

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

September 22, 2009

9:00 a.m.

REGULAR MEETING MINUTES

MEMBERS PRESENT:

Lucy Hitch, Vice Chairman

Brian Felder, Chairman

Davis Cohen

Steven Day

Wayne Noha

MEMBERS ABSENT:

Terrance Murphy

Coren Ross

TECHNICAL STAFF PRESENT:

Bob Sebek, Chatham County Zoning
Administrator

MPC STAFF PRESENT:

Marcus Lotson, Assistant Secretary

Constance Morgan, Administrative Assistant

Jessica Mayfield, Administrative Assistant

RE: Called to Order

Mr. Felder called the meeting of September 22, 2009 Chatham County Zoning Board of Appeals meeting to order at 9:00 a.m.

RE: Minutes

1. Approval of CZBA Meeting Minutes – August 25, 2009.

CZBA Action: Mr. Noha made a motion that the Chatham County Zoning Board of Appeals approve the minutes of August 25, 2009 as submitted. Ms. Hitch seconded the motion. Mr. Cohen abstained from the vote. The motion passed.

RE: Consent Agenda

There were no items to be heard under the Consent Agenda.

RE: Regular Agenda

**RE: Petition of Steven & Cynthia Beauvais
B-090821-00062-1
39 Heron's Nest**

Present for the petition were Steven & Cynthia Beauvais

Mr. Lotson gave the following Staff Report.

The petitioner is requesting approval of a one foot marsh buffer variance from the 25 foot marsh buffer requirement of Section 4-12 of the Chatham County Zoning Ordinance in order to redesign an existing deck within the marsh buffer setback. The subject property is located at 39 Herons Nest in Long Point subdivision and is within PUD /EO (Planned Unit Development/Environmental Overlay) zoning classification.

Findings:

1. The subject parcel is trapezoidal in shape, with a minimum width of 96 feet and a minimum depth of 115 feet. The parcel area is approximately 19,300 square feet. Development standards established for lots within the PUD/EO zoning classification served by public water and public sewer are those established at the time of adoption of the PUD.
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 property is currently developed with a 3057 square foot single family detached residence constructed in 1993. The existing structure does not meet the minimum marsh setback requirement. The existing deck is almost entirely within the marsh buffer setback. The petitioner is requesting to
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.
4. Staff is not aware of any opposition to or support of 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 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 marsh buffer does not restrict the property owner of all reasonable use of his/her land. The property is within a PUD/EO zoning classification, in which the primary use is a single family detached house. The property is currently developed with a 3057 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 marsh buffer requirements.

- d. **Relief, if granted, would not cause substantial detriment to the public good, nor 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 one foot marsh buffer variance appear not to be met. No extraordinary or exceptional conditions pertain to this site. The established buffers do not deprive the property owners of all reasonable use of their land. Thus, staff is recommending **DENIAL** of the marsh buffer variances.

CZBA Action: Mr. Cohen made the motion that the County Zoning Board of Appeals approve the petitioner's request. Ms. Hitch seconded the motion. The motion passed. Voting in favor of the motion were: Mr. Cohen, Ms. Hitch, and Mr. Felder. Mr. Noha abstained from the vote. .

**RE: Elizabeth Herrin
B-090821-00063-1
8511 Ferguson Avenue Suite D**

Present for the petition was Elizabeth Herrin.

Mr. Marcus Lotson gave the following Staff Report:

The petitioner is requesting approval of an application to establish a use (Animal Grooming) pursuant to the requirements of Section 4-5.2 of the Chatham County Zoning Ordinance. The subject property located at 8511 Ferguson Avenue and is zoned P-BN / EO (Planned Neighborhood Business Environmental Overlay).

Findings:

1. Subject to approval by the Zoning Board of Appeals, pet grooming is an allowed use within the P-BN zoning classification.
2. The applicant is requesting approval of said use in order to establish a business, Kiwi Dog Incorporated, at this location.
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 within a commercial/service oriented area.

- 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. The proposed use is typical of many restaurants in Chatham County.

- 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. As stated above, the proposed use is located within a commercial/service area and will have little or no impacts on the adjacent properties or neighborhood.

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

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

- f. **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.

- g. **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 proposed use will not significantly alter the activities that will take place on the subject property.

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

The standards set forth have been met.

Summary of Findings:

All of the conditions necessary for granting use approval to establish a pet grooming establishment appear to be met.

Recommendation: Staff recommends APPROVAL of a use (pet grooming) at 8511 Ferguson Avenue.

