

## BOARD OF ZONING APPEALS MEETING

July 17, 2014

### Members Present

Gus Dyer  
John Hiltzheimer  
Dolores Reynolds  
Ann Sasser Evans  
Philip Campbell  
Michael Nicholas  
Dawn Witter

### Members Absent

### Staff

Ken Gillie  
Renee Burton  
Scott Holtry  
Christy Taylor  
Alan Spencer

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

### I. ITEMS FOR PUBLIC HEARING

1. *Variance Application Number PLVAR20140000168, filed by Dr. Mark Hermann requesting a variance from Article 9. Section D., Item 4, of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 318 Loyal Street, otherwise known as Grid 2713, Block 010, Parcel 000008 of the City of Danville, Virginia, Zoning Map. The applicant is requesting a variance to eliminate the requirement for landscape islands to be constructed to separate 15 contiguous spaces within a parking lot.*

Seventeen notices were mailed to surrounding property owners. Eight responses were unopposed; two responses were opposed.

Open the Public Hearing.

Present on behalf of the request was Mrs. Gretchen Clark, Civil Engineer

Mrs. Clark presented drawings and pictures and passed around for review.

Mrs. Clark stated so the pictures show the existing lot as is it. This is a renovation of an existing lot of 40 spaces. We like to put 39 spaces in and reconfigure this lot to bring up to common standards, curb and gutter, fix some drainage problems, fix the multiple surfaces there is concrete there that is cracked there's asphalt there is lots of different surfaces going on here and this lot is currently a lot that people rent spaces in. People in city hall may rent spaces there I'm not sure it's full of renters. So as this project develops Phase 2 is going to be to develop this building as upper stories for residential apartments.

Mr. Dyer asked when you refer to this building you are referring to?

Mrs. Clark the Coin-Ops building.

Mr. Dyer asked is everybody familiar with what is building is building adjacent so far?

Mrs. Clark stated is a 4 story building with a basement as well. So the plan is for the upper 3 stories to be residential units 2-3 bedroom units which we will would need 21 spaces for. The additional spaces would be needed for commercial uses on the 1<sup>st</sup> floor and the basement. So if we recognized this as a simple a business district and you're not required to have spaces for businesses but to make it more attracted for businesses to move in we would like to have some spaces there and then you know as we phases this project in we like to keep a block for rentals for as long as we can to provided general parking spaces for the folks that work downtown and are relying on these spaces.

Mr. Nicholas asked how many spaces are there now?

Mrs. Clark responded 40 spaces.

Ms. Reynolds asked how many spaces?

Mrs. Clark responded 39. It will be including a handicap space with the new plan which there's no handicap space now.

Mr. Nicholas stated if your forced to follow the zoning requirements, is there really a hardship? You are required to show the strict application the ordinance would produce an undue hardship on the property. Where's the hardship?

Mrs. Clark responded so we would lose two spaces so we would be down two spaces to so 37 spaces. If you would just like to have as many spaces as possible to make that commercial area as attractive as possible.

Mr. Dyer stated to point out I think if you would look in your package on their application if there is this page is not number but they do address the four conditions under III A,B,C, and D.

Mr. Nicholas stated I understand and A just says make it more attractive. I'm sympathetic to that I just looking for the hardship.

Mrs. Clark stated the first page of the 11x17 that I handed out is the current lot as is, so you can see that the spaces are currently alternately put in there with multiple surfaces. If you turn on to the next page, that's the layout of the new parking lot. The new parking lot is going to have up to standard drainage, curb and gutter, new asphalt and basically he is going to put a lot of money into this parking lot making it attractive in bring it up to current standards. If he's going, he doesn't have to improve the parking lot, so he could leave it as is and have 40 spaces so, so doing the demo on the small building that you see on page one and improving the parking lot would just improve the overall downtown, but he doesn't want to lost parking spaces in the process.

Mr. Dyer stated on the third sheet, because this is what I'm curious about. It was not in the package that we got. The entrance area is a landscape area. Is it not?

Mrs. Clark responded it is, yes

Mr. Dyer stated and so you are actually adding green space. In other words, the new configuration we have here actually has more green space in the existing parking lot.

