

THE FAYETTE COUNTY ZONING BOARD OF APPEALS met on April 25, 2016, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

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

STAFF PRESENT: Dennis Dutton, Zoning Administrator
Chanelle Blaine, Planning and Zoning Coordinator

Welcome and Call to Order:

1. Consideration of the Minutes of the Meeting held on March 28, 2016.

Bill Beckwith made a motion to approve the minutes. Tom Mahon seconded the motion. The motion passed 5-0.

PUBLIC HEARING

2. Consideration of Petition No. A-632-16, Larry Brown, Owner, request the following: Variance to Sec. 110-81. Wall, fences, and entrance structure, (c) (2) Solid Wall and/or Fence, to allow for the construction of a solid privacy fence from 4 to 6 feet. The Subject Property is located in Land Lot 123 of the 4th District and front(s) on Friendship Church Road and Brooks Woolsey Road.

Larry Brown stated that he lives on 5.5 acre tract of property with frontage on Brooks Woolsey Road and Friendship Church Road. He said that his driveway access off of Friendship Church Road and no six (6) foot privacy fence is allowed for your front yard. He added that he lives off of a dirt road that accumulates a lot of dust from traffic and shared that his wife has an autoimmune disease. He stated that his wife was disabled and the dust consumes their property. He said that Chairman Blanks came out and saw how bad the dust is on his property. He requested a 110' privacy fence parallel from the dirt road to hold down the dust and noise. He added that he would be planting some Leyland Cypress outside of the fence to enhance and help keep the dust off of his property. He said that he provided in his application pictures showing other properties with fences in the front yard where the driveway accesses their property. He added that there is a doctor's note showing the affect the dust and dirt have on her health. He stated that granting him this variance would allow for them to spend the rest of their summer outside. He said that he has drafted a letter for the variance with signatures from his neighbors on Friendship Church Road and there was no opposition from any of his neighbors. He added that a lot of people in the area inquired about the signage and none of them had any opposition to the privacy fence.

He stated that he is the only house on Friendship Church Road and Brooks Woolsey Road. He said that behind him is Friendship Baptist Church and he has a privacy fence separating his property and their property. He added that the first house is off of Pogen Road which is down Friendship Church Road and across the street from him is a big wooden area. He said that the property across the street from him will never be developed because it's not big enough. He asked the Zoning Board of Appeals to take what he said and the items in his package into consideration.

Chairman Blanks asked if anyone would like to speak in favor of the petition. Hearing none he asked if anyone would like to speak in opposition. Hearing none he brought it back before the Zoning Board of Appeals.

Marsha Hopkins asked about the rationale of the four (4) feet and six (6) feet fence requirement.

Dennis Dutton replied that updating the fence ordinance was an arduous task, and at one (1) time all fences had to be four (4) feet in height. He stated that as the County kept developing they had to update the ordinance. He said that Public Safety ask for 50 percent visibility so when they rode by they could see if something was going on at someone's house. He added that Larry is in a unique situation, his front won't be changing but anything built in the front of the house had to abide by the four (4) requirements.

Bill Beckwith asked if the style of fence between you and the church are the same style we're talking about.

Larry Brown replied before he started to build the pool on his property he first replaced the old fence separating his yard and the churches yard. He said that he sent to the Planning & Zoning office a picture of the style of fence before he replaced it. He added that the way his property sits if you were to sit on his front porch you would be facing Brooks Woolsey Road. He stated that he has 5.5 acres; he only uses 1.5 acres because a portion of it is pastured land and the remaining has powerlines on it. He said that his property is unique because it has two (2) fronts.

Bill Beckwith asked if the fence separating his property and the church is six (6) feet tall.

Larry Brown replied yes.

Bill Beckwith stated that the Leyland cypress will provide Mr. Brown a lot more protection against the dust.

Larry Brown agreed with Bill Beckwith. He stated that he is putting in a new in-ground swimming pool and he must put up a fence to abide by the new guidelines. He said that the fence will be down his front property line. He added that he put up a four rail fence out his front that faces Brooks Woolsey Road. He said that everything dealing with this request is for the back part of his property.

