

THE FAYETTE COUNTY ZONING BOARD OF APPEALS met on July 26, 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 April 26, 2021.

Tom Waller made a motion to approve the minutes of the meeting held on April 26, 2021. Marsha Hopkins seconded the motion. The motion passed 4-0.

2. Consideration of the Minutes of the Meeting held on June 28, 2021.

John Tate made a motion to approve the minutes of the meeting held on June 28, 2021. Tom Waller seconded the motion. The motion passed 4-0.

PUBLIC HEARING

Chairman Brown announced that we only have four (4) members here tonight instead of five (5) members. He explained that to approve your petition, you need three (3) favorable out of four (4) votes. He concluded that a two (2) - two (2) vote would be a tie and the motion would not be approved.

Chairman Brown asked does the petitioner have the opportunity to delay a vote?

Channele Blaine replied if it is a two (2)-two (2) vote, it is considered a denial.

Chairman Brown announced we just want to let you know in advance that you need three (3) positive vote to carry.

Channele Blaine announced that the Chairman will ask whether or not you still want to continue because we only have four (4) members or if would you like you be tabled until the next meeting. She added however, at the next meeting, we may not have another member. She said make sure that you take that into consideration before you go up to the podium.

- 3. Petition No. A-766-21, Everett O. Collins, requests the following: Variance to Sec. 110-125 A-R, (d) (6) to reduce the side yard setback from 50 feet to 22 feet to allow an existing shed to remain. The subject property is located in Land Lot 220 of the 4th District and fronts on Goza Road.**

Everett Collins (878 Goza Road, Fayetteville) said good evening. He said I am here petitioning for approval of a variance for an existing storage shed. He added when I purchased the property on April 17, 2017, the storage shed was existing, but I didn't know it was a violation. He said when I went to apply for a building permit, that's when I discovered that you have to get zoning approval first. He explained while speaking with zoning, I found out that I needed to apply for a variance. He noted that the shed is basically 22 feet from the side property line. He concluded I would like to keep the shed up, if possible.

Chairman Brown asked Mr. Collins can you explain to everybody why you need to keep it that at that location?

Everett Collins said the shed is existing and it is the only structure that I can put my yard equipment in. He added I have a medium-sized, zero-turn tractor and all of my yard equipment is within that shed but my property is approximately 10 acres so I need to have outside yard equipment. He noted I was in the process of putting up another shed and so that is when this began. He said this is why I would like to keep the storage shed rather than tear it down. He concluded if I have to tear it down I will have to sit my equipment outside.

Chairman Brown asked was the shed there when you bought the property?

Everett Collins replied yes.

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. Hearing none, he then asked if any of the other ZBA members have any questions or comments.

Tom Waller asked have you spoken to the realty company that sold you this property with this issue and do they admit to it?

Everett Collins responded no sir, I haven't spoken to them. He added again, I didn't know from the onset in 2017 that it was in violation, so I thought I was doing the right thing, since that it had been cleared for purchase but I now know it wasn't. He said to answer your question, I did not speak to the realty company because this issue was all a surprise to me when I came down to apply for the building permit. He concluded I thought everything was okay.

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

Marsha Hopkins made a motion to approve Petition No. A-766-21 to reduce the side yard setback from 50 feet to 22 feet to allow an existing shed to remain. John Tate seconded the motion. The motion passed 4-0.

4. Petition No. A-767-21, Jerry & Melissa Battle, request the following:

- 1) Variance to Sec. 110-137. R-40, (d) (6) to reduce the side yard setback from 25 feet (per the final plat) to 7 feet to allow an existing carport to remain.**
- 2) Variance to Sec. 110-137. R-40, (d) (6) to reduce the side yard setback from 25 feet (per the final plat) to 8 feet to allow an existing therapy room to remain.**
- 3) Variance to Sec. 110-79. Residential accessory structures and their uses. (c) Number and size, to (1)(a), increase the amount of residential accessory structures per individual lot from 2 to 3.**

The subject property is located in Land Lot 41 of the 5th District and fronts on Merrydale Drive and Hilo Road.

Chanelle Blaine asked before you get started, do you want to continue with the four (4) person board or do you want to wait?

