

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

October 27, 2009

9:00 a.m.

**REGULAR MEETING MINUTES**

**MEMBERS PRESENT:**

**Brian Felder, Chairman**  
**Lucy Hitch, Vice Chairman**  
**Davis Cohen**  
**Terrance Murphy**  
**Wayne Noha**  
**Coren Ross**

**MEMBERS ABSENT:**

**Steven Day**

**TECHNICAL STAFF PRESENT:**

**Bob Sebek, Chatham County Zoning  
Administrator**

**MPC STAFF PRESENT:**

**Marcus Lotson, Assistant Secretary**  
**Constance Morgan, Administrative Assistant**

**RE:   Called to Order**

Mr. Felder called the meeting of October 27, 2009 Chatham County Zoning Board of Appeals meeting to order at 9:00 a.m.

**RE:   Minutes**

1.     Approval of CZBA Meeting Minutes –September 22, 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. Ross seconded the motion. The motion passed.

**RE:   Consent Agenda**

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

**RE: Regular Agenda**

**RE: Petition of Joey & Susan Giddens  
B-090916-00066-1  
122 Ridgeland Road**

Present for the petition were Susan & Joey Giddens

Mr. Lotson gave the following Staff Report.

**Nature of Request**

The petitioner is requesting an appeal to a decision by the Zoning Administrator that only one electrical meter per residential lot shall be allowed. The petitioner is requesting a second electrical meter for the purpose of metering a groundwater well on the site.

**Findings**

1. The subject property is located at 122 Ridgeland Road in the Ogeechee Farms subdivision and lies within an RA (residential-agricultural) zoning classification.
2. Section 3-3 of the Chatham County Zoning Ordinance; Only One Principal Building or Use Upon Any Lot, states that single-family lots shall be limited to one electrical meter.
3. The above sections of the Zoning Ordinance referencing electrical meters were adopted by the County Commission in 1995 to prevent illegal conversions of single family residences into two or more dwelling units
4. The appropriate procedure available to the petitioner to obtain relief is to petition for a text amendment to the Zoning Ordinance or to subdivide the property.

**Summary of Findings**

The Zoning Administrator's action was consistent with the provisions of the Zoning Ordinance.

**Conditions for Approval of a Variance**

- 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. Maintaining a single electrical meter does not restrict the property owner of all reasonable use of his/her land. The property is within an R-A zoning classification, in which one of the primary uses is a single family attached residence.
- c. Such conditions are peculiar to the particular piece of property involved.  
There are no peculiar or particular conditions to this piece of property that justify the issuance of additional electrical meters.
- 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 impair the purpose and intent of the Chatham County Zoning Ordinance.

**Staff Recommendation:** Staff recommends **DENIAL** of the petitioners request to overturn the ruling of the Zoning Administrator that only one electrical meter shall be allowed per residential lot of record.

**Speaking on the petition:**

Susan Giddens, petitioner, asked that she is allowed a second meter for metering the ground well and service to the mobile home on her property. She explained her reasons for the request and asked that the petition is approved as submitted.

**CZBA Action: Mr. Cohen made the motion that the County Zoning Board of Appeals approve the petitioner's request. Ms. Ross seconded the motion. The motion passed. Voting in favor of the motion were: Mr. Cohen, Ms. Ross, and Mr. Murphy. Mr. Noha and Ms. Hitch voted against the motion. .**

**RE: Henry Policinski  
B-090916-00068-1  
3 Fore Road**

Present for the petition was: Henry Policinski.

Mr. Marcus Lotson gave the following Staff Report:

**Nature of Request** The petitioner is requesting approval of a 6 foot setback variance in order to accommodate the expansion of an existing uncovered wooden deck.

**Findings**

1. The property in question, 3 Fore Royal Circle is an approximately .18 acre lot located at The Landings subdivision within a PUD/EO (planned unit development / environmental overlay zoning district. Although not required by the Chatham County Zoning Board of Appeals, the petitioner has not submitted correspondence from The Landings Association regarding the potential expansion of the existing deck.
2. The current deck stairs are built on the rear setback line which is ten feet from the property line. The petitioner is requesting that the addition extend 6 feet past the current deck stairs.
3. An existing public walking trail lies approximately 30 feet from the existing wooden deck between the property and the marsh line.
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 rear yard setback requirements of this zoning district will not create an unnecessary hardship for the property owner or deprive said owner of all reasonable use of the property in question. The property is within a PUD/EO zoning classification in which one of the primary uses is a single family residence. The property is currently developed with a 3,243 square foot single family residence

- c. Such conditions are peculiar to the particular piece of property involved. The conditions described above are not peculiar to the subject property. The lot is of adequate size and shape to accommodate a single family residential structure that meets the setback 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. However, the purpose of the setback requirement is to maintain distances between structures and rights of way that are considered consistent with the overall character of the neighborhood.

