

SAVANNAH ZONING BOARD OF APPEALS

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

OCTOBER 25, 2005

2:30 P.M.

REGULAR MEETING

MINUTES

MEMBERS PRESENT:

**Timothy Mackey, Chairman
Mickey Stephens, Vice-Chairman
Paul Robinson
Richard Wallace**

MEMBERS ABSENT:

James Byrne

TECHNICAL STAFF PRESENT:

Tom Todaro, City Inspections Department

MPC STAFF PRESENT:

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

RE: Call to Order

Mr. Stephens called the October 25, 2005 meeting of the Savannah Zoning Board of Appeals to order at 2:30 p.m.

RE: Minutes

1. Approval of SZBA Minutes – September 27, 2005

SZBA Action: Mr. Wallace made a motion that the Savannah Zoning Board of Appeals approve the regular meeting minutes of September 27, 2005. Mr. Robinson seconded the motion and it was unanimously passed.

RE: Consent Agenda

**RE: Petition of Dennis Hall
B-050928-42209-2
0 Ryals Avenue**

The petitioner is requesting approval of a 15 ½ foot front yard setback variance from the 25 foot front yard setback requirement, a 20 foot rear yard setback variance from the 25 foot rear yard setback requirement, and a 1.5 percent lot coverage variance from the 30 percent maximum lot coverage allowed per Section 8-3025 of the Savannah Zoning Ordinance. The subject property, located at 0 Ryals Street, at the intersection of Ryals and Dempsey Streets, is zoned R-6 (One-Family Residential).

Summary Of Findings

All conditions necessary for granting setback and lot coverage variances for the subject property appear to be met.

**RE: Bentley Louviere, For
Daiquiri Beach
B-051006-52786-2
11215 Abercorn #B**

The petitioner is requesting approval of an application to establish a cocktail lounge (Use 48b) pursuant to the requirements of Section 8-3025 of the Savannah Zoning Ordinance. The subject property, located at 11215 Abercorn Street #B, is zoned B-N (Neighborhood-Business).

Summary Of Findings

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

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

RE: Items Requested to be Continued

1. Petition of Wiley A. Wasden, III, For
National Wireless Construction, LLC (NWC)
B-050928-41679-2
705 East Anderson Street

Due to petitioner's posting error, this item will be continued to the November 22, 2005 meeting.

Mr. Hansen stated the petitioner was aware that their petition would be continued and was in agreement.

SZBA Action: Mr. Wallace made a motion that the Savannah Zoning Board of Appeals continue the above-mentioned petition until November 22, 2005. Mr. Robinson seconded the motion and it was unanimously passed.

RE: Regular Agenda

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

No one was present for the petition.

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.

Mr. Robinson asked what was the protocol when the petitioner seems not interested enough and has missed two meetings?

Mr. Hansen stated there was no official protocol. He said it would be left up to the Board as to how they wanted to proceed. Often, if the applicant is not here the Board does not take a very good view of that.

Mr. Stephens asked if Mr. Sleper was contacted?

Mr. Hansen stated notification was sent to him, but he did not speak to him personally.

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

Mr. Robinson stated he went by the site and he did not have a problem voting for the petition. He said there were other residences that went back as far as he was requesting.

SZBA Action: The motion failed for lack of a second.

SZBA Action: Mr. Wallace made a motion that the Savannah Zoning Board of Appeals deny the petition as submitted based upon a finding that the conditions necessary for granting the request have not been met. Mr. Robinson seconded the motion and it was unanimously passed.

**RE: Petition of Mark Besser
B-050928-42427-2
12441 Northwood Road**

Present for the petition was Mark Besser.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a one foot side yard setback variance to the five foot side yard setback requirement, and a 1½ foot rear yard setback variance from the five foot rear yard setback requirement for an accessory structure in the rear yard pursuant to Section 8-3011 of the Savannah Zoning Ordinance; and a 1.54 percent lot coverage variance from the 30 percent lot coverage maximum allowed by Section 8-3025(d) of the Savannah Zoning Ordinance in order to legalize an existing accessory use. The subject property, located at 12441 Northwood Road, is zoned R-6 (One-Family Residential).

