

**MINUTES  
CITY OF SUWANEE, GEORGIA  
ZONING APPEALS BOARD MEETING  
June 15, 2021**

**PLANNING AND ZONING APPEALS BOARD MEMBERS:** Present: Ray Brown, Donald Lee, David Sullivan, and Jamie Thigpen. Staff members present: Josh Campbell, and MaryAnn Jackson. Absent: Paul Altnauer.

**CALL TO ORDER**

David Sullivan called the meeting to order at 6:37 p.m.

**ADOPTION OF THE AGENDA**

*Ray Brown moved to approve the agenda as presented, second by Donald Lee. Motion carried 4-0.*

**APPROVAL OF MINUTES**

*Jamie Thigpen moved to approve the May 18, 2021 minutes, second by Ray Brown. Motion carried 4-0.*

**OLD BUSINESS**

**NEW BUSINESS**

V-2021-003- Owner/Applicant: Jerry N. Little Jr. The applicant requests a variance from Section 604 of the City of Suwanee Zoning Ordinance to allow for an accessory building outside of a rear yard. The site contains approximately 1.39 acres in Land Lot 210 of the 7<sup>th</sup> District and is located at 606 Virginia Avenue.

V-2021-004- Owner/Applicant: Jerry N. Little Jr. The applicant requests a variance from Section 501 of the City of Suwanee Zoning Ordinance to allow for an accessory building exceeding 800 square feet. The site contains approximately 1.39 acres in Land Lot 210 of the 7<sup>th</sup> District and is located at 606 Virginia Avenue.

Alyssa Durden presented the staff report as follows: The applicant seeks a variance from Section 501 and Section 604 of the City of Suwanee Zoning Ordinance to allow for the construction of an accessory building exceeding 800 square feet with a portion of the building extending into the side yard. The subject property is located at 606 Virginia Avenue in Old Town.

The applicant proposes to build an accessory dwelling unit (ADU) to the side of the primary home on the subject property. The proposed ADU would be approximately 1,600 square feet including a front and rear porch. Section 501 of the City of Suwanee Zoning Ordinance limits accessory structures to 800 square feet in the R-100 zoning district, and Section 604 requires all accessory structures to be located in the rear yard of a property. As such, two variances are required to build the accessory building as proposed.

The subject property contains an approximately 2,362 square foot two story home with vinyl siding and a small shed that will be torn down and replaced by the proposed accessory building. The lot is approximately 400 feet deep and 1.39 acres. The property is zoned R-100 (Residential Single Family District). The adjacent lots to the left and right of the subject property are also deep lots zoned R-100. These are both occupied by single family homes and accessory structures. The other parcels along Virginia Avenue are zoned R-100 and contain single family homes. The rear yard of the subject property slopes steeply down approximately 65 feet to Suwanee Creek, which occupies the back of the parcel. Across, Suwanee Creek, is city-owned property that contains the Suwanee Creek Greenway.

The proposed accessory building would be primarily located in the rear yard as required by the zoning ordinance. However, the steep topography in the rear yard limits how far the building can be pushed back. The applicant is requesting a variance to allow for the proposed structure to extend beyond the rear wall of the primary house into the side yard. This portion of the proposed building would include a front porch that would face Virginia Avenue and be compatible with the character of Old Town.

Accessory buildings are permitted uses in all of the City's residential zoning districts. All of the residential zoning districts have the same standard for accessory buildings in terms of maximum size and location allowed. However, a 1.39-acre lot is more capable of accommodating a larger accessory building without negative impacts on adjoining properties than a half-acre lot in a subdivision.

Although slightly in front of the rear façade of the primary home, the proposed structure would be located behind the rear façades of the homes on adjacent properties. The primary home on the subject property is significantly setback from Virginia Avenue and somewhat screened from the street and adjacent properties by mature trees. The proposed ADU would be approximately 49 feet behind the front façade of the primary home, which is setback approximately 101 feet from Virginia Avenue. As a result, the proposed structure would be approximately 150 feet from Virginia Avenue and not highly visible from the street or the homes on the adjacent property.

In addition to locating the building outside the rear yard, the applicant requests to exceed the 800 square feet limit for the proposed accessory dwelling unit. The footprint of the building would be approximately 1,072 square feet including a front and rear porch. Due to the steep slope of the property, the foundation of the building would need to step down creating a basement condition. The applicant would like to use this space beneath the accessory unit as storage. This additional storage space would increase the total floor area of the building to approximately 1,600 square feet.

