



**CITY OF RICHMOND**

DEPARTMENT OF  
PLANNING AND DEVELOPMENT REVIEW  
BOARD OF ZONING APPEALS

**BOARD OF ZONING APPEALS**

**MEETING MINUTES**

**WEDNESDAY, DECEMBER 6, 2017**

On Wednesday, December 6, 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 November 22 and 29, 2017 and written notice having been sent to interested parties.

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

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

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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. 33-17 (CONTINUED FROM NOVEMBER 1, 2017 MEETING)**

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 square feet 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.

**APPEARANCES:**

For Applicant:            Nasrin Rezai  
                                      Deborah Corliss

Against Applicant:    None

**FINDINGS OF FACT:** The Board finds from sworn testimony and exhibits offered in this case that the applicant, Nasrin Rezai, has requested a variance to construct a detached garage at 209 N. Allen Street. Ms. Rezai testified that her lot is bounded on the north and on the east by alleys. Ms. Rezai stated that given the alley exposure and the fact that she works late hours that the garage is needed for security purposes. Ms. Rezai indicated that she had sent out approximately 50 letters explaining the project to her fellow neighbors and had received no opposition. Ms. Rezai stated that she also held an open house in which her neighbors were invited to learn firsthand about the project and again there was no opposition expressed. Ms. Rezai pointed out that she had the support of the Fan District Association. Ms. Rezai explained that she had met with the condominium association which had expressed concerns at the November hearing. Ms. Rezai stated that the association supported her request subject to the following conditions:

- 1) A garage setback of 5'6" shall be provided from the rear alley.
- 2) The garage shall be provided with gutters which direct the runoff into a dry well on the subject property.
- 3) Trash receptacles shall be stored within the garage.

Ms. Rezai informed the Board that she was agreeable to the foregoing conditions.

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 Nasrin Rezai for a building permit to construct a detached garage, subject to the following conditions:

- 1) A garage setback of 5'6" shall be provided from the rear alley.
- 2) The garage shall be provided with gutters which direct the runoff into a dry well on the subject property.
- 3) Trash receptacles shall be stored within the garage.

**ACTION OF THE BOARD:** (5-0)

**Vote to Grant**

affirmative: Poole, Hogue, York, Sadid, Samuels  
 negative: none

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CASE NO. 35-17

**APPLICANT:** C Scot Hale

**PREMISES:** 3306 GRAYLAND AVENUE  
 (Tax Parcel Number W000-1509/024)

**SUBJECT:** A building permit to construct a one-story addition (4'x 8') on the rear of a single-family (detached) dwelling.

DISAPPROVED by the Zoning Administrator on September 22, 2017, based on Sections 30-300, 30-410.5(2), 30-410.6 & 30-620.1(c) of the zoning ordinance for the reason that: In an R-5 (Single-Family Residential District), the side yard (setback) and lot coverage requirements are not met. A side yard of three feet (3') is required; 1.08' is proposed. A maximum lot coverage of thirty-five percent (35%) is permitted. A current nonconforming lot coverage of forty-one percent (41%) exists and the proposed addition would increase the lot coverage to 41.7%.

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

**APPEARANCES:**

For Applicant:           C Scot Hale  
                                  James Edelen

Against Applicant:   None

**FINDINGS OF FACT:** The Board finds from sworn testimony and exhibits offered in this case that the applicant, C Scot Hale, has requested a variance to construct a one-story addition on the rear of a single-family detached dwelling located at 3306 Grayland Avenue. Mr. Hale testified that the addition is intended to square off the rear of the house. Mr. Hale stated that the additional square footage is desperately needed for living space as the house is only 1100 ft.<sup>2</sup> in size. Mr. Hale stated that he consulted with the neighbor most directly affected by the proposed addition and the neighbor has no objection. Mr. Hale indicated that he also had discussions with other surrounding neighbors and there was no objection to the proposed project. Mr. Hale stated that he contacted the neighborhood association and that there was no response.

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 side yard (setback) and lot coverage requirements be granted to C Scot Hale for a building permit to construct a one-story addition (4' x 8') on the rear of a single-family (detached) dwelling.

**ACTION OF THE BOARD:** (5-0)

Vote to Grant

affirmative: Poole, Hogue, York, Sadid, Samuels

negative: none

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CASE NO. 36-17

**APPLICANT:** Lancaster Custom Builder

**PREMISES:** 120 GRANITE AVENUE  
(Tax Parcel Number W020-0185/024)

**SUBJECT:** Building permits to demolish an existing one-story single-family dwelling, split the lot and construct two (2) new single-family detached dwellings on independent lots.

**DISAPPROVED** by the Zoning Administrator on October 12, 2017, based on Sections 30-300 & 30-408.4 of the zoning ordinance for the reason that: In an R-4 (Single-Family Residential District), the lot width requirement is not met.

