

BOARD OF ZONING APPEALS MEETING

SEPTEMBER 19, 2024

Members Present

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

Members Absent

Staff

Cynthia Lester
Shanika Williams
Renee Burton
Ryan Dodson
Arsenio Day

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

ITEMS FOR PUBLIC HEARING

OLD BUSINESS

1. *Special Exception Permit application PZ24-00207 filed by Good Living Group LLC requesting a Special Exception Permit at 14 Garland Street (Parcel 23268) to allow short-term rental as principal use in accordance with Article 2 Section Y.*

Mr. Dyer opened the Public Hearing

Ms. Barrow stated. I am the owner of Good Living Group.

Ms. Garrison stated. How many short-term rentals are you operating in the city?

Ms. Barrow stated. One at 18 Garland Street.

Ms. Garrison stated. Do you have another LLC?

Ms. Barrow stated. I am part of Legacy Home Collective, and there are two under that LLC, I own with my daughter. I currently have 37 doors of long-term rentals, 9 are under construction some are going to be long term and some I would like to make short term.

Ms. Evans stated. How many of the others you would like to make short term.

Ms. Barrow stated. It depends on the demand. I will not be making them short term if the community doesn't support it. As I am renovation the property, I am keeping those that are more suitable for long term.

Mr. Meder stated. I want to put a warning out there to those that have multiple properties I have started to visit your other properties that you're not requesting to be on short-term rentals or long-term I am not impressed. You need to go by Locust Street, mailbox is in the street and grass is a foot and a half tall and the front door is open.

Ms. Barrow stated. Oh my gosh. I will go by today.

Mr. Ray stated. Ms. Burton, I guess what Mr. Dyer was leaning toward is the city has come up with a number of short-term rentals based on the population where we in the scheme of things are, I know they put it on the side. Do you have any ideal of the numbers that are there? How many more can they have.

Ms. Burton stated. We currently have 112 approved short-term rentals.

Mr. Ray stated. So, what's the target.

Ms. Burton stated. The original recommendation was 150. Now that item was tabled by City Council last December and has not come back up for vote.

Mr. Ray stated. What I am saying to you possibly is you may check if they say no more then you are stuck.

Ms. Barrow stated. I still have the funds set aside to upgrade each house that I own. Whether its long term or short term. I am finishing one this week it is on Stokes, and it will be a long-term rental. Ms. Newcomb will be looking for a tenant for it. We are moving family into homes as well as short-term.

Ms. Evans stated. Do you have short-term rentals in other communities.

Ms. Barrow stated. Yes, I do. I have one in Greenville SC, and one in Ventnor City NJ. Those are the only other two.

Mr. Meder stated. I think that the nice thing about short-term rentals you can take it off short term and go long-term.

Mr. Dyer stated. Ms. Newcomb, the board would like to know how many short-term rentals your company is currently managing.

Ms. Newcomb stated. Between 18 and 21 with two of them not being here.

Mr. Dyer stated. You feel like you are adequately staffed to handle all that.

Ms. Newcomb stated. Absolutely.

Ms. Evans stated. How many long-term rentals do you have.

Ms. Newcomb stated. 265 doors.

Ms. Garrison stated. On the short-term rentals if they are not being rented how often do you check them to make sure the grass is mowed, and the house is secured.

Ms. Newcomb stated. First and foremost, all my properties have cameras. I generally handle everything.

Mr. Dyer closed the Public Hearing

Ms. Garrison stated. For staff the staff report says it stated the occupancy is 5 people at this residence and the certificate of use is 4. Why is that discrepancy?

Mr. Day stated. The occupancy is 4 typos in the staff report.

Ms. Garrison made a motion to approve application PZ24-00207 limiting occupancy to 4 persons. Mr. Ray seconded the motion. The motion was approved by a 7-0 vote.

