

CHATHAM COUNTY ZONING BOARD OF APPEALS

ARTHUR A. MENDONSA HEARING ROOM

112 EAST STATE STREET

MARCH 1, 2007

9:00 A.M.

SPECIAL MEETING

MINUTES

MEMBERS PRESENT:

**Wayne Noha, Chairman
Terrance Murphy, Vice-Chairman
Davis Cohen
Steven Day
Brian Felder
Jimmy Watford**

TECHNICAL STAFF ABSENT:

**Robert Sebek, Chatham County Inspections
Department**

MPC STAFF PRESENT:

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

RE: Called to Order

Mr. Noha called the special meeting of March 1, 2007 Chatham County Zoning Board of Appeals meeting to order at 9:00 a.m.

RE: Regular Agenda

**RE: Petition of Eric 7 Starr Pearlman
B-070129-39339-1
101 Waite Street**

Present for the petition was Terry Coleman, Kern - Coleman Engineering.

Mrs. Burke gave the following Staff report.

The petitioner is requesting approval of a 25 foot marsh setback variance from the 50 foot marsh setback requirement, and a ten foot riparian buffer variance from the 35 foot riparian buffer requirement of Section 4-12(f) of the Chatham County Zoning Ordinance in order to construct a single family dwelling. The subject property, located at 101 Waite Drive, is zoned R-1-C/EO (One-Family Residential/ Environmental Overlay).

Findings

1. Section 4-12(f) of the Chatham County Zoning Ordinance requires a minimum 50 foot setback and 35 foot riparian buffer from the marsh line.

2. The subject property is a newly created lot that meets the development standards of the Ordinance. The parcel is approximately 1.1 acres in size.
3. The petitioner is requesting a 25 foot variance from the required 50 foot marsh setback and a ten foot variance from the required 35 foot riparian buffer in order to construct a single family residence within 25 feet of the marsh 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.**

There are no extraordinary or exceptional conditions pertaining to the subject property. The parcel is a conforming lot of record.

- 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. The applicant would merely have to shift the proposed residence east on the subject property in order to meet the required setback.

- 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. Although, it would appear to be in conflict with the purposes and intent of the Zoning Ordinance. However, if the applicant had not recently recombined three lots into two lots, one of which is the subject property, the marsh setback and riparian buffer requirement would be 25 feet.

Summary of Findings

All of the conditions necessary for granting a 25 foot marsh setback and a ten foot riparian buffer variance appear not to be met.

Mr. Cohen asked when were the lots recombined?

Mrs. Burke stated with in the last year.

Mr. Coleman stated as indicated there was a recent change in the setback on this property. He said lots 7, 6, and 5 were the lots that were recombined into a two lot layout. He said the lots were recombined for several reasons. For instance, Lot 7 was shallow which created problems for them putting a house that was consistent with the surrounding area. The lots were recombined by the prior owners. He said the whole process was done without the understanding that there was going to be a change in the marsh buffer. He said the proposed home would be 5,000 square feet with a 2½ garage which was consistent with the area. He said if they had known there was going to be a reduction the time to discuss this would have been to work with the County when the recombination plat was done. He said they were not involved in this when it was recombined nor was Mr. Pearlman aware that it would be reduced from 50 to 25 feet.

Mr. Day stated he felt the driveway was the problem. He said he felt if the driveway was reconfigured then they would not be before the Board. He said he felt if they changed the configuration of the driveway or the approach to the garage so they could bring the house within the guidelines or at least to eliminate having to go into the riparian buffer. He said that would eliminate the request for a 10 foot variance on a riparian buffer.

Mr. Pearlman stated the circle was small and was a solid circle although it appeared large on the drawing. He said it was drawn at 45 feet and the builder told him that was the minimum they could be to be able to pull in and make a turn. He said the concern was that without that it would be difficult to get into the driveway and back up without some maneuvering.