Findings

1. Per Section 8-3011 of the Zoning Ordinance, an accessory use or building shall be set back not less than five feet from any lot line.
2. An existing accessory structure is currently located four feet from the side yard property line and 3.5 feet from the rear property line.

3. Section 8-3025(d) of the Zoning Ordinance also limits maximum building coverage in the R-6 district to 30 percent. The addition of the accessory structure results in 31.54 percent coverage of the subject property.
4. The petitioner is seeking side and rear yard variances and a lot coverage variance in order to legalize an existing accessory use.
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.**

There are no extraordinary or exceptional conditions pertaining to the particular piece of property. The parcel is rectangular in shape, 80 feet wide by 100 feet deep. The subject property meets or exceeds the minimum lot requirements for the R-6 district.

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

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

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

Such conditions are not peculiar to the particular piece of property involved. All properties within the R-6 district are subject to the established setbacks and maximum lot coverage requirements of the Zoning Ordinance.

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

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

Summary Of Findings

All conditions necessary for granting setback and lot coverage variances for the subject property appear not to be met.

Mr. Todaro stated the petitioner was not aware that he needed a building permit and the project was pretty much completed. He said he knew the City has sometimes interpreted this as a hardship even if it has been constructed without a permit.

Mr. Robinson asked if it had a foundation?

Mr. Besser stated he built the shed and he did not know he needed a permit. He said a stop work order was issued about a month ago. He said he contacted the Inspections Department and found out what he needed to do. He said it was not on a concrete pad foundation. It was post and beam construction that was set 3 feet deep. He said he concreted all the corners. Also, he had detailed construction drawings and pictures.

Mr. Robinson asked if any of his neighbors have complained about it?

Mr. Besser stated no. He said he talked to all the neighbors who were in the immediate vicinity of his property and had six letters with him in support of his petition.

Mr. Wallace asked if anyone from Building Inspections looked at the property to see if it was compliant?

Mr. Besser stated as far as he knew not yet. He said he believed he had to do the variance first and get permission from the Board on the setbacks to continue.

Mr. Todaro stated he think that Mr. Besser has already submitted a building permit along with his drawings. He said the Inspections Department will review it as if it were not built for compliance and then they will field verify.

SZBA Action: **Mr. Wallace made a motion that the Savannah Zoning Board of Appeals approve the petition as submitted based upon a finding that granting the request will not cause substantial detriment to the public good. The approval is conditioned upon acceptance of the structure by the City Inspections Department. Mr. Robinson seconded the motion and it was unanimously passed.**

**RE: Petition of David Hilgendorf
B-050928-42587-2
104 Virginia Avenue**

Present for the petition was David Hilgendorf.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of an 817 square foot lot area variance, and a 1,598 square foot lot area variance in order to subdivide an existing lot into two lots. The subject property, located at 104 Virginia Avenue, is zoned R-6 (One-Family Residential).

Findings

1. Section 8-3025 of the Savannah Zoning Ordinance requires a minimum lot area of 6,000 square feet, and a minimum lot frontage of 60 feet in the R-6 district.
2. The petitioner is proposing to create two substandard lots containing 5,183 square feet and 4,402 square feet respectively from an existing 9,585 square foot lot of record. The proposed lot frontage meets or exceeds minimum standards. The lot currently contains two separate residential units. The petitioner intends to rehabilitate the two structures and to market each as a single family residence.

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.

There are no extraordinary or exceptional conditions pertaining to the particular piece of property. However, the subject property currently has two single family structures located on a 9,585 square foot lot. In order to provide each structure with its own lot of record, the resultant lots would be substandard.

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

The application of these regulations to this particular piece of property would not create an unnecessary hardship. The two structures could remain on one lot rather than two separate lots.

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

The conditions described above are not peculiar to the particular piece of property involved.

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

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

Summary Of Findings

All conditions necessary for granting the requested lot coverage variances appear not to be met.

