



BOARD OF ZONING APPEALS

MEETING MINUTES

WEDNESDAY, JUNE 7, 2023

On Wednesday, June 7, 2023, 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 May 24 and 31, 2023 and written notice having been sent to interested parties.

Members Present: Rodney M. Poole, Chair
 Roger H. York, Jr., Vice-Chair
 Mary J. Hogue
 Bryce L. Robertson
 Edward H. Winks, Jr.

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. The Chairman explained that the applicant, those appearing in support of the application and those appearing in opposition to the application shall be permitted a total of six minutes per group to present their testimony before the Board.

BZA 10-2023 (CONTINUED FROM MAY 3, 2023 MEETING)

APPLICANT: Canvas Development LLC

PREMISES: 3323 ROSEWOOD AVENUE
(Tax Parcel Number W000-1505/005)

SUBJECT: A lot split and building permit to construct two new single-family
(detached) dwellings.

DISAPPROVED by the Zoning Administrator on March 9, 2023, 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) is required and a lot width of fifty feet (50') is required. Two (2) lots with lot areas of two thousand eight hundred square feet (2,800 SF) and lot widths of twenty-five feet (25') are proposed.

APPLICATION was filed with the Board on March 9, 2023, based on Section 30-1040.3(2) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Mark Baker

Against Applicant: Michael Marunde

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Canvas Development LLC, has requested a special exception to construct two new single-family detached dwellings for property located at 3323 Rosewood Avenue. Mr. Mark Baker, representing the applicant, testified that this case was continued from last month's meeting in an effort to coordinate further with the neighborhood. Mr. Baker indicated that flyers were delivered to the neighbors and that an on-site meeting was held on May 23 at which five close by neighbors attended. Mr. Baker noted that a revision had been made to the original plans which reduces the size of the easternmost house to better transition to the dwelling to the east. Mr. Baker stated that the proposed lots are consistent with the predominant lot widths and lot areas in the block and the lots are original subdivision lots that were part of a 35 lot subdivision. Mr. Baker noted that 17 of the 28 lots have a lot width in the range of 23 to 25 feet and the proposed lot is 25 feet in width while the median lot width is 25 feet. It was further noted that the majority of lots range in size from 2700 ft.² to 2800 ft.² and the proposed lot is 2800 ft.² Mr. Baker stated that there is a larger lot located to the west of the subject property which represents an outlier in the block as it consists of three original subdivision lots and noted it would be a potential candidate for a future split should the house be removed. The proposed dwelling is consistent with other dwellings in the vicinity which include stucco, lap siding and brick building materials. The proposed dwellings are within the range of

floor areas for existing dwellings in the vicinity. The western dwelling encompasses 1857 ft.² while the eastern dwelling has been reduced by nearly 200 ft.² for a total of 1678 ft.². The adjacent dwelling to the west is larger at 1888 ft.². Mr. Baker stated that existing dwellings in the vicinity range from 1 to 2 stories. It was noted that the adjacent dwelling to the West is a two-story dwelling. Further, there are instances in the block where there are one story dwellings and two-story dwellings adjacent to each other on similarly sized lots where there are lesser side yards than proposed. In addition, compatibility is further supported by the fact that in 2016 the BZA approved a similar lot split situation at 3309/07 Rosewood. In closing, Mr. Baker indicated that this specific special exception was created because it was seen to be desirable to increase opportunities for infill housing development that is compatible with other properties in the vicinity. Mr. Baker also noted that the City Council had recently declared a housing shortage in the city which this type of request is designed to address. Mr. Baker indicated that the Richmond 300 plan includes numerous statements regarding equity, inclusiveness and increased density through more efficient development of land. Mr. Baker also noted that steps are currently being taken to amend the zoning ordinance to reflect those goals. Finally, Mr. Baker stated that the request meets all the requisite special exception statutory requirements.

