

**THE FAYETTE COUNTY ZONING BOARD OF APPEALS** met on September 27, 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  
Anita Davis

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

**STAFF ABSEENT:** Pete Frisina, Director, Community Services

**1. Consideration of the Minutes of the Meeting held on August 23, 2021.**

*John Tate made a motion to approve the minutes of the meeting held on August 23, 2021.  
Marsha Hopkins seconded the motion. The motion passed 5-0.*

**PUBLIC HEARING**

**2. Petition No. A-771-21, Max Fuller, Owner, requests the following: Variance to Section 110-125. A-R (d) (6) to reduce the side yard setback from 50 feet to 20 feet to allow for the construction of a primary residence. The subject property is located in Land Lot 233 of the 4<sup>th</sup> District and fronts on Goza Road.**

Max Fuller (335 Goza Road, Fayetteville) said good afternoon, I am returning for additional variance. He added we separated a five (5) acre lot out of the total 20 acres that we have. He noted the lot borders a creek which requires us to have a 250 foot buffer and an additional 50 foot setback from the property line. He explained this leaves us very little room to maneuver with the property line itself going downhill. He said we are asking to reduce the setbacks from 50 feet to 20 feet on the south side of the property. He concluded that all of the County departments had no objections to the variance.

Chairman Brown asked is the creek buffer 150 feet?

Max Fuller responded yes it a 150 feet plus an additional 50 feet, so it actually 200 feet from the creek because it eventually provides water to the reservoir.

Chairman Brown asked is there anyone in the audience that would like 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.

Hearing none, Chairman Brown asked are there any comments or questions from the members

of the ZBA.

Tom Waller asked have you ever seen any water come up on that lot anywhere close to that line?

Max Fuller replied it does not. He added the property slopes down and about 100 feet before the creek, then it drops down another 60 feet which is almost straight down, water will never come up into that lot. He said the elevation of that house is maybe 100 feet above the water level.

Tom Waller asked will this house have a basement?

Max Fuller responded yes, it is possible, it could have. He added the final plans have not been finalized.

Tom Waller replied so it may have a basement? He added asked what is the impact of the waterline to the basement?

Max Fuller replied the distance from the waterline to the bottom of basement is well over 100 feet deep. He added the house sits well above where the land slopes down significantly to the creek. He said there is no way the water could ever come up that high. He concluded that half of the County would flood before it would get to that point.

Chairman Brown said I have seen it, it is a ravine. He added asked Tom, do you have any more questions?

Tom Waller responded thank you

Chairman Brown then asked Mr. Fuller what is the frontage road of the five (5) acre tract?

Max Fuller responded it fronts Goza Road.

Chairman Brown asked what is the frontage distance? He added can you tell, Chanelle?

Max Fuller replied I would guess around 400 feet.

Chanelle Blaine said I would agree, you have to add up the line segments, which are listed as L1, L2, L3, L4 and L5 on the survey.

Chairman Brown said okay now I see, it is more than I originally thought.

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

*Tom Waller made a motion to approve Petition No. A-771-21 to reduce the side yard setback from 50 feet to 20 feet to allow for the construction of a primary residence. Anita Davis seconded the motion. The motion passed 5-0.*

- 3. Petition No. A-774-21, Chozy Aiyub, Owner, and Steven Gutierrez, Agent, request the following: Variance to Sec. 110-125. A-R (d) (6), to reduce the side yard setback from 50 feet to 28 feet to allow an existing residential accessory structure to remain. The subject property is located in Land Lot(s) 74 & 87 of the 5<sup>th</sup> District and fronts on South Jeff Davis Road.**

Chanelle Blaine announced that Ms. Clair with Georgia Permitting / Titan Solar Power is here virtually, she may come in to speak on behalf of Mr. Steven Gutierrez, the agent.

Ms. Clair said hello and introduced herself and announced that she is acting as the agent.

Chozy Aiyub (998 South Jeff Davis Drive, Fayetteville) introduced himself and said that he wishes to have a solar system installed on my residence. He added I have a workshop shed that was built on the property before I moved there. He explained that the solar panel is supposed to power the shed but that raised the red flag that the shed is located too close to the neighbor's property, so that why we are here today. He said for questions about the solar system I have the agent (Claire) here online to answer your questions. He explained that the main factor with the shed is that it contains the well which supports my water, and it is supposed to power that so that I can have water on my property.

