



## City of Savannah Zoning Board of Appeals

Virtual Meeting  
July 23, 2020 - 10:00 A.M.  
Minutes

### July 23, 2020 City of Savannah Zoning Board of Appeals

This is a quasi-judicial proceeding. All those wishing to give testimony during these proceedings will please sign in. Witnesses will be sworn-in prior to giving testimony.

All proceedings of the Savannah Zoning Board of Appeals are recorded. Decisions of the Savannah Zoning Board of Appeals are final. Challenges to the decisions of the Savannah Zoning Board of Appeals must be filed through the Superior Court of Chatham County.

**Note:** All persons in attendance are requested to so note on the "Sign-In Sheet" in the meeting room on the podium. Persons wishing to speak will indicate on the sheet

#### I. Call to Order and Welcome

#### II. Invocation and Pledge of Allegiance

#### III. Notices, Proclamations and Acknowledgements

#### IV. Item(s) Requested to be Removed from the Final Agenda

[1. 2819 & 2829-2837 Bull Street | Height Variance | 20-001728-ZBA](#)

##### **Motion**

The petitioner requested to continue this item to the August 27, 2020 meeting.

##### **Vote Results ( Approved )**

Motion: Michael Brown

Second: Michael Condon

Stephen Merriman, Jr. - Abstain

Michael Brown - Aye

Trapper Griffith - Aye

Hunter Hall - Aye

Michael Condon - Aye

#### V. Item(s) Requested to be Withdrawn

#### VI. Approval of Minutes

[2. Approval of the May 28, 2020 Meeting Minutes](#)

[📎 May 28, 2020 Meeting Minutes.pdf](#)

The minutes were approved as submitted.

**Motion**

Approve the minutes as submitted.

**Vote Results ( Approved )**

Motion: Michael Condon

Second: Trapper Griffith

Stephen Merriman, Jr. - Abstain

Michael Brown - Aye

Trapper Griffith - Aye

Hunter Hall - Aye

Michael Condon - Aye

**VII. Approval of Final Agenda**

[3. Approval of the Final Agenda](#)

**VIII. Consent Agenda**

**IX. Old Business**

**X. Regular Agenda**

[4. 128 East 52nd Street | Variance | 20-002940-ZBA](#)

📎 [20-002940-ZBA\\_Staff Report 128 E 52nd Street.pdf](#)

📎 [Map 128 E 52nd.pdf](#)

📎 [Photo of Residence.pdf](#)

📎 [Site Layout.pdf](#)

📎 [Sketch of Proposed Porch.pdf](#)

**Mr. Marcus Lotson, Director of Development Services**, stated the petitioner, Thomas Cole, is requesting approval of a 7 foot front yard setback variance from the 20 foot requirement for property at 128 E. 52nd Street. The request is related to the proposed construction of a porch on an existing single family residential structure.

The subject property is located on the north side of East 52nd Street between Habersham Street and Abercorn Street. It is within the RSF-6 zoning classification and is 45 feet wide and 100 feet deep. The RSF-6 zoning classification requires a minimum lot width of 50 feet, so the property is legally nonconforming relative to lot width. However, this is not an uncommon lot size in the area, 30 percent of the lots in the block face are 45 feet wide and this pattern exists on nearby blocks as well.

The applicant is proposing to build a covered, but unenclosed, porch onto the residence. The residence was originally constructed in 1926 and includes an existing 5X8 raised stoop covered by an awning. As designed, the porch is proposed to be 7 feet deep and 25 feet in length. The required building setback within the RSF-6 zoning classification is 20 feet. The proposed porch would encroach 7 feet into the 20 foot front yard setback.

The development pattern in the neighborhood includes a variety of porch styles and the proposed porch is not an uncommon design. It does not appear that the proposed encroachment would have any negative impacts on adjacent properties.

**Mr. Cole, petitioner,** stated he didn't wish to add anything else.

### No Public Comments

#### Motion

Staff recommends approval of the requested 7-foot front yard setback variance from the 20 foot requirement for property at 128 E. 52nd Street.

#### Vote Results ( Approved )

Motion: Hunter Hall

Second: Michael Condon

Stephen Merriman, Jr.	- Abstain
Michael Brown	- Aye
Trapper Griffith	- Aye
Hunter Hall	- Aye
Michael Condon	- Aye

### [5. 312 East 38th Street | Appeal a Decision | 20-002792-ZBA](#)

📎 [20-002792-ZBA Appeal of an MPC Decision.pdf](#)

📎 [Demolition Court Order.pdf](#)

📎 [MPC Signed Board Decision - Denial.pdf](#)

**Mr. Marcus Lotson, Director of Development Services,** stated the petitioner is appealing a decision by the Chatham County – Savannah Metropolitan Planning Commission regarding a request to demolish a structure at 312 East 38th Street.

