



Chatham County Zoning Board of Appeals

Arthur A. Mendonsa Hearing Room
August 27, 2019 - 9:00AM
MINUTES

August 27, 2019 Chatham County Zoning Board of Appeals Meeting

This is a quasi-judicial proceeding. All those wishing to give testimony during these proceedings will please sign in. Witnesses will be sworn-in prior to giving testimony. All proceedings of the Chatham County Zoning Board of Appeals are recorded.

Decisions of the Chatham County Zoning Board of Appeals are final. Challenges to the decisions of the Chatham County Zoning Board of Appeals must be filed through the Superior Court of Chatham County.

Note: All persons in attendance are requested to so note on the "Sign-In Sheet" in the meeting room on the podium. Persons wishing to speak will indicate on the sheet.

I. Call to Order and Welcome

II. Notices, Proclamations and Acknowledgements

III. Petitions Ready for Hearing

IV. Approval of Minutes

1. Approval of August 2, 2019 Special Called Meeting Minutes

[August 2, 2019 Special Called Meeting Minutes.pdf](#)

Motion

Approve minutes as written.

Vote Results (Approved)

Motion: Coren Ross

Second: Chip Kreps

Chip Kreps - Aye

James Blackburn, Jr. - Aye

James Coursey - Aye

Quentin Marlin - Aye

Lucy Hitch - Not Present

Coren Ross - Aye

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

VI. Consent Agenda

VII. Old Business

VIII. Regular Agenda

[2. 1030 Fisher Street | Variance - Side-Yard Setback | Thomas Brunson | B-190722-00079-1](#)

- 📎 [Exhibit C - Assessment Documentation.pdf](#)
- 📎 [Staff Report 00079-1.pdf](#)
- 📎 [Exhibit A - Map.pdf](#)
- 📎 [Exhibit B - Plot Plan.pdf](#)
- 📎 [Exhibit D - Images.pdf](#)
- 📎 [Application.pdf](#)

Marcel Williams, MPC staff, presented a request for approval of a 7-foot side yard setback variance from the 7 foot setback requirement in order to relocate an existing structure. The subject property is located at 1030 Fisher Street in a R-1-A/EO (Tourist Business/Environmental Overlay) zoning district. The lot is approximately one-quarter acre in size and is occupied by a one-story frame dwelling, a frame barn and a frame shed. The property fronts the southwestern corner of Fisher Street, which is a minor residential street extending from Walthour Road with a 40-foot right of way. The property is served by public water and a private septic system. The petitioner is proposing to relocate the existing 110 square foot residence to the western edge of the property. The intended footprint directly abuts the lot line, where ordinarily the Chatham County Zoning ordinance requires a 7-foot setback. The petitioner also owns the neighboring property to the west (Pin 10065 01017) and has provided documentation. Since any on-site septic system must be set back 50 feet from these wetlands, this "greatly reduces the usable area within the property". James Blackburn Jr. commented that Marcel's report was very well outlined and that he wanted to adopt the findings into the record. Thomas Brunson, petitioner, stated that his family has owned the property for over 50 years. His parents purchased the property in the 70s and was built in the 40s. Hurricane Irma and Matthew came through Savannah and damaged the house and the request is to fix what needs to be repaired. In order to save the house, the house needs to be raised and 35 feet from the marsh. This would also give him more usable yard. One lady spoke in opposition as a neighbor. Her name is not clear on the audio and she did not sign in. She was opposed because she wanted to know if this proposal would change the value of her property. Marcel Williams showed her on the map shown that the proposed addition would be in the rear of the property and that it would not be able to be seen. James Blackburn Jr. informed her that it should not affect her property value and Quentin Marlin clarified that the addition would also be in the rear. There was no discussion, and James Blackburn Jr made a motion to approve the request and adopt the findings from Marcel's staff report. He noted that it was very detailed and outlined and the Board agreed. Coren Ross seconded and it was approved without opposition.

Motion

Board approves the 7-foot setback variance at 1030 Fisher Street and adopt the findings of the staff report.

Vote Results (Approved)

Motion: James Blackburn, Jr.

