

SAVANNAH ZONING BOARD OF APPEALS

ARTHUR A. MENDONSA HEARING ROOM

112 EAST STATE STREET

August 25, 2009

2:30 P.M.

REGULAR MEETING MINUTES

MEMBERS PRESENT:

Timothy Mackey, Chairman
Stephanie Bock
John P. Jones

MEMBER ABSENT:

Paul Robinson, Vice - Chairman

TECHNICAL STAFF PRESENT:

Keith Shipman, City Zoning Inspector

MPC STAFF PRESENT:

Jack Butler, Assistant Secretary
Mary E. Mitchell, Administrative Assistant
Shanale Booker, Technology/Administrative
Assistant

RE: Called to Order

Mr. Mackey called the August 25, 2009 meeting of the Savannah Zoning Board of Appeals to order at 2:35 p.m.

RE: MINUTES

1. Approval of SZBA Minutes – July 28, 2009.

SZBA Action: Mr. Jones made a motion that the Savannah Zoning Board of Appeals **approve** the minutes of July 28, 2009 as submitted. Ms. Bock seconded the motion and it was unanimously passed.

RE: Regular Agenda

**RE: Petition of Larry Gordon, For
Solomon Temple
B-080527-43074-2
2005 Augusta Avenue**

Present for the petition was Pastor Larry Gordon. Mr. Butler gave the following Staff Report. The petitioner, Larry Gordon for Solomon Temple, is requesting renewal of an approval of a use (church dining hall) which was granted on June 24, 2008. Approvals of the Zoning Board of Appeals are effective for 12 months unless a certificate of occupancy or building permit is obtained by the petitioner.

Findings:

1. The subject property is located at 2005 Augusta Avenue and is zoned R-4 (Four-Family Residential).
2. On **June 24, 2008**, the Zoning Board of Appeals approved an expansion of the church at 2005 Augusta Avenue in order to create a dining hall with the condition that the dining hall not be used as a restaurant.
3. The applicant is seeking to create a “dining hall” as an adjunct to the existing church on the property.
4. The proposed dining hall would be approximately 6,500 square feet in size and would be constructed as an addition to the church sanctuary.
5. As a substantial expansion of the church activity, the request requires Board approval.
6. The Zoning Board of Appeals may authorize a variance in an individual case upon a finding that:

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.**

There are no extraordinary conditions pertaining to the particular piece of property.

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

The application of this chapter to this particular piece of property would not create an unnecessary hardship.

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

Such conditions are not peculiar to the particular piece of property involved.

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

Relief, if granted could cause substantial detriment to the public good, or impair the purposes and intent of the Savannah Zoning Ordinance.

Staff Recommendation:

The situation at the location has not changed significantly in the last year. The petitioner's intent remains the same. Staff recommendation is for approval with the renewed condition, that the dining hall not be used as a restaurant.

SZBA Action: Ms. Bock made a motion that the Savannah Zoning Board of appeals **approve the petition as recommended with the condition that the dining hall to be constructed not be used as a restaurant.** Mr. Jones seconded the motion and it was **unanimously passed.**

**RE: Petition of Dr. & Mrs. Juha Jaakkola
B-090729-49627-2
101 Washington Avenue**

Present for the petition was the petitioner's architect, Ms. Shauna Kucera.

Mr. Butler gave the following Staff Report:

The petitioners, Dr. & Mrs. Juha Jaakkola, are requesting approval of a 7-foot rear setback variance from the 25-foot setback required in order to construct an addition onto an existing single family home.

Findings:

1. The subject property is a conforming 12,746-square foot lot of record located at 101 Washington Avenue.
2. The property is zoned R-6 (Single-Family Residential).
3. The property contains an existing two-story, 2,500 square foot home and a 527-square foot "potting shed" located along the rear lane.
4. The petitioner proposes to construct a porch and a 17-foot deep building addition onto the rear of the existing residential structure, and an additional shed.
5. The proposed building addition onto the existing residential structure would extend to within 18-feet of the rear property line.
6. The R-6 zoning district requires a 25-foot rear building setback.
7. The petitioner is requesting a seven-foot variance from the required rear setback.
8. The Zoning Board of Appeals may authorize a variance in an individual case upon a finding that:

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.**

There are no extraordinary or exceptional conditions pertaining to the particular piece of property because of its size, shape or topography.

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

The application of this chapter to this particular piece of property would not create an unnecessary hardship.

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

Such conditions are not peculiar to the particular piece of property involved.

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

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

Staff Recommendation:

The proposed building addition is in keeping with the lot usages in the neighborhood and would not cause detriment to the public good or the intent of the ordinance. Staff recommends approval of the requested seven-foot rear-yard setback variance.

