



## City of Savannah Zoning Board of Appeals

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Arthur A. Mendonsa Hearing Room  
March 23, 2023 - 10:00 A.M.  
Meeting Minutes

### MARCH 23, 2023 CITY OF SAVANNAH ZONING BOARD OF APPEALS

Present: Stephen Merriman, Jr., Chair  
Michael Condon, Vice Chair  
Stephen Plunk  
Betty Jones  
Armand Turner

Members Absent: Karen Jarrett  
Larry Evans

Others Present: Melanie Wilson, MPC Executive Director  
Marcus Lotson, Development Services Director  
Melissa Paul-Leto, Development Services Planner  
Nirav Gandhi, Development Services Planner and Historic  
Preservation Planner  
Mary Mitchell, Administrative Assistant  
Warren Durrer, Executive Assistant

City of Savannah: Tom Bolton, Zoning Plans Examiner

#### I. Call to Order and Welcome

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

**NOTE: The Chair, Mr. Stephen Merriman, Jr., does not vote unless there is a tie.**

**Mr. Merriman** called the meeting to order at 10:03 a.m. He explained that this is a quasi-judicial proceeding. All those wishing to give testimony during these proceedings were asked to please sign in. 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 Mr. Merriman. The **Pledge of Allegiance** to the Flag was recited in unison.

##### [3. Swearing-in Witnesses](#)

All persons wishing to give testimony were sworn-in by Mr. Merriman.

**III. Notices, Proclamations and Acknowledgements**

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

**V. Item(s) Requested to be Withdrawn**

**VI. Approval of Minutes**

[4. Approve February 23, 2023 Meeting Minutes](#)

[February 23, 2023 Meeting Minutes.pdf](#)

**Motion**

The Savannah Zoning Board of Appeals does hereby approve February 23, 2023 Meeting Minutes

**Vote Results ( Approved )**

Motion: Stephen Plunk

Second: Betty Jones

Stephen Merriman, Jr. - Abstain

Michael Condon - Aye

Stephen Plunk - Aye

Betty Jones - Aye

Armand Turner - Aye

**VII. Approval of Final Agenda**

[5. Approve the Final Agenda](#)

**Motion**

The Savannah Zoning Board of Appeals does hereby move to amend the Agenda to move the two petitions, 336 Barnard Street and 116 East Henry Street, under Section IX. Old Business to the end of the Agenda.

**Vote Results ( Approved )**

Motion: Michael Condon

Second: Betty Jones

Stephen Merriman, Jr. - Abstain

Michael Condon - Aye

Stephen Plunk - Aye

Betty Jones - Aye

Armand Turner - Aye

**VIII. Consent Agenda**

**IX. Old Business**

## X. Regular Agenda

### [6. 823 West 39th Street | Variances to the minimum interior side yard setback, minimum rear yard setback, and maximum lot coverage requirements | 23-000872-ZBA](#)

📎 [Application.pdf](#)

📎 [823 w 39th st - new plans.pdf](#)

📎 [Map.pdf](#)

📎 [Staff Report.pdf](#)

**Ms. Melissa Paul-Leto** gave the staff report. The petitioner, Andre Gadson, filing on behalf of Kenyona Pinckney, is requesting the following variances for an after-the-fact revision on construction of a rear addition for property located at 823 West 39th Street:

- A variance to the maximum lot coverage requirement of 50% to 58%.
- A variance to the minimum rear yard setback requirement of 20-feet to 4 feet 7 1/2 inches
- A variance to the interior side setback from 3-feet to 2-feet 7 1/8 inches
- The after-the-fact rear addition is located within the rear and interior side setback. The Petitioner is proposing to demolish 1-foot on both sides of the existing addition, per COA approval dated January 25, 2023. File 22-004617-COA. The lot is zoned TR-3 (Traditional-Residential - 3).

**Ms. Paul-Leto** gave the background data for the building. The historic building was constructed in 1920 and is a contributing resource within the National Register Cuyler-Brownville Historic District and the local Cuyler-Brownville Historic District. The 1955 Sanborn Maps show an addition on the rear of the property which is integrally connected via a doorway or opening to the main structure. This addition is not the same depth as the existing, new addition. Based on photos prior to the work it is likely this historic addition was demolished or otherwise deteriorated. The kitchen to the rear of the single-family residence was added on last year without a COA or building permit. The addition, along with a new fence, was brought to MPC Historic Preservation Staff by the City of Savannah's Code Compliance Department. MPC Staff worked with the Petitioner on the after-the-fact addition and on January 25, 2023, the Savannah Historic Preservation Commission approved the after-the-fact addition and alterations for the subject property. A variance to the minimum rear yard setback was also recommended. The Petitioner will be demolishing one foot on each side of the addition.

**Ms. Paul-Leto** reported that based upon the variance criteria, Staff recommends approval for the requested variances to the minimum side yard setback, minimum rear yard setback and the maximum lot coverage to revise an after-the-fact addition at the property located at 823 West 39th Street. She entertained questions from the Board and informed them that Mr. Andre Gadson of Eco Construction and Consulting was present to answers questions.

#### **PETITIONER COMMENTS**

**Mr. Andre Gadson** stated that he did not do the addition. He was hired to correct the addition problem. Mr. Gadson was in agreement with the Staff's recommendation.

#### **PUBLIC COMMENTS**

None

#### **BOARD DISCUSSION**

The Board was in agreement with the Staff recommendation.

**Mr. Merriman** entertained a motion.

**Motion**

The Savannah Zoning Board of Appeals does hereby approve the requested variances to the minimum side yard setback, minimum rear yard setback and the maximum lot coverage to revise an after-the-fact rear addition at the property located at 823 West 39th Street.

**Vote Results ( Approved )**

Motion: Stephen Plunk

Second: Betty Jones

Stephen Merriman, Jr. - Abstain

Michael Condon - Aye

Stephen Plunk - Aye

Betty Jones - Aye

Armand Turner - Aye

[7. VARIANCE REQUEST | 1119 E 50th St | File No. 23-000935-ZBA | Front Setback Reduction](#)

[☞ Staff Report.pdf](#)

[☞ Map.pdf](#)

[☞ Front View.pdf](#)

[☞ Letters of Support.pdf](#)

[☞ Application.pdf](#)

**Mr. Nirav Gandhi** gave the staff report. The subject property is zoned RSF-6 for Residential Single Family, which requires a 20 feet front yard setback. The Petitioner is requesting a variance to reduce the setback by 14 feet down to 6 feet. The subject property is 90 feet wide by 105 feet deep, larger than most of the lots in the neighborhood. The house is currently 14 feet from the front property line and, therefore, already is nonconforming. This neighborhood was developed before the establishment of the RSF 6 District in NewZo in 2019. So, most, if not all, of the houses within a block radius have nonconforming front setbacks. The Petitioner intends to construct a porch on the front of the house over the existing slab that is about 10 feet deep and 30 feet wide for a total of 300 square feet. This would increase the size of the home by 10%. They are, additionally, planning to construct a 10 x 11.5 porch on the side of the property, for which a variance is not needed. These new construction elements would put the property at a total of a 40% lot coverage exactly, which is the maximum allowed in the district.

**Mr. Gandhi** showed the Board a map of the area. He explained that everything shown in "red" is a front setback where the home is encroaching into the front setback. Some of the setbacks are less than the Petitioner's setback, while some are more. However, he would say that most of them are encroaching about five or six feet into the front setback. This appeared to be the trend here. Mr. Gandhi explained that, therefore, everything shown in "red" have front porches that are extend out. The maps with "X's" do not have porches. Mr. Gandhi said as the Board can see, there is a pattern of nonconformity to the development in this neighborhood. He explained that there are no special circumstances. The Petitioner simply wants to expand the size of their home.

**Mr. Gandhi** reported that based upon the variance criteria, staff recommends denial of the requested variance. He entertained questions from the Board.

**Mr. Condon** said in reading this petition, is his understanding correct that currently a cement slab is in front of the house that acts somewhat as a porch?

**Mr. Gandhi** answered that a cement slab is in the front of the house.

**Mr. Condon** asked if the cement slab extends to where the Petitioner wants to put the porch.

**Mr. Gandhi** answered yes.

### **PETITIONER COMMENTS**

**Mr. William Kazary** came forward and stated that he appreciates the Board hearing his petition. He explained that the Parkside Neighborhood is a very strong community, and the porches are really the center for social interaction. Mr. Kazary stated that 90% of the houses have porches. He appreciates the job that this Board does; and they are not looking for a rubber stamp. Factually, they are not looking to build something that is out of scope with the neighborhood. They are very much trying to fit in.

**Mr. Kazary** said they have 12 letters of support from their neighbors who live on the block. They also have neighbors who came to the meeting today who support their petition. They have done research and out of 98 homes, 86 have porches. Of the 86 homes, all of them but one, was out of compliance because the setback rule was put in place after the neighborhood was built.

**Mr. Kazary** said they are not looking for special privilege, they are simply trying to bring their home up to the standards of the rest of the community. It is their hope that with the Board's help, they can improve their neighborhood and make it better. Their neighbors enthusiastically support the addition of their porch. Mr. Kazary thanked the Board again for hearing their petition. He said again that all 12 letters were submitted for inclusion in their petition. Also, he received some calls and emails from other people in the area. This seems to have covered basically the entire block radius around them with support. He said a couple of his neighbors might want to speak.

### **PUBLIC COMMENTS**

**Mr. Scott Smith** came forward and stated that he lives across the street from Mr. Kazary. Mr. Smith was sworn in earlier. His family lives in a house that was occupied by his wife's family since 1924. Therefore, they are very concerned about the neighborhood and look upon this in a very positive way. Porches social gatherings on their block are a very integral part of their daily activity. So, they look at this as a way to expand that use which has bound their neighborhood to gather, both new and old neighbors.

**Mr. Smith** said, therefore, in speaking as the oldest resident on the block in terms of longevity, they are hopeful that Mr. Kazary's request is approved.

**Mr. Brian Dennison** stated that he is the other across the street neighbor. He was sworn in earlier also. He believes he is the newest neighbor on the block. The fact that they do occupy their porches and are out there being a real neighborhood, is special. Mr. Dennison believes this makes their neighborhood safer for everybody. This block is special, and everybody keeps up with each other. They are hopeful that the variance is approved.

**Ms. Dana Savidge** stated that she is the neighbor to the east of the Kazary family. She stated that she was not sworn in. Mr. Merriman informed her that since she is just making public comments, she should be okay to speak. Ms. Savidge said the Kazary Family has developed an attractive plan to go over an already attractive porch. She believes the porch will enhance the attractive house and add beauty to their block. Ms. Savidge said this family is responsible homeowners and she believes that the landscaping and everything will be kept up to par. She just wanted to reiterate that the social aspects which are really unique to any place she has lived in Savannah is very nice. This will contribute to their area nicely. Ms. Savidge said that her husband and she are supportive of the variance request.

**Ms. Mary Dennison** was online and stated that, she too, supports the variance request. Ms. Dennison said she agrees with everything that her neighbors have said. She would be happy to see that the variance request is approved.

**Mr. Merriman** invited Mr. Kazary to respond to the public comments.

**Mr. Kazary** thanked all his neighbors for taking the time out of their workday to come and support his family's variance request.

**Mr. Gandhi** clarified that a concrete slab on its own does not qualify going into the setback as a concrete slab or driveway could run up to the line.

### **BOARD DISCUSSION**

**Ms. Jones** said front porches are a social place for most homes in the neighborhood.

**Mr. Merriman** entertained a motion as the Board had no further discussion.

#### **Motion**

The Savannah Zoning Board of Appeals does hereby approve the variance request for the Front Setback Reduction at 1119 East 50th Street.

