MINUTES OF A MEETING OF THE BOARD OF ZONING APPEALS
WEDNESDAY, SEPTEMBER 10, 2003

On Wednesday, September 10, 2003, 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 Times-Dispatch on August 27 and September 3, 2003 and written notice having been sent to interested parties.

Members Present: Jean Thompson Williams, Chairman
James H. Parks, III, Vice-Chairman
Marlene Moses-Ciula
Rodney M. Poole
Alan R. Siff

Member Absent: Ann W. Cox

Staff Present: Roy W. Benbow, Secretary
William C. Davidson, Zoning Administrator
J. Neil Brooks, Planner II
Jan Reid, Assistant City Attorney

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. 117-03

APPLICANTS: Mr. and Mrs. Edward Valentine

PREMISES: 4704 ROLFE ROAD
(Tax Parcel Number W022-0017/011)

SUBJECT: A building permit to construct a two-story addition

DISAPPROVED by the Zoning Administrator on July 23, 2003, based on Sections 32-300, 32-402.5(2) and 32-810.1 of the zoning ordinance for the reason that: In an R-1 Single-Family Residential District, the side yard setback and nonconforming feature requirements are not met. A side yard setback of not less than ten feet (10’) is required; a nonconforming side yard setback of six feet (6’) + is existing/proposed for the addition. A side yard of three feet (3’) + is proposed for two (2) mechanical (A/C) units that are three feet (3’) tall. The substitution of a
nonconforming structure with another building or structure is not permitted unless the nonconforming feature is thereby eliminated.

APPLICATION was filed with the Board on July 21, 2003, based on Section 17.20(b) of the City Charter.

APPEARANCES:

For Applicant:  D. Steeber
Allen F. Steeber

Against Applicant:  none

FINDINGS OF FACT:  The Board finds from sworn testimony and exhibits offered in this case that the applicants, Mr. and Mrs. Edward Valentine, have requested a variance to construct a two-story addition at 4704 Rolfe Road.  Mr. Don Steeber testified that he represented the contractor in this application and that his clients were in need of in-law housing with ground level access.  Mr. Steeber indicated that the plans call for enclosing an existing porch located on the east side of the house and widening the porch by approximately 8 feet towards the front and three feet towards the rear of the property.  Mr. Steeber stated that the current setback requirement is 10 feet and that the existing porch is located six feet from the property line.  Mr. Steeber also stated that the proposed plans call for construction of a second story above the existing porch which will include bathroom facilities. Mr. Steeber indicated that there are no windows located along the first floor of the house on the abutting property.  Mr. Steeber further indicated that there are two windows located along the second floor of the abutting house which is setback approximately 14 1/2 feet from the property line.  Mr. Steeber stated that in consideration of the neighbors, windows were not being incorporated into the design of the east façade of the proposed addition which will provide greater privacy to the neighbors than currently exists.

In response to a question from Mr. Poole, Mr. Steeber indicated that the adjoining neighbors had been notified of the public hearing.  In response to a question from Mr. Parks, Mr. Steeber stated that the air-conditioning units are proposed to be located between the proposed porch enclosure and the side property line.

Mr. Allen Steeber stated that it was his belief that Mr. Valentine had spoken to the adjoining neighbor and that there was no opposition to the requested variance.

The Board is satisfied that the property was acquired in good faith and that an exceptional situation exists due to the need to create in-law housing with ground floor access; whereby strict application of the side yard setback and nonconforming feature requirements unreasonably restricts its use, and the
granting of a variance in this case will be in harmony with the intended spirit and purpose of the ordinance and the powers of the Board.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a variance from the side yard setback and nonconforming feature requirements be granted to Mr. and Mrs. Edward Valentine for a building permit to construct a two-story addition as proposed at the subject premises, subject to the condition that the air-conditioning units be relocated to the buildable portion of the lot.

