

CHATHAM COUNTY ZONING BOARD OF APPEALS

ARTHUR A. MENDONSA HEARING ROOM

112 EAST STATE STREET

OCTOBER 23, 2007

9:00 A.M.

MINUTES

MEMBERS PRESENT:

**Wayne Noha, Chairman
Davis Cohen
Steven Day
Jimmy Watford**

MEMBERS ABSENT:

**Brian Felder (Excused)
Terrance Murphy (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 October 23, 2007 Chatham County Zoning Board of Appeals meeting to order at 9:00 a.m.

Mrs. Burke announced that Christy Adams will no longer be attending the County Zoning Board of Appeals meetings. She said Christy was Interim Director of Administration for the MPC. Sabrina Thomas will be assisting the Zoning Board of Appeals.

RE: Regular Agenda

**RE: Marion H. Kennickell
B-060829-59902-2
25 Penrose Drive**

Present for the petition was Marion Kennickell.

Mrs. Burke gave the following Staff report:

The petitioner is requesting approval of an extension of a previously approved 2.5 foot side yard setback variance for both sides to the ten (10) foot side yard setback requirement of Section 4-6.1 of the Chatham County Zoning Ordinance in order to construct a single family residential structure. The subject property, located at 25 Penrose Drive, is zoned R-1-A/EO (One-Family Residential/ Environmental Overlay).

Findings

1. The applicant originally received approval from the County Zoning Board of Appeals on September 26, 2006 for this request. A request for an extension of the approval was submitted on September 21, 2007.
2. Section 4-6.1 of the Chatham County Zoning Ordinance requires a minimum side yard setback of ten (10) feet.
3. The subject parcel is rectangular in shape, with a minimum width of 50 feet and a minimum depth of 655 feet. Per the petitioner's survey, the parcel is 33,271 square feet. The parcel exceeds the development requirements in regards to minimum lot area, however, is nonconforming in regards to lot width. The R-1-A district requires 70 feet of lot width.
4. The petitioner is seeking a 2.5 foot side yard setback variance on both sides in order to construct a single family residence within 7.5 feet of each side yard property line. There is a single family residence in existence on the subject property which does not meet the side yard setbacks.
5. In accordance with Section 10-6.3 of the Chatham County Zoning Ordinance, the Board of Appeals may authorize upon appeal in specific cases such variance from the terms of the regulations as will not be contrary to the public interest where owing to special conditions, a literal enforcement of the provisions will, in an individual case, result in unnecessary hardship, so that the spirit of the regulations will be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in an individual case upon a finding by the Board of Appeals that:
 - a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.**

The subject parcel is considered a substandard lot in regards to width, as it is only 50 feet in width and the district requires a minimum of 70 feet in width.
 - b. **The application of these regulations to this particular piece of property would create an unnecessary hardship.**

Strict application of the regulations of the district would not cause an unnecessary hardship. However, due to the narrow nature of the lot any structure built on the subject property could not exceed 30 feet in width without obtaining a variance.
 - c. **Such conditions are peculiar to the particular piece of property involved.**

The conditions described above are peculiar to the subject property.
 - d. **Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of the Chatham County Zoning Ordinance.**

Relief, if granted, would most likely not cause substantial detriment to the public good. The existing structure is currently within the side yard setbacks and the proposed location of the new structure is in a more centered position on the lot.

Summary of Findings

All of the conditions necessary for granting a 2.5 foot side yard setback variance appear not to be met.

Mr. Cohen asked if there were changes between then and now?

Mrs. Burke stated no.

Mr. Cohen asked if there was a reason why it hasn't been started?

Mr. Kennickell stated the reason they are asking for an extension is because they found out when they applied for their building permit to build. They found out that that the city had a year and the county only has six months. They thought they had a year to do this. They thought if they got our plans in a year's time they'd be okay.

Mr. Cohen asked will they start soon?

Mr. Kennickell stated yes, in November.

Mr. Noha asked do they have a permit from Inspections Department?

Mr. Kennickell stated his contractor has submitted them. He stated they don't have them because they didn't get this approved. He also stated the house will be in the same footprint of the old house; the old house it was closer on the one side, it will be farther away on that one side.

Mr. Noha asked do you mean by closer on one side?

Mr. Kennickell stated the old house that they're go to tear down is closer.

Mr. Noha asked you are not coming closer?

Mr. Kennickell stated no, they are going farther away.

CZBA ACTION: **Mr. Cohen made a motion that the Chatham County Zoning Board of Appeals approve the petition as submitted based upon a finding that the relief granted would not cause substantial detriment to the public good.**

Mr. Day seconded the motion and it was unanimously passed.

**RE: Continued Petition of Mark Curry, for
W. Randy Sumner
B-070830-00021-1
24 Liberty Creek**

Present for the petition was Mark Curry, for W. Randy Sumner.

Mrs. Burke gave the following Staff report:

The petition was continued from the September 25, 2007 meeting at the petitioner’s request.

The petitioner is requesting approval of a 15 foot marsh setback variance from the 50 foot marsh setback requirement of Section 4-12 of the Chatham County Zoning Ordinance in order to construct an 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. The petitioner is requesting a 15 foot variance from the required 50 foot marsh setback in order to construct a 900 square foot garage within 35 feet of the marsh line.
3. The subject property is an existing lot of record with an existing structure which does not meet the required 50 foot setback.
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, 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 variance appear not to be met.

Mr. Curry, after presenting exhibit diagrams to the Board, stated they have drawn the request to the additional 12 feet and removed the stairs to upper level so there is only a full downstairs and added storage, opposed to their original thinking of other space. He said they have removed the balcony and French door that opened to a balcony on the back that looked out onto the marsh and it was primarily storage now. The red wall on the plan was the 50-foot set back and the 15-feet they were requesting. He said the diagram showed how the existing house was positioned on the lot now. He said they requested this position from the side, 10'-10" to accommodate this location for vehicles coming in and being able to make the turn or back out.

