

**SAVANNAH ZONING BOARD OF APPEALS**

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

**DECEMBER 20, 2005**

**11:00 A.M.**

**REGULAR MEETING**

**MINUTES**

**MEMBERS PRESENT:**

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

**TECHNICAL STAFF PRESENT:**

**Randolph Scott, City Development Services**

**MPC STAFF PRESENT:**

**Jim Hansen, Secretary  
Deborah Burke, Assistant Secretary  
Christy Adams, Administrative Assistant**

**RE: Call to Order**

Mr. Mackey called the December 20, 2005 meeting of the Savannah Zoning Board of Appeals to order at 11:00 a.m.

**RE: Minutes**

1. Approval of SZBA Minutes – November 22, 2005

**SZBA Action: Mr. Byrne made a motion that the Savannah Zoning Board of Appeals approve the regular meeting minutes of November 22, 2005. Mr. Robinson seconded the motion and it was unanimously passed.**

**RE: Consent Agenda**

**RE: Petition of Nehemiah Jayne  
B-051121-57659-2  
401 East Hall Street**

**Mr. Mackey** stated there was a request for the Petition of Nehemiah Jayne, B-05-57659-2 to be moved from the Consent Agenda to the Regular Agenda.

**RE: Regular Agenda**

**Mr. Hansen** stated there have been four items that requested to be withdrawn from the agenda. He said three of them on Page 3 of the Agenda have been noted: Petition of William L. Ronning - B-051121-57143-2, Petition of Bill Saxman – B – 051121-57246-2, and Petition of Savannah

Land Company – B-051121-31952-2. In addition, there has been a request for a fourth item to also be withdrawn: Petition of Joseph Craig Gordon – B – 051121-57526-2.

**RE: Petition of Nehemiah Jayne  
B-051121-57659-2  
401 East Hall Street**

Present for the petition was Nehemiah Jayne.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of an application to establish a neighborhood service facility (Pastry Shop, Use 67) and is requesting a variance from the requirement that said use be located on a collector street or greater pursuant to the requirements of Section 8-3163 of the City of Savannah Zoning Ordinance. The subject property, located at 401 East Hall Street, is zoned R-I-P-A (Residential-Medium Density).

### **Findings**

1. Located on the southeast corner of Hall and Habersham Streets, the subject structure has previously housed a tea store, a grocery, and a barber shop. The petitioner intends to renovate the structure and develop a tea shop which would sell teas, coffees, and specialty baked breads and pastries that are made off-site.
2. Subject to certain performance criteria, a grocery, confectionary, bakery, pastry shop, and similar neighborhood service facilities are allowed within the R-I-P-A zoning district subject to use approval by the Zoning Board of Appeals. The City Zoning Administrator has determined that the proposed use can be classified as a pastry shop.
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 upon 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 not affect adversely the health and safety of residents and

workers in the City.

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

The property is located in the midst of other neighborhood serving commercial and institutional uses. The proposed use has been designed to serve the immediate neighborhood and is not expected to cause detrimental impacts on adjacent or surrounding 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 commercial/residential/institutional 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 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.**

Pastry shops are an allowed use within the district and are not considered a nuisance.

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

The proposed use is in conformance with the development standards of the zoning district with the exception that such use is required to be located on a collector or arterial roadway. Although the subject property fronts a local street, the corner property sides onto Habersham Street, a designated secondary arterial roadway.

### **Summary Of Findings**

All of the conditions necessary for granting the requested use approval (Pastry Shop) and a variance that said use be located on a collector or arterial street appear to be met.

**Mr. Byrne** stated some residents have expressed concern and have raised opposition with regards to the parking the area.

**Mr. Jayne** stated currently there were legal parking spaces along Habersham Street on either side. Also, there was parking available from Hall Street into the opening for the Kroger parking lot along with the opposite side of the street. He said he did not intend to create such a crowd to where parking would be an issue.

