

Minutes 05/28/2024

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
Marsha Hopkins
Anita Davis & John Tate were absent

STAFF PRESENT: Debbie Bell, Planning and Zoning Director
Maria Binns, Secretary
E. Allison Ivey Cox, County Attorney
Deborah Sims, Zoning Administrator (absent)

1. Call to Order.

2. Pledge of Allegiance.

Staff requested to amend the Agenda to add the Election of the Secretary. *Brian Haren made a motion to amend the agenda to add the Election of the Secretary. Marsha Hopkins seconded the motion. Motion carried 3-0. Anita Davis and John Tate were absent.*

3. Approval of Agenda. *Marsha Hopkins made a motion to approve the amended agenda with the addition of Election of the Secretary as item 5. Brian Haren seconded the motion. The motion carried 3-0.*

4. Consideration of the Minutes of the Meeting held on February 26, 2024. *Brian Haren made a motion to approve the Minutes of the Meeting on February 26, 2024. Marsha Hopkins seconded the motion. The motion carried 3-0.*

5. Election of the Secretary. *Bill Beckwith nominated Maria Binns as the Secretary to the Zoning Board of Appeals. Marsha Hopkins seconded the nomination, there were no other nominations. The board voted and the vote to elect Maria Binns carried 3-0.*

PUBLIC HEARING

5. Consideration of Petition No. A-858-24 – Jason Ridlehoover and Caleigh Ridlehoover, Owner, and Revive Contracting, LLC, Agent, request a variance to Sec. 110-125(d)(6), requesting to reduce the side yard building setback in the A-R zoning district from 50' to 26' to allow the existing house to remain. The subject property is located in Land Lot 31 of the 7th District and fronts on Nelms Road.

Debbie Bell introduced petition A-858-24 and review staff report by stating the parcel does have unique or limiting factors. The most significant factor is the 100-year flood plain. The house was built by a prior owner and the current owner was not aware of the encroachment until they applied for a permit to replace the deck. The encroachment is unlikely to have a negative impact on the adjoining property.

Mr. Riddlehoover states the house was built in 1985. He hired Revive Contracting, they recommended to rebuild the deck since was not up to code since the first time, went through the permitting process and they found out the chimney was rotten on the inside. While working with Leslie and the permitting department we submitted everything that was required, after that I was notify about the zoning issue, I worked mainly with Debra Sims in the zoning office. He requested the board consideration for the variance to allow the safety of the house and his family. Contacted next door neighbor to advise the issues he was having with his property and to make sure he didn't have a problem with it and/or to let him know.

Brian Haren asked if the map represented the 100-year flood plain, Ms. Bell responded yes, that was the 2013 Fayette County limited detail study and that it was a little different from the FEMA flood plane, which is older. He also asked if we had the permit from the house was built in 1985? Ms. Bell replied no because we did not get foundation surveys until 2012.

Marsha Hopkins commented the way the property was position within the flood plain, doesn't leave much of an option, she didn't see any issues.

Brian Haren made a motion to approve Petition No. A-858-24. Marsha Hopkins seconded the motion. The motion carried 3-0.

Debbie Bell introduced petition A-859-24. – Earold Anthony Brown, Owner, requests a variance to 1. Sec. 110-144(d)(5), requesting to reduce the side yard building setback in the C-H zoning district from 15' to 3.3' to allow the existing house to remain. The required 50' zoning buffer will remain. 2. Per Sec. 110-144(d)(3)(b), requesting to reduce the front yard setback from 65' to 62.1' to allow the new house to remain. The subject property is located in Land Lot 199 of the 13th District and fronts on Highland Hills Rd. and Highland Drive.

Ms. Bell explained this is an unusual because it is a C-H property, is up in the north part of the county just south highway 138, it's been zoned commercial for quite some time, but a residential home is allowed and provided that it meets certain criteria. However, there is not provision for the buffer to go away, the setback is what is allowed on C-H with the buffer because the property is next to a residential property on the south side. She pointed at the encroachment on the map. The house will not encroach in a 50-foot buffer along the property line there is also a 15-foot setback where the house encroaches in that building setback and at the front yard setback.

Mr. Brown states he bought this property as a commercial lot but being in a residential neighborhood he wanted to opt for a residential home for his family. He explained he is aware of the encroachment on the property, he states the property was full of debris where people will dump trash and he clean it up. He asked the board to consider his petition in order to remain on this property for his forever home.

Irma Harris states the building of this home will be facing her house across the street, her others neighbors' homes are facing opposite sites. She states there was not enough land for this structure size or to have a yard.

Yolanda Simmons states that a septic tank pipe is exposed on the side of her home and there is a tree and if it falls, the pipe will bust, she explained the builder was aware the setbacks.

