

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

540.483.7660
FAX : 540.483.8830

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WWW.ROCKYMOUNTVA.ORG



BOARD OF ZONING APPEALS
CHARLES HUTTO, JR., *Chair*
SUSAN HAPGOOD, *Vice Chair*

GEORGE GAUTSCH
LUCAS TUNING
JOHN SPEIDEL

C. JAMES ERVIN, *Town Manager*
MATTHEW C. HANKINS, *Assistant Town Manager*
& *Community Development Director*

AGENDA
BOARD OF ZONING APPEALS
Thursday, March 6, 2014 • 6 p.m.

Call to Order and Welcome

Charles Hutto, Jr., Chairman

1. Roll Call of Members Present
2. Approval of Agenda
3. Election of Officers
 - a. According to the Board's Bylaws, elections must take place at the first meeting of the calendar year, every two years. The Board's last election was held in 2011.
 - i. Election of the Chairman
 - ii. Election of the Vice-Chairman
 - iii. Appointment of the Secretary
4. Approval of Minutes
 - July 12, 2012 - Regular Meeting
5. Public Hearing
 - a. Grove Rocky Mount, LLC requests a variance from Article 7-2-7 of the Zoning and Development 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 parking area at 50 Floyd Avenue, also known as Franklin County Tax Map & Parcel Number 20700 50600, using natural materials, such as chipped wood, instead of asphalt or concrete. The property is zoned Central Business District - CBD and will be used as a commercial bed-and-breakfast establishment.
 - i. Staff Report regarding request
 - ii. Comments from applicant
 - iii. Comments from public
6. Old Business
 - a. Discussion regarding Bylaws Amendments
7. Board Concerns & Staff Updates
8. Adjournment

Assistant Town Manager Hankins
Chairman of the Board

**TOWN OF ROCKY MOUNT
BOARD OF ZONING APPEALS**

DRAFT

MEETING MINUTES

JULY 12, 2012

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, July 12, 2012, at 6:00 p.m., with Vice Chair Susan Hapgood presiding.

The following were present when the meeting was called to order:

Vice Chairman Susan Hapgood; Board of Zoning Appeals Members John Speidel, Maceo Toney, and Lucas Tuning; Staff Members, Assistant Town Manager Matthew C. Hankins, Town Attorney John Boitnott, Town Planner Patrick Rust and Deputy Clerk Stacey B. Sink.

Let the record show that Board of Zoning Appeals Chairman Charles L. Hutto, Jr. arrived at the meeting at 6:11 p.m.

APPROVAL OF AGENDA

- Motion was made by BZA Member Speidel to approve the agenda as presented with motion on the floor being seconded by BZA Member Tuning. There being no further discussion, let the record show that the motion on the floor passed unanimously by those present.

APPROVAL OF MINUTES

Let the record show that prior to the meeting, the Board received copies of the following draft minutes for review and consideration of approval:

- March 8, 2012

(Let the record show that Chairman Hutto arrived at the meeting during the consideration of minutes.)

- Motion was made by BZA Member Tuning to approve the minutes as presented, with motion on the floor being seconded by BZA Member Speidel. There being no further discussion, let the record show that the motion on the floor passed unanimously.

PUBLIC HEARING

Let the record show that Chairman Hutto began presiding over the meeting and recessed the meeting to hold the following public hearing:

(A) Brian and Lauren Judson Variance Request

After being duly advertised, and pursuant to the Town of Rocky Mount Zoning & Development Ordinance, and the Code of Virginia, Brian and Lauren Judson requested a variance from Article 3-7-1 of the Zoning and Development Ordinance, which requires that each side yard of a main structure in R1 zoned districts shall be 15 percent or more of the lot width at the building line. The applicants wish to build an addition to the main structure, located at 70 Grayson Street and known as Franklin County Tax Map and Parcel Number 21000 15900, which will encroach into the required side yard. The property is zoned R1 Residential.

