



## CITY OF RICHMOND

DEPARTMENT OF  
PLANNING AND DEVELOPMENT REVIEW  
BOARD OF ZONING APPEALS

### BOARD OF ZONING APPEALS

#### MEETING MINUTES

**WEDNESDAY, MARCH 6, 2019**

On Wednesday, March 6, 2019, 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 February 20 and 27, 2019 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  
  Edward H. Winks, Jr.

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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BZA 04-2019 (CONTINUED FROM JANUARY 2, 2019 MEETING)  
(CONTINUED TO THE APRIL 3, 2019 MEETING WITHOUT FEE)

APPLICANT:                   Nancy and Ernest Bush, Jr.

PREMISES: 900 NORTON STREET  
(Tax Parcel Number N000-0573/021)

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

DISAPPROVED by the Zoning Administrator on November 16, 2018, based on Sections 30-300, 30-413.6(1) & 30-630.1(a)(1) of the zoning ordinance for the reason that: In an R-7 (Single- and Two-Family Urban Residential District), the front yard (setback) requirement is not met. Fifteen feet (15') is required along the Catherine Street frontage; 3.08 feet ± is proposed.

APPLICATION was filed with the Board on November 16, 2018, based on Section 17.20(b) of the Charter of the City of Richmond.

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BZA 08-2019

APPLICANT: McKenna Brown

PREMISES: 3019 STONEWALL AVENUE  
(Tax Parcel Number S000-1240/017)

SUBJECT: A building permit to construct a second story addition onto an existing accessory building.

DISAPPROVED by the Zoning Administrator on December 14, 2018, based on Sections 30-300, 30-410.5(2)(3) & 30-630.1(a) of the zoning ordinance for the reason that: In an R-5 (Single-Family Residential District), the side yard and rear yard (setback) requirements are not met. A street side yard of ten feet (10') is required; nine-tenths of a foot (0.9') is proposed along the 31st Street property line. A rear yard of five feet (5') is required; zero is proposed along the rear property line.

APPLICATION was filed with the Board on December 14, 2018, based on Section 1040.3(1) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: McKenna Brown  
Sanford Eberly  
Char Dunbar  
Robert Spears

Against Applicant: None

**FINDINGS OF FACT:** The Board finds from sworn testimony and exhibits offered in this case that the applicant, McKenna Brown, has requested a special exception to construct a second story addition onto an existing accessory building for property located at 1319 Stonewall Avenue. Mr. Brown testified that the proposal is to renovate an existing garage by adding a second floor to increase the livability space of the existing dwelling. Mr. Brown noted that the garage was constructed in 1913. Mr. Brown stated that the intent is to utilize the existing footprint of the garage and that constructing a separate accessory building elsewhere on the property is not feasible. Mr. Brown stated that the floor plan of existing dwelling does not meet modern dwelling needs which necessitates construction of the proposed accessory building. Mr. Brown indicated that the ground floor of the accessory building will be a functioning garage. Mr. Brown noted that the upstairs portion of the accessory building will be utilized as a home office. Mr. Brown stated that their property is located within Woodland Heights neighborhood which includes several such two-story accessory buildings. Mr. Brown indicated that the current siding of the garage is corrugated metal and that the proposal is to utilize wood or cementitious siding. Mr. Brown noted that the intent is to ensure that the accessory building is in keeping with both the existing dwelling and the neighborhood large.

In response to a question from Mr. York, Mr. Brown stated that the wall separation within the garage is necessary for HVAC reasons and that the additional wall area will be utilized for hanging purposes.

Speaking in support, Mr. Charles Dunbar, contractor for the project testified that as the designer of the building the intent was to ensure that the architecture was sympathetic to that of the surrounding neighborhood.

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

**RESOLUTION:** NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the side yard and

rear yard (setback) requirements be granted to McKenna Brown for a building permit to construct a second story addition onto an existing accessory building, subject to substantial compliance with the plans submitted to the Board and provision of wood or cementitious siding.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Pinnock, York, Poole, Hogue, Winks

negative: None

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BZA 09-2019

APPLICANT: 2202 4th Avenue Series of the Affordable Housing Association

PREMISES: 2202 4<sup>th</sup> AVENUE  
(Tax Parcel Number N000-0561/006)

SUBJECT: A building permit to construct a new single-family detached dwelling (No. 2204).

