

**THE FAYETTE COUNTY ZONING BOARD OF APPEALS** met on June 24, 2002 at 7:05 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  
Larry Blanks

**MEMBERS ABSENT:** Ron Mabra

**STAFF PRESENT:** Kathy Zeitler, Director of Zoning/Zoning Administrator  
Monty Goza, Assistant County Attorney  
Delores Harrison, Zoning Technician

**STAFF ABSENT:** Robyn S. Wilson, ZBA Secretary/Zoning Coordinator

**Welcome and Call to Order:**

Chairman Beckwith called the meeting to order at 7:05 P.M. and led the Pledge of Allegiance. He introduced the Board Members and Staff and confirmed there was a quorum of four (4) members present and one (1) member absent. The operating procedures of the hearing were then explained.

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**1. Consideration of the Minutes of the meeting held on May 28, 2002.**

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

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**2. Consideration of Petition No. A-523-02, Desev and Carmella Parks, Owners, and Bruce Haneburger of Contractors of Atlanta, Inc., Agent, request a 58 foot Variance to reduce the front yard setback from a minimum of 100 feet to a minimum of 42 feet and request a 16 foot Variance to reduce the rear yard setback from a minimum of 75 feet to a minimum of 59 feet to construct a single-family dwelling. This property is located in Land Lot 38 of the 5<sup>th</sup> District, fronts on Seay Road, and is zoned A-R.**

Bruce Haneburger of Contractors of Atlanta, Inc., Agent, advised that when he met Desev and Carmella Parks that they informed him of their situation and explained that their lot is 169 feet wide and is not large enough to meet the required building lines, making the lot unbuildable. He stated that the builder that was originally hired by the Parks had graded the lot and put in the foundation and poured the basement slab all without obtaining any permits. This left the property owners with a considerable hardship because they had already had \$20,000.00 worth of work done, and without a variance the house can't be completed. He informed the Z.B.A. that the property had been in the Park's family since 1972 and that Desev and Carmella Parks acquired the property in 2001 from Mrs. Park's father. Mr. Haneburger presented a plat with pictures of the property and also presented letters from property owners on both sides of the property which stated they did not have a problem with the variances being requested.

Chairman Beckwith advised that the Z.B.A. had a lot of the information regarding the lot and asked that Mr. Haneburger remain available if the Board had any questions. He then asked if there was anyone to speak in favor of the petition.

Carmella Parks, Owner, stated this property had been in her family for 30 years since her father purchased the property in 1972. Mrs. Parks stated they hired a builder to do their legal work and all the permitting needed to build their home. Mrs. Parks went on to say that she asked the builder about the permits, and when the builder never produced any permits, she called the Building Department

and discovered none had been issued. She stressed that she immediately requested the Building Department to issue a Stop Work Order on the site so the builder could not proceed. She then explained that they met with the Zoning Department and discovered they would need to apply for a variance before they could be issued building permits. Mrs. Parks stated that she fired the builder after she discovered these problems and hired Mr. Haneburger to act on their behalf. Mrs. Parks advised this has caused them extreme hardship, not only financially but emotionally as well, and asked the Board to take this into consideration with their decision.

Desey Parks, Owner, remarked that he and his wife wanted to move from Riverdale to Fayette County mainly for their daughter because of the school system and the quality of education they believed she would receive. He advised they began following up on the original builder, Mr. Carter, and their contract with him stated that he would handle all permits, that it was a turn-key contract, meaning when the builder was done he would give them the key. Mr. Parks explained that when they questioned him about permits they discovered he had not permitted the work. Mr. Parks stated they had already spent about \$20,000.00 of their construction loan, and if the request was denied they would be in debt in the amount spent from the loan and holding a piece of property that they could not use.

Chairman Beckwith asked if anyone else would like 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.

Chairman Beckwith advised that the Z.B.A. had the letters from the property owners adjacent to the Parks property and would make them a part of the records.

David Bartosh made a motion to approve both variance requests, and reminded the Z.B.A. that they must vote on each variance request separately.

Larry Blanks seconded the motion for approval of both variance requests.

Chairman Beckwith remarked that he understood that the front setback would have to be based on Seay Road as the front and that it was unfortunate, but all the lots there would have this same problem. He stated that in his opinion it was not the fault of the property owner that this happened, and they had done an admirable job of trying to right the situation they were put in by the first builder and he would vote in favor of this petition.

