



CITY OF RICHMOND

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW
BOARD OF ZONING APPEALS

BOARD OF ZONING APPEALS

MEETING MINUTES

WEDNESDAY, JUNE 5, 2019

On Wednesday, June 5, 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 May 22 and 29, 2019 and written notice having been sent to interested parties.

Members Present: Roger H. York, Jr., Chair (Acting)
 Rodney M. Poole
 Kenneth R. Samuels, Sr.
 Mary J. Hogue
 Susan Sadid

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

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 16-2019 (RECONSIDERED FROM APRIL 3, 2019 MEETING)

APPLICANT: Fresh Start Property Solutions, LLC

PREMISES: 3004 HANES AVENUE
 (Tax Parcel Number N000-0972/008)

SUBJECT: A building permit to renovate a single-family detached dwelling.

DISAPPROVED by the Zoning Administrator on February 15, 2019, based on Sections 30-300, 30-433.2.(8) & 30-800.4 of the zoning ordinance for the reason that: In an UB-PE7 (Urban Business - Parking Exempt Overlay District), the proposed use is not permitted as the commercial frontage and dwelling commercial use ratio requirements are not met. Dwelling units are permitted when contained within the same building as other principal uses, provided that such dwelling units shall be located above the ground floor of the building or to the rear of other permitted principal uses so as not to interrupt commercial frontage in the district, and provided further that the total floor area devoted to dwelling uses not to exceed three (3) times the area of the portion of the ground floor of the building devoted to other permitted uses. No commercial use is proposed as the entire building will be devoted to a residential (single-family dwelling) use. The proposed use is not permitted as the previous nonconforming use rights have expired. Whenever nonconforming uses of a building 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 February 15, 2019, based on Section 1040.3(5) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Zak Mathews

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Fresh Start Property Solutions LLC, has requested a special exception to renovate a single-family detached dwelling for property located at 3004 Hanes Avenue. Mr. Zak Mathews, representing the applicant, testified that the property is zoned UB Urban Business District. Mr. Matthews stated that the property was rezoned in 2015 from R-6 Single-Family Attached Residential District. It was noted that the single-family detached dwelling had not been occupied for a period of more than two years therefore relinquishing its nonconforming rights. Mr. Matthews indicated that the property was acquired in November. Mr. Matthews explained it was not until the following January when attempting to secure a building permit that he learned of the loss of nonconforming rights. Mr. Matthews stated that he was not experienced with dealing with this type of property. Mr. Matthews explained that the property is on the historic register and the intent is to bring back to its original condition.

In response to a question from Mr. York, Mr. Matthew stated that the property had never been utilized for anything but residential purposes. Mr. Matthews indicated that given the configuration of the property that it would not be possible to utilize the property for commercial purposes due to the limitations on providing off-street parking. Mr. Matthews stated that letters had been sent to the surrounding property owners explaining the proposed project and there was no negative response.

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 commercial frontage and dwelling commercial use ratio requirements be granted to Fresh Start Property Solutions, LLC for a building permit to renovate a single-family detached dwelling.

ACTION OF THE BOARD: (5-0)

Vote to Grant

affirmative: York, Poole, Samuels, Hogue, Sadid

negative: None

BZA 23-2019

APPLICANT: East Coast Realty Investments LLC

PREMISES: 1202 NORTH 37th STREET
(Tax Parcel Number E000-1410/039)

SUBJECT: Building permits to construct two new single-family detached dwellings.

DISAPPROVED by the Zoning Administrator on April 12, 2019, based on Sections 30-300 & 30-410.4(1) 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 7,200 square feet and a lot width of sixty feet (60') currently exists. Lot areas of 3,600 square feet and widths of 30 feet are proposed.

