

SAVANNAH ZONING BOARD OF APPEALS

ARTHUR A. MENDONSA HEARING ROOM

112 EAST STATE STREET

January 29, 2008

2:30 p.m.

REGULAR MEETING

MINUTES

MEMBERS PRESENT:

**Timothy Mackey, Vice Chairman
Stephanie Bock
John Jones**

MEMBERS ABSENT:

**James Byrne
Paul Robinson**

TECHINICAL STAFF ABSENT:

MPC STAFF PRESENT:

**Jim Hansen, Secretary
Sabrina Thomas, Administrative Assistant**

RE: Call to Order

Mr. Mackey called the January 29, 2008 meeting to order at 2:30 p.m.

**RE: Petition of Amy Stafford
B-071120-51115-2
2307 Bull Street**

The petition was continued from the December 18, 2007 hearing to give Board members additional time to secure information relevant to the application.

Nature of Request

The petitioner is requesting approval of a petition to establish a use (nightclub) which must be approved by the Board of Appeals in accordance with the provisions of Article K of the Savannah Zoning Ordinance. The subject property, located at 2307 Bull Street, is zoned TC-1 (Traditional Commercial).

Summary Of Findings

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

Mr. Mackey asked if there was new information.

Ms. Bock stated there did not appear to be a cause of disturbance at ten at night.

Virginia Mobley was sworn in and stated under mid-city zoning, article 4.1.7 certain contingencies should be met, being the approval of an alcohol license since there is a alcohol treatment center in the area.

Mr. Mackey stated this Board has nothing to do with the issuance or denial or acceptance of liquor license. He stated the only item for discussion is only what was currently before them.

Ms. Mobley stated the Board has the power to put caveats on your decision.

Mr. Mackey asked Staff, has everything been met?

Mr. Hansen stated it will have to have site plan approval, but to his understanding that is in reference to a variance. The applicant is simply requesting approval for the use. He added it will need to go through the review processes as necessary.

SZBA ACTION: Ms. Bock motioned the petition be granted and it was seconded by Mr. Jones. The petition was unanimously passed.

**RE: Neil Dawson
B-071217-46980-2
2 East Taylor Street**

This petition was continued.

**RE: Dionne R. Hines
B-070926-61041-2
33 Fair Street**

Nature of Request

The petitioner is requesting approval of a use (child care) that must be approved by the Zoning Board of Appeals pursuant to the requirements of Section 8-3025 of the City of Savannah Zoning Ordinance. The petitioner is also seeking a waiver of the requirement that said use be located on a collector or arterial street. The subject property, located at 33 Fair Street, is zoned R-6 (One-Family Residential).

The petition was first considered by the Board of Appeals on October 23, 2007. At that time the Board denied the request. The petitioner filed a timely request for reconsideration and the petition was scheduled for a second hearing on November 27, 2007. Whereas the petitioner was not present for the hearing, the Board chose not to reconsider the petition. It has now been established that the City Inspections Department gave the petitioner the incorrect date for the rehearing. In fairness to the petitioner, the request is presented once more for reconsideration. The original denial was based upon the petitioner's intent not to inhabit the structure as required by Ordinance. The petitioner now asserts that she will reside at the proposed child care center as required.

Summary Of Findings

All of the conditions necessary for granting approval of the use sought appear not to be met.

Mr. Hansen suggested motion for reconsideration.

Mr. Mackey made motion to hear petition.

Mr. Jones moved to reconsider petition if all other stipulations were met. Ms. Bock seconded motion to reconsider and the motion was passed.

Mr. Hansen provided the staff report.

Dionne Hines was sworn in. She stated she wanted to open a learning center at her residence at 33 Fair Street with a maximum of 18 children.

Mr. Mackey stated Ms. Hines previously disclosed she did not intend to reside at that location.

Ms. Hines responded that was correct.

Mr. Mackey asked if anything changed in that regard.

Ms. Hines stated yes; she will be residing there.

