

**THE FAYETTE COUNTY ZONING BOARD OF APPEALS** met on February 24, 2003 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  
Monty Goza, Assistant County Attorney  
Robyn S. Wilson, ZBA Secretary/Zoning Coordinator

**STAFF ABSENT:** Delores Harrison, Zoning Technician

**Welcome and Call to Order:**

Chairman Beckwith called the meeting to order and led the Pledge of Allegiance.

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**1. Election of a Chairman for 2003.**

Larry Blanks nominated David Bartosh as Chairman for 2003. Tom Mahon seconded the motion. Larry Blanks made a motion to close the floor from nominations. Bill Beckwith seconded the motion. The motion to elect David Bartosh as Chairman for 2003 passed 4-0-1 with David Bartosh abstaining from the vote.

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At this time, former Chairman Beckwith turned the public hearing over to Chairman Bartosh. Chairman Bartosh thanked the Z.B.A. for their support.

**2. Election of a Vice-Chairman for 2003.**

Tom Mahon nominated Ron Mabra as Vice-Chairman for 2003. Bill Beckwith seconded the motion. Bill Beckwith made a motion to close the floor from nominations. Larry Blanks seconded the motion. The motion to elect Ron Mabra as Vice-Chairman for 2003 passed 4-0-1 with Ron Mabra abstaining from the vote.

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**3. Election of a Secretary for 2003.**

Tom Mahon nominated Robyn Wilson as Secretary for 2003. Larry Blanks seconded the motion. Bill Beckwith made a motion to close the floor from nominations. The motion to elect Robyn Wilson as Secretary for 2003 unanimously passed 5-0.

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Chairman Bartosh introduced the Board Members and Staff and confirmed there was a quorum present.

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Page 2  
February 24, 2003

**4. Consideration of the Minutes of the meeting held on December 16, 2002.**

Bill Beckwith made the motion to approve the Minutes as circulated. Ron Mabra seconded the motion. The motion unanimously passed 5-0.

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

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**5. Consideration of Petition No. A-531-03, Dr. Anthony F. Lawson and John E. Lawson, Owners, and Gerhardt Gerard with Tiernan & Patrylo, Inc., Agent request two (2) Variances to allow a proposed medical office development within the S.R. 74 South Overlay Zone. Variance 1: A 25 foot Variance to reduce the front setback required in the S.R. 74 South Overlay Zone from 100 feet to 75 feet to allow a proposed addition to the existing structure; Variance 2: A 12 foot Variance to reduce the setback from S.R. 74 South for impervious areas from 50 feet to 38 feet to allow construction of a walkway and handicap access to the front of the building. This property is located in Land Lot 18 of the 6<sup>th</sup> District, is zoned O-I, and fronts on S.R. 74 South and Redwine Road.**

Dr. Anthony Lawson, Owner, stated that he was a member of the National Trust of Historic Preservation and has renovated a home in Charleston, South Carolina in the historic district. He said his plan had always been to preserve the interior and exterior of the subject building while making it a functional office. He noted that he was present to represent his constitutional rights in case that is not able to be achieved. At this time, he introduced his architect, Gerhardt Gerard of Tiernan & Patrylo.

Mr. Gerard advised that on July 31, 2001 the zoning was changed from A-R to O-I with a condition that the property comply with the S.R. 54/74 Overlay which requires a 100 foot setback from S.R. 74, as opposed to a 75 foot setback required by O-I. He reported that they propose to demolish the existing carport and paving and construct new medical space, however the building cannot be built because it is within the building setback. He pointed out that there is also a requirement in the Transportation Overlay Corridor Zone that any new construction comply with existing requirements as far as dimensions, and with this requirement the addition also cannot be built. He commented that Variance #1 was to allow enough setback that an addition can be built which would be at least 75 feet and also changing the requirement that new construction would have to comply with the existing dimensions.

In regard to Variance #2, Mr. Gerard stated that this request was also within the Transportation Corridor Overlay requirement of the Resolution of July 31, 2001. He remarked that there can be no impervious material within the 50 foot front landscape area. He noted that the front porch is within this area and as a result, no sidewalk or handicap entrance toward the front of the building can be built. He commented that Variance #2 is requested so that they have enough physical space to put a handicap entrance and an entrance to the front of the building.

