



## Chatham County Zoning Board of Appeals

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Arthur A. Mendonsa Hearing Room  
March 28, 2023 - 9:00 A.M.  
Meeting Minutes

### MARCH 28, 2023 CHATHAM COUNTY ZONING BOARD OF APPEALS

Members Present: James Coursey, Chairman  
Robert Vinyard, Vice Chairman  
kewaan Drayton  
Ashley Field  
Coren Ross  
Meredith Stone

Members Absent: Benjamin Polote

Others Present: Marcus Lotson, Development Services Director  
Nirav Gandhi, Development Services Planner and Historic  
Preservation Planner  
Mary E Mitchell, Administrative Assistant  
Warren Durrer, Executive Assistant

Virtual Attendance: Pamela Everett, Esq., Assistant Executive Director

Chatham County Staff Present: Jefferson Kirkland, Environmental Program Manager  
Yolanda Washington, Zoning Administrator

#### I. Call to Order and Welcome

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

**Mr. Coursey** called the meeting to order at 9:05 a.m. 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. Approve February 28, 2023 Meeting Minutes](#)

📎 [February 28, 2023 Meeting Minutes.pdf](#)

**Motion**

The Chatham County Zoning Board of Appeals does hereby approve the Meeting Minutes of February 28, 2023.

**Vote Results ( Approved )**

Motion: Robert Vinyard

Second: Coren Ross

James Coursey	- Aye
Coren Ross	- Aye
Meredith Stone	- Aye
Robert Vinyard	- Aye
Benjamin Polote, Jr.	- Not Present
Kewaan Drayton	- Aye
Ashley Field	- Aye

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

**VII. Consent Agenda**

**VIII. Old Business**

**IX. Regular Agenda**

[4. VARIANCE REQUEST | 103 Montford Ct | ZBA-0223-000363 | Rear Yard Setback](#)

[Application.pdf](#)

[Map.pdf](#)

[Staff Report .pdf](#)

[Exhibit A.pdf](#)

[Exhibit B.pdf](#)

**Mr. Nirav Gandhi** gave the staff report. The subject property is located in an R-1-A Zoning District, where the minimum rear setback for a residence is 25 feet. The Petitioner is requesting a variance for a 10-foot reduction of the 25 feet setback to 15 feet. This property is located in the Wilmington Park Neighborhood.

**Mr. Gandhi** explained that the findings are:

1. The Petitioner is requesting a reduction in the rear yard setback for their home. He would like to build an extension in the form of a covered porch onto their home in the rear that would extend 10 feet into the setback. This would be a 40% reduction of the setback. The proposed extension would measure 13x20 feet, a total of 260 square feet.
2. The Petitioner's property measures roughly 0.28 acres.
3. This lot is located in an AE 10 flood zone, which is a moderate to high intensity floodplain.
4. The total lot coverage of the current house is 27% and the proposed lot coverage would be 30%, far below the limit of 40%.
5. All houses in the immediate area appear to be setback at least 25 feet, with many being set back as far as 40 feet.

**Mr. Gandhi** stated that if the Board grants the variance, the Petitioner will probably have to work with County Engineering on the drainage when the extension is done.

**Mr. Gandhi** reported that based on the findings in the Staff report, they recommend denial of the requested variance. He entertained questions from the Board.

**Ms. Ross** said it was a pleasure for her to view this property. As the Board knows, she tries to visit as many of the subject properties prior to each meeting as possible. She explained that the cul-de-sac carves out the front yard of this house. They are already setback a little closer to the rear fence than the properties that are already on this cul-de-sac. Ms. Ross said she believes this is a contributing factor. The cutout is a little deeper; therefore, it does not give them as much mobility and flexibility. She believes that if the Petitioner is thoughtful of the elements that constitutes this porch, that the Staff's concerns about drainage could be easily addressed.

**Mr. Gandhi** stated that the Petitioner would be able to give the Board more information on this, but just a few days ago, they discovered that they could do a design with a smaller variance with only a 7-foot reduction. This information was sent to Staff after the Agenda was finalized. Therefore, this was not reviewed by Staff. However, Staff always supports as small as possible variances for these types of things. The Petitioner will tell the Board about their new design. He believes, too, that the Petitioner would also accept the smaller setback of a 7-foot reduction rather than a 10-foot reduction.

**Mr. Vinyard** asked Staff if they received any public comments.

**Mr. Gandhi** answered that staff had not received any public comments.

#### **PETITIONER COMMENTS**

**Mr. & Mrs. Bruce Crawford** came forward. They were sworn in by Mr. Coursey.

**Mr. Crawford** explained that they had an engineer design a screened porch off the back of the flat roof. They initially submitted the plan but were not sure if the measurements from the setback was from the wall of the porch or from the awning's overhang. This is why there is a discrepancy in what Mr. Gandhi was speaking of when he said they asked for ten feet but would settle for 7 feet.

**Ms. Ross** thanked the Crawfords for bringing the exhibits. She asked Staff if the exhibits could be shown on the screen so that the Board could review them.