Second: Coren Ross

Chip Kreps	- Aye
James Blackburn, Jr.	- Aye
James Coursey	- Aye
Quentin Marlin	- Aye
Lucy Hitch	- Not Present
Coren Ross	- Aye

[3. Green Island Road | Appeal of a Zoning Decision | B-190725-00082-1](#)

☞ [Tax Map.pdf](#)

☞ [Application.pdf](#)

☞ [Interim Zoning Administr_001.pdf](#)

☞ [Zoning Administrator Determination _Green Island Road Development_6-24-19.pdf](#)

☞ [Smith memo re Green Island Road Development- scan.pdf](#)

☞ [Correspondence.pdf](#)

☞ [Zoning Letter RSebek.pdf](#)

☞ [Staff Report.pdf](#)

Before Marcus Lotson began his report, James Blackburn Jr. commented that he had to recuse himself from the petition because he previously represented Freidman Jewelers concerning the same property and he represented the Board whose decision is appealing. Marcus Lotson, MPC staff, presented an appeal to a determination by the Interim Zoning Administrator in reference to Green Island Road. The Interim Zoning Administrator made a decision that congregate care is not within PUD-R. Quentin Marlin stated that there was memorandum circulated to the Board from the County Attorney in reference to the Green Island Road petition. Quentin Marlin requested that the County Attorney, John Hart, speak first. County Attorney stated that this petition was sent to his office for commenting. Mr. Hart said the Zoning Administrator had to retire and unfortunately that timing was not the best. The County Manager appointed Gregori Anderson as Interim Zoning Administrator and Mr. Anderson currently is Director of Building Safety and Regulatory Services. Mr. Hart said that there was nothing in the I-S within the code section that would regulate congregate care. He felt that since a "R" zoning classification can be used as multifamily, nothing prevents the petitioner from building apartments. PUD-M specifically included congregate care. Most jurisdictions consider congregate care as special uses. The use is not exclusively stated in the Ordinance, according to Mr. Hart. Harold Yellin, petitioner for Green Island Road, noted that the property is a 30 acre tract zoned PUD-R. The petitioner went to MPC for site plan approval because of assurance of a congregate care facility. At the May 14, 2019 meeting, there were no oppositions from Staff about the site plan. There was opposition, but not by Staff or the Zoning Administrator. MPC staff report was for approval of site plan. The petition was continued for County Attorney to comment. He does not know why County Attorney was asked to comment instead of the Zoning Administrator. He stated that the memo was shocking because on page 3 of his report, it stated that 5 senior care facilities were currently in Chatham County and 3 were zoned to PUD-IS. Mr. Hart said PUD-IS is not appropriate of congregate care and he considered it residential. Mr. Yellin also noted that Mr. Hart also said PUD-R doesn't have language suggesting that senior congregate care is residential. None of the 5 senior care is PUD-M. In 1997, one property was requested to be rezoned to PUD-M. Both MPC and Chatham County Commission denied the request at the time. In 2017, Mr. Yellin represented a senior care facility on Old Montgomery Crossroads and was rezoned to R-3-11. The MPC recommended approval to rezone the property for senior care and Chatham County approved unanimously. Mr. Yellin stated that he and his staff meet with MPC staff prior to submitting petitions to get better understanding. Mr. Yellin stated that he called Robert Sebek after receiving the memo from County Attorney and requested that he provide comments in reference to Green Island Road and that on Monday, he would be giving notice of resignation. The following Friday would be his last day as Zoning Administrator. On Monday, June 24, he received a memo from Gregori Anderson stating to confirm the County Attorney's memo. On June 25, Mr. Yellin received email from Robert Sebek stating his opinion on Green Island Road which said a senior care facility is an allowed use in the PUD district. Mr. Yellin said Interim does not replace Mr. Sebek's job. Quentin Marlin questioned if Mr. Yellin disagreed that County Manager can appoint Interim employees. Mr. Yellin agreed that County Manager can do such but that there was only one at the time, which was Robert Sebek. Quentin Marlin asked if Mr. Yellin was appealing that Mr. Anderson's statement is invalid or was he focused on the merits of disagreeing with Mr. Anderson's opinion. James Coursey questioned whether the County Attorney has the right to hire and fire staff in Chatham County and Mr. Yellin said he can only assume because he doesn't know who appointed Pat Monahan as an example. James Coursey questioned do we know what Mr. Smith's intent was. Mr. Yellin sent a freedom of information request on August 1st and he asked for every document and communication regarding Mr. Anderson becoming Interim. According to GA law, they were supposed to hear from them within 3 days, August 3rd, and they have not heard from County Attorney or County Manager. Mr. Yellin stated that the use is consistently outdated and needs serious updating. In 2016, MPC said in their staff report that homes for aged and children is vague in the County Ordinance and is hard to distinguish the meaning. The staff report was from an approved site within Chatham County. Mr. Yellin said that 5 businesses are at risk of being out of compliance if the Board wishes to deny the appeal because it would be going against MPC's past findings in approving senior care homes in Chatham County as being a permitted use. Mr. Yellin closed by saying he wanted the petition to be remanded to MPC for site plan approval. Mr. Yellin said senior congregate care is not defined in

