

THE FAYETTE COUNTY PLANNING COMMISSION met on February 6, 2020 at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

MEMBERS PRESENT: John H. Culbreth, Chairman
Danny England, Vice-Chairman
Brian Haren
Al Gilbert

STAFF PRESENT: Pete A. Frisina, Director of Community Services
Chanelle Blaine, Zoning Administrator
Howard Johnson, Planning and Zoning Coordinator

MEMBERS ABSENT: Arnold Martin

Welcome and Call to Order:

Chairman Culbreth called the Planning Commission Meeting to order.

1. Consideration of Minutes of the Planning Commission meeting held on January 15, 2020.

Al Gilbert made a motion to approve the minutes of the meeting held January 15, 2020. Brian Haren seconded the motion. The motion passed 4-0. Arnold Martin was absent.

2. Consideration of a Petition No. VA-020-20, Philip and Sandra Grant, Owners, and Randy M. Boyd, Agent, request a variance to the Fayette County Subdivision Regulations, Section 104-597-Minimum standard, (3) Contiguous Areas for Residential Development. This variance is to reduce the contiguous area for Lots 1 and 2. The property will consist of two (2) lots zoned A-R, is located in Land Lots 62 and 63 of the 4th District and fronts on Bankstown Road.

Chairman Culbreth asked if the petitioner was present.

Randy Boyd replied yes, actually the property is owned by Phillip and Sandra Grant but I am making the petition and the request for the person that is looking at it. He said Mr. Grant and his wife own a piece of property on Bankstown Road, it's about ten (10) and a half acres. He noted it had a little more land than a few years ago and then some right-of way was taken and that reduced it down to 10.53 acres. He explained the person that is looking at purchasing it is Jason Betsell of Green Forest Construction, a builder that has been in the area for three (3) or four (4) generations. He explained it does a lot of quality homes and he has built a lot of homes in that area near Bankstown Road. He also noted that Green Forest Constuction has proposed to purchase this property and split it in half.

Randy Boyd then said of course with 10.53 acres, there is enough land to split into two (2) five (5) acres lots. He explained if you apply the building lines and to get the width of the five (5) acres which has to be 250 feet at the building line, then the building line has to go back about 370 feet, so it pushes it way back, but that is where it achieves the 250 feet if you split the property up. He added when you do that and apply the sides and the rear setback lines as shown on the concept plan, the thing that has not been a friend of mine over the years, the contiguous area comes in to haunt us one more time. He said anyway it is a beautiful piece of property, it has a hill that makes you push the houses a bit behind it. He noted it is the perfect situation to have two (2) basement lots in a beautiful pristine area, but like I said you have to contend with contiguous area. He stated what we will end up having on Lot 1 will be 5.061 acres and the contiguous area is 0.1624 and that is deficient about 16,000 square feet below the two (2) acres required contiguous area. He added Lot 2 is 5.467 acres and the contiguous area is 1.874 acres, its only 5,550 square feet deficient, which is well above the .6 acres that I think you agreed to a while back.

Pete Frisina responded let me look that up to see what we recommended.

Randy Boyd responded I think, unless I am mistaken, that you had agreed that you would go to .6 on everything. He added if you do the math on a five (5) acre, if you build a gigantic 50 x 100 house that's big, that's 5,000 square feet and you add a 100 x 100 barn, that's 10,000 square feet. Even on a five (5) acre lot can you put another accessory building there?

Chanelle Blaine replied you can put to two (2) accessory structures up to 3600 square feet.

Randy Boyd replied okay 3600, now we are around 2,000 square feet, you are still at .5, which is still only half of an acre. He noted the two (2) acre requirement is that we agreed to years ago. He added I can tell you exactly where it came from, like we discussed at a recent meeting, if you take the 250, that is the minimum width for a five (5) acres lot and you go back to the full depth and you put the worst case scenario building lines on it, you come up with about two (2) acres and that was the agreement per Commissioner Frady, who said you got to start somewhere, so we put the two (2) acres in there. He added we don't need two (2) acres to build everything I discussed, a very large house, a very large barn and two (2) accessory structures. He said the .6 that we had talked about and agreed to is sufficient, but even if you went to one (1) acre, we are way above both of those on this. He concluded it just seems a shame to me that you have a beautiful ten (10) acre lot that can be divided up but the contiguous area continues to haunt us 15 years later.

Chairman Culbreath asked are there any questions from the other members.

Pete Frisina replied I am still researching what the Planning Commission recommended.