**Mr. Gandhi** showed the exhibits on the screen.

**Mr. Coursey** asked Mr. Crawford if the photos that he has submitted are for the 10-foot variance or the 7-foot.

**Mr. Crawford** responded that they are for the 7-foot.

**Ms. Ross** asked if her understanding was correct that the porch would be constructed out of a concrete base.

**Mrs. Crawford** answered yes.

**Ms. Ross** asked if the porch would be elevated so that it is even with the entry to the home.

**Mr. Crawford** answered that it will be elevated. There is approximately a three-inch difference. Therefore, it will be elevated about three inches from the existing concrete. They have lived here a short time. They moved here in November 2022. They have had substantial rains, but they have not seen pools of water as of yet.

**Ms. Ross** said her observation is that they are sloped away from the house which is well engineered.

**Mr. Coursey** said he wanted to introduce the two photographs into the record. They are labeled as Exhibit A and Exhibit B.

**Mr. Vinyard** told Mr. & Mrs. Crawford that he assumes the concrete patio that is shown in the picture was there when they purchased the house.

**Mr. Crawford** answered yes. They will replace that existing concrete. The concrete will be wider.

**Mrs. Crawford** stated that is just a simple screened porch. It will not be elaborate. It will have a flat roof.

**Mr. Crawford** said he did not believe that their neighbors will have any sight problems.

**Ms. Ross** told the Crawfords that they have a nice tall backyard fence.

**Mr. Crawford** said the fence is six feet all the way around the yard.

**Mr. Coursey** asked Mr. Crawford if they have discussed their plans with the neighbors.

**Mr. Crawford** said they have discussed their plans with two of their neighbors. They did not have problems with it.

**Ms. Ross** asked Mr. Kirkland if he had any comments.

**Mr. Kirkland** said because it is an existing slab, they will only be concerned with the difference between what the existing patio is and the new roofline in terms of impervious. He said he is not familiar with the site. Therefore, he does not know what the general drainage is, but his standard comment is "don't affect your neighbors." He entertained questions from the Board.

**Ms. Field** asked the Crawfords if they were going to remove any of the additional concrete that is on both sides of the slab for the porch. Is this going to remain?

**Mr. Crawford** answered that all of the concrete will be removed. They will only pour what is necessary for the porch.

#### **PUBLIC COMMENTS**

None.

#### **BOARD DISCUSSION**

**Ms. Ross** said she believes the Board should grant the Petitioners' request for the variance, especially since it is reduced from 10 feet to 7 feet.

**Mr. Coursey** asked Staff if they have a change in a request such as this, do you need to see additional plans before it is approved?

**Mr. Lotson** stated that the Board has the authority to adjust or change any variance request up or down. This is what the Petitioner would be granted if a motion is made. Because it is a reduction, this is what the Petitioner would be granted, and they would have to build to that. Therefore, it certainly is within the Board's authority to grant less than what was originally applied for.

**Ms. Ross** said it is her understanding that the drawings they have been shown are actually the original drawings. The change is the result of figuring out where to measure.

**Mr. Lotson** said "correct."

**Ms. Ross** said the Petitioners were initially measuring to where the roofline overhangs instead of to the actual wall of the structure.

**Mr. Coursey** wanted to be sure that he understood Ms. Field's question. He said it appears that there are four or five feet of poured concrete along the entire length of the house. He said he understood the Petitioners' answer to mean that all of this will be removed.

**Mr. Crawford** answered that it all will be removed and then replace what's needed for the patio. Some sod or something will be put in because the new concrete will be less than the existing concrete because of the length of the house.

**Mr. Coursey** asked Mr. Kirkland if his assumption is correct that they will have an impervious net gain.

**Mr. Kirkland** answered yes.

**Mr. Vinyard** said as the Board knows, he is not in the mood of going against staff recommendation. But since his valuable colleague (Ms. Ross) has made her normal investigation and in looking at the plans, it looks like there will be a net gain rather than a net loss. If the patio was not there, he believes his decision would be different.

**Mr. Coursey** said his comments are along with Ms. Ross's comments. He believes that the odd shape of this lot, given the cul-de-sac's limitations, he is in support of a 7-foot variance.

**Mr. Coursey** entertained a motion.

#### **Motion**

The Chatham County Zoning Board of Appeals does hereby approve the applicant's request for a 7-foot variance from the rear yard setback for the purpose of constructing a porch at 103 Montford Court.

#### **Vote Results ( Approved )**

Motion: Coren Ross

Second: Robert Vinyard

James Coursey	- Aye
Coren Ross	- Aye
Meredith Stone	- Aye
Robert Vinyard	- Aye
Benjamin Polote, Jr.	- Not Present
Kewaan Drayton	- Aye
Ashley Field	- Aye

#### [5. 25 Riverwatch Lane | Marsh Buffer Setback Variance | ZBA - 00323-00366](#)

📎 [Staff Report .pdf](#)

📎 [Application.pdf](#)

📎 [Map.pdf](#)

📎 [Applicants Narrative.pdf](#)

📎 [Adjacent Lot Context.pdf](#)

**Mr. Marcus Lotson** gave the Staff report. The Petitioner is requesting a 2' 7" (3 feet.) marsh buffer setback variance from the 35-foot marsh buffer requirement in order to construct a single-family residence at 25 Riverwatch Lane.

