



CITY OF RICHMOND

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW
BOARD OF ZONING APPEALS

BOARD OF ZONING APPEALS

MEETING MINUTES

WEDNESDAY, July 5, 2017

On Wednesday, July 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 June 21 and 28, 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
 Brian 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. 11-17 (CONTINUED FROM MAY 3, 2017 MEETING)

APPLICANT: Hina LLC

PREMISES: 1639 WEST BROAD STREET
 (Tax Parcel Number W000-0736/013)

SUBJECT: A building permit to renovate a building for a restaurant use (1st floor).

DISAPPROVED by the Zoning Administrator on March 7, 2017, based on Sections 30-300, 30-710.1(26) & 30-1040.2(a) of the zoning ordinance for the reason that: In a UB (Urban Business) & PO4 (Parking Overlay) District, the off-street parking requirement is not met fourteen (14) parking spaces are required; three (3) are nonconforming, one (1) on-street space provided. A previous BZA case (Case No. 45-93) was approved for a Variance from the off-street parking requirement and rear yard (setback) for an addition to a wholesale establishment.

APPLICATION was filed with the Board on March 7, 2017, based on Section 1040.3 Paragraph 11 of the Zoning Ordinance of the City of Richmond.

APPEARANCES:

For Applicant: Shakil Rehman
Kenny D. Mitchell

Against Applicant: Jonathan Marcus
Bill Gallasch

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Hina LLC, has requested a special exception to renovate a building for a restaurant, 14 parking spaces are required, three parking spaces are nonconforming and one on-street spaces is provided for property located at 1639 W. Broad Street. Mr. Kenny Mitchell, representing the applicant, testified that a lot located at 1600 W. Broad Street is intended to provide the necessary off-street parking. Mr. Mitchell stated that the intent is to remove the existing car wash from the subject lot to provide the required 10 off-street parking spaces.

In response to a question from Mr. York, Mr. Mitchell acknowledged that the necessary plans had not been prepared to demonstrate availability of the required off-street parking since the continuance of the case in May.

In response to a question from Mr. Poole, Mr. Benbow indicated that once a case is denied there is a one-year moratorium on refile of a case that is substantially the same. Mr. Benbow noted that, as an example, if the off-street parking request were altered from 10 spaces to five spaces that reapplication would be allowed at any time as a matter of right.

Speaking in support, Mr. Shakil Rehman stated that he is the owner of 1639 W. Broad Street. Mr. Shakil Rehman indicated that he also owns the property at 1600 W. Broad Street and is willing to remove the existing car wash to provide the required parking.

In response to question from Mr. York, Mr. Shakil Rehman stated that he purchased 1639 W. Broad Street approximately five years ago and did not investigate the zoning status of the property.

Speaking in opposition, Mr. Jonathan Marcus, President of the West Grace Street Association, testified that he was originally contacted by Mr. Mitchell in November of 2016. Mr. Marcus explained that due to the very real possibility that restaurant patrons would utilize West Grace Street to meet their parking needs he explained that the neighborhood would be opposed to the requested parking waiver. Mr. Marcus further explained that Mr. Mitchell expressed concern over his lease agreement and that Mr. Marcus offered to write a letter to Mr. Mitchell's landlord explaining the neighborhood's opposition. Mr. Marcus stated that he heard nothing further from Mr. Mitchell and was surprised when he was notified of the parking application. Mr. Marcus stated that he took time off work for both the May and July hearings and requested he not be required to take time off of work for a third time. Mr. Marcus noted that Mr. Mitchell had failed to perform as required by the Board and should not be granted an additional continuance.

Speaking in opposition, Mr. Bill Gallasch testified that he owns a duplex located directly behind 1639 W. Broad Street. Mr. Gallasch expressed concern regarding the overflow parking from the subject property. Mr. Gallasch stated that he was president of the Monument Avenue Preservation Society and was very familiar with the parking issues involving Broad Street.