DISAPPROVED by the Zoning Administrator on January 18, 2019, based on Sections 30-300, 30-412.4(1) & 30-412.5(1)b of the zoning ordinance for the reason that: In an R-6 (Single-Family Attached Residential District), the lot area, lot width, and side yard (setback) requirements are not met. Lot areas of five thousand square feet (5,000 SF) and lot widths of fifty feet (50') are required. For zoning purposes, one (1) lot having a lot area of 8,400 square feet and a lot width of sixty feet (60') currently exists. A lot area of 4,270 square feet and width of 30.5 feet is proposed for No. 2202. A lot area of 4,130 square feet and width of 29.5 feet is proposed for the newly created lot No. 2204. A side yard of five (5) feet is required; 3.1' is proposed along the northern property line for the existing dwelling (No. 2202).

APPLICATION was filed with the Board on January 18, 2019, based on Section 1040.3(2) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Mark Baker

Against Applicant: None

**FINDINGS OF FACT:** The Board finds from sworn testimony and exhibits offered in this case by that the applicant, 2202 4th Avenue Series of the Affordable Housing Association, has requested a special exception to construct a new single-family detached dwelling for property located at 2202 4th Avenue. Mr. Mark Baker, representing the applicant, testified that the proposal is to construct a new single-family detached dwelling. Mr. Baker indicated that the proposal is consistent with the intent of the special exception to create infill housing opportunities compatible with the neighborhood. Mr. Baker noted that the proposed dwelling will have 1900 ft.<sup>2</sup> and three bedrooms/two bathrooms. Mr. Baker stated that the siding will be cementitious. Mr. Baker noted that the existing lot is 60 feet in width and 140 feet in depth and that the proposal is to carve out a 29.5 foot wide lot for purposes of constructing the new dwelling. Mr. Baker indicated that the lots were formally two legal lots of record that were combined by deed. Mr. Baker stated that the requisite parking space will be provided and the proposed lot width and lot area is consistent with other lots and the neighborhood. Mr. Baker indicated that the proposed dwelling will be consistent with other two-story dwellings in the neighborhood. Mr. Baker stated that there is not an active civic association and that letters explaining the proposed project were sent to every property owner within 150 foot radius and that no opposition has been 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 and that dwellings to be constructed on the lots will be compatible with the dwellings existing or to be constructed in the immediate vicinity of the property.

**RESOLUTION:** NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the lot area, lot width, and side yard (setback) requirements be granted to 2202 4th Avenue Series of the Affordable Housing Association for a building permit to construct a new single-family detached dwelling (No. 2204), 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, Winks

negative: None

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BZA 10-2019

APPLICANT: Kurt Engleman

PREMISES: 2308 IDLEWOOD AVENUE  
(Tax Parcel Number W000-1032/040)

SUBJECT: A building permit to construct a masonry wall.

DISAPPROVED by the Zoning Administrator on January 18, 2019, based on Sections 30-300, 30-412.5(1)(a) & 30-630.9(b) 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 and the maximum allowable height limit for a wall within a required front yard is exceeded. In the R-6 zoning district fences and walls located within required front yards shall not exceed four feet (4') in height; six feet six inches (6'6") is proposed.

