

BOARD OF ZONING APPEALS MINUTES  
NOVEMBER 21, 2011

The Board of Zoning Appeals met in regular session on Monday, November 21, 2011 in room 802 Municipal Building.

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

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

Absent: Mr. Dickinson

Chairman Dent called the meeting to order at 2:30 P. M.

1. Minutes from October 17, 2011

A MOTION was made by Ms. Davis that the minutes for October 17, 2011 be APPROVED; seconded by Mr. Oliver. MOTION carried unanimously.

2. Sue Vidal – Section 10-1 – requesting to add a detached carport in the side yard of 2008 Melrose Drive that along with two existing sheds would total 828 square feet of area for accessory structures and the subject lot is limited to 500 square feet of area. Tax Map 122-3-100-00-0 Zoned R-1B (One-family Residential)

Mr. Austin explained that this petition was mistakenly advertised as a side setback when in reality it is a front setback issue. It will be re-advertised at the Board's expense and heard at the December hearing.

3. Southern Siding and Steel, on behalf of William Franklin – Section 11-1 – requesting a side yard setback for an attached patio or carport cover located at 538 Aiken Street from 10 feet to 0 feet. Tax Map 061-3-195-00-0 Zoned R-1C (One-family Residential)

Chairman Dent asked if the petitioner was authorized to act for the homeowner.

Mr. Johnny Crews, Southern Siding and Steel, was present on behalf of the petition and stated that he was authorized to act. Mr. Crews stated that the owner wants a patio/carport cover erected over the existing porch and driveway to enable the handicapped homeowner to enter and exit his home and vehicle protected from the weather.

There were no concerned citizens present.

Mr. Oliver asked if anyone had complained to the petitioner.

Mr. Crews said not to his knowledge.

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

4. Ricki and Piney Hamilton – Section 9-1 – requesting a 1,792 square foot accessory structure (6 bay garage) located at 1006 Bluebird Road where this lot is limited to 601 square feet of accessory structure area. Tax Map 019-4-091-00-0 Zoned R-1A (One-family Residential)

Mr. and Mrs. Hamilton were present on behalf of the petition. Mr. Hamilton stated that he wants to build a 6 bay garage to house his collectible vehicles and to have room to work on them as well. The apartment complex to the rear of the property is deteriorating and placement of the new structure will also block that view.

Chairman Dent asked how far the rear of the new building will be from the nearest apartment building.

Mr. Hamilton said 19.4 feet and 10 feet inside the rear property line.

There was one concerned citizen present who asked how tall the building will be.

Mr. Hamilton said one story.

After some discussion it was determined that the concerned citizens' property was not adjacent to the subject property and the gentlemen expressed no objection.

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

5. Suzane Reatig Architecture, on behalf of United House of Prayer - Section 21-1 requesting a front and rear structure setback variance for a residential redevelopment at 1210 & 1214 Wrightsboro Road that also includes 1420 Forest Street. Nine buildings containing 12 single family units are proposed and the closest setback to Wrightsboro Road appears to be 16 feet where 40 feet is required. A rear setback variance is being requested from 46 to 15 feet for two residences. Tax Map 059-1-417-00-0, 059-1-418-00-0, 059-1-437-00-0 Zoned B-1 (Neighborhood Business)

Mr. Brian Tucker, The United House of Prayer, was present on behalf of the petition. Mr. Tucker explained that they want to build 9 buildings with a total of 12 units and need relief from the 40 foot setback to 16 feet on Wrightsboro Road. Existing buildings in this area of Wrightsboro Road are closer than 40 feet. The property on Forest will have only 2 units.

There were no concerned citizens present.

Mr. Austin explained that the Board has already approved setbacks for a mixed use development for United House of Prayer but the site plan has now been amended to residential use only and those former variances have expired.

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

Mr. Sims asked if the units will be attached or separate.

Mr. Tucker said both, off Forest will be separate the others will be attached units in a total of 7 buildings.

