



## CITY OF RICHMOND

DEPARTMENT OF  
PLANNING AND DEVELOPMENT REVIEW  
BOARD OF ZONING APPEALS

### BOARD OF ZONING APPEALS

#### MEETING MINUTES

**WEDNESDAY, NOVEMBER 4, 2020**

On Wednesday, November 4, 2020, the Board of Zoning Appeals held an electronic public hearing at 1:00 p.m. due to the disaster represented by the spread of COVID-19 pursuant to and in compliance with Ordinance 2020-093; display notice having been published in the Richmond Legacy Newspaper on October 28, 2020 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  
Kenneth R. Samuels, Sr.

**Staff Present:**

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

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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 including the fact that the public hearing is being held electronically due to the state of emergency that exists as a result of the spread of Covid-19 pursuant to and in compliance with Ordinance 2020-093. The applicant and those appearing in support of an application speak first, followed by those appearing in opposition.

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BZA 30-2020 (CONTINUED FROM OCTOBER 7, 2020 MEETING)

APPLICANT: Twenty O Ten Grove Ave LLC

PREMISES: 2010 GROVE AVENUE  
(Tax Parcel Number W000-0904/024)

SUBJECT: A building permit to construct a freestanding deck abutting a nonconforming multi-family dwelling.

DISAPPROVED by the Zoning Administrator on June 12, 2020, based on Sections 30-300, 30-800.1 & 30-800.2 of the zoning ordinance for the reason that: In an R-6 (Single-Family Attached Residential) District, the nonconforming use requirements are not met. The addition of an exterior deck is an expansion of the nonconforming use. No building or structure devoted to a nonconforming use shall be enlarged or extended unless such building or structure is thereafter devoted to a conforming use.

APPLICATION was filed with the Board on June 12, 2020, based on Section 1040.3(13) of the City of Richmond Zoning Ordinance.

## APPEARANCES:

For Applicant: Bob Quisenberry

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Twenty O Ten Grove Ave LLC, has requested a special exception to construct a freestanding deck abutting a nonconforming multi-family dwelling for property located at 2010 Grove Avenue. Mr. Poole announced that he would be abstaining on this case. Mr. Bob Quisenberry, representing the applicant, began his presentation by referring to pictures of the subject building. Mr. Quisenberry noted that the first picture identifies the front of the building and noted that apartment #1 through apartment #4 has ingress and egress through the front door. Mr. Quisenberry further noted that apartment five has ingress and egress through a side door. Mr. Quisenberry indicated that apartment five is a small two-story apartment that enters from the backyard. Mr. Quisenberry stated that the goal of the project is to provide a second means of ingress and egress for apartments 2 through 5 in case of emergency that blocks the first floor door or interior stairway. Mr. Quisenberry indicated that apartment #1 has emergency ingress and egress through a large window. Mr. Quisenberry

