



BOARD OF ZONING APPEALS REGULAR MEETING AGENDA

FOURTH FLOOR CONFERENCE ROOM

UPDATED LOCATION

November 16, 2023

10:00 AM

A. CALL TO ORDER

B. ROLL CALL

NEW BUSINESS

1. Variance application PZ23-00392 submitted by Doug and Helen McKee, requesting a variance from Article 7 Section C Item 5 of Chapter 41 of the Code of the City of Danville, Virginia, 1986 as amended to allow reconstruction of a nonconforming structure (garage) damaged by "Acts of God" at 405 Avondale Drive (Parcel 21810).
2. Variance application PZ23-00398 submitted by Lauretano Sign Group, requesting a variance from Article 10 Section I Item 4 of Chapter 41 of the Code of the City of Danville, Virginia, 1986 as amended that prohibits signs extending above the roof line of a building at 3251 Riverside Drive (Parcel 60578).
3. Variance application PZ23-00399 submitted by Southern Virginia Legal PLLC on behalf of First Choice Transmissions and L. Hampton Wilkins, requesting an appeal to Zoning Administrator determination to deny a request for zoning clearance for a business license in accordance with Article 7 Section B at 135 Forestdale Drive (Parcel 54834)

D. STAFF UPDATES

MINUTES

1. October 19, 2023

F. ADJOURN



STAFF REPORT

DATE: November 16, 2023
TO: Board of Zoning Appeals
FROM: Renee Burton, Division Director of Planning
RE: Variance application PZ23-00392 submitted by Doug and Helen McKee, requesting a variance from Article 7 Section C Item 5 of Chapter 41 of the Code of the City of Danville, Virginia, 1986 as amended to allow reconstruction of a nonconforming structure (garage) damaged by "Acts of God" at 405 Avondale Drive (Parcel 21810).

SUMMARY

The applicants, Doug and Helen McKee, are requesting a variance to reconstruct a garage damaged by "Acts of God" at 405 Avondale Drive. Located on the left side of the home, since at least 2000, was a 10' x 18' garage with zero lot line. A large limb fell on the garage structure in May, crushing the garage and its contents. The applicants are requesting a variance to rebuild the structure on the existing pad.

In accordance with Article 7 Section C Item 5, a variance may be granted to allow nonconforming structures to be repaired or rebuilt within the previously existing footprint and without exceeding the previously existing total square footage under roof if such damage or disrepair occurred by "Acts of God".

RECOMMENDATION

Staff believes the applicant meets the criteria set forth in Article 7 Section C Item 5 so that a variance may be granted to allow a nonconforming garage to be reconstructed within the existing footprint without exceeding the previously existing total square footage under roof if such damage or disrepair occurred by "Acts of God".

ATTACHMENTS

1. Application
2. Map
3. Map 2



BOARD OF ZONING APPEALS

VARIANCE APPLICATION

We cannot accept Board of Zoning Appeals (BZA) applications unless the following steps are completed by the twentieth (20th) day of the prior month. BZA meeting are on the third Thursday of each month. This timeline assures the City can meet Virginia public notice laws.

1. The applicant attended a pre-application conference with the Zoning Administrator or designated staff;
2. The applicant completed this application;
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;
5. The Zoning Administrator certified that the proposed use and construction plans comply with all Zoning Code provisions, except for the provisions necessitating a variance; and
6. The applicant paid the \$206.00 application fee.

A variance shall be granted if evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and:

- (i.) The property interest for where the variance is requested was acquired in good faith and any hardship was not created by the variance applicant;
- (ii.) Granting the variance will not be of substantial detriment to adjacent property and nearby properties in the surrounding geographic area;
- (iii.) The subject property's condition or situation is not of such general or recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted as an ordinance amendment;
- (iv.) Granting the variance does not result in a use that is not otherwise permitted on such property or change the zoning classification of the property; and
- (v.) The variance application relief or remedy sought is not available through a special exception process that is authorized in City Code Chapter 41, Article 6 or the process for zoning ordinance amendment in City Code Chapter 41, Article 4 at the time of variance application filing.

The BZA may impose conditions regarding the location, character, and other features of proposed buildings and use it deems necessary in the public interest and may require a performance guarantee or bond to insure compliance.

PLANNING DIVISION PROVIDED INFORMATION

Application #: P223-00392 PC Meeting Date: November 16, 2023
Date Received: 10-18-23 Received By: Lisa Jones
Parcel ID: 21810 Address: 405 Avondale Dr.
Existing Zoning OTR Future Land Use: Garage

APPLICANT PROVIDED INFORMATION

Property Location (address/ID#): 405 AVONDALE PL. DANVILLE, VA 24541
Applicant: DOUG MCKEE - HELEN MCKEE
Applicant's Address: SAME AS ABOVE
Applicant's Phone Number: 503-209-8095
Applicant's E-mail: rdmckee02@yahoo.com
Variance Request Description: rebuild damaged garage on
current lot

I (we) appeal to the Board of Zoning Appeals for a variance permitting the action described above in that:

i. Explain how you did not create the hardship you need a variance to overcome:

Neighbors Tree shed a 3'x 65' Limb on garage -
Destroying garage & vehicle inside. TOTAL LOSS TO BOTH

ii. Explain how granting the variance will not negatively impact your neighbors and properties close by:

Per Both neighbors - There will not be any negative
impact to them by replacing pre existing building

iii. Explain why the hardship on your property is unique and not something that affects similar properties in the same zoning district.

GARAGE HAS BEEN ESTABLISHED SINCE 1970S, UTILITY BLK IN WAY
OF NEW ZONE, DRIVEWAY ESTABLISHED, BACK DOOR ON HOUSE ESTABLISHED

iv. Explain why granting the variance will not result in a use that is not otherwise allowed on the property or a change in the property's zoning classification.

