



## CITY OF RICHMOND

DEPARTMENT OF  
PLANNING AND DEVELOPMENT REVIEW  
BOARD OF ZONING APPEALS

### **BOARD OF ZONING APPEALS**

#### **MEETING MINUTES**

**WEDNESDAY, MARCH 3, 2021**

On Wednesday, March 3, 2021, 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 2020-232; display notice having been published in the Richmond Legacy Newspaper on February 24, 2021 and written notice having been sent to interested parties.

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

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

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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 2020-232. The applicant and those appearing in support of an application speak first, followed by those appearing in opposition.

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BZA 09-2021

APPLICANT: DynQuest Properties LLC

PREMISES: 3424 CAROLINA AVENUE  
(Tax Parcel Number N000-1161/001)

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

DISAPPROVED by the Zoning Administrator on November 21, 2019, 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 lot with a lot area of nine thousand eight hundred square feet (9,800 SF) and a lot width of seventy feet (70') currently exists. A lot area of four thousand nine hundred square feet (4,900 SF) and a lot width of thirty five feet (35') is proposed for the existing lot, located at 3424 Carolina Avenue and the newly created lot, located at 3422 Carolina Avenue.

APPLICATION was filed with the Board on November 12, 2020, based on Section 1040.3(2) of the City of Richmond Zoning Ordinance.

## APPEARANCES:

For Applicant: Stephen Harrell  
Michael Repsher

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, DynQuest Properties LLC, has requested a special exception to construct a new single-family detached dwelling for property located at 3424 Carolina Avenue. Mr. Stephen Harrell, representing the applicant, testified that his company has constructed homes on Carolina and Lakeview Avenue's and other locations in the City of Richmond. Mr. Harrell stated that he learned for the first time there was a problem with the property after submitting plans for a permit. Mr. Harrell indicated they retained a local construction company to commence the work. They constructed the footers and the foundation wall when a stop work order was issued by the City. Mr. Harrell acknowledged responsibility but also indicated his surprise. Mr. Harrell indicated that after performing a survey that it was noted that the adjoining property had an

encroachment on his company's lot. Mr. Harrell noted that the subject lot has 4900 ft.<sup>2</sup> and that the ordinance requires 5000 ft.<sup>2</sup>. Mr. Harrell stated that the plans call for constructing a 2500 ft.<sup>2</sup> home across the street from other homes his company had constructed. Mr. Harrell noted that when they constructed their first home on Carolina Avenue there was no one else building homes in the area. Mr. Harrell indicated that the construction of these homes has improved the neighborhood. Mr. Harrell stated that all financing comes from his equity partners. The Board Secretary, Mr. Benbow, pointed out that the issue before the Board is not limited to lot area alone but also involves a request to reduce the required lot width from 50 feet to 35 feet. Mr. Harrell declined to address the issue of lot width indicating that it would be addressed by his architect.

Mr. York inquired that due to the unusual nature of the dwelling design whether it was a spec house. Mr. Harrell explained that the homes they construct are reflective of what his company wants to construct and not necessarily a client. Mr. Harrell indicated that their design is unique but fits well with the neighborhood.