Mr. Paschal asked if access will be off Wrightsboro Road or Forest and where will parking be.

Mr. Tucker said off both Wrightsboro Road and Forest with building fronting Wrightsboro Road and off street parking provided off Forest.

Chairman Dent called the question.

MOTION carried.

6. Tony Bobo – Section 9-1 – requesting separate electrical services for two existing legal non-conforming residences located at 1975 Sanford Court. Tax Map 071-4-013-00-0 Zoned R-1A (One-family Residential)

Mr. Tony Bobo was present on behalf of the petition. Mr. Bobo explained that the buildings in question were built in the mid 1950s and have shared the electric service and Mr. Bobo now wants to separate them.

There were no concerned citizens present.

Mr. Oliver asked if anyone had complained to the petitioner.

Mr. Bobo said no.

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

7. Nick Wingate, on behalf of Daniel Higgins – Section 11-1 – Requesting a variance for a front porch improvement at the home located at 938 Merry Street to within approximately 8 feet of the right-of-way of Merry Street where 17 feet is required. Tax Map 045-1-103-00-0 Zoned R-1C (One-family Residential)

Chairman Dent asked if the petitioner was authorized to act on the owner's behalf.

Mr. Nick Wingate was present on behalf of the petition and stated he was authorized by the owner. Mr. Wingate stated the owner wants to convert a small front stoop to a covered front porch extending 7 feet toward the street. He presented a petition signed by the neighbors supporting the plan.

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

\* Ms. Chivers recused herself from items 8-12 due to a business conflict.

8. APD Urban Planning, on behalf of the Augusta Land Bank Authority et al – Section 11-1 – requesting an update of a variance that was approved October 18, 2011 for building setback variances. 1241 Wrightsboro Road will have a front setback of approximately 9 feet off Wrightsboro Road where 40 feet is required and 12 feet of Thirteenth Street where 30 feet is required. The home to be built at 1249 Wrightsboro Road will have a front building setback of approximately 5 feet where 40 feet is required. The home located at 1245 Wrightsboro Road is going to be restored and enlarged and the resulting lot coverage is going to be 38% where 30% is the maximum allowed. Tax Map 059-1-111-00-0, 059-1-113-00-0, 059-1-114-00-0 Zoned R-1C (One-family Residential)

Mr. Warren Campbell and Ms. Abbie Rickoff of APD were present on behalf of the petition along with Ms. Edith Reebing of the Laney Walker Development Corporation. Mr. Campbell explained that these variances had been approved previously but it has taken longer than expected to arrange financing and find contractors and developers and the variances have expired. They are asking to renew these variances.

There were no concerned citizens present.

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

9. APD Urban Planning, on behalf of the Augusta Land Bank Authority et al – Section 11-1 – requesting an update of a variance that was approved January 20, 2011 for a front yard structure setback for two new single family residences located at 1247 and 1251 Wrightsboro Road that will have a front setback of approximately 10 feet off the right-of-way of Wrightsboro Road where 40 feet is required. Tax Map 059-1-110-00-0, 059-1-112-00-0 Zoned R-1C (One-family Residential)

Mr. Warren Campbell and Ms. Abbie Rickoff of APD were present on behalf of the petition along with Ms. Edith Reebing of the Laney Walker Development Corporation. Mr. Campbell explained that these variances had been approved previously but it has taken longer than expected to arrange financing and find contractors and developers and the variances have expired. They are asking to renew these variances.

There were no concerned citizens present.

