

SAVANNAH ZONING BOARD OF APPEALS

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

SEPTEMBER 27, 2005

2:30 P.M.

REGULAR MEETING

MINUTES

MEMBERS PRESENT:

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

TECHNICAL STAFF ABSENT:

Randolph Scott, City Inspections Department

MPC STAFF PRESENT:

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

RE: Call to Order

Mr. Mackey called the September 27, 2005 meeting of the Savannah Zoning Board of Appeals to order at 2:30 p.m.

RE: Minutes

1. Approval of SZBA Minutes – August 23, 2005

SZBA Action: Mr. Byrne made a motion that the Savannah Zoning Board of Appeals approve the regular meeting minutes of August 23, 2005. Mr. Wallace seconded the motion and it was unanimously passed.

RE: Consent Agenda

**RE: Petition of Andrea Denker, For
Robertson Holdings, dba
The Caledonian
B-05-50794-2
2517 Abercorn Street**

Mr. Mackey stated there was a request for the Petition of Andrea Denker, for, Robertson Holdings, dba The Caledonian, B-05-50794-2 to be moved from the Consent Agenda to the Regular Agenda.

SZBA Action: Mr. Wallace made a motion that the Savannah Zoning Board of Appeals move the Petition of Andrea Denker, for, Robertson Holdings, dba The Caledonian from the Consent Agenda to the Regular Agenda. Mr. Byrne seconded the motion and it was unanimously passed.

**RE: Petition of Anthony Gadson
B-05-50368-2
0 Pendleton Street**

Mrs. Jones stated she would like clarification on the above-mentioned petition.

Present for the petition was Anthony Gadson.

Mr. Hansen gave a brief Staff report.

The petitioner is requesting approval of a nine foot side yard setback variance on each side 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, located at 0 Pendleton Street, is zoned R-20 (One-Family Residential).

Summary Of Findings

All conditions necessary for granting a side yard setback variance for both sides of the subject property appear to be met.

Ms. Ernestine J. Jones, Liberty City Community, stated the lot was substandard and their concern was that they would like to know when the lot was subdivided because they have had some instances of these things going on in their area.

Mr. Hansen stated he did not know when the lot was created. He said perhaps the applicant has record of that information. He said if a more definitive answer is required he would have to do further investigation on this particular property because he did not know when the actual subdivision took place. As of to date, the lot was a recorded lot of record. He said as the Board knows all lots were considered buildable within the City once they were legally established.

Mr. Mackey asked the petitioner what was the depth of the lot?

Mr. Gadson stated 221 feet X 53 feet.

Mr. Mackey asked when was the lot subdivided?

Mr. Gadson stated he did not have record of that information. However, when he purchased the lot in April 2002 prior to the current zoning requirements it was already subdivided and established as a 221 X 53 foot lot.

Mr. Randolph Scott, (City Inspections), stated when he reviewed the lot, the area was posted prior to the R-20. He said he remembered talking with Mr. Gadson at the time when he was trying to obtain his permit. He said when he looked back and from what he could recall it was not subdivided with Mr. Gadson.

SZBA Action: Mr. Byrne made a motion that the Savannah Zoning Board of Appeals approve the petition as submitted noting that all conditions for granting the variance have been met. Mr. Wallace seconded the motion.

Mr. Mackey asked Mrs. Jones if she was satisfied with the testimony?

Mrs. Jones stated she was never satisfied with situations of this nature. She said she was a person who was willing to abide by the rules and regulations. She said if the Board recalled a couple of months ago there was a petition before the Board for a variance on another piece of property down the street. She said that petitioner's property was 105 X 210 and it was not granted by the Board. She said she felt fairness all the way around. She said they were tired in Liberty City of the substandard lots being put out there and people putting up little homes on them. She said she would just like to express the community's dissatisfaction with activity of this sort in their neighborhood.

SZBA Action: Mr. Mackey called for the vote and it was passed 2 – 1. Opposed to the motion was Mr. Stephens.

**RE: Petition of Benjamin S. Eichholz
B-05-51119-2
538 – 544 East 31st Street**

The petitioner is requesting approval of a ten foot rear yard setback variance to the 25 foot rear yard setback requirement of Section 8-3025 of the City of Savannah Zoning Ordinance in order to construct a two-family residence. The subject property, located at 538 – 544 East 31st Street, is zoned R-M-25 (Multi-Family Residential-25 units per acre).

Summary Of Findings

All conditions necessary for granting a 10 foot rear yard setback variance appear to be met.

SZBA Action: Mr. Byrne made a motion that the Savannah Zoning Board of Appeals approve the petition as submitted noting that all conditions necessary for granting the variance requested have been met. Mr. Stephens seconded the petition was it was unanimously passed.

**RE: Petition of Matthew Bush, Attorney, for
Tony Phillips
B-05-56864-2
313 & 319 Abercorn Street**

Mr. Mackey noted there are members of the public who would like to speak on this petition.

Present for the petition was Matthew Bush, Attorney, for Tony Phillips.

Mr. Hansen gave a brief Staff report.

The petitioner is requesting approval of an application to establish a neighborhood service facility (Pastry Shop, Use 67) pursuant to the requirements of Section 8-3163 of the City of Savannah Zoning Ordinance. The subject property, located at 313 & 319 Abercorn Street, is zoned R-I-P-A (Residential, Medium Density).

Summary Of Findings

All conditions necessary for granting use approval for a neighborhood service facility (pastry shop) appear to be met.

Mr. Bush stated the building was renovated by his client. He said the bottom area will be utilized for the desired use. It will be a reading room and it will serve coffee and pastries made off-site. He said it would be a low impact type use and they felt it would benefit the neighborhood. He said it would be in keeping with the things in the area.

Mr. Byrne asked who were they trying to attract to this site (business)?

Mr. Bush stated he did not think there was a specifically targeted demographic. He said it was his understanding it was going to be a Christian reading room, so it would probably be people from the Church area. He further stated the food part was a very low impact of the whole operation.

Mr. Byrne asked if they had talked with any of the neighbors about this going in?

Mr. Bush stated Mr. Phillips had talked with several of his neighbors in the area.

Mr. Phillips stated he talked with several of the immediate neighbors and they wanted the shop to be there. He said it was mainly a coffee shop and they would also have pastries. He said he had one person who stuck a note in his door about not doing this. He said he has not had any objection from anybody in the neighborhood. He said he felt it would be a great little thing downtown.

Mr. Mackey asked if there will be any prepping work done on site for the pastries?

Mr. Phillips stated no.

Mr. Larry Lee (President of Downtown Neighborhood Association) stated their concern was that the enterprise was originally proposed to be a restaurant. He said he believed it was handled at the local level of the City, which he felt did not go through because a restaurant was not allowed in RIPA district. The next proposal was for a pastry shop. He said there was testimony today that indicated it was actually a coffee shop, which sounded like it was getting it back to the restaurant. He said they felt their neighborhood was nice to live in and they have lived there for several years. He said the zoning condition exists because they keep order. He said while the area was thrilled that people were moving into the neighborhood and wanted to improve things, there is a plan in the neighborhood and zoning guides to follow. He said the neighbors were really concerned that what they really were going to have was a restaurant.

