



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

## ***Board of Zoning Appeals***

JUNE 20, 2019  
4:00 P.M.  
4<sup>TH</sup> FLOOR CONFERENCE ROOM

### **AGENDA**

- I. WELCOME AND CALL TO ORDER
- II. ROLL CALL
- III. ELECTION OF OFFICERS
- IV. ITEMS FOR PUBLIC HEARING

*Variance Application Number PLVAR20190000197, filed by Zach and Felicia Hairston, requesting a variance from Article 2, Section P, Item 4 of Chapter 41 of the Code of the City of Danville, Virginia 1986, as amended at 56 Old Farm Rd, otherwise known as Grid 9711-003-000018 of the City of Danville, Virginia Zoning District Map. The applicant is requesting a variance to allow construction of an accessory building in the front yard where prohibited.*

- V. APPROVAL OF THE MINUTES FROM APRIL 19, 2018
- VI. OTHER BUSINESS
- VII. ADJOURNMENT



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

## ***Board of Zoning Appeals***

**Board of Zoning Appeals**  
June 20, 2019

**SUBJECT:**

*Variance Application Number PLVAR20190000197, filed by Zach and Felicia Hairston, requesting a variance from Article 2, Section P, Item 4 of Chapter 41 of the Code of the City of Danville, Virginia 1986, as amended at 56 Old Farm Rd, otherwise known as Grid 9711, Block, 003, Parcel 000018 of the City of Danville, Virginia Zoning District Map. The applicant is requesting a variance to allow construction of an accessory building in the front yard where prohibited.*

**BACKGROUND:**

Zach and Felicia Hairston, the applicants, are seeking a variance at 56 Old Farm Rd. to construct an accessory building in the front yard. However, accessory buildings are restricted to the rear yard in all residential districts. This is in accordance with Article 2 entitled "General Regulations", Section P entitled "Accessory Uses and Structures", Item 4 of the Zoning Ordinance which states:

*"All accessory uses and structures shall be placed in rear yards and shall cover no more than twenty (20) percent of the area of the rear yard."*

Records indicate the existing house was developed in 1977, when the property was still within Pittsylvania County. At that time, a single-family dwelling was constructed approximately twenty (20) ft. from the rear property line, and over four hundred (400) ft. from the front property line. The structure remains at this location. The majority of the property is considered to be a front yard.

In 1988, the City annexed this property. At that time, the property became subject to City zoning regulations. Prior to annexation, the property had not been subject to any zoning regulations while in the County. Since annexation, City zoning regulations have restricted residential accessory buildings to be located in rear yards. The property is currently zoned as S-R, Suburban Residential District. The property is considered legal nonconforming, regarding a required thirty (30) ft. rear yard setback.

**PREREQUISITE FOR GRANTING VARIANCES:**

*Notwithstanding any other provision of law, general or special, 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 (i) the property interest for*



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

## ***Board of Zoning Appeals***

*which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; (iii) the condition or situation of the property concerned 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; (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and (v) 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.*

In authorizing a variance the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being, and will continue to be, complied with.

### **CRITERIA ANALYSIS:**

Notwithstanding any other provision of law, general or special, 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

**1) *And 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 developed prior to any applicable zoning restrictions. However, the applicants purchased the property when current zoning restrictions were in place in 2016. Additionally, a detached accessory building is not required to use the property as a single-family residential dwelling. The proposed building could theoretically also be attached to the house with a canopy. Therefore, this application **does not** meet this criterion.

**2) *And the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area***

The proposed accessory building is screened by existing trees and natural vegetation. By staff's estimate, the building is planned to be at least thirty (30) ft. from the side property line, and over three hundred fifty (350) ft. from the front property line. Therefore, this application **does** meet this criterion.



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

## ***Board of Zoning Appeals***

- 3) ***And the condition or situation of the property concerned 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***

Most properties in the City have either been developed while subject to accessory structure restrictions, or contain backyards suitable for accessory structures. This property was developed prior to any applicable zoning regulations which prevent accessory structures in side or front yards. Additionally, the property's topography prevents the construction of any accessory building in the rear yard. Therefore, this application **does** meet this criterion.

- 4) ***And the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property***

The construction of an accessory building will not introduce an unpermitted use or change in zoning. Therefore, this application **does** meet this criterion.

