

SAVANNAH ZONING BOARD OF APPEALS

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

MAY 22, 2007

2:30 P.M.

REGULAR MEETING

MINUTES

MEMBERS PRESENT:

**James Byrne, Chairman
Stephanie Bock
John P. Jones
Paul Robinson**

MEMBERS ABSENT:

Timothy Mackey, 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 called the May 22, 2007 meeting of the Savannah Zoning Board of Appeals to order at 2:30 p.m.

RE: Minutes

1. Approval of SZBA Minutes – April 24, 2007

SZBA Action: Mr. Jones made a motion that the Savannah Zoning Board of Appeals approve the regular meeting minutes of April 24, 2007. Mr. Robinson seconded the motion and it was unanimously passed.

RE: Consent Agenda

**RE: Petition of Charlene Simpson
B-070423-32118-2
2317 Barnard Street**

The petitioner is requesting approval of a three foot front yard setback variance from the three foot front yard setback requirement; a two foot side yard setback variance from the five foot side yard setback requirement; a 2,300 square foot lot area variance from the 4,400 square foot lot area requirement; and a one space parking variance from the two space parking requirement of Part 8 Section 3 and Article K of the Savannah Zoning Ordinance in order to reconstruct a two-family dwelling. The subject property is located at 2317 Barnard Street. The property is zoned TN-2 (Traditional Neighborhood).

Summary of Findings: All of the conditions necessary for granting the requested variances appear 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 all of the conditions necessary for granting the request have been met.** Mr. Robinson seconded the motion and it was unanimously passed.

**RE: Petition of Ricky Barrow
Mainsail Construction
B-070423-32228-2
207 East 53rd Street**

The petitioner is requesting approval of an application to allow lot coverage of 41 percent as opposed to the 36 percent lot coverage allowed by Section 8-3067 of the Savannah Zoning Ordinance in order to construct a single family dwelling. The subject property is located at 207 East 53rd Street. The property is zoned R-6 (One-family Residential).

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

Mr. Byrne stated the Board received a letter with regards to the above-mentioned petition.

Mr. Dean Reuther stated he was opposed to the above-mentioned petition.

SZBA Action: Mr. Robinson made a motion that the Savannah Zoning Board of Appeals **move the Petition of Ricky Barrow, Mainsail Construction, B-070423-32228-2 from the Consent Agenda to the Regular Agenda.** Mr. Jones seconded the motion and it was unanimously passed.

RE: Regular Agenda

**RE: Petition of Keith Howington
Greenline Architecture/Poticny Deering Felder
B-070425-35524-2
4 West Liberty Street**

Mr. Byrne stated a neighbor requested that the petition be continued so they could consult with an architectural firm in Charleston, SC.

Mr. Jones stated since he has been on the Board they have never continued a petition at the request of a neighbor.

Mr. Robinson stated he felt if the property was properly signed and notification mailed to the property owners that the neighbor has had time to inquire about the petition. He said he has never known any Board to have a neighbor request a continuance.

Mr. Edward Brennan, Neighbor, stated they submitted the letter requesting that the petition be continued. He said his wife owns the property at 10 West Liberty Street. He said this was a vacant lot next to his wife's house. He said they found out about the petition by accident. He said the property address was listed with regards to the property as well as the wrong PIN. He

said 4 West Liberty Street was a house. This vacant lot which was next to his wife's house was 8 Liberty Street with a different PIN. He said he found out notices were sent out but he felt the notices did not relate to the subject property.

Mr. Byrne asked if he was saying that he did not receive notice?

Mr. Brennan stated they would like an opportunity to have an independent architect review these plans and give them some advice because they have a historic building. He said the petitioner was talking about that they would put sensors on it to test for vibration which concerned them greatly. He said they did not feel any harm would come if the petition was delayed for hearing for 30 days or whatever.

Mr. Byrne asked Mr. Hansen if he could address the signage of the property?

Mr. Hansen stated to the best of knowledge the signage was posted correctly. He said the applicant provided Staff the information as to the PIN and lot and Staff proceeded accordingly. He said as Mr. Brennan stated this was a vacant lot located to the west of the Six Pence Inn on the corner of Liberty and Bull Streets. He said Staff was required as the Board knows to notify all property owners of record within 200 feet. He said to the best of his knowledge that also was done.

Ms. Bock asked if on the notification if it was listed as 4 West Liberty Street or 8 West Liberty Street?

Mr. Hansen stated on the application it was listed as 4 West Liberty Street. He said on the plot on the screen the Board could see that it was listed as one property and it has been combined. He said this was 4 and this was formerly 8. He said it was all combined under one property.

Mr. Robinson asked the petitioner if they wanted a continuance?

Mr. Deering, Architect, stated their client has requested that the petition be heard today. He said the issues that Mr. Brennan was concerned about were more architectural issues and not zoning issues.

Mr. Byrne asked the petitioner if the property was posted?

Mr. Deering stated yes.

Mr. Brennan showed the Board the notice that was sent out. He said it says 4 West Liberty Street and on the tax map the lot was shaded. He said the number 9 was a lot involved and not this. He said the shaded area on the tax map was a house on the corner. The lot next to the shaded area was a vacant lot where the garage was going to be.

Mr. Byrne stated his understanding was that he was asking for a continuance in this matter to perform a study.

Mr. Brennan stated that was correct.

Mr. Byrne asked if there were any further questions from the Board with regards to the continuance?

