

SAVANNAH ZONING BOARD OF APPEALS

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

DECEMBER 19, 2006

11:00 A.M.

REGULAR MEETING

MINUTES

MEMBERS PRESENT:

**James Byrne, Chairman
Timothy Mackey, Vice-Chairman
John P. Jones
Paul Robinson**

TECHNICAL STAFF PRESENT:

Randolph Scott, City Development Services

MPC STAFF PRESENT:

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

RE: Call to Order

Mr. Byrne called the December 19, 2006 meeting of the Savannah Zoning Board of Appeals to order at 11:00 a.m.

RE: Minutes

1. Approval of SZBA Minutes – November 28, 2006

SZBA Action: Mr. Robinson made a motion that the Savannah Zoning Board of Appeals approve the regular meeting minutes of November 28, 2006. Mr. Jones seconded the motion and it was unanimously passed.

RE: Consent Agenda

**RE: Petition of Gary Butch, For
Elizabeth on 37th
B-061127-34764-2
105 East 37th Street**

The petitioner is requesting approval of an application to establish a use (church) pursuant to the requirements of Section 8-3025 of the City of Savannah Zoning Ordinance. The subject property, located at 5502 Skidaway Road, is zoned R-6 (One-Family Residential).

Summary of Findings: All of the conditions necessary for granting use approval for a church appear to be met.

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

RE: Regular Agenda

**RE: Continued Petition of Dannette Johnson
B-061030-41017-2
822 Tatum Street**

The petition was continued from the November 28, 2006 meeting.

The petitioner is requesting approval of an application to establish a use (child care) pursuant to the requirements of Section 8-3025 of the City of Savannah Zoning Ordinance. The subject property, located at 822 Tatum Street, is zoned R-6 (One-Family Residential).

Findings

1. The subject property, 822 Tatum Street, is presently occupied by a one-story single-family residential structure containing approximately 1,435 square feet. The property is rectangular in shape, measuring 100 feet wide and 40 feet deep. The parcel contains nearly 4,000 square feet, and is considered a substandard lot in the R-6 zoning district.
2. The petitioner is requesting approval of a 24 hour child care center that would accommodate between 15-30 children. 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 c, d, e, and g (above) appear to be met. Per the applicant, the City's Traffic Engineering Department has reviewed and approved a proposed drop-off area that will have two curb cuts on Tatum Street.

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 30 children, thus requiring 3,000 square feet of outdoor play space. Based upon the site plan submitted by the petitioner, there is not adequate space available to accommodate the desired number of children. The applicant is proposing to bus the children to a nearby park, however, the required outdoor play space is required on site.

Article (b) requires that the 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. 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 a chain link fence, while opaque fencing is typically required. The proposed parking area is yet to be shielded from view as well.

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. In addition, the small size of the subject parcel does not allow for adequate buffering in order to mitigate potential impacts of the proposed use on adjacent parcels.

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

The proposed use will not be affected adversely by the surrounding uses, which are single family residences.

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

The subject parcel is not of sufficient size to satisfy the space requirements of the proposed use. The lot is a substandard lot and will not be adequate to meet the outdoor play space requirement. In addition, there does not appear to be adequate space to properly buffer the site.

- 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. There is not adequate outdoor play area as required, the subject parcel is not located on a collector or arterial street, and the screening appears insufficient to adequately buffer the use from adjacent properties.

Summary of Findings

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

Ms. Johnson stated she talked with Cindy at the City Engineering department and she told her it had been approved and that they would forward something to Mr. Hansen. She said she did not know that she was supposed to get something from them saying that it was approved.

Mr. Robinson stated he felt there needed to be something in writing.

Mr. Hansen stated he had no doubt that what Ms. Johnson was saying was correct. It was not unusual for MPC Staff not to receive any sort of written approval from the Traffic Engineering department until such time as the plan would actually be submitted for them to review in total. He said may be they were not as diligent as they might have been in following up. He said when Ms. Johnson told them that she had submitted and received approval staff took it at face value. He said if that was not the case and Traffic Engineering will not approve it then staff would know that real soon as well. However, it would be his assumption that what Ms. Johnson has said was correct.

Mr. Robinson asked if the Board approved this today and if for some reason there was something that City Engineering had not approved if it would be held up there?

