

BOARD OF ZONING APPEALS MEETING

April 21, 2016

Members Present

Gus Dyer
Michael Nicholas
Dolores Reynolds
Ann Sasser Evans
Philip Campbell

Members Absent

Dawn Witter
John Hiltzheimer

Staff

Ken Gillie
Tracie Lancaster
Anna Levi
Alan Spencer

Chairman Dyer called the meeting to order at 4:00 p.m.

I. ITEMS FOR PUBLIC HEARING

1. Variance Application Number PLVAR20160000101, filed by Powers Signs, requesting a variance from Article 10., Section Q., Paragraph 1c. of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 201 Airside Drive, otherwise known as Grid 4606, Block 002, Parcel 00001, of the City of Danville, Virginia, Zoning Map. The applicant is requesting variances to allow for the installation of directional signs that are larger and contain advertising copy when prohibited by Code.

Mr. Dyer opened the Public Hearing.

Present on behalf of the request was Mr. Tom Powers, from Powers Signs. I put in this application. I just fill in whatever it takes to get something on the line. The articles that have to be satisfied here I don't quite understand what the first one means. It was acquired in good faith and any hardship; they were annexed into the City so they didn't anticipate that. Just as Goodyear did and some of the others; some of the things that apply to them now didn't when they brought the property. I don't know if that is a valid reason or not but it seems to place a whole lot of emphasis on where you were and when you bought the property to begin with. But that's my take on it. On the second one the detriment to adjacent property, I don't see any.

Mr. Nicholas stated well the City agrees with you on the last four it is the first one that they say you don't meet.

Mr. Dyer stated can I stop you at this point and let you know that the only one that the City has determined that you don't meet is the first one. The other four the Planning staff has determined that you do meet the requirements. So I think we just have to concern ourselves with the first one. Again, I agree with you in reading this it does note that the property when it was purchased was in the County and they didn't even have sign ordinances is that correct?

Mr. Gillie stated In 1988, I don't believe the county had it but they have been through subsequent City sign changes.

Mr. Dyer stated okay we will get back to that. So basically you are making the argument that in fact they are facing a hardship because the code has changed.

Mr. Powers stated basically that's right.

Mr. Dyer stated Mr. Powers do you design these signs or do you get plans or specifications from the company?

Mr. Powers stated actually Nestle is doing this nationwide at several plants and I am doing the install for a company out of Texas.

Mr. Dyer stated okay so you didn't come up with the dimensions or how the sign looks? That was giving to you by the corporation.

Mr. Powers stated right. They can be size wise amended. We feel that with the tractor trailer traffic coming through there it is a necessity.

Mr. Nicholas stated why do you need advertising copy?

Mr. Powers stated well I think the fact that it says Nestle on it is for identification. To me advertising is Hardees next to McDonalds. When you got a plant sitting on twenty acres out in the countryside and you put your name on it and it's repetitive through there. I worked for Goodyear for 26 years and I have seen logging trucks pull into Goodyear like they were coming in the plant, thinking they were somewhere else even though they have a huge sign. Sometimes we think that over does it but I don't think so from my experience.

Mr. Dyer closed the Public Hearing.

Mr. Dyer stated okay so I wanted to get back to the point about hardship; so the other thing that your stated Mr. Gillie was just to reduce the size of the sign. Since Mr. Powers didn't design these signs and I'm assuming they hired professional staff to do that. As Mr. Powers mentioned I would think our sign ordinance is generally geared more towards vehicular traffic, cars. More important to control perhaps on Riverside Drive, then in an industrial park. So if in fact these sign are intended for tractor trailer traffic I can see why they would need to be larger than what we would like to see on some place like Riverside Drive.

Mr. Gillie stated can I disagree with you?

Mr. Dyer stated sure.

Mr. Gillie stated it's the only building at that end of the street. It is not hard for a tractor trailer to figure out where they are going. Every company comes to us and says this is what we want, restaurants, Advance Auto has been in front of you. All of them come to us and say we are a National company and this is what we designed. This is what you're going to allow and with every case we have told them no this is what we allow.

