

BOARD OF ZONING APPEALS MEETING

June 16, 2016

Members Present

Gus Dyer
Michael Nicholas
Dolores Reynolds
John Hiltzheimer
Philip Campbell

Members Absent

Dawn Witter
Ann Sasser Evans

Staff

Ken Gillie
Tracie Lancaster
Alan Spencer
Anna Levi

Chairman Dyer called the meeting to order at 4:00 p.m.

I. ITEMS FOR PUBLIC HEARING

1. Variance Application Number PLVAR20160000152, filed by Massa Multimedia Architecture, PC, requesting a variance from Article 10., Section P., Item 2., Paragraph 2 of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 261 Nor Dan Drive, otherwise known as Grid 1808, Block 004, Parcel 000077, of the City of Danville, Virginia, Zoning Map. The applicant is requesting a variance to allow for more signage than is permitted by Code.

Mr. Dyer opened the Public Hearing.

Present to speak on behalf of this request is James Higgins on behalf of Walmart. I would like to start off by giving the Board just a little bit of overview of the application that we had submitted. I have worked with and had correspondence with Mrs. Burton in regards to the signage application at the main store as well as the fuel station and canopy. It our May 20th application we submitted all the applications for the signage along with the Variance application. My substituent conversions with Mrs. Burton and per her review of a courtesy letter that provide calculations for her review in terms of making sure that the signs are within alignment with your ordinance. She had indicated that both signs and the permits that we had provided for the main store where in compliance. However, the canopy signage that was calculated on the linear footage of the kiosk building what we were showing on our application was in excess of what was allowed. What I would like to do is if I may present a couple of exhibits that I have brought with me. One, is a compilation of some photographs that I have just recently taken here today actually, After visiting the site showing certain perspectives of the canopy from different venues. As well as some exhibits that show our earlier signs that we had shown on our permitted set; the number of signs that we showed in our sign booklet of May 20th. Then I have a latest version that would show signs located primarily showing both the Walmart sign and the digitals signs facing the two right-of-ways. That final presentation while in excess of the allowable. Hopefully the Board will be accepting of that understanding that it gives the best visual ability for potential customers to see the fuel pricing on a day basis. As they both approach the site as well are in the site. I

don't have enough copies for all of the members that are seated here. I have enough so that they can share.

Mr. Dyer stated if you want to take one and pass it down.

Mr. Huggins stated this first exhibit I will give one to each side.

Mr. Dyer stated they don't care.

Mr. Whitfield stated yeah they are more important than we are.

Mr. Gillie stated we just need one for the record. Yeah they need it way more than we do.

Mr. Nicholas stated why that is going around could you address why you meet the five factors that we have to find that you meet in order to agree to a variance.

Mr. Huggins stated I'm assuming that is in the letter.

Mr. Nicholas stated it is these five right here.

Mr. Huggins stated well the first one property interest for which the variance is being requested was acquired in good faith and any hardship was created by the applicant. I don't believe that there is any hardship that is being composed by requesting the additional sign. I think if anything it helps inform the customers of daily pricing of the fuel. I don't believe that there is any detriment to the adjacent properties.

Mr. Nicholas stated well the adjacent properties aren't allowed to have signs of the same size as you are requesting. Why is it that you should get larger signs and they not?

Mr. Huggins stated once again I would say that Wal-Mart is trying to create the exposure for those of vehicular traffic; so that they can see the signs at the best possible vantage. Preferably, their ideal situation would be to have the digital signs on each of the four faces of the canopy. So that customers can see that before they get close to the site. So that they can value judgment to make appropriate turns without possibly being involved in passing the site and causing an inconvenience of possibly driving further down the road and then coming back. Or making a split decision fast break and possibly getting into an accident. Health and safety of the general public is a concern. By offering them the ability to see these signs as they are approaching the site would be beneficial. The condition or situation of the property of the concerned is not a general or recurring nature reasonable practicably formulation of a general regulation to be adopted.

Mr. Dyer stated can I stop you right there for one minute? In the past because basically what this says is this problem is not so recurring that it is something that should be addressed in the code. Correct?

Mr. Gillie stated yes.

Mr. Dyer stated in the past the decision was that this was not something that is so generally occurring that it should be addressed in the code. So, in previous applications this was stated that the applicant does meet the requirement. The requirement that they are trying to meet is that it is something that it is not so general that it ought to be addressed in the code. Am I mistaken on that?

Mr. Gillie stated we don't feel that a code modification is necessary in this case.

Mr. Dyer stated so then in fact he does meet this criteria.

Mr. Gillie stated we may have put a no where we should have put a yes.

Mr. Dyer stated I'm going to stop you there because I believe that this should say that this does meet the criteria. So you don't have to argue that point. The City agrees with you that. I think the next two in fact that you do meet those. So it's the first two criteria that you have to meet in order for us to grant the variance. One thing that I would like to point out to you is that we are not an opinion Board. You're not here to try and convince us that you have a good idea. We might think you have a great idea but if it violates the Code and we can't find the reason in order to support your application we can't support it.

Mr. Huggins stated understood.

Mr. Dyer stated so you have addressed the first two issued. Then the other three I think you are willing to take the City's recommendation that you do already meet that requirement. Correct?

