

BOARD OF ZONING APPEALS MEETING

APRIL 18, 2024

Members Present

Ann Sasser Evans
Nicole Garrison
Lawrence Meder
Newton Ray
Gus Dyer
Lonnie F. Jones
John Hiltzheimer

Members Absent

Staff

Cynthia Lester
Renee Burton
Shanika Williams
Ryan Dodson
Antonio Furman

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

I. ITEMS FOR PUBLIC HEARING

OLD BUSINESS

1. Special Exception Permit application PZ23-00374 filed by Wasi Bin Saleem requesting a Special Exception Permit at 242 Lipton Lane (Parcel 56149) to allow short-term rental as principal use in accordance with Article 2 Section Y

Mr. Dyer opened the Public Hearing

Mr. Saleem stated. Last time I was here I got approved from the chamber meeting, this time I had called her for this council meeting. I have done everything they asked me to do for the property.

Mr. Dyer closed the Public Hearing.

Mr. Dyer stated. Staff everything is taken care of and in order.

Ms. Burton stated. Everything is taken care of.

Ms. Evans stated. Question for the applicant? Are you the property manager?

Mr. Saleem stated. Yes, and also manage the trash and everything else with it.

Ms. Evans made a motion to approve application PZ23-00374. Mr. Ray seconded the motion. The motion was approved by a 6-0 vote.

2. Appeal application PZ24-00078 submitted by Robert Vaughan on behalf of "Fox Hollow Residents" requesting an appeal of the Zoning Administrator determination to issue building permit R24-00078.

Mr. Dyer opened the Public Hearing

Mr. Vaughn stated. I reside at 71 Old Farm Road. My office is at 776 Main Street, Danville, Va. I am the attorney, engaged by 66 property owners of Fox Hollow Subdivision but 90% of them to bring this application for appeal on their behalf regarding the issuance of a permit number R24-00078 to Mr. Mark

Anthony Saunders. Many of my remarks will be similar if not the same as those given at the last meeting but some of you were not here to hear that, and I don't know whether you have had time to read the transcripts or see the video. Other than Mark Sanders and his family. I am not aware of anyone who resides in Fox Hollow subdivision who is in favor of this building being constructed and all of you may know Fox Hollow is a very desirable, highly established over 50 years ago. It has beautiful landscape with large lots and well-kept single-family homes. It is one of the nicest areas in our city.

The building that Mr. Sanders desires to construct under the permit on his corner lot at his address is a metal 50 x 30 commercial style building. It constitutes about 1500 square feet. 15 feet high on the stand. It will have 4 metal doors which each will be 10 feet tall, the height of a basketball goal facing Fox Hollow Drive. And 2 large doors at the end of the building. The structure is huge. It takes up 70 percent of the total area of the primary residence.

The residents that I represent vehemently oppose the building. They are all good contributing citizens. They are genuinely afraid of the consequences that may arise from the construction of this building. They fear for the character of their subdivision, its quality, the impact this building we have on the value of the investment in their homes and neighborhood and the precedence that it will set on all the possibilities and things that can arise from it. If the construction is allowed to proceed the building will be one of the first structures one will see upon entry into the subdivision.

Mr. Saunders attempted to obtain a building permit for this building in December of 2023. I was intended that it would be an accessory building and he was advised that he would need a variance. He applied for it and the hearing was set on the variance application for January 18, 2024. Most of the people here today was at that meeting but at the last minute the application was withdrawn. Then Mr. Saunders moved the location of the same building, by plan, closer to his house and proposed to connect or tether the building to a porch at the rear of his residence by way of a 4 x 23 foot open breezeway which crosses a driveway and thus changed somehow the character of the massive building from an accessory building which requires a variance to an addition to his residence which does not require a variance solely to qualify for a permit. I have not measured the distance, but I am told the breezeway is actually closer to 40 feet in length from the principal residence to the proposed building. It appears to me, and the residents of Fox Hollow Mr. Saunders is attempting to take advantage of a technicality to accomplish what he otherwise wouldn't be allowed to do. Property owners are allowed as they should be to make additions to their primary residences but one should expect in a normal course such additions and alterations should be required to meet the spirit and intent of the zoning district and we all know that zoning district and we all know that the zoning district at issue here S-R Suburban Residential District that the intent of this zoning district is to encourage housing with compatible scale and character of our architecture. To allow this construction of this building of its kind and character in the middle of this subdivision is offensive to everybody. It clearly does not meet the expressed intent and purpose of zoning ordinance. In reality, it is an accessory building which would otherwise require a variance and not truly an addition to an existing primary residence.

The zoning administrator, and I do respect what she has to do on a day-to-day basis. It appears to me she is telling us, it meets the height requirements, if it meets the setback requirement it is on the same lot and somehow, it's connected to the primary residence. At the last meeting she did say before you are an appeal of the zoning administrator's decision to issue the building permit. Had nothing to do with anybody else's property. I respectfully take issue with that statement particularly when we have that issue. A 1500-square-foot metal building constructed on a corner lot which has absolutely no compatible architectural characteristics with the primary residence. Over that matter, any residents in the subdivision. If this approach is adopted, I think we're headed for bad result. I do think it's appropriate to bring to your attention probably things you already know, specifically certain definitions that appear in the zoning ordinance itself. I hold my position that a breezeway does not make what would otherwise be an accessory building. It says no accessory building maybe in a front or side street yard. Such would require a variance. I ask in closing that you consider rescinding the decision of the zoning administrator to issue the permit in this case and declare the building permit null and void without effect.