The Board is not satisfied that the applicant has demonstrated the following in accordance with §1040.3 (11) of the Zoning Ordinance: that the exception will not result in an inadequate supply of parking or other adverse impact on the neighborhood; that adequate parking to serve the needs of the use is provided on-site or within convenient proximity; that 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 for the off-street parking requirement be denied to Hina LLC for a building permit to renovate a building for a restaurant use (1st floor). As part of the Board's decision they have

determined that reapplication will not be subject to the one year moratorium regarding refileing.

ACTION OF THE BOARD: (5-0)

Vote to Deny

affirmative: Poole, Hogue, Pinnock, York, Samuels

negative: none

CASE NO. 17-17 (CONTINUED FROM JUNE 7, 2017 MEETING)

APPLICANT: Church Hill Ventures, LLC

PREMISES: 1209 HULL STREET
(Tax Parcel Number S000-0085/018)

SUBJECT: A building permit for a restaurant use with an accessory outdoor roof top dining patio.

DISAPPROVED by the Zoning Administrator on April 20, 2017, based on Sections 30-300 & 30-433.11(22)a of the zoning ordinance for the reason that: In a UB-2 (Urban Business) & PE-1 (Parking Exempt Overlay) District, no deck, patio, terrace or other area outside a completely enclosed building and used for the service or accommodation of patrons shall be situated within 100 feet of any R District; the outside area is situated approximately sixty-four feet (64') from an R-63 (Multi-Family Urban Residential) District.

APPLICATION was filed with the Board on April 11, 2017 based on Section 15.2-2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: Joe Yates
Michael C. Hild

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Church Hill Ventures LLC, has requested a variance for an accessory outdoor rooftop patio for property located at 1209 Hull Street.

Mr. Joe Yates, representing the applicant, testified that the deck is allowed by right and the variance is being requested by virtue of the deck being located too close to the adjoining R-63 Multi-Family Urban Residential zoned property. Mr. Yates indicated that residentially zoned property is currently being utilized for a parking lot and has existed since the 1950s. Mr. Yates noted that the deck will be located approximately 64 feet from a parking lot and not an actual dwelling. Mr. Yates stated that there will be no live entertainment associated with the deck operation. Mr. Yates offered as a condition of approval the following hours of operation:

1. Monday-Thursday 4 p.m. to 10p.m.
2. Friday 4 p.m. to 12 midnight
3. Saturday 11 a.m. to 12 midnight
4. Sunday 11a.m to 10 p.m.

Mr. Yates stated from a financial standpoint the project will not work without the rooftop deck.

In response to a question from Mr. York, Mr. Yates stated that the parking is needed for the restaurant/deck operation.

Speaking in support, Mr. Michael Hild testified that bank financing is for the commercial shell as well as the apartments.

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 to permit a deck to be located within sixty four feet (64') more or less of an R-63 Multi-Family Urban Residential District be granted to Church Hill Ventures, LLC, subject to the following hours of operation:

- 1. Monday-Thursday 4 p.m. to 10p.m.
- 2. Friday 4 p.m. to 12 midnight
- 3. Saturday 11 a.m. to 12 midnight
- 4. Sunday 11a.m to 10 p.m.

ACTION OF THE BOARD: (5-0)

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

CASE NO. 23-17

APPLICANT: 3325 Associates
 PREMISES: 3325 WEST CARY STREET
 (Tax Parcel Number W000-1510/007)
 SUBJECT: A building permit to authorize an outdoor dining area (2,568 sq. ft.) accessory to an existing restaurant.

DISAPPROVED by the Zoning Administrator on May 8, 2017, based on Sections 30-300 & 30-433.2(21)a of the zoning ordinance for the reason that: In a UB (Urban Business) & PO2 (Carytown Parking Overlay) District, no deck, patio, terrace or other area outside a completely enclosed building and used for the service or accommodation of patrons shall be situated within 100 feet of any R district; the outside-area is situated from an R-5 (Single-Family Residential) District.

