

BOARD OF ZONING APPEALS MEETING

MAY 16, 2024

Members Present

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

Members Absent

Lawrence Meder

Staff

Cynthia Lester
Shanika Williams
Arsenio Day
Ryan Dodson

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

I. ITEMS FOR PUBLIC HEARING

1. Special Exception Permit application PZ24-00164 filed by Williams Property Management LLC to allow short-term rental as principal use at 153 Wendell Scott Drive (Parcel 01964) in accordance with Article 2 Section Y.

Mr. Dyer opened the Public Hearing

Mr. Williams stated. I'm with Williams Property Management. I'm here with my Property Manager and maintenance supervisor.

Ms. Garrison stated. You don't own the home?

Mr. Williams stated. I do.

Ms. Evans stated. Where do you anticipate parking?

Mr. Williams stated. It is street parking.

Ms. Evans stated. When you round that corner, it's tight there.

Ms. Williams stated. It is, we have had that house since the 90's and we've released it out for years and it has not been a problem, but it is busy, but everyone knows to park on the side of the street where the house is located.

Ms. Evans stated. When you are from out of town, and you don't know.

Mr. Williams stated. I will have that in the instructions, they will know it is street parking.

Ms. Evans stated. Have there been any accidents there.

Ms. Garrison stated. Only way onto the property is up the stairs.

Mr. Williams stated. Yes.

Mr. Dyer closed the Public Hearing

Ms. Evans made a motion to approve application PZ24-00164. Mr. Ray seconded the motion. The motion was approved by a 6-0 vote.

2. Special Exception Permit application PZ24-00174 filed by Virginia Maggiani and Julio Albornoz to allow short-term rental as principal use at 127 Berman Drive (Parcel 59533) in accordance with Article 2 Section Y.

Mr. Dyer opened the Public Hearing

Ms. Albornoz stated. I represent Virginia and Julio.

Mr. Dyer stated. I understand this is the third time we have entertained this particular application. The first two meetings no one was here to speak.

Ms. Albornoz stated. Yes, that was because of miscommunication for the times and the meeting.

Mr. Dyer stated. I recall that there were a couple of items. One of them was that there was a storage building that was in the driveway.

Ms. Albornoz stated. Yes, it like beside the house, it does not block the driveway at all.

Ms. Evans stated. Who will monitor you renting it for no more than nine months out of the year.

Ms. Albornoz stated. I will. I am a licensed real estate agent.

Ms. Evans stated. So, will that be 9 consecutive months?

Ms. Albornoz stated. It will vary, maybe during the winter, it wouldn't be rented out.

Ms. Garrison stated. So, there's no monitoring actually from the city.

Ms. Williams stated. Our software program will allow us to monitor when the property has been listed.

Ms. Garrison stated. But is there any way for you to know if it's been rented. Will she rent it every other month. I'm not sure I understand how you're going to do the 9 months.

Mr. Dyer stated. I have questions about that too, my assumption was that the application was for only 9 months but that's not the case. This is a long-term, limited to 9 months out of any year is what I'm assuming, correct?

Ms. Williams stated. Right, our software does give us the ability to monitor when in real time a property is being listed.

Mr. Dyer stated. I think what the question is, are there specific months that are being blocked out?

Ms. Williams stated. That has not been set forth for the applicant. The board would like to set that as an extension.

Mr. Dyer stated. What I don't understand is if she rents it for a week and then it's vacant for a week and then she rents it for a week and then it's vacant for a week. Are those vacant weeks counted in the 12 months in the 3 months that the unit is not being because it means that seem like that typical for most of the properties.

I was not here at the March meeting but it my understanding the Board turn this application down. Is that correct? But this is a different application with a different application number?

Ms. Williams stated. Correct.

Ms. Evans stated. What is the substantial difference?

Ms. Garrison stated. The substantial difference. I don't understand because we would have probably, I'm sure, said that parking would have to be in the driveway and as far as the occupancy, that's also something we would have covered So, I don't see this as a substantial change.

Ms. Williams stated. Staff has put this forth as a substantially different application because of those conditions.

Ms. Garrison stated. Conditions that we would also have applied is being substantial is not to me substantial. We would have governed that area in the initial application.

Ms. Evans stated. Had the applicant been here to discuss it.

Ms. Albornoz stated. We actually do plan to block off some months just to have it only nine months as a rental. So, we would be blocking off.

Mr. Dyer stated. Entire monthly segments.

Ms. Albornoz stated. Yes.

Mr. Dyer stated. You have determined what those months are going to be yet.

