

BOARD OF ZONING APPEALS MINUTES  
AUGUST, 2012

The Board of Zoning Appeals met in regular session on Monday, August 20, 2012, in room 802 Municipal Building.

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

Also present: Bob Austin, Zoning Administrator, Lois Schmidt, Secretary,

Absent: Mr. Sims, Wayne Brown, City Attorney, and Pam Costible, Zoning Enforcement

Chairperson Davis called the meeting to order at 2:30 P. M.

1. Minutes from July 2012

A MOTION was made by Mr. Dent to APPROVE the July 2012 minutes; seconded by Mr. Oliver. MOTION carried.

2. Robert Elam Jr. – Section 33-5(b) - Hardship renewal for a manufactured home at 1949 Old Savannah Road that was granted to provide security for RJF Salvage by having the property constantly occupied. Tax Map 072-4-232-00-0 Zoned R-1C (One-family Residential)

There was no petitioner present.

There were no concerned citizens present.

It was suggested by the Board that since Mr. Elam needs to redefine his hardship status the Board would like him to be present to discuss his petition.

A MOTION was made by Mr. Dent that the petition be POSTPONED until the September hearing; seconded by Mr. Solum. MOTION carried.

3. CMC Recycling – Section 24-4 – requesting an accessory structure addition at CMC Recycling located at 1890 Old Savannah Road that would be located approximately 20 feet from the right-of-way line of Old Savannah Road where 40 feet is required by the Comprehensive Zoning Ordinance. Tax Map 073-1-093-00-0 Zoned HI (Heavy Industry)

Mr. Michael Greenwood, CMC, Augusta was present on behalf of the petition.

Chairperson Davis asked if Mr. Greenwood had the authority to speak on this petition.

Mr. Greenwood stated that he is the manager of the local CMC recycling center. They wish to construct a metal building for storage of their finished products to keep it secure and covered until it can be shipped off. The existing interior road that is used during daily operation

necessitates placing this building near the right-of-way of Old Savannah Road. He stated that there are other buildings along this section of Old Savannah Road that are this close to the road. This placement will not only keep it out of the roadway but away from the existing storm water detention.

There were no concerned citizens present.

Mr. Paschal asked the height.

Mr. Greenwood said 26 feet at the peak.

Mr. Oliver asked if any neighbors had expressed objections.

Mr. Greenwood said no.

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

4. Robert Swan – Section 10-1 – requesting to retain a carport at 2007 Ohio Avenue that is approximately 16 inches from one side property line where 5 feet is required. 043-4-049-00-0 zoned R-1B (One-family Residential)

Mr. Robert Swan was present on behalf of the petition.

Chairperson Davis asked if he owned the subject property and what he was requesting.

Mr. Swan said he owned the property on Ohio Avenue and purchased the carport from an estate sale. The purchase required him to move the carport right away so he lined it up with the existing carport. He used the measurement off the existing fence to come up with the 16 inches but now knows this is not actually on the property line. The actual measurement would be closer to 2 feet and the carport is well set off the road.

There were no concerned citizens present.

Mr. Oliver asked if there had been any objections from neighbors.

Mr. Swan said no, the closest neighbor is a rental and he has been unable to reach them.

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

5. Paul Buffington – Section 10-1 – requesting a variance to allow a carport improvement at 3210 Rhonda (aka Ronda) Drive that would be located approximately 4 feet from one side property line where 5 feet is required. Also, the new carport will be located approximately 17 feet from the right-of-way of Rhonda Drive where the average setback of other buildings on this block face is 33 feet. The total resulting lot coverage would be approximately 32% where the

Zoning Ordinance limits the lot coverage to 30% of the lot. Tax Map 122-2-038-00-0 Zoned R-1B (One-family Residential)

Mr. Paul Buffington was present on behalf of the petition.

Mr. Charles Honaker was present for information.

Mr. Buffington explained that he has owned this property for many years and has made many improvements including receiving a variance years ago for an addition. He now wants to remove the single open carport located in the front setback and replace it with a double open carport. Currently the existing carport is not placed right against the house and you are subject to the weather when going to and from. The new carport will still be in front of the house but setback to eliminate the gap between the two.

Mr. Austin stated that the portion of the variance relating to lot coverage is just to bring the property into conformance with today's standards.

Ms. Chivers asked if there are other similar structures in the neighborhood.