NEW BUSINESS

1. *Special Exception Permit application PZ24-00330 filed by Danielle Polsky-Smith requesting a Special Exception Permit at 542 Cedarbrook Drive (Parcel 57398) to allow short-term rental as principal use in accordance with Article 2 Section Y.*

Mr. Dyer opened the Public Hearing

Ms. Polsky-Smith. I am a local resident, and this is my only short-term rental, and I will be managing it.

Ms. Evans stated. Were you operating this as a short-term rental before you received the violation letter?

Ms. Polsky-Smith. I listed it and Mr. Day immediately contacted me. I had not rented it at all and given 10 days and I contact them immediately.

Ms. Evans stated. So, you have not rented it from that day to now.

Ms. Polsky-Smith stated. I rented it now since I received the special permit today.

Ms. Evans stated. Are you renting it now when it hasn't been approved?

Ms. Polsky-Smith stated. I thought I was allowed to rent it as long as I had the sign out front to let everyone know.

Ms. Garrison stated. No.

Ms. Polsky-Smith stated. I apologize, I have a long-term tenant there now.

Ms. Evans stated. You were not aware you need a special exception permit to operate a short-term rental.

Ms. Garrison stated. Is this the only rental home you own.

Ms. Polsky-Smith stated. No, I have several properties that are rented on a yearly basis.

Mr. Dyers stated. Was your intention for this to be a long-term rental and it just became a short-term rental.

Ms. Polsky-Smith stated. This is our forever home.

Mr. Dyer closed the Public Hearing.

Mr. Jones stated. Was she made aware she wasn't supposed to rent during that time frame?

Mr. Dyers stated. Apparently, there was a miss communication.

Mr. Day stated. Yes.

Ms. Evans stated. I am getting tired of receiving requests for special use permit, for violation letters. We seem to continuously get those, and we need to put our foot down.

Mr. Meder stated. The city had an article go out and something on the radio, newspaper to inform people.

Ms. Burton stated. We look in to making that a media post. we do have a separate page on the on the city website that outlines the process and procedures. We also have a test for short-term taskforce that meets quarterly. We have a lot of information outreach already. If there something additional we certainly look into that.

Mr. Dyer stated. I'm assuming that most of the people have to obtain a building permit and zoning clearance. So perhaps a letter can go out stating that if your intention is for this to be a short-term rental additional requirement would be to obtain a special exception permit.

Ms. Burton stated. We do have multiple communication that's where they start on properties. We can look into additional outreach.

Mr. Meder stated. I'm I correct that the penalty for having a short-term rental without a permit is \$500.

Ms. Burton stated. Yes, the penalty could be up to \$500 per day.

Mr. Meder stated. And who access that fine, is it the board.

Ms. Burton stated. That would come from the court itself.

Mr. Dyer stated. The city staff would have to take something to the courts for individual to be fined. Have we ever done that to someone.

Ms. Burton stated. Not yet.

Mr. Ray made a motion to approve application PZ24-00330. Mr. Hiltzheimer seconded the motion. The motion was approved by a 7-0 vote.

2. *Special Exception Permit application PZ24-00293 filed by Domus Investment Group requesting a Special Exception Permit at 109 Glen Oak Drive (Parcel 57407) to allow short-term rental as principal use in accordance with Article 2 Section Y.*

Mr. Dyer opened the Public Hearing

Mr. Birkle stated. I am one of the managing partners in Domus Investment Group, an LLC with Corp with federal government. I do not live in the area, but I do have ties to the area. Whitney Doss with KZ Realty will be managing the property.

Ms. Garrison stated. How many short-term rentals do you now have in the city?

Mr. Birkle stated. I have one.

Ms. Evans stated. Staff report there is off street parking in the driveway which is grass. It's not graveled or paved. The two times I ridden by there, there's a trailer there looks like it been sitting there a while because grass is growing up around it.

Mr. Birkle stated. Yes.

Ms. Evans stated. So how does anyone supposed to park there.

Mr. Birkle stated. The trailer is temporary storage I will take it back either to Roanoke or another property. We keep material in there for renovation. Plumbing and general maintenance supplies.

