



SAVANNAH ZONING BOARD OF APPEALS

STAFF REPORT

PETITIONER: Samuel Kopelman, 312 W 37TH LLC; Bill Glass, Esq., Agent
FILE NO: 26-001357-ZBA
ADDRESS: 220 West Duffy Street [PIN: 20052 16010]
DATE: April 23, 2026

Nature of Request:

The Appellant, Samuel Kopelman of 312 W 37th LLC, represented by Bill Glass, is appealing a final written decision by the Historic Preservation Commission (HPC) issued on February 25, 2026. In a majority vote, the HPC denied a Certificate of Appropriateness (COA) for the construction of a new accessory dwelling unit (ADU) at the rear of the property located at 220 West Duffy Street, citing incompatibility with visual compatibility factors regarding massing, downspout placement, and window casing details. The Appellant requests the Zoning Board of Appeals (ZBA) reverse the HPC's decision and approve the COA.

Issues Raised on Appeal:

- The Appellant argues that the HPC erred in denying the COA based on the structure's "massing," because the ZBA had already granted a dimensional variance on January 22, 2026, allowing the building footprint of the ADU to be 55% of the primary dwelling footprint (where a maximum of 40% is allowed).
- The Appellant that every applicable legal standard was met.

The Appellant asserts that the HPC may not penalize the petitioner for following a legally permissible process and states that the HPC Decision expressly notes that certain Commission members felt the HPC was being "undermined" because the Petitioner obtained ZBA variance approval before receiving a formal HPC recommendation. The Appellant argues that the HPC's own findings confirm that the ADU does not affect the historic character of the property, and the ZBA variance should be given effect.

The stated grounds for denial are legally insufficient and were addressable through conditions.

The denial is inconsistent with the HPC's own recent precedent on a nearly identical application.

The Appellant alleges it fully complied with the January 28, 2026, continuance conditions requested by the HPC.

Timeline of key events:

1. **December 17, 2025:** The project was first presented to the HPC. The HPC continued the petition to allow the applicant time to address the ADU footprint, either by scaling down the square footage to meet the 40% requirement or by applying for a variance.
2. **January 22, 2026:** The ZBA approved two dimensional variances for the property: to allow a 55% building footprint and to allow relief for eaves from 3 feet to 2 feet within the side yard setback.
3. **January 28, 2026:** The HPC reviewed the petition again and. continued the petition to February 25 to allow the applicant to address massing, visual compatibility criteria, building size, and window alignment.
4. **February 25, 2026:** The HPC held a third hearing on the petition. A motion to approve the petition with conditions failed. Subsequently, the HPC officially voted to deny the petition based on the incompatibility of the project with visual compatibility factors, including the mass, downspouts, and casement of the windows.
5. **March 13, 2026:** The Petitioner filed a complete ZBA Application appealing the HPC's February 25 decision.

Findings

1. The subject property is zoned TN-1 (Traditional Neighborhood-1) and is located within both the National Register Victorian Historic District and the local Victorian Historic District.
2. The existing principal use is a duplex residential unit. The principal building was constructed in 1885 and is a legally conforming, *Contributing Historic Resource* to the District.
3. The HPC denied the COA, relying on the Visual Compatibility Criteria of the Zoning Ordinance (*Sec. 7.9 for the Victorian Historic District / Sec. 7.11 for the Streetcar Historic District*). The HPC determined that the *massing, scale, and specific architectural details* (casements, downspouts) failed to satisfy the ordinance requirement that new construction be visually compatible with contributing buildings to which it is visually related.
4. The subject property is a constrained, narrow historic lot mid-block. Savannah's historic

development pattern and grid require that new lane-facing accessory structures remain subordinate in height and mass to the principal contributing building.

5. On January 22, 2026 (25-005784-ZBA), the ZBA approved the Appellant's requested dimensional variances (allowing a 55% building footprint and a 2-foot eave setback) contrary to the MPC Staff's recommendation for denial. The MPC Staff Report for the variance concluded that the request was not consistent with the intent of the Zoning Ordinance, that no special circumstances were present on the property, and that an ADU could easily be built to conform to the base development standards.
6. During both the ZBA hearing on January 22, 2026, and the HPC hearing on January 28, 2026, the Appellant explicitly testified that the driver for exceeding the maximum 40% building footprint was to provide adequate, covered off-street parking for two midsize vehicles, rather than to overcome a physical hardship or accommodate livable space.
7. A variance granted under *Article 5* provides relief strictly from numerical development standards (e.g., lot coverage and setbacks). It does not exempt a property within a Historic Overlay District from meeting the qualitative Visual Compatibility Criteria outlined in *Article 7*, which mandates that the scale, mass, and details of new construction be visually compatible with contributing buildings.
8. During the HPC review, Commissioners noted safety and physical constraints regarding the proposed drainage plan. Specifically, it was noted that because a variance was granted to reduce the eave setback, the required gutters, downspouts, and splash blocks could create an ADA hazard or improperly redirect water into the public right-of-way or adjacent properties.
9. Per [Sec. 3.23.6](#), the Savannah Zoning Board of Appeals may dispose of an Appeal in the manner that follows:

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.