Mr. Gerard said that he has some other questions about a variety of things which have transpired where they have not been presented or addressed, and at some point they would like to have those resolved as well and get direction. He added that there seemed to be some misunderstanding about how to go about resolving some other issues.

Chairman Bartosh 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 made a motion to approve Variance #1. Bill Beckwith seconded the motion.

Mr. Beckwith asked what the new addition would look like and if it would match the architectural design of the home.

Mr. Gerard replied yes it would. He presented photographs to the P.C. He advised that it was the intent for the addition to blend in and not be contrasting or aesthetically in disharmony from the existing construction.

Mr. Beckwith verified that there is an existing carport.

Mr. Gerard said yes there is.

Larry Blanks referenced the Engineering Department's comments in the staff report which state that any other modifications will require additional variances.

Ron Mabra stated that the Historic Register had not been decided, and they did not receive any comments from the Preservation Company.

Chairman Bartosh remarked that this does not apply tonight and that as far as historic preservation none of that applies to the Z.B.A. He said that there are a lot of comments in the Staff Analysis which do not apply to the Z.B.A.

Kathy Zeitler replied that the structure is designated as historic by Fayette County, but the County does not have any regulations for architecture other than the Overlay standards, or any regulations on preservation of historic structures. She advised that she did check with the Historical Society and they did not have a problem with the proposed addition. She said that it was not clear if the structure was eligible for the National Historic Register or not. She remarked that she wanted to check to make sure that the proposed addition was going to comply with all the requirements, and it appears that it will as long as it is consistent with the architectural standards of the Overlay.

Chairman Bartosh verified that whatever the Z.B.A. approves or disapproves at this point in time has no bearing on any regulations, historically or anything else. He said that the Z.B.A. was here to hear the variances and it is up to the petitioner to follow whatever guidelines or laws which may come into effect after this point.

Mr. Mahon stated that what they are talking about is at the rear of the building and not to the front.

Chairman Bartosh called for the vote at this time. The motion for Variance #1 unanimously passed 5-0.

Bill Beckwith made a motion to approve Variance #2. Ron Mabra seconded the motion.

Mr. Mahon asked the petitioner if they had a layout of the interior of the building because it was not received and none of the Z.B.A. had seen it.

Mr. Gerard presented photographs and a small scale drawing of the floor plan which did not include the addition because it had not been designed at this point. He said that there was no reason to design the addition since they did not know if they were going to get approved or not. He advised that three of the four rooms in the front will be patient exam rooms and another room will be a waiting room. He remarked that the front of the house is the public space and the back of the house is where the nurses station and more private activity of the business will occur. He commented that if the handicap entrance was to be to the back of the house then there would be public access through the private or semi-private spaces of the business, and it would really be disruptive to the use of the building as medical office space.

Mr. Mahon stated that he had a problem with the variance request because he sees an alternative and the variance would not be required. He explained that the Z.B.A. does not rubber stamp variances for convenience and he had to see a hardship but he did not see a hardship. He added that he saw

a convenience, but no hardship. He commented that he saw more of a hardship for people that would have to go around the outside, but he did not see enough evidence of what is being presented to vote in favor, or that it could not be taken care of another way without a variance.

Mr. Blanks asked Mr. Gerard to point out the front of the building on the floor plan.

Mr. Gerard explained the photographs and layout of the structure. He stated that the front is where the porch is. He pointed out the proposed patient waiting area, exam rooms, receptionist area, nurses station, and X-ray exam room. He confirmed that there is no planned public access from the back because they would have to come through the nurses station, X-ray room, and the receptionist area which will be very dysfunctional. He said that they want people to come to the waiting area and meet the receptionist and then go to the exam rooms.

Mr. Blanks asked if there was anything engineering-wise which would rule out the feasibility of redesigning the layout of those rooms and instead of calling the back the X-ray room call it the waiting room and calling the waiting room the X-ray room.

Mr. Gerard replied that they would have to gut the entire building and start from scratch, then there would be a way to work it out probably, but they would still have the porch as the front of the building. He said that they were trying to maintain the existing room layout and the historic nature of the rooms.

