

THE FAYETTE COUNTY ZONING BOARD OF APPEALS met on July 25, 2005 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
Larry Blanks, Vice-Chairman
Bill Beckwith
Tom Mahon

MEMBERS ABSENT: Ron Mabra

STAFF PRESENT: Aaron Wheeler, Zoning Administrator
Dennis Davenport, Assistant County Attorney
Delores Harrison, Zoning Technician
Robyn S. Wilson, ZBA Secretary/Zoning Coordinator
Deputy Shawn Albea

Welcome and Call to Order:

Chairman Bartosh called the meeting to order and led the Pledge of Allegiance. He introduced the Board Members and Staff and confirmed there was a quorum present.

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1. Consideration of the Minutes of the meeting held on June 20, 2005.

Larry Blanks made the motion to approve the Minutes as circulated. Tom Mahon seconded the motion. The motion unanimously passed 4-0. Ron Mabra was absent.

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Aaron Wheeler read the procedures that would be followed for presentation and opposition for petitions.

2. Consideration of Petition No. A-553-05, Joseph Todd Coleman, Owner/Agent, request the following: 1) Request a Variance to allow an accessory structure to be located in the front yard; 2) Request an 89 foot Variance to reduce the front yard setback from 100 feet to 11 feet; and 3) Request a 38 foot Variance to reduce the rear yard setback from 75 feet to 37 feet to allow reconstruction of an existing accessory structure. This property is located in Land Lot 35 of the 7th District, fronts on Spear Road, and is zoned A-R.

Joseph Todd Coleman stated he was seeking permission to finish rebuilding a wellhouse/barn which was a 40 year old building and was falling down. He reported that there was a sixty (60) foot right-of-way and the measurements are accurate. He added that he knew of no one who was opposed to the variance requests.

Chairman Bartosh asked if there was anyone to speak in favor of the petition. Hearing none, he asked if there was anyone to speak in opposition of the petition. Hearing none, and with no rebuttal required, he closed the floor from public comments.

Larry Blanks made a motion to approve the petition.

Chairman Bartosh pointed out that there were three (3) variance requests and if one (1) fails then the entire petition fails.

Attorney Dennis Davenport replied that this is a correct statement.

Chairman Bartosh asked Mr. Blanks if he wanted to amend his motion to include all three (3) variances.

Mr. Blanks asked if a single motion for the approval of everything would be any different than three (3) separate motions.

Attorney Davenport replied that he was correct, however the motion should specify each variance request.

Larry Blanks amended his motion to approve Variance #1 regarding allowing an accessory structure in the front yard. Tom Mahon seconded the amended motion.

Mr. Mahon asked Mr. Coleman when he purchased the property.

Mr. Coleman replied 1989.

Mr. Mahon asked when was the accessory building built.

Mr. Coleman replied that the accessory building and the house were built in 1963.

Mr. Mahon asked if the accessory building had been expanded in any way.

Mr. Coleman replied no sir.

Mr. Mahon asked if the accessory was being expanded when the Stop Work Order was issued.

Mr. Coleman replied no sir.

Mr. Mahon clarified that the proposed accessory was the same size as the building constructed in 1963.

Mr. Coleman replied that this is correct.

Mr. Blanks commented that Mr. Coleman was repairing and reconstructing an existing grandfathered accessory which was deteriorating.

Bill Beckwith concurred with Mr. Blanks.

Mr. Mahon stressed that Mr. Coleman needs to understand that the accessory can not be expanded or enlarged.

Chairman Bartosh asked if the footprint was indicated on a building permit.

Attorney Davenport replied that a building permit has not been issued at this point.

Chairman Bartosh stated that the subject property was a nonconforming lot which has been in existence for a long time. He pointed out that an accessory could not be constructed without variance approval due to the configuration of the lot. He added that approval of the petition would not set a precedent.

Attorney Davenport stated that he wanted the record to reflect that the question last month dealt with the measurement, and whether it was taken from the centerline, or from the right-of-way and Mr. Coleman has stated that the measurement is from the right-of-way. He expressed concern, because of the two(2) sketches presented by Mr. Coleman, one (1) a hand drawn plat, and the other prepared by a surveyor was from the centerline of Spear Road. He pointed out that both plats indicate a lot depth of 150 feet and right-of-way acquisition went from the centerline approximately 27 feet onto Mr. Coleman's property. He commented that the distance from the property line to the wellhouse

was indicated at 11 feet so when Mr. Coleman applies for a building permit, a surveyors certification will be requested and approval of the petition tonight may not grant the relief which Mr. Coleman is seeking.

