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

Board of Zoning Appeals

OCTOBER 21, 2021

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 PLVAR 2021-273, filed by Jorge Escalante, requests a variance from Article 2.P of Chapter 41 of the Code of the City of Danville, Virginia, 1986 as amended at 1332 College Park Drive (Parcel # 75906). The applicant built an accessory building in the south side yard without a permit.
2. Variance Request PLVAR 2021-317, filed by Robert Weir, requests a variance from Article 2.P.13. of Chapter 41 of the Code of the City of Danville, Virginia, 1986 as amended at 349 West Main Street (Parcel # 23545). The applicant proposes placing a screened mechanical unit in the west yard between the home and Virginia Avenue.
3. Variance Request PLVAR 2021-341, filed by Sarah Bourgoin, requests a variance from Article 2.P.13. of Chapter 41 of the Code of the City of Danville, Virginia, 1986 as amended at 414 Melrose Drive (Parcel # 03886). The applicant proposes placing a mechanical unit in the west yard between the home and Wendell Court.
4. Special Exception Request PLVAR 2021-363, filed by Emma Olivarria, requests a Special Exception to convert an existing nonconforming single-family dwelling into a duplex as allowed in Article 13.G.6 of Chapter 41 of the Code of the City of Danville, Virginia, 1986 as amended at 407 Industrial Avenue (Parcel # 25551). The Applicant would like to convert the single-family dwelling back into a duplex dwelling

D. APPROVAL OF MINUTES FROM JULY 15, 2021

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: OCTOBER 21, 2021

RE: VARIANCE/APPEAL APPLICATION – 1332 COLLEGE PARK DRIVE

Variance Request PLVAR 2020-273, filed by Jorge Escalante, requests a variance from Article 2.P.13. of Chapter 41 of the Code of the City of Danville, Virginia, 1986 as amended at 1332 College Park Drive (Parcel # 75906). The applicant built an accessory building in the south side yard without a permit.

BACKGROUND

The applicant built an addition to the home and a detached carport. The substantial property size, adjacent undeveloped public right of way, and the unique property shape create circumstances where an appropriate location for the detached accessory building is in the side yard.

APPLICATION FOR APPEALS

a. An appeal may be taken to the Board of Zoning Appeals by any person aggrieved or by any officer, department, commission, board or agency of the City affected by any decision of the Director of Planning/Zoning Administrator or from any order, requirement, decision or determination made by any other officer in the administration or enforcement of this ordinance.

b. All information, including documentation and rational for the grounds for the subject appeal as well as plats, maps, site plans and other graphic exhibits or information as required by the Board in order that it might be fully informed, shall be furnished by the applicant. The application shall include a copy of the decision or determination on which the application is based.

c. Any written notice of a zoning violation or a written order of the Director of Planning / Zoning Administrator shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within thirty days in accordance with this section, and that the decision shall be final if not appealed within thirty (30) days. The appeal period shall not commence until the statement is given to the recipient.

d. An appeal shall be taken within thirty (30) days after the decision appealed by filing with the administrator, and with the Board, a notice of appeal specifying the grounds thereof. The Director of Planning/Zoning Administrator shall forthwith transmit to the recording secretary of the Board all the papers constituting the record upon which the action appealed was taken. An appeal stays all proceedings in the furtherance of the action appealed from unless the administrator certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or a Court of record, on application and on notice to the Director of Planning/Zoning Administrator for good cause shown.

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 and the hardship for a variance was not created by the applicant because the applicant could not reasonably build an accessory building in the rear of the dwelling. This application **does** 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 will not be a substantial detriment to adjacent and nearby 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 property is uniquely shaped, sized, and has an adjacent undeveloped right-of-way. 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

   *The proposed accessory building is a permitted use in the zoning district. 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 complete this development. Therefore, this application **does** meet this standard.*

Therefore, this variance request **meets five (5) of the five (5) criteria** needed to grant a variance.

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 #: PLVAR2021-273 BZA Meeting Date: 9/16

Date Received: 8/2/21 Received By: HDP

Parcel ID: 75906 Zoning District: OTR

Additional Information: BUILT CARPORT w/OUT PERMIT IN SIDE YARD

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#): 1324 College Park Dr. Ext.

Applicant: Escalante Jorge Hernandez

Applicant's Address: 1324 College Park Dr. Ext.

Applicant's Phone Number:

Applicant's E-mail:

Variance Request Description: Request variance for carport built in front/side yard without permits.

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:

Apologetically - Applicant unaware of Zoning Restriction

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

Exquisite Construction in manner with similar construction (if not better) than elsewhere

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

By comparison with neighborhood property this property could be an exemplary model.

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.

Owner has four children and earnestly plans to respect + work for highest standards

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

Applicant pleads (respectfully) for zoning board's acceptance of promises to (in future) of City Rules.

Jorge Hernandez
Applicant Signature

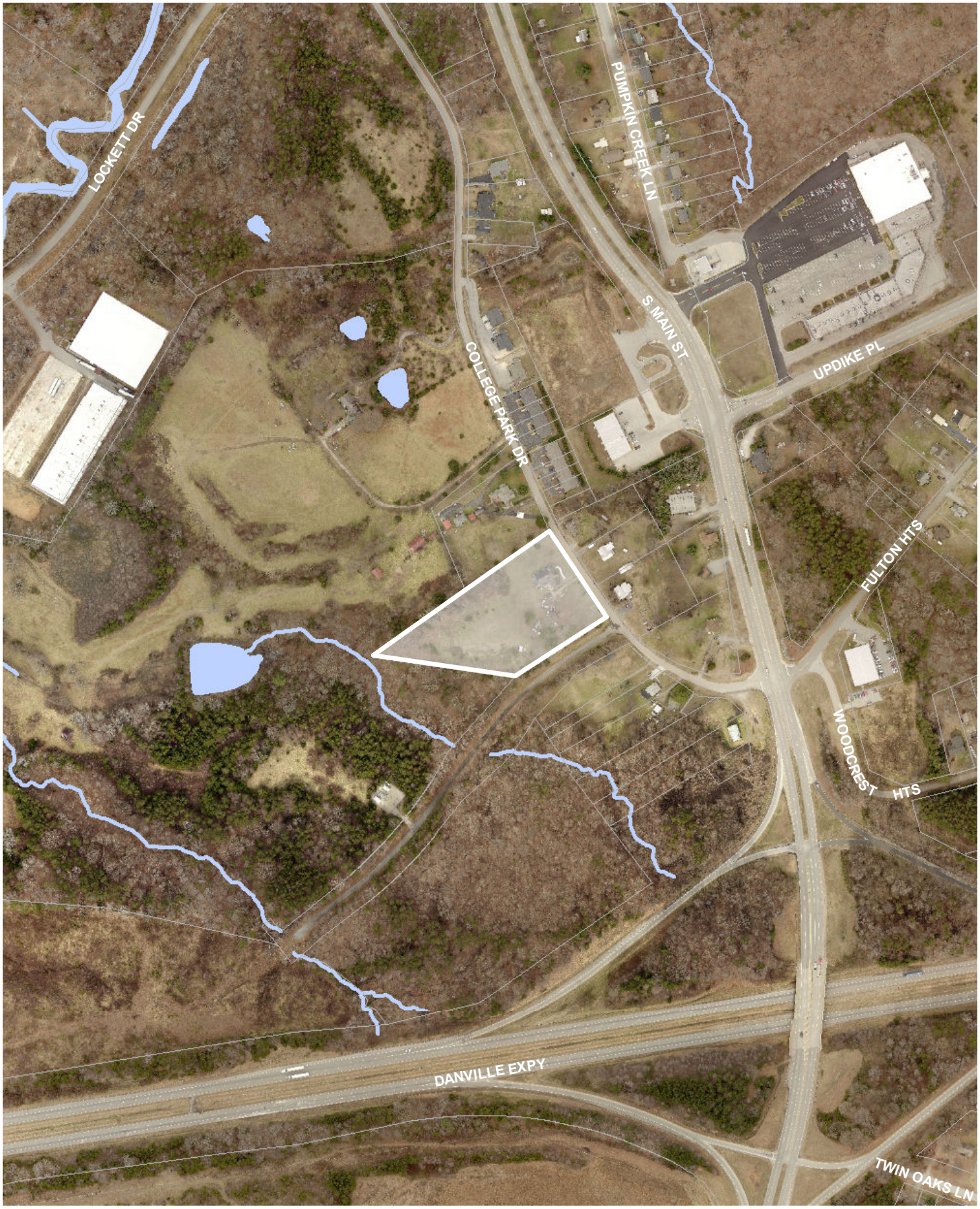
Jorge Hernandez
Property Owner Signature
(if not applicant)

