

TOWN OF ROCKY MOUNT
345 DONALD AVE.
ROCKY MOUNT, VIRGINIA 24151

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BOARD OF ZONING APPEALS
C. HOLLAND PERDUE, CHAIR
SUSAN HAPGOOD, VICE CHAIR

JOHN SPEIDEL LUCAS TUNING

JESSICA H. HECKMAN, PLANNING &
ZONING ADMINISTRATOR
CHERIE Q. COMPTON, CLERK

BOARD OF ZONING APPEALS
REGULAR MEETING
AGENDA

August 4, 2022
6:00 PM

Council Chambers, Rocky Mount Municipal Building
345 Donald Avenue, Rocky Mount, Virginia

Call to Order and Welcome

1. Roll Call of Members Present
2. Approval of Agenda
3. Review and Consideration of Minutes
 - 3.a. June 2, 2022- Regular Meeting Minutes
4. Public Hearing
 - 4.a. The applicant, John Berger Jeans has applied for a variance for Franklin County Tax Map and Parcel Number 2070012900, commonly known as 35 First Street, Rocky Mount, Virginia. The applicant seeks a variance of Article 20-1-5, of the Town of Rocky Mount Zoning Ordinance to allow an accessory structure that exceeds 50 percent of the building footprint of the principal structure.
 - Staff Comment
 - Applicant/property owner Comment
 - Public Comment
5. New Business (None)
6. Board Concerns
7. Staff Updates
8. Adjournment

**TOWN OF ROCKY MOUNT
BOARD OF ZONING APPEALS
MEETING MINUTES
June 2, 2022
6:00 P.M.**

The Board of Zoning Appeals (BZA) of the Town of Rocky Mount, Virginia met at the Rocky Mount Municipal Building on Thursday, June 2, 2022 at 6:00 p.m., with Chairman C. Holland Perdue III calling the meeting to order.

ROLL CALL OF MEMBERS PRESENT

- C. Holland Perdue, III, Chair
- Susan Hapgood, Vice Chair
- Lucas Tuning

BOARD MEMBERS ABSENT:

- John Speidel (Via conference phone)

STAFF MEMBERS PRESENT

- Jessica Heckman, Zoning Administrator
- Cherie Compton, Board of Zoning Appeals Clerk
- John Boitnott, Town Attorney
- Mark Moore, Assistant Town Manager
- Robert Wood, Town Manager
- Brian Mangano, Special Counsel

APPROVAL OF AGENDA

Additions or Corrections: None

Motion: To approve the agenda as presented

Motion By: Member Lucas Tuning

Second By: Vice Chair, Susan Hapgood

Action: Approved by a unanimous vote of members present

REVIEW AND CONSIDERATION OF MINUTES

Prior to the meeting, the Board received the following draft minutes for review and consideration of approval:

- April 7, 2022- Regular Meeting Minutes

Motion: To approve minutes with the following corrections: move John Speidel to absent but via conference phone also change the verbiage on Mr. Woods comment to expressed concern about the laws, codes, and statues statement and also note that he recommend the variance be denied.

Motion By: Chair, Holland Perdue

Second by: Member Lucas Tuning

Action: Approved by a unanimous vote

PUBLIC HEARING:

Appeal by 325Franklin St, LLC regarding the Planning and Zoning Administrators decision at 325 Franklin Street.

The applicant, 325FranklinSt, LLC has appealed a decision or determination made by the Town Zoning Administrator regarding a Town sidewalk along Claiborne Avenue adjoining Franklin County Tax Map and Parcel Number 2070103300, commonly known as 325 Franklin Street, Rocky Mount, Virginia. The applicant reduced the sidewalk to approximately 31 inches; the approved site plan required 36 inches to meet accessibility standards and VDOT specifications per the Town of Rocky Mount Zoning Ordinance.

Town Attorney John Boitnott opened the meeting with comments about the Zoning Administrators findings to determine there was a zoning violation at 325 Franklin Street. Planning and Zoning Administrator was sworn in and provided testimony regarding her basis for the determination of violation. Philip Bane represented 325 Franklin Street LLC and was accompanied by his legal counsel Steve Maddy. Mr. Bane was sworn in and provided his basis for the appeal. Both the Zoning Administrator and the appellant answered question from the Town attorney, the applicant's attorney, and the Board of Zoning Appeals members.