Chairman Bartosh clarified that the petition is being reviewed based on the information received from Mr. Coleman. He stated that even if the Z.B.A. approves the petition, Mr. Coleman will be required to meet any other requirements regarding the issuance of a building permit.

Attorney Davenport replied that this was correct, and the key is based on the limit of the right-of-way into Mr. Coleman's property.

Mr. Blanks remarked that the Z.B.A. has approved variances as requested, and later, a building permit could not be granted, so Mr. Coleman needs to understand if the information is inaccurate that he may have to refile a petition before the Z.B.A.

Mr. Coleman stated that Spear Road has a sixty (60) foot right-of-way and the measurements were taken 15 feet from the centerline and from that point the accessory measures eleven (11) feet.

Attorney Davenport pointed out that if Mr. Coleman measured fifteen (15) feet from the centerline and the measurement should have been thirty (30) feet from the centerline feet because there is a sixty (60) foot right-of-way. He reiterated that a surveyors certification will be requested prior to the issuance of a building permit.

Mr. Blanks asked if the County purchased right-of-way in 1996.

Mr. Coleman replied yes sir and the accessory building was there at that time.

Chairman Bartosh called for the vote. The motion to approve Variance #1 unanimously passed 4-0. Ron Mabra was absent.

Larry Blanks made a motion to approve Variance #2 regarding the reduction of the front yard setback. He added that he does not approve of such a drastic reduction, however this is a repair to an existing grandfathered accessory. Bill Beckwith seconded the motion.

The motion to approve Variance #2 unanimously passed 4-0. Ron Mabra was absent.

Chairman Bartosh made a motion to approve Variance #3 regarding the reduction of the rear yard setback, with the stipulation that the footprint of the new accessory building not exceed the footprint of the accessory building which it is replacing. Larry Blanks seconded the motion.

The motion to approve Variance #3 with a condition unanimously passed 4-0. Ron Mabra was absent.

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- 3. Consideration of Petition No. A-555-05, George Kritko, Owner/Agent, request a 25 foot Variance to reduce the front yard setback from a minimum of 75 feet to a minimum of 50 feet to allow construction of a single-family dwelling. This property is located in Land Lots 44 and 53 of the 7th District, fronts on Sandy Lake Circle, and is zoned R-70.**

Chairman Bartosh asked Attorney Dennis Davenport to address the petition.

Attorney Davenport explained that, at the last meeting, the issue arose regarding the location of the private easement which Mr. Kritko was seeking to relocate. He said that the issue was whether or not an adequate document had been put together and executed by the appropriate parties to affect

such a relocation of the private easement. He stated that Mr. Kritko had provided the document and the County Attorney's Office has been reviewing the document to determine if a proper easement was relocated, as well as, any issues surrounding that document. He commented that he had met with Mr. Kritko about two (2) weeks ago to discuss several issues which came up in the review. He reported that there were two (2) property owners which had issues that Mr. Kritko needed to go back and have re-executed, but the most substantial issue came about when research showed that the County also has a right into that easement since 1978 or 1979. He confirmed that Mr. Kritko was advised that, should he desire to go forward, the next step in the process was to meet with the B.O.C. on one (1) of their agendas and bring the issue before the B.O.C. and ask them to terminate their ownership interest in the easement, and then to offer an additional easement in the same area where he is trying to get the easement relocated. He confirmed that Mr. Kritko is scheduled to meet with the B.O.C. on August 3, 2005 and he should find out their position in respect to this issue. He noted that the easement issue is still in question and at a minimum, the B.O.C. has an ownership interest where Mr. Kritko is seeking to construct part of his house.

Chairman Bartosh clarified that if the Z.B.A. were to approve the variance tonight, that they would be approving a variance for Mr. Kritko to construct a house on someone else's property or an easement which is owned by the County.

Attorney Davenport replied, by the County and two (2) other property owners.

Chairman Bartosh stated that the Z.B.A. did not have the authority to address the issue.

Attorney Davenport replied that it is up to Mr. Kritko as to how he wants to proceed, either going forward, withdraw, or table the petition. He confirmed that the Z.B.A. had nothing to consider tonight without the issue being settled by the B.O.C. He explained that should Mr. Kritko proceed or, if he gets into any substance of the issue, then he is locked into being heard tonight and if he is denied tonight, there is a one (1) year waiting period before he could reapply.

Tom Mahon pointed out that there is not a full board present tonight, so if the vote is 2-2, the petition is denied for the lack of three (3) affirmative votes.

Attorney Davenport confirmed that the petitioner does have the option to table one (1) time due to the lack of a full board.