**Mr. Robinson** asked if he owned the property?

**Mr. Jayne** stated no, he was representing the owner.

**Mr. Mackey** asked Mr. Scott if he had anything?

**Mr. Randolph Scott (City Inspections)** stated no since in the past it was a similar use.

**Mr. Mackey** asked if there would be preparation of foods on the premise?

**Mr. Jayne** stated no.

**Mr. Nicholas Henry** stated some of the neighbors which he was representing had some concerns. He said they were concerned about the parking because there have been times when they could not park because of the traffic. He said it was a residential block and they felt a business would result in the deterioration of the neighborhood. He said it seemed to him that the petitioner was asking for the use of a lot be changed, which had multiple buildings. He said he felt because of that you could have several kinds of businesses. He said they were also concerned about the noise.

**Mr. Mackey** asked Mr. Henry how long has he been a resident of the area?

**Mr. Henry** stated about 4 or 5 years.

**Mr. Mackey** asked if he was there when any of the previous businesses occupied the site?

**Mr. Henry** stated no.

**Mr. Byrne** asked Mr. Henry if his objections were more towards whether or not this would open the floodgates to other businesses opening, or just this particular one or both?

**Mr. Henry** stated both.

**Mr. Mackey** asked if the street had lane service?

**Mr. Henry** stated there was Hall Lane. He said there also was another lane he thought on the other side of the street but neither lane went all the way thru.

**Mr. Scott** asked if the petitioner has attempted to secure some parking with Kroger?

**Mr. Jayne** stated no, because he did not plan on needing it.

**Mr. Byrne** asked if they were planning to have live music?

**Mr. Jayne** stated no.

**Mr. Stephens** stated he noticed he had a signed petition from residents in the area. He asked if he individually talked with the residents?

**Mr. Jayne** stated yes, with the exception of Mr. Henry. He said he did not talk to every single neighbor, but he talked with quite a few and they all seemed to support their petition. He said

he also told Mr. Henry that if he and his wife had any suggestions of how they would like to see the business they were open to suggestions.

**Mr. Wallace** asked if the people who signed the petition property owners or tenants?

**Mr. Jayne** stated he felt the majority were property owners although there were houses along there that were rental.

**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.

**Mr. Henry** stated they could have a variety of buildings within Use - 67 that would be open to that sort of use.

**Mr. Hansen** stated this particular type of use was an allowed use within RIP-A district which was considered to be a mixed-use district. However, the use also required approval of the Board of Appeals. He said under Use - 67 there were also certain conditions that have to be met in order for the use to exist. He said one was which he felt was a concern of Mr. Henry and other neighbors alluded to in their letters was that “yes” the particular use that the Board would be granting would be given to the entire lot, however the use is limited in size to only 2400 square feet. He said that was not saying that something could not go to the maximum of 2400 square feet, but they could not exceed 2400 square feet. He said he wanted to point out that there were certain conditions and restrictions. Among those that it occupies 2400 square feet or less, that there is only one sign, that it be located on a collector or arterial, which was one of the variances that the petitioner has sought, and the last dealt with gasoline sales which did not apply in this particular district.

**SZBA Action:** Mr. Mackey called for the vote and it was unanimously passed.

**RE: Continued Petition of Kenneth Wilson, For  
St. Luke's AME Church  
B-051101-34228-2  
1007 Joe Street**

Present for the petition was Kenneth Wilson, Sr.

Mrs. Burke gave the following Staff report.

The petitioner is requesting approval of an application to establish a church (expansion) and is seeking variances from the requirements that said use be located on a collector or arterial street and that the use be located at least 100 feet from any conforming residential structure pursuant to the requirements of Section 8-3025 of the Savannah Zoning Ordinance. The petitioner also seeks approval of an application to establish a remote parking facility pursuant to the requirements of Section 8-3088 of the Savannah Zoning Ordinance. The subject property, located at 1007 Joe Street, is zoned R-4 (Four-Family Residential).

### **Findings**

1. Per Section 8-3025 of the Zoning Ordinance, churches and other places of worship are permitted subject to the approval of the board of appeals.

