On Wednesday, October 1, 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 September 17 and 24, 2003 and written notice having been sent to interested parties.

Members Present: Jean Thompson Williams, Chairman
James H. Parks, III, Vice-Chairman
Ann W. Cox
Alan R. Siff

Member Absent: Rodney M. Poole

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. 125-03

APPLICANT: Jewels LLC

PREMISES: 612 NORTH 23RD STREET
(Tax Parcel Number E000-0292/010)

SUBJECT: A building permit to convert a single-family attached dwelling to a two-family attached dwelling

DISAPPROVED by the Zoning Administrator on July 22, 2003, based on Sections 32-300, 32-418.4(1), 32-413.5(4) and 32-710.1(2) of the zoning ordinance for the reason that: In an R-53 Multi-Family Residential District, the lot area, lot width and parking requirements are not met. The lot area, lot width and parking requirements are not met. A lot area of four thousand four hundred (4,400) square feet is required; two thousand (2,000) square feet exists/is proposed. A lot width of not less than thirty-six feet (36’) is required; a lot width of twenty-four feet...
APPLICATION was filed with the Board on July 21, 2003, based on Section 17.20(b) of the City Charter.

APPEARANCES:

For Applicant:  
Tom O’Kelly
Julie O’Kelly

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Jewels LLC, has requested a variance to convert a single-family attached dwelling to a two-family attached dwelling at 612 North 23rd Street. Mr. Thomas O’Kelly testified that he and his wife first became interested in renovation after attending an Alliance to Conserve Old Richmond Neighborhoods workshop. Mr. O’Kelly explained that the first house they renovated was 614 1/2 North 23rd Street which is their present residence. Mr. O’Kelly presented 18 letters of support from surrounding neighbors. Mr. O’Kelly indicated that he had worked in consort with an ACORN and various other City organizations. Mr. O’Kelly also presented a letter of support from Vice Mayor Delores McQuinn. Mr. O’Kelly explained that he had met with representatives from Style Magazine, the Federal Reserve Bank, Richmond Times-Dispatch, ACORN and WTVR news to share his renovation experiences. Mr. O’Kelly explained that he was working with the Department of Community Development’s Housing and Neighborhood Preservation Division to preserve other older homes. Mr. O’Kelly indicated that he acquired 614 North 23rd Street which is attached to 612 North 23rd Street approximately three years ago. Mr. O’Kelly indicated that due to the roof and adjoining wall structures, it was necessary to renovate the entire building at one time. Mr. O’Kelly stated that renovation of 612 North 23rd Street was not viable economically as a single-family dwelling. Mr. O’Kelly advised the Board that the estimated purchase and renovation of 612 North 23rd Street would be approximately $122,000. Mr. O’Kelly stated that an investment of $122,000@6% interest for 20 years including taxes and insurance would yield a monthly payment of approximately $970 which far exceeds typical neighborhood rents of $725-$800 per month. Mr. O’Kelly indicated that if the subject property were converted to a two-family dwelling, total renovation costs would be approximately $134,000. Mr. O’Kelly stated that currently one-bedroom apartments in the neighborhood are renting for approximately $600 per month ($1200 for both units) which would represent a small but positive cash flow. Mr. O’Kelly advised the Board that one parking
space will be provided on the premises and that there is ample off-street parking on North 23rd Street.

In response to a question from Ms. Cox, Mr. O’Kelly indicated that there is a mixture of single and two-family dwellings within the surrounding neighborhood. In response to a question from Mr. Siff, Mr. O’Kelly indicated that the proposed units would have a single bath. Mr. O’Kelly further indicated that he was not certain as to whether the structure was built as a single or two-family dwelling. In Mr. O’Kelly's opinion, the structure appeared to be laid out as if it were at one time two units.

The Board is satisfied that the property was acquired in good faith and that an exceptional situation exists due to an economic hardship relative to renovation of the subject property for a single-family dwelling; whereby strict application of the lot area, lot width 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 area, lot width and parking requirements be granted to Jewels LLC for a building permit to convert a single-family attached dwelling to a two-family attached dwelling as proposed at the subject premises.

