



BOARD OF ZONING APPEALS REGULAR MEETING AGENDA

4TH FLOOR CONFERENCE ROOM

April 20, 2023

10:00 AM

A. CALL TO ORDER

B. ROLL CALL

C. ITEMS FOR PUBLIC HEARING

1. Variance Application PZ23-00064, filed by Roy Barker, requesting a variance from Article 2.V, Item 2 of Chapter 41 of the Code of the City of Danville, Virginia that requires road frontage for each lot.
2. Variance Application PZ23-00085, filed by Roy Barker, requesting a variance from Article 3.B Section A of Chapter 41 of the Code of the City of Danville, Virginia that states public water and sewer is required and lots shall not be permitted with private domestic wells or septic systems.

D. APPROVAL OF MINUTES

E. OTHER BUSINESS

ADJOURNMENT



Board of Zoning Appeals

STAFF REPORT

MEETING DATE: April 20, 2023

RE: VARIANCE APPLICATION – 448 Pinecrest Drive Parcel ID # 70628

Variance Application PZ23-00064, filed by Roy Barker, requesting a variance from Article 2.V Item 2 of Chapter 41 of the Code of the City of Danville, Virginia that requires road frontage for each lot.

BACKGROUND

Pinecrest Drive was annexed from the county to the city in 1988. At this time the property was served by a private road which remains to this day. The private road was secured by deed of easement from Pinecrest Drive to the subject property. The property was once a family farm, and the applicant now wishes to subdivide for use of the next generation.

The lot currently has no road frontage. A subdivision would create an additional lot without frontage to be served by the private easement.

VARIANCE REVIEW CRITERIA

A variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and the request meets each of the following five (5) review standards (Article 13, Section F.2.a.-e.):

- a. *The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance.*

The property was acquired in good faith and the hardship for a variance not created by the applicant due to adoption of the zoning ordinance after easement was granted to private road. This application **DOES** meet this standard.

- b. *Granting the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area.*

Granting the variance will not affect adjacent property. This application **DOES** meet this standard.

- c. *The property's condition or situation is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.*

This application **DOES** meet this standard.

- d. Granting the variance will not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property.*

Granting the variance will not change the use. This application **DOES** meet this standard.

- e. The relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A.4 of § 15.2-2286 at the time of the filing of the variance application.*

The applicant cannot request special use, special exception, or rezoning to satisfy the zoning requirement. Therefore, this application **DOES** meet this standard.

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

Staff recommends the BZA approve variance request PZ23-00064.

ATTACHMENTS

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



BOARD OF ZONING APPEALS

VARIANCE APPLICATION

We cannot accept Board of Zoning Appeals (BZA) applications unless the following steps are completed by the twentieth (20th) day of the prior month. BZA meeting are on the third Thursday of each month. This timeline assures the City can meet Virginia public notice laws.

1. The applicant attended a pre-application conference with the Zoning Administrator or designated staff;
2. The applicant completed this application;
3. The property owner or a duly authorized (in writing) representative signed this application;
4. The applicant submitted a plot plan drawn to scale showing the actual dimensions and shape of the property; and the exact size and location all existing and proposed buildings, signs, and required parking spaces;
5. The Zoning Administrator certified that the proposed use and construction plans comply with all Zoning Code provisions, except for the provisions necessitating a variance; and
6. The applicant paid the \$206.00 application fee.

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.

PLANNING DIVISION PROVIDED INFORMATION

Application #: ^{BZA} PC Meeting Date: 4/21/23
P223-000004
Date Received: Received By:

Parcel ID: Address:

Existing Zoning Future Land Use:

APPLICANT PROVIDED INFORMATION

Property Location (address/ID#): 448 Pinecrest Drive Danville, VA 24541 ID#70628

Applicant: Roy Allen Barker

Applicant's Address: 448 Pinecrest Drive Danville, VA 24541

Applicant's Phone Number: 434-203-8276

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

Variance Request Description: To subdivide lot# 70628 into two lots

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:

Lot 70628 predates the designation of Pinecrest Drive as a public street upon this designation the property was left without any road frontage and the county designated perpetual easements through lots 70625 and 70626.

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

I do not intend to create any new structures that would impact the parcels in the neighborhood I am seeking to renovate and preserve a home that currently exists on the property that was built in the 1920s

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

Most of the homes in the Westover neighborhood are common residential properties built on one acre lots with road access granted by our current infrastructure this property being a farm that was designated before city residential code was in place presents unique challenges not experienced by the majority of the community

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.

If granted this variance will be used to create divide the existing residential lot to create two lots of the same zoning classification .

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

I was instructed to apply for a variance by Renee Burton as a variance is the only way to subdivide a parcel of land without street frontage.