Tom Waller asked if he thinks the fence was going to reduce the amount of pollen that is going to fall, regardless of height.

Larry Brown replied he does. He stated that he started his projects back in January. He said that on the churches property there were 40 trees and he cleared them all out to help hold down the pollen. He added that he thinks with the Leyland cypress and the fence it should cut down the pollen and dust by 50 to 60 percent.

Tom Waller asked if there were any talks of paving that road.

Larry Brown said not to his knowledge. He said that a paved road would look a lot nicer. He added that the road he gets a ton of traffic and a lot of them are speeders. He asked how would go about getting it on someone's agenda to get the road paved.

Tom Waller told him to get in contact with the Road Department of Fayette County.

Chairman Blanks stated that he knows the Road Department has a list. He added that they haven't had any money in the past few years.

Dennis Dutton said that he would check.

Larry Brown stated he heard some of his neighbors say that it may get paved sometime in the future. He said that part of the problem with paving it is that you will have to widen the road once you pass Friendship Church Road near Grant Road. He added that there are places down there where two (2) cars cannot pass each other side by side. He stated that the County would have to acquire some property from property owners on that road because the trees are next to the road. He said that it would be a bigger job than just paving the road.

Marsha Hopkins asked Larry Brown to tell them how the property has changed over the eight years.

Larry Brown replied that the area has gotten worse. He said the first couple of years they lived there; he doesn't recall the County grading the road. He added that now it is graded at least once a month and they also dump gravel. He stated that the gravel

makes the road a bit smoother for a couple of days until they get a good rain. He said that when it doesn't rain the dust is 10 times as bad. He added that the Road Department has graded the road down to the point where water from the road is coming on to his property. He stated that a huge wash has been created from the water coming down from the church behind him on to his driveway. He added that the County is spending more money with the graders but its making the road much worse. He stated that he hopes the fence running parallel to the dirt road, that he can turn the water that's coming on to his property and keep it in the road. He said that they have graded so much out there that they have the road lower than his driveway. He added that he knows this these are two separate issues and that he will go through the proper channels with the County to get it rectified.

Tom Mahon asked how far the fence will be from the centerline of the road.

Larry Brown said that he has allowed 25 feet from the road edge and said that the County has about 10 feet from the center. He asked Dennis if that sounded right.

Dennis Dutton replied that the problem with the road is that it is narrow and it doesn't meet the 60 feet requirement. He said from centerline it would have to be 30 feet and Mr. Brown has it at 35 or 40 feet. He added that the road is really narrow and for the County to bring it up to standard they would need to acquire 60 feet of right-of-way and that won't be possible on certain pockets of the road. He stated that the road would take away some of the church parking because the parking sits right up to the road. He said they don't have a culvert they just pull right into the parking area.

Tom Mahon asked how far the fence will be from your home.

Larry Brown replied that it will be 15 feet from the back of his house.

Tom Mahon asked if the fence will be closer to his home than it is to the road.

Larry Brown replied that it is 60 to 70 feet from his house on the sides and at its closes point it will be 15 feet from the back of his home.

Tom Mahon stated that he mentioned he would be planting Leyland Cypress.

Larry Brown replied that he would possibly be planting it on the inside or outside of the fence. He reiterated that he will be 40 feet off the center of the road.

Larry Blanks said that the fence will go on the side of his house not right on the back of his house.

Tom Mahon asked how you would screen the fence from the road. He said that he submitted a photograph with a fence up against the road.

Larry Brown said that the fence was of another property.

Tom Mahon said that the fence was not very appealing.

Bill Beckwith stated that he doesn't think there are requirements to screen a fence with vegetation. He asked Dennis Dutton if there was.

Dennis Dutton replied that is correct there are no requirements for screen fences with vegetation.

Chairman Blanks said that this fence is in the back of his house near a gravel road. He added that the front of his house is a paved road.

Tom Mahon stated that the fence in the picture looks like it's on top of the road and he said most people would like to see it screen so it doesn't look like a fence on top of the road.

Larry Brown stated that the fence would not be on top of the road and would be 35 to 40 feet away from the road. He said the Leyland Cypress were just an idea that he had to give him more protection and they grow three (3) feet a year. He added that he was planting the trees because of his wife's autoimmune disease.

