



## City of Savannah Zoning Board of Appeals

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Arthur A. Mendonsa Hearing Room  
September 22, 2022 10:00 A.M.  
Meeting Minutes

### SEPTEMBER 22, 2022 CITY OF SAVANNAH ZONING BOARD OF APPEALS

Present: Stephen Merriman, Jr., Chair  
Michael Condon, Vice Chair  
Hunter Hall  
Karen Jarrett  
Stephen Plunk

Member Absent: Larry Evans  
Betty Jones

Others Present: Pamela Everett, Esq., Assistant Executive Director  
Marcus Lotson, Development Services Director  
Melissa Paul-Leto, Development Services Planner  
Niirav Gandhi, Development Services Planner and Historic  
Preservation Planner  
Julie Yawn, Systems Analyst  
Mary Mitchell, Administrative Assistant

City of Savannah: Tom Bolton, Zoning Plans Examiner

#### I. Call to Order and Welcome

##### [1. Call to Order and Welcome](#)

**Mr. Merriman** called the meeting to order at 10:00 a.m. He explained that 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.

#### II. Invocation and Pledge of Allegiance

##### [2. Invocation and Pledge of Allegiance](#)

The Invocation was given by **Chairman Merriman**. The Pledge of Allegiance was recited in unison.

#### III. Notices, Proclamations and Acknowledgements

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

##### [3. VARIANCE REQUEST | 2111 East Victory Drive | File No. 22-003586-ZBA | Parking Reduction](#)

#### Motion

The Savannah Zoning Board of Appeals does hereby approve to continue the petition requesting Park Reduction at 2111 East Victory Drive to the meeting of October 27, 2022 as requested.

**Vote Results ( Approved )**

Motion: Michael Condon

Second: Hunter Hall

Stephen Merriman, Jr.	- Abstain
Karen Jarrett	- Aye
Hunter Hall	- Aye
Michael Condon	- Aye
Stephen Plunk	- Nay

[4. 2317 Waters Avenue - Variance to the Minimum Parking Requirements - 22-004075-ZBA](#)

**Motion**

The Savannah Zoning Board of Appeals does hereby approve to continue the petition requesting a Variance to the Minimum Parking Requirements at 2317 Wasters Avenue as requested.

**Vote Results ( Approved )**

Motion: Michael Condon

Second: Hunter Hall

Stephen Merriman, Jr.	- Abstain
Karen Jarrett	- Aye
Hunter Hall	- Aye
Michael Condon	- Aye
Stephen Plunk	- Aye

**V. Item(s) Requested to be Withdrawn**

**VI. Approval of Minutes**

[5. Approval of August 25, 2022 Meeting Minutes](#)

[August 25, 2022 Meeting Minutes.pdf](#)

**Motion**

The Savannah Zoning Board of Appeals does hereby approve the August 25, 2022 Meeting Minutes.

**Vote Results ( Approved )**

Motion: Stephen Plunk

Second: Karen Jarrett

Stephen Merriman, Jr.	- Abstain
Karen Jarrett	- Aye
Hunter Hall	- Aye

Michael Condon	- Aye
Stephen Plunk	- Aye

## VII. Approval of Final Agenda

## VIII. Consent Agenda

## IX. Old Business

## X. Regular Agenda

### [6. VARIANCE | 536 East 44th Street | 22-003523-ZBA](#)

📎 [APPLICATION.pdf](#)

📎 [VICINITY MAP.pdf](#)

📎 [LETTER OF SUPPORT.pdf](#)

📎 [SITE VISIT.pdf](#)

📎 [PROPOSED PLANS - REVISED.pdf](#)

📎 [STAFF REPORT.pdf](#)

**Ms. Melissa Paul-Leto** gave the staff report. The applicant is requesting a variance to reduce the minimum rear yard setback to 11-feet 3-inches from the 20-foot minimum rear yard setback requirement for construction of an elevated deck addition to the rear portion of the single-family residence in the Residential Single Family (RSF-6) zoning district. The property is located at 536 East 44th Street.

**Ms. Paul-Leto** explained that the subject property fronts 90-feet on the north side of East 44th Street and begins 110-feet from the northwest side of Paulson Street. The property is located in Land Lot 4. It is located within the Ardsley Park/Chatham Crescent Neighborhood of Residential-Single-Family-6 (RSF-6), City Council District 4.

**Ms. Paul-Leto** additionally explained that relevant zoning requirements are:

- The subject property is zoned RSF-6 (Residential-Single-Family-6).
- Minimum lot dimensions: Frontage: 60-feet; Minimum lot area: 6,000 square feet.
- Minimum yard setbacks: Front: 20-feet; Side yard: 5-feet; Street side yard: 10-feet.  
Rear yard: 20-feet

**Ms. Paul-Leto stated** that the subject property is a rectangular shaped lot of approximately 9,900 square feet (0.22 acres) of area and 90-feet of frontage. The property is currently developed with a 2-story elevated single-family residence, where the main living area of the house is located on the 2nd floor. The rear portion of the building currently encroaches into the 20-foot rear yard setback by 5-feet 10-inches. The design of the proposed deck wraps around the rear portion. The encroachment would further expand the existing non-conformity. Vehicular access is provided via two driveways off East Victory Lane, with a 15-foot lane width. There are some trees on the subject property. Lots in the immediate area have varying lot widths but seem to be consistent with the lot depth for single-family dwellings with RSF-6 (Residential-Single-Family-6) zoning.

**Ms. Paul-Leto** reported that, based upon the review criteria and pattern of similar use, staff recommends denial of the requested variance for 536 East 44th Street. Ms. Paul-Leto explained that the petition is being presented from last month's agenda because Ms. Kucera was absent, but she is here today. Ms. Paul-Leto entertained questions from the Board.

**Ms. Jarrett** asked if the petitioner could build the stairs along the side near the garage and would still

have the five-foot setback on the side.

**Ms. Paul-Leto** said she spoke with Ms. Kucera about this. The petitioner already has a driveway; she wants to continue the use by having the stairwell go down and delete the area where she would have a covered parking space. Ms. Paul-Leto, pointing to an area, said the petitioner could still park here in an uncovered area.

**Ma. Jarrett** asked if the petitioner could run it along the side of the addition and have it come down on the far side of the driveway.

**Ms. Paul-Leto** explained that the petitioner could possibly do as Ms. Jarrett suggested. However, the petitioner would be able to speak about the design.

### **PETITIONER COMMENTS**

**Ms. Shauna Kucera** was sworn-in by Mr. Merriman. Ms. Kucera stated that she is the architect for this project, representing her client at 536 East 44th Street. She wanted to point out two things. Firstly, Ms. Kucera believes they do have a special circumstance with the house being elevated. The entire living area is on the second level. The lower area is the garage and storage space. She explained that if the deck was not elevated, they would not be in violation. Within the rear yard, unenclosed patios or decks with no roof can project into the rear yard setback, provided that such projection is at least three feet from the property line. Therefore, they are putting this on the main living area of the home. If they were on the ground, they would not have an issue. They could have decks up to three feet from the rear property line. Consequently, she is asking the Board to consider the fact that this is a special condition with the entirety of the living area being on the main level. Secondly, Ms. Kucera mentioned that along the lane, there are several garages, carriage houses, and several densities back there along the lane. She explained that what she is proposing is not visible from either of the main roadways. This is somewhat "tucked" in the corner facing the lane.