referred to a second picture identifying the rear of the house which has two windows that can be utilized as emergency access. Mr. Quisenberry reiterated the fact that the project is designed to provide emergency access for apartments which are above the ground floor. Mr. Quisenberry noted that the second advantage of the proposed project is for apartment #5 which currently must utilize a small spiral staircase for the movement of furniture as indicated in the third picture. Mr. Quisenberry stated that the project proposes construction of a small L-shaped landing with steps to the ground. The landing would be connected to the north and east walls of the rear of the building. Mr. Quisenberry noted that the landing would begin at the east wall and would extend for 5 feet at a width of 42 inches. After 42 inches the width would be reduced to 42 inches for the remainder of the landing. There then would be 42 inch wide steps to the ground. Mr. Quisenberry noted that the steps are similar to those in 2014 Grove Avenue which is a nonconforming apartment building and is a mirror image of 2012 Grove Avenue. Mr. Quisenberry again reiterated that the project will facilitate provision of safe ingress and egress as well as facilitate movement of furniture to apartment 5. Mr. Quisenberry noted that the proposed project is a scaled-down version of other projects that he has undertaken in the Fan and the Museum District none of which were opposed by surrounding neighbors. Mr. Quisenberry indicated that there are similar approaches throughout the Fan. Mr. Quisenberry stated his belief that the project complies with applicable Special Exception criteria. It provides safe means of ingress in an emergency for all tenants. It provides a safer means of moving furniture up and down for apartment #5. It does not increase any indoor or rental space. There is no return on the investment. It will not increase occupancy. It will not increase the number of dwelling units. The only backyard space taken is for the stairway to the ground. Mr. Quisenberry noted that there was opposition to his project. Mr. Quisenberry stated that the original project called for a 5 foot wide second floor deck outside of apartment #5. Mr. Quisenberry noted that apartment #5 has a door and there used to be an existing deck the size of which and whether it had steps to the ground is unknown to Mr. Quisenberry. Mr. Quisenberry stated that he made himself available to anyone who wanted to talk to him regarding the proposed project especially concerning their objections or any of their ideas they may have. Mr. Quisenberry noted that the original deck was sized based on the patio beneath it and it was his opinion that it would have been more attractive. Mr. Quisenberry indicated that the owners of 2012 Grove Avenue were opposed to any project expanding a nonconforming building on a matter of principle. Mr. Quisenberry stated that the owners of 2008 Grove Avenue were opposed to the project for the reason that the deck would be utilized for social events and thereby generate noise. Mr. Quisenberry indicated that in deference to the owners of 2008 Grove Avenue that they did downsize the project to a 42 inch wide landing which will not be conducive to partying. Mr. Quisenberry concluded by stating that he had received letters from 2006, 2008 and 2012 Grove Avenue advising him of their objections.

The Chairman asked if there was anyone else on the call wishing to speak in favor or in opposition to the application. There being none the hearing was concluded.

Mr. York noted that the applicable special exception criteria requires that the applicant can show to the satisfaction of Board that such enlargement, extension expansion, alteration or construction is primarily for the purpose of enabling the nonconforming use to be operated more efficiently or safely. Mr. York noted that the special exception language did not specify that it is necessary for the use to be operated more efficiently or safely but merely requires that it does allow for it to be operated more efficiently or safely. Mr. York stated that that is supported by the testimony. Mr. York further noted that the proposal is a little larger than the footprint of the original because the original did not extend further back from the rear of the building based on the Sanborn maps. Mr. York noted that if there is more than a 12 foot height distance between the two levels under the stairway you are required to have landing. Mr. York stated that that is clearly what the applicant is doing in this case by wrapping it around the back of the property. Mr. York concluded by stating that the application meets all requisite special exception criteria.

The Board is satisfied that the property was acquired in good faith and pursuant to call and Section 114-1040.3 (13) of the zoning ordinance, the applicant has shown that the (enlargement, extension, expansion, alteration or construction) is primarily for the purpose of enabling the nonconforming use to be operated more efficiently or safely and in a manner that does not adversely impact adjoining and surrounding properties.

**RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS** that a request for a special exception for the nonconforming use rights requirements be granted to Twenty O Ten Grove Ave LLC for a building permit to construct a freestanding deck abutting a nonconforming multi-family dwelling.

**ACTION OF THE BOARD:** (4-0-1)

Vote to Grant

affirmative: Pinnock, York, Hogue, Samuels

negative: None

abstention: Poole

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BZA 38-2020 (CONTUNIED FROM OCTOBER 7, 2020 MEETING without fee)

APPLICANT: Kees and Vera Davison

PREMISES: 2793 STRATFORD ROAD  
(Tax Parcel Number C003-0134/029)

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

DISAPPROVED by the Zoning Administrator on August 14, 2020, based on Sections 30-300, 30-404.5(1) & 30-630.2(a)(2) of the zoning ordinance for the reason that: In an R-2 (Single-Family Residential) District, the front yard (setback) requirement is not met. A front yard of one hundred feet (100') is required along Stratford Road; thirty-nine and one-half feet (39.5') is proposed.

APPLICATION was filed with the Board on August 11, 2020, based on Section 1040.3(1) of the City of Richmond Zoning Ordinance.