2. The request is for an expansion of an existing church, currently located on an adjacent parcel.
3. Section 8-3025(15) of the Zoning Ordinance also requires that churches and other places of worship be located on a collector or an arterial street and at least 100 feet from any conforming residential dwelling.
4. The subject property fronts on Joe Street, a residential street with a 50 feet right-of-way. There currently is a single family residence immediately adjacent to the west of the existing church structure, as well as several single family and multi-family residences within close proximity to the church.
5. Typically, required off-street parking must be provided on the same parcel as the primary use. However, Section 8-3093 provides that the Board of Appeals is authorized to approve proposed design and location of off-street parking facilities for commercial establishments within R districts.
6. The location of the proposed addition will cross two property lines. The petitioner will be required to recombine the impacted parcels prior to site plan review approval.
7. 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.**

There are no extraordinary or exceptional conditions pertaining to the particular piece of property.
  - b. **The application of these regulations to this particular piece of property would create an unnecessary hardship.**

The application of these regulations to this particular piece of property would not create an unnecessary hardship.
  - c. **Such conditions are peculiar to the particular piece of property involved.**

Such conditions are not peculiar to the particular piece of property involved. All churches and other places of worship must abut a collector or greater arterial and must be at least 100 feet from any conforming residential dwelling. However, the request is for the expansion of an existing church rather than the construction of a new facility.
  - 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 Savannah Zoning Ordinance.

**Summary Of Findings**

All conditions necessary for establishing a use and granting variances from the 100 foot separation between a church and residential structures and location on a collector or arterial street requirements for the subject property appear not to be met. All conditions necessary for establishing a remote parking facility appear to be met.

**Mr. Mackey** asked where is the combination of the lots?

**Mrs. Burke** stated it would be these two lots as well as this lot with the existing structure because the addition would straddle the property lines.

**Mr. Mackey** asked where will the parking be?

**Mrs. Burke** stated the vacant lot will be used as their remote parking.

**Mr. Mackey** asked if a fence separated the existing structure from the church?

**Mrs. Burke** stated she did not believe there was a fence out there.

**Mr. Wilson** stated they will like to add on to the church. He said they also hoped to later purchase the properties next to the church as they expand out into an L-shaped. He said they have contacted the owners and was in the process of negotiating to get that property at a later date. He said the church hoped that the Board will continue to allow them to grow.

**Mr. Stephens** asked have if they have talked to the neighbors in the area?

**Mr. Wilson** stated yes. He said he talked to Mr. Charles McIntosh who was lives next door. He said Mr. McIntosh, was the captain of the block and a member of Eastside Concerned Citizens and they supported their petition.

**Mr. Byrne** stated he was sorry to here that their church recently burned down and hoped their members had a place to go to worship during the holiday season.

**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 Florence Perry-Stephens  
B-051121-56796-2  
4050 Columbia Avenue**

Present for the petition was Florence Perry-Stephens.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a 1.5 percent lot coverage variance to the 30 percent lot coverage allowed by Section 8-3025 of the Savannah Zoning Ordinance in order to construct a single family residence. The subject property, located at 4050 Columbia Avenue, is zoned R-6 (One-Family Residential).

### **Findings**

1. Section 8-3025 of the Savannah Zoning Ordinance limits lot coverage in the R-6 zoning classification to 30 percent of the total parcel. The subject parcel, located at 4050 Columbia Avenue contains 7,780 square feet, measuring 77.78 feet wide and 100 feet deep. Accordingly, lot coverage for the subject parcel would be limited to a maximum of 2,334 square feet. By definition, all structures (including garages, porches, sheds, etc.) covered by a roof are included in the calculation.
2. The petitioner is proposing to construct a single family residence on the subject parcel. The proposed building footprint encompasses approximately 2,444 square feet. As a result, a 1.5 percent lot coverage variance is being sought.
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 parcel is considered a standard lot. The lot width and lot size meet or exceed the minimum requirements (60 foot width, 6,000 square foot lot area) of the R-6 district.
  - b. **The application of these regulations to this particular piece of property would create an unnecessary hardship.**

Strict 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 not peculiar to the particular piece of property involved.
  - 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. Granting the variance would allow the petitioner to construct a 2,444 square foot residence on the subject parcel.

### **Summary Of Findings**

All of the conditions necessary for granting a 1.5 percent lot coverage variance appear not to be met.