July 31, 2021

in regard to Mr. Evans' request for the building in rear of 1332 College parkway:

in estimating the costs incurred in the construction of the above mentioned building, it is noteworthy to mention Mr. Hernandez and two brothers are joint partners in a commercial construction company; in that regard, free labor or personal must be considered, along with being privy to left-over materials from business contracts.

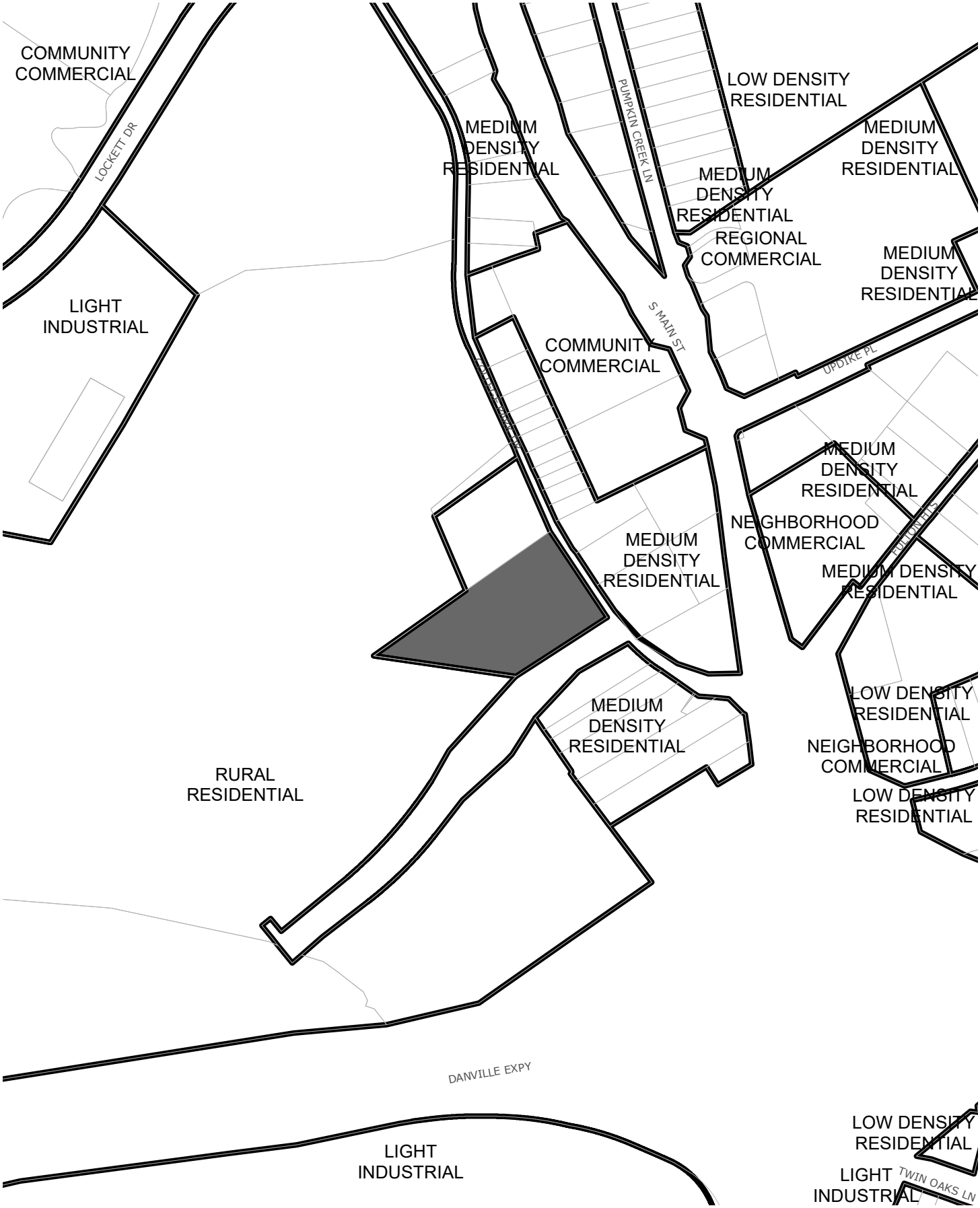
Jorge Hernandez



2019 AERIAL VIEW OF AREA SURROUNDING SUBJECT PROPERTY

Prepared by:
Planning Division
8/26/2021

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
8/26/2021

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SURROUNDING PROPERTY OWNERS AND ZONING WITHIN 300 FEET OF SUBJECT PROPERTY

Prepared by:
Planning Division
8/26/2021

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VARIANCE REQUEST DATA SHEET PLVAR 2021-273

PUBLIC HEARING:	SEPTEMBER 16, 2021 BOARD OF ZONING APPEALS AT 10:00 AM
LOCATION OF PROPERTY:	1332 COLLEGE PARK DRIVE
PRESENT ZONE:	OT-R OLD TOWN RESIDENTIAL
PROPOSED ZONE:	NO CHANGE
ACTION REQUESTED:	GRANT VARIANCE FOR DETACHED ACCESSORY BUILDING IN SIDE YARD
PRESENT USE OF PROPERTY:	SINGLE FAMILY RESIDENTIAL
PROPOSED USE OF PROPERTY:	NO CHANGE
FUTURE LAND USE DESIGNATION:	MEDIUM DENSITY RESIDENTIAL
PROPERTY OWNER (S):	JORGE HERNANDEZ ESCALANTE
NAME OF APPLICANT (S):	SAME
PROPERTY BORDERED BY:	SINGLE FAMILY RESIDENTIAL.
ACREAGE:	3.83 ACRES TOTAL
CHARACTER OF VICINITY:	NEIGHBORHOOD
INGRESS AND EGRESS:	COLLEGE PARK DRIVE
TRAFFIC VOLUME:	LIGHT TRAFFIC, NO RECENT COUNTS

City of Danville
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Board of Zoning Appeals

STAFF REPORT

MEETING DATE: OCTOBER 21, 2021

RE: VARIANCE/APPEAL APPLICATION – 349 WEST MAIN STREET

Variance Request PLVAR 2020-317, filed by Robert Weir, requests a variance from article 2.P.13. of Chapter 41 of the Code of the City of Danville, Virginia, 1986 as amended at 349 West Main Street (Parcel # 23545). The applicant proposes placing a screened mechanical unit in the west yard between the home and Virginia Avenue.

BACKGROUND

The applicant would like to install a backup generator and only practical location is on the Virginia Avenue side of the home (behind a solid fence).