Mr. Ray stated. Will you gravel or pave the driveway when the trailer is moved.

Mr. Birkle stated. Yes, if that is a requirement to assure there is adequate parking.

Mr. Dyer stated. Where do the city stand on the regulation that you cannot park on grass.

Mr. Meder stated. You are not allowed to park on grass in the city.

Mr. Dyer stated. That is a grey area.

Ms. Burton stated. The code does not say you can't park on the grass. Code state that you cannot cross a curb in order to park a vehicle. If there is a curb cut. You can utilize that curb cut to access your front yard and park your vehicle; it does not state what kind of material. We did create a definition for driveway we say a hard surface. You as a board can stated he is required to provide that. As a general rule to anyone you are not required to park on gravel or paved surface.

Ms. Evans stated. There are residents on Virginia Avenue that are parking in the median strip on a regular basis.

Mr. Dyer stated. They would have to cross the curb because the is no curb cut in the median.

Ms. Burton stated. That would be a violation.

Mr. Meder stated. When you go out and look at the house do you measure the driveway cut. Because there is a standard in the city for driveway cuts.

Mr. Dyer stated. Not all meet that standard.

Ms. Burton stated. The standard would need to be met for a new construction any existing curb cut, we do not require they meet existing standard non-conforming.

Ms. Garrison stated. In the past in Schoolfield it was required they gravel the driveway don't think that's a bad ideal.

Ms. Evans stated. The front of the property has bushes they are very tall, and vines are growing on the porch.

Dyer closed the Public Hearing.

Ms. Evans stated. This will be the 4th short-term rental on Glen Oaks, and I have major concerns with that.

Mr. Birkle stated. I purchased this home and 118 with the express intent of giving an opportunity for families to vacation together in the Danville area.

Ms. Garrison stated. You can't have group gathering and you purposely buy two.

Mr. Dyer stated. That is a legitimate question.

Mr. Meder stated. That doesn't mean they are going to gather at the house.

Mr. Meder made a motion to approve application PZ24-00293 with a minimal gravel driveway instead of grass. Mr. Ray seconded the motion. The motion was approved by a 7-0 vote.

3. *Variance application PZ24-00415 filed by Laura Horton to allow an accessory building inside yard at 158 Smith Street (Parcel 22699).*

Mr. Dyer opened the Public Hearing

Ms. Horton stated. I am the owner and occupant at 158 Smith Street. The code states the building has to be 5 feet from the rear of the house, and I am coming in approximately 6 or 7 feet.

Ms. Evans stated. It is going to be a detached garage.

Ms. Horton stated. Yes.

Ms. Evans stated. Have you considered attaching it?

Ms. Horton stated. I have not.

Ms. Evans stated. Would it help.

Ms. Burton stated. Yes, if it was attached, the variance would not be needed.

Ms. Horton stated. I prefer a detached garage.

Ms. Garrison stated. Can you attach it to the house with a breezeway. We went by and looked at the lot and I don't see that there is an issue with attaching it to the house.

Ms. Horton stated. I want the garage away from my house and I prefer it to be detached.

Ms. Garrison stated. If we disapprove this, will you consider attaching it to your house.

Ms. Horton stated. No.

Ms. Burton stated. The requirement of a detached accessory building to be 5 feet from the side and rear property line. She has a very small rear yard.

Ms. Horton stated. I would be entering the garage from the driveway.

Ms. Garrison stated. Is this going to be a stick-built garage or a pre-manufactured.

Mr. Dyer stated. It is an accessory structure, so it's not attached. We have had this conversation before what constitutes an attachment has to be something at the roof line correct.

Ms. Burton stated. The attachment of the roof line with a minimum of four feet in width.

Ms. Evans stated. The breezeway will keep you dry getting to your garage.

Ms. Horton stated. I'm retired, so if it rains, I don't go out.

Mr. Meder stated. If this garage was 20 by 24, would it be in the backyard.

