



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

Board of Zoning Appeals

APRIL 21, 2022

10:00 A.M.

CONFERENCE ROOM – 4th FLOOR MUNICIPAL BUILDING

AGENDA

A. WELCOME AND CALL TO ORDER

B. ROLL CALL

C. ELECTION OF OFFICERS

D. ITEMS FOR PUBLIC HEARING

1. Variance Request PLVAR2020-110 remanded from the Planning Commission on a case filed by Mark and Karen Davis, requesting a variance for a deck constructed without permits onto a legal non-conforming residential use at 734 Mt. Cross Road (Parcel #72873.) The Planning Commission declined to rezone the property.
2. Variance request PZ22-24, filed by the Danville Redevelopment and Housing Authority, requests to allow a 14' by 22' accessory building in the required front and side yard setbacks and within ten (10') feet of the principal building at 524 Chatham Avenue (Parcel # 23043). The accessory building is for storage to support the community center.
3. Appeal of Zoning Administrator Request PL22-69, filed by SND Management LLC c/o Shelby Fitzgerald, requests an appeal of a zoning violation as allowed in Article 13 of Chapter 41 of the Code of the City of Danville, Virginia at 3007 Riverside Drive (Parcel # 56216). The Zoning Administrator sent a zoning violation notice to the property owner for operating skill games.
4. Appeal of Zoning Administrator Request PL22-71, filed by Usman Enterprise c/o Ganzafari Ali, requests an appeal of a zoning violation as allowed in Article 13 of Chapter 41 of the Code of the City of Danville, Virginia at 900 South Main Street (Parcel # 22494). The Zoning Administrator sent a zoning violation notice to the property owner for operating skill games.
5. Appeal of Zoning Administrator Request PL22-72, filed by Usman Enterprise c/o Ganzafari Ali, requests an appeal of a zoning violation as allowed in Article 13 of Chapter 41 of the Code of the City of Danville, Virginia at 504 Kemper Road (Parcel # 23940). The Zoning Administrator sent a zoning violation notice to the property owner for operating skill games.
6. Variance request PZ22-74, Filed by the City of Danville, to allow an 8'x8' wood deck with stairs in the front yard setback of a legal non-conforming building at 145 Gypsum Road (Parcel #76482). The deck and stairs provide better access to Fire Department storage space.

E. APPROVAL OF MINUTES FROM OCTOBER 21, 2021

F. OTHER BUSINESS

G. ADJOURNMENT



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Board of Zoning Appeals

STAFF REPORT

MEETING DATE: April 21, 2022

RE: VARIANCE/APPEAL APPLICATION – 734 MT CROSS ROAD

Variance Request PLVAR2020-110 remanded from the Planning Commission on a case filed by Mark and Karen Davis, requesting a variance for a deck constructed without permits onto a legal non-conforming residential use at 734 Mt. Cross Road (Parcel #72873.) The Planning Commission declined to rezone the property.

BACKGROUND

The applicant built a deck on the front of the legally non-conforming home at 734 Mt. Cross Road. The BZA asked the Planning Commission to consider rezoning the property after previously considering the variance request.

SPECIAL EXCEPTION

The Zoning Ordinance allows the BZA to grant a special exception for accessories to single family dwellings in which the construction does not comply with the regulations on the zoning district. In this case, a single-family dwelling in HR-C zoning.

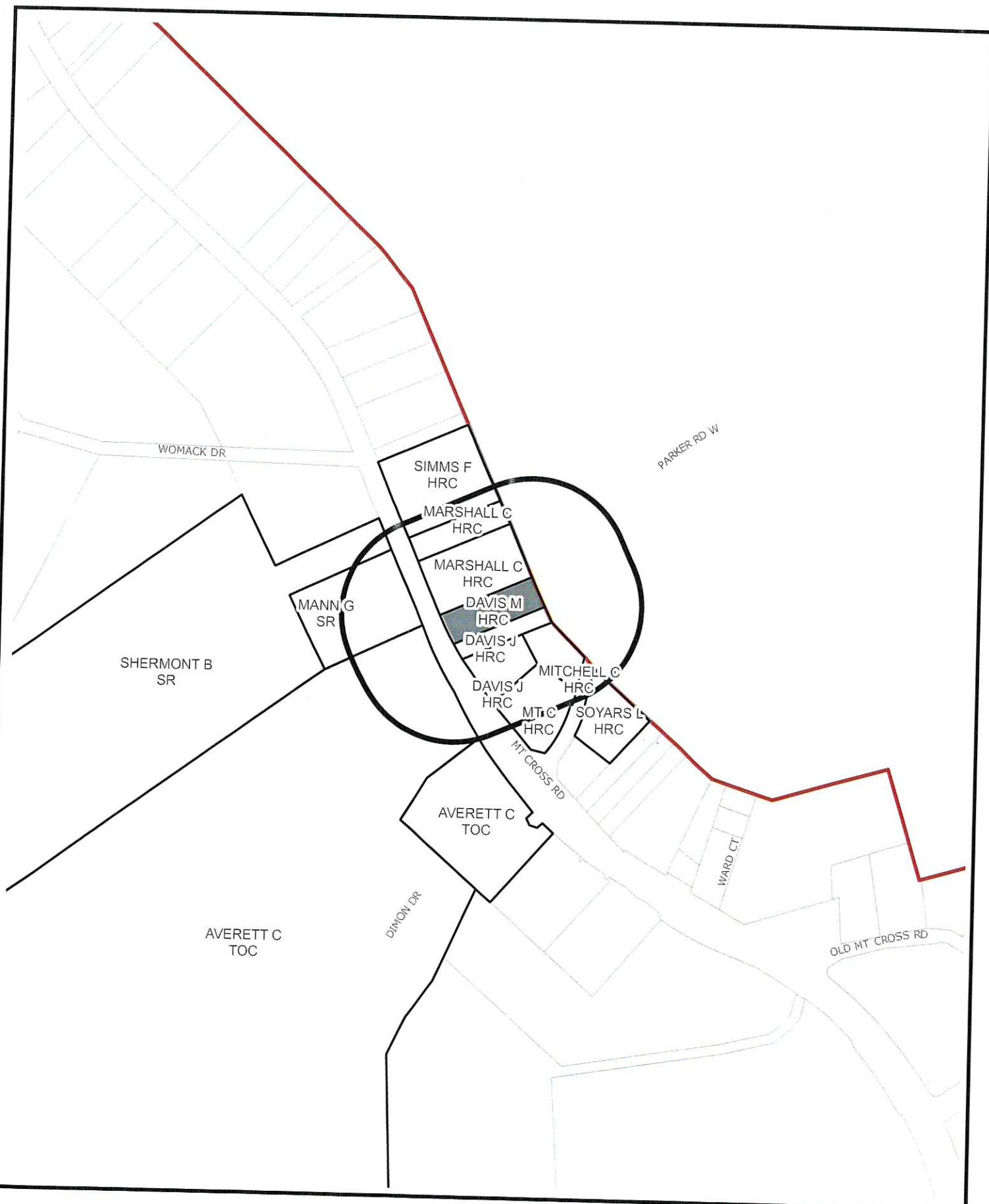
The BZA must find that the deck will not adversely affect the health, safety or welfare of persons residing or working on the premises or in the neighborhood, will not unreasonably impair an adequate supply of light and air to adjacent property, nor increase congestion in the streets, nor increase public danger from fire or otherwise unreasonably affect public safety, nor 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, but that such establishment or use will be in substantial accordance with the general purpose and objectives of this ordinance.