Mr. Mackey stated the other issues would have to be screening, curb cuts, and potential to load and unload children.

Tyrone Ware was sworn in. He stated he was opposed to the daycare because of its requested location and the danger proposed to the children.

Mr. Jones asked was it a day care before?

Mr. Ware replied no. He added a little girl was killed there before. He informed the street is only nine feet wide and leaves little room for error.

Mr. Mackey stated she will be a permanent resident. He informed should she deviate, the inspections department will have to handle that. He asked are there any houses that fronts the street the same way this former residence fronts the street?

Mr. Ware replied everything there fronts the street.

Mr. Mackey asked what's the difference in five permanent kids versus five kids at a daycare coming in and out; what's the difference in having holiday guests versus ten cars one day a week?

Mr. Ware replied she wants more than twelve kids which would create a safety hazard. On holidays, businesses are closed as opposed to everyday daycare traffic. He informed without proper ingress and egress safety issues would arise.

Shirley Green was sworn in and she informed she lived on Fair Street. She stated she walks Fair Street almost daily. She stated numerous times she has to walk in the street because the petitioner has vehicles parked all over the sidewalk and she has no other option.

Dorothy Ware was sworn and stated she walks Fair Street daily. She informed was no area to pull in to let a child in and out without using the sidewalk. She stated the traffic is worse than it has ever been.

Rosalee Everett was sworn in. She informed she lived on the next street and walks a lot, but has to walk in the street because the sidewalk is blocked.

Mr. Mackey asked why was the sidewalk being blocked?

Ms. Everett responded because of the cars on the sidewalk.

Mr. Mackey asked because of this particular establishment?

Ms. Everett replied yes.

Mr. Jones is there a daycare there now?

Ms. Everett responded yes, there is a daycare there now.

Mr. Jones stated he just asked the president and he said there was no.

Mr. Ware requested to clarify and stated there is a sign there and children are being kept there. He said whether they are legally there, there is no legal right.

Mr. Mackey stated it is not the perview of this Board whether there Ms. Hines is operating or not.

Mr. Ware if any of the Board members went to the sight.

Mr. Mackey stated yes.

Ms. Bock asked Ms. Hines if a screening fence has already been put up?

Ms. Hines stated the wood fence was already there.

SZBA ACTION: **Mr. Jones** motioned approval conditioned with opaque fence and permission from the traffic department for the driveway and all the other necessary requirements before a certificate of occupancy is issued for 18 children. **Ms. Bock** seconded the motion and it was unanimously passed.

**RE: Petition of Harold Gantt
B-071029-52869-2
920 Mill Drive**

Due to the petitioner's unavailability, the request was continued from the December 18, 2007 meeting.

Nature of Request

The petitioner, Harold T. Gantt, is requesting approval of a 3 foot side yard setback variance from the 5 foot side yard setback required, a 3 foot rear yard setback variance from the 5 foot rear yard setback required, and to allow lot coverage of 32.2 percent as opposed to the 30 percent allowed pursuant to section 8-3025(c) of the Savannah Zoning Ordinance in order to construct a detached garage. The subject property, located at 920 Mill Road, is zoned R-6 (One Family Residential).

Findings

1. The petitioner is proposing to construct a detached garage in the rear yard of the subject property. As proposed, the structure will be placed two (2) feet from the side property line and two (2) feet from the rear property line. Due to the size of the existing house and the proposed garage, the allowable lot coverage will be exceeded by approximately 2.2 percent.
2. Ordinance regulations allow lot coverage of up to 30 percent in the R-6 district and require that accessory structures be located not less than five (5) feet from all property lines.
3. In 1996, the petitioner requested approval of the same variances for the purpose of constructing a detached garage. Though the Board of Appeals granted the requests, the structure was never constructed. In their decision, the then sitting Board noted that the proposed construction was compatible with existing development in the neighborhood; that the existing residence was set back 53 feet from the front property line thus limiting the amount of rear yard area; that the proposed accessory building would not adversely affect adjacent properties; and, that the relief granted would not cause substantial detriment to the public good. Such is still the case today.

