



## CITY OF RICHMOND

DEPARTMENT OF  
PLANNING AND DEVELOPMENT REVIEW  
BOARD OF ZONING APPEALS

### BOARD OF ZONING APPEALS

#### MEETING MINUTES

**WEDNESDAY, DECEMBER 5, 2018**

On Wednesday, December 5, 2018, 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 November 21 and 28, 2018 and written notice having been sent to interested parties.

Members Present:           Burt F. Pinnock, Chair  
                                  Roger H. York, Jr., Vice-Chair  
                                  Rodney M. Poole  
                                  Kenneth R. Samuels  
                                  Mary J. Hogue

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

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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.

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#### CASE NO. 40-18

APPLICANT:               E Marshall Properties LLC

PREMISES:                220 EAST MARSHALL STREET  
                                  (Tax Parcel Number N000-0038/017)

SUBJECT:                 A building permit to convert a vacant ground floor commercial space into a dwelling unit.

DISAPPROVED by the Zoning Administrator on September 11, 2018, based on Sections 30-300 & 30-440.1(12) of the zoning ordinance for the reason that: In a B-4 (Central Business District), the ground floor commercial requirement is not met along the street oriented commercial frontage (North 3rd Street). A ground floor commercial building depth of twenty feet (20') is required along the entire length of North 3rd Street (86.0'); 0' is proposed.

APPLICATION was filed with the Board on October 8, 2018, based on Section 1040.3(5) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant:       Lory Markham  
                              Walter Parks

Against Applicant:   None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, E Marshall Properties LLC, has requested a special exception to convert a vacant ground floor commercial space into a dwelling unit for property located at 220 E. Marshall Street. Ms. Lory Markham, representing the applicant, testified that the building had originally been a rehabbed in 2005 and 2006 for use as apartments with ground floor commercial space. Ms. Markham noted that although the space had been marketed as such that it never been occupied for a commercial use. Ms. Markham stated that it is the owner's intent to convert the space to a single dwelling unit. Ms. Markham noted that based on the special exception criteria, it will not interrupt commercial frontage for the reason there is little commercial use along the Marshall Street frontage. Ms. Markham further noted that the same situation exists along 3rd Street to the north. Ms. Markham stated that the proposal will support mixed use character evidenced by the fact that the B-4 Central Business District zoning goes all the way to Broad Street and that additional residential units on Marshall Street will support commercial development along West Broad Street. Ms. Markham explained that the proposed ground floor residential use is compatible with the character of the block as there is no other commercial usage. Ms. Markham noted that the actual ground floor level is well above the street grade and as such is not suitable for commercial usage as a handicap ramp would be required. Ms. Markham indicated that the proposed use would not interfere in any way with vehicular or pedestrian access.

In response to a question from Mr. York, Mr. Markham stated that there is an English basement below the floor level in question which has also been vacant since 2005. The plan is to utilize this space for dwelling units.

The Board is satisfied that the property was acquired in good faith and pursuant to Section 114-1040.3 (5) of the zoning ordinance that the applicant has demonstrated that there is no purpose in providing for uninterrupted commercial frontage and that ground floor commercial space is either physically impractical or economically unfeasible, additionally increasing the dwelling unit floor area will increase residential occupancy thereby facilitating a mixed use character of the neighborhood and finally that any proposed alterations to the building will not be architecturally incompatible with the dominant character of building façades on the block.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the ground floor commercial requirement be granted to E Marshall Properties LLC for a building permit to convert a vacant ground floor commercial space into a dwelling unit.

ACTION OF THE BOARD: (5-0)

Vote to Grant

affirmative: Pinnock, York, Poole, Samuels, Hogue

negative: None

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CASE NO. 42-18

APPLICANT: Michael and Virginia Logan

PREMISES: 815 HENRI ROAD  
(Tax Parcel Number W021-0208/001)

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

DISAPPROVED by the Zoning Administrator on October 10, 2018, based on Sections 30-300 & 30-408.5(1) of the zoning ordinance for the reason that: In an R-4 (Single-Family Residential District), the front yard (setback) requirement is not met. A front yard with a depth of not less than 24.31', as established by 5925 Kensington Avenue, is required; 3.62' is proposed along the northern property line fronting Kensington Avenue.

