

BOARD OF ZONING APPEALS MEETING

March 18, 2021

Members Present

Ann Sasser Evans
Nicole Garrison
Lawrence Meder
Gus Dyer
Gus Dolianitis
John Hiltzheimer

Members Absent

Michael Nicholas

Staff

Lisa Jones
Doug Plachcinski
Ken Gillie
Alan Spence

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

I. ITEMS FOR PUBLIC HEARING

1. Request for Variance PLVAR 2021-40, filed by Powers Signs on behalf of Woodall Nissan, requests variances from Article 10, Section D, Item 16 and Article 10, Section P, Item 1.a. of Chapter 41 of the City of Danville, Virginia, Code of Ordinances, 1986 as amended, at 132 Union Street Bridge Road, Parcel #51502, also known as Grid 1708, Block 001, Parcel 000011.000 of the City of Danville, Virginia Tax Map. The applicant requests a variance to erect a freestanding sign that exceeds 24" inches between sign faces, exceeds the allowable sign area, and exceeds the allowable area devoted to architectural elements which serve as support or base for such sign and which are not part of the message portion of the sign.

Mr. Dyer opened the Public Hearing.

Present to speak on behalf of this request was Mr. Tom Powers of Powers Signs, who stated a couple of things, the 2 foot thickness between the bases and the previous code is 3 foot as the sign that is there. A lot of these signs are very complicated and you work on them on the inside, even though they are LED's as opposed to fluorescent's that are there now, that is really part of the code that ought to be changed and all of that. You will see a brand new installation that was down at Pilot on the 3rd page that I don't know, I apparently did not get a permit, but that sign has got to be about 4 or 5 feet too. The thickness helps with the strength of the sign if the wind blows 115 mph. The current sign at Nissan is rated for 90 mph and the new one will be 115. Where that came from, I couldn't tell you but that's what is going on across the nation now, including this particular center and the cost is getting higher. Those sheets that I passed out, on the 1st page you will see the current sign on the right side and it is opened in the center and the kind of sign that we would like to put up, the direct replacement that Nissan would like for us to use, is on the left and then the center you will see that white ring area there is a difference in the size's of the sign as far as visuals and it would go in the same location. It is slightly smaller but we know that it doesn't come down to code. As far as the hardship of this particular situation, this sign was under the previous code when the property was bought and developed. The sign graphics that we put up would be allowed as would the sign that is there now. We have very little control over the code. We just made a change at Averett and it cost us about \$3,000.00 dollars to get the code

changed and they were allowed 24 square foot sign on the North Campus with 70 acres and that was in the code. The code was changed and it was a long process but we got it changed. If I need to go over item by item of the various items I will or I will take questions.

Mr. Meder stated if I understand right and if I'm looking at your picture, the sign on the right is currently there and the sign on the left is the one that you want to put there. The difference in size you said was in the center?

Mr. Powers stated yes, that center drawing, the light green part on the right hand side is just over laying the new sign over the existing sign and that shows the sign is actually smaller in just visual impact.

Mr. Meder stated the sign that you want to put up is smaller than the one that is currently there?

Mr. Powers stated yes sir in some aspects. It is still 30 feet tall which is fine because we are within code. It is smaller, but not small enough to meet the code as it is now. This is the third code that I have had to work with and I'm sure if somebody else comes in we will have another one.

Mr. Meder stated just so I understand this right, the new sign that you want to put up is going to be smaller than the sign that's currently there?

Mr. Powers stated yes sir.

Mr. Dyer stated where he violates the code or the technicality is that you will notice the dark element of the sign underneath it is solid as opposed to open. There is a limit on the amount of architectural elements that is added to a sign. If it is opened that is not considered part of the architect element. Also, you will notice the sign is slightly thicker and that also, if I am correct, that is where the violation comes in.

Mr. Meder stated it just sounds like what they are trying to do is not have it blow over. I mean we have flooded out this dealership and now we are going to try to stop them for putting up a sign that won't blow over in the wind.

Mr. Dyer stated does anyone else have any questions or comments?

Mr. Dolianitis stated if it is about the 24 inches now on the sign faces is it less than 24 now?

