

SAVANNAH ZONING BOARD OF APPEALS

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

JUNE 26, 2007

2:30 P.M.

REGULAR MEETING

MINUTES

MEMBERS PRESENT:

**Timothy Mackey, Vice Chairman
Stephanie Bock
John P. Jones
Paul Robinson
*James Byrne**

TECHNICAL STAFF ABSENT:

Tom Todaro, City Development Services

MPC STAFF PRESENT:

**James Hansen, Secretary
Christy Adams, Administrative Assistant**

RE: Call to Order

Mr. Mackey called the June 26, 2007 meeting of the Savannah Zoning Board of Appeals to order at 2:30 p.m.

RE: Minutes

1. Approval of SZBA Minutes – May 22, 2007

SZBA Action: Mr. Robinson made a motion that the Savannah Zoning Board of Appeals approve the regular meeting minutes of May 22, 2007. Mr. Jones seconded the motion and it was unanimously passed.

RE: Consent Agenda

**RE: Petition of Edward Chisholm
B-070523-51646-2
1234 East Waldburg Street**

The petitioner is requesting approval of a nine foot side yard setback variance from the 15 foot side yard setback requirement, and a 15 foot rear yard setback variance from the 25 foot rear yard setback requirement of Section 8-3025 of the Savannah Zoning Ordinance in order to construct a single family residence. The subject property is located at 1234 East Waldburg Street. The property is zoned R-4 (Four-family Residential).

Summary of Findings: All of the findings necessary for granting the variances sought appear to be met.

SZBA Action: Mr. Jones made a motion that the Savannah Zoning Board of Appeals **approve the petition as submitted based upon a finding that all of the conditions necessary for granting the request have been met.** Ms. Bock seconded the motion and it was unanimously passed.

RE: Regular Agenda

**RE: Petition of Herbert Watson
B-070524-49953-2
912 East 31st Street**

Present for the petition was Herbert Watson.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a request to expand a non-conforming use pursuant to Section 8-3163(d) of the Savannah Zoning Ordinance in order to construct a garage. The subject property, located at 912 East 31st Street, is zoned P-D-N (Planned Development Non-Conforming).

Findings

1. The subject property, located along the north side of 31st Street between Harmon and Ott Streets, contains approximately 6,500 square feet, measuring approximately 65 feet wide and 100 feet deep. The parcel is consistent in size with other lots in the area. However, due to the existing P-D-N zoning, no minimum development standards exist.
2. In accordance with Section 8-3163(d) of the Zoning Ordinance, the Board of Appeals may authorize an extension of an existing non-conforming use involving either or both the land area or the floor area in a building or buildings occupied by a non-conforming use. Such extension may be granted in an individual case upon a finding by the Board of Appeals that:
 - a) The use is non-conforming according to these regulations.
 - b) The use conforms to the requirements of Section 8-3163(b), Request for Permission to Establish Uses.
 - c) A non-conforming use of land where no building or structure is involved may be extended only within the legal boundaries of the lot of record which existed at the time when the use became non-conforming.
 - d) A non-conforming use which utilizes a building or structure may be expanded only within the area of the building or structure existing at the time when the use became non-conforming and only when such building or structure or portion thereof is clearly designed to house the same kind of use.
3. 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 requirements of the Zoning Ordinance. 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 embodies in this chapter, and in**

any master plan or portion thereof adopted by the mayor and aldermen.

The proposed use (addition of a garage) will not adversely affect the physical development of the city.

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

The proposed use will not be contrary to the purposes stated in the Ordinance.

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

Construction of a garage 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 proposed use will not be detrimental to neighborhood development.

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

The proposed use (garage) will not be affected adversely by the existing use (house).

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

The parcel is large enough to accommodate both the existing house and a garage.

- 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 development.**

The proposed use is not expected to have any impacts on the neighborhood or surrounding area.

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

All appropriate standards have been or will be met.

Summary Of Findings

All of the findings necessary for granting an expansion of a non-conforming use appear to be met.

Mr. Watson stated he needed the garage to park his vehicles. He said he had six vehicles that he parks in front and when the street sweeper comes around he have to move the vehicles. He said he felt having the garage would help, in that he could park the vehicles in the garage and not have to worry about getting a ticket for being in the way when the street sweeper comes around.