- 5) ***And 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 special exception process does not apply to this situation. A Zoning Code Amendment is likewise not feasible for this situation. Therefore, this application **does** meet this criterion.

Therefore, this variance request **meets four (4) of the five (5) criteria** needed to grant a variance. If the Board chooses to grant a variance, staff recommend conditions which limit accessory structures to within the required front and side yard setbacks, and be screened from view of neighbors.

**Attachments:**

- Application
- Property Ownership & Existing Zoning Map
- Data Sheet
- Existing Land Use Map (Aerial 2015)



## VARIANCE APPLICATION

*No application for a variance will be accepted for a Board of Zoning Appeals agenda unless the following conditions are met by the twentieth (20<sup>th</sup>) of the month, unless a weekend, prior to a Board Meeting. The Board meeting is held on the third Thursday of each month.*

1. A pre-conference meeting with the applicant and the Zoning Administrator or designated Staff person has been conducted.
2. All questions on this application have been fully answered
3. The property owner(s) or his agent with the written authorization of the owner has signed the application
4. A Plot plan drawn to scale, showing the actual dimensions and shape of the lot, the exact size and location on the lot of all building and signs existing and proposed, and the location of all required parking spaces has been submitted.
5. The Zoning Administrator has certified that the proposed use and construction plans comply will all provisions of the Zoning Code, except for which a variance has been requested.
6. Original signatures of the applicant(s) and/ or property owner(s) are present on the application.
7. An application fee of \$206.00 has been submitted.

### INFORMATION TO BE PROVIDED BY THE PLANNING DIVISION

CASE NUMBER: PLVAR20190000197 EXISTING ZONING: S-R, Suburban Residential

RECEIVED BY: Bryce Johnson

DATE FILED: May 9, 2019 TAX MAP: 9711-003-000018

NUMBER: ID # 71341 BZA DATE: June 20, 2019

VARIANCE FROM Accessory building prohibition in front + side yard

ZONING SECTION Article 2, Section P, Item 4

Property Address: 56 OLD FARM ROAD

I (we) have applied for a variance to allow the following:

24 X 24 FREE STANDING GARAGE

§ 15.2-2309 [excerpt]

Notwithstanding any other provision of law, general or special, 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 (i) 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; (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; (iii) the condition or situation of the property concerned 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; (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and (v) 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.

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

- i. 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 (Describe):

STATEMENT IS TRUE

- ii. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area (Describe):

NO ADJACENT PROPERTY NEARBY

- iii. The condition or situation of the property concerned 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 (Describe):

NO; SITUATION IS UNIQUE

- iv. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property

Yes ☒ NO

- v. The relief or remedy sought by the variance application is not available through a special exception process

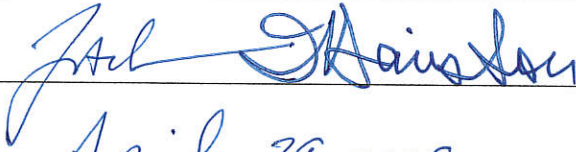
Yes

No

IN AUTHORIZING A VARIANCE THE BOARD OF ZONING APPEALS MAY IMPOSE SUCH CONDITIONS REGARDING THE LOCATION, CHARACTER AND OTHER FEATURES OF THE PROPOSED STRUCTURE OR USE AS IT MAY DEEM NECESSARY IN THE PUBLIC INTEREST AND MAY REQUIRE A GUARANTEE OR BOND TO INSURE THAT THE CONDITIONS IMPOSED ARE BEING, AND WILL CONTINUE TO BE COMPLIED WITH.

**PRESENT OWNER (S) OF ALL PROPERTIES INCLUDED IN APPLICATION**

(PLEASE TYPE OR PRINT):

