

CHATHAM COUNTY ZONING BOARD OF APPEALS

ARTHUR A. MENDONSA HEARING ROOM

112 EAST STATE STREET

JANUARY 24, 2006

9:00 A.M.

MINUTES

MEMBERS PRESENT:

**Jimmy Watford, Chairman
Steven Day
Greg Hirsch
Terrance Murphy
Wayne Noha**

MEMBERS ABSENT:

**Davis Cohen (Excused)
Robert Sharpe (Excused)**

TECHNICAL STAFF PRESENT:

**Robert Sebek, Chatham County Inspections
Department**

MPC STAFF PRESENT:

**Jim Hansen, Secretary
Deborah Burke, Assistant Secretary
Christy Adams, Administrative Assistant**

RE: Called to Order

Mr. Watford called the December 20, 2005 Chatham County Zoning Board of Appeals meeting to order at 9:00 a.m.

RE: Regular Agenda

**RE: Petition of Maxie Wildes
B-060103-33674-1
2108 E Boulevard**

Present for the petition was Maxie Wildes.

Mrs. Burke gave the following Staff report.

The petitioner is requesting approval of a 45 foot setback variance to the 50 foot setback requirement from a vehicular right-of-way; a five (5) foot side yard setback variance to the ten (10) foot side yard requirement; and a 388 square foot building size variance to the 900 square foot accessory building size allowed and required by Section 3-6.1 of the Chatham County Zoning Ordinance in order to construct an accessory structure. The subject property, located at 2108 East Boulevard, is zoned R-1-A (One-Family Residential).

Findings

1. Pursuant to Section 3-6.1 of the Chatham County Zoning Ordinance, accessory buildings and structures shall be permitted in rear yards only. However, accessory structures on properties directly abutting rivers or saltwater marshes shall not be restricted to rear yard if such accessory structures meet the following requirements:
 - a. The accessory structure is set back a minimum of fifty (50) feet from a vehicular right-of-way and ten (10) feet from adjoining property lines.
 - b. The accessory structure does not exceed 900 square feet in size and shall not exceed one story in height.
 - c. The accessory structure is constructed of materials of like kind in appearance of those used in construction of the principal residential dwelling on the site and is compatible with development on adjoining lots.
2. The applicant is requesting variances in order to construct a 1,288 square foot four (4) car detached garage five (5) feet off the front and side property lines. An existing garage on the site is to be removed.
3. The subject property is approximately 2.1 acres in size, 75 feet wide and 1,070 feet deep. However, as the lot is located on the Half Moon River, a large portion of the parcel is unbuildable due to the fact that it is marshland.
4. In accordance with Section 10-6.3 of the Chatham County Zoning Ordinance, the Board of Appeals may authorize upon appeal in specific cases such variance from the terms of the regulations as will not be contrary to the public interest where owing to special conditions, a literal enforcement of the provisions will, in an individual case, result in unnecessary hardship, so that the spirit of the regulations will be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in an individual case upon a finding by the Board of Appeals that:
 - a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.**

The subject property is approximately 2.1 acres (91,476 square feet) in size. The minimum lot area in the R-1-A is 12,000 square feet and the minimum lot width is 70 feet. The parcel is considered a conforming lot. However, a large portion of the rear of the subject property is unbuildable.
 - b. **The application of these regulations to this particular piece of property would create an unnecessary hardship.**

Strict application of the regulations of the district would not cause an unnecessary hardship. It appears that the proposed structure could be located on the lot in such a manner to meet all setback requirements. Similarly, the petitioner has not provided documentation to support the requested need to exceed the maximum accessory building size by 388 square feet.
 - c. **Such conditions are peculiar to the particular piece of property involved.**

The conditions described above are not peculiar to the subject property.

- d. **Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of the Chatham County Zoning Ordinance.**

Relief, if granted, may not cause substantial detriment to the public good, however, as noted above, it appears that the proposed structure could be located on the site in such a manner as to avoid the need for variances. It is noted that the location of the septic system that serves the property is unknown. The location of the system could influence the proposed location of the proposed garage.

Summary of Findings

All of the conditions necessary for granting a 45 foot setback variance from a vehicular right-of-way, five (5) foot side yard setback variance, and a 388 square foot building size variance appear not to be met.

Mr. Wildes stated it was his understanding he needed a variance because he had to have a 50 foot setback from the marsh and the road. He said since his property was 99 feet he could not meet the requirements. He said he read that marsh front properties were not bound by the 50 foot if you lived on the marsh which he did not know.

Mr. Day stated for clarification purposes, if you live on the marsh you were bound by the 50 foot setback.

Mrs. Burke explained that was why they allowed accessory structures to be located in the front as opposed to the rear.

Mr. Wildes stated if he had to have 50 feet from the marsh and road and he has 99 feet, he could not meet anything without a variance. The original plan was to be able to turn in off of the driveway into the unit. He said Mr. Sebek suggested that he turn it sideways. He said he showed both options on his plan and would do whatever the Board felt would be better. However, he was still confused as to why Staff said that he has not met the requirements for a variance.

Mrs. Burke stated the staff report was based on Staff looking at all the facts and providing a report for the Board. But this was also the petitioner’s opportunity to make a presentation to the Board as to why he felt the variance should be granted.

Mr. Wildes stated in the report it says that it appears that the structure could be located on the site in such a manner to avoid the need for a variance.

Mrs. Burke stated that statement was based on the fact that it looked based on the site plan provided that there were other areas on the site to do what he was proposing.

Mr. Sebek stated he felt the confusion for Mr. Wildes was if he moved the structure back to comply with the front setback then he would need to get a variance for the marsh setback. He said because of the way the petitioner located the structure he did not address the marsh setback with the petitioner.

