

CHATHAM COUNTY ZONING BOARD OF APPEALS

ARTHUR A. MENDONSA HEARING ROOM

112 EAST STATE STREET

MAY 23, 2006

9:00 A.M.

MINUTES

MEMBERS PRESENT:

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

MEMBERS ABSENT:

Davis Cohen (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 May 23, 2006 Chatham County Zoning Board of Appeals meeting to order at 9:00 a.m.

RE: Regular Agenda

**RE: Petition of Nancy G. Bowden
B-060427-60405-1
104 Briarberry Bluff Drive**

Present for the petition was Nancy Bowden.

Mrs. Burke gave the following Staff report.

The petitioner is requesting approval of a 16 ¼ foot marsh setback variance from the 50 foot marsh setback requirement of Section 4-12 of the Chatham County Zoning Ordinance in order to construct an addition onto an existing single family residence. The subject property, located at 104 Briarberry Bluff, is zoned R-1/EO (One-Family Residential/ Environmental Overlay).

Findings

1. Section 4-12 of the Chatham County Zoning Ordinance establishes a minimum building setback from the marsh line at 50 feet for existing structures. The existing structure does not meet the minimum marsh setback requirement and encroaches 7 feet into the

setback.

2. The subject parcel is rectangular in shape, with a minimum width of 76 feet and a minimum depth of 109 feet. The parcel area is approximately 9,130 square feet. The R-1 district requires a minimum area of 6,000 square feet and a minimum lot width of 60 feet.
3. The petitioner is seeking a 16 ¼ foot marsh setback variance from the 50 foot marsh setback requirement in order to construct an addition onto the rear of an existing residential structure. The proposed addition would be setback 33.75 feet from the marsh.
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 conforming lot of record.

- 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. However, if the structure on the lot was not in existence and instead was a proposed new structure, the marsh setback would be 25 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. If the lot was currently vacant and a new structure was proposed for the subject property, the marsh setback would be 25 feet and the structure would meet the requirement.

Summary of Findings

All of the conditions necessary for granting a 16¼ marsh setback variance appear not to be met.

Ms. Bowden stated they wanted to add a sunroom onto an existing deck. She said they were going through the permitting process and found out that they had to have the marsh designation and surveys done, which they have. She said if they were building the house now they would meet the requirements of new construction.

Mr. Day stated similar situations have come before the Board time and time again and he has not had someone to explain the logic. He said he felt that it did not make sense to have a different set of guidelines for new construction versus old construction.

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 Daryl R. Lusk
B-060427-60636-1
31 Mallory’s Way**

Present for the petition was Daryl Lusk.

Ms. Burke gave the following Staff report.

The petitioner is requesting approval of an eight (8) foot rear yard setback variance to the 25 foot rear yard setback requirement of Section 4-6.1 of the Chatham County Zoning Ordinance in order to construct an addition onto an existing single family residence. The subject property, located at 31 Mallory’s Way, is zoned PUD-M-12 (Planned Unit Development-Multi Family-2 Units Per Acre).

Findings

1. Section 4-6.61 of the Chatham County Zoning Ordinance requires a minimum rear yard setback of 25. The existing structure meets this requirement.
2. The subject parcel is rectangular in shape at 65 feet in width and 115 feet in depth, with 7,475 square feet in area. The parcel exceeds the development requirements of and is considered a standard lot in the PUD-M classification.
3. The petitioner is seeking an eight (8) foot rear yard setback variance in order to construct a sunroom on the existing structure.
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.

- 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 rear of the site appears to be heavily wooded. In addition, the adjacent property to the rear is currently a vacant, wooded lot.

Summary of Findings

All of the conditions necessary for granting an eight (8) foot rear yard setback variance appear not to be met.

Mr. Lusk stated he was asking for an 8 foot variance to build a sunroom onto the rear of his house. He said there were no neighbors to the rear of his property and it was wooded.

Mr. Day asked if there was an existing concrete pad?

