

BOARD OF ZONING APPEALS MEETING
September 16, 2010

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

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

I. ITEMS FOR PUBLIC HEARING

Item 1. Variance Application Number PLVAR201000114, filed by John and Barbara Wilson, requesting variances from Article 3E, Section F, Item 2.A.(1) and Article 7: Section B, Item 2. of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 1819 Halifax Road, otherwise known as Grid 3715, Block 002, Parcel 000019 of the City of Danville Virginia, Zoning Map. The applicant is requesting a variance to subdivide a parcel into two lots; this will create one lot with an expansion of a non-conforming use (existence of a non-conforming mobile home) and a 15' front yard setback where 20' is required.

Nineteen (19) notices were mailed to property owners within three hundred feet; three (3) respondents were unopposed; two (2) respondents were opposed.

Open the Public Hearing.

Present on behalf of the request was Mr. John A. Wilson and Mrs. Barbara Wilson. Mr. Wilson stated we are the ones who applied for this piece of property to be divided.

Mrs. Rich asked how long has the mobile home been in place?

Mr. Wilson responded it was there many years before the City annexed.

Mrs. Rich asked so it was annexed as a non-conforming use?

Mr. Wilson responded yes.

Mrs. Evans asked it is occupied, correct?

Mr. Wilson responded yes it is.

Mrs. Evans asked by one (1) of your sons?

Mr. Wilson responded no. It is occupied by relatives.

Mr. Campbell stated we see that you had some opposition to this variance.

Mr. Wilson stated we saw that. It really caught me by surprise. I was not expecting that.

Mrs. Evans asked if this is approved, do you plan to continue renting the mobile home?

Mr. Wilson responded I intend to rent it as long as the current renters stay. Once they vacate, we are going to take the mobile home away. They have been living there for quite a while, and I have no idea how long they will continue to live there; but this is our plan.

Mr. Dyer asked I noticed on this map there seems to be a dotted line that extends beyond the existing property line. Do you know what the history of that is?

Mrs. Evans asked on the survey?

Mr. Dyer responded on this plat that we have.

Mrs. Rich asked is it an easement?

Mr. Dyer asked you will notice the dotted line in a circle with arrows going out to another dotted line. You do not know what the history of that is?

Ms. Blair responded I do not.

Mrs. Rich asked is that an easement of some sort?

Ms. Blair stated there is no explanation at all.

Mr. Dyer asked did the City prepare this plat?

Ms. Blair responded no. That is the one that I received as the original.

Mr. Dyer asked is this property zoned Suburban Single Family Residential?

Ms. Blair responded OT-R Old Town Residential. The property behind it is Suburban Single Family Residential.

Mr. Dyer stated OT-R requires a twenty (20) foot front yard setback, because this sits on a corner, there are two (2) adjacent front yards and two (2) adjacent side yards.

Ms. Blair stated twenty (20) foot requirement on Halifax and twenty (20) foot requirement on Airport and ten (10) on the sides.

Mr. Dyer stated this mobile home was here before the annexation, so it is grandfathered in. It seems to me that we have two (2) ways in which this property is non-conforming. One (1) is that it does not have the proper setback on Airport Drive and also we have two (2) residences on one (1) single family lot. By granting this variance we would be relieving one (1) of those non-conforming uses. The way that this is non-conforming is that they are actually expanding the non-conforming use by reducing the size of the lot. In other words, it is a grandfathered non-conforming use, but as it sits now, it only takes up two (2) percent of the lot. By subdividing the lot, it then increases the non-conforming use to four (4) percent.

Ms. Blair stated it increases the expansion of the non-conforming use of the lot area.

Mr. Dyer asked have we ever dealt with that before?

Ms. Blair responded not that I am aware of.

Mr. Dyer asked that surprised me, that being an interpretation of an expansion of a non-conforming use. They are not expanding the non-conforming use. Does this lot, being OT-R permit manufactured housing?

Ms. Blair responded it does not permit mobile homes.

Mr. Dyer stated that is another kind of non-conforming use, but that was grandfathered in.

