

**THE FAYETTE COUNTY ZONING BOARD OF APPEALS** met on January 24, 2022, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

**MEMBERS PRESENT:** John Tate, Chair  
Marsha Hopkins, Vice Chair  
Tom Waller  
Anita Davis  
Bill Beckwith

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

1. Election of the Chairman.

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

2. Election of the Vice-Chairman.

*Bill Beckwith made a motion to approve the nomination of Marsha Hopkins as Zoning Board of Appeals Vice-Chairman. Anita Davis seconded the motion. The motion passed 5-0.*

3. Election of the Secretary.

*Marsha Hopkins 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 November 22, 2021.

*Marsha Hopkins made a motion to approve the minutes of the meeting held on November 22, 2021. Anita Davis seconded the motion. The motion passed 4-0-1. Bill Beckwith abstained.*

### **PUBLIC HEARING**

5. Petition No. A-783-21, Christopher & Kristen Plourde, Owners, request the following: Variance to Section 110-149. Planned unit development (d) Planned residential development (6) (d) to reduce the rear setback from 40 feet (per final plat) to 18 feet to allow an existing shed to remain.

Christopher Plourde said I purposely put up a shed in the back yard which was approved by the homeowner's association of Highgrove. He added I got both verbal and written approval from both of my neighbors on the side and the back who have no issue with the shed at that location. He noted I can submit proof, if is required. He continued that it was put there because of the greenspace that

we have in our yard, since the back half our property are woods. He explained if we were to go forward with the 40 foot setback, that would require further approval and removal of large pine trees in the area which will further remove green space in that area.

Christopher Plourde emphasized that the shed was also put there purposefully because it is not seen from the road. He said that it complies with the homeowners' association requirement that the shed be same color as the house. He noted that the size and the specs of the shed had to approved by the homeowners' association. He added it was put there just so it would not create an eyesore and placing it anywhere else will be seen from the road. He explained there is a slope and a septic leach bed in the backyard so there will not be any other place to put that shed. He concluded I am seeking a variance to the 40 foot setback restriction so I can keep the shed where is it at 18 feet. He added I have photos that I submitted with my petition.

Chairman Tate asked is there anybody in the audience that would like to speak in support of the petition. Being none, he asked is there anyone in the audience that would like to speak in opposition of this petition? He said hearing none, I will bring it back to the ZBA for discussion.

Tom Waller asked is this a conservation use subdivision?

Christopher Plourde replied I do not know.

Chanelle Blaine said it is a Planned Unit Development, or a PUD, but it is not a conservation use subdivision.

Bill Beckwith asked how far in front of the house and the shed is your leach field for your septic?

Christopher Plourde responded I have not measured it, but I would say at least a couple of hundred feet, it's also toward the back of the property.

Bill Beckwith said I was curious because it does not show here on the layout.

Christopher Plourde replied it would be between the 40 foot setback and the back property line.

Bill Beckwith asked so would it be closer to the house than the 40 foot setback.

Christopher Plourde responded do you mean the current leach bed? He said again, I haven't measured where the leach bed is, but it starts about where the shed is. He added I know that the 40 foot setback line is also the tree line. He noted it is between the 40 foot setback and the property line.

Marsha Hopkins asked is the leach field in the 40-foot setback area?

Christopher Plourde replied yes, I think it is because it starts about 12 or 13 feet.

Marsha Hopkins asked what about the shed?

Christopher Plourde responded it is over to the right of the leach field. He added looking from the road, the shed is on the far right, the leach field is about center to left side.

Marsha Hopkins asked how does that impact you if you have to move it, where else would you put it on the property?

Christopher Plourde replied that is the million-dollar question. He said there is really no area to put it except that we just put it the middle of our back yard, which will be an absolute eyesore to the road, to the neighbors. He added it was purposely put back there to be discreet.

Bill Beckwith asked is it on a foundation?

Christopher Plourde responded it is not.

Anita Davis asked is there a natural barrier between your lot and the lot immediate behind you. She added are there trees or can the neighbors see directly into your lot?

Christopher Plourde replied we can see into each other's lot. He added there is a natural barrier of pine trees between the two (2) lots, but the woods are not thick.