Mr. Rodney Poole stated that if he understood Mr. Harrell's previous testimony he is an experienced builder in the City of Richmond. Mr. Harrell replied in the affirmative. Mr. Poole noted that Mr. Harrell had been before this Board before. Mr. Harrell replied in the affirmative. Mr. Poole inquired why Mr. Harrell had not gotten a building permit before beginning construction. Mr. Harrell noted that an application for a building permit had been submitted to the City of Richmond. Mr. Harrell stated that they utilized a different contractor on this project. Mr. Harrell explained that as owner of the company he is 100% responsible for the situation. Mr. Harrell noted that when you work on several projects at a time that sometimes when someone does something they shouldn't it reflects back on you. Mr. Harrell stated he thought all the permits were there and was told that they could dig the footers and the engineer had signed off on it. Mr. Poole expressed concern over the fact that Mr. Harrell had not acted in good faith based on the fact that he builds in the city and knows the process. Mr. Harrell asked that the Board accept his apology. Mr. Harrell indicated that good faith is that they are here to try to make it right. Mr. Poole responded by stating that the way to make it right is to pursue a special use permit. Mr. Harrell responded by stating if that is what is required that is what they will do. Mr. Poole asked if Mr. Harrell would respond to the lot width issue. Mr. Harrell indicated that he would leave that to his architect. Mr. Harrell stated that as a developer and owner of the company that they do everything in their power to add value to the city. Mr. Harrell noted that a mistake had been made in so far as pouring the footers and constructing the foundation wall. Mr. Harrell stated that he was dissuaded by an employee from knocking everything down and starting over. Mr. Harrell explained that they had paid someone for these services. Mr. Poole noted that he is not able to provide legal advice but Mr. Harrell may have a civil action. Mr. Harrell stated that he

had been in court with many contractors that he had hired in the City of Richmond. Mr. Harrell stated that they come to the Board in good faith.

Ms. Sadid stated that she was looking at the 2018 listing when the lot was purchased which noted that buyers may need confirmation that the lot was buildable. Ms. Sadid stated that this appeared on the MLS listing. The selling agent noted that the buyer may need confirmation that the lot is buildable in the City of Richmond. Mr. Harrell indicated that every lot needs confirmation for the City of Richmond to be built on. Mr. Harrell stated that is not something that surprises any of us. Mr. Harrell indicated it was not disclosed to him that it was not a buildable lot. Ms. Sadid indicated that when something like this is seen on a listing is it not the responsibility of the builder to find out from the city if it is buildable. Mr. Harrell acknowledged that he did not look at the listing. Mr. Harrell indicated that the real estate agent did not disclose that it was not a buildable lot.

Speaking in support, Mr. Michael Repsher, testified in response to a question from Mr. Poole regarding the 50 foot lot width issue that in working in the City of Richmond and other communities he has come across undersized lots. Mr. Repsher stated there is an existing resident next door and they cannot affect their lot width. They are required to work with what they have to work with. Mr. Repsher noted that they are not requesting relief from the setbacks. Mr. Repsher indicated they are building a new residence to meet the needs of the lot and to give value to what was a vacant lot. Mr. Poole inquired that as a licensed architect Mr. Repsher you are aware that zoning requires certain criteria and is it correct that you understood that you did not meet the zoning? Mr. Repsher indicated that he had set back information but did not have information regarding what was acquired for that zone. Mr. Repsher stated that he did not have information that it was an undersized lot. Mr. Poole asked if Mr. Repsher was aware of the fact that each zoning district has a lot width requirement. Mr. Repsher answered in the affirmative. Mr. Poole inquired whether the lot width requirement had been checked for this particular property. Mr. Repsher stated the only information he had regarding this lot was for setbacks. Mr. Repsher acknowledged that that might have been an oversight at the time. Mr. Repsher stated he had worked on other side lots that were okay as long as you meet the criteria.

Mr. York asked if Mr. Repsher was provided a survey when he did the design. Mr. Repsher answered in the affirmative. Mr. York asked if Mr. Repsher had received an actual survey with the dimensions of the lot. Mr. Repsher answered in the affirmative. Mr. Repsher indicated that the 5 foot side yard requirements drove the width of the dwelling.

Mr. Poole noted that there is a lot area and lot width problem. Mr. Repsher answered in the affirmative. Mr. Repsher noted that they had done projects down the street that blended with the modern design. The intent was to create a statement on this corner to transform a vacant lot into something much more appealing.

Mr. York inquired what the market price would be. Mr. Harrell stated the market price is \$500,000.

Ms. Hogue asked if the project had been discussed with the neighbors and neighborhood association. Mr. Repsher indicated he had not.

Ms. Sadid indicated there is a listing for \$499,000 and questioned whether a purchase had already been made. Mr. Harrell indicated that there is a contract on the house which grants first right of refusal. Mr. Harrell stated the contract was pending.

