

**THE FAYETTE COUNTY ZONING BOARD OF APPEALS** met on March 28, 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:** Chanelle Blaine, Zoning Administrator

1. Consideration of the Minutes of the Meeting held on January 24, 2022.

*Tom Waller made a motion to approve the minutes of the meeting held on January 24, 2022. Anita Davis seconded the motion. The motion passed 5-0.*

2. Consideration of the Minutes of the Meeting held on February 28, 2022.

*Bill Beckwith made a motion to approve the minutes of the meeting held on February 28, 2022. Tom Waller seconded the motion. The motion passed 5-0.*

### **PUBLIC HEARING**

Chanelle Blaine stated before we get started with the first item, I want to let everyone know that this gentleman has two (2) petitions on the agenda tonight, I would like for us to discuss both petitions simultaneously since it is dealing with the same address. She also stated that each variance will have its own motion.

3. **Petition No. A-787-22, David Battle, Owner, request the following: 1. Variance to Section 110-133 (d)(6), to reduce the side yard setback from 25 feet to 7 feet to allow an existing residential accessory structure (garage) to remain. 2. Variance to Sec. 110-79. (c) (1) (a) Number and size, to allow for the number of permitted residential accessory structures on the lot be increased from two (2) to three (3). 3. 2. Variance to Sec. 110-79. (c) (1) (a) Number and size, to increase the square footage amount from 1800 square feet to 3142 square feet for residential accessory structures on lots less than five (5) acres. The subject property is located in Land Lot 227 of the 4<sup>th</sup> District and fronts on Thomas Trail.**

David Battle introduces himself and says I live at 130 Thomas Trail. He said I bought the property two (2) years ago and it was from a Mr. Wofford. He added that I believe Mr. Wofford is the original owner. He stated the garage was there when I bought the property, and it was one of the reasons why I purchased it. He mentioned I use the garage for my therapy at Walter Reid

and he added that I store all of my wheelchairs and works on my cars in the garage. He stated I am not that active in the community and stays within my compound.

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, what realty company sold you this property sir, and have you contacted them on this issue?

David Battle replied no sir.

Tom Waller asked you haven't, and what realty company was it?

David Battle replied I would have to ask my wife.

Tom Waller stated you don't know.

David Battle replied no not exactly.

Tom Waller asked, is this the first property you ever owned?

David Battle replied yes sir.

Tom Waller asked, does your house have an internal two (2) car garage?

David Battle replied there is a one (1) car garage built on to the house.

Tom Waller stated from the overhead it looks like a two (2) car garage. He reiterated is there a two (2) car garage in that home.

David Battle replied no sir, its just a one (1) car garage.

Tom Waller asked why weren't all of the structures shown on the plat, that you presented to us? He stated that you only show the additional large building, the home and the other out-buildings were not shown, and per a note on the plat it says you did not wish for those to be shown. He asked, why did you wish for those to not be shown?

David Battle replied, this is the first time I have ever done this, so everything is new to me. He said so when I went to Ms. Chanelle Blaine, she described everything that I had to do.

Tom Waller asked, she told you, you shouldn't show the other buildings.

David Battle replied, no she told me what I should show on the plat. He said I didn't know that

building had to be on the plat because I was getting a pool. He said if I would have known that all of that had to be on there, I would have had it on there.

Chanelle Blaine stated that the plat from W.D. Gray was to show the distance from the property line to the structure for the garage. She said the other buildings we don't have an issue as far as distance, we have an issue with the amount, and it really didn't need to be on that plat.

Tom Waller stated that we are dealing with three (3) buildings and only one (1) there is shown.

Chanelle Blaine stated that you can see the other three (3) buildings via the aerial photo. She said the only one (1) that is in question as far as the distance is the garage.

Tom Waller stated I understand what you said but I don't agree with it. He stated the additional large building shown is 52' X 52' and equates to 2,704 square feet, this is a space for eight (8) to 10 automobiles inside, plus the additional concrete area to the rear of this building. He asked, what is stored there?

David Battle replied nothing is there currently. He said Mr. Wofford use to build trailers and I guess that is why it is so big. He added that was Mr. Wofford's metal shop or something.

Tom Waller stated I believe you are bordered by three (3) or four (4) other lots. He asked, did any of your neighbors encroach on their 25-foot setback around your property?

David Battle replied no sir.

Tom Waller stated they did not, but you are looking at encroaching on your side some what 17 feet in the 25 feet.

David Battle replied, I believe so sir.

Tom Waller stated that is a pretty good bit. He asked did you approach your realty company on this issue on why they marketed a house with such a violation?

David Battle stated that was never brought up.

Tom Waller asked was it ever brought up when you became aware of it?

David Battle replied no sir, that was over two (2) years ago. He stated that approval process went through the VA.

