



City of Savannah Zoning Board of Appeals

Arthur A. Mendonsa Hearing Room
October 27, 2022 10:00 A.M.
Meeting Minutes

OCTOBER 27, 2022 CITY OF SAVANNAH ZONING BOARD OF APPEALS

Present: Stephen Merriman, Jr., Chair
Michael Condon, Vice Chair
Larry Evans
Hunter Hall - online
Karen Jarrett
Betty Jones
Stephen Plunk

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

City of Savannah: Tom Bolton, Zoning Plans Examiner
Bridget Lidy, Zoning Administrator

I. Call to Order and Welcome

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

Mr. Merriman called the meeting to order at 10:00 a.m. He explained that this is a quasi-judicial proceeding. All those wishing to give testimony during these proceedings will please sign in. Witnesses will be sworn-in prior to giving testimony. All proceedings of the Savannah Zoning Board of Appeals are recorded. Decisions of the Savannah Zoning Board of Appeals are final. Challenges to the decisions of the Savannah Zoning Board of Appeals must be filed through the Superior Court of Chatham County.

II. Invocation and Pledge of Allegiance

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

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

III. Notices, Proclamations and Acknowledgements

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

[3. 2317 WATERS AVENUE | VARIANCE TO THE MINIMUM PARKING REQUIREMENTS | 22-004075-ZBA](#)

[4. VARIANCE REQUEST | Lawton Avenue | File No. 22-004538-ZBA | Parking and Height Variance](#)

Motion

MPC staff recommends this petition be continued to the November 17 agenda.

Vote Results (Approved)

Motion: Betty Jones

Second: Karen Jarrett

Stephen Merriman, Jr. - Abstain

Karen Jarrett - Aye

Hunter Hall - Aye

Michael Condon - Aye

Larry Evans - Aye

Stephen Plunk - Aye

Betty Jones - Aye

V. Item(s) Requested to be Withdrawn

VI. Approval of Minutes

[5. Approve September 22, 2022 Meeting Minutes](#)

[📎 September 22, 2022 Meeting Minutes.pdf](#)

Motion

Approve September 22, 2022 Meeting Minutes

Vote Results (Approved)

Motion: Stephen Plunk

Second: Betty Jones

Stephen Merriman, Jr. - Abstain

Karen Jarrett - Aye

Hunter Hall - Aye

Michael Condon - Aye

Larry Evans - Aye

Stephen Plunk - Aye

Betty Jones - Aye

VII. Approval of Final Agenda

VIII. Consent Agenda

IX. Old Business

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

[📎 Staff Report.pdf](#)

[📎 MAP.pdf](#)

[📎 Vicinity Map.pdf](#)

- 📎 [Street View Back.pdf](#)
- 📎 [backyard.pdf](#)
- 📎 [Street View Front.pdf](#)

Motion

Continue to the Meeting of November 17, 2022.

Vote Results (Approved)

Motion: Karen Jarrett

Second: Betty Jones

Stephen Merriman, Jr.	- Abstain
Karen Jarrett	- Aye
Hunter Hall	- Aye
Michael Condon	- Aye
Larry Evans	- Aye
Stephen Plunk	- Aye
Betty Jones	- Aye

X. Regular Agenda

[7. VARIANCE REQUEST | 230 Vernonburg Dr | File No. 22-003568-ZBA | Accessory Building in Front Yard](#)

- 📎 [Vicinity Map.pdf](#)
- 📎 [Updated Authorization Letter.pdf](#)
- 📎 [Staff Report 2.pdf](#)
- 📎 [Proposed Subdivision.pdf](#)

Mr. Nirav Gandhi gave the staff report. The applicant is requesting a variance to place an accessory structure in the front yard of a residential lot at 230 Vernonburg Road. The subject properties are located at 230 Vernonburg Drive and currently has one single-family home and one barn (accessory structure). The applicant has submitted a subdivision proposal in pursuit of separating the land containing the existing home from the existing barn and build a new home on the new property.

Mr. Gandhi explained that under the current ordinance (Sec 8.7.3), accessory structures must be in either the side or rear yard of residential properties. The subject property is 4.71 acres, leaving adequate room in the back of the parcel for a house.

Mr. Gandhi reported that based upon the variance criteria, staff recommends approval of the requested variance to allow an accessory structure in the front yard with the following special condition:

- The variance will apply only to the existing barn and will not apply to future accessory structures on this property.

Mr. Gandhi entertained questions from the Board.

PETITION COMMENTS

Mr. Anthony Koncul was sworn in by Mr. Merriman. Mr. Koncul stated that he has worked with Ms. Beam for a long time. He explained that Mr. Tom Bolton was helpful to them. Ms. Beam's property is on the left and right sides. She wants to build a home for herself next to the existing house. They feel they have presented a good plan. Mr. Koncul was hopeful that the Board would approve their request.

PUBLIC COMMENTS

None.

BOARD DISCUSSION

The Board was in agreement with the staff's recommendation for approval

Motion

The Savannah Zoning Board of Appeals does hereby approve the variance request for a building in the front yard at 230 Vernonburg Road.

The variance will apply only to the existing barn and will not apply to future accessory structures on this property.

Vote Results (Approved)

Motion: Stephen Plunk

Second: Betty Jones

Stephen Merriman, Jr.	- Abstain
Karen Jarrett	- Aye
Hunter Hall	- Aye
Michael Condon	- Aye
Larry Evans	- Aye
Stephen Plunk	- Aye
Betty Jones	- Aye

[8. 336 Barnard Street | An appeal to the Zoning Administrator of the City of Savannah's determination of a Zoning Confirmation Letter related to the location of a building's primary entrance when situated on a tithing block | 22-004378-ZBA](#)

- 📎 [Recorded Plat.pdf](#)
- 📎 [SIGNED Board Decision - 20-005548-COA 336 Barnard St.pdf](#)
- 📎 [Staff Report - 19-003889-SUBP - Pulaski Ward Lot 27- 2-Lot Minor SD - 123 W. Charlton St..pdf](#)
- 📎 [MAP.pdf](#)
- 📎 [Article 7.pdf](#)
- 📎 [Application.pdf](#)
- 📎 [LETTER OF SUPPORT - Steve Ramsey ZBA letter October 22 2022 File No. 22-004378-ZBA.pdf](#)
- 📎 [STAFF REPORT 22-004378-ZBA 10-27-2022.pdf](#)
- 📎 [ZCL-336 Barnard Street Dated August 17, 2022.pdf](#)
- 📎 [Recorded Plat 10-27-2022.pdf](#)
- 📎 [Melanie Mirande Letter of Support for the appeal to design at 336 Barnard St.pdf](#)
- 📎 [Sabrina Nagel letter to ZBA opposing 336 Barnard.pdf](#)
- 📎 [David Schultz Letter of Opposition to the Construction Project at 336 Barnard Street.pdf](#)
- 📎 [Anna Habersham Wright letter of support - the appeal against 336 Barnard Street.pdf](#)

📎 [Paul and Caren Cobet Letter of Support - Appeal Hearing 336 Barnard St..pdf](#)

Ms. Melissa Paul-Leto gave the staff report. The petitioner, Andrew Jones, Agent for 120 West Jones LLC, is appealing the August 17, 2022, determination 22-003805-ZCL written by the Zoning Administrator of the City of Savannah related to the location of a building's primary entrance when situated on a tithing block per Article 7 Sec. 7.8.10(g)(ii)(1)(b) regarding a proposed residential structure at 336 Barnard Street.

Ms. Paul-Leto stated that Mr. Christian Sottile, the architect, for the new single-family residence at 336 Barnard Street, requested and received a zoning confirmation letter on August 12, 2022, in order to clarify the building's primary entrance when situated on a tithing block. In review of the Ordinance, Article 7 Sec. 7.8.10(g)(ii)(1)(b) the Zoning Administrator made a determination that subsection "A through F" does not apply to this property. Ms. Paul-Leto pointed to an area and explained that this is the area she was referring to where it goes to locations within a tithing block, trust lots as a building on a trust lot facing a square, shall locate its primary entrance to front the square. This is "a" and "aii" says that a building on a trust lot not facing the square shall locate its primary entrance so that it fronts the same street as other contributing buildings on the same block. She said "e" is the issue at hand. Tithing blocks which are a component of Oglethorpe's Plan of Savannah, are located on a north-south side of a square, usually consist of five 60-foot x 90-foot lots. She additionally explained that a building on Broughton Street shall locate its entrances at no greater intervals than 50 feet, provided, however, that for a corner entrance, the interval to the next entrance may be increased to 60 feet.

