

SAVANNAH ZONING BOARD OF APPEALS

ARTHUR A. MENDONSA HEARING ROOM

112 EAST STATE STREET

November 27, 2007

2:30 p.m.

REGULAR MEETING

MINUTES

MEMBERS PRESENT:

**James Byrne, Chairman
John Jones
Paul Robinson**

MEMBERS ABSENT:

**Stephanie Bock
Timothy Mackey, Vice Chairman**

TECHINICAL STAFF ABSENT:

Tom Todaro, City Development Services

MPC STAFF PRESENT:

**Jim Hansen, Secretary
Sabrina Thomas, Administrative Assistant**

RE: Call to Order

Mr. Byrne called the November 27, 2007 meeting to order at 2:30 p.m.

RE: Minutes

Approval of SZBA Minutes – October 23, 2007.

SZBA Action: Mr. Jones made a motion that the Savannah Zoning Board of Appeals approve the regular meeting minutes of October 23, 2007. Mr. Robinson seconded the motion and it was unanimously passed.

RE: Consent Agenda

**RE: Jan deVoest
Poticny Deering Felder
B-061030-349-34913-1
1701 – 1709 Lincoln Street**

Nature of Request

The petitioner is seeking an extension of a previously approved variance request. On November 28, 2006, the petitioner requested approval of a five foot side yard setback variance on each side from the five foot side yard setback requirement; a 4,779 square foot lot area variance from the 11,000 square foot lot area requirement; and building coverage variance to allow lot coverage of 70 percent as opposed to the 60 percent lot coverage allowed by Part 8, Section 3, Article K, Section 5.6.5 of the Savannah Zoning Ordinance in order to construct five

attached residential units. The subject property, located at 1701 – 1709 Lincoln Street, is zoned TN-2 (Traditional Neighborhood). The Zoning Board of Appeals voted unanimously to approve the request.

Findings

1. The petitioner is proposing to construct five attached residential units on a currently vacant parcel zoned TN-2. The subject parcel is considered a standard lot, measuring approximately 95 feet wide and approximately 62 feet deep, and containing a total of 6,221 square feet.
2. Ordinance requirements include a five foot side yard setback; a minimum lot area of 2,200 square feet for each attached unit; and a maximum lot coverage of 60 percent. The petitioner is seeking variances from these provisions in order to construct the five units as envisioned.
3. The project has been reviewed by and given the support of the City's Historic Preservation Officer based upon the historical building patterns in the area and on the parcel in question specifically. Additionally, the requested project has the support of the Historic Savannah Foundation.

Summary Of Findings

Based upon the previously approved action, it is recommended that a one year extension be granted.

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 requested variance have been met. Mr. Robinson seconded the motion and it was unanimously passed.

RE: Howard Spiva,
for Shirley Owens and Yvonne Bass
B-071029-46848-2
1137 Mohawk Street

(Petition Continued Per Staff's Request)

Mr. Hansen stated there were procedural errors in the application. He said the correct PIN numbers were not obtained, thus the correct advertising process was not completed as prescribed by the ordinance. As a result there were posting errors.

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

RE: Harold Gantt
B-071029-52869-2
920 Mill Drive

(Petition Continued Per Staff's Request)

Mr. Hansen stated there were procedural errors in the application. The correct PIN numbers were not obtained, thus the correct advertising process was not completed as prescribed by the ordinance. As a result there were posting errors.

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

RE: Regular Agenda

RE: Dionne R. Hines
B-070926-61041-2
33 Fair Street

No one was present for the petition.

SZBA Action: Mr. Robinson made a motion that the Savannah Zoning Board of Appeals reconsider the petition/ Mr. Byrne seconded the motion. The motion passed 2-1. Opposed to the motion was Mr. Jones.

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

RE: Lisa Heusel, For
Nicholsonboro Baptist Church
B-071029-42672-2
13319 White Bluff Road

Mr. Hansen presented the following Staff report:

The petitioner is requesting approval of a use (child care) that must be approved by the Zoning Board of Appeals pursuant to the requirements of Section 8-3025 of the City of Savannah Zoning Ordinance. The petitioner is also seeking a waiver of the requirement that said use be located on a collector or arterial street.

