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*Clayton County*  
**Community Development Department**  
*121 S. McDonough St. Annex 2*  
*Jonesboro, Ga. 30236*



PATRICK EJIKE  
DIRECTOR

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Board of Zoning Appeals  
Meeting Minutes of January 19, 2017

The regular meeting of the Clayton County Board of Zoning Appeals was held this date of January 19, 2017 in the Commissioner' Board Room, Administration Building, 112 Smith Street, Jonesboro, Georgia.

Members present were: Chairman Don McMillian, Jr., Vice Chairman William Hill, Board Member DeMont Davis, and Board Member Raymond Baggary. Present from Community Development Department were Kimberly Smith, Lenise Lyons, and Linda Willis.

Members absent was: Board Member Frances Solomon. No representation from Legal was present.

The Pledge of Allegiance was said in unison.

The motion to approve the agenda was made by Board Member DeMont Davis and seconded by Vice Chairman William Hill. The vote was unanimous.

Approval of minutes: None.

**Chairman Don McMillian, Jr.** stated that there were no persons having business with the Board of Zoning Appeals; no report of Officers and Committees and no old business with the Board of Zoning Appeals.

The Procedures for the Clayton County Board of Zoning Appeals' Public Hearings was given by Ms. Linda Willis.

**Chairman Don McMillian, Jr.** called for New Business.

1. **Election of Officers**

The motion to approve and maintain the current officers as is was made by Board Member DeMont Davis and seconded by Board Member Raymond Baggary. The vote was unanimous.

Don McMillian, Jr. – Chairman  
William Hill – Vice Chairman  
Linda Willis – Assistant Secretary

**2. Adoption of the Board of Zoning Appeals Calendar for 2017/2018**

The motion to adopt the Board of Zoning Appeals Calendar for 2017/2018 was made by Vice Chairman William Hill and seconded by Board Member DeMont Davis. The vote was unanimous.

Chairman Don McMillian, Jr. stated he would not be able to attend February 2017 and March 2017 meetings due to prior comments.

**3. Case Number: BZA-16/11-94**

The Applicant, *Matthew R. Fratino*, on behalf of Fratino Investments, LLC is requesting a variance from Article 6, Section 6.30 Fence and Wall Standards, to increase the height of a fence to six (6) feet in the front yard with barbed wire. The subject property is located at 262 Johnson Road, Forest Park, Georgia and otherwise known as parcel number 13-109B-A005. The subject property is approximately 1.42+/- acres of land and has a Heavy Industrial (HI) zoning classification.

**Commissioner District #2– Gail Hambrick**

The Staff Report for case BZA-16/11-94 was given by Kimberly Smith of Planning and Zoning.

**Kimberly Smith:** The Applicant is requesting a height increase from the fence requirements from four (4) feet to six (6) feet. They are also requesting to be allowed to have barbed wire, which is prohibited in Clayton County. Based on the analysis provided, Planning & Zoning Staff recommends **Approval with Conditions** of the variance to increase the height of a fence to six (6) feet in the front yard with barbed wire. Staff recommends planting small trees or bushes in the front yard to provide screening.

**Board Member DeMont Davis:** The current Ordinance states that the maximum height is four (4) feet, does that include Heavy Industrial (HI)? **Kimberly Smith:** Yes, four (4) feet is the maximum in all zoning districts.

**Chairman Don McMillian, Jr.:** We were looking for alternatives to barbed wire. **Kimberly Smith:** As I stated in the Pre-Meeting, the Board has approved for electric fences in the County and that can be an option. Another option is to increase the height of the fence higher than six (6) feet, and they also have reversible barbed wire which may look a little better.

**Chairman Don McMillian, Jr.** called for the petitioner to present their case.

The Applicant was represented by Jean Porter, located 262 Johnson Road, Forest Park, GA, on behalf of Fratino Investments, LLC.

**Jean Porter:** We talked about having the trees higher, the only thing is, the trees would get in the way of the telephone and electrical wires, and transformers. Since we are in the perishable plant business, I have recommended if we are allowed to have the fence we would definitely beautify the area with landscaping. Our customers come in from all over the world to our facility, so we like aesthetics and like to have flowers blooming. I am not opposed to the electrical fence, but I really like the aesthetics of the landscaping, and would be more afraid of the electric fence due to the church and the children in area.

