



CITY OF RICHMOND
DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW
BOARD OF ZONING APPEALS

BOARD OF ZONING APPEALS

MEETING MINUTES

WEDNESDAY, NOVEMBER 1, 2017

On Wednesday, November 1, 2017, 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 Legacy Newspaper on October 18 and 25, 2017 and written notice having been sent to interested parties.

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

Staff Present: Roy W. Benbow, Secretary
 William C. Davidson, Zoning Administrator
 Brian P. Mercer, Planner II

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. 30-17

APPLICANT: Shaukat N. Sindhu

PREMISES: 2208 BARTON AVENUE
 (Tax Parcel Number N000-0489/002)

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

DISAPPROVED by the Zoning Administrator on August 31, 2017, based on Sections 30-300, 30-412.4(1) & 30-830 of the zoning ordinance for the reason that: In an R-6 (Single-Family Attached Residential District), the lot width requirement is not met. A lot width of fifty feet (50') is required; forty-eight feet (48') is proposed.

APPLICATION was filed with the Board on August 31, 2017, based on Section 17.20(b) of the City Charter and Section 15.2 -2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: Lisa Townes
Bradley Davis

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Shaukat N. Sindhu, has requested a variance to construct a new single-family detached dwelling located at 2208 Barton Avenue. Mr. Bradley Davis, attorney for the applicant, testified that he was the closing attorney for the property in question and that the title report did not identify any title related issues. Mr. Davis stated that the bankruptcy trustee did not have any knowledge of the zoning violation. Mr. Davis noted that 2 feet was removed from lot seven and added to lot eight. Mr. Davis explained that the problem emanated from the manner in which subdivision was originally laid out. Mr. Davis further explained that an anomaly in the arrangement of the lots on Dove street and Barton Avenue were responsible. Mr. Davis reiterated that 2 feet was taken from lot seven and added to lot eight. Mr. Davis noted that both of lots had the requisite amount of lot area. Mr. Davis indicated that in the final analysis the lot in question has 53 feet of lot width in the rear and approximately 49.8 feet in the front which is just slightly less than the required lot width dimension of 50 feet. Mr. Davis noted that the proposed lot width is consistent with other lot widths in the neighborhood. Further the lot has not been properly maintained and constitutes a blight on the neighborhood. Mr. Davis indicated that the neighbors are excited about the proposal to construct a new single-family detached dwelling on the lot.

In response to a question from Mr. York, Mr. Davis stated that the siding will be Hardy plank.

Ms. Lisa Townes, representing Councilwoman Robertson, stated that the Councilwoman has no objection to the project.

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 lot width requirement be granted to Shaukat N. Sindhu for a building permit to construct a new single-family detached dwelling, subject to compliance with the plans submitted to the Board including provision of hardiplank siding.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally
 affirmative: Poole, Hogue, Pinnock, York, Samuels
 negative: none

CASE NO. 31-17

APPLICANT: Marsha Andrasik
PREMISES: 4200 & 4202 KENSINGTON AVENUE
 (Tax Parcel Number W000-1913/008 & 007)
SUBJECT: A building permit to construct a new single-family detached dwelling (#4200).

DISAPPROVED by the Zoning Administrator on September 20, 2017, based on Sections 30-300, 30-410.4, 30-410.5(2) & 30-630.1(a) of the zoning ordinance for the reason that: In an R-5 (Single-Family Residential District), the lot area, lot width, side yard and street side yard (setback) requirements are not met. Lot areas of six thousand square feet (6,000 sq. ft.) and lot widths of fifty feet (50') are required. For zoning purposes, one (1) lot having a lot area of 11,916.0 square feet and a lot width of 69.84 feet currently exists; lot areas of 5,960.0 square feet (#4200) and 5,956.0 square feet (#4202) and lot widths of 34.92 feet (#4200 & #4202) are proposed. Side yards of five feet (5') are required; 3.49 feet (proposed dwelling - #4200) and 4.58 feet (proposed garage) are proposed. A street side yard of ten feet (10') is required; 2.96 feet (proposed dwelling - #4200) is proposed.

