

PLANNING COMMISSION MINUTES
February 11, 2013

MEMBERS PRESENT

Mr. Laramore
Mr. Griffith
Mr. Wilson
Mr. Searce
Mrs. Evans
Mr. Bolton

MEMBERS ABSENT

Mr. Jones

STAFF

Renee Blair
Ken Gillie
Christy Taylor
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 PLSUP20130000014, filed by Laverne Tarpley, requesting a Special Use Permit to operate a family day care home in accordance with Article 3.E; Section C, Item 24 of the Code of the City of Danville, Virginia, 1986, as amended, at 412 Freeze Road, otherwise known as Grid 2806, Block 016, Parcel 000010 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to operate a family day care home with up to 12 children.***

Ms. Blair read the staff report. Thirty-one notices were sent to surrounding property owners within 300 feet of the subject property; one respondent was opposed, nine were not opposed.

Open the Public Hearing.

Present on behalf of the request was Ms. Laverne Tarpley.

Mr. Gillie stated she is here to answer any questions that you have.

Close the Public Hearing.

Mrs. Evans asked I see that we are doing several of these today. Is there a reason why these are all coming to us today?

Mr. Gillie responded the Code was changed. City Council adopted the change on the number of children that could be cared for at home. If you remember, it was previously five. The State license is for more than five, so there was a discrepancy. Now the Code has been changed to allow up to 12 by Special Use Permit. They are here now to fix the outstanding issues.

Mr. Laramore asked is this an existing facility now?

Mr. Gillie responded yes. All of the ones that will come today are existing facilities.

Mr. Griffith made a motion to recommend approval of PLSUP20130000014 with conditions per staff. Mr. Wilson seconded the motion. The motion was approved by a 6-0 vote.

- 2. Special Use Permit Application PLSUP20130000013, filed by Searlet Howard, requesting a Special Use Permit to operate a family day care home in accordance with Article 3.E; Section C, Item 24 of the Code of the City of Danville, Virginia, 1986, as amended, at 501 Southampton Avenue, otherwise known as Grid 1607, Block 011, Parcel 000016 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to operate a family day care home with up to 12 children.***

Ms. Blair read the staff report. Thirty-eight notices were sent to surrounding property owners within 300 feet of the subject property; zero respondents were opposed, ten respondents were not opposed.

Open the Public Hearing.

No one was present on behalf of the request.

Close the Public Hearing.

Mr. Griffith stated under background, the description says Southampton Road. Shouldn't that be Avenue?

Ms. Blair responded it is Avenue. I apologize.

Mr. Griffith made a motion to recommend approval of PLSUP20130000013 with conditions per staff. Mr. Bolton seconded the motion. The motion was approved by a 6-0 vote.

- 3. Special Use Permit Application PLSUP20130000011, filed by Shirley Ferrell, requesting a Special Use Permit to operate a family day care home in accordance with Article 3.E; Section C, Item 24 of the Code of the City of Danville, Virginia, 1986, as amended, at 1325 Oak Street, otherwise known as Grid 2817, Block 012, Parcel 000006 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to operate a family day care home with up to 12 children.***

Ms. Blair read the staff report. Thirty notices were sent to surrounding property owners within 300 feet of the subject property; zero respondents were opposed, 11 respondents were not opposed.

Open the Public Hearing.

Present to speak in regards to the request was Ms. Dorris Jackson. Ms. Jackson asked how does this approval affect my property as far as taxes or rezoning?

Mr. Scarce responded I don't think it is going to affect you in anyway at all. I will let staff address that.

Mr. Gillie stated it will not affect your property. It will not change your taxes or anything else. They have been operating this way for a number of years. There hasn't been any impact on your property in those years. We are just letting you know that this is occurring and that they are trying to bring themselves into compliance. It shouldn't change anything regarding your property.

Ms. Jackson stated ok. Thank you very much.

Close the Public Hearing.

Mr. Wilson stated it says that she is currently licensed for up to five children. We are basically giving approval for up to 12.

Mr. Gillie stated yes.

Mr. Wilson asked we are not actually authorizing her to go ahead and go to 12 are we?

Mr. Gillie responded she will still have to go through the State renewal process. Right now with her current license expiring through the State, we have talked to the State about holding licenses until we get our portion of the Code amended. At this point everything is fine. If she wanted to expand the number of children then she could based on this without coming back to us. She would still have to modify it through the State, Fire Marshall, and through any other agency that she is required to.

Mr. Wilson asked so that is taking care of condition number one?

Mr. Gillie responded yes.

Mr. Wilson asked but until then she has to stay with five?

Mr. Gillie responded correct.

Mr. Griffith stated we are not approving anybody to increase what they have, we are just saying that under the Special Use Permit you can have up to this many depending on what the State and Department of Social Services approves an individual for.

Mr. Gillie stated correct. The State has already allowed them to have more than what we allowed them to. Now in effect, we are bringing into alignment what the State has already told them they could do.

Mr. Laramore made a motion to recommend approval of PLSUP20130000011 with conditions per staff. Mrs. Evans seconded the motion. The motion was approved by a 6-0 vote.