Speaking opposition, Mr. Michael Marunde testified that he resides at 3241 Rosewood Avenue. Mr. Marunde agreed that in accordance with §30-1040.3(2) the proposed lot areas and lot widths are consistent with other lots in the vicinity. Mr. Marunde disagreed that the dwellings proposed by the applicant are compatible with dwellings existing in the immediate vicinity. Mr. Marunde stated of the 140 dwellings in the surrounding area only 5% of them are two-story in height. In the 3200/3300 block of Rosewood Avenue 22 of the 28 dwellings are single story in height ranging in size from 700 and 900 ft.². Mr. Marunde explained that one of the other problems with the proposed dwellings is the fact that they do not have sufficient yards. Mr. Marunde expressed the view that the proposed dwellings will be rental in nature due to the insufficient lot area for children to play. Mr. Marunde also expressed the view that his biggest fear with the units is they will be utilized for Air B&B. Mr. Marunde referred to language contained in Section 30-1040.3 which reads in part that the Board may grant a special exception upon a finding that the exceptions “shall by their design, construction and operation adequately safeguard the health, safety and welfare of the occupants of the adjoining and surrounding property, shall not unreasonably impair an adequate supply of light and air to adjacent property, shall not increase congestion in streets and shall not increase public danger from fire or otherwise unreasonably affect public safety and shall not diminish or impair the established property values in surrounding areas”. Mr. Marunde stated that the demolition of the asbestos siding on the original house was not done using the required city permit. Asbestos siding and debris ended up on both the adjoining properties on both sides, exposing pets, a food garden, children and adults to possible asbestos

exposure. Mr. Marunde noted that 95% of all properties on the 3200/3300 block of Rosewood Avenue fall short of many present-day applicable lot area, lot width and usable open space, lot coverage and side yard requirements. Further, the population to land area ratio has been responsible for a parking situation that is presently barely manageable by the residents who live in the neighborhood. Mr. Marunde indicated that to add two additional houses rather than just one only serves to aggravate an already difficult parking situation causing many to look for parking on side streets. Mr. Marunde explained that there will be added stress of having to spend more time searching for parking, exposing children and the elderly to crossing busy streets, unloading and loading on busy streets, additional FedEx/UPS stops, more traffic and congestion and parking far from your home during inclement weather are all concerns that will be negatively affected by the construction of an additional house on a block. Mr. Marunde expressed further concern that the unreasonably close proximity of the two houses to each other and to the existing neighbors will create possible fire, smoke and water damage exposures. Mr. Marunde stated his concern that the new houses will not be of interest to families as new homebuyers, because the prices of the houses will not be compatible to existing houses in the area, and the size of the yards will not be compatible with the typical family's needs. Mr. Marunde indicated that both of the proposed houses stand a good chance of being either rentals or Air B&B properties.

The Board is satisfied that the property was acquired in good faith and pursuant to Section 30-1040.3 (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 30-610.1 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, the areas and widths of the lots created by the division are consistent with the predominant lot areas and lot widths in the immediate vicinity of the property 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 Canvas Development LLC for a lot split and building permit to construct two new single-family (detached) dwellings, 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: Poole, York, Hogue, Robertson, Winks

negative: None

The Chairman, Mr. Poole, requested that those wishing to testify in this case stand and raise their right hand. Mr. Poole then administered the oath to tell the truth, the whole truth and nothing but the truth. Mr. Poole explained again that the applicant, proponents and opponents have six minutes per group to present their testimony in this case.

BZA 13-2023

APPLICANT: City of Richmond Department of Public Works

PREMISES: 3000 EAST BELT BOULEVARD
(Tax Parcel Number C009-0612/020)

SUBJECT: A building permit to construct a fire safety training facility.

DISAPPROVED by the Zoning Administrator on September 6, 2022, based on Sections 30-300, 30-402.1(2) & 30-408.1 of the zoning ordinance for the reason that: In an R-4 (Single-Family Residential) District, the proposed use is not permitted. Uses required for the performance of governmental functions, primarily intended to serve residents of the adjoining neighborhood are permitted; the proposed use by the Fire Department serves the entire City of Richmond.

APPLICATION was filed with the Board on September 6, 2022, based on Section 30-17.20(c) of the Charter of the City of Richmond.