**Staff Recommendation:** All of the conditions necessary for granting a 6 foot rear yard setback variance appear not to be met. No extraordinary or exceptional conditions pertain to this site. The required setbacks do not deprive the property owner of all reasonable use of his/her land. Thus, staff is recommending **DENIAL** of the 6 foot rear yard setback variances.

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

**RE: Wilson Roberts  
B-090929-00069-1  
10 Tidewater Way**

Present for the petition was Wilson Roberts.

Mr. Lotson gave the following Staff Report:

**Nature of Request** The petitioner is requesting a 15” height variance in order to construct a new single family residential structure at 10 Tidewater way also referred to as Midpoint at The Landings. The current height maximum allowed by the Chatham County Zoning Ordinance is 36’ and the petitioner requests to build to 37’ 3”.

**Findings**

1. The lot, located at 10 Tidewater Way, is undeveloped and is approximately 1 acre. The petitioner intends to construct a single family residence on the site.
2. Current regulations of the Chatham County Zoning Ordinance allow a maximum building height of 36 feet, The Landings Architectural Guidelines allow for homes in Midpoint to be built not to exceed 40 feet.
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. 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 36 foot height maximum does not constitute a hardship, however the diminutive amount requested and the existing development pattern make a variance feasible in this situation. The property is within a PUD/EO zoning classification, in which one of the primary uses is a 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. A number of homes in the immediate vicinity exceed the 36 foot height maximum. But none exceed the 40 foot maximum mandated by The Landings Architectural Guidelines.
  - 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 height maximum is to maintain consistence in design patterns relative to height in a neighborhood. The proposed variance would not impair the intent of the ordinance if granted to the degree requested. The proposed home would be consistent with the existing pattern of development.

**Staff Recommendation:**

The variance requested will not likely impact the neighborhood in any negative way. Thus, staff recommends **APPROVAL** of the 15” height variance from the 36’ requirement.

**Speaking on the Petition:**

Wilson Roberts, petitioner, stated that there have been no objections from the neighbors or the architectural committee at the Landings. He asked that the petition is approved to allow additional function of the home.

Brian (last name inaudible) stated that the subject lot would have had an original 25 foot rear yard setback. The review committee at the Landings would not have had Mr. Roberts to come into the 25 foot setback thus the deck is so narrow. If the 25 foot is factored in the other dimensions make more sense. This dimension was not on the draw.

**CZBA ACTION: Mr. Cohen made the motion that the County Zoning Board of Appeals approve the petitioner's request. Mr. Noha seconded the motion. The motion passed. Voting were: Mr. Cohen, Mr. Noha, Mr. Felder and Ms. Hitch.**

**RE: Petition of Shauna Kucera  
B-090924-00070-1  
17 Raindance Court**

Present for the petition Shauna Kucera.

Mr. Lotson gave the following staff report:

**Nature of Request:** The petitioner, Shauna Kucera, Agent for Jerome and Vicki Haggerty, is requesting approval of a 10 foot rear yard setback variance in order to construct a covered screen porch addition onto an existing single family residential structure.

**Findings**

1. The property, 17 Raindance Court is located within The Landings, a PUD/R-EO (planned unit development residential/environmental overlay) zoning district and is currently developed with a single family detached structure on a .21 acre lot. The proposed construction consists of a 188 square foot enclosed porch addition.

2. The property is an irregular rectangle and lies at the corner of Raindance Court and Tarrow Ridge Road. The rear of the property where the proposed addition is located is oriented toward a golf course.
3. The Landings Association reviewed the proposed addition and remitted a letter to the petitioner on August 3<sup>rd</sup> stating the addition was approved per their by-laws.
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 setback requirements does not restrict the property owner of all reasonable use of his/her land. The property is within a PUD/R-EO zoning classification, in which one of the primary uses is a single family attached residence. The property is currently developed with a 2942 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. The site is currently developed and site conditions do not restrict the property owner of reasonable use of their land
  - 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 setback requirements is to maintain distances between structures and rights of way that are considered consistent with the overall character of the neighborhood.