Mr. Huggins stated I would say so.

Mr. Dyer stated do you have anything further that you would like to add.

Mr. Huggins stated no other than the fact that I do have the exhibits here to show what we had originally shown for Wal-Mart with digital signs all the way around. Obviously, they are not in compliance they are over the allowance. The best case scenario that we could present to the board here today would be to provide the best exposure for the two right-of-ways with a Wal-Mart sign and a two digital signs facing North Dan Drive and two digital signs facing Piney Forest. If there were no other signs on the other two faces both the parking lot and the shopping center and the rear of the property, Wal-Mart would be accepting and would be happy to receive a variance for the placement of signs on those two faces.

Mr. Dyer closed the Public Hearing.

Mr. Dyer stated okay these are the calculations correct? Or what we are looking at? So this is just for the gas station and kiosks? Are they maximizing their sign usage?

Ms. Levi stated yes they are. I think I included that page in your packet also. Yeah they are totally maxed out.

Mr. Dyer stated so did they get credit for the canopy?

Ms. Levi stated that is based on the size of the kiosk. So the main building there is the kiosk so they get two square feet of signage for every linear foot. The kiosk is 35 long.

Mr. Dyer stated 35x8 so they get 71.32 square feet of total signage.

Ms. Levi stated correct.

Mr. Dyer stated that includes that building and the kiosk?

Ms. Levi stated right.

Mr. Dyer stated so what we have here then is we have 11.26 square feet of signage on the building itself correct; which leaves us with 60.06 square feet of signage that is allowable on the canopy. What they are asking for is 100.58 is that correct?

Ms. Levi stated correct.

Mr. Dyer stated so we are about 80 percent over the allowance.

Ms. Levi stated they have enough space leftover for two digital signs.

Mr. Dyer stated two. Does that include the digital signs plus the Wal-Mart sign?

Ms. Levi stated yeah they have room for both Wal-Mart signs, the one on the kiosk, the canopy and the two of the digital signs.

Mr. Dyer stated but not two Wal-Mart signs on the canopy?

Ms. Levi stated this is only calculating one.

Mr. Dyer stated alright one Wal-Mart sign on the canopy. When you say two digital signs do you mean the twin signs as one sign?

Ms. Levi stated diesel would be one unleaded the other.

Mr. Dyer stated so they only have room for one of each, one regular and one diesel on both sides of the sign.

Ms. Levi stated right.

Mr. Dyer stated does everybody understand what they are asking?

Mr. Huggins stated could I possibly make a comment?

Mr. Dyer stated sure.

Mr. Huggins stated I'm not sure if I correctly understand but if you are referring to the May 20th dated presentation I think our canopy was actually showing to Walmart spark signs.

Mr. Dyer stated yes it does. This paperwork that we have does show two Walmart signs. What they are saying now is all you are allowed under the current code would be one Walmart sign plus one unleaded gas digital sign and one diesel sign correct?

Ms. Levi stated correct.

Mr. Gillie stated its square footages not the signs.

Mr. Dyer stated they could make the sign smaller and then they could have two. If they wanted to cut the size of it in half they could have two.

Mr. Gillie stated they could have 50 Walmart signs as long as they cut down them small enough. It's all a straight numbers game.

Mr. Nicholas stated I get what they are asking for but I don't see how they meet the first two criteria.

Mr. Nicholas made a motion to deny Variance Application PLVAR20160000152. Mr. Campbell seconded the motion. The motion was approved by a 3-2 vote.

II. APPROVAL OF MINUTES

Mr. Dyer stated there was a discrepancy with the vote.

Mr. Gillie stated however you feel that it should be. After listening to the tape there is a disagreement but we will go with what you feel.

Mr. Dyer stated we will ask the source right now. Mrs. Reynolds last month we feel like we had an unanimous decision and approved the application. So are you in agreement that you agreed to the application?

Mr. Nicholas stated did you vote to overturn the appeal?

Mr. Reynolds stated I voted in favor of the person that was making of the citizen.

Mr. Dyer stated so it was unanimous decision.

Mr. Gillie stated we will amend it to reflect that.

The May 19, 2016 minutes were approved by a unanimous vote with the change of Mrs. Reynolds's vote on Item 1 to yes instead of no.

III. OTHER BUSINESS

Mr. Dyer stated once again at what point do these signage issues become common to where you feel that it should be addressed?

Mr. Gillie stated actually, we asked the Planning Commission to investigate possible changes because of some changes where the Supreme Court made a decision that they have passed over to allow us time. We are probably going to hire a consultant to come and do some major changes to our sign regulations if we are looking at doing that in the future. I just don't have it budgeted at this point. I have got to get the money to do such. We are going to go back and that's why I talked to Mr. Powers last month about it.

Mr. Dyer stated what do you feel like they are going to address the size of signs? Are we in a position to where if somebody ends up making an application today and we think that may be allowed next month?

Mr. Gillie stated no, we don't think that will change. In our opinion that shouldn't change. So of the things that will change is we have different categories based on different districts some of that will change. We have different categories a certain use within a district that will change. In general I don't think the size of the signs is really going to change except will be more district specific.

With no further business, the meeting adjourned at 4:23 p.m.

APPROVED