

SAVANNAH ZONING BOARD OF APPEALS

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

AUGUST 23, 2005

2:30 P.M.

REGULAR MEETING

MINUTES

MEMBERS PRESENT:

**Timothy Mackey, Chairman
Mickey Stephens, Vice-Chairman
James Byrne
Richard Wallace**

TECHNICAL STAFF PRESENT:

Tom Todaro, City Inspections Department

MPC STAFF PRESENT:

**Jim Hansen, Secretary
Christy Adams, Assistant Secretary**

RE: Call to Order

Mr. Mackey called the August 23, 2005 meeting of the Savannah Zoning Board of Appeals to order at 2:30 p.m.

RE: Minutes

1. Approval of SZBA Minutes – July 26, 2005

SZBA Action: Mr. Stephens made a motion that the Savannah Zoning Board of Appeals approve the regular meeting minutes of July 26, 2005. Mr. Byrne seconded the motion and it was unanimously passed.

RE: Regular Agenda

**RE: Continued Petition of Beth Williams, For
Ernest Homes, LLC
B-05-40102-2
9 Iron Horse Spur**

Continued per Staff's request.

SZBA Action: Mr. Byrne made a motion that the Savannah Zoning Board of Appeals continue the petition. Mr. Stephens seconded the motion and it was unanimously passed.

**RE: Continued Petition of Karen M. Rivers
B-05-39441-2
2302 East DeRenne Avenue**

Present for the petition was Karen Rivers.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of an application to establish a child care center for 12 children pursuant to the requirements of Section 8-3025 of the City of Savannah Zoning Ordinance. The subject property is zoned R-6 (One-Family Residential).

Findings

1. The petition was continued from the June 28, 2005 hearing in order that the proper legal notification requirements could be met. The petition was continued from the July 26, 2005 hearing in order that the applicant could submit clarifying information pertaining to off-street parking and loading. The information has been received and is attached to this report for information purposes.
2. The subject property, located on the northeast corner of DeRenne Avenue and Athena Drive, is presently occupied by a one-story residential structure. The parcel contains 6,000 square feet, measuring 60 feet in width and 100 feet in depth.
3. Section 8-3025 of the Savannah Zoning Ordinance requires Board of Appeals approval to establish a child care center in an R-6 zoning district. The requirements for establishing a child care center per Use 22b include: a) that not less than 100 square feet of outdoor play space be provided for each child; b) that the center be located on a collector or arterial street; c) that the architectural character be characteristic of the neighborhood; d) that the use provide off-street parking in conformance with the requirements of Section 8-3089; e) that no outdoor activities occur after 9:00 p.m.; f) that visual buffers be provided to shield parking areas, play areas and outdoor activity areas from abutting property; and, g) that a sign not to exceed three square feet may be permitted.

The requirements of a, b, c, e, and, g (above) appear to be met. Article (d) requires that an off-street loading and unloading area be provided for the safety of the children. The petitioner has provided a plan to develop a circular drive drop-off with access points on Athena Drive. The proposed drop-off has not been reviewed by nor have approvals been received from the City Traffic Engineering Department. Requirements of part (f) include buffering parking areas and play areas from abutting properties utilizing opaque materials. The petitioner has not installed an opaque fence at the perimeter of the designated play area. The code requires one child care worker for every six children. Therefore, the petitioner would have to provide a minimum of two off-street parking spaces. The plan submitted by the petitioner reveals a potential conflict with proposed parking and the proposed circular drive. The required parking should also be examined by the Traffic Engineer at a part of the circular drive review. No buffering or shielding has been provided or indicated for the proposed parking area.

4. In accordance with Section 8-3163 of the Savannah Zoning Ordinance, the Board of Appeals shall hear and decide upon requests for permission to establish uses upon which the Board of Appeals is required to pass under the terms of this chapter. The application to establish such use shall be approved on a finding by the Board of Appeals that:

- a. **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.**

The proposed use will not affect adversely general plans for the physical development of the City.

- b. **The proposed use will not be contrary to the purposes stated for this chapter.**

The proposed use is not contrary to the stated purposes of this chapter.

- c. **The proposed use will not affect adversely the health and safety of residents and workers in the City.**

The proposed use will have little if any affect on the health and safety of residents and workers in the City. However, the increased traffic and subsequent congestion associated with the use could have an adverse impact on area residents. Loading and unloading is proposed from a local, residential street.

- d. **The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.**

The subject property is located at the intersection of a local street (Athena Drive) and a secondary arterial (DeRenne Avenue). Loading and unloading is proposed from Athena Drive. The petitioner has stated that services will be provided for up to 12 children. The resulting traffic and potential congestion associated therewith could be detrimental to the use or development of adjacent properties.

- e. **The proposed use will not be affected adversely by the existing uses.**

The proposed use, subject to approval, can be compatible with the residential character of the area.

- f. **The proposed use will be placed on a lot of sufficient size to satisfy the space requirements of such use.**

A minimum of 100 square feet of outdoor play space is required for each child. A child care center for 12 children would thus require 1,200 square feet of outdoor play space. The plan submitted by the petitioner has identified 1,242 square feet of outdoor play space.

- g. **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.**

Increased vehicular movement and noise generation could be a nuisance to the surrounding area.

- h. **The standards set forth for each particular use for which a permit may be granted have been met.**

Standards as discussed above appear not to be met. The proposed loading and unloading plan has not been submitted for approval to the Traffic Engineering Department, and, required screening has not been installed. The number of children proposed to be cared for at this location and the amount of traffic that can be expected as a result pose concerns about safety, congestion and the possible detrimental impacts that might be experienced by surrounding property owners.

Summary Of Findings

All of the conditions necessary to approve the establishment of the proposed use (child care center for 12 children) appear not to be met.

Mr. Byrne stated in the staff report it was noted that it was his opinion that there would be increased vehicular movement and noise generation could be a nuisance to the surrounding area. He asked if that was correct?

Mr. Hansen stated it was Staff's opinion that there could be, however he had no way of actually verifying that there would or would not. He said the addition of the extra traffic and the noise commotion associated therewith could certainly cause some concern and some detriment to the surrounding neighborhood.

Mr. Byrne stated the staff report also noted the proposed plan for the loading/unloading has not been submitted for approval as of yet to the City Traffic Engineering department.

Mr. Hansen stated to the best of his knowledge that was true.

Ms. Rivers stated currently she had six children and wanted to increase her daycare to 12 children. She said she submitted her plans and she talked with Mr. Noel Good in regard to the circular driveway. She said Mr. Good told her that she could use sand or gravel because if she poured cement it would cause the water to run into other people's homes. She said she also installed the privacy fence and she also had enough parking spaces.

Mr. Byrne asked if the plans she submitted been approved by the City Traffic Engineering department?

Ms. Rivers stated Mr. Good told her that she would need approval from Traffic Engineering if she poured concrete.

Mr. Stephens asked if she had anything in writing from Mr. Good?

Ms. Rivers stated no.

Ms. Cindy Coddington (City Traffic Engineer) stated she has only been working in the department for a week. She said she talked with Mike Weiner about another project and it was her understanding that any type of circular drive needed to go through City Traffic Engineering first.

Mr. Mackey asked Mr. Todaro for the circular drive what he felt would be required?

Mr. Todaro stated it was typically paved. He said he did not know Noel Good.

Mr. Mackey asked Mr. Hansen what was the petitioner's recourse if the petition is denied? He asked if she would be allowed to resubmit at a later date. He said he would not be in favor of continuously continuing her petition. However, the Board did not have anything to verify with the Engineering department in regard to the circular drive.

Mr. Hansen stated the petitioner could have six children as a matter of right. However, it was unclear to him in regard to a variance request that they were precluded from submitting the same request within a 12 month period. He said he was not certain because this was a use permit, it seemed to him the ordinance was silent about whether or not you could submit the request again or how soon you could submit the request again. But the petitioner did have the ability even if the request could not be heard for another 12 months, you could resubmit.

SZBA Action: Mr. Stephens made a motion that the Savannah Zoning Board of Appeals continue the petition until the next meeting (September 27, 2005) in order to allow the petitioner to contact the City Traffic Engineering in regard to the circular drive and obtain in writing from the department a conclusion of the plans submitted. Mr. Byrne seconded the motion and it was unanimously passed.