Mr. Dyer stated yes. One point that I would like to bring up and maybe not this current board but a previous board that I was on we had a similar situation in 2 other cases that I actually recall. The Mazda dealership, where they were looking to relocate a nonconforming sign from its current location to another location, if I am correct. In that case we turned that application down because they were putting in a nonconforming sign into an area where it was not previously. The other case is with the Honda dealership, where they had a nonconforming sign that was replaced with a nonconforming sign in the exact same location. In that case we granted the variance for

approval. I think that we should take into consideration what our precedent has been in the past so that we can try to stay consistent on the actions that we take.

Ms. Evans stated the sign that is being proposed is more solid at the bottom and the sign that is out there now has two columns. I know this is what you have received from Nissan but do they also have signage with a two column or is this the only signage that they are offering?

Mr. Powers stated they have variations of the same signage that we are asking for, but it still has a solid column. The only one that has two is a lot larger and taller and it does have two columns. We are going to utilize the columns or the foundation that is there now. The same footer and there will be a bigger piece that bolts to the same footer and then it will have a single pole with a new sign.

Ms. Evans stated when you said that you received the variations on the solid piece are there variations that are smaller that would meet code?

Mr. Powers stated every sign in their catalog is 3.2 feet. That is their national program. Like I said the previous code that I was involved in, when it was written and it came out originally as a 2 foot wedge flag for the reason that now you have to crawl in these things and work on them. Then it was changed to 3 foot and that code was thrown out and this one was brought in at 2 foot.

Mr. Meder stated so you actually work on the sign on the inside?

Mr. Powers stated yes sir. You have to crawl up in them. These are complicated they are not like if someone walked into my shop and wanted me to build a sign like this. The price would be out of sight but these dealerships, they are competing on who can get the fanciest LED and it is just a branding situation.

Mr. Meder stated so wouldn't it be safer working from the inside of the sign than rather the outside?

Mr. Powers stated yes sir.

Mr. Meder stated is that why they did that, to make it safer for the folks that service the signs?

Mr. Powers stated it is and the other thing to be depending on how it is design or if it is an equipment issue. If you have a sign that you have to work on outside you would have to take the face off or slide the face and in this case it is about 100 square feet or 99 square feet. On a normal sign you move that to get to the light bulbs and you move it in the opposite direction to get to the other side. These with the thickness you don't need a bucket truck because you can take the bottom cover off then there is a ladder built inside of it. I don't service many of these because part of this is a national contract to furnish and maintain the sign at most of these dealerships. I do some GM's but not many of these.

Mr. Dyer closed the Public Hearing.

Ms. Evans stated I have a question for staff. He indicated that a code was changed on Averett's sign. Did that not go before Planning Commission or City Council?

Mr. Powers stated it was both. We put that LED message center up there at the entrance and that property is 70 acres with 70,000 square feet of building enough to build a football stadium and a sign was allowed about the size of that door per code.

Mr. Meder made a motion to approve the Variance Application PLVAR2021-40 to allow the new sign to replace the old sign. Ms. Garrison seconded the motion. The motion was approved by a 6-0 vote.

Mr. Dyer stated I would like to make one clarification. Technically, they are supposed to meet the five criteria that we have been provided. I would just like to say if we go back and review the case of the Honda Dealership then in consideration, we made the findings and approved that variance and that is why I am voting in favor of this. The verbiage and findings used on previous Variance Application PLVAR2017-219 control here.

2. Request for Special Exception PLZA 2021-45, filed by Kenneth Hammock, requests a special exception under Article 13, Section G, Item 6.b. of Chapter 41 of the City of Danville, Virginia, Code of Ordinances, 1986 as amended, at 134 Lamberth Drive, Parcel #71795, also known as Grid 9708, Block 002, Parcel 000015.000 of the City of Danville, Virginia Tax Map. The applicant proposes constructing an attached garage accessory building to an existing non-conforming manufactured home dwelling.

Mr. Dyer opened the Public Hearing.

Present to speak on behalf of this request was Mr. Kenneth Hammock, the owner of 134 Lamberth Drive.