Mr. Lusk stated yes, and he was going to add 3 feet to the concrete pad.

Mr. Sharpe asked if he add the sunroom, how much space would there be to get around the side and rear of the house to the edge line?

Mr. Lusk stated 17 feet.

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. Sharpe** seconded the motion and it was unanimously passed.

**RE: Petition of Darwin Johnson
B-060427-60770-1
225 Penrose Drive**

Present for the petition was Janie Groover.

Mrs. Burke gave the following Staff report.

The petitioner is requesting approval of a five (5) foot side yard setback variance to the ten (10) foot side yard setback requirement of Section 4-6.1 of the Chatham County Zoning Ordinance in order to construct a single family residential structure. The subject property, located at 225 Penrose Drive, is zoned R-1-A/EO (One-Family Residential/ Environmental Overlay).

Findings

1. Section 4-6.61 of the Chatham County Zoning Ordinance requires a minimum side yard setback of ten (10) feet.
2. The subject parcel is rectangular in shape, with a minimum width of 50 feet and a minimum depth of 697 feet. Per the petitioner's survey, the parcel is 35,384 square feet. The parcel exceeds the development requirements in regards to minimum lot area, however, is nonconforming in regards to lot width. The R-1-A district requires 70 feet of lot width.
3. The petitioner is seeking a five (5) foot side yard setback variance in order to construct a single family residence within five (5) feet of the eastern property line. There is a smaller single family residence in existence on the subject property which meets the side yard setback on the eastern property line, however, is well within the side yard setback on the western property line. The proposed location of the structure would allow for a ten (10) foot side yard setback on the western property line.
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 substandard lot in regards to width.

- 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. However, any structure built on the subject property could not exceed 30 feet in width without obtaining 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.

Summary of Findings

All of the conditions necessary for granting a five (5) foot side yard setback variance appear not to be met.

Ms. Groover stated she had two letters from the adjacent property owners (Mr. Fogarty and Mr. Dyches) in support of their petition.

Mrs. Burke stated since then Mr. Dyches had submitted another letter to the Board.

Mr. Day stated the way he read the letter from Mr. Dyches was that he supported a variance on one side but not the other.

Mrs. Burke stated yes.

Ms. Groover stated when Mr. Dyches house burned it caught theirs on fire. She said they have to tear theirs down and build a new house.

Mr. Day stated that was one of the concerns they have seen on various occasions coming before the Board where people ask for setback variances because the 10 foot space between houses was not much space. He said he had a safety concern as Mr. Dyches expressed in his letter in that you only have 10 feet between houses.

Ms. Groover stated their lot was 50 foot and if they were to build a 35 foot house they would have left 15 feet which would be enough space for fire or emergency vehicles on one side.

Mr. Day stated his concern was when the house was finished and all the shrubbery was in place it blocked access to the rear of the house. He said with a 10 foot space between houses there was not a lot of space.

Ms. Groover stated on the side of the house where Mr. Fogarty lived there was no shrubs.

Mr. Day asked if Mr. Dyches was building a new house?

Ms. Groover stated yes.

Mr. Hirsch stated in mentioned in the report that they were buying the Fogarty's property.

Ms. Groover stated yes.

Mr. Don Dyches stated he was the eastern neighbor that wrote the letter opposing this particular setback. He said he signed a letter supporting a 5 foot side yard setback. However, when he talked to Mr. Johnson at the time when his petition was granted, he told him that he would need a side yard setback to keep his house in its current location just like he needed one

to keep his in its present location. He said both of the houses were on 50 foot lots and set off to one side. The house he had that burned was at a 5 foot side yard setback and the Board granted a petition to keep that same setback. He said the house the Johnson's had was less than 5 feet from their western side yard line. He said there were only three lots that were 50 foot lots and felt the Board would not see a flood of applications for variances. He said he would like to see Mr. Johnson get a variance but on the side where he was currently located. He said safety was a concern because his house burned and also damaged Mr. Johnson's.

