



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

Board of Zoning Appeals

FEBRUARY 16, 2023

10:00 A.M.

CONFERENCE ROOM – 4th FLOOR MUNICIPAL BUILDING

AGENDA

- I. WELCOME AND CALL TO ORDER
- II. ROLL CALL
- III. ELECTION OF OFFICERS
- IV. ITEMS FOR PUBLIC HEARING
 1. Appeal PZ23-00004, filed by Andrew Hessler, requesting an appeal to Zoning Administrator determination that the property at 255 Howeland Circle (Parcel 23259) has two (2) frontages based on Article 15.B of Chapter 41 of the Code of the City of Danville, Virginia.
- V. APPROVAL OF MINUTES FROM NOVEMBER 16, 2022
- VI. OTHER BUSINESS
- VII. ADJOURNMENT



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

Board of Zoning Appeals

STAFF REPORT

MEETING DATE: February 16, 2023

RE: APPEAL APPLICATION – 255 Howeland Circle Parcel ID #23259

Appeal PZ23-00004, filed by Andrew Hessler, requesting an appeal to Zoning Administrator determination that the property at 255 Howeland Circle (Parcel 23259) has two (2) frontages based on Article 15.B of Chapter 41 of the Code of the City of Danville, Virginia.

BACKGROUND

The applicant has proposed a 611 square foot detached garage. The Zoning Administrator determined that the detached garage (accessory structure) may not be placed where proposed because the property has two front lot lines equaling two front yards with no rear yard per the following definitions in Chapter 41 Article 15.B:

Accessory- As applied to use or structure, means customarily subordinate or incidental to the primary use or structure, and on the premises of such primary use or structure. The phrase "on the premises of" means on the same lot or on the contiguous lot in the same ownership.

Frontage- The portion of a property adjacent to a right-of-way.

Garage, private. An accessory building designed and used only for storage purposes which is owned and/or by the occupants of the building to which it is accessory

Lot line, front- A line which is contiguous to the street boundary of a lot.

Right-of-way lines. Lines which separate private property from dedicated public property containing or proposed to contain publicly-owned street surfaces, curb and gutter, sidewalks and planted strips. Where a public street is designated on the major thoroughfare plan, all requirements of this chapter which relate to rights-of-way shall be measured from the indicated proposed right-of-way lines.

and per Chapter 41, Article 2.P. of the zoning ordinance,

4. 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.

5. No accessory structure may be in a front or side yard.

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.

ATTACHMENTS

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



BOARD OF ZONING APPEALS

APPEAL APPLICATION

1. Appeal application must be filed within thirty (30) days of the Zoning Administrator's action;
2. The applicant must answer each question on this application, attach additional pages and exhibits as needed;
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; and
5. The applicant paid the \$206.00 application fee.

PLANNING DIVISION PROVIDED INFORMATION

Application #: _____ BZA Meeting Date: _____

Date Received: _____ Received By: _____

Parcel ID: _____ Zoning District: _____

Additional Information _____

APPLICANT PROVIDED INFORMATION

Property Location (address/ID#): 255 Howeland circle / # 23259

Applicant: Andrew HESSLER

Applicant's Address: 255 Howeland circle

Applicant's Phone Number: 330 465 8721

Applicant's E-mail: * ahesler@danville dental associates.com

ahessla@gmail.com

1. (we) appeal to the Board of Zoning Appeals because of the following interpretation/determination:

See attached #1

2. Date of interpretation/determination that is the subject of this appeal (attach copy of referenced letter or other dated material):

See email attached #2

3. The Zoning Administrator based their interpretation/determination on the following City Code:

primarily: chapter 41 - zoning ord

↳ article 3. E Old Town Res District

↳ F-Bulk Reg

↳ 2 min yard req. A) 1-3

not
provided
within

correspond

4. (we) feel that the Zoning Administrator made an incorrect interpretation/determination because:

see attached #4



Applicant Signature

date

1/11/23

Property Owner Signature
(if not applicant)

date

1) I appeal to the Board of Zoning Appeals because of the following interpretation / determination:

List of items (as can be seen in the attached email to my contractor, Shon Roberts, of SDR construction)

- 255 Howeland circle has two (2) lot lines with two (2) front yards
- Garage plan is <10ft from other structures
- Front yard setback is 20ft (agree, however, Rear)
- Garage plan will exceed 20% of remaining rear yard

2)

Shon Roberts

Jan 4, 2023, 7:09 PM

to me

This is what I received from planning and zoning this afternoon. Give me a call tomorrow and I will discuss what I know.

Thanks, Shon

Sent from my iPhone

Begin forwarded message:

From: "Burton, Renee" <burtotr@danvilleva.gov>
Date: January 4, 2023 at 4:42:51 PM EST
To: sdrconstruction2@gmail.com
Cc: "Fulcher, Charles" <FulchCW@danvilleva.gov>
Subject: 255 Howeland Circle

Hey Shon. I am emailing a response instead of calling because this might make it easier to forward the information your clients.