Mr. Dyer stated I would like to point out to the board that this one is a little bit different than the other cases where the applicant has the requirement to meet the five stipulations in order to be granted a variance. This one we are actually allowed to use our judgement. I believe that there is some verbiage here about the code if you go to special exception review criteria.

Mr. Hammock stated basically what I want to do is I have a nonconforming mobile home. I need to add an attached garage in order to put up a handicap ramp inside the garage out of the weather. That is the main purpose of this garage is to be able to put this handicap ramp inside where it is dry and so forth. Where this garage is at, there was an existing building on the foundation and slab that was smaller than the garage than I am putting up. I need to put this large garage up so I will have room for this handicap ramp. This handicap ramp is going to have to be 51 feet long. In order to have it to the criteria of the elevation of where it is going to. That is why we need as much room there for what we got and get this handicap ramp in where we can use it in rough weather.

Mr. Dyer stated have you been living there for a long time?

Mr. Hammock stated no I haven't moved in. I have been trying to get in for about four years and of course there have been various things that has backed me down. At this time I have already started building on this property.

Mr. Dyer stated I drove out that way but I didn't want to go onto your property but I couldn't really see anything from the road.

Mr. Hammock stated as far as the nonconforming add on the city sent me a letter that this property was too close to the property line. They were confused on what end of the trailer that I was putting this on because this building that I am putting up is pretty much close to the center of my property.

Mr. Dyer closed the Public Hearing.

Mr. Dyer stated for staff my understanding is that this is a manufactured home on a lot that does not permit manufactured homes. It is a grandfathered in legal nonconforming use?

Mr. Plachcinski stated legal nonconforming use.

Mr. Dyer stated you cannot add on or increase the floor area of a nonconforming use is that correct?

Mr. Plachcinski stated correct because it is attached it is an expansion. If they met the zoning code and placed a detached building 10 feet away from the manufactured home then it would have met the zoning code.

Mr. Dyer stated but that would be difficult to push the wheel chair 10 feet. It is difficult that the code does not make allowances for handicap access. As far as being too close to the property line or anything like that we don't have any issues. If you look at your packet you will notice this is sort of an interior lot. There's a road right away coming off of Lamberth but the property really doesn't have any road frontage other than the way you access the property. It is really not in view of many neighbors. There were 19 notices sent out and we got 9 of them back, 8 were unopposed and 1 opposed.

Ms. Garrison stated is the one that is sent back that was opposed is that the lot right beside the other side of the driveway? I don't see Lipscomb on there.

Mr. Dyer stated maybe that is NGM L?

Ms. Garrison stated that is the only one that would even have a chance of being that.

Ms. Evans stated except for R & SR.

Ms. Garrison stated I thought that might be the R&O renters.

Mr. Dyer stated when you send out these notices they can just check yes or no?

Ms. Jones stated they can comment.

Mr. Dyer stated we didn't get any comments?

Ms. Jones stated no if we do I type them on there.

Mr. Dyer stated can you explain to us because this is a little different from what we have done in the past. We can grant this without considering the five criteria?

Mr. Plachcinski stated the city code allows BZA special exception review and basically it comes down to the current condition and whether the exception requested negatively affects anywhere around it. Under specific criteria you can extend a nonconforming use in a building to allow a floor area so that it is no greater than 25%. There is not a nonconforming use or is not a new nonconforming use and because this doesn't really occupy liable space I kind of consider it as it's not inhabitable. In the future if they proposed no longer using it as a garage but converting it to living space then we would say no you can't do that under this exception. I think of given the layout of this property and the existing cement slab and foundation we understand why the applicant chose to precede in this manner and don't oppose it.

Ms. Evans stated if we were to make a motion to approve it would we have to specify that it not be converted?

Mr. Dyer stated no we could just say we approve it with the city's assessment basically.

Ms. Evans made a motion to approve Special Exception PLZA2021-45. Mr. Dolianitis seconded the motion. The motion was approved by a 6-0 vote.

II. APPROVAL OF MINUTES FROM MARCH 18, 2021

The MARCH 18, 2021 minutes were approved by a unanimous vote.

III. OTHER BUSINESS

With no further business, the meeting adjourned at 10:08 a.m.

APPROVED