ACTION OF THE BOARD: Granted Conditionally (5-0)

Vote to Grant Conditionally
affirmative: Poole, Moses-Ciula, Williams, Siff, Parks
negative: none

CASE NO. 118-03

APPLICANT: NTC LLC

PREMISES: 2601 WEST MAIN STREET
(Tax Parcel Number W000-1160/012)

SUBJECT: A building permit to convert a wholesale (meat) business to a retail bookstore

DISAPPROVED by the Zoning Administrator on July 25, 2003, based on Sections 32-300, 32-433.2, 32-710.1(28) and 32-710.4(2) of the zoning ordinance for the reason that: In a UB Urban Business District, the off-street and shared parking requirements are not met. Eight (8) off-street parking spaces are required for the proposed (retail) use; five (5) spaces exist/are proposed and one (1) space is nonconforming. Two (2) proposed leased spaces are going to be available between the hours of 7:00 a.m. and 5:00 p.m. at 2619 West Main Street. Off-site parking spaces may only be provided by another use, which is not routinely open, used, or operated during the same hours of the day or night. The restaurant use located at 2619 West Main Street requires the spaces after 5:00 p.m.; the two (2) leased spaces will not be available after 5:00 p.m. and the bookstore proposes to be open during this period.

APPLICATION was filed with the Board on July 21, 2003, based on Section 17.20(b) of the City Charter.
FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, NTC LLC, has requested a variance to convert a wholesale (meat) business to a retail bookstore at 2601 West Main Street. Mr. Alexander Simon testified that he represents the Cookes who are the proprietors of Black Swan Books. Mr. Simon indicated that Black Swan Books is in the business of selling rare books. Mr. Simon further indicated that Black Swan Books has been located on Meadow Street for a number of years and needs to expand, which is the reason for relocating to 2601 West Main Street. Mr. Simon stated that the property had been previously occupied by Quality Meats and had not been particularly well maintained. Mr. Simon also stated that Quality Meats had not been particularly active in recent years. Mr. Simon indicated that the architect, Mr. Pinnock, had submitted plans to Roger York who is no longer with the City and that it was Mr. Pinnock's understanding that there were no impediments to the project going forth. The Zoning Administrator, Mr. Davidson, pointed out that the subject property had not been included in an overlay district and consequently was not entitled to certain parking considerations that otherwise might be permitted. Mr. Simon acknowledged that the property currently has a parking requirement of eight spaces, five of which exist and one is non-conforming. Mr. Simon advised the Board that his client had gone to great lengths to attempt to lease the necessary parking. Mr. Simon indicated that the Avalon Restaurant at 2619 West Main Street which is located within the requisite 300-foot radius could lease parking spaces during the day but not after 5 PM in the evening due to the fact that that is when the restaurant opened. Mr. Simon explained to the Board that his client was paying money on a construction loan and could not proceed with renovation work. Mr. Simon further explained that the business plan of the Cookes called for staying open until 9 PM in the evening due to its strategic location with respect to Cary Street and West Main Street. Mr. Simon stated that in order for his client to take advantage of the evening traffic that it was necessary for his clients’ business to remain open until 9 PM. Mr. Simon advised the Board that two neighborhood associations, the Fan District Association and the Your Neighbors Uptown Civic Association, had supported the request as well as local businesses including Davis and Main, Bamboo Cafe and Helens which had written letters of support.
In response to a question from Mr. Poole, Mr. Simon indicated that if the Board were to approve the requested variance, it would be conditioned on the business closing at 9 o'clock in the evening. Mr. Simon stated that it would be acceptable if the variance was conditioned to a bookstore operated by his client which was not adult in nature.

The Chairperson, Ms. Williams, read a letter of support from Mr. Mike Adams of 2605 West Main Street into the record. The Chairperson, Ms. Williams, also read into the record a letter from Brenda Mead requesting that the Board keep in mind the long-term interest of current residents when granting parking variances.