**Mr. Lotson** reported that the findings are:

1. The subject property is approximately 0.20 acres in size and is located on the north side of River Watch in the PUD-R/EO (Planned Unit Development - Residential within an Environmental Overlay) zoning classification. The property is part of the Landings Skidaway Island Neighborhood Association. The Petitioner is proposing to construct a two-story single-family structure on a vacant lot. Among the conditions in the Environmental Overlay district there is a minimum 35-foot marsh buffer setback requirement

2. The Petitioner's property has an average width of approximately 78 feet and average depth of approximately 104 feet. The parcel is currently an undeveloped lot of record. The adjacent property to the east of the subject parcel is developed with a single-family residence. The parcel to the west is undeveloped. Along the northern boundary the subject property abuts waters of the State (Burnside River).

3. The proposed single-family structure is designed to meet the front yard setback (20 feet) the rear yard setback (25 feet) and the side yard setbacks (10 feet). The site plan provided by the applicant indicates that the remaining development standards including maximum lot coverage, minimum open space, and parking requirements would also comply.

4. The variance request is a 2'7" encroachment into the 35-foot marsh buffer setback in the northwestern corner of the structure. The total encroachment is approximately 18 square feet. The portion of the lot in which the encroachment is proposed is the shallowest portion, due to the geometry of the northern property line which follows the marsh line. The structure cannot be shifted forward without encroachment onto the front yard setback line.

**Mr. Lotson** reported that based on the findings in the Staff report, they recommend approval of a 3-foot marsh buffer setback variance from the 35-foot marsh buffer setback requirement for the construction of a new single-family residence at 25 Riverwatch Lane. He entertained questions from the Board.

**Mr. Coursey** asked Mr. Kirkland if he wanted to make any comments.

**Mr. Kirkland** stated that he had not looked at this site in person. He said Engineering comment would be to the request that no structural drainage be discharged directly to the marsh. This is straightforward for a buffer request.

### **PETITIONER COMMENTS**

**Mr. Jonathan Hart** came forward. He was sworn in by Mr. Coursey. Mr. Hart said they concur with the Staff's fine job of understanding the problem. They have a small lot. The lots in the front of the subdivision are large, but as you move closer to the water, they get smaller. They do not have patio lots or patio houses within the subdivision. Therefore, they are stuck with what they got. They have been approved by the Landings Architectural Review Committee and have done all of the things that are required. They have gone to Building Safety & Regulatory Services and they approved the house and pointed out to them the triangular encroachment. They told them that they do not know what he is to do about that; you need to go to the Zoning Board of Appeals. Mr. Hart said, "so here we are."

**Mr. Hart** said if they look at the 18 square feet, it will give them some concept of how small the encroachment is. He explained that 99.5 percent of the house is outside of all the setbacks. If you take the encroachment, measure it against the 32,000 square feet of the house, the encroachment measure is .005. This is less than 1,000 percent. Therefore, he does not believe that they will have any adverse effects on either State marsh buffer or the County buffer at 15 feet. He does not believe that there is any magic to the 15-foot setbacks from the County. Mr. Hart explained that what he means is this number did not come out of the fact that there was some scientific study of it. If you make it any deeper than 15 feet and added it to the State buffer, there would be a lot of sublots in Chatham that would become unbuildable. There would not be enough on the setback to accommodate a house. But this is not the problem. It simply is they cannot move the house east or west because he has the 10-foot side setbacks, and he can't move it forward on the lot because there is a 20-foot setback in the front of the lot.

**Mr. Hart** said the house is elevated. It is 8 1/2 feet off the ground than the first floor and second floor with some parking underneath. If you change the step alignment to get up the front steps, you will have some very steep steps that probably does not meet the code. Therefore, they are somewhat between a rock and a hard place. They do not have any flooding problems here. These lots are located in a high bank area. Nevertheless, they went to Chatham County Engineering Department and showed their plans to Michael Blakely, the Floodplain Administrator for Chatham County. Mr. Blakely acknowledged that they are in an AE-10 Zone, but the parcel is located landward per the Emergency Management Agency's Limited Moderate Wave Action. He does not believe they have a flooding issue with setbacks or drainage. Mr. Hart said they are asking for this slight encroachment. He entertained questions from the Board.

**Mr. Coursey** asked Mr. Hart how close the house on the east to your lot is.

**Mr. Hart** said the house to the east of his lot extends about five feet closer to the marsh than he does. He explained that if the Board noticed the marsh line comes to a very low angle, Therefore, they get the

benefit of running it 160 feet that way, which give them the ability to sit in front of his house. Mr. Hart said he will be setback actually about five feet further back from the bank than his neighbor. But he understands that this is one of the rules. If you look at the plat that was shown on the subdivision, if you look at lot 5034, you will see how the bank curves at the bend in the river and then when it gets over there to the corner of the lot, it comes in a little. If you measure the distance, you will get 2.6 feet, which is where his 2.7 feet worth of encroachment came from. He said that a couple of truckloads of dirt in there, which they will not do, would cure the problem, but also get him to pay a lot of money to the Board of Engineers.

