

Minutes 03/24/2025

THE FAYETTE COUNTY ZONING BOARD OF APPEALS met on March 24, 2025, 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-Chairman
Bill Beckwith
Brian Haren
Kyle McCormick

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

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1. Call to Order. *Chairman John Tate called the March 24, 2025, meeting to order at 7:00 pm.*
 2. Pledge of Allegiance. *Chairman John Tate offered the invocation and led the audience in the Pledge of Allegiance.*
 3. Approval of Agenda. *Brian Haren made a motion to approve the agenda as presented Bill Beckwith seconded the motion. The motion passed 5-0.*
 4. Consideration of the Minutes of the Meeting held on February 24, 2025. *Bill Beckwith made the motion to approve the minutes of the meeting held on February 24, 2025. Marsha Hopkins seconded the motion. The motion carried 5-0.*

PUBLIC HEARING

5. Consideration of Petition No. A-885-25 – Matthew & Kristi Oates, Owners, Applicants are requesting a variance to Sec. 110-125(d)(6), to reduce the side yard setback from 50 feet to 47.4 feet to allow an existing accessory structure to remain. The subject property is located in Land Lot 167 of the 4th District and fronts Chappell Road.

Ms. Deborah Sims stated that while working with the surveyor trying to get the property lines realigned, it came to their attention that the accessory structure was 47.4 feet from the property line. They are requesting a variance to proceed with subdividing the property for better alignment.

Ms. Kristi Oates explained that they had a swing set that was replaced with the existing shed, but once they got the survey, they found out it was 47.4 feet from the property line. She asked the board to make an exception to keep it as it.

Chairman John Tate asked if anyone in the audience was in favor of the petition. No one responded, then asked if anyone was in opposition.? No one responded. The chairman brought the item back to the board for questions.

Bill Beckwith asked the petitioner if she and her husband had constructed the shed, and when that was.?

Ms. Oates responded Yes, around the late 90s, earlier 2000s. She added they had lived there for almost twenty years.

Mr. Beckwith asked how it is constructed.? What materials?

Ms. Oates stated that the three sides are cedar and have a black metal roof; it has just one side that is open.

Mr. Kyle McCormick asked if she had talked to the neighbors concerning the setbacks.?

Ms. Oates responded Yes, they have no objection.

Chairman John Tate asked the board if no further questions, to made a motion.

Brian Haren made a motion to APPROVE Petition No. A-885-25. Bill Beckwith seconded the motion. The motion passed unanimously.

6. Consideration of Petition No. A-886-25 – Barbara & Roch LaRocca, Owners, Applicants are requesting a variance to Sec. 110-149(d)(6)(c), to reduce the side yard setback from 15 feet to 8.5 feet to allow the construction of a new accessory structure. The subject property is located in Land Lots 3 and 21 of the 6th District and fronts Longmead Drive and Redwine Road.

Ms. Sims explained that the petition is located on the Timberlake Subdivision and is a PUD, which is a different configuration since it has two front yards, a narrow yard and the way the house is located makes it a little difficult to build the accessory structure without some encroachment into the setback from 15 feet to 8.5 feet.

Mr. Dan Undutch presented the board with photographs of the site and introduced himself as the builder's and owner's representative. The owners desire to construct a garage, but the aesthetic of the building, trying to go wider instead of deeper into the backyard, makes more sense. The affected neighbor to the left is in support and will not strike their view in any way.

Mr. Bill Beckwith asked if there is a garage already associated with the house.?

Mr. Undutch responded that they do have an attached smaller two car garage.

Mr. Brian Haren asked if there are any unusual conditions on the lot that will prevent that structure from being pushed further to the rear, and so it's in the back yard within the setbacks.?

Mr. Undutch responded no, per said. It could be put further back, but it will put a turn that will block their view from the back of the house, and a practical standpoint for their usage, and see if they can put an open breeze way into the garage and the new workshop, it's an ideal location as presented.

Mr. Haren asked staff if this was a PUD zoning issue, not a HOA issue.?

Ms. Sims replied that this is a PUD issue; the size yard setback is 15 feet, and to get the garage they want, they will have to encroach into the setback. Staff will require a foundation survey to be submitted before they get their framing inspection to ensure they do not encroach any further than they are allowed.

Mr. Haren asked the petitioner since it is a PUD, there is an HOA, and so they have waived on this.?

Mr. Undutch responded that they had approved the project, but we will need to present the approval for encroaching on the setbacks.

Chairman Tate asked about the space between the actual garage and the proposed one in the photos presented by the petitioner.?