Mr. Buffington said yes.

Chairperson Davis asked if Mr. Honaker had any questions/comments.

Mr. Honaker explained that he is there on behalf of his mother who lives next door and gets along with Mr. Buffington very well but he asked for the location to be more clearly explained.

Mr. Buffington said it would be moved more toward the house than the side property line and he will install gutters to send water to the street.

Mr. Honaker said he has no problems with the request.

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

6. DeNyse Signs, on behalf of Century Hills LLC – Section 28-B – requesting that a freestanding sign for Century Hills Apartments located at 1035 Alexander Drive being displaced by the Alexander Drive improvements be allowed to be re-established 5 feet from the new right-of-way line where 10 feet is required. Tax Map 013-0-001-00-0 Zoned R3B (Multiple-family Residential)

Mr. Earl Raymond, DeNyse Signs, was present on behalf of the petition. Mr. Raymond said that Century Glen Apartments' sign was displaced due to the road improvements on Alexander Drive and they wish to relocate the sign at the only entrance to the complex at 5 feet from the right-of-way.

There were no concerned citizens present.

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

7. Gordon Broddie – Section 10-1 – requesting that an accessory structure be erected 5 feet from the west side of the property line where 10 feet is required at 4787 Billie J. Drive. Tax Map 066-4-148-00-0 Zoned R-1B (One-family Residential)

Mr. Gordon Broddie was present on behalf of the petition. He stated that he started building an accessory structure using materials that match the house. If he placed the building 10 feet off the side property line it would take up to much of the backyard area. Mr. Broddie presented letters of support from his neighbors.

There were no concerned citizens present.

Ms. Chivers asked if there was a privacy fence around the yard.

Mr. Broddie said yes.

Ms. Chivers asked if there was any architectural committee or association board for the neighborhood that Mr. Broddie needed to apply to.

Mr. Broddie said no the subdivision is still under construction so that has not been done as of yet.

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

Mr. Broddie said no.

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

8. AAA Signs, on behalf of Texas Roadhouse – Section 28-B-8-(c) – requesting a pylon sign for a prospective restaurant at 107/111 Sherwood Drive that would be 130 feet in height where the Zoning Ordinance limits the height of freestanding signs to 30 feet. Tax Map 012-0-480-00-0 and 012-4-027-00-0 Zoned B-2 (General Business)

Mr. Ray Peters, AAA Signs, and Mr. Brannon Graybill, broker for Texas Roadhouse, were present on behalf of the petition.

Chairperson Davis asked if either or both were empowered to speak on behalf of the owner.

Mr. Graybill said yes and explained that the plan is to build a new restaurant and want the sign to be of the same height as other signs in this corridor located near I-20 which is anywhere from 115 to 145 feet.

There were no concerned citizens present.

Mr. Dent asked if there is any single family homes in the area.

Mr. Graybill said no and this sign will line up with the sign for County Inn and Suites.

Ms. Chivers pointed out that if other signs are 145 feet in height this sign request is less than that.

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

9. James Richard Palmer – Section 11-1 and 33-5(d) requesting a home occupation for a one chair beauty salon located at 606 Crawford Avenue. Tax Map 035-4-074-00-0 zoned R-1C (One-family Residential)

Mr. James Richard Palmer was present on behalf of the petition.

Chairperson Davis asked if Mr. Palmer owned the subject property.

Mr. Palmer said yes. He explained that he obtained a variance in 1982 for a home occupation and held a license until the mid 1990s when he stopped having a beauty salon in order to care for his ill/aging parents. He did not realize that if you allowed your business license to lapse your variance became void. He now wishes to reestablish his business and when he tried to get a business license was told of the problem.

Mr. Joe Smith, owner of 602 Crawford Avenue, was present to object to Mr. Palmers' request. Mr. Smith said it was his understanding that you had to live in the home you received a home occupation variance for and Mr. Palmer does not live in the home in question. Mr Smith said he would be very happy if Mr. Palmer lived in the house as it would cut down on problems with the property.

Chairperson Davis asked Mr. Palmer if he lived at 606 Crawford Avenue.

Mr. Palmer said he did.

Mr. Smith disputed the claim.

Mr. Palmer said he owns several homes in the area.

Mr. Smith agreed that Mr. Palmer does own many properties but he only lives in one of them and it's not 606 Crawford.