**Chairman Don McMillian, Jr.:** The way we approved it before, there was actually a fence then a second fence, which was far enough back that you would not encounter it unless you breached it intentionally. **Jean Porter:** There is not enough room, but we can plant bushes close to the fence line.

**Board Member DeMont Davis:** What is the primary reason for the barbed wire? **Jean Porter:** We have had several break-ins and a fire (see photos in package) due to a truck coming onto our property hitting an electric poles. We always have people going through our property making U-turns.

**Board Member Raymond Baggarly:** Currently there is no gate at the driveway, will you be adding a gate? **Jean Porter:** Yes.

**Vice Chairman William Hill:** Do you have security onsite? **Jean Porter:** Yes, it is required.

**Board Member DeMont Davis:** What is the foot (bicycle) traffic of the children in the area, especially during the summer months? **Jean Porter:** Our busiest days are Saturday, Sunday, Monday and Tuesday and church service there is Saturday and Sunday. We have big trucks coming and going, so we have to be very careful.

**Vice Chairman William Hill:** This question for Staff. Will reverse barbed wire be safer than traditional barbed wire? **Kimberly Smith:** I stated that for aesthetics.

**Board Member Raymond Baggarly:** You indicated that the lease for the church will be up in a couple of years and it is unlikely you will renew. In your opinion, explain how this type of fence and gate will alleviate the accessibility to your property that will curtail these terrible break-ins? **Jean Porter:** If the fence is put up they will not be able to get into the trailers.

**Chairman Don McMillian, Jr.:** Will you be open to, two feet more in height and landscape in front, and skip the barbed wire? **Jean Porter:** I am not looking at doing high value cargo that is not part of our business. Whatever you want me to do, you have to make that decision.

**Board Member DeMont Davis:** That is what concerns me the most with the church and the children in the area about the electric and barbed wire fence. I can see the fence higher with a gate to keep folks out. **Jean Porter:** We just want to keep people from getting in. If you don't want us to have barbed wire and I have to spend more for the increase in height we will do that.

**Board Member Raymond Baggarly:** I would like to suggest from experience as a business person, your gate is going to be your most vulnerable entrance point. So make sure you have your security people have that gate set up where it strong and set off your alarm.

**Board Member DeMont Davis:** Is the gate under the same Ordinance as the fence height? **Kimberly Smith:** Yes.

**Vice Chairman William Hill:** Based upon the decision we will make tonight, what is the time frame that you will put the gate up? **Jean Porter:** We would like to put it as soon as possible. Due to the firer we have to get the concrete fixed and I can't get the concrete fixed until I know if I can put the fence up.

**Chairman Don McMillian, Jr.** called for any public concerns/comments. There were none.

The motion to **approve** case number BZA-16/11-94 with the modification of an eight (8) foot fence without barbed wired and to have landscaping in front was made by Board Member DeMont Davis and seconded by Board Member Raymond Baggarly. The vote was unanimous.

4. **Case Number: BZA-16/11-95**

The Applicant, *Dewberry Engineers*, on behalf of FedEx Ground Facilities and Materials Handling, is requesting a variance from Article 6, Section 6.30 Fence and Wall Standards, and Article 4, Section 4.34 – Non-residential Land Uses, to increase the height of a fence to ten (10) feet in all yards, with chain link and barbed wire to be visible from a public street. The subject property is located at Grant Road, Ellenwood, Georgia and otherwise known as parcel number 12-214C-A002. The subject property is approximately 9.82+/- acres of land and has a Heavy Industrial (HI) zoning classification and is within the Highway 42 Overlay District.

**Commissioner District #1– Sonna Singleton Gregory**

The Staff Report for case BZA-16/11-95 was given by Kimberly Smith of Planning and Zoning.

**Kimberly Smith:** Based on the analysis provided, Planning & Zoning Staff recommends **Approval with Conditions** of the variance to increase the height of a fence to ten (10) feet in the front yard with barbed wire. Staff recommends planting small trees or bushes in the front yard to provide screening of the chain-link, barbed wire fence from the public street.

