

CHATHAM COUNTY ZONING BOARD OF APPEALS

ARTHUR A. MENDONSA HEARING ROOM

112 EAST STATE STREET

SEPTEMBER 25, 2007

9:00 A.M.

MINUTES

MEMBERS PRESENT:

**Terrance Murphy, Vice-Chairman
Steven Day
Brian Felder
Jimmy Watford**

MEMBERS ABSENT:

**Davis Cohen (Excused)
Wayne Noha (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. Murphy called the meeting of September 25, 2007 Chatham County Zoning Board of Appeals meeting to order at 9:00 a.m.

RE: Regular Agenda

**RE: Petition of Edward Fitzgerald
B-070830-00020-1
41 Penrose Drive**

Present for the petition was Edward Fitzgerald.

Mrs. Burke gave the following Staff report.

The petitioner is requesting approval of a six and a half foot side yard setback variance from the ten foot side yard setback requirement of Section 3-6.1 of the Chatham County Zoning Ordinance in order to construct an accessory structure at an existing residence. The subject property, located at 41 Penrose Drive, is zoned R-1-A/ EO (One-Family Residential/ Environmental Overlay).

Findings

1. Section 3-6.1 requires a ten foot setback from any adjoining property lot line for accessory structures located in front or side yards.
2. The parcel is a conforming lot of record that far exceeds the minimum development

standards.

3. The petitioner is seeking a six and a half foot side yard setback variance in order to construct an accessory structure on an existing concrete slab three and a half feet from the 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 six and a half foot setback variance appear not to be met.

Mr. Day asked what will the structure be used for?

Mr. Fitzgerald stated to store cars.

Mr. Day stated he was concerned about using old slabs. He said he was concern because he felt County Inspections may hit him for hurricane code and things like that. He asked if he talked with an architect about those types of issues?

Mr. Fitzgerald stated he was told to use five anchors.

Mr. Day asked if it was a one or two car garage?

Mr. Fitzgerald stated three cars.

Mr. Day asked where would the electrical come from?

Mr. Fitzgerald stated he had power coming from the other end.

Mr. Day asked if this would be anything other than a garage, like an apartment?

Mr. Fitzgerald stated no.

Mr. Skip Sheffield (7 Penrose Drive) stated he supported his neighbor's petition. He said he also had a shed that was next to Mr. Fitzgerald's. He said he thought his was only 3½ feet off the property line. He said Mr. Fitzgerald had a carport that he was using until it got too old that it collapsed about 6 months ago. He said it was not like he was asking for anything new because one used to be there.

Mr. Felder asked Staff if there were any issues with the buildings being 7 feet apart from one another? He said from a fire code standpoint the back wall could not have any penetrations in it. He said it would have to be rated.

Mr. Sebek stated he could not answer that. He said he wanted to comment that the shed was a preexisting shed and it came down which was why the petitioner wanted to use the existing slab which was built before the 10 foot setbacks were put in place.

Mr. Day stated to the petitioner that as mentioned by Mr. Felder that one of the problems he may run up against was there may be a fire code since there was another building behind him. He asked what would the garage be built out of?

Mr. Fitzgerald stated wood and stucco on the outside.

Mr. Day stated he felt the problem he may run into would be fire code issues with regards to having a rated wall because of the proximity of his garage in relationship to his neighbor's. He suggested that he talk with an architect about that.

Mr. Felder also asked Mr. Sebek, County Inspections to check on that as well.

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 Mark Curry, For
W. Randy Sumner
B-070830-00021-1
24 Liberty Creek

Present for the petition was Mark Curry, Architect.

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 and a 12 square foot variance from the 900 square foot maximum size permitted of Section 3-6.1 of the Chatham County Zoning Ordinance in order to construct an accessory structure at an existing single family residence. The subject property, located at 24 Liberty Creek, is zoned R-1/EO (One-Family Residential/ Environmental Overlay).

