



## BOARD OF ZONING APPEALS

POST OFFICE BOX 3300

DANVILLE, VIRGINIA

(434) 799-5261

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DECEMBER 18, 2014  
10:00 A.M.  
4<sup>TH</sup> FLOOR CONFERENCE ROOM  
MUNICIPAL BUILDING

- I. WELCOME AND CALL TO ORDER
- II. ROLL CALL
- III. ITEM FOR PUBLIC HEARING

*Variance Application Number PLVAR20140000328, filed by Danville Redevelopment & Housing Authority, requesting a variance from Article 2, Section P, Item 5, of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 111 Pleasant View Ave, otherwise known as Grid 1709 Block 005, Parcel 000008 of the City of Danville, Virginia, Zoning Map. The applicant is requesting a variance to allow an accessory structure in the side yard.*

- IV. APPROVAL OF THE MINUTES FROM NOVEMBER 20, 2014
- V. OTHER BUSINESS
- VI. ADJOURNMENT



## BOARD OF ZONING APPEALS

POST OFFICE BOX 3300

DANVILLE, VIRGINIA

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Board of Zoning Appeals  
December 18, 2014

### **SUBJECT:**

*Variance Application Number PLVAR20140000328, filed by Danville Redevelopment & Housing Authority, requesting a variance from Article 2, Section P, Item 5, of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 111 Pleasant View Ave, otherwise known as Grid 1709 Block 005, Parcel 000008 of the City of Danville, Virginia, Zoning Map. The applicant is requesting a variance to allow an accessory structure in the side yard.*

### **BACKGROUND:**

The applicant, Danville Redevelopment & Housing Authority, is requesting a variance to allow an accessory structure in the side yard at 111 Pleasant View Ave. 111 Pleasant View Ave is zoned M-R, Multi-family Residential and according to Article 2, Section P, Item 5, of Chapter 41 of the Code of the City of Danville, it states:

#### ***P. - Accessory Uses and Structures.***

*No accessory structure shall be located in a front or side yard, except for flagpoles, fences and walls.*

### **PREREQUISITE FOR GRANTING VARIANCES:**

The principles of law to be applied by the BZA considering a request for a variance are found in the Virginia Code Section 15.2-2309. This Statute empowers a BZA to grant a variance when "a property owner can show that this property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the utilization of the property or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant provided that all variance shall be in harmony with the intended spirit and purpose of the ordinance.

A BZA cannot authorize a variance unless it finds:

1. That the strict application of the ordinance would produce undue hardship.
2. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
3. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
4. 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 regulation to be adopted (by City Council) as an amendment to the ordinance.

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:**

In order for the Board of Zoning Appeals to grant a variance, all four (4) of the previously noted criteria must be met.

- ***The criteria that strict application of the ordinance would produce undue hardship on the property owner.***  
Strict application would not produce an undue hardship on the property owner. The applicant is seeking a variance to allow an accessory structure in the side yard at 111 Pleasant View Ave. Staff believes there are other locations on the property to place the accessory structure that would not require a variance such as in the rear yard next to the basketball court or attached to one of the primary buildings. Therefore a hardship is not present and this application **does not** meet this criterion.
- ***The criteria that such hardship is not shared generally by other properties in the vicinity and the same zoning district.***  
All property owners in the vicinity must adhere to the yard requirements in regards to accessory structures. Staff believes a hardship is not in place. Therefore, this application **does not** meet this criterion.
- ***The authorization of a variance would not be of substantial detriment to adjacent property owners.***  
Allowing an accessory structure in the side yard when other options are available could be detrimental to adjacent properties. Therefore, this application **does not** meet this criterion.

- ***The criteria that the condition or situation is not so general or recurring in nature as to make reasonably practicable the formulation to be adopted (by City Council) as an amendment to the ordinance.***

This is not a common variance request and the situation is not so general as to not warrant a code revision by the City Council. Therefore, this application **does** meet this criterion.

Therefore, this variance request meets one (1) of the four (4) criteria needed to grant a variance.

**ATTACHMENTS:**

Application  
Staff Exhibit  
Data Sheet  
Property Ownership & Existing Zoning  
Map  
Existing Land Use Map (Aerial 2012)

**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 (20<sup>th</sup>) 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: 111 Pleasant View Ave Gross Area/Net area: 864 / 748

2. I (we) have applied for a variance to allow the following: Planning/Zoning Review comment received on 11/7/2014, declaring this to be an accessory building which is not allowed in side yards. Variance applied for to classify this as a principal building/use.

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):

The rear yard has significant grade/slope, other locations have major underground utilities. This location chosen for its siting/visibility, or lack of.

B. These conditions are not generally shared by other property owners in the vicinity (Describe):

This is the only MR Multi-Family Residential property in the vicinity. Maintenance is critical to the operation and function of the 71 units, and other buildings.

C. Application of the variance would not be of substantial detriment to surrounding property owners

(Describe): All property directly adjacent are either PSC (Planned Shopping Center) or HRC (Highway Retail Commercial). All activity occurs during normal business hours.

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.) Not applicable.

Use Additional Sheets if necessary

See Attached (letter, review comments and drawings)

EXPLANATION OF REQUEST

1. New Construction:

Free standing structure ( ) Addition to existing building (X)

Use of building: Maintenance Facility Total square footage: 864

Location of building on property (Include setbacks from property lines): Northwest corner of the rotated "L" shaped property. 30 ft from front property line, 30 ft from side prop. line

2. Additional Signage:

Type of Sign: Ground ( ) or Wall ( )

Total square footage: Dimensions:

Sign location (exact legal description):

3. Other request:

Please explain:

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

Danville Redevelopment & Housing Authority
1. NAME: Gary Wasson, Executive Director TELEPHONE: 434-799-8380
MAILING ADDRESS: P.O. Box 2669, Danville, VA 24543
SIGNATURE: Gary M. Wasson DATE: 11/19/14
EMAIL ADDRESS: gwasson@drhava.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: TELEPHONE:

MAILING ADDRESS:

EMAIL ADDRESS:

SIGNATURE: DATE:

**NO VARIANCE MAY BE AUTHORIZED BY THE BOARD OF ZONING APPEALS UNLESS IT FINDS:**

(A) That the strict application of the Zoning Code would produce undo hardship.

A property owner must show that his property was acquired in good faith and that by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the Zoning Code, or that by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or the use or development of property immediately adjacent thereto, the strict application of the terms of the Zoning Code would effectively prohibit or unreasonably restrict the use of the property.

The Board of Zoning Appeals may find that it is satisfied upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the applicant, provided that such variance shall be in harmony with the intended spirit and purpose of the Zoning Code.

(B) That such hardship is not shared generally by the other properties in the same zoning district and the same vicinity.

(C) That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

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.

*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.*



Solex Architecture, Inc.  
308 Craghead Street, Suite 102-C  
Danville, Virginia 24541  
434.688.0767  
[www.solexarchitecture.com](http://www.solexarchitecture.com)

November 19, 2014  
Revised December 8, 2014

City of Danville  
Board of Zoning Appeals  
427 Patton Street  
P.O. Box 3300  
Danville, Virginia 24541

**Re: Variance Application for Structure in Side Yard  
Danville Redevelopment & Housing Authority (DRHA)  
Maintenance Facility at Pleasant View**

Dear Board of Zoning Appeals:

The Danville Redevelopment and Housing Authority has determined that in order to efficiently and effectively respond to maintenance issues at various locations, maintenance facilities should be constructed at the location of each apartment complex. Currently, maintenance personnel traverse the City of Danville, traveling from each complex back to the Slade Building located on Jones Crossing off of Goodyear Boulevard. In order to increase productivity and be a better steward of tax payer funds, an investment in their infrastructure is being made to lower personnel cost over the life of each complex. Additionally, this will reduce the amount of fuel consumed by DRHA and lessen its impact on the environment. This coincides with the Purpose and Intent of the Article 1.B.3 to for the "efficient and economic use of public funds and environmental quality."

This location was chosen for its lower visibility as a person enters the property off of Westover Drive. As part of this project, a playground will be relocated to make room for this building. The new location of the playground will greatly improve its accessibility to the residents and their families by being located in the center of the site (see attached drawing 2C-2.01). This is a positive side effect of placing the building in this location and coincides with the Purpose and Intent of the Article 1.B.6 "to provide residential areas with healthy surroundings for family life."

Review comments were received from Charles Fulcher, Inspections Division Supervisor, on November 7, 2014 for the DRHA Maintenance Facility project construction documents. A Planning/Zoning Review comment from Scott Holtry was received stating the following:

"The new accessory building needs to be either attached to the structure just south of its proposed location or placed in the rear yard. Accessory buildings are not allowed in side yards."





Solex Architecture, Inc.  
308 Craghead Street, Suite 102-C  
Danville, Virginia 24541  
434.688.0767  
[www.solexarchitecture.com](http://www.solexarchitecture.com)

The variance application has been filed to request a variance to allow the proposed maintenance facility at Pleasant View in the side yard. This building will be regularly occupied and used by DRHA personnel as maintenance shops for minor repair projects.

Furthermore, the proposed facility will be of substantial size and construction.

- a. Article 3.G.B in the Zoning Ordinance lists the accessory uses for a Multifamily Residential District as “tool sheds, detached garages and carports, children’s playhouses and dog houses.” The substantial size, construction materials and quality will match that of the office building and surrounding apartments and, therefore, this structure should not be considered a shed. This building will be 864 square feet, which is comparable to the buildings located across Pleasant View Avenue. According to the City’s GIS site, the primary buildings across the street are approximately 952 square feet, 716 square feet and 924 square feet.
- b. The definition of a private garage in Section 15 of the Zoning Ordinance is “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.” This new facility will be occupied on a regular basis and serves a larger function than solely storage.
- c. Additionally, these facilities are not incidental to the principal use of the premises. The operation and maintenance of the property are vital to sustaining the livability of the entire complex. The maintenance shops are as important to the operation of the complex as the adjacent administration office.

