

SAVANNAH ZONING BOARD OF APPEALS

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

MARCH 27, 2007

2:30 P.M.

REGULAR MEETING

MINUTES

MEMBERS PRESENT:

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

MEMBERS ABSENT:

Paul Robinson, Excused

TECHNICAL STAFF PRESENT:

Tom Todaro, City Development Services

MPC STAFF PRESENT:

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

RE: Call to Order

Mr. Byrne stated the March 27, 2007 meeting will be delayed as they were waiting on a quorum. He said Staff contacted Mr. Mackey who was home recovering from surgery but willing to come to the meeting to make the quorum.

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

Mr. Byrne apologized to the persons in attendance for delaying the meeting. He also thanked Mr. Mackey for coming to the meeting as he was home trying to recover from knee surgery. He called the March 27, 2007 meeting of the Savannah Zoning Board of Appeals to order at 3:00 p.m.

RE: Minutes

1. Approval of SZBA Minutes – March 27, 2007

SZBA Action: Mr. Jones made a motion that the Savannah Zoning Board of Appeals approve the regular meeting minutes of March 27, 2007. Mr. Mackey seconded the motion and it was unanimously passed.

RE: Regular Agenda

**RE: Petition of Octavia Shellman
B-070129-52372-2
204 Sugden Street & 1603 Richard Street**

Continued per Staff's request.

**RE: Petition of Richard Guerard, For
H.O. Price, LLC
B-070227-36098-2
342 Drayton Street**

Continued per Petitioner's request.

SZBA Action: Mr. Jones made a motion that the Savannah Zoning Board of Appeals continue the Petition of Octavia Shellman, B-070129-52372-2 and the Petition of Richard Guerard, for H.O. Price, LLC, B-070227-36098-2 until the next regularly scheduled meeting (April 24, 2007). Mr. Mackey seconded the motion and it was unanimously passed.

**RE: Continued Petition of Bonnie Hendrix
B-061227-51157-2
102 West 50th Street**

Present for the petition was Bonnie Hendrix.

Mr. Hansen gave the following Staff report.

The request was continued from the February 27, 2007 meeting at the request of the petitioner so that a revised plan and request could be submitted.

The petitioner is requesting approval of variances in order to subdivide a parcel for the purpose of creating two lots, one of which will be occupied by an existing two-family residence and the other to be occupied by a newly constructed two-family residence. The requested variances include: a 5,172 square foot lot area variance from the minimum 7,200 square foot lot area required, and a 20 foot lot width variance from the 60 foot lot width required by Section 8-3025 of the Savannah Zoning Ordinance for lot 1; a 4,158 square foot lot area variance from the 7,200 square foot minimum lot area required, a five foot rear yard setback variance from the 25 foot rear yard setback required, a nine foot side yard setback variance from the 15 foot side yard setback required, and a four space off-street parking variance from the four space off-street requirement of Sections 8-3025 and 8-3089 for lot 2. The subject property, located at 102 West 50th Street, is zoned R-4 (Four-family Residential).

Findings

1. The subject properties are located at the northwest corner of 50th and Barnard Streets. Combined, the parcels measure 50.7 feet by 105 feet. Sometime in the past, two substandard lots were created which currently measure 50.7 feet by 55 feet, and 50.7 feet by 50 feet. The northern most lot is presently occupied by a two story residence with a ground footprint of 680 square feet, resulting in lot coverage of 24 percent.
2. It is the intent of the petitioner to construct a residence on the southern lot. Several variances are required to accommodate the same. Moreover, the petitioner desires to change the existing lot line between the two non-conforming parcels, thus resulting in variances for the northern lot too.
3. The R-4 zoning classification requires a minimum lot area of 3,600 square feet per unit

when land is developed with two-family dwellings. The resulting allowed density is approximately 12 dwellings per acre. The combined parcels contain approximately 5,323 square feet. Whereas a two-family dwelling currently exists on the northern property and it is the intent of the petitioner to construct a two-family dwelling on the southern property, the resulting density approximates 33 dwelling units per acre.

4. Section 8-3055(c) of the Zoning Ordinance states that "...in any district in which single family dwellings are permitted, any lot of record existing at the time of the adoption of this chapter which has an area or width which is less than that required by these regulations may be used as a building site for a one-family dwelling, provided ...". This section of the Ordinance appears to say that a two-family dwelling would or should not be allowed.
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(s) is considered a substandard parcel within the zoning district. Existing development does not currently meet the minimum development standards. The two existing lots of record contain approximately 2,500 and 2,700 square feet respectively, well below the required minimum lot size of 7,200 square feet.