Ms. Paul-Leto explained that north of Broughton Street, a corner building located adjacent to a north-south service street shall have an entrance on the service street. Subsection "e" - east/west connecting street. A building along an east/west connection street fronting a square shall have entrances intervals and not exceed 50 feet; subsection "f" - corner entrance and angled entrances shall be permitted at intersections of streets or lanes. The Zoning Administrator determined that subsection "b" as well as the subsection through "f" does not apply to 336 Barnard Street. As a result, the determination was subsection "g" does apply - which states that "if none of the above conditions apply, the building entrance shall be consistent with contributing the building within the context. She showed a map of contributing structures on tithing blocks with entrances facing north-south streets. Board of Appeals may uphold the appeal (thus overturning the Zoning Administrator's determination), reject the appeal (denying the petitioner's request), or remand the Zoning Confirmation Letter back to the Zoning Administrator for reconsideration of any elements of the Zoning Confirmation Letter that were affected by an error in the determination.

Ms. Paul-Leto stated that per Article 3 of the Savannah Zoning Ordinance, appeals shall be considered as follows:

3.23.6 Action by the Zoning Board of Appeals

a. The Zoning Board of Appeals shall determine whether the Zoning Confirmation Letter in this appeal request and the determination of this Ordinance.

b. The Zoning Board of Appeals may reverse or affirm (wholly or in part) or may modify the determination being appealed and shall make a determination that in its opinion ought to be made in the case before it unless otherwise specified by this Ordinance. To this end, the Zoning Board of Appeals shall have all of the powers of the administrative official, commission, or board from whom the appeal is taken.

c. A motion to reverse, affirm or modify the determination by the Zoning Administrator of the City of Savannah appealed shall include a statement of the specific reasons including the proposed findings of fact that support the decision. The findings of fact shall be based on the same evidence received by the Zoning Confirmation Letters

d. If a motion to reverse or modify is not made, or such motion fails to receive the affirmative vote of a majority of the members present, then the appeal shall be denied.

e. The appellant shall have the burden of proof.

Findings

1. The architect, Christian Sottile, for property at 336 Barnard Street requested on August 12, 2022, an interpretation of the Zoning Ordinance regarding the location of a building's primary entrance when situated on a tithing block per Article 7 Sec. 7.8.10(g)(ii)(1)(b). Christian Sottile received a Zoning Confirmation Letter from the Zoning Administrator of the City of Savannah on August 17, 2022

2. The Ordinance states the following conditions in Article 7 Sec. 7.8.10(g)(ii)(1)(b) apply towards the location of a newly constructed building that is located on a tithing block and towards whether their primary entrance shall be an east-west street:

1. Location
 - a. Trust Lots
 - o i. A building on a trust lot facing a square shall locate its primary entrance to front the square.
 - o ii. A building on a trust lot not facing a square shall locate its primary entrance so that it fronts the same street as other contributing buildings on the same block.
 - b. Tithing blocks: A building on a tithing block shall locate its primary entrance to front the east-west street.
 - c. Broughton Street: A building on Broughton Street shall locate its entrances at no greater intervals than 50 feet; provided, however that for a corner entrance the interval to the next entrance may be increased to 60 feet.
 - d. North of Broughton Street: North of Broughton Street, a corner building located adjacent to a north-south service street shall have an entrance on the service street.
 - e. East-West Connecting Street: A building along an east-west connecting street fronting a square shall entrances at intervals not to exceed 50 feet.
 - f. Corner Entrance: An angled entrance shall only be permitted at intersections of streets or lanes.
 - g. If none of the above conditions apply the building entrance shall be consistent with contributing buildings within the context.

Therefore, Sec. 7.8.10(g)(ii)(1)(g) exempts those parcels that cannot locate the primary entrance on an east-west street from the requirement.

It is the determination of the Zoning Administrator that any proposed construction on a tithing block may locate the primary entrance on a north-south street when the location on an east-west street is not possible, provided it is consistent with contributing buildings within the context.

This interpretation is made as of the date of this letter and does not constitute any representation or assurance that the Property will remain in the current zoning district for any specified period or that the list of uses permitted in the zoning district will remain in effect for any specific period.

Based on the Zoning Confirmation Letter which was provided and included in the COA application for the design of the proposed single-family residence, the item was presented and approved by the Savannah Downtown Historic District Board on September 14, 2022. The petitioner Sottile & Sottile received a Certificate of Appropriateness for new construction.

After the HDBR hearing (September 14th) the petitioner, Andrew Jones, Agent for 120 West Jones, LLC applied on September 16, 2022, to appeal the 22-003805 Zoning Confirmation Letter which includes a zoning interpretation from the Zoning Administrator of the City of Savannah relative to Section 7.8.10(g)(ii)(1) of the Zoning Ordinance.

A map indicating the subject property, 336 Barnard Street, other non-contributing structures as well as contributing structures that are located on a tithing block with entrances facing a north-west street was shown.

Purview of the Zoning Board of Appeals

Based on the information provided in the report and at the public hearing, the Board of Appeals shall make a finding as to the applicant's appeal. Such decisions shall be based on whether or not the determination made by the City of Savannah's Zoning Administrator erred in the Zoning Confirmation Letter or interpretation of the Ordinance. The burden of proof for any such error is on the appellant.

Ms. Paul-Leto entertained questions from the Board.

Mr. Merriman asked staff if this particular lot that they are discussing is a tithing lot.

Ms. Paul-Leto answered yes.

Mr. Merriman asked staff if it was a tithing lot before it was divided and is it considered a tithing lot. Is this correct?

Ms. Paul-Leto answered yes.

PETITIONER COMMENTS

Mr. Andrew Jones stated that he is the authorized agent for 120 West Jones LLC. Mr. Jones thanked the Board for the opportunity to present the appeal to them. It is an appeal by 120 West Jones LLC of the Determination of the Zoning Administrator Relative to Section 7.8.10 of the Zoning Ordinance. He said in this presentation he refers to it as the "Zoning Determination" The Zoning Determination number is 22-003805-ZCL (aka the Zoning Confirmation Letter is what the staff calls this) However, they all are speaking about the same document.

Mr. Jones explained that on behalf of 120 West Jones Street, they seek remedies reflected in the staff report. The first is to reverse the Zoning Determination and void the Certificate of Appropriateness [COA] which was based on the determination; and secondly, as an addition or as an alternative, modify the Zoning Determination (to clarify that it does not on its own terms exempt 336 Barnard Street) from the provision in question, and therefore void the COA.

Mr. Jones gave the background data. He stated that:

- 336 Barnard is in the rear half of the subdivided tithing lot formerly known as 123 West Charlton Street. This is shown in the map. The color purple represents 123 West Charlton Street and 336 Barnard Street is the back half of the subdivided lot. A tithing block is outlined in blue.
- In 2020, after a subdivision of the lot, 336 Barnard applied for a Part I COA for a single-family structure, which was granted by the Historic District Board of Review (20-005548-COA),
- The main entrance of the proposed structure faces Barnard Street, not Charlton Street., which is the east-west street.
- In the August 10 hearing for Part II, public comment included that the entrance on Barnard Street, rather than Charlton Street, violates Section 7.8.10(g)(ii)(l)(b), the provision in question here. The hearing was continued to September 14.
- In the meantime, on August 17, 336 Barnard obtained the Zoning Determination, which concluded that the section (b) above did not apply.
- A member of the public (he) filed an appeal of the Zoning Determination on August 30. and the City withdrew the appeal on September 9 without notice or any discussion to him. The withdrawal, however, was communicated to the MPC staff prior thereto, just in time for the staff notes for the September 14 hearing.
- Partly on the basis that the appeal was no longer active, the MPC staff and the Review Board applied the Zoning Determination to approve Part II on September 14.
- The report that was just read to the Board by staff includes the statement that the COA was approved based on the Zoning Confirmation Letter.

-Subsequently, on or around September 15, the appellants here today of 120 West Jones LLC filed this appeal of the Zoning Determination, leveraging all the arguments that were in the appeal that he had made that was denied.