We greatly appreciate all of the board members’ time and if there are any further issues, please let us know.

Sincerely,

Solex Architecture, Inc.

A handwritten signature in black ink that reads "Jeffrey L. Bond". The signature is written in a cursive, flowing style.

Jeffrey L. Bond, AIA, LEED AP BD+C  
President / Architect



## Danville Redevelopment and Housing Authority

*"Providing decent and safe housing for low income people"*

Gary Wasson, Chief Executive Officer  
P.O. Box 2669 – 135 Jones Crossing  
Danville, Virginia 24541-0669

Phone No. (434) 799-8380 Fax No. (434) 799-8249  
gwasson@drhava.com www.drhava.com

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December 2, 2014

Board of Zoning Appeals  
P.O. Box 3300  
Danville, VA 24543

### Members of the Board:

The Danville Redevelopment and Housing Authority (DRHA) is requesting a variance at our Pleasant View Apartment complex. We are requesting to be allowed to build an accessory structure in the side yard of our management office.

The DRHA was formed by the City of Danville in 1941. We have a primary focus in two areas. The first is to provide affordable housing for lower income families so that they will have a decent home in which to live. DRHA manages 553 rental units and with our voucher program subsidize rent in 945 units, helping a total of over 2,500 people. The second focus area is our relationship with the City of Danville and our partnering with the City in redevelopment and revitalization efforts.

A great deal of our funding comes through HUD. As all of us are aware, many areas of federal funding have been reduced and DRHA has received less assistance than in the past. In an effort to create more efficient use of the public funds that we receive, we decided to consolidate maintenance operations to each site rather than a central maintenance model that required a lot of driving time between sites. By building maintenance garages at our sites our maintenance staff will be able to use their time more efficiently by reducing travel time between the sites and the main warehouse building. The new maintenance garages will be stocked with needed supplies so that parts that are needed are on-hand. We will also reduce our vehicle inventory by utilizing smaller maintenance utility vehicles.

Placement of the new maintenance facility at Pleasant View will create more efficiency and reduce expense. As an additional part of the project the current playground area where the new building will be built will be moved to a more central site which will allow for better utilization by the residents. We hope you will consider approval of this variance request.

Sincerely,

Gary M. Wasson  
CEO/Executive Director



December 8, 2014

City of Danville  
Board of Zoning Appeals  
427 Patton Street  
P.O. Box 3300  
Danville, Virginia 24541

**Re: Danville Redevelopment & Housing Authority (DRHA)  
Variance Application**

To whom it may concern:

BK Properties received a letter from the City of Danville on November 24, 2014 regarding a variance application filed by the Danville Redevelopment and Housing Authority. This application was filed to allow an accessory structure in the side yard. Trophy and Sign Center is the most direct neighbor impacted by the construction of this building along our shared property line. The proposed location is behind the rear of our facility.

We kindly request the consideration of our support during this process.

Thank you,

A handwritten signature in black ink, appearing to read 'THUNDLEY', with a long horizontal line extending to the right.

Thomas E. Hundley  
BK Properties

**Earl B. Reynolds, Jr.**  
Director of  
Community Development

**Kenneth C. Gillie, Jr.**  
Division Director of Planning

**Jerry D. Bigney**  
Division Director of Inspection

**John L. Moody, J.D.**  
Division Director of Social Services



427 Patton Street  
P. O. Box 3300  
Danville, Virginia 24548  
Phone: (434) 799-5261  
TTY: (434) 773-8142  
Fax: (434) 797-8919  
[www.danville-va.gov](http://www.danville-va.gov)

November 07, 2014

DANVILLE REDEVELOPMENT & HOUSING AUTHORITY  
PO BOX 2669  
DANVILLE, VA 24543

**Re: Constructing 864 S.F. accessory building for Pleasant View  
111 PLEASANT VIEW AVE, DANVILLE, VA 24541**

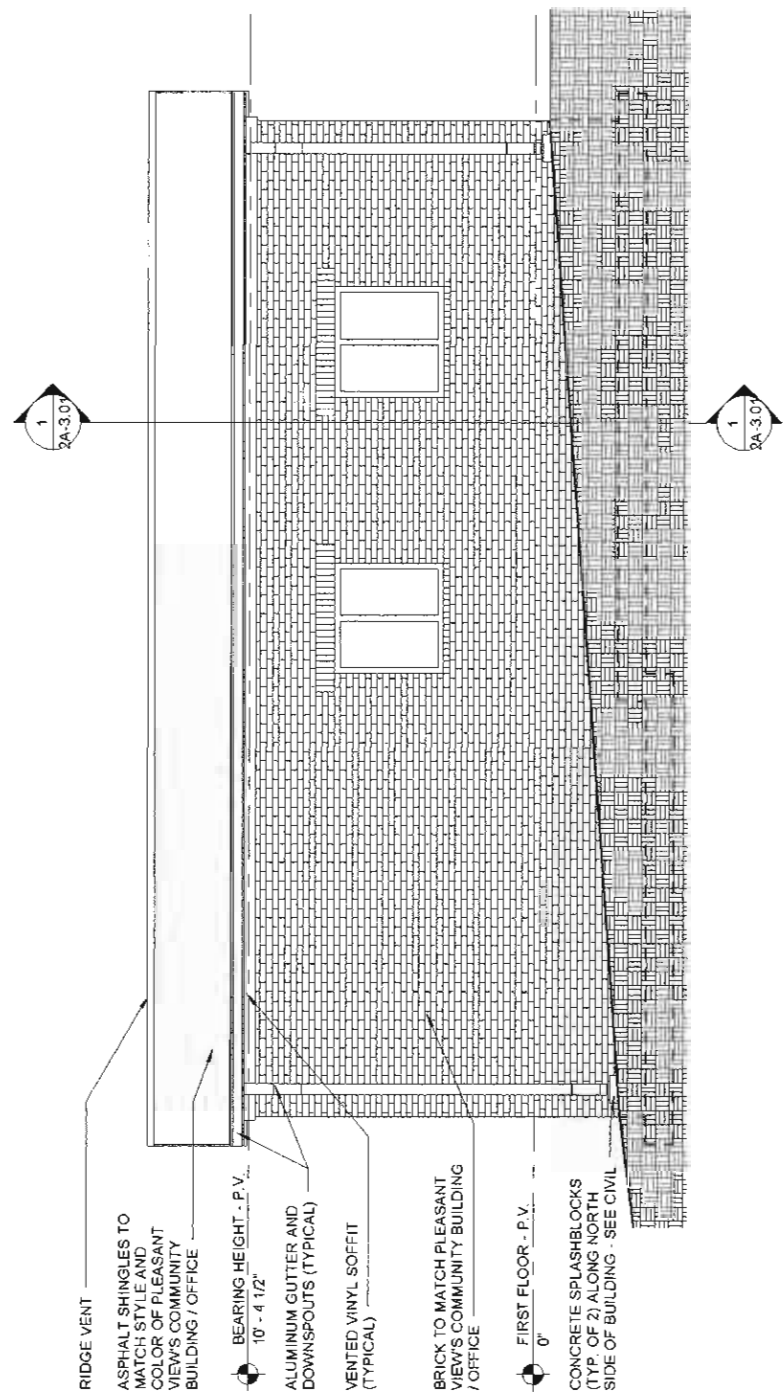
Following are the comments regarding the City of Danville plan review for the above referenced project. We have noted several concerns and/or non-conforming items regarding the work to be performed. These items must be addressed through revised drawings and /or addendum submitted to my office in order for us to approve plans for the above referenced project.

<b>Building Code Review</b>	<b>Reviewer:</b> David Cockran	<b>Outcome:</b> Failed/Violations Found
1 Building Code Corrections		Provide truss tie downs for all roof trusses
<b>Planning/Zoning Review</b>	<b>Reviewer:</b> Scott Holtry	<b>Outcome:</b> Failed/Violations Found
1		The new accessory building is needs to be either attached to the structure just south of its proposed location or placed in the rear yard. Accessory buildings are not allowed in side yards.
<b>Fire Dept Review</b>	<b>Reviewer:</b> Richie Guill	<b>Outcome:</b> Conditions/Comments
1		Please contact Richie Guill for any Fire Code items. 434-799-6478 or <a href="mailto:guillrn@danvilleva.gov">guillrn@danvilleva.gov</a>

If I can provide any further assistance to you, please feel free to contact me at (434) 799-5263 ext. 232, by FAX at (434) 797-8919 or by email at [fulchcw@ci.danville.va.us](mailto:fulchcw@ci.danville.va.us)

Sincerely,

Charles W. Fulcher Jr.

