



CITY OF RICHMOND

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW
BOARD OF ZONING APPEALS

BOARD OF ZONING APPEALS

MEETING MINUTES

WEDNESDAY, APRIL 5, 2017

On Wednesday, April 5, 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 March 22 and 29, 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 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. 08-17

APPLICANT: Gary Tyler

PREMISES: 402 NORTH ROBINSON STREET
 (Tax Parcel Number W000-1166/020)

SUBJECT: A Certificate of Zoning Compliance for a convenience store (1st
 floor).

DISAPPROVED by the Zoning Administrator on November 17, 2016, based on Sections 30-300 & 30-710.1(27)(a) of the zoning ordinance for the reason that: In a B-1 (Neighborhood Business District), the off-street parking requirement is not met. Seven (7) parking spaces are required; two (2) are proposed. Previous cases (Case No. 28-88 & No. 63-94) were approved for a variance from the off-street parking requirement. Case No. 63-94 was approved for retail, personal service, office or other B-1 District uses having a parking requirement of not greater than one (1) space per 300 sq. ft. of floor area (first floor and basement only).

APPLICATION was filed with the Board on November 17, 2016, based on Section 1040.3(11) of the Zoning Ordinance of the City of Richmond.

APPEARANCES:

For Applicant: Mohammad Muwin

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Mr. Gary Tyler, has requested a special exception to establish a convenience store at 402 N. Robinson Street. The Zoning Administrator, Mr. William Davidson, explained that the Board had formerly granted a parking variance in 1994 for the first floor and basement to be utilized as a use consistent with a parking requirement of one (1) space per 300 ft.². The applicant is proposing utilizing the first floor only for a convenience store which has a parking requirement of one (1) space per 150 ft.². Consequently, the parking waiver requested is identical to that previously approved by the Board. Mr. Davidson stated that a Certificate of Zoning Compliance was inadvertently issued in 2014 for the current convenience store use. Mr. Mohammad Muwin, representing the applicant, explained that a significant amount of the business resulted from walk-in traffic. Mr. Muwin provided the Board with a petition in support of this fact. Mr. Muwin also provided the Board with pictures demonstrating that there was ample on-street parking available to support the requested use. Mr. Muwin indicated that the use had been in operation for the previous three (3) years and that there were no parking problems associated with the use. Mr. Muwin stated that there was no objection to the proposed special exception from the surrounding neighbors. Mr. Muwin offered the condition that there shall not be more than two (2) persons employed in the conduct of the business on the premises at any one time and the basement shall not be used in the conduct of the business.

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 special exception from the off-street parking requirement be granted to Gary Tyler for a Certificate of Zoning Compliance for a convenience store (1st floor), subject to the condition there shall not be more than two (2) persons employed in the conduct of the business on the premises at any one time and the basement shall not be used in the conduct of the business.

ACTION OF THE BOARD: (3-0-2)

Vote to Grant Conditionally

affirmative: Hogue, Pinnock, York

negative: none

abstain: Poole, Samuels

CASE NO. 09-17

APPLICANT: Pleasie Beatty

PREMISES: 3302 O STREET
(Tax Parcel Number E000-0879/026)

SUBJECT: A building permit to split an unimproved vacant lot and to construct two (2) new single-family detached dwellings on independent lots.

DISAPPROVED by the Zoning Administrator on February 14, 2017, based on Sections 30-300 , 30-412.4(1), 30-412.5(1)a, 30-412.5(1)b & 30-630.1(a)(1) of the zoning ordinance for the reason that: In an R-6 (Single-Family Attached Residential District), the lot area, lot width, front yard and side yard (setback) requirements are not met. Lot areas of five thousand square feet (5,000 SF) and lot widths of fifty feet (50') are required. For zoning purposes, one (1) lot having a lot area of 5,400 square feet and a lot width of fifty-four feet (54') currently exists; lot areas of 2,800.0 square feet (#3300) and 2,600.0 square feet (#3302) and lot widths of 28.0 feet (#3300) and 26.0 feet (#3302) are proposed. A front yard of fifteen feet (15') is required; five feet (5') is proposed along the North 33rd Street frontage (#3300). Side yards of five feet (5') are required; side yards of four feet (4') are proposed (#3302).

APPLICATION was filed with the Board on February 9, 2017, based on Section 15.2 - 2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: Kyle Hoffer

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Pleasie Beatty, has requested a variance to split an unimproved vacant lot and to construct two (2) new single-family detached dwellings on independent lots located at 3302 O Street. The applicant's representative, Mr. Kyle Hoffer, testified that based on his deed research that two (2) lots of record had existed since 1918 and 1928. The lots had respective lot widths of 28 feet and 26 feet. Mr. Hoffer noted that the subject lots were combined by deed in 1961. Mr. Hoffer amended the original variance request to provide for lot widths of 27 feet apiece in order to comply with the 5 foot side yard requirement for the interior lot. Mr. Hoffer stated that this would permit construction of a 17 foot wide house which was acceptable. Mr. Hoffer indicated that the dwellings will consist of three (3) bedrooms and 2 1/2 baths and comprise approximately 1,800 ft.². Mr. Hoffer noted that none of the surrounding neighbors had expressed any opposition to the requested variance. Mr. Hoffer stated that he also had the support of the Church Hill Central Civic Association. Mr. Hoffer offered the following as conditions of approval:

1. Utilization of Hardi-plank siding.
2. Substantial compliance with the elevation drawings submitted to the Board.
3. Lot widths of twenty-seven feet (27').
4. Compliance with an interior side yard setback requirement of five feet (5').