Mr. Day stated he was looking for a valid reason to grant the petition other than the fact of wanting a nice curved driveway. He said he was concerned about the riparian setback. He said he wondered if there was a way for him to bring the structure forward so they would not be intruding into the riparian setback. He said he felt one way to accomplish that was to reconfigure the driveway.

Mr. Pearlman stated he would be willing to reconfigure the driveway in a way to honor the riparian setback.

Mr. Cohen asked the petitioner why they couldn't shift the proposed residence east on the property as suggested by Staff?

Mr. Pearlman stated he felt if they did that it moved the house into the tree setbacks and would necessitate the removal of some of the trees. He said it also would move the house close to Waite Drive which was the entrance way to Dutch Island.

Mr. Coleman stated he felt they would not be here if everyone involved had been aware that the County was asking them to change from 25 to 50 foot setback. He said he felt it was a plus for them to try to develop the lots from three lots into two lots.

Mr. Noha stated he also was concerned about the riparian setback. He said he also felt if they could reconfigure the driveway to eliminate the intrusion into the riparian setback that would be better.

Mr. Coleman stated he felt they could make it work without the double driveway.

Mr. Day stated that meant they would only require a 15 foot setback into the 50 foot setback.

Ms. Marianne Heimes stated she was not necessarily opposed to the petition but simply had questions. She asked when were the lots recombined?

Mr. Coleman stated the original subdivision was recorded November 2001 and the recombination was recorded November 2006.

Ms. Heimes stated the Island Land Use Plan was approved by the Chatham County Commission in June or July 2001, so those were not lots of record at that time. She also asked if the riparian setback was state law?

Mr. Cohen stated the Board could not violate state laws and the Board was not here on state law but on County Ordinance. He said he had not heard if the riparian setback was a matter of state law.

Mr. Sebek, County Inspections, stated DNR generally did not enforce even the marsh buffers on single residential lots unless they were greater than an acre. He said their authority was limited to commercial sites and residential sites greater than an acre.

CZBA Action: Mr. Day made a motion that the Chatham County Zoning Board of Appeals deny the petition as submitted and approve a fifteen foot marsh setback variance. Mr. Cohen seconded the motion and it was unanimously passed.

**RE: Petition of Caryn Purvis Andrews
B-070129-39494-1
4 Marsh Harbor Drive, North**

Present for the petition was Jeff Andrews.

Mrs. Burke gave the following Staff report.

The petitioner is requesting approval of a 20 foot marsh setback variance from the 50 foot marsh setback requirement, and a five foot riparian buffer variance from the 35 foot riparian buffer requirement of Section 4-12(f) of the Chatham County Zoning Ordinance in order to construct an addition onto a single family dwelling. The subject property, located at 4 Marsh Harbor Drive North, is zoned R-1-A/EO (One-Family Residential/ Environmental Overlay).

Findings

1. Section 4-12(f) of the Chatham County Zoning Ordinance requires a minimum 50 foot setback and 35 foot riparian buffer from the marsh line.
2. The subject property is a conforming lot of record that meets the development standards of the Ordinance. Per the Tax Assessor's records, the site is approximately 1.15 acres in size.
3. The petitioner is requesting a 20 foot variance from the required 50 foot marsh setback and a five foot variance from the required 35 foot riparian buffer in order to construct a pool and deck at an existing single family residence within 30 feet of the marsh line. The existing structure meets the established setback requirements.

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.

There are no extraordinary or exceptional conditions pertaining to the subject property. The parcel is a conforming lot of record with a structure that currently meets all of the setback requirements of the Ordinance.

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.

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. However, it would appear to be in conflict with the purposes and intent of the Zoning Ordinance.

Summary of Findings

All of the conditions necessary for granting a 20 foot marsh setback and a five foot riparian buffer variance appear not to be met.

Mr. Noha stated on the application it said the petitioner was requesting a 20 foot marsh setback but no request for the 5 foot riparian setback. He asked if that was something Staff picked up on and asked for on the petitioner’s behalf?