Summary Of Findings

All of the conditions necessary for once again approving the variances requested appear to be met.

Mr. Hansen stated Mr. Gantt was approved for variances in 1996. He informed the proposed use was not constructed. He is now requesting an extension of the previous approval.

Harold Gantt was sworn in and requested approval again. He informed he went to work for someone else and it passed him by.

Ms. Bock motioned to approve as is.

Mr. Mackey stated it died due to lack of a second motion.

Ms. Bock motioned instead of a three-foot setback variance, make it four feet off of the property line and approve the percentage as 32.2. She asked if he would be able to move it two feet over.

Mr. Gantt replied no because his air conditioner unit is in between there.

Mr. Mack seconded the motion.

Mr. Jones opposed the motion.

CZBA ACTION: Ms. Bock made a motion and the Mr. Jones opposed the motion, along with Mr. Mackey. The motion was denied.

**RE: Petition of Paul Bush,
For Roosevelt Pough
B-071120-39553-2
814 West 44th Street;
B071120-47471-2
822 West 44th Street;
B-071120-89350-2
818 West 44th Street**

Due to a posting error, the petitions were continued from the December 18, 2007 hearing.

Nature of Request

The petitioner is requesting approval of an application to allow lot coverage of 45.75 percent as opposed to the 30 percent lot coverage allowed by Section 8-3025 of the Savannah Zoning Ordinance. The petitioner intends to construct an addition onto an existing single family residence. The subject property, located at 822 West 44th Street, is zoned R-6 (One-family Residential).

Findings

1. Lot coverage, which includes all structures or portions of structures located on a lot that are enclosed with a roof, within the R-6 zoning classification is capped at 30 percent. The petitioner is seeking a variance from this requirement of the Ordinance.
2. The subject property, containing approximately 3,150 square feet, is an existing lot of record measuring 30 feet wide and 105 feet deep. Development standards within the R-6 district are based upon a minimum lot width of 60 feet and a minimum lot area of 6,000 square feet. The substandard lot size is typical of most other parcels within the immediate vicinity.
3. The single family residence currently exists on the subject parcel. The structure, including the covered front porch, occupies approximately 777 square feet. The petitioner desires to construct a 19 foot by 35 foot (665 square feet) addition onto the existing structure, As proposed, the resulting lot coverage would be 45.75 percent. Aside from the lot coverage variance requested, no other variances are needed or sought.
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 a substandard lot within the R-6 zoning district. Development standards require a minimum lot size of 6,000 square feet and the subject property contains only 3,150 square feet.

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

Strict application of the regulations of the Savannah Zoning Ordinance would create an unnecessary hardship. As the lot currently exists, lot coverage would be limited to 945 square feet.

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

The conditions described above are peculiar to the subject property.

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

Relief, if granted, would not likely cause substantial detriment to the public good. The proposed development is similar to other developments in the neighborhood and is historically appropriate. It is noted, however, that staff has received several inquiries from concerned property owners in the immediate vicinity.

Summary Of Findings

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

Paul Bush was sworn in and stated he was the agent for Mr. Pough and he had nothing to say.

Matthew Brown was sworn in and requested they remain single family units.

Roosevelt Pough, Jr. was sworn in and stated they will remain single family units.

CZBA ACTION: Mr. Jones motioned to approve the petition and it was seconded by Ms. Bock. There was no opposition and the motion was unanimously passed.

**RE: Petition of David Cross
 B-071120-48977-2
 1809 Dexter Street**

Due to a posting error, the petition was continued from the December 18, 2007 hearing.

Nature of Request

The petitioner is requesting approval of a 27 foot front yard setback variance from the 30 foot front yard setback required; a 2 foot side yard setback variance from the 5 foot side yard setback required; and a 22 foot rear yard setback from the 25 foot rear yard setback required by Section 8-3025 of the Savannah Zoning Ordinance in order to construct a single family residence. The subject property, located at 1809 Dexter Street, is zoned R-4 (Four-family Residential).

