

THE FAYETTE COUNTY ZONING BOARD OF APPEALS met on August 28, 2017, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

MEMBERS PRESENT: Bill Beckwith, Chairman
Marsha Hopkins, Vice-Chairman
Tom Waller
John Tate
Therol Brown

STAFF PRESENT: Pete Frisina, Director of Community Services
Chanelle Blaine, Zoning Administrator
Chakevia Jones, Planning & Zoning Coordinator

Welcome and Call to Order:

1. Consideration of the Minutes of the Meeting held on June 26, 2017.

Tom Waller made a motion to approve the June 26, 2017 minutes. John Tate seconded the motion. The motion passed 5-0.

PUBLIC HEARING

2. Petition No. A-660-17, Mildred Eubanks Massengale, Owner, requests the following: Variance to Sec. 110-125. A-R, (d) (6) to reduce side yard setback from 50 feet to 12 feet to maintain an existing barn. The subject property is located in Land Lot 122 of the 4th District and fronts on Grant Road.

Anne Massengale said I am the daughter of the people who purchased this land in the 1970's. They enriched the land by buying and building two buildings. The first one is a house and the second one is the barn. The reason we're here tonight is about the barn. It is not a wood shelter that's just a lean to. We're talking about a two-story brick barn with a concrete slab and a wooden trough to feed cows with. What we're asking is for the appeal to be accepted.

Chairman Beckwith said you'd like to reduce the side yard setback from 50 feet to 12 feet to let the barn remain.

Anne Massengale said yes sir.

Chairman Beckwith said is there anyone to speak in favor of the petition. Is there anyone to speak in opposition? Lady and gentlemen, what's your pleasure?

Marsha Hopkins said I'd like just some clarification. This issue came to light because the property is being subdivided for sale?

Anne Massengale said let me sum it up. My dad died three (3) years ago. My mom had an injury this year so she's in assisted living. In the process my sister and I are dividing up the property and selling it as whole. We thought, because the barns at least 37 years old, that it was grandfathered in, but when we were doing the petition to sell the property they said no, we had to come in front of the Zoning Board of Appeals

Marsha Hopkins said so the property is divided.

Anne Massengale said well my dad died and his half went to my sister and I. My mother is still alive so half of it is my mother's and half belongs to my sister and I. what we're trying to do is sell the barn as one whole thirty-nine (39) acres.

Chairman Beckwith said it's not subdivided now or it is.

Chanelle Blaine said it is subdivided right now, but they want to sell it as one large lot.

Anne Massengale said my sister and I are in the same accord that we're trying to sell our parents property.

Chairman Beckwith said the layout that we have shows two (2), actually three pieces of property here.

Anne Massengale said my mother divided it so the house and the barn were five (5) acres, and the other two pieces were separate. Again, we're trying to sell the whole thirty-nine (39) acres with the house and the barn included.

Chairman Beckwith said in order to do that you'd have to have this variance.

Anne Massengale said yes sir.

Chairman Beckwith said you say this barn is about thirty (30) years old.

Anne Massengale said yes sir, so is the house and that's where the concern is. To tear this down to be a part of the current zoning we were talking about probably \$60,000 plus the loss of that revenue of the barn. We would have to tear a brick barn and remove all that building. Anybody who wants that property is going to want it for agriculture, most likely livestock. That's what we used it for. My dad raised Black Angus cows, best in south Fayette County.

John Tate asked when the property was with the 34.2 acres there was no problem with the barn.

Anne Massengale said there's never been an issue until my sister and I were putting everything up for sale.

Chairman Beckwith asked how did that five (5) acre parcel get identified.

Anne Massengale said my mother what she did is she refinanced it back in probably about 2007. Again, my sister and I are selling as one whole parcel; we're not willing to subdivide.

Marsha Hopkins made a motion to approve Petition A-660-17. John Tate seconded the motion. The motion passed 5-0.