Marcia Dunbar states if this zoning is allowed, would this open the door for someone else to build a house without all the right setbacks? Bill Beckwith responded not necessarily. Also, will this variance affect the drainage on Highland Drive? Bill Beckwith responded it might improve it. We don't know until the house is completed and it has to be the proper drainage around the construction site.

Bill Beckwith asked if you look at the layout on the west side of the structure, is that Mr. Brown's property too? Ms. Bell responded yes, I believe it is, that parcel that backs up is also his. Mr. Beckwith asked Ms. Bell if we knew the size of that lot? Ms. Bell responded I don't, but the lot is a legal lot of record in its configuration and in terms of lot size.

Mr. Brown states when he bought the lot, he worked with the county to make sure he submitted all the required documentation. He states he doesn't have a well and have paid the county every time, he states he will not use a well and he will use blinds in his windows for privacy. He states he is a good neighbor and asked the board to consider his petition.

Brian Haren asked where is the front of the house? Mr. Brown responded is face onto Highland Dr. Mr. Haren asked Ms. Bell if it was a foundation survey and Ms. Bell responded that was the foundation survey on the map displayed, she explained the process and zoning department has met with other departments including building safety and there isn't another way for the placing of the foundation of the house, but the way is showing on the map.

Marsha Hopkins added that we have had several other cases where we ran into the same issues. However, to the petitioners point, if the storage units bought that it would be more storage units. This project will be an improvement to the area, and she will be supporting it.

Bill Beckwith asked if the size of the lot is approved for a septic system? Ms. Bell

responded yes.

Brian Haren states that for those to spoke against the project, since the lot is zoned C-H (Commercial Highway) you could have a gas station or another storage unit instead. He mentions he will support this petition.

Marsha Hopkins made a motion to approve Petition No. A-859-24, part 1, to reduce the side yard setback. Bill Beckwith seconded the motion. The motion carried 3-0. Bill Beckwith made a motion to approve Petition No. A-859-24, part 2, to reduce the front yard setback. Brian Haren seconded the motion. The motion carried 3-0.

Debbie Bell introduced petition A-860-24. – Jerry Battle, Jr. and Melissa Battle, Owner, and Randy Boyd, Agent, request a variance to Sec. 110-242(h) request for an illegal lot to be deemed a nonconforming lot. The subject property is located in Land Lot 252 of the 4th District and fronts on McBride Road.

Ms. Bell explained the staff assessment under this request meets all the criteria outlined in Sec 110-242(h) refer to the following criteria and justification:

- (1) The subject property was made illegal by actions of a previous owner via a plat recorded 4 Nov 1987, which is more than 10 years ago.
- (2) The petitioner is not the person, or an immediate family member of that person, who cause the subject property to be an illegal lot.
- (3) As defined in Sec. 110-242(h)(3), there is no property available to add to this lot transform into a legal lot. The reduction in area of any of the adjacent lots would cause those lots to be illegal in size, road frontage, or lot area.

This is located on McBride Rd just south of the US Station, it's zoned A-R, she shows the aerial map on the screen and notes that a lot of trash and debris has been cleaned up. There is an older house from the early 1900's on the lot and a workshop, she also shows an actual survey that shows the older accessory structures removed and what is left is the remaining shop and a well house, which is an allowable accessory structure.

Randy Boyd states he is a local surveyor and engineer he's representing Mr. Battle & Melissa since April 7, 2023. He explains the property zoning, acreage and explains the lots around it. He states wasn't aware of Sec 110- 242(h) but it gives you the board the opportunity to make it legal nonconforming lot again since it's not much you can do in its present form, the Battles are not relate it with the people that created this lot, you cannot add it to the lot to the west where it belonged before, the acreage will not be sufficient for the A-R zoning requirements, the neighbor in the back is not interested in selling or purchasing this lot, he asked the board to consider the approval of this petition.

Bill Beckwith asked if anyone in the audience wanted to speak in favor of the petition or in opposition? No one responded, he brought the matter to the board for questions.

Marsha Hopkins asked the reason you want it to make other improvements on the property and in order to do that you found out it was an illegal lot.? Mr. Boyd responded yes, back in April 2023 all the problems came out and the process to fix it you have to make it from illegal to legal and you will have more latitude to continue, they are going to try to keep the old house there but till now we can't do anything until the illegality of the lot out. Mr. Beckwith want it to ask that question too.

Brian Haren questioned why not do a rezoning request. Mr. Boyd responded you can't go directly to rezoning until the illegality of the lot is taken out fist. Ms. Cox confirmed they can't do that, it's illegal. Mr. Haren mention has no objections after that.

Brian Haren made a motion to approve Petition No. A-860-24, to deem an illegal lot a nonconforming lot. Marsha Hopkins seconded the motion. The motion carried 3-0.

The meeting adjourned at 8:15 p.m.

ZONING BOARD OF APPEALS
OF
FAYETTE COUNTY



BILL BECKWITH, CHAIRMAN



MARIA BINNS, ZBA SECRETARY