



City of Danville

427 Patton Street, Suite 208
Danville VA, 24541
Phone: (434) 799-5260

Board of Zoning Appeals

NOVEMBER 17, 2022

10:00 A.M.

CONFERENCE ROOM – 4th FLOOR MUNICIPAL BUILDING

AGENDA

A. WELCOME AND CALL TO ORDER

B. ROLL CALL

C. ITEMS FOR PUBLIC HEARING

1. Variance request PZ22-00220, filed by Telly Tucker on behalf of the Institute for Advance Learning and Research, requests a variance from Article 3.P.F. of Chapter 41 of the Code of the City of Danville, Virginia that requires a minimum eighty (80) foot side yard setback (Parcel # 76441). The request is to reduce the side yard setback to seventy-two (72) feet to allow new construction..

D. APPROVAL OF MINUTES FROM AUGUST 18, 2022

E. OTHER BUSINESS

F. ADJOURNMENT



City of Danville
427 Patton Street, Suite 208
Danville VA, 24541
Phone: (434) 799-5260

Board of Zoning Appeals

STAFF REPORT

MEETING DATE: November 17, 2022

RE: VARIANCE APPLICATION – Parcel ID #76441

Variance request PZ22-00220, filed by Telly Tucker on behalf of the Institute for Advance Learning and Research, requests a variance from Article 3.P.F. of Chapter 41 of the Code of the City of Danville, Virginia that requires a minimum eighty (80) foot side yard setback (Parcel # 76441). The request is to reduce the side yard setback to seventy-two (72) feet to allow new construction.

BACKGROUND

Telly Tucker on behalf of the Institute for Advance Learning and Research has requested a variance to allow a seventy-two (72) foot side yard setback where eighty (80) feet is required. Parcel #76441 is located within the CP-1, Cyber Park One District. The CP-1 district requires a front, side and rear yard setback of eighty (80) feet where the property is not adjacent to a residential district.

The proposed development for a new Accelerated Training Defense Manufacturing (ATDM) facility will encroach eight (8) feet into the required side yard setback. Adjacent to the subject parcel and between the development and residential development is a one hundred (100) foot buffer that will remain based on an agreement for cyberpark development.

The current side yard setback will create a one hundred eighty (180) foot side yard setback against the residential development on Williamson Road and Bluegrass Court. Approval of this variance request will create a one hundred seventy-two (172) foot setback between ATDM and the residential use. The CP-1 District was written to allow development with little or no disturbance to the adjacent neighborhood. However, Staff does not believe it was the intention to create a one hundred eighty (180) foot buffer between the two.

The size, shape and location of the lot makes this a unique development that deserves review. Variations to yard setback are granted by Special Use Permit in most of the City of Danville's Zoning Districts. However, CP-1 does not have review, therefore, an application for review by the Board of Zoning Appeals is appropriate.

VARIANCE REVIEW CRITERIA

A variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and the request meets each of the following five (5) review standards (Article 13, Section F.2.a.-e.):

- a. *The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance.*

The property was acquired in good faith but the hardship for a variance is created by the applicant due to the placement of the building closer than 80 feet to the side yard.
This application **DOES NOT** meet this standard.

- b. *Granting the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area.*

Allowing this variance would not directly affect adjacent properties. Granting this variance would provide a remaining one hundred seventy-two (172) foot buffer between the development and the adjacent properties.
This application **DOES** meet this standard.

- c. *The property's condition or situation is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.* The size, shape and location of the property is unique. The property is located adjacent to a one hundred (100) foot yard buffer and requires an additional eighty (80) foot side yard setback. This one hundred, eighty (180) foot buffer is not common within the City and would not be so general or recurring in nature to formulate a general regulation for adoption. In fact, this is only one of two properties that is adjacent to the additional one hundred (100) foot buffer with a CP-1 zoning classification.

This application **DOES** meet this standard.

- d. *Granting the variance will not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property.*

Granting this variance will not result in a change of zoning classification or a use that is not otherwise permitted on the subject property.
This application **DOES** meet this standard.

- e. *The relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A.4 of § 15.2-2286 at the time of the filing of the variance application.*

The applicant cannot request special use, special exception, or rezoning to satisfy the zoning requirement. Therefore, this application **DOES** meet this standard.

Therefore, this variance request **meets four (4) of the five (5) criteria** needed to grant a variance.
Staff recommends the BZA approval of variance request PZ22-00220.

