

SAVANNAH ZONING BOARD OF APPEALS

**ARTHUR A. MENDONSA HEARING ROOM
112 EAST STATE STREET**

FEBRUARY 22, 2005

2:30 P.M.

REGULAR MEETING

MINUTES

MEMBERS PRESENT:

**Timothy Mackey, Chairman
Mickey Stephens, Vice-Chairman
Delores Lovett
Susan Myers
Richard Wallace**

TECHNICAL STAFF PRESENT:

Tom Todaro, City Inspections Department

MPC STAFF PRESENT:

**John Howell, Secretary
Christy Adams, Assistant Secretary**

RE: Call to Order

Mr. Mackey called the February 22, 2005 meeting of the Savannah Zoning Board of Appeals to order at 2:30 p.m.

RE: Welcome

Mr. Mackey welcomed Mr. Richard Wallace the newest member of the Savannah Zoning Board of Appeals.

RE: Minutes

1. Approval of SZBA Minutes – January 25, 2005

SZBA Action: Mr. Stephens made a motion that the Savannah Zoning Board of Appeals approve the regular meeting minutes of January 25, 2005. Ms. Lovett seconded the motion and it was unanimously passed.

RE: Consent Agenda

**RE: Petition of Yasmin Norris
B-05-32295-2
1824 Burroughs Street**

The petitioner is requesting approval of a 27 foot rear yard setback variance to the 30 foot rear yard setback requirement of Sections 8-3025(d), and 8-3029 of the City of Savannah Zoning Ordinance. The subject property is located at 1824 Burroughs Street. The property is zoned R-M-25/P-N-C (Multifamily Residential [25 units per acre]/Planned-Neighborhood-Conservation [Cuyler-Brownsville]).

Summary Of Findings: All of the requirements for granting a 27 foot rear yard setback variance appear to be met.

**RE: Petition of Harold Yellin, Agent for
First Presbyterian Church
B-05-33013-2
520 Washington Avenue**

The petitioner is requesting to expand a use pursuant to the requirements of Sections 8-3025 and 8-3163 of the Savannah Zoning Ordinance in order to construct a 400 square foot addition onto the rear of an existing church. The subject property is located at 520 Washington Avenue. The property is zoned R-6 (one-family residential).

Summary Of Findings: The conditions necessary to intensify a use appear to be met.

Mr. Howell requested that the Petition of Harold Yellin, For, First Presbyterian Church, HBR 05-33013-2 be moved from the Consent Agenda to the Regular Agenda.

SZBA Action: Mrs. Myers made a motion that the Savannah Zoning Board of Appeals approve the Consent Agenda as amended. Ms. Lovett seconded the motion and it was unanimously passed.

RE: Regular Agenda

**RE: Petition of Harold Yellin, Agent for
First Presbyterian Church
B-05-33013-2
520 Washington Avenue**

Present for the petition was Harold Yellin.

Mr. Howell gave the following Staff report.

The petitioner is requesting to expand a use pursuant to the requirements of Sections 8-3025 and 8-3163 of the Savannah Zoning Ordinance in order to construct an addition onto the rear of an existing church. The subject property is located at 520 Washington Avenue. The property is zoned R-6 (One-Family Residential).

Findings

1. The subject property contains a church, Sunday school building and fellowship hall. The petitioner is requesting to construct a 418 square foot addition onto the rear of the church building to place equipment for a new church organ. The area proposed for the addition presently contains a fenced area with the mechanical equipment for the church. The mechanical equipment will be relocated.
2. Section 8-3025 (Use 15) requires Board of Appeals approval to establish a church within an R-6 zoning district. The expansion of any use approved under this condition is considered to be a new use.
3. Section 8-3163(b), Request for Permission to Establish Uses, provides the following findings that the Board of Appeals must make to approve an application to establish a use.

Because the church exists, this is essentially a request for permission to intensify the use.

- (1) The proposed use does not affect adversely the general plans for the physical development of the City, as embodied in this chapter, and in any master plan or portion thereof adopted by the Mayor and Aldermen.
- (2) The proposed use will not be contrary to the purposes stated for this chapter.
- (3) The proposed use will not affect adversely the health and safety of residents and workers in the City.
- (4) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.
- (5) The proposed use will not be affected adversely by the existing uses.
- (6) The proposed use will be placed on a lot of sufficient size to satisfy the space requirements of such use.
- (7) The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use such facility, vehicular movement, noise or fume generation, or type of physical activity.
- (8) The standards set forth for each particular use for which a permit may be granted have been met.

Provided, that the Board of Appeals may impose or require such additional restrictions and standards as may be necessary to protect the health and safety of workers and residents in the community, and to protect the value and use of property in the general neighborhood.

Provided, that the proposed use shall be subject to the minimum area, setback and other locational requirements of the zoning district in which it will be located.

Provided, that the proposed use shall be subject to the off-street parking and service requirements of this chapter.

4. All of the conditions appear to be met. The building addition to house the organ equipment would not increase the seating capacity of the church and would not increase vehicular traffic. The addition will not create a nuisance or hazard within the residential neighborhood.