Mrs. Burke stated yes. She said it was not listed on their application but it was something that was required. She said when Staff does the advertisements if they can catch it when folks do not list something on their application they try to add it.

Mr. Andrews stated when they purchased the property in 1999 one of the previous owners had a plan for a swimming pool to be added. At the time their attorney told them that it was a 25 foot setback and that they would be able to build a pool at a future date. He said at that time they had small children and they felt that it would be best for them to wait until they were older to

build a pool. But since then the setback requirements have changed. He said with regards to the riparian setback, the deck would not require the setback but would require the 20 foot variance on the marsh line.

Mr. Day asked if he was saying that he could change the configuration of the fence and eliminate the need to encroach into the riparian setback?

Mr. Andrews stated yes. He said the fence would come in at an angle instead of being squared.

Mr. Noha asked if there was a reason the pool could not be pulled closer?

Mr. Andrews stated the existing deck had seating around it and was kind of raised. He said they have three children and they were concerned that if the pool was too close to the deck then the children would jump off the deck into the pool.

Mr. Cohen stated he was concerned that these were the laws of Chatham County and were in place for the good and welfare of the community. He said every body wanted to build something and intrude into the setbacks. He asked if there was a way for them to adjust their pool so they would not intrude?

Mr. Andrews stated they would have to remove the existing deck.

Ms. Marianne Heimes stated she felt if this was a lot of record in 1999 there was no 50 foot setback at that time and did not know why the petition should not be granted.

Mr. Noha asked the petitioner when was the house built?

Mr. Andrews stated it was completed in 1990.

Mr. Noha stated the Zoning Ordinance says it had to be a vacant lot of record and that was where the question comes in.

Mrs. Burke stated the existing home met the requirements. She said it was the addition that would be held to the 50 foot setback because there was a house on the lot.

Mr. Day stated that was the conflicting thing the Board had. He said you have an empty lot and the 50 foot setback does not apply. But if you have a house that was there then you have a 25 foot setback. He said he felt if they could eliminate getting into the riparian setback he did not have a problem with it.

Mrs. Burke stated Staff is aware of the concerns of the Board with regards to the 25 versus 50 foot setback. She said that was something Staff would be considering with the rewrite of the ordinance. She said because of the amount of community input that went into the original drafting of that portion of the ordinance they did not feel it was something they could take on as an individual text amendment.

Mr. Day stated his concern was to rewrite the ordinance will take years although it has been said it will be done next year. He said he felt the reality was that would not happen. He said the Board was getting at least three requests every month for a variance of the 25 or 50 foot setback. He said he felt this was something that needed to be addressed now.

Mrs. Burke stated the original request from the Board was for Staff to write a letter. She said if the Board wanted Staff to move forward in writing that letter then she will let Mr. Hansen know.

Mr. Noha stated the Board would like Staff to move forward with the letter.

Mr. Murphy stated they visited the site and on this particular case there was a lot of open area that would not be affected in any way by the variance.

Mr. Day stated if the Board was looking at protecting the marsh which they should be. He said if this was an empty lot of record a developer could come in and build a house and put the swimming pool exactly where the petitioner was requesting to put it today. He said he felt that the Board should not be penalizing somebody because they owned a house that was already on the lot, if a developer could do that. He said he felt somewhere between the 25 and 50 there was some leeway for the Board.

CZBA Action: Mr. Day made a motion that the Chatham County Zoning Board of Appeals **deny** the petition as submitted and **approve** a fifteen foot marsh setback variance. Mr. Watford seconded the motion and it was unanimously passed. Mr. Watford seconded the motion and it was unanimously passed.

**RE: Petition of John H. Howkins, Jr.
B-070129-40297-1
1917 Stone Street**

Present for the petition was John Howkins, Jr.

Mrs. Burke gave the following Staff report.

The petitioner is requesting approval of a 28 foot marsh setback variance from the 50 foot marsh setback requirement, and a 13 foot riparian setback variance from the 35 foot riparian setback requirement of Section 4-12 of the Chatham County Zoning Ordinance in order to construct an addition onto a single family dwelling.

