



CITY OF RICHMOND

DEPARTMENT OF PLANNING AND
DEVELOPMENT REVIEW
BOARD OF ZONING APPEALS

BOARD OF ZONING APPEALS

MEETING MINUTES

WEDNESDAY, OCTOBER 7, 2015

On Wednesday, October 7, 2015, 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 23 and 30, 2015 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 J. Hogue

Member(s) Absent: none

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. 30-15

APPLICANT: Southside Development & Housing Corp.

PREMISES: 1719 EVERETTE STREET
 (Tax Parcel Number S000-0235/022)

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

DISAPPROVED by the Zoning Administrator on August 7, 2015, based on Sections 114-300, 114-413.6(1) & 114-630.1(a)(1) of the zoning ordinance for the reason that: In an R-7 (Single and Two-Family Urban Residential District), the front yard (setback) requirement is not met. A front yard of fifteen feet (15') is required; 5.25 feet ± is proposed along the East 18th Street frontage.

APPLICATION was filed with the Board on August 7, 2015, based on Section 15.2-2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: James Chambers

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Southside Development and Housing Corporation, has requested a variance to construct a single-family detached dwelling located at 1719 Everett Street. Mr. Jim Chambers, representing the applicant, testified that Southside Development and Housing Corporation purchased 1717 Everett Street in February of 2014. Mr. Chambers indicated that subsequently 1719 Everett Street was also purchased with the intent of developing one single-family dwelling on the subject lots. Mr. Chambers stated that after combining the two lots into a single lot of record that they were advised by the Department of Planning and Development Review that the proposed development of a single dwelling on two lots of record would not be approved under a Section 106 review. Mr. Chambers pointed out that 1719 Everett Street is a corner lot with a width of approximate 27 1/2 feet. It was noted that accounting for the interior side yard setback and the front yard setback along East 18th Street that less than 10 feet of buildable lot width remained.

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 Southside Development & Housing Corp. for a building permit to construct a new single-family detached dwelling, subject to the condition that, construction takes place in substantial compliance with the plans submitted to the Board including provision of Hardi-Plank siding.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Poole, Hogue, Pinnock, York, Samuels

negative: none

CASE NO. 31-15 (WITHDRAWN)

APPLICANT: Ampak Properties, LLC

PREMISES: 612 NORTH 30TH STREET
(Tax Parcel Number E000-0573/021)

SUBJECT: A building permit to adjust the boundary line between the subject property and the adjacent property (#608) and construct a new single-family attached dwelling.

DISAPPROVED by the Zoning Administrator on August 17, 2015, based on Sections 114-300 & 114-710.1(a)(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; none is proposed.

APPLICATION was filed with the Board on August 12, 2015, based on Section 1040.3(11) of the City Code.

CASE NO. 32-15 (WITHDRAWN)

APPLICANT: Simon Prince Properties, LLC
PREMISES: 608 NORTH 30TH STREET
(Tax Parcel Number E000-0573/022)
SUBJECT: A building permit to demolish and existing single-family dwelling, adjust the boundary line between the subject property and the adjacent property (#612) and construct a new single-family attached dwelling.

DISAPPROVED by the Zoning Administrator on August 17, 2015, based on Sections 114-300 & 114-710.1(a)(2) of the zoning ordinance for the reason that: In a(an) R-63 (Multi-Family Urban Residential District), the off-street parking requirement is not met. One (1) off-street parking space is required; none is proposed.

APPLICATION was filed with the Board on August 12, 2015, based on Section 1040.3(11) of the City Code.

CASE NO. 33-15

APPLICANT: Ann P. Pace
PREMISES: 322 NORTH 36TH STREET
(Tax Parcel Number E000-1118/005)
SUBJECT: A building permit to construct a single-family detached dwelling.

DISAPPROVED by the Zoning Administrator on August 11, 2015, based on Sections 114-300, 114-413.15(1)b & 114-630.1(a)(1) of the zoning ordinance for the reason that: In an R-8 (Urban Residential District), the front yard (setback) requirement is not met. A front yard of not less than ten feet (10') and not greater than eighteen feet (18') is required; three feet (3') feet is proposed along the East Marshall Street frontage.