A larger accessory structure would be consistent with the area. There are 18 accessory structures along Virginia Avenue including one accessory dwelling unit, which is an approximately 1,040 square foot carriage house with a unit over a garage. Like the carriage house, the proposed building would combine two accessory structures into one by using the basement required to build the building on the slope as storage, which would replace the existing shed. There is one other accessory structure larger than 800 square feet on Virginia Avenue, which is approximately 1,500 square feet. This building is located on the property adjacent to the subject property. Approval of this variance would not be a substantial detriment to the public good and would not

undermine the intent of the zoning ordinance, which is to limit the size and location of accessory buildings on smaller lots in more densely populated neighborhoods. The topography and creek in the rear yard make it difficult to contain the accessory structure to the rear yard. Approval of this request to locate an accessory dwelling unit that exceeds 800 square feet in the proposed location is not likely to negatively impact nearby properties due to the vegetation and size of the property and the distance of the proposed building from the road and other nearby homes. As such, staff recommends approval with conditions of V-2021-003 and V-2021-004.

Donald Lee asked if there will be an impact on the sewer. Alyssa Durden indicated that the accessory dwelling will be on septic.

David Sullivan called upon the applicant.

Jerry Little, 606 Virginia Avenue, Suwanee, GA. Mr. Little indicated that the accessory dwelling will be a small home for his elderly mother-in-law. The structure will be heavily landscaped in the front. It cannot be seen from the road. It will be 800 square feet on a basement.

David Sullivan called for opposition. There was none.

***Jamie Thigpen moved to approve V-2021-003 with staff conditions, second by Ray Brown. David Sullivan inquired about adding a condition that the basement not be finished. Discussion ensued amongst the Zoning Board of Appeals members. Jamie Thigpen withdrew his motion.***

***Jamie Thigpen moved to approve V-2021-003 with staff conditions, second by Donald Lee. Motion carried 4-0.***

1. The accessory structure shall be a maximum of 1,600 square feet in size.
2. The exterior material of the accessory structure shall match the exterior material of the primary dwelling.

***Ray Brown moved to approve V-2021-004 with staff conditions, second by Jamie Thigpen. Motion carried 4-0.***

1. The accessory structure shall be located approximately as shown on the site plan labeled "Exhibit A."

V-2021-005- Owner/Applicant: Zoe Kim. The applicant requests a variance from Section 604 of the City of Suwanee Zoning Ordinance to allow for a swimming pool in a yard abutting a public street. The site contains approximately 0.22 acre in Land Lot 236 of the 7<sup>th</sup> District and is located at 557 Main Street.

V-2021-006- Owner/Applicant: Zoe Kim. The applicant requests a variance from Section 604 of the City of Suwanee Zoning Ordinance to allow for a reduction in the required setback for a swimming pool from a public street. The site contains approximately 0.22 acre in Land Lot 236 of the 7<sup>th</sup> District and is located at 557 Main Street.

V-2021-008- Owner/Applicant: Zoe Kim. The applicant requests a variance from Section 610 of the City of Suwanee Zoning Ordinance to allow a portion of a fence in a yard abutting a public street to exceed 4 feet in height. The site contains approximately 0.22 acre in Land Lot 236 of the 7<sup>th</sup> District and is located at 557 Main Street.

Alyssa Durden presented the staff report as follows: The applicant seeks a variance from Section 604 and Section 610 of the City of Suwanee Zoning Ordinance to allow for the construction of a swimming pool and the required fence for the pool in a yard abutting a public street. The subject property is located at 557 Main Street in Old Town.

The property is a 0.22 acre “thru lot” that has 2 road frontages, one on Main Street and the other on Jackson. The result is that the lot does not have a rear. The R-100 zoned property contains a home and an accessory structure. The home located on the property faces Main Street. The accessory structure is located adjacent to Jackson Street. The applicant seeks to construct a swimming pool adjacent to the accessory structure on the portion of the property that faces Jackson Street. The proposed pool would be 14 feet by 25 feet with an adjacent 7 feet by 7 feet hot tub.

The property to the southwest is occupied by a single-family home that faces Main Street. The adjacent property to the north at the corner of Main Street and Stonecypher Road is vacant (there was a home located on the lot, but it was recently demolished) and also owned by the applicant. The railroad is located across Main Street. Single family homes on legal non-conforming R-100 zoned lots are located across Jackson Street.