Mr. Jones said the reason it was denied was apparently he was too far away from the effective structure. His buildings are 322 and 324 East Broughton Street and 41 Habersham Street. But under the terms of the Zoning Determination, that determination affects every lane building in Savannah by its terms; it is not restricted to 336 Barnard Street. His property interests are affected, and he is surrounded by three developable lots. This also affects his zoning determination. Therefore, his distance from an affected building under the Zoning Determination is zero [0] feet. But that appeal was denied, and he was advised to file an appeal of the Letter of Denial; and he did. This was also turned down through the City Attorney's mischaracterizing it as an appeal of an appeal. Mr. Jones said this was incorrect as it was an appeal of the letter from Ms. Lidy's office denying his right of appeal. A fourth appeal has been filed of this Certificate of Appropriateness. The City Attorney has tried to stop that appeal also; again, by mischaracterizing the content of the appeal. All this information is in the exhibit.

Mr. Jones explained that their requests for appeal are as follow:

Request One: Reverse the Zoning Determination is to reverse it because it construed the Ordinance incorrectly. Recognize that a correct reading is that 336 Barnard, as designed, is not permitted. He said the provisions are shown in the box to the right of the screen. These are the provisions in Section 7.8.10 of the Downtown Savannah Historic District Overlay pertaining to the location of entrances and doors. The short section at the top is for existing buildings as a lot of the existing buildings don't conform. But their lack of conformity to the Oglethorpe Plan, was clearly not a precedent for future construction. Bad things happened in the past, but future constructions held a much higher standard, which is the section that begins with "New Construction." This was the provision that staff read item by item and you can see that each of these is based upon where the project is going to be located. Is it in a trust lot, is it under a tithing block; is it north of Broughton Street, etc. Mr. Jones said there is a "catch all at the bottom."

Mr. Jones said the highlighted section on the lower right, "Tithing Blocks" refers to the entire block, which states that "a building on a tithing block shall locate its primary entrance to front the east-west street." [i.e., Charlton Street, not Barnard Street]. Therefore, this is a reference to blocks and not a reference to sublots; it is not a reference to parcels, which is the language that the Zoning Determination used. It does not reference subdivisions; it doesn't reference accessory lane structures. He informed the Board that they will likely hear arguments that bring up all this terminology to confuse them, but none of this terminology is there. It is just about a "tithing block." Mr. Jones said this provision reflects the context for new zoning. In 2018, the National Park Service issued a report placing Savannah's Downtown Historic District in threaten status, one step from emergency status. The Oglethorpe Plan was written in 1734, the Peter Gordon map is a key component of the designation status per the 1966 Designation. One of the first threats cited by the National Park Service was the overdevelopment of the lanes as set forth on page 52 of the report. Exhibit B includes a photograph of a principal building and a lane building in a courtyard, which is referenced as Bull Street, but it is Barnard Street. It is actually one block away from the subject property. In this report, the first threat they cited to the district was the filling in of the voids between the principal buildings in the lane. NewZO, effective in 2019, includes several proposals to strengthen protection of the Oglethorpe Plan. Its provisions are to preserve the lanes, etc., as well as 7.8.10(g)2-lb, which is the subject of the zoning permit. This section ensures that no building on a tithing block, even a building at the back of the lot, faces the north-south street. rather it has to face the east-west. The orientation of the building is a fundamental component of the Oglethorpe Plan. All the buildings face the east-west street even the little carriage house in the back. Mr. Jones stated that none of them face the north-south street.

Mr. Jones said in construing the ordinance, Section B reflects the general construction of all the other parallel provisions. In each, there is a condition, where is this proposal going to be and then there is a "shall clause," which is the part that says, "you must do this." So, the condition, "are you in a trust lot" or you in a tithing block, or are you on Broughton Street or are you on a corner, etc. Or are you none of the above because there are some properties in the Downtown Historic District that are not in the Oglethorpe Plan. For example, a lot of the properties to the west of Martin Luther King, Jr. Boulevard (MLK) are not in tithing blocks or trust blocks. Therefore, there has to be a "catch all." This catch all is really broad language; it just has to be compatible to conforming to properties which is easy if it meets all the above.

Mr. Jones explained that "Section G" is the broad catch all provision; it only requires consistency with contributing buildings and (b) is the one that specifically addresses tithing blocks. Therefore, consequently, the appellant seeks findings from the Zoning Board of Appeals that 336 Barnard Street cannot be built as proposed with the front door on Barnard Street because it does not meet the requirements for new construction. Accordingly, reverse the Zoning Determination, void the COA and require 336 Barnard Street to submit a new COA application. He said that the basic principle here is that the proposed building does not meet the historic review standard for new construction, then you must redesign it in order to meet the standard; or you can always keep the existing building that you purchased as is. He said that some opponents will argue that the proposed building is better than the existing cinderblock building on the site. He believes that they all can agree that, while this may be true, it is not relevant to the question before the Board today. The question before the Board is whether the proposed building, which violates the Zoning Ordinance can be built, or instead, must be revised so that it meets the requirements of the Ordinance. Mr. Jones stated that given the redesign of the building, any new proposal must come before the Historic District Board of Review so that the public can weigh in. He said that it should not be approved in another closed-door process.

Request Two: Reverse the Zoning Determination because is based on erroneous reasoning. The Zoning Administrator appears to argue that the entirety of (b), including both the site conditions and the "shall clause.", is the condition referenced by {g}. This reading is incorrect, as explained earlier; because the "shall clause" is not a "condition." Further, the Zoning Administrator adds a possibility test, which is not in the language of the Ordinance. This "possibility" test is used to determine whether the proposed construction is not subject to (b) and therefore falls under (g). One big problem here is that the applicant is not required to prove that compliance "is not possible," nor does the Zoning Administrator say who should decide that condition.

Request Three: Reverse the Zoning Determination because the Zoning Administrator should not have the power to nullify or render meaningless any provisions of any existing or future Ordinance. This is even more important in the current context of efforts to enact new laws to ensure 336 Barnard Street never happens again. He said, in response to the approval of 336 Barnard Street, the National Parks Service issued a letter on September 26 calling out 336 Barnard Street as having an incrementally negative effect on the already threatened status of the district. If it were not for the erroneous Zoning Determination and the intervention by Ms. Lidy in blocking the original appeal, 336 Barnard Street probably could not have been approved, and the NPD letter would not have been issued. In response to the letter, the MPC held a meeting on November 17 at the request of the HDBR to address this threat, including issues about tithing lots. The result of the meeting was a list of recommendations to amend the Ordinance in order to undo the damage that the Zoning Administrator has just caused. But, if the Zoning Determination stands, the Zoning Administrator will be free to use erroneous reasoning to undermine these new provisions as well. Any future corrections to the Ordinance will be pointless, and there will be little to stop the loss of historic district status.

Request Four: Reverse the Zoning Determination because its application goes far beyond its intended scope of addressing 336 Barnard Street. Notably, the City (a) applies it to all similarly situated buildings, e.g., 301 West York Street; (b) does not even require an applicant to prove that compliance is not possible; and (c) refuses to allow aggrieved parties for other affected buildings to appeal.

Request Five: Reverse the Zoning Determination because it nullifies a law without public notice or review, resulting in a lack of governmental transparency and accountability. He said while the enactment of NewZO was a public process subject to public review and input, the Zoning Determination was not. It was a closed-door process that did not allow the public to weigh in on facts or reasoning. Thus, a private, closed-door process was used wrongfully to undermine laws that have been passed with public review.

Request Six: Reverse the Zoning Determination because it gives the appearance of impropriety. He explained that Savannah is a small town and many of them know each other from other association. But given the closed-door nature of the Zoning Determination process, it should be noted that Mr. Brad Baugh serves on the Board of the Savannah Development and Renewal Authority; coincidentally, this is an entity where Ms. Lidy worked for approximately 6 years. Further the letter denying the original appeal of the Zoning Administrator was issued by Ms, Lidy, whose department was also responsible for the Zoning Determination. Denying an appeals of one's own actions certainly gives the appearance of a conflict of interest. He stated that moreover, the denial of the appeal was communicated to the MPC staff well

before being communicated to the appellant, who first found out from the MPC agenda. Such actions imply an overwhelming degree of favoritism in pushing through approval of the project. Ms. Lidy has also been involved in blocking two additional appeals, resulting in a total of as many as four instances of intervening on behalf of 336 Barnard Street.