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 and front yard setback requirements be granted to Pleasie Beatty for a building permit to split an unimproved vacant lot and to construct two (2) new single-family detached dwellings on independent lots, subject to the following conditions:

1. Utilization of Hardi-plank siding.
2. Substantial compliance with the elevation drawings submitted to the Board.
3. Lot widths of twenty-seven feet (27').
4. Compliance with an interior side yard setback requirement of five feet (5').

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Hogue, Pinnock, York, Samuels

negative: none

CASE NO. 10-17

APPLICANT: Seven Hills Construction, LLC

PREMISES: 3222 P STREET
(Tax Parcel Number E000-0804/017)

SUBJECT: A building permit to split an existing lot improved with a single-family dwelling and to construct a new single-family dwelling on the proposed vacant lot.

DISAPPROVED by the Zoning Administrator on February 15, 2017, based on Sections 30-300, 30-412.4(1), 30-412.5(1)b & 30-630.1(a) of the zoning ordinance for the reason that: In an R-6 (Single-Family Attached Residential District), the lot area, lot width, side yard and street side yard (setback) requirements are not met. Lot areas of five thousand square feet (5,000 SF) and lot widths of fifty feet (50') are required. For zoning purposes, one (1) lot having a lot area of 6,678.24 square feet and a lot width of 51.5 feet currently exists; lot areas of 3,033.19 square feet (#3222) and 3,645.05 square feet (#3324) and lot widths of 23.4 feet (#3222) and 28.10 feet (#3224) are proposed. Side yards of five feet (5') are required; side yards of 3.04 (#3222) and 3.05 (#3224) are proposed. A street side yard of ten feet (10') is required; 3.05 feet is proposed along the North 33rd Street frontage (#3224).

APPLICATION was filed with the Board on February 10, 2017, based on Section 15.2 - 2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: Thomas M. Smith
Mark Baker

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Seven Hills Construction LLC, has requested a variance to split an existing lot improved with a single-family dwelling and to construct a new single-family dwelling on a vacant lot at 3222 P Street. Mr. Mark Baker, representing the applicant, testified that a variance is being requested from the lot area and lot width requirements to permit the reconfiguration of three (3) existing lots and the construction of a single-family detached dwelling. Mr. Baker

noted that the property is located at the northwest corner of the P Street and North 33rd Street and lies within an R-6 Single-Family Attached Residential District. Mr. Baker stated that one of the lots is occupied by an existing single-family dwelling and the remaining two (2) lots are vacant. The proposal is to reconfigure the existing three (3) lots thereby creating one (1) lot with an existing dwelling and a second buildable lot. Mr. Baker stated that the research revealed that the subject lots had existed as legal lots of record since 1942. Mr. Baker noted that the Zoning Administrator has determined that the three (3) lots existed as a single lot due to the fact that the lots were enclosed by a perimeter fence and had also been used for accessory parking. Mr. Baker supplied the Board with a revised site plan which provided the requisite 5 foot side yard setbacks along the common property line separating the proposed lots and indicated that should the Board approve the requested variance that the applicant would comply with the newly submitted site plan. Mr. Baker stated that in support of the requested variance that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property. Mr. Baker noted that there are several similarly situated lots in the neighborhood and that the applicant's property was only distinguishable by the fact that the lots were enclosed with a privacy fence and had been utilized for accessory parking. Mr. Baker stated that approval of the variance would not confer upon the applicant any rights which are not commonly afforded to similarly situated properties. In conclusion, Mr. Baker offered the following as supportive of the requested variance:

1. the property was acquired in good faith;
2. the hardship was not created by the applicant;
3. granting of a variance will not be of substantial detriment to surrounding properties;
4. the unique condition of the properties is such as to make it neither reasonable or practical to formulate an amendment to the ordinance;
5. approval of the variance does not permitted a use that is not otherwise permitted by the zoning ordinance;
6. a special exception is not an eligible vehicle for seeking relief in this case; and
7. the variance is not contrary to the purpose of the ordinance

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 and street side yard (setback) requirements be granted to Seven Hills Construction, LLC for a building permit to split an existing lot improved with a single-family dwelling and to construct a new single-family dwelling on the proposed vacant lot, subject to substantial compliance with the revised plans submitted to the Board at the April 5, 2017 meeting.

ACTION OF THE BOARD: (3-2)

Vote to Grant Conditionally

affirmative: Hogue, Pinnock, York

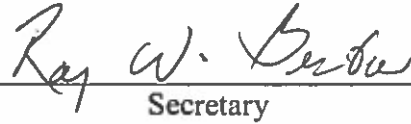
negative: Poole, Samuels

Upon motion made by Mr. York and seconded by Mr. Samuels, Members voted (5-0) to adopt the Board's March 1, 2017 meeting minutes.

The meeting was adjourned at 3:00 p.m.



Chairman



Secretary