Claire said we are requesting a variance to allow the shed to remain. She added the shed is already in place and Chozy just bought the home a few months ago with the pre-existing shed that houses the well. She stated that we are proposing that the shed stay put at 28.8 feet on the west side of the property. She noted that the north and the south sides of the property are not a concern in terms of what is allowed for distance because he has so much land. She concluded we are just asking for a variance for the west side.

Chairman Brown asked Chozy do you have any additional comments.

Chozy Aiyub replied I moved to the house two (2) months ago and the shed was already there. He added I use it for farming and gardening and I also keep my tools in there.

Chairman Brown asked is there anyone in the audience that would like 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.

Hearing none, Chairman Brown asked are there any comments or questions from the members of the ZBA.

Tom Waller asked is this well currently in use and is it the only well you have on that property? He also asked is this well electrically wired?

Chozy Aiyub replied yes sir.

Chairman Brown asked are there any comments or questions from the members of the ZBA.

Chairman Brown asked is this well where you get your water?

Chozy Aiyub responded yes sir.

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

*Marsha Hopkins made a motion to approve Petition No. A-774-21 to reduce the side yard setback from 50 feet to 28 feet to allow an existing residential accessory structure to remain. John Tate seconded the motion. The motion passed 5-0.*

- 4. Petition No. A-776-21, Misti Pitts, Owner, requests the following: Variance to Sec. 110-137. R-40 (d) (6), to reduce the side yard setback from 15 feet to 1.9 feet to allow an existing garage to remain. The subject property is located in Land Lot 164 of the 5<sup>th</sup> District and fronts on Victoria Drive.**

Shane Pitts (130 Victoria Drive, Fayetteville) introduced himself as Misty's husband. He added we are here requesting a variance for a storage building that we have of the property. He said that I have a letter from my adjacent neighbor stating that he doesn't mind where the building is located.

Chairman Brown asked is there anyone in the audience that would like 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.

Hearing none, Chairman Brown said asked are there any comments or questions from the members of the ZBA.

Anita Davis asked is there a fence surrounding the property?

Shane Pitts replied yes.

Anita Davis asked is the building is within the fence line?

Shane Pitts responded yes, it is.

Tom Waller asked have you spoken to the realtor who sold you this property about this issue?

Shane Pitts replied no, I did not.

Tom Waller asked did you think the property was in complete compliance when you made the purchase?

Shane Pitts responded well, the building wasn't there when we made the purchase.

Tom Waller asked did you built this structure after you bought the property?

Shane Pitts replied yes sir.

Tom Waller asked is the structure on a concrete base?

Shane Pitts responded yes.

Tom Waller asked did you think the County had ordinances relative to where you can place a building?

Shane Pitts replied well actually where I thought the property line was actually 15 feet off the property line. He added when they did the survey, it was not the same as the one I had obtained from the neighbor.

Tom Waller replied that is difficult to swallow. He added can you repeat that again, are you saying what you thought was 16 feet was actually a foot and a half?

Shane Pitts responded yes. He added the way our property lined up from the street it is squared, but our property actually follows the fence line where the garage sits about a foot and a half from the property line. He said I don't know if that makes sense but it follows a weird angle. He noted the property line in the front is squared, but it runs along at an angle in at the back of the property. He asked do you understand what I am saying?

Tom Waller replied no, I have difficulty with that.

Chairman Brown asked did you have a plat prior to the new survey?

Shane Pitts replied I used an old property plat that one of my neighbors had and it shows the squared property in the front. He added is still like that now, but the property line is maybe 25 foot off in the front. He explained on this particular corner where the building sits, the property line is angled instead of just being square with the property.

Chairman Brown responded I thought that it would have been built in 1983 when the house was built.

Shane Pitts said if you look at the property line, they actually put border planters where I thought the property line ran. He added but it is not actually there, it actually squares into the property, and so I thought the fence ran along the property line. He said I guess I am still not explaining it right.

John Tate asked when this building was constructed?

Shane Pitts replied it probably been there two (2) years.

John Tate asked have you been using it as a garage?

Shane Pitts replied yes, I store my lawnmower and tools in it.

John Tate asked at the time that you had the building built, was it a contractor who built it or did you purchase it and have it delivered?

Shane Pitts responded it was just a driveway that we poured and then later on we put a building on it. It is one of those metal buildings.