**RE: Continued Petition of Barbara Hamilton
B-05-47490-2
1111 East Park Avenue**

Present for the petition was Barbara Hamilton.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of an application to establish a child care center for 18 children, and is seeking a waiver of the requirement that said use be located on a collector or arterial street pursuant to the requirements of Section 8-3025 of the City of Savannah Zoning Ordinance. The subject property, located at 1111 East Park Avenue, is zoned R-4 (Four-Family Residential).

Findings

1. The petition was continued from the July 26, 2005 hearing in order to allow the applicant an opportunity to submit the necessary documentation confirming her authorization to seek the required use permit. A notarized statement authorizing the petitioner to act as the agent for the property owner has been received and made a part of the file.
2. Based upon visual inspection, the residential structure presently located on the property appears unoccupied (pictures attached). Coupled with the petitioner's address for her primary residence (which is adjacent to the subject property) and the petitioner's statement that "the entire house will be used for a daycare", it is believed that the petitioner intends to utilize the existing structure and property in the operation of a commercial daycare, with no one permanently residing at the 1111 East Park Avenue address as required by the Savannah Zoning Ordinance (statement attached). The Zoning Ordinance allows a child care center as a home occupation for up to 18 children.
3. The subject property, located east of Waters Avenue at 1111 East Park Avenue, is

presently occupied by a one-story residential structure containing approximately 1,250 square feet. The parcel contains 6,960 square feet, measuring 60 feet in width and 116 feet in depth.

4. Section 8-3025 of the Savannah Zoning Ordinance requires Board of Appeals approval to establish a child care center in an R-4 zoning district. The requirements for establishing a child care center per Use 22b include: a) that not less than 100 square feet of outdoor play space be provided for each child; b) that the center be located on a collector or arterial street; c) that the architectural character be characteristic of the neighborhood; d) that the use provide off-street parking in conformance with the requirements of Section 8-3089; e) that no outdoor activities occur after 9:00 p.m.; f) that visual buffers be provided to shield parking areas, play areas and outdoor activity areas from abutting property; and, g) that a sign not to exceed three square feet may be permitted.

The requirements of a, c, e, and, g (above) appear to be met. A waiver of the requirements of (b) is being sought. The intent of the requirement that child care facilities be located on collector or arterial streets is to minimize the potential impact that additional traffic generated by the use would have on surrounding properties. The subject property is located mid-block in the midst of a residential neighborhood. Although the petitioner has stated intent to provide transportation service, the potential exists for there to be an increase in neighborhood traffic as a result of the proposed use. Article (d) requires that an off-street loading and unloading area be provided for the safety of the children. Moreover, the code requires one child care worker for every six children. Thus, three off-street parking spaces will also be required for a facility designed to serve 18 children. The petitioner has not submitted a design plan for the required loading and unloading area nor identified worker parking spaces. Requirements of part (f) include buffering parking areas and play areas from abutting properties. An opaque fence has been installed at the perimeter of the proposed play area, however, no buffering or shielding as been proposed for the required parking area.

5. In accordance with Section 8-3163 of the Savannah Zoning Ordinance, the Board of Appeals shall hear and decide upon requests for permission to establish uses upon which the Board of Appeals is required to pass under the terms of this chapter. The application to establish such use shall be approved on a finding by the Board of Appeals that:

- a. **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.**

The proposed use will not affect adversely general plans for the physical development of the City.

- b. **The proposed use will not be contrary to the purposes stated for this chapter.**

The proposed use is not contrary to the stated purposes of this chapter.

- c. **The proposed use will not affect adversely the health and safety of residents and workers in the City.**

The proposed child care center will have little, if any affect on the health and safety of residents and workers in the City. However, the increased traffic and subsequent congestion associated with the use could have an adverse impact on area residents.

- d. The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.**

The subject property is located along a local street in the midst of a residential neighborhood. The petitioner has requested approval of a child care center to provide services for 18 children. The resulting traffic and potential congestion associated therewith could be detrimental to the use or development of adjacent properties.

- e. The proposed use will not be affected adversely by the existing uses.**

The proposed use, subject to approval, can be compatible with the residential character of the neighborhood.

- f. The proposed use will be placed on a lot of sufficient size to satisfy the space requirements of such use.**

The subject property is a standard sized lot with the R-4 zoning classification. The lot is of sufficient size to accommodate the required outdoor play space. It is unknown how or where the petitioner will meet the requirements for off-street parking and safe loading and unloading.

- g. 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.**

Increased vehicular movement and noise generation could be a nuisance to the surrounding area.

- h. The standards set forth for each particular use for which a permit may be granted have been met.**

Standards as discussed above appear not to be met. A waiver of the collector/arterial street location requirement is being sought. The number of children proposed to be cared for at this location and the amount of traffic that can be expected a result pose concerns about safety, congestion, and, the possible detrimental impacts that might be experienced by surrounding property owners.

Summary Of Findings

All of the conditions necessary to approve the establishment of the proposed use (child care center for 18 children) and the waiver of the requirement that the use be located on a collector or arterial street appear not to be met.

Mr. Byrne asked Staff if there was any neighborhood opposition in regard to this petition?

Mr. Hansen stated Ms. Hamilton just handed him a petition dated August 22, 2005 which says – “We the undersigned have no complaints against Hamilton’s childcare being operated at 1111 East Park Avenue.” He said there appeared to be eight signatures and all of the addresses provided were on Park Avenue in the 1100 block.

Ms. Hamilton (1107 East Park Avenue) stated she already owned a family home daycare based at 1107 East Park Avenue which could only occupy 6 children. She said she has been in the business for 16 years and was hoping to open a daycare for 18 children at 1111 East Park Avenue. She said her current home at 1107 did not have enough backyard space, parking, or anything to allow her to expand her daycare at her home.

Mr. Mackey asked if the use was granted, what would she do with the property at 1107 East Park Avenue?

Ms. Hamilton stated she would continue to live at 1107 East Park Avenue and operate her daycare from 1111 East Park Avenue.

Mr. Mackey stated there was a certain amount trepidation he had with granting a daycare in the middle of a residential block when you don’t reside there. He said if the Board granted the use of a daycare on that particular property, in the event the petitioner moves or the owner transferred the home ownership, the particular use of a daycare will remain. He said he felt that could be good or bad which cause him to have trepidation. He said he did not know if the Board has ever granted a use for a daycare when the petitioner did not reside there. In addition, the petitioner was also asking for a waiver of the requirement of a collector or arterial street, which were main streets. He said the ordinance was written to put them on collector and arterials because the ability of traffic to get in and out. He said when you are on the interior blocks in the middle of neighborhoods that could pose a problem.

Mr. Wallace asked if they would try to merge the two homes together for use of a daycare?

Ms. Hamilton stated no. She said there was no way you could merge the two facilities together. She said there was a vacant house in the middle of her residence and proposed daycare.

Mr. Byrne asked what were her hours of operation?

Ms. Hamilton stated 6:00 a.m. – 6:00 p.m.

SZBA Action: Mr. Byrne made a motion that the Savannah Zoning Board of Appeals approve the petition as submitted based upon a finding that the use and waiver granted will not cause substantial detriment to the public good. Mr. Stephens seconded the motion and it was passed 3 – 1. Opposed to the motion was Mr. Mackey.

**RE: Petition of Marie W. Dixon
B-05-39497-2
1443 East 38th Street**

Present for the petition was Marie Dixon.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of an application to establish a child care center for 12 children, and is seeking a waiver of the requirement that said use be located on a collector or arterial street pursuant to the requirements of Section 8-3025 of the City of Savannah Zoning Ordinance. The subject property, located at 1443 East 38th Street, is zoned R-6 (One-Family Residential).

Findings

1. The subject property, situated on an interior lot fronting 38th Street, is a standard lot containing 7,020 square feet. The parcel, which measures 60 by 117 feet, is presently occupied by a single story single-family residence. The rear yard is fenced with four feet high chain link.
2. Section 8-3025 of the Savannah Zoning Ordinance requires Board of Appeals approval to establish a child care center in an R-6 zoning district. The requirements for establishing a child care center per Use 22b include: a) that not less than 100 square feet of outdoor play space be provided for each child; b) that the center be located on a collector or arterial street; c) that the architectural character be characteristic of the neighborhood; d) that the use provide off-street parking in conformance with the requirements of Section 8-3089; e) that no outdoor activities occur after 9:00 p.m.; f) that visual buffers be provided to shield parking areas, play areas and outdoor activity areas from abutting property; and, g) that a sign not to exceed three square feet may be permitted.