Brian Haren asked Randy, are there any watershed issues on these lots.

Randy Boyd replied, yes sir, they are located atop a hill.

Pete Frisina replied for A-R we are recommending .6 acres, so we will be going from two (2) acres to .6 acres, that is what we are recommending for the change.

Brian Haren asked when are we going to take that to the Board of Commissioners.

Pete Frisina replied we will talk about that in a minute, I am still working with the County attorney.

Pete Frisina replied for all of the issues I am working on, I am trying to take it to the Board at one time and part of the subdivision regs, we are working on the criteria that we are talking about. He added I am trying to do everything in one large swoop, I was hoping we would be done by now.

Al Gilbert asked do you feel that the .6 is what you will be proposing.

Pete Frisina replied that is what WE recommend, yes. He added remember when we went through that long discussion where we looked at all the different lots, and put everything we could and that is the number we came up with and we are going to recommend that this goes down from two (2) acres to .6 acres.

Brian Haren asked do we need to let the petitioner know that we don't have a full Commission.

Chairman Culbreth replied yes we do.

Chairman Culbreth stated do not have a full Planning Commission present tonight and if you would like to table your petition to the next meeting, you can do if you like.

Randy Boyd replied I would like to proceed with it.

Chairman Culbreth replied thank you.

Brian Haren responded I don't have a problem with this, I think the intent that we talked about is to reduce the contiguous area requirements, I think this is going to happen, so I don't see any reason to hold this up.

Pete Frisina replied what the odd thing is the house is going to be 370 feet away from the road, you can't get any closer unless you get the variance.

Randy Boyd replied we discussed the variance and you can't a variance, because then you will be in violation of the zoning.

Pete Frisina well, you are correct, you can't vary lot width.

Randy Boyd replied Pete has taught me well over the years. He said I thought about that and we talked about this months ago because I said let me take the building line closer then I can

expand the building, and then Pete said you can't do that since is against the zoning because it would be a violation of the 250 feet building line, so the building line has to stay there. He added as you all know, I developed those lots down on Antioch and we pushed them back, Pete said he could not protect them from the County standpoint but I'd rather see it further back, it looks better. He said on this lot the hill rolls over, the house will be way back and it is not jammed up on the road I don't know why anyone would like to see it jammed upon the road.

Brian Haren made a motion to recommend approval of Petition No. VA-020-20, Philip and Sandra Grant, Owners, and Randy M. Boyd, Agent, request a variance to the Fayette County Subdivision Regulations, Section 104-597. Danny England seconded the motion. The motion passed 4-0. Arnold Martin was absent.

3. Consideration of a request to reduce the 25 foot side yard setback as indicated on the Final Plat for Lot 2 of Huntington South Subdivision to 15 feet as currently required by the R-40 Zoning District to apply for a variance on a detached garage.

Pete Frisina asked Chanelle Blaine does she (Mr. Chancellor) have to get a variance, too.

Chanelle Blaine replied she will have to get a variance too.

Pete Frisina said okay you are going to have to get this (Planning Commission approval) and a variance as well.

Chanelle Blaine said this case is very similar to the one we brought before you, Mike Schwertfeger, I don't know if you remember him but he came before us and we had to reduce his 75 feet side yard, remember. She added this is a very similar situation.

Chairman Culbreth asked if there is any discussion.

Chairman Culbreth asked are you the petitioner, and what is your name.

Charlotte Chancellor replied yes, I am the owner of the property.

Brian Haren asked can you give us some background as to what the situation is.

Charlotte Chancellor began by saying the problem of the 25 foot side variance started when Huntington South subdivision was set some time ago. She added I didn't know I was part of the subdivision because I face Hilo Road and the rest of the homes are behind me. She also said I believe that most of the R-40 zoning in Fayette County is 15 feet so I would like the setback to be adjusted on my behalf. She explained I have a neighbor on one (1) side, and then very large driveway, I guess on the other side, so technically, I have one (1) neighbor. He concluded I am attempting to put up a metal garage that will have siding on the front part of the house.

Chairman Culbreth asked are there any questions.

Brian Haren asked is the 25-foot setback specific to the subdivision.

Pete Frisina and Charlotte Chancellor both responded yes.

Pete Frisina replied it was a developer-imposed setback, it was not a re-zoning condition that we found.

Brian Haren asked what if this 90 foot is empty space.

Danny England replied is it a future road.

Charlotte Chancellor responded it is a road.

