



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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October 5, 2020

TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA

SUBJECT: Public hearing to consider a request from the Northeast Neighborhood Association Inc. for a special use permit per Section 10-3-40(5) of the Zoning Ordinance to allow for a community building within the R-2, Residential District. The +/- 5,628 sq. ft. property is addressed as 192 Kelley Street and is identified on tax map parcel 33-C-10.

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: September 9, 2020

Chair Colman read the request and asked staff to review.

Ms. Banks said that the two SUP requests for 192 Kelley Street will be presented together.

In February 2017, Planning Commission heard a request to amend the Zoning Ordinance to allow for Community Buildings by special use permit (SUP) in the R-2, Residential District. That request was followed by a SUP request for a community building at 192 Kelley Street. Staff and Planning Commission (6-0) recommended in favor of the two requests. The recommend approval of the SUP included the following conditions:

- Any community building shall operate substantially the same as the use proposed within this application.
- If the City receives concerns and/or complaints regarding parking, noise, or other nuisance issues associated with the community building use, Planning Commission or City Council may request to re-evaluate the permit, and if necessary, add conditions or revoke the permit.

City Council approved (4-0) both requests on March 14, 2017.

Section 10-3-130 (c) of the Zoning Ordinance states:

“Whenever a special use permit is approved by the city council, the special use authorized shall be established, or any construction authorized shall be commenced and diligently pursued, within such time as the city council may have specified, or, if no such time has been specified, then within twelve (12) months from the approval date of such permit.”

The previous approved SUP was not established within the 12 months from the approval date; therefore, the SUP expired.

The Comprehensive Plan designates this site as Neighborhood Residential. These areas are typically older residential neighborhoods, which contain a mixture of densities and a mixture of housing types; but should have more single-family detached homes than other types of housing. This type of land use highlights those neighborhoods in which existing conditions dictate the need for careful consideration of the types and densities of future residential development. Infill development and redevelopment must be designed so as to be compatible with the desired character of the neighborhood.

The following land uses are located on and adjacent to the property:

- Site: Single-family detached dwelling, zoned R-2
- North: Single-family detached dwelling, zoned R-2
- East: Multiple-family attached dwellings operated by Harrisonburg Redevelopment & Housing Authority, zoned R-2
- South: Multiple-family attached dwellings operated by Harrisonburg Redevelopment & Housing Authority and single-family detached dwellings, zoned R-2
- West: Bethel African Methodist Episcopal Church and single-family detached dwelling, zoned R-2

The subject property is located on the northwest corner of the intersection of Kelley Street and Myrtle Street. City Real Estate records indicate that the building contains two stories and has approximately 1,408 square feet. The applicant is requesting two special use permits. The first, per Section 10-3-40 (5) would allow for a community building on the subject property. The Zoning Ordinance defines a Community Building as “a building for social, educational, cultural, and recreational activities for a neighborhood or community, provided any such use is not operated primarily for commercial gain.” The second request is per Section 10-3-40 (11) and would allow for a reduction in required parking areas to permit fewer than the required number of vehicle parking spaces. If approved as requested, the applicant would convert the residential dwelling to a community building use and all required off-street parking for the use would not need to be installed.

The applicant, the Northeast Neighborhood Association (NENA), is a non-profit organization that serves the Northeast Neighborhood in Harrisonburg. NENA’s website says its mission is “to work to make our neighborhood a **secure, attractive, and strong** community.” NENA’s letter describes that “the plan for the use of the building is to be a community building/museum, meeting space and administrative office for NENA... and that NENA would occupy the building as described in the 2017 application.” The 2017 letter describes that the property is proposed to be used as a museum to collect and display artifacts, to have meeting space available for events and gatherings, provide outreach to the community regarding various programs, and to serve as the association’s administrative offices. Over-night stays within the building will not be permitted. A copy of the letter included with the 2017 special use permit request is attached.

Before using the building as a community building/center, a new certificate of occupancy for a change of use per the Building Code is required. NENA representatives are aware of this and are currently working with a Virginia Registered Design Professional regarding the use change. Until a new certificate of occupancy is issued, the building remains a residential dwelling. Additionally, the applicant's immediate plans are to get the community building open to the public; however, they do have a long-term plan to add an addition onto the rear of the building.

