

SAVANNAH ZONING BOARD OF APPEALS

**ARTHUR A. MENDONSA HEARING ROOM
112 EAST STATE STREET**

JUNE 28, 2005

2:30 P.M.

REGULAR MEETING

MINUTES

MEMBERS PRESENT:

**Timothy Mackey, Chairman
Mickey Stephens, Vice-Chairman
James Byrne
Richard Wallace**

TECHNICAL STAFF PRESENT:

Tom Todaro, City Inspections Department

MPC STAFF PRESENT:

**Jim Hansen, Secretary
Christy Adams, Assistant Secretary**

RE: Call to Order

Mr. Mackey called the June 28, 2005 meeting of the Savannah Zoning Board of Appeals to order at 2:30 p.m.

RE: Minutes

1. Approval of SZBA Minutes – May 24, 2005

SZBA Action: Mr. Byrne made a motion that the Savannah Zoning Board of Appeals approve the regular meeting minutes of May 24, 2005. Mr. Wallace seconded the motion and it was unanimously passed.

RE: Consent Agenda

**RE: Petition of Matthew Deacon
B-05-38923-2
1114 East Broad Street**

The petitioner is requesting approval of a 10 foot side yard setback variance to the 15 foot side yard setback requirement of Section 8-3025 of the City of Savannah Zoning Ordinance in order to construct a single family residence. The subject property is located at 1114 East Broad Street. The property is zoned P-R-4 (Planned Four-Family Residential).

Summary of Findings: All conditions required for granting a 10 foot side yard setback variance appear to be met.

**RE: Petition of Nikki Yaworsky, For
Bazil Eurocafe
B-05-39964-2
2430 Habersham Street**

The petitioner is requesting approval of an application to establish a restaurant with alcohol sales (wine) pursuant to Section 8-3163 of the City of Savannah Zoning Ordinance. The subject property is located at 2430 Habersham Street. The property is zoned TC-1 (Traditional Commercial-Neighborhood).

Summary of Findings: All conditions necessary for granting use approval to allow wine only sales in conjunction with a restaurant in the TC-1 district appear to be met.

SZBA Action: Mr. Byrne made a motion that the Savannah Zoning Board of Appeals approve the Consent Agenda as submitted. Mr. Wallace seconded the motion and it was passed.

RE: Regular Agenda

**RE: Petition of Enrique J. Lacanilao
B-05-39052-2
1101 East 48th Street**

Present for the petition was Enrique Lacanilao.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a four foot rear yard setback variance from the five foot rear yard setback required, and a 16.03 percent lot coverage variance from the 30 percent lot coverage allowed by Section 8-3025; and approval of a request for an extension of a non-conforming use pursuant to Section 8-3163 of the City of Savannah Zoning Ordinance in order to expand an existing garage apartment.

Findings

1. The petitioner is proposing to construct a second story addition onto an existing garage apartment. The Zoning Administrator has determined that the existing accessory structure is a legal non-conforming use. Expansion of a non-conforming use requires approval by the Board of Appeals. The proposed 500square foot addition will be built over an existing parking area that serves the garage apartment. It is unclear where or if additional parking will be provided.
2. The subject property is a standard lot; 60 feet wide and 105 feet deep. No irregular topographic features exist on the parcel.
3. Section 8-3025(d) requires a minimum five foot rear yard setback for accessory structures within the R-6 zone. Lot coverage within the district is limited to 30 percent.
4. In accordance with Section 8-3163(c) of the Savannah Zoning Ordinance, the Board of Appeals may authorize upon appeal in specific cases such variance from the terms of the regulations as will not be contrary to the public interest where, owing to special

conditions, a literal enforcement of the provisions will, in an individual case, result in unnecessary hardship, so that the spirit of the regulations will be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in an individual case upon a finding by the Board of Appeals that:

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

There are no extraordinary or exceptional conditions that relate to this property because of its size, shape, or topography.

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

Application of the regulations of the Zoning Ordinance would not cause an unnecessary hardship.

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

The conditions described in 2. (above) are not peculiar to his particular piece of property.

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

Relief, if granted, could cause detriment to the public good. The area is planned and zoned for single family residential use. Although garage apartments exist within the immediate neighborhood, expansion as sought by the petitioner could negatively impact surrounding properties and would impair the purposes and intent of the Zoning Ordinance.

5. In accordance with Section 8-3163(d) of the Savannah Zoning Ordinance, the Board of Appeals may authorize, upon appeal in specific cases, an extension of an existing non-conforming use involving an increase in either or both the land area or the floor area in a building or buildings occupied by a non-conforming use. Such extension may be granted in an individual case upon a finding by the Board of Appeals that:

- a. **The use is non-conforming according to these regulations.**

The Zoning Administrator has determined that the existing accessory structure is a legal non-conforming use.

- b. **The use conforms to the requirements of Section 8-3163(b), Request for Permission to Establish Uses.**

The proposed expansion does not conform to all of the requirements of Section 8-3163(b). Specifically, the proposed expansion could result in increased traffic congestion and could be detrimental to the use or development of adjacent properties or the general neighborhood.

- c. **A non-conforming use of land where no building or structure is involved may be extended only within the legal boundaries of the lot of record which existed at the time when the lot became non-conforming.**

This provision is not applicable to this petition.