**Ms. Perry-Stephens** stated when she submitted the survey her lot was measured at 77.78, but she have two lots that were 40 X 100 which made it 80 X 100. She said for the 30 percent usage when she calculated it was 2400 square feet and Mr. Hansen calculated 2300 square feet based on the submission. She said she contacted the people who did the survey and asked them to correct it so it would reflect 80 X 100 (2400 sf).

**Mr. Mickey Stephens** asked if she had any documentation from the engineering company that did the survey?

**Ms. Perry-Stephens** stated she had the survey that they gave her which was incorrect. She said she had a plat from the City that showed she had two lots that were 40 X 100.

**Mr. Stephens** asked if she had a copy of the deed?

**Ms. Perry-Stephens** stated yes.

**Mr. Mackey** asked Staff what was the difference between what they have calculated and the correction that Ms. Perry-Stephens was talking about?

**Mr. Hansen** stated he felt in any respect a variance would still need to be granted if that was the wish of the Board to allow the petitioner to construct her home as requested. He said as Staff has calculated the two lots combined being at 77.78 feet in width and the petitioner's desire to construct a 2,444 square foot lot, she would need the 1.5 percent variance because it would exceed the maximum lot coverage by 110 square feet. On the other hand, if Staff were to consider her lot measuring 80 X 100, she would still exceed it by 44 square feet. He said he had done the percentage but felt it would be something less than 1½ and he felt the Board would still need to look at the variance. Also, in looking at the petitioner's deed it did not record or at the document she has did not record the true lot width. He said he took it off the submittal done by the surveyor which was 77.78 feet in width as opposed to what was shown on the City's record as being 80 feet wide. He said if it is the position of the Board to grant the variance it would be his recommendation that the 1.5 percent be granted so as to not to run into a potential problem.

**Ms. Ernestine Jones (President of Liberty City Richfield Southover Community Association)** stated she was representing the neighbors who surrounded that particular lot. She said they have a concern in reference to the variance if the Board grant the petition. Also, they were concerned about access to the property because the street was not opened. She said they would like to know whose responsibility will it be to open Columbia Street in that area.

**Mr. Scott** stated it would be the developer's responsibility and then the City will maintain it.

**Ms. Jones** asked if the petitioner would be allowed to construct a home before the street is opened?

**Mr. Scott** stated no.

**Ms. Delores Brown** asked if it was 40 feet on Columbus Drive, how would that person enter into it because there would be a need to open up Columbia Avenue? She said if it was 77.78 feet, with the lot being 80 feet, there would have to be certain amount of footage on either side of the property especially when it was adjoining another property. She said she felt that would not give adequate amount of space on either side of the property.

**Mr. Hansen** stated within the district there are front yard, rear yard, and side yard setback requirements. He said for the side yard setback it is 5 feet on both sides. The petitioner has not requested any variance to any of the yard setback requirements. He said the proposed structure would be placed on the lot such that it would meet or exceed all those minimum standards. It was only the lot coverage variance that the Board was considering today.

**Ms. Louise Shavers** stated she lives on Fitzgerald Street which was right at Columbia Street. She said she was concerned about how they would come in to the street because her fence was on the other side.

**Mr. Mackey** stated the lot has been undeveloped for some time and he understood what she was saying. However, at some point all undeveloped lots will get developed. He asked Ms. Perry-Stephens with regard to access to the lot, if her petition is granted, what type of access to the lot will she have?

**Ms. Perry-Stephens** stated the lot was 80 X 100. She said the house would not encompass the entire lot.

**Mr. Hansen** stated he did not believe that they could assume that the onus for completing all of Columbia was going to be placed upon this particular property owner. He said the reason he says that was because Columbia as it extended towards Mills B Lane, if you followed the lot lines including the subject property it was in this location. He said it was true that there was a half street only in front of the subject property. But, if you follow the lines on the other side of the street it would appear that the responsibility for the half street actually lies with this property or did at one time. Certainly, this was a question that the City and City Traffic Engineer will have to address. He said he felt that they would not require any widening of this particular street since it only served this one lot and the likelihood of Columbia extending North and connecting with Mills B Lane he felt was remote because you would have to go through an existing structure to get there.

**Mr. Robinson** asked even though the half street was serving only one lot, was it practical to have that width of a street?

