



**City of Danville**  
427 Patton Street, Suite 208  
Danville VA, 24541  
Phone: (434) 799-5260

## ***Board of Zoning Appeals***

FEBRUARY 15, 2018  
4:00 P.M.  
4<sup>TH</sup> FLOOR CONFERENCE ROOM  
MUNICIPAL BUILDING

- I. WELCOME AND CALL TO ORDER
- II. ROLL CALL
- III. ELECTION OF OFFICERS
- IV. ITEMS FOR PUBLIC HEARING

*Variance Application Number PLVAR20180000026, filed by Henry Leggett, Jr., requesting a variance from Article 3B: Section A & I, Item 4 of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 3156 Moorefield Bridge Road, otherwise known as Grid 8812, Block 001, Parcel 000003, of the City of Danville, Virginia, Zoning Map. The applicant is requesting a variance to install a domestic well where prohibited.*

- V. APPROVAL OF THE MINUTES FROM OCTOBER 19, 2017
- VI. OTHER BUSINESS
- VII. ADJOURNMENT



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## **Board of Zoning Appeals**

Board of Zoning Appeals  
February 15, 2018

### **SUBJECT:**

Variance Application Number PLVAR20180000026, filed by Henry Leggett, Jr., requesting a variance from Article 3B: Section A & I, Item 4 of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 3156 Moorefield Bridge Road, otherwise known as Grid 8812, Block 001, Parcel 000003, of the City of Danville, Virginia, Zoning Map. The applicant is requesting a variance to install a domestic well where prohibited.

### **BACKGROUND:**

The subject parcel, located on Moorefield Bridge Road, is zoned T-R, Threshold Residential. The applicant, Henry Leggett, Jr. is requesting a variance from Article 3.B: Section A & I, Item 4 of the zoning code so that they may use a private well at this location.

3156 Moorefield Bridge Road (1955 Moorefield Bridge Road) is a 9-acre parcel with no improvements. The applicant intends to build a single-family dwelling on the site using the existing private well.

The area was annexed into the City of Danville in 1988. The nearest City of Danville water lines are over 3000 feet south of the subject parcel on Pinecrest Drive. The City is not proposing to extend these lines to serve this property.

### **PREREQUISITE FOR GRANTING VARIANCES:**

*Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and (i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; (iii) the condition or situation of the*

*property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance; (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A 4 of § 15.2-2286 at the time of the filing of the variance application.*

In authorizing a variance the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being, and will continue to be, complied with.

### **CRITERIA ANALYSIS:**

Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance

- ***And the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance***

The City of Danville provides public water and sewer to properties in the City, but does not serve this area with water, and has no immediate plans to serve this area. Therefore, this application **does** meet this criterion.

- ***And the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area***

This area is served exclusively by private wells. The City of Danville provides public water and sewer to properties in the City, but does not serve this area with water, and has no immediate plans to serve this area. The property contains an active well on site. Therefore, this application **does** meet this criterion.

- ***And the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance***

The City of Danville provides public water and sewer to the majority of properties in the City but does not serve limited areas. The City has no immediate plans to serve this area. Therefore, this application **does** meet this criterion.

- ***And the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property***

This variance request would not allow a use that is not otherwise permitted on such property or a change in the zoning classification. Therefore, this application **does** meet this criterion.

- ***And the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § [15.2-2309](#) or the process for modification of a zoning ordinance pursuant to subdivision A 4 of § [15.2-2286](#) at the time of the filing of the variance application***

This variance request may not be remedied by the special exception process. Therefore, this application **does** meet this criterion.

Therefore, this variance request meets five (5) of the five (5) criteria needed to grant a variance.

Attachments:

Application  
Data Sheet  
Property Ownership & Existing Zoning Map  
Existing Land Use Map (Aerial 2015)

Property Address: 1955 Moorefield Bridge Rd.  
3156 Moorefield Bridge Rd

I (we) have applied for a variance to allow the following:

Install well

§ 15.2-2309 [excerpt]

Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and (i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; (iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance; (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A 4 of § 15.2-2286 at the time of the filing of the variance application.