Ms. Burton stated. I would need to be behind the rear wall of her home. The rear wall of her home is about 25 feet in depth.

Mr. Meder stated. This garage is on the side.

Ms. Burton stated. It is proposed to be on the side.

Ms. Evans stated. How far would this be from the house?

Ms. Horton stated. 30 feet from my house, 7 feet from the rear property line and 58 feet from my neighbors.

Ms. Evans stated. I know you don't want to do a breezeway, but I give kudos to you for not doing a 17 foot.

Ms. Horton stated. I actually wanted to have enough room that I needed to access my other side yard and in order to do that it would not be feasible for me to attach it or do a breezeway.

Mr. Dyer stated. It is a little bit unusual.

Mr. Dyer closed the Public Hearing.

Mr. Dyer stated. Seems to me we have a very unique, we are always setting precedence, and we let somebody do something are we going to tell somebody else they can't do it. This to me is a very unique situation because she has a very small backyard and very large side yard. It would seem to make common sense that where the garage would be the side yard and not the back yard,

Ms. Evans stated. It also makes sense that she wants to continue to access her back yard.

Ms. Evans made a motion to approve application PZ24-00415 that she meets 3 of the 5 criteria. Mr. Jones seconded the motion. The motion was approved by a 5-2 vote.

4. *Special Exception Permit application PZ24-00446 filed by Susan Hyler requesting a Special Exception Permit at 24 Oak Ridge Avenue (Parcel 54538) to allow short-term rental as principal use in accordance with Article 2 Section Y.*

Mr. Dyer opened the Public Hearing

Mr. Hyler stated. I am the owner of 24 Oak Ridge Avenue.

Mr. Dyer stated. Do you live in the area.

Mr. Hyler stated. I live in Raleigh and Jeff Smith will manage the property he lives in Oak Ridge.

Mr. Dyer stated. Do you own and other short-term rental in the city.

Mr. Hyler stated. No.

Mr. Dyer closed the Public Hearing.

Mr. Meder stated. Would it make sense for us to see how many beds and bathrooms these houses have?

Mr. Dyer stated. We do have the occupant and that is usually based upon living area. How is the occupancy determine? My understanding that according to the zoning code, or perhaps even the building code is that you are allowed 2 people per bedroom plus one additional person.

Mr. Day stated. You take measurements of all the habitable spaces add those up and we divide it by 200.

Mr. Dyer stated. So, it actually determines by the square footage of the house by your determination.

Mr. Jones made a motion to approve application PZ24-00446. Mr. Meder seconded the motion. The motion was approved by a 7- 0 vote.

5. *Special Exception Permit application PZ24-00428 filed by Raymond Robertson requesting a Special Exception Permit at 49 Selma Avenue (Parcel 52740) to allow short-term rental as principal use in accordance with Article 2 Section Y.*

Mr. Dyer opened the Public Hearing

Ms. Robertson stated. I live in the area, and I will be managing the property at 49 Selma Avenue. I do not have any other short-term rental in the city of Danville.

Mr. Dyer closed the Public Hearing

Ms. Evans made a motion to approve application PZ24-00428 with an occupancy of 3. Mr. Meder seconded the motion. The motion was approved by a 7-0 vote.

6. *Variance application PZ24-00447 filed by God's Storehouse to allow an accessory building inside yard at 750 Memorial Drive (Parcel 26032).*

Mr. Dyer opened the Public Hearing

Mr. Merricks stated. I am chairman of the board of God's Storehouse. According to the staff report God's Storehouse does not meet 2 of the criteria for a variance. I would like to address the 2 criteria that failed. The first is hardship as you know the shelter location is not permitted per zoning ordinances; all accessory buildings must be placed in rear yard. When the property was acquired, it met the needs of God's Storehouse at that time. The second is granting a variance would not result in a use that is otherwise permitted on such property or changing the zoning classification of the property. The detached structure is permitted on the property but not in the proposed location. We are asking to allow the structure to be placed in a location. Not permitted by right.

