

BOARD OF ZONING APPEALS MINUTES  
SEPTEMBER 19, 2011

The Board of Zoning Appeals met in regular session on Monday, September 19, 2011 in room 802 Municipal Building.

Members present: Mr. Dent - Chairman, Mr. Paschal, Ms. Davis, Vice- Chairman, Mr. Solum, Mr. Oliver, Ms. Chivers, and Mr. Dukes, Mr. Jones and Mr. Mitchell

Also present: Bob Austin, Zoning Administrator; Lois Schmidt, Secretary; Wayne Brown, City Attorney; George Patty, Executive Director; and Pam Costible, Zoning Enforcement

Absent: Mr. Booker, Mr. Sims, Mr. Dickinson

Chairman Dent called the meeting to order at 2:46 P. M.

1. Minutes from July 18, 2011

A MOTION was made by Mr. Solum that the minutes for August 15, 2011 be APPROVED; seconded by Mr. Oliver. MOTION carried unanimously.

2. Alex Hazuda, on behalf of Augusta Station Inc. – Section 33-5(a) whereby Alex Hazuda (Knight Outdoor) is appealing the decision of the Augusta Richmond County Planning Commission and Board of Zoning Appeals to deny an off-premise outdoor advertising sign permit at 254 Robert C. Daniel Jr. Parkway. Tax Map 023-0-018-08-0 Zoned B-2 (General Business)

Chairman Dent asked if Mr. Hazuda owned the property and/or had the authority to act on this petition.

Mr. Alex Hazuda, 328 Village Square Drive, Evans, Georgia and Mr. Larry Cheek were present on behalf of the petition. Mr. Hazuda said he had the authority to act and asked that his previous comments and information be entered into the record and he had no new information to present. The comments are entered in part as follows (all full transcription can be found in the June 20, 2011 minutes):

“...Mr. Hazuda stated that he is working on this project along with Philip Edison, who owns the subject property, to place an off-premise billboard here. Mr. Hazuda presented his application to Mr. Austin of the Planning Commission and was denied and he is appealing that denial...”

“... Mr. Hazuda stated that the sign will be placed on property located in the Augusta Exchange shopping center near the Panera Bread store. It will be a digital message board on a 30 foot pole with a 10 foot sign. The message will change every 10-12 seconds which is the industry standard. By ordinance the sign cannot be higher than 60 feet...”

“.... Mr. Hazuda said in 1995 when the property was rezoned to commercial conditions were placed on the rezoning. One of those stated that 25-B of the Zoning Ordinance must be complied with. That Section included a list of excluded sites for billboard signs. Subsequently this section

has been deleted from the ordinance and as such he feels that he can now place a billboard at this site....”

“...Mr. Hazuda said the land no longer resembles the property as it was when it was rezoned and he disagrees with the in perpetuity application. ...”

There were no concerned citizens present.

A MOTION was made by Mr. Paschal that the variance petition be APPROVED; seconded by Mr. Solum. MOTION carried.

3. Rheney M. Conner, on behalf of Melissa McElmurray – Section 33-5 requesting a renewal of a second living unit at 2143 McElmurray Road on the basis of a medical hardship. Tax Map 212-0-005-01-0 Zoned R-1 (One-family Residential)

There was no petitioner present.

The Staff verified all documents were in place.

There were no concerned citizens present.

A MOTION was made by Mr. Paschal that the medical hardship renewal be APPROVED; seconded by Ms. Davis. MOTION carried.

4. Sean D’Antignac – Sec. 8-4(f) requesting a variance for a separate electrical service for an accessory structure at 2384 Richwood Drive. This accessory structure was approved for its area in June of this year. Tax Map 167-0-272-00-0 Zoned R-1 (One-family Residential)

Mr. Sean D’Antignac, 2713 Cardigan Court, Hephzibah, Georgia was present on behalf of the petition. Mr. D’Antignac explained that when the previous variance was granted in June it was not apparent that a separate electrical service would be needed. When that came to light this petition was filed.

There were no concerned citizens present.

Chairman Dent asked if Mr. D’Antignac was authorized to speak for the owner.

Mr. D’Antignac said yes.

A MOTION was made by Mr. Solum that the variance petition be APPROVED; seconded by Mr. Mitchell. MOTION carried.