the Chatham County Ordinance. Quentin Marlin opened the floor up to the public for comments. County Attorney came back to the podium to clear up statements. He said that under the Enabling Act, the County Manager is over all departments within the county except Clerk of Superior Court. He stated that he has the right to hire and fire anyone within these departments. When they were told that Mr. Sebek was not returning to work, the question was raised about the Zoning board of Appeals vacancy and also about Gregori Anderson taking over the position on an Interim basis. He did not know how the memo came about and the decisions was rendered by the zoning administrator the day it went out. He did not know how it was received but at the time that the opinion was rendered, Mr. Anderson was the Zoning Administrator. James Coursey asked if it was his opinion that Gregori Anderson was the Zoning Administrator at the time that the memo was rendered. James Coursey questioned whether the decisions was communicated to Mr. Sebek that Friday and County Attorney said he did not know. Chip Kreps questioned whether he knew that Gregori Anderson would be Zoning Administrator and he said he did not tell him how to make the decision and Mr. Sebek was not terminated. County Attorney agreed that the memo was not done outside of County office because it was on County letterhead. County Attorney concluded his rebuttal. Don Dyches came to speak representing adjoining property owners. Mr. Dyches noted that none of the facilities that Mr. Yellin presented were listed correctly in terms of zoning classifications. He stated that according to PUD-M Ordinance, there is a comprehensive plan included to review congregate care facilities. Mr. Dyches said that PUD-R is not a proper zoning district for the Green Island Road project. Steve Welch spoke in opposition. He lives in South Harbor and has been opposed to any change in regards of any decision made on July 16th. He noted that County Attorney and MPC staff did not think current zoning was sufficient for this project and asked the Board to uphold MPC's decision. Dan Scarboro was next to speak. He is a resident of South Harbor and believes the current zoning is not permitted for this congregate facility. He stated that Green Island Road would have 90 practitioners per day on site and he is opposed. Shedrick Coleman spoke about the petition. He said was what submitted at the May meeting is what is part of the record. He believed the County Attorney's opinion was only an opinion and should not have any impact on the decision. He said the memo did not include Mr. Sebek because his name was not listed on the bottom of the memo. He thinks the petitioner followed all procedures correctly and they all acted in good faith. He questioned about PUD-M and when when was it modified to include congregate care housing and should have noted in all previous approvals in that zoning classification. Quentin Marlin questioned whether Mr. Coleman believed that the current project would need a conversion plan and he said no. Quentin Marlin disagreed with Shedrick Coleman about the meanings of "senior care" and "congregate housing". James Coursey stated that CZBA hears appeals which requires the Board to make difficult interpretations. He said the codes and ordinance are outdated and it needs to be revised. Reverend Cara Getter spoke and said that the County Attorney and Zoning Board Administrator are hired for their expertise and urged CZBA to heavily consider their opinions. Jim Gardner spoke and stated he's owned property in South Harbor for over 30 years and as attorneys, they look for precedent. He stated that many clients come for certain levels of certainty and the zoning classification for this property is not clear. Richard Laberth spoke on the petition and said the purpose of Appeals Court was designed to hear and appeal decisions. He was concerned about the process of how the petition came about and that there was considerable input by MPC in regards to Green Island Road. He added that it would be unfair for there not to be input regarding this matter and hopes that the Zoning Board of Appeals upholds what the appeals process entails. Emily Miller came forward to speak on the petition. She is opposed to the project and wants the Zoning Board of Appeals to take zoning seriously. Ben Farmer spoke in regards to this petition. He commented that he served on the MPC's Board for over 10 years and that he was very familiar of the process. He's been a realtor for 46 years and he believes that the property is zoned residential. He also added that Robert Sebek's opinion matters. Quentin Marlin interjected to say others could have appealed Mr. Sebek's opinion as a property owner as well. He said that Mr. Sebek was still the Zoning Administrator on the Friday that he submitted his opinion. Ben Farmer said Gregori Anderson was only Zoning Administrator for one day and Quentin Marlin clarified that he was not Administrator for only one day. He's been Administrator in the past. James Coursey said the Zoning Board of Appeals was present to decide if Mr. Yellin's appeal was correct. Quentin Marlin told Mr. Farmer that ZBA was not present to decide who was right. John Evans spoke about the petition. He said he was former Councilman in another city and he has knowledge on the whole process. His potential clients are not looking for residential areas that include senior care. He believes that placing this proposed senior care facility is being placed in the wrong area. Ruby Weitzell spoke in support of the petition. She lives in The Landings subdivision and believes that the residents do not want change which is why many are opposed. Ruby Weitzell stated that by 2030, more than 50% of the population will be over the age of 65. Murray Marshall spoke as a developer and how he is very familiar with the area. He believes that the Board's job is to find out which opinion is correct in regards to Robert Sebek and Gregory Anderson. Mr. Marshall stated that every attorney he's dealt with looks at precedent. Quentin Marlin stated that ZBA is discussing the appeal the decision of the zoning administrator and that they weren't present to hear the zoning. James Coursey wanted to read into the record Section 10-6 according the Chatham County Ordinance. He read it verbatim to the audience.