There were no further comments from the Board or public.

SZBA Action: Mr. Jones made a motion that the Savannah Zoning Board of Appeals deny the request for a continuance of the petition. Mr. Robinson seconded the motion and it was passed 3 - 1. Opposed to the motion was Ms. Bock.

**RE: Petition of Ricky Barrow
Mainsail Construction
B-070423-32228-2
207 East 53rd Street**

Present for the petition was Ricky Barrow.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of an application to allow lot coverage of 41 percent as opposed to the 36 percent lot coverage allowed by Section 8-3067 of the Savannah Zoning Ordinance in order to construct a detached garage. The subject property, located at 207 East 53rd Street, is zoned R-6 (One-family Residential).

Findings

1. Lot coverage for standard parcels in the R-6 district is allowed by right up to 30 percent. Section 8-3067 of the Ordinance acknowledges the existence of legally existing substandard lots and provides for an increase in lot coverage equal to the percentage difference between 6,000 square feet and the smaller lot. Accordingly, the petitioner is allowed lot coverage of 36 percent by right on the subject parcel.
2. The subject parcel is a substandard lot within the R-6 district, measuring approximately 45 feet wide and 105 feet deep. The lot contains approximately 4,725 square feet. The existing residence is approximately 1,535 square feet in size, resulting in lot coverage of approximately 32½ percent. It is the petitioner's intent to construct a 400 square foot garage at the rear of the property which will, if approved, increase the lot coverage to a total of 41 percent.
3. In accordance with Section 8-3163 of the Savannah Zoning Ordinance, the Board of Appeals may authorize upon appeal in specific cases such variance from the terms of the regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions will, in an individual case, result in unnecessary hardship, so that the spirit of the regulations will be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in an individual case upon a finding by the Board of Appeals that:
 - a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.**

The subject property is considered a substandard parcel within the zoning district.
 - 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 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 not likely cause detriment to the public good and impair the purposes of the Ordinance. The request, as proposed, is to construct a garage at the rear of the property to accommodate off-street parking.

Summary Of Findings

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

Ms. Bock asked if the garage was 20 X 20 or 20 X 25?

Mr. Barrow stated this was at least the third time that he has tried to apply for a permit. The first time was in September and the paperwork was lost between the Inspections Department and MPC. He said they tried again in October but did not meet the deadline because the paperwork was lost again. He said the final time was in April for today's meeting. He said he only framed the garage. He said the framing was done and it was his understanding that it would be approved. The garage was 20 X 20 which accommodated two off-street parking spaces that were required when they built the house.

Ms. Bock asked the petitioner if he realized he needed a variance before he started construction?

Mr. Barrow stated he understood that they needed a variance when they poured the slab. He said they poured the slab as the house was being built which was in July – December 2006. He said they were under the misconception that they could start the building process as they went. In talking with some of the City officials they kind of said *"well we know that you are going to be granted"* but they did not give him permission but he was under that impression. He said he jumped the gun and started but they stopped work when they found out they needed Board approval first.

Mr. Byrne stated that when you are talking to people what is said might as well be written in the wind. He said variances were not granted until they were decided upon by the Board.

Mr. Dean Reuther stated Mr. Barrow is a builder and knew better. He said he was not a homeowner that was ignorant of the laws of construction. He said when Mr. Barrow started construction of the house a year ago he had not yet been issued a building permit. He said May 25, 2006, Chuck Fisher issued a stop work order for no building permit. June 26, 2006 the owner issued a letter to Developmental Services stating he was putting in a two car parking pad in the backyard at which point he poured the slab. May 10, 2007 the petitioner began

construction of the garage a few days after his neighbors had been given notice of the variance hearing. On May 11, 2007, Inspector Tom Bolton issued a stop work order and on May 12 which was a Saturday he continued construction. He said Mr. Barrow knows the rules.

Mr. Byrne asked the petitioner if he could explain the stop work orders?

Mr. Barrow stated the first stop work order was for clearing down trees. He said they never constructed anything on the house until the permit was issued. He said he has gone through the proper channels to do this. He said he has had direct contact with everyone at the City and the Planning Department. He said everyone knew what was going on and he had written permission to do things. He said Chuck Fisher pulled the stop work order which did not get registered but they have to put it on their file. He said with regards to the Saturday when the stop work order was done he went to the City and explained the situation. He said the City said that he could finish sheathing the garage to keep people from coming in because it was exposed. He said he put the sheathing on and then he put up a temporary fence across the back to try to keep people out.

Ms. Bock stated a parking pad was different than a foundation for a garage. He asked if he poured a parking pad, would it pass foundation inspection?

Mr. Barrow stated yes. He said he built it as a foundation for a slab but it could also be used as a parking pad. He said he also had it inspected by an engineer.

Mr. Byrne stated he felt Mr. Reuther brought up a good point. He said they have had innocent homeowners that were told by contractors that they took care of all the permits. He said it really did not excuse the homeowner legally but the Board sometimes was more understanding in those types of situations.

Mr. Barrow stated as he mentioned they went through the process and this was his third time going through the same process. In May, when they subdivided the lot they submitted the plans.

Mr. Byrne stated he started to build any way. He said he understood the paperwork was lost which some times happened in a bureaucracy. He said what he was concerned with was he continued to build any way.

Mr. Reuther stated he also had a signed petition from neighbors who were also opposed to the petition.

