

CHATHAM COUNTY ZONING BOARD OF APPEALS

ARTHUR A. MENDONSA HEARING ROOM

112 EAST STATE STREET

AUGUST 28, 2007

9:00 A.M.

MINUTES

MEMBERS PRESENT:

**Wayne Noha, Chairman
Steven Day
Brian Felder
Terrance Murphy
Jimmy Watford**

MEMBERS ABSENT:

Davis Cohen (Excused)

TECHNICAL STAFF PRESENT:

**Robert Sebek, Chatham County Inspections
Department**

MPC STAFF PRESENT:

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

RE: Called to Order

Mr. Noha called the meeting of August 28, 2007 Chatham County Zoning Board of Appeals meeting to order at 9:00 a.m.

RE: Regular Agenda

**RE: Petition of Danny Yarbrough
B-070622-57882-1
12 Moon River Drive**

Brian Felder recused himself from the petition.

Mr. Noha stated he lives down the street from the residence.

Present for the petition was Pete Callejas, Agent.

Mrs. Burke gave the following Staff report.

The petitioner is requesting approval of an expansion of a nonconforming use per Section 8 and a three foot side yard setback variance from the five foot side yard setback requirement per Section 4-5.2 of the Chatham County Zoning Ordinance in order to construct an addition to an existing accessory structure. The subject property, located at 12 Moon River Drive, is zoned R-1/ EO (One-Family Residential/ Environmental Overlay).

Findings

1. Section 3-6.1 of the Chatham County Zoning Ordinance requires that accessory structures shall be permitted in the rear yard only. Currently there is an accessory structure located in the front yard of the subject property that the applicant is requesting to expand.
2. Section 3-6.1 requires that accessory structures shall be set back not less than five feet from any lot lines. The existing structure is located two feet from the southeastern property line and it is the applicant's intent to construct the addition at the same setback.
3. Per the applicant's survey, the subject is approximately 100 feet wide and 200 feet deep. The subject property is a conforming lot of record.
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 subject property is 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.

- 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 an expansion of a nonconforming use and a three foot side yard setback variance for an accessory use appear not to be met.

Mr. Callejas, Architect (Representative for Danny Yarbrough) stated that the petitioner owned both pieces of property. He said the property was officially combined as a non marsh front property. Both buildings on the property which was the guest house for their main house which was on the other piece of property were the owners before the ordinance. He said the owners are trying to improve the existing garage so that it would be more aesthetically pleasing in the neighborhood. Although the garage expanded in the direction of the front road it was not near the 25 foot setback. The building currently exists as something in front of what they considered the residence which was the guest cottage. He said they felt it would add to the value and a better looking structure. He said the existing building encroached a little over the setback but they felt it would not be a detriment to the property or area.

Mr. Day asked if the existing building was going to be torn down?

Mr. Callejas stated they hoped to save what they could on it.

Mr. Day asked if at least two walls and a roof was being torn off?

Mr. Callejas stated yes.

Mr. Yarbrough stated when they bought the property they combined the two lots at the suggestion of their lawyer for tax purposes only. He said the guest house was built in the 1940's and sits back from the main house. He said they put an addition on the main house. He said there was a driveway that comes in front of the garage and in moving the footprint of the garage up it would interfere with the driveway. Also, the owner of the property adjacent to them sent a letter into the Board saying that he had no objection to his petition. He said the garage has been there as long as the guesthouse has been there. He said if you looked at any property along the river you would find that most people considered the river side of their house the front, the garage is behind the main house, and the guesthouse off to the side. He said that was the way it was originally put on the property. He said his neighbors supported his petition.

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

**RE: Petition of Dennis Todd, Agent for
Tina Love
B-070730-49771-1
51 Runabout Lane**

Present for the petition was Dennis Todd.

Mrs. Burke gave the following Staff report.

The petitioner is requesting approval of a 15 foot marsh setback variance from the 50 foot marsh setback requirement of Section 4-12(f) of the Chatham County Zoning Ordinance in order to construct an addition to an existing single family dwelling. The subject property, located at 51 Runabout Lane, is zoned R-1/EO (One-Family Residential/ Environmental Overlay).