Ms. Esther Shaver stated Mr. John Patterson who owned the property next door which was a single family dwelling objects to the petition and has objected to the City, but unfortunately was out-of-town today. She said if the Board allows this, that meant that people like Shavers' Bookstore could put the same thing in and then it would open a Pandora's box.

Mr. Bush stated in regard to the comments that they originally requested that this be a restaurant was not accurate. He said what happened was they requested the same use and even though the statute allowed this type of use they were advised that they had to request a zoning text amendment. He said they disputed that and included this request within their original text amendment request. He said after some ruminating over that they were then advised that they were correct and that this was not a restaurant and they were not requesting that type of use and instead they needed to refile and request what they were requesting today. He said they have not changed the nature of the use at all from their original request. He said

they were advised that they had to asks for it a different way originally and now they were back where they thought they should have been in the first place.

Mr. Byrne asked how many chairs and tables will they have? He asked what assurances could they give Mr. Lee that it will not all of a sudden turn into a restaurant?

Mr. Phillips stated he was not in the restaurant business and did not intend to be. He said he just wanted a coffee shop. He said the Health Department will establish how many chairs they will need to have in the building. He said he would think 4 to 6 at the most. He said it was mainly a coffee shop and religious library. He said it was not a bookstore and you will not be able to purchase any books in this store.

Mr. Byrne asked how many tables would be in the store?

Mr. Phillips stated he meant 4 to 6 tables with 2 to 3 chairs at the table.

Mr. Mackey stated the petition before the Board was for a pastry shop and now he was hearing a religious library, which was a stark difference.

Mr. Phillips stated the pastry shop fell under coffee shop, pastry shop, and any foods that were not prepared on site. He said that was the reason it was applied that way. The building was already established as an Inn and was not a residence. He said the coffee shop will be on the ground floor on one side with a religious reading room on the other side.

Mr. Wallace asked if the sales would be limited to pastries and coffee or would there also be souvenir items?

Mr. Phillips stated maybe some religious souvenir items. He said it was also unlikely that would happen because they did not want to infringe on Saints and Shamrocks.

Mr. Hansen stated the question before the Board was the establishment of the pastry shop, confectionary which covers a multitude of uses under that particular section of the ordinance. The reading room that the petitioner was requesting to established was allowed by right. He said it was only the pastry shop aspect that the Board was considering.

SZBA Action: Mr. Stephens made a motion that the Savannah Zoning Board of Appeals approve the petition as submitted noting that all conditions necessary for granting the use approval have been met. Mr. Byrne seconded the motion and it was unanimously passed.

RE: Regular Agenda

**RE: Petition of Andrea Denker, For
Robertson Holdings, dba
The Caledonian
B-05-50794-2
257 Abercorn Street**

Present for the petition was Stuart Robertson.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of an application to establish a bar pursuant to the requirements of Section 8, Chapter 3, and Article K of the City of Savannah Zoning Ordinance. The subject property, located at 2517 Abercorn Street, is zoned TC-1 (Traditional Commercial).

Findings

1. The subject site is presently occupied by an existing, vacant building. The petitioner desires to establish a bar within the confines of the existing building.
2. Subject to certain performance criteria. A bar is an allowed use within the TC-1 zoning district subject to use approval by the Board of Appeals.
3. Recently, the City adopted a land use and rezoning plan for the area known as Mid-City, which includes portions of the Thomas Square, Metropolitan and Baldwin Park neighborhoods. The land use plan and subsequent rezoning was intended to ensure the vibrancy of historic mixed use neighborhoods with traditional development patterns characteristic of Savannah from 1890 to 1930 during the streetcar and early automobile era. The TC-1 district provides for commercial areas that are developed at a mass and scale harmonious with nearby residential neighborhoods.
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 upon 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 Mid-City land use plan designated the subject property for commercial development. Continued commercial use of the property would not affect adversely the 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 not affect adversely the health and safety of residents or workers in the City.

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

The subject property is both planned and zoned for commercial use. Establishment of a neighborhood bar will not be detrimental to the use or development of adjacent properties or the general neighborhood.

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

The proposed use, subject to approval, would not be affected adversely by the existing uses in the area.

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

The property is of ample size to accommodate the proposed use and the space requirements thereof. The use will be established in an existing, vacant building.

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.

The proposed use is not likely to create a nuisance due to an increase in vehicular movement, noise or fume generation, or type of physical activity associated with the use. The use fronts a major arterial street and no outdoor activities are planned.

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

The existing structure is currently in conformance with the bulk development standards of the zoning district.

Summary Of Findings

The conditions necessary for granting use approval for a bar appear to be met.

Mr. Byrne asked if there were any adjacent residential structures from the proposed site?

Mr. Hansen stated the closest residential structure was approximately 150 feet.

Mr. Stuart Robertson stated what they were looking to do was to establish a traditional Scottish pub in the building. He said at the moment there was one residential structure that was 150 feet away, which was unoccupied. He said the next closest residence was 700 yards. He said there also was a residential apartment above the florist nearby which was unused and approximately 350 yards. He said they wanted to create a gathering place for the Ardsley Park and Thomas Square neighborhoods. He said they will use off-duty policeman for security in the evenings. He said they will light the side and rear of the building because it has been an area of crime in the past next to the BP. He said they have talked with many of the businesses in the area and all support their petition. He said he also talked to a large portion of the residents and they current have a petition with over eighty signatures. The residents live adjacent to the proposed site from 41st Street to Abercorn. However, he did hear one dissenting voice in regard to the petition. He said they have a 10 year lease on the building and they were in it for the long term.

Ms. Virginia Mobley (Thomas Square Neighborhood Association) stated she met with Mr. Robertson and she relayed their concerns. She said a bar is a bar. She said they allowed the use of alcohol to be put into the new zoning for this area with the intent that the establishments would serve food. She said the petitioner has expressed to her that they did not plan to have a kitchen and any food will be brought in from another site. Under those regulations the petitioner's operating hours will be to 2:00 a.m. or 3:00 a.m. She said she also beg to differ with the petitioner on the distance. If you measure the proposed site across Victory Drive it was only 134 feet to the closest residence. She said they had some residents that were less than 60 feet away from this location. She said the location and concentration of bars in this general area have been a problem for the neighborhood for the last 15+ years. She said they had two locations in that area where there have been homicides. She said they have had a number of occasions where the general quality of life for the residents not next door but a block or two blocks away was affected. She said the Board may or may not be aware of the ladies night that was a popular activity along Bull and Abercorn Streets all of which affected people well away from this location. She said they did not object to the use of alcohol in this location, but they did ask for a balance. She said they asked for constraint on the hours of operation. She said the fact that they serve food or have a kitchen. The next question in all likely-hood would be the serving of alcohol on Sunday. She said they all knew that City's regulation required an establishment that sold alcohol on Sundays to have a kitchen. She said she felt the petitioner's uses would be limited and to some extent they still dealt with the idea of six days a week until 2:00 a.m. or 3:00 a.m. She asked the Board to take those things into consideration. She said if the Board agrees on the use at this site to stipulate hours of operation and that this was not a continuum use.

