

CHATHAM COUNTY ZONING BOARD OF APPEALS

ARTHUR A. MENDONSA HEARING ROOM

112 EAST STATE STREET

FEBRUARY 28, 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
Christy Adams, Administrative Assistant**

RE: Called to Order

Mr. Watford called the February 28, 2006 Chatham County Zoning Board of Appeals meeting to order at 9:00 a.m.

Mr. Watford stated the Petition of Don Cogdell, Jr., Agent for Isle of Hope United Methodist Church, B-060127-54021-1 will be moved to the end of the Regular Agenda.

The Board agreed.

RE: Regular Agenda

**RE: Petition of Summerell, George H. Jr. & Barbara
B-060103-40689-1
13 Wymberley Way**

Present for the petition was George Summerell.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a 22 foot marsh setback variance to the 50 foot marsh setback requirement, and a seven (7) foot riparian setback variance to the 35 foot riparian setback requirement of Section 4-12f.(1) of the Chatham County Zoning Ordinance in order to construct an addition onto an existing single family residence. The subject property, located at 13 Wymberley Way, is zoned R-1/EO (One-Family Residential/Environmental Overlay).

Findings

1. Section 4-12(f) of the Chatham County Zoning Ordinance requires that a minimum 50 foot setback from the marsh line and that a minimum 35 foot riparian setback from the marsh line be established for properties upon which existing structures existed at the time of adoption of the Environmental Overlay District (November 16, 2001). Setback requirements for both the marsh and riparian buffer are established at 25 feet if the parcel was vacant at the time of adoption of the Overlay District. A residential structure was constructed and occupied on the lot prior to adoption, thus the more stringent requirements apply.
2. The petitioner is proposing to construct an addition onto the rear of the existing house which would intrude a total of 22 feet into the required marsh setback. It is noted, however, that the existing structure, which was constructed prior to adoption of the Environmental Overlay Ordinance, currently lies within 36 feet of the marsh line. The proposed addition will encroach an additional eight (8) feet into the marsh setback, and seven (7) feet into the required riparian setback. Additionally, a swimming pool is located in the rear yard, and also lays within the marsh buffer and riparian setback areas. The petitioner proposes to remove the existing pool and pool decking.
3. The subject property is considered a standard lot and is in conformance with the minimum requirements of the R-1 district. The lot is trapezoidal in shape measuring 89 feet in width along the front, 121 feet in width along the rear, and 115 feet and 135 feet along the sides.
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.**

Though somewhat irregular in shape (trapezoidal), the parcel contains approximately 11,750 square feet and has no extraordinary topographic features.
 - b. **The application of these regulations to this particular piece of property would create an unnecessary hardship.**

Application of the regulations of the Zoning Ordinance would not create an unnecessary hardship. It is noted, however, that the existing structure already encroaches into the marsh and riparian setbacks
 - c. **Such conditions are peculiar to the particular piece of property involved.**

The conditions described above are 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, would not cause substantial detriment to the public good. The purpose of the marsh and riparian setback is to protect the natural wetlands, stream beds and rivers from man-made encroachments that might exacerbate runoff conditions and inadvertently pollute said waterways. The existing structure already encroaches into the marsh setback. Removal of the existing swimming pool and decking will increase the amount of pervious surface in the rear yard area.

Summary of Findings

All of the conditions necessary for granting a 22 foot marsh setback variance and a seven (7) foot riparian setback variance appear not to be met.

Mr. Summerell stated he was proposing to take out the existing pool which was 5 or 6 feet from the marsh. He said the corner of the house was 28 or 30 feet from the marsh. He said he was requesting to add 8 feet onto it. He said by him taking out the existing pool he would be adding 1,000 feet or more of grass and landscaping to that area.

CZBA Action: Mr. Day made a motion that the Chatham County Zoning Board of Appeals **approve** the petition as submitted based upon a finding that the relief granted would not cause substantial detriment to the public good. Mr. Murphy seconded the motion and it was unanimously passed.

**RE: Petition of Lowell J. Bender, Agent for
Applebee's Restaurant
B-060127-41101-1
587 Al Henderson Boulevard**

Present for the petition was Mr. Fitzpatrick.

The petitioner is requesting approval of a proposal to develop remote off-street parking pursuant to the requirements of Section 6-3.3 of the Chatham County Zoning Ordinance. The proposed parking facility will be constructed on a parcel adjacent to the site of a planned restaurant. The subject property, located at 587 Al Henderson Boulevard, is zoned PUD-C (Planned Unit Development Community).