Section 604 of the City of Suwanee Zoning Ordinance limits swimming pools to rear yards and requires swimming pools to be located a minimum of 50 feet from a public street. The purpose of these regulations is to prevent swimming pools from being located in front yards throughout the City. However, the subject property is one of the unique properties in Old Town that fronts two public streets.

The subject property is located in the historic Old Town on Main Street between Stonecypher Road and Scales Road. There are 5 homes and 2 commercial buildings located on this block. All of the homes and one of the commercial buildings face Main Street. The Pierce’s Corner building is the only building on this block that does not “front” onto Main Street, and it instead faces Scales Road. None of the homes or commercial buildings face Jackson Street. By ordinance, none of these homes has a backyard, but Jackson Street de facto functions as the backyard for all of these homes.

Since the backyard faces a public street, Jackson Street, Section 604 of the City of Suwanee Zoning Ordinance also requires the swimming pool to be located a minimum of 50 feet from Jackson Street. The applicant requests a reduction of this setback to 10 feet from the property line adjacent to Jackson Street. If the rear yard did not abut a public street, the pool could be constructed up to 5 feet from the property line, so this is a reasonable request since the yard functions as a rear yard despite being adjacent to public street. Furthermore, the applicant intends to screen the pool from the street with a decorative 4 foot fence, so the pool would not negatively impact surrounding properties.

The applicant intends to enclose the pool with a fence that will run along the property adjacent to Jackson street and the southern side property line. A fence is required by code to enclose the pool. Section 610 requires all fences within a yard abutting a street do not exceed 4 feet. The proposed fence would be 4 feet high along the property line abutting Jackson Street and for most of the fence along the south side yard. However, due to a change in topography along the side yard, a small portion of the fence that is technically in the yard abutting a public street but functionally in the backyard would need to be higher than 4 feet in the portion of the yard closest to the rear façade of the home in order for the fence to have a consistent top elevation along the side for safety as well of screening of the pool. A variance would be needed to construct the fence as proposed.

The City of Suwanee’s Zoning Ordinance grants the Zoning Board of Appeals the authority to grant variances. According to Section 2006 of the Ordinance, the Board is authorized to grant variances when literal enforcement of the Ordinance will result in unnecessary hardship to a property owner. A variance may be granted if the conditions are unique to the property and/or are unlikely to cause substantial detriment to the public good, or if the variance will not undermine the intent of the zoning ordinance.

Approval of these variances would not be a substantial detriment to the public good and would not undermine the intent of the zoning ordinance, which is to prevent pools and tall fences from being located in front yards along public streets. In this unique circumstance, the subject property fronts two public streets, Main Street and Jackson Street, and the yard fronting Jackson Street functions as a rear yard. As such, variances to allow for a pool within this required front yard would not undermine the Zoning Ordinance.

Approval of these requests to locate a swimming pool with a fence around it in a yard abutting a public street, Jackson Street, is not likely to negatively impact nearby properties, which also use the yard fronting Jackson Street as a rear yard. As such, staff recommends approval with conditions of V-2021-005, V-2021-006, and V-2021-008.

David Sullivan called upon the applicant. The applicant did not wish to speak.

***Donald Lee moved to approve V-2021-005 with staff conditions, second by Jamie Thigpen. Motion carried 4-0.***

3. The swimming pool shall be located approximately as shown on the site plan labeled “Exhibit A.”
4. The size of the pool shall be approximately 14 feet by 25 feet and may also include a hot tub not to exceed 7 feet by 7 feet.

***Ray Brown moved to approve V-2021-006 with staff conditions, second by Donald Lee. Motion carried 4-0.***

1. The setback from the property line adjacent to Jackson Street shall be reduced to 10 feet for a swimming pool only. No other structure shall be built closer than 20 feet from the property line adjacent to Jackson Street.

***Jamie Thigpen moved to approve V-2021-008 with staff conditions, second by Ray Brown. Motion carried 4-0.***

1. The fence shall not exceed 4 feet within 40 feet of the property line adjacent to Jackson Street.
2. The fence shall be located and constructed approximately as shown on the site plan labeled "Exhibit A."
3. The fence material and design shall subject to the approval of the Planning and Inspection Department.

**OTHER BUSINESS**

**ANNOUNCEMENT**

**ADJOURNMENT**

***Ray Brown moved to adjourn the meeting at 6:54 pm.***