255 Howeland Circle is zoned [OT-R, Old Town Residential](#) and has 2 front lot lines equaling two (2) front yards. One line against Howeland Circle and one line that runs along a paper street that connects Howeland Circle and West Main Street. This creates two (2) front yards and two (2) side yards for 255 Howeland Circle with no rear yard. A detached accessory structure like the one proposed may not be constructed in a front yard, only in a rear yard. Therefore, this proposed project will not work as submitted.

Notwithstanding the above information:

- Zoning Code states that detached accessory structures can be no closer than ten (10) feet to other structures; this is not met in your proposal.
- Zoning Code states that the front yard setback must be a minimum of twenty (20) feet; this is not met in your proposal.
- Zoning Code also states that an accessory structure can cover no more than twenty (20) percent of the rear yard; this may not be met in your proposal.

A site plan will be necessary for construction to verify setback compliance.

Renee Burton
Division Director of Planning
City of Danville
PO Box 3300
Danville, VA 24543
434-799-5260 x 2502

4)

My primary argument is the northern property line for 255 Howeland Circle, by definition, is bordered by an Alley.

This is not a street. I would also note the Alley is in disrepair and not traversable to its terminus at West Main. Specifically, from Howeland Cir. entrance, the Alley is no longer walkable once arrived to parcel #25529. It is overgrown and heavily eroded/dangerous. In addition, the utility pole at the corner of my lot allows for less than 12ft width for any remaining traffic to pass between it and an existing tree. This is a very narrow and forgotten Alley. It primarily services two other neighboring garages, a carport, and a few gravel parking pads.

If this is indeed an Alley, then the set of restrictions for this intended garage space should not be Front yard, but rather, Rear yard limitations.

This would remedy the issues regarding the following:

- Having two (2) front yards
- Application of front yard setback of 20 ft
- accessory structures being allowed.

Article 15-B Definitions:

“ Alley - A public or private way less than 30' in width intended for vehicular traffic and designed to give access to the side and rear of properties whose principal frontage is on a street ”

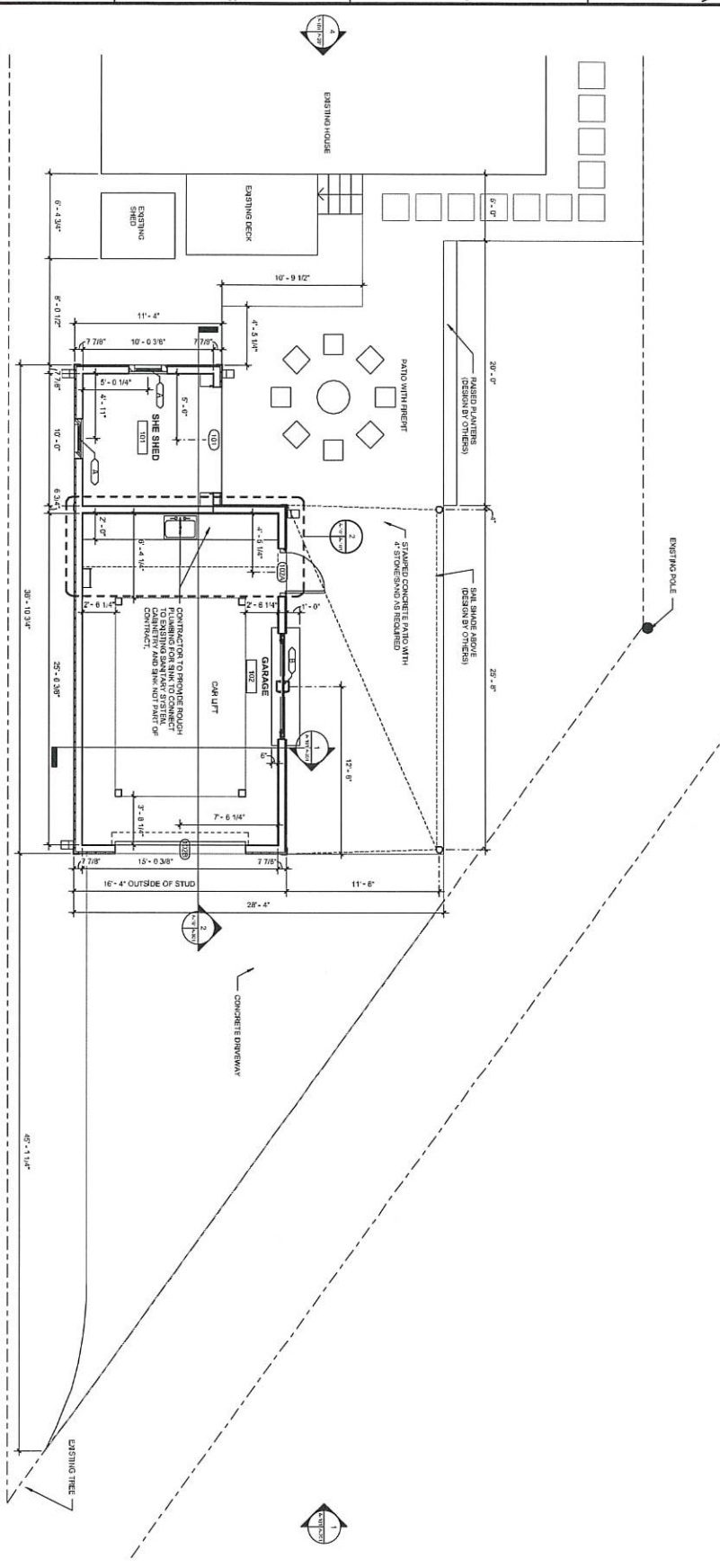
“ Building, rear. That portion of a building which is, by either service area, secondary entry and egress or the facade directly opposite the front facade of the structure; the reverse frontage of the building. “

