

CHATHAM COUNTY ZONING BOARD OF APPEALS

ARTHUR A. MENDONSA HEARING ROOM

112 EAST STATE STREET

NOVEMBER 22, 2005

9:00 A.M.

MINUTES

MEMBERS PRESENT:

**Davis Cohen, Vice Chairman
Steven Day
Greg Hirsch
Terrance Murphy
Wayne Noha**

MEMBERS ABSENT:

**Robert Sharpe (Excused)
Jimmy Watford (Excused)**

TECHNICAL STAFF PRESENT:

**Robert Sebek, Chatham County Inspections
Department**

MPC STAFF PRESENT:

Jim Hansen, Secretary

RE: Called to Order

Mr. Cohen called the November 22, 2005 Chatham County Zoning Board of Appeals meeting to order at 9:00 a.m.

RE: Welcome

Mr. Cohen welcomed the newest members to the Board of Appeals: Greg Hirsch and Wayne Noha.

**RE: Petition of Diane G. New
B-050928-38044-1
33 Penrose Drive**

Present for the petition was Mr. Walter New.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a five foot side yard setback variance to the 10 foot side yard setback requirement of the Chatham County Zoning Ordinance in order to construct a single family residence.

Findings

1. The subject property, located at 33 Penrose Drive, is zoned R-1-A/EO (One-Family Residential/Environmental Overlay). Section 4-6.1 of the Chatham County Zoning Ordinance requires a minimum ten foot side yard setback for primary structures located

within the R-1-A district.

2. The petitioner is requesting approval of a five foot side yard setback variance that would allow construction of a new single family residence. If the variance is approved, the proposed structure would have side yard setbacks of five and 15 feet respectively.
3. Development standards require a minimum 70 foot lot width and a minimum 12,000 square foot lot area for the R-1-A district. The subject property contains in excess of 45,000 square feet. The property is 75 feet wide and meets the district standards.
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.**

The subject property contains in excess of 45,000 square feet. The lot is 75 feet wide. The parcel is considered a standard lot.

- b. **The application of these regulations to this particular piece of property would crate an unnecessary hardship.**

Strict application of the regulations of the district would not cause an unnecessary hardship. The proposed structure could be located on the lot in such a manner to meet all setback requirements.

- c. **Such conditions are peculiar to the particular piece of property involved.**

The conditions described above are not peculiar to the subject property.

- d. **Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of the Chatham County Zoning Ordinance.**

Relief, if granted, would not cause substantial detriment to the public good. Approval of the request would, however, not be in keeping with the intent and purposes of the Chatham County Zoning Ordinance. Setback regulations have been established for each zoning district to allow for ample light, air, and safety considerations. The proposed structure can be sited to avoid the necessity for a variance.

Summary of Findings

All of the conditions necessary for granting a five foot side yard setback variance appear not to be met.

Mr. Cohen asked if the standard zoning requirement 10 feet on each side?

Mr. Hansen stated yes.

Mr. Cohen asked if it was his understanding that Staff was opposed to the variance for a 5 foot setback?

Mr. Hansen stated Staff does not make a recommendation to the Board. He said Staff's position was to present whether or not in his opinion all of the conditions necessary for granting those variances have been met. In this particular case Staff felt they were not met. He said part of that was based upon the fact that the particular zoning district in which this was located required a 10 foot side yard setback on each side and a minimum of 70 feet of frontage. In this particular case the lot was 75 feet wide and what the applicant originally proposed was a 55 foot wide house. When you do the math subtracting 55 from 75 would leave you with 20 which would more than accommodate the required side yard setbacks if placed in the middle of the lot. The applicant proposed to shift that and he believed the testimony from last month's hearing would indicate that part of their reasoning was that the house to the immediate west of the property was approximately 3½ feet off the side yard setback. The property to the east was approximately 18 feet off the side yard setback. He said visually they were trying to place their structure such that it was more compatible and aesthetically pleasing with what was developed. He said with all that being said Staff still felt that all the requirements necessary for granting a variance have not been met.

Mr. New stated he felt the aesthetics would make a difference in that it would be more symmetrically located between the two houses that currently exist. He said more importantly than that was if any emergency vehicle that would be required if someone needed assistance on the river side of the property the road would be shared by the two lots which comes up on the west side of the property they were discussing it would have access with the setback at 10 feet. If you have to go on the east side you have to negotiate a garage, run across flowers, lawns, etc. He said he felt from a safety standpoint it made sense to do that.

He further stated he met with the neighbors on the east side and they suggested that they split the 5 foot variance. He said the neighbors said they would be more receptive with the 7½ foot setback. He said he would be willing to agree to do that.

Mr. Cohen asked if the neighbors were present?

Mr. New stated no, that they were in California for the holidays. He said he suggested to his neighbor that he write a letter to that effect and he said he would.

Mr. Cohen stated he was aware that he was making a statement under oath.

Mr. New stated yes.

Mr. Cohen asked if he was stating that he has met with his neighbors since the last meeting and they have conversed on this and that he has withdrawn his opposition provided that he moves it to 2½ foot setback instead of a 5 foot setback?

Mr. New stated yes.

Mr. Hansen stated as the applicant has stated neither he nor Staff has received a letter. He said he was in telephone contact with Mr. Sheffield and he indicated that indeed the meetings took place and that they were now in agreement with what the petitioner wanted to do. He said he could attest to that although he had nothing from him in writing.

CZBA Action: **Mr. Day** made a motion that the Chatham County Zoning Board of Appeals deny the petition as submitted and approve a side yard setback variance of 2½ feet based on a finding that the relief granted would not cause substantial detriment to the public good. **Mr. Murphy** seconded the motion and it was unanimously passed.

RE: Other Business

Mr. Hansen introduced Deborah Burke to the Board. He said she was a new Staff person and will be assisting with the Zoning Board of Appeals.

Ms. Adams reminded the Board that their next meeting will be on December 20, 2005 at 9:00 a.m. which is the third Tuesday in the month as opposed to the fourth Tuesday because of the Christmas holidays.

RE: Minutes

1. Approval of CZBA Minutes – October 25, 2005

CZBA Action: **Mr. Day** made a motion that the Chatham County Zoning Board of Appeals approve the regular meeting minutes of October 25, 2005. **Mr. Murphy** seconded the motion and it was unanimously passed.

RE: Adjournment

There being no further business to come before the Chatham County Zoning Board of Appeals the meeting was adjourned approximately 9:25 a.m.

Respectfully submitted,

James L. Hansen,
Secretary

JLH:ca