

# Minutes 02/26/2024

**THE FAYETTE COUNTY ZONING BOARD OF APPEALS** met on February 26, 2024, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

**MEMBERS PRESENT:** Bill Beckwith, Chairman  
Brian Haren, Vice-Chairman  
Anita Davis  
Marsha Hopkins  
John Tate

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

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1. Call to Order.
  2. Pledge of Allegiance.
  3. Approval of Agenda. Bill Beckwith asked if *Petition No. A-852-23 had been withdrawn or resubmitted. Deb Sims stated they had not resubmitted their application.*
  4. Consideration of the Minutes of the Meeting held on January 22, 2024. *John Tate made a motion to approve the Minutes of the Meeting on January 22, 2024. Anita Davis seconded the motion. The motion passed 4-0. Marsha Hopkins abstained from voting as she was absent from the January 22, 2024, meeting.*

Bill Beckwith discussed the functions of the ZBA for those who had not attended a ZBA meeting before. The ZBA considers the petition of property owners looking for a variance to do or build something on their property that would violate a county ordinance, basically breaking the law. The ordinance has been officially adopted as the law. The ZBA will hear statements for the variance and in opposition to the variance and then we make a decision to approve or deny that request. Other boards, especially the Planning Commission, make a recommendation to the Board of Commissioners, but we are the decision-making body, so our decision stands and does not have to go to the Board of Commissioners.

## **PUBLIC HEARING**

5. Consideration of Petition No. A-854-24 – Max Good and Jean Shepherd Good, Owners, request a variance to Sec. 110-67 (b) to reduce the 100' of road frontage to 20' and in accordance with Section 110-242 (h) the illegal lot be deemed a nonconforming lot by the Zoning Board of Appeals. The subject property is located in Land Lot 198 and 219 of the 5<sup>th</sup> District and fronts on Neely Road.

Debbie Bell reviews the staff report and states that this is an unusual case and will require a little bit longer explanation. Debbie states she would like to give the board a little history on this property. In 1970 this was recorded as a single land-locked parcel. At that time, it was accessed by a 15-foot easement across land owned by Kozisek. That is the large quadrangle you see at the top of the page. The smaller corner lot is a 1-acre lot that was cut out. They used the same parcel and homes were built on both parcels. At that time, that was considered a legal lot of record. In 1980, land was purchased from Kozisek to pour a 20-foot strip to create a flag lot instead of having only an access easement. So, there is a 20-foot owned strip that goes with this parcel. At that time, the 1-acre parcel was slightly reconfigured apparently it has an easement across that 20-feet, and perhaps that reconfiguration helped to provide a little better access to that easement. In 2007, the owner at the time was Mr. Yancey. He was advised by zoning staff that they could not create an additional parcel. They reconfigured the lot to line up with the easement, but it was still considered a legal non-conforming lot. In 2020, the previous owner sold a portion of that parent tract to this other. So, this orangish section is about 1-acre and it was sold and cut off from the blue section and sold to the corner tract. Which led to the blue tract having 4-acres. This still meets the zoning standard and has the 20-foot road frontage at the end of this strip, but that had the result of causing the parcel to lose its status as a legal non-conforming lot. And now it is considered an illegal lot. In 2023, Mr. and Mrs. Good purchased the 4-acre parcel and had no idea that the previous owner's actions had created an illegal non-conforming parcel. That gives you the background of what happened, and again, this is an unusual case. A non-conforming lot is a legal lot that was made non-conforming typically by some action of the county. Sometimes, you will see it when someone has to dedicate the road right of way. Sometimes, it is because the regulations in the county changed. At a point in November 1980, it was established as a cut-off date, such that lots that existed in their configuration at that date were considered legal non-conforming lots even if they didn't meet the zoning requirements. Like even if they don't have enough acreage for whatever their zoning district is. So, when Mr. Yancey cut off that acre from the blue parcel, that is when it lost that status. Section 110-242 under Powers and Duties of the Zoning Board of Appeals provides for a request (on page 4 of the staff report and directly from the ordinance) for an illegal lot to be a non-conforming lot.

Ms. Bell reads the following from the staff report.  
Sec. 110-242.-Powers and duties.