Mr. Blanks asked what was the square in the center of the floor plan which did not have a doorway.

Mr. Gerard replied that this area consisted of existing toilets which will be made handicap accessible.

Dr. Lawson stated that he understood the Z.B.A.'s concerns and as a physician he had concerns about the distance that the handicapped would have to travel and he had anguished over this decision. He said that two reasons which the Z.B.A. may not be aware of, one more recent than others, there has been a recent law passed in the last administration that is currently being implemented, and it is abbreviated as HIPPA (Health Insurance Portability and Privacy Act) and there are strict standards. He noted that the local hospital, Fayette Community had to install computer systems to keep records private and this made the patient flow in a doctor's office even more important than a regular office at this time. He remarked that it was also his desire to keep with the standard of the Greek Revival Style which this house is the typical plantation home. He commented that they could remodel the inside but without the closet space each room is 16 feet by 16 feet with a central walkway and is symmetrical. He added that this is also part of the reason why exam rooms do not have to be 16 feet by 16 feet by any means, but he does not want to tear down walls inside, which is part of the reason for the addition, to keep the historical integrity of the house. He noted that patient flow was another reason as far as privacy which is really an issue in medical space today.

Mr. Mahon asked Mrs. Zeitler if the purpose was also to keep walkways as far away from the highway as possible. He asked what was the purpose of the requirement that impervious surfaces be located at least 50 feet from the front property line.

Mrs. Zeitler replied that it is so that a parking lot could not be located close to the road where a sea of cars would be first seen, and so that there would be more landscaping area visible from the road.

Mr. Blanks stated that the parking lot was in the rear and that a handicapped person would have to roll around a lot further to get to the front door.

Dr. Lawson said that there is going to be a rest station by the back of the building if the distance is that far. He commented that this was the biggest problem with changing this place to an office and there is not a way around it, between the privacy needs for patient flow and the layout of the house. He pointed to the current kitchen and said it would be costly to renovate the kitchen area.

Mr. Blanks asked if he was a General Practitioner.

Dr. Lawson replied he was Internal Medicine. He said he would be offering some extra services such as X-ray and cardiac stress testing, so room was needed for that also.

Mr. Beckwith asked what were the plans for the upper story.

Dr. Lawson replied office space for the office manager and himself, since patient care cannot be accessed since it is upstairs, and an elevator would be required which is not feasible at this point.

Mr. Beckwith commented that with the handicap walkway around to the front of the building that inclement weather may be a problem. He asked how he saw dealing with that.

Dr. Lawson said that it would be left open to the air the way it is now.

Mr. Beckwith asked if there was any way to bring someone in a wheelchair up to the front of the building to get them up the steps. He suggested a covered portico in the back if there was access that way, it would be ideal from the parking lot, and would let people not have to deal with the inclement weather and the long walk around, and there may be some way to rework at least the hallway to bring folks in that way. He added that it may be a convenience request, but it also may be a real inconvenience to have folks trying to walk on crutches or with a motorized wheelchair in stormy, rainy, snowy, and icy weather, even though the porch is very attractive. He said that it seemed like there would be another way to deal with the situation, which could become a real problem as proposed.

Dr. Lawson said that the two issues he had thought about was putting the parking spaces closer. He remarked that there is a paved driveway there now on the property which goes from the road to the side. He commented that this would be against the intent of the zoning changes, so they did not forward that even though it was another possibility. He reported that even with a rear entrance that they are trying to preserve the grand 100 year old pecan trees, and there are still issues with inclement weather with those as well. He noted that the property itself creates the issues.

Mr. Blanks stated that Dr. Lawson had put a lot of thought into this and he did not really see a major problem in what he was requesting. He said it would provide an inconvenience for those people in wheelchairs that want to get around there, but then that may be patients who he will lose.

Dr. Lawson said that being a sole practitioner, he prided himself on personal service. He confirmed that there were two (2) office staff and himself in the practice. He commented that he gets to know his patients, and when there are appointments to look out for he would have the nurse go out and assist them into the building.

Mr. Blanks stated that this was a business issue more than anything else.

