



CITY OF RICHMOND

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW
BOARD OF ZONING APPEALS

BOARD OF ZONING APPEALS

MEETING MINUTES

WEDNESDAY, MAY 4, 2022

On Wednesday, May 4, 2022, 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 April 20 and 27, 2022 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
 Susan Sadid

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

The Chairman called the meeting to order and read the Board of Zoning Appeals Introductory Statement, which explains the proceedings of the meeting. The applicant and those appearing in support of an application speak first, followed by those appearing in opposition.

BZA 10-2022

APPLICANT: Rabieh Danil, Assaad Danil & Osama Daniil

PREMISES: 2607 Q STREET
(Tax Parcel Number E000-0475/004)

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

DISAPPROVED by the Zoning Administrator on March 16, 2022, based on Sections 30-300, 30-412.5(1)b & 30-620.1(c) of the zoning ordinance for the reason that: In an R-6 (Single-Family Attached Residential) District, the side yard (setback) requirement is not met. Side yards of three feet (3') are required; 0.2 feet ± is proposed along the western property line and none is proposed along the eastern property line.

APPLICATION was filed with the Board on March 7, 2022, based on Section 15.2-2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: Joe Yates
William Calley III
Mike Thomas
Rabieh Daniil

Against Applicant: Brielle Nemoytin

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicants, Rabieh Daniil, Assaad Daniil & Osama Daniil, have requested a variance to construct a new single-family detached dwelling for property located at 2607 Q Street. Mr. Joe Yates representing the applicant testified that the property in question was a legal lot of record and was purchased at a 2019 tax sale. Mr. Yates stated that the request involved side yard setbacks and that the previous structure in the property had been demolished in 2005. Further, the lot is only 14.76 feet wide. After application of the required three-foot side yard setbacks the remaining buildable lot width for construction of the dwelling would be 8 ¾ feet wide. Mr. Yates stated that in his opinion that would make the lot unbuildable which was the basis for the variance request. Mr. Yates indicated that the Church Hill Central Civic Association had no objection to the request and the parking would be provided at the rear of the property.

In response to a question from Mr. York, Mr. Yates stated that the proposed dwelling will not be attached to the property at 2605 Q Street. The walls will be abutting.

In response to a question from Mr. Pinnock, Mr. Yates indicated that it would be possible to construct a fire rated wall next to the existing common wall at 2605 Q Street.

Mr. Poole expressed concern about water infiltration between the walls and asked if the new wall could be made weathertight. Mr. Yates responded that it could. Mr. Poole expressed further concern regarding how either wall would be maintained.

In response to a question from Mr. Pinnock, Mr. Yates stated that a house could be built that was 14 feet wide but that he would not want to live in it. Mr. Yates stated it was possible to design such a house.

Speaking in support, William Calley III testified that he is a neighboring property owner. Mr. Calley stated that the variance request is in keeping with the neighborhood and he much prefers the proposed development to a vacant lot. Mr. Calley stated that as an owner of other properties he would not attempt to rent out an 11 foot wide house. Mr. Calley indicated that the house would be attractive and an improvement to the neighborhood. Mr. Calley further indicated that there is a condemned house in the block and the house adjacent to the applicant's property is in a state of disrepair. Mr. Calley expressed concern that the only maintenance conducted by the owner of 2605 Q Street involves cutting of the grass. Mr. Calley stated that he resides at 1013 N. 26th Street.

Speaking in support, Mr. Mike Thomas testified that he constructed the dwellings at 1015 and 1017 N. 26 Street. Mr. Thomas stated that the proposed construction would be an improvement to the neighborhood.

