



CITY OF RICHMOND

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW
BOARD OF ZONING APPEALS

BOARD OF ZONING APPEALS

MEETING MINUTES

THURSDAY, JANUARY 2, 2020

On Thursday, January 2, 2020, 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 December 18 and 24, 2019 and written notice having been sent to interested parties.

Members Present: Burt F. Pinnock, Chair
 Roger H. York, Jr.
 Kenneth R. Samuels, Sr.
 Edward H. Winks, Jr.

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

The Vice 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. Due to the fact that there were only three Board members present at the at the outset of the meeting a motion was made by Mr. Winks and seconded by Mr. Samuels to amend the agenda as follows (the vote was 3-0). In Mr. Pinnock's absence Mr. York served as Acting Chairman.

BZA 02-2020

APPLICANT: LB Legacy LLC

PREMISES: 1317 NORTH 22nd STREET
(Tax Parcel Number E000-0616/022)

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 November 11, 2019, based on Sections 30-300, 30-412.4(1) & 30-412.5(1)(b) of the zoning ordinance for the reason that: In an R-6 (Single-Family Attached Residential District), the lot area, lot width, 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 7,485 square feet and a lot width of sixty feet (60') currently exists. A lot area of 3,742.5 square feet and width of 30 feet is proposed for No. 1317. A lot area of 3742.5 square feet and width of 30 feet is proposed for the newly created lot No. 1315. A side yard of five (5) feet is required; 4.86' is proposed along the southern property line for the existing dwelling (No. 1317), and side yards of 4' are proposed for proposed dwelling (No. 1315).

APPLICATION was filed with the Board on November 11, 2019, based on Section 1040.3(2) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Mark Baker

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, LB Legacy, LLC, has requested a special exception to construct a new single-family detached dwelling for property located at 1317 N. 22nd Street. Mr. Mark Baker, representing the applicant, testified that the special exception was being requested under #2-lot division to create buildable lots. Mr. Baker stated that the goal is to build a new single-family detached dwelling. Mr. Baker noted that the request is consistent with the special exception intent statement relating to creation of infill housing which is compatible with the neighborhood. Mr. Baker indicated that the dwelling will be a high-quality for sale product with approximately 1872 ft.² of floor area. The dwelling will have three bedrooms 2 ½ baths with a full master suite. Mr. Baker stated that the exterior will be a compatible design with the neighborhood and that cementitious siding will be provided. Mr. Baker noted that the property is located on the east side of N. 22nd St. in midblock. Mr. Baker indicated that the lot is 60 feet wide and 125 feet deep, having a lot area of 7400 ft.². Mr. Baker indicated that the

proposed lot split will result in two lots of 30 feet in width and having 3700 ft.² of lot area each. Mr. Baker stated that insofar as the special exception criteria are concerned the lot previously consisted of two legal lots of record that were combined by deed, the single-family use is consistent with the use regulations applicable in the R-6 district, the lots will have street frontage and off-street parking requirements will be met. Mr. Baker noted that the lots are consistent with the predominant lot areas and lot widths in the vicinity and this is the only double lot. Mr. Baker also noted that the new dwelling will be compatible with dwellings in the vicinity. Mr. Baker stated that the property was located in the Unity Civic League which indicated it was deferring to the neighbors. Mr. Baker indicated that they had not been informed of any objection from the surrounding neighbors.

In response to a question from Mr. York, Mr. Baker stated that there had never been a house located on the vacant lot.

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, lot width, and side yard (setback) requirements be granted to LB Legacy LLC 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 of the plans submitted to the Board and provision of cementitious siding.

ACTION OF THE BOARD: (3-0)

Vote to Grant Conditionally

affirmative: York, Samuels, Winks

negative: None

BZA 04-2020

APPLICANT: DJS Investment, LLC

PREMISES: 3422 GARLAND AVENUE
(Tax Parcel Number N000-1249/023)

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 November 15, 2019, based on Sections 30-300 & 30-410.4 of the zoning ordinance for the reason that: In an R-5 (Single-Family Residential District), the lot area and lot width requirements are not met. A lot area of six thousand square feet (6,000 SF) and a lot width of fifty feet (50') are required. For zoning purposes, one (1) lot having a lot area of 10,360.0 square feet and a lot width of seventy feet (70') currently exists; lot areas of 5,208.0 square feet (#3422) and 5,152.0 square feet (#3424) and lot widths of 35.0 feet (#3422 & #3424) are proposed.