Bill Beckwith asked did you say in your comments that a tree would have to be removed in order to comply with the ordinance and still remain out of the sight?

Christopher Plourde responded correct.

Bill Beckwith asked if the shed was moved in front of that tree, can you be within the 40-foot setback?

Christopher Plourde replied I can't move it in front of that tree because there is a steep slope in the yard and at that point which slopes off to the neighbor's house to the south. He added if it were to be moved right outside the 40 foot setback, I would have to remove a tree.

Chairman Tate asked are saying that if the shed were moved closer to your home, is that's where the sloping occurs?

Christopher Plourde responded it does.

Chairman Tate asked did you state that it is not on a permanent foundation?

Christopher Plourde replied correct.

Chairman Tate asked are there any more questions from other ZBA members?

Bill Beckwith said in many cases during my term at the ZBA, we run into homeowners' association restrictions. He added as the ZBA we cannot and have not really have taken those restrictions into consideration and it is a tough decision. He explained that is a consideration between you the homeowner, and the HOA, but not between the County and the HOA. He continued anything the HOA has to say, while it does affect you as the homeowner, it doesn't affect us. He concluded we always try to accommodate as much as we can, the homeowner's needs. He added I just want to bring that point out.

Chairman Tate said I agree with Bills comments.

Chairman Tate asked have you looked into the actual costs of moving the shed, should that be required.

Christopher Plourde responded it would outweigh the value of the shed. He said the shed itself costs two (2) to three (3) thousand dollars. He said that would outweigh the cost of getting a forklift to move it and even if you try to dismantle it and reassemble it, it's not going to be as strong. He added it brings back the challenge of where are you going to put the shed again without moving trees. He emphasized that to me is more of a detriment to the overall goal of not removing any more greenspace when there is so much greenspace already being removed nowadays from everywhere. He noted this was a convenient spot that no one including the neighbors, and the other homeowners had issue. He concluded again, the whole point is to be discreet, and I was unaware of the setback restriction. He added I put it in a discreet place where I had the utility use of the shed but it not a detriment to the community itself.

Bill Beckwith asked what were the comments of your neighbors?

Christopher Plourde said I have two (2) written statements which are exactly the same, now I will read these statements:

*To whom it may concern, I undersigned find the shed located at the Plourde residence located at 155 Trotter's Ridge to be in an acceptable location and do not see the need for the County to enforce a 40' foot setback restriction regarding the shed's current location. I concur with the effort of the homeowner to obtain a variance to the current restriction that would permit the shed to remain at 18 feet from the rear property line of the residence.*

He noted this one was signed by Jefferey Andrews at 145 Trotters Ridge and the other letter was signed by the neighbor directly to my rear, R. Todd Williams at 375 Highgrove Drive.

Chairman Tate asked are there any questions or comments? Being none, he then asked if there is a motion?

Marsha Hopkins said sometimes I think it is helpful for the petitioner to hear what our mindset has to be. She added what we have look at in granting an exception to the rule, whatever it is, if we keep granting exceptions then what is the point of having the rule. She noted now it obvious to all of us is we understand that you want to have a shed on the property as well as costs that you

incurred to have it constructed. She explained we have to look at five (5) points when we are asked to review such a request before us. She continued I am admittedly struggling with his one because what I see is a common theme. She emphasized the components the petitioner requested we consider related to aesthetics and costs as his underlying concerns but I am trying to reconcile that with what we have to consider when we look at these cases so I invite fellow members to chime in with any clarifying thoughts they may have about that.

Christopher Plourde said I like to comment if I may. He added I wish to rebut that aesthetics is an important factor because if you don't have the aesthetics, it essentially devalues your property. He explained we are talking about a 40 foot setback rule but if you put the shed in a different place, you are essentially impacting the aesthetics of the community and I would argue that it is a pretty high-value community if you look at the homeowner's associations of the different developments in the area He noted this provides a tax revenue base too. He emphasized if I move that shed to the middle of my yard, it is going to aesthetically going to impact whether people are going to buy in that area or move next door to me, so it can have an adverse effect. He concluded I just want to add an aesthetical value to that and there is also an important monetary value to everybody involved to put it in a discreet location to keep of those homes up so the property taxes remain where they are.

