



City of Danville
427 Patton Street, Suite 208
Danville VA, 24541
Phone: (434) 799-5260

Board of Zoning Appeals

SEPTEMBER 19, 2019
4:00 P.M.
4TH FLOOR CONFERENCE ROOM

AGENDA

- I. WELCOME AND CALL TO ORDER
- II. ROLL CALL
- III. ITEMS FOR PUBLIC HEARING

1) *Appeal Application Number PLAZ20190000305, filed by Eric Sherrell on behalf of PN Trading VA LLC, requesting an appeal of a zoning violation notice and revocation of business license clearance effective July 17, 2019 for PN Trading VA LLC at 1311 Piney Forest Rd Suite E, otherwise known as Grid 1808, Block, 010, Parcel 000001 of the City of Danville, Virginia Zoning District Map. The applicant is requesting an appeal of a final notice of violation issued by the Zoning Administrator that the operation is a commercial indoor recreation facility and requires a Special Use Permit when one has not been issued.*

2) *Appeal Application Number PLAZ20190000341, filed by Gentry Locke on behalf of Queen of Virginia Skill & Entertainment, LLC on behalf of PFJ Southeast LLC Store #256, requesting an appeal of a zoning violation notice effective July 19, 2019 for PFJ Southeast LLC Store #256 at 110 River Point Dr, otherwise known as Grid, 3713, Block, 006, Parcel 000001 of the City of Danville, Virginia Zoning District Map. The applicant is requesting an appeal of a final notice of violation issued by the Zoning Administrator that a Special Use Permit is required for Commercial Indoor Recreation when one has not been issued to operate commercial indoor recreation machines.*

- IV. APPROVAL OF THE MINUTES FROM JUNE 20, 2019
- V. OTHER BUSINESS
- VI. ADJOURNMENT



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Board of Zoning Appeals

Meeting of September 19, 2019

SUBJECT:

Appeal Application Number PLAZ20190000305, filed by Eric Sherrell on behalf of PN Trading VA LLC, requesting an appeal of a zoning violation notice and revocation of business license clearance effective July 17, 2019 for PN Trading VA LLC at 1311 Piney Forest Rd Suite E, otherwise known as Grid 1808, Block, 010, Parcel 000001 of the City of Danville, Virginia Zoning District Map. The applicant is requesting an appeal of a final notice of violation issued by the Zoning Administrator that the operation is a commercial indoor recreation facility and requires a Special Use Permit when one has not been issued.

BACKGROUND:

Eric Sherrell, the applicant, has submitted an Appeal of the Zoning Administrator's Decision regarding a zoning violation at 1311 Piney Forest Rd., Suite E.

The violation notice stated that Mr. Sherrell was conducting an illegal business, consisting of indoor gaming and possibly gambling. The notice did not determine whether or not the business involved gambling. However, the notice did state that a Special Use Permit for commercial recreation is required for any gaming activities at 1311 Piney Forest Rd., Suite E which is located in the HR-C, Highway Retail Commercial District.

The timeline of formal written approvals, notices, and applications is as follows:

- April 24, 2019 – Mr. Sherrell obtained a Business License Clearance for PN Trading VA LLC. The clearance did not state the type of business. However, the Zoning Administrator is under the impression the clearance was for a financial business, which is permitted to operate at the location. This is based on later conversations with Holley Preston, the Planning Technician who provided the clearance, and Mr. Sherrell.
- July 1, 2019 – A first notice of zoning violation was mailed to Mr. Sherrell. This notice provided ten (10) days to respond. After this time, Mr. Sherrell was communicative with staff regarding the business and zoning violation.
- July 17, 2019 – A Final Notice of Zoning Violation was both mailed and emailed to Mr. Sherrell. This notice stated that all gaming activities were to stop immediately and the April 24 Business License Clearance was revoked. This notice provided thirty (30) days to take action.



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- August 2, 2019 – Mr. Sherrell submitted an application for an Appeal of Zoning Administrator's Decision.

CONSIDERATIONS FOR AN APPEAL

The Zoning Administrator stated a concern that the business constituted illegal gambling which is not a permitted use for the HR-C District, in which 1311 Piney Forest Rd is located. If the gambling is legal under state law, then it constitutes as commercial recreation. This use requires a Special Use Permit, which was not obtained. Therefore, the Zoning Administrator has found the subject property to be in violation of Article 3.M of the Zoning Ordinance, which states

ARTICLE 3.- HR-C, HIGHWAY RETAIL COMMERCIAL

C.- Uses Permitted by Special Use Permit.

