COUNTY AGENDA REQUEST

Department:	Planning & Zoning	Presenter(s):	Pete Frisina or Dennis Dutton
Meeting Date:	Thursday, August 15, 2013	Type of Request:	Old Business

Wording for the Agenda:

Discussion of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance, Article IX Zoning Board of Appeals regarding illegal lots.

Background/History/Details:

On April 11, 2013, Commissioners Oddo's and Ognio's requested the Planning Commission to review potential changes for variances for improved illegal lots and for the Planning Commission to work with the County Attorney to finalize and present recommendations to the Board of Commissioners at a later date.

Both the Planning Commission and Zoning Board of Appeals have reviewed and are are in favor or the proposed amendments.

The proposed amendments to the Fayette County Code Section are highlighted in the first two pages of the backup associated with this request.

What action are you seeking from the Board of Commissioners?

Approval of staff's request for forward for public hearings to adopt proposed changes to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance, Article IX Zoning Board of appeals regarding illegal lots.

If this item requires funding, please describe:

Not Applicable.

Has this request been considered within the past two years?	No	If so, when?	
Is Audio-Visual Equipment Required for this Request?*	No	Backup Provided with Request?	Yes

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance	Not Applicable	Reviewed by Legal	
Approved by Purchasing	Not Applicable	County Clerk's Approval	Yes
Administrator's Approval			

Staff Notes:

B. *Request for a Variance*. The Zoning Board of Appeals may authorize, upon appeal in specific cases, a variance from the terms of these regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done. However, ***no lot is eligible for*** a variance ~~shall not be granted~~ for ~~a~~ reduction in lot size, lot width, ***or*** road frontage, ***unless the variance request is for an improved illegal lot.*** ~~or~~ ***A variance shall not be granted for*** any requirements of a Conditional Use with the exception of a legal nonconforming Conditional Use (see Article VII.), or a use of land, building, or structure that is prohibited in the zoning district at issue, except as otherwise provided herein. A variance may be granted in an individual case upon a finding by the Zoning Board of Appeals that the following exists: (Amended 05/24/12)

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography; and
2. The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship; and
3. Such conditions are peculiar to the particular piece of property involved; and
4. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of these regulations; provided, however, no variance may be granted for a use of land, building, or structure that is prohibited herein; and
5. A literal interpretation of this Ordinance would deprive the applicant of any rights that others in the same zoning district are allowed; and
6. The Zoning Board of Appeals may impose or require conditions, as may be necessary, to protect the health and safety of workers and residents in the community; to protect the value and use of property in the general neighborhoods; and provided that wherever the Board shall find, in the case of any approval granted pursuant to the provisions of these regulations, that any of the conditions upon which such approval was granted are not being complied with, said Zoning Board of Appeals shall rescind and revoke such approval after giving due notice to all parties concerned and granting full opportunity for a hearing. (Amended 05/24/12)
7. In exercising the above powers, the Zoning Board of Appeals shall not consider any nonconforming use of neighboring lands, structures or buildings in the same zoning district, and no permitted use of lands, structures, or buildings in other zoning districts as grounds for the issuance of a variance.

In addition to the above factors, if the variance being sought is for an improved lot which is smaller than the minimum lot size for its zoning district, more narrow than the minimum lot width required for its zoning district, or has less road frontage than is required for its zoning district and the lot is an illegal lot as opposed to a nonconforming lot, the ZBA may consider such a lot for a variance. Should the applicant be successful in obtaining a variance(s), the resulting lot would, for the purposes of this Ordinance, be deemed to be a nonconforming lot. If the applicant successfully passes the above enumerated factors, the ZBA shall also employ the following factors for an illegal lot seeking to be deemed a nonconforming lot:

1. *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; and*
2. *The applicant is not the person, or an immediate family member of the person, who caused the subject property to be an illegal lot. For purposes of these procedures, "immediate family" is defined as the spouse, child, sibling, parent, step-child, step-sibling, step-parent, grandparent, grandchild, aunt, uncle, niece or nephew of the person who caused the subject property to be an illegal lot; and*
3. *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. In determining whether adjacent property is available, if adding any adjacent property to the subject property would no longer allow the adjacent property to meet the minimum requirements of the adjacent property's zoning district, then the adjacent property is not available. Additionally, any adjacent property which is part of an illegal lot shall not be deemed available for purposes of these variance procedures, unless the adjacent illegal lot is unimproved and the entirety of the adjacent illegal lot is combined with the subject property. If adjacent property is available, the cost of acquiring the adjacent property shall not be a factor in determining the availability of the adjacent property.*