**Mr. Hansen** stated he felt yes. He said if you were talking the normal residential traffic he would think that there would be enough room to be able to maneuver for her property.

**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 will not cause substantial detriment to the public good. Mr. Wallace seconded the motion and it was unanimously passed.

**Mr. Mickey Stephens** stated he was not related to the petitioner (Florence Perry-Stephens).

**RE: Petition of Paula Letcher  
B-051121-56987-2  
1524 Habersham Street**

Present for the petition was Paula Letcher.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a two foot side yard setback variance for each side yard to the five foot side yard setback requirement of Chapter 3, Article K, and Section 5.6.5 of the Savannah Code of Ordinances in order to construct a single family residence. The subject property, located at 1524 Habersham Street, is zoned TN-2 (Traditional Neighborhood).

### **Findings**

1. The subject property, located within the Thomas Square Streetcar Historic District, lies east of Habersham Street, and north of 32<sup>nd</sup> Street. The petitioner proposes to construct a single family residence on the presently vacant property. In January 2002, the Mayor and Aldermen authorized the development of a citywide zoning and comprehensive plan update. The program for updating both the Zoning Ordinance and the Savannah Comprehensive Plan is now known as the Tricentennial Plan. The first phase of the program focused on an area spanning large portions of the Metropolitan and Thomas Square neighborhoods as well as a four-block portion of the Baldwin Park neighborhood. The study built upon and amplified work previously completed as a part of the Thomas Square Streetcar Historic District Land Use and Zoning Study and the Baldwin Park Neighborhood Redevelopment Plan. The Land Use Plan and subsequent Mid-City Rezoning were adopted by Council in February 2005. The subject property has been planned for residential use and was rezoned to the TN-2 (Traditional Neighborhood) classification.
2. The minimum side yard setback for detached structures within the TN-2 district as required by Chapter 3, Article K, and Section 5.6.5 is five feet. The petitioner is requesting a side yard setback variance of two feet on each side.
3. The subject property contains 3,750 square feet. Oddly shaped, the parcel measures 30 feet in width at the street and 100 feet in depth along the south property line. The north property line extends 75 feet east from the street at which point the parcel extends to 60 feet in width. The resultant lot forms a reverse "L". The TN-2 district requires a minimum lot width of 30 feet and a minimum lot area of 3,000 square feet for detached residential structures.
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 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.**

Although oddly shaped, the subject parcel exceeds the minimum square footage required within the TN-2 district and meets the minimum 30 foot frontage also required by the district.

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

Strict application of the regulations of the Zoning Ordinance would not create an unnecessary hardship. A building footprint of nearly 1,700 square feet could be accommodated without the necessity of any building variances.

- 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.

- 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. Reduced side yards are characteristic of the historic district and a reduction of two feet would still allow the property to meet the minimum five foot spacing requirement between dwellings as required by Section 8-3055. Similar side yard setback requests have been granted on adjacent properties.

### **Summary Of Findings**

All of the conditions necessary for granting a two foot side yard setback variance for each side appear not to be met.

**Ms. Letcher** stated she would like to build a 24 foot wide house and felt that a 20 foot wide house seemed small.

**Mr. Stephens** asked if she would live in the residence?

**Ms. Letcher** stated yes.

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

**RE: Petition of Jesse D. Ash  
B-051121-57411-2  
705 South Street**

\*Mr. Robinson left approximately 12:00 p.m.

Present for the petition was Jess D. Ash.

Mr. Hansen gave the following Staff report.

The petitioner, Jesse D. Ash, is requesting approval of a 1,200 square foot lot area variance to the 7,200 square foot lot area requirement of Section 8-3025 in order to develop a two-family residential use on the subject property. The subject property, located at 705 South Street, is zoned R-4 (Four-Family Residential).

**Findings**

1. Section 8-3025 of the Savannah Zoning Ordinance requires a minimum lot size of 3,600 square feet per unit for attached multiple family dwellings in the R-4 zoning classification. The subject parcel, a standard single family lot, contains 6,000 square feet measuring 60 feet wide and 100 feet deep.
2. Two-family dwellings (duplexes) are an allowed use in the R-4 district subject to conformance with development standards. Property records indicate that the existing structure was previously used as a two-family dwelling. Because the structure was converted to and used as a single family residence, a change to a two-family dwelling necessitates that a variance be sought from the minimum lot size standard.
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 a standard sized single family lot. There are no extraordinary or exceptional conditions pertaining to the property.
  - b. **The application of these regulations to this particular piece of property would create an unnecessary hardship.**

Strict 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 not peculiar to the particular piece of property involved.

