

THE FAYETTE COUNTY ZONING BOARD OF APPEALS met on January 25, 2021, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

MEMBERS PRESENT: Therol Brown, Chair
John Tate, Vice Chair (Virtual)
Bill Beckwith (Virtual)
Tom Waller
Marsha Hopkins (Virtual)

STAFF PRESENT: Chanelle Blaine, Zoning Administrator
Howard Johnson, Planning & Zoning Coordinator

Welcome and Call to Order:

1. Election of the Chairman.

Bill Beckwith made a motion to approve the nomination of Therol Brown as Zoning Board of Appeals Chairman. John Tate seconded the motion. The motion passed 4-0-1. Therol Brown abstained.

2. Election of the Vice-Chairman.

Therol Brown made a motion to approve the nomination of John Tate as Zoning Board of Appeals Vice-Chairman. Bill Beckwith seconded the motion. The motion passed 5-0.

3. Election of the Secretary.

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

4. Consideration of the Minutes of the Meeting held on October 26, 2020. (Amended)

Bill Beckwith made a motion to approve the minutes of the meeting held on October 26, 2020. John Tate seconded the motion. The motion passed 5-0.

5. Consideration of the Minutes of the Meeting held on November 23, 2020.

Marsha Hopkins made a motion to approve the minutes of the meeting held on November 23, 2020. Tom Waller seconded the motion. The motion passed 5-0.

PUBLIC HEARING

6. **Petition No. A-745-20, W&W Realty Co., LLP, Owner, and All Span Builders Inc. / S. Neal Brown, Agent, request the following:**

- 1) **Variance to Section 110-144. C-H (d) (3) (a) (1), to reduce the front yard setback from 75 feet to 35 feet to allow the construction of a fuel island canopy.**
- 2) **Variance to Section 110-173. Transportation corridor overlay zone (3) (c) (2), to reduce the front yard setback from 100 feet to 35 feet to allow the construction of a fuel island canopy.**

The subject property is located in Land Lot 253 of the 4th District and fronts on Highway 85 South.

Therol Brown said although I know Neil Brown, who is the agent for W&W Realty, to best of my knowledge, we are not related, I just want to be clear for the record. He asked Mr. Brown can you come to the podium and address the Zoning Board of Appeals please.

Neil Brown said good evening, my company is All Span Builders located at 240 Patricia Lane, Fayetteville. He added I am an agent representing Ed and Bill Wyatt, which is the where the W&W Realty comes from. He noted we are asking for the approval for two (2) variances both concerning the front setback. He said first of all I would like to thank all of the staff and Chanelle and Pete for all of their help for two (2) years of redesigning and moving the building on this particular lot. He noted you can see that it is a triangular piece of property which is confusing to the average passerby because it looks like a long, wide parking area. He explained the zoning maps shows the property has a north zoning of residential and a southern zoning of A-R which imposed 65 feet of sideline setbacks. He said if the question arises, why we can't just move the store back to fit inside the buildable area, there is a hardship because of the 2.7 acre triangle parcel. He concluded after all of the redesign considerations from Chanelle and Pete's help to make it all fit on this property, it is actually half-acre useable.

Neil Brown explained it is a non-conforming parcel mainly because the original building was built in 1960. He added the present changes in the right-of-way and ordinances along with time has dictated this piece of property. He concluded we tried to design accordingly to fit with planning and zoning concerns to still make it all fit on this small half-acre when we get finished. He added we are here to thank you for your consideration, do you have any questions or comments?

Therol Brown asked is there anyone here who that wants to speak in support of the petition. Being none, he asked is there anyone here that wants to speak in opposition of this petition. Hearing none, he announced at this time we will open the phone line for anyone who wants to make a comment to call-in. He said the number that Howard gave is 770-305-5277

Therol Brown commented I have been familiar with this property by virtue of the former owner

who is now deceased and was a friend of mine. He said I have been involved with this in past years, when he was removing the old underground storage tanks. He added I assisted him with obtaining the EPD underground storage tank permits, so I am somewhat familiar with the property. He said I agree with what Mr. Brown noted earlier that when you ride by there earlier, you just see a large parking lot with a convenience store with gas pumps on it but in fact that 15 acre tract is actually 2.7 acres and with the V-shape it is even more confined. He concluded I made a visit and I used a measuring wheel to measure the setback, in my observation, it somewhat is deceiving when you drive by.