Tom Waller asked are you the second homeowner of this home?

David Battle replied yes sir.

Tom Waller said thank you.

Bill Beckwith stated I think we have another situation that we have had in the past, that we have a piece of property purchased without proper information given from the seller, and if they even knew of the problems with the distance from building to the lot lines. He added that it seems to me that Sergeant Battle had purchased this piece of property for the purpose of using this as he stated, but the previous owner worked on trailers and vehicles and at that time there was no problem. He said it seems to me that Sergeant Battle in good faith bought this property and didn't know about these particular problems. He added that it seems like when someone else once to put something on the property that's when somebody comes to check, but in the first place they didn't come to check. He stated the first owner just did what he wanted and sold the property to Sergeant Battle. He added to me it is not Sergeant Battle's problem, it just happened to occur.

Marsha Hopkins stated I just want to add to Bill comments, because we do see that a lot and each case stands on its own, and we have to look at a variety of factors. She said in this case it does seem clear to me that you (David Battle) did not cause the problem it was there when you bought the property and unbeknownst to you and given all the circumstances, I would be in support of approving your request.

Chairman Tate stated I also agree with both Bill and Marsha. He said I think it is a difference when we are given a situation where there appears to be an ordinance that is not being met by the homeowner and I believe the real difference is whether or not the homeowner is the creator of a problem or whether or not this is something that as Bill said is unbeknownst to them. He added I don't think Mr. Battle should be held accountable for something he did not create.

Marsha Hopkins made a motion approve the Variance #1 of Petition A-787-22 to reduce the side yard setback from 25 feet to 7 feet to allow an existing residential accessory structure (garage) to remain. Bill Beckwith seconded the motion. The motion was approved 4-1. Tom Waller denied.

Marsha Hopkins made a motion to approve Variance #2 of Petition A-787-22. Number and size, to allow for the number of permitted residential accessory structures on the lot be increased from two (2) to three (3). Anita Davis seconded the motion. The motion was approved 4-1. Tom Waller denied.

Bill Beckwith made a motion to approve Variance #3 of Petition A-787-22. to increase the square footage amount from 1800 square feet to 3142 square feet for residential accessory structures on lots less than five (5) acres. Anita Davis seconded the motion. The motion was approved 4-1. Tom Waller denied.

4. **Petition No. A-790-22, David Battle, Owner request the following: Variance to Section 110-133 (d) (5), to reduce the rear yard setback from 50 feet to 42 feet to allow an existing**

**residential accessory structure to remain. The subject property is located in Land Lot 227 of the 4<sup>th</sup> District and fronts on Thomas Trail.**

Marsha Hopkins made a motion to approve the variance of Petition No. A-790-22 to reduce the rear yard setback from 50 feet to 42 feet to allow an existing residential accessory structure to remain. Bill Beckwith seconded the motion. The motion was approved 4-1. Tom Waller denied.

- 5. Petition No. A-789-22, W&W Realty, Owner, and All Span Builders Inc/Neal Brown, Agent, request being as follows: 1) Variance to Section 110-173. Transportation corridor overlay zone. (1) General state route overlay zone (i) Special location and spatial requirements. (1) To increase the percentage of required parking from 50 percent to 57 percent to be located in the front yard along the state route as established by the front building line of any structure located on the site. This property is located in Land Lot(s) 253 of the 4th District, fronts on SR 85 S.**

Neal Brown introduced himself and stated my company is All Span Builders and I'm representing W&W Realty on an ongoing design hurdle with this piece of property that's a triangle and it's come before you guys twice previously. He said I apologize, I thought we were through with the design of this project and at the end an ordinance comes up with meaning we have two (2) extra parking spaces in the front of the building. He added this could not have been remedy by an in-house procedure so that's why I am back in front of you guys again. He said its 57 percent and if you do the math that equals two (2) extra parking spaces and if you take the closes similar project up the street that's a RaceTrac that comes out to 71 percent over the 50 percent. He added not to bring up how that happened, I never knew this was an issue until the very end and I'm hear asking your approval to let me have two extra parking spaces, because I know it seems trivial that I am here tonight over two (2) spaces, but the shape of this property I need every parking space I can get, because it is going to have the potential of four business licenses there for the convenient store, two (2) rental units and a emission testing.

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.