4. Commercial recreation facilities (indoor and outdoor).

The issue of the appeal is limited to whether or not the business is conducting activities permitted within the HR-C, Highway Retail Commercial District without a Special Use Permit.

The appellant's appeal asserts that:

- **Appellant Statement:** "The Community Development Planning Division issued a final notice violation, interpreting the PN Trading VA operation located at 1311 Piney Forest Rd., Suite E as illegal gambling."
 - **Staff Rebuttal:** The Final Notice chiefly concluded that (1) "...gambling is not a permitted use for this location...", and (2) "...any form of legal gaming is considered commercial recreation.."
- **Appellant Statement:** "On July 1, 2019 an image was taken from a city official. See attachment: Figure 2."
 - **Staff Rebuttal:** The City's determinations are based on multiple images and site visits by both planning staff and the Danville police. The first notice contained one image dated July 1, 2019. The Final Notice contained an additional image dated July 16, 2019. A report from the police department agreed the business included gaming activities. This report was not included with the Final Notice. The pictures are sufficient to demonstrate the presence of a commercial recreation business.



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- **Appellant Statement:** “In the interpretation the planning office based the final notice violation on an unsubstantiated legal claim that PN Trading VA is operating a form of illegal gambling.”
 - **Staff Rebuttal:** The Zoning Administrator does not have the authority to make official determinations of state law. The statement of “illegal gambling” is based on the fact that any form of commercial recreation at 1311 Piney Forest Rd. requires a Special Use Permit. Whatever the applicant wishes to call the business activities, it constitutes as commercial recreation under the Zoning Ordinance. This requires a Special Use Permit at this location. Without a Special Use Permit, any commercial recreation (including any form of gambling or gaming) at this location is illegal based on the Zoning Ordinance.
- **Appellant Statement:** “PN Trading VA is not an illegal gambling business and has complied with all current Virginia laws in association with any and all software currently in operation at 1311 Piney Forest Rd.”
 - **Staff Rebuttal:** The Zoning Administrator does not have the authority to make official determinations of state law. The Zoning Administrator’s decision is based on the Code of the City of Danville, Virginia. Without an appropriate Special Use Permit at this location, any commercial recreation business is illegal in the HR-C, Highway Retail Commercial District.

The Zoning Administrator has made the following findings regarding the appellant’s appeal:

- 1) The appellant states that PN Trading VA complies with state law regarding its software, and does not conduct illegal gambling.
- 2) Regardless of whether or not any gambling or gaming is permitted by the state, it constitutes as commercial recreation for the purposes of the Zoning Ordinance.
- 3) PN Trading VA is a business which conducts commercial recreational activities.
- 4) Commercial recreation requires a Special Use Permit in the HR-C, Highway Retail Commercial District.
- 5) 1311 Piney Forest Rd. is located in the HR-C District.
- 6) No Special Use Permit for commercial recreation has been granted at 1311 Piney Forest Rd.
- 7) PN Trading VA operated in violation of Article 3.M, Section C of the Zoning Ordinance.



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CONCLUSION:

The Zoning Administrator believes the following:

1. This use is Commercial in nature as funds are exchanged for profit
2. Recreation as it is played for pleasure, as well as for the potential monetary gain,
3. Is Indoor as the facility is within the structure at 1311 Piney Forest Road.

This use then requires the issuance of a Special Use Permit by Danville City Council, after review by the City Planning Commission in Accordance with Article 3.M; Section C, Item #4 of the Code of the City of Danville Virginia, 1986 as amended.

That the proper procedure for this case will be for the BZA to uphold the determination of the Zoning Administrator, and direct the applicant to apply for the required Special Use Permit.

Below is the wording from Chapter 41 of the Danville City Zoning Code. It specifies the procedures for granting an appeal.

