



BOARD OF ZONING APPEALS
REGULAR MEETING
AGENDA

December 1, 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. September 1, 2022- Regular Meeting Minutes
4. Public Hearing
 - 4.a. The applicant, Floyd Ave Developers LLC, has applied for a variance for Franklin County Tax Map and Parcel Number 2070055000, a vacant lot located on the corner of West Court Street and Floyd Avenue in the Central Business District. The applicant requests a variance of Article 7-2-7 of the Zoning Ordinance which requires all non-residential driveways and parking spaces to be paved with asphalt, concrete, plant mix or brick. The applicant wishes to construct a gravel parking lot on the corner of West Court Street and Floyd Avenue to serve as additional parking for downtown Rocky Mount.
 - Staff Comment
 - Applicant/Property Owner Comment
 - Public Comment
5. New Business
 - 5.a. Policy for remote participation in meetings
6. Board Concerns
7. Staff Updates
8. Adjournment

**TOWN OF ROCKY MOUNT
BOARD OF ZONING APPEALS
MEETING MINUTES
September 1, 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, September 1, 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

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:

- June 2, 2022- Regular Meeting Minutes

Motion: To approve minutes as presented

Motion By: Member Lucas Tuning

Second by: Chair Holland Perdue

Action: Approved by a unanimous vote of members present

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

- August 4, 2022- Regular Meeting Minutes

Motion: To approve minutes as presented

Motion By: Chair Holland Perdue

Second by: Member Lucas Tuning

Action: Approved by a unanimous vote of members present

PUBLIC HEARING:

The applicants, David Hickle and Susan Vecchio-Hickle have applied for a variance for Franklin County Tax Map and Parcel Number 207002000, commonly known as 140 Maple Ave, 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 in the side yard.

Zoning Administrator Jessica Heckman presented the staff report. Applicant, David Hickle spoke and answered questions from BZA members.

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

Motion: To approve the request for the variance for Franklin County Tax Map and Parcel Number 207002000, commonly known as 140 Maple Ave, Rocky Mount, Virginia to allow an accessory structure in the side yard with the condition the structure be constructed with substantial conformity with the drawing presented

Motion By: Vice Chair Susan Hapgood

Second By: Member Lucas tuning

Action: Approved by a unanimous vote

NEW BUSINESS

None at this time

BOARD CONCERNS

An open discussion ensued about the vacant seats on the board.

STAFF UPDATES

Zoning Administrator Jessica Heckman gave the following updates:

- RFP for comprehensive review of the zoning ordinance and the subdivision ordinance will be going out soon
- Hurt & Profit is working on a new zoning map

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: 6:14 p.m.

C. Holland Perdue, III, Chairman

ATTEST:

Cherie Compton, Clerk



To: Members of the Rocky Mount Board of Zoning Appeals

From: Jessica H. Heckman, Planning & Zoning Administrator

Date: November 21, 2022

Re: Variance Request pending before Board of Zoning Appeals

BOARD OF ZONING APPEALS STAFF REPORT

PETITIONER: Floyd Ave Developers LLC

HEARING DATE: December 1, 2022

PROPERTY ZONING: CBD- Central Business District

TAX PARCEL: 2070055000 – Parcel on the corner of West Court and Floyd Avenue, Rocky Mount, Virginia

APPLICABLE REGULATIONS:

7-2-7. All non-residential driveways and parking spaces are to be paved with asphalt, concrete, plant mix, or brick.

REQUEST: A variance of Article 7-2-7 of the Town of Rocky Mount Zoning Ordinance to which requires all non-residential driveways and parking spaces to be paved with asphalt, concrete, plant mix or brick.