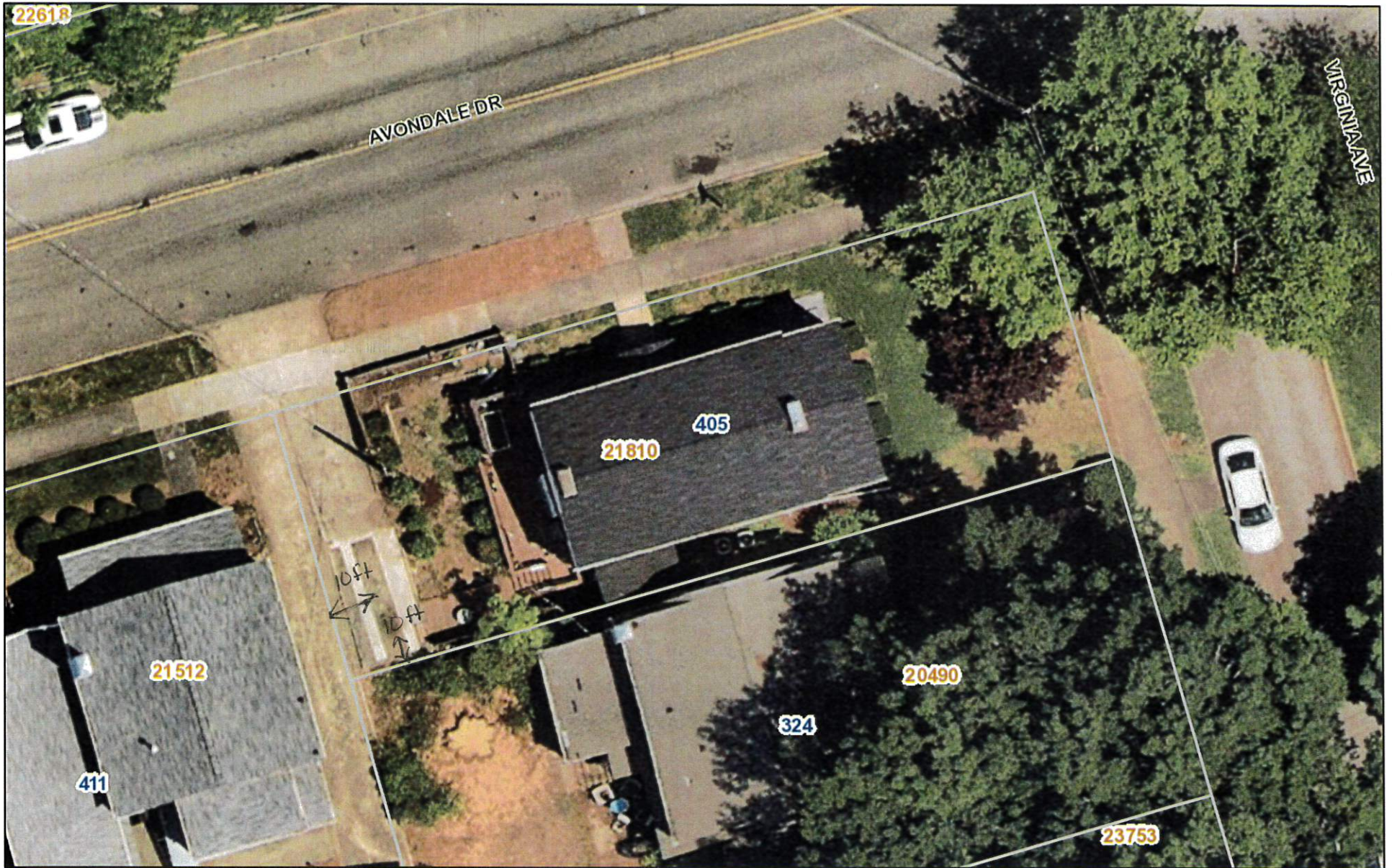
GARAGE BUILDING WILL REMAIN & BUILD FOR VEHICLE STORAGE
& garden equipment

v. The relief or remedy sought by the variance application is not available with a Special Use Permit.

I will check into it

Robert D. McKee 10/18/23
Applicant Signature date

Helen K. McKee 10/18/23
Property Owner Signature date
(if not applicant)

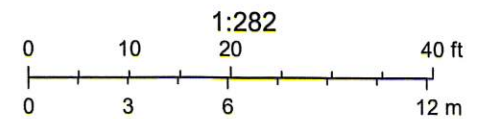


October 16, 2023

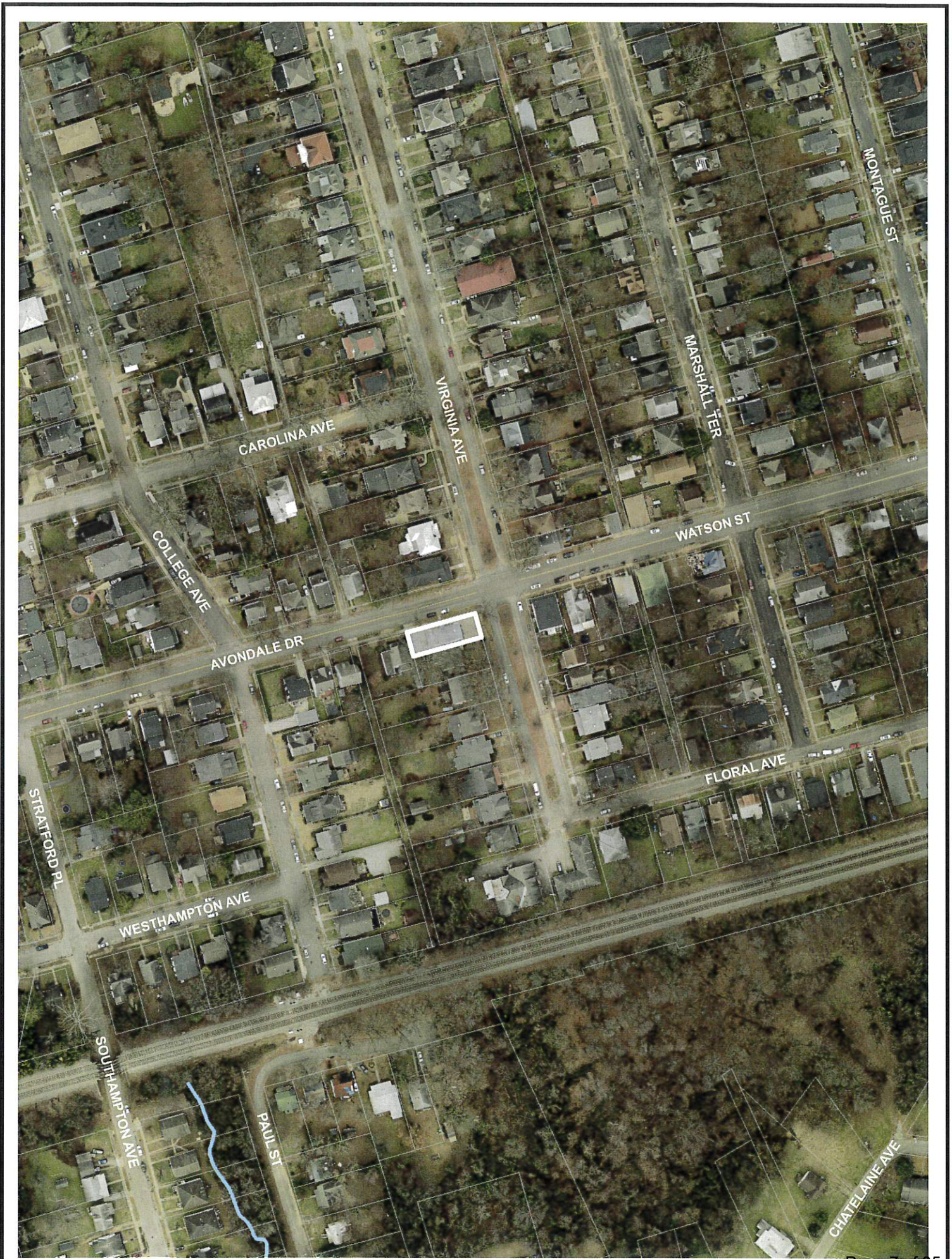
Street Names

Parcel Numbers

House Numbers



© OpenStreetMap (and) contributors, CC-BY-SA





STAFF REPORT

DATE: November 16, 2023
TO: Board of Zoning Appeals
FROM: Renee Burton, Division Director of Planning
RE: Variance application PZ23-00398 submitted by Lauretano Sign Group, requesting a variance from Article 10 Section I Item 4 of Chapter 41 of the Code of the City of Danville, Virginia, 1986 as amended that prohibits signs extending above the roof line of a building at 3251 Riverside Drive (Parcel 60578).

SUMMARY

The applicants, Lauretano Sign Group, are requesting a variance to install signs above the roof line at the new ModWash location at 3251 Riverside Drive. The proposed signs would be mounted on either side of a non-structural wall that is affixed to and extending out from the primary wall of the building, and that extends above the roof line of that primary wall. The proposed signs was submitted for sign permit approval along with a freestanding sign of similar height, and wall signs proposed for the north and south walls (front and rear) of the building.

In accordance with Article 10 Section I Item 4, *no sign which is not an integral part of the building design shall be fastened to and supported by or on the roof of a building and no projecting sign shall extend over or above the roof line or parapet wall of a building.*

A variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and the request meets each of the following five (5) review standards (Article 13, Section F.2.a.-e.):

a. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance.

