

**SAVANNAH ZONING BOARD OF APPEALS**

**ARTHUR A. MENDONSA HEARING ROOM**

**112 EAST STATE STREET**

**December 18, 2007**

**11:00 a.m.**

**REGULAR MEETING**

**MINUTES**

**MEMBERS PRESENT:**

**Timothy Mackey, Vice Chairman  
Stephanie Bock  
Paul Robinson**

**MEMBERS ABSENT:**

**James Byrne  
John Jones**

**TECHINICAL STAFF ABSENT:**

**Tom Todaro, City Development Services**

**MPC STAFF PRESENT:**

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

**RE: Call to Order**

Mr. Mackey called the November 27, 2007 meeting to order at 11:30 a.m.

**Mr. Mackey** informed the Board that four petitions were site-observed and found no signs posted when Staff and Board members did their drive-bys. By law they have to be posted where the public can see it at anytime. Those petitions were, namely, Paul Bush for Roosevelt Pough, item numbers B-071120-39553-2 for 814 West 44<sup>th</sup> Stree; B-071120-47471-2 for 822 West 44<sup>th</sup> Street, B-071120-89350-2 for 818 West 44<sup>th</sup> Street; and for David Cross B-071120-48977-2 for 1809 Dexter Street.

**Mr. Bush**, after being sworn in, stated the signs were posted the day he was called from Housing to pick them up. He stated he also had a contractor there to verify the day he had them pick them up and they were displayed. He added if there was a policy violation, it was not caused by him or the contractor or the owner, but by the City of Savannah.

**Mr. Mackey** responded that there was not fault being placed on anyone. He reiterated that when the Board members and Staff rode by to look at the sights, the signs were not seen and by right those signs have to be posted. He said there was nothing the Board can do about that. By law, they've got to proceed and will continue those petitions.

**Mr. Bush** continued saying that this petition filed for 44<sup>th</sup> Street wasn't filed thirty days prior to today's date which would have been a later day. He said this thing was filed a month prior to, within two months within the system and they picked up the signs the date that the signs were prepared. He stated that unfortunately no hardship on his client or himself is the fact they did what they were instructed, they could not have posted the signs other than the date they were

presented. He said the date they were presented to them, they were picked up and posted.

**Mr. Robinson** stated the Board doesn't deny that they did that.

**Mr. Bush** replied they would be continued for another thirty or sixty days.

**Mr. Mackey** reassured him that it wouldn't be sixty days, only thirty. He informed Mr. Bush that there were technicalities that needed to be adhered to and the Board would be out of bounds by law if they did not. He again stated that there it was verified that no visible sign postage was observed and law restricts the Board from hearing the petitions; they must be continued for thirty days.

**SZBA ACTION:** Mr. Robinson made a motion that the Savannah Zoning Board of Appeals **continue** the petitions as submitted, to be heard on January 29, 2008. Ms. Bock seconded the motion and it was unanimously passed.

**RE: Minutes**

Approval of SZBA Minutes – November 27, 2007.

**SZBA Action:** Mr. Robinson made a motion that the Savannah Zoning Board of Appeals approve the regular meeting minutes of November 27, 2007. Ms. Bock abstained from voting, due to be absent at said meeting. Mr. Mackey deferred minute approval to the January 29, 2008 meeting.

**RE: Consent Agenda**

There were no items for the consent agenda.

**RE: Regular Agenda**

**RE: Petition of Cynthia Floyd  
B-071120-52178-2  
1137 Mohawk Street**

Filed pulled from agenda per Petitioner.

**RE: Petition of Steve Green  
B-071120-50298-2  
225 East President Street**

Continued per Petitioner's request.

**RE: Petition of Howard Spiva, For  
Shirley Owens and Yvonne Bass  
B-071029-46848-2  
1137 Mohawk Street**

**Nature of Request**

The petitioner is requesting approval of an application to establish a use (child care center) that must be approved pursuant to the regulations of Section 8-3025 of the Savannah Zoning Ordinance. The subject property, located at 1137 Mohawk Street, is zoned P-R-M-12 (Planned Residential Multifamily, 12 Units per Acre).