- 4. Special Use Permit Application PLSUP20130000015, filed by Sheila Ferguson, requesting a Special Use Permit to operate a family day care home in accordance with Article 3.E; Section C, Item 24 of the Code of the City of Danville, Virginia, 1986, as amended, at 407 Kemper Road, otherwise known as Grid 1611, Block 006, Parcel 000012 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to operate a family day care home with 12 children.***

Ms. Blair read the staff report. Twenty-seven notices were sent to surrounding property owners within 300 feet of the subject property; three respondents were opposed, six were not opposed.

Open the Public Hearing.

No one was present on behalf of the request.

Close the Public Hearing.

Mr. Griffith asked according to this, Ms. Ferguson has been operating since 2001 without a business license. Is she required to go back and buy a business license for prior years?

Mr. Whitfield responded we will let her take that up with Mr. Jimmy Gillie.

Mr. Gillie stated she did come in Friday and obtain her zoning clearance to start the process of getting a business license. She came in late on Friday, so I am not aware if she was able to make it to the Commissioner's office to obtain a license. We are working with her to try and resolve that outstanding issue as well. She is here now and I believe she says that she has her license.

Present on behalf of the request Ms. Shelia Ferguson. Ms. Ferguson stated yes.

Mr. Griffith asked have you been operating a daycare prior to this?

Ms. Ferguson responded yes.

Mr. Griffith stated because they said this is the first time you have had a fire inspection.

Ms. Ferguson stated yes. No Fire Inspector has ever been there. The only people I had was my State license people that had come in.

Mr. Griffith asked have you been operating at this location the entire time?

Ms. Ferguson responded yes.

Mr. Gillie stated she took over an existing facility. It went straight from the previous owner to her. A lot of the paperwork that we had been sending out was going out under the name of the previous owner.

Mr. Wilson asked which license does she have?

Mr. Whitfield responded a business license.

Ms. Ferguson stated and I have my State license too.

Mr. Gillie stated condition number three in effect has been resolved.

Mr. Wilson asked it says that a business license must be obtained prior to approval of Special Use Permit. What are we actually doing here?

Mr. Whitfield responded you are making a recommendation to Council whether to approve or not approve the license. The actual approval process occurs in front of Council.

Mr. Wilson stated so that needed to be between now and then.

Mr. Gillie stated right. We were trying to get everything cleared up, but she has done that; so condition three can be removed from any motions since it has been resolved.

Mr. Whitfield stated procedurally you probably just want to do that prior to the Council meeting. You all go ahead and vote on the conditions as they are and staff can take care of that prior to the Council meeting.

Mr. Wilson made a motion to recommend approval of PLSUP20130000015 with conditions per staff. Mrs. Evans seconded the motion. The motion was approved by a 6-0 vote.

Ms. Blair left the meeting at 3:22 p.m.

5. Rezoning Application PLRZZ20130000009, filed by Madison Whittle, requesting to rezone from OT-R, Old Town Residential to M-R, Multi-family Residential, 143 Marshall Terrace, otherwise known as Grid 1719, Block 021, Parcel 0000016 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to rezone to expand the use of the property to allow six (6) apartments.

Vice Chairman, Griffith now presided over the meeting.

Mr. Gillie read the staff report. Thirty-nine notices were sent to surrounding property owners within 300 feet of the subject property; 12 respondents were opposed, nine were not opposed.

Open the Public Hearing.

Present on behalf of the request Mr. Madison Whittle. Mr. Whittle stated I bought the property at 143 Marshall Terrace. I didn't know the meeting was going on today, so I am not completely up to speed except that it is going before you guys and then before City Council if I am correct.

Mr. Gillie stated that is correct. We spoke about this.

Mr. Whittle asked are you in agreement?

Mr. Gillie responded staff has made no recommendation one way or another. We are leaving that up to Planning Commission.

Mr. Whittle stated I will answer any questions.

Mr. Laramore asked when did you buy the property?

Mr. Gillie responded July of 2012.

Mr. Bolton asked how long has the property been vacant or is it vacant?

Mr. Whittle responded when I bought it there was rent being paid until a month before I bought it. That is the best way that I can put it. I have a letter from Dr. Guanzon and Michael Guanzon. I didn't figure that we were going to have any problems. They have gone back and looked at the records and they say that is not correct. It was empty longer than that, so the next thing I get is a note from Ken saying that it was not grandfathered, it was Old Town, it had been since the 40's or 50's. It has always been a six unit complex. I lived in it in the 70's and the 80's as a matter of fact. That is all I know. We are ready to go in a rehab it. There is also 27 other duplexes, apartments, on the whole 100 homes plus or minus on Marshall Terrace, if that helps matters.

Mr. Bolton stated to lose the grandfathered, it would have to be empty for two years.

Mr. Whitfield stated that is correct.

Mr. Bolton asked and you are saying that it has not been vacant two years?

Mr. Whittle responded that is correct. I have a letter from the guys, Michael and Dr. Guanzon both. The lady was ill; she was in a nursing home. She was not in the unit. I don't know when they cut her power off, but it has always been apartments. It was built for them. There is a firewall up in the middle of it. They are no different than the Canterbury Apartments we have right there by G.W.

Mr. Bolton stated from a legal standpoint it is a six unit apartment, if it only has two tenants it is still ok. You don't have to have six people in that apartment the whole time.

