

BOARD OF ZONING APPEALS MEETING

January 21, 2016

Members Present

Gus Dyer
John Hiltzheimer
Dolores Reynolds
Ann Sasser Evans
Philip Campbell

Members Absent

Dawn Witter
Michael Nicholas

Staff

Ken Gillie
Tracie Milam
Renee Burton
Anna Levi
Clarke Whitfield

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

ELECTION OF OFFICERS

Mr. Dyer turned the meeting over to Mr. Whitfield for the election of officers.

Mr. Whitfield called for nominations for Chairman.

Mrs. Evans nominated Mr. Dyer as Chairman. The nomination was approved by a 4-0-1 vote (Mr. Dyer abstained from the vote).

Mr. Whitfield called for nominations for Vice Chairman.

Mrs. Evans nominated Mr. Nicholas as Vice Chairman. The nomination was approved by a 5-0 vote.

Mr. Whitfield called for nominations for Secretary.

Mrs. Evans nominated Mrs. Reynolds for Secretary. The nomination was approved by a 4-0-1 vote (Mrs. Reynolds abstained from the vote).

I. ITEMS FOR PUBLIC HEARING

1. Variance Application Number PLVAR20150000376, filed by Samuel Martin, requesting a variance from Article 3.C. Section A, Paragraph 3, of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 538 Beech Tree Ct, otherwise known as Grid 9712, Block 002, Parcel 000033, of the City of Danville, Virginia, Zoning Map. The applicant is requesting a variance to allow a private septic system where it is prohibited by Code.

Mr. Dyer opened the Public Hearing.

Present on behalf of the request was Mr. Samuel Martin.

Mr. Martin stated how would you like for me to proceed sir?

Mr. Dyer stated it you can explain to us why you are requesting this variance. I'm assuming that Mr. Gillie pointed out that there are five criteria that you need to meet in order to get your variance granted. The City has done a little background work for you and included that you do meet four of the five. The one criteria that they say that you do not meet is basically stating that the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance. In other words the situation that you are facing now was there when you bought the house and that nothing has changed that would create a hardship on you where you would be granted this variance.

Mr. Martin stated could I give you a little background?

Mr. Dyer stated sure.

Mr. Martin stated I have a younger sister who is a diabetic and is basically blind. She needs to be taken care of. She and her husband were living in my house and I had to evict him. It was a bad situation. I when into the house, the house is basically a disaster. So, she is staying with my mom and I am trying to fix the house up so that my other sister who lives in Atlanta (she is retiring from her job there) can come and take care of my little sister and my mom. I have got in the house it is totally destroyed I have hired somebody to take care of this for me because I live in Garner, NC and my job is driving trucks so I'm all over the place. I can't be here to watch over the house as its being worked on. My little sister needed a room built on so I told her I would try to have the room built on. They started getting everything ready to be built on and then I get a call from the contractor and he says we have a problem. The septic tank is too close. I can't afford to hook up to the city. I already wanted to do the driveway and now I can't do that. A lot of things that I wanted to do are not being done because it has gotten so expensive. So I told him if you can't leave it or figure out another way we are going to have to just drop the room. I just can't afford it. I didn't hear anything for a number of hours maybe a day. Then I got a call from the contractor saying that he had a solution a less expensive solution. He said he talk to the inspector and he said that what we could have the room all we would have to do is just move the septic tank. I said are you sure? He said yeah the inspector said he called everyone he needed to call and I said okay let's go with that. I didn't know this was not a city inspector. I had no idea I was in Myrtle Beach doing a delivery. I have to depend on the people that are here. So I paid to have the new septic tank put in which was way less than what the estimates were to hook up to the City. I didn't even know then that there was any reason I had to nobody told me that. I'm not a contractor I don't know the laws and I have to depend on the people that are here. We started the room and got everything going. I'm at the point now that if I would have known I wouldn't have done it. I wouldn't have done the room at all. I'm between a rock and a hard place. I don't know if that falls into hardship or what that falls into. I drive a truck for a living. To actually go in now and hook up to the City would be a tremendous burden because I am out of money. I'm trying to fix the house up and if you have done any renovations especially on a house that's all to pieces it's expensive. I'm not going to be getting a dime back it's not like I can rent it out, my family is going to be living in there and best I can hope for is that they will keep it up and pay the taxes or

give me some money to pay the taxes. That's all I will have. So I am kind of throwing myself at the mercy of this. The same way I just have to depend on other people sometimes because I'm not around to know these things and that's basically what happened. I'm trying to be just as honest and straight forward as I know how.