Speaking in favor, Mr. Nick Cooke owner of Black Swan Books, testified that he has no intention of operating an adult bookstore and will only be selling rare books. Mr. Cooke further testified that he had gone to great lengths to attempt to find parking that met all of the requirements of the zoning ordinance but was unsuccessful. In response to a question from Ms. Moses-Ciula, Mr. Cooke indicated that he is a full-time employee and that his wife works part-time. Mr. Cooke also stated that he has three other part-time employees but attempts to maintain two employees in the business at all times. Mr. Cooke stated that he does not sell bestsellers and, therefore, does not receive typical business deliveries. In response to a question from Mr. Parks, Mr. Cooke indicated that no food or beverages will be sold from the premises.

Speaking in favor, Mr. Mark Brandon of Your Neighbors Uptown Civic Association testified in support of the requested variance.

Speaking favor, Mr. Bret Burnam testified that the Fan District Association supported the requested variance.

The Board is satisfied that the property was acquired in good faith and that an exceptional situation exists due to an unavailability of parking within the requisite radius and required timeframe; whereby strict application of the off-street and shared parking requirements unreasonably restricts its use, and the granting of a variance in this case will be in harmony with the intended spirit and purpose of the ordinance and the powers of the Board.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a variance from the off-street parking requirements be granted to NTC LLC for a building permit to convert a wholesale (meat) business to a retail bookstore as proposed at the subject premises, subject to the following conditions:
1. An adult bookstore as defined by the City of Richmond Zoning Ordinance may not be operated from the premises.

2. The hours of operation may not extend beyond 9 p.m.

3. The variance as approved is not transferable and is restricted to NTC LLC of which Nicholas Trout Cooke is the principal stockholder.

ACTION OF THE BOARD: Granted Conditionally (5-0)

Vote to Grant Conditionally
affirmative: Poole, Moses-Ciula, Williams, Siff, Parks
negative: none

CASE NO. 119-03

APPLICANT: Seven East Franklin Street, LLC

PREMISES: 7 EAST FRANKLIN STREET
(Tax Parcel Number W000-0082/004)

SUBJECT: A certificate of zoning compliance for an office building

DISAPPROVED by the Zoning Administrator on July 25, 2003, based on Sections 32-300, 32-710.1(1)&(23) and 32-710.4(1)&(5) of the zoning ordinance for the reason that: In an R0-3 Residential-Office District, the parking and off-site radius and identification requirements are not met. Twenty-one (21) parking spaces are required for the proposed (office and residential) use; fifteen (15) spaces are proposed. No spaces meet the required three hundred-foot (300’) radius requirement; the proposed off-site spaces are located within an eight hundred-foot (800’) radius. No identification of the off-site spaces or notification of the spaces’ availability is proposed.

APPLICATION was filed with the Board on July 21, 2003, based on Section 17.20(b) of the City Charter.

APPEARANCES:

For Applicant: Ted Cox
David Epperly
Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Seven East Franklin Street, LLC, has requested a variance for a certificate of zoning compliance for an office building at 7 East Franklin Street. Mr. Fred Cox testified that 21 parking spaces are required for the office and residential use. Mr. Cox further testified that there are no parking spaces available to lease within the required 300-foot radius but that the ability exists to provide 15 spaces within an 800-foot radius. Mr. Cox stated that the building is historic and that there is a carriage house located in the rear of the property which is utilized for residential purposes. Mr. Cox advised the Board that the typical downtown office ranges in size from 120 to 180 square feet and that the offices within his building will range in size from 250 to 400 square feet.

In response to a question from Mr. Siff, Mr. Cox acknowledged that there had been parking issues with the property previously but that new partners were currently managing the property. Mr. Siff commented that as one Board member, he had difficulty with the hardship contention based on the fact that the new owners either knew or should have known of the property's prior history.

In response to a question from Mr. Poole, Mr. Epperly stated that he and his partners purchased 50% of the LLC's stock in 2000 and that Mr. Farino continued to control the remainder of the stock. Mr. Epperly further stated that at the time of their purchase of the stock, they were not aware of the pre-existing parking problems. Mr. Epperly explained that they first learned of the problem in March of 2003 when a new tenant was denied a certificate of zoning compliance. Mr. Epperly explained that his law firm contributed between $10,000 and $15,000 in the current year to building renovations.

