



CITY OF RICHMOND

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW
BOARD OF ZONING APPEALS

BOARD OF ZONING APPEALS

MEETING MINUTES

WEDNESDAY, JULY 3, 2019

On Wednesday, July 3, 2019, 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 19 and 26, 2019 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, Sr.
 Susan Sadid

Staff Present: Roy W. Benbow, Secretary
 William C. Davidson, Zoning Administrator
 Brian P. Mercer, Planner II
 Neil R. Gibson, Assistant City Attorney

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.

BZA 17-2019 (CONTINUED FROM MAY 1, 2019 MEETING)

APPLICANT: Robert and Magdalen Ferguson

PREMISES: 411 NORTH 22nd STREET
(Tax Parcel Number E000-0257/020)

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

DISAPPROVED by the Zoning Administrator on February 15, 2019, based on Sections 30-300, 30-413.15(2)a & 30-710.1(a)(1) of the zoning ordinance for the reason that: In an R-8 (Urban Residential District), the side yard (setback) and off-street parking requirements are not met. A side yard of three feet (3') is required; none is proposed. One (1) parking space is required; none is proposed.

APPLICATION was filed with the Board on February 15, 2019, based on Section 1040.3(1 & 11) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Enoch Pou, Jr.

Against Applicant: Dodie Lynch
Michael Beller
John Flores

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicants, Robert and Magdalen Ferguson, have requested a special exceptions to construct a new single-family detached dwelling for property located at 411 N. 22nd Street. Mr. Enoch Pou, representing the applicants, testified that a 3 foot setback waiver was being requested adjacent to an existing 12 foot public alley. In addition, a waiver for the required one off-street parking space was also being requested. Mr. Pou stated that the owner was precluded from installing the required off-street parking space by virtue of the existence of a Dominion power pole and guide wire. Mr. Pou noted that there are also topographical issues involved. Mr. Pou also noted that there was insufficient lot width to construct a garage given the 12 foot wide alley and the potential for a 17 foot wide garage. Mr. Pou indicated that the project had been approved by the Commission of Architectural Review. Mr. Poole explained that the Board bases its decision on the relevant special exception criteria. Mr. Pou noted that there was sufficient available on street parking space along North 22nd Street. Mr. Pou pointed out that the proposed project is in conformance with the lot coverage requirement. Mr. Pou indicated that they had received the support of the Church Hill Civic Association.

Speaking in opposition, Mr. John Flores expressed concern over storm water runoff emanating from the proposed construction. Mr. Flores suggested that the

applicant should bury the electoral lines. Mr. Flores indicated that there was not sufficient on street parking. Mr. Flores suggested that an engineering report should be prepared relative to the potential drainage issues.

Speaking in opposition, Mr. Michael Beller requested that the alleyway not be obstructed for emergency vehicle access purposes.

Speaking in opposition, Ms. Dodie Lynch expressed concern regarding potential drainage issues as well as impeding alley access. It was explained that as a result of the proposed construction nothing will change regarding the current alley access situation.

The Board finds that the property was acquired in good faith and pursuant to Section 114-1040.3(1) of the City Code, the intended purpose and use of the proposed dwelling is consistent with the zoning district regulations; departure from the yard requirements is the minimum necessary to accommodate the intended purpose of the dwelling; the dwelling cannot reasonably be located elsewhere on the lot in compliance with the zoning ordinance; and the dwelling will be in keeping with the architectural character of development within the neighborhood and had been approved by the Commission of Architectural Review.

The Board finds 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 side yard (setback) and off-street parking requirements be granted to Robert and Magdalen Ferguson for a building permit to construct a new single-family detached dwelling.