CZBA ACTION: Mr. Cohen made the motion that the County Zoning Board of Appeals approve staff recommendation as presented. Ms. Hitch seconded the motion. The motion passed unanimously. Voting were: Mr. Cohen, Mr. Noha, Ms. Hitch and Mr. Felder.

RE: Robert Brannen
B-09820-00059-1
28 Liberty Creek Drive

Present for the petition was Mr. Robert Brannen.

Mr. Lotson gave the following Staff Report:

Nature of Request:

The petitioner is requesting approval of a 15 foot marsh buffer variance from the 50 foot marsh buffer 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 28 Liberty Creek drive 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 146 feet and a minimum depth of 188 feet. The parcel area is approximately 29,850 square feet. Development standards established for lots within the R-1 zoning classification 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 property is currently developed with a 4,082 square foot single family detached residence constructed in 1993. The existing structure meets the minimum marsh setback requirement. The petitioner is requesting approval of a 975 square foot addition which will encroach 15 feet into the 50 foot marsh buffer setback.
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.
4. Staff is not aware of any opposition to or support of 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 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 4,082 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, nor 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 15 marsh buffer variance appear not to be met. No extraordinary or exceptional conditions pertain to this site. The 50 foot marsh buffers do not deprive the property owner of all reasonable use of his/her land. Thus, staff is recommending **DENIAL** of the marsh buffer variances.

Speaking on the petition:

Mr. Skinner, property owner, stated that as he and his wife look to retirement they would like to remain in the house, however; he is now challenged with the house not having a bedroom or bathroom on the first floor. He asked that the Board approve the petition as submitted.

Mr. Noha made the motion that the County Zoning Board of Appeals approve the petition on the grounds that it does not intrude into the riparian 35 foot buffer and that the 50 foot marsh buffer was enacted after construction. The motion failed.

Mr. Cohen suggested that the homeowner along with his contractor take the opportunity to reconsider other options to the addition. He added that he would like to give the petitioner an opportunity to request a continuance.

Mr. Brannen, agent for the petitioner, asked to amend the petition to request a 10 foot marsh buffer variance instead of the 15 foot.

Mr. Cohen asked staff to respond with an opinion to the amendment.

Mr. Lotson responded that the petitioner is allowed to amend his petition and ask for a reduction however; in light of the direction of the zoning ordinance staff recommendation is to deny the petition.

Mr. Cohen made the motion that the County Zoning Board of Appeals approve the amended petition to grant the 10 foot marsh buffer variance. The motion was not seconded.

Mr. Noha made the motion that the County Zoning Board of Appeals approve the original motion to grant the 15 foot marsh buffer variance to go to the 35 foot riparian buffer as we have in the past until the ordinance is corrected as the Board has done in the past.

Chairman Felder stated that the petitioner does have other options. He added that the addition will look the same from the street by putting it forward and re-addressing the roof design.

CZBA ACTION Mr. Cohen restated his original motion that the County Zoning Board of Appeals approve the amended petition to grant the 10 foot marsh buffer variance.

Mr. Noha seconded the motion. The motion passed. Voting were: Mr. Cohen, Mr. Noha, and Ms. Hitch.

**RE: Nancy Luckey
B-090817-00056-1
7897East Highway 80**

Present for the petition was Nancy Luckey.

Mr. Lotson gave the following staff report:

Nature of Request:

The petitioner is requesting approval of a 10 foot marsh buffer variance from the 50 foot marsh buffer requirement of Section 4-12 of the Chatham County Zoning Ordinance in order to construct a pool at an existing single family residence. The subject property is located at 7897 Hwy 80 E and is within the R-1/EO (One-Family Residential/ Environmental Overlay) zoning classification.

Findings:

1. The subject parcel is primarily rectangular in shape, with a minimum width of 113 feet and a minimum depth of 226 feet. The parcel area is approximately 22,835 square feet. Development standards established for lots within the R-1 zoning classification 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 property is currently developed with a 2230 square foot single family detached residence constructed in 1992. The existing structure meets the minimum marsh setback requirement. The petitioner is requesting a 10 foot marsh buffer variance in order to construct a pool.
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.
4. Staff is not aware of any opposition to or support of 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:

- 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 meets the minimum lot width and lot area requirements and is considered a conforming 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 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 2230 square foot single family detached residence.

- f. **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, nor 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 10 foot marsh buffer variance appear not to be met. No extraordinary or exceptional conditions pertain to this site. The 50 foot marsh buffers do not deprive the property owner of all reasonable use of her land. Thus, staff is recommending **DENIAL** of the marsh and riparian buffer variances.

