

THE FAYETTE COUNTY ZONING BOARD OF APPEALS met on June 28, 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
Tom Waller
Marsha Hopkins

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

1. Consideration of the Minutes of the Meeting held on May 24, 2021.

Marsha Hopkins made a motion to approve the minutes of the meeting held on May 24, 2021. John Tate seconded the motion. The motion passed 4-0.

PUBLIC HEARING

2. **Petition No. A-764-21, Orlando A. Battle, Sr., Owner, and Tina Battle, Agent, 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 43 of the 5th District and fronts on Middlebury Court.**

Orlando Battle (160 Middlebury Court, Fayetteville) said good evening.

Channele Blaine said Mr. Battle, I want you make sure that you understand to have to obtain at least three (3) yes votes in order to gain approval. She asked did you want to continue or did you want to table it until next time we have a full board.

Orlando Battle replied go ahead and continue.

Orlando Battle said we put up a metal shed and I guess the code says it has to have horizontal siding but the shed has vertical siding. He added it is just a shed that we will put my weight equipment and other items for my wife. He noted it will be something that will beautify the property, it will not be something that will take away from the neighborhood. He concluded we are asking that you approve the variance.

Chairman Brown asked is there anything you wish to add. He added we do have your application here.

Orlando Battle replied yes, there is nothing beyond what is written in the application. He added I ask that you approve the variance.

Chairman Brown asked is anyone else in the audience who wants to speak in support of this petition. Being none, he asked if there is anyone in the audience who would like to speak in opposition of this petition. He then announced that the phone lines will be open for a minute for anyone to call-in their support or opposition.

Chairman Brown asked if any of the ZBA members have any questions or comments.

Marsha Hopkins said that she wanted to clarify that this is not within the setback correct?

Chanelle Blaine replied yes, it is not encroaching the setback, they just wanted the siding to be changed.

John Tate said I see that this property was purchased in 2017. He asked was this structure already completed?

Orlando Battle responded I bought the property back in 2003. He added the barn and the shed was already there. He said we wanted metal because it last longer and the wooden shed tend to start dry rotting.

John Tate said I am trying to get some clarification. He asked when did you purchase the property?

Orlando Battle replied in June 2003, I have been at this address for 18 years.

Chanelle Blaine asked why do I have a deed that is dated 2017.

Orlando Battle responded I got divorced and she finally signed it over to me.

Chanelle Blaine said okay, we used the latest deed that we saw, we didn't know.

John Tate said I was concerned with the time or the year the shed was constructed, so what is the status?

Orlando Battle replied it is fully constructed.

John Tate asked so when did that occur?

Orlando Battle responded March or April of 2021.

John Tate asked when you had the shed constructed, did you have the metal put on as opposed to the wood siding.

Orlando Battle replied it was already a metal shed. He added when we looked at it, we wanted it to be metal. He explained it was not a wooden shed and we put metal on the outside of it. He

added when we purchased it already had the metal siding on it.

John Tate replied I am now confused.

Chanelle Blaine asked was the building already there?

Orlando Battle responded yes, it is the picture that you have.

John Tate asked so it's always have been a metal building.

Orlando Battle replied yes.

John Tate said the reason that you are needing the variance is because someone said it is not supposed be a metal structure.

Chanelle Blaine said that the ordinance states that metal building have to have a horizontal siding not vertical siding.

Chairman Brown said if you look at the all the metal buildings in Fayette County about 95 percent of then have vertical siding.

Chanelle Blaine said yes, it is the trend now.

Chairman Brown added architecturally and structurally, the designers say the vertical structure is stronger and more wind resistant.

Chanelle Blaine said I think the ordinance was written like that because they wanted those buildings to have residential character.

Chairman Brown said we talked about this over a year ago. He added someone said they were going to review that and offer some changes to that but I haven't heard anything, have you?

Chanelle Blaine said I asked Pete and he said that is not changing.

Chairman Brown asked are there any other question or comments from the ZBA, if not I will entertain a motion.

John Tate made a motion to recommend approval of Petition A-764-21 to allow for the construction of a metal accessory structure with vertical pattern siding, as opposed to the required horizontal pattern. Marsha Hopkins seconded the motion. The motion passed 4-0.

3. Petition No. A-765-21, Larry and Alyson Otto, Owners, request the following: Variance to Sec. 110-125. A-R, (d) (6) to reduce the side yard setback from 50 feet to 40 feet to allow an existing carport to remain. The subject property is located in Land Lot 163 of the 4th District and fronts on Old Highway 85.