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

10. APD Urban Planning, on behalf of the Augusta Land Bank Authority et al – Section 11-1 – requesting an update of a variance that was approved November 15, 2010 for front yard structure

setbacks from 30 feet to 10 feet; side setbacks would be from 5 feet to 4 feet; and rear setbacks would be from 20 feet to 7 feet on properties located at 1235, 1237, 1249 and 1261 Eleventh Street. Maximum lot coverage in an R-1C zone is 30% and this development proposal would be approximately 62% only on one side and 44% for the other side. Tax Map 059-2-030-00-0, 059-2-033-00-0, 059-2-034-00-0, 059-2-035-00-0 Zoned R-1C (One-family Residential)

Mr. Warren Campbell and Ms. Abbie Rickoff of APD were present on behalf of the petition along with Ms. Edith Reebling of the Laney Walker Development Corporation. Mr. Campbell explained that this variance is the only new request of the 4 and that 4 new homes will be built on this section of 11<sup>th</sup> Street.

Mr. Austin explained that there are enough existing homes on 11<sup>th</sup> Street to negate the need for the front setback variance since criteria would be the average of the existing homes setbacks and the new homes will be within that.

There were no concerned citizens present.

Chairman Dent asked where the existing homes are located.

Mr. Austin said between 8 and 10 feet off the right-of-way.

Mr. Mitchell asked if the community had been better informed of these plans.

Mr. Campbell said they are trying, they have quarterly meetings through Beulah Grove church and have held more as needed with each project.

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

11. APD Urban Planning, on behalf of the Augusta Land Bank Authority et al – Section 11-1 – requesting an update of a variance that was approved November 15, 2010 for front building setbacks on property located at 1212-1222 Perry Street (even) and a portion of the east side of 13<sup>th</sup> Street from 40 feet to 10 feet; double frontage or corner lots would have 10 feet side setbacks where 30 feet is required. Maximum lot coverage is 30% and this development proposal would be approximately 37%. Multiple tax maps a complete list of which is available in the Planning and Development Dept. office at 525 Telfair Street, Augusta GA. Zoned R-1C (One-family Residential)

Mr. Warren Campbell and Ms. Abbie Rickoff of APD were present on behalf of the petition along with Ms. Edith Reebling of the Laney Walker Development Corporation. Mr. Campbell explained that these variances had been approved previously but it has taken longer than expected to arrange financing and find contractors and developers and the variances have expired. They are asking to renew these variances.

There were no concerned citizens present.

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

12. APD Urban Planning, on behalf of the Augusta Land Bank Authority et al – Section 11-1 – requesting a variance on properties located on the north side of Wrightsboro Road between Twelfth Street and Thirteenth Street, excluding 1209 and 1213 Wrightsboro Road for front building setbacks from 40 feet to 10 feet; double frontage or corner lots would have 10 feet side setbacks where 30 feet is required. Maximum lot coverage is 30% and this development proposal would be approximately 37%. Multiple tax maps a complete list of which is available in the Planning and Development Dept. office at 525 Telfair Street, Augusta GA. Zoned R-1C (One-family Residential)

Mr. Warren Campbell and Ms. Abbie Rickoff of APD were present on behalf of the petition along with Ms. Edith Reebing of the Laney Walker Development Corporation. Mr. Campbell explained that these variances had been approved previously but it has taken longer than expected to arrange financing and find contractors and developers and the variances have expired. They are asking to renew these variances.

There were no concerned citizens present.

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

13. Louise Boone, on behalf of William Mulligan – Section 28-B-9 - requesting a variance to retain existing building mounted signage for Two Moms Cookies located at 2569 ½ Central Avenue. The wall signage is approximately 120 square feet in area and the limitation in the Zoning Ordinance is 50 square feet in area. Tax Map 044-1-068-00-0 Zoned B-1 (Neighborhood Business)

Ms. Margaret Douglas was present. Ms. Boone is her business partner and they are authorized to act for Mr. Mulligan in this matter. They wish to retain the wall sign they painted to advertise their bakery. She apologized for doing the sign without approval they were unaware of the sign limitations.

There were no concerned citizens present.