ATTACHMENTS

- ✓ Application
- ✓ Property Ownership & Existing Zoning Map
- ✓ Data Sheet
- ✓ Existing Land Use Map (Aerial 2019)



City of Danville
Community Development
Planning Division

BOARD OF ZONING APPEALS
VARIANCE APPLICATION

We cannot accept Board of Zoning Appeals (BZA) applications unless the following steps are completed by the twentieth (20th) day of the prior month. BZA meeting are on the third Thursday of each month. This timeline assures the City can meet Virginia public notice laws.

1. The applicant attended a pre-application conference with the Zoning Administrator or designated staff;
2. The applicant completed this application;
3. The property owner or a duly authorized (in writing) representative signed this application;
4. The applicant submitted a plot plan drawn to scale showing the actual dimensions and shape of the property; and the exact size and location all existing and proposed buildings, signs, and required parking spaces;
5. The Zoning Administrator certified that the proposed use and construction plans comply with all Zoning Code provisions, except for the provisions necessitating a variance; and
6. The applicant paid the \$206.00 application fee.

PLANNING DIVISION PROVIDED INFORMATION

Application #: P122-00220 BZA Meeting Date: _____

Date Received: _____ Received By: _____

Parcel ID: _____ Zoning District: _____

Additional Information: _____

A variance shall be granted if evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and:

- (i.) The property interest for where the variance is requested was acquired in good faith and any hardship was not created by the variance applicant;
- (ii.) Granting the variance will not be of substantial detriment to adjacent property and nearby properties in the surrounding geographic area;
- (iii.) The subject property's condition or situation is not of such general or recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted as an ordinance amendment;
- (iv.) Granting the variance does not result in a use that is not otherwise permitted on such property or change the zoning classification of the property; and
- (v.) The variance application relief or remedy sought is not available through a special exception process that is authorized in City Code Chapter 41, Article 6 or the process for zoning ordinance amendment in City Code Chapter 41, Article 4 at the time of variance application filing.

The BZA may impose conditions regarding the location, character, and other features of proposed buildings and use it deems necessary in the public interest and may require a performance guarantee or bond to insure compliance.

APPLICANT PROVIDED INFORMATION

Property Location (address/ID#): _____

Applicant: _____

Applicant's Address: _____

Applicant's Phone Number: _____

Applicant's E-mail: _____

Variance Request Description: Side Yard setback requirements for Parcel 76441 in the Cyber Park for the New Accelerated Training in Defense Manufacturing Facility. Would like to be able to use the 100' wooded buffer area as the required 80' sideyard setback.

I (we) appeal to the Board of Zoning Appeals for a variance permitting the action described above in that:

i. Explain how you did not create the hardship you need a variance to overcome:

The Cyber Park covenants require a setback of 80' for the perimeter of an dedicated lot. The lot in question is also at the corner of the park and has an additional 100' setback on that is adjacent to the Housing developments on that side of the park. We feel that the intent of this was not to have both the 80' and 100' setbacks. In order for our building program to work on the constricted site we are encroaching on the side yard setback.

ii. Explain how granting the variance will not negatively impact your neighbors and properties close by:

The adjacent housing developments currently are buffered from the site by a wooded area 100' foot in width. There is no allowance for this area to be disturbed by any means. By allowing the owner to use the 100' buffer as the side yard setback requirement instead of the 100' plus the additional 80', allows for separation between the housing development and the new proposed building. The new proposed building is approximately 15' below the grade of the adjacent housing and will require a retaining wall at the rear of the site that is allowed in the setback. This further reduces the impacts between the housing development and new facility.

iii. Explain why the hardship on your property is unique and not something that affects similar properties in the same zoning district.

This situation is unique because of the double buffer requirements as mentioned above for this particular area. We feel the 100' meets and exceeds the typical requirements of the park minus this particular area

iv. Explain why granting the variance will not result in a use that is not otherwise allowed on the property or a change in the property's zoning classification.

Our impact to the current 80' setback is approximately 8 feet of building that is needed to meet the program identified for the new ATDM facility. This variance still maintains a majority of the 80' buffer plus the additional 100' buffer. It will not change the use of the site but only allow the client to meet the minimum programmatic widths needed for the building

v. The relief or remedy sought by the variance application is not available with a Special Use Permit.

