



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

Board of Zoning Appeals

APRIL 19, 2018
4:00 P.M.
4TH FLOOR CONFERENCE ROOM
MUNICIPAL BUILDING

- I. WELCOME AND CALL TO ORDER
- II. ROLL CALL
- III. 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.

- IV. APPROVAL OF THE MINUTES FROM FEBRUARY 15, 2018
- V. OTHER BUSINESS
- VI. ADJOURNMENT



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SUBJECT:

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.

BACKGROUND:

The subject parcel, located at 117 Gordon Avenue is zoned OT-R, Old Town Residential District. 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.

This property was zoned HR-C in 2004 as part of the City of Danville comprehensive citywide rezoning. The property became legal non-conforming at that time. Mr. Matthew's mother had previously occupied the dwelling. Once the property was left vacant for more than two years it lost its vested right to continue as a single-family dwelling.

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 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

- ***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 City of Danville rezoned this area in 2004 to HR-C Highway Retail Commercial to support the Year 2020 Comprehensive Plan for future commercial development in the Piney Forest Road corridor. The Year 2030 Comprehensive Plan also designates this area for future commercial development. Mr. Matthew has inherited this property from his mother, and did not request a commercial rezoning in the past. Therefore, this property does meet this criterion.

- ***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***

This area is a mixture of single-family residential dwellings and commercial properties. Allowing the continuation of the non-conforming use would not create a use already not present. Therefore, this application **does** meet this criterion.

- ***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***

The City of Danville long-range plan is for commercial development of this corridor. That was the reason the land was rezoned in 2004. The City has received no plans for further commercial development of the area. Therefore, this application **does** meet this criterion.

- ***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***

This variance request would allow a use that is not otherwise permitted on such property or a change in the zoning classification. Therefore, this application **does not** meet this criterion.

- ***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***

This variance request may not be remedied by the special exception process. Therefore, this application **does** meet this criterion.

Therefore, this variance request meets four (4) of the five (5) criteria needed to grant a variance.

Attachments:

Application
Data Sheet
Property Ownership & Existing Zoning Map
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 (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: PLVAR 20180000017 EXISTING ZONING: H/R-C
RECEIVED BY: KCG DATE FILED: _____
TAX MAP NUMBER: 1706 004 000024 BZA DATE: 4/18
VARIANCE FROM ZONING SECTION Art 7 Sec B Item 3

Property Address: 117 Gordon Ave.

I (we) have applied for a variance to allow the following: ~~to live in the house that I have upgraded and remodeled.~~
to live in the house that I have upgraded and remodeled.

§ 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):
NO - I own the house that my mother lived in and would now like to live in it again with my future wife.
- 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 - All surrounding dwellings are residential homes
- 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 - I am trying to upgrade my home to make it a nice home to live in.
- 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):

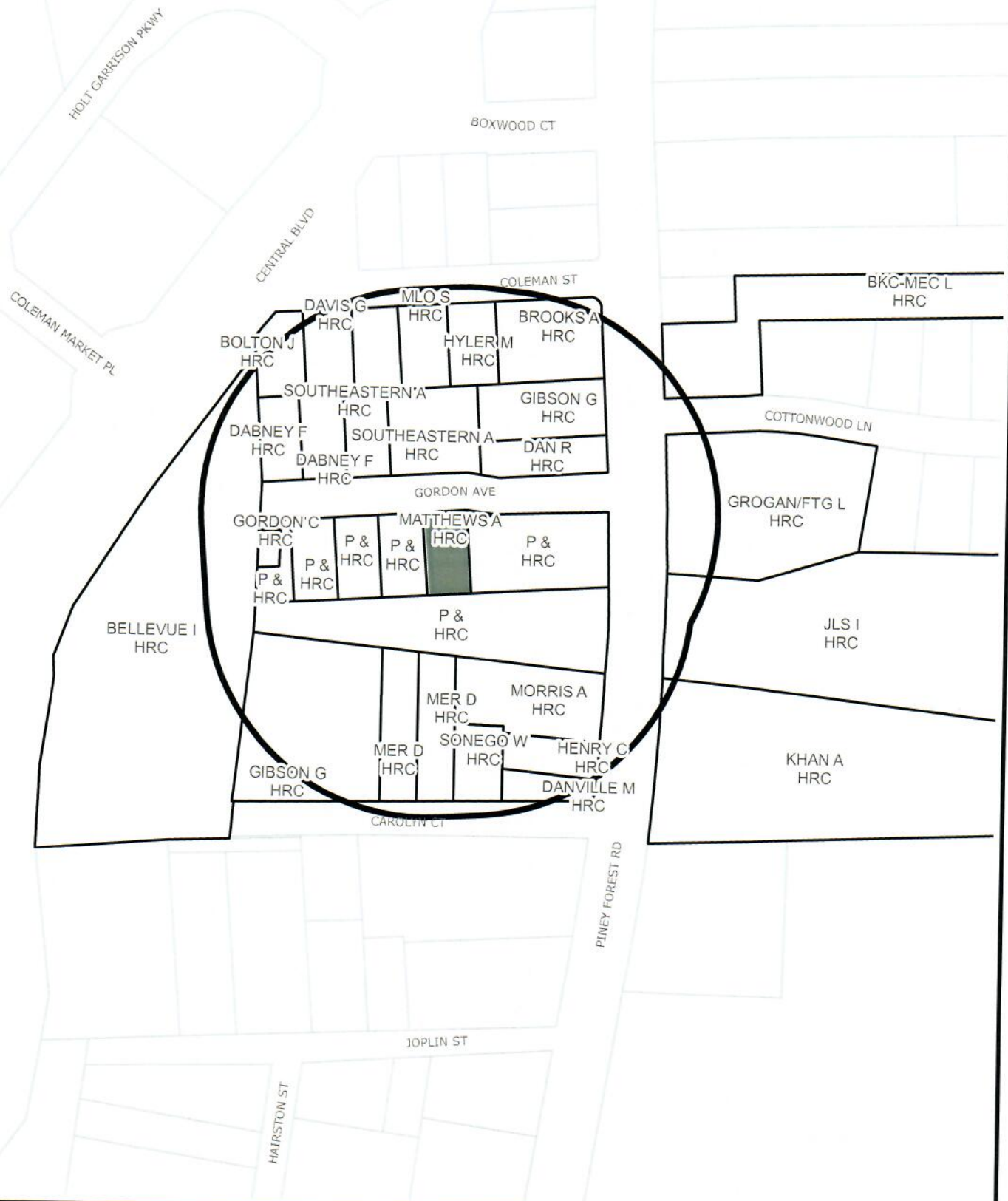
1. NAME: Allen Matthews TELEPHONE: 434-776-6947
MAILING ADDRESS: 336 Duncan Drive, Danville VA 24541
EMAIL ADDRESS: ~~all~~ matthewsarkd@gamewood.net
SIGNATURE: Allen R Matthews DATE: 3/5/17