In response to a question from Mr. Poole, Mr. Epperly acknowledged that the Secretary had advised him of alternate means of relief. Mr. Poole explained that the Board does not have the authority to relieve self-inflicted hardships and that the property has been in noncompliance with the parking requirements of the zoning ordinance since sometime around 1976. Mr. Siff stated that the new owners had failed to conduct proper due diligence in identifying any potential problems with the property prior to its purchase. Mr. Parks read into the record an excerpt from a June 4, 1997 variance in which Mr. Poole pointed out that "Mr. Farino apparently has never provided the required parking for over 20 years and that the main argument he made for the variance is that he just does not want to provide any parking because some other office owners do not have to." The Chairperson, Ms. Williams, advised the applicant that the matter of parking relief is better suited to be dealt with by the City Council.
The Board finds that the applicant failed to show an extraordinary or exceptional situation whereby strict application of the off-street parking requirements unreasonably restricts its use and that there is a clearly demonstrable hardship bordering on confiscation of the property. The granting of a variance in this case would constitute a special privilege or convenience to the owner and would not be in harmony with the intended spirit and purpose of the ordinance and the powers of the Board.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a variance from the parking and off-site radius and identification requirements be denied to Seven East Franklin Street, LLC for a certificate of zoning compliance for an office building as proposed at the subject premises.

ACTION OF THE BOARD: Denied (5-0)

Vote to Deny
affirmative: Poole, Moses-Ciula, Williams, Siff, Parks
negative: none

CASE NO. 120-03

APPLICANT: The Garden Club of Virginia

PREMISES: 12 EAST FRANKLIN STREET
(Tax Parcel Number W000-0083/013)

SUBJECT: A building permit to rebuild a portion of an existing masonry wall

DISAPPROVED by the Zoning Administrator on July 23, 2003, based on Sections 32-300, 32-630.9(2) and 32-810.1 of the zoning ordinance for the reason that: In an R0-3 Residential-Office District, the maximum permitted height for a wall located within the required ten-foot (10’) rear yard (setback) is exceeded and the nonconforming feature requirements are not met. A wall not exceeding six and one-half feet (6.5’) in height is permitted; eight feet (8’) is proposed/existing. The rebuilding of a nonconforming structure is not permitted unless the nonconforming feature is thereby eliminated.

APPLICATION was filed with the Board on July 21, 2003, based on Section 17.20(b) of the City Charter.
FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, the Garden Club of Virginia, has requested a variance to rebuild a portion of an existing masonry wall at 12 East Franklin Street. Mr. Will Rieley testified that he was a landscape architect representing the Garden Club of Virginia. Mr. Rieley advised the Board that the variance request was being made on behalf of the Kent Valentine House which is listed on the Virginia Landmark Register and the National Register of Historic Places. Mr. Rieley explained that the house had been restored at more than a cost of $1.5 million by the Garden Club of Virginia. Mr. Rieley further explained that approximately one year ago a problem was observed with the historic brick wall which resulted from some heritage holly trees undermining the footing of the wall and causing a portion of the wall to tilt. Mr. Rieley stated that a strict application of the zoning ordinance would require that a portion of the wall be lowered to the requisite height or that the wall be set back 10 feet from the property line. Mr. Rieley explained that the first alternative would negatively impact the historic nature of the wall and lesson its ability to provide needed security and that the second alternative would result in the elimination of required parking. Mr. Rieley noted that the Commission of Architectural Review had approved the proposed plans for reconstruction of the wall.

In response to a question from Mr. Siff, Mr. Rieley indicated that only the portion of the wall which had been damaged by the trees would be replaced. Mr. Rieley stated that open arches had been placed in the lower portion of the wall at the location of the existing trees to prevent future damage to the wall. Mr. Rieley explained that iron grates would be placed within the arches to provide needed security. In response to a question from Mr. Parks, Mr. Riley indicated that the wall in its current condition presented a danger to individuals within the property or those traversing the alley. The Zoning Administrator, Mr. Davidson, explained that the request of the Garden Club of Virginia was considered by the Commission of Architectural Review in April but that for some reason this request had not been forwarded to the zoning office for comment and that the problem was not uncovered until application was made for the building permit. In
response to a question from Ms. Moses-Ciula, Mr. Rieley indicated that the wall was an integral part of the character and fabric of the property.

