

STAFF REPORT
ZONING BOARD OF ADJUSTMENT
CITY OF BIRMINGHAM
Meeting Date: January 25, 2024
Time: 3:00PM
Pre-Meeting: 2:30PM

ZBA2023-00028..... Ensley Neighborhood

Request: Special Exception to allow a communal living facility

Filed by: Janice Smith of Dominion Property Services Inc., the owner.

Location: 1701 Avenue V, Birmingham, AL 35218 situated in the SW ¼ of Section 32, Township 17-S, Range 3-West, Council District 9.

Applicant's Proposal

The applicant plans to open a Communal Living Facility for homeless veterans (women and children). In the heart of Birmingham, a staggering number of homeless veteran women and children are struggling to find stability in their lives. I was told that housing for the male population is more plentiful. However, the need is dire for women and children, with a lack of resources and support exacerbating their already precarious situations. According to recent data, there are over 500 homeless veteran women and children in the Birmingham area, with the number steadily increasing. These individuals, who have sacrificed for their country, are now left without a place to call home. Many of these women and children are living on the streets, in shelters, or temporary housing, with little hope for a brighter future. The lack of affordable housing, mental health services, and job opportunities only adds to their struggle. The plight of homeless veteran women and children in the Birmingham area cannot be ignored. It is a call to action for our community, our leaders, and our society as a whole to come together and provide the support and resources these individuals need to rebuild their lives.

Property and Abutting Land Uses.

The subject property is currently zoned **CR-5, Contingency Multiple-Family District**. Properties to the North, South, and West are also zoned **R-5, Multiple-Family District**. Properties to the East are zoned **R-3, Single-Family District**. This property is located within a **Special Flood Hazard Area**. (See Floodplain Comments).

Zoning Ordinance

Title 1, Chapter 4, Article III, Section 3.C

Communal Living Facility: Facilities in which four or more unrelated persons reside, including Assisted Living Facility, Boardinghouse, Nursing Home, Rehabilitation Facility, Sheltered Care Home, Transitional Home. Communal Living Facilities do not include child foster care facilities or facilities located in multi-family districts that are used for housing the mentally handicapped or mentally ill, where there are no more than 10 such people plus 2 unrelated persons to either the occupants of the facility or to each other. (Code of Alabama 11-52-75.1 and Board Case No. 84-95).

A communal living facility is permitted by Special Exception in this zoning district, subject to the following conditions:

1. A statement from the State Department of Health or the State Department of Mental Health and/or the Jefferson County Department of Health that the proposed facility meets all requirements for the appropriate license, if applicable.
2. A statement from the City Housing Code Enforcement Division that the proposed facility meets all provisions of the City of Birmingham Property Maintenance Code.
3. A certification from the owner and operator that approval under this section shall not be transferable without prior approval by the Board of the City.

4. Any communal living facility shall not be closer than 1,000 feet from another communal living facility. This spacing requirement does not include multi-family dwellings used for on or off campus student housing within 1 mile of the main campus.
5. Communal Living Facilities are not meant to include child foster care facilities nor facilities housing the mentally handicapped or mentally ill, where there are no more than 10 such people plus 2 unrelated persons to either the occupants of the facility or to each other. (Code of Alabama 11- 52-75.1 and Zoning Board of Adjustment Case No. 84-95)

Parking Requirement: 1 parking space per 2 sleeping rooms.

Neighborhood Association

The ***Ensley Neighborhood Association*** met at its regularly scheduled meeting on October 19, 2023, and voted to support the request (21-yes and 0-no).

Recommended Conditions:

If approved by the Board, below are the recommended conditions:

1. Review by the appropriate zoning inspector to ensure compliance with the Board's decision.
2. All permits and certificate(s) of occupancy, if applicable, shall be obtained within two years of approval from the Board.

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ZONING BOARD OF ADJUSTMENT
CITY OF BIRMINGHAM
Meeting Date: January 25, 2024
Time: 3:00PM
Pre-Meeting: 2:30PM

ZBA2023-00047..... North East Lake Neighborhood

Request: Variance request for a new patio/deck that has a 0ft front yard setback in a R3 zoning.

Filed by: Meosha Wright, Owner

Location: 221 84th Street North 35206 and situated in the NW ¼ of Section 11, Township 17-S, Range 2-W, Council District 4

Applicant's Proposal

The applicant is proposing to build a new patio/deck that has a 0ft setback along 84th Street North.

Property and Abutting Land Uses

The subject property is zoned R-3 (Single Family District). All abutting properties are also zoned R-3 (Single-Family).

Zoning Ordinance

**From Title 2 (Zoning Ordinance), Chapter 1 (Zoning Districts)
Subsection 3. Area and dimensional regulations**

R3 Dimensions

Minimum Height of Structure: 35 feet

Minimum Front Setback: 25 feet

Minimum Rear Setback: 25 feet

Minimum Side Setbacks (feet): 5/14

Minimum Lot Area per Family: 6,000 SF

Minimum Lot Width: 50 feet

Neighborhood Association

The ***North East Lake Neighborhood Association*** could not be reached for comments.