APPLICATION was filed with the Board on October 17, 2018, based on Section 1040.3(1) of the City of Richmond Zoning Ordinance.

## APPEARANCES:

For Applicant: Michael & Virginia Logan

Against Applicant: None

**FINDINGS OF FACT:** The Board finds from sworn testimony and exhibits offered in this case that the applicant, Michael and Virginia Logan, have requested a special exception to construct a single-story addition to a single-family detached dwelling for property located at 815 Henri Road. Mr. Michael Logan testified that the property is located at the corner Henri Road and the Kensington Avenue. Mr. Logan explained that the property has dual front yards. Mr. Logan stated that the property is irregularly shaped and that due to the configuration of the narrow lot that the existing dwelling is nonconforming with regard to the setback adjacent to Kensington Avenue. Mr. Logan noted that the Board had approved a similar request at 501 St. Christopher Road. Mr. Logan stated that additional square footage is required to meet the contemporary needs of today's family. Mr. Logan noted that there is no master bedroom, the kitchen is very small, there is no laundry room and no defined entryway. Mr. Logan indicated that the exterior of the home had been upgraded with cementitious siding. Mr. Logan stated that the proposed addition, if approved, would also have cementitious siding. Mr. Logan indicated that architecturally the proposed addition will be consistent with other dwellings in the neighborhood, as well as the subject dwelling. Mr. Logan explained that the proposed addition has a 6 foot setback at the front corner and a 3 foot setback at the rear corner. Mr. Logan noted that a portion of the existing dwelling already has a setback of less than 3 feet. Mr. Logan stated that the proposed addition cannot reasonably be located elsewhere on the lot. Mr. Logan indicated that he had talked with 21 neighbors as well as the West Hampton Civic Association and there was no objection to the proposed addition.

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

**RESOLUTION:** NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the front yard (setback) requirement be granted to Michael and Virginia Logan for a building

permit to construct a single-story addition to a single-family (detached) dwelling, subject to substantial compliance with the plans provided to the Board and provision of cementitious siding.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally  
affirmative: Pinnock, York, Poole, Samuels, Hogue

negative: None

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CASE NO. 43-18

APPLICANT: Global Elite Property Investments LLC

PREMISES: 1810 3rd AVENUE  
(Tax Parcel Number N000-0458/004)

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

DISAPPROVED by the Zoning Administrator on July 24, 2018, based on Sections 30-300 & 30-412.4 of the zoning ordinance for the reason that: In an R-6 (Single-Family Attached Residential District), the lot area and lot width requirements are not met. A lot area of not less than 5,000 square feet in area with a width of not less than 50 feet is required, a lot area of 4,200 square feet with a width of 30 feet is proposed.

APPLICATION was filed with the Board on October 17, 2018, based on Section 1040.3(2) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Erica Sims

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Global Elite Property Investments LLC, has requested a special exception to construct a new single-family detached dwelling for property located at 1810 3rd Avenue. Ms. Erica Sims, representing the applicant, testified that the property is currently under contract. Ms. Sims noted that the lot

was originally part of an adjacent property at 1812 3rd Avenue but was split without City Council approval in 1968 and did not meet the minimum lot area and lot width requirements for the subject zoning. Ms. Sims stated that the lot width is 30 feet and lot area is 4200 ft.<sup>2</sup>. Ms. Sims noted that the lot width and lot area are consistent with other lot widths and lot areas in the block and that the proposed front yard setback will be consistent with the houses on either side. Ms. Sims noted that the subject property does not fall within a neighborhood association. Ms. Sims noted off-street parking will be provided and that the side yard requirements have been met. Ms. Sims indicated that they had contacted approximately 20 surrounding property owners and had received no objection to the proposed project. Ms. Sims noted that with the exception of a small lot across the street that this is the only other vacant lot in the block and as such it represents an undesirable gap in the street frontage.