Findings

1. The Zoning Board of Appeals acted to deny a similar request by the applicant at their June 2007 meeting (MPC File No. B- 070516-51639-1.) The previous request was for an 18 foot marsh setback and a three foot riparian buffer variance.
2. Section 4-12(f) of the Chatham County Zoning Ordinance requires a minimum 50 foot setback from the marsh line and a minimum 35 foot riparian setback from the marsh line be established for lots upon which structures existed at the time of adoption of the Environmental Overlay District (November 16, 2001).
3. The subject property is an existing lot of record with an existing structure which does not appear to meet the required 50 foot setback.
4. The petitioner is requesting a 15 foot variance from the required 50 foot marsh setback in order to add a sunroom to an existing single family residential structure within 35 feet of the marsh line.
5. In accordance with Section 10-6.3 of the Chatham County Zoning Ordinance, the Board of Appeals may authorize upon appeal in specific cases such variance from the terms of the regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions will, in an individual case, result in unnecessary hardship, so that the spirit of the regulations will be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in an individual case upon a finding by the Board of Appeals that:
 - a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.**

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.
 - 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.

Summary of Findings

All of the conditions necessary for granting a 15 foot marsh setback appear not to be met.

Mr. Todd stated he dug some detailed measuring and he talked with Georgia DNR. He said the jurisdiction lies on the outside of the concrete wall. He said he took measurements from the outside wall to each corner of the house. He said he talked to Mr. and Mrs. Love and they have agreed that they would like to proceed with the sunroom. He said it would come out from the door and skirt on the outside on their property line of the riparian buffer. Also, the concrete pad was into the riparian buffer which he mentioned last time and no other vegetation was going to be disturbed. The Environmental Overlay (EO) was enacted after the property was built. He said the owners have a second floor that exists and if approved he was going to add the sunroom and then build onto the top of the house.

Mr. Day asked if he was saying that there was a concrete pad where the proposed sunroom was?

Mr. Todd stated yes.

Mr. Day asked if he would have to put a footing under the concrete pad to the point where they could put anchor bolts into that?

Mr. Todd stated the original concrete slab may already have a footing but he was not sure. He said he has expandable bolts to drill down into there. He said he felt they could meet those requirements.

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

**RE: Petition of Bart Rhodes
 B-070730-49889-1
 202 Bradley Point Road**

Present for the petition was Bart Rhodes.

Mrs. Burke gave the following Staff report.

The petitioner is requesting approval of a ten foot rear yard setback variance from the 25 foot rear yard setback requirement of Section 4-6.1 of the Chatham County Zoning Ordinance in order to construct an addition to a single family residence. The subject property, located at 202 Bradley Point Road, is zoned R-1-A/ EO (One-Family Residential/ Environmental Overlay).

Findings

1. Section 4-6.1 requires a minimum rear yard setback of 25 feet from the property line.
2. Per the applicant's survey, the subject parcel has a width of approximately 174 feet and a depth of 120 feet, resulting in a lot area of approximately 20,880 square feet. The parcel is a conforming lot of record.

3. The petitioner is seeking a ten foot rear yard setback variance in order to construct an addition to a single family residence 15 feet from the rear 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.

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 not appear to meet the intent and purposes of the Zoning Ordinance.

Summary of Findings

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

Mr. Rhodes stated the reason they chose to pass the rear setback line was so they would not affect the integrity of the front of the house. He said if they conformed they would be extending to the side of the house. He said he talked with Mr. Austin (neighbor) about their plans and he supported his petition. He said he also met with the other neighbors around the rear of the property. He said the neighbors support the petition as long as it was not two story. He said they had no intentions of making the addition two story.

Mr. Day stated the Board needed a good reason other than they did not want to affect the front of their house.

Mr. Rhodes stated financially it would be more expensive if he had to do a roof and the proposed way it would have one ridge and a gable.

Mr. Day stated it was not the purview of the Board to consider finances on projects when they are trying to make a decision.

Mr. Noha asked if the setback from the front cut the sidewalk?

Mr. Rhodes stated he knew that it was a 30 foot building setback.

Mr. Noha stated he would have about 8 feet. He said if the house was placed closer to the front then he would have had more room to play with in the back.

Mr. Rhodes stated there was a septic tank in the front.

Mr. Noha asked what was the distance from the back of his addition to the property line?

Mr. Rhodes stated 15 feet.

Mr. Felder stated he felt given the depth of the lot behind them that it was not likely to ever change. Also, given the fact these lots on the street are narrower, the house was relatively small for the neighborhood. He said if the Board granted the petition he did not see how they were creating any sort of detriment. He said he felt the house behind the petitioner was not ever likely to build that far back to be an issue in terms of fire, public safety, or even an encroachment visually to this house.