Therefore, According to Zoning code Article 3.E: OT-R, the site plan will be in compliance for rear yard accessory structure setback of 5ft. The site plan can be adjusted, as needed, if the structure needs to be 6ft off the internal side yard, for a lot of record with a single residence. Additionally, the “Existing Shed”, as drawn, is temporary storage and will be removed upon completion. Site plan will then be in accordance with 10ft distance accessory requirements from other existing structures (i.e. Principal structure, main house)

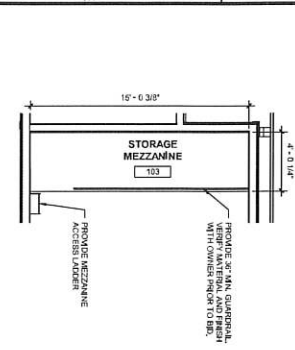
Lastly, per the architect, the garage plan will account for 17% of total remaining rear yard. This will be within the 20% requirement listing in above email.

Thank you for your time and consideration

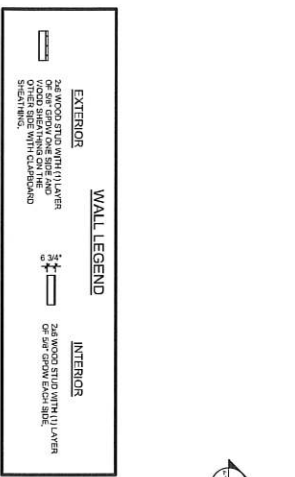
ALL EXTERIOR DIMENSIONS ARE TO OUTSIDE OF WOOD STUD.
ALL INTERIOR DIMENSIONS ARE TO FINISH FACE.
DRAINAGE DESIGN BY OTHERS. CONTRACTOR TO ENSURE POSITIVE
DRAINAGE AWAY FROM STRUCTURE FOR MINIMUM OF 10'-0".



FLOOR PLAN
Scale 1/8" = 1'-0"



STORAGE MEZZANINE
Scale 1/8" = 1'-0"



- GENERAL NOTES**
1. GENERAL CONTRACTORS, SUBS, SUPPLIERS, ETC., WORKING ON OR ASSOCIATED IN ANY WAY WITH THE PROJECT MUST ADHERE TO ALL APPLICABLE LOCAL, STATE, AND FEDERAL LAWS, CODES, AND REGULATIONS.
 2. THE GENERAL CONTRACTOR SHALL BE FULLY RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS, LICENSES, AND APPROVALS FROM THE APPROPRIATE AGENCIES.
 3. THE GENERAL CONTRACTOR IS REQUIRED TO NOTIFY THE A/E OF ANY CONTACT OF THE PLANS AND SPECIFICATIONS, FAILURE TO COMPLY WITH THE A/E RESOLUTION ADDITIONAL COST SHALL BE THE CONTRACTOR'S RESPONSIBILITY.
 4. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS, LICENSES, AND APPROVALS FROM THE APPROPRIATE AGENCIES.
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 17. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS, LICENSES, AND APPROVALS FROM THE APPROPRIATE AGENCIES.
 18. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS, LICENSES, AND APPROVALS FROM THE APPROPRIATE AGENCIES.