APPLICATION was filed with the Board on November 15, 2019, based on Section 1040.3(2) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Dennis Smith

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, DJS Investment LLC, has requested a special exception 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 for property located at 3422 Garland Ave. It was noted that the lot area and lot width requirements are not met. Mr. Dennis Smith stated that 6000 ft.² of lot area and a lot width of 50 feet is required. Mr. Smith indicated that lot areas of approximately 5100 ft.² and lot widths of 35 feet are being proposed. Mr. Smith stated that the subject lot is a legal lot of record. Mr. Smith noted that the proposed lot width and lot area is consistent with that of the neighborhood. Mr. Smith indicated that he would be utilizing cementitious siding.

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 DJS Investment, LLC 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: (3-0)

Vote to Grant Conditionally

affirmative: York, Samuels, Winks

negative: None

Mr. Pinnock arrived and the Board resumed hearing the cases as docketed. Mr. York continued to serve as Acting Chairman.

BZA 51-2019 (CONTINUED FROM DECEMBER 4, 2019 MEETING)

APPLICANT: BT Property Holdings, LLC

PREMISES: 4712 WYTHE AVENUE
(Tax Parcel Number W019-0140/002)

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

DISAPPROVED by the Zoning Administrator on October 18, 2019, based on Sections 30-300, 30-410.5(1) & 30-630.1(a) of the zoning ordinance for the reason that: In an R-5 (Single-Family Residential District), the front yard and street-side yard (setback) requirements are not met. A front yard of twenty-five feet (25') is required along Wythe Avenue; eight feet (8') is proposed. A street-side yard of ten feet (10') is required along Monumental Street; eight feet (8') is proposed.

APPLICATION was filed with the Board on October 18, 2019, based on Section 1040.3(1) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Mark Baker
Gregory Shron

Against Applicant: William Miller
John Hauserman

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, BT Property Holdings, LLC, has requested a special exception to construct a new single-family detached dwelling for property located at 4712 Wythe Ave. Mr. Mark Baker, representing the applicant, testified that a continuance was requested in December in order to conduct further meetings with neighborhood residents. Mr. Baker stated it was important to address the concern raised regarding the impact of the proposed dwelling on property values. Specifically, the impact of the loss of what neighbors perceive as a large public meeting/green space. Mr. Baker noted that the special exception standards require that the special exception shall not diminish the established property values in surrounding areas. Mr. Baker indicated that in order to address that concern his client had a report prepared by a certified general appraiser, Mr. Alex Uminsky. Mr. Baker stated that Mr. Uminsky studied the area and found that the presence of a green space would have no impact on the value or marketability of adjoining properties. Mr. Baker reviewed special exception standard #1 and noted that the intent is clearly met. The lot does have an irregular configuration. The lot is exceptionally large in terms of its area having 10,600 ft.² versus the zoning ordinance acquirement of 6000 ft.². The lot is the largest lot in the subject block. The lot is exceptionally long and narrow which makes it irregular. Mr. Baker noted as a result of this fact the front and street side yard requirements severely inhibit development. Mr. Baker indicated that absent special exception approval the depth of the building development ranges from a maximum of approximately 7 feet at the western end to 3 feet on the eastern end which underscores the fact that development has been prohibited. Mr. Baker stated that the tests associated with the special exception have been met. As a single-family development, the use is consistent with the R-5 regulations. The relief sought is minimum relief necessary to accommodate the dwelling. The proposed dwelling is in keeping with the development pattern of the neighborhood. Mr. Baker explained that the request represents the minimum relief needed to construct a livable dwelling that is consistent with the modern-day dwelling needs and the development pattern in the vicinity. Mr. Baker stated with respect to the development pattern of the neighborhood the existing dwelling footprints range in size from 997 ft.² to 1576

ft.². The proposed dwelling has a footprint of 1058 ft.² which is within that range. With respect to dwelling square footages the neighborhood range is from 1167 ft.² to 2132 ft.². The proposed dwelling has 1888 ft.² which is within the range. Mr. Baker indicated that in looking at the lot and the siting of the dwelling these are two original subdivision lots. Pairing two or more subdivision lots as a "lot" is consistent with the surrounding development. The lot is configured as a through lot with frontage on both Wythe Avenue and Monumental Street. Mr. Baker noted that is consistent with lots to the west going out to the Henrico line which are formed by the converging of Wythe Avenue and Monumental Street which have two frontages.