The requirements of a, c, d, e, and, g (above) appear to be met. A waiver of the requirement of (b) is being sought. The intent of the requirement that child care facilities be located on collector or arterial streets is to minimize the potential impact that additional traffic generated by the use would have on surrounding properties. The subject property is located on a local street in the middle of an established residential neighborhood. Requirements of part (f) include buffering parking areas and play areas from abutting properties. Although the petitioner's rear yard is fenced, it does not meet minimum buffering standards. The code requires that the fencing be a minimum of six feet in height and that the fence be constructed of an opaque material. The code requires one child care worker for every six children. Therefore, the petitioner would have to provide a minimum of two off-street parking spaces. Although ample space exists on the lot for parking, no buffering or shielding has been provided for the proposed parking area.

3. In accordance with Section 8-3163 of the Savannah Zoning Ordinance, the Board of Appeals shall hear and decide upon requests for permission to establish uses upon which the Board of Appeals is required to pass under the terms of this chapter. The application to establish such use shall be approved on a finding by the Board of Appeals that:
 - a. **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.**

The proposed use will not affect adversely general plans for the physical development of the City.

- b. The proposed use will not be contrary to the purposes stated for this chapter.**

The proposed use is not contrary to the stated purposes of this chapter.

- c. The proposed use will not affect adversely the health and safety of residents and workers in the City.**

The proposed child care center will have little, if any affect on the health and safety of residents and workers in the City. However, the increased traffic and subsequent congestion associated with the use could have an adverse impact on area residents.

- d. The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.**

The subject property is located on a local street in the middle of an established residential neighborhood. The petitioner has requested approval of a child care center to provide services for 12 children. The resulting traffic and potential congestion associated therewith could be detrimental to the use or development of adjacent properties.

- e. The proposed use will not be affected adversely by the existing uses.**

The proposed use, subject to approval, can be compatible with the residential character of the neighborhood.

- f. The proposed use will be placed on a lot of sufficient size to satisfy the space requirements of such use.**

The subject property contains 7,020 square feet. The property is of ample size to accommodate the proposed use and the space requirements thereof.

- g. The proposed use will not constitute a nuisance or hazard because of the number or persons who will attend or use such facility, vehicular movement, noise or fume generation, or type of physical activity.**

Increased vehicular movement and noise generation could be a nuisance to the surrounding area.

- h. The standards set forth for each particular use for which a permit may be granted have been met.**

Standards as discussed above appear not to be met. A waiver of the collector/arterial street location requirement is being sought. The number of children proposed to be cared for at his location and the amount of traffic that can be expected as a result pose concerns about safety, congestion, and, the possible detrimental impacts that might be experienced by surrounding property

owners.

Summary Of Findings

All of the conditions necessary to approve the establishment of the proposed use (child care center for 12 children) and the waiver of the requirement that the use be located on a collector or arterial street appear not to be met.

Mr. Mackey asked Mr. Todaro if there were any guidelines that the City had in terms of daycares? He said the Board was seeing a proliferation of requests for daycares. He said he was concerned about that and knew there were others in City government also concerned.

Mr. Todaro stated currently there was a limitation of up to 75 children which the Board has the authority to grant. He said the City did not get those kinds of requests, but if the Board felt a certain number was more appropriate then the Board may need to forward something to the Mayor and Alderman for recommendation or a text amendment. He said the 10 years that he has been involved with the Board at this level the vast majority of request for daycares have been limited to 12 children and typically owner occupied.

Ms. Dixon stated she has been in the daycare business for 16 years and has never had any problems. She said the neighbor that Mr. Hansen mentioned who is in opposition to the petition lives in front of her. She said when the parents come there was never any traffic. She said her hours of operation were from 6:30 a.m. – 6:00 p.m.

Mr. Mackey asked how many children did she currently have?

Ms. Dixon stated six children.

Mr. Stephens asked how many children was she requesting?

Ms. Dixon stated 12 children.

Mr. Stephens asked if she talked with any of the other neighbors in the block?

Ms. Dixon stated yes, but she did not have anything in writing from them.

Mr. Byrne asked how many employees would be working at the daycare?

Ms. Dixon stated two.

Mr. Byrne asked where will they park?

Ms. Dixon stated she had an area to accommodate the parking.

Mr. Byrne asked Staff if she needed a buffer or shield?

Ms. Dixon stated she was in the process of doing that.

Mr. Hansen stated yes. He said although the buffer was not present for the expansion it was not required for the six children that she currently has. However, if she increased to 12 children a buffer would be needed for the play and parking areas.

Mr. Byrne asked Ms. Dixon if she seen the pictures that were provided by her neighbor (Mr. Miller)?

Ms. Dixon stated no.

Mr. Byrne stated if you look at the pictures it looked like people were parking on the circular drive and on the street blocking the circular drive. He said he felt that was one of the neighbors concerns was that there was not a lot of parking.

Mr. Mackey stated he has trepidation. He said the adjoining neighbors have to be protected, as well as the residential community. He said in looking at the pictures, although all of the cars may not belong to her, it appears that all of the cars are generated by the one house. He said when you move into an area and you have a huge investment it was not what you wanted. He said sometime it could work out, but in a lot of cases it did not. Again, this was not on an arterial or collector street. He said he also felt the parking would be an issue.

Ms. Dixon stated the pictures showed the activities of the evening when everything is over. She said she would not have cars like that during normal business hours.

Mr. Stephens stated he was concerned about the narrowness of the street. He said he concurred with the Chairman.

SZBA Action: Mr. Stephens made a motion that the Savannah Zoning Board of Appeals deny the petition as submitted. Mr. Wallace seconded the motion and it was unanimously passed.

**RE: Petition of Calvin Wright
B-05-39703-2
131 King Street**

Present for the petition was Calvin Wright.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a ten foot lot width variance to the 60 foot minimum lot width requirement of Section 8-3025 of the Savannah Zoning Ordinance in order to create two substandard lots. The subject property, located at 131 King Street, is zoned R-4 (Four-Family Residential).

Findings

1. Section 8-3025 requires a minimum 60 foot lot width and a minimum 6,000 square foot lot area for parcels located within an R-4 zoning district.
2. The subject property contains 13,350 square feet and measures 100 feet in width and 133.5 feet in depth. The petitioner is seeking a variance that would allow the existing lot to be split into two individual parcels each containing 6,675 square feet and measuring 50 feet in width and 133.5 feet in depth.
3. In accordance with Section 8-3009 of the Savannah Zoning Ordinance, no lot shall be

reduced or changed in size so that the total area, lot width, front, side or rear setbacks, lot area per dwelling unit, are required to maintain proper building coverage, or other dimensions, areas or open spaces required by these regulations are not maintained except as hereafter provided:

1. **Any resultant lot will contain a residential structure, exclusive of a garage apartment and/or accessory residence, at the time of subdivision.**

The subject property presently contains one single family residential unit. A second unit does not currently exist, although the petitioner has stated his intention to construct said second unit.

2. **No resultant lot shall be less than the average lot size within the block face area, provided that the Savannah Zoning Board of Appeals may approve a lot that is less than the average lot width and lot area of the block face upon a finding that:**

- a. **The property is located within a historic district and such subdivision would not alter the historic character of the district: or**

The subject property is not located within a historic district.

- b. **The property is not located within a historic district and such subdivision would not result in the creation of a lot width or lot area less than 75 percent of the average lot width and/or lot area of the majority of lots within the block face area.**

There are a total of 13 lots located within the block face (Fair Street to Dundee Canal). Eleven lots have street frontage of 100 feet; one lot has frontage of 125 feet; and one lot has frontage of 200 feet. The creation of two 50 foot wide parcels would not meet the above criteria.

3. **The number of off-street parking spaces shall not be reduced for any lot if such reduction would result in fewer parking spaces than require by these regulations.**

Ample space exists to create the required off-street parking spaces.

4. **The existing use is conforming within the zoning district in which it is located.**

The existing use does conform to the standards of the R-4 zoning district.

Summary Of Findings

All of the conditions necessary for granting the requested lot split appear not to be met.

Mr. Wright stated he would like to maximize his investment of his property which was why he was seeking a variance. He said there was a house down the street that was subdivided (50 X 50).

Mr. Mackey asked if he was intending to build on the substandard lots?

Mr. Wright stated yes.

Pastor Juanita Edwards (President of Woodville Community) stated they have spent many hours around the table with the City and zoning people concerning the lots in Woodville. She said they would like to request that the petition be denied. She said they did not want the lots subdivided because they felt the houses would be crammed together. She said the lots currents were approximately 100 X 60 and they did not want them less than 60 feet.

Mr. Stephens asked Mr. Wright if he lived in the Woodville community?

