



BOARD OF ZONING APPEALS REGULAR MEETING AGENDA

4TH FLOOR CONFERENCE ROOM

August 17, 2023

10:00 AM

A. CALL TO ORDER

B. ROLL CALL

NEW BUSINESS

1. Appeal application PZ23-00241 submitted by David Stone on behalf of SunSyd, LLC, requesting an appeal to Zoning Administrator determination to deny request for special use permit for short-term rental.

MINUTES

E. STAFF UPDATES

F. ADJOURN



STAFF REPORT

DATE: August 17, 2023

TO: Board of Zoning Appeals

FROM:

RE: Appeal application PZ23-00241 submitted by David Stone on behalf of SunSyd, LLC, requesting an appeal to Zoning Administrator determination to deny request for special use permit for short-term rental.

Background

The applicant has proposed two (2) manufactured homes be used as short-term rental properties at 553 Lands End Road, a manufactured home park. The zoning administrator determined that 553 Lands End Road is a legal non-conforming use based on its use as a manufactured home park within the OT-R Old Town Residential zoning classification. The OT-R district does not allow manufactured homes nor manufactured home parks by right or Special Use Permit. The subject property was annexed from Pittsylvania County to the City of Danville in 1988. It is currently a legal nonconforming use.

Appeal

The City BZA has the authority to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the administration or enforcement of Chapter 41, Zoning, of the Code of the City of Danville. The BZA's decision on an appeal is limited to the issue of whether the Zoning Administrator correctly interpreted the Zoning Ordinance. The BZA may reverse or affirm, wholly or in part, or may modify, the decision of the Zoning Administrator. The power to interpret the Zoning Ordinance has its limitations. Although the BZA and the Zoning Administrator must interpret the Zoning Ordinance to execute its responsibilities, they do not have the authority to rule on the validity of a zoning regulation.

David Stone submitted a Special Use Permit request for Short Term Rentals at two (2) manufactured homes located at 553 Lands End Road. The application was rejected by the Division Director of Planning due to the legal nonconforming status of the subject property.

553 Lands End Road is zoned OT-R, Old Town Residential. OT-R is a single family detached residential zoning classification that allows Short Term Rentals by Special Use Permit in conforming structures. OT-R does not allow manufactured homes nor manufactured home parks by right or Special Use Permit. Present at the subject property is a sixteen (16) space manufactured home park that is not at capacity. Aerial records show that this property has

been used as a manufactured home park since at least 1975. Manufactured homes or manufactured home parks are not an allowable use in the OT-R zoning classification. The use of the land as a manufactured home park is more restrictive than its zoning classification of OT-R. 553 Land End Road was in operation as a manufactured home park at the time of the 2004 City-Wide rezoning, creating a legal non-conforming use at this location.

Legal nonconforming uses are allowed to remain and operate in accordance with Article 7 of the Zoning Code.

Article 7.A. Purpose and Intent states:

1. Land use objectives. The objective of this article is to regulate and limit the development and continued existence of uses, structure and lots established prior to the effective date of this ordinance which do not conform to the requirements of this ordinance. Certain nonconformities may continue, but the provisions of this article are intended to curtail substantial investment in nonconformities and to bring about their eventual improvement to a conforming status or elimination in order to preserve the integrity of the article and the desired character for Danville.

Response

Operation of a Short Term Rental at 553 Lands End would be a substantial investment in the nonconformity of this property and would encourage the nonconforming structures to remain.

Operation of a Short Term Rental at this location creates an additional use at this location and does not encourage an improvement towards a conforming status. City Council determined that Short Term Rental as a principal use was prohibited in Manufactured Home Park zoning classifications and manufactured home structures, by excluding them from the allowed uses by Special Use Permit. Allowing a Short Term Rental operation at 553 Lands End Road violates Article 7. A. 1.

2. *Conditions for continuation.* Any conforming use, structure or lot which lawfully existed as of the effective date of this ordinance and which remains nonconforming, and any use, structure or lot which has become nonconforming as a result of this ordinance, may be continued or maintained only in accordance with the terms of this article.

Response

Allowing a Short Term Rental at 553 Lands End Road creates a change in classification and is not a continuation of use as required by this Article.

3. *Variances and special exceptions.* The limitations of this article shall not apply to structures or lots whose nonconforming features are the subject of a variance or a special exception that has been granted by the Board of Zoning Appeals or a modification or condition that was approved by the City Council.