3. **Petition No. A-661-17, Brandon Stanfield, Owner, requests the following: Variance to Sec. 110-133. R-70, (d) (6) to reduce side yard setback from 25 feet to 3 feet to maintain an existing accessory structure. Variance to Sec. 110-133. R-70, (d) (6) to reduce side yard setback from 25 feet to 11 feet to maintain an existing accessory structure. Variance to Sec. 110-79. Accessory structures and uses. (c) (1) to increase the amount of accessory structures per individual lot from 2 to 4 and increase the total square footage from 3,600 square feet to 4,132 square feet. Variance to Sec. 110-79. Accessory structures and uses. (c) (2) to decrease the percentage of an accessory structure that must be fully enclosed from 50 percent to 0 percent. The subject property is located in Land Lot 7 of the 9th District and fronts on Thompson Road.**

Therol Brown stated that he had business dealings with Brandon and Megan in the past and respectfully recused himself from voting.

Brandon Stanfield said that I am asking for my appeal to be granted on these setbacks. I purchased this property back in 2010 with these structures already existing. We're doing an addition on our house and in order to get the permit for the house we had to apply for variances because the plat didn't exist in the record book. So in order to get that plat submitted and recorded correctly I had to apply for these variances. There are four buildings altogether. All but one are for setback requirements. I'm not sure what else you need.

Chairman Beckwith said first variance to reduce side yard setback from 25 feet to three (3) feet to maintain an existing accessory structure, a garage. I'm looking at the history. According to this the garage permits were issued and approved, as well as permits for the barn. There are no records for the shed or the pole barn. Tell me about the garage. I drove on your property and I appreciate you not doing anything about it. Is that the grey building with the red roof?

Brandon Stanfield said yes sir.

Chairman Beckwith said tell me about that building. What's it used for?

Brandon Stanfield stated it's used mainly for shop to do lawn mower repairs, house the lawn mower. I'm a woodworker so I do a lot of woodworking in the shop.

Chairman Beckwith asked is it was actively used by you.

Brandon Stanfield said yes sir.

Chairman Beckwith said according to the records building permits were issued and approved for the garage. I'm reading on here that there were two parcels combined in 1997. Is the garage on the larger of the two parcels?

Brandon Stanfield said no sir, it's on the smaller.

Chairman Beckwith asked when did you buy that property.

Brandon Stanfield said 2010.

Chairman Beckwith said the two parcels were combined at that time.

Brandon Stanfield said yes sir.

Tom Waller asked were there any other buildings on the smaller parcel other than the garage.

Brandon Stanfield said yes sir. I think its labeled shelter on the plat. There's a pole barn.

Tom Waller said there were three (3) buildings on a two (2) acre plot.

Brandon Stanfield said correct. The plat that I had submitted to the clerk was done in '97. It was just the most up to date survey that had been done because they didn't have a survey at the clerk's office when I went to apply for the permit. This was the plat given to me when I bought the house in 2010 so I basically submitted my survey that I was given to the clerk.

Marsha Hopkins said so when you bought it in 2010 the bank didn't require it be surveyed which would have triggered your knowing that these weren't in compliance.

Brandon Stanfield said no ma'am, I paid cash for it.

John Tate asked what would have caused this to be within three (3) feet as opposed to the twenty-five (25). I suppose it would have been done because of a survey. Do you know why you were not within the twenty-five (25)? Do you have any information to let you know why you were in the in three (3) feet as opposed to the twenty-five (25)?

Brandon Stanfield said no sir. It was like that when I bought the place. I have no idea.

Chairman Beckwith said we run into this situation on lot unfortunately very often. There was either some improper surveying or improper recording, and no follow through on the recording

and what the requirements are. In my thinking Mr. Stanfield has bought some property and didn't realize it was out of compliance. I'll approve this.

Marsha Hopkins made a motion to approve Petition A-661-17, Variance to Sec. 110-133. R-70, (d) (6) to reduce side yard setback from 25 feet to 3 feet. Tom Waller seconded the motion. The motion passed 4-0. Therol Brown abstained.