I (we) now appeal to the Board of Zoning Appeals for a variance permitting the action described above in that:

- i. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance (Describe):

No city water available on property or road

- ii. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area (Describe):

well is exist on site

- iii. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance (Describe):

City water is usually available but not on this property

- iv. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property

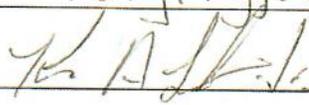
Yes  No

- v. The relief or remedy sought by the variance application is not available through a special exception process  
 Yes  No

IN AUTHORIZING A VARIANCE THE BOARD OF ZONING APPEALS MAY IMPOSE SUCH CONDITIONS REGARDING THE LOCATION, CHARACTER AND OTHER FEATURES OF THE PROPOSED STRUCTURE OR USE AS IT MAY DEEM NECESSARY IN THE PUBLIC INTEREST AND MAY REQUIRE A GUARANTEE OR BOND TO INSURE THAT THE CONDITIONS IMPOSED ARE BEING, AND WILL CONTINUE TO BE COMPLIED WITH.

**PRESENT OWNER (S) OF ALL PROPERTIES INCLUDED IN APPLICATION**

(PLEASE TYPE OR PRINT):

1. NAME: Henry H. Leggett Jr TELEPHONE: 434-334-4887  
MAILING ADDRESS: 333 Bromley Rd. Danville, VA 24541  
EMAIL ADDRESS: henry.leggett@yahoo.com  
SIGNATURE:  DATE: 1/19/18

**APPLICANT (PLEASE TYPE OR PRINT):**

If the applicant is not the property owner, written authorization from the property owner must accompany this application.

NAME: \_\_\_\_\_ TELEPHONE: \_\_\_\_\_  
MAILING ADDRESS: \_\_\_\_\_  
EMAIL ADDRESS: \_\_\_\_\_  
SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

The decision of the Board of Zoning Appeals is final, unless appealed to the Danville Circuit Court within thirty (30) days of the date of the Board's decision in accordance with Article 13 Section 1 Item 2 of the Zoning Code, 1986 as amended.