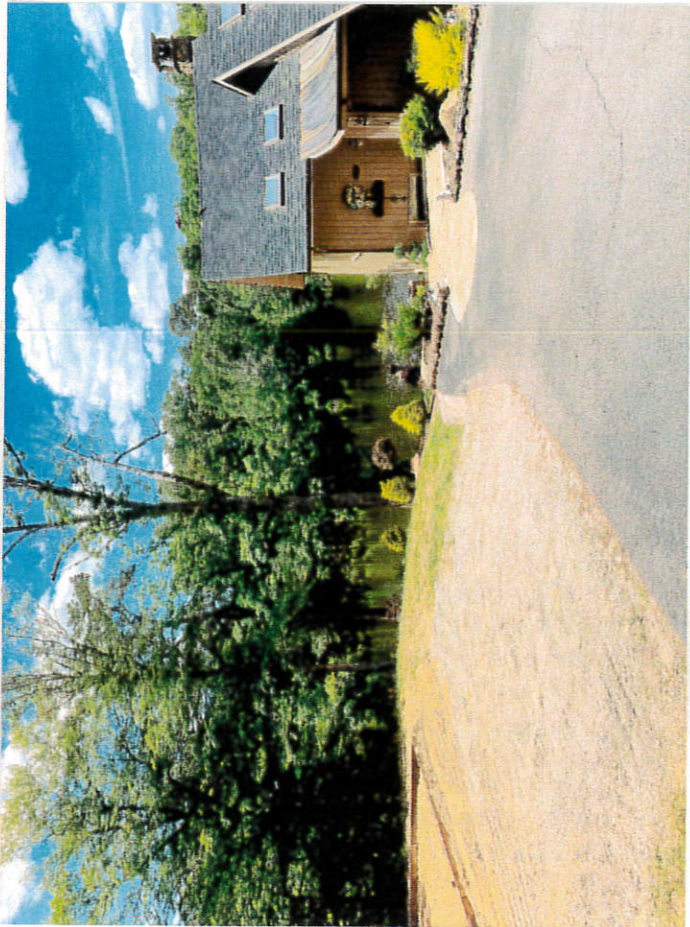
1. NAME: ZACHARY & FELICIA HAIRSTON  
TELEPHONE: 434 548 9001  
MAILING ADDRESS: 56, OLD FARM ROAD  
EMAIL ADDRESS: ZPODS @ COMCAST.NET  
SIGNATURE:   
DATE: April 29, 2019