Mr. Day stated it seemed to him that if they were going to buy the lot on the other side that it would be more reasonable to push it towards that way rather than towards Mr. Dyches house.

Mr. Noha asked Mr. Dyches if he was the petitioner that received a variance on the other side?

Mr. Dyches stated yes.

Mr. Day stated they have two houses that needed to be rebuilt. He said he felt Mr. Johnson and Mr. Dyches needed to get together and figure out what made sense for both of them.

Mr. Marion Kennickell stated he lived to the east side of Mr. Dyches lot. He said he was also concerned about the variance for the same reasons discussed with regards to safety and the houses being 10 feet apart. He said he was not opposed to Mr. Johnson getting a 5 foot setback on the western side.

CZBA Action: Mr. Sharpe made a motion that the Chatham County Zoning Board of Appeals deny the petition. Mr. Day seconded the motion.

Mr. Watford asked the Board if they wanted to see if the petitioner would be interested in a continuance?

The Board agreed.

Ms. Groover agreed to a continuance.

CZBA Action: Mr. Sharpe withdrew his motion for denial.

CZBA Action: Mr. Day made a motion that the Chatham County Zoning Board of Appeals continue the petition until the next meeting. Mr. Watford seconded the motion and it was unanimously passed.

**RE: Petition of Savannah Quality Homebuilder
B-060501-87302-1
123, 125, 127 North Street**

Present for the petition was Richard Guerard.

Mrs. Burke gave the following Staff report.

The petitioner is requesting approval of a 15 foot rear yard setback variance to the 25 foot rear yard setback requirement of Section 4-6.1 of the Chatham County Zoning Ordinance in order to construct three (3) new residential structures. The subject property, located at 123, 125, and 127 North Street, are zoned R-1/EO (One-Family Residential/ Environmental Overlay).

Findings

1. Section 4-6.61 of the Chatham County Zoning Ordinance requires a minimum rear yard setback of 25 feet.
2. The subject parcels are square in shape, with a minimum width of 100 feet and a minimum depth of 90 feet. Per the petitioner’s survey, the parcels are each 9,000 square feet. The R-1 district requires a minimum of 60 feet in width and 6,000 square feet in area. The three (3) newly created lots are conforming lots of record
3. The petitioner is seeking 15 foot rear yard setback variances for each lot in order to construct single family residences within ten (10) feet of the rear property lines.
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 parcels are standard lots of record in the R-1 district.

- 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.

- 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 15 foot rear yard setback variance for three (3) lots appear not to be met.

Mr. Day asked if there were other houses in the area that encroach on the setbacks?

Ms. Burke stated the petitioner submitted pictures that showed other lots in the area that encroach.

Mr. Sharpe stated the pictures of some the houses shown came before the Board with Mr. Radu Gavrilas. He said he recalled that it was built at a level where the ground level was 2 or 3 feet higher. The development was built under the auspice of the MPC granting them a site plan and so forth. What that did was impact the neighbors on the rear yard such that you had one lot at an elevation of 3 feet. The neighbors lot was at an elevation of minus 3 feet because of the requirement to build this house. He said from the pictures you could see the back side of the houses and how they fell off and were on top of the existing structures adjacent to them.

Mr. Richard Guerard stated they have extended North Street which was a dead end street with a cul-de-sac at the end. He said they were submitting for building permits and an approved set of engineering plans showed a 10 foot building setback. He said they submitted their plans and Mr. Sebek called and told them that their plans were incorrect and it needed to be a 25 foot setback. He said everyone else on the street was at 10 foot and in violation of the 25 foot setback. He said at least five of the houses were new construction. He said they talked to the County Attorney and he told them that section 5.3 allowed for a front yard setback if you measured the houses within a certain distance of them and took the average of the encroachment and the 25 foot setback. He said Mr. Hart, County Attorney, also looked through the ordinance trying to find a similar ordinance for the rear yard. He said Mr. Hart felt that the ordinance intent was that whenever there were nonconforming homes in the area by way of setback encroachments the way that they did on the front yard should have been applied to the rear yard. He said there was nothing in the ordinance that addressed a rear yard setback. As the petitioner, he felt that it was not fair that Mr. Gavrilas was building in the setbacks. He said the three lots that they were trying to put in there were 90 feet X 100 feet. He said they made the lots as wide as they could which exceeded the limit. He said he did not feel that there was any life safety issue to be able to go 10 foot from the rear property line. He said they felt they should be allowed to do the same as Mr. Gavrilas in order to compete in the sale of homes.