APPEARANCES:

For Applicant: Dexter Goode
Melvin Carter
Reva Trammell

Against Applicant: Monica Esparza

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, the City of Richmond, has requested permission to construct a fire safety training facility for property located at 3000 E. Belt Boulevard. Mr. Dexter Goode, representing the City of Richmond, testified that

in accordance with §17.20(c) of the Charter of the City of Richmond the proposed facility is necessary and vital to the life and safety of both the public and fire staff and is much needed to provide the training necessary to adequately safeguard the health, safety and welfare of the occupants of the adjoining and surrounding property and the citizens of Richmond as a whole. Mr. Goode stated that employing all construction code regulations and OSHA mandates applicable to perform the construction and training on the property ensures these needs are met. Mr. Goode indicated that not only will the work area be properly designated and identified giving notice that only authorized personnel are allowed in the construction zone and training facility, but that all training activities will be monitored by experienced fire personnel at all times on the site once the training activities commence. Mr. Goode explained that neither the construction nor the completed structure will impair the supply of light and air to the adjacent property owners because the proposed location of the structure on the site is in a remote area of the existing property buffered by mature trees on three sides of the facility. Mr. Goode stated the distance between the proposed structure and the nearest adjacent property is approximately 100+ feet away. The proposed site lighting is dark sky compliant and will only be used in the early evening and never past 9 PM. Mr. Goode indicated that landscaping surrounding the proposed site includes a variety of tree specimens and shrubbery which aid in the prevention of impairing and transmitting light from the facility to the adjacent properties. Further, nothing within the structure or during the construction of the facility will impair the air to the adjacent property. Mr. Goode noted that there are no State Air Control permits required based upon the Virginia Administrative Code 9VAC5-130-40 Permissible Burning. Paragraph 2 states that "training schools where permanent facilities are installed for firefighting instruction are exempt from this notification requirement." Mr. Goode explained neither the project nor the operations after construction of the project will increase congestion in streets. Training will take place on the property within the confinements of the training facility or inside the designated classroom spaces of the existing community center. Traffic related to the training will be fire vehicles parked at a distance that is a minimum of 200 feet away from the roadway. In addition, all training traffic to the facility will be on the main thoroughfares and none of the vehicular traffic will travel through the neighborhood streets. During the fire recruit training there will be 2-4 fire apparatus traveling to the site. For in service or facility training, there may be four fire apparatus in the morning and four in the evening. Mr. Goode stated that there will be no increase in public danger from fire nor will there be any negative effect on public safety as there will be the presence of trained emergency response personnel at all times the training facility is in operation. Finally, nothing will be openly stored in the secure fenced area of the site that will pose a safety hazard of any type or create any danger to the public. In summary, there is nothing that will pose a public safety concern or danger as a result of the training activities at the site.

In response to a question from the Mr. York, Mr. Goode explained that any smoke will be contained within the structure itself. Mr. Goode further explained that the facility has a smoke chamber that includes a burn barrel. The smoke will either be theatrical smoke or live fire smoke and in no case will any smoke or flames emanate from the building.

In response to a question from Mr. Poole, Mr. Goode stated that there will be no need to extinguish a fire.

In response to a question from Mr. Winks, Mr. Goode stated that they had looked at potential sites within industrial areas but were unable to identify any available suitable sites.

In response to a question from Ms. Hogue, Mr. Goode stated that the subject facility will serve only the City of Richmond. The current facility is located in Henrico County and the facility is no longer viable and has reached its useful life. Mr. Goode also explained the location of the facility in the City of Richmond will resolve a transportation issue as well as represent a cost savings to the city.

In response to a question from Mr. Winks, Mr. Goode stated that the general use of the area in question includes a community center and a new ball field/soccer field. The fire training facility will be bound by trees on three sides.

In response to a question from Ms. Hogue, Mr. Goode stated that the proposed facility will have no impact whatsoever on the existing soccer field as it will be located well away from the soccer field.

In response to a question from Mr. Robertson, Mr. Goode stated that the proposed facility will have no impact on any of the existing/surrounding residents. Mr. Goode did acknowledge that four trees planted by the community will have to be relocated for ingress/egress purposes.

In response to a question from Mr. Winks, Mr. Goode stated that certification of the fire department and insurance rates will be affected if the facility is not constructed.

Ms. Hogue expressed concern that based on the many emails received from the neighborhood that they are unaware that the community center and soccer field would not be impacted. Mr. Goode stated that the project had been publicized for over a year and he could not explain why the misunderstanding existed.

Mr. Poole stated that the proponents will now have an opportunity to speak and will be allowed a total of six minutes. The proponents consisted of the fire chief, Mr. Melvin Carter and Councilwoman Reva Trammell.

