

**THE FAYETTE COUNTY ZONING BOARD OF APPEALS** met on January 26, 2004 at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Public Meeting Room, First Floor, Fayetteville, Georgia.

**MEMBERS PRESENT:** David Bartosh, Chairman  
Bill Beckwith  
Larry Blanks

**MEMBERS ABSENT:** Ron Mabra, Vice-Chairman  
Tom Mahon

**STAFF PRESENT:** Chris Venice, Director of Planning/Community Development Division  
Director/Acting Zoning Administrator  
Dennis Davenport, Assistant County Attorney  
Delores Harrison, Zoning Technician  
Robyn S. Wilson, ZBA Secretary/Zoning Coordinator

**Welcome and Call to Order:**

Chairman Bartosh called the meeting to order and led the Pledge of Allegiance.

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**1. Election of a Chairman for 2004.**

**And**

**2. Election of a Vice-Chairman for 2004.**

**And**

**3. Election of a Secretary for 2004.**

Chairman Bartosh made a motion to postpone elections for Chairman, Vice-Chairman, and Secretary until the next regularly scheduled public hearing due to the lack of a full board being present tonight. Bill Beckwith seconded the motion. The motion unanimously passed 3-0. Ron Mabra and Tom Mahon were absent.

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**4. Consideration of the Minutes of the meeting held on December 15, 2003.**

Larry Blanks made the motion to approve the Minutes as circulated. Bill Beckwith seconded the motion. The motion unanimously passed 3-0. Ron Mabra and Tom Mahon were absent.

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Delores Harrison read the procedures that would be followed for presentation of and opposition to petitions, including the procedures to allow an automatic tabling due to the lack of a full board.

**5. Consideration of Petition No. A-545-04, Gregory Whatley, Owner, and Attorney Recia L. Wilson, Agent, request a Variance to allow the construction of a swimming pool in the front yard. This property is located in Land Lot(s) 3 and 17 of the 9th District, is zoned R-70, and fronts on Rivers Road.**

Chairman Bartosh informed the owner and agent that they had the option to table the petition due to the lack of a full board or proceed forward, however three (3) affirmative votes would be necessary for approval of the petition. He added that the petition stood a better chance before a five

(5) member board.

Gregory Whatley advised his attorney to proceed.

Attorney Recia Wilson advised that the subject property was an elongated lot and all the lots are required to face Rivers Road. She pointed out that Mr. Whatley's front property line is in the lake which is to the back side of the residence because the front of the residence faces the driveway which is on the back property line. She presented pictures indicating the front of the house which shows the slope of the lot and several large rocks; the back of the house; the right side of the residence which shows there is not sufficient room to locate a pool on the side; the left side of the residence which also shows there is not sufficient room to locate a pool on this side; the view from Rivers Road which shows a lake between Rivers Road and the residence; the nearest point of land to the property line facing Rivers Road; and the actual proposed site for the pool from the back of the house which is heavily wooded. She added that neither the residence nor the pool would be visible from Rivers Road.

Bill Beckwith asked to see the first two (2) photographs again.

Attorney Wilson, Agent, showed the photo of the front of the house which faces the rear property line and the other photo shows the back of the house which faces the front property line. She advised that the property extends into the lake and the pool would be between the house and Rivers Road.

Larry Blanks asked to see the plat of the subdivision to see the lot's relationship with Rivers Road.

Mr. Beckwith confirmed that Rivers Road is below the lake.

Attorney Wilson reported that the petition explained the need for a variance. She stated that the ordinance does not allow a pool to be located between the house and the front property line. She added that she had other pictures available for review.

Chairman Bartosh asked if there was anyone to speak in favor of the petition.

Gregory Whatley, Owner, said he had requested to place the pool in the front yard due to the topography of the lot. He explained that the driveway could not be placed to the back of the house, which is designated as the front yard by the County, due to the 150 foot watershed restrictions from the lake. He advised that they did consider placing the pool in the front of the house, which is designated as the back yard by the County, but this area is completely rock. He confirmed that he had to drill a well twice which was almost 900 feet deep due to the geography and infrastructure of the ground. He added that due to the side yard setbacks there was not enough room for a pool which only left the area in the front yard as designated by the County. He commented that his lot is approximately 900 to 1,200 feet off of Rivers Road and the house sits on an elevation of 900 feet. He remarked that he understood the ordinance but was left with no other place to construct the pool but in the front yard.

Chairman Bartosh said that seeing nobody present to oppose the petition, he closed the floor from public comments. He asked for a motion.

Larry Blanks made a motion to approve the petition. Bill Beckwith seconded the motion.

Chairman Bartosh commented that he was always concerned about setting a precedent and what impact the decision may have on future petitions. He asked Staff if a pool could be constructed to the side of the house by the lake.

Chris Venice nodded yes.

Mr. Blanks remarked that the subject property has a unique layout especially with the lake. He commented that the house was in the best location. He added that he did not see where any other piece of property would fall into this kind of unique situation and he was in favor of approval.

Mr. Beckwith explained that if the Z.B.A. grants the petition that they would be allowing the petitioner to break the law. He said that the Z.B.A. always tries to look at other options. He asked if the pool could be located on the east side of the house.

Mr. Whatley replied that his builder looked at this location, however there is a 500 foot natural drainage line to the east side of the house. He said that due to the slope on the east side of the house that the gutters would drain in this area to pull water away from the foundation of the house. He added that the proposed location was the only choice available due to the natural drainage areas and the rock.

Mr. Beckwith commented that the lot was unique. He added that the Z.B.A. could safely grant the variance without incurring any problems for future requests.

Chairman Bartosh said that looking at this lot, he does not see any precedent setting as far as allowing the pool to be located in the front yard. He added that there are some special circumstances which do meet the criteria.

At this time, Chairman Bartosh called for the vote. The motion unanimously passed 3-0. Ron Mabra and Tom Mahon were absent.

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Chairman Bartosh asked if there was any further business. He advised that the public hearing for February had been canceled due to the lack of applications.

Larry Blanks asked how Attorney McNally was recovering.

Attorney Davenport replied that Attorney McNally was recovering slowly but surely and that he is getting ready to come back to work.

There being no further business, Bill Beckwith made the motion to adjourn the meeting. Larry Blanks seconded the motion. The motion unanimously passed 3-0. Ron Mabra and Tom Mahon were absent. The meeting adjourned at 7:35 P.M.

**ZONING BOARD OF APPEALS**  
**OF**  
**FAYETTE COUNTY**

Respectfully submitted by:

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**DAVID BARTOSH**  
**CHAIRMAN**

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**ROBYN S. WILSON**  
**SECRETARY**