Mr. TerBeek did that. On the electric release, that's when we go out and make sure everything's buttoned up and safe electrically to release it to the power company, the plans examiner, who's also an electrical inspector happened to go out. He said 'what a minute, we were supposed to have pull down stairs and now we have permanent stairs and we don't have a revision reflecting that' so a hold was put on it. We brought it to planning and zoning's attention that it wasn't in compliance, it exceeded what the ordinance allowed, and we haven't been paid for the additional square footage and that's what brought us to tonight. This is not unusual for a homeowner taking out a permit and doing his own work. Contractors know there's a difference between pull down stairs, a scuttle hole, or permanent stairs. Permanent stairs change it to a second story, and those ceiling joist become floor joist at that point. Does that help?

Chairman Beckwith said it does for me. So basically if they had pull down stairs it wouldn't be a problem.

Joe Scarborough said that's correct.

Chairman Beckwith said with pull down stairs it exceeds.

Joe Scarborough stated that with pull down stairs it exceed the zoning ordinance.

Therol Brown asked Mr. TerBeek if he was just using it for storage what's the problem with pull down stairs.

John TerBeek stated that with the twelve (12) foot ceilings if I store a car bumper or engine block it's a little hard to climb up with a pull down ladder. With a 100 pound engine block or a cumbersome car bumper permanent steps are probably safer.

Chairman Beckwith said one of the things we always look at is a matter of convenience or a matter getting to do something just because the proponent wants to do it. Generally we don't consider that as a reason to allow a violation of the law, which is what a variance is. That's what I'm thinking in this particular case. A pull down stair would allow you to access the upper level even though you

ZBA Meeting

June 26, 2017

Page 15

don't want to carry something heavy or cumbersome up there, but it would still allow you to use that. Is that correct?

John TerBeek said not safely.

Chairman Beckwith said be careful. I mean the safety is up to you.

John TerBeek said that's why I put in permanent steps.

Chairman Beckwith stated that by doing so you basically increased your area by 1400 square feet.

John TerBeek said I'm here tonight to get that variance.

John TerBeek said right I understand that. Any other discussion or comment? Do I hear a motion?

Therol Brown made a motion to deny Petition No. A-657-17. John Tate seconded the motion. The motion passed 5-0.

John TerBeek asked where do I go from here.

Chairman Beckwith said talk to Channele.

Channele Blaine said he needs to be in compliance within thirty days of the request.

Pete Frisina said the ordinance allows thirty (30) days minimum.

Chairman Beckwith asked a minimum of thirty (30) days. Can we go to sixty (60)? Do we need a motion for that?

Chairman Beckwith made a motion to grant petitioner 60 days to come into compliance. John Tate seconded the motion. The motion passed 5-0.

John TerBeek asked if there was a way to appeal that. Can I come back next month?

Pete Frisina said Superior Court.

John TerBeek asked if this was in Fayette County. Who do I talk to for that?

Chairman Beckwith said before we get into that Mr. TerBeek has sixty (60) days to get into compliance. All those in favor say I. The motion passed 5-0.

10. **Petition No. A-658-17, Gin-Jer Investments, LLC, Owner, and Chris & Marlene Welch, Agents, requests the following: Appeal from the actions of the Zoning Administrator regarding the denial of an internet broker of personal modes of transportation such as golf carts, personal water craft, atv's and vehicles to operate**

ZBA Meeting

June 26, 2017

Page 16

**in the Office-Institutional Zoning District. The subject property is located in Land Lot 70 of the 7th District and fronts on SR 54 West.**

Chairman Beckwith said just as an introduction, this is a different item that we're looking at. It's a petition, but the petitioners are appealing the actions of the zoning administrator. In other words, they're saying they don't feel the actions of the zoning administrator are correct and they would like the Zoning Board of Appeals to change the actions of the zoning administrator. Is that basically what your item is?

Marlene Welch said yes sir.

Chairman Beckwith said ok, I just wanted to bring everybody up to date on what the idea is.

Marlene Welch said that sounds really confrontational and I'm sorry. We talked to Peter and his associate for weeks and I just want to make sure it's not confrontational. I just want to understand it and be as understanding as we can. I'm Marlene Welch, this is my husband Chris and for months we've been in discussion with a very nice property that owned by Jerry Chandler and his family. I think he's owned it twenty (20) years, maybe thirty (30), and we're interested in buying the property. It has five (5) offices, a conference room, and a lunch room that's sitting on a very level lot of less than an acre and it's about 2000 square feet. We have looked for over a year for property in Fayette County, Fayetteville, Peachtree City, and Newnan that would be attractive and have very good access to Highway 54 west. The property is at 1826, it's vacant, and it's being offered by Jerry. In fact Jerry would have been here, but he's at a reunion out of state so he apologies.