Mr. Grubb stated. I'm a certified residential appraiser. State of Virginia, I've been doing appraisals in the city of Danville since 1987. I'm on the VA approved panel of appraisers and also recognized as an expert witness by the Danville's Circuit Court. For public records the existing improvement at 205 Fox Hollow Drive is a single-family dwelling built in 1974, containing 2145 square feet, over a basement, shingle roof, and brick veneer. Current cost of construction would be between \$150 and \$200 a square foot. For the building permit issued by the city, the proposed construction is a 30 by 50 attached metal garage with a permit valuation of \$23,000. A set of plans were provided to the city by the property owner which I have reviewed. Visualize the property when construction is complete. A brick single family dwelling with a 1500 square foot attached metal garage. This is a metal building attached to a brick ranch style home. This is

certainly not a comparable character of architecture and appearance or quality of construction. With a permit of \$23,000 in 1500 square feet, you're looking at \$15.33 per square foot as the estimated cost of the projects. Although the garage does not require the same amount of detail finish inside as a single-family dwelling. It is my professional opinion this proposed addition will be a detriment to the value of the subject property as well as the overall appeal of the entire subdivision and that's the value of the other properties. Beyond this specific case, as a real estate appraiser, I am concerned about the precedence this sets for the entire city. In a time of a severe shortage of housing, anything that reduces the attractiveness of existing housing should be of concern. I fear that this opens the door for the buildings of similar construction of inferior quality throughout the city.

Mr. Grantier stated. I live at 222 Fox Hollow Drive.

Mr. Leggett stated. I am not part of Fox Hollow. I am a big part of this city and this whole thing is a concern of mine not just from the Fox Hollow standpoint. I have been in this town for 60 years, 40 years in the real estate part. I was talking to the city attorney office yesterday because I ran into this early on and I think it's called a non-compliant issue. That's when you have a situation that you're presently using something for, and something changes later. But you're still able to use that property in a way that you've Always used it even though the situation changes.

I think the city would be taking away the rights of this neighborhood by allowing this. There will be issues with drainage, in order for him to access these doors with a hillside coming into them. He is going to have to flatten it out which will also cause new issues.

Mr. Saunders stated. I am the owner of 205 Follow Hollow Drive. I want to start off by saying this community ought to be a shame of themselves. And the reason I say that is there are 9 houses in this community that have metal garages, toppers, but they want to petition for me not to have a garage. Mr. Saunders quoted there have been emails circulating in the neighborhood starting in December reads as follow, some are holding a meeting to better discuss and understand what is supposed about a zoning variance. I feel any of you have questions or further concerns. You can join in discussion and receive your answer. I am sure Mark will provide clarification. I know the original covenant for building in Fox Hollow did not allow unattached structures unless they have the same facade as the house plus other stimulations. Since a long time ago, the covenant has not been followed as many of us also have undetached buildings, since Mark's house is on a corner lot resulting in 2 front yards. I understand he have no other good place to put it end quote.

I am only asking for what they have a garage. The writing is on the wall. It's not about the garage. Literally, if you got a garage, but you don't want me to have one. It's not about a garage, it's about their color. It's obvious. This garage in under warranty. When it's up, the company warranted. My contractors are here. So, what he was speaking of in reference to grading work, all of this needs to be done and it will be handled. Right now, I am at a holding stage because the Circuit Court Judge first time asked for me to hold to the next meeting and now, we are here at this. I just want a garage. It is not to work in just to store my classic cars. That's it. They have a garage, why can't I have one. It's that simple.

I know they say it's a commercial garage, on all the paperwork it says a non-commercial garage. It is a garage/storage that is, it.

Mr. Dyer stated. Mr. Saunders you stated you feel like this is racially motivated. I am going to tell you a little story, the first 2 houses in Fox Hollow as you drive in. I built those houses. And I can tell you when I started construction on those houses, I had, don't know specifically who they were. But I had people in Fox Hollow calling me up and threatening me on my answering machine. You better not build those houses or else. I seemed to have gotten the same treatment that you got. I'm going to tell you that this is not racially motivated. If you take away the fact that this could possibly be racially motivated, why do you think these people are all opposed to what you are trying to do.

Mr. Saunders stated. That is what I would like to know. Being they have a garage.

Mr. Dyer stated. Here is the deal. There are some small metal buildings there. None of them to the scale that you are planning to do. Mostly everybody else's garage even if they are detached or built out of residential building materials. They're built out of 2x4s, and vinyl siding and asphalt shingles and I would tell you that would be in character with the neighborhood. Not everybody might like it but it would be in character with the neighborhood. I think the idea, I think originally this was going to be blue.

Mr. Saunders stated. No.

Mr. Dyer stated. Now it's going to be red.

Mr. Saunders stated. It is going to match my house.

Mr. Dyer stated. Is it going to be brick or vinyl siding to match your house.

Mr. Dyer stated. Sir that does not match your house.

Mr. Saunders stated. The building will be metal.

Mr. Dyer stated. That is what their concerns are metal is generally associated with commercial structures. Whereas brick and vinyl siding and asphalt shingles are generally associated with residential. And I think that is the crux of the situation here is that they don't feel like this building is in character with the rest of the neighborhood aesthetically. Having said that, what I will tell you is this board had nothing to do with aesthetics. They are of plenty hideous building in this town, but we are here to determine whether you have the right to build this building. Having the right to do something doesn't necessarily mean it is right. Whatever determination this board makes today, I'm going to make sure that it's based on what we are required to do, and we are required to determine whether the zoning official acted correctly and agreeing to issue the zoning clearance because technically, the zoning official did not issue the building permit. The building permit was issued by the building official and it's the building official who determines whether this is an attached structure or not. We are here basically to determine whether our zoning official has made the correct decision. Full stop. Not whether this is hideous, which it is, not whether this is inappropriate, which it is, it is whether you have the right to do it. I would like to push back a little bit on this, the assumption that this is a racially motivate, because I was attracted to Fox Hollow, the houses and yard are immaculate. These people, most of whom lived there long before I lived there, and they have invested a great deal in their property. It is the most active neighborhood watch association in this city. These folks care about their neighborhood, and they see this as an assault on their neighborhood and as a resident of Fox Hollow, I would hope that you could understand where they are coming from and not automatically assume that they don't want you to have this because you are black.

Mr. Saunders stated. In front of my house, there's another house with a metal garage in front of it.

Mr. Dyer stated. A full house metal garage or a storage building?

Mr. Saunders stated. Yes.

