BOARD OF ZONING APPEALS

POST OFFICE BOX 3300 DANVILLE, VIRGINIA (434) 799-5260

MARCH 17, 2016
10:00 A.M.
4TH FLOOR CONFERENCE ROOM
MUNICIPAL BUILDING

I. WELCOME AND CALL TO ORDER

II. ROLL CALL

III. ITEMS FOR PUBLIC HEARING

1. Variance Application Number PLVAR20160000058, filed by Rita Hamlett, requesting a variance from Article 3.C:. Section A., Paragraph 3, & Section B. Item 1. of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 845 Luna Lake Road, otherwise known as Grid 0620, Block 005, Parcel 00001, of the City of Danville, Virginia, Zoning Map. The applicant is requesting a variance to allow for the installation of a well where an existing well has failed when private wells are prohibited by Code.

2. Variance Application Number PLVAR20160000044, filed by Shawn R. Harden PE, requesting a variance from Article 3.C:. Section A, Paragraph 3, of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 2020 Memorial Drive, otherwise known as Grid 0720, Block 005, Parcel 000015, of the City of Danville, Virginia, Zoning Map. The applicant is requesting a variance to allow a 2000 gallon wastewater holding tank where it is prohibited by Code.

IV. APPROVAL OF THE MINUTES FROM JANUARY 21, 2016

V. OTHER BUSINESS

VI. ADJOURNMENT

BOARD OF ZONING APPEALS

POST OFFICE BOX 3300 DANVILLE, VIRGINIA (434) 799-5260

Board of Zoning Appeals
March 17, 2016

SUBJECT:

Variance Application Number PLVAR20160000058, filed by Rita Hamlett, requesting a variance from Article 3.C:. Section A., Paragraph 3, & Section B. Item 1. of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 845 Luna Lake Road, otherwise known as Grid 0620, Block 005, Parcel 00001, of the City of Danville, Virginia, Zoning Map. The applicant is requesting a variance to allow for the installation of a well where an existing well has failed when private wells are prohibited by Code.

BACKGROUND:

The subject property, 845 Luna Lake Road is zoned S-R, Suburban Residential. It is approximately 3.14 acres, and currently developed with a single family dwelling. The applicant is requesting to allow for the installation of a well when private wells are prohibited by code.

The pre-existing well failed and the subject property does not have a connection to city water lines. The nearest city water line is along Holland Road, and is approximately 880' to the property corner of this parcel.

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 property was acquired in good faith by the applicant with the understanding that access to city water was not provided. Therefore, well-water was required. Luna Lake Rd still has no access to city water lines, so the lack of an operational well would hinder the use of the property as a single family residence. Therefore, this application **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***
  Authorization of a variance would not be of substantial detriment to adjacent property owners. The property owners would not be affected by authorization of a variance. 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***
  This is not a common variance request and the situation is not so general as to warrant a code revision by the City Council. 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 not allow a use that is not otherwise permitted on such property or a change in the zoning classification. Therefore, this application **does** 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. There, this application **does** meet this criterion.

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

ATTACHMENTS:

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

Department of
Community
DEVELOPMENT
City of Danville, Virginia

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: _____ EXISTING ZONING: S-R

RECEIVED BY: KCG DATE FILED: _____

TAX MAP NUMBER: 0620-005-00001.000 BZA DATE: 3/17

VARIANCE FROM ZONING SECTION _____

Property Address: 845 Luna Lake Rd Danville, VA 24541

I (we) have applied for a variance to allow the following:
to install a well where city is not available

§ 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):
I have owned the property for 5 or 6 years + the City of Danville has not installed water lines

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):
The health Dept has determined that the well is feasible + will not affect adjacent property.

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):
City has water lines on Holland RD but not Luna Lake RD

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 or No

v. The relief or remedy sought by the variance application is not available through a special exception process
Yes or 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: Rita D Hamlett TELEPHONE: 434 203-9771