The town planner gave the following staff report:

- The proposed addition is for a garage that will be 36 feet by 24 feet in dimension totaling 864 square feet.
- It will be located on the right side of the property on an existing driveway pad near the house.
- The way the double garage is proposed, it will encroach in the setbacks required by the Zoning and Development Ordinance, which is 15% of the lot width at the building line on each side, or in this case a required 23.5 feet.
- The proposed garage is approximately 11 feet from the neighboring property line.
- Staff recommends approval of the variance request. There is a steep hill on the other side of the property and in the back there are septic and utility line issues. In addition, the house is located oddly on the lot. The current driveway to the home hugs the property line closely. If approved, there would still be an 11-foot buffer from the neighboring property line.
- The town planner clarified to BZA Member Speidel that the garage could not be put on the other side of the home because (1) the driveway is already on this side of the home; (2) there is a steep slope on the other side; and (3) the purchase agreement for the home prohibits a driveway on the other side of the home.

Chairman Hutto called upon any member of the audience who wished to speak for or against the request.

Brian Judson came forward identifying himself as one of the owners of the property.

- He passed around a plat of the land and advised that there is a clause in their deed which prohibits a driveway being placed on the lower end of the house.
- A detached garage behind the house is also not an option because of the septic tank and a sewer line which runs behind their house.
- He confirmed that his home is connected to the septic tank and that he plans to build the garage himself. It will be stick-built and will match the existing structure, except that the roof-line of the garage will be slightly higher than that of the house.
- He has met with a realtor and has been advised twice that a garage and extra storage would be beneficial.
- The height of the upper room above the garage will be 8 feet.
- He is not aware of any opposition from his neighbors.

The town planner noted that the neighbor across the street came in last week in favor of the request.

Let the record show that no one else came forward to speak; however, Vice Chairman Hapgood addressed a member of the audience whom she knew to be a neighbor and asked if she had any comments. The neighbor spoke briefly from the audience, and then was invited to the podium to speak.

Frieda Greenwood of 60 Grayson Street came forward to say the following.

- She advised that one of the main reasons she purchased her house is that there is a door on the end of the house with a beautiful view of the mountains. If this is built she will be looking at a wall.
- Chairman Hutto questioned if Ms. Greenwood is in opposition to the request, with Ms. Greenwood replying she “is not real happy about it.”
- BZA Member Tuning questioned again if that means she is in total opposition, with Ms. Greenwood replying “yes, but if you approve it there is nothing I can do about it.”
- BZA Member Speidel clarified that the door Ms. Greenwood is speaking of is at the end of the house on the back side facing the Judsons’ house.
- The door leads into the hallway or mud room where her washer and dryer is stored.
- If she were to build a similar addition to what the Judsons are planning, the two would almost touch, as there is only about ten feet of property between their stakes and her driveway.

- Chairman Hutto clarified with Ms. Greenwood that she understands the Judsons request and also the identified limitations of the property.

Chairman Hutto asked if any additional members of the audience wished to speak and being none, opened the floor to discussion by the Board.

Discussion ensued:

- Vice Chairman Hutto questioned if 24 feet is considered standard for a two-car garage, with the general consensus being that it will be a good-sized garage but not overly large.
- Mr. Judson confirmed that his house is roughly 1200 square feet.
- BZA Member Speidel asked if the Judsons considered a garage without a storage room above, with Mr. Judson advising no, as they wish to add value to their home and they do not have a basement for storage.
- BZA Member Toney questioned Ms. Greenwood if it will be the height of the building that is blocking her view, with Ms. Greenwood confirming that it will be the addition itself, not just the height.
- Once built there will be eleven feet from the edge of the garage to the property line.
- Chairman Hutto noted that on paper it appears as though the view from Ms. Greenwood's door is looking directly at the Judsons' house, and he does not see where it will add much of a distraction from that door because the view is at the house anyway. The proposed structure also does not appear to be so tall as to totally obstruct the view. BZA Member Tuning shared the same observation.
- BZA Member Speidel pointed out that one of the Board's requirements is to determine if the request will be a substantial detriment to surrounding properties, so the Board will have to make a decision as to whether Ms. Greenwood will be injured in any way by the structure. It appears that Ms. Greenwood would have the room on the side of her home to do the same type of addition if she wanted, since her building is more off-center in the other direction.
- It is obvious that the Judsons are limited as to where they can build an addition, and this would be the hardship element that the Board must consider. The Board also must consider how Ms. Greenwood would be affected.
- BZA Member Speidel advised that if Ms. Greenwood had windows on the side of the house he would be more worried about the request, but neither house has windows at this point.
- BZA Member Toney stated that it does not seem like the addition will affect the immediate aesthetics of the view of the mountains.
- The Judsons have two issues: (1) they cannot build on the other side of the house because of the slope of the property; and (2) the location of the dwelling. They also

cannot build a freestanding building in the back yard because of water and utility lines. Therefore, they are pretty much locked in to what they are requesting.