Request Seven: The Zoning Determination be modified to clarify that it does not actually render a conclusion on 336 Barnard and that, therefore, 20-005548-COA, based in part on the Zoning Determination, is in error and must be voided. The Zoning Determination was for a three-family/four family structure. The proposed building is one-family. He pointed out that the Zoning Determination was addressed to 336 Barnard Street, but it does not conclude whether it is not possible for 336 Barnard Street to comply with section {b} nor does it say who should make that determination.

Request Eight: Ask that the Determination be modified to say that it does not apply to 336 Barnard Street because it is possible for 336 Barnard Street to comply, based on its own prior filings. He explained that in 2017, Vanira Gardens [LLC] applied for a COA for four townhouses on the rear of 123 West Charlton Street (aka 336 Barnard Street). They each had an entrance facing the east-west street and no entrance facing the north-south street. They, therefore, met the requirement of section (b). The MPC recommended some changes to the townhouse, which Vanira Gardens LLC chose not to comply with those requests. Brad Baugh, the sole member of Vanira Gardens and the Declarant of 123 West Charlton condos, is also the sole member of 336 Barnard LLC, the current owner of the rear lot by quit claim deed.

Request Nine: Modify the Zoning Determination to say it does not apply to 336 Barnard Street because it can comply, based on the Condo Declaration for 123 West Charlton Street filed by Declarant Vanira Gardens LLC (Brad Baugh, sole member). In the Declaration of the Condos at 1213 West Charlton Street by Vanira Gardens, LLC (=336 Barnard LLC), the rear portion of the lot is defined as "additional property." Section 26 of the Declaration allows Vanira Gardens, LLC as Declarant to add the "additional property" to the condo. Therefore, the new structure at the back of the lot can easily front the east-west street by having an entrance facing Charlton Street, accessible through the existing side yard path common area pathway. The common areas already have the address 336 Barnard Street

Request Ten: Demand that the three appeals currently being blocked by the City be forwarded immediately to the ZBA. Clarify that it is the role of the ZBA to determine standing, so that such a decision occurs in a public forum where the appellant can establish the facts and make an argument for standing. Clarify that it is not appropriate for the Zoning Administrator and/or the City Attorney to work in a closed door proceeding to conclude on issues of standing. Condemn the current practice whereby the Zoning Administrator and/or the City Attorney intentionally mischaracterize the nature of an appeal in order to block it and deny the appellant any means of redress.

Mr. Jones summarized the list of remedies being sought:

Reverse the Zoning Determination and Void the COA

- The Zoning Determination construed the Ordinance incorrectly. Recognize that a correct reading is that 336 Barnard, as designed, is not permitted.
- The Zoning Determination is based on erroneous reasoning.
- The Zoning Administrator should not have the power to nullify existing or future sections of the Ordinance.
- The City's Application of the Zoning Determination goes far beyond its intended scope of addressing 336 Barnard.
- It nullifies a law without public notice or review, resulting in a lack of governmental transparency and accountability
- It gives the appearance of impropriety.

Modify the Zoning Determination to say it does not exempt 336 Barnard Street from Section (b), and void the COA

- The Zoning Determination does not render a conclusion on 336 Barnard. Thus, the COA, based in part on the Zoning Determination, is in error.
- Conclude that the Determination does not apply to 336 Barnard because it is possible for the for the Condo Declarant, Vanira Gardens LLC to propose a building that complies, as shown by its prior filings and the Condo Declaration for 123 West Charlton Street.

Demand that the three appeals currently being blocked by the City be forwarded to the ZBA.

- Clarify that it is the role of the ZBA to determine standing in a public forum where the appellant can establish the facts and make an argument for standing,

Mr. Jones thanked the ZBA for hearing their appeal and entertained questions from the Board.

Mr. Evans asked Mr. Jones if it was his position that the entrance to this lot should face West Charlton Street to the north.

Mr. Jones answered "correct." This is the clear language in the Ordinance.

Mr. Evans asked Mr. Jones if he agrees with him that the lot, itself, does not have frontage on West Charlton Street?

Mr. Jones answered no; but it has access to the path and as he showed in the Condo documents, Mr. Brad Baugh has the authority to add to the condo and have access to the path or he can negotiate an easement to the street.

Mr. Evans asked Mr. Jones that when he says has access to the path, what path are you referring to?

Mr. Jones answered that the path is in the plat. He showed a picture of the plat and explained that a path is in the middle that leads from the building to Charlton Street.

Mr. Evans asked that at the present time, 336 Barnard has not been submitted to the condo declaration.

Mr. Jones answered that the declaration dates from September 9, 2019, and there are sections as shown in the appendices and he has more pictures of it if Mr. Evans would like to see them.

Mr. Evans asked Mr. Jones: therefore, it has not been submitted to the condominium regime at this point and time?

Mr. Jones explained that 336 Barnard has not been submitted. The only argument here is that in meeting the possibility test, it is entirely possible for them to conform with this Ordinance. They can do a lot of different things on this property; but one of them is certainly, a couple of them are options that would meet the terms of the Zoning Ordinance.

Mr. Evans asked Mr. Jones if he was saying that the declarant on 123 West Charlton Street shares common ownership with 336 Barnard.

Mr. Jones answered yes. Brad Baugh is the declarant; basically, he is the sole member of the Vanira Gardens LLC. He is also the sole member of 336 Barnard and, therefore, he controls both the actions of the declarant under the declaration condo. Therefore, he can decide to make a decision and he can decide what to do with 336 Barnard, which he is also the sole member.

Mr. Evans asked Mr. Jones that when he suggests that it would be possible for 336 Barnard to have frontage access to West Charlton Street, that is either by virtue of submission to the condominium at the discretion of the current condominium association or the declarant or negotiating an easement with that owner to cross the condominium property. Is this the two possibilities?

Mr. Jones answered that these are the two possibilities; the latter one being, that if additional property is not added to the condo.

Mr. Evans stated that either way, it requires some discretion of the current owner of the 123 Charlton

Street condominium regime.

Mr. Jones answered not the owner, but the declarant. This is what is interesting. The provisions are very explicit. There is an incredible amount of power. The declarant has had the property for seven years. They can do all sort of things. So, it is a large degree of power.

Mr. Evans said those declarant's rights are freely allegiant. Mr. Baugh could sell or assign that at any time. Is this correct?

Mr. Jones answered that he does not have an answer to that question as to whether Mr. Baugh can sell them or not. He also did not know why that is particularly relevant here.

Mr. Merriman informed Mr. Evans that maybe he needs to hold his discussion until they have their Board discussion. There will be much input between now and the Board discussion. He believes the obvious remedy is that if the subdivision of the lot made it unbuildable according to the Ordinance, the proper channel would have been to apply for a variance to that Ordinance. Therefore, if the variance was approved, allowed entrances to be situated differently than required by the Ordinance, but this was not done.

Ms. Jarrett said that she did not want to muddy the waters and, certainly, she does not want to encourage development along these lines, but doesn't Charleston have houses that face opposite of where the street is? They have their entrances on the side. Wouldn't this resolve this problem?

Mr. Jones asked Ms. Jarrett if she meant Charlton.

Ms. Jarrett said she was talking about the City of Charleston.

Mr. Jones said the City of Charleton has a different designation.

Ms. Jarrett replied that she understands, but she was not going there. All she was trying to say is, isn't it possible to put the entrance facing Charlton and have a sidewalk going out to Barnard Street?

Mr. Jones answered yes. The plat actually shows this. You can see the path that leads to Charlton Street and through the courtyard. there is a path.

Ms. Jarrett said if they wanted to stay on their own property, could they make a sidewalk from their front door out to Barnard Street?

Mr. Jones answered that it is here already. It has a little zig in it. You would have to go slightly diagonal towards Charlton Street and then zig back a little bit.

Ms. Jarrett said the lines on the map were very unclear to her. It is where the subdivision is and what she is looking at in SAGIS shows that there is a rectangular area and if they had their front door facing Charlton Street, they could put a sidewalk out there and get to Barnard Street.

Mr. Jones said "yes."