Mrs. Rich stated the lot line on the picture must have been from the City easement. I do not know if that was before the annexation.

Mr. Dyer stated I am curious about that as well.

Mrs. Evans asked who did you receive this plat from?

Ms. Blair responded from the applicant.

Mr. Dyer asked who drew this map?

Mr. Wilson responded I think Mr. Daniels drew that map.

Mr. Dyer stated it appears to be professionally done.

Mr. Wilson stated that road out there, if I might add, has been widened.

Mr. Dyer stated that is what we are looking at. There is actually a little dotted line that seems to indicate that part of your property was taken at one time.

Mr. Wilson stated at one time, yes. I really do not even remember giving them permission until it had happened.

Mr. Dyer asked were you not compensated?

Mr. Wilson responded we were never compensated. If you notice, we are talking about just a little bit over an acre of land there.

Mr. Dyer stated the other key thing here is that would be the other five (5) feet that you would need for your conform to setback.

Mr. Wilson stated you really cannot get the whole picture just by looking at the map. What we have there now, if I was in your place and you were in my place, I would go ahead and verify it.

Mr. Dyer stated I appreciate you caring. It seems to me that we had a case, I think maybe it was two (2) months ago, where we had a convenience store and gas station out on 29. This was sort of a similar situation in which we were granting a variance for one (1) non-conforming use to alleviate what we felt like was a more objectionable non-conforming use. In other words, we granted the variance because it pulled some of the pumps off of the property line. It would seem to me that this deal about expanding the non-conforming use by reducing the lot size is a little picky. The issue of having two (2) residences on one (1) single family lot seems to be a much bigger issue. There were no comments from those who objected. Nothing is going to change, only the legal description. It seems to me to alleviate one (1) of the non-conforming uses. We have two (2) non-conforming issues we are dealing with; and if we grant this variance, we only have one (1) we are dealing with. Looking at the criteria we are supposed to analyze, it meets three (3) of the four (4). The one (1) that the Staff contends that it does not meet, is that the criteria of strict application of the ordinance would produce undue hardship on the property owner. The reasoning for that is the applicant could remove the mobile home and subdivide without the need for a variance. It seems to me that moving the mobile home does produce an undue hardship. That mobile home was there when the City took the property when it was annexed. We have much more grandfathered in other than this. We have commercial uses in the mix of residential property, and things like that. It would seem to me that it does produce an undue hardship on the property owner; and so in my opinion the applicant does meet all four (4) criteria.

Close the Public Hearing

Mr. Dyer stated I feel that all of the City's contention that the property owner would have to do is move this mobile home would in fact create an undue hardship on the property owner. Therefore this application does meet criteria one (1) which means it meets all four (4) criteria. Based on that, I would like to make a motion.

Mr. Dyer made a motion to approve the request for Variance Application PLVAR201000114. Mr. Campbell seconded the motion. The motion was approved by a 5-0 vote.

II. APPROVAL OF MINUTES

Mrs. Rich made a motion to approve the minutes of the August 19, 2010 meeting. Mr. Dyer seconded the motion. The minutes of the August 19, 2010 meeting were approved by a unanimous vote.

III. OTHER BUSINESS

Mrs. Evans asked does Mr. Millner still plan to move forward with court?

Ms. Blair responded that is my understanding. We have not received any kind of proper notification.

Mrs. Evans stated and Mr. Snipes has the honor of that.

Ms. Blair stated as of right now, we do not have a case for next month. I have a meeting after this that will potentially bring us an application. The deadline is Monday.

Mr. Dyer asked have we officially been reduced to a Board of five (5)?

Ms. Blair responded no, we are still looking into that.

Mr. Dyer asked I made the big mistake of enticing someone to put in an application and they are driving me crazy about it. Do you know the status of that?

Ms. Blair responded I have not heard anything.

Mr. Dyer asked we do need two (2) more members, correct?

Ms. Blair responded correct. An applicant would need to see Annette Crane, Clerk of Council.

With no further business, the meeting adjourned at 10:20 a.m.

APPROVED