In response to a question from Mr. York, it was noted that by approving the subject request it would automatically bestow legal status on the adjoining lot from which the subject property was severed. Ms. Sims stated that the siding will be cementitious.

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 Global Elite Property Investments LLC for a building permit to construct a new single-family (detached) dwelling, subject to substantial compliance with the plans provided to the Board and provision of cementitious siding.

**ACTION OF THE BOARD:** (5-0)

Vote to Grant Conditionally

affirmative: Pinnock, York, Poole, Samuels, Hogue

negative: None

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CASE NO. 44-18

APPLICANT: Corey and Megan McCalla

PREMISES: 2900 EAST LEIGH STREET  
(Tax Parcel Number E000-0573/037)

SUBJECT: A building permit to construct a wooden 6 ½' privacy fence  
accessory to a single-family detached dwelling.

DISAPPROVED by the Zoning Administrator on October 17, 2018, based on Sections 30-300, 30-630.1(a)(1) & 30-630.9(b) of the zoning ordinance for the reason that: In an R-63 (Multi-Family Urban Residential District), the maximum permitted height for a fence is exceeded. No fence or wall located within a front yard shall exceed four feet (4') in height; a front yard of 6.5 feet exists for the main building along the North 29th Street frontage/ none is proposed for the fence.

APPLICATION was filed with the Board on October 17, 2018, based on Section 1040.3(10) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Corey McCalla

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicants, Corey and Megan McCalla, have requested a special exception to construct a wooden 6 1/2 foot privacy fence accessory to a single-family detached dwelling for property located at 2900 E. Leigh Street. Mr. Corey McCalla testified that his property is located at the corner of East Leigh Street and North 29th Street and as such has two front yards. Mr. McCalla noted that the front yard adjacent to 29th Street represents the basis for the special exception request. Mr. McCalla stated that their home, including the fence had been approved by the Commission of Architectural Review. Mr. McCalla noted that although no front yard setback is required for the R-63 Multifamily Urban Residential District that there is a limitation on the permissible height of fences, which is 4 feet. Mr. McCalla indicated that their request is to construct an 8 foot tall fence, which is consistent with the special exception criteria. Mr. McCalla explained that the fence will provide security for the property and provide a buffer

from noise and activity along North 29th Street. Mr. McCalla noted that fence is compatible with the main building and other structures located on the lot and with the general character of development in the immediate surrounding area. Mr. McCalla further noted that the fence will not affect light and air to adjacent property and will not constitute a traffic hazard. Mr. McCalla concluded by stating that there was no objection to the proposed fence from surrounding neighbors or the Church Hill Civic Association.

In response to a question from Mr. Poole, Mr. McCalla noted that an individual was recently mugged in close proximity to their property and that the fence was needed to provide security.

Mr. Poole expressed appreciation for the fact that Mr. McCalla's sought approval from the Commission of Architectural Review but noted that this case will be decided solely on criteria related to the special exception in question.

The Board is satisfied that the property was acquired in good faith and pursuant to Section 114-1040.3 (10) of the zoning ordinance, the applicant has shown that the property on which the fence is to be constructed is devoted to a conforming dwelling use, that the proposed height of the fence is reasonably necessary to provide security for the property and to provide a buffer from noise and activity on the adjacent street, that the design and construction materials of the fence or wall will be compatible with the main building and other structures located on the lot and with the general character of development in the immediate surrounding area and that the fence will not unreasonably impair light and air to adjacent property, and will not impair necessary visibility for operators of motor vehicles at any intersection of the adjacent street with an alley, driveway or other street.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the fence height requirement be granted to Corey and Megan McCalla for a building permit to construct a wooden 6 ½' privacy fence accessory to a single-family detached dwelling.

