



CITY OF RICHMOND

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW
BOARD OF ZONING APPEALS

BOARD OF ZONING APPEALS

MEETING MINUTES

WEDNESDAY, SEPTEMBER 1, 2021

On Wednesday, September 1, 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 2021-181; display notice having been published in the Richmond Legacy Newspaper on August 25, 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

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 2021-181. The applicant and those appearing in support of an application speak first, followed by those appearing in opposition.

BZA 45-2021

APPLICANT: Weimans Bakery LLC

PREMISES: 127 NORTH 17th STREET
(Tax Parcel Number E000-0130/044)

SUBJECT: A building permit to construct a new twelve-story mixed-use building.

DISAPPROVED by the Zoning Administrator on June 8, 2021, based on Sections 30-300 & 30-457.2(7) of the zoning ordinance for the reason that: In a TOD-1 (Transit-Oriented Nodal) District, the commercial frontage requirement is not met. In the TOD-1 (Transit-Oriented Nodal) district, dwelling units are permitted provided that when such units are located within buildings fronting on streets designated as street-oriented commercial frontage, a minimum of one-third or 1,000 square feet, whichever is greater, of the floor area of the ground floor of the building shall be devoted to other principal uses permitted in this district, and such uses shall have a depth of not less than 20 feet along the entire street oriented commercial frontage, except for ingress and egress. The East Grace Street frontage is designated as street-oriented commercial frontage. The ground floor along the East Grace Street frontage is not solely devoted to other permitted principal uses except for ingress and egress with a depth of not less than 20 feet along the entire street oriented commercial frontage.

APPLICATION was filed with the Board on July 13, 2021, based on Section 15.2 - 2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: Brian White
Phil Conein

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Weimans Bakery LLC, has requested a variance to construct a new 12 story mixed-use building for property located at 127 N. 17th Street. Mr. Brian White, representing the applicant, testified that it had always been the intention to include commercial frontage along North 17th Street and Grace Street. Mr. White stated that the basis of the request stems from the fact that Dominion Power must provide power to the building from the Grace Street side. This requires construction of a transformer along Grace Street which constitutes a hardship in terms of providing the required commercial frontage.

Mr. White noted that it would only be the corresponding frontage which would not include commercial development as required by the TOD-1 zoning district.

In response to a question from Mr. York, Mr. Davidson stated that the exercise studio is considered a principal use since it will serve others than just the residents of the building.

In response to a question from Mr. Poole, Mr. Davidson stated that other than the request that is before the Board all remaining aspects of the development comply with the underlying zoning. Mr. Davidson also questioned the appropriateness of having two street oriented commercial frontages abutting the subject property.

Speaking in support, Mr. Phil Conein stated that the project will be an asset to Shockoe Bottom.

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.

Finally, the Board finds by a preponderance of the evidence that the application meets the standard for a variance as defined in §15.2-2201 of the Code of Virginia and the criteria set out in this section.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a variance from the commercial frontage requirement be granted to Weimans Bakery LLC for a building permit to construct a new twelve-story mixed-use building, 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

BZA 46-2021

APPLICANT: Watney Ventures LLC

PREMISES: 524 NORTH 21st STREET
(Tax Parcel Number E000-0252/022)

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

DISAPPROVED by the Zoning Administrator on July 14, 2021, based on Sections 30-300 & 30-419.6(1) of the zoning ordinance for the reason that: In an R-63 (Multi-Family Urban Residential) District, the front yard (setback) requirement is not met. In no case shall a front yard of greater than fifteen feet (15') be permitted; 25.96' is proposed.

APPLICATION was filed with the Board on July 14, 2021, based on Section 1040.3(1) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Mark Baker
Elaine Odell

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Watney Ventures LLC, has requested a special exception to construct a two-family detached dwelling for property located at 524 N. 21st Street. Mr. Mark Baker, representing the applicant, testified that the special exception request was to grant relief from the front yard maximum setback requirement of 16 feet in the R-63 Multi-Family Urban Residential District. Mr. Baker noted that the proposed setback is 26 feet. Mr. Baker stated that the property is located on the west side of 21st Street measuring 27 feet in width and 150 feet in depth and containing 3765 ft.² of lot area. Mr. Baker indicated that the

project is consistent with the special exception intent and will be a high-quality product containing two units of 1188 ft.² each. Each unit will contain two bedrooms and two baths. The siding will be cementitious and the building will have a full width porch and two rear porches for use by the occupants. Mr. Baker noted that the Commission of Architectural Review had reviewed and approved the project. Mr. Baker explained that the departure from the yard requirements is the minimum necessary to accommodate the dwelling and the proposed dwelling is in keeping with the development pattern of the neighborhood. Mr. Baker stated that there is a topographical problem at the front of the lot which necessitates moving the building to the rear which would also have the added benefit of being consistent with the setbacks of the dwellings located at 526 and 528 N. 21st Street. Mr. Baker indicated that the property is located in the Union Hill Civic Association which had not responded to his outreach. Mr. Baker noted that letters were sent to all property owners within a 150 foot radius and that a response of support had been received from Ms. Elaine Odell subject to protection of a large tree located at the rear of the lot.

Mr. Pinnock, complemented the applicant's architect on the façade of the building.

Speaking in support, Ms. Elaine Odell noted that she supported the project provided that the parking spaces were moved and to the north side of the property and appropriate measures were taken to protect a large tree located at the rear of 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 Watney Ventures LLC for a building permit to construct a two-family detached dwelling, subject to the following conditions:

- 1) Substantial compliance with the plans submitted to the Board including adherence to the August 11, 2021 survey.