Mr. Day asked if their client was going to use the upper as a playroom or something?

Mr. Curry answered that was a possibility initially but his client's primary goal was storage for his vehicles. He said this was one of the few houses on Dutch Island that did not have a garage.

Mr. Day asked if he understood the upper area could not be used as living quarters or an area that could be occupied by anyone?

Mr. Curry stated yes.

Mr. Day asked were they putting in a pull-down staircase rather than a permanent stair?

Mr. Curry stated yes. He said he submitted plans to Mr. Sebek yesterday. He said the framing plan had changed as well as the lighting. He said they re-did the framing to accommodate that kind of stair.

Mr. Day asked if they were staying out of the riparian buffer?

Mr. Curry stated yes. He said they contacted Ms. Fogle and sent an e-mail showing what she could do with her property and how it would affect her. He said he felt with this location, having a neighbor without a garage was probably more harm to property value than having a neighbor with a garage.

Mr. Cohen asked why was it necessary to build it where it was being built? He said it looked as if there was a lot of land there. He asked why did they have to build and intrude into the setback?

Mr. Day stated the primary reason was because of the difficulty of moving it forward on the lot. That would bring it closer to the road and be extremely difficult to come in and make the turn into the garage area.

Mr. Curry stated (indicating to exhibit) that there was a 35-foot front yard setback and the dark line was the proposed structure. If it came around to maintain the distance they would have to rotate it around the existing driveway and that would make getting in and out more difficult.

Mr. Day added with the front yard setback they would have to ask for a variance regardless. Mr. Curry elected to go that way.

Mr. Cohen asked who was the adjoining property owner and how close would they be to the property line?

Mr. Curry stated 10'-10". He said the setback was a 5 foot requirement.

Mr. Day stated he (Mr. Curry) was not asking for side yard variances.

Mr. Sebek stated that actually because this was the marsh buffer exception, because it was actually the front of the house, it would be 10 feet. He said Mr. Curry was correct; he was thinking of standard accessory structure. But there was a 10 foot minimum requirement for accessory structures on marsh lots in front of a house.

Mr. Cohen asked if this was 5 foot?

Mr. Sebek stated it would be 10 foot and he was incorrect with the 5 foot. The standard was 5 feet but there was an exception for accessory structures marsh lots in front of a house that required them to be a minimum of 10 feet from the side property.

Mr. Day asked if this was 10'-10¼"

Mr. Sebek stated yes.

Mr. Cohen asked if that would be 35 feet from the marsh instead of the 50 foot?

Mr. Sebek stated yes.

Mr. Curry stated (showing exhibit diagram) this is the property and the wooded area between the neighbor on the other side of the lot. No windows are on this side of the house other than on the garage which was on the far side of the lot. This was the actual location proposed and staked out. That was the wooded area and if you stood behind Mr. Sumner's house, in the backyard, the back of the garage would be in the corner with a buffer between the properties.

Mr. Cohen asked if the buffer would remain?

Mr. Curry stated yes. .

Mr. Day asked that was the neighbor's property within the thicker area?

Mr. Curry stated yes.

Mr. Cohen asked if a three-car garage was trying to be erected ?

Mr. Curry stated yes. He stated they recognize the neighbor's concern about the view toward the Wilmington River and yacht club. His existing house and the location of the proposed

garage was in the line of sight that his house currently blocks. He stated they were not sticking out further in that line of sight because they were already within the line of sight.

Mr. Cohen asked why do they have to have a three-car garage instead of a two-car garage? He asked if they could build a two-car garage and be within the limitations and not have to ask for a 15 foot encroachment?

Mr. Curry stated the petitioner has three vehicles. He stated that was not explored. He said he was asked to do a three-car garage.

Mr. Cohen asked how many feet?

Mr. Curry stated probably 5 feet.

Mr. Cohen asked if the homeowner was present?

Mr. Curry stated no. He said he is a Physician's Assistant and was in surgery today.

Mr. Cohen asked could he live with a two-car garage ?

Mr. Curry stated he could not answer that. He stated he knew at the moment his goal is to get at least two vehicles in there and use the rest for storage. The Dutch Island homeowner's association was presented with this with the previous board. They approved it as presented with that location. We come to this body for the variance for the marsh setback. He stated he informed him he would not be able to build in that original location.

Mr. Tom Mahoney stated he is representing the opposition, Ms. Fogle. Ms. Fogle is also an attorney and is capable of outlining some additional thoughts to you. The applicant is taking a house built in 1984 and attempting to add a massive structure to this house. When it was originally submitted to the architectural review committee of the homeowner's association, it was in 2005. There is no record that it has been back to the review commission or to the homeowner's association. In 2005, they were proposing a three car garage, balconies, living quarters, bathrooms - none of which are allowed. As Mr. Day correctly pointed out, living quarters are not allowed which includes no bathroom situation. He stated the most important thing is that to their understanding this matter requires some approval from the Coastal Resources Division of DNR and the last report they have from their office says no map or survey has been submitted to them for approval in connection with marsh setback requirements. In addition, Staff has indicated there is a 10 foot setback line on a marsh lot for a garage. He stated they believe the homeowner's association requirements are 20 feet. So it is clearly an encroachment.

Mr. Day asked Mr. Sebek if he could answer Mr. Mahoney's comment about the Coastal Resources?

Mr. Sebek stated there is a line requirement that has to be laid out by DNR. He stated he don't know if that has been done. There is also a letter they will receive from the surveyor's noting that the line on the sight plan represents the line that was laid out by DNR.

Mr. Curry stated it's been done.

Mr. Mahoney stated if it's been done, then the information that was given to Ms. Fogle as recently as three days ago.

Ms. Fogle stated as of October 17, 2007 there has not been a verification letter.

Mr. Sebek states he has not seen a verification letter.