- d. **A non-conforming use which utilizes a building or structure may be expanded only within the area of the building or structure existing at the time when the use became non-conforming and only when such building or structure or portion thereof is clearly designed to house the same kind of use.**

At present the entire non-conforming structure is used for residential purposes. Whereas expansion would require the construction of an addition to the structure, such expansion should not be allowed.

Summary Of Findings

All of the conditions required for granting a four foot rear yard setback variance and, a 16.03 percent lot coverage variance as well as an extension of a non-conforming use appear not to be met.

Mr. Mackey asked Staff if he could describe for the Board what was different about this petition as opposed to the petition they heard a couple of months ago?

Mr. Hansen stated he did not have the site plan from the previous petition. However, in the petitioner's previous petition he was requesting to extend the building setback over to within 1 foot of the side property line on the east. He said the petitioner was now requesting that the building be placed within 4 feet of that. He said because of the reduction in size, his lot coverage variance decreased in size and the rear yard setback remained the same.

Mr. Byrne stated he noticed when they visited the site that the sign that was supposed to be posted was posted in the garage area. He asked in his opinion where is the appropriate place for the sign to be posted?

Mr. Hansen stated he felt the sign should either have been located on 48th Street as the legal address for the property was 1101 East 48th Street. He said he felt it would have also been deemed appropriate to have it located on Waters or near the corner of Waters and 48th Street. However, as noted the sign was leaning against the fence in the backyard.

Mr. Mackey stated to the petitioner that he was in charge of having the sign posted on the property. He asked the petitioner if there was any reason why he posted the sign in the backyard?

Mr. Lacanilao stated it was an open yard and that was the location for the proposed construction. He said it was the only location he could put the sign, so that it would be visible. He said the front would be an entirely different location.

Mr. Todaro stated the Inspections Department attached a sheet of paper to each one of the signs with the direct quote out of the Zoning Ordinance as to how it has to be placed on the property. He said the sign should not have been in the back. The ordinance specifically says

that it has to be erected by the applicant within 10 feet of whatever boundary line of such land abuts the most traveled public road. He said putting the sign in the lane would have been incorrect.

Mr. Mackey stated Mr. Todaro quoted from the Zoning Ordinance with respect to how the sign was erected and located on the property, so that the petition could be heard properly. He said it was also done in that way so that the public could be notified. He said it gave the adjoining property owners or anyone else who was concerned about his petition to come to the meeting and be heard.

Mr. Byrne stated he felt the petition should be continued until the next meeting so that the sign could be properly posted. He said he would also like to note for the record that there was opposition to the petition (Mr. Shaw) who sent a letter to the Board. He said he would like to note that when he visited the site the tenants were still parking on City property.

Mr. Lacanilao stated he has advised his tenants not to park there because there was also a No Parking sign there and they will get a ticket.

SZBA Action: Mr. Byrne made a motion that the Savannah Zoning Board of Appeals continue the petition until next meeting (July 26, 2005). Mr. Stephens seconded the motion and it was unanimously passed.

RE: Petition of Karen M. Rivers
B-05-39441-2
2302 East DeRenne Avenue

Present for the petition was Karen Rivers.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of an application to establish a child care center for 12 children pursuant to the requirements of Section 8-3025 of the City of Savannah Zoning Ordinance. The subject property is zoned R-6 (One-Family Residential).

Findings

1. The subject property, located on the northeast corner of DeRenne Avenue and Athena Drive, is presently occupied by a one-story residential structure. The parcel contains 6,000 square feet, measuring 60 feet in width and 100 feet in depth.
2. Section 8-3025 of the Savannah Zoning Ordinance requires Board of Appeals approval to establish a child care center in an R-6 zoning district. The requirements for establishing a child care center per Use 22b include: a) that not less than 100 square feet of outdoor play space be provided for each child; b) that the center be located on a collector or arterial street; c) that the architectural character be characteristic of the neighborhood; d) that the use provide off-street parking in conformance with the requirements of Section 8-3089; e) that no outdoor activities occur after 9:00 p.m.; f) that visual buffers be provided to shield parking areas, play areas and outdoor activity areas from abutting property; and, g) that a sign not to exceed three square feet may be permitted.

The requirements of a, b, c, e, and, g (above) appear to be met. Article (d) requires that an off-street loading and unloading area be provided for the safety of the children. The petitioner has provided a plan to develop a circular drive drop-off with access points on Athena Drive. The proposed drop-off has not been reviewed by nor have approvals been received from the City Traffic Engineering Department. Requirements of part (f) include buffering parking areas and play areas from abutting properties utilizing opaque materials. The petitioner has not installed an opaque fence at the perimeter of the designated play area. The code requires one child care worker for every six children. Therefore, the petitioner would have to provide a minimum of two off-street parking spaces. The plan submitted by the petitioner reveals a potential conflict with proposed parking and the proposed circular drive. The required parking should also be examined by the Traffic Engineer at a part of the circular drive review. No buffering or shielding has been provided or indicated for the proposed parking area.

3. In accordance with Section 8-3163 of the Savannah Zoning Ordinance, the Board of Appeals shall hear and decide upon requests for permission to establish uses upon which the Board of Appeals is required to pass under the terms of this chapter. The application to establish such use shall be approved on a finding by the Board of Appeals that:

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

The proposed use will not affect adversely general plans for the physical development of the City.

