



CITY OF RICHMOND

DEPARTMENT OF PLANNING AND
DEVELOPMENT REVIEW
BOARD OF ZONING APPEALS

BOARD OF ZONING APPEALS

MEETING MINUTES

WEDNESDAY, APRIL 6, 2016

On Wednesday, April 6, 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 March 23 and 30, 2016 and written notice having been sent to interested parties.

Members Present: Roger H. York, Jr., Vice-Chair
 Kenneth R. Samuels
 Edward H. Winks, Jr.
 Susan Sadid

Member(s) Absent: Burt F. Pinnock, Chair
 Rodney M. Poole
 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. 11-16

APPLICANT: Cheney's Creek LLC and Trustee Franklin Street Land Trust

PREMISES: 3008 EAST FRANKLIN STREET
 (Tax Parcel Number E000-0637/008)

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

DISAPPROVED by the Zoning Administrator on February 16, 2016 based on Sections 30-300 & 30-710.1(a)(1) of the zoning ordinance for the reason that: In an R-6 (Single-Family Attached Residential District), the off-street parking requirement is not met. One (1) off-street parking space is required; none is proposed.

APPLICATION was filed with the Board on February 9, 2016, based on Section 1040.3 (11) of the Zoning Ordinance of the City of Richmond.

APPEARANCES:

For Applicant: Zach Kennedy

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Cheney's Creek LLC and Trustee Franklin Street Land Trust, has requested a special exception to construct a new single-family detached dwelling located at 3008 E. Franklin Street. Mr. Zach Kennedy, representing the applicant, testified that a parking waiver is being requested due to the fact that there is no improved alley access and insufficient lot width to provide a driveway from the street. The Zoning Administrator, Mr. Davidson, noted that the Department of Public Works has indicated that there are no plans to improve the existing alley such that it could accommodate vehicular access to the property. Mr. Kennedy stated that North 30th Street is also not improved due to a topographical issue. Mr. Kennedy indicated that the Commission of Architectural Review had approved the proposed plans. Mr. Kennedy stated that there was no opposition from the surrounding neighbors.

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; adequate parking to serve the needs of the use is provided within convenient proximity and the number, location and arrangement 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 special exception from the off-street

parking requirement be granted to Cheney's Creek LLC and Trustee Franklin Street Land Trust for a building permit to construct a new single-family detached dwelling.

ACTION OF THE BOARD: (4-0)

Vote to Grant

affirmative: Samuels, York, Winks, Sadid

negative: none

CASE NO. 12-16

APPLICANT: Cheney's Creek LLC and Trustee Franklin Street Land Trust

PREMISES: 3010 EAST FRANKLIN STREET
(Tax Parcel Number E000-0637/007)

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

DISAPPROVED by the Zoning Administrator on February 16, 2016 based on Sections 30-300 & 30-710.1(a)(2) of the zoning ordinance for the reason that: In an R-6 (Single-Family Attached Residential District), the off-street parking requirement is not met. One (1) off-street parking space is required; none is proposed.

APPLICATION was filed with the Board on February 9, 2016, based on Section 1040.3 (11) of the Zoning Ordinance of the City of Richmond.

APPEARANCES:

For Applicant: Zach Kennedy

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case The Board finds from sworn testimony and exhibits offered in this case that the applicant, Cheney's Creek LLC and Trustee Franklin Street Land Trust,

has requested a special exception to construct a new single-family attached dwelling located at 3008 E. Franklin Street. Mr. Zach Kennedy, representing the applicant, testified that a parking waiver is being requested due to the fact that there is no improved alley access and insufficient lot width to provide a driveway from the street. The Zoning Administrator, Mr. Davidson, noted that the Department of Public Works has indicated that there are no plans to improve the existing alley such that it could accommodate vehicular access to the property. Mr. Kennedy stated that North 30th Street is also not improved due to a topographical issue. Mr. Kennedy indicated that the Commission of Architectural Review had approved the proposed plans. Mr. Kennedy stated that there was no opposition from the surrounding neighbors.

