



Chatham County Zoning Board of Appeals

Virtual Meeting
February 22, 2022 - 9:00 A. M.

February 22, 2022 Chatham County Zoning Board of Appeals

Members Present: James Coursey, Chair
Robert Vinyard, Vice-Chair
Benjamin Polote
Coren Ross
Meredith Stone

Others Present: Pamela Everett, Esq., Assistant Executive Director
Marcus Lotson, Development Services Director
Nirav Gandhi, Development Services and Historic Preservation Planner
Jacqualle Johnson, Development Services Planner Technician
Melissa Paul-Leto, Development Services Planner
Julie Yawn, Systems Analyst
Mary E. Mitchell, Administrative Assistant

I. Call to Order and Welcome

[1. Call to Order and Welcome](#)

Mr. Coursey called the meeting to order at 9:00 a.m. and welcomed everyone in attendance. He explained that this is a quasi-judicial proceeding. All those wishing to give testimony during these proceedings will please sign in. Witnesses will be sworn-in prior to giving testimony. All proceedings of the Chatham County Zoning Board of Appeals are recorded. Decisions of the Chatham County Zoning Board of Appeals are final. Challenges to the decisions of the Chatham County Zoning Board of Appeals must be filed through the Superior Court of Chatham County.

II. Pledge of Allegiance

[2. Pledge of Allegiance](#)

The Pledge of Allegiance was recited in unison.

III. Notices, Proclamations and Acknowledgements

IV. Petitions Ready for Hearing

V. Approval of Minutes

[3. Approval of December 14, 2021 Meeting Minutes](#)

📎 [December 14, 2021 Meeting Minutes.pdf](#)

Motion

The Chatham County Zoning Board of Appeals [CZBA] does hereby approve the December 14, 2021 Meeting Minutes.

Vote Results (Approved)

Motion: Robert Vinyard

Second: Benjamin Polote, Jr.

James Coursey	- Aye
Coren Ross	- Aye
Meredith Stone	- Aye
Robert Vinyard	- Aye
Benjamin Polote, Jr.	- Aye

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

VII. Consent Agenda

VIII. Old Business

IX. Regular Agenda

[4. Variance requests to the maximum height of the principal structure and accessory structure, and to the maximum size of an accessory structure | 43 Falligant Avenue | ZBA-0122-000220](#)

📎 [SAGIS MAP.pdf](#)

📎 [Application.pdf](#)

📎 [PLAN SET.pdf](#)

📎 [Draft Text Ammendment to Section 2 Definitions; Section 3-6.1 Location of Accessory Buildings on Residential Lots.pdf](#)

📎 [Staff Report.pdf](#)

Ms. Melissa Paul-Leto gave the staff report. The petitioner is requesting variances from Section 4-6.1 and Section 3-6.1(b) of the Chatham County Zoning Ordinance, Development Standards for Dwellings, which states that the maximum height of a structure shall be 36 feet. The applicant is requesting three variances for a proposed single-family residence with a detached accessory structure at 43 Falligant Avenue. The requested variances are the following:

- A 4-foot variance to allow up to 40 feet in height for the principal residence
- A variance to allow an accessory structure to be two-stories in height
- A variance to allow an accessory structure to exceed 600 square feet from the required 900 square feet in size

Ms. Paul-Leto stated that the applicant is requesting to exceed the maximum required size of a detached accessory building. The maximum size requirement for a detached accessory building is 900 square feet. The applicant is proposing a 1500 square foot accessory building. The required height of an accessory building is a maximum of one-story, whereas the applicant is proposing two-stories in height to include a garage on the first floor and office space on the second floor.

Ms. Paul-Leto explained that there is currently a draft text amendment to the Chatham County Zoning Ordinance regarding Section 2 Definitions; Section 3-6.1 Location of Accessory Buildings on Residential Lots. The draft ordinance was approved at the Metropolitan Planning Commission on November 23, 2021 and will be presented at the County Commission Meeting for first reading on February 25, 2022,

with a second reading on March 11, 2022.