APPLICATION was filed with the Board on January 18, 2019, based on Section 1040.3(10) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Kurt Engleman

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Kurt Engleman, has requested a special exception to construct a masonry wall for property located at 2308 Idlewood Avenue. Mr. Engleman testified that he had previously received approval from the Board for a yard setback and partial wall height waiver. Mr. Engleman stated that his current request is to extend the 6 1/2 foot wall height waiver to enclose the private yard area. Mr. Engleman further stated that he had received the support of the Byrd Park Civic Association for construction of the proposed wall. Mr. Engleman noted that the lot is irregularly shaped and located at the intersection of Idlewood and Grayland Avenues and is in close proximity to the Downtown Expressway. Mr. Engleman stated that the only private yard area is located to the west of the dwelling at the intersection of the two streets. Mr. Engleman noted that the Downtown Expressway lies directly behind Grayland Avenue. Mr. Engleman stated that the Downtown Expressway is six lanes in width accommodating

approximately 64,000 vehicles daily. Mr. Engleman noted that typical city traffic is associated with an 85 dB level which over prolonged exposure can cause hearing loss, higher blood pressure and sleep loss. Mr. Engleman noted that there is criminal activity as evidenced by graffiti tags on both the street and sidewalk adjacent to his property and the nearby Downtown Expressway pedestrian bridge. Mr. Engleman stated that given the location of the property it affords no privacy. Mr. Engleman indicated that the full wall height of 6 1/2 feet is required for security and privacy reasons. Mr. Engleman noted that there are nine instances of properties within the neighborhood having fences or walls which are at least 6 1/2 feet in height. Mr. Engleman concluded by stating that approval of the request is consistent with the special exception criteria outlined in the Zoning Ordinance.

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

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the front yard (setback) requirement and the maximum allowable height limit for a wall within a required front yard be granted to Kurt Engleman for a building permit to construct a masonry wall.

ACTION OF THE BOARD: (5-0)

Vote to Grant

affirmative: Pinnock, York, Poole, Hogue, Winks

negative: None

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BZA 11-2019

APPLICANT: 604 St James Street, LLC

PREMISES: 604 SAINT JAMES STREET  
(Tax Parcel Number N000-0104/026)

**SUBJECT:** A building permit to re-establish the nonconforming use rights to a retail use and convert the building to a two-family dwelling.

**DISAPPROVED** by the Zoning Administrator on January 4, 2019, based on Sections 30-300 & 30-800.4 of the zoning ordinance for the reason that: In an R-63 (Multifamily Urban Residential District), proposed use is not permitted as the previous nonconforming use rights have expired. Whenever nonconforming uses of a building are 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 January 23, 2019, based on Section 1040.3(14) of the City of Richmond Zoning Ordinance.

**APPEARANCES:**

For Applicant: Elizabeth Drucker-Basch

Against Applicant: None

**FINDINGS OF FACT:** The Board finds from sworn testimony and exhibits offered in this case that the applicant, 604 St. James Street LLC, has requested a special exception to reestablish the nonconforming use rights to a retail use and convert the building to a two-family dwelling. Ms. Elizabeth Drucker-Basch testified that the property was purchased at auction after receipt of the zoning confirmation letter. Ms. Drucker-Basch acknowledged that she misinterpreted the meaning of the subject letter and was of the opinion that the building in question could be utilized for residential purposes. Ms. Drucker-Basch stated that it was an honest mistake and is requesting Board approval for the two-family dwelling use. Ms. Drucker-Basch stated that many years ago the building was utilized for commercial purposes downstairs and a dwelling unit upstairs. It was noted that the building has been vacant since 1999. Ms. Drucker-Basch stated that smaller more compact units are preferable in this neighborhood. Ms. Drucker-Basch explained that the existing building was not viable for a commercial use.

Mr. York noted that the lot area for a single-family or two-family dwelling could not be met for the subject R-63 zoning which was confiscatory in nature.

The Board is satisfied that the property was acquired in good faith and pursuant to Section 114-1040.3 (14) of the zoning ordinance, the property owner has demonstrated that the property was acquired in good faith and that the building cannot reasonably be devoted to a conforming use.



RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the nonconforming use rights be granted to 604 St James Street, LLC for a building permit to re-establish the nonconforming use rights to a retail use and convert the building to a two-family dwelling.

ACTION OF THE BOARD: (5-0)

Vote to Grant

affirmative: Pinnock, York, Poole, Hogue, Winks

negative: None

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

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The meeting was adjourned at 2:00 p.m.

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Chairman



Secretary