Mr. Mackey asked Mr. Hansen if the hours of operation was under the purview of the Board?

Mr. Hansen stated yes.

Mr. Mackey asked if they were correct in assuming that there would not be any food prepared or sold on the premises?

Mr. Hansen stated he did not know. He said he could only refer to what the applicant submitted in the application, which said that they did not intend to have food at least at the onset. He said he believed what they submitted and what was supplied to the Board was that they said that the possibility of food and the operation of a kitchen was something that they foresaw in the future.

Mr. Mackey stated in this area they went through some painstaking to get the Thomas Square plan adopted. He asked what ramifications if any would this have on that plan?

Mr. Hansen stated he felt at this point that it would not have any. He said he was cognizant of and sympathetic to Ms. Mobley's concern, particularly related to hours of operation. He said that was something that was within the purview of the Board to establish should you so desire. However, it was not something that as a Staff would routinely recommend to the Board.

Mr. Mackey stated he grew up in the neighborhood and remembered across the street there used to be Stonehenge, A & P grocery store and behind it used to be a post office. He said the two stores have always been there and were still there. He said he believed one of the stores operated 24-hours a day. He said there used to also be a club on the adjacent corner across from the bank of Abercorn and 41st Street. He said in that area, he did not know of any

immediate residential outside or across Victory Drive on the corner of Victory and Abercorn as well as on the block of 41st Street between Bull and Drayton Streets.

Ms. Mobley stated there was a residence if you looked at the plans under the 2 was a duplex and by 1 there were residences. She said also if you looked on the plans over by 14 and 15 both had residences in them.

Mr. Mackey stated that was going further up where she resided.

Ms. Mobley stated she felt it was within 50 feet, which was a half-block away.

Mr. Byrne asked if any of those residents were here today to speak in opposition to the petition?

Ms. Mobley stated Mr. John Davis who owned property 14 had a conflicting appointment and could not be here. She said she talked with Mr. Frett's wife who owned property 15 was concerned about the hours of operation.

Mr. Robertson stated he had Mr. John Davis' signature on their petition of support.

Mr. Mackey asked what would be the hours of operation?

Mr. Robertson stated they were not planning on being a nightclub. He said their hours of operation would be either 2:00 p.m. – 2:00 a.m. or 2:00 p.m. – 12:00 a.m. He said he asked for 2:00 p.m. – 2:00 a.m. so he could see what the traffic was like. He said he predicts that his busy period would be from 5:00 p.m. – 9:00 p.m. He also said the late hours was when they would have the off-duty police on the door. He said he has also talked with the Lieutenant in Precinct 3 who said that he was pleased with it with the off-duty police working there and that he would also asks for extra routine patrols.

Mr. Wallace asked if to the rear of the building was a parking lot?

Mr. Robertson stated there was a 65 space parking lot that they will have flood lit.

Mr. Wallace asked if access to the pub would from the rear of the building?

Mr. Robertson stated the access would be from a double door that would be put on the side. He said they would also have lights on that side of the building as well to improve security for people going back to their cars.

Mr. Mackey asked Staff if the Board set the criteria for the lighting? He said he felt it would need to be something down lit.

Mr. Hansen stated yes. However, that was not something that he has seen nor has he reviewed at this time. He said they would have to adhere to all those types of regulations.

SZBA Action: Mr. Stephens made a motion that the Savannah Zoning Board of Appeals approve the petition as submitted noting that all conditions necessary for granting the use approval have been met. Mr. Byrne seconded the motion and it was unanimously passed.

**RE: Continued 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 petition was continued from the June 28, 2005 hearing in order that the proper legal notification requirements could be met. The petition was continued from the July 26, 2005 hearing in order that the applicant could submit clarifying information pertaining to off-street parking and loading. The information has been received and is attached to this report for information purposes. The petition was continued from the August 23, 2005 hearing to allow the petitioner an opportunity to obtain approval for the proposed parking area and circular drive from the City Traffic Engineer. No additional information has been received from the petitioner.
2. 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.
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, 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. An opaque fence has been provided as an enclosure for the play area. The code requires one child care worker for every six children, and one parking space for each two workers. Therefore, the petitioner would have to provide a minimum of one off-street parking space. 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.

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 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. Hansen further stated that it appeared that Ms. Rivers had followed through with what the Board requested of her. He said he would also note that in the time the Board has been considering this petition, Ms. Rivers has also made several other improvements to her property including the installation of the necessary opaque fencing that would be required around the play area in the back. He said she has also shown which was provided to the Board at the last meeting the necessary parking requirements also have been met.

Mr. Mackey stated on the Board's notes where it says that the conditions in response to this establishment appear not to be met. He asked if he was saying now that they were?

Mr. Hansen stated no, he was not saying that in its entirety. He said there were still conditions that have not been met. However, he would give Ms. Rivers' credit that she has made great strides. One of the issues that he alluded to in his report that he felt the Board must take into consideration was that several of the requirements including for instance, the opaque fencing or the buffering that must accompany the parking spaces are often not completed until such time as assurances are given by the Board to go ahead and proceed. He said it would be somewhat costly for any applicant to proceed with those improvements prior to. However, Staff notes in the report that these items are lacking and therefore note in their opinion that these items have not been met to approve the childcare center. He said he felt this particular applicant has clearly demonstrated, however her willingness to do whatever the Board has requested. He said he felt she would follow through with the other requirements.

Ms. Rivers stated as she stated before that four of the children were her grandchildren. She said two that did not live with her and her daughter just had twins. She said it would not be a lot of traffic or anything because one person lived within walking distance, therefore five children were accounted for.

Mr. Mackey asked Staff if there were any traffic concerns?

Mr. Hansen stated it was possible that there could be negative traffic influences whereas the applicants driveway was going to be coming off of Athena. He said he has no way to judge whether or not that truly would be a problem, but the potential was there.

Mr. Randolph Scott (City Inspections) stated he was personally familiar with this particular site. He said he visited the site prior to the petitioner coming to the Board. He said he helped the petitioner with the drawing of the site plan. He said he knew in the mornings and around school time traffic was congested. However, the way the petitioner's property was situated it was a car and a half link or two off the slope that has no curb off of Athena. He said the way that it was shown on the map was not quite accurate. He said there was an old-time road that had cars pulling off of Athena and sliding down. He said what he was looking at and what he told the petitioner was that a driveway could be picked up right across there as cars come off of the street without any problem and get back on without standing in the street. He said cars should not be in the street. He said that was the only thing he noticed that the Board may not be able to see was that the paved area of the street was not quite adjacent to what you normally found in a lot of properties. Basically, the yard was quite far off the street where two to three cars could be back to back right there.