Mr. Day asked what was the footprint of the houses?

Mr. Guerard stated 38 X 58 including front and rear porches.

Mr. Day asked if they could build a wider houses on the lots, so that it was not quite as deep? He said may be a different style of house.

Mr. Guerard stated it would be a double wide if it were 50 X 50, but they were also trying to accommodate for the porches. He said their style of home was very similar to that of Mr. Gavrilas.

Mr. Sharpe stated he was concern because there were already existing houses there that encroached on that setback. The houses that already have been constructed, now have privacy fences behind them and you could not get to the easements.

Mr. Day asked Mr. Sebek what was the average?

Mr. Sebek stated he went out there after talking with the petitioner and found that there were several new and older homes that were either 18.6 to 14 feet in the rear which were essentially decks, because they were all raised homes. He said he was not aware of what Mr. Sharpe said

that when the other builder subdivided the lots he requested and received a variance from the MPC. He said this builder did not request any variances when he subdivided because it was a minor subdivision. He said if he would have followed that procedure they could have approved it at that time with the smaller rear setback. Since that was not done and it was platted as it was, he had no option even though that section of the ordinance specified the front setback only. Unfortunately, he has to go by what the ordinance says and not what it should say.

Mr. Day asked how far would the houses sit back from the front of the lot?

Mr. Guerard stated 25 feet.

Mr. Day asked the petitioner if they would consider moving the house a little forward on the lot and then the Board could consider granting a variance on the front and rear?

Mr. Guerard stated yes, but he would rather put the most in the front and the least in the rear.

Mr. Joel Fields stated he owned the lots that were to the rear of the proposed lots. He said he was not opposed to development. However, the lots were only 90 feet deep and he felt a 25 foot setback was very liberal. He said if you brought it back 15 more feet and added a deck then they would be on top of the property line. He said some of the houses they showed have already created problems for other people. He said one of the buildings the petitioner showed on his property which was a utility building that has been in three different locations in the last 15 years. He said he was opposed to the petition because he felt the petitioner could build a house that conformed to the setbacks. He said he knew a house could be built to conform because he built one.

Mr. Day asked what was the footprint of his house?

Mr. Fields stated 36 X 53 feet.

Mr. Sharpe asked Mr. Fields how did he feel the petition as proposed would effect his property?

Mr. Fields stated he felt it would downgrade his property. He said he also felt if they built like Mr. Gavirilas that it would put that much dirt sloped directly into his yard. He said if they put that much dirt in there was no place for runoff. He said he was opposed to the petition.

Mr. Earl Gallovitch (3 Beard Creek Lane) stated the tax map showed North Street going from Walthour Road to Second Street which was not the case. He said whoever the first developer was came in there and midway of the property put in two retention ponds. The next developer came in and extended the paving where it dead-end, therefore the street did not go into Second Street as shown. He said developers were responsible to put the road and streets in. He said he would like to know how the developers came up with their elevations because the retention ponds were at one elevation and the end of the street was down here. He asked what would they do with the water? He said he talked to the County and they said that they had no plans to open the street into Second Street. He asked where would the septic system be for the proposed houses?

Mr. Day stated the questions he has raised were ones that would be addressed by a department within the County. He said it was not the purview of this Board. He said the Board was allowed to look at those things that the petitioner was asking which was setback.