- 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. Granting the variance would allow the petitioner to convert the use to a two-family dwelling, a use that is allowed in the R-4 zoning classification. Moreover, the property has, in the past, been used for a two-family dwelling.

### **Summary Of Findings**

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

**Mr. Byrne** asked if this was a 1200 square foot variance?

**Mr. Hansen** stated yes. He said the lot measures 6,000 square feet and the minimum lot size required in the R-4 district for a single-family structure was 6,000 square feet. He said for a two – family structure it was 3600 square feet per unit therefore 7200 square feet would be required. In this case, the Board was looking at a 1200 square foot lot area variance in order to facilitate what the petitioner was proposing.

**Mr. Byrne** asked the petitioner if he was planning to live in the residence or rent it out?

**Mr. Ash** stated he wanted to renovate the property as a two – family duplex and rent it out.

**Mr. Byrne** asked if he was planning to live there?

**Mr. Ash** stated no.

**Ms. Cora Cooper** stated she has lived in the area for 45 years. She said she thought the petitioner was going to sell the property as a single – family. She said she was opposed to it being a two – family rental because ever since she has lived out there it has been single – family. She said she felt it was rental property then you would have different folks coming in which could be troublesome because the folks renting some times feel it is not their property so they don't care.

**Mr. Stephens** asked if there was any other rental property in the immediate area?

**Ms. Cooper** stated not that she was aware of.

**Mr. Byrne** asked where does she live?

**Ms. Cooper** stated on Staley Avenue. She said she owned lots 37, 39, 41, and 43 and her house was on lots 41 and 43. Lots 37 and 39 were vacant.

**Mr. Mackey** stated in the staff report item B says – “The application of these regulations to this particular piece of property would create an unnecessary hardship.” He said item D says – “Relief, if granted, would not cause substantial detriment to the public good or impair the

purposes and intent of the Savannah Zoning Ordinance.”

**Mr. Hansen** stated it says “would not.” He said what he was saying was with the size of the lot (60 X 100) which was the minimum requirement for the district, obviously the property could be used for residential purpose as it was now for a single-family purpose. He said what the applicant was requesting was a variance request to make it into a two-family. He said what Staff stated in Part D was that in their opinion they did not feel it would cause substantial detriment. However, all of the conditions A, B, C, and D have not, he felt, been met to warrant the granting of a variance and that it would be up to the Board to make that decision.

**Mr. Scott** stated there was other rental property in the area.

**Mr. Mackey** asked the petitioner how long has he owned the property?

**Mr. Ash** stated he currently did not own the property, but has started the process.

**Mr. Wallace** asked if the purchase was contingent upon the variance?

**Mr. Ash** stated no.

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

#### RE: Other Business

1. Request for Reconsideration  
Petition of Annette Cuyler  
B-05-40511-2  
10 Barton Street

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. Hansen** further stated when the petitioner came before the Board requesting use approval to establish a daycare center at her property at 10 Barton Street, the Board's decision at that particular time was for denial. In accordance with the provisions of the Zoning Ordinance Ms. Cuyler filed a timely motion to reconsider. Since that time, the Board has heard discussed at length this particular petition and has asked Ms. Cuyler to provide certain information. At the meeting last month there was some concern that the site plan that the petitioner had presented to the Board was not in the Board's opinion detailed enough. He said the specific request was that the petitioner come in with a site plan that had dimensions, so it could be determined exactly where and what was being proposed. He said at that time he made an offer to Ms. Cuyler to meet with him to go over what it was that she actually needed. He said Ms. Cuyler did come in and show him a site plan that was properly dimensioned. He said it was now up to the

consideration of the Board and he felt either Ms. Cuyler or her representative could give the Board the information concerning the dimensions.

