

THE FAYETTE COUNTY ZONING BOARD OF APPEALS met on May 28, 2002 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
David Bartosh, Vice-Chairman
Tom Mahon
Ron Mabra
Larry Blanks

MEMBERS ABSENT: None

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 and led the Pledge of Allegiance. He introduced the Board Members and Staff and confirmed there was a quorum present.

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1. Consideration of the Minutes of meeting held March 25, 2002.

Larry Blanks made the motion to approve the Minutes as circulated. David Bartosh seconded the motion. The motion unanimously passed 5-0.

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Kathy Zeitler read the procedures that would be followed for presentation and opposition for petitions.

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2. Consideration of Petition No. A-521-02, Alfred Wyatt, Owner, and Tony Sewell of Blue Haven Pools, Agent, request a 13 foot Variance to reduce the rear yard setback from a minimum of 50 feet to a minimum of 37 feet to construct a swimming pool. This property is located in Land Lot 158 of the 5th District, fronts on Marlene Court and Wesley Forest Drive, and is zoned R-70.

Tony Sewell, Agent, advised that because of the soil samples received the rear of the house is the best location for the proposed pool because 95% compaction is required in order to construct a gunite swimming pool. He said that he did not see the 50 foot rear yard setback when he initially looked at a copy of the plat of the lot. He pointed out that the house is 12 feet from the 50 foot rear yard setback. He confirmed that there were gas lines and power lines on the east side of the house. Mr. Sewell went on to say that there was a creek running in front of the house. He commented that the land immediately behind the subject property is unbuildable. He added that Mr. Wyatt has a daughter with very high cholesterol who needs exercise which is the reason for the swimming pool.

Chairman Beckwith asked if there was anyone to speak in favor of the petition.

Alfred Wyatt, Owner, said that he purchased the subject property in 1999 and was told by the Engineering Department that the drainage easement in the center of the property could easily be moved by utilizing piping which would allow the basement to slope at the rear of the house. He stated that when he decided to build recently the Engineering Department re-evaluated the easement

which qualifies as State Waters therefore, the State Waters could not legally be moved. He commented that this required relocation of the proposed house. He advised that soil samples were taken from the lot which contain a high water table. He noted that the easement is actually a creek with a 25 foot buffer along each side. He went on to say that with the required buffer and the front yard setback that the house had to be located behind the creek based on the Engineering Department's recommendation. He said that upon construction of the house the water table was hit which required extra drains and gravel. He pointed out the location of the septic system and the alternative septic system were located in a hard labor area in the front. He added that there was also a hard labor area to the rear of the subject property where the pool is proposed to be located. He confirmed that the septic lines are located to the west of the house and the regulations require a 15 foot separation between the septic lines and the swimming pool. He also confirmed that the gas lines and the power lines were also located to the east of the house behind the driveway. He closed by saying he would be glad to answer any questions.

Chairman Beckwith asked if there was anyone to speak in favor of the petition.

William Brown of 190 Wesley Forest Drive stated that Mr. Wyatt had taken a piece of property which was almost unbuidable and built a nice house and he could see no negative effects with approval of the variance request.

Arthur Drayton of 205 Wesley Forest Drive said that he was in support of the variance request.

Chairman Beckwith 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.

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

Mr. Mahon asked if the problem with the location of the pool was a direct result of the placement of the house.

Mr. Wyatt replied yes and also the soils.

Mr. Mahon asked Mr. Wyatt if he was aware that Staff had stated that there appear to be alternatives to the location of the pool which may require additional engineering work but not a variance.

Mr. Wyatt replied that he was aware of the Staff's statement but did not see any alternatives. He added that Staff's alternatives are in the location of where the gas lines and power lines that feed the house are located on the east side and the septic lines are located on the west side.

Mr. Mahon asked if the power lines and gas lines could be moved.

David Bartosh answered yes, very much so.

Mr. Mahon advised that he saw alternatives, and that variances are only granted based on hardships not created by the property owner.

Mr. Wyatt asked if the utility companies would have to move the utilities.

Mr. Blanks replied that Mr. Wyatt should check with his builder.

Mr. Wyatt asked what would happen if the utility companies would not move the lines.

Mr. Mahon stated that the Z.B.A. would not get into that because there appear to be alternatives.

Mr. Bartosh commented that the location of the pool should have been taken into consideration prior to the placement of the house. He said he also saw other alternatives and a variance could not be granted as a "convenience". He added that the Z.B.A. also had to be careful not to set a precedent.

Mr. Blanks remarked that there was a comment in the Staff Analysis that not all lots are suitable for a swimming pool.

Ron Mabra concurred and added that there are other alternatives.

At this time, Chairman Beckwith called for the vote. The motion for denial was unanimously approved 5-0.