**Ms. Kucera** said they want to maintain off-street parking and exit to the garage by keeping the driveway area open. She said to answer Ms. Jarrett's question, "yes" there could be a stair that comes down along the side. But they would, given the amount of space, have to go out along the side of the house to walk back far enough, then walk over and down the stairs in order to stay out of the rear yard setback. Ms. Kucera explained that they do not have enough room on the side to have walking space to get to where they can put a code compliance stair.

**Ms. Jarrett** asked Ms. Kucera that if they extend more than the three feet that she is already proposing by putting the stairs on the side, "does she stay within the existing nonconformity."

**Ms. Kucera** answered it would not extend more than the three feet that she is proposing. If this was a deck or on ground level, this would not be an issue. But, in communicating with Ms. Paul-Leto and taking guidance from her, she minimized the stairs and the footprint of the deck. Therefore, she is really asking for 134 square feet of that covered space over the driveway.

### **PUBLIC COMMENTS**

**Mr. Lotson** explained that staff received a note this morning from **Ms. Ardis Wood**, showing that she supports the staff's recommendation for denial of this request.

### **BOARD DISCUSSION**

**Mr. Plunk** made a motion to accept the petitioner's request. The motion failed due to lack of being seconded.

#### **Motion**

The Savannah Zoning Board of Appeals does hereby deny the minimum rear yard setback variance request at 536 East 44th Street.

**Vote Results ( Approved )**

Motion: Karen Jarrett

Second: Hunter Hall

Stephen Merriman, Jr.	- Abstain
Karen Jarrett	- Aye
Hunter Hall	- Aye
Michael Condon	- Aye
Stephen Plunk	- Nay

[7. VARIANCE | 921 East Waldburg Street | 22-003401-ZBA](#)

📎 [APPLICATION.pdf](#)

📎 [VICINITY MAP.pdf](#)

📎 [SITE VISIT.pdf](#)

📎 [STAFF REPORT.pdf](#)

📎 [921 E Waldburg St Recomb Survey\\_Rev1.pdf](#)

📎 [Annual Registration \(2\).pdf](#)

📎 [ZBA Appendix A & B.pdf](#)

📎 [ZBA\\_appeal.pdf](#)

**Ms. Melissa Paul-Leto** gave the staff report. Ms. Paul-Leto explained that 921 East Waldburg Street was on the August 25, 2022 ZBA meeting agenda. Staff welcomed the item to come back at the meeting today because cited errors regarding the zoning district in staff's report may have affected the Board's decision. Therefore, staff requested that the Board review this item again and make a determination.

**Ms. Paul-Leto** reported that the applicant is requesting a variance to reduce the minimum lot width from the required 40-feet to 27-feet to subdivide the parcel and construct a single-family dwelling for the property located at 921 East Waldburg Street. The subject property fronts 60-feet on the south side of East Waldburg Street, beginning 115-feet from the southwest side of Ott Street. The property is located on Land Lot 1 within the Eastside Neighborhood, within the Traditional-Residential-2 (TR-2), City Council District 2. The property is currently developed with a 2-story duplex residence, with open space to the west of the property. Vehicular access is provided via a parking pad off East Waldburg Lane for the existing duplex.

**Ms. Paul-Leto** stated that the relevant zoning requirements are:

-The subject property is zoned TR-2 (Traditional-Residential-2).

-Minimum lot dimensions for a single-family residence with street and lane access:

Frontage:40-feet; Minimum lot area: 3,000 square feet.

-Minimum yard setbacks: Front: 5-feet minimum; 10-feet maximum; Side yard: 3-feet; Street side yard: 10-feet maximum. Rear yard: 20-feet minimum.

-Building Coverage: All other housing types & uses: 50%

-Minimum lot dimensions for a up and down two-family residence with street and lane access:

Frontage: 22 feet per unit lot width; Minimum lot area: 2,250 square feet per unit.

- Building Coverage: Two-Family, Three & Four-Family:40%
- Lots in the immediate area have a minimum of 30-foot lot widths and are consistent with the lot depth with single-family dwellings and duplexes located within the TR-2 (Traditional-Residential-2) zoning.
- A variance for 13-feet from the minimum lot width of 40-feet to subdivide a parcel that has 60-feet of frontage and currently has a two-story duplex on the property would be creating a non-conformity towards the Two-Family dimensional requirements. The lot width and area per unit for a up and down duplex is 22.5-feet in width and 2,250 in area, which results in a total of 45-feet in lot width and 4,500 square feet in lot area required for the duplex use, as well as providing a maximum of 40% building coverage. Thus, creating two (2) non-conforming conditions.
- The special circumstance is the result of the applicant attempting to subdivide the parcel into two lots, where one lot currently has an over and under duplex use and has per unit lot width, lot area, and maximum building coverage requirements for a duplex use that does not conform with the proposed subdivision.

**Ms. Paul-Leto** reported that based upon the review criteria and pattern of similar use, staff recommends denial of the requested variance for 921 East Waldburg Street. She entertained questions from the Board.

**Mr. Condon** asked staff if the lot, that is proposed to be subdivided into a new lot, is a historic lot of record.

**Ms. Paul-Leto** asked Mr. Condon to please clarify his question.

**Mr. Condon** clarified that years ago, the lots were combined for taxation purposes. They were historically two separate lots. One was built on and the other was saved as a side yard. This happened a lot here. Therefore, he was trying to find out if this was historically a separate lot.

**Ms. Paul-Leto** answered that when she looked at the historical maps, this was shown as one lot of record. However, the NewZO in 2019 changed the dimension requirements. The lot was zoned RF at that time period in 2019. Therefore, a two and over duplex would be required by 3600 square feet in lot area and not 4500 square feet. Yet, the lot width required 60 feet, not 44 feet. A single family required 6,000 square feet lot area with a 60-foot lot width. They still would not have been able to do so.

## **PETITIONER COMMENTS**

**Mr. James Grady of Jay Hendrix Homes** came forward and thanked the Board for hearing their petition again. There was a little bit of confusion on the application, and they wanted to see if they could clarify this. Mr. Grady said they are asking for three different variances. He did some research on his own and has been driving around this neighborhood for the last year. They are renovating the house that they have now. Mr. Grady said regarding the duplexes, they are actually located within one street away on the corner of East Park Avenue and does not meet the Code. He showed other duplexes and said there are six examples. If they were to span upon the neighborhood and reached out greater than walking distance, they would find plenty more houses that do not meet the existing codes. He said also within this, is the standard of development for width. All the properties that they see on East Park Avenue behind him, are 30 feet. The two at the end that are on Harmon Street are duplexes. Actually, he found out yesterday that one of the units is a triplex

**Mr. Grady** explained that the code that is being applied to his land and property does not meet the existing layout of this neighborhood. His street course is a little different because those houses remained 60 feet. However, if they zoom this area, they will find that there are many houses here that do not meet the requirements. Therefore, this is the gist of this case. Mr. Grady entertained questions from the Board.

**Mr. Hall** asked Mr. Grady if he said he was requesting three variances.

**Mr. Grady** answered that when his petition was discussed at the last meeting, it came up that when they subdivide, they would be compiling on the duplex side. Therefore, in order to do this, they have to do the width of the new plot, the width of the existing duplex; and the space [square footage].

### **PUBLIC COMMENTS**

None.

### **BOARD DISCUSSION**

**Mr. Condon** said this is actually two lots that one house is built on. So, it is historically a lot of record that the petitioner is requesting to subdivide.

**Mr. Merriman** stated that before he calls for a motion, he needed clarification from the staff. He asked if what is before the Board is that they are trying to either approve or deny three variances. Or is it one variance that would cover all three aspects?