Speaking in support, Mr. Gregory Shron testified that because of the unusually shaped lot efforts were undertaken to minimize the impact of construction. First of all, the dwelling was situated to the western portion of lot. The design of the dwelling closely matches the scale and style of the surrounding neighborhood. Mr. Shron stated there is no formal community process and letters were mailed to all property owners with 150 feet of the lot. The letter publicized an open meeting on the lot for November 13. The design was reviewed and a number of questions were answered. The plan was made available and the corners of the dwelling were staked. A contract extension was secured to allow continued engagement with the community. Modifications were made to the side of the house including relocation of the driveway. Mr. Shron stated that as part of the revised plans 40% of the lot was set aside for open space. Mr. Shron explained that as part of the discussions he agreed to limitations on the size of the privacy fence. Mr. Shron noted that he anticipated that the neighbors were still in opposition to the project. Mr. Shron concluded by reiterating that the applicable special exception criteria have been met. As a follow-up, Mr. Shron stated that the height of the privacy fence would be restricted to 3 feet. Mr. Shron also stated that he was agreeable to complying with the revised site plan in so far as location of the dwelling and driveway are concerned.

In response to a question from Mr. Winks, Mr. Shron indicated the desired intent was to dedicate the subject green space to the City. Mr. Shron stated that alternatively easement agreements could be entered into. Mr. Shron offered that the foundation wall would be brick.

In response to a question from Mr. Pinnock, Mr. Shron stated that the changes that had been undertaken were in response to neighborhood concerns/requests.

In response to a question from Mr. York, Mr. Baker stated that the proposed setback is greater than the setback of the existing dwelling on the adjacent lot.

In response to a question from Mr. York, Mr. Davidson stated that the front yard for the existing dwelling is Chantilly Street.

Speaking in opposition, Mr. Bill Miller stated that he had lived at 4616 Wythe Avenue for 25 years and had worked closely with the neighbors concerning the proposed project. Mr. Miller referred to a petition signed by 32 neighbors on the 4700 and 4600 blocks of Wythe Avenue. Mr. Miller noted that there was 100% opposition among the 32 neighbors. Mr. Miller noted that the subject lot was private property but it essentially functions as a median. Mr. Miller stated that the property values in the 4700 block of Wythe Avenue amount to \$8 million. If the 4600 block of Wythe Avenue is included the total investment rises to \$17 million. Mr. Miller explained by contrast that the lot in question which Mr. Shron wants to develop is valued at \$34,000 which represents 1/500 of the value of the blocks in question. Mr. Miller stated that this is a perfect example of why zoning regulations exist. Mr. Miller indicated that the real estate market and real estate stability are anchored in the consistent application of the zoning laws. Mr. Miller explained that the requested variance is a radical departure from the zoning requirements. Mr. Miller noted that the proposal calls for only an 8 foot yard on either side which is radical in its nature. Mr. Miller indicated that there is no compelling reason to grant the requested variance. What you have is someone who is trying to unload a \$34,000 piece of property that cannot be built upon without the variance. Mr. Miller stated that construction of this home is unfair to \$17 million worth of investment by himself and his neighbors. Mr. Miller noted that the property in question is central to the character of the neighborhood. Mr. Miller took issue with the analysis provided by Mr. Baker regarding the extent of impact the proposed dwelling would have on surrounding neighbors. Mr. Miller stated that in his opinion there is no question that his property values would drop.

In response to a question from Mr. Winks, Mr. Miller stated that the lot is currently owned by the owner of 1201 Chantilly St.

In response to a question from Mr. York, Mr. Miller stated that the other house on the lot was constructed in 1954. Mr. York inquired if the existence of the other house on the lot had a negative effect on the neighborhood. Mr. Miller indicated the construction of that house was also a zoning mistake. Mr. Miller questioned whether it was a good idea to make two mistakes.