APPLICATION was filed with the Board on April 12, 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 that the applicant, East Coast Realty Investment LLC, has requested a special exception to construct two new single-family detached dwellings for property located at 1202 N. 37th Street. Mr. Mark Baker, representing the applicant, testified that the request is being made under Special Exception #2-lot division to create buildable lots. Mr. Baker stated that the goal is to permit the construction of two new single-family detached dwellings. He further stated that the request is consistent with the special exception intent. The dwellings will be a high-quality for-sale product encompassing 2300 ft.² of floor area, including three bedrooms and 2 1/2 baths. Mr. Baker stated the siding will be cementitious and that there had been substantial neighborhood participation. Mr. Baker noted that with respect to the property the lot is located and the North side of 37th Street, between R Street and Canepa Street. The lot measures 60 feet in width by 120 feet in depth and encompasses 7200 ft.² of lot area. Mr. Baker stated that the property is zoned R-5 Single-Family Residential District and that the lots were originally developed as two 30 foot wide lots. Mr. Baker explained that the original single-family dwelling was constructed in 1920 and was located on one of the two lots in question. Mr. Baker indicated that this configuration continued until approximately 1967 when there were a series of additions added over a ten-year period. Mr. Baker stated that as a result of those editions the building was incrementally converted into an illegal two-family dwelling. It was noted that much of the work appears to have been done without permits and does not comply with applicable building code requirements. Mr. Baker noted that in 1977 the assessor's card referred to the construction as "Jack leg". Mr. Baker explained that the neighbors are in support of removing the existing dwelling and replacing it as proposed. Mr. Baker indicated that all the applicable special exception

criteria had been met and in particular the proposed lot areas are consistent with the predominant lot areas and lot widths in the neighborhood. Mr. Baker noted that the proposed dwellings will be compatible with other dwellings in the neighborhood and that the elevations have been modeled after existing original buildings in the neighborhood. Mr. Baker explained the presentations have been made to the Church Hill Central Association which did not oppose the requested special exception. Mr. Baker noted that the original request included four dwellings but had since been pared down to two dwellings based on neighborhood input.

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 East Coast Realty Investments LLC for building permits to construct two new single-family detached dwellings, subject to compliance with the plans submitted to the Board and provision of cementitious siding.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: York, Poole, Samuels, Hogue, Sadid

negative: None

BZA 24-2019 (CONTINUED TO THE JULY 3, 2019 MEETING OF THE BOARD)

APPLICANT: CC Richmond II, LP

PREMISES: 1201 & 1201 ½ NORTH 31st STREET
(Tax Parcel Number E000-0721/018 & 019)

SUBJECT: Building permits to construct two (2) single-family attached dwellings.

DISAPPROVED by the Zoning Administrator on April 12, 2019, based on Sections 30-300 & 30-710.1(a)(1) of the zoning ordinance for the reason that: In an R-6 (Single-Family Attached Residential District), the unit width requirement is not met. No individual attached dwelling unit shall be less than sixteen feet (16') in width, 14.67' is proposed for each dwelling.

APPLICATION was filed with the Board on April 12, 2019, based on Section 15.2-2309.2 of the Code of Virginia.

BZA 25-2019

APPLICANT: Macfarlane Associates, LLC

PREMISES: 1813 & 1815 EAST GRACE STREET
(Tax Parcel Number E000-0131/007)

SUBJECT: A building permit for renovations and to split the lot to convert the existing two-family dwelling into two single-family attached dwellings.

DISAPPROVED by the Zoning Administrator on April 12, 2019, based on Sections 30-300, 30-442.1(7) & 30-1040.2(a) of the zoning ordinance for the reason that: In a B-5 (Central Business District), the street oriented commercial frontage requirement is not met. A minimum of one thousand (1,000) square feet of floor area of the ground floor of a building located adjacent to the street oriented commercial frontage shall be devoted to other uses permitted in the B-5 district; none is proposed. A previous Board case (No. 147-03) authorized the conversion of the existing two-family dwelling into two single-family attached dwellings, however no action implementing the permission granted by the Board was made within two years of the Board's approval.

APPLICATION was filed with the Board on April 12, 2019, based on Section 1040.3(5) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Lory Markham

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, McFarlane Associates LLC, has requested a special exception to split a lot to convert the existing two-family dwelling into two single-family attached dwellings for property located at 813 & 815 E. Grace Street. Ms. Lory Markham, representing the applicant, testified that there is currently a two-family detached dwelling with units located side-by-side and fronting on East Grace Street. Ms. Markham noted that there are four on-site parking spaces located on the property. Ms. Markham stated the intent is to subdivide the property into two separate parcels. Ms. Markham noted the property was acquired by the current owner in 2003 and renovated for the existing two-family dwelling use. Ms. Markham stated that the current B-5 Central Business District zoning requires that a certain portion of the ground floor be devoted to other permitted principal uses besides dwelling units. Ms. Markham noted that the building has been in use as a two-family detached dwelling absent the principal use requirement since authorization of a variance by the Board of Zoning Appeals in 2003. Ms. Markham indicated that the difference in the current request is that the owner wishes to subdivide the property consistent with the original creation of the subject lots. Ms. Markham noted that all of the relevant special exception criteria as provided for in the zoning ordinance had been met. Specifically there is no purpose to be served by providing for uninterrupted commercial frontage on the property and that ground floor commercial space is neither physically practical or economically viable. Granting of the exception will increase residential occupancy thereby facilitating a mixed use character of the district in which the property is located. No exterior alterations are contemplated. Finally strict application of the terms of the ordinance would unreasonably restricts subdivision of the property with its current use.