**APPLICANT (PLEASE TYPE OR PRINT):**

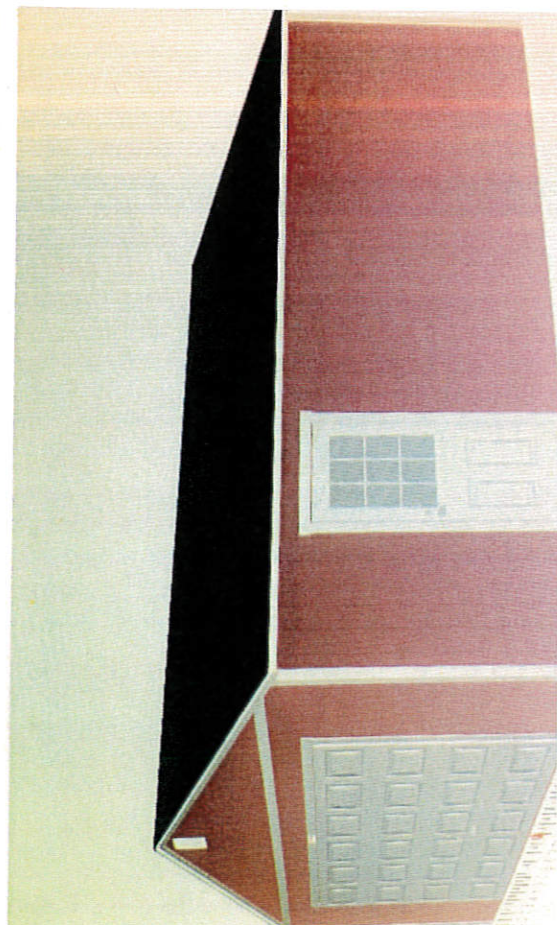
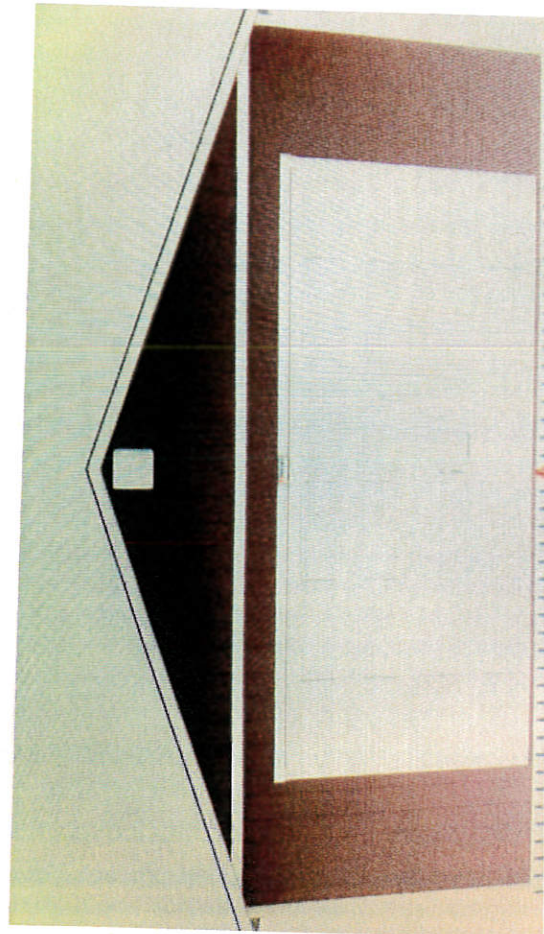
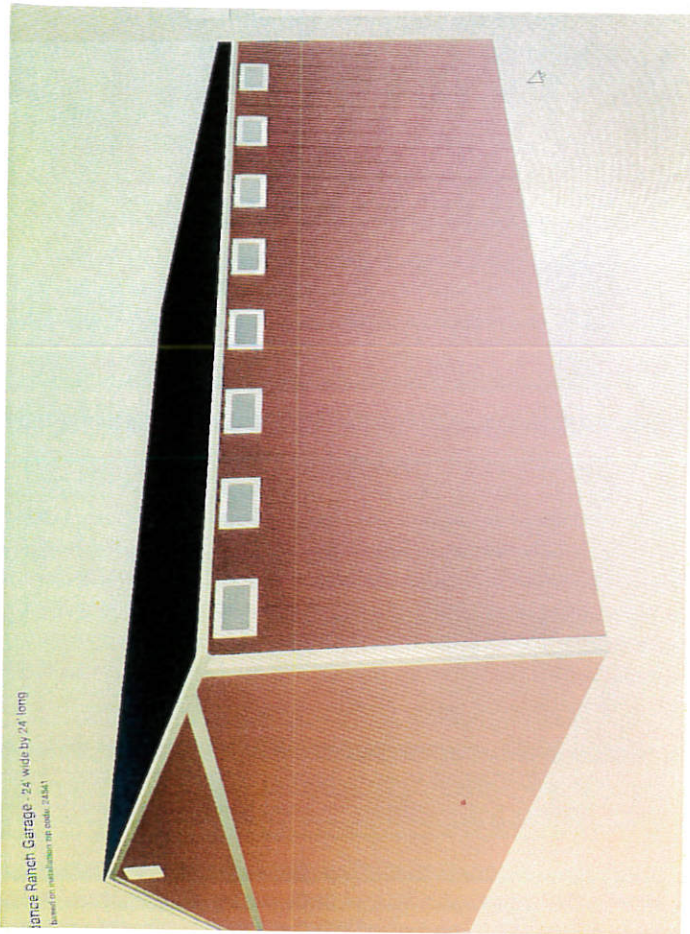
If the applicant is not the property owner, written authorization from the property owner must accompany this application.