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.



SURROUNDING PROPERTY OWNERS AND ZONING WITHIN 300 FEET OF SUBJECT PROPERTY

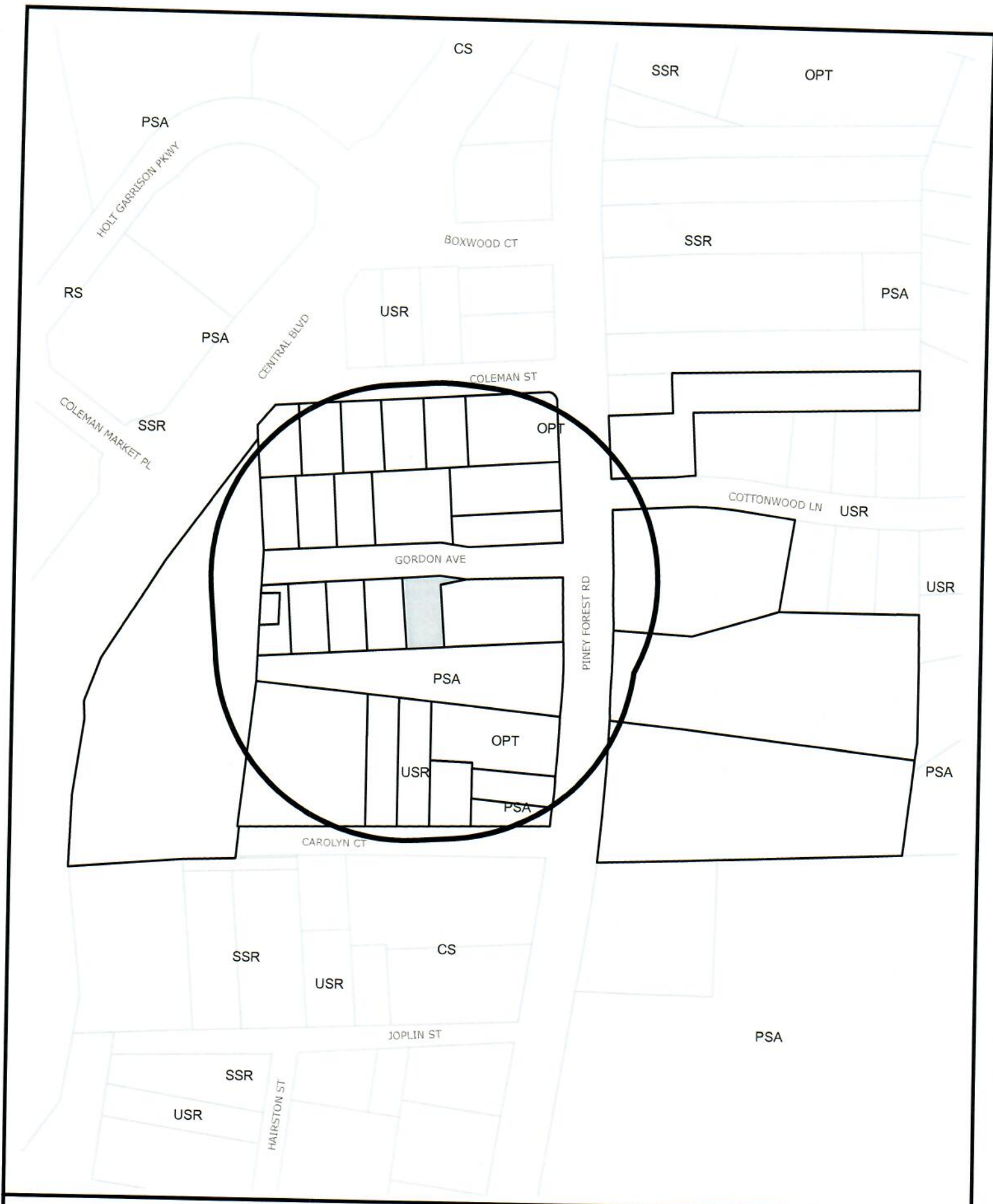


Prepared by:
Planning Division
3/29/2018

Disclaimer: Information contained on this map is to be used for reference purposes only. 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

DATE:	April 19, 2018
LOCATION OF PROPERTY:	117 Gordon Avenue
PRESENT ZONE:	HR-C Highway Retail Commercial District
ACTION REQUESTED:	The applicant is requesting a variance to allow for re-occupancy of a legal non-conforming use that has been vacant for more than two years.
PRESENT USE OF PROPERTY:	Vacant single-family dwelling
PROPOSED USE OF PROPERTY:	Single-family dwelling
PROPERTY OWNER (S):	Allen Ray Matthews
NAME OF APPLICANT (S):	Same
PROPERTY BORDERED BY:	Mixed commercial and residential to the north, south, east, and west
ACREAGE/SQUARE FOOTAGE:	0.16 acres
CHARACTER OF VICINITY:	Mixed residential and commercial
INGRESS AND EGRESS:	Gordon Avenue
TRAFFIC VOLUME:	Light
NEIGHBORHOOD REACTION:	To be reported at the Board of Zoning Appeals hearing of April 19, 2018.



YEAR 2020 LAND USE PLAN FOR AREA SURROUNDING SUBJECT PROPERTY

Prepared by:
Planning Division
3/29/2018

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2015 AERIAL VIEW OF AREA SURROUNDING SUBJECT PROPERTY

Prepared by:
Planning Division
3/29/2018

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BOARD OF ZONING APPEALS MEETING

February 15, 2018

Members Present

Ann Sasser Evans
John Hiltzheimer
Dolores Reynolds
Gus Dyer
Michael Nicholas
Nicole Garrison

Members Absent

Philip Campbell

Staff

Ken Gillie
Lisa Jones
Clarke Whitfield

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

The meeting was turned over to Mr. Whitfield for the election of officers.