Mr. Thomas Matthew (1006 Mims Street) asked what would be the benefits to the residents moving the houses back? He said when Mr. Gavrilas developed his houses they raised the elevation of the land which caused runoff on some of the other properties. He asked if the setback was necessary and did the petitioner need to build a large house? He asked if the community would be affected by the building of these houses.

Mr. Sharpe stated he felt the Mr. Matthew has raised valid points with regards to land use density. He said he was concerned that the proposed petition would affect the Islands Land Use Plan.

Mr. Day asked if there was a guideline for the County that limited the amount of runoff from your property to somebody else's property?

Mr. Sebek stated yes. He said it was in the subdivision regulations and was typically reviewed by County Engineering.

Mr. Noha commended the petitioner for trying to reduce the size of the substandard lots. He asked if it was said that if the petitioner could develop a house and the septic system fit on a 40 foot lot without a variance then he could build on it if the conditions were met.

Mr. Sebek stated yes.

Mr. Noha stated what the petitioner has done if he could make it work was combine two lots to make lots of density 6 which would be less intensive and less substandard than how it exists today. He said he also was concerned about the setback variances because he felt a house could be created that fit without having a setback.

Mr. Matthew stated the houses that Mr. Gavrilas built were built and the neighbors are now understanding the consequences of those houses, therefore neighbors were concerned about the development of the proposed houses by the petitioner.

Mr. Guerard stated with regards to fill and runoff there would not be any. He said the lots would be drained forward to the new street that they have put in and would have a direct outflow to the marsh. Also, the retention ponds that have put in by other developers were not required by County Engineering and were done incorrectly. He said they were not trying to come in and hurt the area. He said they felt their buildings would benefit the area. He said with regards to as to why the street does not go into Second Street was because of jurisdiction on the wetlands. He said they asked to go through and the State said no. He said they were not opposed to moving the house forward 5 feet and 7½ feet on the rear or 5 feet on the front and 5 feet on the rear.

Ms. Florene Brown stated her father bought the lots on the corner of Second and Mims Street in the 1940's. She said they have never built on those lots. She said all the land out there was not swampy. She said she was concerned about where the water would drain if they build the proposed structures. She said she felt the water would drain to the properties on the corner which would make their properties un-saleable. She said the water has to go somewhere. She said she was opposed to the petition.

Mr. Day stated if the petitioner build houses that conform to the setback guidelines, the situation was going to be the same. He said the problem was the drainage in the area which needed to be addressed by the County. He said whether the petitioner gets a variance today or they go

back and redesign within the guidelines the residents in the area would still have the drainage problem. He said he felt the people in the neighborhood needed to go to the County and let them know that there is a problem and would like their help to solve it. He said also with regards to the drainage problem, as long as the petitioner was not throwing it directly into the neighbors' yards and they were putting in the ditches that have been provided by the County they were doing what they could do to solve the drainage problem. However, the overall bigger drainage problem dealt with the County. He said the petitioner could not solve the drainage problem on the residents lots.

CZBA Action: Mr. Sharpe made a motion that the Chatham County Zoning Board of Appeals deny the petition. Mr. Murphy seconded the motion.

Mr. Day stated before the Board vote he would like to see the petitioner have an opportunity to change the variance. He said he would like to see the petitioner have an opportunity to move the house forward so that they could encroach in the front yard as well as a little in the rear yard variance so they could build the structures. He said with regards to the density in the neighborhood it would become less because the petitioner could build six houses on the three lots. He said he felt from a density standpoint the petitioner was improving the neighborhood. He said he felt may be the Board needed to ask the petitioner if they would consider moving the structures forward rather than totally denying the petition.

Mr. Hirsch stated he felt most of the concerns other than Mr. Fields which was simply that it was going to be right on top of his property that everything else was addressed respectively by the petitioner. He said Mr. Fields himself seemed to have also felt that a compromise might be suitable with the variance. It also seemed that the petitioner has tried to address in a good manner every other concern he has heard. He said he would not be opposed to seeing what compromise the petitioner could offer.