Findings

1. The subject property, located at 13319 White Bluff Road in a heavily wooded area, is approximately one acre in size. The R-6 zoned site is presently developed as the Nicholsonboro Baptist Church. Four buildings currently exist on the property, one of which is proposed to be used for a child care facility.
2. The City Council recently amended the child care provisions of the Ordinance to restrict the number of children allowed at any one facility. Included in that amendment was a

3. provision that "...approval for any center located at a school or religious institution shall be limited to a maximum of 36 children..." Further, a childcare center "...can be located on a school or religious institution property provided that such property contains a minimum of 12,000 square feet." The proposed center is planned to house approximately 20 children and the property size exceeds the minimum threshold of the Ordinance.
4. The petitioner has approached the immediate neighbors and has submitted letters of support from several. The letters are attached to this report.
5. 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 visual buffers (opaque fence a minimum of six feet in height) be provided to shield parking areas, play areas and outdoor activity areas from abutting property; f) that a sign not to exceed three square feet may be permitted; and g) that the primary use of the structure shall be for a residence and said residence shall be occupied.

The requirements of a, c, d, and f (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 approximately 20 children, thus requiring 2,000 square feet of outdoor play space. Based upon the site plan submitted, ample play space is available.

Article (b) requires that a child care center be located on a collector or arterial street. The Ordinance allows for the Board of Appeals to grant a waiver from said requirement and the petitioner has applied for the necessary waiver.

Article (d) requires that an off-street loading and unloading area be provided for the safety of the children. The petitioner proposes to utilize an existing circular drive for loading and unloading.

Article (e) requires that a visual buffer be provided to shield play areas, parking areas, and outdoor activity areas from abutting properties. Although the property contains significant vegetation, it is noted that the property is enclosed with a five foot fence. The Ordinance requires that the visual screening fence be a minimum of six feet in height and that said enclosure be opaque.

Whereas the proposed facility is located on the property of a religious institution, the requirements of article (e) are not applicable.

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 is not likely to affect adversely the health and safety of residents, however, it is noted that a small increase in traffic congestion could occur during child drop-off and pick-up times.

- 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 predominantly residential neighborhood. The resulting traffic and potential congestion associated therewith is not likely to 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. Sufficient space is available to accommodate the required parking.

- 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.

Summary Of Findings

All of the conditions necessary for granting the use approval sought appear not to be met.

Mr. Jones asked due to the size of the land, there is plenty of space and will not interfere with anyone else, correct?

Mr. Hansen stated yes.

Mr. Byrne asked if there was a request for a variance on the height of the fence?

Mr. Hansen stated no. He said it was an ordinance requirement that it be at least 6 feet and opaque. The entire church property was fenced but only 5 feet in height, as described by the petitioner. He said he felt adding the additional foot to the play area would be the best course of action.

Ms. Heusel asked Staff if he could explain on page two of the staff report, under Article E where it said, "Whereas the proposed facility is located on the property of a religious institution, the requirements of article (e) are not applicable."

Mr. Hansen stated that is what was stated. He requested a moment to check the ordinance.

Mr. Byrne granted the request.

Ms. Heusel stated she represented her own firm and she has seventeen years experience in daycare. She said it was not necessary for the Board to limit the daycare to 20 children because the State has done that. The building they are using would be licensed for no more than 19 or 20 children maximum. She informed there would never be more than 20 children at full capacity and three teachers. She said she felt traffic would not be a problem, considering the church has 120 members. She also said the church was off of the road and it did not have a lot of homes. She said the homes at the other end of the road have their own entrance and exit and did not have to come past the church. She said they were asking for approximately 19 to 20 additional cars from approximately 6:30 a.m. to 5:30 p.m., in and out of a circular driveway.

Mr. Byrne stated regardless of state requirements, the Board still had to make a finding regarding the number of children.

Mr. Hansen stated the fence height requirement was not applicable. He said the 5 foot fence around the church would more than suffice and they would not have to do the 6 foot.

Mr. Tony Thomas stated his concern was that he had requested previously to be notified by the MPC whenever issues in his district arised. He said he found out through a citizen about the petition. He said he would like to be notified in the future. He said with regards to Nicholsonboro Baptist Church, he felt they would do what they have said. He said of the calls he received, he believed there was not an understanding of how many children there could be in the daycare. He said many of the residents did not want to see a mass operation as there is on Windsor and White Bluff at KinderCare. He also said the residents that live at the end of Long View Bluff were concerned about traffic using their entrance; coming off of Coffee Bluff Road and cut through Long View Bluff. He said he hoped the church would discourage that. He said he was relieved it was not to be a very large operation.