**Mr. Vinyard** said he is one of Mr. Hart's neighbors. He lives two blocks away. He knows Mr. McCullar who lives next door in the house, lot 5033. He said he noticed that his house is closer to the river than Mr. Hart.

**PUBLIC COMMENTS**

**Mr. Doug McCullar** said he wanted to provide clarification regarding the last few minutes. They own the house on lot 5033, which is next door to the Harts - Lot 37 on the Plat Map. They built their house about six years ago with all the same restrictions for marsh buffers. They adhered to all of that with no variances and no restrictions. As you can see, the side lot lines are not parallel to the river. It looks longer on the right than it is on the left in terms of sticking out from the river, but it is not. They are not closer to the river than anybody else. Everybody should be close in line, even though, a slightly angled line runs down the river. He said that Hart's will be a little further setback then them, but if they build on the 35-foot line just like they did, they would be the same distance from the river as they are.

**Mr. McCullar** stated that the question about how far away they are from their neighbors, these are patio lots. They are 4 feet on one side and 8 feet on the other. The next lot is 8 feet and 4 feet. Therefore, they are 12 feet minimum.

**Mr. Hart** explained that he was not implying that McCullar did not have the 35 feet on his lot. The angle of the bank puts him 35 feet away, but if you measure on the shorter distance to them, they have to be setback. This is all he was saying.

**BOARD DISCUSSION**

**Mr. Coursey** entertained a motion as the Board did not discuss this petition any further.

**Motion**

Chatham County Zoning Board of Appeals does hereby approve the petitioner's request of a 3 ft marsh buffer setback variance from the 35 ft marsh buffer setback requirement for 25 Riverwatch Lane.

**Vote Results ( Approved )**

Motion: Kewaan Drayton

Second: Coren Ross

James Coursey	- Aye
Coren Ross	- Aye
Meredith Stone	- Aye
Robert Vinyard	- Aye
Benjamin Polote, Jr.	- Not Present
Kewaan Drayton	- Aye
Ashley Field	- Aye

📎 [Staff Report 000362.pdf](#)

📎 [Aerial View.pdf](#)

📎 [Map.pdf](#)

📎 [Photo 1 \(1\).pdf](#)

📎 [Photo 1 \(2\).pdf](#)

**Mr. Marcus Lotson** gave the Staff report. The Petitioner is requesting a two-foot fence height variance to allow an 8-foot-high fence in the side yard of an existing single-family residence.

**Mr. Lotson** explained that the findings are:

1. The subject property is located at 37 Pine Drive, west of Garrard Avenue, within an R-1 (One family residential) zoning district. The property is a conforming lot of record and is approximately one-half acre in size, it is developed with a single-family residence. The Petitioner was cited by Chatham County Code Enforcement for the partial construction of a wooden privacy and eight-foot fence in the side yard of the subject property. The proposed fence exceeds the maximum height allowed in front and side yards.
2. Section 5-1.3a. requires that fences within front and side yards be a maximum of 6 feet in height. Fences in rear yards may be up to 8 feet in height. The proposed fence is approximately 30 feet forward of the rear façade of the residence. The intent of the fence was to provide screening from the public right of way. The Petitioner appears to use the side and rear yard for storage of vehicles and other equipment. The intent of the 6-foot height maximum for fences in residential districts is to maintain the neighborhood scale and character of single-family areas.

Code Section

Sec. 5-1.3 Walls and Fences Erected in Residential Districts. Within Residential zoning districts (those containing an "R" in the nomenclature) or in any district listed in the C and R Use Schedule, the following provision shall apply:

a. Height: Within residential districts, walls and fences shall not exceed six feet in height in front and side yards, nor eight feet in height in rear yards.

3. Staff finds that no portion of the existing partial fence is within the rear yard, therefore the six-foot maximum height would apply per Section 5-1.3a. Because of the fence material, removal of the additional height is not a hardship for the property owner.
4. In reviewing of other homes in the neighborhood, there are not examples of 8-foot fences in front yards, and there does not appear to be any justification to allow additional height at the subject property.

**Mr. Lotson** stated that Staff received an email recently from a neighbor immediately across the street who is in support of Mr. Krivenki's variance request.

**Mr. Lotson** reported that staff recommends denial of the requested variance for the property at 37 Pine Street, He entertained questions from the Board.

**Mr. Vinyard** asked if there are two driveways on this property.

**Mr. Lotson** pointed out the Petitioner's driveway and showed a recent photo of the fence.

**Mr. Vinyard** asked if the driveway on the right belongs to the other party.



**Ms. Ross** asked Mr. Lotson to go back to the map and show the Board how the neighboring property use to be in the Petitioner's backyard. She said she saw the little cutout, that's how it happened.

### **PETITIONER COMMENTS**

**Mr. Jay Maupin of Maupin Engineering** said he was assisting Mr. Krivenki with his application. Mr. Maupin stated that Mr. Krivenki is the property owner. They both were sworn in by Mr. Coursey.