CZBA Action: Mr. Murphy withdrew his second to the motion. The motion failed for lack of a second.

CZBA Action: Mr. Noha made a motion that the Chatham County Zoning Board of Appeals approve the amended petition with a 5 yard front and rear setback variances.

Mr. Hansen stated the Board could not make a motion of that nature because the petition was not advertise in that manner. He said the Board could continue the petition with the direction that the petitioner could amend his petition and come back to the Board.

Mr. Guerard stated they were willing to continue their petition.

CZBA Action: Mr. Noha withdrew the motion for approval.

CZBA Action: Mr. Noha made a motion that the Chatham County Zoning Board of Appeals continue the petition until the next meeting. Mr. Day seconded the motion and it was passed 5 - 1. Opposed to the motion was Mr. Sharpe.

**RE: Petition of Patrick L. & Carolyn A. Blohm
B-060501-87452-1
237 Falligant Avenue**

Present for the petition was Carolyn Blohm.

Mr. Hansen gave the following Staff report.

The petitioner is requesting a waiver of the requirement that no more than one kitchen facility be allowed on a lot designated for single family residential use pursuant to Section 2-18 of the Chatham County Zoning Ordinance. The petitioner desires to construct a temporary kitchen facility in a pool house pending completion of construction of the primary residential structure. The subject property, located at 237 Falligant Avenue, is zoned C-M/EO (Marsh Conservation/Environmental Overlay).

Findings

1. The C-M zoning district of the Chatham County Zoning Ordinance allows only one dwelling per lot. As defined in Section 2-18, a dwelling unit shall consist of one or more rooms designed as a unit to provide complete housekeeping facilities for more than one person living as a single housekeeping unit or family. This definition has been further defined to mean that no more than one kitchen facility shall be allowed on any single parcel.
2. The petitioner seeks a temporary waiver of the requirement of Section 2-18. The petitioner is in the process of constructing a permanent residence on the subject parcel. A pool house is to be constructed as a part of the overall development. It is the desire of the petitioner to construct the pool house first, to reside therein, and to then complete construction of the primary residence. Upon completion of the primary residence, the petitioner will move permanently into the primary structure and remove the kitchen facility from the pool house.
3. If a waiver of the kitchen requirement is granted, it is recommended that said waiver be conditioned on the following: 1) that within 30 days of receipt of the certificate of occupancy for the primary residence, the kitchen facilities in the pool house shall be removed; and 2) that one and only one electric drop be allowed on the subject property. Confirmation of the same shall be subject to inspection of the premises by the County Inspections Department.

Summary of Findings

Granting the requested waiver is left to the discretion of the Board of Appeals.

Mr. Day stated it was his understanding that Savannah Electric will not drop a permanent electrical drop for a building without a CO. He said they will drop a sawpole which was a construction pole with electrical on it. He said they will not let them run a household or kitchen off a sawpole. He said unless the County and electrical inspection supervisor says that he will give them a temporary CO for the pool house so that Savannah Electric would drop power to them.

Mr. Hansen stated that was correct. He said what he meant was until they get the necessary CO for Savannah Electric or whomever is to provide the power, he was saying that it would have to come off the one construction drop.

Mr. Walter Strong stated another way to handle that with SEPCO was that the main distribution panel could be placed in the pool house and from there they could feed the main house.

Ms. Carolyn Blohm stated the reason they wanted to do this was because presently they were living in Pooler and they wanted to be on the property so that they would not have theft because they would like live on the property. She said currently they were at least a 40 minutes drive from the property. She said they would try to build the main house as quickly as possible. She said she understood the reason for having the ordinance because you would not want people to have two dwellings. She said they were private people and would never seek to rent that part of the property. She said not having a stove was not a problem, but she would like to have a refrigerator, sink, and microwave. She said with regards to having two power bills coming to the property was not something that she would be in favor of keeping, so it would not be a problem for her to discontinue the power and make sure that it was all under one.

