



City of Harrisonburg, Virginia

Department of Planning & Community Development

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Building Inspections
Engineering
Planning & Zoning

To: Eric Campbell, City Manager
From: Adam Fletcher, Director – Department of Planning and Community Development and Harrisonburg Planning Commission
Date: July 10, 2018
Re: Building encroachment into City right-of-way at 205 South Willow Street

Summary:

Consider a request from Brookland Properties, with representative John Neff, to authorize the owners of a building to encroach on an undeveloped public street right-of-way per Section 15.2-2011 of the Code of Virginia. The property is located at 205 South Willow Street and is identified as tax map 24-D-46.

Background:

The subject property is located on the southwest corner of South Willow Street and an undeveloped portion of West Bruce Street. Situated on the parcel is a four-unit apartment building with associated parking. A 2016 survey of the site indicates that the building encroaches into the undeveloped West Bruce Street right-of-way by 1.5-feet and an uncovered concrete slab encroaches into the same by 3.6-feet.

Section 15.2-2011 of the Code of Virginia states “Notwithstanding the provisions of subsection A of §15.2-2000, localities may authorize owners of buildings or structures encroaching under, upon and over any public rights-of-way therein, within such limitations as the localities may prescribe, to maintain such encroachments as they exist, until such buildings or structures are destroyed or removed; however, nothing contained in this section shall be construed to relieve the owners of negligence on their part on account of any such encroachment.”

Key Issues:

The owners of 205 South Willow Street are considering placing the property up for sale and approached the City hoping for some type of relief from the encroachments into West Bruce Street. Without such relief, the owners, or any future owners, of the property may have difficulty obtaining building permits because of the right-of-way encroachment; subsequently, making it hard to do repairs or routine maintenance on the building.

The Board of Zoning Appeals (BZA) is authorized to grant variances to lot area and yard requirements, such as setbacks, in order to relieve practical difficulties or hardships on properties; however, the BZA is not authorized to grant a variance for encroachment onto adjacent properties or into the public street right-of-way. Several requests to close this portion of the undeveloped West Bruce Street right-of-way have been discussed with City staff throughout the years, and staff has always had concerns. After discussion with the applicant and Assistant City Attorney, staff suggested the property owners present the situation to City Council under Section 15.2-2011 of the Code of Virginia. If approved, Council could authorize the execution of a resolution to grant a license for the encroachment.

City Council has previously authorized such resolutions. In April of 1993, Council executed an ordinance to grant a nonexclusive easement for the property at 860 South High Street to encroach up to two feet, seven inches into the Logan Lane public street right-of-way. This allowed for the renovation of the

building on the site, which now houses Liberty Tax Services. In February 2010, Harrisonburg Redevelopment and Housing Authority received a resolution from City Council permitting an encroachment into a twelve-foot wide alley for their property located at 715 North Main Street. City Council minutes regarding both cases are attached as part of this memorandum.

The owner of the subject parcel has stated that the structure at 205 South Willow Street was built in the 1920's as a single-family dwelling and converted to the four-unit apartment building in 1969. City records for building permits begin in 1939; thus, there is a copy of the 1969 building permit on file. A City archived Sanborn Map from 1930 indicates that West Bruce Street was already platted at that time and the house was existing on the subject parcel. The building drawn on the map is very close to the West Bruce Street right-of-way; however, Sanborn Maps are not survey-grade, so it is not possible to determine if the building was encroaching. There are no records of additions to the original building and no records of subdivisions to change the West Bruce Street plat. After much research, staff cannot determine exactly how the encroachment came about; but most likely, the original house was constructed with the encroachment into the undeveloped right-of-way.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

- (a) Approve the request; or,
- (b) Deny the request.

Community Engagement:

N/A

Recommendation:

Staff recommends alternative (a) to approve the request.

Attachments:

- 1. Site maps (1 pages)
- 2. Supporting Documentation (10 pages)

Review:

N/A