RECOMMENDATION

Staff recommends that if the BZA finds the deck meets the conditions in Zoning Ordinance Article 13.G.4, then the BZA can grant a special exception allowing the deck as an accessory to a non-conforming use.

ATTACHMENTS

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



SURROUNDING PROPERTY OWNERS AND ZONING WITHIN 300 FEET OF SUBJECT PROPERTY



Prepared by:
Planning Division
6/26/2020

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REZONING REQUEST
DATA SHEET

DATE:	AUGUST 10, 2020
LOCATION OF PROPERTY:	734 Mt. Cross Road (Parcel ID 72873)
PRESENT ZONE:	HR-C Highway Retail Commercial District
ACTION REQUESTED:	The applicant is requesting a variance to allow for a deck constructed without permits onto a legal non-conforming use to remain on a residential property in area zoned HR-C Highway Retail Commercial District.
PRESENT USE OF PROPERTY:	Single-family residence
PROPOSED USE OF PROPERTY:	Same
PROPERTY OWNER (S):	Mark and Karen Davis
NAME OF APPLICANT (S):	same
PROPERTY BORDERED BY:	Single-family residential and commercial uses to the north and south, vacant land and single family residential to the east, and Averett University and a church to the west.
ACREAGE/SQUARE FOOTAGE:	.69 acres
CHARACTER OF VICINITY:	Mixed commercial and residential
INGRESS AND EGRESS:	Mt. Cross Rd
TRAFFIC VOLUME:	High
NEIGHBORHOOD REACTION:	To be reported at the Planning Commission meeting on August 10, 2020.



2019 AERIAL VIEW OF AREA SURROUNDING SUBJECT PROPERTY

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Planning Division
6/26/2020

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Board of Zoning Appeals

STAFF REPORT

MEETING DATE: APRIL 21, 2022

RE: VARIANCE/APPEAL APPLICATION – 524 CHATHAM AVENUE

Variance request PZ22-24, filed by the Danville Redevelopment and Housing Authority, requests to allow a 14' by 22' accessory building in the required front and side yard setbacks and within ten (10') feet of the principal building at 524 Chatham Avenue (Parcel # 23043). The accessory building is for storage to support the community center.

BACKGROUND

The accessory building is for storage to support the community center.

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 rationale 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 but the hardship for a variance is created by the applicant because they built a community center without adequate storage space. 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 is a detriment to the property immediately adjacent to the east because it violates the setback standards against the shared property line. This application **DOES NOT** 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.*

A storage building could be constructed in the rear yard of the subject property front yard accessory buildings are not allowed in any residential districts. This application **DOES NOT** 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 accessory building 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 two (2) of the five (5) criteria** needed to grant a variance.

I recommend the BZA deny variance request PZ22-24.

ATTACHMENTS

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



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 (20th) 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 \$200.00 has been submitted.

INFORMATION TO BE PROVIDED BY THE PLANNING DIVISION

CASE NUMBER: PZ22-00024 EXISTING ZONING: _____
RECEIVED BY: (SW) DATE FILED: 2/15/22
TAX MAP NUMBER: Parcel 23843 BZA DATE: _____
VARIANCE FROM ZONING SECTION shed in front

- 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: Danville Redevelopment & H.A. TELEPHONE: 434-792-5544

MAILING ADDRESS: PO Box 1476 Danville, VA 24543

EMAIL ADDRESS: LDeedrich@drhava.com

SIGNATURE: Laurie Deedrich DATE: 2/14/22

APPLICANT (PLEASE TYPE OR PRINT):

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

NAME: Linwood Terry TELEPHONE: 434-728-8761

MAILING ADDRESS: P.O. Box 1476 Danville, VA 24543

EMAIL ADDRESS: linwood.terry@drhava.com

SIGNATURE: Linwood Terry DATE: 2-15-22

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.

Property Address: 524 Chatham Ave Danville, VT

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

allow a storage shed on-site 14x24

§ 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):
The Southside Community Learning Center was developed with City funds & HUD support. A shed is needed for storage of equipment.
- 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):
DRMA owns the properties next to the Community Center
- 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):

- 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

























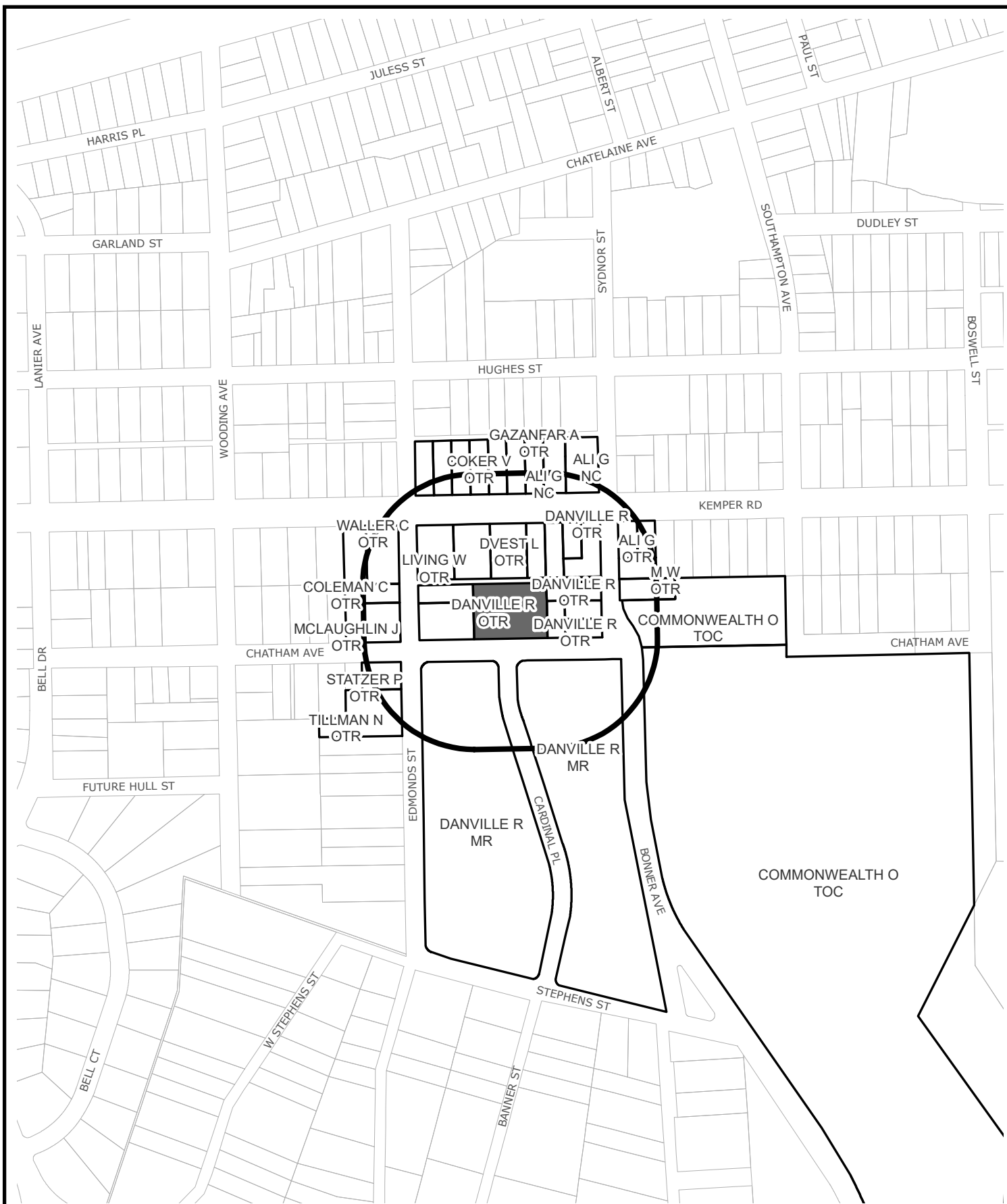


2019 AERIAL VIEW OF AREA SURROUNDING SUBJECT PROPERTY



Prepared by:
Planning Division
4/1/2022

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SURROUNDING PROPERTY OWNERS AND ZONING WITHIN 300 FEET OF SUBJECT PROPERTY



