



CITY OF RICHMOND

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW
BOARD OF ZONING APPEALS

BOARD OF ZONING APPEALS

MEETING MINUTES

WEDNESDAY, DECEMBER 1, 2021

On Wednesday, December 1, 2021, the Board of Zoning Appeals held an electronic public hearing at 1:00 p.m. due to the disaster represented by the spread of COVID-19 pursuant to and in compliance with Ordinance 2021-181; display notice having been published in the Richmond Legacy Newspaper on November 24, 2021 and written notice having been sent to interested parties.

Members Present:

- Burt F. Pinnock, Chair
- Roger H. York, Jr., Vice-Chair
- Rodney M. Poole
- Mary J. Hogue
- Bryce L. Robertson

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 including the fact that the public hearing is being held electronically due to the state of emergency that exists as a result of the spread of Covid-19 pursuant to and in compliance with Ordinance 2021-181. The applicant and those appearing in support of an application speak first, followed by those appearing in opposition.

BZA 59-2021

APPLICANT: Canvas Development

PREMISES: 818 NORTH HARRISON STREET
(Tax Parcel Number N000-0517/009)

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

DISAPPROVED by the Zoning Administrator on October 11, 2021, based on Sections 30-300, 30-413.15(1)a & 30-630.1(a)(1) of the zoning ordinance for the reason that: In an R-8 (Urban Residential) District, the front yard (setback) requirement is not met. A front yard with a depth of 17.11' is required along Catherine Street; 2.2' ± is proposed.

APPLICATION was filed with the Board on October 11, 2021, based on Section 15.2 - 2309.2 of the Code of Virginia.

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, Canvas Development, has requested a special exception to construct a new single-family detached dwelling for property located at 818 N. Harrison Street. Mr. Mark Baker, representing the applicant, testified that his client is requesting a variance to accommodate the second front yard requirement on a corner lot. Mr. Baker noted that in 2009 a variance was granted for the same purpose but the dwelling was never constructed and the variance has since expired. Mr. Baker further noted that zoning is R-8 and that the lot is a corner lot located at the southwest corner of Harrison Street and Catherine Street. The lot measures 26.33 feet in width and 80 feet in depth and includes 2106 ft.² of lot area. Mr. Baker stated that based on the dual front yard requirement and the proximity of the dwelling located to the rear along Catherine Street a front yard of 17.11 feet is imposed on the subject lot. Allowing for the front yard and side yard setback requirements there is only 6 feet of buildable lot width remaining. Mr. Baker stated without benefit of the variance the lot cannot be built upon. Mr. Baker indicated that the dwelling will be a high-quality including 1672 ft.² of floor area with three bedrooms and 2 ½ baths and the exterior will be cementitious siding. Mr. Baker noted that since 2009 the previous dwelling to the rear along Catherine Street had been replaced with a new dwelling with a greater

setback. Mr. Baker reasoned that if the former variance was granted that it made sense that the current request should be approved as well since the buildable lot width of the subject lot had been reduced even further. Mr. Baker indicated that all applicable Code of Virginia variance standards have been met in this case. Mr. Baker concluded by stating that he had reached out to the Carver Area Civic Improvement League regarding the subject request but had not been contacted in return. In addition, letters were sent to all property owners within a 150 foot radius and no opposition was noted.

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 Canvas Development 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, Hogue, Robertson

negative: None

BZA 60-2021

APPLICANT: 3609 & 3611 Brook Road LLC

PREMISES: 3611 BROOK ROAD
(Tax Parcel Number N000-1748/015)

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

DISAPPROVED by the Zoning Administrator on October 15, 2021, based on Sections 30-300 & 30-402.4 of the zoning ordinance for the reason that: In an R-1 (Single-Family Residential) District, the lot area and lot width requirements are not met. Lot areas of twenty thousand square feet (20,000 SF) and lot widths of one hundred feet (100') are required. For zoning purposes, one (1) lot having a lot area of 42,078.96 square feet and a lot width of one hundred seventy-four and sixty-seven hundredths feet (174.67') currently exists. A lot area of 23,958.00 square feet and width of 99.67 feet is proposed for No. 3609. A lot area of 18,120.96 square feet and width of 75.00 feet is proposed for No. 3611.