On May 19, 2020, the Metropolitan Planning Commission (MPC) denied a request by the petitioner to be granted a permit to demolish a contributing building located at 312 East 38th Street. This decision upheld the recommendation of the Preservation Officer. The MPC found that the petition “did not meet the criteria established to demolish a contributing building due to the lack of sufficient evidence in the engineering report and property appraisal provided and because the court order provided to staff had expired.”

The applicant filed for demolition of the residence at the subject property on October 8, 2019. This request is required because the structure at that address is identified on the Mid-City Historic District Contributing Resources Map. Identified structures are required to meet the outlined criteria prior to demolition.

On January 14, 2020, the MPC Board made the decision to continue the request for the demolition of a contributing building located at 312 East 38th Street to allow for the petitioner to provide staff with a detailed engineering report and a property appraisal of the existing property.

On January 22, 2020, staff received an updated engineering report; however, staff did not receive a property appraisal of the existing property. On March 11, 2020, staff received a Court Order for Demolition issued by the Records Court of Chatham County in the State of Georgia for the property located at 312 East 38th Street issued on February 5, 2020. The Court Order states that the “Said application for demolition and the obtaining of a permit for demolition shall be accomplished within 60 days of the date of the within order” [Case No. RCCR19-18158]. The Court order received by staff on March 11, 2020 that was issued to the applicant on February 5, 2020 has since expired. The allowed 60 days for demolition lapsed without any known extension of time having been granted; therefore, the demolition order has expired, and the demolition request will be reviewed without taking the Court Order into consideration.

The MPC decision was based on the criteria for demolition as outlined. These findings were provided by staff in a public hearing and the Commission found that the criteria had not been met. In addition, the lapsed court order could not be used as justification for action by the Commission as it was determined to be expired. The Planning Commission acted within its authority and with proper procedure to make a decision on the subject matter. Per Section 3.23.6(a) above, the ZBA is not to determine the validity of the demolition request, but instead, whether the MPC erred on the application or interpretation of the Ordinance.

### **Appeal Procedure:**

#### **3.23.1 Applicability**

- a. When it is alleged that there is an error in a final written decision of any administrator, commission or board authorized to make a final written decision with regards to the provisions of this Ordinance, an appeal by any aggrieved party may be taken to the Zoning Board of Appeals (ZBA), except as otherwise provided in this Ordinance.

#### **3.23.6 Action by the Zoning Board of Appeals**

- a. The Zoning Board of Appeals shall determine whether the first decision-maker erred in the application or interpretation of this Ordinance.
- b. The Zoning Board of Appeals may reverse or affirm (wholly or in part) or may modify the final written decision appealed and shall make a final written decision that in its opinion ought to be made in the case before it unless otherwise specified by this Ordinance. To this end, the Zoning Board of Appeals shall have all of the powers of the administrative official, commission or board from whom the appeal is taken.
- c. A motion to reverse, affirm or modify the final written decision appealed shall include a statement of the specific reasons including the proposed findings of fact that support the decision. The findings of fact shall be based on the same evidence received by the first decision maker.
- d. If a motion to reverse or modify is not made, or such motion fails to receive the affirmative vote of a majority of the members present, then the appeal shall be denied.
- e. The appellant shall have the burden of proof.

**Mr. Michael Condon, Board Member**, asked if the Court can over rule the MPC decision.

**Mr. Lotson**, stated the court can make a determination regarding the safety of a building, and if they determine that it needs to be taken down, they can overrule the MPC. The reason MPC did not act on the order is because it was their determination it was expired.

**Mr. Stephen Merriman, Board Member**, asked if the Declaring Statewide Judicial Emergency Order covers this situation.

**Ms. Melanie Wilson, MPC Executive Director**, stated yes.

**Mr. Ryan Jarles, Culture Resources Planner**, stated it's his belief the decision made by the MPC was due to the lack of the information that was requested and the demolition request was expired. The applicant at that time did not provide the MPC the information about the extended order. The Board made their decision based on the information that was provided to them within the application they received, and not based on any other information outside of that.