Marsha Hopkins said I appreciate the comment and I am in no way trying to undermine that sentiment because that is very important. She added I just want to introduce where I think I feel some inability to reconcile our thoughts here and about which way we want to go with this. She concluded again, I offer my fellow ZBA members to offers some comments, if any.

Bill Beckwith asked Channel, if this is disapproved, what are the next steps?

Chanelle Blaine responded the next steps are whether you will vote for 30 or 60 days for them the to remove the shed, then after that time he will have to show that it has been removed.

Bill Beckwith asked will he have to pay to remove that shed?

Chanelle Blaine replied yes.

Chairman Tate asked if this came about because you are trying to have a pool built?

Christopher Plourde replied that is correct.

Chairman Tate asked so what are area you going to put the pool?

Christopher Plourde responded if you look at the photo from the back of house it is almost directly behind the house, only in the area where there is grass. He said Mr. Beckwith stopped by the other day and he probably say the muddy mess that is there right now.

Chairman Tate asked where is the shed, behind the pool?

Christopher Plourde replied it is in the trees behind the wooded area. He said the leach bed for the septic in in that area and the shed is to the right side, back right corner of that area.

Chairman Tate asked Chanelle, does the current ordinance now require a 30 feet setback?

Chanelle Blaine responded it doesn't require that 30 feet setback because it is a Planned Unit Development (PUD) and those are given creative liberty with the developers, so they are allowed to decide what their setback will be. She said they will do a rezoning and for a residential development, the side yard will be 15 feet, the rear yard will be 30 feet but the front yard will be up to the developer as to how large or small.

Bill Beckwith asked is this is a 40 foot setback?

Chanelle Blaine replies this is 40 feet because of what the developer decided for Highgrove Subdivision at that time. She said if they came in today and they wanted to do a Planned Unit Development (PUD), we will tell them that the rear setback will be 30 feet, the side yard setback will be 15 feet and we will go back and forth and to discuss the front setback.

Bill Beckwith asked Mr. Plourde, what do have planned for the pool area, it is a only a pool, is there a pool house along with the pool?

Christopher Plourde responded no, there is not.

Bill Beckwith asked is it possible to have a 700 square foot building associated with the pool which is an accessory structure?

Chanelle Blaine replied no, you are getting that confused with a guesthouse. She said a guesthouse can be no larger than 700 square feet, but a pool house, depending on the acreage, can be 1800 square feet and they are allowed two (2) buildings. She explained they can do one (1) that is 1800 square foot or they can do two (2) separate buildings that are 900 square foot each. She added it really depends on what the owner really wants to do.

Bill Beckwith asked is that a one (1) acre lot?

Chanelle Blaine responded this is a one (1) acre lot, he has an 1800 square feet of accessory structure footprint to work with in this instance.

Bill Beckwith asked what if he were to build a pool?

Chanelle Blaine replied the pool itself does not count toward those accessory structures.

Bill Beckwith asked can you build a pool with those accessory structures of up to 1800 square feet?

Chanelle Blaine responded we also must add that shed into because that shed is considered a

structure. She added the shed is 100 square feet, so he has 1700 square feet remaining to do another building.

Bill Beckwith asked if once he has built the pool, can he build a building that might have some tool storage adjacent to the pool?

Chanelle Blaine replied yes, he can.

Christopher Plourde replied I would not desire to do anything like that.

Bill Beckwith said one (1) of the things that we try to do is look at alternatives to fit the situation, not saying that you should do this, but there are other ways to resolve the issue and other ways that we need to think about.

Chairman Tate said I think you understand from all the comments from the ZBA members that we are not just in the habit of just saying okay because this is not going to look good. He continued there are so many other factors that are involved. He then asked how far is the pool going to be in front of the shed?

Christopher Plourde responded the pool is in front of the woods which is in front of the shed. He said there is a big area of woods with 30+ pine trees from the area where the pool is going to be near the back property line. He added I would say close to a half-acre.

Chairman Tate asked are you planning to build a pool house?

Christopher Plourde replied no.

Chairman Tate asked are there anymore questions or comments? Being none, he then asked is there a motion from anyone?

Chairman Tate announced it appears that the members are at a point where no one is inclined to make a motion for approval to this variance.