Findings

1. Section 4-12(f) of the Chatham County Zoning Ordinance requires a minimum 50 foot setback and a 35 foot riparian buffer from the marsh line.
2. The subject parcel is a conforming lot of record with an existing single family residence. The existing structure does not meet the 50 foot marsh setback or 35 foot riparian buffer requirement.
3. The petitioner is requesting a 28 foot variance from the required 50 foot marsh setback and a 13 foot variance from the required 35 foot riparian buffer in order to construct a pool, add a deck, and cover the existing and proposed decks within 22 feet of the marsh 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.**

There are no extraordinary or exceptional conditions that relate to this property because of its size, shape, or topography. Although a majority of the subject property is identified as marsh land, this is not a condition that would necessitate granting a variance to allow the proposed additions.

- b. **The application of these regulations to this particular piece of property would create an unnecessary hardship.**

Although a large portion of the subject parcel is designated as marsh, strict enforcement of the development standards would not render the site unbuildable and would not create an unnecessary hardship.

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

The conditions described above are not peculiar to this particular piece of 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. However, it would appear to be in conflict with the purposes and intent of the Zoning Ordinance.

Summary of Findings

All of the conditions necessary for granting a 28 foot marsh setback and a 13 foot riparian buffer variance appear not to be met.

Mr. Howkins stated he petitioned the Board a couple of years ago to add a pool and the addition of a deck. He said at that time he wanted to install a lap pool and extend the porch. When the petition was denied at that time the Board told him that they did not have a problem with him screening in the porch or roofing the deck because it was on posts above the ground. But, the pool was still denied. After much thought and consulting with an architect he came with the idea to shift the axis of the pool and pull it further from the marsh. He said there was a drain field in the area. He said he felt certain there was enough room to get the pool in between the edge of house and the drain field without impacting the drain field. He said the lot was wide and shallow. He said he did a lot of planting on the lot. He said he knew the riparian setback was very important to prevent intrusion of chemicals, debris or whatever into the marsh. He said he wanted to flip the stairs around and extend the deck 4 feet and put a roof on it. He also wanted to screen in a portion of the deck because of the bugs. He said he wanted the pool because it

was a way for him to get the exercise he needed because he could not run anymore because of his back. He said the pool would be 10 X 25 fiberglass one piece which was also portable. He said the other option would be to do a pool above ground but he felt it would not be aesthetically pleasing. In addition, his neighbors also did not want him to do an above ground pool.

Mr. Noha asked how long has he owned the property?

Mr. Howkins stated since 2003.

Mr. Murphy stated he was asking for about 13 feet on the pool and the fence that was there looked like it could be easily be moved 13 feet forward almost to line up with the front of the garage. He said there are fence posts along his property line that would also allow for that. He said if he did that he could move the pool further forward. He asked what would be the drawback if he did that?

Mr. Howkins stated if he did that there would be little sunlight and he felt that would not be an appealing place to put it. He said there was also a line coming from the main sewer to the septic tank. He said he has had the drain field worked on and did not want to get the pool close to that area.

Mr. Felder stated with the well on the opposite side the petitioner did not have any other place to use for a drain field. He said the petitioner has to stay 100 feet away from the well. If he damaged his drain field and septic tank it would be an unusable lot.

Mr. Murphy asked the petitioner if he would have gutters on the roof over the deck?

Mr. Howkins stated yes.

Mr. Ronald Harvey, Neighbor, said he originally built the petitioner's house. He said the drain field had two segments that ran off of the septic system because they had to come in 150 feet. He said one was right in the middle of the proposed swimming pool and the other was further out. Also, on the front left corner the petitioner was showing 39.5 feet. He said when he built the house he measured it at 25 feet. He said he owned the property for 25 years before he sold it to Mitch Talbot. During the time he owned the property he had to replace the back section where the wall was near the marsh. He said when Mr. Talbot bought the property he also had problems with that area and had to repair it. He said he was opposed to the petition.