**Findings**

1. The subject property, located at 1137 Mohawk Street, is presently occupied by a one-story single-family residential structure containing approximately 2,450 square feet. The property is rectangular in shape, measuring 190 feet wide and 190 feet deep. The parcel contains approximately 36,100 square feet, and is considered a standard lot in the R-6 zoning district.
2. A child care center for up to six children is allowed by right in the R-6 district. A child care center with more than six children and up to 18 children in a residential district requires Board of Appeals approval. The petitioner is requesting a variance of the Ordinance standard and is seeking approval of a child care center that would accommodate up to 36 children. Additionally, the petitioner seeks a waiver of the requirement that a child care center be considered an accessory use. The Ordinance requires that the primary use of the structure utilized shall be for a residence and said residence shall be occupied.
3. Section 8-3025 of the Savannah Zoning Ordinance requires Board of Appeals approval to establish a child care center in an R-6 zoning district. The requirements for establishing a child care center per Use 22b include: a) that not less than 100 square feet of outdoor play space be provided for each child; b) that the center be located on a collector or arterial street and that a center located within an "R" district be limited to no more than 18 children; 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 there shall be no on-site outdoor recreational activities permitted after 9:00 p.m.; f) 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; g) that a sign not to exceed three square feet may be permitted; and h) that the primary use of the structure shall be for a residence and said residence shall be occupied.

The requirements of a, c, d, e, and g (above) appear to be met. Article (a) requires that a minimum of 100 square feet of outdoor play space be provided for each child. The petitioner is requesting approval of the use for up to 36 children, thus requiring 3,600 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) limits to 18 the maximum number of children allowed at a center located within an “R” district. Although the proposed center is located within an “R” district, the petitioner is requesting approval for 36 children.

Article (d) requires that an off-street loading and unloading area be provided for the safety of the children. A circular drive currently exists and will be used for drop-off and pick-up.

Article (f) requires that a visual buffer be provided to shield play areas, parking areas, and outdoor activity areas from abutting properties. If approved, the play area will need to be enclosed as required by Ordinance and the parking area shielded from view.

Article (h) requires that the proposed center be an accessory use to the primary use of the structure. The primary use shall be for residential purposes and said structure be occupied. The petitioner is seeking a waiver or variance from this provision of the Ordinance as she is seeking to use the facility as a commercial day care and not reside on the premises.

4. In accordance with Section 8-3163 of the Savannah Zoning Ordinance, the Board of Appeals shall hear and decide upon requests for permission to establish uses upon which the Board of Appeals is required to pass under the terms of this chapter. The application to establish such use shall be approved on a finding by the Board of Appeals that:

- a. **The proposed use does not affect adversely the general plans for the physical development of the City, as embodied in this chapter, and in any master plan or portion thereof adopted by the Mayor and Aldermen.**

The proposed use will not affect adversely general plans for the physical development of the City.

- b. **The proposed use will not be contrary to the purposes stated for this chapter.**

The proposed use is contrary to the stated purposes of this chapter. The Ordinance limits participant numbers and requires occupancy as a primary use.

- 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 collector street in a predominantly residential neighborhood. The relatively large number of children proposed to be accommodated at the center is not appropriate for a residential setting. Although the resulting traffic and potential congestion associated therewith is not likely to

be detrimental to the use or development of adjacent properties, the proposed center is more akin to a commercial venture rather than a home-based operation.

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

The proposed use, subject to meeting current Ordinance provisions and Board of Appeals 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 also 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. The petitioner is requesting variances from Ordinance provisions that limit the number of children allowed and from the requirement that the center be an accessory use. Both requests run counter to the recently adopted changes to the Ordinance as brought forth by the Board of Appeals.

### **Summary Of Findings**

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

**Mr. Mackey** requested all that desired to speak on this petition move forward and sign in.

**Mr. Spiva** was sworn in. He stated is representing the owners of the property. He disagreed that the subject property is in a subdivisional neighborhood. He believes it is an excellent location since it is on a nine-acre tract of land and separate from the church. The only homes are some condominiums further down the street.