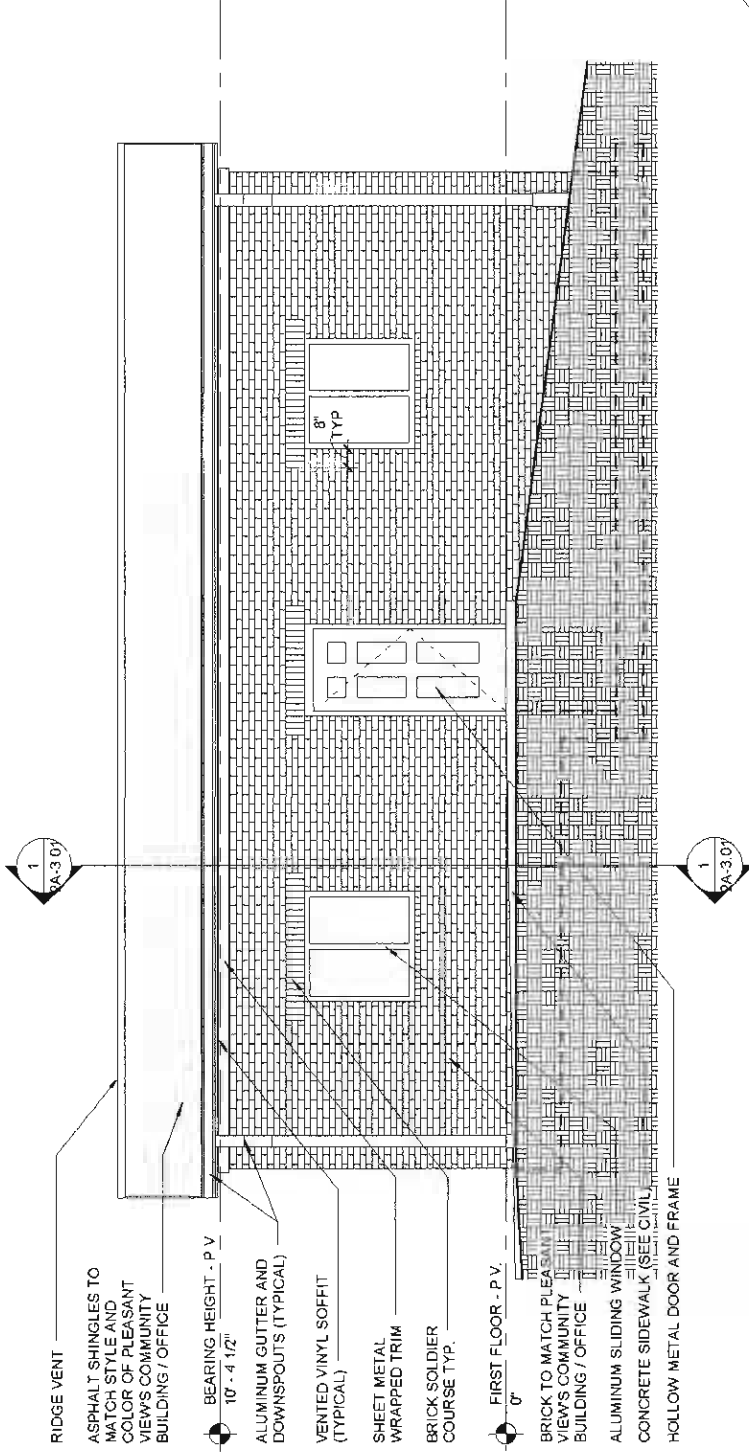


PRELIMINARY DOCUMENTS  
NOT FOR CONSTRUCTION

# 1 PLEASANT VIEW - NORTH ELEVATION

Scale: N.T.S.

<p>505 CROIGHAM STREET SUITE 100-C DANVILLE, VA 24041 Phone: 434.763.7373</p>	<p>Date: 2014.11.19</p> <p>Scale: 1/4" = 1'-0"</p> <p>Project No: 20140022</p>	<p>Project: MAINTENANCE GARAGES</p> <p>Sheet: PLEASANT VIEW - NORTH ELEVATION</p>	<p>SKETCH NUMBER</p> <p><b>SK-1</b></p>



- RIDGE VENT
- ASPHALT SHINGLES TO MATCH STYLE AND COLOR OF PLEASANT VIEW'S COMMUNITY BUILDING / OFFICE
- BEARING HEIGHT - P.V. 10' - 4 1/2"
- ALUMINUM GUTTER AND DOWNSPOUTS (TYPICAL)
- VENTED VINYL SOFFIT (TYPICAL)
- SHEET METAL WRAPPED TRIM
- BRICK SOLDIER COURSE TYP.
- FIRST FLOOR - P.V. 0'
- BRICK TO MATCH PLEASANT VIEW'S COMMUNITY BUILDING / OFFICE
- ALUMINUM SLIDING WINDOW
- CONCRETE SIDEWALK (SEE CIVIL)
- HOLLOW METAL DOOR AND FRAME

**2 PLEASANT VIEW - SOUTH ELEVATION**

Scale: N.T.S.

PRELIMINARY DOCUMENTS  
NOT FOR CONSTRUCTION

<p>SOLEX ARCHITECTURE 308 CONCORD STREET, SUITE 202-C DORCHESTER, MASS 02127 PH: 617.552.8200 FAX: 617.552.8207</p>	Date	11/19/14	Project	MAINTENANCE GARAGES	SKETCH NUMBER	SK-2
	Scale	1/4" = 1'-0"	Subject	PLEASANT VIEW - SOUTH ELEVATION		
	Project No.	20140022				

SHEET METAL WRAPPED FASCIA (TYPICAL)

ASPHALT SHINGLES TO MATCH STYLE AND COLOR OF PLEASANT VIEW'S COMMUNITY BUILDING / OFFICE

BEARING HEIGHT - P.V. 10' - 4 1/2"

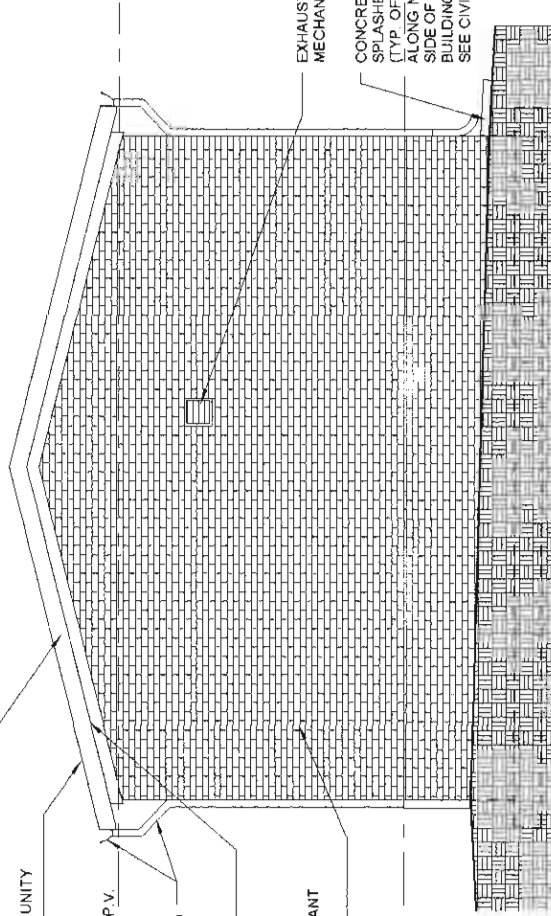
ALUMINUM GUTTER AND DOWNSPOUTS (TYPICAL)

VENTED VINYL SOFFIT (TYPICAL)

BRICK TO MATCH PLEASANT VIEW'S COMMUNITY BUILDING / OFFICE

FIRST FLOOR - P.V. 0"

EXHAUST - SEE MECHANICAL  
CONCRETE SPLASHBLOCKS (TYP. OF 2) ALONG NORTH SIDE OF BUILDING - SEE CIVIL



### 3 PLEASANT VIEW - EAST ELEVATION

Scale: 1/4" = 1'-0"

PRELIMINARY DOCUMENTS  
NOT FOR CONSTRUCTION



Date: 11/19/14

Scale: 1/4" = 1'-0"

Project No: 20140022

Project:

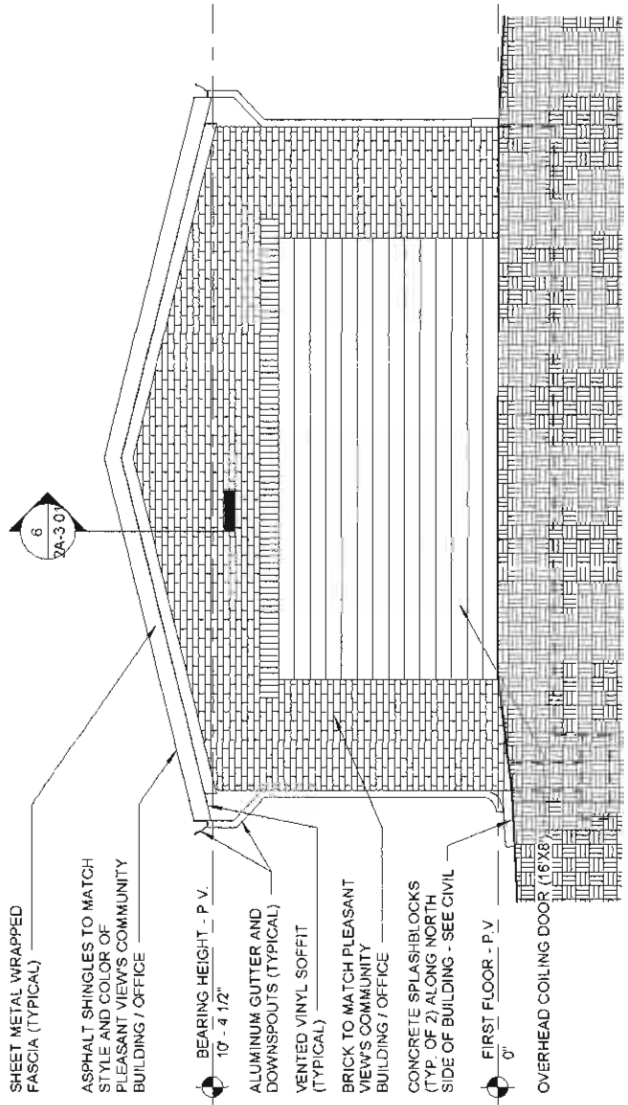
MAINTENANCE GARAGES

Subject:

PLEASANT VIEW - EAST ELEVATION

SKETCH NUMBER

SK-3




- SHEET METAL WRAPPED FASCIA (TYPICAL)
- ASPHALT SHINGLES TO MATCH STYLE AND COLOR OF PLEASANT VIEW'S COMMUNITY BUILDING / OFFICE
- BEARING HEIGHT - P.V. 10' - 4 1/2"
- ALUMINUM GUTTER AND DOWNSPOUTS (TYPICAL)
- VENTED VINYL SOFFIT (TYPICAL)
- BRICK TO MATCH PLEASANT VIEW'S COMMUNITY BUILDING / OFFICE
- CONCRETE SPLASH-BLOCKS (TYP. OF 2) ALONG NORTH SIDE OF BUILDING - SEE CIVIL
- FIRST FLOOR - P.V. 0'
- OVERHEAD COILING DOOR (18'X8')

## 4 PLEASANT VIEW - WEST ELEVATION

Scale: N.T.S.