Findings

1. Section 6-3.3 of the Chatham County Zoning Ordinance provides that "...if the required off-street parking space cannot be provided on the same lot as the principal building it serves, the Board of Appeals may permit such space to be provided on other off-street property." The remote parking must be located within 600 feet of the proposed use and shall be in the same possession or ownership, either by deed or long term lease as the building it is to serve as an off-street parking area.
2. The petitioner intends to construct and operate a restaurant on the subject site (587 Al Henderson Boulevard). The minimum number of required parking spaces (77) has been

provided on-site. The petitioner is requesting approval for development of 16 off-site spaces to serve as surplus parking should the need for the same arise. The off-site facility will lie adjacent to and be connected with the required on-site parking. The petitioner seeks the additional spaces in an attempt to provide ample parking so that customers do not park in the adjacent lots dedicated to other commercial uses including hotels and restaurants.

3. In accordance with Section 10-6.2 of the Chatham County Zoning Ordinance, the Board of Appeals shall hear and decide upon requests for permission to establish uses based upon a finding by the Board that:

a. The proposed use does not affect adversely the general plans for the physical development of Chatham County, as embodied in these regulations and in any Master Plan or portion thereof adopted by the Commissioners of Chatham County.

The proposed use does not affect adversely the general plan for the physical development of Chatham County. The property in question is zoned for commercial uses that primarily serve the traveling public.

b. The proposed use will not be contrary to the purpose stated for these regulations.

The proposed use is not contrary to the regulations.

c. The proposed use will not affect adversely the health and safety of residents or workers in Chatham County.

No adverse affects are expected or anticipated.

d. The proposed use will not affect adversely the health and safety of residents or workers in Chatham County.

No adverse affects are expected or anticipated.

e. The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.

The proposed use will not be detrimental to the use or development of adjacent properties. The site is planned for commercial purposes.

f. The proposed use will not be affected adversely by the existing uses.

The propose use will not be affected adversely by the existing use. The site is currently vacant.

g. The proposed use will be placed on a lot of sufficient size to satisfy the space requirements of said use.

The parcels are of sufficient size to accommodate the proposed use. The petitioner is not seeking any variances from the prescribed development standards.

- h. The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use such facility, vehicular movement, noise or fume generation, or type of physical activity.**

It is not anticipated that the proposed use will create either a hazard or a nuisance. Because the proposed use is a parking facility, it is inherent that traffic movements will be associated therewith. Access to the site will be from Al Henderson Boulevard.

- i. The standards set forth for each particular use for which a permit may be granted have been met.**

The petitioner is seeking no variances to the development standards of the district.

Summary of Findings

It appears that all conditions necessary to grant approval for a remote parking facility on the subject properties have been met.

Mr. Day asked what was the length of the lease on the adjacent parking lot?

Mr. Fitzpatrick stated they have a 30 year lease on the adjacent parking with two additional five year options on the additional parking.

Mr. Day asked if that was the same number of years of lease they had on the ground and building, or did they own the ground and building?

Mr. Fitzpatrick stated they would own the ground and building. He said what they entered into was two agreements with the adjacent hotel with whom they purchased the land from. What they wanted to do was to make sure the land was fully developed out and they did not end up with a small square of land that was dirt and become an eyesore. He said what they agreed to was at their expense construct the parking area and in return for constructing the parking area they would also have the ability to put their employees in that area.

CZBA Action: Mr. Noha made a motion that the Chatham County Zoning Board of Appeals approve the petition as submitted based upon a finding that all of the conditions necessary for granting the relief requested have been met. Mr. Hirsch seconded the motion and it was unanimously passed.

**RE: Petition of Brian McKay
B-060127-50328-1
7 Waterside Road**

Present for the petition was Brian McKay.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a 5¼ foot front yard setback variance to the 30 foot front yard setback requirement of Section 4-6.66 of the Chatham County Zoning Ordinance in order to construct an addition onto an existing garage. The subject property, located at 7 Waterside Road, is zoned PUD-R (Planned Unit Development Residential).

Findings

1. Section 4-6.66 of the Chatham County Zoning Ordinance requires a minimum front yard setback of 30 feet as measured from the edge of the adjoining road right-of-way. The existing structure meets or exceeds this requirement.
2. Although the subject parcel is somewhat trapezoidal in shape, the lot contains in excess of 21,500 square feet. The site is considered a standard lot in the PUD-R district.
3. The petitioner is seeking a 5¼ foot front yard setback variance in order to construct an approximate 9 by 14 foot addition on to an existing garage.
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 parcel is considered a standard lot. Minimum standards for the district have been met or exceeded as described in Finding 2 (above).

- 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 is the desire of the petitioner to add onto an existing garage.

- 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, would most likely not cause substantial detriment to the public good.

