



C H A T H A M C O U N T Y
Z O N I N G B O A R D O F A P P E A L S

Arthur Mendonsa Hearing Room
July 23, 2013 - 9:00 A.M
Minutes

July 23, 2013 Chatham County Zoning Board of Appeals Meeting

Members Present: Brian Felder
James Overton
James Blackburn Jr.
Quentin Marlin
Wayne Noha

Members Not Present: Lucy Hitch, Chairman
Coren Ross, Vice Chairman

Staff Present: Marcus Lotson, Secretary
Constance Morgan, Assistant Secretary

Advisory Staff Present: Bob Sebek, County Zoning Administrator
Jeff Kirkland, County Engineer

I. Call to Order and Welcome

1. [Call to Order](#)

Due to the absence of the Chairman and Vice Chairman, Mr. Brian Felder served as acting Chairman. He called the meeting to order at 9:01 A.M.

II. Notices, Proclamations and Acknowledgements

III. Petitions Ready for Hearing

IV. Approval of Minutes

2. [Approval of the June 25, 2013 CZBA Meeting Minutes](#)

Attachment: [June25th.pdf](#)

Board Action:

Approval of the minutes as submitted. - PASS

Vote Results

Motion: Anthony Wayne Noha

Second: James Overton

James Blackburn Jr. - Not Present

Brian K. Felder - Aye

Quentin L. Marlin - Aye

Anthony Wayne Noha - Aye

James Overton - Aye

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

The Consent Agenda consists of items for which the applicant is in agreement with the staff recommendation and for which no known objections have been identified nor anticipated by staff. Any objections raised at the meeting will result in the item being moved to the Regular Agenda.

VI. Consent Agenda

VII. Old Business

VIII. Regular Agenda

3. [6707C Johnny Mercer Boulevard - Use Change in a PD-N \(Planned Development Nonconforming\) Zoning District-](#)

Attachment: [Staff Report.pdf](#)

Attachment: [Maps.pdf](#)

Attachment: [Photo.pdf](#)

Present for the petition was:

Mr. Marcus Lotson gave the following summary;

The petitioner is requesting approval of a change to a non-conforming use pursuant to Section 8-4 of the Chatham County Zoning Ordinance. The subject property is located at 6707C Johnny Mercer Boulevard. The property is within the P-D-N/TC Planned Development for Certain Nonconforming Uses/Town Center Overlay) zoning classification. The petitioner is requesting a change in use to establish a medical equipment sales office on a site located at 6707C Johnny Mercer Boulevard. The site is presently occupied by a multi tenant shopping center. Staff recommends **approval** of the use change.

Speaking on the petition: Terri and Tamiko Williams, petitioner stated that she felt that this would be a good fit for the community. There are no medical equipment companies on

Wilmington Island at this time. She added that she will carry an array of products that will benefit the people in the community. She continued that there will also be workshops to educate the community on breast cancer awareness, cooking with diabetes and participation in the health fairs.

Board Action:

Staff recommends **approval** of a change from a nonconforming retail furniture store to a medical supply sales office. - PASS

Vote Results

Motion: James Blackburn Jr.

Second: James Overton

James Blackburn Jr.	- Aye
Brian K. Felder	- Aye
Quentin L. Marlin	- Aye
Anthony Wayne Noha	- Aye
James Overton	- Aye

4. [104 Bryan Woods Road - A Variance to the Sign Standards of Section 4-12 of the Zoning Ordinance](#)

Attachment: [Staff Report.pdf](#)

Attachment: [Maps.pdf](#)

Attachment: [photos.pdf](#)

Present for the petition was: James P. Gerard, Agent

Mr. Marcus Lotson gave the following summary;

The petitioner is requesting a variance from section 4-12 of the Chatham County Zoning Ordinance Development Standards in the Environmental Overlay (EO) District regarding the use of neon lighting. The signage standards within Section 4-12, Development Standards in the Environmental Overlay (EO) District, are more restrictive than the base sign standards in the Zoning Ordinance. These standards were developed through a technical advisory committee and made up of citizens and staff as well. Adopted sign standards that was approved included the prohibition of neon signs in the environmental overlay both as signage and as building detail. The petitioner's property, known as Uncle Bubba's Restaurant, has fascia signage and neon building detailing on the front of the structure. This was brought to the attention of the Chatham County Building Safety and Regulatory Services and this is why it is before this board. In a review of the ordinance it states that all illumination of signs shall be external. Neon and internally illuminated signs are prohibited. Neon is prohibited for building detailing. Based on this staff finds that there is no hardship associated with this signage nor would there be with removing it. Staff recommends **denial** of the variance.