**Mr. Maupin** said they understand the Staff's position that there are no actual geometric peculiarities with this lot that will justify the variance. He said this is asking for forgiveness instead of permission for after-the-fact. However, there are some reasons that the 8-foot fence is allowed in the rear yard, but it was put forward because of the existing drainfield that is in this area. There is also a three-bay picture window that is up against the house that the fence would have been in the middle of as well. This is the reason it was pushed forward before Mr. Krivenki understood the rules in reference to the fence. The real reason for the 8-foot fence is more of a screening and a deterrent. A lot of foot and bicycle traffic are up and down Pine Street from the hotels that are along Highway 17. Some of this traffic is less desirable. Some of his tools and other things have been stolen. A fence that is a little taller where someone would not be able to peek over it, is what Mr. Krivenki needs. Mr. Maupin said when the price wood comes down, Mr. Krivenki wants to continue the fence all the way around and enclose the backyard and tie his fence to this neighbor's 8-foot fence. These are the reasons for putting the fence where it was and why it was 8-foot high. Mr. Maupin entertained questions from the Board.

**Ms. Ross** said it was her pleasure to drive by the property. She took as close look at the fence as she possibly could. She said she understood the desire to have screening from the street, but she also knows that it could probably be accomplished with landscaping as well. Ms. Ross said that her colleague, Ms. Stone, could speak to this more eloquently than she could because of the background. But she believes that the Petitioner can do a 6-foot fence, plant four or five cypress trees behind or in front of it and accomplish what he is trying to do without having to break rules.

**Mr. Krivenki** said with the septic tank and drainfield here, you cannot plant on top of it.

**Ms. Ross** asked if the drainfield is directly under the current fence,

**Mr. Krivenki** answered that it is directly behind the fence. This is the reason the fence was moved forward.

**Ms. Ross** said you can plant in front of the fence.

**Mr. Krivenki** said they said they had some trees here six or seven years ago that were actually causing problems. They had to reestablish an entirely new drainfield. He said the landscape he has done, he likes it very well, but he does not believe that it would work out very well for the functionality of his home and the septic system.

**Ms. Ross** told Mr. Krivenki that he might be able to explore different planting options, maybe not the huge trees.

**Mr. Krivenki** said as a certified arborist, he is very familiar with how plants would work. He does not believe that anything with a root would be good for this area.

**Mr. Maupin** said you don't want to shade the drainfield. This would be another problem.

**Ms. Ross** said she agreed.

**Ms. Field** asked if a permit was obtained for the fence. She believes that the permit limits the fence to 6 feet.

**Mr. Krivenki** said a permit was requested along with the variance request as well for the height. He said that drawings were submitted with the request.

**Ms. Field** asked if the permit was approved.

**Mr. Krivenki** said the permit was approved, however, the approving party crossed off the foot version and notated that they would allow it to be 6 feet. He believes the drawings should be a part of the file.

**Ms. Ross** asked Mr. Krivenki to the issue of security that was raised earlier, how does he currently secure his

items such as the ones he has missed?

**Mr. Krivenki** answered Ms. Ross that in his particular area, being that his property is considered somewhat the last property on the street that she drove by, when you turn off Gamble Road onto Pine Drive, you will notice the wooded area on your right side. This area has a lot of cars that stop and park here for long periods of time. Lots of bad things are happening here. Many of them have been handled several times a week; via himself or law enforcement. This is what the privacy is being requested for. He believes that Lane Avenue, the next street over, will have sidewalks established at some point soon, probably within the next year. Also, there is even more concern that additional foot traffic will be traveling in this area. He said that vehicular traffic is fine as it moves faster, but when you have folks who are not so great in the area; they are walking or riding bikes slowly, they take notice to a lot of things that vehicular traffic would not pay attention to.

**Ms. Ross** told Mr. Krivenki that his point is well taken. However, her question was, "how are you currently securing items similar to the ones that have been missed?"

**Mr. Krivenki** said he has cameras that have been installed that notify him via telephone that somebody is passing or not where they should be. Standard items such as bicycles, should not have to be put away.

**Mr. Maupin** explained that the garage is in the back of the house in an open area. The fence would go a long way in helping to secure that space.

**Ms. Ross** said, from what she sees, the fence in the front matches the fence in the back. The chain link that runs up the side of the yard, she understood that Mr. Krivenki would continue that fence.

**Mr. Krivenki** interjected and said that he has not had that conversation with Mr. Powers. He believes he would be in favor of it. But he personally like the open view of what would be considered Mr. Powers back yard or side yard, but he has no issues. Mr. Krivenki said, however, he does not really know if it would be necessary to close or build a privacy fence along that side. But at some point, if the crime rate goes up, he may consider it.

**Ms. Ross** asked Mr. Krivenki if he, at some point, would add a gate at the end of the fence line to secure his back yard.

**Mr. Krivenki** said he really does not know if he wants a gate. He believes it will be closed off or completely partitioned all the way across once the lumber prices come down. Just to do the small section that he has done, cost far above what he thought it would cost. He requested a variance to decrease that cost.

**Ms. Ross** said this maybe a question for Staff as well as for the property owner, but if the fence is moved forward, [it might not be the prettiest design in the world, but can the fence be moved forward.