John Tate said I believe that tax records said there were two (2) structures. Was the pole barn one (1) of those structures at that time?

Brandon Stanfield said no, I don't think so.

John Tate made a motion to approve Petition A-661-17, Variance to Sec. 110-133. R-70, (d) (6) to reduce side yard setback from 25 feet to 11 feet. Marsha Hopkins seconded the motion. The motion passed 4-0. Therol Brown abstained.

Chairman Beckwith said permits were issued for the garage and the barn, but there are no records for the shed and the pole barn.

Marsha Hopkins made a motion to approve Petition A-661-17, Variance to Sec. 110-79. Accessory structures and uses. (c) (1) to increase the amount of accessory structures per individual lot from 2 to 4. John Tate seconded the motion. The motion passed 4-0. Therol Brown abstained.

Chairman Beckwith asked is this the white building with the dark roof? What's that used for?

Brandon Stanfield said yes sir, currently it houses a tractor and a farm truck. My wife does horses and horse training, she teaches horse lessons. There's a lot of upkeep so it keeps everything out of the weather.

Marsha Hopkins made a motion to approve Petition A-661-17, Variance to Sec. 110-79. Accessory structures and uses. (c) (1) to increase the total square footage from 3,600 square feet to 4,132 square feet. Tom Waller seconded the motion. The motion passed 4-0. Therol Brown abstained.

Chairman Beckwith said I know pole barns have been problems throughout the county, but this is a pretty good size pole barn. Pete or Chanelle, can you give us the rationale behind the enclosure of such a barn? Does a barn have to be fully enclosed or can a pole barn remain?

Chanelle Blaine said that's your decision on whether or not it can remain. The ordinance was created to basically say only fifty (50) percent of it can be open and the other fifty (50) percent must be enclosed.

Chairman Beckwith asked does the ordinance say which fifty (50) percent. It could be two (2) sides? It could be half a side all the way around?

Pete Frisina said I think what it requires is a portion of it be fully enclosed for fifty (50) percent. You could have a building with a lean to structure. Under accessory use structures outside of A-R, which this is, every building has to fifty (50) percent enclosed.

Chairman Beckwith asked does it state how.

Pete Frisina said well an enclosure is from foundation to roof in at least four (4) sides, or a portion of it.

Chairman Beckwith said it's a four sided structure.

Pete Frisina said if it's enclosed it's fully enclosed. Not open on two sides and closed on two sides.

Chairman Beckwith said so it could be half way up on four sides.

Pete Frisina said if you want to make it difficult, yeah. I think it says the portion that is fully enclosed has to go from foundation to roof. There's a portion that talks about what fully enclosed is. The portion that is fully enclosed is fully enclosed from floor to ceiling. You can have the fifty (50) percent lean to.

Chairman Beckwith stated that Mr. Stanfield is asking that the percentage of the structure that must be fully enclosed be reduced from fifty (50) percent to zero (0). I'm still not clear on the percentage of the pole barn. It is open on all four sides?

Brandon Stanfield said yes sir.

Tom Waller said it's a pole barn, unenclosed. He may later decide to enclose it, but it's an unenclosed pole barn that already exists. It's not on a slab is it?

Brandon Stanfield said no sir.

Tom Waller said they're probably telephone poles.

Brandon Stanfield said no, they're six (6) by sixes (6).

Tom Waller said six (6) by sixes (6), they're treated then.

Chairman Beckwith said it looks like it's about twelve (12) to fifteen (15) feet on each side.

John Tate asked what are the dimensions.

Chanelle Blaine said twenty-five (25) by forty (40).

John Tate said I was just wondering because technically if he enclose two (2) of the sides.