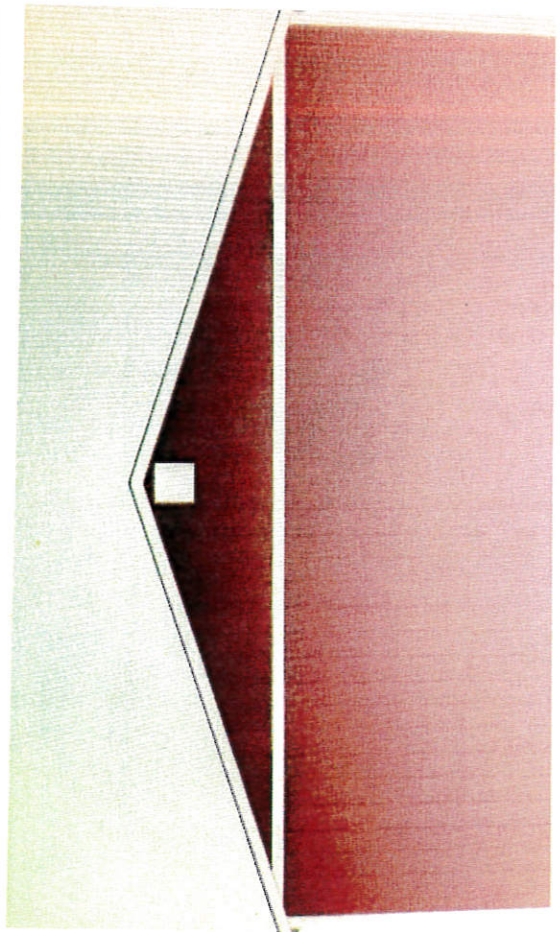
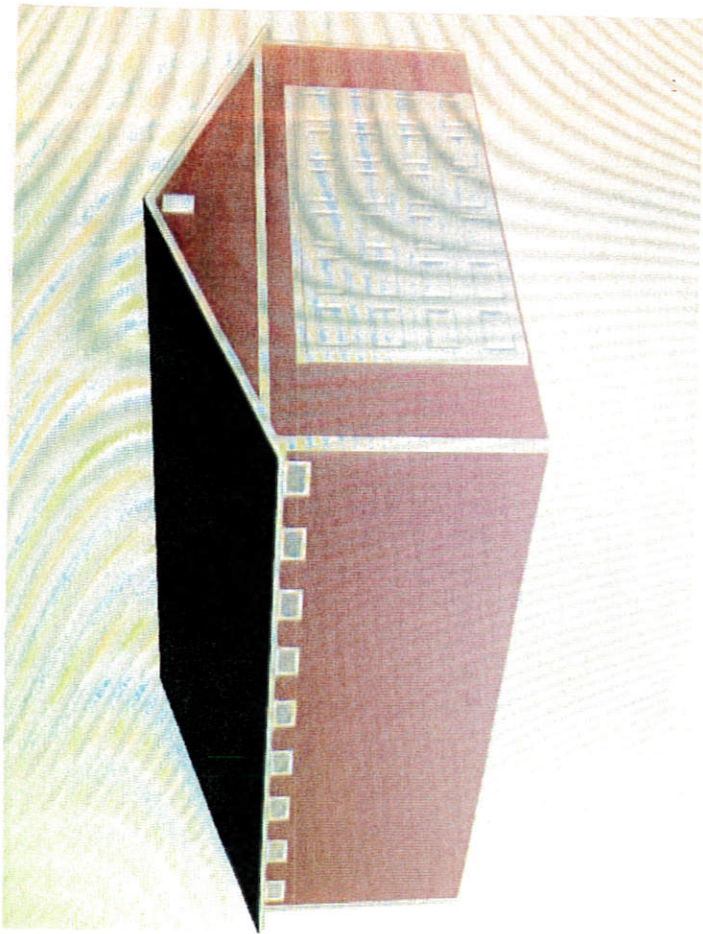
NAME: \_\_\_\_\_ TELEPHONE: \_\_\_\_\_  
MAILING ADDRESS: \_\_\_\_\_  
EMAIL ADDRESS: \_\_\_\_\_  
SIGNATURE: \_\_\_\_\_  
DATE: \_\_\_\_\_

The decision of the Board of Zoning Appeals is final, unless appealed to the Danville Circuit Court within thirty (30) days of the date of the Board's decision in accordance with Article 13 Section I Item 2 of the Zoning Code, 1986 as amended.