Mr. Wright stated yes.

Mr. Stephens stated he was concerned about subdividing the lots. He said he felt it took away from the community.

Mr. Byrne asked Mr. Wright if there was anything he could tell the neighbors or the Board about how the house will be designed that will support their goal of the community.

Mr. Wright stated he understood their concerns about not wanting the lots to be subdivided. He said if you come into the community there was a lot areas that was wooded. He said he was trying to do something and make the community look better than what it was. Currently, he had an abandoned in front of his property as well as behind him, which he felt was an eyesore. He said he felt he was trying to make the community better than what it was.

Mr. Mackey stated he would encourage him if he was in to development to get with some of the folks that he was looking at who have been involved in trying to resuscitate and hold on to this area for quite some time. He said he was also concerned about subdividing the lots. He said it had nothing to do with his desire to develop it because in essence he could. However, he would ask that if he developed the area to develop it within the framework of which the community was in favor. He said he understood the profitability involved in it, but there were more aspects outside of the profitability. He said the City has adopted some land use plans and the reason for doing so was to give a road map for present developers and future developers to come in so that they would take away from the character of the area.

Mrs. Wright stated they were not trying to disrespect the neighborhood. She said they also have a long family history in the neighborhood. She said they were not trying to change the property for the worst, but for the better. She said there were vacant lots where they were now and they were a couple of houses on their side of the street, which they were one of them. She said there were only two houses on that lot. In between the two houses there were large lots at least 100 X 100 and one behind where they lived. She said the ground was sinking and no one was maintaining them. Also, there were trailers still in the area that have been grandfathered in, so how will they revitalize their money and property as well as others.

Mr. Mackey stated that area was going to be protected through a land use plan. He said the land use plan will meander itself through MPC. He said he knew that she may not see anything going on now, but in time she will.

Mr. Johnny Lee Well stated he has lived in the Woodville community about 65 years. He said he has seen the small houses as mentioned earlier and most of them were not there anymore.

He said he felt when the houses were close together it created other problems such as traffic, parking, etc.

Mr. Mackey stated the Board was not oppose to the building of houses. He said he was concerned about the subdivision of the lots.

Mr. Todaro stated in the staff report it noted that the Savannah Zoning Board of Appeals may approve a lot that is less than the average lot width and lot area of the block face upon a finding that...and two requirements were listed. He said it had to meet one of the two requirements and it did not.

SZBA Action: Mr. Stephens made a motion that the Savannah Zoning Board of Appeals deny the petition as submitted. Mr. Byrne seconded the motion and it was unanimously passed.

**RE: Petition of Tangela C. Habersham
B-05-39848-2
1912 East 50th Street**

Present for the petition was Tangela Habersham.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of an application to establish a child care center for 12 children, and is seeking a waiver of the requirement that said use be located on a collector or arterial street pursuant to the requirements of Section 8-3025 of the City of Savannah Zoning Ordinance. The subject property, located at 1912 East 50th Street, is zoned R-6 (One-Family Residential).

Findings

1. The subject property, situated on an interior lot fronting 50th Street, is a standard lot containing 6,300 square feet. The parcel, which measures 60 by 105 feet, is presently occupied by a single story single-family residence. The rear yard is fenced with chain link.
2. Section 8-3025 of the Savannah Zoning Ordinance requires Board of Appeals approval to establish a child care center in an R-6 zoning district. The requirements for establishing a child care center per Use 22b include: a) that not less than 100 square feet of outdoor play space be provided for each child; b) that the center be located on a collector or arterial street; c) that the architectural character be characteristic of the neighborhood; d) that the use provide off-street parking in conformance with the requirements of Section 8-3089; e) that no outdoor activities occur after 9:00 p.m.; f) that visual buffers be provided to shield parking areas, play areas and outdoor activity areas from abutting property; and, g) that a sign not to exceed three square feet may be permitted.

The requirements of a, c, e, and, g (above) appear to be met. A waiver of the requirement of (b) is being sought. The intent of the requirement that child care facilities be located on collector or arterial streets is to minimize the potential impact that additional traffic generated by the use would have on surrounding properties. The

subject property is located on a local street in the middle of an established residential neighborhood. Article (d) requires that off-street that an off-street loading and unloading area be provided for the safety of the children. The petitioner has submitted a statement indicating that children will be dropped off at the existing driveway and that no vehicles will be allowed to enter said driveway. It cannot be assured that all potential users will adhere to the petitioner's drop-off plan. The code requires one child care worker for every six children. Therefore, the petitioner would also have to provide a minimum of two off-street parking spaces. No off-street parking spaces have been identified. Requirements of part (f) include buffering parking areas and play areas from abutting properties. Although the petitioner's rear yard is fenced, it does not currently meet minimum buffering standards. The code requires that the fencing be a minimum of six feet in height and that the fence be constructed of an opaque material. No buffering or shielding has been provided for the proposed parking area.

3. In accordance with Section 8-3163 of the Savannah Zoning Ordinance, the Board of Appeals shall hear and decide upon requests for permission to establish uses upon which the Board of Appeals is required to pass under the terms of this chapter. The application to establish such use shall be approved on a finding by the Board of Appeals that:

- a. **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.**

The proposed use will not affect adversely general plans for the physical development of the City.

- b. **The proposed use will not be contrary to the purposes stated for this chapter.**

The proposed use is not contrary to the stated purposes of this chapter.

- c. **The proposed use will not affect adversely the health and safety of residents and workers in the City.**

The proposed child care center will have little, if any affect on the health and safety of residents and workers in the City. However, the increased traffic and subsequent congestion associated with the use could have an adverse impact on area residents.

- d. **The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.**

The subject property is located on a local street in the middle of an established residential neighborhood. The petitioner has requested approval of a child care center to provide services for 12 children. The resulting traffic and potential congestion associated therewith could be detrimental to the use or development of adjacent properties.

- e. **The proposed use will not be affected adversely by the existing uses.**

The proposed use, subject to approval, can be compatible with the residential character of the neighborhood.

- f. **The proposed use will be placed on a lot of sufficient size to satisfy the space requirements of such use.**

The subject property contains 6,300 square feet. The property is of ample size to accommodate the proposed use and the space requirements thereof.

- g. **The proposed use will not constitute a nuisance or hazard because of the number or persons who will attend or use such facility, vehicular movement, noise or fume generation, or type of physical activity.**

Increased vehicular movement and noise generation could be a nuisance to the surrounding area.

- h. **The standards set forth for each particular use for which a permit may be granted have been met.**

Standards as discussed above appear not to be met. A waiver of the collector/arterial street location requirement is being sought. The number of children proposed to be cared for at his location and the amount of traffic that can be expected as a result pose concerns about safety, congestion, and, the possible detrimental impacts that might be experienced by surrounding property owners.

Summary Of Findings

All of the conditions necessary to approve the establishment of the proposed use (child care center for 12 children) and the waiver of the requirement that the use be located on a collector or arterial street appear not to be met.

Mr. Byrne stated in the staff report it was noted that there needed to be a minimum of two off-street parking for employees. He asked if that was correct?

Mr. Hansen stated yes. He said according to Georgia law there needed to be 1 day care worker for each six children, therefore there needed to be two off-street parking spaces. He said there was a drive that comes in from 50th Street. He said he felt the space was large enough for only one vehicle.

Mr. Byrne stated it was also noted in the staff report that it currently did not meet the minimum buffering requirements.

Mr. Hansen stated that was correct.

Ms. Habersham stated she currently was keeping six children and she would like to increase to twelve children. She said her intent was to meet the requirements so that she could increase her daycare to twelve children. She said she this was her first request and she was not sure what needed to be done as a part of the approval process. She said she planned to get the buffer, fence, and circular drive.

Mr. Mackey stated he felt those were things she should do first. He said she was requesting for the Board to grant permission of a use without the other things in place. He said she was asking the Board to grant her permission of a use and not saying that she would not, but it would be very easy for the Board to grant a use based on her saying that she would do these things and then they never happen which would be bad for the Board. He said he felt the proper thing to do was for her to resolve the other issues first such as the parking, loading/unloading, buffering, etc. He said he felt those issues needed to be addressed before she proceeded. He said he felt the biggest hurdle would be the drop off. He said as it was delineated on the plans for the cars to park in front of the door and drop the children off was a safety hazard.

Mr. Wallace stated he was also concerned. He said he visited the site and the parking and drop off area looked to him where it could be a situation where a lot of people would make a u-turn and come back which would have cars going against each other. He said he also felt it would compound the traffic problems.