Ms. Albornoz stated. Not yet.

Ms. Garrison stated. In order to make this a substantially different application, I'm assuming.

Ms. Albornoz stated. Yes.

Ms. Evans stated. It will definitely be short-term rental no longer than 30 days.

Ms. Albornoz stated. Right, yes.

Ms. Evans stated. The certificate of occupancy has that been completed.

Mr. Day stated. Yes, it has.

Ms. Garrison stated. What would be the occupancy of the home if she stipulated six occupants? What is the occupancy?

Mr. Day stated. The occupant load is set to six people.

Ms. Evans stated. Today I rode by there, there were trash can out. I'm not sure if they were yours or the next-door neighbors because they seem to be in between the lines.

Ms. Albornoz stated. Yes, those would have been the next-door neighbors. We have not been there in a while.

Ms. Evans stated. Make sure they are pulled back. I have already complained to staff about one house in my neighborhood that the trash can have not been pulled back.

Mr. Ray stated. Back to this month. Is there something that we need to decide now or let them come back to us to say, we have X out this number of months or weeks.

Mr. Dyers stated. What we're doing is we've approving an application that limits the short-term rental to nine months out of any particular year. Correct.

Ms. Williams stated. Correct, and we can require them to set forth those months.

Mr. Dyer stated. For some reason, the board wants to stipulate what those three months are. I suppose we could attach that to it, but I don't see a need.

Mr. Ray stated. I don't know how we can do that.

Mr. Dyer stated. Right, I think it would if we approve this, it would be up to the city to make sure that the term of the application is applied.

Mr. Ray stated. Seems like counting days instead of.

Mr. Dyer stated. Well, no what she's stipulated. She's willing to block out full months. It's not going to be, we didn't have anybody in there on Tuesday. So, that one day. We didn't have anybody on Thursdays. That's two days. It's going to be we're not going to rent this, and it may not be consecutive months. It may be April, it may be August, and it may be February. But she has stipulated that she is willing to restrict this to nine calendar months out of the year. Now whether they're consecutive months, I don't know but that would be up to the city to determine that.

Mr. Dyer closed the Public Hearing.

Ms. Evans stated. I have concerns it should be three consecutive months.

Ms. Williams stated. We do have the option to set that forth in the conditions.

Mr. Dodson stated. As well as requiring advanced notice by the applicant to inform the city ahead of time what those months will be to ensure compliance.

Ms. Evans stated. This goes against my grain because we have denied this twice and I do not think there are substantial, it's a substantial different application even though it has a different number.

Ms. Evan made a motion to approve application PZ24-00174 with conditions submitted along with advance notice to the city staff of what three months are going to be blocked off consecutively.

Mr. Ray seconded the motion. The motion was approved by a 5-1 vote.

3. Special Exception Permit application PZ24-00195 filed by Lakeysier Franklin to allow short-term rental as principal use at 732 Hughes Street (Parcel 23093) in accordance with Article 2 Section Y.

Mr. Dyer open the Public Hearing

Ms. Franklin stated. I am the owner of this residence.

Ms. Garrison stated. There is no off-street parking, and you say there's an area that you're going to designate for future off-street parking but when I went by there, and there was a black truck parked in the yard. So, would that be something.

Ms. Franklin stated. I took care of that on Monday, so we do now have parking. That black truck was mines.

Mr. Dyer stated. This lot does appear to have the convenience of being on the corner and so there's actually quite a bit of road frontage. I think this property has less of an issue than the first one we evaluated.

Mr. Ketchum stated. I own two properties on Hughes Street. I have been living there 30 years. If I'd ever dreamed that they were going to try put something like that in our neighborhood, I would never move there to start with, where they have it at and the way they've done a little horseshoe driveway with the gravel and the way the road is. The first couple day someone stays there the gravels will be in the road. Old people live in this neighborhood everyone looks after each other. We have people get killed on this street.

Mr. Dyer stated. Were those people killed in a short-term rental?

Mr. Ketchum stated. What I am saying is putting that in neighborhood, with all the elder living in the neighborhood. We are already suffering on the count of the casino traffic comes through there now all night long. Do they stop at the stop signs? No, and you talking about putting the short-term right there on the corner. That's ridiculous.

Mr. Dyer stated. Sir let me tell you that the city does have very strict enforcements for the short-term rentals. We have an enforcement officer. The city of Danville enforcement officer and planning technicians and all that good stuff. You don't live in that neighborhood.

Mr. Dyer stated. You stated that you own two properties on Hughes Street?