Article 13, Section Board of Zoning Appeals: Variances, Special Exceptions and Appeals

Section I. Procedure on Special Exception and Variance Applications and Appeals

2. Application for Appeals.

a. An appeal may be taken to the Board of Zoning Appeals by any person aggrieved or by any officer, department, commission, board or agency of the City affected by any decision of the Director of Planning/Zoning Administrator or from any order, requirement, decision or determination made by any other officer in the administration or enforcement of this ordinance.

b. All information, including documentation and rational for the grounds for the subject appeal as well as plats, maps, site plans and other graphic exhibits or information as required by the Board in order that it might be fully informed, shall be furnished by the applicant. The application shall include a copy of the decision or determination on which the application is based.

c. Any written notice of a zoning violation or a written order of the Director of Planning/Zoning Administrator shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written



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order within thirty days in accordance with this section, and that the decision shall be final and unappealable if not appealed within thirty (30) days. The appeal period shall not commence until the statement is given to the recipient.

d. An appeal shall be taken within thirty (30) days after the decision appealed by filing with the administrator, and with the Board, a notice of appeal specifying the grounds thereof. The Director of Planning/Zoning Administrator shall forthwith transmit to the recording secretary of the Board all the papers constituting the record upon which the action appealed was taken. An appeal stays all proceedings in the furtherance of the action appealed from unless the administrator certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or a Court of record, on application and on notice to the Director of Planning/Zoning Administrator for good cause shown.

e. The Director of Planning/Zoning Administrator shall also transmit a copy of the application to the Planning Commission of every appeal made to the Board and shall notify the Commission of the scheduled date of hearing thereon. The Planning Commission may send a recommendation to the Board or appear as a party at the hearing.

Attachments:

1. Application
2. Property Ownership & Existing Zoning Map
3. Data Sheet
4. Existing Land Use Map (Aerial 2019)



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Board of Zoning Appeals

APPEAL OF ZONING ADMINISTRATOR'S DECISION APPLICATION

The Board of Zoning Appeals is authorized by the municipal code to hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of the city's zoning code or of any ordinance adopted pursuant thereto.

INFORMATION TO BE PROVIDED BY THE PLANNING DIVISION

Case Number: PLA22019000305 Address: 1311 Piney Forest Rd. Suite E

Current Zoning: HR-C, Highway Retail Commercial

Appeal of Decision/Interpretation Related to Zoning Section: _____

Other Zoning/Planning Information: _____

Staff Contact: _____

Date Filed: Aug. 2, 2019

BZA Date(s): Sept. 19, 2019



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Board of Zoning Appeals

Present Owner(s) (Required):

Name(s): JACK RUSSELL TRUST
L. SAMUEL SPANPENS, TRUSTEE Telephone: 434-792-3220

Mailing Address: 70 BOX 3024 DANVILLE, VA 24543

Email Address: LSS@HHNCPA.COM

Signature: [Signature] Date: 8/2/15

Signature: _____ Date: _____

Applicant(s):

Name(s): Pat Trading Virginia LLC Telephone: 702-738-8519

Mailing Address: 1311 Piney Forest Road Suite E, Danville Va.

Email Address: Sherrell216@gmail.com

Signature: [Signature] Date: 8-1-19

Signature: _____ Date: _____



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INFORMATION TO BE PROVIDED BY THE APPLICANT

(Please type or print. If additional space is needed, please include attachments.)

Description of Request:

- 1) I (we) have applied for an appeal because of the following interpretation / determination:

The Community Development Planning Division issued a final notice violation, interpreting the PN Trading Va. operation located at 1311 Piney Forest Rd SE as illegal gambling,

- 2) The interpretation / determination which is the subject of this appeal was made on the following date(s) (please attach any referenced materials):

On July 1st 2019 a image was taken from a city official. See attachment: Figure 2

- 3) The Zoning Administrator based this interpretation / determination the following ruling:

In the interpretation the planning office based the final notice violation on a unsubstantiated legal claim that PN Trading Va. is operating a form of illegal gambling.

- 4) I (we) feel that the administrative official was incorrect in their ruling based on the following:

PN Trading Va. is not an illegal gambling business and has complied with all current Virginia laws in association with any and all software currently in operation at 1311 Piney Forest Rd.

