

COUNTY ZONING BOARD OF APPEALS

ARTHUR A. MENDONSA HEARING ROOM

112 EAST STATE STREET

January 29, 2008

9:00 a.m.

REGULAR MEETING

MINUTES

MEMBERS PRESENT:

**Wayne Noha, Chairman
Lucy Hitch
Terrance Murphy
Stephen Day
Jimmy Watford
Brian Felder**

TECHNICAL STAFF PRESENT

Bob Sebek

MPC STAFF PRESENT:

**Geoff Goins, Secretary
Sabrina Thomas, Administrative Assistant**

RE: Call to Order

Mr. Noha called the January 29, 2008 meeting to order at 9:00 a.m.

**RE: Katherine Bart
B-070420-49518-1
921 Mims Street**

Nature of Request

The petitioner is requesting an extension of a May 22, 2007 decision to grant approval of a 20 foot front yard setback variance from the 35 foot front 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 921 Mims Street, is zoned R-1/EO (One-Family Residential/ Environmental Overlay).

Summary of Findings

All of the conditions necessary for granting a 20 foot front yard setback variance appear to be met.

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Mr. Noha stated that this petition would have to be pulled due to not placing the signs.

**RE: Lisa and Matt Hutton
B-071221-00081-1
200 Green Island Road**

Nature of Request

The petitioner is requesting approval of a variance from the requirement that all accessory structures shall be located in rear yards only unless abutting a river or saltwater marsh pursuant to Section 3-6.1 of the Chatham County Zoning Ordinance and a waiver of the requirement that no more than one kitchen facility be allowed on a lot designated for single family residential use pursuant to Section 2-18 of the Chatham County Zoning Ordinance. The petitioner desires to construct a temporary kitchen facility in a garage apartment pending completion of construction of the primary residential structure. The subject property, located at 200 Green Island Road, is zoned R-1-B/EO One-Family Residential/Environmental Overlay).

Findings

1. The subject parcel is a vacant lot that has a width of 200 feet and a depth of 751 feet, with 3.45 acres in lot area. The Ordinance requires a minimum lot width of 100 feet and a minimum lot area of 30,000 square feet for an R-1-B zoned parcel that is served by individual public water and waste system. The parcel is a conforming lot of record.
2. Section 3-6.1 of the Chatham County Zoning Ordinance requires that all accessory structures shall be located in rear yards only unless abutting a river or saltwater marsh.
3. The petitioner is seeking approval of a variance from this requirement to construct a garage with a second story apartment in the front yard on a lot that does not abut a river or saltwater marsh.
4. The R-1-B zoning district of the Chatham County Zoning Ordinance allows only one dwelling per lot. As defined in Section 2-18, a dwelling unit shall consist of one or more rooms designed as a unit to provide complete housekeeping facilities for more than one person living as a single housekeeping unit or family. This definition has been further defined to mean that no more than one kitchen facility shall be allowed on any single parcel.
5. The petitioner seeks a temporary waiver of the requirement of Section 2-18. The petitioner is in the process of constructing a permanent residence on the subject parcel. A garage with a second floor apartment is to be constructed as a part of the overall development. It is the desire of the petitioner to construct the garage first, to reside therein, and to then complete construction of the primary residence. Upon completion of the primary residence, the petitioner will move permanently into the primary structure and remove the kitchen facility from the garage apartment.
6. If a waiver of the kitchen requirement is granted, it is recommended that said waiver be conditioned on the following: 1) that within 30 days of receipt of the certificate of occupancy for the primary residence, the kitchen facilities in the garage apartment shall be removed; and 2) that one and only one electric drop be allowed on the subject property.

Confirmation of the same shall be subject to inspection of the premises by the County Inspections Department.

7. In accordance with Section 10-6.3 of the Chatham County Zoning Ordinance, the Board of Appeals may authorize upon appeal in specific cases such variance from the terms of the regulations as will not be contrary to the public interest where owing to special conditions, a literal enforcement of the provisions will, in an individual case, result in unnecessary hardship, so that the spirit of the regulations will be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in an individual case upon a finding by the Board of Appeals that

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.**

The subject parcel is considered a standard lot in regards to lot width and lot area.

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

Based on the site plan submitted by the applicant, it appears that strict application of these regulations would not create an unnecessary hardship, in that there is sufficient lot area to locate an accessory building in the rear yard of a principal use structure.

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

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

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

Relief, if granted, would most likely not cause substantial detriment to the public good.

Summary of Findings

1. All of the conditions necessary for granting a variance appear not to be met.
2. Granting the requested waiver is left to the discretion of the Board of Appeals.

Mr. Day asked is this abutting the river or marsh?

Mr. Goins stated the subdivision is not shown (on the projected picture).

Mr. Sebek stated it's been subdivided. He stated it does not show but the marsh portion has been subdivided out from this lot.

Mr. Noha asked to hear from the petitioners.

Mr. Matt and **Lisa Hutton** were sworn in and Mr. Hutton stated he purchased the 3.45 acre property at 200 Green Island Road. He informed the second page of the packet will give an overall view of the property. He stated it is heavily wooded and no one can view it from the road and vaguely by neighbors. He continued the layout of the lot they could not put the garage next to the house, and the way he has laid it out is the only way he could do it properly. He stated he would like to have the proposed garage structure in front of the house and not have a breeze way. He believes it is a well thought out plan; it is two stories with a four car garage with bonus playroom above. He stated he has a letter from his architect Clay Branson, that stated the reason for the variance request. He informed there are pictures that show the brick fence; the gate structure is not up yet. He stated he had letters from those in the area supporting his project. He informed the major trees were preserved.

