

PLANNING COMMISSION MINUTES
April 13, 2015

MEMBERS PRESENT

Mr. Searce
Mr. Dodson
Mr. Garrison
Mr. Wilson
Mr. Bolton
Mrs. Evans
Mr. Jones

MEMBERS ABSENT

STAFF

Shanta Hairston
Ken Gillie
Renee Burton
Scott Holtry
Clarke Whitfield

The meeting was called to order by Chairman Searce at 3:00 p.m.

I. ITEMS FOR PUBLIC HEARING

1. *Special Use Permit Application PLSUP20150000086, filed by Niaz Yousafzai requesting a Special Use Permit to allow for a waiver of yard requirements in accordance with Article 3.M; Section C, Item 21 of the Code of the City of Danville, Virginia, 1986, as amended at 544 Memorial Drive, otherwise known as Grid 1712, Block 011, Parcel 000002 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to reduce the front yard setback to 6 feet where 30 feet is required.*

Mr. Holtry read the staff report. Twelve notices were sent to surrounding property owners within 300 feet of the subject property. Two responses were not opposed; one response was opposed.

Mr. Searce opened the Public Hearing.

Present to speak on behalf of the request was Mr. Khalil Khan for Niaz Yousafzai.

Mr. Khan stated my name is Khalil Khan, I'm the brother of Niaz. He doesn't speak much English. All he's asking for is just a special permit to extend this place where in the times of summertime people have seating outside there. It is not any more extravagant than what you do in the restaurant. In the summer time in a restaurant, people like to sit outside and watch traffic go by. That's all it is.

Mr. Searce asked any questions from the Commissioners?

Mr. Jones asked from my understanding it's just the awning right? There's not going to be an enclosing at all?

Mr. Khan stated it's not going to be enclosed, just awning.

Mr. Wilson asked what is the structure made of? I didn't really see that. What is the covering made of? Is it more glass, canvas, or is it metal?

Mr. Khan stated it's not metal.

Mr. Yousafzai stated you can see the green awning in the picture. It's the same kind of awnings.

Mr. Wilson stated that awning that's on there now is the current awning.

Mr. Khan stated yes it will be the same material but it will come out farther.

Mr. Wilson stated looking at the picture here it looks like if I'm reading this correctly that the awning will come out. Is this the current awning right here?

Mr. Khan stated yes.

Mr. Wilson asked then it will connect to another canvas awning that will extend on out to what's the patio area already? It's already there.

Mr. Khan stated the awning will be extended and the patio will be extended with the same structure.

Mr. Searce stated it looks like it's a flat type of awning.

Mr. Wilson stated I get that. I'm more interested in what that awning is made of. The extension awning is made of canvas as well.

Mr. Khan stated the awning now is made of canvas.

Mr. Wilson stated I understand that but I'm talking about the extension. Sometimes you see those little metal holding supporters.

Mr. Khan stated the awning will be canvas.

Mr. Wilson stated but the structure will be composed of metal.

Mr. Khan stated yes.

Mr. Wilson asked you'll have a canvas with the same awning draped over it?

Mr. Khan stated yes.

Mr. Wilson asked and you'll be able to see through it out to the road?

Mr. Khan stated yes. That's the purpose of it.

Present in opposition to the request was Mr. Bill Shelton, the KFC operator.

Mr. Shelton stated my name is Bill Shelton and I operate the Kentucky Fried Chicken which is about three locations down southwest of the corner location that is in question. My question just recently there, if the awnings are allowed then would that mean that you also could put up a permanent concrete block of brick or whatever walls there? That was just one question. My objection to the situation is in any food business, you look for location, location, location. Part of location, location, location is vision, vision, vision- that people can see you, that they can get in your business in a very convenient way, that you have parking- and some of those decisions to do business with your restaurant is based on right then what they see. It may be a brand name like KFC or whatever it might be. That was my prime