Speaking in opposition, Mr. John Hauserman testified he is the owner of 4700 Monumental Street. Mr. Hauserman explained that he was recently married and purchased 4602 Wythe Avenue in December. Mr. Hauserman noted that he had previously rented 4615 Wythe Avenue. Mr. Hauserman stated that he was in the commercial real estate business. Mr. Hauserman indicated that the biggest issue is taking a 25 foot setback and reducing it to 8 feet which represents a 68% reduction. Mr. Hauserman stated that 100% of the individuals contacted in the 4700 block of Wythe Avenue opposed the project. Mr. Hauserman questioned the appropriateness of using Leyland Cypress for screening material. Mr.

Hauserman stated that there is no ability to properly screen the proposed dwelling given the setback from Monumental Avenue.

In response to a question from Mr. York, Mr. Miller mentioned that he had talked to Richmond.org about creating a nonprofit for the purpose of purchase of the property.

Mr. Shron stated he was flexible regarding the species of plantings to be used for landscaping.

It was noted by Board Members that the lot in question is a legal lot of record.

It was also noted by Mr. York that when confronted with expert testimony and non-expert testimony regarding the subject appraisal information the benefit should be given to the expert testimony.

It was also noted by Mr. York that the fact that the City has agreed to allow vehicle backing into Monumental Street is evidence that there is not a congestion, public danger or public safety issue.

Board Members discussed the obligation to permit some reasonable use of the lot in question. There was not a consensus among Board Members that the only viable use of the lot was for park purposes.

Mr. Winks did not agree that the proposed dwelling was consistent with the neighborhood or development pattern.

Mr. York observed that there were not alternative dwelling designs discussed by the neighborhood for the reason that they were opposed to the project.

The conditions for approval offered by the applicant are as follows:

- 1) Offer for dedication to the City of Richmond the proposed dedicated public space as depicted on the site plan dated December 9, 2019 submitted to the Board or offer to dedicate as right-of-way the proposed dedicated public space as depicted on the site plan dated December 9, 2019 submitted to the Board or offer to record a private easement of the proposed dedicated public space as depicted on the site plan dated December 9, 2019 submitted to the Board for the benefit of the property owners fronting on the 4700 block of Wythe Avenue and the 4700 block of Monumental Street for utilization as public space by the affected property owners.
- 2) Privacy fence, if provided, shall not exceed a height of three feet (3').

- 3) Substantial compliance with the plans submitted to the Board including the site plan dated December 9, 2019 and provision of cementitious siding
- 4) A brick foundation wall shall be required.
- 5) A continuous evergreen vegetative screen along the Monumental Street frontage of the proposed dwelling which shall achieve a height of not less than six feet (6') measured from grade within a year of issuance of the Certificate of Occupancy. Plant material to be approved by the Zoning Administrator.

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 dwelling use is consistent with the zoning district regulations; departure from the yard requirements is the minimum necessary to accommodate the intended purpose of the dwelling use; the dwelling use or similar construction serving the same purpose cannot reasonably be located elsewhere on the lot in compliance with the zoning ordinance; and the dwelling use will be in keeping with the architectural character of 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 and street-side yard (setback) requirements be granted to BT Property Holdings, LLC for a building permit to construct a new single-family detached dwelling, subject to the following conditions:

- 1) Offer for dedication to the City of Richmond the proposed dedicated public space as depicted on the site plan dated December 9, 2019 submitted to the Board or offer to dedicate as right-of-way the proposed dedicated public space as depicted on the site plan dated December 9, 2019 submitted to the Board or offer to record a private easement of the proposed dedicated public space as depicted on the site plan dated December 9, 2019 submitted to the Board for the benefit of the property owners fronting on the 4700 block of Wythe Avenue and the 4700 block of Monumental Street for utilization as public space by the affected property owners.
- 2) Privacy fence, if provided, shall not exceed a height of three feet (3').
- 3) Substantial compliance with the plans submitted to the Board including the site plan dated December 9, 2019 and provision of cementitious siding
- 4) A brick foundation wall shall be required.
- 5) A continuous evergreen vegetative screen along the Monumental Street frontage of the proposed dwelling which shall achieve a height of not less than six feet (6') measured from grade within a year of issuance of the Certificate of Occupancy. Plant material to be approved by the Zoning Administrator.