Mr. Mahoney states there is no verification letter in the possession of this Board to his knowledge. He stated they know of no verification letter having been issued as of the 17th when they last checked. He stated they believe that is important from the standpoint of that before this be considered for approval they (the Board) should have all of that information because DNR may have some problem with it. He stated it is an encroachment; they suggest restrict the petition to a two-car garage and that is still going to have a diminishing in value effect on Ms. Fogle's property. He stated they emphasize knowing of no approval from the homeowner's association except for 2005 when it was a totally different than what the Board is being asked to consider today.

Mr. Day asked if the homeowner's association approved a similar structure but had different features in 2005, what's changed in the physical envelope of this structure?

Mr. Mahoney stated what's changed is that what was approved by the association in 2005 had not yet been approved by this board and would have violated the ordinance.

Mr. Day asked isn't the homeowner's association approving for the homeowner's association and not for this board?

Mr. Mahoney stated yes.

Mr. Day stated so what they approved is only based on contingency of this board's approval as far as the county is concerned. So has the physical size of the envelope changed?

Mr. Mahoney stated the physical size of the building itself has not changed; the outside appearance has changed based on what we've seen today for the first time.

Mr. Day asked are you saying that the homeowner's association, if given consideration today, would disallow the physical size of the structure?

Mr. Mahoney stated they don't know because the homeowner's association has not been given an opportunity to examine the new plans.

Mr. Day asked is there a time frame on the approval process for the homeowner's association? If they gave approval in 2005, does that run in perpetuity of the homeowner's right to build?

Mr. Mahoney stated no. He would suggest it would not run in perpetuity because the boards change, the make-up of the boards change, the rules and the regulations.

Mr. Day asked is there anything in the language of the homeowner's association that says it does not run in perpetuity ?

Mr. Mahoney stated that I was not aware of that without doing research. He stated Ms. Fogle is the property owner and is familiar with the homeowner's association; he does not reside in the area.

Mr. Curry stated his wife is on the board.

Mr. Mahoney stated he thought if the applicant's wife sits on the board he'd suggest he'd be disqualified from even presenting the petition. He stated the main thing he would encourage the Board to do before they act on this matter is to get all of the information and very specifically the survey from the coastal resources division which none of us here today know what it is going to say or be issued.

Mr. Day stated he agreed with that point but was concerned if homeowner's owner's associations are giving approvals or disapprovals for projects, does a homeowner every time the Board changes have to go back and reaffirm that their plans are still okay according to the existing board. I would think that would not have to be the case. Once the approval is given by a sitting board the approval has either a designated lifetime through the covenants of the homeowner's association or does in fact run in perpetuity of the property.

Mr. Mahoney stated he would agreed with one caveat: in most associations, as in most ordinances there is a period of time. You are given the right to do a particular thing to be completed within a period of time. He stated the only thing they have is a 2005 two-line letter that says it was approved.

Mr. Day stated he would have hoped he or his client would have brought in something from the homeowner's association that says Mr. Sumner has a year, two years or whatever if there is that kind of language in the structure of the homeowner's association.

Mr. Mahoney stated that he has contacted the architect for the homeowner's association who said it was out of her hands. Ms. Fogle has attempted to contact the chairperson of the homeowner's association. I will let her speak with her results regarding that. The homeowner's association, we submit, has not even seen this application. That fact is not controlling on you as a ZBA, but I would suggest that you do need to get the information from the DNR.

Mr. Cohen asked Mrs. Burke if Mr. Mahoney had seen the document (the letter from the Homeowner's Association) that was shown to him?

Mrs. Burke stated he should have. She stated he provided a copy to his client.

Mr. Mahoney stated yes, that was the 2005 letter.

Mr. Day asked was there anything on homeowner letterhead or anything that is official? He stated he would think someone would have given approval on some kind of letterhead and that there would be something in their guidelines that would indicate an approving time frame.

Ms. Fogle stated she was the homeowner of the adjacent property. The last time we were here Mr. Curry informed you he was not involved in the drawings of the sketches of 2005 submitted to the homeowners association; apparently they were hand-drawn sketches provided by the petitioner. She stated they have really seen nothing that has been presented here today and she has spoken with people on the committee and she has informed you of that the last time she was here. There was concern about them being hand-drawings. She stated that is an issue

she will have to deal with the homeowner's association down the road. She stated she was told this had to be done before they would actually approve anything through the architectural review board of the homeowners.

Mr. Day stated in other applications we've seen from the Landings and other areas where there are homeowners associations there is approval given before it comes to this Board.

Ms. Fogle stated that very well may be; she doesn't know, she's only repeating what she's been told but she doubts very seriously the full structure sketches have been submitted. And as Mr. Curry told you, that was before he ever came onto the project. She stated this is not contentious, but she is fighting for her property survival. All of these photographs that the petitioner has provided that he calls the wooded area, the buffer area, the property line is five feet into that area, that is absolutely incorrect. That is her property. She stated that is her lot that her house is built on. She stated she takes exception to the fact that she likes it natural; some of it she wants cleared out and haven't been able to do that recently. But that's her property and that is on the marsh and she likes that natural beauty. She stated as well as her property value, she's a citizen; she wants to protect anything that encumbers the marsh. All the pictures you saw of the wooded area, that's her lot. The property line is not five into those crepe myrtles. She said it is right at the border of the crepe myrtles according to what she saw. She has had a property evaluator out to her property. She stated it's going to cost her a lot of money to have a diminution and value study done. She stated she was informed it will definitely diminish the value of her property. She stated the way that can be avoided is for the variance not to be granted, at least in the 15-foot amount. That will then cause no tremendous encroachment on her property view. She stated she understands there are some legal issues with that; she cannot fathom why her property value could suffer an immense diminution of value simply because there's a variance that the petitioner wants to be able to build a garage with a view of the river. She stated she had no idea of that; today was the first she'd heard of that. She stated it seems to her just moving it a little closer to the street and adding a little bit of pad would resolve the issue. She stated to her knowledge, there would be no street variance required for him to move it a little closer. Even if he moves it closer, she will have to have some diminution of value and view but its not going to be as horrific as the way that they plan it now, that would totally diminish her property from river view.