5. Mary Kirsh – Section 11-1 – requesting a variance to construct a fence that would have a height of six feet in the front yard of 3650 Madrid Drive North where the Zoning Ordinance limits the height of fences in the front yard to four feet. Tax Map 082-0-588-00-0 Zoned R-1C (One-family Residential)

Ms. Mary Kish, 3650 Madrid Drive North, Augusta was present on behalf of the petition. Ms. Kish said that after several break ins and vandalism to her property she is requesting to install a faux wrought iron six foot fence around the front of her property. The wooden six foot privacy fence will remain in the rear yard.

Chairman Dent verified ownership of the property.

Ms. Kish said she was the owner.

Mr. Oliver asked if any neighbors were objecting to the front yard fence.

Ms. Kish said no.

Ms. Chivers asked if the fence was already in place.

Ms. Kish said no she was waiting on the Boards approval.

Chairman Dent asked if there were any other 6 foot front yard fences and if this fence would obscure any line of sight for traffic.

Ms. Kish said no to both questions.

Ms. Davis asked if this was a corner lot.

Ms. Kish said no.

Mr. Mitchell asked if there were any police reports confirming the issues Ms. Kish spoke of.

Ms. Kish said yes and presented the reports and pictures of the damages.

A MOTION was made by Mr. Dukes that the variance petition be APPROVED; seconded by Ms. Chivers. MOTION carried.

6. Mark Horton – Section 8-4(e and f) – requesting to add a 1,200 square foot accessory structure in the rear yard of 1639 Pine Ridge Drive that would exceed the maximum total gross area allowance of 1,200 square feet since two existing accessory structures total 288 square feet of area. Also, a separate electrical service is being requested for the new building as it will be a considerable distance from the principal residence. Tax Map 232-0-086-00-0 Zoned R-1 (One-family Residential)

Mr. Mark Horton, 1639 Pine Ridge Drive, Hephzibah, Georgia was present on behalf of the petition. Mr. Horton said he wants to build a 30 x 40 garage for his own personal use.

There were no concerned citizens present.

Chairman Dent confirmed ownership of the property and asked if the neighbors had expressed any objections.

Mr. Horton said he owned the property and neighbors were ok with plans.

Ms. Davis asked if Mr. Horton ran a business from the garage.

Mr. Horton said no but he did on occasion help church members by working on their vehicles.

Ms. Chivers asked if yard was fenced.

Mr. Horton said yes the back yard which would include this building.

Ms. Chivers asked if it was a corner lot.

Mr. Horton said no and that there was still some unbuilt area as well as other accessory buildings.

Ms. Davis asked if he would respect the neighbors and work outside at reasonable hours.

Mr. Horton said yes.

A MOTION was made by Mr. Paschal that the variance petition be APPROVED; seconded by Mr. Oliver. MOTION carried.

7. Gary Willingham – Section 9-1 – requesting a variance to connect an existing accessory structure to the residence by breezeway at 1972 Lionel Street that would result in a total lot coverage of 34% and the Zoning Ordinance limits the lot coverage to 30%. Also the existing accessory structure's rear setback of approximately 2 feet and side setback of approximately 3 feet now have to conform with principal residence setbacks of 30 feet on the rear and 7 feet on the side. Tax Map 087-1-079-00-0 Zoned R-1A (One-family Residential)

Mr. Gary Willingham, 1972 Lionel Street, Augusta was present on behalf of the petition. Mr. Willingham stated that he built the home several years ago for his mother and now wants to add on to the rear accessory structure by expanding toward the house and into the yard. The structure will be attached to the main house by a breezeway. He presented pictures of his home and the surrounding neighbors' homes.

Chairman Dent confirmed ownership.

There were 3 concerned citizens present. Ms. Ruth Brantley stated that she lived nearby and the rumor was that this large two story accessory building would be used as apartments.

Mr. Willingham denied that apartments were planned and stated that this was his mother's home and that he had modified the plans from a home she had owned in West Lake Subdivision.

Ms. Davis asked for clarification of joining the two structures.

Mr. Willingham explained that there had been a wood deck on the rear of the house that he removed and built a foundation and enclosed the space and after the addition is done to the accessory structure and it is refaced he will attach the breezeway to this newly enclosed space.

Ms. Brantley said the whole lot will be covered by a building.

Chairman Dent asked the lot size.