APPLICATION was filed with the Board on August 13, 2015, based on Section 15.2-2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: Vitas Reiuikozas

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Ann Pace, has requested a variance to construct a single-family detached dwelling located at 322 N.36th Street. Mr. Vitas Reiuikozas, representing the applicant, testified that the lot in question has dual front yards along North 36th Street and East Marshall Street. Mr. Reiuikozas noted that the lot has a width of 21.5 feet. Mr. Reiuikozas further noted that applying the required setbacks would limit construction to an 8 1/2 wide house. Mr. Reiuikozas stated that another house located at an alternate corner of 36th Street and East Marshall Street is built all the way to the sidewalk. Mr. Reiuikozas indicated that a Certificate of Appropriateness had been issued by the Commission of Architectural Review for construction of the proposed dwelling.

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 Ann P. Pace for a building permit to construct a single-family detached dwelling.

ACTION OF THE BOARD: (5-0)

Vote to Grant

affirmative: Poole, Hogue, Pinnock, York, Samuels

negative: none

CASE NO. 34-15

APPLICANT: Shriner Associates, LLC

PREMISES: 2028 WEST CARY STREET
(Tax Parcel Number W000-0898/032)

SUBJECT: A building permit to renovate on an existing two (2) story building, construct a new three (3) story addition and commercial use (1st floor) and six (6) dwelling units.

DISAPPROVED by the Zoning Administrator on August 17, 2015, based on Sections 114-300, 114-710.1(a)(4)c & 114-710.3:1(a)(D) of the zoning ordinance for the reason that: In a(an) R-63 (Multi-Family Urban Residential District), the off-street parking requirements are not met. Six (6) parking spaces are required for the dwelling units; six (6) spaces, which do not meet parking space dimension requirements (aisle width), are proposed.

APPLICATION was filed with the Board on August 14, 2015, based on Section 1040.3(11) of the City Code.

APPEARANCES:

For Applicant: Anne Durkin

Against Applicant: none

Undecided: Claude Whitehead

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Shriner Associates LLC, has requested a special exception to renovate an existing two (2) story building, construct a new three (3) story addition and commercial use first (1st) floor and six (6) dwelling units. Ms.

Anne Durkin, representing the applicant, testified that the property is located within the Uptown Neighborhood one block west of Meadow Street. Ms. Durkin noted that they had originally requested a code modification for the van parking space which was rejected by the building office. Ms. Durkin stated that the site plan was modified to reflect an 11 foot wide van parking space with 5 feet of access aisle. Ms. Durkin indicated that the development plan calls for a condo ownership arrangement. Ms. Durkin stated that the attempt is to maximize green space while providing adequate parking. Ms. Durkin presented the Board with examples of other similar parking arrangements in the neighborhood. It was noted that one compact parking space is permitted by the Zoning Ordinance and that the applicant is proposing a total of three compact parking spaces all of which will meet the requisite parking space regulations relating to a compact parking space. It was also noted that the overall backup space for a vehicle is deficient by 4.75 feet.

In response to a question from Mr. York, Ms. Durkin stated that the special exception is being requested in order to provide adequate open space for the reasonably sized units for the quality of the proposed product. Ms. Durkin noted that the rear porch affects the availability of parking backup space.

Mr. Claude Whitehead stated that he owns property across the alley from the applicant's property and requested that less open space be provided in order to meet the requisite parking requirements.

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 on-site 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 Shriner Associates, LLC for a building permit to renovate on an existing two (2) story building, construct a new three (3) story addition and commercial use (1st floor) and six (6) dwelling units, subject to the condition that the handi-cap parking space and the space located immediately to the west of the handi-cap parking space be extended in a southerly direction such that applicable requirements of the Zoning Ordinance be met regarding provision of off-street parking.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Poole, Hogue, Pinnock, York, Samuels

negative: none

CASE NO. 35-15

APPLICANT: David C. Ailor, Successor Trustee

PREMISES: 3019 MONUMENT AVENUE
(Tax Parcel Number W000-1366/008)

SUBJECT: A Certificate of Occupancy to legitimize an existing seven (7) unit multi-family dwelling.

