

BOARD OF ZONING APPEALS MEETING

AUGUST 15, 2024

Members Present

Ann Sasser Evans
Nicole Garrison
Lawrence Meder
Lonnie F. Jones
Gus Dyer

Members Absent

John Hiltzheimer
Newton Ray

Staff

Cynthia Lester
Shanika Williams
Renee Burton
Ryan Dodson

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

I. ITEMS FOR PUBLIC HEARING

OLD BUSINESS

1. *Special Exception Permit application PZ24-00281 filed by Emma Olivarria requesting a Special Exception Permit at 46 Milton Avenue (Parcel 56408) to allow short-term rental as principal use in accordance with Article 2 Section Y.*

Mr. Dyer opened the Public Hearing

Ms. Olivarria stated. I was here last month, and I didn't pass inspection because of the plumbing. It has been fixed and done.

Mr. Dyer stated. I have been informed that as of this morning all of those issues have been addressed. Correct.

Ms. Burton stated. Yes, everything passed yesterday. So, you will have the staff report in front of you reflect that today.

Mr. Dyer closed the Public Hearing

Mr. Meder stated. Have the license been issue from James Gilly office.

Mr. Dyer stated. All criteria that cause us to postpone this item has been addressed.

Mr. Meder stated. Licensing is the ability to actually have short-term rentals and pay your taxes.

Ms. Burton stated. That will be taken care of today after she's received her special exception permit.

Mr. Dyer stated. That is taking the cart before the horse, I don't think you can apply for a business you haven't been granted yet.

Ms. Evans made a motion to approve application PZ24-00281. Ms. Garrison seconded the motion. The motion was approved by a 5-0 vote.

NEW BUSINESS

1. *Special Exception Permit application PZ24-00340 filed by David Totten on behalf of Timothy Beard requesting a Special Exception Permit at 105 Vista Court (Parcel 58816) to allow short-term rental as principal use in accordance with Article 2 Section Y.*

Mr. Dyer opened the Public Hearing

Mr. Beard stated. I am the property own and Mr. Totten will be the manager.

Ms. Evans stated. Mr. Totten you are local.

Mr. Totten stated. Yes.

Ms. Evans stated. Have you fixed the exit plans and smoke alarms?

Mr. Beard stated. Yes.

Ms. Evans stated. Has that been verified by the city.

Mr. Day Yes, as of this morning.

Mr. Dyer closed the Public Hearing.

Ms. Evans made a motion to approve application PZ24-00340. Ms. Garrison seconded the motion. The motion was approved by a 5-0 vote.

2. Variance application PZ24-00379 filed by Sherry and Randall Dowdy requesting a variance to allow an expansion of a legal non-conforming use at 212 Martha Street (Parcel 75930).

Mr. Dyer opened the Public Hearing

Mr. Gould stated. With PLDR law on behalf of the applicants, they want to retire on the property that has been in Mr. Dowdy family for several generations and to do so, they would like to build a modest addition onto the existing structure there. They are requesting a variance due to the unique characteristics of the property. The property was acquired in 2019 in good faith and the addition they hope to build doesn't change the current use of the property which is residential. The addition will not change that residential use for any neighboring property owners this addition would be basically private would not be something that would be visible to neighbors and is quite modest to the existing footprint. Looking at the immediate surrounding area this is the lone residential property. In light of that it doesn't make sense to council and planning commission to adopt an ordinance or to anticipate other similar request coming down the pike and because this is a prior non-conforming use and the Dowdy's sought to expand that use a special use permit is not an option here, so a variance is the avenue that is available to them.

Ms. Garrison stated. Do you know the manufacturing date on the mobile home that there?

Mr. Dyer stated. Or how long this mobile home has been on this property?

Mr. Dowdy stated. I don't have the title here, but it has been there since the 80s.

Ms. Garrison stated. But do you know the manufacturing date on the mobile home.