Response

553 Lands End Road does not have an active variance or special exception that has been granted by the Board of Zoning Appeals nor City Council.

4. *Change in title or possession.* If any change in title or possession of a lot or building, or renewal of a lease of a nonconforming building or use occurs, the existing conforming use or building may continue so long as all other applicable provisions of this article are met.

Response

In some capacity, the Stone family has owned 553 Lands End since at least 1995. The earliest deed of record in City Hall shows the property transferring from Gracie Stone to International Security in 1995. This property has functioned as a legal nonconforming manufactured home park since at least the 2004 City-wide rezoning.

Article 7 B. Nonconforming Uses: Change, Discontinuation and Expansion states:

1. *Change of nonconforming use to more restrictive use.* If no structural alternatives are made to a nonconforming use of land or building, a nonconforming use of land or of a building may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use of land or buildings has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

Response

Operation of a Short Term rental within an OT-R zoning classification is a less restrictive use than that of a manufactured home or manufactured home park. Short Term Rentals are not a use allowed within a MHP-R, Manufactured Home Park Residential District. Allowing the operation of a Short Term Rental within a manufactured home park creates a less restrictive use and violation of Article 7.B.1.

2. *Expansion of nonconforming use.* Except as provided for herein, a nonconforming use shall not be expanded or extended beyond the floor area or lot area it occupied on the effective date of this ordinance.

Response

The applicant is not requesting an expansion of the floor area to operate a Short Term Rental at 553 Lands End. However, it is the interpretation of the Division Director of Planning that the use of a Short Term Rental is an expansion of a nonconforming use based the regulations set forth in Article 7 of the Zoning Code.

3. *Discontinuation of nonconforming use.* If a nonconforming use is discontinued or abandoned for a continuous period of more than two (2) years, including any period of discontinuation before the effective date of this ordinance, then that use shall not be renewed or reestablished and any subsequent use of the lot or structure shall conform to the regulations of this ordinance. When any nonconforming use is replaced by a permitted use, the use shall thereafter conform to the regulations for the district, and no nonconforming use shall thereafter be resumed.

Response

The operation of a manufactured home park has continued at this location since at least 1975.

If this manufactured home was located in an area zoned MHP-R the use as a Short Term Rental would not be permitted as a principal use by right or Special Use Permit. As this use is nonconforming in the OT-R zoning district, allowing an application for a Special Use Permit would be counter to City Council's legislative action in creating where and in what districts Short Term Rentals could occur.

ATTACHMENTS

1. Application (23)
2. Pictures 553 Lands End
3. Email
4. 553 Lands End Rd_AERIALS
5. 553 Lands End_LANDUSE



BOARD OF ZONING APPEALS

APPEAL APPLICATION

1. Appeal application must be filed within thirty (30) days of the Zoning Administrator's action;
2. The applicant must answer each question on this application, attach additional pages and exhibits as needed;
3. The property owner or a duly authorized (in writing) representative signed this application;
4. The applicant submitted a plot plan drawn to scale showing the actual dimensions and shape of the property; and the exact size and location all existing and proposed buildings, signs, and required parking spaces; and
5. The applicant paid the \$206.00 application fee.

PLANNING DIVISION PROVIDED INFORMATION

Application #: _____ BZA Meeting Date: _____
Date Received: _____ Received By: _____
Parcel ID: 75400 Zoning District: OTR Old Town REsidential
Additional Information _____

APPLICANT PROVIDED INFORMATION

Property Location (address/ID#): 553 Lands End Road, Lot 5 and Lot 10
Applicant: David M. Stone, Owner and Operator of SunSyd, LLC, a single member LLC
Applicant's Address: 822 West Main Street, Danville, VA 24541
Applicant's Phone Number: 434-709-1791
Applicant's E-mail: david@sunsyd.com

1.I (we) appeal to the Board of Zoning Appeals because of the following interpretation/determination:

My requests for the operation of 2 existing short-term rental trailers is an expansion of a legal non-conforming use.