Mr. Paschal asked if Staff can clarify the situation.

Mr. Austin said that in order to obtain a home occupation variance from the Board you must live in the home in question. Mr. Palmer changed his homestead to this property and one requirement for the homestead is that it must be your primary residence.

Mr. Smith asked what recourse there would be if it was proved he did not live there.

Mr. Austin said that would be a code enforcement issue and Ms. Costible is not present today.

Mr. Smith asked if only Mr. Palmer would be allowed to operate the one chair salon, not other people.

Mr. Palmer said that for years Mr. Smith has had hard feelings due to arguments over a property Mr. Smith owns that Mr. Palmer objected to the proposed use.

Chairperson Davis instructed both parties to stick to the issue at hand. She asked Mr. Palmer who will be employed and the number of clients per day that could be expected.

Mr. Palmer said only he will work there and about 5-6 clients a day.

Ms. Chivers asked where clients will park.

Mr. Palmer said on the street or in the rear yard.

Mr. Dickinson asked Mr. Palmer if he lives in this house.

Mr. Palmer said yes.

Mr. Paschal asked Staff when he changed his homestead exemption.

Mr. Austin said at the time he applied for this variance.

Chairperson Davis asked how long Mr. Palmer has lived here.

Mr. Palmer said almost 1 year.

Chairperson Davis asks if Mr. Palmer was aware of Mr. Smith's objections.

Mr. Palmer said not until today.

Mr. Dickinson asked how Mr. Palmer has owned the property.

Mr. Palmer said since 1982.

Mr. Smith said Harrisburg is a neighborhood that needs special handling and Mr. Palmer is coming before the Board under false pretenses. Mr. Smith would not care if Mr. Palmer rezoned

the property to operate a beauty salon but does not feel he should be allowed to avoid following the rules.

Chairperson Davis asked Mr. Palmer where he was working presently.

Mr. Palmer said here for the past 3 to 4 months.

Chairperson Davis asked if he realized he did not have permission.

Mr. Palmer said no he didn't realize he needed an updated variance until he went to renew his business license.

A MOTION was made by Mr. Paschal that the variance be DENIED; seconded by Mr. Dukes.

Ms. Chivers asked if the homestead indicates you live at the property.

Chairperson Davis said that the homestead claim would not be under the Board's jurisdiction.

Chairperson Davis called the question. Mr. Oliver and Mr. Dukes voted in favor. Mr. Jones was absent from the room; and all others voted against the motion. MOTION failed.

Mr. Dent asked Mr. Paschal to explain his motion for denial.

Mr. Paschal said that he felt Mr. Palmer was not being truthful about his residence.

Mr. Dickinson mentioned the Mr. Palmer has been before this Board before as a concerned citizen for the Harrisburg neighborhood.

A MOTION was made by Mr. Dickinson that the variance be APPROVED with the condition that Mr. Palmer prove he lives 24/7 at this address; Mr. Booker seconded the MOTION.

Mr. Smith asked why not zone the property to professional.

Chairperson Davis stated that was the jurisdiction of the Planning Commission and not an issue before the Board.

Mr. Dickinson made a SUBSTITUTE MOTION that the variance be APPROVED with the condition that 606 Crawford Avenue be Mr. Palmer's principal residence; seconded by Ms. Chivers.

Mr. Jones asked how you define and/or prove a principal residence if you own multiple properties.

Chairperson Davis said proof with utility receipts and other documentation that it is a place of residence for Mr. Palmer.

Mr. Solum asks for the question be called.

Chairperson Davis called the question. MOTION carried with the condition.

10. John McKinney, on behalf of Paula Benjamin – Section 27-7 – requesting to establish a manufactured home at 866 Bennock Mill Road that would be located approximately 114 feet from an adjoining conventional residence where 150 feet is required. Tax Map 281-0-082-00-0 Zoned A (Agriculture)

Mr. John McKinney was present on behalf of the petition.

Chairperson Davis asked if he owned the property or had authority to speak for the owner.

Mr. McKinney stated that he has an agreement to purchase the property if he can have a home placed on the property. The old home was a small manufactured unit and the larger one the McKinney's want to place there is larger and in order to utilize the existing utilities they need this variance because they will be only a 114 feet from a traditional home.

There were no concerned citizens present.

Mr. Dent asked if there had been any objections made to Mr. McKinney.