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; adequate parking to serve the needs of the use is provided within convenient proximity and the number, location and arrangement 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 special exception from the off-street parking requirement be granted to Cheney’s Creek LLC and Trustee Franklin Street Land Trust for a building permit to construct a new single-family attached dwelling.

ACTION OF THE BOARD: (4-0)

Vote to Grant

affirmative: Samuels, York, Winks, Sadid

negative: none

CASE NO. 13-16

APPLICANT: Cheney’s Creek LLC and Trustee Franklin Street Land Trust

PREMISES: 3012 EAST FRANKLIN STREET

(Tax Parcel Number E000-0637/005)

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

DISAPPROVED by the Zoning Administrator on February 16, 2016 based on Sections 30-300 & 30-710.1(a)(2) of the zoning ordinance for the reason that: In an R-6 (Single-Family Attached Residential District), the off-street parking requirement is not met. One (1) off-street parking space is required; none is proposed.

APPLICATION was filed with the Board on February 9, 2016, based on Section 1040.3 (11) of the Zoning Ordinance of the City of Richmond.

APPEARANCES:

For Applicant: Zach Kennedy

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case The Board finds from sworn testimony and exhibits offered in this case The Board finds from sworn testimony and exhibits offered in this case that the applicant, Cheney's Creek LLC and Trustee Franklin Street Land Trust, has requested a special exception to construct a new single-family attached dwelling located at 3008 E. Franklin Street. Mr. Zach Kennedy, representing the applicant, testified that a parking waiver is being requested due to the fact that there is no improved alley access and insufficient lot width to provide a driveway from the street. The Zoning Administrator, Mr. Davidson, noted that the Department of Public Works has indicated that there are no plans to improve the existing alley such that it could accommodate vehicular access to the property. Mr. Kennedy stated that North 30th Street is also not improved due to a topographical issue. Mr. Kennedy indicated that the Commission of Architectural Review had approved the proposed plans. Mr. Kennedy stated that there was no opposition from the surrounding neighbors.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the off-street parking requirement be granted to Cheney's Creek LLC and Trustee Franklin Street Land Trust for a building permit to construct a new single-family attached dwelling.

ACTION OF THE BOARD: (4-0)

Vote to Grant

affirmative: Samuels, York, Winks, Sadid

negative: none

CASE NO. 14-16

APPLICANT: Egle Reinikovas

PREMISES: 322 NORTH 36TH STREET
(Tax Parcel Number E000-1118/005)

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

DISAPPROVED by the Zoning Administrator on February 16, 2016 based on Sections 30-300 & 30-1040.2 of the zoning ordinance for the reason that: In an R-8 (Urban Residential District), the plans are not in compliance with the previous approval (Case No. 33-15). The previous approval granted a variance from the front yard (setback) requirement. A front yard of not less than ten feet (10') and not greater than eighteen feet (18') is required. The previous approval granted a front yard of three feet (3') along the East Marshall Street frontage; none is proposed with the current proposal.

APPLICATION was filed with the Board on February 9, 2016 based on Section 15.2-2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: Vitas Reinikovas
Rick Carson
Doug Duke

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Egle Reinikovas, has requested a variance to construct a new single-family detached dwelling located at 322 N. 36th Street. Mr. Vitas Reinikovas, representing the applicant, testified that the Board previously approved a front yard variance for the subject property in October of 2015. Mr.

Reinikovas noted that after receiving the original approval that it became clear that the subject house was not properly designed and could not be accommodated on the existing lot. Mr. Reinikovas indicated that the original house was too narrow and that off-street parking could not be reasonably be accommodated at the rear of the lot. Mr. Reinikovas stated that the original approval permitted a 3 foot front yard setback adjacent to East Marshall Street. Mr. Reinikovas further stated that the current proposal is to construct a house adjacent to the existing street line on East Marshall Street. Mr. Reinikovas noted that the proposed arrangement was consistent with that of other houses on corner lots in the immediate neighborhood. Mr. Reinikovas pointed out that the Commission of Architectural Review had approved the proposed revision.