Mr. Hilgendorf stated he has an interest in rehabilitating the two properties. He said their value to rehabilitate them and sell them was significantly greater if they were on individual lots. On one lot they served as a rental home tied to a single home. He said they were both in a lot of disrepair. One of the homes has recently been vacated and the other has been vacant for quite a while, so they were not really serving much value for the neighborhood. He said he has not talked with a lot of the neighbors, but he did talk to the neighbor across the street who was very excited about the possibility of them being renovated so they would look better. He said he also felt with the possibility of them being on separate lots the likelihood of them being rentals was less because they could be bought separately by two separate homeowners.

Mr. Stephens stated he was concerned about houses being on substandard lots. He said he was also concerned that he only talked to one neighbor.

Mr. Hilgendorf stated if he had thought about it he would have talked to more neighbors. He said he assumed that everyone would be in support.

Mr. Robinson stated he would think that signing a property with the signage that has to be posted would cause neighbors to ask questions.

Mr. Hansen stated Staff is required to send notice to all property owners within 200 feet of the property and the property was properly posted. He said they have had three different contacts from people within the neighborhood all of whom have supported the proposed lot split as proposed by Mr. Hilgendorf. Two of those were via the telephone and only one who chose to identify themselves. He said one person actually came into the office and looked at the application to assure herself of what was actually being proposed. However, in all three cases they did not oppose the application that was before the Board.

Mr. Todaro stated the situation now was actually nonconforming as well. He said in the R-6 district you could not have two single-family homes on one lot. The question is he felt by doing the lot split, it probably would become less nonconforming.

*Mr. Mackey arrived approximately 3:00 p.m.

Mr. Wallace stated in matters like this he was always concerned with what the neighbors feel because they were the ones who would be dealing with the consequences.

Ms. Martha Faye (101 Virginia Avenue) stated the lot would be a very small lot if they took one-quarter of the size required for the lot. The house was built about 60 years ago and was there when the house she lives in was built. It was there before that part of the area was considered part of Gordonston and probably very little zoning. She said she would be very sorry to see that structure continuing because it has always been substandard. She said it has been a rental house during the whole 52 years that she has lived in her house with various rental families living there. The house on Illinois Street was a pretty nice little house, but has deteriorated a great deal in the last 20 years. She said she felt it would be a great job to restore them, but a shame to place a new house on substandard lots. She said she would hope that the Board not approve of the variances.

Mr. Stephens asked what was the square footage of the houses?

Mr. Hilgendorf stated the home on Virginia was 896 square feet and the other home was 1,584 square feet which would include the porch that was on the front.

Mr. Robinson asked if he was the owner?

Mr. Hilgendorf stated no. He said he entered into a tentative purchase and sale agreement with the owner. The current owners, the homes were inherited by a number of heirs. He said they did not have an interest in continuing to rent the properties. Also, they did not have an interest in renovating the homes.

Mr. Robinson asked if it was his intent to renovate the homes?

Mr. Hilgendorf stated yes, either by himself or with another investor. However, in any case the intent is to renovate.

Mr. Wallace asked for rental or for sale?

Mr. Hilgendorf stated he would like to sell them.

Mr. Robinson stated he could not see where there was a detriment to approving this request. He said he felt if the request was not granted the properties probably would stay in their existing condition which was not good for the neighborhood. On the other hand, for the petitioner to say what he was going to do was merely operating on faith.

Mr. Hilgendorf stated he was being straightforward, however he felt if this did not go through he would not be interested in purchasing them. He said he felt if that was the case, his guess would be that the current owners would probably sell them to another investor who may have less of an interest in renovating them and more of an interest to just do the bare minimum and putting renters in there.

Mr. Stephens stated his only concern was that it was small house with only 896 square feet. He said he felt that was not a lot of space for a house for someone to buy and live in.

Mr. Hilgendorf stated there were a number of homes that were similar in size to that. He said it was not a big house, but certainly a livable house.

Mr. Tommy Williams (6 Illinois Avenue) stated he lived across from both of the houses. He said he has been in the neighborhood for about 35 years. He said he owned another house that faced Pennsylvania Avenue of the house that was on the left. He said he has seen these houses just about in the same shape for the last probably 10 years. The little house (104 Virginia Avenue) the floor sits on the ground (cement blocks). He said in regard to the electrical system, they put pennies behind the fuses and they still rent them. He said what he would like to see was the white house torn down and see one house on the property.