Speaking in favor, Ms. Margaret Bemiss, a member of the Garden Club of Virginia, explained to the Board that several attempts have been made to patch a crack in the wall and that the problem had become so severe that patching would no longer work.

The Board is satisfied that the property was acquired in good faith and that an exceptional situation exists due to the historic nature of the wall and the need for security; whereby strict application of the wall height requirements unreasonably restricts its use, and the granting of a variance in this case will be in harmony with the intended spirit and purpose of the ordinance and the powers of the Board.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a variance to exceed the maximum permitted height for a wall located within the required ten-foot (10’) rear yard setback and the nonconforming feature requirements be granted to The Garden Club of Virginia for a building permit to rebuild a portion of an existing masonry wall as proposed at the subject premises.

ACTION OF THE BOARD: Granted (5-0)

Vote to Grant
affirmative: Poole, Moses-Ciula, Williams, Siff, Parks
negative: none

CASE NO. 121-03

APPLICANTS: Joseph C. Fowlkes and Mark Kittrell

PREMISES: 407 NORTH ALLEN AVENUE
(Tax Parcel Number W000-0666/004)

SUBJECT: A building permit for a three-story deck and elevator addition to a nonconforming multi-family three (3) unit building

DISAPPROVED by the Zoning Administrator on July 22, 2003, based on Sections 32-300, 32-412.1, 32-412.5(b), 32-800.1 and 32-800.2(1) of the zoning ordinance for the reason that: In an R-6 Single-Family Attached Residential District, the nonconforming use regulations are not met. Expansion of a nonconforming use to
occupy a different or greater number of structures than was occupied by such use at the time it became nonconforming is not permitted.

APPLICATION was filed with the Board on July 21, 2003, based on Section 32-1040.3(5) of the City Code.

APPEARANCES:

For Applicant: Scott Corwin
                Fred Bauder
                Brett Burnam

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicants, Joseph Fowlkes and Mark Kittrell, have requested a special exception for a three-story deck and elevator addition to a nonconforming multi-family three-unit building at 407 North Allen Avenue. Mr. Scott Corwin, representing the applicants, testified that a variance had been applied for to alter a nonconforming building to provide an elevator tower to the rear of the building. Mr. Corwin explained that the proposed alterations will improve building safety and increase handicapped accessibility. Mr. Corwin further explained that the floor area of the building will not be increased by more than 10% and that there will be no increase in the number of dwelling units. Mr. Corwin advised the Board that the required five-foot side yard setback would be maintained. Mr. Corwin also indicated that the long-range plan is to convert the building from apartments to condominiums, and in the short term to reduce the number of bedrooms from 3 to 2. Mr. Corwin explained that they had received the support of the two adjoining neighbors as well as the Fan District Association.

In response to a reading of the applicable special exception criteria by the Chairperson, Ms. Williams, Mr. Corwin responded that the proposed project complied in all respects with the subject special exception conditions.

In response to a question from Mr. Siff, Mr. Corwin stated that the existing stair configuration did not adequately meet the means of ingress and egress.

Speaking in favor, Mr. Bret Burnam testified that he had spoken with the neighbor of 405 North Allen Avenue who was most directly affected by the proposed addition, and that the neighbor had no opposition to the special exception. Mr. Burnam further testified that the Fan District Association supported the requested special exception.
Mr. Fred Bauder of 413 North Allen Avenue testified that as long as the number of people residing within the building is not increased, there will be no negative effect on the neighborhood.

The Board is satisfied that the property was acquired in good faith and that construction of a three-story deck and elevator addition to the nonconforming multi-family three unit building will improve building safety and increase handicapped accessibility. The Board is satisfied that the special exception criteria applicable in this case are met.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the nonconforming use regulations be granted to Joseph C. Fowlkes and Mark Kittrell for a building permit for a three-story deck and elevator addition to a nonconforming multi-family three (3) unit building as proposed at the subject premises.