ACTION OF THE BOARD: (5-0)

Vote to Grant

affirmative: Pinnock, York, Poole, Samuels, Hogue

negative: None

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CASE NO. 45-18

APPLICANT: 2929 W Cary St, LLC

PREMISES: 2929 WEST CARY STREET  
(Tax Parcel Number W000-1281/003)

SUBJECT: A building permit to re-construct a two-story building for a sit-down restaurant (1,750 SF)/outdoor dining (355 SF) on the 1st floor and two dwelling units on the 2nd floor.

DISAPPROVED by the Zoning Administrator on October 18, 2018, based on Sections 30-300 & 30-910.2(b)(1) of the zoning ordinance for the reason that: In a UB-PO2 (Urban Business District), the off-street parking requirement is not met. Five (5) parking spaces are required for the proposed (restaurant) use; three (3) spaces are provided.

APPLICATION was filed with the Board on October 18, 2018, based on Section 1040.3(11) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Charlie Appich

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, 2929 W. Cary Street LLC, has requested a special exception to reconstruct a two-story building for a sit-down restaurant for property located at 2929 W. Cary Street. Mr. Charlie Appich, representing the applicant, testified that five off-street parking spaces are required for the proposed use and three on-site spaces will be located at the rear of the proposed building. Mr. Appich noted that the three off-street spaces to be located at the rear of the property did not previously exist. It was also noted that although the zoning ordinance permits on-street parking spaces to be counted toward meeting the subject parking demand that the existence of a bus stop located directly in front of the business precludes such an occurrence. Mr. Appich explained that the restaurant had caught fire and was being reconstructed. Mr. Appich indicated that leased spaces had previously been available on South Shepherd Street but the spaces were now being utilized by Capital One. Mr. Appich stated they had canvassed the surrounding neighborhood and was unable to identify any other parking spaces available for lease. Mr. Appich further stated that there was no opposition from the Carytown Business Association. Mr. Davidson noted that the

previous outdoor dining area was actually closer to residentially zoned property than that presently being proposed.

The Zoning Administrator, Mr. Davidson, noted that after meeting with the Secretary that the applicant was advised that they should not expand the footprint of the building beyond that that previously existed.

The Board is satisfied that the property was acquired in good faith and pursuant to Section 114-1040.3 (11) of the zoning ordinance, the applicant has demonstrated that the exception will not result in an inadequate supply of parking or other adverse impact on the neighborhood; and the number, location and arrangement of parking spaces intended to serve the use is sufficient to provide for its parking needs based on the nature of the use and the characteristics of its operation.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the off-street parking requirements be granted to 2929 W Cary St, LLC for a building permit to re-construct a two-story building for a sit-down restaurant (1,750 SF)/ outdoor dining (355 SF) on the 1st floor and two dwelling units on the 2nd floor.

ACTION OF THE BOARD: (5-0)

Vote to Grant

affirmative: Pinnock, York, Poole, Samuels, Hogue

negative: None

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CASE NO. 46-18

APPLICANT: Stephen and Donna Bower

PREMISES: 38 LEXINGTON ROAD  
(Tax Parcel Number W020-0193/028)

SUBJECT: A building permit to construct a front vestibule addition (50 SF) to a single-family detached dwelling.

DISAPPROVED by the Zoning Administrator on October 18, 2018, based on Sections 30-300, 30-410.5(1) & 30-630.9(f) of the zoning ordinance for the reason that: In an R-5 (Single-Family Residential District), the front yard (setback) requirement is not met. A front yard of twenty-five feet (25') is required; 18.8 feet ± is proposed along the Lexington Road frontage.