Mr. Hansen stated yes. He said he would like for the Board to remember that what the petitioner originally requested with this particular application was not only approval for the childcare center but she was also originally asking for many more children than what perhaps would normally be allowed on this site. He said he believed the petitioner indicated at the last meeting that she would be amenable to a reduction. The ordinance required 100 square feet of outdoor play space for each child. He said they could document that there was 1400 square feet available at the rear of the property as shown on the map that would therefore accommodate 14 children or some number less. Also, there was the request for the waiver that this property was not located on an arterial or collector streets. However, that was a fairly common request that is made with regards to childcare centers in the area.

***Mr. Mackey** arrived approximately 2:40 p.m.

Mr. Jones stated the lot itself was a substandard lot in an R-6 zoning district. He said he felt that all the requirements for this petition have not been met.

Mr. Robinson asked if he understood that the petitioner has agreed to 14 children?

Ms. Johnson stated yes. She said out of the 14 children, 6 would be infants therefore they would not require any of the outdoor play area.

Mr. Jones asked if he understood her to say that she would remove the storage house in the rear?

Ms. Johnson stated yes.

Mr. Byrne stated he recalled from last meeting that a part of the driveway would run onto the property next door. He asked if that has been resolved?

Ms. Johnson stated she had a notarized binding agreement between her and her brother. The agreement says – “I Harry Bright, Jr. who resides at 824 Tatum has given my sister Dannette Johnson permission to overlap her circular driveway located next to me 822 Tatum with mine. I do not at this time nor in the future will be selling my property, therefore I see no problem with this daycare driveway and my driveway overlapping.”

Mr. Robinson asked if the agreement needed to be recorded for it to be legally binding?

Mr. Byrne stated he felt yes, because it would be an easement that would run with the neighbor’s land.

Mr. Mackey stated he felt the question would be in the event the house was sold was the Board within their right to grant approval for one property which was in question with this particular Board to overlap into another piece of property.

Mr. Hansen stated he felt as Mr. Byrne has indicated and as the applicant has reached an agreement with the adjacent property owner regardless of the fact that it is a relative and has entered into an agreement. He said he felt if the petition is approved then the Board should require that the agreement be recorded because he felt it would then be legally binding on all parties. In the event that either of the properties was sold everyone would be aware of the condition and the recorded easement. But he felt it would be legal for the petitioner to do that.

Mr. Byrne stated another issue may be that the document the petitioner is using may not be entirely appropriate. He said he was not familiar with drafting easements, but he felt there may be some statutory language that has to go into that before it is recorded.

Mr. Hansen agreed. He also stated that the intent of the Board was to place on the record and to record the easement which they would be potentially creating with approval.

Mr. Byrne stated if the Board was inclined to continue the petition to allow the petitioner to talk with a property attorney about an easement then she would have to know which way the Board was leaning on this. In other words, if the petitioner does all this and the Board is inclined not to approve her petition and she goes to this trouble and expense he would hate for her to have to do that.

SZBA Action: Mr. Robinson made a motion that the Savannah Zoning Board of Appeals approve the petition for 14 children and with the condition that the property agreement be recorded at the Court House.

Mr. Mackey stated he felt the Board needed to be clear on the disappearing of the easement. He said he recalled in the last meeting the petitioner said that her relative (brother) would never sell the property. But he felt you could never say never because anything could happen on any given day. He said he felt the easement and the property becomes an issue. He said he understood the expense involved in hiring a property attorney to look at that. He said he would forewarn her that it could be alright for the next 20 years and it could be nothing, or it be the exact opposite of that and turn into a nightmare for her. He said this has been the first case that he was aware of the Board has been faced with a decision like this where two adjacent property owners on agreed to let the other use, borrow, or lease a portion of the land for the other's benefit. He said if the petitioner was willing to make sure the documents were recorded as a permanent part of the record with both parties, agreement of 14 children, and if she would also agree by the signing of a document that if the easement disappears that she would have to come back before Board of Appeals. He said he felt if she agreed to those things that he would be more favorable of her petition.

Mr. Robinson asked if the document had a time limit or was it in perpetuity?

Ms. Johnson stated it says lifetime binding agreement.

