

MINUTES OF A REGULAR MEETING OF THE BOARD OF ZONING APPEALS NOVEMBER 7, 1973

A regular meeting of the Board of Zoning Appeals of Richmond, Virginia was held in the Conference Room, Fifth Floor, City Hall, 900 East Broad Street on Wednesday, November 7, 1973 at 2:00 P.M., display notice having been published in the News-Leader, October 29, 1973 and written notice sent to interested parties.

Present: Adrian L. Bendheim, Sr., Chairman
William S. Cudlipp, Jr.
S. Vernon Priddy, Jr.
Wesley E. Vellines, Jr.

Jon P. Weersing, Secretary
Garland Stafford, Traffic Engineering

Absent: Ben R. Johns, Jr.

The City was represented by Mr. Leo J. Cantor, Commissioner of Buildings, in all cases considered at this meeting.

The Board then proceeded with its regular order of business in the hearing of cases, and the cases which were heard and the proceedings had therein, as well as the decision of the Board, were as follows:

CASE NO. 58-73

APPLICANT: Allen C. Barringer
PREMISES: 2510 Kensington Avenue
SUBJECT: Permit to erect a wood deck within the side yard of a dwelling.

DISAPPROVED by the Commissioner of Buildings, September 12, 1973 under sections 42-7, 42-21 and 42-74(3) of the zoning ordinance for the reason that "A projection of building in the R-6 Multiple-Family Dwelling District must be at least two feet from the side lot line."

APPEAL was filed with the Board, September 14, 1973 for a variance from the zoning ordinance based on Section 17.20(b) of the City Charter.

APPEARANCES:
For applicant: Allen Barringer
Against applicant: Florence D. Flournoy, Minnie F. Brett

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that, although the property was acquired in good faith, the applicant failed to show an extraordinary or exceptional situation whereby strict application of the terms of the ordinance unreasonably restricts its use or a clearly demonstrable hardship approaching confiscation.

The Board is satisfied that reasonable use can be made of the property under applicable side yard regulations and that the granting of a variance in this case would constitute a special privilege or convenience to the owner and would not be 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 the application for a variance be denied.

ACTION OF BOARD:	Denied	
Vote to deny		
Affirmative -	Bendheim, Cudlipp, Priddy, Vellines	4
Negative -	None	0
Absent -	Johns	1

CASE NO. 59-73

APPLICANT: St. Christopher's School
 PREMISES: Southwest Corner of Somerset Avenue
 and Fergusson Road
 SUBJECT: Certificate of occupancy for a parking area.

This case was continued until the December 5, 1973 meeting of the Board in order to enable the applicant to more fully develop plans for the Board's consideration.

CASE NO. 60-73

APPLICANT: George E. Kennon and Joe E. Shaw
 PREMISES: 803 Milton Street
 SUBJECT: Certificate of occupancy for a shoe shine parlor.

DISAPPROVED by the Commissioner of Buildings, September 14, 1973 under sections 42-7, 42-14 and 42-96 of the zoning ordinance for the reason that "When a nonconforming business building is vacant or the use discontinued for twenty-four consecutive months, the use thereafter must conform to R-5 Two-Family Dwelling District regulations."

APPEAL was filed with the Board, October 1, 1973 for a variance from the zoning ordinance based on Section 17.20(b) of the City Charter.

APPEARANCES:
 For applicant: George E. Kennon, Joe E. Shaw
 Against applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant acquired the subject property in September of this year for investment purposes. The building was constructed for commercial use in 1944 and was originally on the rear of the adjoining lot at 3325 Delaware Avenue. It was subsequently sold as a separate parcel and used for various retail and service activities until 1966. There is no record of its use after that date. The existing building, due to its design, cannot be used for purposes permitted under R-5 zoning, and the lot is too small to reasonably be developed for residential purposes.

The Board is satisfied that the property was acquired in good faith and that an exceptional situation exists whereby strict application of the terms of the ordinance unreasonably restricts its use and that the granting of a variance in this case would alleviate a clearly demonstrable hardship and would 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 variance from the nonconforming use regulations be granted to George E. Kennon and Joe E. Shaw for a certificate of occupancy for a shoe shine parlor and the sale of items related to such activity as proposed at the above described premises.