Mr. Undutch responded from the side of the house to the side of the garage. The garage starts at the end of the driveway, trying to keep it far enough from the house so it can be a walkway and not a complete tunnel.

Chairman Tate replied, "Why can the new structure be attached to the house itself? It will move it back, and it will not require this variance."

Mr. Haren asked to clarify, are you asking to take away the breezeway?

Chairman Tate responded that if it wasn't necessary to have it, if you eliminate the breezeway, then it wouldn't be an encroachment. He asked the petitioner if that idea had been discussed.?

Mr. Undutch responded that it has been, it's not what the owners would desire as far as the aesthetic look and cutting off access to the back yard. The way they will utilize the property is not ideal for that.

Mr. Haren asked where the drained field is on the property.?

Mr. Undutch responded in the front yard.

Mr. Beckwith added that we are aware of a number of criteria that have to be met, but just because the owner wants something that is going to look nice is not one of them. We tried to look at other options if we could, like an alternate location for the project without breaking the law. He suggested relocating or putting the project closer to the house or the back. Do you think there is a way to do that? He asked the petitioner.

Mr. Undutch responded that we could change the design of the building to fit the space. As I read the criteria, the property layout doesn't have enough feet to work on. It could be redesigned, but the functionality wouldn't work.

Mr. Beckwith responded I'm still hearing would like to have it that way, and that is concerning. If you could be redesigned without compromising the ordinances/setbacks.

Chairman Tate asked if their a reason why the breezeway wants it to be almost ten feet?

Mr. Undutch responded that we want ample room to have a conform feel.

Ms. Marsha Hopkins asked by looking on the aerial photo of the homes looked similitier sided and not of them had development much beyond going further into the back, I see that as supporting your point, the narrow it of the lot and the way it is situated would perhaps the lot doesn't lend itself to be under consideration we are suggesting.

Chairman Tate added that he appreciated the comments, and he understands there is not a lot of space on the site. He expressed his concern about opening the doors for other properties following the same additions to their homes.

Mr. Beckwith stated the petitioner has options to redesign and would not be any encroachment, and with that in mind, I will move to disapprove this petition.

Mr. Kyle McCormick regarding the redesign, but they had already voted for a motion.

Bill Beckwith made a motion to DENY Petition No. A-886-25. Chairman John Tate seconded the motion. The motion passed 5-0.

7. Consideration of Petition No. A-887-25 – Black Loyd Hall Jr. Estate, Owner, Applicant is requesting a variance to Sec. 110-125(d)(5) to reduce the rear yard setback from 75 feet to 60 feet to allow the existing house to remain. The subject property is located in Land Lot 93 of the 4th District and fronts Bankstown Road and Morgan Mill Road.

Ms. Sims explained the property was originally developed as one lot, and they are returning to subdivide the property, but when the house was constructed, the eastern property line will be the side yard setback, which would only be fifty feet, now if they come back and subdivide you have an issue with the house being too closed to the side yard setback for them to get tree lots. They are asking for a reduction since this side yard will become the rear yard with the subdivision of the property and will be reduced to sixty feet to allow the existing house to remain at its current location. She showed the Minor Final Plat submitted for review and explained the changes wanted.

Chairman Tate asked if the petitioner was present, but no one responded. He asked if anyone in the audience wanted to speak in support of the petition.? With no response, he moved to ask if anyone was in opposition to the petition.

The following names were selected as the group's spokespersons in opposition to the petition:

Mr. Steve Sullivan
Mr. Jay Updyke
Mr. Darby Holliman
Mr. David Kent
Mrs. Sheila Sullivan

The spokespersons agreed on the alternative to make this property a flag lot to front Morgan Mill Road, and the remaining property will be sufficient for one additional house. They all had concerns about the drainage issues that will channel into their property by adding more than one house on this lot and how it will affect them.

Chairman John Tate asked if anyone else was in opposition of the petition, with no response, he brought the item back to the board for questions. He asked the staff if they had heard anything from the petitioner.

Ms. Sims responded No, sir, we have not.

Bill Beckwith expressed concern that the petitioner's absence from the meeting was unusual, as it allowed the petitioner to hear the opposing viewpoints and present their position against the proposed one. He believed that this was a crucial aspect of the situation and expressed his concern that no one was present to support the proposed position.

Ms. Marsha Hopkins commented that since the petitioner is not here, what we have left is the record, and it lacks a lot of information in the five areas that we are charged with evaluating each case. Can we work on this and make a decision?