Mr. Byrne stated that would raise another question with regards to whose lifetime. He said he felt his colleagues were right that she needed to consult with a property attorney to address the concerns raised by the Board.

Mr. Mackey asked the petitioner if she would be agreeable to another continuance so she could get some of these documents satisfied?

SZBA Action: Mr. Robinson's motion failed for lack of a second.

Mr. Mackey stated for clarification the petitioner needed to get clarification on if the lifetime binding agreement was worded and being done proper, the document needed to be recorded in the Court House, and something documented that if the easement disappears then she understood that would require her to come back before the Board or the Zoning Board at a future time.

Ms. Johnson stated she would agree to a continuance to address the issues raised by the Board with regards to the property.

SZBA Action: **Mr. Mackey** made a motion that the Savannah Zoning Board of Appeals continue the petition until January 23, 2007. **Mr. Robinson** seconded the motion and it was unanimously passed.

RE: Continued Petition of Southside Baptist Church
B-061107-42708-2
5502 Skidaway Road

Continued per petitioner's request.

RE: **Petition of Charles Oxford
B-061127-35453-2
1601 Huntingdon Street**

Present for the petition was Charles Oxford.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a variance to allow lot coverage of 79.6 percent as opposed to the 75 percent lot coverage allowed by Section 8-3025 of the City of Savannah Zoning Ordinance in order to construct a single family residence. The subject property, located at 1601 Huntingdon Street, is zoned R-I-P-A (Residential – Medium Density).

Findings

1. In accordance with Section 8-3025 of the City of Savannah Zoning Ordinance, properties within the R-I-P-A zoning district are allowed lot coverage of 75 percent. Lot coverage is defined as any structure or part of a structure covered by a roof.
2. The petitioner is seeking a variance that would allow lot coverage of 79.6 percent on the subject property. It is the petitioner's stated intent to construct a single family residence on the currently vacant parcel. Required parking will be accommodated within an attached garage having access from the lane.
3. The parcel is considered a standard lot within the R-I-P-A district measuring approximately 25 feet wide and 70 feet deep, containing approximately 1,750 square feet.
4. The petitioner's request has been reviewed by the City's Historic Preservation Officer. The HPO is supportive of the request due to the low height of the building resulting in a smaller structure mass.
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 considered a standard parcel within the zoning district. There are no extraordinary or exceptional conditions pertaining to size, shape, or topography associated with the parcel.
 - 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 likely cause substantial detriment to the public good. The proposed development is consistent with development patterns in the neighborhood and has the support of the Historic Preservation Officer.

Summary Of Findings

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

Mr. Oxford stated he was developing the corner lot with four structures. He said this was the only lot that he needed a variance because he wanted to put a carriage house on the rear. He said if he made the garden area larger then he would lose the ability to park the car in a protected area. He said overall he would have less than 75 percent lot coverage.

Mr. Jones asked how much off-street parking will be provided?

Mr. Oxford stated there would be at least 6 off-street parking spaces.

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 will not cause substantial detriment to the public good. Mr. Mackey seconded the motion and it was unanimously passed.**

**RE: Petition of Dawson Wissmach Architects, For
Sam & Elena Ferreira
B-061127-35971-2
421 East Bay Street**

Present for the petition was Neil Dawson.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a four space off-street parking variance from the six space off-street parking requirement of Section 8-3089 of the City of Savannah Zoning Ordinance in order to develop an inn. The subject property, located at 421 East Bay Street, is zoned R-B-C (Residential-Business-Conservation).

Findings

1. The subject property is currently occupied by a historic residence that the petitioner intends to convert into a five room inn. Section 8-3089 of the Savannah Zoning

Ordinance requires one off-street parking space for each guest room plus one space for the owner/manager. Due to space limitations of the property, the petitioner is seeking a four space off-street parking variance.