Pete Frisina said let me read what it says in the ordinance, "at least 50 percent of the square footage of an accessory structure building shall be fully enclosed, except as otherwise provided herein. Said enclosed area shall be surrounded by connecting adjacent walls constructed of solid materials attached to the foundation and roof." The term is fully enclosed.

Chairman Beckwith said is fifty (50) percent acceptable.

Pete Frisina said fifty (50) percent of it being fully enclosed by four (4) walls yes. That's how I interpret that.

Chairman Beckwith said well he's asking we leave the pole barn as is, open on all sides.

Tom Waller made a motion to approve Petition A-661-17, Variance to Sec. 110-79. Accessory structures and uses. (c) (2) to decrease the percentage of an accessory structure that must be fully enclosed from 50 percent to 0 percent. Marsha Hopkins seconded the motion. The motion passed 4-0. Therol Brown abstained.

4. **Petition No. A-662-17, Steffen & Lisa Graefinger, Owners, request the following: Variance to Sec. 110-125. A-R, (d) (6) to reduce side yard setback from 50 feet to 12 feet to maintain an existing barn. Variance to Section 110-125. (d) (5) to reduce rear yard setback from 75 feet to 10 feet to maintain an existing barn. The subject property is located in Land Lot 131 & 132 of the 4th District and fronts on Massengale Road.**

Steffen Graefinger said we recently purchased an 18.7 acre parcel with a pole barn with all sides open located on the property from the Massengale family. The barn was built in the 1980's by the Massengales who owned all the property from Rising Star to Highway 85 connector. At that time no houses were nearby and the entire area was used for farming. The Massengales continued to own 66 acres in the back of our parcel with access via Rising Star Road. It's zoned agricultural and residential. We rented out the parcel to a local farmer who placed a herd of cows to graze the fields. The barn is located in the rear of our parcel roughly 1650 feet from Massengale Road. The reason the barn is located so far back is because the barn can be located from the front and the back of the parcel. The barn is fenced in from both sides allowing the farmer to rotate the cows. The barn has no electricity, no water; it is simply used to shelter animals, supplement food for the animals, storage of hay, tractors, etc. We have no intention of making changes to the barn. We will not turn it into a dwelling. The barn is constructed of heavy duty pole which are cemented into the ground for structural support. It would be an extreme hardship to make any changes to the structure. No one will be negatively impacted by the structure. Neighbors are in accordance with keeping the structure and have not raised any concerns within the life time of the barn. We would like to ask the variance be granted to maintain the barn located in the back of the property.

Chairman Beckwith asked what are your plans for the property

Steffen Graefinger said we plan to put some cows there ourselves and use it for farming. We just had a baby, he's three (3) months old and it delayed the plans.

Chairman Beckwith asked do you have any livestock on the property.

Steffen Graefinger said yes, we're renting it out to a local farmer and there are probably fifty (50) or sixty (60) cows.

Chairman Beckwith asked do you have any yourself. Do you plan you plan to continue that use?

Steffen Graefinger said yes.

Chairman Beckwith said the barn is accessed from your property and also the property to the rear. Which is where I guess the cattle are pastured?

Steffen Graefinger said yes.

Tom Waller asked is your home on this piece of property.

Steffen Graefinger said no.

Tom Waller said so you're looking at being an absentee cow owner.

Steffen Graefinger said well yes.

Tom Waller said I'd stay away from calves.

Chairman Beckwith said you do plan to build on the property.
Steffen Graefinger said yes, we plan to build on the property. We've just been delayed.

John Tate made a motion to approve Petition A-662-17, Variance to Sec. 110-125. A-R, (d) (6) to reduce side yard setback from 50 feet to 12 feet. Therol Brown seconded the motion. The motion passed 5-0.

Therol Brown made a motion to approve Petition A-662-17, Variance to Sec. 110-125. A-R, (d) (6) to reduce side yard setback from 50 feet to 12 feet. John Tate seconded the motion. The motion passed 5-0.