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

Motion: Michael Condon

Second: Stephen Plunk

Stephen Merriman, Jr.	- Abstain
Michael Condon	- Aye
Stephen Plunk	- Aye
Betty Jones	- Aye
Armand Turner	- Aye

#### [8. 505 East 54th Street | An amendment of a condition that was placed on File #13-000411-ZBA | 23-000957-ZBA](#)

📎 [Application.pdf](#)

📎 [Map.pdf](#)

📎 [ZBA Decision February 28, 2013.pdf](#)

📎 [Staff Report.pdf](#)

**Ms. Melissa Paul-Leto** gave the Staff report. The Petitioner is requesting an amendment of a condition that was placed in the parking variance approval provided on February 28, 2013, per 13-000411-ZBA. The condition is #5 whereas, the school shall be limited to providing education to grades Kindergarten to 12th grade only. The petitioner is proposing to utilize the entire building as a childcare center on the property at 505 East 54th Street. The lot is zoned RSF-6, (Residential Single-Family-6).

**Ms. Paul-Leto** explained that the subject property is 1.37 acres, or 59,677.2 square feet located at 505 East 54th Street and comprising of two existing institutional buildings: an 8,450-square foot brick schoolhouse (The Gould Cottage) and an 875-square foot two-story cottage. For decades, the property was a refuge for orphaned children. Through the years, the Gould Cottage changed hands many times. Most recently it was a school for kindergarteners through 12th grade. Currently, the Petitioner is proposing to have a childcare center for children under the age of kindergarten eligibility.

**Ms. Paul-Leto** explained that on February 28, 2013, File # 13-000411 - the City's Zoning Board of Appeals approved variances to the following:

- Approval of the requested private and parochial schools' use.
- A variance to the minimum on-site parking requirements.
- A variance to approve two vehicle parking spaces be permitted within a required building setback.

With the following conditions:

1. The school shall be limited to a maximum of 200 students.
2. The parking area for the school shall be paved with gravel by the end of 2013.
3. The parking area shall be screened from adjoining properties and right-of-way by a Type "G" buffer.
4. Traffic flow for the parking area (pick up and drop off of students) shall be from 54th Street to 55th Street, and onto Atlantic Avenue.
5. The school shall be limited to providing education to grades Kindergarten to 12th grade only.

**Ms. Paul-Leto** explained that the requested variance to allow for a childcare center in the RSF-6 Zoning District is not a use that is either special use, limited use, or permitted use. However, K-12 school public or private is a permitted use with limitations.

**Ms. Paul-Leto** reported that based upon the RSF-6 permitted uses and the variance criteria, staff recommends denial of the amendment to remove #5 condition from parking variance 13-000411-ZBA to allow for a childcare center use within the building for younger children under the age of kindergarten. She stated that Attorney Josh Yellin is the agent for the Calvary Day School Foundation, Inc. She believed that Attorney Yellin would make a presentation to the Board. Ms. Paul-Leto entertained questions from the Board.

**Mr. Merriman** stated that presently a school is here, but he does not believe it goes to 12th grade. He believes that the school only goes to 6th or 7th grade. By changing it from what it is now, to a childcare center versus a school, what will change? Children will still be here.

**Ms. Paul-Leto** answered that children will still be here. She explained that, essentially, what is permitted in the RSF-6 is a child/adult daycare home, which is permitted, but it's different. It is scaled. Whereas a small number of students in a home, in a neighborhood area is different than where a school would have larger amounts of younger children and there would be traffic coming in and out for pick up and drop off. The fact is that a condition was placed. Otherwise, this would not be here today with this request. It would not be a permitted use,

### **PETITIONER COMMENTS**

**Attorney Joshua Yellin** explained that the site of the Habersham School is currently in use as a school. It has not been abandoned. Attorney Yellin said he was representing Calvary Day School, who wants to use this facility as an early childhood education facility. He introduced with him today from Calvary Day School **Dr. Hunter Chadwick, Head of School, Mr. Andy Korta, Director of Business Operations, Mr. Forbes Buck, Treasurer, and Mr. Pat McCarty, Headmaster of Habersham School.** Attorney Yellin explained that they have with them many people present to answer questions about the current and proposed use for the school. He explained that this site is currently, although they somewhat get confused in Savannah's geography, is 2,000 feet away from the existing Calvary campus.

**Attorney Yellin** stated that they are proposing an early childhood education facility. It is an accredited, licensed institution. This isn't babysitting; This isn't daycare. It is an accredited institution rated by the state. It has curriculum, nutritional guidelines, and qualifications for the teacher. Therefore, it is odd to him, although as a parent who has a five-year-old and a three-year-old who are in similar institutions, that somehow there is a distinction between daycare and magically you have kindergarten. Attorney Yellin said his children are in daycare. They are learning; they have homework. They are in a district such as this. One of his children is at Charles Ellis, which is in an RSF-6 Zoning District which is only a few blocks away. There is no problem with this use because it is a public school and the MPC and City Ordinances do not apply to them.

**Attorney Yellin** said this site as mentioned in the Staff report, was built in the 1930s. It is the Gould Cottage and was built as an orphanage, which would now be considered a home for the needy or a home for children under the Ordinances. Also a use that is not permitted in the RSF-6 District. Since this building was constructed in the 1930s, it has continually been occupied by uses that are not permitted from start to finish. After the Gould School, it went to children services, also a use not permitted. After that, it went to Union Mission, also a use that was not permitted. In 2013, the Habersham School came

before this Board [ZBA] for approval. What is important to know is that the approval that the school sought in 2013 was not for a K-12 school. The approval that was sought was for a private and parochial school. This was a different use classification under the Ordinance. Attorney Yellin said this is very important to the conversation that they are having today. They sought approval for Use 22 - private and parochial schools. At the time Use 20 was school; public or private, K-12. Not the use that was sought for parochial school. After the Habersham School was approved, the City of Savannah deleted the private and parochial school use. But this does not mean that they became a K-12 school, it means that they became a nonconforming private and parochial school, which needs to come before the Zoning Board of Appeals for a variance request. Attorney Yellin said what is interesting about this as well is that even under the current Ordinance, K-12 schools are not permitted in this location. He wanted to further mention that this is a limited use. In the qualifications of that limited use, the K-12 schools need to be located on an arterial street. They are not located on an arterial street; we are not permitted even as a K-12 school in this location, other than as a legally nonconforming parochial school.

**Attorney Yellin** said what they are trying to do today, is have the Habersham School transfer its legal nonconforming use to Calvary Day School so that they can operate as an early childhood education facility. While this seems like a big change in use, they actually think this use is for the benefit of the neighborhood and for the benefit of the surrounding community. Unlike a traditional K-12 school, there is not an 8:00 a.m. bell time. There is not a 7:30 a.m. bell time. It is not that all parents drop their children off at this one time or else they will have detention. Some children will come early, and some children will come later, the same as was mentioned with the private daycare. Parents come and go; parents have different work schedules. The early childhood education facility is there to provide for parents. It is a rolling schedule; it does not dump the traffic all at once. It reduces the demand similarly by not having the K-12. What they are looking at is having children ages 5 and under. They are not the kids that are running around. They are not 8th graders. These are not children that are taking over the playground; these are young kids who are going to be there with their teachers. The conditions that were put on this school in 2013, the only condition that they are seeking to remove is the one that limits it to K-12. They are still agreeing to the maximum of 200 students; they are still agreeing to keep the parking up to date and put the buffer in.

**Attorney Yellin** explained that they do not believe that they can rezone this property. He stated that in 2011, a Petitioner tried to rezone this site to an office institutional use, which would permit these ECH facilities. Everyone threw these persons out of town, which is why the Habersham School came in. This is a great use to take a nonconforming building and bring in a use that is similar to what it has been used as since it was built in the 1930s and provide a benefit for the community. He said, therefore, what they are asking for today is to simply remove the condition. They believe that they have met all the criteria for a variance request, and they do have a special condition here because it is an existing nonconforming use. They did not create this nonconforming use, they are simply trying to apply it in a way that benefits everyone, including the Habersham School and the Calvary Day School. Consequently, they are excited about bringing this petition before the Board because they think that it is in keeping with the use of the building as it has always been and in keeping with the current use of the building will provide a great benefit for the Savannah community, particularly, those persons who have children in this age group. Just as he has said as someone with personal experience, there is a waiting list at nearly every single childcare facility in the City of Savannah. Some parents are paying for their child to go to school while they are still pregnant because to get the child in would take too long afterwards. There is a huge demand for this service, and it is only getting worse. They are trying to provide the service and he knows from first-hand experience that the City of Savannah desperately needs this service.

**Attorney Yellin** respectfully requested that the Board approve the removal of the condition limiting the school to K-12 and permit them to allow the early childhood education. He knew a lot of people are present who may want to speak. Attorney Yellin said he is present to answer any questions that they have. He entertained questions from the Board.

**Mr. Condon** asked Attorney Yellin if it might be better to simply add 3-year-olds to item #5 so that you would have allowed Pre-K rather than trying to delete the entire Item #5.

**Attorney Yellin** said this would be a question for the Head of the School.

**Dr. Chadwick** stated that he is the Head of Calvary's Day School. He explained that their Pre-K is actually located and will remain at 4625 Waters Avenue. They are just asking to move six weeks to



three-to-four-year-olds to this location [505 East 54th Street].

**Mr. Condon** asked Dr. Chadwick if their Pre-K is basically 5-year-olds.

**Dr. Chadwick** explained that their Pre-K is 5-year-olds. But he wanted to be truthful, sometimes a 4-year-old could be there depending on their age and when their birthday falls. Basically, 6 weeks to three-year-olds is in their early learning center. There are some four-year-olds as well. Their Pre-K through 12 will remain at 4625 Waters Avenue.

### **PUBLIC COMMENTS**

**Ms. Ardis Wood** stated that she saw the COA sign and understood that they were looking for some parking variances. Ms. Wood said that she did not understand all the details. She heard there were 300 children, then she heard there were 200 children. She is on the Neighborhood Association Board and last night was the first time she heard about all these details or some of them. Ms. Wood respectfully requested that this petition be delayed until the applicant has an opportunity to speak to the Board, if not the neighborhood. This is a big change; it may work out just fine, but a lot was said that they can do this but can't do that. Ms. Wood believes it would be better if they have more dialogue.

**Mr. Merriman** said he read the public notice and it only mentioned parking. He invited Attorney Yellin to respond to public comment.

**Attorney Yellin** explained that this petition is a little different than the other applications. They are dealing with one institution that is moving to open up a new facility. They are under contract. They have to get the site accredited in order to start operations during the school year. Unfortunately, the delay is not something that they will necessarily be open to. Attorney Yellin said he was not telling the Board how to do their job, but he initially reached out to the Alderman of this district when they started this process. They also reached out to the Neighborhood Association Presidents to hear if there were any concerns. He did not receive any feedback. Therefore, they would like to keep pushing this forward so that they can open the facilities in a timely manner.

### **BOARD DISCUSSION**

**Mr. Condon** said he is familiar with Calvary Day School and the work that they do. He also agrees that there is a significant need for quality educational daycare in this city. He does not see the difference in 200 children arriving and leaving every day that may be in baby carriers as opposed to be dropped off and walking into a classroom.

**Mr. Merriman** entertained a motion as there was no further Board discussion.

#### **Motion**

The Savannah Zoning Board of Appeals does hereby approve a variance to the #5 condition to allow 6-week-olds to Pre-K in addition with the kindergarten through 12th grade use at 505 East 54th Street.

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

Motion: Michael Condon

Second: Armand Turner

Stephen Merriman, Jr. - Abstain

Michael Condon - Aye

Stephen Plunk - Aye

Betty Jones - Aye

Armand Turner - Aye

[requirements | 23-000966-ZBA](#)

- 📎 [Application.pdf](#)
- 📎 [vicinity map.pdf](#)
- 📎 [site visit.pdf](#)
- 📎 [Staff Report.pdf](#)

**Ms. Melissa Paul-Leto** gave the staff report. The Petitioner, Josh Ward, Ward Architecture + Preservation is requesting two variances. A variance to the minimum front yard setback requirements of 5-feet to 3-feet 3-inches and a variance to the minimum interior side yard setback requirement of 3-feet to 4-inches to reconstruct a front porch and rear addition located on the property at 620 West 42nd Street. The lot is zoned TR-1, (Traditional Residential -1).