PRELIMINARY DOCUMENTS  
NOT FOR CONSTRUCTION

 <small>100 COLLEGE STREET, SUITE 104C DENVER, CO 80202 PHONE: 303.733.8800 WWW.SOILEXARCH.COM</small>	Date: 11/19/14 Scale: 1/4" = 1'-0" Project No: 20140022	Project: MAINTENANCE GARAGES Sheet: PLEASANT VIEW - WEST ELEVATION	SK-4 <small>SKETCH NUMBER</small>
	PRELIMINARY DOCUMENTS NOT FOR CONSTRUCTION		



SOLEX ARCHITECTURE  
 3000 ARCHITECTURE, INC.  
 3000 ARCHITECTURE, INC.  
 3000 ARCHITECTURE, INC.  
 3000 ARCHITECTURE, INC.  
 3000 ARCHITECTURE, INC.

Michael W. Kilian PE  
 REGISTERED PROFESSIONAL ENGINEER  
 STATE OF CALIFORNIA  
 LICENSE NO. 44500  
 SPECIALTY: MECHANICAL



DANVILLE REDEVELOPMENT & HOUSING AUTHORITY  
 MAINTENANCE GARAGES  
 CEDAR TERRACE, INGRAM HEIGHTS & PLEASANT VIEW  
 CONSTRUCTION DOCUMENTS

SHEET INFORMATION

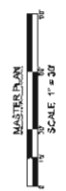
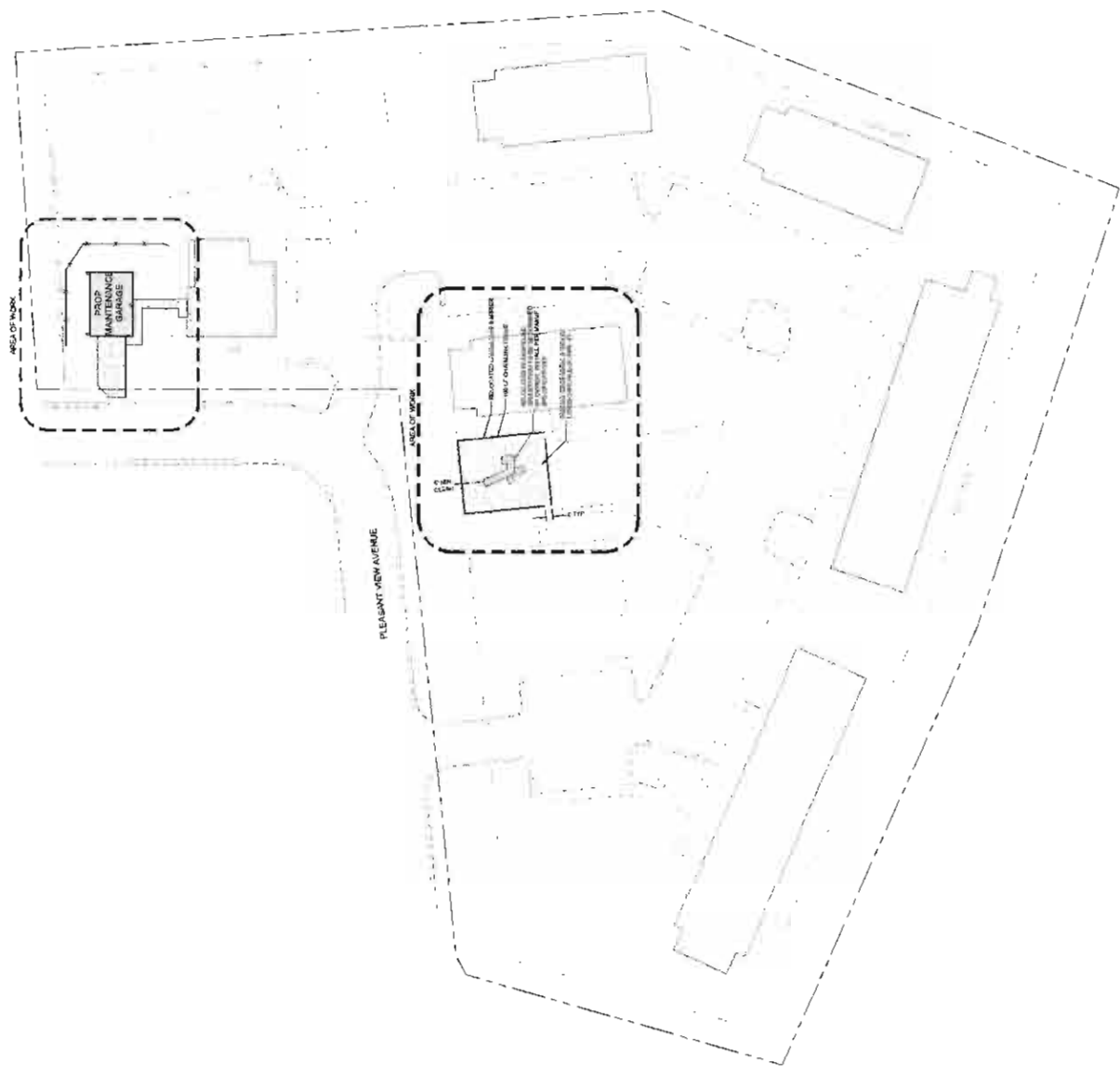
NO.	DESCRIPTION	DATE

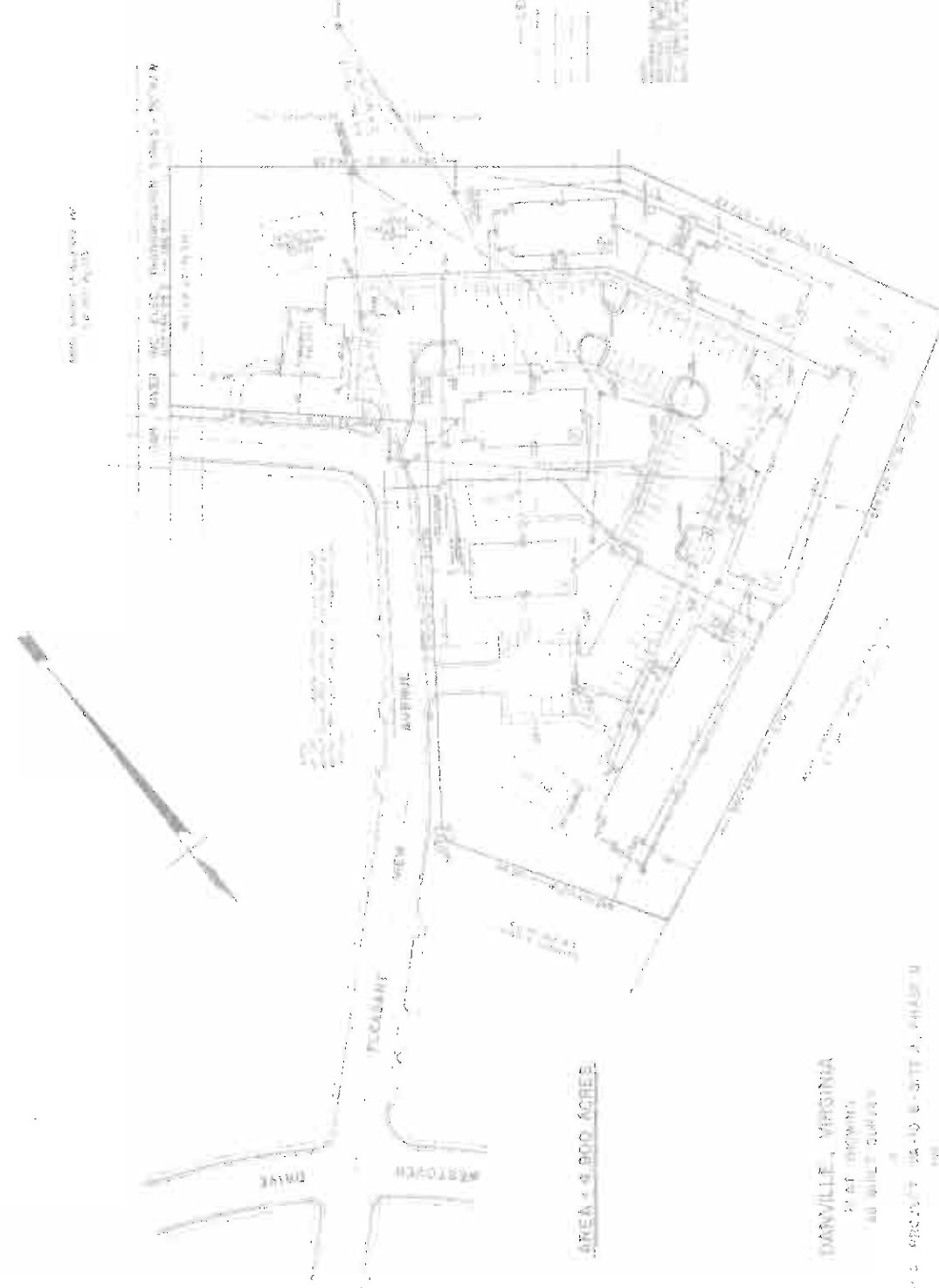
PROJECT NO. 2014002  
 DRAWN BY: NHPK  
 CHECKED BY: BPNZ  
 DATE: 09/17/2014  
 SCALE:  

SHEET NAME  
 PLEASANT VIEW  
 - MASTER PLAN &  
 NOTES

SHEET NUMBER  
**2C-2.01**

1 2 3 4 5





Scale: 1" = 100' (approx.)