SZBA Action: Mr. Byrne made a motion that the Savannah Zoning Board of Appeals deny the petition as submitted.

Ms. Habersham asked if she would have to go through the application process again?

Mr. Hansen stated if the motion to deny is upheld, the petitioner would have to come back and file a new application before the Board. The question was raised in previous cases, and he felt the ordinance was silent as to the length of time that must be between petitions. He said if they took the reading as he believed that she could come back at any time once she had the particular issues of neighborhood opposition and particularly traffic safety in a form where she felt comfortable bringing it back before the Board, she could do so.

SZBA Action: Mr. Stephens seconded the motion and it was unanimously passed.

**RE: Petition of H. Ronald Freeman, For
First City Builders, Inc.
B-05-39990-02
328 Tibet Avenue**

Present for the petition was Ronald Freeman.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a one foot rear yard setback variance to the 25 foot rear yard setback requirement of Section 8-3025 of the City of Savannah Zoning Ordinance in order to construct a town home residential development. The subject property, located at 328 Tibet Avenue, is zoned R-M-25 (Multi-Family Residential-25 Units per Acre).

Findings

1. Section 8-3025 requires a 25 foot minimum rear yard setback for residential use within the R-M-25 district.
2. The project site totals approximately 3.39 acres in size. A total of 42 town homes were approved for construction when the site plan was approved. At the time of site plan

approval, no rear yard setback variance was sought and the proposed development was compliant with appropriate development standards. As construction proceeded, it was determined that one group of five units was encroaching into the required setback by approximately one foot. Accordingly, the petitioner is seeking a one foot rear yard setback variance to make the existing construction compliant with the requirements of the Zoning Ordinance.

3. In accordance with Section 8-3163 of the Savannah Zoning Ordinance, the Board of Appeals may authorize upon appeal in specific cases such variance from the terms of the regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions will, in an individual case, result in unnecessary hardship, so that the spirit of the regulations will be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in an individual case upon a finding by the Board of Appeals that:

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

The subject property is approximately 3.39 acres in size and contains no irregular topographic features.

- b. **The application of these regulations to this particular piece of property would create an unnecessary hardship.**

Application of the regulations of the Zoning Ordinance would create an unnecessary hardship. The five units in question have already been constructed and are nearing occupancy. The setback encroachment was not discovered until certificates of occupancy were requested.

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

The conditions described in above are peculiar 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.**

Relief, if granted, would not cause substantial detriment to the public good. The subject property is buffered from the adjoining property with plantings and a privacy fence. Moreover, the property abuts the side yard of the adjoining property and thus does not “face” either the front or rear of the adjacent residential structure.

Summary Of Findings

All of the conditions necessary for granting a one foot rear yard setback variance appear not to be met.

Mr. Mackey asked who approved the site plan?

Mr. Hansen stated MPC.

Mr. Freeman stated he believed the site plan was approved July 5, 2004.

Mr. Todaro (Zoning Administrator) stated typically when the property has been laid out by civil or surveyor he felt it was an honest error. He said he knew they had an engineer on the property and he did not feel it was intentional to build into the setback. He said most people would not be able to tell from looking at it that it encroached into the setback.

SZBA Action: Mr. Byrne made a motion that the Savannah Zoning Board of Appeals approve the petition as submitted based upon a finding that the relief granted would not cause substantial detriment to the public good. Mr. Wallace seconded the motion and it was unanimously passed.

**RE: Petition of Katrina Robinson
B-05-40124-2
720 Beauregard**

Present for the petition was Katrina Robinson.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of an application to establish a child care center for 18 children, and is seeking a waiver of the requirement that said use be located on collector or arterial street pursuant to the requirements of Section 8-3025 of the City of Savannah Zoning Ordinance. The subject property, located at 720 Beauregard Street, is zoned R-6 (One-Family Residential).

Findings

1. The subject property, located on the northwest corner of Beauregard Street and Waters Avenue, is a standard lot containing 8,625 square feet. The parcel, which measures 75 by 115 feet, is presently occupied by a single story, single-family residence. The rear yard is fenced with a combination of block and wire.
2. Section 8-3025 of the Savannah Zoning Ordinance requires Board of Appeals approval to establish a child care center in an R-6 zoning district. The requirements for establishing a child care center per Use 22b include: a) that not less than 100 square feet of outdoor play space be provided for each child; b) that the center be located on a collector or arterial street; c) that the architectural character be characteristic of the neighborhood; d) that the use provide off-street parking in conformance with the requirements of Section 8-3089; e) that no outdoor activities occur after 9:00 p.m.; f) that visual buffers be provided to shield parking areas, play areas and outdoor activity areas from abutting property; and, g) that a sign not to exceed three square feet may be permitted.

The requirements of a, c, e, and, g (above) appear to be met. A waiver of the requirement of (b) is being sought. The intent of the requirement that child care facilities be located on collector or arterial streets is to minimize the potential impact that additional traffic generated by the use would have on surrounding properties. The subject property is located on a local street in the middle of an established residential neighborhood. Article (d) requires that off-street that an off-street loading and unloading

area be provided for the safety of the children. The petitioner has submitted a proposed site plan that illustrates the creation of a circular drive to accommodate the loading and unloading area. It is not known if the petitioner has submitted the request to or received approval from the City Traffic Engineering Department. Traffic Engineering Department approval would be required to implement the proposal. The code requires one child care worker for every six children. The petitioner has identified the two required off-street parking spaces for the two required child care workers. Requirements of part (f) include buffering parking areas and play areas from abutting properties. Although the petitioner's rear yard is fenced, it does not currently meet minimum buffering standards. The code requires that the fencing be a minimum of six feet in height and that the fence be constructed of an opaque material. Additionally, no buffering or shielding has been provided for the proposed parking area.

3. In accordance with Section 8-3163 of the Savannah Zoning Ordinance, the Board of Appeals shall hear and decide upon requests for permission to establish uses upon which the Board of Appeals is required to pass under the terms of this chapter. The application to establish such use shall be approved on a finding by the Board of Appeals that:

- a. **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.**

The proposed use will not affect adversely general plans for the physical development of the City.

- b. **The proposed use will not be contrary to the purposes stated for this chapter.**

The proposed use is not contrary to the stated purposes of this chapter.

- c. **The proposed use will not affect adversely the health and safety of residents and workers in the City.**

The proposed child care center will have little, if any affect on the health and safety of residents and workers in the City. However, the increased traffic and subsequent congestion associated with the use could have an adverse impact on area residents.

- d. **The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.**

Though located on a corner lot, the subject property fronts a local street in an established residential neighborhood. Waters Avenue is classified as a secondary arterial roadway, however, it is only two lanes in width at this location and carries in excess of 26,000 vehicle trips per day. The petitioner has requested approval of a child care center to provide services for 12 children. The resulting traffic and potential congestion associated therewith could be detrimental to the use or development of adjacent properties to the west.

- e. **The proposed use will not be affected adversely by the existing uses.**

The proposed use, subject to approval, can be compatible with the residential character of the neighborhood.

- f. **The proposed use will be placed on a lot of sufficient size to satisfy the space requirements of such use.**

The subject property contains 8,625 square feet. The property is of ample size to accommodate the proposed use and the space requirements thereof.

- g. **The proposed use will not constitute a nuisance or hazard because of the number or persons who will attend or use such facility, vehicular movement, noise or fume generation, or type of physical activity.**

Increased vehicular movement and noise generation could be a nuisance to the surrounding area.

- h. **The standards set forth for each particular use for which a permit may be granted have been met.**

Standards as discussed above appear not to be met. A waiver of the collector/arterial street location requirement is being sought. The number of children proposed to be cared for at his location and the amount of traffic that can be expected as a result pose concerns about safety, congestion, and, the possible detrimental impacts that might be experienced by surrounding property owners.

Summary Of Findings

All of the conditions necessary to approve the establishment of the proposed use (child care center for 12 children) and the waiver of the requirement that the use be located on a collector or arterial street appear not to be met.

Mr. Hansen further stated that he also received 55 petitions in opposition to the petition. He said he also received as of the meeting time a total of 36 phone calls concerning this case of which 34 of the phone calls were in opposition. He said he knew some of the phone calls in opposition were from people who also submitted letters as they were confirming that their letters had been received.