**Ms. Paul-Leto** explained that 620 West 42nd Street is a historic one-story wood framed, single-family shotgun house existing on an interior lot. The front porch was in disrepair and removed from the house around 2017 according to the Petitioner. The Petitioner is seeking to rebuild the front porch to historic context while adding a rear addition for a bathroom. The 1916 and 1955 Sanborn Maps show larger building coverage of the lot with a wood framed, one-story addition to the rear. Additionally, a wood-framed garage existed in the rear yard fronting the lane. The historic building was constructed in 1915 and is a contributing resource within the National Register Cuyler-Brownville Historic District and the local Cuyler-Brownville Historic District. Ms. Paul-Leto stated that the adjacent properties on this block facing West 42nd Street have porches that are up to the property line. The Petitioner is proposing a wood porch; therefore, it would be less impervious in the sense of the structure.

**Ms. Paul-Leto** stated that on January 25, 2023, the Historic Preservation Commission approved the request for rehabilitations to the single-family house per COA #22-005693 and recommended approval for a front and side yard variance.

**Ms. Paul-Leto** reported that based upon the development pattern and variance criteria, Staff recommends approval of the front and side yard setbacks for the construction of a front porch and rear addition on the property located at 620 West 42nd Street. She said that Mr. Josh Ward, the Petitioner, was present, Ms. Paul-Leto entertained questions from the Board.

### **PETITIONER COMMENTS**

**Mr. Josh Ward** came forward. He was sworn in earlier by Mr. Merriman. Mr. Ward thanked the staff for reviewing their project. He did not have anything additionally to add. Mr. Ward entertained questions from the Board.

### **PUBLIC COMMENTS**

**Mr. Ryan Jarles, Director of Historic Properties for the Historic Savannah Foundation**, stated that this property was one of their Revolving Fund properties. Mr. Jarles explained that they have reviewed the plans and fully support the petition.

### **BOARD DISCUSSION**

The Board was in agreement with the Staff recommendation.

**Mr. Merriman** entertained a motion.

#### **Motion**

The Savannah Zoning Board of Appeals does hereby approve the variances to the minimum interior side yard setback, and minimum front yard setbacks for the construction of a front porch and rear addition on the property located at 620 West 42nd Street.

**Vote Results ( Approved )**

Motion: Betty Jones

Second: Stephen Plunk

Stephen Merriman, Jr. - Abstain

Michael Condon - Aye

Stephen Plunk - Aye

Betty Jones - Aye

Armand Turner - Aye

[10. 12742 Golf Club Drive | Variance to the minimum rear yard setback requirement | 23-000966-ZBA](#)

📎 [Application.pdf](#)

📎 [vicinity map.pdf](#)

📎 [Staff Report.pdf](#)

**Ms. Melissa Paul-Leto** gave the staff report. The petitioner, Brandon R. Yingling, is requesting a variance from the required minimum rear yard setback of 25-feet to 11-feet to construct a garage addition on property located at 12742 Golf Club Drive. The lot is zoned RSF-10, (Residential Single-Family - 10). The single-family residence was built in 1963 and the property is 0.41 acres, or 17,859.6 square feet in size located in the Windsor Forest Neighborhood. The subject parcel faces Golf Club Drive and abuts two single family residences on Windsor Road; 507 Windsor Road & 509 Windsor Road

**Ms. Paul-Leto** stated that the proposed addition would encroach into the minimum rear yard setback by 14 feet, leaving a remainder of 11 feet - 3 inches from the rear property line, whereas the minimum rear yard setback requirement in the RSF-10 Zoning District is 25 feet. She explained that the Petitioner is requesting to construct a one-story addition to the single-family residence. The addition would be an expansion to the property owner's garage space and workshop.

**Ms. Paul-Leto** reported that based upon the variance criteria, Staff recommends denial of the rear addition for a garage and workshop space to encroach into the rear yard setback. She believed the Petitioner, Mr. Brandon Yingling, was present to speak to the Board regarding his variance request. Ms. Paul-Leto entertained questions from the Board.

**PETITIONER COMMENTS**

**Mr. Brandon Yingling** was present to speak to the Board. Mr. Yingling was sworn in earlier by Mr. Merriman. He said that his wife and he own this property. The house has been in his wife's family since 1993. It was passed on to his wife's parents and then passed on to them. They have three daughters. Mr. Yingling stated that the house originally had a garage, but it was turned into an in-law's suite when the grandparents became elderly and disabled.

**Mr. Yingling** explained that things that are driving this addition is that Windsor Forest does not have any attic storage, no garage or anywhere to work on things. He stated that he enjoys woodworking, making things for his daughters, etc. Mr. Yingling said he has many woodworking tools that are just sitting in storage from his old residence and when he was in college. He inherited the tools from his grandfather. He wants to mainly put an addition on the rear side. The existing rear corner of the house is 27 feet off the property line. If he does an addition, he can only go two feet out so that he is within the 25 feet setback line.

**Mr. Yingling** said he does not want to store a vehicle here, but only work on hobbies, woodworking, etc. With the addition, it would be a four-bedroom house. It has three full bathrooms because of the in-law suite. Only linen closets are here. There is no storage space for holiday decorations, kids' toys, etc. His daughters ages are 1 to 4. Mr. Yingling stated that he has been renting storage space, but now he wants to add an addition on the rear side of his home. He explained that the design was based on the rear 10

feet easement in the rear based on his property plat. It shows the 25 feet on the front, five feet on the side from the original phasing plat. However, he was not aware that it was 25 feet in the rear. It came up during the permitting process. He works in construction and was trying to do this the right way. He will match the same siding on the addition. It will look good. His neighbor on the right could not be present for the meeting today. She works at Memorial but supports their request. The neighbors in the rear are new. The rear property is rental, and he does not know them as they just moved in a couple of weeks ago. The neighbors on the far-left side, he believes is 509 Windsor Road, he has not talked with them as they are not home when he is home. Mr. Yingling entertained questions from the Board.

### **PUBLIC COMMENTS**

None.

### **BOARD DISCUSSION**

The Board members did not enter into Board Discussion.

**Mr. Merriman** entertained a motion.

#### **Motion**

The Savannah Zoning Board of Appeals does hereby approve the requested variance from the required minimum rear yard setback of 25-feet to 11-feet to construct a garage addition on the property located at 12742 Golf Club Drive.

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

Motion: Armand Turner

Second: Stephen Plunk

Stephen Merriman, Jr.	- Abstain
Michael Condon	- Aye
Stephen Plunk	- Aye
Betty Jones	- Aye
Armand Turner	- Aye

### **11. VARIANCE REQUEST | 213 W 39th St | File No. 23-000986-ZBA | Dwelling Unit Count & Parking Variance**

📎 [vicinity map.pdf](#)

📎 [PLans.pdf](#)

📎 [Staff Report.pdf](#)

📎 [Submittal Packet - 213 W 39th ZBA.pdf](#)

📎 [Submittal Packet - Pictures 213 W 39th Street.pdf](#)

📎 [Opposition Letter.pdf](#)

The Board approved to continue this petition to the meeting of April 27, 2023, as requested.

#### **Motion**

The Savannah Zoning Board of Appeals does hereby approve to continue the petition to the April 27, 2023, Meeting as requested.

**Vote Results ( Approved )**

Motion: Betty Jones

Second: Stephen Plunk

Stephen Merriman, Jr. - Abstain

Michael Condon - Aye

Stephen Plunk - Aye

Betty Jones - Aye

Armand Turner - Aye

[12. 116 East Henry Street | Variance to the minimum interior side yard setback | 23-000477-ZBA](#)

[Application.pdf](#)

[Application Details.pdf](#)

[Staff Report -116 East Henry Street.pdf](#)

**Ms. Melissa Paul-Leto** gave the staff report. The Petitioner applicant is requesting a variance to reduce the minimum side yard interior setback requirement from 3-feet to 0-feet to allow for the construction of a two-story carriage house with a workshop/storage space on the first floor and an accessory dwelling unit on the second floor at the rear of 116 East Henry Street. The stair to the second floor will be located within the side setback; the wall to the building itself is at 3-feet 4 1/2-inches. The lot is zoned TN-1, (Traditional Neighborhood -1).

**Ms. Paul-Leto** explained that the historic main building was constructed in 1871 and is a contributing resource within the National Register Victorian Historic District and the local Victorian Historic District. The storage shed currently at the rear of the property is in deteriorating condition and is listed as non-contributing. The applicant will be demolishing the existing garage and building a new two-story carriage house. The primary contributing building first appears on the 1888 Sanborn Map as a two-story frame structure with no outbuildings. By 1898, there was a one-story frame dwelling at the rear of the property, split across the rear of 116 and 118 East Henry Street. In 1916, there were two one story frame structures at either corner at the back of the property. The 1953 update to the 1916 map shows two frame structures still but one is referred to as a garage. Sometime between 1955-1966, there was one single story garage at the northwest corner of the property. Throughout these years, the neighborhood was largely residential but evolved to have some commercial businesses including a bakery, auto services and in later years Sears Roebuck & Co. had an auto service and retail store. The Duffy Street Methodist Church also appears on the maps, which is known today as Asbury Methodist Church also appears on the maps, which is known today as Asbury Methodist Episcopal Church. Currently, many of the Victorian era structures remain intact with carriage houses as part of the development pattern. On November 21, 2022, the Historic Preservation Commission approved the design of the carriage house and recommended a variance to the side yard setback per 22-005077-COA.

**Ms. Paul Leto** reported that based upon the variance criteria, Staff recommends approval with one condition:

1. No portion of the building shall encroach into the setback other than the staircase.

**Ms. Paul-Leto** said this petition was heard last month, but there were some communication issues with the architect. She stated that SAW Architecture and Interiors is present on behalf of the property owner. She entertained questions from the Board.

**PETITIONER COMMENTS**

**Mr. Michael Johnson of SAW Architecture and Interiors** came forward. Mr. Johnson said they are in agreement with the Staff recommendation. He thanked the Board for hearing their petition. Mr. Johnson explained that this project was designed a couple of years ago. The ownership transferred in between the original design and the current Petitioner. The existing garage/storage shed that was on the property at that time has been demolished. Mr. Johnson entertained questions from the Board.

**Mr. Plunk** asked Mr. Johnson if he had any issues with the condition that Staff has recommended.

**Mr. Johnson** answered that they do not have any issues with the condition. He believes that in the last meeting a question was raised why they did not introduce the stair between the two buildings instead of in the setback. This does encroach within the 10 feet separation between the accessory structure and the main house. Mr. Johnson explained that from a life safety standpoint, it is better to maintain the separation and keep the stair on the side. If they reduce the footprint by any additional dimension, they will fall below the minimum square footage for a new additional unit.

### **PUBLIC COMMENTS**

None.

### **BOARD DISCUSSION**

The Board was in agreement with the Staff recommendation.

**Mr. Merriman** entertained a motion.

#### **Motion**

The Savannah Zoning Board of Appeals does hereby approve the requested variance with the following condition:

1. No portion of the building shall encroach into the setback other than the staircase.

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

Motion: Stephen Plunk

Second: Betty Jones

Stephen Merriman, Jr. - Abstain

Michael Condon - Aye

Stephen Plunk - Aye

Betty Jones - Aye

Armand Turner - Aye

### **[13. 336 Barnard Street | An appeal by Andrew Jones, Agent for Anna Habersham Wright regarding a Special Exception 22-005355-COA | 22-006005-ZBA](#)**

📎 [Application.pdf](#)

📎 [Addendum to Appeal by Anna Habersham Wright \(presentation\).pdf](#)

📎 [Board Decision - 22-005355-COA 336 Barnard Street.pdf](#)

📎 [STAFF REPORT - 336 Barnard Street.pdf](#)

📎 [Second Addendum to Supplemental Documentation 3.21.23.pdf](#)

📎 [Appeal of Special Exception for 336 Barnard March 23, 2023.pdf](#)

📎 [336 Barnard Sottile Materials\\_ZBA Mar 2023 - Sottile Presentation.pdf](#)

📎 [ZBA \(Yellin - 336 Barnard\).pdf](#)

**Mr. Merriman** recommended that time limits be set to hear the Petitioner's comments, public comments and rebuttal from the opposing side. He believed the two minutes public comment period was too short at the last hearing; he would like to see this be three minutes. Mr. Merriman suggested that the time limit for the Petitioner's comments be 20 minutes; the rebuttal period be 20 minutes; the public comment period be 3 minutes each person; and the opposing side be given 10 minutes. However, the time limits that the

Board establishes is the time limits they will follow.

