

THE FAYETTE COUNTY PLANNING COMMISSION met on January 17, 2013 at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Board of Commissioners Conference Room, Suite 100, Fayetteville, Georgia.

MEMBERS PRESENT: Al Gilbert Tim Thoms, Chairman
Jim Graw, Vice-Chairman
Douglas Powell
Bill Beckwith

STAFF PRESENT: Dennis Dutton, Zoning Administrator
Pete Frisina, Director of Community Services
Patrick Stough, Interim County Attorney
Hank Derbyshire, Marshal

Welcome and Call to Order:

Chairman Thoms called the Planning Commission Meeting to order. Chairman Thoms introduced the Commission Members, Staff, and Marshal. Chairman Thoms stated that he would chair the meeting through the election of officers.

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1. **Election of Chairman for 2013.**

Jim Graw made a motion to nominate Al Gilbert as Chairman. Doug Powell seconded the motion. The motion passed 4-0-1 with Bill Beckwith, Jim Graw, and Tim Thoms voting in favor of the motion and Al Gilbert abstaining.

2. **Election of Vice-Chairman for 2013.**

Bill Beckwith made a motion to nominate Jim Graw as Vice-Chairman. Doug Powell seconded the motion. The motion passed 4-0-1 with Bill Beckwith, Al Gilbert, Doug Powell, and Tim Thoms voting in favor of the motion and Jim Graw abstaining.

3. **Election of Planning Commission Secretary for 2013.**

Doug Powell made a motion to nominate Dennis Dutton as Planning Commission Secretary. Al Gilbert seconded the motion. The motion passed unanimously 5-0.

4. **Consideration of the Minutes for the Meeting Held on December 20, 2012.**

Doug Powell made a motion to approve the minutes. Jim Graw seconded the motion. The motion passed unanimously 5-0.

NEW BUSINESS

5. **Discussion of Variance Criteria for the Subdivision Regulations.**

Chairman Gilbert stated that the next item on the agenda is the discussion of variance criteria for the Subdivision regulations and he thought that staff and Jim Graw had started work on the wording.

Pete Frisina said the information the Planning Commission had tonight were Jim Graw suggestions he sent in for discussion. He pointed out that Jim had marked the criteria that the ZBA uses which is on the first page of the handout and another item on page four of the handout that concerned the ability of the Planning Commission to place conditions on variances. He further explained that a vast majority of the Subdivision Regulations are procedural requirements in terms of the platting processes and clarify what has to be on a Preliminary Plat, Final Plat, or Minor Subdivision Plat and through the platting process you are indicating how the proposed lots meet zoning, floodplain, watershed, etc. He said there are a few regulations that are not procedural and these include contiguous area, subdivision entrances and street length, and when public water has to be supplied to a subdivision which is based on the number of lots and distance to a water line. He reminded the Planning Commission that in the past they could consider a variance to street length in the Subdivision Regulations as part of the Preliminary Plat approval process. He said the Planning Commission also considered a variance that extended the expiration of a Preliminary Plat based on a developer being held up by the railroad and the access into the property over the rail line. He said the Planning Commission also has the authority to hear appeals to any of the County department's interpretation of the Subdivision Regulations. He said what Jim Graw has focused on is the ZBA criteria which are a very good place to start.

Jim Graw said when he thought about criteria he wanted them to be somewhat general so they could be applied to a lot of different circumstances. He also said that after each of the ZBA criteria there is the word "and" which means each criteria would need to be met for the variance and he asked if our criteria should be done in the same fashion where the applicant would be required to specifically meet each of the criteria as opposed to one or two of the criteria.

Pete Frisina said he didn't think that the ZBA was that strict about meeting each of the criteria specifically because variance situations vary greatly and ZBA may not give each criteria equal weight.

Jim Graw asked Patrick Stough of his opinion of the effect of having an "and" after each criterion.

Patrick Stough stated that the "and" after each criterion has a cumulative effect requiring each criterion to be met.

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Bill Beckwith corrected Pete Frisina in that the ZBA does in fact look at each criterion in this matter as cumulative in their decisions.

Jim Graw said it was up to the Planning Commission to determine if they want the criteria to be cumulative.

Pete Frisina suggested that ZBA criteria number 1 and number 3 on the first page could be combined and read "There are extraordinary and exceptional conditions pertaining to the particular property (s) in question because of size, shape or topography and such conditions are unique to the particular piece of property involved; and."

Jim Graw said they could be combined.

Tim Thoms asked if number 3 was redundant and could be eliminated.

Jim Graw suggested that Tim's suggestion for drawings in relation to a Contiguous Area variance be added and that taking out the "ands" so the Planning Commission can pick and choose with criteria they feel is important.

Patrick Stough recommended keeping the "ands" in place after each statement as this precludes an applicant from claiming that they meet one criterion and are entitled to a variance approval.