Findings

1. Development standards for single family properties within the R-4 zoning district include a 50 foot front yard setback from the centerline of the street, a 25 foot rear yard setback, and a five (5) foot side yard setback. The petitioner is seeking variances from these provisions as he desires to construct a single family residence on the subject parcel.
2. The subject parcel is an oddly shaped triangular lot. The property is 73 feet wide and 35 feet deep. The rear property line (hypotenuse) is 81 feet in length. The parcel contains approximately 1,278 square feet.
3. The petitioner desires to construct a 570 square foot single family residence on the parcel. The petitioner has designed a building envelope that provides a three (3) foot setback in the front and rear, and on the west side. No variance is needed on the east side yard.
4. Staff has received several phone calls from area residents concerned about potential “overbuilding” of the property. Given the large amount of variation requested, it is, none-the-less, noted that the parcel is an existing lot of record and is, therefore, considered buildable.
5. 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:
 - e. **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 substandard lot within the R-4 zoning district. Development standards require a minimum lot size of 6,000 square feet and the subject property contains only 1,278 square feet.
 - f. **The application of these regulations to this particular piece of property would create an unnecessary hardship.**

Strict application of the regulations of the Savannah Zoning Ordinance would

create an unnecessary hardship. As the lot currently exists, the lot is not buildable without variances from the Ordinance standards.

g. Such conditions are peculiar to the particular piece of property involved.

The conditions described above are peculiar to the subject property.

h. 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 likely cause detriment to the public good. Although the parcel is substandard in size and shape, the proposal put forth by the petitioner is not consistent with development patterns in the area and will not provide sufficient yard space and setback separation.

Summary Of Findings

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

David Cross was not present.

CZBA ACTION: Mr. Jones made the motion to deny the petition. Ms. Bock seconded the motion and it was denied.

**RE: Petition of Charles and Janice Oxford
B-071212-48821-2
1601 Huntingdon Street**

Nature of Request

The petitioner is requesting approval of an extension of a previously approved variance to allow lot coverage of 79.6 percent as opposed to the 75 percent lot coverage allowed by Section 8-3025 of the City of Savannah Zoning Ordinance in order to construct a single family residence. The subject property, located at 1601 Huntingdon Street, is zoned R-I-P-A (Residential – Medium Density).

Findings

1. The applicant originally received approval from the Savannah Zoning Board of Appeals on December 19, 2006. A request for an extension of the approval was submitted on December 11, 2007.
2. In accordance with Section 8-3025 of the City of Savannah Zoning Ordinance, properties within the R-I-P-A zoning district are allowed lot coverage of 75 percent. Lot coverage is defined as any structure of part of a structure covered by a roof.
3. The petitioner is seeking a variance that would allow lot coverage of 79.6 percent on the subject property. It is the petitioner's stated intent to construct a single family residence on the currently vacant parcel. Required parking will be accommodated within an

attached garage having access from the lane.

4. The parcel is considered a standard lot within the R-I-P-A district measuring approximately 25 feet wide and 70 feet deep, containing approximately 1,750 square feet.
5. The petitioner's request has been reviewed by the City's Historic Preservation Officer. The HPO is supportive of the request due to the low height of the building resulting in a smaller structure mass.
6. 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. There are no extraordinary or exceptional conditions pertaining to size, shape, or topography associated with the parcel.

- 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 substantial detriment to the public good. The proposed development is consistent with development patterns in the neighborhood and has the support of the Historic Preservation Officer.

Summary Of Findings

All of the conditions necessary for the granting of a 4.6% lot coverage variance appear not to have been met.

Mr. Hansen informed that the previously approved variance structure has not be started. He stated no permits or work has been implemented, therefore approval has to again be requested.