DISAPPROVED by the Zoning Administrator on August 14, 2015, based on Sections 114-300 & 114-416.4(b) of the zoning ordinance for the reason that: In an R-48 (Multi-Family Residential District), the lot area requirement is not met. A minimum lot area of 15,400 square feet is currently required and 8,750 square feet was required at the time of construction; 6,506 ± square feet exists. The existing seven (7) unit multi-family dwelling was constructed in accordance with an erroneously issued building permit (37026) in 1960.

APPLICATION was filed with the Board on August 14, 2015, based on Section 15.2-2309.2 of the Code of Virginia.

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 applicant, David C. Ailor Successor Trustee, has requested a variance to legitimize an existing seven (7) unit multi-family dwelling located at 3019 Monument Avenue. Mr. Mark Baker, representing the applicant, testified that a multi-family dwelling was originally constructed pursuant to a building permit issued for seven (7) units on June 10, 1960. Mr. Baker stated that a zoning confirmation letter was requested on August 4, 2015 which revealed that a permit was issued immediately after rezoning of the property which occurred on June 1,

1960. The subject permit was issued for seven (7) units rather than the permitted four (4) units. Mr. Baker noted that the variance standards specify that the strict application of the terms of the zoning ordinance should not unreasonably restrict the utilization of the property. Mr. Baker indicated that this was a "purpose built" structure with a very sensible unit layout which was authorized by permit. Mr. Baker further indicated that the structures was currently divided into six (6) one-bedroom units and one (1) two-bedroom unit. Mr. Baker noted that at the MDA meeting parking was not an issue and that the property currently provides a greater parking to unit ratio than many properties in the vicinity. Mr. Baker contended that conversion to fewer units would result in a less desirable product by virtue of increasing the overall bedroom count from 8 to approximately 12 and potentially a greater overall occupancy. Mr. Baker stated that the property owner has met the good faith standard evidenced by the fact that it was purchased in 1977 with no knowledge of any prior zoning issues. Mr. Baker indicated the granting of a variance would have no negative impact on surrounding properties. Mr. Baker further indicated that the properties current situation is not of general or reoccurring in nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance. Nor does the granting of a variance result in a use that is not otherwise permitted by the zoning ordinance. Mr. Baker concluded by stating that the relief sought by the variance is not available through a special exception or a zoning modification and that the variance is not contrary to the purpose of the zoning ordinance. The MDA advised the Board that they had no opposition to the requested variance.

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 lot area requirement be granted to David C. Ailor, Successor Trustee for a Certificate of Occupancy to legitimize an existing seven (7) unit multi-family dwelling.

ACTION OF THE BOARD: (5-0)

Vote to Grant

affirmative: Poole, Hogue, Pinnock, York, Samuels

negative: none

The Board continued consideration of the following case to the Board's meeting of Wednesday, November 4, 2015. The case was continued without fee.

CASE NO. 36-15

APPLICANT: Union Theological Seminary

PREMISES: 1311 WESTWOOD AVENUE
(Tax Parcel Number N000-1230/001)

SUBJECT: A Certificate of Zoning Compliance to split a lot improved with nonconforming institutional use, including a dormitory (vacant) and dwellings for staff and multiple single-and two-family dwelling units.

DISAPPROVED by the Zoning Administrator on August 14, 2015, based on Sections 114-300, 418.1 & 114-800.2(b) of the zoning ordinance for the reason that: In an R-53 (Multi-Family Residential District), the area of lot on which a nonconforming use is located shall not be reduced unless authorized by the Board of Zoning Appeals. Two (2) lots are proposed; one retaining the nonconforming use and the other is proposed to be developed for a permitted multi-family (301 dwelling units) use.

APPLICATION was filed with the Board on August 14, 2015, based on Section 1040.3(15) of the City Code.

The Board continued consideration of the following case to the Board's meeting of Wednesday, November 4, 2015. The case was continued without fee.

