



CITY OF RICHMOND

DEPARTMENT OF PLANNING AND
DEVELOPMENT REVIEW
BOARD OF ZONING APPEALS

BOARD OF ZONING APPEALS

MEETING MINUTES

WEDNESDAY, NOVEMBER 4, 2015

On Wednesday, November 4, 2015, the Board of Zoning Appeals held a public hearing in the Fifth Floor Conference Room, 900 East Broad Street, at 1:00 p.m.; display notice having been published in the Richmond Voice Newspaper on October 21 and 28, 2015 and written notice having been sent to interested parties.

Members Present: Burt F. Pinnock, Chair
 Roger H. York, Jr., Vice-Chair
 Rodney M. Poole
 Kenneth R. Samuels
 Mary J. Hogue

Staff Present: Roy W. Benbow, Secretary
 William Davidson, Zoning Administrator

The Chairman called the meeting to order and read the Board of Zoning Appeals Introductory Statement, which explains the proceedings of the meeting. The applicant and those appearing in support of an application speak first, followed by those appearing in opposition.

CASE NO. 36-15 (CONTINUED FROM OCTOBER 7, 2015 MEETING)

APPLICANT: Union Theological Seminary

PREMISES: 1311 WESTWOOD AVENUE
 (Tax Parcel Number N000-1230/001)

SUBJECT: A Certificate of Zoning Compliance to split a lot improved with nonconforming institutional use, including a dormitory (vacant) and dwellings for staff and multiple single-and two-family dwelling units on the site.

DISAPPROVED by the Zoning Administrator on August 14, 2015, based on Sections 114-300, 418.1 & 114-800.2(b) of the zoning ordinance for the reason that: In an R-53 (Multi-Family Residential District), the area of lot on which a nonconforming use is located shall not be reduced unless authorized by the Board of Zoning Appeals. Two (2) lots are proposed; one retaining the nonconforming use and the other is proposed to be developed for a permitted multi-family (301 dwelling units) use.

APPLICATION was filed with the Board on August 14, 2015, based on Section 1040.3(15) of the City Code.

APPEARANCES:

For Applicant: Andrew M. Condlin
Jennifer Mullen
Nichole Smith
Michelle R.F. Owens
Dayton Wilson
Samuel Adams
Brian Blount

Against Applicant: James M. Marr
Charles Swezey
Bill Pantele
Charles Saunders
Craig Bieber
Esson Miller
Ben Campbell
Hampton Carver

Undecided: Catherine Wood

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this that the applicant, Union Theological Seminary, has requested a special exception to split a lot improved with a nonconforming institutional use.

Prior to commencement of the hearing Mr. Poole disclosed to the Board that he lives in the neighborhood and had participated in a neighborhood task force

meeting that considered construction of the proposed multi-family complex. Mr. Poole further stated that since the application had been filed he had withdrawn from any participation in the matter and after consultation with the City Attorney, Mr. Poole indicated that he had no direct or indirect interest in the matter. Mr. Poole concluded that as a consequence he could continue to serve in his position as a Board Member.

The Chairman, Mr. Pinnock, requested that a fellow Board Member, Mr. York, provide a brief overview of the case before the Board. Mr. York explained that the entire 33 acre parcel is deemed to be a nonconforming use based on the institutional use of a portion of the property. Mr. York further explained that the property is also nonconforming based on the fact that there are several individual dwelling units located on a single lot and that certain of the dwelling units are reserved for the exclusive use of the Union Theological Seminary. Mr. York noted that the applicant is seeking permission to reduce the lot area attributable to a nonconforming use. Mr. York indicated that the Board has limited authority and may only rely on the criteria and intent statement specified in the requisite special exception. Mr. York noted that the smaller of the two (2) parcels on which the multi-family development is proposed is not before the Board.

