

**THE FAYETTE COUNTY ZONING BOARD OF APPEALS** met on September 25, 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

**MEMBERS ABSENT:** Therol Brown

**STAFF PRESENT:** Chanelle Blaine, Zoning Administrator  
Chakevia Jones, Planning & Zoning Coordinator  
Patrick Stough, County Attorney

**Welcome and Call to Order:**

**1. Consideration of the Minutes of the Meeting held on August 28, 2017.**

Tom Waller made a motion to approve the minutes. John Tate seconded the motion. The motion passed 4-0. Therol Brown was absent from the meeting.

Bill Beckwith asked if Chakevia Jones would read the rules on a full board.

Chakevia Jones replied that she did not have those rules.

Bill Beckwith stated that he would do it. He said that the rule is if there is not a full board for any petition to be acted upon there must be three (3) positive votes and a two (2) to two (2) vote does not apply. He added that since there is not a full board, each of you has the option to table and wait until there is a full board to have your hearing/petitioner heard. He stated that for us to approve your petition you will need three (3) or four (4) votes. He said if there is less than three (3) the petition automatically fails. He asked that everybody consider that before they come up. He stated that he would ask everyone if they wanted to continue with less than a full board.

**PUBLIC HEARING**

**2. Petition No. A-663-17, Ginger Pope, Owner, requests the following: Variance to Section 110-125. A-R (d) (6) to reduce side yard setback from 50 feet to 32 feet for an existing attached garage to remain. The subject property is located in Land Lot 168 of the 4th District and fronts on Chappell Road.**

*Petitioner requested A-663-17 be tabled to the October 23, 2017 meeting.*

John Tate made a motion to table Petition A-663-17 to October 23, 2017. Marsha Hopkins seconded the motion. The motion passed 4-0. Therol Brown was absent from the meeting.

3. **Petition No. A-665-17, Kurt & Deborah Johnson, Owner, requests the following: Variance to Sec. 110-125. A-R, (d) (4) (b) to reduce front yard setback from 75 feet to 74 feet to maintain the construction of a new residence. The subject property is located in Land Lot(s) 35 & 62 of the 7th District and fronts on Platinum Ridge Point.**

Bill Gilmer stated that I was the builder for the Johnson's on this lot.

Bill Beckwith asked if he was an agent for them.

Bill Gilmer replied yes and that I filled out the agent form. He passed out letters from neighbors to the left and right and across the street to the board. He stated that they were from all that would be impacted. He stated that lot seven (7) in Platinum Ridge was a burnt down lot with full landscaping, and we took out the old foundation and dug in the new. He said that I had made measurements and thought that I was two (2) to three (3) feet off the line and turns out I was a little close point three (3) feet over on one (1) corner. He added that I was not sure if it was me or my foundation crew who accidentally twisting the house because it was very wide, but that is how I may have had an error measuring around those trees and bushes. He stated that the reason they placed the house close to the building line because there is a dry creek with an easement running across the center of the lot, basically bisects the lot and makes for a less usable backyard. He said I was trying to place the house to the Johnson's benefit so they could have a backyard and a decent size front yard. He added that the only error is point three (3) feet on one (1) small corner of the garage it's almost imperceptible. He stated that it wasn't an intentional land grab.

Bill Beckwith asked if there was anyone else who would like to speak in favor of the petition.

Kurt Johnson stated I am the owner of the house that Bill Gilmer is building. He stated that Mr. Gilmer is doing a fantastic job and the house looks beautiful in the neighborhood. He said that it was a mistake/error of point three (3) inches, and hopefully we can move forward so we can move into the house; hopefully by Christmas time.

Bill Beckwith asked if he was the owner of the lot when the house had burned.

Kurt Johnson replied that I was not.

Bill Beckwith stated that he remembered the fire.

Kurt Johnson said that it was a tragic fire.

Bill Beckwith asked if anyone else would like to speak in favor. Hearing none, he asked if anyone would like to speak in opposition. Hearing none, he brought the matter back to the board.

Bill Beckwith asked Bill Gilmer if the dry creek bed was a wetland.