Attachments (Check any which have been included with the application):

☐ Letter from Zoning Administrator

☐ Site Plan

☒ Notice of Violation

☒ Pictures / Conceptual Drawings

☐ Property Report

☒ Other: *Legal Opinion*



City of Danville
Community Development
Planning Division

July 1, 2019

Attn: Eric Sherrell
PN Trading VA LLC
1311 Piney Forest Rd.
Danville, VA 24540

RE: ZONING VIOLATIONS AT 1311 PINEY FOREST RD SUITE E

Dear Property Owner:

It has come to our attention that there are illegal gambling operations in 1311 Piney Forest Rd. Suite E (see attached pictures) Under both state and local law, gambling is not a permitted use for any property. The Code of the City of Danville, Virginia (1986), Chapter 16, Sec. 16.1 provides the following definitions:

Gambling device. A "gambling device" includes:

(1) Any device, machine, paraphernalia, equipment or other thing, including books, records and other papers, which are actually used in an illegal gambling operation or activity, and

(2) Any machine, apparatus, implement, instrument, contrivance, board or other thing, including but not limited to those dependent upon the insertion of a coin or other object for their operation, which operates, either completely automatically or with the aid of some physical act by the player or operator, in such a manner that, depending upon elements of chance, it may eject something of value to which the player is entitled; provided, however, that the return to the user of nothing more than additional chances or the right to use such machine is not deemed something of value; and provided further, that machines that only sell, or entitle the user to, items of merchandise of equivalent value that may differ from each other in composition, size, shape or color, shall not be deemed gambling devices.

Such devices are no less gambling devices if they indicate beforehand the definite result of one or more operations, but not all the operations, nor are they any less gambling devices because, apart from their use or adaptability as such they may also sell or deliver something of value on a basis other than chance.

Illegal gambling. The making, placing or receipt of any bet or wager in this City of money or other thing of value, made in exchange for a chance to win a prize, stake or other consideration or thing of value, dependent upon the result of any game, contest or any other event the outcome of which is uncertain or a matter of chance, whether such game, contest or event occurs or is to occur inside or outside the limits of this City, shall constitute illegal gambling.



City of Danville

Community Development
Planning Division

Additionally, any form of legal gaming is defined as commercial recreation. At this location, indoor recreation businesses require a Special Use Permit. Our office has no record of any such approval. Our only record is for a business license clearance date April 24, 2019 (copy attached). However that clearance does not permit indoor recreation or illegal gambling.

Please contact our office immediately regarding this violation. To comply with Zoning Code, please stop any gambling operations.

You have TEN (10) DAYS from the date of this letter to comply with the provisions of the Code. Failure to comply may result in conviction of a Class 1 misdemeanor. Our department strives to fairly and justly enforce the provisions of the Zoning Code of the City of Danville. However, this is not possible without your full cooperation. Please contact me at 434-799-5260 (ext. 2503) or johnsbw@danvilleva.gov.

Sincerely,

Bryce Johnson, AICP Candidate
Senior Planner

CC: SAUNDERS L SAMUEL TRUSTEE OF JACK RUSSELL TRUST



Figure 1: Image taken from Suite E window on July 1, 2019



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Business License Clearance

RECEIPT

Date: April 24, 2019

Name: PN Trading VA LLC c/o Eric Sherrell

Address: 1311 PINEY FOREST RD, Unit:E, DANVILLE, VA 24540

Project #: PLBC20190000178

Received by: Inspection Counter 1

Payment Type: Cash

Check No:

DESCRIPTION	AMOUNT
Business License Clearance Fee	\$11.00
Totals	\$11.00

Comments:

Zoning Business License Clearance - dba: PN Trading VA LLC

Holley Preston
City Official Signature

Applicant Signature



City of Danville
Community Development
Planning Division

July 17, 2019

Attn: Eric Sherrell
PN Trading VA LLC
1311 Piney Forest Rd.
Danville, VA 24540

RE: FINAL NOTICE OF ZONING VIOLATION AT 1311 PINEY FOREST RD SUITE E

Dear Property Owner:

It has come to our attention that there are illegal gambling operations in 1311 Piney Forest Rd. Suite E (see attached pictures). **Gambling is not a permitted use for this location**, which is subject to the zoning regulations found in Article 3.M entitled "HR-C, Highway Retail Commercial District". Additionally, any form of legal gaming is considered commercial recreation. At this location, indoor recreation businesses require a Special Use Permit. **Our office has no record of any such approval for commercial recreation for your business.** An application for a Special Use Permit is included, if you wish to pursue this route.