Bill Beckwith again expressed that is the way the ZBA administers the criteria.

In response to Bill Beckwith's statement, Pete Frisina said he stood corrected and apologized profusely.

Patrick Stough stated that the requirement for drawings would not be a criteria and the statement did not need to be connected to the criteria with an "and."

Pete Frisina suggested that the drawings would be necessary for a variance to Contiguous Area requirements.

Chairman Gilbert said drawings are very helpful in considering a variance for Contiguous Area.

Pete Frisina said we need to specify what we want on the drawings in this case such as the size of the house and number and size of accessory structures.

Doug Powell questioned the basis for the Contiguous Area requirement and how was two acres established for Contiguous Area on an A-R lot.

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Pete Frisina stated that County engineer had developed the Contiguous Area on an A-R lot by looking at a lot of five acres and 250 feet of lot width and came up with an amount that was closer to three acres. The County engineer, working with local design professionals, rounded that amount down to two acres because they felt two acres was sufficient and not over burdensome. He said the rule is a good rule and it was in response to problems the Engineering department was finding with five acres lots with just enough room to build a house and not much more.

Doug Powell said the previous case the Planning Commission looked at didn't have two (2) acres but had one (1) or so acres to build on and they were viable lots and based on what was presented to him, he didn't have an issue with the variance request.

Pete Frisina said since the Contiguous Area requirement has been in affect there hasn't been a problem on new lots. The problem with the previous case is you had a subdivision that was started, not finished because of the economy and the rules changed in the middle of the process and since some of the lots were platted and sold the developer had to try and fill in the gaps and there wasn't a lot of room to work with.

Jim Graw asked what the Contiguous Area is for a one (1) acre lot. Dennis Dutton replied that it is .3 acres.

Tim Thoms reminded everyone that there was a Contiguous Area variance request for a lot at Camp Southern Ground.

Pete Frisina said that Tim was correct and it involved a lot that already contained a house, pool and accessory structure, but there was a lake in the middle of the lot.

Tim Thoms asked if it is necessary to meet every criterion.

Jim Graw said without the "ands" between the each criterion, the Planning Commission can then determine which criteria should be considered on a case by case basis.

Tim Thoms said if he understands the attorney, we need to keep the criteria cumulative with the "ands."

Jim Graw said he agreed in that case.

Pete Frisina said that 6 and 7 on the first page, that are not circled, are not criteria but are statements that give the ZBA direction on action they can take as 6 gives authority to impose conditions and 7 says neighboring uses shall not be grounds for issuance of a variance.

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Bill Beckwith said that what he meant about number 7 on the first page is it is not a criterion and does not have to be connected with an "and." It is guidance for the Board.

Doug Powell said he thought it was important to keep number 7, circled on the second page, as a criterion because it goes to whether the applicant has tried to mitigate the problem and a variance is the last resort. Doug Powell also said the drawings Tim Thoms mentioned need to be addressed.

Tim Thoms said the previous case had drawings with structures that were in keeping with the area.

Jim Graw asked how they determined the size of the house for the drawings.

Tim Thoms stated that they used the existing house that was on the property and used it as the standard for the other lots.

Tim Thoms asked what would be an example of an appeal the Planning Commission could hear.

Pete Frisina said an appeal would be to a staff interpretation to the ordinance. The petitioner would dispute the staff's interpretation of the regulations.

Chairman Gilbert said to clarify; there are five (5) circled criteria on the first page and two (2) circled criteria on the second page.

Jim Graw said there was a circled statement on the fourth page concerning imposing conditions that he wanted included.

Doug Powell said that criterion number four discusses that the variance would not be detrimental to the public good and questioned if there also needs to be a reference to adjacent and surrounding properties as they were the most affected.

Tim Thoms said that language is in the criteria for a rezoning and it would be good to include it in these criteria.

Doug Powell said there was an example of a variance for Camp Southern Ground where moving the entrance, which created the problem, also made the development safer by providing better site distance on the road.

Pete Frisina said that adding something to the criteria which supports a variance that improves the development's layout or safety is a good idea.

Chairman Gilbert said improving a development with a variance supports the public good and is therefore not detrimental to the public good.

Tim Thoms suggested that staff take the information from tonight and develop the criteria and the Planning Commission can discuss it at a future meeting.

Pete Frisina said he would take the Planning Commission's suggestions and develop criteria for their review.

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Chairman Gilbert said that he wanted to thank Tim Thoms for the job he did as the Chairman of the Planning Commission because he knows Tim put a lot of time into the job.

Tim Thoms thanked the Planning Commission for the work they do as well.

Doug Powell mentioned that staff had sent out the schedule for next year's Planning Commission meetings.

Jim Graw made a motion to adjourn the meeting.

Chairman Gilbert said the meeting was adjourned.

ATTEST:



PLANNING COMMISSION
OF
FAYETTE COUNTY



AL GILBERT
CHAIRMAN