Mr. Davidson stated that there are other similar lots in the neighborhood.

It was moved by Mr. Poole and seconded by Mr. York that the request for a special exception from the lot area and lot width requirements be denied to DynQuest Properties LLC. Mr. Poole noted that this is a professional developer that is familiar with the neighborhood and had been before this Board on two prior occasions and chose not to read the MLS listing which raised a question about the lot being buildable and commenced construction without a building permit. Mr. Poole stated that the appropriate venue for relief is through the City Council and a special use permit. Mr. Poole further stated that this is not how the Board of Zoning Appeals special exception is intended to be utilized in the City of Richmond. Mr. York pointed out that the applicant is provided with information from staff regarding the necessity for contacting surrounding neighbors and the neighborhood association and the applicant chose not to follow that directive. Mr. Poole pointed out that the survey identifies the zoning as being R-6 which should have further alerted the applicant regarding potential lot width and lot area issues. Mr. Pinnock inquired of Mr. Poole and Mr. York if they would have a different view of this case if it became before the Board absent the history that had been presented today. Mr. York indicated that absent all the baggage associated with the case that he might view it differently. Mr. Poole stated that he cannot answer Mr. Pinnock's question because that is not the case. Mr. Poole stated that this is a knowledgeable applicant that knows the rules and chose not to follow them. Mr. Poole further stated that this case comes before the Board with the facts as they are and that is why he moved to deny it.

The Board is not satisfied that the property was acquired in good faith and pursuant to Section 114-1040.3 (2) of the zoning ordinance, the applicant failed to provide

testimony that the area and width of the lot created by the division is consistent with the predominant lot areas and lot widths in the immediate vicinity of the property, and the dwelling to be constructed on the lot will be compatible with the dwellings existing or to be constructed in the immediate vicinity of the property, the applicant failed to adhere to required permitting policies and procedures regarding the subject property despite the fact that the applicant had testified before the Board on two prior occasions for similarly situated properties located directly across Carolina Avenue, the applicant failed to do due diligence by reviewing the MLS listing for the property which indicated that the lot may not be buildable and the applicant failed to provide testimony that any effort had been made to contact the neighborhood association or surrounding neighbors, as required, regarding the requested special exception.

**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 denied to DynQuest Properties LLC for a lot split and building permit to construct a new single-family detached dwelling.

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

Vote to Deny

affirmative: York, Poole, Hogue, Sadid

negative: Pinnock

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BZA 10-2021

**APPLICANT:** Robert Richardson

**PREMISES:** 1015 PARK AVENUE  
(Tax Parcel Number W000-0459/005)

**SUBJECT:** A building permit to construct a rear second-story screened porch onto an existing single-family detached dwelling.

**DISAPPROVED** by the Zoning Administrator on December 7, 2020, based on Sections 30-300 & 30-412.5(2)b & 30-412.5(2)c of the zoning ordinance for the reason that: In an R-6 (Single-Family Attached Residential) District, the side yard (setback) and rear yard (setback) requirements are not met. A side yard of three feet (3') is required; 0' is proposed along the eastern property line and 0' is

proposed along the western property line. A rear yard of five feet (5') is required; 1.57' is proposed along the rear property line.

APPLICATION was filed with the Board on December 7, 2020, based on Section 1040.3(1) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Robert Richardson