ACTION OF THE BOARD: (4-1)

Vote to Grant

affirmative: Pinnock, York, Samuels, Sadid

negative: Poole

BZA 20-2019 (CONTINUED FROM MAY 1, 2019 MEETING)

APPLICANT: Catherine & Samuel Jones

PREMISES: 2214 CARRINGTON STREET
(Tax Parcel Number E000-0469/018)

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

DISAPPROVED by the Zoning Administrator on March 15, 2019, based on Sections 30-300, 30-419.6(2)a & 30-710.1(a)(1) of the zoning ordinance for the reason that: In an R-63 (Multi-family Urban Residential District), the side yard (setback) and off-street parking requirements are not met. A side yard of three (3') feet is required; 1.39' is proposed along the western property line. One (1) parking space is required; none is proposed.

APPLICATION was filed with the Board on March 15, 2019, based on Section 1040.3(1 & 11) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Mark Baker
Freda Bolling

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicants, Catherine and Samuel Jones, have requested a special exception to construct a new single-family detached dwelling for property located at 2214 Carrington Street. Mr. Mark Baker, representing the applicants, testified that the case had been continued at the May 1, meeting of the Board. Mr. Baker stated that since that time they met with the New Visions Civic league who had provided a letter of support. Mr. Baker noted that they had worked with staff to revise the case from the original variance request to a special exception case. Mr. Baker further noted that a request is being made to vary the required side yard requirement of 3 feet to 1.39 feet and a waiver of the off-street parking space. Mr. Baker stated that the property is zoned R-63 Multifamily Residential and it is a legal lot of record. Mr. Baker explained that the dimensions of the lot are 29.39' x 54' with 1100 ft.² of lot area. Mr. Baker indicated that the lot had previously been occupied by single-family attached dwelling and that it was not vacant. Mr.

Baker stated that the request is to construct a single-family detached dwelling of three stories in height with three bedrooms and two and one half baths. The dwelling will have 1660 ft.² of floor area and will include quality materials such as Hardy plank siding. Mr. Baker noted that with respect to the special exception criteria the use is consistent with the current R-63 regulations, the minimum relief necessary to accommodate the proposed construction is being requested and the newly constructed dwelling will be in keeping with the development pattern of the neighborhood. Mr. Baker stated that the proposed dwelling width and square footage is in keeping with the surrounding neighborhood. Mr. Baker noted that the adjacent dwellings at 2208 and 2212 Carrington are both three stories in height. Mr. Baker stated that in their case the third story is pushed back from the street giving the visual appearance of a two-story building. Mr. Baker explained that most of the dwellings in the vicinity have nonconforming side yards. Mr. Baker indicated that on the side of the property where the setback request is being made that the adjoining neighbor has a 13 foot setback allowing for over 14 feet of space between the two dwellings. Mr. Baker stated that the requisite provisions of the intent statement had been met. Mr. Baker explained that with respect to the parking waiver that reasonable development of the lot was not possible when allowing for an off-street parking space. Mr. Baker indicated that given the parking stall and access requirement of 40.5 feet that it was simply not possible to provide a parking space on the subject lot. Mr. Baker noted that absent approval of the requested parking waiver that the buildable envelope of the lot would be reduced to approximately 215 ft.². Mr. Baker indicated that based on the character of uses and parking availability in the surrounding area, the exception will not result in an adequate supply of parking or other adverse impact on the neighborhood. Mr. Baker stated that the applicant has demonstrated that adequate parking to serve the needs of the use is provided within reasonable and convenient proximity of the use. Mr. Baker repeated the fact that the New Vision Civic League was in support of the request and that there had been no negative responses to letters sent to the property owners located within a 150 foot radius.

Speaking in support, Ms. Freda Bolling testified that after being made aware of the recent changes to the project that she was no longer in opposition.

The Board finds that the property was acquired in good faith and pursuant to Section 114-1040.3(1) of the City Code, the intended purpose and use of the proposed dwelling is consistent with the zoning district regulations; departure from the yard requirements is the minimum necessary to accommodate the intended purpose of the dwelling; the dwelling cannot reasonably be located elsewhere on the lot in compliance with the zoning ordinance; and the dwelling will be in keeping with the architectural character of development within the neighborhood.