APPLICATION was filed with the Board on October 15, 2021, 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, 3609 & 3611 Brook Road LLC, has requested a lot split to construct a new single-family detached dwelling for property located at 3611 Brook Road. Mr. Mark Baker, representing the applicant testified that his client is requesting Special Exception #2 to allow division of a lot which is developed with a single-family detached dwelling. Mr. Baker noted that the request is consistent with the special exception intent regarding creation of infill housing which is compatible with the neighborhood. The dwelling will be a high-quality for sale product encompassing approximately 3600 ft.² of floor area with five bedrooms and 3 ½ baths. The exterior will be a compatible design and include cementitious siding. The lot is located on the east side of Brook Road and measures 174.67 feet in width and 241.66 feet in depth containing 42,079 ft.² of

lot area. Mr. Baker noted that the proposed lot split will result in two lots with lot widths and lot areas of 75 feet/18,121 ft.² and 99.67 feet/23,958 ft.² respectively. In terms of the special exception test Mr. Baker indicated that the lots previously consisted of two legal lots of record which were consistent with the R-1 zoning regulations. Further, the lots comply with public street frontage requirements and the off-street parking requirements will be met. In addition, all setbacks have been met. Mr. Baker stated that the proposed lots are consistent with the predominant lot areas and lot widths in the vicinity and the new dwelling will be compatible with other surrounding dwellings. In response to input from the Ginter Park Residents Association Mr. Baker offered the following conditions:

- The exposed foundation walls will be brick, brick veneer, stone veneer, or stucco.
- The front porch columns will be a minimum dimension of 10" x 10" and will be smooth, painted, fiberglass or composite material. No pressure treated wood or manufactured aluminum columns will be utilized.

Mr. Baker stated that he discussed the driveway situation with Mr. Weisensale who agreed that the proposed driveway configuration as shown on the plans would be acceptable.

Mr. Baker concluded by stating that letters had been sent to all property owners within a 150 foot radius and no opposition had been noted and based on his discussions with Mr. Weisensale it was his understanding that there was no further concerns being expressed by the Neighborhood Association.

In response to a comment from Mr. Poole, Mr. Baker agreed to the addition of the following condition:

- A recorded easement shall be required for joint maintenance and ingress & egress purposes in regards to the proposed driveway as depicted on the plans.

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 3609 & 3611 Brook Road LLC for a lot split and building permit to construct a new single-family (detached) dwelling, subject to the following conditions:

- 1) Substantial compliance with the plans submitted to the Board.
- 2) The exposed foundation walls will be brick, brick veneer, stone veneer, or stucco.
- 3) The front porch columns will be a minimum dimension of 10" x 10" and will be smooth, painted, fiberglass or composite material. No pressure treated wood or manufactured aluminum columns will be utilized.
- 4) A recorded easement shall be required for joint maintenance and ingress & egress purposes in regards to the proposed driveway as depicted on the plans.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Pinnock, York, Poole, Hogue, Robertson

negative: None

Mr. Benbow relayed to the Board Members a discussion that he had with the City Attorney, Mr. Haskell Brown, regarding the fact that the current Covid Ordinance would likely be allowed to expire as of December 31, 2021 which would result in the resumption of in person Board meetings being held in the 5th floor conference room. Mr. Benbow also discussed with members §2.2-3708.2 of Code of Virginia entitled "Meetings held through electronic communication means". The subject code section allows public bodies to conduct meetings through electronic communication means. It makes provision for members to be absent based on personal disability or other medical conditions as well as family member's medical conditions. The maximum absentees allowed in a calendar year would be no greater than four meetings. If the member's absence is approved as required the minutes shall reflect the remote location from which the member participated and the reason the remote participation was necessary. In order for remote member participation to be allowed the public body must adopt a written policy allowing for and governing participation of its members by electronic communication means, including an approval process for such participation. A quorum of the public body in the predetermined meeting site is required. The public body shall make arrangements for the voice of the remote participant to be heard by all persons at the meeting location.

Mr. Benbow indicated that he would forward §2.2-3708.2 of the Code of Virginia to the membership.

Mr. Benbow also discussed with Board Members the fact that he was having mobility issues involving his hip and would likely require the ability to participate virtually in upcoming Board Meetings. There was no objection to Mr. Benbow's request.

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

The meeting was adjourned at 1:40 p.m.



Secretary



Chairman