DR. AND MRS. HESSLER
HESSLER GARAGE
255 HOWELAND CIRCLE, DANVILLE, VA 24541
CONSTRUCTION DOCUMENTS

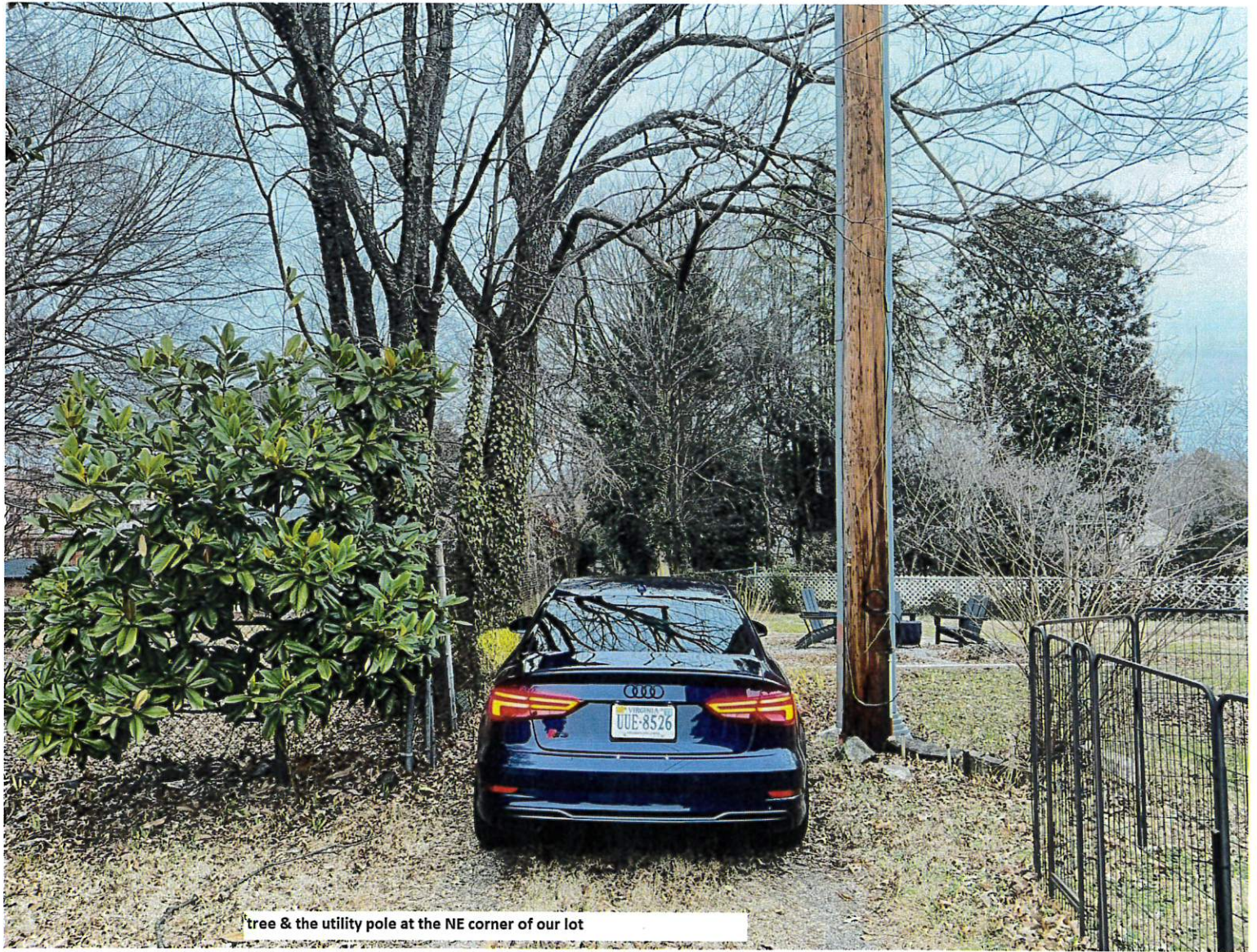


SOLEX
ARCHITECTURE
SOLEX ARCHITECTURE, INC.
641 MAIN STREET
DANVILLE, VIRGINIA 24541
434.668.6787 PHONE
434.791.3281 FAX

SHEET INFORMATION	
PROJECT NO.	20220006
DRAWN BY	ADAM T.D.
CHECKED BY	J.M.
DATE	2022.04.26
SCALE	AS INDICATED
SHEET NAME	
FLOOR PLAN	
SHEET NUMBER	
A-101	







tree & the utility pole at the NE corner of our lot



continuing to neighboring garage and other shed



3) continuing further to third shed



4) end of accessible portion of alley. Second half (leading to West main) not possible. I have to turn around in one of the neighbors parking pads behind his carport ... and leave the way I entered from HOWELAND cir

APPEAL REQUEST DATA SHEET 255 HOWELAND CIRCLE

PUBLIC HEARING DATE: FEBRUARY 16, 2023 AT 10:00 AM

LOCATION OF PROPERTY: 255 HOWELAND CIRCLE (PARCEL ID 23259)

PRESENT ZONE: OT-R OLD TOWN RESIDENTIAL

PROPOSED ZONE: NO CHANGE

ACTION REQUESTED: Appeal PZ23-00004, filed by Andrew Hessler, requesting an appeal to Zoning Administrator determination that the property at 255 Howeland Circle (Parcel 23259) has two (2) frontages based on Article 15.B of Chapter 41 of the Code of the City of Danville, Virginia.