The Board finds 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 side yard (setback) and off-street parking requirements be granted to Catherine & Samuel Jones for a building permit to construct a new single-family detached dwelling, subject to substantial compliance with the plans submitted to the Board and provision of cementitious siding.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Pinnock, York, Poole, Samuels, Sadid

negative: None

BZA 24-2019 (CONTINUED FROM JUNE 5, 2019 MEETING)

APPLICANT: CC Richmond II, LP

PREMISES: 1201 & 1201 ½ NORTH 31st STREET
(Tax Parcel Number E000-0721/018 & 019)

SUBJECT: Building permits to construct two (2) single-family attached dwellings.

DISAPPROVED by the Zoning Administrator on April 12, 2019, 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 unit width requirement is not met. No individual attached dwelling unit shall be less than sixteen feet (16') in width, 14.67' is proposed for each dwelling.

APPLICATION was filed with the Board on April 12, 2019, based on Section 15.2-2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: Andrew M. Condlin

Against Applicant: Anna Wittel

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, CC Richmond II LP, has requested a variance to construct two single-family attached dwellings for property located at 1201 and 1201 1/2 N. 31st Street. Mr. Andy Condlin, attorney for the applicant, testified that the lots in question are 18 feet wide and both lots are legal lots of record. The property is located in the R-6 zoning district. Mr. Condlin noted that under the R-6 zoning it was possible to build detached homes with three-foot side yards. Mr. Condlin stated that this would result in 12 foot wide houses. Mr. Condlin noted that the zoning ordinance requires a minimum dwelling width of 16 feet in the R-6 district. Side yards of 3.3 feet are being proposed with 14.6 foot wide houses necessitating the need for the variances. Mr. Condlin stated that the Board does not have special exception authority to grant the requested waiver. Mr. Condlin noted that the requested waiver will increase the side yard from 3 feet to 3.3 feet and allow for 14.6 foot wide home. Mr. Condlin stated that the average width of dwellings in the block are approximately 22 feet, the average width of attached homes is approximately 14 feet in width and 48% of the homes in the block are attached. Mr. Condlin noted that it was out of character to build a 12 foot wide detached home in the neighborhood. Mr. Condlin stated that the Board of Zoning Appeals under the Code of Virginia has the power to grant a variance subject to the applicant showing either a hardship or an unreasonable restriction. It was a position of Mr. Condlin that both standards have been met in this case. Mr. Condlin indicated that it was unreasonable to allow for a 12 foot wide house when with a variance is possible to provide a greater setback with an improved home. Mr. Condlin stated that all architectural details consistent with the neighborhood will be provided. Mr. Condlin noted that the by right development is not consistent with the neighborhood while the proposed development is more consistent with the neighborhood. Mr. Condlin indicated that the Church Hill Central Civic Association neither supports nor opposes the request. Mr. Condlin concluded by stating that the granting of a variance merely allows the construction of the same number of houses albeit improved houses.

In response to a question from Mr. Poole, Mr. Condlin stated that the property was acquired in April of 2019. Mr. Condlin stated that his client is a professional developer. Mr. Poole inquired how it was not possible that his client did not know of the problem with the lots before their purchase. Mr. Condlin replied that it is possible to develop the properties with detached homes but the requested variance will improve the quality of the homes and neighborhood compatibility.