Summary Of Findings

The conditions necessary to intensify a use appear to be met.

Mr. Todaro stated he concurred with Staff's findings as far as expanding the use. But they also needed to address the noise issue. He said he has had complaints of the air conditioners bothering the neighbors on the 46st Street side. He said he has also had communication with the pastor of the Church to address the issue. However, it has been an ongoing issue for at least over a year. He said what he would like was if they could do the expansion was to have the new pad and the new location of the air conditioner certified by a Georgia License Mechanical Engineer that it will meet the City's noise ordinance requirements.

Mrs. Myers stated she was concerned about the air conditioning being in the middle of yard? She asked why it couldn't go on top of one of the other buildings?

Mr. Yellin stated with him today was Mr. Bob Hand, Architect, Rev. Williams, Dr. Tom Heatherington, and Arthur Gignilliat. The important thing he wanted the Board to consider was the church has been located here since 1927. He said what was before the Board today was

they were asking to take an existing church that has been there for almost 80 years and add 400 square feet. The addition to the church was for a church organ. He said it was his understanding that the flat roof was not a low bearing wall and would not be able to sustain the 3,000 lbs. of equipment that the HVAC would bring. He said it also leaks and the next step would be to convert the flat roof into a pitch roof. He said to be fair to those who have come out to speak on this petition, Mr. Morgan called him in advanced to tell him his concerns. He said he also spoke with Mr. Sasseen. He said both Mr. Morgan and Mr. Sasseen have expressed concerns about the HVAC. He said he was under the impression that the units that were moving for this church organ were not the units that were making noise. However, they were prepared to talk about it today.

Mr. Hand stated in regard to setting the unit on top of the roof the existing area will not support the equipment. He said it was not structurally capable of supporting any mechanical equipment regardless of the size. He said it was a roof structure only. To increase the bearing capacity of the roof would require completely rebuilding and restructuring that part of the building. He said there was also a basement underneath and that would be involved in bringing the loads down to the ground. The condensing units that were out there was a large unit, which was about 30 tons. The weight was approximately 3,000 lbs. – 4,000 lbs. He said with the additional vibration there was no way the existing structure could handle that stress. He said even if they beefed up the roof structure they would still have the walls and everything else that were not designed to carry this type of stress.

Mrs. Myers asked if they considered any other place than the middle of the yard?

Mr. Hand stated yes, but there was also restrictions with the refrigerant lines, etc. as to how far you could run the piping and still make it properly work. He said typically it would be approximately 50 feet. He said you could run refrigerant lines a little longer, but you would have to do a lot of extra work. He said they really did not know of any other place that they could sit the unit because they have to put it on the ground. The place selected seemed about the best place they could do it. He said they also intended to put some screening materials to help with the sound. He further stated that as far as the other ones that were at the other end of the building they were never a part of this project, so he did not know how that could influence what they were asking for this project. He said this project consisted of the organ chamber itself and the areas associated to it.

Mr. Mackey stated to Mr. Todaro that Mr. Yellin testified that it was not the proposed units that would make the noise, and that it was the existing units. He asked if they would need to go in and look at the old units as well because Mr. Hand was specifically talking about what was relevant to the petition?

Mr. Todaro stated he felt anytime the Board looked at an expansion of a use they needed to take into consideration what possible nuisance issues it may have created over the years. He said when they have a church come into their office and they have been a poor neighbor the neighbors are going to come out whether it be they are parking in front of their driveways or whatever. He said this has been ongoing for quite some time and he felt the neighbors have been patient. He said he felt it needed to be resolved one way or another. He said he also felt the Board needed to take into consideration in determining whether it was appropriate to expand the use.

Mr. Hand stated the units that seemed to be causing most of the heart feelings for the noise issue was at the social end of the building. The church did not have any problems with bringing those up to some type of sound standards. He said the church will agree to that to appease the neighbors. However, those were not a part of this project. He said if the Board needed to

consider them separately then please do so. He said what they were proposing from their end of it was putting up some screening and meet whatever noise ordinance requirements there were for the City.

Mr. Mackey stated what he was hearing the Zoning Administrator say was that it needed to be considered in its totality and that was what the Board would need to address.

Mr. Yellin stated the church was agreeable to the issues being addressed together.

Mr. Todaro stated if the church was willing to state publicly that they will take care of problem through a licensed mechanical engineer and the City's noise ordinance then he felt the Board could do that as a condition.

Mr. Mackey asked if there was anyone present to speak in favor or in opposition to the petition.

Mr. Joe Sasseen, (Neighbor), stated he lived directly across the street from the church and Mrs. Joy Reed who was also his neighbor but could not be in attendance today. He said had no problems with the church expanding. He said the problem with the air conditioning goes back years. He said he has told the Reverend over the years they have a problem with the air conditioners because you could hear them going not only during the day but also at night. He said the Reverend told him that he would get with them to see that they are turned off but they still were not doing it. He said approximately two years ago he talked to Phil Shook who was also in the Inspections Department and he came out to speak to the church about the problem at which time they said they were saving up the money to do something about the air conditioners. He said now the church wants to expand their use, but he felt first things should come first and the problem with the air conditioners needed to be resolved. He said all he was asking is that the church lives by its word that they will do something with the air conditioners.