Mr. Willingham stated he did not know exactly and that he had received a variance when he built the house because it was close to the side property line. The addition to the accessory structure will follow the line of the existing building.

Ms. Brantley said he was stopped because he had no building permits.

Mr. Willingham confirmed this and said he thought the variance he received to build the house was still in effect. He stopped work except to obtain permission to close in the building site to prevent and rain damage to the materials.

Ms. Davis said according to their report the lot coverage will only be 4% over.

Mr. Austin agreed.

A MOTION was made by Ms. David to approve the variance petition; seconded by Mr. Paschal.

Mr. Mitchell asked if apartments were planned.

Mr. Willingham said no.

Mr. Mitchell said why not talk to the neighbors to clear up the misunderstanding.

Mr. Willingham said he did not realize it was an issue.

Ms. Davis asked for the vote to be called.

Mr. Austin explained that the height was not an issue because it will be attached to the main house so accessory structure height limitations will not apply.

Ms. Davis asked for the vote to be called.

Chairman Dent called the question. MOTION carried.

8. Dennis Trotter, on behalf of Ramon Brown – Section 22-1 – requesting a front setback variance for a proposed Dollar General located at 1102 Laney Walker Boulevard from 25 feet to

10 feet off the right-of-way of Laney Walker Boulevard. Tax Map 046-4-757-00-0 Zoned B-2 (General Business)

Ms. Chivers recused herself due to a conflict of interest.

Mr. Dennis Trotter and Mr. Kevin Mack, 3519 Wheeler Road, Augusta were present on behalf of the petition. Mr. Trotter stated that he represents a prospective Dollar General that wants to build a new store on this property. They have been in contact with Chester Wheeler of HCD and the neighborhood redevelopment group and have gotten their approval for the project. The proposed building will not look like the typical Dollar General but rather will complement the work being done in the area towards redevelopment and the work done in years past on the Laney Walker Boulevard corridor. The request for a front setback variance is in keeping with other new buildings along this stretch of Laney Walker Boulevard.

Chairman Dent asked how far the building would be off the curb.

Mr. Trotter said more like 20 feet and will line up with other nearby buildings for continuity.

Ms. Dee Crawford stated that she owns property diagonally across Laney Walker Boulevard from the subject and wanted clarification that the new structure would be in line with new buildings not with the older existing building that is much closer to the curb.

Mr. Trotter said yes the structure that will be torn down actually has a zero setback.

Mr. Austin explained that a minimum setback of 10 feet would be required to allow for the street yard required by the Tree Ordinance.

Chairman Dent asked if anyone in the area has honored the 25 feet required or has everyone requested relief.

Mr. Austin said no one has honored the 25 feet.

Ms. Davis asked if the new building will be the same size as the existing building.

Mr. Trotter said the existing building is about 4,000 square feet and the new one will be 9,000 square feet.

Mr. Mack stated they had a meeting with the neighbors at the offices of HCD and showed the concept plan and explained the architectural plans for the new structure.

Ms. Crawford asked where delivery trucks will enter.

Mr. Trotter said on the rear of the property along 11<sup>th</sup> Street. He also explained that this will be a \$1.5 million investment in the neighborhood and afford a retail store needed in the area.

A MOTION was made by Mr. Jones that the variance request be APPROVED; seconded by Mr. Mitchell. MOTION carried.

9. Martin Cochran, on behalf of Patricia Duggan – Section 8-4 and 29-4 – requesting a variance to bring an existing carport into zoning conformance located at 2227 Pickens Road. This carport is located on the side yard property line where 5 feet is required. Also, this .52 acre lot already contains a cottage and a greenhouse and including the carport the area totals 1,564 square feet of accessory structures where this lot is limited to 679 square feet. Tax Map 044-2-003-00-0 Zoned R-1 (One-family Residential)

Mr. Martin Cochran, 114 Oakhurst Drive, North Augusta, South Carolina was present on behalf of the petition. Mr. Cochran explained he was the contractor for the job and that large trees are damaging the family vehicle and so they would like this large carport. The immediate neighbor wrote a letter of support which was presented with the petition. Mr. Cochran did verify that construction was begun before permits were obtained and that when the inspector stopped the work the family was made aware of the setback problem. The roof line will match the house and vegetation screens the house and most of this carport from view. Water runoff will not be affected.

