



CITY OF RICHMOND

DEPARTMENT OF PLANNING AND  
DEVELOPMENT REVIEW  
BOARD OF ZONING APPEALS

## BOARD OF ZONING APPEALS

### MEETING MINUTES

WEDNESDAY, MARCH 2, 2016

On Wednesday, March 2, 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 February 17 and 24, 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  
  Mary Jane Hogue

Member(s) Absent:

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

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

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#### CASE NO. 06-16

APPLICANT:                   Dennis K. Johnson

PREMISES:                   3650 HERMITAGE ROAD  
                                  (Tax Parcel Number N000-1738/022)

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



DISAPPROVED by the Zoning Administrator on January 5, 2016 based on Sections 30-300 & 30-410.5(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 twenty-five (25') is required; 21.1 feet ± is proposed along the Maple Shade Lane Frontage.

APPLICATION was filed with the Board on December 11, 2015, based on Section 15.2-2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: Dennis K. Johnson

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Dennis K Johnson, has requested a variance to construct a detached garage accessory to a single-family dwelling at 3650 Hermitage Road. Mr. Johnson testified that he is the owner and resident of the property in question. Mr. Johnson stated that the lot is irregularly shaped with a taper of approximately 68 feet along Hermitage Road to approximately 47 feet along the rear alley. Mr. Johnson noted that being a corner lot the property has dual front yards of 25 feet along both Hermitage Road and Maple Shade Lane. Mr. Johnson further noted that due to the irregular shape of the lot that it is necessary to encroach approximately 3.8 feet into the required setback along Maple Shade Lane leaving the bulk of the building located within the required setback.. Mr. Johnson indicated that the garage will contain no plumbing facilities. Mr. Johnson stated that the architecture of the garage will be sympathetic to that existing within the neighborhood. Mr. Johnson explained that as part of the project an old medal shed located in the rear of the property will be removed which will facilitate provision of additional off-street parking at the rear of the property. Mr. Johnson noted that the Rosedale Civic Association was in support of the requested variance as were all of the property owners within a 150 foot radius. Mr. Johnson specifically noted that the property owner most affected by the request and located to the rear of the subject property at 1706 Maple Shade Lane was in support of the project.

In response to a question from Mr. York, Mr. Johnson stated that compliance with the required setback would result in the garage encroaching upon the rear steps to the house.

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 Dennis K. Johnson for a building permit to construct a detached garage accessory to a single-family dwelling.

ACTION OF THE BOARD: (5-0)

Vote to Grant

affirmative: Poole, Hogue, Pinnock, York, Samuels

negative: none

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CASE NO. 07-16

APPLICANT: Georgi Georgiev, LLC

PREMISES: 1427 NORTH 22<sup>ND</sup> STREET  
(Tax Parcel Number E000-0708/028)

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

DISAPPROVED by the Zoning Administrator on January 7, 2015, based on Sections 30-300, 30-620.1(c) & 30.630.1(a) of the zoning ordinance for the reason that: In an R-6 (Single-Family Attached Residential District), the street side yard (setback) requirement is not met. A street side yard of three feet (3') is required; 0.67 feet ± is proposed along the U Street frontage.

APPLICATION was filed with the Board on January 7, 2016 based on Section 15 2-2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant:           Georgi Georgiev  
                                  Willie Andrews  
                                  Jarnesha Stroble

Against Applicant:    none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this that the applicant, Georgi Georgiev, LLC, has requested a variance to construct a new single-family detached dwelling located at 1427 N. 26th Street. Mr. Georgiev, representing the applicant, testified that in addition to renovating houses that he also builds new houses. Mr. Georgiev explained that he purchased the property at auction and that the existing house was incapable of being renovated. Mr. Georgiev noted that the existing house is located on the property line adjacent to "U" Street and maintains an approximate 2 foot setback from the interior side property line. Mr. Georgiev stated that the proposed dwelling will maintain the same setback along "U" Street while providing a 5 foot setback from the interior side property line. Mr. Georgiev pointed out that the lot width is 20.83 feet and allowing for required setbacks there is only 14.83 feet remaining of buildable lot width. Mr. Georgiev stated that this was insufficient lot with for construction of a new single-family dwelling which additionally would be out of character with the surrounding neighborhood. Mr. Georgiev indicated that this situation represented a hardship for which he was requesting a variance. Mr. Georgiev noted that there was no opposition from the surrounding property owners and that the Unity Civic League was in support of the requested variance.