ACTION OF THE BOARD: Granted (4-0)

Vote to Grant
affirmative: Cox, Williams, Siff, parks
negative: none

CASE NO. 126-03

APPLICANT: Michael O. Hardy

PREMISES: 6714 STUART AVENUE
(Tax Parcel Number W021-0151/025)

SUBJECT: A permit to build an addition to a single-family dwelling

DISAPPROVED by the Zoning Administrator on May 22, 2003, based on Sections 32-300, 32-405.8(2) and 32-810.1 of the zoning ordinance for the reason that: In an
R-6 Single-Family Attached Residential District, the side yard setback and nonconforming feature requirements are not met. Side yards of not less than six feet (6’) are required; a nonconforming side yard of 4.6’ exists and a 2.6’+ side yard is proposed along the eastern property line. An increase in the extent of a nonconforming feature is not permitted. A side yard of 5’+ is proposed along the western property line.

APPLICATION was filed with the Board on May 19, 2003, based on Section 17.20(b) of the City Charter.

APPEARANCES:

For Applicant: Michael Hardy
Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Michael Hardy, has requested a variance to build an addition to a single-family dwelling at 6714 Stuart Avenue. Mr. Hardy explained that the variance was being requested for the purpose of constructing additional floor space to accommodate his growing family. Mr. Hardy indicated that when he purchased the subject property it was deteriorated, and he and his wife had undertaken a major renovation approximately two years ago through the rebuilding of the back half of the house. Mr. Hardy indicated that due to the irregular shape of the lot, it was not possible to construct an addition without encroaching upon the required setbacks. Mr. Hardy advised the Board that he had discussed with his neighbors the proposed construction and that there was no opposition. Mr. Hardy stated that the proposed construction would be of high quality and sympathetic to the prevailing architecture of the neighborhood.

In response to a question from Mr. Siff, Mr. Hardy indicated that the cantilevered portion of the proposed addition will be adjacent to the neighbor's rear yard in which is located a number of trees. Mr. Hardy indicated that there would be no plumbing facilities within the garage.

The Board is satisfied that the property was acquired in good faith and that an exceptional situation exists due to the irregular shaped lot; 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 Michael O. Hardy for a permit to build an addition to a single-family dwelling as proposed at the subject premises.

ACTION OF THE BOARD: Granted (4-0)

Vote to Grant
affirmative: Cox, Williams, Siff, Parks
negative: none

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CASE NO. 127-03

APPLICANT: R&J Development, LLC

PREMISES: 209 EAST CLAY STREET
(Tax Parcel Number N000-0038/005)

SUBJECT: A permit to authorize use of the structure as a single-family dwelling

DISAPPROVED by the Zoning Administrator on August 21, 2003, based on Sections 32-300, 32-436.1 and 32-800.4 of the zoning ordinance for the reason that: In a B-2 Community Business District, the proposed use is not permitted as the previous nonconforming use rights have expired. Single-family dwellings are not a permitted principal use in the B-2 (Community Business) District. 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 July 24, 2003, based on Section 32-1040.3(6) of the City Code.

APPEARANCES:

For Applicant: Rabb Sabbakhan
Against Applicant: done

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, R&J Development LLC, is requesting a special
exception to authorize use of a structure as a single-family dwelling at 209 East Clay Street. Mr. Siff advised the Board that he would be abstaining from voting on this case due to the fact that this property was included within the Broad Street Plan. Mr. Rabb Sabbakhan indicated that he purchased the property in 1998 and applied for a building permit for commercial renovations in 1999 which had not as yet been finalized. Mr. Sabbakhan explained that as part of the commercial renovation, parking had been leased behind the building but that this lease was subsequently lost when the property changed hands. Mr. Sabbakhan indicated that attempts have been made to sell the building for commercial purposes but that he had received no bona fide offers in the previous four years. Mr. Sabbakhan explained that the property needed to be able to generate some reasonable level of income. Mr. Sabbakhan stated that after consulting with the City, he determined that the best course of action was to seek special exception approval to reinstitute single-family usage.

In response to a question from the Chairperson, Ms. Williams, Mr. Sabbakhan testified that conversion of the building to a single-family dwelling met all of the applicable special exception criteria. In response to a question from Ms. Cox, Mr. Sabbakhan indicated that there was a single-family dwelling on one side of his property and a doctor's office on the other side.