**Mr. Mackey** asked if there were any questions for Mr. Spiva.

**Mr. Robinson** asked about the existing church on the property.

**Mr. Spiva** responded that a previous church had fencing put up because it had a daycare in the past.

**Mr. Robinson** asked if the daycare was running now, to which Mr. Spiva responded no.

**Mr. Robinson** then asked Staff if the Board's consideration had anything to do with the structure?

**Mr. Hansen** responded no, the applicant will obviously have to conform to and get approvals and necessary permits, etc. from the state of Georgia. He stated the charge of the Board is to determine whether a daycare center is appropriate at this location, regardless of number of children. He continued that we don't know for certain if it's big enough because we have not been inside, but there is ample outside for 36 children as per our ordinance that deals with spacing. He also added there is ample space for parking, as well as for the drop off and pick up area. He informed that their only concern was the amount of children to be in harmony with the amended ordinance by City Council and whether the facility had to be occupied as a primary structure.

**Ms. Heusel** informed she in fact was representing Yvonne Bass and Shirley Owens. Her clients have already started making the area daycare ordinance compliant.

**Mr. Spiva** added there was no opposition to this petition request.

**SZBA ACTION: Mr. Robinson made a motion for the Savannah Zoning Board of Appeals approve the petition with living requirement waived and limit of 36 children. Ms. Bock seconded the motion. Mr. Mackey opposed the petition; it was passed 2-1.**

**This decision is limited to the development plan submitted and reviewed by the Savannah Zoning Board of Appeals.**

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

### **Nature of Request**

The petitioner, Harold T. Gantt, is requesting approval of a 3 foot side yard setback variance from the 5 foot side yard setback required, a 3 foot rear yard setback variance from the 5 foot rear yard setback required, and to allow lot coverage of 32.2 percent as opposed to the 30 percent allowed pursuant to section 8-3025(c) of the Savannah Zoning Ordinance in order to construct a detached garage. The subject property, located at 920 Mill Road, is zoned R-6 (One Family Residential).

### **Findings**

1. The petitioner is proposing to construct a detached garage in the rear yard of the subject property. As proposed, the structure will be placed two (2) feet from the side property line and two (2) feet from the rear property line. Due to the size of the existing house and the proposed garage, the allowable lot coverage will be exceeded by approximately 2.2 percent.

2. Ordinance regulations allow lot coverage of up to 30 percent in the R-6 district and require that accessory structures be located not less than five (5) feet from all property lines.
3. In 1996, the petitioner requested approval of the same variances for the purpose of constructing a detached garage. Though the Board of Appeals granted the requests, the structure was never constructed. In their decision, the then sitting Board noted that the proposed construction was compatible with existing development in the neighborhood; that the existing residence was set back 53 feet from the front property line thus limiting the amount of rear yard area; that the proposed accessory building would not adversely affect adjacent properties; and, that the relief granted would not cause substantial detriment to the public good. Such is still the case today.

### **Summary Of Findings**

All of the conditions necessary for once again approving the variances requested appear to be met.

**SZBA Action: Ms. Bock made a motion that the Savannah Zoning Board of Appeals continue the petition as due to petitioner's absence. Mr. Robinson seconded the motion and it was unanimously passed.**

**RE: Amy Stafford  
B-071120-51115-2  
2307 Bull Street**

### **Nature of Request**

The petitioner is requesting approval of a petition to establish a use (nightclub) which must be approved by the Board of Appeals in accordance with the provisions of Article K of the Savannah Zoning Ordinance. The subject property, located at 2307 Bull Street, is zoned TC-1 (Traditional Commercial).

### **Findings**

1. Bars, nightclubs, and taverns are allowed uses within the TC-1 zoning district subject to approval by the Zoning Board of Appeals. The request for permission to establish a use must follow the procedures outlined in Section 8-3163 of the Ordinance.
2. A commercial structure is currently located on the parcel. According to the petitioner's submittal, the building will be remodeled to create a live entertainment venue. Parking is to be provided at a nearby parking lot.
3. 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:

- (1) 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.**

Although approval from the Board of Appeals is required, the proposed use is consistent with the commercial land use designation of the City's Comprehensive Plan.