Bill Beckwith said I recommend approval of this variance for a number of reasons, but we find ourselves often in a difficult situation, I think we recognize the rights of homeowners who are between a rock and a hard place with themselves, the homeowner association and the County.

***Bill Beckwith made a motion to approve Petition A-783-21 to reduce the rear setback from 40 feet (per final plat) to 18 feet to allow an existing shed to remain. John Tate seconded the motion. The motion passed 3-2.***

- Petition No. A-784-21, Brown Family Trust, Owner, and William S. & Pamela A. Brown, Agents request the following: 1) Variance to Sec. 110-125. A-R (d) (6) to reduce the north**

**side yard setback from 50 feet to 17 feet to allow an existing metal building to remain and 2) Variance to Sec. 110-125. A-R (d) (6) to reduce the east side yard setback from 50 feet to 46 feet to allow an existing metal building to remain.**

Pamela Brown (413 Bankstown Road) said we have a metal building, and we didn't know that it was considered a permanent structure. She added it's not put into the ground but sits on the ground. She noted it is a carport attached to the ground with rebar which holds it to the ground, but it's not dug into the ground with concrete. She explained we didn't have it permitted because we did not consider it to be a permanent structure and at the time that we put the building up, we did not realize that it was too close to the property line. She noted that we strategically put it where it's at because of where it located near the upside garage.

Pamela Brown continued the other side of the home is located in a flood area. She said if you come out anytime you will see that area its flooded. She added the house is place the top corner of the property for that reason. She explained the only place we could really put it where it wouldn't place into the downward slope of the property. She noted our property goes down and connects to my mother's property, which goes down to the river, so it's all on a downhill slope, and it floods quite often. She stated we put the shed at that location because of that reason and we were trying to save the woods. She concluded we didn't want to destroy an acre or two just to put in a metal building to hold a car.

Pamela Brown said if we have to move it, we will destroy the property. She added it's not about the money to us, we will simply pay the money, but it's about the property. She stated we just don't want to destroy the acreage. She explained we considered putting in a pool but we scratched that idea because again, I did not want to destroy any more of the property. She noted that this property has been in my family for more than 100 years. She continued that we have the 12.599 acres, my mother has the 40 acres next to us, my aunt has the 50 acres next to us and the property on the other side is owned my great aunt, therefore, the property is important to me and my family.

Pamela Brown said I am open to any questions, but we put strategically put it there not realizing it was too close to the property line. She added that we realize that we will have to take down the carport because it over at the property line. She noted my mother wrote a letter stating that she honestly doesn't care because she has another 40 acres next to our property. She stated we realize the position that you are in because 50 years from now it could be divided up into more homes and some people might care about that. She further noted the property is under the Conservation Act since we have owned the property. She concluded at this point it is not causing any hinderance to anyone, but if we had to move it would be damaged.

Chairman Tate asked is there anybody in the audience that would like to speak in support of the petition? Being none, he asked is there anyone in the audience that would like to speak in opposition of this petition? He said hearing none, I will bring it back to the ZBA for discussion.

Anita Davis said I understand that there are two (2) variances that we are to consider but one (1) of them is for the metal pole barn. She asked which you are going to take down, what are you plans to remove the metal pole barn?



Pamela Brown said that is in process now, my husband was going to start the demolition, but he tore his shoulder, and I am going to hire someone to come in and help him. She added the two (2) variances are for the same shed because of the crook in the flag lot, the shed is in, so it encroaches on two (2) sides which were unaware.

Bill Beckwith said one (1) of things that we like to look at is other options that might work, yet we are up against a set of ordinances that say what it should be. He added one (1) of the options that we consider when there is an encroachment on the property line or the setback line is the possibility of acquiring of additional property from an adjacent owner to expand the property, so the property line is then farther away.