13 Consideration of Commissioners Oddo's and Ognio's request for the Planning Commission to review potential changes for variances for improved illegal lots and for the Planning Commission to work with the County Attorney to finalize and present recommendations to the Board of Commissioners at a later date.

Commissioner Oddo reminded the Board that, recently, a zoning issue came before it in an effort to make an illegal lot into a legal lot, and in doing so by changing the zoning ordinance. He stated that at the time, the Commissioners explained why they could not vote in favor of the request since the fix was not a correct solution and since there was concern about Fayette County's Land Use Plan and what might happen. Commissioner Oddo reminded the Board that the problem and its difficulty still exists, that there are people in Fayette County with illegal and nonconforming properties and who are in that position through no fault of their own. He agreed with a something Commissioner Ognio said previously that the County did not want to find itself as owners of the properties, and that it would be better for the citizens to take care of their own properties. He said he had spoken to several people about this issue, and that he wanted the Planning Commission to discuss this issue with the County Attorney and to come up with language that will create a variance enabling the Board to lots and make them legal nonconforming. He said this work would give people a way to have property without having a burden hanging over their heads, and that it would give the County a way to not have to deal with and maintain unwanted properties. Commissioner Oddo added that he wanted the Planning Commission to do away with the initial ordinance that created the Legal Nonconforming Status Zoning District.

Commissioner Oddo moved to direct the Planning Commission to come up with some language that will allow a variance for nonconforming properties, and to do away with the Legal Nonconforming Status Zoning District. Commissioner McCarty seconded the motion.

Commissioner Ognio thought this action would be good for Fayette County, and he hoped the Planning Commission could come up with language that would not destroy the County's zoning. He said he did not want to away people for illegally dividing their properties. He asked for some language that would keep the County from ending up with lots that drive down property values because they are not maintained. Commissioner McCarty added that if a solution to the problem was found, it would create a source of income to the County instead of becoming a liability for the County. Chairman Brown cautioned that the Board needed to be very careful with this issue. He said that the County did not need to become the mediator in civil cases. He hoped the Planning Commission would come up with language that would walk that tightrope.

The motion to direct the Planning Commission to come up with some language that will allow a variance for nonconforming properties, and to do away with the Legal Nonconforming Status Zoning District passed unanimously. A copy of the request, identified as "Attachment 12", follows these minutes and is made an official part hereof.

14. Commissioner Randy Ognio would like to discuss issues concerning former County Attorney Scott Bennett.

Commissioner Ognio stated that he reviewed the Marshal's investigation concerning former County Attorney Scott Bennett. He said the investigation was started due to missing hard drives from the county computer, and the investigation report concluded that Mr. Bennett may have violated the Georgia Open Records Act.

4. Discussion of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance, Article IX Zoning Board of Appeals regarding: illegal lots.

Pete Frisina said this is a continuance of the issue with the LNS procedure that is scheduled to come out of the zoning ordinance and comp plan at the April 25th BOC meeting. He added that Commissioner Oddo had brought this issue up to the BOC and asked to consider another solution to illegal lots.

Patrick Stough said legal's opinion was the LNS procedure created a conflict in the zoning ordinance and a variance with additional criteria would be a more appropriate mechanism. He said the draft criterion would be in addition to existing variance criteria and contains a time frame from the purchase date of the lot that has to be a minimum of 10 years as a warranty deed would allow the buyer 20 years to go back to the seller of the property and a quitclaim deed would not allow the buyer to go back to the seller.

Pete Frisina asked if a warranty deed vs. a quitclaim deed is critical to this criterion.

Patrick Stough said it was not part of the criterion and ten years is suggested as the time frame for discussion.

Jim Graw asked if the criterion could be tied to a warranty deed only.