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VARIANCE REQUEST DATA SHEET PZ22-24

PUBLIC HEARING DATE: APRIL 21, 2022
BOARD OF ZONING APPEALS AT 10:00 AM

LOCATION OF PROPERTY: 524 CHATHAM AVENUE (PARCEL ID 23043)

PRESENT ZONE: OTR OLD TOWN RESIDENTIAL

PROPOSED ZONE: NO CHANGE

ACTION REQUESTED: REQUEST TO ALLOW A 14' BY 22' ACCESSORY BUILDING IN THE REQUIRED FRONT AND SIDE YARD SETBACKS AND WITHIN TEN (10') FEET OF THE PRINCIPAL BUILDING AT 524 CHATHAM AVENUE (PARCEL # 23043). THE ACCESSORY BUILDING IS FOR STORAGE TO SUPPORT THE COMMUNITY CENTER.

PRESENT USE OF PROPERTY: COMMUNITY FACILITY

PROPOSED USE OF PROPERTY: NO CHANGE

FUTURE LAND USE DESIGNATION: REGIONAL COMMERCIAL

PROPERTY OWNER (S): DANVILLE REDEVELOPMENT AND HOUSING AUTHORITY

NAME OF APPLICANT (S): SAME

PROPERTY BORDERED BY: SINGLE-FAMILY, MULTI FAMILY RESIDENTIAL

ACREAGE: 0.6882 ACRES TOTAL

CHARACTER OF VICINITY: RESIDENTIAL

INGRESS AND EGRESS: CHATHAM AVENUE

TRAFFIC VOLUME: LOW



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Board of Zoning Appeals

STAFF REPORT

MEETING DATE: APRIL 21, 2022

RE: VARIANCE/APPEAL APPLICATION – 3007 RIVERSIDE DRIVE

Appeal of Zoning Administrator Request PL22-69, filed by SND Management LLC c/o Shelby Fitzgerald, requests an appeal of a zoning violation as allowed in Article 13 of Chapter 41 of the Code of the City of Danville, Virginia at 3007 Riverside Drive (Parcel # 56216). The Zoning Administrator sent a zoning violation notice to the property owner for operating skill games.

BACKGROUND

The applicant operates skill games in violation of Zoning Ordinance Section. Specifically, Chapter 41, Article 1, Conflicting Ordinances “Whenever any provision of any State or Federal statute or other City ordinance or regulation imposes a greater requirement or a higher standard than is required by this ordinance, the provision of such State or Federal statute or other City ordinance or regulation shall govern.”

Virginia Code defines skill games as gambling devices which are illegal under Title 18.2 Crimes and Offenses Generally, Article 1, Gambling.

APPEAL

The City BZA has the authority to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the administration or enforcement of Chapter 41, Zoning, of the Code of the City of Danville. The BZA's decision on an appeal is limited to the issue of whether the Zoning Administrator correctly interpreted the Zoning Ordinance. The BZA may reverse or affirm, wholly or in part, or may modify, the decision of the Zoning Administrator. The power to interpret the Zoning Ordinance has its limitations. Although the BZA and the Zoning Administrator must interpret the Zoning Ordinance to execute its responsibilities, they do not have the authority to rule on the validity of a zoning regulation.

RECOMMENDATION

Staff recommends that if the BZA affirm the notice of violation.

ATTACHMENTS

- ✓ 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 meetings 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 #: PZ22-00069 BZA Meeting Date: _____
Date Received: 3/25/22 Received By: Williss
Parcel ID: 56216 Zoning District: HR-C

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#): 3007 Riverside Dr

Applicant: SND Management LLC % Shelby Fitzgerald

Applicant's Address: 625 Piney Forrest Rd Ste 303A

Applicant's Phone Number: 336-534-3665

Applicant's E-mail: sndmanagementllc2022@gmail.com

Variance Request Description: Allowing for Rezoning for Special Use Permit

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:

Skill Games are in the Virginia Judicial System
& there is no clear legal guidance on this issue.

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

The Clients are currently entering the building
without any obstruction to the neighboring businesses

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

There are no other stores within a close
radius that offer Skill Games

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.

Skill Games are already in use throughout the
City & State

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

A special use permit is not available
for Danville's Business and therefore needs to
be granted.

Snd Management LLC % Shelby Fitzgerald
Applicant Signature

Property Owner Signature
(if not applicant)