Pamela Brown said we did research that along with the guys who surveyed the entire 52 acres that belong to our family. She added I have two (2) brothers, so that two of the brothers will get other pieces of that property if something happens to my mother, who still lives with us on the property. She explained if he gave us the land then he would not have the 100 feet of road frontage to be legal to build the house. She continued every lot on that piece of property is a flag lot except for my other brother who lives on the five (5) acres in front of us. She stated the other two (2) brothers will have the other pieces of the property, but they need frontage, or they will not have enough to frontage to build a home, should they want to do that. She noted we did have a survey done but we haven't filed that survey yet because it is attached to my mother's will to show how the different tracts should be divided once, she is not with us. She concluded we did look into that; it was just not possible because he will not have clear frontage access to build on it the property.

Bill Beckwith said I was thinking only about a small amount of land right around the corner of your lot.

Pamela Brown said it would notch into the hundred foot of road frontage, then that lot wouldn't be legal to build a house. She added if we took it from my brother directly in front for one (1) of the variances, then he would not have the required five (5) acres that is required. She noted then we would be back in front of you for another variance at the point. She explained we spent a lot money on having a surveyor come out there for two (2) weeks surveying who gave us all kinds of options and we tried every option we could possibly think of. She continued we discussed with my aunt and uncle who own the property next to us of can take some of their land and move it over but this would cause an encroachment into their side yard which would cause another problem. She concluded there is nothing we can do with this problem; it has been six (6) months of non-joy.

Chairman Tate asked did you bring this shed to the property or was it already there?

Pamela Brown replied we built it.

Anita Davis asked is the structure that is in question, a carport for your vehicles?

Pamela Brown responded it is, but it has doors, since the carport is going to have to come down we

are not asking for a variance on that because we knew it was inches from the property line and we felt that was not going to be improved, so we didn't ask for that. She said this is a long metal building that you can drive through with doors on each side. She added it is also used as a workshop. She concluded it is an enclosed metal building, but it is not concreted or cemented into the ground.

Bill Beckwith asked do you agree to remove the other carport?

Pamela Brown replied yes, we will get that done as quickly as possible.

Bill Beckwith asked what caused this to be located or found?

Pamela Brown responded we were trying to get solar panels installed on our home and we applied for a permit and it came up because google maps showed that the buildings over the property line, but they were just close to the line. She added then we had the surveyors come back out and redo the entire survey once we got the property from my mother.

Marsha Hopkins asked if the alternatives discussed are not feasible because of the drainage issues, tree removal, and any other greenery helps keep the flooding that there from overtaking the land, so are not options to create space?

Pamela Brown responded correct, event the back part of our property is marshy and goes downhill into Whitewater Creek. She added it also about the wildlife too. She added I have a video on my phone of nine (9) deer in back yard. She stated that was something was important to my grandfather and so it very important to protect that space since we are losing our greenspace.

Chairman Tate asked are the anymore questions or comments? Being none, he then asked is there a motion from anyone?

***Marsha Hopkins made a motion to approve Variance #1 of Petition No. A-784-21 to reduce the north side yard setback from 50 feet to 17 feet to allow an existing metal building to remain. Bill Beckwith seconded the motion. The motion passed 5-0.***

***Anita Davis made a motion to approve Variance #2 of Petition No. A-784-21 to reduce the east side yard setback from 50 feet to 46 feet to allow an existing metal building to remain. Bill Beckwith seconded the motion. The motion passed 5-0.***

**7. Petition No. A-785-21, James & Natasha Johnson, Owners request the following: Variance to Sec. 110-133.R-70 (d)(4)(a)(2) to reduce the front yard setback from 75 feet to 49 feet to allow for the construction of a new single-family home to continue.**

Natasha Johnson said good evening, we are asking for a variance for our lot. She added the address is 244 Coastline Road where we are building our first home and in the process of building it, we

realized that although the foundation survey that was submitted, we encroached into our front setback by 26 feet. She added she good thing was we didn't encroach on the county right-of-way, but into the front yard setback, we just didn't go back far enough. She explained now that we have started building, we are asking for a variance for the front yard setback. She concluded now we are now at the steps of putting in the windows and doors but due to the encroachment we had to stop.

Chairman Tate asked is there anybody in the audience that would like to speak in support of the petition? Being none, he asked is there anyone in the audience that would like to speak in opposition of this petition? He said hearing none, I will bring it back to the ZBA for discussion.

Bill Beckwith said you stated that you're building this by yourselves and you're subcontracting work out to others, and you measured from the edge of the pavement rather than the right-of-way line. He added that's certainly an error that is understandable.