**NOTE: The Board took a 5-minute recess.**

**Mr. Merriman** called the meeting back to order and entertained a motion regarding the time limits.

**Mr. Plunk** motioned that the presenters on both sides be granted a full 20 minutes; the public comments be three minutes each person with the understanding that everyone keep their comments germane to the specific issue at hand, and that the time limit for the Petitioner's rebuttal be 10 minutes at the most.

**Ms. Jones** seconded the motion.

**Mr. Merriman** called for the discussion. There was no discussion. The time limit motion passed unanimously.

\*\*\*

**Ms. Melissa Paul-Leto** gave the Staff report. The Petitioner, Andrew Jones, Agent for Anna Habersham Wright, is appealing the December 14, 2022, Certificate of Appropriateness 22-005355-COA by the Chatham – Savannah Metropolitan Planning Commission's Historic Preservation Staff and the HDBR (Savannah Downtown Historic Board of Review) related to an application for a special exception to allow for the new building on the site to construct its entrance facing the North-South (Barnard) Street at 336 Barnard Street.

**Ms. Paul-Leto** explained that the section being appealed is:

**Sec. 7.8.10.g.ii.I.b Tithing Blocks:** A building on a tithing block shall locate its primary entrance to front the east-west street.

### **3.12.7 Review Criteria for Special Exceptions**

When reviewing a special exception request, a finding shall be made by the Planning Commission, the Historic Preservation Commission, or the Savannah Downtown Historic District Board of Review for each of the criteria listed below.

- a. Whether the use for which the special exception is being considered would be located, operated, and maintained in a manner in conformance with the goals, policies, and objectives of the Comprehensive Plan and the provisions of this Ordinance.

**Staff Comment:** In order to uphold the appeal, the Petitioner would have to prove the special exception would not be located, operated, and maintained in a manner in conformance with the goals, policies, and objectives of the Comprehensive Plan and the provisions of this Ordinance.

- b. Whether the special exception would not be detrimental to the public interest, health, safety, welfare, function, and appearance of the adjacent uses or general vicinity.

**Staff Comment:** In order to uphold the appeal, the Petitioner would have to prove the special exception would be detrimental to the public interest, health, safety, welfare, function, and appearance of the adjacent uses or general vicinity.

**Ms. Paul-Leto** gave the background data and timeline. On December 14, 2022, the HDBR (Savannah Downtown Historic Board of Review) approved a Certificate of Appropriateness for 336 Barnard Street. The COA is being appealed specific to the section above. During the public hearing, the Board reviewed all the criteria for new construction in the Historic District. The Board's authority allows them the latitude to make decisions based on the visual compatibility criteria as well as the design details. They found that in this case, the Petitioner's submittal for a Special Exception met the standards. Regarding the new construction's entrance facing the north-south (Barnard) Street, the Board found it did not violate Sec. 3.12.7 and the standard was met. The conclusions of the Board were based on the information provided by staff and the Petitioner at the public hearing.

**Ms. Paul-Leto** gave the following timeline of events:

**August 12, 2022:**

The architect, Christian Sottile, for property at 336 Barnard Street requested an interpretation of the Zoning Ordinance to have the entrance on north-south,

**Staff Comment:** Christian Sottile received a Zoning Confirmation Letter from the Zoning Administrator of the City of Savannah on August 17, 2022. The Zoning Administrator ruled that the proposed location of the entranceway met the Ordinance.

**September 14, 2022:**

The Savannah Downtown Historic District Board of Review approved a Certificate of Appropriateness for the request of New Construction (Part II: Design Details) for a single-family residence at 336 Barnard Street.

**September 16, 2022:**

Mr. Andrew Jones, Agent for 120 West Jones LLC applied for an appeal of that COA, regarding the Zoning Administrator's confirmation letter and determination. based on an entrance on the east-and-west from the requirement.

**October 12, 2022:**

Mr. Andrew Jones, Agent for Ms., Anna Habersham Wright applied to appeal the COA granted to 336 Barnard Street, by the (HDBR) Historic District Board of Review on September 14, 2022. The Appellant alleged that the Chatham – Savannah Metropolitan Planning Commission recommendations and the Board decision did not properly apply the Standards of the Department of Interior or the City of Savannah Code of Ordinances.

**October 27, 2022:**

Mr. Andrew Jones, Agent for 120 West Jones LLC's appeal was presented to the Savannah Zoning Board of Appeals regarding the Zoning Administrator's determination zoning confirmation letter. The City's Zoning Board of Appeals board members voted to approve the appeal of the Zoning Administrator's Zoning Confirmation Letter regarding the location of the entrance to the proposed residence. The ZBA also directed the item revert to the Savannah Downtown Historic District Board of Review.

**December 14, 2022:**

The Savannah Downtown Historic Board of Review reviewed 336 Barnard for a Special Exception for the property located at 336 Barnard Street to allow the main entrance to face Barnard Street.

**Staff Comment:** The Special Exception was approved to allow for the new building on the site to construct its main entrance facing the north-south Barnard Street. The prevailing side of the Board felt the Barnard Street location for the main entrance door was appropriate due to the placement of the lot.

**January 10, 2023:**

Mr. Andrew Jones, Agent for Anna Habersham Wright applied to appeal the December 14, 2022, Savannah Downtown Historic Board of Review approval of a Special Exception for the property located at 336 Barnard Street. The Special Exception that was approved was to allow for the new building on the site to construct its main entrance facing the north-south Barnard Street.

**Staff Comment:** The Savannah Downtown Historic Board of Review found that in this case, the applicant's submittal for a Special Exception met the standards. Regarding the new construction's entrance facing the north-south Barnard Street, the Board found it did not violate Sec. 3.12.7 and the standard was met. The conclusions of the Board were based on the



information provided by Staff and the applicant at the public hearing.

**Ms. Paul-Leto** said we are here today for the Special Exception that was approved is being appealed. She stated that Section 3.23.6 are the actions that the Zoning Board of Appeals shall take regarding this appeal as well as the Purview of the Zoning Board of Appeals. She explained that the Zoning Board of Appeals received four letters in support of the appeal. However, throughout the time period of the timeline of the appeals there have been several other letters of support for the Petitioner as well as for the Architect and the Property Owner.

**Mr. Merriman** asked the Board if they had questions for the Staff. The Board did not have any questions. Mr. Merriman asked Mr. Jones to please come forward.

### **PETITIONER COMMENTS**

**Mr. Andrew Jones** came forward. He explained that he is the authorized agent for Ms. Anna Habersham Wright. They request that the Special Exception be overturned. He said that this proceeding is not just about a door, and not just about an entrance. This proceeding is about the primary entrance and as it will show by definition, it determines the primary facade of the building and its orientation. Mr. Jones asked the Board to please keep "primary entrance" in their focus, not just entrances or secondary entrances. This proceeding ultimately is about the future of the Oglethorpe Plan and the National Historic Landmark District.

**Mr. Jones** said that Savannah achieved National Historic Landmark [NHL] status in 1966. Savannah is a national landmark, not just local. It is based on the uniqueness of the Oglethorpe Plan and the Ordinance provides protections aimed at protecting that status and the plan. He stated that with the NHL comes Federal oversight by the National Parks Service.

**Mr. Jones** said to the right, they see the street type diagram that is in the Ordinance. He said that 336 Barnard Street is in a tithing block. Barnard Street is called a north-south connecting street that connects its squares. In the pure form of Oglethorpe Plan, shown in a detail of the 1734 Peter Gordon plan, primary facades in tithing blocks do not face north-south connecting streets, simply the sides of the buildings.

**Mr. Jones** stated that proposal fails the first criterion. The part of this he will address is whether the use for which the special exception as being considered would be located in a manner in conformance with the provisions of this Ordinance. He said that the proposal fails if locating the primary entrance on Barnard Street runs afoul of other provision in the Ordinance. It has to be in conformance. In addition to the provision for which the exception was granted, two other provisions dictate the orientation of the primary entrances and primary facades of new buildings. Mr. Jones said the definition of primary facade in Section 13.5. This section has all of the historic definitions. The second section that it violates is the streets and lanes, Section 7.8.10. Upholding the appeal on these grounds does not undermine the HDBR's discretion because the HDBR did not address the definition of primary facade in 13.5. They did not address the streets and lanes provision in their December 14th decision.

**Mr. Jones** explained that this project violates the primary facade rule in 13.5, which defines primary facade in the context of an existing building and new construction, which is what they have here, the facade on which the primary pedestrian entrance is located. He said; therefore, primary entrance implicates primary facade. They cannot be separated. Therefore, if you approve the location of a primary entrance by allowing the special exception to go through, you are allowing the primary facade, therefore, to be on Barnard Street, it does not meet the facade rule because 13.5 continues and says, for new construction, the orientation of the facade must be consistent with the primary facades of the majority of contributing structures within the visually related historic context. Therefore, there is a test that must be applied. If this building does not meet it, then it runs afoul of the Ordinance and fails the first criterion. This criterion is consistent orientation with the primary facades of the majority. Mr. Jones said this was the only place in the Code he found it, but it does say majority of contributing structures within the historic context that are visually related.

**Mr. Jones** explained the Visually Related Historic Context. He stated that this 1888 Sandborn Map shows the tithing blocks between Pulaski Square on the north and Chatham Square on the south. The tithing blocks, as the Board can see, are predominantly characterized by townhouses and lane buildings

with primary facades on the east-west streets. He said think of Jones Street and its stoops after stoops. Many of these structures remain and provide the relevant context. However, the definition of visually related in Section 13.5 restricts the historic context to just those buildings and structures within view of the subject property. Therefore, you are standing within the parcel lines of subject property, and you are looking around to see what you can find. Mr. Jones said within view of the subject property are 33 contributing tithing block buildings that do not have primary entrances or facades on a north-south connecting street. He informed the Board that the map he is using is on the MPC's website. This is the official historic building map supplement of the Metropolitan Planning Commission. He explained that the section shown in "yellow" are the noncontributing buildings, and in "lavender" are the contributing buildings. Each of these have a number index. Mr. Jones explained that whether it is contributing or not contributing is not a matter of anyone's subjectivity, but it is a legal aspect of a piece of property. The owner needs to know whether the property is contributing or not contributing. He explained that he superimposed a green oval shape on each of the properties that does not have an entrance on the north-south connecting streets. He counted 33 buildings. Mr. Jones wanted the Board to keep in mind that under the test of 13.5, nonvisible buildings are excluded. On the eastside of Barnard, there are a lot of buildings, and he would be happy to include them, except 13.5 says you cannot. The view is blocked by 344 Barnard Street. Therefore, if you are looking for them, you cannot see them. Mr. Jones said interestingly, three of these buildings have entrances that face correctly, the east-west street. One is 414 Barnard Street that does have a primary entrance facing Barnard Street. But, under the 13.5 test, you cannot see the subject property. They are not visible under this test.

