

**THE FAYETTE COUNTY ZONING BOARD OF APPEALS** met on March 22, 2021, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

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

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

1. Consideration of the Minutes of the Meeting held on February 22, 2021.

*Tom Waller made a motion to table the minutes of the meeting held on February 22, 2021.  
John Tate seconded the motion. The motion passed 5-0.*

### **PUBLIC HEARING**

2. **Petition No. A-749-21, Alice P. Reeves and Robert R. Reeves, Owners, and Parrott Reeves Building, Agent, request the following:**
  - 1) **Variance to Sec. 110-94. Buffer. to remove the requirement to plant in the buffer per the planting requirements in chapter 104 of the Development Regulations to create a visual screen from abutting properties to the north side yard.**
  - 2) **Variance to Sec. 110-94 Buffer. to remove the requirement to plant in the buffer per the planting requirements in chapter 104 of the Development Regulations to create a visual screen from abutting properties to the east side yard.**
  - 3) **Variance to Sec. 110-94 Buffer. to remove the requirement to plant in the buffer per the planting requirements in chapter 104 of the Development Regulations to create a visual screen from abutting properties to the south side yard.**

The subject property is located in Land Lot 57 of the 7<sup>th</sup> District and fronts on Flat Creek Trail.

Chairman Brown asked the petitioner to come to the podium, sign-in and present their request.

Alice Reeves said my husband Bob and I own two parcels of land. She noted that the first parcel is the three (3) acre parcel where the home is located and the other is a four and half acres (4.5) parcel which was my family homestead. She stated I would like to give you a little history of this project.

Alice Reeves explained in 1988 we established our business. Accounting Resources here in

Fayette County. She said I am the 5<sup>th</sup> generation in my family to live here and our business is also located here. She added we began the business in our home but we outgrew the home and we needed a true office space. She stated we moved the business to 112 Governors Square which is on the line between Fayetteville and Peachtree City for the past 16 years. She noted this office is in a great location but since it has very steep stairs we have been looking to relocate for a while. She concluded we had not yet found a suitable ground floor space until 18 months ago.

Alice Reeves said while sitting with my mother in her final days of life, my family members and I discussed what were we planning to do with the house. She explained I told them that I wanted to purchase, remodel and use it for the office for our business. She added they all agreed since they desired to keep it within the family. She said however, I didn't think 18 months later I would be standing before you and not already in that office space. She added although we appreciate the rules and regulations that are in place to help us keep our County and our home values strong, but it seems in this particular case, there are more regulations than warranted for this particular project, in this particular location.

Alice Reeves explained this is a mature property with multiple trees spanning more than 60 years. She added we are very mindful that the two (2) major and some smaller pecan trees in the front produced more than 125 pounds of pecans this year. She said we don't want to preserve the land or harm the trees that are already there, but the County's requirements would have us plant trees 10 to 20 feet apart around the entire 4.5 acres. She denoted that the property is adjacent on the south by Flat Creek Baptist Church, but over the last 45 years my family has allowed the Church to utilize those two (2) acres as a soccer/ ball field and a Fall festival area. She said planting on the property line would hinder this type of activity. She then denoted that the property adjacent to the west is a pasture where our neighbor routinely keeps his cows, which has a tree line on both sides of the fence which provides a natural screening between the cows and the house.

Alice Reeves explained that the property adjacent on the north is our house, where we have a little more than a half-acre between the two properties that has been typically been a field or a garden. She said there is a natural hedge row between them with young pecan trees, day lilies, Easter lilies, gladiolas and other flowers. She detailed there is also a large black walnut that anchors the front and a pecan tree that anchors the back along this natural hedge row. She added in front of this house on the east, there are two (2) smaller pecan trees with proper spacing in between where we fit our small signage which will be surrounded by shrubbery. She explained requiring that more trees will not improve the aesthetic of the property but will actually be more of a detriment to the essence of the neighborhood. She noted that our neighborhood consists of three (3) churches, two (2) cemeteries, three (3) rental houses, two (2) family houses, a tennis court, a fire station and lots of fields. She concluded so we respectfully ask that you remove the planting restrictions on the property borders for this property.

Chairman Brown replied thank you Ms. Reeves. He asked is there anyone in the audience that wishes to speak in support of this petition? Hearing none, he asked is there anyone in the audience that would like to speak in opposition of this petition?

Chairman Brown said because of Covid-19 we have opened the phone lines for residents or parties to call-in and express their support or opposition. He added at this time we will pause for a minute to see if we get any calls from the public, then we will proceed.