APPLICATION FOR APPEALS

a. An appeal may be taken to the Board of Zoning Appeals by any person aggrieved or by any officer, department, commission, board or agency of the City affected by any decision of the Director of Planning/Zoning Administrator or from any order, requirement, decision or determination made by any other officer in the administration or enforcement of this ordinance.

b. All information, including documentation and rational for the grounds for the subject appeal as well as plats, maps, site plans and other graphic exhibits or information as required by the Board in order that it might be fully informed, shall be furnished by the applicant. The application shall include a copy of the decision or determination on which the application is based.

c. Any written notice of a zoning violation or a written order of the Director of Planning / Zoning Administrator shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within thirty days in accordance with this section, and that the decision shall be final if not appealed within thirty (30) days. The appeal period shall not commence until the statement is given to the recipient.

d. An appeal shall be taken within thirty (30) days after the decision appealed by filing with the administrator, and with the Board, a notice of appeal specifying the grounds thereof. The Director of Planning/Zoning Administrator shall forthwith transmit to the recording secretary of the Board all the papers constituting the record upon which the action appealed was taken. An appeal stays all proceedings in the furtherance of the action appealed from unless the administrator certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or a Court of record, on application and on notice to the Director of Planning/Zoning Administrator for good cause shown.

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 and the hardship for a variance was not created by the applicant because the applicant could not reasonably put the generator the rear of the dwelling and the generator will be screened from the road. This application **does** 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 will not be a substantial detriment to adjacent and nearby 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 building is very close to the adjacent home and the rear yard does not allow for utility extension. 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

   The proposed generator is a permitted use in the zoning district. 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 complete this development. Therefore, this application **does** meet this standard.

Therefore, this variance request **meets five (5) of the five (5) criteria** needed to grant a variance.

ATTACHMENTS

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

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 #: _____ 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#): 349 W MAIN ST, DANVILLE VA, PARCEL ID 23545

Applicant: ROBERT WEIR

Applicant's Address: 349 W MAIN ST, DANVILLE VA 24541

Applicant's Phone Number: 434-799-5805

Applicant's E-mail: BWEIR41@GMAIL.COM

Variance Request Description: TO PLACE A 22KW GENERATOR BEHIND FENCE ALONG VIRGINIA AVE

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:

CITY CODE DOES NOT ALLOW GENATORS IN FRONT OF HOUSE

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

THE GENERATOR IS RATED AT 66 dB AND WILL BE LOCATED BEHIND EXISTING WOODEN FENCE

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

THE SAME PROBLEM WILL OCCUR AT ALL CORNER LOTS

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.

THE VARIANCE IS FOR AN EMERGENCY GENATOR SIZED FOR THE THE HOUSE

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

CITY CODE DOES NOT ALLOW GENERATORS ON THE FRONT OF HOUSES

Robert L Weir
Applicant Signature

Linda M. Weir
Property Owner Signature
(if not applicant)

The U.S. Environmental Protection Agency (EPA) and the World Health Organization (WHO) recommend maintaining environmental noises **below 70 dBA over 24-hours (75 dBA over 8-hours)** to prevent noise-induced hearing loss.

Home

- 50 Refrigerator
- 50-60 Electric Toothbrush
- 50-75 Washing Machine
- 50-75 Air Conditioner
- 50-80 Electric Shaver
- 55 Coffee Percolator
- 55-70 Dishwasher
- 60 Sewing Machine
- 60-85 Vacuum Cleaner
- 60-95 Hair Dryer
- 65-80 Alarm Clock
- 70 TV Audio
- 70-80 Coffee Grinder
- 70-95 Garbage Disposal
- 75-85 Flush Toilet
- 80 Pop-Up Toaster
- 80 Doorbell
- 80 Ringing Telephone
- 80 Whistling Kettle
- 80-90 Food Mixer or Processor
- 80-90 Blender
- 110 Baby Crying
- 110 Squeaky Toy Held Close to Ear
- 135 Noisy Squeeze Toys

Office

- 40 Quiet Office, Library
- 50 Large Office
- 65-95 Power Lawn Mower
- 80 Manual Machine, Tools
- 85 Handsaw
- 90 Tractor
- 90-115 Subway
- 95 Electric drill
- 100 Factory Machinery
- 100 Woodworking Class
- 105 Snow Blower
- 110 Power Saw
- 110 Leaf Blower
- 120-125 Chainsaw, Hammer On Nail
- 120 Pneumatic Drills, Heavy Machine
- 120 Jet Plane at Ramp
- 120 Ambulance Siren
- 130 Jackhammer, Power Drill
- 130 Air Raid
- 130 Percussion Section at Symphony
- 140 Airplane Taking Off
- 150 Jet Engine Taking Off
- 150 Artillery Fire at 500 Feet
- 189 Rocket Launching from Pad

Recreation

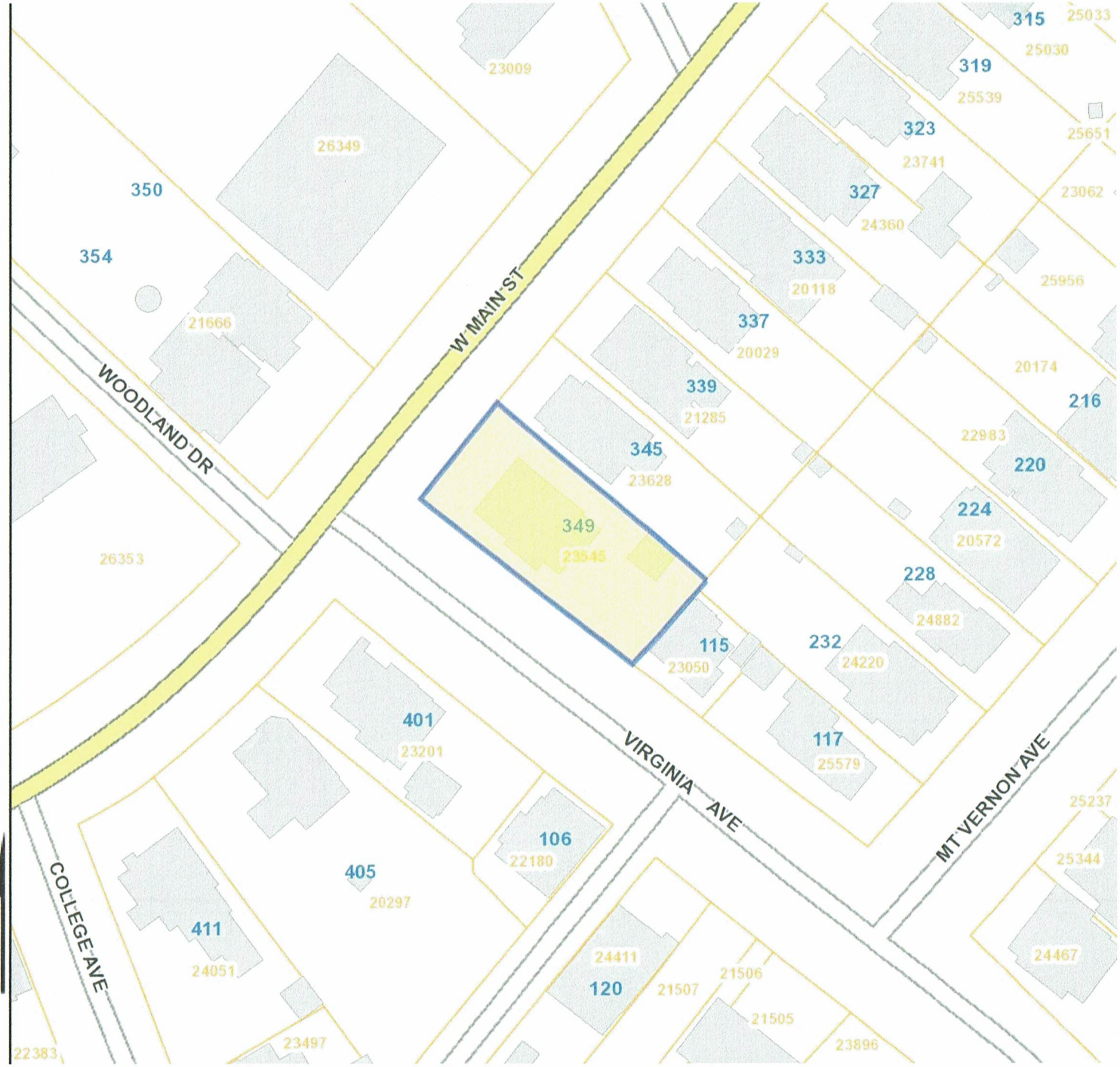
- 40 Quiet Residential Area
- 70 Freeway Traffic
- 85 Heavy Traffic, Noisy Restaurant
- 90 Truck, Shouted Conversation
- 95-110 Motorcycle
- 100 Snowmobile
- 100 School Dance, Boom Box
- 110 Music Club, Disco
- 110 Busy Video Arcade
- 110 Symphony Concert
- 110 Car Horn
- 110-120 Rock Concert
- 112 Personal Music Player on High
- 117 Football Game Stadium
- 120 Band Concert
- 125 Auto Stereo
- 130 Stock Car Races
- 143 Bicycle Horn
- 150 Firecracker
- 156 Cap Gun
- 157 Balloon Pop
- 162 Fireworks (at 3 Feet)
- 163 Rifle
- 166/170 Handgun, Shotgun