Speaking in support, the fire chief, Mr. Melvin Carter, testified that the Sandston location had existed for more than 60 years. The cost, time and planning required to access the Sandston facility makes it very difficult to address the department's overall firefighting responsibilities. Chief Carter stated it is imperative that the city provides its own training facilities. Materials used for burning will consist of wood, paper or hay, no plastics, no flammable materials and no foam. The structure is designed to keep smoke self-contained in order to facilitate proper training. There will be no congestion of the streets. The facility will not be used on a 24 hour basis and firefighting vehicles will only be parked from 4 to 6 hours at the facility between the hours of 8 AM to 5 PM Monday through Friday a maximum of six times per year. There will be no fire trucks parked on the side of the road and there will be no interference with traffic. Chief Carter stated that the fire department has toured the surrounding neighborhood on multiple occasions to do canvassing and speak with the neighbors/ residents to advise them on what will be done, how it will be done and provide information governing the size of the facility, location and training days. Chief Carter explained that they have signatures from over 200 residents in support of the proposed facility. Chief Carter stated that many residents indicated that they either didn't know what was being proposed or were misinformed. Chief Carter explained they plan to use the Hickory Hill community center to bring in residents to further educate them. In conclusion, Chief Carter stated only class A combustibles will be utilized which are designed to remain within the facility, traffic will not be impacted and as stated the facility is much-needed component of public safety. Chief Carter stated that construction of the facility is critical to maintaining the city's Insurance Service Organization (ISO) rating.

In response to a question from Ms. Hogue, Chief Carter stated the facility will be utilized a maximum of six times a year and is designed such that the smoke will be contained within the building.

Speaking in support, Councilwoman Reva Trammell representing the City of Richmond's 8th district which is the location of the proposed facility testified that Chief Carter had attended more than six community meetings in the 8th district. Councilwoman Trammell stated that she had canvassed the surrounding areas and was advised by many of her constituents that they support the proposed facility and had received letters attesting to this fact. Councilwoman Trammell stated that she would not be advocating on behalf of this facility unless she were convinced it was safe. Councilwoman Trammell noted that Henrico and Chesterfield Counties have their own training facilities and the City of Richmond also needs its own facility.

In response to a question from Mr. Robertson, Councilwoman Trammell stated she welcomed the idea of having residents visit the property to learn more.

It was noted by Chief Carter that with respect to the community center the building contains 26,000 ft.² and the fire department is currently occupying less than 2,000 ft.².

Speaking in opposition, Ms. Monica Esparza testified that the group she represents is comprised of civic groups that founded and personally contribute to the historic Hickory Hill Community Center, civic associations of adjoining neighborhoods, adjacent business properties and state and school board officials all of which oppose the city's request as it will not be in harmony with the intended spirit and purpose of the R-4 Residential Zoning District; will not primarily serve residents of adjoining neighborhoods; diminishes city and community integrity and is contrary to the public interest per §17.20 of the City Charter. Ms. Esparza stated that the proposed application does not adequately safeguard the health safety and welfare of the occupants of adjoining and surrounding properties. The act of conducting fire training, co-mingling with a community center that serve children, the elderly and adults within indoor and outdoor settings, increases public danger from fire and presents fire training hazards including carcinogenic risk, vehicular movement, attractive nuisance and other liabilities. Ms. Esparza explained that adjoining property owners, including the Crab Shack food establishment; a wildlife sanctuary and the Deerbourn Civic Association account for more than 68% objection rate to this project. Ms. Esparza noted that the project will significantly reduce essential residential green space, recreation park access; and the property will be further damaged based on the proposed activities including the effects on soil, tree canopy and air. Ms. Esparza further noted that this zone is literally the most industrialized and cumulatively impacted district in the city and state. The soil of adjoining properties reveals metal toxicity. Residents will be further impacted by unacceptable noise at 85 dB and smoke thresholds contributing to further environmental degradation. Ms. Esparza explained that the proposed project is deemed a violation of Title VI of the Civil Rights Act and meets the test of disparate impact due to the district demographic of 61% African American and 21% Latino prohibiting recipients of federal-aid whether the project is funded from federal aid or not from discriminating based on race. The proposed project disrupts residential peace, safety and wellness; negatively impacts the only green space within a reasonable radius and exacerbates current racial disparities in land use, environmental health and city services. Ms. Esparza stated that in addition to negligent consideration of our welfare, the City of Richmond has not exercised meaningful engagement with the adjacent property owners or civic associations. Ms. Esparza explained that the project unreasonably impairs air quality to adjacent properties. Classified as a heat island, with present omission challenges and toxic air quality contributes to the second highest rate of asthma in the country and ranks in the 90th percentile for cancer risk. With additional housing to be constructed in the area clean water and air and soil quality is imperative. Ms. Esparza stated that co-mingling fire activities with the community center