**Ms. Paul-Leto** said the Board would be approving all the variances. The variance will cover the duplex, as well as the single family proposed lot.

**Mr. Merriman** clarified that one variance would adjust the lot width; one for adjusting the width of the duplex, and one for the square footage.

**Ms. Paul-Leto** answered "yes".

#### **Motion**

The Savannah Zoning Board of Appeals does hereby approve the variances as requested for 921 East Waldburg Street.

#### **Vote Results ( Approved )**

Motion: Michael Condon

Second: Stephen Plunk

Stephen Merriman, Jr. - Abstain

Karen Jarrett - Aye

Hunter Hall - Aye

Michael Condon - Aye

Stephen Plunk - Aye

### **8. VARIANCE | 222 East 56th Street | 22-003998-ZBA**

📎 [Application.pdf](#)

📎 [SITE VISIT.9.8.2022.pdf](#)

📎 [VICINITY MAP.pdf](#)

📎 [STAFF REPORT.pdf](#)

**Ms. Melissa Paul-Leto** gave the staff report. The petitioner is requesting two variances:

-A 4-foot rear yard setback variance from the 5-foot requirement resulting in a 1-foot setback.

-A 5-foot side yard setback variance from the 5-foot requirement resulting in a 0-foot setback.

**Ms. Paul-Leto** explained that the subject property fronts 60-feet on the south side of East 56th Street and 120-

feet in depth. The property is in Land Lot 17. It is located within the Ardmore/Gould Estates/Olin Heights Neighborhood of Residential-Single-Family-6 (RSF-6), City Council District 4.

**Ms. Paul-Leto** additionally explained that relevant residential-single-family-6,000 square feet (RSF-6) Zoning Requirements are:

- Minimum lot dimensions: Frontage: 60-feet; Minimum lot area: 6,000 square feet.
- Minimum yard setbacks: Front: 20-feet; Side yard: 5-feet; Street side yard: 10-feet.  
Rear yard: 20-feet.
- Maximum building coverage: 40%
- Minimum setbacks for an accessory building: Rear: 5-feet; Side yard: 5-feet

**Ms. Paul-Leto** stated that the existing concrete slab is 12' x 19'. The petitioner is proposing a foundation of 14' x 20'; The excess would go towards the rear yard and to the side of the rear yard. Therefore, it would not encroach onto the property line of the rear or side yard. The subject property is a rectangular shaped lot of approximately 7,200 square feet (0.16 acres) of area and 60-feet of frontage with lane access to the rear of the property. The property is currently developed with a 1-story, single-family residence, a 192 square foot shed, a chain link fence facing the south edge of the existing concrete slab, with parking access from the rear of the property on East 55th Lane. There are some trees on the subject property. There is approximately 37 feet of rear yard setback. The fence is the only barrier. If the petitioner is going to be expanding out and expanding over, the fence would have to be removed. In a sense, they could re-create a concrete slab further into the rear yard so that they could comply with the side and rear yard setback. Some storage is to the side. The slab is 228 square feet in area, with a zero-foot side yard setback and a one-foot rear yard setback from the five-foot requirement. There is sufficient room for a new concrete slab to be constructed without the need of a variance request. The lots in the immediate area have similar lot widths and are consistent with the lot depth with single-family dwellings within the RSF-6 (Residential-Single-Family-6) zoning.

**Ms. Paul-Leto** reported that based upon the review criteria, staff recommends denial of the requested variance for 222 East 56th Street. She entertained questions from the Board.

**Mr. Condon** said that he noticed in the photo that an accessory building was on one of the neighbor's property.

**Ms. Paul-Leto** answered "yes" and a neighbor on the other side has an accessory building.

**Mr. Condon** asked staff if they had a photo of the lane that shows how many of the houses here have accessory structures that sit on the lane.

**Ms. Paul-Leto** answered that there were several. She pulled up the vicinity map which showed on the left side of the lane and further down the lane that, there were several accessory structures. On the right side of the lane, several accessory structures are there also.

**Mr. Lotson** said regarding Mr. Condon's comment about accessory buildings on the lane, one of the things that they find in situations such as this, with the accessory buildings, especially, within some of the historic neighborhoods; that sometimes they have buildings, which have historically been in their location and have been renovated within a location that does not meet the standards, such as many of the buildings that the Board saw in that photograph.

#### **PETITIONER COMMENTS**

**Mr. Joshua Gary** was sworn-in earlier by Mr. Merriman. Mr. Gary explained that he wants a covered parking space for his wife. The drain for their street is directly in front of their house. When they get a heavy rain, the street floods. Therefore, they have to move their vehicles to the back of their house. Mr. Gary said he has two teenage children. Consequently, all of them are putting their cars in the back. If they move the building over towards the west, they would not be able to put their cars in the back. When their street floods, it is about two feet of water. This is the main reason he wants to put a building in the back, so that his wife would be able to park her car. When they moved here, his wife planted some citrus trees that are on the other side of the trailer. They also planted some trees on the other side.

**Mr. Condon** asked Mr. Gary if he has checked to see if the concrete slab could hold the building.



Mr. Gary explained that his proposal is actually to pour a foundation. He will cut a foot off of the side that is close to the east end; put a foundation here and around both sides of the slab to support the structure. Consequently, a foot would be on the western side and a foot on the north and south sides. He will remove a foot of slab on the east side.

**PUBLIC COMMENTS**

None.

**BOARD DISCUSSION**

Ms. Jarrett said she was concerned that thought had not been given as to how the vehicles would be able to get in and out of the building. The turning radius off an alley could be tricky sometimes. Therefore, having a 0-setback for a garage sometimes creates more problems than it solves.

Mr. Gary explained that the garage door would be on the west.

Ms. Jarrett asked Mr. Gary if this would be enough room to pull the car in and get it back out.

Mr. Gary explained that there are 20 feet here. The truck that is shown now on the slab belongs to his son, who parks here all the time. Enough room is here.

**Motion**

The Savannah Zoning Board of Appeals does hereby approve the minimum rear yard and minimum side yards setbacks as requested to construct an accessory building at 222 East 56th Street,

**Vote Results ( Approved )**

Motion: Hunter Hall

Second: Michael Condon

Stephen Merriman, Jr.	- Abstain
Karen Jarrett	- Aye
Hunter Hall	- Aye
Michael Condon	- Aye
Stephen Plunk	- Aye

[9. 2819 Ogeechee Road | Change in Nonconforming Use | 22-003124-ZBA](#)

- 📎 [Staff Report .pdf](#)
- 📎 [Map Action Auto.pdf](#)
- 📎 [Conceptual Site Plan.pdf](#)
- 📎 [Photos.pdf](#)
- 📎 [Property Context.pdf](#)
- 📎 [Aerial of former salvage yard.pdf](#)

Mr. Lotson gave the staff report. The applicant is requesting a change in a nonconforming use in order to establish a vehicle freight terminal use on property, which previously operated as a non-conforming salvage yard, in the RSF-6 (Residential Single Family) zoning district. The subject property is on the north side of Ogeechee Road, west of Stiles Ave. While the subject parcel does not have direct frontage on Ogeechee Road, the petitioners own additional parcels to the south of the subject parcel with frontage. Prior to the Zoning Ordinance update, these parcels were split-zoned B-G (General Business) and R-6 (One-Family Residential). The owners operated a salvage yard on the residentially zoned property known as AAction Auto Parts. Based on historic aerial maps, the salvage yard use was established sometime after 1974. However, as vehicle service and automobile storage yards are not permitted within the former

R-6 or current RSF-6 zoning district, both the former and existing uses are non-conforming. The use that is proposed is a Vehicle Freight Terminal. The petitioner proposes to truck in salvaged vehicles for the purpose of shipping off site in containers. The Savannah Zoning Ordinance defines the use as “A transportation establishment that furnishes services incidental to transportation including freight forwarding services; transportation arrangement services; packing, crating, inspection and weighing services; freight terminal facilities; joint terminal and service facilities; trucking facilities, including transfer and storage; and postal bulk mailing distribution centers. Includes rail, air and motor freight transportation.” The use is permitted by right only in the four industrial zoning districts in the City Ordinance. It is not permitted in any other zoning districts, nor is it permitted as a Special Use or Conditional Use.