DATE: 10/15/54  
 DRAWN BY: J. W. DANIEL  
 CHECKED BY: J. W. DANIEL

LEGEND  
 --- 10' WIDE DRIVE  
 --- 20' WIDE DRIVE  
 --- 30' WIDE DRIVE  
 --- 40' WIDE DRIVE  
 --- 50' WIDE DRIVE  
 --- 60' WIDE DRIVE  
 --- 70' WIDE DRIVE  
 --- 80' WIDE DRIVE  
 --- 90' WIDE DRIVE  
 --- 100' WIDE DRIVE

AREA = 4,900 ACRES

DANVILLE, VIRGINIA  
 20 ACRES  
 100 BUILT CLUBS

U.S. PAT. 2,830,377 (1958) U.S. PAT. 2,830,378 (1958)

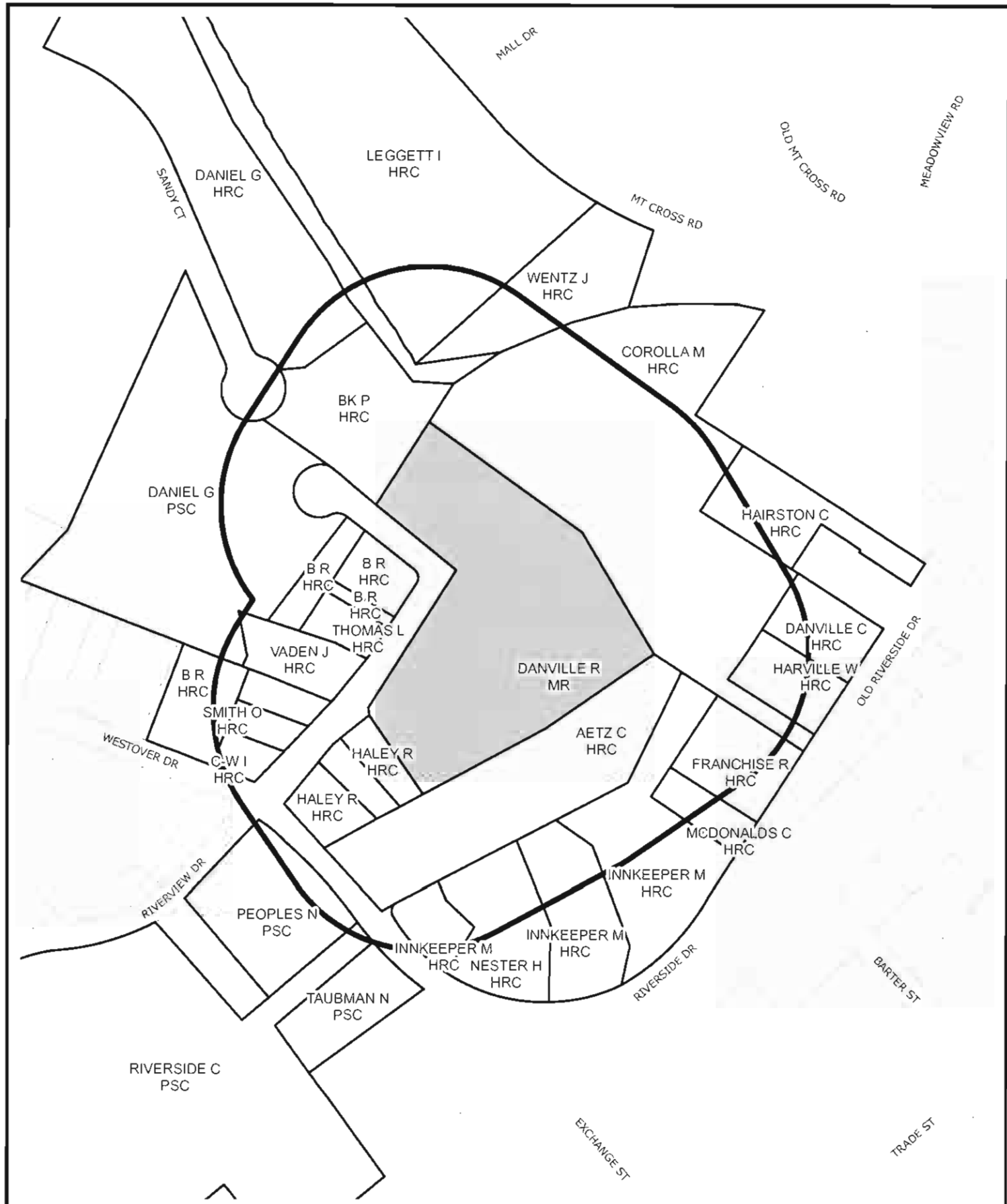
JOHN W. DANIEL & COMPANY, INC.

1000 N. 10th St.  
 Danville, Va. 24004

THIS PLAN IS THE PROPERTY OF JOHN W. DANIEL & COMPANY, INC. AND IS NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT THE WRITTEN CONSENT OF THE COMPANY.

*J. W. Daniel*





### SURROUNDING PROPERTY OWNERS AND ZONING WITHIN 300 FEET OF SUBJECT PROPERTY



Prepared by:  
Planning Division  
11/26/2014

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 or 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.

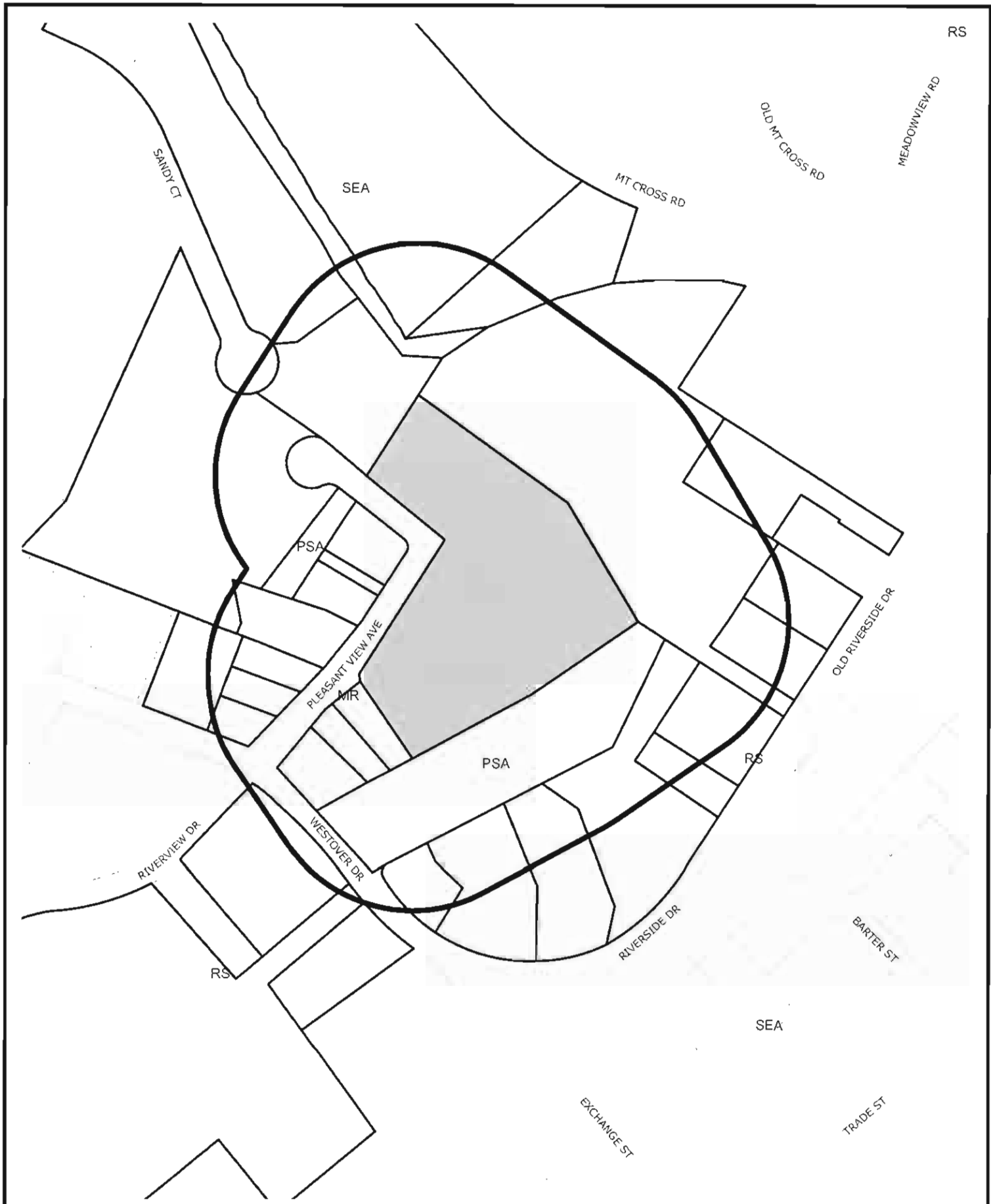


## 2012 AERIAL VIEW OF AREA SURROUNDING SUBJECT PROPERTY

Prepared by:  
Planning Division  
11/26/2014

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 2020 LAND USE PLAN FOR AREA SURROUNDING SUBJECT PROPERTY**

Prepared by:  
 Planning Division  
 11/26/2014

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**VARIANCE REQUEST**  
**DATA SHEET**

