

Meeting Minutes 10/24/22

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

MEMBERS PRESENT: John Tate, Chairman
Marsha Hopkins, Vice Chairwoman
Anita Davis
Bill Beckwith
Tom Waller

STAFF PRESENT: Deborah Bell, Planning & Zoning Director
Deborah Sims, Zoning Administrator
Chelsie Boynton, Planning & Zoning Coordinator
E. Allison Ivey Cox, County Attorney

1. Consideration of the Minutes of the Meeting held on September 26, 2022.

Marsha Hopkins made a motion to approve the minutes of the meeting held on September 26, 2022. Bill Beckwith seconded the motion. The motion passed 5-0.

2. Consideration of 2023 Zoning Board of Appeals meeting dates.

Anita Davis made a motion to approve 2023 Zoning Board of Appeals meeting dates. Marsha Hopkins seconded the motion. The motion passed 5-0.

PUBLIC HEARING

3. Petition No. A-808-22, Cole and Natalie Antley, Owner, request 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 for construction of a residential accessory structure (i.e. garage with breezeway). The subject property is located in Land Lots 108, 109 and 116 of the 4th District and fronts on S.R. 92.

Cole Antley introduced himself and stated he didn't feel he answered the questions in the variance package as best he could. He explained he has a very narrow lot, and his house does not sit 50 feet off the property line. He added he would not be able to place any additional structures on that side of the house. He continued that he had not thought of placing the garage in the back because of septic, well lines, and utilities. He stated placing the garage behind the house would obstruct entrance and exits to the shop that is currently placed there. Mr. Antley explained there is no immediate detriment to the house, or anyone involved. He stated if

anything was to go wrong there would still be access on both sides of the garage and both sides of the house. He continued, if there was ever an emergency, emergency vehicles would be able to access the lot. He added that his bordering neighbors have no objections and provided the Board with two notes from his neighbors. Mr. Antley stated that he did not know how much traffic the road had and that his house is close to the road. He continued that his neighbor's house was hit by a car that ran off the road. He stated that people have stopped by his house and they have had packages stolen. He explained he wants a place where his wife and children can easily and safely make it into the house and that was the main purpose of the location of the garage. Mr. Antley mentioned other properties with garages close to the property line who have been granted variances.

Billy Cranford of Newnan spoke in support of the petition. He stated he was hired by Mr. Antley as the licensed general contractor. He added that he has evaluated where the garage has begun being built. He continued that it would not be conducive to tear it down and move it to the back for several reasons. He spoke about the grade sloping back to the house and the safety of getting the family from the garage to inside the house. He explained that if the garage is placed behind the house, a door would have to be added to a bedroom area. He continued where the garage is now, the door goes into the kitchen area which is ideal.

Bill Beckwith asked Mr. Antley where the septic line and drain field was located?

Cole Antley stated the septic line is on the right side of the house but runs into the back side of the house. He added the drain field is in the back as well.

Bill Beckwith asked if the shed and framed garage was still there?

Cole Antley stated the shed is not, but the framed garage is. He added the framed garage is one (1) foot off the property line. He continued the lines on qpublic are off and the plat is the most accurate source for how close the property lines are to the house and garage.

Anita Davis asked if the framed garage was still there and if it was usable?

Cole Antley stated it is still there, but it is far from the house. He added his utilities and septic are between the framed garage and house.

Marsha Hopkins asked what does he do with the shop?

Cole Antley stated he has trailers, a boat, equipment, and an ATV that are in there.

Chairman Tate mentioned the utilities behind the house.

Cole Antley added there is also propane. He continued they don't have natural gas or city water.

Chairman Tate asked if the utilities were directly behind the house?

Cole Antley answered yes.

Chairman Tate asked if the septic was on the right side of the house?

Cole Antley answered yes and added there is a well on his property.

Tom Waller asked if the home was on well water?

Cole Antley answered yes.

Tom Waller asked for clarification on why the garage can't go in the back?