ZONING ADMINISTRATOR COMMENTS

Ms. Bridget Lidy, Zoning Administrator and Director of Planning and Urban Design for the City of Savannah came forward. Ms. Lidy stated that she appreciated the presentation, but she wanted to go to the information they received and made their decision. She wanted it to be clear that within the Zoning Ordinance, Section 3.22, there is a section called "Written Interpretations." This deals specifically with the City of Savannah's Zoning Administrator [who is her] being able to interpret City Code based on the provisions which says the "City Manager and/or his/her designee shall be authorized to make all interpretations concerning the provisions of this Ordinance as needed. The City Manager may concur with the Planning Director [which would be the MPC Director or MPC Staff] when rendering an interpretation. Interpretations include, but are not limited to Text Amendment Ordinances, Zoning Districts and Boundaries; and uses that are not permitted or listed in the Ordinance." The Zoning Administrator shall render a written interpretation within three days of receiving the request and the

Zoning Confirmation Letter that verifies factual information, relative to a specific property shall be considered as an interpretation of the Zoning Ordinance. The City Manager or his designee shall be responsible for zoning confirmation letters. The final action of a written interpretation may be appealed in accordance with Section 3.23." Ms. Lidy stated this is why they are here today. As a part of this process, there is no requirement that you have any public dialog; public meetings, or anything when interpreting the Zoning Ordinances according to this section of the Code.

Ms. Lidy said as Mr. Jones articulated, in September 2019, the lot was subdivided; December 2020, Part I Height and Mass was approved with conditions. Those conditions had to do with going back into Part II Design Details. Within the context of Part I Height and Mass, it included the demolition of a noncontributing building, one-story structure. The proposed four-story building as a single-family residence; not an accessory dwelling unit, not as an accessory structure. It also included a one-bedroom apartment on the portion of the first floor, accessed from the lane. In August 2022, Part II, Design Detail, was presented to the Review Board. At that time, many questions came up. This triggered the generation of a Zoning Confirmation Letter, specifically to look at the Section 7.8.10 (g). regarding 336 and the orientation of the entrance on the north-south street, which is Barnard Street, versus the east-west street of Charlton.

Ms. Lidy said the regulatory requirements, which were highlighted by Mr. Jones, specifically in the Ordinance the two items that they are looking at are Section B. which states that tithing blocks - "building on a tithing block shall locate its primary entrance to the front, to front the east-west street." There is also a provision "G" that says, "if none of the above conditions apply, the building entrance shall be consistent with contributing buildings within the context." This is determination that the Zoning Administrator made in her office due to the subdivision of this lot, the primary entrance cannot be located on the east-west streets. There is no frontage on Charlton Street for this property to have an entrance. So, therefore, the condition of the tithing block does not exist. They went ahead and applied letter "G." With that being said, Letter "G" looks at buildings that are in the context of the area and they went ahead and looked at those buildings. Ms. Lidy said they looked at the building to the south at 334 Barnard Street, which was constructed in 1890. This property faces Barnard Street, and it is within the Pulaski Ward area, which is similar to where this subject property is located. They also looked at Whitaker Street. Two parcels are here. One was constructed in 1852 and the other in 1910. Both of these structures are considered contributing, and both are located in Pulaski Ward; they face north-south streets.

Ms. Lidy said they moved further south down Barnard Street and looked at Chatham Ward. A structure is here at 414 Barnard Street, which was constructed in 1880. This structure faces the north-south street. They also looked further on Barnard Street and there are two additional properties located on north-south streets; one was constructed in 1852 and the other in 1882. This is in Calhoun Ward. They branched out and looked at Abercorn Street and found another property that was constructed in 1914. She said as the Board can see in the rear of the tithing lot facing Abercorn Street and Layette Ward near the Cathedral. Two other properties across the street from the Cathedral, also constructed in 1888 are considered contributing structures and face Abercorn/Tattnall south street. Ms. Lidy said that Bull Street is the final example that she has. She said that once again, on the rear of the tithing lot, constructed in 1856, a contributing structure that faces the north-south street.

Ms. Lidy reported that in reference to the interpretation of "shall" that when they look at the language in the Ordinance with the letter "b," abounding on the tithing block shall be located at the primary entrance to front east-west streets, the way they look at "shall" only applies to the extent that compliance is feasible. In this particular circumstance, they felt compliance was not feasible; therefore, they applied the letter "g". Ms. Lidy said this concluded her presentation. She entertained questions from the Board.

Mr. Merriman asked Ms. Lidy since putting the emphasis as the Ordinance states was not feasible, why this matter was not referred to the Zoning Board of Appeals for an application for a variance instead of just making a determination.

Ms. Lidy answered that they were asked to make a determination, and they did so. Based on their assessment, they felt as though there was no variance that was needed based on the examples that she highlighted as well as the way the Code is written.

Ms. Jarrett asked if any effort was made to contact the National Park Service to see what the implication

might be to our landmark status?

Ms. Lidy answered no. They have examples that show where the entrances are on the north-south streets.

Ms. Jarrett asked, but you have no examples of recent construction? Do you have examples from the time it became a Landmark District?

Ms. Lidy stated that there are plenty of examples. She has a list of approximately 130 properties that she can share with the Board that highlight where they have properties that face the north-south streets. One is dated 1915.

Ms. Jarrett asked if any of the properties were built after the time that it became a Landmark District?

Ms. Lidy answered "sure." They have one on Houston Street, built in 2014. If the Board wants to see it, she will enter it in the record as evidence. She said she was also entering information as evidence that was from the Review Board that was compiled by the MPC Staff and the Historic Preservation Department.

Mr. Merriman asked Mr. Lotson if he had something he wanted to read into the records?

Mr. Lotson answered that he had two items. One is that he wanted to respond to the question of variance in case there was any additional thoughts about this. He explained that in his opinion, this request would not have been viable via the Zoning Board of Appeals. This is not something that would have fallen under the purview of the Zoning Board of Appeals to make it a variance to the location of the entrance on that property, because that is not a measurable development standard. Also, he was going to ask staff to come back to the podium to discuss some of the correspondence they received prior to this meeting that was not mentioned in the first presentation.

Mr. Merriman stated that many times when people are not able to easily comply with the requirements of the ordinance, they come for a variance. He asked Mr. Lotson why would this request not be subject to a variance?

Mr. Lotson explained, in an answer to Mr. Merriman's question, because the location of the doorway that is in question, is not something that would fall under the purview of this Board. It is not a development standard in terms of the measurable development standards in the Zoning Ordinance that the Zoning Board of Appeals has purview over.

Ms. Jarrett asked Mr. Lotson if he could tell the Board how this subdivision happened. Is this going to continue? Are they going to end up with more of these?

Mr. Lotson explained that under the current subdivisions' regulations, similar subdivisions could take place.

Ms. Jarrett asked if this would be the approval process?

Mr. Lotson stated that in this case, it was considered a minor subdivision. So, this is a "staff level review." This gets reviewed by both the MPC staff, as well as the City of Savannah staff.

Ms. Jarrett asked if the Board could look at Minor Subdivisions in Landmark Districts.

Mr. Lotson said that there has been a lot of discussion about that issue since this petition came forward. A stakeholder group met recently. He believes conversations will be held with the City as a result of this.

Ms. Lidy informed the Board that a meeting was held last week. It was a good meeting. They are anticipating a letter from the stakeholder group in order to proceed in possibly looking at making some alternative arrangements for the subdivision process.

Ms. Paul-Leto said some letters of support were attached to the agenda for the appeal. Also, letters were submitted late on yesterday. Some letters were also received this morning. These letters were not

published to the agenda, as they arrived after the agenda was finalized. A letter was received from Mr. Jeff Morgan

Ms. Jarrett said she saw on the agenda that it says letter of support for the appeal and then it says letter to the ZBA opposing 336. Which ones supported the appeal and which ones opposed the appeal?

Ms. Paul-Leto said all the letters are supporting the appeal process.

Ms. Jarrett asked how many of the letters were opposing the alignment of the house? How many were opposing the building?

Ms. Paul-Leto said a lot of them were talking about the design, against the design, and the entrance of the subdivision. Some of the letters did not speak about the appeal, but they were responding to this item.

Mr. Merriman said the Board would now enter the public comments section.