We're here because we want to establish our business in one of the offices. We've been used car dealers for fifteen (15) years in the same location in Newnan, Georgia. We sold that location because our customer base is to the east of Newnan. We have a lot of customers here in Fayetteville. In the last two years we added golf carts and jet skis and we were looking for a location that would be pleasant to us that wasn't in a commercial warehouse or down a street. We were looking for a location that would be acceptable to our customers who would find us on the internet or possible driving by, there's a very nice monument sign out there, where they could look on the internet and review our inventory or we would find some mode of transportation at their request. We have no intention of putting cars there, there's no space for it and that's not what we would want to do. We're using it as an office since we don't need a lot anymore; an office to market and transact business on any mode of transportation that we can come across and that we have a request for. It's primarily golf carts, jets skis, automobiles, and boats, but nothing would be kept there on the grounds. Like I said, there are very few spaces and it wouldn't be conducive to parking car there. We think the building is too attractive and what we wanted is more of a professional office. We found the building, met Jerry, spoke with and went through it, and said to him 'could you please find out what the zoning is'. He said it was I-O.

Chanelle Blaine said O-I, office-institution.

Marlene Welch stated O-I, office-institution that's what we want is an office. In reading over and over your zoning requirements we couldn't find what we wanted to do. The closest we found was a real estate broker, which is very kin to what we do, but we don't do homes, so we didn't think

there would be any problem with purchasing the property and putting in a small office. When you're a used car license holder you have to have a location. Right now we have an office in Coweta County, we have a business license. Coweta County knows we aren't storing or placing any kind of unit at all, no car nothing on the grounds other than what we drive or a customer who might want to come in and speak with us. The pick-up point would be in a separate location that we have and we've used it for many, many years for them to take deliver. There is a requirement as a dealer, and also to have a professional appearance, to be able to conduct our business over the phone, via the internet, and occasionally if they want to meet us face to face which we think is important. These are expensive units. There is one space Jerry has in the building and it's enclosed in glass. It's very nice, it has a cement floor and there are steps where you walk up to the conference room. In that heart we were thinking, if we were allowed to do this, perhaps an example of what we can do in terms of customization of a golf cart. And these run \$6,000-\$8,000 for what we could do for a jet ski. That's basically what that last area would be. I would want to put an office desk there. There's nothing for sale that we would be doing or I would be showing right there. It's all done via the internet. So the problem we have, or challenge, is that we went to the Planning Commission and they were kind of divided because even though we won't put cars on there and we're saying we won't put car on there, that is not our primary purpose, they were concerned we were going to put cars on there. I'm having a real problem with that because there's no reason we would ever do something we're not supposed to. We're from the corporate world, we're very respectful to the counties and where we are in the city, and it isn't even a good location to even put a car on. The problem was, as I understand it, is we have a used car license. We have a used car license for cars for years, but also for golf carts and jet skis in their very raw form. Without a lot of adders you need a license to that through an auction, not private party. That's why we hold a used car license. This location would be for growing our business in this other aspect. If we do cars it would strictly be over the internet which many, many people do.

Chris Welch stated most of you know the internet is growing by leaps and bounds. The car market, the market for many of these personal toys people buy is not 'go out and look at the anymore' unless they've through the internet and explored many different websites. What the professional license allows us to do is have access to many, many different vehicles that a common person wouldn't have because they don't have the license to look at auctions throughout the nation or the country. They would use us to access those vehicles they could not find themselves on the internet. So our sales and primary inventory is through the internet and we just hook up the people with the sale of that vehicle through our internet connections which we have that they wouldn't have without the access to that license that we carry, for which we're bonded and insured to the state.

Chairman Beckwith said thank you. Is there anyone to speak in favor of this petition? Is there anyone to speak in opposition? Yes ma'am.

Christy Dunkelberger said I own the property next door to the subject property, they are both zoned office and institutional, one is a law office and one is a medical facility. My concern is exactly what Ms. Welch spoke to, in that the concern that once they have the approval to use the professional license as a used car dealer that there will be sales of used cars, or they could indeed have the authority to have their equipment, whether it be cars or jet skis or whatever other



ZBA Meeting

June 26, 2017

Page 18

equipment they sale on the property which would be different from what the current strip of buildings offers in that area. For those reasons I speak in opposition to changing the denial that's already been given.

Chairman Beckwith said thank you Mrs. Dunkelberger. Is there anyone else to speak in opposition?

