

**THE FAYETTE COUNTY ZONING BOARD OF APPEALS** met on July 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 Waller

**MEMBERS ABSENT:** Tom Mahon

**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 June 27, 2016.**

Tom Waller made a motion to approve the minutes. Marsha Hopkins seconded the motion. The motion passed 4-0. Tom Mahon was absent from the meeting.

Dennis Dutton read the following statement per the Zoning Ordinance:

If there is not a full zoning board of appeals board present at the public hearing, the petitioner may request to table the petition to the next zoning board of appeals public hearing, provided the petitioner requests to table the agenda item prior to the presentation.

Chairman Blanks asked Mr. Kearns if he would like to be heard tonight or wait till next month when they have a full board.

Nathan Kearns said he would like to proceed.

**PUBLIC HEARING**

**2. Consideration of Petition No. A-637-16, Nathan & Chanda Kearns, Owners, request the following: Variance to Sec. 110-126. C-S, Conservation Subdivision District, (f)(5) to reduce rear yard setback from 30 to 10 feet for the construction of a swimming pool. The Subject Property is located in Land Lot(s) 6 of the 6<sup>th</sup> District and fronts on Sheridan Lane.**

Chairman Blanks stated that it does take three (3) positive votes for this to pass. He asked Mr. Kearns to step to the podium and make his presentation.

Nathan Kearns requested a variance to put a swimming pool directly behind his house. He stated that the pool will encroach into the 30 foot setback in the rear. He said that the way the lot is shaped the left portion has a slope that has a natural water run-off area. He added on the

right is the driveway and the pool wouldn't have enough space. He stated that the pool would not look good on the far right or far left. He said that the most desirable location is would be directly behind his house off the deck patio.

Chairman Blanks asked if anyone wanted to speak in favor of the petition. Hearing none, he asked if anyone would speak in opposition of the petition. He then brought it back before the Board. He asked if the pool would be located where the trampoline is sitting.

Nathan Kearns replied yes, it would go up to that area. He stated that he removed some trees to make space for the pool. He said the installer realized that there was a 30 foot setback where they agreed the best location for the pool would be. He added that they asked for a 10 foot setback but it would probably be a 15 foot setback with the concrete around the pool.

Chairman Blanks asked if he had a drawing on that.

Dennis Dutton replied that it was in their packet.

Chairman Blanks said that he did remember the drawing and that he left his packet.

Bill Beckwith stated that he did come out to their property. He said on the left hand side facing Redwine Road there is an open area down in the corner where the pool can be placed and wouldn't encroach on the setbacks. He added that reason why he is saying this is because they always look for other opportunities and convenience isn't an option they consider. He stated that if we approve the variance the approval is saying that we allow you to violate the ordinance, and it looks to him like there would be a location where that wouldn't be a problem. He said that the location was in the lower left corner and that it had some old tree trunks left. He asked if that was where the pool would be.

Nathan Kearns said that the pool would be directly behind the house where the trampoline is. He added that's where they would like for it to be. He stated if they had to put the pool inside the setbacks it would have to be where the grass area is toward the house.

Bill Beckwith stated that it would be a more desirable place for him; than to have the ZBA violate the ordinance.

Nathan Kearns said that there is definitely a place to put it, but it would require more landscaping and dirt. He added that there is a semi natural waterway that runs down that they would have to maneuver around. He stated that he had two (2) pool installers come out, and say that the best spot for them would be directly behind the house. He said that is the conclusion that they came up with, but to stay inside the setback that's the only spot you could really put it at.

Bill Beckwith stated that convenience is not something they consider, and that it may be less convenient for him to put it in that open area than where he would really like to have it, but then again it is something that they need to consider.

Chairman Blanks stated that the lot was strangely shaped, and that he agreed the builder place the house back too far; but that might have been the only place for him to set it for the variances to the property line. He asked if he had septic tank and field lines.

Nathan Kearns replied no; its Peachtree City sewer.

Chairman Blanks said that he didn't realize they service them.

Nathan Kearns stated that they are really close to the border. He said that it is a big investment to put in a pool and location is everything. He added that to them it's not worth putting it there to the left of the property.

Chairman Blanks stated that he understood, but that was a dramatic decrease in the setback from 30 feet to 10 feet. He said that the variance is very significant. He asked if there were any other comments.

Tom Waller stated that reduction of 30 feet to 10 feet is a major reduction, and not a shaving of a setback. He said that pool located on the diagram behind the house appears to look catty wonks to the right. He added that his diagram shows a little puddle for where Mr. Kearns wants to put the swimming pool. He asked if he had pictures or diagrams that were more definitive of where he would like to place the pool.

Nathan Kearns said that it would be right in that area where it is on the diagram.

Tom Waller reemphasized that the pool would be placed where it is shown on the diagram right behind the house.

Nathan Kearns said yes that his house is turned a little bit and does not face the street directly.

Tom Waller stated that he understood what he was saying but the pool is to the right behind the house and not directly behind the house as he presented. He reiterated that the reduction of the build-line from 30 to 10 feet is a major reduction. He asked if he was looking at a deck, pool house, or anything else to go around the pool.

Nathan Kearns said nothing else will go around the pool except for your standard apron. He added that the apron is what really puts them inside of the setback.

Tom Waller stated that he couldn't really tell that from the puddle depicted on the diagram.

Chairman Blanks asked if he had already secured a pool builder.

Nathan Kearns replied they have.

Chairman Blanks asked if the pool installer gave him a plat or design drawing.

Nathan Kearns replied no, they did not give me a rendering.

Chairman Blanks asked if there were any recommendations.

Nathan Kearns stated that the installer's recommendation was for it to be placed behind the house. He said that the pool would be placed behind the cover porch.