5. **Petition No. A-663-17, Ginger Pope, Owner, requests the following: Variance to Section 110-125. A-R (d) (6) to reduce side yard setback from 50 feet to 32 feet for an existing attached garage to remain. The subject property is located in Land Lot 168 of the 4th District and fronts on Chappell Road.**

Bill Beckwith made a motion to table Petition A-663-17 to the September 25, 2017 meeting. Therol Brown seconded the motion. The motion passed 5-0.

6. Petition No. A-664-17, Preschool Holdings LLC, Owner, requests the following: Sec. 110-170 (k) Continuance of a legal nonconforming use to reestablish a nonconforming church and school.

Chris Singh said I was advised that I didn't meet the setback requirements for the gymnasium so I purchased the two bedroom bungalow next to me for \$130,000. I plan on living in the house next to me in October. I'm here because I really just need more time to complete my six (6) months that was allotted from the time the last business had an occupational license. From that time until the church, whose members are behind me, the time that my prospective tenants are moving in has elapsed over six (6) months. One of the biggest reasons it has elapsed, and Mr. Frisina can attest to this, we've been working diligently to get the county everything they needed. In addition to purchasing the house next door, we had to get the septic system in compliance, we had to get the building itself in compliance and up to code. It's not so much that we weren't working on the building, spending the time, money, and everything else, it's more so to get the county everything they needed took several months. Also, as you can see by the notice of dispossession signed by a Fayette County judge, we had a hold over. I guess it was a subtenant from the gentleman who was there last. So I could really only work on the septic system legally and the architectural drawings. I couldn't really have possession until a judge told the holdover tenant to leave. That date was April 3rd of this year. My six (6) months really was shortened because we didn't have much time to work on the building. We were doing quite a bit. One of the things I will tell the zoning board is that I plan on putting a lot of money, time, effort into these buildings that's why I purchased the house next door. I'll give you an example; in Fayette County we don't have a lot of green areas. I plan on putting green areas in our parking lot to make it beautiful. I haven't had the opportunity to finish it because I wanted to be at this hearing first.

Chairman Beckwith asked is there anyone to speak in favor.

Dr. Marcus Dixon stated I had this opportunity to work with Chris to bring a church to 152 Longview. I'm excited about it and it looks like it's going to be a wonderful opportunity to evangelize the community and to better the community for those who live around the church. Whatever it is we need to do to support Chris and his efforts, I want you know that I'm behind him and I'm standing with him.

Chairman Beckwith asked is there anyone to speak in opposition.

Ira Miller said 152 Longview Road is right in my front yard. What is a nonconforming church specifically?

Chanelle Blaine said basically what's going on is the church is a conditional use. The church is also nonconforming. They want to continue that nonconforming use. They had a church in there

previously and the church is no longer in there. They had six (6) months to reestablish that church. They're here now to try and reestablish the use of that church in that building.

Chairman Beckwith said a conditional use is a use of property as a condition of the zoning, and a church is a condition. Nonconforming has to be for certain reasons. What are the nonconforming issues?

Chanelle Blaine said I believe it's the setbacks on why it's nonconforming.

Chairman Beckwith said so a church that would be in the same location would not conform to the setbacks. I'm going to ask Mr. Singh or Dr. Dixon what type of church this will be.

Larry Lee said I live on the corner of Longview Road and 314. We don't need the traffic going up and down through there. There was a guy who ran off the road and drowned in the pond. Just last year my neighbor's grandson almost got hit by a speeding car so we don't need more traffic going through there. Another thing is I don't understand is how they were working on the building when they had a sign posted on the door not to work on the building. And then I want to know if it's a church why they took the steeple down. Something stinks about this whole thing.

Chris Singh said as far as work being done on the property he's right. We've been doing work on the property, but we've been going through the permitting process. We're going through the process of getting everyone signed off. We've had a general contractor and all of the subs approved by the county to go ahead and do the work. As far as the steeple, my dad's been a pastor since 1991. He doesn't get paid by his church; he actually gives three times the amount his church gives him as a monthly stipend. He has a job.