Mr. Beckwith asked if there were any regulatory issues on ADA having an uncovered walkway.

Dr. Lawson replied not that he was aware of, but he was have to defer to Mr. Gerard.

Mr. Gerard advised that there is not a requirement for such.

Chairman Bartosh pointed out that these are not items that we should be considering, so much as whether there is a necessary hardship deemed upon this property, or if there are other remedies involved. He said that when he first looked at this, he saw other remedies and understands that it may cause them to have to move a little here and a there, but there is a remedy rather than putting this handicap ramp to the side and front of the house. He added that the Z.B.A. had to look at other alternatives which may not be as convenient, but the Z.B.A. has to consider them.

Dr. Lawson said it would be a hardship because renovation of the entire interior space would have to change the flow from the rear, and then the historic interior would be destroyed, which he was personally against, but he did not know if that qualified as a hardship.

Mr. Mahon asked Dr. Lawson to show the Z.B.A. where the addition would be located on the floor plan. He asked if the building would be a rectangle.

Dr. Lawson replied that the idea was to make it a perfect rectangle.

Mr. Gerard advised that the addition had not been designed.

Mr. Mahon said there seemed to be an alternative in the area of the addition.

Mr. Gerard confirmed that there was a total available area of 600 square feet if you enclosed the entire corner.

Mr. Mahon reiterated that he still sees an alternative and does not see the hardship. He confirmed that the Z.B.A. is charged with seeing a genuine hardship.

Mr. Beckwith stated that there is a central hallway separated in the center by the restroom so in order to get from the back to the front you would have to go through the restroom and continue the hallway while bypassing the kitchen. He pointed out that the house was not built for a medical facility, it was built as a home. He said Dr. Lawson is making an admirable effort in trying to utilize what exists without destroying any of the historic integrity. He added he understood what Mr. Mahon was saying about an option, but it looked like it was an unbearable option to try to swap the functions of the house around, just so people can come in the back door. He commented that the plan is to have the reception area in the front so they have to figure out some way to get people up to the front to get into the exam rooms instead of bypassing everything back there.

Chairman Bartosh said that he sees six rooms and he could make the floor plan work any way he twisted it about, and what the Z.B.A. was trying to do was to find a way to justify the variance. He stated that by moving the handicap ramp back and coming in at another area, the problem is solved without the Z.B.A. having to grant a variance in the first place. He commented that he respected what was being said about not moving any walls or anything, but he saw other alternatives.

Mr. Blanks pointed out that the Z.B.A., is trying to redesign the inside of the house and the variance is asking for 12 feet from 50 feet to 38 feet to allow for a walkway and handicap access.

Chairman Bartosh replied that he was not trying to do anything in the house, but find a way to justify putting this up front.

Mr. Blanks said that the variance is to reduce from 50 feet to 38 feet for the walkway and handicap access. He stated that the Z.B.A. needed to determine if they want to grant a 12 foot variance to allow construction of a walkway.

Mr. Mahon warned that whenever the Z.B.A. granted a variance it set the stage for what may be down the pipe. He said that this is more of a convenience than a hardship.

Mr. Beckwith stated that he thought that this was a unique situation actually. He said that there are not many, if any, locations like this. He commented that if the variance is approved then the walkway will be in the front, and if it is disapproved then they are going to be forced to do something else.

Mr. Blanks reiterated that the Z.B.A. is trying to redesign the house. He said that they want to put a walkway in the front and need to reduce the setback for impervious from 50 feet to 38 feet.

Mrs. Zeitler advised that they are proposing the walkway only 12 feet from the front property line, so the variance amount is actually 38 feet. She clarified that the numbers were transposed in the report, and according to the application that the applicant filled out the variance amount was 38 feet. She reiterated that proposed is 12 feet, and it does scale out on the Concept Plan to about 12 feet from the closest edge of the walkway in front of the structure to the front property line, and variance

amount requested is 38 feet.

Mr. Blanks verified that the walkway would only be 12 feet from the road.

Mrs. Zeitler replied yes.