Speaking on the petition: James Gerard, Agent stated that the subject property is environmentally sensitive to the surrounding properties. He explained that the building had earth tones to it and the landscaping around the building is tall trees. He presented photographs of the layout of the property and the surrounding properties. He added that there has been no complaint from the surrounding property owners because of the layout of the subject property. It is barely seen because of the tree line that serves as a buffer from the neighboring properties. He stated that without the signs most people would not know that the restaurant exists at this location. He added that the business would be hurt by the removal of the sign. This restaurant has been in business since 2004, and until now they have not received any complaints regarding the signage. He asked that this petition be approved as submitted.

Board Action:

Approval of the petitioner's request. - PASS

Vote Results

Motion: James Blackburn Jr.

Second: Brian K. Felder

James Blackburn Jr. - Aye

Brian K. Felder - Aye

Quentin L. Marlin - Abstain

Anthony Wayne Noha - Aye

James Overton - Aye

5. [6210 LaRoche Avenue - Front Yard and Marsh Buffer Setback Variance Requets](#)

Attachment: [1993 MPC Decision.pdf](#)

Attachment: [County Atorneys Memo.pdf](#)

Attachment: [LaRoche Plat.pdf](#)

Attachment: [Maps.pdf](#)

Attachment: [Photos.pdf](#)

Attachment: [Recorded SD Plat Lots A, B and C.pdf](#)

Attachment: [Superior Court Order March 21, 2008.pdf](#)

Attachment: [Staff Report.pdf](#)

Present for the petition was: Jeff Harris, Petitioner

Mr. Marcus Lotson gave he following summary;

The petitioner is requesting two variances related to the construction of a single family residential structure on an undeveloped marsh front lot. Variance 1; a 30 foot front yard setback variance from the 85 foot requirement of section 4-6.1 of the Chatham County Zoning Ordinance; Variance 2; a 10 foot marsh buffer setback variance from the 35 foot requirement of section 4-12 of the Chatham County Zoning Ordinance. Mr. Lotson went

on to explain a brief history that relates to this petition coming before the MPC and the Board of Appeals. In 1993, a previous owner came before the board requesting a revision to the recorded plat to this property for the purpose of removing a note on that plat that essentially said that the lot was not a buildable lot. For a number of reasons at that time the MPC denied that request based on the fact that the site was unsuitable for a septic system and drain field which was the only means of sewer at the time. In February 2010, the current owner of the subject property, Mr. Harris submitted a request to revise the plat to remove the note regarding the unbuildable nature of the lot. The MPC denied the request of Mr. Harris and he chose to take the petition before the Superior Court of Chatham County. The MPC was directed at this point to remove the note and did so. Since the decision by the court, the note has been removed and the site has been deemed a buildable site, however, as the owner Mr. Harris is still required to meet the development standards of the property or seek a variance. He presented a photograph of the subject property located off Laroche Avenue. Staff recommends denial of the front yard setback variance; however, based on the fact that there has been a change in the ordinance in terms of the marsh setback since Mr. Harris has required the property staff is recommending approval of the 10 foot marsh buffer variance setback request.

Speaking on the petition: Kristy Sweat, Agent described the reasons for the variance request. There was some discussion from the panel earlier regarding where the actual 85 foot setback would fall on the property. She asked that Mr. Smith, contractor, be allowed to demonstrate where the line would fall.

Mr. Mike Smith, Contractor gave a brief presentation with drawing of the property depicting where the lines would fall and what buildable area would remain. This variance would give a pie shaped area in the rear of the property.

Ms. Sweat stated that denial of the request essentially renders the lot unbuildable. Back in 2010 Mr. Harris did submit a building footprint with his petition to have the note rendering the lot unbuildable removed from the plat. He has not had new plans drawn up because the original plans were very costly. Right now it does not make sense to incur an additional expense for plans to be drawn.

There was brief discussion between Mr. Smith and board members.

Jeff Kirkland, County Engineer stated that any proposed disturbance would be further than 25 feet from the point of wretched vegetation, so during construction no State waters buffer will be required. Additionally, this lot has the remnants of rip-rap armor along the banks of it and this will also preclude the need for a state waters buffer variance.

Ray Gaskin, stated that he lives on Laroche Avenue thus his interest in this project. He stated that this project has a very long history. He expressed that the subject property is located in one of the most scenic areas in the community. He stated that the original property owner, Mr. Green had possession of this property in the late 1970's. He continued with a short history on how the subject property was created. He stated that Mr. Green once dumped concrete, shrubbery, and tree limbs from his tree trimming business along the marsh, in order to create more upland.