**Mr. Krivenki** answered no. He is as far forward as what he thinks will be appropriate. A gas meter is towards the corner of where the fence is established on the building. He thinks that from the front of the fence would be to the front of the house structure, it is not that much further. It is probably about four feet. But then the utility service area would be closed in. This could lead to problems. Therefore, he felt it would be most beneficial to have that as the exact location as where the fence was currently established.

**Ms. Ross** asked the Staff to comment on the location of the drainfield and the gas meter.

**Mr. Lotson** said locating a fence within a drainfield is obviously not a good idea. He did not know enough about fence building to say what are the alternatives to this. He assumed that the gas meter needs to be accessible to everyone who needs to read it, etc. Mr. Lotson stated that Mr. Krivenki's perspective is probably the best location for all the reasons that he enumerated, and Mr. Maupin said so as well. He said, however, he does not believe that this relates to the variance request, which is more about the height and the location. Mr. Lotson explained that they would be permitted to have this fence in the same exact location if it was 6 feet tall or less. The landscaping ideas that were suggested creates some issues that were talked about as it relates to the subject, he believes there maybe alternatives to address this. Another side conversation they were having was that there have been examples in some situations in the past where a shorter fence with a lattice top and some sort of thorny bush or vine within the lattice was used for security. Mr. Lotson said this maybe an option in this case. The main issue from the Staff's perspective is that an eight-foot fence in a front or side yard is not allowed in residential neighborhoods. To even imagine continuing that fence over to the property line, creates an even greater wall. Mr. Lotson said he understood the security issues, but based on how the Ordinance reads and the criteria for granting a variance, he does not believe that they can support additional height for those reasons.

**Ms. Ross** said if she understood Mr. Lotson correctly, the Petitioner could build a six-foot fence with a two feet lattice or some sort of open design on top of that to get to eight feet.

**Mr. Lotson** clarified that his point was that the Petitioner would still need to maintain the six feet. But he believes that there might be alternatives to improve the security of his yard, still maintaining a maximum height of six feet. He believes that Ms. Field question about the origin of this and he wanted to make this clear for the records is that the fence has been partially constructed. Chatham County became aware of that and at that point, the Petitioner provided a plan for the eight-foot fence that was partially constructed and requested a permit to this effect.

**Mr. Maupin** said to follow-up on what Mr. Lotson said, an eight-foot fence would be allowed if the fence was 30 feet back and behind the rear of the house. So, if it was 30 feet back, it would be in the middle of the drainfield. But as far as the other examples of eight-foot fences in front yards in this area, there is Tim Towing, which is 300 feet away, which has an eight-foot fence all the way down and equal distance from the right-of-way. It is a much uglier fence, but it is commercial and there is no building for it to be setback from. There are examples of eight-foot fences, they are not residential or in a side yard, but there are eight-foot fences in the area.

**Ms. Ross** asked if this was on the other side of Gamble Road.

**Mr. Krivenki** answered that it is right at the corner of his road. About 300 feet away.

**Ms. Field** said she agrees with the overall design congruences in a residential neighborhood that continuing an eight-foot height fence would be a bit obstructive as far as the look of things. But, she was wondering since this portion is already built at 8 feet and you want to continue to build, if you could not incorporate a six-foot fence with some of the design features that Mr. Lotson has mentioned, if you could continue to connect with the rest of the borders using some that is congruent with the Zoning. Would this be something that you would consider?

**Mr. Krivenki** said this is something that he would definitely consider. But he has not had any neighborhood action that opposes the design. Everybody in the neighborhood has commented that it looks very nice, and they look forward to it being completed. Mr. Krivenki said he jokingly say that he is the neighborhood janitor. He takes care of everybody in his neighborhood, several streets around. Mr. Krivenki said he believes that everybody has enjoyed the aesthetics of what is to come if this is approved.

**Ms. Ross** said there is no question; this is the prettiest fence on the street. But, if they approve his request, this establishes a very challenging precedent for this Board going forward because people all over the County will come in saying, "you gave this guy eight feet."

**Mr. Krivenki** said he believes that a lot of people are happier with having a six-foot fence for their own personal yards. But he feels that if he is going to have privacy, he wants privacy. It is no different than going into a bathroom; you want a door that is fully closed where you can use the bathroom at ease and be private. He wants his property to be safe and private. If he is having foot traffic come through and you can still visually see over a six-foot fence while on the road, it is really not private.

**Mr. Coursey** asked Mr. Krivenki that with small conditions as he sees here, put a Confederate Jasmine or some aggressive plant on this fence.

**Mr. Krivenki** said they could take a chance, but, again, with the finances of what it cost back then to do the drainfield just a couple of years ago, is something that he is really trying to shy away from as far as the root system goes.

**Mr. Coursey** said the Jasmines have a small root system. He explained that what he is suggesting is a six-foot fence and a Vienna wire lattice above it to let the Jasmine climb on it.

