

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

August 25, 2009

9:00 a.m.

REGULAR MEETING

MINUTES

MEMBERS PRESENT:

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

MEMBERS ABSENT:

Davis Cohen
Lucy Hitch, Vice Chairman

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 July 28, 2009 Chatham County Zoning Board of Appeals meeting to order at 9:01 a.m.

RE: Minutes

1. Approval of CZBA Meeting Minutes – July 28, 2009.

CZBA Action: Mr. Noha made a motion that the Chatham County Zoning Board of Appeals approve the minutes of July 28, 2009 as submitted. Ms. Ross seconded the motion and it was unanimously passed.

RE: Consent Agenda

**RE: Petition of Joseph & Pamela Usher
B-080822-00101-1
14 Marsh Harbor Drive**

Mr. Goins gave the following Staff Report.

The petitioner, Wilson Roberts, For Joseph & Pamela Usher, is requesting an extension of a previously approved six (6) foot height variance to the 36 foot maximum allowed pursuant to Section 4-12 of the Chatham County Zoning Ordinance, in conjunction with the construction of a new single family residence.

Findings

1. The petition was approved at the September 23, 2008 meeting. The six month time limit on Zoning Board of Appeals decisions has elapsed and the petitioner is requesting the extension to start construction on the single family residence.
2. Development standards established for the R-1-A zoning require a minimum lot width of 70 feet and a minimum lot area of 12,000 square feet. The subject parcel contains approximately 65,340 square feet, measuring approximately 200 feet wide. The property is a standard lot of record.
3. Section 4-12 of the Chatham County Zoning Ordinance allows a maximum height of 36 feet. The petitioner is requesting a variance of eight (6) feet to allow a maximum height of 42 feet.
4. The petitioner is requesting the variance in conjunction with the construction of a new single family residence.
5. The petitioner has submitted an approval letter from the Marsh Harbor Neighborhood Association Architectural Review Committee. The Committee determined that the proposed height of the home is in conformance with the existing homes in the neighborhood. The homes in the area range from 36 feet to 44 feet, with an approximate average of 42 feet.
6. Staff is not aware of any public comment on this petition.
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 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.

- 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 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 time extension for the previously approved six (6) foot height variance.

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

RE: Regular Agenda

**RE: Petition of Gerry Cowart, For
Larry & Leslie Hauser
B-090727-00051-1
1756 Wilmington Island Road**

Present for the petition was

Mr. Goins gave the following Staff Report.

The petitioner is requesting approval of a nine (9) foot side yard setback variance from the 10 foot requirement of Section 4-6.1 of the Chatham County Zoning Ordinance, in order to construct a new single family residence.

Findings

- 1. The subject property, located at 1756 Wilmington Island Road, is within the R-1-A/EO (One Family Residential/Environmental Overlay) zoning classification.

2. Development standards established for the R-1-A zoning classification where dwellings are served by private water supply and a private waste system require a minimum lot width of 100 feet and a minimum lot area of 30,000 square feet. The subject parcel contains approximately 21,000 square feet of uplands, measuring approximately 74 to 91 feet wide and approximately 300 feet deep. The parcel is an existing lot of record, thus it is considered buildable even though it does not meet the minimum lot area and lot width requirements.
3. The petitioner is requesting to construct a one (1) story single family containing 3,065 heated square feet and a 440 square foot attached garage. The required side yard setback within the R-1-A zoning classification at this location is 10 feet. The petitioner is proposing to encroach nine (9) feet into the side yard setback from the southern property line.
4. Staff is not aware of any opposition to or support for the 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 not considered a conforming parcel within the zoning district. The parcel presently does not meet the requirements for minimum area and minimum lot width requirement of the district. However, 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 district would not cause an unnecessary hardship. No topographical or other extraordinary situation exists that would deprive the owner of all reasonable use of the land. The 10 foot side yard setback requirement of the district does not prevent the construction of a single family residence on the subject property. A 54 foot wide structure would be permitted by right at the most narrow point on the lot.