ACTION OF THE BOARD:  Granted (5-0)

Vote to Grant
affirmative: Poole, Moses-Ciula, Williams, Siff, Parks

negative: none

CASE NO. 122-03

APPLICANT:  4900 Fitzhugh LLC

PREMISES:  4900-4902 FITZHUGH AVENUE
            (Tax Parcel Number W019-0047/012)

SUBJECT:   A sign permit for seven (7) wall signs

DISAPPROVED by the Zoning Administrator on July 21, 2003, based on Sections 32-300, 32-509(2)(a) and 32-505(1) of the zoning ordinance for the reason that: In an R0-2 Residential-Office District, the permitted sign area requirements are not met. The aggregate area of all signs directed toward any street frontage may not exceed twenty (20) square feet for street frontages of one hundred (100) to three hundred (300) feet in length. Along Staples Mill Road (125’ of frontage) twenty (20) square feet is permitted; three (3) wall signs having an aggregate area of 64 (24, 16 and 24) square feet are proposed/exist. Along Fitzhugh Avenue (150’ of frontage) 20 square feet is permitted; three (3) wall signs having an aggregate area
of 32 (16, 8 and 8) square feet are proposed/exist. The area of temporary sale, rental or lease signs may not exceed six (6) square feet along each street frontage. An eighteen (18) square-foot temporary (space available) sign is propose/exists located on the Staples Mill Road frontage.

APPLICATION was filed with the Board on July 21, 2003, based on Section 17.20(b) of the City Charter.

APPEARANCES:

For Applicant: John F. McIntyre  
Frank Feibelman  
Blake Cox

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, 4900 Fitzhugh LLC, has requested a variance for a sign permit for seven wall signs at 4900-4902 Fitzhugh Avenue. Mr. John McIntyre, manager of 4900 Fitzhugh LLC and owner of the building, distributed copies to the Board of plans depicting the current sign configuration. Mr. McIntyre advised the Board that he was withdrawing from the variance request the 18-square-foot "space available" sign located along the Staples Mill Road frontage. Mr. McIntyre also explained that he was reducing the variance request along Staples Mill Road from 64 square feet to 48 square feet. Mr. McIntyre further explained that he is reducing the variance request from 32 square feet to 24 square feet along Fitzhugh Avenue. Mr. McIntyre noted that the variance request as amended includes only the existing signage on the building. Mr. McIntyre explained that being that Staples Mill Road was more heavily traveled than Fitzhugh Avenue, it was critical that the subject businesses have sufficient identification along Staples Mill Road. Mr. McIntyre noted that the variance requested along Fitzhugh Avenue only reflected four square feet and was intended to accommodate existing signs only. It was noted that no other signage would be placed on the remaining awning along Fitzhugh Avenue.

Speaking in favor, Mr. Blake Cox, owner of Mortgage South Inc., testified that it was critical for his business to have suitable identification along Staples Mill Road.

The Board is satisfied that the property was acquired in good faith and that an exceptional situation exists due to a need to provide sufficient business identification; whereby strict application of the permitted sign area requirements unreasonably restricts its use, and the granting of a variance in this case will be in
harmony with the intended spirit and purpose of the ordinance and the powers of the Board.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a variance from the permitted sign area requirements be granted to 4900 Fitzhugh, LLC for a sign permit for seven (7) wall signs as proposed at the subject premises, subject to the condition that the total of all signage along Staples Mill Road not exceed 48 sq. ft. in size and that the total of all signage along Fitzhugh Avenue not exceed 24 sq. ft. in size.