Mr. Cohen asked Ms. Fogle could she live with a two-car garage?

Ms. Fogle stated she doesn't mind what they put there; it's not her purpose to try to tell him how or what he needs to build. She stated where he puts it is what her problem is and anywhere he puts it that's going to be close to the marsh is going to diminish the value of her property.

Mr. Cohen asked Ms. Fogle if she could live with a five foot variance in a 50-foot setback?

Ms. Fogle stated she doesn't think five feet would really encroach that much on the property.

Mr. Cohen stated the answer is yes, you can live with a five foot encroachment.

Ms. Fogle stated this is her problem: she doesn't really know where this thing is going in relation to the way they flagged the marsh. She stated she knows they have it laid out, but she doesn't that's the way it's going to stay because she's seen nothing that indicates where it's going to be in relation to the way the marsh was flagged by the DNR.

Mr. Cohen stated they won't go any more than five feet if we approve it in that respect. He stated he didn't think she has to worry about that. He stated though it would be a violation, he thought she said yes she could live with five feet.

Ms. Fogle stated he thinks the five feet would not be as near as much as a 15 foot issue.

Mr. Noha asked Staff for clarification about the variance going toward the road.

Mrs. Burke stated Mr. Sebek pointed out the portion of the ordinance that covers the front yard if you have an accessory structure in the front yard. It has a setback from the street right away, which exceeds that 35 feet shown on the site plan so they wouldn't be able to shift it forward. The only way to try to get it out of the marsh setback would be to shrink it down to a two car garage. So the shifting it forward idea would not work. Then they would need front yard setback variance.

Mr. Curry stated they would also need a side yard setback.

Mr. Day asked Ms. Fogle if she would come back to the stand. He stated he's having a difficult time trying to see where she's coming from. He stated he apologized if he seems offensive. He stated he looked at the picture; how is the structure the petitioner is proposing going to diminish your view of the marsh when if you look at the line of sight from the back of your house to the left, it's already encumbered by location of the existing house. If they are not going beyond the existing line of the house, what impact is it having on you?

Ms. Fogle stated she has clear river view.

Mr. Day stated he accepts that – she has clear river view to the front, to the top and to the right. He asked if he drew a line from the back of her house up towards the top right hand corner and their garage is not moving out beyond that line of sight which exists today, how is it having an impact on her? He stated he doesn't want to diminish the value of your property but he also wants to give people the opportunity to be able to use their property as they see fit, but not to hurt a neighbor's property. He asked Ms. Fogle how is this hurting her view of the river? It's already hurt.

Ms. Fogle stated her view would be completely obstructed.

Mr. Day stated but its not. He stated if your view is obstructed now by the corner of the house that's sitting there and they're not going beyond the house that is sitting there and they're not going beyond that existing line, how is it doing so?

Ms. Fogle stated it's not obstructed by the corner of the house. She stated it's not obstructed at all; she has a clear shot to the yacht club, you can see everything over there.

Mr. Day stated they're not going beyond that line the way it is today.

Ms. Fogle stated yes, they are. They're moving inside that line and that would completely obstruct that view.

Mr. Day stated according to Mr. Curry they're not.

Ms. Fogle stated according to the way it's flagged, it is. She stated she's not trying to be rude, just stating that without being there, it's hard to visualize it. The way the flags are up, it will obstruct the view and diminish my property.

Mr. Day asked if the line of sight does not diminish beyond the existing line of sight, what problem does she have with this structure?

Ms. Fogle stated if it doesn't diminish the view, then she doesn't have an issue other than she needs to know what the size is. Apparently they want to put it close to the property line, she just needs know drainage issues. She stated she guesses we're over that now that's there's no bathrooms. She stated the placement of the garage fairly impacts the value of her home.

Mr. Day stated she agrees with that. He asked, assuming that Mr. Curry's drawings are correct: if the line of sight from your house is already obstructed by that corner of the existing house and they're setting their structure back away from that line of sight, how is that impacting her? He asked Mr. Curry to explain the line of sight to Ms. Fogle from his drawings, please?

Ms. Fogle stated she doesn't mean any disrespect. She stated she lives there and knows exactly what's going on. She stated she knows exactly what's going to happen the way that it's staked out. She stated she has an unfettered view of the river from this entire area. The house does not obstruct anything that happens back there and that is where all the river view is. She stated it will be better when she cleans out some of tree property. She states she knows she'll have other issues that she'll have to deal with that she probably won't be to be successful with. She stated she'll have to try to tear down the tax commission and why they are evaluating her property based on things apparently on things she's not entitled to. She stated she really thinks if this was just moved up, that will preserve most of that view from her property.

Mr. Watford asked Mr. Curry to show aerial view of properties. He asked Ms. Fogle is her house is the lower house?

Ms. Fogle stated yes.

Mr. Watford asked can she look through all through those trees and see the house next door to her?

Ms. Fogle stated yes. She stated she know there is a lot of natural oak trees, palm trees, and some underbrush. But yes, you can see through that. She stated when she's ready to sell this property someone's going to buy it for what's supposed to be the lot and a lot of this is going to come down, except the trees which are very tall, the cover of which is what you see here. She stated that is all her property line.

Mr. Watford asked all the way to the drive way.

Ms. Fogle stated no, was talking about the trees here.

Mr. Watford asked if there was a wax myrtle buffer in there?

Ms. Fogle stated she doesn't know what he means by buffer – that's her property, her lot, there is no buffer there.

Mr. Watford stated what he's saying is there is a screen of trees and wax myrtle between her property and theirs.