**Mr. Jones** additionally explained that noncontributing buildings are also excluded. He wanted the Board to keep track of some of these numbers as they will come up later. Mr. Jones stated that 346 and 348 Barnard Street are the "yellow" space that is between 334 and the building on Jones Street; 346 and 348 Barnard Street are not contributing buildings. There is no question about it, they are not indexed nor associated with it and are indicated in yellow. He said that 200 West Jones Street looks like a contributing building, but it is not a contributing building. It was built later. It has a side entrance, 347 Barnard Street. Mr. Jones told the Board that the Applicant will try to claim that 347 Barnard Street is a primary entrance on Barnard Street; however, it is not. It is a secondary entrance and is a secondary entrance of a noncontributing building. Therefore, 13.5 only looks to contributing buildings. These are excluded. Mr. Jones said the 33 buildings are here. He pointed out that 201-203 West Charlton Street has a carriage house with the main entrances facing west Charlton Street. On the lower left are the backs of the Jones Street buildings. On the next block over all have entrances on Jones Street. Mr. Jones pointed out that the upper picture on the right is 123 West Charlton Street. This is the building front of the subject property. On the other side, it has a big stoop that faces West Charlton Street. Looking at the other side, you see all of the carriage houses on Jones Street, from the subject property you can see all the way down. They are properly aligned. If you look down Barnard Street on the westside, you can see these buildings that are minimally visible. These include the townhouses on the corner that is adjacent to it; as you look on the lower left, you can see the carriage house. It is a little porch like structure, and you can also see the building that is attached. On the upper right you see 117 West Charlton Street, which is immediately next door to the property; and also, you see 111 West Charlton Street which is the solid brick wall. These buildings face Charlton Street correctly.

**Mr. Jones** stated that what was interesting in going to the site, he took photographs looking down towards Jones Street. When you actually look at the carriage houses, you actually see all of the townhouses that face Jones Street. They are taller and peer up over those carriage houses. These are the 33 properties that are involved. He informed the Board that he included the list of the 33 properties. He included the MPC contributing building number as well as the PIN number. Of the condominiums, they only included one PIN.

**Mr. Jones** said on another note, the visually related definition also gives greater weight to adjacent structure. When he looked at the definition for adjacent structure, it only refers to buildings that share a parcel line. Therefore, it is not a building that is across the street. It is one that shares a parcel line. Of the two buildings that are adjacent, they do not have primary entrances or primary facades on the north-south street. They are 117 and 123 West Charlton Street that share parcel line to the subject property.

**Mr. Jones** stated that the MPC looked at it from another prospective how many buildings do have primary entrances on north-south streets. They did a detailed study and were happy to stand by that study. They broke it down by dates of construction. But you can see visually that we are not talking about the majority

of the structures, but the minority of the structures. They have a detailed index. If you question whether something is on the map, you can check the address. They found that only one contributing building, visible from the subject property, has a primary entrance on Barnard Street. It is 344 Barnard Street. He said; therefore, they acknowledge this. The MPC staff reports some other buildings, 339 and 350 Barnard Street as comparable entrances, but they are not primary entrances. They do not show on the map as being primary entrances because they are not. Mr. Jones reminded the Board not to be confused when someone starts talking about buildings that have entrances. They must have primary entrances. He explained that the MPC staff report also referred to buildings that its own maps show is not contributing. They are 346 and 348 Barnard Street as well as 347 Barnard Street, which is the side door to West Charlton. He said also that 344 Barnard Street, under the statue, does not constitute as an adjacent property because it does not share a parcel line with 336 Barnard Street.

**Mr. Jones** said the Historic District Board of Review erred and the Special Exception must be overturned. The special exception is not in conformance with the majority test in the primary facade definition. Therefore, it is not in conformance with the Ordinance. It runs afoul of another important 33 provision - 33 to 1. He said if you give greater emphasis to the adjacent structure; it is 2 to 0. The Special Exception is not in conformance with the Ordinance, and it must be overturned under the first criterion. He said the proposal is also not in conformance with the streets and lanes provision, which protects and provides that new construction shall preserve the pattern of streets and lanes. This provision describes the Oglethorpe Plan Area as part of the NHL District. The NHL is thereby assumed, and it carries with it oversight by the National Park Service.

**Mr. Jones** stated that in looking at streets and lanes, the other side of Barnard Street still preserves the Oglethorpe format. He explained that the 1985 designation for the Historic District specially discusses tithing lots as the typical site plan for these lots consists of a main structure abutting the right of way behind which is a courtyard with a dependency. Mr. Jones pointed to a picture of a big house on the right on West Charlton Street. He said this house abuts the right of way and behind it is a courtyard and a dependency. The other side of the street is in good shape. He said NPS has for years been concerned about the discernability of the plan. The 2018 NPS report identified threats to the plan. They said that new construction in the open space between buildings and their corresponding lanes, like 336 Barnard Street, interrupts the house-courtyard-carriage house rhythm. On the top of the screen, the subject property was shown. He said that the building in the front is like the Oglethorpe Plan, there is the courtyard and the small cinderblock building. But technically, you are still in the correct pattern. After the structure is in place, it will do exactly what the NPS said not to do. Then look at what the street looks like now. It doesn't look like a north-south street anymore. It is impossible to perceive the Oglethorpe Plan in this layout. This is what triggered the NPS to call out 336 Barnard Street as a negative in their September 2022 letter. They specially focused on the streets and lanes provision. They said it was a great provision and commended Savannah on having that. But they said that in looking at that provision what mattered was the discernability of the historic pattern of streets and lanes. Mr. Jones said that the NPS actually stated that 336 Barnard Street with its primary façade on Barnard Street negatively impacts that discernability.

**Mr. Jones** stated that to recap, the Appellant only needs to show that one criterion was not met. He said after all, the Board that granted the special exception had to make two findings. If they cannot make one finding, then they could not grant the special exception. He said the HDBR erred because the proposal is not in conformance with the provisions of the Ordinance if one or both of the following is true:

1. The proposal fails the definition of primary facade 33 to one; or
2. The proposal negatively impacts the discernability of the streets and lanes.

**Mr. Jones** stated, therefore, the HDBR discretion is not an issue because they did not make findings on either provision. If you decide on the first one, then they are done. If they do not and look at the second one and do not rule on that, keep in mind that the NPS is currently relying on this provision as one of the provisions that they think is protecting the Historic District. Therefore, if you are making a rule in saying that they should not rely on it, that's a strong message to be sending to the NPS. Mr. Jones said the proposal fails the second criterion. It is detrimental to the public interest in maintaining the integrity of the NHL, and it is detrimental to the appearance of the vicinity. He stated that the HDBR discretion is again not an issue because the HDBR did not make findings for either argument. Mr. Jones said the public has an interest in the integrity of the NHL. The recent meeting between the City and the NPS reflects the importance of keeping NHL status. Over 500 people have signed to change.org petition against the

special exception for 336 Barnard Street. The letters as of December 14 were running roughly four to one against the exception. The prestige of being an NHL is important to the tourism industry. He wanted it to be kept in mind that the NPS also called out 336 Barnard Street as representative as the sort of incremental change that collectively could have ill effects on the integrity of the NHL. He said the HDBR erred. He explained that HDBR member Thompson, who voted for the exception, did not like interference from Washington. But as another member explained, NHL status inherently comes with federal oversight. The obvious inference is that Thompson personally doesn't like NHL status. Chairman Isaacs, who voted for the exception, explained that she did not like the principal building/courtyard/carriage house format of the 1985 designation update. The reason she did not like it, she said erroneously that respecting that format would require tearing everything down that didn't match. Mr. Jones said that the HDBR erroneously did not make a finding on this issue, refusing to recognize the valid public interest on the district's NHL status. Moreover, in attacking the designation language and NHL status, members of the HDBR acted beyond their discretionary powers in an arbitrary and capricious manner. Their reasoning was erroneous and an abuse of discretion, especially since rejecting the exception obviously does not require demolition of contributing structures.

**Mr. Jones** explained that the second criterion also concerns detriment to the appearance of the vicinity. The Review Board did not make a finding that the proposal was not detrimental to the appearance in the vicinity. Of course, it is detrimental because it introduces a building that does not conform to its context. Therefore, if you are proceeding north on Barnard Street from Chatham Square, what you see are mostly the sides of townhouses and carriage houses, with some secondary, but not primary entrances on Barnard Street.

**Mr. Merriman** reminded Mr. Jones that he had one minute remaining.

**Mr. Jones** said moving towards Jones Street, you can see that the same conditions apply. It is a dual preservation, and the proposed structure violates this cohesion. You don't see any large gawdy primary entrances. You don't see primary doors with transom windows, etc. He wanted it to be noticed that the Review Board failed to make the two findings. This is actually the reason that you should consider overturning this. They made one decision that the special exception criteria are met. But the statute actually says that a finding shall be made for each of the criteria. They needed to make two clear findings. All they did was throw up their hands and say "exceptions" were met. The staff made some findings; and there is no question about that. But the HDBR did not make any findings. Mr. Jones concluded his presentation and thanked the Board for hearing their petition.

**Mr. Merriman** asked if there were any questions for Mr. Jones.

**Attorney Harold Yellin** came forward and stated that he is present on behalf of Mr. Brad Baugh, the owner of 336 Barnard Street. Attorney Yellin stated also that Mr. Christian Sottile, the project architect, was also accompanying him today. He is aware that Ms. Paul-Leto went through procedurally how they got to be here today, but he sees it better graphically than in summary form. He said this petition was approved for Part I - Height & Mass December 9, 2020. At that hearing, they showed their primary entrance on Barnard Street. The HDBR Preservation Officer recommended approval of their plan; and the HDBR approved their plan for height and mass finding that the building was visually compatible. In September 2022, they again appeared before the HDBR for Part II Design. The HDBR does this in two meetings. Height and Mass come first, and then Design. Once again, their submittal showed a primary entrance facing Barnard Street; and once again, the Preservation Officer recommended approval of Part II and in fact, the full Board voted in favor of their submittal, which again showed a door on Barnard Street. As a result of these hearings, HDBR issued a Certificate of Occupancy [COA] for this site.

**Attorney Yellin** explained that since this petition, there have been four appeals filed by Mr. Jones. Mr. Jones appealed the decision of the Zoning Administrator to the ZBA, which resulted in their having to go back to HDBR for a special exception to hear one issue, the location of the door and they did. When they went back to HDBR as instructed by the ZBA, HDBR approved the special exception with respect to their primary entranceway, and Mr. Jones has appealed that too. This is what they are here today to talk about as shown on the bottom left corner, that appeal. This is the only thing before the Board today. Attorney Yellin stated that Mr. Jones, incidentally, on the right-hand side has also appealed the issuance of a COA by the HDBR to this Board, which was previously denied, and Mr. Jones has appealed that decision to the Superior Court of Chatham County.

**Attorney Yellin** said it is interesting to note that the lawsuit was filed on February 22, 2023. Now, a month late, no one has been served with a copy of that appeal. You either take it to the gold dome on the corner of Bay and Bull Streets or you can give it to the City Attorney. This is how you get the process started. But for whatever reason, Mr. Jones has appealed, and no one has been served as of today. These hearings relate to one and only one issue, which is the location of the door on Barnard Street, the lower left-hand box. It is the Appeal of a Special Exception given to them by the Historic District Board of Review.

**Attorney Yellin** explained that Mr. Jones, individually or as agent, has appealed this decision. This is the fourth appeal and if you read all the material that he has submitted, he has roundly criticized staff members, board members, participants, or anybody who seems to disagree with his view of the law, history, or architecture. But the number of people who disagree with Mr. Jones is a very long list of people. He said that at the Historic District Board of Review meeting, Mr. Christian Sottile of Sottile and Sottile, testified and supports 336 Barnard Street. He said Mr. Sottile will speak momentarily. Attorney Yellin stated that Mr. Sottile is the former Dean of Building Arts at SCAD. Mr. Sottile developed the Savannah Architecture and Urbanism Resource Manual, which is still in use today. Mr. Sottile believes strongly that this door is visually compatible on Barnard Street, and this was expressed to the Board.

**Attorney Yellin** explained that three architects submitted letters. They were Mr. Pat Shay, Mr. Neal Dawson, and Mrs. Rebecca P. Lynch. Mr. Pat Shay disagreed and wrote, "the village plan and its evolution from six wards into over twenty wards was never intended to limit tithing Lots on corners from having entrances on north and south streets, and there are numerous examples of historically significant building which do just this." Mr. Neal Dawson, a local architect, wrote "the proposed design for a home facing a north-south street on the rear portion of a tithing lot is compatible and consistent with the development pattern of Savannah. Many of our most cherished historic buildings follow this same pattern and add richness and engagement to our urban experience." Attorney Yellin said the Historic District Board of Review heard from Ms. Lynch, who is a past board chair of HDBR. She wrote "the building entrance/frontage on Barnard Street is the most appropriate orientation for its lot and as there are several examples of similar orientations for contributing buildings in the ward, we find it visually compatible."