ACTION OF THE BOARD: Granted Conditionally (5-0)

Vote to Grant Conditionally
affirmative: Poole, Moses-Ciula, Williams, Siff, Parks
negative: none

CASE NO. 123-03

APPLICANT: Anne Wood

PREMISES: 6107 PATTERSON AVENUE
(Tax Parcel Number W021-0160/019)

SUBJECT: A certificate of occupancy for a lot split to create two (2) lots of record

DISAPPROVED by the Zoning Administrator on July 22, 2003, based on Sections 32-300, 32-408.4 and 32-710.1 of the zoning ordinance for the reason that: In an R-4 Single-Family Residential District, the lot width, lot area, and parking requirements are not met. A lot width of not less than sixty feet (60’) is required; a lot width of 52.89’ is proposed. A lot area of not less than seven thousand five hundred (7,500) square feet is required; a lot area of 6,072.6 square feet is proposed. One (1) off-street parking space is required; no off-street parking spaces are proposed.

APPLICATION was filed with the Board on July 21, 2003, based on Section 17.20(b) of the City Charter.

APPEARANCES:

For Applicant: John Helfrich
Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Anne Wood, has requested a variance for a lot split to create two lots of record at 6107 Patterson Avenue. Mr. John Helfrich, representing Mrs. Anne Wood, testified that Mrs. Wood is the owner of 6107 Patterson Avenue which Mr. Helfrich intends to purchase. Mr. Helfrich explained that his purchase contract is subject to approval of the requested variances. Mr. Helfrich explained that he is a resident of the neighborhood and had lived there for 12 years. Mr. Helfrich stated that of the 13 surrounding neighbors which had been contacted, 11 neighbors supported the requested variances and there was no opposition. Mr. Helfrich explained that a variance was being sought to place a second house on a portion of lot 19. Mr. Helfrich advised the Board that lot 19 had been divided in the early 1960s and a portion of it was used for a tennis court which has since fallen into disuse. Mr. Helfrich explained that the property represents an excellent opportunity to provide an infill house which will cost approximately $200,000. Mr. Helfrich stated that the proposed house would enhance and not detract from the value of 6107 Patterson Avenue. Mr. Helfrich stated that he would be the purchaser of 6107 Patterson Avenue and as such had a direct interest in the development of lot 19. Mr. Helfrich explained that it was not possible to acquire additional footage to increase the size of lot 19.

In response to a question from Mr. Poole, Mr. Helfrich stated that the side property line of lot 19 was adjusted to ensure that a setback violation was not created for 6107 Patterson Avenue. In response to a question from Mr. Poole, Mr. Helfrich stated that he would retain control over construction of the house on lot 19. In response to a question from Ms. Moses-Ciula, Mr. Helfrich stated that he was almost certain that 6107 Patterson Avenue would become his place of residence. Mr. Helfrich explained that 6107 Patterson Avenue was in a deteriorated condition and that the income generated by the development of lot 19 was critical to the renovation of 6107 Patterson Avenue. In response to a question from Ms. Moses-Ciula, Mr. Helfrich stated that the rear of lot 19 was landlocked. Mr. Helfrich further stated that he had consulted with Mr. Ralph Rudy of the City's Traffic Engineering office who had advised against creating a curb cut along Patterson Avenue for safety reasons. Mr. Helfrich advised the Board that Mr. Rudy had noted that there was ample on-street parking based on the fact that the majority of the houses in the immediate vicinity already had off-street parking. Mr. Helfrich also indicated that creation of an off-street parking space and a driveway would result in the removal of at least one of the very large oak trees located on the property. In response to a question from Mr. Siff, Mr. Helfrich assured the Board that he would seek no further variances for construction of the house on lot 19. Mr. Helfrich provided the Board with a plat showing that the size of lot 19 was consistent with other lots in the neighborhood.
Mr. Helfrich stated that lot 19 was always intended to exist as a separate lot and included its own sewer connection.

Mr. Poole advised the Board that he had been an acquaintance of Mr. Helfrich for a number of years but had no business or attorney client relationship with Mr. Helfrich.