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

The proposed use is not contrary to the stated purposes of this chapter.

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

The proposed use will have little if any affect on the health and safety of residents and workers in the City. However, the increased traffic and subsequent congestion associated with the use could have an adverse impact on area residents. Loading and unloading is proposed from a local, residential street.

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

The subject property is located at the intersection of a local street (Athena Drive) and a secondary arterial (DeRenne Avenue). Loading and unloading is proposed from Athena Drive. The petitioner has stated that services will be provided for up to 12 children. The resulting traffic and potential congestion associated therewith could be detrimental to the use or development of adjacent properties.

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

The proposed use, subject to approval, can be compatible with the residential character of the area.

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

A minimum of 100 square feet of outdoor play space is required for each child. A child care center for 12 children would thus require 1,200 square feet of outdoor play space. The plan submitted by the petitioner has identified 1,242 square feet of outdoor play space.

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

Increased vehicular movement and noise generation could be a nuisance to the surrounding area.

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

Standards as discussed above appear not to be met. The proposed loading and unloading plan has not been submitted for approval to the Traffic Engineering Department, and, required screening has not been installed. The number of children proposed to be cared for at this location and the amount of traffic that can be expected as a result pose concerns about safety, congestion and the possible detrimental impacts that might be experienced by surrounding property owners.

Summary Of Findings

All of the conditions necessary to approve the establishment of the proposed use (child care center for 12 children) appear not to be met.

Mr. Mackey stated that Staff has said that upon the site visit they did not see the sign that was supposed to be posted on the property.

Ms. Rivers stated the sign was posted, but it kept coming down. She said because of that there were a few days that it was not posted because she did not know how to properly secure it.

Mr. Mackey stated the Board was under strict adherence to the City Ordinance. He said he felt in this particular circumstance, it may be that the Board needs to do the same thing for her that they did in the previous petition which was to come back in 30 days. He said she would need to post the sign securely.

SZBA Action: Mr. Byrne made a motion that the Savannah Zoning Board of Appeals continue the petition until next meeting (July 26, 2005). Mr. Stephens seconded the motion and it was unanimously passed.

**RE: Petition of James E. Grant
B-05-39668-2
4318 Fayette Street**

Present for the petition was McCarthy Giles.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a seven foot front yard setback variance to the required 50 foot front yard setback (from street centerline) requirement of Section 8-3025 of the City of Savannah Zoning Ordinance in order to construct a single family residence. The subject property is zoned R-6 (One-Family Residential).

Findings

1. Section 8-3025 of the Savannah Zoning Ordinance requires a minimum front yard setback of 50 feet from the centerline of the public road right-of-way classified as a local street. Furthermore, Section 8-3025 requires that residential structures be located no closer than 25 feet from such rights-of-way.
2. The petitioner has requested a front yard setback variance in order to construct a single family residence on the currently vacant parcel.
3. In accordance with Section 8-3163 of the Savannah Zoning Ordinance, the Board of Appeals may authorize upon appeal in specific cases such variance from the terms of the regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions will, in an individual case, result in unnecessary hardship, so that the spirit of the regulations will be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in an individual case upon a finding by the Board of Appeals that:
 - a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.**

The subject property contains 8,000 square feet, measuring 80 feet in width and 100 feet in depth. However, despite the lot's standard size, there are existing setback features which make the development potential unique.

The lot has a Fayette Street address and is oriented accordingly (80 foot frontage on Fayette Street and 100 foot frontage on Pendleton Street). Fayette Street, however, does not currently exist at this location, having neither been constructed nor opened. Thus, the lot orientation for construction and setback purposes reverts to the Pendleton Street frontage; resulting in an effective lot depth of 80 feet. At such time as building permits are issued, the physical street address should be changed as well.

Further compounding the potential development of the lot is the presence of a 15 foot wide recorded lane right-of-way that abuts the Pendleton Street right-of-way. The standard setback for a residential structure from a typical local street right-of-way is 25 feet (50 feet from street centerline). However, because of the existing

lane right-of-way, the required front yard setback from the center of the Pendleton Street centerline would be increased to 65 feet to accommodate the lane.

b. The application of these regulations to this particular piece of property would create an unnecessary hardship.

Strict application of the regulations of the Zoning Ordinance would create an unnecessary hardship. Due to the lot reorientation and the existence of the unbuilt yet recorded lane right-of-way, the property has unique setback requirements.

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

The conditions described above are peculiar to the particular piece of property involved.

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

Relief, if granted, would not cause substantial detriment to the public good. Although the lane right-of-way is recorded, the lane has not been and is unlikely to ever be built. The effective appearance of the front yard setback is, therefore, greater than that which actually exists.

Summary Of Findings

All of the conditions required to grant to grant the requested front yard setback variance appear to be met. It is recommended, however, that the petition be denied as filed, and that consideration be given to the following:

Approval of a 5 foot rear yard setback variance, and,
Approval of a 6½ foot front yard setback variance.

Subject to the following condition:

- That upon issuance of building permits, the parcel be readdressed to 1410 Pendleton Street.

