



**CITY OF RICHMOND**

DEPARTMENT OF PLANNING AND  
DEVELOPMENT REVIEW  
BOARD OF ZONING APPEALS

**BOARD OF ZONING APPEALS**

**MEETING MINUTES**

**WEDNESDAY, NOVEMBER 2, 2016**

On Wednesday, November 2, 2016, 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 19 and 26, 2016 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 Jane Hogue

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

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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.

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CASE NO. 27-16 (CONTINUED FROM OCTOBER 5, 2016 MEETING)

APPLICANT:               119 Leigh LP

PREMISES:               119 EAST LEIGH STREET  
                                  (Tax Parcel Number N000-0062/010)

SUBJECT:                 A building permit to construct a deck to create an outdoor dining area for an existing restaurant.

DISAPPROVED by the Zoning Administrator on August 19, 2016, based on Sections 30-300, 30-436.1(33)(a) & 30-710.1(26) of the zoning ordinance for the reason that: In a B-2 (Community Business District), the required off-street parking is not met for the deck. Nine (9) parking spaces are required; none are proposed.

APPLICATION was filed with the Board on August 19, 2016, based on Section 17.20(b) of the City Charter and based on Section 1040.3(11) of the City Zoning Ordinance.

APPEARANCES:

For Applicant: Kelvin Hansen  
Cynthia Matthews

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, 119 Leigh LP, has requested an off-street parking special exception to construct a deck and create an outdoor dining area for property located at 119 E. Leigh Street. The Zoning Administrator, Mr. William Davidson, explained that the parking lease submitted at the October meeting of the Board did not comply with the underlying zoning. Specifically, the property did not comply with the paving requirement. The paving requirement for the property in question was instituted in 1968 at a point in time when buildings existed on the lot. These buildings were subsequently removed in the early 1970's. Ms. Cynthia Matthews, representing the applicant, testified that improvements to the lot required by the Zoning Ordinance would cost approximately \$40,000 which cost would be economically infeasible. It was pointed out that any waiver to the parking requirement for the subject lot would necessitate application by the owner of the lot in question. Mr. Davidson pointed out that the area proposed to be utilized for the outdoor dining by the applicant previously included nonconforming parking rights. Mr. Davidson also pointed out that under recent revisions to the Zoning Ordinance on-street parking can be applied to the off-street parking requirement. In this case that would amount to four (4) parking spaces which would be applied to the existing nonconforming off-street parking requirement. Mr. Davidson explained that due to the configuration of the deck area that there was a certain amount of open space that had to be attributed to the deck which had the effect of potentially inflating the parking requirement. Mr. York noted that the seating area was rather small when compared to other restaurants of similar square footage. Ms. Matthews explained that given the surrounding residential area, Coliseum facility and Hippodrome that there would be a substantial amount of walk-in. Ms. Matthews concluded that after exhaustive research suitable off-street leasable parking could not be found.

The Board is satisfied that the property was acquired in good faith and pursuant to Section 114-1040.3 (11) of the zoning ordinance, the applicant has demonstrated that the exception will not result in an inadequate supply of parking or other adverse impact on the neighborhood and the number of parking spaces intended to serve the use is sufficient to provide for its parking needs based on the nature of the use and the characteristics of its operation.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a parking special exception request for an outside dining area as depicted on plans submitted to the Board of Zoning Appeals be granted to 119 Leigh LP for a building permit to construct a deck to create an outdoor dining area for an existing restaurant, subject to the condition that:

1. The outside dining area shall limited to a maximum of seventeen (17) seats.
2. The hours of operation for the outside dining area shall be limited to 7am-12 midnight (Monday-Sunday).

ACTION OF THE BOARD: (4-1)

Vote to Grant Conditionally

affirmative: Hogue, Pinnock, York, Samuels

negative: Poole

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CASE NO. 28-16

APPLICANT: Hulbert, LLC

PREMISES: 3015 M STREET  
(Tax Parcel Number E000-0632/007)

SUBJECT: A Certificate of Zoning Compliance to adjust the boundary line between 3015 M STREET (improved with a single-family detached dwelling) and 624 NORTH 31<sup>ST</sup> STREET (improved with a single-family attached dwelling).

DISAPPROVED by the Zoning Administrator on September 22, 2016, based on Sections 30-300, 30-320, 30-419.5(1) & 30-419.6(3) of the zoning ordinance for the reason that: In an R-63 (Multi-Family Urban Residential District), the proposed reduction in the nonconforming lot area and the rear yard (setback) requirement is not in conformity with the regulations. A lot area of 3,000 square feet is required for a single-family detached dwelling. A nonconforming lot area of 2,418.9 square feet exists (#3015); a lot area of 2,353.6 square feet is proposed. A rear yard of five feet (5') is required; 9.96 feet exists/ 1.71 feet is proposed.

APPLICATION was filed with the Board on September 13, 2016, based on Section 15.2-2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: Gary Weatherspoon

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Hulbert, LLC, has requested a variance to adjust the boundary line between 3015 M Street and 624 N. 31<sup>st</sup> Street. Mr. Gary Weatherspoon, representing the applicant, testified that a certificate of zoning compliance was being requested for the purposes of a lot line adjustment. Mr. Weatherspoon noted that both of the properties are under single ownership. Mr. Weatherspoon explained that there is an existing patio and wall which encroaches onto the 3015 M Street property from the 624 N. 31<sup>st</sup> Street property. Mr. Weatherspoon further explained that there is a buyer for the 31<sup>st</sup> Street property but until the encroachment is rectified sale of the property was being held up by the bank. Mr. Weatherspoon indicated that the variance is being requested because the property on M Street is slightly deficient in lot area. Mr. Weatherspoon indicated that the patio and wall were an important feature of the 31<sup>st</sup> Street property and it would be a hardship if required to remove them.

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 proposed reduction in the nonconforming lot area and the rear yard (setback) requirements be granted to Hulbert, LLC for a Certificate of Zoning Compliance to adjust the boundary line between 3015 M STREET (improved with a single-family detached dwelling) and 624 NORTH 31<sup>ST</sup> STREET (improved with a single-family attached dwelling), subject to the condition that the title conveyance be made pursuant to the survey dated August 8, 2016 submitted to the Board of Zoning Appeals.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Poole, Hogue, Pinnock, York, Samuels

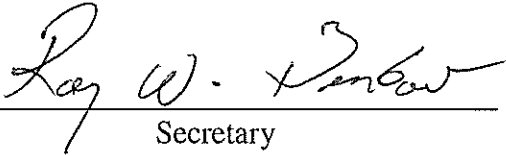
negative: none

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The Board discussed the fact that the Zoning Ordinance had recently been amended to permit on-street parking within certain zoning districts to be allocated toward meeting the off-street parking requirement of the adjacent property. The Board determined that it would continue to utilize the special exception process including all applicable criteria in assessing the merits of a special exception.

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Upon motion made by Mr. Poole and seconded by Ms. Hogue, Members voted (4-0) to adopt the Board's October 5, 2016 meeting minutes.

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The meeting was adjourned at 2:30 p.m.

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Secretary

  
Chairman