

Minutes 06/24/2024

THE FAYETTE COUNTY ZONING BOARD OF APPEALS met on June 24, 2024, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

MEMBERS PRESENT: Bill Beckwith, Chairman
Brian Haren, Vice-Chairman
Marsha Hopkins
John Tate
Anita Davis was absent.

STAFF PRESENT: Debbie Bell, Planning and Zoning Director
Deborah Sims, Zoning Administrator
E. Allison Ivey Cox, County Attorney
Maria Binns, Secretary

1. Call to Order.
2. Pledge of Allegiance.
3. Approval of Agenda. *Brian Haren made a motion to approve the agenda. John Tate seconded the motion. The motion passed 4-0.*
4. Consideration of the Minutes of the Meeting held on May 28, 2024. *Marsha Hopkins made a motion to approve the Minutes of the Meeting on May 28, 2024. Brian Haren seconded the motion. The motion passed 3-0. John Tate abstained from voting as he was absent for the May 28, 2024, meeting.*

PUBLIC HEARING

5. Consideration of Petition No. A-861-24-A – Jerry Battle, Jr. and Melissa Battle, Owner, and Randy Boyd, Agent, request a variance to Sec. 110-125(d)(5), request to reduce the rear yard setback from 75' to 67.3' to allow an existing accessory structure to remain. Ms. Bell stated since we didn't have a full board, the petitioner had the opportunity to table this until the next meeting or if you would like to proceed with the board that we have in place right now. Randy Boyd responded they would like to proceed. Ms. Bell mentioned the first introduction of the two items on the petition. Its staff's opinion this particular parcel has some exceptional circumstances is zoned A-R but it is smaller because it was an older remaining parcel, the accessory structure was built approximately in 2002 by a prior owner, the battles were unaware of this issues when they purchased the property and on May 28, 2024, the battles were granted from these board to have the lot deem a nonconforming lot. The house on the property is legal nonconforming structure so it is not subject to tonight's petition, it is located at McBride Road, staff reviewed and there are no rejections for the request to the variance, the current owners has done a lot to clean up all the debris as shown on the aerial map. They have also

removed some other unpermitted sheds and structures that didn't need to remain in the property, she presented a survey showing a shop building that was conducted by the owners are indebted to get a permit and encroaches in the setbacks a little for the purpose of this petition and the second item in the petition, item B would address the square footage of the building. Agent for the battles Randy Boyd, explained to the board in the last meeting they requested to bring the lot from illegal to legal and there were three criteria, one of those is that it has to be ten years from the date from when the illegal lot was created, that was like thirty-seven years ago, the second one is the person that I represent the battles are not related to the person that created these problems and the third one is there is not available land for sale in this area to add to create five acres because its zoned A-R. He asked the board to Kinley approve the petitions and explained the information about the buildings on the property and the process of how they cleaned the property since acquisition. Bill Beckwith asked if there was anyone to speak in favor of the petition.? Kristen Sullivan stated she lives next door to the property, and they have been there since March 2017 when they moved to the property was a complete mess; people hoarding, police activity, cars coming in and out for ten minutes, and leaving. Last year when the battles came in and cleaned the property it has been much more pleasant leaving since the last six years, and she asked the board to grant the petition so they can live better. Bill Beckwith asked if there was anyone to speak in opposition.? Tim Thoms explained he lives three lots to the east of the subject property. He states that he did his research on his property before purchasing it and he states he spoke to Mr. Battle and explained his business, he wants to use the unpermitted, illegal structure to work on installing emergency sirens and lights and he told him he didn't think the county would not allow that. He stated this hadn't started since February, he added the county didn't know when Mr. Battle installed the lights, and he was the person to come and file a complaint about the noise. He knew it was a lot of rumors about the property having issues before the battle purchased it but again, he is against the petition, he also made questions to be answered for the petitioners; how much of the accessory structure is heating and cooled.? What is the plan use of the property? What happens to the house that is so many square feet from the road? Is it 1,300 sq or 1,158 square feet? He thinks is a lot of things to consider and he would like more clarity on this petition. Bill Beckwith asked if there was anyone else in opposition.? No one responded. Mr. Randy Boyd asked for a turn to answer some of the questions Mr. Thoms asked previously. Mr. Boyd stated the existing house is 1,340 sq ft which is larger than the 1,200 sq ft allowed in the A-R district and it is outside the building lines, the staff report said it's an older house it's one hundred years old so it's not subject to this building lines if understand that correctly, Mr. Battle had his business in that building late February and the end of the last board of commission meeting we discussed that Mr. Battle as soon he found out the building was illegal he left it and on that Saturday after that meeting, I asked Ms. Bell to send a representative from the county and make sure the building was cleanout and the business wasn't there anymore. He added Mr. Thoms did all his diligence, I understand he's a landscape architect, and he knows how to do this, most people don't know how to do this and that's why we have these meetings. The footing on that building Mr. Battle has reinforced concrete and steel under the footing and he is getting a structure engineer