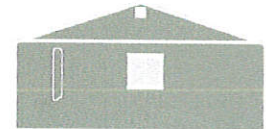
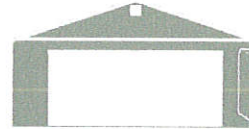
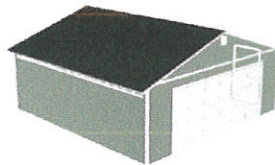






Design & Price Quote #: 1461697

Created: Apr 15, 2019 1:34:00 PM



#### Customer Information

Zachary Hairston  
56 Old Farm Rd  
Danville, VA 24541  
zpdds@comcast.com

#### Shipping Information

Zachary Hairston  
56 Old Farm Rd  
Danville, VA 24541

| Description                       | Qty       | List Price | Discount | Ext Net Price  |
|-----------------------------------|-----------|------------|----------|----------------|
| Sundance Ranch Garage 24 x 24     | 1/Ea      | \$10499.00 | \$0.00   | \$10499.00     |
| 16'x7' Standard Garage Door       | 1/Ea      | \$0.00     | \$0.00   | \$0.00         |
| 3068 R-In 9-Lite Residential Door | 1/Ea      | \$430.00   | \$0.00   | \$430.00       |
| Door - Drip Cap (3')              | 1/Ea      | \$30.00    | \$0.00   | \$30.00        |
| 3'x3' Horizontal Sliding Window   | 1/Ea      | \$199.00   | \$0.00   | \$199.00       |
| Transom Window (16"x8")           | 17/Ea     | \$60.00    | \$7.06   | \$900.00       |
| House Wrap                        | 871/Sq Ft | \$0.40     | \$0.00   | \$348.40       |
| Paint - Autumn Gray               | 871/Ea    | \$0.00     | \$0.00   | \$0.00         |
| Paint - Delicate White            | 1/Ea      | \$0.00     | \$0.00   | \$0.00         |
| Paint 10% of building base price  | 1/Ea      | \$1050.00  | \$0.00   | \$1050.00      |
| Onyx Black - Lifetime             | 654/Sq Ft | \$0.00     | \$0.00   | \$0.00         |
| Lifetime Shingle Upgrade          | 654/Sq Ft | \$1.00     | 100.00%  | \$0.00         |
| Radiant Barrier Roof Decking      | 654/Sq Ft | \$1.00     | 100.00%  | \$0.00         |
| 12"x12"Gable End Vent, White      | 2/Ea      | \$32.00    | \$0.00   | \$64.00        |
| Engineering Fees                  | 576/Sq Ft | \$1.00     | \$0.00   | \$576.00       |
| Delivery Fee                      | 1/Ea      | \$0.00     | \$0.00   | \$0.00         |
| List Price                        |           |            |          | \$15524.40 USD |
| Discount                          |           |            |          | \$1428.00 USD  |
| Subtotal                          |           |            |          | \$14096.40 USD |