The Board is satisfied that the property was acquired in good faith and that the building cannot reasonably be devoted to a conforming use. 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 proposed use requirement, which is not permitted as the previous use rights have expired, be granted to R&J Development, LLC for a permit to authorize use of the structure as a single-family dwelling as proposed at the subject premises.

ACTION OF THE BOARD: Granted (3-0-1 abstention)

Vote to Grant
affirmative: Cox, Williams, Parks
negative: none
abstention: Siff

CASE NO. 128-03

APPLICANT: Robert M. Tipton
PREMISES: 8554 OLD SPRING ROAD  
(Tax Parcel Number C001-0214/024)

SUBJECT: A building permit to construct a garage (26’x40’) accessory to a single-family detached dwelling

DISAPPROVED by the Zoning Administrator on July 31, 2003, based on Sections 32-300 and 32-630.2(2)(b) of the zoning ordinance for the reason that: In an R-2 Single-Family Residential District, the front yard setback requirement is not met along Southampton Road. A front yard of not less than one hundred feet (100’) is required; a front yard of 86.0 feet + is proposed.

APPLICATION was filed with the Board on July 31, 2003, based on Section 17.20(b) of the City Charter.

APPEARANCES:
For Applicant: Robert M. Tipton
Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Robert M. Tipton, has requested a variance to construct a garage accessory to a single-family detached dwelling at 8554 Old Spring Road. Mr. Tipton testified that he was requesting a setback variance based on the unusual topography of his property. Mr. Tipton referred to a plan which identified a drainage ditch which traverses the property. Mr. Tipton indicated that the property slopes off severely from the driveway in the direction of the drainage ditch. Mr. Tipton also provided the Board with a series of pictures taken from different vantage points on his property which supported the contention that the proposed site for the garage was the only viable location given the topographical problems. Mr. Tipton indicated that the proposed garage would be comparable to other garages in the neighborhood. Mr. Tipton also indicated that the impact of the proposed garage would be minimized by virtue of existing trees on his property and adjoining properties.

In response to a question from Ms. Cox, Mr. Tipton indicated that a portion of the garage would be used for a woodworking shop which would be for personal use only and that there will be no plumbing included within the garage.

The Board is satisfied that the property was acquired in good faith and that an exceptional situation exists due to the usual topographical conditions; whereby strict application of the front yard setback 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 front yard setback requirement along Southampton Road be granted to Robert M. Tipton for a building permit to construct a garage (26’x40’) accessory to a single-family detached dwelling as proposed at the subject premises.

ACTION OF THE BOARD: Granted (4-0)

Vote to Grant
affirmative: Cox, Williams, Siff, Parks
negative: none

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CASE NO. 129-03

APPLICANT: MHH Builders, Inc.

PREMISES: 900 DUNBAR STREET
(Tax Parcel Number W020-0077/023)

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

DISAPPROVED by the Zoning Administrator on August 1, 2003, based on Sections 32-300, 32-410.5(1) and 630.1(1)(a) of the zoning ordinance for the reason that: In an R-5 Single-Family Residential District, the front yard setback requirement is not met along Snowden Lane. A twenty-five-foot (25’) front yard is required; eleven feet (11’) ± is proposed.

APPLICATION was filed with the Board on July 31, 2003, based on Section 17.20(b) of the City Charter.

APPEARANCES:

For Applicant: Jeff Paris
Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, MHH Builders Inc., has requested a variance to
construct a single-family detached dwelling at 900 Dunbar Street. Jeff Paris of MHH Builders Inc. stated that they had recently purchased six lots, five of which face Snowden Lane. Mr. Paris indicated that the subject lot is the last one existing in the block to be developed on Dunbar Street. Mr. Paris stated that the lot is located at the corner of Dunbar Street and Snowden Lane. Mr. Paris referred to a plat of the property showing the subject lot to be 44 1/2 feet wide, which Mr. Paris stated was of insufficient width to construct a reasonable sized dwelling. Mr. Paris explained that given the front yard requirement along Snowden Lane and the corresponding side yard setback, there was only approximately 15 ft. of developable lot width. Mr. Paris advised the Board that he has a pending contract for construction of the subject single-family dwelling.

In response to a question from Ms. Cox, Mr. Paris indicated that the house will be approximately 1200 square feet in size and that parking will be available on site. Mr. Paris indicated that he has built a mix of two-story and ranch style houses along Snowden Lane.