Cole Antley explained because of the utilities, the septic, and the gas line.

Tom Waller asked how much of the lot was useable and how much was under water?

Cole Antley answered that a good bit of the back stays flooded. He referenced the plat and explained how much of the property stays wet and muddy.

Tom Waller asked what the other roof was on the plat?

Cole Antley explained that it is another little building that is going.

Tom Waller asked if it was on a permanent foundation?

Cole Antley stated no.

Chairman Tate asked how far the garage being constructed is from the house?

Cole Antley stated eight (8) feet.

Bill Beckwith asked if the breezeway was enclosed or open?

Cole Antley stated it will be enclosed once it's finished.

Bill Beckwith stated that there doesn't seem to be room in the back for the garage to be moved due to utilities and septic. He continued that he understood the safety issue and the need for the garage to be direct access to the house. He added that there doesn't look to be another location for the garage.

Chairman Tate agreed that the safety issue is a major concern. He continued that there also does not seem to be any other logical place for the garage.

Bill Beckwith made a motion to approve Variance of Petition A-808-22. To reduce the side yard setback from 50 feet to 22 feet to allow for construction of a residential accessory structure. John Tate seconded the motion. The motion was passed 5-0.

4. **Petition No. A-809-22, Bertie Lee Allen, Owner, request the following: Variance to Sec. 110-133. R-70. (d)(4)(a)(2) to reduce the front yard setback from 75 feet to 10 feet to allow existing single-family residence to remain. The subject property is located in Land Lot 38 of the 5th District and fronts on Seay Road.**

Deborah Bell stated Ms. Allen is not increasing the non-conformity of the home but is adjusting the property line so the properties are approximately the same size. She added the house was built in the 1930s and during that time, the roads weren't paved, and houses were typically built closer to the road.

Berdie Allen explained how she had her properties surveyed which led to her finding out about needing a variance. She continued she owns a parcel that is two (2) acres and resides on a property that is 7.9 acres. She added she is trying to divide the two parcels between her two daughters and make them as equal as possible. Ms. Allen stated in order to have the survey approved she needed the variance. She added her neighbor behind her didn't have a problem with the petition.

No one spoke in favor or in opposition.

Tom Waller asked if the road in front of the home had an 80 foot right of way?

Deborah Bell stated yes.

Tom Waller asked how close the home was to the right of way?

Berdie Allen stated 10 feet.

John Tate made a motion to approve Variance of Petition A-809-22. To reduce the front yard setback from 75 feet to 10 feet to allow existing single-family residence to remain. Marsha Hopkins seconded the motion. The motion was passed 5-0.

5. **Petition No. A-811-22, Magnolia Calderon and Alfonso Contreras, Owner, request the following: 1. Variance to Sec. 110-137. R-40, (d) (6) to reduce side yard setback from 15 feet to 5 feet to allow an existing residential structure to remain. 2. Variance to Sec. 110-137. R-40, (d) (3) to reduce floor area from 1500 square feet to 1,447 feet to allow an existing residential structure to remain. The subject property is located in Land Lot 229 of the 5th District and fronts on Thornton Drive.**

Deborah Bell explained that the applicants purchased the property with the principal structure in place. She continued it was originally an amenity, a pool building, for the neighborhood. She added that at some point the Homeowners Association failed and the property was sold at a tax sale and sold a couple of times. She stated the current owners bought the property with the intent of making it a residential structure. Ms. Bell added the owners didn't understand the permitting process and were building without permits. She stated after speaking with Department of Building Safety they realized it didn't meet some requirements. She continued there is another carport structure they have already started building on and staff recommended the carport would not be approved for a variance because there were other areas of the lot that needed to be brought into compliance. She added the carports are not part of this request.

The daughter of the owners, Lilliana, translated for Alfonso Contreras.

Mr. Contreras explained that the carports were for their four vehicles. He stated there is not a garage and nowhere else to park them.

Deborah Bell explained that the variance is for the house because it encroaches on the side setback and the square footage of the house and not the carport structures.