Mr. Whittle stated they are calling it a single family dwelling because it only had one tenant in it.

Mr. Gillie stated we had one meter on in the facility. The rest of the units have been vacant for a number of years. When that occurs the property is slowly being brought into compliance. When you have a single family living in a single family district you have in effect given up the right to use that property for the multi-family. It has lost its legal non-conforming use. That is why he went to the Board of Zoning Appeals. There were multiple options. One of the options was to come here and try to get the property rezoned. Mr. Whittle asked his request to be tabled indefinitely and has asked to rezone the property to in effect bring it in compliance.

Mr. Bolton asked so there was an intention to bring it into compliance prior to?

Mr. Gillie responded no. Prior to Mr. Whittle buying it, the property had been vacant for a number of years. It had one tenant inside the facility. As he said, it was built as a six unit; but the place was left vacant for a number of years.

Mr. Whittle stated they were also under repair; a new roof was put on it, and all of these other things. In your further planning if this issue comes up again there should be a little bit of duration for another contractor, builder, or developer to have some time if they don't have a tenant in it and they are rehabbing it; I think there ought to be a little room to move. I don't know the definition of rent, but if they were paying a rent check up to two weeks before I took the property what constitutes rent?

Mr. Bolton stated I don't see how he lost the grandfather. I am new at this.

Mr. Whittle stated I am too. This was new to me.

Mr. Laramore asked was the rent you were collecting for all the units or for one unit?

Mr. Whittle responded it was one unit and one tenant at the time.

Mrs. Evans asked where are you anticipating, if you are at full capacity for six apartments, at least six cars parking?

Mr. Whittle responded these are single bedroom apartments, so with six units there would be six parking spaces. I've got room in my driveway for three cars and I have two parking spaces in front. That is the best I can do. I asked Ken if he would let me put a parking space in the back and he said no because I only have 12 feet instead of 15.

Mr. Gillie stated 24' for a two-way travel.

Mr. Whittle stated I thought you could have one lane, 12 foot that could go down and turn around.

Mr. Gillie stated you can't have two cars coming. We talked about that.

Mr. Whittle stated a lot of this was based on them being two bedrooms, but they are singles. I have enough room for three cars on the side of the building and two out front, but you can park anywhere on Marshall Terrace. If you go by national averages, I would say that it is not going to be full 100% of the time. Banks will only lend you the money based on about 80% occupancy. I would think that it would have a minor impact on that. There are about 100 parking spaces on Marshall Terrace. I have not been through there in the morning, but at 3:00 in the afternoon and at 7:00 at night there is at least 50 parking spaces available within three houses of each other on that street that I could count. If anybody wants to check that they are welcome to do it. I do know that there is parking. I might not want to walk two houses down to get to my apartment maybe. We could get three cars on the side of the building and two out front, so I would hope that would take care of the problem.

Mrs. Evans stated you could also have a couple renting a one bedroom apartment, so that might double up your number of cars.

Mr. Wilson stated the number of responses received by staff that were opposed and not opposed. That is a little bit of a concern. A lot of this seems to be centered around the parking.

Mr. Whittle stated I think using the driveway will take care of some of that problem. If I could go around the back and put it in, I would. I used to live there and I parked my car in the back.

Mr. Wilson asked are you saying that you looked at that and there are three spaces available off-street?

Mr. Gillie responded there are a couple options available as it stands right now. There is room around the back. As he said we don't have room enough for two lanes. If he can get the property rezoned he can come back and ask for a variance to the width requirements to have a one-way drive. We have had a few properties like that on Piney Forest and the northern section of Franklin Turnpike. As it stands now I can only count what is available and what applies to the Code. He could fit some parking in the back by removing landscaping and trees that are back there. I am guessing we could fit three cars or more there, but that is speculation. There are a lot of procedures he will have to go through. The first thing is can he do anything with that property and that is why we are here now.

Mr. Laramore stated this building doesn't look like it has been changed in the last 15 years. It looks like it was built that way in 1950 or before. Across the street there is a four unit apartment that looks to be of the same age and was built for a four unit apartment. When the zoning was done residential, what would be the reason to not have dealt with this at that time? Did they just rezone the whole area residential?

Mr. Gillie responded I wasn't around in the 40's. My understanding in reading the historic Zoning Code, it had very limited off-street parking requirements, substantial amount of waivers to it if on-street parking was available. We don't allow that anymore, because you can't designate parking on the street for a particular use. That Code looked at things differently, so how it was constructed and why it was constructed that way I don't know. I have pulled the building files. There is very limited information on this property. I can't even tell you what year it was built. It is what it is and it has been that way for a long time.

Mr. Griffith stated across the street is a four family apartment, two doors up is another large apartment complex; but according to this duplexes are permitted in the OT-R District but multi-family dwellings are not. There are already a number of multi-family dwellings there.

There was discussion about the current properties on Marshall Terrace.

Mr. Gillie stated that part of the area may have been zoned multi-family. Multi-family used to come down Marshall Terrace, actually a R-3 designation and that was even in our old Code a multi-family. It didn't turn as far as I know and go this way down Marshall Terrace, but that one piece at the corner may have been the way it jogged around.

There was further discussion about the current multi-family units on Marshall Terrace.