Against Applicant: Thomas Veech

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Robert Richardson, has requested a special exception to construct a second story screened porch for property located at 1015 Park Avenue. Mr. Robert Richardson testified that he and his wife are requesting a yard setback exception to improve their property by constructing a freestanding second-story screened porch at the rear of their home. Mr. Richardson stated that the addition will improve the livability of the property. Mr. Richardson indicated that his Fan home was constructed in 1910 on a small irregular lot. Mr. Richardson noted well-designed outdoor living spaces are just as important as well-designed indoor living spaces. Mr. Richardson noted that this is especially important during the Covid 19 pandemic. Mr. Richardson further noted that his home does not currently meet modern-day living needs. Mr. Richardson indicated their proposed second-story porch would serve as an outdoor living room for general and informal everyday use. It would add a functional living space to be utilized for numerous activities. Mr. Richardson indicated it would be elevated above the rear off-street parking space. Mr. Richardson explained there is no other place on the property to accommodate an accessory structure to serve this intended purpose. Mr. Richardson stated they purchased their home in April 2020 with the intent of continuing its return to a single-family residence. Mr. Richardson indicated they chose to be "urban pioneers" in the block that is primarily dedicated to student apartment housing. Mr. Richardson noted that they are one of only six single-family residences among 19 homes and buildings on their block. Mr. Richardson further noted they are flanked by apartments on both sides and to the rear. Mr. Richardson explained there is only one single-family home adjacent to their home at 1112 Grove Avenue. Mr. Richardson stated an outdoor living room is critical to the modern use of their single-family home. It provides contemporary general living space and is an amenity that is highly sought after and desired in the Fan. Mr. Richardson indicated that the second-story screened porch will be in keeping with the architectural character of the home and will be a natural extension of their indoor living space. The addition of the porch will increase the value of the single-family home in the adjacent properties. It will make the property more desirable and promote neighborhood

improvement. Mr. Richardson indicated that they made all of their surrounding neighbors aware well in advance of the requested administrative variance last fall. They walked them onto the property to show them exactly where the screened porch would go and received no negative comment. Also at the recommendation of the City they contacted the Fan District Association regarding the proposed addition. Mr. Richardson explained they were informed by the Fan that they typically deal only with special use requests. On or about December 7, 2020 they were notified by the city that their neighbors at 1112 Grove Avenue had objected to the requested administrative variance. Mr. Richardson noted that their single-family home is adjacent to their home and where the porch would end is approximately 30 feet from the rear of the home. The neighbor's rear courtyard is adjacent to their home. Mr. Richardson explained that it was his understanding that their major concern involved the western setback request of 3 feet. Mr. Richardson noted that they had modified their plans to adhere to the 3 foot required setback on the western side of the property. Mr. Richardson reiterated that the intended purpose of the second-story screened porch is to add the desired outdoor living amenity that maximizes the livability of the property. It is the only available space on the lot where a well-designed outdoor living room can be built which will modernize their property. Mr. Richardson noted that any smaller screened porch would not function as an outdoor living space which would not reasonably accommodate outdoor living activities. Any smaller outdoor living space would hinder their ability to utilize their off-street parking space. Mr. Richardson further noted that the second-story screened porch is in keeping with the architectural character of existing home. Mr. Richardson stated his belief that the granting of the request is consistent with the special exception criteria by encouraging improvement of the property, retaining them as residents in the city and promoting neighborhood improvement.

Speaking in opposition, Thomas Veech testified that he along with his two children had lived at 1112 Grove Avenue for 16 years. Mr. Veech noted that they had actively been involved in the Fan District Association regarding neighborhood improvement. Mr. Veech noted that he worked with the Fan District Association's zoning committee. Mr. Veech's wife is an officer in the Fan District Association women's club. They had worked with tree stewards planting trees in front of the block. They had been involved with park cleanup. Mr. Veech explained that they have spent a lot of time and personal energy in keeping the Fan beautiful. Mr. Veech noted where they lived is very dense with a multitude of VCU rental properties. Mr. Veech indicated that as noted they are the only permanent resident adjacent to the applicant. All of the remaining surrounding properties are rentals. Mr. Veech stated that they had the only backyard garden and the only backyard trees on the north side of the 1100 block of Grove Avenue. Mr. Veech contended that this makes their home unique and valuable in its current state. Mr. Veech explained that one of the motivating factors in the purchase of their home was the fact that the zoning ordinance would



