

COUNTY ZONING BOARD OF APPEALS
ARTHUR A. MENDONSA HEARING ROOM
112 EAST STATE STREET

August 26, 2008

9:00 a.m.

REGULAR MEETING

MINUTES

MEMBERS PRESENT:

Wayne Noha, Chairman
Terrance Murphy, Vice Chairman
Davis Cohen
Steven Day
Brian Felder
Lucy Hitch

MEMBERS ABSENT:

Jimmy Watford

TECHNICAL STAFF PRESENT:

**Bob Sebek, Chatham County Zoning
Administrator**

MPC STAFF PRESENT:

Geoff Goins, Assistant Secretary
Jessica Mayfield, Administrative Assistant

RE: Called to Order

Mr. Noha called the meeting of August 26, 2008 Chatham County Zoning Board of Appeals meeting to order at 9:02 a.m.

RE: Regular Agenda

RE: Minutes

1. Approval CZBA Meeting Minutes – July 22, 2008.

CZBA Action: Mr. Day made a motion that the Chatham County Zoning Board of Appeals approve the minutes of July 22, 2008 as submitted. Mr. Felder seconded the motion and it was unanimously passed.

RE: Petition of Richard & Carol Sweet
B-080716-00089-1
5 Captain Kirk Lane

Present for the petition was Richard Sweet.

Mr. Goins gave the following Staff Report.

The petitioners are requesting approval of a six (6) foot – four (4) inch rear yard setback variance from the 25 foot requirement of Section 4-6.1 of the Chatham County Zoning Ordinance, in order to construct an addition onto an existing single family residence. The subject property, located at 5 Captain Kirk Lane, is within the PUD/EO (Planned Unit Development–Environmental Overlay) zoning classification.

Findings

1. The subject parcel is rectangular in shape, with a minimum width of 110 feet and a minimum depth of 144 feet. The parcel area is approximately 17,859 square feet. The property meets the minimum requirements for the Planned Unit Development.
2. Section 4-6.1 of the Chatham County Zoning Ordinance establishes a minimum 25 foot rear yard setback. The petitioner is seeking the six (6) foot – four (4) inch rear yard setback variance from the 25 foot requirement in order to construct an addition onto an existing single family residence.
3. The Landings Association’s Architectural Review Committee approved the addition on June 20, 2008.
4. The petitioner has submitted a letter of support on behalf of an adjacent property owner. No opposition to the petition is known to staff.
5. 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 parcel is considered a standard lot of record in terms of lot width and lot area.

- 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 rear yard setback variance appear not to be met.

Mr. Day asked if it was a one story structure and if it had a concrete pad?

Mr. Sweet stated yes but it did not have a concrete pad.

CZBA ACTION: **Mr. Cohen made a motion that the Chatham County Zoning Board of Appeals approve the petition as submitted. Mr. Murphy seconded the motion and it was unanimously passed.**

**RE: Petition of Susan & Claude Su
B-080725-00090-1
44 Moon River Drive**

Present for the petition was Claude Su and Devin Spreen.

Mr. Goins gave the following Staff Report.

The petitioners are requesting approval of a 29 foot – five (5) inch marsh buffer variance from the 50 foot marsh buffer requirement and a 14 foot – five (5) inch riparian buffer variance from the 35 foot requirement of Section 4-12 of the Chatham County Zoning Ordinance, in order to expand an existing deck attached to an existing single-family residence. The subject property, located at 44 Moon River Drive, is zoned R-1/EO (One-Family Residential/ Environmental Overlay).

Findings

1. The subject parcel is irregular in shape, with a minimum width of 65 feet and a minimum depth of approximately 424 feet. The parcel area is approximately 25,520 square feet. The development standards for lots served by public water and private sewer systems require a lot width of 75 feet and lot area of 15,000 square feet. The lot does not meet the minimum requirement for lot width, however it was created by an approved minor subdivision.

2. Section 4-12 of the Chatham County Zoning Ordinance establishes a minimum building setback from the marsh line at 50 feet for lots containing residential structures at the time the Environmental Overlay Ordinance was adopted. The existing structure does not meet the minimum marsh setback requirement and encroaches into the buffer by 31 feet – 10 inches. The petitioner is requesting to extend the encroachment to 36 feet – seven (7) inches in order to expand an existing deck attached to an existing single-family residence.

