

SAVANNAH ZONING BOARD OF APPEALS

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

OCTOBER 24, 2006

2:30 P.M.

REGULAR MEETING

MINUTES

MEMBERS PRESENT:

**Mickey Stephens, Chairman
James Byrne
John P. Jones
*Timothy Mackey**

MEMBERS ABSENT:

Paul Robinson, Excused

TECHNICAL STAFF PRESENT:

Tom Todaro, City Development Services

MPC STAFF PRESENT:

**James Hansen, Secretary
Deborah Burke, Assistant Secretary
Christy Adams, Administrative Assistant**

RE: Call to Order

Mr. Stephens called the October 24, 2006 meeting of the Savannah Zoning Board of Appeals to order at 2:30 p.m.

RE: Minutes

1. Approval of SZBA Minutes – September 26, 2006

SZBA Action: Mr. Jones made a motion that the Savannah Zoning Board of Appeals approve the regular meeting minutes of September 26, 2006. Mr. Byrne seconded the motion and it was unanimously passed.

RE: Consent Agenda

**RE: Petition of Jan deVoest
Poticny Deering Felder, For
Dean Works
B-060927-52908-2
2424 Drayton Street**

The petitioner is requesting approval of a 7.41 foot rear yard setback variance from the 10 foot rear yard setback requirement of Part 8, Section 3, Article K and Section 5.8.5 of the Savannah Zoning Ordinance in order to construct a multi-family residence. The subject property, located at 2424 Drayton Street, is zoned TC-1 (Traditional Commercial-1).

Summary of Findings: All of the conditions necessary for granting the variance requested appear to be met.

**RE: Petition of Harold B. Yellin, Agent for
Equity One, Inc. & Jackson &
Mathy General Partnership
B-060927-53429-2
1900 East Victory Drive**

The petitioner is requesting approval of a ten foot height variance for a freestanding sign in accordance with the provisions of Section 8-3112 of the City of Savannah Zoning Ordinance. The subject property, located at 1900 East Victory Drive, is zoned B-C (Community Business).

Summary of Findings: All of the conditions necessary for granting the variance requested appear to be met.

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

**RE: Petition of Tigust A. James
B-060927-52571-2
4310 Campbell Street**

Present for the petition was Tigust James.

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 Savannah Zoning Ordinance. The petitioner is also seeking a waiver of the requirement that said use be located on a collector street or higher. The subject property, located at 4310 Campbell Street, is zoned R-6 (One-family Residential).

Findings

1. The subject property, located at 4310 Campbell Street, is presently occupied by a single-family residential structure containing approximately 2,500 square feet. The property is rectangular in shape, measuring approximately 120 feet wide and 100 feet deep. The parcel contains approximately 12,000 square feet. The lot is considered a substandard parcel within the R-6 zoning classification.
2. The petitioner is requesting approval of a child care center that would accommodate up to 12 children, and a waiver of the requirement that said use be located on a collector or arterial street. A child care center with more than six children in a residential district requires Board of Appeals approval.
3. Section 8-3025 of the Savannah Zoning Ordinance requires Board of Appeals approval to establish a child care center in an R-6 zoning district. The requirements for establishing a child care center per Use 22b include: a) that not less than 100 square feet of outdoor play space be provided for each child; b) that the center be located on a

collector or arterial street; c) that the architectural character shall be characteristic of the neighborhood; d) that the use provide off-street parking in conformance with the requirements of Section 8-3089; e) that no outdoor activities occur after 9:00 p.m.; f) that visual buffers be provided to shield parking areas, play areas and outdoor activity areas from abutting property; and, g) that a sign not to exceed three square feet may be permitted.

The requirements of a, c, d, e, and g (above) appear to be met. Article (a) requires that a minimum of 100 square feet of outdoor play space be provided for each child. The petitioner is requesting approval of the use for up to 12 children, thus requiring 1,200 square feet of outdoor play space. Based upon the site plan submitted by the petitioner, it appears that adequate outdoor play space is available to accommodate the desired number of children.