Mr. Griffith stated I think they said that rezoning could create spot zoning, but if we have already got multi-family on the street; is that creating spot zoning?

Mr. Gillie responded usually when you amend zoning boundaries to avoid spot zoning you are attached to something else that is already multi-family. In this case, it would not be contiguous to something it is zoned. Yes, it is in the immediate area. Six lots to the north has multi-family, but this property would be an island amongst itself with a multi-family designation.

Mr. Laramore asked do we need to address the other properties as well? You have other properties with the exact same thing, the only difference is one of them is empty and the other one isn't.

Mr. Gillie responded there is two ways to address that issue. One is to do it as a comprehensive neighborhood rezoning going through that entire area and looking at all of them again or as Madison is doing, come back on an individual basis and ask to rezone the property. The only time that you can change zoning without permission from the property owner is to do it as a comprehensive rezoning. We did that back in 2004. We rezoned the entire City to match the new Code. Anything else you can do on an individual basis or you can do a small area rezoning, which we are doing with the River District.

Mrs. Evans asked do you know what the rational was in 2004 to change the zoning?

Mr. Gillie responded this wasn't changed. It was RB-1 prior to that and prior to that it was R-2. Even under the R-2 this wouldn't have been legal. This hasn't been a true multi-family designation since 1959. We have had a legal-nonconforming situation since at least 1959.

There was discussion about the previous zoning changes and the legal non-conforming use of the property.

Mr. Bolton stated I don't see why he is still not grandfathered.

Mr. Gillie read Article 7 of the Zoning Code. When they started dropping the number of units and not trying to reoccupy them, removing the meters, removing the tenants; they were in effect bringing it into compliance with the single family designation for that area. Once they hit what we classify as a single family they lost their vested right. He is trying to bring that back and that is why he is here.

Mr. Bolton stated but there was nothing done structurally to take out those units. Those six units are still there.

Mr. Gillie stated correct. They removed the meters and in effect shut them off.

Mrs. Evans asked who removed the meters?

Mr. Gillie responded they call for us to remove the utilities and the meters were removed.

Mrs. Evans asked if there had been a second person renting, would it be a duplex?

Mr. Gillie responded correct. They could have gotten a special use permit to continue the duplex or they could have maintained that. Once a building is left vacant for more than two years, you have said that you are not going to use it for that anymore and according to the Zoning Code you can't reestablish that unit.

Mrs. Evans asked Dr. Guanzon didn't need to do anything legally?

Mr. Gillie responded he doesn't have to do anything structurally to the building.

Mr. Bolton asked is there any other way other than being rezone to reinstate him being grandfathered? I don't see how he lost it.

Mr. Gillie responded that is why he proceeded to go to the Board of Zoning Appeals. The way the Code is written, you have two years to occupy that unit. After two years you lose your right. It was clearly not occupied for more than two years. He has asked to rezone it.

You have this option or the option of changing the non-conforming section of the Zoning Code to increase the period or to reword it. State law is only a 12 month window. We give twice what the State allows just to make sure that people have that additional opportunity to not let a property sit for too long if the zoning is not correct.

Mr. Whittle asked does the Code say if it is occupied?

Mr. Gillie responded when it is discontinued or abandoned for a continued period.

Mr. Whittle stated it was not abandoned.

Mr. Gillie stated but it was discontinued. There was no one in there.

Mr. Whittle stated there was a lady in there.

Mr. Gillie stated in one unit.

Mr. Whittle stated ok, well there was somebody in there.

Mr. Gillie stated it was a single family, which is allowed in that district. You had one person living in the house.

There was discussion about the tenant that was living in the house.

Mrs. Evans stated and there are no records of Dr. Guanzon trying to put tenants in these other units.

Mr. Gillie stated not that we have.

Mrs. Evans stated and there are no records to Dr. Guanzon stating that he was going to lose his right to have it as a six unit apartment building.

Mr. Gillie stated not in writing.

Mrs. Evans asked but you have conversations?

Mr. Gillie responded I talk to him on a regular basis about a lot of things. I believe I talked to him but there is no written proof.

Mr. Laramore stated it might make a little more sense if this were a large older house that over the years suddenly got turned into an apartment building.

Mr. Gillie stated there is nothing in the Code that differentiates between a house that was cut up into six units or a building that was built with six units. The Code looks at it as you have a single family district. You can have one by right or two by special use.

There was discussion about the interpretation of the Code.

Mr. Griffith asked from a practical standpoint this property can't be converted in a single family residence? Mr. Whittle said that it has firewalls built into it.

Mr. Gillie responded if you throw enough money at anything you can do anything. Practical is one of those things that is hard to define.

Mr. Whittle stated if it was a house changed over, I wouldn't have touched it. If Dr. Guanzon would have been notified and notified me, I promise you I wouldn't have bought it. I would have just let it stay like it was. I don't know how you can change that for further use by people getting notice that they are getting ready to lose their right. Anyway, you can't get it back to a single family dwelling.

There was further discussion about whether Mr. Guanzon was notified of the change.

Mr. Bolton asked what are your plans for the building?

Mr. Whittle responded just to renovate and rent them or sell them if anybody want it they are welcome to it today.

Mrs. Evans asked how is his apartment building at the end of Canterbury zoned?