Speaking in opposition, Ms. Brielle Nemoytin testified that she resides at 2609 Q Street. Ms. Nemoytin expressed concern that someone will be building a house immediately adjacent to their lot. Ms. Nemoytin stated that the property setbacks exist for the reason and when they purchased the property were they not aware of the required setbacks. Ms. Nemoytin further stated that other new builds in the block are conforming to the required setbacks. Ms. Nemoytin indicated concern that once the new house is constructed that she will not be able to walk from the front of her lot to the back of her lot. Mr. York commented that it would appear that what Ms. Nemoytin is suggesting that she is actually walking on the adjacent property. Ms. Nemoytin requested that the required setback be honored on her side of the proposed dwelling which was the case with the previous construction. Ms. Nemoytin stated that she resides in a duplex.

Ms. Hogue made a motion to approve the variance request for 2607 Q Street which was seconded by Mr. York. Mr. York stated that as long as the dwelling can be constructed on 2607 Q Street without encroaching on 2605 Q Street it

should be considered. Mr. York stated that as far as 2609 Q Street is concerned the construction of the dwelling on 2607 Q Street in no way impedes movement on the 2609 Q Street property. Mr. York stated that the testimony supports construction of the dwelling which has been proposed.

Mr. Poole stated that he did not believe that the exterior of the proposed dwelling could be adequately protected. Mr. Poole questioned whether that should be permitted. Mr. Poole questioned whether there was a lot that was too small to build on in the city.

Mr. Pinnock stated he has no concerns about the livability or viability of a skinny house. You can sell what the market will bear and we are in a competitive housing market. Mr. Pinnock further stated his concerns that allowing a zero lot line development will have ramifications beyond the subject property. Further, the applicant has acknowledged the difficulty of constructing a more manageable condition. Mr. Pinnock indicated that he would not be in favor of the request and suggested that the applicant should either provide some setback or work further with the adjoining property owner at 2605 Q Street.

Mr. Poole expressed concern about the effect that construction of the dwelling on 2607 Q Street would have on the property rights of the adjoining property at 2609 Q Street. Mr. Poole indicated that having a house immediately adjacent to your property line affects your ability to enjoy the totality of your lot.

Ms. Sadid stated that there were other lots in the neighborhood of equivalent width.

Mr. Poole noted that the granting of the variance should not be of substantial detriment to adjacent and nearby properties in the proximity of that geographical area. That is the specific language from the Code of Virginia. Mr. Poole stated that if he and Mr. Pinnock are correct that we are creating a potential problem by approving this case not only for the applicant's property but the adjacent property. Mr. Poole noted that in such case the Board is restricted from granting the variance. Mr. Poole acknowledged that there is less of an argument in so far as 2609 Q Street is concerned but he understands her argument.

Mr. York stated that the question of whether a lot is too small varies with market conditions.

Mr. Pinnock agreed and noted that there are other localities such as Nashville where 10 foot wide houses are not uncommon.

Mr. York pointed out that the lot sizes at 1015 and 1017 N. 26th Street are a fraction of the size of 2607 Q Street.

Ms. Hogue stated that they had heard testimony that the adjoining property owner at 2605 Q Street does not want a solution.

Mr. Pinnock indicated that the adjoining property owner does not want this solution.

At this point Mr. Yates was allowed to address the Board. Mr. Yates stated that the owners of 2605 Q Street in no way will mediate this issue.

Mr. Pinnock stated that he would be uncomfortable creating a situation that would constitute an encumbrance on the adjoining property owner and would be in favor of the continuance which moved the proposed dwelling 2 feet from the adjoining property line or something of that effect.

Mr. Poole commented that the applicant has indicated that they can construct the proposed dwelling on the property line but his concern involves how do they protect the subject walls.

At this point the applicant, Rabieh Daniil, was allowed to address the Board. Mr. Daniil indicated that the reason for the hearing is the fact that the adjoining property owner is attempting to purchase his lot. Mr. Daniil stated that the current owners of 2605 Q Street purchased the property 10 years ago and have done little or no maintenance to the property or dwelling. Mr. Daniil further stated that they have a legal lot of record and the structure can be built from the inside out. Mr. Daniil indicated that if the variance is approved the adjoining property owner will have no alternative but to fix the house or demolish it. Mr. Daniil stated that it is in the adjoining property owner's best interest if the wall at 2605 Q Street is properly sealed. Mr. Daniil indicated that there are many houses throughout the city that have small gaps between the adjoining walls but that they are properly sealed.

