



CITY OF RICHMOND

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW
ZONING ADMINISTRATION

BOARD OF ZONING APPEALS

MEETING MINUTES

WEDNESDAY, FEBRUARY 3, 2016

On Wednesday, February 3, 2016, the Board of Zoning Appeals held a public hearing in the Fifth Floor Conference Room, 900 East Broad Street, at 1:00 p.m.; display notice having been published in the Richmond Voice Newspaper on January 20 and 27, 2016 and written notice having been sent to interested parties.

Members Present: Burt F. Pinnock, Chair
 Roger H. York, Jr., Vice-Chair
 Rodney M. Poole
 Kenneth R. Samuels
 Edward H. Winks, Jr.

Member(s) Absent: Mary J. Hogue

Staff Present: Roy W. Benbow, Secretary
 William Davidson, Zoning Administrator

The Chairman called the meeting to order and read the Board of Zoning Appeals Introductory Statement, which explains the proceedings of the meeting. The applicant and those appearing in support of an application speak first, followed by those appearing in opposition.

CASE NO. 03-16

APPLICANT: 1319 Hull Street, LLC

PREMISES: 1312 BAINBRIDGE STREET
 (Tax Parcel Number S000-0119/001)

SUBJECT: A Certificate of Zoning Compliance for a parking area to serve a
 commercial establishment at 1319 & 1321 Hull Street.

DISAPPROVED by the Zoning Administrator on October 12, 2015, based on Sections 30-300, 30-419.2, 30-419.4 & 30-710.7 of the zoning ordinance for the reason that: In an R-63 (Multi-Family Urban Residential District), the proposed use is not a permitted principal or accessory use in the R-63 (Multi-Family Urban Residential) district.

APPLICATION was filed with the Board on October 26, 2015, based on Section 17.20(d)(3) of the City Charter.

APPEARANCES:

For Applicant: Janet King

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, 1319 Hull Street LLC, has requested a special exception for a parking area to serve a commercial establishment at 1319 and 1321 Hull Street. Ms. Janet King, representing the applicant, testified that the request involves 1312 Bainbridge Avenue and 1321 Hull Street which was combined with 1319 Hull Street. Ms. King explained that the special exception is being requested to permit utilization of 1312 Bainbridge Avenue for parking to serve 1321 Hull Street and that the subject parking will be located across an alley from 1321 Hull Street. Ms. King further explained that 1321 Hull Street has been designed for 20 apartments and two commercial spaces. Ms. King indicated that the two commercial spaces combined encompass approximately 3100 ft.². Ms. King stated that the objective is to combine the two commercial spaces into one space which would be utilized for a restaurant. Ms. King explained that the surrounding area represents an emerging market which requires off-street parking. Ms. King noted that there is a GRTC bus stop located in front of the building which precludes on-street parking. Ms. King further noted that lack of off-street parking seriously impacts viability of the project. Ms. King stated that the intent is for the 1312 Bainbridge Avenue property to supply 10 off-street parking spaces to the 1321 Hull Street property. Ms. King indicated that the surrounding neighbors and the Manchester Alliance Neighborhood Association were in support of the proposed project.

In response to a question from Mr. York, Ms. King stated that the project will adequately safeguard the health safety and general welfare of the occupants of the adjoining and surrounding properties, it will not impair adequate supply of light and air, it will not increase congestion in the streets, it will not constitute a public safety threat and it will not negatively affect property values.

The chairperson, Mr. Pinnock, and Mr. Poole expressed concern over the fact that two of the dwelling units did not include any windows although it was acknowledged that that issue was not before the Board. Mr. Poole pointed out that as a representative to the Planning Commission; the Commission had adopted a resolution opposing windowless dwelling units.

The Board finds that evidence shows that the project will adequately safeguard the health safety and general welfare of the occupants of the adjoining and surrounding properties, it will not impair adequate supply of light and air, it will not increase congestion in the streets, it will not constitute a public safety threat and it will not negatively affect property values

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the proposed use requirement be granted to 1319 Hull Street, LLC for a Certificate of Zoning Compliance for a parking area to serve a commercial establishment at 1319 & 1321 Hull Street, subject to recordation of the Deed of Easement and Maintenance Agreement submitted to the Board.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Poole, Winks, Pinnock, York, Samuels

negative: none

CASE NO. 04-16

APPLICANT: Brian & Marilee Mifsud

PREMISES: 4601 NEW KENT AVENUE
(Tax Parcel Number S000-2636/012)

SUBJECT: A building permit for a two-story addition to a single-family dwelling.

DISAPPROVED by the Zoning Administrator on December 11, 2015, based on Sections 30-300 & 30-406.5(1) of the zoning ordinance for the reason that: In an R-3

(Single-Family Residential Zoning District), the required front yard (setback) requirement is not met. A front yard of twenty-five feet (25') is required; nine feet (9') is proposed.

APPLICATION was filed with the Board on December 11, 2015, based on Section 17.20(d)(3) of the Charter of the City of Richmond.