Larry Otto (210 Old Highway 85, Fayetteville) introduced himself and his wife Alyson. He noted that he lives on a six (6) acre property where they moved in December. He added that they were putting in a garden this spring and thought of putting in a small temporary greenhouse. He explained my neighbor happens to be a retired builder, who built many homes in the area including our house, mentioned to us that we may have to keep the greenhouse 50 feet from the property line. He added we should check with the County. He said we thought that a 50 feet setback sounded like a lot, so my wife called the County office.

Larry Otto said the staff member checked our address and she looked at the aerial photo and noted that the carport was closer than 50 feet. He continued the staff member said okay, thank you and hung up but then five (5) days later, a representative from the Code Enforcement came by and asked to measure the carport. He said after it was measured, it turns out that is 10 feet too close to property line; so instead of 50 feet it is 40 feet. He added that structure was there when we bought it in December. He noted that structure was there from the previous owner since we spoke with him and he concluded nobody knows when exactly that structure was put there, it's a carport so it could have been in 20 years ago. He added so we are asking for a variance so we don't have to move it. We have not done the greenhouse, we are now trying to keep everything as it has been.

Alyson Otto said we have sent pictures.

Chairman Brown asked is there anyone this audience that would like to speak in support of this petition. Hearing none, he asked is there anyone that would like to speak in opposition of this petition. He also announced that the phone lines will be open for a minutes for anyone that wanted to call-in with comments.

Chairman Brown asked do you know when the house was built?

Chanelle Blaine replied 1999.

Chairman Brown asked Mr. Otto, do you know who built the house?

Alyson Otto replied Dudley Fincher, he is our neighbor. She added he owned it at one point, and then subdivided it, built the house and I believed sold our portion with the house on it.

Chairman Brown said since there were no calls on the phone, so are there any questions or comment from the ZBA members?

Tom Waller asked have you spoken to the realty company that sold you your property, and did they accept any responsibility for failure to confirm that the building was in limits when you purchased the home?

Alyson Otto replied yes, we talked with the real estate agent and she forwarded us to the title company. She added I did speak with the title company, I believe Olivia Lane was her name but she proceeded to walk us through some of things that we should say today but yes they should have caught this, I am assuming.

Tom Waller asked what did the title company say?

Larry Otto responded they said there was nothing that was a flag, when they did the title research and that they don't even know when it was put in and maybe who put it in years ago didn't get a permit. He added but it just a simple carport.

Chairman Brown asked Chanelle in 1999 when the house was built was the setback the same as they are now.

Chanelle Blaine replied yes, the setbacks have been the same for a while I believe since November 13, 1980. She added we tried to look and see if there was a building permit with an open records request, there were no permits. She concluded we didn't get anything from building safety.

Larry Otto stated I think I remember my neighbors saying that is used to be 40 feet. He added so maybe though it was okay when they built the carport, years ago, but it is all speculation at this point.

Chairman Brown said Tom's point is well taken but I used to have a real estate license. He added that 99 percent of agents don't know the local ordinances but the one (1) percent that do will not do anything to mess up a sale. He concluded that is my opinion, not Fayette County's position.

Larry Otto said it is 40 feet versus 50 feet and it hard to know where the property line is exactly because of the tree and the woods, so I think a lot of people would never realize that might be close.

Tom Waller says I feel that the realty company that sold the property bears part of the burden if it is not in compliance with County requirements. He added we seem to be letting the realty company slide.

Chairman Brown noted we don't have any jurisdiction on them.

Tom Waller said no further comment.

Chairman Brown asked are there any further comments or questions, if not I will entertain a motion.

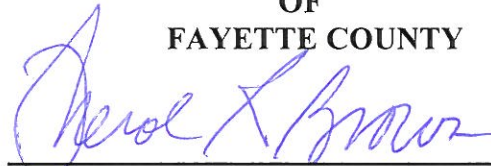
Marsha Hopkins made a motion to approve Petition No. A-765-21 to reduce the side yard setback from 50 feet to 40 feet to allow an existing carport to remain. John Tate seconded the motion. The motion passed 3-1. Tom Waller opposed.

Chanelle Blaine asked is there a motion to adjourn?


*Marsha Hopkins made a motion to adjourn. John Tate seconded the motion.
The motion passed 4-0.*

The meeting adjourned at 7:24 pm.

**ZONING BOARD OF APPEALS
OF
FAYETTE COUNTY**



THEROL BROWN, CHAIRMAN



HOWARD L. JOHNSON, ZBA SECRETARY