APPLICATION was filed with the Board on May 8, 2017, based on Section 15.2 -2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: Karina Slaughter

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, 3325 Associates, has requested a variance to authorize an outdoor dining area (2568 ft.²) accessory to an existing restaurant for property located at 3325 W. Cary Street. Ms. Karen Slaughter, representing the applicant, testified that she is the owner of the building in question. Ms. Slaughter stated that the building is multiuse in nature. Ms. Slaughter explained that there is a problem with pedestrian access to the building. Ms. Slaughter indicated that approximately 10 years ago they constructed a 10 foot tall wall which will serve to enclose the proposed deck area. Ms. Slaughter noted that the wall provides significant sound abatement. Ms. Slaughter stated that they have one rear exit and to front exits. There is direct access into the restaurant/kitchen which are located on the first floor. Ms. Slaughter submitted a petition of support from her surrounding neighbors. Ms. Slaughter stated that she also received the support of the Carytown Association.

In response to a question from Mr. Poole, Ms. Slaughter stated she attempted to contact the Parkwood Association but received no response from her e-mail.

In response to a question from Mr. York, Ms. Slaughter offered as a condition of approval that the hours of operations shall not exceed 11 a.m. to 10 p.m. Monday thru Sunday and a maximum seating of 56 seats shall be permitted in the deck/patio area.

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.
Will create

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a variance to permit a deck/patio to be located within forty feet (40') more or less from an R-5 Single-Family Residential District be granted to 3325 Associates, subject to the conditions that the hours of operations shall not exceed 11 a.m. to 10 p.m. Monday thru Sunday and a maximum seating of 56 seats shall be permitted in the deck/patio area.

ACTION OF THE BOARD: (5-0)

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

CASE NO. 24-17

APPLICANT: Virginia Electric and Power Company

PREMISES: 1104 MOORE STREET
(Tax Parcel Number N000-0469/025)

SUBJECT: A building permit to expand a nonconforming electric substation.

DISAPPROVED by the Zoning Administrator on May 15, 2017, based on Sections 30-300, 30-412(1), 30-412.5(1)a & 30.800.2(a) of the zoning ordinance for the reason that: In a(an) R-6 (Single-Family Attached Residential) District, the permitted principal use and nonconforming use regulations are not met. The proposed use (electric substation) is not permitted in the R-6 (Single-Family Attached Residential) District. Expansion of a nonconforming use to occupy a different or greater area of land, buildings or structures than was occupied by such use at the time it became nonconforming is not permitted. The required front yard (setback) is not met: Fifteen feet (15') is required; eight and one half feet (8.5') is proposed.

APPLICATION was filed with the Board on May 15, 2017, based on Section 17.20 Paragraph d1 of the Charter of the City of Richmond.

APPEARANCES:

For Applicant: Laura Mausolf

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Virginia Electric and Power Company, has requested a special exception to expand a nonconforming electric substation for property located at 1104 Moore Street. It was pointed out that previous special exceptions dealing with the substation had been approved in 1958, 1964, 1969, 1971, 1972 and 1977. Ms. Laura Mausolf, representing the applicant, testified that the current proposal is to extend the fence at the Carver substation. Ms. Mausolf noted that substation had been in operation at this location since the 1950s. Ms. Mausolf stated the intent is to improve electric reliability to the residents of the Carver Neighborhood as well as VCU. Ms. Mausolf noted that they had contacted neighbors within 275 feet of the substation and there was no objection to their proposal. Ms. Mausolf also noted that there was no objection from the Carver Association. Ms. Mausolf stated that an additional benefit will be the decommissioning of an existing substation at West Clay Street.