Mr. Pinnock indicated that this requires two parties at the table agreeing in some fashion. Mr. Pinnock stated that this is an adversarial situation that he has no control over.

Mr. Daniil stated his belief that once construction of the dwellings commenced that the adjoining property owner will be compelled to seal the side wall of the dwelling.

Mr. Pinnock expressed the view that both parties would be better served if the wall was relocated 18 inches or so from the property line. Mr. Pinnock noted that previously the adjoining structures were attached which is not the current proposal.

Mr. Poole moved to continue the case for 30 days which was seconded by Mr. Pinnock. Mr. Poole repeated his concern regarding the substantial detriment to the adjacent property and nearby properties in the proximity of the geographical area that could occur should the variance be approved. The motion to continue the case was defeated by a vote of 3-2.

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 side yard (setback) requirement be granted to Rabieh Daniil, Assaad Daniil & Osama Daniil for a building permit to construct a new single-family (detached) dwelling, subject to substantial compliance with the plans submitted to the Board.

ACTION OF THE BOARD: (3-2)

Vote to Grant Conditionally

affirmative: York, Hogue, Sadid

negative: Pinnock, Poole

BZA 11-2022

APPLICANT: 3319 Maryland Ave Integrity Business Trust

PREMISES: 3319 MARYLAND AVENUE
(Tax Parcel Number N000-1159/019)

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

DISAPPROVED by the Zoning Administrator on November 15, 2021, 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 9,800 square feet and a lot width of seventy feet (70') currently exists. Lot areas of 4,900 square feet and widths of thirty-five feet (35') are proposed for No. 3317 and No. 3319.

APPLICATION was filed with the Board on March 11, 2022, 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, 3319 Maryland Ave Integrity Business Trust, has requested a special exception to construct a new single-family detached dwelling for property located at 3319 Maryland Avenue. Mr. Mark Baker, representing the applicant, testified that the request is being made under special exception #2. Mr. Baker stated that the goal is to construct a single-family detached dwelling that is consistent with the special exception intent of creating infill housing that is compatible with the neighborhood. Further, the dwelling will be a high-quality for sale product of approximately 2400 ft.² of floor area with four bedrooms and 2 ½ baths. The exterior will be two stories with full width porch and cementitious siding. Mr. Baker noted that the property is located on the south side of Maryland Avenue and consists of two lots in the Highland Park Subdivision. The properties were combined from a zoning perspective and consist of lot widths of 35 feet and lot areas of 4900 ft.². The existing dwelling at 3317 Maryland Avenue would remain which is respectful of the original subdivision lot. Mr. Baker indicated

that the split would allow for a new dwelling at 3319 Maryland Avenue. Mr. Baker noted that the lot previously consisted of two legal lots of record that were subsequently combined by deed. The single-family use is consistent with the use regulations applicable in the R-5 residential zoning district. The lots will have public street frontage and off-street parking will be provided. The requisite side yards will be provided and the lots are consistent with the predominant lot areas and lot widths in the vicinity. In addition, the dwelling will be compatible with other dwellings in the vicinity. Mr. Baker asked that the applicant have the option of constructing the garage shown on the plans at a later date should they choose to do so. In terms of the neighborhood outreach the property is located in the Highland Park Plaza Civic Association. No response was received from the association. Letters were mailed and hand-delivered to all property owners within the 150 foot radius and no opposition was noted

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, 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 3319 Maryland Ave Integrity Business Trust for a lot split and 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. Further, the applicant has the option of constructing the garage shown on the plans at a later date should they choose to do so.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Pinnock, York, Poole, Hogue, Sadid

negative: None

BZA 12-2022

APPLICANT: Charles Benjamin Manning

PREMISES: 2716 FENDALL AVENUE
(Tax Parcel Number N000-0697/002)

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

DISAPPROVED by the Zoning Administrator on March 21, 2022, 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 11,069.97 square feet currently exists; a lot area of 3,682.19 and a lot width of 28.20 feet is proposed for #2714.