Ms. Paul-Leto stated that the text amendment addresses the maximum size of an accessory building based on the lot area of the parcel. It states, "If a residential parcel exceeds the required lot area by a minimum of 25%, the square footage (building footprint) may be increased to a maximum of 1,200 square feet. If a residential parcel exceeds the required lot area by a minimum of 50%, the square footage (building footprint) may be increased to a maximum of 2,000 square feet." The minimum lot area in the R-1-A/EO zoning district with private water and a private waste system is 30,000 square feet. The subject parcel is 46,173.6 square feet in lot area, slightly over 25% of the minimum lot area. If the text amendment was currently active, the applicant would be able to construct an accessory building with a size of 1,200 square feet, which would minimize the applicant's variance request from 600 square feet to 300 square feet.

Ms. Paul-Leto explained staff finds that applying the maximum height of the principal dwelling and the maximum height and size of the accessory building does not prohibit development on the property. However, under the proposed amendment, a variance to the accessory building height would not be required. The development pattern along Falligant Avenue includes large lot single family residences, which can accommodate a greater building scale.

Ms. Paul-Leto reported that based on the findings identified in the staff report, staff recommends approval of the petitioner's request.

Ms. Paul-Leto entertained questions from the Board.

Mr. Coursey asked Ms. Paul-Leto if the proposed text amendment was posted as he wanted to read it.

Ms. Paul-Leto pulled up the proposed text amendment. She explained that the proposed text amendment talks about the definition and the changes to the proposed definition, changes, and location.

Mr. Coursey asked staff if they have received any questions regarding the proposed text amendment.

Mr. Lotson explained that the MPC staff worked with the County to come up with the proposed text amendment. There has been a lot of concerns about accessory buildings. They found out that the accessory buildings were not in the County's Ordinance. Also, in a number of cases, throughout the County, there are a large number of rural subdivision lots. In the current regulations concerning square footage and height, were not consistent with some of the development patterns, especially on the islands. The staff spent a considerable amount of time reviewing the proposed text amendment with the Planning Commission. The Planning Commission reviewed and talked about the proposed text amendment during several of their meetings. The Planning Commission forwarded the proposed text amendment recommendation to the County Commission that the Board is reviewing now.

Mr. Coursey asked staff to explain how the petition before them today fits in with the proposed text amendment.

Mr. Lotson explained that in the applicant's case today, one of his requested variances would be eliminated. He said regarding the accessory building, the petitioner's request for the increase in square footage would be minimized, but the petitioner would still be requesting a variance under the text amendment.

Mr. Coursey asked if the petitioner is requesting a variance of an Ordinance that has not, yet, been approved.

Mr. Lotson explained that the petitioner is requesting a variance based on the current Ordinance. If the text amendment is adopted, the petitioner would still be requesting a variance, but it would be lessened.

Mr. Coursey said the ZBA presently do not know if the County Commission will pass this text amendment.

Mr. Lotson concurred and said in his opinion, he thinks the ZBA today should be ruling on the petitioner's variance based on the Ordinance how it is now? However, staff just wanted to present the proposed text amendment to them today so they will know what is currently being proposed.

Mr. Coursey stated that if the Board denies the variance request based on the current Ordinance, would this mean that the petitioner would have to comeback and redo the entire process again?

Mr. Lotson stated that based on what the petitioner is requesting, a variance to the height of his principal proposed dwelling, that variance stands regardless. The petitioner needs this under the present Ordinance or the proposed Ordinance. When it comes to the accessory building, the petitioner is requesting two variances. One is for the height, which would go away should the proposed text amendment be approved. But, the request for the square footage which would be lessened by approximately 50% in terms of the variances that the petitioner is asking for, should it be approved. If the petitioner is denied today, he would be looking at reconsidering his design choices in terms of the multi-residence and the accessory building.

Mr. Coursey stated that maybe the Board needs to continue this petition to the meeting of March, 2022 to see whether the text amendment is passed.

Mr. Lotson explained that at this stage, the Board would be reviewing the same request, but it would be through the lens of the amended Ordinance.

Mr. Polote asked staff if they have received any objections from the surrounding neighbors.

Mr. Lotson answered that staff has not received any objections to this request.

Ms. Ross stated that she believes that this request should be considered under the current Ordinance, rather than with the amendment.

