

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

May 26, 2009

9:00 a.m.

REGULAR MEETING

MINUTES

MEMBERS PRESENT:

Brian Felder, Chairman
Lucy Hitch, Vice Chairman
Steven Day
Terrance Murphy
Wayne Noha
Coren Ross

MEMBERS ABSENT:

Davis Cohen

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. Felder called the meeting of May 26, 2009 Chatham County Zoning Board of Appeals meeting to order at 9:05 a.m.

RE: Regular Agenda

RE: Minutes

1. Approval of CZBA Meeting Minutes – May 1, 2009.

CZBA Action: Mr. Noha made a motion that the Chatham County Zoning Board of Appeals approve the minutes of May 1, 2009 as submitted. Ms. Hitch seconded the motion and it was unanimously passed.

**RE: Petition of Jimmy Groover, For
Sign A Rama
B-090224-00009-1
6165 Chief O.F. Love Road**

Present for the petition was Mr. Groover.

Mr. Goins gave the following Staff Report.

The petitioner is requesting approval of 66 square foot sign area variance to the 10 foot maximum allowed and a 6 foot height variance to the 6 foot maximum allowed pursuant to Section 7-3 of the Chatham County Zoning Ordinance to permit the construction of a free standing sign. The subject property is located at 6165 Chief of Love Road. The property is within the R-A (Residential Agriculture).

Findings

1. The petitioner is requesting to construct a free standing pole sign 12 feet in height and 76 square feet in area.
2. Sign standards for height and area are based on zoning classification and street classification. The property currently falls within the R-A zoning classification and is located on Chief of Love Road, which is classified as an “other” street. The maximum height allowed based on these two elements is 6 feet and the maximum sign area allowed is 10 feet.
3. In 2006, the Zoning Board of Appeals granted approval for a waiver of the requirement that a church abut a collector street or greater (ZBA File: B-060829-60032-1).
4. The future land use map designation in the Comprehensive Plan for this property is commercial. This combined with its location adjacent to U.S. Highway 17 and surrounding non-residential land uses/zoning, establishes suitability for additional signage.
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.

- 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 cause an unnecessary hardship. The establishment of a church in the R-A zoning classification and on a street classified as an “other” reduces the allowable sign area to 10 square feet and the height to 6 feet.

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.

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.

Staff Recommendation

Staff is recommending **DENIAL** of the 66 square foot sign area variance and 6 foot height variance. However, staff does recommend **APPROVAL** of a 50 foot sign area variance and a 2 foot height variance with the condition that the sign be a monument style sign. The height maximum of 8 feet shall pertain to the encasement, not the sign area. These sign standards are based on the B-N (Neighborhood – Business) classification on a type 1 street.

Mr. Groover stated that the redesign is based off staff recommendations.

Mr. Felder asked the dimensions of the signs?

Mr. Groover stated the taller sign is 10 foot high and 5 foot in width and vertical sign is 5 foot high and 10 foot in width.

Mr. Noha asked if the signs were back lite.

Mr. Groover stated yes.

CZBA ACTION: **Mr. Day** made a motion that the Chatham County Zoning Board of Appeals **approve** the petition per staff recommendations. **Mr. Noha** seconded the motion and it was unanimously passed.

**RE: Petition of Paul & Patricia Pittsford
B-090310-00014-1
11 Highgate Lane**

Present for the petition was

Mr. Goins gave the following Staff Report.

The petitioner is requesting approval of an 8 foot rear yard setback variance from the 10 foot rear yard setback requirement of the Planned Unit Development, in order to expand an existing deck attached to an existing single family residence. The subject property is located at 11 Highgate Lane and is within the PUD-R/EO (Planned Unit Development – Residential / Environmental Overlay) zoning classification.

Findings

1. Development standards established for the Planned Unit Development have been met.
2. The petitioner is requesting to expand an existing deck attached to an existing single family residence, which will encroach into the rear yard setback requirement. The existing deck currently encroaches into the rear yard setback requirement by approximately seven (7) feet – four (4) inches
3. Staff was not able to locate any previous variance approvals relating to the existing deck encroachment.
4. The Landings Architectural Review Committee approved the submitted plans on February 20, 2009. The approval letter has been submitted with the application.
5. Staff is not aware of any opposition to or support of the petition.
6. 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 meets the minimum lot width and lot area requirements and 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. Adherence to the 10 foot rear yard setback does not restrict the property owner of all reasonable use of his/her land. The property is within a PUD-R zoning classification, in which the primary use is a single family detached residence. The property is currently developed with a 2,066 square foot single family detached residence.