ACTION OF BOARD:	Granted	
Vote in grant		
Affirmative	Bendheim, Cudlipp, Priddy, Vellines	4
Negative -	None	0
Absent -	Johns	1

CASE NO. 61-73

APPLICANT: Robert D. Davis
PREMISES: 2216 Keswick Avenue
SUBJECT: Permit to construct an addition to and paint a sign on a nonconforming restaurant.

DISAPPROVED by the Commissioner of Buildings, September 4, 1973 under sections 42-7, 42-11, 42-62, 42-81 and 42-97 of the zoning ordinance for the reason that "An advertising sign is not permitted in the R-4 Single-Family Dwelling District; also the enlargement of a nonconforming restaurant is not permitted. Minimum yard requirements for front and side in dwelling district are not met. No parking is provided."

APPEAL was filed with the Board, October 5, 1973 for a variance from the zoning ordinance based on Section 17.20(b) of the City Charter.

APPEARANCES:
 For applicant: Harry M. Johnson, Jr., Jennie B. Hyler, Robert D. Davis
 Against applicant: Mabel P. Jackson, Mrs. Mary Ann Washington

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the subject building was constructed in 1934 as a grocery store. The applicant has owned the property since January of 1972 and has constructed an addition to the front of the building principally for the purpose of enclosing a walk-in refrigeration unit. There has been no increase in the area of the building devoted to serving patrons and no reduction in off-street parking spaces. The subject property is triangular in shape and located at the intersection of two converging streets.

A sign identifying the restaurant currently occupying the building has been painted on the front of the structure. The subject sign is of similar size to a previous sign which had been on the building since its construction in 1934.

The Board is satisfied that the property was acquired in good faith and that by reason of an exceptional situation strict application of the terms of the ordinance unreasonably restricts its use and that the granting of a variance in this case would 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 variance from the nonconforming use regulations, front and rear yard requirements, off-street parking requirements and sign regulations be granted to Robert D. Davis for permits to construct an addition and paint a sign on the building as proposed at the above described premises.

ACTION OF BOARD:	Granted	
Vote to grant		
Affirmative -	Bendheim, Cudlipp, Priddy,	3
Negative -	Vellines	1
Absent -	Johns	1

CASE NO. 62-73

APPLICANT: Virginia Union University
PREMISES: 1500 North Lombardy Street
SUBJECT: Permit to erect a freestanding sign.

DISAPPROVED by the Commissioner of Buildings, October 17, 1973 under sections 42-7, 42-11(12) and 42-20(1) of the zoning ordinance for the reason that "The proposed sign exceeds the maximum of 20 square feet allowed for an educational institution in the R-6 Multiple-Family Dwelling District; sign area of 36 square feet is requested."

APPEAL was filed with the Board, October 17, 1973 for a variance from the zoning ordinance based on Section 17.20(b) of the City Charter.

APPEARANCES:
For applicant: James Depasquale, Stanley E. Taylor
Against applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that Virginia Union University proposes to erect a free-standing sign for identification of the university campus. The sign would replace an existing sign at approximately the same location on the site. The proposed sign would be of no greater area than the existing sign and would be more in character with the Campus and the surrounding area. All of the adjoining property is owned by the University and property across the street is within a commercial zoning district. The proposed sign, due to its location and design, will not constitute a hazard to pedestrians or operators of motor vehicles within the adjoining streets and will have no adverse impact on surrounding properties.

The Board is satisfied that the property was acquired in good faith and that by reason of an exceptional situation strict application of the terms of the ordinance unreasonably restricts its use and that the granting of a variance in this case would 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 variance from the sign area requirements be granted to Virginia Union University for a permit to erect a freestanding sign as proposed at the above described premises.

ACTION OF BOARD:	Granted	
Vote to grant		
Affirmative -	Bendheim, Cudlipp, Priddy, Vellines	4
Negative -	None	0
Absent -	Johns	1

CASE NO. 63-73

APPLICANT: Miss Glinna Hatcher
PREMISES: 2413 Fluvanna Street
SUBJECT: Permit to build an addition to the rear of a nonconforming single-family dwelling.