Patrick Stough said that was not the intent.

Pete Frisina said even though there is a 20 year window for a warranty deed, the chances of prevailing after so many years is not likely and 10 years is a long time to wait for a solution. He said his concern is some of these lots were made illegal 10 or 15 years ago and have had many owners.

Phil Mallon asks if the last property owner would have had to own the lot for a minimum of ten years.

Patrick Stough stated yes.

Pete Frisina said as that property sells it pushes that window out ten years each time and the issue is we don't want the window too short that it encourages people to create illegal lots but you don't want it too long where a solution seems unachievable.

Pete Frisina stated that the draft contains language that limits this variance for lot size, lot width or road frontage to lots that are improved as opposed to vacant lots.

Doug Powell asked if the ZBA has looked at this draft.

Pete Frisina said the Planning Commission was the first to look at the draft but the ZBA would also get a chance to look at it as well.

Patrick Stough said the second criteria says the owner did not create the illegal lot or a family member did not create the illegal lot and a list of what constitutes a family for the purposes of the criteria is included.

Al Gilbert suggested that grandparents be included in the family list.

Patrick Stough said the third criteria involves whether self-help is available such as additional property is available to make the lot conforming as long as it doesn't make adjacent properties nonconforming. He added that it doesn't matter if the adjacent property owner is not willing to sell any property or how much it would cost to buy additional property.

Al Gilbert said that is going to be rough if the adjacent property owner is unwilling to sell.

Patrick Stough said the finding that ample property exists to make the lot conform as oppose to its availability based on the willingness to sell or purchase price is more objective.

Jim Graw said criteria three says no adjacent property is available and let's says there is adjacent property available but due to a feud the person won't sell any property, the applicant can't meet that criteria.

Patrick Stough said that is correct.

Phil Mallon said if the sale of adjacent property would create a nonconformance then you meet the criteria.

Patrick Stough said that is correct and there is language which states if your lot is illegal and the adjacent property is illegal you would have to acquire all of the lot and the combination of those lots would need to meet the minimum requirements.

Al Gilbert said this criteria concerns him as he can see situations where they won't be able to buy additional property and will be stuck.

Jim Graw said he has similar concerns.

Patrick Stough said a buyer needs to be aware of what they are buying.

Pete Frisina said very few buyers know enough about real estate to determine if the lot is legal and his issue is even if you can go back to the seller the County still has an illegal lot on its hands.

Al Gilbert said his concern is the worst case scenario of the house being destroyed and it not being able to be rebuilt and the County has to clean up the mess when the land owner walks away from the property.

Pete Frisina said in some of these cases the County issued permits in error which perpetuated the problem.

Phil Mallon said this puts a burden on the neighbor to sell property which could cause ill will.

Pete Frisina asked the Planning Commission what concerns they have.

Al Gilbert said criteria three concerns him.

Jim Graw asked if the time frame could be five years.

Pete Frisina said to recap, criteria one, 5 to 10 years is suggested, criteria two, add grandparents and criteria three, Al Gilbert has concerns that it is too hard to meet.

Jim Graw said he has some concerns with criteria three.

Pete Frisina said this item would be discussed at the next meeting.

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Chairman Gilbert said he would entertain a motion to adjourn the meeting.

Doug Powell said so moved.

Chairman Gilbert said the meeting was adjourned.

PLANNING COMMISSION
OF
FAYETTE COUNTY

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Al GILBERT, CHAIRMAN

ATTEST:

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Pete Frisina said it was based on fire prevention and it was also based on the character of development. He said Peachtree City and Fayetteville have a limit of 35 feet in residential zonings like the county. He said these other jurisdictions have taller building in their non-residential zoning districts but the county generally limits building height to 35 feet in both residential and non-residential and Tim Thoms' points are good because what happens when a non-residential use needs more than 35 feet in building height and there are uses allowed in the zoning ordinance that have yet to develop in the county and we could be faced with the problem in the future because we can't anticipate all of these situations. He added as example we tried to come up with standards for a movie studio and we never had a movie studio before so we do the best we can and the county is moving in new directions that we have never experienced before. Pete Frisina said he would get information back to the Planning Commission and the citizens.