Mr. Brian Haren asked staff, by looking at the survey, which of those lines represents the boundary where that structure needs a variance? Is it the horizontal line?

Ms. Sims pointed at the survey and explained that by rotating the property instead of having two front yards, it will only have one front yard that will become the rear yard, and you will have a 75 foot setback instead of 50 that it had when the house was constructed.

Mr. Haren stated that the opposition's objections to the board's proposed layout, aside from the slight off-centeredness of the building, are perfectly legal. He argued that the owner could rearrange things and come back asking for the same things. If the petitioner is absent, now is potentially in violation, and he would not support this as the petitioner's absence.

Brian Haren made a motion to DENY Petition No. A-887-25. Bill Beckwith seconded the motion. The motion passed unanimously.

8. Consideration of Petition No. A-889-25 – Anthony Whitmore, Owner, Applicant is requesting A) Variance to Sec. 110-133(d)(4)(a)(2) to reduce the front yard setback from 75 feet to 63 feet to allow the primary structure to remain. B) Variance to Sec. 110-79(c)(1), to allow three existing accessory structures in the R-70 zoning to remain. The subject property is located in Land Lots 44 and 45 of the 7th District and fronts Sandy Creek Road.

Ms. Sims explained the variances requested by the petitioner and added that the house was built several years ago. When the property was originally subdivided, they did not require the property owner to get a variance, as it currently sits as a “U” shape around it, and they're proposing to do three lots with houses on either side, instead of having two lots as she showed the survey and explained on the maps.

Mr. James Quattlebaum presented himself as the surveyor of the project. He explained they want to keep the shed, garage, and an open cabana by the pool, which were built prior to 2005, and everything else will be removed. Also spoke about the variance for the house to keep it as it is.

Chairman Tate asked if anyone in the audience wanted to speak on behalf of the petition.? With no response, he asked if anyone was in opposition of the petition.? But no one responded.

Ms. Allison Cox, County Attorney, stated that we must separate votes and separate hearings. We need to consider each petition separately with separate votes and motions.

Mr. Brian Haren asked the petitioner, after the construction of the residence, if there were any improvements on Sandy Creek that expanded the ROW that took frontage property.

Mr. Quattlebaum responded that he asked the DOT and was told there were a couple of plats that he didn't know if were recorded or not. He explained on the survey, and the DOT person he spoke with told him he didn't take any ROW, and if it was given to them, they would take it.

Mr. Haren asked if the current owners of this property were the same owners when these accessory structures were built.?

Mr. Quattlebaum responded No, they bought the property with these structures on it.

Mr. Haren asked if there was any record of permits for the construction of these structures?

Mr. Quattlebaum responded that there are some plats I have signatures from the zoning, but they weren't recorded.

Mr. Haren asked the staff about the creation of lot one. Isn't the mechanism that puts this out of compliance, correct?

Ms. Sims responded, no, they are just creating two lots, and to receive approval, we found out the variance was too close, and after looking, we did not find a variance for the house.

Mr. Haren asked the petitioner which of the accessory structures you wanted to have remain.?

Mr. Quattlebaum responded the shed, the garage, and the cabana.

Mr. Haren asked if the shed that sits in the corner has a poured foundation.?

Mr. Quattlebaum responded that he wasn't sure.

Chairman Tate asked the board for any comments.? With no response, he asked for a motion.

A-889-25-A. Chairman John Tate made a motion to APPROVE Petition No. A-889-25-A. Brian Haren seconded the motion. The motion passed unanimously.

Chairman Tate called the petitioner to speak in favor of petition A-889-25-B and asked if he would like to address that.?

Mr. Quattlebaum, as previously mentioned before they would like to keep the shed, the garage, and the cabana in the pool, but the other three items will be removed.

Chairman Tate asked if anyone else was in favor or opposed to the petition.? He also asked for the acreage on lot two.

Mr. Quattlebaum responded 3.28 acres.

Chairman Tate asked when this property was purchased by the current property owner.?

Mr. Quattlebaum responded that the deed was dated November 25, 2024.

Chairman Tate asked it was purchasing as how many acres.?

Mr. Quattlebaum responded was almost four acres. He mentioned he had changed the property lines some.

Mr. Haren added that lot one, the interior lot that we are considering, was 3.67 acres, and the horseshoe shape around it before being subdivided was 6.9 acres. Over ten acres in total before it was subdivided. He asked if there were two separate lots.

Ms. Sims replied were legally subdivided around 2005.

Mr. Beckwith expressed his concern about whether they allow for another accessory structure in violation of the ordinance, and he asked the petitioner for a reason why they would like to keep all three instead of getting rid of one.?