Mr. Carl Lee Brown, Neighbor, stated with regards to the letter submitted by the petitioner that his neighbors support his petition was not true. He said the two neighbors that would be most directly affected by this did not sign the petition. He said he felt the petition as proposed would obstruct his view as well as Mr. Harvey's. He said he felt the petitioner was trying to take an odd-shaped lot and overbuild on it. He said he also was opposed to the petition.

Mrs. Burke stated if the pool is above ground the petitioner would not need a variance. She said with regards to the deck if the petitioner does not put a cover over it he would not need a variance.

Mr. Murphy stated he felt if the petitioner put the pool above ground that would obstruct the neighbors view more. He asked the petitioner if the comment made by the neighbor with regards to the drain field was correct?

Mr. Howkins stated no.

Mr. Watford asked the petitioner how wide was the existing deck?

Mr. Howkins stated 8 feet +/-.

Ms. Marianne Heimes stated she felt 28 feet was excessive.

Mr. Day asked the petitioner if he would consider moving it back 9 feet to eliminate intrusion into the riparian setback?

Mr. Howkins stated yes.

CZBA Action: Mr. Day made a motion that the Chatham County Zoning Board of Appeals **deny** the request for a 28 foot marsh setback variance and a 13 foot riparian buffer variance for the pool only and **approve** a fifteen foot marsh setback variance for the pool only. Mr. Cohen seconded the motion and it was approved 5 – 1. Opposed to the motion was Mr. Noha.

CZBA Action: Mr. Day made a motion that the Chatham County Zoning Board of Appeals **approve** the request for a 28 foot marsh setback variance and a 13 foot riparian buffer variance for the deck only with the condition that the deck is not to be heated or cooled and gutters must be installed and directed away from the marsh 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 passed 4 - 1. Opposed the motion was Mr. Noha. Abstained to the motion was Mr. Cohen.

RE: Petition of Harold B. Yellin
B-070129-40396-1
818 Wilmington Island Road

Present for the petition was Harold Yellin, Attorney, John Deering, Architect, and Gretchen Ogg, Architect.

Mr. Felder recused himself from the petition because his architect firm is involved on this project.

Mrs. Burke gave the following Staff report.

The petitioner is requesting approval of a 5,039 square foot variance from the 900 square foot maximum for an accessory building per Section 3-6.1 of the Chatham County Zoning Ordinance and an authorization of the reuse of two vacant nonconforming uses per Section 8-3.b.4 in order to construct an accessory structure and refurbish two existing accessory structures. The subject property, located at 818 Wilmington Island Road, is zoned R-1-A/ EO (One-Family Residential/ Environmental Overlay).

Findings

1. Section 3-6.1 of the Chatham County Zoning Ordinance permits accessory buildings to be located outside of the rear yard where the property directly abuts a river or salt marsh with specific requirements. The requirements state that the accessory structure cannot

exceed 900 square feet in size. The applicant is proposing a 5,939 square foot accessory structure.

2. Section 8-3.b.4 of the Ordinance allows the Zoning Board of Appeals to authorize the reuse of a building being utilized by a nonconforming use after it has been vacant for greater than 12 months if the building has not been subsequently redesigned to house other uses and the use is found not to be detrimental to the adjacent uses or adverse to the livability of the area's residential land uses.
3. The subject is a conforming lot of record that far exceeds the minimal development standards at approximately 4.3 acres in size.
4. The petitioner is seeking a variance in order to construct a 5,939 square foot accessory structure located in the front of the subject property. In addition, the applicant is requesting the authorization to refurbish and reuse an existing dock house and guesthouse that have been vacant for more than 12 months.
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.

There are no extraordinary or exceptional conditions pertaining to the subject property. In addition, the requests before the Board are not those, such as a setback variance, that would be impacted by the size or shape of the lot.

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. However, the variance request would appear to be in conflict with the purposes and intent of the Zoning Ordinance.