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

**APPEARANCES:**

For Applicant: Robert Lancaster  
Thomas Lancaster

Against Applicant: None

**FINDINGS OF FACT:** The Board finds from sworn testimony and exhibits offered in this case that the applicant, Lancaster Custom Builder, has requested a variance to split a lot and construct two new single-family detached dwellings on independent lots located at 120 Granite Avenue. Mr. Robert Lancaster, representing the applicant, testified that he along with his brother purchased the property this past summer. Mr. Lancaster stated that the original intent was to build a second single-family detached dwelling at the rear of the lot. Mr. Lancaster further stated that surrounding neighbors were not in support of this plan. Mr. Lancaster noted that the lot would legally accommodate a single-family dwelling located adjacent to Granite Avenue and a second single-family dwelling located in the rear of the lot that would be served by an easement. Mr. Lancaster explained that after further consultation with surrounding neighbors it was decided that a variance should be sought regarding the lot width requirement. Mr. Lancaster noted that a 60 foot lot width is required and that two lots having lot widths of 52.5 feet are proposed. Mr. Lancaster further noted that the architectural style of the proposed houses will be consistent with the neighborhood. Mr. Lancaster indicated that the Westhampton Civic Association was in support of the proposed project. Mr. Lancaster also noted that garages will be provided at the rear of the lots meeting the requisite off-street parking requirement. Mr. Lancaster indicated that the lot widths proposed were not inconsistent with surrounding lot widths in the neighborhood.

In response to question from Mr. York, Mr. Lancaster indicated that the only plumbing facilities would include an exterior water spigot.

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 Lancaster Custom Builder for building permits to demolish an existing one-story single-family dwelling, split the lot and construct two (2) new single-family detached dwellings on independent lots, subject to the condition that plumbing facilities shall not be permitted in conjunction with the garage, except for provision of an exterior water spigot

ACTION OF THE BOARD: (4-0-1)

Vote to Grant

affirmative: Poole, Hogue, Sadid, Samuels

negative: none

abstain: York

CASE NO. 37-17

APPLICANT: Bradley & Elizabeth Marrs

PREMISES: 2519 STUART AVENUE  
(Tax Parcel Number W000-1124/005)

SUBJECT: A building permit to construct a garage accessory to a single-family (attached) dwelling.

DISAPPROVED by the Zoning Administrator on October 12, 2017, based on Sections 30-300, 30-1040.3(1) & 30-710.3:1(a) 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 1,684.4 square feet is permitted; 1,427 square feet (46.6%) exists; 1,923 square feet (62.8%) is proposed. The minimum aisle width is not met. An aisle width of twenty-three feet (23') is required; twelve feet (12') is proposed.

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

## APPEARANCES:

For Applicant: Bradley Marris

Against Applicant: None

**FINDINGS OF FACT:** The Board finds from sworn testimony and exhibits offered in this case that the applicants, Bradley and Elizabeth Marris, have requested a variance and special exception to construct an accessory building (garage) for property located at 2519 Stuart Avenue. Mr. Marris testified that he and his wife purchased the property in August of this year. Mr. Marris showed the Board a photo which depicts the current off-street parking situation for the subject property. Mr. Marris pointed out that the plans call for constructing a garage which will essentially occupy the space currently being utilized for off-street parking. Mr. Marris indicated that parking access will remain essentially unchanged with the construction of the garage. Mr. Marris stated that with respect to the lot coverage issue a garage encompassing 257 ft.<sup>2</sup> could be constructed by right. Mr. Marris indicated that a carport would also be permitted by right but would be inconsistent with the neighborhood and aesthetically unpleasing. Mr. Marris stated that he contacted surrounding neighbors and that there was no opposition to construction of the garage. Mr. Marris also stated that there was no opposition from the Fan District Association nor the Robinson Street Association. Mr. Marris explained that there is a great deal of activity in the rear alley in part due to the existence of the Metro Bar and Grill. Mr. Marris recounted a recent incident where someone had broken into his wife's car and finding nothing to steal emptied several ketchup containers in her car. They later found a ketchup container in the yard and that there was ketchup on their rear door handle. Mr. Marris expressed the view that the garage was needed for security purposes.

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.

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 on-site 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 variance from the lot coverage requirement and special exception from the aisle with requirement be granted to Bradley & Elizabeth Marrs for a building permit to construct a garage accessory to a single-family (attached) dwelling.**

**ACTION OF THE BOARD: (3-2)**

**Vote to Grant**

**affirmative: Hogue, Sadid, Samuels**

**negative: Poole, York**

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Upon motion made by Ms. Hogue and seconded by Mr. Poole, Members voted (4-0) to adopt the Board's November 1, 2017 meeting minutes. The September minutes could not be adopted for the reason that there were not three members present at the December hearing which were also present at the September hearing.

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Board members discussed revision of their Rules of Procedure as it pertains to the conduct of an appeal hearing of a decision of the Zoning Administrator. Upon motion made by Mr. Poole and seconded by Ms. Hogue, Members voted (5-0) to include the following language governing the conduct of an appeal hearing of a decision of the Zoning Administrator in the Board's Rules of Procedure.

Section 7. The procedure for the hearing of any case before the Board shall be as follows:

- (a) Statement of the case.
- (b) Appellant's or applicant's statement.

1. In the case of an appeal of the decision of the Zoning Administrator, the Appellant or Appellant's representative and the Zoning Administrator shall be permitted a total of ten (10) minutes to present their case in chief and their rebuttal. The Appellant or Appellant's representative and Zoning Administrator shall be required prior to beginning their presentation to declare to the Board how many of their allotted minutes shall be devoted to their case in chief and their rebuttal. Following the presentations of the Appellant and Zoning Administrator other interested parties shall be permitted a total of ten (10) minutes to present their views. Interested parties are defined as a property owner other than the Appellant whose property is the subject of an appeal and the neighborhood constituency consisting of neighbors and neighborhood association(s).

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

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Chairman

  
Secretary