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

The conditions described above are not peculiar to the subject property. All properties in this subdivision are subject to the 10 foot rear yard setback.

- 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.

Recommendation

All of the conditions necessary for granting the eight (8) foot rear yard setback variance appear not to be met. No extraordinary or exceptional conditions pertain to this site and the 10 foot rear yard setback requirement does not deprive the property owner of all reasonable use of his/her land. Thus, staff is recommending **DENIAL** of the variance.

Mr. Sawers stated that there will be a corner of the deck squared off and a roof added.

CZBA ACTION: Ms. Hitch made a motion that the Chatham County Zoning Board of Appeals **approve** the petition as submitted. Mr. Noha seconded the motion. The motion passed 5 – 1. Opposed the motion was Mr. Felder.

**RE: Petition of James & Heather Smith
B-090327-00018-1
150 Cardinal Road**

Present for the petition was Mr. Smith.

Mr. Goins gave the following Staff Report.

The petitioner is requesting approval of a 25 foot marsh buffer variance from the 50 foot marsh buffer requirement and a 10 foot riparian buffer variance from the 35 foot requirement of Section 4-12 of the Chatham County Zoning Ordinance in order to construct an addition onto an existing single family residence. The subject property is located at 150 Cardinal Road and is within the R-1/EO (One-Family Residential/ Environmental Overlay) zoning classification.

Findings

1. The subject parcel is rectangular in shape, with a minimum width of 90 feet and a minimum depth of 120 feet. The parcel area is approximately 12,385 square feet. Development standards established for lots served by public water and public sewer require a minimum lot area of 6,000 square feet and a minimum lot width of 60 feet
2. 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 15 feet into the buffer. The petitioner is requesting to extend the encroachment to 25 feet, in order to construct an addition onto an existing single family residence.

3. Section 4-12 of the Chatham County Zoning Ordinance establishes a minimum 35 foot riparian buffer, 30 percent of which may be altered by pruning and selective clearing for access and to maintain view corridors. The existing structure does not encroach into the riparian buffer. The petitioner is requesting to encroach 10 feet into the riparian buffer.
4. The petitioner has submitted a list of ten property owners who do not oppose the variance request. Staff is not aware of any opposition to the request.
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 exceeds the minimum lot width and lot area requirements and 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. Adherence to the 50 foot marsh buffer and 35 foot riparian buffer does not restrict the property owner of all reasonable use of his/her land. The property is within an R-1 zoning classification, in which the primary use is a single family detached house. The property is currently developed with a 1795 square foot single family detached residence.

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

The conditions described above are not peculiar to the subject property. All properties abutting a river or salt water marsh developed with a single family residence at the time the Environmental Overlay was adopted are subject to the 50 foot marsh buffer and the 35 riparian buffer 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 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. The purpose of the marsh and riparian setback is to protect the

natural wetlands, stream beds and rivers from man-made encroachments that might exacerbate runoff conditions and inadvertently pollute said waterways.

Staff Recommendation

All of the conditions necessary for granting a 25 marsh buffer variance and a 10 foot riparian buffer variance appear not to be met. No extraordinary or exceptional conditions pertain to this site. The 50 foot marsh and 35 foot riparian buffers do not deprive the property owner of all reasonable use of his/her land. Thus, staff is recommending **DENIAL** of the 10 foot marsh buffer variance.

Mr. Smith stated that he has a letter with all surrounding property owners signature in support with the request he also has a few photos. The 50 foot marsh line buffer goes about 2 foot into the house and the 35 foot is right inside of the porch.

Mr. Day asked how big was the deck?

Mr. Smith stated 21 foot wide and about 14 foot deep.

CZBA ACTION: **Mr. Day made a motion that the Chatham County Zoning Board of Appeals approve the petition with a marsh buffer variance to the extent of permitting the enclosure of the existing deck for living area. Ms. Ross seconded the motion and it was unanimously passed.**

RE: Other Business

RE: Adjournment

There being no further business to come before the Chatham County Zoning Board of Appeals the meeting was adjourned approximately 11:34 A.M.

Respectfully submitted,

Geoff Goins,
Assistant Secretary

GG/jm