Natasha Johnson said since this is our first time doing this we didn't realize that you go to the right-of-way line and then the setback. She added we just figured the property line started where the grass starts so that's where we measured.

Anita Davis said I am unclear about of where are you in the process, has the foundation already been poured?

Natasha Johnson said yes, we have the foundation, it's been framed, it's been roofed and we had front doors and back doors in.

Anita Davis said okay, this is further along than I realized.

Anita Davis asked do you have a general contractor working with you on your home?

Natasha Johnson said no, we were brave enough to try to do this on our own.

Marsha Hopkins asked Chanelle, in the narrative, they stated that when they submitted for an inspection on the slab mono, it was approved, and they proceeded to build.

Chanelle Blaine said it's not the same thing that you are thinking. She explained the slab mono inspection is basically done to see how thick it is. She added it is done by the building inspectors and that is not done by planning and zoning. She noted the foundation survey doesn't come up until the foundation is poured. She stated since they're not contractors, they didn't know to get that in as soon as possible. She continued what probably happened is they started framing and they got something in SAGES that said we need a foundation survey before you can continue to have other inspections. She concluded they did a foundation survey and that's when they found out that the foundation was encroaching into the front yard setback.

Natasha Johnson responded correct, that is exactly what happened.

Marsha Hopkins asked is the railroad that is behind the home, a functional railroad with rail traffic?

Natasha Johnson replied yes, there are trains that pass by there. She added based on the times that we have been at the property, there are some trains that are short and quick and others that take a minute or so to pass.

Anita Davis asked, so that I can understand where this is located, what other streets are in this general area?

Natasha Johnson replied there's a couple of ways you can get to our home. She said you can get off on Sandy Creek Road and turn right onto Coastline Road and when you get to the very end, you can go left or right onto another street.

Anita Davis asked will the front door of your home face Coastline Road ?

Natasha Johnson responded yes; we are Lot 2.

Chairman Tate asked are there any more questions? He added It appears that we're in a situation whereby we are weighing that this house is not within the required footing against the fact that due to an initial error and the actual pouring of the foundation had had already occurred before the learned of the error, I think in this situation we actually have to look from the standpoint of what is more reasonable. In my opinion, to deny this request would not be reasonable under the circumstances.

*Chairman Tate made a motion to approve the variance of Petition No. A-785-21 to reduce the front yard setback from 75 feet to 49 feet to allow for the construction of a new single-family home to continue. Anita Davis seconded the motion. The motion passed 5-0.*

8. **Petition No. A-786-21, Willard J. Koethe, John & Rebecca Douville, Owners and Bob Barnard, Agent request the following: 1) Variance to Section 110-242 (h), Request for an illegal lot to be deemed a nonconforming lot, due to the lot being landlocked and having less acreage than is required for its zoning district to be a nonconforming lot. 2) Variance to Sec. 110-125. A-R (d)(6) to reduce the west side yard setback from 50 feet to 48 feet to allow an existing single-family residence to remain. 3) Variance to Sec. 110-125. A-R (d)(6) to reduce the west side yard setback from 50 feet to 48 feet to allow an existing garage and lean-to to remain. 4) Variance to Sec. 110-125. A-R (d)(6) to reduce the east side yard setback from 50 feet to 49 feet to allow an addition to the single-family residence to be constructed.**

Bob Barnard said I am the agent for the family. He added I have been in Fayette County since 1973 and building since 1974. He noted Newt Grady Stone bought the New Oakridge Trail property as a big lump and developed it. He explained he kept this parcel of land of 15 to 20 acres

for himself and that was in 1978 or 1979. He concluded I believe he built his big home on the lake there in 1980 and then in 1982 they built this guest home for Linda's parents who came to live with them.

Bob Barnard continued the property was sold as is to the Douville family in 2003. He added they bought both the guest house and the main house and all the property. He noted they called me after the father had passed away and then her dad and mom moved in the house. He explained they had to move him to assisted living and soon afterwards he passed away, but the mother is still living there. He concluded the grandson is going to buy it and wanted me to renovate it for him.