ACTION OF THE BOARD: (3-1)

Vote to Grant Conditionally

affirmative: Pinnock, York, Samuels

negative: Winks

BZA 01-2020

APPLICANT: Antwaun D. Griffin

PREMISES: 511 NORTH 21st STREET
(Tax Parcel Number E000-0254/023)

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

DISAPPROVED by the Zoning Administrator on November 12, 2019, based on Sections 30-300, 30-419.6(1), 30-630.1(a)(1) & 30-1220 of the zoning ordinance for the reason that: In an R-63 (Multifamily Urban Residential District), accessory buildings and structures are not permitted in the front yard, as established by the main building. A front yard is defined as "a yard extending the length of the street frontage of a lot and being the minimum horizontal distance between the street line and the main building." A front yard (setback) of 10.2 feet is required along the East Leigh Street frontage; three feet (3') is proposed.

APPLICATION was filed with the Board on November 8, 2019, based on Section 1040.3(1) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Antwaun Griffin

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Antwaun Griffin, has requested a special exception to construct a detached garage accessory to a single-family detached dwelling for property located at 511 N. 21st Street. Mr. Griffin testified that the property is located at the corner of N. 21st St. and E. Leigh St. Mr. Griffin noted that he has a corner lot which imposes front yards along both streets. Mr. Griffin also noted that his lot is irregularly shaped and that it borders an alley which accesses E.

Leigh St. Mr. Griffin explained that he purchased the property in July 2007. Mr. Griffin stated that when he purchased the home it was a duplex which he then converted into a single-family dwelling. Mr. Griffin noted that he does not have a basement and he is in need of a garage which will also serve for storage purposes. Mr. Griffin indicated that based on the fact that his lot is a corner lot which is irregularly shaped that it was not possible to construct the garage in conformance with the zoning ordinance.

In response to a question from Mr. York, Mr. Griffin indicated that the garage was being located closer to Leigh Street in order to provide more vehicle backup. Mr. Griffin noted that the minimum setback possible was being requested which would facilitate construction of the garage.

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 the dwelling and 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 location of an accessory structure in the front yard be granted to Antwaun D. Griffin for a building permit to construct a detached garage accessory to a single-family detached dwelling.

ACTION OF THE BOARD: (4-0)

Vote to Grant

affirmative: Pinnock, York, Samuels, Winks

negative: None

BZA 03-2020

APPLICANT: Nordrow Investments LLC

PREMISES: 1901 GEORGIA AVENUE
(Tax Parcel Number W000-0781/010)

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

DISAPPROVED by the Zoning Administrator on November 14, 2019, based on Sections 30-300 & 30-410.5(1) of the zoning ordinance for the reason that: In an R-5 (Single-Family Residential District), the front yard (setback) requirement is not met. A front yard of twenty-five feet (25') is required; 16.06' is proposed along Kansas Avenue.

APPLICATION was filed with the Board on November 14, 2019, based on Section 1040.3(1) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Gabi Syska
Chris Bazemore

Against Applicant: Mark Brandon
L. Winston

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case Nordrow Investments LLC, has requested a special exception to construct a single-family detached dwelling for property located at 1901 Georgia Avenue. Ms. Gabi Syska, representing the applicant, testified that the property owner, Nordrow investments LLC, is petitioning the Board of Zoning Appeals for a special exception under §30-1040.3 (1) of the zoning ordinance, which allows the Board to grant relief from the limitation on the construction of single-family detached dwellings when they cannot meet applicable yard and/or lot coverage requirements. Ms. Syska stated the Board is in a position to approve the special exception based on the criteria established by the code. Ms. Syska pointed to the fact that the special exception criteria require that the intended purpose and use of the dwelling is consistent with the use regulations applicable in the district in which the property is situated. Ms. Syska explained that this criteria is clearly met as the proposed home is a single-family detached dwelling which is a permitted use in the R-5 district and is consistent with the applicable use regulations. Ms. Syska referred to the second of the special exception criteria that the request is the minimum necessary to accommodate the intended purpose of the dwelling and that the dwelling or similar dwelling serving the same purpose cannot reasonably be located elsewhere and a lot in compliance with applicable requirements. Ms. Syska pointed to the fact that the property is currently an unapproved vacant corner lot with a front yard required on Kansas Avenue and Georgia Avenue. It was noted that the property does meet the normal lot width requirements of 50 feet along Georgia Avenue which is consistent with similarly situated properties which also front on Georgia Avenue. Ms. Syska noted that other homes in the