Bill Gilmer replied no, it's a ditch where there is a creek for a day or so after it rains and it kind of dries out. He said that it only drains that lot and three (3) lots above it, however, the way the rules are every little ditch is a pristine trout spring, or treated as one (1).

Bill Beckwith stated that he mentioned that it was a dry creek and he knows how EPA and the Core of Engineers get into things like this.

Bill Beckwith asked if anyone else had any questions for Mr. Gilbert.

Tom Waller asked is this the first time the building you are putting up has been misplaced.

Bill Gilmer replied that it was the second time; the first was about 12 years ago and it was a mistake on my part from reading the plat in that case. He stated that every other lot in the neighborhood of Rebecca Lakes had a 60 foot setback and this one (1) jumped to a 65 and I missed it. He said that on that case it was rectified by taking land from the lot next door to make the building line 125 feet; by swapping land between the two (2). He added that it was an accident also, but it was an accident on me reading the plat this one (1) is more of an accident of measurement; trying to work around big trees and mature plants and all.

Bill Beckwith asked if this was three (3) tenths of a foot or three (3) point six (6) inches.

Bill Gilmer replied yes three (3) point six (6) inches.

Bill Beckwith asked Mr. Waller if there were any more questions.

Tom Waller replied no.

Bill Beckwith asked if there was any more discussion. Hearing none, he asked for a motion.

Tom Waller made a motion to approve Petition A-665-17. John Tate seconded the motion. The motion passed 4-0. Therol Brown was absent from the meeting.

4. **Petition No. A-666-17, Mark & Jerrie L. Cauley, Owners, request the following: Variance to Sec. 110-79. Accessory structures and uses, (4) (d) Location on lot to allow an existing pool in the front yard to remain. Variance to Sec. 110-79. Accessory structures and uses, (4) (d) Location on lot to allow an existing shed in the front yard to remain. Variance to Sec. 110-79. Accessory structures and uses, (c) (1) to increase the amount of accessory structures per individual lot from 2 to 3. The subject property is located in Land Lot 248 of the 5th District and fronts on Jericho Lane.**

Mark Cauley stated I live at 105 Jericho Lane and introduced his wife Jerrie Lynn. He said that I would like to proceed with the variance petition.

Mark Cauley stated that I was here tonight to take care of a pool that I built without a permit that I didn't know I needed a permit. He said that I was a business owner and that I did most of the work myself and outsourced a couple of things for the pool. He added that I kept it away from the property line that was sufficient enough and not close. He stated that I was here to resolve this matter and answer any questions that they may have on what I need to do. He said that I had pictures of the shed and gazebo and could remove one (1) of those if he needed to, but the main source here is the swimming pool. He added that I wanted to rectify this pool and get this taken care of.

Jerrie Cauley stated that we were told that I was building a pool in my front yard and truly we would never do that.

Mark Cauley stated that he didn't know he had built the pool in the front yard until he spoke with Chanelle.

Jerrie Cauley stated that they had a dry culvert that runs at McBride also and there was already an existing three (3) car garage that was permitted. She said that they truly tried to build it behind their house, and it's behind the garage. She added that they truly never thought they were putting it in the front yard; but everybody has told us. She stated that they do not have a back yard at all. She said that the gentleman that lives behind them got a variance many years ago to build his garage; a 25 foot variance, and if we would have built the pool back there we would have been on top of him. She added that they did move it but just barely over. She stated that they have spent a lot of money putting in big trees such as arborvitaes and leylands; so that in five (5) years he won't be able to see any of our property. She said that it is all completed manicured and wish she would have brought neighbors because they stop all of the time; it's not an eye sore. She added that from the street you see the blue side and that is the only way you know that a pool is back there.

Mark Cauley stated that I got my hip and knee replaced last year and the pool was built for him rehab.

Jerrie Cauley stated that they were wrong to not have it permitted.

Mark Cauley agreed.

Jerrie Cauley stated that she thought living in the country you could because you're not in the city limits. She said that was wrong and they admit that.