Mr. Mackey stated he felt that was a self-imposed hardship. He said the issue of the street sweeper could not be considered by the Board.

SZBA Action: Mr. Jones made a motion that the Savannah Zoning Board of Appeals **approve the petition as submitted based upon a finding that all of the conditions necessary for granting the request have been met. Ms. Bock seconded the motion and it was unanimously passed.**

**RE: Petition of Marsha Verdree
B-070524-51893-2
14001 Coffee Bluff Road**

Present for the petition was Marsha Verdree.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a 3½ foot lot width variance from the required 80 foot lot width requirement of Section 8-3025 of the Savannah Zoning Ordinance for each of two lots in order to subdivide an existing parcel into two buildable lots. The subject property, located at 14001 Coffee Bluff Road, is zoned R-10 (One-family Residential).

Findings

1. Development standards established for the R-10 zoning classification require a minimum lot width of 80 feet and a minimum lot area of 10,000 square feet. The subject parcel contains approximately 26,775 square feet, measuring approximately 153 feet wide and 175 feet deep.
2. The petitioner is seeking a 3½ foot lot width variance in order to subdivide the existing parcel into two lots of record. If approved, each newly created lot would contain in excess of 13,000 square feet.
3. Immediately south of the subject parcel are home sites located along Daveitta Drive. While most of the lots along Daveitta are 60 feet in width, the area is zoned R-6, a single family district that requires only a 60 foot minimum frontage.
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.**

The subject property is considered a standard parcel within the zoning district. The parcel presently meets the minimum area and width requirements of the district, and is an existing legal lot of record.

- 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 likely cause detriment to the public good or impair the purposes of the Ordinance. The request, as proposed, seeks a 3½ foot lot width variance, a deviation of slightly more than four percent from the 80 foot requirement. Likewise it is noted that the proposed parcels will meet and exceed the minimum lot area requirement of the district.

Summary Of Findings

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

Mr. Jones stated in dividing the lot into two buildable lots, each lot would still contain more square footage than was required for this subdivision. He said both lots would still be over the necessary footage. He said the only difference was that it was not as wide.

Mr. Hansen stated that was correct. He said the required square footage lot area for the R-10 district was 10, 000 square feet. He said each of the two lots would have an excess of 13,000 square feet. As noted, the difference was instead of being 80 feet wide each proposed lot would be 76.5 feet in width.

Ms. Verdree stated she wanted to divide the property into two lots so she could build two houses and sell them. She said she has owned this property for several years.

SZBA Action: Mr. Jones made a motion that the Savannah Zoning Board of Appeals approve the petition as submitted based upon a finding that all of the conditions necessary for granting the request have been met. Ms. Bock seconded the motion and it was unanimously passed.

**RE: Petition of Tyhesha Johnson
B-070524-52015-2
5219 Skidaway Road**

Present for the petition was Tyhesha Johnson.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of an application to establish a use (child care center) that must be approved pursuant to the regulations of Section 8-3025 of the Savannah Zoning Ordinance. The subject property, located at 5219 Skidaway Road, is zoned R-6 (One-family Residential).

Findings

1. The subject property, 5219 Skidaway Road, is presently occupied by a one-story single-family residential structure. The property, though oddly shaped, contains approximately 22,000 square feet, and is considered a standard lot in the R-6 zoning district.
2. The petitioner is requesting approval of a 24 hour child care center that would accommodate between 18 children. A child care center with more than six children in a residential district requires Board of Appeals approval.
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 shall 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.

Article (a) requires that a minimum of 100 square feet of outdoor play space be provided for each child. The petitioner is requesting approval of the use for up to 18 children, thus requiring 1,800 square feet of outdoor play space. Based upon the site plan submitted by the petitioner, there is adequate space available to accommodate the desired number of children.

The petitioner has proposed a circular drive at the front of the property to serve as a drop-off/pick-up. If the use is approved, the petitioner will be required to seek approval from the City Traffic Engineering Department prior to making said improvements.

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 not affect adversely the health and safety of 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 roadway designated as a secondary arterial. The expected traffic generated by the use is not anticipated to have a detrimental impact on Skidaway Road. The size of the subject parcel allows for adequate buffering in order to mitigate potential impacts of the proposed use on adjacent parcels.