Applicant Signature

Property Owner Signature
(if not applicant)

APPLICANT PROVIDED INFORMATION

Property Location (address/ID#): Parcel 76441

Applicant: Telly Tucker President of IALR

Applicant's Address: 150 Slayton Avenue Danville Va

Applicant's Phone Number: 4343766.6725

Applicant's E-mail: Telly.Tucker@IALR.org

Variance Request Description: Side Yard setback requirements for Parcel 76441 in the Cyber Park for the New Accelerated Training in Defense Manufacturing Facility. Would like to be able to use the 100' setback

I (we) appeal to the Board of Zoning Appeals for a variance permitting the action described above in that:

i. Explain how you did not create the hardship you need a variance to overcome:

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This situation is unique because of the double buffer requirements as mentioned above for this particular area. We feel the 100' meets and exceeds the typical requirements of the park minus this particular area.

iv. Explain why granting the variance will not result in a use that is not otherwise allowed on the property or a change in the property's zoning classification.

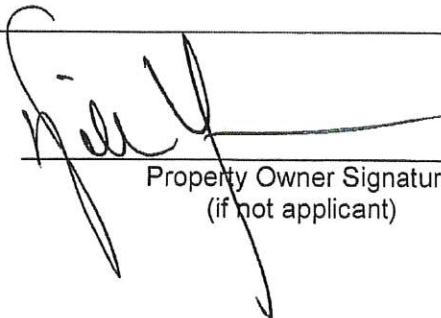
Our impact to the current 80' setback is approximately 5 feet of building that is needed to meet the program identified for the new ATDM facility. This variance still maintains a majority of the 80' buffer plus the additional 100' buffer. It will not change the use of the site but only

v. The relief or remedy sought by the variance application is not available with a Special Use Permit.
it is not available by Special Use Permit