Chairman Bartosh asked Mr. Kritko what did he chose to do tonight.

Mr. Kritko said he would probably like to take the option to table, however, he stated that the Z.B.A. could vote tonight because the issues pertaining to this property do not amount to much except the one (1) about the B.O.C.

Chairman Bartosh replied that the Z.B.A. does not have the authority, nor is it for the Z.B.A. to judge, whether Mr. Kritko is correct or the County is correct. He stated that the Z.B.A. would be stepping way out of bounds. He commented that the Z.B.A. is trying to give Mr. Kritko the best option.

Chairman Bartosh asked Mr. Kritko if he would like to table the petition until the August 22, 2005 Public Hearing.

Mr. Kritko replied yes.

Chairman Bartosh made a motion to table the petition until August 22, 2005 due to the lack of a full board. Larry Blanks seconded the motion. The motion unanimously passed 4-0. Ron Mabra was absent.

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4. **Consideration of Petition No. A-556-05, Rising Star Baptist Church, Owner, and James L. Price, Agent, request an expansion/enlargement of a nonconforming structure to allow a proposed addition for relocation of the front entrance and two (2) restrooms consisting of 578 square feet to be added to the existing church. This property is located in Land Lot 155 of the 4th District, fronts on Rising Star Road and Old Greenville Road, and is zoned A-R.**

James Price requested approval to relocate and enlarge the front entrance of the church and to construct two (2) bathrooms. He advised that the church was constructed in 1938.

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

Gloria Reeves, the Pastor's wife, said that they would like to change the front of the church from Old Greenville Road to Rising Star Road, which would allow expansion of the front of the church to accommodate two (2) restrooms, which will be handicap accessible. She pointed out that the existing restrooms are located upstairs or outside of the church.

Chairman Bartosh asked if there was anyone to speak in opposition of the petition. Hearing none, and with no rebuttal required, he closed the floor from public comments.

Tom Mahon made a motion to approve the petition. Bill Beckwith seconded the motion.

Mr. Mahon asked if the actual building was being moved closer to Old Greenville Road yet there is a statement that the enlargement will not extend beyond the portion of the existing structure.

Mr. Price replied that the addition would be brought out to the existing steps. He added that the addition would be enclosing the front porch.

Chairman Bartosh asked if Mr. Price had any pictures for the Z.B.A. to review.

Mr. Price presented the Z.B.A. with pictures to review.

Chairman Bartosh asked what was the square footage of the addition.

Aaron Wheeler replied 578 square feet.

Tom Mahon amended his motion to stipulate that the addition will not be located closer to the street than the existing footprint. Bill Beckwith seconded the amended motion. The motion unanimously passed 4-0. Ron Mabra was absent.

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5. **Consideration of Petition No. A-557-05, Trustees, Inman United Methodist Church, Owners, and S. Moody Elliott, Chairman, Agent, request an expansion/enlargement of a nonconforming structure to allow a proposed addition consisting of 753.5 square feet per side (13.7' X 55') for a total of 1,507 square foot to be added to the existing sanctuary of the church. This property is located in Land Lots 246 and 247 of the 4th District, fronts on Hills Bridge Road, and is zoned A-R.**

Kenneth Scurry, Chairman of the Study Group Committee, presented drawings and blueprints to the Z.B.A. He stated that the church needed a larger seating capacity due to generated growth from the new pastor. He advised that a Structural Engineer had recommended to add 13.7' X 55' per side. He pointed out that this would change the shape from a T-shape into a rectangle.

Chairman Bartosh asked if there was anyone to speak in favor of the petition. Hearing none, he asked if there was anyone to speak in opposition of the petition. Hearing none, and with no rebuttal required, he closed the floor from public comments.

Tom Mahon made a motion to approve the petition. Bill Beckwith seconded the motion.

Mr. Mahon stated that the addition would not be closer to the street than the existing structure.

Mr. Beckwith concurred.

Larry Blanks had no comments.

At this time, Chairman Bartosh called for the vote. The motion unanimously passed 4-0. Ron Mabra was absent.

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Chairman Bartosh asked if there was any further business.

Hearing none, Bill Beckwith made the motion to adjourn the meeting. Larry Blanks seconded the motion. The motion unanimously passed 4-0. Ron Mabra was absent.

The meeting adjourned at 7:52 P.M.

ZONING BOARD OF APPEALS
OF
FAYETTE COUNTY

Respectfully submitted by:

DAVID BARTOSH
CHAIRMAN

ROBYN S. WILSON
SECRETARY