Ms. Carol Schwalve asked if the kitchen and living situation in the pool house temporary?

Ms. Blohm stated yes.

Mr. Day asked Staff if the Board could put a time limit on a waiver?

Mr. Hansen stated yes.

Mr. Sharpe stated he was concerned about granting a waiver that would be lasting and allow that strip to change. He said he felt it needed to be temporary.

CZBA Action: **Mr. Day made a motion that the Chatham County Zoning Board of Appeals approve the petition with the following conditions: (1) that within 30 days of receipt of the certificate of occupancy for the primary residence, the kitchen facilities in the pool house shall be removed; (2) that one and only one electric drop be allowed on the subject property; and (3) that the waiver be valid for two (2) years from the date of the hearing. Mr. Noha seconded the motion and it was unanimously passed.**

**RE: Petition of Greg Stoeffler
B-060501-87561-1
113 Catalina Drive**

Present for the petition was Walter Strong.

Mrs. Burke gave the following Staff report.

The petitioner is requesting approval of a six (6) foot height limit variance from the 36 foot maximum height limit allowed in Section 4-6.1 of the Chatham County Zoning Ordinance in order to construct a single family residential structure. The subject property, located at 113 Catalina Drive, is zoned R-1/EO (One-Family Residential/ Environmental Overlay).

Findings

1. Section 4-6.1 of the Chatham County Zoning Ordinance establishes a maximum building height at 36 feet.
2. The petitioner is seeking a six (6) foot height limit variance in order to construct a single family residence with a maximum height of 42 feet.

3. The subject property is a standard lot of approximately .98 acres, measuring 224 feet in depth and approximately 117 feet in width at its most narrow point. The site is currently a heavily wooded, vacant lot.
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 a standard lot with varying topography.

- 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.

- 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 not cause substantial detriment to the public good. The subject parcel is a heavily wooded lot. In addition, the parcel closest in proximity to the proposed structure is a well site.

Summary of Findings

All of the conditions necessary for granting a six (6) foot height limit variance appear not to be met.

Mr. Strong stated the house has already been approved for septic on the side yards. He said with regards to the height restriction the green was an elevation 10 and pink was elevation 15, so it had a series of sand dunes. He said where the house was sited was about an average elevation of 11 or 12. He said they felt it was advantageous to get the house up so it would not be at the lowest part of the lot, but near the higher point of the lot. He said when the house was designed it was designed like most of the houses at Tybee where the base of the garage level would be at elevation 8 and then you could go to the basic flood elevation for your structure. He said under those scenarios it kept the house within the limits of the ordinance.

He further stated they got the first level at 15 because the insurance rates were better. However, it pushed the limits of the house over the height. The first level was a garage / storage room level and the next two levels were living levels. He said the roof has an 8:12 pitch which gets them over the height. He said to bring the pitch down to 4:12 to conform to the height limitations would architecturally impact the looks of the house. He said Spanish Hammocks was three lots deep. He said their lot was in the center, so the view of the neighbor on either side was in the opposite direction of this house. He said from Catalina Street, you would not be able to see the top of the house because it was a heavy wooded lot.

Mr. Day asked about the chimneys?

Mr. Strong stated the chimneys did not figure in to the formula. He said they did not want to lower the roof pitch because they felt it would not be as architecturally pleasing to the house. He said the neighbors would not be impacted from any view.

Mr. Day asked what was the height of the bottom living level?

Mr. Strong stated the ground level was basically storage and garage. He said the ceiling height was 8 feet.

Mr. Day stated in relationship to the flood level, was it correct that you would have to build 15 feet above?

Mr. Strong stated the basic flood level was 14 feet.

Mr. Day stated he visited the site and it was build up high. He asked how high was the existing build up area now in relationship to the 14 foot level?

Mr. Strong stated the batter boards were at elevation 15'-7". The basic ground where it had been filled was at 14.87 which made the garage level 15 and then it was a 4 inch step up.