2.Date of interpretation/determination that is the subject of this appeal (attach copy of referenced letter or other dated material):

June 12, 2023, see Attachment 1

3.The Zoning Administrator based their interpretation/determination on the following City Code:

Article 7 of the Zoning Code

4.I (we) feel that the Zoning Administrator made an incorrect interpretation/determination because:

The operation of a Short-Term Rental is not an expansion of a legal non-conforming use for the following reasons:

1. A Short-Term Rental is not an expansion as defined by Article 7.
Article 7 states an expansion of nonconforming use "...shall not be expanded or extended beyond the floor area or lot area..." (See Article 7. Nonconforming Uses, Section B, Paragraph 2).
2. Article 7, Section A, Paragraph 2 allows for the continuation of any nonconforming use which lawfully existed as of the effective date Article 7. I'm simply wanting to rent these 2 homes out for less than 30 days. While these homes are usually rented out for terms of 1 year, or longer, the properties have been rented out for shorter terms as low as 1 month. Nothing has changed.
3. My request for the operation of a short-term rental does meet important objectives of Article 7 as follows:
 - a. **Regulation of existing structures** – Each of the 2 homes will need a certificate of occupancy, and thus provide an independent verification that the homes are properly maintained, and not expanded in accordance with the terms of Article 7.
 - b. **The continuance of legal of nonconformities** – These homes are safe, sanitary, and affordable to short-term and long-term renters, and have continued as such for decades.

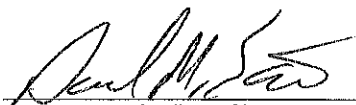
- c. **No Adverse Impact on Surrounding Properties-** These 2 requests for the operation of a Short-Term Rental will have no adverse impact on the surrounding properties.
- i. Competing in the short-term rental market will ensure thoughtful consideration for beautiful aesthetics and functionality throughout the mobile home park. Thus, these properties will contribute positively to the overall aesthetics and property values of the mobile home park and Elizabeth Street Extension. The 2 short-term rentals will also require improved aesthetics of the adjacent long-term rental properties within the mobile home park.
 - ii. This trailer court is privately located on 5 acres of a 19 acre parcel. Each lot is located well over 500 feet from any structure outside of the mobile home park.
- d. **These properties promote sustainability-** The City's overall goal of minimizing the carbon footprint and protecting the local ecosystem will be enhanced with the continued use of these existing, safe, sanitary, and affordable homes.

As a final plea, I get it. While mobile home parks can provide affordable and flexible housing options for many individuals and families, they also come with certain challenges. Such as lack of control, maintenance issues, and community atmosphere.

I will meet these challenges in order for these 2 homes to be competitive in the short-term rental market. This is a great opportunity for small, existing, homes to be customized for curb appeal, functionality, increased value, increased efficiency, and increased safety and comfort.

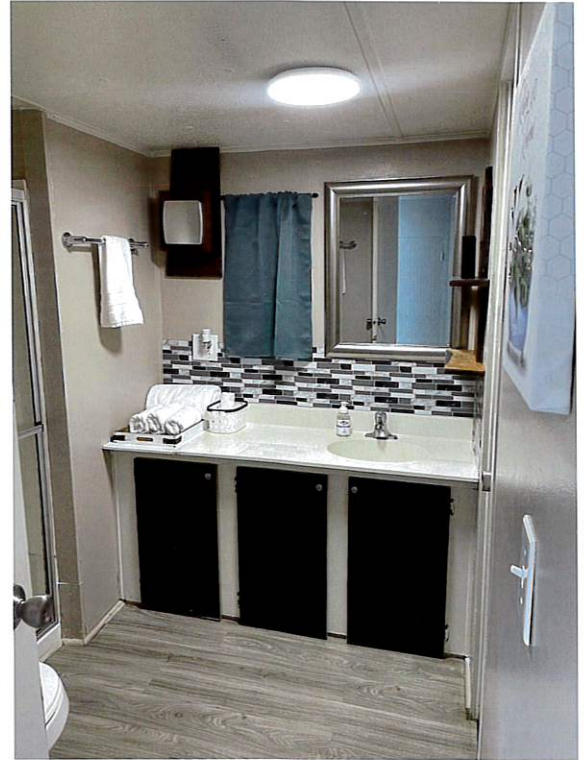
I have been a citizen of Danville for more than 42 years, and I am heavily invested in real estate on the southside of Danville. I own 6 more acres of land that is attached to this parcel. I'm also in the process of moving from 822 West Main Street to 575 Elizabeth Street Extension (beside the mobile home park). I will use the revenue generated with these 2 short-term rentals to enhance the aesthetics and functionality of my mobile home park.

Thank you for reviewing this appeal.