**Chairman Don McMillian, Jr.:** In these site property photos, is that Grant Road we are looking at, and is there already an existing fence? **Kimberly Smith:** Yes, sir. In this particular case, Staff inadvertently during the Site Development process missed the fact that they had an eight (8) foot fence on their site plans and was approved without coming through this process. **Chairman Don McMillian, Jr.:** So the fence is already there with barbed wire? **Kimberly Smith:** Yes sir.

**Board Member Raymond Baggary:** So it was done without approval? **Kimberly Smith:** Yes, sir, it was Staff error.

**Chairman Don McMillian, Jr.** called for the petitioner to present their case.

The Applicant was represented by Max Vickers, located 2835 Brandywine Road, Atlanta, GA., on behalf of FedEx Ground Facilities and Materials Handling.

**Max Vickers:** We went through the Site Development approval process and everything got approved per the site plans, and we built according to the plans. During the construction phase we found out about the fence and was told we needed a variance.

**Chairman Don McMillian, Jr.:** Can you give us a time frame when you went through the initial phase? **Kimberly Smith:** The site plans came in for review late 2015 and approved in 2016, so there were several months of lapse time when it was signed off by the current Assistant Director Brecca Johnson. So it was caught at the construction phase.

**Chairman Don McMillian, Jr.** asked if it was approved by current Staff and **Kimberly Smith** stated yes. He also wanted to know who the Director was at that time, and who would usually review those plans. **Kimberly Smith** stated that Mr. Patrick Ejike was the Director, and the Zoning Administrator would be the person to review the plans, but at that time we did not have a Zoning Administrator. He asked if the Collaborative Firm was acting as the Zoning Administrator and if they were doing the oversight of such plans (site/fences) ensuring we stay within our Code. **Kimberly Smith** stated yes the Collaborative Firm was there and reviewing plans, but this was the final approval.

**Chairman Don McMillian, Jr.:** Do you have any cost estimates on the fence? **Max Vickers:** No.

**Chairman Don McMillian, Jr.:** Can you take the barbed wire down? **Max Vickers:** It's possible, but it is FedEx standard operation for all of our truck facilities to have the barbed wired to protect our cargo and trucks. **Chairman Don McMillian, Jr.** asked if there was a facility there and **Max Vickers** stated no, the facility was across the street.

**Board Member Raymond Baggarly:** Is that requirement mandated by FedEx or some laws we are not aware of? **Max Vickers:** It is FedEx standards. **Board Member Raymond Baggarly** asked how the fencing was different from UPS, and **Max Vickers** stated he wasn't sure.

**Board Member Raymond Baggarly:** Do you view Staff's recommendation as a good alternative and is it something you guys can do? **Max Vickers:** Yes. **Chairman Don McMillian, Jr.** said he felt it should be large plantings instead of small plantings.

**Board Member Raymond Baggarly** asked if there have been any break-ins and **Max Vickers** said no, he then said well the fence is working.

**Board Member DeMont Davis:** My major issue is going from a fence that is already in non-compliance to a fence that will increase the non-compliance.

**Vice Chairman William Hill** asked Staff going forward what is the due diligent process that you will put in action that will prevent an error like this by Staff. **Kimberly Smith** stated she was working on this and yes it was a Staff error which means it was an oversight—human error. She also stated that she had no purview over human error happening again, but everything will be done to follow the procedures for site plans review.

**Board Member Raymond Baggarly** stated he would be more inclined to go with Staff recommendation and leave the fence as is. He stated the only other underline question would be from the other businesses in that area coming back to this Board and saying you allowed them to put up a barbed wire fence why not us.

**Kimberly Smith** stated you're well within your powers to have them remove the barbed wire or you can table it and let the Applicant discuss it with the owners the other options. **Chairman Don McMillian, Jr.** agreed, and stated the discussion can include the remover of the barbed wire or the consideration of an electrify fence.

The motion to **table for 30 days** case number BZA-16/11-95 was made by Vice Chairman William Hill and seconded by Board Member DeMont Davis. The vote was unanimous.

**5. Case Number: BZA-16/11-96**

The Applicant, *Akira Eiland-Sharp*, on behalf of Safe Haven Learning Academy, Inc. is requesting a variance from Article 6, Section 6.11 – Day Center Homes & Center Standard, to reduce the outdoor play area, and Section 6.35 – Buffer Yard Standards, to reduce the rear buffer yard from 50 feet to 26'3" (26.25 feet). The subject property is located at 5593 Riverdale Road, College Park, Georgia and otherwise known as parcel number 13-089D-D014. The subject property is approximately 1.29+/- acres of land and has a General Business (GB) zoning classification and is within the Cherry Hills Overlay District.