Summary of Findings

All of the conditions necessary for granting a 5,039 square foot area variance for an accessory use appear not to be met. All of the conditions necessary for authorizing the reuse of two existing nonconforming accessory structures appear to be met.

Mr. Day asked how many electrical meters were at this site?

Mr. Noha stated when they visited the property it appeared to have two. He said there was one on the guesthouse and one on the main house. He said there was also a saw pole that was set probably for construction.

Mr. Yellin, Attorney, stated the property was around 4½ acres on Wilmington Island Road. He said the property was considerably larger than other properties on Wilmington Island Road. Because of the large size there were a number of structures already on the property. He said they did not build these, but they were already there. He said two of the structures were the existing guesthouse and the private dock house. He said the petitioner would like to renovate the existing guesthouse. Chatham County has taken the position that since the property has been vacant for a while they have to ask permission to put it back into service. He said they were before the Board today to ask that they be allowed to reinstate the use that was already there. Likewise, with the private dock house it has not been used because the property has been vacant for several years. He said they would also like to reinstate the use to which it was before. In addition, no matter what the Board does they would also need approval from DNR. But they could not go to DNR until the Board makes a decision. He said they hoped that the Board would allow them to resume these two uses. He said if the Board does not allow them to resume the two uses then they have to let the two uses deteriorate and do nothing.

He stated with regards to the garage barn the reason the variance was needed was because Chatham County Ordinance only allowed a 900 square foot accessory building. It was interesting to note that the City Zoning Ordinance and the County Zoning Ordinance usually ran paralleled. But the City had no 900 square foot limitation. The City handled this strictly as a matter of lot coverage. Although there was no comparable zoning lot to reflect this County lot, the R-4 and R-6 were probably the comparable lots. An R-6 in the City was a 30 percent lot coverage and the R-4 was a 50 percent lot coverage. He said they were at 7 percent with this building. He said they have tremendous green space on the property and their coverage was minimal. It was small and negligible, particularly when you looked at it compared to the City Ordinance. He said he realized the County was not governed by the City Ordinance. The other interesting thing of note was even under the County Ordinance if this building were built on the back of a lot there would not be a 900 square foot limitation. He said he did not understand the logic but it has been that rule for a long time and was what required them to stand before the Board and ask for a variance from the 900 square feet. He said he felt the 900 square feet might make sense if the lot was 6,000 square feet. He said he felt it might also make sense if this were a 12,000 square foot lot. The lot was 4½ acres. It was 200,000 square feet. He said he felt the County Ordinance did not account for big lots. He said he felt the intent was for this to be a family compound, therefore it should be one lot of record. He said they felt they were handling the matter correctly. He said they also knew there were other people on the street who did this differently in that they subdivided their lot.

Mr. Day asked if this has always been one large lot or a combination of three lots? He said it appeared to be three 100 foot wide lots.

Mr. Noha stated he believed from what he had read that it was three lots but it was built on as one residence from the beginning of the original structure.

Mr. Yellin stated he felt at one point it would have to have been three lots. He said there were some old remnant of numbers but he believed this has been one lot of record for 30 or 40 years. Also, with regards to the anonymous person's concern this was not going to be a studio and will not be used for commercial purposes. He said this was designed for residential and that was why they were here today.

Mr. Cohen asked what was the footprint of the guesthouse?

Mr. Yellin stated 40 X 96.

Mr. Noha asked if the 7 percent was all structures or the garage?

Mr. Yellin stated all structures.

Mr. Cohen asked what would be in the structure?

Mr. Yellin stated a lot of cars and boats. He said downstairs would be for storage and the upstairs was an attic and storage area.

Mr. Cohen asked if anyone would live upstairs?

Mr. Yellin stated if they wanted someone to live upstairs they would need to subdivide and create two lots of record. He said that was not the intention.

Mr. Day stated he has driven along Wilmington Island Road and he has not seen another structure along that road that was of that size that close to the road. He said he was concerned that that was a large structure sitting right out there on the road. He asked if there was going to be some kind of buffer that would hide this building so that someone driving along the road does not all of sudden see this 100 foot structure. He said he felt it was out of character with what was along the road.