Mr. Dowdy stated. No, the date I don't know.

Ms. Garrison stated. Okay.

Mr. Dyer stated. So, this is more for staff.

Ms. Garrison stated. You don't have any plan to upgrade the original mobile home.

Mr. Dowdy stated. Just a single room.

Mr. Dyer closed the Public Hearing.

Mr. Dyer stated. So, what is the zoning?

Ms. Burton stated. The zoning on this property is LED

Mr. Dyer stated. So, that is a zoning category. And so that was done in 2004. In the city packet it says the city has no current plan to use this property as LED.

Ms. Burton stated. Correct.

Mr. Dyer stated. So, why was it zone LED 20 years ago and we still don't have any use for it. Seems to me it ought to be zoned to suit Mr. Dowdy's needs.

Ms. Burton stated. I can only assume; I was not present for all the hearings for that particular rezoning. I can only assume because of its surrounding area, there is industrial near by and that fits the category of LEDI.

Mr. Meder stated. Looks like the addition is behind the house so it will not be seen from the road.

Ms. Garrison stated. I'm assuming the property in on well and septic tank.

Mr. Dowdy stated. We are on city water but septic for sewage.

Ms. Evans stated. Has this mobile home been occupied full time, since it was acquired a legal non-conforming property.

Mr. Dowdy stated. Yes, it has never been vacant other than between renters. My daughter lives there now.

Ms. Evans stated. She will live with you all when y'all move in.

Mr. Dowdy stated. My other daughter will we are actually going to trade resident from North Carolina to here. And my daughter here will go back to our home.

Ms. Garrison stated. This addition is basically one room.

Mr. Dowdy stated. Yes, one room.

Ms. Evans stated. Function as a bedroom or?

Mr. Dowdy stated. Family room.

Ms. Garrison stated. There is not going to be any expansion of the plumbing or anything like that.

Ms. Garrison stated. Reason you wouldn't give the building permit was because it was non-conforming.

Ms. Burton stated. That is correct.

Mr. Meder made a motion to approve application PZ24-00379. Mr. Jones seconded the motion. The motion was approved by a 5-0 vote.

3. Special Exception Permit application PZ24-00384 filed by Domus Investment Group requesting a Special Exception Permit at 118 Glen Oak Drive (Parcel 51224) to allow short-term rental as principal use in accordance with Article 2 Section Y.

Mr. Dyer opened the Public Hearing

Mr. Johnson stated. I'm here on behalf of Domus Investment Group.

Mr. Dyer stated. Exactly who is this investment group. How many companies are you a part of?

Mr. Johnson stated. We have 2 one on Winthrop and one on Carlson preapprove and this one.

Ms. Garrison stated. Do you own other properties in the city?

Mr. Johnson stated. Yes, family residents.

Ms. Garrison stated. Are you renting any of them as long-term rentals.

Mr. Johnson stated. No, none of them are rented.

Ms. Garrison stated. Did you have a rental in this home over the weekend.

Mr. Johnson stated. No, I have family members staying there while they are here, but we don't have any short-term rentals there.

Ms. Garrison stated. I went by and there was a car in the driveway from Florida.

Ms. Evans stated. Who will be the property manager?

Mr. Johnson stated. Whitney Doss.

Mr. Dyer closed the Public Hearing.

Mr. Meder stated. How many short-term rentals are licensed in Danville.

Mr. Day stated. 110 approved, 84 are active with 25 not active but they can be tomorrow their decision.

Ms. Garrison stated. Have there been any issues with the short-term rentals these people operate.

Mr. Day stated. As far as Mr. Benjamin No.

Ms. Garrison made a motion to approve application PZ24-00384. Ms. Evans seconded the motion. The motion was approved by a 5-0 vote.

Mr. Dyer stated. Ms. Garrison and I have concerns about the total number of short-term rentals in the city because we feel like that market conditions will control that. It is the total number of units controlled by any one individual. Is it possible for us to codify that fact that we do not allow anyone owning more than 3 short-term rentals, do we have the ability to do that?

