

BOARD OF ZONING APPEALS MEETING
February 17, 2011

<u>Members Present</u>	<u>Members Absent</u>	<u>Staff</u>
Mr. Dyer	Mrs. Evans	Alan Spencer
Mr. Campbell	Mrs. Rich	Christy Taylor
Mr. Bralley		Renee Blair
Mr. Snipes		Emily Scolpini
Mr. Hiltzheimer		

Chairman Mr. Gus Dyer called the meeting to order at 10:00 a.m.

I. ITEMS FOR PUBLIC HEARING

- 1. Variance Application Number PLVAR20110000031, filed by Bert Sellers., requesting a variance from Article 7, Section C, Items 2& 3, of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 161 Crystal Lane, otherwise known as Grid 4715, Block 002, Parcel 000003 of the City of Danville, Virginia, Zoning Map. The applicant is requesting variances to replace a non-conforming mobile home that was previously removed with a single family dwelling that will be relocated from another parcel to 161 Crystal Lane creating a nonconforming use in the HR-C Highway Retail Commercial District.*

Thirteen (13) notices were mailed to surrounding property owners. Six (6) respondents were unopposed; One (1) respondent was opposed.

Open the Public Hearing.

Present on behalf of the request was Mr. Bert Sellers. Mr. Sellers stated I am the owner of this property. I understand that there are some criteria that I may need to meet that I think I have met successfully here. I had my wife type it and I would like to pass it out to the members to look at for consideration. On the criteria list, if I understand it right, it says on item one (1) that the strict criteria would produce hardship on the owner. My response to this is that the property was annexed by the City and was zoned to Highway Retail Commercial (HR-C) while it was a residential property. There was a house on it for a long time. My desire is to maintain the use as a residential property. Item two (2), that the hardship is not shared by other property in the vicinity in the same zoning district, my response is that the surrounding stick built houses are already in place. Those are substantially built better than trailers. Trailers tend to wear out sooner than houses; therefore I need to replace and instead of replacing it with a house trailer, I would like to move a house on this lot. The house has just a little larger footprint than the trailer. It is going to look much better in the neighborhood. All of the neighbors realize that and I think they support me on it, especially the ones on the street. Item three (3), the variance would not be a substantial deterrent to surrounding property owners. According to the Code, I could put a house trailer back on this property. That is not going to enhance the neighborhood a bit. That is the option that I have right now, to put a trailer on it. It had a trailer on it. The trailer did not look good. It did not help the property a bit. I think a house would be much more desirable. I would appreciate your support on this. Item four (4), I think I meet the criteria of item four (4). If there are any different ideas on it, I will address it; but my response now is that I meet the criteria addressed in item four (4). Mr. Chairman that is all I have.

Mr. Dyer asked help me clarify this a little bit. This property, when it was annexed into the City, you were using as a residential property?

Mr. Sellers responded yes sir.

Mr. Dyer asked at that time it had a manufactured mobile home on it?

Mr. Seller responded yes sir.

Mr. Dyer asked according to the grandfather clause, he is allowed to continue that use. Is that correct?

Ms. Blair responded yes. I believe it was residential when it was annexed in 1988.

Mr. Dyer asked so it was rezoned to HR-C?

Ms. Blair responded in 2004.

Mr. Seller stated that was not at my request, Mr. Chairman. The City did that arbitrarily. It is in a residential neighborhood. My son lives next door to the property, and I am putting a nice home on it. I am moving a home onto it that is really going to enhance the neighborhood.

Mr. Dyer asked in other words, your immediate neighbors are still residential? It is not Highway Retail Commercial immediately surrounding it?

Mr. Sellers responded no. This is actually a street off Highway 58. It is a residential neighborhood.

Mr. Dyer asked it is my understanding that he can replace this with a mobile home. Is that correct?

Ms. Blair responded State Code allows replacement of mobile homes with a similar size mobile home, newer model.

Mr. Dyer stated I can remember precedence to this where there was a case on Halifax Road in which a gentleman had an older mobile home and we allowed him to replace it with a newer mobile home with staff recommendation that we do so. What is the difference here? It looks to me that a stick built house would be a more desirable option than a mobile home.

Ms. Blair stated it is an expansion of a legal non-conforming use. The stick built home that he wants to relocate on this property has a larger footprint than the mobile home did.

Mr. Dyer asked so he is actually increasing the size of the unit and that is what makes it non-conforming?

Ms. Blair responded it is an expansion of a non-conforming.

Mr. Dyer asked could he replace it with a house that is the exact same size as the mobile home?

Ms. Blair responded yes.

Mr. Dyer so, the problem that we are running into here is that the size of the unit is larger than what he had there.

Ms. Blair stated yes and also that the home he wants to relocate he is moving from South Boston Road to 161 Crystal Lane altering that legal non-conforming use by moving it to a property that

would still be a legal non-conforming use. There is also a variance required for that, because the Code requires for you to be able to relocate to a property, it must be to a conforming use.

Mr. Dyer stated we only have one (1) variance that we are addressing.

Ms. Blair stated two (2) parts, Section C Items two (2) and three (3).

Mr. Dyer stated ok.

Mr. Sellers stated if I might add something, the house that I am putting on there is very much the same size as the houses in the surrounding neighborhoods. I am not putting something large in there. It is a house that will match and blend well into the neighborhood.

Close the Public Hearing.

Mr. Snipes asked it seems as though the house was grandfathered into the City or the property. Now my questions are this, if you sit the house on there will it meet the setback requirements?