The proposed generator is rated at 66dB at 23 feet which is at the centerline of the road section heading Main St.

Parcel ID: 23545

DANVILLE VIRGINIA

- Buildings
- Parcels
- Street Names
- House Numbers
- Parcel Numbers



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Date: 8/2/2021

City of Danville

Legend

- Parcels
- Street Names
- House Numbers
- Parcel Numbers

Feet

0 20 40 60 80

1:500 / 1"=42 Feet

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Title:

Date: 8/3/2021

Diagram: Robert Weir

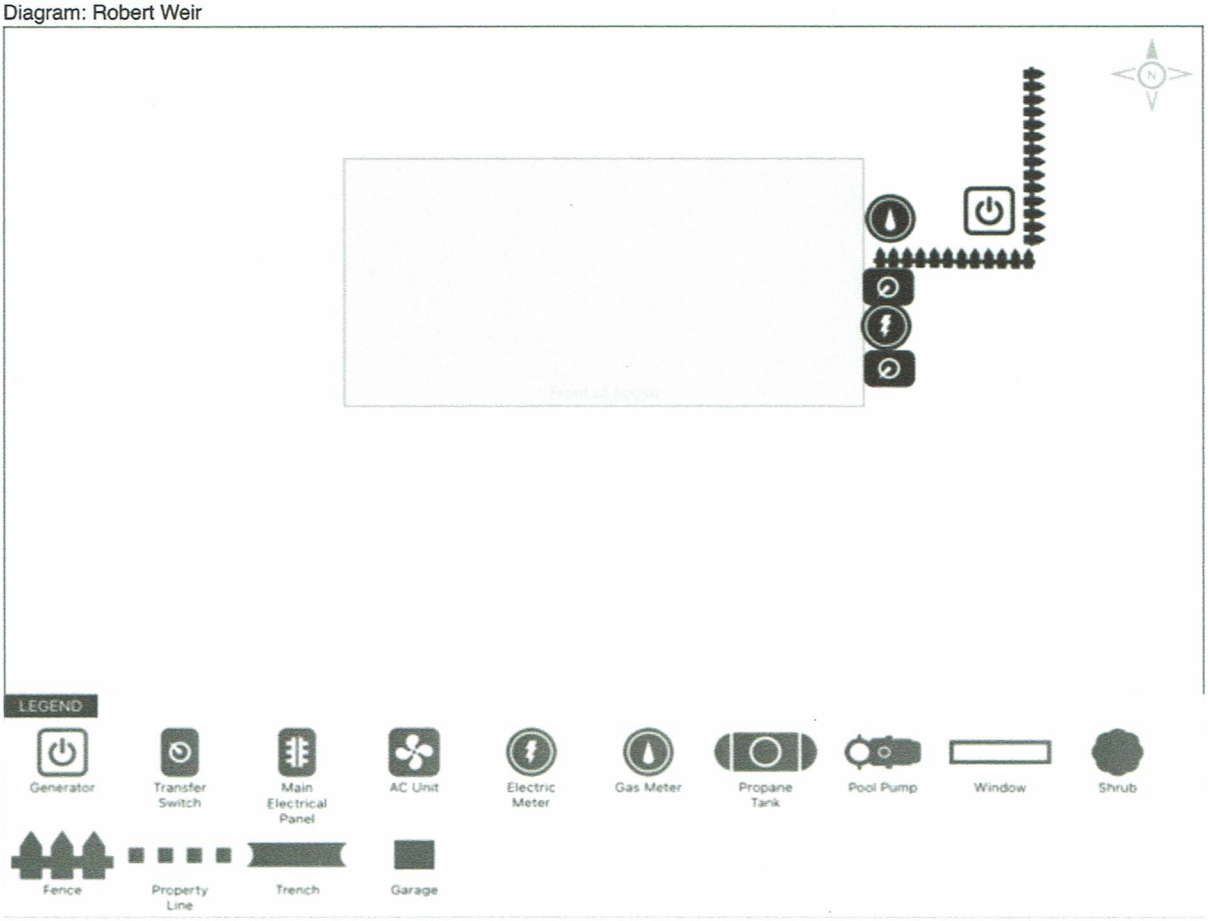
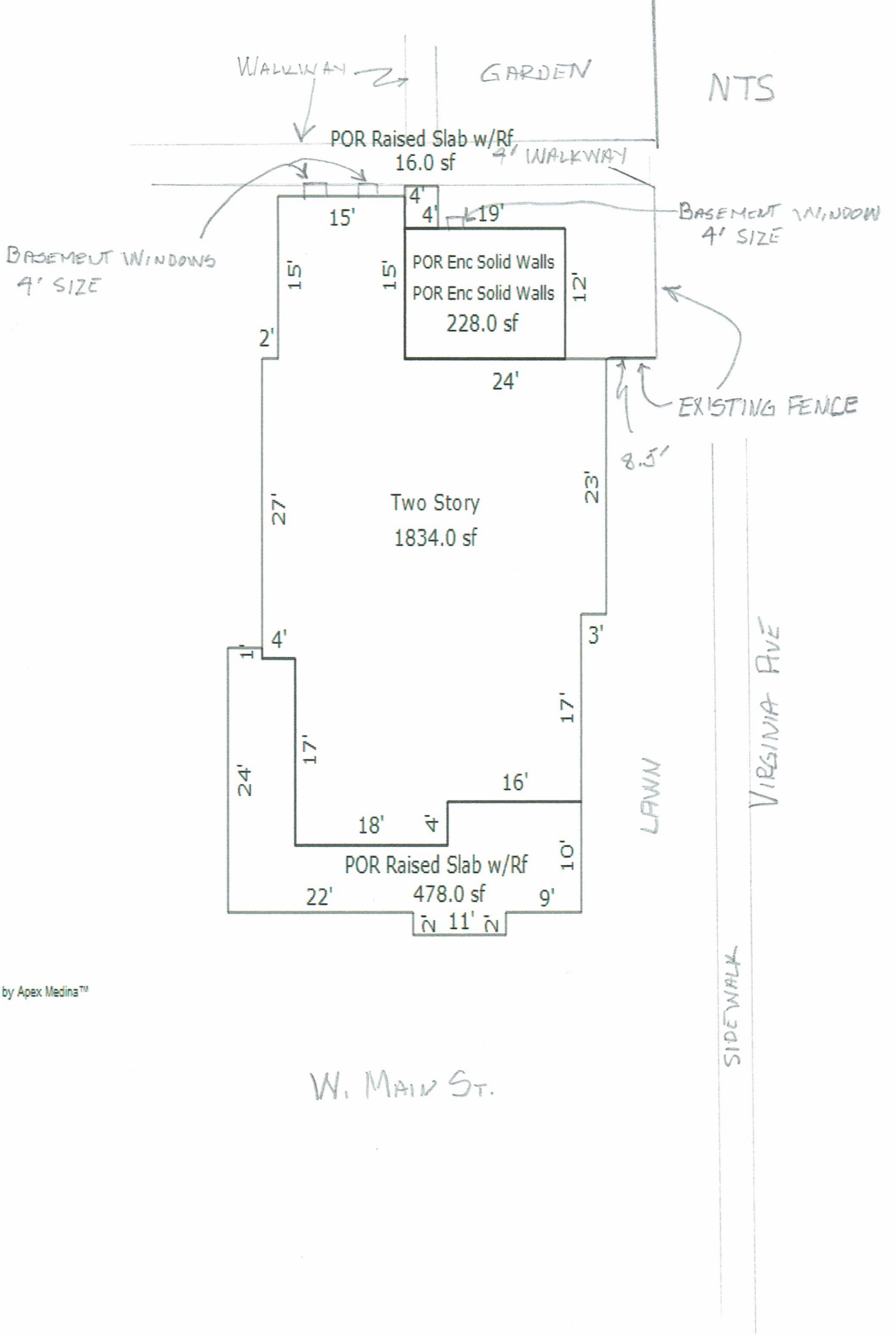