objection to allowing this six foot variance. I'm hard pressed to see where a six foot variance would be safe for the public in general, referencing driving. You're driving up to that intersection crossing that bridge and to me I know we all trust these stoplights a great deal, but I try not to trust them completely. I like to see the traffic that's coming and going before I fully commit. So those are just a couple of ideas that I have, but I already heard this gentleman say that you're recommending to go along with this request. So my final statement would be that our City planners in the past have thought that 30 feet was needed, so I'm really scratching my head on why we could reduce it to a six feet. What they're thinking was in the past and I look around downtown and I see why one of the big things that doesn't do any business is that people see they can't get a good parking spot, they can't get anywhere conveniently.

Mr. Searce asked anyone else wishing to speak?

Mr. Searce closed the Public Hearing.

Mr. Searce asked the already existing fence that's there, is this to fix this or do we need to pass this just because he's going to put a topper on.

Mr. Gillie stated it's okay to have the fence, but when you put a roof over anything we consider it like any other structure. They could come back later on and enclose it and put it with block or something in the future. They could actually enclose the whole thing.

Mr. Searce asked at this point it's just specifically metal fencing?

Mr. Gillie stated yes.

Mr. Wilson stated I thought this was going to be a simple one. I'm a little confused about the six foot because it looks to me that there's already a patio area out there that's got a fence around it. I mean the six foot section's already been taken.

Mr. Gillie stated it's not enclosed. It has no walls or coverings or anything over it, so it's just a fence. Now he could in the future put walls, put glass, put whatever he decides there and fully enclose that area. That's what we're looking at. It's not that it necessarily has a fence right now, you could fence your entire lot and still be in compliance with the Code. It's the future of if it's fully enclosed, roof over top of it or anything else. By asking for this to put the canopy on top and the poles and everything else, we're considering this just like a full enclosure.

Mr. Wilson stated so in essence if we were to vote yes on this awning going out, we're also voting yes for a full enclosure of that facility.

Mr. Gillie stated you could condition it but from staff's perspective, we don't treat them any differently. Once it has the roof and poles over top of it, for someone to enclose it is a rather simple thing. We look at it as just as obstructive whether it's open on the sides or not. If you think of these things, you could think of Kick Back Jack's has what they call their smoking area, but in the winter time they zip it up and kind of enclose that. Buffalo Wild Wings also has their tentative structure I guess on maybe the eastside of the facility which is open, but they have that same option of enclosing that. He's proposing right now to leave it an open area, but we feel like in the future it could close, so that's why we're recommending what

we're recommending. It doesn't go so far to create a site distance issue, but we feel in the future it makes sense for this to possibly be enclosed fully.

Mr. Jones asked did we give KFC a special permit? Was it this KFC or the other one?

Mr. Gillie stated it was the other one on Piney Forest Road.

Mr. Bolton asked how far are they off the highway.

Mr. Holtry stated this KFC is about 24 feet from the public right of way.

Mr. Gillie stated the one on Piney Forest I think we gave a special use permit to get 15 or so. It's been a little while ago. Because it was up on a hill and doesn't create a site issue we feel the same thing on this case. Because of the recommended distance from Memorial and Union, we don't think it'll cause a problem.

Mr. Bolton asked if we conditioned it without the structure, let's say only a canopy and then five years later he wanted to enclose it, could he come back at that time?

Mr. Wilson stated just for clarification before we do that, we've had someone speak and all they're asking for is just something that looks about that thick over an already fenced in area that you can already see through. So if we make a proposal for them to have to come back, that would really protect the person but raise some issues as well. So any additional structures would have to come back, drawings would be submitted and things like that so we could take a look at it? Mr. Wilson stated I'm really just back to my thing about wanting to see what it is and actually having a visual for what it is we're wanting to do here.

Mr. Gillie stated you could recommend approval of a canopy only with no enclosure. That way if they want to enclose it in the future they would have to come back.