Article (b) requires that a child care center be located on a collector or arterial street. This requirement is in place to accommodate the expected increase in traffic generated by said use. The petitioner seeks a waiver of this requirement as permitted by Section 8-3025 of the Ordinance. The subject property is located at the terminus of a dead end street. Article (d) requires that an off-street loading and unloading area be provided for the safety of the children. The petitioner has proposed the installation of a half circle drive that would utilize the existing driveway. It is unknown whether the petitioner has submitted the proposed plan to or has received approval from the City Traffic Engineer. Adequate off-street parking must also be provided to accommodate workers vehicles. The submitted site plan does not delineate where said vehicles would be located. Article (f) requires that a visual buffer be provided to shield play areas, parking areas, and outdoor activity areas from abutting properties. The rear yard is currently enclosed with an approximate five foot wire fence that is not opaque in design. Moreover, it is unknown how the petitioner intends to screen the proposed parking area from view.

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 not affect adversely the health and safety of residents.

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

The subject property is located on a local street in a residential neighborhood. The resulting traffic and potential congestion associated therewith could be detrimental to the use or development of adjacent properties. However, it is noted that the subject property lies at the terminus of a dead end street. No thru traffic can occur.

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

The proposed use, subject to approval, can be compatible with the character of the existing 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. The petitioner's site plan illustrates ample space for the number of children requested. It is not evident where required parking will be accommodated.

- 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.**

The application, as presented, does not meet all of the development standards prescribed by the Zoning Ordinance.

Summary of Findings

All of the conditions necessary for granting the use approval sought to establish a child care center appear not to be met.

Mr. James stated with regards to parking their neighbor had a vacant lot that he has agreed to let them use with the understanding that they would keep it maintained. He said the lot was located at 4309 Campbell Street. He said the lot was 100 X 113 lot that was next to his (neighbor) with a drive in opening.

Mr. Stephens asked if he has talked with the City Traffic department about the cut out for the driveway?

Mr. James stated no, since his neighbor agreed to let him use the vacant lot next door.

***Mr. Mackey** arrived approximately 2:50 p.m.

Mr. Jones he was concerned that if the neighbor decided to construct a house the parking would be eliminated.

Mr. James stated he understood. He said in that case he would have to do the circular driveway with 10 foot on each side. He said with regards to the employee parking they had three parking spaces in the front.

Mr. Byrne asked the petitioner if he lived at the residence?

Mr. James stated yes.

Mr. Byrne asked if they were going to have liability insurance on the business?

Mr. James stated no. However, he was told that although they did not have liability insurance it just needed to be noted and signed.

Mr. Byrne stated he felt childcare centers should have some type of liability insurance on their business. He said whether or not it was the law he felt that it was needed.

SZBA Action: **Mr. Byrne made a motion that the Savannah Zoning Board of Appeals continue the petition with the understanding that the petitioner address the concerns raised by the Board ie; circular driveway and liability insurance. Mr. Jones seconded the motion and it was passed. Abstaining to the motion was Mr. Mackey.**

Mr. Stephens asked Staff if he could explain the buffer requirement for employee parking?

Mr. Hansen stated the requirements of the code are that the employee parking should be screened. He said as mentioned by the petitioner there was only one parking space required and they could legally park on the driveway. He said he felt the screening could be achieved with vegetation, fencing or some other means.

**RE: Petition of Darnell & Beverly Braggs
B-060927-52690-2
1104 Maribob Circle**

Present for the petition was Darnell Braggs.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a five foot rear yard setback variance from the 25 foot rear yard setback requirement of Section 8-3025 of the Savannah Zoning Ordinance in order to construct an addition onto an existing single family residence. The subject property, located at 1104 Maribob Circle, is zoned R-6 (One-family Residential).

Findings

1. Section 8-3025 of the Savannah Zoning Ordinance requires a 25 foot rear yard setback for primary structures. The petitioner is seeking a five foot variance from this provision in order to construct an addition onto his existing house.
2. The subject property is considered a standard lot within the R-6 zoning classification.

