

PLANNING COMMISSION MINUTES

October 8, 2018

MEMBERS PRESENT

Mr. Wilson
Mr. Garrison
Mr. Bolton
Mr. Petrick
Mr. Searce

MEMBERS ABSENT

Mr. Dodson
Mr. Jones

STAFF

Lisa Jones
Ken Gillie
Bryce Johnson
Clarke Whitfield

The meeting was called to order by Chairman Searce at 3:00 p.m.

I. ITEMS FOR PUBLIC HEARING

1. *Special Use Permit application PLSUP20180000229, filed by William C. Doss requesting a Special Use Permit to operate a bed and breakfast in accordance with Article 3:E Section C, Item 3 of the Code of the City of Danville, Virginia 1986, as amended at 327 W Main St, otherwise known as Grid 1719, Block 022, Parcel 000023. The applicant is proposing to operate a bed and breakfast*

Mr. Searce opened the Public Hearing.

William Donahue, stated I reside at 307 West Main Street. I am opposed along with my spouse to the proposed application.

Mr. Wilson stated don't we normally hear from the presentation first?

Mr. Searce stated I just opened the public hearing.

Mr. Donahue stated would you prefer to hear from the applicant first?

Mr. Searce stated if the applicant would come forward to state your case.

Mr. William Doss spoke on behalf of the request. Mr. Doss stated I just want to clarify a couple of things. This is home state tourism somewhat different from the bed and breakfast in the first place and I don't offer any kind of breakfast. Home state tourism is a private network that people have to join. They have to give up their identity; it is a self-policing network which all guest almost have to review one another. I sent out letters to the neighbors and I don't know if the Donahue's received the letter because I only heard back from five of the neighbors. The two across the street said they would show up if I needed them to and that they supported what was going on here. It is very different in that re-guard from a BNB and it is a private network.

Mr. Donahue stated I'm back and my wife Ann is also here. I live just down the street from Mr. Doss. Now, first of all Mr. Doss has been operating this bed and breakfast probably for a

year now and has done that without coming here for a special use permit. Previously, in our district an application was made several years ago before this commission for similar purposes at 284 West Main Street and that was denied. It was denied due to public parking in our area is extremely difficult for the rest of us. As a matter of fact I have a church that resides next to me, a church across the street as a result of the fact that we also have an apartment building built along the drive. We also are a location that has bike paths that are on our street. As a result the application that is before you, this will extend at least the need potentially three or perhaps even six vehicles to be parked along the street. We really haven't taken care of the parking needs of the neighborhood. Second, the permit that you have before you would, in fact, allow for the operation of a special use banquet facility even though Mr. Doss stated that he does not intend to do that. In fact you would be granting the ability to operate a commercial enterprise in a residential neighborhood. So, I will ask the Planning Commission seriously think about the implications that this has for a residential neighborhood, which is really trying to very much move forward back to a residential operation dominating by private and some multi use facilities that could be a real beacon for our City.

Mr. Wilson stated you said that the neighborhood is moving forward back to?

Mr. Donahue stated there are some properties that have grants for multi-use. Those grants are now coming to a close. When they come to a close they will be going back to private residences. As they go back to private residences we will see congestion in the neighborhood reduce.

Mr. Fred Shanks stated I live at 345 West Main Street. My biggest concern is the largest investment that I make in my life is my home, which is in a neighborhood that I choose. I chose West Main to purchase because it was a transition neighborhood; multi- housing was being converted back to single family housing. My biggest concern is parking. Every year we have problems on West Main with Averett. We already had problems with parking and when you start introducing multi-family housing, which I consider this to be a type of multi-family housing, then you have new parking issues. So, having said that, that is my biggest concern.

Mrs. Ann Donahue stated, I know that my husband and me have discussed this at length. I just want to make sure that you understand about the parking. We chose this house and we love it and we love the neighborhood. We live next door to a four apartment building, it has two, two-bedrooms and two, one-bedroom. They have parking for three cars, one in the driveway and two in the front. They have been very gracious to us, we have made it clear that we are neighbors and let's be neighborly and please keep our space in the front so we can park our vehicles. If we continue to get more vehicles in the area no one will respect that. If you don't live in the area, you don't respect the people that are homeowners in the area. The people that try to keep their homes up in the City and in our area the homes are not being kept up the way that they should be. There are no parking rules from what I understand. I have a sign in front of my house that says parking by permit only. I don't know what that means, you guys could look that up because I would love to know, because I don't think it means anything anymore because it is a free for all.

