



## City of Savannah Zoning Board of Appeals

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Arthur A. Mendonsa Hearing Room  
August 24, 2023 - 9:00 A.M  
Meeting Minutes

### AUGUST 24, 2023 SAVANNAH ZONING BOARD OF APPEALS

Members Present: Stephen Merriman, Jr., Chair  
Michael Condon, Vice Chair  
Karen Jarrett  
Betty Jones  
Armand Turner - Arrived at 10:38 a.m.

Member Absent: Larry Evans  
Stephen Plunk

MPC Staff Present: Edward Morrow, Development Services Director  
Melissa Paul-Leto, Development Services Planner  
Mary Mitchell, Administrative Assistant  
Hind Patel, IT Helpdesk & Support

Virtual Attendance: Pamela Everett, Esq., Assistant Executive Director, Compliance & Operations

City of Savannah: John Anagnost, Zoning Plans Examiner

#### I. Call to Order and Welcome

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

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

**Mr. Merriman** called the meeting to order at 9:03 a.m. He explained that this is a quasi-judicial proceeding. All those wishing to give testimony during these proceedings were asked to please sign in. They were sworn in by Mr. Merriman. He explained that all proceedings of the Savannah Zoning Board of Appeals are recorded. Decisions of the Savannah Zoning Board of Appeals are final. Challenges to the decisions of the Savannah Zoning Board of Appeals must be filed through the Superior Court of Chatham County.

#### II. Invocation and Pledge of Allegiance

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

The Invocation was given by Mr. Merriman. The pledge of Allegiance was recited in unison.

#### III. Notices, Proclamations and Acknowledgements

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

**V. Item(s) Requested to be Withdrawn**

**VI. Approval of Minutes**

[3. Approve July 27, 2023 Meeting Minutes](#)

📎 [July 27, 2023 Meeting Minutes.pdf](#)

**Motion**

The Savannah Zoning Board of Appeals does hereby approve the July 27, 2023, Meeting Minutes.

**Vote Results ( Approved )**

Motion: Michael Condon

Second: Betty Jones

Stephen Merriman, Jr. - Abstain

Karen Jarrett - Aye

Michael Condon - Aye

Betty Jones - Aye

Armand Turner - Not Present

**VII. Approval of Final Agenda**

[4. Approval of Final Agenda](#)

**Motion**

The Savannah Zoning Board of Appeals does hereby approve the Final Agenda.

**Vote Results ( Approved )**

Motion: Michael Condon

Second: Betty Jones

Stephen Merriman, Jr. - Abstain

Karen Jarrett - Aye

Michael Condon - Aye

Betty Jones - Aye

Armand Turner - Not Present

**VIII. Consent Agenda**

**IX. Old Business**

**X. Regular Agenda**

[5. 216-218 West 43rd Street | Variance to the minimum interior side yard setback | 23-003969-ZBA](#)

📎 [Application.pdf](#)

📎 [COA - HPC May 25, 2022.pdf](#)

📎 [Registered Agent - Andrew Altfest.pdf](#)

📎 [ZBA DRAWINGS.pdf](#)

📎 [Staff Report - 23-003969-ZBA.pdf](#)

**Ms. Melissa Paul-Leto** gave the staff report. The Applicant is requesting a variance to allow a proposed duplex to have side stoops on each side of the two units which would encroach into the required minimum (interior) side yard setback of 3-feet to a 0-foot side (interior) yard setback at 216-218 West 43rd Street.

**Ms. Paul-Leto** gave the background for this request. There was a two-story duplex, that was constructed circa 1916, which previously existed on this property; however, the building was recently demolished because of extensive fire damage. The Applicant received a Certificate of Appropriateness from the Historic Preservation Commission on May 25, 2022 (22-002121-COA) approving for new construction, Small (Parts I and II) attached townhouses at 216-218 West 43rd Street. The plans submitted had the side porches for both units that encroach into the minimum 3- foot interior side yard setbacks. She said what is existing now is a vacant lot. There are currently two vacant lots located within the local Streetcar Historic District and within the TN-2 Traditional Neighborhood. Each parcel is 1,800 square feet in size and has a lot width of approximately 72 feet. The subject properties face West 43rd Street and are located between Jefferson and Barnard Streets. Each townhome is proposed to have a projecting bay with an open gable roof and a full width front porch. A side porch is proposed to function as a secondary form of ingress and egress for each dwelling unit. The side stoops are the reasons for the variance request.

**Ms. Paul-Leto** showed the Board the existing site plan containing the two parcels. She also showed the Board the proposed site plan showing where the stoops will be located. The stairs will be going to the rear yard and front yard. Ms. Paul-Leto showed the Board the elevation plan. Entrance to one unit will be on the right and the entrance is on the left for the other unit. A little overhang is here on the right and left side; this is where the stoops will be. She pointed out where the stairs would be located. The side stoops will be under three feet. She showed the Board how the stoops will look from the rear elevation.

**Ms. Paul-Leto** explained that the requested variance is consistent with the Ordinance and the Comprehensive Plan. The request is not injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare. The variance seeks to maintain a secondary ingress/egress by having a side porch/stoop with stairs to the front and rear yard on each side of the two units. There are no special conditions that are peculiar to the land buildings or structures involved. The Applicant could position the stoops toward the rear of each of the dwellings. However, the site plan is showing a proposed design where HVAC equipment and trash bins will be located and a parking space for each dwelling unit.

**Ms. Paul-Leto** said that the literal interpretation of the regulations would result in undue hardship of the Applicant as a variance is required to construct the side stoops for a secondary egress/ingress. The variance if granted would not confer special privileges that are denied to similar properties with the same zoning district. Other residences located within the TN-2 zoning district would be required to follow the TN-2 development standards or apply for a variance to the standards such as the Applicant has done.

**Ms. Paul-Leto** reported that based upon the variance criteria, staff recommendations approval for a variance to allow for a three-foot reduction of the three-foot side interior yard setback to construct a porch/stoop for units 216 and 218 West 43rd Street on each side of the dwellings. Ms. Paul-Leto entertained questions from the Board.

**Ms. Jarrett** asked if the Applicant could not put the stoops in the back.

**Ms. Paul-Leto** said her comment is that they could, but based on the proposed design, they have placed the HVAV equipment and the trash bins there.

**Ms. Jarrett** asked if the Building Code Officials and the Fire Department have looked at this. One of the stoops looks really close to the adjacent house.

**Ms. Paul-Leto** said the Applicant would be able to answer Ms. Jarrett's question.

**PETITIONER COMMENTS**

**Mr. Josh Ward of Ward Architectural Preservation** thanked Staff for their review and recommendation. Mr. Ward said that in response to Ms. Jarrett's question, the lots are 20 feet wide, which the design of the floor plans are almost like shotguns where you have room to stack on one another. They have the bedroom on the first floor. They are trying to avoid having to put the entry on the back to go into the bedroom. They are trying to avoid this and have a side entrance that goes into the kitchen, so that when they pull into the driveway, they can go straight into the kitchen. This is why it is located on the side. Mr. Ward entertained additional questions from the Board.

**Mr. Condon** said the Applicant chose to do a side-by-side duplex on a 20-foot lot as opposed to garden-style duplex on a 20-foot lot. He explained that historically when you were on lot lines, many of the houses here in Savannah as the Applicant knows have recessed entrances. He asked Mr. Ward what would prevent them from bringing recessed entrances on the side rather than bringing porches out to the 0-lot line?

**Mr. Ward** answered that they looked at this. They would be required to have a landing at the stairs. Sometimes, recessed entrances would have stairs straight to the door. But this required landing, which would take away interior floor spacing for the kitchen, they opted not to do this because it would impact the floor plans.

**Ms. Jarrett** asked if the Fire Department or the Building Official have said anything about this.

**Mr. Ward** answered yes, they have.

**Ms. Jarrett** asked if they are okay with this.

**Mr. Ward** answered that they wanted to see the approval from this Board first.

**PUBLIC COMMENTS**

No one was present in the audience or online.

**BOARD DISCUSSION**

**Mr. Condon** explained that he is not a fan of zero lot line building. He does not believe that this makes sense. They are dealing with a ground house style duplex on a 20-foot-wide lot. He agrees with Mr. Ward that they are trying to squeeze an awful lot into this. He believes this is the wrong choice. If there was an upstairs and a downstairs situation, they could still put a duplex together. It just does not have to be shaped like this.

**Mr. Merriman** entertained additional discussion from the Board. As there was no further Board discussion, he entertained a motion.