Attorney Yellin said he wanted to make a presentation.

Mr. Merriman informed Attorney Yellin that he would be given time to make his comments.

PUBLIC COMMENTS

Mr. Merriman said the question before the Board is whether or not the determination by the Zoning Administrator was in error or if it was made correctly. He asked the public to limit their comments to this question. They are not here to discuss any other thing. The Board has no purview over any other part of this. Mr. Merriman said everyone will be given only three minutes to speak. There are a lot of people here who want to speak.

Mr. Merriman asked the public to please keep their comments decent and in order.

Mr. Lotson informed the public that some of them sent information to staff prior to this meeting; if they have something to present, let staff know and they will pull up the information.

The following persons came forward and either spoke in support or in opposition of the appeal:

Ms. Susan Arden-Joly stated that she is a former resident of Pulaski Square. She knows this ward and area well. and has been involved in historic preservation since the days of Lee Adler when she was an intern for him in the Landmark area. Most recently she has served and worked with Mr. Christian Sottile at St. John's Church. They own property on Pulaski Square. She said she was present to support the appeal for all the reasons that have been identified. She was pleased that the ZBA is hearing this appeal. It is one out of the four appeals. She has not read the facts of all the appeals, but she did read one of the others. It appeared that there was a deliberate misunderstanding of the basis for that appeal, and this is why it was blocked. Ms. Arden-Joly thanked the Board for their work today. She also represents the Oglethorpe Plan Coalition.

Ms. Anna Habersham Wright resides at 126 West Taylor Street. Ms. Wright said that Ms. Lidy is claiming total control in interpreting these Ordinances in an arbitrary manner and dilutes their authority aside from the fact that they are being done in quiet. She said her parents bought 128 West Jones Street, across the street from the subject property, in 1965 as part of Historic Savannah's very successful attempt to save Pulaski Square. Her aunt also bought a house across the street. Shortly, after that, they got the National Historic Landmark status. So much work has gone into this fabulous accomplishment of Savannah being as beautiful as it is now. By no means should they allow this arbitrary destruction of these Ordinances. Ms. Lidy brought a troubling justification of just randomly dragging buildings all over the City and using them as a justification for this very specific site is a complete sabotage of the whole concept of the National Historic Landmark District.

Mr. David Peterson resides at 344 Barnard Street stated that he lives immediately to the south of this property. He has been a city engineer and does not know all the technical details regarding the zoning. It sounds like it is not about the mass and scale of the building, which they have no opposition to or where

the entrance should be. But he can tell them that their entrance on Barnard Street makes it fun to live on this street, which he believes is really important. They talk to their neighbors daily as they pass by their street. They get to know people because the entrance is there.

Ms. Sabrina Nagel said she lives on the block of 336 Barnard Street. Ms. Nagel said she is in support of the appeal. A few of her neighbors were not able to attend the meeting today, but wanted it known that they support the appeal against this development. The persons supporting the appeal are **Mark Hill, who lives on West Charlton Lane, Melanie Mirande lives at 350 Barnard Street; Jeff and Lynn Morgan of 112 West Jones Street, also sent a letter to staff; Kyle Dwyer of 106 West Jones Street; Darren Bryenton and Vance Peacock of 120 West Jones.**

Ms. Ardis Wood resides at 321 East 55th Street stated that past decisions to ignore the Oglethorpe Plan do not justify continuing to do this again. Ms. Wood said that two wrongs or 120 wrongs do not make right. She said her understanding of the language of the Oglethorpe Plan dictates that tithing lot homes shall face east-west streets. The rear of these homes shall have space for outdoor gardening, beyond which secondary buildings shall be two-stories. The first level shall be for carriages, not cars and the second floors for modest affordable residences. The proposed residence on this secondary lot is 33 percent more than the Code permits. What exists in the Code today is that the overall height of a building and the height of an individual components of a building are structured shall be visually compatible to the contributing buildings and structures to which it is visually related. No longer will the corner house have a little courtyard space, a carriage house, and garage with a small one-story living space above. It will have no connection to the lane, which is vital for the corner lot owners.

Mr. Vance Peacock of 120 West Jones LLC, owner of 120 West Jones Street and his carriage house shares Charlton Lane with 336 Barnard Street which, is the property in question today. Mr. Peacock said he is a native of Savannah and also was a captain for Pulaski Square. He said he does not know the owner of 336 Barnard Street, nor its developer, or its investitures, but they appear to be getting special treatment from the Zoning Administrator and the MPC. One has to ask the question, why is the Zoning Board and the MPC working to compromise their historic district, further threatening the National Park Service designation for Savannah. This could eliminate tax credits and lower property values. What does it take for the Zoning Board and the MPC to perform their duties of applying the laws equitably and prudently to preserve the integrity of the Historic District.

Mr. Paul Cobet lives at 531 East Perry Street, which is a tithing block that qualifies for a subdivision. He believes what they really need to be focusing on is the fact that, based upon the approval of this development, the National Park Service [NPS] threw a "yellow" flag on the playing field. They basically told them that they were not being a really good steward of the Landmark Historic District. They have the opportunity to draw a line in the sand and pay attention to what the NPS is saying, as they are the ones who grant historic status, and they can revoke historic status. They have had warning letters before. Therefore, to continuing to base decisions to grant or to approve projects based upon a litany of exceptions that have already been granted is a slippery slope, and at some point, if they do not draw a line in the sand, and continue that downward path, we will lose our historic status.

Ms. Kathy Ledvina said she is a resident of the Downtown Historic District. She supports this appeal and supports the other three appeals. She is hoping that, in the name of "transparency" these will be presented to the Zoning Board of Appeals. She is not a resident of Pulaski Square; however, what happens here will happen in Troup Square and will continue to happen throughout the National Landmarks District.

Attorney Harold Yellin came forward and said that he was representing the owner of 336 Barnard Street. He asked to be given a few more extra minutes. He said that Mr. Baugh has agreed to him using his minutes as well.

Mr. Merriman informed Attorney Yellin that he was not sure of what he has said. They are speaking as members of the public and, therefore, they get three minutes as everyone else.

Attorney Yellin stated that Mr. Jones was given a long time to present his appeal.

Mr. Merriman said that Mr. Jones is the applicant.

Attorney Yellin said he understood, but there are a number of things that he needs to address. Attorney Yellin said as the Zoning Board of Appeals is aware, the MPC approved this property in 2019 and Height and Mass was approved in 2020. At that time, the property fronted Barnard Street. There was no appeal of their Part I - Height and Mass. The Historic District Board of Review approved Part II on September 14. In approving the design of the single-family residence, the Historic Preservation staff agreed with the Zoning Administrator and the only issue before the Board today is "did the Zoning Administrator err in her determination. "

Attorney Yellin said he would go to the Ordinance. He said that the Ordinance must be based on the plain language before the Board and not based on what Mr. Jones or anyone else would like for it to say. Subsection "B" says, and the Board has seen it, subsection "G" says, and the Board has seen it. The only access for this parcel is to a lane, and under the Ordinance, a lane is not a street. He believes that the Board knows this. The nearest street is Charlton Street. They cannot go to Charlton Street as they do not have access and they do not front on Charlton Street. Therefore, condition B does not apply. Mr. Jones believes that subsection B are the "shall" trumps the "shall" of subsection G. Attorney Yellin said in his trade, he commonly uses words such as "notwithstanding anything to the contrary," or "notwithstanding the foregoing." He said, this Ordinance says if none of the above conditions apply, the building entrance "shall" be consistent with contributing buildings within the context. Attorney Yellin said this is exactly what they did. Somehow, what he is hearing from both the appellant and other members of the audience is that they should be required to build a carriage house on this lot and that they are prohibited from building single-family residential on Barnard Street. It is true that a lot of people prefer a carriage house, but he has scoured the City Ordinances and there is absolutely no requirement that they "must" build a carriage house on this land. To the contrary, there are 162 buildings on tithing lots with a primary entrance on a north-south street. This is not his map, but the map of the Preservation Director and her staff.