Mr. Gillie responded it is zoned single family residential as well, but Mr. Whittle has been pretty active in maintaining status.

Present in opposition to the request was Ms. Renee Blair. Ms. Blair stated I live on Marshall Terrace. I moved there in the spring of 2010. I am in opposition of this rezoning. This property has been vacant since I moved into the neighborhood. There has not been any activity, no construction or upkeep. Rezoning of this property, in my opinion would result in illegal spot zoning. Rezoning a multi-family within the middle of single family residential dwellings is going to benefit one. Rezoning would not benefit our entire neighborhood. In fact, I believe it would be a detriment to our neighborhood. You are looking at placing anywhere from 6-12 cars on our street. In front of each house is enough room for two vehicles. Some properties are lucky enough to have driveways and those that are extremely lucky can use their driveway. My driveway is probably 10-11 feet wide. I can get in it, but I can't open the doors. The property here at 143 Marshall Terrace would be the same way. Parking in the driveway I don't think would necessarily be an option. You wouldn't have enough access to open the doors to exit the vehicle. You would be directly against the structure.

Ms. Blair described the parking predicament on Marshall Terrace.

Ms. Blair stated we have multiple legal non-conforming properties. We do have some duplexes. We have two duplexes that are likely in the same situation. They have been vacant long enough that they have lost that right. Most of us that are there are single family home ownership would like to see this reduced instead of bringing in six additional units and that many vehicles on our street.

There was further parking problems.

Mr. Bolton asked is parking the main issue other than illegal spot zoning?

Ms. Blair responded to me that is a big issue. Outside of the illegal spot zoning, you have got the parking. You have also got the situation that you are bringing six units in of transient neighbors. As a joint neighborhood we would love to see it even brought into a special use

situation as a duplex having individuals there that want to stay to keep that community feeling in our neighborhood. The turnover rate potential in an apartment complex is a concern, but of course on the outside there is going to be an additional 12 vehicles.

Present in opposition to the request was Mr. Glen Giddings. Mr. Giddings stated I live at 134 Marshall Terrace. My property is directly across and one over from 143. I have lived there since February 2005 and there has been no person in that apartment since August 2009. The one person that they are saying was paying rent lived on the ground floor. Her name was Linda and she did go to a nursing home. If this is converted back to the six units there is a problem with the parking. I am lucky I have a driveway and a garage I can park in, but I have issues with people blocking my driveway. That is just going to bring in more parking, so that is one of my main issues.

Close the Public Hearing.

Mrs. Evans asked since staff is not making a recommendation, can we do the same and let City Council just vote?

Mr. Whitfield responded you all are going to have to take some action one way or the other.

Mr. Gillie stated staff usually makes recommendations, but because we are a small staff I didn't want it to seem like we were making a recommendation one way or another because we have a member who lives in that proximity. I felt that it was correct to not place any conflict by us making a recommendation. In this case I have got to leave it up to you guys to make a recommendation.

Mr. Bolton asked have we determined that it is definitely illegal?

Mr. Whitfield responded that is for you all to determine.

Mr. Gillie stated not all spot zoning is illegal.

Mr. Whitfield stated it is only illegal if it serves the private interest of one or two people. If it furthers the City's welfare and is part of overall zoning plan it is not illegal. That is a call that you all have to make, whether it benefits one or two people or whether it benefits the overall zoning plan and the general welfare of the City.

Mr. Wilson asked how do we determine that? Who is going to come in and speak on behalf of the welfare of the City?

Mr. Gillie responded you.

Mr. Whitfield stated based on the testimony that you have heard and your knowledge of the overall zoning plan you all will have to make that decision. You make a recommendation and then Council will decide whether to make that decision as well.

Mr. Wilson stated I would have difficulty saying let's go forward with the current situation. Is there a way to get more information or work through this? Just the parking issue alone concerns me. Is it possible that it could get cleared up and defined so that we can make a better decision?

Mr. Gillie responded the only way to do that is to table the request and then request that the applicant go back and actually come forward with a design for parking on that site. That would require the applicant to get someone to draw up how he can make the number of spaces work. There is no way that he is going to make that number of spaces work in compliance with the Code. Draw it up the best way that they can with the information that is available and what they have on the ground to work with and see what numbers come in. Whether that is going to appease the neighbors I don't know. At least then you could say this is what we can do. That will not be in compliance with the Code and that will require if it is rezoned some additional steps afterwards. Parking on that street is a first come first serve basis. This is an odd case.

Mr. Laramore stated I don't think it is as odd as you say it is because across the street is the exact same thing.

There was further discussion about the various properties on that street and previous Zoning Codes.

Mr. Wilson stated we are going to have to make a motion that is going to affect the neighborhood and it seems to me that one of our responsibilities on the Planning Commission is to look out for the overall neighborhood. I personally don't think I have enough information to make a legitimate decision. I recommend tabling with a little more information about issues like parking and even what it is going to look like on the street for the neighbors' sake.

Mr. Whittle stated they are not going to let me put any parking in the back. He has already told me that. There are two spaces in front of the building and that is all I would bring back to you.

Mr. Gillie stated I told you I can't approve it because it doesn't meet Code but you can design it that way and go to the Board and ask for a waiver to the driveway requirements.