**Mr. Krivenki** said the final structure would only be six feet.

**Mr. Coursey** said they were only trying to create a site buffer. It may not happen overnight.

**Mr. Krivenki** said it is a good chance that it would take that.

**Mr. Coursey** explained that he knows someone who planted the Jasmine and it just exploded. It grows a foot

a month. As a matter of fact, you might have a problem cutting it back. Mr. Coursey said he would be in favor of a six-foot fence with three or four verticals for the extra two or three feet, and then run a piano wire type of lattice over that.

**Mr. Krivenki** said they would still accomplish roughly an eight-foot visual privacy.

**Mr. Coursey** said let him ask Staff. Would that be considered an eight-foot fence at that point?

**Mr. Lotson** answered that he believes it would still require a variance in order to do that because you will be going beyond six feet in terms of the height of the fence. If there are structure components that are taller than six feet, he believes it would require a variance. Mr. Lotson wanted to add a comment that he was thinking about which is in terms of where they are in the Applicant's request is that his focus really sounds to him is about security. Frankly, the rules around fence heights in residential neighborhoods are not about security. They are about aesthetics. This is his take-on in the way that the Ordinance reads. He believes that there are other ways to address security within a private property, storage buildings, etc. But he believes this is the difference that they are finding here is from their perspective, the requirements really are aesthetics of the neighborhood and not about securing your property from the outside.

**Ms. Field** stated she had a question for Staff. She asked that from the back corner of the house where the garage meets the back. do you happen to know how many feet there are from the back fence? She was trying to figure out where the 30-foot mark is.

**Mr. Lotson** explained that in terms of the fence location, for the fence to be considered in the rear yard, it has to be at the rear facade of the house or further.

**Ms. Field** stated therefore, it has to be on the back side of the garage.

**Mr. Lotson** answered right. That's where the rear yard starts.

**Ms. Ross** asked Mr. Krivenki if his drainfield starts at the edge of his house where his garage meets and comes out.

**Mr. Krivenki** asked that they look at the fence photo.

**Ms. Ross** explained that if Mr. Krivenki push his fence all the way back to the edge of the garage, that would require a variance. Correct?

**Mr. Lotson** stated that if the fence was located at the rear of the garage, it would not require a variance because in that location an eight-foot fence would be permitted.

**Ms. Ross** asked that because the garage is open, if he could put the fence in front of where the garage is.

**Mr. Lotson** pointing to an area, said put it right here.

**Ms. Ross** said yes; encumbering the back of the drainfield so that it is pushed back.

**Mr. Lotson** asked if the question is whether or not it would require a variance. He wanted to be sure he understood the question. Pointing to an area, he said here is the location of the fence. Are you saying if you moved that fence back to here?

**Ms. Ross** answered yes, right where the garage starts.

**Mr. Lotson** answered that in his opinion it would require a variance because it would not be in the rear facade of the house. He believes the garage is attached, which is a part of the principal structure. He explained further that he believes to avoid the drainfield, it would have to be beyond the garage, the carport.

**Mr. Vinyard** stated that this is a little different than what his understanding of it was. He asked Mr. Lotson if he was saying that if they were anywhere else with this fence on this whole side of the house, it would require a variance.

**Mr. Lotson** answered yes, in his opinion, it would require a variance. He stated that it has to do with orientation of the structure as well. This is a longer house.

**Mr. Vinyard** said this would justify the variance.

**Mr. Lotson** said he disagreed with that.

**Ms. Field** asked if that is the face of the building that they are seeing at the rear yard extension. Is this the face of the building?

**Mr. Lotson** stated that the main house is here, and the carport is here.

**Ms. Ross** asked if the face of building is not where the rear yard starts. This is the carport. Is it to the roofline or is it to the building structure?

**Mr. Lotson** said the question is whether the rear yard begins at the end of the house or at the end of the carport. He said that his interpretation is that it begins at the end of the carport because the carport is a part of the structure of the house. Although, it is unenclosed, he believes that could be a judgment call. Then you could say that the rear yard begins here.

**Ms. Ross** said if the fence would impact the drainfield even if it was setback to rear face of the house.

**Mr. Krivenki** said where it was set between the gas meter and the drainfield is one of those scenarios that this is the most ideal location.

**Ms. Ross** said she was sorry for belaboring the point, but she believes that with what Mr. Cousey said, nobody would be able to look over the six feet.

**Mr. Krivenki** stated that when you are at the road for whatever reason, six feet is easy to see what is still going on back there. He wanted to point out that it may sound like it is out of place being with the additional two feet, but Tim's Towing and an additional neighbor behind him have an eight-foot fence already established on the side and back yard. Therefore, he would not be the only one in this close vicinity of that property.

**Ms. Ross** asked if these are commercial locations.

**Mr. Krivenki** answered that one is commercial, and one is residential. Therefore, he does not believe that age makes a difference on fence height.

**Mr. Coursey** informed Mr. Krivenki that as he can tell, the Board is probing and looking for answers.

**Mr. Krivenki** stated that he appreciates everybody's efforts. He has thought about all kinds of variations and options. He loves all the different ideas, but he really likes his idea.

**Mr. Vinyard** said he realizes that Mr. Krivenki likes his idea, but the problem is whether or not the Board likes his idea. He said that Ms. Ross will remember the one time he voted to allow a fence to be higher than it should be. He has regretted this ever since. Everybody here is trying to help. If Mr. Krivenki noticed, the Board tries to help everybody.