Ms. Blair responded it can meet setback requirements.

Mr. Snipes asked it will meet them?

Ms. Blair responded yes.

Mr. Dyer stated the only issue we are dealing with is basically the zoning issue. He could put this house there if it was zoned Single Family Residential.

Ms. Blair stated yes.

Mr. Dyer stated there are no other issues, like you say there are no setback issues.

Ms. Blair stated right. It is the fact that the property is zoned Highway Retail Commercial (HR-C). He wants to place a legal non-conforming structure onto that property.

Mr. Dyer stated let's move on to issue two (2). According to Mr. Sellers, the surrounding property is primarily residential with stick built houses. Is there any way you can enlighten us as to why this property is zoned HR-C if the current character of the neighborhood is residential?

Ms. Blair responded that was a determination by Council in 2004. They chose to rezone this area to commercial thinking that this area being as close proximity to South Boston Road would lend itself to commercial development. You have got the industrial park directly behind it as well. It lends itself to commercial.

Mr. Campbell stated he wants you to speak up a little bit. He cannot hear you.

Mr. Dyer stated I am sorry Mr. Bralley. What I asked her is why if this property is primarily used for residential that it is zoned for commercial. The explanation for that was that the future use they envisioned for this property is for commercial development.

Mr. Bralley stated I did not know that. Thank you.

Mr. Dyer stated the only consideration we take in for the current use is the grandfather clause, and that is rather restrictive as far as what you can and cannot do. This is the issue that I brought up with Mr. Gillie yesterday. Even though this is a non-conforming use they can replace an existing trailer with a new trailer. It is not that you have to use the existing building under the grandfather clause. If he had a house there and he wanted to tear the house down, then he could replace that house with an existing house?

Ms. Blair responded same size.

Mr. Dyer stated with a new house?

Ms. Blair responded it has to be the same size. If he wanted to increase it, there is still a variance required for an expansion of a legal non-conforming use.

Mr. Dyer asked what are we talking about as far as size? How large was the trailer, and how large is the house that he is proposing? Do we have any information on that?

Ms. Blair responded I have the mobile home estimated at seven hundred twenty (720) square feet, and the dwelling to be placed there at thirteen hundred (1300) square feet. That is just flat footprint. I did not take into consideration two (2) stories or anything like that.

Mr. Dyer stated I think the City does concur that Mr. Sellers meets condition four (4). That is what we are presented with. Do any Board Members have questions for staff?

Mr. Hiltzheimer asked how big is the lot Mr. Sellers?

Mr. Sellers responded the lot is one hundred by two hundred (100 x 200), I think. I had the four (4) corners put in yesterday. It matches all of the lots on that street. Every lot on that street is the same size. This house is basically going to be the same size as the houses that are there.

Mr. Dyer stated that is approximately half (½) an acre. You are served with sewer and water out there?

Mr. Sellers responded yes.

Mr. Dyer asked so there is no problem with drain fields, and that sort of thing?

Mr. Sellers responded I have already paid for water and sewer connections. All of the other houses that are on this street also have water and sewer.

Mr. Bralley stated I make a motion that we approve it.

Mr. Dyer asked can you state the criteria?

Mr. Bralley responded well, I was looking.

Mr. Dyer stated I mean we have to meet the four (4) criteria that are listed. You can use Mr. Sellers' reasoning or you can give your own reasoning.

Mr. Bralley stated I do not see where it would affect any hardship on the owner obviously. Nobody else seems to be upset, the property owners next to it. I do not think it would be detrimental to adjacent property owners. I am suggesting we approve it.

Mr. Bralley made a motion to approve Variance Application PLVAR20110000031. Mr. Hiltzheimer seconded the motion. The motion was approved by a 5-0 vote.

II. APPROVAL OF MINUTES

Mr. Hiltzheimer made a motion to approve the minutes from the January 20, 2011 meeting. Mr. Campbell seconded the motion. The minutes were approved by a unanimous vote.

III. OTHER BUSINESS

Ms. Blair stated I have no further business.

Mr. Dyer asked we have no applications in for next month?

Ms. Blair responded no, not that I am aware of.

Mr. Dyer stated I would like to ask the question that maybe I should have asked two (2) years ago when I was first (1st) elected to this Board. It has just come to me to ask this question. These various applications, we receive recommendations from Planning Staff. Can you enlighten us as to who the Planning Staff is, and how these issues are determined?

Ms. Blair responded staff is Mr. Gillie, myself, and Emily. It is collaboration between the three (3) of us typically.

Mr. Bralley asked can you speak up please?

Ms. Blair responded there are three (3) members in the planning division: Mr. Gillie, myself, and Emily. Most staff reports are collaboration between the three (3) of us.

Mr. Dyer asked so it is not 1 person. Is there a vote taken? If it 2 against 1, does somebody get more say?

Ms. Blair responded we do not have a meeting and have a democratic vote. There is often debate and discussion.

Mr. Dyer asked but nobody has veto over a decision?

Ms. Blair responded I am sure that you can say Mr. Gillie has veto power. He is very good in listening to our reasoning if we disagree. That is all taken into consideration.

Mr. Dyer stated I was just curious as to who was on the planning staff, who contributed, and how these decisions were made; because they do influence. I know that you all probably do not feel that way, but they do influence our decisions that we make. I appreciate you enlightening us.

With no further business, the meeting adjourned at 10:15 a.m.

APPROVED