**Mr. Lotson** explained that the neighborhood is characterized by a mix of residential and commercial uses. The "Ogeecheeton Community" is a single-family residential neighborhood, west of the subject property, which predates the former salvage yard. A residential mobile home park is east of the subject property, which is bounded on the north by the Springfield Canal. Across Ogeechee Road from the subject property, the development pattern includes primarily warehousing and nonretail commercial uses. Ogeechee Road is the primary corridor that connects Midtown and West Chatham County. Tremont Road, which is west of the subject property, bounds Ogeecheeton between the proposed use and other heavy industrial uses such as a Sand and Gravel business, a recycling center and other rail dependent transportation uses. These uses have gravitated toward this area over the years due to industrial zoning, rail access and close proximity to the Interstate. There is a pending road improvement that will reorient the entrance to this property.

**Mr. Lotson** stated that the Zoning Ordinance defines nonconforming use as “Any use, activity, lot, building, structure or other development feature that lawfully existed prior to the adoption of the Ordinance but which fails to comply with one or more of the applicable regulations or standards of this Ordinance.” The proposed use and the former salvage yard are nonconforming because the use is not allowed in the zoning district. There are provisions for changing or re-establishing nonconforming uses:

#### 3.24.6 Change of a Nonconforming Use

- a. A change from one nonconforming [use](#) to a use permitted in the base district shall be permitted.

#### 3.24.7 Re-establishment of a Nonconforming Use

- b. The re-establishment of a nonconforming [use](#) shall be permitted only with the approval of the Zoning Board of Appeals in accordance with the following:
- c. **Criteria for the Re-establishment of a Nonconforming Use**
- d. The Zoning Board of Appeals shall make a finding that the request does comply or does not comply with each individual criterion provided below. If there is non-compliance with at least one of the criteria below, the request shall not be approved.
  - i. The design of the [building](#) cannot readily accommodate a permitted use of the zoning district in which it is located; **Staff Comment: The buildings associated with the properties are within a zoning district that permits the proposed use. The expansion of the use includes residentially zoned property which is not permitted.**
  - ii. The building has not been subsequently redesigned to house other uses; **Staff Comment: There have not been any substantial redesigns for the purpose of housing other uses.**
  - iii. The proposed re-established use is not detrimental to the public interest, health, safety, welfare, function, and to the adjacent uses or general vicinity by reason of any one or more of the following: the number, area, location, height, orientation, intensity (such as traffic, noise, odor, [hours of operation](#)), or relation to the neighborhood or other adjacent uses; **Staff Comment: The proposed use is likely to cause a detriment to the remaining residential properties in Ogeecheeton and other nearby residential areas due to the heavy commercial nature, including heavy vehicle traffic with access being at the base of a**

**bridge. In addition, the ordinance allows this use in industrial districts only; the reason for that is because it is incompatible with nonindustrial development patterns.**

- iv. The proposed use is the same as the most recent nonconforming use; **Staff Comment: The proposed use is not the same use as the most recent nonconforming use.**
  
- v. The General Site Standards comply with this Ordinance to the extent reasonably possible. **Staff Comment: The General Site Standards are largely noncompliant including required parking, buffers, and setbacks.**

**Mr. Lotson** reported that based on the above language and the fact that the Ordinance states that "should the Board find that there is a noncompliance with one of these criteria, the request shall not be approved." He explained that staff is recommending denial based on these findings; particularly, based on review criteria 3.24.7(d), items iii, iv, and v as noted in the staff report. He entertained questions from the Board and stated that Attorney McCorkle was present to answer the Board's questions and make a presentation.

### **PETITIONER COMMENTS**

**Attorney Robert McCorkle of the Law Firm of McCorkle, Johnson, McCoy** came forward and stated that he was present on behalf of Savannah Auto Export, as well as the owner of the property, Mr. Robert Anderson. Attorney McCorkle stated that as, Mr. Lotson mentioned, they are here for at least a technical term for a change in the existing, pre-existing nonconforming use. What he is hopeful of doing today is to show the Board that this really is not a change in the pre-existing, nonconforming use as it relates to the property that it is really nonconforming. Even if it is a change, by some technical definition, of the use that is out there, this use of a parcel that is a storage yard as part of a vehicle freight terminal, is not more detrimental to the health, safety, and welfare of the public or the adjacent properties as compared to the uses being made of this property for more than 50 years. As an ultimate question for the Board today, is the location, height, and intensity of his client's use of this portion of the rear part of this property, not anything that is in the front, which is irrelevant to what they are about today. But, for the piece of property in the back, is their use of this property more detrimental to the surrounding area? He believes that it is not and in order to reach this conclusion, he believes they need some context.

**Attorney McCorkle** said that the staff report simply says, "a change in nonconformity use in order to establish a vehicle freight terminal use on property which previously operated as a nonconforming salvage yard in the RSF-6 District." He said, although this is a true statement, it really does not capture what the situation is in the surrounding area. Attorney McCorkle said he thinks two things get lost: 1) the character of the surrounding area as it exists today, and 2) the fact that his client's use is permitted by "right," on the operational portion of this property, in that what they are talking about is the storage area and the rear of their property that is being used as a storage yard, which is the same use that it has been used for more than 50 years. The staff report notes that the neighborhood is characterized by a mix of residential and commercial uses. This is true, but also primarily industrial is all around this area. Attorney McCorkle told the Board that he does not know if they have driven down the area recently, but the map shows them the parcel that they are talking about today. The remaining of their operation is on the front. Everything that is highlighted in "green" is zoned industrial. You will see that all the area around this property, in front of the canal, to Ogeechee Road, and on the other side of Ogeechee Road for a distance in both directions and far back, are all zoned industrial.

**Attorney McCorkle** explained that the single-family residential designation for this area is a bit deceiving when you do not also take in context the wetlands that are surrounding this property. He stated that as the Board can see, as shown on the map, you don't see any lots defined, any buildings, or anything in the areas, surrounding the subject property. He believes that it is helpful to see the forested wetlands that exist completely surrounding the subject property. There are 750 feet of forested wetlands going back over the Springfield Canal to the property that is in the rear; and the neighborhood that is in the rear. It has 400 feet of forested wetlands between the property and the Ogeechee Neighborhood. Attorney McCorkle said that 1,100 feet of forested wetlands to the east until you get to the next building's use, is actually industrial. As mentioned by Mr. Lotson, a trailer park is here, and it is also zoned industrial. As

for the wetlands, he believes the overhead review gives some context into the buffer of what currently exists between this property and all the surrounding properties. Attorney McCorkle said the picture was taken by Drone two days ago and this is what the site actually looks like now. This shows all forested wetlands on all sides of this property, except for the front on Ogeechee Road. It may be the most heavily buffered piece of property in Savannah as it currently sits; these properties have never been developed; and he does not believe that they will ever be developed. Most of the property is landlocked; you cannot get to them; they are just wetlands and trees that are here, providing a massive buffer.