Charles Oxford was sworn in. He stated the variance would allow for offstreet parking. He informed he ran into some engineering and architectural delays. He stated he would like to start his project in the next sixty days.

Mr. Mackey asked if the petition for today and the 2006 petition had any changes?

Mr. Oxford stated no.

Mr. Jones asked if Mr. Oxford really planned to start the project.

Mr. Oxford stated yes.

Ray Navarra was sworn in. He stated he owned the property immediately adjacent to Mr. Oxford's property on the south and he believed it would make a significant improvement to the area.

SZBA ACTION: Mr. Jones motioned to approve the petition. It was seconded by Ms. Bock and the petition was unanimously passed.

**RE: Petition of Janice Swan and
Valerie Davis
B-071212-50715-2
4018 Walton Street**

Nature of Request

The petitioners, Janice Swan and Valerie Davis, are requesting approval of an application to establish a use (child care center) which must be approved by the Board of Appeals in conformance with the standards set forth in Section 8-3025 of the City of Savannah Zoning Ordinance. Included in the petition is a request for a variance from the maximum number of children allowed (54 requested, 18 allowed), and a variance from the requirement that a center be located on a collector or higher designated street.

Findings

1. The subject property is located at 4018 Walton Street. The property is occupied by a two-story single-family residential structure comprising approximately 1,900 square feet on a lot of 3,920 square feet.
2. The subject property is located in an R-6 (one-family residential) zoning district. According to the City of Savannah Zoning Ordinance Section 8-3025(a) as amended on June 6th, 2007, an in-home child care center for a maximum of 18 children is allowed in an R-6 zoning district, subject to the approval of the Zoning Board of Appeals.
3. Section 8-3025(a) requires a minimum of 100 square feet of outdoor play area per child). There is approximately 2,000 square feet of front, side and rear yard on the subject property, with a rear yard of approximately 900 square feet. Section (f) requires that the play area be screened from adjoining properties. The applicant proposes a six-foot privacy fence which must be constructed if the application is approved.

4. The petitioner is requesting a variance from the requirement that a center be located on a collector or higher-designated street. The subject property is located on a minor dead-end street with no turn-around or other exit, .53 miles from the nearest collector street (Mills B. Lane Boulevard – a secondary arterial road).
5. The applicant is proposing a 24-hour, seven-day day care, in three “shifts” of up to 18 children each shift. The applicant is proposing to house children from newborn to age 12. Applicant Janice Swann will be in residence at the house.
6. 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 contrary to the stated purposes of this chapter. The Ordinance limits participant numbers and requires that facilities be located on roads adequate to provide safe access to the facility.

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

The proposed use is not likely to affect adversely the health and safety of residents, however, it is noted that an increase in traffic congestion could occur during child drop-off and pick-up times, which are proposed for 24-hours-a-day.

- 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 minor dead-end street in a predominantly residential neighborhood. The relatively large number of children proposed to be accommodated at the center is not appropriate for a residential setting. Although the resulting traffic and potential congestion associated therewith is not likely to be detrimental to the use or development of adjacent properties, the proposed center is more akin to a commercial venture rather than a home-based operation.

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

The proposed use, subject to meeting current Ordinance provisions and Board of Appeals approval, can be compatible with the character of the existing area.

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

A minimum of 100 square feet of outdoor play space is required for each child. The petitioner's site plan illustrates minimal space for the number of children requested, provided there is no overlap of "shifts." There is no space available to accommodate the required parking.

- 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 of a 24-hour child care operation could be a nuisance to the surrounding area.

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

Standards as discussed above appear not to be met. The petitioner is requesting variances from Ordinance provisions that limit the number of children allowed and from the requirement that the center be located on a collector road or better. Both requests run counter to the recently adopted changes to the Ordinance as brought forth by the Board of Appeals.

Summary Of Findings

All of the conditions necessary for granting the use approval sought appear not to be met.

Mr. Hansen informed the petitioners are proposing a twenty-four daycare composed of three working shifts.