**VARIANCE REQUEST**  
**DATA SHEET**

**DATE:** February 15, 2018

**LOCATION OF PROPERTY:** 3156 Moorefield Bridge Rd

**PRESENT ZONE:** T-R, Threshold Residential

**ACTION REQUESTED:** The applicant is requesting a variance to install a domestic well where prohibited.

**PRESENT USE OF PROPERTY:** Vacant

**PROPOSED USE OF PROPERTY:** Single Family Dwelling

**PROPERTY OWNER (S):** Henry and Amanda Leggett

**NAME OF APPLICANT (S):** Henry and Amanda Leggett

**PROPERTY BORDERED BY:** Residential to the north, east, south and west

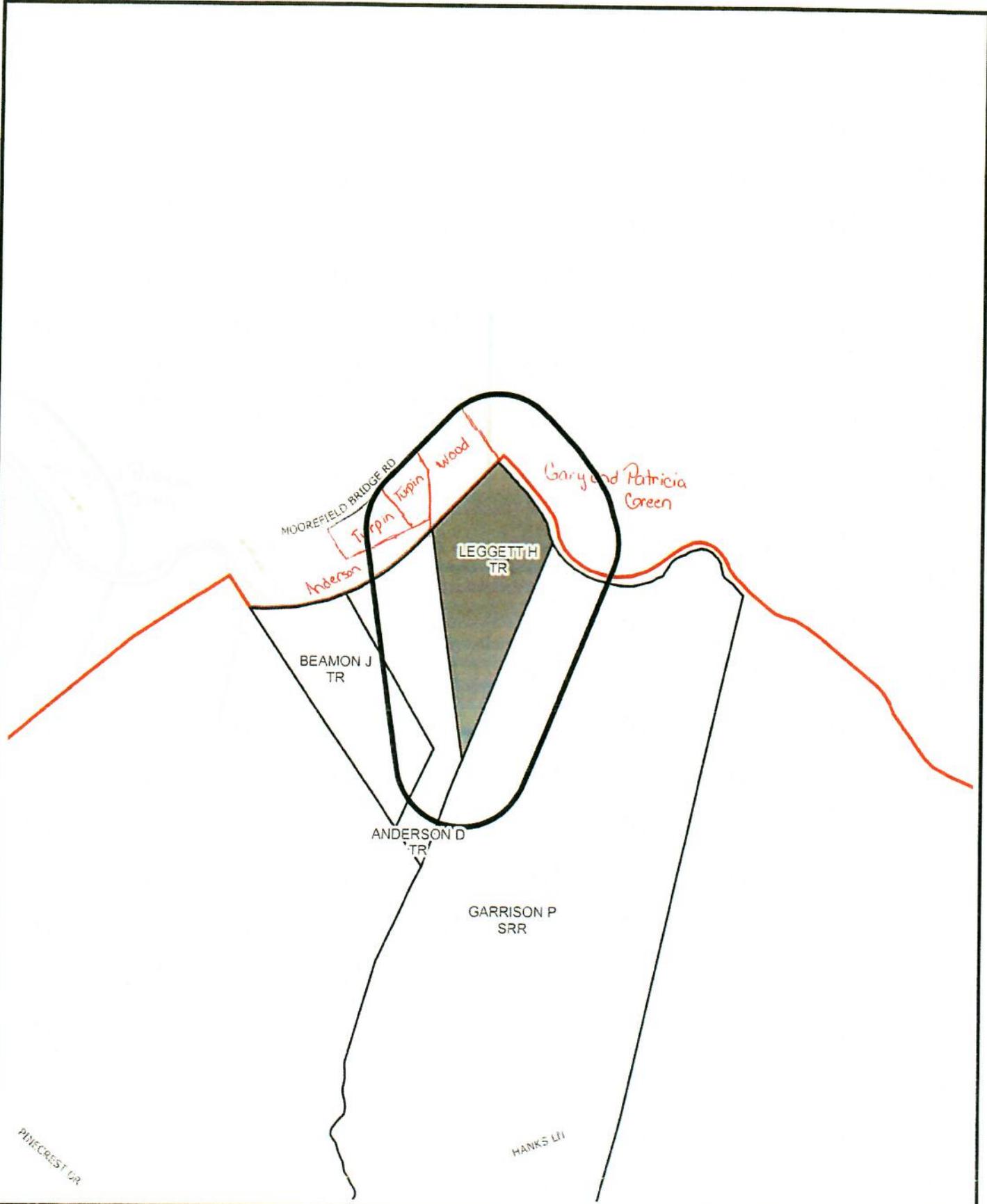
**ACREAGE/SQUARE FOOTAGE:** 9 acres

**CHARACTER OF VICINITY:** Residential

**INGRESS AND EGRESS:** Moorefield Bridge Road

**TRAFFIC VOLUME:** Low

**NEIGHBORHOOD REACTION:** To be reported at the Board of Zoning Appeals hearing of February 15, 2018.



**SURROUNDING PROPERTY OWNERS AND ZONING WITHIN 300 FEET OF SUBJECT PROPERTY**



Prepared by:  
 Planning Division  
 1/26/2018

Disclaimer: Information contained on this map is to be used for reference purposes only. The City of Danville is not responsible for any inaccuracies herein contained. The City of Danville makes no representation of warranty as to this map's accuracy, and in particular, its accuracy in labeling, dimensions, contours, property boundaries, or placement or location of any map features thereon. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.



### 2015 AERIAL VIEW OF AREA SURROUNDING SUBJECT PROPERTY

Prepared by:  
Planning Division  
1/26/2018

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**BOARD OF ZONING APPEALS MEETING  
OCTOBER 19, 2017**

Members Present

Gus Dyer  
John Hiltzheimer  
Dolores Reynolds  
Ann Sasser Evans  
Nicole Garrison

Members Absent

Philip Campbell  
Michael Nicholas

Staff

Renee Burton  
Lisa Jones

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

**I. ITEMS FOR PUBLIC HEARING**

1. *Variance Application Number PLVAR20170000219, filed by Powers Signs, Inc on behalf of Steve Padgett's Danville Honda, requesting a variance from Article 10: Section P., Item 1a of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 4050 Riverside Drive, otherwise known as Grid 0720, Block 003, Parcel 000002, of the City of Danville, Virginia, Zoning Map. The applicant is requesting a variance to allow a new ground sign with a 100 sf message area and 195 sf of architectural elements where a maximum 75 sf of message area and 100 sf of architectural elements is allowed.*

Eleven notices were mailed to surrounding property owners. Three responses were unopposed; zero responses were opposed.