Mr. Whittle stated I don't want to beat around the bush with you. I have two parking spaces in the front of the building and that is what I've got to deal with. I don't want to go on any longer. I will take a thumbs down and go before Council. If I lose it, I lose it; but I am six to eight months behind on this job. It is not good for Danville. We need good rental property in the City of Danville and that is what I am offering.

Mr. Wilson made a motion to table PLRZZ2013000009. Mrs. Evans seconded the motion. The motion was approved by a 4-1-1 vote (Mr. Griffith voted in opposition, Mr. Scearce abstained).

Chairman Scearce now presided over the meeting.

- 6. Special Use Permit Application PLSUP2012000010, filed by Hurt & Profitt on behalf of Averett University, requesting a Special Use Permit to waive the minimum yard requirements in accordance with Article 3.I; Section C, Item 19 of the Code of the City of Danville, Virginia, 1986, as amended, at 420 West Main Street (Pritchett Fine Arts Center), otherwise known as Grid 1718, Block 007, Parcel 000001 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing an addition to the front of Pritchett Fine Arts Center that will create a zero (0) foot front yard setback along Mountain View Avenue.***

Mr. Gillie read the staff report. Thirty-six notices were sent to surrounding property owners within 300 feet of the subject property; three respondents were opposed, 13 respondents were not opposed.

Open the Public Hearing.

Present on behalf of the request Mr. Charles Harris, Executive Vice President of Averett University and Buddy Rawley, Vice President of Institutional Advancement. Mr. Harris stated basically what we are doing is expanding the lobby. This building right now has a relatively narrow lobby in comparison to the seating space. It is the largest single gathering place on our campus. The idea is basically to expand out to the sidewalk eliminating the 27 foot setback that currently exists. It gives us the opportunity to hold the people in the lobby that would in effect move into the seating area; whereas in effect right now if we had something on a day like today folks would literally be outside in the rain. That is the principle object of what we want to accomplish. The design as you can see is designed to capture the columns of Averett University as represented by Main Hall as well as some more of the traditional architecture that exists in our student center on Townes Street. No additional seating, we think of it has an addition to our property in such a way that it enhances what we deliver and value in the City of Danville.

Present in opposition was Mr. Bobby White. Mr. White stated I am one of the residents on Mt. View Avenue. I have been gone for a week, so I have a little bit of confusion. The initial sheet that went out stated that the applicant was requesting a special use permit to operate an indoor commercial recreational facility with billiard tables and a snack bar. That was erroneous I take it.

Mr. Gillie stated that was an error on my part.

Mr. White asked so this is just the expansion of the foyer?

Mr. Gillie responded yes.

Mr. White stated my initial response was, I sent my opinion back in as opposed to this. I am not opposed to Averett expanding their facilities or bettering their facilities. My opposition has to do with parking. I have talked to Mr. Harris about this previously. There is a tremendous parking issue on Mt. View Avenue in regards to the residential parking verses Averett parking. My house, 121 Mt. View Avenue only has three allotted spaces across the street. All the parking around that is all public parking. You cannot park in front of my house. There is no parking there. You can look at police records for this, but I call anywhere from 75-100 times a year for police to come ticket and/or tow vehicles that are parking in a permit only parking space. When you have three residential homes on Mt. View going down Forrest Hills, we are supposed to have a permit; however Averett students still have issues with reading signs and continue to park there. While I am not opposed to Averett expanding their facility, I want us to take this opportunity to look at the parking situation around Averett. When they start to construct this expansion on the foyer there is going to be some heavy equipment in there that is going to be impede the traffic flow. That is also going to potentially take some parking spaces away. When those students don't have anywhere to park they are going to migrate up to the permit parking in the immediate area. As a Commission and a staff I am hoping that we can take this opportunity to look at this particular expansion at Averett and its' parking scenarios, but also as a whole even when

this is finished, to look at how Averett students and residents are allowed to park in and around Mt. View Avenue. I have even had a meeting with Chief Broadfoot and was told as a tax paying citizen I am not entitled to a parking space, which is very confusing. If you have a sign that says *Tow Away Zone, Parking by Permit Only* but you don't have a City designated permit that you have out or give to residents for this; that is an issue. If you are not going to enforce the signs then let's take the signs down. Again, I am not against Averett. I want them to expand and better their facilities; but take this opportunity to look at the parking scenarios in regards to this.

Close the Public Hearing.

Mr. Searce asked is there just signs there now that say *Private Parking*?

Mr. Gillie responded *Parking by Permit Only*.

Mr. Searce asked would there be any value in stripping areas that are like that or do something that would make it stand out more?

Mrs. Evans responded I thought they were stripped.

Mr. White stated no. Currently there are two signs. The top of the sign says *No Parking Tow Away Zone Parking by Permit Only*. The bottom of the signs are highlighted in orange and say *No Averett Parking* and they have two arrows pointing at them. As a resident or a visitor who's not familiar with these signs should be able to understand them, but you don't know where the arrows are pointing. There is no curb marking. There is no box drawn on the street. At one point I chained the signs together with an orange chain but I was told to take that down because it was not allowed in the City; but it was very effective because people would see that orange chain.