Rationale

The rear yard setback requirement is 25 feet. Granting a five foot variance will still provide ample separation from the adjacent property to the north while preserving the use of outdoor space by the petitioner. More importantly, the five foot rear yard setback variance will allow the house to be set back an additional five feet thus allowing for a larger front yard and a reduced front yard variance. Granting a 6½ foot front yard setback variance will locate the structure 18½ feet from the lane right-of-way line. Such placement will allow the structure to be located in a more direct line with other structures that may be erected on property to the east. Because the lane is not constructed, the visual appearance of the setback will be similar to other residential structures in the neighborhood.

Mr. Mackey asked Mr. Giles if he had any objection to the recommendation made by Staff?

Mr. Giles stated he did not have any objections. He asked if the recommendation made by Staff will allow him to continue what he wanted to do as far as building the house?

Mr. Mackey stated if the Board grants the alternative recommendation made by Staff he would be able to proceed.

SZBA Action: Mr. Stephens made a motion that the Savannah Zoning Board of Appeals deny the petition as submitted and approves a 5 foot rear yard setback variance and a 6½ foot front yard setback variance based upon a finding that the relief granted will not cause substantial detriment to the public good. Further, the petitioner shall seek to readdress the property to 1410 Pendleton Street. Mr. Wallace seconded the motion and it was unanimously passed.

**RE: Petition of Jerry Gibbons, For
Agape Church of Jesus Christ
B-05-39821-2
1101 Love Street**

Present for the petition was Shawn Cleveland.

The petitioner is requesting approval of a 15.33 foot rear yard setback variance from the 25 foot rear yard setback required, and a 7.7 percent lot coverage variance from the 35 percent lot coverage allowed by Section 8-3025; and a permit to allow an extension of a non-conforming structure in accordance with Section 8-3132 of the City of Savannah Zoning Ordinance in order to construct an addition onto an existing building. The subject property is zoned R-4 (Four-Family Residential).

Findings

1. Section 8-3025 of the Savannah Zoning Ordinance requires a minimum 25 foot rear yard setback for primary structures, and permits total lot coverage of 35 percent for a non-residential use in the R-4 district. Section 8-3132 requires Zoning Board of Appeals approval in order to extend a non-conforming use.
2. Located at the southwest corner of Love Street and Scarborough Street, the subject property is a substandard lot containing approximately 2,880 square feet. The parcel measures 32 in width and 90 feet in depth. A church fellowship hall currently occupies the site.
3. The petitioner desires to construct a 20 foot by 24 foot addition onto the existing structure. As planned, rear yard setback and lot coverage variances would be needed. Additionally, the Zoning Administrator has determined that the existing structure is a legal non-conforming use. Expansion of the use is allowed only with the approval of the Board of Appeals.
4. In accordance with Section 8-3163 of the Savannah Zoning Ordinance, the Board of Appeals may authorize, upon appeal in specific cases such variance from the terms of the regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions will, in an individual case, result in

unnecessary hardship, so that the spirit of the regulations will be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in an individual case upon a finding by the Board of Appeals that:

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

The subject property is substandard in size. At 2,880 square feet, it is well below the minimum 6,000 square foot standard required for non-residential uses in the R-4 zoning district.

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

Strict application of the regulations of the Savannah Zoning Ordinance would not create an unnecessary hardship. The existing use would be allowed to continue functioning in its present configuration.

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

The conditions described above are peculiar to the subject property.

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

Relief, if granted, would not cause substantial detriment to the public good. The subject property fronts Love Street and sides Scarborough Street. The parcel is bounded at the rear by a 15 foot right-of-way for a lane. Homes to the rear of the parcel front Scarborough Street. The adjacent property to the south, therefore sides onto the lane, and the lane right-of-way acts as additional buffering from the proposed use.

Summary Of Findings

All of the conditions required to grant a 15.33 foot rear yard setback variance and a 7.7 percent lot coverage variance appear not to be met. Permission to extend the non-conforming use as required by Section 8-3132 is left to the discretion of the Board of Appeals.

Mr. Hansen further stated that he received three telephone calls. He said one was from Mrs. Jordan, Mrs. Cooper, and one who would not give her name. However, all three individuals indicated that they were neighbors but would not be able to attend today's meeting due to inclement weather and they were elderly. He said they wanted the Board to consider continuing the petition until such time as they were able to attend. He said he informed them that he would bring this to the Board's attention and it would be up to the Board to decide.

Mr. Mackey asked if the people who called provided their addresses?

Mr. Hansen stated only two of the people did (1103 and 1104).

Mr. Mackey stated they would be adjoining neighbors.

Mr. Hansen stated yes.

Mr. Mackey stated to the petitioner that there have been three telephone calls presumably from elderly residents who could not be here today because of the weather and other problems that may have arisen. He said he was inclined to adhere to their request because they were adjoining property owners and he was interested in what they would have to say.

Mr. Stephens stated that he agreed with the comments made by Mr. Mackey.

Mr. Byrne stated he also agreed.

Mr. Cleveland stated that was fine with him. He asked if that was the only reason that it was not met today? He said if there were any other things related to the petition he would like to hear them as well because it would give him a chance to correct them before he comes back before the Board next month.

Mr. Mackey stated he understood what he was saying. However, if the Board did that they would basically be going into the petition. He said he would suggest that if he is the agent for this petition that he gets with Mr. Hansen to find out what the conditions were that needed to be met. He also suggested that he talk with the neighbors at 1103 and 1104 to see what their concerns were.