Mrs. Clark responded exactly. So we'll have green space island there on the street with trees there will be another green space making that entrance attractive lots in different vegetated species there and then on the other side of the building we have added small amounts of vegetated spaces just to try and break up the hard scape, but we are providing more vegetation than before.

Mr. Nicholas stated let me make sure I'm getting the numbers right 40 spaces are there now you are planning 39 if we deny the variance application you would have 37?

Mrs. Clark responded correct.

Mr. Dyer stated and the 21 spaces that you are talking about that's being, that's actually required that is just for the residential?

Mrs. Clark responded yes.

Mr. Dyer stated that does not include any access or parking for anything other than the building. So you would like to have some off street parking for that area. Is that what you are talking about?

Mrs. Clark responded yes that is correct.

Mrs. Evans asked have you considered putting landscaping between your parking lot and the adjacent parking lot?

Mrs. Clark responded we could do that if that is something that this board would like to see as a compromise. We could certainly put some landscaping there. One of the goals of this project is to eventually connect that Golden Leaf parking lot to this parking lot and that's kind of like out in the future and those two owners have to agree on that, but a good location that wouldn't effect that connection would be in the northeast northwest area. So there is a location that we can plant initial trees if that something that the city would like to see you know as a compromise for those landscape island.

Mr. Nicholas stated articulate for me how the loss of two parking spaces to 39 is a hardship.

Mrs. Clark responded If you're a customer and you're going to that business and there are no parking spaces and you can't find any parking spaces on the street then you're not going to go to that business.

Mr. Nicholas asked is the parking lot too full now?

Mrs. Clark responded yes it is.

Mr. Dyer stated but that is with this current building being vacant?

Mrs. Clark responded yes.

Mrs. Evans asked will the rentals will have to find somewhere else to go?

Mrs. Clark responded yes. You are losing all those rental spaces downtown so that's going to put all 40 of those cars everyday on the street somewhere and then customers to those businesses we're anticipating 8800 sq ft of commercial space on the basement and the first floor of that building. So I mean you know that a pretty significant amount of commercial space. I ran through this calculation quickly if for office space 300 sq. ft. per space is required, that's in different parts of this city and the downtown district it not required but that would be equivalent to 30 spaces need for that commercial space.

Mr. Dyer stated so actually if this building were to be construction on Riverside Drive then it would require 51 spaces.

Mrs. Clark stated correct.

Mrs. Evans asked have you considered rather than islands purchasing big planters and planting trees in them throughout the parking space?

Mrs. Clark responded we could do that. I don't think that is what the code is looking for.

Close the public hearing.

Mr. Dyer stated when the when we are required to find some special circumstances that creates a hardship on this applicant. One of them is the quote "the surrounding property" and I'm wondering if we shouldn't cause these are parts regulations required throughout the city right? I mean these same parking regulations are required on Riverside Drive and Piedmont Dr, Piney Forest Road and everywhere.

Mr. Gillie responded correct.

Mr. and so I'm sort of the mind that when you are trying to developed property in an area that's already heavily developed like downtown then the entire downtown area suffers a hardship because there's just not the vacant land that's available and since parking is at a premium it would seem that we would try to make as many parking spaces available as possible. So I wonder how far out we are allowed to go out beyond the area to determine whether this piece of property is quote "unique" I mean isn't downtown itself unique and therefore bear certain hardships that the city does not. How is that determined?

Mr. Gillie responded it's a subject determination.

Mr. Dyer stated ok.

Mr. Gillie stated as staff, we look at adjacent properties in the immediate area. We look at those in the 300 ft. ring, but as a board, that's a decision you have to make.

Mrs. Evans stated back to the parking spaces that she eluded to, there's none required.

Mr. Gillie stated we give a waiver for the first 20,000 sq. ft. and then after that we have a limited amount of parking that is required. The numbers that they have are more than what we would require based on a building that size.

Mrs. Evans asked since we are looking at repaving that parking lot without islands, what about the Golden Leaf parking lot? That is a sea of asphalt y'all know my feeling about seas of asphalt.

Mr. Gillie asked how long has that parking lot been there? That parking lot was constructed not for the Golden Leaf. That parking lot was constructed a number of years ago for use of other properties. So we got a number of parking lots were built prior to the installations of new regulations.

Mr. Dyer asked so they are grandfathered in?