4. Discussion of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance, Article IX Zoning Board of Appeals regarding: illegal lots.

Chairman Gilbert asked Bill Beckwith and Tim Thoms if they have reviewed the proposed amendments prepared by the County Attorney since they were not at the last meeting.

Pete Frisina added that the other Planning Commissioners' comments were in the minutes from the last meeting and we were interested in Bill Beckwith's input since he is on the Zoning Board of Appeals (ZBA) and the ZBA would get an opportunity to comment on these amendments in the future.

Chairman Gilbert said the two items that got the most discussion was the ten year waiting period which could be too long of a time period and the availability of adjacent property to bring the illegal lot into compliance could be tough if the adjacent property owner doesn't want sell property.

Doug Powell asked what will be the mechanism to let a future buyer know the property has had a variance making it a nonconforming lot.

Pete Frisina said if there is no platting involved after the variance there is not a way to put future buyers on notice.

Chairman Gilbert said his concern with number three, is the adjacent property owner does not want to sell any property because he wants to create lots for his kids in the future, but the intent of number three is if adjacent property exists that could make the subject lot conforming, that property owner is not eligible for a variance.

Patrick Stough said however the adjacent property is available until such time that it is subdivided.

Chairman Gilbert said that is correct but the adjacent property could be tied up for years before it is subdivided.

Patrick Stough said but there has to be some price where the adjacent property owner is willing to sell and legal is trying to make the criterion as objective as possible because what is stopping a property owner from getting his neighbor to just say he isn't willing to sell any property.

Jim Graw asked what if number three were eliminated.

Patrick Stough said then the all you would look at is how long has the property has been owned and did the individual or a family member create the illegal lot. He added that number three basically says if there is land available then he can solve his problem by getting more land.

Doug Powell said what if the person can't afford to buy additional property.

Chairman Gilbert pointed out that number three states that price of adjacent property is not a consideration.

Patrick Stough said the question for the property owner is it worth it to bring the lot into compliance or is it worth the risk to own an illegal lot and not be able to rebuild the house if it burns down. He added that this person should have checked into this before they bought the property.

Tim Thoms said these properties are not always purchased they could have been inherited.

Patrick Stough said if it is passed down through generations it doesn't qualify because it was created by a family member and the person would've had to acquire the property from someone other than a family member.

Tim Thoms asked how this addresses the purchase of foreclosed property and if nobody is willing the buy it then the bank is stuck with an illegal lot.

Patrick Stough said if no one buys the lot then we are not faced with someone not being able to rebuild the house if it burns down which is the main purpose of this variance.

Jim Graw said the one case we had before required the applicant to sign an avadavat swearing they had tried to buy property but couldn't, and legal didn't like that, is there another type of legal document that would be better.

Patrick Stough said it is ultimately still a subjective determination as to how much effort the property owner put into buying additional property and it is not a true or false analysis.

Jim Graw asked if we could differentiate between someone whose neighbor is not willing to sell adjacent property and someone who is not willing to buy adjacent property because he feels it costs too much.

Patrick Stough said this goes back to the collusion issue and how to verify that the neighbor is not really willing to sell and he not aware of any other legal document that could be used.

Chairman Gilbert asked Bill Beckwith what he thought as he was on the ZBA.

Bill Beckwith said there are problems with this variance.

Pete Frisina stated that the first seven criterion associated with a regular variance would also apply.

Bill Beckwith said it is difficult to write an ordinance that covers every situation.

Pete Frisina said if we look at the criterion is regard to the first case we had with LNS, the only one they didn't meet was the ten year time period.

Patrick Stough said that time period could be changed.

Pete Frisina said another consideration that could be given is how long the property has been illegal and how many different people have owned the property since that time and in terms of the time period we don't want it too short to encourage the creation of illegal lots but not too long that it feels unachievable.

Bill Beckwith asked who would determine when the illegal lot was created.

Pete Frisina said staff could review deeds of record to determine when the lot was created. He added that staff would have to research the adjacent properties to determine if there is adequate property to make the illegal lot conforming.

Chairman Gilbert suggested that the ZBA review the proposed amendments and their comments be brought back before the Planning Commission.