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

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

Present for the petition was Jeff Kramer.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a five foot rear yard setback variance to the 25 foot rear 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, located at 9 Iron Horse Spur, is zoned PUD-M-6 (Planned Unit Development Multifamily- 6 Units per Acre).

Findings

1. Section 8-3025 requires a minimum 25 foot rear yard setback for residential uses within the PUD-M-6 district.
2. The subject property, though irregular in shape, contains approximately 9,400 square feet. Located on a cul-de-sac, the parcel measures approximately 74 feet in length along its curvilinear front, nearly 127 feet along the rear property line, and the sides measure approximately 100 and 108 feet respectively. The approved plat established a 30 foot building setback line in the front yard for all lots contained within the subdivision.
3. The petitioner is seeking a variance that would allow construction of a single family residential structure to encroach five feet into the required rear yard setback. It is noted that the subject parcel backs onto a 100 foot wide Savannah Electric Power Company (SEPCO) utility corridor easement. No residential use does or will abut the subject

parcel along the rear property line.

4. In accordance with Section 8-3163 of the Savannah Zoning Ordinance, the Zoning 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.**

Though somewhat irregular in shape, the lot size is approximately 9,400 square feet.

- 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 not create an unnecessary hardship.

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

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

- 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 rear property line abuts a 100 foot wide utility easement. The proposed lot coverage totals approximately 21.3 percent, below the allowed 30 percent for the district.

Summary Of Findings

All of the conditions necessary for granting a five foot rear yard setback variance appear not to be met.

Mr. Byrne stated he knew there was a letter from Tidal Construction that was included in the Board's packet. He said they noted that they did not have any objections made by the petitioner. He asked if he knew why they would have had objections to the petition?

Mr. Hansen stated he did not know why they would or would not have had. Nonetheless, the letter was submitted and he included it in the Board's packet. However, he believed Tidal was one of the builders in this particular area.

Mr. Billy Holloway stated he was not opposed, but only had a question. He said it was recently developed and thought it was about several hundred acres. He said he was curious as to why

they needed a variance so quickly because these were new homes that have just been planned. He said the lot looked as large as the other lots in there. He said he just wondered what was going to be built there that made it different where it needed more setback or less property line.

Mr. Randolph Scott (City Inspections) stated if remembered correctly he believed that the situation was that the square footage was not the issue, but the depth of the lot. He said it was the way the house was situated on there and a matter of it being cut like that by the developer.

Mr. Jeff Kramer (Ernest Homes) stated they were the builder that owned the lot. He said the community was developed by a third parties, therefore they did not have any say as to lot size, depth, and widths. He said the reason the letter was in there from Tidal Construction was because there were only two builders in there which was Ernest Homes and Tidal Construction. He said they felt it would behoove them to get Tidal's approval of the variance before they came before the Board. The lot was of adequate size but the problem was that it was not deep enough. He said they have about sixty different floor plans that they build and not one of their plans would have fit on this lot depth wise. He said it was short approximately 5 feet on their narrowest plan from front to back and that was why they were requesting the 5 foot variance on the setback. He said this was the only lot to his knowledge in this first phase that would require any type of variance.

Mr. Mackey asked if there were any easements?

Mr. Kramer stated no. He said it would also still leave a 20 foot setback on the back property.

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

RE: Petition of Stuart Sleper
B-05-50612-2
534 East 58th Street

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of 16 foot rear yard setback variance to the 25 foot rear yard setback requirement of Section 8-3025 of the City of Savannah Zoning Ordinance in order to construct an addition onto an existing single family residence. The subject property, located at 534 East 58th Street, is zoned R-6 (One-Family Residential).

Findings

1. Section 8-3025 requires a minimum 25 foot rear yard setback for residential uses within the R-6 zoning district.
2. The subject property is a standard lot; 112 feet wide and 120 feet deep. The parcel fronts onto 58th Street and backs onto a 16 foot wide lane.
3. The petitioner is seeking approval of a 16 foot rear yard setback variance that would allow construction of an addition onto an existing single family residence.

4. The subject property was, until recently, oddly sized and triangular in shape. The original lot was adjacent to the old City trolley right-of-way which cut diagonally from northwest to southeast. Accordingly, the residential structure that exists on the property is built with minimum side yard setback on the west. The petitioner has purchased the former right-of-way and has “squared off” the resulting lot.
5. 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 measuring approximately 13,440 square feet in size. A swale exists on the eastern portion of the property in the location of the former right-of-way.
 - 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 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 rear property line abuts a public right-of-way.

Summary Of Findings

All conditions necessary for granting a 16 foot rear yard setback variance appear not to be met.

No one was present for the petition.

Mr. Randolph Scott (City Inspections) stated it was unfortunate that the petitioner was not present because he put it in client response. He said he let the applicant know that the chance of them getting approved was favorable. He said the lot was odd shaped.

Mr. Mackey asked Mr. Hansen if he has had any conversations with the petitioner?

Mr. Hansen stated no.

Mr. Mackey asked Mr. Scott if he has had any conversations with the petitioner?

Mr. Scott stated yes. He said he has talked with the applicant on several occasions.

Mr. Mackey asked if he was notified about the meeting?

Mr. Hansen stated yes.

Mr. Byrne asked if the petition could be moved to the heel of the agenda. He said if the petitioner does not appear by then may be the Board could discuss continuing it until next month or dismissing it.

Mr. Mackey stated the petition will be deferred to the heel of the agenda if the Board was in agreement.

The Board agreed the petition could be moved to the heel of the agenda.

**RE: Petition of Troy & Letricia Steed
B-05-51355-2
830 East Anderson Street**

Present for the petition was Troy Steed.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a 600 square foot lot area variance from the 7,200 square foot lot area minimum required pursuant to Section 8-3025 of the Savannah Zoning Ordinance in order to construct a two-family dwelling. The subject property, located at 830 East Anderson Street, is zoned R-4 (Four-Family Residential).

Findings

1. The R-4 zoning district allows a maximum of 12 dwelling units per acre. Section 8-3025 requires a minimum lot area of 7,200 square feet for two-family residential structures located on one lot within the R-4 zoning district.
2. The subject parcel is 60 feet wide and 110 feet deep. Although the lot size meets the minimum requirements for single family detached structures, the lot is substandard if used for multiple family dwellings. Located mid-block, the parcel fronts Anderson Street and backs to a public lane.
3. The petitioner is seeking a 600 square foot lot area variance that would allow construction of a two-family dwelling. The proposed structure meets or exceeds all other setback and area requirements.
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 meets the minimum development standards for a single family residence, but is substandard with regard to the minimum standards required for multi-family dwellings.

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

Strict application of the Zoning Ordinance regulations 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 proposed project is consistent with the development pattern in the area and meets or exceeds all other bulk requirements.

Summary Of Findings

All conditions necessary for granting a 600 square foot lot area variance appear not to be met.