Tom Mahon asked if the front of the house would face the gravel drive. Mr. Mahon was advised it would and he said he has no problem with that.

Chairman Beckwith called for the vote. The motion to approve the front yard setback variance was approved unanimously 4-0. Ron Mabra was absent. The motion to approve the rear yard setback variance was approved unanimously 4-0. Ron Mabra was absent.

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3. **Consideration of Petition No. A-524-02, Joseph A. and Carolyn J. Smoak, Owners/Agents, request a 10 foot Variance to reduce the side yard setback from a minimum of 25 feet to a minimum of 15 feet to construct an attached carport. This property is located in Land Lot 42 of the 5<sup>th</sup> District, fronts on Merrydale Drive, and is zoned R-40.**

Joseph A. Smoak, Owner, advised that he needed to build a carport to protect a new vehicle and some classic cars he owns, and when he checked with the Zoning Department he discovered that the setback in the R-40 Zoning district is normally 15 feet, however the developer established the side setback at 25 feet on the subdivision plat. He stated that the carport would be attached to his home and would be at least 18 feet from the property line. Mr. Smoak advised that he had a letter from his five (5) closest neighbors which included the three (3) neighbors across the street and the two (2)

neighbors on each side of his house and they had no objection to his building a carport.

Chairman Beckwith asked if Mr. Smoak had anymore comments.

Mr. Smoak asked if they were familiar with Merrydale Drive and how the right side of the street is higher in elevation and his house was on the left side of the street where it slopes down. He stated his lot slopes behind his house ten (10) feet in elevation so there was no way to build behind the house, and his lot from front to back probably sloped a total of 25 feet in elevation down to the creek at the rear of the lot. Mr. Smoak advised the Z.B.A. that his niece's husband was an engineering graduate from Purdue University and would be involved in the construction of the carport, so it would be well-built and match his house.

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.

Tom Mahon asked for a clarification of carport from Mr. Smoak because he mentioned siding, and he was under the impression that a carport had no sides.

Mr. Smoak explained that the roof line would be even with his house and the overhang would have trim (fascia rather than siding) and be painted to match the house, and he assured the Z.B.A. that the carport would have open sides.

Mr. Mahon asked why he was not enclosing the carport into a garage.

Mr. Smoak advised that a garage would be a lot more expensive to build, and he only needed something to keep the sun and rain off his cars.

David Bartosh made the motion to approve the petition. Larry Blanks seconded the motion.

Mr. Bartosh added that he would like to thank the petitioner for stating that the carport would be built with architectural standards to match his home, and he felt that the variance fit within the boundaries and met the intent of the laws of the Zoning Ordinance.

Mr. Mahon said years ago carports were discussed and frowned upon within the county, and asked Kathy Zeitler what the ordinance called for presently.

Mrs. Zeitler advised that a carport is allowed and is attached to the house, and there was no requirement that it be a carport or detached garage, and no architectural standards that it match the house. She stated that the only restrictions from a zoning perspective are setbacks and size limit if it were detached. She went on to say that she was not aware of any discussion in the past regarding carports.

Mr. Mahon advised that it was discussed several years ago before she was at the County, and that he recollected that at the time they discussed the portable type aluminum carports/canopies.

Mr. Bartosh advised that those types of portable carports/canopies were all over the county.

Mr. Smoak advised that is the reason he had petitioned for the variance because he didn't want to put one of those on his property.

Mr. Bartosh stated if a citizen chooses to put an aluminum carport up and it meets the setbacks there is nothing to prevent them.

Mrs. Zeitler clarified that those are considered portable structures and do not require a permit, however they did not meet the definition of a carport where it is attached to the house, and they were not considered a pole barn, so they are not permitted.

Chairman Beckwith called for the vote. The motion to approve the petition unanimously passed 4-0. Ron Mabra 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 July Z.B.A. Public Hearing.

There being no further business, David Bartosh made the motion to adjourn the meeting. Larry Blanks seconded the motion. The motion unanimously passed 4-0. Ron Mabra was absent. The meeting adjourned at 7:35 P.M.

**ZONING BOARD OF APPEALS**  
**OF**  
**FAYETTE COUNTY**

Respectfully submitted by:

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**BILL BECKWITH**  
**CHAIRMAN**

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**DELORES HARRISON**  
**FOR ROBYN S. WILSON, SECRETARY**