(h) *Request for an illegal lot to be deemed a nonconforming lot.* The zoning board of appeals may deem, upon appeal in specific cases, an illegal lot which is smaller than the minimum lot size for its zoning district, more narrow than the minimum lot width for its zoning district, or has less road frontage than is required for its zoning to be a nonconforming lot. The zoning board of appeals shall employ the following factors for an illegal lot seeking to be deemed a nonconforming lot:

- (1) The transaction giving the appellant/petitioner ownership in the subject property was more than five years from the date of the appeal/petition or if

the period of ownership is less than five years the subject property was made illegal more than ten years from the date of the appeal/petition;

(2) The appellant/petitioner is not the person, or an immediate family member of the person, who caused the subject property to be an illegal lot. For purposes of these procedures, "immediate family" is defined as the spouse, child, sibling, parent, stepchild, step-sibling, step-parent, grandparent, grandchild, aunt, uncle, niece, or nephew of the person who caused the subject property to be an illegal lot; and

(3) No adjacent property is available to add to the subject property to allow the subject property to meet the minimum requirements for its zoning district. In determining whether adjacent property is available if adding any adjacent property to the subject property would no longer allow the adjacent property to meet the minimum requirements of the adjacent property's zoning district, then the adjacent property is not available. Additionally, any adjacent property which is part of an illegal lot shall not be deemed available for purposes of these variance procedures, unless the adjacent illegal lot is unimproved, and the entirety of the adjacent illegal lot is combined with the subject property. If adjacent property is available, the cost of acquiring the adjacent property shall not be a factor in determining the availability of the adjacent property.

There were not any objections from staff for this property. The property is located in the north part of the county near Longview. Here you can see the prior configuration of the subject property. There is a lake nearby, but it doesn't have a significant impact on the property or the request. Here is a survey and you can see the lots.

It is the staff's opinion that this parcel does have some unique or limiting factors. The former reduction in road frontage is unlikely to have a negative impact on the adjoining properties as the lot has been configured this way for many years. A recent re-subdivision of the parcel by the previous owner resulted in the loss of the previous legal non-conforming status and the request is to restore that status for the current owners.

Mrs. Good spoke as the petitioner. We are thankful for our 4-acres. We were so excited. We are from Ohio and to see this beautiful property and to drive up our driveway. We have never seen so much land before. It had a small house on it. It was just kind of a mess when we got there. We spent \$60,000 on trees and taking out old buildings, and old dog houses. So, we were so excited about the property and then we were thinking we could add a small guest house on the property because the house there is not really big. We contacted a builder and went through all the due diligence with contacting the different boards. Spend about \$4,000-6,000 leading up to getting the building permit. So, we just want you to know that we are thankful to be here in Fayetteville and anywhere we are we try to improve. We are on our way to making it much better. Thank you.

Hi, I am Max Good, and I want to thank our builder, Levi is here. I want to thank Debbie as well as she has helped us to understand this. When we bought this property in May of 2023, we really didn't have any inkling that this was going to be a problem. We worked with an experienced realtor in the area so this kind of thing wouldn't happen. Levi tried to do as much research as possible, but we found we had to go through the soil test, the site plan, the erosion plan, and the septic permit. So, we got all that in order just to find out that when we submitted for the building permit, we discovered this issue, so we are hoping that you can help us move forward on this. Thank you!

Bill Beckwith thanks them and asks them to sit in front in case there are some questions. Is there anyone else in favor of this petition? I am seeing none. Or in opposition? I am seeing none. The board may have some questions.

Marsha Hopkins asks if the owner in 2007 is the same as the 2020 owner. Debbie Bell states that the owner in 2020 was Mr. Yancey and the owner in 2007 was Kozisek. This current owner did not cause this configuration and they purchased the property in this configuration.

Deborah Sims states that Yancey was the owner in 2007 and he is also the owner who subdivided the property after he was told not to. This had no impact on the Goods at all. They bought the property this way.

Marsha Hopkins asks how the lots are taxed. Did Mr. Yancey pay all the taxes, and if he couldn't subdivide?

Deborah Sims says they can subdivide by deed. They can record things without our approval. Unfortunately, when they do, it is at their own peril. Mr. Yancey was very well warned that if he did that, this is exactly what would happen. The tax assessor simply takes what is recorded and they assess the taxes on what is recorded. It in no way means it is what is recorded is a buildable lot a legal lot. It just means that you own that piece of property.