Mr. Gerard advised that there is a property line where an existing fence is located, and if the variance is not approved then the sidewalk cannot be put in to get to the front. He added that they could not do anything. He asked the Z.B.A. to help him understand their objections. He said it worked better from a functional layout, and the Z.B.A. are not the ones using this space.

Chairman Bartosh explained that the Z.B.A. is here to grant a variance based upon a hardship and there are other remedies on this particular piece of property available.

Mr. Gerard replied there were not.

Chairman Bartosh stated that there are other remedies, behind the house, to the side of the house, or the floor plan could be rearranged to make that happen.

Mr. Gerard said that if they do that then they might as well take the whole building out.

Mr. Mahon referenced the Engineering Department's comments and agreed with them.

Mr. Gerard commented that you asked the Engineering Department.

Mr. Mahon remarked that he was not an Engineer, but he tended to agree with what the Engineering Department proposed as an alternative because it made more sense. He said that variances are not granted for the sake of granting a variance. He added that the Z.B.A. is not a rubber stamp.

Mr. Blanks explained that when the Z.B.A. considers a request that they have to go back into all of the other cases which they have heard over the years, and quite frankly his opinion had swapped 180 degrees because he had a problem granting a 76% variance. He commented that he did not have a problem granting a 12 foot variance to reduce the setback from 50 feet to 38 feet which is a 24% variance, but he did have a problem with a 76% variance to reduce the setback from 50 feet to 12 feet. He added that this was too drastic in his opinion.

Dr. Lawson said that he uses the house as his personal residence and has for nearly two years. He stated that as a safety measure with children, he had placed a fence along the front part of the property and it will be extended. He remarked that there is a layered stone walkway there now which is unsuitable for patients, especially handicapped patients. He commented that the existing pathway was inside the variance and was that close to the road right now. He reiterated that it would be a hardship to rearrange the entire interior. He added that it was not a convenience to have to demolish the inside of a building in order to have access from the rear.

Mr. Beckwith commented that he concurred with Mr. Blanks since the variance amount is for 38 feet. He said that the agenda was written for a 12 foot variance and not a 38 foot variance. He remarked that he was very concerned. He went on to say that it is a situation which is a very attractive place, it is a location that the Z.B.A. could possibly be setting a precedent with the amount of variance that is allowed. He added that he is conflicted now.

Mr. Blanks pointed out that the ordinance states 50 feet and to take a slight variance of the ordinance is one thing, but to take a massive variation in the ordinance is a totally different story. He said he had been agreeable with minor adjustments in the past, but on the same hand he had always been very hard on a major change in an adjustment to an ordinance.

Dr. Lawson said he would once again like to submit the uniqueness of this property. He commented that having lived there that he knew what was all the way down S.R. 74, and what was left in Fayette County, while there are some smaller homes there was not one home that is this close to the road, nor are there few homes which fit the historic preservation, which even though it is not on the National Register of historic places, it is bonafide by the County as a historic structure. He stated that in that respect the Z.B.A.'s concern about the amount of the variance would not apply in other cases, and that should be taken into consideration.

Mr. Gerard added that the radius of the proposed sidewalk pretty much matches the existing walkway. He said that they are not proposing anything less safer than what is there now.

Mr. Mahon advised that the character of the building was proposed to be changed from a sometimes used path for a home to a primary entrance to a commercial business. He said this was part of what he had a problem with, and the Engineering Department said the same thing. He stated that this is over and above the fact that there is an alternative. He commented that if there was a 20 foot cliff in the back yard that is one thing, but they do not have that problem so he sees an alternative.

Mr. Beckwith asked Mrs. Zeitler if the existing walkway is considered to be grandfathered.

Mrs. Zeitler replied that the Zoning Ordinance allowed the existing structures that do not meet setbacks to remain once it is rezoned to O-I, but the pathway was not considered a structure.

Mr. Beckwith asked if the existing path would have to be removed if the variance was not approved.

Mrs. Zeitler replied yes.

Mr. Beckwith confirmed that the existing sidewalk could not be used.

Mrs. Zeitler replied right.

Mr. Beckwith asked even if it were a residence in an O-I zoning district.