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

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

- c. **Such conditions are peculiar to the particular piece of property 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 likely cause detriment to the public good and impair the purposes of the Ordinance. The request, as proposed, greatly increases the density of the area. The parking variance is excessive and will result in eight required off-street parking spaces being relocated to the street.

Summary Of Findings

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

He further stated as mentioned in the staff report the petitioner had not as of the date of the mailing of the staff report received any changes from the applicant. He said he had conversations with Ms. Hendrix today. He said Ms. Hendrix was present today with a new plan and would like to present it to the Board. The plan was in accordance with what the Board had requested at the last meeting which was a change to the structure on the newly proposed lot that will replace the duplex with a single family and thus reduce the amount of off-street parking.

Ms. Hendrix apologized to the Board for not being able to get revised drawing to them sooner as she had just received them today before she came to the meeting. She said her brother took the guidance of the Board from the last meeting and they revised their plans to reduce it to a single family dwelling and included off-street parking. She said they were requesting for the lot line to move back 15 feet. She said she felt there was plenty of space between the road, front, and on the side of the house. She said it also mirrored what was currently in the neighborhood.

Mr. Mackey stated the petitioner was submitting the revised drawings today for the first time and Staff has not had a chance to review it. He asked if that was correct?

Mr. Hansen stated Staff has not had an opportunity to review the plans. He said he saw the revised plans shortly before the meeting when the petitioner came by. He said he offered his opinion that if she desired she could bring it to the Board. He said the Board may choose or may not choose to act upon it. He said he would request that if the Board chose not to act upon it that they consider a motion to continue the petition to allow not only Staff but themselves as well the opportunity to review the information with an updated Staff report because the information will change.

Mr. Jones stated he also felt that Staff needed to review the revised plans and the Board also needed a chance to review it. He said he felt the petition needed to be continued.

SZBA Action: Mr. Jones made a motion that the Savannah Zoning Board of Appeals continue the petition until the next meeting (April 24, 2007). Mr. Mackey seconded the motion and it was unanimously passed.

**RE: Petition of The Beehive Foundation
B-070227-35754-2
217 West Liberty Street**

Present for the petition was Dolly Chisholm, Attorney.

Mr. Hansen stated Mr. Blackburn, City Attorney and representatives from the Beehive Foundation have had some conversation prior to the meeting concerning this request. He said they were both in agreement that they should ask that this also be continued to the April 24, 2007 meeting. He said Staff could not be assured at this point that the original applicant for the property in question was aware that this meeting was being held. He said they believed they were but they did not have proof of that fact. The ordinance was fuzzy about whether or not they have to provide written notification thereto. But in the interest of fairness and since the original applicant was not present it was Staff's opinion that they perhaps were not aware of the meeting today. He said Staff recommends that the petition be continued.

Ms. Chisholm, Attorney, Beehive Foundation, stated they filed the appeal. She said as mentioned they talked with Mr. Blackburn beforehand about the notice requirements. But she was just informed that there was proof that he was in fact served with this. She said if that was the case then they would like to proceed.

Mr. Blackburn, City Attorney, stated Mr. McDonald just told him that Mr. Thomson said there was notice. He said Mr. Thomson who was also present just told him that he really did not know. He said Mr. Todaro also did not know whether or not the original applicant received official notice. He said it was immaterial to the City as to whether or not they received notice except due process required if there were property rights involved that they receive notice. He said it was up to the Board. He said he has given a legal opinion and the Historic Review Board has followed not only in his opinion as a matter of law but also the interpretation that they made as to what the law was. This was an appeal to the Board by possibly an aggrieved party to overturn a legal interpretation of the wording of an ordinance. He said it would seem to him and he would not object if the appellant wanted to continue this to be sure that there was notice and an opportunity to be heard at this hearing. He said he was not asking for it, the Staff report to the Board of the interpretations that have been made were before the Board and they could hear them if they see fit.

Ms. Chisholm stated they would want to make certain that the original applicant was served because he was the property owner and entitled to know this. She said if there was some evidence that he was, then how would they know that he would show up at the next hearing. She said she was not certain what they should do at this point. She said she felt they were here and ready to go. She said the file apparently says that he was served, but he was not here.

