



**CITY OF RICHMOND**

DEPARTMENT OF  
PLANNING AND DEVELOPMENT REVIEW  
BOARD OF ZONING APPEALS

**BOARD OF ZONING APPEALS**

**MEETING MINUTES**

**WEDNESDAY, APRIL 4, 2018**

On Wednesday, April 4, 2018, 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 March 21 and 28, 2018 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 J. Hogue  
  Susan Sadid

Staff Present:                       Roy W. Benbow, Secretary  
  David Duckhardt, Zoning Administrator (Acting)  
  Brian P. Mercer, Planner II  
  Neil R. Gibson, Assistant City Attorney

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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. 03-18 (CONTINUED FROM FEBRUARY 7, 2018 MEETING)**

APPLICANT:                    Watchtower Homes & Construction

PREMISES:                     921 NORTH 33<sup>RD</sup> STREET  
                                      (Tax Parcel Number E000-0879/032)

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

**DISAPPROVED** by the Zoning Administrator on December 8, 2017, based on Sections 30-300, 30-412.4(1) & 30-710.1(a) of the zoning ordinance for the reason that: In an R-6 (Single-Family Attached Residential District), the lot area and off-street parking requirements are not met. A lot area of five thousand square feet (5,000 SF) is required; 2,068 SF exists/is proposed. One (1) on-site parking space is required; none are proposed.

**APPLICATION** was filed with the Board on December 8, 2017, based on Section 15.2-2309.2 of the Code of Virginia.

**APPEARANCES:**

**For Applicant:** Matt Jarreau

**Against Applicant:** Mimi Getachew  
Bryant Julien  
Rachel May  
Fonda Shepard

**FINDINGS OF FACT:** The Board finds from sworn testimony and exhibits offered in this case that the applicant, Watchtower Homes and Construction, has requested a variance and special exception to construct a new single-family detached dwelling for property located at 921 N. 33rd Street. Mr. Matt Jarreau, representing the applicant, testified that the proposal is to construct a single-family detached home that requires a lot area and off-street parking waiver. Mr. Jarreau further testified that the property in question formerly contained a single-family dwelling that was demolished. Mr. Jarreau noted that his case had been continued from previous meeting and that changes had been made to the original application. Mr. Jarreau stated that the dwelling had been moved approximate 8 feet closer to the street to improve backyard views of the adjacent properties. Mr. Jarreau also stated that a window had been removed from the rear left-hand side of the dwelling to limit views into the rear of the adjoining property. Mr. Jarreau noted that the he had received support from the property owner of 3300 O Street, the adjoining neighbor at 3301 P Street and from Mr. Brian Traylor who owns property across the street. Mr. Jarreau indicated that he also received support from the Church Hill North Civic Association.

In response to question from Mr. York, the acting Zoning Administrator, Mr. Duckhardt, stated that at the time of the splitting of the lot that the subject lot did

not meet requisite lot area requirements. It was noted that the house was demolished after the lot split.

Speaking in opposition, Ms. Mimi Getachew testified that she is opposed to the proposed construction because it detracts from the historic look of the neighborhood. Ms. Getachew noted that the lot in question is 23 feet in width which is not consistent with other lot widths in the neighborhood. Ms. Getachew further noted that she owns the adjoining property and indicated that the narrowness of the lot requires construction of a longer house which negatively impacts her property. Ms. Getachew stated that due to windows in the rear of the house that other adjoining properties will be negatively affected. Ms. Getachew stated that there will be a \$20,000 diminution in the value of her property should the proposed dwelling be constructed. Ms. Getachew contended that 100 people would lose equity in their homes as a result of the proposed construction. Ms. Getachew referred to a Historic Handbook and stated that the proposed construction was not consistent with the applicable guidelines. Ms. Getachew stated that her assertion that the construction of the proposed dwelling would result in a \$20,000 loss in her property values was supported by an appraisal which she acknowledged that she did not bring to the hearing. It was noted that the property is not located within a City Old and Historic District.

Speaking in opposition, Mr. Bryant Julien testified that he resided at 3309 P Street. Mr. Julien stated that the lot is too narrow to accommodate a reasonably sized dwelling. Mr. Julien stated that the proposed dwelling encroaches on the privacy of his yard. Mr. Julien stated that it was his understanding that the subject property was split from a larger parcel. Mr. Julien objected to the fact that when he walks out the rear of his property that he is confronted with the proposed structure. Mr. Julien also questioned given the narrowness of the lot how the property owner would access the sides of the dwelling.