limit unrestricted growth and sprawl. The second story deck built adjacent to their backyard would look directly into the garden, into the kitchen and into their daughter's bedroom. Mr. Veech expressed concern that construction as proposed could result in thinning of their trees. As a direct consequence this would directly impact enjoyment of their home and potentially the value of their house. Mr. Veech noted they paid a lot of money for their home and to get it in its current condition. Mr. Veech explained that during their residency they have had numerous unpleasant experiences that reinforces their view that a buffer between properties is extremely important. Mr. Veech noted that they have had students on the roof and in their backyard and have even had a fire adjacent to their home set by adjacent tenants who were not using common sense. Mr. Veech explained that the existing setback zoning code is important for numerous reasons including safety among others. Mr. Veech expressed concern over the approval of increasing density in perpetuity in an area that is already quite dense. Mr. Veech explained that he did not believe the circumstances to be extenuating that would justify deviation from the code. Mr. Veech noted that the applicant currently has a front porch a side screened porch and a deck on top of that side screened porch. Mr. Veech stated that they are not currently without means to enjoy their outdoor space. Mr. Veech noted that they have a front and double side porch. Mr. Veech indicated that the front porch is 4'8" deep in the side porch is 7 feet deep which are smaller than the proposed porch. Mr. Veech stated that within those spaces they have plenty of room for chairs, benches, bikes, swings and storage. Mr. Veech indicated that they would also like more space but live in the city. Mr. Veech stated that they do not wish to relinquish their rights that are established by the zoning rules. Building more structures and eliminating green space is counterintuitive to good urban planning particularly in light of environmental concerns. Mr. Veech noted that they are all stewards of the very unique Victorian neighborhood. Mr. Veech stated they have a duty to preserve its beauty. Mr. Veech stated he respectfully requests that the city uphold the existing zoning code. Mr. Veech further stated that he and his wife are not requesting anything that the law does not grant them already. Mr. Veech explained that he does not think it unreasonable that their rights be respected.

Mr. Poole inquired that if the 3 foot setback were eliminated on the western side immediately adjacent to the Veechs that there is no violation on that side. The answer was affirmative.

Mr. Poole stated that in his opinion the applicants request meets all the relevant criteria of the special exception. Mr. York also agreed that the special exception criteria have been met.

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 eastern side yard (setback) and rear yard (setback) requirements be granted to Robert Richardson for a building permit to construct a rear second-story screened porch onto an existing single-family detached dwelling.

ACTION OF THE BOARD: (5-0)

Vote to Grant

affirmative: Pinnock, York, Poole, Hogue, Sadid

negative: None

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BZA 11-2021

APPLICANT: P E R Investments LLC

PREMISES: 4413 CORBIN STREET  
(Tax Parcel Number N018-0402/007)

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

DISAPPROVED by the Zoning Administrator on December 30, 2020, based on Sections 30-300, 30-410.5(1) & 30-630.1(a)(1) 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 25 feet is required along the Jasper Avenue street frontage; a front yard of 10.36 feet is proposed.

APPLICATION was filed with the Board on December 30, 2020, based on Section 1040.3(1) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Michelle Bebbs

Against Applicant: None

**FINDINGS OF FACT:** The Board finds from sworn testimony and exhibits offered in this case that the applicant, P E R Investments LLC, has requested a special exception to construct a single-family detached dwelling for property located at 4413 Corbin Street. Ms. Michelle Bebbs testified that she was the architectural designer representing the applicants. Ms. Bebbs explained that her clients originally owned 4411 Corbin Street. Ms. Bebbs further explained that they sold 4411 Corbin Street with the intent of constructing a dwelling on 4413 Corbin Street which is a corner lot. Ms. Bebbs noted that although the lots were originally separate legal lots of record that location of an accessory building resulted in the combination of the lots for zoning purposes. Ms. Bebbs stated the desire of her clients is to construct a one-story single-family dwelling on the subject lot. Ms. Bebbs noted that the lot is subject to two front yards and that the requested setback waiver is for that portion of the dwelling adjacent to Jasper Avenue. Ms. Bebbs explained that given the setback restrictions placed on a corner lot it is not possible to construct a dwelling meeting the modern-day needs of a family. Ms. Bebbs noted that all other applicable setbacks will be met. Ms. Bebbs further noted that the front yard setback will be consistent with other setbacks along the block. Ms. Bebbs indicated that they had received a letter of support from the Washington Park Civic Association. Further, they had contacted several the surrounding neighbors none of which voiced any opposition to the requested special exception. Ms. Bebbs noted that the house located catty corner to the proposed dwelling has a similar setback issue on Jasper Avenue to that confronted by the applicants. Ms. Bebbs explained that the proposed dwelling is compatible with other dwellings in the surrounding area.

