

**BOARD OF ZONING APPEALS MEETING**  
**April 15, 2010**

<u>Members Present</u>	<u>Members Absent</u>	<u>Staff</u>
Mr. Bowles		Ken Gillie
Mr. Dyer		Christy Taylor
Mrs. Evans		Renee Blair
Mr. Campbell		Lindy Lowery
Mr. Snipes		Clarke Whitfield
Mrs. Rich		
Mr. Lampley		

Chairman Snipes called the meeting to order at 10:03 a.m.

**I. ITEMS FOR PUBLIC HEARING**

- 1. Variance Application Number V 10-002, filed by Elsie Slayton, requesting variances from Article 7:, Section B, Item 2., of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 135 Ingram Road and 1909 Westover Drive, otherwise known as Grid 0709, Block 001, Parcels 000007 & 000008 of the City of Danville Virginia, Zoning Map. The applicant is requesting variances to expand two (2) non-conforming single family residences lot areas when non-conforming uses shall not expand the lot area occupied on the effective date of the ordinance.**

Twenty-five (25) notices were mailed to property owners within three hundred feet; Eight (8) respondents were unopposed; One (1) respondent was opposed.

Open the Public Hearing.

Present on behalf of the request was Lucky Hipkins. Mr. Hipkins stated that he has been in the construction business for over thirty-five (35) years and he was there to help Ms. Slayton with any questions. Mr. Hipkins presented a map of the proposed layout. Mr. Hipkins stated that both lots are zoned commercial and they would like to extend the property lines back, and that no zoning would be changed.

Mr. Dyer asked Staff are some of the smaller lots zoned HR-C (Highway Retail Commercial)?

Mr. Gillie responded that all of the property Ms. Elsie Slayton has is zoned Highway Retail Commercial HR-C. There are two (2) single family homes on property that is zoned HR-C and they want to expand those lot areas. The Zoning Code prohibits the expansion of non-conforming use.

Mr. Dyer asked what is the non-conforming use?

Mr. Gillie responded the single-family residence in a HR-C (Highway Retail Commercial) district.

Mr. Dyer asked is the fact that makes it a single-family residence is that someone lives there?

Mr. Gillie responded yes. Mr. Gillie stated that by someone living there it is legal non-conforming.

Mr. Dyer asked Mr. Hipkins what is the reason behind this?

Mr. Hipkins responded anything over an acre the state gets involved in water control. If we can keep it under an acre then we would not have to get the state involved.

Mrs. Evans asked which house is occupied?

Mr. Gillie responded there are two (2) of them.

Mr. Dyer stated that there appears to be ways to have done this without coming here. If you are going to develop them commercially at some point, then you can adjust the lot lines with no problem.

Mr. Lampley asked is the reason to expand these is so that they can be used commercially at some point in the future?

Mr. Hipkins responded yes. Mr. Hipkins stated that currently she has some revenue coming from the houses and if they are tore down, she would lose that revenue.

Mrs. Evans asked how soon are you planning to develop it?

Mr. Hipkins responded that was a question Ms. Slayton would have to answer.

Ms. Slayton stated that is the thirteenth (13<sup>th</sup>) time she has been to the Zoning Board in an effort to clean up this property. I have torn down five (5) houses trying to make it acceptable to the City. When this was zoned Highway-Retail Commercial HR-C years ago, they asked me to get it surveyed in twenty-five (25) foot increments. We were told these two (2) houses must stay. One has lived there over thirty (30) years. He has a license and has a shop in the house. The other house I would like to tear down as soon as I get the money. It is not livable. The lady that lives there only pays the utility bill. Ms. Slayton stated that she is only trying to bring it up to standard to make it marketable.

Close the Public Hearing.

Mr. Bowles asked what were the options proposed by Staff?

Mr. Gillie responded one (1) removal of the houses, two (2) leave the house lots as they are and configure the properties to comply with Highway-Retail Commercial HR-C requirements, three (3) leave it at its current state, and four (4) come to the Board. There were multiple ways to configure the property to leave those two (2) single-family houses in their current state without modifying their lots and still obtain some sort of commercial subdivision that would comply with the Code.

Mr. Gillie stated that this is the first he has heard that Mr. Hipkins was trying to keep the lots under one (1) acre. Staff took the lots and configured them different ways to show them they could subdivide by leaving this or leaving that which would not require variances while still getting some commercial modifications and changing those lot lines. That was explored and rejected by the parties.

Mr. Dyer asked was there any discussion about going to Council to get this re-zoned back to Single-Family Residential?

Mr. Gillie responded I did not explore that option based on past history.

Mr. Lampley stated that he did not understand why they wanted to leave two (2) residences in a commercial zone. It appears the easiest thing to do would be to tear the two (2) houses down.

Mr. Gillie stated that was an option provided but she said she has reasons for keeping the legal non-conforming residences. As a City, we recognize legal non-conforming use. It is legal because it was here at the time of adoption and non-conforming because it does not comply with the code. We cannot make the owner tear anything down or remove it. Basically you have what you have at the time the ordinance was adopted, no modifications are allowed. Code states it shall not be expanded or extended on the floor area or the lot area if occupied on the date of this ordinance.

Mr. Dyer asked for clarification as to why they are trying to do this.

Mr. Gillie responded that is not a question for me. We look at what is presented and options that comply with the code. If someone chooses not to, then they come here.

Mr. Dyer asked is there an immediate need to have this done?

Mr. Hipkins responded that the houses do not have to be torn down; the people only have to move out.

Mrs. Rich asked why do it now?

Mr. Hipkins responded if she ever tries to sell it.

Mr. Dyer asked are you trying to make modifications to make it marketable but not lose what income you have coming in on the houses now?

Mr. Hipkins stated yes. She is not changing the zoning on either one of them and if you get over an acre you get into a holding pond.

Ms. Elsie Slayton stated that she is eighty-nine (89) years old and I would like to get this straight before I pass. That is the only reason for it. As Mr. Daniels told me I should. To leave it so it will not be so much unhappiness when I do pass away. At eighty-nine (89) I do have sense enough to know I am not going to be here long.

Mr. Snipes called for a motion.

Mr. Dyer stated that he did not see where they met all of the requirements for granting the variance.

**Mr. Lampley made a motion to deny the request for Variance Application V 10-002. Mr. Dyer seconded the motion. The motion was approved by a 7-0 vote.**

## **II. OTHER BUSINESS**

Mr. Gillie stated that there are no cases filed for next month at this time.

Mr. Gillie stated that Staff has explored emailing the packets to Planning Commission ahead of time. If that is something you would be interested in, please give Mrs. Taylor your email address.

Mrs. Evans asked on the January meeting, were they able to build the garage?

Mr. Gillie responded yes. Mr. Gillie stated that they were able to find the property pins and other information to build the garage.

Mr. Dyer asked did Robert Woodall shut the Mazda place down on his own or was that something to do with the sign?

Mr. Gillie responded the City did not have anything to do with it.

## **III. APPROVAL OF MINUTES**

**Mrs. Evans made a motion to approve the minutes of the January 21, 2010 meeting. Mr. Dyer seconded the motion. The minutes of the January 21, 2010 meeting were approved by a unanimous vote.**

With no further business, the meeting adjourned at 10:33 a.m.

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APPROVED