neighborhood are detached with an average width of 46 feet. Ms. Syska pointed out that given the side yard and front yard requirements that the width of the subject house would be limited to 20 feet. Ms. Syska indicated that the request is to reduce the front yard requirement from 25 feet to 16 feet along Kansas Avenue. Ms. Syska mentioned that there is a significant grade change in the rear of the property which impacts the lot. Ms. Syska explained that the adjoining lot on Kansas Avenue imposes a front yard requirement on the subject lot and that the adjoining lot is currently vacant. Mr. Davidson noted that depending on orientation of a future dwelling on the adjoining vacant lot that it could negate the current set back requirement for the applicant's property. Ms. Syska further explained that development plans for the adjoining lot on Georgia Avenue which imposes a front yard requirement on the subject lot indicate that the newly proposed house will be set back far on the adjoining lot and in close proximity to the river therefore negating any front yard impact on the subject lot. Ms. Syska reiterated that a 20 foot wide home would be inconsistent with dwellings in the neighborhood nor in keeping with the surrounding character of ranch, Cape Cod, farmhouse, and modern style detached homes. Ms. Syska discussed the third and final special exception criteria regarding the fact that any newly constructed dwelling will be in keeping with the development pattern of the neighborhood. Ms. Syska noted that the neighborhood has six streets that run north/south with the majority of homes facing the streets, as with Georgia Avenue. Ms. Syska explained that the homes with lots that border Kansas Avenue use it as a side street. Ms. Syska noted that the average setback along Kansas Avenue is 14 feet. The requested special exception is for a 16 foot setback along Kansas Avenue. Ms. Syska stated that the narrowest home in the surrounding block is 28 feet in width which is what is being proposed for the subject lot. Ms. Syska noted that there is no identifiable architectural style within the surrounding neighborhood. Ms. Syska concluded by stating that strict application of the terms of the ordinance unreasonably restricts development of the subject property and requested that the Board approve the application.

Speaking in support, Mr. Chris Bazemore explained that initially the neighborhood was concerned with the modern style of the original house which was redesigned to be more reflective of other homes in the surrounding neighborhood which were craftsman in nature. Mr. Bazemore explained that a newly constructed dwelling on the other side of Kansas Avenue from the subject property has a 20 foot setback from the curb. Mr. Bazemore indicated that the setback proposed for the subject dwelling is virtually identical to that of house across the street.

Speaking in opposition, Mr. Mark Brandon, President of the Maymont Civic League noted that zoning issues are a rarity in the neighborhood and that this is only the second one in a number of years. Mr. Brandon pointed to the fact that

there is an alley behind the subject property and that there is a huge drop-off in the back of the property. Mr. Brandon read the following letter into the record:

To: Roy Benbow
Richmond Board of Zoning Appeals
Re: 2020-03

Following a much appreciated second presentation by these applicants at our November 18, Maymont Civic League meeting, and following much discussion involving members and immediate neighbors, we voted not to support the applicant in this case, 2020-03.

The consensus of the comments, being, that the house plans as presented, no matter the style, were too large in footprint for the lot at 1901 Georgia Ave., as regulated correctly by current city statute. Our Maymont/Riverview neighborhood is dominated by smaller homes. We discussed and considered that, a larger house sells for a greater amount, and that the amount of profit that a speculative house can attract should not be a consideration in a legal request to amend a statute.

Other considerations presented: 1) The lot at 1901 Georgia falls off dramatically on the east, making it a somewhat smaller lot than it shows on plats. 2) The possibility of a curb cut interacting with our planned sidewalks. 3) The appearance of a big house adjacent to a smaller home, would imitate the strange appearance of the 1900 Carter Street block, one block to the east.

Finally, in my opinion, neighbors find it difficult to separate this BZA case with a pending Planning Commission case, (2019-294), which may involve construction of a sensitive area which abuts the 1901 Georgia lot on the east.

Thank you for your time,
Mark Brandon, President

Mr. Brandon questioned whether the objective was to build the largest possible house thereby making the greatest possible profit. Mr. Brandon stated the only other BZA approval in the neighborhood involved a 2014 case on 1903 Carter Street where the house is too big and a lot is too small. Mr. Brandon explained that the adjoining property owner to the subject lot was an architect who expressed concern over the overall grade change of the subject dwelling amounting to approximately 48 inches and the potential impact of the Chesapeake Bay requirements. Mr. Brandon expressed concern over the plans insofar as siding, foundation, materials and chimney design. Mr. Brandon contended that the dwelling will have vinyl siding. Mr. Brandon objected to the fact that the proposed dwelling has four bedrooms in what is otherwise a two-bedroom neighborhood.