Al Gilbert asked didn't we see an overview of that, is that the one we saw.

Brian Haren replied no that is a different one, this is very similar.

Pete Frisina replied the last one we saw was a road which they never built.

Brian Haren asked has anyone else from the subdivision come in asked for similar variance in the past.

Pete Frisina responded you are not actually giving a variance, what you actually have is a developer-imposed setback. He explained the County approved the plat with a developer-imposed setback, basically this thing we have been talking about creating these procedures, the County attorney said in the interim is my opinion, that when a change takes place like that on a plat, the Planning Commission is the group to go back because technically the Planning Commission is the administrator of the plat.

Pete Frisina said to give you some background, we do not accept plats with greater setbacks than what the zoning requires, we do not approve those and Randy can attest to that.

Charlotte Chancellor replied technically the builder imposed the setback.

Pete Frisina replied the developer or whomever, the plat was approved with a setback greater than what the County requires.

Charlotte Chancellor replied I am asking just to do the County requires.

Pete Frisina responded and you then need an additional variance after you get this one.

Charlotte Chancellor responded it will be three (3) feet after that.

Brain Haren asked do you know if any of your neighbors have an issue with this.

Charlotte Chancellor replied the two (2) other neighbors that I have, one (1) of the houses is presently empty, I would assume he is rebuilding to sell. She added the other neighbor faces my driveway and where the building will be. She said to the best of my knowledge, I do not know whether or not he has voiced an opinion or an opposition.

Al Gilbert asked how did you find out about the setback.

Chanelle Blaine replied I think Code Enforcement went out to the property and that's how all of this started.

Brian Haren responded so do they do track the building posts setbacks.

Chanelle Blaine responded no, they saw a building being built without a permit.

Chairman Culbreth asked do you have an active homeowners association.

Charlotte Chancellor replied no sir.

Pete Frisina asked so your lot fronts an exterior street.

Charlotte Chancellor replied I actually face Hilo Road.

Pete Frisina responded so you are not an internal lot.

Al Gilbert responded that's the old way of development, get your lots on the road in first, no development costs.

Charlotte Chancellor replied as I said I didn't know I was even part of the subdivision, because I face Hilo Road.

Brian Haren replied if we are going to the policy of just enforcing the County's rules, I don't have a problem with this.

Chairman Culbreth replied neither do I.

Chanelle Blaine asked have you guys looked at the photos that we submitted.

Al Gilbert made a motion to approve the request to reduce the 25 foot side yard setback as indicated on the Final Plat for Lot 2 of Huntington South Subdivision to 15 feet as currently required by the R-40 Zoning District to apply for a variance on a detached garage. Brian Haren seconded the motion. The motion passed 4-0. Arnold Martin was absent.

OLD BUSINESS

3. Discussion of the Zoning Ordinance.

Pete Frisina began by stating I know that you read through that discussion that we had at the end of the last meeting. He added there are three (3) things that we have to look at in the Subdivision Regs. He said as I told you, I was anticipating a meeting with the County attorney to start working on this, well that didn't happen. He noted we had a meeting with him but we had so many other things to deal with we never got to this. He explained I took those minutes from our last discussion and I gave him the minutes and the three (3) things we are looking at. He concluded what I did just today, I sat down, looked at the minutes and this is kind of an outline to start these three (3) procedures.

Pete Frisina said the first thing is if you are going to subdivide a lot within the subdivision, if you are going to add property to a subdivision, and/or you are going to change the use on a property, so I studied the biggest one which is the subdivision of a lot within an existing subdivision. He added I think what I got from someone is that the most important characteristic was the street character and how you perceive what is going to be built on the street, so I put that as number one (1). He noted what we would be looking at is where are the front setbacks for the plat. He said, additionally, we would also be looking at the alignment of homes and the degree of change that would happen if the lot was subdivided to the degree it would. He concluded does that summarize what we were talking about, can you think of something else.

Danny England replied that's pretty much it in a nutshell.

Pete Frisina said I grabbed bits and pieces from the minutes and stuck it in here.

Pete Frisina said the next thing to look at is the characteristic of the lot size compared to the rest of the lots in the subdivision, as a suggestion I say you look at the minimum and maximum range, what's the smallest and what's the largest, what's the average size, the number of lots within a range. He said for instance, the one subdivision that we discussed, there was no lot that was less than three (3) acres and I don't know if it was that many more than four (4), but there wasn't much of a difference in degree. He noted the one in the last meeting, Bay Chappell Subdivision, you had lots from six (6) acres down to two (2). So there were a range of lots, probably the majority of them fell within a two (2) acre to 2.5 acres. He added there were a few three's (3) and four's (4) and then there was a six (6). He concluded if we are looking at these sort of things that's another analysis that would be good to do when these things come through public hearing.