Speaking in favor, Mr. Rick Carson testified that he owned the houses at 320 N. 36th Street and 323 N. 36th Street. Mr. Carson stated he was in favor of the proposed variance for the reason that the proposed front yard setback was consistent with other front yard setbacks for corner lots in the neighborhood.

Speaking in favor, Mr. Doug Duke testified that he owns the house at 312 N. 36 Street. Mr. Duke noted that along Marshall Street between 36th Street and 24th Street that there are approximately 20 houses on Marshall Street that have a setbacks adjacent to the street line. Mr. Duke stated approval of the requested variance will facilitate development of the lot thereby removing a gap in the block while expanding the City's tax base.

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 Egle Reinikovas for a building permit construct a new single-family detached dwelling.

ACTION OF THE BOARD: (4-0)

Vote to Grant

affirmative: Samuels, York, Winks, Sadid

negative: none

CASE NO. 15-16

APPLICANT: 2217 Monument Avenue, LLC

PREMISES: 2217 MONUMENT AVENUE
(Tax Parcel Number W000-1006/010)

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

DISAPPROVED by the Zoning Administrator on February 10, 2016 based on Sections 30-300 & 30-412.6 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. A lot coverage of 1,525.15 square feet is permitted; 1,381 square feet (49.80%) exists/1,635 square feet (58.96%) is proposed.

APPLICATION was filed with the Board on February 10, 2016 based on Section 1040.3 (1) of the Zoning Ordinance of the City of Richmond.

APPEARANCES:

For Applicant: Mike Fowler
David Clinger

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, 2217 Monument Avenue LLC, has requested a variance to construct a one-story rear addition to a single-family detached dwelling located at 2217 Monument Avenue. Mr. David Clinger, architect for the applicant, testified that the request is to increase the lot coverage from the allowable 55% to 59% which represents an increase in the size of the proposed structure of approximately 100 ft.². Mr. Clinger noted that as part of the proposal the project calls for converting the building from three units to a single-family dwelling. Mr. Clinger further noted that in order for the project to be feasible that the kitchen area requires renovation which necessitates the increase in the allowable lot coverage.

In response to a question from the Vice-Chairman, Mr. York, Mr. Clinger indicated that the kitchen is proposed to be expanded into what was the original breakfast room.

Mr. Mike Fowler, owner of the property, testified that both MAPS and the FDA were in support of the proposed project as were the surrounding neighbors. Mr. Fowler also noted that the project had been approved by the Commission of Architectural Review.

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 coverage requirement be granted to 2217 Monument Avenue, LLC for a building permit to construct a one-story rear addition to a single-family detached dwelling.

ACTION OF THE BOARD: (4-0)

Vote to Grant

affirmative: Samuels, York, Winks, Sadid

negative: none

CASE NO. 16-16

APPLICANT: Noure's LLC

PREMISES: 2123 FAIRMOUNT AVENUE
(Tax Parcel Number E000-0557/009)

SUBJECT: A building permit to convert an existing building from retail to office use.

DISAPPROVED by the Zoning Administrator on February 12, 2016 based on Sections 30-300, 30-412.1 & 30-800.5 of the zoning ordinance for the reason that: In an R-6 (Single-Family Attached Residential District), the proposed use is not permitted as the previous nonconforming use rights have expired. Whenever a nonconforming use of a building or structure is discontinued for a period of two years or longer, whether or not equipment or fixtures are removing, any subsequent use of the premises shall conform to the regulations applicable in the district in which it is located.

APPLICATION was filed with the Board on February 12, 2016 based on Section 1040.3 (14) of the Zoning Ordinance of the City of Richmond.