The property was acquired in good faith. However, the hardship for a variance was created by the applicant. This application DOES NOT meet this standard.

b. Granting the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area.

Granting the variance will allow signage for one property that others in similar situations would be denied. This application DOES NOT meet this standard.

c. The property's condition or situation is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.

This application DOES NOT meet this standard.

d. Granting the variance will not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property.

Granting the variance will not change the use. This application DOES meet this standard.

e. The relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A.4 of § 15.2-2286 at the time of the filing of the variance application.

The applicant cannot request special use, special exception, or rezoning. Therefore, this application DOES meet this standard.

Therefore, this variance request meets two (2) of the five (5) criteria needed to grant a variance.

RECOMMENDATION

Granting this variance could set a precedent that would allow applicants a means to mitigate the existing sign regulations. Therefore, staff recommends denial of variance request PZ23-00398.

ATTACHMENTS

1. Application
2. 9030MK-3 47660 (3)
3. 9031MK-3 47660
4. Map



BOARD OF ZONING APPEALS

VARIANCE APPLICATION

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1. The applicant attended a pre-application conference with the Zoning Administrator or designated staff;
2. The applicant completed this application;
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;
5. The Zoning Administrator certified that the proposed use and construction plans comply with all Zoning Code provisions, except for the provisions necessitating a variance; and
6. The applicant paid the \$206.00 application fee.

A variance shall be granted if evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and:

- (i.) The property interest for where the variance is requested was acquired in good faith and any hardship was not created by the variance applicant;
- (ii.) Granting the variance will not be of substantial detriment to adjacent property and nearby properties in the surrounding geographic area;
- (iii.) The subject property's condition or situation is not of such general or recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted as an ordinance amendment;
- (iv.) Granting the variance does not result in a use that is not otherwise permitted on such property or change the zoning classification of the property; and
- (v.) The variance application relief or remedy sought is not available through a special exception process that is authorized in City Code Chapter 41, Article 6 or the process for zoning ordinance amendment in City Code Chapter 41, Article 4 at the time of variance application filing.

The BZA may impose conditions regarding the location, character, and other features of proposed buildings and use it deems necessary in the public interest and may require a performance guarantee or bond to insure compliance.

PLANNING DIVISION PROVIDED INFORMATION

Application #: _____ BZA
PC Meeting Date: Nov. 16

Date Received: _____ Received By: _____

Parcel ID: 60578 Address: 3251 Riverside Drive

Existing Zoning HRC Highway Retail Commercial Future Land Use: Commercial

APPLICANT PROVIDED INFORMATION

Property Location (address/ID#): 3251 Riverside Drive / 60578

Applicant: Lauretano Sign Group

Applicant's Address: 1 Tremco Drive Terryville, CT 06786

Applicant's Phone Number: 860-582-0233 x155

Applicant's E-mail: alyson@lauretano.com

Variance Request Description: Special sign exception to allow square footage calculation from West Elevation frontage of 115' and make consideration for 2 roof signs on building towers East & West Elevations per Article 10, I Prohibited Signs 4. Roof Signs

I (we) appeal to the Board of Zoning Appeals for a variance permitting the action described above in that:

i. Explain how you did not create the hardship you need a variance to overcome:

The Building properties West and East elevations also has Significant visibility to Riverside Drive & we request that the West Elevation frontage be counted as the main frontage 115' allowing an aggregate wall sign area of 230sq.ft. (proposed signage total 214.20sq.ft.)

Tower signage would be an integral part of this building allowing high visibility for the West & East Elevations facing Riverside Drive

ii. Explain how granting the variance will not negatively impact your neighbors and properties close by:

The proposed tower signage is similar to other building signs in the area and the amount of signage is spaced evenly around the building to allow

patron visibility from the roadway and within the shopping complex.

iii. Explain why the hardship on your property is unique and not something that affects similar properties in the same zoning district.

The buildings front facade facing roadway is significantly reducing allowed combined sq.ft. compared to the large frontage facade of the main

complex facing Riverside Drive. This building has majority visibility for oncoming traffic from the West & East elevations.

iv. Explain why granting the variance will not result in a use that is not otherwise allowed on the property or a change in the property's zoning classification.

Allowing the Car wash to calculate the west facing frontage for square footage & tower signage will not negatively impact this Commercial property &

will give important visibility to all navigating the large complex & surrounding businesses which are commercial as well and has similar signage.

v. The relief or remedy sought by the variance application is not available with a Special Use Permit.

Requesting relief from Article 10; I Prohibited signs - 4. Roof Signs & P. Permitted signs in HRC Commercial Districts 2. Building Mounted signs;

a. wall signs: combined area of wall signs shall not exceed 2sq.ft. per linear foot of primary wall frontage.



10/19/2023

Applicant Signature

date


Property Owner Signature
(if not applicant)

10/19/23
date

OWNER AUTHORIZATION FORM

**I/WE GIVE LAURETANO SIGN GROUP AND OR THEIR AGENTS PERMISSION
TO SIGN THE ZONING/BUILDING PERMIT APPLICATIONS AS MY AGENT,
AND TO FURNISH AND/OR INSTALL SIGN(S)**

AT: ModWash
3251 Riverside Drive
Danville, VA

SIGNATURE OF OWNER/OWNER REPRESENTATIVE

NAME: John R. Lombardo
(Signature)

NAME: John R. Lombardo
(Please Print)

TITLE: Development Project Manager

TELEPHONE #: 610-952-5100

TODAY'S DATE: 09-08-2023

COMPANY NAME: Hutton Danville VA ST, LLC

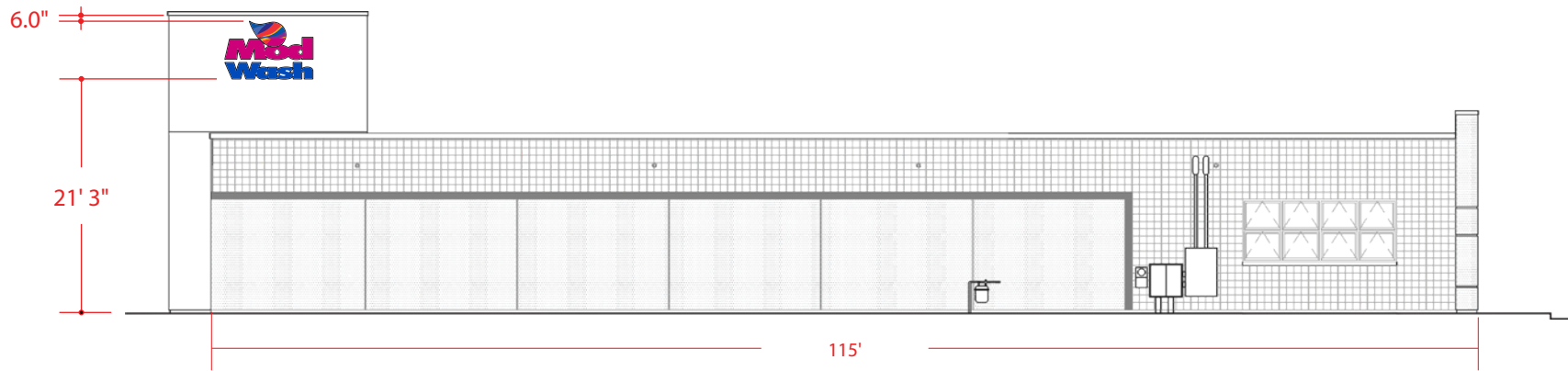
STREET ADDRESS: 736 Cherry St

CITY, STATE, ZIP CODE: Chattanooga, TN 37402

DRAWINGS: Exterior

QUOTE #: 47660

Please fax this form back to 860-583-0949, Attn. Alyson Ibbotson,
or e-mail to alyson@lauretano.com