Chairman Beckwith said what type of church do you plan on having.

Chris Singh said actually Dr. Dixon is going to be the pastor.

Dr. Dixon stated that the church we're trying to establish there would be a nondenominational church. It would not be Methodist or Baptist, it would be nondenominational. It would be a community church. We're reaching out to the community to get input from them on exactly what they want.

Chris Singh said as far as the steeple, that's a very good point the gentleman brought up. We bought down the steeple because there's a lot of roof repairs that need to get done. We can't do the roof repairs without removing that steeple. We've already applied and have been approved for the roof permit. Whether Dr. Dixon decides to put back the steeple is his decision. I will tell you a lot of the structures were unsafe.

Chairman Beckwith said you've given me a check list for a new business which is not completed yet.

Chris Singh said I just wanted to show you and the board that I was going through the process.

Chairman Beckwith said so Chanelle, what we have to decide tonight is to extend the six (6) months to let the process continue.

Chanelle Blaine said yes.

John Tate said what period of time would we be looking at. Three (3) months, six (6) months?

Pete Frisina said everything is done in six (6) month increments.

Chairman Beckwith said so if we approve this Mr. Singh would have six (6) months to continue the process. After everything is completed would he have to come back in front of us or the planning commission?

Pete Frisina said if he continues and operates within the six months he's good.

Therol Brown said do you think you would have been close to being finished had it not been for the held over tenant and the architectural drawings. How long do you think it take to complete it?

Chris Singh said a month, but I'd like the six (6) months.

Tom Waller said you are a business man. This property you are looking to rent to one or more churches as the case maybe. You may not have one church that's financially capable to pay as much as you would wish. You're also looking at putting in a nursery or daycare facility that may or may not be associated with the church. Am I correct in those?

Chris Singh said you are 100 percent correct. We actually would own and operate the daycare that's in there that was existing.

Tom Waller said so the day care would be a separate from the church facility.

Chris Singh said correct, we have three facilities.

Tom Waller said would you be looking at a service to this day care or mamas and papas bringing junior in? What kind of demand would you be looking to put on the roads?

Chris Singh said we were thinking about doing an adult day care there. That would be adults over 18. A lot of folks we service would have a disability or many would be seniors who need care while their loved ones are at work.

Tom Waller said so if I see anything in here that says pre-k that's not in order.

Chris Singh said not anymore. I don't think it would be a good idea for us to put the exact day care that was there. Daycares thrive with traffic. That building doesn't have a lot of traffic. We've been working diligently with the county. I've spent the money to get the architectural plans; I've spent the money to get the general contractor. If this was not approved it would create an undue hardship. More importantly, the work that I do is very good.

Therol Brown said one of the setback requirements necessitated you obtain additional property and you went ahead and did that. Have you satisfied the setback requirements?

Pete Frisina said there are a number of buildings on this property. This church/ school combination was created in 1978 under a set of rules, it met those rules. When the conditional use was created for churches sometime later, it does not meet the current conditional use, that's why it's considered nonconforming. It was approved, but by change of the ordinance it made it nonconforming.

Therol Brown said notwithstanding the nonconforming issues have the setbacks been satisfied

Pete Frisina said there's no way to satisfy them. This lot is smaller than what's required.

Therol Brown said but he did buy the adjoining property.

Pete Frisina said one building may have been satisfied, but the conditions are much more stringent now. They can't meet.

Marsha Hopkins made a motion to approve Petition A-664-17, Sec. 110-170 (k) Continuance of a legal nonconforming use to reestablish a nonconforming church and school. John Tate seconded the motion. The motion passed 5-0.

There being no further business, Therol Brown made the motion to adjourn the meeting. John Tate seconded the motion. The motion passed 5-0. The meeting was adjourned at 8:05 pm.

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



CHAIRMAN



CHANELLE BLAINE, ZBA SECRETARY