There were no concerned citizens present.

Staff explained that Historic Preservation Commission approval is also being sought and will be heard on September 22, 2011.

A MOTION was made by Mr. Dukes that the variance request be APPROVED; seconded by Mr. Mitchell. MOTION carried.

10. Cranston Engineering Group P.C., on behalf of Trinity on the Hill United Methodist Church – Section 26-1(A) & 8-1 - requesting a front setback variance for a proposed building addition at 2500 Helen Street known as Trinity on the Hill United Methodist Church from 21 feet to approximately 5 feet off the right-of-way of Arsenal Avenue for this corner lot. Tax map 044-1-015-00-0 Zone R-1 (One-family Residential)

Mary Beth Robinson, Cranston Engineering, Ellis Street, Augusta was present on behalf of the petition. She stated that Trinity on the Hill obtained HPC approval several months ago to demolish the building and rebuild it in a similar style on the same footprint with an addition to the rear for church use.

There were no concerned citizens present.

Mr. Oliver asked if any objectors had called.

Ms. Robinson and Staff said no.

Chairman Dent asked if any residences were nearby.

Ms. Robinson said not in the immediate vicinity this property is near ASU.

A MOTION was made by Mr. Solum that the variance request be APPROVED; seconded by Mr. Oliver. MOTION carried.

11. James Marks – Section 22-1 – requesting a variance to locate a covered patio at 2302 Peach Orchard Road that would be located approximately 15 feet from the right-of-way of Barbara Road for this corner lot where a 25 foot setback is required. Tax Map 087-3-028-00-0 Zoned B-2 (General Business)

Mr. James Marks, 2302 Peach Orchard Road, Augusta, was present on behalf of the petition. Mr. Marks stated that he wanted to build a covered patio area for his wife and had begun construction not realizing that he needed a permit and that he was too close to Barbara Road. He was using a licenses contractor but he also stated that he was unaware such a project needed a permit.

Chairman Dent confirmed ownership and asked if any neighbors had expressed objections.

Mr. Marks said he owned the property and the property next door and no other neighbors had complained.

There were no concerned citizens present.

A MOTION was made by Mr. Paschal that the variance request be APPROVED; seconded by Mr. Solum. MOTION carried.

12. Carmen Breakfield – Section 33-5 (d) & Section 7-1- requesting a home occupation (catering business) that would be conducted from an accessory structure located in the rear yard of 1631 Saybrook Drive. Although the area of the accessory structures being proposed would conform with the limitations for this 2.2 acre lot, a separate electrical service is being requested for the modified accessory structure for the home occupation. Tax Map 051-0-051-01-0 Zoned A (Agriculture)

Ms. Carmen Breakfield, 1631 Saybrook Drive, Augusta was present on behalf of the petition. Ms. Breakfield stated that she had owned a restaurant and now wanted to provide mobile catering to manufacturing plants and long term construction sites in the area. She would like to convert an existing accessory structure on her property and utilize the restaurant equipment she has to prepare some of the food and will use commercial vehicles outfitted to finish preparing, store and serve the food.

There were no concerned citizens present.

Chairman Dent asked if any undue traffic would be created.

Ms. Breakfield said no just the drivers of the trucks which would be family members.

Mr. Solum asked what type of trucks would be used and how.

Ms. Breakfield said she would provide food 24/7 to construction sites and manufacturing plants because often they cannot get food service and restaurants are either not located nearby or do not serve 24/7. She will outfit 36 foot semi trailers with steam tables and refrigeration and another 53 foot semi trailer will have a full kitchen.

Ms. Davis asked if this will be prohibitive to the neighborhood.

Ms. Breakfield said no she has 2+ acres on this property and owns several other tracts adjacent.

A MOTION was made by Mr. Solum that the variance request be APPROVED; seconded by Mr. Oliver. MOTION carried.

13. Patrick Rice, on behalf of Berckman Residential Properties, LLC and the Augusta National Inc. – Section 8-2 (b) – requesting a variance to allow public parking areas to be located at 353 Heath Drive and 357 Berckman Road for the Augusta National to be located approximately 1,023 feet from the Augusta National Golf Club located at 2604 Washington Road. The Zoning Ordinance limits support parking to be located within 100 feet of the subject property. Tax Map 018-0-078-01-0 & 018-0-114-00-0 Zoned R-1 (One-family Residential)

Mr. Patrick Rice and Mr. Buzzy Johnson were present on behalf of the petition. Mr. Rice stated that these properties were being added to the pastoral parking that the Augusta National has created in the last few years.

