

BOARD OF ZONING APPEALS MEETING
January 20, 2011

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

City Attorney, Mr. Clarke Whitfield called the meeting to order at 10:05 a.m.

I. ELECTION OF OFFICERS

Mr. Whitfield called for nominations for chairman. Mrs. Evans made a motion to nominate Mr. Gus W. Dyer, III as chairman of the Board of Zoning Appeals. Mr. Whitfield closed the nominations.

Mr. Dyer stated I would like to make a comment. I would like to remind everyone that the Chairman of this committee can neither make recommendations nor second them.

The motion to elect Mr. Gus W. Dyer, III as chairman was approved by a 6-0-1 vote (Mr. Dyer abstained).

Mr. Whitfield called for nominations for vice-chairman. Mrs. Evans made a motion to nominate Mr. Phillip Campbell as vice-chairman. Mr. Whitfield closed the nominations and the motion to elect Mr. Phillip Campbell as vice-chairman was approved by a 6-0-1 vote (Mr. Campbell abstained).

Mr. Whitfield called for nominations for secretary. Mrs. Evans made a motion to nominate Mrs. Marcia-Lee Rich as secretary. Mr. Whitfield closed the nominations and the motion to elect Mrs. Marcia-Lee Rich as secretary was approved by a 6-0-1 vote (Mrs. Rich abstained).

Mr. Dyer now presided over the meeting.

II. ITEMS FOR PUBLIC HEARING

- 1. Variance Application Number PLVAR201000131, filed by Powers Signs, Inc., requesting a variance from Article 10, Section N, Item 1a of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 114 Market Street, otherwise known as Grid 2709, Block 019, Parcel 000001 of the City of Danville, Virginia, Zoning Map. The applicant is requesting a variance to erect a 75 sf ground sign where 16 sf is allowed.*

Twenty-three (23) notices were mailed to surrounding property owners. Five (5) respondents were unopposed; Two (2) respondents were opposed.

Open the Public Hearing.

Present on behalf of the request was Mr. Tom Powers, Sr. of Powers Signs, Inc. at 807 Industrial Avenue. Mr. Powers stated as some of you know, we have been here before about this. I am going to pass around some literature. We are asking to put a lighted sign on the back side of Virginia Bank & Trust parking lot adjacent to the four (4) lanes that border it. The four (4) conditions that have to

be met for a variance to be granted, I would like to start at the back. The criteria that, this is such an unusual or non-reoccurring in nature, that it does meet the requirement that would not warrant the Council to have to make a change to the Code. That in itself, I think, that is by the Staff. It is unusual situation. We have four (4) pieces of property and we recognize that Main Street does require and deserves a certain amount of consideration as far as the signs and how large they can be. Unfortunately this area is zoned the same as Main Street. It is on a four (4) lane road that is thirty-five (35) mph. I will go back to the top. It says that currently there are forty (40) square foot sign. Your paperwork will say thirty-two (32), but actually I do not know when or how this occurred but in 1987 when that sign was moved, it was just moved to the other side of the driveway. Those dimensions are not right. Currently there is forty (40) square foot sign, but it is on Market Street. There is very little visibility on Market Street. Essentially we are looking at the corner of Spring and Memorial Drive to locate a new sign. If the forty (40) square feet is adequate, it would be adequate if it were in another location on the piece of property. We do not feel that is adequate on Market Street. I do not know what the traffic count is, but it cannot be very high. The second (2nd) criteria that it is not generally shared by other localities, if you will look at the second (2nd) sheet for other properties, I have got pictures of the forty (40) square foot Virginia Bank sign in the lower left hand corner. One Hour Martinizing is across the street on Market. This is just one (1) of the signs on their building. This First State Bank ATM sign is on top of the ATM across the street in another parking lot on the corner of Memorial and Spring. Just around the corner almost visible from this location is First State Bank. These signs go way back. I think First State Bank would have probably been in the last Code. 87 for the Virginia Bank sign we re-located would have been two (2) Codes back. First State would have been allowed in the previous Code. Fifty (50) square feet, and apparently they were allowed thirty (30) feet overall height. This piece of property that we are talking about now in the previous Code was allowed fifty (50) square feet. We feel that taking the fifty (50) square feet from them and reducing it to sixteen (16) square feet is a hardship. A stop sign is three foot by three foot (3' x 3'). As big as this might seem in this room, this is sixteen (16) square feet (holding a visual). A stop sign is thirty-six by thirty-six (36x36). This is forty-eight by forty-eight (48x48), sixteen (16) square feet. The other thing about the Code, as I look at it, there is nothing between sixteen (16) square feet and seventy-five (75). Is it twenty-four (24) in one (1) area, and then it goes to seventy-five (75) and there is nothing in between? If I am not mistaken, there is none from what I can see. In the second (2nd) picture, the other signs are established. They already exist. We would take the square footage of any one (1) of them if we could do it on the corner where it would be visible. That is why, item three (3) the authorization of the variance would not be a substantial deterrent to adjacent property owners. Adjacent property owners already have a sign equal to or greater than what we are trying to do. I do not see how an additional sign would affect them whatsoever. This first (1st) picture is one we did in Rustburg. This is essential what we started out with. We designed this sign to fit Rustburg, and to fit anywhere in Danville except Memorial Drive and Spring Street.

Mr. Dyer asked what is the square footage of this sign?

Mr. Powers responded this sign is seventy-five (75) square feet.

Mr. Dyer asked does that include the message board?

Mr. Powers responded yes.

Mr. Powers stated on the third (3rd) sheet we have three (3) different specifications. Number one (1) is seventy (70) square feet, which is the same as Rustburg. Number two (2) is still seventy (70) square feet, but we lowered it to a fifteen (15) foot overall height as opposed to an eighteen (18). I am not sure what the overall height is in CB-C. Is it twelve (12)?

Ms. Blair responded it is ten (10).

Mr. Powers stated we brought it down just to compact it a little bit. Sign number three (3) is forty-five (45) square feet or essentially five (5) square feet larger than the existing sign on Market Street. We are open to recommendations, suggestions. The seventy-five (75) or seventy (70) square feet is really the starting point. Anything that we could get would help in this situation. This is a parking lot. It is a drive-thru. It is not Main Street. The aesthetics in this area are not what I think the Code is intended to protect in this particular area. In an essence, that is what we are basing this on.

Mrs. Rich asked is this the same as what you were talking about before?

Mr. Powers responded yes.

Close the Public Hearing.