**BLANK SIDE WALL ELEVATION**  
SCALE: 1/4" = 1'-0"

**SIDE WALL ELEVATION WITH OPENINGS**  
SCALE: 1/4" = 1'-0"

**END WALL ELEVATION WITH OPENING**  
SCALE: 1/4" = 1'-0"

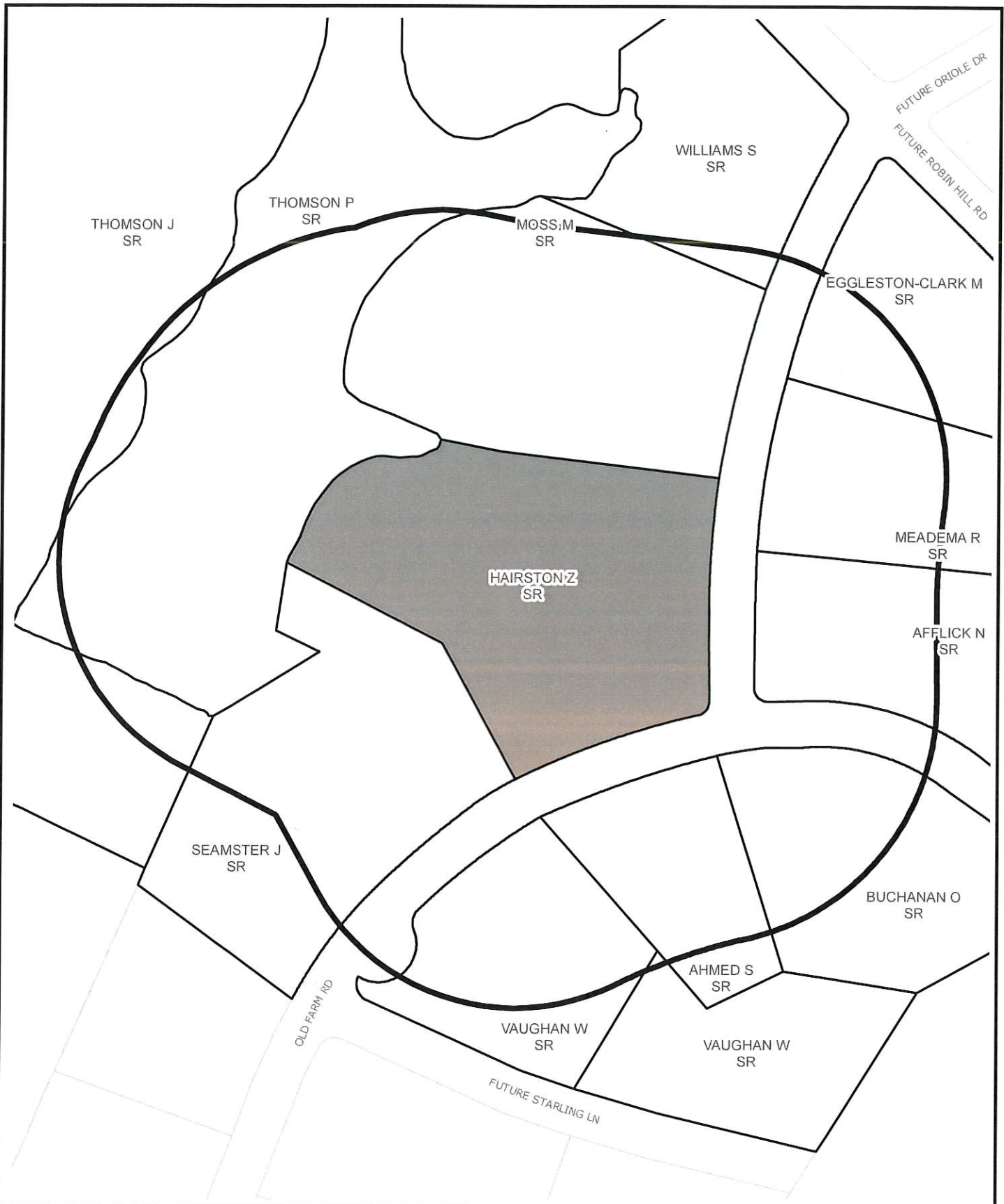
**FLOOR PLAN**  
SCALE: 3/8" = 1'-0"

**TRUSS ATTACHMENT**  
SCALE: 1/4" = 1'-0"

**WALL PANELS LESS THAN 2'-8"**  
HOLD DOWNS REQUIRED

**DETAILS**

- 1. ALL LUMBER SHALL BE HEAVY GRADE NO. 2 OR BETTER, WITH A BOND ANGLER ALLOWABLE EXTREME PERMISSIBLE STRESS FOR MEMBERS (NOT FOR JOINTS) EXCEPTED. EXCEPTED JOINTS SHALL BE WELDED OR BOLTED TOGETHER.
- 2. REFER TO THE TRUSS DESIGN FOR DESIGN INFORMATION.



# **SURROUNDING PROPERTY OWNERS AND ZONING WITHIN 300 FEET OF SUBJECT PROPERTY**



Prepared by:  
Planning Division  
5/28/2019

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.

**VARIANCE REQUEST**  
**DATA SHEET**

**PUBLIC HEARING DATE:** 4pm on June 20, 2019

**LOCATION OF PROPERTY:** 56 Old Farm Rd.

**PRESENT ZONE:** S-R, Suburban Residential

**ACTION REQUESTED:** Variance<sup>1</sup> to permit an accessory building in the front yard.

**PRESENT USE OF PROPERTY:** Single family residential

**PROPOSED USE OF PROPERTY:** Single family residential

**PROPERTY OWNER (S):** Zachary and Felicia Hairston

**NAME OF APPLICANT (S):** Zachary and Felicia Hairston

**PROPERTY BORDERED BY:** Residential on all sides, including a pond to the west

**ACREAGE:** 6 acres (261,360 sq. ft.)

**CHARACTER OF VICINITY:** Residential

**INGRESS AND EGRESS:** Old Farm Rd.

**TRAFFIC VOLUME:** Low

---

<sup>1</sup> A variance is a legal exception based on unique circumstances of a property.