- BZA Member Speidel confirmed with Ms. Greenwood that she has a deck on the end of her house on the back side.
- BZA Member Toney questioned if Ms. Greenwood's view from the deck would be blocked by the building, with Ms. Greenwood advising it would and the Judsons disagreeing.
- BZA Member Tuning confirmed with Ms. Greenwood that the door in question is in her laundry room and is not located in a family room.

Lauren Judson, one of the applicants requested to come forward to speak, stating:

- The biggest reason they want to add on is for the utility of a garage, such as not having to scrape car windows in the winter time.
- They are also ballooned on their mortgage, meaning that they owe more than what the home is worth.
- They have tried to sell the home but was advised by the realtor that the only glimmer of hope they have for one day recovering their loss is to add value to the home.
- She understands the mountain view issue. They enjoy the view as well. However, it is not the side view that matters but the front view. Their proposed addition will only hinder the side door which goes into a hallway, not a sitting area.
- Vice Chairman Hapgood questioned if the Judsons would be amenable to adding some landscaping to the side of the addition once constructed so that Ms. Greenwood would not just be staring at a blank wall, with Mrs. Judson advising they would.
- BZA Member Speidel expressed concern that this work seems to be wanted so that the property can be sold, with Mrs. Judson confirming that it is their intention to stay in the property for eight to 10 years.

There being no further discussion, Chairman Hutto called the meeting back into regular session and entertained a motion:

- Motion was made by BZA Member Speidel to approve the variance for 70 Grayson Street, Franklin County Tax Map and Parcel Number 21000 15900, because the strict application of the ordinance would produce an undue hardship relating to the property, that the hardship is not generally shared by other properties in the same zoning district and same vicinity, and that the authorization of the variance will not be a substantial detriment to the adjacent property and the character of the district will not be changed by the granting of the variance. Vice Chairman Hapgood asked if the motion could also include the condition that the addition include appropriate and attractive landscaping, with BZA Member Speidel agreeing to add this condition to the motion. The motion on the floor was seconded by BZA Member Tuning. There

being no discussion, let the record show that the motion on the floor passed unanimously.

OLD BUSINESS

(1) Consider appointing committee regarding bylaws review

It was the consensus of the Board that staff should work with the town attorney to prepare a revised bylaws document and then present the document to the Board for review and consideration at a later date.

NEW BUSINESS

Let the record show there was no new business to discuss at this time.

BOARD CONCERNS & STAFF UPDATES

- The assistant town manager gave an update on the zoning ordinance revisions.
- Also gave an update on the status of The Oaks at Rakes Tavern development.

ADJOURNMENT

There being no further business to discuss, motion was made by BZA Member Tuning to adjourn the meeting at 6:47 p.m., with motion being seconded by BZA Member Toney and carried unanimously.

Charles L. Hutto, Jr., Chairman

ATTEST:

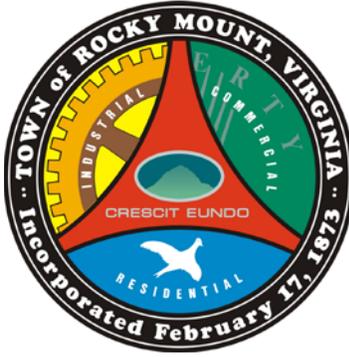
Stacey B. Sink, Deputy Clerk

/sbs

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TOWN COUNCIL
STEVEN C. ANGLE, *MAYOR*
GREGORY B. WALKER, *VICE MAYOR*