Pete Frisina said he would prepare the information for the ZBA to review including the Planning Commission minutes so they would be aware of the history and issues we have discussed.

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THE FAYETTE COUNTY ZONING BOARD OF APPEALS met on June 3, 2013, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, First Floor, 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
Deputy Hank Derbyshire, Fayette County Marshal's Office

Welcome and Call to Order:

Chairman Vic Bolton called the meeting to order and introduced the Board Members, Staff and Al Gilbert, Planning Commission Chairman.

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1. **Discussion of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance, Article IX Zoning Board of Appeals regarding: illegal lots.**

Pete Frisina said what is being discussed tonight is proposed criteria that will be used for a variance request for an illegal lot and the granting of this variance will make the illegal lot a nonconforming lot which will then be viewed as a legal lot by the County.

Vic Bolton asked for the definition of an illegal lot and a nonconforming lot.

Pete Frisina said an illegal lot is a lot that does not conform to the zoning ordinance by some action of the property owner such as an illegal subdivision of the lot and a nonconforming lot is a lot that is made nonconforming by some action of the County such as adopting an ordinance that requires a five (5) acre minimum and applying that zoning to pre-existing lots that are less than five (5) acres in size.

Vic Bolton said don't all subdivisions of property have to be approved by the County.

Pete Frisina said that it is possible to create a deed with a legal description and sell the lot.

Larry Blanks said don't they have to file the deed with the County.

Patrick Stough said they all they have to do is record the deed with the Clerk of Court.

Pete Frisina said that the Clerk of Court will not record a plat without approval from the County or a statement from the surveyor that allows it to be recorded but it is not possible for the Clerk of Court to review every deed that is recorded and determine if it is creating an illegal lot.

Al Gilbert asked Pete Frisina to explain what happens to a residence that is destroyed by a fire on an illegal lot.

Pete Frisina said the county cannot issue a permit to rebuild the residence on an illegal lot.

Vic Bolton asked aren't they grandfathered.

Patrick Stough said they are not grandfathered because the lot is illegal.

Vic Bolton asked if an illegal improvement on a lot makes the lot illegal.

Pete Frisina said not necessarily but this issue concerns lots that are illegal.

Larry Blanks said so if a previous owner sells someone an illegal lot and then that new owner applies for a building permit and the County won't issue a permit.

Pete Frisina said that one of the criterion for this variance is the illegal lot has to be improved with a structure such as a residence.

Larry Blanks asked that an illegal lot won't get caught at the time of closing.

Patrick Stough said the closing attorney should catch it but sometimes they don't.

Pete Frisina said some of the lots we are dealing with were created 10 or 20 years ago and have had multiple owners.

Larry Blanks asked how the home owner's insurance works for an illegal lot.

Al Gilbert said we were told they won't pay to replace a house on an illegal lot.

Pete Frisina said that previously the county had a rezoning procedure in place but the new county attorney said it was the wrong procedure and a variance is the proper mechanism for this issue and what we are doing is formulating additional criteria for these variance requests.

Larry Blanks asked how many of these illegal lots exist today.

Pete Frisina estimated that there could be 10 to 15 but there is no absolute count.

Bill Beckwith asked if the county will actively search out illegal lots.

Pete Frisina said they will become known to the county when someone comes in for a permit or something and with some 40,000 lots in the county we can't keep track of every lot in the country. He added that the goal is to have a solution in hand and the southern portion of the county is the biggest problem were the land use plan recommends a five (5) acre minimum lot size which makes it difficult to approve a rezoning for less than five (5) aces.

Brian Haran asked if these are measures so we don't reward somebody for creating an illegal lot.

Pete Frisina said the first criterion puts a 10 period on ownership before a variance can be granted.

Patrick Stough said the 10 year period is starting point for discussion and the owner would have to own the property for 10 years before the variance could be granted.

Pete Frisina another aspect to consider is how long has the property been illegal and how many different property owners have there been.

Vic Bolton said the date when the lot was made illegal should be a consideration.

Brian Haran said we should give some consideration to the date the illegal lot was created and not just punish the current owner many years down the line.

Patrick Stough said the criteria were designed to make them as objective as possible so the ZBA would not have to make a subjective decision.