## 2015 AERIAL VIEW OF AREA SURROUNDING SUBJECT PROPERTY



Prepared by:  
Planning Division  
5/28/2019

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

**April 19, 2018**

Members Present

Ann Sasser Evans  
John Hiltzheimer  
Dolores Reynolds  
Gus Dyer  
Nicole Garrison

Members Absent

Philip Campbell  
Michael Nicholas

Staff

Ken Gillie  
Lisa Jones

Chairman Dyer called the meeting to order at 4:00 p.m.

### I. ITEMS FOR PUBLIC HEARING

*Variance Application Number PLVAR20180000077, filed by Allen Matthews, requesting a variance from Article 7., Section B, Item 3 of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 117 Gordon Avenue, otherwise known as Grid 1706, Block 004, Parcel 0000024, of the City of Danville, Virginia, Zoning Map. The applicant is requesting a variance to occupy a structure as a single-family residential dwelling that has been vacant for more than two years and is located within an area zoned HR-C Highway Retail Commercial District.*

Mr. Dyer opened the Public Hearing.

Present to speak on behalf of this request was Allen Matthews., Mr. Matthews stated I'm asking for this variance. I inherited it from my mother. It's where I grew up and I know ignorance is no excuse, but I have put a lot of money into this and I thought that I could just move into it. I was told because it was zoned commercial that I couldn't do that, so that is the reason that I'm asking for this. I think it would improve the community and surrounding area.

Mrs. Evans stated you don't mind living in something that is zoned commercial with businesses across the street?

Mr. Matthews stated no, I grew up there.

Mrs. Evans stated what if some of the other houses on that street became businesses as well and you were the only resident?

Mr. Matthews stated I have no problem.

Mrs. Reynolds stated I was just wondering how long it is going to be before all of those houses go commercial? What happens in the mean time if that house sits and deteriorate with nobody in it?

Mr. Matthews stated that is not my plan.

Mrs. Reynolds stated I know, but if you didn't get in it. If you didn't have it what happens to it? It sits there and rots.

Mr. Hiltzheimer stated there are about five houses that are empty and your house is the only one that is being used now. Right?

Mr. Matthews stated no, there is one across the street. There are three that are being lived in.

Mr. Dyer stated because they have been grandfathered in. They were residential units that people continued to live in them. Mr. Matthews problem is the property was vacant for two years.

Mr. Hiltzheimer stated I went by there and saw the property. You have done a decent job on the roof.

Ms. Teresa Romareo stated I'm Mr. Matthews finance and I hope to live in this house with him. This is everything that we have put into this house of the last few months. It is over twenty-four thousand dollars we have invested. We have rewired, fixed the plumbing, new roof, replacement windows, central heat and air, and new flooring. I have all the receipts right here if anybody would like to see them. We are just trying to improve the looks of the neighborhood.

Mr. Dyer closed the Public Hearing.

Mrs. Evans stated there is one opposition from JLS Investment properties. Where on this map is that?

Mr. Gillie stated on the other side of Piney Forest Road.

Mrs. Garrison stated if he is allowed to live in the house, when he vacants the house will it revert back to?

Mr. Dyer stated it will always be Highway Commercial.

Mrs. Garrison stated if he moves out of the house then nobody else could move in it. Right?

Mr. Gillie stated someone else could.

Mrs. Garrison stated as long as it is within the two years.

Mr. Dyer stated right. As long as it is not a two year lapse then they will have to come back here. Also, they can't come back here and object to somebody putting a McDonalds next door to them.

Mr. Gillie stated they can come back and object to it but it won't matter because the property is already highway commercial.

Mrs. Evans stated this is not called spot zoning as JLS indicates, right?

Mr. Gillie stated it is not spot zoning because they are not changing the zoning. It is still staying Highway Commercial. This just allows them after two years to go back to a use that has lost its legal rights to continue.

Mrs. Reynolds made a motion to approve Variance Application PLVAR20180000077. Mrs. Evans seconded the motion. The motion was approved by a 5-0 vote.

## **II. APPROVAL OF MINUTES**

**The February 15, 2018 minutes were approved by a unanimous vote.**

## **III. OTHER BUSINESS**

With no further business, the meeting adjourned at 4:15 p.m.

---

APPROVED