**Motion**

The Savannah Zoning Board of Appeals does hereby deny the request for a variance to allow for a 3-foot reduction of the 3-foot side (interior) yard setback in order to construct a porch/stoop for units 216 and 218 West 43rd Street on each side of the dwellings.

**Vote Results ( Approved )**

Motion: Michael Condon

Second: Karen Jarrett

Stephen Merriman, Jr. - Abstain

Karen Jarrett - Aye

Michael Condon - Aye

Betty Jones	- Aye
Armand Turner	- Not Present

[6. 909 Whitaker Street | Variances to the Accessory Structures and Uses Ordinance | 23-004004-ZBA](#)

☞ [Application.pdf](#)

☞ [HPC COA Approval 23-003030-COA Dated July 26, 2023.pdf](#)

☞ [10. SIGNED\\_Text Amendment to Revise Building Measurements\\_For Accessory Dwelling Units\\_File-no.22-005883-ZA.pdf](#)

☞ [Sotitle & Sottile Shearer Residence Updated July 5th, 2023.pdf](#)

☞ [Variance Recommendation Request - 909 Whitaker Street Carriage House.pdf](#)

☞ [Additional Information - 909 Whitaker Street.pdf](#)

☞ [Letters of Support.pdf](#)

☞ [Staff Report - 23-004004-ZBA.pdf](#)

**Ms. Melissa Paul-Leto** gave the staff report. The Applicant is requesting to construct a two-story carriage house at the rear of the property located at 909 Whitaker Street. The ground floor would be a three-car garage. The existing primary dwelling unit faces Whitaker Street. She showed the Board a picture of the property. Carriage houses are on the left and right. She showed the Board a picture of the boundary survey of the principal dwelling and the rear yard. She explained that the Applicant proposes that the ground floor will be a three-car garage, while the upstairs would be an accessory dwelling unit. The proposed design would require the following variances to the ADU Ordinance:

- Allow an accessory dwelling unit to exceed 700 square feet to 972-square feet in size.
- Allow the accessory building to exceed 15-feet in height. In this case it would be proposed as 25 feet in height. The Ordinance requires that if you go over 15-feet, you must have 15-feet of a rear property line, but only if you are abutting a lane. Whereas this is not a lane in the rear yard, it is Howard Street that faces the rear yard.

**Ms. Paul-Leto** gave the background summary of this property. The parcel is located within the National Register Historic District, West Victorian Historic District Neighborhood. The TN-1 zoning district and the Victorian Historic District. The principal building was constructed in 1899 and is a contributing building to the district. Historically 1888, the site first had a two-story stable at the rear of the property along Howard Street. The principal building did not exist at that time. By 1898, Sanborn Map, the principal building appears and the caption states "being built." The stable remained. In 1916, the stable had been replaced by a two-story auto building with a small shed to the south. In 1953, a one-story auto building replaced the small shed. In 1966, the Sanborn Map shows that the rear of the site was vacant with all buildings having been demolished. On May 25, 2023, the Mayor and Aldermen adopted the Amended Section 8.7 of the Accessory Structure and Uses of the Zoning Ordinance.

**Ms. Paul-Leto** said the Applicant submitted their HPC application on June 7, 2023. On July 26, 2023, the Applicant received a Certificate of Appropriateness (COA) from the Historic Preservation Commission. Approval for the new construction, Parts I and II for a two-story garage, two-story carriage house at the rear of the property with variance recommendations. The ground floor is a 3-car garage, while upstairs is an accessory dwelling. She said that as the Board can see, you enter, there will be a three-car garage; there will be gates to each side; and there is an interior staircase that will bring you upstairs to the accessory dwelling unit.

**Ms. Paul Leto** stated that the Applicant is now seeking variances to construct the proposed two-story carriage house. The first variance request is to allow for an accessory dwelling unit to exceed 700 square feet. Section 8.7.4d in the AUD Ordinance states "accessory dwelling units shall be a maximum of 40 percent to the building footprint of the principal dwelling or not to exceed 700-square feet. The Applicant meets the 40 percent by 34.9 percent. However, they exceed the 700 square feet. The second variance is to allow the proposed accessory building to exceed 15 feet in height per Section 8.7.4h (iii) states "any portion of an accessory dwelling unit over 15 feet be in height, shall be located at least 15 feet from a rear

property line that does not abut a lane. Ms. Paul Leto said that the proposed accessory dwelling unit would be 25 feet in height and located within the subject properties rear yard. There is no lane that abuts this property. The rear yard faces Howard Street. She pointed out to the Board the properties that face Whitker Street Ms. Paul-Leto showed the Board the level two floor plan for the accessory dwelling unit. which will have an interior staircase, living room, kitchen, bedroom, bathroom, and closets. She explained that when you exit the rear end of the principal dwelling unit, you will see the carriage house. On the other side elevations and when you are on Howard Street, you will see the rear elevation of the carriage house.

**Ms. Paul-Leto** said going over the variance criteria, the proposed accessory dwelling unit is not injurious to the neighborhood or otherwise detrimental to the public, health, safety, or welfare. However, the proposed design is not consistent with the Ordinance related accessory structures. The proposed design does not meet the requirements of Section 8.7.4. There are no special conditions and/or circumstances that exist on the property which are peculiar and or applicable to other lands, buildings, or structures in the same TN-1 Zoning District. She said that arguably, the newly adopted ADU provisions of the Zoning Ordinance are inconsistent with the historic development patterns and previous development standards. The present conditions are related the actions of the Applicant. The Applicant applied with architectural plans for new construction for three car garage and a second-floor accessory dwelling unit with variances required.

**Ms. Paul-Leto** said the literal interpretation of the regulations could produce undue hardship for the Applicant. The request is arguably consistent with the historic pattern of development in the area; and is consistent with the intent of the Preservation Standards applicable to this property. Should the Board choose to approve the request, it is unlikely to be injurious to the neighborhood character.

**Ms. Paul-Leto** reported that based on the development standards of Section 8.7.4, the Staff recommends denial of the requested variances to ADU square footage and height. However, should the Board choose to approve the requested variances, they are unlikely to be injurious to the neighborhood character as they are consistent with the historic pattern of development. She entertained questions from the Board.

**Mr. Merriman** asked Ms. Paul-Leto that the accessory dwelling units to either side of this property if they were built today, would they fit the Ordinance as written or would they also require a variance?

**Ms. Paul-Leto** said they would require a variance as well.

**Mr. Merriman** asked that the height of the proposed accessory dwelling unit, is it still below the height of the main structure?

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

**Ms. Paul-Leto** said twelve letters of support were received.

**Ms. Jarrett** asked what the height of the proposed accessory dwelling is.

**Ms. Paul-Leto** answered 25 feet.

**Ms. Jarrett** asked if the other accessory structures on Howard Street are at this height or higher.

**Ms. Paul-Leto** answered that they are higher.

**Mr. Merriman** asked what the spirit behind the height requirement and the connection with the setback requirement is. What is the thought on this?

**Ms. Paul-Leto** answered that this is a good question. She believes it based more on the rule or more like a subdivision type location, such as RSF zoning district, etc. where you have a larger rear yard setback where you can meet the 15 feet.

**Mr. Merriman** asked if it is based more on visual compatibility or site line.

**Mr. Morrow** answered that he believes it may be based more on a privacy concern with regards to

limiting the ability to look over. He explained that if you have a street and an accessory dwelling unit is right on the edge, potentially you could be creating a situation where people are able to look into other people's homes. In essence, you will be right next to the property line. The property lines in this area are fairly close. There may be a privacy concern there, but nonetheless, it is still consistent with the development pattern in the area.

**Ms. Paul-Leto** asked Ms. Leah Michalak, Historic Preservation Director, to please come forward and give the Board information on the HPC's approval.

**Ms. Michalak** came forward and expressed that the HPC recommended approval to the ZBA for approval of the variances. The HPC's recommendation is based on the historic development pattern of the area. This proposed building is consistent with the historic development pattern. She believes, however, that the new ADU Ordinance could use some tweaking in the historic areas to be more consistent with the historic development pattern.

### **PETITIONER COMMENTS**

**Mr. Christian Sottile**, architect for the new carriage house, thanked the Board for their time this morning. He stated that Ms. Jennifer Shear, owner of this historic property, was accompanying him at today's meeting. This is a unique property as it has frontage on two streets, Whitaker Street and Howard Street. It does not have a lane nor an internal property line. Ms. Sottile thanked the staff for their review. This is somewhat a complex issue; he believes that some of it is because this is a recently amended Ordinance that has not been fully field tested. He said that they respectfully request that the two variances be approved. They are looking at an inconsistency and a brand-new Ordinance. This is the only reason they are here this morning. The amended ADU Ordinance was rightfully created to address adding units in more suburban neighborhoods and other new developments throughout Savannah. However, this Ordinance does not work in all ways in the historic core districts where there really was no issue. Mr. Sottile said that in residential density and building placement, is already very much part of the historic pattern. There is certainly a well-established historic building pattern throughout the district, throughout the neighborhood, in fact on this very site.