Therol Brown said Mr. Brown, it appears to me that the setbacks that you are asking for in this petition, is tantamount to the same distance that currently exists, you have an island now that is the same distance of your proposed canopy, is that correct?

Neil Brown replied that is correct within a foot, but keep in mind that is to the drip edge of the canopy, the actual pumps will be further in than what is out there now. He added that is valid point, there is an island for diesel pump.

Chanelle Blaine stated that is 35.73 feet.

Therol Brown said in essence it is the same distance of what you are asking from the County. He asked so you are not asking for anything regarding setbacks that is not currently in place?

Neil Brown replied, no, the curb line and the asphalt line that is place now will remain the same.

Therol Brown said another point I would like to make that Mr. Brown pointed out, is that State Highway 85 was widened several years ago and they took additional right-of-way at that time from this property. He noted the property owners have not made any changes, the zoning ordinance has changed and the right-of-way has changed by virtue of widening the road.

Therol Brown asked any questions or comments by any other ZBA members?

Marsha Hopkins stated that item number two (2) states that the current shape of the property will not allow enough room from the front setback for the proper spacing of cars from the gas dispensers. She asked does the term "proper spacing" have some regulation or some guidance as to what proper spacing is under this proposal.

Neil Brown replied when the engineers define the turn radius for two cars and the enter and exit area, as a rule of thumb 60 feet is used but that will be a civil engineer issue when the design is finalized.

Therol Brown responded Marsha I think it is for safety engineering and traffic flow.

Neil Brown stated that these are preliminary and conceptual plans. He added this is what the civil engineer of record has stamped here on the drawing has come up with the guidelines that are

imposed on this property.

Bill Beckwith said it appears to me that what we are considering tonight according to the Fayette County ordinances is the distances from the property line. He added I guess Neil Brown will have to be concerned with whether the DOT will approve anything we might change. He asked is that correct?

Chanelle Blaine replied yes, that is correct.

Bill Beckwith responded okay, we will have to deal with Fayette County's aligned.

Neil Brown said to expound on that, I have had preliminaries meetings with Stanford Taylor with the DOT concerning existing drives and the owners all agreed with their comments.

Tom Waller asked are you planning to replace that store with another building in the immediate future and is this the step toward the renovation of the entire business.

Neil Brown replied yes, that's why we are in front of you tonight, because the existing store is not the caliber that the County deserves, in our opinion. He added to answer your question, it is a total demo and build back of a new more improved state-of-the art facility.

Tom Waller asked could it not be located further back to make room in front that you are asking for here?

Neil Brown said if I can approach your desk, I will show you the enlarged drawing which is drawn to the inch of the setback that are proposed on the lot. He explained again we have worked for two (2) years working with Chanelle and Pete trying to make it fit within the 65 foot setbacks on either side. He concluded we would love to slide the building back, but that is what we are having to design within.

Neil Brown responded the property line is irrelevant when it is 50 in a 15 foot buffer and setback imposed on top of that.

Tom Waller asked will this property provide six (6) standalone stations, and how many are there now?

Neil Brown replied that is correct. He added Mr. Waller you need to take into account that the now the diesel pump is to the side if the facility which is outside the traffic flow pattern of the project. He noted the plan is to put it all under that canopy.

Therol Brown asked Tom do you have any other questions or comments?

Tom Waller replied no I do not.

John Tate asked will there not be a canopy over the diesel pump, is that correct?

Neil Brown responded the current diesel pumps will be removed and there will be a multi-tap pump under the new canopy. He added there only canopy there is one (1) shown proposed on the new layout.

Therol Brown said John I think all of the pumps will be under one canopy, is that right Neil?