Ms. Angela Williams (901 Pennsylvania Avenue) stated when she built her house she wanted it to face Illinois Avenue, but they told her she had to have a 40 foot backyard. She said her house has to face Pennsylvania Avenue. She said because she did not have enough footage, she had to turn it towards Pennsylvania. She said the proposed house by the petitioner would not have a backyard as required. She said they want it to stay together or tear down the little white house.

Mr. Tom Todaro (Zoning Administrator) stated according to the drawings a 25 foot setback would be the minimum requirement.

Ms. Williams stated it was about 25 years ago when she wanted to turn her house.

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

**RE: Petition of Geoff Albert, For
RGP, LLC**

**B-050928-42699-2
1002 Drayton Street**

Mr. Todaro stated the petitioner called him and asked that this request be withdrawn. He said he did not receive a letter in writing.

Mr. Mackey stated Staff has informed the Board that a call was made to withdraw this petition.

Mr. Todaro stated he asked the petitioner to send a letter in writing.

Mr. Hansen stated he did not receive nor had he heard anything from Mr. Albert. He said it may be prudent to recommend a continuance so they could contact Mr. Albert regarding his desire to either withdraw or proceed forward.

SZBA Action: Mr. Wallace made a motion that the Savannah Zoning Board of Appeals continue the petition until the next regularly scheduled meeting. Mr. Robinson 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 placed before the Board a copy of the decision that the Board made on this particular case on August 23, 2005. Certainly, the Board would recall that in accordance with the ordinance provisions the applicant did file a notice of reconsideration. He said there was some question at the last meeting as to the posting requirements and the Board would recall that the ordinance is silent on that. He said Staff agreed to re-notify the immediate neighbors and Ms. Dixon agreed to the continuance so that they could be re-notified. The request before the Board now was for the applicant to present new and compelling information to consider her request for reconsideration.

Mr. Mackey asked Ms. Dixon if there was any other evidence that she wished to submit to the Board? He said she may want to give a summary on her petition for the benefit of a new Board member in case he may need to ask any other questions.

Mr. Hansen stated the petitioner currently operates a daycare in her home for six children which was allowed as a matter of right. He said her request was to seek Board approval to increase from six children to twelve children. He said by way of review the Board will notice that she has a circular drive and her proposed childcare play area was located to the rear of the house. The pictures that he was showing the Board was submitted by a neighbor at the August 23, 2005 hearing where he alleged that there were traffic concerns and problems. (He displayed a copy of a letter submitted by Ms. Dixon at the last hearing). He said Ms. Dixon indicated that she believed that the pictures submitted by the neighbor at that time happened to fall on a day when they had received news of her mother's terminal illness, therefore there were an excessive number of automobiles at the residence. Likewise, Ms. Dixon submitted additional pictures.

Ms. Leia Famble stated every time she pick up her son from Ms. Dixon the only cars she have seen was Ms. Dixon's and her husband's. She said she has never had a problem with traffic when she go to Ms. Dixon's house around 3:00 p.m. or 4:00 p.m.

Mr. Mackey asked Staff if it was Ms. Dixon's desire to go from 6 children to 12 children?

Mr. Hansen stated yes.

Mr. Mackey asked if there were any opposing neighbors in the audience?

No one came forward.

Ms. Nicole Williams stated the pictures that were shown with a lot of cars in front of her Aunt's house (Ms. Dixon) was because of unusual circumstances. She said if someone was to take pictures today they would probably see the same amount of traffic because her grandmother recently died (Sunday). She said she felt the area was not congested under normal circumstances.

Mr. Mackey asked Staff the first time the petition was heard by the Board it was denied?

Mr. Hansen stated yes.

Mr. Mackey stated then a reconsideration was offered by Ms. Dixon to the Board to reconsider the decision?

Mr. Hansen stated yes. He said the ordinance provides that an applicant may within five days of the hearing request a reconsideration of the Board and Ms. Dixon timely filed.

Mr. Mackey stated on the second meeting, Ms. Dixon came before the Board and the decision was since there were some objections to her proposal from a neighbor(s) and they were not present the Board would reconsider the petition but also continue to the next meeting to allow those individuals to be renotified.