The Board is satisfied that the property was acquired in good faith and that an exceptional situation exists due to the lack of buildable lot area; whereby strict application of the front yard setback 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 front yard setback requirement along Snowden Lane be granted to MHH Builders, Inc. for a building permit to construct a single-family detached dwelling as proposed at the subject premises.

ACTION OF THE BOARD: Granted (4-0)

Vote to Grant
affirmative: Cox, Williams, Siff, Parks

negative: none

CASE NO. 130-03

APPLICANT: Eck Enterprises, Inc.
PREMISES: 1805 WEST CARY STREET
(Tax Parcel Number W000-0808/017)

SUBJECT: A building permit to renovate an existing vacant building for use
as a single-family attached dwelling

DISAPPROVED by the Zoning Administrator on August 18, 2003, based on Sections 32-300, 32-438.1 and 32-800.4 of the zoning ordinance for the reason that: In a B-3 General Business District, the proposed dwelling use is not permitted as previous nonconforming use rights have expired. Dwelling units are permitted in B-Districts only when located to the rear of or above other permitted principal uses; the entire building will be devoted to the dwelling use. 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 7, 2003, based on Section 32-1040.3(6) of the City Code.

APPEARANCES:

For Applicant: Bruce Boykin
Leigh Hulcher

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Eck Enterprises Inc., has requested a special exception to renovate an existing vacant building for use as a single-family attached dwelling at 1805 West Cary Street. Mr. Siff advised the Board that the subject property was located within the West Cary Street redevelopment and rehabilitation area for which he helped prepare the plans. Mr. Siff further advised the Board that he did not consider this to be a conflict of interest. Mr. Bruce Boykin, representing Eck Enterprises, stated that he was appearing before the Board to request a special exception. Mr. Boykin indicated that the property was originally developed as a single-family dwelling but had remained vacant for more than two years. Mr. Boykin stated that the Cary Street Plan calls for the area to be rezoned from B-3 General Business District to R-7 Single and Two-Family Urban Residential District.

In response to a question from the Chairperson, Ms. Williams, Mr. Boykin testified that conversion of the building to a single-family dwelling met all of the applicable special exception criteria.
Speaking in favor, Ms. Leigh Hulcher testified that the Fan District Association supported the requested special exception.

The Board is satisfied that the property was acquired in good faith and that the building cannot reasonably be devoted to a conforming use. 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 proposed dwelling use requirement, which is not permitted as previous nonconforming use rights have expired, be granted to Eck Enterprises, Inc. for a building permit to renovate an existing vacant building for use as a single-family attached dwelling as proposed at the subject premises.

ACTION OF THE BOARD: Granted (4-0)

Vote to Grant
affirmative: Cox, Williams, Siff, Parks
negative: none

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CASE NO. 131-03

APPLICANTS: Matt and Nancy Thompson
PREMISES: 6416 ROSELAWN ROAD
(Tax Parcel Number W021-0348/020)
SUBJECT: A building permit to enclose a portion of the first floor of an existing two-story porch

DISAPPROVED by the Zoning Administrator on August 22, 2003, based on Sections 32-300, 32-402.5(2) and 32-830 of the zoning ordinance for the reason that: In an R-1 Single-Family Residential District, the side yard setback requirement was/is not met. A side yard of not less than ten feet (10’) was/is required; a side yard of 1.13 feet exists/is proposed for a previously constructed porch and a side yard of 8.2 feet is proposed for that portion of the porch to be enclosed.

APPLICATION was filed with the Board on August 8, 2003, based on Section 17.20(b) of the City Charter.
APPEARANCES:

For Applicant: Matthew Thompson

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicants, Matt and Nancy Thompson, have requested a variance to enclose a portion of the first floor of an existing two-story porch at 6416 Roselawn Road. Mr. Thompson stated that he and his wife were planning an addition to the rear of the main floor of their house. Mr. Thompson further indicated that the proposed addition would consist of an enclosure of a portion of an existing porch and was needed to provide additional storage space. Mr. Thompson advised the Board that he had spoken with the neighbor adjacent to the proposed addition and that the neighbor had voiced no objection.