Ms. Evans stated. Have you considered building this garage with brick? A stick-built garage with brick.

Mr. Saunders stated. No.

Ms. Evans stated. Why?

Mr. Saunders stated. With all my high dollar cars, the metal structure is a lot stronger than brick. It withstands winds to 145 miles per hours.

Mr. Dyer stated. Your business is restoring cars?

Mr. Saunders stated. Yes, we're restored cars.

Mr. Dyer stated. You are going to restore cars in this garage.

Mr. Saunders stated. No. Just putting them in there. Cars that have been restored.

Mr. Ray stated. You are saying that building is stronger than a brick building?

Mr. Saunders stated. 145 miles an hour wind. What house is going to withstand a 145 miles wind?

Mr. Dyer closed the Public Hearing.

Mr. Meder stated. The covenants for this neighborhood what authority do they have.

Mr. Dyer stated. We don't have anything to do with covenants. That would be a civil matter. That would be the decision of the residents of Fox Hollow to sue Mr. Saunders if they feel like they have suffered financial damages through his action because he did not follow the covenants that are associated with his deed when he bought his property.

Mr. Ray stated. With the covenants and restrictions that are there. You say we have nothing to do with those but like everyone else, I'm assuming that bought homes there including yourself. You knew that was there. The covenants. And also, from what I was told yesterday that the covenants are still enforced.

Mr. Dyer stated. Yes, they are enforced. Enforcement of covenants is a civil issue. That's not anything the city enforces, police department or anything like that.

Mr. Ray stated. On the other hand, if the covenants are still enforced and they have a stricter code. Then the city code, you would go by the stricter code.

Mr. Dyer stated. Again, that is a determination of a civil court.

Mr. Ray stated. Why not have followed those codes or looked into it to make sure before you get into all of this.

Mr. Dyer stated. A lot of people don't do that.

Ms. Garrison stated. I would like for the zoning administrator to explain the breezeway situation and is there anything in the code that limits how long it can be or anything like that because we're talking about it. He says 23 feet. Somebody says 40 feet. That is a long breezeway.

Ms. Burton stated. The attachment creates an addition to the primary structure that Mr. Saunders uses as a dwelling. The zoning code itself does not identify a length other than to state that it must be within the setbacks provided by the zoning code within their particular zoning designation.

Ms. Garrison stated. So, this breezeway, when he attaches this to his home that will increase the square footage of his home. For all purposes, tax purposes, this will become part of his residence.

Ms. Burton stated. That is correct. It is an expansion of the footprint of his primary dwelling.

Ms. Garrison stated. To me that it becomes not an accessory building but a part of his residence.

Ms. Burton stated. As it is attached, it is an addition not an accessory building.

Mr. Dyer stated. But there is a distinction between an addition to his house and an attached accessory structure, correct.

Ms. Burton stated. No, this is an addition. It is attached to the dwelling. Therefore, it is an addition to the structure.

Ms. Evans stated. But it is not livable space, not like a sunroom, not like a porch, not like an addition of a room that's bricked in or vinyl. It's not livable space.

Ms. Burton stated. No, it does not state that it is required to be livable space.

Ms. Evans stated. Follow up on the breezeway. I'm reading from law insider. It says that a breezeway should not be less than 5 feet in width and not exceed 15 feet in length and this far exceeds that. And I realize we don't have a definition of breezeway in the code but perhaps we should.

Ms. Burton stated. We do not have a definition currently. Yes.

Mr. Dyer stated. Do you Ms. Burton make decisions based upon zoning clearance, based upon information provided to you by the building official? Or do you independently examine the plans and determine whether this is an attached or addition to this structure.

Ms. Burton stated. My review is solely based on the zoning code.

Mr. Dyer stated. Are there plans that exist of this breezeway of how this is attached to the house? As far as we know.

Ms. Burton stated. There are plans that have been submitted to the building inspections division. And that was submitted in the building permit issued. So, if I could say that it had satisfied that, but I did not do that review. My review is solely for the setbacks of this particular project.

Mr. Dyer stated. Solely setbacks as long as this is considered an addition to his house. You did not make the determination. This is an addition as opposed to some type of other configuration as long as they met the setbacks which are 15 feet on the side and 30 feet on the front.

Ms. Burton stated. This is a corner lot so it does have a front yard requirement so the zoning code states that this is an addition, and it must meet that front yard requirement.

Mr. Dyer stated. Which is.

Ms. Burton stated. If it was an accessory building it would have different setbacks.

Mr. Dyer stated. That means that they have to be a minimum of 30 feet off of Fox Hollow Drive, is that correct? And 15 feet off the sideline that runs perpendicular to Fox Hollow.

Ms. Burton stated. 30 feet or no closer than the existing dwelling whichever is closest.

Mr. Ray stated. The breezeway is a very critical part of this whole thing.

Mr. Dyer stated. I will agree with you 120%. The question is that something that's within our purview to consider? I would ask Mr. Vaughn do you have any argument to state that is something that we should consider.

Mr. Vaughn stated. I think it is something that should be considered.

Mr. Dyer stated. Do you have any type of statute, or anything written anywhere in the code.

Mr. Vaughn stated. I would look to your definitions on your article 15 B. Where it explains that a breezeway is an accessory use. And I submit that the building that had been described to us is an accessory use in and of itself. So, we have an accessory use, breezeway with an accessory building at the other end of it. Not an addition. In this building under those circumstances, would require the process of a variance. Because of other sections of it.

Mr. Dyer stated. Again, that is not in your purview. That is a building official to determine, correct?

Ms. Burton stated. Well, I believe there is some interchanging of verbiage. Accessory use and accessory building are 2 different things. If I'm using my parcel, I have a garden in the back that is an accessory use to my dwelling. If I have a structure that is not attached and is smaller than my primary dwelling, that is an accessory building. They are 2 different things. And I understand where they could be used interchangeably but that is very important in this particular situation.

Mr. Dyer stated. The breezeway is an accessory use, not an accessory structure.

Ms. Burton stated. It is not an accessory structure. It's an addition to the primary dwelling.