Mr. Hansen stated the ordinance is silent as to the notification requirements based on a reconsideration. The Board had considerable discussion about what would be due and proper in such a case. He said the Board offered to continue the case to today to reconsider and Staff notified the neighbors of record again of this request for reconsideration.

Mr. Robinson stated when the Board initially denied the request, was there a primary reason for that?

Mr. Hansen stated he provided the Board with a copy of the decision that was rendered at the August meeting. He said there was to his recollection no particular reason stated. However, as indicated in that decision which was also a part of the Staff report there were a number of issues that were of concern, including that it was not located on a collector or arterial street. He said the fact that there was a potential for some traffic impact and also the Board probably took into consideration that there was at least one if not more than one neighbor who expressed a concern.

Ms. Dixon stated she installed the privacy fence. She said she has done everything the Board has told her to do.

SZBA Action: Mr. Stephens made a motion that the Savannah Zoning Board of Appeals accept the reconsideration of the petition and to also approve the petition as submitted.

SZBA Action: The motion failed for lack of a second.

Mr. Mackey stated there are no precedents set and each case is heard on its on its own merits. He said the issue is of traffic and the arterial and collector streets. He asked if that was correct?

Mr. Hansen stated if the Board look at the record decision, Finding 2, that particular finding listed several items which Staff felt had not been met. He said there were issues about screening of the necessary off-street parking and loading, as well as the parking that would be required. In Finding 3, Staff also raised questions about potential impacts from traffic.

Mr. Mackey asked if there was any buffering that needed to be done along the side yard?

Mr. Hansen stated no. He said there was a requirement for opaque fencing to be placed around the proposed child play area which was in the rear yard. He said there was also a requirement that the necessary parking be provided, off-street parking, and the loading area be landscaped and buffered which it was not.

Mr. Mackey asked Mr. Todaro what else could be done in terms of a buffer in the front yard? He asked if it would need to be hedges or a fence?

Mr. Todaro stated typically it was impractical to do something like that since they have to buffer the parking. He said the Board has granted in the past daycares in similar situations for no more than 12 children. The concern that it was not on an arterial or collector street was a good concern, but it was also very close to Bee Road which was a collector.

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 request will not cause substantial detriment to the public good. The day care use shall be limited to a total of 12 children. Mr. Wallace seconded the motion and it was unanimously passed.

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

Mr. Hansen stated this was a very similar request to the Petition of Ms. Marie Dixon in that on August 23, 2005 the Board recommended denial of the petition of Annette Cuyler to establish a daycare center for 18 children at a facility to be located 10 Barton Street. He said the applicant submitted a request for reconsideration in a timely manner similar to the previous request. Again, there was the question of notification procedures. The Board recommended at its last meeting in September to continue the case to this meeting to allow for notification of neighbors and for the applicant to be able to present to the Board new information concerning her request. He said in front of the Board was a letter received today from Mrs. Luellan Campbell in support of the petition.

Ms. Cuyler stated in regard to the parking they will park in the rear, as well as load and unload.

Mr. Stephens asked if she had a drawing that the Board could review so they would have an idea of what she was talking about?

Ms. Cuyler stated no.

Mr. Mackey asked if there was lane access?

Ms. Cuyler stated no.

Mr. Mackey asked how would she access the property in the rear?

Ms. Cuyler stated they would go in where the driveway was.

Mr. Mackey asked where was the play area?

Ms. Cuyler stated it was separate. She said where there were two gates they will be parked back here and the play area will be here.

Mr. Mackey asked where was her play area now?

Ms. Cuyler stated it was in the same area back here.

Mr. Mackey asked if she could show the exit in the back of her home to get to the play area?

Ms. Cuyler pointed through the gate.

Mr. Mackey asked where was her back door?

Ms. Cuyler stated it will be in this area.

Mr. Mackey asked how many employees did she have?

Ms. Cuyler stated she would need two employees plus herself.

Mr. Mackey asked if the employee parking would also be in the rear?

Ms. Cuyler stated yes, and where the gravel was where she would park.