In response to a question from Ms. Cox, Mr. Thompson stated that the existing porch does not receive a lot of use and that enclosing a portion of the porch would provide a needed "mud" room and in so doing free up some kitchen space and improve the internal flow 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 additional living space; whereby strict application of the side yard setback 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 requirement be granted to Matt and Nancy Thompson for a building permit to enclose a portion of the first floor of an existing two-story porch as proposed at the subject premises.

ACTION OF THE BOARD: Granted (4-0)

Vote to Grant
affirmative: Cox, Williams, Siff, Parks

negative: none

CASE NO. 132-03
APPLICANTS: Larry Jennings and Rosanna Laviano

PREMISES: 2322 FLOYD AVENUE
(Tax Parcel Number W000-1039/028)

SUBJECT: A building permit to construct a fence and a wall with a roll-up garage door, accessory to a two-family detached dwelling, and increase the height of an existing fence

DISAPPROVED by the Zoning Administrator on August 18, 2003, based on Sections 32-300, 32-412.5(1)(a), 32-630.1(1)(a), 32-630.9(2) and 32-810.1 of the zoning ordinance for the reason that: In an R-6 Single-Family Attached Residential District, the front yard setback, fence height regulations and nonconforming feature requirements are not met. Fences and walls within required side yards shall not exceed six and one-half feet (6½') in height with columns and posts not exceeding eight feet (8’) in height; a fence and a wall with heights of eight feet (8’) and columns and posts with heights of eight and one-half feet (8½’) are proposed in the side yard along the eastern property line. Fences and walls within required front yards shall not exceed four feet (4’) in height with columns and posts not exceeding five and one-half feet (5½’) in height; a wall with a height of eight feet (8”) and columns with heights of eight and one-half feet (8½”) are proposed in the front yard along Stafford Street. A fence with a height of six and one-half feet (6½’) and posts with heights of eight and one-half feet (8½’) exist in the front yard along Stafford Street; an increase in fence height to eight feet (8’) is proposed. Vertical expansion of a nonconforming feature is not permitted.

APPLICATION was filed with the Board on August 18, 2003, based on Section 17.20(b) of the City Charter.

APPEARANCES:

For Applicant: Larry Jennings
Rosanna Laviano
Leigh Hulcher

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicants, Larry Jennings and Rosanna Laviano, have requested a variance to construct a fence and a wall with a roll up garage door, accessory to a two-family detached dwelling, and increase the height of an existing fence at 2322 Floyd Avenue. Mr. Jennings explained that front yard setback was being requested to create a secured parking area for the existing duplex. Mr. Jennings stated that the duplex was built in 1912. Mr. Jennings explained that each
dwelling is a two-bedroom one-bath unit with approximately 1850 square feet of floor area. Mr. Jennings stated that the property was purchased in April of 2003 and required extensive renovation. Mr. Jennings stated that he expected to attract retired couples or young professionals as prospective tenants. Mr. Jennings explained that the variance was required generally for security purposes and specifically to provide secured parking. Mr. Jennings stated that the proposed variance would permit construction of a roll up garage door adjacent to the rear alley which would be anchored by 8 1/2 foot cinderblock columns. Mr. Jennings stated that similar columns would be constructed at the corresponding property lines of the lot with 6 1/2 foot cinderblock walls between the columns. Mr. Jennings explained that there is an existing privacy fence along the Stafford Street property line. Mr. Jennings indicated that an existing chain-link fence would be replaced with a privacy fence and that the privacy fence would include latticework for a total height of eight feet. Mr. Jennings indicated that they had sent out letters notifying the adjoining property owners of their proposed plans.

Speaking in favor, Ms. Leigh Hulcher advised the Board that the Fan District Association supported the applicants request.

The Board is satisfied that the property was acquired in good faith and that an exceptional situation exists due to the necessity of providing needed security; whereby strict application of the front yard setback, fence height regulations 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 front yard setback, fence height regulations and nonconforming feature requirements be granted to Larry Jennings and Rosanna Laviano for a building permit to construct a fence and a wall with a roll-up garage door, accessory to a two-family detached dwelling, and increase the height of an existing fence as proposed at the subject premises.