Mrs. Zeitler advised that if it were a residence the existing walkway could remain because a residential use in the Overlay is not subject to the Overlay requirements and does not require an approved site plan. She clarified that if the variance was denied that the pathway, which is not considered an existing structure, would have to be removed to comply with the ordinance.

Mr. Beckwith verified that the existing sidewalk could not be stabilized without the variance.

Mrs. Zeitler replied that a walkway constructed out of pervious materials such as gravel or small rock or something that will drain would be acceptable there without a variance.

Mr. Beckwith asked if pervious pavement material would be sufficient.

Mrs. Zeitler replied that it would.

Mr. Beckwith asked if the existing walkway were in a condition to be used right now and the variance was denied, could it be used as a walkway even though it is for access to the front.

Mrs. Zeitler replied that if it was pervious it could be used there as long as it did not interfere with landscaping required in that area of the 50 foot landscape area.

Mr. Beckwith asked Attorney Goza if the conditions put on by the B.O.C. had to be addressed by the B.O.C.

Attorney Goza replied yes sir when there are special conditions of zoning.



Mr. Beckwith asked if the condition of zoning was in fact that the building must comply with the overlay zone, and isn't that what we are talking about here. He referenced Variance #3 and Variance #4, even though they were not advertised, since they related to landscaping and buffering would have to be approved by the B.O.C. He asked why Variance #1 and Variance #2 would not have to be also heard by the B.O.C.

Attorney Goza advised that Condition #2 states that the proposed development shall comply with all the requirements of the overlay.

Mr. Beckwith asked if the Z.B.A. had the right to change that since the B.O.C. applied those conditions.

Attorney Goza replied probably not.

Mr. Beckwith asked if Variance #1 and Variance #2 are invalid.

Attorney Goza replied that Variance #1 would be.

Mr. Gerard remarked that with all due respect he did not understand, since Variance #1 is also an overlay issue.

Mrs. Zeitler explained that she tried to look at the intent of the condition rather than the exact wording. She said it is understood that the exact wording says that they have to comply with the overlay, therefore none of these variances could be heard by the Z.B.A. and they would have to go to the B.O.C. and request that the condition change. She stated that the intent of the condition and the way that it is worded as proposed development, that it was the intent that proposed development on the subject property comply with the overlay. She remarked that what we are dealing with is Phase 1 which is existing, not proposed. She pointed out that there are a few changes proposed to what is existing to make it work. She added that it was not the intent of the condition to prohibit a minor addition or ADA access to the existing structure, therefore her interpretation of it is that it is something that may be the Z.B.A. could consider. She went on to say that the Z.B.A. may disagree because it is open for interpretation. She confirmed that the condition was intended for simply aesthetic purposes that we were trying to achieve, to control the layout, design, and architecture of what was going to be built there, the landscaping on site, where the parking would be located, etc.

Attorney Goza added that the condition does state "proposed development" which is the proposed development for the five acres, with this being the existing structure. He concurred with Mrs. Zeitler's interpretation of the condition.

Mr. Beckwith reiterated that if the walkway was made of pervious material it could still be used for access to the building but if it were impervious it would be a different story.

Mrs. Zeitler replied that a residential use of the property is not subject to the Overlay and does not require a site plan to be approved, so if the pathway were existing for a residence the County would not have any say in the matter. She added that when a nonresidential use is proposed a site plan has to be approved, then Staff has to look at the requirements that it is subject to, and the structure itself can encroach if it is already existing, but an impervious sidewalk is not considered a structure.

Mr. Blanks remarked that he looked at this two ways, personally he did not see anything wrong with it, but, as a Z.B.A. member, granting a variance this drastic to the ordinance he had to be consistent with decisions he had made in the past, and in that light he would have to vote against it because of the 76% variance.

Mr. Beckwith asked if the owner had dedicated 10 feet of right-of-way to the County per the other condition.

Attorney Goza advised that 10 feet was required on Redwine Road.

Mr. Beckwith remarked that he also had a conflict. He said that this is a unique piece of property, and an incorrect ordinance was maybe forced on the owner, but that was not for the Z.B.A. to decide. He commented that it is such a gray area regarding the existing walkway that he still would support the variance. He stated that it was not that much of a setback as it appeared because of the unique nature of this particular situation, and the Z.B.A. had looked at unique situations before. He went on to say that he did not think the precedent setting problem would be as great as the Z.B.A. thought if the variance was approved.