Mr. Contreras stated regarding the home, all the permits have been submitted. He added he has been doing everything the County has asked including removing the tennis court and getting a survey.

No one spoke in favor of the petition.

Hasina Grimball spoke in opposition and stated there was never a Homeowners Association in the neighborhood. She continued that the building was sold by the County and then sold again. She continued that at that point the house was full of mold and in bad condition as well as the pool. She stated that's when the current homeowners bought the house and began construction. She expressed her concerns about the intent of the structure and lot due to the amount of construction and the carport.

Deborah Bell stated the house is a residential structure. She continued there are no architectural requirements for carports. She added when they receive their building permits, staff will review to make sure everything meets code requirements. She stated there is not anything in the Ordinance that would require an enclosed garage. Ms. Bell continued that they recommended a variance for the house because it was in the setback when it was still a pool house and was in place when they purchased the property. She added the carport will be a different permit.

Ms. Grimball stated there are four (4) carports.

Ms. Bell stated staff will assess the square footage of the accessory structures when they review that permit.

Ms. Grimbball asked what is the intent of where the tennis court was?

Ms. Bell stated that has not been brought up to staff and is yard area as far as she knows.

Clyde Laughlin spoke in opposition. He expressed his concerns for the square footage of the house. He continued when it was a pool house, it wasn't any more than 700 square feet. He asked if there was a permit for them to build and if so why weren't they told they needed to build to 1500 square feet?

Deborah Bell stated they did not have a permit and received a stop work order for building without permits. She added that's when it came to Planning and Zoning. She continued Planning and Zoning has a preliminary review where staff checks for zoning compliance that includes setbacks and square footage. She added the project was arrested when they realized it did not meet some of the criteria.

Mr. Laughlin stated he also had concerns about properties that once did not qualify to be built on but now years later they can be built on. He added when people began to build, they ran into similar problems. He stated there are vacant lots in the neighborhood where people have started to build but had to stop because they didn't meet the requirements.

Chairman Tate stated he understands the issues Mr. Laughlin brought up but they are there to address the house that is currently on the property being discussed.

Mr. Laughlin stated to put him on record as opposing.

Tom Waller asked if the property was on a well?

Mr. Contreras stated is has a septic tank.

Tom Waller asked if it was County water or from a well?

Mr. Contreras stated County.

Bill Beckwith summarized that Mr. Contreras has purchased the property and upgraded it. He continued it is currently 1,447 square feet and was built to close the side property line for the first variance. He stated the second variance is whether or not to allow the building as a residence less than 1,500 square feet, which is the minimum square footage in his zoning. Mr. Beckwith added the Board doesn't know how it got it 1,447 square feet but it is currently 1,447 square feet.

Chairman Tate stated they appreciate all comments in support or opposition, but they are tasked with addressing only the issues before them.

Anita Davis asked if they would be willing to continue construction to reach the minimum of 1,500 square feet.

Mr. Contreras stated yes.

Tom Waller expressed concern about size of the pool. He asked if they expect to maintain the pool for the foreseeable future.

Lilliana Contreras stated they were only asked to put a gate around the pool. She stated they plan to maintain the pool.

Tom Waller asked if it will be a private pool?

Mr. Contreras stated yes.

Bill Beckwith made a motion to approve Variance of Petition A-811-22. 1. To reduce the side yard setback from 15 feet to 5 feet to allow an existing residential structure to remain. John Tate seconded the motion. The motion passed 4-1.

Marsha Hopkins made a motion to approve Variance of Petition A-811-22. 2. To reduce floor area from 1500 square feet to 1,447 feet to allow an existing residential structure to remain. Bill Beckwith seconded the motion. The motion was passed 3-2.

Chairman Tate 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 8:19 pm.

ZONING BOARD OF APPEALS
OF
FAYETTE COUNTY



JOHN TATE, CHAIRMAN

Chelsie Boynton

CHELSIE BOYNTON, ZBA SECRETARY