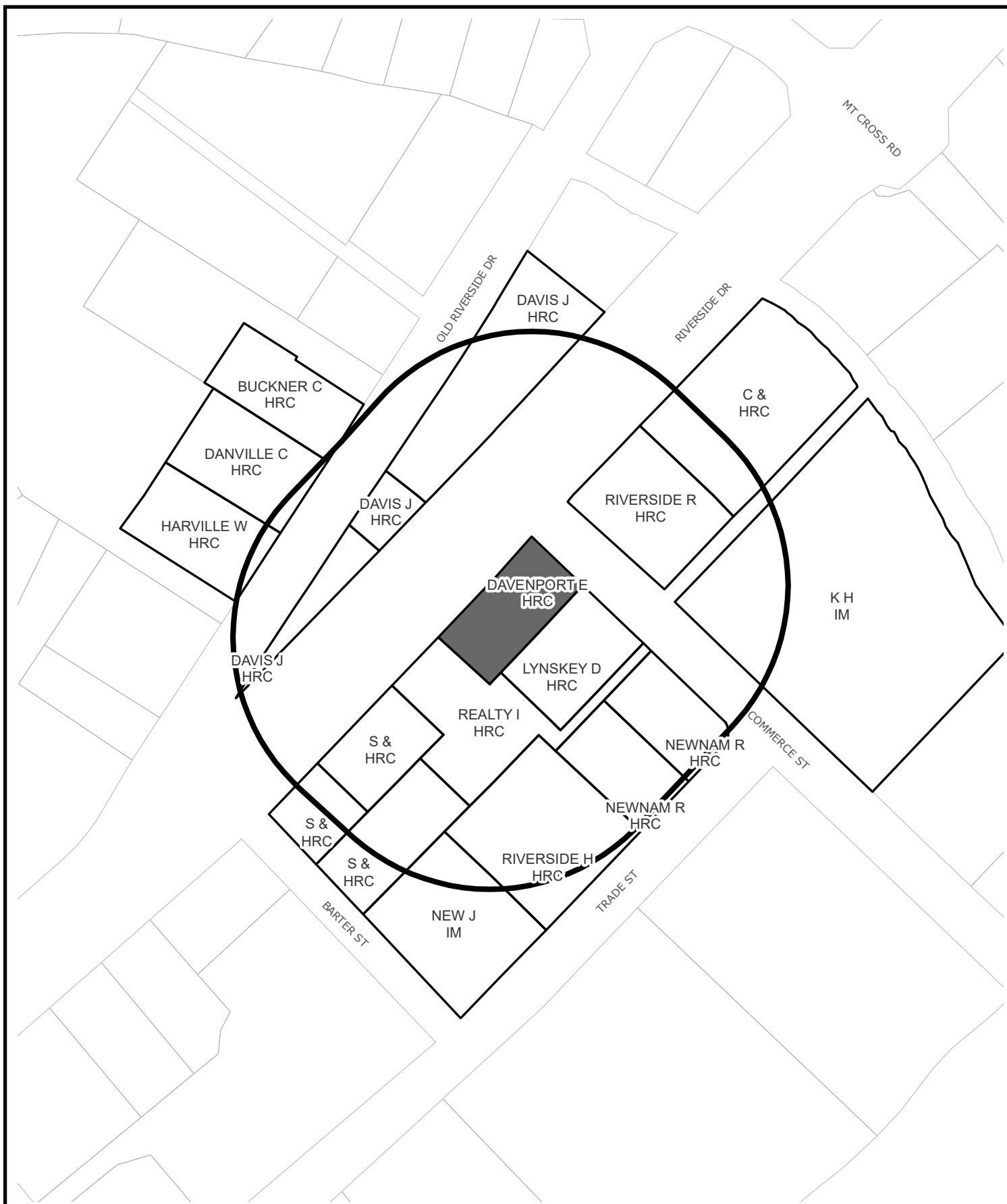


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APPEAL REQUEST DATA SHEET PL22-69

PUBLIC HEARING DATE:	APRIL 21, 2022 BOARD OF ZONING APPEALS AT 10:00 AM
LOCATION OF PROPERTY:	3007 RIVERSIDE DRIVE (PARCEL ID 56216)
PRESENT ZONE:	HR-C HIGHWAY RETAIL COMMERCIAL
PROPOSED ZONE:	NO CHANGE
ACTION REQUESTED:	REQUEST AN APPEAL OF ADMINISTRATOR INTERPERTATION OF A ZONING VIOLATION FOR OPERATING SKILL GAMES
PRESENT USE OF PROPERTY:	CONVENIENCE MARKET
PROPOSED USE OF PROPERTY:	NO CHANGE
FUTURE LAND USE DESIGNATION:	COMMERCIAL
PROPERTY OWNER (S):	DAVENPORT ENERGY INC
NAME OF APPLICANT (S):	SND MANAGEMENT LLC C/O SHELBY FITZGERALD
PROPERTY BORDERED BY:	COMMERCIAL USES
ACREAGE:	0.4591 ACRES TOTAL
CHARACTER OF VICINITY:	COMMERCIAL
INGRESS AND EGRESS:	RIVERSIDE DRIVE
TRAFFIC VOLUME:	ARTERIAL, AADT 13000 (2019 COUNT)



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Board of Zoning Appeals

STAFF REPORT

MEETING DATE: APRIL 21, 2022

RE: VARIANCE/APPEAL APPLICATION – 3007 RIVERSIDE DRIVE

Appeal of Zoning Administrator Request PL22-69, filed by SND Management LLC c/o Shelby Fitzgerald, requests an appeal of a zoning violation as allowed in Article 13 of Chapter 41 of the Code of the City of Danville, Virginia at 3007 Riverside Drive (Parcel # 56216). The Zoning Administrator sent a zoning violation notice to the property owner for operating skill games.

BACKGROUND

The applicant operates skill games in violation of Zoning Ordinance Section. Specifically, Chapter 41, Article 1, Conflicting Ordinances “Whenever any provision of any State or Federal statute or other City ordinance or regulation imposes a greater requirement or a higher standard than is required by this ordinance, the provision of such State or Federal statute or other City ordinance or regulation shall govern.”

Virginia Code defines skill games as gambling devices which are illegal under Title 18.2 Crimes and Offenses Generally, Article 1, Gambling.

APPEAL

The City BZA has the authority to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the administration or enforcement of Chapter 41, Zoning, of the Code of the City of Danville. The BZA's decision on an appeal is limited to the issue of whether the Zoning Administrator correctly interpreted the Zoning Ordinance. The BZA may reverse or affirm, wholly or in part, or may modify, the decision of the Zoning Administrator. The power to interpret the Zoning Ordinance has its limitations. Although the BZA and the Zoning Administrator must interpret the Zoning Ordinance to execute its responsibilities, they do not have the authority to rule on the validity of a zoning regulation.

RECOMMENDATION

Staff recommends that if the BZA affirm the notice of violation.

ATTACHMENTS

- ✓ 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**

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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 #: PZ 22-00071 BZA Meeting Date: _____
Date Received: 3/29/2022 Received By: Williss
Parcel ID: 22494 Zoning District: HR-C
Additional Information: HR-C

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#): 900 S. Main ST DANVILLE VA 24540

Applicant: Usman Enterprises Inc. C/O GAZANFAR ALI

Applicant's Address: 900 S. Main ST DANVILLE VA 24540

Applicant's Phone Number: 276-340-5520

Applicant's E-mail: _____

Variance Request Description: Requesting Special Use permit for recreational skill gaming at the above

mentioned location.

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:

Skill games have been allowed in VA, a court injunction also allows skill games to be operated

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

Stores are currently operating skill games on my street.

Also the parking lot does not have any other businesses located in it

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

skill games are currently operating on my street and within my

property location there are no other businesses operating.

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.

Skill gaming is the only use that will occur at the above location.

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

There is not a special use permit available until the re zoning allows for the

special use permit to be envoked.



Applicant Signature

Property Owner Signature
(if not applicant)