2. Where it can be demonstrated by the owner or operator that 15 percent or more of the overnight guests arrive by means other than a personal automobile, the guest parking space requirement may be reduced proportionately up to 25 percent. Although the petitioner has not requested that this provision of the Ordinance be employed, its usage could reduce the parking requirement by one space.
3. The petitioner has provided information that illustrates 49 public on-street parking spaces within a one block radius of the property.
4. The parcel contains approximately 5,445 square feet, measuring 60.5 feet wide and 90 feet deep. Whereas the required minimum lot area for a single-family residence or a non-residential use is 6,000 square feet, the lot is considered substandard. Additionally, the petitioner notes that the property contains a garden and courtyard and that it is their desire to preserve and maintain the historic character and integrity of the property and minimize disturbance to its environment.
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 considered a substandard parcel within the zoning district. There are no other extraordinary or exceptional conditions pertaining to size, shape, or topography associated with the parcel.

- 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, although use as an inn would be severely curtailed.

- 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 likely cause substantial detriment to the public good.

Summary Of Findings

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

Mr. Robinson asked if a study has ever been done about inns or hotels and the number of vehicles in relationship or ratio to the actual guests? He said every guest would not rent a car to come to the establishment and need parking.

Mr. Hansen stated although he was not familiar with the studies he felt studies have been done. He said there was a provision within the Savannah code which allowed for an inn that if the applicant could attest to or provide information concerning that up to 25 percent of their guests would come by means other than a personal car or rented car that may be reduced proportionately. He said they have not supplied Staff with any information nor have they made that request. Applying the maximum ratio would reduce the required number of parking spaces from 6 to 5 they would still need to have an off-street parking variance. He said he felt there were cases and cases within our own community where not all of the required parking was provided on site. The ordinance does allow for credit for some on-street parking and in many cases credit for remote parking. He said the Board has heard requests for parking that was secured more than the 150 feet away that the ordinance provided. However, he could not answer as to how likely people were to make that walk or what the likelihood was that people would do that. He said based on what was seen in the community he felt people do that.

Mr. Robinson stated the Board has reviewed projects before in which the applicant recognized that they have not satisfied the parking requirement and have gone out and secured remote parking to relate to the project. Percentage wise he felt this looked like a huge request for a variance.

Mr. Byrne stated he recalled that there was a request for a harp shop in this area and old books and that person rented spaces from the Mulberry Inn. He said may be the applicant could also investigate to see if they could rent spaces from the Mulberry Inn because it seemed that was the only issue they needed for a variance was 4 parking spaces.

Mr. Hansen stated yes, there was a request quite some time ago for the harp store which was across the street from the proposed petition. He said there was also a request for Mr. Dawson's building which was also across the street and utilizing some spaces if not only at the Mulberry but perhaps also at the Bryan Street or at Hunter McClean which was a privately owned garage by them. He said there were possibly places that they could investigate, however that was not the request and they did not pursue that.

Mr. Byrne asked if they were to secure parking at the closest facility (Mulberry Inn) would they still need a parking variance?

Mr. Hansen stated yes, but it would be a different type of variance. The ordinance allowed for remote parking, however the parking had to be within a 150 feet. He said most likely if they were to secure parking in any garage, lot, or facility he suspect they would not find anything within 150 feet. He said they may have to come back to the Board for a different variance which would be remote parking as opposed to the reduction of parking spaces.

Mr. Robinson stated he raised the issue because as has been stated on numerous of occasions by his colleagues the pressure of parking was getting worse in downtown Savannah. He said the location for the proposed petition was really tough.

Mr. Randolph Scott, City Development Services, stated they had conducted several surveys with regards to inns being created in the Historic District. He said it was primarily taking an inventory of the lack of parking there of and as of right now the City fell short of having a moratorium on this because they have to address the parking. He said it was a real issue. He said a large percentage of the existing inns that they have were acting below the parking requirements.

Mr. Mackey stated as mentioned by his colleagues the parking situation in the City is real. He said with regards to the petition, he was not of the opinion to be in a rush to grant parking variances because something has to be done. He said if they continue on this trend, he did not know where people would park.

Mr. Neil Dawson stated he felt the issues raised by the Board were poignant. However, there were two requirements to the zoning ordinance that were not taken advantage of which was (1) reduction for travelers arriving by other means than car rentals. He said the reason they were not was this was the first operation that his clients have been in in this business so they did not have a track record or data that could be presented. He said he knew that most of the other inns in this area have petitioned successfully including some good sized hotels to take advantage of the 25 percent reduction. He said if they were able to demonstrate that either by using some one else's data or some other study it would reduce the request by 1 space. There was also a provision if the owner lived on site for 1 space. At present the owners did not intend to live on site but they wanted to preserve that option so that in the future they could. He said they could live with a 2 space variance, however they felt 4 spaces would be a more accurate representation of the worst case scenario.