**DATE:** December 18, 2014

**LOCATION OF PROPERTY:** 111 Pleasant View Ave

**PRESENT ZONE:** M-R, Multi-family Residential District

**LAND USE PLAN DESIGNATION:** MR, Multi-family Residential

**ACTION REQUESTED:** The applicant is requesting a variance to allow an accessory structure in the side yard.

**PRESENT USE OF PROPERTY:** Multi-family Residential

**PROPOSED USE OF PROPERTY:** Same

**PROPERTY OWNER (S):** Danville Redevelopment & Housing Authority

**NAME OF APPLICANT (S):** Same

**PROPERTY BORDERED BY:** Residential and commercial to the west, college to the north, vacant lots to the south, and a cemetery to the east.

**ACREAGE/SQUARE FOOTAGE:** Approximately 4.9 acres

**CHARACTER OF VICINITY:** Residential and commercial mix

**INGRESS AND EGRESS:** Pleasant View Ave

**TRAFFIC VOLUME:** Low

**NEIGHBORHOOD REACTION:** To be reported at the Board of Zoning Appeals meeting of December 18, 2014.

## BOARD OF ZONING APPEALS MEETING

November 20, 2014

### Members Present

Gus Dyer  
John Hiltzheimer  
Dolores Reynolds  
Ann Sasser Evans

### Members Absent

Philip Campbell  
Michael Nicholas  
Dawn Witter

### Staff

Ken Gillie  
Renee Burton  
Scott Holtry  
Shanta Hairston  
Clarke Whitfield

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

### I. ITEMS FOR PUBLIC HEARING

1. *Variance Application Number PLVAR20140000307, filed by Bryant Gammon, requesting a variance from Article 3M, Section E, Item 2a, of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended (City of Danville Zoning Ordinance) at 1500 Westover Drive, otherwise known as Grid 0710 Block 005, Parcel 000020 of the City of Danville, Virginia, Zoning Map. The applicant is requesting a variance to allow an eleven foot front yard setback along Blair Loop Road where twenty feet is required.*

Chairman Dyer opened the Public Hearing.

Present on behalf of the request was Mr. Bryant Gammon.

Mr. Gammon stated hello my name is Mr. Gammon. Essentially I'm not sure if you guys have gone out and looked at the property or seen where we're at and what's going on. I'm sure you've read the staff report. Essentially, the staff report is accurate in terms of where we're at. When we first began this site, let me kind of explain to you who we are and what we do a little bit. You've seen my face here before obviously. What I do is I'm the engineer and I do a lot of work for Par 3 and Par 5 Development Group. They are a preferred developer for the Dollar General Corporation. What happens is that developer themselves will go out and find a piece of land, they'll go through the whole development process and they'll take these plans and they'll give them to Dollar General. It's Dollar General who actually has a lease on the property to be able to operate the store, etcetera. Dollar General has certain guidelines in terms of their prototypes. They have the same sized store. They have about five prototypes. They have the same dimensions in terms of where dumpsters go and the accessibility to them, etcetera, which is really what we're kind of talking about today. But they have certain guidelines that they try to make sure they adhere to because they have a policy and understanding of how to run that business. Essentially where we're at today is that this property actually was very challenging. It is relatively small in size and the dimensions of the property we've had some issue with. The issue is that we've also had some photography issues. I don't know if you've visited the site or not, but you'll understand that they did the retaining wall along Blair itself in order for us to be able to build the store like we needed to build it. With that being said, there are certain things I'm sure you guys are very familiar with the allowance of what you guys can do in terms



of granting of a variance. One particular thing is that there's something exceptional about the property that kind of makes it unique in the fact of why you have to do different things etcetera. We did have above photography issued on the site so it is different than other sites like this because of that so that's why we had to do the retaining wall. So when we actually laid the site out, and I'm just kind of putting all the laundry out, what we had to do initially is we had a title company and they had to go and prepare the title report and they'd give us bounds of the property and we'd go through and develop our plans based on this information and the survey goes out. We did this but number one the title company messed up to be honest with you. The title company actually told us that the property was larger than it really was. We had to go back and revise our plans afterwards. What actually happened is the survey actually figured this out and we got with the title company numerous times to make sure they went back and fixed that title policy. All this to say it acts like a tightened property even more. So we were going through the development process when we first submitted our plans. We showed the dumpster enclosure and it was encroached into this side yard setback or actually front yard setback if you will. It's actually like a 20 foot setback on Blair Loop and it was economy that was generated by City and they basically stated that this cannot be within inside the setback. I might add it really is not very clear specifically in the Ordinance that it says you cannot have dumpster enclosures within the setback. I wrote a letter to Ken kind of explaining this whole process. I've got a copy of the letter; I'm not going to go through and read every bit of it. Essentially I went through and I explained what is in the Ordinance inside the HR-C and the way that it actually reads- I'll read one piece of this. So I basically explained the way that it is written inside of the HR it says basically that gasoline pumps, islands, canopies, structural elements shall be governed by the same regulations that is applied to the principal structure. That doesn't say dumpster enclosures. We went through in and out; I was trying to be able to get this elapsed because the site is so tight. Essentially finding when it all came back down to it- this was our policy, this wasn't our policy, this is how we're going to do it- that's what we did. So we went through the process to change our plan to accommodate this. What's in the staff report is exactly correct. It was not easy to do this but we basically took the dumpster and we slid it away from it. Normally the size of a dumpster enclosure is a lot larger. We created it as small as we could. It's right on the edge of the setback and we sent that information on up the line to the developer. The developer reviewed it and thought it was okay and what we understand is that the developer wanted Dollar General and asked them because ultimately that's who has to say yes to this thing. We thought that they said okay so we said okay and we moved along. We started building the building, got building permits, moving along pretty well; everything was fine and dandy. Then in that process that person at Dollar General who does approve these things finally came out and he saw or I guess took more attention to detail on what we had done and said this is not acceptable. We can't do this. And the reason that they can't do this is because of the operation of their truck and how it works. If you go to look at some sketches here, essentially what happens is there's some space between the dumpster itself and the building. If you can imagine how these trucks as a large 18 wheeler, what they do is they pull in front of the entire site and then they back up. When they back up, the trucks are actually micro-fitted into this tiny type of thing where everything comes out on this back gate and everything off the back gate comes flat into the ground on its' hydraulics and they'll take it from there and they'll roll it into the building. Right now there's only about 12 feet from the edge of the fence itself and the building. This truck has to back up into that area and be able to get up in that area. Dollar General's requirements are that has to be 18 feet and we thought- once again

that's why we changed the plan the way we did and went through the whole process- we thought that the 12 feet might still be sufficient but Dollar General corporate center said no this is not going to work this way. We would like to do something different; please go and correct this. So when we started the process, I contacted Planning, Renee, and Ken and basically they said look we've gone through this before. This is our policy, this is our Code, and this is the way that we interpret this issue. I was hoping that there might be some type of maneuver to be able to fix this issue but unfortunately they said no the only way to fix this is to go to BZA and ask for an exception to this issue. That's why we're here today basically. That's a long story to why we have to move the dumpster. There's a few things that I'd kind of like to go over to explain. I guess the legality behind if we can or not is always based upon these four specific items. The report basically says we meet only one of the four. Really I guess, I would like to discuss with you why I think we meet all of them actually. That's kind of why I passed out some of the things that I passed out. Let's talk about your ordinances. There'd be a criteria that the street application that the ordinance would reduce hardship on property. I think I just explained that it will. We can't unload as we would normally unload. The actual 12 foot is not sufficient enough for them to utilize and to be able to do the things that they need to be able to do. We tried to make that work, we did, but unfortunately it's not up to us and honestly if this is not granted I'm not sure what we'll do. We haven't figured that out yet. They're putting their feet down and saying fix this, so I'm not sure exactly what we'll do. So it certainly will produce an actual hardship on the issue. The second is that the criteria says the hardship is not generally shared by the properties in the vicinity as the same Zoning district. She's basically said that all new commercial construction has to locate the dumpster within the building setbacks. Absolutely this is true. Obviously, yes you're supposed to meet the Code but it's not generally shared because this property does have some specific things about it. The size and shape of the property in terms of being able to fit everything in there; the prime example of that is the fact that we had to build this seven foot tall retaining wall on the side just to be able to get the property worked on. We've had a couple refutable issues on site which is a key thing if you go through any issue on the site and you think do you have photography issues? Yes you have photography issues. So it's not generally shared by all the properties. They don't have the actual retaining wall and other site issues that we would have. In addition to that it says the offering of the variance would not be substantial to adjacent property owners. The comment was it could be substantial or detrimental to the property to the rear because their driveway is adjacent to the property and as they're leaving out of it they may not be able to see correctly. So what I did was on the third sheet here if you'll take a look- and I'll try to kind of explain this to you- if you look up to the north of the page you'll see the driveway labeled there. That is the neighboring drive. You'll see the house in terms of location and where that is. The little white line that you see with the little radius there, that's the retaining wall that's there and the darkened in dark spot, that is where we want to put the dumpster. Basically all we want to do is we want to take that dumpster and slide it over by about five feet. That's what we're going to do. And so this real dark line that you see pointed is kind of a lined site. If you get to that driveway and look to the right to see if there's an oncoming car, and I used 280 feet because generally that's the site distance that you need for a 25 mile an hour road I think. That actually just turned out to go all the way to the intersection; it just happened to be that way. But if you were to come out, you'd see that it's not a detrimental impact because when you come out of that drive, the actual dumpster itself even when you move the five feet is not in the line site at all that would come out the driveway or anything else. In terms of the look of it, you see the location of the house to