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

The proposed use will not be affected adversely by the surrounding uses, which are single family residences.

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

The subject parcel is of sufficient size to satisfy the space requirements of the proposed use. The lot is a standard lot and will meet the outdoor play space requirement.

- 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 as a result of the proposed use will be negligible.

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

Standards as discussed above appear to be met. There is adequate outdoor play area as required, the subject parcel is located on a collector or arterial street, and the screening appears sufficient to adequately buffer the use from adjacent properties.

Summary Of Findings

All of the conditions necessary for granting the requested use appear to be met.

Ms. Johnson stated she neglected to submit plans that showed the entrance for the parents and how they would drop off and pickup. She said the proposed driveway would be gravel for the parents to come in and out. She said she was not aware of the petition signed by the neighbors in opposition. She said she talked with several neighbors before today's scheduled meeting and they said they were fine with her request.

Mr. Mackey asked if she would reside at the location or was this her business?

Ms. Johnson stated this location would be for business only.

Mr. Mackey stated Staff mentioned about screening and no plan being submitted. He asked if she could address the screening?

Ms. Johnson stated she has never done this before so she was not sure what she was being asked.

Mr. Hansen stated Ms. Johnson may not be aware that there was a screening requirement. He said he would also note for the Board that it was not unusual for an applicant (petitioner) for a daycare center not to go the expense of providing that particular screening until such time as they have secured the approval to do that. However, he noted for the petitioner and Board's consideration that if it was approved prior to her issuance of a Certificate of Occupancy she would have to conform to those requirements. He said one would be the construction of an opaque fence. Although he visited the site with other Board members they could not get onto the property yesterday to physically view it in the rear where the proposed play field was. He said as indicated on the aerial the area was also quite heavily wooded. He said he could not tell the Board for certain whether it was or was not an opaque fence at the rear of this property. If there was not the petitioner would have to provide that if the Board approved the petition.

Mr. Mackey stated understandably that this was a new frontier for the petitioner. Nonetheless, he would like to convey to her as he was taught. He said whatever she was going to do learn as much as you could about the entire operation from the beginning to the end. He said the Board would help her as much as they could through what means they could. When she heard the terms screening, buffering, opaque, or whatever those were terms she needed to familiarize herself with. He said he felt those were terms that she would probably see or hear again. He said as a potential business woman she would need to be aware of. He said that was not criticism but it would make her sharper.

Mr. Jones asked if she was asking for a 24-hours operation?

Ms. Johnson stated no and she never requested that. She said she would operate between the hours of 7:30 a.m. – 5:00 p.m. Monday thru Friday.

Mr. Jones asked if she would be willing to continue her petition so she could work with Staff and work out some of the other details?

Ms. Johnson stated yes.

Mr. Robinson stated Staff mentioned that there was enough space in the back for the play area but it was not dimensioned and this was not a to scaled drawing. He said if the petition is continued the petitioner would need to have a to scaled drawing.

Ms. Bock stated she felt she did not think the area was the issue but the use.

Mr. Mackey stated some of the issues the Board has faced in the past were having petitions submitted and the Board not having clarity as to what it potentially would look like. He said when Mr. Robinson makes that comment that was the angle where he was coming from. The Board has wrestled with this with different applicants before. He explained to the petitioner that a continuance would give her chance to sharpen up her request and should not be taken as a negative.

Mr. Hansen stated if it was the will of the Board to continue the petition, Staff will work with her as Mr. Robinson has suggested to provide them with better dimensions. In response to the comments made in the staff report although there were no dimensions indicated for the play area the lot although oddly shaped was nonetheless approximately 90 feet wide. On the south side 170 feet and on the north side 199 feet. Clearly, by subtracting the 52 foot, 30 foot dimension for the house there appeared to be adequate play area. He said they will also work with the applicant to have her meet with and submit the necessary information to City Traffic Engineering because if it was not appropriate or approvable by the City then it was moot.

Ms. Johnson stated she has been to the City several times and she explained to them that she was self-employed and did not have a lot of money. She said she did not want to invest money into putting up a fence or driveways and the petition was denied.

Mr. Mackey stated she has a sound foundation. He said the Board would like for her to tweak her information and Mr. Hansen will assist her along the way.