**Mr. Sottile** stated that the project is located on Howard Street. It adds an additional unit to a property that would otherwise be entitled to four units based on the parcel size, and there would be no limit to the size of those units. It is also a two-story building located on Howard Street, identical to every other building on the block. He said that in fact, it is shorter than every other building on the block. Clearly, there appears to be a disconnect here between the reality of a 200-year-old part of our City and a two-month-old Ordinance. Mr. Sottile said they are asking for relief from this inconsistency and from literal interpretation.

**Mr. Sottile** said that the Historic Preservation Commission realized this immediately. After reviewing the project and recommending approval, they needed to go back to the HPC one more time due to this amended Ordinance to seek their recommendation for the variances. The Preservation Staff reviewed the Ordinance criteria and recommended approval. The entire HPC then further reviewed the project and the variances that were being requested; and they unanimously recommended that the ZBA approve those variances as a procedural matter. He said that the residents of this neighborhood are aware of this project. Some are even scratching their heads as to why they are here this morning, to his knowledge there is one in opposition to the project. He believes that the Staff mentioned that there are 12 letters of support for this.

**Mr. Sottile** said he just wanted to show the Board a few visuals to help clarify this and show the Board the facts of the location, the form, scale of this structure, and the historical context of the map. Mr. Sottile showed the Board a map of all the adjacent neighboring structures and the location of the approved structure. He pointed out that as the Board could see, on Howard Street, every building on this block and as a matter of fact, every building on Howard Street is built up to Howard Street and comes to the rear property line. Therefore, to set the building back 15 feet would not be appropriate. As a matter of fact, they would not be able to have an approval project if it was setback as such because it would not be visually compatible. He said that the Board could also see in the map, the height of the contributing buildings along Howard Street. The Board sees two stories and three stories. Mr. Sottile explained that he had several photos that illustrate the conditions here. He showed the Board the adjacent properties. There are two story residences on front, Howard Street, 909, 911, and 913. Two story carriage houses

are next door at 906 Howard Street and a three-story residence is just beyond that on Howard Street. He showed the Board the infill site for the two-story carriage house and adjacent across the street, another two-story residential fronts onto this street, The other next-door neighbor is a two-story carriage house on the front at 916 Howard Street, which is literally adjacent to the property. Also, in the Victorian District just one block to the north, three-story residences are on the street front. New carriage houses have recently been built in this district. Two-story carriage houses front the street in the adjacent block. They have studied this site more carefully with Staff on applying the facts of the neighborhood and the design process.

**Mr. Sottile** explained that it appears that the hardship of this new Ordinance imposes and prohibits the common rights and patterns that are appropriate for the site. In fact, Staff's research found that the site had two carriage houses on it, both were built up to Howard Street. Two buildings were built to the corners of the property at Howard Street, historically on the site as was mentioned, the Historic Preservation Commission Staff reviewed the other project in detail architecturally and for sighting placement. They unanimously recommended approval to the Zoning Board of Appeals of these two standards as the zoning criteria are met. He said he could go on and go into further detail, but he respectfully asked that the Board rely on the literal interpretation as being unfair in this instance. Mr. Sottile asked the Board to approve these two common sense variances. He believed that the language says that the literal interpretation of the provisions of the regulations "would deprive the Applicant's rights commonly enjoyed by other properties in the same zoning district and would result in unnecessary and undue hardship on the Applicant."

**Mr. Sottile** thanked the Board for their time and service to the community. He entertained questions from the Board.

### **PUBLIC COMMENTS**

**Ms. Jennifer Shear** said she is the owner of the property. When she bought the house four years ago, it was a "hot mess." It took her basically three years to fix it. She knew she needed to put a carriage house in the back, but she needed to prioritize the main house to ensure that it would not fall. Ms. Shear explained that she started this process with Mr. Sottile in September of 2022. They worked on the design, talked with the neighbors to ensure that everyone was cool with it and for 95% of the time they worked on the project, it was appropriate and met all the rules. Mr. Sottile worked with the HPC Staff for two months prior to the Ordinance being changed. Everyone is for this, and it was working, then he was asked to provide a submittal. Unfortunately, it was provided seven days later after the City changed the rules.

**Ms. Shear** said she cannot build a carriage house back there that meets these rules. It would not be historically appropriate. She cannot get it through HPC, and it would look silly if it was only 15 feet tall. She would lose the apartment above completely if she tried to do that; it would be just garages and that would not make sense. Ms. Shear said she would really appreciate it if the variances were approved. She believes this would help Howard Street look better. As the Board saw from the pictures, her place looks silly when compared to the other carriage houses on the street. Ms. Shear respectfully requested that the Board grant their request.

### **BOARD DISCUSSION**

**Mr. Merriman** called for a motion as the Board had no further questions.

#### **Motion**

The Savannah Zoning Board of Appeals does hereby approve the variance request to allow an accessory dwelling unit to exceed 700 square feet to 972 square feet, and to allow the accessory building to exceed 15-feet in height within 15-feet from the rear property line, resulting in a 0-foot rear yard setback rather than a 15-foot rear yard setback and a 25-foot-high accessory dwelling unit.



**Vote Results ( Approved )**

Motion: Michael Condon

Second: Karen Jarrett

Stephen Merriman, Jr. - Abstain

Karen Jarrett - Aye

Michael Condon - Aye

Betty Jones - Aye

Armand Turner - Not Present

[7. ROW Setback Variance Request | 74 Rio Road](#)

📎 [Staff Report 74 Rio Rd.pdf](#)

📎 [74 Rio - Carport setback variance\\_1.pdf](#)

📎 [SITE MAP 23-003613-ZBA.pdf](#)

**Mr. Edward Morrow** gave the Staff report. The Petitioners are requesting relief of 29.75' from the Savannah Zoning Ordinance requirement that front yard accessory structures for marsh adjoining properties be located at least 50' from the public right-of-way. The subject property is 0.63 acres in area and adjoins marshland to the south and east. The parcel is developed as a single-family home that was constructed in 1986 and has 2,488 square feet of heated floor area.

**Mr. Morrow** explained that based on the plans the Petitioner has submitted, they intend to construct an open-air carport that is approximately 23.5 feet on each side, with a total area of 553 square feet. As the Board can see as shown on the screen, it is expected to cover an existing concrete pad. In a view looking down Rio Road, the Board can see how far the proposed structure would be from the right-of-way. The distance is approximately 37 feet and 11 inches. This would be sufficient for the 29.75' from the 50 feet requirement. He said in looking at the Zoning Ordinance criteria and evaluating the request for a variance with regards to the consistency, while this request is unlikely to be injurious, it does exceed the Ordinance required limitations for front yard structures as New ZO does actually anticipate that there will be front yard structures for those parcels that are adjoining marshland. Regarding special conditions, the subject property does arguably have a slightly shallower front yard than some others that are located nearby.

**Mr. Morrow** said the literal interpretation of the provisions of regulations could possibly have the effect of depriving the Applicant. While there are likely some viable design alternatives that remain, it appears that some previously designed choices have a limited position of making this request. Nevertheless, it is unlikely to be injurious. There is one other property along Rio Road at the end. It has a front yard accessory structure that appears to have five feet or less setback from the public right-of-way. Staff is unsure of the year that this structure was built. Nonetheless, it does remain consistent with the development pattern in the area.

**Mr. Morrow** reported that based upon the above, Staff recommends approval of the requested variance, He entertained questions from the Board.

**PETITIONER COMMENTS**

**Mr. Clif Cooper**, owner of the property, explained that there is an existing concrete slab at the driveway. This is what dictated the location that they chose. A tree line buffer is on the setback side of it. Therefore, it is somewhat segregated from the neighbors. It is visually setback from the roadway. It does not encroach on the side.

**PUBLIC COMMENTS**

No one was present in the audience or online.

## **BOARD DISCUSSION**

The Board was in agreement with the Staff recommendation.

**Mr. Merriman** entertained a motion.

### **Motion**

The Savannah Zoning Board of Appeals does hereby approve the variance request for a front yard accessory structure for marsh adjoining properties to 29.70-feet instead of the required 50-feet from the public right-of-way at 74 Rio Road.