## APPEARANCES:

For Applicant: Vera and Kees Davison  
Aaron Olson  
Keith Abbott

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicants, Vera and Kees Davison, have requested a special exception to construct a new single-family detached dwelling for property located at 2793 Stratford Road. Mr. Davison testified during last month's hearing he and his wife learned that the neighbor across the street had an objection to the requested front yard setback at 2793 Stratford Road. Mr. Davison noted that their residential designer had made modifications to the proposed plans decreasing the size of the home, moving the structure 10 feet back from the front property line and rotating the house. Mr. Davison stated that his neighbor no longer opposes the proposed single-family construction. Mr. Davison noted that the neighbor who is closest to the proposed construction also agreed that the changes were an improvement over the original plans. Mr. Davison further noted that the size of the proposed house and carport have been reduced. Mr. Davison indicated that the proposed dwelling will be compatible with surrounding dwellings and will be an asset to the neighborhood and City of Richmond.

Mr. Aaron Olson, residential designer for the applicant, testified that the house had been rotated so it is in line with the adjacent structure. Mr. Olson stated that this adjustment was undertaken to improve the line of sight for the benefit of the neighbor across the street. Mr. Olson noted if the house were pushed further back on the lot it would interfere with the living area and patio located at 2799 Stratford Road.

Speaking in favor Mr. Keith Abbott noted that he had opposed the applicants request at the October meeting. After meeting with the applicants Mr. Abbott stated that the house had been moved to a front yard setback of 39.5 feet and he was no longer in opposition to the proposed project.

In response to an observation from Mr. York, Mr. Olson noted that the lot was irregularly shaped and that it became increasingly narrow from front to back. Mr. Olson stated that based on the existing topography that the dwelling cannot be moved further back on the lot.

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 dwelling is consistent with the zoning district regulations; departure from the yard requirements is the minimum necessary to accommodate the intended purpose of the dwelling; the dwelling or similar construction serving the same purpose cannot reasonably be located elsewhere on the lot in compliance with the zoning ordinance; and the dwelling will be in keeping with the architectural character of 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 Kees and Vera Davison 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: (5-0)

Vote to Grant Conditionally

affirmative: Pinnock, York, Poole, Hogue, Samuels

negative: None

APPLICANT: Evolve Hld / Daniil Kleyman

PREMISES: 3002 Q STREET  
(Tax Parcel Number E000-0627/029)

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

DISAPPROVED by the Zoning Administrator on September 3, 2020, 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 5,962.2 square feet and a lot width of ninety-nine and thirty-seven hundredths feet (99.37') currently exists. A lot area of 2,034.6 square feet and width of 31.3 feet is proposed for No. 3002. A lot area of 3,927.6 square feet and width of 65.49 feet is proposed for No. 3008.

APPLICATION was filed with the Board on September 16, 2020, 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 applicants, Evolve Hld / Daniil Kleyman, have requested a special exception to construct a new single-family detached dwelling for property located at 3002 Q Street. Mr. Mark Baker, representing the applicants, testified that the request is to permit a lot split to create buildable lots. Mr. Baker noted that 3002 Q Street has always been an independent lot which was unintentionally combined with 3008 Q Street based on improvements including a fence and concrete pad. Mr. Baker stated that the property is located on the north side of Q Street midblock between North 30<sup>th</sup> Street and North 31<sup>st</sup> Street. Mr. Baker noted that 3002 Q Street will be 33.91 feet in width containing 2034 ft.<sup>2</sup> of lot area. Mr. Baker further noted that 3008 Q Street will remain 65 feet in width encompassing approximately 3900 ft.<sup>2</sup> of lot area and the existing single-family dwelling will remain. Mr. Baker stated that the special exception request is consistent with the special exception intent. Specifically, the project will result in creation of infill housing that is compatible with the neighborhood. The dwelling will contain approximately 1824 ft.<sup>2</sup> of floor area comprising three bedrooms and two and half baths and include a master bedroom with master bath and walk-in closet. The

exterior cladding will be cementitious siding. Mr. Baker noted that the single-family use is consistent with the use regulations applicable in the R-6 district, the lots included public street frontage, the off-street parking requirements will be met along with the side yard requirements. Mr. Baker stated that the project will comply with subdivision requirements and that the lots are consistent with the predominant lot areas and lot widths in the vicinity. Mr. Baker indicated that the proposed dwelling will be compatible with dwellings in the vicinity which include predominantly two stories, full width front porches, frame construction and dwelling size. Mr. Baker stated that the project is located in the Church Hill Central Civic Association which of late has not been meeting due to the virus. Mr. Baker noted that letters were sent to everyone within 150 foot radius and they were aware of no opposition.