MAILING ADDRESS: 659 Holland RD, Danville, VA 24541

EMAIL ADDRESS: _____

SIGNATURE: Rita D Hamlett DATE: 2-16-16

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: _____

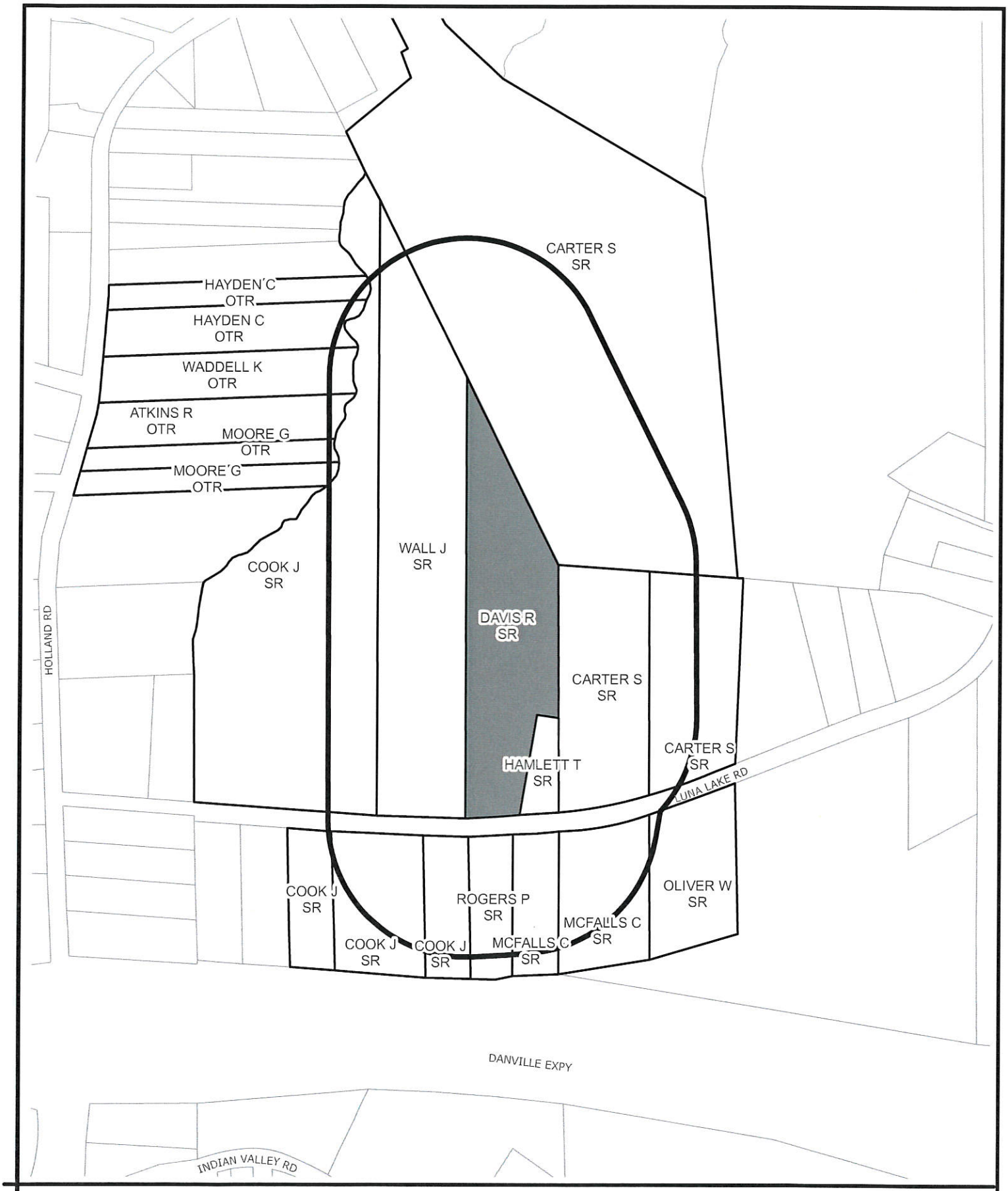
EMAIL ADDRESS: _____

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.

VARIANCE REQUEST
DATA SHEET

DATE:	March 17, 2016
LOCATION OF PROPERTY:	845 Luna Lake Road
PRESENT ZONE:	S-R Suburban Residential
LAND USE PLAN DESIGNATION:	SSR, Suburban Single Family Residential
ACTION REQUESTED:	The applicant is requesting to allow a new well where City Code requires public water.
PRESENT USE OF PROPERTY:	residential
PROPERTY OWNER (S):	Rita Hamlett
NAME OF APPLICANT (S):	same
PROPERTY BORDERED BY:	Residential development to the east, west, north and south
ACREAGE/SQUARE FOOTAGE:	3.14 acres
CHARACTER OF VICINITY:	Residential
INGRESS AND EGRESS:	Luna Lake Road
TRAFFIC VOLUME:	Low
NEIGHBORHOOD REACTION:	To be reported at the Planning Commission meeting of March 17, 2016.



SURROUNDING PROPERTY OWNERS AND ZONING WITHIN 300 FEET OF SUBJECT PROPERTY

Prepared by:
Planning Division
2/23/2016

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.

2015 AERIAL VIEW OF AREA SURROUNDING SUBJECT PROPERTY

Prepared by:
Planning Division
3/2/2016

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

POST OFFICE BOX 3300 DANVILLE, VIRGINIA (434) 799-5260

Board of Zoning Appeals
March 17, 2016

SUBJECT:

Variance Application Number PLVAR20160000044, filed by Shawn R. Harden PE, requesting a variance from Article 3.C. Section A, Paragraph 3, of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 2020 Memorial Drive, otherwise known as Grid 0720, Block 005, Parcel 000015, of the City of Danville, Virginia, Zoning Map. The applicant is requesting a variance to allow a 2000 gallon wastewater holding tank where it is prohibited by Code.