Chairman Brown asked is there any member of the ZBA who has any comments or questions?

Marsha Hopkins asked Chanelle if at the time the Reeves acquired the property by quit-claim deed in February 2020, the Flat Creek Overlay Zone was not in-effect, is that correct?

Chanelle Blaine replied yes, that is correct, it wasn't established until August 7, 2020.

Bill Beckwith responded I understand the reason behind the overlay zone and the requirement for the buffers, but if this isn't a unique situation, I don't know what is. He added to meet the requirements the Reeves would have to plant a buffer between their house and the property they own. He said along one side is a row of trees and along the other side are activities of the Flat Creek Baptist Church. He noted that in a normal situation when this overlay zone was developed, the idea was to keep a business separated from the surrounding residences. He concluded in this case, I don't see any reason to enforce that requirement on the Reeves.

Chairman Brown replied Bill I concur with you.

Tom Waller responded no comment.

Chairman Brown responded that I wanted to clarify something you said earlier. He asked on the south side of the property, does that field belong to the Church or does it belong to you?

Alice Reeves replied it belongs to us. She said the family always let the Church use it, I think they pay one dollar per year for insurance purposes.

Chairman Brown said so you donate that portion to the Church.

Alice Reeves responded that is correct.

Chairman Brown asked along the back, which would be the east, is that Donald Lloyd property, which is wooded?

Alice Reeves replied that is correct.

Chairman Brown said I concur with Bill, in this situation that this is overkill to ask them to put in trees particularly since they own both sides of the property and the back is wooded.

Chairman Brown said I can entertain a motion.

Chanelle Blaine said Therol, you should make sure that each petition should have its own motion.

Chairman Brown responded okay, there are three (3) different variances, thank you Chanelle.

*Tom Waller made a motion to recommend approval of Variance #1) of Petition A-749-21 to remove the requirement to plant in the buffer per the planting requirements in Chapter 104 of the Development Regulations to create a visual screen from abutting properties to the north side yard. John Tate seconded the motion. The motion passed 5-0.*

*Tom Waller made a motion to recommend approval of Variance #2) of Petition A-749-21 to remove the requirement to plant in the buffer per the planting requirements in Chapter 104 of the Development Regulations to create a visual screen from abutting properties to the east side yard. Marsha Hopkins seconded the motion. The motion passed 5-0.*

*Tom Waller made a motion to recommend approval of Variance #3) of Petition A-749-21 to remove the requirement to plant in the buffer per the planting requirements in Chapter 104 of the Development Regulations to create a visual screen from abutting properties to the south side yard. John Tate seconded the motion. The motion passed 5-0.*

Alice Reeves said thank you.

**3. Petition No. A-750-21, Tria Kreutzer & Joseph Carbone, Owners, request the following:**

- 1) Variance to Sec. 110-142. PUD-PRD, (f) (6), to reduce the rear yard setback from (the existing plat) 40 feet to 36 feet for an existing single-family residence.**
- 2) Variance to Sec. 110-142. PUD-PRD, (f) (6), to reduce the rear yard setback from (the existing plat) 40 feet to 31 feet for an existing deck.**
- 3) Variance to Sec. 110-142. PUD-PRD, (f) (6), to reduce the rear yard setback from (the existing plat) 40 feet to 20 feet for the construction of a pool.**

The subject property is located in Land Lot 255 of the 4<sup>th</sup> District and fronts on Pebble Beach Drive.

Chairman Brown asked the petitioners to come to the podium, sign-in and present your request.

Joe Carbone said we are asking for the first two (2) variances, so that we don't have to tear our house down, because when the home was originally built, Fayette County did not require a foundation survey, so both the home and the deck are in the setbacks. He added if you look on the County plat or the GIS maps, it shows the property boundary as a curve atop of a hill. He said when we first tried last year to get a pool, based on the way the setbacks lines work, the pool would be at the bottom of the deck which would be too close to the deck, so we would have to move it back. He explained initially were going to try to get a variance for the pool. He said at that time we had two (2) surveys done by two separate companies which put the property line at

the edge of our deck. He further explained we got attorneys involved to try and see if we could possible acquire the land behind our house but while reading the legal description, it was discovered nowhere in the legal description does it show that cutout in the back corner of the property. He added the attorney got involved and we had another survey done and you have that updated survey on file now. He concluded our deck, our house, and the potential pool would still be within those setbacks.

Chairman Brown asked was the house and deck there already.

Joe Carbone replied the house and deck were there already.

Chairman Brown asked was the home built in 1993 or 1994.