Mr. Dyer stated your contractor did he obtain a building permit for the addition onto the house?

Mr. Martin stated yes.

Mr. Dyer stated okay so he is a licensed contractor?

Mr. Martin stated yes sir to the best of my knowledge.

Mr. Dyer stated according to the background information he actually contacted a county building inspector to find out about the septic system?

Mr. Martin stated no sir. My understanding was that the inspector was there. I assumed it was City because the house is in the City. I don't know why there would be county there. He said the inspector said he would check on it. He made a bunch of phone calls. He said the inspector told him this is what we can do and it will be fine. He called around town and made all the proper calls that you do as an inspector. He said it was good. So I thought about it for an hour or so and decided okay we will go with it under those circumstances everything is good. He said the guy said we was good on everything.

Mrs. Evans stated who is your contractor?

Mr. Martin stated Alexander Lee he is contracting and subcontracting out if I understand correctly.

Mr. Hiltzheimer stated how many others on Beechtree court have city sewer? All of them?

Mrs. Burton stated they all have it available.

Mr. Gillie stated yeah they all have it available I don't know the number of taps. We installed the line.

Mr. Hiltzheimer stated do any of them have a septic tank now? That has been there for forty years?

Mrs. Burton stated I know at least one does because they called in saying they had a septic.

Mr. Gillie stated I know one is tied in because someone else has called to say that they removed theirs when they did work and they knew they had to tie in. It's probably a mixture of people who are connected and people who aren't.

Mr. Hiltzheimer stated okay.

Mr. Gillie stated I can't give you exact number though sorry.

Mr. Dyer stated all that was moved was the septic tank itself correct? Not the drain field?

Mr. Martin stated I thought they were just going to move the tank then I found out they put a new tank in. I don't know if that had something to do with some code or not. Honestly, I don't know but there was a new tank put in and moved up so many feet to make it within something about you can't have something built within so many feet of the tank. I ask him if the drain field was going to have to be messed with and he said no. So they moved it I don't know how many feet it was sir.

Mr. Dyer closed the Public Hearing.

Mrs. Evans stated I'm concerned that an inspector in the county didn't realize that this was City property.

Mrs. Burton stated the county inspector does complete inspections within the City specifically just for septic tanks. We do not have an inspector in the City to do that work. Those permits were held by the health department and that is a county function not something we do in the City.

Mr. Dyer stated is the county not aware of our code that requires any house that can be hooked to sewer has to be hooked to sewer?

Mrs. Burton stated I don't believe I can speak for them. They are aware of it now.

Mr. Dyer stated they are aware of it now. Okay.

Mrs. Evans stated are they aware of the lines between the City and the county?

Mrs. Burton stated they are aware that a home in the City must connect to the public system not to a new septic tank.

Mr. Dyer stated okay well it does appear that Mr. Martin has been a victim of a little confusion that was beyond his control.

Mr. Campbell stated my comment would be that he said that they property was acquired in good faith. It seems to me that some of the information was withheld when he was purchasing this property. Can I make a motion?

Mr. Dyer stated sure.

Mrs. Evans stated may I make a comment before you do that. I was just don't want this to be a precedent if it is approved.

Mr. Dyer stated well that's my concern now because we have in the past granted people the right to use septic tanks and the right to use sewer when not available. This is a situation in which sewer lines were available. This is one of those situations where this

is one of those neighborhoods that was annexed into the City and so when this neighborhood was built there was no public sewers available. So I'm sure at one time all these houses were on septic systems. I would make an educated guess that there probably are a significant amount of houses out there that are still hooked onto sewer. I totally agree with Mrs. Evans. I have a concern when this Board sets a precedent and someone else has every right to come in and ask for the same thing and be offered the same consideration.

Mr. Hiltzheimer stated what's you're feeling about it?

Mr. Dyer stated I have mixed feelings.

Mr. Whitfield stated I would like to remind you that this Board requires four affirmative votes for any action because it's not just simply majority of the corner.

Mr. Dyer stated we are still bound to find that they meet all five criteria correct?

Mr. Whitfield stated correct.

Mr. Campbell made a motion to approve Variance Application PLVAR20150000376. Mrs. Reynolds seconded the motion. The motion was approved by a 5-0 vote.