Mr. Noha asked it's not to be attached to the breeze way, correct.

Mr. Hutton replied, no, it's not. He stated he wanted a pull through.

Mr. Day asked has the variance for a separate kitchen been withdrawn?

Mr. Hutton replied yes.

Mr. Day informed that the only variance being sought is to put the garage in front of the house, which is not normal for a lot not abutting a river or a marsh.

Mr. and Mrs. Hutton both replied yes.

Mr. Day asked what specifically will be done with the top area of the garage?

Mr. Hutton replied it was to be basically storage room and play room for the kids.

Mr. Day asked if there were going to be bathrooms upstairs?

Mr. Hutton replied yes.

Mr. Day stated no, that could not be done.

Mr. Sebeck stated that he could have one or the other but not both.

Mr. Day stated we turned down another petitioner a few months ago.

Mr. Sebeck stated that was because a second story was not allowed as an accessory structure. The exception for marsh lots allows a garage in front of the house but only a single story.

Mr. Watford asked how many square feet was the garage to be?

Mr. Hutton replied the upper area is to be 786 square feet and the lower is to be 900 to 950. He stated he really needed the storage space because the house does not provide it.

Mr. Day asked if was to be on one meter or separate?

Mr. Hutton stated it was to be a single meter.

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Mr. Day asked why couldn't the plan be turned around; put the garage in the back and the house in front?

Mr. Hutton replied he felt it layed better that way.

Mr. Day again asked why? He informed he was asking because when he looks to give someone a variance, he is looking for a reason. He stated the zoning ordinances are in place for various reasons and he needed a reason other than that's the way the petitioner would like it to be.

Ms. Hutton replied it was because of where they wanted to park their RV's. She stated if they did it behind the house, they would have to deal with the interruption of the pond.

Mr. Hutton stated it would have a higher impact on the neighbors if they reversed the plan.

Mr. Konsul was sworn in and stated they sold the lot to the Huttons. He stated they have no problem with what the Huttons want to do. He informed it would look better than coming in the other way.

Mr. Watford moved to approve the petition.

Mr. Day stated he has a problem with the petition because he can find no valid reason to approve it.

Ms. Hutton stated if the garage structure behind the house, it would be more visible the their backdoor neighbors.

Mr. Day replied that is understandable but there is no reason to go against the zoning laws.

Mr. Hutton stated the neighbors are happy with their plans and are anxious for them to complete.

CZBA ACTION: Mr. Watford moved to approve the petition. Mr. Murphy seconded and the motion was approved 3 in favor with 2 in opposition.

RE: Petition of Tom Olson,
For Bethel Missionary Baptist Church
B-071231-00083-1

Nature of Request

The petitioner is requesting approval of a five foot setback variance from the 20 foot setback requirement of Section 4-6.1 of the Chatham County Zoning Ordinance in order to construct an addition to an existing church. The subject property, located at 5863 Ogeechee Road, is zoned P-B-C (Planned Community Business).

Findings

1. Section 4-6.1 of the Chatham County Zoning Ordinance requires that no structure shall be located closer than 20 feet from any design right-of-way line.

2. The petitioner is seeking approval of a variance from this requirement to construct an addition to a church.
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

- d. **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 triangular in shape and consists of 29,185 square feet. This irregular shape is created by the non-perpendicular intersection of two public rights-of-way. Thus, creating a non-traditional buildable area.

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

Based on the site plan submitted by the applicant, it appears that strict application of these regulations would not create an unnecessary hardship, in that there is sufficient lot area to relocate the expansion.

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

The condition described above is 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.

Mr. Noha stated that the property is on a dead end road.

Mr. Felder asked if any road right-of-way enforcers have any issues with this project?

Mr. Sebek stated there is no problem.

Mr. Donald Brown stated he was with Kern-Cole Engineering representing Bethel Missionary Baptist Church. He informed the reason of the variance request was because of the shape of the parcel and where the existing structure stops now. He stated the first addition would be

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used for an afterschool tutorial program. He informed if there was no other way to do it; even by rotating there would still be encroachment on the right of way.

Mr. Felder stated he did not agree with that.

Mr. Day asked where would the parking be located?

Mr. Brown stated the parking is also onsite on the grass side.

Mr. Day asked what would the usage be for?

Mr. Floren Hunt stated he was the chairman of deacons for the church. He stated the community has children that needs guidance and they would like to provide that.

Mr. Day asked is a daycare program being created?

Mr. Hunt responded no.

Mr. Day asked is it to be a gathering hall of your members only?

Mr. Hunt replied yes.

CZBA ACTION: **Mr. Felder moved to approve the petition and Mr. Day seconded.**

RE: Approval of Minutes

The minutes were motioned to approve by Mr. Felder and seconded by Mr. Watford.

RE: New Board Member

Ms. Lucy Hitch was welcomed as a new Board member.

RE: Adjournment

At 9:30 a.m., the meeting was adjourned.