Analysis of Issues Raised

The Appellant's core arguments rest on the premise that the ZBA's prior approval of dimensional variances inherently validated the project's design, and that the Historic Preservation Commission (HPC) acted arbitrarily in denying the Certificate of Appropriateness (COA) based on massing, downspout placement, and window casing details. However, neither the Zoning Ordinance nor the factual record support the Appellant's claims.

The Appellant's assertion that the ZBA's footprint variance inherently validated the ADU's massing conflates two distinct regulatory authorities. The ZBA's decision on January 22, 2026, merely removed the prohibition against a footprint exceeding 40% of the primary structure. It did not guarantee that a 55% footprint would automatically satisfy the distinct Visual Compatibility Criteria of Article 7 governing historic appropriateness.

As noted in the MPC Staff Report for the variance, Staff originally recommended denial because no special circumstances were present on the property, and an ADU could easily be built to conform to the base development standards. The variance was pursued by the Appellant explicitly to accommodate a two-car garage, a personal preference and convenience rather than a site-driven hardship. A variance provides relief strictly from numerical development standards; it does not exempt a property within a Historic Overlay District from meeting the qualitative Visual Compatibility Criteria. The HPC rightfully exercised its independent, quasi-judicial authority to determine that, regardless of the base zoning relief, the resulting scale and mass of the proposed structure remained visually incompatible with the surrounding historic context.

The Appellant contends that the HPC's denial based on downspouts and gutters was arbitrary because the ZBA's 2-foot eave variance necessitated their installation. However, the fact that a dimensional variance physically necessitates a specific design feature does not immunize that feature from historic design review. The HPC evaluated the visual and physical consequences of the encroaching eaves, specifically, that the required 4x6 downspouts and splash blocks would

prominently redirect a high volume of water toward the public right-of-way or adjacent properties, and potentially create an ADA hazard within the constrained 3-foot aisle. The HPC's determination that the resulting drainage infrastructure was visually and contextually incompatible is a sound application of design standards, demonstrating exactly why dimensional variances can yield incompatible historic design outcomes on narrow, constrained historic lots.

While the Appellant contends that the ADU provides modern vehicular parking and aligns with the *Savannah GPS* Strategic Plan's goal to expand housing availability, the City's policy documents do not supersede the explicit regulatory codes of the Zoning Ordinance. Further, Goal 4 of the Strategic Plan explicitly mandates the City to "*Strengthen and expand existing initiatives to preserve historic sites, restore historic buildings, and further promote Savannah's cultural history.*"

The record reflects that the HPC did not act arbitrarily. The Board reviewed the petition across three separate meetings in December 2025, January 2026, and February 2026. During the January 28 hearing, the HPC explicitly offered the Appellant the opportunity to redesign the ADU to reduce its mass or revert to a one-bedroom/one-car configuration to better fit the historic lot and meet the visual compatibility criteria. The Appellant explicitly declined to reduce the overall mass, testifying that the size was driven by the desire to incorporate adequate parking for two midsize vehicles. The HPC's subsequent denial was a direct, evidence-based response to the Appellant's refusal to mitigate the structure's incompatible scale. The Appellant's desire to maximize lot use for vehicular parking does not supersede the strict textual mandate of the Ordinance to protect the visual and historical integrity of the Victorian Historic District.

The Appellant has failed to prove that the HPC committed an error of law or abused its discretion.

Staff Recommendation

Per *Section 3.23.6* of the Ordinance, upon appeal, the Zoning Board of Appeals may take on all powers of the original decision-maker and make a final written decision that in its opinion ought to be made in the case before it.

The HPC's decision to deny the COA was the result of a deliberate, multi-month review process involving significant discussion of the project's scale, massing, and detailing. The Historic Preservation Commission operated within its legal discretion to interpret the Visual Compatibility Criteria and applicable design standards of the historic overlay district. The granting of a base zoning variance by the ZBA does not guarantee HPC approval of the resulting massing if it violates historic visual compatibility standards.

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The Appellant has not met the burden of proof to demonstrate that the HPC committed a procedural error, an error of law, or an abuse of discretion in finding the final design visually incompatible.

MPC Staff recommends that the HPC's decision to deny the Certificate of Appropriateness be **affirmed** and **upheld**.