SZBA Action: Ms. Bock made a motion that the Savannah Zoning Board of appeals approve the petition as presented. Mr. Jones seconded the motion and it was unanimously passed.

**RE: Petition of Tom Ordes, for
Daiquiri Island
B-090729-49794-2
7102 Abercorn Street**

Present for the petition were Mr. Tom Ordes and Attorney Harold Yellin.

Mr. Butler gave the following Staff Report and read a letter he received from Stafford Hospitality owners of Quality Inn located at 7100 Abercorn Street opposing the petitioner's request.

The petitioner, Tom Ordes, is requesting approval of a 14-foot front setback variance from the 25-foot front setback requirement in order to install a metal awning over a dining patio in front of Daiquiri Island Restaurant.

Findings

1. The subject property is a 25,000-square foot commercial lot located at 7102 Abercorn Street.
2. The property is zoned B-C (Community Business).
3. The petitioner proposes to cover an existing outdoor patio with a metal awning in front of the restaurant on the parcel.
4. The proposed metal awning would encroach to within approximately 11 feet of the edge of pavement of Abercorn Street.
5. The setback for commercial structures on a major arterial road is 50 feet measured from the centerline of the right of way, but no closer than 25 feet from the edge of the right-of-way.
6. The Zoning Board of Appeals may authorize a variance in an individual case upon a finding that:

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.**

There are no extraordinary or exceptional conditions pertaining to the particular piece of property.

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

The application of this chapter to this particular piece of property would not create an unnecessary hardship.

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

Such conditions are not peculiar to the particular piece of property involved.

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

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

Staff Recommendation:

The petitioner proposes to cover an existing patio structure with an awning. There would be no increase in actual encroachment caused by the proposed awning. The proposed awning would bring the vertical elements of the site no closer to the pavement than is the case on adjoining businesses. Staff recommends approval of the requested variance.

Mr. Butler stated that apparently the letter received from Quality Inn assumed that the petitioner was requesting to expand the existing awning. However, the request is simply to legitimize an awning that is already in place over an existing outdoor patio dining area. The patio is fenced with a wooden stockade fence.

Mr. Yellin stated that the property is zoned a B-C zoning classification as well as the other surrounding properties. He wished that the person who wrote the letter was present so he could talk with them. The pad is an existing concrete pad and the petitioner believed it was okay to install an awning without getting approval. The awning is no closer to Abercorn Street than anything already there. There is more than ample space for additional widening of Abercorn Street if the Department of Transportation (DOT) ever decides to do so.

SZBA Action: Ms. Bock made a motion that the Savannah Zoning Board of appeals **approve the petition as presented.** Mr. Jones seconded the motion and it was unanimously passed.

**RE: Petition of Live Oak Community Church &
Providence Christian School
B-090729-50308-2
425 West Montgomery Crossroads**

Present for the petition was Mr. Neil Dawson, petitioner's architect.

Mr. Butler gave the following staff report:

The petitioner, Live Oak Community Church & Providence Christian School, is requesting approval of a use (22 and 22a) private and parochial schools and day nurseries and kindergartens, in order to open a K-12 school in an existing classroom building at the church.

Findings:

1. The subject property is a community church on a 35,047-square foot property located at 425 West Montgomery Crossroads.
2. The property is zoned P-R-M-16 (Planned Residential-Multifamily, 16 units per acre).
3. The property (and adjoining lot) contains a 26,000-square foot church, gymnasium and educational building.
4. The petitioner proposes to open a school for up to 36 students in grades Kindergarten through 12.
5. Adequate parking (20 spaces) and recreational area (a 4,450 square foot fenced play area) is provided on site to accommodate the proposed use.
6. The proposed use would be separated from adjoining residential uses by a 6-foot wooden fence.

7. The proposed use is permitted in the P-R-M-16 zoning district with approval of the Zoning Board of Appeals.
8. The Board of Appeals shall hear and decide upon requests for permission to establish uses. The application to establish such use shall be approved on a finding by the board of appeals that:

- a. **The proposed use does not affect adversely the general plans for the physical development of the city, as embodied in this chapter, and in any master plan or portion thereof adopted by the mayor and aldermen.**

The property in question is designation for general residential development on the Future Land Use Map of the Tricentennial Comprehensive Plan. Limited institutional uses, including schools, are in keeping with this designation.

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

The proposed use (school) is in keeping with the purposes of this chapter.

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

The proposed use should not adversely affect the health and safety of the residents, although care must be taken to limit the hours of outside activity which could pose a noise nuisance.

- d. **The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.**

The proposed use will not be detrimental to the use or development of the general neighborhood. The petitioner proposes to use an existing classroom building for the purpose for which it was built.