Mr. Coursey said what he is about to ask has nothing to do with the petitioner's request; but, he wanted to know if there is anything going on at the County concerning breezeways connecting these accessory buildings.

Mr. Lotson explained that there is some language in the proposed amendment that addresses breezeways. It is covered in the "definition" section of the Ordinance. Mr. Lotson read the proposed definition for the breezeways. He explained that in the current Ordinance, there is no definition regarding breezeways.

Mr. Coursey explained, for the Board's benefit, that in past cases where accessory buildings were on large lots, as long as they were attached by a breezeway, they were considered as a part of the principle residence. He said essentially, you could have two houses on one lot. But, apparently, this is being closed.

Mr. Lotson answered that there have been a number of examples with homeowners using that idea as a way to get around the rule, but this loop has been closed.

PETITIONER COMMENTS

Mrs. Heather Beason came forward and introduced herself and stated that her husband, Thomas Beason, was online. Mrs. Beason explained that they purchased the property hopefully to be able to build their dream home. They presented a full plan to the Building Safety and Regulatory Services Department to have a more cohesive and aesthetic plan for the entire property. Ms. Beason explained that since they have purchased the property, they have tried to preserve, beautify, and take care of the home, along with being conscious of what is around them. She stated that they have three children.

Mrs. Beason stated that the way the staircase is placed in the home, it does not allow them to use the entire space underneath for their cars. The secondary attachment would allow them to store things. They want to build a secondary structure that is cohesive in design elements that complements the home as well. Mr. Beason stated that he did not have anything else to add to what his wife has stated.

Mrs. Beason added that they sent extra documentation verifying the structures that are already on the island showing that they were erected and built. She explained that on the adjacent property to them, a secondary structure is there. She said also they kept visualization in mind as to where they would place

their secondary structure. In other words, they discussed how it would appear and how it would look from the road. She said she and her husband discussed how the structure would serve their needs and not impose on anyone else. Mrs. Beason said their neighbor has a four car garage. Therefore, they will abut their secondary structure to the neighbor's structure. They have talked with their neighbors on both sides of them about adding the secondary structure. The neighbors are pleased that they have been taking care of their property as it was not so pleasant before they purchased it as overgrown trees, etc. were here.

Mrs. Beason said there are several other detached accessory garages here that exceed the 900 square feet limit. She showed the Board a picture of a structure down the street from them. She said it appears to be small, but the secondary structure is actually about 1600 square feet. She also showed the Board a picture of a structure that is a little further down the street that has a two story detached structure, as well as a one story detached structure that consists of three enclosed garage spaces, two open bay spaces, as well as what looks like a dwelling for an air condition. Ms. Beason also showed the Board a secondary structure that is detached by a breezeway, which the home plan allows for this. She said they could have looked at a home plan that allows for a breezeway, but this would have eliminated their ability to build a structure off the ground for flooding and hurricane purposes. Therefore, they have tried to be consistent with their design.

Mrs. Beason entertained questions from the Board.

Mr. Coursey asked Ms. Beason if they have gotten any objections from the neighbors.

Ms. Beason answered that she met one of their neighbor this morning who was here to get more information on their petition. She said she explained to the neighbor what they were planning to do. If he has any additional questions, she would be happy to talk with him.

PUBLIC COMMENTS

Mr. Scott Knudsen, resides at 32 Falligant Avenue, came forward and said he is aware that Mr. and Mrs. Beason have a business on the river. Once he saw that they were requesting to build a separate structure, he was quite concerned about the commercial aspect. Mr. Knudsen stated that after Mrs. Beason explained everything to him this morning, he was able to see that they are requesting residential. Presently, he feels comfortable with their plan. Mrs. Beason told him that their secondary structure will abut Reggie's structure. This will be fine as it all will match.

Mr. Coursey asked Mr. Knudsen where does he live in relation to the Beasons.

Mr. Knudsen answered that he lives diagonally across the street from the Beasons. His neighbor's, Reggie, structure is mostly covered by trees and bushes. Therefore, this is a barrier and he does not know that it is there.