Mr. Wilson made a motion for approval with conditions per staff and required that they come back before the Commission if they ever want to request a full enclosure. Mrs. Evans seconded the motion. The motion was approved by a 7-0 vote.

2. *Special Use Permit Application PLSUP20150000090, filed by Michael Benton requesting a Special Use Permit to allow retail sales in a warehouse, wholesale or manufacturing establishment in accordance with Article 3.0; Section C, Item 12 of the Code of the City of Danville, Virginia, 1986, as amended at 823 Industrial Avenue, otherwise known as Grid 2605, Block 010, Parcel 000022 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to operate a retail establishment within a warehouse.*

Mrs. Burton read the staff report. 30 notices were sent to surrounding property owners within 300 feet of the subject property. Five responses were not opposed; two responses were opposed.

Mr. Scarce opened the Public Hearing.

Present to speak on behalf of the request was Mr. Mike Benton.

Mr. Benton said I'm Mike Benton and I'll be glad to answer any questions on this request. It's a simple kind of understood thing I think. I'm the president of DGI Line and Benton Thomas Incorporated and we sold a third of our company about a year ago to Ennis and we've got space available and we want to try to make use of it in a way that may be beneficial and profitable to the City.

Mr. Searce asked any questions from the Commissioners?

Mr. Dodson asked how many parking spaces is he required to have?

Mr. Benton stated if I use 2,000 square feet where you're supposed to have ten, I can create 50 over there if I need to. I've got plenty of space. I've got this ten in the back very easily where people could pull in if they wanted to. We're not talking about a high traffic retail operation, I'm afraid. I wish it was but it's not going to be, you know?

Mr. Searce asked any other questions?

Mr. Garrison stated I have a question and this is to staff. There's going to be 2,000 square feet of retail space. If I'm looking for a used office desk and I go in there and in that 2,000 square feet I don't find what I'm looking for and I go on out the door and Mr. Benton says, "Wait a minute, I've got something in the back. Let's go in the back and take a look", does that then make all of that space retail space?

Mr. Gillie stated if it happens on an infrequent basis, no. I'm not going to go in there and make sure he's pointing someone to another part of the building to show them something. In general this is where he's going to have that area for sale, so we consider that the main retail space. If he does take someone out, I'm not hounding down on that.

Mr. Garrison stated I just wanted to make sure. I'm not against it, I'm just curious.

Mr. Gillie asked is it a technical violation? Possibly, but it's not something we're going to go in looking for.

Mr. Wilson stated some of your conditions like parking, Zoning Code, operation construction required will comply- I guess my question is do they now? In other words are there enough parking spaces and will there be requirements of the applicant on zoning, building and fire codes that he doesn't currently have.

Mr. Gillie stated he will have to comply with the building and fire code. He may or may not comply with it at this time. We'll have a change of use survey done with the building department and fire department just to make sure that everything is up to code. The parking spaces should be sufficient. He'll have to mark off a few additional spaces and again, staff is possibly looking at changing some of our regulations. That's kind of standard language for us to put it in change of use that they have to meet the minimum requirements so we're looking at possibly changing that in the future. The hours of operation- we don't have anything on that right now- but he's asking to do something that he's not doing so we're looking to put some hours on just to protect the neighborhood. I don't believe the hours of operation caused him any problems whatsoever; but we thought it would be good to have it on paper so if he sells the building, any future owners knows what to expect coming into it.

Mr. Searce closed the Public Hearing.

Mr. Bolton made a motion for approval as submitted with staff recommendations. Mr. Dodson seconded the motion. The motion was approved by a 7-0 vote.

II. MINUTES

Mr. Garrison made a motion to approve the March 9, 2015 minutes. Mr. Bolton seconded the motion. The motion was approved by a 7-0 vote.

III. OTHER BUSINESS

With no further business, the meeting adjourned at 3:24 p.m.

APPROVED