Our only record is for a business license clearance date April 24, 2019 (copy attached). That clearance does not permit indoor recreation or illegal gambling. It seems that the clearance was issued based on incorrect information. At this time, the Planning Division is **revoking the Business License Clearance provided to PN Trading VA LLC on April 24, 2019.**

We first notified you of this issue on July 1, 2019. Since that time, you have been in contact with our office, and we have been able to discuss the legality of the matter. However, the business has continued to operate. This is your **final notice of the violation.**

You have the right to appeal this notification within thirty (30) days to the City of Danville Board of Zoning Appeals. Such appeal must be made to the Zoning Administrator and with the Board of Zoning Appeals in accordance with Article 13.I (2) of the Danville City Code and Section 15.2-2311 of the Code of Virginia. If this decision is not appealed within thirty (30) days, the decision shall be final and unappealable. An application for an Appeal is included, if you wish to pursue this route.

Please contact our office immediately regarding this violation. To comply with Zoning Code, please stop any gambling operations.

Sincerely,

Kenneth C. Gillie, Jr., CFM
Community Development Director
Zoning Administrator

CC: Bryan Gibson, Commissioner of Revenue's Office



City of Danville

Community Development
Planning Division



Figure 1: Image taken in Suite E on July 16, 2019



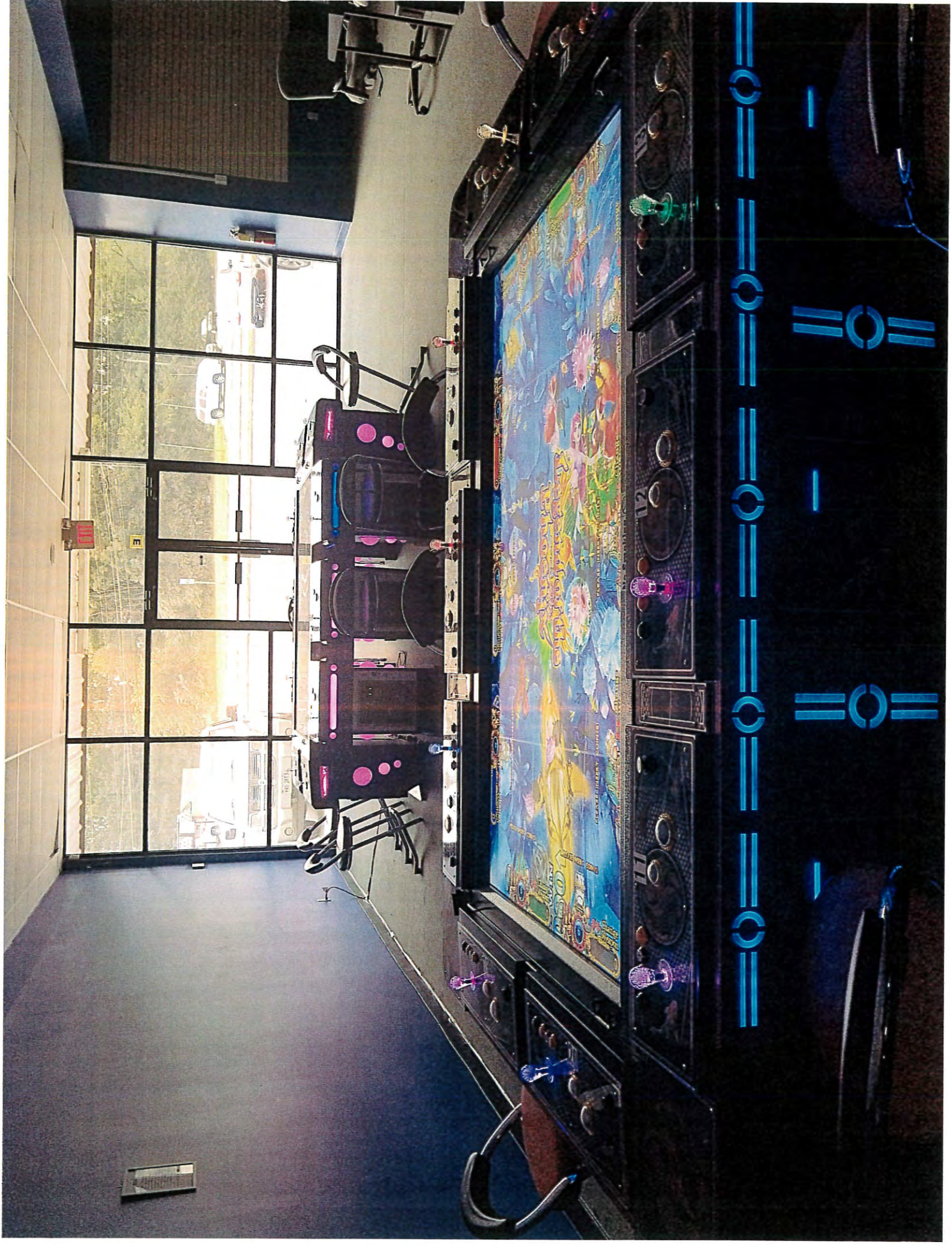
Figure 2: Image taken from Suite E window on July 1, 2019