John Tate asks for clarification. What I am looking at the powers and duties of ZBA when making a decision. In our way of thinking, in the first section (1) The transaction giving the appellant/petitioner ownership if the subject property was more than five years from the date of the appeal/petition, or if the period of ownership is less than five years the subject property was made illegal more than ten years from the date of the appeal/petition. And in my way of thinking, the lot was made illegal more than 10 years ago and it was made illegal in 2020.

Debbie Bell states that is correct.

In regard to the conditions must we find that all three of these must apply or do we simply use these as a basis for our decision?

Ali Cox states that is the basis for the decision that all three factors should be present.

Bill Beckwith says, "Any other questions to the Goods or to the staff? To me, this reminds me of another case where the Zoning or Planning Commission didn't know about it. The new owners found out about it when they went to develop and improve the property they just bought. It is unfortunate when this occurs. And we have had this happen before. Through no fault of their own, they found out that they couldn't do what they wanted to do. Is anyone ready to make a motion?"

Brian Haren, we are considering both the reduction of the 100-foot road frontage and identifying this as a non-conforming lot. All in the same motion?

Ali Cox states it would be two different motions. First, the lot needs to be deemed non-conforming vs. illegal and then there would be the motion for the variance.

***Brian Haren made a motion to approve Petition No. A-854-24 Section 110-242 (h) that the illegal lot be deemed to be a nonconforming lot. Marsha Hopkins seconded. The motion passed 4-1. John Tate voted in opposition.***

***Brian Haren made a motion to approve Petition No. A-854-24 Sec. 110-67 (b) variance. John Tate seconded the motion. The motion passed 5-0.***

6. Consideration of Petition No. A-855-24 – Melanie N. Green, Owner, and Bill Hayfer, Agent, request a variance to Sec. 110-125(d)(4)a.2 to reduce the front yard setback from 100' to 52' to allow an existing block home to remain as a guest house. The subject property is located in Land Lot 62 of the 4<sup>th</sup> District and fronts on Price Rd.

Debbie Bell reviews the staff report for Petition A-855-24. This parcel is zoned A-R and is about 14.5 acres in size. The staff's opinion of the situation is unique because of the age of the house. The applicant estimates the home was built in the 1930s and staff has verified its presence at least as far back as 1955. Historically, at the time, homes were built close to the road for any number of practical reasons. Also, the zoning code existed in the county at that time, so the location of the home was acceptable at that time of construction. There are no staff objections from the different departments. Environmental health does have some standard requirements for approving a septic system. The property is just west of Brooks. This property and those around it are zoned A-R. The tax assessor parcel configuration does not reflect the most current parcel configuration. The land use map is also A-R. There are no environmental factors that impact this part of the property. You can see that it sits rather close to the road and that was common at the time. You can see it under some big oak trees. Here is a survey that shows the current configuration of the parcel, showing the house here and the guest house located towards the front of the property.

Bill Beckwith, "You all did note that the size of the house does meet the criteria for the guest house."

Debbie Bell, "Yes, sir it does."

Bill Beckwith asks if Ms. Green or Mr. Hayfer are available. They are not in attendance. Ok, in absentia. This is an interesting situation; can we legally go ahead and discuss this?

Ali Cox, County Attorney, states, "Yes, open the floor for the hearing and if no one is here and no one is opposed, take a vote."

Ok, well no one is here in support of it. Not even the owner said Mr. Beckwith. Is there anyone in support of this petition? Is there anyone in opposition?

Bill Beckwith, "I think the information provided by the staff that it is an older house, and the size of the house does meet the criteria for the guest house. And indeed, there were no zoning code requirements at the time the home was built. So, at the time of construction, it was an acceptable house. So, do I hear any other comments from the board? Would you like to discuss anything or even make a motion?"

Brian Haren, "I have a question. Are the property owners planning to do something with this? How did it come to the staff's attention?"

Debbie Bell said, "Initially the first time I saw this there was a different subdivision plat and we had put a note in there that the structure did not meet the setbacks and that it needed to be removed. They then revised the plat to this configuration, and they decided to submit a request to retain the house as the guesthouse."

Bill Beckwith asked if we are ok to contact them with the results of the findings today.

Debbie Bell says, yes, we will email them. We will send out a follow-up letter. I imagine Mr. Hayfer will inquire.