Mr. Searce stated that was my question, if there was something we could do to help them stand out. We want to help Averett obviously move ahead. Maybe we could have somebody look into that and come up with a recommendation. Is this the only place in the City that is like that?

Mr. Gillie responded there are a few areas that have signs designating *Parking by Permit Only*, but they are all around the university.

Mr. Griffith asked aren't there some at the bottom of Canterbury also?

Mr. Gillie responded I don't know if they are still there. They used to be down by G.W. at the far end. I don't think they are still there.

Mr. Searce stated I don't know what you can do other than enforce the law.

Mr. Gillie stated as Zoning Officer I don't regulate what goes on the public street, so to expand the area that is *Parking by Permit Only*, I don't have the authority to do that. Public Works really is the one, so I can express the concerns to them and see if anything else can be done. I think City Council is aware of it.

Mr. Griffith stated I can sympathize with Mr. White having lived in that neighborhood many years ago. The parking was a problem then. We had problems when we had visitors come.

They didn't have a place to park. I could park in my driveway and not be able to get out. That is a separate issue from this unfortunately. I am very sympathetic having been through it but I don't think that addresses the issue we have here. I don't think based on the proposal that Averett has come up with that this is going to increase the parking over there. It is not going to change the parking situation.

There was further discussion about the parking situation at Averett and the use of public parking.

Mr. Griffith made a motion to recommend approval of PLSUP20120000010 with conditions per staff. Mr. Laramore seconded the motion. The motion was approved by a 6-0 vote.

7. Special Use Permit Application PLSUP20130000012, filed by Kelvin Miller, requesting a Special Use Permit to operate an automobile repair facility in accordance with Article 3.0; Section C, Item 1 of the Code of the City of Danville, Virginia, 1986, as amended, at 705 River Park Drive, otherwise known as Grid 2608, Block 002, Parcel 000002 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to operate an automobile paint and body shop at this location.

Mr. Gillie read the staff report. Five notices were sent to surrounding property owners. No responses were received.

Open the Public Hearing.

Present on behalf of the request was Mr. Kelvin Miller and Mr. Keith Walden. Mr. Miller stated we will be in compliance with everything that they ask. I will be providing jobs for about seven to ten people. The name of the body shop will be called Correct Auto. I have several other businesses and everything will be done correct.

Mr. Walden stated I would compare this to Ace Paint & Body which is down by Rippe's. We don't want the property to look like a junk yard. I compare it to Ace Paint & Body because it is a nice facility and there are not a lot of cars sitting out there. That is what we expect at our place. He says that he is going to keep it that way.

Close the Public Hearing.

Mrs. Evans made a motion to recommend approval of PLSUP20130000012 with conditions by staff. Mr. Bolton seconded the motion. The motion was approved by a 6-0 vote.

8. Rezoning Application PLRZZ20130000016, filed by Dewberry on behalf of PATHS, Inc, requesting to rezone from N-C, Neighborhood Commercial to CB-C, Central Business Commercial, 705 Main Street, otherwise known as Grid 2713, Block 030, Parcel 0000003 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to rezone to expand the structure and services provided.

Mr. Gillie read the staff report. Thirty-six notices were sent to surrounding property owners within 300 feet of the subject property; zero respondents were opposed, and nine were not opposed.

Open the Public Hearing.

Present on behalf of the request Mrs. Dodie Hudson and Mr. Bryan Bradner with Dewberry. Mrs. Hudson stated PATHS is planning on putting an addition onto the existing building to accommodate more admin area and they are adding an OB-GYN practice. The existing facility has general practitioner health care type doctors and also pediatrics. They are just adding an administrative area and an OB-GYN area.

Mr. Gillie asked I thought it was a pharmacy as well?

Mrs. Hudson responded it is. The pharmacy will be expanding to become a larger area.

Mr. Searce asked is the pharmacy going to be used within the business there as opposed to being offered as retail to the public?

Mrs. Hudson responded as far as I know they will have a small retail area. I am assuming one off the street could walk in and buy Tylenol, but for the most part it is for when they get their prescriptions written they go over to the pharmacy. The medications are on that side.

Mr. Bradner stated just to get you familiar with the site itself; the shaded area is approximately where the addition is going to be. The existing traffic patterns in and out of the facility will remain the same. We are currently in the design development, so the exact configuration of restriping the parking lot, I can't say right now. We are looking at approximately 105 spaces within the area. The drive-thru is basically going to be bumped out opposite of where it is today on the new side of the addition. Drive-thru traffic will remain the same. Currently there really is no separation between the drive-thru traffic and the parking lot. We are going to implement that some sort of way to safely separate drive-thru traffic from folks going in and out of the parking lot.

Mr. Griffith asked are you satisfied with the parking? Is there adequate parking for this addition?

Mr. Gillie responded they only have to have 36, with the proposed 105 even if they lose 10 or 15 they are still way more than 36.

Mr. Wilson asked in terms of design, I know that the River District stops at Ridge Street. That is a pretty big building that you have know and it is kind of modern. When you expand are there going to be any enhancements with the River District in mind? Like some green space or anything that is part of this design that might kind of uplift?

Mrs. Hudson responded Bryan indicated that we are in the preliminary design phase. We are looking at the River District Guidelines. As we have it right now there is a little bit of area where we can have some green space between the sidewalk and the actual building.