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

14. Pete Alewine Pools on behalf of Sam Mietling – Section 8-1(b) – requesting a variance to retain a stucco wall at 2506 Henry Street that was built at a height of 6'10" on one side where the limitation is 6 feet. Tax Map 034-3-057-00-0 Zoned R-1 (One-family Residential)

Robert Hagler, Attorney for Dr. Mietling was present along with Dr. Mietling and Mike Pond of Pete Alewine Pools on behalf of the petition. Mr. Hagler stated that while waiting for their item

to be called they had been in discussion with Mr. Nick Greene, Dr. Mietling's neighbor, and have reached an agreement between themselves.

Mr. Nick Green was present and stated that he felt Mr. Hagler statement was correct but would listen to what he presented before committing himself and Dr. Stachurra, the other neighbor objecting to the height of the wall. Mr. Green stated that the wall along Dr. Stachurra's property line is 6'10" to 7'2" depending on the slope. The wall was originally 8 feet in height when the neighbors complained and a stop work order was issued. 6 feet is the maximum height allowed and that was the outcome of the previous meeting when Pete Alewine Pools represented Dr. Mietling and agreed to withdraw the height variance and stay within the 6 feet allowed. But the outcome is much higher.

Mr. Hagler stated the wall was lowered but needed to be capped. A sub-contractor for Pete Alewine Pools did the work and capped it to high. He has spoken to Dr. Stachurra and he would accept the current height is some work was done on his side in addition to the landscaping to beautify the wall. Dr. Stachurra and Dr. Mietling will meet to come to an agreement and will return to the BZA with a written contract.

Mr. Greene agreed that this was the outcome of conversations between all parties before Dr. Stachurra had to leave.

Mr. Austin explained that he and Ms. Costible had measured the wall height and at the max it was 6'11" by their measurement.

Ms. David asked for an explanation of the differences in height.

Mr. Austin explained that the land slopes.

Mr. Hagler stated that he will draw up a binding contract when an agreement has been reached and present it to the Board.

Mr. Austin suggested postponing for a couple months to allow all of this to be done.

Mr. Paschal asked if the landscaping had been done at the neighbor's request.

Dr. Mietling said he did it to help neighbor relations.

Mr. Jones and Ms. Chivers asked what will be done to improve the look of the wall.

Mr. Mitchell asked what will pacify Dr. Stachurra.

Mr. Hagler said Dr. Mietling will give the wall a nicer finish not just the concrete block as is now.

A MOTION was made by Ms. Davis that the variance be postponed until February 2012, seconded by Mr. Oliver. MOTION carried.

15. JHT Construction, on behalf of Drew Forgay - Section 8-4 – requesting a variance to construct a two story pool house at 3329 Wheeler Road that would have a total height of 24.25 feet where the Zoning Ordinance limits accessory structures to one story and 18 feet of height. Also a separate electric service is being requested. Tax Map 024-0-013-00-0 Zoned R-1 (One-family Residential)

Mr. Paul Casey of JHT Construction was present on behalf of the petition along with Mrs. Forgay. Mr. Casey explained that an old 20 x 30 structure had been removed and they want to replace it with a 24 x 44 building with 24 feet of height allowing for architectural detail of dormer windows similar to the house. There will only be attic storage on that second floor. Some trees were removed to allow for the larger building but generally the new building will be put on the old footprint. There are other similar buildings in the area. The separate electric service is not needed as service along with plumbing is there from the old building.

Mr. Oliver asked if there had been any objections expressed to Mr. Casey.

Mr. Casey said one adjacent neighbor had asked for Leyland Cypress to be planted to provide more privacy which the Forgays agreed to.

That neighbor was present and said the height concerned her but the trees would help with that.

Mr. Casey said they would like to plant the trees on the property line.

The neighbor agreed.

Dr. Cattlona, another neighbor, objected to the size and height, said it would be detrimental to his property values and while not highly visible from the street it would be very visible to his property.

Chairman Dent asked what the height will be to the peak.

Mr. Casey said 24 feet.

Mr. Austin explained it is a 6 foot variance request as accessory structures are limited to 18 feet in height.