Mr. Condlin indicated that the Spence Case provides that "the good faith test" does not preclude knowledge that a variance is required in advance of a purchase. Mr. Condlin explained that a violation of the "good faith test" would be if an individual, for example, split a lot and then requested variance approval. Mr. Poole explained that he was troubled by the fact that a variance is being requested despite the applicant's acknowledgment that it is possible to build single-family dwellings on the subject lots in accordance with the zoning ordinance. Mr. Poole questioned whether the requested variance was actually increasing the degree of development that would be permitted on the property. Mr. Condlin stated that there is still one dwelling unit per lot and that the question was whether they were detached or attached. Mr. Condlin noted that the setback was being increased from the required 3 feet to 3.3 feet which represented an improvement and that the proposed development is more in character with the neighborhood in respect to the percentage of attached dwellings and the dwelling widths. Mr. Condlin indicated that the Code of Virginia had been amended to delete the "approaching confiscation" standard. Mr. Condlin stated that a second test in state law is that the zoning requirement constitutes an unreasonable restriction. Mr. Condlin contended that it was unreasonable to require construction of a 12 foot wide house when construction of a 14.67 foot wide house having a greater setback and meeting the character of the neighborhood was possible. Mr. Condlin viewed this as an unreasonable restriction. Mr. Condlin stated that the Virginia Supreme Court defines a reasonable restriction as something that is fair, proper or moderate under the circumstances. Mr. Condlin indicated that it was better to build a larger home with a greater setback. Mr. Condlin explained that a 12 foot wide house is not practical. Mr. Condlin stated that is not necessary to meet the hardship standard and that the unreasonable restriction standard was being met although both standards are in fact being met.

Mr. York stated that he recalled that in the Spence Case the relief that was being sought was necessary and without the relief the property was not developable. Mr. Condlin indicated that he believed it to be correct but the question at hand was whether the good faith standard had been met which it was determined by the Virginia Supreme Court to be the case. Mr. Condlin stated that to meet the test it must either be a hardship or an unreasonable restriction. Mr. Condlin acknowledged these are legal lots of record on which two homes can be built. The question is whether it is better for the neighborhood to build a 12 foot wide dwelling rather than a 14.67 foot wide dwelling. Mr. Condlin stated that the unit width requirement precludes construction of attached dwellings which would have a greater setback which is unreasonable. Mr. Condlin indicated that this was "proper" for the neighborhood.

Speaking in opposition, Ms. Anne Wittel testified that she is the next-door neighbor to the property in question. Ms. Wittel stated that the houses on her side of the block are single-family detached and not single-family attached. Ms.

Wittel noted that there are attached houses on the other side of the block but they are wider units. Ms. Wittel further noted that the neighborhood did not support the requested variance evidenced by the signatures of nine residences on the same side of the block, six of which are homeowners. Ms. Wittel noted that the applicant had stated that they would be providing a greater setback which amounted to the difference between the required 3 feet and a 3.3 feet that is being proposed. Ms. Wittel stated that the developer has made it clear that if the variance is not approved they would construct by right two 12 foot wide houses which meets the zoning ordinance. Ms. Wittel read into the record a statement from the project manager as follows "We definitely have no intention of combining the lots. While we believe the design of the proposed two-story, 14 foot wide attached homes is superior in just about every respect to the three-story, 12 foot wide alternative, there is precedent for the narrower plan in the neighborhood. Most of the home would have a clear interior width of roughly 11'4", and we have no reservation about bringing these to market if we are unable to secure the variance." Ms. Wittel stated that they were asked on repeated occasions to contact Mr. Benbow stating support for the variance and that she felt pressure to do so.

Mr. Condlin disagreed with Ms. Wittel's testimony that there are no other attached houses on the same side of the block. Mr. Condlin reiterated the fact that they are requesting a waiver to the permitted single-family attached dwelling use width requirement.

In accordance with §15.2-2309 of the Code of Virginia the Board finds that the evidence and testimony show that the strict application of the terms of the ordinance does not unreasonably restrict by-right utilization of the property evidenced by the fact that the current R-6 Single-Family Attached Residential District zoning permits development of single-family detached dwelling units without necessity of a variance, a finding which was borne out by public hearing testimony; that the granting of the variance is not necessary to alleviate a hardship due to a physical condition relating to the property at the time of the effective date of the ordinance; and the granting of the variance would result in the proposed single family attached dwelling use which is not permitted by the zoning ordinance.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a variance from the unit width requirement be denied to CC Richmond II, LP for building permits to construct two (2) single-family attached dwellings.