increases public danger to fire, unreasonably affects public safety, increases congestion at the community center and diminishes established property values in the surrounding areas. Ms. Esparza stated that there is no substantial legitimate justification for this project, especially as a significant number of alternative sites have been identified. The Virginia Department of Fire Program statistics revealed no significant increase in fire incidents since 2013. The environmental challenges cited at other available locations have capacity for environmental remediation. Ms. Esparza explained that this project causes an oversaturation of emergency services in the district which diminishes and impairs the established property values in surrounding areas. South side already has six of the 11 fire stations in the entire city. Further, the project as proposed increases vehicular traffic and pollution and increased diesel particulate matter as trucks and fire engines from around the city and surrounding counties come to this recreational site. The project also reduces historic value of the community center. In conclusion, Ms. Esparza summarized by stating this action is contrary to neighborhood and civic association devotion to uphold human and civil rights for all citizens; enhance property values, preserve and increase green space that is considered sacred; which is proven to contribute to reduced crime-such as the mass shooting that occurred at the Huguenot High School graduation yesterday. Ms. Esparza stated as a former instructor at the Huguenot High School, and having walked with those students on numerous graduation occasions she is devastated and continue to speak and stand for the public interest articulated in city documents such as the RVA Green 2050 Equity Agenda and Master Plan that guide the city to increase green space, reduce pollution and write the historic wrongs to underserved populations.

In response to a question from Mr. York, Ms. Esparza stated that the site is currently being used for many uses including a walking trail, scientific research and soccer fields. Ms. Esparza indicated that the newly constructed soccer field did not meet community needs.

Speaking opposition, Mr. Charles Pool stated that he did not believe that proper notice for this meeting was given according to state code. The special exception requires publication once a week for two successive weeks.

The Chairman, Mr. Poole, requested that those in opposition to the proposed application please raise their hands. (Secretary's note: it was difficult to determine the exact number of in person/online individuals that raised their hand in opposition to the request. It is estimated that approximately 20 people identified themselves as being in opposition.)

Mr. Poole closed the hearing. Mr. York made a motion to approve the proposed fire training facility and Mr. Winks seconded the motion.

Mr. York noted that the Board operates in part under the Charter of the City of Richmond. The Charter delegates to various city entities the responsibility and authority to deal with land use issues such as the Master Plan which serves as a guide for those issues. It creates a process called location, character and extent to determine the appropriate location of public facilities. Mr. York stated that this process has run its course and the decision has been made by City Council that the proposed site is the appropriate location and that there is a need for this facility. Mr. York noted that the City Charter under §17.20 authorizes the Board of Zoning Appeals to approve the use of land which is otherwise prohibited by ordinance. Mr. York observed that the Planning Commission is able to consider a number of factors such as compliance with the Master Plan that the subject statute does not extend to the Board. Mr. York stated that based on the Boards narrow authority and City Council's prior determination that the subject facility should be located at the proposed location, it is the Boards responsibility to decide if the facility by its design and operation meets the criteria contained in the statute. Mr. York further stated in light of all the material received in advance of the hearing and testimony offered by those appearing before the Board it is clear that the criteria have been met. Mr. York stated that the Board has the responsibility and authority to deal with the issue and that is what we must do.

Mr. Winks stated that he concurred with Mr. York's assessment.

Ms. Hogue stated that prior to hearing all the testimony that she was inclined to support the neighborhood but no longer was of the same opinion. Ms. Hogue indicated that the facility will not affect air quality that it will not eliminate green space and it will add more vegetation. Ms. Hogue stated that she did not understand the miscommunication. Ms. Hogue indicated that the testimony that the soccer field was not usable should be looked into. Ms. Hogue explained that she was voting with the facts.