Mr. Morgan, (Neighbor), stated the air conditioner he had to deal with appeared to be the one they were going to move. He said he has talked to Mr. Yellin and the architect and they told him they will sound proof it.

Mr. Steven Williams, Pastor, stated he agreed the air conditioners were noisy. He said they did respond obviously inadequately, but sufficient efforts to address the issue. He said and what they were also saying now was that they will do what it takes to satisfy if not their own sensitive ears but whatever the code is to be good neighbors.

SZBA Action: Mrs. Myers made a motion that the Savannah Zoning Board of Appeals approve the petition with the condition that all of the outside air conditioning and heating equipment is certified by a registered mechanical engineer to be in compliance with the noise ordinance to the satisfaction of the Zoning Administrator. This is a condition to be met before approval of the Certificate of Occupancy. Mr. Stephens seconded the motion and it was unanimously passed.

**RE: Petition of Highland Enterprises, Inc.
B-05-32511-2
Highland Falls Subdivision in Godley Station**

Mr. Howell gave the following Staff report.

The petitioner is requesting a 7.5 percent building coverage variance for various lots pursuant to the requirements of Sections 8-3025, 8-3035 and 8-3163 of the Savannah Zoning Ordinance in order to build new homes at Highland Falls. The subject property is located at Highland Falls

Subdivision in Godley Station. The property is zoned PUD-C (Planned Unit Development-Community).

Findings

1. Within a PUD-C district, development standards of the R-6 zoning district are the standards for single family residential development. The maximum building coverage for single family residential lots within the PUD-C zoning district is 30 percent. The petitioner is requesting a variance to allow up to 37.5 percent building coverage for various lots within Highland Falls Subdivision.
2. As shown in the exhibit, the executive lots in Highland Falls are a minimum of 7,700 square feet in area and the patio lots are a minimum of 6,600 square feet in area. The lot widths are a minimum of 60 feet. The development standards for the R-6 district are a minimum 60 foot lot width and a minimum 6,000 square foot lot area.
3. From the typical building coverage exhibit provided by the petitioner, building coverage on the executive lots ranges from 21 percent to 35 percent. Building coverage on the patio lots ranges from 17 percent to 37.5 percent.
4. The Zoning Board of Appeals may authorize a variance in an individual case upon a finding that:

- (a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.**

All of the lots meet the minimum lot width and lot area requirements. None of the lots have an unusual shape. There are no extraordinary and exceptional conditions.

- (b) The application of this chapter to this particular piece of property would create an unnecessary hardship.**

All single family residential lots within a PUD-C district are subject to the 30 percent maximum building coverage standard. There is no reason to exempt the petitioner's property from this requirement. The application of the development standards would not create an unnecessary hardship.

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

There are no peculiar conditions related to the subject property.

- (d) Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of the Savannah Zoning Ordinance.**

Allowing building coverage variances for standard sized lots with no unusual conditions would impair the purposes and intent of the Zoning Ordinance.

Summary Of Findings

All the conditions required for granting 7.5 percent building coverage variances for various lots in the Highland Falls Subdivision appear to not be met.

The appropriate relief for the petitioner is to seek a text amendment or a rezoning of the property.

Mr. Todaro, Zoning Administrator, stated he felt things were changing in Savannah, particularly, with the new residential homes. He said this was just a portion of the 8,000 new homes that they were anticipating in the upcoming years. He said what they did not anticipate, partly was with the new homes they were built with oversized two-car garages and typically to a demographic as far as age to folks that may have grown children or even older. He said they were wanting to build single story homes that were more stretched out. Typically, Savannah new construction for homes did not have a garage and if they did it was a single garage. He said that was really the reason that these lots were going over on the building coverage percentage. He said they met at MPC with this particular developer (Jack Wardlaw), his engineer, builder, and the Executive Director of MPC as well as other Staff members. He said they all agreed that the 40 percent was appropriate for this zoning and the new developments that were coming into the western portion of the City of Savannah. Right now this development needed the relief for the progression of the homes that they were building now. He said they did not anticipate any issues with the changing of the PUD-C to 40 percent. But this particular petitioner needed the relief now so he could go forward rather than later because a text amendment would take about 60 days. He said he would recommend approval of the blanket variance and then the rest would go to City Council at a later date.

Mr. Mackey asked if there was anyone present to speak in favor or in opposition to the petition.

No one came forward.

SZBA Action: Mr. Stephens made a motion that the Savannah Zoning Board of Appeals approve the petition for a blanket 40 percent lot coverage variance. Ms. Lovett seconded the motion and it was unanimously passed.

RE: Other Business

Mr. Todaro stated if the Board noticed that at the meeting he normally did not make comments as much as today. He said the City Attorney asked specifically that he become more involved with helping the Board in additionally giving recommendations. He said they used to do that but their former Director chose not to do that, however they will in the future.

RE: Adjournment

There being no further business to come before the Savannah Zoning Board of Appeals the meeting was adjourned approximately 3:10 p.m.

Respectfully submitted,

John Howell,
Secretary

JH/ca