Mr. Gillie responded yes.

Mr. Dyer asked and so one of the hardships is might have to bear is that they weren't grandfathered in?

Mr. Gillie responded all properties have to follow the regulation's that are on the books at the time of.

Mr. Dyer stated I mean, I'm just really curious and I know I have asked you about this before but I mean out at the mall they actually had the landscaping and they removed it all. Now can you explain to us how they were allowed to do that?

Mr. Gillie responded sure, easily. The mall put in landscaping that they weren't required to have, so when they re-did the mall they removed landscaping that was not required. I can't make them once they install it if not required keep it. Now if they do work that requires landscaping such as this case then it's a code I'd say you have to have it. But if you put in additional landscaping above and beyond and you chose to remove that, that is your choice.

Mr. Dyers asked why is this, it's just redoing a parking lot, do we have an existing parking lot and just redoing a parking lot why is this upgrade in code being required where's when they redid the mall that was not required?

Mr. Gillie responded because this is a complete reconstruction. The mall did not reconstruct their parking lot. They actually just removed a few small spots that were there that were made out of landscape timbers and everything else. I think someone mentioned use of planters and others. The mall in affect had done that, they didn't have their plants extending down roots and everything down into it. This is complete rebuild of the parking lot we're look at as new construction.

Mrs. Evans asked is the city opposed to planters?

Mr. Gillie responded the city's goal is to have landscaping in the area, green space, however we can get it. I'm not opposed to having planters and some other material inside of planters.

Mr. Dyer asked alright if we were to require them to say put green space around the perimeter as opposed to the protruding in the parking area. That is, is that green space we can consider?

Mr. Gillie responded does it meet the code? No, but that's why they're here. We already, they submitted a plan; we've rejected the plan because it doesn't meet our requirements they've asked for variance. The board has in its discretion the ability to modify that kind of thing if they so choose.

Mr. Dyer stated ok let me ask you this. Do you have a copy of this? Are you familiar with this? There is an area here and my guess is since they're not putting parking there it's probably actually road right of way. This is the area that's going to be landscaped in the front, is that actually on your property?

Mrs. Clark responded correct. That is road right of way. It actually splits some of it is that's private property.

Mr. Dyer stated so, are y'all all familiar with what I am pointing out that on the last page there's an area where they are indicating that they are going to landscape a some islands in the front. In other words if they were to take those island and just move them half way down into the parking area. These little areas here are going to be landscaped. Now, if those little areas right here were instead right here, then that would meet the code, correct? As long as they don't have more than 15 spots without a break for green space.

Mr. Gillie stated they are supposed to have landscaping along the property frontage.

Mr. Dyer stated this is actually being required. How much do you know if these in the front are meeting just the minimum requirement is it exceeding the minimum requirement?

Mrs. Clark responded I think it's a little bit more just to make the parking spaces work out properly.

Mr. Dyer stated ok, right space wise. Alright, and then this area where you have the bikes and the bench it's a little inset it's in the lower left hand corner of where you showed the landscaping, that's not something required?

Mr. Gillie responded correct.

Mr. Dyer asked the landscaping in the front of the building along Lynn St. is not required by code?

Mr. Gillie responded correct. Only the parking areas are required to have landscaping on.

Mrs. Evans asked can you show me on this diagram where else landscaping is required?

Mr. Dyer responded you see where you see the number 20?

Mrs. Evans asked parking up here and we are parking here but not in the middle?

Mr. Gillie responded not in the middle because the way we calculate is you can't go more than 15 parking spaces without having it. Now if you start at this end and start at this end less than 15 that way and less than 15 that way at either end then there is some little bit of landscaping as a separation a 2 ½ ft. space between parking areas that but that nothing really but grass that has to go in there. But they would have to have landscaping tree islands here and they should have landscaping islands back there.

Mrs. Evans asked and you are requesting a variance from the one in the back?

Mrs. Clark responded well we need an island in both rows. We need an island in one row and then an island in another row. It would take two spaces.

Mr. Dyer stated right I think in other words, to do code you would have to take one of these spots on this side and one of these spots on this side to turn them into a 390 because where you see number 20 & 19 that's the number of spaces in each one of those rows, so you are actually exceeding by 5 spaces instead of 4 spaces in the estimate.