Marlene Welch stated that I'm sure Ms. Dunkelberger realizes that building is very pretty and this building doesn't look like a car lot. It's beautiful. It's actually like vernal in the back. It has grass, it's surrounded by trees, it has a fireplace inside, and this building is also for investment. The offices are hopefully going to be used by an accountant and professional people because these offices are very pretty and the rental rate according to Jerry the owner will be such that it would not be behoove one to move in there and kind of be. There has to be a certain decorum kept in this building. There are wood floors; beautiful French doors for a conference room so inside it would be done in a very professional, very nice way. Now, on the outside we have never advertised anything on the outside of any building we have ever owned, other than on a monument sign which happens to be there. There will be no mention of used cars. It's under a whole different company. I understand about car people. And this is not a car lot, you gravel and car out there, we wouldn't do that. This isn't an area we would do it in anyways, but I have to bring up one point. For more than fifteen (15) years we have dealt with code enforcement, thank God for code enforcement. In every building we've ever had we've been a city or close to a city where there's code enforcement. Code enforcement needs to be respected, and as a business owner Ms. Dunkelberger, we'd be investing quite a bit of money in this building. We would be absolutely stupid to do anything that we feel the county, code enforcement, anyone going home, or going to a restaurant would see that would be not approved by any zoning or planning commission. And that I think is really important that we understand and we have worked for many, many years, including the last fifteen (15), with the City of Newnan to make sure that we abided by every rule because we want to be there. We're not just leasing and we are not just buying for short term, we hope to be there a long time. We've saved our money to have a location that is this attractive and that is purchased rather than just go in and lease a building and have cars and mechanics or whatever people do. That's not what this is about. This is probably a unique instance in the sense that most people in our position in the last five (5) years, once they leave there lots, they go into a leased office. That's not what we're about. Our customer, even though they're on the internet, they're usually local or at least within Georgia; Columbus, Macon, some in Tennessee and Alabama. A lot people, because our units are higher priced, the want to meet us, they want to see where we are. I mean being fifteen (15) in one location, I think with same bond company, same insurance company.

Chairman Beckwith said excuse me, Chanelle are you timing this.

Chanelle Blaine said no, I haven't been. I'm sorry.

Marlene Welch stated I think that really important. If a person like us, and we're incorporated, says we aren't going to do something, why would anyone think we are, I just don't get that. And I'm



sorry there's a stigma attached, and I don't blame people who have a stigma attached for a used car dealer. That's about where we are.

Chairman Beckwith said thank you for your comments. I'll bring the item back to the Planning Commission. Does anyone have any questions of Mr. and Mrs. Welch? I have a couple, according to in your letter you said 'our professional Georgia license allows us to deal a with a professional used motor vehicles license'. Is that correct? Is that what you license is?

Marlene Welch said yes.

Chairman Beckwith stated you said 'your professional license is a used motor vehicles license issued by the Georgia Secretary of State. And we provides a service to locate a specific buyer with custom vehicles and specialty collector cars i.e. a 1953 Hudson convertible', which is a used car.

Marlene Welch said in that letter though, don't we mention jet skis and golf carts.

Chairman Beckwith stated which are other vehicles, yes that's correct. Which brings me.

Marlene Welch said unfortunately.

Chairman Beckwith said excuse me, we're not. I'm presenting our situation here and we're not allowing you to speak unless we ask. Your presentation is over unless we have questions. In the statement here regarding what the zoning administrator said in the summary it says 'it is the

Zoning Administrator's position that vehicle sales of any kind are not allowed in the O-I zoning district unless they are specifically listed as a Permitted Use or a Conditional Use. This position is based on the following: either a use or class of uses is not specifically indicated as being permitted in a zoning district, either as a matter of right or as a conditional use, then such use, class of uses, or structures for such uses shall be prohibited in such zoning district, except as otherwise provided herein'. Used car, used vehicle, vehicle sales, and all other vehicle sales are located in either Highway-Commercial or M-1 which is Light Industrial zoning district. So basically what the zoning administrator said is that what you're asking for is not allowed O-I zoning district. To me that's perfectly clear.

Marlene Welch said well.

Chairman Beckwith said and to me if that's the case I move that we reject your appeal to the zoning administrator's decision.

Marlene Welch said Mr. Beckwith.

Chairman Beckwith made a motion to deny Petition No. A-658-17. John Tate seconded the motion. The motion passed 5-0.

11. **Petition No. A-659-17, Richard E. Carne, Owner, requests the following: Variance to Sec. 110-79. Accessory structures and uses. (c) (1) (c) to allow the construction of a 3,600 square foot detached garage on a lot with less than two (2) acres of contiguous area. The subject property is located in Land Lot 167 of the 4th District and fronts on Stable Creek Road.**

Chairman Beckwith said I understand it has been requested to table.

Pete Frisina stated it's specific to the November meeting.

Chairman Beckwith said for the November meeting. There's not a time limitation on that is there?

Pete Frisina said no, because we're not going into public hearing.

Chairman Beckwith said they haven't said anything. So they want to table this until the meeting in November.


Chairman Beckwith made a motion to table Petition No. A-659-17 to the November 27, 2017 meeting. Therol Brown seconded the motion. The motion passed 5-0.

\*\*\*\*\*

There being no further business, Therol Brown made the motion to adjourn the meeting and the meeting adjourned at 8:45 pm.

**ZONING BOARD OF APPEALS  
OF  
FAYETTE COUNTY**

  
\_\_\_\_\_  
**CHAIRMAN**

  
\_\_\_\_\_  
**CHANELLE BLAINE, ZBA SECRETARY**