



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
October 22, 2013- 9:00 A.M.
Minutes

October 22, 2013 Chatham County Zoning Board of Appeals Meeting

Members Present: Lucy Hitch, Chairman
Brian Felder
James Overton
Quentin Marlin
Wayne Noha

Members Not Present: Coren Ross, Vice Chairman
James Blackburn Jr.

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

Advisory Staff Present: Bob Sebek, Zoning Administrator

I. Call to Order and Welcome

1. [Call to Order](#)

Chairman Lucy Hitch called the October 22, 2013 SZBA meeting to order at 9:00 A.M. and explained the agenda.

II. Notices, Proclamations and Acknowledgements

III. Petitions Ready for Hearing

IV. Approval of Minutes

2. [Approval of the August 27, 2013 CZBA Meeting Minutes](#)

Attachment: [August27th.pdf](#)

Board Action:

Approval of the August 27, 2013 CZBA Meeting Minutes. - PASS

Vote Results

Motion: Anthony Wayne Noha

Second: Brian K. Felder

James Blackburn Jr. - Not Present

Brian K. Felder - Aye

Lucy Hitch - Aye

Quentin L. Marlin - Not Present

Anthony Wayne Noha - Aye

James Overton - 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. [818 Perry Cove - Marsh Buffer Setback Variance Request - File B-130923-00082](#)

Attachment: [Staff Report.pdf](#)

Attachment: [Maps.pdf](#)

Attachment: [Photos.pdf](#)

Present for the petition was: Anne Shira, Petitioner

Mr. Marcus Lotson gave the following summary;

The petitioner is requesting a 25 foot marsh buffer setback variance from 35 foot requirement of the Chatham County Zoning Ordinance in order to construct a new single family residential structure. The subdivision is not serviced by the City of Savannah sewer service therefore a septic tank is required. As currently designed, the primary septic field occupies a portion of the western edge of the lot and the secondary septic field occupies a portion of the frontage. The State Department of Natural Resources requires that the septic tank be located 50 feet from the marsh buffer line. The subject property does not currently have vehicular access onto Perry Cove. A new driveway will be required if the property is to be developed. The location of the required septic features limits the available location for vehicle access. In a letter received by staff, Mr. Reid Ryan neighboring property owner indicated his support of the petitioner's request. No other correspondence has been received regarding this petition. Staff recommends approval with the condition that only a driveway/parking pad shall be constructed within the marsh buffer.

Speaking on the petition: Anne Shira, petitioner stated that it is a manmade ditch that was created here and the septic system has to be one of the more exotic ones. It requires a lot of differentials from the typical septic system. She explained why she requested the variance. She stated that she had no intention of encroaching on what is considered the real marsh. She added that she has the option of using both cement and a pervious material to complete the pad, but based on the board's requirement if it is necessary for approval she would consider only the permeable material.

Board Action:

Staff recommends approval of a 25 foot marsh buffer setback variance request from the 35 foot requirement for 818 Perry Cove, with the condition that only a driveway / parking pad be constructed within the buffer with a pervious surface - PASS

Vote Results

Motion: Anthony Wayne Noha
Second: Brian K. Felder
James Blackburn Jr. - Not Present
Brian K. Felder - Aye
Lucy Hitch - Aye
Quentin L. Marlin - Aye
Anthony Wayne Noha - Aye
James Overton - Aye

4. [6 Brigantine Court - Rear Yard Setback Variance Request - File No. B-130918-00081-1](#)

Attachment: [Staff Report.pdf](#)

Attachment: [Maps.pdf](#)

Attachment: [Photos.pdf](#)

Present for the petition was:

Mr. Marcus Lotson gave the following summary;

The petitioners, James and Deborah Baker, are requesting an 8 foot variance from the 25 foot rear yard setback requirement of the Chatham County Zoning Ordinance for the purpose of constructing an attached garage onto an existing single family residential structure. the subject property is located at 6 Brigantine Court within the Commodore Point subdivision in an R-1-A/EO (One family residential/Environmental Overlay). The lot is approximately one half acre in size and the residence was constructed in 1978. It is a conforming lot of record similar to others in the neighborhood. The petitioner is requesting this variance in order to construct an attached garage addition onto an existing single family residential structure. There has been no correspondence regarding this petition. Based on the conditions necessary for granting a variance, staff finds that those

conditions do not appear to be present. Staff recommends denial of the request.