SZBA Action: Mr. Byrne made a motion that the Savannah Zoning Board of Appeals continue the petition until next meeting (July 26, 2005). Mr. Stephens seconded the motion and it was unanimously passed.

**RE: Petition of Beth Williams, For
Ernest Homes, LLC
B-05-40102-2
9 Iron Horse Spur**

Petition continued per Staff's request.

SZBA Action: Mr. Byrne made a motion that the Savannah Zoning Board of Appeals continue the petition until next meeting (July 26, 2005). Mr. Stephens seconded the motion and it was unanimously passed.

**RE: Petition of Annie Bell Green
B-05-40224-2
4407 Meadow Avenue**

Present for the petition was Annie Bell Green.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of an application to establish a child care center for 18 children, and is seeking a waiver of the requirement that said use be located on a collector or arterial street pursuant to the requirements of Section 8-3025 of the City of Savannah Zoning Ordinance. The subject property, located at 4407 Meadow Avenue, is zoned R-6 (One-Family Residential).

Findings

1. On March 23, 2004, the Savannah Zoning Board of Appeals granted the petitioner use approval to establish a daycare center on the subject site and granted a waiver of the requirement that the use be located on either a collector or arterial street (MPC File No. B-040203-53895-2). The approval limited the number of children to no more than 12. This request, if approved, would provide for an increase in the number of children allowed at the day care center to 18.
2. The subject property, located on the northwest corner of Meadow Avenue and Stuyvesant Street, is presently occupied by a one-story residential structure containing approximately 1,443 square feet. The parcel contains 11,025 square feet, measuring 105 feet square.
3. Section 8-3025 of the Savannah Zoning Ordinance requires Board of Appeals approval to establish a child care center in an R-6 zoning district. The requirements for establishing a child care center per Use 22b include: a) that not less than 100 square feet of outdoor play space be provided for each child; b) that the center be located on a collector or arterial street; c) that the architectural character be characteristic of the neighborhood; d) that the use provide off-street parking in conformance with the requirements of Section 8-3089; e) that no outdoor activities occur after 9:00 p.m.; f) that visual buffers be provided to shield parking areas, play areas and outdoor activity areas from abutting property; and, g) that a sign not to exceed three square feet may be permitted.

The requirements of a, c, d, e, and, g (above) appear to be met. A waiver of the requirement of (b) is being sought. The intent of the requirement that child care facilities be located on collector or arterial streets is to minimize the potential impact that additional traffic generated by the use would have on surrounding properties. The subject property is located at the intersection of two local residential streets. The petitioner received a waiver of the location requirement for a child care center for 12 children in 2004. Requirements of part (f) include buffering parking areas and play areas from abutting properties. The petitioner has installed an opaque fence at the perimeter of the designated play area. The code requires one child care worker for every six children. Therefore, the petitioner would have to provide a minimum of three off-street parking spaces. Although ample space exists on the lot for parking, no buffering or shielding has been provided for the proposed parking area.

4. In accordance with Section 8-3163 of the Savannah Zoning Ordinance, the Board of Appeals shall hear and decide upon requests for permission to establish uses upon which the Board of Appeals is required to pass under the terms of this chapter. The application to establish such use shall be approved on a finding by the Board of Appeals that:
 - a. **The proposed use does not affect adversely the general plans for the physical development of the City, as embodied in this chapter, and in any master plan or portion thereof adopted by the Mayor and Aldermen.**

The proposed use will not affect adversely general plans for the physical development of the City.

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

The proposed use is not contrary to the stated purposes of this chapter.

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

The proposed child care center will have little, if any affect on the health and safety of residents and workers in the City. However, the increased traffic and subsequent congestion associated with the use could have an adverse impact on area residents.

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

The subject property is located at the intersection of two local streets in the middle of a residential neighborhood. The petitioner has requested approval of a child care center to provide services for 18 children. The resulting traffic and potential congestion associated therewith could be detrimental to the use or development of adjacent properties.

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

The proposed use, subject to approval, can be compatible with the residential character of the neighborhood.

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

The subject property contains more than 11,000 square feet. The property is of ample size to accommodate the proposed use and the space requirements thereof.

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

Increased vehicular movement and noise generation could be a nuisance to the surrounding area.

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

Standards as discussed above appear not to be met. A waiver of the collector/arterial street location requirement is being sought. The number of children proposed to be cared for at his location and the amount of traffic that can be expected as a result pose concerns about safety, congestion, and, the possible detrimental impacts that might be experienced by surrounding property owners.

Summary Of Findings

All of the conditions necessary to approve the establishment of the proposed use (child care center for 18 children) and the waiver of the requirement that the use be located on a collector or arterial street appear not to be met.

Ms. Green stated the six children that she was requesting to add to the 12 children she already had were children for children in her community and were in walking distance. She said she installed a privacy fence, driveway, and she had enough space for parking. She said in regard to the buffer, she would have to put up a board fence between her house and her cousin's house. She said she felt that her cousin would not want a board fence put up between them.

Mr. Mackey stated the buffer was a requirement.

Mr. Hansen stated the buffer for the parking area was required. However, there was no statement for the parking that it be a wood fence or any other sort of fence. He said there was a requirement that there be an opaque fence for the play area, which the petitioner has already provided for the current 12 children that was also of ample size to accommodate 18 children. The buffer in this particular case for the parking, he felt would not necessarily have to be a fencing material but perhaps some sort of plantings which would be considered a type-G buffer.