Mr. Robertson thanked everyone for their attendance which is important to the process. Mr. Robertson stated that this helps the Board to gauge and to weigh the sense of the community's feelings regarding the issue. Mr. Robertson acknowledged that there is a need in the city for the type of facility proposed. Mr. Robertson noted that we have an aging facility that is not even located within the City of Richmond. Mr. Robertson stated based on the testimony it will not affect the community centers activities. Efforts have been taken to safeguard the health safety and welfare of the community which is an element of consideration under the Charter. Mr. Robertson stated he is going to vote in support of the application but at same time recognized there are concerns. The city has issues that are long-standing with respect to equity that need to be addressed. Mr. Robertson indicated that the community needs to continue to express their concerns to your City Council member and to the other individuals that represent you.

The Chairman, Mr. Poole, stated he supports the paper. Mr. Poole stated that all the conditions outlined in §17.20(c) of the Charter of the City of Richmond have been met. Mr. Poole noted the fact that it is very persuasive that the City Councilwoman who represents this district has taken the time to come before the Board and support of the project.

The Board finds that in accordance with §17.20 of the Charter of the City of Richmond that the sworn testimony and evidence offered in this case demonstrates that the construction of a fire training facility as proposed at 3000 E. Belt Boulevard, which is prohibited by ordinance, is in the public interest and that such construction or use will adequately safeguard the health, safety and welfare of the occupants of the adjoining and surrounding property, will not unreasonably impair an adequate supply of light and air to adjacent property, will not increase congestion in streets and will not increase public danger from fire or otherwise affect public safety.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for approval under §17.20 of the Charter of the City of Richmond of a fire training facility at 3000 E. Belt Boulevard be granted, subject to substantial compliance with the plans submitted to the Board.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Poole, York, Hogue, Robertson, Winks

negative: None

BZA 14-2023

APPLICANT: Andrew and Erin Lyon

PREMISES: 2514 EAST FRANKLIN STREET
(Tax Parcel Number E000-0387/019)

SUBJECT: A building permit to construct an accessory building (8' x 12') for use as a home occupation (office for clinical social worker).

DISAPPROVED by the Zoning Administrator on March 22, 2023, based on Sections 30-300, 30-412.2 & 30-694.1(2) of the zoning ordinance for the reason that: In an R-6 (Single-Family Attached Residential) District, the proposed home occupation is not permitted within the accessory building. Home occupation use of an

accessory building shall be permitted only when authorized by the Board of Zoning Appeals.

APPLICATION was filed with the Board on March 22, 2023, based on Section 30-1040.3(9) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Erin O'Toole Lyon

No Position: Todd Dykshorn

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicants, Andrew and Erin Lyon, have requested a special exception to occupy a 96 ft.² accessory building for use as a home occupation under §1040.3 (9) of the zoning ordinance. Ms. Lyon testified that she wanted to address any concerns that may exist regarding utilization of the alley. The alley will not be used for any home occupation related vehicular traffic for the reason that the clients will park on 26 Street, or surrounding streets. Ms. Lyon noted that she currently has a certificate of zoning compliance for a home occupation within her dwelling. Ms. Lyon further noted that in the event her request for home occupation approval within the accessory building is approved that she would relinquish the certificate of zoning compliance for the home occupation within her dwelling. Ms. Lyon indicated that since therapy is intended to be about the client, a separate, private physical space other than her personal dwelling would support proper therapeutic boundaries. It would also create a separation between work activities and dwelling related uses. Ms. Lyon stated that is important that her clients have a separate, private space that eliminates the potential for distractions. Ms. Lyon noted that she had conferred with Alex Dandridge with the Commission of Architectural Review who advised her that the commission has no concerns about a structures internal use. The commission only regulates external appearance. Ms. Lyon explained that she had submitted for all applicable city permits. Ms. Lyon stated that she would comply with all applicable home occupation regulations as contained in Division 12 Home Occupations, §30-694 of the zoning ordinance. Ms. Lyon indicated that she had letters of support from adjoining neighbor's and the Church Hill Association regarding the proposed home occupation use in her accessory building. Ms. Lyon closed by showing the Board a video of how the accessory building will be accessed via the alley and stated during normal business hours there is no problem parking on 26 Street.

In response to a question from Mr. York, Ms. Lyon stated that the proposed home occupation will not have any greater impact on the surrounding neighborhood if located in the accessory building than it would if located within the dwelling.