CZBA Action: Mr. Felder made a motion that the Chatham County Zoning Board of Appeals **approve** the petition as submitted based upon a finding that the relief granted would not cause substantial detriment to the public good. Mr. Murphy seconded the motion and it was passed 4 – 1. Opposed to the petition was Mr. Day.

**RE: Petition of Jacobo Ramirez
B-070730-50044-1
821 King George Blvd.**

Present for the petition was Mr. Angel Martinez.

Mrs. Burke gave the following Staff report.

The petitioner is requesting approval of an application to establish a use (Restaurants which serve alcoholic beverages, malt beer, or wine by the drink) pursuant to the requirements of Section 4-5.2 of the Chatham County Zoning Ordinance in order to obtain a beer and wine license for an existing restaurant. The subject property, located at 821 King George Boulevard, is zoned PUD-B-N (Planned Unit Development- Business, Neighborhood Center.)

Findings

1. Subject to approval by the Zoning Board of Appeals, restaurants which serve alcoholic beverages, malt beer or wine by the drink are an allowed use within the PUD-B-N zoning classification.

2. The applicant is requesting approval of said use in order to obtain a beer and wine license at an existing restaurant located within a shopping center.
3. In accordance with Section 10-6.2 of the Chatham County Zoning Ordinance, the Board of Appeals shall hear and decide upon requests for permission to establish uses based upon a finding by the Board that:

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

The proposed use does not affect adversely the general plan for the physical development of Chatham County. The proposed use is located within an existing restaurant in a shopping center.

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

The proposed use is not contrary to the regulations.

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

No adverse affects are expected or anticipated. The proposed use is typical of many restaurants in Chatham County.

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

The proposed use will not be detrimental to the use or development of adjacent properties. As stated above, the proposed use is located within an existing restaurant in a shopping center and will have little or no impacts on the adjacent properties or neighborhood.

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

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

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

The parcel is of sufficient size to accommodate the proposed use.

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

It is not anticipated that the proposed use will create either a hazard or a nuisance. The proposed use will not significantly alter the activities that will take place on the subject property.

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

The standards set forth have been met.

Summary of Findings

All of the conditions necessary for granting use approval to establish a restaurant which serves alcoholic beverages, malt beer, or wine by the drink appear to be met.

Mr. Martinez stated they were trying to get a license for beer and wine. He said they own a Mexican restaurant in the area and they have never had any trouble. He said there used to be a Japanese restaurant in the area that used to sell beer and wine but they closed their business in which they purchased the building.

CZBA Action: **Mr. Watford** made a motion that the Chatham County Zoning Board of Appeals **approve** the petition as submitted based upon a finding that the conditions necessary for granting the approval are met. **Mr. Murphy** seconded the motion and it was unanimously passed.

**RE: Petition of James Maloney, Jr.
B-070730-50305-1
87 Johnny Mercer Blvd.**

Present for the petition was James Maloney, Jr.

Mrs. Burke gave the following Staff report.

The petitioner is requesting approval of a two foot height variance from the six foot height maximum of Section 5-1.3(a) of the Chatham County Zoning Ordinance in order to construct a fence at an existing single family residence. The subject property, located at 87 Johnny Mercer Boulevard, is zoned R-1-A/ EO (One-Family Residential/ Environmental Overlay).

Findings

1. Section 5-1.3(a) states that, within residential districts, walls and fences shall not exceed six feet in height in front and side yards.
2. The petitioner is seeking a two foot height variance in order to construct an eight foot high fence where the subject property abuts Johnny Mercer Boulevard.
3. 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. However, the variance in question is not one that would be impacted by factors such as the size, shape, or topography of the property.

- 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, it would not appear to meet the intent of the Zoning Ordinance.

Summary of Findings

All of the conditions necessary for granting a two foot height variance appear not to be met.

Mr. Maloney, Jr. stated he had already built the fence not realizing that he needed a permit. He said the fence is 8 feet and attached to another fence which was a little higher. He said he installed the fence for privacy and noise suppression because Johnny Mercer Blvd. was a high speed road and noisy.

Mr. Day asked what were all the cars?

Mr. Maloney, Jr. stated he operated a mobile lawn business.