Attorney for the applicant, Mr. Andy Condlin, testified that the property currently encompasses a single 33 acre lot which is zoned R-53 multi-family residential. Mr. Condlin stated that the proposal is to split the lot into two (2) parcels consisting of a byright 15 acre parcel and an approximate 19 acre nonconforming parcel. Mr. Condlin indicated that the current request has nothing to do with the 15 acre byright parcel. Mr. Condlin noted that the 19 acre parcel includes seven (7) dwelling units, the vacant McGuire home, the vacant Rice Hall and the physical plant maintenance facility. Mr. Condlin stated that the special exception request will not alter the 19 acre parcel in any way and there will be no change in the utilization of any of the structures located on the subject parcel. Mr. Condlin noted that the 19 acre parcel is nonconforming based on the use by the Seminary and the fact that several dwelling units are located on a single lot. Mr. Condlin stated that the special exception includes four (4) criteria, two (2) of which are technical in nature relating to lot area and feature requirements which the Zoning Administrator has determined have been met in this case. Mr. Condlin indicated that there will be no change in that the subject uses are nonconforming today and will be nonconforming tomorrow. Mr. Condlin stated that the final criteria deals with the potential negative impact that a reduction in lot area will have on the existing nonconforming uses (7 homes/3 structures) which have existed for the past 60+ years. Mr. Condlin indicated that the requested special exception will not impair an adequate supply of light and air, does not increase congestion in streets, does not increase public danger from fire and does not impair property values. Mr. Condlin noted that special exception provides that some properties devoted to nonconforming uses are of such large size or are developed, arranged

or used in such a manner that reduction in the area of the lot would reduce the extent or intensity of the use or result in equal or greater compatibility with neighboring uses. Mr. Condlin emphasized the fact that there are likely few properties in the city that encompass 19 acres and on which are located only seven (7) homes and three (3) structures. Mr. Condlin noted that the nonconforming use (7 dwelling units/3 structures) has substantially less impact on the surrounding neighborhood than a byright R-53 multi-family zoning use. Mr. Condlin stated that a byright use of the 19 acre parcel could include up to 657 dwelling units. Mr. Condlin noted that regardless of the use of the 15 acre byright parcel that a special exception must still be sought to reduce the lot area attributable to the nonconforming use. Mr. Condlin stated that the lot area requirement for the existing structures on the 19 acre nonconforming parcel is approximately 60,000 ft.². Mr. Condlin noted that the parcel includes approximately 825,000 ft.². Mr. Condlin stated throughout the course of the preceding month, during which over eight (8) hours of meetings have been conducted at four (4) different locations, a great deal of discussion has centered around use of the 15 acre byright parcel and what is going to occur with the vacant Rice Hall. Mr. Condlin emphasized that these issues are not relevant to the Board's consideration of the special exception. Mr. Condlin summarized by stating that the special exception criteria have been met and as such the applicants request should be approved by the Board.

Mr. Poole noted that utilization of the site by a different institution would result in the same necessity of requesting a special exception to reduce the lot area attributable to a nonconforming use.

Mr. York noted that the structures on the 19 acre nonconforming parcel could be removed which would permit development of the entire site by right.

Speaking in favor, Mr. Brian Blunt, President of the Union Theological Seminary, testified that approval of the special exception is critical to the Seminary's continued success. Mr. Blunt noted that the Seminary's history as it relates to Ginter Park dates back for 120 years. Mr. Blunt discussed in great detail the history of the Union Theological Seminary, the Seminary's mission and goals and its relationship to the larger community. Mr. Blunt noted that development of the 33 acre Westwood Tract was interrupted by the stock market crash of 1929 and has since never come to fruition. Mr. Blunt indicated that the Seminary has allowed free and unfretted access to the Westwood Tract. Mr. Blunt stated that construction of the proposed multi-family development will provide needed housing for seminarians which is critical to remaining competitive. Mr. Blunt indicated that approval of the special exception will eliminate the need to relocate families which currently occupy existing dwelling units.

In response to question from Mr. York, Mr. Blunt stated that the proposed multi-family development will be rented on a first-come first-served market rate basis.

Speaking in favor, Mr. Samuel Adams, faculty member at the Union Theological Seminary testified that development of the 15 acre byright tract will allow for the education of the next generation of church leaders in the community. Mr. Adams discussed improvements that had been made on the Seminary campus over the course of the previous 20 years. Mr. Adams stated that the lack of adequate student housing presents a significant impediment to the Seminary's success and the success of its students.

Speaking in favor, Mr. Dayton Wilson, a seminarian student, testified that regardless of where the students live that their housing costs are market rate. Mr. Wilson stated that as a student of the Seminary that the current housing situation is unacceptable. Mr. Wilson further stated that the continued existence of dwelling units located on the nonconforming parcel are important to fostering a sense of community. Mr. Wilson spoke in favor of the construction of additional housing which could serve the needs of current and future seminarians.

Speaking in favor, Ms. Michelle Owens, seminarian chaplain, testified that she is a resident of one of the dwelling units located on the nonconforming parcel. Ms. Owens stated her support for the requested special exception.