Neil Brown replied that is correct, but not the way it is laid out now. He noted you do have a benchmark on this site. He added the existing island is at the 35 foot setback line, so instead of us using all of these existing benchmarks, we are trying to redesign and update the facility.

John Tate asked is there going to be parking between the canopy and the store itself.

Neil Brown responded yes.

John Tate replied okay, thank you.

Therol Brown asked are there any other questions or comments from the ZBA members? He said if not, I will entertain a motion.

Chanelle Blaine said Therol we need to do each variance separately, please.

Bill Beckwith made a motion to recommend approval of Variance #1) of Petition A-745-20 to reduce the front yard setback from 75 feet to 35 feet to allow the construction of a fuel island canopy. Marsha Hopkins seconded the motion. The motion passed 5-0.

Marsha Hopkins made a motion to recommend approval of Variance #2) of Petition A-745-20 to reduce the front yard setback from 100 feet to 35 feet to allow the construction of a fuel island canopy. John Tate seconded the motion. The motion passed 5-0.

- 7. Petition No. A-746-20, Terry and Lisa Ensor, Owners, request the following: Variance to Sec. 110-79. Accessory structures and uses, (g) Architectural standards, to allow for the construction of a metal accessory structure with vertical pattern siding, as opposed to the required horizontal pattern. The subject property is located in Land Lot 23 of the 6th District and fronts on Quarters Road.**

Therol Brown asked Mr. Ensor will you please present your case.

Terry Ensor said I live at 311 Quarters Road. He added my wife and I moved to that residence just over two years ago, but we do not have any sort of garage on the property. He added we have five (5) acres on a flat lot and the house sits quite a ways off Quarters Road. We were looking to build an outbuilding so that we would have a place to park. He explained in getting the approval. we

went through the different departments and we got an approval in Sages as well as emails from the different department like public works, environmental, and zoning.

Chanelle Blaine stated we did not approve you in Sages, we approved you for you location. Sages is the building permit and this is how this got caught. She added I am sorry to interrupt but that is what happened.

Terry Ensor said this is all kind of new to me. He added but before we put an 8,000 deposit on this metal building, we went to all of the different departments and got approval to move forward with the process. He noted in October, we put our deposit down about a month and half later we submitted some additional foundational details and that's when the zoning department gave us a call. He noted that Howard Johnson said hey my boss caught the fact that we can't have vertical siding on a metal building, however, at that point we had put an \$8,000 deposit down. He said I called the manufacturer of building to find out what we need to do to reconfigure things. He stated the manufacturer pointed out that the metal prices have gone up so it would be an additional \$8,000 or more just for the cost of metal, since it would take more metal, which did not include the cost of the redesign.

Terry Ensor stated that I spoke with the zoning department and they said we would have to file for a variance, and state my case before the ZBA to see if we can get this variance approved. He added we have 5 acres from our front porch to our back deck so we can't see any other neighbors around us. He noted we do have a shared driveway with our neighbors, Chris and Betsy Owens, behind us. He said I asked them if this would be an issue if we had a building with vertical siding. He noted that Chris wrote a letter stating that he does not care if we had a vertical, horizontal or herringbone siding. He concluded I can certainly answer any questions or add to the discussion, if you wish.

Therol Brown replied that is basically it. He added I need to clarify one (1) item, did you say that the County approved the vertical siding? He then asked Chanelle, are you saying that is not the case.

Chanelle Blaine replied no, what usually happens when people are getting building permits they come up to the front desk and they tell us where the building is going to be located. She explained most of the time they do not provide us with construction plans and that has gotten us in trouble. She said if we would have known what his building looked like, we could have told him that the ordinance says the siding had to be in a horizontal pattern for a metal building.

Chanelle Blaine stated that I believe that the front counter staff, approved the location. She explained I am the one that reviews the actual permit and I look closely at the construction plans. He add once it got to me, I saw that the building had vertical siding and I told Howard to give the gentleman a call because Howard was the one who approved that location.

Therol Brown said that is makes a difference because if the County approves something and then he finds out he can't do it. then that is a little different story.

Chanelle Blaine said I want you to know you that we have had some issues since this has happened before, so we put a policy in place that we are now asking for construction plans on every building that comes in to see what the siding looks like so we don't come here for this.