Valerie Davis and **Janice Swan** were sworn in. Ms. Davis stated they currently have a twenty-four facility and never have over eighteen children at one time. She informed the children go to the playground at different times so they are in compliance with all State requirements for the past twelve years.

Mr. Jones stated there is a lot of new construction on Walton Street. He asked how did they plan to get people in and out on the street.

Ms. Davis stated they are at the beginning of the street. She stated the required circular driveway will eliminate congestion.

Mr. Jones asked what about people trying to sleep?

Ms. Davis stated they've had no complaints; she stated the people in the area are supportive.

Ms. Bock asked if any negative or positive calls were received since the signs were posted?

Mr. Hansen stated he has received no calls.

Ms. Swan stated the traffic is not as heavy as implied. She stated a lot of the neighbors were supportive in this project.

Mr. Mackey asked if she was aware of any neighborhood associations in the area.

Ms. Swan responded she's heard about some; Paul, the builder, spoke of neighborhood associations.

Mr. Mackey asked if there would be a permanent resident there?

Ms. Swan replied yes; it would be one of them.

Ernestine Jones was sworn in and stated she was concerned the twenty-four hour operation of the daycare. She stated she was also concerned about the number of children in and out in proximity to the neighbors. She said she felt there were too many daycares in the area currently and could not see how the square footage per child could be met.

Patricia Lovett was sworn in and informed she lived on Walton Street; adjacent Lloyd Street. She stated she was opposed because of the traffic. She stated there is barely enough room for the school buses to pick up children. She stated she is also concerned about noise control.

William Duncan was sworn in and stated one cannot inconvenience a community in order to help children. He stated he was in opposition to the daycare because of the traffic and inconvenience to the neighbors.

Rolton Lovett was sworn in and stated he was not asked about the daycare. He stated there was no adequate parking and no sidewalk and no turn-in driveway. He stated there is too much traffic for the neighborhood.

Ms. Davis stated she understood the concerns of the neighborhood. She feels the respect will be earned when they see how the business will be operated. She apologized for any noise inconvenience and the child criteria has been met.

SZBA ACTION: Mr. Jones motioned to oppose and it was seconded by Mr. Mackey. Ms. Bock opposed to deny; Mr. Mackey opposed to break the tie. The petition was denied.

**RE: Petition of Neil Dawson,
For Martin Melaver
B-07-1217-47241-2
214 East Taylor Street**

Ms. Bock stated she objected to hearing this petition because she understood Mr. Mackey to pass this petition. She stated people got up and left because of it.

Mr. Mackey asked Mr. Hansen if 210 and 214 East Taylor were two separate petitions.

Mr. Hansen stated they were.

Nature of Request

The petitioner, Neil Dawson, For Martin Melaver, has, in accordance with the provisions of Section 8-3163(a) of the City of Savannah Zoning Ordinance, filed an appeal of a decision made by the Historic District Board of Review alleging that procedural errors were made during the review of and subsequent issuance of a Certificate of Appropriateness for a fence that exceeds the maximum height allowed in Section 8-3051 by five (5) feet three (3) inches for property adjoining the petitioner's residence. The petitioner is requesting that the Board of Appeals reverse the decision of the Historic District Board of Review and deny the fence height as requested.