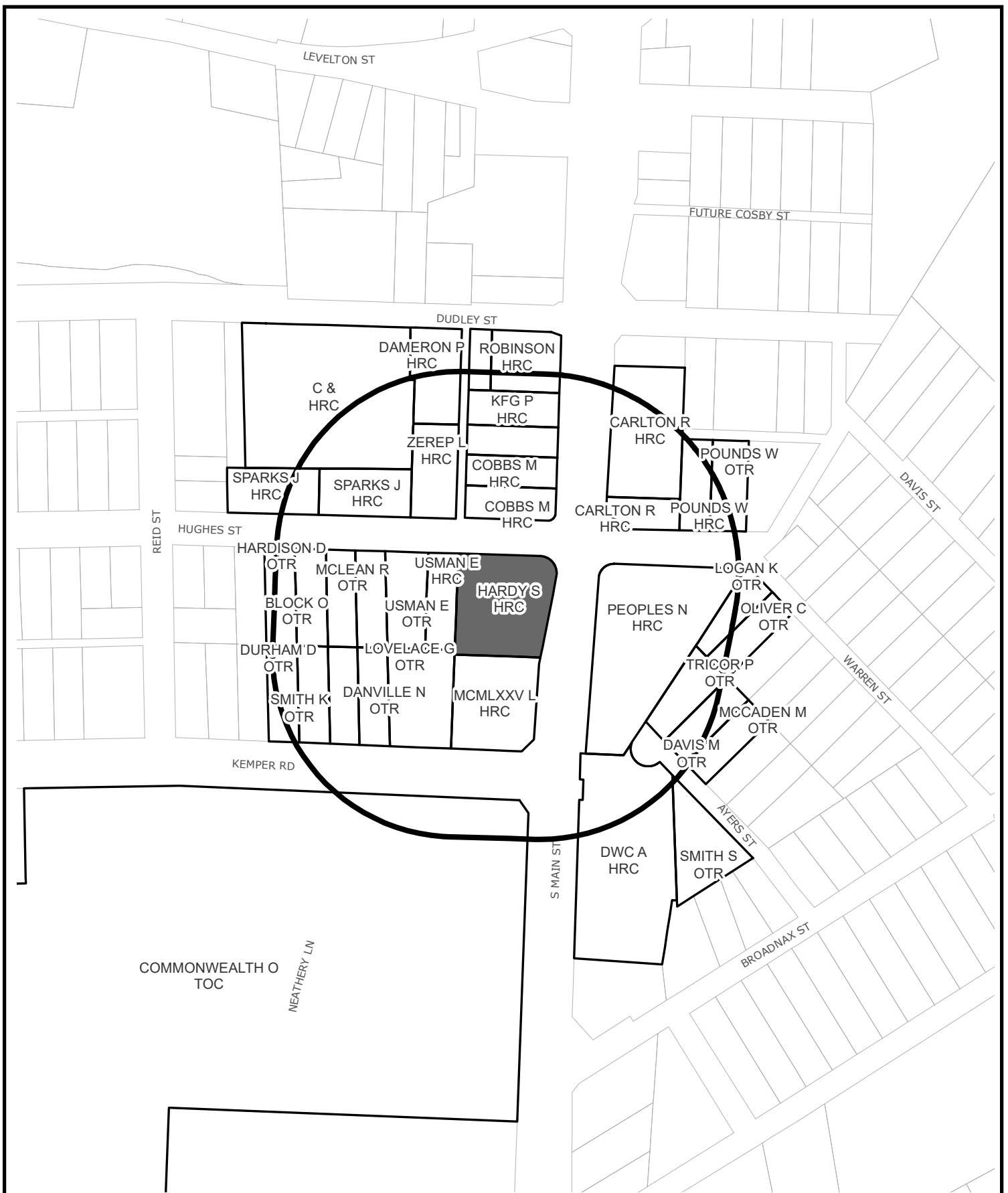


2019 AERIAL VIEW OF AREA SURROUNDING SUBJECT PROPERTY



Prepared by:
Planning Division
4/1/2022

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.



SURROUNDING PROPERTY OWNERS AND ZONING WITHIN 300 FEET OF SUBJECT PROPERTY



Prepared by:
Planning Division
4/1/2022

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APPEAL OF ZONING DATA SHEET PL22-71

PUBLIC HEARING DATE:	APRIL 21, 2022 BOARD OF ZONING APPEALS AT 10:00 AM
LOCATION OF PROPERTY:	900 SOUTH MAIN STREET (PARCEL ID 22494)
PRESENT ZONE:	HR-C HIGHWAY RETAIL COMMERCIAL
PROPOSED ZONE:	NO CHANGE
ACTION REQUESTED:	REQUEST AN APPEAL OF ADMINISTRATOR INTERPERTATION OF A ZONING VIOLATION FOR OPERATING SKILL GAMES
PRESENT USE OF PROPERTY:	CONVENIENCE MARKET
PROPOSED USE OF PROPERTY:	NO CHANGE
FUTURE LAND USE DESIGNATION:	COMMERCIAL
PROPERTY OWNER (S):	HARDY SOUTH MAIN LLC
NAME OF APPLICANT (S):	USMAN ENTERPRISE C/O GANZAFARI ALI
PROPERTY BORDERED BY:	COMMERCIAL USES
ACREAGE:	0.51 ACRES TOTAL
CHARACTER OF VICINITY:	COMMERCIAL
INGRESS AND EGRESS:	SOUTH MAIN STREET
TRAFFIC VOLUME:	ARTERIAL, AADT 11000 (2019 COUNT)



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

Board of Zoning Appeals

STAFF REPORT

MEETING DATE: APRIL 21, 2022

RE: VARIANCE/APPEAL APPLICATION – 504 KEMPER ROAD

Appeal of Zoning Administrator Request PL22-72, filed by Usman Enterprise c/o Ganzafari Ali, requests an appeal of a zoning violation as allowed in Article 13 of Chapter 41 of the Code of the City of Danville, Virginia at 504 Kemper Road (Parcel # 23940). The Zoning Administrator sent a zoning violation notice to the property owner for operating skill games.

BACKGROUND

The applicant operates skill games in violation of Zoning Ordinance Section. Specifically, Chapter 41, Article 1, Conflicting Ordinances “Whenever any provision of any State or Federal statute or other City ordinance or regulation imposes a greater requirement or a higher standard than is required by this ordinance, the provision of such State or Federal statute or other City ordinance or regulation shall govern.”

Virginia Code defines skill games as gambling devices which are illegal under Title 18.2 Crimes and Offenses Generally, Article 1, Gambling.

APPEAL

The City BZA has the authority to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the administration or enforcement of Chapter 41, Zoning, of the Code of the City of Danville. The BZA's decision on an appeal is limited to the issue of whether the Zoning Administrator correctly interpreted the Zoning Ordinance. The BZA may reverse or affirm, wholly or in part, or may modify, the decision of the Zoning Administrator. The power to interpret the Zoning Ordinance has its limitations. Although the BZA and the Zoning Administrator must interpret the Zoning Ordinance to execute its responsibilities, they do not have the authority to rule on the validity of a zoning regulation.

RECOMMENDATION

Staff recommends that if the BZA affirm the notice of violation.

ATTACHMENTS

- ✓ 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 #: PZ 22-00072 BZA Meeting Date: _____
Date Received: 3/29/2022 Received By: Williss
Parcel ID: 23940 Zoning District: NC

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#): 504 Kemper Rd. DANVILLE VA 24540

Applicant: Usman Enterprises Inc. C/O GAZANFAR ALI

Applicant's Address: 504 Kemper Rd. DANVILLE VA 24540

Applicant's Phone Number: 276-340-5520

Applicant's E-mail: _____

Variance Request Description: Requesting Special Use permit for recreational skill gaming at the above

mentioned location.

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:

Skill games have been allowed in VA, a court injunction also allows skill games to be operated

ii. Explain how granting the variance will not negatively impact your neighbors and properties close by:
Stores are currently operating skill games and on my street, there are no other locations

Also the parking lot does not have any other businesses located in it

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

skill games are currently operating on my street and within my

property location there are no other businesses operating.

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.

Skill gaming is the only use that will occur at the above location.

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

There is not a special use permit available until the re zoning allows for the
special use permit to be invoked.