Attorney Yellin said; therefore, he would submit that the appellant's reading of the City's Ordinance is not only inconsistent with the plain language of the Ordinance as being consistent with a pattern of contributing buildings in the Historic District. He said to Ms. Jarrett's point, you will see at the bottom, these buildings were built in the 1700s; 1800; 1900s; and in 2000, Mr. Jones is certainly aware of this pattern; 162 buildings are his, or perhaps an affiliated company of his. This is what is in his petition of several months ago or his building that faces Habersham Street. This, of course, is the street view of his carriage house that faces the north-south street right behind the Berrien House, which incidentally he did a magnificent job of renovating it beautifully. It was outstanding. But it begs to issue because he does not show the Board the Oglethorpe Plan. He shows you the evolution of the Oglethorpe Plan. The Berrien House faces Broughton Street; and the carriage faces Habersham Street.

Mr. Merriman informed Attorney Yellin that his five minutes presentation time has expired.

Attorney Yellin explained that **Dr. David Gobel** was unable to be present. For the record, Attorney Yellin said he was submitting Dr. Gobel's resume. He said also for the Board's review, he was leaving Dr. Gobel's conclusion that at the end of lot, every tithing row also has frontage on a north-south street, and they have an opportunity for a third direction. He said the Board could look at the highlighted sections, but the wanted to make a final comment. Attorney Yellin said he believes that everything he has discussed so far is before the Board. But maybe the reason they are here is the issue that is not before them, which is "subdivision." Whether this lot should or should not have been subdivided in the first place, but he would submit to the Board that this property was subdivided; it was legally subdivided. It was approved by the Planning Commission; it was approved by the City Engineer; and it was approved by the Executive Director of the MPC. With that subdivision comes fundamental property rights that simply cannot be taken away. If the issue is let's not subdivide anymore, that is beyond the purview of what you are doing today. Let's create a new text amendment; let's amend NewZO; let's say that tithing lots cannot be subdivided. But the petition before the Board today, is a legally, subdivided lot of record.

Attorney Yellin said he respects Mr. Jones, he has exercised his right to appeal, and he respects that right. But Mr. Jones has the burden of proof. He has to prove an error on the part of the Zoning Administrator in reaching her findings; and he has not proved that case.

Mr. Christian Sottile thanked the Board for his being here and he was pleased to have an opportunity to share additional background and facts about the project. Mr. Sottile said they have been working on this

project for more than two years and it has been fully approved by the Historic District Board of Review unanimously for Part I - Height and Mass and Orientation. He said recently, it concluded for the Part II - Design Details. The appeal that is before the Board today is somehow an attempt to reverse the approval of the design.

Mr. Sottile said what he would like to do is really focus on the one question about the north-south entrance. He said the discussion is about whether a building should have a front door. This is what brings them here this morning. With that in mind, he has to make a few remarks about that question and the pattern of the Oglethorpe Plan. Mr. Sottile said as an urban designer, as an educator, and as a practitioner, he has dedicated his entire professional career to defending the Oglethorpe Plan. His work in Savannah goes back more than 20 years when he worked closely with the City to update the Calibra, the Height Development Map, and later worked with the City again very careful on new standards to regulate large scale developments with the districts. Mr. Sottile was proud to say that they authored the first language in the Historic District Ordinance that explicitly spells out preservation of the Oglethorpe Plan. The City Plan is unquestionably a resource; but to honor it, they must respect its latest complexity and the lessons it offers as a living city. Corner lots within the Oglethorpe Plan have naturally developed with a wider range of building patterns. There is a natural diversity created in corner lot conditions due to the fact that they have frontage on both east-west and north-south streets. Historic maps taken anywhere throughout the Historic District display this pattern clearly.

Mr. Sottile said the map example from 1916, they can see buildings fronting north-south streets in every instance and circle. This is not a bad thing; it is a very good thing. It means that our streets and sidewalks are activated with building entrances, rather than blank walls. So, the staff at MPC as you have seen have done some hard work recently to document this. This map shows more than 160 examples. They talk about integrity, but with the Oglethorpe Plan you have to look at it for what it is. Mr. Sottile said that he cannot show the Board all the buildings, but he has to say, that if they accept the premises of what they have been hearing today, then what they are saying is that they have been doing this wrong for a very long time. Mr. Sottile said this is very upsetting to him as an urbanist and as a professional here in Savannah. This building for example, they have been doing it wrong since the 1700s. He said he learned this listening to opposition. Buildings that they have come to know, and love built during the 18th and 19th centuries on into the 20th century have apparently not gotten the memo about the Oglethorpe Plan. Some of the finest buildings in the City are apparently not good enough anymore. In fact, within recent meetings, he heard that if these buildings were to burn, they should not allow them to be replaced. This includes some grand public buildings that they just saw. Those are simply simple residential buildings. This one is actually a very good example because it is nearly identical to the building that they have been working on for two years on Barnard Street,

Mr. Sottile said apparently that is not correct. The independent Church is really a fine building, but apparently, they now have to rethink it. The building on Abercorn Street; a building on Whitaker Street; and a building on Barnard Street. He said in fact, within eye distance of their sight, double trouble here. He said as was noted earlier, their next-door neighbor, another building that he has always admired; it is unfortunate. Another massing example very similar to their new structure; another and another.

Mr. Merriman reminded Mr. Sottile that he has used four minutes of his time.

Mr. Sottile thanked the Board and said that some people made important decisions in these problematic buildings. He said their local contact this year is a one-story building. He pointed out that it has an entrance on the north-south street already. They might just assume that common sense would lead them to say that "of course it does." He said he appreciated the time he had to share the information with the Board, and he believes that the Ordinance makes perfect sense as written. They have applied for no variances and no exceptions. Mr. Sottile said he was in the room when the Ordinance was written, and he knows what it means. Section "G" is for this very thing. There is no way possible to document the layers of complexity in the Oglethorpe Plan. This is why it is so good! This why they have to write a clause like "G" so that they can continue to allow it to be good. They try to document every layer of complexity in the Plan, they would have a 400-page document, which they tried to do when they spent a year working on the Ordinance 12 years ago.

Mr. Sottile said he appreciated everyone's time, clear thinking, and common sense. He entertained questions from the Board.

Mr. John Brown stated that he supports the appeal that Mr. Jones presented. It seems like a lot of the argument here is in favor of building this house; in the past, it has been buildings that face in the wrong direction. They have the precedence, but there needs to be a time when they stop this as it is now becoming a problem. Not only because of the Historic Landmark District, but parking problems. Mr. Brown believes they need to say this is enough. Things are done behind closed doors, and one or two persons say it is okay. Why are they not informed about what's going on? So, let's put a stop to this. There is just one simple thing, turn it down; you can't build it.

Mr. Merriman invited Mr. Jones to respond to the public's comments.

Mr. Jones stated that a great deal of the public comments was in support of the appeal. He believes this was a constructive dialogue. This shows the importance of this group bringing this to light. He said Mr. Sottile brings up the fact that this is a living city, it has changed a lot, and yes, there are a lot of magnificent buildings that violate the Oglethorpe Plan; that's true. But Savannah is a little unique and maybe it is not the way that Mr. Sottile or others want it, but in 1966 a designation was based largely on the Oglethorpe Plan and the extent to which areas outside the original four squares echoed the Oglethorpe Plan and it is repeated over and over throughout the designation. Mr. Jones said, however, this is a different type of designation than Savannah's designated to landmark because it has greater buildings and has an incredible history in it, such a vibrant and interesting city. This is not the type of designation that Savannah has whether it was right or wrong, is something that is too late to debate. This all happened in 1966. So, if they want to keep their status, they keep it according to the guidelines in the original designation, which means they have to protect the Oglethorpe Plan and the pure Oglethorpe Plan, not the altered plan.

Mr. Jones said the "P.S." which interprets this designation has made it clear. On page 52 of the 2018 Report, it warns them about filling the voids between principal buildings and rear lane buildings. So, while Mr. Sottile's position theory is a theory they are contemplating; it is not the one they got before them. They cannot use that theory because the designation is based upon a very strict, old Oglethorpe Plan theory. This also means that all these wonderful pictures and buildings that have their doors on the north-south street are existing. As they saw in the statute for entrances and doors, there is a totally separate section for existing buildings, and this is why. Then, there are much stricter standards for new construction. Why? Mr. Jones said it is because new construction is under the severe restrictions in order to protect and restore the Oglethorpe Plan. The designation actually talks about "restoring the Oglethorpe Plan." They are stuck in the 66 designations; therefore, all of these comfortable, interesting theories worth known, but are just not relevant to what they are addressing there. It is not relevant with Ms. Lidy's analysis because she is using those comfortable under the assumption that you fall under "G," that "catch all" phrase. The comfortable is not relevant under section "B." Mr. Jones said that Section B is just terribly clear that if you are in a titling block, you "shall" locate your entrance on the east-west street.