Ms. Garrison stated. The breezeway makes it an addition.

Ms. Burton stated. The connection, yes.

Mr. Dyer stated. I think I read in the paper he actually has 2 front yards.

Ms. Burton stated. He has a corner lot, and which requires 2 front yard setbacks, yes.

Mr. Dyer stated. And when normally when you're on a corner, your street sides or your front yard and your 2 others by default are your side yards. So, we've run into situations where technically people in situation like this don't have a backyard and there's certain things that are required to be in the backyard such as compressor-free air conditioning unit.

Mr. Jones stated. If this structure was being built with brick, would we be here right now?

Mr. Vaugh stated. Probably not. We have actually got pictures of what would be acceptable to the members of neighborhood but that it's not the issue we are here on.

Ms. Evan made a motion to uphold application PZ24-00078. Mr. Ray seconded the motion. The motion was approved by a 4-3 vote.

NEW BUSINESS

1. Special Exception Permit application PZ24-00139 filed by Daisy DuBose requesting a Special Exception permit at 147 Benefield Street (Parcel 00201) to allow short-term rental as principal use in accordance with Article 2 Section Y Item 2.

Mr. Dyer open the Public Hearing

Ms. Taylor stated. I'm representing Ms. DuBose. I have power of attorney over the property and she's also my mother. I live 4 minutes away from Benefield Street, I live on Cliff Street. We did the remodeling.

Ms. Evans stated. Did the inspection take place on April 15.

Ms. Taylor stated. It was April 16th.

Mr. Dyer stated. She has met all the stipulations and requirements.

Ms. Evans stated. Will you be the property manager?

Ms. Taylor stated. We are going to go through Evolve, they will be taking care of advertising and all. But in case of an emergency, I am 4 minutes away.

Mr. Ray stated. I went by the other day, and it really looks nice.

Mr. Dyer closed the Public Hearing

Ms. Evans made a motion to approve application PZ24-00139. Ms. Garrison seconded the motion. The motion was approved by a 7-0 vote.

2. Special Exception Permit application PZ24-00108 filed by Devin Hawkins requesting a Special Exception permit at 70 Ashlawn Drive (Parcel 55974) to allow short-term rental as principal use in accordance with Article 2 Section Y Item 2.

Mr. Dyer opened the Public Hearing

Mr. Hawkins stated. I am the owner of 70 Ashlawn Drive.

Ms. Evans stated. Are you going to be the property manager?

Mr. Hawkins stated. No, I have someone who is 4 miles away. Ms. Gibson managed my first property and also this property.

Ms. Evans stated. The first property was on Arlington.

Mr. Hawkins stated. Yes.

Mr. Ray stated. What type of driveway is it? You're the one that had like a gravel and grass driveway.

Mr. Hawkins stated. Yes.

Mr. Ray stated. Are you going to do anything to improve that?

Mr. Hawkins stated. Not immediately I'm not. Since it is separated from the neighbors. I going to leave it right now.

Ms. Garrison stated. But vehicles can park.

Mr. Hawkins stated. There is a driveway for just that house.

Ms. Dudley stated. I have been here 69 years, we received notice that we were in the diameter of these motel, hotel, in and out that what I will call them. My concern is, I've lived on Morris and the street is small and the parking is very limited. I don't disagree with these houses being improved because I have been there 69 years, and these are old Schoolfield houses, and they look wonderful. My concern is once you put these motels, hotels in and out is it going to change the laws on our residential homes?

Mr. Dyer stated. No, this will continue to remain zoned residential. And basically, we have fairly restrictive code as far as what's allowed. Basically, someone can stay there, spend the night and cook. They can't have parties, wedding receptions or other items like that. We also have an enforcement official. Who if you have any complaints at any point.

Ms. Dudley stated. Is it still 10PM till 6AM?

Mr. Dyer stated. Yes, at that point you can call the police. We have found that so far, we don't seem to have any problems with any of these. Most of these folks, they are either here to spend a couple of nights because they have some type of function to attend to, or a lot of instances, they're being rented to like construction workers. Who are usually beat at the end of the day. They are not going to have a party all night long. I just want to assure you that we take seriously the issues with parking particularly. That is why we really like to see there's at least one off-street parking spot for each unit. And also, that there is an enforcement official who if you have any concerns, they will address what every concerns you have.

Ms. Dudley stated. The serious question has the city thought about this? I have a house that is for sale beside of me and I know one of the guys has already said he's going to put a Airbnb across the road. How many houses will the city allow, we are a short street before it consumes us as a resident.

Mr. Dyer stated. I agree parking is a concern.

Ms. Dudley stated. Is there a cap on them.

Mr. Dyer stated. There is not a cap right now.

Ms. Dudley stated. Please do so.

Mr. Dyer stated. There's been a proposal to cap the total number.

Ms. Dudley stated. Before it gets out of hand.

Mr. Dyer stated. We are asked to in our determination whether to allow these permits to consider the fact that there might be an excess number of short-term rentals in a particular area. My basic feeling on this is the market conditions will determine how many of these things we need. At some point, we will have too many and people will stop doing it and in a lot of instances, it would not surprise me if a lot of the applicants that we've already approved, they end up going back to either being long-term rentals or they

sell the property. The one good thing I will say about this is and you are correct. These people spend money fixing these houses up.

Ms. Dudley stated. And they look good.

Mr. Dyer stated. In many instances, when we go by and examine the houses before this meeting, we know exactly which house it is because it the nicest house on the block. Again, I would like to say any concern that you have, now or in the future, the city has made resources available to you.

Ms. Dudley stated. Five years ago, I was in that meeting, and we became the Schoolfield District, and now we are casino bound.

Mr. Dyer closed the Public Hearing

Mr. Dyer stated. Are work truck allow to park on a public street?

Ms. Burton stated. It depends on the size. If were looking at something that would be a tractor trailer type.

Mr. Dyer stated. Something that has more than four wheels.

Ms. Burton stated. Yes, more than four wheels, then, generally we will cite them.

Mr. Meder stated. Wasn't it based on commercial plates?