Speaking on the Petition:

Nancy Luckey, petitioner, explained the design and location of the spa (pool). She stated that flipping the spa would not save any additional feet but she would be willing to flip it.

Mr. Cohen made a motion that the Chatham County Zoning Board of Appeals approve the petitioners request subject to conditions. The conditions were that the petitioner flips the spa so that it would save a couple of feet over the buffer line. Mr. Felder seconded the motion.

Mr. Noha asked if the spa were flipped would the distance from the house be reduced.
Mr. Cohen asked staff would flipping the pool make a difference.

Mr. Lotson stated that it would not.

Mr. Cohen withdrew his motion.

CZBA Action: Mr. Felder made the motion that the Chatham County Zoning Board of Appeals approve the petitioners request as submitted. Ms. Hitch seconded the motion. The motion passed. Voting were: Mr. Felder, Mr. Cohen, Mr. Noha, and Ms. Hitch.

**RE: Anthony Sapone
B-090804-00054-1
208 Catalina Drive**

Mr. Lotson gave the following report:

Nature of Request:

The petitioner is requesting approval of a 21 foot marsh buffer variance from the 50 foot marsh buffer requirement and a 6 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 (One-Family Residential) zoning classification.

Findings:

1. The subject parcel is rectangular in shape, with a minimum width of 96 feet and a minimum depth of 166 feet. The parcel area is approximately 18,475 square feet. Development standards established for lots within the R-1 zoning classification 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 property is currently developed with a 1,975 square foot single family detached residence constructed in 1985.

The existing structure meets the minimum marsh setback requirement. The petitioner is requesting to encroach 25 feet into the marsh buffer.

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. Staff is not aware of any opposition to or support of 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:

- g. 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.

- h. 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 1,975 square foot single family detached residence.

- i. 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, nor 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 marsh and riparian buffer variances.

Speaking on the Petition:

Anthony Sapone, agent for Richard DeBorde, stated that Mr. DeBorde's wife is very ill and their son, daughter in-law, and grandson have moved in to help support her however, the house is now too small to accommodate the family. Mr. DeBorde would like a separate place that he and his wife can go to to retire and be taken care of as opposed to hospice. He asked that the petition be approved.

Mr. Cohen stated that one thing that can be considered is hardship. He asked the petitioner to explain his wife's condition.

Richard DeBorde, property owner, explained that his wife has severe arthritis. Her doctor has instructed him to provide a lift and additional family support. He stated that they would like to retain the property that they have lived on and equip it so that they may have a normal life style.

CZBA ACTION: Mr. Cohen made the motion that the Chatham County Zoning Board of Appeals approve the petition as submitted. Ms. Hitch seconded the motion. The motion passed. Voting were: Mr. Felder, Mr. Cohen, Mr. Noha, and Ms. Hitch.

**RE: Michael & Rhonda Godbold
B-090626-00048-1
46 Shipwreck Court**

Present for the petition were: Rhonda & Michael Godbold.

Marcus Lotson gave the following staff report:

Nature of Request:

The petitioner is requesting approval of an 11 foot marsh buffer variance from the 25 foot marsh buffer requirement and a 21.5 foot rear yard setback variance from the 25 foot requirement of Section 4-6.1 of the Chatham County Zoning Ordinance to legalize an enclosed deck that constructed without a permit.

Findings:

1. The subject property is located at 46 Shipwreck Court and is within the P-R-3-12/TC (Multifamily Residential / Town Center) zoning classification.
2. The subject parcel is rectangular in shape, with a minimum width of 21 feet and a depth of 89 feet. The parcel area is approximately 2200 square feet. Development standards established for single family-attached lots within the R-3 zoning classification served by public water and public sewer require a minimum lot area of 1,200 square feet and a minimum lot width of 18 feet.
3. Section 4-12 of the Chatham County Zoning Ordinance establishes a minimum building setback from the marsh line at 25 feet for lots containing residential structures at the time the Environmental Overlay Ordinance was adopted. The property is currently developed with a 1485 square foot single family attached residence constructed in 1974. The existing structure does not meet the minimum marsh buffer requirement and encroaches 25 feet into the buffer.
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 and exceptional conditions pertaining to the particular piece of property. 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, the 35 foot riparian buffer, and the 25 foot rear yard setback does not restrict the property owner of all reasonable use of his/her land. The property is within an R-3 zoning classification, in which one of the primary uses is a single family attached residence. The property is currently developed with a 1485 square foot single family attached 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. All residential properties in the unincorporated area of Chatham County are subject to the 25 foot rear yard setback.

