

THE FAYETTE COUNTY ZONING BOARD OF APPEALS met on December 16, 2013, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

MEMBERS PRESENT: Vic Bolton, Chairman
Brian Haren, Vice-Chairman
Bill Beckwith
Larry Blanks
Tom Mahon

STAFF PRESENT: Pete Frisina, Director of Community Services
Dennis Dutton, Zoning Administrator/ ZBA Secretary

Welcome and Call to Order:

Chairman Vic Bolton called the meeting to order and introduced the Board and Staff.

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1. Consideration of the Minutes of the Meeting held on October 28, 2013.

Larry Blanks made a motion to approve the minutes. Bill Beckwith seconded the motion. The motion unanimously passed 5-0.

2. Consideration of Petition No. A-599-13, Spotty Merle, LLC, Owners and Ben Ferguson of Camp Southern Ground, Agent request variances to allow the following: (1) allow existing accessory structure to remain in the front yard; (2) reduce front yard setback from 75 feet to 65 feet for the existing accessory structure; and (3) Allow existing pool to remain in the buffer. This property consists of 494.39 acres, is zoned PUD-PRL, and fronts on Ebenezer Church Road, Arnold Road and Green Meadows Lane.

Dan Davis said his company is the consulting engineer for Camp Southern Ground. He said the property was zoned PUD-PRL in 2011 and is approximately 500 acres in size. He added that the project has frontage on an Arterial Road which is Ebenezer Church Road, the existing lot on Ebenezer Church Road contains a residence, pool, and an out building and the pool was made noncompliant by the rezoning because it is in the buffer and the private road caused the out building to be noncompliant because it is now in the setback and in the front yard. He said they are now here to get the proper variances so the project can move forward.

He added that they requested to be tabled at the last meeting so they could reach out to the neighbors and we have a letter from the adjacent property owner supporting the variances and we have a landscape plan to enhance the planting to create a screen along the property line by the pool. He said he has a drawing he would like to pass out the board at this time and the drawing shows the new road on the right side and indicates the new front yard setback going through the out building and shows the pool in the buffer and we are proposing to enhanced the plantings to screen the pool.

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Chairman Bolton asked if the road is built.

Dan Davis said the road has been built and is in place and the location of the road was dictated by sight distance requirements, the dam and some wetlands.

Chairman Bolton said so the western boundary is where you plan to provide the plantings as screening.

Dan Davis said that is correct.

Bill Beckwith asked who lives in the existing residence on the subject property.

Dan Davis said the Director of Camp Southern Ground.

Brian Haren asked if the residence will remain as a residence.

Dan Davis said it would remain as a residence.

Chairman Bolton asked if the camp is built yet.

Dan Davis said the camp was under construction.

Bill Beckwith asked what the out building was constructed of.

Dan Davis said it was a wood frame structure and currently used as a shop.

Chairman Bolton asked for those who were in favor to come forward to speak.

Marcus Valdez said he lives at 105 Arnold Road and is in favor of the variance requests and Camp Southern Ground has been a good neighbor and he is in support of the camp.

Larry Dove said he lives at 380 Ebenezer Church Road and is adjacent to the east and he is in support of the variances.

Chairman Bolton asked for those who were in opposition to come forward to speak. Seeing none he closed the public hearing.

Bill Beckwith asked Pete Frisina if the lot where the residence is located has always been that size.

Pete Frisina said the subject property is one of three flag lots and they will be

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reconfigured with the platting of the property for the camp.

Bill Beckwith said the pool is awful close to the property and has the property line changed over time.

Pete Frisina said that property line has not changed.

Chairman Bolton asked if the pool was in compliance when it was built.

Pete Frisina said there are no County records for the pool because the old records were destroyed in the courthouse fire but when the property was recently rezoned now we have to address the noncompliant structures.

Bill Beckwith said the camp acquired the property as is and they did nothing to create the noncompliant pool.

Chairman Bolton said one of the criteria we use is whether the applicant created the problem by not getting a permit or not following procedures and he asked if that is where the road had to be built.

Dan Davis said the road location is dictated by wetlands and the dam and if the road had moved to the east it would have been in the buffer.

Tom Mahon said the out building was made noncompliant by building the road and are there any plans of shielding it from the roadway visually and is it above or below the road.

Dan Davis said it is above the road and the road is a private road mainly used by the camp.

Tom Mahon asked if anyone could drive on the road.

Dan Davis said it will be gated at the cul-de-sac.

Tom Mahon asked if there is existing vegetation there now and if not, do you plan to plant some.

Dan Davis said there is existing vegetation now and it could be supplemented if that is a concern.

Tom Mahon said you could have tall trees but not much low vegetation.

Dan Davis said it is heavily wooded.

Chairman Bolton said he didn't see a need for screening in this area because it is internal to the property.

Larry Blanks said he drove out there and didn't see an issue.

Bill Beckwith said as a member of the Planning Commission and had reviewed this development and he thought this request should be approved.

Vic Bolton made a motion to approve the three (3) variances. Bill Beckwith seconded the motion. The motion unanimously passed 5-0.

3. **Consideration of Petition No. A-601-13, Gregory H. Moody and Brenda K. Moody, Owners request a 2.529 acre variance from Sec. 6-1. A-R Agricultural-Residential District. D. Dimensional Requirements. 1. Lot area: 217,800 square feet (five [5] acres) and a 31 foot variance from Sec. 6-1. A-R Agricultural-Residential District. D. Dimensional Requirements. 6. Side yard setback: 50 feet for an existing garage. This property consists of 2.471 acres, is zoned A-R, and fronts on Rising Star Road and Old Greenville Road.**

Lynette Bowles introduced Brenda Moody and she said she is the sister-in-law agent and Greg Moody is her brother. She said they purchased the subject property in 2006 from Fannie May as a foreclosure and did not know it was an illegal lot until they tried to get a business license as it had been illegally subdivided by a previous owner. She added that the big issue is if the home burnt down they would not be allowed to rebuild the home on an illegal lot and they are asking for the variances to be approved tonight.