Speaking in favor, Mr. Willie Andrews representing the Unity Civic League stated that the Association fully supported Mr. Georgiev's request.

Speaking in favor, Ms. Jarnesha Stroble stated that the current house was blighted and that she fully supported Mr. Georgiev's request.

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 street side yard (setback) requirement be granted to Georgi Georgiev, LLC for a building permit to construct a new single-family detached dwelling.

ACTION OF THE BOARD: (5-0)

Vote to Grant

affirmative: Poole, Hogue, Pinnock, York, Samuels

negative: none

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CASE NO. 08-16

APPLICANT: Myungwha Koo

PREMISES: 2400 FLOYD AVENUE  
(Tax Parcel Number W000-1080/017)

SUBJECT: A building permit to demolish an existing one-story frame addition and construct a two-story brick addition to a single-family detached dwelling.

DISAPPROVED by the Zoning Administrator on January 19, 2016 based on Sections 30-300 & 30-412.5(1)a of the zoning ordinance for the reason that: In an R-6 (Single-Family Attached Residential District), the front yard (setback) requirement is not met. A front yard of fifteen feet (15') is required; 0.32 feet exists/0.32 feet ± is proposed along the North Stafford Avenue frontage.

APPLICATION was filed with the Board on January 15, 2016 based on Section 15.2-2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: Travis Gardner

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Myungwha Koo, has requested a variance to demolish an existing two-story frame addition and construct a new two-story brick addition to a single-family detached dwelling located at 2400 Floyd Avenue. Mr. Travis Gardner, contractor for the applicant, testified that the application is to remove a two-story addition and replace it with a two-story addition. Mr. Gartner indicated that the existing structure is located adjacent to the North Stafford Avenue property line which will be the case with the proposed structure. Mr. Gartner noted that the lot has dual front yards along both Floyd Avenue and North Stafford Avenue. Mr. Gartner further noted that the front yard setback along North Stafford Avenue presents a hardship and that the prevailing development pattern in the neighborhood is for dwellings to be located similarly with respect to the comparable property lines. Mr. Gartner stated that the proposed structure will be brick rather than frame construction which will match the construction of the existing dwelling.

In response to a question from Mr. York, Mr. Gartner stated that the property owner located to the north on the opposite side of the alley had no objection to the proposed construction.

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 Myungwha Koo for a building permit to demolish an existing one-story frame addition and construct a two-story brick addition to a single-family detached dwelling.

ACTION OF THE BOARD: (5-0)

Vote to Grant

affirmative: Poole, Hogue, Pinnock, York, Samuels

negative: none

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CASE NO. 09-16

APPLICANT: Joseph Ogburn

PREMISES: 613 NORTH 28<sup>TH</sup> STREET  
(Tax Parcel Number E000-0527/038)

SUBJECT: A building permit to split an existing lot which previously contained a 4-unit multi-family dwelling and construct new single-family (attached) dwellings on each proposed lot.



DISAPPROVED by the Zoning Administrator on January 19, 2016 based on Sections 30-300 & 30-710.1(2) of the zoning ordinance for the reason that: In an R-63 (Multi-Family Urban Residential District), the off-street parking requirement is not met. One (1) off-street parking space is required for each of the lots; none are proposed.

APPLICATION was filed with the Board on January 15, 2016 based on Section 1040.3 (11) of the Zoning Ordinance of the City of Richmond.

APPEARANCES:

For Applicant: Joseph A. Ogburn

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Mr. Joseph Ogburn, has requested a permit to split an existing lot which previously contained a four unit multi-family dwelling and construct new single-family (attached) dwellings on each proposed lot for property located at 613 N. 28th Street. Mr. Ogburn explained that the proposal is to demolish a four unit building and construct two unit buildings on two separate legal lots of record. Mr. Ogburn stated that the property is zoned multifamily and that the proposed dwellings will meet applicable lot width, lot area and setback requirements. Mr. Ogburn noted that the property is currently nonconforming with respect to provision of off-street parking due to the fact that there is no rear alley. Mr. Ogburn further noted that the proposal is to replace a total of four units with four units which will not further impact the parking situation. Mr. Ogburn stated that there are a minimum of 11 on street parking spaces available at any time on 28th Street. Mr. Ogburn noted that the Commission of Architectural Review had approved the proposed project. Mr. Ogburn stated that the surrounding neighbors were in support of the proposed project.