Bob Barnard said when I started the paperwork it was discovered that the lot was illegal. He explained first, we have a non-conforming lot that Grady and Linda did back in 1982. He stated they purchased the property in 2003 or 2004, so they didn't create the problem. He noted the house encroaches on both side yard lines. He stated there was a building that I can't find any paperwork for of a detached garage shop area that is encroaching on the west side. He explained in the process of developing the plans, the kids they want to put a on master suite addition on the right side or the east side of the property. He said when I designed it, I was not thinking with all the acreage there, that we had an encroachment. He concluded we are asking for a the variance for the east side yard from 50 feet to 49 feet.

Bob Barnard asked Chanelle, if we get this approval do, I still have to do a foundation survey?

Chanelle Blaine replied that is a question for Pete, and I am going to ask him.

Bob Barnard said the only reason I'm asking is because in my request, I asked to move the property line to 45 feet because if we exceed two (2) feet, we do not have to do a foundation survey. That's how the building department and Pete has looked at it through the years because I mainly do all remodeling, I very seldom ever build a new house.

Chanelle Blaine replied we go by your application.

Bob Barnard said I thought I requested 45 feet.

Chanelle Blaine said let me look at what your application says and that's what we will go by.

Bob Barnard said what we are looking for is to get the lot to be a non-conforming lot, and then variances.

Chanelle Blaine said I think we went by what was on the plat that you provided.

Bob Barnard said the plat would have been 49 feet, but I thought I requested 45 feet on the application that I sent to you, because I made the notation so that I would not have to get a foundation survey.

Chanelle Blaine replied okay, I see 45 feet there but that was not what was on the plat. She added we are going to have to go by what is on here for tonight.

Chairman Tate asked is there anybody in the audience that would like to speak in support of the petition. Being none, he asked is there anyone in the audience that would like to speak in opposition of this petition? He said hearing none, I will bring it back to the ZBA for discussion.

Bill Beckwith responded I would like to make a statement. He said my property that I sold in June is a home that we built in 1980, so I was living here when all of this most of this was happening and I know all the people involved. He announced from an ethical point of view, I do want to state that I have no financial or legal connection to any parties involved. He explained I understand what happened and why it happened. He said but my point of view it is a reasonable situation as I understand it. He continued if we approve a non-conforming lot, some construction can take place. He clarified if it is an illegal lot, which it is now, but when it was created is known or not, it is still an illegal lot. He noted it was purchased as such, but it wasn't known that it was illegal, so no improvements can be done. He concluded the first variance is to deem it a non-conforming lot.

Chanelle Blaine responded what Bill is saying if you guys deny the first variance, there is no reason to do the other ones because it still be an illegal lot.

Chairman Tate asked are the any questions?

***Bill Beckwith made a motion approve the Variance #1 of A-786-21 for an illegal lot to be deemed a non-conforming lot. Tom Waller seconded the motion. The motion was approved 5-0.***

***Marsha Hopkins made a motion to approve Variance #2 of Petition A-786-21 to Sec. 110-125. A-R (d)(6) to reduce the west side yard setback from 50 feet to 48 feet to allow an existing single family to remain. Bill Beckwith seconded the motion. The motion was approved 5-0.***

***Tom Waller made a motion to approve Variance #3 of Petition A-786-21 to Sec. 110-125. A-R (d)(6) to reduce the west side yard setback from 50 feet to 48 feet to allow an existing garage and lean-to to remain. Marsha Hopkins seconded the motion. The motion was approved 5-0.***

***Anita Davis made a motion to approve Variance #4 of Petition A-786-21 to Sec. 110-125. A-R (d)(6) to reduce the east side yard setback from 50 feet to 49 feet to allow an addition to the single-family residence to be constructed. Marsha Hopkins seconded the motion. The motion was approved 5-0.***

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Channel Blaine asked is there a motion to adjourn?

*Bill Beckwith made a motion to adjourn. Marsha Hopkins seconded the motion. The motion passed 5-0.*

The meeting adjourned at 8:13 pm.

ZONING BOARD OF APPEALS  
OF  
FAYETTE COUNTY

  
\_\_\_\_\_  
JOHN TATE, CHAIR

  
\_\_\_\_\_  
CHANELLE BLAINE, ZBA SECRETARY