Mr. Mackey asked if this was a residence or just a business?

Ms. Cuyler stated business.

Mr. Mackey asked if anyone would reside in the home?

Ms. Cuyler stated no.

Mr. Mackey stated this was very tough for him. He said he has been on the record of not supporting the use of a daycare for that use only and it not being the residence when it's in a residential area. He said he was concerned about that.

Mr. Stephens asked how many children was she proposing?

Ms. Cuyler stated 16 children, but she would be willing to reduce to 12 children.

Mr. Todaro stated the Board has been very consistent with what Mr. Mackey said about establishing a business in a residential neighborhood where the principal use of the business is the daycare. He said the vast majority have been where the daycare was secondary.

Mr. Robinson stated in a case like this where you have a restricted access to a rear yard that you intend to park in, he would want to see a two scaled drawing of how exactly that was going to work. In this particular case if you had a couple of cars back there the requirement to maneuver would significantly reduce the yard area. He said for a Board member to sit here and look at a plan like that see some one just point to an area did not get it for him.

Mr. Mackey asked the petitioner if she understood what Mr. Robinson was trying to explain to her?

Ms. Cuyler stated she will go back and have an architect draw it out for her.

Mr. Mackey stated he could not see how it was going to work. He said he could not see where you could maneuver cars in the backyard, turn around and get them out. He said the decision rendered by the Board has to be done without the emotion and with the intelligence and based on the law.

Mr. Robinson asked if the petitioner could continue the petition?

Mr. Mackey stated the Board heard the case which it was denied. The petitioner requested a reconsideration to be heard the next month (September) but they were not present. He said the petition is before the Board because of a technicality. He said he felt the technicality in regards to this case was P.O. Box versus street address. He said some of the information has a P.O. Box like it has here (P.O. Box 1523) and some of it has 10 Barton Street.

Ms. Cuyler stated she never put 10 Barton Street.

Mr. Mackey stated he understood. He said he felt the dilemma was when Staff sent out the information from the office they may have sent it to one and the architect who was with her the first time when it was heard by the Board called back and said they never received it.

Ms. Cuyler stated that was correct. She said it was about 2:30 p.m. the same date the hearing was supposed to be on.

Mr. Hansen stated this was a letter that he sent Ms. Cuyler informing her of the request for reconsideration which would have been heard on September 27, 2005. He said what Ms. Cuyler was referring to was that Staff sent it to her address (10 Barton Street) which the envelope also lists. However, on the inside Staff listed 1443 East 38th Street which was Ms. Dixon's address. He said he felt the issue was exactly as the Board has indicated in that Staff sent it to 10 Barton Street. He said her P.O. Box mail receipt was a different location and they did not receive this particular notification in time to meet last month's hearing.

Mr. Mackey stated that was why he said technicality. He said the information that she was presenting to the Board in regard to the parking, drop off and pick up needed to be delineated and drawn out so the Board could review it as well as Staff.

Mr. Wallace stated he voted against it last time for several reasons and he was more concerned with the parking. He said he felt it took away from the play area and created additional hazards. He said also from the drawing it did not look big enough.

SZBA Action: **Mr. Wallace made a motion that the Savannah Zoning Board of Appeals continue the petition until next month (November 22) so the petitioner can provide a scaled drawing that outlined the parking, play area and access. Mr. Robinson seconded the motion and it was unanimously passed.**

Mr. Mackey stated at that time the Board will review the case again, however that was not an implication that the Board would rubber stamp it.

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

Mr. Mackey stated at last month's meeting Mr. Stephens was nominated for Chairman and Mr. Byrne was nominated for Vice-Chairman for 2006.

The votes were cast.

Mr. Mackey stated the new officers will start January 2006.

Mr. Mackey welcomed Mr. Robinson as the newest member of the Savannah Zoning Board of Appeals.

Mr. Hansen introduced Deborah Burke of Development Services. He said Ms. Burke will be working with him as part of her duties to work with the Board of Appeals.

RE: Adjournment

There being no further business to come before the Savannah Zoning Board of Appeals the meeting was adjourned approximately 3:50 p.m.

Respectfully submitted,

James Hansen,
Secretary

JH:ca