Mr. Dyer stated I think we need to refresh for some of the board members who may have been absent the last time we reviewed this and for some of the board members who are new. In essence, what the Board felt at the time was that this Board could not grant the variance, but that we recommended that it go before Planning Commission and then Planning Commission forward it to Council. We felt like this was something that Council would want to address. The reasoning for that was that some of us, or enough of us to pass the motion, felt that the sixteen (16) square feet was not sufficient for this application because of the fact that this property fronts on a four (4) lane divided highway where the speed limit is thirty-five (35) miles per hour. It would be difficult for someone that was in the far lane traveling thirty-five (35) miles per hour down the highway to identify a business based on sixteen (16) square feet. That is what the Code says, and unless we can come up with reasons why this property is unique enough to grant the variance, we are required by law to deny it. Simply because we may disagree with the Code does not mean that we have the right just on whim to supersede that Code. Based on that information, we would like to have discussion among the Board members or questions for Planning Staff.

Mr. Hiltzheimer asked are there any precedence for this variance?

Mr. Gillie responded for granting it or denying it? Granting it, no. Denying it, many sign variances have come before this Board in the past. A sign is, I do not want to say convenience, but it is something that someone has to advertise. City Code and City Council has adopted regulations stating what signs are appropriate for what district. Everyone in that district has to follow the same regulations. To answer Mr. Powers question from earlier, you said that they went from sixteen (16) to seventy-five (75), the Transitional Office actually has twenty-four (24) and thirty-two (32), so there are step-ups depending on what districts you are in.

Mr. Powers asked thirty-two (32) for single occupancy?

Mr. Gillie responded for two (2) or more businesses.

Mr. Powers stated for this situation, we are talking single occupancy. It goes from sixteen (16) to twenty-four (24), and then jumps all of the way to seventy-five (75).

Mr. Gillie stated right, but City Council has adopted those regulations for certain districts. That is something that everyone has to follow. In this case, there are regulations. They know what the rules are. Just because they want something different, there is no precedence to grant this variance.

Mrs. Evans asked does the Code allow for adding all of their signs together to come up with a square footage, and if they got rid of the sign on Market Street, could they then increase this sign?

Mr. Gillie responded the wall signage is based on the linear footage of the entrance. We give a total. If your building is "X" feet long, then you can total up that footage and put it however you want on the walls of the building. The ground sign itself, is a fixed size and you have a limited number of ground signs. You can have "X" number of square feet per ground sign, and you can have one (1) ground sign per property unless you have multiple frontages. Even then you can still have only one (1) ground sign per property.

Mrs. Evans asked would this be the one (1) ground sign?

Mr. Gillie responded yes.

Ms. Blair stated the other one (1) would have to be removed.

Mrs. Evans stated and that is planned to be removed.

Mr. Gillie stated as a Staff, we try not to dictate much on how someone places their signs. We give them numbers to work with and say "This is what you have got. You figure out how to work it so it is best for your business." We changed those regulations back in 2004.

Mrs. Evans asked could they put another wall sign on the Memorial property side?

Mrs. Rich stated I do not think you could see it.

Ms. Blair stated they have a current permit that allows for two (2) new wall signs. I do not have in front of me the exact locations. Was one (1) of those on Memorial?

Mr. Powers responded Main Street.

Ms. Blair asked just on Main Street?

Mr. Powers responded the corner of Main.

Ms. Blair asked and then one (1) on Union?

Mr. Powers responded Spring.

Mr. Gillie stated they could re-locate one of those signs to another face, and it may give them the visibility that they are asking for. They have permits for new signage. It is up to them on how they place those new signs.

Ms. Blair stated only one (1) per wall.

Mrs. Evans asked right now that side does not have a sign, but they could place one (1) there?

Ms. Blair responded yes, they could place the sign.

Mrs. Evans asked make sure that it is the proper size based on the linear square footage, correct?

Mr. Gillie responded correct.

Mr. Snipes asked we referred this back to the Planning Commission. What was their reaction? Were they in favor at all?

Mr. Gillie responded no, Planning Commission did not feel that it was something they should look at. Mr. Powers also has the option of applying directly to Planning Commission for that case. Mrs. Evans is our Planning Commission representative, so she can testify as to what Planning Commission agreed to.

Mrs. Evans stated I had to leave early that day.

Mr. Dyer stated I would like to clarify that. The motion was made to have this issue addressed by Planning Commission. Planning staff makes a recommendation to Planning Commission as to whether they should consider it or not. Planning staff recommended that Planning Commission not go into this matter. I will also mention that I asked to be present when it went before Planning Commission, so I could speak on its behalf. I was not notified. Mrs. Evans, who is our liaison with Planning Commission, was also absent.

Mrs. Evans stated I was not absent. I was at the meeting. I had to leave early, and I asked the Chair, Mr. Griffith, to bring it forth. He informed me that they did not want to go forward with it.

Mr. Dyer stated it is their prerogative to do so, but even if they had addressed it and denied it, it still would have gone before City Council. Basically what happened, it was blocked.

Mr. Bralley asked for no reason at all?

Mr. Dyer responded they have their reasons. I actually think the reasons are spelled out in this application.

Mrs. Evans stated excuse me Mr. Dyer, but I think in the past I have taken things to the Planning Commission that we have approved that very day and has been to City Council.

Mr. Dyer stated no, what I am saying is that planning staff; if I am incorrect, you correct me. You all made a recommendation before it went to the Planning Commission meeting.

Mr. Gillie stated we presented what your motion was, and how specific that motion was and that staff felt that the motion was too specific. It gave special privileges to certain properties, but not to all of them. Planning Commission said "no" based on that motion. Mr. Powers can apply for just a blanket Code change to allow for additional square footage within that district, and then Planning Commission, if they wanted to finish off, they could. Based on what I told them, this is what your motion was. We felt it was too specific.

Mr. Dyer stated when you said it was turned down by Planning Commission, it was presented to all members of Planning Commission and any of those members could have made the motion.

Mr. Gillie stated it was presented to them, and they could have made that motion. They chose not to. You were at that meeting.

Mr. Dyer stated like Mrs. Evans, I had to leave early. I was not aware that it was on the agenda that day. I would have stayed if I had known that, because like I said, I had asked to be there.

Mr. Gillie stated it is placed to them, because it comes from one (1) Board to another; we present that to them. They felt that was too specific, and they said “no, we will not hear this.” It comes back to you at this point. If Mr. Powers still wants to go that route, he still has that option.

Mrs. Evans asked if we deny it, does he still have that option to go before Planning Commission?

