

THE FAYETTE COUNTY ZONING BOARD OF APPEALS met on July 23, 2001 at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Public Meeting Room, First Floor, Fayetteville, Georgia.

MEMBERS PRESENT: Bill Beckwith, Chairman
Tom Mahon
Ron Mabra
Larry Blanks

MEMBERS ABSENT: David Bartosh, Vice-Chairman

STAFF PRESENT: Kathy Zeitler, Director of Zoning/Zoning Administrator
Bill McNally, County Attorney
Delores Harrison, Zoning Technician
Robyn S. Wilson, ZBA Secretary/Zoning Coordinator

Welcome and Call to Order:

Chairman Beckwith called the meeting to order at 7:00 P.M. and confirmed there was a quorum. The Members of the Board and the Staff were introduced. The operating procedures of the hearing were then explained.

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1. Consideration of the Minutes of the meeting held on June 25, 2001.

Tom Mahon made the motion to approve the Minutes as circulated. Ron Mabra seconded the motion. The motion unanimously passed 4-0. David Bartosh was absent.

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2. Consideration of Petition No. A-512-01, Lynn Fedor, Owner, and Tom Fedor, Agent, request a 48 foot Variance to reduce the front yard setback from a minimum of 75 feet to a minimum of 27 feet for construction of a proposed covered porch addition to an existing structure. This property is located in Land Lot 121 of the 5th District, fronts on S.R. 54 East and Plantation Road, and is zoned O-I.

Tom Fedor, Agent introduced his wife Lynn Fedor, Owner of the property. He requested consideration for addition of a covered porch for the existing property at 125 Plantation Drive which would result in a 48 foot variance. He stated the house was built in 1962 and presented pictures of the existing porch which he said was not very attractive. He continued by saying they would like to replace the porch with one that would be more appealing to the eye, be more functional, and would bring more of an appeal to the area. He had architectural drawings showing the addition of the porch and the floor plan showing a covered wrap around porch.

Mr. Fedor said he also has a survey of the property from 1977 before the widening of the S.R. 54 East which shows the house located 79.5 feet from the property line to the front of the house. He went on to say they are proposing to replace the existing porch with a covered porch that would be the same dimension as the existing porch. He presented a survey and added that the reason he was requesting the variance was due to the widening of S.R. 54 East.

Chairman Beckwith commented that he thinks what was provided in the package shows the previous building line from the right of way before it was widened, and also the building line as it is now located.

Mr. Fedor responded that was correct.

Chairman Beckwith asked if there was anyone to speak in favor of the petition. Hearing none, he asked if there was anyone to speak in opposition of the petition. Hearing none and with no rebuttal required, he closed the floor from public comments.

Larry Blanks made the motion to approve the petition. Tom Mahon seconded the motion.

Mr. Mahon asked when the property was purchased.

Mr. Fedor responded the property was purchased in November, 2000 and his wife would use the building for her financial planning business.

Ron Mabra asked for clarification of Section 6-17.E.8. of the Zoning Ordinance in regard to an existing structure.

Mrs. Zeitler explained that when property is rezoned from residential to O-I, any existing structure that does not comply with the O-I dimensional requirements (setbacks) is grand fathered in, but anything new is required to meet the existing requirements and that is the reason Mr. Fedor had to request a variance for the new covered porch.

Chairman Beckwith commented that the Fedors have a piece of property that's caught in the grandfather situation but the new construction doesn't appear to be any closer to the highway than existing structure and no more of an intrusion.

Tom Mahon asked about the proposed landscaping.

Mr. Fedor advised they haven't discussed the proposed landscaping yet but they will have a landscape plan prepared and submitted to the County for approval. He remarked that he intended to stay in touch with Mrs. Zeitler and work with her to comply with the landscape ordinance.

Chairman Beckwith called for the question in favor of the motion to approve this variance. The motion was approved 3-1 with Ron Mabra voting in opposition. David Bartosh was absent.

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- 3. Consideration of Petition No. A-513-01, Charles and Rita Middleton, Owners/Agents, request a 29.28 foot Variance to reduce a proposed side yard setback from a minimum of 50 feet to a minimum of 20.72 feet to allow an existing pool cabana to remain. This property is located in Land Lots 3 and 30 of the 5th District, fronts on Harp Road, and is zoned A-R.**

Charles Middleton requested to table said petition until August 27, 2001 due to the lack of a full board.

Mr. Middleton received an automatic tabling of his petition.

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- 4. Consideration of Petition No. A-514-01, WCS Properties, Owners, and Chris Stanley of Robison-Stanley & Company, Agent, request an expansion/enlargement of a nonconforming structure for an addition to the existing mausoleum. This property is located in Land Lots 120 and 137 of the 5th District, fronts on S.R. 54 East, and is zoned A-R.**

C.J. Mowell, owner, came forward and advised that his agent had not yet arrived.

Chairman Beckwith asked if he wanted to proceed or table the request.

Mr. Mowell said if the Board had enough information he would prefer to continue, but asked for a five (5) minute recess.

Chairman Beckwith called for a recess at 7:23 P.M. He reconvened the meeting at 7:26 P.M.

Christopher Stanley of Robison-Stanley & Company Landscape Architect, Agent, for WCS Properties presented what they believed the hardships were with the current County regulations in regard to existing cemeteries, and what they found which can satisfy their needs to expand the existing mausoleum. He went on to say Camp Memorial was built in 1955 on S.R. 54 East and at that time was surrounded by farms. He stated that WCS Properties purchased Camp Memorial in 1985 and the mausoleum was built in 1982 and has reached about 90% capacity.

Mr. Stanley presented a plat of the property and commented that the property is still somewhat rural compared other areas along S.R. 54 with strip malls and industrial parks.