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

Motion: Betty Jones

Second: Karen Jarrett

Stephen Merriman, Jr. - Abstain

Karen Jarrett - Aye

Michael Condon - Aye

Betty Jones - Aye

Armand Turner - Not Present

## **8. 1402 East 49th Street | Variance to the minimum side yard and street side yard setbacks | 23-003943-ZBA**

📎 [Application.pdf](#)

📎 [Przybyl Residence - Detached Garage.pdf](#)

📎 [Site Plan.pdf](#)

📎 [Variance Request Documentation.pdf](#)

📎 [Site Visit.pdf](#)

📎 [Staff Report - 1402 East 49th Street - 23-003943-ZBA.pdf](#)

**Ms. Melissa Paul-Leto** gave the Staff report. The Applicant is proposing to construct a detached garage to be located within the rear yard setback and the street side yard setback. The proposed design would require the following variances:

Allow for a reduction to the 5-foot setback to an accessory building to 0-foot setback.

Allow for a reduction to the side (street) yard setback from 10-feet to 2-feet setback.

**Ms. Paul-Leto** showed the Board a picture of the principal dwelling unit facing 49th Street. The corner side is on Ash and 49th Streets. Currently, there is an existing carport with an existing concrete pad. The Applicant wants to demolish the concrete pad and add a new structure that would be a new two car garage. He wants to have storage for his outdoor equipment. She showed the Board the site plan. There would be a 0-foot side yard setback and because it is a street side, they are supposed to have a 10-foot setback; however, the Applicant said that it would be a 2-foot setback. Ms. Paul-Leto said shown in "red" is the existing footprint of what the Applicants have now, the carport, which is the existing concrete pad. They want to demolish this and create a larger pad so that they will have more room for storage and a two-car garage. The garage will be enclosed. They will have room for trash bins to the rear of the detached garage. The Applicant has stated that they will have more room for the rear yard because of the location, whereas if they were allowing a five-foot setback and a ten-foot setback, the Applicant states that the rear yard would be diminished. Ms. Paul-Leto showed the Board an aerial view of property.

**Ms. Paul-Leto** explained that the Applicant provided a map showing the accessory building, which is shown by the red shapes, denotes the existing accessory buildings that are on the 0-lot line. The blue star denotes where the second property is located. This property is located in the RSF-6 zoning district.

They have a property of 36,300 square feet in size. A one-story brick house is located here that is approximately 1,428 square feet and an existing concrete pad, measuring 306 square feet with a carport over the concrete pad. The carport is an existing nonconformity with a 0-foot side yard setback against East 48th Lane and a 0-foot setback for the street side setback. Ms. Paul-Leto restated that the Applicant intends to demolish the existing carport, concrete pad, and construct a 546 square foot concrete pad to place a detached garage for two vehicles and a storage room for outdoor equipment. They will be expanding the nonconforming footprint by 240 square feet and will keep the 0-foot side yard setback and the 2-foot street side yard setback which is currently in place today.

**Ms. Paul-Leto** said based on the variance criteria, the requested variance is not consistent with the Ordinance for accessory buildings. The required setback for an accessory building in the RSF-6 zoning district is 5 feet from the rear and side setbacks. The Applicant is proposing an enclosed detached garage to have a 0-foot setback against a lane that is measured 16 feet in width on a corner lot. There may be several accessory buildings that are built along the zero-foot setback line from East 48th Lane. However, this Lane is a place where City garbage trucks go through and retrieve trash from residents' trash bins. There may be enough room for a garage truck to turn into East 48th Lane from the subject property. The fact is that the subject property is located within the RSF-6 zoning district and should comply with the development standards therein. There is no hardship for the variance and there is no reason why the Applicant could not meet the development standards to this setback as there is sufficient space to do so. There are no special conditions that exist. The property owner is demolishing the existing concrete pad and carport and has a desire to place a newly constructed concrete pad with an enclosed detached garage within the same nonconforming setbacks as what is presently here. Ms. Paul-Leto said the literal interpretation of the regulations would not deprive the Applicant of rights commonly enjoyed by other properties within the RSF-6 zoning district. There may be several accessory buildings along the subject block and adjacent blocks, which have a 0-foot setback line to East 48th Lane. The majority may have appeared without a building permit or prior to New ZO. Any other accessory buildings with no setback line would have to go through the same variance process that the subject process is requesting.

**Ms. Paul-Leto** reported that based on the variance criteria, Staff recommends denial for the requested variances to allow for a reduction to the 5-foot setback to an accessory building to 0-foot setback and to allow for a reduction to the side street yard setback from 10-feet to a 2-foot setback.

**Mr. Merriman** asked Ms. Leto if the increase in the footprint from what is there now to what they want to do all happens inside the yard. Everything else will be put back to where the existing structure is presently. Correct?

**Ms. Paul-Leto** explained that the red area shows what exists now with the carport. They are demolishing this and expanding it in their rear yard.

**Ms. Jarrett** said she was curious as to how the neighbors responded or whether there have been any responses from the neighborhood.

**Ms. Paul-Leto** said she has not received anything supporting or opposing the request.

### **PETITIONER COMMENTS**

**Mr. Nicholas Przybyl** came forward and stated that he believes he submitted with the application all the adjacent properties that surround him. The neighbors signed a petition supporting their request. He believed that one neighbor did not sign the petition. She is an elderly lady, and he did not want to get her out of bed. She lives across the street, not directly next to him.

**Mr. Przybyl** explained that the accessory structure is not going back exactly where it presently is. He is sitting it back two feet further because of the incline of his yard. He wants to prevent more runoff. If you look at his street, there is a lot of erosion runoff into Lane. He wants to flatten his driveway a little so that there is not so much erosion into the Lane.

**Mr. Merriman** asked Mr. Przybyl if he would be intruding into this yard further than he is now.

**Mr. Przybyl** answered yes, by two feet. This is why he is trying to avoid a full setback. It decreases his

yard to less than 700 square feet. His house was set so far back when it was built. All the other neighborhood houses are built forward; but his is built at least 30 feet further back on his lot than most of his neighbors. His back yard is small for two children. His dogs have a small amount of greenspace. Mr. Przybyl said he is trying to avoid the front yard, corner lot safety hazards there.

**PUBLIC COMMENTS**

None.

**BOARD DISCUSSION**

The Board had no further questions.

**Mr. Merriman** entertained a motion.

**Motion**

The Savannah Zoning Board of Appeals does hereby approve the variance requests to allow for a reduction to the 5-foot setback to an accessory building to 0-foot setback, and to allow for a reduction to the side (street) yard setback from 10-feet to 2-feet for property at 1402 East 49th Street.

**Vote Results ( Approved )**

Motion: Karen Jarrett  
 Second: Betty Jones

Stephen Merriman, Jr.	- Abstain
Karen Jarrett	- Aye
Michael Condon	- Aye
Betty Jones	- Aye
Armand Turner	- Not Present

[9. ADU Minimum Lot Size Variance | 1018 E Gwinnett St](#)

[☞ Staff Report 1018 E Gwinnett.pdf](#)

[☞ SITE MAP 23-004007-ZBA.pdf](#)

**Mr. Edward Morrow** gave the staff report. Mr. Morrow pointed out that on the screen, a condemned house was shown. A tree is in the backyard where the existing condemned Accessory Dwelling Unit (AUD) is located. The Petitioner, represented by Joshua Yellin, is the owner or potential purchaser at 1018 East Gwinnett Street. The subject property is requesting the re-establishment of an ADU. The Zoning Ordinance Sec. 8.7.4b requires a minimum lot area of 125% of that required by the zoning district for construction of an accessory dwelling unit on a given parcel. The subject property being 3,300 square feet is conforming within its zoning district, however, it is 450 square feet short to have an accessory dwelling unit by right, Therefore, the Petitioner is requesting a variance to reestablish the use on the property.

**Mr. Morrow** stated that the parcel is developed as a 2,080 square foot single-family home that was originally constructed in 1920. It has a 600 square foot rear yard accessory dwelling unit that was constructed in 1930. Both structures are condemned. The subject property is not within a historic district. He explained that New ZO stipules that any nonconforming accessory dwelling unit that is not in continuous use for one year shall lose its nonconforming status. Therefore, this petition is before the Board requesting the use because the accessory unit is no longer conforming and cannot be used. A site plan was not provided; the request is only seeking relief from 8.7.4b. This leads Staff to believe that all other standards regarding accessory dwelling units are set by 8.7.4b would be met on the forthcoming site plan.

