

BOARD OF ZONING APPEALS MEETING
February 16, 2012

| <u>Members Present</u> | <u>Members Absent</u> | <u>Staff</u> |
|------------------------|-----------------------|------------------|
| Mr. Dyer | Mrs. Evans | Clarke Whitfield |
| Mr. Campbell | Mrs. Rich | Ken Gillie |
| Mr. Nicholas | | Renee Blair |
| Mr. Hiltzheimer | | Christy Taylor |
| Mr. Snipes | | |

City Attorney, Clarke Whitfield called the meeting to order at 10:00 a.m.

Mr. Snipes arrived at 10:02 a.m.

I. ELECTION OF OFFICERS

Mr. Whitfield opened the floor for nominations for Chairman.

Mr. Campbell nominated Mr. Gus Dyer for Chairman.

There were no other nominations.

Mr. Dyer was elected Chairman by a 5-0 vote.

Mr. Whitfield opened the floor for nominations for Vice-Chairman.

Mr. Campbell nominated Mr. James Snipes for Vice-Chairman.

There were no other nominations.

Mr. Snipes was elected Vice-Chairman by a 5-0 vote.

Mr. Dyer now presided over the meeting.

II. ITEMS FOR PUBLIC HEARING

- 1. Variance Application Number PLVAR20120000021, filed by Power Signs, Inc. The applicant is requesting a variance to erect an additional 142 sf. wall sign where the maximum allowable wall signage is 32sf.*

Seventeen (17) notices were mailed to surrounding property owners. Two (2) respondents were unopposed; zero (0) respondents were opposed.

Open the Public Hearing.

Present on behalf of the request was Mr. Tom Powers. Mr. Powers stated I have some mock-ups of what this proposed sign will look like. I will pass those around. I don't know if any of you got to see the banner that we hung up there, but it was at the highest location about where the logo will go. I really didn't put anything up any larger.

Mr. Hiltzheimer asked is it basically the same sign that is on the front of the building?

Mr. Powers responded yes, sir. Are there any other questions about that technically wise? They were really pleased with the way that one turned out and the visibility even though it is a little more visible right now with the trees. There are some pretty large trees at that florist shop that will probably block it pretty good when they fill out. In this other direction, from the majority of the town it is still going to show up pretty good. You have looked at the analysis. These are circumstances that are just unique to this particular building. Given the use, I do not think you would ever find a conflict. It is not like the Toyota dealer getting something and then the Chevy dealer not getting it. This is the hospital. To be honest I do not know what could be done about it. If you have never been to Danville and to try and figure out where you are going from scratch, this will help that situation. I thought it turned out real well.

Close the Public Hearing.

Mr. Hiltzheimer stated I feel like it should be approved.

Mr. Nicholas asked does staff have any objections? It doesn't seem like it in your written statement.

Mr. Gillie stated it is rare for us to support a sign variance, but as he said this is a very unique circumstance. This is the only hospital that Danville has. The zoning district that it is in we do not feel it is appropriate to write specific regulations to the hospital. This is the only way to make what we feel is a reasonable accommodation.

Mr. Nicholas made a motion to approve Variance Application PLVAR2012000021 based on staff's recommendation. Mr. Campbell seconded the motion. The motion was approved by a 5-0 vote.

III. APPROVAL OF MINUTES

Mr. Nicholas made a motion to approve the minutes from the August 18, 2011 meeting. Mr. Hiltzheimer seconded the motion. The motion was approved by a 5-0 vote.

III. OTHER BUSINESS

Mr. Gillie stated we have cases filed for next month.

Mr. Dyer asked do you know when that meeting will be?

Ms. Taylor responded it is going to be the 15th.

Mr. Dyer stated I will not be here on the 15th of March. Is there any way it can be delayed?

Mr. Gillie stated it is always the third Thursday of every month.

Mr. Dyer stated well, whatever you want to do.

Mr. Gillie stated just for the record, Mrs. Evans could have attended the meeting today, but she had a conflict of interest as an employee of the hospital. She could not have participated in

anything, so she felt it would be better for her not to be present today because that was the only case.

Mr. Dyer stated I have an issue that I would like to bring up, two issues actually. Today and since you are new and this is actually something that is new for this board. We are required to make sure that the applicant meets four (4) qualifications, which in this case the Planning staff felt that they met those four (4) qualifications. What I would like is if you are going to make a motion regardless of whether it is in support of the staff's recommendation or opposed to it that you address the fact that you either feel that they meet those four (4) criteria or that they don't meet those four (4) criteria, so we will have something on the record as to why we approve these. Today it would have been very simple just to say "based on planning staff's recommendation, we recommend approval." If in fact planning staff would have been against this, then they would have had to find that they did not meet one (1) or more of these criteria and you could have addressed how they did meet that. The other issue is sticking in my crawl and it doesn't seem to bother anybody else. Mr. Snipes and Mr. Campbell I think are probably familiar with the Conway case.

Mr. Dyer reviewed the Conway case with the board.

Mr. Dyer stated Ms. Conway appealed our decision to Circuit Court. Judge Malesco ruled in her favor. It is my understanding that Malesco was supposed to issue a ruling stating she had met these four (4) criteria. Is that not correct?

Mr. Whitfield responded I think an order was entered.

Mr. Gillie stated I have not seen anything yet.

Mr. Dyer asked do we have that?

Mr. Whitfield responded I am sure we have the order.

Mr. Dyer stated if we could have that brought to a meeting, so I can see what his thinking was, why she met this. Maybe that would guide us in some future deliberation.

Mr. Whitfield stated with all due respect to Judge Malesco, I do not think his ruling is going to help you.

There was discussion regarding Ms. Conway's case.

With no further business, the meeting adjourned at 10:15 a.m.

APPROVED