Mr. Mabra said he agreed with Dr. Lawson and he had done his homework and tried to lessen structural damage and lessen changes to the existing building, but he also agreed with Mr. Mahon because there were alternative means. He stated that he did not have a problem with a variance amount of 12 feet, but he understood that it was actually a 38 foot variance, and he did not think that with the alternatives that he could agree to the 38 foot variance.

Chairman Bartosh asked if the fence was on the property line.

Mr. Gerard replied that the survey did not show the fence.

Chairman Bartosh said that the road was going to be increased and there would be more rapidly moving traffic and Redwine is a main arterial road.

Mr. Gerard pointed out the property line and the existing turn lane on the photographs.

Chairman Bartosh stated he was concerned about the transportation aspect and the design and the increased traffic and more rapidly moving traffic. He expressed concern about a safety issue and putting the ramp in a safer area instead of bring clientele right up to the edge of the roadway practically. He added that the Engineering Department is probably looking at that also, and the intent of the County maintaining setbacks is related to the safety aspect from the roadway.

Dr. Lawson replied that he agreed with the safety aspects. He said he had small children that live there, and safety was a concern. He confirmed that the picket fence is approximately 4 feet high which provides protection but nothing will provide protection from an out of control automobile. He stated that he had spoken with someone at the Road Department in reference to a yield lane which is used as a 45 mph access lane onto Redwine Road. He added that he has discussed placing a stop sign there but there is a formula for a yield by the State D.O.T. which could obviously change. He confirmed that the concern about traffic is true, which lends the property to other types of development too, which is not what he wants to do, but the area is growing and the traffic is increasing, and if this is set aside as an office that will help limit traffic at the intersection rather than cause traffic to be worse, and especially if a stop can be placed there. He reported that he would be required to get an observation by the Sheriff Department to see how many violations there are at the yield sign to create further safety.

Chairman Bartosh stated that the Z.B.A. takes this very seriously while maintain the integrity of the law. He said that the Z.B.A. is not trying to be difficult. He asked Dr. Lawson to show the photographs of the layout of the building. He asked if they could come in on the east side of the house with the ramp, which would preserve the looks of the front of the house, and enter the waiting room off the east side. He remarked that there would have to be an entranceway added. He went on to say that he saw other alternatives and he could not legally say that this is how it should be done, but he was essentially hinting that when the Z.B.A. looked at this, and many are seeing other ways that this could be done in a very cosmetic and practical manner without the need for a variance.

Mr. Gerard replied that they could not do that with the 50 foot setback for impervious. He presented the site plan and pointed out the 50 foot setback.

Mr. Blanks reminded Mr. Gerard that he had a problem granting such a wide variance, 76% but he did not have a problem granting a 24% variance. He added that if the variance requirement was reduced the variance might stand a better chance of being granted. He remarked that the Z.B.A.

liked what they saw and they don't want to prohibit it, and they want to cooperate, but they had to stay within the guidelines of their responsibility on the board, and they also had to support decisions which they made in the past when others were denied.

Mr. Gerard replied that he understood that and respected that. He stressed that he did not know if a 4 foot wide sidewalk was that big of a deal but they maybe could make the sidewalk hug as close to the existing building as possible, but that would still require a variance.

Mr. Blanks said it did not eliminate the requirement for a 50 foot setback, but the variance amount would be a smaller number.

Mr. Gerard stated that the finished floor elevation was approximately 4 feet above the ground, so 48 feet of handicap ramp was needed.

Mr. Blanks asked why they needed the looping sidewalk coming around to the front.

Mr. Gerard replied that it was for people who do not want to use the handicap ramp.

Mr. Blanks asked what if they had to use the ramp.

Chairman Bartosh asked if another entrance could be made to the ramp.

Mr. Blanks stressed that there are so many alternatives to the Z.B.A.

Mr. Gerard stated no there are not.

Chairman Bartosh asked if access was made from the ramp or people actually entered on the side of the porch for cosmetic looks, if there was an existing pathway that is pervious it would be left there would be acceptable.