Mr. Doss stated I would like to respond to those. First of all, as I mentioned the neighbors who contacted me said that they would show up if I needed them to, are the neighbors on both sides of me. Parking is not a problem, I have room for four vehicles in my drive way and parking for two cars right in front of my house. I never have any more guests than two

cars. The point was said that I had not applied for a special use permit prior to this meeting. I didn't apply for a permit because I didn't think that home stay vacations came under the bed and breakfast rule. I didn't think it was a bed and breakfast. That is why I haven't applied. As soon as I got a notice from Bryce, I took the listing down, but make no mistake there is no parking problem at my next door neighbors' or the people across the street; they can show up and attest for that. Number two: there has been a lot of talk about keeping houses up and I started doing this because I moved into a house that is very much a money pit. I had a very inadequate inspection and inspector that my real estate agent no longer uses. You have so many of the details before you, the roof that I thought was going to cost \$25,000 to \$30,000 to put on my house. I had eight roofers that came and would not give me an estimate and the ninth roofer came and told me \$65,000 and that was to replace the slate on that and I knew that I was in trouble. I now have a porch that has two piers that need replacing and I'm facing \$16,000 to \$20,000 on this. This house is going to continue to go downhill if I don't have something to plug the financial hole with. I have spent since I got into this house approaching \$100,000 of my life savings and my retirement and everything that I have. I don't do this for a joy ride, this is my house that is going to go downhill if I don't find something to plug the hole. So, I have understanding of what the neighbor said about houses going downhill that is why I have applied for this. Make no mistake about the parking it is no problem.

Mr. Scearce stated it's hard to tell a whole lot from this picture. Can you get in your back yard from your property and put a parking area back there?

Mr. Doss stated we could but it's not necessary. My driveway has room for four vehicles and I don't remember ever having more than two vehicles with guests there so there isn't any need for that. No need for it when the driveway has room for four vehicles. I don't need to pave my back yard. I have room for all the vehicles parking there. I don't have room for banquet facilities.

Mr. Bolton stated how many parking spaces in front of the house on the street do you have?

Mr. Doss stated I have two and I can get four in my driveway.

Mr. Bolton stated how many cars do you have?

Mr. Doss stated I have a pickup truck and a Honda accent.

Mr. Bolton stated general speaking would you leave if you have guest for the weekend or would you stay?

Mr. Doss stated I'm always there.

Mr. Wilson stated you said that you have two street parking but that's really public parking.

Mr. Doss stated it is.

Mr. Wilson stated it's not really yours to manage so if students from Averett park there then that eliminates two parking spaces. Then you have four in your driveway and you have two vehicles so you will be down to two parking spaces.

Mr. Doss stated I have room for four vehicles in my driveway.

Mr. Wilson stated you keep saying that you have neighbors that will come here that will speak on your behalf. This is the Planning Commission meeting so that is implying that we are going to come back again?

Mr. Doss stated no, I told them that I didn't think it was necessary because I only heard back from five neighbors. I thought that any neighbors that object to it would call me.

Mr. Wilson stated no community meeting with neighbors?

Mr. Doss stated no.

Mr. Wilson stated so there is no offering of food in this arrangement?

Mr. Doss stated I put bottled water in the rooms.

Mr. Donahue stated I would like to come forward just one more time. I would like to clarify a couple of things. First off, the folks that are Mr. Doss's on side operate multi use residential for profit businesses. I just want you to keep that in mind.

Mr. Wilson stated in their homes?

Mr. Donahue stated no they are actually a multi business that has recently been renovated and the other has been operating for nine years and continues to go downhill. So quiet frankly they have no reason to object. They don't really care. Second, the other thing that I would like for you to keep in mind the fact that Mr. Doss told you that he has run into the same thing that anyone that owns an old, historic home knows they are money pits. We have all put tons of money into our properties to keep them up. What he has also told you that his property has continued to decline, which it has and he has actually told her that unless you allow him to operate this as a commercial property it will decline further at a faster rate. As a commercial property, not as an occasionally used shared family home, as a commercial property, so that he will not go under because of his inability to finance what he purchased. I find that very interesting.

Mr. Petrick stated do you know the status of permit parking on Main Street?

Mr. Johnson stated I don't know anything about the permit code.