PRESENT USE OF PROPERTY: SINGLE FAMILY HOME

PROPOSED USE OF PROPERTY: SAME

FUTURE LAND USE DESIGNATION: RESIDENTIAL

PROPERTY OWNER (S): HESSLER ANDREW & HARTLINE NIKKI

NAME OF APPLICANT (S): ANDREW HESSLER

PROPERTY BORDERED BY: RESIDENTIAL TO NORTH, WEST, EAST, AND SOUTH

ACREAGE: 0.16 ACRES TOTAL (APPROXIMATE)

CHARACTER OF VICINITY: RESIDENTIAL

INGRESS AND EGRESS: HOWELAND CIRCLE

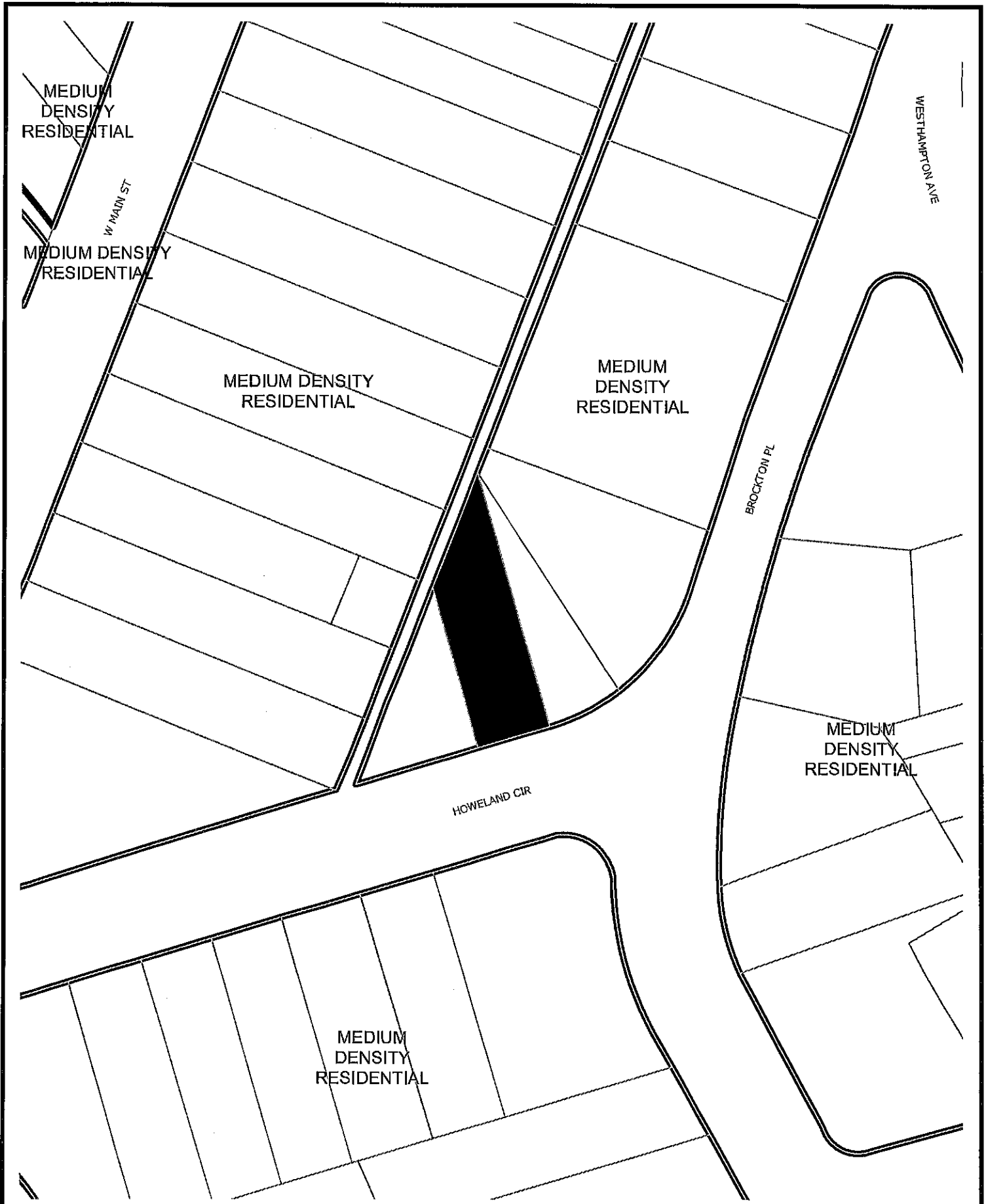
TRAFFIC VOLUME: LOW



2019 AERIAL VIEW OF AREA SURROUNDING SUBJECT PROPERTY

Prepared by:
Planning Division
1/17/2023

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



YEAR 2030 LAND USE PLAN FOR AREA SURROUNDING SUBJECT PROPERTY

Prepared by:
Planning Division
1/17/2023

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 PUBLIC HEARING NOTICE

THERE WILL BE A PUBLIC HEARING BEFORE THE DANVILLE CITY BOARD OF ZONING APPEALS ON **THURSDAY, FEBRUARY 16, 2023 AT 10:00 A.M.** IN THE CITY COUNCIL CONFERENCE ROOM LOCATED ON THE FOURTH FLOOR OF THE DANVILLE MUNICIPAL BUILDING.