Chairman Blanks asked if that what was the structure located directly behind his house to the left.

Nathan Kearns replied that it was a cover deck. He said moving it to the left sticks out further than the measurement he has.

Tom Waller asked if any major trees would have to be moved from the proposed pool placement.

Nathan Kearns replied no.

Larry Blanks stated that there were some major trees back there.

Marsha Hopkins stated that his lot backs up to lot 145 per the diagram and that lot has a lot of trees behind it. She asked what that lot had to say about the variance, and if they knew about it.

Nathan Kearns replied that the lady directly behind him is aware of it. He stated that he told her during a time when he was cutting down one (1) of her trees because of the dead limbs. He said that the neighbor is fine with it and that she has a deep lot and it is heavily wooded.

Marsha Hopkins asked Dennis Dutton since the area zoned Conservation shouldn't we be trying to save as much green space as possible and how does it affect this.

Dennis Dutton replied in a Conservation Subdivision it is based on the total development, and a total development is 60 percent of the lots are developed/residential lots. He said that the remaining 40 percent is in the wetlands next to school right next to Panther Lane. He added that he thinks they put 50 percent in conservation. He stated that these are just buffers and

setbacks for each lot and that hypothetically they could have gone to a 20 foot setback because they have another frontage on Redwine Road that shows 100 feet, which would limit some of that.

Marsha Hopkins asked if there were other lots in the subdivision that had to get variances to do something in the greenspace.

Nathan Kearns replied that he didn't know, but that all his neighbors approved of the pool placement.

Bill Beckwith stated that it seemed to him that they could put the pool in the other location that he mentioned in the angle between the 100 foot and the 30 foot setback. He said that it could fit there just as easily as it would directly behind his house. He added that they may not like the placement, because its not directly behind their house. He stated that was a convenience item, and the new option would give them the opportunity to have a pool and not allow them to break the law. He said from that point of view he cannot support this request.

Chairman Blanks asked at what point does he encroached on the "illogical" two (2) front yards.

Dennis Dutton stated that this one (1) is difficult because we're trying to define a through-lot. He said that a traditional through-lot is define like the one on lot 4, where you have the cul-de-sac in the front and then you have Redwine Road on the backside. He added that they would have a severe setback too, but they would probably have to come in for a variance not because of the through-lot but because of the setbacks. He stated that with Mr. Kearns lot you have a rear yard and another front yard, which should have been a 20 foot setback and should define this as a through lot. He said that there is nothing really clear and they must go by a case-by-case basis to see what is defined as a through-lot. He reiterated that the peculiar shape of the lot would make it hard to define it as a through lot.

Chairman Blanks asked what he meant by a 20 foot setback.

Dennis Dutton replied the north end where they show it as a rear lot has some added buffers and setbacks to it by the developer. He said that some of these buffers and setbacks are added for landscaping. He added that staff doesn't like for them to do that, but it was done and recorded from 30 to 50 feet. He stated that the rear yard of 30 feet should have technically been a 20 feet, and we could have defined this Redwine Road as through lot instead of a rear yard. He said when we approve this; we approved it with a 30 foot setback on the rear yard. He added that this has been the difficult part of this lot; the way this lot was developed close to Redwine Road and trying to get the lots in there.

Chairman Blanks stated that any parts of your house that fronts a road is consider a front yard. He said that it is totally illogical, but that's the way it was written. He added that was why he was asking about the Redwine Road because that might be considered a front yard. He stated that you couldn't put it over there, because you can't put an accessory structure in the front yard.

Nathan Kearns said that he didn't know if this is possible but he could reduce the setback by 15 or 20 feet if that would help because anything would make a difference.

Chairman Blanks stated that they can't do it, because they must rule on what is submitted. He asked if they could table this and let Mr. Kearns get with his pool installer to redesign it so he can request a different variance.

Dennis Dutton replied that the Zoning Board would have to make that decision. He said that Mr. Kearns could not ask for the table, but they would have to be the ones to make a motion to see if it carries. He added that they must have a 3-1 vote for it to be tabled.

Bill Beckwith asked how much time delay would that be; to the next meeting.

Dennis Dutton replied you could do it to the next meeting or say 30 days.

Bill Beckwith stated that Mr. Kearns would need to have something more definitive.

Dennis Dutton stated that they would have to pick the date.

Chairman Blanks stated that if they turn it down today Mr. Kearns could not do anything until six (6) months at this position, but he could put it in the corner of the lot right away. He reiterated that he couldn't put it where he has it identified right now.

Chairman Blanks stated that Mr. Kearns said he had some flexibility with the setback. He said to him to tweak it.

Bill Beckwith stated that there is no guarantee that they will agree to that. He asked Mr. Kearns if he understood what his point was. He said allowing you to break the ordinance is something that we don't want to do unless we feel that there is no other way to do it. He added that he does feel there is another way to do it, but it's up to everyone else if they want to do it.

Chairman Blanks reiterated that there was no guarantee that he would get approved if he tweaked it and asked for a 30 foot to 15 foot variance. He asked if that was something he would like to entertain.

Nathan Kearns replied yes that is something he would like to entertain. He stated that he would like to come back with a modified proposal.

Chairman Blanks made a motion to table Petition A-637-16 to August 22, 2016. Bill Beckwith seconded the motion.

Tom Waller asked if there was any understanding.

Chairman Blanks replied no, other than he would come back with an alternate proposal; if he needs it. He said if he decides to place it outside the buffer he wouldn't need to come back.

The motion passed 4-0. Tom Mahon was absent from the meeting.

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There being no further business, Bill Beckwith 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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**LARRY BLANKS, CHAIRMAN**

  
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**CHANELLE BLAINE, ZBA SECRETARY**