**Mr. William Edwards** stated they sent a petition to the Traffic Engineering Department to get a driveway cut. He said they found out that there was an existing driveway cut there. Since that time they were instructed that if the petition was approved then they would still need a engineering report for the run-off, which they could handle. He said the reason there was 18 feet, he has a Mercury Marquis which is a big car to make sure that someone could get in. He said if you were going north and wanted to turn right, you would have enough room to make the turn. Also, the existing building that was on the corner there was a circle and another circle at the rear entrance. He said those represented concrete filled holes in the event that someone had a problem getting in and out it would not be a detriment to the children. He said also at the back there were two spaces for staff parking with adequate room to turn around. Also, in the back where it showed 17 feet there were four poles, so if children were in the playground area they would be protected. In addition, there were four poles along the side for additional protection. He said they have a chain link fence and a walk gate. He said they were requesting 16 children and a 100 square feet per child, which would be 1600 square feet. He said area B (490 sf) plus area A (1200 sf) would be 1690 square feet. He said they also did not calculate the area in C which would be additional space. The main entrance for drop off would be here and the children would not arrive to the center at one time. He said the children would be dropped out between 6:30 a.m. thru 10:00 a.m.

**Mr. Mackey** asked if there was any other property on this street that utilized their rear yard for parking?

**Mr. Edwards** stated he did not know.

**Mr. Mackey** stated cars are parked there all the time on both sides of the street. He asked to make a left hand turn into the driveway, would you have enough room there in the event a car was parked right on the corner where the 19 foot was delineated?

**Mr. Edwards** stated you would be further over and traffic would be going the opposite direction, so you would have enough room to turn.

**Mr. Mackey** stated with regard to drop off and pick up it usually was not a long pick up in that a car parks and a parent runs in/out and leaves. He said he did not see that there was enough space for that because it was a tight fit. He said his perception was although they have the parking in the back, he did not feel when they say it could be accessed safely that it was safe because if it were safe they would not need the steel barriers.

**Mr. Edwards** stated the barriers were reassurance for if something happened they had a safety measure. He said you see the barriers all the time at convenient stores, service stations, etc. as a safety measure.

**Mr. Mackey** asked what type of rear yard access was there where it was delineated play area B (490 sf) or would they have to put in rear yard access?

**Mr. Edwards** stated they indicated A, B, and C just to show the dimensions, but it was a combined area. He said they have already installed a wood fence. According to the ordinance they could have vegetation but they would continue the wood screen fence.

**Mr. Mackey** stated he was concerned that it was a tight fit. He said he felt the staff parking in the rear yard no one would use it because it was a tight fit.

**Mr. Mackey** asked Ms. Cuyler if she talked with the neighbors?

**Ms. Cuyler** stated the neighbors were in support of her petition.

**Mr. Mackey** asked if she had any thing in writing?

**Ms. Cuyler** stated she submitted a letter in the beginning.

**Mr. Edwards** stated when they first started the process the house to his left was vacant and the house across the street was under construction except for the house next to it and a house across the street.

**Mr. Byrne** state he agreed with the Chairman with regard that it was a tight fit.

**Mr. Stephens** asked how many children were they requesting?

**Mr. Hansen** stated this was not necessarily an all or nothing situation. He said although the petitioner was requesting 16 children, the Board could if they were inclined to grant a childcare center at this location to make that number less than 16. He said they could not go above but they could go below so that was an option.

**Mr. Edwards** stated they could eliminate the steps which would give more room for the drive thru.

**SZBA Action:** **Mr. Stephens made a motion that the Savannah Zoning Board of Appeals deny the petition as submitted for a day care facility for 18 children and approves the establishment of a day care facility with a capacity not to exceed ten (10) children. Mr. Byrne seconded the motion and it was unanimously passed.**

**Mr. Mackey** stated he would like to wish everyone a Merry Christmas and a Happy New Year.

**Mr. Byrne** stated the Board would like to thank Chairman Mackey for sitting on the Board of Appeals and being a good leader and doing a great job.

**RE: Adjournment**

There being no further business to come before the Savannah Zoning Board of Appeals the meeting was adjourned approximately 12:30 p.m.

Respectfully submitted,

James Hansen,  
Secretary

**JH:ca**