Attorney for the applicant, Ms. Jennifer Mullen, testified that over the years significant multi-family development had been contemplated for the Westwood Tract. Ms. Mullen noted that much more development could take place on the Westwood Tract than is proposed today. Ms. Mullen indicated that the existing dwelling units are well-maintained and that the area is patrolled by an off-duty officer. Ms. Mullen stated that over the years the Seminary has expended hundreds of thousands of dollars in maintenance costs. Ms. Mullen indicated that the applicant far exceeds the special exception criteria set forth in the code.

Speaking in favor, Mr. Nicholas Smith testified that he is a district representative for the Ginter Park Residents Association. Mr. Smith stated that he is leaning toward support of the applicant's request and indicated that the decision should be made today. Mr. Smith noted that in his experience with the project, which extends over two (2) years, that the project has been studied and re-studied. Mr. Smith stated his understanding that the goal of the Seminary is to find housing for between 25 and 50 students. Mr. Smith stated that no viable acquisition alternative exists due to a lack of funds and that the current project should move forward.

Speaking in opposition, Mr. Hampton Carver, representing Ginter and Sherwood Park Task Force, testified that he lived one block away from the property. Mr. Carver stated that although the dwelling units will be market rate that the rents the students pay will be subsidized. Mr. Carver noted that according to the zoning

ordinance the smaller of the two (2) tracts will accommodate 310 units while the larger of the tracts will accommodate 650 units. Mr. Carver stated that the applicant has made no proffer of a reduction in density. Mr. Carver noted that there had been discussion regarding a possible moratorium on development but indicated that nothing concrete had occurred in this regard. Mr. Carver stated that the action taken by the Board has a direct impact on the quality of life of the neighborhood. Mr. Carver contended it was within the purview of the Board in rendering a decision to consider the impact of that decision on the neighborhood. Mr. Carver noted that there are existing dwelling units which occupy the property as well as vacant structures which are in disrepair. Mr. Carver stated that the neighborhood has suffered based on the vacant buildings, institutional zoning, crime and prostitution because the buildings have been allowed to decline. Mr. Carver indicated that the property had suffered demolition by neglect. Mr. Carver noted that the historic McGuire House was also in a state of disrepair and had been neglected. Mr. Carver further noted that Rice Hall was boarded up, vacant and vandalized and that the copper gutters along the lower level had been stolen. Mr. Carver stated that the neighborhood is very concerned about the current condition of the property. Mr. Carver indicated that the applicant has never acknowledged the state of neglect which exists on their property nor have they proposed a budget to address these problems. Mr. Carver contended that if the Board approves the applicant's special exception that the problem will essentially be kicked down the road. Mr. Carver requested that the Board continue this matter for 30 days to give the Seminary an opportunity to put together a proposal for the proper care and maintenance of these buildings.

Mr. Poole noted that the applicant has requested approval of a special exception and not a variance as referred to by Mr. Carver. Mr. Poole further noted that the arguments put forth are relevant to a variance case but not to a special exception request. Mr. Poole stated that the Board has limited authority and is governed by the special exception criteria, Virginia State Code, the Richmond Zoning Ordinance and the City Charter.

Speaking in opposition, Mr. Ben Campbell noted that everyone in the room wants the Seminary to have apartments for its students and everyone in the room wants the institution to thrive. Mr. Campbell stated that the issue is whether 300 commercial multi-family dwelling units are required to provide 20-25 dwelling units for the Seminary's students. Mr. Campbell questioned the fact that the Seminary is being required to obtain a special exception for zoning that was created to enable the continued existence of the Seminary. Mr. Campbell stated that the zoning was put in place after establishment of the Seminary to enable the Seminary to continue functioning as an institution and protect the neighborhood. Mr. Campbell noted that the Seminary's use of its own property is a nonconforming use. Mr. Campbell further noted that what is really ironic is that the multi-family development is considered a conforming use and the dwelling

units are nonconforming. Mr. Campbell indicated that this confusion has made enemies of friends and resulted in a poor proposal in the face of what could be a really good proposal for both the Seminary and the neighborhood.

Speaking in opposition, Mr. Esson Miller testified that he supports Councilman Samuels request for a continuance. Mr. Miller objected to the fact that there is no plan for the 19 acre nonconforming parcel. Mr. Miller questioned whether the vacant buildings will stay there in perpetuity. Mr. Miller stated that in his opinion many residents would be willing to contribute financially to the achievement of a viable plan. Mr. Miller questioned the necessity of constructing a large apartment complex to accommodate 25 Seminary students. Mr. Miller also questioned whether the Seminary students would actually be paying their housing costs or if it would be rebated to them by the Seminary.