**Attorney Yellin** stated that Dr. David W. Gobel has been a professor for 27 years at the Savannah College of Art and Design. He has his Ph.D. History & Criticism of Architecture from Princeton University, testified at the meeting of the Historic District Board of Review and as one of the foremost experts on the Oglethorpe Plan, perhaps together with Dr. Robin Williams with whom he has co-authored, said this plan does not violate the Oglethorpe Plan. Literally, the foremost expert on the Plan testified before the Board that it did not violate the Plan. Historic Savannah Foundation, who are staunch defenders of our district; testified in support of 336 Barnard Street that it was, in fact, visually compatible. But perhaps the most important evidence testimony came from the Preservation Officer for the City of Savannah, Leah Michalak, also disagrees with Mr. Jones. In Ms. Michalak's staff report, she says there are 130 buildings on tithing lots that face a north-south street. 113 of these buildings are listed as contributing and were constructed within the district's period of significance. Attorney Yellin stated that Ms. Michalak additionally also said that their entrance location facing Barnard Street was consistent with contributing buildings that are visually related.

**Attorney Yellin** reported that Mr. Jones has seen this before; he knows. Mr. Jones submitted a petition to HDBR a couple of years ago to install wooden bars on his property that he owns as an LLC. This is his submittal. This is the building behind him that faces a north-south street with a primary door on Habersham Street. He submitted materials that show an 1871 carriage house faced Habersham Street on north-south street, 1891 the carriage house faces a north-south street; Sanborn 1884 - the carriage house faces a north-south street. This is his submittal of his neighborhood. Attorney Yellin said the "red" circles are mine. Everything else is his. This is his context and if you look at the red circles, across the street is a duplex, primary entrance faces Habersham Street. On the other side of the square, two additional homes, both facing Habersham Street - a north-south street. Attorney Yellin stated that having been involved in this petition for quite some time, you have to walk the city to appreciate how many of our contributing buildings face north-south streets. It is not an anomaly; it appears throughout our Historic District.

**Attorney Yellin** explained that the third thing that our Preservation Officer [Ms. Michalak] said, in addition to the 130 buildings, which are contributing that face north-south, in addition to the fact that our entrance location was consistent with contributing buildings, she made a very important point. Ms. Michalak said to

"locate our entranceway, anywhere other than this north-south street, in this context would be visually incompatible." Attorney Yellin said this is Ms. Michalak's quote, not his. He reiterated that "to put this door anywhere else would be visually incompatible." Therefore, the HDBR considered all the evidence. He said they considered what we presented, and they considered what Mr. Jones presented. It was exhibits and lots of testimonies. The HDBR heard both sides. But HDBR has agreed with the property owner, and they disagree with the Appellant. Mr. Jones may have reasons to be upset, but Mr. Jones does not have grounds for an appeal. The HDBR did their job; they did not commit error in any way and any form.

**Attorney Yellin** said, therefore, today there is only one issue. Did the HDBR err in granting the Special Exception for this door to be on Barnard Street? Did they correctly approve this Special Exception, or did they commit an error? Attorney Yellin informed the Board that if they believe, as he does, that the HDBR was correct and did not err, please deny this petition. Mr. Jones has another remedy. He will file this with an appeal, and he is sure about this. They are without remedy. They need to get going. They need to know where they stand. The Appellant has chosen to appeal four times and will likely appeal a fifth time. He can simply bundle all of his appeals and go to Superior Court. Attorney Yellin respectfully requested that the Board deny the appeal and approve the process because no error was committed. He thanked the Board for their time.

**Mr. Merriman** informed Attorney Yellin that he had nine minutes left. He asked him if anyone else on his team wanted to make a presentation.

**Attorney Yellin** answered that Mr. Christian Sottile would speak.

**Mr. Merriman** invited Mr. Sottile to come forward.

**Mr. Sottile** stated that he is the architect for this home and that he appreciates the Board's time. He said the actions of this Applicant has been to consistently find ways to delay this project. They appeared at the HDBR to receive their final approval in September 2022 after two years of diligent work on this project. Those two years involved all the appropriate stages of design review, public hearings, and public input. Those votes all resulted in a final approval. Since that time, the actions of this Applicant have directly resulted in delays and conflicts in the process among City staff, among the Boards, and among the community. This has to end.

**Mr. Sottile** said in December 2022, the HDBR was asked to consider a very straightforward question. The Zoning Board of Appeals asked the HDBR to consider the position of the main entrance for the single-family residence design for 336 Barnard Street. He explained that the design of this home had already been reviewed twice. Part I and Part II by the Preservation Officer and the HDBR. They had been approved and found to be visually compatible in both instances. In December, it received its third approval. The Special Exception that they were providing was to affirm the location of its primary entrance - front door on Barnard Street. This was found to be the only visually compatible option for this particular lot. Mr. Sottile said he wanted to note what the Special Exception language says 3.12 - It establishes procedures for providing relief from specified standards within the Ordinance. It is not the intent of the Special Exception to eliminate such standards, but rather to provide a process by which exceptions can be made for individual circumstances. He said that he must underscore the fact that this is a primary building, facing a primary street. The parcel map describes this clearly. The Special Exception that was granted is not a special privilege. Where a legal lot of record is physically constrained from meeting the requirements of the Ordinance, a special exception is the mechanism in the Ordinance to allow buildings on such lots to have a front door on the street.

**Mr. Sottile** said it must be underscored that in no way this project violates the Oglethorpe Plan. It must be noted as a fact that the Ordinance language 7.8. 10a refers to the Oglethorpe Plan area has encompassing everything in the City Plan between 1733 and 1851. As has been previously documented, you heard 130 buildings have been built in such a configuration as the subject home all over the City, with the majority of those buildings built in the 1800s and some going back to the 1700s. It is a fact that this pattern is within the Oglethorpe Plan area as recognized by the Ordinance through 1851. These buildings are literally found everywhere throughout the Historic District, including next door to the property. This was one of the exhibits that was reviewed by the HDBR just within the immediate block, there are multiple entrances to buildings. These are entrances that have addresses. Mr. Sottile said one comment was made about the primary entrance. He said a primary entrance is not primary because of its

aesthetic or level of grandeur or its simplicity. It is simply the primary door to a given use, a residence or business. Just in their local block, you see multiple entrances that are addressed entrances. They are the only way to get into that space. You can send a letter to that address. If you google a map, it will take you to that door. These are addresses and privileges commonly enjoyed by properties. The addresses are good things and not bad things. In fact, there are 192 tithing blocks in the Savannah Plan and 130 buildings fronting on to north-south streets. Clearly, he would say that this is not an anomaly. Their next-door neighbor, this is the building that often gets left out of the conversation, but it is the obvious precedent related to this project. There are others within the local context and there are others that are in fact visible from this site, even if you were to take a straight line of visibility, you could stand in front of 336 Barnard Street and you could see every building in this image he believes it is fair to say, and the one on the top left is actually in the same block. But he guesses, you would have to lean out into the lane to see it. Therefore, it is a ridiculous argument. Mr. Sottile said in fact when you look at the City, as he has said, there are so many important, simple, and grand buildings. They could not imagine Savannah without this pattern.

**Mr. Sottile** said in December, the MPC staff detailed their findings about the Special Exception criteria. These findings were clearly articulated individually and separately within the staff report, which comprises the Board's decision in the Certificate of Appropriateness. Of course, in December they heard, and they supported the MPC's staff research and their recommendation for approval. The full HDBR then reviewed the recommendation, heard public input, and voted for approval. He told the Board that he appreciates their time this morning, their service to this Board and to the community. Mr. Sottile urged the Board to deny this appeal and to uphold the integrity of the work of the MPC staff and the Historic District Board of Review. Thank you.

**Mr. Merriman** informed Mr. Sottile that they had two minutes left. Do you have anyone else to speak?

**Attorney Yellin** replied that they did not have anyone else to speak.

**Mr. Merriman** informed Mr. Jones that he had ten minutes to make his rebuttal.

**Mr. Jones** came forward and stated that Mr. Sottile showed a number of examples that he claimed were primary entrances on Barnard Street. He said now let's look at his examples. He wanted the Board to look at what 350 Barnard Street really is. He said it is a side entrance to 123 West Jones Street. The primary entrance is obviously the building on the stoop. By the way, this is also not visible. Therefore, it does fall under that 13.5 majority primary facade test, but he cited it anyway. Then he cited 347 Barnard Street, but this is another side door, and the primary entrance is on Jones Street. This also fails because it is not a contributing building. Therefore, it does not fall under the test that they described before. Then you look at this one and say obviously this has to be the primary entrance, but if you go there and look at all the signs, guess what it says. "Please use courtyard entrance." This is not the primary entrance of the building, the primary is in the courtyard, which is circled in "green." You can see that this is the facade of the building, it has the decorative elements, and the windows are aligned symmetrically. This is the historical entry to this particular building. The other side is clearly not a primary facade, it has a second story window. Mr. Jones said that 346 and 348 were cited. But, as he showed the Board on the contributing building map, the official building map, these are not contributing. Then he cites the entire row of 341 to 441 Barnard Street; they are on the other side of Chatham Square. You would have to be able to see through every tree on Chatham Square to see them. Mr. Jones said the same thing is true with 445 to 455 Barnard Street. They are not visible. He said that 339 Whitaker Street was cited. But you can see when looking down the block that there are big buildings that block the view from the subject property. Therefore, under 13.5 test for a primary facade, this building is not one that you can look at because it is not visually related under the Ordinance's definition of stricive related. He said everything they have heard in their presentation has nothing to do with the Ordinance. Mr. Jones said the Board is here to interpret the Ordinance and read it under the level of statutory construction in its plain meaning; and the plain meaning is pretty clear, it says that this project fails 33 to 1.

**Mr. Jones** said that 414 Barnard is also not visible; and even though it is said to have a primary entrance on Barnard Street, it actually has three entrances on Barnard Street. So, how do you know which one is actually primary? He said that it is physically constrained. They looked at the property before and Ms. Jarrett last time notice that a course runs along the north facade of the building. It is not constrained. You can enter through the gate. They also showed through the illegal documentation of the condominium that the path to West Charlton Street was also accessible. But they said that there are no

examples of entrances on West Charlton Street that are gates that lead to the rear lots. Mr. Jones said yes there are. There are 111 West Charlton Street and 109 1/2 West Charlton Street. He said, therefore, in fact what they are saying is impossible, is possible. In fact, they proposed it in 2017 with a carriage house for this exact same site where they used the lane approach. Therefore, it can comply. He explained that they have said that 336 Barnard Street is the address they have to use, but 336 Barnard Street is actually the path of the common area that leads back to the building, and you can see it on the Board of Assessors' website.

**Mr. Jones** said they looked at the entire district in their analysis and this is a good starting point, but the test of 13.5 says visually related. Therefore, it does not matter what is going on with a church on Oglethorpe Avenue or anywhere else. It is just not correct. He said they talked about the staff's decision but go back and look at it. The decision, itself, is extremely narrow. It just has one sentence. All of the recommendations were the MPC's staff recommendations, and there is no way to know whether or not the Board actually followed them.

**Mr. Jones** said let's go to some issues of truthfulness. He said he owns a building, and it is a carriage house. But what they will see with his building is in fact what was cited as the primary entrance, is not. The entrance on Habersham Street was cited. Mr. Jones explained that the building is "L-shaped" which was added at a much later date when the building was commercialized. But look at the interior courtyard. Two doors are here; and the upper door is where his mother-in-law lives. The only entranceway to this unit is by going through the courtyard or through the primary house into the courtyard and up the stairs. There is no internal staircase. Therefore, there is no way that the storefront door can be called the primary entrance to the building because he cannot get to half of the building from that door.