Mr. Noha asked if there any additional questions for the opposing party or her representative? Is anyone else present to speak on this case?

Mr. Sebek stated 1) as far the 20ft vs. the 10ft side yard setback, the county enforces the counties ordinance if there is a greater setback that is in the covenants of the subdivision, it their responsibility to enforce that. Only what is in the Chatham County Zoning Code can be enforced.

2) Apparently based on the dimensions of the sight plan that we have, this structure cannot be moved forward without a variance to front yard setback because there is a 50ft requirement from the front property line for those same structures in front of a house on a marsh lot.

3) Regarding the marsh buffer certification letter from the Coastal Resources Division, it was the Board's policy is to have that at the time of the construction beginning. They do not require it to issue the permit but we do require that letter to be accompanied with a marsh survey at the time the construction is to begin; before any inspections are to start on property.

Mr. Day stated at this particular time, for this Board, there is not a necessity for a verification letter.

Mr. Sebek stated he is not stating the MPC requirement but the County requirement for a building permit.

Mr. Curry stated before the Inspections Department will come out and inspect the foundation they have to have a marsh buffer survey done verifying that it was built where it was approved; that no unauthorized changes were made.

Mr. Cohen stated he believes they should take a conservative approach to this. He stated they are often times presented with plans where people would like to build more than their lots will accommodate. He stated they've even suggested to some to sell their house and buy something bigger. He stated he doesn't think violence needs to be done to the requirement code that requires a 50ft marsh setback. He stated the petitioner asked for a 3 car garage in a 15ft intrusion into the setback. He stated our job is to enforce these code sections unless there is some compelling reason or legitimate hardship as to why they should go outside them. He doesn't see it here. It is not a situation where they have letters of support from the community; they have generally none and a neighbor who's upset about it and is opposition in to it. He stated he asked the neighbor if she could live with a five foot setback, they can build a two-car garage. He stated if they're going to allow some intrusion, allow the minimum. There is no opposition at five foot. He stated if they need more room, they need to sell and go someplace else.

Mr. Day stated in cases in the past they have allowed an intrusion into a 50ft setback as long as they didn't get into the riparian setback at 35ft level. They are not asking for a side yard variance because they are within the standards. He stated from his perspective the adjacent property owner is suggesting that it is going to have a traumatic impact on the value of her property and on the view. He stated he doesn't see it but he's not a licensed appraiser; he cannot tell whether it will or not. He stated he doesn't believe it will have the kind of impact the neighbor is saying they're going to have. On the other hand he would think to be prudent to remember those neighbors are going to have to live together. Since the neighbor is willing to live with a five foot setback, he would suggest Mr. Curry talk to his client before he asks for a decision from the board.

Mr. Watford suggested that the two neighbors and the architect get together and see what they can work out. If nothing else, before they return he would like to see a survey to find out exactly where the property line is.

Mr. Cohen stated unless the petitioner is going to withdraw his application for a vote, he will have a motion. He stated he'd give him a chance to withdraw and ask for more time or whatever it is; if not he would have a motion to propose.

Mr. Curry stated someone stated they would like to see a survey showing the property line; that is what he has here. He stated he assumed the Board did not get an opportunity to get out to the property to check it. The survey was done by a licensed surveyor; the marsh line has been defined by the DNR. Prior to the initial petition, the homeowner, the neighbor and he met on the property. He stated they roughly pulled the tape back when they had it proposed at a 30ft setback from the marsh and showed her where that corner would be because that corner aligned with the edge of this house. Since then they slid it back five feet at the recommendation of Staff. The homeowner is in need; they obviously didn't want the neighbor's property value to be diminished. At the same time his value is diminished for not having a garage. He bought the house prior to the overlay requirements. He sought neighborhood approval to get the additional garage to increase his property value which increases the neighborhood and he is in need of a three car garage and storage. The house does not storage area. When confronted with issue of not having additional living space or game room (above garage), he quickly said forget that. Garage storage and storage for the house is all he needs and can afford at this time.

Mr. Day asked are you asking for a vote?

Mr. Curry stated he was asking for a vote.

Mr. Watford asked (Ms. Fogle) if she and Mr. Curry talked about the project and moved the stakes?

Ms. Fogle stated we stood out in the yard and looked. She stated she told Randy Sumner, whom she really has had no more communication with since Mr. Curry's been involved, that she would have to get someone to come out and see if that would diminish the value of my property.

Mr. Watford asked if she felt that it would diminish her line of sight view?

Ms. Fogle stated yes.

Mr. Watford asked even after they moved it?

Ms. Fogle stated yes.

Mr. Watford stated if you have a house that sticks out so far and moved the garage over, he did not understand how the garage was going to obstruct what you could not see because of the house.

Ms. Fogle stated the house does not block the view.

Mr. Watford stated they shifted the garage forward and Mr. Curry said you agreed the garage did not obstruct your view anymore than the corner of the house.

Ms. Fogle stated no, she did not agree to that.

Mr. Curry stated she did not at that time say 'Oh, that's fine'. He said he was saying they were able to illustrate to her the location of that garage. He said his intent as an architect was to point out that he was taking her into consideration. To get that view one would have to look all the way across the petitioner's property. He said they tried to position it to accommodate her concern and for future homeowner's of that lot as well.

Ms. Fogle stated she did not agree to it. She stated she told him she would have to get someone to look at it. She said she tried to talk with him about it and suggested they move a little closer to the street then we would not have an issue.

Mr. Noha stated he was going to recognize Ms. Helen Stone. He said it has happened over and over on this Board, when they talk about views. And it has also been brought up many times by Mr. Cohen that you are guaranteed a view perpendicular to your property line. Does your property line go to the marsh or river, is that correct or incorrect?

Mr. Cohen stated he did not know what type of view you were guaranteed. He stated what he was saying was they are guaranteed no view at all if they are building within the limitations of the code.