Mr. Casey said there are trees between the properties to help soften the building's impact.

Dr. Cattalona agreed but said in winter the trees lose their leaves and he was not happy seeing the old building or hearing the parties he objects to a larger building.

Ms. Davis asked if the building is only one story why have the added height.

Mr. Casey said to add dormer windows for aesthetic purposes to match the main house.

Dr. Cattlona disagreed that there are other buildings of similar size and height in the neighborhood.

Mr. Jones said if the design is to mimic the main house it could result in beautification to the neighborhood.

Ms. Davis asked when the old building had been torn down and what its height was.

Mr. Casey said it was torn down last year and was 16 feet in height.

Mr. Booker said the architectural detail could be achieved at 18 feet in height.

Mr. Mitchell said that worrying just about aesthetics could be shortsighted when it may result in long lasting neighbor to neighbor difficulties.

Ms. Davis suggested postponing the petition to allow for revisions of the plan and a possible resolution between neighbors.

Mr. Jones suggested they get together and find a compromise.

Mr. Sims asked what would be agreeable as a compromise.

Dr. Cattalona said if 18 feet is the rule that is what it should be.

Mr. Austin explained that 18 feet is stated in the ordinance but the charge of the Board is to review all such requests for exemptions or variances to the ordinance and decide on a case by case basis.

Mr. Sims agreed and said if there is no flexibility to be found the Board should move forward. He suggested splitting the difference and allowing a height of 21 feet. Mr. Sims asked Mr. Casey if he could work with that.

Mr. Casey said yes.

Mr. Mitchell asked if the owner would be happy with that.

Mrs. Forgay said yes.

Mr. Paschal stated the Board had made similar decisions in the past.

Mr. Jones asked Mrs. Forgay what she wanted.

Mrs. Forgay said 21 would be a workable compromise. They have lived here for 5/6 years and want to be good neighbors but also want to fully utilize their 1.8 acre yard and the new building will be centered in the yard behind the pool.

A MOTION was made by Mr. Sims that the variance be APPROVED with the following conditions:

The pool house may not exceed 21 feet in height and shall contain only one story.

Seconded by Mr. Jones. MOTION carried.

Dr. Cattalona stated he still objects. Chairman Dent explained Dr. Cattalona appeal options.

16. David Pineda – Section 9-1 – requesting a variance to add a carport at 3527 Redd Drive that would be located approximately 10 feet off the right-of-way of Redd Drive where 26 feet is required. Tax Map 120-0-026-00-0 Zoned R-1A (One-family Residential)

Mr. David Pineda was present on behalf of the petition. He explained that he wants to build a carport over an existing concrete slab.

Chairman Dent asked if the neighbors were ok with it.

Mr. Pineda said yes.

There were no concerned citizens present.

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

#### POSTPONED PETITIONS

1. Egan Goetz– Section 33-5 (b) – Manufactured Home Hardship renewal – 2268 Plantation Road Tax Map 180-0-081-00-0 Zoned R-MH (Manufactured Home Residential) POSTPONED from August 2011

Staff explained that Mr. Goetz had applied for and received the necessary permits to combine the two homes on his property into one thereby negating the need for the medical hardship.

Ms. Costible concurred.

A MOTION was made by Mr. Oliver that the medical hardship be WITHDRAWN; seconded by Mr. Mitchell. MOTION carried.

2. 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) POSTPONED from September 2011

Mr. Chastagner was present on behalf of the petition. Mr. Chastagner explained that he was still in discussion with the neighborhood association to resolve the wall height issue. There are other walls over the 6 feet in height in the neighborhood and with the commercial development proposed along Walton Way it is apparent it would be provide the homeowner more privacy. He asked for the petition to be postponed again.

A MOTION was made by Mr. Dukes that the variance be POSTPONED until the January 2012 meeting; seconded by Mr. Paschal. MOTION carried.

MEETING ADJOURNED