**Mr. Merriman**, asked if the MPC Board was aware of the Statewide Judicial Emergency Order?

**Mr. Jarles**, stated that information was not provided from the applicant for that particular petition.

**Mr. Merriman**, stated that the MPC Board should have been aware of this order.

**Mr. Condon**, stated it's his understanding that the applicant did not file a complete application, so how can a decision be made on an uncompleted application.

**Mr. Jarles**, stated that's correct. We didn't receive all the information we requested.

**Ms. Leah Michalak, Director of Historic Preservation**, stated the application for demolition was incomplete, so the MPC continued it. But, the applicant did not make any attempt to give us any additional information in the 6 months, so we had the MPC to rehear it and they did deny the demolition mainly because the application was incomplete and, second, because the court order had expired. The was the only case at the time that was involved with the Courts, so we were not aware of the extending order and the applicant didn't make us aware of it. The appraisal wasn't provided and the Structural Engineering Report was essentially only two lines that said it was cost-prohibitive to restore the structure, not that it wasn't safe. It was a pretty incomplete structural report. So, based on those facts, the MPC denied the request for demolition.

**Mr. Merriman**, stated just to clarify: the decision to deny was based on 1.) an incomplete application and 2.) they believed that court order was expired because they were not aware of the Judicial Emergency Order.

**Ms. Michalak**, stated and the incomplete structural report. The report stated it was cost-prohibitive to restore the structure, so that doesn't meet the criteria for demolition. The house is also currently occupied.

**Mr. Noble Boykin, petitioner**, stated he bought the property with the hopes of being able to renovate it. There was a person living there, but he is not now. He was telling me how unsound it was. I bought it in foreclosure, so I could not get a evaluation of it to begin with. After he started pointing out a few things, I got a couple of contractors and they said they didn't even want to send someone on the roof, afraid the wall couldn't hold the weight of the person on the roof to fix it. In the meantime, the City of Savannah issued a couple of property maintenance violations on the structure of the buildings in the back and far side. On the west side, there are holes in the wall where water is going through. You can't walk on much of the second floor because you will fall through. I asked the City to look at it, but they never sent the City Engineer over there, so I had John Kern go over to look at it. John Kern said it was unsound and it would cost a ton of money to renovate it. He said it would cost more to fix it than it's worth, so I went ahead and applied for demolition. I had an appraisal done of the structure, not the land. His conclusion was the building didn't have any value because it was unsound and needed to come down. The MPC didn't like that appraisal, so they said to come back with another one. In the meantime, the City of Savannah has written this case up on repairs and structure maintenance on the building and I had to go to Court. So, I presented them with the Structural Engineering Report and showed them that appraisal and Judge Yancey ruled that it was a hazard to life and property and it needed to come down. I took that order over to the MPC within the 60 days, but they were half way shut down because of COVID but there was someone at the front that took it and then I didn't hear anything. I never heard anything about a hearing or a recommendation for denial. I didn't put a new appraisal in the record because I didn't have one ready yet. In the meantime, the Order Declaring Statewide Judicial Emergency came out, so I thought I had time.

**Mr. Condon**, asked the petitioner if he applied to the Recorder's Court for an extension.

**Mr. Boykin**, stated yes and they granted the extension for 45 days beyond July 12th to get the permits.

#### **Public Comments:**

**Mr. Ryan Arvey, Historic Savannah Foundation**, stated he has followed this case since January and in his option everything was by the book. He believes the MPC was within their authority when they made the decision they did based on the details that were heard today. The City of Savannah did bring code violations against this property and many of them were valid. I have toured this structure inside and out with Mr. Boykin. I have found with my experience with these types of properties that the property is sound and salvageable. The additions can be removed and this is not unusual for historic structures. Historic Savannah Foundation has saved many structures in worse shape then this one. We submitted a letter by our engineer refuting Mr. Kern's letter. Historic Savannah Foundation has formally offered to purchase this structure from Mr. Boykin.

**Motion**

Motion to approve the petitioner's request to overturn the decision made by the MPC Board. Based on the fact that the Supreme Court Order Declaring Statewide Judicial Emergency dated February 5, 2020 allows him until June 12. The MPC made the denial decision in May.

**Vote Results ( Approved )**

Motion: Michael Brown

Second: Trapper Griffith

Stephen Merriman, Jr. - Abstain

Michael Brown - Aye

Trapper Griffith - Aye

Hunter Hall - Aye

Michael Condon - Nay

**XI. Other Business**

**XII. Adjournment**

*The Chatham County - Savannah Metropolitan Planning Commission provides meeting minutes which are adopted by the respective Board. Verbatim transcripts of minutes are the responsibility of the interested party.*