



City of Savannah Zoning Board of Appeals

Virtual Meeting
October 22, 2020 - 10:00 A.M.
Minutes

October 22, 2020 City of Savannah Zoning Board of Appeals

This is a quasi-judicial proceeding. All those wishing to give testimony during these proceedings will please sign in. Witnesses will be sworn-in prior to giving testimony.

All proceedings of the Savannah Zoning Board of Appeals are recorded. Decisions of the Savannah Zoning Board of Appeals are final. Challenges to the decisions of the Savannah Zoning Board of Appeals must be filed through the Superior Court of Chatham County.

Note: All persons in attendance are requested to so note on the "Sign-In Sheet" in the meeting room on the podium. Persons wishing to speak will indicate on the sheet

I. Call to Order and Welcome

II. Invocation and Pledge of Allegiance

III. Notices, Proclamations and Acknowledgements

[1. Recognition of Former Board Member Eli Karatassos](#)

IV. Item(s) Requested to be Removed from the Final Agenda

[2. 760 Old River Road | Variance | 20-003639-ZBA](#)

Motion

Petitioner requested this item be continued to the November 19, 2020 meeting.

Vote Results (Approved)

Motion: Trapper Griffith

Second: Michael Brown

Stephen Merriman, Jr. - Aye

Tommy Branch - Aye

Michael Brown - Aye

Trapper Griffith - Aye

Hunter Hall - Aye

Michael Condon - Aye

V. Item(s) Requested to be Withdrawn

VI. Approval of Minutes

3. Approval of September 24, 2020 Meeting Minutes

📎 [September 24, 2020 Meeting Minutes.pdf](#)

The minutes were approved as submitted.

Motion

Approve the minutes as submitted.

Vote Results (Approved)

Motion: Stephen Merriman, Jr.

Second: Michael Condon

Stephen Merriman, Jr.	- Aye
Tommy Branch	- Aye
Michael Brown	- Aye
Trapper Griffith	- Aye
Hunter Hall	- Aye
Michael Condon	- Aye

VII. Approval of Final Agenda

4. Approval of the Final Agenda

The final agenda was approved as submitted.

Motion

Approve the agenda as submitted.

Vote Results (Approved)

Motion: Trapper Griffith

Second: Michael Brown

Stephen Merriman, Jr.	- Aye
Tommy Branch	- Aye
Michael Brown	- Aye
Trapper Griffith	- Aye
Hunter Hall	- Aye
Michael Condon	- Aye

VIII. Consent Agenda

IX. Old Business

X. Regular Agenda

5. 504 E. 48th Street | Variance | 20-004628-ZBA

📎 [Aerial Map Measurement.pdf](#)

📎 [application.pdf](#)

📎 [Map - 504 E. 48th Street.pdf](#)

📎 [Photos.pdf](#)

📎 [Staff Report.pdf](#)

📎 [Aerial Map.pdf](#)

Mr. Jordan Holloway, Development Services Planner, stated the petitioner is requesting approval of a variance to expand a nonconforming use (duplex) by proposing an addition on the rear of the building.

The subject property is located at 504 E. 48th Street within the RSF-5 (Residential Single Family-5) Zoning District on a .12-acre conforming lot with an up/down duplex.

The petitioner would like to add a 290 square foot addition on the rear of the existing residence, which would be increasing a nonconforming use. Per Section 11.4.2.b "A nonconforming use shall not be enlarged or expanded to occupy a greater area of land or of a structure unless authorized by the Zoning Board of Appeals in accordance with Sec. [3.24](#), Relief for Nonconforming Uses and Structures."

Based upon the non-scaled sketch of the addition provided with the application, the addition would be setback twenty (20) feet from the lane which meets ordinance requirements. However, upon further examination through site visits, photos, and measuring, it appears the addition would encroach the rear setback.

The subject property is currently approximately 28% lot coverage. The proposed addition would increase the lot coverage to approximately 34% overall, which is below the maximum 40% lot coverage maximum allowance.