Mark Cauley stated that they are here to rectify but the pool has been there three (3) years. He said that lately his neighbor has gotten upset with him about a dry creek that runs down McBride Road that they had through some stuff in, and when it rained really hard some time back washed on his side. He added that he hired his son to come over and help me get all of this stuff out the creek and rectify the dam where all of this stuff crossed at. He stated that he was working with the guy at one (1) time but over a period of time has gotten mad and did what he did. He added that he sent a letter saying that I was damaging his property almost running into his garage the water so this is where all of this is coming from.

Bill Beckwith stated that they did receive a letter from him. He said just to let you know it is an unfortunate situation but it doesn't really apply to what we are going to look at tonight. He added that you will have to deal with him and he will have to deal with you. He asked Patrick Stough if that was right.

Patrick Stough replied from what I understand yes.

Mark Cauley stated that he is trying to do that already and had talked to him on last week. He said that he understands their concern but his pool did not cause any water to run into his garage. He added that he had a bunch of stuff behind it that was piled up and it had settled there.

Bill Beckwith interjected like I said that's between you and him.

Mark Cauley said thank you.

Bill Beckwith asked if anyone else would like to speak in favor. Hearing none, he asked if anyone would like to speak in opposition. Hearing none, he brought it back to the Zoning Board of Commissioners.

Bill Beckwith stated that we have three (3) variance we'll look at one (1) has to do with the pool being in the front yard, secondly an existing shed to remain and third to increase the amount of accessory structures from two (2) to three (3). He said that we will cover each one of those. He added that the main and initial problem that you are concerned with and we are too is the front yard. He asked if he understood.

Mark Cauley replied I do now thanks to Channele Blaine. He stated that our mailbox and mailing address is Jericho Lane and I'm thinking that is my front yard, but my front yard is based off of McBride. He said I have a huge front yard y'all and zero (0) back yard. He added that this is where we at now and yes I do.

Bill Beckwith stated that they could have seat; and that they would discuss up here. He said that their situation is not the only one (1) we have dealt with two (2) front yards. He added that if you think how bad it is for you consider a subdivision with three (3) front yards. He stated they have a street, street, and a street; it's ridiculous.

Mark Cauley replied that he never thought about that.

Bill Beckwith stated that it's the way the ordinance is written and I have written a letter to Mr. Frisina and hopefully to the Board of Commissioners to take a look at this situation it doesn't seem to be appropriate for what you're trying to do but you can't. He said I don't think there would be one (1) and a hundred people who consider looking into the ordinances when they build something and finally realize they have two (2) front yards. He added that's the way it is and we just have to deal with it right now.

Jerrie Cauley stated that we would not have purchased the property had we've known. She said that I am a gardener and it's the reason I pulled up in the driveway and I saw the hundred year old oak tree I called my husband and said were buying this house. She added that Mark asked how she got in it. She replied that I am that can be fixed but that yard can't. She stated that I can visually see the garden, but had I known we have seven (7) grandchildren; and we had intended to put in a pool. She said unfortunately we didn't think we were putting it in our front yard, because we already had a three (3) yard garage in our front yard.

Bill Beckwith asked they take a seat and we will call you if we need to discuss.

Bill Beckwith asked the Zoning Board of Commissioners if there were any question or discussions you would like to consider in this case. He stated that we would go one (1) by one (1) on these variances and the first one (1) is to locate an existing pool in the front yard and let it remain there. He asked how do y'all want to discuss this.

Marsha Hopkins stated that the only reason this came to light was because of the neighbor. She said that it could have been a hundred years and no one (1) would know.

Mark Cauley replied yes

John Tate asked approximately how far back the pool from McBride Road is.

Mark Cauley replied that he had a survey done and I'm hoping that's on the survey because from McBride Road is 729.92. He asked if he would like to see this.

John Tate replied that we have that. He asked if there were a lot of trees from that point of the pool up to McBride Road.

Mark Cauley replied a bunch a lot of trees from that pool to McBride Road. He stated that he hadn't taken any of those trees down whatsoever.