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, Floyd Ave Developers LLC has applied for a variance for Franklin County Tax Map and Parcel Number 2070055000, a parcel located on the corner of West Court and Floyd Avenue in Rocky Mount, Virginia. The applicant seeks a variance of Article 7-2-7 of the Town of Rocky Mount Zoning Ordinance which requires all non-residential driveways and parking spaces to be paved with asphalt, concrete, plant mix or brick. If approved, the applicant intends to develop a gravel paid parking lot to serve the downtown area. A parking lot (located behind buildings or screened from the road) is a use by right in the Central Business District, however, the ordinance requires the lot be paved with asphalt, concrete, plant mix or brick. 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;** The BZA must determine if allowing gravel in the downtown area would be a detriment to neighboring 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 while it does lower the cost to the developer, that does not meet criteria for hardship, nor were we able to identify any obvious hardship that unreasonably restricts the use of the property. When considering the variance, staff recommends members take the following potential impacts into account:

1. The aesthetic of a gravel lot in a downtown commercial area (Keep in mind, as permitted it must be screened from street view and neighboring properties. The lot elevation will also help with screening from the street.)



2. The maintenance requirements of a gravel lot; although often easier and cheaper to maintain, snow removal is more difficult, rain can cause rutting and pot holes etc.
3. Sloped gravel parking lots are susceptible to erosion which often result in gravel, soil etc. ending up in ditches & streets.

Staff is supportive of additional parking in downtown, however we were not able to find that it met the requirement of a variance as indicated above. However, the board must review the findings required to grant a variance, 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 Tax Map ID No 2070055000 (on the following grounds, if needed):_____

Conditional Approval

I move that the Board approves the variance request for Tax Map ID No 2070055000, with the following conditions:_____

Denial

I move that the Board denies the variance request for Tax Map ID No 2070055000 (on the following grounds, if needed)_____



Town of Rocky Mount
SPECIAL ZONING APPLICATION

☐ REZONING REQUEST ☐ SPECIAL EXCEPTION/USE ☒ VARIANCE

\$350.00 Variance Fee
\$ 58.73 Postage
\$408.73 Paid 11/09/22

Date Received
11/09/22
Received by
<i>[Signature]</i>
PC/ZA Date
12/01/2022

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: Floyd Ave Developers LLC

ADDRESS: 467 Franklin Street

PHONE: [REDACTED] EMAIL: [REDACTED]

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

TAX MAP & PARCEL NUMBER: 2070055000 LOT SIZE (ACRES/SQ.FT.) _____

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) 7-2-7 OF THE TOWN ZONING ORDINANCE.

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

The applicant requests a variance of Article 7-2-7 of the Zoning Ordinance which requires all non-residential driveways and parking spaces to be paved with asphalt, concrete, plant mix or brick. The applicant wishes to construct a gravel parking lot on the corner of Floyd and West Court Street to serve as additional parking for downtown Rocky Mount.

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.

Bryan Hochstet
APPLICANT SIGNATURE

11/9/22
DATE

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

Bryan Hochstet
OWNER SIGNATURE

11/9/22
DATE

Order Confirmation

Order# 0001381114

Client: TOWN OF ROCKY MOUNT
Phone: 5404837660

Payor : TOWN OF ROCKY MOUNT
Phone: 5404837660

Account: 6010669
Address: 345 DONALD AVE
ROCKY MOUNT VA 24151

Account: 6010669
Address: 345 DONALD AVE
ROCKY MOUNT VA 24151

Sales Rep **Accnt Rep** **Ordered By**
con_hjones legalsROA Jessica Heckman

Fax: 5404838830
Email: vcopenhaver@rockymountva.org

Total Amount **\$195.32**
Payment Amount **\$0.00**

Amount Due	\$195.32	<u>Tear Sheets</u>	<u>Proofs</u>	<u>Affidavits</u>	<u>PO Number:</u>
		0	0	1	
Tax Amount:	0.00				
Payment Meth:	Invoice - Statement				

<u>Ad Number</u>	<u>Ad Type</u>	<u>Ad Size</u>	<u>Color</u>
0001381114-01	CLS Legal Liner	2 X 28 li	\$0.00

Production Method
AdBooker (liner)

Production Notes

<u>Product and Zone</u>	<u>Placement</u>	<u>Position</u>	<u># Inserts</u>
FNP Franklin News-Post	C-Legal Ads	Legal Notices	2