Mr. Robinson asked if the continuation of the road a public road?

Mr. Thomas stated Long View Bluff Road goes through their community. He said if they go around the loop that goes around the whole road and goes out where Vernon River Plantation was, that was a public road. He said the road that goes through Long View Bluff may be a private road. He said the Board had to understand they did not want traffic going through their neighborhood as no other neighborhood would want. He recognizes no one can stop people from using the road, and he felt 19 or 20 students was ot going to be a mass change the area.

Mr. Charles Oxford stated he lived on Long View Bluff Drive. He said that was a private road through there. He said a lot of people drive through and there was no way to stop it without putting up a gate. He said he had to give the people of the church credit, because it was not them. He said it was when funerals or outsiders use it because they did not know it's marked. He said their concern was that it was substandard road. There are sections where the shoulders were bad. He said there was a sharp curve which was the main reason they did away with the road. He said they called it Dead Man's Curve because so many people would speed through and hit the tree. He said he was personally concerned with the property value because he lives about 150 feet from where the playground was proposed. He said he recognized it would a money-making operation for the church. He said he considered it a business and believed it would affect his property value. He said he had many signatures in opposition to it.

Mr. Robinson stated he was familiar with the roadway being remote environment. However, he was not familiar with the Vernon River development and how it related to this.

Mr. Oxford stated there was a road that runs between the new Coffee Bluff Road and the old Coffee Bluff Road. He said it was not really a road; but more like a parking lot and people cut through it anyway.

Mr. Robinson asked if the two roads connected at two points?

Mr. Oxford stated yes.

Mr. Robinson asked if turned around and went back up?

Mr. Oxford stated it could go either way.

Mr. Robinson asked where was the roadway Mr. Thomas said he was not sure if it was public or private?

Mr. Oxford stated it was in the same place. He said it was definitely private because he had a copy of the plat that stated the County or the City were excluded from any of the maintenance responsibilities.

Mr. Robinson stated he still did not understand the configuration of the public road that was the old Coffee Bluff Road and the road Mr. Oxford was concerned about.

Mr. Oxford stated the road he lives on, the road wanders through where he lives. He said it was not terrible, but people come through there as a shortcut to White Bluff.

Mr. Jones asked Mr. Oxford if he was saying that people cut through the neighborhood, instead of using White Bluff?

Mr. Oxford stated yes, some people do.

Mr. Jones asked would he say 99 percent use White Bluff and not cut through the neighborhood?

Mr. Oxford stated he felt it depended on what type of function the church was having. He said Sunday and Wednesday nights were not a problem. He said it was when there were special occasions with strangers. He said they were concerned about the traffic on the road in general.

Mr. Jones stated White Bluff was a public road that was County maintained. He said no one could restrict travel on a public road. He said he felt that was what Mr. Oxford was requesting.

Mr. Oxford stated there was an ordinance against having one on a road that size unless special consideration was received. He said they just asking they did not get special consideration for that.

Mr. Jones stated if you owned it, you could do what you want to on it. He said as long as it was maintained and paid for by the County taxpayers traffic on a public highway could not be restricted.

Mr. Oxford stated he understood what Mr. Jones stated. The road in front of his house was private. He said they were also concerned about traffic on the public road because the road is substandard and did not meet the requirements for a daycare center.

Mr. Byrne asked Mr. Oxford if his concern was that the private road going by his house would receive traffic increase if this was approved?

Mr. Oxford stated yes.

Mr. Byrne stated he also believed Mr. Oxford's concern had to do with property value. He asked if the church were to offer some reassurance of trying to eliminate that problem, would that change his mind or sway his opinion one way or another?

Mr. Oxford stated no. He said he did not want the increased traffic at all. He said he spoke for himself but felt that was also the sentiments of his neighbors.

Ms. Maureen Konsul stated she lives directly across the street from the Church. She said their entrances were across from each other. She said she had no problem with the Church. It was understood that on Sundays cars are parked along the street. She said her concern was a limit of twenty children. She asked if the parents were going to go inside the gate and wait or park on the street?

Mr. Byrne stated the general use of a circular drive was for someone to come in, drop off their child, and go out. He said he did not think they would park on the street.

Ms. Konsul stated her other concern was the play area. She said it was very small and she felt it may not be enough play room back there. She said that leaves her to believe that in the summers the only big area is to the left of the church, which is an open area.