Terry Ensor stated that my misunderstanding is when I was talking to Howard on the phone we only discussed the site plans.

Therol Brown replied I can understand the confusion.

Terry Ensor said I have an email stating that says, Bernadette, the attached garage application has been approved for Planning & Zoning, I am forwarding this to you for the Environmental Health Review.

Chanelle Blaine replied but when you look at the approval there is an attachment to it and the approval form says for location only.

Therol Brown stated it does state location only.

Terry Ensor said again, this is all new to me.

Therol Brown replied the bottom line is for me, which may differ for the other ZBA members, is for you to change to horizontal siding it's going to cost you more than \$8,000 more in price because of the increase in materials and the fact that you will have to start all over again.

Terry Ensor stated that just the metal increases it \$8,000 plus the re-design cost with this type of construction, it has red iron cross-members, and the vertical siding attaches to them. He added they will have to change the all the cross-members to re-configure the building.

Therol Brown asked is there anybody in the audience that wants to speak in support of the petition? Being none, is there anybody that would like to speak in opposition of the petition? Being none, he announced we would like to give any potential callers a minute to respond, since it is a virtual meeting and it has been advertised. He announced that if anyone would like to speak either for or against this petition, please call 770-305-5277.

Therol Brown announced apparently we don't have anyone who has called-in on the phone, so at this time we would like to turn it over to any ZBA member for comments or questions.

Tom Waller asked have you seen a building constructed with this material that you are contracting for with this design?

Terry Ensor replied I am from the Midwest and this type of building is all over in farm settings and vertical siding is the only pattern for this style of building because it is the most economical. He added I am not saying a steel building can't have horizontal siding but I have never seen one

with horizontal siding. He noted the only that I have seen would be like carports with garage doors on the front of them. He concluded you should have pictures but the ones I got didn't print off very well, but these are very attractive buildings and would fit the setting quite well.

Bill Beckwith stated I think this the first time that I have seen a PUD-PRD zoning category and I know when we first approved it as a zoning category, there were certain restrictions that had to be met. He asked do we have any jurisdiction over the types of buildings on the property in PUD-PRD?

Chanelle Blaine replied I didn't see any restrictions on the types of building that can be allowed in PUD-PRD.

Terry Ensor noted the location of three other accessory buildings in our local developments that have vertical-style patterns in their area.

Tom Waller made a motion to recommend approval of Petition A-746-20 to allow for the construction of a metal accessory structure with vertical pattern siding, as opposed to the required horizontal pattern. John Tate seconded the motion. The motion passed 5-0.

8. Petition No. A-747-20, Estate of Norma R. Simmons, Owner, and Nancy S. Lindsey, Agent, request the following:

- 1) Variance to Sec. 110-70 Residential accessory structures and uses, (c) Number and size, (1) (a), to increase the amount of residential accessory structures per individual lot from 2 to 3.**
- 2) Variance to Sec. 110-70 Residential accessory structures and uses, (c) Number and size, (1) (a), to increase the combined total footprint of residential accessory structures per individual lot from 1,800 square feet to 2,200 square feet.**
- 3) Variance to Sec. 110-70 Residential accessory structure and uses, (d) Location on lot, to allow a well-house to remain encroached in the side setback.**
- 4) Variance to Sec. 110-131 R-75, (d) (4) (2), to reduce the front yard setback from 75 feet to 64 feet to allow an existing shed/workshop to remain.**
- 5) Variance to Sec. 110-131 R-75, (d) (4) (2), to reduce the front yard setback from 75 feet to 69 feet to allow an existing barn to remain.**

The subject property is located in Land Lot 9 of the 5th District and fronts on Highway 92 South and McBride Road.

Therol Brown asked Nancy Lindsey will you please come to podium sign in and state your case for the variances that you have requested.