In response to a question from Mr. York, Ms. Bebbs explained that if required to comply with the specified front yard setback along Jasper Avenue it would result in the construction of a 15 foot wide dwelling which would be inconsistent with other dwellings in the surrounding area.

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 P E R Investments LLC for a building permit to construct a new single-family detached dwelling, subject to substantial compliance with the plans submitted to the Board and provision of cementitious siding.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Pinnock, York, Poole, Hogue, Sadid

negative: None

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BZA 12-2021

APPLICANT: 1308 ½ W Clay Street, LLC

PREMISES: 1308 ½ WEST CLAY STREET  
(Tax Parcel Number N000-0572/026)

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

DISAPPROVED by the Zoning Administrator on January 15, 2021, based on Sections 30-300, 30-413.6(1) & 30-630.2(a)(2) 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. A front yard of 30.3 feet, as established by the average depth of the front yards of the adjacent buildings (#3108 & 3110) is required; twenty-five feet (25') is proposed.

APPLICATION was filed with the Board on January 11, 2021, based on Sections 1040.3(1) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Zach Kennedy

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, 1308 ½ W. Clay Street LLC, have requested a special exception to construct a new single-family detached dwelling for property located

at 1308 ½ W. Clay Street. Mr. Zach Kennedy testified that he and his wife would like to build a new home on the subject property. Mr. Kennedy explained that the lot is only 20 feet in width and that the intent is to comply with the rear and both side yard requirements. Mr. Kennedy further explained that his neighbors dwelling directly to the east is set back approximate 35 feet from the front property line which is further than other dwellings on the block. Mr. Kennedy indicated that based on the zoning requirements for the R-7 single and two-family district that an averaging of adjoining dwelling setbacks is required. Mr. Kennedy stated that he is requesting the ability to align with the proposed dwelling setbacks on his west which is consistent with other front yard setbacks along the block. Mr. Kennedy stated that due to the narrowness of the lot it is necessary to construct a house with a longer dimension. If required to comply with the 30 foot setback established by the averaging of the dwelling setbacks it would negatively impact the available rear yard outdoor space. Mr. Kennedy indicated that he contacted Carver Neighborhood Association as well as surrounding neighbors and no objection to the requested special exception have been voiced.

In response to a question from Mr. York, Mr. Kennedy indicated that it was possible to access the rear of the lot for parking purposes.

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 1308 ½ W Clay Street, LLC for a building permit to construct a new single-family detached dwelling, subject to substantial compliance with the plans submitted to the Board and provision of cementitious siding.

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

Vote to Grant Conditionally

affirmative: Pinnock, York, Poole, Hogue, Sadid

negative: None

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BZA 13-2021

APPLICANT: Svetoslav Hadzhiev

PREMISES: 2110 RICHMOND STREET  
(Tax Parcel Number E000-0764/003)

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

DISAPPROVED by the Zoning Administrator on December 23, 2020, based on Sections 30-300 & 30-410.4 of the zoning ordinance for the reason that: In an R-5 (Single-Family Residential) District, the lot area and lot width requirements are not met. Lot areas of 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 7,400.0 square feet and a lot width of seventy-four feet (74') currently exists; lot areas of 3,662.2 square feet (#2108) and 3,737.8 square feet (#2110) and lot widths of 36.62 feet (#2108) and 37.38 feet (#2110) are proposed.