Mr. Byrne asked if they have investigated leasing space from other locations?

Mr. Dawson stated unfortunately his firm which was building a new office near the site have taken all the spaces in the Mulberry and they did not have any available space. He said there could be space available in Hunter McClean's garage, but the last time he talked with Mr. Yellin they intended to change their lease structure to only lease to commercial companies in large blocks of ten or more so it would be difficult for them to come to a lease agreement with Hunter McClean as well. He said they really did not have options in terms of structured parking at either Mulberry or Hunter McClean. He said the reason they felt the 4 space variance might be feasible was there were 8 spaces directly in front. He said there was a single family residence, vacant building, and a dry cleaning operations, typically, those functions did not use those 8 spaces after 5:00 p.m. except for events downtown and on weekends. He said from his personal observation, the 11 spaces in front of Mulberry was typically not used all that intensely. He said there was also an additional 13 spaces across the street, but he felt they were used by some of the people who worked in the buildings across the street. He said they really felt the 8 spaces directly in front with the additional 11 spaces in front of Mulberry would be sufficient.

Mr. Robinson asked if the owners currently owned the property?

Mr. Dawson stated yes.

Mr. Mackey stated with regards to the comment that the majority of other inns have come before the Board and received approval. He said the Board does not set precedent. He said with regards to this petition he was concerned about a 4 space parking variance.

Mr. Byrne asked the petitioner if they would be willing to contact the drycleaners to see if they had any space available for lease? He said with regards to the comment made about after 5:00 p.m. he found that parking was extremely difficult, especially on weekends.

Mr. Dawson stated they have not talked with the drycleaners. He said they check into additional stacked parking on the lot. He said they were not proposing that because there was a fig tree, but they could double stack parking and get 4 spaces on site. He said they had other options to accommodate the parking, but they felt it devalued the property if they started to do those kinds of things.

Mr. Byrne asked if he felt they would benefit from talking to the drycleaners?

Mr. Dawson stated yes.

Mr. Byrne stated he felt the petition needed to be continued so they could investigate other options with regards to the parking.

SZBA Action: Mr. Robinson made a motion that the Savannah Zoning Board of Appeals continue the petition until January 23, 2007.

Mr. Byrne asked the petitioner if 30 days would be enough time?

Mr. Dawson stated they would like to begin operations in January. He said the two space variance would be within the guidelines of the zoning if you presumed the arrival by other means of transportation and the owner not living on site. He said that would allow the owners during the 30 or 60 days while they address other parking areas to get under operations.

Ms. Jean Brooks (420 St. Julian Street) stated she was a resident of the area. She said Brooks Associates has been a management consultancy for luxury inns on the eastern seaboard for 25 years. She said as a resident, when they talk about having 49 available spaces may be true with 400 or more people competing for them. She said if you have a guest overnight or weekends in this quadrant, you could not guarantee that some one could park safely and come to your home. She said she felt the parking would be difficult for the proposed site because Bay Street did not lend itself to pulling up unloading cars. She said at the corner of Price Street you could not do it, therefore you would be at Bryan Street which was always full. She said she was opposed to the petition. She said she felt the Mulberry Inn probably has rented out so many spaces over the years that there is no more parking available at their location. With regards to the drycleaners, check-in to an inn or hotel was 3:00 and departure at 11:00 a.m. She said normally people drop off laundry in the morning in which the lot would be full with guests at the inn because they would be eating breakfast. She said you normally picked up laundry in the evenings, so the lot would be congested with guests trying to check in. She said there is no parking in the area and she agreed this was a serious issue.

Mr. Jones stated he felt the change the petitioner wanted to make needed to be in writing so it could be a part of the record.

Mr. Dawson stated he would presume that there would be meeting minutes that would document what was discussed and they would not be able to get a Certificate of Occupancy without that piece of paper. He said it will be in writing.

Mr. Scott stated once the CO was issued there would be no way to go back regardless if the petitioner gets the additional spaces or not.