As part of this request, NENA is also requesting a time extension from Section 10-3-130 (c) of the Zoning Ordinance, which requires that a SUP be established within twelve months from approval date. NENA is asking for an extension of five years to establish the SUP on the site. An approved change of use permit per the Building Code would establish the community building use.

Staff believes that the proposed use is consistent with good zoning practice and will have no more adverse effect on the health, safety or comfort of persons living or working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area than would any use generally permitted within the district. Staff recommends approval of the community building SUP request with the suggested conditions:

- Any community building shall operate substantially the same as the use proposed within this application.
- If in the opinion of Planning Commission or City Council, the community building use becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.
- The special use shall be established, or any construction authorized shall be commenced and diligently pursued within five years from the approval date of the special use permit.

Concurrently, the applicant has applied for a SUP per Section 10-3-40 (11) to allow for the reduction in required parking spaces within the R-2, Residential District. Required parking for a community building use at this location is calculated at a ratio of one space for every 250 square feet of gross floor area; the building is +/- 1,408 square feet, thus six off-street parking spaces are required. Behind the existing building there is ample unused area where parking could be installed. As required, a site sketch has been provided indicating that the six off-street parking spaces and landscaping requirements might be possible in this area.

The applicant has stated that they desire to leave the rear of the property as open area to further study the history of the landscaping and garden area, and to create a replica of the original "kitchen garden" for the historic home. Provided is a letter from the Virginia Department of Historic Resources (DHR) indicating the area behind the existing building may yield important archeological information of history and that the area should remain open for further investigation to occur. In 2019, DHR awarded NENA a Threatened Sites grant to allow a professional archaeologist to survey the Dallard-Newman House property which has yielded over a hundred small-scale archaeological finds within the last year.

The applicant should understand that, if approved, the area that would have been used for parking must be recorded in the deed, must remain as open space, and shall not be used to meet any

conflicting requirements of the Zoning Ordinance. It should also be understood that if any additions are made to the existing structure, the plans may not be supported by the parking SUP and therefore off-street parking requirements for the use must be re-addressed by NENA.

The intent of the community building is for people from the neighborhood and community to walk to the site. As well, staff understands the importance of the archaeological history and that installation of a parking area would impede that research. Staff recommends approval of the reduction in required parking SUP, specifically to not require off-street parking be provided for a community building use of the existing +/- 1,408 square foot building and suggests the same five-year time extension as previously discussed. There is available on-street parking and a sidewalk along the northern side of Kelley Street. Although Myrtle Street, adjacent to the site, is narrow, on-street parking is available in the 500 block of Myrtle Street, just south of Kelley Street. Staff suggests the applicant direct visitors to park in these locations.

Staff believes that, at this location for a community building use, the proposed reduction/waiving of required parking is consistent with good zoning practice and will have no more adverse effect on the health, safety or comfort of persons living or working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area than would any use generally permitted within the district. Staff recommends approval of the reduced parking SUP request with the following suggested conditions:

- If the City receives concerns and/or complaints regarding parking associated with the community building use, Planning Commission or City Council may request to re-evaluate the permit, and if necessary, add conditions or revoke the permit.
- The special use shall be established, or any construction authorized shall be commenced and diligently pursued within five years from the approval date of the special use permit.

Chair Colman asked if there were any questions for staff.

Commissioner Fitzgerald asked how common it is for applicants to request a five year period to establish the special use.

Ms. Banks said that we have done a five-year extension previously with a SUP request on Mt. Clinton Pike for a financial institution. That time limit has expired. We have offered two year extensions on others.

Commissioner Fitzgerald said that she remembers one and two year periods, but I did not remember any that were five. This makes a ton of sense, right now, with the current economic conditions to provide the flexibility.

Commissioner Whitten asked if the reason for the extended period is because of the non-profit status. We have had some requests to extend time. Most of my recollection is that we have not granted them very frequently. We have to be careful about that, although I am comfortable with it in this case. I do not think that extending it to five years is something that should be taken lightly.