West Elevation - 1/16" = 1'

Print 9030JW-2		Date 8/16/23	ES# 47660	Line 1	SP AL	Sign Type	Channel Letters
CLIENT APPROVAL			Title	ModWash		Location	West Elevation
			City/State	Danville, VA		Size	5' 3" x 8' 0" (42 sqft)
			Customer	ModWash		Description	F-2 Main ID Channel Letters on
			Int. Note		West Elevation		
AUTHORIZED SIGNATURE		DATE					
1 of 3	This drawing contains original elements created by Lauretano Sign Group, Inc., is property of Lauretano Sign Group, Inc. and is subject to all applicable copyright laws. This drawing may not be used in any way until full payment is received by Lauretano Sign Group, Inc. It is intended for review and approval purposes only, and is not to be reproduced, copied, transmitted by electronic media, or exhibited in any fashion to anyone outside your organization without the expressed written consent of Lauretano Sign Group, Inc.						

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SIGN GROUP

1 Tremco Drive. Terryville, CT 06786
 phone: 860.582.0233 fax: 860.583.0949
 signs@lauretano.com www.lauretano.com



Scale: 3/8" = 1'

Front View

Note: For preliminary design purposes only.
Accurate field survey and dimension verification
required before beginning construction.
☐ Survey and Verification Complete

COLORS / MATERIALS

3" Deep Channel Letters:

3/16" White Lexan Face
w/ First Surface Applied Vinyl Graphics.
1/2" White Border.
1" Jewelite Trimp caps, .040" White Alum. Returns.
.063" Thk. CAD-Cut Alum. Backs.
White LED Illumination.

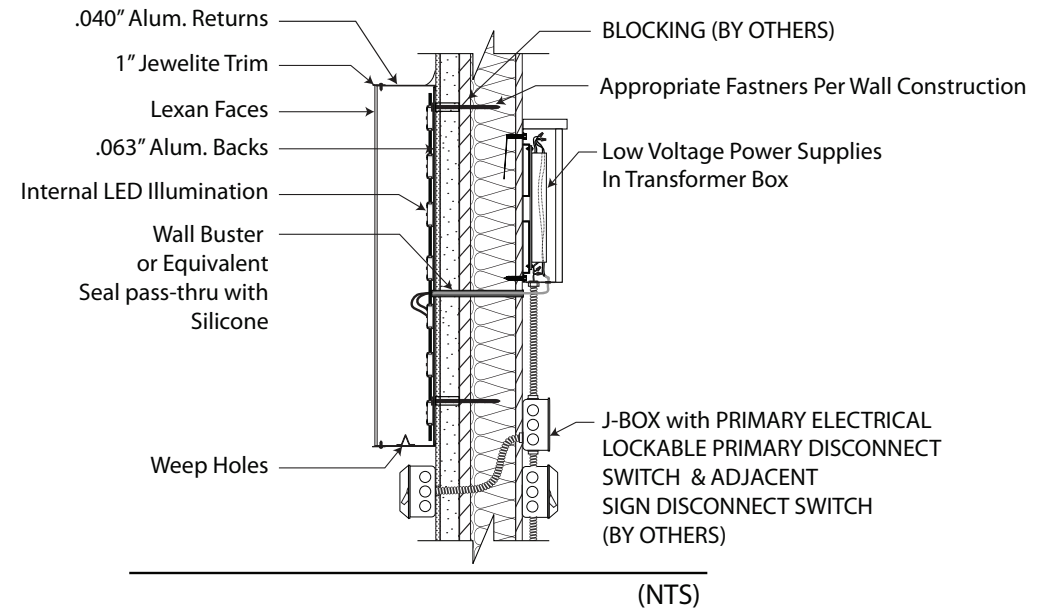
Colors:

- PANTONE 233C
- PANTONE 2728C
- PANTONE 130C
- PANTONE 1788C
- PANTONE 4141C
- PANTONE 2736C
- PANTONE 2602C

White Trimp caps, Retainers & Returns

NOTES

Seams Required Between "Mod" and Mod Drop.
Additional Seams May be Required.



(NTS)

PROCEED TO PRODUCTION

Print 9030JW-2

Date 8/16/23

Installation Method

ES# 47660

Line 1

Ⓢ = Critical Dimension for
Internal Quality Control

UL FILE NO. E70436

Amps

Volts

AUTHORIZED SIGNATURE

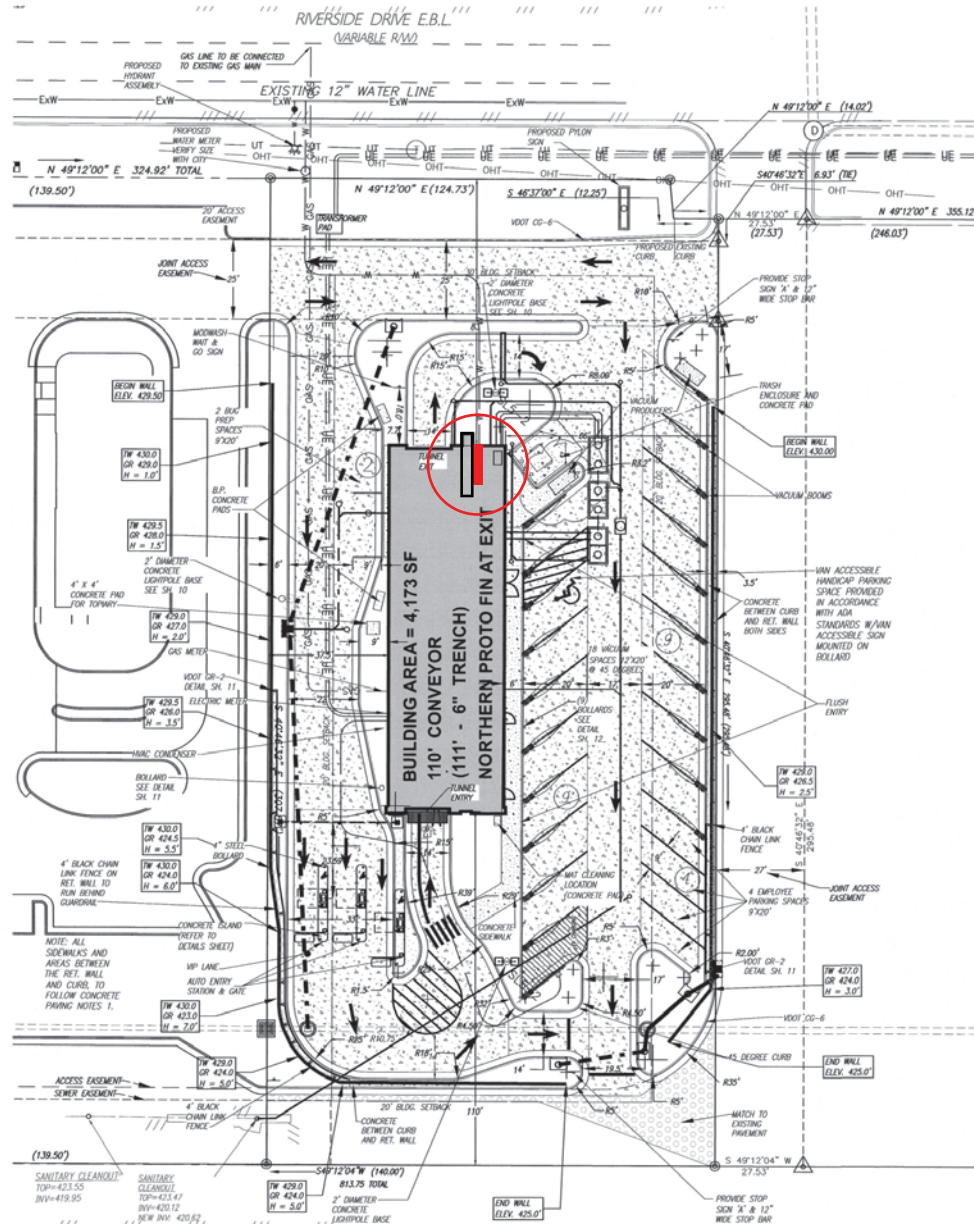
DATE

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Scale: 1" = 60'