Mr. Deering, Architect, stated they have planned a big buffer zone along Wilmington Island Road to screen the structure from the road. He said the building was designed to resemble an old stable structure or barn that used to exist along Wilmington Island Road.

Mr. Day stated from the golf course you would probably see over the top of the vegetation. He asked if there was a way for them to incorporate into their plan that there was sufficient vegetation that the majority of this building would be covered from the Wilmington Island Road?

Mr. Deering stated they could plan for that but they were looking at years before the vegetation would really screen the property sufficiently.

Mr. Day stated he was looking at long term and felt it was a big mass coming down Wilmington Island Road. He said he felt it would be nice to have something that would soften that impact.

Mr. Cohen asked the side that faced Wilmington Island Road what kind of landscaping could they use back there that would provide some coverage?

Mr. Deering stated he was not a landscape architect but felt there were all sorts of plant materials that he felt would grow to be 12 or 14 feet tall. He said they could also bring back a landscape plan to Staff to show what is intended to be planted there. He said they would make sure that it was a material that would grow quickly to a height of at least 12 or 14 feet.

Mr. Noha asked with regards to the barn if there was a reason for the doors on the back?

Mr. Deering stated they wanted this to appear as a southern stable building. He said southern stable buildings had barn doors on both sides. He said they were open air and not center isle. He said that was the spirit of the building and they would like to maintain that.

Mr. Noha stated if they subdivided the property it was his understanding that you could not build an accessory structure until a primary residence was on the property.

Mr. Sebek stated that was correct, but he felt the petitioner could meet that if they needed to.

Mr. Noha asked if the main house was being renovated or demolished?

Mr. Deering stated renovated.

Mr. Day stated the Board does not have the authority to change the aesthetic design of a building. He asked the petitioner how many electrical meters were on the property?

Mr. Deering stated two at this time.

Mr. Day asked how many will be on this property?

Mr. Deering stated one.

CZBA Action: Mr. Cohen made a motion that the Chatham County Zoning Board of Appeals approve the request to reuse the vacant guest quarters (nonconforming use) 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.

CZBA Action: Further, upon a motion made by Mr. Cohen the Chatham County Zoning Board of Appeals approve the request to reuse the vacant dock house (nonconforming use) as submitted based upon a finding that the relief granted would not cause substantial detriment to the public good. Mr. Watford seconded the motion and it was unanimously passed.

CZBA Action: Further, upon a motion made by Mr. Cohen that the Chatham County Zoning Board of Appeals approve the request for a 5,039 square foot area variance for an accessory use with the condition that there will be one electrical meter for the subject parcel based upon a finding that the relief granted would not cause substantial detriment to the public good.

Mr. Noha stated with regards to the barn he felt it was large although the lot was large.

CZBA Action: Mr. Watford seconded the motion and it was passed 3 – 2. Opposed the motion was Mr. Murphy and Mr. Noha.

**RE: Petition of Debbie Bennett
B-070129-40564-1
923 Betz Creek Road**

Present for the petition was Greg Jacobs.

Mr. Day recused himself from the petition because he was friends with Mr. Jacobs, Agent for the petitioner.

Mrs. Burke gave the following Staff report.

The petitioner is requesting approval of a three foot rear yard setback variance from the 25 foot rear yard setback requirement and a nine foot side yard setback variance from the 25 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 923 Betz Creek Road, is zoned R-1/ EO (One-Family Residential/ Environmental Overlay).

Findings

1. Section 4-6.1 of the Chatham County Zoning Ordinance requires a minimum rear yard setback of 25 feet and a minimum of at least 25 feet from the property line where abutting a street right-of-way line.
2. The subject parcel has a width of approximately 76 feet at its narrowest point and approximately 80 feet at its widest point. The lot depth is 100 feet at its shallowest point and approximately 124 feet at its widest point. The parcel is a conforming lot of record.
3. The petitioner is seeking a three foot rear yard setback variance and a nine foot side yard setback variance in order to construct a single family residence within 22 feet of the rear yard property line and 16 feet of the side yard 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.**

There are no extraordinary or exceptional conditions pertaining to the subject property. The parcel is a conforming lot of record that is rectangular in shape.