Mr. Dyer Opened the Public Hearing.

Present on behalf of the request was Mr. Tom Powers of Powers Signs. What these maps show the relationship to the highway of the Honda property as opposed to some of the other car dealers. The measurement off the city website I circled in the corner this side is 100 feet off the pavement and I do not know why the right away is so large there. These if you would take one and pass it around this is the options of what are allowed Honda what their national program is. When you get those, see the one that we have circled now. What we have now we want to do is replace the existing sign with the sign exact same size. Which was allowed with the code at the time and what we are passing around there is the top left hand corner sign. What is allowed by code is in the 2<sup>nd</sup> line down and 2<sup>nd</sup> from the left that is what is allowed by code at this point?

Mr. Dyer stated so that would be 8x8x21 is that correct.

Mr. Powers stated yes sir 21 inches tall.

Mr. Dyer stated and you have a 10x10x30.

Mr. Powers stated 30 feet tall. When it comes to the analysis, it says the property has a legal nonconforming sign and that can remain after install the new sign that meet the current requirements or actually could reface but that is not an option. This is kind of like what they do to cars since we are talking about cars. It's got some LED and it has some highlights on the side and it would be like saying I want my ten year old car to be able to do so and so. It is better to start from scratch and that is the direction that they take. It says it does not meet requirement I would contend that the hardship comes from the fact that the code was this when the original sign was put up and now it has been reduced and technically doesn't that mean you have taken property. If you can have this a certain day and now you can't have it I would disagree with this and say basically the hardship is brought upon by the City and change of the code. Let me point out the existing code calls for a 10 foot set back the old code when this was installed calls for a 5 foot setback. Mr. Gwaltney had in my urging had Ken Gillie change the code that this sign is grandfathered but which means we can put a sign which is closer to the right away based on code after it was revised even though it could be closer than the 10 feet as long as it remains as the previous code is a 5 foot setback because that is about a ten thousand dollar expense for each footers that are required for these signs but any rate it was changed and was made to code and that works out to our benefit as far as substantial detriment in the property nobody opposed this on the adjacent properties it's the same size sign that you have now. So, if it hasn't caused a problem in the last fourteen years I don't see where it will be a situation where it does not meet the criteria. The other locations and the one of them was Toyota. Toyota did have a special sign made different from any that we have done anywhere else just for Danville and it is sitting on legs and no one else has one that size but Renee can tell you probably the so called wall signs at Danville Toyota. I didn't know when I applied for them and they didn't know when they approved them that whole face lit so it's kind of like well it's a done deal what can we do now. Technically that could be considered a violation of code since it does light up. It is over the square footage for wall signs in fact Toyota has maxed out the wall signage with everything else not counting that little hiccup. Then also the zoning codes for regulations and signage have been in place since 2004 and limitation have been placed since that time and allowed us to put up a new sign would have to meet requirements. I don't know understand the applicant does not have the option to request a code amendment. I mean couldn't anybody request a code amendment?

Mrs. Burton stated yes.

Mr. Powers stated ok. Then okay it does meet. Now the granting of the variance does not result in a use that is not otherwise permitted for such property or a change in the zoning classification of the property. That does meet that one because still going to be hardship. Now relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance. I still don't understand that if a special exception. What is a special exception? Except what an exception is written in a code.

Mr. Dyer stated in code there are right by use and right by special permit basically. That's a process that goes before the Planning Commission and City Council. The difference between Planning Commission and City Council and this body is that Planning Commission basically is advisory board to City Council. Then City Council can make the judgement the City Council is not restricted by any means in the decision that they make. They can make an opinion and say we think this is right and change this. This body is basically a jury we don't get to say that we like the law or not just have to say whether you are following it or not. That's how that works.

Mr. Powers stated its not or can not be permitted by special exception process.

Mr. Dyer stated right it is not part of the code in the City's sign ordinance there's not a provision of that sign ordinance saying that we can have the size restrictions waived by special use permit. Correct?

Mrs. Burton stated you are correct.

Mr. Dyer stated so you don't have that option in other words say for example you have a single family house and the code it says by special use you could convert that house into a duplex and that is a process that goes before the Planning Commission and then City Council and then City Council will tell you whether you can do that or not. That is not something that we address that is part of special use. Basically what it is saying it seems to me that it does contradict itself.