Applicant Signature

Property Owner Signature
(if not applicant)

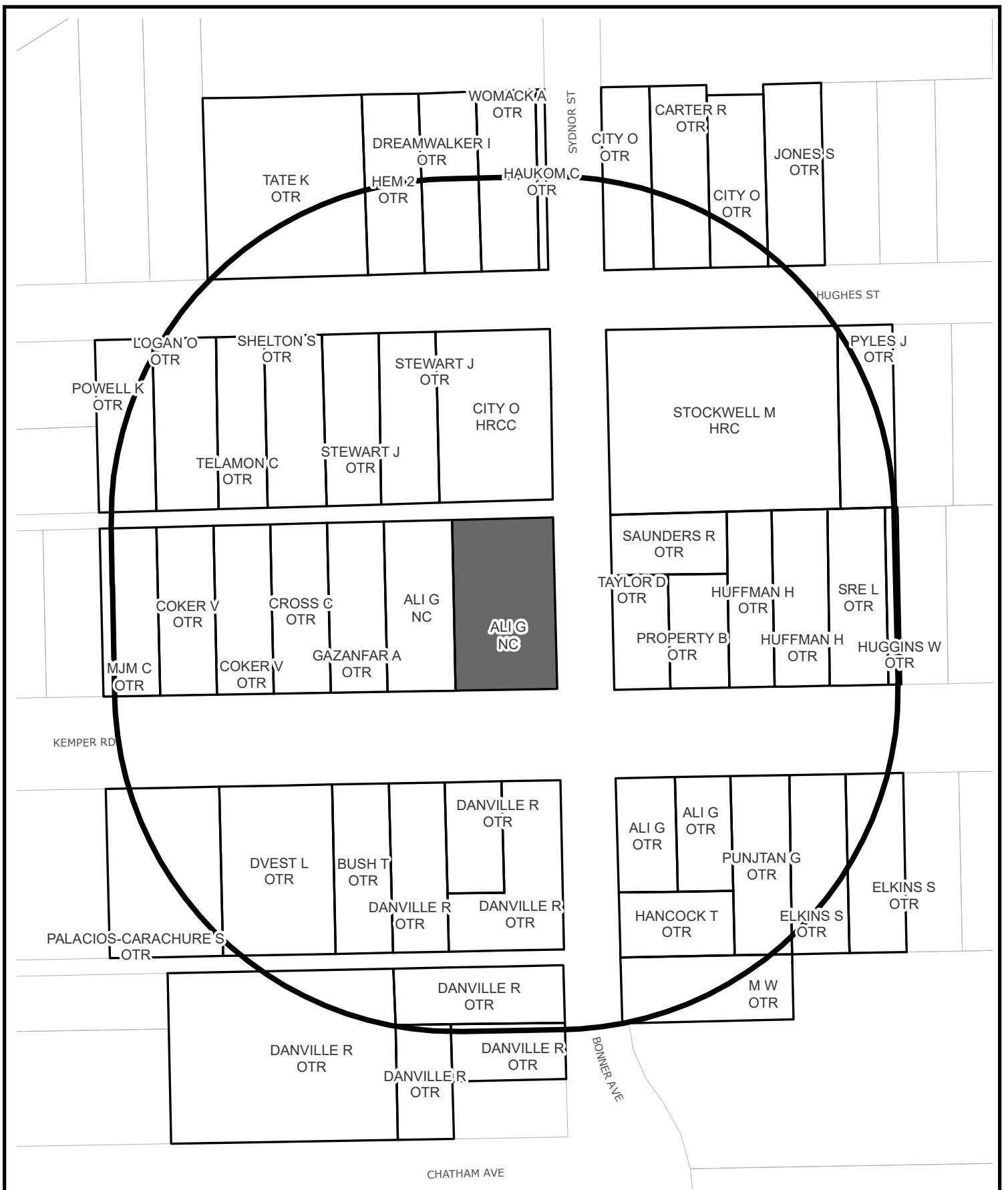


2019 AERIAL VIEW OF AREA SURROUNDING SUBJECT PROPERTY



Prepared by:
Planning Division
4/1/2022

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SURROUNDING PROPERTY OWNERS AND ZONING WITHIN 300 FEET OF SUBJECT PROPERTY

APPEAL REQUEST DATA SHEET PL22-72

PUBLIC HEARING DATE:	APRIL 21, 2022 BOARD OF ZONING APPEALS AT 10:00 AM
LOCATION OF PROPERTY:	504 KEMPER ROAD (PARCEL ID 23940)
PRESENT ZONE:	NC NEIGHBORHOOD RETAIL COMMERCIAL
PROPOSED ZONE:	NO CHANGE
ACTION REQUESTED:	REQUEST AN APPEAL OF ADMINISTRATOR INTERPERTATION OF A ZONING VIOLATION FOR OPERATING SKILL GAMES
PRESENT USE OF PROPERTY:	CONVENIENCE MARKET
PROPOSED USE OF PROPERTY:	NO CHANGE
FUTURE LAND USE DESIGNATION:	COMMERCIAL
PROPERTY OWNER (S):	ALI GAZANFAR
NAME OF APPLICANT (S):	USMAN ENTERPRISE C/O GANZAFARI ALI
PROPERTY BORDERED BY:	RESIDENTIAL TO NORTH, EAST, AND SOUTH, MIXED COMMERCIAL RESIDENTIAL TO THE WEST
ACREAGE:	0.31 ACRES TOTAL
CHARACTER OF VICINITY:	RETAIL COMMERCIAL/RESIDENTIAL
INGRESS AND EGRESS:	KEMPER ROAD
TRAFFIC VOLUME:	ARTERIAL, AADT 5300 (2019 COUNT)



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

Board of Zoning Appeals

STAFF REPORT

MEETING DATE: APRIL 21, 2022

RE: VARIANCE/APPEAL APPLICATION – 145 GYPSUM ROAD

Variance request PZ22-74, Filed by the City of Danville, to allow an 8'x8' wood deck with stairs in the front yard setback of a legal non-conforming building at 145 Gypsum Road (Parcel #76482). The deck and stairs provide better access to Fire Department storage space.

BACKGROUND

The applicant wants to build a deck on the front of the legally non-conforming accessory building on City property.

SPECIAL EXCEPTION

The Zoning Ordinance allows the BZA to grant a special exception for accessories in which the construction does not comply with the regulations on the zoning district. In this case, a Fire Department utility building in the M-I Industrial District.