Mr. Byrne asked Staff for clarification in that the issue before the Board was for lot area?

Mr. Hansen stated it was a lot coverage variance.

Mr. Robinson asked Staff for the petitioner not to need a variance, how much would have to come off of the garage?

Mr. Hansen stated he was not certain.

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

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

Present for the petition was Richard Guerard.

Mr. Hansen gave the following Staff report.

Reconsideration

On April 24, 2007, the Savannah Zoning Board of Appeals considered the petition of Richard Guerard requesting a variance in allowable lot coverage for a proposed development to be located at 342 Drayton Street. After hearing from parties of interest, the Board, on a vote of 3-2, denied the request.

In accordance with Section 8-3167(f) of the Savannah Zoning Ordinance, the petitioner filed a timely application for reconsideration of the request. The petitioner offered the following as reasons for justifying the reconsideration request: "I think new info is that the Board did not understand the Historic Review Board and the City Preservation Officer supports the variance. My Hardship was not made known that I have spent almost \$100,000 negotiating with City reps., the Board, and neighbors. The hardship is constant redesign after an agreed upon plan."

Should the Board grant the request for reconsideration, the rehearing of the petition in question shall be held at the same meeting.

Mr. Guerard stated the development of the property started with guidance from one of the top City officials in trying to save the old building. He said he spent considerable sums of money designing a building that would go on top of the old building per their instructions which took him several months. He said he submitted those plans which were denied by the Historic Review Board contrary to what he had been told. He said he then went before City Council on the same guidance and he received demolition permit and he was instructed to tear down the building. At that time the building covered 80 to 81 percent of the surfaced area. He said if he knew what he knew now he would not have torn it down when they told him to. He said he felt he was 6 percent in the hole for what he could have had if he would not have done anything. He said the entire site was concrete. The entire site was a dump and has been for 20 years. He said he went before the Historic Review Board with one design which was not favorably received. He said after he spent all the money designing that set of plans he compromised and came back with another set of plans. He said then under some comments and issues that were raised at that Board meeting by members of the Historic Review Board he redesigned again. He said he shortened one side of the building. He said he took one story off. He said he made another compromise by off-setting the building in three separate places and set it back off the street. He said he changed the whole outlook of the building. He said they put green space in the front of the building with a wrought iron fence and took the surface area coverage down from 95 percent to 86 percent. He said there were extensive negotiations with staff and Board at meetings trying to reach an agreement upon the building. He said this was at his expense both in interests payments and design payments they finally reached an agreement of compromise where he gave in a lot. He said the Historic Review Board approved it because they were involved in the negotiation process and he finally showed them what they wanted. He said the Board told him they could not approve lot surface coverage area variance but they could make a recommendation to Zoning Board of Appeals. He said the Board's recommendation was that

they supported the variance by approving the Height and Mass. But, when he came before Board of Appeals last month it was denied. He said he felt that it may not have been clear to Zoning Board of Appeals everything he went through before he received approval from Historic Review Board in order to bring it before this Board. He said he did exactly what the different governing bodies of the City of Savannah asked him to do. He said he was asking for 5 percent of what was already there which he felt was not clear last time which was also supported by the Historic Review Board and Staff.

Mr. Jones stated the original building was a service station. He said other than the canopy where the gas pumps were located the building that was there covered everything except where this canopy and gas pumps were located which was paved. He said there was no green space on that site.

Mr. Byrne stated the first thing the Board needed to consider was whether they were going to grant the petitioner's request for reconsideration.

Ms. Bock asked the petitioner at what point did he realize he needed a variance and why didn't he come before the Board for a lot coverage variance before all the negotiations with various bodies?

Mr. Guerard stated no one has never been clear on that and it has been an issue that has been raised several times by the Historic Review Board of which Board petitioners should go to first. He said the reason they went to the Historic Review Board first was because historically that has been the route. Also, historically the Zoning Board of Appeals has gone off the recommendation of the Historic Review Board. He said he did not make the rules and this was the order he was told to submit in.

Mr. Walter Hartridge, Attorney, stated in the ordinance it says – “the Board may grant a rehearing only for petitioners submitting new and relevant information. Applications shall be denied upon a finding by the Board there has been no substantial change in facts, evidence, or conditions relevant to the petition in question.” He said this was what was before the Board with all due deference. He said he reviewed the draft minutes from the last meeting. He said there was no grandfathering in. He said Mr. Todaro was asked 75 percent was 75 percent. He said what the Board had was a motion for a rehearing. The reason given was - “I think new info is that the Board did not understand the Historic Review Board or the City Preservation Officer supports the variance. And my hardship was not made known that I have spent almost \$100,000 negotiating with City reps, Board, and neighbors.” The hardship is constant ...after an agreed upon plan.” He said that was what was submitted by Mr. Guerard.