Summary of Findings

All of the conditions necessary for granting a 5¼ foot front yard setback variance appear not to be met.

Mr. McKay stated it was his understanding that he had to come to the Board first before he went to the Architecture Review Committee of The Landings. He said he felt his request would not cause any detriment to the public good and respectfully request the Board's approval.

Mr. Day asked what was he trying to accomplish.

Mr. McKay stated he was trying to create space for a golf cart.

Mr. George Lawrence stated he lived down the street from Mr. McKay's property. He said the petitioner's house was the first house that you come into off of Waterside that lead back into a series of other houses and streets. He said to get into this particular area of the subdivision, there were approximately 70 or 80 homes back of the petitioner. He said when you come into Waterside, in order to get to the other homes which were all back of the petitioner each day approximately 70 or 80 homes are afflicted by his proposal. He said the petitioner's proposal on paper seemed innocuous. He said the petitioner is extending out approximately 8 feet which would put him closer to the road. (Showed pictures). Also, he felt it would be a detriment to the area. He said the aesthetics and symmetry would adversely be impacted by the proposed project. He also stated that 5.1 of their covenant, the objectors of the developer of this particular area when it was initially developed indicated to minimize obstruction or diminution of view of others, to preserve as much as practical the visual continuity of the area. He said he felt this was being obstructed by what he was attempting to do.

Mr. Day asked if he would object to the project if the petitioner was the tenth house down the road rather than number one?

Mr. Lawrence stated not as much. He said if he was the very last house and if you knew the area you would probably say that he would still object. He said if the petitioner was in the middle, he would still object. He said he felt because the petitioner was the first house he set the stage for the rest of the houses in the area.

Mr. Day asked Mr. Lawrence if he had a golf cart?

Mr. Lawrence stated yes.

Mr. Day asked where did he keep his golf cart?

Mr. Lawrence stated in the back of the garage. He said there were homes at the landings that were 2½ car garages which have the golf carts in front of the car. He said the golf cart is parked in front of the cars at an angle because there is enough room to do that without creating a golf cart garage.

Mr. Day asked the petitioner if he had enough space in his garage to get the golf cart in?

Mr. Lawrence stated yes. He said it would require him to do, like other neighbors have done to knock a hole in the sidewall, put in a door so he could ingress/egress which would be less expensive than what he was proposing. He said he felt that would have detriment to the

aesthetics of the neighborhood because of the location of the house. The door would be seen by all the cars that go down Westcross. He said that has already been approved by The Landings Architecture Review Committee for the prior owner. He said the prior owner had one car in which she kept the golf cart in the other bay.

Mr. Noha recused himself from the petition.

Mr. Lawrence stated he talked with the adjacent homeowners and neighbors prior to submitting his request. He said there was one neighbor who said they were opposed to his petition but he did not know if they would be objecting at this meeting or at The Landings.

Mr. Tom Buttrum stated he has talked to Mr. McKay and he was also a builder at The Landings. He said he felt what the petitioner was proposing was more aesthetically pleasing than what he would be allowed to do. He said they will bring a little bit of the gable out and hip it as shown on the elevations, so that the front wall would project to the edge of where the shrubs are. He said as far as visual obstruction, the shrubs were already at that point. He also stated at the main entrance into the Oakridge section (Westcross Drive) across the lagoon a garage door could be placed on this exterior wall which would be visible to everybody who drives down Westcross or who exits the Oakridge Club. He said the petitioner would be allowed 2½ feet and they were asking for the other portion of the setback. He said he respectfully request the Board's approval.

Mr. Day asked if they were saying that approval was already there for putting a garage door on the back towards the lagoon?

Mr. Buttrum stated the original plans showed that. He said he was not clear if there was an approval given later to add that or not. However, the original plans for the house showed a cart.

Mr. Day stated he felt that did not matter too much because that was The Landings Architectural Review Committee's responsibility. He said what he was looking for was a compelling reason to grant the variance as requested. He said there was a way to accomplish what they wanted without granting any kind of variance on this particular site.

Mr. McKay stated he was not asking the Board to go against the guidelines. He said he was asking the Board for a variance so he could go to The Landings Architectural Review Committee because he felt as well as his contractor felt that what he was proposing would be less of an impact on the character of the neighborhood than if he were to do it the old way.

CZBA Action: **Mr. Day made a motion that the Chatham County Zoning Board of Appeals approve the petition as submitted based upon a finding that the relief granted would not cause substantial detriment to the public good. Mr. Hirsch seconded the motion and it was unanimously passed.**

**RE: Petition of Alan & Rhonda Kinney
B-060130-42214-1
41 Mulberry Bluff Drive**

Mr. Noha recused himself from the petition.