to verify that. He is working to be up to code. Bill Beckwith asked the board if there were any questions.? Brian Haren just added someone was going to buy this property and sooner or later we were going to address this at some point the creation of the illegal lot shouldn't be held over the current owners, he inclined for the approval of the petition he believes they were trying to do a better piece of property to fit the neighborhood, he explained to Mr. Thoms doesn't feels falls into the zoning board of appeals area, that more code enforcement. That's not our job to address. John Tate states he appreciates the comments made by Mr. Thoms brought to the board and he agrees with Brian Haren. He was also inclined to approve the petition. Bill Beckwith asked if anyone else would like to comment otherwise he will request someone from the board to make a motion.

Brian Haren made a motion to approve Petition No. A-861-24-A. John Tate seconded the motion. The motion passed 4-0.

6. Consideration of Petition No. A-861-24-B - Jerry Battle, Jr. and Melissa Battle, Owner, and Randy Boyd, Agent, request a variance to Sec. 110-79(c)(1)b., to approve an increase in accessory structure maximum footprint from 1800 SF to 1820 SF, to allow an existing accessory structure to remain. Ms. Bell explained is the same structure we had discussed in the previous presentation; staff does not have anything else to add at this point. Bill Beckwith asked if anyone would like to speak in favor.? No one responded, then he asked if anyone was in opposition.? Mr. Thoms addressed his opposition and explained that a structure that was built without a permit, illegally was there for ten or twelve years and operated just fine, your concern is why should be given a variance from the county zoning district requirements.? He was appointed to the survey and stated nothing fits the requirements and gave some examples, he also added he served in the planning commission in the past as a civil servant. He appreciates the board for listening to his comments. Randy Boyd spoke regarding the opposition of Mr. Thoms stating most of his points of view were made before the battles took ownership of the property. He states the battle's family is good people, he hopes he gets to know them, and they are just trying to clean up the mess they did not create. Bill Beckwith made a comment when he was on the planning commission, we understood each other, he just appointed the minimum house size is 1,200 sq ft, and the maximum accessory structure size is 1,800 sq ft he didn't, there it is he didn't think anything has to size to each other, and the previous owner did that. He asked for a motion. John Tate comments on the sizes of the structures as Mr. Beckwith explained previously and shouldn't held accountable for the battles.

John Tate made a motion to approve Petition No. A-861-24-B. Marsha Hopkins seconded the motion. The motion passed 4-0.

7. Consideration of Petition No. A-862-24 – Harold Hunt, Owner, and Mark McCullough, Agent, per Sec. 110-242 (h), request an illegal lot to be deemed a nonconforming lot. The subject property is located in Land Lot 165 of the 4th District and fronts on Matthews Road. Ms. Bell announced the next item and before presenting the case she asked the petitioner's agent if he would like to proceed with the case tonight since there was not a full board present.? The