ACTION OF THE BOARD: (3-1-1)

Vote to Deny

affirmative: York, Poole, Sadid
negative: Pinnock
abstain: Samuels

BZA 27-2019

APPLICANT: 721 West Clay Street, LLC
PREMISES: 106 EAST CLAY STREET
(Tax Parcel Number N000-0062/035)
SUBJECT: A building permit to re-establish the nonconforming use rights to four (4) lodging units and convert the building to a two-family dwelling.

DISAPPROVED by the Zoning Administrator on April 29, 2019, based on Sections 30-300 & 30-800.4 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 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 April 16, 2019, based on Section 1040.3(14) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Justin Freeman
Larry Cluff

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, 721 W. Clay Street LLC, has requested a special exception to reestablish the nonconforming use rights to for lodging units and convert the building to a two-family dwelling for property located at 106 E. Clay Street. Mr. Justin Freeman, representing the applicant, testified that the request is to reestablish the nonconforming use rights for the property. It was noted that a building permit was approved in 1996 to establish four lodging units. The

nonconforming use of the building has been discontinued for longer than two years. The zoning of the property is R-6 Single-Family Attached Residential District. Mr. Freeman noted that there will be no change in the footprint of the building. Mr. Freeman further noted that the Commission of Architectural Review had approved the proposed project. Mr. Freeman indicated that the building had been boarded up for approximately 20 years and that the Jackson Ward Civic Association was pleased to hear of the renovation plans. Mr. Freeman stated that a fence had been removed to provide the necessary off-street parking for the units.

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 from the nonconforming use rights be granted to 721 West Clay Street, LLC for a building permit to re-establish the nonconforming use rights to four (4) lodging units and convert the building to a two-family dwelling.

ACTION OF THE BOARD: (5-0)

Vote to Grant

affirmative: Pinnock, York, Poole, Samuels, Sadid

negative: None

BZA 28-2019

APPLICANT: Isaias Amaya

PREMISES: 2854 HULL STREET
 (Tax Parcel Number S000-1222/006)

SUBJECT: A building permit to renovate the building for use as a single-family detached dwelling.

DISAPPROVED by the Zoning Administrator on April 26, 2019, based on Sections 30-300 & 30-800.4 of the zoning ordinance for the reason that: In a B-3 (General Business District), the proposed use is not permitted as the nonconforming rights to a single-family dwelling have expired. Whenever nonconforming uses of a building is 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.

APPLICATION was filed with the Board on April 26, 2019, based on Section 1040.3(14) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Isaias Amaya Rivas
Rufus Roberts

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Isaias Amaya Rivas, has requested a special exception to reestablish nonconforming rights and renovate a building for use as a single-family detached dwelling for property located at 2854 Hull Street. Records indicate the single-family dwelling was constructed in 1910 prior to any zoning regulations but has been vacant for more than two years. Mr. Rufus Roberts, assisting the applicant, testified that although zoned commercially the property had never been utilized as such and due to vacancy the nonconforming rights have expired. It was noted that the property was purchased approximately four years ago. Mr. Roberts stated that for the most part the property is surrounded by residential uses with one adjacent commercial building.

In response to a question from Mr. York, Mr. Roberts testified that the building has no commercial utility.

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 from the nonconforming use rights be granted to Isaias Amaya for a building permit to renovate the building for use as a single-family detached dwelling.

ACTION OF THE BOARD: (5-0)

Vote to Grant
affirmative: Pinnock, York, Poole, Samuels, Sadid

negative: None

BZA 29-2019

APPLICANT: Michael and Bevin Kehoe

PREMISES: 4 CALYCANTHUS ROAD
(Tax Parcel Number W022-0059/003)

SUBJECT: A building permit to construct an in-ground swimming pool (20' x 40') accessory to a single-family dwelling.