Findings

1. Section 4-12 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).
2. Section 3-6.1 of the Ordinance establishes a 900 square foot size maximum for accessory structures located in the front or side yards.
3. The petitioner is requesting a 15 foot variance from the required 50 foot marsh setback and a 12 square foot variance from the 900 square foot maximum size permitted in order to construct a 912 square foot garage within 35 feet of the marsh line.
4. The subject property is an existing lot of record with an existing structure which does not meet the required 50 foot setback.
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, although it is somewhat unusual in shape.
 - 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 and a 12 square foot size variance appear not to be met.

Mr. Curry stated he was brought into the project after Mr. Sumner submitted a sketch to the Dutch Island Home Owner's Association and received approval on the original concept of the location. He said Mr. Sumner then found out that he had to get a variance. He said Mr. Sumner asked him to redraw the garage and seek a variance for him. He said the location originally as approved by the association was about 5 feet further back which was closer to the marsh. He said after he met with Staff and seeing that there was a little more flexibility they moved it closer to the street. He said it was his understanding that the concerns the association had was that if the garage shifted around too far along the existing driveway that it would impact the street more so than what was being proposed.

Mr. Murphy asked how would it impact the street?

Mr. Curry stated the existing house and the proposed location there was a 35 foot setback from the street required on the front. (Showed slides of the property). He said it was a three car garage with a bonus room upstairs that would be used as a game room.

Mr. Felder asked if the garage would have a kitchen?

Mr. Curry stated no. He said Mr. Sumner would like to have a bathroom for the bonus room upstairs.

Mr. Day stated if the petitioner pulled this out to the 35 foot setback line they would not need a variance.

Mr. Curry stated that was true but as he mentioned that predated his involvement. He said the Board that approved Mr. Sumner originally placed it back into this location.

Mr. Day asked if he knew their logic for doing that?

Mr. Curry stated he felt that it was more for the maneuverability of vehicles coming into the lot and turning in addition without having to push the garage closer to the adjacent property line and trying to preserve some of the existing driveway.

Mr. Murphy asked if the 912 square feet was for both levels?

Mr. Curry stated no that was just the footprint. He said the 12 square feet was just geometry of

38 X 24. He said they would be happy to take 6 inches off of it if necessary.

Mr. Sebek, County Inspections, stated there was an issue raised that was not addressed as part of the variance which is that the proposed garage could only be a single story per the ordinance. He said he felt that it was permitted to have a second story for storage only but not for occupancy.

Mr. Day asked how was that enforced?

Mr. Sebek stated it would not be able to have a regular stairway. He said a pull down stair would imply that it was not going to be regularly used as well as no bathroom would be permitted. He said in addition since this was not advertised as a part of the variance he felt the Board would not be able to vote on that portion.

Mr. Day asked Mr. Curry if he understood what Staff said?

Mr. Curry stated yes. He said with that in mind today they were seeking the marsh setback requirement.

Mr. Day stated they were seeking two things which were the marsh setback and a variance on the square footage.

Mr. Curry stated that would be for 12 square feet and not 12 plus the second floor.

Mr. Day stated if it was strictly a garage.

Mr. Curry stated he was trying to decide whether or not he needed a continuance or continue trying to get the marsh setback while he was here and then address the other issue with County Inspections and redesigning as necessary.

Mr. Day stated the Board could provide a variance on the setback only. But the way he was describing it as far as the square footage they could not grant a variance on that. He said he could ask for a continuance on that portion of it.

Mr. Curry stated he would like to request a continuance on the variance for the square footage and the other issues. He said he did not want to limit Mr. Sumner to the 1 year ban on seeking that because he has not discussed that with him.

Mr. Day stated he did not have a problem with the marsh setback. He said the petitioner was not in the riparian setback.

Mr. Murphy stated shifting the whole structure would avoid the whole issue.

Mr. Felder stated he visited the site and felt the petitioner had a point about driving. He said if they rotated around from the center point he could not get his cars in without making a wider paved area.

Mr. Day stated that was what he also considered.