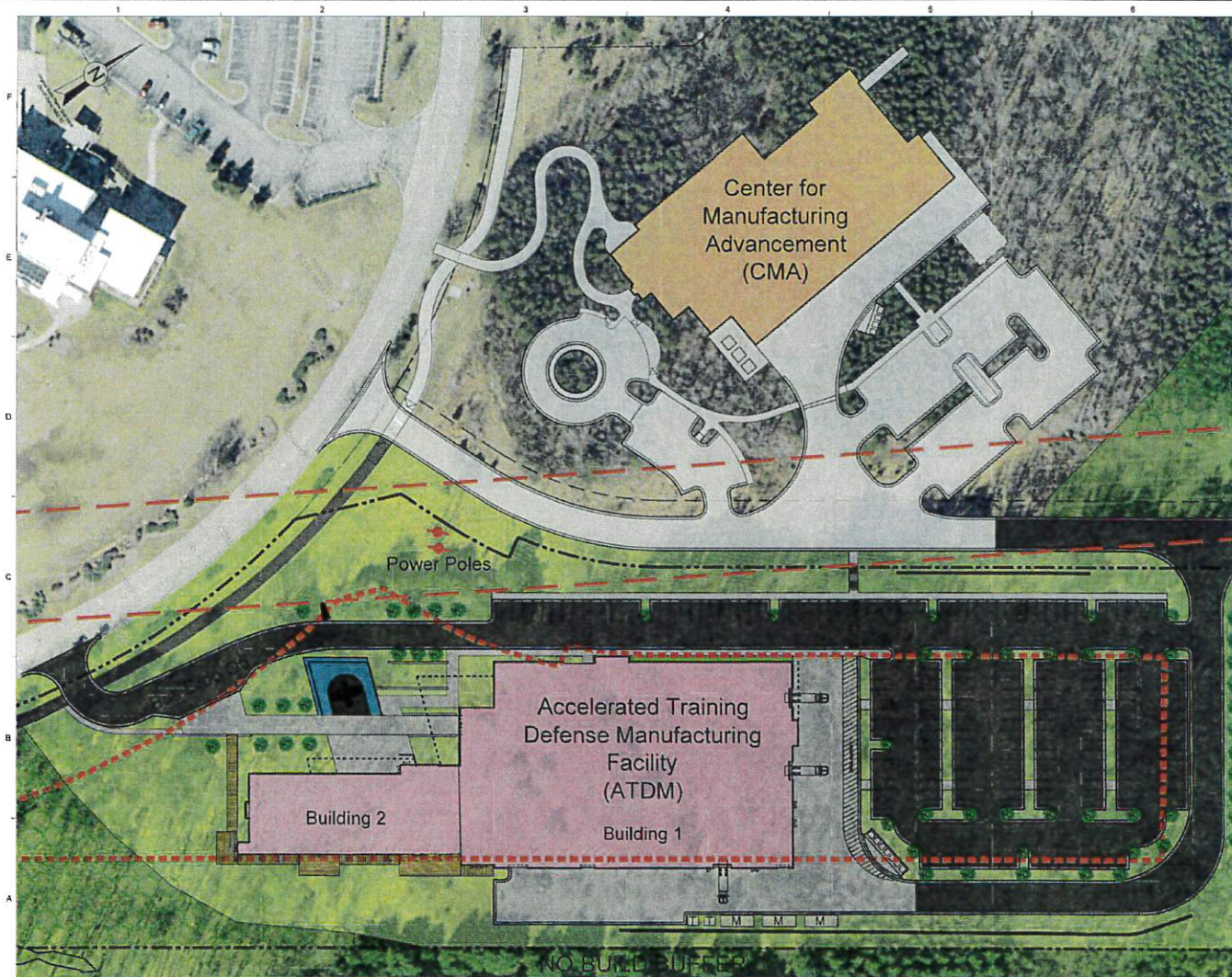
Telly Tucker

Digitally signed by Telly Tucker
DN: cn=Telly Tucker, o=IALR, ou,
email=Telly.Tucker@ialr.org, c=US
Date: 2022.10.07 10:55:38 -0400

Applicant Signature



Property Owner Signature
(if not applicant)



Dewberry

Corporate Headquarters
211 S. Main Street
Suite 200
Channahon, IL 61018
815.461.1000
www.dewberry.com

INSTITUTE FOR ADVANCED LEARNING
ACCELERATED TRAINING DEFENSE MANUFACTURING FACILITY
(ATDM)

211 S. Main Street
Channahon, IL 61018

PRELIMINARY DOCUMENTS

NET PLAN

SCALE

GRAPHIC SCALE 1"=100'

REVISIONS

NO.	DESCRIPTION	DATE

DRAWN BY JES

APPROVED BY JES

DESIGNED BY JES

DATE 08/11/14

WEL

SITE PLAN

PROJECT NO. 1000014

C-100

VARIANCE REQUEST DATA SHEET 1260 SOUTH BOSTON ROAD

PUBLIC HEARING DATE: NOVEMBER 17, 2022 AT 10:00 AM

LOCATION OF PROPERTY: 1260 SOUTH BOSTON ROAD (PARCEL ID 76441)

PRESENT ZONE: CP-1 CYBER PARK ONE DISTRICT

PROPOSED ZONE: NO CHANGE

ACTION REQUESTED: Variance request PZ22-00220, filed by Telly Tucker on behalf of the Institute for Advance Learning and Research, requests a variance from Article 3.P.F. of Chapter 41 of the Code of the City of Danville, Virginia that requires a minimum eighty (80) foot side yard setback (Parcel # 76441). The request is to reduce the side yard setback to seventy-two (72) feet to allow new construction.

PRESENT USE OF PROPERTY: VACANT

PROPOSED USE OF PROPERTY: INSTITUTIONAL

FUTURE LAND USE DESIGNATION: COMMERCIAL

PROPERTY OWNER (S): DANVILLE PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY

NAME OF APPLICANT (S): INSTITUTE FOR ADVANCED LEARNING AND RESEARCH

PROPERTY BORDERED BY: CP-1 CYBER PARK ONE DISTRICT

ACREAGE: 20.23 ACRES TOTAL (APPROXIMATE)