APPLICATION was filed with the Board on March 14, 2022, based on Section 1040.3(2) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Paul Manning
Paula Harris

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Charles Manning, has requested a special exception to construct a new single-family detached dwelling for property located at 2716 Fendall Avenue. Mr. Manning testified that his grandparents bought the dwelling sometime in the 1940s or 1950s. The property is comprised of lots 10, 11 and part of lot 12. Mr. Manning noted that the lot is located in an R-5 single-family residential zoning district. The proposal is to construct a single-family detached home fronting on Fendall Avenue which is a public street. Mr. Manning noted that there is a garage/shed at the rear of the property that will be demolished which will then accommodate an off-street parking space. Mr. Manning explained that in accordance with the special exception request all required setbacks are being met. Mr. Manning indicated that the proposed lot size is consistent with other lots in the vicinity and that the proposed dwelling is compatible with other dwellings in the neighborhood.

In response to a question from Mr. Poole, Mr. Manning stated that the surrounding neighbors were supportive of his request as was the Battery Park Civic Association.

Speaking in support, Ms. Paula Harris stated that she was in favor of Mr. Manning's request and she resides at 417 Holly Brook Ridge Lane.

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, 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 Charles Benjamin Manning for a lot split and 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, Sadid

negative: None

BZA 13-2022

APPLICANT: Affordable American Dream LLC

PREMISES: 3115 MIDLOTHIAN TURNPIKE
(Tax Parcel Number S000-1590/012)

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

DISAPPROVED by the Zoning Administrator on March 18, 2022, 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. Lot areas of six thousand square feet (6,000 SF) and lot widths of fifty feet (50') are required. For zoning purposes, one (1) lot having a lot area of 8,400 square feet and a lot width of sixty feet (60') currently exists. A lot area of 4,270 square feet and lot width of 30.5 feet are proposed for No. 3115 and a lot area of 4,130 square feet and lot width of 29.5 feet are proposed for No. 3111.

APPLICATION was filed with the Board on March 18, 2022, based on Section 1040.3(2) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Will Gillette

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Affordable American Dream LLC, has requested a special exception to construct a new single-family detached dwelling for property located at 3115 Midlothian Turnpike. Mr. Will Gillette, representing the applicant, testified that the request was being made under special exception #2 and that the goal was to permit construction of a new single-family detached dwelling on the currently vacant eastern portion of the lot. Mr. Gillette stated that the proposal is to construct a two-story high-quality for sale product with approximately 1680 ft.² of floor area. The dwelling will have three bedrooms and two and half baths and the exterior will be cementitious siding. Mr. Gillette noted that the property is located at the northwest corner of Midlothian Turnpike and Blake Lane. Further, the property consists of two original subdivision lots of the West Manchester Subdivision. The proposed division would result in two parcels measuring 35.5 feet in width with 4270 ft.² of lot area and 29.5 feet in width with 4130 ft.² of lot area. Mr. Gillette noted that the subject parcels are consistent with other lot widths and lot areas in the vicinity. Each of lots have been provided with off-street parking at the rear of the parcels. Further, the requisite side yard requirements have been met. Mr. Gillette noted that there are a mix of one and two-story dwellings in the neighborhood and that the proposed dwelling will have a full width front porch. In conclusion, Mr. Gillette stated that they had shared the proposal with the Swansboro neighborhood but did not receive a formal response. Finally, letters were sent to all property owners within a 150 foot radius and no opposition was noted.