Joe Carbone replied it was built in 1994.

Marsha Hopkins asked the reason all of this surfaced is because you wanted to build a pool.

Joe Carbone replied that is correct. He added what we have found since we went to the HOA, Ralph Cousins came out with 16 different plats that they have along with one from the County, however no plat had the same dimensions on it, not one (1). He said whatever happened back then, who knows, but we researched six (6) different plats trying to figure out who has the property behind us, but thankfully, our attorney actually read the legal description and couldn't find where it said that there was a dip. He noted that we maintained that area past the hill (on the golf course) for the last eight (8) years since, we have owned the house, with the lawn treatments and mowing at a considerable expense. He concluded when it first surfaced, I thought I wasn't going to maintain that if it was not my property but the golf course owners said, it is your property.

Chairman Brown asked Chanelle was the setbacks the same then in 1994 as it is now.

Chanelle Blaine replied no, I don't think so, let me look it up.

Chairman Brown responded the reason I ask is because apparently the County approved it. He added I was just wondering if that was an oversight or was it in compliance then?

Chanelle Blaine responded a lot of this was oversight. She added I think back then we had a lot of houses being built at that time and they were trying to do them as quickly as possible. She explained from what Pete and I gathered the plat does show that curvature but if you read their deed, the legal description does not say anything about the curvature, it just shows that the portion of the golf course, they own that. She concluded it is really weird, and that's how we got here.

Joe Carbone said if you look at a satellite image of it, the golf course is not over there, we are way out-of-bounds.

Chanelle Blaine responded according to the current standards for PUD right now, the rear setback will be 30 feet, so it a little bit less than what they have.

Joe Carbone said I think it was simple oversight because if you actually set foot on the property, according to the photos you have in your packet, you can clearly see that would not make sense for the house to be anywhere else based on the way the community is laid out in relationship to where the house is to the course. He added if I was an inspector without a foundation survey I would not have caught it either since there is nothing else around near this house.

Chairman Brown asked is there anyone in the audience who would like to speak in support of this petition?

Tria Kreutzer, the co-owner said we would like to have the enjoyment of our back yard. She added our pool builder stated that he would be happy to have us call him if you needed to listen to him. She said if we build a pool it must go in-line with the back of the yard, because the drainfields are all the way over to the right, there is a hill which becomes very wet and marshy so the area where we need to build the pool is behind the house. She noted we are really asking for the variances so we can have the same enjoyment as our neighbors who have a pool. She stated because the house was built initially in the wrong spot and everyone approved it we are now stuck with a long-term error, of course we didn't know when we bought it that the house was incorrectly built in the wrong location. She explained we are very much off to the side and not near anyone else, so I don't see how it would bother anyone else in our neighborhood. She concluded we are making our outdoor area more aesthetically beautiful and we want to have that enjoyment in our life. She said that's it, unless you have questions.

Chairman Brown asked is there anyone else in the audience who would like to speak in support of this petition?

Being none, he asked if anyone in the audience was in opposition of the petition? Being none, we will open the phone lines for one (1) minute, if you need to call us. He announced due to Covid-19 we are doing virtual call-ins for the public to express either your support or opposition whichever the case maybe.

Chairman Brown asked are there any comments or questions from the members of the Zoning Board of Appeals?

John Tate said Therol I actually agree with the statement that you just made because it appears that through no fault of theirs the house was built in the wrong location, so certainly in regards to the residence and the exiting deck, I am certainly all for the approval of it. He added I also agree with the approval of the variance for the construction of the pool.

Chairman Brown responded thank you John. I concur. and if it had been built in the proper spot to begin with they would not be here tonight. He asked Marsha did you have any questions?



Marsha Hopkins replied no, I agree with that.

Chairman Brown asked if the home and deck had been placed where it was supposed to have been initially, then it would not have been an issue then you would have space for the setbacks, is that correct?

Joe Carbone replied that is correct.

Chairman Brown announced obviously I am not getting callers so does the ZBA members have any comments or questions?

Chairman Brown said I can entertain a motion.