DISAPPROVED by the Zoning Administrator on April 30, 2019, based on Sections 30-300, 30-402.5(1), 30-630.1(c) & 30-630.5 of the zoning ordinance for the reason that: In an R-1 (Single-Family Residential District), the front yard (setback) requirement is not met. A front yard of thirty-five feet (35') is required along Old Locke Lane; 19'-1"± is proposed. All yard requirements set forth in this chapter for buildings or accessory structures shall be applicable to in-ground and above ground swimming pools, the swimming pool is not permitted in the front yard.

APPLICATION was filed with the Board on April 30, 2019, based on Section 1040.3(1) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: John Gray
Michael Kehoe

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicants, Michael and Bevan Kehoe, have requested a special exception to construct an in ground swimming pool (20' x 40') accessory to a single-family dwelling for property located at 4 Calycanthus Road. Mr. John Gray, representing the applicants, testified that the property is a through lot and as such has a 35 foot setback from Locke Lane. Mr. Gray stated that the request is to construct a swimming pool within 19 feet of what is in fact the rear property line. Mr. Gray noted that in the block in question none of the houses front on Locke Lane and that variances have been granted to construct garages in the block which includes the applicant. Mr. Gray stated that for general purposes Locke Lane serves as an alley. Mr. Gray showed the board a map indicating that there is

a high density of in ground pools in the surrounding neighborhood. Mr. Gray stated that over 50% of the residents within the 150 foot contact radius have in ground pools. Mr. Gray noted that if required to comply with the through lots setback of 35 feet that the pool would have to be located within close proximity of the dwelling foundation. Mr. Gray indicated that if treated as a rear yard the Locke Lane setback waiver would not be required. Mr. Gray stated that a 6 foot privacy fence would be provided.

In response to a question from Mr. Poole, Mr. Gray stated that if required to meet the 35 foot front yard setback that insufficient space would be left for construction of a pool. Mr. Gray again noted that within the subject block Locke Lane is treated as a rear yard by virtue of all the variances that have been granted.

The Board is satisfied that the property was acquired in good faith and pursuant to Section 114-1040.3(1) of the City Code, the intended purpose and use of the proposed accessory use is consistent with the zoning district regulations; departure from the yard requirements is the minimum necessary to accommodate the intended purpose of the accessory use; the accessory use or similar construction serving the same purpose cannot reasonably be located elsewhere on the lot in compliance with the zoning ordinance; and the accessory use will be in keeping with the architectural character of swimming pool development within the neighborhood.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the front yard (setback) requirement be granted to Michael and Bevin Kehoe for a building permit to construct an in-ground swimming pool (20'x40') accessory to a single-family dwelling.

ACTION OF THE BOARD: (5-0)

Vote to Grant

affirmative: Pinnock, York, Poole, Samuels, Sadid

negative: None

BZA 30-2019

APPLICANT: LC and MH LLC

PREMISES: 409 BROOK ROAD
(Tax Parcel Number N000-0120/042)

SUBJECT: A building permit to re-establish the nonconforming use rights to a retail store and convert the building to a two-family dwelling.

DISAPPROVED by the Zoning Administrator on May 6, 2019, based on Sections 30-300 & 30-800.4 of the zoning ordinance for the reason that: In an RO-2 (Residential-Office 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 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 May 6, 2019, based on Section 1040.3(14) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Matt Haney

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, LC and MH LLC, have requested a special exception to reestablish the nonconforming use rights to a retail store and convert the building to a two-family dwelling for property located at 409 Brook Road. Mr. Matt Haney, representing the applicant, testified that the property is zoned RO-2 Residential-Office District. Mr. Haney noted that the commercial building was constructed in 1900 with a dwelling unit on the second floor. Mr. Haney stated there has been no commercial use of the ground floor space for a number of years. Mr. Haney indicated the request is to reestablish the nonconforming rights and to proffer dwelling units on the first and second floors. Mr. Haney explained that there would be less parking impact with the residential use than with an office use. Mr. Haney concluded by stating that there was no demand for commercial space within the block and that residential dwellings would increase density thereby facilitating future commercial development.

The Board finds 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 to reestablish the

nonconforming use rights to retail store and convert the building to a two-family dwelling be granted to LC and MH LLC.