**Attorney McCorkle** showed the Board a photo of the buffer from the back of the subject property that they are talking about. The picture was taken standing on the inside of the yard near the storage yard, in the rear. He showed the Board more pictures of the area. He additionally showed the Board photos of the road where you turn to go into the Ogeecheeton area. His client's property is on the other side 400 feet. The only thing back there are cars; singly stacked and parked to the rear. There is no height to the cars and no major activity is going on in the area where the 400 feet buffer is between them and the property. He believed that it is helpful to see what the result is when you combine the two factors as far as the zoning and the wetlands. As he has stated, when you look at the map, the "green" shows the industrial and the wetlands are shown in "red." Therefore, the only thing in the area or neighborhood that is left out is the "Ogeecheeton Neighborhood," which has existed since 1910 and predates his client's use of this property.

**Attorney McCorkle** explained that the lot, which is high ground, is surrounded by wetlands and has been used since 1971 as a salvage yard and park facility. Therefore, he believes that when you look at the property, the questions are what are the uses that are possible for this property, which is the subject property. He wanted the Board to look at both of the properties that are affected in the picture. Attorney McCorkle said one property is Ogeecheeton and the other is his client. Ogeecheeton, for better or worse, as it has turned out over the history of time, has turned out to be completely surrounded by industrial uses. He said he is sympathetic to the situation of the people that live here, and he knows that some of the people are here today and he knows, that they will speak to the Board, but their property is completely surrounded by industrial uses. A facility is immediately to the left of Ogeecheeton on the other side of the train tracks and has no buffer for the neighborhood. Consequently, Ogeecheeton is wedged in between those uses. The subject property, itself, has no access to Ogeechee Drive or to any other road, except through the industrial site that fronts Ogeechee Road. Therefore, this residential neighborhood that could be built here, the only way you can get to it, is to drive through the industrial site on the front of the property, which as he has said is completely surrounded by wetlands in all directions.

**Attorney McCorkle** stated for some reasons when the NewZO Map was drawn, all the frontage property up to the entrance of Ogeecheeton, was made industrial, but before it was zoned BG. The salvage auto parts yard was an allowed use in BG, which is a very heavy commercial industrial use that no longer exists. Now, it is zoned ILT. This property was offended despite the fact that it had been used as a salvage yard for more than 50 years. It has no possibility of ever being used as a single-family residential neighborhood. What was there? It was a salvage yard where people took cars. The cars were taken apart and the stripped parts were sold on site and delivered to purchasers. This business had 15 to 20 trucks parked here daily to deliver the cars. They also had three to four wrecker trucks that would come daily bringing cars to the business. They had a walking retail business, as well as a delivery business here. The hours of operation were from 8:00 a.m. to 5:00 p.m. Attorney McCorkle said two things should be evident: 1) Nothing has physically changed about the buildings on the property or any of the construction on the property or the fences, or anything else; 2) there is significantly less cars on the site than were there before. The cars do not stay on the site very long. Attorney McCorkle explained how the cars are delivered to the company. Everything that is in the RSF-6 District is car storage. They typically get approximately 30 to 40 cars a day, which equates to about 8 to 15 carloads per day. They can hold four to five cars at one time inside the gate. All of this exercise and use is permitted by "right." All of the front portion of the property is allowed use inside the ILT District, as it is currently zoned. This is a Conceptual Site Plan drawing because things are about to change in this area. As Mr. Lotson mentioned, Ogeechee Road will be widened. Therefore, all the dirt in the front will not be here. All the activities that they are taking inside the gate and the areas where trucks could pull up in front of the gate are going to be removed. As he has stated, there are less cars at this location now, less time on the property; containers are not being stacked, nor laying on the ground; there are only two or three containers on the site at a time. There is less traffic now. The only difference now is that they have larger trucks than before, but there is no retail business, no delivery trucks bringing parts here all day; no wrecker service is bringing in and dropping cars off in the front.

**Attorney McCorkle** said what is permitted by right on this site, is a truck terminal. This could be a full-blown trucking yard, which would have significantly more truck traffic compared to the salvage yard, or a storage yard as is being used currently. When they first got to the site, they acknowledge the fact that there was an issue with trucks that were getting here before the gates were open and would park in an area in front of the gate. But as he has said, this will no longer be done. His clients have amended their hours of operation from 9:00 a.m. to 5:00 p.m. The previous salvage yard business operating hours were 8:00 a.m. to 5:00 p.m. Therefore, his client's first delivery is not allowed to come until 9:00 a.m. His client has also widened the loading area and redesigned the parking. Therefore, they can take in four or five trucks on the site inside of the industrially zoned property and unload them without having anything parked in the front. The first and second criteria do not apply. It is about buildings and changes in buildings which are not applicable here, as mentioned by staff. It is worth noting that one criterion asked if the permitted use of the property in the zoning district, whether it can accommodate the permitted use. He stated that he does not believe that the property can accommodate a single-family residential neighborhood in this location.

**Attorney McCorkle** said they are here to talk about the third item on the Board's list, which is the proposed reestablished use is not detrimental to the public's interest, health, safety and welfare function of the adjacent uses of the property, and whether the intensity of the use in relation to the neighborhood and the adjacent uses are a problem. He said that their use is a permitted use. Attorney McCorkle explained that all the property on the front can be used for the permitted use that they are using. The truck traffic, number of cars that can come in and out, the fact that the entrance to Ogeecheeton is at the foot of the bridge that goes over the railroad track or the fact that their entrance is located next to Ogeecheeton, none of this is relevant to their use of the back of the property. It is an industrially zoned property; and the uses that are there, are going to be trucks use of some sort. Factually, his client's business can operate on this site without the forested yard. He supposed that by his client putting all their cars over here where there is no buffer, where they are actually closer to the neighborhood, entrance and all the area that is zoned industrial, and where they are not putting their cars now; all of those uses, and the trucks accessing the industrial nature of this property, is going to exist whether or not this nonconforming storage yard in the back continues to exist. He said that he does not believe that their use is any different on the nonconforming piece than the previous use. In fact, it is less intensive. If the Board looks at the pictures, they can see that they have significantly less cars than have been here since the last 50 years.

**Attorney McCorkle** said he believes that the original question, which is the third criteria, is whether their use of this storage area is more detrimental to the public than the previous use? They do not believe that the way they are using the back of their site is more detrimental. Is the proposed use the same as the most recent nonconforming use? He stated that they believe that it is. When you look at the before and after pictures, he believes that it is difficult to argue that on this portion of the property, the use is not the same as it was before. In fact, the use of Action Auto Parts has never stopped. Actually, Action Auto Parts still has an active business license on the property, they still have space in the office, and they still have cars stored back there in the storage yard. This is essentially being shared by his client and the owner, who owns Action Auto Parts. The Site Plans have changed; the buffer has not changed; the use has not changed; none of this has changed since his client took over. Therefore, their request is to allow the subject property to use as a vehicle storage yard in association with a vehicle freight terminal rather than its existing use, which is a storage yard for a salvage yard and parts business. Attorney McCorkle said he believes that this is the question that they are to answer today. Can this property, be used as a storage yard, in connection with a vehicle freight business, instead of being used as a storage yard for a salvage yard and parts business? Both of these businesses are permitted by right. They actually believe this will have less impact on the neighbors. There will be less traffic on a daily basis; the four-hundred-foot buffers have not been impuned in anyway. They are sympathetic to the situation in the way the area has developed, the concrete plant on one side, the salvage yard has been backed up in there for 50 years, but he does not believe that under the circumstances of the criteria, that what they are doing on this property in the rear is not more detrimental to the neighborhood than what has been here for decades. With that, he said what they are asking the Board to do is agree that the rear portion of the property can be used as a storage yard in association with a vehicle freight terminal. Attorney McCorkle entertained questions from the Board.