He stated you looked at what was presented before and if there was anything new or different under the ordinance that would justify rehearing. He said they felt there was none. He said on Page 19 of last months minutes (April 24) – “Mr. Guerard stated he was not under a hardship because they could have done four stories.” He said they felt everything going back to the history all should have been presented on April 24. He said you don't keep going back and back. He said if the Board look at the record that was presented on April 24 and he has a copy of the tape and has listened to it and that was what it said. On Page 24 of the minutes (April 24) Mr. Guerard said he felt it was extraordinary circumstance because both the Historic Review Board felt like this plan was in the best interest of the City and Staff thought it was the best plan. He said the petitioner could not possibly say that the Historic Review Board did not take into account what was going to go on before the Zoning Board of Appeals. He said Mr. Mackey asked Mrs. Reiter to come up in which he asked her some questions about it which was also on

the record. He said they felt it flew in the face of reason to say there was any failure on the part of this Board to understand the position of the Historic Review Board and Mrs. Reiter, City Preservation Officer. With regards to hardship, anyone who buys property knew what it was zoned, lot coverage and everything. He said he could give the Board the pricing history on this and some comments that Mr. Guerard made in the presence of witnesses outside one of the Historic Review hearings about what he was offered and turned down. He said they submit that there was no economic hardship that has been demonstrated here on this record. He said they felt it would be flying in the face of reason and logic and in defiance of the ordinance to permit a rehearing in this matter. He said they also respectfully submit that someone who was on the prevailing side would have to move this reconsideration to get it done. Otherwise, it was not properly before the Board even under the ordinance. He said for reasons of what was brought up before and what the record showed was brought out before and what the ordinance says they respectfully submit that this motion for reconsideration should be denied. He said that was their position on behalf of all of his clients.

Mr. Guerard stated in a statement that the Historic Review Board or Staff did not fully make their position known what Mr. Hartridge was referring to was when Mrs. Reiter approached the podium he did not feel she understood what Mr. Mackey was saying. He said he felt Mrs. Reiter was not clear on the question that Mr. Mackey was asking of her. He said he did not have a copy of the minutes but he recalled that it was something to the effect that it appeared it made no difference to the Board whether or not it was approved or not approved. He said that was not the stance what-so-ever of the Staff or the Historic Review Board because they recommended approval. He said he felt there was some miscommunication between Mrs. Reiter and Mr. Mackey during that discussion. He said if the Board remembered Mr. Mackey asked the question several times and it was never completely clear what Mrs. Reiter was answering. He said he felt the recommendation of the Historic Review Board and Staff was not clear.

SZBA Action: Mr. Byrne made a motion that the Savannah Zoning Board of Appeals reconsider the petition. Mr. Jones seconded the motion and it was passed 3 - 1. Opposed to the motion was Ms. Bock.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of an application to allow lot coverage of 84 percent as opposed to the 75 percent lot coverage allowed by Section 8-3025 of the Savannah Zoning Ordinance. The subject property, located at 342 Drayton Street, is zoned R-I-P-A (Residential-Medium Density).

Findings

1. Section 8-3025 of the Savannah Zoning Ordinance provides that lot coverage in the R-I-P-A zoning district shall be allowed to a maximum of 75 percent. The petitioner is seeking a variance from that provision that would allow 84 percent lot coverage in order to construct a condominium project on the subject site.
2. The subject property is considered a standard parcel within the R-I-P-A district. Measuring approximately 100 feet wide and 120 feet deep, the site area contains approximately 12,000 square feet. Existing development standards would allow a building footprint of approximately 9,000 square feet. The petitioner is requesting a variance to allow a building footprint of approximately 10,000 square feet.

3. The petitioner submitted a request for approval for New Construction, Part 1 Height and Mass to the Historic District Board of Review. The hearing for the request was conducted on April 11, 2007. At said hearing, the City Visual Compatibility Officer recommended approval of the request, noting that the original structure located on the property occupied approximately 80 percent of the lot. The Historic Review Board concurred with the recommendation and approved the Part 1 Height and Mass request noting specifically that the nine percent variance to be requested from the Zoning Board of Appeals is visually compatible.
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 the property in question because of 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 likely cause detriment to the public good and impair the purposes of the Ordinance. The request, as proposed, is in character with the lot coverage of surrounding properties and has been deemed to be visually compatible by the Historic Review Board.

Summary Of Findings

All of the findings necessary to grant the requested lot coverage variance appear not to be met.

Mr. Guerard stated he felt the bottom line was condominiums were going to be there and they will be up in the air. He said he felt the compromises that have been made to date made it better on the corner. He said the building was an attractive building and Historic Review Board was

happy with the building as well as most of the public. The fact that they set one part of the building as much as 10 – 12 feet off the property line to allow for a nice streetscape improved the neighborhood which was one of the goals for downtown. Also, another compromise was they moved it further from the opposition's existing home. He said they have done every single thing they have been asked to do. He said the whole site was concrete and they were making it better by opening up green space. He said open space and green space was two different things. He said all that was required to do was have open space meaning no roof over the top of it in the Historic District.

Mr. Byrne stated he was requesting a variance of 9 percent. He asked if he agreed to build under the height map?

Mr. Guerard stated they dropped one side of the building one story compared to the other. He said the goal was to make the building less massive and make it appear as three separate buildings. He said they also agreed to flip it over and put the lower side next to existing residences and the high side next to Drayton Street which was recommended by the Historic Review Board.

Mr. Byrne stated if the Board denied his petition, nothing would prevent him from building up to the height map restriction and seeking no lot coverage variances.

Mr. Guerard stated that was correct. He said they also designed a building that way but it was not favorably received by the Historic Review Board. He said lowering the building making it fatter was what the Historic Review Board which they felt made it more appealing and fit the neighborhood better.

Mr. Jones asked if the plan that he was going to use was the one that he showed the step down height instead of just having a big box?

Mr. Guerard stated yes.