- 2) The existing tree located at the southwest corner of the property shall be retained unless certification is provided to the Zoning Administrator by a certified arborist that the tree represents a safety hazard and must be removed.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Pinnock, York, Poole, Hogue, Sadid

negative: None

BZA 47-2021

APPLICANT: Eric and Sarah DeBoer

PREMISES: 507 NORTH 27th STREET
(Tax Parcel Number E000-0481/023)

SUBJECT: A building permit to construct a rear addition (sunroom) and exterior stairs to a rooftop deck on an existing single-family detached dwelling.

DISAPPROVED by the Zoning Administrator on July 2, 2021, based on Sections 30-300 & 30-413.15(2)a of the zoning ordinance for the reason that: In an R-8 (Urban Residential) District, the side yard (setback) requirement is not met. A side yard (setback) of three feet (3') is required, 0.37' is proposed along the northeastern property line.

APPLICATION was filed with the Board on July 16, 2021, based on Sections 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 applicants, Eric and Sarah DeBoer, have requested a special exception to build an addition (sunroom) and exterior stair to a rooftop deck on an existing single-family dwelling for property located at 507 N. 27th Street. Mr.

Mark Baker, representing the applicant, testified the property is located on the west side of 27th Street and measures 27 feet in width by 100 feet in depth and contains 2700 ft.² of lot area. Mr. Baker stated that the goal is to construct a new 227 ft.² sunroom with a second floor terrace which is 14' x 16'. Mr. Baker noted that the design has been approved by the Commission of Architectural Review and that the siding will be cementitious. Mr. Baker indicated that the issue is the side yard setback is not met on the northern property line. Mr. Baker noted that in terms of the addition the owner commissioned a study that reflected a necessity of placing the stairs on the northern side of the addition in order not to obstruct the sunlight. The existing building has a zero lot line along that property line and the proposed configuration sets the addition back 3 feet leaving only the stairs in the setback which necessitates approval of the requested special exception. The proposed configuration allows for reasonable size addition while retaining rear yard space as usable open space. The addition will align with the southern side of the house which will minimize visibility from the street which is consistent with the CAR approval. Mr. Baker indicated that departure from the side yard requirements is the minimum necessary to achieve the desired function while retaining usable open space on the site and remaining faithful to the existing dwelling character and the development pattern of the neighborhood. Mr. Baker concluded by stating that the property is located in the Church Hill Association and the committee voted unanimously to support the proposal. Notification letters were sent to all property owners within a 150 foot radius and letters of support were received from the adjacent neighbors on both sides of the property.

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) requirement be granted to Eric and Sarah DeBoer for a building permit to construct a rear addition (sunroom) and exterior stairs to a rooftop deck on an existing single-family detached dwelling, subject to substantial compliance with the plans submitted to the Board including provision of cementitious siding as indicated.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Pinnock, York, Poole, Hogue, Sadid

negative: None

BZA 48-2021

APPLICANT: Robert P. and Allison J. Whittemor

PREMISES: 211 OLD ORCHARD LANE
(Tax Parcel Number W022-0133/012)

SUBJECT: A building permit to construct an addition on an existing single-family detached dwelling.

DISAPPROVED by the Zoning Administrator on July 2, 2021, based on Sections 30-300, 30-402.5(1) and 30-630.1(c) of the zoning ordinance for the reason that: In an R-1 (Single-Family Residential) District, the front yard (setback) is not met. A front yard setback of thirty-five feet (35') is required along Old Orchard Lane; 23.05' is proposed.

APPLICATION was filed with the Board on July 16, 2021, 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 applicants, Robert P. and Allison J. Whittemor, have requested a special exception to construct an addition to an existing single-family dwelling for property located at 211 Old Orchard Lane. Mr. Mark Baker, representing the applicant, testified that the property located on the south side of old Orchard Lane and measures 153 feet in width and 217 feet in depth and contains 32,556 ft.² of lot area. Mr. Baker noted that the lot has sloping topography on the East Hillcrest side of the property. Mr. Baker stated that this is a unique situation in which the dwelling was originally constructed fronting on East Hillcrest Drive and Old Orchard Lane was originally an alley and was later designated as a street. At this point the lot became a through lot with two frontages increasing the required setback from 10 feet to 35 feet. Mr. Baker noted that these factors were

recognized by the Board in a previous 1991 case as justification for approval of a variance. Mr. Baker indicated that the addition will be a mudroom and measure 3.5' x 11'. The exterior is a compatible design and will be stone as shown or brick or cementitious siding over a brick or stone base. Mr. Baker noted that departure from the zoning requirements is the minimum necessary to accommodate the intended purpose and the addition cannot be reasonably located elsewhere on the lot. Also the proposed addition is in keeping with the architectural character of existing dwelling and the development pattern of the neighborhood. Mr. Baker pointed out that all 15 lots which front Old Orchard Road are through lots and that there have been 10 BZA cases approved in the immediate vicinity of the subject property since 1952 relating to topography and the through lot configuration. Mr. Baker concluded by stating the property is located in the Westhampton Citizens Association and that the Association had not responded to his outreach. Letters were sent to all property owners within a 150 foot radius and the seven letters of support were received.

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

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the front yard (setback) requirement be granted to Robert P. and Allison J. Whittemor for a building permit to construct an addition on an existing single-family detached dwelling, subject to provision of stone as shown or brick or cementitious siding over a brick or stone base.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Pinnock, York, Poole, Hogue, Sadid

negative: None

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

The meeting was adjourned at 1:35 p.m.



Secretary



Chairman