Mr. Quattlebaum responded that they need a garage for the house, a shed for the lawn equipment, and the third is a pool cabana.

Mr. Haren asked staff how many accessory structures are we allowing in R-70 zoning.?

Ms. Sims responded that if you are less than five acres are you are allowed to have two accessory structures totaling no more than 1,800 sq ft between the two; however, you would like to divide the two. To combine them doesn't seem like an option, since it would exceed the maximum allowance.

Mr. Beckwith added that without a commitment from the owner, and if we were to deny this and allow only two structures, it will be up to the owner to decide what to do with the third one and which one it would be, or we can approve this and create an allowance for three structures.

Ms. Marsha Hopkins responded that the only justification that she found in the record is the owner's claim that it will be a financial hardship to have to take it down, but that is not the basis for our deliberations on whether to approve or deny this. The owners created that because of the subdivision, and will be heading in the wrong direction to allow for three structures to be there.

Chairman Tate commented on how that shed was built.? On a foundation or movable?

Mr. Quattlebaum responded that he thinks it is in a foundation, if not is not movable, and it is built with posts on the ground.

Chairman Tate responded that if movable could be attached to the garage itself to make the two structures.

Mr. Quattlebaum asked what constitutes a structure.

Ms. Sims replied that we count roof lines, if you combine the garage and the shed into one, that will be the one structure with 1,500 sq ft, and you can keep the pool cabana as a second structure and not go over the 1,800 sq ft.

Mr. Beckwith asked staff if we were to deny allowing 3 accessory structures, would it be a time frame for the owners to remove one of the structures or do something about one of the structures without us saying which one?

Ms. Allison Cox responded that one of the structures is currently not legal. They can subdivide this property as it sits now without taking care of that structure; they will have to get a variance from this board or tear it down. If they go forward with the other departments, they will be denied because they have an illegal structure on the property. The time frame is up to them if they want to move forward with subsidizing.

Mr. Quattlebaum asked what proof we need to bring to show it was removed.?

Ms. Sims responded that they would need to pull demolition permits with the Department of Building Safety, and they will do an inspection to confirm that it's demo. Once they complete the inspection, we will have in the permanent record that it has been demolished.

Mr. Haren asked if the current owner bought this after it had been subdivided to create that "U" shape out of the parcel, so this accessory structure (shed), before this property was subdivided, was that a legal structure? Ten acres?

Ms. Cox responded that she wasn't sure when it was built, if they had pulled a permit to build. I couldn't answer that, it wouldn't be legal under our codes.

Chairman Tate asked for more clarification from staff.

Ms. Sims explained that on R-70 zoning, you are allowed a total of two accessory structures totaling no more than 1,800 sq ft. If you have 5 acres or more, you can go up to 3 accessory structures totaling no more than 3,600s ft.

Chairman Tate responded that because the applicant is subdividing the property, it hasn't happened.

Ms. Sims responded that because there are still two lots currently, it is a "U" shape, and they are proposing to add one more lot. She stated she didn't know why this wasn't addressed when the property was subdivided the first time.

Mr. Haren commented as originally built was legal. After subdividing the property and the stuff was made illegal, nobody got variances for it. Somebody comes along and buys the property, doesn't realize a lot of the stuff are now illegal, do we hold a property owner responsible for the previous owner's actions?

Chairman Tate added that if the petitioner is one owner and two lots? If lot two was increased and you decreased any of the other lots, that wouldn't be an issue. He asked if anyone else on the board had any comments.

Mr. Haren responded, no, but thank you for bringing that up. I had not considered that.

Mr. Beckwith added that we are looking at a proposed plat, but lines can be moved to keep what's there and still have all three structures remain.

Mr. Quattlebaum asked staff if we redesigned the cabana by taking out the roof and putting a retractable roof instead, would that still be considered a roof?

Ms. Sims read Sec. 110-79. - Residential accessory structures and their uses(c)(3), she stated she didn't see a way to approve a roof.

Mr. Quattlebaum responded that this will be like a Motorized Retractable Awning.

Ms. Sims responded, you will have to submit a permit, and we will have to review it.

Mr. Haren added that they will have to readjust things, so you get five acres to keep all three structures, or remove one of them.

Mr. Beckwith agreed with Mr. Haren and added is not up to us to decide which one to choose.

Chairman Tate asked for any more comments or to make a motion.

A-889-25-B. Brian Haren made a motion to DENY Petition No. A-889-25-B. Bill Beckwith seconded the motion. The motion passed unanimously.

