



C H A T H A M C O U N T Y
Z O N I N G B O A R D O F A P P E A L S

Arthur Mendonsa Hearing Room
August 27, 2013- 9:00 A.M.
Minutes

August 27, 2013 Chatham County Zoning Board of Appeals Meeting

Members Present: Lucy Hitch, Chairman
Coren Ross, Vice Chairman
James Overton
Quentin Marlin
Wayne Noha

Members Not Present: Brian Felder
James Blackburn Jr.

Staff Present: Marcus Lotson, Secretary
Constance Morgan, Assistant Secretary

Advisory Staff Present: Jeff Kirkland, County Engineer

I. Call to Order and Welcome

1. [Call to Order](#)

Chairman Lucy Hitch called the August 27, 2013 Chatham County Zoning Board of Appeals meeting to order at 9:06 A.M.

II. Notices, Proclamations and Acknowledgements

III. Petitions Ready for Hearing

IV. Approval of Minutes

2. [Approval of the July 23, Chatham County Zoning Board of Appeals Meeting Minutes](#)

Attachment: [July23.pdf](#)

Board Action:

Approval of the minutes. - PASS

Vote Results

Motion: Anthony Wayne Noha

Second: Coren Ross

James Blackburn Jr. - Not Present

Lucy Hitch - Aye

Quentin L. Marlin - Aye

Anthony Wayne Noha - Aye

James Overton - Aye

Coren Ross - Aye

V. Item(s) Requested to be Removed from the Final Agenda

The Consent Agenda consists of items for which the applicant is in agreement with the staff recommendation and for which no known objections have been identified nor anticipated by staff. Any objections raised at the meeting will result in the item being moved to the Regular Agenda.

VI. Consent Agenda

VII. Old Business

VIII. Regular Agenda

3. [14 Wylly Island Drive - Marsh Buffer Setback Variance Request - B-130723-00060-1](#)

Attachment: [Photos.pdf](#)

Attachment: [Maps.pdf](#)

Attachment: [Correspondence.pdf](#)

Attachment: [Staff Report.pdf](#)

Attachment: [Toraya Porch Elevations 08-26-13.pdf](#)

Present for the petition was: Richard Wissmach, Agent and Mr. David Toray, Petitioner

Marcus Lotson gave the following summary;

The petitioner, Richard Wissmach, is requesting a 30 foot marsh buffer setback variance from the 35 foot requirement of the Chatham County Zoning Ordinance in order to construct a screened porch addition onto an existing residence at 14 Wylly Island Drive located on the east side of Laroche Avenue. Mr. Lotson described the property; as a marsh front lot of approximately one half acre in size; that it is developed with a 2900 square foot single family residence, constructed in 1998. He presented photographs of the property depicting a very large oak tree that the petitioner has stated will remain on the site. He explained that the existing residence was constructed prior to establishing the environmental overlay district so no relief was needed at the time. However, he concluded, that with staff review of the standards for the area and considering the size of the lot and the fact that the lot is currently developed with the residence staff found that the criteria for granting a variance did not appear to be present and is recommending **denial** of the

setback variance request. He added that Jeff Kirkland, with County Engineering visited the site and inspected it as it relates to the requirement, or lack thereof, of the State waters buffer.

Mr. Kirkland, visited the site and found that the proposed disturbance is outside of the 25 foot State waters buffers for erosion and sedimentation control. There is no State waters buffer required at this location. The property owner was advised that if the variance was granted and construction began any vegetative material that needs to be cut and removed should not disturb the surface of the soil due to the proximity of the marsh.

Speaking on the petition: Richard Wissmach, agent for the petitioner, stated that the house on the subject property was originally built in 1998 by the petitioner's parents. After their demise, the petitioner and his wife acquired the property. There is no desirable outdoor covered space on the property at the present. It is an odd configuration of the property and the ordinance was implemented after the original construction of the house. The petitioner would like to now provide that outdoor space with the least impact on the site. He asked that the variance be granted in order to create a desirable outdoor covered space.

David Toraya, petitioner, added that his residence is one of the smaller if not the smallest home on the island. It was built two floors to build it up to the 2900 square minimum that was required by the Home Owners Association. The petitioner stated that all the other single family homes here on the island do have access to a protected outside area whether it is a lanai or a screened porch. To live on Wylly Island, it is fundamental to be able to feel the outside without being attacked by the mosquitos or the other insects that inhabit the island. He stated that he would be open to do what is necessary in order to protect the environment. He added that he was a very good steward of the island and did not want to disrupt anything. He has a plan that accomplishes and balances both the quality of life issues and providing protection of the environment.

