

THE FAYETTE COUNTY ZONING BOARD OF APPEALS met on April 28, 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: David Bartosh, Chairman
Ron Mabra, Vice-Chairman
Bill Beckwith
Ron Mabra
Larry Blanks

MEMBERS ABSENT: None

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

STAFF ABSENT: Kathy Zeitler, Director of Zoning/Zoning Administrator

Welcome and Call to Order:

Chairman Bartosh 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 the meeting held on March 24, 2003.

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

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Delores Harrison read the procedures that would be followed for presentation and opposition for petitions.

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2. Consideration of Petition No. A-534-03, Claude Raptis of Raptis Homes, Inc., Owner, and Billy Brundage of Brundage Engineering, Inc., Agent, request a Variance to remove existing vegetation from a portion of the required 30' buffer adjacent to residential zoning (Coweta Fayette E.M.C. zoned A-R) to allow a proposed detention pond. A reduced buffer width planted to buffer requirements to be installed along the east property line (130 feet in length starting from right-of-way) is proposed adjacent to the Coweta Fayette E.M.C. This property is located in Land Lot 70 of the 7th District, fronts of Sumner Road, and is zoned O-I. The Applicant proposes to construct an Office Building.

Billy Brundage, Agent, stated Raptis Homes is proposing to construct an office building on this site on Sumner Road just off of Hwy. 54 West between Fayetteville and Peachtree City and adjacent to Coweta Fayette E.M.C. (C.F.E.M.C.) property. He advised that to the north and west is property zoned residential, and to the east is C.F.E.M.C. which is also zoned residential, even though there is no residential use. He explained that the reason why the C.F.E.M.C. property is zoned residential is because public utilities do not have to comply with zoning regulations. He added that if public utilities had to follow all the same rules as everyone else then the C.F.E.M.C. property would probably be zoned O-I, however there are probably several different zoning classifications which would allow such a facility but O-I would probably be the most consistent.

Mr. Brundage confirmed that Raptis Homes would provide a landscaped planted buffer instead of a natural buffer. He reported that the reason for a buffer is to protect a residential property, however this property is zoned residential but does not contain a residential use. He noted that the buffer regulations go along with the zoning and not the use. He went on to say that they would meet the requirements for a planted buffer instead of the requirements for a natural undisturbed buffer. He remarked that this would allow the construction of a detention pond in the buffer which places the detention pond away from the residential areas and adjacent to the more intense, institutional type use. He commented that the request meets the six (6) criteria for variance approval. He advised that Mr. Raptis has contacted C.F.E.M.C. and discussed this request with them and they verbally had no objections, however they did not provide a letter, but they are not present tonight to object.

Due to no one being present, there was no one to speak in favor or opposition of the petition and no rebuttal was required. Chairman Bartosh closed the floor from public comments.

Bill Beckwith made a motion to approve the petition. Ron Mabra seconded the motion.

Larry Blanks stated that he thought that all of the properties on Hwy. 54 West were given a commercial zoning.

Robyn Wilson replied that the subject property fronted Sumner Road and not Hwy. 54 West. She added that there is a tract across Sumner Road zoned O-I and also several other tracts along Hwy. 54 West in the vicinity zoned O-I.

Chairman Bartosh asked if most of the area along Hwy. 54 West is zoned residential.

Mrs. Wilson confirmed that there was both residential and O-I zoning along Hwy. 54 in the general area and the property across Sumner Road was zoned O-I.

Chairman Bartosh asked if the most definite trend along Hwy. 54 West is going to O-I.

Attorney Bill McNally replied that there would probably be mostly O-I and maybe some commercial.

Chairman Bartosh asked if the properties on Sumner Road are pretty much all residential.

Attorney McNally explained that Sumner Road goes from C.F.E.M.C. and comes back out in Peachtree City. He noted that there is a mix of residential, commercial, and office institutional.

Ron Mabra stated that the petition fits at least three (3) of the criteria for granting a variance.

Tom Mahon remarked that he has a different opinion. He said that he believes the Z.B.A. is setting a dangerous precedent. He stated that the petitioner mentions in their statement that this is a small piece of property. He commented that by constructing a large building on the property that they are creating their own hardship. He added that the Z.B.A. has to go by the regulations regardless of the use of the adjacent property because the adjacent property is zoned A-R. He reiterated that he thinks the Z.B.A. is setting a dangerous precedent. He confirmed that the proposed building is 7,500 square feet.

Mr. Blanks said that the adjacent property being zoned A-R was very unique due to a public utility being located on an A-R piece of property, and totally takes it away from any kind of precedent setting for any future considerations because it is a public utility and doesn't have to change its zoning.

Mr. Beckwith concurred and added that due to the uniqueness of the situation that this is why the Z.B.A. can look at variances because the ordinances does not cover every situation. He said he could not think of another situation where this particular condition exists, where a public utility has established itself. He stated it was only right to approve this particular case and added that he still stands by his motion to approve.

Chairman Bartosh asked if, based upon the comments, he does not see a precedent being set because of the uniqueness of that particular piece of property, since for all practical purposes it is an O-I property even though it is not zoned O-I. He added that C.F.E.M.C. and its uniqueness would separate it from any other circumstance which might arise.

Attorney McNally replied that the Z.B.A. may want to make their statements a part of the motion.

Chairman Bartosh concurred.

Mr. Beckwith asked if the motion should be amended given the conversation and discussion which had taken place that recognizes the situation.

Attorney McNally replied that the Z.B.A. needed to recognize the situation in the motion.

Bill Beckwith amended his motion to approve the petition due to the unique situation of an O-I zoning district being adjacent to an A-R zoning district which was occupied by a public utility. Ron Mabra withdrew his second to the first motion and seconded the amended motion. The motion passed 4-1 with Tom Mahon voting in opposition.

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3. Consideration to reschedule the November 24, 2003 Public Hearing to November 17, 2003 due to the Thanksgiving Holiday.

Larry Blanks made a motion to approve the rescheduling of the November public hearing as requested. Bill Beckwith seconded the motion. The motion unanimously passed 5-0.

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Chairman Bartosh asked if there was any further business.

Robyn Wilson advised that one (1) application had been submitted for the May 19th 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 (5-0). The meeting adjourned at 7:18 P.M.

**ZONING BOARD OF APPEALS
OF
FAYETTE COUNTY**

Respectfully submitted by:

**DAVID BARTOSH
CHAIRMAN**

**ROBYN S. WILSON
SECRETARY**