Mr. Gillie responded he still has the option to ask for a Code change. He can ask based on the property he has, but when you ask to change the Code, you are changing it for every property that is in that zoning classification not just this property in particular.

Mr. Dyer stated one (1) comment I would like to make, because I think I actually made the motion to present this to Planning Commission. One (1) of the criteria that I felt like we could not grant this variance was that this property was not unique enough to warrant approval of the variance. It seems to me that now planning staff is contradicting that. They felt like, in fact, that this property is unique.

Mr. Gillie stated no, we do not. The motion made by the Board was for a four (4) lane divided highway.

Mr. Dyer stated what the original motion stated was that even though it is zoned CB-D, which is Central Business District, which is basically what you see when you look out the window, that it was in fact a piece of property that fronted primarily on a four (4) lane divided highway. We felt like a piece of property that fronted on a four (4) lane divided highway was not in the character of the CB-D, and that the Sign Ordinance that applied to the CB-D was probably not appropriate for a piece of property that fronted on a four (4) lane divided highway; and because of that we felt that the Code should be changed to allow pieces of property that are zoned CB-D, but do front on four (4) lane divided highways, that they be granted a larger sign. We felt there were other pieces of property that were zoned CB-D that also fronted on a four (4) lane divided highway, and that it would be unfair to grant Mr. Power’s his variance without allowing those folks the same courtesy. The staff has come back and said that they do not feel that there are enough pieces of property that are zoned CB-D that front on a four (4) lane divided highway to warrant a Code change. Therefore, I am of the opinion that in fact this piece of property is unique enough to grant a variance.

Mrs. Evans asked does it front on Memorial or does it front on Main Street?

Mr. Dyer responded well it is a corner lot, so you sort of get your pick.

Mrs. Evans asked is the entrance on Memorial?

Mr. Dyer responded no, the entrance is on Market Street. That is the same situation we have on Piedmont Drive with Olive Garden.

Mrs. Evans stated which I voted against.

Mr. Dyer stated right. A piece of property can front on a roadway where the entrance of that business is not on that road it fronts on.

Mr. Gillie stated in response to your question, no we do not feel that this property is that unique. We have regulations in this district that all property owners have to follow. This, with its multiple frontages, we have other properties in that district that also have multiple frontages. The way the approval was presented, or the possibility for approval from staff’s perspective it was trying to write

and change the regulations of the Central Business District to allow for signage if they fronted on Memorial Drive.

Mr. Dyer stated or any other four (4) lane divided highway. We did not specify Memorial Drive.

Mr. Gillie stated we only have one (1) four (4) lane divided highway in that district. The Board of Zoning Appeals should not be writing that legislation. That is something the Planning Commission and City Council should handle. That is why Mr. Powers has the option of going back and applying specifically to Planning Commission to change the regulations that would impact all properties within the Central Business District. This property is really not unique. It is just like some of the others in there. They have signage. These are the regulations. They know what they have got. City Council adopted them. They can make signs that meet those minimums. They feel that they need more signage. Again, staff's perspective is no. They know what the field is. Everyone has a level playing field. Trying to change it, this property is not unique. There are multiple properties that front on a four (4) lane.

Mr. Dyer stated Mr. Gillie it does sound like you are suggesting that this piece of property falls in sort of a purgatory where it is not unique enough to warrant a variance, but it is too unique to warrant a change in the Code.

Mr. Gillie stated no, the way it was presented would have been basically saying "ok, this property and maybe three (3) others get special privileges that the other people in the Central Business District do not get."

Mr. Dyer stated because they have special characteristics. They have a hardship basically, because they front on a four (4) lane divided highway. If you are walking down Main Street, a sixteen (16) square foot sign is probably adequate. If you are going down Memorial Drive at thirty-five (35) miles per hour and you are more than one hundred (100) feet away from the piece of property, and when you are talking about a sixteen (16) square foot sign you are probably talking about letters that are no more than six (6) or eight (8) inches tall, that in fact is difficult to identify in that situation. That would be my opinion. There is a difference between driving down Main Street and driving down Memorial Drive.

Mr. Gillie stated every property in the City could say that they are unique in their own circumstance. Someone on Riverside Drive could say they were unique.

Mr. Dyer stated they could say it, but it is up to this Board to determine whether that is true or not. That is what we are being asked to determine now.

Mr. Gillie stated staff's opinion is that this property is not unique.

Mr. Dyer stated just to clarify for the Board; it is staff's opinion that this property is not unique enough to warrant a variance.

Mr. Gillie stated they have other options available to them.

Mr. Dyer stated if we do not have any other questions, I would like for someone to make a motion. I would like to remind Board members that we are required to meet these four (4) criteria. If you are going to make a motion to recommend approval that you do clarify your reasoning to do so.

Mr. Campbell made a motion to deny Variance Application PLVAR201000131. Mrs. Evans seconded the motion. The motion was approved by a 4-3 vote.

2. *Variance Application Number PLVAR20100000217, filed by Roman Eagle Memorial Home, requesting variances from Article 3M, Section H, Item 5 and Article 13, Section I, Item 1e of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 2526 North Main Street, otherwise known as Grid 2810, Block 003, Parcel 000009 of the City of Danville, Virginia, Zoning Map. The applicant is requesting a variance to allow three (3) curb cuts on a single right-of-way where two (2) is the maximum number allowed.*

Mr. Dyer stated this seems to be an item that we addressed at the previous meeting. I think Planning Staff should explain to us why we are reviewing it again.

Mr. Gillie stated you will notice in the legal ad there are two (2) variances requested. There is a provision in the Zoning Code that states that when the Board denies a case it cannot come before them for a year. They have asked for a variance to that year provision and then asked for the same thing they asked for last month.

Mr. Whitfield stated you do recall Mr. Chairman that what happened was 3-1 in favor, but you have to have four (4) affirmative votes.

Mr. Dyer stated to clarify that for the Board, we are a seven member Board and it is not the majority of the vote of the quorum. We are only required to have four (4) members present for a quorum. We only had four (4) members last month. In that situation, it has to be a unanimous vote. Even though 3-1 is 3-1, it is not four (4) votes. I do not see where they are actually, in the literature where we are being asked to review whether they should have the option.

Mr. Gillie stated it is advertised as two (2) variances. We did not spell out the literature, because that is basically a yes or a no item. Will you grant them the variance to be heard again or not?

Mr. Dyer asked do we need to do that first (1st)? We need to first of all vote on whether they should have the right to come back before the Board.

Mr. Gillie responded correct.