Present for the petition was Rob Brannen, Attorney.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a 12¼ foot marsh setback variance to the 50 foot marsh setback requirement of Section 4-12f.(1) of the Chatham County Zoning Ordinance in order to construct a swimming pool in the rear yard. The subject property, located at 41 Mulberry Bluff Drive, is zoned R-1/EO (One-Family Residential/ Environmental Overlay).

Findings

1. Section 4-12(f) of the Chatham County Zoning Ordinance requires that a minimum 50 foot setback from the marsh line and that a minimum 35 foot riparian setback from the marsh line be established for properties upon which existing structures existed at the time of adoption of the Environmental Overlay District (November 16, 2001). Setback requirements for both the marsh and riparian buffer are established at 25 feet if the parcel was vacant at the time of adoption of the Overlay District. A residential structure was constructed and occupied on the lot prior to adoption, thus the more stringent requirements apply.
2. The subject property is considered a standard lot, being slightly more than an acre in size. The northwest property line is somewhat irregular in shape as it follows the profile of a natural drainage channel. The existing residence is set back approximately 190 feet from the front property line, and approximately 70 feet from the rear property line.
3. The petitioner is requesting a 12¼ foot variance from the required 50 foot marsh setback buffer. The petitioner is requesting the variance in order to construct a swimming pool at the rear of the existing residence. The pool would be located approximately six (6) feet from the edge of an elevated deck, and approximately 13 feet from the rear wall of the residence.
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.**

Though somewhat irregular in shape, the parcel is over one (1) acre in size, and has no extraordinary topographic features.
 - b. **The application of these regulations to this particular piece of property would create an unnecessary hardship.**

Application of the regulations of the Zoning Ordinance would not create an unnecessary hardship. A smaller profile pool could be constructed, or the proposed pool moved to avoid the required marsh setback.

- c. **Such conditions are peculiar to the particular piece of property involved.**

The conditions described above are 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, would not cause substantial detriment to the public good. The purpose of the marsh and riparian setback is to protect the natural wetlands, stream beds and rivers from man-made encroachments that might exacerbate runoff conditions and inadvertently pollute said waterways. As proposed, the swimming pool would be approximately 38 feet from the marsh line, some 13 feet in excess of what would be required if the site were vacant.

Summary of Findings

All of the conditions necessary for granting a 12¼ foot marsh setback variance from the 50 foot marsh setback requirement appear not to be met.

Mr. Day asked if they could put the pool somewhere else on the lot?

Mr. Hansen stated the petitioner could put the pool in the front yard, but that would not be ideal and something they wished to do.

Mr. Day asked how big was the pool?

Mr. Brannen stated after they submitted their application they had a surveyor to come out and survey the DNR line. He said the blue line on the plans was the marsh line and the yellow line was the DNR line. He said he felt that DNR may have mismarked the line because to him it did not look like the marsh come out that far. He said there was a substantial amount of grass between the improvements and the marsh. He said they also got letters from all the neighbors saying that they did not have any opposition to it. He said they also got approval from Dutch Island Architectural Review Committee subject to this variance.

He further stated that the Kinney's built their house in 1994 which was before the 2001 setback was passed. He said if they had known that there was going to be a setback there, they had plenty of room to put their house closer to the street and they would have had more room to put their pool in the back, like some of their neighbors. He also stated that the pool was approximately 17 feet which they felt was the minimum that would fit.

Mr. Day stated he had a fundamental problem with the situation where in one instance 25 foot setback was okay and in another instance 50 foot setback was okay. He said from his perspective if were building a new house they could put this at 25 feet versus 50 feet. He said he felt that was an inequity on the part of a current homeowner and imposition.

CZBA Action: **Mr. Day made a motion that the Chatham County Zoning Board of Appeals approve the petition as submitted based upon a finding that the relief granted would not cause substantial detriment to the public good.. Mr. Hirsch seconded the motion and it was unanimously passed.**

RE: **Petition of Don Sandberg & Margaret L. Sandberg**
B-060130-42413-2
2 Chelmsford Lane

Mr. Noha recused himself.

Present for the petition was Don Sandberg.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a two (2) foot side yard setback variance to the 20 foot side yard setback requirement of Section 4-6.66 of the Chatham County Zoning Ordinance in order to construct an addition onto an existing garage. The subject property, located at 2 Chelmsford Lane, is zoned PUD-R (Planned Unit Development Residential).