Mr. Hansen stated there will be no cost associated with anything Staff will provide nor would there be a cost to submit to the City a request to consider or review her driveway application. He said it should not cost her anything out-of-pocket other than a little bit of her time. He said he would also ask the Board to consider if they continue the petition, he would suggest that the petitioner arrange to meet and talk to the neighbors so she could address their concerns.

SZBA Action: Ms. Bock made a motion that the Savannah Zoning Board of Appeals **approve the petition as submitted based upon a finding that all of the criteria necessary for granting the use have been met.** Mr. Jones seconded the motion and it was unanimously passed.

RE: **Petition of Ricky Barrow**
B-070525-54083-2
207 East 53rd Street

Present for the petition was Ricky Barrow.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of an application to allow lot coverage of 42 percent as opposed to the 36 percent lot coverage allowed by Section 8-3067 of the Savannah Zoning

Ordinance in order to construct a detached garage. The subject property, located at 207 East 53rd Street, is zoned R-6 (One-family Residential).

Findings

1. Lot coverage for standard parcels in the R-6 district is allowed by right up to 30 percent. Section 8-3067 of the Ordinance acknowledges the existence of legally existing substandard lots and provides for an increase in lot coverage equal to the percentage difference between 6,000 square feet and the smaller lot. Accordingly, the petitioner is allowed lot coverage of 36 percent by right on the subject parcel.
2. The subject parcel is a substandard lot within the R-6 district, measuring approximately 45 feet wide and 105 feet deep. The lot contains approximately 4,725 square feet. The existing residence is approximately 1,535 square feet in size, resulting in lot coverage of approximately 32½ percent. It is the petitioner's intent to construct a 450 square foot garage at the rear of the property which will, if approved, increase the lot coverage to a total of 42 percent.
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 considered a substandard parcel within the zoning 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 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.
 - 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 likely cause detriment to the public good and impair the purposes of the Ordinance. The request, as proposed, is to construct a garage at the rear of the property to accommodate off-street parking.

Summary Of Findings

All of the conditions necessary for granting the variance requested appear to be met.

Mr. Barrow stated he was trying to add a garage in the back of his property for storage and have off-street parking.

Mr. Jones stated if he remembered correctly he did all of his construction without a permit.

Mr. Barrow stated yes. He said he was told by someone in the City office that it was going to be passed so he started but also stopped work immediately. He said it was basically sitting as a shell.

Mr. Jones asked if he was saying that he was told by a City employee to do the work without a permit?

Mr. Barrow stated when they first applied for the whole structural it was messed up at that time. He said when they made application which was 11 months ago they actually applied for the garage and house at the same. He said next month would be a year that they have been trying to get this done. He said when they did it they were not allowed to build a garage because when they calculated the lot coverage they made a mistake and that was when they found out that they were unable to build the garage. He said they have been going through the whole process since this period.

Mr. Jones stated he felt since he was a contractor he should know the rules and regulations.

Mr. Barrow stated yes.

Ms. Bock asked what has changed since last month when he came before the Board?

Mr. Barrow stated the covered area that they were going to add to the plans that was in the front for the door. He said he has not changed anything on construction and was still sitting as a shell.

Ms. Bock asked if he talked to the neighbors that were in opposition last time?

Mr. Barrow stated yes. He said it was a misunderstanding between a neighbor and his yard person. He said he also talked to Dean Reuther and he has no opposition to the petition.

Mr. Robinson asked who was the person with the City that told him he could go ahead with his project?

Mr. Barrow stated he preferred not to say any names.

Mr. Hansen stated because this was considered a new petition the property was once again posted and Staff also noticed as required all properties within 200 feet. He said as the Board was aware at the last meeting there were several people who spoke in opposition and Staff also received a couple of letters. He said for this petition Staff has not heard or received anything from the surrounding property owners.

Mr. Robinson stated he felt it was difficult for the Board because sometimes people felt that it was easy to get permission after you have done something than going through the proper channels. He said if he looked at this in a vacuum he would be in favor of the petition but because of the circumstances it made him hesitant to consider it in a positive way.

Mr. Barrow stated he understood. He said as he mentioned when they originally applied they went through the subdivision of the lot and applied for permits and was going through the process. Once they started construction that was when they were told there was a calculation error and they have to build the garage separate, but it was submitted with their original plans when they started the house. He said they were not trying to decrease the neighborhood. He said it would be built at the exact same standards as the house.