ACTION OF THE BOARD: Granted (4-0)

Vote to Grant
affirmative: Cox, Williams, Siff, Parks
negative: none

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CASE NO. 133-03

APPLICANT: Christadelphian Chapel

PREMISES: 3005 ELLWOOD AVENUE
(Tax Parcel Number W000-1358/012)

SUBJECT: A building permit to add an elevator to an existing church building

DISAPPROVED by the Zoning Administrator on August 18, 2003, based on Sections 32-300, 32-416.5(2)(b) and 32-810.1 of the zoning ordinance for the reason that: In an R-48 Multi-Family Residential District, the side yard setback and nonconforming feature requirements are not met. A side yard of not less than fifteen feet (15’) is required; a nonconforming side yard of 11.11’ exists and a 3.55’ yard is proposed. An increase in the degree of a nonconforming feature is not permitted.

APPLICATION was filed with the Board on August 18, 2003, based on Section 17.20(b) of the City Charter.

APPEARANCES:

For Applicant: David W. McWhirt

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Christadelphian Chapel, has requested a variance to add an elevator to an existing church building at 3005 Ellwood Avenue. Mr. David McWhirt of DLM Architects explained that he was the architect who was responsible for the proposed renovations. Mr. McWhirt indicated that the building was a two-story brick structure with double frontage along Ellwood Avenue and Sheppard Street. Mr. McWhirt explained that access to the building was by way of seven steps of 4 feet 10 inches in height. The basement level is approximately 9 feet 2 inches below the first floor which is accessed by an interior stairwell. Mr. McWhirt explained that the elevator is needed to provide improved vertical access for the church's elderly members. Mr. McWhirt indicated that the elevator would be located within the existing side yard which is approximately 11 feet 4 inches in width. Mr. McWhirt further indicated that the minimum dimensions for an elevator would require encroachment into the side yard setback.

In response to a question from Mr. Parks, Mr. McWhirt indicated that the elevator was needed to permit the elderly membership to navigate between the street level
and the first floor, as well as permitting vertical access between the basement and second floor. In response to a question from Ms. Cox, Mr. McWhirt explained that the elevator would have an outside door that will be secured with a keypad. In response to a question from Ms. Cox, Mr. McWhirt indicated that a residential dwelling was located to the west of the church's property. Mr. McWhirt explained that the interior layout of the church requires placement of the elevator in its proposed location. In response to a question from the Chairperson Ms. Williams, Mr. McWhirt indicated that the architecture of the elevator would mimic that of the church.

The Board is satisfied that the property was acquired in good faith and that an exceptional situation exists due to a need to provide vertical access for the church's elderly membership; 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 Christadelphian Chapel for a building permit to add an elevator to an existing church building as proposed at the subject premises.

ACTION OF THE BOARD: Granted (4-0)

Vote to Grant
affirmative: Cox, Williams, Siff, Parks

negative: none

CASE NO. 134-03

APPLICANT: Eunice Evans

PREMISES: 1108 MYRTLE STREET
(Tax Parcel Number N000-0802/001)

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

DISAPPROVED by the Zoning Administrator on August 19, 2003, based on Sections 32-300, 32-630.1(1)(a), 32-630.2(2)(b) and 32-810.1 of the zoning ordinance for the
reason that: In an R-5 Single-Family Residential District, the front yard setback and nonconforming feature requirements are not met. As per the 1 in 4 Rule, a front yard of seventy-five feet (75’) + is required along 1st Avenue; a nonconforming front yard of 12.68’ exists/14.32’ is proposed.

APPLICATION was filed with the Board on August 18, 2003, based on Section 17.20(b) of the City Charter.

APPEARANCES:

For Applicant: Eunice Evans
Marvin Harr

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Eunice Evans, has requested a variance to construct a one-story addition to a single-family detached dwelling at 1108 Myrtle Street. Ms. Evans explained that her family consisted of herself, her daughter and her daughter's two sons. Ms. Evans stated that with only a 1200 square foot size house, additional living space was needed for a bedroom, kitchen and deck to accommodate her family. Ms. Evans explained that because of the setback of the dwelling to the north of her property, if she were to attempt to construct her house under the current zoning ordinance it could not be accomplished without approval of a variance from the Board.

The Board is satisfied that the property was acquired in good faith and that an exceptional situation exists due to the hardship represented by application of the 1 in 4 Rule and a need to provide additional living space; whereby strict application of the front 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 front yard setback and nonconforming feature requirements be granted to Eunice Evans for a building permit to construct a one-story addition to a single-family detached dwelling as proposed at the subject premises.