BACKGROUND:

The subject property, 2020 Memorial Drive is zoned S-R, Suburban Residential. It is approximately 3.06 acres, and is the site of Abreu-Grogan Park. The applicant is requesting to allow a 2,000 gallon wastewater holding tank where it is prohibited by Code.

The property was acquired by the City of Danville in 2008. Presently, the site is improved with a boat storage building. The city intends for it to become more hospitable to community members by installing a stand-alone restroom on site. The City of Danville water plant raw water lines cross the property in close proximity to the proposed restroom. The size and location of these lines water hinder the feasibility of gravity sewer.

Abreu-Grogan lies within the floodplain and the proposed improvements are estimated to increase the 100-year water surface elevation by a maximum of .01 feet. As a mitigation strategy, some brush and trees will be cleared and compensatory excavation will be performed. The mitigation strategy should result in no rise in the Dan River 100-year flood elevations.

The proposed stand-alone restroom will be located to the right of the existing boat storage building. It will not be attached to sewer lines but have a 2,000 gallon holding tank that will be pumped. The finished floor of the restroom facility will be 1.74 feet above the 100 year flood elevation.

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 property was acquired in good faith. When the need arose to install a stand-alone restroom facility, it was established that the location of raw water lines would prohibit the restroom from being connected to City sewer. Therefore, this application **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***
  Authorization of a variance would not be of substantial detriment to adjacent property owners. The property owners would not be affected by authorization of a variance. 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***
  This is not a common variance request and the situation is not so general as to warrant a code revision by the City Council. 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 not allow a use that is not otherwise permitted on such property or a change in the zoning classification. Therefore, this application **does** 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. There, this application **does** meet this criterion.

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

ATTACHMENTS:

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

PROCEDURE

1. **The Applicant** obtains a City tax assessor's map or a survey prepared by a licensed engineer or land surveyor showing the exact boundaries of the property.
2. **The Applicant** takes the map and a legal description of the property to the Department of Community Development, Room 207 of the Municipal Building.
3. **The Applicant** discusses the proposed variance with a Department representative and receives this application with information for its completion.
4. **The Applicant** files a completed application with the Department of Community Development, accompanied by a $200 application fee.
5. **The Department** checks the application and accompanying maps and materials for accuracy and completeness, requests that other City Departments which may be affected by the variance request to submit their recommendations, and examines the property.
6. **The Department** sets the case for a public hearing before the Board of Zoning Appeals, publishes legal notices of the public hearing in the local newspaper, and mails a notice of the public hearing to property owners within three hundred (300) feet of the subject property.
7. **The Department**, prior to the public hearing, analyzes the variance application and prepares a written staff report for the Board of Zoning Appeals. The report is made available to the applicant prior to the hearing date.
8. **The Board of Zoning Appeals** holds a public hearing which the applicant and those interested in the requested variance should attend. Those attending may present testimony and evidence for or against the proposed variance.
9. **The Board of Zoning Appeals** reviews the request and makes a decision based on the staff report, neighborhood consideration, the results of the public hearing, and Municipal Code requirements for the grating of a variance.

CITY OF DANVILLE

VARIANCE APPLICATION

TO THE CITY OF DANVILLE BOARD OF ZONING APPEALS
Application is hereby made for the variance as described below

INFORMATION TO BE PROVIDED BY THE PLANNING DIVISION

CASE NUMBER: _____ EXISTING ZONING: S-R

RECEIVED BY: AL DATE FILED: _____

TAX MAP NUMBER: 0720-005-000015 BZA DATE: 3/17

VARIANCE FROM ZONING SECTION: _____

_____

INFORMATION TO BE PROVIDED BY THE APPLICANT

IMPORTANT – PLEASE READ

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 prior to a Board meeting. The Board meeting is held on the third Thursday of each month.

a) All questions on this application have been fully answered.
b) The property owner(s) or his agent with the written authorization of the owner has signed the application.
c) 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 buildings and signs existing and proposed, and the location of all required parking spaces has been submitted.
d) The Zoning Administrator has certified that the proposed use and construction plans comply with all provisions of the Zoning Code, except those for which a variance has been requested.

1. Property location: 2020 Memorial Dr Gross Area/Net area: 3.06 acres

2. I (we) have applied for a variance to allow the following: Placement of a pre-cast toliet facility with 2000 gallon holding tank. Tank will be pumped to eliminate waste from the tank

3. I (we) now appeal to the Board of Zoning Appeals for a variance permitting the action denied by the administrative official in that:

   A. Special conditions and circumstances exist which are peculiar to the land, structure, or building (Describe): a gravity sewer is not possible due to the City of Danville raw water supply lines serving the City with water.

