

**THE FAYETTE COUNTY ZONING BOARD OF APPEALS** met on June 27, 2011, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Public Meeting Room, First Floor, Fayetteville, Georgia.

**MEMBERS PRESENT:** Vic Bolton, Chairman  
Bill Beckwith, Vice-Chairman  
Larry Blanks  
Tom Mahon

**MEMBERS ABSENT:** Brian Haren

**STAFF PRESENT:** Pete Frisina, Director of Community Development  
Robyn S. Wilson, ZBA Secretary/Zoning Coordinator

**Welcome and Call to Order:**

Chairman Bolton 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 Public Hearing held on April 25, 2011.**

Larry Blanks made the motion to approve the Minutes as circulated. Tom Mahon seconded the motion. The motion unanimously passed 4-0. Members voting in favor were: Chairman Bolton, Bill Beckwith, Larry Blanks, and Tom Mahon. Brian Haren was absent.

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**2. Consideration of Petition No. A-584-11, Timothy E. and Elaine S. Powers, Owners, and Attorney Michael Maxwell, Agent, request a 12 foot Variance to reduce the south side yard setback from a minimum of 50 feet to a minimum of 38 feet to allow an existing accessory structure to remain. This property is located in Land Lot 156 of the 4th District and is zoned A-R. The address for the subject property is: 258 Matthews Road, Fayetteville, GA 30215.**

Chairman Bolton stated an email was received on June 21, 2011, from Attorney Mike Maxwell requesting to table said petition until July 25, 2011, due to the lack of a full board.

Bill Beckwith made the motion to table said petition as requested due to the lack of a full board. Larry Blanks seconded the motion. The motion to table said petition unanimously passed 4-0. Members voting in favor were: Chairman Bolton, Bill Beckwith, Larry Blanks, and Tom Mahon. Brian Haren was absent.

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**3. Consideration of an Appeal from the actions of the Zoning Administrator regarding the denial of a Telecommunications Tower Application, Charlie G. Taylor, Owner, and Matt Allen, Managing Member of Highwood Towers, Agent. This property is located in Land Lot 105 of the 7th District, fronts on Farr Road and Dogwood Trail, and is zoned A-R. The address for the subject property is: 123 Farr Road, Tyrone, GA 30290.**

Chairman Bolton stated an email was received on June 22, 2011, from Matt Allen, Managing Member of Highwood Towers, requesting to table said petition until July 25, 2011, due to the lack of

a full board.

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Larry Blanks made the motion to table said petition as requested due to the lack of a full board. Bill Beckwith seconded the motion. The motion to table said petition unanimously passed 4-0. Members voting in favor were: Chairman Bolton, Bill Beckwith, Larry Blanks, and Tom Mahon. Brian Haren was absent.

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**4. Discussion of ZBA Policies and Procedures.**

Pete Frisina explained the issue of Rules of Procedure came up recently and staff could find no official adoption of the Rules of Procedure for the ZBA. He pointed out some ZBA procedures are addressed in Article IX of the Zoning Ordinance. He added Sec. 9-2 Rules and Procedures of the Zoning Ordinance is not the same as Rules of Procedures. He reported the ZBA has the right to adopt Rules of Procedure. He stated he had used the Board of Commissioners Rules of Procedure to prepare the Rules of Procedure for the ZBA.

Pete Frisina presented the following ZBA Rules of Procedures with minor revisions as indicated:

**Fayette County Zoning Board of Appeals Rules of Procedure**

Sec. 1. Call to Order

If, at the time of a meeting, the chairman, **or vice-chairman who has the authority to act in the chairman's absence**, determines that all Zoning Board of Appeals members have been notified or an attempt has been made to notify all members and that a quorum of the members is present, he shall have the authority to call the meeting to order. A quorum is required for the board to take official action and shall consist of at least three (3) of the five (5) members of the board. The call to order shall not require any preceding action but may be issued solely by the authority of the chairman. Prior to the public hearings, the chairman shall cause the public hearing procedures to be read. In the absence of both the chairman and vice-chairman, the members present shall determine if a quorum is present and shall call for the election of a temporary chairman to preside over the meeting.

Sec. 2. – Conduct of Public Hearings

The chairman shall cause the petition to be read prior to the public hearing. Once the petition is read, the chairman shall call for the petitioner or the petitioner's representative to make their presentation at the podium. At the conclusion of the presentation, the chairman shall ask for public input at the podium, first from anyone who wishes to speak in favor of the petition and second from anyone who wishes to speak in opposition of the petition. The petitioner shall have an opportunity to rebut those issues raised by those in opposition to the petition. After the aforementioned groups have spoken, the board will close the floor to further public comment on the petition. No comments or questions can be raised by the petitioner, their representative, or members of the audience unless recognized by a member. The board may ask questions or make comments prior to or after a motion is made and seconded.

Sec. 3. - Motions—General Requirement.

The Zoning Board of Appeals can take action only when a motion to take such action is made and passed by the board.

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Sec. 4. - Same—Procedure.

- (a) Before a motion can be discussed or voted upon by the Zoning Board of Appeals, it must be presented to the board by a member of the board. The presentation is made by merely stating the motion.
- (b) Immediately after the motion is presented to the board, the chairman shall ask for a member to second the motion. If the motion is not seconded, it shall fail for lack of a second.
- (c) If the motion is seconded, the chairman shall immediately ask for discussion of the motion. Discussion of the motion shall be limited to the board and shall relate solely to the motion on hand; however, any member may question the petitioner, their representative, a member of the audience, or staff.
- (d) Upon the conclusion of discussion, the chairman shall restate the motion and call the question.