In response to a comment from Mr. York, Mr. Baker stated that he could not confirm whether there had previously been three lots or possibly more that existed.

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 Evolve Hld / Daniil Kleyman 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, Samuels

negative: None

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BZA 42-2020

APPLICANT: CAVA Capital LLC

PREMISES: 1117 NORTH 27<sup>th</sup> STREET  
(Tax Parcel Number E000-0521/032)

SUBJECT: A building permit to construct a second-story addition onto an existing single-family attached dwelling.

DISAPPROVED by the Zoning Administrator on September 18, 2020, based on Sections 30-300, 30-412.5.(2)b & 30-810.1 of the zoning ordinance for the reason that: In an R-6 (Single-Family Attached Residential) District, the side yard (setback) and the nonconforming feature requirements are not met. A side yard of three feet (3') is required along the southern property line; a nonconforming side yard of 1.2 feet exists/is proposed for a portion of the second-story addition. Vertical expansion of that part of a building which is nonconforming with regard to a yard or open space requirement shall be considered an increase in the extent of the nonconforming feature and shall not be permitted.

APPLICATION was filed with the Board on September 18, 2020, based on Section 1040.3(1) 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, CAVA Capital LLC, has requested a special exception to construct a second-story addition onto an existing single-family attached dwelling for property located at 1117 N. 27<sup>th</sup> Street. Mr. Mark Baker, representing the applicant, testified that the request involves a partial waiver of the side yard setback requirements for a portion of a proposed addition. Mr. Baker stated the property is located on the east side of North 27<sup>th</sup> Street, is 17.5 feet in width by 132 feet in depth and contains approximately 2318 ft.<sup>2</sup> of lot area. Mr. Baker noted that the existing single-family attached dwelling is attached to the dwelling on 1119 N. 27<sup>th</sup> Street and that the dwelling was originally constructed in 1920. Mr. Baker stated that the goal is to permit the renovation of the existing building with a new two-story addition in the rear. Mr. Baker indicated that the majority of the new construction will meet requisite setbacks. Mr. Baker indicated there is a limited portion of the addition on the second floor

which needs to align with the existing first floor footprint based on the structural dynamics. Mr. Baker noted that the existing structure has a nonconforming setback of 1.2 feet and is that portion that requires the special exception approval. Mr. Baker stated that the request is consistent with the special exception intent. The dwelling will contain approximately 2194 ft.<sup>2</sup> of floor area, include three bedrooms and two and half baths and the exterior will be of compatible neighborhood design including cementitious siding. Mr. Baker stated that the proposed use is consistent with the R-6 regulations and the departure from the setback requirement is the minimum necessary. Mr. Baker noted that the addition will be in keeping with the architectural character of existing dwelling and that the dwelling will in turn be consistent with the neighborhood in terms of its form and character. Mr. Baker concluded by stating that the project is located in the Church Hill Central Neighborhood Association which has been declining to review these type of requests in the past due to the virus. Mr. Baker indicated that letters have been sent to all property owners within a 150 foot radius and that no opposition had been noted.

In response to a question from Mr. York, Mr. Baker stated that it is possible that the house had been expanded incrementally to the rear.

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 side yard (setback) and the nonconforming feature requirements be granted to CAVA Capital LLC for a building permit to construct a second-story addition onto an existing single-family attached 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, Samuels

negative: None

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Upon motion made by Mr. Poole and seconded by Mr. Samuels, Members voted (5-0) to recommend to the Chief Judge of the Richmond Circuit Court the reappointment of Mr. Burt Pinnock, Mr. Roger York and Ms. Susan Sadid to the Board of Zoning Appeals for an additional four-year term.

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

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

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Secretary



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Chairman