Mr. Ray stated. I think it is more of the length of the truck.

Ms. Burton stated. There are different parameters, and I can get them specifically from public works.

Mr. Dyer stated. A work truck on either Calson or Ashlawn would be problematic.

Ms. Evans made a motion to approve application PZ24-00108. Mr. Ray seconded the motion. The motion was approved by a 7-0 vote.

3. Special Exception Permit application PZ24-00113 filed by Ruben Lopez on behalf of Las Lomas Properties requesting a Special Exception permit at 410 Tamworth Drive (Parcel 50192) to allow short-term rental as principal use in accordance with Article 2 Section Y Item 2.

Mr. Dyer open the Public Hearing

Mr. Hernandez stated. I'm here to represent my dad, Ruben Lopez, requesting to be allowed short-term rental at our property.

Ms. Evans stated. Will you be the property manager?

Mr. Hernandez stated. Yes.

Mr. Meder stated. Do you live in Danville?

Mr. Hernandez stated. Yes, we live in that same neighborhood just down the street.

Mr. Willie Jones stated. I'm a resident of the Shadowwood community, and in my professional career, I work in community and economic development. I am opposed to the short-term listing in the Shadowwood community. I am not opposed to short-term rentals in general. I think have the short-term rental in this community would disrupt the community aspect that we have. Traditionally, whenever you have short-term rental in the community is very transactional and I've only been in the community 3 years and in that time have been allotted the opportunity to speak and meet my neighbors and a lot of them are retirees and we have a lot of new families that moved into the community and so, I've really enjoyed seeing the community grow and seeing the aspect passed down, another issue is across the nation and

especially in Danville, we have a housing crisis and we have a shortage of housing and if this would have been a long-term rental, I would have been all for it. We have a couple in the community already. But when you have a shortage of housing, and you have industries coming towards Berry Hill or you think about the casino. We need to have a place for people to stay. What's going to happen to those individuals if all these properties get turned into Airbnb. I will say, there are some good short-term renters. There are some horrible short-term rentals and while we have regulations saying that no one can party, no one can do this. I've been in college, I've been to Airbnb, and we did not listen and so with that aspect, I'm sure with this family in the community they have a tighter grip. You cannot ensure what that disruptions are going to be it is not adding any value to anyone else in the properties around, it's only going to make it worse.

Mr. Dyer stated. Mr. Jones you mentioned the problem of renters. Someone who doesn't respect their neighbors and throws trash in the yard, has parties' night and day, that can also occur with long-term renters.

Mr. Willie Jones stated. Yes, it can.

Mr. Dyer stated. I don't know if you've ever been in the process of evicting a long-term rental, but it is an arduous process. Whereas, on a short-term rental, you can say, you are violating my regulations. You have to get out now and, in many instances, the issue with short-term rentals, a bad renter is actually easier to address with a short-term rental than with a long-term rental.

Mr. Willie. Jones stated. That is true but I will also say whenever you have a long-term rental, you also have the ability to really research them. You do background checks. There is a opportunity for you to have a really good renter, the difference is when you have a long-term renter, you have the ability to build community. You don't have that ability with a short-term renter.

Mr. Dyer stated. Fair enough.

Mr. Ray stated. I would disagree totally on what you are saying you have your opinion. Long-term rentals, in Danville a lot of them you don't have a choice once they have paid that first months rent. You have a lot of people that have gone in and bought houses at a low end and put anybody and everybody in them that don't care about what the house looks like and only care about going in there. The neighborhood we have our in the neighbors don't even know that there's anybody in that house.

Mr. Meder stated. I think that our chairman would tell you that we are not putting more short-term rentals. The city is, we as a board must follow the rules so we cannot arbitrarily say that at 150 vacation rentals, we going to stop approving. We have to follow the rules and if the rules say that if they did XYZ then they should be approved. Sort of like the case we just had here where it wasn't a decision whether or not the garage was acceptable, or it was a wrong color or it was metal versus brick. It was whether or not the zoning administrator had acted appropriately based on the rules.

Mr. Willie Jones stated. I totally agree and this is just my opinion on it. That's it.

Mr. Meder stated. I totally support the fact that we need more housing in Danville, and I would hope that more communities would allow builders to come in and build houses without throwing up a bunch of red flags.

Mr. Dyer closed the Public Hearing

Mr. Ray made a motion to approve application PZ24-00113. Mr. Meder seconded the motion. The motion was approved by a 7-0 vote.

4. Special Exception Permit application PZ24-00123 filed by Eagle Management Company LLC requesting a Special Exception permit at 337 West Main Street (Parcel 20029) to allow short-term rental as principal use in accordance with Article 2 Section Y Item 2.

Mr. Dyer opened the Public Hearing

Mr. Wale stated. Owner of 337 West Main. Representing Eagle Management Company.

Mr. Dyer stated. Do you currently live in Danville?

Mr. Wale stated. Yes.

Mr. Dyer stated. Are you going to be the property manager?

Mr. Wale stated. My company will. And I have someone here within the radius will be on call.

Mr. Dyer stated. This states united A. Is this a duplex?

Mr. Wale stated. Correct.

Mr. Dyer stated. And the other unit is you have a long-term rental. Do you reside there?

Mr. Wale stated. Family dwelling.

Ms. Evans stated. Which part is A?

Mr. Wale stated. The upper unit would be A, which is going to be upstairs unit for the short-term rental.

Mr. Dyer stated. How big is that unit?

Mr. Wale stated. Two bedrooms and one bath.

Mr. Dyer stated. There appears to be parking in the rear of this house.

Mr. Wale stated. Yes, as well as we have a driveway.

Mr. Dyer stated. How many cars can park back there.

Mr. Wale stated. Probably can easily get four.

Ms. Evans stated. This has been a long-term rental in the past.

Mr. Wale stated. Previously not so much. I had a few students who stayed there and family member, but it's been vacant pretty much. For family use.

Mr. Ray stated. What's downstairs?

Mr. Wale stated. Family use also.