PROCEED TO PRODUCTION

Print 9030JW-2

Date 8/16/23

Installation Method

ES# 47660

Line 1

6 = Critical Dimension for Internal Quality Control

UL FILE NO. E70436

Amps

Volts

AUTHORIZED SIGNATURE

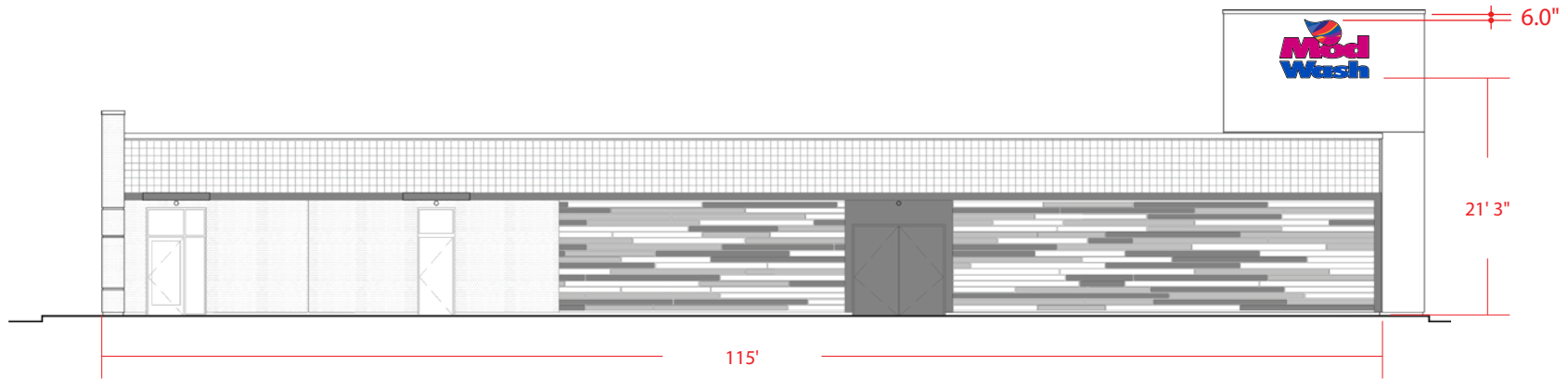
DATE

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East Elevation - 1/16" = 1'

Print 9031MK-3	Date 8/23/23	ES# 47660	Line 3	SP AL	Sign Type Channel Letters
CLIENT APPROVAL		Title	ModWash		Location East Elevation
		City/State	Danville, VA		Size 5' 3" x 8' 0" (42 sqft)
		Customer	ModWash		Description F-2 Main ID Channel Letters on
		AUTHORIZED SIGNATURE	DATE	Int. Note	East Elevation
1 of 3	This drawing contains original elements created by Lauretano Sign Group, Inc., is property of Lauretano Sign Group, Inc. and is subject to all applicable copyright laws. This drawing may not be used in any way until full payment is received by Lauretano Sign Group, Inc. It is intended for review and approval purposes only, and is not to be reproduced, copied, transmitted by electronic media, or exhibited in any fashion to anyone outside your organization without the expressed written consent of Lauretano Sign Group, Inc.				

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signs@lauretano.com www.lauretano.com



Scale: 3/8" = 1'

Front View

Note: For preliminary design purposes only.
Accurate field survey and dimension verification
required before beginning construction.
☐ Survey and Verification Complete

COLORS / MATERIALS

3" Deep Channel Letters:

3/16" White Lexan Face

w/ First Surface Applied Vinyl Graphics.

1/2" White Border.

1" Jewelite Trimp caps, .040" White Alum. Returns.

.063" Thk. CAD-Cut Alum. Backs.

White LED Illumination.

Colors:

PANTONE 233C

PANTONE 2728C

PANTONE 130C

PANTONE 1788C

PANTONE 4141C

PANTONE 2736C

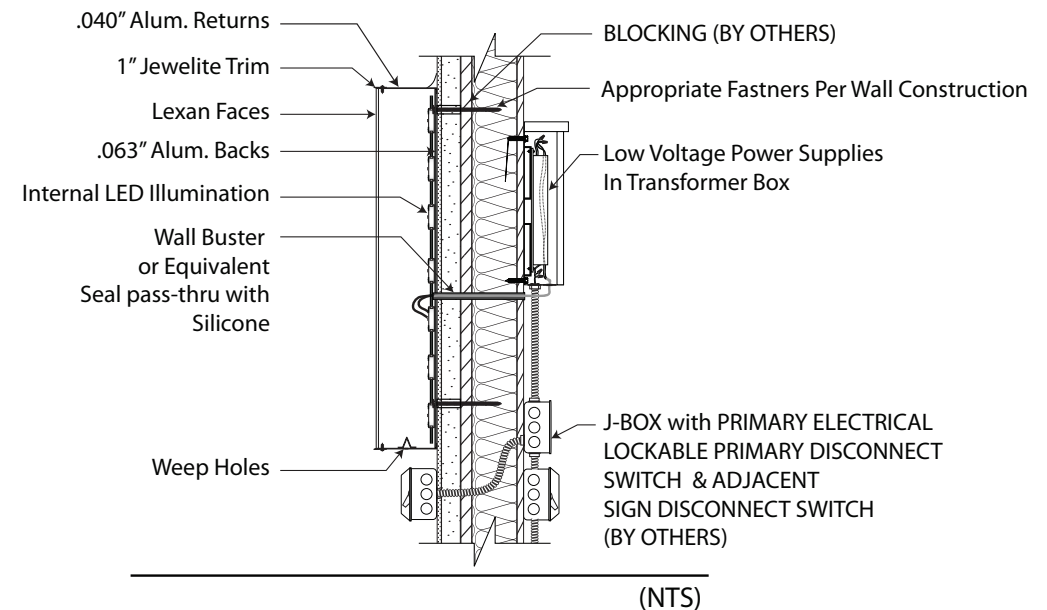
PANTONE 2602C

White Trimp caps, Retainers & Returns

NOTES

Seams Required Between "Mod" and Mod Drop.

Additional Seams May be Required.