Mr. Ketchum stated. Yes.

Mr. Dyer stated. Do you live in both of those properties?

Mr. Ketchum stated. I live in one with my wife, and my granddaughter lives in the other. I pay my taxes, we need the city to look after the old people and this short-term rental, you have already done put a motel up here. You done the old doctor building.

Mr. Sutherland stated. Sutherland Auction and Real Estate and I own several properties on Hughes Street and Kemper Road. Most of the tenants over there are elderly people. Some of them are single ladies and really after meeting with those and I sent my form back in and to be honest I don't know whether I opposed it or not, but I want to stand here before you today after discussion with some of my tenants that I do oppose that property being an short-term rental. Mainly because of the concern of illegal activities that can move in there without anyone knowing it while we are sleeping.

Mr. Dyer stated. Well, sir the problem that we have with that opinion is that applies to any property, someone could easily buy this property and conduct illegal activities there. we have not seen any evidence whatsoever that anyone that's been using any of these short-term rentals create any problem for the city. In fact, we have an enforcement officer. The city is set up very strict regulations. They don't allow any type of parties. They don't like any type of function other than someone spending the night and cooking there. And also, since you did state you own several properties on Hughes Street. I'm sure they're rental properties.

Mr. Sutherland stated. Yeah.

Mr. Dyer stated. When you have a short-term rental. If someone's creating properties, you can immediately evict them. I'm sure you are aware that if you have anybody renting one of your houses, it takes a long time to get somebody out.

Mr. Sutherland stated. Exactly.

Mr. Dyer stated. And so, we've actually found that the short-term rentals are easier to control and make sure that people are doing the right things than long-term rentals. It seems to run counter to the argument that you and the gentlemen made prior to that.

Mr. Sutherland stated. I guess my question would be then, should we have a problem with that becoming a lot of illegal activities. Who do we call? Mr. Day and there is a website and email address. I pray you will take into consideration of the elderly people and some of those people are single elderly ladies, their safety and well-being.

Ms. Smith stated. I notice that the word home has been taken off of the board in the hall and I don't quite understand that because I am here today to talk about home. Hughes Street over the years has been a lot of things, it started out as home for mainly mill workers. They raised their family. They had a wonderful quite little neighborhood. And then like small towns in America, the drugs move in, the crime moved in, and things got a little hard over there for a while, and now with the help of the city, with the help of our local police, it's gotten better. There are elderly people that live on Hughes Street but there are also people raising families and it's their home. They are not pleased about

short-term rentals mainly because we've talk to some people that own these properties and some of them have told me they wish they didn't. The reason being the trash that's left behind a needle on curb, pills in the grass, a broken beer bottle in the yard, the people that owns these properties either clean it up themselves or they have maintenance people that do the work. But the party goers have come and gone. The homeowners weren't up in the middle of the night listening to the loud music. Or worried about their child or their grandchild, stumbling across a needle on the curb. That is the concerns and I know you guys probably think it's silly. But people sometimes rent short-term properties to have parties and then what did they do? They go back to their homes, and they leave their trash behind. All I am asking is that you think about home when you make this decision and ask these people to put their short-term properties in areas of Danville that don't have communities.

Mr. Dyer stated. Let me just tell you that we do take your comments very seriously. But on occasion, we find that the concerns people have are not founded and so, once again, I will point out Mr. Day sitting right here. He is our enforcement officer; the city does not allow parties at short-term rentals. If somebody's having a party at that short-term rental, you can contact Mr. Day, or the police department and they will shut it down. Whereas, if your next-door neighbor has a party, there is really not a whole lot you can do about it because they're the property owners and so we actually find that with these short-term rentals, (A) they take a house that may not have been so nice and they fix it up and bring in these short-term rentals and the people who are actually in the short-term rentals can on occasion be better people in the neighborhood than folks who are long-term rentals. If the house had been dilapidated and couldn't bring much money in his rent. I think on very rare occasions we actually turned any of these applications down, it doesn't mean we are rubber stamping this. We take all of the concerns into consideration. And if we find that there are valid reasons that a house should not serve as a short-term rental, we deny that application. I do want to assure you that we take what you say very seriously. But we find sometimes that the circumstances are different than some people would like to present them to us.

Ms. Evans stated. This has come up before your statement about they need to be in another neighborhood.

Ms. Smith stated. Not a neighborhood more of a commercial environment.

Ms. Evans stated. Okay, so, that's where you think all the short-term rentals should be is a commercial environment because a lot of people say not in my neighborhood but where then?