Findings

1. Section 4-6.66 of the Chatham County Zoning Ordinance requires that single-family detached dwellings be located not less than 40 feet from other types of structures, thus necessitating a minimum 20 foot side yard setback.
2. Although the parcel contains in excess of 20,000 square feet, the property is somewhat oddly shaped because of its location on a cul-de-sac. The lot has five sides, with slightly more than 43 feet along the curvilinear front. The parcel meets all of the development requirements of and is considered a standard lot in the PUD-R classification.
3. The petitioner is seeking a two (2) foot side yard setback variance in order to construct an addition onto an existing garage. The lot is heavily vegetated and the encroachment of a corner of the proposed structure will cause minimal impact.
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 parcel is considered a standard lot. Minimum standards for the district have been met or exceeded as described in Finding 2 (above).
 - 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. Either a smaller structure could be constructed, or the proposed structure could be moved forward to avoid the necessity of a variance.

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, would most likely not cause substantial detriment to the public good. The site contains significant vegetation which, when coupled with the remaining 18 foot setback, will cause little disturbance or disruption to adjoining properties.

Summary of Findings

All of the conditions necessary for granting a two (2) foot side yard setback variance appear not to be met.

Mr. Sandberg stated they have been before the Architectural Review Committee (ARC). He said when they originally designed it they put the golf cart extension parallel with the front of the garage so they would not encroach on the back. He said when they went to the ARC they denied it because they felt it was too massive. He said they revised their plans and move it back 4 feet from the house and lowered the roof and the ARC accepted this scheme. But because they moved it to the rear of the house they encroached 4 feet over the building setback line. He said they cut an L-shaped in the rear of the garage which allowed him to have a work area as well as golf cart storage. He said their neighbors supported their petition and the closest neighbor submitted a letter in support.

CZBA Action: Mr. Murphy made a motion that the Chatham County Zoning Board of Appeals approve the petition as submitted based upon a finding that the relief granted would not cause substantial detriment to the public good. Mr. Day seconded the motion and it was unanimously passed.

**RE: Petition of Dale M. & Donna C. Hardie
B-060130-42599-1
1412 Walthour Road**

Mr. Watford recused himself from the petition.

Present for the petition was Dale Hardie.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a 1,200 square foot accessory building variance to the 900 square foot maximum accessory building allowed in the front yard pursuant to Section 3-6.1 of the Chatham County Zoning Ordinance in order to construct an addition onto an existing garage.

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 the 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 subject property contains in excess of 50,000 square feet and measures approximately 115 feet wide and 450 feet deep. The parcel does not have frontage on Walthour Road. A 115 foot by 300 foot separate parcel is located to the front of the subject property. A 22 foot access easement connects the subject parcel to Walthour Road. An existing 900 square foot accessory structure is located in the front yard. The structure, which lies 123 feet from the front property line, currently meets all of the design criteria listed in Finding 1 (above).
3. The petitioner is requesting a variance to the permitted size of accessory structures to be located in the front yard so as to be able to build an addition onto the existing garage structure. The petitioner states that he is a collector of classic automobiles and that it is his desire to house his collection on site. The total square footage of the accessory structure, if approved, will be 2,100 square feet.
4. If approved, the accessory structure will meet or exceed the side yard setback requirements, and will be 93 feet from the front property line.
5. 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 parcel is considered a standard lot. Minimum standards for the R-1-A district include a minimum lot width of 70 feet and a minimum lot area of 12,000 square feet, both of which are exceeded as described in Finding 2 (above).
 - 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. Although it appears that the proposed structure could be located on the lot in such a manner to meet all setback requirements, the petitioner has not provided sufficient proof of hardship to support the requested need to exceed the maximum accessory building size by 1,200 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, would most likely not cause substantial detriment to the public good. The site contains significant vegetation which, when coupled with the proposed large setback, will cause little disturbance or disruption to adjoining properties.

Summary of Findings

It appears that all of the conditions necessary for granting a 1,200 square foot accessory structure size variance have not been met.

Mr. Hardie stated he just moved from Tybee Island where he had 2,200 square feet of storage and garage space. He said he has had leased space in other locations to store his car collections. He said he kept some at his mother's house, friends, and neighbors and he was wearing out his welcome by imposing upon them. He said he would like to move his collection to his residence as per requirement of his classic car insurance policy. The policy requires that it be inside a locked garage at your residence premises in order to be insured. He said he cleared it with them for temporary storage, but it would soon. Therefore, he needed to move his collection to his residence. He said if he could not store his collection at his residence he would either have to eliminate part of his collection or build a storage space. Also, in October he had a fire that destroyed a storage building where he kept his lawn and maintenance equipment. He said he has a big lot and has secured a permit to build an accessory building in the backyard towards the marsh. He said he had a marsh survey and DNR also came out and did a marsh line mark. He said where DNR marked the marsh line, his building encroaches on the 50 foot setback. He said it also obstructed his neighbor's view for his neighbor's on the left looking out towards Walthour Road. He said his other neighbor also was concerned about a large size building in the backyard and obstructing his view. He said he felt rather than obstruct his neighbors view, he rather build in the front by adding onto a building that he already had. He said there were also other problems with building in the front because if he added onto an existing two car garage that was attached to the house, his drain field for the septic tank was in that location. In addition, there were two majestic Oak trees between the garage he recently built and the house. He said the trees would have to be cut down if he built the garage attached to the house. He said he could build a walkway from the existing two car garage, but it would be at least 80 feet which he felt would not be aesthetically pleasing.