Mr. Gillie stated the hashed area that's at the end of those spaces at the long rows would have to be widened out and improved into an island so the landscaping and by the width of that increasing the size in everything you would in fact lose a space on either row.

Mr. Dyer asked alright, the hashed off areas that are at the end of the parking lot that's just asphalt that's just hashed off, correct?

Mrs. Clark responded correct that would hashed off.

Mr. Dyer asked why is that just asphalt being hashed off why can't that be landscape area?

Mrs. Clark responded electrical transformers other types of equipment are going to need to go into those spaces and we're trying to keep cars from backing into them.

Mr. Dyer asked well wouldn't the fact that if you had curb and gutter around them and that's was a landscaped area actually be more or less intrusive?

Mrs. Clark responded well its tricky being an existing lot there's a retaining wall behind it and if you put curb and gutter if front of it between the electrical transformers then you got water problems. We're just working in a difficult and existing environment.

Mr. Dyer stated ok, alright, this is a, I'm assuming this is a side walk between the parking lot and like where you have the bike area and then the back area of Bob Whitt's office? How wide is that sidewalk?

Mrs. Clark responded It's a 5 ft. walk, and there's no sidewalk there currently.

Mr. Dyer asked is the sidewalk there past the point of this building just for the convenience for folks who get out of their car, I mean could that be a green area as opposed to a sidewalk?

Mrs. Clark responded well you wouldn't want to plant trees right up next to another building. The sidewalk goes to a city lot and it's on the southwest corner.

Mr. Dyer asked so there's a possibility that people could park there and walk down this sidewalk to access your building?

Mrs. Clark responded they could or they could live in the Coin Ops building and work at City Hall.

Mr. Nicholas stated I'm not convinced that this is a hardship. I believe that this is an inconvenience. I believe that there's a desirability not to lose these two spaces but at least my reading of the four factors, they got to prove a hardship, substantially detriment that the surrounding property owners don't have by reason of the code.

Mr. Dyer stated alright, well that's the point I was arguing when we say the surrounding property owners do we mean just the people downtown or do we mean everybody throughout the city because these regulations were, were are regulations that were design for the city at whole and if you look at a map I mean the downtown area is probably less than 10% maybe even less than 5% of the area of the city of Danville is a very densely developed area it's an area that undergoing redevelopment and so I think this should be maybe a little bit of a lea way in trying to impose the same standards that you impose on property being developed and you know say along Piedmont Dr. or Riverside Dr. opposed to something where your downtown.

Mr. Nicholas said I respect that.

Mr. Dyer stated I think in parking in even two spots and then I know that seems a little picking and but that that even two spots mean that's that's, you know that two spots and that's and that's what it is, and after certain economic value and my last point I would like to make and this is I'm sure the developer in me speaking is that if somebody is going down there and investing their money redeveloping a piece of property like this will certainly benefit the city to the extreme um I'm a little bit um hesitant to strictly impose regulations that were written about folks who aren't going to spend their money down there. Does that make sense?

Mr. Nicholas stated as a part owner of a business in downtown. I respect your point of view, I get, I get it. I think we just disagree on the significance of the two spaces and the importance.

Mrs. Evans stated I agree with Mr. Nicholas. I think landscaping is very important throughout the city.

Mr. Dyer stated the alternative is to leave the parking lot like it is.

Mrs. Witter stated that's what concerns me.

Mr. Dyer stated so we're actually giving an improvement.

Mrs. Witter stated my biggest concern is that what we're going to possibly lose, easily due to the fact that they could just leave it as is, that we would possibly lose the benefit of having to redoing it.

Mr. Nicholas stated I think that's the choice, and I don't think that's going to happen. I think they will develop it anyway but even if they don't then essential then then we as a board or city as a whole are held hostage by any business that's says give us a waiver from your regulations or else and sometimes there's the time give in on that and sometimes there's a time to not, and I don't just my opinion I don't think this presents one of those times.

**Mr. Nicholas made a motion to deny Variance Application PLVAR201400000168. Mrs. Evans seconded the motion. The motion failed by a 2-5 vote.**

Mr. Dyer stated alright that motion has failed. Do we have another motion? Would you like to amend your motion to possible include so pro-offer so you can get a little bit of what you would like?

