



CITY OF RICHMOND

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW
BOARD OF ZONING APPEALS

BOARD OF ZONING APPEALS

MEETING MINUTES

WEDNESDAY, FEBRUARY 1, 2017

On Wednesday, February 1, 2017, 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 Legacy Newspaper on January 18 and 25, 2017 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 Jane Hogue
 Kenneth R. Samuels

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. 06-17

APPLICANT: Lopresti W. Main St.

PREMISES: 1104 WEST MAIN STREET
 (Tax Parcel Number W000-0450/025)

SUBJECT: A Certificate of Occupancy for a restaurant use with an accessory outdoor dining patio.

DISAPPROVED by the Zoning Administrator on November 8, 2016, based on Sections 30-300 & 32-433.2(21)a of the zoning ordinance for the reason that: In a UB (Urban Business) & PO-3 (Main Street/Uptown) Parking Overlay District, that no deck, patio, terrace or other area outside a completely enclosed building and used for the service or accommodation of patrons shall be situated within 100 feet of any property in an R district; the outside area is situated approximately thirty-one feet (31') from an R-6 district; the outside area is situated approximately thirty-one feet (31') from and R-6 district.

APPLICATION was filed with the Board on December 12, 2016, based on Section 17.20(b) of the City Charter.

APPEARANCES:

For Applicant: Patrick Stamper
Eric Stangarone

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Lopresti W. Main St., has requested a variance for a restaurant use with an accessory outdoor dining patio for property located at 1104 W. Main Street. The Chairperson, Mr. Burt F. Pinnock, advised the Board that he would be recusing himself in this matter due to some prior involvement by his firm. At this point Mr. Roger H. York assumed the duties of the Chairperson. Mr. Eric Stangarone, representing applicant, testified that the intent is to expand an existing outdoor dining area. It was noted that the property is zoned UB (Urban Business) District which includes a requirement that an outdoor dining area may not be located within 100 feet of a residential district. The proposed outdoor dining area is located approximately 31 feet from an adjoining residential district. Mr. Stangarone advised the Board that the subject property is located within Scott's Addition. Mr. Stangarone explained that the intent is to create a food first concept. Mr. Stangarone stated that project negotiations have been ongoing for approximately 7 months with the property owner. Mr. Stangarone distinguished their food first concept from previous operations of the property which have placed an emphasis on the sale of alcohol. Mr. Stangarone indicated that their food first concept could not be pursued from an economic standpoint without the ability to provide outdoor dining. Mr. Stangarone explained that the current owner is eager to sign a lease for the property and without approval of the variance it would not be possible to enter into a lease agreement. Mr. Stangarone stated that their proposed restaurant operation will add value to the neighborhood.

Mr. Stangarone explained that they will be making a substantial investment in the renovation and refurbishing of the building in hopes of creating an anchor for the neighborhood. Mr. Stangarone indicated that they had contacted surrounding neighbors and that the Uptown Association and the Fan District Association were both supportive of the requested variance.

In response to a question from Mr. Poole, Mr. Stangarone stated that utilization of the outdoor dining area will be seasonal in nature. In addition, Mr. Stangarone offered the conditions that the hours of operation for the outdoor dining area shall be limited to 11:00PM (Sunday-Thursday) and 12:00 midnight (Friday-Saturday) and that the zoning ordinance will be complied with regarding sound being audible beyond the property lines.

In response to a question from Mr. York, Mr. Stangarone offered the condition that the garage located at the rear of the property adjacent to the alley must be retained.

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 no deck, patio, terrace or other area outside a completely enclosed building and used for the service or accommodation of patrons shall be situated within 100 feet of any property in an R district; the outside area is situated approximately thirty-one feet (31') from an R-6 district requirements be granted to Lopresti W. Main St. for a Certificate of Occupancy for a restaurant use with an accessory outdoor dining patio, subject to the conditions:

1. The hours of operation for the outdoor dining area shall be limited to 11:00PM (Sunday-Thursday) and 12:00 midnight (Friday-Saturday).
2. Retention of the garage located at the rear of the property.
3. Compliance with Section 30-433.2(21) c of the zoning ordinance.

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

Vote to Grant Conditionally

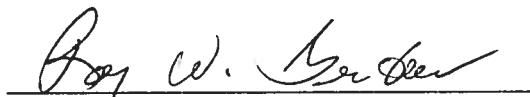
affirmative: Poole, Hogue, York, Samuels
 negative: none
 abstain: Pinnock

Upon motion made by Mr. Poole and seconded by Ms. Hogue, Members voted (4-0) to adopt the Board's January 4, 2017 meeting minutes.

The meeting was adjourned at 2:15 p.m.



 Chairman



 Secretary