Open the Public Hearing.

Present on behalf of the request was Mr. Brian Bradner with Dewberry and Mr. Dan Setliff with Roman Eagle Memorial Home. Mr. Bradner stated we did come before this Board in January. At that time, I think we had some inclement weather that morning.

Mr. Dyer stated I believe I will correct you, and say that it was the December meeting.

Mr. Bradner stated at the last meeting in December, I believe we had some inclement weather that morning and we only had four (4) members of the Board that happened to be able to make it to the meeting. I am not sure if the chair or vice-chair were here at that meeting.

Mr. Dyer stated the vice-chair was here.

Mr. Bradner stated I could not remember, but anyway we had four (4). It was our understanding that basically a majority of the Board is what was needed, but the majority of those present was what was needed either to approve or deny that application. Once our case was heard, it was 3-1. Staff had some questions. I do not think that Clarke was able to be here. It was some question as to whether that was an approval, if it had to be the majority of the entire Board, or that it had to be those present. In all honesty had we known up front that it had to be the majority of the Board, we

would have requested for it to be tabled. That was not made clear to us at that time. We respectfully ask that you allow us to present this once again to the entire Board.

Mr. Dyer asked is it Staff's normal protocol to let applicants know what the situation with the Board is? That it is a seven (7) member Board, and that it does require four (4) affirmative votes regardless of the attendance.

Mr. Gillie responded it was not at that time. We have corrected that now.

Mr. Dyer stated I would highly support that. Since the applicant was not made aware of the situation that when you only have four (4) of seven (7) members show up that you have to have approval from all four (4) members.

Close the Public Hearing.

Mrs. Evans asked is there any way that we can know who voted against it last time?

Mr. Gillie responded it is in your minutes.

Mrs. Evans stated no, it is just 3-1. Who actually voted?

Mr. Dyer stated I can clarify that, if you want.

Mrs. Evans asked was it me?

Mr. Dyer responded yes. The four (4) members that were present at the December meeting were: Mr. Bralley, Mr. Hiltzheimer, Mrs. Evans, and myself.

Mrs. Evans asked I wonder why I did that?

Mr. Dyer stated the three members that voted in favor were Mr. Bralley, Mr. Hiltzheimer, and myself; and the one (1) member who voted against it was Mrs. Evans.

Mrs. Rich made a motion to hear Variance Application PLVAR2010000217. Mr. Hiltzheimer seconded the motion. The motion was approved by a 7-0 vote.

- 2. Variance Application Number PLVAR2010000217, filed by Roman Eagle Memorial Home, requesting variances from Article 3M, Section H, Item 5 and Article 13, Section I, Item 1e of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 2526 North Main Street, otherwise known as Grid 2810, Block 003, Parcel 000009 of the City of Danville, Virginia, Zoning Map. The applicant is requesting a variance to allow three (3) curb cuts on a single right-of-way where two (2) is the maximum number allowed.*

Twenty-eight (28) notices were mailed to surrounding property owners. Six (6) respondents were unopposed; Zero (0) respondents were opposed.

Open the Public Hearing.

Present on behalf of the request was Mr. Brian Bradner with Dewberry and Mr. Dan Setliff with Roman Eagle. Mr. Bradner stated what I have got here; I have got two (2) boards. This is one (1) that we will probably focus on. This is an aerial of Roman Eagle. I am sure most of you are familiar with the location on North Main Street. Mr. Setliff is going to come up. He has got some additional

information that he would like to cover. Just to get you orientated to the site, this of course is North Main Street here, this is the main entrance into the memorial home here, currently this is the parking lot here, there is an entrance here, and there is also an existing curb cut here. It has been in existence since 1959. This is actually a separate parcel. Roman Eagle owns this right here. Roman Eagle owns approximately seventy (70) to eighty (80) acres. The project that they are in the midst of right now is basically creating some additional parking for overflow. At some point in time, and Mr. Setliff will go into some additional details about this, there is a possibility that this would be a separate use for Roman Eagle. Our understanding from Staff and in our review of the Code is because this is a separate parcel, if it were in fact a separate use, I think the example was made last time that if it were an ice cream parlor or whatever, there would be no issue with this curb cut being allowed to use. The issue in the variance as our understanding is because it is for the same use.

Mr. Setliff stated I am Dan Setliff, Administrator of Roman Eagle Memorial Home. For your convenience we would like to give you some information. Essentially as I understand it, we had to meet four (4) specific criteria in order to be granted a variance; so for your convenience I have prepared Roman Eagle's position on that. I will not read this exactly, but we would like to review each one. The first (1st) criteria is that it would produce an undo hardship on the property owner. As Brian indicated, we are in the process now of paving this parking lot to allow us to have additional parking. In looking at this, we are proposing to widen the existing entrance coming into Roman Eagle to make it an entrance and an exit; because the normal traffic flow is being used for that purpose now. We are proposing to actually close an existing curb cut on this other parcel. The request is that an existing curb cut that has been in existence since 1959, I am told from the previous owner, be allowed to remain open. There are some unique situations here as far as what we have. The distance from this area is approximately five hundred seventy-five (575) feet, which is certainly a long span and is unique to Roman Eagle. Our long range plan, and we are in the process now of obtaining a professional marketing, feasibility firm to do a professional marketing, feasibility analysis, is to develop a continuum of services on this property as well as related property to Roman Eagle. At some point we do intend on using this property for some structure. An Alzheimer unit, I am not sure yet what it will be, would be constructed here. I believe as Brian indicated, if that was the case then we would not be here today. It would be allowed to be open. It is a unique situation, because if this closed then people that come into this parking lot, which basically will serve as an overflow parking lot, we have a lot of elderly visitors, we have three-hundred and twelve (312) residents and their families. A lot of times their spouse is elderly. They would come in and if the parking lot was full, they would either have to turn around with some difficulty or have to back out of the parking lot. You would have traffic coming in and going out, and both of these could create congestion and also pedestrians walking across the parking lot could create a safety hazard. We asked Dewberry to give us their recommendation. I think I am safe in saying that the professional engineers at Dewberry concur with what we are requesting. We would ask that this existing entrance be left open. We are actually closing an access point, even though we are requesting that this be open. If we were to just maintain this as a separate use, it is a separate parcel and we could have two (2); so we are actually doing away with one (1). I would not envision us wanting to come back to request that it be granted. If this is closed we would not have any access to this parcel from North Main Street. We would have to go back at additional expense and reopen it up. It is not generally shared by the other owners, because as I mentioned the span of distance. We have three hundred and twelve (312) residents, many of which have elderly visitors. In our opinion, it does create a safety hazard. I have been Administrator for Roman Eagle for thirty-five (35) years, and I am not aware of any accident related to this area. I do think if this were closed it would create even more traffic and bottleneck in this area. As far as the requirement that it not be a substantial deterrent to adjacent property owners, that is certainly our position. We actually own the property that is contiguous to this. I understand that nine (9) notices of the variance were mailed to surrounding owners, and there was no opposition from the owners related to the project. If you will note, all along North Main Street there are numerous access points, and with the opening of the

access road to the bypass, I hope there is going to be a stop light but the speed limit is thirty-five (35) miles per hour. In no way, in my opinion, would it create any hardship or reason for opposition. As far as the last criteria, I will not elaborate except to say that we concur with this. We will be happy to answer any questions that you might have.