NOTICE

This game is a contest of skill under Section 18.2-333 of the Code of Virginia, as the outcome of the game does not depend on a matter of chance. An opportunity exists for the player to use his or her reason, foresight, dexterity, sagacity, design, information, or strategy to favorably increase the player's expected return. As such, state law does not prohibit participation in this game.

See Section 18.2-333 of the Code of Virginia



DEMO DEMO

PROMISSORY NOTE

Amount: \$1000.00
Date: 10/10/2008
Payable to: Mr. & Mrs. John Doe
Payable at: 1234 Main Street, Anytown, USA 12345
Interest: 12%
Term: 12 Months
Maturity Date: 10/10/2009
Signature: [Signature]
Notary Seal: [Notary Seal]

Promissory Note Trading System

Promissory Note Trading System

NOT CONNECTED

PLEASE INSERT CARD

INFO

MENU

VIDEO MODE

CARTOON MODE

STEP 0.5

VOLATILITY M

BUY SELL AUTO

BUY SELL



RAILEY AND RAILEY, P.C.

attorneys at law

Post Office Box 40, Courtland, VA 23837

Tel: 757.653.2351 Fax: 757.653.0930

edward@raileyandrailey.com www.raileyandrailey.com

July 2, 2019

VIA EMAIL ONLY: sherrell216@gmail.com

Mr. Eric Sherrell

PN Trading, LLC

Dear Mr. Sherrell:

Pursuant to your request, I have examined your trading platform and researched whether or not your current business model and software allow you to operate in a legal manner under current Virginia law. My opinion is based on facts and information you have provided to me.

As I have previously indicated, illegal gambling, as we are all aware, is a crime in Virginia. Section 18.2-325 of the 1950 Code of Virginia, as amended, broadly defines illegal gambling as:

"Illegal gambling" means the making, placing or receipt of any bet or wager in the Commonwealth of money or other thing of value, made in exchange for a chance to win a prize, stake or other consideration or thing of value, dependent upon the result of any game, contest or any other event the outcome of which is uncertain or a matter of chance, whether such game, contest or event occurs or is to occur inside or outside the limits of the Commonwealth".

§ 18.2-325 further reads in pertinent part as follow:

"The making, placing or receipt of any bet or wager of money other thing of value shall include the purchase of a product, which purchase credits the purchaser with free points or other measurable units that may be risked by the purchaser for an opportunity to win additional points or other measurable units that are redeemable by the purchaser for money at the location where the produce was purchased.

Finally, if a "lawful game, contest, lottery scheme or proportional promotional offering" complies with the requirements as set forth in §18.2-325.1 of said Code, then it is not prohibited.

I believe that it is and has been the law of Virginia that illegal gambling requires the elements of prize, chance and consideration present together.

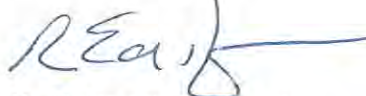
In line with the above analysis, I offer the following opinion as it relates to your representations of your business model.

1. Your promissory note trading platform does not utilize a random number generator or any other technology, whether new or old, that could constitute the element of "chance" under the above-referenced sections of the Code of Virginia. Additionally, your platform arguably contains a skill element, and does not offer "prizes," but however offers a user the ability to profit from the legitimate buying and selling of promissory notes.

2. These cases will be decided on a case by case basis. We should expect a Commonwealth's Attorney to look closely at the way the platform actually operates in making a determination of whether or not the platform is compliant with Virginia law. I sincerely believe that it is not arguable the machines and software operated by PN Trading, LLC are completely legal.