In response to question from Mr. York, Mr. Julien stated that the property was big enough to accommodate a city garden.

In response to question from the Chairman, Mr. Pinnock, Mr. Julien testified that there are row houses located across the street. It was noted that the houses are constructed on narrower lots than the property under consideration.

Speaking in opposition, Ms. Rachel May testified that she resides on Grace Street and formerly lived three blocks from the subject property. Ms. May stated that the proposed construction will detract from the overall community.

Speaking in opposition, Ms. Fonda Shepard stated that she was representing the United House of Prayer. Ms. Shepherd further stated that the church owns

adjacent property and that the proposed construction would detract from the historic nature of the neighborhood.

Mr. York stated that the subject lot configuration is reflected in many older neighborhoods throughout the city. It was noted that testimony reflected that the lot was large enough to accommodate a community garden. Both Mr. Poole and Mr. York indicated that denial of the application would amount to confiscation of the lot which was a primary legal underpinning for the granting of a 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 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; (iii) 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 (iv) 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 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 on-street parking to serve the needs of the use is available 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 variance and special exception from the lot area and off-street parking requirements be granted to Watchtower Homes & Construction for a building permit to construct a new single-family detached dwelling, subject to substantial compliance with the plans submitted to the Board and provision of Hardy plank siding.**

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

Vote to Grant

affirmative: Poole, Pinnock, York, Sadid

negative: Hogue

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CASE NO. 07-18 (CONTINUED FROM MARCH 7, 2018 MEETING)

APPLICANT: Amin Satish and Mitesh S

PREMISES: 812 WEST MARSHALL STREET  
(Tax Parcel Number N000-0351/023)

SUBJECT: A building permit to construct a new building (1,507 sq. ft.) for restaurant use.

DISAPPROVED by the Zoning Administrator on January 9, 2018, based on Sections 30-300 & 30-710.1.(a) of the zoning ordinance for the reason that: In an M-1 (Light Industrial District), the off-street parking requirements are not met. Fourteen (14) parking spaces are required; eleven (11) are proposed.

APPLICATION was filed with the Board on January 9, 2018, based on Section 1040.3(11) of the Zoning Ordinance of the City of Richmond.

APPEARANCES:

For Applicant: Michael Clatterbuck

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicants, Amin Satish and Mitesh S, have requested a special exception to construct a new building for a restaurant use for property located at 812 W. Marshall Street. Mr. Michael Clatterbuck, representing the applicant, testified that the zoning ordinance requires 15 off-street parking spaces and that the applicant is proposing to provide 11 of the required parking spaces. Mr. Clatterbuck noted that the property is zoned M-1 Light Industrial District which in his opinion is inappropriate zoning. Mr. Clatterbuck contended that the property should more properly be zone B-6 Mixed Use Business District. Mr. Clatterbuck stated that if the property were appropriately zoned that there would be no necessity for the applicants to request a special exception from the Board. Mr. Clatterbuck indicated that a substantial amount of the trade will be generated by walk-up traffic predominately from VCU.

In response to a question from Mr. York, Mr. Clatterbuck stated that the building comprises approximately 1500 ft.<sup>2</sup> and that the seating area is minimal when compared to comparably sized restaurants. Mr. Clatterbuck offered as a condition of approval substantial compliance with the floor plans submitted to the Board.

In response to question from Mr. Poole, Mr. Clatterbuck stated that there is ample on street parking available surrounding the subject property.

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 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 requirements be granted to Amin Satish and Mitesh S for a building permit to construct a new building (1,507 sq. ft.) for restaurant use, subject to substantial compliance with the floor plans submitted to the Board.

**ACTION OF THE BOARD:** (5-0)

Vote to Grant Conditionally  
affirmative: Poole, Hogue, Pinnock, York, Samuels  
negative: none

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**CASE NO. 12-18**

**APPLICANT:** Cynthia Blanton  
**PREMISES:** 4703 MONUMENT AVENUE  
(Tax Parcel Number W019-0125/010)  
**SUBJECT:** A building permit to construct a one-story detached garage accessory to a single-family dwelling.