   B. These conditions are not generally shared by other property owners in the vicinity (Describe): The raw water lines prevent the toilet facility from having gravity sewer

   C. Application of the variance would not be of substantial detriment to surrounding property owners (Describe): The tank will be pumped by the City of danville similar to what is down at Anglers park and Blue Park.

   D. The variance requested is the minimum variance that will make possible the reasonable use of the land, structure, or building. (Indicate why a lesser variance would not provide for a reasonable use of the property.) The raw water lines make gravity sewer not feasible.

Use Additional Sheets if necessary

EXPLANATION OF REQUEST

1. New Construction:

   Free standing structure ( ) Addition to existing building ( )

   Use of building: Toilet facility Total square footage: 126

   Location of building on property (Include setbacks from property lines): The building will be between the boat storage building and the river. Building is +80 feet from property line

2. Additional Signage:

   Type of Sign: Ground ( ) or Wall ( )

   Total square footage: _____ Dimensions: _____

   Sign location (exact legal description): _____

3. Other request:

   Please explain: installation of holding tank in stead of connection to public sewer

PRESENT OWNER (S) OF ALL PROPERTIES INCLUDED IN APPLICATION (PLEASE TYPE OR PRINT):

1. NAME: City of Danville TELEPHONE: 434-799-5200

   MAILING ADDRESS: 427 Patton Street, Danville, VA

   SIGNATURE: [signature] DATE: 2/5/16

   EMAIL ADDRESS: sgrinwo@danvilleva.com

APPLICANT (PLEASE TYPE OR PRINT):

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

NAME: Shawn R. Harden, PE TELEPHONE: 434-549-8508

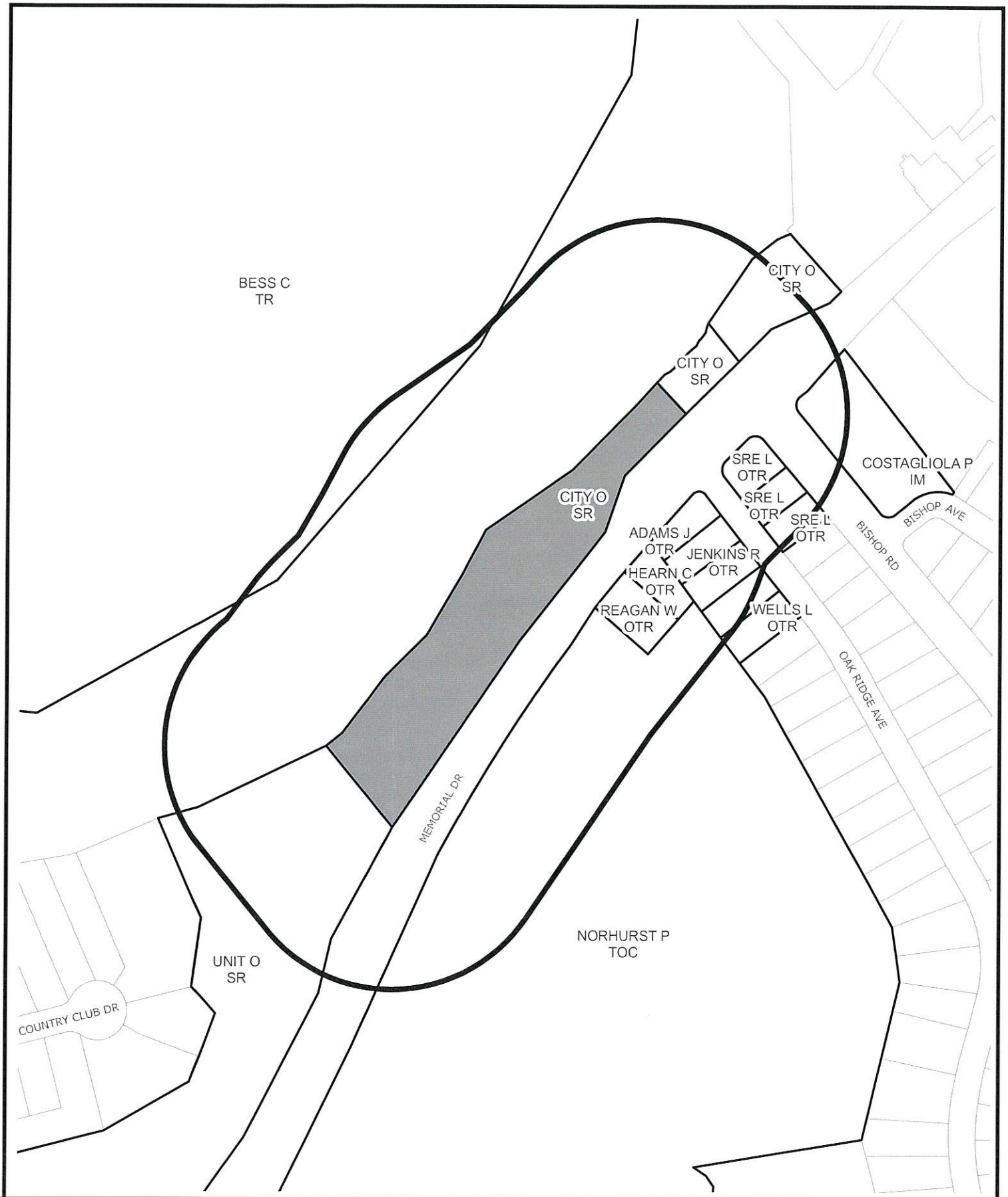
MAILING ADDRESS: 551 Piney Forest Road, Danville, VA 24540