CHARACTER OF VICINITY: INSTITUTIONAL

INGRESS AND EGRESS: SLAYTON AVENUE

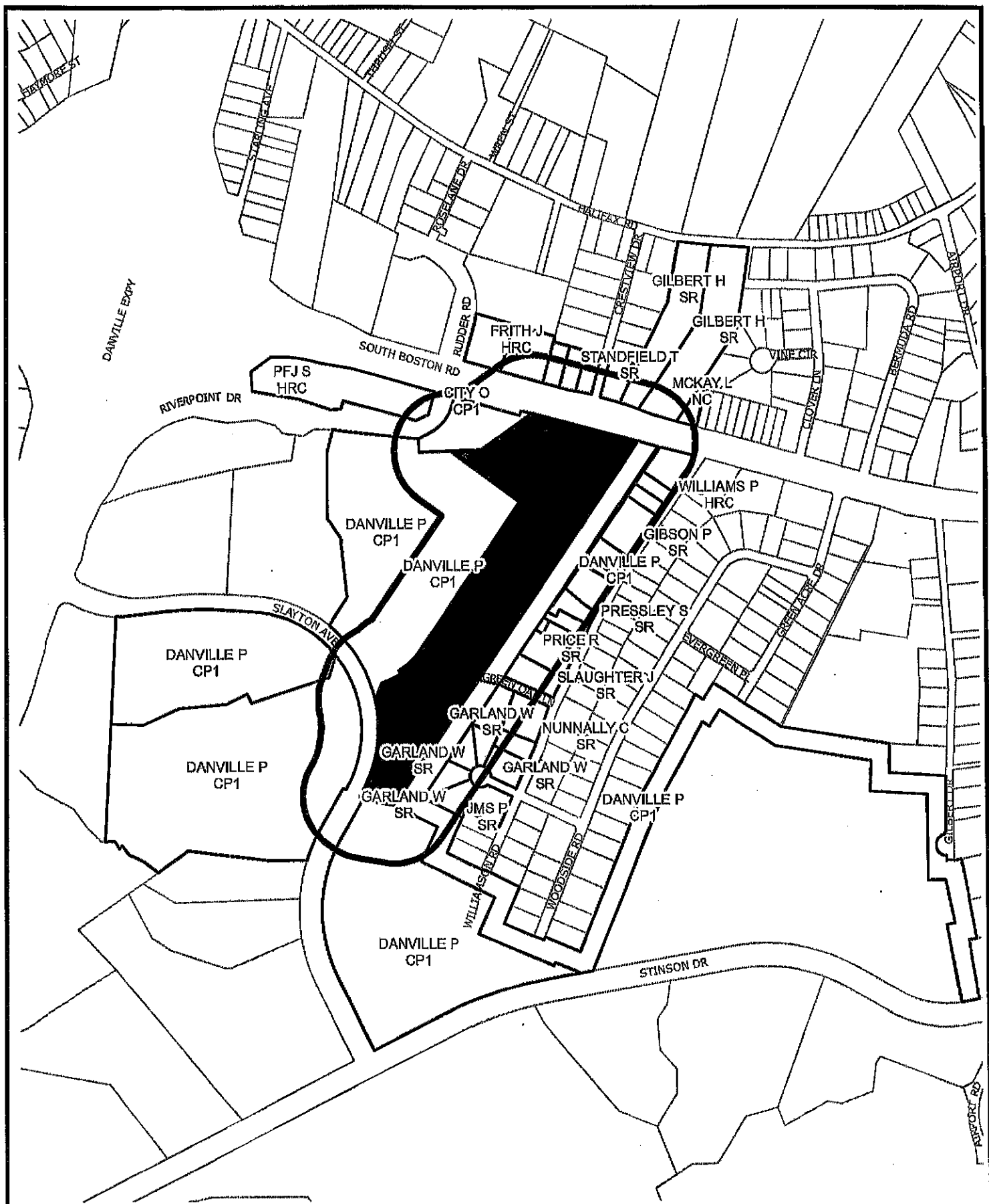
TRAFFIC VOLUME: LOW



2019 AERIAL VIEW OF AREA SURROUNDING SUBJECT PROPERTY

Prepared by:
Planning Division
10/31/2022

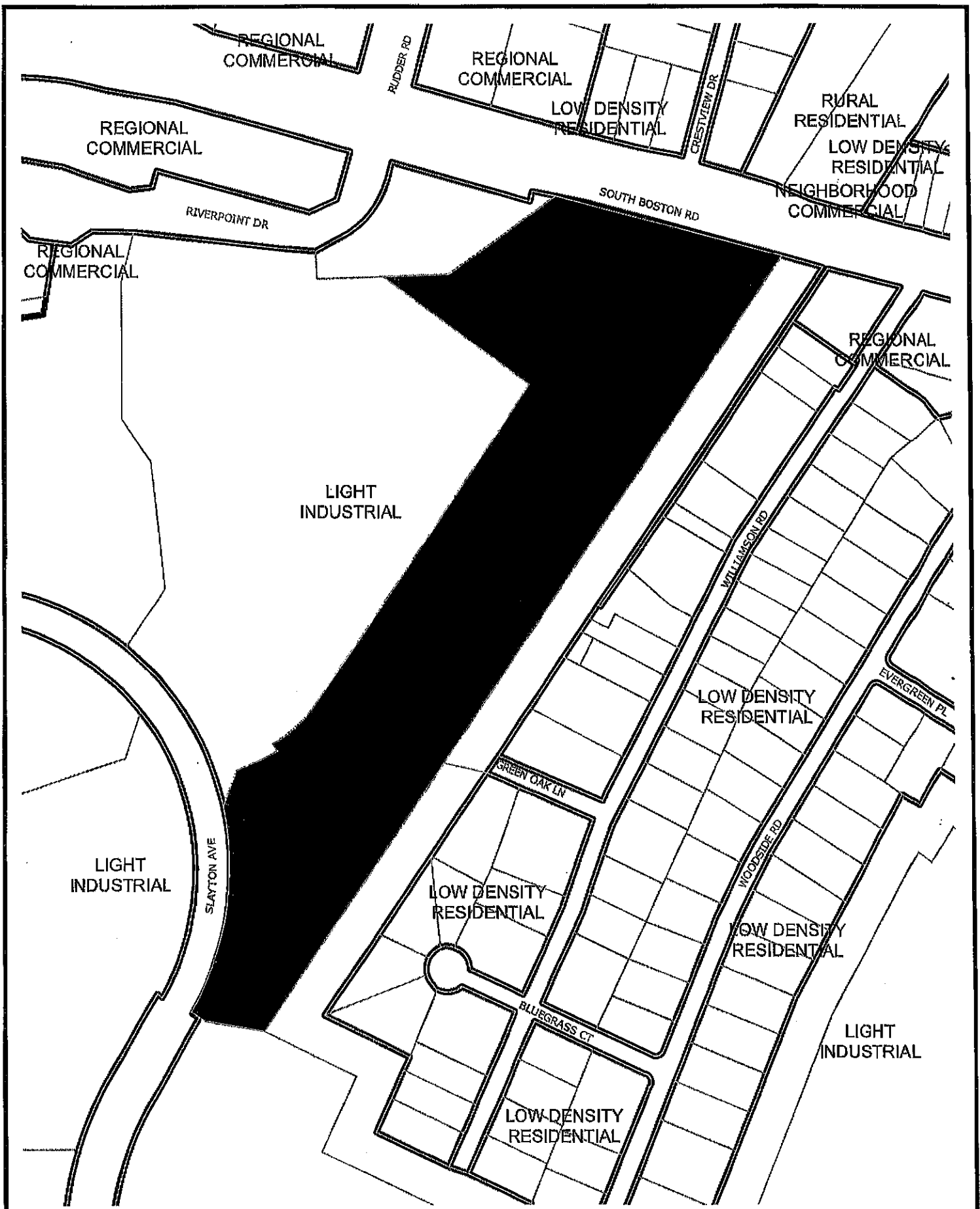
Disclaimer: Information contained on this map is to be used for reference purposes only. The City of Danville is not responsible for any inaccuracies herein contained. The City of Danville makes no representation of warranty as to this map's accuracy, and in particular, its accuracy in labeling, dimensions, contours, property boundaries, or placement or location of any map features thereon. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.



SURROUNDING PROPERTY OWNERS AND ZONING WITHIN 300 FEET OF SUBJECT PROPERTY

Prepared by:
Planning Division
10/31/2022

Disclaimer: Information contained on this map is to be used for reference purposes only. The City of Danville is not responsible for any inaccuracies herein contained. The City of Danville makes no representation of warranty as to this map's accuracy, and in particular, its accuracy in labeling, dimensions, contours, property boundaries, or placement or location of any map features thereon. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.



YEAR 2030 LAND USE PLAN FOR AREA SURROUNDING SUBJECT PROPERTY

Prepared by:
Planning Division
11/1/2022

Disclaimer: Information contained on this map is to be used for reference purposes only. The City of Danville is not responsible for any inaccuracies herein contained. The City of Danville makes no representation of warranty as to this map's accuracy, and in particular, its accuracy in labeling, dimensions, contours, property boundaries, or placement or location of any map features thereon. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.

BOARD OF ZONING APPEALS MEETING

AUGUST 18, 2022

Members Present

Nicole Garrison
Ann Sasser Evans
John Hiltzheimer
Gus Dyer
Lawrence Meder

Members Absent

Michael Nicholas
Gus Dolianitis

Staff

Bart Nuckols
Lisa Jones
Shanika Williams
Clarke Whitfield

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

I. ITEMS FOR PUBLIC HEARING

Variance request PZ22-149, filed by Lorraine Griffith, requests a variance from Article 2.P.9. of Chapter 41 of the Code of the City of Danville, Virginia that does not permit accessory structures closer than 10 feet from any other building or structure, at 529 Cedarbrook Dr (Parcel # 54021).