Ed Wyatt stated I am one (1) of the partners in W&W Realty. He said just to reiterate what Mr. Brown just said we been before you twice and you would have thought this would have been addressed then, but apparently was overlook by everyone until we were down to the last minute of getting this approved. He added the RaceTrac up the road has 15 parking spaces in front of the front edge of their store and six (6) along the side. He mentioned they have zero (0) parking spaces in the back. He said we are asking for two more parking spaces in the front then what we have in the back. He added as far as I know they weren't required to get a variance, and the ordinance was in effect, and they are in the County. He said it seems unfair that we would even have to ask for this. He stated we have 18 spaces drawn in the front out of 32 total, so half would be 16 and 16, and we have 18 in the front, that's two (2) over. He mentioned we have put every space we can in the back to accommodate the County ordinance and we are off by two (2), but

this many spaces along the front is really important to us. He stated the sells inside of the store are more important than the gas sells as far as margin. He added you make more off of groceries than you do a gallon of gas. He said we very much need that, and we want to be a success. He mentioned what you don't want to do is invest a million or two (2) million and you don't have enough parking for the Dunkin Donuts or whatever on the end. He stated people go in and sit down and eat there and occupy those parking spaces for a while. He said you have a convenient store that you have to pay the note on and if you don't have enough parking spaces people will go on down the road. He added I know it sounds trivial, but I wish we could have more parking across the front but because of the shape of the lot and the access we need for the lot that's as many as we can put across the front.

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.

Kathy Smith stated good evening I am one (1) of the homeowners to the adjacent gas station, and my address is 757 McBride Road in Fayetteville. She said, I wanted to mention as Mr. Neal did the size and hurdle of this lot, it's a pie shaped, a small lot, and they are trying to put in too large of a business on this lot; that's why they were here for several variances previously. She added I think this building is going to cause safety issues in our community, for instances there was a police chase of an armed individual on this property last Friday. She stated I think the schools were on lock down because of this. She said the traffic over there with these extra businesses is going to be crazy. She stated I request that you not approve this variance.

Chairman Tate asked if there was anyone else who would like to speak?

Norman Trammel stated I live at 739 McBride Road, and it is in close proximity to this property. He said I share the concerns that Ms. Smith has there are schools all around it. He added I know there have been several variances here and they all have to do with the size of the building on this small property. He stated I understand that it is an odd-shaped property, and all of these variances could have been remedied by a smaller building with fewer rental areas. He added that is not the choice that the builders made they are trying to squeeze as many businesses in a small property as they can, and for that reason I am also asking that you opposed this variance.

Chairman Tate asked if there was anyone else who would like to speak in favor or opposition to the variance request?

Neal Brown stated I would just like to bring up that we are here for two (2) extra parking spaces, the size of the building has not changed from two (2) years of work with Chanelle's office and the engineers to make this facility to be an improvement to the community and not a detriment. He said the setbacks and the impervious surfaces are the same from the first night I came in front of you guys the only question tonight is will you allow me two (2) extra parking spaces, and this design process is done with this facility.

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.

Marsha Hopkins asked Chanelle Blaine on the section where it has departmental comments- Environmental Health comments, I am trying to piece together how what we say or do here interfaces with that or is this a separate issue regardless of whether we approve it or deny it.

Chanelle Blaine replied I think that's a separate issue in regard to the Environmental Health comments. She stated I don't think this will be a detriment, and the Environmental Health Director is just making sure her procedures are done for this development.

Anita Davis asked are there schools directly across the street?

Neal Brown replied yes, and also a church. He added but in all fairness the precedent of this particular parcel to Fayette County was here before the school and before the church. He said the old US Station has been here since the mid 60's or late 60's. He added this would be a vast improvement from what's there now. He stated as the real estate question came up earlier tonight the benchmark was already set before the County invested into the school and the church invested into their property.

Bill Beckwith stated one (1) of the things we like to look at is whether the plan fits within the zoning and its obvious that it does. He said it's the right of the property owner to maximize the property if he or she can and the use of his or her property to their potential benefit. He added the size of the building had already been worked on and approved; but was pointed out with people not being able to come in, it would be a waste of money. He stated I think the addition of two (2) parking spaces is appropriate. He added it is something that the owner and developer wants to do to be successful in these trying times.

Chairman Tate asked if there was anyone else had any comments?

Bill Beckwith made a motion to approve the variance of Petition No. A-789-22 to increase the percentage of required parking from 50 percent to 57 percent to be located in the front yard along the state route as established by the front building line of any structure located on the site. Tom Waller seconded the motion. The motion was approved 5-0.

