



CITY OF RICHMOND

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW
BOARD OF ZONING APPEALS

BOARD OF ZONING APPEALS

MEETING MINUTES

WEDNESDAY, OCTOBER 6, 2021

On Wednesday, October 6, 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 September 29, 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 49-2021

APPLICANT: Matthew and Catherine Illian

PREMISES: 1507 OAKWOOD AVENUE
(Tax Parcel Number E000-1406/004)

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

DISAPPROVED by the Zoning Administrator on August 16, 2021, 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 7,455.36 square feet and a lot width of sixty feet (60') currently exists; lot areas of 3,727.49 square feet (#1507) and 3,727.87 square feet (#1509) and lot widths of 30.0 feet are proposed.

APPLICATION was filed with the Board on August 12, 2021, based on Section 1040.3(2) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Erica Sims

Against Applicant: Donna Anderson

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicants, Matthew and Catherine Illian, have requested a special exception to construct a new single-family detached dwelling for property located at 1507 Oakwood Avenue. Ms. Erica Sims, representing the applicant, testified that she is the CEO of the Maggie Walker Community Land Trust. Ms. Sims noted that the Trust has a purchase option for the subject property. Ms. Sims explained that the applicants are requesting a lot area and lot width special exception. Ms. Sims indicated that this project was similar to one approved by the Board in December 2020 for 1603 Oakwood Avenue. Ms. Sims explained that the lot in question is a legal lot of record and is similar in width to other lots in the surrounding neighborhood. Ms. Sims indicated that the dwelling will be 24 feet in width and will be comparable to other dwellings both in terms of the size and architecture in the vicinity. Ms. Sims stated that they had reached out to all property owners within a 150 radius of the subject lot as well as the neighborhood association and had received no negative comment.

Speaking in opposition, Ms. Donna Anderson stated that she was concerned about the size of the structure and relationship to her property. Mr. York pointed out that the proposed setback between the two structures exceeds that of other similarly situated structures in the block.

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 Matthew and Catherine Illian 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, Sadid

negative: None

BZA 50-2021

APPLICANT: Lane Peyton Martin

PREMISES: 2618 HANOVER AVENUE
(Tax Parcel Number W000-1165/023)

SUBJECT: A building permit to construct an accessory building (garage) to an existing single-family detached dwelling.

DISAPPROVED by the Zoning Administrator on August 12, 2021, based on Sections 30-300, 30-416.5(2) & 30-413.6(2) of the zoning ordinance for the reason that: In an R-48 (Multi-Family Residential) District, the side yard (setback) requirement is

not met. A side yard of three feet (3') is required; 1" is proposed along the western property line and 1.0' is proposed along the eastern property line.

APPLICATION was filed with the Board on August 13, 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 the applicant, Lane Peyton Martin, has requested a special exception to construct an accessory garage for property located at 2618 Hanover Avenue. Mr. Mark Baker, representing the applicant testified that the request is being made under special exception #1. The property is located on the north side of Hanover Avenue midblock between North Mulberry and North Robinson Streets. The property measures 27.75 feet in width and 180 feet in depth and contains approximately 3900 ft.² of lot area. Mr. Baker noted that a three-foot side yards are required and side yard setbacks of 0 and 1 foot are being requested. Mr. Baker stated that the garage is needed to improve the functionality and livability of the property. Mr. Baker stated that there are many small-scale multifamily dwellings in the vicinity that do not commonly provide parking. Seven of the 13 lots in the block are developed with two or multifamily dwellings and Robinson Street is home to a number of more intense commercial uses that generate a need for parking. On-street parking is a premium in the vicinity and parking must be addressed on site. Mr. Baker noted that the current surface parking situation of the property is very limited. The proposed garage design would be 26'8" in width and contains 786 ft.² of floor area. It would be a single story structure and provide three needed off-street parking spaces with a lift which would allow for two cars to be stacked and limit the garage to two bays. Mr. Baker indicated that limiting the garage to two bays would allow for placement of a screened supercan location at the alley without blocking parking access. Mr. Baker indicated that vehicles frequently parked illegally along the northern line of the alley which further compounds the problem. Mr. Baker stated that Verizon has a central office directly across the alley which generates significant commercial truck traffic. The proposed garage would have the added benefit of providing some screening/buffering from the adjacent uses and activity along the alley. The exterior will be a compatible design consistent with the dwelling and the surrounding neighborhood and will include durable materials such as masonry block and cementitious panels. The proposed garage is permitted by the underlying R-48 zoning regulations and departure from the side yard requirements is the minimum necessary to accommodate the intended purpose of the addition.