Brian Haren, "He has to return the sign."

Bill Beckwith, "Anyone else?"

John Tate, "Mr. Chairman, I don't have any problem with this, and I vote that we approve the petition."

***John Tate made a motion to approve Petition No. A-855-24. Brian Haren seconded the motion. The motion passed 5-0.***

7. Consideration of Petition No. A-856-24 – Melinda C. Owen, Owner, and Veda Ann Creighton, Agent, request a variance to Sec. 110-79(e)(1)(d) requiring the detached garage in the front yard to be attached to the primary structure by either an attached or detached breezeway, an attached raised deck, or an attached or detached pergola. The subject property is located in Land Lot 159 of the 4<sup>th</sup> District and fronts on Blanche Dr. and Rising Star Rd.

Debbie Bell reviews the staff report for Petition No. A-856-24 requiring the detached garage in the front yard to be attached to the primary structure by either an attached or detached breezeway, an attached raised deck, or an attached or detached pergola. It is the staff's opinion that the property does present some unique characteristics. The topography of the lot and the location of the existing house would make it difficult to locate the garage in another area where a breezeway would be better suited. The owner has made an application to relocate part of the septic system to accommodate the garage. It is allowed in the front yard, but a connecting structure would be difficult to tie into the house in an architecturally or spatially appropriate manner. The proposed location will not encroach on any building setbacks. If this were approved, there would be no required conditions.

There were no staff objections. This is located a little bit northwest of Brooks. This is a small subdivision here. R-45 is the current zoning. There is still a lot of A-R zoning in the immediate area. The land use is all rural residential. There is a stream in the back so there are some floodplains and buffers further back that affect the lot. They would not be impacted by the requested location. Here is an aerial and a closer view and a site plan will explain a little further. According to their site plan, here is their existing house. The driveway comes in on this side with a retaining wall. They are looking to put a detached garage over on this side of the home within the building setbacks, but there is not a very good opportunity to create the attachment point. I have no further information.

Bill Beckwith, thank you is Ms. Owen available tonight?

Yes, hello I am Ms. Owen, and I brought some pictures if you want to see them. We want the house not to be attached as that is the side of the living room and that is my husband's office, and it doesn't really make sense to put an archway on that side of the house. And the line where they are referring to the front of the house is really the side of the house as you can see. Like I said, a breezeway wouldn't look good on that side. Also, if we did attach which doesn't make sense. Well, that's my husband's office so we don't want people in and out on that side. We have 4 kids and that is about the only place on our lot we can put an extra garage.

Hello, I am Rod Owen, and I am Melinda's husband. The consideration of the front line of the house. When the document says the garage is in front of the house, it is in front of the house line but as you can see it is to the side. We have worked with an architect to aesthetically coordinate the look of the garage to the house. So, they would look alike. There is also a tree line that will block this from Rising Star. So, we ask that the board approve the variance so we can proceed with the building of this detached garage.

Bill Beckwith says thank you. Is there anyone else who wishes to speak in favor of this request? Is there anyone who would like to speak in opposition?

Ok, so back to the board then for comments or questions.

Anita Davis asked for clarification, "You didn't want to have any sort of attachment to the garage to your house because it doesn't make sense. You also explained it is close to your husband's office. Could you elaborate a little bit as to why there was an attachment built if your architect could make it work other than there is not a door specifically there? Is there any other reason why you wouldn't want the attachment so that you are in conformance with the statute?"

Ms. Owen, "Well personally, I just couldn't architecturally see how it would look right. When we built our house, we built the house with the garage attached. We have a deck on the back and then a breezeway. With that side of the house, we have my husband's office in the house. So, we don't want any.... I am sorry I am not answering your question very well, but visually it just wouldn't look right.

Anita Davis, "So for clarification would this disturb your husband's use of his office?"

Ms. Owen, "Well, it could, yes. We don't want people or kids in and out on that side because his office is right there. So, if we did find a way to do it, we don't need traffic on that side of the house.

Ms. Davis, "Got you."

Ms. Owen, we won't need traffic on the side of the house where he is working.

Ms. Davis, "Well, wouldn't there be traffic because how are the people driving the cars going to get in and out?"