APPLICATION was filed with the Board on January 11, 2021, based on Section 1040.3(2) of the City of Richmond Zoning Ordinance.

## APPEARANCES:

For Applicant: Svetoslav Hadzhiev

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Svetoslav Hadzhiev, has requested a special exception to construct a new single-family detached dwelling for property located at 2110 Richmond Street. Mr. Svetoslav Hadzhiev testified that he is the owner of a small renovation and construction company in the City of Richmond. Mr. Hadzhiev stated that he is seeking approval of construction of a small single-family dwelling on property which he purchased approximately three years ago. Mr. Hadzhiev noted that there is a dwelling on one side of the lot and he is requesting permission to split the lot and construct a new single-family dwelling. Mr. Hadzhiev indicated that the proposed lot will be 37.38 feet in width and comprise approximately 3737 ft.<sup>2</sup> of lot area. Mr. Hadzhiev indicated that the proposed dwelling will have three bedrooms and two baths. The dwelling will be single-story, ranch-style and will be compatible with the neighborhood. Mr. Hadzhiev noted that all required setbacks will be met. Mr. Hadzhiev indicated that the proposed lot size is compatible with the neighborhood. Mr. Hadzhiev noted that

there is an alley access at the rear of the property which will facilitate provision of the required off-street parking space. Mr. Hadzhiev expressed the view that the proposed single-family dwelling will be an improvement to the neighborhood which is hoped will spur other similar development.

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 Svetoslav Hadzhiev for a building permit to construct a new single-family detached dwelling, subject to substantial compliance with the plans submitted to the Board and provision of cementitious siding.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Pinnock, York, Poole, Hogue, Sadid

negative: None

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BZA 14-2021

APPLICANT: Kiwi Realty LLC

PREMISES: 2314 GORDON AVENUE  
(Tax Parcel Number S000-0645/005)

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

DISAPPROVED by the Zoning Administrator on December 23, 2020, based on Sections 30-300 & 30-410.4 of the zoning ordinance for the reason that: In an R-5 (Single-

Family Residential) District, the lot area and lot width requirements are not met. Lot areas of six thousand square feet (6,000 SF) and lot widths of fifty feet (50') are required. For zoning purposes, one (1) lot having a lot area of 9,438 square feet and a lot width of sixty-six feet (66') currently exists. A lot area of 4,719 square feet and width of 33.0 feet is proposed for No. 2312. A lot area of 4,719 square feet and width of 33.0 feet is proposed for No. 2314.

APPLICATION was filed with the Board on January 15, 2021, 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 that the applicant, Kiwi Realty LLC, has requested a special exception to construct a new single-family detached dwelling for property located at 2314 Gordon Avenue. Mr. Mark Baker, representing the applicant, testified that the request is consistent with the special exception intent statement. The dwelling will comprise 1300 ft.<sup>2</sup> and include three bedrooms and two baths. Siding will be cementitious. Mr. Baker noted that the property is located on the south side of Gordon Avenue and was previously combined with 2312 Gordon Avenue. Mr. Baker indicated that the lots were deeded separately but due to utilization of accessory uses the two lots for zoning purposes became combined. The proposed lot will be 33 feet in width and 143 feet in depth and contain 4719 ft.<sup>2</sup> of lot area. Mr. Baker noted that the existing dwelling located at 2312 Board and Avenue was constructed in 1924 and that the proposal is respectful of the original lotting pattern. Mr. Baker indicated that the single-family use is consistent with the R-5 use regulations and the lot has public street frontage. The off-street parking requirements will be met as well as all setback requirements. Mr. Baker noted that the lots are consistent with the predominant lot areas and lot widths in the vicinity as are the new dwellings. Mr. Baker indicated that numerous attempts were made to contact the Oak Grove Civic Association both in terms of emails and voice messages with no response. Mr. Baker also indicated that letters were sent to all property owners within 150 foot radius and no concerns were expressed

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 Kiwi Realty LLC for a lot split and building permit to construct a new single-family detached dwelling, subject to substantial compliance with the plans submitted to the Board and provision of cementitious siding.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Pinnock, York, Poole, Hogue, Sadid

negative: None

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BZA 15-2021

APPLICANT: Oregon Hill Historic LLC

PREMISES: 316 WEST LEIGH STREET  
(Tax Parcel Number N000-0210/039)

SUBJECT: A building permit to re-establish the nonconforming use rights to office use and convert the building to a two-family dwelling including the sanctioning of a previously constructed addition and proposed addition of exterior rear stairs.