Chairman Blanks asked if anyone else had something to add.

Bill Beckwith made a motion to approve the construction of a solid privacy fence from 4 to 6 feet.

Chairman Blanks stated that the County has been negligent of keeping the speeders and the dust down. He said that he is in favor of this because it is a health issue.

Tom Waller seconded the motion. The motion passed 5-0.

- 3. Consideration of Petition No. A-633-16, Larry Nalley, Owner, request the following: Variance to Sec. 110-125. A-R, Agricultural-Residential District, to reduce side yard setback from 50 to 43 feet to allow an existing home to remain. The Subject Property is located in Land Lot 9 of the 5th District and fronts on McBride Road.**

Larry Nalley requested that his lean two be left on his barn. He said that his barn was old and run down and he added two new 10 feet lean two's to the side of it. He added that he was not aware of 50 feet setback on his property. He stated that he built another lean two and enclosed it and was told he needed to have a permit to do so by the Inspector. He said that he went to get the building permit and was told he needed to see Dennis. He added that he is seven (7) feet over his 50 feet setback.

Chairman Blanks asked him to make himself available if the Zoning Board has any other questions. He asked if anyone else will be speaking in favor of this petition. Hearing none, he asked if anyone will be speaking in opposition of the petition. Hearing none he brought it back before the Zoning Board.

Tom Mahon asked if he would not have built the lean two on the right side he wouldn't have to be here.

Larry Nalley replied that is correct. He said the right side is in need of the variance. He added that once the Zoning Board approves this he will need to go and get a permit from Permits and Inspections.

Tom Mahon asked if the building "as is" is in compliance.

Dennis Dutton replied yes.

Tom Mahon asked if he is trying to put a lean two on the building.

Chairman Blanks replied that the lean two is already up. He said that it is not a lean two but a porch. He added that Larry Nalley didn't know the porch was encroaching on the setback until he went to get a permit.

Tom Mahon said that this is a self-imposed hardship.

Chairman Blanks said the overhang is just seven (7) feet shy.

Tom Mahon said that he is concerned about what we do down the road. He added that we are setting a precedent even though it appears to be minor.

Dennis Dutton stated that it is A-R, three (3) acres instead of the five (5) acres, and a legal non-conforming lot.

Tom Mahon made a motion to approve the setback variance. Marsha Hopkins seconded the motion. The motion passed 5-0.

4. **Consideration of Petition No. A-634-16, Gary Rahming, Owner, request the following: Variance to Sec. 110-79 (d) Location on lot. To allow for the construction of a swimming pool in the front yard. The Subject Property is located in Land Lot 22 of the 7th District and fronts on Vinings Walk, Annelise Park Drive, and Flat Creek Trail.**

Shonda Rahming requested a variance for the construction of a swimming pool in their “backyard”. She said that their lot fronts three (3) streets Annelise Park Drive, Vinings Walk, and Flat Creek Trail. She added that they live in Annelise Park Subdivision and many of their neighbors have swimming pools. She stated that they would like to be afforded the same opportunity to be able to provide a swimming pool for their family. She said that one (1) of her neighbors were here in support of them but had to leave. She added that many of her neighbors called about the sign in her yard advertising the variance, and they were all in favor of the swimming pool. She stated that she is on the HOA board and was given approval with no opposition.

Chairman Blanks asked if there were anyone else who wanted to speak in favor of the petition.

Eric Brooks stated that last year he gave Mr. and Mrs. Rahming an estimate for the pool but told them about the issue of being on a three (3) lot. He said that homeowners are never told by builders about the issues that can arise when having a lot that fronts on three (3) streets. He added that this was his first variance for a pool on a three (3) street corner lot. He stated that they have a lot of buffer on Flat Creek with a lot of woods that will remain, and no one will be able to see the pool from the three (3) streets.

Chairman Blanks said good luck on trying to get the ordinance change for pools on three (3) street corner lots.

Eric Brooks replied that he doesn't want to get it change he just wants builders to disclose the information when they're getting ready to sell a home.

Chairman Blanks asked if anyone would like to speak in favor of the petition. Hearing none; he asked if anyone would like to speak in opposition. Hearing none; he brought it back before the Zoning Board.