**Ms. Jarrett** stated that her concern is the traffic. She does not want the neighborhood to be infringed upon, but the traffic is a major concern. This is a huge area of congestion already. If big trucks are

added more frequently, this will create a bigger problem. Ms. Jarrett said she does not care how big the road is, or what the deal is in the front, but it is how many vehicles come and go.

**Attorney McCorkle** replied that he understood. He believes the traffic on the road is not going to be impacted by what they are doing. He showed the industrial uses on the screen. These all are truck uses all around this property, including the front side of theirs. Now, this could be a truck yard or a laid-down yard which they have significantly more truck traffic than what they have on a daily basis. They have 8 to 15 carloads a day [total] compared to if this was a truck laid-down yard which is allowed by right, it could also be a truck stop as it is a permitted use on the site. Therefore, they could tear down the little old businesses that have been here for many years and build a "full blown" truck stop with truck gas station, but he does not believe that anybody would want that here.

**Ms. Jarrett** interjected that the Board is not looking at those things. They are looking at what Attorney McCorkle is proposing.

**Attorney McCorkle** replied that he understood, but the question is, "the impact of their use." He explained that he did not believe that the impact of their use is worse than what otherwise could be here or what has been here before!

**Ms. Jarrett** asked. "What would the traffic effect be?"

**Attorney McCorkle** answered that there are 8 to 15 carloads per day.; this is what comes onto the site during a typical day.

**Ms. Jarrett** asked what the traffic would be from previously 3 to 4?

**Attorney McCorkle** replied that he spoke to Mr. Anderson, and he gave him the information. He said that he wanted to say the information given to him correctly. Before, they had 15 to 20 cars and vehicle trucks delivery per day; plus, they had three or four wreckers that would either drop-off or pick cars up per day. They also operated a delivery and retail business with their own trucks. Certainly, he would say they had more traffic, but the trucks were not as large. Even if they are denied, the use is a storage yard in the rear. The business that exists on the front, and the trucks coming in and dropping off are allowed by right. This is not necessarily going to change the business on the site, what it will change is where they put the cars and how they structure them. Attorney McCorkle said he personally believes that it is better to have the cars in the back with a 400-foot buffer, than to try to cram everything in the front where it is permitted, especially when that use existed here for 50 years.

## **PUBLIC COMMENTS**

Many residents were present in-person on behalf of this variance petition. They were sworn-in earlier by **Chairman Merriman**: The following persons spoke in opposition to this variance request: **Mrs. Johnnie Mae Law; Mayor Van Johnson; Alderwomen Bernita Lanier, Keisha Gibson-Carter, and Alicia Blakely; County Commissioners Mr. Kenneth Adams and Mr. Bobby Lockett, Mr. Marion Warren, Mr. Richard Law. Sr.,** President of Ogeecheeton Neighborhood Association; **Ms. Bearice Williams; President of Tremont Park Neighborhood Association, Ms. Deidra Grim [on-line]; Ms. Sylvia Perry; Ms. Cynthia Perry Pough, Ms. Barbara Baker, and Mr. Kary Law.**

**Attorney McCorkle** stated, in response to public comments, that he is hopeful that the residents do not believe that he or his clients are dismissive to them. He understands that this area has changed dramatically over its 112 years history. He is sure that 112 years ago when there were originally dirt roads, the world was a different place; zoning did not exist, etc. His job is to try to address the situation that exists today. A lot of history was expressed today and a lot of it was informative to him. However, he was not around when those things were happening. Nonetheless, he is sympathetic to the neighborhood. He appreciates that anytime they have this number of citizens come out, particularly in the middle of day, and speak obviously to something that they are passionate about, shows concern. Comments were made that this is industrial intrusion. The word expansion was used with this existing use, and that the property should remain residential. This is not industrial intrusion; it is not the instituting of an industrial use onto a piece of property that was not formally industrial. There has not been a change of ownership. The other property is still owned by the same people. The use of the rear property never ceased being a storage yard. They are not sharing a business license. Two

businesses can be on one piece of property. His clients are tenants. His client is being audacious in their request to inject this use onto this property, or they should have known better. From this client's perspective when they have a landlord who has been running a junk yard on a piece of property for 50 years and they come and do a use that is obviously incredibly similar, there is no reason for them to believe that they were injecting some problem, changing the zoning, or changing the nature of the neighborhood. This lot that they are talking about in the back has never been residential. They looked at the wetlands map. The only access to this property on this parcel is through the industrial site on the front of the property. He is aware that Ogeecheeton is a residential neighborhood and there are empty lots in Ogeecheeton as well. But the idea that someone is going to cut a road through this industrial site and put in residential lots back there behind it, is unrealistic as far as this use is going to be residential. He is not aware that the cars in the back are causing environmental issues or any kind of pollution in the air. He understands that Clarke Block may be causing problems because there is no barrier between them and the residents. However, their parcel that they are talking about is buffered about 400 feet of heavily wooded wetlands. This prevents any site of this property. Comments were also made about this can be seen from the properties. He said, pointing to an area, that you can see this portion of the property when coming over the bridge and you can see it when you pull into the neighborhood. But, from inside of the neighborhood, there is significant tree coverage.

**Attorney McCorkle** stated that a comment was made that they are currently being sued by Code Compliance. Yes, they do have a code compliance hearing on October 12, 2022. It is because of the issue that they are here before the Board today. The client can have a business license on the entire front parcel of the property; they can operate their business as they are currently operating now. But what they cannot do, as determined by the Zoning Administrator without them coming here today, was to come to the Zoning Board of Appeals and ask for approval of what he believes is the continuance of the existing nonconforming use, but they have a disagreement about this being a change of the use in the rear. This is why they are before the Board. He has been in touch with the Assistant City Attorney and the hearing has been set specifically after this hearing today to see what happens and to see whether the business license would only be issued in the front of the property, or to see whether it includes his client's right to continue storage of cars in the back. It has also been said that they should not have changes for nonconforming uses, he realized that this comment was made by the Mayor. But the reality is that these things do happen, and they have an Ordinance section that specifically addresses these issues. If he has a nonconforming use and sells the business to another owner, the nonconforming use still continues. The nonconforming use is allowed to exist into perpetuity on the property unless the use ceases for a certain period of time. They are not building or adding any buildings in the rear of the property. They are not expanding the use in a place that it did not already exist in the last 50 years. Attorney McCorkle said the question before them today is whether or not the use of the back of the property to store cars in association with a vehicle freight terminal is more detrimental to the neighborhood than the use of the rear of the property is a storage yard for an auto salvage business. The other criteria do not really apply.

**Mr. Kary Law** wanted to make a statement regarding Attorney McCorkle's response to the public comments.

**Mr. Merriman** explained that he did not want a back-and-forth exchange between the residents and the attorney. However, he would allow Mr. Law to make a brief statement.

