

THE FAYETTE COUNTY ZONING BOARD OF APPEALS met on December 19, 2005 at 7:04 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
Tom Mahon
Ron Mabra

MEMBERS ABSENT: Larry Blanks, Vice-Chairman

STAFF PRESENT: Aaron Wheeler, Zoning Administrator
Bill McNally, 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. He announced that this would be Aaron Wheeler's last public hearing as he has resigned from his position.

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1. Consideration of the Minutes of the meeting held on October 24, 2005.

Tom Mahon made the motion to approve the Minutes as circulated. Bill Beckwith seconded the motion. The motion passed 3-0-1 with Ron Mabra abstaining from the vote.

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

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2. Consideration of Petition No. A-559-05, Billy D. And Brenda B. Nation, Owners/Agents, request a 47 foot Variance to reduce the rear yard setback along the east property line from a minimum of 80 feet to a minimum of 33 feet to allow an existing detached garage to remain. This property is located in Land Lot 121 of the 4th District, fronts on Friendship Church Road and Sovereign Trail (a private driveway), and is zoned A-R.

Chairman Bartosh asked Mr. Billy Nation if he would like to proceed or table the petition until the next public hearing due to the lack of a full board. He explained that three (3) affirmative votes would be required.

Billy Nation confirmed that he would like to proceed tonight. He explained that he had requested a six (6) foot rear yard variance, however there was a discrepancy on the recorded plat and the Planning & Zoning Staff had advised that a 47 foot rear yard variance would be required. He pointed out that the recorded plat indicated a 40 foot rear yard setback instead of an 80 foot rear yard setback. He stated that an accessory structure was required to be located in the side or rear yard. He said that the septic system was located on the south side of the lot and the property on the north side of the lot slopes down approximately 12 over 12 with planted pine trees and the existing well. He stressed that the existing location was the only location where the detached garage could have been constructed.

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

Jack Norton of 158 Sovereign Trail, the adjacent neighbor to the east on Lot 2 consisting of five (5) acres, stated that the structure was nice and has no negative impact to his property.

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 deny the petition. Chairman Bartosh seconded the motion for discussion.

Mr. Mahon explained that this is a self-induced hardship since the accessory structure was constructed without first obtaining a building permit. He confirmed that the Z.B.A. had denied similar requests and he could not see anything which would override what has been done in the past. He added that there are remedies to the encroachment.

Bill Beckwith asked Aaron Wheeler for clarification on the history of the subject property.

Mr. Wheeler explained that in 1990 three (3) administrative variances were approved for reduction of the lot width and two (2) setbacks. He confirmed that the Zoning Administrator did not have the authority to grant an administrative variance for lot width.

Mr. Nation reported that the plat stamped approved by the Zoning Administrator indicated the setbacks incorrectly on Lot 1.

Attorney Bill McNally explained that the plat was submitted by the developer and the Zoning Administrator accepted the plat and granted the administrative variances to the subject lot. He further explained that the front yard was platted toward the private driveway instead of the public road.

Mr. Mahon asked when the house was constructed.

Mr. Nation replied that the Sewells constructed the house in 1991. He added that the detached garage was almost complete with the exception of the siding.

Chairman Bartosh said he had never been faced with this type situation where a Zoning Administrator had made such a grave error.

Mr. Beckwith stated that this is an unfortunate and unique situation due to the erroneous approval of the administrative variances by the Zoning Administrator, therefore he could not support the denial. He asked if the petition should be tabled until January to allow Mr. Nation time to seek other remedies.

Mr. Nation advised that he could not purchase additional property from the adjacent Lot 2 because Lot 2 was a minimum of five (5) acres which is what is required by the zoning district.

Ron Mabra concurred with Mr. Beckwith.

Mr. Mahon reiterated that if Mr. Nation had gotten a building permit to construct the detached garage that this problem could have been solved before the building was constructed, therefore the variance is self-induced. He pointed out that whether the variance is for six (6) feet or 47 feet that the variance is still self-induced.

Chairman Bartosh remarked that if Mr. Nation had gone through the process of purchasing a building permit that this problem could have potentially been headed off, however due to the approval of the erroneous administrative variances granted by the Zoning Administrator, approval

of the petition would not be precedent setting.

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With no further comments, Chairman Bartosh called for the vote. The vote for denial was 1-3 with Chairman Bartosh, Ron Mabra, and Bill Beckwith voting in opposition. Larry Blanks was absent.

Bill Beckwith made a motion to approve the 47 foot variance to reduce the rear yard setback from 80 feet to 33 feet based on the erroneous administrative variances granted by the Zoning Administrator. Ron Mabra seconded the motion. The motion passed 3-1 with Tom Mahon voting in opposition. Larry Blanks was absent.

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Chairman Bartosh asked if there was any further business.

Robyn Wilson advised that no applications had been submitted for the January Public Hearing.

Tom Mahon announced that this was David Bartosh's last public hearing. He and the other Z.B.A. members and the Planning & Zoning Staff presented Chairman Bartosh with a painting by Patsy Gullet of various landmarks in Fayette County. He read the following comments attached to the back of the painting: Presented to David Bartosh from the Fayette County Zoning Board of Appeals and the Planning and Zoning Staff in Appreciation for his years of dedicated and professional service on the Fayette County Zoning Board of Appeals - January, 1997 to December, 2005.

Chairman Bartosh remarked that he appreciated everyone's support and dedication. He added that it has been an incredible learning experience and he has no regrets.

There being no further business, Bill Beckwith made the motion to adjourn the meeting. Tom Mahon seconded the motion. The motion unanimously passed (5-0). The meeting adjourned at 7:58 P.M.

ZONING BOARD OF APPEALS
OF
FAYETTE COUNTY

Respectfully submitted by:

DAVID BARTOSH
CHAIRMAN

ROBYN S. WILSON
SECRETARY