Chairman Bolton asked do we know that this house was illegally built.

Pete Frisina said when the house was built the lot had not been illegally subdivided but what the County didn't realize there was already a house on another portion of the property and this happened back in the early 80's and the history is included the report on page one.

Bill Beckwith asked if this was one of the situations that we discussed by the Planning Commission.

Pete Frisina said yes and reminded the ZBA that these criterions for illegal lots were discussed about six months ago.

Bill Beckwith said someone could go in and create an illegal lot and the County wouldn't know about it.

Pete Frisina said that is correct, however we prevent more now than we used to because of the procedures now in place and most of these illegal lots were created some time ago.

Larry Blanks asked what kind of business license was being sought.

Pete Frisina said it was for a Home Occupation.

Chairman Bolton asked for those who were in favor to come forward to speak. Seeing none, Chairman Bolton asked for those who were in opposition to come forward to speak. Seeing none he closed the public hearing.

Bill Beckwith said this is one of those situations that took place without knowledge of the applicants.

Chairman Bolton asked Pete Frisina for clarification of the criteria for an illegal lot.

Pete Frisina said those were listed in the report along with the seven typical criteria for a variance and the additional criteria included: the transaction giving the applicant ownership in the subject property was more than five (5) years from the date of the application or if the period of ownership is less than five years the subject property was made illegal more than ten (10) years from the date of the application, the applicant is not the person, or an immediate family member of the person, who caused the subject property to be an illegal lot, and, no adjacent property is available to add to the subject property to allow the subject property to meet the minimum requirements for its zoning district.

Larry Blanks made a motion to approve the two (2) variances. Brian Haren seconded the motion. The motion unanimously passed 5-0.

4. **Consideration of Petition No. A-602-13, Jennifer Hernandez, Owner requests a 20 foot variance from Sec. 6-1. A-R Agricultural-Residential District. D. Dimensional Requirements. 6. Side yard setback: 50 feet for an existing barn. This property consists of 14.3 acres, is zoned A-R, and fronts on McDonough Road.**

Billy Brundage said this is a situation of a property line being created for a stream restoration project associated with a wetland mitigation bank and this puts the existing barn into the setback. He added that the purpose of a setback is to keep structures away from adjacent property and in this case the adjacent property will be a 50 foot strip with a stream in it that will be protected and not be built upon.

Larry Blank asked if it is just a corner of the barn that is encroaching into the setback.

Billy Brundage said that is correct.

Brian Haren asked what the barn is used for.

Bill Brundage said as part of the nursery operation.

Brian Haren asked if the Army Corps of Engineers has an issue with the barn in the setback.

Bill Brundage said no they don't.

Brian Haren asked who sets the distance requirements from the centerline of the stream.

Billy Brundage said the minimum distance is 25 feet from the centerline.

Brian Haren asked for clarification that the parcel to the north is owned by the applicant.

Billy Brundage said that is correct.

Chairman Bolton asked how big the stream is.

Billy Brundage said it was a wet weather stream.

Brian Haren asked who benefits from the mitigation credits.

Billy Brundage said the applicant benefits.

Chairman Bolton asked for those who were in favor to come forward to speak. Seeing none, Chairman Bolton asked for those who were in opposition to come forward to speak. Seeing none he closed the public hearing.

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

- 5 **Consideration of Petition No. A-603-13, Olivet Baptist Church, Owner/ Dr. Maurice Ukadike, P.E., Agent request a variance from Article VII. Conditional Uses, Nonconformances, Transportation Corridor Overlay Zone, and Commercial Development Standards, Sec. 7-5. Transportation Corridor Overlay Zone, A. 9. Special Locational and Spatial Requirements, a., to increase the percentage of parking located in the front yard along SR 279 North by 20 percent from 50 percent to 70 percent. This property consists of 19.408 acres, is zoned R-45, and fronts on SR 314 and SR 279.**

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Maurice Ukadike said he is the engineer for the church and the church wants to expand the facilities and we have recently rezoned the adjacent lot. He added that the property fronts two roads and per the zoning regulations no more than 50 percent of the parking can be in front of the church building so each frontage can have no more than 50 percent of the parking in front of the building. He said that the SR 314 frontage is the main entrance to the church the frontage on SR 279 will not be the main entrance to the church and it is in that area where the parking will exceed 50 percent.

Chairman Bolton asked if the church already owns the property.

Maurice Ukadike said the church owns the property.

Chairman Bolton asked for those who were in favor to come forward to speak. Seeing none, Chairman Bolton asked for those who were in opposition to come forward to speak. Seeing none he closed the public hearing.

Chairman Bolton asked if the church has talked to the neighborhood.

Maurice Ukadike said it was his understanding that the pastor had spoken to some of the neighbors.

Pete Frisina said no one spoke against the project at the rezoning hearing.

Bill Beckwith said we had a conversation about a barrier to eliminate cut through traffic at the Planning Commission hearing.

Pete Frisina said that is something we will work on at the site plan.

Tom Mahon made a motion to approve the variance. Brian Haren seconded the motion. The motion unanimously passed 5-0.

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Chairman Bolton asked if there was any further business.

Chairman Bolton thanked Brian Haren for his service on the Zoning Board of Appeals.

There being no further business, Larry Blanks made the motion to adjourn the meeting and the meeting adjourned at 8:20pm.


ZONING BOARD OF APPEALS

OF

FAYETTE COUNTY



VIC BOLTON, CHAIRMAN



ATTEST