Nancy Lindsey said thank you for the opportunity to speak tonight. She added the variances are related to my parent's property located at 1473 Highway 92 South, which is a little more than a five (5) acre lot. She noted my mother passed away earlier this year so now both of my parents are gone. She explained we are working through the estate to determine how to handle the property but we made the decision to split the property into two (2) lots, which is the reason the variances are needed. She noted we had the property rezoned from R-80 to R-75 to allow 2.5 acres lots.

Nancy Lindsey said now the lot that the current house is sitting on has changed as a result of McBride Road being widened. She added that the splitting of the lot required that they take an additional ten (10) feet from the center of the street. She noted the barn and the well have existed on that property when my parents purchased that property in 1977. She explained that her dad built the workshop in accordance with the setbacks at that time, but when the split of the property the setbacks changed. She explained that all the properties around have similar buildings on their lots, and the barns and workshops are very popular. She stated that my dad did build one (1) on the workshops on the property several years ago. She concluded in trying to determine how to disburse the property, it would be an emotional and physical hardship to remove those buildings, so we respectfully request to allow those building to remain as they are.

Nancy Lindsey said one (1) thing I want to say, in relation to variance item number four (4) and item number five (5) the workshop and the barn. She added the property that the house sits on faces Highway 92 and the back yard faces McBride Road. She concluded with your permission we would like to leave those structures as they are as we try to determine how to finalize the property. She said thank you very much, are there any questions?

Therol Brown asked is there anybody in the audience that would like to speak in support of the petition. Being none, is there anybody that would like to speak in opposition of the petition?

Therol Brown said will you please come to the podium, sign in and state you name please.

Rodney Rossignol said good evening, I live at 152 McBride Road. I am here tonight because everybody in the neighborhood has five (5) acre tracts of land or larger and we would like to see it that that way. He added not too many people are thrilled with the rezoning and cutting the land down. He said I know there is going to progress and I make a living with progress since I am in the grading business. He continued I have built lakes, streets, storm drains and waterlines. He explained I see the problem being is that Mc Bride Road is dangerous road because it is very narrow and there is no shoulder. He noted if you drive off the road in some areas you will be in a two (2) to three (3) foot ditch. He explained there is probably a couple of hundred acres that drain in front of her property which comes down McBride Road. He added there is probably another 100 acres that drains along Highway 92 area from the opposite of McBride Road. He said all of the water that comes down Mc Bride Road funnels into one (1) 15 inch pipe and this is the result is a large flood you get from a heavy rain. He added the 15 inch pipe on McBride Road stays clogged up and it always flood. He stated if you head down McBride Road, there is a blind spot near my driveway but if you don't know about the flooding in the blind spot, you will hit a foot of

water. He noted the County never maintains the ditch and they rarely cut the grass, since the pipe stays clogged up. He concluded I have lived there for 40 years, and I have unclogged the pipe more than the County.

Rodney Rossignol continued that along Highway 92, you have a 42-inch pipe that lead down to McBride Road and Jericho Lane. He added there is a 15-inch pipe that goes under Jericho Lane which leads to a 48-inch pipe under his driveway. He expressed there is only one way to get to his house and if that pipe blows out he will be stuck there since there is no other access to get unto his property. He also noted that on the opposite side of McBride Road is a 15- inch pipe. He explained every time it rains, the trash and the debris from Highway 92 it always clogs that pipe. He said as you can see on the pictures, it is a major problem there. He further explained that all of the water for a half-mile along Highway 92 all comes to both me and my father's property and we have seen it full. He said another inch of water it would flood out his driveway. He concluded my biggest concern is if you are putting more structures into the watershed, it's going to be a major, major problem. He asked where is the water going to go?

Therol Brown interjected sir, I fully understand what you saying and I don't mean to be dogmatic but the Board of Commissioners have already approved the rezoning. He announced we are not addressing the rezoning of the property, we are actually looking at the variances to consider whether to keep structures that are already existing, so I want to point that out. He concluded it's not our duty to change what the County Commission has already rezoned.

Rodney Rossignol said I came to the Commissioners meeting as well and I asked them about the issue. I just said can someone please come take a look at it before it becomes a major problem.

Therol Brown asked does any other member of the ZBA have any additional questions.