- 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 applicant would merely have to shift the structure on the site so as to meet the established setbacks.

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. However, it would appear to be in conflict with the purposes and intent of the Zoning Ordinance.

Summary of Findings

All of the conditions necessary for granting a three foot rear yard setback variance and nine foot side yard setback variance appear not to be met.

Mr. Jacobs stated the reason they chose to site the house where they chose it was for the protection of existing trees. He said it was a small lot that they were proposing to build on but the house does fit and they wanted to maintain as much of the buffer as possible on all sides. He said they felt the existence of unimproved North Street created kind of an unusual circumstance for them. North Street was clearly a right-of-way as shown on the plat and was not an existing street. He said he felt the possibility of North Street being developed as a street was slim at this time. He said they were asking for a variance so they could site the house around some of the larger trees because of the unusable side street situation was a reasonable request.

Mr. Noha asked other than saving the trees if there was a reason the house was not situated on the lot paralleled to the property line?

Mr. Jacobs stated they felt the house should address the street. He said although the street jogged it was paralleled to the street.

Mr. Noha stated he knew it was the intent of Chatham County to pave all the unimproved dirt streets in Chatham County as they addressed in previous meetings. He said he was concerned about the possible right-of-ways that were needed for paving that street. He asked if the County Engineering was aware of this?

Mr. Sebek, Zoning Administrator, stated since that time they have instituted a policy that they will receive information coming before the Board.

Mrs. Burke added that it will start next month.

Mr. Cohen asked what was the hardship and why they could not construct a house to where they would not need a variance?

Mr. Jacobs stated they could fit the house on the lot but they would lose some of the larger trees. He said they felt it was a special circumstance that was unique to this lot in that North Street would likely never be a street. He said it was possible but he could not see how the setback variance would be detrimental to anybody other than the occupant of the house that they were proposing in that it would be closer to this person's driveway (noise of cars). He said it was possible for them to build by shifting the house farther to the east but they would run the risk of losing some of the trees.

Mr. Noha stated he would like for them to save the 48 inch Live oak. He said he felt if they move the steps it would reduce the variance.

Mr. Jacobs stated they could square it off to the setback.

Mr. Felder stated he felt that would be better.

CZBA Action: Mr. Cohen made a motion that the Chatham County Zoning Board of Appeals deny the petition as submitted and approve a three foot side yard setback variance. Mr. Watford seconded the motion and it was unanimously passed.

RE: Petition of David Lane
B-070130-34074-1
0 East Street

Continued per Petitioner's request.

RE: Minutes

1. Approval of CZBA Minutes – January 23, 2007
2. Approval CZBA Special Meeting Minutes – January 31, 2007

CZBA Action: Mr. Cohen made a motion that the Chatham County Zoning Board of Appeals approve the Regular Meeting minutes of January 23, 2007 as submitted. 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 Special Meeting minutes of January 31, 2007 as submitted. Mr. Watford seconded the motion and it was unanimously passed.

RE: Other Business

Mr. Noha requested Staff to write a letter to the County with regards to the 25 and 50 foot marsh setbacks. He also asked Staff to check into the possibility of changing the ordinance with regards to the 900 square foot accessory building to accommodate structures as was before the Board today. He said he felt it should address lot size and lot coverage on large lots.

The Board agreed.

Mrs. Burke stated the two vacancies that were on the Board have been filled. She said one was filled by Mr. Brian Felder who was present today and the other was filled by Mr. J. David Hoover.

RE: Adjournment

There being no further business to come before the County Zoning Board of Appeals, the meeting was adjourned approximately 11:35 a.m.

Respectfully submitted,

Deborah Burke,
Assistant Secretary

DB:ca