There were no concerned citizens present.

A MOTION was made by Ms. Davis that the variance request be APPROVED; seconded by Mr. Paschal.

14. Southern Siding and Steel, on behalf of Frank Adams – Section 11-1 – requesting a carport addition at 5 Hall Street that would be located 1 foot from the side property line where 5 feet is requires. Tax Map 060-2-133-00-0 Zoned R-1C (One-family Residential)

Mr. Johnny Crews, Southern Siding and Steel, Bobby Jones Expressway, Augusta was present on behalf of the petition. Mr. Crews stated that the owner had a carport cover but it had deteriorated and he wanted to replace it to protect her vehicle. There are several others in the area that are also close to the property lines. Mr. Crews presented pictures to support those claims.

There were no concerned citizens present.

Mr. Oliver asked if any neighbors have objected.

Mr. Crews said no.

A MOTION was made by Mr. Oliver that the variance request be APPROVED; seconded by Mr. Mitchell. MOTION carried.

15. Southern Siding, on behalf of Kimberly Abrams – Section 9-1 – requesting a rear setback variance from 10.5 to 7 feet for a covered screen room addition at 3204 Alton Court. Most lots in Aylesbury Subdivision had previously been issued rear setback variances from 25 feet to 10.5 feet. Tax Map 040-3-134-00-0 Zoned R-1A (One-family Residential) with a Special Exception

Mr. Johnny Crews, Southern Siding and Steel, Bobby Jones Expressway, Augusta was present on behalf of the petition. Mr. Crews stated that the owner wanted to enclose her existing patio and extend it a couple feet and needed this variance to achieve that.

There were no concerned citizens present.

Mr. Oliver asked if any neighbors have objected.

Mr. Crews said no and there are several other screen porches in the subdivision.

Mr. Austin reminded the Board that this subdivision was given several overall setback variances at the time of development.

Ms. Chivers asked if the lot was enclosed by a wood privacy fence.

Mr. Crews said yes.

A MOTION was made by Ms. Chivers that the variance request be APPROVED; seconded by Mr. Dukes. MOTION carried.

16. Earl Chastagner, on behalf of Lisa Volpitto – Section 13-1 – requesting a variance to allow a stucco wall securing the swimming pool area of the rear yard of 41 Conifer Place that will have a height of 8 feet at its highest point where the Zoning Ordinance limits the height of walls or fences to 6 feet. Tax Map 023-0-195-00-0 Zoned R-1E (One-family Residential)

Mr. Earl Chastagner, 303 Evans Lake Way, Evans, Georgia was present on behalf of the petition. Mr. Chastagner stated that he was the contractor for the project and that while it was under construction a rear wall was built and the height was such as to block the view of the adjacent commercial properties. When completed the wall will be back filled and landscaped and be screened from view of the residents on Conifer Place.

There was one concerned citizens present. Mr. Tim Moses, President of Conifer Place Homeowners Association, stated that he was speaking for the Board on this matter and that the wall violated the restrictive covenants of the neighborhood and the Board opposes it for 2 reasons. 1) the work is all but done without architectural approvals and the property owner knows he must get approval because he submitted the initial plans for the pool but not the wall and 2) there is a 200 foot natural buffer between Conifer Place subdivision and the adjacent commercial property which should allow ample screening. This wall is grossly higher than the

allowed 6 foot and while after it is complete it may not appear that tall it will deflect noise back into the neighborhood rather than into the buffer area. He presented pictures supporting his statements.

Ms. Davis asked the petitioner if they got approval for the pool why not return for the wall.

Mr. Chastagner said the wall evolved as the project was constructed and they did not realize the height issue until later. He did talk to Mr. Perry with the architectural board of the neighborhood and he had no conflict.

Ms. Davis asked if he had gone to the Board for the pool project.

Mr. Chastagner said he went to Mr. Perry both times not the full Board.

Mr. Dukes asked if Mr. Perry could speak for the Board.

Mr. Moses said he reports to the Board and the Board makes the final decision.