ACTION OF THE BOARD: (5-0)

Vote to Grant

affirmative: Pinnock, York, Poole, Samuels, Sadid

negative: None

BZA 31-2019

APPLICANT: Mark Julian and Natalie Newfield

PREMISES: 3866 FAUQUIER AVENUE
(Tax Parcel Number N000-1895/010)

SUBJECT: A building permit to construct a one-story addition (32' x 12') and a one-story detached garage (24' x 24') in the rear of a single-family detached dwelling.

DISAPPROVED by the Zoning Administrator on April 24, 2019, based on Sections 30-300, 30-410.5.(1), 30-630.2(b)(1) & 30-810.1 of the zoning ordinance for the reason that: In an R-5 (Single Family Residential District), the front yard (setback) and the nonconforming feature requirements are not met. A front yard of 24.92' is required along the Greycourt Avenue frontage, as established by 1313 Greycourt Avenue. A nonconforming front yard of 10.9 feet exists/ is proposed for the addition and 17.0 feet ± is proposed for the detached garage. An increase in the extent of the nonconforming front yard feature is not permitted.

APPLICATION was filed with the Board on May 13, 2019, based on Section 1040.3(1) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Natalie Newfield
Paul Salvucci

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicants, Mark Julian and Natalie Newfield, have requested a special exception to construct a one-story addition and a one-story detached garage in the rear of a single-family detached dwelling for property located at 3866 Fauquier Avenue. Mr. Paul Salvucci, representing the applicant, testified that the property is located at the corner of Fauquier Avenue and Greycourt Avenue and as such is required to provide two front yards. The front yard requirement along Greycourt Avenue is approximately 25 feet leaving approximately a 17 foot wide developable building width which is not in character with the surrounding neighborhood. Mr. Salvucci noted that there are other similarly situated lots in the neighborhood that currently have rear additions and garages. Mr. Salvucci stated that the addition to the house is necessary for its modernization to meet current family needs. The addition will allow for first floor master and bath which is a more prevalent development style in the neighborhood. Mr. Salvucci stated that the garage was needed for security and accessibility purposes. Mr. Salvucci noted that the special exception criteria had been met and that there was no opposition from surrounding neighbors or the Bellevue Civic Association. Mr. Salvucci stated that the entire house including the proposed improvements will be Hardy plank.

The Board is satisfied that the property was acquired in good faith and pursuant to Section 114-1040.3(1) of the City Code, the intended purpose and use of the proposed addition and accessory use is consistent with the zoning district regulations; departure from the yard requirements is the minimum necessary to accommodate the intended purpose of the addition and accessory use; the addition and accessory use or similar construction serving the same purpose cannot reasonably be located elsewhere on the lot in compliance with the zoning ordinance; and the addition and accessory use will be in keeping with the architectural character of swimming pool development within the neighborhood.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the front yard (setback) and the nonconforming feature requirements be granted to Mark Julian and Natalie Newfield for a building permit to construct a one-story addition (32' x 12') and a one-story detached garage (24' x 24') in the rear of a single-family detached dwelling, subject to substantial compliance with the plans submitted to the Board and provision of cementitious siding.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Pinnock, York, Poole, Samuels, Sadid

negative: None

BZA 32-2019

APPLICANT: Michael & Carrie Walls

PREMISES: 3400 CAROLINA AVENUE
(Tax Parcel Number N000-1161/011)

SUBJECT: A building permit to re-establish the nonconforming use rights to a barber shop and convert the building to a one (1) dwelling unit.

DISAPPROVED by the Zoning Administrator on May 15, 2019, based on Sections 30-300 & 30-800.4 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 nonconforming uses of a building is 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.

