

CHATHAM COUNTY ZONING BOARD OF APPEALS

ARTHUR A. MENDONSA HEARING ROOM

112 EAST STATE STREET

JULY 6, 2006

9:00 A.M.

SPECIAL MEETING

MINUTES

MEMBERS PRESENT:

**Jimmy Watford, Chairman
Davis Cohen, Vice Chairman
Steven Day
Greg Hirsch
Wayne Noha**

MEMBERS ABSENT:

**Terrance Murphy (Excused)
Robert Sharpe (Excused)**

TECHNICAL STAFF PRESENT:

**Robert Sebek, Chatham County Inspections
Department**

MPC STAFF PRESENT:

**Jim Hansen, Secretary
Deborah Burke, Assistant Secretary**

RE: Called to Order

Mr. Watford called the July 6, 2006 Chatham County Zoning Board of Appeals special meeting to order at 9:00 a.m.

RE: Regular Agenda

**RE: Continued Petition of Darwin Johnson
B-060427-60770-1
225 Penrose Drive**

Petition continued per Petitioner's request.

**RE: Continued Petition of Savannah Quality
Homebuilder
B-060501-87302-1
123, 125, & 127 North Street**

Present for the petition was Doug Maxheimer and Andrew Logan.

Mrs. Burke gave the following Staff report.

The petitioner is requesting approval of a 15 foot rear yard setback variance to the 25 foot rear yard setback requirement of Section 4-6.1 of the Chatham County Zoning Ordinance in order to

construct three (3) new residential structures. The subject property, located at 123, 125, and 127 North Street, are zoned R-1/EO (One-Family Residential/ Environmental Overlay).

Findings

1. Section 4-6.61 of the Chatham County Zoning Ordinance requires a minimum rear yard setback of 25 feet.
2. The subject parcels are square in shape, with a minimum width of 100 feet and a minimum depth of 90 feet. Per the petitioner’s survey, the parcels are each 9,000 square feet. The R-1 district requires a minimum of 60 feet in width and 6,000 square feet in area. The three (3) newly created lots are conforming lots of record
3. The petitioner is seeking 15 foot rear yard setback variances for each lot in order to construct single family residences within ten (10) feet of the rear property lines.
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 parcels are standard lots of record in the R-1 district.

- 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.

- 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 most likely not cause substantial detriment to the public good.

Summary of Findings

All of the conditions necessary for granting a 15 foot rear yard setback variance for three (3) lots appear not to be met.

Mr. Cohen asked Staff if she could explain the reason for the continuance?

Mrs. Burke stated the petition was continued to allow the applicant to study the option of splitting the difference by having some of the setback variance for the front and rear.

Mr. Cohen asked if there were any changes made in the request?

Mrs. Burke stated no. She said the applicant decided to stick with their original request.

Doug Maxheimer stated they took six existing lots that were 50 foot lots and recombined them into three larger lots so they could compete with the existing structures in the neighborhood. He said they got their engineering plans approved and stamped. He said they also went through the expense of putting in the streets.

Mr. Logan stated on the approved plat it also did not show any rear setbacks.

Mr. Day the drawings were created by their architect. He asked if the architect made a mistake.

Mr. Maxheimer stated he did not know. He said County Engineering approved the plat.

Mr. Sebek stated he did not know what other information engineering requested, but the plan was for the road.

Mr. Maxheimer stated he felt the houses would not have a negative impact on the area because they would be very nice.

Mr. Cohen stated he felt they were asking the Board to give them more room to build and develop in violation of the regulations and he was not convinced that there was a hardship.

Mr. Maxheimer stated he felt the hardship was the 22 foot depth.

Mr. Cohen stated they knew that when they bought six lots and recombined them into three lots. He said he felt they should have checked with the Zoning Department to find out if they would do what they had planned.

Mr. Day stated they have a lot that was 90 feet deep. He said they had 25 feet in the front and 25 feet in the rear which left 40 feet. He said they had a footprint of 40 feet if they did not put the porch on the houses. He said he felt they could build a house that was 86 feet wide and 40 feet deep. He said the design they have may not work for what they got. He said he knew some one made a mistake and it was going to affect them as the petitioner but the onus falls on them. He said he was not sure the Board could justify doing what they were asking them to do.

Mr. Maxheimer stated he felt they would not be able to fairly compete with the gentleman that had 8 or 12 lots and was building homes on those lots.

Mr. Day stated he felt the person who got the other variance from MPC got a gift. He said the developers in that area were overbuilding the lots.

Mr. Noha stated at the last meeting he asked them to see if they could find a home that would fit within the setbacks. He asked if they attempted to do that?

Mr. Maxheimer stated if they did that it would not be aesthetically pleasing.

Mr. Noha asked if they considered the option of moving the house and splitting the difference?

Mr. Maxheimer stated they could do that.

Mr. Day asked if they had an opportunity to talk to the neighbors?

Mr. Maxheimer stated no.

Ms. Leslie Sharpe (6 Beard Creek Lane).

Mr. Day asked Ms. Sharpe if she was related to Robert Sharpe who is a member of the Board?

Mrs. Sharpe stated yes. She said the argument the builders provided in the first meeting was the front yard setback and they said that there was not a rear setback requirement. She said it says 200 feet from the property and the builders have picked houses that were out of the 200 foot range. She said the houses that were within a 200 foot range of the homebuilder's were the houses behind them which were all 25 feet. She said it was her understanding that the variance was without the porches.

Mr. Day stated the porches were attached to the building so they were included.