Mr. Mackey asked if he had a stop work order?

Mr. Barrow stated he had one but it was withdrawn by the City. He said he has not done any work to the project because he needs Board approval.

Mr. Jones stated over the years he has seen this happen over and over again in that people do what they want and then they come to the Boards and ask forgiveness. He said he felt a person in the business should know better. He said if it was a person who did not know anything about construction then he could be flexible. But a person who knew better this was how they made their living. He said he felt it was disregard for rules and regulations.

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

The motion failed for lack of a second.

Mr. Mackey asked if there was any way the Board was going to feel that this petition could be disposed? He said the Board needed to dispose of it and this was the second time that it has been before the Board. The first time there was opposition and the petition was denied. He said it was back before the Board today with an alteration and no opposition.

Mr. Robinson asked the petitioner if there was any adjustment he could make to his physical building that would be in the direction of getting it down to the percentage that would allowed as a matter of right?

Mr. Barrow stated it was his understanding the lot coverage was based on building, heated square feet plus any kind of porch, overhang or anything was part of the lot coverage. He said the house was 30 percent and there were three porches which covered up the majority of the house itself.

Mr. Mackey asked when was the house constructed?

Mr. Barrow stated it was completed in December 2006.

Mr. Mackey asked the petitioner based on the comments if there was any way he could get closer to the lot coverage which would allow him to operate without coming before the Board for approval?

Mr. Barrow stated he applied through the appropriate channels. He said it was after-the-fact that they were denied. He said he pay a lot of money every month in storage bills for stuff that would normally be stored in a garage. He said he currently resides in the residence. Also, the garage accommodated a part of his off-street parking which was required by the City. He said he could not tear it down and would like to keep it the way it was.

Mr. Jones stated the last time he was before the Board he asked for 41 percent and now he was back before the Board asking for 42 percent.

Mr. Barrow stated he was trying to add an awning on the door as a protection from weather.

Mr. Jones stated he felt people were over building and expected to get approval from the Boards.

Ms. Bock asked if he had the paperwork with the miscalculations from the City?

Mr. Barrow stated no.

Mr. Mackey asked if he had to have the awning?

Mr. Barrow stated no, he could eliminate the awning. He said he could reduce the size to 40 percent with the garage.

Mr. Mackey stated he felt the petitioner needed to show some adjustments. He said he felt he was staring down the barrel of a denial. He suggested that the petitioner ketch something out for the Board to see and then they would come back to his petition. He said in that way they could hear the next petition on the agenda.

Mr. Barrow agreed.

The Board agreed.

**RE: Petition of Charles Wallace
B-070529-39647-2
5206 Simpson Street**

Present for the petition was Charles Wallace.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of an application to establish a use (child care center) and is seeking a waiver of the requirement that said use must be located on a collector or arterial street pursuant to the regulations of Section 8-3025 of the Savannah Zoning Ordinance. Additionally, the petitioner seeks a 15 foot rear yard setback variance from the 25 foot rear yard setback requirement. The subject property, located at 5206 Simpson Street, is zoned R-6 (One-family Residential).

Findings

1. The subject property consists of three separate, adjoining lots. In total, the parcels contain approximately 23,000 square feet and measure 230 feet wide and 100 feet

deep. The petitioner is proposing construction of a day care center to accommodate 50 children that will be affiliated with an existing church located on adjoining property to the west, fronting on Wendell Street. A child care center with more than six children in a residential district requires Board of Appeals approval.

2. Though not within the purview of the Board of Appeals, it is noted that the project cannot be constructed as proposed. Because the property consists of three lots and because the proposed development will cross property lines, a subdivision recombination will be required prior to site plan approval and issuance of building permits.
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 shall 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.

Article (a) requires that a minimum of 100 square feet of outdoor play space be provided for each child. The petitioner is requesting approval of the use for up to 50 children, thus requiring 5,000 square feet of outdoor play space. Based upon the site plan submitted by the petitioner, there is adequate space available to accommodate the desired number of children.

Article (b) requires that the center be located on a collector or arterial street. This requirement is in place to accommodate the expected increase in traffic generated by said use. The petitioner seeks a waiver of this requirement as permitted by Section 8-3025 of the Ordinance.