This case was continued until the December 5, 1973 meeting of the Board in order that the case may be re-advertised due to an erroneous address contained in the application to the Board.

CASE NO. 64-73

APPLICANT: Benjamin D. Coller, Jr. and Raymond Guthrie, Jr.
PREMISES: 2217 West Cary Street
SUBJECT: Certificate of occupancy for a machine shop.

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DISAPPROVED by the Commissioner of Buildings, October 16, 1973 for the reason that "The proposed use is not permitted in the C-3 General Business District."

APPEAL was filed with the Board, October 17, 1973 for a variance from the zoning ordinance based on Section 17.20(b) of the City Charter.

APPEARANCES:

For applicant: Raymond J. Guthrie, Jr., W. T. Fenner, Jr.
Charles A. Straus, Bruce R. Anderson

Against applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that it is proposed to establish a machine shop within an existing building on the subject property. Very small, light machine components would be produced on the premises. Although a machine shop requires M-1 Light Industrial zoning under the terms of the ordinance, the proposed use is limited in nature in that there will be no more than four employees on the premises, machines used in the operation will be of one and one-half horsepower or less and no noise, smoke or odor will be emitted. Machine work done on the premises will be of a custom nature and will not involve any customer traffic or large deliveries of supplies and material or shipments of finished products. There is an automotive repair shop across the street from the subject property and numerous other commercial uses in the immediate area.

The Board is satisfied that the property was acquired in good faith and that an exceptional situation exists whereby strict application of the terms of the ordinance unreasonably restricts its use and that the granting of a variance in this case would 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 variance from the use regulations be granted to Benjamin D. Collier, Jr. and Raymond Guthrie, Jr. for a certificate of occupancy for a machine shop of the type represented to the Board at the above described premises on the condition that not more than four persons be employed on the premises.

ACTION OF BOARD:

Vote to grant

Affirmative -

Negative -

Abstained -

Absent -

Granted-conditionally

Cudlipp, Priddy, Vellines

None

Bendheim

Johns

3

0

1

1

CASE NO. 65-73

APPLICANT: Mrs. Anna Der Krikorian
PREMISES: 3342 Parkwood Avenue
SUBJECT: Permit to build an addition and enlarge
a rear porch of a nonconforming two-family
dwelling.

DISAPPROVED by the Commissioner of Buildings, October 18, 1973 under sections 42-7, 42-11 and 42-97 of the zoning ordinance for the reason that "Enlargement of a nonconforming two-family dwelling in the R-4 Single-Family Dwelling District is not permitted."

APPEAL was filed with the Board, October 18, 1973 for a variance from the zoning ordinance based on Section 17.20(b) of the City Charter.

APPEARANCES:

For applicant: Zarouki D. Deloian
Against applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant has owned the property and resided on the premises for approximately fifty years. In 1939 the subject building was converted to a two-family dwelling. It is proposed to construct an addition to the first floor of the building for use of the owner who resides on the premises. Additional living space is needed due to the exceptionally small size of the first floor apartment. Side and rear yard requirements will be met.

The Board is satisfied that the property was acquired in good faith and that by reason of an exceptional situation strict application of the terms of the ordinance unreasonably restricts its use and that the granting of a variance in this case would 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 variance from the nonconforming use regulations be granted to Mrs. Anna Der Krikorian for a permit to construct an addition to a two-family dwelling as proposed at the above described premises.

ACTION OF BOARD:	Granted	
Vote to grant		
Affirmative -	Bendheim, Cudlipp, Priddy, Vellines	4
Negative -	None	0
Absent -	Johns	1

The members of the Board were informed by the Secretary that the terms of Messrs. Cudlipp, Priddy, Vellines, Dunville and Venter will expire on December 31 of this year. Mr. Bendheim requested that the Secretary determine the appropriate procedure for requesting re-appointment of those members who may wish to continue serving on the Board or of recommending persons who might accept appointment should any of the present members

· desire not to serve. The Secretary indicated that he would consult with the Law Department and report on these questions at the next meeting of the Board.

Upon motion duly made and adopted, the meeting was adjourned.

Jon F. Weersing

SECRETARY

Adrian L. Sachse

CHAIRMAN