BOARD DISCUSSION

Mr. Vinyard said that initially, he was inclined for the Board to continue this petition as he was somewhat concerned that in the plans, one of the rooms over the garage said "meeting room." He said a business could not be operated in a residential zone. Therefore, the meeting room should be deleted from the plans.

Mrs. Beason explained that the structure also does not allow her husband to work in their home. They do operate a business; however, it is a single owner-operator business.

Mr. Vinyard asked Mrs. Beason what is the nature of the business.

Mrs. Beason answered that the business is "Hydrographic Surveying."

Mr. Vinyard asked if customers would be coming to their front door.

Ms. Beason answered no. Factually, they go to their customers.

Motion

The Chatham County Zoning Board of Appeals does hereby approve the petitioner's variance request to the maximum height of the principal structure and accessory structure, and to the maximum size of an accessory structure at 43 Falligant Avenue.

Vote Results (Approved)

Motion: Robert Vinyard

Second: Benjamin Polote, Jr.

James Coursey	- Aye
Coren Ross	- Aye
Meredith Stone	- Aye
Robert Vinyard	- Aye
Benjamin Polote, Jr.	- Aye

[5. VARIANCE REQUEST | 809 Betz Creek Rd | File No. ZBA-0122-000215](#)

📎 [Application and Drawings.pdf](#)

📎 [Photo.pdf](#)

📎 [SAGIS Map.pdf](#)

📎 [Staff Report.pdf](#)

📎 [Paul Scott Letter Support.pdf](#)

📎 [Malia Ott Support Letter](#)

Mr. Nirav Gandhi gave the staff report. The petitioner is requesting a setback variance on an accessory structure. According to Sec. 3-6.1 Location of Accessory Buildings on Residential Lots, accessory structures in the front yard on waterfront lots must be a minimum 10 ft from adjoining property lines. The applicant is requested an 8 ft variance to reduce that minimum distance to 2 ft. The subject property is 1 acre in size and is located on Betz Creek Road. The zoning classification is R-1/EO (Single Family Residential, Environmental Overlay).

Mr. Gandhi stated that all nearby properties are zoned similarly and also have single family homes on large lots. Under the current zoning regulations, the minimum required setback is 10 ft for the proposed carport. The applicant is requesting to reduce that distance to 2 feet in order to place the carport on the already existing concrete slab on the side of their driveway. Many other properties in the area have accessory buildings that appear to be encroaching into the neighbor's setback lines and properties.

Mr. Gandhi said that the petitioner has provided an exhibit showing the location of the proposed structure. It is located approximately 5 feet from the eastern property line on the side of the driveway. Any proposed development would be required to adhere to all site and building requirements of Chatham County through their permitting process. The only action being considered by the Zoning Board of Appeals is the requested setback variance; the applicant will still be required to obtain a building permit.

Mr. Gandhi said the staff is recommending denial of the request mostly because of the fact that it will be creating the hardship that they are trying to get a variance for. He said there is plenty of other spaces that the petitioner could put the carport that would conform with the Ordinance.

Mr. Gandhi entertained questions from the Board.

PETITIONER COMMENTS

Mr. Paul Scott said he was somewhat surprised by the staff's recommendation for denial. Mr. Scott explained that this is an existing concrete pad that they have been parking on for some time. The neighbors on both sides support their petition. Mr. Scott said he does not understand what is being said

that they have other places where they can put the carport. He has a drain fill in the front yard; therefore, it is impossible for him to put the carport there. Oak trees are all around here. Consequently, he could not put the carport on the other side or move it forward because of the oak trees. Mr. Scott showed the Board a picture of the area and said he guesses he could cut the trees down, but he did not believe anybody would like for him to so.

Mr. Scott said this morning when he reviewed the writeup, it shows that he could possibly put the carport in the backyard. But, that is impossible because there is no way that he can get around the house. The lots are long, but they are narrow. He did not pour the concrete pad, but he believes it has been here for a long time. As the concrete pad is here, they have been utilizing it. Both neighbors on both sides support the request. One letter is attached to the agenda and he gave Mr. Lotson the other letter this morning. Mr. Scott explained that it is impossible for him to pull forward because someone would hit the car when they come into his driveway. He only wants to place the carport on the existing parking pad; he is actually cutting back a little bit on the overhang just to try to make it fit as best as possible.