**Mr. Law** stated that if the Department of Transportation [DOT] is changing the road, the new freight will be brought in through here. It has been said that the frontage will be taken off. He has gotten changes on this in his files. A bridge will be on Victory Drive and a bridge will be on top of this location, which is less than 150 feet. It has been said that this will not be an impact; but he wanted everyone to bear in mind the amount of freight on the heavy trucks coming in and out of the area. This will impact the turning radius, the ingress, and egress at this property. Now, the residents are being asked to allow this, but yet there will be an increase here. No studies or facts have been brought to them regarding the amount of traffic without the change in the DOT as listed. Mr. Law said the Mayor made it clear that they cannot control this because the road does not belong to the City. However, he wanted them to be mindful that the trucks coming here are not small trucks; the freight will increase because of the number of cars that will be loaded on them. These vehicles will not start off with a high volume of take-off, in order to have a high entrance to gear-up onto the ramp towards I-516. Therefore, you are increasing the risk of life and death, and health and safety. Additionally, the runoff may not be an issue for the company, but this will impact the residents. Mr. Law asked the Board to please consider this.

**Attorney McCorkle** wanted to respond to Mr. Law's statement.

**Mr. Merriman** again admonished the public and the attorney that the Board would not entertain a debate between them. However, because Mr. Law was allowed to make a statement, he was allowing Attorney McCorkle to make a brief statement. But after this, the Board will go into its discussion.

**Attorney McCorkle** stated that they are not increasing impervious service on the property, as far as the runoff is concerned. The distance from the front between the road, they do not control what the DOT does on a road. The plans have already been done and the property has already been condemned. The use of trucks on this site, all on the front portion of the property, is permitted by right. The trucks can come in and out and drop cars off on this property. There can be 100 trucks per day; it is all permitted by right in this area. His client's use is less impactful than uses that are permitted by right on this property, including truck stop and other uses. He acknowledges the fact that more trucks are coming onto this property now, 8 to 15 car carriers a day, than there were in the past. He acknowledges that this may have some impact on the road, but the use is permitted by right on the front portion of this property. But today, they are talking about whether they can use the rear of the property to store the cars.

### **BOARD DISCUSSION**

**Ms. Jarrett** said the "safety" related to the traffic is a major concern.

#### **Motion**

The Savannah Zoning Board of Appeals does hereby deny the request for a change in nonconforming use for 2819 Ogeechee Road,

#### **Vote Results ( Approved )**

Motion: Karen Jarrett

Second: Michael Condon

Stephen Merriman, Jr.	- Abstain
Karen Jarrett	- Aye
Hunter Hall	- Aye
Michael Condon	- Aye
Stephen Plunk	- Aye

### [10. VARIANCE REQUEST | 3 Clay Street | File No. 22-003987-ZBA | Reduce Front Yard Setback](#)

📎 [Staff Report.pdf](#)

📎 [MAP.pdf](#)

📎 [Vicinity Map.pdf](#)

📎 [Aerial Map.pdf](#)

**Mr. Nirav Gandhi** gave the staff report. The applicant is requesting a variance to reduce the minimum front yard setback requirements from 20 feet to 5 feet to allow for the construction of a single-family home. The subject property is currently undeveloped land and is zoned RSF-5 for Single Family Residences. The RSF-5 zoning district has a front and rear yard setback of 20 feet. Under the setbacks from the current Ordinance, no structure can be built on this property. The peculiar shape of the property is dictated by the historic rail line in the rear and is owned by the City of Savannah.

**Mr. Gandhi** reported that based upon the variance criteria, staff recommends approval of the requested variance to reduce the front yard setback from 20 ft to 5 ft. He entertained questions from the Board.



**PETITIONER COMMENTS**

**Ms. Brittany Walker** stated that her uncle and she will build a house on the property. If they cannot build the house on the five feet setback, they will not be able to build a house. Ms. Walker was in agreement with the staff recommendation.

**PUBLIC COMMENTS**

None.

**BOARD DISCUSSION**

The Board was in agreement with the staff recommendation.

**Motion**

The Savannah Zoning Board of Appeals does hereby approve the minimum front yard requirements from 20 feet to 5 feet to allow for the construction of a single-family home at 3 Clay Street

**Vote Results ( Approved )**

Motion: Hunter Hall

Second: Stephen Plunk

Stephen Merriman, Jr.	- Abstain
Karen Jarrett	- Aye
Hunter Hall	- Aye
Michael Condon	- Aye
Stephen Plunk	- Aye

[11. VARIANCE REQUEST | 605 Seiler Avenue | File No. 22-004056-ZBA | Reduce Rear Yard Setback](#)

[📎 Staff Report.pdf](#)

[📎 MAP.pdf](#)

[📎 Vicinity Map.pdf](#)

[📎 Street View Back.pdf](#)

[📎 backyard.pdf](#)

[📎 Street View Front.pdf](#)

**Mr. Nirav Gandhi** gave the staff report. The applicant is requesting a variance to reduce the minimum rear yard setback requirements from 20 feet to 9 feet to allow for the construction of an extension to the house at 605 Seiler Avenue. The subject property is currently being used for a single-family residence. The applicant is requesting a setback reduction from the 20 feet in the rear yard that is mandated in the Ordinance to 9 feet to allow for an extension to the existing home. The extension would be 15 feet deep x 26 feet wide.

**Mr. Gandhi** explained that the pattern of development along this block has been a mix of small and large houses, with most homes having accessory buildings in the back against the rear property line. The smallest homes on the street measure around 1,600 square feet, with the larger houses trending towards 2,600 square feet. The extension would not put the structure out of line with the general size of buildings in the area; however, the subject property is smaller than many of the lots on Seiler Ave. The lot widths vary anywhere from 30 feet to 80 feet along this road, with the subject property having a lot width of 40 feet.

**Mr. Gandhi** based upon the variance criteria; staff recommends denial of the requested variance to reduce the rear setback from 20 feet to 9 feet.

**Mr. Condon** asked, "what is the lot coverage of this house?"

**Mr. Gandhi** said he believes the coverage is 40 percent.

**Mr. Condon** explained that the reason he is asking is it looks like a large house is here. Does this include the extension?

**Mr. Gandhi** said this does not include the proposed extension as it would have put it a few feet over 40 percent.

**Mr. Condon** said he just wanted to be sure that a second variance would not be needed.

**Mr. Gandhi** said a second variance for the lot size would not be needed, if the request is approved.

### **PETITIONER COMMENTS**

The petitioner was not present in person or online.

### **PUBLIC COMMENTS**

None.

**Mr. Gandhi** reported that he did not receive any public calls or letters about this variance request.

### **BOARD DISCUSSION**

The Board continued this variance to the next meeting.

**Mr. Gandhi** said he will get in touch with the petitioner to ensure that he is at the meeting in October.

#### **Motion**

The Savannah Zoning Board of Appeals does hereby continue this variance request to the meeting of October 27, 2022.

#### **Vote Results ( Approved )**

Motion: Michael Condon

Second: Hunter Hall

Stephen Merriman, Jr. - Abstain

Karen Jarrett - Aye

Hunter Hall - Aye

Michael Condon - Aye

Stephen Plunk - Aye

[12. VARIANCE REQUEST | 629 East 51st Street | File No. 22-004062-ZBA | Request to Expand Existing Nonconformity](#)

[📎 Aerial Map.pdf](#)

[📎 MAP.pdf](#)

[📎 Street View Rear.pdf](#)

[Staff Report.pdf](#)

[Vicinity map.pdf](#)

**Mr. Nirav Gandhi** gave the staff report. The subject property currently has a single-family home on it and, in the rear yard, a shed that goes back to the property line. The rear and side yard setbacks for accessory structures in the RSF-5 zoning district are 5 feet.