An open discussion ensued amongst board members and both attorneys regarding the definition of a sidewalk and curb. Chair Holland Perdue asked if anyone wished to speak in front of the board regarding the appeal. Hearing no further comment he asked for closing statements from both attorneys.

Town Attorney Boitnott provided a closing statement on behalf of the Town noting that the Zoning Administrator is to be presumed correct unless there is a preponderance of evidence to indicate otherwise. He closed by stating there had been no evidence brought forward that would support overturning her decision and asked the board to affirm the Zoning Administrator decision.

Attorney Steve Maddy provided a closing statement on behalf of the appellant noting that the Town ordinance did not clearly define the difference between the curb and sidewalk and stated that the 36 inches as built was not a violation of Town Code and asked that the members overturn the decision.

Chair Holland Perdue stated that he refers back to the site plan that was approved and he understands the debate of what the curb line is on both defenses but he has to go with what he has in front of him to determine his decision. Vice Chair Susan Hapgood stated that she sees the issue with being restricted with VDOT requirements but they didn't specify curb inside line or outside line. Member Lucas Tuning also agreed with both statements from the other members. Vice Chair Susan Hapgood asked about VDOT requirements and funding for streets and sidewalks. Ms. Heckman stated that any work or improvements have to meet VDOT requirements to receive funding. An open discussion ensued.

With no further comment and no public comment, Chairman Perdue made a motion.

Motion: To overturn the decision and determination made by the Town Zoning Administrator regarding the sidewalk along Claiborne Avenue adjoining Franklin County Tax Map and Parcel number 2070103300, commonly known as 325 Franklin Street

Motion By: Chair Holland Perdue

Second By: Member Lucas Tuning

Action: Approved by unanimous vote of all members present

NEW BUSINESS

None at this time

BOARD CONCERNS

None at this time

STAFF UPDATES

None at this time

Hearing no further comments, Chairman Perdue asked for a motion to adjourn.

ADJOURNMENT

Motion By: Member Lucas Tuning Seconded By: Vice Chair Susan Hapgood

Action: Adjourned by a unanimous vote of members present

Time: 7:34 p.m.

C. Holland Perdue, III, Chairman

ATTEST:

Cherie Compton, Clerk



Town of Rocky Mount SPECIAL ZONING APPLICATION

☐ REZONING REQUEST ☐ SPECIAL EXCEPTION/USE ☒ VARIANCE

Date Received:	6-16-22
Received by:	John
PC/BZA Date:	8-4-22

*Citizen requested
delay until
August - out of
town*

PRE-FILING CONSULTATION WITH THE TOWN PLANNING STAFF TO REVIEW THE PROPOSED REQUEST AND TO OBTAIN RECOMMENDED PROCEDURES AND TECHNICAL ASSISTANCE IS REQUIRED. TO SCHEDULE A PRE-FILING CONSULTATION, PLEASE CONTACT THE TOWN OF ROCKY MOUNT COMMUNITY DEVELOPMENT DEPARTMENT AT 540-483-0907.

APPLICANT NAME: John Berger Jeans

ADDRESS: 35 1st street Rocky mount, Virginia 24151

PHONE: [REDACTED]

EMAIL: [REDACTED]

PROPERTY OWNERS NAME & ADDRESS: John Berger Jeans
(IF DIFFERENT FROM APPLICANT)

35 1st street Rocky mount, Virginia 24151

TAX MAP & PARCEL NUMBER: 207 - 129

LOT SIZE (ACRES/SQ.FT.) 0.294

CURRENT ZONING: ☒ R-1 ☐ R-2 ☐ R-3 ☐ RA ☐ RB ☐ RPUD ☐ POS ☐ C-1 ☐ C-2 ☐ M-1 ☐ M-2 ☐ CBD ☐ CBD-ARTS & CULTURE ☐ GB

CURRENT LAND USE: ☐ VACANT ☐ AGRICULTURAL ☒ RESIDENTIAL ☐ COMMERCIAL ☐ INDUSTRIAL

- ☐ REZONING REQUEST: PROPOSED ZONING: _____ PROPOSED LAND USE: _____
- ☐ SPECIAL EXCEPTION/USE REQUEST OF SECTION(S) _____ OF THE TOWN ZONING ORDINANCE.
- ☒ VARIANCE REQUEST OF SECTION(S) 20-1-5 OF THE TOWN ZONING ORDINANCE.