They have come here and the Board has consistently told them design a sign that will meet our requirements and they have done so. In this case with Mr. Powers we look at the same way. First off, it's the only building down there so it shouldn't be hard for them to find. Second, they could make the sign to meet our requirements. We are not making our requirement excessive.

Mr. Nicholas stated do you have any examples of property owners that have bought the property while it was Pittsylvania County and it was annexed who have come before the board and we have turned the down?

Mr. Gillie stated well really the steak house that I mentioned was a property that was in the county and it was annexed. But it was nothing on it and they subsequently developed within City rules. This one was built within the county I will admit to that.

Mr. Nicholas stated has it been the same owner?

Mr. Gillie stated the owner has changed multiple times I don't know whether Nestle is a Corporate ownership.

Mr. Nicholas stated when Nestle acquire the plant did they acquire the plant while it was in the City or County?

Mr. Gillie stated I don't know I would have to check, I can check real quick.

Mr. Dyer stated you state that it was 1987.

Mr. Gillie stated January 1 of 1988.

Mr. Dyer stated so It would have been in the county. Once again I will say that the instances that you cited are intended for vehicular traffic not tractor trailer traffic. If you have ever been in the cab of a tractor trailer you would know that you are way up in the sky.

Mr. Gillie stated the cars at the Toyota dealership are delivered by tractor trailers so clearly that is tractor trailer traffic as well.

Mr. Dyer stated if you are in fact driving down the road in a tractor trailer and you are twelve feet off the ground and the sign is down at four feet it is a good possible you could miss it.

Mr. Gillie stated if you go down that street it's the only plant there. It has Nestle on it. If they tractor trailer can't find that then he is going to have much more difficulty than meeting our requirements for a slightly smaller sign.

Mr. Nicholas stated how much smaller does it need to be?

Ms. Levi for the directional sign it's limited to 8 square feet.

Mr. Nicholas stated and how many square feet is this one?

Ms. Levi stated so the one that is proposed is 2' 8" by 6 feet.

Mr. Nicholas stated I'm terrible with math.

Mr. Dyer stated eight square feet would be 2 feet wide and 4 feet tall which is a small sign. If they need to get the copy on it for directional purposes then the sign is going to be small and then the writing will have to be small as well.

Mr. Nicholas stated so you reduce the height of the sign by a third. Eight square feet they are slightly over twelve so that would cut it by a third to meet code requirements.

Mr. Gillie stated correct.

Mr. Nicholas stated what about the other signs?

Ms. Levi stated all of the other signs meet code. They are for the most part identical to the ones that we are looking at. But they are either not visible from the public right of way so they are not within the purview of the code or else they are existing signs.

Mr. Nicholas stated our public hearing has various and signs plural. Are we talking about one for which a variance it requested?

Ms. Levi stated this is for two. So if you look as this sheet right here its F and H. So by code they are allowed a directional sign at each entrance already but not as this size.

Mrs. Evans stated so they are requesting both signs at the bigger size?

Ms. Levi stated correct.

Mrs. Reynolds what is it that they are wanting to put on it that you all won't allow?

Ms. Levi stated the advertising piece at the top.

Mrs. Reynolds stated that's the name of the company.

Ms. Levi stated right.

Mr. Nicholas stated they are not selling advertising space it's just the name of the company.

Mr. Dyer stated right that's identification.

Mr. Gillie stated if it says truck entrance they are going to know. They don't need to have that on there and they could reduce the size of the sign that is the City's position. It's up to the Board what you do.

Mr. Nicholas stated does the City Code band advertising copy?

Mr. Gillie stated on directional signage.

Mrs. Evans stated so they should make a sign that says visitor entrance that way, but not Nestle. Is that what you are saying?

Mr. Gillie stated truck entrance, facility entrance you will see multiple facilities that have things that just say truck entrance this way and don't have the name of the company on them. Because you are already there at the company you know where you are going at that point.