Mr. Murphy asked if he installed the fence that his fence was attached to?

Mr. Maloney, Jr. stated no.

Mrs. Burke stated there were some things done in the area as a part of the subdivision. She said as mentioned by the petitioner it was not fencing that was done by him. It was done prior to him as a part of a subdivision approval.

Mr. Murphy asked the petitioner if he was going to put up a fence down the side?

Mr. Maloney, Jr. stated there was a preexisting fence there that wrapped and comes up to the driveway.

Mr. Day asked the petitioner if he was going to plant any bushes in front of the fence?

Mr. Maloney, Jr. stated yes.

Mr. Day stated there were already other fences out there that was as high or higher.

Mr. Eric Gadsen, County Building and Regulatory Services, asked Mr. Day if he was asking the petitioner if he was going to plant bushes on the Johnny Mercer Blvd. side?

Mr. Day stated yes.

Mr. Gadsen stated the petitioner could not do that unless he gets approval from the County because that was the public right-of-way.

Ms. Nakomis Forrester stated she was not opposed to the fence but she was concerned about the height. She said she felt the fence should be 6 foot. She said she felt the proposed fence was too tall.

Ms. Linda Moore stated she did not live in the neighborhood but was the petitioner's mother. She said before the fence was up, when everybody gets to the light on Johnny Mercer Blvd. they stare at her son's property. She said the fence was professionally constructed and looked attractive.

Mr. Noha asked Staff what was the height of the fence on M.L. Owens?

Mrs. Burke stated 8 feet.

Mr. Felder asked if the fence was built on the property line?

Mr. Maloney, Jr. stated it was built within the property line.

Mr. Felder stated it used to be unless it has been changed the ordinance says that every foot you come in from the property line that you could go up a foot.

Mr. Day stated he did not have a problem with the 8 feet and could understand the need for noise barrier on Johnny Mercer.

Mr. Noha stated he was concerned about the fence being 8 foot especially since it was turned into the subdivision.

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. Felder** seconded the motion and it was passed 4 – 1. Opposed to the motion was **Mr. Noha**.

RE: Minutes

1. Approval of CZBA Meeting Minutes – July 24, 2007

CZBA Action: Mr. Watford made a motion that the Chatham County Zoning Board of Appeals approve the minutes of July 24, 2007 as submitted. Mr. Felder seconded the motion and it was unanimously passed.

RE: Other Business

Mr. Felder stated the drawings that the Board receives seemed some times unprofessionally done. He said how does Staff know that the person with the pencil sketch of what was being proposed was accurately depicted because it was not a survey. He said every other Board in town seemed to require a certain level of drawing to be of a certain professional quality such as a survey. He asked why was it not required for this Board?

Mrs. Burke stated the way the application reads was a plot plan or site plan. She said it did not specify that it needed to be done by an engineer. She said the City Zoning Board of Appeals was the same as the County in that as long as it was scaled or has the dimensions they usually accept it. She said she felt the reason that they allowed it to be a little less professional was rather than have them go out and spend money not knowing if they were going to get the variance or not. But that was certainly something up to the discretion of the Board. She said if they felt the site plans they wanted to see something more professional, Staff could make changes to the application and require that.

Mr. Day stated he understood because the same thought ran through his mind as he looked at the drawings this morning. He said he felt the double side of that sword was that if someone comes in and they fudge on the drawing and if someone goes out and checks it and they build then make them tear it down.

Mr. Murphy stated he felt the extra cost of having drawings done might cut down on the number of appeals if they knew they had to spend money to have it done.

Mr. Noha asked if fence heights were from mean elevation or from the base of the fence? He said his point was across the street from the case they heard today was there was a berm that was probably 10 feet and then they had 6 foot fence on top of that. He asked if that would be legal?

Mr. Murphy stated could he have built the ground up 2 feet and then put a 6 foot fence.

Mr. Noha stated that's what he was saying. He said it would have been more aesthetically pleasing.

Mr. Day stated he looks at that as if there's going to be consistency then there needed to be consistency across the Board.

Mr. Noha stated he also talked to Commissioner Stone and she was trying to get some one appointed to the Board.

RE: Adjournment

There being no further business to come before the Chatham County Zoning Board of Appeals the meeting was adjourned approximately 10:30 a.m.

Respectfully submitted,

Debbie Burke,
Assistant Secretary

DB:ca