Marsha Hopkins asked if the minimum lot size in your area the adjoining lots five (5) acres.

Mark Cauley replied yes mam they are all five (5) acres.

Marsha Hopkins asked if it was a subdivision.

Mark Cauley replied I guess it is a subdivision.

Chanelle Blaine interjected Caleb's Meadow is the subdivision.

Tom Waller asked if his home was on sceptic tank.

Mark Cauley replied yes.

Tom Waller asked where that field line would be.

Mark Cauley replied that the sceptic tank sits right outside of the bay window of the house.

Tom Waller asked if the garage was plum.

Mark Cauley asked what is plum.

Tom Waller asked does it have water.

Mark Cauley replied yes it has a sink in there and a toilet. He stated and that sceptic tank I don't know, because I wondering where it goes too. He said that it just runs out the back of the property there and I don't know if there is a sceptic tank or not. He added that it was built prior to them purchasing the house and we assumed it was okay.

Bill Beckwith said thank you. He asked if John Tate had any more questions.

John Tate replied no.

Bill Beckwith asked if we were at a point of a motion for the first variance to allow the pool to remain. He stated that it seems like again that these are one (1) of those situations where a logical homeowner who has a driveway going out to the road and a mailbox there with an address on that road a logical landowner would consider that his front yard. He said this is why we got this problem in a lot of cases. He added that he can understand why the Cauley's would consider that their front yard. He stated that it was unfortunate but that is how the rules read and I hope that something changes that but for right now there is not.

Bill Beckwith made a motion to approve Petition A-666-17, Variance to Sec. 110-79. Accessory structures and uses, (4) (d) Location on lot to allow an existing pool in the front yard to remain. Marsha Hopkins seconded the motion. The motion passed 4-0. Therol Brown was absent from the meeting.

Bill Beckwith stated variance number two (2) location on lot to allow an existing shed in the front yard to remain. He stated that he wasn't sure on where that was located.

Mark Cauley said it's on the survey. He said that it was a storage shed for my wife's Christmas stuff.

Bill Beckwith stated you mentioned a gazebo as well.

Mark Cauley replied yes.

Bill Beckwith asked if the shed, the gazebo, and the garage are the three (3) structures.

Mark Cauley replied yes sir.

Bill Beckwith said you could live without...

Mark Cauley stated that he could live without the shed. He said that the gazebo is

built around all of her manicuring of the yard. He added that it fits in and if I had to get rid of the shed I'll get rid of the shed.

Bill Beckwith stated that we don't make deals, but since you brought it up.

Mark Cauley stated that he kind of needed that shed at my business. He said that it is right by the three (3) car garage and it's probably 12 foot long by eight (8) foot wide and it's a utility storage shed for Christmas decorations.

Marsha Hopkins asked if this only came up as a result of the pool issue as well.

Mark Cauley replied yes mam.

Bill Beckwith stated that in this particular case if we deny that variance then the third variance is moot.

Patrick Stough stated unless he wants to move the shed. He said if he wants to move the shed he would still need the variance from two (2) to three (3).

Mark Cauley stated that he would like the shed to stay and the gazebo. He said where he wouldn't have the expense of moving it and getting in there without tearing up my fence and putting a tree down.

Bill Beckwith asked if we were to deny that variance for the shed that means you would have to remove it.

Mark Cauley replied that he would remove it totally off the property.

Bill Beckwith asked the ZBA how we stand on this one (1) variance number two (2). He stated that if they approve it, it's a situation we would have to deal with in the third variance if not; and there are three (3) accessory structures which are not approved by the ordinance. He asked what y'all would like to do.

John Tate made a motion to deny Petition A-666-17, Variance to Sec. 110-79. Accessory structures and uses, (4) (d) Location on lot to allow an existing shed in the front yard to remain.

Bill Beckwith asked if anyone would like to second the motion.

Tom Waller asked if the shed was on a slab too.

Mark Cauley replied that it was on eight (8) by eights (8) that you can just slide on. He said that no it is not on a concrete pad.

Tom Waller seconded the motion. The motion passed 4-0. Therol Brown was absent from the meeting.