Vic Bolton asked about the criterion about property available to add to the illegal lot.

Patrick Stough said the criteria means there is ample property available to bring the illegal lot into compliance and it is not based on the price of the adjacent or if the adjacent property owner is willing sell property.

Pete Frisina said basically the illegal lot has to be improved with a structure such as a house or a non-residential building and a 10 year period of ownership is required.

Vic Bolton said the creation date of the illegal lot should be considered and he asked Patrick Stough if there is a legal issue with that approach.

Patrick Stough said it will make the process more complicated but it shouldn't create a legal issue but the burden would be on the county to determine the date.

Larry Blanks asked what he problem was with the previous rezoning procedure.

Al Gilbert said the county was considering a rezoning request under the previous procedure but didn't follow through with the rezoning and the new county attorney advised against the procedure and suggested that a variance would be an appropriate procedure.

Patrick Stough said the variance would allow the illegal lots to be considered nonconforming.

Pete Frisina said there was some concern voiced by the Planning Commission on criterion #3 determining available property and not considering willingness to sell or the price. He said staff will have to make an assessment of adjacent property to determine if it available and won't make the adjacent property illegal in terms of size and existing structures.

Larry Blanks said but if the adjacent property owner wants more than fair market value then the property should be determined as not available.

Patrick Stough said that puts the ZBA in the position of making a subjective decision as to what is too expensive.

Larry Blanks said but if the fair market value is $10,000 an acre and they want a million dollars that makes a difference.

Vic Bolton said making a judgment based on the price of land will be difficult.

Al Gilbert said there will be cases where someone is simply not willing to sell at any price.

Pete Frisina asked the ZBA for any additional suggestions on the proposed criteria.

Tom Mahon said he was fine with the criteria.

Larry Blanks said his main input is to base it on the creation date of the illegal lot.

Bill Beckwith asked if staff will be able to determine the creation date.

Pete Frisina said the four scenarios were researched using deed records and building permit records. He added that there are no building permits records for anything before 1982 as those records were destroyed in the courthouse fire.

Larry Blanks asked what the minimum definition of an improved lot is.

Pete Frisina said the lot has to be improved with a structure such as a house or a non-residential building.

Pete Frisina said to summarize, staff will make the amendments to criterion #1 concerning the 10 year period of when the lot was made illegal and get it back out to the ZBA for review at the next meeting.

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Pete Frisina said there will be a meeting on June 24th.

Chairman Bolton asked if there was any further business.

There being no further business, Bill Beckwith made the motion to adjourn the meeting and the meeting adjourned at 8:13pm.

ZONING BOARD OF APPEALS

OF

FAYETTE COUNTY

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VIC BOLTON, CHAIRMAN

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ATTEST

Minutes
ZBA
June 24,2013

4. Discussion of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance, Article IX Zoning Board of Appeals regarding: illegal lots.

Chairman Bolton said the ZBA had suggested that criterion #1 be changed to reduce the 10 year period of ownership of the illegal lot.

Pete Frisina said he had made the changes to the variance criterion #1 concerning the 10 year period of when the lot was made illegal that was suggested by the ZBA. He added the current proposal for criterion # 1 says that the person has to own the lot for at least five years and if they haven't owned the lot for at least five years the illegality of the lot needs to go back at least 10 years. He said he was trying to set a period of time that won't encourage people to create an illegal lot but not be too long to be able to ask for a variance.

Bill Beckwith said the Planning Commission had the same concerns as the ZBA.

Pete Frisina said what he is trying to avoid is someone getting around the intent of the regulations by creating an illegal lot, selling it to someone to get the variance and then selling it back to the person who made the lot illegal, because the person who made the lot illegal can never get the variance regardless of how much time has passed.

Chairman Bolton said he thought it was a reasonable approach.

Bill Beckwith said it was a good approach and if it becomes a problem the County will have to revisit the ordinance.

Larry Blanks said the only concern he has is when property is passed down through the family and they may have unintentionally created an illegal lot some time back but is still part of the family.

Pete Frisina asked the ZBA if they were good with the proposed changes.

It was a consensus of the ZBA to send the amendments to the Board of Commissioners for their consideration.