In response to a question from Mr. York, Ms. Mausolf stated that the requested special exception will adequately safeguard the health, safety and welfare of the adjoining and surrounding properties; shall not unreasonably impair an adequate supply of light and air to adjacent properties; shall not increase congestion in the streets; and shall not unfairly diminish established property values.

The Board finds that the special exception has met the conditions of §17.20(d) (1) of the City Charter with regard to adequately safeguarding the health, safety and welfare of the adjoining and surrounding properties; not unreasonably impairing an adequate supply of light and air to adjacent properties; not increasing congestion in the streets; and not unfairly diminishing established property values.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the permitted principal use and nonconforming use regulations requirements be granted to Virginia Electric and Power Company for a building permit to expand a nonconforming electric substation.

ACTION OF THE BOARD: (5-0)

Vote to Grant

affirmative: Poole, Hogue, Pinnock, York, Samuels

negative: none

CASE NO. 25-17 (CONTINUED TO AUGUST 2, 2017 MEETING)

APPLICANT: Robert Crump, III
PREMISES: 3206A CHAMBERLAYNE AVENUE
(Tax Parcel Number N000-1233/007)
SUBJECT: A building permit to convert a single-family dwelling into a 4-unit multi-family dwelling.

DISAPPROVED by the Zoning Administrator on May 22, 2017, based on Sections 30-300, 30-416.5(2)b & 30-710.5 of the zoning ordinance for the reason that: In an R-48 (Multi-Family Residential District), the side yard (setback) and off-street parking requirements are not met. A side yard of fifteen feet (15') is required; 11.4 (southern property line) and 12.4 (northern property line) exists are proposed. Spaces for the parking of vehicles and access aisles thereto, except spaces accessory to single-family dwellings, shall not be located within a required front yard.

APPLICATION was filed with the Board on May 17, 2017, based on Section 15.2 - 2309.2 of the Code of Virginia and 1040.3 Paragraph (11) of the Zoning Ordinance of the City of Richmond.

CASE NO. 26-17

APPLICANT: Robert J Pate III
PREMISES: 701 MOSBY STREET
(Tax Parcel Number E000-0327/031)
SUBJECT: A building permit to re-establish nonconforming use status for a portion of the property for commercial (restaurant and retail) uses.

DISAPPROVED by the Zoning Administrator May 23, 2017, based on Sections 30-300, & 30-419.3(b)(2) of the zoning ordinance for the reason that: In an R-63 (Multi-Family Urban Residential) District, the proposed use is not permitted for a portion of the property 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 in which it is located. The permitted total floor area for permitted principal (commercial) use on corner lots cannot exceed 1,500 square feet; 2,336 square feet interior is proposed (620 square feet retail and 1,716 square feet restaurant) and 605 square feet outdoor dining. The parking requirement is not met. Ten (10) spaces are required; none are provided, eight (8) were nonconforming and two (2) were amnestied.

APPLICATION was filed with the Board on May 19, 2017, based on Section 1040.3 Paragraph 14 of the Zoning Ordinance of the City of Richmond.

APPEARANCES:

For Applicant: Charles Field
Rob Pate

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Robert J Pate III, has requested a special exception to reestablish nonconforming use status for a portion of the property for commercial (restaurant and retail) uses for property located at 701 Mosby Street. Mr. Pate testified that the property was rezoned to R-63 Multifamily Urban Residential District from B-2 Community Business District which rendered a portion of the existing building nonconforming. Specifically the zoning district permits corner commercial uses up to a maximum of 1500 ft.² by right. The building contains 1716 ft.² formerly utilized as a convenience store and 620 ft.² formerly utilized as a record shop. The property also contains 605 ft.² of outdoor dining area. The application is based on utilizing 1716 ft.² more or less for a restaurant use and 620 ft.² more or less for a retail use. Restoration of the nonconforming rights will automatically restore the nonconforming parking rights. Mr. Pate stated that he purchased the property approximately one year ago. Mr. Pate indicated that without the restoration of the nonconforming rights that the building will remain vacant and continue to deteriorate. Mr. Pate offered as a condition of approval that the hours of operation for the patio shall not exceed Sunday-Thursday 6 a.m. to 10 p.m. and Friday and Saturday 6 a. m to 12 midnight.