Mr. Nicholas stated why in the world is the law written that way?

Mrs. Reynolds stated why is it that they are supposed to have a sign without putting the company logo on it?

Mr. Gillie stated the reason being is and this goes back to years again. We had everybody at every entrance of drive thru would have a sign that says McDonalds here or Burger King there and so they tried to eliminate that and reduce those. One they were too big and there were too many of them, each restaurant would have three or four at the entrances. So we did a comprehensive review of this and took that out. I mean you have the name on the building that's what you are looking for. A sign that's says drive entrance or drive thru you don't need it to say McDonalds drive thru that's additional stuff. We also had some with long drives placed in different spots. We eliminated billboards, if you think of the Taco Bell on Riverside the way to get to it is actually from the side street so they would have something over there advertising. Well then the guys on this side say well how come Taco Bell has a sign over there and I don't have a sign over there. So they tried to be fair a say well at the drive entrances you don't have it. You can have something that says drive thru or truck. In this case they are the only building down there, it's not hard to find.

Mr. Gillie stated so there is no distinguish between the different Zoning categories, the same sign ordinances apply to all zoning categories that allow for signs correct?

Mr. Gillie stated the square footages are different based on the Zoning category but the other stuff is the same.

Mr. Dyer stated you are making the argument that it's the only building down there and so you know where it is. Some guys come in here from California and if he doesn't know anything about Danville and he doesn't know that maybe there are three plants down at the end of that street. He doesn't want to turn into someone's parking lot that he don't think he can get back out of. To me that just seems like a puny agreement to me.

Mr. Gillie stated if he drives straight down that road that is the only plant in front of him.

Mr. Dyer stated I drove down there Ken and I know it is a massive plant and there are what four entrances?

Mr. Gillie stated that's why if one says truck entrance it will be easy to find.

Mrs. Reynolds made a motion to approve Variance Application PLVAR20160000101 as submitted. Without a second the motion fails.

Mr. Reynolds stated what I am struggling with here is that I am buying Nestle's part on the advertising copy, the size of the sign I'm not sure that have showed justification from exceeded the size limitations.

Mr. Dyer stated not to argue Mr. Powers point but 8 square feet is one quarter of the size of a sheet of plywood. A sheet of plywood is 4x8. They are saying that the directional sign that these truck drivers are going have to drive down a follow should be less than a quarter size of a sheet of plywood. Most of your signs that you see outside are a full sheet of plywood and they are not massive by any stretch of the imagination. So once again I think it's a mistake that we are trying to vehicular traffic signage on industrial traffic that these guys are coming in, in these tractor trailers that are twelve feet up off the ground. A sign that only sticks four feet out of the ground they are not going to see it.

Mrs. Evans stated how far out of the ground would this stick?

Mr. Gillie stated they have options to have it taller, it's the square footage.

Mr. Dyer stated it could stick eight foot out of the ground but it could only be one foot wide and you're not going to be able to get the copy where these guys will be able to read it.

Mr. Gillie stated no they could actually elevate it. It's the amount of space on the sign. They could raise it up to a height that is visible and still meet our square footage requirements. They just want it square footage wise bigger than what is permitted.

Mr. Dyer stated so they could put the sign on a pole?

Mrs. Evans stated I have never been in a tractor trailer but I think it would be easier to see out a tractor trailer than a car.

Mr. Dyer stated not if the road is here and the sign is here, but if the road is here and the sign is the same height than your right because you get a wider range of view. But your field of vision close up is very narrow. I mean that's why they have all these mirrors around them because they can't see the cars around them and next to them.

Mr. Gillie stated you have the option of recommending a variance with part and denying part.

Mr. Nicholas stated I understand that. F and H are what we are talking about on this map here. But E and G are the same dimensions they meet the code?

Ms. Levi stated G is not within sight of the public right-of-way so that one is not with in purview of the code. E is an existing sign that just getting a facelift basically. It was already those dimensions so that one is.

Mr. Nicholas stated grandfathered in? So H and F don't exist at the moment?