Speaking on the petition: James Baker, petitioner stated that he currently resides on the subject property and is interested in building a garage in the rear . He feels that a garage will make the house more marketable. He explained the cost of moving the garage and the differences between an attached and a detached garage. He asked that given the conditions and the additional cost that the board approve his variance request.

Mr. Noha questioned if the petition was denied would the petitioner build a detached garage 5 feet from the property line.

Mr. Baker responded that he would build the garage and incur the additional cost.

Board Action:

Approval of the petitioner's request of the 8 foot rear yard setback variance request. - PASS

Vote Results

Motion: Anthony Wayne Noha

Second: Quentin L. Marlin

Lucy Hitch - Aye

Quentin L. Marlin - Aye

James Blackburn Jr. - Not Present

Brian K. Felder - Nay

Anthony Wayne Noha - Aye

James Overton - Nay

IX. Other Business

5. [Marsh Buffer Discussion](#)

Marcus Lotson stated that an issue was raised at the last meeting regarding the marsh buffer setback variances and the degree by which they are approved and the reasons why this happens. Mr. Overton brought his concerns to the board and staff. Staff researched these concerns with background and answered some of the questions that were presented. Mr. Lotson asked Mr. Overton if he would like to make comments before he began.

Mr. Overton stated that in his opinion he thought that the board was making judgments from the dais that does not follow the terms as he understands it, regarding buffer setbacks. It seems to revolve around whether or not someone owns a piece of property and wants to do something versus someone who wants to buy a piece of property and wants to do something. He stated that since his service began he has seen inconsistency related to

marsh buffer variance requests. He added that he did not feel the board reviewed them consistently. He stated that he would like to have a policy adopted where all applications are viewed in the same format.

Mr. Marlin commented that personally he did view that someone differently who owned their home prior to the change in the regulation as opposed to someone who bought it after the change.

Mr. Overton questioned him as to how he would support someone who wanted to sell a piece of property who owned it prior to the change..... if the sale is based on the applicant getting the variance done .

Mr. Marlin questioned if this was the new person purchasing the home doing this or was it the current owner. He stated that the reason behind them seeking a variance to close a sale is something that the board usually does not get into.

Mr. Felder commented that he did not care about the property transfer if the petitioner came with a specific development plan he would be willing to read it. If the owner came in only to test the waters to see if they can get a variance he has consistently voted against it. He would prefer to see a specific development plan. In his mind he did not see a pool as a hardship. He stated that he sees a garage, a mother-in-law suite, or a bedroom that needs a minimal variance, as a hardship.

Mr. Marlin stated that he can sympathize with someone who says that this is the lot that I really would like to grow old on. I can afford to build a house now but I cannot afford to build a pool as of yet but I can save my money to add the pool but now the laws have changed. Now I cannot build the pool. I bought this lot I have made the investment. He added that this is what he takes into consideration. It is not all but, it is worth considering.

Chairman Hitch stated that the board tries to uphold the new ordinance and a lot of the time the board has to take each case individually and consider what the impact is on the neighborhood and the existing homes versus whether or not they are buying a new home or an undeveloped piece of property where they have options. She said that she would love to say that this board would never approve any more that would intrude into the 35 foot setback but this would not be fair to the homeowner or the potential buyer.

Mr. Marlin stated that he disagreed with what is said that the purpose of this board is. He stated that a citizen board is here to look at the ordinance and make.... a decision. This is why we are here to apply a little common sense to the law.

Mr. Felder stated that this board has changed the law since he has been a member because of something that just seemed crazy to them. The board did change the buffer setback.

Chairman Hitch confirmed that the board does have to use their ability to uphold the ordinance and stick to it. It should be taken case by case. Today's case regarding the driveway was of a low impact.

Mr. Lotson stated that from staff's point of view the recommendation is from the way the ordinance reads. The board's purpose is to look at a broader view and use a common sense approach. If there is very negligible impact then a variance though it may not fit the exact

criteria of the ordinance and allow staff to recommend an approval it may still make since for it to be approved.