Mr. Noha stated therefore, the view was an issue. Normally, it was not because they are building within the setback. If Mr. Curry for Mr. Sumner were to bring that back in, even if it was a one car garage, then the view was not an issue if it blocked or did not block it.

Mr. Cohen stated correct.

Ms. Stone stated she is the County Commissioner for this district. She stated it would seem to her that good points have been made to try to work with both parties. They (Sumner's) are encroaching into the marsh for which they are asking for a variance and if both neighbors could not live with that, that was a difficult issue to struggle with. It would seem to her a front yard setback would be less offensive than the marsh setback or scaling the structure down. But to try to keep neighbors neighbors, and to be able to work together, they are here asking for permission to do something not in accordance with the code. She said they certainly wanted the neighbors to get along and if perhaps a side yard or front yard setback would be a better alternative to the marsh setback that would not impede someone's view. She stated she did not come here to speak on this issue but felt very valuable points have been brought up. She said she felt the Board was trying to do the right thing for the parties concerned and she commended them for that.

Mr. Curry stated we have been involved in this process for months. His client was delayed from being able to start this opportunity and they delayed it an additional time to address the neighbor's concerns. He said they would like a vote.

Mr. Noha stated he will entertain a motion.

CZBA Action: Mr. Cohen made a motion that the Chatham County Zoning Board of Appeals approve the petition for 5 feet which would allow a two-car garage.

Mr. Cohen further stated he did not see that the petitioner was entitled to any variance. He said there was no compelling reason or hardship other than *I want a three-car garage*. He stated he

understood that we have a 50ft setback and that there was a reason for the 50ft setback. He said he felt he could not have the whole loaf, but that would be something. He said also the homeowner next door was directly affected and opposed to it.

Mr. Noha stated there is a motion on the floor.

CZBA Action: The motion failed for lack of a second.

Mr. Watford asked if the petitioner purchased this lot and was building a new house and garage that he could build it within 25 feet?

Mrs. Burke state if he purchased a vacant lot of record at the time of the adoption of the ordinance he could build within 25 feet.

Mr. Watford stated he would still be within the legal requirements whether the neighbors liked it or not.

Mr. Noha stated he would entertain a 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. Watford seconded the motion and it was passed 3 - 1. Opposed to the motion was Mr. Cohen.

**RE: Petition of Rudy & Cyndy LoMonaco
B-070914-00031-1
102 Beaulieu Bend**

Present for the petition was Rudy and Cyndy LoMonaco.

Mrs. Burke gave the following staff report:

The petitioner is requesting approval of an application to establish a use (Wedding Chapel) pursuant to the requirements of Section 4-5.1 of the Chatham County Zoning Ordinance in order to continue conducting wedding ceremonies. The subject property, located at 102 Beaulieu Bend, is zoned R-1/EO (One-Family Residential/ Environmental Overlay).

Findings

1. Subject to approval by the Zoning Board of Appeals, wedding chapels are an allowed use with conditions within the R-1 zoning classification.
2. The established conditions are as follows:

Any building or structure established in connection with such use shall be set back not less than 150 feet from any property line, except where a property line is the right-of-way of a street, in which case the setback established for the particular class of street in the zoning district the building or structure is located shall apply. The Board of Appeals shall be authorized to reduce the setback requirements of this section if on the basis of evidence presented it finds that a reduction in the setback would be in keeping with the purposes of this Ordinance,

and would not create conditions which would be detrimental to the adjoining properties or the neighborhood.

Per the applicant, the only structure on the property utilized for the wedding services is the gazebo. It appears that the gazebo meets the 150 foot setback. The applicant will verify the distance prior to the public hearing.

Such use shall only be permitted on a lot or plot of ground which abuts a collector or higher classified street. The Board of Appeals shall be authorized to waive this requirement, if on the basis of evidence presented, it finds that the traffic to be generated by said use can be accommodated on other streets without creating traffic congestion and traffic hazards on such streets which would be detrimental to the neighborhood served by such other streets.

Although Beaulieu Bend is not a collector or greater street, due to the standards established regarding the number of guests permitted per ceremony, the limited traffic generated by the proposed use would not appear to negatively impact the traffic in the area.

Such use shall only be permitted on a lot or plot of ground that contains a minimum of 43,560 square feet (one acre).

Per the applicant, the subject parcel exceeds one acre in size.

No on-street parking shall be permitted. A minimum of eight (8) on-site parking spaces must be provided.

The site plan submitted by the applicant does not demonstrate where the parking will be provided. However, there appears to be adequate area on site to meet the parking requirements of the use.

The maximum allowable number of guests at any one ceremony shall not exceed 20.

Receptions shall not be allowed to be held on-site; nor shall there be any service of food or alcoholic drink.

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 in a gazebo at an existing single family residence.

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

regulations.

The proposed use is not contrary to the regulations.

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

No adverse affects are expected or anticipated.

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

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

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

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

- f. **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 Ordinance limits the number of guests and the types of activities to sufficiently protect the area from any negative impacts such as described above.

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

The standards set forth have not all been met. The proposed use is not located on a collector street or greater classification. However, if the Board determines that the traffic generated by the proposed use will not create traffic congestions or hazards in the area, a waiver can be granted regarding this standard.

Summary of Findings

All of the conditions necessary for granting use approval to establish a wedding chapel and for granting a waiver to the standard that a wedding chapel be located on a collector street or greater appear to be met.

Mr. Noha asked Staff with regards to the text amendment if that was something that made it come before the Board?

Mrs. Burke stated there are uses found from time to time that people request that are not in the Zoning Ordinance. She said it then goes to Mr. Sebek and he determines if that use is similar to

another use and use those guidelines. She stated in this situation, they did not have a comparable use in the Ordinance, so they had to do a text amendment to the Ordinance to establish when wedding chapels would be permitted in residential districts. She stated one of the conditions they felt was important to have on that was that it had to go to the Zoning Board of Appeals for approval because it may not be appropriate in every situation.