Mr. Blackburn stated there was nothing in the file to say that he was served. He said that was what he was checking on with Staff and that was what brought this up.

Mr. Byrne stated he was informed by Mr. Todaro that the property owner was served but the underlying petitioner was not. He asked what was the actual procedure for due process notification requirements?

Ms. Chisholm stated the actual application has instructions on it saying serve 10 copies of the appeal to the Zoning Board of Appeals and post the sign. She said both of those things were done as well as the surrounding neighbors being notified. She said her client would like to proceed.

Mr. Mackey stated the City Attorney was the legal representative for the City and the Board of Appeals was a City Board. He said he was inclined to follow the advice of the City Attorney. He said if he understood Council, he mentioned that he would not be remised if the Board continued this for 30 days until they knew that there was delivery of the notification. He asked Mr. Blackburn if that was correct?

Mr. Blackburn stated yes.

SZBA Action: **Mr. Mackey made a motion that the Savannah Zoning Board of Appeals continue the petition until the next meeting (April 24, 2007) until such time as they could be certain that due process was carried out and that proper notification was given to all parties and interested parties who are affiliated with this petition.**

Mr. Jones suggested that when notice is carried out that it be sent out signed returned receipts for each individual that notices are mailed. He said he felt that way, they would have proof and no court of law could dispute the fact that they officially received a notice. If they do not return the receipt, at least the Post Office would have a record of the notice being sent.

SZBA Action: Mr. Jones seconded the motion.

Mr. Byrne asked whose responsibility would it be to carry this out?

Mr. Hansen stated Staff was responsible.

SZBA Action: Mr. Byrne called the question. The motion was unanimously passed.

**RE: Petition of Paul Bush, For
Sandra G. Williams
B-070301-51446-2
2119 Delesseps Avenue**

Present for the petition was Paul Bush and Sandra Williams.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of an application to establish a child care center pursuant to the requirements of Section 8-3025 of the Savannah Zoning Ordinance. The subject property, located at 2119 Delesseps Avenue, is zoned R-6 (One-Family Residential).

Findings

1. The subject property, located at 2119 DeLesseps Road, is presently occupied by a single-family residential structure and a second building which formerly housed a child care center. The property is rectangular in shape, measuring approximately 80 feet wide and 110 feet deep. The parcel contains approximately 8,800 square feet. The lot is considered a standard parcel within the R-6 zoning classification.
2. The petitioner is requesting approval of a child care center that would accommodate up to 20 children. A child care center with more than six children in a residential district requires Board of Appeals approval.
3. In August, 2006, the petitioner sought approval from the Board of Appeals of an application to establish a child care facility at this location for 25 children. The Board denied the request due primarily to traffic concerns, particularly related to child drop-off and pick-up.
4. 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, b, c, 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 20 children, thus requiring 2,000 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. DeLesseps Avenue is classified as a secondary arterial in this location. Article (d) requires that an off-street loading and unloading area be provided for the safety of the children. The petitioner has proposed a drop-off and pick-up area along the eastern side of the property with access from Puerto Rico Street. Such an arrangement will likely introduce increased levels of traffic onto a local neighborhood street. None-the-less, the City Traffic Engineering Department has indicated a preference for the drop-off and pick-up location to be located on Puerto Rico as opposed to DeLesseps. Adequate off-street parking must also be provided to accommodate workers vehicles. The submitted site plan delineates an existing driveway for such use. Article (f) requires that a visual buffer be provided to shield play areas, parking areas, and outdoor activity areas from abutting properties. A portion of the outdoor play area is proposed to be enclosed by a six foot high wooden fence. A second portion of the play area is currently enclosed by a four foot high wooden fence. It is unknown how the petitioner intends to screen the proposed parking area from view.

5. 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 collector street in a residential neighborhood. Because drop-off and pick-up is proposed from a local street, resulting traffic and potential congestion associated therewith could be detrimental to the use or development of adjacent properties.

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

The proposed use, subject to approval, can be compatible with the 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.

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 criteria necessary for granting use approval for the proposed child care center appear not to be met.

Mr. Jones stated there was another structure located on the site of the proposed childcare. He asked if that would also be used for the childcare?

Mr. Hansen stated it was his understanding the petitioner was using the entire site. He said from the plans the structures appeared to be connected but he was not certain.