Mr. Petrick stated it's been there for years I don't think it has been enforced for years.

Mr. Johnson stated I made a note to look into that.

Mr. Donahue stated I can inform you about that. The special use parking permits actually were enforced many years but Mr. Gwaltney, City Manager, had that stricken off the books.

Mr. Petrick stated I lived on College Avenue it was a tremendous problem with students at the time and it worked great and I thought it was still enforced.

Mr. Donahue stated no, it has been stricken off the books. I would imagine that Clarke could find out when that occurred.

Mr. Searce closed the Public Hearing.

Mr. Gillie stated it was my understanding it was not enforceable. They are, as Mr. Wilson pointed out public parking is public parking. So, designating parking only for certain members of the public was an issue. I believe that is why it was removed and it was no longer that people that live in this neighborhood. Then those neighbors had guest and other things and it was an enforcement nightmare. It basically became unenforceable and was removed years ago.

Mr. Garrison stated then why are the signs still up then?

Mr. Gillie stated I just don't think anyone has ever taken them down.

Mr. Petrick stated is there any consideration to the fact under the classification that it was going to be operated under a banquet facility?

Mr. Johnson stated no. We looked at the requirements and it all looked to be there, especially for other incidents. The last time we met, there was an application to waive a parking requirement and public parking seem to be acceptable. This is another case, there is parking around it as well.

Mr. Wilson stated parking is the primary concern of people that have spoken today. Out of the seven opposes there are three that no oppose. I'm thinking out loud right now.

Mr. Searce stated it is a difficult issue.

Mr. Wilson stated to me my gut says that this project is not completely ready for a vote. Parking issues and it appears to me that we need a little more time to figure this out. Is there a way where the neighbors will not have so much anxiety? Are there other ways on this property that we can push this out.

Mr. Johnson stated since parking is a concern, you could add the condition that wasn't raised to my attention. You could add a condition to your recommendation. You could specify that they can't use the banquet halls and how you see fit for this conversation today. You can also table it for further discussion if you so desire.

Mr. Searce stated would you have to pave the back yard?

Mr. Johnson stated City parking is required to have some kind of paved strips.

Mr. Bolton stated what is the current drive way?

Mr. Johnson stated my understanding it was concrete.

Mr. Bolton stated I have a question for staff. One of the neighbors stated that there is a multi-family dwelling there under variance. I assume they have a special use permit?

Mr. Johnson stated for variance that would have gone to board of zoning appeals.

Mr. Bolton stated do they expire?

Mr. Johnson stated if they have been vacant for two or more years then yes, they expire. Mr. Wilson stated well I don't live in that area but I certainly have had a long relationship with that area. It is a complicated area, it's a beautiful neighborhood. I do think there is an urban reality of multi-use in AIR BNB situations in our ongoing culture now. I just feel like this is not quite ready for us. I think we need to explore parking options and conversations with neighbors. It really concerns me to have this kind of thing in that neighborhood. So, I probably would like to see us give it another go.

Mr. Johnson stated you can table this for further discussion among the neighbors.

Mr. Wilson made a recommendation that we table the request with the idea to further explore ways to resolve this parking concern in a neighboring way. Mr. Petrick seconded the motion. The motion was approved by a 5-0 vote.

2. *Special Use Permit application PLSUP20180000255, filed by River City Auction Co., on behalf of Sellers Brothers Inc., requesting a Special Use Permit to operate an auction establishment in accordance with Article 3.M, Section C, Item 1 of the Code of the City of Danville, Virginia, 1986, as amended at 2179 South Boston Rd, otherwise known as Grid 4719, Block 005, Parcel 000003 of the City of Danville, Virginia Zoning District Map. The applicant is proposing to operate an.*

Mr. Scarce opened the Public Hearing.