ACTION OF THE BOARD: Granted (4-0)

Vote to Grant affirmative: Cox, Williams, Siff, Parks
CASE NO. 135-03

APPLICANT:  Stacey E. Sprenkle

PREMISES:  4112 WYTHER AVENUE  
(Tax Parcel Number W000-1878/024)

SUBJECT:  A building permit to construct a 2nd floor addition and to enclose an existing screen porch

DISAPPROVED by the Zoning Administrator on August 18, 2003, based on Sections 32-300, 32-410.5(2) and 32-810.1 of the zoning ordinance for the reason that:  In an R-5 Single-Family Residential District, the side yard setback and nonconforming feature requirements are not met.  A side yard of not less than five feet (5’) is required; a nonconforming side yard of four feet (4’) exists/is proposed.  An increase in the degree or extent of a nonconforming feature is not permitted.

APPLICATION was filed with the Board on August 18, 2003, based on Section 17.20(b) of the City Charter.

APPEARANCES:

For Applicant:  J. T. Sprenkle

Against Applicant:  none

FINDINGS OF FACT:  The Board finds from sworn testimony and exhibits offered in this case that the applicant, Stacey Sprenkle, has requested a variance to construct a second floor addition to enclose an existing screened porch at 4112 Wythe Avenue.  Mr. J. T. Sprenkle testified that he was representing his daughter Stacey Sprenkle and was the general contractor for the proposed renovations.  Mr. Sprenkle explained that his daughter was attempting to enhance the value of her property by adding a second story and enclosing an existing porch.  Mr. Sprenkle further explained that the existing setback of the structure was four feet and that the required setback was five feet.  Mr. Sprenkle explained that the next-door neighbors had been contacted and supported the requested variance.  Mr. Sprenkle stated that the current bathroom for the master bedroom was extremely small and that additional living space was needed to provide a normal sized bathroom, dressing room and closet.
The Board is satisfied that the property was acquired in good faith and that an exceptional situation exists due to the need to provide additional living space; 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 Stacey E. Sprenkle for a building permit to construct a 2nd floor addition and to enclose an existing screened porch as proposed at the subject premises.

ACTION OF THE BOARD: Granted (4-0)

Vote to Grant
affirmative: Cox, Williams, Siff, Parks

negative: none

CASE NO. 136-03

APPLICANTS: C.S. Brent Winn, Jr. and John Budwell

PREMISES: 2 LEXINGTON ROAD
(Tax Parcel Number W020-0193/004)

SUBJECT: A permit to renovate and construct an addition to a single-family dwelling

DISAPPROVED by the Zoning Administrator on August 29, 2003, based on Sections 32-300, 32-630.1(1)(a) and 32-630.2(2)(a) of the zoning ordinance for the reason that: In an R-1 Single-Family Residential District, the front yard setback requirement is not met along the sixteen-foot (16’) private road frontage. A 28.2-foot front yard setback, as established by the setback of the adjacent house at 5006 Cary Street Road, is required; a twenty-two (22) foot + yard is proposed.

APPLICATION was filed with the Board on August 29, 2003, based on Section 17.20(b) of the City Charter.

APPEARANCES:
For Applicant: Brent Winn

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicants, Brent Winn Jr. and John Budwell, have requested a variance to renovate and construct an addition to a single-family dwelling at 2 Lexington Road. Mr. Brent Winn testified that he was requesting a variance to one of the three existing front yards applicable to his property. Mr. Winn explained that the property is located at the corner of Albermarle Avenue and Lexington Road. Mr. Winn further explained that the property is bounded on the south by a sixteen-foot private lane which constitutes the third of the three front yards. Mr. Winn stated that he and his partner, Mr. John Budwell, purchased the property in June of 2003. Mr. Winn explained that the structure is very small when compared to other houses in the neighborhood. Mr. Winn stated that the addition could not be put on the north side of the house for structural reasons. Mr. Winn indicated that it was not possible to extend the house to the rear due to floor plan constraints. Mr. Winn explained that the south side of the lot adjacent to the private lane is the only reasonable location for expansion of the dwelling. Mr. Winn further explained that the proposed addition would extend approximately 6.2 feet into the required front yard setback along the private lane which would result in a twenty-two foot setback being provided. Mr. Winn advised the Board that the neighborhood was platted prior to annexation and imposition of the City's zoning regulations. Mr. Winn indicated that several structures within the neighborhood exhibited nonconforming setbacks. Mr. Winn advised the Board that there was no neighborhood opposition to the proposed renovations and submitted copies of signed petitions supporting the requested variance.