Mr. Snipes asked the part that you are talking about, is that two (2) parcels or have you joined them? Do you have one (1) parcel or two (2) parcels?

Mr. Setliff responded it is all owned by Roman Eagle, but it is actually two (2) parcels of land. If you are familiar with Roman Eagle, on the north side there used to be an existing car lot here. We also have acquired the property next to that, and then you have got Bubba's there. We are requesting to close this entrance here that was existing, and that the remaining entrance be allowed to stay open. It is a long way, if you look; it is over five hundred (500) feet from one (1) point to another.

Mr. Bradner stated in essence you currently have four (4) curb cuts there. The proposal is that one (1) of them will be closed.

Mrs. Rich asked is that the one (1) that you just increased to thirty (30) feet?

Mr. Bradner responded there is actually a separate one (1) here, and that one (1) is being closed. This one (1) was existing, and that is being widened.

Mrs. Rich stated ok, but you already have the permit for that. Right?

Mr. Brander responded yes.

Mrs. Rich stated I got a little lost. I am sorry.

Mr. Setliff stated I might elaborate on that. In order to meet the requirement, we request that this be widened, and the reason we did that was because presently this is an entrance; but we all know that people are going to do what is most convenient, so all of the cars parked on this side it made little sense for them to back up, go all the down, and go back out here, so they were using this. It is twenty (20) feet now, and we had cars trying to go in and cars trying to go out. That was very much a safety hazard. We wanted to widen that and also because of the need for parking plus we understand that we would not be allowed to just have a gravel parking lot until we finalize what we are going to do. It was necessary that we pave it.

Mr. Bralley asked where are the other two (2) openings?

Mr. Bradner stated there is one (1) here, and there is one (1) over here. This is the first (1st), and this is the second (2nd). This is the one (1) that we are requesting to remain open.

Mrs. Evans asked American Legion did not oppose your request, but they did state that they had given you property for the purpose of an entrance off of American Legion Boulevard. Can you address that?

Mr. Setliff responded I am not familiar with that.

Mr. Hiltzheimer asked where is American Legion Boulevard on that map?

Mr. Dyer responded it is not on that map.

Mr. Setliff stated I was not aware of that at all. I can address it by simply saying that we did acquire some property from them over ten (10) years ago. It is basically a hole, and the access is directly across from the dumpster at Old Dutch. That is not something we are interested in having as a main entrance to Roman Eagle.

Mr. Bradner stated I think there was a question last time about the actual distance the entrances, and if it were a separate use would they be legal. The answer to that is yes. There is adequate distance per Code.

Close the Public Hearing.

Mr. Dyer stated the applicant has very graciously provided their own criteria reasoning for approval of this application. If you would like to use this in making a motion, you may do so. If you would like to use your own reasoning for making a motion, you may do that; or you may make the motion that we deny the application.

Mrs. Evans asked they indicated that if this was a separate use where they are proposing the parking that this would not be an issue. Do you foresee that as a separate use or would an Alzheimer unit still be functioning as part of Roman Eagle?

Mr. Gillie responded if they constructed an Alzheimer's unit, we would probably consider it a separate use unless the buildings are physically attached through some sort of breezeway or connection. If it is built as a standalone, we would consider it separate.

Mrs. Evans asked and if it is not? I do not know what their plans are.

Mr. Gillie responded I have not seen their plans either, so I am not quite sure. I can just say that if it is a separate building, we would consider it a separate use. In the last meeting the question did come up of whether there was sufficient space to get the drive entrances to work. Dewberry has provided the requirements that yes, there is enough space. That was one (1) of the questions that came up last time, because we did not know for sure. They did run the numbers on it, and it did show that it could support a separate driveway.

Mr. Dyer asked what is this property zoned? Is this HR-C?

Mr. Gillie responded it is HR-C.

Mr. Dyer asked what is the minimum lot width on HR-C?

Mr. Gillie responded for a corner or a non-corner?

Mr. Dyer stated non-corner.

Mr. Gillie stated interior lot width is ninety (90) feet. Corner lot is one hundred fifty (150).

Mr. Dyer asked so in essence, at some point this property could be subdivided into ninety (90) foot lots?

Mr. Gillie responded correct.

Mr. Dyer stated based on their frontage, they could have as many as six (6) separate lots. Each lot would be granted a driveway entrance, right? There could be as many as six (6) driveway entrances on this piece of property.

Mr. Gillie responded not necessarily, but they would at least have one (1). We can control that.

Mr. Dyer stated I just want to make the point that this is an extremely long frontage on North Main Street, not that I am trying to sway the Board in any certain direction.

Mrs. Rich made a motion to grant Variance Application PLVAR2010000217 using the reasoning provided by Roman Eagle Memorial Home. Mr. Hiltzheimer seconded the motion. The motion was approved by a 6-1 vote.

3. *Variance Application Number PLVAR2010000218, filed by Wayne Barefoot and Sherry Cockman, requesting a variance from Article 2, Section Q, Item 1 of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 902& 904 Paxton Street, otherwise known as Grid 1720, Block 004, Parcel 000008 of the City of Danville, Virginia, Zoning Map. The applicant is requesting a variance to erect a six (6) foot tall fence in the front yard where a maximum height of four (4) feet is allowed.*

Fifty-three (53) notices were mailed to surrounding property owners. Seven (7) respondents were unopposed; Six (6) respondents were opposed.

Open the Public Hearing.

Present on behalf of the request was Ms. Sherry Cockman and Mr. Wayne Barefoot the property owners. Ms. Cockman read a statement provided to the Board members giving reasoning for the application. Ms. Cockman stated if there are any questions, I will answer them or Mr. Barefoot will.