**Mr. Jones** stated that there has been a lot of talk about visual compatibility. But he wanted them to keep in mind that visual compatibility is a different test under a different section. It is under 7.8.9. They are discussing the design standards for the primary entrance. Visual Compatibility has its own test for primary entrances; and they met it. They got Part I approval for visual compatibility for the entrance. It expired on December 9, 2022. But they are discussing the Design Standards under 7.8.10. This is the provision that they have discussed regarding the door. It is not visual compatibility; it is not the test under any of the design standards. Mr. Jones said, therefore, if you are paying any heed to the concept of visual compatibility, what you are doing is rendering the Design Standards irrelevant because you are allowing visual compatibility to 7.8.9 to override 7.8.10 and you cannot do that under Georgia law. He said that you cannot interpret the law that will render another whole other section of the statute irrelevant. Mr. Jones stated that sites were cited all over the district, but the only ones that are relevant to the test are those which are contributing and are visually related. He said they stand by the MPC's findings that the only building they have to rely on is 344 Barnard. This is fine; they can rely on it as it does not need a majority test. One is not a majority against 33 that show the other pattern. Thank you very much.

## **PUBLIC COMMENTS**

**Mr. Merriman** called **Ms. Sabrina Nagel** to come and make her comments. All persons who would be making public comments were sworn in at the beginning of the meeting by Mr. Merriman. He reminded Ms. Nagel that she had three minutes to make her comments. Ms. Nagel came forward and said that she has lived on this block for almost ten years. She wanted to set one thing straight. The four or five appeals that have been mentioned, none of them have actually been Mr. Jones'. They are making it look like he is appealing everything by himself, but he is actually appealing for the neighbors and all of them that live around the area. Mr. Jones was asked to be their agent because he knows the Ordinance well. Therefore, one man is not fighting this fight, but the neighbors are fighting this fight.

**Ms. Nagel** said she was here to speak on behalf of the neighbors. There are 14 of them and all have spoken against this with the exception of two. One neighbor has work going on by the contractor who has this project. Therefore, all they are asking is that the Ordinance be enforced. They are not saying don't build anything and they are not saying that they do not like new things. They are concerned that the National Park Service's letter threatened their status. This means that this exception definitely is detriment to the public and the neighbors. If this threatens their Landmark Historic District, then it threatens them. Ms. Nagel asked the Board not to agree to grant special exceptions to a project that does not need it. She said she has stood before the Board and has shown them with slides how the door



can be reconfigured to fit the Ordinance. They do not need a special exception. Why should they be granted a special exception.

**Ms. Nagel** said let's put the whose who aside and stick to the Ordinance. Listen to the neighbors, please. She just heard in another petition how a neighbor wanted a porch. His neighbors came forward and spoke on his behalf and this mattered. Right? Well, here they are. All of the neighbors who are not being paid to be here, they all are here. They have been here time-after-time and are pleading for the Board to respect the Ordinance for their neighborhood and their community. The person who is asking for the special exception does not live here; he is an investor. The architect and the lawyers are being paid. They are just the neighbors who live here. All they are asking is that City Council and the Board to do is respect the Ordinances and do not grant special exceptions where they are not needed. Thank you.

**Ms. Kathy Ledvina** said she is a neighbor and a resident of the Downtown Historic District. She explained that for this design, the main entrance is best on Barnard Street. This design is only possible with a special exception. The special exception should not have been granted because there is a mean for a north-west entrance. You simply look around the block to 109 and 111 West Charlton Street as you saw before, and you will see the "fuzzy" image she is showing on the screen. It is the block that is in the center of the square and is a tithing block. It has been subdivided. Therefore, you have two subdivided lots, which is exactly the same situation they are in now, from one tithing block. There are two historic contributing million plus dollar properties. 111 West Charlton Street is a separate PIN; it is a separate owner. It fronts an east-west street. Its main entrance is Charlton Street. When the 336 West Barnard Street lot was subdivided, the Ordinance was in place. The primary entrance could have been designed to meet the Ordinance. The addresses can be changed and so can designs. Please respect the Ordinance. Thank you.

**Ms. Ardis Wood** said she loves creative people. The teachers are the ones who make new things that use the word evolve. What they are talking about is the law. She said unfortunately for the creative folks, they are seeing a lot of variations that you can do within the law right now. But what is being proposed is not legal according to the Ordinance. If they want to do this, it is incumbent on them to change the law. She lives in a democracy, and they live in a democracy. Ms. Wood said they are privileged. So, whether they like something or not, they have to abide by the law. If they don't like the law, they change it. Downtown is three percent of the Landmark Historic District. For those who want to get creative and wonderful, they have 97 percent of the rest of Savannah to go beyond what the law allows. The National Park Service speaks for and to our nation. But as it giveth, so it can take away. They are in danger of having this happen, which it is stated in their recent letter, specifically due to diluting Oglethorpe's Plan on which the status is based.

**Ms. Wood** said one member of the Historic District Board of Review stated clearly that being a locally designated historic district is enough. She wanted to be sure that the Board member was quoted correctly, so they have what he said on tape. Ms. Wood said that Washington and Atlanta are not relevant. If they do not want to be a National Historic Landmark District, then that's the way it should probably go. She said another member of that Board saw our national recognition as valuable and worth preserving. Ms. Wood quoted the member as saying, "failure to recognize the difference between a regular historic district and a national Landmark District suggest that may be Savannah isn't able to provide the stewardship. I still have concerns about this project and the precedent and the continued deterioration of the district's integrity." Ms. Wood wanted it to be remembered that our national status is not based on a Savannah Plan or Georgia Plan; it is based on the Oglethorpe Plan, which is clearly stated in our Zoning Code on which the legal determination must rest. Thank you.

**NOTE: The tape was played, but it was inaudible during the transcribing of the minutes.**

**Dr. Robin Williams, Chair of the Architectural Historic Department of Savannah College of Art and Design [SCAD]** and a former long-term member of the HDBR, came forward. Dr. Williams stated that he is currently a member of the Historic Preservation Commission. He is not paid to serve on these boards. He volunteers his time and for the record purposes, he is not being paid to make comments today.

**Dr. Williams** explained that for almost 30 years, he has studied the architecture and urban history of this marvelous city. Your orientation of a building on the rear of a tithing lot to the central northside civic street, in this case Barnard Street, conforms to centuries old patterns of urban development within

Savannah's Plan. Dr. Williams stated that his colleague whom the Board heard earlier, Dr. David Gobel and he used the term Savannah Plan rather than Oglethorpe Plan in their forthcoming book, being published by UGA Press, on the history and evolution of Savannah's celebrated urban plan and the architecture shape. He said that Oglethorpe planned a town of six wards with no intention of expanding the plan. Dr. Williams said that Tom Wilson has convincingly shown in his book on the broader regional plan that developed out of the 18th Century enlightenment. He said that following the end of the trustee control of the colony, adaptations began to the plan beginning in 1770 with the laying out of East and West Broad Streets, features that Oglethorpe never planned. In 1791, the newly incorporated city began expanding the town plan contrary to Oglethorpe's intentions, initiating the growth of the plan for 24 wards through six separate expansions by multiple civic leaders and multiple municipal engineers, each making various adjustments to the plan. The result is a multi-authored plan, which is why they call it the Savannah Plan with 13 different ward variations, all using Oglethorpe's tithing thoughts for squares and streets, but resulting in the 13 variations as well as eight different sizes of squares. Dr. Williams said all of this to say, as well as adding new features, that Oglethorpe never planned, South Broad Street and Liberty Street have almost doubled the width of any street planned by Oglethorpe and introduced into American Urbanism a new feature, the tree line media.

**Dr. Williams** said these wards variation involving squeezing, stretching, truncating words, and adjusting the size of lots, streets, and squares within the plan. The architectural result of these many abdications to Oglethorpe's original plan and marginable is what they call in their book "elastic urbanism." The use of truss lots for private residences began in the 18th Century against Oglethorpe's rule that they used exclusively for public buildings, such as the Pink House is an early example of diverging from Oglethorpe's intentions. While Oglethorpe intended those houses on tithing lots face only the east-west narrow civic streets, early on buildings shifted their orientation to grandeur and wider central north-south civic streets such as Barnard Street. Scores of buildings in downtown and you have heard the exact number, followed this pattern including rear buildings behind the building facing east and west streets.

**Mr. Merriam** informed Dr. Williams that his three minutes were expired.

**Dr. Williams** thanked the Board and said that this pattern fits within the long tradition of the city. Thank you.

**Ms. Laura Lawton** stated that she was born in Savannah and grew up here. Ms. Lawton said that her parents, grandparents and great-grandparents also was reared in Savannah. She is interested in the Historic District although she lives outside of the Historic District. Ms. Lawton said that she likes the fact that Savannah has been designated a national landmark. She is aware that they have done things in the past that have threatened our landmark status. But she would hate to see them do one more thing. Thank you.

**Ryan Jarles, Director of Historic Preservation Properties for the Historic Savannah Foundation [HSF]**, wanted to make a comment about what Ms. Nagle said persons being paid to speak at these meetings. Mr. Jarles said since 1955, the HSF has never been paid to have persons speak at these meetings. He said that he would keep his comments brief as he has attended these meetings many times regarding this project. They will continue to do so as many times as needed.

**Mr. Jarles** said they are lucky to have a local Historic District Ordinance, which places historic context, such as they all have been talking about at an extremely high level and looking at changes to historic buildings as well as in looking at new construction. The reason that it is so important in constructing new buildings in historic significantly community of which we live is one of the most important, he would agree, that whatever the construction may be fits within its surrounding context. Mr. Jarles said that the Historic Savannah Foundation, as well as many experts in the field of preservation with various specific knowledge of General Oglethorpe's original plan for this city and how it has adapted over time, agree that this special exception was appropriately addressed. Specifically, when referring to the historic context, which is required to be thoughtfully considered when proposing a new construction project. This special exception was received for this project was made appropriately, legally, and without causing due harm to its surrounding historic context.

**Mr. Jarles** said in this historic context that they all have seen, and one that has the exact same condition as the one that is located immediately next door, 344 Barnard Street, is a contributing building within the local Historic District. He said specifically, referring to 344 Barnard Street, he would like to add that if they

do as an organization have a fear, that entities such as yourselves or other Boards go against the historic context and state that entrances facing north-south street are inappropriate, then what happens if buildings such as 344 Barnard Street were to burn down. Would these people then lose their property rights to reconstruct their home on that lot?

**Mr. Jarles** reported that as he has said before, they are actively interacting with the National Park Service. They have never gained fear over this project interfering with our landmark status through those conversations with the National Park Service. He does believe that the letter says they are simply considering projects like these in that process to determine if they are inappropriate. They have not given a strict determination on this project. Thank you for your time.

**Ms. Ellie Isaacs, Chair of the Historic District Board of Review**, stated that she appreciates the Board's time and volunteer service. Ms. Isaacs said she was present to defend the previous decision that the HDBR has made on three separate occasions. She said to approve this project for construction, they believe that they have applied the Zoning Ordinance Standards properly in term of the Secretary of Interior's Preservation Standards, the Design Standards, and Visual Compatibility Factors of the surrounding area in which the proposed project is located. She wanted it to be kept in mind that visual compatibility is not a factor that is ever up for appeal. However, it was a consideration with a key consideration in the approval of this project.

**Ms. Isaacs** said before she begins to nullify all the previously accused erroneous decision, there are many statements that have been made that need to be addressed before she can move forward. Although the statements that have been made are not up for debate today, she would be remised without addressing them and including them in the record. She will admit today that she is filled with righteous indignation over the slander and misinformation that has been used to describe the actions and previous decisions of the HDBR Board members and against her personally simply because of the decisions that were made were disagreed with members of the public. They were accused of going rogue, not respecting, and even distaining the Landmark District and the Ordinance; being unable to perform and even abandoning their duties; using their positions to advance their personal anti-preservation agendas, and being personally disgustingly misquoted as the Board has already heard today; and being verbally attacked by slandering her name, integrity, and professional reputation; being called into question by false accusations is not acceptable or professional behavior.