The Board is satisfied that the property was acquired in good faith and that an exceptional situation exists due to the fact that the Board has determined that lot 19 was always intended to exist as a separate lot, that development of lot 19 is necessary to facilitate renovation of 6107 Patterson Avenue and that approval of the parking variance will eliminate a potential traffic hazard; whereby strict application of the lot width, lot area, and parking requirements unreasonably restricts its use, and the granting of a variance in this case will be in harmony with the intended spirit and purpose of the ordinance and the powers of the Board.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a variance from the lot width, lot area, and parking requirements be granted to Anne Wood for a certificate of occupancy for a lot split to create two (2) lots of record as proposed at the subject premises.

ACTION OF THE BOARD: Granted (5-0)

Vote to Grant
affirmative: Poole, Moses-Ciula, Williams, Siff, Parks
negative: none

CASE NO. 124-03

APPLICANTS: Lee and Paul Camp, III

PREMISES: 5400 DITCHLEY ROAD
(Tax Parcel Number W020-0104/007)

SUBJECT: A building permit to construct a second-story addition on the existing single-family dwelling

DISAPPROVED by the Zoning Administrator on July 22, 2003, based on Sections 32-300, 32-630.1(1) and 32-810.1 of the zoning ordinance for the reason that: In an R-4 Single-Family Residential District, the street side yard (setback) and nonconforming feature requirements are not met. A street side yard setback of ten
feet (10’) is required; a street side yard setback of seven and one-half feet (7½’)
exists/is proposed. Vertical expansion of a nonconforming feature is not
permitted.

APPLICATION was filed with the Board on July 21, 2003, based on Section 17.20(b) of
the City Charter.

APPEARANCES:

For Applicant: Frederic H. Cox, Jr.
Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in
this case that the applicants, Lee and Paul Camp, III, have requested a variance
for a building permit to construct a second-story edition on the existing single-
family dwelling at 5400 Ditchley Road. Mr. Fred Cox, representing Lee and Paul
Camp, testified his clients were seeking a side yard variance to construct a
second-story addition on the existing single-family dwelling. Mr. Cox stated that
the house was originally constructed around World War II. Mr. Cox further
testified that the zoning ordinance required a 10 ft. street side yard setback along
Matoaka Road and a variance was being requested to permit vertical expansion
for a second-story to within 7 1/2 feet of the property line, which would not result
in any further expansion into the side yard. Mr. Cox stated that there were
approximately 10 lots located on either side of Matoaka Road between Grove
Avenue and Patterson Avenue and that the majority of these lots had street side
yards along Matoaka Road. Mr. Cox stated that his clients’ hardship was based
on a need to provide a handicapped elevator and handicapped toilets on each
floor. Mr. Cox further stated that the setback proposed for 5400 Ditchley Road
was consistent with other side yard setbacks along Matoaka Road. Mr. Cox
testified that given the physical arrangement of the house, there was no other
location which could accommodate the handicapped elevator.

In response to a question from Ms. Moses-Ciula, Mr. Cox stated that if his clients
were required to meet the established setbacks that it would present architectural
problems insofar as the loadbearing walls were concerned and would negatively
affect the appearance of the house.

The Board is satisfied that the property was acquired in good faith and that an
exceptional situation exists due to the need to provide a handicapped elevator and
handicapped toilets; whereby strict application of the street side yard setback and
nonconforming feature requirements unreasonably restricts its use, and the
granting of a variance in this case will be in harmony with the intended spirit and
purpose of the ordinance and the powers of the Board.
RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a variance from the street side yard setback and nonconforming feature requirements be granted to Lee and Paul Camp, III for a building permit to construct a second-story addition on the existing single-family dwelling as proposed at the subject premises.

ACTION OF THE BOARD: Granted (5-0)

Vote to Grant
affirmative: Poole, Moses-Ciula, Williams, Siff, Parks
negative: none

-----------------------------

In response to a question from the Chairperson, Ms. Williams, the Secretary advised the Board that based on the October legal advertisement that the cost per case had been reduced from approximately $200 to $100. The Secretary indicated that based on the current caseload this could reduce advertising costs by as much as $15,000 over the course of a year.

-----------------------------

The meeting was adjourned at 3:45 p.m.

-----------------------------

__________________________ Chairman

__________________________ Secretary