EMAIL ADDRESS: sharden@dewberry.com

SIGNATURE: [signature] DATE: 2/5/16

VARIANCE REQUEST
DATA SHEET

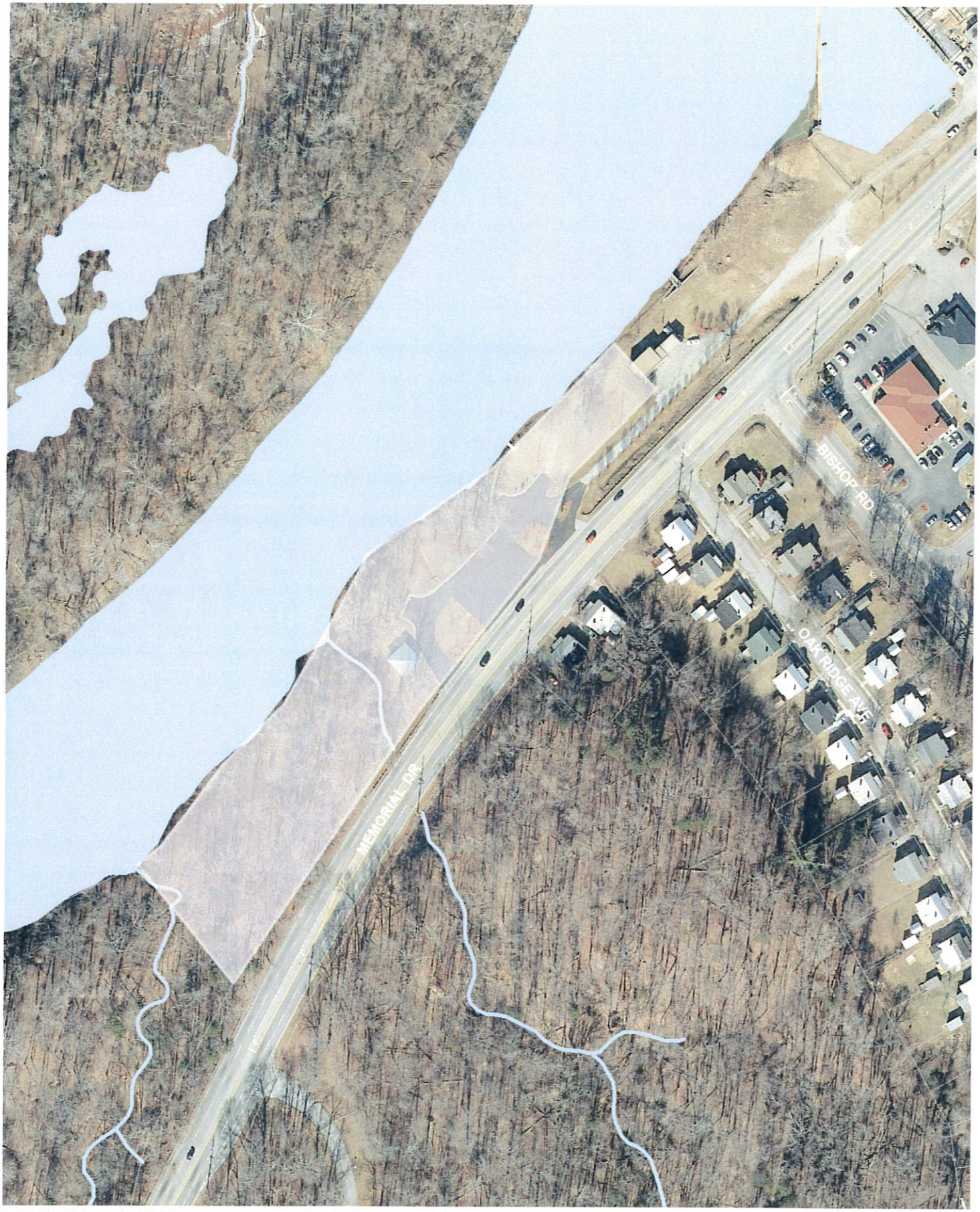
DATE:	March 17, 2016
LOCATION OF PROPERTY:	2020 Memorial Drive
PRESENT ZONE:	SR, Suburban Residential
ACTION REQUESTED:	The applicant is requesting a variance to allow a septic holding tank where it is prohibited by Code
PRESENT USE OF PROPERTY:	Abreu-Grogan Park
PROPERTY OWNER (S):	City of Danville
NAME OF APPLICANT (S):	Shawn R. Harden
PROPERTY BORDERED BY:	Residential to south and east
ACREAGE/SQUARE FOOTAGE:	3.06 acres
CHARACTER OF VICINITY:	Mixed use: Commercial and residential
INGRESS AND EGRESS:	Memorial Drive
TRAFFIC VOLUME:	Moderately High
NEIGHBORHOOD REACTION:	To be reported at the Board of Zoning Appeals on March 17, 2016