APPLICATION was filed with the Board on May 15, 2019, based on Section 1040.3(14) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Carrie Walls

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicants Michael and Carrie Walls, have requested a special exception to reestablish the nonconforming rights to a barbershop and convert the building to one dwelling unit for property located at 3400 Carolina Avenue. Ms. Carrie Walls testified that records indicate the building was constructed in 1923 and used as a barbershop and dress shop but has been vacant since at least 2001. Ms. Walls noted that the structure in question is a carriage house located at the back of the property. Ms. Walls stated that they purchased the property in April of this year with the intent of converting the structure to a residential dwelling unit. Ms. Walls indicated that they were not aware of the zoning issue when the property was purchased and they are not experienced developers. Ms. Walls noted that the building in question has no commercial utility. Ms. Walls stated that

there are two other commercial storefronts that have recently been converted to dwelling units in the block.

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 from the nonconforming use rights be granted to Michael & Carrie Walls for a building permit to re-establish the nonconforming use rights to a barber shop and convert the building to a one (1) dwelling unit.

ACTION OF THE BOARD: (5-0)

Vote to Grant

affirmative: Pinnock, York, Poole, Samuels, Sadid

negative: None

BZA 33-2019

APPLICANT: The Urban Group DMV

PREMISES: 2003 MONTEIRO AVENUE
(Tax Parcel Number N000-0414/017)

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

DISAPPROVED by the Zoning Administrator on May 21, 2019, based on Sections 30-300 & 30-412.4(1) of the zoning ordinance for the reason that: In an R-6 (Single Family Attached Residential District), the lot area and lot width requirements are not met. A lot area of five thousand square feet (5,000 SF) and a lot width of fifty feet (50') are required. For zoning purposes, one (1) lot having a lot area of 10,919.3 square feet and a lot width of ninety-five feet (95') currently exists; a lot area of 4,809.72 square feet (proposed #2001) and a lot width of 41.8 feet (proposed #2001) are proposed.

APPLICATION was filed with the Board on May 24, 2019, based on Section 1040.3(2) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Darryl Stuckey

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, The Urban Group DMV, has requested a special exception to split an existing lot improved with a single-family detached dwelling and construct a new single-family detached dwelling on the proposed vacant lot for property located at 2003 Monterio Avenue. The current lot area and lot width requirements are 5000 ft.² and 50 feet respectively. A lot area of 4809.72 ft.² and a lot width of 41.8 feet are proposed for the 2001 Monterio Avenue address. Mr. Darryl Stuckey testified that the proposed lot is located at the corner of Monterio Avenue and Poe Street which is unimproved. Mr. Stuckey noted that the property was purchased a couple years ago. Mr. Stuckey stated that the lots in question were formally legal lots of record as provided for in the special exception criteria. Mr. Stuckey stated that off-street parking space will be provided by virtue of coming off Monterio Avenue and running the driveway along Poe Street to the off-street parking space at the rear of the lot. Mr. Stuckey explained that DPW had approved a curb cut. Mr. Stuckey indicated that the dwelling will be approximately 1500 ft.².

The Board is satisfied that the property was acquired in good faith and pursuant to Section 114-1040.3 (2) of the zoning ordinance, the subject lots have previously consisted of legal lots of record that were subsequently combined by deed, and the number of lots to be created do not exceed the number of previously existing lots of record, the new lots comply with Section 114-610.1 of the zoning ordinance and off-street parking requirements will be met, each lot created by the division will comply with the requisite side yard requirements, the division will comply with applicable requirements of the subdivision regulations and that dwellings to be constructed on the lots will be compatible with the dwellings existing or to be constructed in the immediate vicinity of the property..

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the lot area and lot width requirements be granted to The Urban Group DMV for a building permit to split an existing lot improved with a single-family detached dwelling and to construct a new single-family detached dwelling on the proposed vacant lot, subject to substantial compliance with the plans submitted to the Board and provision of cementitious siding.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Pinnock, York, Poole, Samuels, Sadid

negative: None

Upon motion made by Mr. Poole and seconded by Ms. Sadid, Members voted (3-0) to adopt the Board's June meeting minutes.

The meeting was adjourned at 3:30 p.m.



Chairman



Secretary