I. ELECTION OF OFFICERS

Mr. Whitfield called for nominations for Chairman.

Mr. Nicholas nominated Mr. Dyer as Chairman. The nomination was approved by a 5-0-1 vote.

Mr. Whitfield called for nominations for Vice Chairman.

Mrs. Evans nominated Mr. Nicholas as Vice Chairman. The nomination was approved by a 5-0-1 vote.

Mr. Whitfield called for nominations for Secretary.

Mrs. Evans nominated Mrs. Reynolds for Secretary. The nomination was approved by a 6-0 vote.

Mr. Whitfield stated it needs to be noted that is why you don't miss meetings.

II. ITEMS FOR PUBLIC HEARING

Variance Application Number PLVAR20180000026, filed by Henry Leggett, Jr., requesting a variance from Article 3B: Section A & I, Item 4 of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 3156 Moorefield Bridge Road, otherwise known as Grid 8812, Block 001, Parcel 000003, of the City of Danville, Virginia, Zoning Map. The applicant is requesting a variance to install a domestic well where prohibited. .

Mr. Dyer opened the Public Hearing.

Present to speak on behalf of this request was Henry Leggett, Jr., Mr. Leggett stated The well is currently there and it has been two years since it has been used. I just want to reinstate it.

Mr. Dyer closed the Public Hearing.

Mr. Nicholas made a motion to approve Variance Application *PLVAR20180000026*. Mrs. Reynolds seconded the motion. Mrs. Garrison read Statement no conflict of interest. The motion was approved by a 6-0 vote.

II. APPROVAL OF MINUTES

The October 19, 2017 minutes were approved by a unanimous vote.

III. OTHER BUSINESS

Mr. Dyer stated do we know if we have a meeting for next month?

Mr. Gillie stated no as of right now.

With no further business, the meeting adjourned at 4:10 p.m.

APPROVED