He said he was asking the Board's permission to build an additional L-shaped building. He said he would still be 73 feet from the setback and 100 feet from the property line where the photo was taken. He said he had a very large front yard and a limited backyard. In addition, the problem in the backyard with obstructing the neighbor's view, the backyard was also very low and the water table was high especially in the back. Also, you would not want a moisture environment around classic cars.

Mr. Day asked if there would be a problem with the side yard setback?

Mr. Hansen stated no.

Mr. Day asked if there would be a separate meter for the proposed structure?

Mr. Hardie stated no. He said he installed a 450 amp service on the house and two accessory building boxes on either side of the meter. He said they also have a 200 amp service for the building that was in the front yard and they have an additional 200 amp box already installed for the second part of the building.

Mr. Day asked the petitioner if he had plans to install a bathroom in the building?

Mr. Hardie stated no.

CZBA Action: **Mr. Day made a motion that the Chatham County Zoning Board of Appeals approve the petition as submitted based upon a finding that the relief granted would not cause substantial detriment to the public good. Mr. Noha seconded the motion and it was unanimously passed.**

**RE: Petition of Don Cogdell, Jr., Agent for
Isle of Hope United Methodist Church
B-060127-54021-1
7721 Central Avenue & 310 Parkersburg Road**

Present for the was Don Cogdell.

Mr. Hansen gave the following Staff report.

The petitioner, is requesting approval of an application to establish a use (church) pursuant to the requirements of Section 10-6.2; and is requesting a 45 foot side yard setback variance to the 50 foot side yard setback requirement and a 2½ foot front yard setback variance to the 55 foot front yard setback (as measured from the center line of the abutting right-of-way) requirement of Section 4-6.1 of the Chatham County Zoning Ordinance in order to construct a church facility on site. The subject property, located at 7721 Central Avenue & 310 Parkersburg Road, is zoned R-1 (One-Family Residential).

Findings

1. Subject to approval by the Zoning Board of Appeals, churches are an allowed use within the R-1 zoning classification. The Isle of Hope United Methodist Church, located at 412 Parkersburg Road, has existed at its current location for many years. The church owns two lots across the street from their sanctuary and wishes to expand their facilities at this location. The project proposes to join the two lots into one lot, and provide for additions

to an existing structure to establish an expanded Sunday school building.

2. In addition to the request to establish a use, the petitioner is also seeking a 2½ foot front yard setback variance and a 45 foot side yard setback variance in order to accommodate the proposed structure. The side yard setback requirement in the R-1 classification is typically five (5) feet, however, a special provision of the Ordinance requires that all church buildings be set back no less than 50 feet from all property lines unless the property line abuts a street right-of-way.
3. The combined property is trapezoidal in shape. The parcel has nearly 260 feet of frontage along Central Avenue, approximately 157 feet of frontage along Parkersburg Road, and is 156 feet and 138 feet deep respectively. The combined lot area totals approximately 27,365 square feet.
4. The petition has been reviewed by the Chatham County Preservation Planner who noted the following concerns. The site plan indicates the demolition of three potentially historic structures: the masonry residence which, according to tax records, was built in 1955; the frame apartment building which appears on the 1954 Sanborn Fire Insurance Maps; and the “wood utility building” which appears to be historic based upon materials and construction. Although the structures have not been listed as contribute to the Isle of Hope Historic District, the structures, due to their age, have subsequently become eligible for consideration.

The site also indicates the alteration of the existing house located at 310 Parkersburg Road. The house, built in 1924, is listed as a contributing structure to the Isle of Hope Historic District. The east and south facades will be replaced with new construction, and the west façade will be significantly altered by the new construction. These alterations may have a detrimental effect on the historic character and integrity of the building.

5. In accordance with Section 10-6.2 of the Chatham County Zoning Ordinance, the Board of Appeals shall hear and decide upon requests for permission to establish uses based upon a finding by the Board that:
 - a. **The proposed use does not affect adversely the general plans for the physical development of Chatham County, as embodied in these regulations and in any Master Plan or portion thereof adopted by the Commissioners of Chatham County.**

The proposed use does not affect adversely the general plan for the physical development of Chatham County. Churches are, subject to approval by the Board of Appeals, an allowed use in the R-1 zoning classification.