Mr. Walter Hartridge, Attorney, stated the findings of the Staff had not changed from what was presented April 24, 2007. He said the first criteria that **(A) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.** He said Staff's finding was – *"The subject property is considered a standard parcel within the zoning district. There are no extraordinary or exceptional conditions pertaining to the property in question because of size, shape or topography."* He said that has not changed on the record since it was presented April 24, 2007. He said **(B) The application of these regulations to this particular piece of property would create an unnecessary hardship.** He said Staff's finding was – *"Strict application of the regulations of the Zoning Ordinance would not create an unnecessary hardship."* He said **(C) Such conditions are peculiar to the particular piece of property involved.** He said "such" which referred to A and B, Staff's findings was - *The conditions described above are not peculiar to the particular piece of property involved.* He stated the Board remembered the prepetorian language. He said the Board could grant a variance owing to special conditions would result in unnecessary hardship...provided however the variance shall not be granted for use of land or building as prohibited by this chapter and district in question. Such variance may be granted in an individual case upon a finding by the Board of Appeals that 1, 2, 3, and 4. He said they carried that point before this body on April 24, 2007 by a vote of 3 – 2. Ms. Bock, Mr. Mackey, and the Chairman voted to deny the variance. He said nothing has changed since then. The ordinance, the facts, and the Staff recommendation has not changed. He said they

submit that this variance should not be granted.

Ms. Anna Smith (National Society of Colonial Dames of America) stated the garage they have lived next door to for many years had a limited height. She said the argument as to whether or not this randomly shaped strip of ground along the front of this building was somehow some wonderful acquisition of green space. She said one could put up with a garage that was the same height and scale as the buildings around it, but this was a collection of copied details off of adjacent buildings randomly stucked together. She said the petitioner was trying to get high density with units that did not have adequate windows because they were squashed in there. The original building had the forecourt which did not have anything built on it other than the canopy. She said as a neighbor in the Historic District with the museum house she felt that it would be unconstructive to say that this building had anything to give to the neighborhood.

Mr. Jones asked if the town homes across from the old Health Department building are taller than the proposed building?

Ms. Smith stated no, because the petitioner had 11 foot ceilings in his units and it was lifted up on top of a parking garage. She said she felt this was too big of a building that was trying to be made to sort of look like maybe it had something to do with being a house. She said she felt it was horrible and felt it was neither one thing or the other.

Mr. Bill Stube (President of Downtown Neighborhood Association) stated they request that the Board not allow the increased lot coverage proposed. He said the open green space enjoyed by the residents of Savannah and visitors to the City was an integral defining characteristic of Savannah. The zoning process which establishes 75 percent lot coverage at this location recognized the importance of open space in the development of the City's scape. He said relief if granted for a building of this magnitude would cause substantial damage to the public good. He said in an article in the May 13, 2007 issue of the Savannah Morning News editorial Tom Barton said – *“City officials must be wise to anything that chips away at the Historic District's integrity because eventually there goes the neighborhood then a big chunk of Savannah's economy goes bye-bye to.”* He said they submit that the Board be careful about this because the proportion and scale of the buildings was integral to what everyone values here. If they have something too big or too much lot coverage there goes the neighborhood.

Mr. Guerard stated whether someone liked the building or disliked the building was immaterial at this point in time because the height and mass was approved by the Historic Review Board. He said there was a misnomer that green space and open space were interchangeable. He said they were not the same thing. Open space could be concrete, brick, stone or anything a person wanted it to be as long as it did not have a roof. He said that was what downtown required. It did not require green space. Open space did not create what some of the residents have referred to, but green space did which was what they compromised to do.

He further stated the building was going to be tall and big which was what he was allowed to do. He said he was not allowed to cover more than 75 percent without the Board's approval. He said the building will be perceived as bigger when it is taller. In essence, the argument would be to give the surface area coverage and give the appearance of it being a shorter building because it was. He said it was 11 feet shorter on one side of the building. He said the Historic Review Board approved the design. He said he was not requesting anymore density than what he was allowed by law. He said if the Board grants his petition for the variance then he was willing to decrease the density from 20 to 18 units. He said if the variance was not granted then

he was not willing to that compromise. He said he felt that was the last compromise that he could offer to anyone.

Mr. Hartridge stated with regards to the decrease in units we are governed by the ordinance with all due deference. He said he would have to check with his clients with regards to that offer. However, he did not think with all due deference that was the purview of the Board.

Mr. Byrne stated the Board has purview. He asked what were their thoughts of the offer to decrease the number of units from 20 to 18?

Mr. Hartridge stated he could not speak for all the people he represents. He said he would have to confer with them because some of clients were not present today.

Ms. Bock stated if the petitioner could decrease the number of units from 20 to 18 then he probably could decrease the square footage to 75 percent.

Mr. Guerard stated it could not be changed because of the fire system, parking, or the fire stairs to the basement have to be the same size based on the design. He said he was not offering to redesign the building and reduce the amount of units. He said he would make a couple of the units bigger. He said if he redesigned the building then he would keep the maximum amount of units.

Mr. Robinson asked if the offer based on increasing the size of the building to retain the same square footage?

Mr. Guerard stated yes, but you would have to two less units and two larger units on the top floor.

SZBA Action: Mr. Jones made a motion to approve the request as submitted. There was no second to his motion. The petition is, therefore, **denied**.