Chair Colman said that he remembers the original SUPs. It is great to see something like this. It is historical and has tremendous social value. It is important for us to consider as we look at the new zoning ordinance, when we have situation like this where there may be things that have more value than the required parking. We need to think seriously about more than, have a variance perhaps to completely do away with any required parking there. Especially in a neighborhood like this, where the richness of the neighborhood is reflected there. It makes sense to waive the requirements for parking when you have a condition where this is an archaeological site. I am happy to say that I support both SUPs.

Chair Colman asked if there were any more questions for staff. Hearing none, he opened the public hearing and invited the applicant or applicant's representative to speak to their request.

Sarah Brooks called to speak to the request. I am here on behalf of the Northeast Neighborhood Association. Our address is P.O. Box 1026, Harrisonburg, VA 22803. I have come at the request of Karen Thomas, NENA president, and the Board. We appreciate your consideration of our request and the time that you have invested in working with us. Your presentation provided was thorough that I do not know if I can add anything further to it. I am here as someone who is especially interested and dedicated to pursuing the historic investigations at this site. I am a museum studies specialist and I was privileged to work with our archeologist Dennis Blanton in the investigations this summer. We received a grant to support that work. We do anticipate that we will continue to expand investigating the site. We would like to present that as fully as we could in a future museum. Its role as a community center is the primary function that the building and the property would serve. We are grateful for you thinking about all these contributions to the immediate community.

Chair Colman asked if there were any questions for the applicant's representative. Hearing none, he asked for the next caller. As there were no more callers, he closed the public hearing and opened the matter for discussion.

Commissioner Whitten moved to recommend approval of the SUP to allow for a community building at 192 Kelley Street, with conditions as presented.

Commissioner Finnegan seconded the motion.

Chair Colman called for a roll call vote.

Commissioner Orndoff:	Did not vote due to technical difficulties
Commissioner Byrd:	Aye, via chat message
Commissioner Finnegan:	Aye
Commissioner Fitzgerald:	Aye
Commissioner Whitten:	Aye
Vice Mayor Romero:	Aye
Chair Colman:	Aye

The recommendation to recommend approval of the special use permit, with conditions, passed (6-0), with Commissioner Orndoff not voting due to technical difficulties. The recommendation will move forward to City Council on October 13, 2020.

The commissioners discussed the impact of technical difficulties on the votes, suggested alternatives and asked Mr. Russ how to proceed. Mr. Russ stated that it would not have been a deciding vote and that Mr. Orndoff could later state how he would have voted for the record.

Commissioner Finnegan said that, as staff pointed out, the intent of the community building is for people from the neighborhood and community to walk to the site. I think this is a neighborhood space, run by NENA, so I am in favor of it. I move to recommend approval of the SUP to allow for the reduction of required parking areas at 192 Kelley Street, with conditions as presented.

Commissioner Fitzgerald seconded the motion.

Chair Colman asked why the parking requirements were not considered for the full extent of the proposed development, not just for the building, but for the future addition to the building?

Ms. Banks said that the addition will add substantial square footage to the building. The parking requirement is one parking space for every 250 square feet of gross floor area. I cannot remember what the total was, but there is not enough area in the back for the addition and required parking spaces. This works now. It gets the community building up and running. The parking does not have to be installed if this is approved. When they are ready to proceed with an addition on their building, then parking will have to be addressed in some fashion. This parking SUP will not carry over. They will be building the addition into where today's parking would be.

Commissioner Whitten said that I can appreciate the walkability in the neighborhood. While the archaeological information that we have is not conclusive, we expect that there are artifacts in the ground. If a museum is installed, there will be a desire from people outside of this area and this neighborhood to visit this place. The parking is more of concern to me. It might not be a concern at this point, but they need to be making a plan for parking along with that addition.

Chair Colman said that these situations should be considered in the zoning ordinance rewrite. We know that parking is always an issue and has many implications.

Chair Colman asked for a roll call vote.

Commissioner Finnegan:	Aye
Commissioner Whitten:	Aye
Commissioner Orndoff:	Aye
Vice Mayor Romero:	Aye
Commissioner Fitzgerald:	Aye
Commissioner Byrd:	Aye, via chat message
Chair Colman:	Aye

The recommendation to recommend approval of the special use permit, with conditions, passed (7-0). The recommendation will move forward to City Council on October 13, 2020.