Mrs. Evans stated I would like to see some landscaping. I would like to amend. I would like to see something between the two parking lots. I would like to see something in the back.

Mr. Dyer asked do you want to put that in the form of a certain square footage area if you would like to see? You'd like to see perhaps since the parking spot is 9x20, is that correct?

Mr. Gillie responded 9x18.

Mr. Dyer stated 9x18 which is, if you would make it 9x20 which is a whole lot easier for me to do in my head that would be 322. Correct?

Mr. Gillie responded 9x18 is 162.

Mr. Dyer responded right, times 2 cause that's two parking spots,  $160+160=320$  and an extra 2 is 322.

Mr. Gillie stated 324.

Mr. Dyer asked alright the 324 sq ft.. Do you think you can find 324 sq ft. of area that you can landscape? Alright, then so their willing to put in the required sq. footage of landscape they just don't want to lose two parking spaces.

Mrs. Witter stated could the requirement be towards the back so that it breaks up the eyesore of the asphalt sea. I am talking about the division between the two parking lots.

Mr. Dyer asked so towards the Craighead street side? Alright, you think it is it possible to get that in place?

Mrs. Clark responded where you had pointed out, yes.

Mr. Dyers stated they will put in 324 sq. ft.

Mr. Gillie stated from the city's perspective if the boards inclined to grant, granting the 324 is that above and beyond the required that they have to have up front that they're proposing anyway or will that 324 include the area in front that they're proposing?

Mr. Dyer stated they are going to have to do everything that's required, however what, and I'm just saying this because we haven't made the motion yet. This is what I'm reading is they are going to have to everything that's required. Of that that's being required are the two islands that means landscaped. They are going to be allowed to, not have the separation the between the number of parking spaces, but they're going to be required to still have the same landscape area as if they were, as if they were providing that.

Mr. Gillie stated ok, so the front and the additional 324 is that is something the board is proposing. I just want to make sure we are not losing and only having out front.

Mrs. Evans asked can you afford it? Can you do more than 324 on the Craighead side Street. side?

Mrs. Clark responded we could, but that is, I say that because we'd like to connect in the future to the Golden Leaf lot to make it better for all downtown. I hesitate because I'm not the owner. So I think that the 324 would be great. We can pick some nice canopy trees um that fit in an urban setting. I think that would be nice.

**Mr. Nicholas made a motion to approve Variance Application PLVAR20140000168 with the condition that an additional 324 square feet of landscaping be installed. Mr. Hiltzheimer seconded the motion. The motion was approved by a 7-0 vote.**

2. *Variance Application Number PLVAR20140000169, filed by Catherine Adkins requesting variances from Article 7, Section B, Item 2; Article 8, Section E, Items 36 and 40; Article 10, Section M, Items 2a and Item 5, of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 695 Park Avenue, otherwise known as Grid 1715 Block 011, Parcel 000019 of the City of Danville, Virginia, Zoning Map. The applicant is requesting a variance to expand a legal non-conforming use to include a separate retail space, to operate an expanded use without increasing the number of parking spaces and to allow two (2) wall signs totaling 40sf where 18sf is allowed.*

Nineteen notices were mailed to surrounding property owners. Three responses were unopposed; one response was opposed.

Mr. Dyer read a declaration of participation statement.

Open the Public Hearing.

Present on behalf of the request was Mrs. Catherine Adkins, owner of Geneses Day Spa and Salon. I will state that I am requesting additional space for signage and also to expand the business to the lower level in my building to retail space. Um I have some pictures here of the lot. I know there are some concerns with parking, but we are currently negotiating an agreement to make all parking available to us with the property that is located this side of us on 701 Park Avenue which you do access our current parking on the side of our building from that lot. So I'll pass around pictures of our lot and you'll see the front of our building has the Geneses awning and the other building is the one right beside us that we are in agreement with the owner to make that parking available to us also. Anyone have any questions?

Mrs. Witter asked is it being used as a church?

Mrs. Adkins responded its currently being used as a church yes ma'am.

Mr. Nicholas stated maybe this is a questions for Staff. You're asking permission to create a separate retail space? You asking to expand the business or create a separate?

Mrs. Adkins Expand within the building.