The Board is satisfied that the property was acquired in good faith and that an exceptional situation exists due to limited developable area of the lot imposed by three front yards; whereby strict application of the front yard setback 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 front yard setback requirement along the sixteen-foot (16’) private road frontage be granted to C.S. Brent, Winn Jr. and John Budwell for a permit to renovate and construct an addition to a single-family dwelling as proposed at the subject premises.

ACTION OF THE BOARD: Granted (4-0)

Vote to Grant
CASE NO. 137-03

APPLICANT: 312 East Broad Street LP

PREMISES: 312 EAST BROAD STREET
(Tax Parcel Number N000-0026/020)

SUBJECT: A building permit to convert a vacant building into retail (1st floor) with twenty-eight (28) dwelling units (1st – 4th floors)

DISAPPROVED by the Zoning Administrator on August 29, 2003, based on Sections 32-300, 32-710.1(4)(c), 32-710.4(1) and 32-710.4(5) of the zoning ordinance for the reason that: In a B-4 Central Business District, the required seven (7) off-street parking spaces are not provided as the proposed off-premises spaces do not meet the minimum radius and identification requirements. Required off-premises spaces must be provided within a five hundred-foot (500’) radius of a principal entrance to the building: a one thousand seven-foot (1,007’) ±radius is proposed. Required off-premises parking shall be provided with identification indicating the use for which they are required; none is proposed.

APPLICATION was filed with the Board on August 29, 2003, based on Section 17.20(b) of the City Charter.

APPEARANCES:

For Applicant: Scott Boyers

Against Applicant: none

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, 312 East Broad Street LP, has requested a variance to convert a vacant building into retail (first floor) with 28 dwelling units at 312 East Broad Street. Mr. Scott Boyers, representing 312 East Broad Street LP, testified that he had received a parking variance from the Board in August of 2002. Mr. Boyers explained that he had never received a letter from the Board's Secretary advising him that the variance was null and void after the expiration of one year. Mr. Boyers stated that his firm was renovating the former Sears Building. Mr. Boyers explained that the previous parking variance had been approved for
utilization of the parking deck at the corner of East Marshall Street and North 5th Street. Mr. Boyers advised the Board that the Broad Street Community Development Authority was in the process of developing a 126-car surface parking lot on the south side of Broad Street between 4th and 5th Streets. Mr. Boyers further explained that the anticipated date for completion of the surface lot was June 1, 2004. Mr. Boyers indicated that he could not be certain when the Broad Street lot would be completed and needed the flexibility to be able to utilize the Marshall Street deck in order to accommodate his project and be able to receive certificates of occupancy.

The Board is satisfied that the property was acquired in good faith and that an exceptional situation exists due to the potential inability of securing parking within the distance required by the ordinance; whereby strict application of the off-street 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 parking variance to the radius and identification requirements be granted to 312 East Broad Street LP for a building permit to convert a vacant building into retail (1st floor) with twenty-eight (28) dwelling units (1st – 4th floors) as proposed at the subject premises, subject to the condition that at the time of occupancy of the building the subject parking must be provided at the closest available location within a one thousand seven (1,007) foot radius from the principal entrance to the building.

ACTION OF THE BOARD: Granted Conditionally (4-0)

Vote to Grant Conditionally
affirmative: Cox, Williams, Siff, parks

negative: none

Upon motion made by Ms. Cox and seconded by Mr. Parks, the Board members voted (3-0) to approve the minutes of the September 3, 2003 meeting as distributed. Mr. Siff abstained for the reason that he was not in attendance at the September 3, 2003 meeting.

Upon motion made by Mr. Siff and seconded by Mr. Parks, the Board members voted (3-0) to approve the minutes of the September 10, 2003 meeting as distributed. Ms. Cox abstained for the reason that she was not in attendance at the September 10, 2003 meeting.
The meeting was adjourned at 3:50 p.m.

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Chairman

Secretary