Mr. Day stated he was concerned about some of the items on the list. He said he felt unless the City or County was going to police this that there was no way to enforce it. He asked if that was correct?

Mrs. Burke asked he was concerned about the number of guests allowed?

Mr. Day stated the number of guests, food, etc. He said he felt there was no way to really police this unless the neighbors come forward. He asked what would happen if that took place?

Mrs. Burke stated it would be based on complaints. She said the applicants as well as the MPC felt that because that it would be in a residential area there needed to be some strict limitations. She said the applicants that applied for it were the ones that applied for the text amendment.

Mr. Day asked Mr. Sebek, what was the penalty of someone reporting them as not adhering to the guidelines?

Ms. Sebek stated they would lose their business license if they continued to violate the Ordinance as it was set.

Mr. Rudy LoMonaco stated he and his wife started a ministry at their home. He said it mostly serviced military couples that did not have a church or affiliation and would like to have a Christian ceremony. He said the vast majority of ceremonies were offsite. He stated occasionally they have couples that are in a spot and wanted this as a fall back so they could marry before one of them were deployed or something like that. He stated it is the exception of the rule for their intent for this. He stated it was not a chapel. It was a garden and gazebo that his wife and he landscaped in their backyard.

Mr. Cohen asked is it a roof structure with walls?

Mr. Noha asked if it was screened in?

Mr. LoMonaco stated yes. He said they talked with all of their neighbors from the beginning about their intent. He said they talked with them about their ministry and held a neighborhood meeting with Ms. Stone collectively and individually. He stated it has not been an issue at all with his neighbors.

Ms. Helen Stone stated she did meet with the petitioner and looked at the property. She said Churches could exist in a neighborhood and this was certainly a less intense use than a Church. She said the neighbors did not have a problem with this. She said the County Commission also unanimously approved it.

Mr. Noha asked how long has this been in operation?

Mr. LoMonaco stated for 5 years. He stated they have done many weddings and it has never been an issue. He said it was usually quiet and lasted 12 minutes.

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. Cohen seconded the motion and it was unanimously passed.

RE: Petition of Jerry & Diane Thompson
B-070920-000037-1
2 Perriwinkle Lane
4 Oemler Court East

Present for the petition was Clark Gordon, For Jerry and Diane Thompson.

Mrs. Burke gave the following Staff report:

The petitioners are requesting approval of a two and a half 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 an existing single family residence. The subject property, located at 2 Perriwinkle Lane, is zoned PUD (Planned Unit Development).

Findings

1. Section 4-6.1 of the Chatham County Zoning Ordinance requires a minimum 25 foot rear yard setback.
2. The parcel is a conforming lot of record that exceeds the minimum development standards.
3. The petitioner is seeking a 2 ½ foot rear yard setback variance in order to construct an addition to the existing single family residence 22 ½ 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 meets the minimum development standards of the district.

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

Strict application of the regulations of the district would not cause an unnecessary hardship.

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

The conditions described above are not peculiar to the subject property.

- d. **Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of the Chatham County Zoning Ordinance.**

Relief, if granted, would most likely not cause substantial detriment to the public good. 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 2½ foot rear yard setback variance appear not to be met.

After being sworn in, Mr. Clark Gordon stated he is representing the Thompsons.

Mr. Gordon stated they were trying to accomplish extending their master bedroom and adding a master bath in a residential home, without encroaching into the side setback. He stated they have had no opposition from any neighbor. There is a golf course in the back and they were actually going a foot; we requested 2½ feet. He stated they were only going a foot into the line, but it was only a small triangle. He said the side setback is the Landing setback; they have been approved by the ARC.

Mr. Cohen asked what is your connection with the Thompsons? Are you their son?

Mr. Gordon stated he is with CG Renovations. He stated he is their contractor. He said they were in Indiana and he was representing them.

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

**RE: Petition of Kelly Layson
B-070921-00038-1
4 Oemler Court East**

Present for the petition Kelly Layson.

Mrs. Burke presented the following Staff report:

The petitioner is requesting approval of an 11½ 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 an existing residence. The subject property, located at 4

Oemler Court East, is zoned R-1/ EO (One-Family Residential/ Environmental Overlay).

Findings

1. Section 3-6.1 of the Chatham County Zoning Ordinance requires a minimum 25 foot rear yard setback.
2. The parcel is a conforming lot of record that exceeds the minimum development standards.
3. The petitioner is seeking an 11 ½ foot side yard setback variance in order to construct an addition to the existing single family residence 13 ½ 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 exceeds the minimum development standards of the district.

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

Strict application of the regulations of the district would not cause an unnecessary hardship.

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

The conditions described above are not peculiar to the subject property.

- d. **Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of the Chatham County Zoning Ordinance.**

Relief, if granted, would most likely not cause substantial detriment to the public good. 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 an 11½ foot rear yard setback variance appear not to be met.

Mr. Day asked Staff if she could rephrase that? He said the structure was already completed. He said there has been a stop work order put on this project. He said this has already been built.

Mrs. Burke stated she was not aware of that. She said maybe Mr. Sebek could respond.

Mr. Sebek stated he did not know that either.

Mrs. Burke stated that would explain when they looked at it why it looked so close to the property line.

Ms. Layson stated they wanted to add to their house. She stated they lived on a cul-de-sac and the lot was shaped strange. She said they wanted to add an addition for her elderly mother because she has Alzheimer's. She her mother was failing and she would have to move in with family members and it looks like it was going to be them. She said she wanted to add the addition for that reason.

Mr. Day stated this addition has already been added.

Ms. Layson stated it was not complete.

Mr. Day stated it was completed as far as everything with the structure was concerned. He said It has been roofed and the only thing it did not have were windows and doors. He asked if a permit was pulled on this structure?