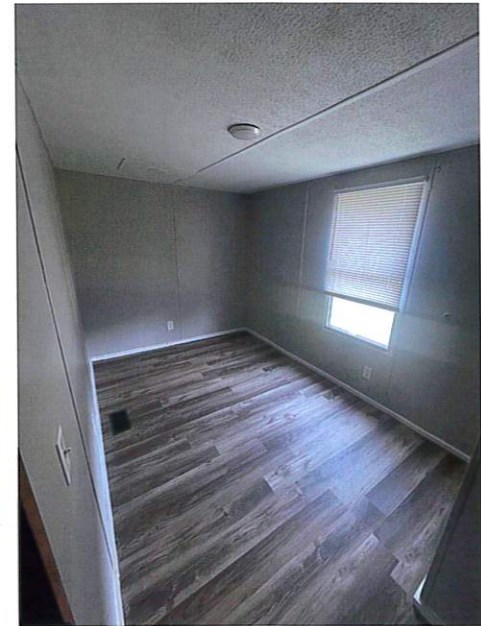

Applicant Signature

July 19, 2023
date

Property Owner Signature date
(if not applicant)



LOT 10



LOT 5 - TO BE RENOVATED

From: Burton, Renee
Sent: Monday, June 12, 2023 12:36 PM
To: David Stone
Cc: Jones, Lisa K.
Subject: Special Use Permit Requests

Good afternoon. We have received your requests for a Special Use Permit at 553 Lands End Road. After review of your applications, I regret to inform you that we are unable to process your application(s). Your request for the operation of a Short Term Rental at 553 Lands End Road is an expansion of a legal non-conforming use. This is prohibited. Therefore your applications will not be processed for review during the July Planning Commission meeting. Your application fees will be refunded.

553 Lands End Road is a legal non-conforming use based on its use as a mobile home park within the OT-R, Old Town Residential zoning classification. Mobile homes are not allowed by right within the OT-R zoning classification. Therefore, it is a legal non-conforming use. Legal non-conforming uses, parcels and structures are governed by Article 7 of the Zoning Code.

Please contact me if you have any questions.

Renee Burton
Division Director of Planning
Zoning Administrator
City of Danville
PO Box 3300
Danville, VA 24543
434-799-5260 x 2502

