



CITY OF RICHMOND

DEPARTMENT OF PLANNING AND
DEVELOPMENT REVIEW
BOARD OF ZONING APPEALS

BOARD OF ZONING APPEALS

MEETING MINUTES

WEDNESDAY, SEPTEMBER 2, 2015

On Wednesday, September 2, 2015, 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 August 19 and 26, 2015 and written notice having been sent to interested parties.

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

Member(s) Absent: 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. 28-15

APPLICANT: Better Housing Coalition

PREMISES: 2102 WEST CARY STREET
 (Tax Parcel Number W000-0942/021)

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

DISAPPROVED by the Zoning Administrator on July 15, 2015, based on Sections 114-300 & 114-419.6 (2)a 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 side yard of three feet (3') is required; 0.48 ± is proposed along the western property line.

APPLICATION was filed with the Board on July 15, 2015, based on Section 15.2-2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: Lynn McAteer
 Hugh Edmunds
 Mark Brander

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Better Housing Coalition, has requested a variance to construct a new single-family detached dwelling. Mr. Hugh Edmunds, representing Better Housing Coalition (BHC), testified that the intent of BHC is to construct a single-family dwelling at 2102 W. Cary Street. Mr. Edmunds noted that the current zoning requirement requires a 3 foot side yard. Mr. Edmunds indicated that the lot in question is 20 feet wide which is consistent with other lots in the block. Mr. Edmunds explained that the houses on the block are typically 18 feet wide with 2 feet between houses and were constructed prior to current zoning. Mr. Edmunds noted that a 14 foot wide house could be constructed by right but this would be both questionable in terms of its functionality and inconsistent with other houses on the block. Mr. Edmunds stated that the intent of BHC is to construct a 16.5 foot wide house which is proposed to be located on the western property line more or less with a 3 foot setback on the eastern property line. Mr. Edmunds presented the Board with a letter of support from the Uptown Civic Association. Mr. Edmunds also noted that there was no objection from any of the surrounding neighbors.

Mr. Poole noted that the Board would be proceeding under the revised provisions of the Code of Virginia pertaining to the granting of a variance.

In response to a question from Mr. York, Mr. Edmunds stated that to the best of his knowledge that the windows on the east wall of the adjoining house opened onto a hallway. Mr. Edmunds offered that, if approved, construction would take place in accordance with the plans submitted to the Board.

In response to a question from Mr. Poole relating to "good faith", Mr. Edmunds stated that he has a contract to purchase the property.

Speaking in favor, Ms. Lynn McAteer with Better Housing Coalition stated that BHC purchased the property approximate 20 years ago. As such BHC has been involved in the community for a number of years making significant investment. Ms. McAteer noted that this was the last lot in the block to be developed. Ms. McAteer stated that she was definitely in favor of the proposed single-family dwelling development.

In response to a question from Mr. York, Ms. McAteer stated that in her opinion a 14 foot wide dwelling would not be marketable.

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) requirement be granted to Better Housing Coalition for a building permit to construct a new single-family detached dwelling, subject to the condition that construction takes place in accordance with the elevation plans submitted to the Board including provision of Handi-Plank siding.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Poole, Sadid, Pinnock, York, Samuels

negative: none

CASE NO. 29-15

APPLICANT: Chavez Masonry Co., LLC

PREMISES: 4530 BRITANNIA ROAD
(Tax Parcel Number C008-0307/061)

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

DISAPPROVED by the Zoning Administrator on July 17, 2015, based on Sections 114-300 & 114-1040.2 of the zoning ordinance for the reason that: In an R-4 (Single-Family Residential District) District, the plans are not in compliance with the previous approval (Case No. 29-06). The previous approval granted a Variance from the minimum lot width to split an existing lot and to construct a new single-family detached dwelling. The previous approval reflected a two-story dwelling; a one-story dwelling is proposed.

APPLICATION was filed with the Board on July 17, 2015, based on Section 15.2-2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: German Chavez

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Chavez Masonry Company LLC, has requested a variance to construct a new single-family dwelling detached dwelling located at 4530 Britannia Road. Mr. German Chavez testified that a previous variance was approved in 2006 which waived the minimum lot width requirements subject to construction of the dwelling in accordance with the plans submitted to the Board. Mr. Chavez stated that subsequent to approval of the variance by the Board that an independent lot was recorded as required. Mr. Chavez noted that the proposed two-story dwelling had not been constructed. Mr. Chavez further noted that in recent years there had been a significant change in the market which necessitated the request to construct a one-story rather than a two-story dwelling.

In response to a question from Mr. York, Mr. Chavez stated that the majority of houses in the block are one-story in height.

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 minimum lot width requirement be granted to Chavez Masonry Co., LLC for a building permit to construct a single-family detached dwelling, subject to the condition that construction takes place in accordance with the elevation plans submitted to the Board including provision of Handi-Plank siding.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Poole, Sadid, Pinnock, York, Samuels

negative: none

Upon motion made by Mr. Poole and seconded by Ms. Sadid, Members voted (5-0) to adopt the Board's August 5, 2015 meeting minutes.

Upon motion made by Mr. Poole and seconded by Mr. Samuels, Members voted (5-0) to amend the Board's Rules of Procedure in accordance with recent changes to the Code of Virginia and pursuant to deliberations of the Board at their August meeting as follows:

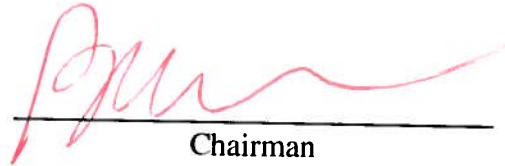
- Section 7. The procedure for the hearing of any case before the Board shall be in accordance with applicable Sections of the Code of Virginia and the City Charter as follows:
- (a) Statement of the case.
 - (b) ~~Appellant's or applicant's statement.~~ Statement of the Zoning Administrator, appellant, other person aggrieved, proponent or city staff.
 1. In the case of an appeal of the decision of the Zoning Administrator, ~~interested parties~~ the Zoning Administrator, the appellant, other persons aggrieved under §15.2-2314 of the Code of Virginia, proponents and the staff of the local governing body shall be permitted a total of ten (10) minutes each to present their case ~~in chief.~~ All interested parties ~~The Zoning Administrator and appellant~~ 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. ~~Interested parties are defined as the appellant(s), the property owner(s) (if other than the appellant), the Zoning Administrator and the neighborhood constituency consisting of neighbors and neighborhood association(s).~~
 2. In the case of an application for a variance or special exception, the applicant, proponents or persons aggrieved under §15.2-2314 of the Code of Virginia shall be permitted a total of six (6) minutes each to present their case.
 3. The Board shall withhold questions until the conclusion of the respective presentations.
 - (e) ~~Proponents' statements.~~
~~The proponents of the application shall be permitted a combined total of three (3) minutes to make their presentations.~~
 - (d) ~~Opponents' statements.~~

~~The opponents of the application shall be permitted a combined total of three (3) minutes to make their presentations.~~

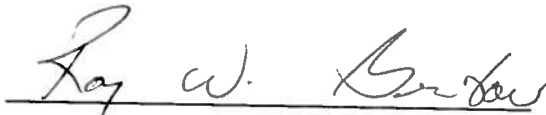
(e) ~~Applicant's rebuttal,~~ Rebuttal for a variance or special exception case, if permitted by the Board.

Rebuttal shall be limited to correction or clarification of factual testimony already presented and shall not exceed five (5) minutes.

The meeting was adjourned at 2:10 p.m.



Chairman



Secretary