Ms. Robinson stated she would like to use the home at 720 Beauregard as a group childcare center. She said she has been doing family childcare for 5 years at her home where she lives, but it was rental property. She said she felt a childcare center in the area would be an asset because there were other businesses in the area. She also stated that in the five years she has been a childcare provider, she has not had any complaints nor has she been in noncompliance of any of the rules or regulations set forth. She said there were no plans to alter the house. She said the only plans were for the drive way and to install a fence.

Mr. Byrne asked if the permit she received was a building permit?

Ms. Robinson stated no, it was for the driveway because she would need a curb cut.

Mr. Mackey asked if she lived at the residence?

Ms. Robinson stated no.

Mr. Byrne asked if she has met with any of the neighbors in the area?

Ms. Robinson stated she went around the neighborhood one evening, but she was only able to speak with one of the neighbors. She said she also received a phone call from one of the neighbors saying that she did not have a problem with the petition, but she did not want to disclose her name.

Mr. Robert Cowart (525 Beauregard) stated he heard the Board voice concern about the criteria for having a childcare. He said he agreed with the Board and applaud them. He said what was before them today since he has been here was everybody wanting to get around the criteria. He said Waters Avenue and Beauregard Street the traffic was always bumper to bumper. When you put cars coming in there dropping off 18 children or 2 children on Beauregard Street, you park on the street and when you turn off of Waters Avenue you have to slow down. He said if the cars are parked on both sides it was tight getting in there. He said he has lived in the area since 1984 and was familiar with the area. He said he felt it would be ridiculous to put anything in here. He said he was also concerned about whether or not the width of the lot would allow a circular driveway. He said he was opposed to the petition and felt the Board needed to consider the safety of the children and the traffic.

Ms. Karen M. Aaron stated she lives on Jackson Blvd. in the first block off of Waters Avenue. She said she concurred with her neighbor in regard to the traffic. She said as a pedestrian and many people in the neighborhood walk for pleasure as well as getting to CVS or other places in the area. She said she felt if the Board granted the use to allow 18 children, which would bring in additional traffic would be detrimental. She said she used the cross street of Hausey to access bus stops, go to the grocery store, etc. Also, in regard to the sign she understood that the sign should have been up fifteen days prior to the meeting, which it was not. She said the sign was put up last Sunday or Monday, which was a week ago in the backyard and could not be seen.

Ms. Robinson stated the sign was put up on a Monday. She said she counted fifteen days from today and put the sign up. She said she was unsure as to where to put the sign on the property because it said to put the sign on the side of the busiest street which was how she interpreted it. She said she felt the busiest street was Waters Avenue and that was where she put the sign.

Mr. Byrne asked if she owned the house at 720 Beauregard Street?

Ms. Robinson stated yes.

Mr. Bill McIlrath (504 Beauregard Street) stated he has lived in the area for about 11 years. He said the area has always been zoned R-6 (single family residential). He said they were a well established neighborhood. He said they felt they had a low crime area and were concerned about the increase in traffic and population of the street and the risks that may pose. He said they also had a house on their street that serviced special needs children and buses had to come into the area that were handicap equipped. He said there have been issues in the past with normal parking where the bus could not make it down the street because of the lack of clearance, which some times resulted in them backing out onto Waters Avenue. He said he

also felt it would be a safety hazard not only for the children who would come into the area but also for the children who lived in the area and had to wait on the school bus to come pick them in the mornings. He said he also felt it would be a safety hazard for people who had to access the streets all day long. He said they really did not know any thing about the petition and he felt the reason for the response was because it was an active and involved neighborhood. He said there street was strictly residential housing and would appreciate the Board's consideration to deny the petition.

Mr. Ernest Stover stated he worked 28 years with UPS. He said UPS trucks could not turn onto Beauregard Street because of the difficulty of getting in and out. He said UPS would go two streets down to get into the area. He said he has seen where automobiles going North on Waters Avenue with a left hand turn signal could not turn because of the length of traffic coming South. He said he felt it was not necessary to add an extra burden to a place that was burdened already.

Ms. Martha Allen stated she also lived in the area. She said from her house she always hears the accidents that happen with the cars trying to turn out from Beauregard to get onto Waters Avenue. She said she felt they did not need any extra people coming in because the traffic and parking was already bad in the area. She said she hoped the Board denied the petition because it was not in the best interest of the community.

Ms. Editha Aaron (706 Jackson Blvd.) stated she was opposed to the petition. She said she all of the streets in South Oakdale in this community were dead end streets. She said she felt the traffic situation would be compounded because there were at least five or six streets that were dead end.

Mr. Stephens stated he understood the traffic problems in that area. He said he understood the neighborhoods concerns about locating a daycare center and traffic problems in the area, but he did not think a daycare center would increase the crime rate. He said he felt the petitioner should have consulted with the neighbors in the area before considering a childcare center in that area. He said he understood the petitioner made an investment in buying the house, but he was also concerned about the traffic problems.

Mr. Byrne stated he concurred with the Board and felt her heart was in the right place. He said when you have 55 letters in opposition and people present today expressing concerns as well as traffic problems, he felt she would also have to worry about the children that she would be caring for.

SZBA Action: Mr. Byrne made a motion that the Savannah Zoning Board of Appeals deny the petition as submitted. Mr. Wallace seconded the motion and it was unanimously passed.

**RE: Petition of Lominack Kolman Smith Architects
Anne Smith
B-05-40342-2
15 East 48th Street**

Present for the petition was Anne Smith.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a three foot rear yard setback variance from the five foot rear yard setback required for accessory structures pursuant to Section 8-3025 of the Savannah Zoning Ordinance in order to reconstruct an accessory structure within the footprint of an existing accessory structure. The subject property, located at 15 East 48th Street, is zoned R-6 (One-Family Residential). The property is located within the Ardsley Park Chatham Crescent Historic District.

Findings

1. Section 8-3025 of the Savannah Zoning Ordinance requires a five foot minimum rear yard setback for accessory structures in the R-6 zoning district.
2. The subject property is a standard lot containing 6,300 square feet. The 60 by 105 foot parcel fronts 48th Street and is presently occupied with a single family residential structure and an accessory garage. Access to the garage is from a public lane.
3. The existing garage is in deteriorating condition. The petitioner is seeking a three foot rear yard setback variance that would allow for the demolition of the existing garage and the reconstruction of a new garage on the existing footprint. Although the existing garage is located only two feet from the rear property line, construction of a new garage on the same footprint requires that the petitioner seek a variance from the setback requirements.
4. In accordance with Section 8-3163 of the Savannah Zoning Ordinance, the Board of Appeals may authorize upon appeal in specific cases such variance from the terms of the regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions will, in an individual case, result in unnecessary hardship, so that the spirit of the regulations will be observed, public safety and welfare secured, and substantial justice done. Such variances may be granted in an individual case upon a finding by the Board of Appeals that:
 - a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.**

The parcel is a standard R-6 lot and contains no irregular topographic features.
 - b. **The application of these regulations to this particular piece of property would create an unnecessary hardship.**

Application of the regulations of the Zoning Ordinance would not create an unnecessary hardship.
 - c. **Such conditions are peculiar to the particular piece of property involved.**

The conditions described above are peculiar to the particular piece of property involved. The existing, deteriorating accessory structure is located two feet from the rear property line. The petitioner's intent is to demolish the existing structure and to replace the same on the present footprint.
 - d. **Relief, if granted, would not cause substantial detriment to the public good,**

or impair the purposes and intent of the Savannah Zoning Ordinance.

Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance. The structure proposed to be constructed will occupy the identical footprint of an existing structure that is slated to be demolished due to its deteriorating condition.

Summary Of Findings

All conditions necessary for granting a three foot rear yard setback variance appear not to be met.

Ms. Smith stated the garage was built in the 1950's that has badly deteriorated. She said they were asking for permission to rebuild on the same lot.

SZBA Action: Mr. Stephens made a motion that the Savannah Zoning Board of Appeals approve the petition as submitted based upon a finding that the relief granted will not cause substantial detriment to the public good. Mr. Byrne seconded the motion and it was unanimously passed.

**RE: Petition of Annette Cuyler
B-05-40511-2
10 Barton Street**

Present for the petition was Annette Cuyler and William Edwards.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of an application to establish a child care center for 18 children, and is seeking a waiver of the requirement that said use be located on a collector or arterial street pursuant to the requirements of Section 8-3025 of the City of Savannah Zoning Ordinance. The subject property, located at 10 Barton Street, is zoned R-4 (Four-Family Residential).