Mr. Byrne stated he would like to complement the petitioner on her business. He said he was very impressed.

Mr. Wallace stated he felt the idea of a landscaped buffer was good.

Ms. Ernestine Jones (President of Liberty City Richfield Southover Community Improvement Association) stated she would also have to complement the petitioner with what she has done with the daycare. She said in regard to the buffer they would prefer to have the greenery as opposed to a fence.

Ms. Gloria Zigler stated she lived next door to the property. She said the fence divided the properties. She said she would not like a wooden fence and also preferred the greenery as a buffer. She also added that everything has been fine with daycare thus far and she did not have a problem with it.

SZBA Action: Mr. Stephens made a motion that the Savannah Zoning Board of Appeals approve the petition as submitted including a street classification waiver, based upon a finding that the use permit granted will not be detrimental to the public good. The permit shall be limited to no more than 18 children. The petitioner shall provide no less than two off-street parking spaces and said spaces shall be shielded by a Type G buffer as prescribed in the Savannah Zoning Ordinance. Mr. Byrne seconded the motion and it was unanimously passed.

**RE: Petition of Rosalyn Yvette Gooddine
B-05-40368-2
11908 Idlewood Drive**

Mr. Hansen stated that when he did the site visit there was no sign posted or visible on the site.

Present for the petition was Rosalyn Gooddine.

Mr. Mackey asked if she could explain why her sign was not posted?

Ms. Gooddine stated as she explained to Mr. Todaro the other day there were children in the neighborhood who kept bothering the sign. She said she did not know how to secure it to the ground. She said what she did was post the sign in the back of her van with her van doors opened and sometimes she moved it and put it on the front porch. She said Mr. Todaro told her she could put a stake in the ground, but she did not know how to do that so she put it up the best way she knew how.

Mr. Mackey asked Mr. Todaro what he thought about the petitioners testimony?

Mr. Todaro stated that the ordinance required that it be posted within 10 feet of the property line. He said according to the petitioner's testimony he felt that some of the times it was posted and some times it was not. He said when he talked to the petitioner she also mentioned that she brought the sign in at night. He said he felt it was up to the Board if they wanted to proceed with the petition. In addition, the surrounding property owners (front, back, and side) were notified via mail about the petition.

Mr. Mackey asked if there was anyone present to speak in favor/opposition to the petition?

Neighbors raised their hands.

Mr. Byrne stated the Board received two letters. He said one was from Peggy Colson and Bill Causey. He said he felt it might be beneficial if the sign could be posted one more time. He said he felt this would give the petitioner time to get with her neighbors because there was some opposition to the petition.

Ms. Gooddine stated she talked with the neighbors prior to coming before the Board. She said she explained to the neighbors that although she has a 24-hour daycare service it would not be like there would be 12 children at the daycare all the time. She said the children go home everyday.

Mr. Mackey stated if there were no objections the comments that they had in writing, the individuals were not asking that the Board postpone the meeting and since there were residents present to speak he felt the Board would proceed with the petition.

The Board agreed.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of an application to establish a child care center for 12 children, and is seeking a waiver of the requirement that said use be located on a collector or arterial street pursuant to the requirements of Section 8-3025 of the City of Savannah Zoning Ordinance. The subject property is zoned R-6 (One-Family Residential).

Findings

1. The subject property, located at 11908 Idlewood Drive, is presently occupied by a one-story single-family residential structure. The mid-block property is rectangular in shape,

measuring 75 feet in width and 130 feet in depth, and, contains 9,750 square feet. The rear yard is enclosed with chain link fencing.

2. The petitioner has stated that she presently operates a child care center at this address, caring for six children as allowed by right in the R-6 zoning district. The petitioner is requesting Board approval to expand to 12 children.
3. Section 8-3025 of the Savannah Zoning Ordinance requires Board of Appeals approval to establish a child care center in an R-6 zoning district. The requirements for establishing a child care center per Use 22b include: a) that not less than 100 square feet of outdoor play space be provided for each child; b) that the center be located on a collector or arterial street; c) that the architectural character shall be characteristic of the neighborhood; d) that the use provide off-street parking in conformance with the requirements of Section 8-3089; e) that no outdoor activities occur after 9:00 p.m.; f) that visual buffers be provided to shield parking areas, play areas and outdoor activity areas from abutting property; and, g) that a sign not to exceed three square feet may be permitted.

The requirements of a, c, e, and g (above) appear to be met. A waiver of the requirement of (b) is being sought. The intent of the requirement that child care facilities be located on collector or arterial streets is to minimize the potential impact that additional traffic generated by the use would have on surrounding properties. The subject property is situated on a local street in the middle of an established residential neighborhood. A waiver of the siting requirement could subject the surrounding area to potential detrimental impacts associated with congestion and safety.

Article (d) requires that an off-street loading and unloading area be provided for the safety of the children. The petitioner applied to the City of Savannah for permission to create a circular drive at the front of the residence. However, the City Traffic Engineering Department has denied the request and thus the proposed drop-off and pick-up plan is not useable. Other arrangements must be made to satisfy the requirements of Article (d).