Mr. Todd Dykshorn addressed the Board and stated that he was not necessarily in support or in opposition to the requested home occupation special exception. Mr. Dykshorn did indicate that he had concerns about the alley use as well as the hours of operation. Mr. Dykshorn noted that the current allowable hours of operation for a home occupation are from 8 AM to 6 PM. Mr. Dykshorn suggested that the hours of operation should be limited to 9 AM to 5 PM with no operation on Saturdays. It was noted that these hours more properly balanced the office use with the residential neighborhood. Mr. Dykshorn did express concern about the utilization 26th Street for parking and its potential impact. Mr. Dykshorn questioned whether appropriate building code standards would be applied to the accessory building similar to a typical office use. Mr. Dykshorn stated the applicant should be required to apply for and obtain all necessary permits.

The Board is satisfied that the property was acquired in good faith and that an exceptional situation exists whereby the applicant has shown to the satisfaction of the board that the proposed home occupation use of an accessory building will be limited to a therapeutic office for a clinical social worker and all conditions set forth in Section 30-694.1 of the zoning ordinance will be met and that the home occupation will not result in any greater impacts on the adjoining and surrounding properties that would result if the home occupation were conducted within the dwelling unit.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the proposed home occupation use requirement be granted to Andrew and Erin Lyon for a building permit to construct an accessory building (8' x 12') for use as a home occupation (office for clinical social worker), subject to substantial compliance with the plans submitted to the Board.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Poole, York, Hogue, Robertson, Winks

negative: None

BZA 15-2023

APPLICANT: Shanon Turner

PREMISES: 51 WEST 27th STREET
(Tax Parcel Number S000-0793/022)

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

DISAPPROVED by the Zoning Administrator on April 7, 2023, based on Sections 30-300 & 30.412.5(1)(a) of the zoning ordinance for the reason that: In an R-6 (Single-Family Attached Residential) District, the front yard (setback) requirement is not met. A front yard with a depth of fifteen feet (15') is required along the Wise Street frontage, as established by the adjacent building at 2617 Wise Street. A front yard of six feet (6') ± is proposed.

APPLICATION was filed with the Board on April 7, 2023, based on Section 15.2-2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: Teman Darville

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Shannon Turner, has requested a special exception to construct a new single-family detached dwelling for property located at 51 W. 27th Street. Mr. Teman Darville, representing the applicant, testified that his client is requesting a variance to build a new home. Mr. Darville noted that the previous house was constructed in 1904 in Chesterfield County. The original dwelling had burned and approval of the requested variance was necessary to rebuild the dwelling. Mr. Darville indicated that the property is zoned R-6 single-family attached residential and is located at the corner of West 27th Street and Wise Street. As such the property is required to provide two front yards. Mr. Darville noted that the lot is 30 feet in width. Allowing for a 15 foot required setback from Wise Street and a 3 foot interior setback the buildable lot width would be reduced to 12 feet. Mr. Darville stated that this width is insufficient to construct a new dwelling and further it would be incompatible with any of the other dwellings in the neighborhood. Mr. Darville concluded by stating that the proposed request was consistent with applicable variance sections contained the Code of Virginia.

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.

Finally, the Board finds by a preponderance of the evidence that the application meets the standard for the variance as defined in §15.2-2201 of the Code of Virginia and the criteria set out in this section.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a variance from the front yard (setback) requirement be granted to Shanon Turner 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:

Poole, York, Hogue, Robertson, Winks

negative:

None

BZA 16-2023 (WITHDRAWN)

APPLICANT: Capital City Property Management LLC

PREMISES: 2011 3rd AVENUE
(Tax Parcel Number N000-0505/016)

SUBJECT: A lot split and building permit to construct a new single-family
(detached) dwelling.

DISAPPROVED by the Zoning Administrator on April 13, 2023, 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. 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 8,400.0 square feet and a lot width of sixty feet (60') currently exists; lot areas of 4,256.01 square feet (#2011) and 4,143.99 square feet (#2011 1/2) and lot widths of 30.32 feet (#2011) and 29.52 feet (#2011 1/2) are proposed.

APPLICATION was filed with the Board on April 13, 2023, based on Section 30-1040.3(2) of the City of Richmond Zoning Ordinance.

BZA 17-2023 (CONTINUED TO THE JULY 5, 2023 OR AUGUST 2, 2023 MEETING
OF THE BOARD WITHOUT FEE)

APPLICANT: Daniel and Megan Hicks

PREMISES: 516 NORTH 26th STREET
(Tax Parcel Number E000-0383/003)

SUBJECT: A building permit to construct a two-story rear addition to a single-family (detached) dwelling.