Mr. Mackey stated he did not think they were connected. He said he thought there was a backyard to the house facing Delesseps and there might be a small walkway that leads to the other structure in the rear that faced Puerto Rico.

Mr. Bush stated on the plans it showed an existing structure but they are not proposing that as a part of the daycare. He said they were only concerned about the area that faced Puerto Rico. He said that was a single family residence and the two buildings touched at a point. He said they were not proposing at any given time to include the house in their proposal. He said they had adequate space within the building that faced Puerto Rico to satisfy Ms. Williams' needs as a childcare center.

Mr. Mackey asked if he was saying that the house on DeLesseps was not to be considered?

Mr. Bush stated it was not a part of the daycare but it was owned by the owners.

Mr. Mackey asked if he could explain their plans?

Mr. Bush stated it would remain a single-family residence. He said the other area on the plans was the play area and it would be fenced. The fence will be 6 feet. He said they also have extended the privacy fence to enclose the parking approximately 40 feet. He said they also were proposing to remove the existing 4 foot wood fence that was on DeLesseps and replace it with a 6 foot fence.

Mr. Mackey asked if the yard of the structure that faced Puerto Rico is a part of the yard of the structure that faced DeLesseps?

Ms. Williams stated the yards were separate. She said there was one yard that connected to the space for the daycare center. The other yard was connected to the house. However, they owned the house as well as the property on Puerto Rico for the daycare center. She said she was not interested in any way in using the house for the daycare center. She said originally, she wanted to have about 30 – 35 children and she was told that the area would be too congested. She said she reduced it to 25 children. Also, the location on Puerto Rico was large enough to accommodate 25 children or 20 children. She said she was also the owner of a daycare center at Brownsville Baptist Church on East 37th Street. She said with regards to the traffic she felt with them coming off DeLesseps and going on to Puerto Rico that would decrease the traffic.

Mr. Todaro stated normally, the Board required that daycares in residential districts be on an arterial or collector street. In this case, it was, but it was kind of being penalized because of the traffic. He said this used to be a daycare. Also, in the top photo, it showed an area was paved in the front on the Puerto Rico side which he was certain that was where they would have dropped the children off before. In addition, City Traffic Engineering was saying that they wanted the drop off to be on the Puerto Rico side which was where the house faced.

Mr. Jones asked the petitioner if they could explain their pick-up and drop off for the proposed daycare center?

Mr. Bush stated on the plans they have delineated staff parking. He said with regards to pick-up and drop off they submitted two options. He said City Traffic Engineering preferred that they used the option where they would pick-up and drop off on Puerto Rico. He said if the Board was concerned about that option then the alternative for pick-up and drop off could be that they enter off DeLesseps and exit on Puerto Rico.

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

Ms. Williams stated 6:30 a.m. to 7:00 p.m.

Mr. Byrne asked if she would continue to operate the other daycare on East 37th Street?

Ms. Williams stated yes.

Mr. Jones asked the petitioner if on their drop off if they had a walkway going to the house in the rear?

Mr. Bush stated yes.

Mr. Byrne stated with regards to the play area, they had the backyard to the house and there was a side yard next to the daycare. He asked if the area will be fenced?

Mr. Bush stated yes and the fence will be 6 feet.

Mr. Byrne asked if they were combining the two parcels to have the square footage for the play area?

Mr. Bush stated yes.

Mr. Mackey stated although City Traffic Engineering was comfortable with the pick-up and drop off being on Puerto Rico, he was not in favor of any entrance or exits onto DeLesseps. He said he felt as long as everything was routed onto Puerto Rico he felt that would help keep the traffic to a minimum at the daycare. He also said he felt the main structure should remain residential.

Mr. Byrne asked if she will live in the residence?

Ms. Williams stated it will be used for storage.

SZBA Action: Mr. Mackey made a motion that the Savannah Zoning Board of Appeals **approve** the petition as submitted subject to the following conditions: (1) That the number of children permitted be limited to no more than 20, (2) That the student drop-off and pick-up site be limited to ingress and egress on Puerto Rico Street only, and (3) That the primary structure be used for residential purposes only. Mr. Jones seconded the motion and it was unanimously passed.

RE: Other Business

RE: Adjournment

There being no further business to come before the Savannah Zoning Board of Appeals the meeting was adjourned approximately 3:40 p.m.

Respectfully submitted,

Deborah Burke
Assistant Secretary

DB/ca