Ms. Elaine Jones, stated we thought we were within the setbacks because we measured from the back of the existing house to the chain link fence between the lot and Washington Lane and that was a 30 foot measurement. We bought the property in January 2018 with the intention of moving to the property and living there when we retire. We recently retired and plan to move to the property in early 2021. It is a duplex and our daughter, who is a SCAD graduate who works from home, plans to live in the upstairs unit. My husband and I will live downstairs. The reason we are requesting the variance to expand a nonconforming use is to add a second bath with a shower downstairs and a needed office space downstairs for my husband and I. It will also provide studio space upstairs for our daughter.

No Public Comments

Motion

Approve the requested variance.

Vote Results (Rejected)

Motion: Stephen Merriman, Jr.

Second: Michael Condon

Stephen Merriman, Jr.	- Aye
Tommy Branch	- Nay
Michael Brown	- Nay
Trapper Griffith	- Nay
Hunter Hall	- Nay
Michael Condon	- Aye

Motion

Deny the requested variance.

Vote Results (Approved)

Motion: Michael Brown

Second: Trapper Griffith

Stephen Merriman, Jr.	- Nay
Tommy Branch	- Aye
Michael Brown	- Aye
Trapper Griffith	- Aye
Hunter Hall	- Aye
Michael Condon	- Nay

[6. 715 E. Park Avenue | Appeal of a Decision of the Zoning Administrator | 20-004544-ZBA](#)

📎 [Staff Report - 4544-ZBA.pdf](#)

📎 [Exhibit 1.pdf](#)

📎 [Exhibit 2 ZCL.pdf](#)

📎 [Map - 715 E. Park Ave..pdf](#)

📎 [Final Approved Plan CoS.pdf](#)

📎 [ZCL Request.pdf](#)

📎 [20201019_101101.pdf](#)

Mr. Marcus Lotson, Director of Development Services, stated the petitioner is appealing a decision by the Zoning Administrator of the City of Savannah related to an Accessory Dwelling Unit located at 715 E. Park Avenue. Specifically, Zoning Confirmation letters 20-003807- ZCL and 20-003908 - ZCL dated August 25, 2020. The appeal also applies to the decision to grant building permit 19-09684-BR. The grounds for appeal are outlined by the petitioner in Exhibit 1. Their grounds include alleged errors in the review process relative to architectural design requirements, site review, upholding the purpose of the Ordinance and misinterpretation of certain Ordinance sections.

The Zoning Confirmation letter was issued by the Office of the Zoning Administrator in response to the following request from the petitioner:

“Requesting confirmation of the factors determining *similar architectural style* as they relate to Accessory Dwelling Units in section 8.7.4.e of NewZo. Additionally, confirm how these factors are determined i.e. through committee, by agent of the city etc.”

Section 8.7.4.e of the Zoning Ordinance (NewZo) states:

e. Architectural Style

Such use shall be designed in a similar architectural style as the principal dwelling. If the site is located within an overlay district, the standards of the overlay district shall apply.

Appeal Procedure:

3.23.1 Applicability

- a. When it is alleged that there is an error in a final written decision of any administrator, commission or board authorized to make a final written decision with regards to the provisions of this Ordinance, an appeal by any aggrieved party may be taken to the Zoning Board of Appeals (ZBA), except as otherwise provided in this Ordinance.

3.23.6 Action by the Zoning Board of Appeals

- a. The Zoning Board of Appeals shall determine whether the first decision-maker erred in the application or interpretation of this Ordinance.
- b. The Zoning Board of Appeals may reverse or affirm (wholly or in part) or may modify the final written decision and appealed and shall make a final written decision that in its opinion ought to be made in the case before it unless otherwise specified by this Ordinance. To this end, the Zoning Board of Appeals shall have all the powers of the administrative official, commission or board from whom the appeal is taken.
- c. A motion to reverse, affirm or modify the final written decision appealed shall include a statement of the specific reasons including the proposed findings of fact that support the decision. The findings of fact shall be based on the same evidence received by the first decision maker.
- d. If a motion to reverse or modify is not made, or such motion fails to receive the affirmative vote of a majority of the members present, then the appeal shall be denied.
- e. The appellant shall have the burden of proof.