**Ms. Isaacs** said it is wholly inappropriate and untrue. The local preservation community knows that she has spent her career dedicated to preservation, they know that her integrity and essence of the goals protect the vital historic assets both tangible and intangible of not only this beautiful in which they all live, but in the state as well. She said that select members of the public and the petitioner have little to no knowledge as to what she as chair has accomplished professionally in order to be voted as chair and reelected recently again as chair by her peers. Ms. Isaacs said contrary to the Petitioner's belief, personal views are never used as a basic for decisions. If any personal views or conflict of interest is detected, those members recuse themselves from the agenda item altogether. A conflict of interest in Board action includes property interest, family interest, financial interest, or family financial interest in which no one on the Board has met these criteria. The assertion that HDBR has a disdained for the Landmark Designation is not only insulting, but incorrect. Ms. Isaacs said that each volunteer [not paid] member of the HDBR applied for and were appointed to the Board by the Mayor and City Council [just as all of you] in order to maintain and preserve the integrity of the district. She said that to her knowledge, none of them have never expressed a desire to alter the designation, but rather work to reverse the decision made by the National Park Service to no longer be considered threatened.

**Mr. Merriman** invited others in the audience to come forward if they wanted to speak.

**Mr. Jim Hundsrucker** thanked the Board for hearing this petition. He said that he is the President of the Forsyth Park Community Alliance. He was asking the Board to remand this decision back to the HDBR for the simple reason that some of the members of the HDBR failed to base their decision for a special exception on the criteria of the Ordinance. Instead, they were swayed by aspects that are not present criteria of the Ordinance. Even though the Professor of Architectural Historic could profess to the spirit of the Oglethorpe Plan, but he could not attest to the Ordinance. The Ordinances are the laws written to protect and construct on how to protect the Ogelthorpe Plan. There is no reference in the Ordinance as to giving special exceptions for precedent or failure to understand the Ordinances.

**Mr. Hundsrucker**.said to represent some key points of what was presented to the HDBR, he wanted to

present to the Board the criteria that they were to consider, which was the "public interest." The HDBR was made aware of an online petition that now has more than 500 signatures. This online petition is in opposition of the special exception and had a broad appeal. Not only did people of Savannah sign the petition, but the petition was signed by people all around the world. He believes that the Zoning Board of Appeals read the letters and comments that were sent to the MPC in preparation for this appeal. The letters that favored the opposition over the special exception were in a ratio of three to one. One of the letters was from John Barrence. On the display at the Georgia Historical Society there are international versions of the book which shows Savannah's international reach. Mr. Hundsrucker said you will be grateful to know that there is a South Korean version of the book. Savannah's Oglethorpe's Plan is internationally recognized. The Landmark status is to be protected and as mandated by the people in support of the public's interest. The Landmark Designation is a national designation given by the Federal Government. He said that the Board's role today is a review of how the criteria of the Ordinance was followed by the HDBR. He said that the people have spoken in favor of protecting the Oglethorpe Plan by denying this special exception. He thanked the Board for their time in this important matter.

### **BOARD DISCUSSION**

**Mr. Merriman** stated that he knew that some of the Board members might not be as familiar with the Historic Ordinances as other members. He asked Mrs. Michalak to please explain briefly the difference between a tithing lot and a truss lot.

**Ms. Michalak** explained that the lots are centered around the square. The larger lots to the east and west of the squares are called "truss lots." They are one large lot. To the north and south are 40 tithing lots. They are historically oriented to face north and south. They face east and west streets were dedicated strictly by Oglethorpe for residential use originally. The truss lots were dedicated by Oglethorpe for civic use originally. All together those truss lots and tithing lots make a ward. Is this what you were looking for?

**Mr. Merriman** answered yes.

**Ms. Michalak** pulled up a ward on the screen. She explained that the large lots are truss lots. The long thin lots are tithing lots. A tithing block was divided into ten tithing lots.

**Mr. Merriman** asked Ms. Paul-Leto to pull up and show the Board the criteria that was used for the special exception that was granted.

**Ms. Paul-Leto** explained that what was shown on the screen is the action by the Zoning Board of Appeals and the purview of the Zoning Board of Appeals to review prior to making their votes.

**Mr. Condon** said that there has been a lot of discussion about 100 plus lots that face in one direction or the other. One party is of the opinion that maybe a very small portion of those are actually entrances. One party is of the opinion that they all are entrances, or that the vast majority are entrances. Are you familiar with what I am talking about?

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

**Mr. Condon** asked Ms. Paul-Leto, what is the petition of the MPC staff on this particular point as he believes it is a very valid point. One person's argument is so far off, and the person's argument is very confusing. He asked Ms. Michalak if she could help with this.

**Ms. Michalak** asked Mr. Condon to please repeat the question.

**Mr. Condon** explained that Mr. Jones argument is that the 130 plus tithing lots of references that were used as a part of the decision-making process by the HDBR is of the opinion that the vast majority of those are incorrect. If he understands Mr. Jones's argument [Mr. Jones will be given a chance to answer] is that a small percentage of those referenced are actually entrances on primary entrances. What is your opinion and the MPC's opinion of that?

**Ms. Michalak** said the Historic Preservation Department did the research. She is hopeful that they standby that research.

**Mr. Condon** told Ms. Michalak that he would like for her to make a statement that she stands by the research, if you do.

**Ms. Michalak** answered yes.

**Mr. Condon** asked Mr. Jones if he could ask him a question.

**Mr. Jones** asked that he be able to respond.

**Mr. Merriman** explained to Mr. Jones that he could only answer the question.

**Mr. Condon** asked Mr. Jones, "what was the basis for your assertion that of the 130 plus lots, that only a handful of them are appropriate?"

**Mr. Jones** answered that he cited the Ordinance, he cited the definition of primary facade, which he incorporated the primary entrance, and that definition says that the primary facade must be consistent with the majority of the primary facades of contributing buildings. Mr. Jones said he stands by Ms. Michalak's document fully. Contributing buildings in the visually related historic context and he referred to the definition of visually related Section 13.5 of the Ordinance, which says that it is just the buildings within view of the subject property. He said that Ms. Michalak's map is completely accurate. He stands by her map fully. But, from the subject property, you can only see just one; and he does not think that she will disagree with that; and he believes that her map is completely accurate. He stands by the MPC's map and the MPC's characterization of contributing and non-contributing buildings. When you look at MPC's map and their study, it is 33 to one, the majority. You are required under 3.2.36 here you must follow the Ordinance and interpret it.

**Mr. Condon** said Mr. Jones thank you and asked Mr. Jones that of the 130 plus lots in his opinion, how many of them are incorrectly described as primary residences?

**Mr. Jones** answered that he has not reviewed all of the 130. He is under the assumption that they are completely accurate.

**Mr. Condon** told Mr. Jones that his point is that it seems unlikely that of the 130 buildings that he referenced that the vast majority of them do not have primary entrances facing as he wanted to describe as being in the incorrect position. Therefore, he believes that one of the most important parts of Mr. Jones's argument has to be that if he believes the City erred in their description and the information that they gathered, he believes it is vitally important that he has more than four or five reference points as to where they are wrong.

**Mr. Jones** answered that they are wrong not in that map, but they are wrong in that they were required to make a finding that the location of the primary entrance was in conformance with the Ordinance; with all the provisions of the Ordinance they did not do so. He said that he cited the provisions of the Ordinance that governs the orientation of the buildings and that provision, the definition of primary facade of 13.5 has a very specific test; they did not meet the test. Therefore, if you allow a primary entrance, you are allowing a primary facade that is not in conformance with the Ordinance, that's criteria one. Criteria one, you have got to prove as a Review Board must prove that it is in conformance with the Ordinance, and they cannot prove that and did not prove that and did not address the topic.

**Mr. Condon** said isn't it the purview of the Board to take into consideration the exceptions. Isn't this what we exist for?

**Mr. Jones** answered yes, but there is a criterion for the exception. You don't just grant exceptions based upon an argument.

**Mr. Condon** asked Mr. Jones, don't you think that the City coming up with 130 examples of something is appeases.

**Mr. Jones** answered no. Can we go back up to the criteria?

**Mr. Condon** answered no. You have answered my question. Thank you very much Mr. Jones.

**Mr. Merriman** asked the Board if they had any more questions.

**Mr. Plunk** said he just wanted to be sure they are on the same page as the Chairman as far as the purview of what they are about to decide. He explained that his understanding is that it is not up to the Zoning Board of Appeals to make a ruling on whether to grant or deny the Special Exception. They are to decide did the Board that has the authority to grant the special exception, make a serious mistake based on some type of evidence. Did new evidence emerge? He said that he always tries to defer to the Board that has the authority. Did the HDRB make some kind of mistake? Mr. Plunk said the question is, was there an error or a miscarriage of justice or whether something new has come to light? He asked is this where they need to keep their focus on the decision that they are about to make?

**Mr. Merriman** explained that the Ordinance says that those primary entrances must face the east-west streets. They have been granted a special exception to allow it to face the north-south street. The HDRB reviewed the criteria and granted the Special Exception. Mr. Jones is saying that there is an error, and it did not meet the criteria, the majority test, and the street did not conform with the Ordinance on the streets and lanes. This is why he is appealing. The Zoning Board of Appeals is to determine whether or not the Review Board made an error in granting the Special Exception. He asked Mr. Lotson if he wanted to add anything.

**Mr. Lotson** asked the Board if they wanted him to pull up the criteria.

**Mr. Merriman** answered yes.

**Mr. Lotson** pulled up the information and stated that 3.12.7 Review Criteria for Special Exceptions "a" and "b" is the information for the Review Board to make a determination regarding the special exception.

**Mr. Merriman** said there is no "c." It is just "a" and "b." Correct?

**Mr. Lotson** answered yes. There are staff comments beyond that.

**Mr. Merriman** asked Mr. Lotson if he could speak as to what the goals, policies, and objectives of the Comprehensive Plan are in relation to the location of primary entrances on titling lots.

**Mr. Lotson** asked Mr. Merriman if he was referring to Section A.

**Mr. Merriman** answered yes.

**Mr. Lotson** said for the record, he would read the criteria in recognition of Mr. Merriman's question. He read:

**"a. Whether the use for which the special exception is being considered would be located, operated, and maintained in a manner in conformance with the goal, policies, and objectives of the Comprehensive Plan and the provisions of this Ordinance."**

**Mr. Lotson** said this is a broad sort of a way to look at this, but the intent of the Comprehensive Plan is to support and uphold Ordinances whether it be a Zoning Ordinance or Subdivision Regulations, Historic Overlays, and those kinds of things. He said it would be his position that the Comprehensive Plan does not speak specifically to the location of doors as an example of what they are talking about today. But it is in place to uphold the rules of those Ordinances that are more regulatory than the Comprehensive Plan. The Comprehensive Plan is more of a guideline.

**Mr. Merriman** said in this case would be the Ordinance that says that the primary entrance on a titling lot shall face the east-west streets. Correct?

**Mr. Lotson** answered "right." He said that there is a process by which the Board can consider a special exception based on these criteria.

**Mr. Merriam** asked Mr. Plunk if he had any more comments.

**Mr. Plunk** answered no. He just tends to defer to the Board which has the authority to make the decision unless some serious miscarriage was presented to them today.

**Mr. Merriman** entertained a motion as there was no further Board discussion.

**Motion**

The Savannah Zoning Board of Appeals does hereby deny the requested appeal to Section 7.8.10.g.ii.1.b regarding a building on a tithing block shall locate its primary entrance in front of the east-west street for the subject property at 336 Barnard Street.

Mr. Plunk said the burden of proof was on the appellant.

**Vote Results ( Approved )**

Motion: Stephen Plunk

Second: Michael Condon

Stephen Merriman, Jr.	- Abstain
Michael Condon	- Aye
Stephen Plunk	- Aye
Betty Jones	- Aye
Armand Turner	- Aye

**XI. Other Business**

**XII. Adjournment**

14. Adjourned

There being no further business to come before the Board, Mr. Merriam adjourned the meeting at approximately 1:40 p.m.

Respectfully Submitted,

Marcus Lotson, Director  
Development Services

ML:mem

*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.*