Mr. Jones said Ms. Lidy also relied on the interpretation of the "shall" clause. It is not being mandatory but being subject to this possibility test that she can use to nullify the provisions of the law; and that is not in the law. He said that Ms. Lidy also talked about the October 17 meeting, which was very productive. There was agreement upon all of the stakeholders of what the next step should be. But what's the point of changing the law if Ms. Lidy's office can just nullify it and come up with these closed-door interpretations of the law that renders it meaningless for her favorite developers. Then, there is this general theory that bad things are justifying more bad things. This would be like saying there were 48 murders in Savannah last year; therefore, 50 or 60 would be fine this year. It is a silly argument, and it is inconsistent with the designation.

Mr. Jones said he agrees with Mr. Yellin that today they are not talking about height and mass. They are not talking about a lot of issues; they are not talking about subdivisions. He said that Attorney Yellin's arguments go to this possibility test, which is so complicated that they spent a lot of time arguing about what it meant. Nobody knows what this possibility test is or what the standards are. It is not even in the Ordinance. So, frankly, they should cast it down as it creates a can of worms. Mr. Jones explained that Attorney Yellin said a carriage house is being required. They are not requiring a carriage. He is sure that Mr. Sottile is very capable of designing a fantastic building on this lot that could conform with the Ordinance and it does not have to be a carriage house. It could be a single-family house, but it just has to respect the Ordinance. He said that Attorney Yellin recited 162 buildings. Bad stuff just defines more bad stuff that assumes that this Section G applies, which they argue that it does not. If that revision is theory, then that is not the theory that the designation is based on. Mr. Jones said that Attorney Yellin cites his carriage house. He said "yes" absolutely, his carriage house has a door on the north-south street. It is an example of one of those buildings that did not follow the Oglethorpe Plan. It is quite a "Hodge Podge." Mr. Jones said but, in a way, it does follow the Oglethorpe Plan because it actually has a main entrance on the courtyard. There is that additional entrance on the side. It does face the east-west street. Why do carriage houses have this? It is because if you are going out to the carriage house in the middle of the night, you are not going to walk to the north-south

street and enter the carriage. You go out the back door of your main house and go into the door of the carriage house that faces the courtyard. In a way his carriage house is actually an example of where the main door actually faces the front house, east-west. Mr. Jones said under subdivision - it does give you fundamental property rights. But it gives you fundamental property rights within the law. Just because you subdivide does not mean that suddenly you are exempt from the provisions that are in question here today. Mr. Jones thanked the Board.

BOARD DISCUSSION

Mr. Merriman explained that they are now entering Board Discussion. At this time, there will be no more testimonial or public comments.

Mr. Condon said he believes that some articulate spokespersons have presented with the Board for the last two hours. He thanked them for doing so. Mr. Condon believes that many people have unfortunately overlooked the scope of what the Board has to look at today. It is limited to just one thing. Did the Zoning Administrator make a mistake?

Mr. Condon said in looking at what the Zoning Administrator uses for the criterion for making her decisions, it is completely obvious to him that she is not property and someone to be able to have a side entrance going to take into consideration, while maybe this could happen or that could happen, maybe the guy could ask for permission to walk to another person's side entrance. The reality is she has before her a question that she must answer based on information that is provided to her and the facts as she understands them; not whether or not the same LLC owns both parcels. One has nothing to do with the other. To tell the absolute truth, after having listened to everything, he can see no mistake that the Zoning Administrator made interpreting the rule based on the Ordinances as is currently written. Therefore, as a result of that, he can certainly feel for folks who are worried about overdevelopment and this type of thing he gets it. But this is not what they are here to talk about. They are not allowed to venture into that. They are here to speak about just that one thing. He believes the Zoning Administrator acted correctly. He does not see any mistakes on her part.

Mr. Plunk said he believes that there are a lot of pressing matters that have been brought to this Board's attention today. He adds his voice to the weight of those who say that clearly something needs to be done on some of these subdivisions' issues on some of these other issues that have been brought up repeatedly throughout the last two hours. But at the end of the day, even the letter from the National Park Service is ultimately irrelevant to the issue before them as to whether or not Ms. Lidy erred in her judgment.

Ms. Jarrett said she disagrees with her colleagues. She said she guesses she has spent enough time in Charleston to know that there are other ways that they could have constructed this house. She feels like the Ordinance does use the word "shall" and that should have been taken into consideration. Ms. Jarrett said she believes the bigger error here, though, is the fact that they subdivided the tithing block and created the situation that is before them.

Mr. Merriman said he agrees with Mr. Condon and Mr. Plunk in that there is one question before them. That question is whether or not the determination was in error. But he agrees with Ms. Jarrett that it specifically says, "this is a tithing lot," then it applies. Regardless, there is nothing else to consider. It is a tithing lot. The Ordinance says the entrance should face a certain way. Not well it can't be, or the situation was created when it was subdivided is not before them. If the Ordinance says a certain, there is no reason that it cannot be complied with.

Mr. Merriman called for a motion.

Motion

The Savannah Zoning Board of Appeals hereby deny the petitioner's appeal request pertaining to the decision made by the Zoning Administrator for property located at 336 Barnard Street.

Vote Results (Rejected)

Motion: Michael Condon

Second: Stephen Plunk	
Stephen Merriman, Jr.	- Abstain
Karen Jarrett	- Nay
Hunter Hall	- Nay
Michael Condon	- Aye
Larry Evans	- Not Present
Stephen Plunk	- Aye
Betty Jones	- Nay

Motion

The Savannah Zoning Board of Appeals does hereby approve the applicant's request.

Vote Results (Approved)

Motion: Karen Jarrett

Second: Betty Jones

Stephen Merriman, Jr.	- Abstain
Karen Jarrett	- Aye
Hunter Hall	- Aye
Michael Condon	- Nay
Larry Evans	- Not Present
Stephen Plunk	- Nay
Betty Jones	- Aye

Motion

Board Discussion Before Motion:

The Board further held additional discussion to clarify their decision.

Mr. Merriman asked, "where does this go from here?" Do we send it back to the Review Board? The more guidance that we can give, the less controversial and confusion there will be down the line.

Mr. Condon said they need to send it back to the Review Board so they can address the entrance issue.

Ms. Jarrett said yes, the issue that brought this whole problem to a head. She believes the goal is to move the entrance to this side of the building.

For further clarity, Mr. Lotson said he believes what the Board is considering now, is an additional motion to remand the petition back to the Review Board for the purpose of reconsidering the entrance location based on the denial of the Zoning Administrator's letter. He believed that based on their motion, the letter was in error, and, therefore based on that, would like the Review Board to reconsider the location. Mr. Merriman said maybe Ms. Jarrett's motion needs to be for it to go back to the Review Board for reconsideration in light of the

determination by this Board. Ms. Jarrett said that sounds good to her. Mr. Merriman said the motion is to remand this back to the Historic Review Board to be reconsidered in light of the determination by the ZBA.

MOTION:

The Savannah Zoning Board of Appeals does hereby remand the petition for a Certificate of Appropriateness for 336 Barnard Street back to the Historic District Board of Review, to reconsider the decision regarding the position of the entryway, based on the findings of the Savannah Zoning Board of Appeals.

Vote Results (Approved)

Motion: Karen Jarrett

Second: Betty Jones

Stephen Merriman, Jr. - Abstain

Karen Jarrett - Aye

Hunter Hall - Not Present

Michael Condon - Aye

Larry Evans - Not Present

Stephen Plunk - Aye

Betty Jones - Aye

XI. Other Business

XII. Adjournment

9. Adjourned

Mr. Merriman said December 2022 is coming very fast. He stated that he has enjoyed serving as Chair of the ZBA and is willing to serve another term. If anyone wants to serve as Chair or wants to nominate someone, they will hold nominations next month. Election will be held in December.

There being no further business to come before the Zoning Board of Appeals, Mr. Merriman adjourned the meeting at 12:15 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.