**Mr. Morrow** said in evaluating the criteria for granting of a variance regarding general consistency. The request is consistent with the intent of the Ordinance as this section explicitly states that this standard shall be variable. This parcel previously contained an ADU which demonstrates that having an accessory dwelling unit here is not injurious to the neighborhood character. There are no special conditions relevant to this property. He said the literal interpretations would not deprive the Applicant of rights enjoyed by other similar situated properties as the previous ADU was legally nonconforming and was allowed to lose that status. Nonetheless, the Board has been given that power to determine where re-establishment of this use is permissible beyond the Ordinances by-right establishment. This is the minimum variance required. This variance is required to establish an ADU, although it is not required to make reasonable uses of the subject property as the future owner or builder could develop a single-family home here. He said the variance if granted would not confer the Applicant with any special privileges.

**Mr. Morrow** reported that the Staff recommends approval of the requested variance. He entertained questions from the Board.

**Ms. Jarrett** asked if there are any parking issues here.

**Mr. Morrow** answered that unfortunately, Staff did not receive a site plan. But, under the site plan review, a dwelling would be required to provide that at least one off-street parking space. However, accessory dwelling units do not require additional parking.

### **PETITIONER COMMENTS**

**Attorney Joshua Yellin** said the building has fallen. Mr. Knowles, his Applicant, a former building inspector from Atlanta, GA, recently bought the property. He is trying to rehabilitate the property back to the state it originally was. However, when he started to work on the rear parcel, he was alerted by City Staff that this was a nonconforming accessory dwelling unit and that he could not do anything to it without getting permission from the Zoning Board of Appeals. He thanked Staff for their recommendation to approve their variance request. They do not have a site plan and could not say that they would not be back for future variances. This is just the first step in this process. They just wanted to be sure that they could reinstate the ADU use. They may need to come back to the Board for a lot coverage variance depending on the size of the ADU. Attorney Yellin said currently they are unsure, but if the Board sees him again for this petition, it will be for the site plan issues.

**Attorney Yellin** said to address Ms. Jarrett's question concerning parking not currently provided on site, with his conversation with Mr. Knowles, his intent is to create a more modern accessory dwelling unit. that will have garage parking with a unit above as opposed to a 600 square foot one story shack in the back of the property. They think this is relatively straightforward. He said that they have the option of either petitioning for reinstatement of a nonconforming use, which would limit them to the building as shown on the screen or a variance to lot coverage. They looked at the lot size and it would allow them to go up and address the parking issue. Attorney Yellin respectfully requested that the Board approve the variance as recommended by Staff.

### **PUBLIC COMMENTS**

None.

### **BOARD DISCUSSION**

The Board agreed with the Staff recommendation.

**Mr. Merriman** entertained a motion.

#### **Motion**

The Savannah Zoning Board of Appeals does hereby approve the variance request to allow relief from the NewZo Sec. 8.7.4b establishing a minimum lot area of 125% of that required by the zoning district for construction of an accessory dwelling unit on a given parcel for an ADU to be 450 square feet short of the

Ordinance's required minimum lot area at 1018 East Gwinnett Street.

**Vote Results ( Approved )**

Motion: Michael Condon

Second: Betty Jones

Stephen Merriman, Jr.	- Abstain
Karen Jarrett	- Aye
Michael Condon	- Aye
Betty Jones	- Aye
Armand Turner	- Not Present

[10. Rear Setback Variance | 104 Calm Oaks Circle](#)

📎 [HOA Approval.pdf](#)

📎 [Staff Report 104 Calm Oaks.pdf](#)

📎 [Encroachment.pdf](#)

📎 [SITE MAP 23-003680-ZBA.pdf](#)

**Mr. Edward Morrow** gave the Staff report. The Petitioners, Richard Kousgaard and Phillip Becher, are requesting rear setback relief of 14 inches from the 20-foot requirement within the RSF-6 (Residential Single-Family – 6) zoning district for the purpose of constructing a screened-in porch. The subject property measures approximately 0.21 acres in area and is part of the Sweetwater Station. Subdivision. The Sweetwater Homeowners Association (HOA) has provided documentation supporting the requested variance. The parcel is developed as a single-family home, built in 2012. It is approximately 1,454 square feet.

**Mr. Morrow** stated that based on the plans that were submitted, the Petitioners intend to construct a screened porch extending east from the rear of the dwelling. The porch is supposed to be about 13 1/2 feet x 16 feet wide, which is close to 216 square feet in area. It will be a common screened in back porch. The RSF-6 zoning district requires a setback of 20 feet. Mr. Morrow explained that the structure will sit on an existing concrete pad, and it appears that it will extend a little bit further; this would leave 18 feet 10 inches from the rear property line. Therefore, the request is for 14 inches.

**Mr. Morrow** said with regard to the variance criteria, the request unfortunately is inconsistent with the intent and purpose of the zoning ordinance. Though, unlikely to be injurious to the neighborhood character. He said regarding the special conditions, there are no peculiar circumstances and there are feasible design alternatives that the Petitioner could seek that would not require a variance, Mr. Morrow explained that the literal interpretation of this section would not deprive the Petitioner of the right to extend their home. There are feasible design alternatives available, and no variance is required to make reasonable use of the property as it is already developed. The variance, if granted, would not confer on the Petitioner any special privileges.

**Mr. Morrow** reported that Staff recommends denial of the requested variance based on the development standards. However, should the Board choose to grant the variance, it is unlikely that it will have significant or negative impact on the neighborhood character, or health safety or welfare of adjoining properties, Mr. Morrow entertained questions from the Board.

**Ms. Jones** asked, for clarity, if the Petitioners were only asking that their rear porch be screened.

**Mr. Morrow** explained that in essence, on the concrete pad, he guessed the Petitioners would set something there. It would be a screened in porch. It will encroach into the rear yard setback by 14 inches. The concrete pad would not be counted against them for these purposes. Once they set the structure on there, a screened-in porch, it will encroach in a way that triggered the need for a variance to allow them to construct the screened-in porch.

**Mr. Condon** said the Petitioners are going to screen in the existing cement pad.

**Mr. Morrow** answered "yes." But they want to place an arch here.

**Mr. Condon** stated again that the Petitioners want to screen in the cement pad.

**Mr. Morrow** answered yes.

### **PETITIONER COMMENTS**

**Mr. Richard Kousgaard** was on-line. Mr. Kousgaard explained that they do not want to have 14 inches of concrete sticking out on the back of their porch as is seen now. If the Board looks at some of the pictures that they have submitted there is nothing but greenspace behind here, it will not impose or intrude on anyone's property. There is only a marsh area behind them, and it is all woods. They would like to enclose the concrete that is already in place so they will not have 14 inches of concrete sticking out for no reason. Mr. Kousgaard explained that there are better pictures that show what is behind them so that the Board would understand that this would not be imposing anything on any other property or anything else.

**Mr. Kousgaard** stated that on the right side of the picture is all wooded area. The SAGIS website shows outposted property. The property beside their fence is a greenspace area that the HOA owns. They support their request and have sent their letter of approval. They are talking about 14 inches, and he does not understand why this would be impeding anybody else's rights.

**Ms. Jarrett** said to be clear, the existing concrete slab is already 14 inches into the setback area. Correct?

**Mr. Kousgaard** answered this is what is measured. correct.

**Mr. Merriman** asked Mr. Kousgaard if he had any additional comments.

**Mr. Kousgaard** asked the Board to please approve their request. There is no impediment or structures behind them. Everything in the back is all greenspaces.

### **PUBLIC COMMENTS**

None.

### **BOARD DISCUSSION**

**Mr. Merriman** said as the Board goes into its discussion, he wanted to say that the Petitioners are asking for 14 inches behind their fence. He does not see a real issue here.

The Board did not have any further discussion.

**Mr. Merriman** entertained a motion.

#### **Motion**

The Savannah Zoning Board of Appeals does hereby approve the variance request to allow a rear yard relief of 14-inches from the 20-foot requirement within the RSF-6 (Residential Single-Family-6) zoning district for the purpose of constructing a screened-in porch at 104 Calm Oak Circle.