**RE: Petition of Julie Hill DeLoach
B-070423-32338-2
621 Stuart Street**

Present for the petition was Julie Hill DeLoach.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of an application to establish a use (beauty parlor) which must be approved by the Board of Appeals in accordance with the requirements of Sections 8-3002 and 8-3163 of the Savannah Zoning Ordinance. The subject property, located at 621 Stuart Street, is zoned R-6 (One-family Residential).

Findings

1. A home occupation is an allowed use within the R-6 zoning classification. The Ordinance defines a home occupation as “an occupation carried on within a home or from a home only by members residing in the home, using such equipment as is customarily found in the home, involving no display of articles or products, and, except as otherwise provided, having no on-premises signage identifying the occupation and

having no on-site storage of equipment, or materials used to deliver products or provide services offsite and having no on-site assembly or storage of vehicles other than the customary household vehicles. Home occupations shall be limited to: 1) selling only those articles, products or services produced in the home; or 2) arranging to provide or deliver products or services which are produced offsite and involve no on-site employees other than those living in the home, and involve no assembling or storage of materials or equipment on the premises. However, this definition shall also include the following activities: 1) boarding not more than two non-transient guests; 2) a family day care home; or 3) a beauty parlor operating in a room separate from but attached to a dwelling unit and using equipment other than that customarily found in a home, occupying not more than 500 square feet of floor area, and employing no more than two people, both of whom shall reside in the dwelling to which the beauty parlor is attached.”

2. The petitioner has indicated a desire to operate a beauty parlor at the subject property as a home occupation. The intent is to establish said use in a detached garage. Because the garage is not attached to the primary structure (house), use approval must be sought from the Board of Appeals as opposed to the use being allowed by right.
3. The subject property is trapezoidal in shape, measuring approximately 50 feet in width at the front, 100 feet at the rear, with sides of approximately 97 and 128 feet. The lot contains approximately 7,250 square feet and is considered a standard parcel within the R-6 district.
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 based upon a finding by the Board that:

- a. **The proposed use does not affect adversely the general plans for the physical development of the city, as embodied in these regulations and in any Master Plan or portion thereof adopted by the mayor and aldermen.**

The proposed use does not affect adversely the general plan for the physical development of the city. Beauty parlors are an allowed home occupation use in the R-6 zoning classification. Use approval is sought because the use is proposed to be housed in a detached garage.

- b. **The proposed use will not be contrary to the purpose stated for these regulations.**

The proposed use is not contrary to the regulations.

- c. **The proposed use will not affect adversely the health and safety of residents or workers in the city.**

No adverse affects are expected or anticipated.

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

It is not expected that the proposed use will be detrimental to the use or development of adjacent properties. Although the surrounding area is residential

in nature, the Ordinance allows for home occupations and the restrictions thereof are designed to mitigate potential negative impacts.

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

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

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

The parcel, which contains approximately 7,250 square feet, is a standard lot within the R-6 district. The principal structure (house) and detached garage currently exist on the parcel.

- 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.**

It is not anticipated that the proposed use will create either a hazard or a nuisance. It is anticipated that the facility will see limited usage.

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

Beauty parlors are an allowed home occupation use subject to standards contained within the Ordinance. Regulations require that the proposed use be attached to the primary residential structure. The petitioner is proposing to develop a beauty parlor in an existing detached garage. As such, use approval must be secured from the Board of Appeals since the proposed facility does not meet the Ordinance requirements for allowance of the use by right.

Summary Of Findings

Establishment of the use would not be expected to be detrimental to the neighborhood, however, all of the conditions necessary for granting the use approval appear not to be met without granting a waiver of the current Ordinance requirements.

Mr. Jones asked if this would still be considered a home occupation?

Mr. Hansen stated yes. He said it was only that the home occupation for this particular use in an R-6 was required to be in the primary structure. He said the petitioner was requesting that it be in detached structure in the garage.

Mr. Robinson stated it was his understanding that there will only be one chair.

Mr. Hansen stated yes and no signage.

Mr. Jones stated with the operation in the garage, you would not have to park on the street. He said there was enough space to have off-street parking.

Mr. Hansen stated there appeared to be enough room on the parcel.

Ms. DeLoach stated she has been doing hair for at least 31 years. She said she has some surgery in the past 2 years and she doesn't have as large of a clientele as she did in the past. She said her son and mother have moved in to the house together which allowed her to cut her expenses so she would be able to care for her mother. She said because of health reasons it was not her intent to increase her clientele. She said this was why she wanted to operate the business out of her house as well as the garage was there. She said there was also enough room for parking. She said on scheduled workdays she did not expect more than three clients at a time. She said the average age of her clients was about 46 years of age and they would not be coming for tans, tattoos, or piercing. She said her business was very low key.

SZBA Action: Ms. Bock 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: Petition of Donna Swanson
Doug Bean Signs, Inc., For
The Lady & Sons
B-070423-32468-2
102 West Congress Street**

Petition withdrawn per Petitioner's request.

**RE: Petition of Keith Howington
Greenline Architecture/Poticny Deering Felder
B-070425-35524-2
4 West Liberty Street**

Present for the petition was Keith Howington and John Deering.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a petition to allow lot coverage of 96 percent as opposed to the 75 percent lot coverage allowed by Section 8-3025 of the Savannah Zoning Ordinance in order to construct a covered garage. The subject property, located at 4 West Liberty Street, is zoned R-I-P-C (Residential-Medium Density).