DISAPPROVED by the Zoning Administrator on January 15, 2021, based on Sections 30-300 & 30-800.4 of the zoning ordinance for the reason that: In an R-6 (Single-Family Attached Residential) District, the proposed use is not permitted as the previous nonconforming use rights have expired. Whenever a nonconforming use of a building or structure is discontinued for a period of two years or longer any subsequent use of the premises shall conform to the regulations applicable in the district in which it is located.

APPLICATION was filed with the Board on January 15, 2021, based on Section 1040.3(14) 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, Oregon Hill Historic LLC, has requested a special exception to reestablish the nonconforming use rights to office and convert the building to a two-family dwelling including the sanctioning of a previously constructed addition and proposed addition of exterior rear stairs for property located at 316 W. Leigh Street. Mr. Mark Baker, representing the applicant, testified that the subject property contains 3120 ft.<sup>2</sup> and is zoned R-6. Mr. Baker indicated that the property is improved with a two-story building that according to assessor's records was built in 1930 but interestingly it is depicted on the 1925 Sanborn maps. Mr. Baker noted that the building was originally constructed for residential purposes and was converted to office use which is the last known use. The ground floor was utilized for an optometrist with the CO being issued in 1971. The Board authorized expansion of the office use to the second floor in 1979. Mr. Baker indicated the building had been vacant since approximately 1995. Mr. Baker further indicated that due to the length of vacancy the commercial building had lost nonconforming rights. Mr. Baker noted that the request is being made under Special Exception #14 to allow for reestablishment of a nonconforming use. Mr. Baker stated that the change of use to a two-family dwelling is permitted under §30-800.3. Mr. Baker explained that the proposal is for full rehabilitation of the former office building with two dwelling units. The first floor dwelling unit would contain three bedrooms and two baths while the second floor dwelling unit would contain three bedrooms and 2 ½ baths. Mr. Baker indicated that the proposal is consistent with the special exception intent statement as there was no intent to relinquish the nonconforming rights associated with the property. Mr. Baker stated that the building has no potential to be utilized for a conforming use without approval of the requested special exception. Mr. Baker indicated that in this instance occupancy as proposed would result in reasonable economic use and improvement of the property. Mr. Baker noted that the property was acquired in good faith and building as stated cannot reasonably be devoted to a conforming use. Mr. Baker indicated that the use of the property had never been changed to a more restricted or conforming use. Mr. Baker concluded by stating that in terms of the neighborhood outreach that they had made attempts to contact the Historic Jackson Ward Association with no success. Letters were sent to all property owners within 150 foot radius and no concerns have been expressed.

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 requirement be granted to Oregon Hill Historic LLC for a building permit to re-establish the nonconforming use rights to office use and convert the building to a two-family dwelling including the sanctioning of a previously constructed addition and proposed addition of exterior rear stairs, subject to substantial compliance with the plans submitted to the Board.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Pinnock, York, Poole, Hogue, Sadid

negative: None

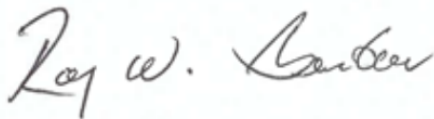
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Upon motion made by Mr. Poole and seconded by Mr. Pinnock, Members voted (3-0) to adopt the Board's February meeting minutes. Mr. York not having received the minutes abstained from voting.

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

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Secretary

  
VICE · Chairman