Please review my opinion carefully and let me know if you have questions. Also, please note that while I believe my opinion to be accurate and consistent with Virginia law, my opinion does not constitute a legal defense to any charges as I am a private practice attorney.

Very sincerely,

A handwritten signature in blue ink, appearing to read "R. Edward Railey, III". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

R. Edward Railey, III



SURROUNDING PROPERTY OWNERS AND ZONING WITHIN 300 FEET OF SUBJECT PROPERTY

Prepared by:
Planning Division
8/21/2019

Disclaimer: Information contained on this map is to be used for reference purposes only. The City of Danville is not responsible for any inaccuracies herein contained. The City of Danville makes no representation or warranty as to this map's accuracy, and in particular, its accuracy in labeling, dimensions, contours, property boundaries, or placement or location of any map features thereon. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.

APPEAL REQUEST
DATA SHEET

PUBLIC HEARING DATE: 4pm on Thursday, September 19, 2019

LOCATION OF PROPERTY: 1311 Piney Forest Rd., Suite E

PRESENT ZONE: HR-C, Highway Retail Commercial

ACTION REQUESTED: Appeal of Zoning Administrator's decision of a zoning violation and revocation of business license clearance

PRESENT USE OF PROPERTY: Retail and restaurant

PROPOSED USE OF PROPERTY: Retail and restaurant, plus indoor gaming

FUTURE LAND USE DESIGNATION: Regional Commercial

PROPERTY OWNER (S): Saunders L Samuel Trustee of Jack Russell Trust

NAME OF APPLICANT (S): Eric Sherrell on behalf of PN Trading VA LLC

PROPERTY BORDERED BY: Commercial to the north, east, and south;
Residential to the west and northwest;
Vacant land to the northwest

ACREAGE: Entire Property: 1.35 acres (58,806 sq. ft.)
Suite E (location of the business): 0.04 acres (1,750 sq. ft.)

CHARACTER OF VICINITY: Mixture of commercial and residential

INGRESS AND EGRESS: Piney Forest Rd., Woodside Dr., and Nelson Ave.

TRAFFIC VOLUME: Moderate on Piney Forest Rd; low on Woodside Dr. and Nelson Ave.



2019 AERIAL VIEW OF AREA SURROUNDING SUBJECT PROPERTY

Prepared by:
Planning Division
8/21/2019

Disclaimer: Information contained on this map is to be used for reference purposes only. The City of Danville is not responsible for any inaccuracies herein contained. The City of Danville makes no representation of warranty as to this map's accuracy, and in particular, its accuracy in labeling, dimensions, contours, property boundaries, or placement or location of any map features thereon. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.

BOARD OF ZONING APPEALS MEETING

June 20, 2019

Members Present

Ann Sasser Evans
John Hiltzheimer
Lawrence Meder
Gus Dyer

Members Absent

Gus Dolanitis
Michael Nicholas

Staff

Ken Gillie
Lisa Jones
Clarke Whitfield
Bryce Johnson

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

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

I. 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 vote.

Mr. Whitfield called for nominations for Vice Chairman.

Mr. Dyer nominated Mr. Meder as Vice Chairman. The nomination was approved by a 4-0 vote.

Mr. Whitfield called for nominations for Secretary.

Mrs. Evans nominated Mr. Nicholas for Secretary. The nomination was approved by a 4-0 vote.

Mr. Whitfield stated it needs to be noted that is why you don't miss meetings.

II. ITEMS FOR PUBLIC HEARING

Variance Application Number PLVAR20190000197, filed by Zach and Felicia Hairston, requesting a variance from Article 2, Section P, Item 4 of Chapter 41 of the Code of the City of Danville, Virginia 1986, as amended at 56 Old Farm Rd, otherwise known as Grid 9711-003-000018 of the City of Danville, Virginia Zoning District Map. The applicant is requesting a variance to allow construction of an accessory building in the front yard where prohibited.

Mr. Dyer opened the Public Hearing.

