

COUNTY ZONING BOARD OF APPEALS
ARTHUR A. MENDONSA HEARING ROOM
112 EAST STATE STREET

October 28, 2008

9:00 a.m.

REGULAR MEETING

MINUTES

MEMBERS PRESENT:

Wayne Noha, Chairman
Terrance Murphy, Vice Chairman
Steven Day
Brian Felder

MEMBERS ABSENT:

Davis Cohen
Lucy Hitch

TECHNICAL STAFF PRESENT:

Bob Sebek, Chatham County Zoning
Administrator

MPC STAFF PRESENT:

Geoff Goins, Assistant Secretary
Jessica Mayfield, Administrative Assistant

RE: Called to Order

Mr. Noha called the meeting of October 28, 2008 Chatham County Zoning Board of Appeals meeting to order at 9:04 a.m.

RE: Regular Agenda

RE: Minutes

1. Approval of CZBA Meeting Minutes – September 23, 2008.

CZBA Action: Mr. Cohen made a motion that the Chatham County Zoning Board of Appeals approve the minutes of September 23, 2008 as submitted. Mr. Day seconded the motion and it was unanimously passed.

RE: Petition of Brenda Marchbanks
B-080725-00091-1
108 Briarberry Bluff Drive

Present for the petition is Brenda Marchbanks.

Mr. Goins gave the following Staff Report.

The petitioner is requesting approval of a 18 foot – three (3) inch marsh buffer variance from the 50 foot marsh buffer requirement and a three (3) foot – three (3) inch riparian buffer variance from the 35 foot requirement of Section 4-12 of the Chatham County Zoning Ordinance in order to install a pool. The subject property, located at 108 Briarberry Bluff Drive, is zoned R-1/EO (One-Family Residential/ Environmental Overlay).

Findings

1. The subject parcel is rectangular in shape, with a minimum width of 85 feet and a minimum depth of 110 feet. The parcel area is approximately 9,350 square feet. The R-1 district requires a minimum area of 6,000 square feet and a minimum lot width of 60 feet for lots served by Public Water and Public Sewer.
2. The petitioner originally requested a 21 foot – three (3) inch marsh buffer variance from the 50 foot requirement and a 6 foot – three (3) inch riparian buffer variance from the 35 foot requirement. The request has been reduced by three (3) feet for both of the buffer areas.
3. Section 4-12 of the Chatham County Zoning Ordinance establishes a minimum building setback from the marsh line at 50 feet for lots containing residential structures at the time the Environmental Overlay Ordinance was adopted. The existing structure does not meet the minimum marsh setback requirement and encroaches 16 feet – eight (8) inches into the setback. The petitioner is requesting to extend the encroachment to 18 feet – three (3) inches to install a therapeutic pool.
4. Section 4-12 states that expansion of existing structures within the riparian buffer shall be limited to a maximum of 1400 square feet of vertical surface area for each 100 feet of lot width facing the marsh or waterfront. The minimum riparian buffer shall be 35 feet, 30 percent of which may be altered by pruning and selective clearing for access and to maintain view corridors. The existing structure does not meet the minimum riparian buffer requirement. The petitioner is requesting to extend the encroachment to three (3) feet – three (3) inches to install a pool. No buildings will encroach into the buffers, so the vertical surface area will be zero (0) square feet.
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 conforming lot of record.

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

Strict application of the regulations of the district would not cause an unnecessary hardship. However, if the structure on the lot was not in existence and instead was a proposed new structure, the marsh setback would be 25 feet and the riparian buffer would not be required.

- 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. If the lot was currently vacant and a new structure was proposed for the subject property, the marsh setback would be 25 feet and the structure would meet the requirement and the riparian buffer would not be required.

Summary of Findings

All of the conditions necessary for granting marsh buffer and riparian buffer variances appear not to be met.

Ms. Marchbanks stated that she took 3 feet off the pool.

Mr. Day asked the petitioner if she had a prescription from the doctor stating that she needed the pool?

Ms. Marchbanks stated yes.

Mr. Felder asked if the deck around the pool would be wood?

Ms. Marchbanks stated yes.

CZBA ACTION: Mr. Felder made a motion that the Chatham County Zoning Board of Appeals approve the petition as submitted. Mr. Murphy seconded the motion and it was unanimously passed.

**RE: Petition of Ed Clarke, For
Sharon & Walter Bryant
B-080825-00102-1
11 Hardee Drive**

Present for the petition was Ed Clarke.

Mr. Goins gave the following Staff Report.

The petitioner is requesting approval of a 19 foot rear yard setback variance from the 50 foot requirement of the BurnsideView, Phase A subdivision plat, in conjunction with the construction of a new single family residence. The subject property is located at 11 Hardee Drive. The property is within the R-1/EO (One Family Residential/Environmental Overlay) zoning classification.