Section 15.2-2204 of the Code of Virginia, 1950, as amended, and Article 13, Sections K 1 & 2 of the City of Danville, Virginia, Zoning Ordinance, as amended, requires the City of Danville to notify the public that a hearing will be held on the following:

Appeal PZ23-00004, filed by Andrew Hessler, requesting an appeal to Zoning Administrator determination that the property at 255 Howeland Circle (Parcel 23259) has two (2) frontages based on Article 15.B of Chapter 41 of the Code of the City of Danville, Virginia.

COPIES OF THE PROPOSED APPLICATION MAY BE SEEN IN THE COMMUNITY DEVELOPMENT DEPARTMENT, ROOM 207, DANVILLE CITY HALL.

TO BE PUBLISHED:

February 2, 2023

February 9, 2023

BOARD OF ZONING APPEALS MEETING

NOVEMBER 17, 2022

Members Present

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

Members Absent

Michael Nicholas

Staff

Renee Burton
Lisa Jones
Ryan Dodson

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

I. ITEMS FOR PUBLIC HEARING

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

Mr. Dyer opened the Public Hearing.

Present to speak on behalf of this request was Larry Hossen, who stated I am an architect with Dewberry. I am representing Telly Tucker in this case. I just heard one thing that you said and it's kind of threw me for a loop, you said that we were trying to get an 8-foot variance off of the 80-foot setback.

Mr. Dyer stated what the application is that you are required to have an 80-foot setback and you are requesting that to be altered to a 72-foot setback. So, you will be encroaching 8-foot into the setback. Is that not, correct?

Mr. Hossen stated I think we will work within that guideline. I was under the impression that we were trying not to have that 80-foot setback because we had a 100-foot setback right beside it, or I am interpreting that wrong?

Ms. Burton stated the application that we received is that you would have an 8-feet encroachment into that 80-foot. If there is a change, this is the time to do that.

Mr. Hossen stated okay. No, I think the 8-foot, is fine to tell you, I think we have 188 to 189-feet from setback to setback and right now our building is at 192-foot so that is less than 8-foot. I am assuming that is building only, there is equipment and transformers.

Ms. Burton stated only the structure.

Mr. Dyer stated parking and accessory uses are also considered a setback.

Mr. Hossen stated the one that I need to go back, and the check is right here, we had a series of chipped ends and dumpsters that we have to capture all of the materials that come off the machines. I'm not sure if that is 8-feet.

Mr. Dyer stated dumpsters and things like that can sit in the setback; this is just for the building itself.

Mr. Hossen stated so if that is the case then you can see there is a setback and there is a 100-foot buffer from here and the neighborhood adjacent. Right now, what we have is the building outlined like I said it's about 4-feet past that setback. We don't see that growing and obviously I am going to have to do a little bit of work right here if we are only asking for 8 and I think I have some play there to do that. This is the backyard. There is a series of a lot of equipment that is going to be sitting out here that is mechanical related. There are actually four chillers and four transformers here for now for the power use that is going to be. There is a 450-foot retaining wall that will run right there and its high point is 15-foot, and its low point is about 6 to 8-feet.

Mr. Dyer stated so this building will sit below the existing grade?

Mr. Hossen stated it will.

Mr. Dyer stated what is the height of the building itself?

Mr. Hossen stated 34 and you will still be about 16-foot back, but there is a 100-foot buffer here that is solid woods, and it is pretty dense. I think again the impact of seeing that building is going to be minimum.

Mr. Dyer stated does any of that equipment make noise?

Mr. Hossen stated they do but not the extent of anything that is going to be abnormal.

Mr. Dyer stated what will be the cladding on the back side of this building?

Mr. Hossen stated they are architectural metal panels with a slate finish.

Mr. Dyer stated this is an institutional style building as opposed to a manufacturing style building?

Mr. Hossen stated it is and I got some renderings of it if you would like to see them.

Ms. Evans stated yes.

Mr. Dyer stated you have renderings of the back?

Mr. Hossen stated no, I don't.

Mr. Dyer stated that is what these people are going to be looking at and it could be nice and pretty on the front, but not the back.

Mr. Hossen stated I don't think that will ever see the back of this building.

Mr. Dyer stated are their windows on the back?