Mr. Dyer asked alright, but is it going to be a separate business or is it going to be an expansion of your business?

Mrs. Adkins Expansion of my business

Mr. Dyer asked ok you're not going to rent this to an ice cream parlor or something this is for your use? Ok alright I'll have a question for the staff about that then.

Mr. Hiltzheimer stated she is not expanding building though.

Mr. Dyer stated alright you're talking about the, the, as your facing your building you're talking about the property that's on the right hand side, cause its down the hill so there's a large open area. That's primary grass, is that correct?

Mrs. Adkins responded yes there are four parking spaces in front of that building but there is a large grass area there.

Mr. Nicholas asked this is your building?

Mrs. Adkins responded no, that is the building next door.

Mr. Nicholas asked and where is your business now?

Mr. Dyer responded it's here and then she wants to move to the basement of the building. So the driveway that is here this is actually is on the adjacent property?

Mrs. Adkins responded It does.

Mr. Dyer asked alright so you actually don't have any public parking for your business that you access through your own property. Is that correct?

Mrs. Adkins responded there are three places in front of the building, and the rest is street.

Mrs. Evans asked on the back of your building. This is the back, correct?

Mrs. Adkins responded yes.

Mrs. Evans asked so what is there?

Mrs. Adkins responded the lower level will be accessible through that door for retail space that we are applying to use would be accessible there or through the upper level which we are currently using for the Day Spa and Salon through a stair case.

Mrs. Evans asked but its not currently used?

Mrs. Adkins responded no.

Mr. Dyer asked alright, are you currently able open on Sundays?

Mrs. Adkins responded no.

Mr. Dyer asked and this is a church that is next to you?

Mrs. Adkins responded correct.

Mr. Dyer asked that is primarily open on Sundays?

Mrs. Adkins responded yes.

Mrs. Evans asked do you have anything written saying about the negotiation about using the parking lot?

Mrs. Adkins responded no I don't but there is a representative here that owns the building.

Mr. Nicholas asked why do they need a variance?

Mr. Dyer stated that's the same question I want to ask.

Present on behalf of the request was Ms. Christina Stable, manager and majority shareholder. In communication with this fine young lady I have realized that there has been some questions regarding parking as I saw on the variance. I hope you like my pictures. I have lots of spaces. It is technically a ministry, Word of Faith. I didn't know if that made any difference but wanted to make sure we were not discouraging my renters. I have people who are renting this space. They have been cooperating because

they utilize parking spaces at the opposite time. Wednesday evenings and Sundays these people are at church Wednesday's and Sunday's the space I have are being utilized for worship services. So it happens to be a really good fit. I don't think I have marked the photograph that I took with my technical 4 spaces. I have enumerable spaces, you can see people park on the asphalt not just on the spaces in front and all the way around. I also have parking on the grass. See there's my car. So there's technically 4 spaces but you can see those 4 spaces just happen to have lines and there's a lot more of other room and communicating with the people here who really have an interest and this part of the community that has had issues and they are trying to revitalize the community. They are trying very, very hard make this into a multi-use multi-generational for everybody and integrated it space. I feel very strongly that um I as a property owner would also have a hardship if they want to be granted the variance because that would now that I understand the reason for them wanting the variance that would take my property down if they didn't have it. I am just saying it's my hardship too.

Mr. Dyer asked so you are willing sign a legal document?

Mrs. Stable responded it has to go through my attorney, not like right here.

Mr. Dyer asked right. As far as you know you have no problem granting an easement that would allow them to park on your property?

Mrs. Stable responded no.

Mr. Nicholas asked would you address the sign real quick? Why do you need a variance signage? What is your hardship for that?

Mrs. Adkins responded the current signage I have is on the awning on the front of the building and just the way traffic comes from Westover Drive down Park Avenue I just felt like the side of that building that faces Westover Drive if we were able to have signage there that more people would see the business know what the business is and then also to be able to advertise that there is a retail area in the lower level which is currently not advertised on a sign.