Mr. Cohen asked Mrs. Sharpe what was her objection without comparing the petitioners to other folks in the past?

Mrs. Sharpe stated her objection was she felt it would set precedent because it was one of the last undeveloped areas on Wilmington Island. She said the house was going to be two story.

Mr. Day stated with regards to precedent according to the zoning regulations the 200 foot distance if these houses were given variances with that zoning regulation that says if there is anything existing property within 200 feet and it started cascading as long as they were within 200 feet they did not have to come back to the Board.

Mr. Sebek stated only for the front yard. The ordinance says the front yard setback could be varied. He said it did not say anything about the side or rear setback. He said he felt the Board would not be setting a precedent of any sort.

Mr. Cohen stated the Board would not be legally setting a precedent. He said giving them the opportunity to cite that was a reason they do that all the time.

Mr. Sebek stated as the Board has stated in the past they do not set precedent because each case was heard on its own merits.

Mr. Watford stated with regards to the letter submitted by the petitioner he felt they still wanted the 15 feet.

Mr. Maxheimer stated he remembered that they could consider some combination of the variance but they did not address it correctly in their letter.

Mr. Cohen stated he was not as concern when there were small encroachments. He said he was uncomfortable when they were large encroachments. He said with regards to this petition he was concerned that it would be at least a 60 or 65 percent encroachment. He asked the Board if there was anything they could suggest to the petitioner that he could take in to consideration?

Mr. Day stated he felt 15 feet was too much in the rear. He said may be the petitioner could request a variance for the front and rear and the only thing that would go beyond those bounds would be the stairs. He said that may be something the neighbors could live with. He said he would suggest that they consider 5 feet in the front and 5 feet in the rear. He asked Mrs. Sharpe if that was something that she would be agreeable to.

Mrs. Sharpe stated yes.

Mr. Day asked Mr. Maxheimer (petitioner) if that was something they would be agreeable to do?

Mr. Maxheimer stated yes.

Mrs. Burke stated the petition would have to be continued so it could be readvertised with those changes.

Mr. Hansen stated to the Board that if for instance, the applicant had requested a 15 foot rear yard setback they could grant something less, but they could not increase the variance in the rear. He said he felt the Board could not change the variance in that the request would now be for the front and rear because it was not advertised for any front yard setback or change the rear to the side yard. The Board could do what they felt was appropriate and if it was challenged then it would be handled accordingly. He said he felt the Board should continue the petition so Staff could readvertise the petition for front and rear yard setbacks.

Mr. Watford asked the petitioner if they would agree to a continuance?

Mr. Maxheimer stated yes.

CZBA Action: **Mr. Day** made a motion that the Chatham County Zoning Board of Appeals continue the petition until the next regularly scheduled meeting (July 25, 2006). **Mr. Cohen** seconded the motion and it was unanimously passed.

RE: Petition of Jane W. Cannon
B-060526-54115-1
125 Waite Drive

Mrs. Burke stated the petitioner called and said they would not be able to attend today's meeting. She said they asked that their petition be heard at the July 25 meeting which was the next regularly scheduled meeting.

CZBA Action: **Mr. Noha** made a motion that the Chatham County Zoning Board of Appeals continue the petition until the next regularly scheduled meeting (July 25, 2006). **Mr. Cohen** seconded the motion and it was unanimously passed.

**RE: Petition of Marie T. LaJeunesse - Howie
B-060531-34218-1
115 Companion Way**

Present for the petition was Marie T. LaJeunesse – Howie.

Mrs. Burke gave the following Staff report.

The petitioner is requesting approval of a four (4) foot rear yard setback variance to the 30 foot rear yard setback requirement of Section 4-6.1 of the Chatham County Zoning Ordinance in order to construct an addition onto an existing house. The subject property, located at 115 Companion Way, is zoned PUD-C (Planned Unit Development- Community).

Findings

1. Section 4-6.61 of the Chatham County Zoning Ordinance requires a minimum rear yard setback of 30 feet.
2. Per the petitioner’s survey, the subject parcel has a minimum width of 110 feet at the rear of the property, with a front lot line width of 188 feet. The lot depth is 80 feet at its shallowest point and 100 feet deep at its longest point. The subject property is approximately 20,473 square feet. The lot is a conforming lot of record.
3. The petitioner is seeking a four (4) foot rear yard setback variance in order to construct an addition onto a single family residence within 26 feet of the rear property lines.
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.**

Although the subject property is an oddly shaped lot, it is a standard 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.

- 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 most likely not cause substantial detriment to the public good. Only a small portion of the proposed addition, if granted, would encroach into the required setback. In addition, due to the shape of the lot, the part of the addition requiring the variance would be further from the adjacent property to the rear than the portion of the addition that meets the setbacks.

Summary of Findings

All of the conditions necessary for granting a four (4) foot rear yard setback variance appear not to be met.

CZBA Action: Mr. Cohen made a motion that the Chatham County Zoning Board of Appeals approve the petition as submitted based upon a finding that the relief granted would not cause substantial detriment to the public good. Mr. Noha seconded the motion and it was unanimously passed.

RE: Minutes

- 1. Approval of CZBA Minutes – May 23, 2006

CZBA Action: Mr. Noha made a motion that the Chatham County Zoning Board of Appeals approve the regular meeting minutes of May 23, 2006. Mr. Day seconded the motion and it was unanimously passed.

RE: Other Business

RE: Adjournment

There being no further business to come before the Chatham County Zoning Board of Appeals the meeting was adjourned approximately 10:30 a.m.

Respectfully submitted,

Deborah Burke,
Assistant Secretary

DB:ca