Diagram Notes:

18"
22KW GENERAC
2"



Sketch by Apex Medina™

Untitled Map
Backyard of 349 W Main St
Legend
345 W Main St
349 W Main St
GENERATOR SITE
57'
80'
85'
N

Talking notes for Zoning Board appeal:

My request for zoning variance:

1) My request is to place an automatic emergency generator behind and existing fence on Virginia Ave close to where my 400 amp power enters the house and where the gas meter is located.

2) This would allow for automatic restoration of power to the house after 20 seconds after the power loss and would automatically shut down once commercial power is restored.

3) This installation would allow the removal of the house from the power grid during periods of high usage.

Problems:

1) City code defines my house at 349 W Main St. as having two front yards and two side yards.

2) City code requires that emergency generators must be located in the back yard.

3) My location in the city frequency loses power at least two or three times a month. Sometimes for only a minute or so sometimes for 4-6 hours.

4) My wife presently is taking a medicine that must be refrigerated at all times.

Solution to my problem:

Install an emergency generator behind the fence.

Known facts:

1) The generator noise level is 66dB at 23 feet. Air conditioners range from 50-75 dB, Lawn mowers range from 65-95 dB, coffee grinder ranges from 70-80 dB.

2) Distance to 345 W. Main property is 67 feet, 80 feet to 115 Virginia Ave, and 85 feet to 401 W Main St.

3) OSHA recommends noise level be less than 70 dBA on a time weighted average for 24 hours and 75 dBA time weighted average over an 8 hour time period.

VARIANCE REQUEST DATA SHEET PLVAR 2021-317

PUBLIC HEARING:	SEPTEMBER 16, 2021 BOARD OF ZONING APPEALS AT 10:00 AM
LOCATION OF PROPERTY:	349 WEST MAIN STREET
PRESENT ZONE:	OT-R OLD TOWN RESIDENTIAL
PROPOSED ZONE:	NO CHANGE
ACTION REQUESTED:	GRANT VARIANCE FOR MECHANICAL UNIT IN FRONT YARD
PRESENT USE OF PROPERTY:	SINGLE FAMILY RESIDENTIAL
PROPOSED USE OF PROPERTY:	NO CHANGE
FUTURE LAND USE DESIGNATION:	MEDIUM DENSITY RESIDENTIAL
PROPERTY OWNER (S):	LINDA AND ROBERT WEIR
NAME OF APPLICANT (S):	SAME
PROPERTY BORDERED BY:	SINGLE FAMILY RESIDENTIAL.
ACREAGE:	0.26 ACRES TOTAL
CHARACTER OF VICINITY:	NEIGHBORHOOD
INGRESS AND EGRESS:	VIRGINIA AVENUE
TRAFFIC VOLUME:	MODERATE TRAFFIC, NO RECENT COUNTS

2019 AERIAL VIEW OF AREA SURROUNDING SUBJECT PROPERTY

Prepared by:
Planning Division
8/26/2021

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YEAR 2030 LAND USE PLAN FOR AREA SURROUNDING SUBJECT PROPERTY

Prepared by:
Planning Division
8/26/2021

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SURROUNDING PROPERTY OWNERS AND ZONING WITHIN 300 FEET OF SUBJECT PROPERTY

Prepared by:
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8/26/2021

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

Board of Zoning Appeals

STAFF REPORT

MEETING DATE: OCTOBER 21, 2021

RE: VARIANCE/APPEAL APPLICATION – 414 MELROSE DRIVE

Variance Request PLVAR 2021-341, filed by Sarah Bourgoin, requests a variance from Article 2.P.13. of Chapter 41 of the Code of the City of Danville, Virginia, 1986 as amended at 414 Melrose Drive (Parcel # 03886). The applicant proposes placing a mechanical unit in the west yard between the home and Wendell Court.

BACKGROUND

The applicant would like to install an external air conditioning unit and the only practical location is on the Wendell Court side of the home.

APPLICATION FOR APPEALS

a. An appeal may be taken to the Board of Zoning Appeals by any person aggrieved or by any officer, department, commission, board or agency of the City affected by any decision of the Director of Planning/Zoning Administrator or from any order, requirement, decision or determination made by any other officer in the administration or enforcement of this ordinance.

b. All information, including documentation and rational for the grounds for the subject appeal as well as plats, maps, site plans and other graphic exhibits or information as required by the Board in order that it might be fully informed, shall be furnished by the applicant. The application shall include a copy of the decision or determination on which the application is based.

c. Any written notice of a zoning violation or a written order of the Director of Planning / Zoning Administrator shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within thirty days in accordance with this section, and that the decision shall be final if not appealed within thirty (30) days. The appeal period shall not commence until the statement is given to the recipient.

d. An appeal shall be taken within thirty (30) days after the decision appealed by filing with the administrator, and with the Board, a notice of appeal specifying the grounds thereof. The Director of Planning/Zoning Administrator shall forthwith transmit to the recording secretary of the Board all the papers constituting the record upon which the action appealed was taken. An appeal stays all proceedings in the furtherance of the action appealed from unless the administrator certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or a Court of record, on application and on notice to the Director of Planning/Zoning Administrator for good cause shown.

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 and the hardship for a variance was not created by the applicant because the applicant could not reasonably put the unit to the rear of the dwelling and the unit should be screened from the road. This application **does** 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 will not be a substantial detriment to adjacent and nearby 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 slope of the property and the dwelling's physical construction make it practically unfeasible to place the unit per ordinance requirements. 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

   The proposed generator is a permitted accessory structure in the zoning district. 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 five (5) of the five (5) criteria** needed to grant a variance.

I recommend the BZA approve the variance request with the condition the applicant use a solid fence or shrubs to screen the equipment from Melrose Drive and Wendell Court.

ATTACHMENTS

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

D

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 #: _____ 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.