Mr. Mackey stated he felt 30 days was a sufficient amount of time for Mr. Dawson and his principles to come back and provide that type of guarantee in writing.

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

**RE: Petition of Robert E. Poppell, Jr.
B-061127-36094-2
605 Rose Dhu Road**

Present for the petition was Robert Poppell, Jr.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a 680 square foot lot area variance from the required 20,000 square foot lot area minimum; and a 552 square foot lot area variance from the 20,000 square foot lot area minimum required by Section 8-3025 of the Savannah Zoning Ordinance in order to create two separate parcels. The subject property, located at 605 Rose Dhu Road, is zoned R-20 (One-Family Residential).

Findings

1. The subject property, containing approximately 38,768 square feet and occupied with a single family residence, is presently zoned R-20 (One-Family Residential). The R-20 district requires a minimum lot size of 20,000 square feet.
2. The petitioner desires to split the existing parcel into two lots. As proposed, lot one would contain 19,320 square feet, and lot two would contain 19,448 square feet. Thus, lot area variances have been requested in order to legally subdivide the property in question.
3. The subject parcel is considered a standard lot within the R-20 district.
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 considered a standard parcel within the zoning district. There are no extraordinary or exceptional conditions pertaining to size, shape, or topography associated with the parcel.

- 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 likely cause substantial detriment to the public good. The proposed development is consistent with development patterns in the neighborhood. No objections have been raised by immediate neighbors or concerned citizens.

Summary Of Findings

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

Mr. Mackey asked what affect did this have on the R-20?

Mr. Hansen stated he felt it would not have a detrimental impact on the area. The property will still be zoned R-20. He said it just was that the R-20 area required a minimum lot size of 20,000 square feet. He said what the applicant was requesting was a variance from that practice in order to be able to subdivide and build two houses.

Mr. Robert Poppell, Jr. stated they have been working on this situation with the property for 9 months. He said when he initially started Joe Stuckey was assisting him and they thought it was straight forward and did not foresee any problems. He said he also owned the other side of the road and it was wider than the property. He said he has no plans of subdividing lot to sell. He said they have a new baby and wanted their mother in-law to build on the rear. He said that was why they were subdividing the property.

Mr. Randolph Scott, City Development Services, stated it would be easier to get the requirement for the existing house because all the area even though it was not buildable in the marsh would calculate into the R-20. He said then they could ask for a variance for the setback of the new house and it would not affect anyone coming through challenging subdividing a R-20.

Mr. Hansen stated for clarification there would still be a variance that would need to be requested. He said on the plans, there was the existing house and the proposed lot line. If they adjusted that slightly to accommodate then there would still have to be a side yard setback variance granted for the existing house.

Mr. Scott asked if they could consider building towards the front?

Mr. Poppell stated they would rather do it in the rear.

Mr. Jones asked Mr. Scott if the petitioner redrafted as he suggested what would happen?

Mr. Scott stated the petitioner may find out that he does not need a variance at all.

Mr. Poppell stated he just never thought of it that way. He said he just followed the advice of Mr. Stuckey. He said he did not have a problem with building on the front if the Board felt that was best.

Mr. Jones stated he felt may be the petition needed to be continued to allow the petitioner to consider the other options raised by the Board and Staff.

SZBA Action: Mr. Mackey made a motion that the Savannah Zoning Board of Appeals continue the petition until January 23, 2007.

Ms. Arlene Dubois stated she was concerned because she did not know what was going to be built or where it was going to be built because she owned the property adjacent to it.

Mr. Byrne stated the Board was considering continuing the petition because he may not need a variance. He said he felt her neighbor would be willing to discuss it with her and work with her if she has any concerns. He said she can also come back next month as the petition was on the floor for continuance to discuss the matter at that as well.

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

**RE: Petition of Anne K. Smith
B-061127-36317-2
28 East 48th Street**

Present for the petition was Anne Smith.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a six inch rear yard setback variance from the five foot rear yard setback requirement, and a two foot side yard setback variance from the five foot side yard setback requirement of Section 8-3025 of the City of Savannah Zoning Ordinance in order to construct an accessory structure on a legal lot of record. The subject property, located at 28 East 48th Street, is zoned R-6 (One-Family Residential).