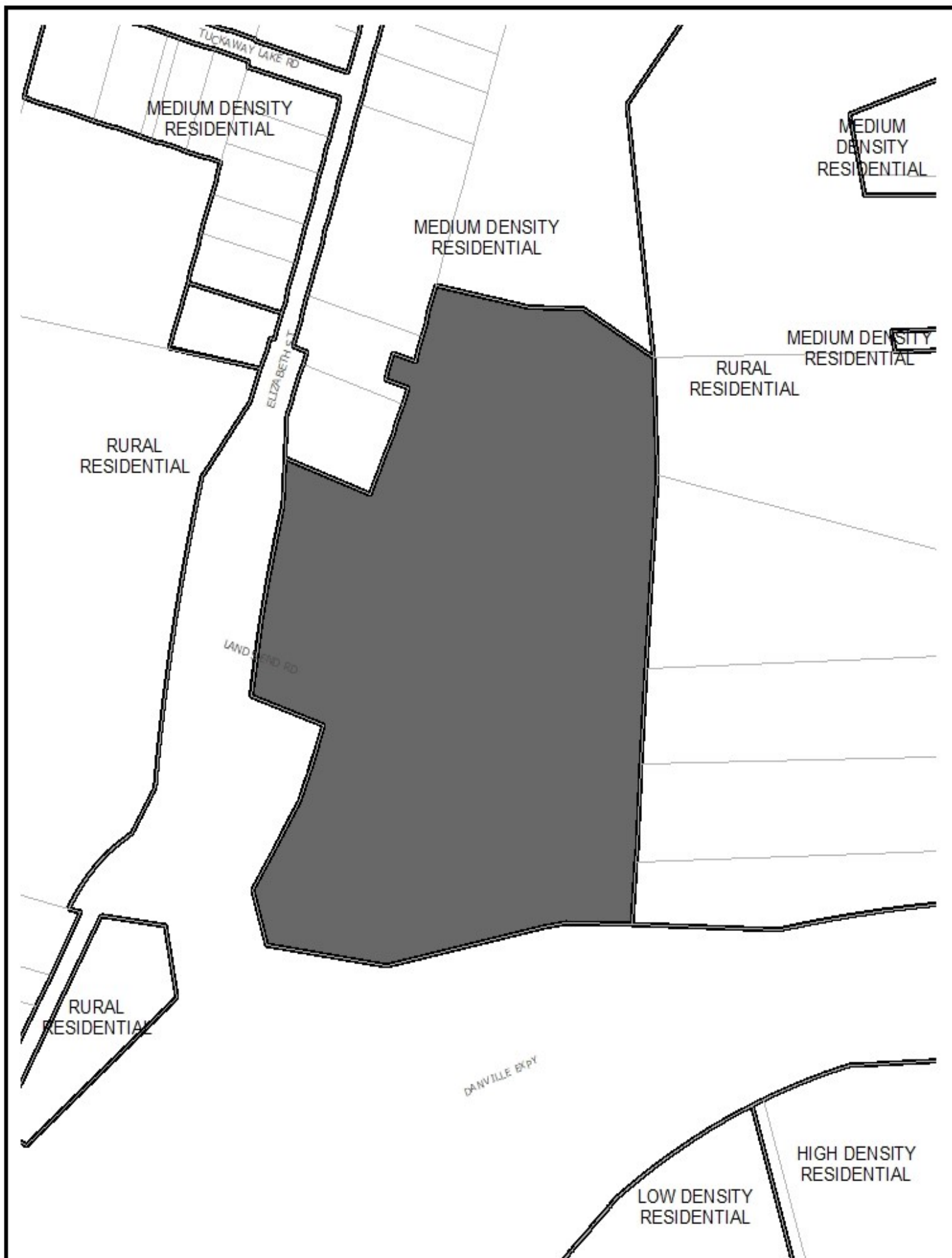
ATTACHMENT 1



2019 AERIAL VIEW OF AREA SURROUNDING SUBJECT PROPERTY

Prepared by:
Planning Division
8/1/2023

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.



YEAR 2030 LAND USE PLAN FOR AREA SURROUNDING SUBJECT PROPERTY

Prepared by:
Planning Division
8/2/2023

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

JULY 20, 2023

Members Present

Lawrence Meder
Nicole Garrison
Gus Dyer
John Hiltzheimer

Members Absent

Michael Nicholas
Gus Dolianitis
Ann Sasser Evans

Staff

Shanika Williams
Cynthia Lester
Ryan Dodson

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

I. ITEMS FOR PUBLIC HEARING

1. *Variance Request PZ23-00209, filed by Fortiline, Inc. on behalf of RCCM Properties, LLC, requests a variance from Article 2. Q of Chapter 41 of the Code of the City of Danville Virginia, 1986 as amended at 4780 Riverside Drive (Parcel #72287). The applicant requests a variance to erect a six (6) foot tall fence in the front yard where four (4) feet is the maximum allowable height.*

Mr. Dyer opened the Public Hearing.

Mr. Woodall stated. Thank you for allowing the RCC and properties today. This is something that should be an easy sale for you all today. I have picture I will pass around I don't think due diligence was done by the city, just defining art even though it's on the side of the building, they say it's facing the Ingram roadside, but you see what it is facing you can put fencing around. I think this is wrong. This company is a national company for 300 locations in 18 states. They are trying to get here to generate some business without economic development alongside it and will provide a much-needed service to the city for some vendors to follow the contracts that I know. I think last month they sold several million dollars' worth of product in Danville, building in Greensboro locations because again Danville location couldn't develop at the time. We have a Toyota property I brought in 2019, it's actually 5 parcels we have 3 commercial renters there. This will be the fourth that we will be renting this is big most more than a half million dollar to renovate this property. I am looking at all the codes, putting slabs and fences, going through all the vendors work with them as well. They are saying this is in the front yard that's really not in the front it on the side of the building they say it's facing

the road, need to set up quest to improve the property to make it really something to be proud of here.

Mr. Meder stated. Via an officially discussed around there were a series of lights that look like they're on a ditch

Mr. Woodall stated. That's a light pole they took the other poles down. Their way to build new ones and this is one pole that we started with.

Mr. Meder stated. So, in other word they are spending money to improve the area.

Mr. Woodall stated. Yes, \$100,000 I'll getting ready for them to come in to spend \$600,000 I'm waiting on them. That's what we trying to get everything done come in and get a permit.

Mr. Dyer stated. What type of fence will this be?