Mr. Noha agreed that the key word here is common sense. He added that the board is here to bring common sense to the law/ordinance. Consider the Landings, it was started in the 70's and if it were vacant today some areas would not be able to be built on. But the board approved that for instance and it was okay. So, he continued, if you were to look at the track record, the board is trying to do what is best for everyone; the homeowner, the neighbors, and the ordinance /law. The board is trying to blend it all together. If it can not do this then the board should not exist. We have to bring common sense to it. You can not write an ordinance to cover every single thing that will come up. It can not be done.

Mr. Lotson gave a brief summary on staff's research. He went over the number of variances that were reviewed over the last several years. The Environmental Overlay district was adopted in 2001 by the County Commission. Since the changes to the ordinance were adopted the approval ratio has not decreased. He added that he felt that what Mr. Noha brought up was a good point. In his opinion he did not feel that the board was looking at each case and judging it on the specifics of the ordinance but judging it on the specifics of each case. As to whether it has impact, as to whether it is negligible for adjoining property owners, as to whether the requested variance is a necessary variance for that property to be reasonably developed. There will always be a marsh buffer setback; there has to be in the ordinance. The function of the board is more important really than whatever the requirement is. Each case must stand on its own and needs to be adjudicated in terms of its merit. He continued that he also wanted to bring forth concerns that Mr. Marlin had brought forth relating to what constitutes an encroachment. It has been the findings of staff so far, that that anything constructed within the buffer is an encroachment. There are some exceptions in the ordinance... wooden fences, wooden piers, things of this nature do not count as an encroachment. But if something more substantial is being done it has been the finding that those things are encroachments.

Mr. Marlin stated that at the last meeting, the Wylly Island property was discussed and the petitioner wanted to build an enclosed porch off the side of his house and it would encroach into the setback. The area that it would encroach into would only be dirt and leaves and it was clearly not part of the marsh. The discussion was that he needed a variance. It was not okay because he had a roof on it. Part of the reasoning was it would kill the grass underneath the area. If it were only a deck he would not have had to petition the board. He stated that he was under the impression that the grass would be killed whether there was a roof over the deck or not. These are inconsistencies that need to be addressed.

Mr. Felder interjected that this was inaccurate. He explained that what this goes back to is pervious versus impervious. The deck can have run-off. It does not need to allow growth. It provides a run-off buffer between construction and the marsh. Whereas as soon as the roof is put on you then have concentrated run-off from the roof going down the gutters and potentially an erosion problem. There is a little difference in that particular scenario between the deck that is open and the water can run through it, and the roof. There is a little bit of a distinction here and this is the way that County Engineering views it. In summary, he stated that concentrated run-off is an erosion issue.

Mr. Marlin asked if there is not a good reason to tell someone that they can not do something with their property then why do we do it.

Mr. Felder suggested to staff that there were a couple of staffers with the county that came before this board some time ago and gave a talk/training regarding marsh buffers and the reasoning. Since this is primarily a new board he suggested that they return.

Chairman Hitch agreed that she thought Mr. Felder's suggestion was a good idea for the new board members and as a review for those that have been on the board for awhile.

Mr. Felder also questioned the direction that was given relating to the unbuildable lot.

Mr. Sebek responded that he did not think that this was intended from the County Attorney in the way that it was received. He explained that he visited the attorney about the issue. He asked if the petitioner had a right to expect the 25 foot buffer requirement. This was essentially what he bought up to the attorney. He stated that he did not think that the intent was to give the board direction.

6. Board Nominations

Chairman Hitch stated that she would like to step down as chairman. She agreed to continue to serve as a board member.

Mr. Felder officially resigned. He informed the board and staff that today's hearing would be his final meeting.

X. Adjournment

7. Adjournment of the October 22, 2013 CZBA Meeting

There being no other business to come before the Chatham County Zoning Board of Appeal, Chairman Lucy Hitch declared the meeting adjourned.

Respectfully submitted,

Marcus Lotson, Secretary

Note: Minutes are not official until signed.

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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.