Stated Grounds of Appeal:

The appellant has stated that the grounds for the appeal are as follows:

- Appellants grounds: Staff did not perform an architectural review until construction of the project was underway.
MPC Comment: Staff is required to determine compatibility, outside of that determination, there is no architectural review.
- Appellants grounds: Staff did not perform the proper development review prior to issuing a permit.
MPC Comment: Staff performed a development review; the appellant disagrees with the outcome of the review.
- Appellants grounds: Staff did not uphold regulations in Section 1.1.4 Purpose of this Ordinance.
MPC Comment: Section 1.1.4 is the "Purpose of the Ordinance." It is not a regulation enforceable by the Office of the Zoning Administrator.
- Appellants grounds: Staff did not adhere to the requirement that accessory buildings be clearly incidental and subordinate.
MPC Comment: The Ordinance states that an ADU shall be "accessory and clearly incidental and subordinate to a permitted principal use." incidental and subordinate" is not specific only to the size of the structure.
- Appellants grounds: Staff misinterpreted the Ordinance regarding the height of accessory buildings.
MPC Comment: The Ordinance states that the height of an accessory building shall not exceed the height of the principal building in a Residential district or where otherwise prohibited by this Ordinance. The subject property is zoned TR-3 (Traditional Residential). The TR districts accommodate primarily residential neighborhoods with limited nonresidential uses. The maximum permitted height in TR-3 is 36 feet. The principal building is less than 36 feet and less than the accessory building.
- Appellants grounds: Staff misinterpreted the Ordinance specific to the TR-3 zoning district and permitted building types.
MPC Comment: The appellant contends that an ADU above a garage is not a permitted building type in the TR-3 zoning district. There is no prohibition of this building type.
- Appellants grounds: Staff misinterpreted zoning language regarding height.
MPC Comment: The appellant appears to be referencing a previously proposed zoning amendment that has not been adopted by the Mayor and Aldermen.
- Appellants grounds: Staff failed to consider the significance of the National Register of Historic Places

designation of the Eastside neighborhood.

MPC Comment: The National Register of Historic Places is a federal designation that local governments have no authority over.

As stated in Section 3.23.6e above, the appellant shall have the burden of proof regarding the preceding allegations. In the City of Savannah, the Zoning Administrator is empowered in making determinations and interpretations in all aspects of the Ordinance. Under appeal, "The Zoning Board of Appeals may reverse or affirm (wholly or in part) or may modify the final written decision appealed and shall make a final written decision that in its opinion ought to be made in the case before it unless otherwise specified by this Ordinance."

The Board is tasked with determining if there were errors in the "application or interpretation" of the Zoning Ordinance related to the appealed Zoning Confirmation Letter and/or the Building Permit. Staff finds that the Zoning Ordinance grants latitude to the Zoning Administrator regarding interpretations and determinations. Based on the information provided to date, staff does not find that the Zoning Administrator misinterpreted the Ordinance or acted outside the authority of the office. In addition, staff finds that the appellant has not provided evidence that the decisions appealed associated with the Zoning Confirmation Letter or Building Permit were in error.

Appellants:

Ms. Alexia Robinson, stated she lives at 754 East Duffy Street and has been a homeowner since 2007. We are directly behind the house. The house is about 3 feet from the alleyway. The structure is an example of disruptive and inconsistent city and neighborhood planning. This is a business venture and it's not a neighborly one. We don't want a two story structure looming over us while we tend to our garden and enjoy our personal sanctuary. Our sense of tranquility will change as the alleyway in our backyard gets turned into a street. These are worries and frustrations that myself and my neighbors did not think we would have to be burdened with because, in January 2019, a variance request to build this ADU had been denied by the ZBA Board. After months of correspondence with the City's Planning and Urban Design Department beginning on January 24, 2020, my neighbors and I were consistently told that because our neighborhood was in one of the Historic Overlay districts. According to the new zoning standards, there was nothing that could be done about a two story salt box style home that was being built in the back of a historic bungalow style home in our neighborhood. But as it turned out, even by the new zoning standards, this structure was in violation of code. Enough that a stop work order was placed on the project. We ask that at least this ADU be a one story unit.