Tom Mahon stated that he has been on the board close to 35 years and the ordinance will not change. He asked Mr. Brooks how he would shield the view of the pool.

Eric Brooks replied on the Flat Creek side the buffer will remain and will not be disturbed, the Annelise Park Drive side will be fenced and landscaped, and the other side drops off into a hole by nine (9) feet and cannot be seen by the public.

Tom Mahon asked if he was planning on enclosing a sizable part of the backyard not just around the pool deck.

Eric Brooks replied that it will be a little bit bigger than the pool deck but not much. He said that it's just coming off the corner and the fence will be run straight down toward the woods.

Chairman Blanks asked if there were any septic lines in the area.

Eric Brooks replied no sir, not that I'm aware of.

Tom Mahon asked where the septic tank was.

Gary Rahming replied that the septic is right next to the sun room.

Tom Mahon asked about the field lines.

Gary Rahming replied that he believes its 50 to 60 feet in the back of the house.

Tom Mahon stated that it is very important to know where the lines are because he has had to move his drain fields because of a pool. He said as long as they go to Environmental Health they should be fine.

Tom Waller said that it was somewhat vague.

Eric Brooks stated that when they designed the pool for the Rahming's they did it outside of the lines that are there. He said years ago Environmental Health made a client of his move the septic lines before allowing them to install a pool. He added that after they move the lines he was told to go by Planning & Zoning and they told him that he would need to get a variance because the lot had three (3) fronts. He stated

that the client go so upset about the whole ordeal that she threatened to sue his company. He said the lady never built the pool and got her money back. He added that the ordeal made the County change its process; they must first come to Planning & Zoning then go to Environmental Health before being issued a permit. He stated that the septic lines are not in the way of the pool or the pool decking.

Tom Waller stated that they are in one (1) of our premiere subdivisions. He said it was a Conservation Subdivision and that the lots were smaller because parts of the subdivision were designated for subdivision uses. He added that there are tennis courts, a community swimming pool, park, gazebo, fishing lakes, and walking trails throughout the community. He asked if the lot would be cramped since it has less than an acre and has a commanding position in the neighborhood. He asked if the swimming pool was larger or smaller than the community swimming pool.

Eric Brooks replied that he thinks the Ramhing's swimming pool will be smaller than the community swimming pool. He said that he doesn't think the lot will be cramped because it sits on an acre of land.

Tom Waller stated that the diagram that was provided does not show concrete that goes along with that double drive and parking area. He said that it's a beautiful home, but it's a lot of stuff on the one (1) acre lot.

Shonda Rahming stated that she doesn't think the pool will be an eye sore nor will it cramp the lot in anyway. She said that by creating a berm on the side and a landscape buffer with Leylands and the fencing will enhance the drive as you come in to the subdivision. She added that the community pool is rather small and has not been properly maintained due to the lack of homeowners in the subdivision.

Bill Beckwith asked how many homes you think have swimming pools.

Shonda Rahming replied at least five (5).

Bill Beckwith said these homes were on one (1) acre lots so this is no difference from the others.

Shonda Rahming replied yes.

Tom Waller asked if the community pool was not being maintained and if that falls under the Home Owners Association. He added that it is self-evident that if you have your own pool you're interested that your pool won't be there.

Shonda Rahming said that as the community starts to gather more homeowners and more dues the board will be able to function and maintain the pool. She added that the pool has had some issues and that the Home Owners Association has now been able to collect enough funds for the repair.

Chairman Blanks asked if there were any more questions.

Tom Mahon made a motion to approve the construction of a swimming pool in the front yard. Bill Beckwith seconded the motion. The motion passed 4-1.

Chairman Blanks asked if we had any old or new business.

Dennis Dutton replied that we won't be having a meeting next month. He said the next meeting will be in June.

There being no further business, Tom Mahon made the motion to adjourn the meeting and the meeting adjourned at 7:51 pm.

**ZONING BOARD OF APPEALS
OF
FAYETTE COUNTY**



LARRY BLANKS, CHAIRMAN



CHANELLE BLAINE, ZBA SECRETARY