SURROUNDING PROPERTY OWNERS AND ZONING WITHIN 300 FEET OF SUBJECT PROPERTY

Prepared by:
Planning Division
2/12/2016

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.



2015 AERIAL VIEW OF AREA SURROUNDING SUBJECT PROPERTY

Prepared by:
Planning Division
3/2/2016

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

BOARD OF ZONING APPEALS MEETING

January 21, 2016

Members Present	Members Absent	Staff
Gus Dyer	Dawn Witter	Ken Gillie
John Hiltzheimer	Michael Nicholas	Tracie Milam
Dolores Reynolds		Renee Burton
Ann Sasser Evans		Anna Levi
Philip Campbell		Clarke Whitfield

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

ELECTION OF OFFICERS

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

Mr. Whitfield called for nominations for Chairman.

Mrs. Evans nominated Mr. Dyer as Chairman. The nomination was approved by a 4-0-1 vote (Mr. Dyer abstained from the 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 vote.

Mr. Whitfield called for nominations for Secretary.

Mrs. Evans nominated Mrs. Reynolds for Secretary. The nomination was approved by a 4-0-1 vote (Mrs. Reynolds abstained from the vote).

I. ITEMS FOR PUBLIC HEARING

1. Variance Application Number PLVAR20150000376, filed by Samuel Martin, requesting a variance from Article 3.C. Section A, Paragraph 3, of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 538 Beech Tree Ct, otherwise known as Grid 9712, Block 002, Parcel 000033, of the City of Danville, Virginia, Zoning Map. The applicant is requesting a variance to allow a private septic system where it is prohibited by Code.

Mr. Dyer opened the Public Hearing.

Present on behalf of the request was Mr. Samuel Martin.

Mr. Martin stated how would you like for me to proceed sir?

Mr. Dyer stated it you can explain to us why you are requesting this variance. I'm assuming that Mr. Gillie pointed out that there are five criteria that you need to meet in order to get your variance granted. The City has done a little background work for you and included that you do meet four of the five. The one criteria that they say that you do not meet is basically stating that 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. In other words the situation that you are facing now was there when you bought the house and that nothing has changed that would create a hardship on you where you would be granted this variance.

Mr. Martin stated could I give you a little background?

Mr. Dyer stated sure.

Mr. Martin stated I have a younger sister who is a diabetic and is basically blind. She needs to be taken care of. She and her husband were living in my house and I had to evict him. It was a bad situation. I when into the house, the house is basically a disaster. So, she is staying with my mom and I am trying to fix the house up so that my other sister who lives in Atlanta (she is retiring from her job there) can come and take care of my little sister and my mom. I have got in the house it is totally destroyed I have hired somebody to take care of this for me because I live in Garner, NC and my job is driving trucks so I'm all over the place. I can't be here to watch over the house as its being worked on. My little sister needed a room built on so I told her I would try to have the room built on. They started getting everything ready to be built on and then I get a call from the contractor and he says we have a problem. The septic tank is too close. I can't afford to hook up to the city. I already wanted to do the driveway and now I can't do that. A lot of things that I wanted to do are not being done because it has gotten so expensive. So I told him if you can't leave it or figure out another way we are going to have to just drop the room. I just can't afford it. I didn't hear anything for a number of hours maybe a day. Then I got a call from the contractor saying that he had a solution a less expensive solution. He said he talk to the inspector and he said that what we could have the room all we would have to do is just move the septic tank. I said are you sure? He said yeah the inspector said he called everyone he needed to call and I said okay let's go with that. I didn't know this was not a city inspector. I had no idea I was in Myrtle Beach doing a delivery. I have to depend on the people that are here. So I paid to have the new septic tank put in which was way less than what the estimates were to hook up to the City. I didn't even know then that there was any reason I had to nobody told me that. I'm not a contractor I don't know the laws and I have to depend on the people that are here. We started the room and got everything going. I'm at the point now that if I would have known I wouldn't have done it. I wouldn't have done the room at all. I'm between a rock and a hard place. I don't know if that falls into hardship or what that falls into. I drive a truck for a living. To actually go in now and hook up to the City would be a tremendous burden because I am out of money. I'm trying to fix the house up and if you have done any renovations especially on a house that's all to pieces it's expensive. I'm not going to be getting a dime back it's not like I can rent it out, my family is going to be living in there and best I can hope for is that they will keep it up and pay the taxes or