Present to speak on behalf of this request was Zach Hairston. Mr. Hairston stated I would like to speak on this variance. I would like to do a garage, it says front yard but if you would come down the street it looks like it is on the side. They are requesting that I attached a walkway structure from the garage to the front door. I think that is a hardship; there are some pictures that should have been with the application. There is a very large concrete planter, that is present right now and that sits right in the pathway of what would be walkway. There is quite a bit of water that runs toward the lake and, there is a concrete culvert that is to the left of that. The walkway would be in the way of that culvert as well. There is one other thing that I would like to suggest where as it might not be a physical hardship as you approach the house to the left side there is a very pretty view of the lake that you will see. I think if you were to do this walkway, it would bother that aesthetic look. I would like to go back to that door that you are seeing it would probably be to the right of the planter. I'm trying to figure out in my mind how that breeze way would look attached to that roof line that is there.

Mr. Meder stated When I look at the pictures and I see where it looks like, and where the garage is laid out, which way is the doors to the garage?

Mr. Hairston stated the door would be originated to the right.

Mr. Meder stated so towards the house?

Mr. Hairston stated yes sir.

Mr. Meder stated pulling into the house and I don't know how your drive way goes but I assume that you are coming in this way and here is your house and here is the garage and this is your front door.

Mr. Hairston stated you are going to come down the hill and you would turn left in front of that large planter into the garage.

Mr. Dyer stated Mr. Meder if you would go ahead and scroll through you pictures there is an aerial of a photograph of this lot and it shows a house down by the lake. It is a very large driveway down to the house. I saw the culvert and so to go from the garage to the house the distance between the opening of the garage to when you are getting out of your car to the culvert is?

Mr. Hairston stated from opening up the garage to the culvert would be about 10 to 12 feet.

Mr. Meder stated and you are going to put something there?

Mr. Hairston stated cement.

Mr. Meder stated do you plan on planting any trees on the other side of the garage?

Mr. Hairston stated there is a very large grass area and what I planned on doing was just continuing it with grass. I kind of sense that you think trees might be a little more aesthetic.

Mr. Meder stated I think there are two reasons for that aesthetic and you are putting down a lot of space that is taking up from soaking up your water. You just told me that you have a lot of water line, so if you don't have a way to soak up the water that is not going to be diverted because that garage is there. You are going to have twice as much water running down from your house to the garage.

Mr. Hairston stated I have a plan for that. That culvert that you see there, I plan to extend it and put a grate over it that is level in concrete. The house is about two football fields off the road and as the driveway comes down, I plan to have that same culvert cut right across so the water that comes down will be diverted to the culvert.

Mrs. Evans stated is the garage going to be built to match the house?

Mr. Hairston stated everything is going to match the house.

Mrs. Evans stated have you thought about putting trees in front of your house/

Mr. Dyer stated you can't see any of the house from the road.

Mr. Hairston stated no I haven't thought about putting trees down because I am a grass person. I love good-looking grass. I don't want to create any ill will here if the process or the thought of the group is I should do something by the way of trees then I would consider that, but I have not considered that.

Mr. Dyer stated I do want to clarify a couple of things. You already have one accessory structure on this property already?

Mr. Hairston stated yes sir.

Mr. Dyer stated and you have never had any complaints about that?

Mr. Hairston stated no sir.

Mr. Dyer stated and my understanding is that there are actually lots in this neighborhood that all they have on them is accessory structures. We had some notices sent out to your neighbors and no one that lived around you objected to it. The only comment that came back from the Updikes, were the children and they said as long as the structure was not visible from the street they don't have any objection to it.

Mr. Dyer closed the Public Hearing.

Mrs. Evans stated he had mentioned that yall wanted a breeze way can you explain that?

Mr. Johnson stated that is how we have dealt with some other situations in the past. Where someone wanted to do accessory structure often it is carports, side or front yard. If you have a breeze way it is counted as one structure. That is kind of what we explained to him as well.

Mrs. Evans stated so it is not really necessary to build a breeze way?

Mr. Johnson stated to meet zoning ordinance yes.

Mr. Meder made a motion to approve Variance Application PLVAR20190000197 without the attached canopy does not add to the aesthetic nor does it structurally enhance the meeting of the two structures and I agree with staff on 2 thru 5, also with planting 2 or 3 trees. Mrs. Evans seconded the motion. The motion was approved by a 5-0 vote.

II. APPROVAL OF MINUTES

The April 19, 2018 minutes were approved by a unanimous vote.

III. OTHER BUSINESS

Mr. Dyer stated do we know if we have a meeting for next month?

Mr. Gillie stated not as of today we have not talked to anyone.

With no further business, the meeting adjourned at 4:20 p.m.

APPROVED