Pete Frisina stated the other thing is the lot width character. He explained we looked at minimum and maximum range, average width, and width of lots within the range and also the degree of the proposed change. He added I think what we probably want to do is always look at the adjacent and surrounding lots that are in close proximity as opposed to the cul-

de-sac lots maybe 3000 feet away, obviously you take all of that into consideration, that's really what you want to look at. He said to answer a previous question, when you take two (2) lots and divide it into three (3) lots, the houses seem a little closer together but when anyone drives down that road nobody can know where that line is, it is just that perception that it doesn't look out of character.

Pete Frisina said the next one (1) is to amend setbacks increased by condition of rezoning, which is what we had at Stubbs Plantation. He explained we had a person that had an 80 foot condition of zoning on the front yard setback. He noted the zoning required 75 feet, we had found a structure has been encroaching within both the 80 foot and the 75 foot. He also explained for her to be able to go the ZBA to get a variance for the 75, we had to get the 80 reduced. He said again, that represents a small degree of change. He concluded there wasn't a house close to it until you got across the street, to me that's what we look at, most of times we are dealing with increased setbacks of the condition of zoning, most of the times its going to be fronts, but there may be a few cases where a side or rear was increased for some reason. I threw that in there, but mainly what you are going to be dealing with is fronts.

Pete Frisina said the next one is what we dealt with earlier, setbacks increased by the developer. He noted what he talked about with the attorney is a public hearing before you (Planning Commission) only. He said again because we are back to that same train of thought where the attorney is saying that change is germane to what you are do because you approved the plat. He explained that the attorney felt comfortable with keeping it within this room, and if he felt comfortable with it, I am comfortable with it. He noted Again, I think what you are going to be looking at for the most part is fronts that they have changed. He said I have done some inventory and I looked at a lot of the older subdivisions from my notes and where the lots were increased slightly, they always seem to want to increase the front yard setback. He concluded I ran across one not too long ago, where the front yard setback interior to the subdivision was 150 feet.

Randy Boyd responded that it sounds like those out on Gingercake Road.

Pete Frisina replied yes, I think the required zoning within there is R-70, it is less than 75 feet, its is more than double the front yard setback within the subdivision. He added but then again, if you looked at that and all the houses are at 150 feet, what degree of change are we going to allow, it probably not going to 65.

Brian Haren responded I was wondering why they have such expansive yards on Gingercake.

Pete Frisina replied this well this wasn't even on Gingercake it was on the interior.

Randy Boyd responded that was the character he wanted to portray. He added obviously that was the reason and it looks good.

Pete Frisina replies I think you are going to find something that you came up with or talked about. He added the one street that I looked at was bell-shaped cul-de-sac and I don't know how many homes were built on this site.

Pete Frisina concluded as far as the outline, I think I went through and I tried to pick out everything that we talked about from the minutes.

Al Gilbert asked Pete, one (1) question, on the public hearing before, PC only, if the Planning Commission turns it down will they retain the right to go to the Board of Commissioners I know of some them now the can.

Pete Frisina replied well right now, like the variances you give for this, there is nothing. He said let me check the sub regs. He added well the question is will we handle this under a different procedure or will we handle this under the variance procedure. He concluded I think you may be right Al, if we handle it under the variance procedure, they can go to the Board.

Al Gilbert replied, I was just asking.

Pete Frisina responded at least that gives someone the option to go the Board, if we handle it as a variance, I will look at that because technically. He added if you guys turn down a plat, there is no appeal process for whatever reason you turn one (1) down. He said if you put a condition on a plat, there is no recourse, in my opinion.

Danny England asked if we are considered to be the final body on this because we make the decision on plats isn't that what the attorney wants to maintain them.

Pete Frisina replied let me do this, I will discuss that with the attorney and ask him what he thinks is best because I think he was looking at this not as a variance but as the administrative aspect of the Planning Commission. He added I get what they will do if you turn them down, they will go to Court. He concluded well, I will ask him what he thinks.

Pete Frisina asked do you have any ideas as far as this is concerned. He added in our last meeting we sat here and said what is important and was surprised me is that the street character was more important than anything, that's the notable aspect of it.