Run Schedule Invoice Text: Pursuant to the Town Code of Rocky Mount and the Code of
Run Dates 11/16/2022, 11/23/2022

<u>Product and Zone</u>	<u>Placement</u>	<u>Position</u>	<u># Inserts</u>
FNP thefranklinnewspost.com	C-Legal Ads	Legal Notices	17

Run Schedule Invoice Text: Pursuant to the Town Code of Rocky Mount and the Code of
Run Dates 11/16/2022, 11/17/2022, 11/18/2022, 11/19/2022, 11/20/2022, 11/21/2022, 11/22/2022, 11/23/2022, 11/24/2022,
11/25/2022, 11/26/2022, 11/27/2022, 11/28/2022, 11/29/2022, 11/30/2022, 12/ 1/2022, 12/ 2/2022

TagLine: PURSUANTTOTHE TOWN CODE OF ROCKY MOUNT AND THE CODE OF VIRGINIA THE ROCKY MOUNT BOARD OF
ZONING APPEALS WILL HOLD A PUBLIC HEARING AT 600 PM THURSDAY DE

Order Confirmation

Order# 0001381114

Ad Content Proof

Note: Ad size does not reflect actual ad

Pursuant to the Town Code of Rocky Mount and the Code of Virginia, the Rocky Mount Board of Zoning Appeals will hold a public hearing at 6:00 p.m., Thursday, December 1, 2022 in the Council Chambers at the Rocky Mount Municipal Building, located at 345 Donald Avenue, Rocky Mount, Virginia, to which the public and all interested parties are invited to hear the following variance request:

The applicant, Floyd Ave Developers LLC, has applied for a variance for Franklin County Tax Map and Parcel Number 2070055000, a vacant lot located on the corner of West Court Street and Floyd Avenue in the Central Business District. The applicant requests a variance of Article 7-2-7 of the Zoning Ordinance which requires all non-residential driveways and parking spaces to be paved with asphalt, concrete, plant mix or brick. The applicant wishes to construct a gravel parking lot on the corner of West Court Street and Floyd Avenue to serve as additional parking for downtown Rocky Mount.

A site visit will be held at the property prior to the public hearing at 5:15 p.m.

Documents relating to the public hearing are available for inspection at the Rocky Mount

Community Development Department at 345 Donald Avenue, Rocky Mount, Monday - Friday, 8 a.m. to 5 p.m.

Members of the community wishing to comment on the public hearing may do so in person or by submitting written responses and objections in writing to the BZA Clerk. Mail written responses to: BZA Clerk, 345 Donald Avenue, Rocky Mount, VA 24151. Emailed responses must be sent to ccompton@rockymountva.org by 3 p.m. December 1, 2022 in order to be included in the record.

THE TOWN OF ROCKY MOUNT BOARD OF ZONING APPEALS
POLICY FOR THE REMOTE PARTICIPATION OF MEMBERS

1. AUTHORITY AND SCOPE

a. This policy is adopted according to the authorization of Virginia Code § 2.2-3708.3 and shall be strictly construed in conformance with the Virginia Freedom of Information Act (VFOIA), Virginia Code §§ 2.2-3700, et seq.

b. This policy shall not govern an electronic meeting conducted to address a state of emergency declared by the Governor of Virginia or the Mayor of the Town of Rocky Mount. Any meeting conducted by electronic communication means under such circumstances shall be governed by the provisions of Virginia Code § 2.2-3708.2. This policy also does not apply to an all-virtual public meeting.

2. DEFINITIONS

a. "Board of Zoning Appeals" means the Town of Rocky Mount Board of Zoning Appeals, or any committee, subcommittee, or other entity of the Board of Zoning Appeals.

b. "Member" means any member of the Board of Zoning Appeals.

c. "Remote participation" means participation by an individual member of the Board of Zoning Appeals by electronic communication means in a public meeting where a quorum of the Board of Zoning Appeals is physically assembled, as defined by Virginia Code § 2.2-3701.

d. "Meeting" means a meeting as defined by Virginia Code § 2.2-3701.

e. "Notify" or "notifies," for purposes of this policy, means written notice, such as email or letter. Notice does not include text messages or communications via social media.