Mr. Powers stated there is a process but not through you?

Mr. Dyer stated right but not through us in other words like I say we are not a judgement board. We don't say we think this is a really good idea we going to let you do it basically have to say this is what the code says and have you made an argument that we feel that justifies these five criteria if so then we can grant you the variance because the thing about the code is its obviously not going to apply to every situation and so that is why we have this board here is that if there are extenuating situations where we fill like the code either overlooks something or is too vague or too broad we can make adjustments to the code to satisfy the request you are making.

Mr. Powers stated are there any questions?

Mr. Dyer stated I have a couple. This is an existing sign alright if tomorrow Mr. Padgett was getting a load of cars and the truck backed into the back of his sign he could repair it.

Mrs. Burton stated for any structure that is legally nonconforming if the damage is beyond 50% of its market value it may not be replaced of any kind. That is how the legal nonconforming statue is written it is 50% of its market value if the damage is only 50% of its structure so be it amount of the value of the actual structure that is damage.

Mr. Dyer stated I'm assuming that is the same situation for hurricane or tornado or something.

Mrs. Burton stated that is correct.

Mr. Dyer stated Why is that certain circumstances is the City allowed buildings that were 100% destroyed that are nonconforming allowed those buildings to be reconstructive.

Mrs. Burton stated I'm not aware of any circumstances.

Mr. Dyer stated corner market on Wooding Avenue. It burned to the ground and they were allowed to rebuild the building in the exact same footprint.

Mrs. Burton stated when was that.

Mr. Dyer stated it happened.

Mrs. Evans stated when.

Mr. Dyer stated I'm not exactly sure.

Mrs. Burton stated either before my time or I'm not aware of it.

Mr. Dyer stated okay. So there is no lead way for damage. The argument that I make between this situation and the deal with Toyota is that Toyota was new construction. They was no existing sign there.

Mrs. Burton stated that is correct.

Mr. Dyer stated like I say this sign has been here for fourteen years.

Mr. Tom Powers is that right Steve.

Mr. Steve Padgett stated at least.

Mr. Dyer stated has the city received any complaints at all about this sign blocking view or creating too much light or.

Mrs. Burton stated none to my knowledge.

Mrs. Evans stated what is the purpose of replacing the sign.

Mr. Steve Padgett stated well based on my investment basically Honda has a what they call. Is it okay if I speak now.

Mrs. Burton stated sure just identify yourself for the record.

Mr. Steve Padgett stated Steve Padgett Danville Honda. Honda has a new Gen 3

Facility upgrade I don't know have you all seen the building the new upgrade the dealership. I have made some substantial investments we are actually the first Gen Three Honda Dealer in the state which is pretty neat for us here in Danville I'm very proud of that. Based on the Gen Three upgrades with everything from LED on the exterior lighting to I invested to the LED lighting on the lot kind of reduce I footprint the signs are part of this Gen Three upgrade of course based on the code I can leave this old sign and Non Led that is starting to really unfortunately show its age. Whenever you put new blue in front of the old blue you begin to realize just how old it is. So its part of the entire package. What am I asking can I put the same size sign much nicer and much newer with the latest technology LED lighting and everything and we would love for more people to do in the community and just do the same size. Not wanting anything any bigger just newer, LED and same size.

Mr. Dyer stated Mr. Powers on the map that you passed around and I don't know if everyone notices but were you doing a calculation how far the property line was off the roadway.

Mr. Powers stated yes sir that is the City's GIS Website.

Mr. Dyer stated so am I correct in saying that you are 98.25 feet from the edge of the pavement to the property of the right of way.

Mr. Powers stated to the existing sign.

Mr. Dyer stated in my opinion that is excessive am I correct on Riverside Drive you do not have 100 feet of the right of way between the road way.

Mrs. Burton stated it is a minimum requirement of ten feet front yard setback.

Mrs. Reynolds stated they have five correct.

Mr. Powers stated well its 10 feet setback from the right of way the right of way is so far back.

Mr. Dyer stated in other words what I am saying is when you are driving on Riverside Drive the property line is actually 100 feet past the edge of the asphalt so then they have to be another 5 feet back from that. Riverside Drive is it normally ten feet. What is the right of way.

