

THE FAYETTE COUNTY ZONING BOARD OF APPEALS met on December 17, 2018, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

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

STAFF PRESENT: Pete Frisina, Director
Chanelle Blaine, Zoning Administrator
Howard Johnson, Planning and Zoning Coordinator

Welcome and Call to Order:

Marsha Hopkins welcomed everyone to the meeting and introduced each member of the Zoning Board of Appeals. She also introduced the three staff members, Howard Johnson, Chanelle Blaine, and Pete Frisina.

1. Election of Zoning Board of Appeals Secretary

Therol Brown made a motion to approve the appointment of Howard Johnson as the Zoning Board of Appeals Secretary. John Tate seconded the motion. The motion passed 5-0.

Howard Johnson read aloud the public hearing rules.

PUBLIC HEARING

**2. Petition No. A-692-18, Silvia A. Benedetti, Owners, requested the following:
Variance to Section 110-133 R-70, (d)(6) to reduce the side yard setback from
25 feet to 3 feet to allow an existing shed to remain. The subject property is
located in Land Lot 16 of the 9th District and fronts on Lees Lake Road.**

Silvia A. Benedetti provided some history of the subject property. She stated that the subject property was approximately 30 acres and was developed by two families.

The Simpson family took one-half of the property, on which they built a home on the front portion and later their son, Ron, built a home on the back portion of the property. The Hamm family took the other half of the property, built a home on the front portion and then later their daughter built a house on the second portion. This property is also approximately 30 acres. With the exception of the Simpson's grandson, she is only remaining resident on the subject property.

Ms. Benedetti stated that her parcel is a long rectangular shaped parcel which consisting of 10.667 acres. The front half of her parcel contains an approximately a 1-acre pond. The central portion contains her house and a smaller ½-acre pond located behind the house. Approximately 500 feet behind her house (eastward) lies a majestic barn which contains a loft. She described this barn as being in good shape. There are two sheds adjacent to one side of the barn and a fish house on the opposite side. Ms. Benedetti has lived on the properties for approximately 20 years. She noted that the Google map shows no development in the area. The area is mostly composed of mostly ground cover and trees. She has only seen her adjacent neighbor nearest her home only twice in 20 years. She stated that she is master gardener, loves the property and is not interested in leaving the property.

However, the scale of necessary upkeep and maintenance of the property has become more difficult due to her age. Therefore, about two years ago, Ms. Benedetti had the property surveyed (along with other work) with the intent to create a 2.44 acre parcel in the front (pasture) of the parcel. Her plan was to build a new home on this newly created front parcel, then sell the rear parcel of land.

Silvia Benedetti stated, that she was scheduled to go before the Planning Commission with a request to subdivide. However the night before the meeting, Dennis Dutton, the former Zoning Administrator prior to Chanelle Blaine, informed her that the barn encroached into the setback. She stated that she had spent two (2) years of work preparing to go before the Planning Commission, the news that additional steps would be necessary, was very frustrating to her. She also expressed that she was very fearful that if her minor subdivision request was denied, the Planning Commission would mandate that she remove the barn. Therefore, she asked that her application be withdrawn.

After a period of time, Silvia Benedetti contacted Chanelle Blaine seeking assistance. Ms. Blaine suggested that she first seek a variance for the barn then subdivide the property. She would then would build a house on the front portion of the property. She gave a detailed explanation of the distance factors to show to the Zoning Board of Appeals (ZBA) that her request does not negatively impact the neighbors.

Ms. Benedetti estimated that the barn in question was built in 1976 about same timeframe as the house. Both the house and the barn have cedar wood siding. She estimated that she spent \$3800 on a metal roof for the sheds and also replaced the mansard roof on the barn. She re-emphasized that the barn is in excellent condition. She noted that the barn itself is actually eight (8) feet from the property line, however the posts which support the steps leading up to the loft is only three (3) feet from the property line. She also noted that the area behind the garage is an erosion ditch as part of the wetlands of the Tar Creek. She also relocated and has an original out-house structure as a historical artifact of Georgia's rural history.

Marsha Hopkins asked if there was anyone else to speak in favor of the petition. Hearing none, she asked if there was anyone who would like to speak in opposition to the petition. Hearing none, she brought this item back to the other ZBA members for discussion.

Bill Beckwith questioned Ms. Benedetti whether the Tar Creek flooded her property over the past couple of years. She responded that the Tar Creek had spilled out into the spillway and her property three (3) to four (4) times, however, the flooding did not directly affect the barn. She also stated that the Creek has never come over the dam. The flood water from her property typically flows back into a nearby 16-acre lake that borders on Rivers Road. Bill Beckwith noted that the same flooding problem had occurred where Rivers Road crosses Tar Creek. She noted that the rear adjacent property is land locked and is not accessible unless a road is constructed. Bill Beckwith also noted that the erosion ditch next to the barn is part of an active watershed and any future development would be severely limited.

Chanelle Blaine noted there are no known building permit records.

Ms. Benedetti visited each ZBA member to show clear photos of the property located on her cell phone. She also noted the various wildlife that live on the property. She detailed the high level of maintenance for her property that is require to maintain the pristine, gardens-like feel on the property.