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, 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 Affordable American Dream LLC for a lot split and 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, Sadid

negative: None

BZA 14-2022

APPLICANT: Tennessee Designs LLC

PREMISES: 3006 & 3008 LAWSON STREET
(Tax Parcel Numbers S000-1473/004 & 003)

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

DISAPPROVED by the Zoning Administrator on March 22, 2022, 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 7,920 square feet currently exists. Lot areas of 3,960 square feet and lot widths of 33.0 feet are proposed for No. 3006 and No. 3008.

APPLICATION was filed with the Board on March 18, 2022, based on Section 1040.3(2) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Wavord Hayes

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Wavord Hayes, has requested a special exception to construct two new single-family detached dwellings for property located at 3006 & 3008 Lawson Street. Mr. Hayes, representing the applicant, testified that the property is bounded by Broad Rock Road on the west, Hull Street on the south, Midlothian Turnpike on the north and East 30th Street on the east. The Zoning Office has determined that from 1953 to 1985 3008 Lawson Street was under single ownership. The Board of Zoning Appeals in 1987 confirmed that the lots had been combined for zoning purposes. Mr. Hayes stated that the dwellings & accessory structures were demolished in 2012. Mr. Hayes noted that the lots are legal lots of record. Further, the number of lots proposed to be created do not exceed the number of lots that originally existed. The proposed single-family use is consistent with the R-5 single-family zoning district use regulations. Mr. Hayes stated that the proposed lots are consistent with other lots in the immediate vicinity. In addition, the lots have public street frontage and parking will be provided at the rear of the lots. Mr. Hayes explained that construction of the dwellings will adequately safeguard the neighborhood as well as the occupants of the adjacent and surrounding properties. Construction of the dwellings will not impair light or air and will enhance surrounding property values. The siding will be cementitious.

In response to a question from Mr. York, Mr. Hayes indicated that they chose a dwelling design which reflected narrower houses in order to provide greater side yard setbacks.

In response to a question from Ms. Hogue, Mr. Hayes stated that they had presented application information to the Swansboro Neighborhood as well as the surrounding neighbors. Mr. Hayes stated they had received no negative feedback.

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, 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 Tennessee Designs LLC for a lot split and building permits to construct two new single-family (detached) dwellings, subject to substantial compliance with the plans submitted to the Board.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Pinnock, York, Poole, Hogue, Sadid

negative: None

BZA 15-2022 (CONTINUED TO JUNE 1, 2022 MEETING WITHOUT FEE)

APPLICANT: Bower Ventures LLC

PREMISES: 1505 NORTH 19th STREET
(Tax Parcel Number E000-0934/026)

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

DISAPPROVED by the Zoning Administrator on March 18, 2022, 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. Lot areas of six thousand square feet (6,000 SF) and lot widths of fifty feet (50') are required. For zoning purposes, one (1) lot having a lot area of 7,980 square feet and a lot width of sixty feet (60) currently exists. A lot area of 4,046 square feet and lot width of 30.42' feet is proposed for No. 1505. A lot area of 3,934 square feet and lot width of 29.58 feet is proposed for No. 1507.

APPLICATION was filed with the Board on March 18, 2022, based on Section 1040.3(2) of the City of Richmond Zoning Ordinance.

BZA 16-2022 (CONTINUED TO JUNE 1, 2022 MEETING WITH FEE)

APPLICANT: L H S Properties LLC

PREMISES: 2102 BAINBRIDGE STREET
(Tax Parcel Number S000-0412/005)

SUBJECT: A Certificate of Zoning Compliance to re-establish the nonconforming use rights to a warehouse use.

DISAPPROVED by the Zoning Administrator on December 30, 2021, based on Sections 30-300 & 30-800.4 of the zoning ordinance for the reason that: In an R-7 (Single- and Two-Family Urban Residential) District, the proposed warehouse use is not permitted as the previous nonconforming use rights have expired. Wherever a nonconforming use of a building or structure is discontinued for a period of two years or longer any subsequent use of the premises shall conform to the regulations applicable in the district in which it is located.