Jerry Battle said good evening, yes I wish to continue. He added when we brought the property there was no auxiliary structures on the property. He noted over the past six (6) years we actually moved the current structures to the property. He added the metal carport and the therapy room that we want to keep both border the same side yard but their setback is much less than the 25 feet setback mandated by the ordinance for the neighborhood.

Jerry Battle continued that we had those structures put on the lot, but the contractors who installed the structures insisted that the portable building did not require a permit because it was not a permanent structure; being new to the County we took their word for it. He added we did likewise with the metal carport, because was just a metal carport on a concrete pad so the contractors said it was considered a driveway which did not require a permit, so we they put it in. He concluded we were surprised to find this information when we sought a permit to build our detached garage.

Jerry Battle said this lot is very hilly and the only useable part of this lot for us is very hilly. He explained with us having two (2) handicapped kids, both in wheelchairs, finding a level place to park the cars, and place to move the kids around. He added we just had to just find the best spot that we could for the therapy room and the carport. He noted the therapy room is not yet completed because when were made aware of this zoning situation we halted the construction of that little room until this was cleared up.

Jerry Battle said what we want to do is add the detached garage, keep the carport and the therapy

room. He noted there are three (3) buildings on the property now, but we want the one (1) in the middle of the back yard to go away but we still want to retain the carport, the therapy room along with the new detached garage we plan to construct. He concluded so that is the reasoning for this.

Jerry Battle said we would like to ask for your permission for the side yard variance. He added we contacted the landowner who emailed me (later forwarded Howard Johnson) with his approval. He noted that (the neighbor) had no objection to us leaving the carport and therapy room where it is. He continued my other neighbor, Susan, who lives on the other side has not been encroached upon, is in approval as well in addition to the neighbor across the street. He concluded we have approval emails from three (3) of our neighbors, which you should have.

Jerry Battle explained the detached garage that we are building is so that we can have a covered place to park and to unload the children. He added the two (2) car garage that is built onto our house is consumed by the wheelchair ramp, so there is only room for one (1) car in that garage, so we wanted another place out of the elements to park the other car.

Melissa Battle said along with that we also have a lot of extra handicap equipment that we have put in the storage building.

John Battle said the purpose is other therapy is so that we can have a climate controlled place to store some of the equipment that we have because our house is not very big.

Melissa Battle added they need their floor space in their bedrooms for mobility in their wheelchairs.

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. Being none, he asked if any of the ZBA members have any questions or comments.

Chairman Brown asked did you say the 12' x 24' "skid" building is the building that you are going to remove later after you build the carport?

John Battle replied yes sir, we are going to move the contents of that into the new garage and then it will go away. He added I would like to ask if you do grant approval, if we can have 90 days to 120 days to move it.

Chanelle Blaine responded sir if they ask you to move it you only 60 days per the ordinance.

John Battle replied that's fair.

Tom Waller said the 30' x 30' garage that you are proposing is a little bigger than your house size in depth. He asked are you accepting the proportions that you dealing with here. He noted this is a pretty big garage that you proposing. 30' x 30'.

Melissa Battle said we have a little girl who has a special-needs tricycle and the space is perfect for her to ride that tricycle in that garage because when you have all of this rain, she doesn't don't get any therapy, so we plan to use that garage for that reason, as well.

Tom Waller responded aesthetically looking at it, this garage is as large as half of your home.

John Battle replied it is the same depth as our home. He added the mid-section of your home is about 32 feet deep and on the end, I think it is about 29 feet deep. He added yes sir, I am very aware of that. He explained 30' x 30' was number we came up with that we thought would be appropriate to be able to do indoor activity like riding bicycles and walking in circles with my son's gait trainer (special walker) to have enough open area for them to be to walk indoors.

Melissa Battle said we have private trainers that come to the home to work with our children so they don't do to a therapeutic center, our home is our center.

John Battle said of course, our intention is for this garage to be constructed to look absolutely like the house but nothing like a barn, I want it to match the aesthetic of the house, so that everything matches.

Tom Waller replied thank you.

John Tate asked what is the metal carport is used for?

John Battle responded the metal carport is currently where I park a utility vehicle, a work vehicle, and our spare handicap van.

John Tate asked but you want this building to remain?

John Battle replied I want this structure to remain. What I want to do is leave the space handicap van and/ or my work vehicle and may some of my lawn equipment.