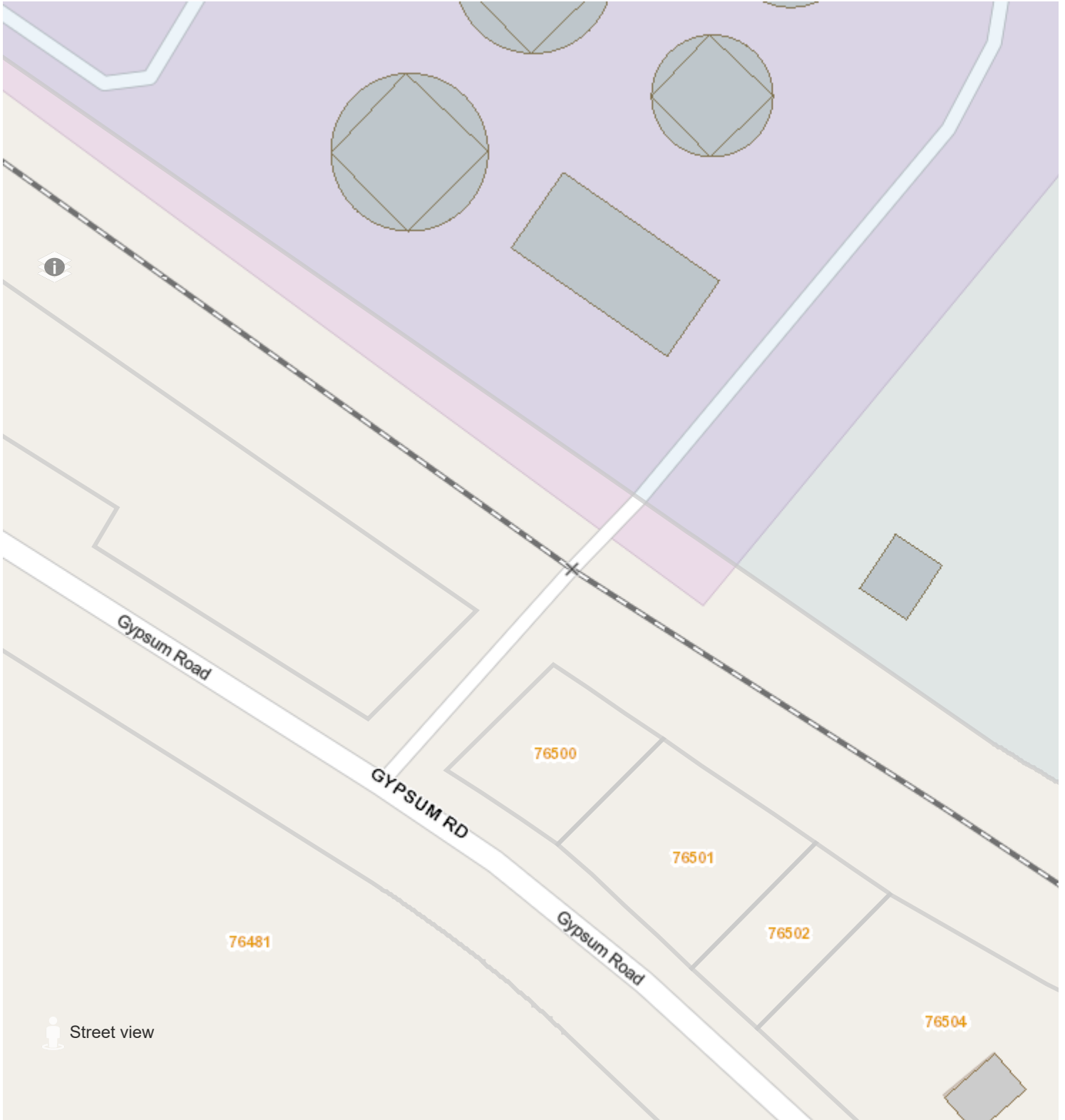
The BZA must find that the deck will not adversely affect the health, safety or welfare of persons residing or working on the premises or in the neighborhood, will not unreasonably impair an adequate supply of light and air to adjacent property, nor increase congestion in the streets, nor increase public danger from fire or otherwise unreasonably affect public safety, nor 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, but that such establishment or use will be in substantial accordance with the general purpose and objectives of this ordinance.

RECOMMENDATION

Staff recommends that if the BZA finds the deck meets the conditions in Zoning Ordinance Article 13.G.4, then the BZA can grant a special exception allowing the deck as an accessory to a non-conforming use.

ATTACHMENTS

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





Training
Building

Dock

13' projecting from building

RR Tracks

Gypsum Rd.

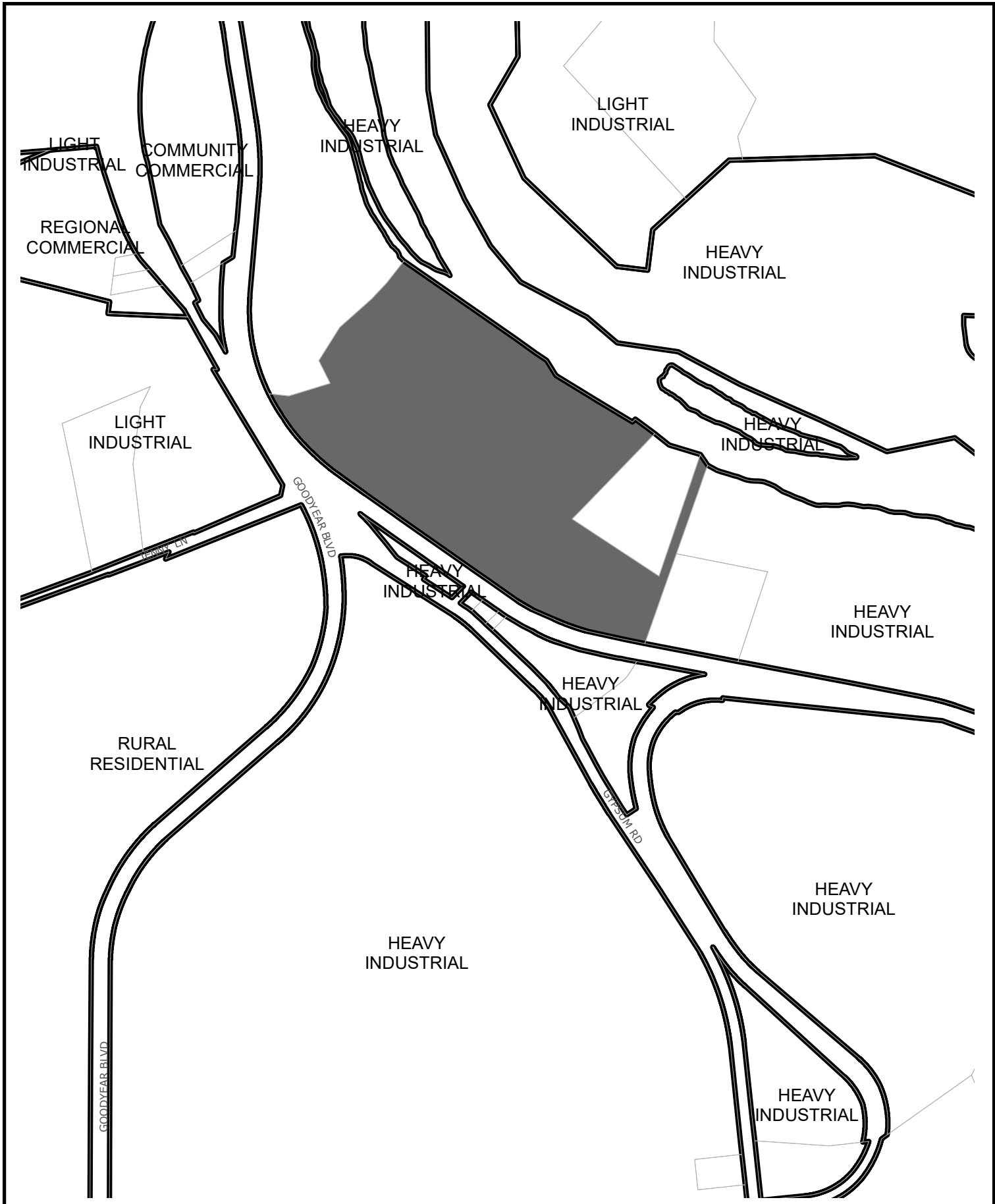


2019 AERIAL VIEW OF AREA SURROUNDING SUBJECT PROPERTY



Prepared by:
Planning Division
4/1/2022

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YEAR 2030 LAND USE PLAN FOR AREA SURROUNDING SUBJECT PROPERTY

Prepared by:
Planning Division
4/1/2022

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VARIANCE REQUEST DATA SHEET PZ22-74

PUBLIC HEARING DATE: APRIL 21, 2022
BOARD OF ZONING APPEALS AT 10:00 AM

LOCATION OF PROPERTY: 145 GYPSUM ROAD (PARCEL ID 76482)

PRESENT ZONE: IM MANUFACTURING DISTRICT

PROPOSED ZONE: NO CHANGE

ACTION REQUESTED: TO ALLOW AN 8'X8' WOOD DECK WITH STAIRS IN THE FRONT YARD
SETBACK OF A LEGAL NON-CONFORMING BUILDING AT 145
GYPSUM ROAD. THE DECK AND STAIRS PROVIDE BETTER ACCESS
TO FIRE DEPT. STORAGE SPACE.