Sec. 5. - Same—Amendment.

- (a) An amendment may be suggested by any member of the board. The amendment shall be suggested only during the discussion of the original motion.
- (b) A motion can be amended only with the consent of the member making the motion. If the member who seconded the original motion disagrees with the amendment, he shall be allowed to withdraw his second. When a second is withdrawn, the chairman shall immediately request a new second.
- (c) After a motion is amended, the chairman shall call for discussion and proceed with the consideration of the motion in the manner provided above.

Sec. 6. - Same—Withdrawal.

- (a) Any motion may be withdrawn at the discretion of the member making the motion.
- (b) Motions may be withdrawn at any time prior to the calling of the question by the chairman.

Sec. 7. - Same—Reconsideration.

- (a) A motion, which has been passed, defeated, or which fails for lack of a second, may be reconsidered by the board during the same meeting provided the board passes a motion for reconsideration. Otherwise, the original motion may not be presented to the board again during the same meeting.
- (b) A motion for reconsideration can only be made by a member who voted against the original motion, if defeated, or in favor of the original motion, if passed. Otherwise, any member may make a motion for reconsideration.

Sec. 8. - Same—Vote.

- (a) A member in favor of a motion shall say "aye" while holding up his/her right hand.
- (b) A member against a motion shall say "nay" while holding up his/her right hand.
- (c) A member present but refusing to vote shall be recorded as abstaining.
- (d) All votes shall be by simple majority.
- (e) Three affirmative votes in favor of the motion are needed to ~~approve~~ pass a motion. A motion for the approval or denial of a petition or appeal which fails to receive three affirmative votes shall be considered a denial ~~of the petition~~.

- (f) A[n] unanimous passing vote shall mean a vote in which all members of the board present vote in favor of the motion.

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Sec. 9. - Special Motions—Call the Question.

- (a) During the discussion of any motion, any member may move to call the question in order to end discussion and have the vote on the pending motion.
- (b) When a member has moved to call the question, discussion of the original motion shall cease and the chairman shall immediately restate the motion and then proceed with a vote on whether to call the question. A second of a motion to call the question shall not be necessary.
- (c) If the vote is in favor of the motion to call the question, the chairman shall immediately call the question on the original motion.
- (d) If the vote is against the motion to call the question, discussion of the original motion shall continue.

Sec. 10. - Same—Point of Order.

- (a) Whenever a member has a question as to the procedure being followed by the chairman, he may raise a point of order. A point of order requires no second.
- (b) Upon the raising of a point of order, the chairman shall stop the meeting and the member shall state his question. The meeting shall continue after a determination of the question has been rendered by the chairman.

Sec. 11. - Same—Out of Order.

- (a) The chairman shall have the authority to cite any individual out of order when that individual, in the opinion of the chairman, violates these rules of procedure.
- (b) No other action shall be required in citing an individual out of order.
- (c) When an individual has been cited as out of order, the chairman shall state the reasons therefore and shall give the individual directions regarding compliance with these rules.

Sec. 12. - Same—Adjournment.

- (a) Adjournment of the meeting must be by motion.
- (b) A motion to adjourn does not require a second.
- (c) When a motion to adjourn is passed, the board may no longer act until another meeting is called to order.

The ZBA concurred they had no issues with the Rules of Procedure.

Bill Beckwith made the motion to adopt the Rules of Procedure as amended by staff. Tom Mahon seconded the motion. The motion unanimously passed 4-0. Members voting in favor were: Chairman Bolton, Bill Beckwith, Larry Blanks, and Tom Mahon. Brian Haren was absent.

*12 Month Waiting Period*

Pete Frisina stated another issue has to do with the waiting period before a variance could be brought back before the ZBA. He noted the time period is addressed in Article IX which states that a petition could be brought back in less than 12 months if the ZBA grants a rehearing based on the Rules of Procedure. He reported the County Attorney confirmed that a variance is a “zoning decision” which is covered under State Code. He said the State Code requires a six (6) month waiting period before a petition can be reheard. He advised the ZBA there were two (2) options: 1) amend the Zoning Ordinance from 12 months to six (6) months; or 2) establish criteria to allow a variance to be reheard

prior to the 12 month waiting period.

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Larry Blanks asked how this would affect petitions waiting for the expiration of the 12 months if the ordinance was amended to a six (6) months waiting period.

Pete Frisina explained if you have a petitioner waiting for the 12 month period and the ordinance is amended within that 12 month period, then the petitioner goes by the newly adopted ordinance.

The ZBA concurred to amend the Zoning Ordinance from 12 months to six (6) months to comply with State Law.

Pete Frisina explained staff is beginning a second review of the Zoning Ordinance, in its entirety, and he would make this a part of those revisions.

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Chairman Bolton asked if there were any applications for July.

Robyn Wilson replied only the two (2) applications tabled tonight.

There being no further business, Bill Beckwith made the motion to adjourn the meeting. Members voting in favor were: Chairman Bolton, Bill Beckwith, Larry Blanks, and Tom Mahon. Brian Haren was absent. The meeting adjourned at 7:24 P.M.

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

Respectfully submitted by:

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**VIC BOLTON**  
**CHAIRMAN**

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