Ms. Garrison stated. The entrance to this separate from the other.

Mr. Wale stated. Correct. There is a separate entrance and exit.

Mr. Shanks stated. I reside at 345 West Main. Two doors away from the applicant. I'm here as a former member of the City of Danville Planning Commission who was here when the 2020 land use plan was adopted, Comprehensive plan. At that time, I lived on College Avenue which is around the corner. The big discussion about the planning zone area seven which is West Main is how the large single-family homes were being rehabilitated from duplexes back to their original uses on West Main, large architecturally, significant structures that were built to single-family structures. I looked at 337 in the early 90's. It had been empty and for sale for years and it had lost its grandfather clause for multi-family dwelling. That is why I decided not to pursue that property as it had lost the grandfather and had been transitioned over while the neighborhood in transition. And now there's been this movement back to duplex or quadruplex units. The problem with that is, first of all the neighborhood had continued to convert over to single-family mostly. I am here asking that you not approve this application and protect what's left of the neighborhood that is functioning well as a single-family, I'm afraid in our area there has been several additions of bed and breakfast and I think this particular location lost its grandfather clause years ago. I ask you to consider the unique nature of the neighborhood. Consider the fact that it's overcrowded with regard to parking and consider the fact that the neighborhood is transitioning for the most part to single-family.

Mr. Dyer stated. It appears Mr. Shanks the house directly north of this property is already approved as a short-term rental, is that correct? Have you had any issues with that house.

Mr. Shanks stated. No, matter of fact, he has done a good job controlling the parking.

Ms. Garrison stated. You said when you looked at the house to buy it, it had lost the grandfather clause. The grandfather clause that could no longer be used as a duplex.

Mr. Shanks stated. That's correct.

Ms. Garrison stated. So, somewhere along the line, somebody had to get it back to being a duplex. So, that had to go before the Planning Commission, correct or has that not been done.

Mr. Shanks stated. I don't remember seeing that being done. Up until recently, as far as I know, it was unoccupied on one side. There were people in and out every once in a while.

Mr. Dyer stated. I think that is the purpose of determining use, we've determined that as long as the utilities are still connected, it considered used.

Mr. Meder stated. Is it dual utilities or is one.

Mr. Dyer stated. I don't know. That's an issue for the city to address.

Ms. Garrison stated. But if it's been converted, I mean if it lost its grandfather, doesn't it have to be?

Mr. Dyer stated. Is it the city's opinion that this property has lost its duplex grandfather use?

Ms. Burton stated. I do not have any information to that. The information that I have states that it is a duplex and that there are active utilities on both units.

Mr. Shanks stated. Mr. Gillie, who was in Ms. Burton position earlier in his career and I had that very same conversation. That it had lost it grandfather.

Mr. Dyer stated. Is there an official document that states that this use is grandfathered and then there's an official document that says that this lost or is it just when the situation arises?

Ms. Burton stated. There is not a formal process. No, we do currently have software that would allow us to place notations on as a case for particular address so that we could state that so others can know that. But no, there's not a formal problem.

Mr. Dyer stated. How long have you owned the property? When you acquired it was it a duplex and you have continued to operate it as a duplex, you did say the other unit had been vacant quite a while.

Mr. Wale stated. That is correct.

Mr. Dyer stated. Has there been someone on and off living there. Has it ever been a period of two years where nobody occupied the space.

Mr. Wale stated. Never.

Ms. Evans stated. When you acquired it, somebody was already living in both units?

Mr. Wale stated. No.

Ms. Evans stated. Was anybody living in any unit?

Mr. Wale stated. No.

Ms. Garrison stated. How long had it been vacant when you bought it.

Mr. Wale stated. I have no idea.

Mr. Meder stated. Would it be fair to say that you've paid the utilities on both units separately since you've owned it?

Mr. Wale stated. Correct.

Mr. Meder stated. Obviously, some kind of electric generation on the top level if you're paying for the electric., right.

Mr. Wale stated. Yes

Mr. Dyer stated. The city has no opinion as to whether this has lost its grandfather status.

Mr. Burton stated. My knowledge and with the information that I have, it is a duplex.

Ms. Evans stated. But we had a similar situation on Marshall Terrace that a building was clearly built as an apartment building, but it had lost its grandfather's status.

Ms. Burton stated. Correct. If it is not being occupied, there has been no utility use, then yes, if that remains vacant for more than 2 years, it does lose that legal non-conforming status.

Ms. Garrison stated. As long as he's been paying a utility bill separate for this apartment, it's considered occupied.

Ms. Burton stated. Occupied and being used, yes.

Ms. Evans stated. But you don't know that prior to him purchasing the property, someone didn't pay utilities for two years.

Ms. Burton stated. I can't speak to that. I do not have that information. Not with me.

Mr. Meder stated. This is something that we want to postpone.

Mr. Dyer stated. Here is my question though. As some point, 20 years ago, this property lost its grandfather's status but continue to be used at a later date for a legal non-conforming use. Does it revert back? Do you ever regain your grandfather's status?

Ms. Burton stated. Right now, they're considered legal non-conforming. I don't have anything that would state otherwise.

Ms. Garrison stated. If housing this type of situation, is it different from business if you have a business that's non-conforming and it's not used for that purpose for two years. It's vacant for two years then it loses its grandfather status.

Ms. Burton stated. Probably the same.

Mr. Wale stated. As you mentioned, there's a short-term rental to the right of me and then house next to that one is short-term rental. I don't believe that one is just a home.

Ms. Evans stated. We don't have that information.

Ms. Wales stated. You are saying that a home would not be allowed to be used for short-term rental if there was no separation.

Mr. Dyer stated. What the issue is here is that the zoning on your piece of property is OTR, which only allows for one unit per lot. If in fact, this property had been used for a duplex before that zoning came into effect. It would be grandfathered in. And the only time you lose that grandfathered status as if the property sits vacant for more than two years and generally for our purposes since it's very hard to

determine whether actually someone lives there is if the utilities remain connected. I think the assumption would be that it still meets its grandfather status. Mr. Shanks has an argument that he had a conversation but apparently no notation was made of that conversation or not action was taken. For the board purposes it's my assumption that this is still illegal non-conforming use is a duplex

Mr. Dyer closed the Public Hearing

Ms. Garrison stated. The summary says that the occupancy inspection has been completed but additional requirements remain.