DISAPPROVED by the Zoning Administrator on April 20, 2023, based on Sections 30-300 & 30-419.6(2) 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; one foot (1') is proposed along the northern property line. An administrative variance (Case No. 08A-23) was denied on April 12, 2023 due to neighbor opposition.

APPLICATION was filed with the Board on April 13, 2023, based on Section 30-1040.3(1) of the City of Richmond Zoning Ordinance.

BZA 18-2023

APPLICANT: Shirley and Leroy Hall

PREMISES: 1822 WEST GRACE STREET
(Tax Parcel Number W000-0821/039)

SUBJECT: A building permit for interior renovations to create a dwelling unit in an existing two-story accessory building.

DISAPPROVED by the Zoning Administrator on March 29, 2023, based on Sections 30-300 & 30-416.2(3)c of the zoning ordinance for the reason that: In an R-48 (Multi-Family Residential) District, the lot area requirement is not met. A lot area of four thousand four hundred square feet (4,400 SF) is required for two dwelling units; 3,920 square feet exists/is proposed.

APPLICATION was filed with the Board on April 14, 2023, based on Section 30-1040.3(8) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Mark Baker

No Position: Anna Bell

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicants, Shirley and LeRoy Hall, have requested a special exception to create a dwelling unit in an existing two-story accessory building for property located at 1822 W. Grace Street. Mr. Mark Baker, representing the applicant, testified that the property in question is located at 1822 W. Grace Street on the North line of West Grace Street between Meadow Street and North Allen Street. Mr. Baker explained that his client is requesting relief under special exception #8 which permits a dwelling unit in an accessory building in any district permitting two-family dwelling use. The district in question is the R-48 multifamily residential district. Mr. Baker pointed out that an amendment to the zoning ordinance is pending which would eliminate the need for this request. Mr. Baker noted that all of the feature requirements relative to permitting a second dwelling unit in an accessory building have been met in this case with the exception of the required lot area. Mr. Baker explained that the subject use is a historical two-story attached brick carriage house which is attached to a carriage house behind 1824 W. Grace Street. The first floor is utilized as a garage, the second floor currently includes 200 ft.² of livable space. The proposal is to

renovate the interior of the second floor which will be configured as an efficiency apartment space with a small kitchenette and a full bathroom at the rear to include a total of 217 ft.². With respect to the special exception test the main building is a single-family dwelling, only one dwelling unit is requested, no changes to the exterior or additions are proposed, off-street parking will be provided, and access will be provided in accordance with DPW/Fire requirements. Mr. Baker noted that they reached out to the Historic West Grace Street Association and the Fan District Association. Historic West Grace Street had no issues with the request. Mr. Baker indicated he received a comment from the adjacent neighbor at 1824 W. Grace Street that the neighbor had no opposition to the request provided no changes are made to the brick south facing wall. Mr. Baker confirmed again that no changes will be made. The Association sent a letter of no opposition provided the concerns of the owner of 1824 W. Grace Street are observed.

Mr. Anna Bell testified that she did not have a problem with the request provided the owners not be permitted to alter in any way the rear, south facing wall of the carriage house (e.g., adding mechanicals, removing the window, or anything that would deface the integrity of the historical carriage house). Ms. Bell indicated that the carriage house is located in an Old and Historic District.

The Board finds that evidence shows that the use of the main building will be limited to a single-family dwelling and will not include accessory lodging units; use of the accessory building will be limited to one dwelling unit in addition to permitted accessory uses; there will be no enlargement of the accessory building, except for ingress and egress improvements required by the Virginia Uniform Statewide Building Code; not less than one off-street parking space will be provided for the dwelling unit located in the accessory building; and access to the accessory building will be provided in accordance with the requirements of the department public works and department of fire and emergency services.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the lot area requirement be granted to Shirley and Leroy Hall for a building permit for interior renovations to create a dwelling unit in an existing two-story accessory building, subject to substantial compliance with the plans submitted to the Board provided there shall be no alterations whatsoever permitted to the rear, south facing wall of the carriage house.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Poole, York, Hogue, Robertson, Winks

negative: None

Upon motion made by Ms. Hogue and seconded by Mr. Robertson, Members voted (4-0)
to adopt the Board's May meeting minutes.

The meeting was adjourned at 2:35 p.m.



Secretary



VICE Chairman