Mr. Steed stated they intend to build the duplex with the assistance of You Build It as their site supervisor. He said they are a contractor in which they have to be directly on the site. He said they come in and hold their hands while teaching them on how to construct. He said they decided to use You Build It so that they could have a personal interest in developing the property. He said they also intend to live on the property. He said the house will be 36 feet deep X 44 feet wide. In addition, he also made an attempt to talk with Mr. John Griffin who owned the property that was to the east of their lot, but he was not there. He said according to the individuals who live there they said that he did not live there. However, he did talk with them and informed them as to what they were planning to do. He said he also tried to talk with the individuals who live to the west of the property but no one was there.

Mr. Randolph Scott (City Inspections) stated he also put them in client response. He said he reviewed this when they initially applied. He said prior to them being approved through permitting, the City is requesting that all applications be reviewed through Housing. He said he discussed with the petitioners that they make sure the aesthetics and everything were comparable to the neighborhood because the City also have a lot of houses going up in that area. He said he looked at the plans and it seemed that there was no issue with parking or any other requirements that you would normally have. He said it was just the lot with the square footage they were short.

Mr. Mackey asked if this could be considered infill housing?

Mr. Scott stated yes.

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 relief granted would not cause substantial detriment to the public good. Mr. Stephens seconded the motion and it was unanimously passed.

RE: **Petition of Harold B. Yellin, Agent for
BC President, Inc. (Best Cleaners)
B-05-51708-2
640 President Street**

Present for the petition was Harold Yellin, Attorney, and David Reeves, Co-Owner.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of an application to establish a dry cleaning plant (Use 83n) pursuant to the requirements of Section 3-8025 of the Savannah Zoning Ordinance. The subject property, located at 640 President Street, is zoned R-B-C (Residential-Business-Conservation).

Findings

1. The subject site is currently occupied by a Best Cleaners drop-off and pick-up facility. The petitioner desires to establish a dry cleaning plant on site to compliment the existing facility.
2. Subject to certain performance criteria, a dry cleaning plant is an allowed use within the R-B-C zoning district subject to use approval by the Board of Appeals.
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 upon 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 City's Future Land Use Map (FLUM) designates the subject property for multiple-family residential use. Consistent with that designation are neighborhood serving commercial facilities such as the existing dry cleaning establishment. A dry cleaning plant would not be consistent with the FLUM designation.

- 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 cumulative affects of a dry cleaning plant upon the health and safety of residents and workers in the City is unknown. Any such plant would be required to adhere to environmental regulations as administered by the City of Savannah, Chatham County, the State of Georgia, and the U.S. Government. The property is the site of a former gas station. The underground storage tanks have been removed thus removing a potential health problem.

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

The subject property fronts an arterial street (President), and is bounded on the east and west by local streets (Arnold and Reynolds Streets). Property to the north is vacant and has recently been acquired by the City of Savannah. A homeless shelter is located to the east of the subject property in a former church. Hitch Village, a Savannah Housing Authority development is located on the south side of President Street.

Development and redevelopment of vacant and underutilized properties within the immediate vicinity has occurred or is planned to occur in the near future. The establishment of a dry cleaning plant on the subject property could hamper or chill this development trend. The intense nature of a dry cleaning plant would not be conducive to development or redevelopment of residential properties within the immediate area.

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

The proposed use, subject to approval, would not be affected adversely by the existing uses in the area.

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

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.**

The proposed use is not likely to constitute a nuisance due to an increase in vehicular movements, noise generation, or physical activity at the facility. Odor and/or fume generation could be a potential hazard; however, such emissions are regulated by various governmental bodies as noted above.

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

granted have been met.

The proposed use is in conformance with the bulk development standards of the zoning district.

Summary Of Findings

All of the conditions necessary for granting use approval for a dry cleaning plant appear not to be met.

Mr. Byrne stated in the staff report it says that the cumulative affects of the health and safety of the residents in the City having a plant located there is unknown. And also that there is a homeless shelter that was located to the east of the property and a former church in Hitch Village was located down the south side of President Street. He asked if that was correct?

Mr. Hansen stated yes. He said although they did not know the cumulative affects that a dry cleaning plant may have, dry cleaning was more of the heavily regulated businesses. He said there were regulations in place not only from the City of Savannah, Chatham County, the State of Georgia, and the federal EPA. He said he did not wish to leave the impression that the petitioner was in any way going to or does shirk those responsibilities. He said they simply did not know what some of those impacts could or could not be.

Mr. Byrne asked if the City required an environmental impact study to be completed prior to approval of this?

Mr. Hansen stated no.

Mr. Yellin stated this site has been a dry cleaners owned by the current owners since 1990. Before it was this dry cleaners it was another dry cleaners owned by a previous owner. He said before that it was a gas station. He said the concrete up front was removed as well as the concrete island and underground storage tanks. He said this has always been some form of a commercial property. He said it was important the Board knows that they were only going to be using the existing building. He said there was not any additional square foot required. He said there was simply unused space in the back of this building. He said there would be racks up front for people to come for pickup and delivery. It was sort of the dead space in the back that they wanted to use for their equipment. He said virtually there would be no change in what you see. He said it was going to be exactly what their neighbors and customers have been seeing for at least the last 20 years. From time to time they come across situations where he felt the zoning ordinance was a little bit outdated and felt this was another example. He said this operation would only require four washing machines and four work stations for processing. He said he felt if you read the zoning ordinance the word plant as he went down the use schedule there were asphalt plants, concrete plants, bottling plants, and sewage treatment plants. He said he felt we get up with the word plant as being something that was excessive and something that was going to have equipment all over the place. (Showed picture of machine). He said the machine was 88 inches high, 63 inches deep, and 96 inches high. He said you were roughly talking about something that was 5 X 7 and 8 feet high. He said this was today's technology and this was the plant that they were looking to build.

Mr. Mackey if there would only be one?

Mr. Yellin stated yes. He said probably in the foreseeable future they might need two. He said there would be no venting, no release of steam, no release of vapor, and no above ground or underground storage tanks. He said what they wanted to do was install this dry cleaning machine. He said there was probably more equipment next door at Sykes Collision than they have at this site. He said there also probably was more equipment on the other side at Westside Urban than what they were going to have at this site.

He further stated if you go to Curry Cleaners on DeRenne the plant was a part of that building. Also, if you go to Campbell Cleaners on Waters Avenue next to Carey Hilliards the plant was inside that building. He said if you go to Dry Clean USA on Habersham and Bay Streets the plant was inside the building. He said he never knew that until he filed this petition. Like, Curry, Campbells, and Dry Clean USA there will be no trucks. He said his petitioner would only have the vans that were there now. He said the pickup would be through the front door and not the back door. He said they will have the same number of pickups a day, therefore there would not be an increase in traffic. He said the hours of operation would remain the same 7:00 a.m. – 6:00 p.m. Therefore, at the end of the day this additional use was virtually invisible to customers and neighbors. He said he supposed that he was a little confused by Staff's comments, but delighted to hear from Mr. Hansen that there was at least a discussion amongst staff and it was very close call. He said somehow dry cleaning was okay, but dry cleaning with this equipment in the back was not okay.