APPLICATION was filed with the Board on October 18, 2018, based on Section 1040.3(1) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant:        Jim Irby  
                             Donna & Stephen Bower

Against Applicant:    None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Stephen and Donna Bower, have requested a special exception to construct a front vestibule (50 ft.<sup>2</sup>) to a single-family detached dwelling for property located at 38 Lexington Road. Mr. Jim Irby, architect for the applicants, testified that Mr. and Mrs. Bower have committed to a complete renovation of their newly purchased dwelling that was otherwise in a deteriorated condition. Mr. Irby noted that the project was being pursued as an "age in place" home with accessibility design. Mr. Irby further noted that a new covered entry porch is included in the approved design that encroaches into the front yard by 7'8" and which is permitted by the zoning ordinance. Mr. Irby stated that due to the limited size of the existing living room the owner needs to add an enclosed vestibule at the front entry to provide an accessible entrance, protection from the elements as well as an energy airlock. Mr. Irby stated that the proposed vestibule will be located under the new front porch roof that has already been approved. Mr. Irby noted that the zoning ordinance permits a byright vestibule of no greater than 40 ft.<sup>2</sup> with an allowable encroachment of 4 feet. Mr. Irby further noted that the proposed vestibule will contain 50 ft.<sup>2</sup> and encroach into the required front yard 6'2". Mr. Irby stated that in order to comply with the zoning ordinance the vestibule would be limited in depth to 3'10" with an interior room width of 3'5". Mr. Irby expressed the opinion that these dimensions were insufficient to provide the needed accessibility. Mr. Irby stated that the intended purpose and use of the proposed addition is consistent with the zoning district regulations and that departure from the yard requirements is the minimum necessary to accommodate the intended purpose of the addition. The addition or similar construction serving the same purpose cannot reasonably be located elsewhere on the lot in compliance with the zoning ordinance. The addition will be in keeping with the architectural character of the dwelling and development within the neighborhood. Mr. Irby noted that the proposed improvements were necessary to meet contemporary needs of current home ownership. Mr. Irby indicated that approval of the proposed special exception will enable construction of the proposed vestibule to modernize and improve the functionality and livability of the dwelling.

Ms. Donna Bower testified that after contacting the Stonewall Court Association they indicated that they did not take positions on matters of this nature. Ms. Bauer stated that she hand-delivered a letter explaining the nature of the project to 20 surrounding property owners and had received no objection.

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

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the front yard (setback) requirement be granted to Stephen and Donna Bower for a building permit to construct a front vestibule addition (50 SF) to a single-family detached dwelling.

ACTION OF THE BOARD: (5-0)

Vote to Grant

affirmative: Pinnock, York, Poole, Samuels, Hogue

negative: None

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CASE NO. 47-18

APPLICANT: 1406 Bainbridge Street, LLC

PREMISES: 1406 BAINBRIDGE STREET  
(Tax Parcel Number S000-0153/012)

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

DISAPPROVED by the Zoning Administrator on October 18, 2018, based on Sections 30-300 & 30-419.6 (1) of the zoning ordinance for the reason that: In an R-63 (Multi-family Urban Residential District), the front yard (setback) requirement is not met. In no case shall a front yard with a depth of greater than fifteen feet (15') be permitted; 19.89' is proposed.

APPLICATION was filed with the Board on October 18, 2018, based on Section 15.2-2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: Janet King

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, 1406 Bainbridge Street LLC, has requested a variance to construct a multi-family dwelling for property located at 1406 Bainbridge Street. Ms. Janet King, senior vice president, testified that the lot in question is three consolidated mid-block parcels purchased from the city at public auction. Ms. King noted that the proposed nine unit building meets all applicable zoning requirements with one notable exception that being the required front yard setback. Mr. King noted the importance of preserving and maintaining the existing historical urban streetscape in the 1400 block of Bainbridge. Ms. King further noted the typical setbacks in the 1400 block range from 15 feet to 20 feet and that the zoning ordinance does not permit setbacks of greater than 15 feet. Ms. King stated that the storm water regulations require installation of a basin at the front of the property. Ms. King indicated that meeting the required R-63 Multifamily Urban Residential District maximum setback of 15 feet would not allow for sufficient space to install the required basin. Ms. King explained that the hardship emanates from the fact that there is an existing 3:1 slope which precludes installation of the basin within the maximum allowable setback of 15 feet. Ms. King noted that they have the support of the Manchester Alliance as well as the surrounding neighbors. Ms. King explained that in addition to the previously expressed issues that constructing the dwelling accordance with the R-63 setback regulations would have the negative effect of blocking the next-door neighbors porches.