- d. **Relief, if granted, would not cause substantial detriment to the public good, nor 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 purpose of the marsh 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 an 11 foot marsh buffer variance, and a 21.5 foot rear yard setback variance appear not to be met. No extraordinary or exceptional conditions pertain to this site. The marsh buffer and rear yard setback do not deprive the property owner of all reasonable use of his/her land. Thus, staff is recommending **DENIAL** of the marsh buffer variances.

Speaking on the petition:

Rhonda Godbold, petitioner, stated that though she and her husband were instructed not to build the porch without a variance they did not comply to instructions. She added that she did receive approval from her neighborhood association to construct the porch. She apologized for building the porch and asked that she not be compelled to destroy it.

Michael Godbold, petitioner, stated that though he was at fault for constructing the porch, he was told that there was a variance included on the property due to the house's proximity close to the marsh. He added that once he added the roof to the deck it became a different structure.

Bob Ratchford, original developer of the subject property, stated that he was alarmed to hear that this construction was done in view of the regulations and criteria that are in place. He stated that the petitioner has built on property that is owned by the homeowners association and is not his property. Due to the petitioner's lack of ownership of the subject property and blatant disrespect for the law he asked that the petitioner's request is denied.

Jennifer Immel, 54 Shipwreck Court, state that the petitioners have admitted that they were wrong to construct the porch without a variance but their focus was to do what they thought was right. She asked that the Board consider the petitioners intent prior to rendering their decision..

Sarah Smith, 47 Shipwreck Court, stated that the petitioners did apply to the association. She added that the approval of the Wilmington Island Townhome Association was contingent that they receive a building permit and follow the same footprint. She requested denial of the petition.

CZBA ACTION: Ms. Hitch made the motion that the Chatham County Zoning Board of Appeals deny the petition as submitted. Mr. Cohen seconded the motion. The motion passed. Voting were: Mr. Felder, Mr. Noha, Mr. Cohen, and Ms. Hitch.

RE: Roy D. Ogletree
B-080221-00039-1
1744 Wilmington Island Road

Present for the petition:

Mr. Marcus Lotson gave the following staff report:

The request was continued from the March 25, 2008 meeting at the request of the petitioner, so that a revised plan and request could be submitted.

Nature of Request:

The petitioner is requesting approval of a five (5) foot side yard setback variance and a two (2) foot six (6) inch side yard setback variance from the 10 foot side yard setback requirement of Section 4-6.1 of the Chatham County Zoning Ordinance in order to construct a single family residence. The subject property, located at 1744 Wilmington Island Road, is zoned R-1-A/EO (One-Family Residential/Environmental Overlay).

Findings:

1. Development standards established for the R-1-A zoning classification where dwellings are served by non public water supply and waste systems require a minimum lot width of 100 feet and a minimum lot area of 30,000 square feet. The subject parcel contains approximately 26,136 square feet, measuring approximately 59.89 feet wide and 470 feet deep. The parcel is an existing lot of record. Pursuant to Section 5-4.3 of the Chatham County Zoning Ordinance, it is considered buildable even though it does not meet the minimum lot area and lot width requirements. The application for a permit to construct a dwelling shall be approved by the Chatham County Health Department.
2. The petitioner is seeking the variances in conjunction with the construction of a single family residence. The petitioner proposes to construct a stoop and walkway into the north side yard setback and two (2) chimneys into the south side yard setback. The stoop will encroach into the side yard setback five (5) feet and the chimneys will encroach into the side yard setback two (2) feet six (6) inches.

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:

- 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 standard parcel within the zoning district. The parcel presently does not meet 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, nor impair the purposes and intent of the Savannah Zoning Ordinance.**

Relief, if granted, would not likely cause detriment to the public good nor impair the purposes of the Ordinance.

Summary of Findings:

All of the conditions necessary for granting two (2) side yard setback variances appear not to be met.

Staff Recommendation: Staff recommends **APPROVAL** of the time extension request for a variance approved on April 22, 2008

CZBA ACTION: Mr. Noha made the motion that the Chatham County Zoning Board of Appeals grant the time extension request for a variance approved on April 22, 2008. Mr. Cohen seconded the motion. The motion passed. Voting were: Mr. Felder, Mr. Noha, Mr. Cohen, and Ms. Hitch.

RE: Other Business

Mr. Noha asked that staff continue to work at changing the 25-50.

RE: Adjournment

There being no further business to come before the Chatham County Zoning Board of Appeals, the meeting was adjourned approximately 11:00 A.M.

Respectfully submitted,

Marcus Lotson,
Assistant Secretary

ML/cm