Speaking in opposition, Mr. L. Winston, representing his sister who owns 1907 Georgia Ave. and the estate of their parents for 1902 Georgia Avenue. Mr. Winston stated that he grew up in the area. Mr. Winston noted that there have been several changes in the proposed setbacks. Mr. Winston stated he felt certain that when the applicant purchased the lot they were aware of the setback issues. Mr. Winston expressed concern over the precedent-setting nature of approving the applicant's request. Mr. Winston took issue with the applicant's contention that there are dwellings along Kansas Avenue that do not meet required setbacks.

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 dwelling use is consistent with the zoning district regulations; departure from the yard requirements is the minimum necessary to accommodate the intended purpose of the dwelling use; the dwelling use or similar construction serving the same purpose cannot reasonably be located elsewhere on the lot in compliance with the zoning ordinance; and the dwelling use will be in keeping with the architectural character of 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 Nordrow Investments LLC for a building permit to construct a single-family detached dwelling, subject to substantial compliance of the plans submitted to the Board and provision of cementitious siding and provision of cementitious board and batten.

ACTION OF THE BOARD: (3-1)

Vote to Grant Conditionally

affirmative: Pinnock, Samuels, Winks

negative: York

BZA 05-2020

APPLICANT: 2305 North Avenue Land Trust

PREMISES: 2305 NORTH AVENUE
(Tax Parcel Number N000-0540/007)

SUBJECT: A building permit to re-establish the nonconforming use rights to a four (4) dwelling unit building.

DISAPPROVED by the Zoning Administrator on November 15, 2019, based on Sections 30-300, 30-436.1 & 30-800.4 of the zoning ordinance for the reason that: In a B-2 (Community Business District), the proposed use is not permitted as the previous nonconforming use rights have expired. The property's current B-2 zoning district permits dwelling units when contained within the same building as other permitted principal uses, provided that such dwelling units shall be located above the ground floor of the building or to the rear of other permitted principal uses so as not to interrupt commercial frontage in the district, and provided further that the total floor area devoted to dwelling use shall not exceed three (3) times the area of that portion of the ground floor of the building devoted to other permitted principal uses. The entire building will be devoted to the multi-family use. Whenever a nonconforming use of a building is discontinued for a period of two (2) years or longer, any subsequent use of the premises must conform to the regulations applicable in the district in which it is located.

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

APPEARANCES:

For Applicant: Jammie Williams

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, 2305 North Ave. Land Trust, has requested a special exception to reestablish the nonconforming use rights to a four dwelling unit building. The previous multifamily dwelling was discontinued for a period of more than two years therefore relinquishing the prior nonconforming rights. It was noted that this case had been previously approved by the Board but due to failure to implement the approval it expired. Mr. Jamie Williams, representing the applicant, testified that they are eager to see the building occupied by families. Mr. Williams noted that a portion of the dwelling units are going to be repurposed to allow for half baths. Mr. Williams indicated that there are four off-street parking spaces located at the rear of the lot. Mr. Williams also noted that the previous owner had permitted the nonconforming multifamily rights to lapse. The intent is to reestablish the lost rights in order to permit development of four multifamily dwelling units.

In response to a question from Mr. York, Mr. Williams stated that the building has no commercial utility and based on its design the only viable use is for multifamily purposes.

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 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 from the nonconforming use rights be granted to 2305 North Avenue Land Trust for a building permit to re-establish the nonconforming use rights to a four (4) dwelling unit building.

ACTION OF THE BOARD: (4-0)

Vote to Grant

affirmative: Pinnock, York, Samuels, Winks

negative: None

Upon motion made by Mr. Pinnock and seconded by Mr. Samuels, Members voted (3-0) to adopt the Board's December meeting minutes.

Upon motion made by Mr. Samuels and seconded by Mr. Winks, Members voted (4-0) to elect Mr. Burt Pinnock as the Chairman and Mr. Roger York as the Vice-Chairman of the Richmond Board of Zoning Appeals for 2020, and Mr. Rodney Poole as the Board's representative to the Planning Commission for 2020.

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


Chairman


Secretary