The parcel is rectangular in shape and measure approximately 90 feet wide and 101 feet deep. Located on a corner, the property has a larger than usual street side yard setback.

3. In accordance with Section 8-3163 of the Savannah Zoning Ordinance, the Board of Appeals may authorize 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 within the R-6 zoning classification. The parcel has no extraordinary or exceptional conditions relating to size, shape or topography.

- 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 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. The petitioner proposes to add onto an existing structure in a manner that is consistent with several other uses in close proximity to the subject property.

Summary Of Findings

All of the conditions necessary for granting the requested variance appear not to be met.

Mr. Braggs stated their request was for the rear setback so they could add an addition onto their home.

SZBA Action: Mr. Jones made a motion that the Savannah Zoning Board of Appeals **approve** the petition as submitted based upon a finding that the relief granted is not detrimental to the public good. Mr. Byrne seconded the motion and it was unanimously passed.

**RE: Petition of Asbury Methodist Church, UMC
Clifford Bascombe, Trustee
B-060927-52804-2
115 East Duffy Street**

Present for the petition was Clifford Bascombe.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of an application to establish a use (church expansion); and is requesting a 26 foot rear yard setback variance from the 30 foot rear yard setback requirement; a variance to allow lot coverage of 86 percent as opposed to the 60 percent lot coverage allowed by Section 8-3028; and a waiver of the Type “B” buffer requirement of Section 8-3066 of the Savannah Zoning Ordinance in order to develop an addition onto an existing church building. The subject property, located at 115 East Duffy Street, is zoned 2-R (Victorian District-2-R).

Findings

1. Churches are, subject to approval by the Board of Appeals, an allowed use within the 2-R (Victorian) zoning district. Similarly, churches are also required to meet the development standards of the district in which they are located.
2. The petitioner proposes to construct an addition onto an existing structure. The proposal requires use approval from the Board and seeks relief from setback, lot coverage, and buffer requirements.
3. The proposed addition will be constructed in such a manner as to be in alignment with the existing structure. The existing facility virtually extends from property line to property line. The proposed addition will do likewise with the exception of maintaining a four foot rear yard setback.
4. A Type B buffer is required when single- or multi-family residential use abuts a religious facility. A Type B buffer consists of a six foot fence and either a 15 foot planted or preserved landscaped area. The petitioner is seeking a waiver of the buffer requirement. A fence currently separates the subject property from the adjacent use.
5. A recombination of the two lots will be required in order to construct the addition as requested. This must be done prior to issuance of any building permits.
6. In accordance with Section 8-3163 of the Savannah Zoning Ordinance, the Board of Appeals may authorize 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 within the 2-R zoning classification. The parcel has no extraordinary or exceptional conditions relating to size, shape, or topography.

- 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. However, it is noted that the existing church is built from property line to property line and that the proposed addition is to be in alignment therewith. An offset to meet the Ordinance requirements would be visually distracting.

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

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

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

Relief, if granted, would not likely cause substantial detriment to the public good. The existing structure follows the historic building pattern of the area and the proposed addition mirrors that development.

Summary Of Findings

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

SZBA Action: Mr. Jones 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. Byrne seconded the motion and it was unanimously passed.

**RE: Petition of Lisa Semple
B-060927-53275-2
224 East 46th Street**

Mr. Byrne recused himself from the petition.

Present for the petition was Timothy Walmsley, Attorney.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a two foot height variance from the six foot height limit for fences prescribed in Section 8-3051 of the Savannah Zoning Ordinance. The subject property, located at 224 East 46th Street, is zoned R-6 (One-family Residential).

Findings

1. Section 8-3051 of the Savannah Zoning Ordinance states that "...within any R district, except the historic district, no wall or fence shall exceed six feet in height within a front or side yard." The petitioner is seeking a two foot variance from the limitation in order to construct a six foot high fence that will have support columns that range in height from seven to eight feet.
2. The subject property is considered a standard lot within the R-6 zoning classification. The parcel measures approximately 90 feet wide and 105 feet deep.
3. In accordance with Section 8-3163 of the Savannah Zoning Ordinance, the Board of Appeals may authorize 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 within the R-6 zoning classification. The parcel has no extraordinary or exceptional conditions relating to size, shape, or topography.
 - 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 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 place an over height fence within close proximity to the adjoining property owner's residence. Though fences are allowed to be constructed on the property line, the need for the height variance has not been demonstrated.