Ms. Owen, "We are not using that garage for cars. We have a 2-car garage on the other side. We bought a boat, and it is getting weathered in the driveway and starting to look really bad. So, we would like to put our boat in the garage, and additional storage. Not cars. I should have clarified in the beginning that the garage is not for vehicles, no."

Brian Haren asked Ms. Owen to show him the diagram of where the septic field is located.

Mr. Owen states that the septic lines are going to go out behind the house and the garage and snake out behind the garage back. Between the garage and the waterline. They are obviously set back to be in compliance with the water line, but they go back towards the lake.

Brian Haren asks if the open area below the house has a septic system there.

Mr. Owen states that the field lines go out through their back towards the lake.

Ok, Brian Haren. You said you were making some alterations to the septic drain field.

Mr. Owen, yes, that is correct. I believe we have to extend it. Yes sir.

Bill Beckwith states, "I have a question for staff. We have 2 fronts of the house because of the corner lot. If the walkway or connection could be made, could that be an improved location for the garage?"

Debbie Bell, yes, the garage structure is acceptable under zoning regulations.

Bill Beckwith, as long as it has the connection. One of the things that we like to do is make a suggestion as to an alternate location for the development. Mr. Owen said that moving the garage in the open area by the lake would be an option but that is where the drain field is. Another thing is I see that it is about 17 feet from the corner of the garage to the porch as a walkway might be something you want to consider. That is an option to get the situation resolved in an equitable manner.

Ms. Owen, "To attach the garage to the house?"

Bill Beckwith, "I am just looking at this layout if there was a connection through a front porch through a walkway into the house. That would meet the criterion for having the garage where it is."

Ali Cox, "Yes, it would, and I think the location is not problematic at all. I think the variance request itself is to do away with the covered walkway. This provision in our ordinance requires that walkway and I think that they are trying to say that it is problematic, and it won't work, and they are trying to do away with the walkway. So, I think their request today is to do away with that requirement."

Just because it is difficult doesn't mean it is not possible. I am just saying that if you were to do that, you might solve your situation. Going from the garage into your porch instead of your office.

Mr. Owen, "Your recommendation is duly noted, and with all due respect, the flow of the house and the entrance is on the other end, and we really don't see any reason to put a walkway when the natural flow and the entrance are at the opposite end."

Ms. Owen, "When you mean walkway, what do you mean by walkway?"

Mr. Beckwith asks what are the options.

Debbie Bell states an attached or detached breezeway, an attached or detached raised deck, or an attached or detached pergola.



Ms. Owen, "Well our front porch is up here. We wouldn't be able to ...we have a deck on the back. As far as the deck, it wouldn't make sense to put another deck on the front or the side. The walkway that you are referring to..."

Bill Beckwith.... or covered walkway, with steps up to the porch. You could have a walkway, a covered walkway up to your front porch. You don't go out there because it is just for boats.

Ms. Owen, "Like my husband said, we do all of our activity on the other side of the home."

Bill Beckwith, what activity?

Ms. Owen, the entrance from the garage into the house.

Ms. Beckwith, "I understand that but all you want that garage for is to put some boats in and not for cars?"

Ms. Owen, "Correct."

Bill Beckwith, "So I am just saying if you were to have a covered walkway from the garage to the front porch, that would satisfy the ordinance as it exists. That would allow you to have your garage with a walkway."

Ms. Owen, "Did you see my pictures? It's not going to look right. I don't know the right terms but a breezeway to the garage is not going to look architecturally good. Did you see the pictures? I mean a breezeway..."

Bill Beckwith, "Yes, it says an attached breezeway or attached raised deck, or attached ...I think there are good options to incorporate either of those into what you are trying to do here. It's clear we don't have an issue with the placement of the garage, it is really how do we get you in compliance with current zoning regulations? And I understand that all the living activities take place on the other side of the house, but still, we have a responsibility to make sure there is a reason other than, hey, I don't want to. We still have a responsibility to uphold the county zoning ordinance. This ordinance requires a raised attached deck, breezeway, or pergola. Ok, it is what it is..."

Bill Beckwith, So, basically there is an option to do something differently than what you want to do. Are there any other comments?

May I speak on their behalf? I am going to be their contractor.

Mr. Beckwith, "Excuse me, sir, are you involved in this situation?"

"Yes, sir, I would be the contractor for this job."

Bill Beckwith, "Ok. Are you here to support? OK, come on up and let us hear what you have to say."