Mr. Noha questioned staff as to the reason for their recommendation.

Mr. Lotson stated that staff recommendation was based on the following: 1) the standards that are in the report that allows staff to recommend approval have not been met; there are no unusual circumstances associated with this property as staff sees it, mostly due to the fact that the property is developed with a single family residence which is the primary function of a lot; 2) staff does not find that the desire for an addition to an existing home constitutes a hardship just as if it were a swimming pool or any other accessory type use. Considering that the property is already substantially within the current buffer setback even though the new addition would be on wood pilings, there is a substantial roof area that would be added to the lot. This creates additional run-off.

Mr. Noha asked if this were a deck alone would this still apply.

Mr. Lotson responded that if the deck was uncovered the petitioner would be able to build within five feet of the line.

There was further discussion from the Board.

Board Action:

Approval of the petitioner's request. - PASS

Vote Results

Motion: Coren Ross

Second: Quentin L. Marlin

James Blackburn Jr. - Not Present

Lucy Hitch - Aye

Quentin L. Marlin - Aye

Anthony Wayne Noha - Nay

James Overton - Nay

Coren Ross - Aye

IX. Other Business

4. [Board Discussion Regarding Variance Approval Requirements](#)

Mr. Overton stated that he had concerns regarding seemingly a trend on voting for marsh buffer variances. He stated that he felt as though the Board is disregarding the spirit of why there is a setback based on the guidance the Board has from professionals. He stated that his thought is that the Board is granting variances that it does not have the right to do based on the current law. He added that if the Board's constitution is inclined to vote in favor of these types of petitions then the policy needs to be changed. He felt that there are some unintended consequences regarding voting in this way. He stated for example, if there was someone wanting to buy property and they came in for a variance they would be doing their due diligence. They would have to have it in order to do what it is that they wanted to do. The Board has set a precedence for hardships already and he thinks by matter of fact the Board would have to grant this. Another example is a property owner who has purchased a home who wants to sell it to a buyer and the buyer wants to add an addition and won't buy the house unless the variance is granted. This is also a hardship. He stated that in essence, what he was trying to say is that he does not believe that the Board has a clear understanding as to how it should be voting on this type of variance. He also stated that he was not here to disagree with those applicants not having hardships, but he did not think that the Board had the proper underpinnings to make these decisions. The Board struggles a lot with trying to redesign from the Dais, which he felt was somewhat inappropriate. He stated that he did not expect an immediate answer, but that he did want to have it set up as a discussable item at a future meeting.

Chairman Hitch agreed that she too was torn on this vote. She did not believe it should have been approved. However; the house is already in the buffer. She stated that the Board is confronted with the fact that the laws have changed from the time that these houses were built and that there will always be a conflict because these houses exist in an area that the ordinance is now saying that they can not.

Mr. Overtone requested that staff research the law, when it changed, and the reason for the change. He asked for an analysis of how many cases that have been heard before this Board in the past two to three years regarding this particular issue (marsh buffer variances) and how the decisions have come down. He requested a subsequent discussion about whether or not it is worthwhile to suggest that the regulations change or they become more definitive as to what is a hardship and what is not. He added that he felt that each Board member has a different idea as to what constitutes a hardship.

Mr. Lotson responded that an example of a hardship would be a very odd shaped piece of property that would not allow you to build elsewhere. He agreed to research the definition of the following; 1) a hardship; 2) a structure; and the decisions made on this type of variance.

X. Adjournment

5. [Adjournment of the August 27, Chathan County Zoning Board of Appeals Meeting](#)

There being no other business to come before the Board, the Chairman declared the August 27, 2013 SZBA meeting adjourned.

Respectfully submitted,

Marcus Lotson, Secretary

Note: Minutes are not official until signed.

/cm

Board Action:

Meeting Adjourned.

- PASS

Vote Results

Motion: Anthony Wayne Noha

Second: Quentin L. Marlin

James Blackburn Jr.	- Not Present
Lucy Hitch	- Aye
Quentin L. Marlin	- Aye
Anthony Wayne Noha	- Aye
James Overton	- Aye
Coren Ross	- Aye

The Chatham County - Savannah Metropolitan Planning Commission provides meeting summary minutes which are adopted by the respective Board. Verbatim transcripts of minutes are the responsibility of the interested party.