Summary Of Findings

All of the findings necessary for granting the requested height variance appear not to be met.

SZBA Action: Mr. Jones made a motion to continue the petition to allow the petitioner time to address the issues raised with Staff and neighbors.

Mr. Hansen stated he was not certain that Mr. Jones' motion was proper at this time. He said he felt if the Board recommended denial of this case then it was moot. On the other hand, if the Board recommended approval then they would have to address the issues raised with regards to the building permit, etc. He said he felt it may be wise to listen to the proponent as well as the opponent and then make their decision accordingly.

SZBA Action: Mr. Jones withdrew his motion.

Mr. Walmsley stated there was currently pending a building permit for this fence. One of the reasons that they were here was because the building permit required a variance. Also, he said the issue today was whether or not the portions of the fence above 6 feet should be entitled to a variance. He said he felt there was no dispute that a 6 foot fence was permitted within an R-6 district. He stated the piece of property itself as Staff indicated was in Ardsley Park located at 224 East 46th Street which was R-6. He said another portion of the fence which due to the pending building permit, no work was being done but which would come up to 6 feet and then posts. The posts and the top of the gate were 8 feet which exceeded the current requirement by 2 feet. (Petitioner showed photographs of the fence and posts).

He further stated in Ardsley Park you would find a variety of different fences such as masonry, wood, chainlink, etc. He said Dr. Semple's fence was based on the architectural elements found in Ardsley Park within a block or two of her house. (Petitioner showed photographs of different fences). He said he would ask the Board not to hold the petitioner accountable for the timing of this. He said he would like for the Board to focus on the height of the posts, gateway and the fact that it was not unique to Ardsley Park. He said the only variance they were seeking was 2 feet. The fence itself did not violate any setback requirements or otherwise.

Mr. Mackey asked how was the petition flagged?

Mr. Walmsley stated it was brought to the attention of the owner of the property that a building permit would be required. He said the property owner had a contractor doing the work and it was now before the Board because there was a stop work order in place. He said a permit application was filed and the petitioner was told by City Engineering that a variance was required for them to consider a permit.

Mr. Mackey asked what was the need for an 8 foot fence?

Mr. Walmsley stated the fence itself was not 8 feet.

Mr. Mackey asked what was the need for 8 foot pillars?

Mr. Walmsley stated it was the architectural style. He said his client looked at other properties around within two or three blocks of this particular house and they saw how other properties had done their fences. He said in order to give this some character instead of having a 6 foot brick wall around the property they wanted to give the fence itself a little character.

Mr. Mackey asked what effect did they think it would have on the City overall because it was standard that six fences were the rule?

Mr. Walmsley stated there was an ordinance that said in all R districts a 6 foot fence was permitted except in the Historic District which said that you could have an 11 foot fence. He said he did not know when that ordinance was put in place but it was there. He said his view of what the City should do was keep the character of neighborhoods. He said he felt that the City did not want all of Savannah to look exactly the same which he felt applied to dwellings and fences. He said Ardsley Park was a unique neighborhood. It was a historic neighborhood that had a variety of different architectural styles with different sized fences, kinds, heights, and so forth. Because of that they were not talking about a neighborhood like a standard subdivision where every fence was 6 feet tall, every house two story, and each house was three bedroom and 2½ baths. The unique character of this neighborhood was not harmed in any way by a unique fence. He said he felt a unique fence did more for the character of the neighborhood than simply having a slab fence 6 feet tall around this piece of property. He said he felt architectural embellishments in this neighborhood were good.

Mr. Mackey stated he did not know when the rule originated but he could imagine that it was probably an effort to make some uniformity with respect to the rule.