Requirements of part (f) include buffering parking areas and play areas from abutting properties. Fencing must be a minimum of six feet in height and must be opaque. The rear yard is currently fenced with chain link which meets neither the height or opaque requirement. The code also requires one child care worker for every six children. Therefore, the petitioner must provide a minimum of two off-street parking spaces. Although ample space is located on the existing driveway, no buffering or shielding has been provided for the proposed parking area.

4. In accordance with Section 8-3163 of the Savannah Zoning Ordinance, the Board of Appeals shall hear and decide upon requests for permission to establish uses upon which the Board of Appeals is required to pass under the terms of this chapter. The application to establish such use shall be approved on a finding by the Board of Appeals that:
 - a. **The proposed use does not affect adversely the general plans for the physical development of the City, as embodied in this chapter, and in any master plan or portion thereof adopted by the Mayor and Aldermen.**

The proposed use will not affect adversely general plans for the physical development of the City.

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

The proposed use is not contrary to the stated purposes of this chapter.

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

The proposed child care center will have little, if any affect on the health and safety of residents and workers in the City. However, the increased traffic and subsequent congestion associated with the use could have an adverse impact on area residents.

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

The subject property is located on a local street in the middle of a residential neighborhood. The petitioner has stated that services will be provided for up to 12 children. The resulting traffic and potential congestion associated therewith could be detrimental to the use or development of adjacent properties.

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

The proposed use, subject to approval, can be compatible with the residential character of the area.

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

A minimum of 100 square feet of outdoor play space is required for each child; 2,601 square feet of play space has been provided. Off-street loading and unloading must be made available for the proposed use. The petitioner has failed to demonstrate how or where such activity will be provided.

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

Increased vehicular movement and noise generation could be a nuisance to the surrounding area.

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

Standards as discussed above appear not to be met. A waiver of the collector/arterial street location requirement is being sought. The number of children proposed to be cared for at this location and the amount of traffic that can be expected as a result pose concerns about safety, congestion, and, the

possible detrimental impacts that might be experienced by surrounding property owners.

Summary Of Findings

The conditions necessary to approve the establishment of the proposed use (child care center for 12 children) and the waiver of the requirement to be located on a collector or arterial street appear not to be met.

Mr. Byrne asked if there was an opaque fence in the rear?

Mr. Hansen stated no. He said one of the requirements was that all of the outdoor play area must be enclosed with opaque material. He said although the rear yard was fenced, it was a cyclone type fencing.

Mr. Bill Causey (11906 Idlewood Drive) submitted a letter of opposition for the file. He stated they understood the benefits of a close loving environment. He said he felt the petitioner's daycare seemed to embody all the good things about small home daycare centers. However, he was concerned if the Board allowed the daycare to expand to 12 or more children was not beneficial to the neighborhood. He said there were a lot of cars that sped through the neighborhood in which some lived in the area. Yet, some used Idlewood Drive as a thoroughfare to get to Abercorn Extension from Largo Drive. He said he felt the presence of a large daycare center would only aggravate the problem. He said their major concern was that Idlewood Drive was a residential neighborhood with a healthy mix of young families and older retirees and they would like to keep it that way.

Mr. Mackey stated in his letter he mentioned about setting a precedent. He said according to the Board of Appeals rules and procedures there are no precedents that are set. He said he case is reviewed on its own merits. He said also the petition was for 12 children and not 18 or 36 children. He asked if he or his neighbors noticed any problems at the petitioner's residence?

Mr. Causey stated no.

Mr. Carl Walker (11909 Idlewood Drive) stated he was concerned about the traffic that the daycare would generate. He said Idlewood Drive was a small street and the houses were close together. He said he felt that it was not a good idea for the petitioner to increase to 12 children because it was a residential neighborhood.

Mr. Mackey asked Mr. Walker if he noticed any problems at the petitioner's residence with the home daycare?

Mr. Walker stated no.

Ms. Gooddine stated she did not give any body a problem in the neighborhood. She said God has blessed her and she has a Christian daycare. She said her children were not loud and there has never been a congestion of cars.

Mr. Mackey asked Staff if he could address the concerns about the opaque fencing, buffering, and parking.

Mr. Hansen stated with regard to the off-street loading/unloading area for the children, what the petitioner requested of the City was permission to do a circular drive in the front which would necessitate two additional curb cuts. The City Traffic Department denied that request based on they felt it was ample space on the petitioner's drive which was substantial in length.

Mr. Todaro stated when people come to the Inspections Department to do daycares, they provide a sample packet and they typically recommend that they request a circular driveway which has been approved by the Board in the past. In this instance, the Staff at the City Traffic Engineering Department felt it was unnecessary and that her driveway was adequate. He said the lots in that area were large with a large amount of depth. He said the petitioner's daycare center provided 24-hour service and the ordinance limits any outdoor play activity to 9:00 p.m.

SZBA Action: Mr. Stephens made a motion that the Savannah Zoning Board of Appeals approve the petition as submitted including a street classification waiver, based upon a finding that the use permit granted will not cause substantial detriment to the public good. The permit shall be limited to no more than 12 children. The petitioner shall be required to install an opaque fence, no less than six feet in height to shield the required outdoor play space. Mr. Wallace seconded the motion and it was unanimously passed.