Mr. Hossen stated a few not many. The 100-foot buffer into the woods is a pretty heavy wooded site that would offer that protection where they will not see that building and it will help with the sound as well. Also, the fact that all of your sound is 15-foot below this wall is going to help with that as well. Like I said I do have a couple of images.

Ms. Burton stated they are only of the front elevation. Let's remember we are focused on the setback and not the architectural style. That will be handled by a separated set of guidelines.

Mr. Dyer stated to the extent that it intrudes on people's privacy.

Ms. Evans if it is the same type of material on the front as on the back, then we would like to see that.

Mr. Dyer stated are these the same renderings that are on the building in the back?

Mr. Hossen stated yes.

Mr. Dyer stated did anyone drive out there and look at the site?

Mr. Hossen stated I do have one aerial that was just taken a couple of weeks ago.

Mr. Dyer stated what about the lighting in the back of the building?

Mr. Hossen stated we will need some lighting, because we have doors that are back there, but again we will push that down probably from our doors I think are 16-feet in height and our lighting is about 18-feet off of that and we will push everything down. We will not have site lighting back there, but there will be site lighting in the parking lot. We will be putting lighting in the front but again that will be pushing away from the neighborhoods.

Mr. Dyer stated it is a rather long and skinny lot.

Mr. Hossen stated it is, but we are filling it. Like I said if you look at this neighborhood, we are 15-feet behind it, but we are 100-foot off of that tree buffer right there. So, 100-feet of that tree buffer is staying intact we are not touching, and we can't infringe on that at all. So that is a good piece.

Mr. Dyer stated I rode out there yesterday because I figured with the leaves being off the trees you would be able to see in these people's back yards and see the construction that's going on, but you can't. It is mostly pines and furs that are in the forested area. We are not determining if you can build the building or not because you can build the building. I would be more concerned about noise and light pollution. For future reference I would encourage you to go and do a little site examination so that you might be a little more familiar with what the situation is.

Mr. John Slaughter stated my property adjoins this on Williamson Road. When the city bought this property from Ms. Helen Gilbert years ago to put this school there. It was a lot of land and a lot of right of away in the front and in the back. The power lines were there then. Believe me, I know because I used to ride my four-wheeler under those power lines all the way to the river. I could get under the power lines and go to the river and come back and nobody saw me because there was no road back there then. I was trespassing on the power lines property back then. When ya'll bought this, you knew that it was there, and we had to fight for the 100-foot buffer zone to keep the school away from us and they attempted to put up a fence on the front and back side of the 100-foot. Now the biggest part of the fence has been torn down and part of it is on the city utility easement and they tore down the fence so they could put a transformer down in there. Well, they could have just as easily come up through Slayton Drive and set the same transformer in the same spot. There was no sense in tearing the fence down. We have had workers that will work in there on this building all summer long and they decide that they either want to crawl under or jump over the fence to go to Burger King and come through our neighborhood and we don't know these people or anything about them. I welcome you to come to my property and I want you to stand in my back yard and you can see those buildings and hear them.

Mr. Dyer stated the question that is before us today is whether we are going to let them intrude 8-feet into the 80-foot setback. It seems to me that you are more in objection to the whole project.

Mr. Slaughter stated no, you can put a building up anywhere down there you want to but why change what was already established years ago when we had to fight to get that. I

want the school to be there, and I want everyone to be able to use the school that can use it, but you keep encroaching on me and I can already hear you now. I don't have to go on your property to hear you because I can hear you from my back yard. He says that the trees block up everything, but it doesn't. Trees don't block up squat.

Mr. Dyer stated I live on Canterbury, and I can hear the casino under construction.

Mr. Slaughter stated everything that we were working to get, we got part of it and now that part is being torn down. Now, you want to start taking footage away from us and pretty soon we are going to lose the right-of-way. Ms. Gilbert offered me the property years ago, but I didn't have the money to buy it and I didn't want to borrow the money either.

Mr. Michael Pressley stated I would like to say something more of a question than opposition. My question is this going to affect that 100-foot buffer at all?

Mr. Dyer stated no, what you have right now behind your property is a 100-foot buffer zone which is owned by the city, I assume and that is going to stay there forever. In the zoning code for this Industrial Park, they are required to have an additional 80-foot setback from their property line. What they are asking is that we reduce that 80-foot to 72-foot, and this doesn't narrow the buffer zone and you're not building anything in the buffer zone but what they are asking for is to grant a variance from the current zoning code that requires 80-foot setback. In most commercial applications the setback is 20-feet and because these are large buildings and I think probably this has to do with the aesthetics of the campus as opposed to any other concern is why they required these 80-foot setbacks on these buildings. The intent was to make sure whatever lot the building got built on that nothing would be built within 80-feet of that property line. What we found here they have this 80-foot setback and then they have another 100-foot buffer zone. The buffer zone if you would look at the city's map it actually goes all the way around Green Acres, because Green Acres is like a peninsula going into this Industrial Park. What we are trying to decide today is whether it is going to make a notable difference if they intrude 8-foot into their 80-foot setback that they are required to do.