Mr. Day asked why did he build that area up to 14 feet? He said the beginning of his living level would be at 23 feet. He said in reality the ordinance says that the living level could be 14 feet.

Mr. Strong stated the reason was because of the contours of the land. He said if he put the garage down you would have a tendency for drainage into your garage.

Mr. Day stated what he was suggesting from what he saw this house, the way the elevation existed today everything runs right down off of it. He said there was no yard or anything like that that has been built up so that if there were children in this family or whomever have a yard that was 14 feet above sea level. He said what he saw was a situation where you have a living level that started at 23 feet but could be 14 feet, 16 feet, or 18 feet.

Mr. Strong stated it would put the garage below the average of the existing ground, but it could be done.

Mr. Noha stated the dunes were all around this property. He said he felt if they went lower the water would run into the home.

Mr. Walter Strong, Jr. stated the design of the house would be compatible on the majority of most lots out there. He said the issue was the contours and sand dunes. Otherwise, the fact

that elevation was high threw them over the caveat. He said they still only had two living levels above the garage and the variance was on a small portion.

Mr. Day stated he was not saying that the Board should deny this petition because it was a beautiful home. However, the Board in the past has denied petitions exceeding height elevations on a number of different occasions.

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 passed 5 – 1. Opposed to the motion was Mr. Sharpe.**

**RE: Petition of Peter Thacher
B-060501-87663-1
119 Merriweather Drive**

Present for the petition was Peter Thacher.

Mrs. Burke gave the following Staff report.

The petitioner is requesting approval of a 3.7 foot marsh setback variance from the 50 foot marsh setback requirement of Section 4-12 of the Chatham County Zoning Ordinance in order to construct an addition onto an existing single family residence. The subject property, located at 119 Meriweather Drive, is zoned R-1/EO (One-Family Residential/ Environmental Overlay).

Findings

1. Section 4-12 of the Chatham County Zoning Ordinance establishes a minimum building setback from the marsh line at 50 feet for existing structures. The existing structure meets the minimum marsh setback requirement.
2. The subject parcel is rectangular in shape, with a minimum width of 76 feet and a minimum depth of 109 feet. The parcel area is approximately 9,130 square feet. The R-1 district requires a minimum area of 6,000 square feet and a minimum lot width of 60 feet.
3. The petitioner is seeking a 3.7 foot marsh setback variance from the 50 foot marsh setback requirement in order to construct an addition onto the side of an existing residential structure. The proposed addition meets the minimum side yard setback of 5 feet, however, would be within 46.3 feet from the marsh line. The marsh line is not located on the subject property.
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 conforming lot of record.

- 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. However, if the structure on the lot was not in existence and instead was a proposed new structure, the marsh setback would be 25 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. If the lot was currently vacant and a new structure was proposed for the subject property, the marsh setback would be 25 feet and the structure would meet the requirement.

Summary of Findings

All of the conditions necessary for granting a 3.7 feet marsh setback variance appear not to be met.

Mr. Thacher stated similar to the case heard this morning, when he originally built his house it was subject to the 25 foot setback. He said since the law change in 2001 he was now subject to the 50 foot setback, therefore it would not be grandfathered to the original setback, which seemed illogical to him.

Mr. Hansen stated that the marsh did not coincide with the property line.

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: Minutes

1. Approval of CZBA Minutes – February 28, 2006
2. Approval of CZBA Minutes – April 25, 2006

CZBA Action: **Mr. Noha** made a motion that the Chatham County Zoning Board of Appeals approve the regular meeting minutes of February 28, 2006. **Mr. Day** seconded the motion and it was unanimously passed.

CZBA Action: Mr. Day made a motion that the Chatham County Zoning Board of Appeals approve the regular meeting minutes of April 25, 2006. Mr. Noha 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 11:35 a.m.

Respectfully submitted,

James L. Hansen,
Secretary

JLH:ca