Findings

1. On December 12, 2007, the Historic District Board of Review (HRB) voted to grant a certificate of appropriateness to Linda Ramsey on behalf of her client Edward Brennan for a fence at 214 East Taylor Street. (HBR minutes attached) The fence is to be 16 feet three inches above grade. The petitioner, Neil Dawson on behalf of his client Martin Melaver, has filed an appeal of the HRB decision alleging that the decision violates Section 8-3051 of the City of Savannah Zoning Ordinance.
2. Article C of the Savannah Zoning Ordinance, titled Exceptions and Modifications, lists and describes those areas of the code where variations to accepted standards are allowed subject to meeting the required provisions contained therein. Section 8-3051 of that Article pertains to walls and fences, and states in part that "...within any R district, except the historic district, no wall or fence shall exceed six feet in height within a front or side yard. Within any R district within the historic district, no wall or fence shall exceed 11 feet in height within a front or side yard; however, where adjoining walls exceed 11 feet, any new wall may be constructed to the height of the existing wall." Screenwalls are not listed as an exception to the 11 foot limitation.
3. Section 8-3030 of the City of Savannah Zoning Ordinance establishes the historic district, establishes a Historic Board of Review, and provides the rules and regulations pertaining thereto. Part K (Development Standards) of that section states in part that "...an historic structure and any outbuildings, or any appurtenance related thereto visible from a public street or lane, including but not limited to walls, fences, light fixtures, steps, paving, sidewalks, and signs, shall only be moved, reconstructed, altered, or maintained in a manner that will preserve the historical and exterior architectural features of the historic structure or appurtenance thereto."
4. The petitioner alleges that the structure proposed meets the generally accepted definition of a fence or wall and thus that the HRB exceeded their authority in granting the certificate of appropriateness for a fence in excess of the 11 feet in height allowed by Ordinance. The HRB does not have the statutory authority to grant variances; only the Zoning Board of Appeals and the Metropolitan Planning Commission are given that express authority. The petitioner asks that the certificate of appropriateness for a 16 foot three inch fence granted by the HRB be nullified. Further that the owner of the property at 214 East Taylor be made aware that the proper avenue for appeal is to the Zoning Board of Appeals.

Summary Of Findings

It appears that:

- 1) the Ordinance limits the height of fences and walls in the Historic District to 11 feet;
- 2) that the HRB overstepped their authority to grant a variance for an over height fence; and
- 3) that the appropriate avenue for an appeal of the height restriction is to the Zoning Board of Appeals.

Mr. Jones asked why was it necessary to have a fence that tall?

Neil Dawson was sworn in and stated that the issue is the HRB does not have the right to override zoning ordinances. He feels it was renamed from 'fence' to 'screen wall' to grant the approval. He stated the petitioner's application states clearly it is a fence.

Edward Brennan was sworn in and stated he was the owner of 214 Taylor Street. He stated the HRB and MPC deemed it as a screen wall and indicated it as such on the Certificate of Appropriateness.

Ron Berry was sworn in as representative for Mr. Brennan. He stated they are attaching to an existing adjacent wall.

Mr. Mackey asked Mr. Hansen if this was to be heard by the ZBA.

Mr. Hansen responded the ZBA have the statutory authority to grant variance.

Mr. Jones asked why was it so high?

Mr. Dawson stated because they don't like the building his client is putting up.

Mr. Jones stated it was a spite wall.

Ms. Bock stated it was a spite petition and there was no need to come before the Board.

Mr. Brennan said the wall is not attached; there is a distance of six inches.

Mr. Dawson stated the wall is not freestanding. He said it ties in to the same footer as the original wall.

Beth Reiter was sworn in and stated it was labeled as a screen wall because it was screening, not enclosing as a fence would. She stated it was her understanding the walls would not touch; it was freestanding. It was this reasoning that led her to believe the Review Board could approve it higher than eleven feet.

SZBA ACTION: Ms. Bock motioned to deny the petition and Mr. Jones seconded. Mr. Mackey voted to oppose; the petition was denied.

**RE: Petition of Albert Faragalli
And Arjan Vanbuul
B-071217-47648-2
407 East Anderson Street**

Nature of Request

The petitioner is requesting approval of a 4-space parking variance, and a 3-foot side setback variance in order to build a mixed use commercial and residential structure. The subject property, located at 407 East Anderson Street, is in the Victorian Planned Neighborhood Conservation (PNC) district and is zoned 1-B (Commercial/Mixed Use).