Mrs. Evans stated it says according to the report that Mr. Powell was sent multiple violation notices with the fence being built.

Mr. Barefoot stated at the time we purchased the property from Mr. Powell, we had not done the proper paperwork so even though we had met with Renee Blair and we had spoken via phone with Kenneth Gillie the lien had not been switched over at that time, so Mr. Powell was getting them.

Ms. Cockman stated we did not apply for the variance until the paperwork was properly done, and it was actually in our name because we would have basically applied for him and not us.

Mr. Barefoot stated after we closed on the property, we sent in our request forms for the variance. Renee Blair and Mr. Gillie also at the time we were getting notices and we had specifically said to contact us, we were told in the beginning that they could not speak to us directly because Mr. Powell was listed as the owner. We began having problems at that point. It was a matter of Mr. Powell's terms that we close on the property.

Mrs. Evans asked were you in the process of building the fence during the multiple notices or did you stop once you received a notice?

Mr. Barefoot responded the fence was already complete. The fence took a three (3) week term to erect. Before any notices were ever given, the fence had been up for about three (3) months before we were ever notified through the City or anyone that we needed a permit, a variance or anything. It had already been erected.

Mrs. Evans asked when you got the permit; it did not state that it had to be four (4) feet?

Mr. Barefoot responded no, it did not. We never got a permit, because we were told that we did not need a permit because it was not a conventional form fence. A conventional form fence, I am assuming is a six foot by eight foot (6' x 8').

Ms. Cockman stated totally closed in like the one (1) on Lee Street and Cole Street.

Mrs. Rich asked does this go all the way around the property?

Mr. Barefoot responded no, it is just in the front and the sides, which keeps the foot traffic off of the property.

Mrs. Evans asked what is to prevent people from coming in the back?

Mr. Barefoot responded it is amazing what a six (6) foot fence can do in the front. It is actually very intimidating for people that are walking by. Since the fence has been up, we have not had any problems. We do have a camera system on the property to monitor the property quite a bit. We have had absolutely no activity.

Ms. Cockman stated we can have a six (6) foot fence on the sides and in the back. Once this is taken care of, we will probably consider going all of the way around. That way it is totally enclosed. We want to get this taken care of first (1st).

Mr. Dyer stated that would be my question. Why wasn't the fence erected in the back first (1st)? It seems to me that your problems are more on Colquhoun Street than on Paxton. It separates your property from adjacent property.

Mr. Barefoot stated there is a current fence there. It is a little aged.

Mr. Dyer asked what is the height of that fence?

Mr. Barefoot responded between seven (7) and eight (8) feet.

Mr. Dyer asked you have a seven (7) or eight (8) foot tall fence in your back yard, and you still have people crossing that fence?

Mr. Barefoot responded no, they have over the years actually bent the wire back.

Mr. Dyer asked if that fence were repaired, would it not be your opinion that would serve the same purpose as the fence in the front?

Mr. Barefoot responded when we first (1st) bought the property, we were finding that individuals were walking through the property even though we have a boxer. We were finding that individuals would cut through and once they would see our boxer, they would turn back around and come back on the side. 902 and 904 is the same property. 904 was an apartment. They were actually coming in from Pam Bray's side at 904 and cutting through to get to the walk thru.

Mr. Dyer stated I think the question I have and maybe some other Board members have is that if in fact a six (6) foot tall fence solves your problem on the through traffic and a six (6) foot tall fence is allowed in the rear yard and in the side yard up to the front setback, why that would not serve the same purpose as this front fence.

Ms. Cockman stated we wanted it the same size all of the way around. A four (4) foot fence in the front and on the sides goes up automatically two (2) more feet. Cosmetic it does not make sense to have six (6) feet all of the way around and in the front have four (4) feet. You would have a two (2) feet difference that just does not look well.

Mr. Barefoot stated they are still going to jump a four (4) foot fence on the corners.

Close the Public Hearing.

Mrs. Evans asked do you have to get a permit to build a fence?

Mr. Gillie responded a four (4) foot fence, no. A six (6) foot fence, yes.

Mr. Dyer asked on the situation in which you have the transition from a six (6) foot fence which is allowed in the rear yard and the side yards to the four (4) foot height, is that only to the setback or is that to the front of the house; because this house actually sits back much further than the other houses on the street? My question is would you have to come to the face of the building and then transition down to a four (4) or could you extend the six (6) foot fence all of the way down to the front yard setback what I imagine would be twenty (20) feet?

Mr. Gillie responded you would extend it to the front yard setback line then it would transition up. We have them all over town that start at the front yard setback at four (4) feet, and then transition up.

Mr. Dyer asked at that point if you do not extend into the twenty (20) foot setback could they have a six (6) foot tall fence across the front of their house if it set back behind the twenty (20) feet?

Mr. Gillie responded yes. The fence in the front yard would be four (4) feet, and then they could put a six (6) foot fence at the setback line.

Mr. Dyer asked at the setback line even though the front of their house is behind that?

Mr. Gillie responded correct.

Mrs. Evans asked are you saying they could have two (2) fences?

Mr. Gillie responded they could have a four (4) foot fence along the front extending back to the front yard setback line, and at the setback line jump up to six (6) feet if they wanted to; because the house is located further than twenty (20) feet back. The first (1st) twenty (20) feet can be four (4) feet, and then at that point, they can go to six (6). They could fence off, and do kind of like a compound fence. There are options available to them.

Mr. Dyer asked I do not know if staff has any idea whether they can answer this question or not; but Fred Leggett's house has a very tall brick fence all around his piece of property. Is that because his fence sits back behind the front yard setback or was that fence allowed at the time it was being built? Do you have any idea?

Mr. Whitfield responded that fence was probably built before any of us graduated high school.

Mr. Dyer stated no, it was not for me. I would say that the fence was built after 1980.

Mrs. Rich stated yes, it was.

Mr. Gillie stated to answer your question; no I am not familiar with that fence. I can find out if you want me to. The fence that they mentioned on Lee Street is a violation that we are pursuing. We have had issues with that property owner, and that is an active case.

Mr. Campbell stated say that again.

Mr. Gillie stated the property on Lee Street is an active zoning violation case.