APPLICATION was filed with the Board on September 6, 2017, based on Section 15.2 - 2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: Kyle McLaughlin
Marsha Andrasik

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Marsha Andrasik, has requested a variance to construct a new single-family detached dwelling located at 4200 Kensington Avenue. Mr. Kyle McLaughlin, representing the applicant, testified that he is the contract purchaser of the lot. Mr. McLaughlin stated that his research revealed that five of the 13 lots in the block do not meet the minimum lot area requirement and seven of the 13 lots do not meet the minimum lot width requirement as provided in the Zoning Ordinance. Mr. McLaughlin noted that the lot in question has 5960 ft.² which is 99.3% of the required lot area. Mr. McLaughlin stated that both the lot and the proposed dwelling will be consistent with the neighborhood. Mr. McLaughlin also stated that the exterior of the dwelling will be brick.

Ms. Marsha Andrasik, owner of 4200 and 4202 Kensington Avenue, testified that her neighbors were in support of the proposed construction. Ms. Andrasik stated that the properties were listed separately on the tax rolls which is how it was represented by the selling agent. Ms. Andrasik indicated that she and her husband originally intended to construct a new home on 4200 Kensington Avenue but were unable to do so due to her husband's health issues.

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 lot area, lot width, side yard and street side yard (setback) requirements be granted to Marsha Andrasik for a building permit to construct a new single-family detached dwelling, subject to compliance with the plans submitted to the Board including provision of brick veneer.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Poole, Hogue, Pinnock, York, Samuels

negative: none

CASE NO. 32-17

APPLICANT: Bryan Traylor

PREMISES: 2219 Q STREET
(Tax Parcel Number E000-0469/011)

SUBJECT: A building permit to construct a new two story mixed use building (1,240 square feet restaurant use on first floor and one 1,068 square feet dwelling unit on second floor).

DISAPPROVED by the Zoning Administrator on August 29, 2017, based on Sections 30-300 & 30-419.6(2)b of the zoning ordinance for the reason that: In an R-63 (Multi-Family Urban Residential District), the side yard (setback) requirement is not met. A five foot (5') side yard is required; three feet (3') is proposed along the western property line.

APPLICATION was filed with the Board on September 12, 2017, based on Section 15.2-2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: Bryan Traylor

Against Applicant: Caitlin O'Dwyer
Freda Bolling

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Bryan Traylor, has requested a variance to construct a new two-story mixed-use building, 1240 ft.² restaurant use on the first floor and 1068 ft.² dwelling unit on the second floor. Mr. Bryan Traylor testified that the property is zoned R-63 Multi-Family Urban Residential District. Mr. Traylor noted that a 5 foot side yard setback is required and that he is requesting a three-foot side yard setback. Mr. Traylor stated that compliance with the setback requirement would reduce the overall square footage of the proposed restaurant such that it represented a hardship insofar as development of the property was concerned. Mr. Traylor indicated that he had contacted prospective tenants who were unwilling to rent a restaurant which in their opinion had insufficient square footage. Mr. Traylor stated that failure to receive the variance would also impact provision of handicapped features relating to access and bathrooms. Mr. Traylor indicated construction of the building consistent with the setback requirements would not fit the neighborhood and that he would most likely not pursue the project. Mr. Traylor noted that the commercial use is permitted and it is only the 2 foot side yard setback waiver that is being requested.

In response to question from Ms. Hogue, Mr. Traylor indicated that he was not interested in constructing a residential only project. Mr. Traylor expressed the view that a mixed-use project would be an enhancement to the neighborhood and provide potential job opportunities for some of the neighbors.

In response to question from Mr. Poole, Mr. Davidson stated that the commercial use has a 5 foot setback and that a residential use would have a three-foot setback in the R-63 District.

Speaking in opposition, Ms. Freda Bolling stated that she purchased her home approximate 11 years ago as part of the Neighborhood in Blooms program. Ms. Bolling stated she was opposed to the project due to lack of available off-street parking, problems with finding suitable tenants for the commercial use, adverse impact on residential property values, availability of similarly uses on 25th Street and potential problems with intoxicated customers. Ms. Bolling further stated that the proposed commercial use was incompatible with the surrounding residential area.

Speaking in opposition, Ms. Caitlin O'Dwyer stated that the proposed use was inconsistent with the health, safety and welfare of the neighborhood. Ms. O'Dwyer noted that there is no alley access which presented a problem for trash pickup which was further compounded by visible dumpsters. Ms. O'Dwyer expressed the opinion that the lot was too small for the proposed commercial use.