NATURE OF REQUEST - BRIEFLY DESCRIBE THE PROPOSED PROJECT AND SPECIFIC DEVIATION REQUEST FROM THE ZONING ORDINANCE.

I would like to build a prefab garage that is 24' x 30'. That equates to 720 sq ft. The permitted size for my lot is 650 sq ft. Therefore, I am requesting a variance for the additional 70 sq ft. My current needs require a length of 30ft and a width of 24ft for toolbox and vehicle storage. This will be for my personal use and not a business.

I HEARBY CERTIFY THAT I AM ACTING WITH THE KNOWLEDGE AND CONSENT OF THE PROPERTY OWNER TO THE REQUEST DESCRIBED ON THE APPLICATION. BY SIGNING BELOW, I AGREE THE INFORMATION PROVIDED ON THE APPLICATION IS TRUE TO THE BEST OF MY KNOWLEDGE.

APPLICANT SIGNATURE

DATE

6/16/2022

BY SIGNING BELOW, I CERTIFY I AM AWARE OF THE REQUEST SUBMITTED AND THE INFORMATION PROVIDED IS TRUE TO THE BEST OF MY KNOWLEDGE.

OWNER SIGNATURE

DATE



To: Members of the Rocky Mount Board of Zoning Appeals

From: Jessica H. Heckman, Planning & Zoning Administrator

Date: July 25, 2022

Re: Variance Request pending before Board of Zoning Appeals

BOARD OF ZONING APPEALS STAFF REPORT

PETITIONER: John Berger Jeans

HEARING DATE: August 4, 2022

PROPERTY ZONING: R1 – Residential District

TAX PARCEL: 2070012900 – 35 First Street, Rocky Mount, Virginia

APPLICABLE REGULATIONS:

Article 20-1-5. Accessory buildings, as defined; however, a building or structure attached to the main building by walls or roof shall be considered part of the main building. The building footprint of an accessory building shall not exceed 50-percent of the building footprint of the principal building. An accessory building shall not be greater in height than the main structure. An accessory building shall be located behind and not closer than ten feet to the main structure. An accessory building within 20 feet of a property line may not be more than one story in height. A one-story accessory building may be no closer than five feet to any property line of an adjoining property owner.

REQUEST: A variance of Article 20-1-5 of the Town of Rocky Mount Zoning Ordinance to allow an accessory structure that exceeds 50-percent of the building footprint of the principal building.

I. BACKGROUND:

In accordance with Article 11 of the Zoning & Development Ordinance of the Town of Rocky Mount and §15.2-2201 of the Code of Virginia, the applicant, John Berger Jeans has applied for a variance for Franklin County Tax Map and Parcel Number 2070012900, commonly known as 35 First Street, Rocky Mount, Virginia. The applicant seeks a variance of Article 20-1-5, of the Town of Rocky Mount Zoning Ordinance to allow an accessory structure that exceeds 50-percent of the building footprint of the principal building. The applicant seeks to place a 24x30 garage (Attachment A) at the rear of the property. The proposed location will meet all required setbacks(Attachment B). This application has been advertised in the Franklin News-Post as required by law, adjacent and adjoining property owners were notified via mail, and the public hearing notice sign has been posted on the site.



II. VARIANCE CRITERIA:

FINDINGS TO GRANT A VARIANCE (must meet all)

The strict application 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

- (1) **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 does appear to have been acquired in good faith, and the request is not intended to correct an existing variance.
- (2) **The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;** Staff does not find that granting the variance to allow 70 additional square feet will have a negative impact on surrounding properties or the district.
- (3) **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;** Prudent planning practice dictates that a variance application process such as the one before you is the best method for handling similar requests.
- (4) **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** It does not.
- (5) **The relief or remedy sought by the variance application is not available through a special exception process or the process for modification of a zoning ordinance at the time of the filing of the variance application.** It is not.