Tom Waller questioned whether there were fish on the property. Ms. Benedetti responded with a detailed description of several types of fish in the lake and the plethora of the many species of plant life that exist.

Ms. Benedetti thanked Chanelle Blaine for assisting her through the variance process.

Bill Beckwith made a motion to approve the variance. John Tate seconded the motion. Motion passes 5-0.

Chanelle Blaine read aloud the next agenda item.

Petition No. A-693-18, Geraldine A. Stinchcomb Trust / Estate, Owners, requested the following: Variances, as applicable, for all existing structures and improvements to remain in association with the subdivision of a lot for the Trading Post. The subject property is located in Land Lot 60 of the 5th District and fronts on State Route 85 South.

Marsha Hopkins asked the petitioner to speak in support of the petition. Hugh Gerald Stinchcomb introduced himself, his sister Harriett Hazelton, his brother in-law Ken Hazelton and his other sister Sandra Barge. Mr. Stinchcomb and his two sisters inherited their parents farm after their

mother's death ten years ago. He indicated the property is located just south of Fayetteville and there about 48 acres remaining from the original farm. In 1965, his father built the Trading Post retail store on the farm property. Currently, the Trading Post has been operated by his family (his nephew and his wife), after 53 years at the same location.

The family received an unsolicited offer to purchase the Trading Post itself. The family's initial intent was to sell the entire farm. The offer was presented last summer and the family took three to four months to consider their options. The family wanted to ensure that selling the Trading Post would not hamper the sale of the remaining farm in the future. They consulted with professionals they trusted and decided that it would not hurt the value of farm. There is a 7-acre lake located behind the store. However, the farm land is located on the other side of the lake.

When the Store was constructed on his farm, his father obtained the correct zoning approval and notified the Tax Assessor of the commercial use of the building, however, his father did not create a separate deed to himself for the Trading Post, the new retail store. In order to sell the property, a deed must be established for a 1-acre, Trading Post, as-built including the angle of the driveways and entryways, and the 4000 square foot building. As a condition of purchase, the future purchaser of the store desired to purchase the store, as-is. Only when the Stinchcomb family accepted the offer to sell the store, they became aware that a deed specific to the Trading Post had not been established.

Mr. Stinchcomb asked the ZBA to be exempted from all the required variances required today to the period which the Store was built. This will allow the Stinchcomb family to create an as-build deed to meet the condition of purchase.

Marsha Hopkins asked if there was anyone else to speak in favor of the petition. No one spoke. Marsha Hopkins then asked if there was anyone else to speak in opposition of the petition. No one spoke. Therefore the agenda item was returned to the ZBA members for questions.

Tom Waller asked if the property was ever used for a residence. Mr. Stinchcomb replied that it had only been operated as a commercial (retail) use. He also questioned whether the property was connected to a sewer or septic system. Mr. Stinchcomb replied that it was on a septic system. Mr. Stinchcomb responded to Tom Waller's questions regarding the location of the septic field by stating that the septic tank is located behind the store and the septic field lies under the grassy area on the south end of the parking lot. Pete Frisina and Chanelle Blaine pointed out to the ZBA the tank location on the site plan in their packet. Based on the date of septic plan, it is estimated the tank was installed about 1965. Pete Frisina confirmed that the property zoning is Commercial.

Bill Beckwith raised the point that setback and zoning restrictions were almost non-existent when the Store was constructed about 50 years ago. Therol Brown stated that he remembers when the store was built and the details why it was built. He knew Mr. Stinchcomb's father who built the

Store and Bill Davis, who leased and operated the store. Mr. Brown was familiar with the store because he worked for Bill Davis, during his college years. He questioned if zoning even existed at the time. Pete Frisina stated that this property had an initial 1961 case zoning case number of number #9. Mr. Brown re-emphasized the point that setback requirements may not have existed at that time. He stated that Louis Fincher from Riverdale built the septic system not the building.

Pete Frisina explained to the ZBA members the associated zoning issues and his solution. Specifically, the staff report stated that the parcel boundary lines were established by the Tax Assessor and the building was constructed in 1965. He explained that this requested petition before the Zoning Board of Appeals, would allow all of the existing non-conforming improvements to remain in place and approval of this petition of this will eliminate the need to determine each individual variance, since there is a high chance that some minor details would be missed. He said the petitioner will also submit a final plat to subdivide.

Tom Waller added a condition to ensure that this parcel will not include any part of the lake when re-platted. Pete Frisina replied that appears that the lake is not included.

Bill Beckwith stated that the County was aware of the issues for the years. Since, the Tax Assessor established the lot and they have paid taxes for years on the parcel, he felt that the property has already been established.

Marsha Hopkins asked the other ZBA members if there were any additional questions.

**Therol Brown made a motion for approve Petition A-693-18. Tom Waller seconded.
The motion passed 5-0.**

There being no further business, Therol Brown made the motion to adjourn the meeting, seconded by Tom Waller. The meeting adjourned at 8:00 pm.

**ZONING BOARD OF APPEALS
OF
FAYETTE COUNTY**


MARSHA HOPKINS, CHAIRWOMAN


HOWARD JOHNSON, ZBA SECRETARY