Bill Beckwith stated since that's the case and you will remove it the other structures that you have will stay.

Patrick Stough asked if we could at please get a vote on that.

Bill Beckwith asked on which one (1).

Patrick Stough replied on the last one (1).

Bill Beckwith stated that we can do that. He said for the last variance to increase accessory structures from this individual lot from two (2) to three (3); we would need a vote on that.

John Tate made a motion to deny Petition A-666-17, Variance to Sec. 110-79. Accessory structures and uses, (c) (1) to increase the amount of accessory structures per individual lot from 2 to 3.

Tom Waller asked if we were talking the gazebo here.

Bill Beckwith replied that the gazebo and the garage would remain, but we need a vote on the third variance.

Marsha Hopkins seconded the motion. The motion passed 4-0. Therol Brown was absent from the meeting.

5. **Petition No. A-667-17, Linda L. Keener, Owner, requests the following: Variance to Sec. 110-125. A-R, (d) (6) to reduce side yard setback from 50 feet to 49 feet for an existing pool. The subject property is located in Land Lot Land Lot 126 of the 5th District and fronts on Highway 85 Connector.**

Linda Keener introduced her real estate agent April Parker

Linda Keener stated that through the process of trying to sell my property it was brought to my attention that a variance would be needed for my pool if any future owner wanted to build any type of building or obtain a building permit for the property. She said that the difference is a foot.

Bill Beckwith asked do you know how that came about.

Linda Keener replied that she would let April Parker answer that.

April Parker stated that they had two (2) different agents/buyers who were interested in the property and they noticed how close the pool was to the property line, and I wanted reassurance that everything was good with the pool distance from the property line. She said I contacted Chanelle Blaine and had questions on the process. She added that Chanelle said that we would need to know the distance of the pool to the property line. She stated that we had a survey done and found out it was 49 feet and that the require setback was 50 feet. She said that Chanelle let us know that everything was alright at that moment, but if any future owner wanted any type of building permit that they would have to go through this process. She added that Chanelle also let them know that 1980 was the magic number and with aerial footage they were not able to verify, although Ms. Keener would love to tell you why she believes the pool was built prior to 1980.

Linda Keener stated that she bought the home 30 years ago in 1987 from the original owner, and that pool was in bad shape when we bought it; so it had to been built sometime in the 70's. She said we completely redid the pool; we didn't make it any bigger. She added we had to redo all the concrete and the liner and all of that.

April Parker stated that property records show that it was added to the tax records in 1982.

Bill Beckwith asked if anyone there would like to speak in favor. Hearing none, he asked if anyone would like to speak in opposition. Hearing none he asked if they had anymore to add. He asked do you know if the 49 feet is to the edge of the concrete around the pool.

Linda Keener replied yes and there is nothing back there but woods.

Bill Beckwith asked if Tom Waller had any questions.

Tom Waller asked if it was the edge of the apron or the actual cavity of the pool, where the pool is in the ground. He asked could you shave that apron off.

Linda Keener replied no.

Chanelle Blaine stated just FYI we measure from the decking / apron of the pool.

Bill Beckwith asked if there were any other comments. He stated to recap you bought the home in 87 and the pool was already there in whatever condition, and someone built it before you all bought the home. He asked if the setback has always been 50 feet for A-R property. He asked if there were any other comments or questions. He asked for a motion.

Marsha Hopkins made a motion to approve Petition A-667-17. John Tate seconded the motion. The motion passed 4-0. Therol Brown was absent from the meeting.

Bill Beckwith asked if there was any other business.

Chanelle Blaine replied there will be at least one (1) petition including Ms. Pope.

Bill Beckwith asked will she be there.

Chanelle Blaine replied she will be there.

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There being no further business, Marsha Hopkins made the motion to adjourn the meeting and the meeting adjourned at 7:43 pm.

**ZONING BOARD OF APPEALS  
OF  
FAYETTE COUNTY**

  
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**CHAIRMAN**

  
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**CHANELLE BLAINE, ZBA SECRETARY**