Article (f) requires that a visual buffer be provided to shield play areas, parking areas, and outdoor activity areas from abutting properties. It is unknown how the petitioner intends to screen the proposed use.

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 not affect adversely the health and safety of 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 at the intersection of two local streets in a residential neighborhood. 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 will not be affected adversely by the surrounding uses, which are single family residences and a church.

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

The subject parcel(s) are of sufficient size to satisfy the space requirements of the proposed use. However, as noted above, the parcels will need to be reconfigured before site plan approval can be granted and permits issued.

- 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. Access to the site is proposed via a circular driveway with two curb cuts from Simpson Street. It is unknown whether the City Traffic Engineering Department has reviewed or approved the proposed drive.

- 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 subject parcel is not located on a collector or arterial street, it is unknown if approvals have been granted by Traffic Engineering, and the screening appears insufficient to adequately buffer the use from adjacent properties.

Summary of Findings

All of the conditions necessary for granting use approval for a child care center appear not to be met.

Mr. Jones stated according to the lay out there were seven lots 98 – 104. He said if the daycare center plus the play area was going to cover all of this then it was more than three lots. The daycare center would cover three lots and the other lots would be the play area. He asked if all of that should come together?

Mr. Hansen stated yes, as he stated the project could not be built as presently proposed. He said on the tax map it showed the three lots and on the site plan it showed seven lots. He said there has been at a point-in-time previous a combination done on these properties. For reasons that he was not certain the engineer has chosen to show the old original lot lines. But at the moment there were three parcels and three separate PIN numbers recorded with the County. Nonetheless, whether it be three or seven these parcels would have to be combined or the project could not be constructed as proposed because they would not allow building across lot lines. He said if it was not recombined then the applicant had to meet the setback requirements from all those particular lots.

Mr. Jones stated as mentioned the facility was not located on a collector street which was one of the requirements for approval which the petitioner was also asking for a variance from that.

Mr. Hansen stated yes. One of the requirements in the code was that it be located on a collector or higher. However, the code also allowed the Board to grant a waiver of that requirement when in their opinion the particular project in question would not be detrimental to or cause negative impacts upon the neighborhood.

Mr. Jones stated with approval the Board could set the number of children that they would be able to house in the daycare center.

Mr. Hansen stated yes. He said the Board could not exceed the number that they have requested but they could go less than the number they have requested.

Mr. Mackey stated he felt 80 children was a lot.

Mr. Wallace stated with regards to the lots not being combined when they purchased the property they hired Johnson Surveying Co. He said they hired them for the purpose of combining the lots. He said it was their understanding the lots were supposed to be combined. He said they had a plot plan from them saying that everything was okay. He said their architect was Terry Dismukes. He said they also used Trent Jones of an engineering company which design the plan for them. He said they were under the impression that everything was okay.

Mr. Mackey stated he felt he was given some bad advice. He said he felt 80 children was a lot. He said as it mentioned by Staff and the Board there were two critical points which was the recombination of the lots and the potential request for the waiver of the collector street status. He asked Staff if that was correct?

Mr. Hansen stated yes, but he would like to make clear that it was not the purview of the Board to deal with the site planning matters which would be dealt with at a later date. He said they mentioned them in the report so the Board would be on record and most importantly so the applicant would be on record. The issues before the Board was if a daycare center at this particular location for 80 children appropriate and was a daycare center at this location all be it not located on a collector or arterial street appropriate. He said if the Board believes that to be true then they could grant the waiver of that particular requirement which has been done on others. He said if the Board did not approve the petition perhaps the applicant no longer would

care to combine the lots. But if the Board approves the petition they will have to combine the properties to make this work.

Mr. Mackey stated he felt waiver have been granted by the Board but not to the extent of the numerical count they have heard.

Mr. Hansen stated he was not making the representation that 80 was good or bad. He said he was saying that there was the proviso within the code that the Board has the ability to grant a waiver of that requirement that it be located on a collector or arterial provided that you could make a finding that said use was not detrimental to or would negatively impact the neighborhood. He said if the Board could then they had the ability to grant a daycare center on a street other than a collector or arterial.

Mr. Mackey stated 80 children on this type of street would have a serious impact on a neighborhood.