Mr. Woodall stated. It will be a chain link fence with slats.

Mr. Dyers stated. Is there any plan for any type of landscaping between the fence and the road.

Mr. Woodall stated. It's already landscaping there.

Mr. Dyer stated. Well, there's grass.

Mr. Woodall stated. You look at the hills that what you call that, there is vegetation, and we plan to keep it up.

Mr. Dyer stated. And this is commercial property that's on the other side.

Mr. Woodall stated. Yeah, there's a store on the corner, hair shop, auto shop.

Mr. Dyer stated. It does really impact any type of residential area.

Mr. Keith stated. I been working for the company over 12 years and over 20 branches of the company called Greece and is very much concerned about that. As much as Daniel is concerned about Danville, I can assure you, if you drive down the street this building has been vacant for about 13 years. As Mr. Woodall said, we plan on spending several \$100.000 painting the building making it look nice from the outside because we have to protect our name as well. As you can see the fence is not in the front. So, it's a feeling from the side when you're driving down the road you look over just want to be consistent.

Across where it was natural. At the end of the day, it's landscaping on the side is not kept up. That's a problem for us as well. Would like to have a nice complex representation of us. Just want to make sure you guys understand that we're very much concerned about how things look when you are driving down the road. I think in a couple months, once everything is approved, John will be very pleased. Representing yourself and Danville.

Ms. Garrison stated. I suppose this is the same fence that you're also intend to carry across the back at the same time, so that everything is uniform.

Mr. Keith stated. Yes, it can be slapped all the way around the entire house.

Mr. Dyer stated. There's like no razor wire anything attached to the top or it just basic.

Mr. Keith stated. I think we submitted that we use our company standard for uses slat fence with three strands barbed wire at the top. If that's a problem we don't have to have the three-strands barbed wire at the top.

Ms. Garrison stated. Is that included in the six feet or is that in addition to.

Mr. Keith stated. Finished

Mr. Meder stated. What's the city position on that.

Ms. Williams stated. On the barbed wire?

Mr. Dyer stated. Its actually seeing the six foot it's just the type of thing we're having. I asked either back or go straight up.

Mr. Keith stated. It slaps back and straight up.

Mr. Dyer stated. I don't have a problem with that for security reasons. From the back. But since this is road frontage and easily observable from the street. I believe that would be more interpretive this variance application if we eliminated the use of razor wire on the street side, which I guess it really what you are applying for because they are allowed for six feet in the rear of the building.

Ms. Williams stated. Yes, six to eight.

Mr. Dyer stated. Board members how to feel about that?

Ms. Garrison stated. They're asking for just six feet on the side.

Mr. Keith stated. We asked for that, I will say we've tried to keep it around that. If anybody drives around, we are not difficult, to not have three strands. That's not a big deal, we just trying to make form all around.

Ms. Williams stated. Barbed wire is allowed in two of the residential districts, but not here at HRC.

Mr. Dyer stated. Also, if it exceeds the six feet where we are granting the variance, that would also not be allowed.

Ms. Williams stated. Correct.

Mr. Dyer stated. So, they could do a four-foot fence with two feet of razor wire at the top. If we approve this application amended

Ms. Williams stated. On the sides Yes.

Mr. Dyer stated. Razor wire is not allowed. So that would be another application that I had to make if they wanted to razor wire on this particular parcel.

Ms. Williams stated. Correct

Mr. Dyer stated. We willing to grant this application that is present as written, what I'm say is we're considering the application as it is written, which could prohibit the use of razor wire, but allow a six-foot fence, but because it is prohibited by the zoning code in this zoning district, that would be another application you would have to have.

Mr. Keith stated. Alright.

Mr. Dyer closed the Public Hearing

Mr. Meder stated. It sounds like the way it's written is they want a six-foot-high fence around three sides, two sides and the back, they did not request razor wire so they cannot do that.

Mr. Dyers stated. Yeah

Mr. Meder stated. Razor wire is prohibited in this category. So that would have to be another application.

**Ms. Meder made a motion to approve the Variance application PZ23-00209
Ms. Garrison seconded the motion. The motion was approved by a 4-0 vote.**

III. APPROVAL OF MINUTES FROM APRIL 20, 2023

The April 20, 2023, minutes were approved by a unanimous vote.

IV. OTHER BUSINESS

With no further business, the meeting was adjourned at 10:18 a.m.

APPROVED