Yes, my name is Greg Creighton and I have been doing these types of projects for almost 50 years. Always, one of the biggest concerns is aesthetics. When we do these projects, from my end one of the biggest challenges, is when people look at this property, they don't look at it and say, what the heck were they thinking? I am telling you my opinion if we try to connect these two as they are situated with the elevations. We will have a situation where you will have people come onto this property and say what the heck were they thinking? And I know we are concerned about the brick, the siding, and everything matching. Huge concerns that we have addressed. From my perspective, it won't look right! We have looked at it. That's my perspective on this.

Brian Haren, "So, what are the foundation elevation differences between the two structures?"

Greg Creighton, "I can't tell you the exact. I would venture to guess from that 16-foot span right there, it probably drops about 4 to 5 feet. And yes, we could add a series of steps, but in my opinion, you wouldn't want it. You all would not want it. Now, what's on paper and what the laws are I know is what you look at and refer to, but from the aesthetics point of view, I think it is a mistake."

John Tate, "So, sir, this is the kind of work you normally do, correct?"

Greg Creighton, "It is all I do, sir."

John Tate, "You have built detached garages and you have also connected them to the house."

Mr. Creighton, "Yes, I have sir. The most recent one I did and connected was off Fisher Road. There is a handicap situation so the level of the house, and the garage, and the breezeway is the same level."

Mr. Tate, "But you still have to put a structure and from what I am hearing, there is no structure that would fit in with what is already there."

Mr. Creighton, "That is my opinion, yes."

Mr. Tate, "I don't see how that correlates to the deck itself. I find this a little confusing."

Mr. Creighton, "I am confused by what you just said."

Mr. Tate, "I think what you are saying is because of the elevation, and in jobs you may have done in the past, the elevation was level so there really wasn't an issue."

Mr. Creighton, "Yes, that is correct."

Mr. Tate, "This one, I am hearing because the elevations are uneven to put a structure there like those that are required, it is not going to fit aesthetically. And this is still where I am a little confused, what does the elevation have to do with the aesthetics of it?"

Mr. Creighton, "Well, as far as the elevation is concerned, you would have to have a series of steps. You would also have to have some type of rail system. Going from the proposed garage to the house, I just can't visualize that and maybe you just have to see it. Maybe we should have had something with elevations and such up here."

Anita Davis, "Would changing the grading in the front to smooth it out a bit, is that an option?"

Mr. Creighton, "That is a great question. Between the corner of the house and the corner of the garage, there is a pretty severe fall right there. With steps that go back around the AC units. That would require some type of retaining wall coming off the corner of the house, which would cut off the steps that are going down and around the AC units. Going down around this side of the house. A retaining wall would do that, but it would cut off access to the side of the house and to the AC units."

Anita Davis, "And to those who have acknowledged that they don't use that path to get to the back. All the traffic is on the other side. So, it truly might not be so much of an issue."

Mr. Creighton, "Laughingly, hence not needing that walkway."

Anita Davis, "Just trying to figure out a way to make that conform."

Bill Beckwith, "Any other comments? Hope you understand we are trying to help you get what you want, without having you break the law."

Mr. Owen, "Yes, sir. We all understand that laws are made but there are always exceptions to every rule and in this case, we are requesting an exception."

Beckwith, "That is why we are here to take a look and a listen and see what we can do. But then again, we also have to consider options. Any other comments?"

Brian Haren, "So if you do the calculation. Let's assume that there is a 5-foot elevation difference over that 16.9 feet. That is a pretty severe slope, that is about a 30 percent slope. From that perspective, I can understand not wanting to do the attached walkway. If this were a new construction property, it would require the builder to go in and bring everything up to grade to do this. Although, I am really on the fence with this from an elevation level difference, understand that this could cause some issues. I am inclined to support this petition, but only barely."

Bill Beckwith, "I went over there today to see where this garage would go, and it does drop down. I did see that, but until Mr. Haren mentioned the elevation difference and tried to understand what Mr. Creighton said it was going to look like. I am on the same page, but I think I am going to fall on the same page as Mr. Haren did and second the motion."

Brian Haren, "One more comment to the petitioner and the developer. One thing that would've helped us to make a decision on this would have been if we saw a topo for this site. So, we could get an idea of the slope issues. We have had similar petitions come before us. Seeing the contour lines and breaks really helps us to make a decision, because not all of us have an opportunity to get out and take a look at the petitioner's locations. For future reference, especially if you are a developer, bring us a topo."