Mr. Noha asked was there a stop work order issued?

Ms. Layson stated yes.

Mr. Day stated so it was built without a permit as well.

Ms. Layson stated they applied. She said her friend Mr. Newman helped and advised her. She said her mother-in-law built a similar structure and they scaled theirs down after they realized they did not have a lot of property in the back. She said their cul-de-sac was strange. She stated they had a lot of property on the right-hand side and the left side was little shorter. She said they wanted to add to the back on the left hand side because of the stairs and her mother could not climb stairs.

Mr. Day asked was there a reason no one pulled a permit on this?

Ms. Layson stated Mr. Newman advised her on this. Unfortunately, they did not know anything about buildings and permits and apologized.

Mr. Cohen asked staff how did this come to their attention?

Mr. Sebek stated he was not aware this was an after-the-fact permit. He stated as he recalled, it came in when the site plan was submitted. He told them it was encroaching and they would need to apply for a variance or redesign it.

Mr. Day asked if he knew who called?

Mr. Sebek stated he did not know there was a stop work order issued for it. He stated he saw the site plan and that it did not meet the requirements and that was when we they got involved.

Ms. Layson stated they started out enclosing their deck because it was in bad shape. She said when the gentleman came out and looked at their deck, he said it was rotting the house. So her friend Mr. Newman was asked for advice since he does work like this and he advised her what to do from there.

Mr. Newman stated he did do a drawing and saw that they did not meet the requirements. He stated they stopped it prior because they would not meet the setback requirements of this area. He said they went back and scaled the building down and moved her room over and basically built it without a permit. He said he did not realize he was as far into it as it was. He said they were replacing a deck with a back structure. He said he just told them they were replacing an existing deck. They were not really going out of the parameters and most of the property lines they saw were 12 feet and they did not know things changed to 25 feet. He said the corner of the house was not even 25 feet, so evidently the house had a variance. He said he made a bad choice. He said he advised her to move forward and build it. He said it was his error in telling her to do so.

Mr. Day asked if he was a contractor?

Mr. Newman stated they were doing this for friends of the family. He said he worked for a company that her mother-in-law worked for and they asked him to look at it.

Mr. Day asked if he was a contractor by trade?

Mr. Newman stated he worked with US Mechanical Contractors that does industrial construction.

Mr. Cohen stated he was glad to hear the apology from Mr. Newman. Many do what they do, but they get an application first. You are pleading ignorance. He said he and Mr. Day were out there and the petitioner was not home. He said they looked over the fence and saw the structure basically completed. He said there is a neighbor behind her and they knocked on her door to see if there was any opposition but there was no one home.

Mr. Day stated Ms. Amy Peebles is the neighbor.

Mr. Cohen asked Ms. Layson if she talked with Ms. Peebles?

Ms. Layson stated she has not seen her outside. She said she talked to most of her neighbors that lived in the cul-de-sac. She said their houses were a good bit apart. She said as far as she knew Ms. Peebles has not said that she has a problem with it. She said it will not look like an addition to the house. She stated she really was sorry about doing this after-the-fact.

Mr. Cohen asked if her mother lived with her now?

Ms. Layson stated no.

Mr. Cohen stated he felt there was a hardship situation to take into consideration. He said the Board has done that before, such as with ramps that go into the setback. However, she has presented them with a done deal.

Mr. Day stated the sign was posted but the problem was that it was already built.

Ms. Layson stated we sent 14 letters to all of our neighbors.

Mr. Cohen stated he wished they could bring a letter from Ms. Peebles stating that she had no objection. He asked if that could be done?

Ms. Layson stated she felt she could.

Mr. Cohen asked if her mother has been diagnosed with Alzheimers?

Ms. Layson stated yes.

Mr. Cohen asked if it was her intent to have her mother move into that structure? And if that was the reason she built it?

Ms. Layson stated yes.

Mr. Day asked if the privacy fence was on the property line?

Ms. Layson stated it is was several feet.

Mrs. Burke stated neighbors were notified with the meeting date and time along with information regarding the request. She stated she had no responses.

Mr. Watford stated if they asked for a continuance they could not do any more construction on the property until it came back to the Board. He said if they went they went the other route and had Ms. Peebles send a letter to Mr. Sebek. He said Mr. Sebek could give them a phone call and then they could move forward with the construction.

Mr. Newman asked if Ms. Peebles have a problem with it, what would happen?

Mr. Cohen stated it would probably be denied and they would not be able to fulfill their obligation. He suggested they come back. He said Ms. Peebles may be out of town or she may make herself purposely unavailable.

Ms. Layson stated she believed if Ms. Peebles had an issue, she would have been here today.

Mr. Noha stated since it was built prior to approval, they are erring on the side of caution to get approval from the neighbor most affected by this.

Ms. Layson stated she would like to get a letter from Ms. Peebles expressing her approval.

CZBA Action: Mr. Cohen made a motion that the Chatham County Zoning Board of Appeals to approve subject to and contingent upon a written statement of no opposition from Ms. Peebles.

Mr. Day asked Mr. Cohen if he could amend the motion to include the reason why the Board was approving the petition?

Mr. Cohen stated because her mother has a progressive disease that is getting worse. She is

going to live in the structure; that is the hardship that prompts us into making this allowance.

CZBA Action: Mr. Cohen made a motion that the Chatham County Zoning Board of Appeals approve the petition as submitted based upon a finding that strict application of these regulations would result in an unnecessary hardship for the applicant in providing additional living space for an ill family member. Mr. Watford seconded the motion and it was unanimously passed.

RE: Other Business

There was no other business to discuss.

RE: Adjournment

There being no further business to come before the Chatham Zoning Board of Appeals, the meeting was adjourned approximately 4:00 p.m.

Respectfully submitted,

Deborah Burke,
Assistant Secretary

DB/st