APPEARANCES:

For Applicant: Peter Fraser

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicants, Brian and Marilee Mifsud, have requested a variance for a two-story addition to a single-family dwelling located at 4601 New Kent Avenue. Mr. Peter Fraser, architect for the applicant, testified that the property is located at the corner of New Kent Avenue and Woodbine Road and as such is considered by the zoning office to be a corner lot. Mr. Fraser pointed out that accordingly corner lots have dual front yard requirements which in this case are 25 feet along both street frontages. Mr. Fraser noted that the proposed addition will extend along Woodbine Road. Mr. Fraser further noted that due to the alignment along Woodbine Road that the subject lot has an irregular shape. Mr. Fraser indicated that the proposed addition will merely represent a continuation of the existing setback and will be located no closer to the front property line than the existing house. Mr. Fraser pointed out that compliance with the required setback would negatively affected a historic garden site which was part of the original plantation. Mr. Fraser further indicated that the variance was necessary in order to facilitate appropriate flow and congruency between the existing structure and proposed structure. Mr. Fraser stated that the adjoining neighbor to the north which is the most affected of all the neighbors was in support of the proposed project as were all of the other surrounding neighbors. Mr. Fraser indicated that it was reasonable to conclude that the granting of the variance will not be of substantial detriment to the adjacent or nearby properties nor is the condition for which a variance is being sought of a reoccurring nature.

The Board finds that evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and (i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity

of that geographical area; (iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance; (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A4 of § 15.2-2286 at the time of the filing of the variance application.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a variance from the front yard (setback) requirement be granted to Brian & Marilee Mifsud for a building permit for a two-story addition to a single-family dwelling, subject to the condition that that construction shall take place in accordance with the plans submitted to the Board.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Poole, Winks none, Pinnock, York, Samuels

negative:

CASE NO. 05-16

APPLICANT: Degratia Development, LLC

PREMISES: 711 CHIMBORAZO BOULEVARD
(Tax Parcel Number E000-0968/018)

SUBJECT: A building permit to renovate a four (4) unit multi-family building.

DISAPPROVED by the Zoning Administrator on December 16, 2015, based on Sections 30-300 & 30-800.4 of the zoning ordinance for the reason that: In a(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 (2) years or longer, whether or not equipment or fixtures are removed, 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 December 16, 2015, based on Section 1040.3(14) of the City Code.

APPEARANCES:

For Applicant: Michael Duncan

Against Applicant: none

Undecided: Stuart Lee Thomas II

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Degratia Development LLC, has requested a special exception to renovate a four unit multi-family building located at 711 Chimborazo Boulevard. Mr. Michael Duncan, representing the applicant, testified that the application requests reestablishment of nonconforming rights for a four unit building. Mr. Duncan noted that 711 Chimborazo Boulevard is located in the midst of seven buildings all of which contain four units. Mr. Duncan further noted that the Board had previously approved reestablishment of nonconforming rights for 719 Chimborazo Boulevard which is also a four unit building. Mr. Duncan indicated that the Department of Historic Resources had approved the proposed renovation. Mr. Duncan stated that neighbors he had spoken with are excited about the proposed renovation given the deteriorated state of the building. Mr. Duncan indicated that the building had been broken into on two occasions and was currently a blight on the neighborhood. Mr. Duncan stated that he had the support of all the surrounding neighbors as well as the civic association.

In response to a question from Mr. York, Mr. Duncan stated that the existing floor plan will not be changed in any way and that the project meets Department of Historic Resources standards.

Mr. Stuart Thomas stated that the Board had previously approved restoration of nonconforming rights four 719 Chimborazo Boulevard which is owned by his mother. Mr. Thomas expressed concern that the renovation of 711 Chimborazo Boulevard will include two-bedroom units which in Mr. Thomas's opinion will contribute to traffic and garbage issues. Mr. Thomas also questioned the size of the second bedrooms. Mr. Thomas point out that the adjoining property to 711 Chimborazo Boulevard (709 Chimborazo Boulevard) had been previously utilized as a group home/halfway house. Mr. York pointed out that the Board does not regulate bedroom sizes which are controlled by the Bureau of Permits and Inspections.

Mr. Duncan advised the Board that 709 Chimborazo Boulevard is no longer being utilized for subsidized housing. Mr. Duncan indicated that there is no intent to employ any subsidized housing programs for 711 Chimborazo Boulevard.

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 proposed use requirement be granted to Degratia Development, LLC for a building permit to renovate a four (4) unit multi-family building.

ACTION OF THE BOARD: (5-0)

Vote to Grant

affirmative: Poole, Winks, Pinnock, York, Samuels

negative: none

Upon motion made by Mr. Poole and seconded by Mr. York, Members voted (4-0) to adopt the Board's January 6, 2016 meeting minutes.

Upon motion made by Mr. York and seconded by Mr. Winks, Members voted (5-0) to appoint Mr. Poole as the Board's representative to the Planning Commission for a term consistent with that established by the Planning Commission.

Upon motion made by Mr. Poole and seconded by Mr. Winks, Members voted (5-0) to suspend their rules of procedure regarding Case #27-13 originally approved on December 4, 2013 and approved allowing for the issuance of appropriate permits or certificates from the Bureau of Permits and Inspections in Room 110 at City Hall, in order to implement the December 4, 2013 special exception approval.

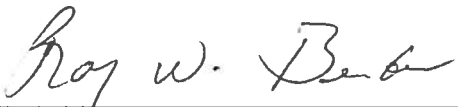
The conditions of approval provide that the special exception must be implemented in accordance with the original conditions of approval as follows:

- Each bedroom shall have no less than one (1) window and the window area shall comprise not less than twenty-five percent (25%) of the interior wall area in order to provide access to natural light.
- Two off-street parking spaces shall be designated for each unit.

The special exception must be implemented no later than February 3, 2018; otherwise this approval will be void.

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


Chairman


Secretary