Mr. Walmsley stated the Board was not held to any precedent. He said the Board took each particular application on its own merits based upon the neighborhood, petition, and property.

Mr. Mackey stated the Board was not held to a particular precedent. He said as a point of clarification the Board does not make precedents. He said he was correct in that each case sits on its own bottom. However, this was not a precedent, this was the rule.

Mr. Walmsley stated the Board was also permitted to vary from the rule.

Mr. Mackey stated he felt that he has not heard anything compelling that would require him to go outside changing what the rule called for. He said he understood that there were other fences that were higher than 6 feet and perhaps some were newer than others, however they were not flagged as his client was.

Mr. Walmsley stated he understood his point. He said what he was pointing out was that as far as the fence was concerned, it was not the type of fence that was so unique in this particular area where it stood out like a sore thumb. What they were trying to do was figure out a solution based on the problem at hand. However, he respected the Board's opinion. He said their point was that the architectural elements of this fence which were the parts that they were talking about were taken from other fences within a few blocks. He said they felt that this was not disruptive of the fabric for this particular community.

Mr. John Moore (adjacent property owner) stated the examples that were shown of fences were nice examples. He said the fences were built along time ago with the exception of two. (Neighbor showed photographs with the view from his windows). He said he was opposed to the fence.

Mr. David Mesaros (427 East 51st Street) stated as a owner in the area he was opposed to the fence. He said he felt the photographs that were shown earlier was a prime example of other fences even though some were older he felt was turning the neighborhood into sort of what a fortress would look like. He said he felt as you progressed through Ardsley Park you did not see a lot of those fences inside the blocks. However, you would see a lot them along the major thoroughfares.

Mr. Doug McManamy, Attorney, stated he was representative for the Moore's who were adjacent property owners. He said it was his understanding that the property was flagged when the adjacent property owner (Moore's) made contact with the petitioner after the second or third post was going up and voiced their concern and objection. He said the Moore's asked the petitioner if they could work something out which was on Friday and work continued through the weekend. He said by Monday when the request had not been heeded that was when there was a stop work order put into place. With respect to the inherent need for the 8 foot fence was that the petitioner went ahead and built it before doing what they should have done. He said from an architectural standpoint they could create an aesthetically pleasing and conforming fence if the procedures outlined in the City Ordinance had been followed. He said the Board has heard from his client with respect to the impact on neighbors. He also said that with respect to impact on neighbors was one thing that zoning presented was an expectation and certainty in our expectations of what they could expect in where they lived. In this area there was a reasonable expectation based on the zoning ordinance that a fence such as this would not exceed beyond 6 feet in height. He said they would ask that the Board deny the petition and require the fence and all parts of the fence not exceed the maximum height of 6 feet.

Mr. Walmsley stated an issue was mentioned about the posts and them being up against the windows. He said he did not think the Moore's would contest the fact that the wall was put where there were trees that reached almost up to the roof of the house. He said there was a buffer between these two properties. He said this was an area where trees (a buffer) was taken down on the Semple property and then a fence going in in place of the trees. He said the view and light issue which was raised, it was his understanding that there was a very thick buffer between the houses before the fence was constructed.

Mr. Mackey asked Dr. Semple how long has she lived at the residence?

Dr. Semple stated 4 years.

Mr. Mackey asked Dr. Semple if she was aware of what the rule was prior to her construction?

Dr. Semple stated she did not think there were any rules and she did not know. She said she also did not know she needed a permit for the wall which was her ignorance.

Mr. Mackey stated he had not heard anything compelling as to why there was need to go 8 feet. He said he understood in the pictures that Mr. Walmsley has shown that there were some overages somewhere around and about in the community probably within close proximity that would show that some fences were over 6 feet, however those have not been flagged. He said the Board was here because of this case and this case only. He said he was concerned about what the potential impact would be if the Board granted a use variance for the overage of 2 feet.

SZBA Action: Mr. Mackey made a motion that the Savannah Zoning Board of Appeals deny the petition as submitted.