CASE NO. 37-15

APPLICANT: Safarzadegan Sharaf

PREMISES: 1124 NORTH 26TH STREET
(Tax Parcel Number E000-0519/001)

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

DISAPPROVED by the Zoning Administrator on August 17, 2015, based on Sections 114-300, 114-620.1(c) & 114-630.1(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. Three (3') feet is required; one (1) foot is proposed along the R Street frontage.

APPLICATION was filed with the Board on August 17, 2015, based on Section 15.2-2309.2 of the Code of Virginia.

CASE NO. 38-15 (WITHDRAWN)

APPLICANT: Harold Vega

PREMISES: 1838 WEST GRACE STREET
(Tax Parcel Number W000-0821/047)

SUBJECT: A building permit to re-establish the nonconforming use rights back to an adult home and convert to a two-family dwelling.

DISAPPROVED by the Zoning Administrator on August 20, 2015, based on Sections 114-300, 114-800.4 & 114-710.1(a)(3) of the zoning ordinance for the reason that: In a(an) R-48 (Multi-Family 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 August 17, 2015, based on Section 1040.3(14) of the City Code.

CASE NO. 39-15

APPLICANT: Westover Hills United Methodist Church

PREMISES: 1711 WESTOVER HILLS BOULEVARD
(Tax Parcel Number S006-0221/015)

SUBJECT: A building permit to establish a day nursery in an existing church.

DISAPPROVED by the Zoning Administrator on August 13, 2015, based on Sections 114-410.2, 114-402.2(2) & (3) & 114-410.5(1) of the zoning ordinance for the reason that: In an R-5 (Single-Family Residential District), the accessory uses (play area, fencing & playground equipment are not permitted within a required front yard and no play area, fencing, playground equipment or structure shall be located within a front yard or a required side yard; the play area, fencing and play equipment are located within the required front yard.

APPLICATION was filed with the Board on August 20, 2015, based on Section 15.2-2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: Earl Nunnally
Rev. Donna Holder

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Westover Hills United Methodist Church, has requested a variance to establish a day nursery in an existing church located at 1711 Westover Hills Boulevard. The Chairman, Mr. Burt Pinnock, advised the Board that due to the fact that he lived in close proximity to the applicant's property that he would be recusing himself in this case. Mr. York assumed the chairmanship. Reverend Donna Holder, representing the applicant, testified that the Westover Hills United Methodist Church was established in the 1940s and has been an integral part of the neighborhood ever since. Reverend Holder explained that in order to establish a day nursery in the church that they must meet the requisite play area requirement. Reverend Holder further explained that the

church can meet the requisite play area requirement of 100 ft.² per child. Reverend Holder stated the church's desire to use a tot lot that was established as a gift to the church in the 1980s. Reverend Holder noted that they were advised by the Zoning Office that the play area fencing and play ground equipment were located within a required front yard. The property is determined to be a corner lot having front yards along Westover Hills Boulevard and New Kent Avenue. Reverend Holder noted that the tot lot is utilized by children ages 2 through 10. Reverend Holder stated that the tot lot is considered to be a community asset and many of the surrounding neighbors support the tot lot with volunteer labor and donations. Reverend Holder indicated that the zoning regulations do not take into account that an entire parcel with dual front yards would be utilized for a tot lot. Strict compliance with the zoning regulations would have the effect of eliminating the tot lot. Reverend Holder stated that the neighborhood is supportive of the requested variance. Reverend Holder presented the Board with a letter of support from the Westover Hills Neighborhood Association.

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 and side yard requirements be granted to Westover Hills United Methodist Church for a building permit to establish a day nursery in an existing church.

ACTION OF THE BOARD: (4-0)

Vote to Grant

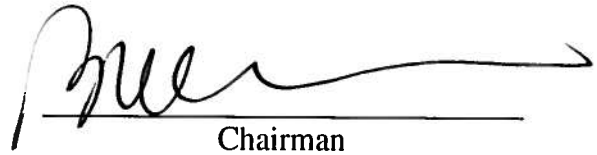
affirmative: Poole, Hogue, York, Samuels

abstain: Pinnock

negative: none

Upon motion made by Mr. Poole and seconded by Mr. York, Members voted (4-0) to adopt the Board's September 2, 2015 meeting minutes.

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


Chairman


Secretary