Findings

1. The subject property, situated on an interior lot fronting Barton Street, is a standard lot containing 8,000 square feet. The 80 by 100 foot parcel is presently occupied by a single story single-family residence. The rear yard is fenced with chain link.
2. Section 8-3025 of the Savannah Zoning Ordinance requires Board of Appeals approval to establish a child care center in an R-4 zoning district. The requirements for establishing a child care center per Use 22b include: a) that not less than 100 square feet of outdoor play space be provided for each child; b) that the center be located on a collector or arterial street; c) that the architectural character be characteristic of the neighborhood; d) that the use provide off-street parking in conformance with the requirements of Section 8-3089; e) that no outdoor activities occur after 9:00 p.m.; f) that visual buffers be provided to shield parking areas, play areas and outdoor activity areas from abutting property; and, g) that a sign not to exceed three square feet may be permitted.

The requirements of a, c, e, and, g (above) appear to be met. A waiver of the requirement of (b) is being sought. The intent of the requirement that child care facilities be located on collector or arterial streets is to minimize the potential impact that additional traffic generated by the use would have on surrounding properties. The subject property is situated on a local street in the middle of an established residential neighborhood. Article (d) requires that an off-street loading and unloading area be provided for the safety of the children. The petitioner has submitted a proposed site plan that illustrates the creation of a circular drive to accommodate the loading and unloading area. It is not known if the petitioner has submitted the request to or received approval from the City Traffic Engineering Department. Traffic Engineering Department approval would be required to implement the proposal. The code also requires one child care worker for every six children. Therefore, the petitioner would have to provide three off-street parking spaces. Only two such spaces are identified on the plan. Requirements of part (f) include buffering parking areas and play areas from abutting properties. Although the petitioner's rear yard is fenced, the code requires that such fencing be opaque; the existing fence is not opaque. No buffering or shielding has been provided for the proposed parking area.

3. In accordance with Section 8-3163 of the Savannah Zoning Ordinance, the Board of Appeals shall hear and decide upon requests for permission to establish uses upon which the Board of Appeals is required to pass under the terms of this chapter. The application to establish such use shall be approved on a finding by the Board of Appeals that:

- a. **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.**

The proposed use will not affect adversely general plans for the physical development of the City.

- b. **The proposed use will not be contrary to the purposes stated for this chapter.**

The proposed use is not contrary to the stated purposes of this chapter.

- c. **The proposed use will not affect adversely the health and safety of residents and workers in the City.**

The proposed child care center will have little, if any affect on the health and safety of residents and workers in the City. However, the increased traffic and subsequent congestion associated with the use could have an adverse impact on area residents.

- d. **The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.**

The subject property is located on a local street in the middle of an established residential neighborhood. The petitioner has requested approval of a child care center to provide services for 18 children. The resulting traffic and potential congestion associated therewith could be detrimental to the use or development

of adjacent properties.

- e. **The proposed use will not be affected adversely by the existing uses.**

The proposed use, subject to approval, can be compatible with the residential character of the neighborhood.

- f. **The proposed use will be placed on a lot of sufficient size to satisfy the space requirements of such use.**

The subject property contains 8,000 square feet. The property is of ample size to accommodate the proposed use and the space requirements thereof.

- g. **The proposed use will not constitute a nuisance or hazard because of the number or persons who will attend or use such facility, vehicular movement, noise or fume generation, or type of physical activity.**

Increased vehicular movement and noise generation could be a nuisance to the surrounding area.

- h. **The standards set forth for each particular use for which a permit may be granted have been met.**

Standards as discussed above appear not to be met. A waiver of the collector/arterial street location requirement is being sought. The number of children proposed to be cared for at his location and the amount of traffic that can be expected as a result pose concerns about safety, congestion, and, the possible detrimental impacts that might be experienced by surrounding property owners.

Summary Of Findings

All of the conditions necessary to approve the establishment of the proposed use (child care center for 18 children) and the waiver of the requirement that the use be located on a collector or arterial street appear not to be met.

Mr. Byrne stated it was also noted in the staff report that the petitioner would have to provide three off-street parking spaces, but only two were identified. He asked if that was correct?

Mr. Hansen stated yes.

Mr. William Edwards (Representative for Annette Cuyler) stated there was a wood screening fence that was along the right side of the property with vegetation and plantings all around. He said at the back end of the property there was a metal fence that did not belong to the property, but to the people in the back. He said he did not advise Ms. Cuyler to spend any money to do these things. He said he met with the building inspector and when they presented their petition, it was his understanding they could seek approval and as a condition of the approval that these things would be done, so that she would not have spent any money before hand. He said there was no indication to them that there was a requirement for the screening of the parking, but for the playground and other activities from the neighborhood was what they understood.

Mr. Mackey stated there were two parking spaces provided. He asked where would they put the third parking space?

Ms. Cuyler stated one employee come in early. She said when that employee is leaving then the other employee comes in the afternoon, therefore the parking space would be ready for the next person.

Mr. Mackey stated if she has 18 children, how would she be in compliance with the law if it called for one employee per six children.

Mr. Edwards stated it was their understanding that Ms. Cuyler would have four employees and one space per two employees. He said if she has four employees then she would only need two spaces.

Mr. Todaro stated it was one parking space for every two employees.

Mr. Edwards stated they have enough space in the rear of the property where the existing driveway was that they could put additional parking in the back if needed.

Mr. Mackey stated Mr. Todaro was correct in perhaps if the Board saw fit they could make it a condition of the approval. However, from looking at it to put a circular driveway in there would be very tight.

Mr. Edwards stated it was his understanding when he met with the building inspector, he said the only thing they needed to do was provide off-street parking. If it necessitated a circular driveway then it would be a circular driveway, but they needed to have off-street loading/unloading.

Mr. Stephens asked if they talked to anybody from Traffic Engineering?

Mr. Edwards stated no. He said they were told that the plans would be sent to the Traffic Engineer.

Mr. Stephens asked Mr. Hansen if he said that the square footage in the backyard did not meet the requirements?

Mr. Hansen stated that was correct. He said although the rear yard was fenced, the requirements were that it be at least 6 feet high and of some opaque material. He said there was fencing in the rear yard currently, but it did not meet the minimum requirement.

Mr. Todaro stated when a petitioner comes to their office they never suggests that they do any of these improvements before the Board acts upon their petition. He said that was why they requests a site plan from applicants. However, they did not want applicants going to the expense of putting those things in and it get denied by the Board. He said what was before the Board was the proposed plan. He said they give the applicant a form and the plan is sent to the Traffic Engineering department.

Mr. Byrne asked how did he interpret the word “convenient?” Would that be convenient for other people on the street.

Mr. Todaro stated it was off-street. He said it was convenient for off-street loading/unloading.

Mr. Byrne stated his point was if convenient referred to convenience of the traffic that was going to be on the street or convenience of the person dropping off the child.

Mr. Mackey asked if she had a daycare at that location now?

Ms. Cuyler stated yes, she had six children.

Mr. Mackey stated his concern was the space that they were proposing to put it in. He said 18 children was a lot.

Mr. Edwards stated when they looked at the floor plan and did all the due diligence on the floor plan it appeared that it would be 16 children rather than 18 children. He said the group daycare would permit up to 18 children in a group home.

Mr. Byrne stated he was concerned about the turn around because it was a tight spot.

Mr. Edwards stated at least four children will be picked up, which would cut down on the number of the number of cars.

Mr. Mackey stated a day care provider can have a minimum of six children as a matter of right. However, the request is for 18 children but you are willing to take in 16 children but for the size of the property and it not being on a collector or arterial street he felt that was a lot for traffic. He said he was also concerned as to whether or not a circular drive could fit on the lot.

Mr. Edwards stated the order that he saw it said circular driveway (convenient). He said he did not know where the term circular came in.

Mr. Byrne stated it was on the plans it shows semicircular.

Mr. Mackey asked what would it be?

Mr. Edwards stated convenient parking.

SZBA Action: Mr. Byrne made a motion that the Savannah Zoning Board of Appeals deny the petition as submitted.

Mr. Byrne stated if the City Traffic Engineering approved the semicircular or cut, he was not convinced that would be a safe turn around or a safe convenient place to unload/load.

SZBA Action: Mr. Wallace seconded the motion and it was unanimously passed.

**RE: Petition of Stephen D.L. Martin
B-05-40691-2
516 East Park Avenue**

Present for the petition was Stephen Martin.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a three foot lot width variance to the 30 foot minimum lot width required, and a 1,570 square foot lot area variance to the 3,000 square foot minimum lot area required by Section 8-3028 of the Savannah Zoning Ordinance in order to create a substandard lot. The subject property, located at 516 East Park Avenue is zoned Victorian P-N-C [1-R] (Victorian Planned Neighborhood Conservation).

