

# Meeting Minutes 6/26/23

**THE FAYETTE COUNTY ZONING BOARD OF APPEALS** met on June 26, 2023, 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  
Bill Beckwith  
Brian Haren  
Anita Davis

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

1. Call to Order.
2. Pledge of Allegiance.
3. Approval of Agenda.

*Bill Beckwith made a motion to approve the agenda. Anita Davis seconded. The motion carried 5-0.*

4. Consideration of the Minutes of the Meeting held on June 12, 2023.

*Brian Haren made a motion to approve the Minutes of the Meeting held on June 12, 2023. Anita Davis seconded the motion. The motion carried 5-0.*

## PUBLIC HEARING

5. **Petition No. A-821-23, Aura Lozada and Fenichel Perez, Owner, request the following: 1) Variance to Sec. 110-79. (c) (1) a. Number and size, to allow for the number of permitted residential accessory structures on the lot to be increased from two (2) to three (3), to allow three (3) existing accessory structures to remain. 2) Variance to Sec. 110-138. R-20, (d) (4) a. 1., to reduce front yard setback from 60 feet to 53.6 foot to allow an existing accessory structure to remain. The subject property is located in Land Lot 75 of the 5<sup>th</sup> District and fronts on Bonaventure Way, Bellevue Loop and County Line Road.**

Debbie Bell presented the petition and stated it is a double corner lot with three road frontages. The land use is low density residential and the zoning is R-20. She stated there aren't any

significant environmental features that affect a lot. She displayed the aerial and survey and pointed out the pool and the pool house. She stated the current property owner purchased the property in 2016 and these structures were already in place when they purchased the property. She stated you'll notice this survey shows a building setback line at 30 feet. Please disregard that, it was an error on the surveyors part. This subdivision has a 10 foot setback so this building is not in violation. She stated it's not a subject of this request, but she wanted to point it out because it does look like a discrepancy on the survey. She stated the building setback line is 60 feet at County Line Road. A little bit of that building encroaches and that was built by a prior owner without benefit of a permit. She stated the current owner is working with building safety to get building permits for this and for some work that they've done on the deck as well. She stated the permit is pending the outcome of the variance decision tonight. She continued it is staffs opinion that the lot does present some difficulties due to the multiple road frontages which require increased building setbacks. The encroachment of the pool house is not the fault of the current owner and the resident was unaware of the permitting requirements and is working to correct these deficiencies. She stated the permit applications are currently on hold pending the outcome of the variance request. Staff recommends conditional approval of the request to reduce the side yard setback to allow the pergola and pool to remain. If approved. The recommended conditions are 1. the applicant is to complete the permitting process for any unpermitted structures that are approved to remain. And 2. the applicant shall remove the unpermitted garden shed on the northwest corner of the property and the unpermitted metal carport near the gazebo.

Chairman Tate asked if the petitioner was present.

Mariyen Figueroa from Fayette County Human Resources served as interpreter for petitioner Fenichel Perez.

Mr. Perez stated he's been at this property for 10 years, and the property already has the structures that they have, and he is going through this permit process currently and he wants to do everything correctly to what the county asks for. He is willing to do any changes that you do ask in order to move forward and they feel embarrassed because of the situation. He stated the house was a blessing for them. He just wants to make sure that you know that if anything that he needs to change or make any changes he definitely wants to move forward.

Chairman Tate asked if Mr. Perez understood and agreed to the conditions.

Mr. Perez stated yes.

Chairman Tate asked if there was anyone to speak in favor or opposition.

Lynda and Tara Kujawski spoke in opposition. Tara Kujawski asked if a third structure was being allowed or if there is a third structure in place that they want to remain?

Brian Haren stated the structure is already there. He stated nothing new would be built they are just asking to bring everything into compliance. They are asking to get permits for what is already there.

Tara Kujawski asked which structures?

Debbie Bell stated a small garden shed in the corner is going to be removed or has already been removed and then metal carport is going to be removed. She stated the pool house to the right of the pool, a two story storage building toward the back of the property, and the gazebo. Those are the three structures that they're asking to remain.

Lynda Kujawski stated a lot of the trees are missing now when you drive down county line, you can see right into the back of his property and see the speed boats and the RVs and the metal structures that are falling and we're just concerned that the neighborhood is being depreciated by all these structures. That's all our concern is. She stated the homeowners association was intact originally when she first moved into the neighborhood then eventually it dissolved. The homeowners association is vital and have specifically asked to not do a lot of stuff that's been going on there. And most of us in the neighborhood let it go. Most of us work. So we let a lot of it go on and a lot of us don't say anything. Would you want to live next door to a house with RVs parked on the front yard and boats in the front yard.

Tara Kujawski stated we're just worried about existing structures and maintenance of the property. She stated it benefits the whole neighborhood.

Chairman Tate stated our function is to determine the structures that are already there.

Brian Haren stated the structures they are discussing tonight are already on the property.

Chairman Tate asked if there were any other comments in support or opposition.

Alexia Johnson spoke in support of the petition. She stated she had been there about 10 years, and she entered the neighborhood every day because her house is further down. She state she has no opposition against the house or any of the structure that's already on the premises. It's neat. They're in place. I don't think anybody has a problem with that at all. They are respectful with the community and that the structures don't affect the living or the livelihood of the other neighborhoods in the area. She stated I don't believe that anything that is discussed today will have a huge effect on those living there.

Lavetrice Johnson spoke in support of the petition. She stated to me it is a beautification to the community to tour your Christmas lights every holiday to graduation signs. He puts that up for the for the neighbors and they're a good family. I do see the destruction going on but it doesn't take away from the neighborhood. It adds to it to me. It's beautiful back there. My daughter she stops by to move their dogs and she said wow that he just happened to walk back there and see

it for yourself. She says it's beautiful back there, mom. So I'm just saying it's support. I don't see a nuisance.