Mr. Bert Sellers, stated I own the property that we are talking about here, and Hampton Wilkins and Rita Smith are here representing River City Auction. They are proposing to rent my building and operate an Auction Gallery to maybe bring in State Sales and have a sale maybe once a month and if the business picks up allows them to have more than once a month. How many board members have been out to look at my property? I have pictures of it so that won't help you out any. This property shares a driveway going into my construction company. The building in question is setting approximately a hundred and thirty feet off of Crystal Lane. In trying to gather up thirteen parking spaces it will cost me approximately \$30,000 dollars. I had a paving company come out and look at it. I had Art Stanley come out and look at it Saturday and we measured it up to be at \$30,000 bill. The pavement on this property will not enhance what they are going to do at all. I see no reason it's a nice gravel lot, pretty much a dust free parking lot and I keep the property looking nice. Basically, I live on the property adjoining to it and I try to keep it looking nice. The truck and trailers and heavy equipment that I have going in and out of my property will be going across this pavement in which will require a heavy duty application of asphalt. I don't want to do that. For what I'm going to get out of it the revenue it's going to create, I obviously can't afford to spend \$30,000 for something that is not going to help the situation at all. I've had several opportunities to rent this property for a body shop or repair shop. I don't want that kind of stuff on the side of 58. The City of Danville needs things to look good so when the people come into town I want my property to look good. I keep my grass mowed and I keep my building painted; it's not an eye sore when you come into town. Quite frankly I don't understand how going into an auction house threw up a flag so we would have to do a lot of paving. I don't understand. Maybe you can help me understand but I don't think paving is going to enhance this piece of property for what it is going to be used for. I wish you folks would consider letting me rent it to River City Auction and conduct the business they want to conduct without paving.

Mr. Wilson stated did I understand you say you would be willing to do some paint and fixing?

Mr. Sellers stated I have a concrete slab adjoining the front of this building. I planned to put handicapped parking on that but it will be gravel. It's a dust free parking lot. Kenny you might not consider it a dust free parking lot but I do because I have trucks and trailers in there all the time and my personal residence joins this property so I have every reason to maintain it. I just don't think paving will help it. If I am required to pave it then I'm going to abandon renting it to them and we have an opportunity to get a business into a vacant building right now. I think will be a benefit to the City in more ways than one.

Mr. Bolton stated do you feel that the overflow parking you have that is going to be on the gravel surface is adequate for any parking that you may have?

Mr. Sellers stated yes sir. I own all the land adjacent to it and the overflow parking can park there, it is kind of unique. This piece of property adjoins where my construction company is so the overflow parking would be down in the county. The parking would be no issue at all.

Mr. Wilson stated are there any restrictions on what can be auctioned? What you said earlier it's like an Estate Auction?

Mr. Sellers stated as far as I know there are no restrictions. The Estate has a lot of things for sale. It could be antique car it could be a rifle, glassware or coins.

Mr. Wilson stated it's not going to be a car auction?

Mr. Sellers stated no.

Mr. Searce closed the Public Hearing.

Mr. Bolton stated according to Article 8, Section E of the Zoning Ordinance, an auction establishment requires more paved parking than the previous use. Is it true that is required or do we have some leeway here?

Mr. Johnson stated as with other applications you have considered before you could waive or reduce it. It is required in the zoning ordinance as it stands.

Mr. Bolton stated can we waive this or do we have to change the code?

Mr. Johnson stated you would have to change the code.

Mr. Bolton stated so it's not as simple as us saying we waive this. I would like it to be and I think we should try to help him. If we are not legally able to do that, then what can we do to make it simple? Can we change the ordinance now today?

Mr. Gillie stated you can't change the article today. You have to advertise it for the public hearing. Like any other case when there is an intensification case of use it has to be brought to current standards. That building has been there for a while but the use is changing and it's getting more intensive. So it has to be brought up to current standards. We don't have the ability to wave bringing it up to current standards. If you wish to create that then you will have to table this, advertise for a code change to amend article, the legal nonconforming

section of it as well as the parking section and hold another public hearing for next month then route it through the same time as this case. The Planning Commission can't waive it. The only time you can waive anything is the parking spaces are six spaces or less you can waive the requirement for paving. You can go with some other surface. This one doesn't fall under that.

Mr. Wilson stated is this a City Code?

Mr. Gillie stated this is a City Code.

Mr. Scarce stated so there is nothing any difference in the way that we can handle this since it's a special use permit were not changing the zoning just a special use permit.

Mr. Gillie stated correct.

Mr. Garrison stated I was curious why this was added to conditions this was discussed with Mr. Sellers during the application process so why was this added?

Mr. Johnson stated as a specification during the cost concerns to clarify and yes this is what we were expecting.

Mr. Garrison stated so there is no opportunity for us to waive this?

Mr. Johnson stated no.