Findings

1. Section 8-3028 requires a minimum 30 foot lot width and a minimum 3,000 square foot lot area for detached residential uses in the P-N-C zoning district.
2. The subject property is an oddly shaped lot containing approximately 4,450 square feet. The lot, shaped like an inverted “L”, is 27 feet wide along Park Avenue, 105 feet deep along the west property line, 55 feet wide at the lane, and 54 feet deep from the lane in a southerly direction toward Park Avenue. The petitioner is seeking a variance to allow the “front” portion of the lot to be split, and to create a separate lot at the rear of the property.
3. In accordance with Section 8-3009 of the Savannah Zoning Ordinance, no lot shall be reduced or changed in size so that the total area, lot width, front, side or rear setbacks, lot area per dwelling unit, are required to maintain proper building coverage, or other dimensions, areas or open spaces required by these regulations are not maintained except as hereafter provided:

1. **Any resultant lot will contain a residential structure, exclusive of a garage apartment and/or accessory residence, at the time of subdivision.**

The subject property presently contains one single family residential unit. A second unit does not currently exist, although the petitioner has stated his intention to construct said second unit.

2. **No resultant lot shall be less than the average lot size within the block face area, provided that the Savannah Zoning Board of Appeals may approve a lot that is less than the average lot width and lot area of the block face upon a finding that:**

- a. **The property is located within a historic district and such subdivision would not alter the historic character of the district: or**

The subject property is located within the Savannah Victorian Historic District. Accordingly, the application was submitted for comment to the City Historic Preservation Officer (HPO). After review and study, the HPO determined that the proposed lot split is not typical of the historic development pattern and character of the area. The HPO would recommend that the request not be approved.

- b. **The property is not located within a historic district and such subdivision would not result in the creation of a lot width or lot area less than 75 percent of the average lot width and/or lot area of the majority of lots within the block face area.**

Not applicable.

3. **The number of off-street parking spaces shall not be reduced for any lot if such reduction would result in fewer parking spaces than require by these regulations.**

One off-street parking space is required for each existing dwelling and one off-street parking space is required for each new dwelling. It has not been demonstrated how or where the petitioner proposes to provide said spaces.

4. **The existing use is conforming within the zoning district in which it is located.**

The existing use does not and will not conform to the development standards of the P-N-C zoning district.

Summary Of Findings

All of the conditions necessary for granting the lot split as requested and the subsequent variances attendant thereto appear not to be met.

Mr. Martin stated as the Board could see from the map there were lots that were 27, 28, 27 and lot 12 was split off from this some time ago making it a 27 foot lot. He said before he decided to do this he spoke with Mrs. Reiter (MPC). He said that Mrs. Reiter told him if it were two blocks away she would have said “no.” He said you have small individual lots and the houses appeared to be closer which was standard for that block. The house next door was not in great shape, but it was on the same lot dimensions. The reason he proposed it the way he did was because he would be able to take care of everything at one time today. He said if he went exactly by what the neighboring property would be he would have to get a second variance. Therefore, he took the property as it was with just the house and asked that he be allowed to work on a duplex that would be acceptable.

He said he also talked with Mr. Todaro and his concern was for him to make sure that if he was going to propose this that he could put off-street parking and have an easement for the front, but it would actually be on the back lot.

Mr. Mackey asked if he could address the comments that Mrs. Reiter raised with respect to the Victorian district?

Mr. Martin stated he was not sure what comments the Board was looking at other than the fact that he came in and talked to her. He said as Mrs. Reiter saw these different properties she said there were already these types of lots here (27, 28, 27). He said he felt Mrs. Reiter main issue was that it would keep with the block. He said she also told him that if he had been a couple of blocks over she would tell him “no.” He said she told him to go ahead and file it because she felt it would go through.

Mr. Hansen stated without trying to put words in Mrs. Reiter’s mouth he did not believe that her concern as expressed to us and put in the staff report had to do with the requested variance to create a 27 foot wide lot fronting on Park Avenue. He said as the petitioner and Mrs. Reiter noted there was precedent for that along Park Avenue. However, what was relayed to him was

a concern that by splitting this particular parcel, what Mrs. Reiter was concerned about was the rear lot which would have access only onto the lane. As the Board could see from this particular diagram although the immediate adjoining lot does have a split with access only on the lane that was the only rear facing lane access lot that would be created within this portion of the Victorian district.

Mr. Byrne asked Mr. Martin if he stated that he would provide an easement for two spaces?

Mr. Martin stated yes. He said he did not have funding for everything that he was trying to do but he could make that a contingency or a part of the plan.

Mr. Stephens stated in the staff report under 2 - A it says the Preservation Officer has recommended that this not be approved. He asked if that was correct?

Mr. Hansen stated that was the recommendation that Mrs. Reiter made to him. He said her primary concern as expressed to him was not the creation of the 27 foot lot along Park Avenue as there were other instances of lots less than the 30 foot requirement of the PNC district. He said what they were talking about doing was creating two lots so that there would be a separate buildable parcel on the lane.

Mr. Mackey asked Mrs. Reiter if she could provide clarification on Mr. Martin's petition?

Mrs. Reiter stated on the sanborn map the property is shown as 516 East Park Avenue. She said if the Board would note from the map this parcel has been partitioned off at some point. She said the only other one in the neighborhood was on Gwinnett Street where there were some lane cottages, which she believed has been recombined. She said if the Board looks at the development pattern of the neighborhood the lots go through to the lane and they were not in this area subdivided. She said she felt the petitioner may have confused what she said when she said two blocks away she would not may be have had a problem where it was up here where it had been done. But there was no pattern of subdividing these lots off and cutting the front lot off. She said it was sometimes done on the corners where you have lane access and street access to a property, but it was not a good practice in the middle of the block.

Mr. Martin stated the only other question would be if it had access through to park. He said he could make the parking spaces and the access to park right there as well.

Mr. Mackey stated Mrs. Reiter has described that there was no pattern. He said that was why the Board asked for clarification.

SZBA Action: Mr. Stephens made a motion that the Savannah Zoning Board of Appeals deny the petition as submitted. Mr. Wallace seconded the motion and it was unanimously passed.

RE: Other Business

1. Continued Petition of Enrique J. Lacanilao
B-05-39052-2
1101 East 48th Street
Request for Reconsideration

Mr. Mackey stated before the Board was a request for reconsideration. He said for that to happen a Board member who voted in the majority would have to pull it off the table and request that it be reconsidered.

Mr. Hansen stated the Board operated under Robert's Rules of Order. He said a motion to reconsider has to be made during the existing meeting or the day following. He said he received this request after the meeting. He said he told Mr. Lacanilao that he would bring it to the Board and supplied copies in good faith so the Board could consider it. Frankly, he was not certain from a legal standpoint that the Board had the ability to reconsider it at this point. He said that would be to the purview of the Board as to how they wanted to act on this. He said the petitioner has asked for the case to be reconsidered and the Board has heard this petition several times in which he was originally denied.

Mr. Mackey asked if there has been a meeting between his decision and his request?

Mr. Hansen stated yes.

Mr. Mackey asked if he was saying that he was not in accordance with the reconsideration rules under Robert's Rules?

Mr. Hansen stated under Robert's Rules of Order a request for reconsideration must be made by a member of the majority at the meeting or by the petitioner the day following the meeting. He said that term has long past. He said he received the petitioner's request for reconsideration after the dead line date. He said he told the petitioner that he would present it to the Board and it would up to the Board whether or not to reconsider or tell him that he must refile for another case rather than rejecting it at staff level. He said his point was as they follow Robert's Rules, he was not certain that they had the ability to reconsider his request.

Mr. Byrne stated that was also his question.

Mr. Mackey stated it was his understanding that a reconsideration either had to be done at the meeting or the following meeting.

Mr. Todaro stated the Board's bylaws which was separate from the ordinance says that if it is requested within 5 days of the decision then it could be brought up for reconsideration.

Mr. Byrne stated by operation of the bylaws he felt that it was not properly or timely brought petition.

Mr. Mackey stated to Mr. Hansen that he could draft a letter for his signature informing the petitioner that the Board considered his request and opted not to reconsider his request.

Mr. Hansen stated okay.

RE: Adjournment

There being no further business to come before the Savannah Zoning Board of Appeals the meeting was adjourned approximately 4:35 p.m.

Respectfully submitted,

Jim Hansen
Secretary

JLH/ca