***Brian Haren made a motion to approve Petition No. A-856-24. Bill Beckwith seconded the motion. The motion passed 5-0.***

8. Consideration of Petition No. A-857-24 - Michael D. Robinson and Jennifer L. Robinson, Owners, and Eric Brooks, Agent, request a variance to Sec. 110-125(d)(6) reducing the side yard setback from 50' to 35' to allow for the construction of a pool. The subject property is located in Land Lot 62 of the 4<sup>th</sup> District and fronts on Price Rd.

Debbie Bell reviews the staff report for Petition No. A-857-24 to reduce the side yard setback from 50' to 35' to allow for the construction of a pool. The proposed location is not likely to be detrimental to the neighbors. The current owner of the adjacent lot is the applicant's relative, and they have provided a written letter of support. Several other neighbors have also provided letters of support. If this is approved, there are no recommended conditions. There were no staff objections. Proper permitting and environmental health permits will be required. This is also near Brooks. This property is zoned A-R, and the land use plan is rural residential. Here is an aerial of the site. Here is a survey. The reason for the request is that the house sits far back on the lot. That is where the lot gets wider and meets the lot width at building line requirements. The zoning buildable area of the lot is only near the back and this is a close-up view of the location of the house and the proposed location of the pool equipment. So, the pool and pool equipment would be here, and the well is here, and the utilities. So, they will have to move the pool to the back where all these utilities are, so they are just requesting a variance to the side setback. Any questions?

Hello, I am Jennifer Robinson. We are the ones requesting the variance. We are requesting it on the side of the house because as Ms. Bell already stated, our house

was by the prior requirements we had to put it all the way in the back of the property, which leaves us very little area and would already infringe on the setbacks on the back of the property. Additionally, we have our utilities and well house, and our water runs through the backyard.

Bill Beckwith asked, "Where is your septic tank drain field?"

Ms. Robinson states, "It is out in front. It goes out from the middle of the porch to the front of the property. Additionally, we would impact fewer neighbors on this side. It is just my parents on this side of my property. Of course, we would have two neighbors who would see our pool, but where we are located, it would be my mom and dad who could see our pool. We provided the letters of support from the surrounding neighbors."

Bill Beckwith, "Is there anyone else who wished to speak in favor of this?"

Hello, my name is Eric Brooks, owner of Innovative Pool and Spa. The builder. When I first met and came out to look at the property, we thought it was a slam dunk to put this thing in the backyard. You can see from the survey, that the house is pushed all the way to the back. Putting the pool on the other side, there are drainage issues because it falls off in that direction. In the back, running the power meter is here where it says the electric line, and her water, and well. So, we tried to come up with the best solution to putting it on the side of the house. Her mother lives on this side on the backside. In normal situations, a pool is at the rear of the house. We tried everything to make it work and the side was the best solution.

Bill Beckwith, "Anyone else like to speak in favor?"

Yes, I am her mom and I own the property next to her.

Bill Beckwith, "You need to come up and speak, and put your name and address down for the record."

Hi, I am Laura Maxwell and I want the pool too.

Do you have a gate in her fence?

"Yeah!"

Bill Beckwith, is there anyone else to speak for or in opposition to this petition? I will bring it back to the board.

Brian Haren says, "First of all, sir, I want to thank you for showing up. Usually, when we have issues like this, the pool contractor does not show up. Thank you for showing up to defend your design."

Bill Beckwith, "Is the minimum distance to the pool deck from the property line. Is that where it is?"

Eric Brooks, "Yes, sir right there at the 35 feet."

Bill Beckwith any other questions or comments?

John Tate, "I don't have a problem with it."

***Anita Davis made a motion to approve Petition No. A-857-24. Marsha Hopkins seconded the motion. The motion passed 5-0.***

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*John Tate made a motion to adjourn. Anita Davis seconded the motion. The motion passed unanimously.*

The meeting adjourned at 8:11 p.m.

ZONING BOARD OF APPEALS  
OF  
FAYETTE COUNTY



BILL BECKWITH, CHAIRMAN



CHRISTINA BARKER, ZBA SECRETARY *DLB*