Ms. June Fogle (26 Liberty Creek Drive) stated these were the first detailed plans that she has seen. She said she talked with Mr. Sumner a little bit about where he wanted to put the

garage and he walked it off for her. She said yesterday she noticed that he put tape up and marked off the area, so she became more interested. Initially, she told him that she was concerned about the impact it would place on her property and her view to the river as well as the value of her property. She said she asked Mr. Curry how it would be negligible to move the garage closer to the street so that there would not have to be a problem with the offset. She said she knew there was a circular driveway and there may have to be some adjustment to the driveway to allow for the cars to get in properly but that seemed to be maybe less intrusive on the marsh lands and the property to do that than to simply grant the variance. She said she has not had the opportunity to find out how that would impact the property in general her property and its value. She said her understanding from the sign that was placed on the property there also was going to be height variance request and she was not aware of that. She said she has not had the opportunity to have anyone examine how the drainage would affect her property.

Mr. Day asked if her property was well and septic?

Ms. Fogle stated yes.

Mr. Day stated it would still be well and septic.

Ms. Fogle stated those were oppositions to the variance.

Mr. Murphy stated as the plans were laid out how would this affect her view?

Ms. Fogle stated she talked with Mr. Curry this morning and if this had actually been approved by the architectural design committee for Dutch Island because she talked with members last night who were not aware that it had been approved. She said she was under the impression that this would be the first step before it would be approved by the architectural design committee. She said there also seemed to be an issue with how far the garage was in conflict with the offset for the property.

Mr. Curry stated from the rear of her existing house the magenta color indicated her view to the yacht club across the river.

Mr. Day asked Ms. Fogle given that particular view which way would she want the garage moved?

Ms. Fogle stated it would not restrict the view or the marsh if it was moved closer to the street and further off of her property line. She said the way that was taped off it looked like it was a few feet away from the property line and not a 20 foot offset.

Mr. Felder stated it was only 10 feet off the side yard property line.

Mr. Curry stated that Dutch Island had various setback requirements through the community. He said as he mentioned that location predated his involvement in the project.

Ms. Fogle stated she thought it depended on the phase. She said her understanding was they were in a phase where there was a 20 foot offset.

Mr. Curry stated he did not know. He said he lived on Mulberry Bluff and when he drew his house he gave it a 25 foot setback but found out later that it was only 15.

Mr. Day stated from the Board's perspective it did not matter what the association setback was because they were governed by the code. But the association could have an overriding covenant which could not be enforced by County Inspections. He said he felt that it did not matter what the Board did if the association still insist that there is a 20 foot setback he would not be able to put it here. He said he was also concerned that if they slide the garage around it would get closer to Ms. Fogle's property unless the petitioner changes the configuration of the driveway.

Ms. Fogle stated that may be something the petitioner needed to look at.

Mr. Day stated the Board was looking at it from a County Zoning Ordinance and if the petitioner could keep it 10 feet away from the property line they were fine with it. But if the association is saying that it has to be 20 then that was something different.

Ms. Fogle stated her concern was the offset of the marsh. She did not know if there has been an impact study done on how it would impact the marsh lands. She said she felt the closer to the street the less of an impediment it would have on her property, its view, and the marsh.

Mr. Murphy asked Mr. Curry with the concerns raised by the neighbor if he would like to continue the petition?

Mr. Curry stated yes.

CZBA Action: Mr. Day made a motion that the Chatham County Zoning Board of Appeals continue the petition until the next regularly scheduled meeting (October 23, 2007). Mr. Watford seconded the motion and it was unanimously passed.

RE: Minutes

1. Approval of CZBA Special Meeting Minutes – July 31, 2007
2. Approval of CZBA Meeting Minutes – August 28, 2007

CZBA Action: Mr. Day made a motion that the Chatham County Zoning Board of Appeals approve the Special Meeting minutes of July 31, 2007 and the Regular Meeting minutes of August 28, 2007 as submitted. Mr. Watford seconded the motion and it was unanimously passed.

RE: Other Business

1. Election of Officers – Chairman and Vice-Chairman for 2007 - 2008

CZBA Action: Mr. Day made a motion that the Chatham County Zoning Board of Appeals continue the Election of Officers to the next regularly scheduled meeting. Mr. Watford seconded the motion and it was unanimously passed.

RE: Adjournment

There being no further business to come before the Chatham County Zoning Board of Appeals the meeting was adjourned approximately 9:50 a.m.

Respectfully submitted,

Debbie Burke,
Assistant Secretary

DB:ca