**Commissioner District #2– Gail Hambrick**

The Staff Report for case BZA-16/11-96 was given by Kimberly Smith of Planning and Zoning.



**Kimberly Smith** Based on the analysis provided, Planning & Zoning Staff recommends **Approval with conditions** of the variance to reduce the outdoor play area; and **Denial** of the variance to encroach in the rear buffer yard.

As it pertains to the **Approval with conditions** of the variance from Section 6.11 Day Care Home and Center Standards, Staff recommends the following conditions:

1. Submit to Planning and Zoning Staff a site plan of the play area, and
2. Provide proposed square footage of the play area (must demonstrate that the State of Georgia Bright from the Start requirement for outdoor play area has been satisfied).

As it pertains to the **Denial** of the variance for Section 6.35 Buffer Yard Standards, Staff recommends locating the addition elsewhere on the lot, so as to maintain the existing play area and the required buffer yard between the residential and commercial uses. Staff recommends placing the addition on the western portion of the lot, so as to not encroach into the required buffer yard. Although Staff is recommending Denial, we would be supportive of the following conditions should the application be approved:

1. Screening and landscaping of the remaining buffer yard along the adjacent lots.

**Chairman Don McMillian, Jr.** asked Kimberly Smith if she had seen the screening that had been installed and whether it was adequate, Kimberly Smith answered yes, and it was adequate screen.

**Chairman Don McMillian, Jr.** called for the petitioner to present their case.

The Applicant was represented by Akira Eiland-Sharp, located 5593 Riverdale Road, College Park, GA.

**Akira Eiland-Sharp** stated that the accessory structure was already installed. In March 2016 she started the permit process for the accessory structure addition and did all the required steps and provided all documentation that was asked of her. She stated she didn't know whether it was her mistake as to not knowing how the permitting process was done. When they did not approved the electrical permit that is when she meet with Patrick Ejike who informed her it was not permitted properly. **Chairman Don McMillian, Jr.** asked if there were any time that she felt it was okay to put the accessory structure in. Ms. Sharp stated after coming several times talking with the ladies at the front counter and they knew what I was doing, if I knew I wouldn't had purchased the permit if I knew I couldn't do it. **Chairman Don McMillian, Jr.** asked if her further improvements (fence/screening) were prompted by this process. She stated she was going to replace the fence anyhow, because people were coming through the back of her property. She also stated that no one told her anything about the buffer, until she started this process.

**Chairman Don McMillian, Jr.** called for any public concerns/comments.

1. Jaime Bates, located at 5747 Shoals Place Trail, College Park, GA  
Was not in opposition of the addition, but had issues with the fence, because it created a walk through from the Daycare to the subdivision.
2. Jeremiah Poole, located at 5728 Shoals Place Trail, College Park, GA  
Was not in opposition of this case, but had issues with the fence.
3. Shannon Anderson, located at 5988 Twilight Trail, College Park, GA  
Was in support of this case.

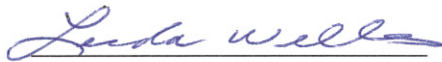
The motion to **approve with conditions** BZA-16/11-96 was made by Vice Chairman William Hill asked and seconded by Board Member Raymond Baggarly. The vote was unanimous.

**Approved with the following conditions:**

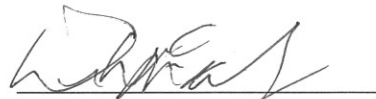
1. To allow the reduction the outdoor play area
2. To allow the encroachment into the rear buffer yard
3. Maintain Screening and of the remaining buffer yard along the adjacent lots.

There being no further business the motion to adjourn was made by Board Member DeMont Davis, Jr. and seconded by Vice Chairman William Hill. The vote was unanimously.

The meeting was adjourned at 8:30p.m.



Linda Willis, Assisting Secretary  
Zoning Board of Appeals  
Clayton County, Georgia



Don McMillian., Chairman  
Zoning Board of Appeals  
Clayton County, Georgia