Speaking in opposition, Mr. Craig Bieber, liaison for City Councilman Charles Samuels, indicated that Councilman Samuels could not be present and requested that he reiterate the Councilman's request that the Board grant a 30 day continuance in this matter. Mr. Bieber stated that the Councilman has become aware of new circumstances since the Board's last meeting which he believes could work to the benefit of both the Seminary and the neighborhood.

The Chairman, Mr. Pinnock, noted that the Board was in receipt of Councilman Samuels' letter requesting a continuance which was shared with the applicant. Mr. Pinnock further noted that the applicant had made no request for a continuance which leaves the Board no alternative but to hear the case.

Speaking in opposition, Mr. Charles Saunders testified that he lives directly across from the Westwood Tract. Mr. Saunders stated that his first request would be to continue the case. Mr. Saunders further stated that if the Board is not inclined to continue the case that the case be conditioned such that Rice Hall be removed and the proper maintenance of the McGuire Home be undertaken. Mr. Saunders indicated that the existing institutional maintenance facility was incompatible with the surrounding property.

Speaking in opposition, Mr. Bill Pantele, an attorney who lives in the neighborhood testified that nonconforming uses are not favored under the law in the Code of Virginia or in the City Of Richmond Zoning Ordinance. Mr. Pantele noted that the property cannot be developed without approval by the Board of the special exception. Mr. Pantele stated that the land area attributable to a nonconforming use cannot be reduced by right due to the potential intensification of the nonconforming use. Mr. Pantele explained that under the burden of proof requirement the applicant has not met the necessary criteria as it regards the potential adverse impact on the nonconforming use. Mr. Pantele agreed that the applicant does maintain the grounds associated with the dwelling units but

disagreed that the applicant properly maintains all of the buildings. Mr. Pantele stated that the Board should require more proof that there is no adverse impact occurring as a result of the proposed lot split on the nonconforming use. Mr. Pantele noted that Rice Hall have been vacant for years and is in poor condition. Mr. Pantele further noted that the Seminary has produced no plan or budget reflecting a reduction in the nonconformities. Mr. Pantele indicated that in his opinion the special exception should be denied based on applicant's failure to meet their burden or in the alternative that it should either be continued or approval should be conditioned upon receipt of satisfactory plans for the protection of the nonconforming structures.

Mr. Poole asked for assistance in understanding from Mr. Pantele why the applicant's evidence that there would be no further intensification in the nonconforming uses as a result of a reduction in the lot area attributable to nonconforming use was not persuasive. Mr. Poole stated that the applicant has shown that there will be no increased impact on the nonconforming uses by virtue of the lot area reduction and that no evidence to the contrary has been presented showing that there will be further intensification of the nonconforming dwelling units as a result of the reduction of the lot area attributable to the nonconforming use.

Mr. Pantele stated that the evidence before the Board demonstrates poor maintenance of the McGuire house and the Rice building. Mr. Pantele noted the continued vacancy of a building contributes to its deterioration. Mr. Pantele stated the applicant has not shown the stabilization of the nonconforming uses.

Mr. Poole questioned the validity of the issue of building maintenance as it pertains to the special exception and pointed out that Rice Hall is not a nonconforming use but a conforming use.

Mr. York stated that the special exception criteria addresses the fact that there will not be an increase in the potential adverse impact on the nonconforming use. Mr. York further stated that what Mr. Pantele is describing are conditions of buildings and not uses. Mr. York indicated that maintenance codes are designed to deal with the condition of buildings but it is not a matter to be addressed by the Board. Mr. Pantele reiterated that the nonconforming uses should not be allowed to continue to deteriorate.

Speaking in opposition, Mr. Charles Swezey testified that he had taught at the Seminary for 29 years and was Dean of the Faculty. Mr. Swezey asked that Councilman Samuels' request to continue the case for 30 days be approved. Mr. Swezey noted that consequences of building on the Westwood Tract are going to be very large and irreversible.

Speaking in opposition, Mr. James Marr testified that he was opposed to the special exception. Mr. Marr stated that a number of terms have been used which are confusing. Mr. Marr theorized that the R-53 multi-family zoning was put in place to reflect the existence of multi-family dwellings on the property. Mr. York indicated that the R-53 multi-family zoning initially permitted institutional uses.