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. The size and shape of the subject property is consistent with properties in the surrounding area. The majority of lot sizes in the general area fall between

20,000 and 30,000 square feet with lot widths ranging from 60 feet to 100 feet. The subject property is approximately 21,000 square feet with a lot width of 92 feet.

- 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.

Recommendation

All of the conditions necessary for granting a side yard setback variance appear not to be met. Thus, Staff is recommending **DENIAL** of the 9 foot side yard setback variance.

Mr. Cowart stated that the petitioner would like the variance in order to construct a new single family resident in the same foot print as the old structure.

Mr. Day asked how are you going be able to get fire and safety equipment to the backyard?

Mr. Cowart stated on the side of the house.

My. Day stated that there will not be enough room on either side.

Mr. Westgate stated that he felt that the petitioner needs to stay within the correct setbacks because if not he would be coming on to his property to clean the house.

Mr. Harris stated that he felt that the petitioner should stay within the setback guidelines.

Ms. Henry stated that she is in opposition to the variance because it is possible to build within the setbacks.

Ms. Butler stated that she felt that the petitioner should stay within the setback guidelines.

CZBA ACTION: **Mr. Day made a motion that the Chatham County Zoning Board of Appeals deny the petition as submitted. Mr. Murphy seconded the motion. Motion passed 4 – 1. Opposed to the motion was Mr. Felder.**

**RE: Petition of Brian Felder, For
Trey & Barbara Smith
B-090724-00050-1
218 Battery Circle**

Present for the petition was Brian Felder.

Mr. Goins gave the following Staff Report.

The petitioner is requesting approval of 1,328 square foot variance to the 900 square foot maximum and a one (1) story height variance to the one story maximum for an accessory structure pursuant to Section 3-6.1 of the Chatham County Zoning Ordinance in order to construct an accessory structure.

Findings

1. The subject property is located at 218 Battery Circle and is within the R-1-A/EO (One Family Residential / Environmental Overlay) zoning classification.
2. Development standards established for the R-1-A/EO zoning classification require a minimum lot width of 70 feet and a minimum lot area of 12,000 square feet. The subject parcel contains approximately 28,500 square feet, measuring approximately 100 feet wide and 285 feet deep. The parcel is considered a conforming legal lot of record.
3. Section 3-6.1 of the Chatham County Zoning Ordinance permits accessory buildings to be located outside of the rear yard where the property directly abuts a river or salt marsh with specific requirements.

- a. **The accessory structure is set back a minimum of fifty (50) feet from a vehicular right-of-way and ten (10) feet from adjoining property lot lines.**

The accessory structure exceeds these requirements.

- b. **The accessory structure does not exceed 900 square feet in size and shall not exceed one story in height.**

This requirement has not been met. The accessory structure is depicted as 2,228 square feet and two (2) stories.

- c. **The accessory structure is constructed of materials of like kind in appearance of those used in construction of the principal residential dwelling on the site and is compatible with development on adjoining lots.**

Hardi plank siding is the proposed façade of the accessory structure. This material is of like kind material when compared to the existing single family residence.

4. The petitioner is seeking a variance in order to construct a 2,228 square foot accessory structure with a height of two stories which will be located in the front of the subject property.
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:

- 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 property is considered a conforming parcel within the zoning district. The parcel presently exceeds the minimum area and width requirements of the district, and is an existing legal lot of record.

- e. 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. A detached accessory building is permitted with a maximum area of 900 square feet.

- f. 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.

- g. 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.

Summary of Findings

All of the conditions necessary for granting a 1,328 square foot area variance and a one (1) story height variance for an accessory structure appear not to be met. Thus, staff is recommending **DENIAL** of the variances

Mr. Felder stated that the petitioner would like to add a garage on the land side. It will be a story and a half and three car garage to accommodate storage and possibly two bedrooms.

Mr. Day asked if two bedrooms were allowed in an accessory structure.