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 street oriented commercial frontage requirement be granted to Macfarlane Associates, LLC for a

building permit for renovations and to split the lot to convert the existing two-family dwelling into two single-family attached dwellings.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: York, Poole, Samuels, Hogue, Sadid

negative: None

BZA 26-2019

APPLICANT: Elderhomes Corporation

PREMISES: 807 NORTH 24th STREET
(Tax Parcel Number E000-0379/024)

SUBJECT: A building permit to construct a new single-family attached dwelling and to adjust the property line.

DISAPPROVED by the Zoning Administrator on March 15, 2019, based on Sections 30-300, 30-320 & 30-419.5(2) of the zoning ordinance for the reason that: In an R-63 (Multi-Family Urban Residential District), the proposed reduction in the lot area is not in conformity with the regulations. A lot area of two thousand two hundred square feet (2,200 SF) is required. A lot area of 2,235.91 square feet exists; 2,068.44 square feet is proposed.

APPLICATION was filed with the Board on April 23, 2019, based on Section 17.20(b) of the Charter of the City of Richmond.

APPEARANCES:

For Applicant: Marion Cake

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Elderhomes Corporation, has requested a variance to construct a new single-family attached dwelling and to adjust the property line between 807 & 809 N. 24th Street. Mr. Marion Cake, representing the applicant, testified that a building permit has been requested to construct a new single-

family attached dwelling and to adjust the common property line. A lot area of 2200 ft.² is required a lot area of 2235 ft.² exists and 2068 ft.² is proposed. Mr. Cake noted that the intent is to move the property line 1.3 feet to the south to equalize the subject lots. Mr. Cake further noted that each lot would have an approximate width of 16 1/2 feet. Mr. Cake indicated that the lot widths of 811 and 811 1/2 N. 24th Street are 17 feet in 19 feet respectively which are consistent with the proposed lot widths. Mr. Cake noted that architecturally speaking the proposed dwellings are consistent with those that previously existed as well as other dwellings in the neighborhood. Mr. Cake explained that the Commission of Architectural Review had approved the proposed designs. Mr. Poole indicated that although noteworthy the Board makes its decision based on the relevant zoning facts. Mr. Cake stated that they had received approval of the Union Hill Civic League as well as the surrounding neighbors. Mr. Cake noted that the proposed single-family construction is consistent with the master plan insofar as creating home ownership as well as affordable housing opportunities. Mr. Cake proffered that Hardy plank siding will be utilized.

In response to a question from Mr. York, Mr. Cake stated that construction of a single house on the lot would facilitate affordable homeownership opportunities. Mr. Cake also noted that part of the request is a lot line adjustment which if not approved would render 809 N. 24th Street virtually undevelopable. Mr. York noted that the proposed development pattern is more or less consistent with that of the surrounding neighborhood. Mr. Cake indicated that he had no prior knowledge when purchasing the lots that a variance would be required.

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 lot area requirement be granted to Elderhomes Corporation for a building permit to construct a new single-family attached dwelling and to adjust the property line, subject to compliance with the plans submitted to the Board and provision of cementitious siding.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: York, Poole, Samuels, Hogue, Sadid

negative: None

Upon motion made by Mr. Poole and seconded by Ms. Hogue, Members voted (3-0) to adopt the Board's May meeting minutes.

Upon motion made by Mr. Poole and seconded by Ms. Hogue, Members voted (5-0) to adopt a policy that provides for the purposes of maintaining the side of building a minimum setback of 2 feet shall exist which may be provided either on the lot in question or on the adjoining lot in the form of maintenance agreement or a combination of both. It was emphasized that this is a policy only which shall be considered on a case-by-case basis.

Upon motion made by Mr. Poole and seconded by Ms. Hogue, Members voted (5-0) to amend the Board's Rules of Procedure to provide that for appeals of the Zoning Administrator's decision, the Zoning Administrator shall present his/her case in chief prior to the Appellant or Appellant's representative.

The meeting was adjourned at 2:15 p.m.


Chairman


Secretary