- (2) The proposed use will not be contrary to the purposes stated for this chapter.**

The proposed use is not contrary to the purposes stated in Article H of the Savannah Zoning Ordinance.

- (3) The proposed use will not affect adversely the health and safety of residents and workers in the city.**

Though not expected to adversely affect the health and safety of area residents, the petitioner must remain vigilant in the control of patrons both inside and outside the proposed establishment.

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

With proper monitoring, the proposed use is not anticipated to pose a detriment to the use or development of adjacent properties or the general neighborhood.

- (5) The proposed use will not be affected adversely by the existing uses.**

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

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

The petitioner intends to use an existing structure for the development of the proposed nightclub. Parking is proposed to be provided on a nearby parking lot through a lease agreement with the owner.

- (7) 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.**

As noted in 3 (above), the petitioner or operator of the proposed nightclub will have to be vigilant in enforcing rules and regulations regarding assembly, loitering, cruising, etc. In and of itself, the proposed use is not a hazard, but care will be required to assure conformance to the noise ordinance as well as other potential neighborhood nuisances.

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



The parcel is of sufficient size to accommodate the proposed use. Parking at a remote facility is allowed subject to the rules and regulations of the Zoning Ordinance. It is assumed that the petitioner can or will provide the minimum parking required for such a facility. In the absence thereof, the petitioner may, at a later date, file for a variance with the Board of Appeals. No such action is presently requested.

**Provided, that the Board of Appeals may impose or require such additional restrictions and standards as may be necessary to protect the health and safety of workers and residents in the community, and to protect the value and use of property in the general neighborhood.**

**Provided, that the proposed use shall be subject to the minimum area, setback and other locational requirements of the zoning district in which it is located.**

As noted in 8 (above), parking is proposed to be made available at a nearby private parking facility.

**Provided, that the proposed use shall be subject to the off-street parking and service requirements of this chapter.**

As noted above.

### **Summary Of Findings**

All of the conditions necessary for granting the use approval sought appear to be met.

**Mr. Hansen** highlighted the Staff report and informed there is opposition to this petition.

**Mr. Yellin** informed the Board he represented Patricia Anderson, the owner of the property, as well as Amy Stafford, the petitioner. He compared the use of the structure to music halls in Atlanta, and highlighted the proposed use to contribute to the renaissance of that area. He informed adequate parking provisions were leased from David's Supermarket across the street. He requested approval of the Staff recommendation.

**Mr. Robinson** stated he could not find anything to show the physical configuration of what is to be used for the entertainment center.

**Mr. Yellin** responded that the petition only requires that the use be approved. (He then indicated on the visual where the furniture will be located.) He then informed it was 5, 400 square feet to be utilized.

**Mr. John Deaderick** identified himself as the developer of the Starland Dairy and supporter of Ms. Stafford's project.

**Mr. Robinson** asked Mr. Deadrack if he had any financial stake in this property.

**Mr. Deaderick** responded no, he did not. He stated he's only been in the building; that is his only association with it.

**Ms. Virginia Mobley** identified herself as representative of Board of Directors of Thomas Square Neighborhood Association. She stated she was also asked to speak by the Old Savannah City Mission, neighbor to the subject location. She states the building is located in a 24 hour high density area. She states there are six alcohol licenses in a two-block area and parking is difficult for all in the area. She stated all of the leased parking areas for the subject use area are for sale. She stated there are 12 residential units less than 50 feet away from this establishment. She said that the package store in this area has the highest volume of sales in Savannah, with less than a dozen parking places. She asserted that to approve this petition for this use will contribute to perputiuty. She then compared it to the Frozen Paradise situation.

**Mr. Mackey** stated he was familiar with the area. He stated it has always had nightclubs; that was just the nature of the environment. He informed that the area is zoned TC1, which is an allowable use.