PROCEED TO PRODUCTION

Print 9031MK-3

Date 8/23/23

Installation Method

ES# 47660

Line 3

6 = Critical Dimension for Internal Quality Control

UL FILE NO. E70436

Amps

Volts

AUTHORIZED SIGNATURE

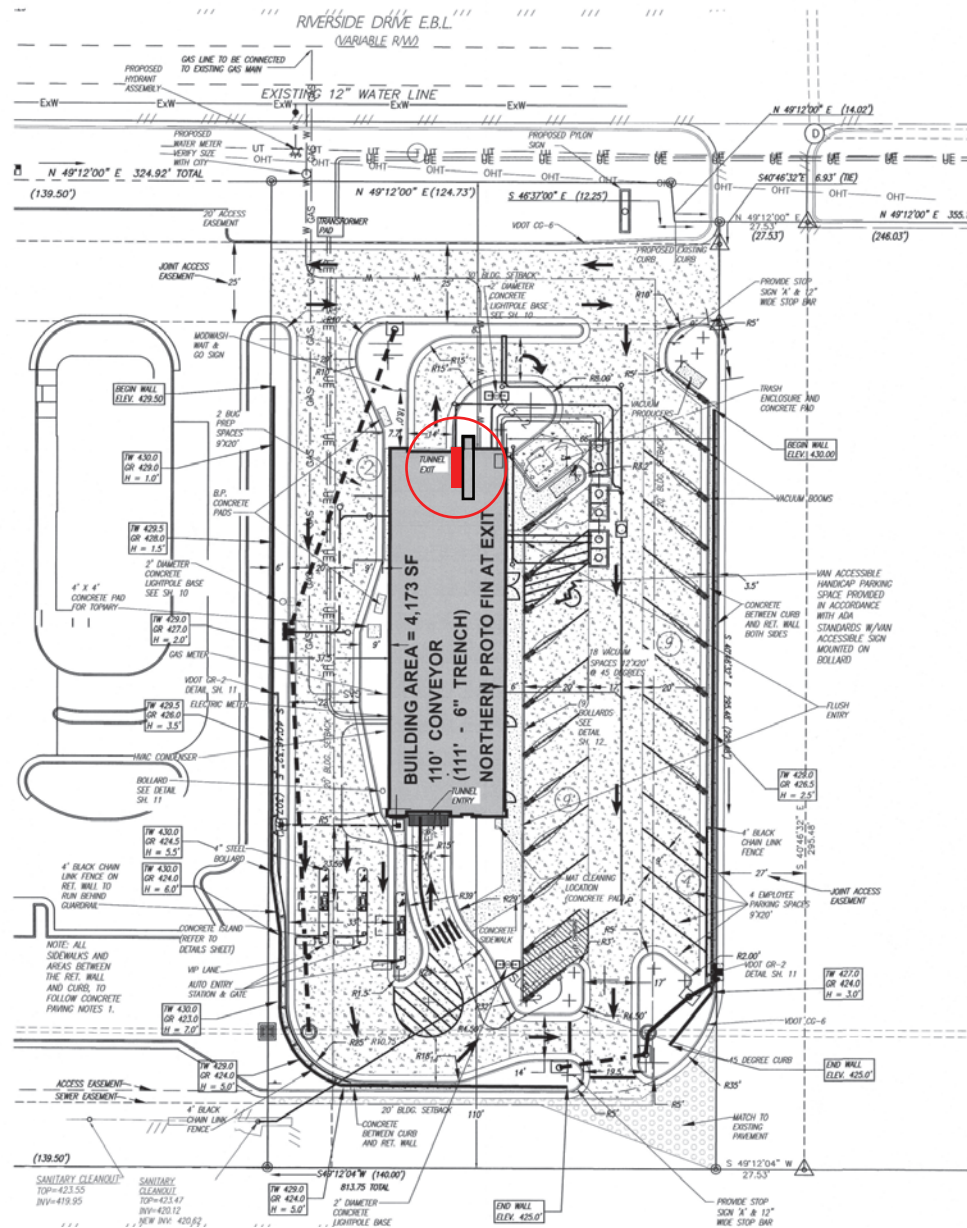
DATE

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Scale: 1" = 60'

PROCEED TO PRODUCTION

Print 9031MK-3

Date 8/23/23

Installation Method

ES# 47660

Line 3

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Amps

Volts

AUTHORIZED SIGNATURE

DATE

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STAFF REPORT

DATE: November 16, 2023
TO: Board of Zoning Appeals
FROM: Renee Burton, Division Director of Planning
RE: Variance application PZ23-00399 submitted by Southern Virginia Legal PLLC on behalf of First Choice Transmissions and L. Hampton Wilkins, requesting an appeal to Zoning Administrator determination to deny a request for zoning clearance for a business license in accordance with Article 7 Section B at 135 Forestdale Drive (Parcel 54834)

Background

135 Forestdale Drive is a storage garage and office space most recently occupied by Life Care. The subject property is zoned OT-R, Old Town Residential and was utilized by Regional One as a legal nonconforming use. The property surrounding 135 Forestdale Drive is zoned and utilized as single family.

According to City records, the structure at 135 Forestdale was occupied by North End Building Supply in 1986, then North End Cabinet Manufacturing. By 1999, the structure was occupied by Van MedTech and zoned R1-B, Residential/Business. Regional One then occupied the property until LifeCare began operations in 2010 as a legal non-conforming operation. The OT-R designation was established in 2004.

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.

First Choice Transmissions, LLC requested a zoning clearance for the operation of an automobile repair facility (transmission repair) at 135 Forestdale Drive. The request was

denied based on the Zoning Administrator's determination that the use would be an expansion of a legal non-conforming use. 135 Forestdale Drive is zoned OT-R, Old Town Residential. The most recent legal use of the property was by LifeCare, which began operations in 2019 and G&D Lawn Care, which began in 2020. Both businesses have active 2023 business licenses at this location.

OT-R is a single family zoning classification that does not allow for automobile repair facilities by right or by Special Use Permit. Automobile repair facilities are allowed by right within the HR-C, Highway Retail Commercial District and M-I, Industrial Manufacturing District; and by Special Use Permit only in the PS-C, Planned Shopping Center Commercial and LED-I, Light Economic Development Districts.

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 an automobile repair facility at 135 Forestdale Drive would be a substantial investment in the nonconformity of this property and would encourage the nonconforming structures to remain. The intent of this article is to curtail the investment in nonconformities and to ensure compliance with the Zoning Code. Operation of an automobile repair facility is not an allowed use and is incompatible with the surrounding area. Continued operation is in violation of 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

The operation of an automobile repair facility requires a change of use permit by the Building Inspections Division 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

A Special Exception Permit was granted in 1988 to allow a proposed expansion of no more than 5, 350 sf, to allow the continuing operation of a nonconforming cabinet making business use or a more restrictive use, to require off-street parking per the proposed site plan and that a buffer area will not be required. These conditions remain unless modified by variance or special use permit.

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

A property transfer Mr. Wilkins occurred on September 28, 2023. The property had remained under previous ownership, Executive Properties, LLC, since 2018.

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 an automobile repair facility within an OT-R zoning classification is a less restrictive use than that of a medical transport operation. Operation of automobile repair facilities is not a use allowed within an OT-R, Old Town Residential District. Allowing the operation of an automobile repair facility within an OT-R zoning classification 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 structure's enclosed floor area to operate an automobile repair facility at 135 Forestdale Drive. However, the operation of an automobile repair facility requires screened outdoor storage, therefore expanding the square footage of the operation beyond the existing floor area. This expansion of a nonconforming use is a violation 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

135 Forestdale Drive has continued in operation as a business use. A continuation of use with an operation of similar classification to its most recent use, LifeCare, or a more restrictive classification, would be a continuation of a legal nonconforming use.

It is important to note that First Choice Transmissions, LLC is currently operating from this facility without proper licensing. After denial of a zoning clearance for a business license, the business was relocated from Riverside Drive and began operations. The structure itself has not been inspected and Change of Use has not been issued for this operation.