Ms. Levi stated right.

Mrs. Evans stated how have they been getting in there before these signs?

Mr. Dyer stated well maybe they feel the need has risen because they have had a lot of people who can't get into the plant. We don't what their stance is. I think the assumption that is being made when it saying there is no hardship has been met because of the size of the sign that they are assuming that the sign is arbitrary. The size of the sign is not arbitrary. It was designed to be what needs to easier seen and read. Mr. Powers didn't come up with that somebody with Nestle Corporation came up with that and I expect that that person was well compensated for coming up with something that was exactly what they needed. So for us to second guess that we have arbitrary limits on our signs that is where the arbitrary nature comes in that our sign ordinance is arbitrary.

Mr. Gillie stated then any sign in the City would be arbitrary.

Mr. Nicholas stated your argue doesn't follow what makes our sign arbitrary and there sign not? Our sign ordinance comes from a comprehensive study that was decided on by the people elected based on factors that they considered. It's not arbitrary when it's under debate like that just like the needs of a business hires professions and consultants and says this is what you need for the sake of your business. Neither the ordinance nor the request is arbitrary it is just made for different reasons. The question is does our sign ordinance impose a hard ship.

Mr. Dyer stated having participating in the process of formulating this zoning code I can tell you that a lot of the zoning code is arbitrary. It's just because that's what someone thought was a good idea.

Mrs. Reynolds stated there is a lot of difference between having thirteen fast foods restaurants all right next to each other all in competition and so very large plant out in the middle of nowhere that needs a sign that is commensurate with its needs.

Mr. Nicholas stated though there is no evidence of need.

Mr. Dyer stated I think the evidence of need is the fact that they are asking for it.

Mr. Nicholas stated people ask for what they don't need all the time.

Mr. Dyer stated I find that comment hard to fathom that a major corporation would come and ask for signs that they don't need. Why are they going to make expenditures for something that they don't feel like that they need?

Mrs. Evans stated we have had major corporations ask for the exact same thing in previous meetings, for example Advance Auto Parts like he said.

Mr. Dyer stated I think that is a very shallow argument. So do we have any motions?

Mrs. Evans made a motion to deny Variance Application PLVAR20160000101 as submitted. Mr. Nicholas seconded the motion. The motion failed due to a 3-2 vote.

Mr. Dyer stated so the motion fails right? That's not four votes right?

Mr. Gillie stated the concurring vote of the majority of the board.

Mr. Nicholas stated which means if you don't get four votes you don't get a variance.

Mr. Spencer stated what was the motion to deny it?

Mr. Gillie stated correct.

Mr. Dyer stated it was 3 to 2 votes to deny it. So my question is any action being taken?
Mr. Dyer stated can Mr. Powers come back next month when we have a full Board?

Mr. Nicholas made a motion to approve Variance Application PLVAR20160000101 as submitted. Mrs. Evans seconded the motion. The motion failed due to a 3-2 vote.

Mr. Gillie stated they could appeal your determination to the court.

Mr. Dyer stated I would like to have it on the record that City Code states if you members who miss two consecutive meetings in a row that they are to be replaced.

Mr. Spencer stated the Circuit Court appoints you.

Mr. Gillie stated that doesn't apply to this Board.

Mr. Nicholas stated Circuit Court has to remove you.

Mr. Dyer stated well it appears that your variance application has been declined Mr. Powers.

II. APPROVAL OF MINUTES

The March 17, 2016 minutes were approved by a unanimous vote. (Mr. Dyer abstained from the vote on the minutes.)

III. OTHER BUSINESS

Mr. Gillie stated you do have cases for next month. Your meeting in May is the 19th we have two cases for next month. So please plan ahead for your meeting of May 19th.

Mrs. Evans stated what are the cases in May?

Ms. Levi stated one of the cases in May is an apartment that is going in by High Street and they don't have the require parking. The other is one similar to what we heard today.

With no further business, the meeting adjourned at 4:25 p.m.

APPROVED