Mr. Wildes stated he understood. He said what he intended was he had four vehicles, two motorcycles, 28 foot trailer, and a F-350 truck. He said all of the vehicles were out in the open with thin metal shelters that he had that would not withstand the falling of some of the large trees. He said the proposed structure would help protect them as the tropical storms and bad weather increase. He said there were several people in the neighborhood that had these types of structures, as well as several new structures. He said he felt there would not be a concern until he ran into the variance problem.

Mr. Day asked if could do something smaller? He said from his perspective he felt that he was putting such a large structure on the property

Mr. Wildes stated it could only be that large if it abutted the road. He said if he had to turn it sideways, which he would be amenable, it could not be the original four car. He said it would have to be cut down to a three car.

Mr. Day stated even though it was a very large lot if you looked at the total lot size, the usable space on the lot was small. He asked where was the septic system?

Mr. Wildes stated right here and the drain field is here.

Mr. Day stated also of concern would be that he could not build over the top of the drain field. He said from his point of view you see such a large structure on a small lot and he wondered if the lot was too small for what he was trying to accomplish.

Mr. Wildes stated as mentioned the vehicles already were under separate structures now. He said there was no additional space being consumed, but combining it together.

Mr. Day stated when he visited the site he noticed there were a number of other boats and things to the left.

Mr. Wildes stated that property was Mr. Deloach's.

Mr. Murphy asked if there was any reason why it could not be built where the old structure was?

Mr. Wildes he did not consider that because he was under the impression that the 50 foot marsh setback was not a negotiable setback.

Mr. Murphy stated there was also concern that there would be obstruction of view for the neighbors.

Mr. Wildes stated it would block the view of trees.

Mr. Noha stated when they visited the site he had an L-shaped on the property.

Mr. Wildes stated yes. He said his petition was for this and then he talked to Mr. Sebek, therefore laying out an optional plan.

Mr. Day asked if there would be power or a sewer system in this building?

Mr. Wildes stated no.

Mr. Day stated he was concerned in that he was asking for a variance from the setback on the road, a variance for setback on from the marsh, and lot size. He said he felt the lot was too small for what he was trying to accomplish. He said he understood he wanted to get his vehicles in under something. But, there were reasons for the codes being put in place and this lot was not suitable for what he was trying to accomplish.

Ms. Dee Roundtree Barr stated she lived in the house next to the property as well as her father-in-law (James Barr) who also lived close to the property. She said her father-in-law lived in the home that would have the obstructed view. Currently, based on the corner of the property that Mr. Barr owned and Mr. Wildes owned you could see out into the marsh. The Barr's have owned their property for 49 years. She said they would appreciate that nothing be done that would obstruct their view as well as add something distasteful. Also, they were concerned about the size of the building. She said if the size were cut down and moved within the appropriate setbacks of the property ...

Mr. Day stated it was physically impossible to move the building within any appropriate setbacks at any size because the property was only 99 feet. He said the petitioner would have to have a 50 foot setback from the road and marsh. He said he could not put a building on the property and be within any setbacks.

Ms. Roundtree Barr stated they felt it may be that he needed to tear down the old structure and do something if he needed a fully covered enclosed garage from their view point.

Mr. Day stated the lot next door is a valuable piece of property. He asked if they planned on selling it?

Ms. Roundtree Barr stated no, that was not their intent. She said if they sold that piece of property and something was built there it would obstruct her view as well as her in-laws view.

Mr. Day stated it would be difficult for him to sit there and listen to her complain that he was blocking her view if she then sold the lot and someone else built a house there. He said he felt that would not be appropriate.

Ms. Roundtree Barr stated that was not their intent. She said her family has been there for 49 years and it was their intent to stay there.

Mr. Murphy asked where on the lot would her view not be obstructed?

Ms. Roundtree Barr stated the only thing that would really not obstruct it anymore than it was today was if the petitioner put a structure where the current structure was.

Mr. Noha stated he was concerned with the number of variances. The request for a 388 square foot variance was so large and he felt that it was not big enough for that big of a structure. He said if the number of variances could be minimized, he would feel more comfortable. He also stated that it was his understanding that you were only guaranteed the view that is in front of your piece of property if you own the property.

Mr. Watford asked if he would be opposed to removing the other structures and then moving the garage back?

Mr. Wildes stated if the Board felt that would be best then he would have to accept that. He said then he would have to wait for Burke Day to tell him that his house was secure where it was in case of a fire, bad weather or whatever that would cause it to have to be reconstructed. He said if that was the case and the house had to be reconstructed that meant it would have to go up to 14 foot flood level and you could not do that with a house. It was approximately 8 or 9 feet above sea level, so it would be easier to build a structure on the higher ground. He said before he would get the building permit if that was what the Board approved, he would wait to hear from Burke Day on the other. He said if Mr. Day (Burke) could not guarantee the other then he probably would not do any thing.

CZBA Action: Mr. Day made a motion that the Chatham County Zoning Board of Appeals deny the petition as submitted. Mr. Noha seconded the motion and it was passed 3 – 2. Opposed to the motion was Mr. Murphy and Mr. Watford.

RE: Minutes

1. Approval of CZBA Minutes – December 20, 2005

CZBA Action: Mr. Noha made a motion that the Chatham County Zoning Board of Appeals approve the regular meeting minutes of December 20, 2005. Mr. Day seconded the motion and it was unanimously passed.

RE: Adjournment

There being no further business to come before the Chatham County Zoning Board of Appeals the meeting was adjourned approximately 9:40 a.m.

Respectfully submitted,

James L. Hansen,
Secretary

JLH:ca