Therol Brown asked is there any other members of the audience here to speak in opposition? If not we are going to open up the phone lines for any potential callers that want to express support or opposition to the request.

Therol Brown asked Chanelle, I am correct in stating that these are existing structures and they haven't applied to add any structures.

Chanelle Blaine replied yes, these are already existing, there is nothing there that is new.

Therol Brown stated I believe that we have the phone lines open for enough time, so I don't think we have any calls so do any of the ZBA members have any comments or questions?

Bill Beckwith asked the staff is a well house considered an accessory structure?

Chanelle Blaine responded yes, if is over 70 square feet and I believe this counts.

Bill Beckwith stated they need to have the well house to bring in water. but to me regardless of the

size of the well house it seems to me to be an unnecessary to put a well house under an accessory structure.

Nancy Lindsey asked Chanelle how many square feet did you say?

Chanelle Blaine said anything over 70 square feet is counted as an accessory structure.

Bill Beckwith said in this situation you have two (2) front yards for this property, one on Highway 92 and one on McBride Road, and once again it seems like the structures were built appropriate to the zoning at the time and the change was made to McBride Road, so I think they were caught in the administrative catch here, those are just my comments.

Chairman Brown asked any other comments from any other ZBA members.

Tom Waller asked do any of these buildings have electricity and plumbing, or are they just out buildings?

Nancy Lindsey said they have basic power but no plumbing.

Chairman Brown asked Marsha or John do you have any other comments.

Marsha Hopkins replied I do not have any questions.

Chairman Brown said if there are no further questions, we will entertain a motion for each variance one by one.

John Tate made a motion to recommend approval of Variance #1) of Petition A-747-20 to increase the amount of residential accessory structures per individual lot from 2 to 3. Bill Beckwith seconded the motion. The motion passed 5-0.

John Tate made a motion to recommend approval of Variance #2) of Petition A-747-20 to increase the combined total footprint of residential accessory structures per lot from 1,800 square feet to 2,200 square feet. Marsha Hopkins seconded the motion. The motion passed 5-0.

Bill Beckwith made a motion to recommend approval of Variance #3) of Petition A-747-20 to allow a well-house to remain encroached in the side setback. John Tate seconded the motion. The motion passed 5-0.

Marsha Hopkins made a motion to recommend approval of Variance #4) of Petition A-747-20 to reduce the front yard setback from 75 feet to 64 feet to allow an existing shed / workshop to remain. Tom Waller seconded the motion. The motion passed 5-0.

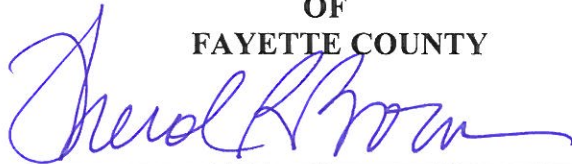
Marsha Hopkins made a motion to recommend approval of Variance #5) of Petition A-747-20 to reduce the front yard setback from 75 feet to 69 feet to allow an existing barn to remain. John Tate seconded the motion. The motion passed 5-0.

Chairman Brown said being no further items on the agenda, I will entertain motion to adjourn?

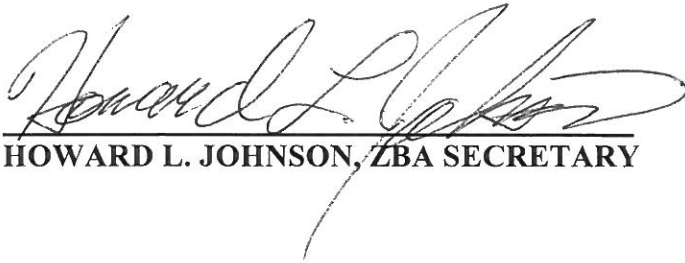
Tom Waller made a motion to adjourn. Bill Beckwith seconded the motion. The motion passed 5-0.

The meeting adjourned at 8:14 pm.

**ZONING BOARD OF APPEALS
OF
FAYETTE COUNTY**



THEROL BROWN, CHAIRMAN



HOWARD L. JOHNSON, ZBA SECRETARY