Ms. Stone asked Mr. Scott to point out on the overhead view, exactly where the drain-fill is located in his front yard.

Mr. Scott pointed out that the drain-fill is on the other side of the driveway; it is elongated, probably the length of the front yard. It is impossible for him to remove the drain-fill. The oak trees are located in the area as you come in, it is completely canopied. He does not know what they could do differently. As the Board can see, it is impossible for them to go to the backyard. Mr. Scott showed the Board his elevation drawings. They want to have a simple carport with metal roof. It will be completely open.

Mr. Coursey asked Mr. Scott who is his neighbor on the immediate right.

Mr. Scott answered that the neighbors on his immediate right are Brian and Malia Ott. Mr. & Mrs. Ott have given him a letter of support. The other neighbor is Gerald Counihan. He said that Mr. and Mrs. Counihan support his request also.

PUBLIC COMMENTS

None.

BOARD DISCUSSION

Ms. Ross said this property is around the corner from where she lives. She took the opportunity and drove by Mr. Scott's location. She understands clearly what Mr. Scott is saying. Ms. Ross said she additionally agrees with Mr. Scott that he is unable to drive around his house in order to access an accessory structure, even if it was possible to place one in the backyard. Therefore, she is in favor of the carport as the petitioner has requested.

The Board was in agreement with Ms. Ross.

Motion

The Chatham County Zoning Board of Appeals does hereby approve the petitioner's request for setback variances on an accessory structure as requested at 809 Betz Creek Road. .

Vote Results (Approved)

Motion: Robert Vinyard

Second: Coren Ross

James Coursey - Aye

Coren Ross - Aye

Meredith Stone - Aye

Robert Vinyard - Aye

Benjamin Polote, Jr. - Aye

X. Other Business

XI. Adjournment

Mr. Coursey explained that a few weeks ago, staff gave him heads-up about a Court of Appeals matter. This matter is scheduled to come before the Superior Court that involves a zoning issue that may involve their practices here. The facts of the case are generally that a developer, prior to purchasing a piece property in Forsyth County, went to the Zoning Administrator to see if all was well. The developer had assurances from the Zoning Administrator that all was well. But, the next month, the Forsyth County Board of Commission amended the County's development zoning code to prohibit the development of lots that size. The question was, "When was the constitutional rights vested?" Interestingly, the Court of Appeals says the developer rights are vested, even if he did not own the property at the time and his rights were vested when he received the assurances from the Zoning Administrator that all was well. This was done before any building permits were submitted. This is quite an interesting situation; as to why the Court of Appeals ruled in that way is a little different.

Mr. Coursey asked the staff, speaking from the Chatham County's standpoint, "How do we work it here it? Do we give assurances early on?"

Mr. Lotson answered he sent the information to Mr. Coursey because this is something they would be very concerned about. He explained that on a daily basis, staff has conversations with potential developers and homeowners about what they can and cannot do. There are processes in both the City of Savannah and Chatham County where a person can request an official determination from the person who is empowered to make those decisions. But, regularly, they will go through an Ordinance with a person and say "Here are the rules associated with that piece of property." Therefore, this would be a concern for them if these conversations, which was the case here that Mr. Coursey is describing, essentially gave that person on the other end of the phone call, vested rights based on what was said in a meeting or in a telephone call.

Mr. Lotson explained that what staff does if it is something that is fairly significant, they will send the person to the Administrator who can tell the person what the formal process is so that they can receive something in writing from the governing body saying on this piece of property you are allowed to do **A, B, and C**.

Mr. Coursey explained that recently he had a private client that was under a contract to purchase a piece of property. The client went to the City of Savannah for a zoning determination letter; and the client received the letter. He said he could understand where rights were vested at that point, but what about discussions?

Mr. Lotson said staff will be following the Forsyth matter to see what happens.

There being no further business to come before the Chatham County Zoning Board of Appeals, Mr. Coursey adjourned the meeting at approximately 9:50 a.m.

Respectfully Submitted,

Marcus Lotson
Development Services Director

ML:mem

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.