Mr. Day stated. He had to repair the front step and then send me his exit plans both of which he's has done.

Ms. Evans stated. I am in agreement with Mr. Shanks. I have spoken and voted against other properties in West Main becoming short-term rentals and so that was my stance on this. I don't even agree that

Averett should have their office on the opposite side of their campus, and I voted against that as well. These are old homes. They need to remain single-family residents.

Ms. Garrison stated. I believe the home that he was speaking about on the other side is a short-term rental that was granted by the Planning Commission. The very first one. In the city by Mr. Doss.

Ms. Evans made a motion to denial application PZ24-00123. Mr. Hiltzheimer seconded the motion. The motion failed by a 2-5 vote.

Mr. Meder made a motion to approve application PZ24-00123. Ms. Garrison seconded the motion. The motion approved by a 1-6 vote.

5. Special Exception Permit application PZ24-00124 filed by DoitWright Real Estate LLC requesting a Special Exception permit at 57 Ashlawn Drive (Parcel 56404) to allow short-term rental as principal use in accordance with Article 2 Section Y Item 2.

Mr. Dyer opened the Public Hearing

Mr. Wright stated. I am the owner of the property at 57 Ashlawn Drive, I have been doing real estate for three years or so, been very successful with it. I treat it as a business and not a hobby. Asking for an approval for this property.

Ms. Evans stated. Will you be the property manager?

Mr. Wright stated. Yes.

Ms. Evans stated. And you live where?

Mr. Wright stated. Right now, fifteen minutes away and I am building a house and in July and I will be ten minutes away. I have extended the driveway up which will house four cars there comfortably so there's no on-street parking.

Mr. Dyer closed the Public Hearing

Mr. Ray made a motion to approve application PZ24-00124. Mr. Meder seconded the motion. The motion was approved by a 7-0 vote.

6. Special Exception Permit application PZ24-00144 filed by Ben Johnson on behalf of Hawks Point Properties, LLC requesting a Special Exception permit at 156 Winthrop Drive (Parcel 03706) to allow short-term rental as principal use in accordance with Article 2 Section Y Item 2.

Mr. Dyer opened the Public Hearing

Mr. Johnson stated. We have renovated the house and tried to make it nice.

Mr. Dyer stated. Will you be the property manager?

Mr. Johnson stated. We have hired Whitney Doss a local realtor.

Mr. Dyer stated. And they will be managing the property.

Mr. Johnson stated. Yes.

Ms. Evans stated. What day is trash day? When I rode by there were two trash cans side by side. I don't know if they belong to you or the one next to you, but you need to make sure you pull your trash cans back.

Mr. Dyer stated. And the grass could stand to be cut.

Mr. Dyer closed the Public Hearing

Mr. Ray made a motion to approve application PZ24-00144. Mr. Hiltzheimer seconded the motion. The motion was approved by a 7-0 vote.

7. Special Exception Permit application PZ24-00145 filed by Ben Johnson on behalf of Hawks Point Properties LLC requesting a Special Exception permit at 73 Carlson Avenue (Parcel 50695) to allow short-term rental as principal use in accordance with Article 2 Section Y Item 2.

Mr. Dyer opened the Public Hearing

Mr. Johnson stated. Same scenario, trying to make it nice for the community but one thing I did want to mention, it came up in a previous discussion that is the platform for short-term rentals, that we use allows us to decide if we want the client or not the person has no reviews or good reviews or bad reviews we can pick and choose who we want there and I've done that in the past and I've decided if I want someone there. Because I want the house to remain nice and good for the community.

Mr. Ray stated. I have a question as far as the driveway. It's a small driveway, is it any way to widen it.

Mr. Johnson stated. We might be able to extend it. Not sure we could widen it because of the setback lines on the sides but we could probably extend it further, so that they could pull further in.

Mr. Dyer stated. This is a two-bedroom, one bath house.

Mr. Johnson stated. Yes.

Mr. Dyer stated. The parking was the issue that I saw at this property. Because Carlson Avenue is very narrow and if commercial vehicles were allowed to park in front of the property, that would cause issues since when I stopped for two seconds to look at the house, someone immediately pulled up behind me and blew the horn. That would be my only concern but as long as the city addresses that issue with commercial vehicles, and I don't have a problem with that.

Mr. Meder stated. Are the renovations complete?

Mr. Johnson stated. Not totally.

Ms. Burton stated. He has met the building code standards at this point. I think he has some cosmetic things that he's still working on.

Ms. Garrison stated. He hasn't gotten the certificate of occupancy or has that been issued?

Mr. Day stated. It has not been issued yet.

Ms. Garrison stated. Is it just a matter of you getting back out there or are there still things that has to be done.

Mr. Day stated. He does have a certificate of occupancy at the 73 Carlson Avenue address.

Mr. Ray stated. Is there any way we can keep coming back to the commercial trucks, put any information into these applications to notify an applicant to say what you can or cannot do especially in a residential neighborhood, to be aware no commercial trucks and manned over whatever the size limit is. Because I know we ran into a problem with someone a worker for instance. Not to have a truck, van or certain size. You can't park a trailer and what not in a residential neighborhood.

Ms. Burton stated. That is addressed in the city code and while we probably not placing it on the application would be something that we would do but we can place it on the website that is where we direct them to get the application and all the information.

Mr. Dyer closed the Public Hearing

Ms. Evans stated. I have a question for staff, initially you recommend postponement. Is that your continued recommendation?

Ms. Burton stated. No, he has completed the necessary renovations. For a certificate of occupancy.

Ms. Evans made a motion to approve application PZ24-00145, Mr. Meder seconded the motion. The motion was approved by a 7-0 vote.