ATTACHMENTS

1. Application
2. Supporting Docs
3. Map



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: _____ Zoning District: _____
Additional Information _____

APPLICANT PROVIDED INFORMATION

Property Location (address/ID#): 135 Forestdale Drive/PIN 54834
Applicant: First Choice Transmissions, LLC
Applicant's Address: 249 Brittany Road, Ringgold, VA 24586
Applicant's Phone Number: (434) 429-7458
Applicant's E-mail: firstchoicetransmissions@yahoo.com

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

Operation of an automotive repair business is not permitted on this parcel because it represents a more intense use than the prior nonconforming use.

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

Week of September 25, 2023; in-person conversation with between Applicant and zoning administrator.

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

Article 7.B. – change to prior nonconforming use that is more intensive and thus not permitted.

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

Please see attached letter.

David Byrd Dickens Oct 20, 2023
David Byrd Dickens (Oct 20, 2023 14:04 EDT)
Applicant Signature date

First Choice Transmissions, LLC
David Byrd-Dickens, Manager

Hampton Wilkins 10/20/23
attorney for Property Owner Signature date
(if not applicant)
L. Hampton Wilkins



October 20, 2023

Via Hand Delivery and Electronic Mail

Board of Zoning Appeals
for the City of Danville
Attn: Renee Burton
427 Patton Street
Danville, Virginia 24541

Re: Appeal of Zoning Determination; 135 Forestdale Dr.

Dear Ms. Burton:

On behalf of First Choice Transmissions, LLC (“First Choice”) and L. Hampton Wilkins (“Mr. Wilkins”) (together with First Choice, the “Appellants”), the tenant and owner, respectively, of 135 Forestdale Drive (the “Property”), I submit the enclosed Appeal Application (the “Appeal”) to the Board of Zoning Appeals for the City of Danville (the “Board”). As set forth in the Appeal, while a written decision or determination was not issued, a determination was officially made by the Zoning Administrator in September that the clearance requested for the Property was not allowed.

Relevant Background

First Choice requested zoning clearance to operate an automotive repair business on the Property, the current GIS report for which is attached hereto as Exhibit 1. The clearance was rejected based on a determination that First Choice’s use of the Property would be more intense than the prior nonconforming use. For the reasons set forth below, the Appellants contend that First Choice’s use is neither more intense nor inappropriate for the Property.

Equally Intense Prior Uses

In short, the Property is unique. It has long been home to various commercial uses while being surrounded in full by residential properties. However, these commercial uses have not been run-of-the-mill business uses that would blend in but have instead been more intense.

On information and belief, the Property was historically home to a cabinet-making operation. Most recently, the Property was the base of operations for Regional One EMS and other private EMS providers serving the City of Danville. As such, the Property has long been home to businesses that would not typically be found in a traditional neighborhood, even one

with a sprinkling of businesses. And, most recently, the Property was effectively home to a 24/7/365 operation, with vehicles dispatched from the site on an as-needed basis throughout the day and night. These hours of operation alone, and certainly when combined with the light and noise accompanying vehicle departures, represent an intensity of use that was disruptive to neighboring property owners.

In contrast to the most immediately recent use, First Choice will observe standard hours of operation, opening at 9:00 a.m. and closing no later than 6:00 p.m. As such, First Choice will operate – at most – for nine hours each day, 62.5% less than the most recent occupant of the Property.

First Choice is also committed to being a good neighbor that does not generate significant, ongoing noise that would disrupt its residential neighbors during those hours of operation. While the Appellants understand the Zoning Administrator's concern with respect to the sounds typical of automotive servicing operations, they contend that these sounds will be similar to – while certainly not exceeding – those of the most recent occupant.

As Exhibit 1 demonstrates, the Property has long featured multiple garage bays that prior occupants could use for servicing and storage of their vehicles; First Choice will continue to take advantage of this aspect of the Property, limiting its work to what can be performed inside those bays. However, at no point will First Choice be creating the disruption from the Property that recent occupants did when they departed with lights and sirens activated.

The Appellants also submit that the presence on the Property of multiple vehicles (outside of the garage areas) will not depart from historic use. The images below – reflecting Google Maps images taken in November 2007 and October 2012, respectively – show that an assortment of vehicles parked on the Property is historically common:





The Appellants contend that each of these factors, considered both independently and collectively, reflect a use that – while clearly different from the most recent nonconforming use – will not result in an intensity that exceeds what has been expected for the Property. In fact, First Choice's operation there should actually *improve* the quality of life for neighboring property owners.

Changes to Character of Surrounding Area

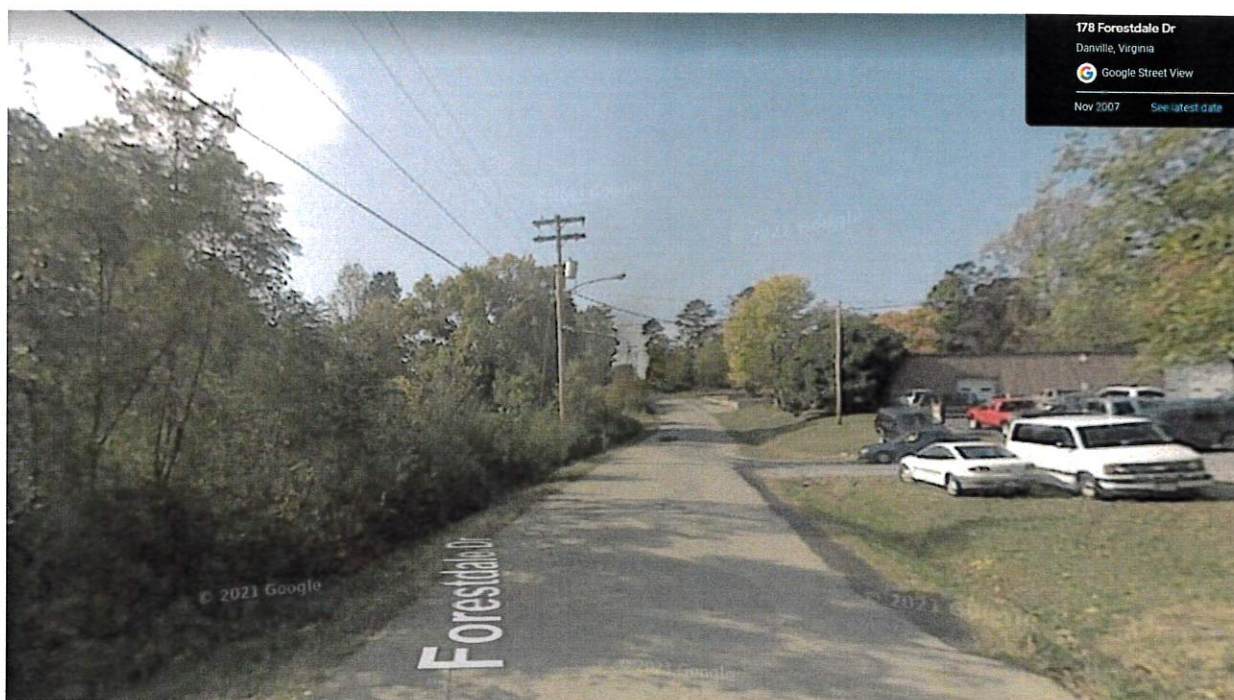
In addition to this argument with respect to the intensity of First Choice's use of the Property, the Appellants respectfully suggest that the continued transformation of the area around the Property makes the clearance sought by First Choice more than appropriate, as changes have the effect of reducing the intensity of its use.

Prior to the extension of Franklin Turnpike to the Danville Expressway, the Property was a remote one, disconnected from any other nearby commercial uses and thus even more of an outlier in a residential neighborhood.