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

Motion: Betty Jones

Second: Michael Condon	
Stephen Merriman, Jr.	- Abstain
Karen Jarrett	- Aye
Michael Condon	- Aye
Betty Jones	- Aye
Armand Turner	- Not Present

#### 11. Marsh Buffer Setback Variance | 5 Sherborn Lane

- 🔗 [5 Sherborn\\_Letter of Opposition.pdf](#)
- 🔗 [Attachment C - Encroachment.pdf](#)
- 🔗 [Attachment D - Comparison of Perimeter Lot.pdf](#)
- 🔗 [Attachment E - Comparative Market Value.pdf](#)
- 🔗 [Attachment F - Concept Plan.pdf](#)
- 🔗 [Detailed Explanation.pdf](#)
- 🔗 [Staff Report-23-003946-ZBA-ABM.pdf](#)
- 🔗 [Attachment A - Setback and Buffer.pdf](#)

**Ms. Anna McQuarrie** gave the Staff report. The Applicant is requesting a variance of the City marsh buffer requirement of up to a maximum of 10 feet at various places along the buffer's length for construction of a house with the limitation that the total area of encroachment will not exceed 50% of the total area of that same buffer. The subject parcel is a total of 0.58 acres (25,264.8 square feet) and is located in an RSF-10 (Residential Single-Family-10) zoning district. Ms. McQuarrie said that in her report, she will be talking a lot about wetlands and marshes.

**Ms. McQuarrie** explained that a wetland is low-lying land saturated with water either permanently or seasonally. It has hydraulic swells and vegetation and is a transition zone between land and water. She pointed out that the map shown on the screen would be considered the wetlands. The marsh is a specific type of wetland and is dominated by plants, grasses, shrubs, etc. It grows along the edges of the transition zone.

**Ms. McQuarrie** stated that the parcel is 0.58 acres and backs up to wetlands and marsh. Section 10.5.4b of the Zoning Code requires the following: "Marsh buffers are a minimum of 35 feet and are required along all marsh. As required by O.C.G.A. §12-7- 1, the Georgia Erosion and Sedimentation Control Act, the State buffer is 25 feet and shall be measured from the Department of Natural Resources jurisdictional marsh line as established by Coastal Resources Division in accordance with the Coastal Marshlands Protection Act of 1970. The remaining 10 feet is a local buffer and is measured from the State buffer in accordance with O.C.G.A. §12-7-1 et seq., Georgia Erosion and Sedimentation Control Act."

**Ms. McQuarrie** stated that the Applicants are requesting relief from the local buffer up to an additional 10 feet from the required 25-foot state buffer to make the property more attractive to potential buyers. The lot was originally purchased in 1991 and listed for sale in 2019. There is currently no development on the parcel and the Applicants are requesting a variance with the justification of special conditions, general consistency, and hardship. She explained that the Applicants are not requesting to develop anything on the land, but they are doing this as an incentive for a future buyer. Therefore, any site plan that the Board sees is only a concept plan. The Applicants are hopeful of selling the property and that the variance would make the property more attractive. The 25-foot buffer area is 0.195 acres, and the 35-foot buffer is an additional 0.07 acres for a total marsh buffer area of 0.265 acres. Ms. McQuarrie pointed out to the Board that the blue line is the wetlands; the teal color is 25-foot marsh buffer, which is required by the State, and the red color is 35-foot local buffer. The parcel is oddly shaped and is at the end of the cul-de-sac. There are a few other properties that are in this local buffer, but they were all built in the early 1990s before this local buffer was established. This marsh is established by the Conservation Marsh District. Any actual distances would need to be surveyed.



**Ms. McQuarrie** said the variance is not consistent with the Ordinance and the Comprehensive Plan. The variance seeks to allow the development within the local marsh buffer, which is intended to prevent or minimize possible damage from activities that may degrade, destroy or otherwise negatively impact the value and function of wetlands and marshes, wetland and marshes; wetland and marsh buffers are required. She said that without knowing the site plan, it would be difficult to evaluate. Just giving a variance there could be a different development that would not be consistent and be dangerous to the actual new property owner. She said that while variances have been granted to the buffer, it is, however, difficult to see if it is consistent with the Ordinance or Comprehensive Plan. Further, a wetland variance could be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare when considering the flooding risk.

**Ms. McQuarrie** said the Applicant stated that the marsh has "an exaggerated affect" on the unusually shaped lot." She said, however, the Applicant purchased the property knowing the shape and proximity to the marsh. The property shape has not changed and there are 228 square miles of wetlands in Chatham County per the 2040 Plan. Therefore, this is not a unique or special hardship to this parcel. Many residents in the City and County must deal with wetlands. The Applicant is not at fault for these circumstances caused by the local buffer. However, this buffer was put in place to protect both the marsh and property owners. This application is purely financial in nature for the Applicant to sell the property at a higher value. She stated that the literal interpretation of the regulations would not deprive the Applicant of some material rights enjoyed by the rest of the community, such as the ability to build a larger structure and sell the property at a higher asking price. However, the property does border a Conservation Marsh District and shares more properties as a landscape with that Conservation Marsh District. She said this property is really in the 100-year flood zone and the 500-year. Therefore, it is highly subject to flooding. The marsh buffer will protect future property owners. Most of the other districts are outside of the 500-year flood zone as shown in the light green color. Ms. McQuarrie said it is unknown if the variance is granted, is the minimum variance necessary as they do not have a site plan. The variance, if granted, would confer special privileges that are denied to similar properties within the same zoning district.

**Ms. McQuarrie** said the Staff did recommend going for a side or front yard variance and not intrude onto the wetlands. This recommendation was ignored. If the Board was to approve any sort of variance into the marsh, they recommend that the Applicant work with the City Manager or Staff for a modified wetland or marsh buffer where essentially the buffer would have an altitude 35 feet or give some give and take in different areas. This would primarily be recommended for someone who will be building on the property.

**Mr. Merriman** asked if there is an expiration date on the decisions granted by the Zoning Board of Appeals.

**Ms. McQuarrie** answered yes, one year.

**Mr. Merriman** said after that date, then the Applicant must reapply.

**Ms. Jones** asked the Staff about the letters supporting this variance request.

**Ms. McQuarrie** said a call was received from Mr. Donald Anderson who lives at 12923 Stillwood Drive wanted to talk with Applicant. Mr. Anderson has a vacant lot next to Mr. & Mrs. Knight's property. Mr. Morrow spoke with Mr. Anderson, and he is in opposition. The HOA sent a letter in support of the variance request.

### **PETITIONER COMMENTS**

**Mr. William Knight** came forward and thanked the Board for giving him the opportunity to speak to them on behalf of his variance request. He wanted to clarify a few things. The site plan that Ms. McQuarrie referred to as the concept plan was actually a plan laid out by a surveyor for someone who actually submitted a contract for the property. Mr. Knight said if the Board looked at the lower right-hand corner of the house, it goes directly into the 25-foot buffer. He is not asking to go into the State buffer. As was pointed out, the marsh buffer is to protect the marsh. They all believe that the marsh needs to be protected. But he has not read anything where the City or County has demonstrated that a 35-foot buffer does a better job than a 25-foot buffer. On this house, the section that goes into the 25-foot buffer, the architect could twist the garage and make it fit. Mr. Knight said, however, his point is, that if you allow the

corners of the house to go into the ten feet would affect the size of the house.

**Mr. Knight** said they have had two contracts submitted for the property. Both times, doing their due diligence, they found that the house plans did not fit. The asking price is 80% of what two other comparable houses in the neighborhood sold for. Both were at the time he believed they had their property up for sale. He has not actually done the calculation, but he believes this amounted to \$50,000. He explained that their asking price is \$50,000/something below comparable dollars below of what the other two lots sold for. Consequently, it is not a subjective thing, Mr. Knight said he wanted the Board to understand that where Ms. McQuarrie showed the island encroachment, she threw in the two buffer lines relative to the property line, not the jurisdiction line.

**Mr. Condon** asked Staff to help Mr. Knight pull up the application.

**Mr. Knight** said as the Board can see, this is a 35-foot buffer. These are the 'tie lines." The actual property lines are inside. They can see this also on the concept plan. He said pointing to an area, that when she drew her line, she drew relatively this line. Mr. Knight said the relatively faint line is the surveyor's jurisdiction line. It goes in further than her calculations. When you include the other calculations setback, it probably down to 0.2 acres. out of the 0.58 lot size.

**Mr. Knight** said Ms. McQuarrie in her presentation showed the house, which is adjacent to them; the corner of that house is in that 10-foot buffer. Therefore, they are asking for the same rights that this house was given. He said that Ms. McQuarrie also made mention about flooding by not allowing this. Also, the flood zone was shown, but he cannot understand whether the corner of the house goes into the buffer, is going to impact the neighborhood.

**Mr. Condon** told Mr. Knight that it would be the impact on his house,

**Mr. Knight** stated that he is not asking for a variance flood zone related to the construction line. This would be applied when someone asks for their building permit. In reviewing other cases where people have applied for variances into the County's 10-foot buffer, he has seen that this Board, on multiple occasions has granted a blanket 5-foot into it.

**Mr. Merriman** informed Mr. Knight that he is before the City's Zoning Board of Appeals and not the County's Zoning Board of Appeals.