- b. **The proposed use will not be contrary to the purpose stated for these regulations.**

The proposed use is not contrary to the regulations.

- c. **The proposed use will not affect adversely the health and safety of residents or workers in Chatham County.**

No adverse affects are expected or anticipated.

- d. **The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.**

The proposed use will not be detrimental to the use or development of adjacent properties. As noted in Finding 4 (above), the historic character of the area could be inalterably changed. Currently there is no legal protection afforded to structures contributing to the historic sense of the Isle of Hope.

- e. **The proposed use will not be affected adversely by the existing uses.**

The proposed use will not be affected adversely by the existing use. Most of the structures on the existing site are scheduled to be demolished. The lone remaining structure will be altered and added onto in order to construct an additional church building for the Isle of Hope United Methodist Church.

- f. **The proposed use will be placed on a lot of sufficient size to satisfy the space requirements of said use.**

The parcel is not of sufficient size to accommodate the proposed use. The petitioner is seeking variances from the prescribed development standards.

- g. **The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use such facility, vehicular movement, noise or fume generation, or type of physical activity.**

It is not anticipated that the proposed use will create either a hazard or a nuisance. The functions and activities planned for the new facility already take place on the existing church campus, albeit across the street from the subject parcel. Moreover, it is anticipated that the facility will see limited usage, two times per week on average.

- h. **The standards set forth for each particular use for which a permit may be granted have been met.**

The petitioner is seeking variances to the development standards of the district.

6. 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.**

Though oddly shaped, the subject parcel is considered a standard lot. The combined parcel will contain approximately 27,365 square feet.

- 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. The property could be used for residential purposes without the necessity of variances. Because the Ordinance requires churches to have a 50 foot setback from all property lines, the petitioner is in need of variances in order to construct as is proposed.

- 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, would most likely not cause substantial detriment to the public good. The site configuration will allow ample space for enhanced vegetation and buffering. Moreover, the limited usage anticipated for the building mirrors the current usage of the existing church campus.

Summary of Findings

All of the conditions necessary for granting use approval to establish a church facility and the conditions necessary for granting the requested setback variances appear not to be met.

Mr. Cogdell stated the first graphic showed the existing property and the grey building was the building that they would like to save. He said the buildings that were color coded pinkish would either be removed or demolished. He said the building was a 1955 ranch style masonry home that the Church was trying to relocate. The other building was a garage that was built by the Church. He said there was also a small metal prefabricated canopy adjacent to it. Off the back of the Church was two prefabricated canopies. He said there also was a historic shed and an apartment building on the site. He said of all the property, there were at least four properties that were currently outside what was the residential setback to this property which was the slashed red line around the border. In addition, two of the properties were over the property line. Again, everything in the pink color they either wanted to remove or demolish and they would add to the grey building.

He further stated that they could take what they were proposing and build it within the blue setback as shown on the plans. He said they were trying to take a more sensitive approach and spread the building out, making it more residential in character. He said they wanted to take the existing building and pull the two pods away from it to make it look like individual residential pieces of property rather than build one large massive building. He said they were trying to break it up into three components with smaller hyphenated connectors.

Mr. Hirsch asked how many square feet were the additions?

Mr. Cogdell stated 5,000 square feet.

Mr. Day asked how many additional cars would come into the site?

Mr. Cogdell stated it would only be a couple of days of week. He said there were sixteen parking spaces. He said they were also considering using a pervious paving block.

Mr. Sam McCantran (Chair of Trustees) stated the buildings currently were used intermittently for storage and special events. He said they were trying to do this project so they could better utilize the space. With regards to the parking, they run a shuttle back and forth to the elementary school on Sundays and have parking up there.

Mr. Day stated they were saying that this was going to be a Sunday School. He asked how many children would use this facility?

Mr. McCantran stated approximately 80, but it would be more youth than children.

Mr. Day stated he was concerned that the amount of traffic that was going to go into this area if it was going to be greater than what they were seeing today. He said if it is, then he was also concerned about the impact of that additional traffic on the neighborhood.

Mr. McCantran stated in general they were crammed in every corner and they hoped this would give them some room to do some of those programs.

Mr. Day asked if they felt there would be a large increase in the amount of traffic going into this area beyond what they see today because they were adding additional capacity?

Mr. Cogdell stated there would not be more people coming into the church, but were existing members that attend services in other rooms. He said the cars were already there.

Mr. McCantran stated he could not say that the Church was not going to grow. He said they felt if there was going to be an increase in traffic it would be at the elementary school and the trolley that was already making the loop would continue to be utilized.