Mr. Pressley stated the other question that I have is according to this map that you sent us this white line here takes in our property.

Mr. Dyer stated what the city code requires is that if anybody makes an application to this board that anybody that lives within 300-feet of the property gets notified.

Ms. Burton stated it is simply a notification.

Mr. Pressley stated the trees in that buffer zone, I don't know if a beetle got in it or what has happened but the evergreens that were in there, the pines, they are all falling down and like John said a minute ago we can stand in the back yard and look through the buffer zone and see all the buildings that are going on and all the noises down there. Is there any kind of plan of the city to plant trees in there.

Mr. Dyer stated Renee what is the requirement for buffer zones. I know that a private developer is required to provide a buffer zone due to their landscaping guidelines that are required. Are there any landscaping guidelines required in this buffer zone?

Ms. Burton stated this is the first that I have heard of the infestation and the damage to the trees, and we will certainly look into it to maintain that tree coverage. That is the goal.

Mr. Dyer stated if we put a stipulation on this that the tree infestation has to be maintained by the city, is that something that we can do?

Ms. Burton stated no, because that would be on a separate parcel than the subject parcel for today.

Ms. Evans stated can we add a stipulation that trees be planted in front of the 100-foot buffer zone into the 80-foot buffer zone. Can we make that a stipulation?

Mr. Pressley stated I know the city planted a bunch of cedar trees down on the end where the fence is but then it stops where the fence stops. Then from there on out past my house the pine trees are just falling, and you use to could walk through there, but you can't get through there any more because of all of the fallen trees.

Mr. Dyer stated we don't have anyone here that could speak on behalf of the Institute?

Ms. Burton stated no.

Mr. Pressley stated I am not opposing the building of the school.

Mr. Dyer stated we are here to address your concerns and I would be concerned if all the trees had died, and they didn't do anything about it.

Mr. Pressley stated that is my major concern.

Ms. Burton stated the development will require an additional landscaping buffer so there will be additional.

Mr. Dyer stated so there will be additional landscaping buffer on his lot?

Ms. Burton stated yes.

Mr. Dolianitis stated instead of 180 it will be 172 total?

Ms. Burton stated that is correct.

Mr. Dyer stated when they landscape this lot that the building is being built on there will be additional landscape buffer.

Ms. Evans stated do we have to request this?

Ms. Burton stated that is part of the code.

Ms. Garrison stated is it the noise that you are referring to and what you can see now is that construction from the building?

Mr. Pressley stated right now it is the construction.

Mr. Dyer stated before the construction was there any noise generated from the campus or the lighting?

Mr. Pressley stated no. Not until they started building.

Mr. Dyer closed the Public Hearing.

Mr. Dolianitis stated 172-feet that is considerably more than what we would normally see?

Mr. Dyer stated yes.

Mr. Ken Gillie, Director of Community Development for the City of Danville stated I was actually the guy that worked on this project and helped create that buffer around it and I

also generated the zoning code that's in question right now. As I said we built the 100-foot buffer to be the setback to the neighborhood and we didn't anticipate there would be a second 80-foot setback and that was supposed to be between various lots inside. So, the effect and the way that this was written was something that I didn't anticipate and ended up with a double setback which makes it a 180-feet. It is all my fault and I have no problem taking blame for that and this is just something that I did not anticipate years ago when we did that. The landscaping question, the city when we built the buffer, we promised the neighbors that we would keep it at its natural state. As it has been almost twenty years now and that's occurred trees are going through their natural life cycling and have decayed. We will go out and investigate it and see if there is anything that can be done, I can tell you that. So, it has been maintained at its natural state. The question on the planting there is some requirement on the landscaping as part of the covenant. There will not be planting back adjacent to the buffer.

Ms. Evans stated I am concerned about the wall that he said came down and apparently it needs to go back up.

Mr. Dyer stated it's great when you make the effort to create buffer zones and things like that but if they are not properly maintained then after a while they become worthless and that is not really why we are here today for and we can express our concerns about it to the city officials that are here and request that something be done about it.

Mr. Dyer closed the Public Hearing.

Ms. Garrison stated the construction is going to happen. Whether it is 80 or 72 that noise is going to be there.

Mr. Dyer stated that will be temporary.

Ms. Garrison made a motion to approve Variance Request PZ22-00220 changing the buffer from 80-foot to 72-feet setback to allow new construction. Mr. Dolianitis seconded the motion. The motion was approved by a 6-0 vote.

II. APPROVAL OF MINUTES FROM AUGUST 18, 2022

The August 18, 2022, minutes were approved by a unanimous vote.

III. OTHER BUSINESS

With no further business, the meeting was adjourned at 10:40 a.m.

APPROVED