Applicant Signature

date Property Owner Signature
(if not applicant)

date

 3/8/23
Nancy Joan Carter 3-8-23
Rogel Barker J 3-8-23

VARIANCE REQUEST DATA SHEET PZ23-00064

PUBLIC HEARING DATE: APRIL 20, 2023 AT 10:00 AM

LOCATION OF PROPERTY: 448 PINECREST DRIVE (PARCEL ID 70628)

PRESENT ZONE: T-R THRESHOLD RESIDENTIAL

PROPOSED ZONE: NO CHANGE

ACTION REQUESTED: Variance Application PZ23-00064, filed by Roy Barker, requesting a variance from Article 2.V Item 2 of Chapter 41 of the Code of the City of Danville, Virginia that requires road frontage for each lot.

PRESENT USE OF PROPERTY: SINGLE FAMILY HOME

PROPOSED USE OF PROPERTY: SAME

FUTURE LAND USE DESIGNATION: RURAL RESIDENTIAL

PROPERTY OWNER (S): HEIRS OF JUANITA BARKER

NAME OF APPLICANT (S): ROY BARKER

PROPERTY BORDERED BY: RESIDENTIAL

ACREAGE: 52.34 ACRES TOTAL (APPROXIMATE)

CHARACTER OF VICINITY: RESIDENTIAL

INGRESS AND EGRESS: PINECREST DRIVE

TRAFFIC VOLUME: LOW



2019 AERIAL VIEW OF AREA SURROUNDING SUBJECT PROPERTY

Prepared by:
Planning Division
3/29/2023

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

STAFF REPORT

MEETING DATE: April 20, 2023

RE: VARIANCE APPLICATION – 448 Pinecrest Drive Parcel ID # 70628

Variance Application PZ23-00085, filed by Roy Barker, requesting a variance from Article 3.B Section A of Chapter 41 of the Code of the City of Danville, Virginia that states public water and sewer is required and lots shall not be permitted with private domestic wells or septic systems.

BACKGROUND

The subject property was built in 1998, prior to the adoption of the zoning ordinance. At that time, the subject property was served by private water and septic which remains to this day. Further renovation or addition would require city water and sewer. The applicant is requesting to connect proposed additions to the existing dwelling to pre-existing private water and septic.

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 due to the proposed renovation. 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.*

The applicant will be using the pre-existing private water and septic, so no new well will be dug or septic tank will be installed. This application **DOES** meet this standard.

- c. *The property's condition or situation is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.*

The property has pre-existing legal non-conforming well and septic. Approval of the variance will not set precedent for new construction projects. This application **DOES** meet this standard.

d. Granting the variance will not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property.

The current use of the property is single family dwelling. This will not change by granting the variance. 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 four (4) of the five (5) criteria needed to grant a variance.

Staff recommends the BZA approve variance request PZ23-00085

ATTACHMENTS

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



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.

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.

PLANNING DIVISION PROVIDED INFORMATION

Application #: PC Meeting Date:

Date Received: Received By:

Parcel ID: Address:

427 Patton Street | Danville, VA 24541 | 434.799.5260 | www.danvilleva.gov
Existing Zoning Future Land Use:

APPLICANT PROVIDED INFORMATION

Property Location (address/ID#): **448 Pinecrest Dr., Danville, VA 24541 lot ID #70624**

Applicant: **Roy Allen Barker**

Applicant's Address: 448 Pinecrest Dr., Danville, VA 24541

Applicant's Phone Number: 4342038276

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

Variance Request Description:

Requesting a variance to remain attached to existing water and sewer connections on home to be renovated to include new additions

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:

The home was built in 1920 on County property, pre-existing city sewer, and water connections.

The home is also built on an easement that is a 10th of a mile away from any source of city sewer, or water connections

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

All homes in this area also have variances from code and are on pre-existing fresh water, wells, and septic tanks
Denying this variance would cause extensive property damage to neighboring lots as a 6 foot deep by .1 mile trench would need to be dug through neighboring properties to allow for the home to be attached to city sewer and water

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

Most homes in the Westover District have public road, frontage and ease of access to connections to city sewer and water requiring connections for this property would cause unique and undue hardship on the owner and neighboring property in the community.

iv. Explain why granting the variance will not result in a use that is not otherwise allowed on the property or a change in the property's zoning classification.

The property is going to continue to be used as previously zoned

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

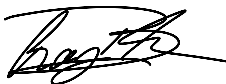
I'm thinking to renovate the home on the property and add an addition which requires a variance from code to continue to use pre-existing well and septic connections.

Applicant Signature

date

Property Owner Signature
(if not applicant)

date

 3/8/23

Part 2 of application
see previous for
property owner's
signature

VARIANCE REQUEST DATA SHEET PZ23-00085

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