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

Mr. Walmsley stated what they were asking for was a 2 foot variance for the posts and gate. He said they were not asking that the fence exceed 6 feet.

Mr. Tom Todaro (City Development Services) stated in the last 10 years the Board has had two requests for height variances which were approved. He said the biggest difference he felt in this case was the proximity that made it different than the others.

Mr. Jones asked the petitioner if they would consider having the posts 1 foot above the standard height for a fence?

Mr. McManamy stated he felt the only true compromise would be to require the petitioner to conform with the zoning ordinance in so far as the fence that runs along side the property line. He said if the posts were 8 feet and they were going to have to cut off some any way the petitioner should at least be required to cut off what took it down to the maximum height.

Mr. Jones stated it was a 6 foot fence even on the front facing the street. The only difference was the columns were 8 and then you had a gate. He said the Board was not talking about the gate they were talking about the height of the columns and the fence itself. He said he suggests that instead of an 8 foot column that it be cut back to 6 feet. He said the problem was that the columns were too high.

Mr. McManamy stated what he was saying was that the petitioner should be required to cut the columns down to the ordinance required limit which was 6 feet.

Mr. Walmsley stated if there was a compromise that could be found they had no objection. He said if they could keep the gate in place and there was something else the Board felt would be better for the columns then they would leave that up to the wisdom of the Board.

Mr. Mackey asked if the fence was at the required height?

Mr. Walmsley stated yes, and the term fence was not defined in the ordinance. He said when he says fence he was talking about posts, horizontals, and gate on the property. The only portions of the fence which exceeded 6 feet, was the areas above the gate and the posts themselves.

SZBA Action: Mr. Jones made a motion that the Savannah Zoning Board of Appeals approve the petition with the understanding that the columns will be no more than 7 feet and that the fence remain 6 feet in height.

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

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

Mr. Mackey stated he was not sure if there was something for the petitioners to work out.

Mr. Walmsley stated their position was if the Board decided the posts needed to be reduced that was something they could live it. He said there was some discussion prior to the meeting about whether or not there was some resolution. He said the parties were not able to reach a resolution. He said this was not the first time the parties have talked about this which was why they were here today. He said they were happy to talk in good faith which they have been.

Mr. Mackey suggested the Board has one other item to discuss on today's agenda. He asked that the vote be postponed until they hear the other case on the agenda and then the Board

could take up this matter again at the end. Meanwhile, the two principles could step outside the hearing room and talk about it amongst themselves and come back after the Board finish with the other petition.

The Board agreed.

Mr. Walmsley agreed.

RE: Other Business

1. Petition of Douglas Kaufman
B-060731-51042-2
220 East 33rd Street
Request for Reconsideration

Mr. Hansen stated this was a request for reconsideration by Mr. Douglas Kaufman. He said the Board should have a timely filed request for a rehearing. Also, information from Mr. Todaro relating to the parking variance whereas the Traffic Engineer and the Site Plan Administrator have agreed that the parking space variance requested that was a part of this application initially was no longer a question. The applicant can park one required space on site and utilize one parking space on-street. The petitioner has therefore requested a reconsideration of this particular matter. He said should the Board choose to reconsider this matter then Staff would address the still needed variance that Mr. Kaufman has desired.

Mr. Byrne asked if there was opposition when the petition was originally heard?

Mr. Hansen stated yes.

Mr. Mackey stated if he remembered correctly the issue at that time was the parking. However, it seemed that Staff was now saying that was no longer an issue.

Mr. Hansen stated yes.

Mr. Jones stated he felt this was overbuilding. He said to put two units on this lot both would be substandard lots.

Mr. Hansen stated there was only one lot in question. He said the applicant was proposing to build a duplex.

SZBA Action: Mr. Byrne made a motion that the Savannah Zoning Board of Appeals approve the petition for reconsideration. Mr. Mackey seconded the motion. The motion was tied 2 – 2. The motion failed. Opposed to the motion were Mr. Jones and Mr. Stephens.

Mr. Byrne stated he felt the Board had three members that were voting members and was it appropriate for the Chairman to vote.