Mrs. Zeitler replied that yes as long as they could comply with the required landscaping, since the 50 foot area is a landscape area.

Mr. Mahon stated that there was a motion on the floor which had to be voted on or maybe tabled to allow Dr. Lawson to come back with something else.

Chairman Bartosh replied that this would be an option.

Mr. Beckwith said he could withdraw his previous motion and vote to table the variance.

Mr. Gerard asked if they could come back with an alternative design.

Chairman Bartosh replied that it would be acceptable.

Dr. Lawson asked the Z.B.A. what degree of variance had they voted on in the past.

Mr. Blanks replied that the degree of variance was unique to the property.

Mr. Mahon said it was Mr. Beckwith's option to either withdraw the motion or go forward.

Mr. Beckwith asked the difference in elevation of the street and the front porch.

Dr. Lawson replied 4 feet.

Mr. Mahon asked if the 48 foot ramp in the front would be a distraction against the aesthetic appeal of the house in the front.

Dr. Lawson remarked that Mr. Gerard did not want to bring this up, but he had been awarded in other previous restoration projects for his design of handicap ramps.

Mr. Beckwith withdrew his motion for approval of the variance. Mr. Mabra withdrew his second.

Mr. Mahon asked Dr. Lawson if he wanted to table the variance because, if not, he would make a motion to deny the variance.

Dr. Lawson requested to table the variance until the March meeting.

Larry Blanks made a motion to table the variance to the March public hearing. Ron Mabra seconded the motion.

Mr. Blanks stated that some clarifications had been made and the Z.B.A. had talked about other options which are useful, such as a pervious pathway for aesthetical purposes, as long as the landscaping fit. He said there could be some rethinking on the way that the front should look with some modifications which may take less of a variance than 38 feet. He added that there are some possibilities there, which would be more within line of what the Z.B.A. would be comfortable with.

Chairman Bartosh asked Staff what were the options as far as meeting dates and meeting criteria.

Mrs. Zeitler replied that the deadline to take in applications for March had passed, and the legal ad would be due to the newspaper this Friday. She stressed that a very quick turn around as far as a revised variance request with a specific variance amount would be needed to meet the deadlines for March.

Mr. Blanks asked if they did not make the Friday deadline if the variance could go to the following month.

Mrs. Zeitler said they certainly could request to postpone until the April Z.B.A. hearing.

Mr. Gerard said the relocation of the ramp may impact some existing trees.

Mr. Beckwith asked Chairman Bartosh to call the question.

Chairman Bartosh asked Dr. Lawson if it were acceptable to receive the required information by Friday or would he like to table to April.

Dr. Lawson replied that he would have the information ready by Friday.

Mr. Beckwith said that this was not the point, and that the variance should either be tabled or go forward.

Chairman Bartosh remarked that, with all due respect, if Dr. Lawson did not wish to table then the variance would either be approved or denied tonight.

Chairman Bartosh called for the vote to table the variance to the March public hearing. The vote unanimously passed 5-0.

\* \* \* \* \*

**6. Consideration to reschedule the May 26, 2003 Public Hearing to May 19, 2003.**

Bill Beckwith made a motion to reschedule the May public hearing to May 19, 2003. Larry Blanks seconded the motion. The motion unanimously passed 5-0.

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7. Consideration to reschedule the December 22, 2003 Public Hearing to December 15, 2003.

Tom Mahon made a motion to reschedule the December public hearing to December 15, 2003. Bill Beckwith seconded the motion. The motion unanimously passed 5-0.

\* \* \* \* \*

Chairman Beckwith asked if there was any further business.

Kathy Zeitler advised that two (2) new applications had been submitted for the March Public Hearing, plus the petition tabled from tonight's public hearing would be on that agenda as well.

There being no further business, Larry Blanks made the motion to adjourn the meeting. Bill Beckwith seconded the motion. The motion unanimously passed (5-0). The meeting adjourned at 8:22 P.M.

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

Respectfully submitted by:

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**DAVID BARTOSH**  
**CHAIRMAN**

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**ROBYN S. WILSON**  
**SECRETARY**