BOBBY M. CUNDIFF P. ANN LOVE
JERRY W. GREER, SR. BOBBY L. MOYER
BILLIE W. STOCKTON

PATRICK N. RUST
Town Planner
Code Inspector/GIS Technician

MEMORANDUM

To: Charles Hutto Jr., Chairman, Board of Zoning Appeals
Board Members

From: Patrick Rust
Town Planner

Date: February 26, 2014

Re: Variance Request of Grove Rocky Mount, LLC
50 Floyd Ave, Tax Parcel ID 20700 50600

Members of the Board:

The Town has received a variance request from Bryan Hochstein on behalf of Grove Rocky Mount LLC. The applicant requests a variance from Article 7-2-7 of the Zoning and Development 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 parking area at 50 Floyd Avenue, also known as Tax Map & Parcel Number 20700 50600, using natural materials, such as chipped wood, instead of asphalt or concrete.

The property is zoned Central Business District-CBD and will be used as a commercial bed-and-breakfast establishment.

The applicants chose to request a variance and properly completed the variance application based on a perceived hardship that an asphalt parking area would take away from the historic, pastoral setting and charm of the property. In addition, the applicant believes that a green or natural parking area would be more suitable in proximity to the creek on the property, and stormwater runoff would be minimal.

The applicant also believes this variance would enhance adjacent properties.

After due consideration and review, staff recommends that the Board approves this variance request based on the following considerations:

1. A green or natural parking area will be in accord with the existing wooded conditions of the property.
2. The addition of a green or natural parking area to the property will not affect either the property's stormwater runoff or the creek located on the property.
3. Minimal land disturbance is projected by the applicant, which is in keeping within the property's historical character.

To approve this variance request, the Board must find the following:

1. That the strict application of the ordinance would produce undue hardship relating to the property;
2. That the hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
3. That the authorization of the 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.

The Board has 90 days from the date of filing on the application to make a determination. Also, 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 met.

Potential Motions

Staff Recommendation:

Approval

I move that the Board approves the variance request for 50 Floyd Avenue, Tax Map & Parcel Number 20700 50600.

Other Recommendations:

Conditional Approval

I move that Board approves the variance request for 50 Floyd Avenue, Tax Map & Parcel Number, 20700 50600, with the following conditions:

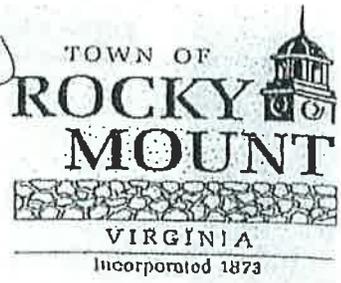
Denial

I move that the Board denies the variance request for 50 Floyd Avenue, Tax Map & Parcel Number 20700 50600 (on the following grounds, if needed):

VARIANCE APPLICATION

APPLICANT INFORMATION

NAME: BRYAN HOCHSTEIN (GROVE ROCKY MOUNT LLC)
ADDRESS: 50 FLOYD AVE PO BOX 2153
ROCKY MOUNT VA 24151
PHONE: (540) 420 5300



PROPERTY OWNER & PROPERTY INFORMATION

PROPERTY OWNER NAME: _____ (IF DIFFERENT FROM APPLICANT)
MAILING ADDRESS: 50 FLOYD AVE PO BOX 2153 ROCKY MOUNT VA 24151
EXACT LOCATION OF THE PROPERTY: 50 FLOYD AVE ROCKY MOUNT VA 24151
TAX MAP & PARCEL NUMBER: 2070050600
CURRENT ZONING: R-1 R-2 R-3 RA RB POS C-1 C-2 CBD GB
RPUD M-1 M-2
CURRENT LAND USE: VACANT AGRICULTURAL RESIDENTIAL COMMERCIAL INDUSTRIAL
SIZE OF PROPERTY (ACRES/SQ.FT.): 9.98 ACRES
SIZE OF PROPOSED VARIANCE REQUEST (ACRES/SQ.FT.): 2 ACRES
IS ANY PORTION OF LOT IN FLOOD PLAIN OR FLOODWAY? YES NO

NATURE OF VARIANCE REQUEST

PLEASE PROVIDE A BRIEF DESCRIPTION OF THE REQUESTED VARIANCE:
REQUEST TO CREATE PARKING AREA USING NATURAL
MATERIALS LIKE CHIPPED WOOD INSTEAD OF ASPHALT

THERE ARE SPECIFIC CONDITIONS WHICH **MUST** BE MET IN ORDER TO HAVE A VARIANCE GRANTED. IN THE SPACES FOLLOWING EACH OF THE CONDITIONS LISTED BELOW, PLEASE BRIEFLY DESCRIBE HOW THIS CONDITION APPLIES TO THE PROPERTY IN QUESTION.