Speaking in opposition, Catherine Wood testified that the Westwood Tract Apartment Development is too large, too close to Brooke Road, threatens the character of the neighborhood and does not adequately address environmental impacts such as stormwater. Ms. Wood was concerned about the maintenance of the Seminary property and expressed concern about how the new apartments would be maintained. Ms. Wood requested that the Board continue this matter.

Attorney for the applicant, Ms. Jennifer Mullen testified that they were not in agreement with the characterization of the opponents regarding maintenance of the existing buildings. Ms. Mullen noted that there are no outstanding code violations with regards to the existing buildings. Ms. Mullen further noted that their proposal far exceeds the applicable special exception criteria. Ms. Mullen stated that application involves a total of 10 structures, seven (7) of which are dwelling units and three (3) additional non-dwelling unit buildings, on a total of 19 acres. Ms. Mullen indicated that a reduction in the land area attributable to the nonconforming use will not adversely affect the neighborhood and does not represent an intensification of the nonconforming use.

In response to a question from Mr. York, Ms. Mullen reiterated that the availability of the dwelling units in the newly constructed apartment development will be on a first come first serve basis.

In response to a question from Ms. Hogue, Ms. Mullen stated that the reason for making application for the special exception was to retain the 10 structures on the 19 acre nonconforming parcel. Ms. Mullen noted that if the structures were removed that the special exception would not even be required and the fact that application was being made for the special exception was evidence that there was no intent to remove them.

Mr. Poole commented that the applicant has made their intention clear to maintain the existing structures on the 19 acre nonconforming parcel but inquired if that was a condition being offered by the applicant.

Ms. Mullen indicated that the Seminary has made a commitment to the neighborhood to maintain the existing structures for a period of three (3) years and indicated a willingness to discuss including that commitment as a condition of approval of the special exception with their client.

Speaking in opposition, Mr. Hampton Carver noted that there is no formal agreement that specifies any type of development moratorium applicable to the 19 acre nonconforming parcel.

Mr. York made a motion which was seconded by Mr. Pinnock to approve the requested special exception to reduce the lot area attributable to a nonconforming use. Mr. York noted that the issue before the Board as previously expressed is very narrow that being the degree to which a reduction in the lot area attributable to a nonconforming use will have on the nonconforming use. Mr. York further noted that the Board has no authority to enforce maintenance codes which is the purview of building maintenance code officials.

In response to question from Mr. Poole, Mr. Conclin stated that the Seminary was agreeable to a condition of approval of the special exception that limits removal of any of the structures located on the approximate 19 acre nonconforming parcel for a period of three (3) years.

Mr. York and Mr. Pinnock agreed to an amendment to their motion offered by Mr. Poole specifying that all existing structures which are located in their entirety on the approximate 19 acre nonconforming parcel shall not be removed in whole or in part from the subject 19 acre nonconforming parcel for a period of three (3) years from the Board's action approving the special exception, which condition shall also apply to any and all successor(s) in title for said three (3) year period.

The Board finds that pursuant to §114-1040.3 (15) of the zoning ordinance evidence shows that the proposed reduction in lot area will not increase potential adverse impacts of the nonconforming use and the reduction in lot area attributable to the nonconforming use will not result in noncompliance with any lot area, lot width, yard, open space, lot coverage or off-street parking requirements applicable in the R-53 Multi-family Residential District nor will any increase in the degree or extent of any nonconforming feature occur as a result of the reduction in the lot area attributable to the nonconforming use.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the nonconforming use right requirements be granted to Union Theological Seminary for a Certificate of Zoning Compliance to split a lot improved with nonconforming institutional use, including a dormitory (vacant) and dwellings for staff and multiple single-and two-family dwelling units on the site, subject to the condition that all existing structures which are located in their entirety on the approximate 19 acre nonconforming parcel shall not be removed in whole or in part from the subject 19 acre nonconforming parcel for a period of three (3) years

from the Board's action approving the special exception, which condition shall also apply to any and all successor(s) in title for said three (3) year period.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Poole, Hogue, Pinnock, York, Samuels

negative: none

CASE NO. 37-15 (CONTINUED FROM OCTOBER 7, 2015 MEETING)

APPLICANT: Safarzadegan Sharaf

PREMISES: 1124 NORTH 26TH STREET
(Tax Parcel Number E000-0519/001)

SUBJECT: A building permit to construct a single-family detached dwelling.

DISAPPROVED by the Zoning Administrator on August 17, 2015, based on Sections 114-300, 114-620.1(c) & 114-630.1(a) of the zoning ordinance for the reason that: In an R-6 (Single-Family Attached Residential District), the street side yard (setback) requirement is not met. Three (3') feet is required; one (1) foot is proposed along the R Street frontage.