APPLICATION was filed with the Board on March 18, 2022, based on Section 1040.3(14) of the City of Richmond Zoning Ordinance.

BZA 17-2022

APPLICANT: 3012 Park Avenue LLC

PREMISES: 3828 GOVERNMENT ROAD
(Tax Parcel Number E000-1420/008)

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

DISAPPROVED by the Zoning Administrator on December 15, 2021, based on Sections 30-300 & 30-419.10(3) of the zoning ordinance for the reason that: In an R-63 (Multi-Family Urban Residential) District, the building (story) height requirement is not met. In the R-63 zoning district additional building height not to exceed four stories is permitted on a corner lot. However, in the case of a four story

building no story shall exceed twelve (12) feet in height. A story height of fifteen (15) feet is proposed for the ground floor of Building A.

APPLICATION was filed with the Board on March 18, 2022, 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, 3012 Park Avenue LLC, has requested a variance to construct a new multi-family dwelling for property located at 3828 Government Road. Mr. Mark Baker, representing the applicant, testified that the property is located in the R-63 multifamily urban residential district. The request is necessitated for the reason that the district limits maximum story height to 12 feet. Mr. Baker noted that the site is vacant and was formerly occupied as the Enterprise Trailer Park. A plan of development has been requested for a mixed use development with 129 dwellings and day corner commercial use in two buildings on the site. Building A will include 60 dwelling units and a corner commercial use which is the subject of the request. A portion of the building will be four stories in height. Mr. Baker noted that buildings that are four stories in height are permitted on corner lots provided individual stories do not exceed 12 feet in height for a maximum building height of 48 feet. The overall height of the subject building is 46 feet. The request is predicated on the fact that the applicant is requesting a 15 foot story height for the ground floor. Mr. Baker explained that the zoning ordinance includes a special exception for a building height but that the Zoning Office determined that the subject special exception did not address story height. Mr. Baker noted that the corner commercial space would include 1500 ft.². The space would be oriented toward the corner and is an important element of the project. Mr. Baker indicated that the strict application of the 12 foot height limit would unreasonably restrict the utilization of the property. In addition, the granting of the variance would alleviate a hardship due to a physical condition relating to the site topography. Mr. Baker cited a number of factors that were included in his variance support memo which is part of the record addressing the variance standards. Mr. Baker indicated that the 12 foot story height requirement clearly challenges ADA access requirements. It would raise the floor height above the sidewalk and push the building back which is contrary to the R-63 intent and goals. Mr. Baker noted that the request is consistent with the Richmond 300 Plan. Mr. Baker explained that the intended form would hold the corner, address the street at a pedestrian scale, enhance public safety and activate the pedestrian environment. Mr. Baker indicated that the requested

variance would not intensify density requirements and would not result in a building that exceeds the overall height limitation 48 feet. Mr. Baker concluded by stating that the property was acquired in good faith and that hardship was not created by the applicant. Granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of the geographical area. The condition or situation of the property concerned is not of so general or reoccurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning ordinance. Granting the variance does not result in a use that is not otherwise permitted on the property or a change in the zoning classification of the property. The relief or remedy sought by the variance application is not available through a special exception or a zoning modification at the time of the filing of the variance application. The variance is not contrary to the purpose of the ordinance. Finally, Mr. Baker stated that letters were sent out to all property owners within a 150 foot radius and no opposition was noted. Further, Mr. Baker reached out to the Church Hill Central Civic Association regarding the requested variance but received no response.

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 building (story) height requirement be granted to 3012 Park Avenue LLC for a building permit to

construct a new multi-family dwelling, subject to substantial compliance with the plans submitted to the Board.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Pinnock, York, Poole, Hogue, Sadid

negative: None

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

The meeting was adjourned at 3:05 p.m.



Secretary


VICE Chairman