3. MANDATORY REQUIREMENTS

Regardless of the reasons why the member is participating in a meeting from a remote location by electronic communication means, the following conditions must be met for the member to participate remotely:

a. A quorum of the Board of Zoning Appeals must be physically assembled at the primary or central meeting location; and

b. Arrangements have been made for the voice of the remotely participating member to be heard by all persons at the primary or central meeting location. If at any point during the meeting the voice of the remotely participating member is no longer able to be heard by all persons at the meeting location, the remotely participating member shall no longer be permitted to participate remotely.

4. PROCESS TO REQUEST REMOTE PARTICIPATION

a. On or before the day of the meeting, and at any point before the meeting begins, the requesting member must notify the Chairman that they are unable to physically attend a meeting due to (i) a temporary or permanent disability or other medical condition that prevents the member's physical attendance, (ii) a family member's medical condition that requires the member to provide care for such family member, thereby preventing the member's physical attendance, (iii) their principal residence location more than 60 miles from the meeting location, or (iv) a personal matter and identifies with specificity the nature of the personal matter.

b. The requesting member shall also notify the Clerk of the Board of Zoning Appeals of their request, but their failure to do so shall not affect their ability to remotely participate.

c. If the requesting member is unable to physically attend the meeting due to a personal matter, the requesting member must state with specificity the nature of the personal matter. Remote participation due to a personal matter is limited each calendar year to two meetings or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater. There is no limit to the number of times that a member may participate remotely for the other authorized purposes listed in (i)-(iii) above.

d. The requesting member is not obligated to provide independent verification regarding the reason for their nonattendance, including the temporary or permanent disability or other medical condition or the family member's medical condition that prevents their physical attendance at the meeting.

e. The Chairman shall promptly notify the requesting member whether their request is in conformance with this policy, and therefore approved or disapproved.

5. PROCESS TO CONFIRM APPROVAL OR DISAPPROVAL OF PARTICIPATION FROM A REMOTE LOCATION

When a quorum of the Board of Zoning Appeals has assembled for the meeting, the Board of Zoning Appeals shall vote to determine whether:

a. The Chairman's decision to approve or disapprove the requesting member's request to participate from a remote location was in conformance with this policy; and

b. The voice of the remotely participating member can be heard by all persons at the primary or central meeting location.

6. RECORDING IN MINUTES

a. If the member is allowed to participate remotely due to a temporary or permanent disability or other medical condition, a family member's medical condition that requires the member to provide care to the family member, or because their principal residence is located more than 60 miles from the meeting location the Board of Zoning Appeals shall record in its minutes (1) the Board's approval of the member's remote participation; and (2) a general description of the remote location from which the member participated.

b. If the member is allowed to participate remotely due to a personal matter, such matter shall be cited in the minutes with specificity, as well as how many times the member has participated remotely due to a personal matter, and a general description of the remote location from which the member participated.

c. If a member's request to participate remotely is disapproved, the disapproval, including the grounds upon which the requested participation violates this policy or VFOIA, shall be recorded in the minutes with specificity.

7. CLOSED SESSION

If the Board of Zoning Appeals goes into closed session, the member participating remotely shall ensure that no third party is able to hear or otherwise observe the closed meeting.

8. STRICT AND UNIFORM APPLICATION OF THIS POLICY

This Policy shall be applied strictly and uniformly, without exception, to the entire membership, and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting.

The Clerk of the Board of Zoning Appeals shall maintain the member's written request to participate remotely and the written response for a period of one year, or other such time required by records retention laws, regulations, and policies.

Adopted this ____ day of _____, 2022

Ayes:

Nays:

Present:

APPROVED:

Chairman

ATTEST:

Clerk

Approved as to form:

Town Attorney