petitioner's agent responded if they could have some discussion now and come back for the next month's meeting. Ms. Bell responded that was not an option and has to make that decision before we opened the public hearing. Mark McCullough would like to proceed with the case. Ms. Bell introduced the petition information and stated the staff review had no comments and proceeded with showing the map, where she showed the location of the property at Southcentral Fayette County just a little north of Brooks, the zoning is A-R and it's a four-acre lot. She mentioned Matthews Road is an unpaved road, 110-242 is a unique section in our ordinance it does provide an opportunity to allow for someone to apply for an illegal lot to be deemed a nonconforming lot. This lot is illegal because is four acres in an A-R zoning and it was created after the 1980 cutoff date but, as outlined m110-242 the parcel does not meet the criteria, first the subject property was made illegal by action by the previous owners via plat recorded on the thirteen of December of 2001 and that was more than ten years ago; Two, the petitioner is a person or an immediate family member of that person who causes the subject property to be an illegal lot and three as defined and section 110-242 (h) (3) there is property available to add to this lot that will transform it into a legal lot. The reduction in area on some of the abjection lots will not cause the lots to be illegal in size, road frontage, or lot area and we do expend on that under the powers and duties given that a little more explanation. Staff assessment does not meet all these three criteria. Bill Beckwith asked if all three criteria must be met or could two be met and not one met.? Ms. Bell responded it was supposed to meet all three of those criteria, it does meet the first one and it was created ten years ago but it does not meet two or three. Bill Beckwith asked the petitioner to come forward and if he wanted to proceed, he responded yes. Mr. Mark McCullough introduced himself representing the owner Harold Hunt and thanked the board and staff. He explained they were not aware there was property available, I had spoken to the adjective property's owner, and they are not willing to sell from their parcels to make this a five-acre lot. They might say that the fact that the property exists is the definition of available, but we believe there is a difference between the property that exists and being available for purchase and since is not we didn't meet those criteria. The second on Harold Hunt did inherit the property over twenty years ago, his half-sister was the executor of the state, and she recorded the plat creating the lot and then transferred ownership to him. He was appointed to the ordinance referring to the immediate family. Still, it didn't say anything about his half-sister, so if we could get some clarification if there is property available, he would know so he could solve this problem. Bill Beckwith asked the staff if anyone knew about that situation.? Alli Cox – County Attorney responded that the standard is there is property available, and it exists and could be taken from these parcels or negotiated from these parcels in order to cause the five acres to exit in this one parcel so, although is not for sale right now it is on the owner to negotiate a transaction that will allow it to comply. Mark McCullough asked is if true that the ordinance states that the property is available.? Alli responded yes, as far as the ordinance said available means it exists. The standard will be like in the case of the battles where they trying to obtain property from the neighbors, it will cost the neighbor lots to become non-conforming, it's not available at all, but it can be

done. But in this particular case, the neighboring properties would not become non-conforming I believe they belong to the family. Mr. McCullough asked if you don't have to meet all three you have to employ the following factors to determine approval.? Alli's response was all three factors must be met. Bill Beckwith asked if anyone would like to speak in favor.? No one responded, again he asked if anyone would like to speak in opposition.? Ms. Adrienne Grooms spoke in opposition stating her property is across the street from the petitioner and said her sister is adjacent to Mr. Hunt's her name is Kerie Burns, Harold Hunt has requested from my sister to purchase an acre in order to make his four acres to comply, but she does not want to do that. Bill Beckwith asked if anyone would like to speak in opposition.? Gary Walker said he is the adjacent property owner to the west of the subject property and he just now became aware of this petition not long ago, he did some research and found three things, one of those he had questions about the adjacent lot is available if it doesn't make adjacent lot non-conforming, well in my case it doesn't make my lot non-conforming, it doesn't make the one on the north non-conforming and it's possible the third lot that touches could also donate the acre of land but if maybe a ten of an acre short and according to the ordinances that I read all three things have to comply but it also reference what it's available property. Also, states the price can't be considered whether the donor lot or not so technically the one acre is required to be 15 million dollars and that's what he would have to pay to make the ordinance true. In my case, I have no problem with it. Bill Beckwith asked if anyone else would like to speak in opposition, he asked Mr. Gary Walker how big his lot was he responded 54.9 acres to be exact. Brian Haren said since the three facts haven't been met, he can't support the petition. ***Brian Haren made a motion to deny Petition No. A-862-24. Section 110-242 (h) that the illegal lot be deemed to be a nonconforming lot. John Tate seconded the motion. The motion passes 4-0.***

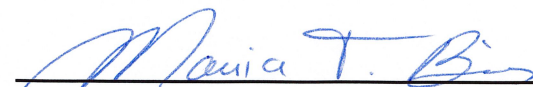
Marsha Hopkins made a motion to adjourn. Brian Haren seconded the motion. The motion passed unanimously.

The meeting adjourned at 8:09 p.m.

**ZONING BOARD OF APPEALS
OF
FAYETTE COUNTY**



BILL BECKWITH, CHAIRMAN


MARIA BINNS, ZBA SECRETARY