Mr. Dyer opened the Public Hearing.

Present to speak on behalf of this request was Chuck King, who stated I am a handy man in Danville, and I built this deck for Lorraine Griffith. Her husband of fifty years just passed away, she is eighty years old, and she is by herself in her house. Ms. Griffith cannot get to her garbage or to her garage and she fell twice and called the fire department and they had to come pick her up. Before the deck was here you would step out onto a small step and there was no rail out there and the pavement going to the garage was tilted. So, that is where the accidents happened. We built this deck within a ½ inch of the garage because it is ten foot and where the rail goes to the corner of the garage there. This allows her to touch the garage and open the front door to get into the garage. The stairs that you are looking at right there where the mouse arrow is, it allows her to step down from there and get to her trash can which is on the other side of the garage. Now, she needs this for not only that reason, but you also know she needs to get out and get some air. In front of her house is like an oven and the sun is on it all the time and it doesn't have any shade. So, we were able to build a deck for her here and she can sit in the back there and enjoy breathing some air. So, like I said nobody is getting younger these days, and we do apologize for not getting a permit for this situation, but we wanted to do that and then there was a variance situation, and that is obviously why we are here. I am standing up for her, because she is not able to do the things that she used to do when she was younger. She is living in a house by herself, fifty-seven years with her husband and he just passed away. I always try to help senior citizens when I can because really what it comes down to, it is pretty sad to know that when you lose somebody that there is no one there to help you. So, that is what we are requesting, and it is a necessity because she just can't function like she use to, and she has a walking cane right now. She carries a phone around with her now that her family

has gotten her that so she can call someone if she falls, and someone will come and help her get up.

Ms. Evans stated you said that it is ten feet between the house and the garage, correct?

Mr. King stated it is probably twelve feet, because the deck is ten feet, and the steps go out a couple feet.

Mr. Dyer stated I have a question. Why didn't you just connect the deck to the garage and then it is all one structure?

Mr. King stated I can do that in like five minutes if I just put a 2" by 4" between the steps. I talked to William Willis about that he said there is no problem with that. So, that was my next question, what if we just do that?

Mr. Dyer stated we have allowed that in the past, and literally it's just been a 2" by 4" connecting the two structures. The main thing is I was looking at your plat to make sure there weren't any setbacks because the garage has been there, and the garage is an accessory structure. Sometimes accessory structures are allowed to be closer to the property line than the main structure. If that were the case and you connected the house to the garage, then you would have a whole new issue. It appears to me that your setback based on the plat that we have here, it's almost like the garage is in the middle of the lot and then the house is off to the side. As far as planning, is there no issue with just connecting the garage to the house?

Mr. Nuckols stated I believe that was the solution that we had offered to simply do a connection.

Mr. Dyer stated to me that would be the easiest and simplest thing to do.

Mr. King stated I was talking to William Willis about that, and he never called me back. I asked him what if we connected to the garage and he said I don't see a problem with that, but we never heard back from him. So, I just put a 2" by 4" and just connect it to the garage and we are good.

Mr. Nuckols stated yes.

Mr. Dyer stated I am assuming yes because we have done this in the past.

Ms. Evans stated it would make it a breezeway.

Mr. Dyer stated if they are physically attached then this becomes one structure and previously before this deck you had two structures. You had the main structure which is the house, and the accessory structure which is the garage. When you connect the two it all becomes the main structure, and as long as you are not violating any of your setbacks by doing that, then that is not an issue.

Mr. King stated once we do this do we show you the picture?

Mr. Dyer stated I think if someone from the inspections department wants to ride out there and look at it, then that is their prerogative.

Mr. Nuckols stated if I could offer, once you complete it, just contact the inspections department and someone will come out and take a look and just verify.

Mr. Dyer closed the Public Hearing.

Ms. Garrison made a motion to postpone indefinitely. Ms. Evans seconded the motion. The motion was approved by a 5-0 vote.

II. APPROVAL OF MINUTES

The July 21, 2022, minutes were approved by a unanimous vote.

With no further business, the meeting was adjourned at 10:16 a.m.

APPROVED