Mr. Noha asked how long has the Church owned the parcels in question?

Mr. McCantran stated 3 years and 2½ years.

Mr. Day asked if the parcels would be recombined into a single lot?

Mr. McCantran stated yes.

Mr. Day asked Staff if the use and variance are granted and the Church wants to expand beyond the footprint of what they were talking about today would they have to come back before the Board?

Mr. Hansen stated yes.

Ms. Nancy Tamerick stated she owned the property next to the Church. She asked how tall would the building be that was on her property line? She asked if that was the 45 feet that the Church was talking about?

Mr. Cogdell stated the stair would serve a two story building. He said it actually was more of a

1½ story with a large dormer. He said the other area was a 1 story garage. He said the two points was the 5 feet off of her property line.

Mr. Day asked how close was her house to the property line?

Ms. Tamerick stated approximately 15 or 20 feet.

Mr. Day asked if there was a fence down her property line?

Ms. Tamerick stated yes.

Mr. Day stated he was also concerned if they were building within 5 feet of a fence.

Ms. Tamerick stated if it was only going to 1½ story then she would not have a problem with it.

Mr. Day asked if there was a way that they could move the building more than 5 feet away from the 6 foot high fence? He said the reason he asked that question was because he was always concerned about life safety and emergency vehicles being able to access the property.

Mr. Jack Oliver stated he lives on Parkersburg Road across from the Church. He said the Church was a good neighbor, but he felt if the petition was granted it would bring about degradation and the proposal would be detrimental to the neighborhood and community. He said he felt the proposed project would be overwhelming to the neighborhood.

Mr. Day asked if there was another piece of ground that they could build their addition?

Mr. McCantran stated no.

Mr. Day asked if they had another piece of ground that was designated as Church use that may not be as big as this piece of ground, but could be utilize to accomplish what they were trying to do?

Mr. McCantran stated over the last 4 years the Church has gone through a strategic planning process and identified areas where they might be able to purchase and build and do what they were describing. He said there was a parking lot on the north end of the Church that was narrow, but it would take up the parking area. Any other adjacent properties that they have looked at and gone through those doors have been closed. He said these were the properties that the Church have and that was why they were trying to utilize them.

Mr. Day asked if they considered building up on some of the existing structures?

Mr. McCantran stated they considered double decking, but the price would be almost double. In addition, there was the disruption because of the preschool with 355 children, therefore that was not an option. He said they did not want to build something that only filled up the blue block because that was not their intent. He said they did not want to do something that was also out of character with the neighbors. He said they felt this option gave them the opportunity to preserve the greenhouse. He said they also tried to make sure that they preserve as many of the trees on site. He said they also had a meeting with the neighbors and they talked about the buffers as well as the need to do a vegetative screen on the two sides. He said the Church would be willing to meet with Ms. Tamerick and the Bentley's and come up with something that works.

Mr. Noha asked if it was the Church intent to bring over any of the daycare usage over into this property?

Mr. McCantran stated no.

CZBA Action: Mr. Day made a motion that the Chatham County Zoning Board of Appeals approve the use as submitted. Mr. Noha seconded the motion and it was unanimously passed.

CZBA Action: Mr. Day made a motion that the Chatham County Zoning Board of Appeals deny the 45 foot side yard setback because the 5 foot distance between the corner of the building and the fence was too small and that it should be at least 10 feet.

Mr. Hansen stated as a point of clarification the Board has the ability to grant less than what has been requested. He said if the intent is to deny the request as filed ie. 45 feet and approve some other number, the Board can do that.

CZBA Action: Mr. Day amended the motion that the Chatham County Zoning Board of Appeals approve the request to establish the proposed use in accordance with the requirements of Section 10-6.2 of the Chatham County Zoning Ordinance; that the Chatham County Zoning Board of Appeals approve the request for a 2½ foot front yard setback variance; and that the Chatham County Zoning Board of Appeals deny the request for a 45 foot variance to the side yard setback requirement and in lieu thereof approves a side yard setback variance of 40 feet. Mr. Noha seconded the motion and it was unanimously passed.

Mr. Day asked if the Board could approve the amount of setback they felt was appropriate for the rear of the building or would the petitioner have to come back?

Mr. Hansen stated he felt that the Board could not approve it today because it was not advertised. He said the application before the Board was the application of record.

RE: Minutes

1. Approval of CZBA Minutes – January 24, 2006

CZBA Action: Mr. Noha made a motion that the Chatham County Zoning Board of Appeals approve the regular meeting minutes of January 24, 2006. 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 11:00 a.m.

Respectfully submitted,

James L. Hansen,
Secretary

JLH:ca