1. DESCRIPTION OF "UNDUE HARDSHIP" (RELATING TO THE PHYSICAL CHARACTERISTICS OF THE PROPERTY): THIS HISTORIC PROPERTY HAS A PASTURE LIKE
SETTING WITH CREEK. AN ASPHALT PARKING AREA
WOULD TAKE AWAY FROM THE PROPERTY'S HISTORIC
SETTING AND CHARM.

NATURE OF VARIANCE REQUEST (CONTINUED)

2. HARDSHIP IS NOT SHARED GENERALLY BY OTHER PROPERTIES IN THE SAME ZONING DISTRICT OR NEIGHBORING PROPERTIES (UNIQUE SITUATION):

THERE IS A NATURAL CREEK ALONG THIS PART OF THE PROPERTY. WE BELIEVE ^{FROM} A PARKING AREA USING ASPHALT WOULD BE HARMFUL TO THE LOCAL ENVIRONMENT

3. VARIANCE WILL NOT BE A SUBSTANTIAL DETRIMENT TO ADJACENT PROPERTIES AND THE CHARACTER OF THE DISTRICT WILL NOT BE CHANGED:

WE BELIEVE THIS VARIANCE WOULD ENHANCE ADJACENT PROPERTIES.

APPLICANT CERTIFICATION

BY SIGNING BELOW, I/WE HEREBY APPLY FOR A VARIANCE AS DESCRIBED ON THIS APPLICATION AND I/WE CERTIFY THAT THE INFORMATION ON THIS APPLICATION IS TRUE TO THE BEST OF MY/OUR KNOWLEDGE.

Bryan Hochstetler

13-FEB-14

APPLICANT SIGNATURE

DATE

OWNER CERTIFICATION

BY SIGNING BELOW, I CERTIFY THAT I AM AWARE OF THIS VARIANCE REQUEST AND I CONSENT TO THE REQUEST AS DESCRIBED ON THIS APPLICATION.

Bryan Hochstetler MEMBER GROVE ROCKY MOUNT LLC 13-FEB-14

OWNER SIGNATURE

DATE

ADDITIONAL INFORMATION/ATTACHMENTS

- Size and shape of land, size and shape of building/structure, parking space, right-of-way, adjacent and adjoining property owners.

FOR COMMUNITY DEVELOPMENT OFFICE USE ONLY

FEE AMOUNT: Waived - Enterprise Zone DATE RECEIVED:

CASH CHECK (CHECK No.)

DATE TO BE HEARD BY BOARD OF ZONING APPEALS: Thursday, March 6, 2014

APPLICATION No.:

I HEREBY APPROVE THIS APPLICATION AS PRESENTED, NOTING THAT ALL REQUIRED INFORMATION IS ATTACHED ACCORDING TO THE SPECIFICATIONS OF THIS APPLICATION FOR REZONING.

[Signature]