Mr. Sellers stated can I ask one question? This property is being used for years and years for retail business of a much higher intensity. The only thing that flagged this property to go through the paving is when we said it's going to be an auction house. This is a much less intense use. I understand that you are bound by what your governing rules are but a little common sense will tell you if I rent it to a body shop it would be a hundred cars a week in there and I don't have to pave it. Something doesn't make sense with the system and how its working out here and I certainly understand that your hands are tied if that is what your ordinances are but I think you need to reconsider you ordinances especially in this case.

Mr. Wilson stated I think that is what we are sitting here saying.

Mr. Sellers stated I'm not going to rent it to body shop or repair shops. Is it anything that you can do to give us a variance or change description in what we are doing with it?

Mr. Bolton stated what is your time frame?

Mr. Sellers stated these people are ready to go to work and they would move in tomorrow. The only reason is waiting on this hearing right here.

Mr. Garrison stated my question is if they use this building for a by- right use, am I correct?

Mr. Gillie stated if it's a by-right use of the same intensity as it was before if you put another body shop in there then we would not be here, because it is a change of use. It triggers the portion zoning code that says if you increase the intensity then it has to meet all the current requirements. This case, the auction establishment, they said they are only going to have two people in their but auctions can have fifty or sixty people go in there. You have to meet

the requirements of what the code is. Our hands are tied in this case and that's why we are here. The conditions we put that on all the cases its one of those things that has to be done before we will issue approval.

Mr. Searce stated is it a possibility we table it and try to change the code where the special use permits parking requirements be a case by case basis.

Mr. Gillie stated you can do that. It's up to City Council to adopt that code change. You can table this, advertise for public hearing next month and direct staff to advertise it and present that.

Mr. Searce stated that will enable us in some cases to say no, its got to be done and some cases like this one the ability to say let's think about all the options and say we are waiving this case.

Mr. Gillie stated it's up to City Council on whether they will adopt it or not but yes, you could go that route.

Mr. Bolton stated what is the quickest that we can get this done? Give me a time frame.

Mr. Johnson stated the quickest way be to recommend it as conditions and then move forward as Mr. Gillie stated: table it and hear it again for next month.

Mr. Searce stated that is the only way that I see it.

Mr. Garrison stated it seems to me that there are things within our zoning code like this that need to be looked at and I don't have the objection to doing this one on a piecemeal basis. I really do think we need to look at the whole zoning code and whether there are things in there like this. We had the Arnett Blvd. situation where something that required special use permit but the woman couldn't put a convenience store there without coming before us or Council. I think we are looking at a lot of zoning where there is a much worse use requiring special use permit.

Mr. Garrison made a motion that we table this and also as part of that motion that planning staff bring back to us a consideration for code change so that we can pass both of them at the same time at the next meeting. Mr. Petrick seconded the motion. The motion was approved by a 5-0 vote.

Mr. Sellers stated he would like to offer an option. I own the land next door and Kenny said this is going to be a much higher intensity use and I don't know how or why he came up with that. I own the property next door in the county I will designate parking for this when they have Auction's on Saturday nights to help these people get started with their business. They can use all of my land. I will offer thirty acres for parking and you won't have to worry about this parking right here and I will put a sign up parking for Auction only.

Mr. Searce stated I understand what you are doing, but we have to operate by what the code says. We are trying to change it and let you do just that. I believe that our hands are tied and this is the fastest that we can do this.

Mr. Bolton made a motion that we adopt a resolution for approval of the final Major Subdivision Plat for the creation of three lots on Green Acre Dr. Mr. Garrison seconded the motion. The motion was approved by a 5-0 vote.

2. *Review of a Final Major Subdivision Plat for the creation of three (3) lots on Baldwin St.*

Mr. Bolton made a motion that we adopt a resolution for approval of a final Major Subdivision Plat for the creation of three lots on Baldwin St. Mr. Petrick seconded the motion. The motion was approved by a 5-0 vote. Mr. Wilson abstained.

3. Review of a request by Danville Dental Properties, LLC for permission to place a freestanding sign in the public right-of-way.

Mr. Garrison made a motion that we adopt a resolution for approval the request by Danville Dental Properties, LLC subject to the conditions recommended by staff. Mr. Wilson seconded the motion. The motion was approved by a 5-0 vote.

I. MINUTES

The August 13, 2018 minutes were approved by unanimous vote.

II. OTHER BUSINESS

With no further business, the meeting adjourned at 4:15 p.m.

APPROVED