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

Marsha Hopkins made a motion to approve Variance #1 of Petition No. A-767-21 to reduce the side yard setback from 25 feet to 7 feet to allow an existing carport to remain. John Tate seconded the motion. The motion passed 4-0.

Marsha Hopkins made a motion to approve Variance #2 of Petition No. A-767-21 to reduce the side yard setback from 25 feet to 8 feet to allow an existing therapy room to remain. John Tate seconded the motion. The motion passed 4-0.

Marsha Hopkins made a motion to approve Variance #3 of Petition No. A-767-21 to increase

the amount of residential accessory structures per individual lot from 2 to 3. Tom Waller seconded the motion. The motion passed 4-0.

5. Petition No. A-768-21, Michael S. & Keleigh P. Paino, Owners, and Randy M. Boyd, RLS, Agent, request the following:

- 1) Variance to Sec. 110-173. (1) General State Route Overlay (c) (2) to reduce front yard setback from 100 feet to 50 feet.
- 2) Variance to Sec. 110-173. (1) General State Overlay (f) (1) to reduce street frontage landscaping requirements from 50 feet to 20 feet.
- 3) Variance to Sec. 110-143. (d) Community Commercial (d) (3) (a) (1) to reduce the front yard setback from 75 feet to 50 feet.

The subject property is located in Land Lot 137 of the 5th District and fronts on Highway 54 East and Callaway Road.

Mike Panio said with this petition I respectfully ask to table it until next month. He added the property was under contract and the buyers cancelled the contract at 2:00 PM this afternoon and I have been unable to reach Randy Boyd about this hearing tonight. He noted I still would like to do the variance for the setback but he project is going to change somewhat.

Chairman Brown said I don't think we need to discuss anything, we just need to vote on the table.

Chanelle Blaine replied yes you just need to vote on the table.

Chairman Brown said I can entertain a motion to approve or disapproved the motion to table until next month.

John Tate made a motion to table Petition No. A-768-21 per the petitioner's request until the August 23, 2021 meeting. Marsha Hopkins seconded the motion. The motion passed 4-0.

6. Petition No. A-769-21, PJMC Properties LLC, Owner, and William P. Gilbert, Agent, request the following:

- 1) Variance to Sec. 110-138. R-20 (d) (4) (b), to reduce the front yard setback from 40 feet to 27 feet to allow a primary residence to remain.
- 2) Variance to Sec. 110-138. R-20 (d) (4) (b), to reduce the front yard setback from 40 feet to 30 feet to allow a pool to remain.

Steve Chastain (6300 Powers Ferry Road, Sandy Springs 30339) said I am here as an agent for PJMC Properties, LLC and William Gilbert. He added that Mr. Gilbert is present here tonight. He noted that Mr. Gilbert brought this property through a bank foreclosure on July 7, 2020. He explained under a building permit he was having construction work done and during the permit process they found a violation that the house and swimming pool was sitting in the setback. He said is respectfully requesting a variance to the residence from 40 feet to 27 feet and the swimming pool from 40 feet to 30 feet.

Chanelle Blaine said sorry to interrupt but sir, it is obvious that you want to continue, but you need to state that in the record that you want to continue without a full board.

Steve Chastain responded fine, no problem.

Steve Chastain continued that he purchased the property and did not find out about the violation until he was in the permit process. He added it was on a site plan that he submitted to the County where the violation was found.

Chairman Brown asked when did you buy the property?

Steven Chastain replied around July 7th, 2020.

Chairman Brown asked is anyone 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. Being none, he asked if any of the ZBA members have any questions or comments.

Chairman Brown asked if the existing house was the replacement for one that burned in 1987?

Chanelle Blaine replied yes.

Steven Chastain responded the existing house that is sitting there now, kept the same outside walls.

Chairman Brown stated that is the same location as the one that burned.

Steve Chastain said it's the same spot, the remodeled the interior. the exterior walls are in the same position.

Chairman Brown said okay, I just wanted some clarity.

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

John Tate made a motion to approve Variance #1 of Petition No. A-769-21 to reduce the front yard setback from 40 feet to 27 feet to allow a primary residence to remain. Marsha Hopkins seconded the motion. The motion passed 4-0.