He also stated that there was a comment made about City plans for this area. He said he had a letter dated August 17, 2005 from Pam Lightfoot Sullivan which she referred to this property. He said one time the City of Savannah was thinking about condemning Best Cleaners and putting in a parking garage. He said in the letter she has basically said that the City has reassessed its property needs and determined that they do not require the area occupied by your business. "We our however, still interested in purchasing a portion of the vacant land behind and adjacent to the building." He said an area that was 22 feet X 66 feet fronting Arnold Street. The only thing the City was interested in the yellow piece of property and he called as recently as this morning and asked what they wanted the property for. He said they said that they wanted it for surface parking lot because they promised Westside Urban additional parking. He said whatever plans there may have been in the past they just were not there now. He said the only thing that they have asked from them was the right to come on and possibly buy or condemn the small piece of property that was shown in yellow. He said with that in mind they would request approval of their petition to allow this additional use which was permitted as a matter of right with the Board's approval.

Mr. Mackey asked if the upstairs portion was going to be utilized?

Mr. Reeves stated it could possibly be utilized as office space or storage space. Currently, it was an unused second floor level. He said it was framed out but it has not been brought up to a level where it was currently usable.

Mr. Mackey asked if inside the plant that they were proposing, will they do shirt pressing and everything?

Mr. Reeves stated yes.

Mr. Randolph Scott (City Inspections) stated he remembered there was a dry cleaners on Habersham and wanted to expand. He said it was the change of the simple term from dry cleaners to a laundry plant, whereas they were taking in from other businesses. He said the

only thing he saw in the ordinance was in regard to solvents which could be of concern. He said he would not be able to walk up and recognize a class 40 solvent machine. He said there may not be any problems from a federal or stated standpoint. He said he guess the manufacturing label and protocol from there would need to be met. He said that would be it from the zoning standards.

Mr. Reeves stated the solvent that was used here was a much safer solvent than has been used in the past. He said they have a technical sheet on the solvent that they could submit. He said it has been approved in many different districts, locations and multiple use buildings. Also, because of the new technology and the new machine used here, what the Board was looking at was a lot less solvent that was actually used nowadays because they reclaim as much of the solvent as possible through the process. So, you were continuously reclaiming it, distilling it back to a pure form and reusing it.

Mr. Mackey stated Mr. Hansen mentioned that the industry was highly regulated. He asked if there were any inspectors that come by in terms of and as mentioned by Mr. Byrne EIS for environment runoff or anything like that?

Mr. Reeves stated there were different regulations that come into play and over the years they have had contact with different departments. He said there were a lot of different dry cleaning solvents and the different solvents come under different regulations. The ones that a lot people were more familiar with was one commonly called perk which was highly regulated and a synthetic. He said this was not the solvent that they would be using in this facility nor did they use it in their existing facility. He said what they used was a hydrocarbon or petroleum base solvent. He said there were regulations, but it was very limited. In fact they were not required to have hazardous waste disposal of filters coming from a petroleum base solvent that they were using. Yet, they still do contract with a hazardous waste supplier for the 15 years that they have been in business to have it removed.

Mr. Mackey asked would be the hours of operation?

Mr. Reeves stated their normal hours was 7:00 a.m. – 6:30 p.m. (Monday – Friday) and 8:00 a.m. – 5:00 p.m. on Saturday.

Mr. Mackey asked what were the hours for the plant?

Mr. Reeves stated there would be a couple of people that would come in between 5:00 a.m. or 6:00 a.m. to get the operations started so that by the time the production people came in at 7:00 a.m. or 8:00 a.m. they would be ready to go to work.

Mr. Mackey asked if there would be any noise associated or generated from the plant?

Mr. Reeves stated there would be noise, but he felt it would all be contained inside the building.

Mr. Mackey asked if there was any equipment that would be housed on the outside of the structure?

Mr. Reeves stated no. He said it would be your typical air conditioning compressors or something like that which would probably be roof mounted.

Mr. Mackey asked if they had any contact with their neighbors like the Mission?

Mr. Reeves stated he has not contacted them and they have not contacted him. He said he felt the biggest concern between himself and the Mission would be the fact that they tend to collect a few of their people as they are waiting for the Mission to open. He said they tend to congregate around the property which has nothing to do with the dry cleaners.

Mr. Byrne asked if he said that he use a company to transport the solvents or hazardous waste?

Mr. Reeves stated yes. He said there was very little that was actually generated from this particular machine that they would be using on this site.

Mr. Byrne asked if he was correct that there was nothing that vented outside the building?

Mr. Reeves stated there would be a boiler.

Mr. Byrne stated it would not vent gas or solvents, correct.

Mr. Reeves stated correct. He said it was a closed system where it reclaimed the solvent it took the vapors and converted them back to a liquid. He said it recycled as opposed to venting it to the outside.

Mr. Byrne asked what type of training did the staff go through in the event of some kind of spill of the solvents?

Mr. Reeves stated the training would be one that he would be primarily on the site and primary operator. He said but the staff would also be trained with him as far as what went on there. Also, the machine itself had a limited amount of solvent that was in its tanks and it has a containment basing that was part of the machine. Therefore, if there was a spill it actually had a built in containment basing for it.

Mr. Wallace asked how many locations would be served by this particular operation?

Mr. Reeves stated it would be serving this location and one other which he believed was what the ordinance was written for.

Mr. Yellin stated the current solvent was not hazardous. He said he also had a letter from Law Engineering that was done for the manufacturer. It says – “the accidental release of this product (perk) would not give rise to notification under Georgia’s Hazardous Site Response Act regulations. This conclusion is based on the finding that the product does not contain concentrations of volatile or semi-volatile organic constituents itself that are capable of causing an exceedance of HSRA notification. This finding is consistent with the assertion that DF 2000 which is the solvent itself was not ARC or a hazardous waste.” He said he thought of every solvent as being hazardous in nature. He said this was sort of the next generation both the machine that he showed and the solvent itself. Although there was training that went on, the solvent itself was not hazardous. He said he wanted to make sure that everyone understood that.

SZBA Action: Mr. Stephens made a motion that the Savannah Zoning Board of Appeals approve the petition as submitted based upon a finding that the use approval granted will

not be detrimental to the public good. Mr. Wallace seconded the motion and it was passed 2 – 1. Opposed to the motion was Mr. Byrne.

RE: Petition of Fred L. Jefferson, Jr.
B-05-52395-2
2227 Florida Avenue

Present for the petition was Fred Jefferson.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a seven foot side yard variance to the 15 foot side yard setback requirement of Section 8-3025 of the City of Savannah Zoning Ordinance in order to construct an addition onto an existing single family residence. The subject property, located at 2227 Florida Avenue, is zoned R-4 (Four-Family Residential).

Findings

1. Section 8-3025 of the Savannah Zoning Ordinance requires that structures be located no closer than 15 feet to the property line when a parcel is located at the intersection of two public rights-of-way (corner lot). The minimum side yard setback for interior lots within the R-4 district is five feet.
2. The subject parcel is a standard lot; 140 feet wide and 100 feet deep. The lot fronts Florida Avenue and sides onto Georgia Avenue.
3. The petitioner is seeking a side yard setback variance that would allow construction of an addition onto an existing single family residence. The side yard setback for the existing structure is in excess of 39 feet.
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 measuring approximately 14,000 square feet in size 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.