**Mr. Knight** said he is not asking for 10-foot along the entire buffer. It varies at unknown points. He is asking for a variance at the corners. He said that Ms. McQuarrie said that it is difficult as this may lead to a destruction of a resource and that it is difficult without actually seeing the proposed house plan, Mr. Knight said in reviewing other cases where people have applied for a variance in the County's 10-foot buffer, he has seen that this Board on multiple occasions granted a blanket 5 foot into it along the entire length.

**Mr. Merriman** again informed Mr. Knight that this is the City's Zoning Board of Appeals and not the County's Zoning Board of Appeal.

**Mr. Knight** said he is not asking for 10 feet along the entire length of the buffer. It varies at unknown points. Nobody is going to build a house that follows the conduit of this line. When the subdivision was made, the 10-foot buffer was not in effect. When the engineer layouts a subdivision, they design it where a reasonable house will fit on it. They bought the property in 2012 and a house was laid out that fitted here. As Ms. McQuarrie pointed out, they can build a small house.

;

**Ms. Jarrett** informed Mr. Knight that he can build a larger house. She said Mr. Knight could take the house and wrap it around the back of the marshland and have outstanding views of the marshlands and wetlands.

**Mr. Knight** said this was their original concept, but for most house plans this would require that the house face the side yard of the adjacent property.

**Mr. Condon** asked Mr. Knight if he could offer a suggestion to him. The Staff is willing to work with him to come up with something that will work for his application. The problem is this, if he does not prevail

today, for one year he may not appear before the Zoning Board of Appeals again. This means that a potential buyer may not appear before them again. Mr. Condon told Mr. Knight that his suggestion to him would be to postpone today; ask for a continuance; meet with Staff and work with them on some of the suggestions that Ms. McQuarrie offered during her presentation as to the ways in which this could work better for him.

**Mr. Knight** asked for clarification on the recommendations.

**Ms. McQuarrie** explained that in the recommendations, Staff recommended that should the Board approve the request, that Mr. Knight work with the City Manager to meet the Criteria for Approval in Section 3.10.5.7 for Modified Wetland or Marsh Buffer, Section 3.10.5.7ai.

**Ms. Jarrett** said Mr. Knight's other option is having an architect design a house that fits his lot. When he bought the lot, he knew it was an odd shape. She additionally informed Mr. Knight that he has many potentials that he can incorporate. If he has an architect do a footprint showing how to fit a house on that lot, she believes Mr. Knight's buyers will be much more willing to spend the money.

**Mr. Knight** said he had two buyers. One buyer spent more than \$3,000.00 getting to this point.

**Mr. Merriman** informed Mr. Knight that he would give him two more minutes to wrap up his presentation.

**Mr. Knight** asked is it a modified permit that he is to submit.

**Mr. Condon** explained that the suggestion is that he postpone his application today and ask for a continuance. The Board will then grant a continuation. This will enable him to meet with Staff and come up with another plan.

**Mr. Knight** asked for a continuance.

#### **Motion**

The Savannah Zoning Board of Appeals does hereby approve to continue this petition indefinitely as requested by the Petitioner.

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

Motion: Michael Condon

Second: Betty Jones

Stephen Merriman, Jr. - Abstain

Karen Jarrett - Nay

Michael Condon - Aye

Betty Jones - Aye

Armand Turner - Not Present

## [12. Rear Setback Variance | 216 East Bolton Street](#)

📎 [Staff Report 216 E Bolton.pdf](#)

📎 [Citizen Comment 23-003957.pdf](#)

📎 [216 E Bolton Exhibits.pdf](#)

**NOTE: Mr. Armand Turner arrived at 10:38 a.m.**

**Mr. Edward Morrow** gave the Staff report. The Petitioner is requesting relief from the rear setback requirement established within the TN-1 zoning district. The Petitioner is requesting 6'-6" of relief from the 30-foot rear yard setback for the purpose of constructing a new code compliant rear egress stair as well as an outdoor living space. The new stair will replace a deteriorating non-compliant stair that also

currently encroaches into the rear setback.

**Mr. Morrow** stated that the subject property contains a two-family dwelling (over-under configuration) that was originally constructed in 1897. One dwelling unit is on the first floor and the second is located on the second and third floors of the structure. The subject property is a conforming lot within the TN-1 zoning district. However, the rear egress stair, which he understands is a metal staircase, currently encroaches into the rear setback, leaving a rear setback of 26'-2" where 30' is currently required. The current request would allow an increase in this encroachment from 3'-10" to 6'-6". Therefore, there is a slight increase. The subject property is a contributing structure within the Victorian Historic Overlay District. According to the Petitioner, the proposed stairs would be constructed of wood which is more consistent with the design aesthetic of this Historic District. Mr. Morrow stated that this petition was heard by the Historic Preservation Commission [HPC] on August 23, 2023. The HPC recommended approval to the Zoning Board of Appeals for this request.

**Mr. Morrow** explained that in reviewing the variance criteria, Staff found that the request is somewhat consistent in that it would allow this historic structure to be brought into code compliance. Although, the encroachment could likely be reduced through reduction or elimination of the proposed outdoor living space. The variance is unlikely to be injurious to public health, safety, or welfare. He stated again that the HPC has determined that proposed addition is consistent with the Victorian District design standards. The home on the subject property is a historic structure built in 1897 prior to contemporary life safety requirements. This condition is common to many homes within these historical districts, and many would be expected to require similar treatment to permit current code compliance. Mr. Morrow said the requested variance, however, is not the minimum variance that would be required to bring the home into code compliance due to the addition of new outdoor living space. The literal interpretation could have the effect of producing some degree of unnecessary hardship for the Petitioner. However, a reasonable design alternative with a reduced rear setback encroachment is possible. The variance, if granted, would not confer on the Applicant special privilege that is denied by this Ordinance to other properties within the same zoning districts.

**Mr. Morrow** said in the interest of promoting health, safety, and welfare, the Staff recommends approval of the requested variance. He said, although, they recommend that the Applicant be asked again whether the outdoor living space could be reduced so as to reduce the requested encroachment, Mr. Morrow entertained questions from the Board.

### **PETITIONER COMMENTS**

**Mr. Joseph Willett, Agent for Richard Lane**, came forward. **Mr. Willett** stated that he agrees with the Staff recommendation.

### **PUBLIC COMMENTS**

None.

### **BOARD DISCUSSION**

The Board was in agreement with the Staff recommendation.

**Mr. Merriman** entertained a motion.

#### **Motion**

The Savannah Zoning Board of Appeals does hereby approve the variance request to allow a reduction to the rear yard setback requirement from 6 feet -6 inches from the 30-foot rear yard setback requirement at 216 East Bolton Street.

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

Motion: Michael Condon

Second: Karen Jarrett	
Stephen Merriman, Jr.	- Abstain
Karen Jarrett	- Aye
Michael Condon	- Aye
Betty Jones	- Aye
Armand Turner	- Aye

### 13. Fence Height Variance | 4306 Heard Street

- 📎 [Staff Report 4306 Heard.pdf](#)
- 📎 [More Pictures of Trespassing.pdf](#)
- 📎 [Pictures of Trespassing.pdf](#)
- 📎 [Plat.pdf](#)

**Mr. Edward Morrow** gave the Staff report. The Petitioner, Ms. Phillipa Davis, after ongoing and escalating differences with an adjoining neighbor, erected fences on her property that now require variances to bring them into conformance with the requirements of the Zoning Ordinance. The Petitioner is requesting a variance to Section 9.6.4 regarding fences which would limit interior fences between homes to 4 feet in height, and another stipulation which requires that front yard fences not exceed a height of 6 feet for residential uses.

**Mr. Morrow** explained that the subject parcel is developed as a single-family home built in 2006. The adjoining parcel to the north is under common ownership, but vacant. The Petitioner's property measures 8,000 square feet in total. In 2003, between February and the current date, she erected fences that completely encircle her property. On the areas that adjoin the public right-of-way, there is an iron-style fence that was selected for use. Mr. Morrow said as the Board can see from the pictures shown on the screen, one can see completely from the right-of-way to the house. However, the iron-style fence has some gates that exceed the six-foot height requirement. Also, on the interior lot line that she shares with the adjoining neighbor, she used a wooden picket fence which is completely opaque and cannot be seen through. It is 6 feet in height, where 4 feet is the maximum height that is permissible in this district.