In response to a question from Mr. York, Ms. King indicated that they will be utilizing cementitious siding.

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.

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 1406 Bainbridge Street, LLC for a building permit to construct a multi-family dwelling building, subject to substantial compliance with the plans provided to the Board and provision of cementitious siding.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Pinnock, York, Poole, Samuels, Hogue

negative: None

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CASE NO. 48-18

APPLICANT: Daniel & Alice Herlihy

PREMISES: 707 TIBER LANE  
(Tax Parcel Number W021-0252/003)

SUBJECT: A building permit to construct a one-story addition to a single-family dwelling.

DISAPPROVED by the Zoning Administrator on October 19, 2018, based on Sections 30-300 & 30-402.5(1) of the zoning ordinance for the reason that: In an R-1 (Single-Family Residential District), the front yard (setback) requirement is not met. A front yard of thirty-five feet (35') is required along the Tiber Lane property line; 25.4' is proposed.

APPLICATION was filed with the Board on October 19, 2018, based on Section 1040.3(1) of the City of Richmond Zoning Ordinance.

## APPEARANCES:

For Applicant: Daniel Herlihy  
Mark Baker

Against Applicant: None

**FINDINGS OF FACT:** The Board finds from sworn testimony and exhibits offered in this case that the applicant Daniel and Alice Herlihy have requested a special exception to construct a one-story addition to a single-family dwelling for property located at 707 Tiber Lane. Mr. Mark Baker, representing the applicant, testified that the proposed addition is part of a larger scale renovation of the first floor. The addition is meant to serve the needed function of a rear entry from an architectural perspective. Mr. Baker stated that the existing lot is characterized by an irregular configuration where current yard requirements limit construction consistent with modern-day dwelling needs. Mr. Baker indicated that the configuration issues are caused by the original siting of the dwelling. Mr. Baker noted that the dwelling faces to the right of the right-of-way rather than facing the actual Tiber Lane right-of-way. Mr. Baker further noted the dwelling was constructed in 1946 when the then adjacent right-of-way was Three Chop Road which made sense with regard to the siting of the dwelling. Mr. Baker explained that Tiber Lane was thereafter established which changed the orientation of the lot. Mr. Baker stated that the reasonable and logical addition architecturally speaking and according to the original siting is in conflict with the front yard requirements. Mr. Baker noted that the older dwelling does not meet contemporary needs of the owners. Mr. Baker stated that the intended purpose and use of the proposed addition is consistent with the zoning district regulations which is R-1 Single-Family Residential District. Further the departure from the yard requirements is the minimum necessary to accommodate the intended purpose of the addition as the addition will be behind the main plane of the building. Mr. Baker noted that the addition serving the same purpose cannot reasonably be located elsewhere on the lot in compliance with the zoning ordinance and the addition will be in keeping with the architectural character of the dwelling and development within the neighborhood. Mr. Baker concluded by stating they had the support of the surrounding neighbors as well as the Westhampton Civic Association.

In response to a question from Mr. York, Mr. Baker indicated the applicants will be utilizing cypress siding.

The Board is satisfied that the property was acquired in good faith and pursuant to Section 114-1040.3(1) of the City Code, the intended purpose and use of the proposed addition is consistent with the zoning district regulations; departure from the yard requirements is the minimum necessary to accommodate the

intended purpose of the addition; the addition or similar construction serving the same purpose cannot reasonably be located elsewhere on the lot in compliance with the zoning ordinance; and the addition will be in keeping with the architectural character of the dwelling and development within the neighborhood.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the front yard (setback) requirements be granted to Daniel & Alice Herlihy for a building permit to construct a one-story addition to a single-family dwelling, subject to substantial compliance with the plans provided to the Board and provision of cypress siding.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Pinnock, York, Poole, Samuels, Hogue

negative: None

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

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The meeting was adjourned at 2:30 p.m.

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Chairman



Secretary