the north of this. Is it going to in any way substantially impact their property, their view, their look, etcetera? It's not. In my opinion, I don't believe that any of it is. So I don't believe that it would substantially impact any of the neighbors. In terms of just kind of visualizing this thing, if you look at the second page they kind of drew two scenarios. Basically what this is is Wayland Circle and I've kind of drawn a little rudimentary car there with the incorrect height. If you're in that car and you look over to your right hand side, the first thing you're going to see is the seven foot retaining wall. Then just beyond that, you'll see on top of the hill up there the dumpster itself. The two scenarios that I've drawn are one with the location that we have on our current plan and the other is with the dumpster moved five feet over. You see if it were a very flat piece of property and it was a neighbor that was right there and they were worried about how close this dumpster was to them either from a smell point of view or an aesthetic point of view-it's not like that. If you're on Blair Loop and you look to the right, you're going to see the retaining wall and on top of the hill is going to be the dumpster. If it's either the location that we have currently on the plan or it's closer isn't going to really truly honestly mean that much of a big deal in my opinion. So lastly, the criteria and conditions of this situation is not so general that you would change the Ordinance itself and that one they agree we do meet that part of it. Essentially guys that's where we're at. We tried to make it work and I really honestly thought we were going to make it work. I can't tell you enough, I thoroughly enjoy working with the City of Danville. You guys are absolutely fantastic in being able to go in and approve plans. You guys are so much better than many localities out there. I feel terrible that I'm in the situation that I'm in. I didn't want to come do this. I thought that we were doing everything that we were supposed to be doing and everything was fine. We got building permits and we built the building. This is something that has been thrown on us very unexpectedly to be honest. I'm just trying to help them as the developer resolve the issue with the corporate due diligence. That's where we're at.

Mr. Dyer stated thank you Mr. Gammon. Is there anyone else who would like to speak in favor of the application? Is there anyone else who would like to speak in opposition?

Mr. Leland Bell was present in opposition to the request.

Mr. Bell stated my name is Leland Bell. I got this letter in the mail and according to this, I'm going to lose half my front yard. I'm going to be practically on the street with all the cars riding by me.

Mr. Whitfield asked you are the adjacent property owner?

Mr. Bell stated no I'm at the corner of Spring Avenue and Westover. There's a carwash beside my house.

Mr. Whitfield stated you are across the street and then further out Westover. For those that are looking at their packets, it is this property right here.

Mr. Gillie stated Mr. Bell we're not taking any of your property. That line that goes through your front yard that's within 300 feet of it. We're not doing anything to your property.

Mr. Bell stated this says 11 feet.

Mr. Dyer stated this piece of property where they're building the Dollar General- I know you're very familiar with, I drive past it twice a day as well- what the situation is here is he is required to maintain 20 feet of front yard because on a corner lot both sides of the parcel that frontal streets are considered front yards. Even the other two, although it's not considered front and back, that's the side yards. So in this situation here when you go down Blair Loop road beside this building, he is required to have 20 feet setbacks which means that everything has to be set back from the property line at least 20 feet. What he is requesting is that the enclosure that surrounds his dumpster – you know they don't just have the dumpster sitting there, they have a screen around it – what he needs is to move that dumpster enclosure into the 20 feet of his own property. This line right here was just delineating everyone who needs to be notified.

Mr. Whitfield stated your yard is just within 300 feet of the actual property.

Mr. Dyer stated right and he's not going to try to acquire any of your property and the City's not trying to acquire any of your property.

Mr. Gillie stated we were just letting you know that you lived that close and that line runs into your property.

Mr. Whitfield stated we just wanted to let you know since you're across the street and a corner of your property is within 300 feet of that project which is across the street and down Westover from you.

Mr. Gillie stated it doesn't take away, it doesn't do anything to your property. It's just that they want to put a dumpster in a spot where they're not supposed to according to Code for a Dollar General.

Mr. Whitfield stated they want to put the dumpster here and because of where that dumpster would be within 300 feet of the corner of your property, we had to notify you.

Mr. Bell stated ok I thought you all were coming in letting them take a piece of my yard.

Mr. Gillie stated no sir.

Mr. Bell stated I had already made up my mind if you all were doing that I was going to sell my house.

Mr. Gillie stated no we're not doing anything to your property. You just live close by so we sent you a letter.

Mr. Dyer stated I'm sorry that there was a misunderstanding and you had to come down here.

Mr. Bell stated it took me 30 years to pay for my house and I don't want half of my yard gone. It's too fast down Westover as it is.

Mr. Dyer stated I live on Fox Hollow so I will concur with you on that. So is there anyone else who would like to speak in opposition.

Mr. Dyer closed the Public Hearing.

Mr. Dyer stated I will make note that they sent 22 notices to surrounding property owners within 300 feet. Only five responses were received; four were unopposed and the one opposed was Mr. Bell who I think is probably due to misunderstanding. So I just wanted to clarify that. I reckon I should've asked if any of the Board members had any questions for Mr. Gammon before I let him sit down. I guess we could still do that.

Mr. Whitfield stated you can always allow questions for the applicant after closing the Public Hearing.

Mrs. Evans stated I do. If you kept the dumpster where it should be within the setback versus into the setback like you want to do, I understand Dollar General's stance that they can't back their truck up all the way to there. They can back it close, let the thing down, and get a hand truck and just deliver into the back of the building. So I'm not quite sure I understand what the hardship is other than they have to walk a few more feet.

Mr. Gammon stated right. From my understanding the things that they take off the trucks themselves and being on a concrete pad, it's just the maneuverability of that. I apologize because I don't have all the ins and outs for how they're going to do it. They probably should have told me when Dollar General asked for the specifics on what it is. That's why we proceeded like we did and needed a developer. But Dollar General Incorporated has come back and said this 18 feet, and I'm not sure the exact specifics of it but I have seen them unload these things before, they do have these big large type of preloaded cart type things that they roll up there and they store some of these things in there temporarily while they're getting things in and out of the building and stuff like that. Maybe it's a process flow type thing where they have to take empty ones that they have and give them out and put the new ones in. I apologize but I'm not 100% sure. What I do know is that the 12 foot is asked to be increased overall.

Mrs. Evans stated I still didn't get it. I still don't understand why they can just not back as far back and they can't make some concessions?

Mr. Dyer asked any other questions from staff or board members? Alright, Mr. Gammon it looks like the dumpster itself could actually sit back within the setback. So basically it's because the dumpster has to be a certain footage away from the surrounding fence. Can you describe to us about the dumpster screening and what that consists of?

Mr. Gammon stated I'm not sure what they did on this one but I think they probably did a wood fence.

Mr. Dyer asked and so if there was no wooden fence around the dumpster?

Mr. Gammon stated it would have to be in ordinance with the Code. That is one thing that is actually specific. It does say it has to be enclosed.

Mr. Dyer stated the issue really then is the fact that you need 18 feet to back this truck up into it, and if you set the dumpster on the side then you don't have the 18 feet. Is there a possibility to set the dumpster to the rear?

Mr. Gammon stated no because of the retaining wall.

Mr. Dyer stated well it looks like the retaining wall is actually further from the back than it is from the side. In other words, where the dumpster sits right here can it be moved here?

Mr. Gammon stated if you don't mind I'll come up here and look. I'll tell you why.

Mr. Dyer asked are all the Board members familiar with where I'm looking? I've moved from the three o'clock position to the 12 o'clock position.

Mr. Gammon stated right. There's a setback there as well.

Mr. Dyer stated I'm assuming that this is the property line right here. So it appears that the property line on the side is closer and also this would be a side yard so your setback would not be as great, correct?

Mrs. Burton stated correct. They're showing a 30 foot setback but it's actually a 20.

Mr. Gammon asked so the rear setback is a 20 foot setback?

Mrs. Burton stated oh no, it's adjacent to residential. You're right.

Mr. Dyer asked so because it's adjacent to residential then it will require 30 feet?

Mrs. Burton stated yes.

Mr. Gammon so this little dotted line right here, it really is on that line there and right on that line there.

Mrs. Evans asked which dotted line are we talking about?

Mr. Dyer stated I don't think it's on our plat here. Because adjacent property owner here is residential, this is required to be a 30 foot setback instead of a 20.

Mr. Gammon stated this dotted line that goes through right there right into the building, basically it continues on to the edge and that's why the fence was stopped there. Then this here is a setback that comes into this road. Essentially what we did is we took the enclosure and we shoved it right in the corner of these two setbacks. All we want to do literally is take this and slide it over so it'll be on the edge of the existing concrete that we've got there. From there to there, it's essentially five feet but when you measure diagonally it's about nine feet. So when I took that section on that page I was basically looking at it right through here so if you're driving along Blair Loop if you look to the left essentially, right now as you can see if you open the doors all you've got between here and here is not very much. It's not enough for what we want to do.

