

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

December 16, 2008

9:00 a.m.

REGULAR MEETING

MINUTES

MEMBERS PRESENT:

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

MEMBERS ABSENT:

Davis Cohen

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 December 16, 2008 Chatham County Zoning Board of Appeals meeting to order at 9:00 a.m.

RE: Regular Agenda

RE: Minutes

1. Approval of CZBA Meeting Minutes – November 25, 2008.

CZBA Action: Mr. Day made a motion that the Chatham County Zoning Board of Appeals approve the minutes of November 25, 2008 as submitted. Mr. Murphy seconded the motion and it was unanimously passed.

RE: Petition of Hurley C. Cook, III
B-081024-00120-1
13 Hardee Drive

Present for the petition is Hurley C. Cook, III.

Mr. Goins gave the following Staff Report.

The petitioner is requesting approval of a 15 foot marsh buffer variance from the 50 foot requirement of Section 4-12 of the Chatham County Zoning Ordinance, in order to install a pool. The subject property, located at 13 Hardee 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 120 feet and a minimum depth of approximately 215 feet. The parcel area is approximately 25,000 square feet of uplands. The R-1 district requires a minimum area of 15,000 square feet and a minimum lot width of 75 feet for lots served by public water and private sewer systems.
2. The petitioner’s original request consisted of a 25 foot marsh buffer variance and a 10 foot riparian buffer variance. The request has been reduced by 10 feet and a riparian buffer variance is no longer required. The petitioner will provide the new site plan at the public hearing.
3. 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 property abuts the marsh on two sides. The existing structure currently meets the minimum marsh buffer requirement from one side and encroaches into the buffer 35 feet on the other. The petitioner is requesting to encroach 15 feet into the marsh buffer on the river side to install a pool.
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. The parcel meets the requirements for minimum area and minimum lot width. The property is an existing legal 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. No topographical or other extraordinary situation exists that would deprive the owner of all reasonable use of the land.

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

The conditions described above are not peculiar to the subject property. All properties with this subdivision that abut a river or salt water marsh are subject to the marsh and riparian buffer requirements.

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.

Staff Recommendation

Staff recommends **DENIAL** of the marsh buffer variance on the grounds that the conditions necessary for granting the variance have not been met pursuant to the Chatham County Zoning Ordinance. No topographical or other extraordinary situation exists that would deprive the owner of all reasonable use of the land.

Mr. Cook stated that he has changed the plans to what the Board advised for him to do from the November 25, 2008 meeting.

CZBA ACTION: Mr. Felder 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 Merrill Levy, For
Christopher Knight
B-081113-00124-1
25 Rose Avenue**

Present for the petition was Merrill Levy.

Mr. Goins gave the following Staff Report.

The petitioner is requesting approval of a 16 foot front yard setback variance from the 25 foot requirement and a 2 foot rear yard setback variance from the 25 requirement of Section 4-6.1 of the Chatham County Zoning Ordinance, in order to construct a single family residence. The subject property is located at 25 Rose Avenue and is within the R-1/EO (One Family Residential

– Environmental Overlay) zoning classification.

Findings

1. The subject parcel is square in shape, with a minimum width of 75 feet and a minimum depth of approximately 79 feet. The parcel area is approximately 5,925 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 sewer systems. The property does not meet the minimum lot area requirement; however it was created prior to the adoption of the Chatham County Zoning Ordinance. Thus, it is considered a legal lot of record.
2. The petitioner is proposing to demolish an existing single family residence with a detached accessory building and construct a new single family residence with a detached accessory building. The existing structure is setback seven (7) feet from the front property line and 23 feet from the rear property line. The petitioner is requesting to maintain the 23 foot rear yard setback and establish a nine (9) foot front yard setback. Section 4-6.1 of the Chatham County Zoning Ordinance requires a rear and front yard setback of 25 feet.
3. The Isle of Hope community was developed prior to the adoption of the Zoning Ordinance in 1962. Many of the existing structures within this community do not meet the 25 foot front yard setback requirement. Section 5-3 of the Chatham County Zoning Ordinance provides that “In any R district, where the average setback distance for existing buildings on lots wholly or partly within 200 feet of any lot, and within the same zoning district and fronting on the same side of the same street as such lot, is less than the minimum required setback, but not less than the existing average setback distance for all lots within the 200 feet. When lots within the 200 feet are vacant, said vacant lots shall be considered as having a minimum required setback for the purpose of computing an average setback distance.” The Zoning Administrator has confirmed to staff that the average setback, given these parameters, is 18 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 substandard lot of record. The parcel meets the requirements for minimum lot width, but does not meet the minimum lot area requirement. However, the property is only deficient 75 square feet from the required 6,000 square feet. The property is an existing legal 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. No topographical or other extraordinary situation exists that would deprive the owner of all reasonable use of the land. Given the reduction permitted pursuant to Section 5-3, the single family residence could be redesigned without a significant loss of square footage.