Mrs. Stable stated this is the picture of the large wall space that I don't know if this is the appropriate place for me to suggest it but I would suggest commission mural instead of signage cause I think that would be a draw for the community would beautify the area much more than pure signage. I don't know how it goes through your whether you have an arts commission here or whether it simply through the zoning um to have applications for commission and then have it go to you or whoever it goes to. I personally feel like for the same amount of money they can have mural and it bring everyone in the community. Promise

Mr. Dyer stated ok thank you. Alright let's go over and talk about how you determine how much signage they are allowed to have. It's based on the frontage of the building. Correct?

Mr. Gillie responded correct.

Mr. Dyer asked and then its multiplied by a factor of?

Mrs. Burton responded 0.5.

Mr. Dyer asked so if they have 36 ft. across the front they're allowed 18 square ft. of signage.

Mrs. Burton responded that's correct.

Mr. Dyer asked since this signage is on this awning is this entire awning considered there sign?

Mrs. Burton responded no we draw a rectangle around that.

Mr. Dyer asked is this entire area that's on the front of the awning considered? How do you determine how much signage they already have?

Mrs. Burton responded I just draw a rectangular around the lettering itself.

Mr. Dyer asked do you do it on each individual since it is sort of divided into three areas?

Mrs. Burton responded no.

Mr. Dyer stated you'd have to incorporate it into one configuration.

Mrs. Burton stated correct.

Mr. Dyer stated so in other words they basically could have lettering all the way across the front and they would still be within their allowance. Correct?

Mrs. Burton responded potentially. They're only allowed 9 square feet on this side.

Mr. Nicholas asked why do they need the variance for to go to the basement? It's not a separate retail space.

Mrs. Burton responded the basement is currently no utilized at all, for public access.

Mr. Dyer stated but it is part of the building.

Mr. Nicholas stated they are not purposing to put a separate store in there.

Mrs. Burton stated the current use of the building is legal non-conforming as a salon because it is zoned residential. They're expanding that use to now include a retail space.

Mr. Dyer stated but they're not expanding the building. In essence they have a big store room.

Mrs. Burton stated and their variance is not to expand the building. It's just saying legal non-conforming use.

Mr. Dyer stated I mean if I've got an office building that's legal non-conforming and I have four offices in that building and I only have three employees so one office is redundant until I decide to hire a fourth employee is that, isn't that the same thing? I mean the space is in the building. I mean I got to think technically there, their actually using the basement, some type of utility.

Mrs. Burton stated the space is currently utilized as storage.

Mr. Nicholas stated let me phrase is another way. The legal non-conforming use is granted to the building, right? The building is in a legal non-conforming use.

Mrs. Burton responded the use, not the structure. Now we are not doing any a variance to expand the structure.

Mr. Nicholas stated no I'm not talking about the variance. What exists right now, that building as a whole.

Mrs. Burton stated right on the first floor, yes on the street level parking.

Mr. Nicholas asked is that written somewhere is that identified specially somewhere only as the first floor?

Mrs. Burton responded yes, they only have certificate of occupancy for the street level. There's never been one issued for the basement level.

Mr. Dyer asked so you can actually have two separate CO's for one building?

Mrs. Burton responded if you have two separate uses, yes.

Mr. Gillie if I can read the code to you guys.

Mr. Ok, let's let Ken read this.

Mr. Gillie read the Code related to expansion of non-conforming use That is where we are coming from. The floor area is only from the first floor, or lot area occupied on the effective date of this ordinance. They were only using the first floor, so the floor area of that use was only the first floor. They're asking now to the floor area of the basement. According to our code is an expansion of the non-conforming use and that's why they're here.

Mr. Dyer asked is there a connection inside the building from the first to second floor or do you have to go outside to get to it?

Mrs. Adkins responded there is a connection. There is a staircase.

Mr. Dyer asked so it's not two separate units? I mean I only see one electric meter. The same electric meter server the first floor and the second floor, correct?

Mrs. Adkins responded correct.

Mr. Dyer asked would that apply to a two story building if you had a ground floor and an upper level?

Mr. Gillie responded if you were not using that floor area; if that space was vacant, again we have on our code its say floor area. So we have to account the floor area used. If that space was unfinished and not used, if you go and try to use it, if it's was just used for storage and it is now an additional use. The retail is a expansion, in our opinion, because it is an expansion of the floor area of that building being used. If they're already using both, which is vacant but in this case it wasn't used for a purpose that was not permitted under the code. Now they're asking for something that's not permitted, so that's why they're here.