CITY OF DANVILLE, VIRGINIA

ZONING APPEALS VARIANCE APPLICATION

APPLICANT PROVIDED INFORMATION 9/19/21

PROPERTY LOCATION ADDRESS: 414 MELROSE DRIVE DANVILLE, VA 24540

APPLICANT ADDRESS: 414 MELROSE DRIVE DANVILLE, VA 24540

APPLICANT PHONE NUMBER 303-731-9069

APPLICANT EMAIL ADDRESS: POETESS1970@GMAIL.COM

VARIANCE REQUEST DESCRIPTION: That a central air conditioning unit be placed along the southwest side wall of the property rather than in the back yard.

i.EXPLAIN HOW YOU DID NOT CREATE THE HARDSHIP. The home was purchased in November 2020 as is, without central air conditioning.

ii. EXPLAIN HOW GRANTING THE VARIANCE WILL NOT AFFECT NEIGHBORS: The enclosed map clearly shows that that this is a corner lot with no adjacent property owners to the proposed placement of a new unit. Discussion with both property owners directly across from Wendell and Melrose Drive resulted in their approval and enthusiasm for the update and exact placement of the unit. Brand new units currently run at only 60 decibels, and a decorative enclosure will be established.

iii.EXPLAIN WHY THE HARDSHIP ON THE PROPERTY IS UNIQUE AND NOT SOMETHING THAT AFFECTS SIMILAR PROPERTIES IN THE SAME ZONING DISTRICT. Most properties in this district already have central air conditioning. This particular home was built with the main heating unit and vents mounted right up against the central support beam. The refrigerant lines will not be able to be drilled through the central support beam for obvious safety as well as code violations. The solution recommended by the licensed contractor, is a straight parallel placement along the beam from the center of the southwest wall.

iv.EXPLAIN WHY GRANTING THIS VARIANCE WILL NOT RESULT IN A USE THAT IS OTHERWISE ALLOWED ON THE PROPERTY OR A CHANGE IN THE PROPERTIES' ZONING CLASSIFICATION. Central air conditioning is a request consistent with residential zoning upgrades. Air conditioning does not affect residential zoning when it does not interfere with the rights of adjacent property owners.

v.THE RELIEF OR REMEDY SOUGHT BY THE VARIANCE APPLICATION IS NOT AVAILABLE WITH A SPECIAL USE PERMIT. It conflicts with the Danville Zoning Ordinance.

Laura M. Bourgoin 9/19/21

Applicant signature Date

Map of 414 Melrose Dr
Danville, VA 24540
Google Maps extraction 9/19/21

Scale 1in : 20.44ft

(3)

Air conditioner proposed placement against house on southwest wall.

VARIANCE REQUEST DATA SHEET PLVAR 2021-341

PUBLIC HEARING:	OCTOBER 21, 2021 BOARD OF ZONING APPEALS AT 10:00 AM
LOCATION OF PROPERTY:	414 MELROSE DRIVE
PRESENT ZONE:	OT-R OLD TOWN RESIDENTIAL
PROPOSED ZONE:	NO CHANGE
ACTION REQUESTED:	GRANT VARIANCE FOR MECHANICAL UNIT IN FRONT YARD
PRESENT USE OF PROPERTY:	SINGLE FAMILY RESIDENTIAL
PROPOSED USE OF PROPERTY:	NO CHANGE
FUTURE LAND USE DESIGNATION:	MEDIUM DENSITY RESIDENTIAL
PROPERTY OWNER (S):	SARAH BOURGOIN
NAME OF APPLICANT (S):	SAME
PROPERTY BORDERED BY:	SINGLE FAMILY RESIDENTIAL.
ACREAGE:	0.25 ACRES TOTAL
CHARACTER OF VICINITY:	NEIGHBORHOOD
INGRESS AND EGRESS:	MELROSE DRIVE
TRAFFIC VOLUME:	LIGHT TRAFFIC, NO RECENT COUNTS

2019 AERIAL VIEW OF AREA SURROUNDING SUBJECT PROPERTY

Prepared by:
Planning Division
9/20/2021

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SURROUNDING PROPERTY OWNERS AND ZONING WITHIN 300 FEET OF SUBJECT PROPERTY

Prepared by:
Planning Division
9/20/2021

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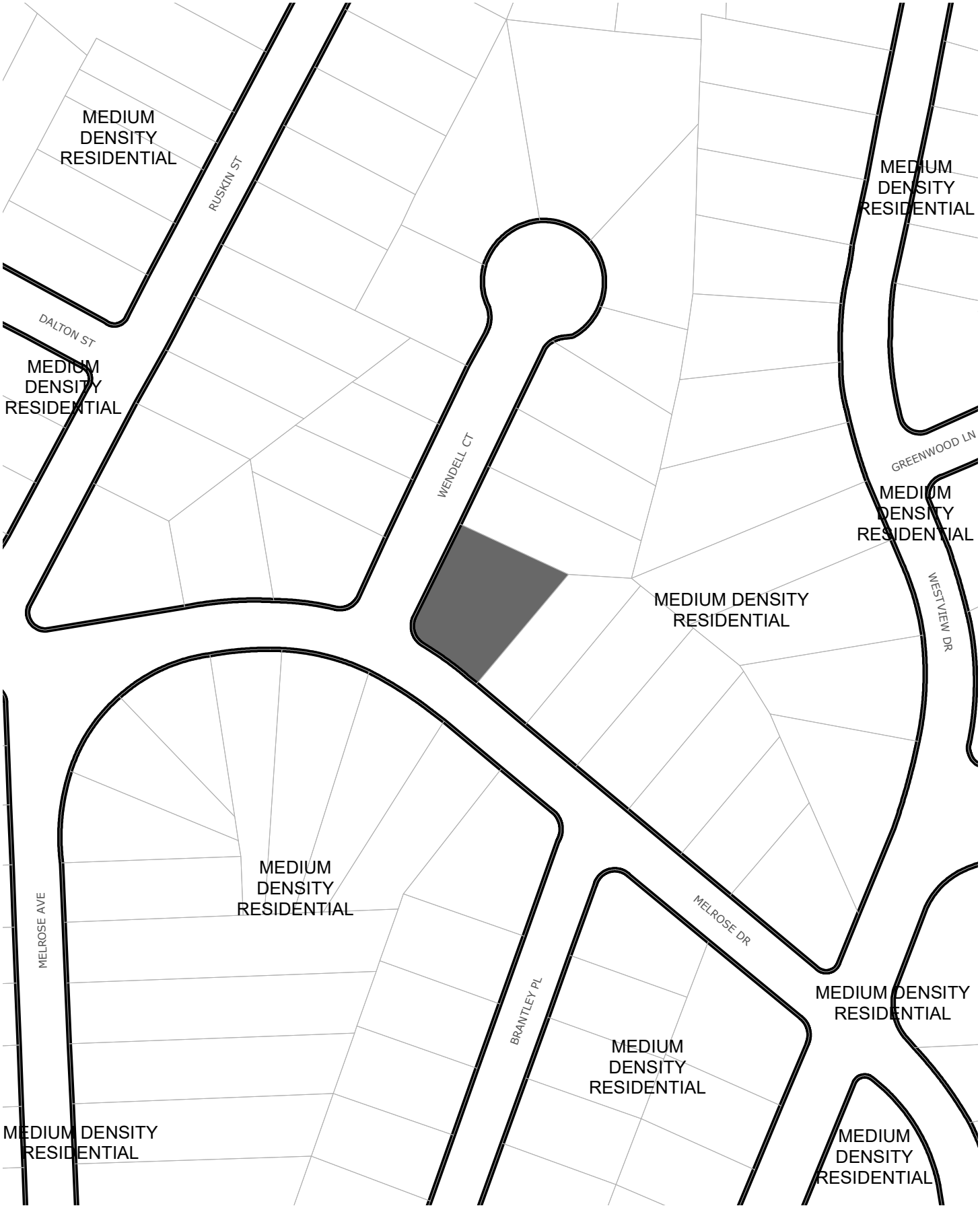

YEAR 2030 LAND USE PLAN FOR AREA SURROUNDING SUBJECT PROPERTY

Prepared by:
Planning Division
9/20/2021

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

Board of Zoning Appeals

STAFF REPORT

MEETING DATE: OCTOBER 21, 2021

RE: VARIANCE/APPEAL APPLICATION – 407 INDUSTRIAL

Special Exception Request PLVAR 2021-363, filed by Emma Olivarria, requests a Special Exception to convert an existing nonconforming single-family dwelling into a duplex as allowed in Article 13.G.6 of Chapter 41 of the Code of the City of Danville, Virginia, 1986 as amended at 407 Industrial Avenue (Parcel # 25551). The Applicant would like to convert the single-family dwelling back into a duplex dwelling.