Marsha Hopkins asked is there a time limit for the conditions?

Debbie Bell stated there should probably be a 60 day window. She stated some of the structures did not get a building permit yet. So he's applied for those building permits, but building safety won't approve, they won't go through the rest of the process unless they're approved here in the variance. So that was more of a housekeeping measure to ensure that they follow up with the permitting process.

Bill Beckwith asked if the Building Department will be able to finish in that time frame?

Debbie Bell stated yes.

***Bill Beckwith made a motion to approve Variance to Sec. 110-79. (c) (1) a. Number and size, to allow for the number of permitted residential accessory structures on the lot to be increased from two (2) to three (3), to allow three (3) existing accessory structures to remain with conditions: 1. Applicant is to complete the permitting process for any unpermitted structures that are approved to remain within 60 days. 2. Applicant shall remove the unpermitted garden shed on the northwest corner of the property and the unpermitted metal carport near the gazebo. Brian Haren seconded the motion. The motion carried 5-0.***

***John Tate made a motion to approve Variance to Sec. 110-138. R-20, (d) (4) a. 1., to reduce front yard setback from 60 feet to 53.6 foot to allow an existing accessory structure to remain. Anita Davis seconded the motion. The motion carried 5-0.***

6. Petition No. A-820-23, Tanesha Butler, Demetrius Butler and the Co-Trustees, Meshia Bean and Demetrius Anthony Bulter, of the Sterling Brown, Jr Irrevocable Trust as Tenants in Common, Owner, request the following: 1) Variance to Sec. 110-126. C-S, Conservation Subdivision District, (f) (6) to reduce the side yard setback from 20 feet to 11 feet to allow existing swimming pool to remain. 2) Variance to Sec. 110-126. C-S, Conservation Subdivision District, (f) (6) to reduce the side yard setback from 20 feet to 18 feet to allow existing accessory structure (Pergola) to remain. The subject property is located in Land Lot 224 of the 5<sup>th</sup> District and fronts on Navarre Drive.

Debbie Bell stated this lot is in between veterans Parkway and highway 92 Just a little bit south of Lees Mill Road. Land use map is medium density residential. Zoning is conservation subdivision. There aren't any significant environmental factors that affect the site. She stated this is a situation they did get a permit for the pool pool contractor started the permit they shifted the pool a little bit to avoid some septic lines septic field runs in this area central part of the yard when the pool was permitted it was shown within the setbacks but it did get shifted. But I think they didn't come. They didn't come back and get that foundation survey that they

should have gotten. And then the second part of the request is that the homeowner has started a gazebo and again this is a case the homeowner was unaware that a small building didn't need a building permit. So the gazebo out here a little pergola has a slight encroachment. The staffs opinion a lot does present some difficulties in terms of the location of the septic tank, while the pool might have been properly sited elsewhere in the lot relocation of the pool would at this point because of practical difficulty, the encroachment of the pergola falls within the same encroachment request area for the pool. Therefore, Staff recommends conditional approval request to reduce the side yard setback to allow the pergola and pool to remain conditions that are as follows. The applicant is to complete the permitting process for the pergola and the applicant is to coordinate with the pool contractor and building safety to complete the permitting process for the pool. In light of our other discussions, I would like to add that these items the the permitting items be completed within 60 days. This is a case also where the permit for the pergola is in the queue as well similar to the previous case.

Demetrius Butler was the applicant and stated he tried to do his due diligence and leave it up to the professionals about permitting. I'll take whatever fault is ours as far as the pergola is concerned. For the pool, I didn't know at the time. And they notified me. But I wanted to do whatever it takes to get this whole situation under control. He stated he didn't want to get his neighbors involved but no one has said anything. He said he's cut trees down and put up privacy fences and whatever the Board can do to help he would really appreciate.

Chairman Tate asked if he understood the conditions?

Mr. Butler stated yes.

Chairman Tate asked if the Board had any questions or comments?

Bill Beckwith stated it was good idea not to put the pool in the septic area.

Mr. Butler stated he tried to be as far away as the septic as possible. He apologized for going over the setback line.

Brian Haren stated he didn't realized the County permitted pergolas.

Debbie Bell stated any accessory structure over 200 square feet in size or if it has utilities run to it requires a permit

Mr. Butler stated it has a fan.

Brian Haren asked if the contractor told him they would have to shift the pool?

Mr. Butler stated no.

***Brian Haren made a motion to approve Variance to Sec. 110-126. C-S, Conservation Subdivision District, (f) (6) to reduce the side yard setback from 20 feet to 11 feet to allow existing swimming pool to remain with conditions: 1. Applicant is to complete the permitting process for the pergola. 2. Applicant is to coordinate with the pool contractor and Building Safety to complete the permitting process for the pool. Conditions must be met within 60 days. John Tate seconded the motion. The motion carried 5-0.***

***Brian Haren made a motion to approve Variance to Sec. 110-126. C-S, Conservation Subdivision District, (f) (6) to reduce the side yard setback from 20 feet to 18 feet to allow existing accessory structure (Pergola) to remain with conditions: 1. Applicant is to complete the permitting process for the pergola. 2. Applicant is to coordinate with the pool contractor and Building Safety to complete the permitting process for the pool. Conditions must be met within 60 days. Bill Beckwith seconded the motion. The motion carried 5-0.***

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Chairman Tate asked is there a motion to adjourn?

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

The meeting adjourned at 7:47 pm.

ZONING BOARD OF APPEALS  
OF  
FAYETTE COUNTY

  
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JOHN TATE, CHAIRMAN

  
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CHELSIE BOYNTON, ZBA SECRETARY