Mrs. Evans stated but if they parked up here they could just jump back there.

Mr. Gammon stated and I'm not sure if the actual truck moving will have that on here particularly but you know it could be why they encroached it here. The open area that they need to be able to operate, I don't know if we have enough for that to happen. That's why they always want this 18 foot so they'll be able to back up and have the functionality of being able to get in and out.

Mr. Dyer asked and the dumpster itself is an interval part?

Mr. Gammon stated actually it is. It's actually smaller. Well the actual fit of the dumpster itself is the same but normally their standard is to have this here. Their standards instead of like a 12 by 14 dumpster enclosure, they have like a 14 by 18 I believe it is.

Mr. Dyer asked and having the dumpster adjacent to the loading and unloading doors is an interval part of the loading process?

Mr. Gammon stated it's an interval part because of all the boxes and stuff that they produce. I don't have any other place on site to load that really.

Mr. Dyer asked any other questions for Mr. Gammon?

Mrs. Evans asked are the drivers unionized?

Mr. Gammon stated I'm sorry I have no idea.

Mrs. Reynolds stated because if they are there are things that they will and will not do.

Mr. Gammon stated I do know that when we do these stores, whoever that these engineers hire we have to purchase a program that is called an auditor. We take a WB65 truck and we make sure that you can get in and out of these properties without any hesitation. It's a big, big deal for them.

Mrs. Evans stated I have a question for staff. Would the encroachment be better as a side yard setback or a front yard setback or does it make any difference?

Mrs. Burton stated at this point it's still an encroachment. I mean there was the ability, we had time and it was supposed to be within the Code. Our original plan before this was submitted was you know we came to you before for a variance on this case for the driveway. That was approved. We discussed the dumpster location at that time because it was located originally within the setback; the developers then chose to relocate that. So we went just with the one variance instead of the two. Now we've come with this change again. From our view it's still an encroachment whether or not it's in the front or side. It's still going to be an issue. It doesn't meet the Code. You know we feel like this could be somewhere else. There's plenty of other space. It may not be convenient for them but there are other spaces that a dumpster could be located.

Mr. Dyer stated alright because we are short here today, we have four members, and we are required to have four affirmative votes in order for this variance to be granted. Does Mr. Gammon have the option of this being tabled at this point? He certainly does have a disadvantage with all the members not showing up. I wanted to be perfectly fair, so I'm asking your advice as to what his options are.

Mr. Whitfield stated until a motion is made, you can always do that I would think. That's his call today.

Mr. Dyer asked Mr. Gammon do you understand what the situation is?

Mr. Gammon stated you're missing two members.

Mr. Dyer stated we're missing three members. We're not a majority board. In other words if this Board goes three and one you will lose because you are required to have four affirmative votes in order to get your variance granted. So that's going to be all four of us. There is a possibility maybe that the three of us who are absent today could pick up those votes you need or you may not get any additional votes. I'm just telling you. You have to come from out of town and the time may be an issue for you. I do want to make you aware of the fact that you do have to receive all four of our affirmative votes to get your variance granted. We'll leave it up to you as to whether or not you think you would like to lay this. I can't promise you that if we lay this to December or January that we will have anyone show up. Unfortunately, this is sort of a chronic problem with this Board. Because it is at ten o'clock in the morning on a weekday, people have other things they have to deal with. I'm sure it's legitimate excuses but the bottom line is they're not here so that puts you at a disadvantage.

Mr. Gillie stated you do have a case filed for the December meeting.

Mr. Dyer stated okay, we do have a case filed for December so there will be a meeting. I mean we would have a meeting anyway. If he asked for tabling we would have to wait until we have a scheduled meeting and that would not necessarily generate a new meeting?

Mr. Gillie stated if he would ask for it to be tabled then he can set the next time. If we don't have anything then he could hold it until January. I'm letting you know that we do have a case filed already so we do have a meeting on December 18<sup>th</sup>.

Mr. Whitfield stated his proper request would be a postponement because tabling it would only move it to the end of this meeting.

Mr. Dyer stated okay so at this point I'm going to give you an option of requesting a postponement.

Mr. Hiltzheimer stated I have one question. If we vote on it today and everybody doesn't vote in the affirmative then we can vote on it again next time can't we?

Mr. Dyer stated no. Once we deny it, he cannot come back with the excuse that he had a short board. You're not allowed to test the waters so to speak.

Mr. Whitfield stated his next route would be an appeal to the Circuit Court.

Mr. Dyer stated right he can make an appeal to the Circuit Court and say that he was at a disadvantage because of a short board.



Mr. Gammon stated the only thing I could do is I could change the request from let's say five foot to eight foot and come back.

Mr. Gillie stated it would have to be substantially different so if it's in the same spot but a less number you would have to go from one yard setback to a different front yard setback.

Mrs. Reynolds asked where else would that dumpster fit on that property? I went by there and I don't see anywhere else to set it except where he's talking about and still allow those big trucks to get in there.

Mr. Dyer stated I would probably agree with that assessment. The problem is that these issues were supposed to be worked out before they even started construction. This is sort of the situation that we've run into sometimes where people put the cart before the horse and they come back and say because I've already done it, you have to let me keep it. We're not encouraging individuals to do that. I realize that Mr. Gammon has probably done all of his due diligence and thought that he had an agreement with the ultimate end user of this property. After the fact he found out that he did not. I think that's why we're here. Just to say I've already done it so you have to let me keep this I don't think is a legitimate reason to grant variance.

Mrs. Evans stated I would like to hear staff's opinion on where else the dumpster could be.

Mrs. Burton stated certainly. The dumpster could either be placed on the left side of the building other than the right side of the building. The property has not been completely developed at this point. There is a building that has begun. The parking lot structure that you see on the drawing is not complete, nor the paving. There is a door access built already on that structure. It may not be the ideal that was originally planned but there is room in that area to place a dumpster with it being an encroachment or setback.

Mrs. Evans asked on the left side?

Mrs. Burton stated correct. A trash truck is normally going to back into the enclosure, so it just needs that ability to make the turn as we were talking about before and then back directly in to pick up that dumpster and lift and then dump. The 18 feet there is not a requirement of a trash truck I don't believe.

Mr. Dyer stated if we look at this plan here, we do see a dotted line that says building setback. So this lot actually extends past another lot that fronts on the street. I think if you look at this parcel here and what they own, Par 3 also owns this lot right here. So they are allowed to put driveways and pavement on the setbacks correct? That's just a five foot setback.

Mrs. Burton stated correct.

Mr. Dyer stated and so there is the possibility that they could create a new driveway along this side and put the dumpster back here. I realize there are probably a lot of reasons why he feels like the end user of this building will not accept that.

Mrs. Burton stated and those two lots are to be consolidated. It's already in the works, it just hasn't been completed.

Mr. Dyer stated I think we need to resolve the issue of whether we're going to determine this today or not. I apologize like I said, I'm sure people have good excuses but they're just not here.

Mr. Gammon stated I understand. I believe that it may not make a difference in terms of having additional people here. I think we'll go ahead and get the case heard. But just to mention if I can for one second, in the process of the plans themselves it's an existing retaining wall that's on the left hand side. If you look at the way this thing was developed, the property actually went and dropped in the middle between this part of the land and went through. On the property that the City owns which is next door, they have an existing retaining wall that is on that property you know with a gas little heat thing or whatever it was. The overall photography, if you look at my grading plan, it's a pretty steep embankment from the base of that retaining wall even down to where I start my parking lot. So even though I might physically have a little room to be able to snake a driveway through there and put this dumpster in a location that certainly is not ideal in the least bit, you do have a lot of physical constraints photography-wise. Anything is possible. I could do a tunnel underneath but is it feasible? No. So much so that even in the very beginning of the thing, the City was thinking about asking me to replace the retaining wall on the adjacent parcel. I'm like I can't that you built your wall on the property line. They're like I apologize, you're right. So we had photography issues that would prohibit us from doing something like this.

Mr. Dyer stated okay so Mr. Gammon has decided that he would like to have his case heard today so if there's no further discussion we would like to entertain a motion.

**Mrs. Evans made a motion to deny Variance Application PLVAR20140000307 as submitted. There was no second on the motion; therefore, the motion failed.**

**Mrs. Reynolds made a motion to approve Variance Application PLVAR20140000307 as submitted. Mr. Hiltzheimer seconded the motion. The motion was denied on a 2-2 vote.**

## **II. APPROVAL OF MINUTES**

**The October 16, 2014 minutes were approved by a unanimous vote.**

## **III. OTHER BUSINESS**

The Commissioners discussed the issue with Appeal Application Number PLAZ20140000264 regarding the Zoning Code for the Hyundai sign that was brought before the Board on last month's agenda.

**Mrs. Evans made a motion to remove the item from the table. Mr. Hiltzheimer seconded the motion. The motion was approved 4-0 to bring the Appeal Application PLAZ20140000264 off the table.**

Mr. Gillie informed the Commissioners that staff made a mistake with the issuance of the sign for Mr. Woodall. He clarified that Mr. Woodall completed the steps as he should have.

Mr. Whitfield discussed that the Board would need four affirmative votes in order to approve the request.

The Commissioners discussed their options in voting on the request or postponing it until the December 18, 2014 meeting.

**Mrs. Reynolds made a motion to overturn the Zoning Code on the Appeal Application PLAZ20140000264. Mr. Hiltzheimer seconded the motion. The motion was approved by a 4-0 vote.**

Mr. Gillie informed the Board that there will be a meeting on December 18, 2014.

With no further business, the meeting adjourned at 10:54 a.m.

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APPROVED