3. Section 4-12 states that expansion of existing structures within the riparian buffer shall be limited to a maximum of 1400 square feet of vertical surface area for each 100 feet of lot width facing the marsh or waterfront. The minimum riparian buffer shall be 35 feet, 30 percent of which may be altered by pruning and selective clearing for access and to maintain view corridors. The existing structure does not meet the minimum riparian buffer requirement and encroaches into the buffer by 16 feet – 10 inches. The petitioner is requesting to extend the encroachment to 21 feet – seven (7) inches to expand an existing deck attached to an existing single-family residence. The deck will encroach 21 feet – seven (7) inches into the riparian buffer, however no vertical walls will be constructed.

4. Staff has received multiple comments from the public both in opposition to and in support of the petition. Two surrounding property owners expressed their opposition to the variance. Staff met with these individuals on a site visit, during which they expressed their concerns regarding potential impact the development will have on flooding in the area and how the encroachment will degrade the marshland. They indicated that they would attend the public hearing and they have not submitted written comments. Two property owners indicated that they are in support of the petition, one verbally to staff and the other in written form.

5. 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 parcel is considered a conforming 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. However, if the structure on the lot was not in existence and instead

was a proposed new structure, the marsh setback would be 25 feet and the riparian buffer would not be required.

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. If the lot was currently vacant and a new structure was proposed for the subject property, the marsh setback would be 25 feet and the structure would meet the requirement and the riparian buffer would not be required.

Summary of Findings

All of the conditions necessary for granting marsh and riparian buffer variances appear not to be met.

Mr. Day asked if the deck would be extended?

Mr. Su stated that the rooms would meet the deck and there would be a 4 foot walkway added on the outside of the rooms that would extend beyond the existing deck.

Mr. Spreen stated what they were proposing was an additional 7 foot in the buffer of the enclosed space with a 4feet perimeter deck to get around the outside of the home. He said DNR suggested that the footers be hand dug so the impact is low and no machines to compact the soil.

Mr. Day asked if the large tree in the center on the deck was going to be removed?

Mr. Spreen stated yes.

Mr. Day asked if the deck will have spaces so that the water can run thru it.

Mr. Spreen stated that they will take recommendations from County Engineering.

Mr. Jurgensen stated that he and his wife Sandra support the petition.

Ms. Dahlquist stated she was in opposition to the petition because of the damage that it would cause on the marsh area.

Mr. Cohen asked if there is any way not to remove the tree?

Mr. Su stated that either way he would take the tree down because the branches were hanging over the roof of the house.

CZBA ACTION: Mr. Cohen made a motion that the Chatham County Zoning Board of Appeals approve the petition as submitted. Mr. Day seconded the motion. Motion failed 2 - 3. Opposed to the motion were Mr. Felder, Ms. Hitch and Mr. Murphy.

**RE: Petition of Michael Schwind, For
Debbie Flowers
B-080725-00092-1
41 Runabout Lane**

Present for the petition was Michael Schwind.

Mr. Goins gave the following Staff Report.

The petitioner is requesting approval of a 29 foot – 10 inch marsh buffer variance from the 50 foot marsh buffer requirement and a 14 foot – 10 inch riparian buffer variance from the 35 foot requirement of Section 4-12 of the Chatham County Zoning Ordinance in order to install a therapeutic pool. The subject property, located at 41 Runabout Lane, is zoned R-1/EO (One-Family Residential/ Environmental Overlay).

Findings

1. The subject parcel is rectangular in shape, with a minimum width of 65 feet and a minimum depth of 116 feet. The parcel area is approximately 7,405 square feet. Development standards established for lots served by public water and public sewer require a minimum lot area of 6,000 square feet and a minimum lot width of 60 feet.
2. Section 4-12 of the Chatham County Zoning Ordinance establishes a minimum building setback from the marsh line at 50 feet for lots containing residential structures at the time the Environmental Overlay Ordinance was adopted. The existing structure does not meet the minimum marsh setback requirement and encroaches 22 feet into the buffer. The petitioner is requesting to extend the encroachment to 29 feet – 10 inches to install a therapeutic pool.
3. Expansion of existing structures within the riparian buffer shall be limited to a maximum of 1400 square feet of vertical surface area for each 100 feet of lot width facing the marsh or waterfront. The minimum riparian buffer shall be 35 feet, 30 percent of which may be altered by pruning and selective clearing for access and to maintain view corridors. The existing structure does not meet the minimum riparian buffer requirement and encroaches seven (7) feet into the riparian buffer. The petitioner is requesting to extend the encroachment to 14 feet – 10 inches to install a therapeutic pool. No structures will encroach into the buffers, so the vertical surface area will be zero (0) square feet.