8. Special Exception Permit application PZ24-00133 filed by Rockfish Ventures LLC requesting a Special Exception permit at 200 Jefferson Avenue (Parcel 26406) to allow short-term rental as principal use in accordance with Article 2 Section Y Item 2.

Mr. Dyer opened the Public Hearing

Mr. DeMaio stated. For Rockfish Ventures. I'm the crazy guy that fixing up the church on the top of Patton and Jefferson. I have been a full time short-term rental host for eight years. I checked this morning I am the 31-time consecutive super host and I've got about 1348 five-star reviews. I am the primary property manager for the property but Courtney Scott, who lives six houses down from me will be my property manager if I am out of town. Parking I do have off street, kind of in our like right-hand side yard area. I have asked guests to limit to two vehicles regardless.

I have received the certificate of occupancy pending your decision on this today. I would invite anyone to come by and see the church, it's pretty cool. We haven't cut any corners on that place. It was vacant for about 10 years and kind of falling apart. Almost everything has been replaced, only the revenue from a short-term rental for that is going to go directly towards the continued restoration of the sanctuary of the building.

Mr. Dyer stated. I have a note that there was graffiti on building.

Mr. DeMaio stated. There was graffiti on building that has been covered. Now the weather is getting better we are going to paint that entire side of the building.

Mr. Dyer stated. I also notice your sign was not present when I drove by there yesterday. Again, I would like to make sure that we ensure that the signs are prominently displayed so that people in the neighborhood know what's going on.

This is a large structure, and I would think that would invite uses such as parties and receptions. My question for the city is I know that our short-term rentals are generally prohibited from hosting such events. Are there exceptions for that? If the zoning allows it.

Ms. Burton stated. Posting events?

Mr. Dyer stated. Yes.

Ms. Burton stated. You would need a special use permit in order to do that.

Mr. Dyer stated. So, they can apply for special use permit after they obtain the special exception permit for the uses of short-term rental. Does our code allow short-term rentals to apply for special use permits for event space?

Ms. Burton stated. They could apply. I believe that would then void their special exception. They would remove one and take on the use of event space. This particular structure is extremely large. His certificate of occupancy is for the back section which was previously used as residential. Not for the sanctuary.

Mr. Dyer stated. So, this is like a duplex, right, it has two separate uses, and we are only allowing the special exception permit for the residential part.

Ms. Burton stated. The rear which is the residential use. Front portion of the sanctuary is not habitable. And does not have active utilities at this time. It's not to be used.

Mr. Dyer stated. There is an acceptable separation wall between the two structures.

Ms. Burton stated. That's correct.

Mr. DeMaio stated. Mr. Dyer just to clarify, we've actually divided the property now into an A and B. So, B is the rental unit. The sanctuary is locked off.

Ms. Evans stated. Have you been operating this as a short-term rental?

Mr. DeMaio stated. Yes, we have rented it a few times with some confusion.

Ms. Garrison stated. How many occupants.

Mr. DeMaio stated. Up to eight, there are three bedrooms. One bedroom is very large it has two queen beds, one bedroom has a queen bed, and one bedroom has a king bed. There is one full bath and two half baths in it right now.

Ms. Evans stated. You are renting it one time. You are not renting rooms.

Mr. DeMaio stated. No, one unit.

Mr. Ray stated. Is that a church parking lot or your or both how is that working.

Mr. DeMaio stated. The large one to the right, is owned by the Epiphany Church.

Mr. Ray stated. Could you people park there.

Mr. DeMaio stated. They told me I could park there if I have a rider on my insurance that allows that sort of coverage, but I usually ask people to park in the grass.

Mr. Dyer closed the Public Hearing

Ms. Evans made a motion to approve application PZ24-00133, Mr. Meder seconded the motion. The motion was approved by a 7-0 vote.

Special Exception Permit application PZ24-00154 filed by Kelsey Donley requesting a Special Exception permit at 261 Gray Street (Parcel 24701) to allow short-term rental as principal use in accordance with Article 2 Section Y Item 2.

Mr. Dyer opened the Public Hearing

Ms. Donley stated. I am one of the three of the LLC that is renovating the property. We have one other short-term rental that you all approved last month we want to continue with short-term rentals and improving the community and restoring and revitalizing as the city seems to already be doing with all of the new amenities around. We don't live in the area. The members of the LLC so we have hired Katie

Newcomb with Preferred Management Group to manage the property. We have taken care of the exterior that I know you all had some issues with the stairs and we have installed a completely new material, deck and stairs and the parking in order to have off-street parking we needed to restore the retaining wall on the right side of the driveway which has been redone.

Mr. Dyer stated. What item need to be addressed as far as the work not done?

Mr. Day stated. Just the interior work.

Mr. Dyer stated. Is it cosmetic or structure?

Mr. Day stated. A lot of it is cosmetic.

Mr. Ray stated. Putting up the rails out front is that complete.

Ms. Donley stated. Yes, we do have handrails.

Mr. Dyer stated. There seems to be some type of protective coating on your riser boards on the front porch.

Ms. Donley stated. Yes, the boards that we ordered were from Norfolk and once we got them to the location, we had to run the boards the opposite way from our plans. So, we wasted a lot of material and had to order more.

Ms. Evans stated. It appeared to be an extremely narrow driveway.

Ms. Donley stated. Did you see the new retaining wall.

Ms. Evans stated. Yes.

Ms. Donley stated. We measure it and it can fit a car just fine, and it's expanded toward the back of the house. Three cars should fit in line in that driveway.

Mr. Meder stated. Do you know the width of the driveway?

Ms. Donley stated. I did at one point. A little over 9 feet.

Mr. Dyer closed the Public Hearing

Ms. Garrison made a motion to approve application PZ24-00154 requiring parking in the driveway, Mr. Meder seconded the motion. The motion was approved by a 7-0 vote.

III. APPROVAL OF MINUTES FROM March 21, 2024

The March 21, 2024, minutes were approved by a unanimous vote.

IV. OTHER BUSINESS

With no further business, the meeting was adjourned at 12:05 p.m.

s/Cynthia Lester
APPROVED