



CITY OF RICHMOND

DEPARTMENT OF PLANNING AND
DEVELOPMENT REVIEW
BOARD OF ZONING APPEALS

BOARD OF ZONING APPEALS

MEETING MINUTES

WEDNESDAY, OCTOBER 5, 2016

On Wednesday, October 5, 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 September 21 and 28, 2016 and written notice having been sent to interested parties.

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

Member(s) Absent: Burt F. Pinnock, Chair

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. 25-16

APPLICANT: Christopher DiLauro

PREMISES: 3309 KEICHTEE DRIVE
(Tax Parcel Number C004-0457/036)

SUBJECT: A building permit to construct a one-story addition to a single-family dwelling.

DISAPPROVED by the Zoning Administrator on August 23, 2016, based on Sections 30-300, 30-404.5(1) & 30-630.1(a)(1) of the zoning ordinance for the reason that: In an R-2 (Single-Family Residential District), the front yard (setback) requirement is not met. A front yard of not less than thirty feet (30') is required; 25.01 feet ± is proposed along the Keichte Drive frontage.

APPLICATION was filed with the Board on August 4, 2016, based on Section 15.2 - 2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: Christopher DiLauro

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Christopher DiLauro, has requested a variance to construct a one-story addition to a single-family dwelling. Mr. Poole advised the Board that the applicant is one of his company's tenants and he would therefore be recusing himself from this case. Mr. DiLauro testified that his home requires significant renovation to reflect current living standards and that his home by current standards is small encompassing only 1300 ft.². Mr. DiLauro stated that the kitchen and laundry room are in desperate need of renovation. Mr. DiLauro also stated that there is an aging brick wall at the front of his house. Mr. DiLauro indicated that all of these factors led him to conclude that the only feasible way to modernize his house was through an addition. Mr. DiLauro stated that the renovation will facilitate improvements in the kitchen and laundry room as well as incorporating a great room and dining room. Mr. DiLauro noted that given the lotting pattern that his property is subject to two front yards. Mr. DiLauro further noted that his house is situated on an angle to the adjoining streets and is located to the rear of the lot which presents significant challenges in so far as finding suitable space for an addition. Mr. DiLauro stated that at the time his property was annexed from Chesterfield County his house was nonconforming in terms of setbacks. Mr. DiLauro informed the Board that his neighbors were supportive of the requested variance as was the Southhampton Civic Association.

Mr. York noted that the existing carport blocks the view of the neighbor located to the north which is arguably the neighbor most affected by the proposed addition and is the property which imposes the front yard setback requirement.

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 Christopher DiLauro for a building permit to construct a one-story addition to a single-family dwelling, subject to the condition that.

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

Vote to Grant

affirmative: Hogue, York, Winks, Samuels

negative: none

abstain: Poole

CASE NO. 26-16

APPLICANT: Paul and Christina Keeton

PREMISES: 5100 NEW KENT ROAD
(Tax Parcel Number S006-0167/019)

SUBJECT: A building permit to replace an existing one-story addition with a proposed two-story addition to a single-family dwelling.

DISAPPROVED by the Zoning Administrator on August 23, 2016, based on Sections 30-300 & 30-630.1(a) of the zoning ordinance for the reason that: In an R-5 (Single-Family Residential District), the street side yard (setback) requirement is met. A street side yard of not less than ten feet (10') is required; 9.25 feet ± is proposed along the Prince Arthur Road frontage.

APPLICATION was filed with the Board on August 17, 2016, based on Section 15.2 - 2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: Paul Keeton

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicants, Paul and Christina Keeton, have requested a variance to replace an existing one-story addition with a proposed two-story addition to a single family dwelling located at 5100 New Kent Road. Mr. Paul Keeton testified that their home does not meet current living standards. Mr. Keeton noted that the home has 2 1/2 bedrooms. Mr. Keeton stated that his wife shares a bathroom with their two children. Mr. Keeton stated that his shower has a dimension of 2.5' x 2.5'. Mr. Keeton noted that his closet is in his son's room and that his wife's closet is virtually nonexistent. Mr. Keeton noted that after engaging an architect it was determined that the only viable way to modernize the home was to remove an existing one-story addition and replace it with a somewhat larger two-story addition. Mr. Keeton stated that the proposed addition will rectify all of the problems relating to the bedrooms, bathrooms and closets. Mr. Keeton indicated that the net gain in square footage will be approximately 400 ft.². Mr. Keeton noted that they had originally assumed that the property line extended to the back of the sidewalk but discovered after having it surveyed that the property line is actually 4 feet inside the sidewalk. Mr. Keeton observed that in many instances property lines correspond to the back of a sidewalk. Mr. Keeton stated that given this fact the proposed addition does not give the appearance of not meeting the requisite setback requirements. Mr. Keeton noted that a variance is being requested for an approximate 8 inch encroachment into the required setback which encompasses approximately 1.6 ft.² of lot area. Mr. Keeton further noted that the setback encroachment will translate into approximately 40 ft.² of additional living space or approximately 10% of the overall gain in square footage. Mr. Keeton indicated that there are other instances in his neighborhood of houses being located closer to the sidewalk than he is requesting. Mr. Keeton explained that moving the addition further to the south would require removal of a

significant tree. Mr. Keeton stated that his neighbors as well as the Westover Hills Neighborhood Association were in support of the proposed project.