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 parcel is considered a conforming 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. However, if the structure on the lot was not in existence and instead was a proposed new structure, the marsh setback would be 25 feet and the riparian buffer would not be required.

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. If the lot was currently vacant and a new structure was proposed for the subject property, the marsh setback would be 25 feet and the structure would meet the requirement and the riparian buffer would not be required.

Summary of Findings

All of the conditions necessary for granting marsh buffer and riparian buffer variances appear not to be met.

Mr. Schwind stated that the therapeutic pool will extend 4 feet off the house and extend 10 feet outward.

Mr. Day stated from a safety stand point this was not a good design because the pool is 4 feet outside of a door.

CZBA ACTION: Mr. Day made a motion that the Chatham County Zoning Board of Appeals deny the petition as submitted. Ms. Hitch seconded the motion and it was unanimously passed.

**RE: Petition of Brenda Marchbanks
B-080725-00091-1
108 Briarberry Bluff Drive**

Present for the petition was Brenda Marchbanks.

Mr. Goins gave the following Staff Report.

The petitioner is requesting approval of a 21 foot – three (3) inch marsh buffer variance from the 50 foot marsh buffer requirement and a six (6) foot – three (3) inch riparian buffer variance from the 35 foot requirement of Section 4-12 of the Chatham County Zoning Ordinance in order to install a pool. The subject property, located at 108 Briarberry Bluff Drive, is zoned R-1/EO (One-Family Residential/ Environmental Overlay).

Findings

1. The subject parcel is rectangular in shape, with a minimum width of 85 feet and a minimum depth of 110 feet. The parcel area is approximately 9,350 square feet. The R-1 district requires a minimum area of 6,000 square feet and a minimum lot width of 60 feet for lots served by Public Water and Public Sewer.
2. Section 4-12 of the Chatham County Zoning Ordinance establishes a minimum building setback from the marsh line at 50 feet for lots containing residential structures at the time the Environmental Overlay Ordinance was adopted. The existing structure does not meet the minimum marsh setback requirement and encroaches 16 feet – eight (8) inches into the setback. The petitioner is requesting to extend the encroachment to 21 feet – three (3) inches to install a therapeutic pool.
3. Section 4-12 states that expansion of existing structures within the riparian buffer shall be limited to a maximum of 1400 square feet of vertical surface area for each 100 feet of lot width facing the marsh or waterfront. The minimum riparian buffer shall be 35 feet, 30 percent of which may be altered by pruning and selective clearing for access and to maintain view corridors. The existing structure does not meet the minimum riparian buffer requirement. The petitioner is requesting to extend the encroachment to six (6) feet – three (3) inches to install a pool. No buildings will encroach into the buffers, so the vertical surface area will be zero (0) square feet.
4. Staff is not aware of any opposition to or support of the petition.
5. 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 parcel is considered a conforming 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. However, if the structure on the lot was not in existence and instead was a proposed new structure, the marsh setback would be 25 feet and the riparian buffer would not be required.

- 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. If the lot was currently vacant and a new structure was proposed for the subject property, the marsh setback would be 25 feet and the structure would meet the requirement and the riparian buffer would not be required.

Summary of Findings

All of the conditions necessary for granting marsh buffer and riparian buffer variances appear not to be met.

Ms. Marchbanks stated that she had surgery that did not turn out well for her. She said for her to stay out of the hospital she needed to do pool exercises. Because of insurance reasons she could not continue to use to the pool at the hospital. She said she also had a prescription from the doctor for a pool.

Mr. Day asked if she considered other options?