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

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

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

The subject property is of sufficient size and appropriately designed to house a school of the scope (36 students maximum) proposed by the petitioner.

- g. **The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use such facility, vehicular movement, noise or fume generation or type of physical activity.**

As noted above, hours of outdoor activity associated with the school should be limited to daylight hours. The roadway on which the property is located (Montgomery Crossroad) is of sufficient size and capacity to accommodate the relatively modest number of trips generated by a student body of 36 and associated teachers and administrators.

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

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

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

Staff Recommendation:

Staff recommends approval of the requested use.

Mr. Dawson stated that under the building code they are allowed to have 199 students. They are requesting approval for 24 students for their Pre-K program. He said an inconsistency was noted on his submittal form. The square footage of the outdoor play area is correct on the plans, but is incorrectly reviewed in the description. The correct square foot is 2,445 which allow 24 Pre-K students. They will provide 10 parking spaces for students and 10 surplus spaces. They also have 14 faculty spaces.

SZBA Action: **Mr. Jones made a motion that the Savannah Zoning Board of Appeals approve the petition as presented. Ms. Bock seconded the motion and it was unanimously passed.**

**RE: Petition of Patricia Lonnon, for
Loving Care Academy
B-090729-50468-2
2115 Hagood Street**

Present for the petition was Ms. Patricia Lonnon.

Mr. Butler gave the following staff report:

The petitioner, Patricia Lonnon, is requesting approval of a variance from the requirement that day nurseries and kindergartens may be located only on a street classified as a collector or greater in order to expand an existing 6-child in-home day care facility to a capacity of 12 children.

Findings:

- 1. The subject property is an existing conforming 11,185-square-foot parcel located at 2115 Hagood Street.

2. The property is zoned R-4 (Four-family Residential).
3. Hagood Street is classified as a local residential street.
4. The petitioner operates a permitted in-home residential day care facility, Loving Care Academy, for six children.
5. The petitioner proposes to increase the number of children served at the facility from 6 to 12 children.
6. A day nursery may serve up to 18 children, except when located on a residential street, where the day nursery is limited to a maximum of 12 children.
7. Hagood Street is not classified under the Level of Service evaluation, meaning that it has very light, occasional traffic.
8. The addition of six students would result in approximately 12 additional vehicle trips per day on Hagood Street, which would not change the Level of Service.
9. Under Section 8-3025(a) use 22a, subsection b, the Zoning Board of Appeals is authorized to waive the requirement that such facilities be located on a collector street or greater if, on the basis of evidence presented, it finds that the traffic to be generated by the particular use can be accommodated on other streets without creating traffic congestion or traffic hazards on such streets which would be detrimental to the neighborhood served by such other streets.

Staff Recommendation:

Staff finds that the proposed expansion of the services would not create traffic congestion on the streets in the vicinity of the petitioner's business. Staff recommends approval of the requested waiver, provided that the City of Savannah Traffic Engineer approves the pick-up and drop-off arrangements for the location.

Mr. Mackey noted that the Community Planning and Development (CPD) staff recommended denial of the requested use. Mr. Butler explained that this area is in the City's economic impact area and as such the CPD did a review. Their recommendation is based on the strict interpretation of the requirement that the school be located on a collector street. CPD recommended denial because the school is not on a collector street.

Ms. Bock believed a requirement is to have a circular driveway.

Mr. Butler explained that the applicant is requesting to escalate the operation from an unregulated day care to a regulated in-home day care. As such, she will have to meet the requirements for pick-up and drop-off arrangements and parking.

Mr. Jones asked if this was contingent upon the Traffic Department's approval arrangement plan for pick-up and drop-off students.

Mr. Butler answered that this is staff recommendation.

Mr. Jones wanted to know if the petitioner would have to install a fence.

Mr. Butler explained that the property is bordered by vacant lots on both sides, and by a substantial amount of yard to the rear.

Ms. Lonnon stated that the children arrive at different times of the day and that she owns the two vacant lots next to her home.

SZBA Action: Ms. Bock made a motion that the Savannah Zoning Board of Appeals approve the petition as presented, with the condition that the petitioner obtain approval from the City of Savannah Traffic Engineer of pick-up and drop-off arrangements for the facility. Mr. Jones seconded the motion and it was unanimously passed.

RE: Other Business

Mr. Butler stated that during the tour it was noted that the property located on Habersham and Hall Streets still remains unaddressed. The Zoning Inspector will check on this issue.

RE: Adjournment

There being no further business to come before the Savannah Zoning Board of Appeals, the meeting was adjourned at 3:06 p.m.

Respectfully submitted,

Jack Butler,
Assistant Secretary

JB/mem