Findings

1. Section 8-3025 of the Savannah Zoning Ordinance permits lot coverage of up to 75 percent in the R-I-P-C zoning district. The petitioner is proposing to add a garage onto an existing residential development that will result in lot coverage of 96 percent, thus necessitating the request for a variance.
2. The historic building at 4 West Liberty street was constructed in 1879, and is one of the most well-preserved Second Empire style residences in the Landmark Historic District. The building maintains a high level of historic integrity having undergone few alterations, with the exception of the ground floor commercial conversion. The vacant lot (subject of this request) once contained a three story townhouse which was razed sometime between 1916 and 1954 for a seven space parking lot.

3. The petitioner would like to provide parking at slightly below grade level for the existing seven spaces. The parking is proposed to be covered by a concrete deck, allowing for a 100 percent green open terrace space above the parking. The deck will consist of walls at the entrance and exit to simulate that of a garden wall reminiscent of other developments in the immediate area. Water from the deck will be recycled into the planting of the terrace.
4. On April 11, 2007, the Historic District Board of Review considered the petitioner's request for a certificate of appropriateness with regard to the proposed development. The Historic District Board of Review made a decision to grant the certificate noting that the proposal is visually compatible due to the height and mass of the addition.
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. The vacant parcel is only 30 feet in width, but is an existing legal lot of record.
 - 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 detriment to the public good or impair the purposes of the Ordinance. The request, as proposed, is consistent with the development pattern prevalent in the area, and has the support of the historic preservation staff and the Historic District Board of Review.

Summary Of Findings

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

Mr. Howington stated one thing the owner has done was not take the mentality of maximizing the lot as far as density. He said the four story structure that was marked and the vacant lot have been combined into one lot and have one PIN. The plans submitted to the Board, on the ground level there will be seven parking spaces. At the parlor level there will be green space. He said by doing that what they tried to establish architecturally was a unique solution to the lot by creating a garden wall, secure entrance, and above that an open terrace which maintained the open space next to the adjacent property and the house at 4 West Liberty Street. He said the rear view would also create a sense of a security wall. He said by doing what they have done they have created what you saw in Savannah often was a large house with a garden and courtyard beside the house. He said this created green space and still kept the feeling of an open garden behind the wall. He said by putting a surface parking lot, the property already had surface parking and they did not want to lose it and put the cars on the street. The owner decided to cover that by gaining the green space above they were hiding the exposed surface parking, therefore creating a more aesthetic solution to exposed concrete parking lot and keeping the same number of spaces which also created the desire for secured parking. He said the owner was not maximizing the lot. He said by combining the two pieces of property it created a very open green space for the property.

Mr. Byrne asked if they tried to contact the Brennan's regarding the petition?

Mr. Howington stated yes. He said he met with the Brennan's last Wednesday to explain the project so they would have a better understanding. He said they have valid concerns. He said as he explained, when you talk about building right up next to your property there was always concern about whether or not it would damage your property. He said they were allowed by the ordinance as it was from lot line to lot line at 75 percent. He said he felt some of the Brennan's main concerns were they were not looking for spot zoning but a variance.

Mr. Byrne stated his understanding from the Brennan's was they were not necessarily opposed to the petition but they wanted the opportunity to retain an architectural firm from Charleston, SC to see what kind of impact the project would have on their property. He said he understood they would like to proceed with their project, but in the interest of justice and fairness was there any harm in agreeing to continue this to allow them to do that. He asked if they would agree to that if that was proposed?

Mr. Howington stated as a proposal it sounded fine but everyday was another day and there were costs. He said his only opposition to that would be this has been through the Review Board process two times. He said there have been notices on the building and it was now going through the Zoning Board of Appeals. He said signs have been on the building since September 2006.

Mr. Byrne stated he felt they were confused and also understood sometimes people get involved in the process late.

Mr. Howington stated he also went through the precautions with the Brennan's they have taken. He said they have J.T. Turner who is heavily bonded. He said they have taken soil stabilizations, precautions along the Brennan's property, and specified in the specifications crack monitoring testing which he felt reassured that they were not damaging the property. He said they have taken these precautions for liability purposes. He said he felt the Brennan's concern was them building right next to the property. He said he realized they have hired an outside consultant who could review the plans at any time, but his concern was this was another architect. He said the project has been through architects, structural engineers, civil engineers,

and has been approved by the Review Board and City site plan. He said he felt the outside consultant would just be another architect's opinion. He said he was also concerned because he believed the architect was related to the Brennan's and he maybe bias in his opinion.

Ms. Bock asked if they were going to do a construction administration of the project as well as the design?

Mr. Howington stated yes.

Ms. Bock asked if it was in J.T. Turner's contract to monitor the cracks? She asked if he was also required to be bonded for damage to their property if any?

Mr. Howington stated yes. He said the structure was also held up on columns and away from the property.

Ms. Bock asked if he could explain the roof because it was not labeled?

Mr. Howington stated it was partly opened courtyard terrace and there were planters along the sides.

Ms. Bock asked what were the diagonals?

Mr. Howington stated pavers. He said they also were diverting water away from the edges. He said there were drains within the terrace to take water to the interior. He said 50 percent of the water would be recycled out of the City system and back into the planters on top of the terrace as irrigation to the planters.

Mr. Robinson asked if all the parking was parallel?

Mr. Howington stated yes.

Mr. Robinson asked if that was a narrow driveway at the back?