Mr. Snipes stated it seems as though we have been dealing with fences for a long time. I believe at one (1) point we mentioned the fact that we would try to get some relief in the Code for the area especially in the historic district. Of course, I think that got dropped. It seems to me that people in the historic district need some relief from the Code per say. As I look at the pictures that they brought in of fences that are more than six (6) feet in the area, I suspect that they were built without permits, especially the one (1) on Jefferson Street. I noticed they have some on Nanny Edwards Drive, of course that is not historic. They were probably grandfathered in, because that area used to be County. It seems to me, and I do not know how we can do it; but we need some relief about signs in the historic district. We talked about them painting signs on buildings, and how we need relief from that. I think we need to somehow get someone working on that. Maybe that has to be referred back to the Planning Commission, and see if we can get some relief for people in the historic district.

Mr. Dyer called for a recess at 11:21 a.m.

Meeting was called back to order at 11:25 a.m.

Mr. Dyer stated at the point we left, we were discussing the application for the increased fence. I think we had exhausted all questions we had for staff and everyone else, so I think at this point we are probably ready to entertain a motion. Would someone like to make a motion? To remind those if you do make a motion, we do need to meet the four (4) criteria. Once again, the applicant has graciously provided us with their opinion. If you want to use that in your motion, you may do so. You may use your own reasoning, or you may make the motion to deny the variance application.

Mr. Campbell made a motion to deny Variance Application PLVAR2010000218. Mrs. Evans seconded the motion. The motion was denied by a 2-5 vote.

Mr. Dyer stated I believe Mr. Campbell's motion has failed 2-5. Is there someone else who would like to make a motion?

Mr. Hiltzheimer made a motion to grant Variance Application PLVAR2010000218 using the criteria provided by the applicant. Mrs. Rich seconded the motion. The motion was approved by a 5-2 vote.

Mr. Snipes stated I would like to say that the reason I am saying yes is because I remember we did one (1) for the Gingerbread House for protection. These people need protection in that area.

4. *Variance Application Number PLVAR2010000219, filed by LE & D Professionals, PC, requesting a variance from Article 3E, Section 2A, Item 1 of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 114 Rover Ridge Drive, otherwise known as Grid 2707, Block 006, Parcel 000031.009 of the City of Danville, Virginia, Zoning Map. The applicant is requesting a variance to allow a nine (9) foot front yard setback where a minimum twenty (20) foot setback is required.*

One (1) notice was mailed to surrounding property owners. Zero (0) respondents were unopposed; One (1) respondent was opposed.

Open the Public Hearing.

Present on behalf of the request was Mr. Mark Johnson and Mr. Carlton Hawkins with LE&D Professionals. Mr. Johnson stated we are the civil designers and surveyors for this project. As you know, this is the Danville Family Homes project. It was the last project for residential reimbursement for the City. It has been in the works since early 2009. It is a thirty-six (36) lot subdivision. This is the actual recorded plat that was prepared in June of 2009. In November 2009 after extensive review with staff, we finally got an approvable plat. It was approved by the City. The project is unique in that all of the thirty-six (36) units are being built at the same time. We were given the house plan footprints, and we basically designed the subdivision. All of the lots were designed around the houses. There is not a lot of flexibility in moving property lines at this point. Approximately ninety (90%) percent of the foundations are already in place less the two (2) that are in question today. We went through the City process, because we normally do. We actually went as far as requested by the City to prepare a drawing for exhibit showing the actual dimensions from each unit, each house to the property line just so there were no hiccups in the setbacks. What we were showing and everything was approved. During the process of constructing the project, it was determined that there was a different interpretation for the side setback butting a street. The two (2) lots in question and the one (1) before you now is what we call lot 27, which is right at the intersection of Rover Ridge Street and Reina Court. These lots as I said were all set up with a pre-determined setback that was approved by our subdivision plat by the City. That is how the subdivision was developed, and ultimately being constructed now. At the time, our interpretation as well as the City's was that was a ten (10) foot side setback requirement along the right-of-way being a corner lot. There are two (2) places in the Ordinance that refer to corner lots, and they are a little ambiguous. Our interpretation as well as the reviewer for the City at that time took the same interpretation that everything was good. Now we get to construction and now I guess, is it inspection review?

Ms. Blair responded the footing inspection.

Mr. Johnson stated now during inspections and during construction, City personnel go out and measure the footings to the property lines and so forth. Correct me if I am wrong, and that is where this issue came up.

Mrs. Rich asked is this the side that is on Regina Court?

Mr. Johnson responded Reina Court.

Mr. Dyer stated just for a second, there are two (2) different applications, and this is referring to the specific one (1) that is actually 114 is the address.

Mr. Whitfield stated 114 Rover Ridge.

Mr. Johnson stated this would be on the southwest intersection of Reina Court and Rover Ridge. We have the same issue for lot 33 just across the street. They are both identical corner lots. The project is being constructed from Richmond Boulevard kind of in this fashion all the way around, one (1) right after the other. They are all being built at the same time. The contractor skipped over these two (2) lots pending our outcome. That is basically how we got here. I will say lot 27 is odd. The owners of the property have decided that they would like to add brick on some of the outside walls on the houses. Our original houses that we were given to design with did not include the brick façade. That is why we are asking for a nine (9) foot rather than ten (10) foot. It was designed with a ten (10) foot. We are asking for nine (9) to give nine feet four inches (9' 4") or nine and a half (9 ½) to get that brick façade on one of the sides. That is the reason we are not asking for ten (10) foot. As

opposed to the twenty (20), we are asking for nine (9) foot. That gives them room to get that brick façade in there. I have got a copy of what we used that clearly defines the side yard corner lot setback as ten (10) feet. There is another place that Ken had directed us to in the Ordinance that clearly states corner lots should provide an equal setback required for the other yards abutting public streets. It is different things in different places that one could take certainly different. We as well as the reviewer opted for the ten (10) foot of these two (2) particular lots. Once the issue was discovered, I guess it would be legally upright that this was the proper process; it was determined to try and rectify the situation. That is as much as I can tell you as far as the reason why we are here. Are there any questions?

Mrs. Evans asked we have one opponent that states these homes will stick out two and a half (2 ½) feet further into the front yard setback than the others. Is that correct?

Mr. Johnson responded no, this does not affect the front yard or the front of the homes at all. These two (2) lots front on Rover Ridge.

Mrs. Evans asked will they stick out that much on the sides? One (1) says two and a half (2 ½) feet, and one (1) says eleven (11) feet. No that is the next one (1). This one (1) is two and a half (2 ½).

Mr. Johnson responded no, these will not stick out any further than the setback, the ten (10) feet or the nine and a half (9 ½) feet we are requesting.

Mr. Dyer stated basically this is the plat that was approved. All you are asking is that this plat has errors in it maybe because the Code has conflicts. To clarify since you did not bring that out, but you did show that to me before the meeting.