**Mr. Gandhi** explained that the structure existed before NewZO was adopted in 2019, so it is currently legally nonconforming; however, the applicant would like to expand the accessory structure along the property line, extending the existing nonconformity. The accessory, as it sits now, is 324 square feet. The applicant is proposing an 18 x10 feet addition. The subject property has lane access in the rear, so the proposed extension would not abut another property.

**Mr. Gandhi** showed the Board some pictures of the property and the street view. He explained that the property is of similar shape and size to the nearby houses. Therefore, they did not find these conditions to be peculiar or different than usual. The condition is the result of the applicant's wishes to expand the accessory structure in the rear yard. This is a result of their own actions. Some homes in this area have a rear accessory structure that runs right up to the property line. However, the ability to expand the existing structure does not necessarily constitute a right. Each of these structures in the rear yard was established before NewZO was implemented. Thus, with the existing accessory structure, the applicant is already enjoying the same rights as everybody else in the neighborhood.

**Mr. Gandhi** reported that based upon the variance criteria, staff recommends denial of the requested variance to expand an existing nonconforming structure in the rear yard of the property. He entertained questions from the Board.

**Mr. Condon** asked if the petitioner wants to make the garage larger.

**Mr. Gandhi** said he believes the petitioner wants to make a workshop. However, the petitioner could answer the question when making the presentation to the Board.

### **PETITIONER COMMENTS**

**Ms. Kelly Simmons** said they want to expand the garage. They want to be able to get a car in here and also have a workshop for repairs. They want to put a washer and dryer in the garage. Ms. Simmons explained that their house is small, and they have three teenagers.

### **PUBLIC COMMENTS**

None.

### **Motion**

The Savannah Zoning Board of Appeals does hereby approve the requested variance at 629 East 51st Street.

### **Vote Results ( Approved )**

Motion: Stephen Plunk

Second: Michael Condon

Stephen Merriman, Jr.	- Abstain
Karen Jarrett	- Aye
Hunter Hall	- Aye
Michael Condon	- Aye
Stephen Plunk	- Aye

### 13. Discussion of a Decision Made by the City of Savannah Zoning Administrator

**Mr. Merriman** asked that this item be added to the final agenda. He said that last week, upon reading the Savannah Morning News, he saw an article pertaining to a determination made by the City of Savannah Zoning Administrator. An individual wanted to appeal the determination, filed the paperwork appropriately, but the individual was told that they were not an aggrieved party and, therefore, could not file an appeal to the determination. The person's application fee was refunded

**Mr. Merriman** said upon reading the article, he called the Zoning Administrator, and a copy of the individual's letter was sent to him. He asked Mr. Lotson if he received a copy of his email yesterday.

**Mr. Lotson** answered that he did not receive a copy of Mr. Merriman's email.

**Mr. Merriman** explained that he asked Ms. Lidy how a determination is made as to whether or not a person is an aggrieved party and who makes this determination. He said Ms. Lidy advised him in her letter that she actually made the determination as to whether or not the person was aggrieved. Mr. Merriman said Ms. Lidy explained that the person lived more than 3,000 feet away from the subject property, He said when the Zoning Administrator makes a decision of an aggrieved person, is a conflict of what they do as the Savannah Zoning Board of Appeals. Also, this denies the person due process before the Zoning Board of Appeals hears the request. He asked Mr. Lotson if he knows how this process works. This is not covered in the Ordinance. The only thing that the Ordinance states is that when an individual files their paperwork, it is to be immediately forwarded to the Zoning Board of Appeals. But, in this case, the appeal was not sent to the ZBA.

**Mr. Lotson** for clarity, asked Mr. Merriman, if an appeal was filed and a determination was made by the Zoning Administrator that the individual did not have standing to appeal?

**Mr. Merriman** answered yes. He said that an application number 22-004157 was made by Mr. Jones. He said according to Section 3.23 of the ZBA Ordinance, the application should have been forwarded immediately to the ZBA. Mr. Merriman said he could understand if the petition was filed by someone on the southside having a problem with something happening in the Historic District or Ardsley Park, but someone 3000 feet away inside the Historic District or even if it was the Streetcar District because these relationships are more similar than the entire community as a whole.

**Mr. Lotson** explained that to Mr. Merriman's point about distance is somewhat a determination that has to be made as to whether or not a person is a "stakeholder" in an aggrieved party in a decision that was made by a board. He said, however, it is within the Zoning Administrator's purview [in his opinion] to make that decision. But that decision is also appealable. Consequently, he believes the applicant that Mr. Merriman has described, would probably have the right to appeal the decision that they do not have standing, to the ZBA. Any final decision made by the Zoning Administrator, or a board can be appealed to the ZBA.

**Mr. Merriman** said his understanding is that the ZBA will actually get a chance to hear the petition next month because the petitioner filed another petition on behalf of someone who lives closer.

**Mr. Lotson** asked if the petitioner did this to be heard on the original appeal. He explained that he believes there were two ways the petitioner could have handled his request. The petitioner could have handled his request the way he handled it, and then appeal to the decision that he was not aggrieved.

**Mr. Merriman** answered there is no criteria in the Ordinance to determine whether or not a party is aggrieved. But the person that you are filing the appeal against, to be the one that determines whether you are aggrieved, seems to be a conflict of interest.

**Mr. Lotson** said this may be something that they need to discuss more, which would likely include the City Attorney's office, to potentially look at the language of the Ordinance and see if there is a change that needs to be made.

**Mr. Merriman** asked if this meeting could be setup.

**Mr. Lotson** said he would contact the City Attorney's office and discuss the situation based on Mr.

Merriman's comments.

**Mr. Jones** asked the Board if it was possible for him to speak on this file.

**Mr. Lotson** informed the Board that they were not within a public hearing now.

**Mr. Merriman** said this matter has not been posted. But this was something that he just wanted to bring to the Board's attention.

**Mr. Lotson** stated also that as a discussion item where Mr. Merriman put the item on today's agenda, is for the Board's discussion at this stage. However, if this is brought back to the ZBA in the form of a public hearing, they would be able to hear public comments. However, today, the Board is not making a decision on this matter.

**Mr. Merriman** agreed that the Board was just having a discussion on the matter. They could not have public comments on this matter today.

**Mr. Lotson** read "**Section 3.23 (a)**" which outlines when an aggrieved party may take an issue to the Zoning Board of Appeals.

**Mr. Merriman** said the person did everything right, but he was told by the City that he was not an aggrieved party. His question to the Zoning Administrator was that there is no information in the Ordinance as to whether or not you are aggrieved. So, he asked the Zoning Administrator who determined that the person was aggrieved; and he was told by the Zoning Administrator that she made the determination. Mr. Merriman said if there is a case where a person is not aggrieved, it should be a determination made by the Zoning Board of Appeals.

**Mr. Lotson** stated that, as he mentioned earlier, if it is the Board's desire, he will forward their questions to the City Attorney's office for a response.

**Mr. Merriman** thanked Mr. Lotson and wanted the information to be sent to the City Attorney's office for a response.

## XII. Adjournment

### 14. Adjourned

**Mr. Lotson** stated that he handed the Board members some information from the CORE MPO. They are in the process of the MPC Transportation Update to the Plans for 2050. A QR Code is on the inside of the pamphlet. He asked the Board members to take the survey. A series of meetings were held in September and another series will be held in October. He explained that this is a part of the public input process for the transportation plan. Contact information is listed on the pamphlet if additional information is needed about any of the projects.

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There being no further business to come before the Zoning Board of Appeals, Mr. Merriman adjourned the meeting at 12:56 p.m.

Respectfully Submitted,

Marcus Lotson, Director  
Development Services

ML:mem

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