give me some money to pay the taxes. That's all I will have. So I am kind of throwing myself at the mercy of this. The same way I just have to depend on other people sometimes because I'm not around to know these things and thats basically what happened. I'm trying to be just as honest and straight forward as I know how.

Mr. Dyer stated your contractor did he obtain a building permit for the addition onto the house?

Mr. Martin stated yes.

Mr. Dyer stated okay so he is a licensed contractor?

Mr. Martin stated yes sir to the best of my knowledge.

Mr. Dyer stated according to the background information he actually contacted a county building inspector to find out about the septic system?

Mr. Martin stated no sir. My understanding was that the inspector was there. I assumed it was City because the house is in the City. I don't know why there would be county there. He said the inspector said he would check on it. He made a bunch of phone calls. He said the inspector told him this is what we can do and it will be fine. He called around town and made all the proper calls that you do as an inspector. He said it was good. So I thought about it for an hour or so and decided okay we will go with it under those circumstances everything is good. He said the guy said we was good on everything.

Mrs. Evans stated who is your contractor?

Mr. Martin stated Alexander Lee he is contracting and subcontracting out if I understand correctly.

Mr. Hiltzheimer stated how many others on Beechtree court have city sewer? All of them?

Mrs. Burton stated they all have it available.

Mr. Gillie stated yeah they all have it available I don't know the number of taps. We installed the line.

Mr. Hiltzheimer stated do any of them have a septic tank now? That has been there for forty years?

Mrs. Burton stated I know at least one does because they called in saying they had a septic.

Mr. Gillie stated I know one is tied in because someone else has called to say that they removed theirs when they did work and they knew they had to tie in. It's probably a mixture of people who are connected and people who aren't.

Mr. Hiltzheimer stated okay.

Mr. Gillie stated I can't give you exact number though sorry.

Mr. Dyer stated all that was moved was the septic tank itself correct? Not the drain field?

Mr. Martin stated I thought they were just going to move the tank then I found out they put a new tank in. I don't know if that had something to do with some code or not. Honestly, I don't know but there was a new tank put in and moved up so many feet to make it within something about you can't have something built within so many feet of the tank. I ask him if the drain field was going to have to be messed with and he said no. So they moved it I don't know how many feet it was sir.

Mr. Dyer closed the Public Hearing.

Mrs. Evans stated I'm concerned that an inspector in the county didn't realize that this was City property.

Mrs. Burton stated the county inspector does complete inspections within the City specifically just for septic tanks. We do not have an inspector in the City to do that work. Those permits were held by the health department and that is a county function not something we do in the City.

Mr. Dyer stated is the county not aware of our code that requires any house that can be hooked to sewer has to be hooked to sewer?

Mrs. Burton stated I don't believe I can speak for them. They are aware of it now.

Mr. Dyer stated they are aware of it now. Okay.

Mrs. Evans stated are they aware of the lines between the City and the county?

Mrs. Burton stated they are aware that a home in the City must connect to the public system not to a new septic tank.

Mr. Dyer stated okay well it does appear that Mr. Martin has been a victim of a little confusion that was beyond his control.

Mr. Campbell stated my comment would be that he said that they property was acquired in good faith. It seems to me that some of the information was withheld when he was purchasing this property. Can I make a motion?

Mr. Dyer stated sure.

Mrs. Evans stated may I make a comment before you do that. I was just don't want this to be a precedent if it is approved.

Mr. Dyer stated well that's my concern now because we have in the past granted people the right to use septic tanks and the right to use sewer when not available. This is a situation in which sewer lines were available. This is one of those situations where this

is one of those neighborhoods that was annexed into the City and so when this neighborhood was built there was no public sewers available. So I'm sure at one time all these houses were on septic systems. I would make an educated guess that there probably are a significant amount of houses out there that are still hooked onto sewer. I totally agree with Mrs. Evans. I have a concern when this Board sets a precedent and someone else has every right to come in and ask for the same thing and be offered the same consideration.

Mr. Hiltzheimer stated what's you're feeling about it?