**RE: Petition of Trever H. Wells
B-05-40468-2
116 East Taylor Street**

Present for the petition was Trever Wells.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a seven percent lot coverage variance to the 75 percent lot coverage permitted pursuant to Section 8-3025 of the City of Savannah Zoning Ordinance in order to construct a single family residence. The subject property is zoned R-I-P-A (Residential-Medium Density).

Findings

1. Section 8-3025 of the Savannah Zoning Ordinance permits lot coverage of up to 75 percent in the RIP-A zoning district.
2. The petitioner proposes to construct a single family residence on a vacant lot located at 116 East Taylor Street. Whereas the subject parcel is located within the National Historic Landmark District, the petitioner sought and was granted a certificate of appropriateness for the proposed construction by the Historic District Review Board.
3. The subject parcel contains 3,500 square feet, measuring 35 feet in width, and 100 feet in depth. Although there are no setback requirements in the RIP-A district, lot coverage is limited. Accordingly, the petitioner is proposing to build a structure with a three foot side yard setback and an open, interior court yard. The style of the proposed structure is consistent with existing development in the neighborhood.
4. In accordance with Section 8-3163 of the Savannah Zoning Ordinance, the Board of Appeals may authorize upon appeal in specific cases such variance from the terms of the regulations as will not be contrary to the public interest where, owing to special

conditions, a literal enforcement of the provisions will, in an individual case, result in unnecessary hardship, so that the spirit of the regulations will be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in an individual case upon a finding by the Board of Appeals that:

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

The subject property is a standard lot and contains no irregular topographic features.

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

Application of the regulations of the Zoning Ordinance would not create an unnecessary hardship.

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

The conditions described above are not peculiar to the subject property.

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

Relief, if granted, would not cause substantial detriment to the public good. Setbacks are not required in the district; most homes in the neighborhood abut on another. Open space, typically provided in the form of a court yard, is usually not visible from the street front.

Summary Of Findings

All conditions required for granting a seven percent lot coverage variance appear not to be met.

Mr. Wells stated the reason he was asking for 7 percent was because he was trying to keep the house in a certain style inside and out. He said in this style in keeping with the neighborhood dictated the sizes of the rooms in the house which dictated the size the house needed to be. He said he was also required to have off-street parking which dictated the size of the garage.

Mr. Wallace asked how many stories was the house?

Mr. Wells stated 3 story.

Mr. Stephens asked what was the total square footage?

Mr. Wells stated approximately 4,500 square feet.

Mr. Hansen stated the footprint would not be 4,500 square feet which would be larger than the existing lot.

SZBA Action: Mr. Byrne made a motion that the Savannah Zoning Board of Appeals approve the petition as submitted based upon a finding that the variance granted will not cause substantial detriment to the public good. Mr. Wallace seconded the motion and it was unanimously passed.

**RE: Petition of Richard Dodd
B-05-40584-2
103 Back Street**

Present for the petition was Richard Dodd.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a four foot side yard setback variance to the ten foot side yard setback requirement of Section 8-3011 of the Savannah Zoning Ordinance in order to construct an accessory structure in the front yard of a river lot. The subject property is zoned R-10 (One-Family Residential).

Findings

1. Section 8-3011 of the Savannah Zoning Ordinance provides that "...accessory structures on properties directly abutting rivers or saltwater marshes shall not be restricted to rear yards, provided such accessory structures are set back a minimum of 50 feet from public right-of-way and ten feet from side lot lines."
2. The petitioner is seeking a variance that would allow construction to encroach 4 feet into the required side yard setback.
3. The subject property backs to the Forest River and is over one acre in size. The lot is 115 feet wide and more than 400 feet deep. A one-story residence, located approximately 153 feet from the front property line, currently exists on the site. Although no garage currently exists, a driveway does extend onto the property from Back Street.
4. In accordance with Section 8-3163 of the Savannah Zoning Ordinance, the Board of Appeals may authorize upon appeal in specific cases such variance from the terms of the regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions will, in an individual case, result in unnecessary hardship, so that the spirit of the regulations will be observed, public safety and welfare secured, and substantial justice done. Such variation may be granted in an individual case upon a finding by the Board of Appeals that:
 - a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.**

The subject property is a standard lot and contains no irregular topographic features.

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

Application of the regulations of the Zoning Ordinance would not create an unnecessary hardship.

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

The conditions described above are not peculiar to the subject property.

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

Relief, if granted, would not cause substantial detriment to the public good. The property owner has sited the proposed garage so as to preserve several large trees that currently exist on the property. The garage has also been sited to minimize the amount of driveway expanse and to avoid an additional curb cut.

Summary Of Findings

All conditions necessary for granting a four foot side yard setback variance appear not to be met.

Mr. Dodd stated it was a two story garage and he was requesting a 4 foot variance. He said he discussed his petition with his neighbors that would be affected. He said they both signed the letters that he sent to the commission and they had no problems with his petition.

SZBA Action: Mr. Byrne made a motion that the Savannah Zoning Board of Appeals approve the petition as submitted based upon a finding that the variance granted will not cause substantial detriment to the public good. Mr. Stephens seconded the motion and it was unanimously passed.

RE: Other Business

RE: Adjournment

There being no further business to come before the Savannah Zoning Board of Appeals the meeting was adjourned approximately 4:30 p.m.

Respectfully submitted,

Jim Hansen,
Secretary

JLH/ca