Mr. Byrne asked if her concern was the children being out front?

Ms. Konsul stated yes. She said there also was a house next to the church and they were opposed to it and also were not approached about it. She said she also was never asked perhaps because she wasn't considered close enough. She stated she is close enough because she can see everything that goes on that road. She stated she is very concerned about the playground and that more than two people use that road.

Mr. Byrne asked was there anyone else in opposition that needed to speak. He then stated for Ms. Heusel to return since there was no other opposition.

Ms. Heusel stated circular driveways are a state requirement for daycares in Georgia. She said they have to park in it, but she could not guarantee no overflow issues. However, she did not anticipate all twenty parents arriving at the same time. She said she spent a lot of time with the church members and its representative, Mr. Mack, going over all the details. She said most people would come in from the far end of White Bluff and pass the houses on the street, drop off, or park if they would like to because there will be plenty of space to do so. She said parking on the street was not going to happen because there will be ample space in the church yard. She said it is illegal for children to play in open areas such as across from Ms. Konsul. The location of the playground was large enough for twenty children and it would be sectioned off by age groups and fenced in. She said they were concerned about the safety of the children. She felt Ms. Konsul would probably never see or hear the children because of the location of the door leading to the play area. She said there will not be play time in the front of the building because it will all be in the rear. She said she personally tried to contact Ms. Konsul and never received an answer and she and Mr. Mack went to her house. She said she also tried to contact another neighbor and never received an answer there either. She said the road in question was private because it was a town home community. She said they would instruct the parents to be neighborly and not cut through on the road, but she could not guarantee it.

Ms. Konsul asked if the church grows, could the daycare take on more children?

Mr. Byrne stated no. He said provided the original petition was approved, for the daycare to increase their number of children would require Board approval.

SZBA ACTION: **Mr. Jones made a motion for the Savannah Zoning Board of Appeals approve the petition based upon a finding that all of the conditions necessary for granting the variance requested have been met, with the understanding of a limit of twenty children. Mr. Robinson seconded the motion and it was unanimously passed.**

RE: **Amy Pinckney, For
Betty Haines Becton
B-071029-52584-2
222 Rose Dhu Road**

Present for the petition was Amy Pinkney.

Mr. Hansen provided the following Staff report:

The petitioner is requesting approval of variances to allow construction of up to four single family residences of up to five feet greater height than the 35-foot maximum permitted in the R-10 zone. The subject property, located at 222 Rose Dhu Road, is zoned R-10 (Residential, 10,000 square-foot minimum lot size).

Findings

1. Recently, the petitioner sought and was granted approval for a four lot subdivision at property located at 222 Rose Dhu Road. The R-10 zoned property allows a maximum building height of 35 feet. It is the petitioner's desire to construct the four homes at a height of approximately 39 feet. The extra height is requested in order to accommodate a three foot crawl space to provide additional protection against periodic flooding that may occur in the area.
2. The proposed structures have been designed in a southern low-country style, characteristic of historic Savannah. The pitch of the roof adds to the overall height thus necessitating the variance request.
3. The proposed project meets all other development standards of the R-10 district including lot area, lot coverage, and setbacks.
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 properties are considered standard parcels within the zoning district. Although the property is located in an area prone to periodic inundation, there are no other extraordinary or exceptional conditions pertaining to 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. Structures could be built at the maximum allowable height.

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.

Ms. Pinckney stated their vision for the subdivision was to model the classic traditional river-style houses from years ago. She said the houses complimented each other but was within keeping of coastal towns from long ago. She said they would like to build the homes so they are off-ground and they would be protected in event of a flood.

Mr. Tony Thomas stated they have had extensive meetings and it was a contentious issue. He said it had a happy ending and the neighborhood came together and he received no opposition. The petitioners took extraordinary measures to save the tree canopy. He said he was fully supportive of the project and urged the Board to render a favorable decision.

SZBA Action: Mr. Robinson 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 variance requested have been met. Mr. Jones seconded the motion and it was unanimously passed.

RE: Other Business

Mr. Hansen reminded the Board that because of the holidays the next regularly scheduled Board of Appeals meeting will be Tuesday, December 18, 2007 at 11:00 a.m.

RE: Adjournment

There being no further business to come before the Savannah Zoning Board of Appeals, the meeting was adjourned approximately at 3:30 p.m.

Respectfully submitted,

James Hansen,
Secretary

JH/st