Summary Of Findings

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

Mr. Hansen also stated that he received a letter from Mrs. Holt stating that she would be unable to attend the hearing today and that she was in opposition to this petition.

Mr. Jefferson stated he was before the Board seeking relief to build 7 foot within that distance. He said at the corner of the lot, the part that he was going to add on was going to be 75 feet away from the corner itself. He said he did not see any problem where you would have any safety concerns because you would be able to see from both directions. He said included in the Board's packet was pictures of houses that were in the neighborhood that set on the corner and throughout the neighborhood. In addition, to the 9 feet that would be left on his property there was also 11½ feet of easement outside of his property between his property and the street. He said all he was asking was for the Board to grant him that much to improve his house.

Mr. Byrne asked if he talked with Ms. Holt?

Mr. Jefferson stated he did not know Ms. Holt. He said as far as he knew she was in favor of it because she wanted him to tear the fence down because it was rotten. He said it could be the neighbor next to the neighbor that was directly behind him.

Mr. Byrne asked if he talked to that neighbor?

Mr. Jefferson stated yes.

Mr. Randolph Scott (City Inspections) asked if he mentioned something about an easement because it was not shown on the map.

Mr. Jefferson stated yes. He said there was 11 feet outside of his fence before you get to the street.

Mr. Hansen stated oftentimes unfortunately property owners view the back of the curb as being a property line. In fact, what you have was that from the back of the curb to his property line there is the approximate 11 foot distance which was turf. However, that was not where the property line. He said the property line was in back and setbacks were measured from the property line.

Mr. Scott stated he understood that. He said he was thinking of the visual impact.

Mr. Hansen stated visually you would see that. He said his point was that it was not actually an easement, but rather was the setback distance between a property line and the rear of the curb.

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 relief granted will not cause substantial detriment to the public good. Mr. Wallace seconded the motion and it was unanimously passed.

**RE: Petition of Stuart Sleper
B-05-50612-2
534 East 58th Street**

Mr. Mackey stated it seemed that Mr. Sleper still had not arrived. He asked what was the wish of the Board?

Mr. Byrne stated he felt it should be continued so Staff could contact him.

SZBA Action: Mr. Stephens made a motion that the Savannah Zoning Board of Appeals continue the petition until next month. Mr. Wallace seconded the motion and it was unanimously passed.

RE: Other Business

1. Request for Reconsideration
Petition of Marie W. Dixon
B-05-39497-2
1443 East 38th Street

Mr. Hansen stated he did not propose to make a formal presentation to the Board. Merely to clarify what the ordinance requirement was. He said the ordinance says that any petitioner has the ability to request a reconsideration from this Board provided that they file that reconsideration request within 5 days of the last action taken. In both of these cases, the case that was now the question of Marie Dixon and the subsequent case Annette Cuyler, those requests were received within the required time frame. He said he forwarded those requests to the Board. The ordinance further states that the request for reconsideration to be considered by you should you so grant that request then the Board must hear that request today and take an action or reaffirm their action that they took at that time.

Mr. Mackey stated the request was being made on this particular one by Ms. Dixon. He said the section also made referenced whether what they would be hearing would be new and relevant information. He asked based on the testimony that was given Ms. Dixon at the last hearing when this petition was denied, if she was prepared to offer any new testimony or anything that the Board did not consider when they made their decision on her petition?

Ms. Dixon stated yes.

Mr. Mackey said the Board would have to make the decision as to whether it would rehear or grant a reconsideration on the case. He read the section from the Bylaws, section 8, article 2 which says – “Any appellant requesting a rehearing shall file such request in the same manner as the original application within 5 days following the Board's decision. On the petition for which a rehearing is being sought the Board may grant a rehearing only for a petition that is submitting

new and relevant information. Applications for a rehearing shall be denied upon a finding by the Board that there has been no substantial change in facts, evidence, or conditions relative to the petition in question. Upon approval of a request for a rehearing the Board shall rehear the petition in question at the same meeting.” He said those were the parameters and it was up to the Board as to whether they would rehear at this point on this petition.

Mr. Byrne stated you really would not know until the petitioner presents their case.

Mr. Mackey stated so the Board would follow procedure if that was the case a motion would have to be made. He said once the Board hears the testimony if the Board determined that there was nothing new then it was clear as to how the Board should act.

SZBA Action: Mr. Byrne made a motion that the Savannah Zoning Board of Appeals approve the request for reconsideration. Mr. Wallace seconded the motion and it was unanimously passed.

Ms. Marie Dixon, Petitioner, stated on the day that the Board denied her because of the traffic, that was the day during that week the doctor told the family that her mother did not have long to live. She said there were family members and friends gathered at the house. She said the grey car belonged to her niece who was also present today. She said her daycare families were not there. She said when her daycare families come they park in the back. She said when her neighbor took those pictures that was the reason why there were so many cars in front of her house. She said there is never two or three cars at the same time to her daycare. She said the first person comes at 7:00 a.m. and it may take them about 5 minutes. She said no one ever lingers at the daycare or in the street. She said from 7:00 a.m. – 9:00 a.m. the traffic is over and from 3:00 p.m. – 6:00 p.m. during the pickup time. She said she has a signed petition from her neighbors saying that they have no objection to her petition. She also had pictures of the privacy fence that she had installed. She said there was plenty of parking and there was no traffic around her house.

Mr. Mackey asked if it was her testimony that on the specific day that the pictures were taken which the Board was not certain of, that the gathering of cars was because of an unusual circumstance.

Ms. Dixon stated yes.

Mr. Mackey asked Mr. Hansen on the day the Board denied the petition what were the reasons offered by the Board?

Mr. Hansen stated he believed that it was based largely upon written statements from opposition that they were opposed due to traffic concerns. He said this was not only a request for establishment for a daycare center but it was also a request for a waiver of the requirements that the daycare centers be located on either collector or arterial street. He said this particular street was a local street. At the far western end of the street that narrowed the street down in size. He said he believed that the Board was cognizant and concerned of that. The Board also mentioned during their deliberations the fact that although Ms. Dixon currently operated a childcare center as a matter of right for six children there was some concern that 12 children may cause some form of detriment or some sort of problem with the neighborhood and surrounding community.

Mr. Mackey stated on the day the Board heard this case there were objections from some of the neighbors. He asked if he was correct?

Mr. Hansen stated yes.

Mr. Mackey asked what were the requirements for the petitioner to put up a sign to notify the community or neighbors that she was in the process of appealing the decision?

Mr. Hansen stated unfortunately there were none. He said the ordinance was silent upon that. He said they did not nor would he assume did the applicant notify any of the neighbors that she had requested reconsideration or that that reconsideration might be considered and in fact acted upon today.