Ms. Garrison stated. All 4 side are opened attached to the asphalt bolted down.

Mr. Merricks stated. Yes, concrete pads.

Mr. Dyer stated. It is zoned Commercial correct; it is not allowed to have structures on the side yard, are they allow to have them in the front yard. What is the tent at the casino?

Ms. Burton stated. Correct. At the time of the constructure that was the primary structure.

Mr. Dyer closed the Public Hearing

Ms. Evans made a motion to approve application PZ24-00447. Mr. Ray seconded the motion. The motion was approved by a 7-0 vote.

7. *Variance application PZ24-00448 filed by Christopher and Rhonda Carter to allow an accessory building without a primary at 978 Piney Forest Road (Parcel 50949).*

Mr. Dyer opened the Public Hearing

Mr. Carter stated. This is my wife, Rhonda.

Ms. Burton stated. The applicant placed a structure on Piney Forest Road on a vacant lot. Address as 978 Piney Forest Road. The structure was placed without permits or zoning permit nor a building permit. The applicants were cited for their violation of zoning code. The applicant is requesting a variance to maintain the structure in its current location.

Mr. Dyer stated. What is this structure use for.

Mr. Carter stated. Storage.

Mr. Dyer stated. Do you live in close proximity to this property.

Mr. Carter stated. Yes, about 5 minutes away.

Mr. Dyer stated. Do you own this property?

Mr. Carter stated. Yes.

Ms. Evans stated. What where you plan when you purchase the property?

Mr. Carter stated. When we moved here from Atlanta, we thought we could move on the property and found out we could not. And when I purchased the storage, they could have told me that I needed a permit.

Mr. Dyer stated. You purchase the property and find out you could not live there what's behind that?

Ms. Garrison stated. There is no dwelling on the property was your intent to build a house.

Mr. Carter stated. We were going to put a modular home there and live there was our intent.

Ms. Burton stated. Most contract I have seen from other companies have it listed on the contract that the property owners responsible for permitting.

Mr. Dyer stated. So, the property is zoned commercial.

Ms. Burton stated. Correct

Mr. Dyer stated. And commercial property is not allowed to have a structure is this considered a temporary structure?

Ms. Burton stated. This structure is considered an accessory structure. It is not built to Virginia USBC standards. Therefore, it cannot be us as a principal structure. Because of the type of construction, it does not meet building codes therefore deem a principal structure.

Mr. Dyer stated. But a structure that not built to building code considered an accessory structure.

Ms. Burton stated. Yes, with the principal structure on site.

Ms. Garrison stated. And there is no place on the property the building can be placed.

Mr. Dyer stated. I know for a fact the city has decided not to pursue issue of flagpoles which are an accessory structure that are located on property that do not have a primary structure.

Ms. Garrison stated. There are 2 lots, they have not been combined into one lot, correct. And this building is sitting on the line.

Ms. Burton stated. That is correct.

Mr. Dyer closed the Public Hearing

Mr. Jones made a motion to approve application PZ24-00448. Mr. Hiltzheimer seconded the motion. Mr. Meder made a motion to approve this variance till December 31, 2025, or property transfer. Ms. Evans seconded the amended motion. The motion was approved by a 6-1 vote.

Mr. Dyer, I had a conversation with Ms. Burton early about the possibility of a work session where we can discuss where we think we are in the short-term rental process. We have been in it approximately 6 months, and my attitudes and opinions and knowledge has certainly evolved. The possibilities we can codify some of these things that we been discussing for instance, limiting the number of units any one entity can have requiring local ownership. Things we could put out the applicants would be aware of. Would it please the board to have a workshop like that.

III. APPROVAL OF MINUTES FROM August 15, 2024

The August 15, 2024, minutes were approved by a unanimous vote.

IV. OTHER BUSINESS

With no further business, the meeting was adjourned at 11:38 AM.

s/Cynthia Lester
APPROVED