**Ms. Ross** asked Mr. Krivenki if he said he was amenable to constructing this portion as the eight-foot and then continue along with the six-foot fence that maybe has a design integration at the top that's more secure than just a flat climbable thing.

**Mr. Krivenki** asked if they meant changing what is currently established as seen in the photo or if there is to be further construction later on. Is this what you are saying?

**Ms. Ross** answered if there was to be further construction later on.

**Mr. Maupin** asked to leave the section they put in but drop it to six-foot.

**Ms. Ross** said she was trying to figure out what is the happy medium here. She is aware that cost is not something that the Board can take into consideration, but she does understand.

**Mr. Krivenki** said he likes the idea; he believes that if they are okay with establishing the section that is already eight feet and if anything further happens the six feet would be .....

**Ms. Ross** said, of course, she would have to question her judgment if this is something that they all can agree

with.

**Mr. Maupin** said from Mr. Lotson's interpretation that any fence Mr. Krivenki wants to build in the side yard that will be eight foot tall pretty much anywhere along that side of the house, that he would have to come back for a variance.

**Mr. Lotson** said to the point that Mr. Maupin made is, that what he said was more of an opinion than an interpretation because he is not the person who makes the interpretation. They can certainly address that, if need be, in terms of where the location of the rear yard begins. Pointing to an area, he said if it is here or here, a decision would be made whether or not a variance will be required. He said he wanted to get back to the question about eight feet versus six feet and the current fence and the portion that is currently built. Right now, looking at the photos of what is here, this as it exists today, if the existing framing was finished and the portions that are close to the house, it does not really secure anything. You could still access this property whether the fence is here or not. Therefore, one thing he could be curious to know, is what is the ongoing plan for this. Is it to continue it across the property or to continue it towards the rear yard because as it is currently shown, it does not provide security. He said also that he is not familiar with what the rest of the plan is as it relates to the fence. They are talking about the additional portion, but he does not believe that they have seen that or heard from the Applicant as to what this will be.

**Mr. Vinyard** said he believes they are getting away from the point. The point is whether or not they want to grant a variance for an eight-foot fence when six foot is what is required. He does not care whether it is four spots, six spots, ten spots or 12 spots. It is whether or not it is 6 feet or eight feet. He is not actually concerned about what it is for. It is a privacy fence; some of them have those in their yards. He does not, but some people do. This is all good, but the rules are the rules and he for one is ready to make a decision.

**Mr. Coursey** asked the Petitioner if he had any solutions for the Board than what they see here.

**Mr. Maupin** said the Applicant would have to make another application to this Board with the fence permit. It sounds that they will be in a variance situation regardless of where they are along the length of house. If this is denied, they will probably be coming back before the Board at some point in the future.

**Mr. Coursey** asked Mr. Lotson if the Board tables this matter to give the Applicant an opportunity to make adjustments, would this preclude him from having to pay another application fee?

**Mr. Lotson** explained that if the matter was tabled or continued to a future meeting, the Applicant would not have to reapply or pay additional fees. Any new options proposed by the Applicant could be considered by the Board at a future meeting if such a motion is made.

**Mr. Vinyard** moved for approval of a 60-day continuance.

**Mr. Krivenki** said he had one more question before the motion is done. He asked that if everybody is in favor of a six-foot fence as far as the height, is anybody opposed to the two feet difference whether it is established in the same material that it currently is or if it is a lattice to allow foliage. It would still be eight feet. [Unintelligible discussion between the Board and the Petition].

**Mr. Lotson** said if this item is continued, the Petitioner would need to provide a redesigned fence for the Staff to consider, bringing it back to the Board and make a determination as to whether that constitutes a need for a variance. He said based on what he knows today, it would. But this just means that the Board would have to consider a variance to include some alternative designs.

**Mr. Coursey** said to address Mr. Krivenki directly, judges, and this is essentially what they are; they cannot give an advisory opinion. And this is what they are being asked in this instant. Mr. Coursey told the Petitioner that they are putting the matter back in his hands to come back to them and Staff with a revised plan.

**Mr. Coursey** entertained a motion.

**Mr. Coursey** asked if anyone was present or online who wanted to make public comments. No one was present.

## Motion

The Chatham County Zoning Board of Appeals does hereby grant a 60-day continuance for the Fence Height Variance Request at 37 Pine Drive.

Mr. Coursey directed Mr. Lotson to place the matter on the May agenda.

**Vote Results ( Approved )**

Motion: Robert Vinyard

Second: Coren Ross

James Coursey - Aye

Coren Ross - Aye

Meredith Stone - Aye

Robert Vinyard - Aye

Benjamin Polote, Jr. - Not Present

Kewaan Drayton - Aye

Ashley Field - Aye

**X. Other Business**

**XI. Adjournment**

[7. Adjourned](#)

There being no further business to come before the Board, Mr. Coursey adjourned the meeting at approximately 10:21 ,a.m.

Respectfully Submitted,

Marcus Lotson, Director  
Development Services

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.***