**Staff Recommendation:**

All of the conditions necessary for granting a 10 foot rear yard setback variance appear not to be met. No extraordinary or exceptional conditions pertain to this site. The existing setback requirements do not deprive the property owner of all reasonable use of his/her land. Thus, staff is recommending **DENIAL** of the rear yard setback variances.

**Speaking on the petition:**

Shauna Kucera stated that she was not aware that there had been a letter issued by the club. She said that she had received approval from the variance hearing at the Landings Association a couple of months ago. She gave background information regarding the site and explained her request.

Mr. Cohen made the motion that the County Zoning Board of Appeals denies the petitioner's request.  
Mr. Hitch seconded the motion

**Discussion**

Mr. Noha stated that he was not opposed to giving the petitioner an extra foot or two but would not yield to ten feet. He added that the petitioner could ask for a continuance in order to redesign.

Shauna Kucera stated that she would like a continuance.

Mr. Cohen withdrew his motion.

**CZBA Action:** Mr. Noha made the motion that the County Zoning Board of Appeals continue the petition to the November 24, 2009 CZBA Meeting. Ms. Ross seconded the motion. The motion passed. Voting were: Mr. Cohen, Mr. Noha, Mr. Murphy, Ms. Hitch, and Ms. Ross.

**RE: Petition of Mark Cadmah  
B-090924-00071-1  
22 East Point Drive**

Present for the petition was Mark Cadmah.

Marcus Lotson gave the following report:

**Nature of Request** The petitioner is requesting a 5 foot rear yard setback variance from the 25 foot requirement and a 13 foot side yard variance from the 30 foot requirement for the purpose of constructing a new residence on an existing lot of record. The property is currently in an R1-A/EO zoning classification and is developed with a single family residential structure.

**Findings**

1. The property is located at 22 East Point Drive on Talahi Island in an RI-A/EO (one family residential / environmental overlay) zoning district.
2. The subject parcel is irregular in shape and is a corner lot abutting East Point Drive and Lake Drive. The parcel area is approximately .36 acres. Development standards established for single family-detached lots within the R1-A/EO 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. The existing structure, built in 1985, is approximately 1576 square feet and the proposed structure will have total lot coverage of 4042 square feet including the garage and covered porch areas.
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 setback requirements of this zoning district will not create an unnecessary hardship for the property owner or deprive said owner of all reasonable use of the property in question.
  - c. Such conditions are peculiar to the particular piece of property involved.  
The conditions described above are not peculiar to the subject property. The lot is of adequate size and shape to accommodate a single family residential structure that meets the setback 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. The purpose of the setback requirements is to maintain distances between structures and rights of way that are considered consistent with the overall character of the neighborhood.

**Staff Recommendation:** All of the conditions necessary for granting a 5 foot rear yard setback variance and a 13 foot side yard variance appear not to be met. No extraordinary or exceptional conditions pertain to this site. The required setbacks do not deprive the property owner of all reasonable use of his/her land. Thus, staff is recommending **DENIAL** of the 5 foot rear and 13 foot side yard setback variances.

**Speaking on the petition:**

Mark Cadmah, asked that he is allowed a continuance in order to consult with his clients in redesigning the project.

**CZBA ACTION:** Mr. Noha made the motion that the Chatham County Zoning Board of Appeals continue the petition to the November 24, 2009 CZBA Meeting. Mr. Cohen seconded the motion. The motion passed. Voting were: Mr. Cohen, Mr. Noha, Ms. Hitch, and Ms. Ross. Mr. Murphy was not present for the vote.

**RE: Petition of Neil Dawson  
B-090916-00074-1  
238D Andrews Road**

The petitioner has requested that this petition is removed from the Final Agenda and rescheduled to the November 24, 2009 CZBA meeting.

**CZBA ACTION:** Mr. Noha made the motion that the Chatham County Zoning Board of Appeals continue the petition to the November 24, 2009 CZBA Meeting. Mr. Cohen seconded the motion. The motion passed. Voting were: Ms. Ross, Mr. Noha, Mr. Cohen, and Ms. Hitch. Mr. Murphy was not present for the vote.

**RE: Other Business**

Mr. Noha asked what progress has been made on the Marsh setbacks.

Marcus Lotson responded that no significant progress has been made since the last meeting however; as part of the UZO it is progressing quite well. He added that staff will be at the public comment period in the beginning of the year 2010.

**RE: Adjournment**

There being no further business to come before the Chatham County Zoning Board of Appeals, the meeting was adjourned approximately 10:21 A.M.

Respectfully submitted,

Marcus Lotson,  
Assistant Secretary

**ML/cm**