PRESENT USE OF PROPERTY: SOUTSIDE WATER TREATMENT PLANT

PROPOSED USE OF PROPERTY: NO CHANGE

FUTURE LAND USE DESIGNATION: IM MANUFACTURING DISTRICT

PROPERTY OWNER (S): CITY OF DANVILLE

NAME OF APPLICANT (S): CITY OF DANVILLE

PROPERTY BORDERED BY: COMMERCIAL USES

ACREAGE: 47.919 ACRES TOTAL

CHARACTER OF VICINITY: INDUSTRIAL

INGRESS AND EGRESS: GYPSUM ROAD

TRAFFIC VOLUME: AADT 950 (2019 COUNT)

BOARD OF ZONING APPEALS MEETING

OCTOBER 21, 2021

Members Present

John Hiltzheimer
Nicole Garrison
Gus Dolianitis
Gus Dyer
Lawrence Meder
Ann Sasser Evans

Members Absent

Michael Nicholas

Staff

Lisa Jones
Doug Plachcinski
Clarke Whitfield

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

I. 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.*

Mr. Dyer opened the Public Hearing.

Present to speak on behalf of this request was Mr. Ray Hayes who stated I am a next-door neighbor to Mr. Escalante I have a metal carport by my house, and it was not until the annexation occurred and a neighbor that had been there also prior to our moving onto the road sought to get a permit and it was the first time that I had heard of the ordinance. I can't understand exactly how it came about but I repaired Mr. Escalante house and I bought that property, fixed, and repaired it as matter of a fact. It was such a dream home I had planned to live in it myself, but I am at that point in my life where I am trying to divest myself of responsibilities and it was a greater desire on their part to be in ownership rather than my retaining it for personal use and still having to get rid of the property and I still occupy it. Mr. Escalante is a contractor himself and he does steel structures and when he bought the property, he set them up and was giving it every attention possible for improvement. It stands as evidence to that effect now. It was not out of desire of contempt or neglect on his part, and I did not harken in my mind back or I would have advised him of the permit necessity. However, he did proceed to not only build the carport but he surrounded it with an appropriate concrete driveway and other enhancements. The property would now according to a gentleman that was doing some commercial construction in the area said that it would be a prize in any community and any neighborhood.

Mr. Dyer stated Mr. Hayes are you here speaking on the behalf of Mr. Escalante? Did he request that you speak on his behalf?

Mr. Hayes stated it should be indicated in your notations.

Mr. Dyer stated okay.

Mr. Dyer closed the Public Hearing.

Ms. Evans made a motion to approve the Variance Application PLVAR2021-273 as submitted. Mr. Dolianitis seconded the motion. The motion was approved by a 6-0 vote.

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.*

Mr. Dyer opened the Public Hearing.

Present to speak on behalf of this request was Mr. Robert Weir who stated, I live at 349 West Main Street with my wife. My request is to place an automatic emergency generator behind the existing fence on Virginia Avenue. The city defines my house as having two front yards and one side yard because I am on the corner. In the picture you can see my power, gas and water comes in there. My proposal is to place an alternator behind the fence where I have access to the 400-amp service coming into the house.

Mr. Meder stated Mr. Weir why do you need this generator?

Mr. Weir stated we are at the end of a circuit for the city power, and we lose power about three or four times a month sometimes for a few seconds or as long as four or five hours. My wife right now is taking a medicine that must be in the refrigerator. In that picture right there is where the generator will be placed.

Mr. Dyer stated and that is behind the fence and driving down Virginia Avenue you can't see it.

Mr. Weir stated right it is going to behind the fence and then we are going to put another fence across where we won't see it.

Mr. Meder stated so if I understand this right you need a generator because Danville can not provide you with consistent power to keep your wife's medicine refrigerated. So it doesn't go bad and you won't have to repurchase it.

Mr. Weir stated yes that is basically why.

Mr. Dyer closed the Public Hearing.

Ms. Evans made a motion to approve Variance Request PLVAR 2021-317 as submitted. Mr. Dolianitis seconded the motion. The motion was approved by a 6-0 vote.

3. *Variance Request PLVAR 2021-341, filed by Sarah Bourgojn, 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.*

Mr. Dyer opened the Public Hearing.

Present to speak on behalf of this request was Ms. Sarah Bourgoignie who stated, I live at 414 Melrose Drive. I am very grateful to meet you all. We are very new to Danville and we moved here from Denver and we love our house. We have been making all kinds of improvements and we are glad for our investment here. This is literally an application for an air-conditioning unit. I have the ability to submit for you the bids from licensed contractors who would install this, and they had advised me to come see you because they are unable to install it in the back of the house. The house is built in reverse and the main beam runs in the center and the venting runs into the back. They would literally have to pump some things that are not safe and certainly not up to code. They have advised me to put it on the west wall and I have access there. I have no objections from my neighbors they are very kindly and are glad that we are taken care of the house.

Mr. Dyer closed the Public Hearing.

Mr. Dyer stated this is something fairly new that it was apparently discovered somewhere in the code that you are not supposed to have your compressors on the side of your house.

Ms. Evans made a motion to approve Variance Request PLVAR 2021-341 as submitted. Mr. Dolianitis seconded the motion. The motion was approved by a 6-0 vote.

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.*

Mr. Dyer opened the Public Hearing.

Present to speak on behalf of this request was Emma Olivarria, owner of 407 Industrial Avenue. Who stated we want to just get it back to a duplex.

Mr. Dyer stated for planning staff, we have had these before where a house was built for one purpose either a duplex or fourplex but they are not zoned for a duplex or fourplex and after two years they lose their grandfathered status. Is that basically what has happened here?

Mr. Plachcinski stated correct.

Mr. Dyer stated I think this is just a point of reference, in the past we have granted a similar request.

Mr. Plachcinski stated in this case there is no rezoning or special use approval permit that we could support granting for the Planning Commission so that is why it is at the BZA for a special exception.

Mr. Dyer stated are there any questions for the board?

Mr. Dyer closed the Public Hearing.

Ms. Evans made a motion to approve Special Exception PLVAR 2021-363 as submitted. Mr. Dolianitis seconded the motion. The motion was approved by a 6-0 vote.

II. APPROVAL OF MINUTES FROM JULY 15, 2021

The July 15, 2021 minutes were approved by a unanimous vote.

III. OTHER BUSINESS

With no further business, the meeting adjourned at 10:18 a.m.

APPROVED