Mr. Mackey stated when he reads in the Zoning Ordinance, section 8, 3167 – Public Hearings, and it has item B erection of sign – “at least 15 days prior to the scheduled date of public hearing of an application the applicant shall erect a sign to be furnished by the Zoning Administrator on the land for which the appeal is being made.” He asked if that was not speaking of an appeal in the manner of which Ms. Dixon was coming before the Board?

Mr. Hansen stated that was not how it has been interpreted. He said the original appeal to this Board where the original request was denied was properly noticed both in the paper and with signs posted on the property. The reconsideration unfortunately was silent. He said one could interpret that to say if there is going to be a rehearing then it should be posted. However, they don't know if the Board is going to grant the rehearing.

Mr. Mackey stated he felt that item needed to be addressed. He asked Staff as well as the Board if they felt that was something that would need to be addressed?

Mr. Hansen stated yes. He said this was at least the second time that the Board has had a request for reconsideration. He said this was not something that was typical. However, it was certainly something which they should address as far as public notification. He said Staff could at the Board's direction begin the process to amend the ordinance to in fact clarify that particular situation so that in the event that they have future reconsideration request that it is no longer an issue. He said the other option that could be offered to the Board as a possibility is that if in fact the Board wished to reconsider he believed that they could take this particular item under advisement or in effect continue it to the next meeting and they will have the petitioner to repost the property. He said the Board has already taken an action to consider the reconsideration.

Mr. Randolph Scott (City Inspections) stated he felt that was reasonable. He said when the decision was made at the original meeting unlike court a decision at that time was not made as far as considering to do some sort of appeal on that decision, henceforth the audience would not know. He said they would not know until within the 5 days window whether or not the person wanted a reconsideration.

Mr. Byrne stated he agreed. He said that was a basic due process of notification. He said he felt that was the spirit and intent of the ordinance.

Mr. Mackey stated he would agree that an amendment needed to be done and that Staff begin the process of amending the ordinance to address the issue.

Mr. Hansen stated he wanted to clarify that in regard to the opposition there was to his knowledge no opposition present who spoke in regard to this petition. However, the Board had letters from the neighbor in opposition as well as pictures which was reflected in the minutes. He said the Board considered the letter and the pictures that were submitted. He further stated the proposed text amendment was something that he felt could be done expeditiously. He asked for further direction from the Board if they would like for him to bring it back to the Board? He said the normal process would be that it go to MPC and then to City Council ultimately for adoption assuming that was the avenue the Board wanted to pursue. Or, he could bring it back to the Board for their concurrence or recommendation. He said it was more a question of timing as to how the Board wanted him to proceed.

Mr. Mackey stated it has survived this long without challenge, however time does necessitate change. He said he would like for Staff to proceed and bring it back to the Board for review. Upon the Board's agreement it could be forwarded to MPC and ultimately to City Council.

Mr. Hansen stated okay.

Mr. Mackey asked if that was the consent of the Board.

The Board agreed.

Mr. Mackey stated the Board now has the issue of how to dispose and deal with the petition of Ms. Dixon. He said one option would be to rule based on her new evidence which was basically the traffic and it was her testimony because of unusual circumstances. He said the issue of the arterial and collector street still has not been addressed. However, Ms. Dixon has addressed one of the two issues. He said the Board could continue it to a date certain and repost the sign which would give fair notification to any neighbors. He said he felt in the spirit and candor of what the Board was attempting to do with the text amendment that may be the way.

Ms. Dorothy Pitts stated it was already an existing daycare. She said she felt quality home daycares were very much needed in the area. She said there was only one person in a whole block of other neighbors that says that there was a lot of traffic. She said Ms. Dixon has complied with the rules and has a circular driveway. She said she could not understand why there would be a holdup of traffic. She said if a person is meeting the qualifications and following the guidelines, she did not see why the petitioner needed to be denied to have the daycare. She said she frequently visits there and two cars could get by and did not feel that was quite true.

Mr. Mackey stated technically the item that she did not meet in terms of the guidelines was the issue of the collector and arterial streets. He said as a matter of right she is allowed six children and anything above that would have to be approved by the Board. He said the last thing he would like to say is sometimes you notice if you sit in the proceedings that other daycares and other petitions come before the Board and some may get approved and some may not. He said in the Board's Bylaws each case is judged by its own merits and there are no precedents set by the Board.

Ms. Nicole Williams stated on behalf of Marie Dixon as a family member and as a past parent whose child use to attend her daycare, she has stopped there numerous times throughout the day and the traffic was not a problem. She said the traffic was always in and out. She said when she has stopped by there to visit for a long period of time it was not congested where it would be an inconvenience to the parents and traffic held up. She said Ms. Dixon has been in

the business for at least 17 years and she has never seen a problem the times that she was coming there.

Mr. Mackey stated the goal of the Board is to be objective based on the law. He said he felt since the Board has asked for a text amendment to be drafted by Staff that they go through the process of reposting the particular residence to alert the neighbors an appeal has been made to a date certain.

SZBA Action: Mr. Byrne made a motion that the Savannah Zoning Board of Appeals continue the petition until the next meeting. Mr. Wallace seconded the motion.

Mr. Stephens asked if the Board had the authority to authorize Staff to notify those people who were opposed or just repost the sign?

Mr. Mackey asked Mr. Hansen if the erection of the sign was to be done by the petitioner or Staff?

Mr. Hansen stated ordinarily the erection of the sign is done by petitioner. However, he felt in this case, they could take it upon themselves to do that and also notify the residents in the area. Moreover, should they receive any other request for reconsideration on any future case prior to such time as they may get a variance request modification to the ordinance they will go ahead and just routinely notify them even though the ordinance does not require them to do so. He said he felt it was only prudent to do that.

SZBA Action: Mr. Mackey called for the vote and it was unanimously passed.

2. Request for Reconsideration
Petition of Annette Cuyler
B-05-40511-2
10 Barton Street

Mr. Mackey asked if there was a motion for the reconsideration of Annette Cuyler.

Mr. Wallace stated there was no one present for the petition.

Mr. Mackey asked if there was a motion for the Board to reaffirm their motion from last meeting.

SZBA Action: Mr. Byrne made a motion that the Savannah Zoning Board of Appeals reaffirm their motion of denial. Mr. Wallace seconded the motion and it was unanimously passed.

3. Nomination of Officers – Chairman and Vice-Chairman for 2006

Mr. Mackey stated it was time for the Board to nominate officers for the next term. He said the Board would nominate the officers today and at the next meeting the Board will vote at the end of the meeting. He said the officers will serve for 2006. Mr. Mackey stated currently the Vice-Chairman was Mr. Stephens. He said he did not mind putting Mr. Stephens name as Chairman.

Mr. Byrne asked if they could renominate him (Mr. Mackey) as Chairman?

Mr. Mackey stated it did not matter to him him. He said he has asked Mr. Wallace, but he has deferred to Mr. Byrne.

Mr. Mackey nominated Mr. Stephens as Chairman for 2006 and Mr. Byrne as Vice-Chairman for 2006. He said the Board will vote at the next meeting.

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