Mr. Stanley presented a current survey which indicated the surrounding zoning as A-R and R-40. He confirmed that the adjacent Callaway Crossing Subdivision was zoned R-40 and was developed in 1995, and the adjoining A-R lots have been there as long as Camp Memorial and contain single-family dwellings.

Mr. Stanley presented a plat to the west side which showed the ground burials which are 85% to 90% full, and a plat to the north showed ground burials which are 50% to 75% full or are already sold. He also presented a proposed site plan which indicated their hardship due to the property size, shape, topography, and location of existing graves.

Mr. Stanley addressed each of the following justification criteria for granting a variance:

1. The request for an expansion of a non-conforming use under the A-R zoning qualified as extraordinary and exceptional due to the current building setback for cemetery structures. Current setback requirements would require the mausoleum to be positioned in the center of the property where ground burials existed.
2. The hardships created by the existing regulations were a very delicate issue where families loved ones are involved. In general families who had decided on placing loved ones in the current mausoleum wanted the option for other family members to be placed with them at the same facility.
3. The cemetery was in a peculiar situation because the cemetery was established before the current zoning regulations. New cemeteries weigh zoning regulations on the lot yields of a proposed cemetery, and developers could then calculate if a perpetual care facility on the site would be viable.

However, a perpetual care cemetery built in 1955 did not use the planning methods in use today. Holding Camp Memorial to the current day standards would hurt the privately managed cemetery financially as maintenance costs continue to rise in the Fayette County area. Current zoning trends had also reduced the amount of space that could be used by the proprietor of the cemetery to generate funds.

4. The proposed expansion use was allowed within the regulations of Fayette County, and the expansion would not cause detriment to the public good or impair the purpose of the regulations of Fayette County.
5. A literal interpretation of this Ordinance would deprive WCS Properties of rights to develop an existing facility, due to the fact that the original facility was established prior to the regulations currently in place. This type of facility (mausoleum) was what more and more of the new Fayette County population was looking for in burial options.

6. WCS Properties understood that the ZBA had the right to condition the application of the said property.

Larry Blanks requested Mr. Stanley to point out where S.R. 54 East was on the plan.

Tom Mahon asked Mr. Stanley to point out the existing mausoleum.

Mr. Stanley pointed out S.R. 54 East and the existing mausoleum. He confirmed the existing mausoleum had a setback of 40 feet to Callaway Crossing and 166 feet to the Shellnut property to the south. He noted the proposed building and complete buildout would position the mausoleum approximately 10 feet from the Callaway Crossing property line and 38 feet to the Shellnut property.

Mr. Stanley also pointed out that dense vegetation growth existed between Callaway Crossing and the cemetery and privacy fences extended along the entire property line.

Mr. Stanley presented three (3) photographs to the ZBA which indicated what the back of the facility looked like from the houses in the cul-de-sac in Callaway Crossing. He replied that the existing mausoleum was approximately 14 feet in height.

Mr. Mahon asked if the large Water Oak would remain.

Mr. Stanley advised the 23 inch Water Oak would stay, but the large pine trees on the other side will be taken down during the final build out due to the difficulty of root damage to pine trees in a cemetery.

Mr. Stanley presented prospective renderings from the Architect which showed a proposed roof line of 21 feet which included a clear story window to provide day light. He presented a second rendering of the entire facility which showed a proposed garden-style area between the two (2) buildings and the heavy vegetation of Leyland Cypress to the rear. He presented a third rendering of the rear of the proposed mausoleum from the common property line of the Callaway Crossing Subdivision.

Mr. Stanley concluded his presentation and advised the ZBA he would answer any questions they had.

Chairman Beckwith asked if there was anyone to speak in favor of the petition. Hearing none, he asked if there was anyone to speak in opposition. Hearing none and with no rebuttal, he closed the floor from public comments.

Chairman Beckwith asked Mr. Stanley to point out where the first phase of the development is planned.

Mr. Stanley referred to the plat showing it was behind the existing building.

Mr. Mahon asked about the six (6) foot Leyland Cypress.

Mr Stanley said they would be six (6) feet when planted and should grow to a height of 10 to 15 feet.

Mr. Mahon asked about the materials to be used for the outside of the building.

Mr. Stanley advised they will use stucco or materials that will blend with the new architectural features of the facility, and they would not be using concrete. He added that the existing building would also be remodeled to match the new addition.

Hearing no further comments, Chairman Beckwith called for the vote.

Ron Mabra made the motion to approve the petition with the recommendation that the location, size and setbacks be specified in the approval. Tom Mahon seconded the motion.

Chairman Beckwith advised that with this motion they needed further discussion and advised if they were to have a motion the recommendation had to be more specifically defined.

Kathy Zeitler advised that the request was not for a variance, but for an expansion of a nonconforming structure and could be voted on per the presented setbacks and expansion indicated. She pointed out that if approved, a site plan had to be submitted which complied with the approval.

Mr. Stanley advised that the site plan was being sent to an Architect and the setback could be greater than the proposed ten (10) feet upon completion of the addition.

Ron Mabra amended the motion to approve the petition as presented. Tom Mahon seconded the amended motion.

Chairman Beckwith called for the vote. The motion for approval unanimously passed 4-0. David Bartosh was absent.

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Chairman Beckwith asked if there was any further business.

Kathy Zeitler advised that two (2) applications had been submitted for the August Public Hearing.

There being no further business, Tom Mahon made the motion to adjourn the meeting. Larry Blanks seconded the motion. The motion unanimously passed 4-0. David Bartosh was absent. The meeting adjourned at 7:50 P.M.

ZONING BOARD OF APPEALS
OF
FAYETTE COUNTY

Respectfully submitted by:

BILL BECKWITH
CHAIRMAN

ROBYN S. WILSON
SECRETARY