III. SUMMARY

Staff has reviewed the application and has not found there to be an obvious hardship that unreasonably restricts the use of the property. However, staff understands there are homes with a building footprint that limits the size of a detached garage considerably. While it may not be a hardship by definition, it is somewhat of a restriction that can be a disadvantage to those properties. Staff also has not found that granting the variance would be a detriment to neighboring properties, therefore pending public comment, staff is in support of granting the variance to allow the carport to be 720 square feet, which is 70 square feet over the maximum for this property, which is 650 square feet. The BZA must review the findings, consider public comment, and determine if granting the variance would be appropriate



POSSIBLE MOTIONS:

Approval

I move that the Board approves the variance request for 35 First Street, Tax Map ID No 2070012900 (on the following grounds, if needed): _____

Conditional Approval

I move that the Board approves the variance request for 35 First Street, Tax Map ID No 2070012900, with the following conditions: _____

Denial

I move that the Board denies the variance request for 35 First Street, Tax Map ID No 2070012900 (on the following grounds, if needed) _____





CURRENT OWNER - JOHN BERGER JEANS
HANNAH N. MURPHY
DB 1134, PG 2830
DB 917, PG 1386 (PLAT)

REFERENCE - TAX No. 207-129

NOTES:

THIS IS A RE-SURVEY OF AN EXISTING LOT
IS EXEMPT FROM THE TOWN OF ROCKY MOUNT
SUBDIVISION ORDINANCE.

ALL IRON RODS SET ARE 5/8" REBAR.

THIS SURVEY WAS PERFORMED WITHOUT THE
BENEFIT OF A TITLE REPORT AND THEREFORE
MAY NOT NECESSARILY INDICATE ALL ENCUMBRANCES
UPON THE PROPERTY.

THIS IS TO CERTIFY THAT THE PROPERTY
SHOWN HEREON IS NOT LOCATED WITHIN
THE 100 YEAR FLOOD ZONE AS DETERMINED BY THE
DEPARTMENT OF HOMELAND SECURITY AND F.E.M.A.
ZONE X, FIRM PANEL 51067C0195C, DATED 12/16/08

THIS IS TO CERTIFY THAT ON JUNE 3
2022, AN ACCURATE SURVEY WAS MADE OF THE
PREMISES SHOWN HEREON AND THAT THERE
ARE NO BASEMENTS OR ENCROACHMENTS VISIBLE
ON THE GROUND OTHER THAN THOSE SHOWN
HEREON.

Now or Formerly
RENE M. STEPHEN
DB 1134, PG 2845
DB 384, PG 586 (PLAT)
TAX No. 207-126

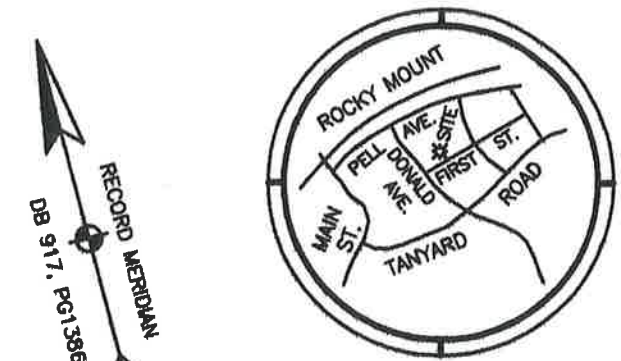
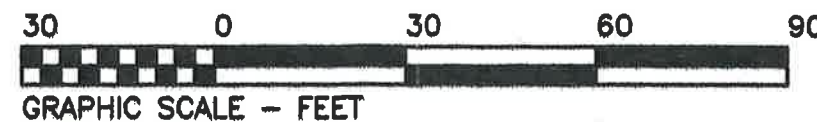
Now or Formerly
PAUL RAY POINDEXTER
DB 873, PG 2006
DB 940, PG 1022 (PLAT)
TAX No. 207-130

Now or Formerly
LARRY D. MOORE, JR.
TRESSA H. MOORE
DB 892, PG 2477
DB 613, PG 288 (PLAT)
TAX No. 207-128.1

0.294 AC.
TAX No. 207-129



CORNERSTONE LAND SURVEYING, INC.
250 SOUTH MAIN STREET
P. O. BOX 779
ROCKY MOUNT, VIRGINIA 24151
540-489-3590



LOCATION MAP

PLAT OF SURVEY
PREPARED FOR
JOHN BERGER JEANS
HANNAH N. MURPHY
LOCATED IN
TOWN OF ROCKY MOUNT
FRANKLIN COUNTY, VIRGINIA
JUNE 3, 2022
SCALE 1" = 30'

FIELD BK 322, JOB No. 22184, DRAWING No. B-4150