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

The conditions described above are not peculiar to the subject property. All properties along Rose Avenue have a similar lot depth and the majority are of the same size.

- 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.

Staff Recommendation

Staff recommends **DENIAL** of the front and rear yard setback variances on the grounds that the conditions necessary for granting the variances have not been met pursuant to the Chatham County Zoning Ordinance. No topographical or other extraordinary situation exists that would deprive the owner of all reasonable use of the land.

Mr. Levy stated in the Isle of Hope neighborhood there were not many houses that met the 25 foot front yard setback. He said this variance would be consistent with the rest of the houses in the area. He said because of the petitioner’s occupation it required that the lot have a detached garage in order to house a boat and marine equipment. He said he also had pictures of a couple of houses along Rose Avenue that are built right on the road if the Board wanted to see them.

Mr. Knight stated he had letters from all surrounding property owners supporting the petition.

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

**RE: Petition of Buster Woods, For
Johnny O’Quinn
B-081113-00125-1
236 Catalina Drive**

Present for the petition was Buster Woods.

Mr. Goins gave the following Staff Report.

The petitioner is requesting approval of an expansion of a non-conforming use (boat dock) pursuant to Section 10-6.4. The subject property is located at 236 Catalina Drive and is within R-1/EO (One Family Residential – Environmental Overlay) zoning classification.

Findings

1. The petitioner desires to add an additional five (5) foot by 120 foot section of walkway and a 10 foot by 10 foot covered area to an existing nonconforming dock.
2. Section 8-2 of the Chatham County Zoning Ordinance requires Board of Appeals authorization to extend a nonconforming use to occupy a greater area of land.
3. The Chatham County Zoning Ordinance states that an accessory structure (a dock) can only be placed on a lot with a principal use (a residence). As there is no residence on the lot which the existing dock occupies, the Zoning Administrator has determined the dock to be a nonconforming use. Thus, requiring Zoning Board Appeals approval to expand the dock.
4. Staff has received verbal opposition to the proposed dock expansion from three surrounding property owners. The concerns raised were centered around additional vehicle traffic/parking and the potential loss of view shed.
5. The petitioner has submitted a Letter of Permission from the Georgia Department of Natural Resources Coastal Resources Division.

Staff Recommendation

Staff recommends **APPROVAL** of the expansion of the nonconforming dock.

Mr. Felder asked if there was any room to build a house on the lot.

Mr. Goins stated no.

Mr. Woods stated that the petitioner has owned the property since 1970 and the dock was built in 1975. He said they were requesting the variance for the 10 X 10 cover on the deck, so they could get some shade if needed. He said the walkway improvement was asked from DNR in order to keep people from walking through the marsh grass.

Mr. Noha asked when there is high tide, how deep does the water get where it needs the improvements?

Mr. Woods stated 6 to 8 inches.

Ms. Hitch asked how many cars would fit at the entrance?

Mr. Woods stated 3 or 4 cars.

Ms. Roberts stated she is concerned with the parking and also wanted to make sure the walkway is elevated out the marsh. She said she had 12 letters in opposition to the variance from surrounding property owners.

Mr. Longwater stated he was in opposition because he felt that the roof on the dock would block the view to the river, but he is in support with the walkway.

Ms. Bevill stated that they comply with everything that the DNR has requested of them to help improve the property.

CZBA ACTION: Mr. Felder made a motion that the Chatham County Zoning Board of Appeals approve the petition as submitted. Mr. Day seconded the motion. The motion passed 3 - 1. Opposed to the motion was Mr. Murphy.

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 9:43 A.M.

Respectfully submitted,

Geoff Goins,
Assistant Secretary

GG/jm