Mr. Hansen stated yes, according to the Bylaws.

Mr. Todaro stated Mr. Kaufman came before the Board of Appeals and was granted greater variances in 2004 and was issued a building permit. He said for whatever reason he started on the foundation. He said Mr. Kaufman let the project sit for too long of a period. He said a

decision was granted by the Board prior which was more variances. However, the variances expired and he was coming back with the same project but excluded another parking space. Also, because the property has been rezoned since the original appeal his variances were less than what was granted by the Board in 2004. He said he felt when Mr. Kaufman had to come back before the Board he anticipated this being more of a housekeeping issue and not a debate about the variances because they were already granted and these were lesser.

Mr. Byrne agreed. He said he felt this was not in the interest of justice to not grant the petitioner a rehearing at least. He said the petitioner timely filed the request for a rehearing and has brought relevant new information. He said he felt what was good then should be good now. He said he also felt the Board should at least grant him a request for a rehearing in the interest of justice and fairness. He said he would ask that the Board reconsider granting the petitioner's request to be heard by the Board.

SZBA Action: Mr. Byrne renewed the motion that the Savannah Zoning Board of Appeals approve the petition for reconsideration. Mr. Mackey seconded the motion and it was passed. Opposed to the motion was Mr. Jones.

Mrs. Burke gave the following Staff report.

The petitioner is requesting approval of a two (2) foot side yard setback variance from the five (5) foot side yard setback requirement; a 2,338.5 square foot lot area variance from the 4,400 square foot lot area requirement; and a 16 percent lot coverage variance from the 60 percent lot coverage allowed per Part 8, Section 3, Article K, and Section 5.6.5 and 8.2.5 of the Savannah Zoning Ordinance in order to construct a two-family dwelling. The subject property, located at 220 East 33rd Street, is zoned TN-2 (Traditional Neighborhood).

Mr. Byrne asked if this was a case where the permit lapsed?

Mrs. Burke stated yes.

Mr. Byrne stated there was prior approval on this petition.

Mrs. Burke stated yes. She said essentially it was the same exact request although the numbers were different because when it was previously before the Board that was prior to the Mid-City zoning ordinance being adopted, so it was previously RM-25 therefore those standards applied. She said what the petitioner was proposing to do was the same even though the numbers might not add up as far as the variance request.

Mr. Kaufman stated all five lots that he proposed to build on did not have a lane. Therefore, every time he came before the Board there was always the parking variance. He said since there was not a lane, the only place that any of his properties could park was on the street. He said with regards to this lot it was on a corner and he was able to reduce the size of the structure and eliminate one of the cars being on the street. He said as far as the other variances he was requesting, it was very much in keeping with what is existing in the neighborhood.

Mr. Todaro stated since this was in the Mid-City the design would have to be approved by the Preservation Officer.

Mr. Kaufman stated his design has been approved by Mrs. Reiter and he had with him his Certificate of Appropriateness.

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. Mackey seconded the motion and it was approved. Opposed to the motion was Mr. Jones.

RE: Petition of Lisa Semple
B-060927-53275-2
224 East 46th Street

Mr. Byrne recused himself from the petition.

Present for the petition was Timothy Walmsley, Attorney.

Mr. Walmsley stated the parties got together outside the meeting and discussed a resolution. He said the parties have agreed to a resolution where the posts and fence itself would be reduced to 6 feet in compliance with the ordinance and that the gateway would remain intact.

SZBA Action: Mr. Jones made a motion that the Savannah Zoning Board of Appeals deny the petition as submitted, and approve a two foot height variance for the gate structure only, based upon a finding that the relief granted would not cause substantial detriment to the public good. The existing over height columns must be reduced to no more than six feet in height. Mr. Mackey seconded the motion and it was passed.

RE: Adjournment

There being no further business to come before the Savannah Zoning Board of Appeal the meeting was adjourned approximately 4:15 p.m.

Respectfully submitted,

Deborah Burke
Assistant Secretary

DB/ca