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3. **Consideration of Petition No. A-522-02, Willis Oil Company, Owner, and Gordon Lawrence, Agent, request the following: 1) Request a 22 foot Variance to reduce the front yard setback from a minimum of 100 feet to a minimum of 78 feet; 2) Request an 18 foot Variance to allow impervious surfaces to be located 32 feet from the state route right-of-way; and 3) Request a 45 foot Variance to reduce the landscape area from a minimum of 50 feet to a minimum of 5 feet. This property is located in Land Lots 198 and 199 of the 13th District, fronts on S.R. 138 and S.R. 314, and is zoned C-C.**

Gordon Lawrence stated that he was a Project Manager for Arc Design and Construction and presented exhibits to the Z.B.A. He referenced a letter regarding the Staff Analysis and withdrew the request for Variance #2. due to the reduced and relocated parking and Variance #3. based on the reinterpretation of the common area of the landscape strip and detention pond. He commented that it is the desire of the client to be a good neighbor in the community and to provide a meaningful service to the residents of Fayette County. He added that the client respects the goals of the Z.B.A. to maximize green space and the highest standard for community development.

Mr. Lawrence read the following in regard to Variance #1: “The criteria for this appeal is based on #1. and #2. of the six (6). These are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography, and the application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship. The nature of a gas station/convenience store requires a typical depth of 95 feet to accommodate gas pump access and traffic circulation. The store itself requires a minimum of 62 feet for building and front parking. This total of 157 feet is necessary to provide Fayette County customers with appropriate access to the facility. Because convenience stores are typically located at the intersection of major traffic arteries, they are bounded in two directions by rigid landscape requirements. Of the 3 acre site, 1.6 acres are set aside for landscaping. We are quite willing to abide by the required 50 feet per side restriction of impervious surface. Our only request is to extend to us a hardship allowance based on the extraordinary conditions which require us to yield 53% of our property for landscape. We also acknowledge #4 of the variance criteria, which states that “no substantial detriment to the public good” will occur if relief is granted. Thank you for your consideration.”

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.

David Bartosh made the motion to deny Variance #1. and noted that Variance #2. and #3. were withdrawn by the applicant. Tom Mahon seconded the motion.

Mr. Bartosh stated that the applicant was trying to squeeze a product on the subject property which is unsuitable for the amount of available land. He said that he did not see a hardship and that there are other alternatives available.

Chairman Beckwith asked Attorney McNally if a letter was needed from Mr. Lawrence regarding withdrawal of Variance #2. and #3.

Attorney McNally replied that a letter would not be necessary since Mr. Lawrence had stated for the record that these two (2) variances be withdrawn.

Mr. Lawrence commented that the client purchased the property prior to the adoption of the overlay zone requirements. He said the property was purchased in good faith and a grading plan was submitted to the County. He remarked that the client had already purchased the property and there is no way to build on this site without approval of the variance. He stated that a convenience and gasoline store serve a necessary purpose to the residents of Fayette County. He noted that the existing BP Connect has a 75 foot setback and the buildings across the street don't even meet the 100 foot setback for the building.

Mr. Bartosh advised that the buildings across S.R. 138 are not located in Fayette County.

Mr. Lawrence commented that the canopy would not impede visibility in the area. He asked that the Z.B.A. consider this variance request.

Mr. Blanks asked what was the impact of the overlay zone on the subject property.

Mr. Lawrence replied that the previous setback was 75 feet but the overlay requires 100 feet.

Chairman Beckwith asked Mrs. Zeitler to clarify the difference between the State Route Overlay Zone adopted by the B.C.C. and the S.R. 314 Overlay Zone deleted by the B.C.C.

Mrs. Zeitler explained that previously only the S.R. 314 Overlay Zone affected the property, however this overlay was deleted and the General State Route Highway Overlay Zone was implemented which would affect both S.R. 138 and S.R. 314.

Chairman Beckwith expressed concern that the property was purchased at the time when the 75 foot setback was in effect. He asked if the gas pumps could be redesigned to comply with the setback requirement because there seemed to be an alternative.

Mr. Lawrence replied that redesigning the gas pumps and relocating the building back to the setback, however this would not give enough space to give the canopy the necessary clearance. He said it was the feeling of the owner and he would contend a hardship in that this was the design which he had to have in order to make this building work because he has two (2) pre-leased spaces, a dry cleaners and a drive-thru, so he would suffer a penalty because the drive-thru is necessary.

Mr. Bartosh pointed out that there is a 50 foot buffer required along the west property line due to the adjacent residential zoning.

Mrs. Zeitler advised that a 50 foot buffer plus a 15 foot setback would be required along the west and south property line which are adjacent to residential zoning.

Mr. Lawrence stated that they also had considered the reduction in the width of the canopy to make the gas pumps a single line and not a double line but in the interest of traffic flow and the best benefit to consumers as well as vendors, it is not a good idea to locate gas pumps in front of the drive-thru at the beginning of the entrance to S.R. 314. He added that this had been reviewed by Civil Engineers and Planners.

Mr. Blanks commented that there seemed to be other alternatives although he was concerned that the requirements changed after the property was purchased, however a site plan had not been submitted prior to the adoption of the General State Route Highway Overlay Zone. He added that there appear to be some allowances made to redesign the development to accommodate the variance request.

Chairman Beckwith concurred because other options were considered even though they may not be the best options. He added that he could not support the variance request.

Hearing no further comments, Chairman Beckwith called for the vote. The motion for denial was unanimously approved 5-0.

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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 June Public Hearing.

There being no further business, Larry Blanks made the motion to adjourn the meeting. David Bartosh seconded the motion. The motion unanimously passed (5-0). 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