Mr. Sebek stated yes because there will be no kitchen.

Mr. Smith stated that with two cars, outside equipment and moving into a smaller home they need the storage space.

Mr. Day stated his only concern was the mass of the building right next to the neighbor’s yard and the impact it would cause on them.

CZBA ACTION: Mr. Day made a motion that the Chatham County Zoning Board of Appeals **approve** the petition as submitted. Ms. Ross seconded the motion and it was unanimously passed. Abstained to the motion were Mr. Felder and Mr. Noha.

**RE: Petition of Alvin & Natasha Collins
B-090626-00047-1
113 Westminister Drive**

Mr. Goins gave the following Staff Report.

This petition was continued from the July 28, 2009 meeting at the request of the petitioner to address concerns raised by the Board regarding a circular driveway for the pick up and drop off.

The petitioner is requesting approval of a waiver of the standard that a child care center shall only be permitted on a lot or plot of ground which abuts a collector street, major arterial, or secondary arterial.

Findings

1. The subject property located at 113 Westminister is within the PUD-C (Planned Unit Development – Community) zoning classification.
2. Child care centers are permitted by right in the PUD-C zoning classification with the condition that they be located on a street classified as a collector or greater. Westminister is not classified as a collector or greater street.
3. A Child Care Center has operated at this site since 2005, the child care center never received the waiver of the street classification requirement.
4. Staff has received two phone calls from surrounding property owners expressing concern about on-street parking issues and potential impacts on property values of being in close proximity to a daycare center.
5. **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 a particular 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. Provided that approval for any center established requiring access along a residential or lesser classified street shall be limited to a maximum of 75 children during the daytime hours and no greater than 50 children between the hours of 9:00 p.m. and 6:00 a.m.**

See attached report from the Zoning Administrator.

Staff Recommendation

Staff concurs with the recommendation of the Zoning Administrator.

Mr. Yellin stated that the petitioner has many letters from the county stating that this use was approved for this address. The reason the petition is here before the Board today is because they are requesting approval of a waiver of the standard that a child care center shall only be permitted on a lot or plot of ground which abuts a collector street, major arterial, or secondary arterial. He stated at the last meeting Mr. Day requested that the petition be postponed until it was taken to the Georgetown Review Board to have a full circle driveway. The Georgetown Review Board denied the request even after the County approved it. The petitioner would like to make arrangements to have the parents pull into the driveway one at a time and walk their children into the daycare.

Ms. Mahnke stated that she is in opposition with the request because of the traffic on Westminster.

Mr. Noha asked prior to this posting have you made any complains to the neighborhood association or police?

Ms. Mahnke stated yes, I did call the neighborhood association.

Mr. Norris stated that he is opposed to the request because of the traffic, safety and noise issue.

Mr. Garrard, Georgetown Community Association attorney, stated that this subdivision in Georgetown is restricted to residential use. The streets in the neighborhood are very narrow and tight with extra cars, boats and trailers that are parked along side of the road.

Mr. Noah asked prior to the sign being posted have you got any letters of concern with this property?

Mr. Garrard stated verbal communication.

Mr. Ruben stated that she is in opposition because of the traffic problem.

Mr. Odom stated that some of the residents around the day care were asking questions about why we would allow a day care to operate at that site. I called the office of building and safety services and at that time it was explained to me that in PUD allowed certain mom and pop types of businesses.

Mr. Day asked does the commercial activity of this day care center violate the covenants of the organization?

Mr. Odom stated in the covenant under land use and building type it states no lot should be use but for residential use only.

Mr. Collins stated he supports the petition because he feels like it's an asset to the community.

Ms. Hicks stated that she supports the request because of how well the day care center is ran.

CZBA ACTION: Ms. Day made a motion that the Chatham County Zoning Board of Appeals **approve** the petition as submitted. Mr. Felder 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 11:10 A.M.

Respectfully submitted,

Geoff Goins,
Assistant Secretary

GG/jm