Mr. Wilson asked can you point out where you are thinking about that?

Mrs. Hudson showed the Commissioners where the green space would be on the display.

Mrs. Evans asked since you have 105 parking spaces, can you do away with some of those and make some green space in the middle of the parking lot?

Mr. Bradner responded we discussed that. Based on the facility and where we see it being used I think we are going to utilize as much parking as we can accommodate on the lot.

There was further discussion about the current parking at PATHS and creating public space.

Mr. Bradner stated we are looking at that. We are actually coordinating with the consultant who is working on the streetscape to make sure that we don't do anything in contrast.

Mr. Gillie stated if the River District gets adopted, they would be part of it.

There was discussion about the current green space available at PATHS.

Close the Public Hearing.

Mr. Bolton made a motion to recommend approval of PLRZZ20130000016 as submitted. Mr. Laramore seconded the motion. The motion was approved by a 6-0 vote.

9. Special Use Permit Application PLSUP20130000019, filed by West Main Baptist Church, requesting a Special Use Permit to construct an accessory building on a lot without a primary structure in accordance with Article 3.G; Section C, Item 24 of the Code of the City of Danville, Virginia, 1986, as amended, at 121 Lockett Street, otherwise known as Grid 1718, Block 020, Parcel 000016 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to construct a storage building on a lot that is separate from the church.

Mr. Gillie read the staff report. Twenty-two notices were sent to surrounding property owners within 300 feet of the subject property; zero respondents were opposed, eight respondents were not opposed.

Open the Public Hearing.

Present on behalf of the request Mr. Mark Vaughn. Mr. Vaughn stated I am here on behalf of the Building and Grounds Committee of West Main Church. This structure would allow us to store items that are currently scattered throughout the church and in some cases off-site. It is primarily lawn care items, but there are also some ladders and other things. We do some roofing for local charity organizations and we have to store a lot of that equipment off-site because of lack of space.

Mr. Griffith asked what size structure are you talking about?

Mr. Vaughn responded 12'x18'.

Mrs. Evans asked is that a large enough storage building?

Mr. Vaughn responded that should give us enough space to do what we need to do.
Close the Public Hearing.

Mr. Griffith made a motion to recommend approval of PLSUP20130000019 with conditions per staff. Mr. Bolton seconded the motion. The motion was approved by a 5-0-1 vote (Mr. Wilson abstained).

II. MINUTES

Mrs. Evans made a motion to approve the January 7, 2013 minutes. Mr. Bolton seconded the motion. The motion was approved by a 6-0 vote.

V. OTHER BUSINESS

Mr. Gillie stated the final version of the Comprehensive Plan, we had to send the transportation section off to the State because the state has changed the requirements on approval. The State wanted some modifications to it. We have made those modifications. I got those back. I just need to create one final file and I will be emailing that to everybody here shortly. We have a request to do some Sign Code changes for the notification of signs for Civic Clubs on City facilities. Currently we do not allow any off premise advertising of any type. That will require a Code change, so if I could request that Planning commission recommend that staff advertise for a Code change so I can bring that to you at a future date. Based on the case today at Marshall Terrace, if you want us to look at the way we change our non-conforming section. That is the same debate that occurred at the Board of Zoning Appeals. What is a six unit is a six unit is a six unit. As Mr. Laramore said, you would have felt differently if it was a single family home that had been cut into six verses it being built truly as a six. We have the same situation occur in shopping centers where you may have an old building built in the middle of a neighborhood where now the entire neighborhood is zoned single family. If that retail store closes down, sits for a couple years, and someone wants to come back and reopen it; from a Code perspective I can't let them go back in there even though the thing was built as a store. If you are going to recommend us to look at the Code change for the signage, also recommend that we look at that. We may be able to word a portion of that non-conforming section that would address the way a structure was built.

Mr. Scarce stated I was going to recommend that we look at it based on its intended use.

Mr. Gillie stated I just don't have that now. I have to look straight at numbers. If someone would make a motion and second that we will look at changing those two sections of the Code and bring those to you. You do have cases for next month.

Mr. Laramore made a motion to recommend that Planning Commission consider amending the Code sections relating to Signage for Civic Clubs and how non-conformances are treated in the Code. Mr. Griffith seconded the motion.

Mr. Griffith stated at one time at the entrances to the City, the City had put up a wall with different Civic Clubs signs on it. Is that what we are talking about?

Mr. Gillie responded no. Those are notification signs on the entrance gateway signage and those are actually on the right-of-way. The Zoning Code doesn't regulate the placement of signs on the right-of-way. This is if someone donates money to a facility and they want to put their name on it. Right now the Code says you can't because you are advertising for something that is off-premise. You are not advertising for a product or something that is

actually sold on premise. I have to say no according to the Code and we want to address that and allow recognition for Civic Clubs if they donate money somewhere to put their name onto something. This would allow that.

Mr. Griffith asked we don't have that already with Dan Daniel Park and other places?

Mr. Gillie responded it has to be visible from a public right-of-way. When you get inside Dan Daniel Park you are not in a public right-of-way. This will allow us some flexibility that we don't currently have.

The motion was approved by a 6-0 vote.

With no further business, the meeting adjourned at 4:55 p.m.

APPROVED