APPEARANCES:

For Applicant: Scott Coleman
Matthew Crane
Annette Braxton

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Noure's LLC, has requested a special exception to restore nonconforming rights for a retail use subject to the condition that if restored the building will be utilized for an office use for property located at 2123 Fairmount Avenue. The Vice-Chairman, Mr. York, advised the Board that the property has been a nonconforming use since 1927 and that the Board had heard a number of cases for expansion, enlargement, structure alteration and reestablishment of a nonconforming use between 1947 and 2007. Mr. York indicated that a special exception was most recently approved by the Board in 2007 to permit a retail use. Mr. Scott Coleman, representing the applicant, testified that the intent is for the Richmond Cycling Core to occupy the building. Mr. Coleman explained that the organization has been working for the last few years with disadvantaged youth from Fairfield Court. Mr. Coleman further explained that the building will be utilized as an office and the property will serve as a meeting place for the children to go on organized bike rides. Mr. Coleman pointed out that the proposed office use is a downgrade from the former retail use. Mr. Coleman indicated that they had met with the New Community Civic Association and the association was fully supportive of the proposed use.

In response to a question from the Vice-Chairman, Mr. York, Mr. Coleman stated that the building could not cost-effectively be utilized for a residential use.

Speaking in support, Ms. Annette Braxton inquired about the availability of off-street parking. Mr. Coleman indicated that there are three off-street parking spaces meeting the applicable zoning ordinance requirements located to the rear of the building and that there is a possibility for provision of a fourth space that would not meet the requisite requirements.

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 for the nonconforming use rights requirement be granted to Noure's LLC for a building permit to convert an existing building from retail to office use, subject to the condition that nonconforming use rights are being restored for an office use.

ACTION OF THE BOARD: (4-0)

Vote to Grant Conditionally

affirmative: Samuels, York, Winks, Sadid

negative: none

CASE NO. 17-16

APPLICANT: John A. Campbell

PREMISES: 1307 BELLEVUE AVENUE
(Tax Parcel Number N000-2272/009)

SUBJECT: A building permit to remove an existing two-level deck and construct new two-level deck and extend 2nd floor roof onto a nonconforming two-family detached dwelling.

DISAPPROVED by the Zoning Administrator on February 12, 2016 based on Sections 30-300 & 30-800.2 of the zoning ordinance for the reason that: In an R-5 (Single-Family Residential District), the nonconforming use requirements are not met. No building or structure devoted to a nonconforming use shall be enlarged unless such building or structure is thereafter devoted to a conforming use.

APPLICATION was filed with the Board on February 12, 2016 based on Section 1040.3 (13) of the Zoning Ordinance of the City of Richmond.

APPEARANCES:

For Applicant: John Campbell
Marcus Gregory

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, John Campbell, has requested a special exception to remove an existing two-level deck and construct a new two-level deck and extend the second floor roof for a nonconforming two-family detached dwelling located at 1307 Bellevue Avenue. Mr. John Campbell testified that the existing two-family use is not permitted in the R-5 single-family zoning district. Mr. Campbell indicated that he had purchased the property 1972. Mr. Campbell stated that the porch, deck and stairs have deteriorated and become unsafe and require replacement. Mr. Campbell informed the Board that he contacted surrounding neighbors and that there was no opposition to the proposed construction.

Speaking in favor, Mr. Marcus Gregory, contractor for the applicant, testified that the porch replacement will be in kind with the exception of a slight extension of the roof. Mr. Gregory informed the Board that the Bellevue Civic Association supported the requested special exception.

The Board is satisfied that the property was acquired in good faith and pursuant to Section 114-1040.3 (13) of the zoning ordinance, the applicant has shown that the (enlargement, extension, expansion, alteration or construction) is primarily for the purpose of enabling the nonconforming use to be operated more efficiently or safely and in a manner that does not adversely impact adjoining and surrounding properties.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the nonconforming use requirement be granted John A. Campbell for a building permit to remove an existing two-level deck and construct new two-level deck and extend 2nd floor roof onto a nonconforming two-family detached dwelling.

ACTION OF THE BOARD: (4-0)

Vote to Grant

affirmative: Samuels, York, Winks, Sadid

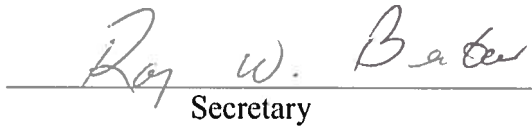
negative: none

The Board lacked the proper attendance (three members) from the March meeting in order to take action on the minutes.

The meeting was adjourned at 2:00 p.m.



Chairman



Secretary