BACKGROUND

The applicant purchased the existing home at 407 Industrial Avenue and applied to the City for a separate electrical service to convert the single-family dwelling back into a duplex. At this point, there are no redevelopment plans

APPLICATION FOR SPECIAL EXCEPTIONS

The Board shall have the power in specific cases to grant a special exception for and apply standards and conditions to certain land use, lot area, and yard exceptions from the strict application of the terms of this ordinance under the following provisions:

a. To provide for adjustments in the relative locations of uses and buildings of the same or different classifications;

b. To promote the usefulness of these regulations as instruments for fact finding, interpretations, application and adjustment; and

c. To supply the necessary elasticity to efficiently administer these regulations in the interest of sound land use.

I recommend, after considering unique characteristics, design, location, construction, and effect on traffic conditions of the subject property, the Board of Zoning Appeals may grant the special exception duplex conversion as an accessory to the existing ingle family dwelling because the

a. Proposed establishment or use will not adversely affect the health, safety or welfare of persons residing or working on the premises or in the neighborhood,

b. Will not unreasonably impair an adequate supply of light and air to adjacent property, increase congestion in the streets, increase public danger from fire or otherwise unreasonably affect public safety, impair the character of the district or adjacent districts, nor be incompatible with the general plans and objectives of the City's Comprehensive Plan, nor be likely to reduce or impair the value of buildings or property in surrounding areas,

c. The use will be in substantial accordance with the general purpose and objectives of the zoning ordinance.

ATTACHMENTS

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

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 #: PL VAR 2021-363 BZA Meeting Date: October 21, 2021

Date Received: _____ Received By: HDP

Parcel ID: 25551 Zoning District: HRC

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#): 407 Industrial (25551)

Applicant: Emma Olivarria

Applicant's Address: 267 Easy Street, Providence NC, 27315

Applicant's Phone Number: 336-394-8936

Applicant's E-mail: emyinolvidable@gmail.com

Variance Request Description: Special Exception request to convert single family home back into a two-family dwelling

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:

NA- Special Exception Request

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

The home is existing and was previously a duplex.

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

NA- Special Exception Request

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.

NA- Special Exception Request, but there are no comprehensive development plans in the area that will change existing land use patterns.

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

HRC does not allow the change of use with a special use permit

Applicant Signature

Emma Olivarria

Property Owner Signature
(if not applicant)

SPECIAL EXCEPTION REQUEST DATA SHEET PLVAR 2021-363

PUBLIC HEARING:	OCTOBER 21, 2021 BOARD OF ZONING APPEALS AT 10:00 AM
LOCATION OF PROPERTY:	**407 INDUSTRIAL AVENUE**
PRESENT ZONE:	HRC HIGHWAY RETAIL COMMERCIAL
PROPOSED ZONE:	NO CHANGE
ACTION REQUESTED:	SPECIAL EXCEPTION TO ALLOW TWO FAMILY RESIDENTIAL IN HIGHWAY COMMERCIAL ZONING DISTRICT
PRESENT USE OF PROPERTY:	SINGLE FAMILY RESIDENTIAL
PROPOSED USE OF PROPERTY:	TWO FAMILY RESIDENTIAL
FUTURE LAND USE DESIGNATION:	MIXED USE
PROPERTY OWNER (S):	EMMA OLIVARRIA
NAME OF APPLICANT (S):	EMMA OLIVARRIA
PROPERTY BORDERED BY:	RESIDENTIAL TO WEST, GAS STATION TO SOUTH INDUSTRIAL EAST AND NORTH
ACREAGE:	0.09 ACRES TOTAL
CHARACTER OF VICINITY:	MIXED USE RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL
INGRESS AND EGRESS:	INDUSTRIAL AVENUE
TRAFFIC VOLUME:	3400 PER DAY (2019 VDOT AADT)

2019 AERIAL VIEW OF AREA SURROUNDING SUBJECT PROPERTY

Prepared by:
Planning Division
10/14/2021

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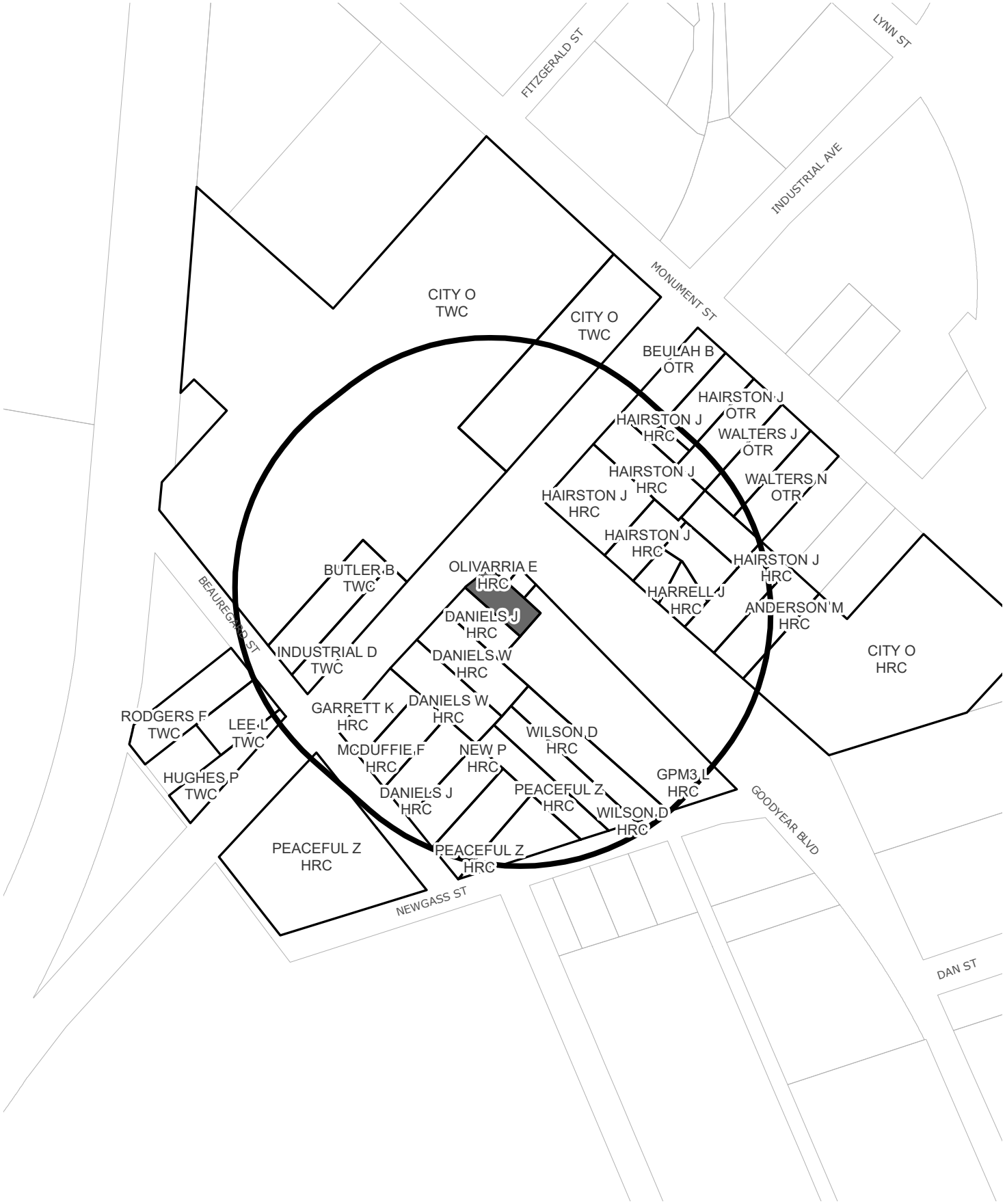