In response to question from Mr. Poole, Mr. Pate stated that he e-mailed the Union Hill Civic Association regarding his request but received no response.

In response to a question from Mr. Poole, Mr. Pate acknowledged that not more than 1716 ft.² of the building may be utilized for restaurant use.

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 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 to permit re-establishment of a nonconforming use for a portion of the property for commercial (restaurant and retail) uses, subject to the condition that the hours of operation for the patio shall not exceed Sunday-Thursday 6 a.m. to 10 p.m. and Friday and Saturday 6 a. m to 12 midnight.

ACTION OF THE BOARD: (5-0)

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

CASE NO. 27-17

APPLICANT: Church Hill Ventures, LLC
PREMISES: 1200-02 (1204) HULL STREET
(Tax Parcel Number S000-0084/007)
SUBJECT: A building permit to construct a parking area.

DISAPPROVED by the Zoning Administrator on May 24, 2017, based on Sections 30-300 & 30-710.3:1(a) of the zoning ordinance for the reason that: In a UB-2 (Urban Business) & PE-1 (Parking Exempt Overlay) District, the off-street parking requirements are not met. The parking space dimensions requirement (aisle width) is not met. Twenty three feet (23') is required; eighteen feet (18') is proposed.

APPLICATION was filed with the Board on May 19, 2017, based on Section 15.2 - 2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: Joe Yates
 Michael C. Hild

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Church Hill Ventures LLC, has requested a variance to construct the parking area located at 1200-02 (1204) Hull Street. Mr. Joe Yates, representing the applicant, testified that the property formerly contained a commercial building. Mr. Yates stated that in order to meet parking requirements for an adjacent building it is necessary to utilize the subject property for a parking area. Mr. Yates noted that a parking area is allowed by right. Mr. Yates indicated that the issue is the width of the driveway. Mr. Yates stated that the lot is 41 feet in width and that there will be a landscape buffer meeting the ordinance requirements of 5 feet in width. Mr. Yates further stated that the depth of the spaces meet the requisite requirements of the zoning ordinance but the aisle width is deficient. Mr. Yates indicated that the request is for waiver of the aisle width requirement of 23 feet. Mr. Yates noted that the parking lot is accessed from an alley and not an adjacent street. Mr. Yates noted that the Manchester Alliance supported the project as did the surrounding neighbors.

In response to question from Mr. York, Mr. Yates stated that in order to achieve maximum parking utilization of the lot to the serve the adjoining building that it was not possible to redesign the parking spaces. Mr. Yates indicated that after consultation with the Zoning Administration Office it was determined that it would be preferable to provide the required 5 foot and landscape buffer thus reducing the aisle width.

Speaking in support, Mr. Michael Hild stated that the parking lot and adjoining building had been consolidated into one parcel thereby tying the parking to the building. Mr. Hild stated that the building will be utilized as a grocery store which is considered of tremendous benefit to the surrounding neighborhood.

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 off-street parking requirements be granted to Church Hill Ventures, LLC for a building permit to construct a parking area.

ACTION OF THE BOARD: (5-0)

Vote to Grant

affirmative: Poole, Hogue, Pinnock, York, Samuels

negative: none

Upon motion made by Ms. Hogue and seconded by Mr. Poole, Members voted (5-0) to adopt the Board's June 7, 2017 meeting minutes for cases 16-17 through 22-17.

Upon motion made by Ms. Hogue and seconded by Mr. York, Members voted (4 -0) to adopt the Board's June 7, 2017 meeting minutes for case 15-17. Mr. Poole noted his continuing abstention from voting on this case.

The meeting was adjourned at 2:45 p.m.



Chairman



Secretary