Mr. Nicholas stated I see there are three issues. The three issues I see on this one are to let her use the basement for her salon. In my opinion I don't have a problem with that, I understand the code and I think she meets the criteria for that. The second one is to expand it is to allow that increase without increasing the number of parking spaces based on the presentation I've heard I think that problem ameliorated. I am fine with that one. The signage in my opinion is the third issue and I don't think she's has met the burden for the variance on the signage. I think that if she has enough signage in, because we are not expanding into a new building.

Mr. Dyer stated she is allowed an additional to the wall sign. In addition to the wall sign, she is allowed a ground sign, which she does not have at this time. How large of a ground sign is she allowed?

Mrs. Burton responded 24 Sq. ft. Keep in mind that it also has to be a 10 ft. set back from the right of way and drive entrance.

Mr. Dyer asked does it have to be a certain distance away from the building?

Mrs. Burton responded no.

Mr. Dyer stated I hate to say it but she could basically install a ground sign right up against this sidewalk, correct? I mean I don't want to give someone some ideas that is going to create problems.

Mrs. Burton responded technically, yes.

Mrs. Stable stated I was just going to ask about the mural.

Mr. Nicholas stated the mural is not before us.

Mrs. Stable asked is that if you allow or disallow the signage to benefit can you put in this variance that could be allowed? I don't know how that works.

Mr. Dyer responded no.

Mr. Nicholas stated there is no request for a mural before us. We don't have jurisdiction to take it.

Mrs. Stable stated I mean I just didn't know if it was part of signage or part of beautification or I didn't know how that worked.

Mr. Nicholas stated we will find out but it's not before us today.

Close the Public Hearing.

Mrs. Evans asked the mural, is do you have to have a permit for that?

Mrs. Burton responded yes, you also need to be located within your own district. You could be allowed to do some type of art work possibly or something that does not reflect what the building is being used for.

Mr. Dyer asked it can not involve any advertising, correct?

Mrs. Burton responded correct. That would have to be something that would have to be reviewed prior.

**Mr. Nicholas made a motion to approve Variance Application PLVAR20140000169 to expand a legal non-conforming use to include a separate retail space and to operate without increasing the number of parking spaces for reasons stated by the applicant.**

Mr. Dyer stated I'm going to interrupt you there for just one second. Do you think it would be appropriate to table this until we actually have a document executed where the parking situation has been resolved or are you confident enough that it is going to be resolved?

Mr. Gillie responded you can grant it conditioned upon them obtaining that document.

**Mr. Nicholas added the condition to approve conditioned upon the applicant receiving a shared use agreement. Mrs. Evans seconded the motion. The motion was approved by a 7-0 vote.**

Mrs. Witter asked have you left in that clause in there that would protect any future business should they sell the property so that if the property agrees or the new renters agree with allowing usage then that's already been decided then.

Mr. Gillie If the property owner who owns that parking lot in that shared use agreement yes then perpetual use of that property then it can protect that, yes.

**Mr. Nicholas made a motion to deny Variance Application PLVAR20140000169 to allow two wall signs totaling 40 square feet. Mr. Hiltzheimer seconded the motion. The motion was approved by a 7-0 vote.**

Mr. Dyer stated so you understand what's happened, you're variance to use the building has been granted, however the variance request to expand your sign area has been denied however you still have the right to erect a ground sign it can be up to 24 sq. ft. as long as it meets the city's requirements as far as setbacks. Ok

## **II. APPROVAL OF MINUTES**

**The June 19, 2014 minutes were approved by a unanimous vote.**

## **III. OTHER BUSINESS**

Mr. Gillie stated the motion you made last month to request a code change, that will be coming up to the planning commission meeting next meeting. Uh that's all we have.

Mr. Campbell stated yes, question or clarification for the first applicant when we amended a motion. Did we not have to vote on that amendment?

Mr. Nicholas responded it wasn't an amendment to the motion. I moved to deny it. We took a vote that was denied. I made a new motion to allow for approval with conditions.

Mr. Dyer anytime you have an applicant, that you feel like you can agree to if they are willing to do some things, you can amend their application to include those. If they chose not to do it, then the variance is not granted.

With no further business, the meeting adjourned at 10:51 a.m.

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APPROVED