Mr. Robinson stated if there were 80 children you would have to an additional 2,700 square feet of play area which would take away considerably from parking.

Mr. Wallace stated they were asking for approval of 55 children instead of 80 children. He said the church was approved about 3 years ago for 25 children. He said they currently keep the children inside of their facility. He said since they were able to recently purchase the other properties they were looking to expand.

Mr. Mackey stated the original request of the staff report gave a number of 50. At today's meeting, the number was deemed incorrect and it was readdressed as 80 children. He said now they were saying it was not 80 children but 55 children.

Mr. Wallace stated in the beginning when the architect did their plans it was supposed to be for 80 children. He said the architect made a mistake and that was the reason the square footage on the play ground was not right.

Mr. Mackey asked if they were requesting 80 or 50 children?

Mr. Wallace stated if the Board was willing to grant the request for 50 children then they would request 50 children.

Mr. Mackey asked Staff if they recalled the church coming before the Board for 25 children?

Mr. Hansen stated he had no knowledge of that.

Mr. Mackey stated he felt 80 children would seriously alter a neighborhood. He said with regards of the waiver of collector street he felt it would not be wise although each case sits on its own bottom but would not want to give any hints of starting a trend.

Mr. Hansen stated the 80 was what was requested in the letter he received which was the amendment to the petition. As the Board may recall during discussions of proposed revisions to the childcare section of the ordinance the maximum currently allowed under the ordinance was 75 children. He said the request for 80 was not in play because the maximum that the Board could grant would be 75 which was still a large number.

Mr. Jones stated he felt the petitioner needed to go back to the drawing board and rethink their petition to work out some of the issues. He said may be with more time then they could come back to the Board next month.

SZBA Action: **Mr. Jones** made a motion that the Savannah Zoning Board of Appeals continue the petition until July 24, 2007. **Ms. Bock** seconded the motion and it was unanimously passed.

RE: Petition of Ricky Barrow
B-070525-54083-2
207 East 53rd Street

Mr. Mackey stated the Board will now go back to the Petition of Ricky Barrow.

Mr. Barrow stated he was not trying to supersede everything that was in the neighborhood. He said he was trying to conform. He said he pulled up within a 200 foot radius of his house and the actual dimensions and lot coverage itself. He said he was below the average of what they were just within 200 feet according to SAGIS. He said he was asking for 42 percent and he could by with 40 percent, but the average between houses was 43 percent within the 200 block radius. He said he will eliminate the awning and he could also remove the roof in the area of the pool and rebuild it from where it was.

Mr. Mackey asked that was based on if the Board granted him what lot coverage?

Mr. Barrow stated he would like to have 40 or 41 percent, but whatever the Board was willing to give.

Mr. Robinson asked if he would be agreeable to 39 percent?

Mr. Barrow stated yes.

Ms. Bock asked if the recent sketch showed the garage at 9 feet wide?

Mr. Barrow stated yes.

SZBA Action: **Mr. Robinson** made a motion that the Savannah Zoning Board of Appeals deny the petition as submitted and approve the request for lot coverage in an amount not to exceed 39 percent. **Ms. Bock** seconded the motion and it was passed 3 – 1. Opposed to the motion was **Mr. Jones**.

*Mr. Byrne arrived approximately 3:45 p.m.

RE: Other Business

Mr. Byrne stated tomorrow was a training day at MPC for Chairman's of the various Boards. Each Chairman could bring one Board member and if anyone was interested they could let him know after the meeting. He said it will be from 11:00 a.m. to 4:00 p.m.

Mr. Hansen stated the childcare amendment has been approved by MPC and sent to the Mayor and City Council for action. He said he did not know when it will be scheduled but it could be

one week from Thursday. He said he will let the Board know when it is scheduled to be heard. It was not necessary that Board members attend. He said he will present on behalf of MPC as he does all of the other cases.

Mr. Hansen further stated the cases heard today including the one that was continued and any case that would be filed prior to such time as that ordinance is enacted on the second reading by City Council will fall under the old ordinance.

RE: Adjournment

There being no further business to come before the Savannah Zoning Board of Appeals the meeting was adjourned approximately 4:00 p.m.

Respectfully submitted,

Jim Hansen
Secretary

JH/ca