Findings

1. Accessory structures are a permitted use within the R-6 zoning district subject to a minimum side yard setback of five feet and a minimum rear yard setback of five feet. The petitioner is requesting a side yard setback variance of two feet and a rear yard setback variance of six inches in order to construct an accessory structure.
2. The subject parcel is considered a standard lot within the district measuring approximately 75 feet wide and 95 feet deep, containing approximately 7,125 square

feet.

3. At some time in the past, an accessory structure occupied a portion of the rear yard on the subject parcel. Although the structure no longer exists, the foundation and concrete slab does. The petitioner intends to reconstruct using the original foundation and slab, thus reducing the necessity of any land disturbance. Based upon a visual inspection, it appears that many of the adjoining and adjacent lots also have accessory structures located within the now required setbacks.
4. A review by the City's Historic Preservation Officer notes that a carriage house was originally located on the property and its reestablishment is consistent with development in the neighborhood.
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 considered a standard parcel within the zoning district. There are no extraordinary or exceptional conditions pertaining to size, shape, or topography associated with the parcel.

- 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 likely cause substantial detriment to the public good. The proposed development is consistent with development patterns in the neighborhood and has the support of the Historic Preservation Officer.

Summary Of Findings

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

Ms. Smith stated her client would like to build a garage with a bonus room above where a previous garage was once located. She said the proposed garage will be built in the same location. The existing foundation was 60 inches from the property line and they propose to move over where they would have 3 feet off the property line.

Mr. Byrne asked if this would create an additional parking space?

Mr. Sam Fuller, Owner, stated they pull into the driveway to park.

Ms. Smith stated they would have additional parking since they pull the car into the garage.

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 will not cause substantial detriment to the public good.** **Mr. Mackey** seconded the motion and it was unanimously passed.

RE: Other Business

Mr. Byrne stated the Board received a draft copy of the proposed changes on childcare. The discussion that he briefly had with Mr. Hansen before today's meeting was with regards to the insurance requirement. He said Mr. Hansen checked with the City Attorney and he felt that it was not enforceable and felt that it was something that the State should do rather than the municipality.

Mr. Hansen stated in checking with the City Attorney that was the response but at no time did he say that the Board should not or could not place it in the ordinance. He said if the Board directs Staff then he would place it in and proceed with the amendment assuming everything else met the Board's approval.

Mr. Byrne stated he would like for it to be included. He said he felt it was enforceable if business is transferred or ever comes to light. He said it may need to be changed if it was inconsistent with state requirements. He said he felt the Board had a duty to protect the children in the community. He said they could not pass State law, but they could propose municipal support.

Mr. Hansen stated he will put it in and proceed with the amendment.

Mr. Robinson stated he felt it was important because the Board passes judgment on things that were supposed to relate to the safety of the public.

Mr. Byrne stated as mentioned last meeting that people were making money off of this and the Board needed to protect the people they were making money from.

Mr. Hansen stated they would schedule the amendment for hearing to go before MPC and move forward and see where it goes.

Mr. Scott stated Mr. Todaro had a comment with regards to the proposed requirement of 100 square feet of playground area per child on the road outside of a requirement that required Board of Appeals approval. He said right now it permitted 100 square feet per child that comes out in a group that would be utilizing the playground.

Mr. Hansen stated there were two different requirements depending upon the type of facility and zoning category. He said the way Staff has written it was *100 square feet per child*. But the existing ordinance has a provision in some sections to allow 100 square feet of play area as mentioned by Mr. Scott. He said it was up to the discretion of the Board as to how they wanted to go with that. He said he felt like it was a loophole. He said the applicant for example will say they will only bring out 10 children at one time, but how would anyone know that was what they were really doing. He said he did not offer to change that when he did the staff proposal.

Mr. Scott asked if the ordinance still read the same that when they were in a BC zone that they could have 75 children.

Mr. Hansen stated no. He said they were proposing to greatly reduce 75 children.

RE: Adjournment

There being no further business to come before the Savannah Zoning Board of Appeal the meeting was adjourned approximately 12:45 p.m.

Respectfully submitted,

Deborah Burke
Assistant Secretary

DB/ca