Recommended Conditions

If approved by the Board, the recommended conditions are:

1. Review by the appropriate zoning inspector to ensure compliance with the Board's decision.
2. All permits and certificate(s) of occupancy shall be obtained within two years of approval from the Board.

ZONING BOARD OF ADJUSTMENT

Meeting Date: February 24, 2022

Time: 2:00 P.M.

Pre-Meeting: 1:00 P.M.

Place: City Council Chambers (3rd Floor)

ZBA2024-00001

East Avondale

Request:

Variance to request an extension on **Condition #2** in case# ZBA2021-00083

Applicant:

Pope Lake

Location:

4276 & 4272 2nd Ave S, Birmingham AL 35222

Parcel # 012300292020011000 & 012300292020010000

NW of Section 29, Township 17 S, Range 2 W

Applicant's Proposal:

The applicant is proposing a new cottage development that will contain 8 units instead of the 7 units allowed.

Staff Analysis:

The subject properties are currently zoned R-4A (Medium Density Resident District). The subject properties are surrounded by parcels zoned R-4A (Medium Density Resident District). The property is not located in a flood plain area nor in any design review districts. The proposed cottage development meets all zoning requirements except for the density; therefore, a variance is required. Single family cottages subdivision requires 2,500 square feet of lot area per unit therefore to have 8 units the lots size would have to be a minimum of 20,000 square feet. The lot area for 4276 2nd Ave S is 7,253.02sf and the lot area for 4272 2nd Ave S is 6,790.45sf.

Per Zoning Ordinance:

Title 1 – Zoning Ordinance

Chapter 3: District Area and Dimensional Regulations

Section 2. Single-family cottage developments.

To provide opportunities for individual ownership of small residential lots oriented onto a common open space, lots in cottage subdivisions shall be arranged subject to the following:

A. Applicability. Single-family cottage developments are permitted in the following zoning districts D-4, R-4, R-5, R-6, D-5, R-4A, D -6, MU-L and MU-M.

B. Density. Single-family cottage subdivisions shall be developed at a minimum rate

of one unit per 2,500 square feet of lot area. Each individual single-family cottage development within a subdivision shall contain four to ten cottage units in small lots around a common open space.

C. *Orientation.* Cottage units shall be oriented to front and have a main entry onto the common open space. However, cottage lots abutting a street shall front the street, and shall not have the rear of the unit facing the street. Cottage units fronting the street shall have a secondary entrance onto the common open space.

D. *Bulk Standards.* The following area and dimensional regulations shall apply:

1. *Minimum lot sizes shall be waived. See Table 1.03.102 for other standards.*
2. *The common open space shall total at least 350 square feet per cottage unit, and shall have cottages abutting on at least two sides.*
3. *The common open space shall be accessible to all cottage units in the development, and an association shall be established pursuant to Article III, Section 10 of the Subdivision Regulations of the City of Birmingham with the purpose of maintaining the common areas and establishing legal rights to the common areas to all cottages in the development.*
4. *Only one dwelling unit per lot shall be permitted.*
5. *All cottage units shall be designed to include a covered porch fronting the common open space and shall be no less than 200 square feet.*
6. *The maximum building coverage, excluding covered porches, shall be 1,000 square feet.*
7. *The maximum height of a cottage shall be 35 feet.*
8. *Front, rear and side setbacks from the property lines shall be a minimum of five feet.*
9. *Cottage units abutting a public street shall meet the setback requirements of Table 1.03.101.*
10. *Where a proposed development cannot comply with the standards of this section, the Director may approve other standards provided that the intent of this section is met.*

E. *Parking Requirements.* The requirements for the provision of parking for single family cottage developments shall be as follows:

1. *Parking shall be located on the cottage development property.*
2. *Parking shall meet the requirement for single-family residential units established in Chapter 5.*
3. *Parking shall be provided on each cottage lot, or in the form of shared parking cluster(s) in commonly owned space, or a combination of the two.*
4. *Parking clusters shall not exceed six adjoining spaces and shall not be visible from a public street. Parking shall be screened from adjacent residential uses with an opaque evergreen landscaping strip.*
5. *Parking may be permitted between, or to the side of structures, only when it is setback a minimum of 10 feet from the leading edge of the front facade of a cottage unit and is accessed by a side or rear alley. When cottages front a public street, driveways shall be limited to 1 per public street frontage.*
6. *Parking shall not be permitted in an established front yard setback or required common open space.*

Neighborhood Recommendation:

The East Avondale Neighborhood Association waiting on vote.

Staff's Recommendation to ZBA:

Staff believes the applicant has provided evidence to support the variance; therefore, staff believes the request has merit for approval and should be **GRANTED** with the following conditions:

1. Review by the appropriate zoning inspector to insure compliance with the Board's decision.
2. **All permits and certificate(s) of occupancy, if applicable, shall be obtained within two years of approval from the Board.**
3. Applicant must resurvey the lots within 90days of approval from the Zoning Board.