Ms. Marchbanks stated yes. She said she tried the Aquatic Center and community pools and have looked into many others and they did not suit her needs.

Mr. Day asked if the pool was in-ground?

Ms. Marchbanks stated yes.

Mr. Schraider stated that he is their neighbor and supports the petition.

CZBA ACTION: Mr. Day made a motion that the Chatham County Zoning Board of Appeals continue the petition until the next regularly scheduled meeting on September 23, 2008. Mr. Felder seconded the motion and it was unanimously passed.

**RE: Petition of Robert McCorkle, For
Lisa Simons
B-080728-00093-1
103 Lyman Hall**

Present for the petition was Robert McCorkle.

Mr. Goins gave the following Staff Report.

The petitioner is requesting approval of a 20 foot marsh buffer variance from the 50 foot marsh buffer requirement and a five (5) foot riparian buffer variance from the 35 foot requirement of Section 4-12 of the Chatham County Zoning Ordinance in order to construct a pool house. The subject property, located at 103 Lyman Hall, is zoned PUD/EO (Planned Unit Development/ Environmental Overlay).

Findings

1. The subject parcel is rectangular in shape, with a minimum width of 130 feet and a minimum depth of approximately 190 feet. The parcel area is approximately 24,829 square feet. The lot is served by public water and public sewer and meets the minimum requirements of the Planned Unit Development.
2. Section 4-12 of the Chatham County Zoning Ordinance establishes a minimum building setback from the marsh line at 50 feet for lots containing residential structures at the time the Environmental Overlay Ordinance was adopted. The existing structure meets the minimum marsh buffer requirement. The petitioner is requesting to encroach 20 feet into the marsh buffer to construct a pool house.
3. Section 4-12 states that expansion of existing structures within the riparian buffer shall be limited to a maximum of 1400 square feet of vertical surface area for each 100 feet of lot width facing the marsh or waterfront. The minimum riparian buffer shall be 35 feet, 30 percent of which may be altered by pruning and selective clearing for access and to maintain view corridors. The existing structure meets the minimum riparian buffer requirement. The petitioner is requesting to encroach five (5) feet into the riparian buffer to install a pool house. The pool house will encroach five (5) feet into the riparian buffer,

however the vertical surface area will be significantly lower than the 1400 square feet allowed.

4. Staff is not aware of any opposition to or support of the petition.
5. 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 parcel is considered a conforming 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. However, if the structure on the lot was not in existence and instead was a proposed new structure, the marsh setback would be 25 feet and the riparian buffer would not be required.

- 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. If the lot was currently vacant and a new structure was proposed for the subject property, the marsh setback would be 25 feet and the structure would meet the requirement and the riparian buffer would not be required.

Summary of Findings:

All of the conditions necessary for granting marsh and riparian buffer variances appear not to be met.

Mr. McCorkle stated that all of the houses in Long Point were built on a lagoon. He said when the petitioner purchased the house in the late 1980's there was supposed to be a golf course

which was a small ditch. At a point-in-time Long Point decided not to build a golf course and dug these lagoons. He said the way they decided to build the lagoon stopped at this house. He said the marsh is well over 100 feet away.

Mr. Day stated although it may have been a ditch when the petitioner purchased the lot, the Board has to treat it as Marsh because that is how it is designated now.

Ms. Hitch asked if there were any pictures of what the structure would look like or what it would contain?

Mr. McCorkle stated it will have plumbing and electrical.

Ms. Hitch asked if there was a Home Owners Association?

Mr. McCorkle stated yes. He said they gave them plans on the building, but they wanted the petitioner to come before the Board first.

Mr. Day asked if the structure was going to be a pool house or a pool house and garage for the golf cart?

Mr. McCorkle stated that the structure will be used for a pool house and garage for the golf cart.

Mr. Day stated he felt that the petitioner needed to just have one thing because there was not enough room for both. He said petitioner needed to try to redesign the plans and come back.

Mr. McCorkle asked for a continuous.

CZBA ACTION: Mr. Day made a motion that the Chatham County Zoning Board of Appeals continue the petition until the next regularly scheduled meeting on September 23, 2008. Mr. Felder second 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 10:42 A.M.

Respectfully submitted,

Geoff Goins,
Assistant Secretary

GG: jm