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 Paul and Christina Keeton for a building permit to replace an existing one-story addition with a proposed two-story addition to a single-family dwelling, subject to the condition that.

ACTION OF THE BOARD: (4-1)

Vote to Grant

affirmative: Poole, Hogue, Winks, Samuels

negative: York

CASE NO. 27-16

APPLICANT: 119 Leigh LP

PREMISES: 119 EAST LEIGH STREET

(Tax Parcel Number N000-0062/010)

SUBJECT: A building permit to construct a deck to create an outdoor dining area for an existing restaurant.

DISAPPROVED by the Zoning Administrator on August 19, 2016, based on Sections 30-300, 30-436.1(33)(a) & 30-710.1(26) of the zoning ordinance for the reason that: In a B-2 (Community Business District), that no deck, patio, terrace or other area outside a completely enclosed building and used for service or accommodation of patrons shall be situated within 100 feet of any property in an "R" district; the outside area is situated approximately five feet (5') from an "R" district. The required parking is not met. Nine (9) parking spaces are required; none are proposed.

APPLICATION was filed with the Board on August 19, 2016, based on Section 17.20(b) of the City Charter and based on Section 1040.3(11) of the City Zoning Ordinance.

APPEARANCES:

For Applicant: Cynthia Matthews
Kelvin Hanson

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant has requested a variance and special exception to construct a deck to create an outdoor dining area for an existing restaurant located at 119 E. Leigh Street. Ms. Cynthia Matthews, representing the applicant, testified that the proposal is to construct a 13' x 33' deck to serve as an outdoor dining area. Ms. Matthews noted that the proposed deck is located too close to the adjoining residentially zoned property. It was noted that the proposed deck area and adjoining unenclosed area are to be incorporated into the building use and that the deck area and adjoining unenclosed area previously contained enclosed building areas that were used for commercial purposes. It was also noted that in 2012 a parking special exception permitted the upgrading of bathrooms and improvement of handicap access. Ms. Matthews stated that the proposed deck area will be surrounded by existing walls and will be utilized primarily by patrons for smoking purposes which would eliminate smoking in front of the restaurant. Ms. Matthews expressed the opinion that the proposed deck area will not actually result in any increase in patrons but will serve as a necessary amenity. Ms. Matthews stated that the proposed deck area will also provide space for a smoker. Mr. Davidson noted that the adjoining buildings had previously had nonconforming parking which no longer existed due to the

condition of the subject buildings. Ms. Matthews indicated that the surrounding businesses were in support of the proposed deck. Ms. Matthews presented the Board with a proposed parking lease for 613 N. 2nd Street.

The Board finds that evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property to include an outdoor dining area located within 100 feet of property in an R district, 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.

The Board continued for 30 days the request for the parking special exception to allow the Zoning Administrator to determine if the proposed off premise parking lot located at 613 N. 2nd Street complied with the requisite zoning ordinance provisions governing the permissibility of off premise parking.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a variance to the Zoning requirement that no deck, patio, terrace or other area outside a completely enclosed building and used for the service or combination of patrons shall be situated within 100 feet of any property located in an R District be granted to 119 Leigh LP for a building permit to construct a deck to create an outdoor dining area for an existing restaurant and that the request for a parking special exception be continued without fee for 30 days.

ACTION OF THE BOARD: (5-0)

Vote to Grant Variance

affirmative: Poole, Hogue, York, winks, Samuels

negative: none

ACTION OF THE BOARD: (5-0)

Vote to Continue Special Exception

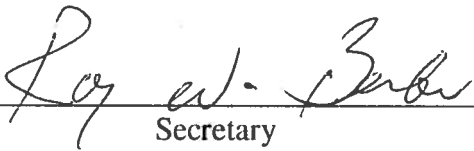
affirmative: Poole, Hogue, York, Winks, Samuels

negative: none

Upon motion made Mr. Poole by and seconded by Ms. Hogue, Members voted (5-0) to adopt the Board's July 6, 2016 meeting minutes.

Upon motion made by Mr. Poole and seconded by Ms. Hogue, Members voted (4-0) to adopt the Board's September 7, 2016 meeting minutes.

The meeting was adjourned at 3:15 p.m.


Secretary


VICE Chairman