****There was a brief pause in the meeting for the Board to discuss matters amongst themselves****

The meeting resumed and Katie Joyner spoke. She's a South Harbor resident and her property back up to Green Island Road. She wanted the Board to uphold the current decision to Green Island Road because she is opposed. She started the opposing petition that was signed by residents in The Landings and it currently has 2,988 signatures. Adam Ragsdale spoke next. He served on the MPC board from 2007-2016. He is a concerned citizen and lives 700 feet from the proposed petition. He was opposed as well. Quentin Marlin asked if Staff had additional comments and Marcus Lotson added that before the Board is an appeal of the Zoning Administrator. Staff's position of the request is that Gregory Anderson's opinion was the only one before the Board today. Coren Ross asked Marcus if other projects could be constructed on the property regardless of the decision of Green Island Road. Marcus Lotson said there are other higher density projects that could occur on the property. Marcus Lotson also added that a rezoning of the property could be proposed on this property as well. Quentin Marlin asked if there were any senior care facilities zoned PUD-R in Chatham County and he said no. Harold Yellin came back to the podium for rebuttal. He believes that Robert Sebek was zoning administrator at the time the opinion was rendered. He believes the proposed senior care facility is allowed in the current zoning. He wanted the appeal to be approved and sent back to MPC. Quentin Marlin shared the definition of senior congregate care according to Google. Chip Kreps wanted Harold Yellin to outline to the audience the whole process that it would take to get the site plan approved which includes water, sewer, and traffic. According to Harold Yellin, the petitioner of Green Island Road is willing to undergo numerous site plan approvals to get Green Island approved. James Coursey questioned if Harold Yellin wanted the appeal to be remanded back to MPC and he said yes. Mr. Yellin also added that if it goes back to MPC, it would be a de novo review. Karen Getter came back to the podium to say that The Marshes was rezoned in 1997. There was no one else that wanted to speak. Coren Ross asked Marcus Lotson if there was any preclusion to the Ordinance, and he said no. James Coursey asked Harold Yellin if the Board approved the appeal, what would be the remedy. Harold Yellin said they would take the matter to Superior Court, go to State Court, or leave the matter as is and build the lot to its' maximum capacity as the current use allows. Dan Scarborough came back to the podium to speak and clarified that any other proposed plan with maximum density would have to meet parking requirements and Quentin Marlin told him that parking would be discussed during site plan approval.

****There was another break amongst the Board to discuss the current matter****

After Board discussion, Chip Kreps made a motion to approve the appeal. Finding in favor of Harold Yellin's argument. Coren Ross seconded. The vote was rejected because there was a tie. The meeting was adjourned. Quentin Marlin said the decision stands that Gregory Anderson's decision stands because another motion would result in another rejection.

Motion

Board approves the appeal for Green Island Road in favor of Harold Yellin's arguments.

Vote Results (Rejected)

Motion: Chip Kreps

Second: Coren Ross

Chip Kreps	- Aye
James Blackburn, Jr.	- Abstain
James Coursey	- Nay
Quentin Marlin	- Nay
Lucy Hitch	- Not Present
Coren Ross	- Aye

IX. Other Business

X. Adjournment

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.