***Marsha Hopkins made a motion to recommend approval of Variance #1) of Petition A-750-21 to reduce the rear setback from 40 feet to 36 feet to allow an existing single-family residence to remain. Bill Beckwith seconded the motion. The motion passed 5-0.***

***John Tate made a motion to recommend approval of Variance #2) of Petition A-750-21 to reduce the rear setback from 40 feet to 31 feet to allow an existing deck to remain. Marsha Hopkins seconded the motion. The motion passed 5-0.***

***Marsha Hopkins made a motion to recommend approval of Variance #3) of Petition A-750-21 to reduce the rear setback from 40 feet to 20 feet to allow for the construction of a pool. Bill Beckwith seconded the motion. The motion passed 5-0.***

- 4. Petition No. A-751-21, Gordon S. & Elaine A. Dampier, Owners, request the following: Variance to Sec. 110-77. Lot width, to reduce the front yard setback (that is established by the lot width) from 450 feet to 427 feet to allow the principal structure to remain.**

Chairman Brown asked the petitioners to come to the podium, sign-in and present your request.

Ryan Hutchinson with Johnson Homes said the Dampiers purchased a lot back in 2010 or 2012 and they provided us with a survey. He added it didn't state the right-of-way as it is shown on the recorded plat and that what's we used as the builder. He noted there is a 60 foot right-of-way that goes from the center of their cul-de-sac and the house is 450 feet from the asphalt as opposed to the right-of-way. He added the house sits away from the road right now and we had it a little further back but Environmental Health came out and said the good soils are behind the house, can you bring the house forward as much as possible. He concluded at that time we didn't realize that we close but we moved forward and it ended up being in the setback, it was just a clerical error, I guess.

Chairman Brown said I am a tad bit confused but are you building the house.

Ryan Hutchinson replied yes sir. we are building the house for Gordon and Elaine. He added that the house is there. but when we went to do a foundation survey and to schedule all the

mechanicals, the guy who came out to survey pulled the current recorded plat which showed the 60 foot right-of-way. He concluded once he did the distance for his plat, it showed the house at the front corner being 427 feet.

Chairman Brown said the reason I asked is because it says the current home location is 427 feet.

Ryan Hutchinson replied correct, there is a house under construction their now.

Chairman Brown replied, okay, this was found out during construction. Is there anything else?

Ryan Hutcheson I would like to keep the house where is. He added we also have letters from adjacent homeowners stating that they are okay with the location of the house.

Chairman Brown asked is there anyone in the audience in support of the application? Being none, he asked is there anyone who is in opposition of this petition. Being none, he announced that due to Covid-19 we are allowing the public to call-in rather than attend the public hearing and we are going to wait a one (1) minute for them to call-in to voice their opposition or support.

Chairman Brown asked are there any question from members of the ZBA. Being none a motion was entertained.

***Tom Waller made a motion to recommend approval of Petition A-751-20 to reduce the front yard setback from 450 feet to 427 feet. John Tate seconded the motion. The motion passed 5-0.***

**5) Petition No. A-752-21, Frederick M. Monderson & Keisha Monderson Johnson, Owners, and Keisha Monderson Johnson & Jonathan Johnson, Agents, request the following:**

- 1) Variance to Sec. 110-125. A-R, (d) (6), to reduce the side yard setback from 50 feet to 21 feet to allow an existing barn to remain.**
- 2) Variance to Sec. 110-125. A-R, (d) (6), to reduce the side yard setback from 50 feet to 47 feet to allow an existing garage to remain.**

**The subject property is located in Land Lot 20 of the 9<sup>th</sup> District and fronts on Peters Road.**

Chanelle Blaine informed the ZBA that the petitioner was not present.

Chanelle Blaine contacted the applicant by phone. She added the applicant, Ms. Johnson, had a death in her family and she is unable be here tonight. She asked the ZBA if they table this item to the next meeting on April 26<sup>th</sup>

***Bill Beckwith made a motion to table Petition No. A-752-20 until the April 26, 2021 meeting. Tom Waller seconded the motion. The motion passed 5-***



Chairman Brown said if there is no further items on the agenda, I will entertain motion to adjourn.

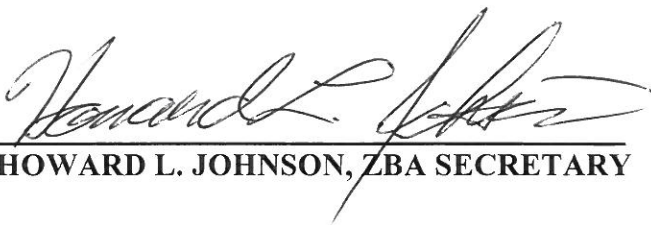
Marsha Hopkins made a motion to adjourn. Tom Waller seconded the motion. The motion passed 5-0.

The meeting adjourned at pm 7:57 pm.

**ZONING BOARD OF APPEALS  
OF  
FAYETTE COUNTY**



**THEROL BROWN, CHAIRMAN**



**HOWARD L. JOHNSON, ZBA SECRETARY**