Board finds that applicant failed to show an extraordinary or exceptional situation whereby strict application of the side yard setback requirements unreasonably restricts its use or that there is a clearly demonstrable hardship bordering on confiscation of the property. The Board is satisfied that reasonable use can be made of the property under applicable zoning regulations. The granting of a variance in this case would constitute a special privilege or convenience to the owner and would not be in harmony with the intended spirit and purpose of the ordinance and the powers of the Board.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a variance from the side yard (setback) requirement be denied to Bryan Traylor for a building permit to construct a new two story mixed use building (1,240 square feet restaurant use on first floor and one 1,068 square feet dwelling unit on second floor).

ACTION OF THE BOARD: (5-0)

Vote to Deny

affirmative: Poole, Hogue, Pinnock, York, Samuels

negative: none

CASE NO. 33-17

(The following case was continued with fee until the December 6, 2017 meeting of the Board)

APPLICANT: Nasrin Rezai

PREMISES: 209 NORTH ALLEN AVENUE
(Tax Parcel Number W000-0732/036)

SUBJECT: A building permit to construct a detached garage.

DISAPPROVED by the Zoning Administrator on September 20, 2017, based on Sections 30-300 & 30-1040.3(1) of the zoning ordinance for the reason that: In an R-6 (Single-Family Attached Residential District), the lot coverage requirement is not met. Maximum lot coverage shall not exceed fifty-five percent (55%) of the area of the lot. Lot coverage of 1,443.75 is permitted; 1,239 square feet (47.2%) exists, 1,639.0 square feet (62.44%) is proposed.

APPLICATION was filed with the Board on September 13, 2017, based on Section 1040.3(14) of the Richmond Zoning Ordinance.

CASE NO. 34-17

APPLICANT: 1618 Maury Street LLC

PREMISES: 1618 MAURY STREET
(Tax Parcel Number S000-0231/001)

SUBJECT: A building permit to renovate the building for use as a multifamily dwelling (4 units).

DISAPPROVED by the Zoning Administrator on September 14, 2017, based on Sections 30-300 & 30-800.4 of the zoning ordinance for the reason that: In an R-7 (Single- and Two-Family Urban Residential District), the proposed use is not permitted as the previous nonconforming use rights have expired. Whenever nonconforming uses of a building are discontinued for a period of two years or longer, any subsequent use of the premises shall conform to the regulations applicable in the district which it is located.

APPLICATION was filed with the Board on September 14, 2017, based on Section 1040.3(14) of the Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Chris Farrar

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Mr. Chris Farrar, has requested a special exception to renovate a building located at 1618 Maury Street for use as a multifamily 4-unit dwelling. Mr. Farrar testified that he was not aware that there was a zoning problem with the property when it was purchased. Mr. Farrar stated that other than a four unit building that there was no other economically viable use for the property. Mr. Farrar indicating that the building was designed and arranged as a four unit dwelling. Mr. Farrar noted that he owned an identical four unit building next-door which had been renovated and that the subject building was blighted and negatively affected surrounding property values. Mr. Farrar was not aware that the nonconforming rights had lapsed when he purchased the building. Mr. Farrar indicated that the Richmond Redevelopment and Housing Authority had not shown any desire to renovate the building. Mr. Farrar noted that building was represented to him as being four units. Mr. Farrar indicated that they had already invested \$88,000 in the property which would be lost if the Board denied the special exception. Mr. Farrar noted that the building if left in its current state would continue to represent a blighting influence on the neighborhood. Mr. Farrar indicated that there was no opposition to the proposed renovation. Mr. Farrar concluded by stating that there is no other viable use for the building other than as a four unit dwelling.

The Board is satisfied that the property was acquired in good faith and pursuant to Section 114-1040.3 (14) of the zoning ordinance, the property owner has demonstrated that the property was acquired in good faith and that the building cannot reasonably be devoted to a conforming use.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the expired nonconforming use rights requirement be granted to 1618 Maury Street LLC for a building permit to renovate the building for use as a multifamily dwelling (4 units).

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Poole, Hogue, Pinnock, York, Samuels

negative: none

The Board could not approve the prior minutes due to a lack of members that were in attendance at the previous meeting.

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

Roger H. York Jr.
VICE Chairman

Ray W. Barber
Secretary