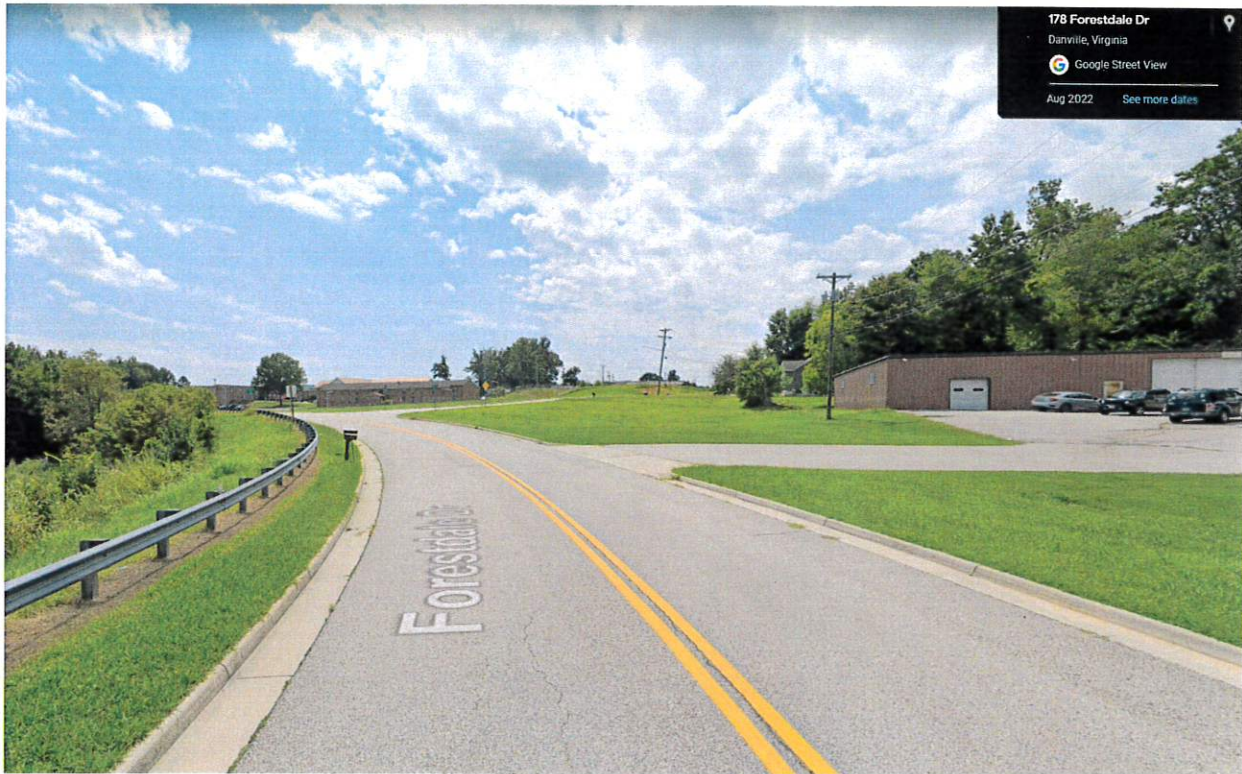
However, with the extension of Franklin Turnpike, the Property is now not only connected to – but also visible from – Franklin Turnpike:



Perhaps more instructive is the view from the road beside the Property. In 2007, Forestdale Drive had the hallmarks of a formerly rural road annexed by the City and disconnected from the nearby commercial corridor of N. Main St.:



However, fast forward to August 2022, and both the insularity of the Property and its connectivity to other commercial activity are markedly different. Where before a thick row of trees kept commercial operations on the Property confined with no outlet for noise or traffic, the robust operations of Roman Eagle Rehabilitation & Eagle Center and a four-lane highway connector are now clearly visible:



An Appropriate Use for Today's Danville

It is without question that – in today's more intentional planning world – the Property would never be home to the kind of commercial use that has characterized it at least since it was improved in 1959. And it is also understood that a more intense use of the Property is not permissible under Article 7.

However, the Appellants offer that First Choice's use of the Property is no more intense than the most recent use of the Property and, in all likelihood, a use to be preferred objectively by neighbors given the cessation of continual operations and the noise and light disruptions attendant to such operations.

For these reasons, the Appellants respectfully request that the Board overturn the Zoning Administrator's decision and clear First Choice's use of the Property.

* * *

Thank you in advance for your consideration of this Appeal. Should you or your staff have any questions, do not hesitate to let me know. We look forward to discussing the Appeal

with the Board of Zoning Appeals in November. In the event that any item in the Application has been overlooked, we will gladly and promptly supplement the same.

Sincerely,



Steven P. Gould

Enclosures

c: First Choice Transmissions, LLC (w/encls.) [via electronic mail]
L. Hampton Wilkins (w/encls.) [via electronic mail]



BOARD OF ZONING APPEALS MEETING

October 19, 2023

Members Present

Lawrence Meder
Nicole Garrison
Gus Dyer
Ann Sasser Evans
Newton Ray
Gus Dolianitis

Members Absent

John Hiltzheimer

Staff

Renee Burton
Cynthia Lester
Ryan Dodson

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

I. ITEMS FOR PUBLIC HEARING

1. *Variance application PZ23-00350 submitted by Dawn Swinney on behalf of K & D Signs, requesting a variance from Article 10.1 of Chapter 41 of the Code of the City of Danville, Virginia, 1986 as amended that prohibits signs extending above the roof line of a building at 1501 West Main Street (Parcel 54805).*

Mr. Dyer opened the Public Hearing

Mr. Dyer closed the Public Hearing

Ms. Garrison stated. We are talking about the triangle above that canopy.

Ms. Williams stated. Correct, that's the only part the extends above the roof.

Ms. Evans stated. Every other dimension of this sign meets all the other city guidelines.

Ms. Williams stated. Correct.

Ms. Evans stated. They are stickler on signs.

Mr. Dyer stated. To me it's sort of nebulous because at what point is it not part of the canopy. Is the canopy extending above the canopy? My interpretation is you didn't want roof mounted signs. Right.

Ms. Williams stated. Correct.

Mr. Dyers stated. Basically, that would actually sit back past the parapet on the front of the wall.

Ms. Williams stated. The permit was issued.

Ms. Garrison stated. This is about the third time a corporation dictates the sign, and it doesn't fit into the city's code. Is it some way they can figure that in when they talk to them about the sign, they are depending on corporate to provide the sign and corporate have three signs and say pick one.

Ms. Burton stated. Its pretty typical in the larger companies that they have certain ones to pick. In this particular situation, unfortunately they did send it in, as you see here for review. And we just didn't catch that it was above the roofline. So, we issued the permit, and they installed it, as they proposed and we permitted, so they probably could have reduced it at this point, it would certainly be an increase of cost to them and labor. So, they decided to go this route to attempt to get a variance.

Ms. Evans stated. Had it been caught what would have been the recommendation.

Ms. Burton stated. They would have reduced the size of the triangle.

Ms. Evans stated. I know in the past we required companies to reduce the size.

Ms. Burton stated. Yes, this one got by us.

**Mr. Meder made a motion to approve the variance application PZ23-00350
Ms. Evans seconded the motion. The motion was denied by a 6-0 vote.**

III. APPROVAL OF MINUTES FROM AUGUST 17, 2023

The August 17, 2023, minutes were approved by a unanimous vote.

IV. OTHER BUSINESS

With no further business, the meeting was adjourned at 10:11 a.m.

APPROVED

BOARD OF ZONING APPEALS MEETING

October 19, 2023

Members Present

Lawrence Meder
Nicole Garrison
Gus Dyer
Ann Sasser Evans
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