9. Consideration of Petition No. A-890-25 – Iris Williams, Owner, Applicant is requesting a variance to Sec. 110-137(d)(4)(a), to reduce the side yard setback from 60 feet to 54 feet to allow construction of a Single-Family dwelling. The subject property is located in Land Lots 74 & 75 of the 5th District and fronts South Jeff Davis Drive.

Ms. Sims stated that the property was recently subdivided in 2022 there is watershed protection, and there is a provision and watershed protection that you cannot request a variance to watershed protection if it is indicated on the final plat.

This final plat does show watershed protection, and they did get a variance to the contiguous buildable area, typically for a lot in the zoning you are required to have a minimum of contiguous buildable area of 0.3 acres this one only has 0.17 they did get a proper variance back when variances were allowed to contiguous buildable area to reduce it to this, but now they are coming back and requesting an additional variance to reduce the front yard setback by 6 feet to allow construction on the primary residence. Ms. Sims showed the maps and proposal.

Chairman Tate asked if the petitioner was present to come to the podium to speak.? No one's responded. He asked if there was someone to speak on behalf of the petitioner. There was no one to speak in favor or opposition.

Ms. Cox commented that the board has the option to table the petition, you don't have a lot of information in front of you, you do have the option to table it to the next hearing and see if the petitioner comes before you. We just need a certain date and a reason.

Mr. Beckwith, we don't know the circumstances for the proponent or agent for not being here.

Bill Beckwith moved to TABLE Petition No. A-890-25 to the May 27th, 2025, Zoning Board of Appeals Meeting. Brian Haren seconded. The motion passed unanimously.

10. Consideration of Petition No. A-891-25 – Taryn and Logan Moore, Owners, Applicants are requesting a variance to Sec. 110-125(d)(6) to reduce the side yard setback from 50 feet to 36 feet to allow the primary structure to remain. The subject property is located in Land Lot 104 of the 4th District and fronts Kelley Road.

Ms. Sims this house was built years ago, while reviewing they had applied to have an addition, the survey indicated the house was less than 50 feet from the property line, so they are petitioning to allow the existing structure to remain at 36 feet from the property line to allow them to bring them into compliance to continue with the addition. She showed the maps and survey where the property was located.

Mr. Logan Moore spoke on behalf of the petition and explained that he bought the property with his wife last year from his grandfather. He stated they were unaware of the setback and the easement on that side. They spoke to the neighbor who owns that easement, and he has no problem with us doing this.

Chairman Tate asked the audience if anyone else would like to speak in support of the petition? With no response. He asked if anyone was in opposition.? After no response, he brought the item back to the board.

Mr. Haren asked the petitioner what year the house was built.?

Mr. Moore responded mid-eighties.

Mr. Kyle McCormick asked if they had a survey showing the addition.?

Ms. Sims showed the proposed addition on the screen and explained there are still some issues we will have to work with; there is a detached garage built that seems to stratal the property, and we are still working on have to handle that but when this property was subdivided it was fine for them to only 25 feet that you see here that is not an issue, is just that the house was built too closed and at that time we did not required a foundation survey to ensure that the property was on the buildable area of the lot.

Mr. Beckwith asked if the proposed addition would not encroach.?

Ms. Sims responded no, we just couldn't permit anything that would increase the nonconformity without getting permission to allow the existing encroachment to remain. The house was built after November 13, 1980 deadline. Our provision stated that if a house was built before that and the lot hasn't changed configuration that it will be okay, but in this case was after that date, and we need this variance.

Mr. Beckwick asked the petitioner, when did you purchase the house?

Mr. Moore responded February of 2024.

Chairman Tate asked staff had ever been a petition before the board on this particular property.?

Ms. Sims responded No, staff assume the house was built as it was meant to be built 50 feet from the setback, but the survey shows it was a little too close.

Mr. Beckwith, we don't know the reasons for how this happened, the petitioner owns what he has, and because of the new improvements, puts them in the spotlight; for that reason, I will be in support of the petition.

Marsha Hopkins made a motion to APPROVE Petition No. A-891-25. Brian Haren seconded the motion. The motion passed unanimously.

Kyle McCormick made a motion to adjourn the March 24, 2025, Zoning Board of Appeals meeting. Bill Beckwith seconded the motion. The motion passed 5-0.

The meeting adjourned at 8:55 p.m.

**ZONING BOARD OF APPEALS
OF
FAYETTE COUNTY**



JOHN TATE, CHAIRMAN



**DEBORAH BELL
DIRECTOR, PLANNING & ZONING**