John Tate asked so first you had to slab poured?

Shane Pitts replied well it is a driveway. He added there is a gate which is the only access on that side of the property, so that is why we put the building there. He added we have a septic system on the other side of the house. He said there was already a driveway and we just added it on to the driveway.

John Tate asked is there a fence?

Shane Pitts responded yes, the garage is behind the fence. He added the entire property is fenced in with a six(6) and ½ foot privacy fence.

John Tate asked if the garage is located inside the fence?

Shane Pitts replied yes sir.

John Tate asked is that where the 1.9 feet is located?

Shane Pitts responded yes sir.

Anita Davis asked to clarify that the garage sits on the driveway, the driveway was poured and it sits on the driveway slab and it is a metal shed structure, is that correct?

Shane Pitts responded yes that is correct.

Chairman Brown asked if is enclosed.

Shane Pitts replied yes that is correct.

Tom Waller asked instead of placing the shed straight back, would it have been possible to turn right for a better garage locations.

Shane Pitts responded there are still trees in my yard.

Tom Waller said there are trees, but there would be a gradient (slope) problem. He added so it would have been possible to place it there.

Shane Pitts replied it would somewhat been possible but there is a sidewalk when you walk in our gate.

Chairman Brown asked where is your septic tank?

Shane Pitts responded if you are looking at the fence from the front yard, it is on the right side of the yard.

Chairman Brown asked where are you field lines?

Shane Pitts replied the field lines runs out into the yard but our tanks sits maybe five (5) feet off of the fence.

Chairman Brown asked are there any additional questions from members of the ZBA.

Tom Waller asked did the realty company that you purchased the home from, know that you were putting that garage up and where it was going?

Shane Pitts replied no, not that I am aware of.

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

Marsha Hopkins asked for clarity that you don't park cars in the garage, it is more for storage of equipment and lawnmowers.

Shane Pitts replied yes.

John Tate asked have you checked into the cost if you had to move the building?

Shane Pitts replied no.

Misty Pitts said that she wanted everything to be clear. She added when we purchased the home the garage was not there. She explained later we had the slab poured and then had the accessory structure created. She said there was confusion because we thought the property line went straight back but it actually sloped inwards, leaving the square footage shorter than we thought. He said I just wanted make sure that there aren't any mix up. She noted we didn't have anyone to survey it and no one from the construction company measured as we were putting it up. She concluded the garage is inside of our fence, less than two (2) foot from the fence.

Chairman Brown asked are there any additional questions from member of the ZBA.

Marsha Hopkins asked was there a driveway at all or did you have it poured?

Shane Pitts responded the driveway comes up to the fence and then we poured passed fence. There is a gate at the fence and we poured the concrete pass the fence.

Chairman Brown said I will entertain a motion, if not I the Chair will make a motion.

***Chairman Therol Brown made a motion to approve Petition No. A-776-21 to reduce the side yard setback from 15 feet to 1.9 feet to allow an existing garage to remain. John Tate seconded the motion. The motion passed 4-1.***

Chairman Brown said Mr. Pitts I want to explain that I made the motion based on what I think is your good faith statement because you thought the plat that you had was correct and you built it thinking you were legal. He added I also took into consideration the fact that you said you have a privacy fence around the garage.

- Petition No. A-777-21, Donell Harris, Owner, and Melvin Cooper/Diane Fudge, AHB General Contractors, Agent, request the following: Variance to Sec. 110-137. R-40 (d) (6), to reduce the side yard setback from 15 feet to 13 feet to allow an existing primary residence foundation to remain. The subject property is located in Land Lot 250 of the 13<sup>th</sup> District and fronts on GA Highway 279.**

Chanelle Blaine announced that she was unable to reach the Petitioners.

Chairman Brown asked can I get a motion to table the Petition.

***Marsha Hopkins made a motion to table Petition No. A-777-21 until the October 25, 2021 meeting due to absence of petitioner. John Tate seconded the motion. The motion passed 5-0.***

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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. John Tate seconded the motion. The motion passed 5-0.

The meeting adjourned at 7:36 pm.

ZONING BOARD OF APPEALS  
OF  
FAYETTE COUNTY

  
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THEROL BROWN, CHAIRMAN

  
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HOWARD L. JOHNSON, ZBA SECRETARY