Findings

1. Development standards established for the R-1 zoning classification where dwellings are served by a public water supply system and a private waste system require a minimum lot width of 75 feet and a minimum lot area of 15,000 square feet. The subject parcel contains approximately 17,500 square feet, measuring approximately 100 feet wide and 175 feet deep.
2. The BurnsideView, Phase A subdivision plat requires a 50 foot front setback as well as a 50 foot rear yard setback. These requirements are more stringent than the Chatham County Zoning Ordinance, which would require a 25 foot front yard setback and a 25 foot rear yard setback for this property. However, the buildable area consists of an 86 foot wide by 75 feet deep space, which equates to roughly 6,450 square feet and is ample area to construct a single family residence. No topographical or other extraordinary situation exists that would deprive the owner of all reasonable use of the land.
3. The petitioner is seeking the variance in order to construct a new single family residence on undeveloped land.
4. Staff is not aware of any public comment relating to this petition.
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 property is considered a standard parcel within the zoning district. The parcel presently meets the requirements for minimum area and minimum lot width requirement of the district. The property is an existing legal lot of record. No topographical or other extraordinary situation exists that would deprive the owner of all reasonable use of the land.

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

Strict 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 particular piece of property involved. All the properties within this subdivision are of similar size and shape compared to the subject property and is subject to the same setback requirements.

- 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 likely cause detriment to the public good or impair the purposes of the Ordinance. A single family residence built 31 feet from the rear property line would not be considered detrimental to any adjacent property owner and would not impair the intent of the Chatham County Zoning Ordinance

Staff Recommendation

All of the conditions necessary for granting a rear yard setback variance appear not to be met. Staff recommends **denial** of the nine 19 foot rear yard setback variance from the 50 foot requirement.

Mr. Day asked staff if they received any phone calls in opposition?

Mr. Goins stated no.

Mr. Sebek, Chatham County Zoning Administrator, stated no.

Mr. Felder asked staff if he said that the structure would be 31 feet off the property line and 50 feet off the marsh line.

Mr. Goins stated yes.

Mr. Clarke stated that many of the houses in the subdivision are over the setbacks. The petitioner stated that he has a letter signed by all the surrounding property owners supporting the petition. He said the reason the petitioner needed the variance is because his wife had knee surgery and could not go up steps. He said he also has a letter from her doctor to that effect.

CZBA ACTION: Mr. Felder made a motion that the Chatham County Zoning Board of Appeals approve the petition as submitted. Mr. Murphy seconded the motion and it was unanimously passed.

**RE: Petition of Jacob Stephens, For
Carolyn A. Blohm
B-080929-00115-1
237 Falligant Avenue**

No one was present for the petition.

Mr. Goins gave the following Staff Report.

The petitioner is requesting approval of a six (6) inch side yard setback variance from the 10 foot requirement of the Chatham County Zoning Ordinance, in order to legalize a newly constructed single family residence. The subject property is located at 237 Falligant Avenue. The property is within the R-1-A/EO (One-Family Residential /Environmental Overlay) zoning classification.

Findings

1. Development standards established for this R-1-A require a minimum lot width of 100 feet and a minimum lot area of 32,000 square feet. The subject parcel contains approximately 57,000 square feet, measuring approximately 140 feet wide and 400 feet deep. The parcel is a conforming lot of record.
2. The petitioner is seeking the variance in order to legalize a newly constructed single family residence. The building that is encroaching into the side yard setback was originally planned to be a detached accessory building, which would require a minimum setback of 5 feet. The petitioner is requesting to connect the accessory building to the single family residence via a covered walkway, thus classifying the accessory building as part of the principle use building. Thus, causing the minimum setback requirement to increase from 5 feet to 10 feet.
3. The adjacent property on the affected side has submitted a letter stating that he has no objection to the requested variance.
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.**

The subject property is considered a standard parcel within the zoning classification. The parcel meets the requirements for minimum area and minimum lot width. The property is an existing legal lot of record.

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

Strict application of the regulations of the Zoning Ordinance would create an unnecessary hardship. Accessory buildings are required to be a minimum of 5 feet from side and rear property lines. The petitioner has constructed the accessory structure nine 9 feet – six (6) inches from the property line. By connecting the two buildings by a covered walkway, the accessory building technically is considered part of the principle use building. However, the function of the building is unchanged and will continue to function as an accessory building.

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

The conditions described above are not peculiar to the particular piece of property involved. All the properties within this area are of similar size and shape compared 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 Savannah Zoning Ordinance.**

Relief, if granted, would not likely cause detriment to the public good or impair the purposes of the Ordinance.

Staff Recommendation

Staff recommends **approval** of the six (6) inch side yard setback variance.

CZBA ACTION: Mr. Day made a motion that the Chatham County Zoning Board of Appeals **continue** the petition until the next regularly scheduled meeting on November 25, 2008. Mr. Murphy seconded the motion and it was unanimously passed.

RE: Other Business

I. Election of Officers - Chairman and Vice - Chairman for 2008 – 2009

CZBA Action: Mr. Noha made a motion that the Chatham County Zoning Board of Appeals elect Mr. Felder Chairman. Mr. Day seconded the motion and it was unanimously passed.

CZBA Action: Mr. Noha made a motion that the Chatham County Zoning Board of Appeals elect Ms. Hitch Vice Chairman. Mr. Day 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 10:00 A.M.

Respectfully submitted,

Geoff Goins,
Assistant Secretary

GG/jm