DISAPPROVED by the Zoning Administrator on February 14, 2018, based on Sections 30-300 & 30-410.6 of the zoning ordinance for the reason that: In an R-5 (Single-Family Residential District), the lot coverage requirement is not met. Maximum lot coverage shall not exceed thirty-five percent (35%) of the area of the lot. Lot coverage of 2,275 square feet is permitted; 2,010 square feet (30.9%) exists and 2,562.0 square feet (39.4%) is proposed.

APPLICATION was filed with the Board on February 14, 2018, based on Section 15.2-2309.2 of the Code of Virginia.

APPEARANCES:

For Applicant: Cynthia Blanton

Against Applicant: None

**FINDINGS OF FACT:** The Board finds from sworn testimony and exhibits offered in this case that the applicant, Cynthia Blanton, has requested a variance to construct a one-story detached garage accessory to a single-family dwelling for property located at 4703 Monument Avenue. Ms. Blanton testified that current lot coverage is approximately 31% and that construction of the garage will increase the lot coverage to 39%. It was noted that the lot coverage requirement is 35%. Ms. Blanton indicated that her lot is the smallest in the block which constitutes a hardship in terms of being able to construct an adequately sized garage. Ms. Blanton noted that the garage will reduce visual clutter and will not negatively impact the surrounding neighborhood. Ms. Blanton indicated that she had contacted surrounding neighbors or that there was no opposition to the construction of the proposed garage. Ms. Blanton stated that the garage is sized in part based on the narrow dimensions of the adjoining alley. In conclusion Ms. Blanton stated that the proposed garage is somewhat smaller than a standard sized two-car garage is the minimum necessary to accomplish reasonable use of the property.

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 coverage requirement be granted to Cynthia Blanton for a building permit to construct a one-story 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

CASE NO. 13-18

APPLICANT: Kirk and Kelly Tattersall

PREMISES: 6111 THREE CHOPT ROAD  
(Tax Parcel Number W021-0376/007)

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

DISAPPROVED by the Zoning Administrator on February 16, 2018, based on Sections 30-300 & 30-402.5(1) of the zoning ordinance for the reason that: In an R-1 (Single-Family Residential District), the front yard (setback) requirement is not met. A front yard of thirty-five feet (35') is required along Tapoan Road; ten feet (10') is proposed.

APPLICATION was filed with the Board on February 16, 2018, based on Section 15.2-2309.2 of the Code of Virginia.

APPEARANCES:



For Applicant: Dan Ensminger

Against Applicant: None

**FINDINGS OF FACT:** The Board finds from sworn testimony and exhibits offered in this case that the applicants, Kirk and Kelly Tattersall, have requested a variance to construct a two-story detached garage to a single-family dwelling for property located at 6111 Three Chopt Road. Mr. Dan Ensminger, representing the applicant, testified that the property is located at the corner Three Chopt Road and Tapoan Road. Mr. Ensminger noted that the lotting pattern requires dual front yard setbacks. Mr. Ensminger stated that compliance with the 35 foot front yard setback would result in the garage being pushed up against the existing dwelling. Mr. Ensminger indicated that the location of the garage on Tapoan Road is the most desirable in terms of access and impact on neighborhood traffic. Mr. Ensminger noted that revised plans had been submitted which reflected reorientation of the proposed garage based on a neighbor's concern. Mr. Ensminger stated that the neighbor had been satisfied with the proposed reorientation of the garage. Mr. Ensminger stated that there was no opposition from any of the surrounding neighbors nor from the Westhampton Civic Association.

In response to question from Mr. York, Mr. Ensminger stated that there will be no plumbing facilities located on the second floor. Mr. Ensminger also stated that there was no other viable location on the lot in which to locate the garage. It was noted that based on the prevailing zoning ordinance setback requirements the location of the dwelling substantially reduced the buildable area of the lot.

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 Kirk and Kelly Tattersall for a building permit to construct a two-story detached garage accessory to a single-family dwelling, subject to substantial compliance with the revised plans submitted to the Board and exclusion of any plumbing facilities on the second floor.

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 (3-0) to adopt the Board's March 7, 2018 meeting minutes.

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

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Chairman

  
Secretary