The garage will be in keeping with the development pattern in the neighborhood. Mr. Baker stated that the Fan District Association's Land Use Committee had no objections or concerns regarding the proposed garage and letters were sent to all property owners within a 150 foot radius with no opposition being noted.

In response to a question from Mr. York, Mr. Baker stated there will be no problem maintaining the eastern side of the proposed garage.

In response to a question from Mr. Poole, Mr. Baker testified that the proposed lift will not be utilized for commercial purposes.

In response to a suggestion by the Chairman, Mr. Pinnock, Mr. Baker agreed it was appropriate to add a condition stating that an access door may be added on the garage along the alley.

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

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the side yard (setback) requirement be granted to Lane Peyton Martin for a building permit to construct an accessory building (garage) to an existing single-family detached dwelling, subject to the following conditions:

- 1) Substantial compliance with the plans submitted to the Board.
- 2) The lift shall not be utilized for commercial purposes.
- 3) An access door may be added on the garage along the alley.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Pinnock, York, Poole, Hogue, Sadid

negative: None

BZA 51-2021

APPLICANT: Xtreme Homes LLC

PREMISES: 2308 NORTH LOMBARDY STREET
(Tax Parcel Number N000-0684/012)

SUBJECT: A building permit to renovate an existing building and construct a second story addition.

DISAPPROVED by the Zoning Administrator on May 24, 2021, based on Sections 30-300, 30-433.13(1)c & 30-433.15(a) of the zoning ordinance for the reason that: In a UB-2 (Urban Business) District, the front (setback) requirement, parking or circulation of vehicles requirement, and proposed feature requirements are not met. The proposed feature requirements are not permitted as the previous nonconforming feature rights have expired. Vertical expansion of the building, which is nonconforming with regard to yard requirements, is not permitted. The front yard (setback) requirement is not met. A front yard of no greater than ten (10) feet is required; 31.55'± is proposed. Parking areas located between the main building and the street line are not permitted; parking is proposed between the main building and the street.

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

APPEARANCES:

For Applicant: Jennifer Mullen

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Xtreme Homes LLC, has requested a variance to renovate an existing building and construct a second story addition for property located at 2308 N. Lombard Street. The Chairman, Mr. Burt Pinnock, informed the Board that he would be recusing himself in this case due to the fact that his firm has provided professional services to the applicant. Ms. Jennifer Mullen, representing the applicant, testified that she represents the contract purchaser of the subject property. Ms. Mullen stated that the purpose of the request is to redevelop the existing building. Ms. Mullen noted that the parking is located between the building and the street which is not permitted by the underlying UB-2 Urban Business District zoning which requires that the building be located no further from the property line than 10 feet. Ms. Mullen also noted that by virtue of adding a second story that the building will be brought into conformance with

the existing zoning. The property is irregularly shaped being triangular in size. Ms. Mullen explained that the physical size and shape of the property is the basis of the variance request. Ms. Mullen stated that the request is being made in good faith and that the applicant is the contract purchaser. The applicant investigated the zoning status of the property and when he became aware of the conformance issues they made application to the Board for the variance. Ms. Mullen noted that approval of the variance will not represent a substantial detriment to the surrounding property owners but will actually be of benefit. Ms. Mullen stated that other properties in the block are similarly situated in so far as parking being located in front of the buildings. Ms. Mullen indicated that the request is not of a general nature and is unique based on the fact that the property is triangular in shape. It was noted that the use is permitted by the underlying zoning and that the only request before the Board deals with features of the use and not the use itself. Ms. Mullen stated that relief is not available to the applicant through a special exception or a rezoning. Ms. Mullen concluded by stating that the request is consistent with the Code of Virginia, the Richmond City Charter and the Richmond Zoning Ordinance.

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 the 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 front (setback) requirement, parking or circulation of vehicles requirement, and proposed feature

requirements be granted to Xtreme Homes LLC for a building permit to renovate an existing building and construct a second story addition, subject to substantial compliance with the plans submitted to the Board.

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

Vote to Grant Conditionally

affirmative: York, Poole, Hogue, Sadid

negative: None

recusal: Pinnock

Upon motion made by Mr. Poole and seconded by Ms. Hogue, Members voted (5-0) to adopt the Board's September meeting minutes.

The meeting was adjourned at 1:30 p.m.



Secretary


VICE - Chairman