Mrs. Burton stated 10 feet is your front yard setback from property line right of way to the foremost portion of your sign.

Mr. Dyer stated this is ten times the right of way. Is that generally the entire length of Riverside Drive or just once we get past the bridge.

Mrs. Burton stated no just on the other side of the bridge. VDot has excessive right of way there in anticipation of possible expansions one day.

Mr. Dyer so why is that not listed as a hardship not shared by other property owners because if you are on Riverside Drive and you have 10 foot right of way obviously your sign is going to have a bigger impact that if the sign is 110 feet off the of way. That hardship is shared by this piece of property and not say the Toyota Dealership or Chevrolet Dealership.

Mr. Powers stated that is from the edge of the road to the sign and the case of Honda it is 100 foot to the right of way from the edge of the pavement and the Toyota sign is 17 almost 18 feet. Woodall and Barkhouser are about 45 feet and Toyota is about 18 feet and Honda sign is 100 Plus

Mrs. Evans stated what is Blackwell Dodge.

Mr. Dyer stated that is new construction.

Mr. Powers stated Blackwell Dodge should be 10 foot setback from the right way and I think they are a little further back.

Mr. Dyer stated they share the same extra width.

Mr. Powers stated Harley Davidson dealer did not he is back but not nearly anyway,back because I did that one but I did not do the project.

Mr. Dyer stated I know they have the excessive right of way there too. I think it is all the way down Riverside Drive from the Robertson Bridge to the old city limits. It is at least a 100 feet.

Mr. Steve Padgett stated the other issue that is involved in addition to the 100 feet plus off the roadway the sign to go to 75 square feet with the current code is 9 feet short. That is a huge concern that I have nine feet in my location is shorter that is substantial and this is the difference is someone being able to see the sign and know the dealership is there and not. Two feet not a big deal but nine feet that is substantial shorter smaller sign visibility is a real concern that I have. Whenever you're crossing that bridge there is no visibility. I have dentist office in front of me now so when you are coming in from the other side of the bridge between the setback and current sign setback with the building visibility is a huge issue.

Mr. Powers stated same thing coming off of clover leaf it's a bad situation because you come out of a merge lane right back into another merge lane. If you are not looking for the dealership coming down the road coming from Martinsville, it is decent but you got a bank there that gets in your way quick. Then you got going the other direction its not to bad coming from across the bridge if you come off clover leaf you better know where you are going.

Mr. Dyer stated are there any more questions for Mr. Padgett or Mr. Powers.

Mrs. Evans stated how many customers would you say that you have from out of town that would not know where you are.

Mr. Padgett stated I have out of the State of North Carolina I do 30% of my business. I'm really glad you asked that question because I'm very proud of that. We have people that come to Danville now from Roanoke, Lynchburg Amherst and further to come to our dealership to do business based on our demand. So 30% comes out of North Carolina and more of that comes out of our what we call ASAR Service area we do a good job within our community and also bring a ton of people probably 40 to 50% from out of town.

Mr. Dyer stated I've got one more question and again all I'm doing is trying to do is see where your thought process is coming through when you made these determination to either do it or does not meet this criteria. It says the granting of the variance will not be of substantial detriment to adjacent property owners the sign is already there. How does replacing the exact same sign like it is how does it become detriment to the adjacent property owners especially when they do not seem to care.

Mrs. Burton stated I think the potential detriment can come for setting the precedence for that once it is done one time it can continue on.

Mrs. Evans stated that is one of our concerns in the past.

Mr. Dyer stated that has always been a concern of mine that once we let someone do that. I have countered back that each situation is a unique situation to evaluate each situation based on its own merits and not be concerned about setting the precedence. Therefore, it seems to me that I make an argument one time and then I get it thrown back at me so anyway.

Close the Public Hearing.

**Mrs. Reynolds made a motion to approve Variance Application PLVAR20170000219, based on applicant criteria. Mr. Hiltzheimer seconded the motion. The motion was approved by a 5-0 vote.**

## **II. APPROVAL OF MINUTES**

**The May 18, 2017 minutes were approved by a unanimous vote.**

## **III. OTHER BUSINESS**

With no further business, the meeting adjourned at 10:24 a.m.

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APPROVED