Mr. Dyer stated I have mixed feelings.

Mr. Whitfield stated I would like to remind you that this Board requires four affirmative votes for any action because it's not just simply majority of the corner.

Mr. Dyer stated we are still bound to find that they meet all five criteria correct?

Mr. Whitfield stated correct.

Mr. Campbell made a motion to approve Variance Application PLVAR20150000376. Mrs. Reynolds seconded the motion. The motion was approved by a 5-0 vote.

Mr. Whitfield stated by making that motion I assume you mean that they meet all five criteria?

Mr. Campbell stated yes.

Mr. Whitfield stated and that was your understanding on the second?

Mrs. Reynolds stated yes.

Mr. Dyer stated your request has been granted. I hope that is a little bit of relief for you.

Mr. Martin stated I don't know if I'm supposed to do this but can I shake you all's hand?

Mr. Dyer stated that's probably not appropriate but we will understand the sentiment.

Mr. Martin stated you don't know how much of a relief this is. I got 33 boxes of hardwood on my truck outside and my wife is guarding it. I have got to take it to the house. You just don't know how much I was worried about this. Thank yall so very much.

Mr. Gillie stated before you go. There is a 30 day appeal period that a neighbor could challenge or something. It's mostly out of the way but I don't know that anyone would. Nobody has told me anything but I just wanted you to know that, that is available to someone just in case.

Mr. Martin stated I'm glad you told me and I wish you hadn't told me.

Mr. Gillie stated I just didn't want you to get shocked if it comes out.

Mr. Martin stated at this point not much could shock me.

Mr. Gillie stated I'm the Zoning Administrator, the City is not going to appeal it but one of your neighbors could. Just to let you know.

Mr. Whitfield stated considering the fact that only one was opposed and nobody showed up.

Mr. Gillie stated I don't think it's going to happen but I just wanted you to be aware.

II. APPROVAL OF MINUTES

The October 15, 2015 minutes were approved by a unanimous vote.

III. OTHER BUSINESS

Mr. Gillie stated I would like to introduce everyone to Ms. Anna Levi she is the new Associate Planner. She took Scott's place. I also wanted to let everyone know we do not have cases for next month. Yesterday was the deadline and as of 5 o'clock yesterday no one had turned anything in. So I will not see you in February. I will still send out the reminder telling you that the meeting has been cancelled. There will possibly be a meeting in March. I was expecting to have a case for the February meeting but it didn't come. I imagine it may come for the March meeting.

Mr. Dyer stated I will not here on the Third Thursday in March. Can we consider either moving the meeting to that Tuesday or sometime after the end of next week?

Mrs. Evans stated can't Mr. Nicholas run the meeting?

Mr. Dyer stated he can I just like to be here.

Mr. Whitfield stated it just depends we need to find out his court schedule.

Mr. Gillie stated if not Mrs. Reynolds can run the meeting.

Mrs. Reynolds stated I'm going to be very upset with you.

Mr. Gillie stated make sure that makes it in the minutes.

Mr. Dyer stated well just far warning that I will not be here.

Mr. Campbell stated does all the meetings have to be at 10?

Mr. Gillie stated no if you would change the meeting time that would have to be a vote of the Board. It just has always been established and advertised that way. If they would want to change the time or date we would have to advertise it.

Mrs. Reynolds stated when would suit you better?

Mr. Campbell stated if it's just for me if I'm the only problem I understand that. The only reason I'm here today is because of inclement weather. I go to Lynchburg, 9 o'clock would be a better time for me.

Mr. Dyer stated well what about 4 o'clock in the afternoon?

Mr. Campbell stated that works for me too.

Mrs. Reynolds stated 4 in the afternoon did you say?

Mr. Dyer stated yes. Mrs. Evans does that sound good?

Mrs. Evans stated that works for me.

Mrs. Burton stated that would conflict with the River District Commission at 4pm.

Mr. Dyer stated do they meet here on Thursday?

Mr. Gillie stated they are the second Thursday of the month. It would not conflict.

Mr. Dyer stated I don't recall seeing other meetings scheduled.

Mr. Gillie stated if that's something you want to do then we can.

Mrs. Reynolds stated how long would it take for this to be established?

Mr. Gillie stated a day or two.

Mrs. Reynolds stated so then the next meeting after the one we don't have in February would be at 4 instead of 10?

Mr. Whitfield stated if there was a motion and it was approved by four members. Then we could establish it and that would give us February as a buffer.

Mrs. Reynolds made a motion to move the meeting time to 4pm on the third Thursday of the month. Mr. Campbell seconded the motion. The motion was approved by a 5-0 vote.

Mr. Dyer stated it appears the next meeting will be at 4pm.

With no further business, the meeting adjourned at 10:22 a.m.

_____

APPROVED