Randy Boyd asked what happened to the subdivision on Hwy 92 where they were proposing three (3) acre lots.

Pete Frisina replied you mean the one that got turned down.

Randy Boyd replied yes.

Pete Frisina responded it still in Court.

Randy Boyd replied it will be interesting to see what happens there in Court.

Pete Frisina responded that will give us a little direction.

Randy Boyd replied you get one attorney, ask him this and ask another attorney this and he was very confident that they didn't ever have the right to even hear it. He added I was at the meeting to listen for that reason, did you understand that.

Pete Frisina replied no I didn't. So I think the aspect here is what has more authority, the process of platting a subdivision or the underlying zoning.

Randy Boyd replied I guess they will decide.

Pete Frisina responded that's one of the things I have suggested in this whole process to the attorney is that it needs to be clear in the regulations, what has precedence. If you say, once you have platted the lots that puts you in another realm, the ordinance needs to reflect that zoning is secondary at that point. I hoping that he will all the legalese.

Brian Haren that's where they wanted to subdivide that one (1) lot into two (2) right up front.

Randy Boyd responded is was zoned R-40 and those lots are three (3) acres.

Chanelle Blaine asked was that Keyland.

Pete Frisina and Randy Boyd both replied yes.

Pete Frisina replied we will have to see what happens on that one, we have not gotten anything from the Courts on that one.

Chairman Culbreth asked is there anything else for the good of the order.

Pete Frisina then stated okay this is what I going to start working towards.

Brian Haren replied I am going to love to hear your evaluation criteria for street character, lot size character and lot width character.

Pete Frisina replied what you are going to look at is what is the front setback, what is the alignment of the homes, which I can do off the aerials, and what degree of change will happen if you subdivide the lot. He explained Let's look at the lot sizes within the subdivision, what's the minimum and maximum range, what's the average size, what is the number of lots within a range, what is the degree of the proposed change and the lot width aspect. He added how close will the homes be in you allow two lots to be cut into three, it's a visual thing. He noted you can be in a subdivision and not everybody builds right at the setback. He stated you can have some of theses house with a different alignments. He

added if you have a subdivision with house that are not already lined up, well a variation is not as big a deal there as opposed to when everything is uniform. He concluded what we are seeing now is houses that are built at the setback, because builders don't want to put a long driveway in.

Al Gilbert stated a tract builder is going to build right at the line.

Pete Frisina replied maybe in the some of these old subdivisions, maybe concrete was cheaper. He said sometime people would say oh my setback is 45 feet, I am building it at 80 because that's where I want to be. He noted but again, not all of the older subdivisions are like that.

Al Gilbert said there are developers who go more for the visual and the quality and that is usually the smaller developer.

Pete Frisina replied where we usually see this happening is in the older subdivisions, because in the newer subdivisions if is built to one (1) acre they build to one (1) acre. He added you don't have a lot of newer subdivisions built where they have one (1) acre zoning and the want to build three (3) acres lots, that just not happening.

Al Gilbert replied that land costs has gotten so high too.

Randy Boyd replied I say it all the time, there is not much land left in Fayette County, a lot of what is remaining has a lot of problems. He added I am seeing in Peachtree City where they are tearing houses down or burning down. He said we did one the other day where they re-used the foundation of a house that actually burned down. He explained there is not land left in Peachtree City and it is becoming that way here. He noted if a lot becomes available here they gobble it up because there are very few tract to develop that don't have a lot of issues with bad soils or things like that. He concluded you are probably are going to see more of this come forward.

Pete Frisina replied like I said there is a handful of the older ones where you find this but there's is not that many of them. Keyland Wood is the most unique where there is not much variation in lot sizes. He added there is nothing below three (3) acres and nothing above four (4).

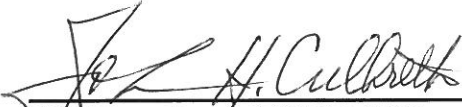
The Planning Commission took no official action on this item and will continue the discussion at a future meeting

Chairman Culbreth asked if there was a motion to adjourn.

Danny England made a motion to adjourn. Al Gilbert seconded the motion.

The meeting adjourned at 7:39 pm.

PLANNING COMMISSION
OF
FAYETTE COUNTY



JOHN H. CULBRETH, SR.
CHAIRMAN

ATTEST


HOWARD L. JOHNSON
PLANNING COMMISSION SECRETARY