**Mr. Morrow** said in reviewing the criteria, the request is consistent, although it exceeds the Ordinance stipulation for fence heights. There are no special circumstances and the literal interpretation likely found not have the effect of depriving the Petitioner of other rights and privileges enjoyed by other property owners. However, it would bring her a greater degree of greater personal safety living in her home. Mr. Morrow said he believes that the fences were erected out of a perceived need for safety and to reduce undesirable foot traffic that was happening on her property. He said if this petition is denied, the Petitioner would still be permitted to have fences, although they would be required to be lower, which also was an expressed concern regarding visual blight. He believes this is why the Petitioner chose the opaque fence on the interior property line. These fences are the minimums that are required. But they are not required to make use of the subject property. Special privileges would not be granted if these variances were approved.

**Mr. Morrow** said Staff recommends approval of the requested variances. He entertained questions from the Board.

**Mr. Merriman** asked Mr. Morrow if the iron fence shown on the screen other than the gates, are they within the allowable height?

**Mr. Morrow** answered to his knowledge, he believes they are within the allowable height.

**Mr. Merriman** said, then it is just the fence that is between the properties that exceed two feet.

**Ms. Jones** asked Staff if the arches exceed the height limit.

**Mr. Morrow** answered that some of the arches exceed the height limit, but the entire fence [wooden] is

allowed to be four feet high. But it is currently 6 feet.

**Ms. Jones** asked Staff if this was for safety purposes.

**Mr. Morrow** answered that this is what was reported to Staff. These fences were erected in the interest of personal safety. The Petitioner also submitted several still shots from videos where people had approached her property over the course of several years. He said in reviewing what he could find from imagery that was online, he could see that the fence did not exist for many years. But, between February of 2023 and the present date, they were put up he guesses out of their going back and forth, the Petitioner decided it was necessary for her to erect the fence.

### **PETITIONER COMMENTS**

**Ms. Phillippa Davis** came forward. Ms. Davis said she is requesting to keep her privacy fence at 6 feet to block the view of her neighbor's yard of collective items and to keep her workers off her property. The fence gives her a sense of security. She said she has brought up the subject of roaches coming over from that side of the house. The pest control technician that she hired also found that the roaches were on her neighbor's property. Ms. Davis said she has confronted the neighbor's workers about being on her property. She does not believe she should have to live as such in her own home. Although they do not live in a Homeowners Association community, there should be something in place to prevent this type of living condition.

**Ms. Davis** said as an Army veteran, she just wants to live in a clean and peaceful community,

**Mr. Merriman** asked Ms. Davis if she knew about the Height Ordinance when she erected her fence.

**Ms. Davis** said she did not know about the Height Ordinance. She hired a fence company who erected the fence. She thought the fence company knew what could and could not be done, Ms. Davis said she had two surveys done so she would know where the fence could be erected.

### **PUBLIC COMMENTS**

**Mr. Rufus Bartlett** stated that he has property at the back of Ms. Davis's property. He believes that if fences are installed around Ms. Davis's property, he will not be able to get to his property. Mr. Bartlett said he does not have an easement to get back there and do anything. This will make it harder for him to sell the property. He said he might have to file a petition to do something else if the fence is put up around her borderline.

**Mr. Morrow** explained that Mr. Bartlett is talking about the public right-of-way that is undeveloped and not paved. He stated that Mr. Bartlett has right-of-way access. But what he is saying is that he does not have access across the Petitioner's property.

**Mr. Merriman** asked Mr. Bartlett if he was accessing his property through Ms. Davis's property.

**Mr. Bartlett** said he has not been to his property in a while. He said he is just talking about borderline and access to his property.

**Mr. Merriman** explained to Mr. Bartlett that the Board is considering the height of a fence.

**Ms. Linda Cornelius** resides at 4305 Heard Street and stated that she lives across the street from Ms. Davis. Ms. Cornelius said on Ms. Davis's behalf, she has no problems with her fence. In fact, she is concerned about Ms. Davis safety as well. There is a lot of foot traffic here. A lot of young people walk to the park. She understands Ms. Davis needs privacy. Ms. Cornelius stated that she has no problems with the fence. She would be happy if the Board grants approval for the variance.

**Ms. Vernell Collazo** lives at 4808 Heard Street. Ms. Collazo explained that she is the neighbor on the other side. She has no roaches, no rats, nothing of the kind. A wooded area is right behind their homes. Ms. Davis might have a problem with roaches. but she does not. Ms. Collazo stated that she does not care about the iron fence. They do have a problem with the young men walking down the ditch bank on the other side of Ms. Davis's fence. She had some men do work on her house and she was not aware

that they walked through her property or not. Ms. Davis came outside and told the people about walking through her property. However, she does not have many people at her home. There should not be a problem with her safety on her side. But Ms. Davis has built a fence all the way around her yard. She has no problem with the iron fence, but she dislikes the wooden fence that blocks off the view all the way to the cul-de-sac. They have had a problem since Ms. Davis moved into their area. Ms. Davis approached her and said her fence was on her property. Ms. Davis hired a surveyor, and he told her that the fence was not on her property.

**Ms. Collazo** said Ms. Davis started bringing her trash can through her yard. She told Ms. Davis that the trash can was making ruts in her yard, but she did not stop bringing the trash can through her yard. So, she decided to put up a chain-link fence between their yards, Ms. Davis came over to her house begging, pleading, and crying and told her that they are neighbors and that they should not have a fence between them. Therefore, she did not put the fence up because they are neighbors. She has not had any problems with the people in the neighborhood or Ms. Davis.

**Ms. Collazo** said about two weeks ago, Ms. Davis had a big truck parked in front of her door blocking her driveway. She could not pull her car out. Ms. Collazo said she is having problems with Ms. Davis and the things that she is doing. She cannot see all the way down the cul-de-sac now.

**Mr. Merriman** asked Mr. Morrow that by right Ms. Davis could have a four-foot fence, but not a six-foot fence.

**Mr. Morrow** answered yes.

**Ms. Collazo** said before Ms. Davis had the fence erected; she spoke with her about the height of the fence. She did not want her to put the fence up and then have to take it down because of its height.

**Mr. Merriman** invited Ms. Davis to respond to public comments.

**Ms. Davis** declined.

### **BOARD DISCUSSION**

**Ms. Jones** explained that she had been in a similar situation. Her neighbor put her fence on her property, but they were able to resolve it. She knows that people have a right to put fences on their property. Some fences are higher than others.

**Mr. Turner** asked Ms. Collazo if the fence was four feet instead of six feet, would she be able to see down to the cul-de-sac.

**Ms. Collazo** said she would be able to see.

**Mr. Merriman** explained that by right, Ms. Davis could put a four-foot fence on her property. He entertained a motion.

**Ms. Jarrett** moved to approve the variances on a condition that the 6-foot fence be reduced to the 32-foot property line (4-feet).

**Mr. John Anagnost, Zoning Plans Examiner, City of Savannah** explained that the Zoning Ordinance regarding front yard fences requires that the maximum height be four feet for the portion that is fully opaque. It may extend to six feet as long as the portion between three and one-half (3 1/2) and six feet is at least 70% transparent. Therefore, it would be helpful towards the review of future permitting that a fence on this case for the Board to stipulate that this condition allows a partially transparent extension of the fence to the six feet level must be completely cutoff.

**Mr. Merriman** stated that he was a little confused. He said they are talking about a variance for one specific case. Are you talking about all future cases?

**Mr. Anagnost** answered that he was speaking about this specific case. If this is approved in the way that it was moved, when this property owner goes to modify her fence, is it required that she has no portion of

the fence be above four feet tall or if she may make use of the typical standard, which is she could have a portion of the fence above four feet, but it must be partially (70%) transparent. Would the Board allow this?

**Ms. Jarrett** stated that she believes this would be a reasonable compromise. If the Applicant wanted to, she could place a little iron fence on top of the wood fence if she wanted to. Correct?

**Mr. Anagnost** answered yes, a trellis or something of that nature.

**Mr. Merriman** asked Ms. Jarrett to please restate her motion.

**Motion**

The Savannah Zoning Board of Appeals does hereby approve the variances with a condition that the 6-foot fence between the houses be reduced to the 32-foot property line (4-feet) at the property located at 4306 Heard Street.

**Vote Results ( Approved )**

Motion: Karen Jarrett

Second: Betty Jones

Stephen Merriman, Jr. - Abstain

Karen Jarrett - Aye

Michael Condon - Aye

Betty Jones - Aye

Armand Turner - Aye

**XI. Other Business**

**XII. Adjournment**

14. Adjourned

There being no further business to come before the Board, Mr. Merriman adjourned the meeting at 11:15 a.m.

Respectfully Submitted,

Edward Morrow  
Development Services Director

ED/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.*