Mr. McKinney said no that he spoke to the man in the conventional home and he did not object.

Mr. Dent asked if the lot was treed and if they would be remaining.

Mr. McKinney said yes as many as possible and it is a flagpole lot so the home will be set way off the road.

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

#### POSTPONED PETITON

1. Joseph Holmes, on behalf of Kirby Yawn – Section 8-8 – requesting a variance to build an accessory structure in the rear yard of 721 Montrose Court that would be located 5 feet from the rear property line that is also the east right-of-way of Johns Road on this “through” lot. Since the rear property line is a road right-of-way the required setback is 25 feet. Tax Map 034-2-170-00-0 Zoned R-1 (One-family Residential) POSTPONED LACK OF PETITIONER

Mr. Joseph Holmes was present on behalf of the petition.

Chairperson Davis asked if Mr. Holmes had the authority to act on behalf of the owner.

Mr. Holmes said yes. He stated that they have not had the accessory building plotted to scale on the plat but feel that 5 feet will a safe distance to request.

Mr. Oliver said that if the site plan is not complete this request is based on speculation not fact. He asked if there had been any objection from the neighbors.

Mr. Holmes said the owners have only been contacted by one neighbor who said he was ok with the plan.

Mr. Austin explained that George Patty, Director of Planning and Development, feels that 10 feet would be a more compatible request.

Mr. Holmes said that from the side of the road it is about 12-13 feet and they want to put the building 5 feet inside that mark.

Mr. Dent clarified by saying Mr. Holmes is actually placing the building closer to 17 feet off the side of the road.

Mr. Holmes concurred.

Mr. Jones asked why they cannot do 10 feet.

Mr. Holmes stated the grade of the property and an existing retaining wall the owners do not want to move resulted in this request. He also said that the building will not be visible to Johns Road due to the amount of vegetation along the Johns Road property line.

Mr. Paschal asked if the vegetation will remain.

Mr. Holmes said yes the owners like the buffer but he might ask for a temporary access point to get material in/out of the rear yard for construction.

Mr. Austin explained that Mr. Holmes would need to go to Traffic Engineering for a temporary access drive but a permanent access would not be allowed.

Chairperson Davis suggested that a temporary or not an access point off Johns Road would result in destroying some vegetation.

Mr. Holmes explained that there is a chain link fence along this property line and there is spot that is more barren than the rest of the vegetative buffer and the homeowner will replace with plantings after the construction.

Mr. Austin asked where the building will be relative the pictures presented.

Mr. Holmes showed the board using pictures he presented.

Mr. Dickinson asked if moving the building to meet the 10 foot setback would mean removing the retaining wall.

Mr. Holmes said yes.

A MOTION was made by Mr. Dickinson that the variance be POSTPONED until the next meeting and to request the petitioner to have scaled site plan done so everyone knows the exact setback needed.

Mr. Booker suggested adding topography to that site plan so all can see the lay of the land.

Mr. Dickinson explained that the petitioner needs to bring a drawing/site plan to scale including topography which shows where the homeowner wants this building placed and why; prove the case.

Mr. Holmes asked if he agreed to the 10 feet could the matter be decided today.

Mr. Austin said the petition can be amended to 10 feet or any compromise the Board and petitioner reaches. Mr. Austin suggested compromising to 7 feet.

Mr. Paschal asked if Mr. Patty would approve of that compromise.

Mr. Austin said yes if vegetation is not disturbed.

Mr. Dickinson said he still preferred getting a drawing for clarity but will make an AMENDED MOTION to APPROVE the variance at a 7 foot setback and that the vegetation on the rear property line (Johns Road) must remain untouched; seconded by Mr. Oliver. MOTION carried.

Mr. Holmes asked whether he could apply for the second access if he/the owners agree to replace the trees. He wondered why if the vegetation belongs to the owners they cannot do what they like with it.

Mr. Dickinson explained that the owners are asking for relief from the standard setbacks and if they want that relief they have to abide by the decisions of this Board which in this instance mean not touching the vegetation their only option otherwise is to building the accessory structure within the standard setbacks which would be 25 feet off the rear property line. He further stated that replacing vegetation is never the same as leaving it intact; it might grow but it will never match.

Mr. Holmes said they cannot set it off 25 feet so he agreed to the conditions.

MEETING ADJOURNED