Mr. Whitfield stated by making that motion I assume you mean that they meet all five criteria?

Mr. Campbell stated yes.

Mr. Whitfield stated and that was your understanding on the second?

Mrs. Reynolds stated yes.

Mr. Dyer stated your request has been granted. I hope that is a little bit of relief for you.

Mr. Martin stated I don't know if I'm supposed to do this but can I shake you all's hand?

Mr. Dyer stated that's probably not appropriate but we will understand the sentiment.

Mr. Martin stated you don't know how much of a relief this is. I got 33 boxes of hardwood on my truck outside and my wife is guarding it. I have got to take it to the house. You just don't know how much I was worried about this. Thank yall so very much.

Mr. Gillie stated before you go. There is a 30 day appeal period that a neighbor could challenge or something. It's mostly out of the way but I don't know that anyone would. Nobody has told me anything but I just wanted you to know that, that is available to someone just in case.

Mr. Martin stated I'm glad you told me and I wish you hadn't told me.

Mr. Gillie stated I just didn't want you to get shocked if it comes out.

Mr. Martin stated at this point not much could shock me.

Mr. Gillie stated I'm the Zoning Administrator, the City is not going to appeal it but one of your neighbors could. Just to let you know.

Mr. Whitfield stated considering the fact that only one was opposed and nobody showed up.

Mr. Gillie stated I don't think it's going to happen but I just wanted you to be aware.

II. APPROVAL OF MINUTES

The October 15, 2015 minutes were approved by a unanimous vote.

III. OTHER BUSINESS

Mr. Gillie stated I would like to introduce everyone to Ms. Anna Levi she is the new Associate Planner. She took Scott's place. I also wanted to let everyone know we do not have cases for next month. Yesterday was the deadline and as of 5 o'clock yesterday no one had turned anything in. So I will not see you in February. I will still send out the reminder telling you that the meeting has been cancelled. There will possibly be a meeting in March. I was expecting to have a case for the February meeting but it didn't come. I imagine it may come for the March meeting.

Mr. Dyer stated I will not here on the Third Thursday in March. Can we consider either moving the meeting to that Tuesday or sometime after the end of next week?

Mrs. Evans stated can't Mr. Nicholas run the meeting?

Mr. Dyer stated he can I just like to be here.

Mr. Whitfield stated it just depends we need to find out his court schedule.

Mr. Gillie stated if not Mrs. Reynolds can run the meeting.

Mrs. Reynolds stated I'm going to be very upset with you.

Mr. Gillie stated make sure that makes it in the minutes.

Mr. Dyer stated well just far warning that I will not be here.

Mr. Campbell stated does all the meetings have to be at 10?

Mr. Gillie stated no if you would change the meeting time that would have to be a vote of the Board. It just has always been established and advertised that way. If they would want to change the time or date we would have to advertise it.

Mrs. Reynolds stated when would suit you better?

Mr. Campbell stated if it's just for me if I'm the only problem I understand that. The only reason I'm here today is because of inclement weather. I go to Lynchburg, 9 o'clock would be a better time for me.

Mr. Dyer stated well what about 4 o'clock in the afternoon?

Mr. Campbell stated that works for me too.

Mrs. Reynolds stated 4 in the afternoon did you say?

Mr. Dyer stated yes. Mrs. Evans does that sound good?

Mrs. Evans stated that works for me.

Mrs. Burton stated that would conflict with the River District Commission at 4pm.

Mr. Dyer stated do they meet here on Thursday?

Mr. Gillie stated they are the second Thursday of the month. It would not conflict.

Mr. Dyer stated I don't recall seeing other meetings scheduled.

Mr. Gillie stated if that's something you want to do then we can.

Mrs. Reynolds stated how long would it take for this to be established?

Mr. Gillie stated a day or two.

Mrs. Reynolds stated so then the next meeting after the one we don't have in February would be at 4 instead of 10?

Mr. Whitfield stated if there was a motion and it was approved by four members. Then we could establish it and that would give us February as a buffer.

Mrs. Reynolds made a motion to move the meeting time to 4pm on the third Thursday of the month. Mr. Campbell seconded the motion. The motion was approved by a 5-0 vote.

Mr. Dyer stated it appears the next meeting will be at 4pm.

With no further business, the meeting adjourned at 10:22 a.m.

APPROVED