Ms. Smith stated. Right. Riverside Drive, Piney Forest Road other areas of the city that are more commercialized. Don't bring them into the small neighborhoods that have fought so hard for so many years. To have their neighborhoods peaceful for a change. I realize and I respect Mr. Dyer that you say you have had no problems and so forth. I truly do know people that own these types of properties. And there are problems, they don't call Ms. Day in the middle of the night. They just go and clean up the mess and the people leave and then the next group comes in and some are fine. Wonderful people but some bring drugs just like if you had a new neighbor. They maybe great people or drug addicts or bank robbers or child molesters. Who knows? It's no different than strangers moving into a neighborhood and buying a home but at least it doesn't change every week or every two week or every month.

Mr. Dyer stated. Well, that's the argument though that I think we make for the short-term rental is that it's much easier to get someone who's creating a problem as a short-term rental out of the neighborhood than it is to get someone who's a long-term renter or a property owner.

Ms. Smith stated. That absolutely true but if perhaps they have a domestic squabble, and a bullet goes astray.

Mr. Dyer stated. That can happen in any neighborhood, and we haven't found any indication where these short-term rentals are causing any type of problems like that.

Ms. Smith stated. Well, get your head out the sand.

Mr. Dyer closed the Public Hearing

Mr. Ray stated. In part of the procedure as far as if there are issues in a short-term rental, Mr. Day would come to them as well. It's supposed to be monitoring 24 hours, 7 days a week as far as problems.

Mr. Dyer stated. Yes, that correct.

Mr. Ray stated. So, they would get that first possibly before Mr. Day to take care of it. I really don't see, I mean, I know Hughes Street and it's not like it used to be but nowhere is. Growing up in Grove Park we use to play on Hughes Street and Kemper Road and you didn't have a problem at all and now there is problems and hopefully, they're trying to clean it up over there to a certain degree but Hughes Street, I don't think is because of short-term rental going to have the problems of drugs and issues if you're not having parties or not able to have parties. I understand their grief but that's true with anywhere.

Ms. Evans stated. This is general. If there have been problems with other short-term rentals, with drugs, and drug paraphernalia left behind. Shame on those property owners. And shame on them for not reporting it to the city. And that does need to be addressed.

Mr. Dyer stated. They do. And the city is made proactive measures to make sure that those issues can be addressed promptly and thoroughly.

Ms. Evans stated. And they don't know if the owner doesn't complain, and the owner needs to complain.

Mr. Dyer stated. Or the neighbors don't complain.

Ms. Evans stated. Exactly.

Ms. Garrison stated. And the other thing is if something does happen call the police. Just because it is a short-term rental doesn't mean you can't call the police.

Mr. Dyer stated. No, absolutely.

Mr. Jones stated. Mr. Day are you the only person that handles the complaints?

Mr. Day stated. Yes, for the most part, I have my team with me as well. Ms. Burton assists in that as well.

Ms. Williams stated. He is the designated short-term rental go-to person, but our entire office fills complaints. If they are coming in from neighbors, if they're coming in from concerned owners, we will address them.

Mr. Dyer stated. We have over a hundred of these short-term rentals in the city now, right?

Mr. Day stated. Yes, with very little complaints in retrospect.

Mr. Dyer stated. There was a very interesting article in the newspaper about crime at the casino and there was, I don't know, 47 reported incidents at the casino over the last year and people would go, oh they've had 47 incidents at the casino. Well, there were 275 instances at Walmart and so it just goes to show that you have to keep things in perspective.

Ms. Garrison made a motion to approve application PZ24-00195. Mr. Ray seconded the motion. The motion was approved by a 6-0 vote.

4. Variance application PZ24-00196 filed by Bert Sellers requests a variance to Article 10 Section B which requires signs on the same lot with the principal use they pertain to at Parcel (73535).

Applicant is not present.

Ms. Garrison stated. I have a lot of questions we need the applicant.

Mr. Dyer stated. Does the applicant know that they were expected to be here?

Ms. Williams stated. They do. We have not heard that they weren't.

Ms. Evans made a motion to postpone application PZ24-00196 till next meeting hopefully the applicant will appear. Ms. Garrison seconded the motion. The motion was approved by a 6-0 vote.

III. APPROVAL OF MINUTES FROM April 18, 2024

The April 18, 2024, minutes were approved by a unanimous vote.

IV. OTHER BUSINESS

With no further business, the meeting was adjourned at 10:32 AM.

s/Cynthia Lester

APPROVED