Findings

1. The subject property is a rated structure in the Victorian PNC district and was used as a purely residential structure, but is presently vacant and in disrepair. The adjacent property to the west along Habersham Street is a diner, and the adjacent property to the east is a residential structure.
2. The 1-B District permits retail sales establishments, professional offices, services, and other limited commercial activities in conjunction with a mixed residential use.
3. The Victorian PNC Visual Compatibility Office has reviewed and approved the proposed renovation of the structure, and supports the granting of a parking variance pursuant to the rehabilitation of the building.
4. The setbacks for commercial uses in the 1-B district are 0 feet, however between commercial and residential uses the required setback is 10-feet.
5. The applicant proposes to expand the existing structure to the rear, maintaining the existing building setback from the adjoining residential property (approximately seven feet) and reducing the rear yard.
6. The expansion of the existing building will limit the available on-site parking space to two spaces and a single handicapped-accessible space, rather than the six spaces and one handicapped-accessible space required by the ordinance. There are ten spaces of on-street parking on Anderson Street in the same block as the subject property.
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.**

The subject property is 29 feet wide. The imposition of a ten-foot side setback

would severely limit the potential structure on the property. Also, the existing structure on the property is a rated historical property in the Victorian PNC and is built within seven feet of the side property line.

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 require the demolition or relocation of a rated historical property in order to meet the setback requirements of the use permitted by the zoning. The application of the required parking regulation would limit the size of the proposed use, but would not create an unnecessary hardship.

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

The lot width/building location condition is peculiar to the particular piece of property. The expansion of the structure to take up the space available for on-site parking is not peculiar to the particular piece property.

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

Relief, if granted, would not cause substantial detriment to the public good.

Summary Of Findings

All conditions necessary for granting a variance from the side setback requirement appear to have been met. All conditions for granting a variance from the requirement for seven (six and one handicapped-accessible) parking spaces on site do not appear to have been met.

Albert Faragalli was sworn in and stated no physical variance beyond already existing was requested. Parking is available and will be provided at highest requirement.

Mr. Jones asked they just want to add to the back?

Mr. Faragalli stated there would be commercial on the bottom and living space on top.

Ms. Bock asked if any discussions were conducted with the neighbors?

Louis Taber was sworn in and stated he lived on East Anderson Street. He stated he's helped Mr. Faragalli with the house and the neighbors are in approval of the project.

SZBA ACTION: Mr. Jones motioned to approve and Mr. Mackey seconded. The were no opposers and the petition was approved.

**RE: Steve Green
B-071227-32156-2
225 East President Street**

Nature of Request

The petitioner is requesting approval of a variance from the requirements of Section 8-3082(r) of the City of Savannah Zoning Ordinance that requires remote off-street parking spaces to be no more than 150 feet distance from the use served. The subject property, located at 225 East President Street, is zoned R-I-P-A (Residential-Institutional-Professional – medium density).

Summary Of Findings

1. In accordance with Section 8-3082(r), required off-street parking shall be provided on the same lot as the main building to be served or on a lot not more than 150 feet distance from the use it is intended to serve, as measured along the nearest pedestrian walkway.
2. The subject property is located approximately 500 feet from the State Street garage, which is owned by the City of Savannah.
3. Savannah Assistance City Manager Chris Morrill has submitted a letter confirming that “during and after this construction phase” of the proposed Presidents’ Quarters condominium Savannah Parking Services will provide 20 spaces in the State Street Garage. While no study of the availability of additional spaces in the State Street Garage was included, the letter also commits Parking Services to “work with” the applicant should additional parking be required.
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 a conforming lot of record and the parking on-site is adequate to the current uses of the site (Presidents’ Quarters Inn).

- 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.

- a. **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 substantial detriment to the public good. The granting of the remote parking request would permit the applicant to proceed with the construction of a proposed condominium structure on the existing surface parking lot.

Summary of Findings

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

Mr. Jones stated the needed information was not in his package and could not vote on something he had no knowledge of. The petition was continued to February 25, 2008.

RE: Other Business

There was no other business to discuss; the meeting was adjourned at 5:30 p.m.

/st