SURROUNDING PROPERTY OWNERS AND ZONING WITHIN 300 FEET OF SUBJECT PROPERTY

Prepared by:
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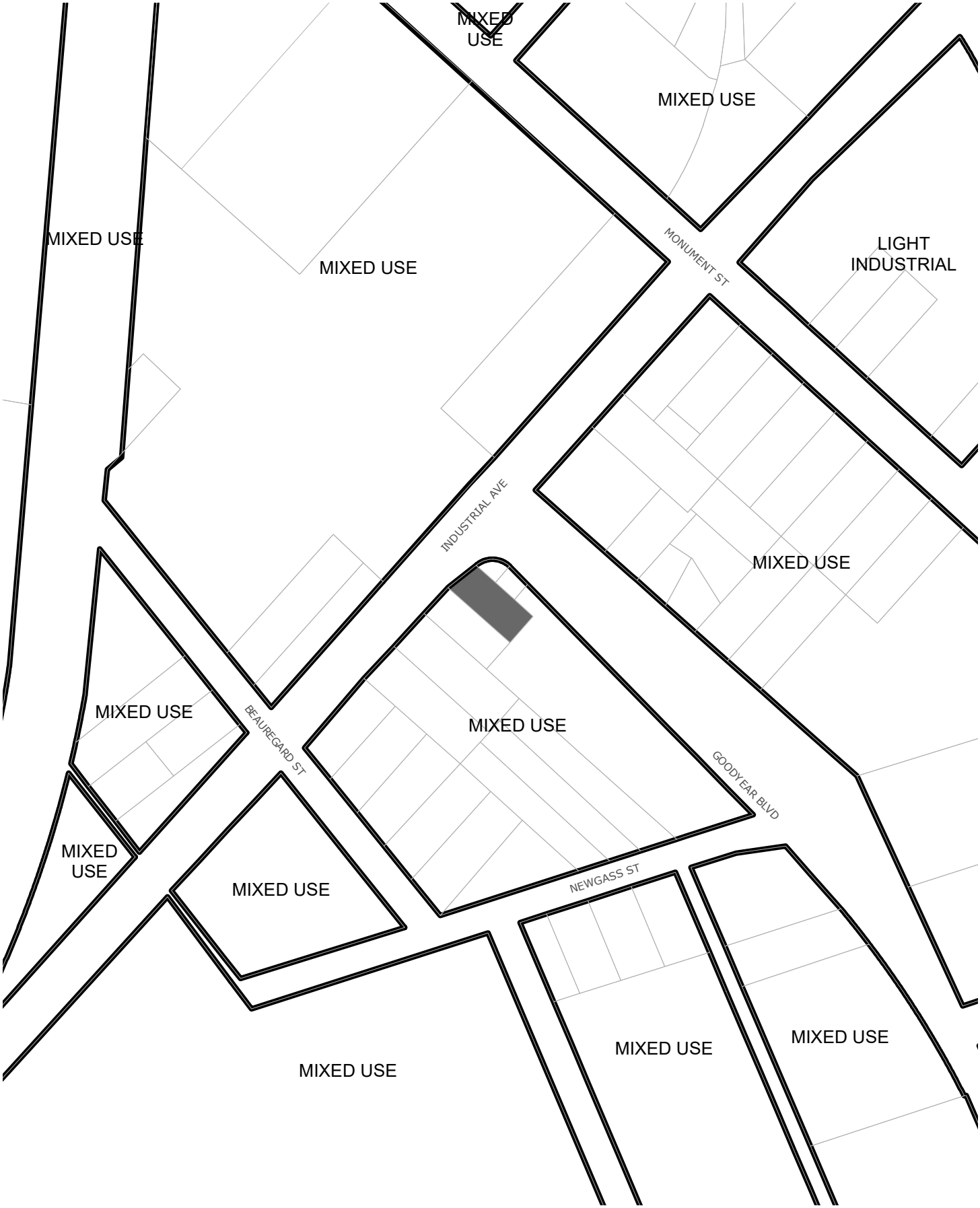

YEAR 2030 LAND USE PLAN FOR AREA SURROUNDING SUBJECT PROPERTY

Prepared by:
Planning Division
10/14/2021

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BOARD OF ZONING APPEALS MEETING

JULY 15, 2021

Members Present	Members Absent	Staff
John Hiltzheimer	Michael Nicholas	Lisa Jones
Nicole Garrison	Gus Dolianitis	Doug Plachcinski
Lawrence Meder		Clarke Whitfield
Gus Dyer		
Ann Sasser Evans		

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

I. ITEMS FOR PUBLIC HEARING

1. *Request for Variance PLVAR 2021-210, filed by Ricky and Shelby Wharton, requests a variance from Article 2, Section P.5. of Chapter 41 of the City of Danville, Virginia, Code of Ordinances, 1986 as amended, at 209 Berman Road, Parcel #59721. The applicant requests a variance to build a detached accessory building in the side yard.*

Mr. Dyer opened the Public Hearing.

Present to speak on behalf of this request was Mr. Ricky Wharton owner of 209 Berman Road who stated we just want to build a garage on our side yard, because in the back yard we have a big hill, and it would be stressful for my wife to pull the cars in and out. The side yard would work better for us and we would like to do that.

Mr. Dyer closed the Public Hearing.

Ms. Evans stated is this going to be a stilt-built structure?

Mr. Wharton stated yes mam.

Ms. Garrison stated on the property are you planning to put it where you had the black?

Mr. Wharton stated yes mam.

Mr. Dyer stated so from planning staff other than the fact that this is technically in the side yard, it still meets all the offsets and everything?

Mr. Plachcinski stated correct.

Mr. Dyer stated as far as being far enough off the property line and everything else you meet all of that.

Mr. Wharton stated yes.

Ms. Evans made a motion to approve the Variance Application PLVAR2021-210 as submitted. Ms. Garrison seconded the motion. The motion was approved by a 5-0 vote.

2. *Request for Special Exception PLVAR 2021-228, filed by the City of Danville, requests a variance from Article 2, Section R.6 and 8. of Chapter 41 of the City of Danville, Virginia, Code of Ordinances, 1986 as amended, at 140 Withers Road, Parcel #59810. The applicant proposes constructing a communications tower on City-owned property.*

Mr. Dyer opened the Public Hearing.

Present to speak on behalf of this request was Mr. Chris Clark, the Division Director of Public Works Administration with the City of Danville who stated we are looking to construct a communication tower beside the existing water tower.

Mr. Meder stated is this to support the new police station that is going in?

Mr. Clark stated yes because it will increase traffic on that end of the town. The existing water tower where we have our communications network set up now will only support four channels. The rest of the city and the towers have a full eight channels. We are trying to build this tower to increase height to give us a full eight channels. The way that it is set up now if there is any increase of traffic at all it won't let everyone speak at one time. In the event of an emergency it is very possible some different people couldn't talk to each other, like police, fire, and rescue.

Mr. Dyer closed the Public Hearing.

Ms. Evans stated I have a question for staff. I know other towers that we have approved if wind came along it would break at a certain point. Does this meet those guidelines or not?

Mr. Plachcinski stated it will and we will document that through the permitting process that it should be a self-collapsing tower, so if anything falls, they will crumple where it stands and not fall over on other properties.

Ms. Evans made a motion to approve Special Exception PLZA2021-228 as submitted. Ms. Garrison seconded the motion. The motion was approved by a 5-0 vote.

II. APPROVAL OF MINUTES FROM MARCH 18, 2021

The March 18, 2021 minutes were approved by a unanimous vote.

III. OTHER BUSINESS

With no further business, the meeting adjourned at 10:08 a.m.

_____

APPROVED