The Board is satisfied that the property was acquired in good faith and pursuant to Section 114-1040.3 (11) of the zoning ordinance, the applicant has demonstrated that the exception will not result in an inadequate supply of parking or other adverse impact on the neighborhood; adequate parking to serve the needs of the use is provided within convenient proximity and the number, location and arrangement of parking spaces intended to serve the use is sufficient to provide for its parking needs based on the nature of the use and the characteristics of its operation.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the off-street parking requirement be granted to Joseph Ogburn for a building permit to split an

existing lot which previously contained a 4-unit multi-family dwelling and construct new single-family (attached) dwellings on each proposed lot.

ACTION OF THE BOARD: (5-0)

Vote to Grant

affirmative: Poole, Hogue, Pinnock, York, Samuels

negative: none

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CASE NO. 10-16

APPLICANT: Richmond Economic Development Authority

PREMISES: 6 NORTH LAUREL STREET (800 WEST MAIN STREET)  
(Tax Parcel Number E000-0345/013)

SUBJECT: A building permit to establish a restaurant with outdoor dining.

DISAPPROVED by the Zoning Administrator on January 15, 2016 based on Sections 30-300, 30-420.1, 30-420.2 & 30-800.2 of the zoning ordinance for the reason that: In an R-73 (Multi-Family Residential District), the proposed use is not permitted. Expansion of a nonconforming use is not permitted. No advertising sign may be visible nor is direct public access permitted from the exterior of the building.

APPLICATION was filed with the Board on January 15, 2016 based on Section 17.20 (C) of the Charter of the City of Richmond.

APPEARANCES:

For Applicant: Dolly Vogt

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Richmond Economic Development Authority, has requested a special exception to permit expansion of a nonconforming use and erection of an advertising sign by an agency of the City under §17.20 (c) of the City Charter. Mr. Poole informed the Board that his business partner, Mr. Rich Johnson, is a member of the EDA. Mr. Poole stated that he had no economic

interest in the property and as such did not consider it a conflict of interest. Mr. York stated that the outdoor dining area is located on city right-of-way and as such has to be approved by City Council. Ms. York further stated that the only issue before the Board is access to the subject dining area as well as construction of an advertising sign. Ms. Dolly Vogt, representing the applicant, testified that the theater is currently operating a small café during theater events. Ms. Vogt informed the Board that the intent is to operate the café Monday through Friday between the hours of 6:30 AM and 7 PM and Saturday and Sunday between the hours of 7 AM and 7 PM. Ms. Vogt stated that Board approval is necessary to facilitate access to the outdoor café as well as construction of a sign. Ms. Vogt indicated that there will be no adverse effects arising from the outdoor dining area and that the surrounding neighborhood is expected to make significant use of the café. Ms. Vogt stated that she had contacted the Cathedral of Sacred Heart, Oregon Hill Community Association, Virginia Commonwealth University, City of Richmond Parks and Recreation Department, Grace and Holy Trinity Church and the Carytown Business Association. Ms. Vogt informed the Board that she had received no unfavorable feedback.

The Board finds that that in accordance with §17.20 (c) of the City Charter that the applicant has demonstrated that is reasonably necessary in the public interest to permit the use of land and the construction of structures (access to an outdoor dining area and construction of an advertising sign) in the R-73 Multi-Family Residential District where they are otherwise prohibited by the Zoning Ordinance and that the proposed use will adequately safeguard the health, safety and welfare of the occupants of the adjoining and surrounding property, will not unreasonably impair an adequate supply of light and air to adjacent property, will not increase congestion in the streets and will not increase public danger from fire or otherwise affect public safety.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the permitted use requirement be granted to Richmond Economic Development Authority for a building permit to establish a restaurant with outdoor dining, subject to the condition that the City Council approve the outdoor dining area.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Poole, Hogue, Pinnock, York, Samuels

negative: none

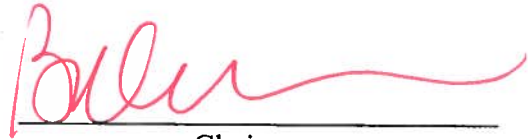
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Upon motion made by Mr. Poole and seconded by Mr. York, Members voted (4-0) to adopt the Board's February 3, 2016 meeting minutes.

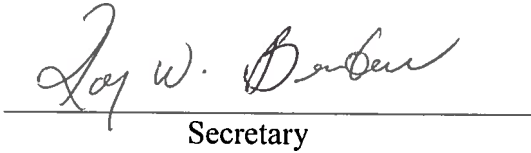
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The meeting was adjourned at 2:00 p.m.

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Chairman



Secretary