Mr. Johnson asked would you like me to pass this around?

Mr. Dyer responded yes, if you do not mind. The Code seems to conflict with itself. One part of the Code says that you have a ten (10) foot yard side setback on a corner lot, and then another part of the Code says that it has to be the same as the front yard. Both of those cannot be the same unless the front yard is ten (10) or less, which it never is.

Mrs. Evans stated in my neighborhood it is less than ten (10) on the sides.

Mr. Dyer stated right, but that is not on a corner lot. Usually what is required on a corner lot is they require the two (2) sides of the house that front the road to be your front; and in some instances your rear yard. The other two (2) setbacks could be what are required on the side. The reason for that is like you say; a lot of places have houses where the side setbacks may be five (5) or ten (10) feet. In some instances that is not enough clearance for a side setback to allow property site lines.

Mr. Gillie stated to clarify; a corner lot has two (2) front yards and two (2) side yards. The side yards on a corner lot are the interior sides, and those would be ten (10) feet. You would have your front yard setbacks of twenty (20) feet along both streets, and the ten (10) feet would be the two (2) remaining yard setbacks.

Mr. Johnson stated Mrs. Evans there should not be, to our knowledge, anything sticking over the setbacks.

Mr. Hiltzheimer asked what are the dimensions of that lot?

Mr. Hawkins responded basically sixty by one hundred and ten (60 x 110).

Mr. Johnson stated the houses were designed at forty (40) feet wide. The lots were all designed at sixty (60) feet to meet what we thought were the setbacks. That is how the whole development was designed.

Mrs. Evans asked these two (2) particular houses that you are bringing to us today want some brick façade?

Mr. Johnson responded yes, well there are others. It just happened that because of the twenty (20) foot setback, and that is the reason we requested nine (9) instead of ten (10) for this particular lot. The other one is fine as you will see.

Mr. Dyer stated we can assume that you are not intending on using a twelve (12) inch wide brick, and that you just rounded it off to the nearest foot.

Mr. Johnson stated we can make it nine and a half (9 ½) if we need to. The brick façades, I do not know the whole story. We do not design the inside of the buildings. I think there is some funding restrictions that require the brick.

Ms. Blair stated there is a certain number that is required because of their funding source.

Mr. Johnson stated all of this came up after the footings were started.

Mr. Snipes asked are they low income homes?

Mr. Johnson responded they are HUD financed.

Mr. Whitfield stated they are a rent to own. What happened was if you lease them for a certain amount of time then you are allowed to buy them. You are allowed to take all of the money you have paid in rent and apply that to whatever the market value is at that time.

Mrs. Rich asked so it is a rent to own.

Mr. Dyer stated they are very nice houses. There is a project very similar to this in Blacksburg. I know my brother looked at it when he was looking for real estate in Blacksburg. It is an attempt to help people who do not qualify for mortgages at this time to be able to ultimately purchase a house. You are technically renting it, but at the same time you are building equity value based on the rent that you have paid. Your equity comes to point where you qualify to finance the house. It is an interesting project, and I hope it does well.

Mr. Johnson stated you are exactly right. From what I understand it is supposed to give those folks an opportunity who cannot qualify. Those that are close to being able to qualify for a mortgage, but cannot quite get it.

Mr. Dyer stated they may not have the proper credit history. Their credit may be good, but they just have not had it long enough.

Close the Public Hearing.

Mrs. Evans asked since these are the same thing, I know we need to vote on them separately, but can we just?

Mr. Whitfield responded we at least need to perform a public hearing.

Mr. Campbell stated I would like to make a motion to approve.

Mr. Dyer asked since this was recommended for approval by planning staff, do you intend to use the same criteria they did?

Mr. Campbell responded yes.

Mr. Campbell made a motion to grant Variance Application PLVAR2010000219 based on the criteria provide by planning staff. Mrs. Rich seconded the motion. The motion was approved by a 7-0 vote.

5. *Variance Application Number PLVAR2010000220, filed by LE & D Professionals, PC, requesting a variance from Article 3E, Section 2A, Item 1 of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 110 Rover Ridge Drive, otherwise known as Grid 2707, Block 006, Parcel 000031.003 of the City of Danville, Virginia, Zoning Map. The applicant is requesting a variance to allow a front yard setback of 17.37' feet where a minimum twenty (20) foot setback is required.*

Four (4) notices were mailed to surrounding property owners. One (1) respondent was unopposed; One (1) respondent was opposed.

Open the Public Hearing.

Present on behalf of the request was Mr. Mark Johnson and Mr. Carlton Hawkins with LE&D Professionals. Mr. Johnson stated as with the last lot, this is the very same issue. They are both corner lots right across the street from each other. We have room on this lot to get the ten (10) foot with the brick, but it still does not meet the twenty (20) foot.

Close the Public Hearing.

Mr. Campbell made a motion to grant Variance Application PLVAR2010000220 based on the criteria provided by the planning staff. Mr. Hiltzheimer seconded the motion. The motion was approved by a 7-0 vote.

Mr. Dyer stated I would like to ask the staff's opinion about the conflict in the Code as pointed out by Mr. Johnson.

Mr. Gillie stated with a corner lot you have two (2) front yards and two (2) side yards. We have to define what is a side, so that is the two (2) interior lines.

Mr. Dyer stated so in essence where this says side yard on a corner lot is ten (10) feet that does not apply.

Mr. Gillie stated the street frontage portion.

Mr. Dyer stated I am assuming that is specified somewhere else in the Code.

Mr. Gillie stated yes, under the definitions of a side yard.

Mr. Dyer stated alright, so you have to go back and review the definitions before.

Mr. Gillie stated yes.

III. APPROVAL OF MINUTES

Mrs. Evans made a motion to approve the minutes from the October 21, 2010 meeting. Mrs. Rich seconded the motion. The minutes were approved by a unanimous vote.

Mrs. Evans made a motion to approve the minutes from the December 16, 2010 meeting. Mr. Hiltzheimer seconded the motion. The minutes were approved by a unanimous vote.

IV. OTHER BUSINESS

Mr. Dyer asked do we know if we are going to have a meeting in February?

Mr. Gillie responded not yet.

Mr. Dyer asked I know at one (1) point we were discussing having an educational seminar for the Board members to enlighten us perhaps on how this Board is supposed to operate. We do not have anything definite?

Mr. Gillie responded oh, I am working on that fast. I am working on it as quick as I can get it.

With no further business, the meeting adjourned at 11:49 a.m.

APPROVED