Mr. Michael Siebenaler, stated one purpose of the Ordinance is to protect property values and rights. This structure will bring down our property value. It is not an appealing structure.

Ms. Heather Maze, stated the issue with the permit which we believe is invalid does not preclude the City of discharging its statutory duties to enforce zoning and correct mistakes. The permit did not confer rights in convention of zoning laws. The permit was invalid from the start and continues to be legally void ab initio. The stop work order that was issued in July to change the style and shape of the roof line is evidence of an improper permit review. The plan review process was not performed. We are appealing that the purpose of the Ordinance has not been met. If allowed by the Zoning Board, this will set a precedent for other ADUs.

Ms. Theresa Reynolds, stated there is no other structure like this in the neighborhood. Even though this property has a stop work order, they are still working on the structure.

Ms. Bridget Lidy, Director of Planning and Urban Design with the City of Savannah, stated she also serves as the Zoning Administrator for the City in administering the Zoning Ordinance and Zoning Map. On January 28, 2020, the City did issue a building permit for the subject property to construct an accessory dwelling unit in accordance with Section 8.7.4 of the Zoning code. During the review, all aspects of the Zoning Ordinance were under consideration and looked at. The one piece that was overlooked was Section 8.7.4e, which had to do with the architectural style. When we were made aware of this, we immediately issued a stop work order on July 17th. With the stop work order, we were able to work with the property owner to modify specific items of the style of the property in order to have it be in a similar architectural style of the principle dwelling as outlined in the Zoning code. We actually did follow the proper development review process. Based on the way this particular portion of the code is written,

an accessory dwelling unit is considered accessory to a one family dwelling on an individual lot for the subject property and a building permit would be submitted as outlined in Section 3.8.2b of the code. Throughout the process, our staff had been working with the property owner, not only with this permit that was issued but also the Zoning Board of Appeals application that was submitted to you all and reviewed previously. During our review, when the stop work order was issued, changes were made to the property and structure to meet the requirements. The height, materials and color was looked at to make sure that the development was compatible with the surrounding development in terms of building orientation, scale and exterior construction materials. So, the permit was issued on August 25 based on the revisions that were made by the property owner. This provision sets forth the general purpose of the entire zoning code. All specific criteria and applicable code sections for this review were considered and deemed to have been met resulting in issuing the permit as it was revised. Within Section 8.7, there is a specific section in the ordinance dealing with accessory structures and uses. Section 8.7.3 deals with accessory structures and a separate Section 8.7.4 deals with accessory dwelling units. There are two different types of provisions in the code for these two different types of uses. We followed the correct one for Section 8.7.4. The principle use is a single family residential structure, which is permitted as a use within the TR-3 district. The accessory dwelling unit is incidental and subordinate to that principle dwelling unit, based on the building permit provisions that were submitted and approved by the City. The accessory dwelling unit will reduce potential inverse impacts on the surrounding properties and will be in keeping with the character of the principle structure. Please note, within the zoning code under Section 8.7.4, there is no provision that differentiates what the height should be for a principle dwelling unit versus the accessory dwelling unit. However, when you look at Section 8.7.3 accessory structures, which is a different type of use there is a requirement that says the accessory structure cannot be taller than the principle dwelling unit.

Ms. Jennifer Herman, Deputy City Attorney for the City of Savannah, stated her office reviewed Ms. Lidy's reputation of the appeal point by point and I believe what staff did here was appropriate and legally defensible.

Motion

Deny the appeal.

Vote Results (Approved)

Motion: Michael Condon

Second: Stephen Merriman, Jr.

Stephen Merriman, Jr.	- Aye
Tommy Branch	- Aye
Michael Brown	- Aye
Trapper Griffith	- Aye
Hunter Hall	- Aye
Michael Condon	- Aye

XI. Other Business

XII. Adjournment

The Chatham County - Savannah Metropolitan Planning Commission provides meeting minutes which are adopted by the respective Board. Verbatim transcripts of minutes are the responsibility of the interested party.