Mr. Howington stated it was a one lane driveway. He said if they went back to the 75 percent they would not cover the last two parking spaces. He said it would not create secured parking, but it would then be open parking spaces.

Mr. Robinson asked when you looked from Liberty Street if the two sides were blind arches?

Mr. Howington stated they were stucco. He said it was a solid stucco wall and a solid gate with an iron railing above to simulate a Paris wall.

Mr. Brennan stated they felt the project was tastefully designed and would be an asset to the neighborhood. He said their main concern was building close to their property because they had trouble in the past with vibrations. The petitioner was going 2 feet below grade and they were concerned about the irreparable damages.

Mrs. Pat Brennan stated years ago the telephone company brought in the pole as shown in the photograph. She said the lower half of 10 West Liberty Street was occupied by an antique shop. She said when the telephone company put up the pole pictures fell off the wall at the antique shop. She said her tenants ran outside and told them they were knocking the windows

out, so they stopped with the pole. Now, the petitioner was proposing something that looked wonderful but they would have to go underground which she felt would cause damage to her building. She asked if there was a way to do it and not go underground next to such an old building? She said some of the damage to the buildings in the past when the telephone company put up the pole could have also been caused by the big trucks that used to drive through the Historic District before the City changed them coming through the area. She said her building may have supports that go out like a pyramid. When they come down to cut a couple of feet underground what would keep them from running into the foundation of her building. She said that was her concern with them being that close and doing that kind of thing. She said with regards of them consulting with an outside architect they felt that it would be good to have someone else's opinion.

Ms. Bock stated anything the petitioner built they would require a foundation whether they needed a variance for lot coverage or not.

Mr. Brennan stated he thought there was a 5 foot setback line for that area.

Ms. Bock asked Staff if the petitioner could build from lot line to lot line?

Mr. Hansen stated yes.

Ms. Bock stated if the petitioner builds at 75 percent they could still build right up against their (Brennan's) property.

Mr. Brennan stated the summary of findings in the staff report says that all the conditions necessary for granting the requested variance appear not to be met. He said from that he felt Staff recognized that it was not proper to grant the variance.

Mr. Byrne stated almost every staff report the Board gets says that. He asked the petitioner what assurances could they give the neighbor about the foundation and what was going to be done?

Mr. Howington stated they could assure as he mentioned earlier that J.T. Turner was a well known architect and heavily bonded. He said Mr. Turner was very familiar with the downtown area. He said this was not an uncommon thing to do to build lot line right up against other properties. If his client were to sell the lot back and a developer were to build the lot 4 stories 75 percent it would take up this much room which covered more than the area they were covering now. To build a 4 story building the foundations for that building were going to go much deeper than for the 1 story lot that had no bearing on the exterior wall. He said the reason that was a concern was because the picture shown by the Brennan's and from his experience in downtown Savannah her footings were going to be much deeper than 2 feet. He said the reality was they may not touch her footings. But, his firm understood the Brennan's concern and have taken them into consideration.

Mr. Byrne asked if they could reassure that was the case? He said this is Mrs. Brennan's family home and it was little different. He said she was not speaking so much about insurance on the home but more that she wanted her building to remain the same.

Mr. Howington stated they could reassure her to the extent that a structural engineer has been involved in this project and has certified that his design would have the least amount of irreparable damage that anything could be. He said could they reassure Mrs. Brennan that they

were not going to find a situation that may cause something that they may have to handle differently, no he could not.

Mr. Jones stated the City working on the drainage plans in Ardsley Park there were several buildings that cracked. He said the work was not close to some of these buildings but the vibration from jackhammers and digging caused some of the homes to crack and the City carried insurance to make repairs on these homes. He said even with the project to restore Ellis Square they have ran into problems. He said any time you start digging downtown you were going to have some problems. He asked if they were assuring them that this digging would not damage their home?

Mr. Howington stated he was assuring them that they have taken every precaution to prevent that. He said they were not going as far down as any of the other City work that he has referred to. He said they were only going down 2 feet. He said they were scraping the top layer off to give them enough headroom.

Mr. Robinson asked Mr. Brennan when did they first become aware of this petition?

Mr. Brennan stated the notice of this petition was on the house and not on the lot. He said somebody mentioned it to his wife. He said that was when he came over and looked at the plans at the Metropolitan Planning Commission. He said that may have been at least two weeks ago.

Mr. Robinson asked if they could not have engaged someone to review the plans at that time?

Mr. Brennan stated he met with Mr. Howington who was helpful, but he decided they needed some independent advice.

Mr. Deering stated he understood the Brennan's concerns. He said he has worked in the Historic District for 20 + years. He said he has built four or five houses right up against historic houses. He said he was a preservationist at heart and this was his architectural firm that was involved with this project. He said they have never had any trouble with any of their project that they have built right next to people especially with this particular construction firm. Also, they have restored houses that they thought were going to fall in. He said he felt that there would be nothing that would happen to Mrs. Brennan's house that would be irreparable. He said they could fix just about anything that would happen. He said the contracting firm on this project will have a bond in place to insure if there was any damage that it will be repaired.

SZBA Action: Ms. Bock made a motion that the Savannah Zoning Board of Appeals approve the petition as submitted, based upon a finding that the relief sought will not be detrimental to the public good. Mr. Robinson 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 4:35 p.m.

Respectfully submitted,

Deborah Burke
Assistant Secretary

DB/ca