APPLICATION was filed with the Board on August 17, 2015, based on Section 15.2-2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: Andy Beach

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Safarzadegan Sharaf, has requested a variance to construct a new single-family detached dwelling located at 1124 North 26th Street. Mr. Andy Beach, representing the applicant, testified that originally an administrative variance had been sought to construct a single-family dwelling

within 1 foot of the adjoining neighbor's property line. Mr. Beach noted that after objection the plans were flipped such that the required three (3') foot side yard setback would be provided adjacent to the adjoining neighbor's property line and a one (1) foot setback would be provided adjacent to the right-of-way line of R Street. Mr. Beach further noted that the property was a corner lot and that given the right-of-way adjacent to R Street that this proposal was less impactful. Mr. Beach indicated that plans call for construction of an eighteen (18') foot wide house and its compliance with the required setbacks would present a hardship. Mr. Beach offered as a condition of approval to utilize Hardy plank siding.

The Board finds that evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and (i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; (iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance; (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A4 of § 15.2-2286 at the time of the filing of the variance application.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a variance from the street side yard (setback) requirement be granted to Safarzadegan Sharaf for a building permit to construct a single-family detached dwelling, subject to the condition that construction shall take place in accordance with the plans submitted to the Board, including provisions of Hardi-plank siding.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Poole, Hogue, Pinnock, York, Samuels

negative: none

CASE NO. 40-15

APPLICANT: James & Lane Sanderson

PREMISES: 117 SOUTH WILTON ROAD
(Tax Parcel Number W022-0088/014)

SUBJECT: A building permit to construct a one-story addition to a single-family detached dwelling.

DISAPPROVED by the Zoning Administrator on September 24, 2015, based on Sections 114-300, 114-402.5(1) & 114-630.1(a)(1) of the zoning ordinance for the reason that: In an R-1 (Single-Family Residential District), the front yard (setback) requirement is not met. A front yard of thirty-five feet (35') is required; 22.4 feet ± is proposed along the South Wilton Road frontage.

APPLICATION was filed with the Board on September 24, 2015, based on Section 15.2 – 2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: Mark Franko

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicants, James and Lane Sanderson, have requested a variance to construct a one-story addition to a single-family detached dwelling located at 117 South Wilton Road. Mr. Mark Franko, representing the applicant, testified that the existing house is nonconforming with respect to current setbacks. Mr. Franko noted that not only is the lot irregularly shaped but that the house is located in a unique position on the irregularly shaped lot. Mr. Franko indicated that a front yard of thirty-five feet (35') is required and that approximately ten feet (10') exists for the existing dwelling. Mr. Franko noted that the proposed construction will have a setback of approximately twenty-two feet (22') which is within the existing house line setback. Mr. Franko further noted that a hardship exists for the reason that there is no other reasonable location for the proposed construction.

The Board finds that evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the

granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and (i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; (iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance; (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A4 of § 15.2-2286 at the time of the filing of the variance application.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a variance from the front yard (setback) requirement be granted to James & Lane Sanderson for a building permit to construct a one-story addition to a single-family detached dwelling.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Poole, Hogue, Pinnock, York, Samuels

negative: none

CASE NO. 41-15 (WITHDRAWN)

APPLICANT: Harold Vega

PREMISES: 1838 WEST GRACE STREET
 (Tax Parcel Number W000-0821/047)

SUBJECT: A building permit to convert to a two-family dwelling.

DISAPPROVED by the Zoning Administrator on August 20, 2015, based on Sections 114-300 & 114-416.4(a) of the zoning ordinance for the reason that: In an R-48 (Multi-Family Residential District), the lot area and lot width are not met. A lot area of 4,400 square feet and a lot width of forty-two feet (42') are required; 3,920 square feet of lot area and twenty-eight feet (28') of width is provided.

APPLICATION was filed with the Board on August 17, 2015, based on Section 1040.3(14) of the City Code.

Upon motion made by Ms. Hogue and seconded by Mr. Poole, Members voted (5-0) to adopt the Board's October 7, 2015 meeting minutes.

Board Members agreed to recommend to the Chief Judge of the Circuit Court of the City of Richmond that Mr. Samuels, Ms. Hogue, Mr. Poole and Mr. Winks be reappointed to the Richmond Board of Zoning Appeals. It was noted that all of the foregoing members had expressed a desire to be reappointed to the Board.

The meeting was adjourned at 3:45 p.m.



Secretary


Chairman