**Ms. Hall** informed she owns four of the twelve units mentioned previously. She stated trash goes on the ground rather than the dumpster. She inferred with more alcohol in the neighborhood, that will increase the potential of more crime.

**Mr. Robinson** asked Mr. Hansen to address the parking issue: how many spaces in the facility? What is the length of the lease? If petition were granted, how would future protection be provided?

**Mr. Hansen** responded he is not aware of the answers to those questions.

**Mr. Robinson** asked what was the required parking for this use?

**Mr. Hansen** stated he could not give a definitive answer without specific use measurements. He stated common areas would not be counted.

**Mr. Yellin** informed they had a year-to-year lease, cancellable at petitioner's discretion. He stated it is effective until 2019 and he believes there to be 70 parking spots; reconfiguring can be done if necessary for more spaces. He stated these 70 spaces do not include street parking. He stated petitioner has met with the fire marshall and Todaro, he assumes there is no parking variance required. He stated the petitioner is adding additional insulation to the cinder block building to reduce sound.

**Mr. Mackey** asked Mr.Hansen was it in the purview of the Board to stipulate the hours of regulation?

**Mr. Hansen** responded he believed that was correct.

**Mr. Yellin** asked what were the general hours for bars, restaurants, and taverns?

**Mr. Robinson** stated Riverstreet is 3 a.m.

**Mr. Yellin** pleaded with the Board to recognize that to lose the parking, they will lose their business license. He informed that other licenses and need to be obtained. He requested them to remember they are there for a use permission so they may go forward.

**Mr. Robinson** shared that he is conflicted on regarding this petition. He stated he would like to analyze this. He asked if the applicant be willing to defer this to one more meeting; would it be

a significant detriment to their plans?

**Mr. Yellin** stated the petitioner runs a definite risk of losing the property because it is being held for her. He informed there is a lease that has been signed contingent on this happening and the landlord will have the right to cancel the lease and no longer have the right to use the property. He stated she incurs a risk by deferring it for a month.

**Mr. Robinson** stated he would like to visit the site and be conscious of what is going on at night, which is what he intends to do if it is deferred. He asked Ms. Mobley if there were others present that are opposed to the petition?

**Ms. Mobley** responded the lady in the back and Reverend Lewis, director of Old Savannah City Mission.

**Ms. Brock** asked about the large front windows and the sound.

**Mr. Yellin** stated the two large windows are to the office, not the music hall.

**Ms. Amy Stafford** stated she has hired a sound engineer to work on the interior of the building to protect and improve the sound. She informed the front windows will be blocked by a wall making a hall for patrons to enter the hall.

**Ms. Brock** asked where would the patron entrance line be?

**Ms. Stafford** answered they would enter on the front near the tree.

**Ms. Brock** asked if Ms. Stafford would foresee that being a problem; people congregating on the sidewalk?

**Ms. Stafford** stated that's why the interior wall was built; to avoid that.

**Mr. Deaderick** stated he lives in the neighborhood and there is no parking problem. He also informed that David's Supermarket is for sale, not the parking area.

**Mr. Robinson** stated he is concerned with the noise factor. He stated he could not understand how the Board could deal with that issue?

**Mr. Yellin** stated there are sound ordinances in place by the City. He stated other things beyond this to protect the citizens.

**Ms. Brock** asked how often does the liquor license come up for renewal? Is it annually?

**Mr. Yellin** replied yes.

**Mr. Robinson** stated he would like to continue this for another thirty days.

**SZBA ACTION:** Mr. Robinson made a motion for the Savannah Zoning Board of Appeals continue the petition with to visit and confirm concerns. Ms. Bock seconded the motion and asked that additional sound information be provided. Mr. Mackey proposed a site trip. Mr. Mackey opposed; it was passed 2 -1.

**RE: Other Business**

There was additional information to be presented before the Board.

**RE: Adjournment**

There being no further business to come before the Savannah Zoning Board of Appeals, the meeting was adjourned at 12:30 p.m.

Respectfully submitted,

James Hansen  
Secretary

**JH/st**