6. **Petition No. A-791-22, Kevin & Debbie McFarland, Owners, request the following: 1) Variance to Section 110-79. Residential accessory structures and their uses. (f) Guesthouses. To increase the number of allowed guesthouses from one (1) to two (2) per individual lot. 2) Variance to Section 110-79. Residential accessory structures and their uses (f) Guesthouses. To increase the maximum allowed square footage from 700 to 972 square feet. 3) Variance to Section 110-125. A-R (d)(4)(b), to reduce the front yard setback**

**from 75 feet to 34 feet to allow an existing residential accessory structure (pole barn) to remain. This property is located in Land Lot 4 of the 1<sup>st</sup> District, fronts on Mask Road.**

Kevin McFarland introduced himself and thanked the Zoning Board of Appeals for their service. He stated my wife is absent, but I am going to proceed without her. I am a 30-year resident of Fayette County, and my wife Debbie is a 40+ year resident so we are not newcomers to this area. He stated we raised 6 (six) children together our youngest just graduated last May and started his college career at UGA last fall. He added knowing that was going to happen our dream was to find a small farm with a few acres once we became the empty nesters. He said that dream was realized once an opportunity came regarding the Earl Hanner's property on the corner of Mask Road and Lynch Road. He mentioned that we purchased the property on last July and moved on the property last August. He added from the only records that can be found the original portion of the main house was built in 1929 or 1930; there are several outbuildings and structures that have been added over the years which is why we are here this evening to request variances on those that do not have records on file or are not grandfathered. He stated we have determined all but one (1) of the structures, the pole barn was built 40+ years ago, and any records would have been destroyed in the courthouse fire in 1982, we can only assume. He said our 10.55 acres are surrounded by Hanner descendants of all who support our endeavor. He added they along with others have written letters in support to the committee that they had know issues with the pole barn or other buildings and are pleased with the cosmetic updates taken place. He stated I hope you will find in favor of our variance request and know that our intentions are to enjoy the property as a working farm all while respecting its integrity and historical value to Fayette County. He said I believe you all have the copies of the letters we have forwarded to Chanelle and also the plat with the locations of the buildings and the aerial views. He asked do you have any questions for me?

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.

Amy Hanners introduced herself and said we live at 626 Mask Road, and our property is adjacent to theirs. She stated my mother and father-in-law lived in his new house 42 years prior to his death last year at which time my husband and his sister were in charge of the estate and deemed as so to sell off the existing farmhouse and outbuildings along with 10 acres. She said we are happy to have the McFarland's as neighbors. She added I built my house 25 years ago on Mask Road and I moved from Michigan 28 years ago all of those buildings have been there since I moved down here. She stated my husband grew up in the house since age 12, about 42 years ago. She said all of those buildings were there then and that was 1980, the pole barn was a hay barn for all of the cows, and my family that surrounds the farm has enjoyed it for many years. She added we have enjoyed the improvements the McFarland's have made to the original farmhouse, and the guesthouse spaces are a much improved from what they were. She stated we don't care how close the barn is to the road for it has been there forever in our eyes. She concluded that Brooks is a rural community, and we are all like family down there and we all



support each other. She stated I guess you gather I proposed that things remain the way they are, and he is allowed to use his buildings for what he deems fit.

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 asked Mr. McFarland what uses will you put the guesthouse to?

Kevin McFarland replied like I mentioned we have six (6) grown children, five (5) grandchildren and growing. He said none of the children are near here, and my wife who is a photographer and artist for years has yearned to have a space to paint where she can paint on canvas and make a mess and not have to put it away. He added that she also created a ministry called Sparks of Kindness where she generates acts of kindness for others through coat drives, blankets and suitcases for the homeless. He stated a lot of our home is used in this endeavor from the garage to the guesthouse, and even the wraparound porch. He said it will mainly be used for our family to come and enjoy just like the Hanner's did.

Chairman Tate stated we have a situation where these structures in question are not something that is the result of the McFarland's coming in and putting it on the property. He said I had chance to visit the property and it is in an area where there are a lot of older homes an older farm and there is some new construction going on. He added that it is on a dirt road the structures themselves appear to be very sound there not anything that takes away from the aesthetics of the property. He said on that basis I would be in support of the variance.

Kevin McFarland asked Chairman Tate if he spoke to his wife when he came out?

Chairman Tate replied yes.

Kevin McFarland stated there have been vast improvements the porta-potty is gone, and our dumpsters are gone.

Marsha Hopkins made a motion approve the Variance #1 of Petition A-791-22 To increase the number of allowed guesthouses from one (1) to two (2) per individual lot. John Tate seconded the motion. The motion was approved 5-0.

Bill Beckwith made a motion to approve Variance #2 of Petition A-791-22. Guesthouse, to increase the maximum allowed square footage from 700 to 972 square feet. Tom Waller seconded the motion. The motion was approved 5-0.

Anita Davis made a motion to approve Variance #3 of Petition A-791-22. to reduce the front yard setback from 75 feet to 34 feet to allow an existing residential accessory structure (pole barn) to remain. Bill Beckwith seconded the motion. The motion was approved 5-0.

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Chanelle Blaine asked is there a motion to adjourn?

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

The meeting adjourned at 7:55 pm.

**ZONING BOARD OF APPEALS  
OF  
FAYETTE COUNTY**

  
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**JOHN TATE, CHAIR**

  
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**CHANELLE BLAINE, ZBA SECRETARY**