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

John Tate made a motion to approve Variance #2 of Petition No. A-769-21 to reduce the front yard setback from 40 feet to 30 feet to allow a pool to remain. Marsha Hopkins seconded the motion. The motion passed 4-0.

7. Petition No. A-770-21, Bobby Joe Davis & Abigail Hunter Davis, Owners, request the following:

- 1) Variance to Sec. 110-125 A-R. (d) (6), to reduce the side yard setback from 50 feet to 27 feet to allow an existing barn / apartment to remain.**

Note: after further review, staff has determined this variance is not needed.

- 2) Variance to Sec. 110-125 A-R. (d) (6), to reduce the side yard setback from 50 feet to 37 feet to allow a storage building to remain.**

The property is located in Land Lot 26 of the 5th District and fronts on Harp Road.

Bobby Davis (200 Harp Road, Fayetteville) said good evening. He said he applied for a pool permit and that is when we found out the shed problem. He said the shed is currently 37 feet from the property line instead of the 50 feet required for an A-R zoned lot. He explained when we purchased the home back in April 2015, it had the existing house, and a two (2) story barn attached from it as well. He noted it has been determined that the problem with the barn it is only 23 feet from the property line. He also stated that when we purchased the barn, the lower level of that barn had a workshop area with a half-bath in it. He also noted that the upstairs portion of the barn was a two (2) bedroom apartment. He concluded we have very elderly parents and a very large extended family some who come and visit from out of out-of-state. He added so we have enough room to accommodate everybody.

Bobby Davis said we had a contractor come give us an estimate to convert the lower level of that barn into a living space and to build an additional 12' x 16' shed behind the current barn, to store all the things that we have in the in the barn in the new shed. He noted when we had everything permitted, I assumed that the permit included the 12' x 16' shed that we had placed directly behind the barn. He added I also had it placed directly behind the barn for aesthetic purposes so it could be not seen from the road. He said we were unaware that it had not been permitted because we had to had the storage building built before they could start doing the renovations on the barn to move everything out of the workshop area into that storage shed. He concluded we would like to keep that storage building where it. so we are requesting a variance for 37 feet from the property line as opposed to 50 feet.

Chairman Brown asked Chanelle, is the only variance that we are considering is from 50 to 37 feet, is that correct?

Chanelle Blaine replied yes, it is 50 to 37 feet. She added we thought initially, that barn would need a variance as well but the barn was built during the same time as the house in the 1974, so we realized that it did not require a variance. She added when they did that renovation to the barn and they built that shed, they should have obtained a permit for the shed.

Bobby Joe Davis responded well they did a one for renovations they did in the barn.

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. Being none, he asked if any of the ZBA members have any questions or comments.

John Tate asked are we considering only the shed that was built behind the barn that already existed?

Chanelle Blaine and Bobby Joe Davis both replied simultaneously yes.

Marsha Hopkins asked when the barn was renovated, that's when the shed was also put in?

Bobby Joe Davis replied yes mam.

Marsha Hopkins asked were you under the belief that the contractor had pulled the permits necessary to do everything.

Bobby Joe Davis responded yes, to do everything. He added since that is a wooded area where we have it at, to move it over another 13 feet, I would have to cut down several huge trees.

Marsha Hopkins asked is this in a subdivision?

Bobby Joe Davis replied no mam.


Marsha Hopkins made a motion to approve Variance #2 of Petition No. A-770-21 to reduce the side yard setback from 50 feet to 27 feet to allow an existing storage building to remain. John Tate seconded the motion. The motion passed 4-0.

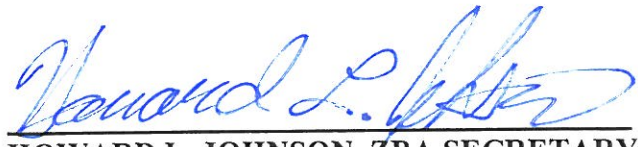
Chairman Brown announced I think that concludes our agenda unless anyone else has any other business before us. If not, I can entertain a motion.

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

The meeting adjourned at 7:41 pm.

ZONING BOARD OF APPEALS
OF
FAYETTE COUNTY


THEROL BROWN, CHAIRMAN


HOWARD L. JOHNSON, ZBA SECRETARY