Connie Cannon, stated that she was opposed to the variance request before the board. This has been an ongoing situation for her for over eleven years. She asked; 1) why the

petitioner would buy a lot that was designated unbuildable and; 2) why the judge did not uphold the MPC decision that the lot was non-buildable. She stated that in January 2002, County Manager, Russ Abolt sent her a letter regarding the buildability of the lot. The letter stated that the site was unable to accept a septic tank to support it. That the site may have been filled to obtain high ground and the site was subject to marsh setbacks. The building permit to the previous owner was declared void, invalid, and all fees were returned. In 2004, a petition was made to this board by Mr. Donaldson to have a 40 foot front yard setback at 6407 Laroche Avenue. This board denied the petition on the grounds that the relief would cause substantial detriment to the public good. She added that to her knowledge this was the only piece of marsh land in this immediate neighborhood to grant an appeal was made. She continue to explain the results of her investigation of this site and the safety concerns she had regarding this lot. She asked that Mr. Harris be compelled to obey the law as it reads. She presented photographs of the subject location to the board.

Mr. Bobby Cannon addressed the board stating that their decision will impact not only Mr. Harris but will also impact him and his wife. He asked that they listen intensively to the information that is being presented to them today. He stated that he also was very much opposed to any variance to the setback requirements. He asked that this petition be denied and that the county purchase the subject property from Mr. Harris for the amount that he has paid for it and turn it back to the salt water marsh from which it came.

Clay Mobley, Georgia Conservatory did a brief recap on the letter that he had submitted to the board. He stated that based on the marsh buffer that the Conservatory felt that it would be a big compromise to build on this lot. As an organization, they feel that the marsh buffer should be more like fifty feet. Also, one of the big concerns is how the lot was made originally. This is just not a suitable location for a home. This would be a huge disservice to someone that lived here. It is vulnerable to tropical storms and hurricanes and would be a liability to the county. Based on these reasons, the Georgia Conservatory feels that this request should be denied.

Ms. Annette Gadson, neighborhood resident stated that there are laws and they are there for a reason. This property was deemed unbuildable by these laws. The present owner, she added does not have the right to come now and state that they have fought the system and have had the laws changed. She asked that the petition be denied.

Christy Sweat was asked if the owner intended to build on this property and she responded that he did.

Mr. Felder asked the builder, Mike Smith, how he intended to build on this lot.

Mr. Smith responded that he would obtain a soil sample and drill to see what is actually there. He stated that north of the property on Majestic Oaks is water and sewer. There will be no septic tank on the property.

There was further discussion from the Board.

Board Action:

Staff recommends **denial** of the 30 foot front yard setback variance. - PASS

Vote Results

Motion: James Overton

Second: James Blackburn Jr.

James Blackburn Jr. - Aye

Brian K. Felder - Aye

Quentin L. Marlin - Aye

Anthony Wayne Noha - Aye

James Overton - Aye

Board Action:

Approval of the 10 feet marsh buffer setback variance. - PASS

Vote Results

Motion: Quentin L. Marlin

Second: Anthony Wayne Noha

James Blackburn Jr. - Aye

Brian K. Felder - Nay

Quentin L. Marlin - Aye

Anthony Wayne Noha - Aye

James Overton - Nay

IX. Other Business

6. [Request from the Board.](#)

Mr. Quentin Marlin asked that a representative from the County Attorney's office attend the next scheduled CZBA meeting, August 27, 2013. He stated that the letter that was sent from the County Attorney's office with an opinion on the preceding petition should have had its representative here to answer any questions this board may have had.

Mr. Felder agreed and requested that Mr. Sebek speak with the author of the letter and ask that she be available for the next scheduled meeting to answer questions and concerns from the board.

7. [Parliamentarian Workshop](#)

Marcus Lotson informed Board Members of the Parliamentary Procedure Workshop scheduled for July 29, 2013 at 9:00 A.M -2:00 P.M. Ms. Sarah Merkle, a registered professional parliamentarian will be giving information to board members on questions that come up procedurally in terms of meetings .

X. Adjournment

8. [Adjournment of the July 23, Chatham County Zoning Board of Appeals Meeting](#)

There being no other business to come before the board, Mr. Brian Felder declared the July 23rd Chatham County Zoning Board of Appeals meeting adjourned.

Respectfully submitted,

Marcus Lotson, Secretary

Note: Minutes are not official until signed.

/cm

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.