Ms. Burton stated. Yes, what the procedure would be is your liaison Ms. Evans from the Board of Appeals to the Planning Commission, with the next Planning Commission meeting as a recommendation for staff to review, Then, we could propose new language.

Mr. Dyer stated. Alright, so that would have to be a part of the city code. We can't say as a board, don't come to us with 4 short-term rentals.

Ms. Burton stated. It would have to be part of the city code. We will amend article 2 of the zoning code.

Ms. Garrison stated. Question for staff do you know someone that have more than three.

Mr. Meder stated. It called the Holbrook and Bee Hotel.

Mr. Dyer stated. That's commercial.

Mr. Meder stated. Sure, it is. They used the vacation rental portal.

Mr. Dyer stated. What we actually speaking of is the individual that have acquired 45 houses, that we don't think will be a good ideal to turn all into short-term rentals and if we aren't violating some state code by limiting the number own by a single individual that will also include putting it in your wife's name or forming 20 different LLC or whatever the deal is that one entity cannot control more than 3 short-term rentals and if we have someone with more than 3 now I guess it will be grandfathered in. I think it going to be fair to the applicants if it going to be our position, then it should be codified, and they should know that before they put the money down and come before the board, they may have an acceptable proposal other than the fact that they already own 3.

Mr. Jones stated. Do we know what happen to the applicant last month that had 3 and we tabled them because she had never been to a meeting?

Ms. Burton stated. She was unable to attend this month. So, therefore she requested to be postponed till September.

Mr. Dyer stated. My question to Renee, when we postpone something, by default it goes to the next meeting, but the applicant is on that next meeting's agenda, they can request a postponement until they are prepared it guess. The is going to be something we have to consider at some point.

Mr. Jones stated. Is that a limit to how many times they can do that and not the roll it over every month.

Ms. Burton stated. No.

Ms. Garrison stated. So, here is the problem the 3 home that were presented last month by Good Living. These people also have another LLC, that already have 2 that have been approved.

Mr. Dyer stated. That is why I think we need to have the property owner come before us. I don't think you can hire a lawyer, or the person at Preferred Management to come and speak on your behalf. I think we need that.

Ms. Evans stated. We have said that in the past.

Mr. Dyer stated. We need to give the applicant fair warning that they need to be here. I just wanted to put it before the board you think it a good or bad ideal.

Ms. Evans stated. Does staff have the manpower to keep up with how many properties each person owns even though they may be under LLCs or are you going to be able to manage that.

Mr. Meder stated. You might be able to get the information from licensing or James Gilley office.

Mr. Dyer stated. It's if we can make the person come before us, I mean an LLC there is no person that's an LLC. Somebody has to be the principle of that LLC and if you're the principal of 10 different LLCs that is still you.

Mr. Meder stated. The state law say that the principal person has to be here. How many short-term rentals is too much? When do we get to the point.

Mr. Dyer stated. Once again, I think the market forces will determine that. And what I have learned over the past couple of months doing this is the preconceived idea of what a quote Airbnb is. It's a house that someone come in for the weekend. A lot of these short-term rentals are housing for the construction

workers, if at some point that cools down, I think we will see probably a lot of these houses go back to long-term rentals. And also, the houses are getting fixed up.

Ms. Burton stated. We are coming up on the one year when you guys started short-term rental special exception process. And when we hit that we will start looking at who has not completed each step and which special exception permit will become void.

Ms. Evans stated. Do we know that even though they haven't completed and gotten a license that they are not renting it.

Ms. Burton stated. We can investigate each one of them. An extension would need to be granted by this board.

III. APPROVAL OF MINUTES FROM July 18, 2024

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

IV. OTHER BUSINESS

With no further business, the meeting was adjourned at 10:38 AM.

s/Cynthia Lester
APPROVED