Mr. Jones stated that Mr. Perry seems to be key, did he go to the Board with the wall proposal.

Mr. Moses stated that Mr. Perry says he was never asked about the wall.

Mr. Chastagner stated the project was approved and commenced and the through the construction the wall evolved and grew to screen the commercial properties which during the winter months would not get much screening from the vegetative buffer and in his opinion the assisted living facility is closer than 200 feet.

Chairman Dent asked stated the pictures presented by Mr. Moses show tree cover but no buildings.

Mr. Chastagner said the pictures presented by Mr. Moses are exaggerated and the height is not that extreme he also repeated that in the winter the buildings would be visible and therefore the back yard area would be visible to the patrons.

Chairman Dent asked if it was 200 feet.

Mr. Chastagner said not in his opinion.

Mr. Paschal asked how old the restrictive covenants were.

Mr. Moses said 1984 but are valid as long as they are enforced which they are.

Ms. Chivers asked if other neighbors have similar wall/fences why is this one such an issue since it is only on the rear property line.

Mr. Moses said the wall itself is very attractive and the neighborhood is glad the owners want to improve their property but the wall is too tall and will set a precedent.

Mr. Austin explained that if the BZA approves the Conifer Place HOA could still file a civil suit.

Mr. Chastagner said people in the interior of the neighborhood have walls more than 6 feet in height.

Attorney Brown offered some clarity on this matter to the BZA. Other walls are irrelevant and it is not relevant to the BZA if the petitioner did or did not go to the HOA Board for approval or to rule on their covenants. But it is applicable to the BZA to determine if the petitioner did go to the HOA Board or just to the architectural committee and if a member of said committee (Mr. Perry) acts with apparent authority by carrying word for the HOA Board then the HOA Board is giving tacit approval of said member's authority (Mr. Perry). The BZA needs to hear only objections from the neighborhood and weigh that with the facts as presented and not try and enforce their covenants.

Mr. Moses stated that Mr. Perry does have apparent authority to talk for the HOA Board but all answers are delivered in writing which was not done in the instance of the wall.

Chairman Dent asked both the petitioner and objector if there was anything in writing either way about the wall.

Mr. Moses said not from the HOA and he does not know if there are any other walls up to 10 feet in height.

Mr. Paschal stated wall height is not irrelevant because if there are other walls over 6 feet did they get variances or build them without approvals.

Chairman Dent asked Staff.

Mr. Austin did not know but said he could research it and report back next month.

Mr. Moses stated the height of the wall around the patio homes is only 6 feet other wall heights he is not aware of.

Mr. Austin suggested postponing a month so Staff can research the history of any BZA requests in the neighborhood for wall or fence heights.

Chairman Dent asked Mr. Moses if the petitioner were to file in the proper manner for review of this petition would the HOA review it fairly.

Mr. Moses said yes but are concerned about the fact that they did not ask for a review at the outset.

Chairman Dent suggested a postponement to allow the petitioner to follow proper procedures and to allow for both parties to resolve their differences.

Mr. Chastagner agreed.

A MOTION was made by Ms. Chivers that the variance request be POSTPONED until the November 21, 2011 BZA hearing; seconded by Ms. Davis. MOTION carried.

#### MEETING ADJOURNED

#### POSTPONED CASE

1. Southern Siding, on behalf of Frankie Riley – Section 8-4 requesting a variance for a 360 square foot accessory structure addition in the rear yard of 1725 Meadow Street where the area threshold for this lot is limited to 174 square feet. Tax Map 058-4-498-00-0 Zoned R-3C (Multiple-family Residential)

Mr. Johnny Crews, Southern Siding and Steel, Bobby Jones Expressway, Augusta was present on behalf of the petition. Mr. Crews stated that for tax reasons the properties cannot be combined and since the objection still exists the petitioner will withdraw and not build the carport.

Chairman Dent asked if the petitioner still wants the carport.

Mr. Crews said yes.

Mr. Austin said the petition can be voted up or down.

Mrs. Marlene Burgess adjoins Ms. Riley's property and she has no objection as long as the building is not on her property.

Chairman Dent asked if the previous objector had been notified of the postponement and rehearing.

Staff said yes another mailout is done for postponed properties.

A MOTION was made by Mr. Paschal that the variance request be APPROVED; seconded by Mr. Oliver. MOTION carried.