2/25/2014

ZONING ADMINISTRATOR SIGNATURE

DATE

50 Floyd Adjacent and Adjoining Property Owners

2/28/2014

ADDRES LN 1	ADDRESS LN 2	ADDRESS LN 3	ADDRESS LN 4	TMPN	CERTIFIED MAIL VARIANCE 3-
Ms. Taliaferro Greer Alexander	P.O. Box 313	Rocky Mount, VA 24151		2070050500	7008 1830 0002 2412 9748
Mr. James Lee Spitzer	Ms. Sarah Paige Arrington	160 Taliaferro Street	Rocky Mount, VA 24151	2070051600	7008 1830 0002 2412 9755
Mr. J. Clark Arrington	Mrs. Jerene R. Arrington	560 South Main Street	Rocky Mount, VA 24151	2070051500	7008 1830 0002 2412 9762
Ms. Valeria C. Powell	110 Taliaferro Street	Rocky Mount, VA 24151		2070051400	7008 1830 0002 2412 9779
Mr. John Wesley Hall	Mrs. Madeline C. Hall	90 Taliaferro Street	Rocky Mount, VA 24151	2070051300	7008 1830 0002 2412 9816
Mr. George Hutcherson, Jr.	Mrs. Reva Hutcherson	70 Taliaferro Street	Rocky Mount, VA 24151	2070051200	7008 1830 0002 2412 9823
Ms. Dixie Hurt Shearer	60 Taliaferro Street	Rocky Mount, VA 24151		2070051100	7008 1830 0002 2412 9830
Mr. Allen Richard Jones	Mrs. Mary L. Jones	777 McNeil Mill Road	Rocky Mount, VA 24151	2070050700	7008 1830 0002 2412 9847
Ms. Brenda B. Turner	P.O. Box 86	Rocky Mount, VA 24151		2070054900	7008 1830 0002 2412 9854
Mount Vesuvius LLC	P.O. Box 889	Moneta, VA 24121		2070054900	7008 1830 0002 2412 9861
Mr. John L. Clements	Mrs. Diana L. Clements	110 Windward Drive	Rocky Mount, VA 24151	2070055000	7008 1830 0002 2413 0829
Mr. Robert L. Jones	Mrs. Arlene A. Jones	4449 Waidboro Road	Ferrum, VA 24088	2070049300	7008 1830 0002 2413 0836
Mr. Jerry Thompson	And Others	2140 Rakes Road	Rocky Mount, VA 24151	2070049400	7008 1830 0002 2413 0843
Cleive L. Adams	25 Willow Avenue	Rocky Mount, VA 24151		2070049500, 2070049600	7008 1830 0002 2413 0850
Mrs. Christine S. Angle		P.O. Box 1191	Rocky Mount, VA 24151	2070049700	7008 1830 0002 2413 0867

50 Floyd Adjacent and Adjoining Property Owners

2/28/2014

ADDRES LN 1	ADDRESS LN 2	ADDRESS LN 3	ADDRESS LN 4	TMPN	CERTIFIED MAIL VARIANCE 3-
Mr. Clyde C. Hardy	Mrs. Nancy M. Hardy	P.O. Box 401	Boones Mill, VA 24065	2070049800	7008 1830 0002 2413 0874
Mr. Robert K. Mills, Trustee	P.O. Box 368	Rocky Mount, VA 24151		2070049900	7008 1830 0002 2413 0881
Mr. Joseph W. Newbill	Mrs. Carolyn J. Newbill	10805 Booker T. Washington Hwy.	Wirtz, VA 24184	2070050000	7008 1830 0002 2413 0898
Mr. Shaun A. Fralin	105 Walnut Street	Rocky Mount, VA 24151		2070050100	7008 1830 0002 2413 0904

**TOWN OF ROCKY MOUNT
PUBLIC HEARING NOTICE**

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 p.m., Thursday, March 6, 2014**, in the Council Chambers at the Rocky Mount Municipal Building, 345 Donald Avenue, Rocky Mount, Virginia, to which the public and all interested parties are invited to hear the following:

Grove Rocky Mount, LLC requests a variance from Article 7-2-7 of the Zoning and Development 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 parking area at 50 Floyd Avenue, also known as Franklin County Tax Map & Parcel Number 20700 50600, using natural materials, such as chipped wood, instead of asphalt or concrete. The property is zoned Central Business District - CBD and will be used as a commercial bed-and-breakfast establishment. A site-visit will be held at 5:15 p.m. immediately prior to the public hearing.

The public may view information regarding the variance request at the Rocky Mount Municipal Building, 345 Donald Avenue, Rocky Mount, from 8 a.m. to 5 p.m., Monday through Friday. Written comments may be sent to the attention of the Deputy Clerk, or e-mailed to government@rocky-mountva.org. **ANY PERSON WITH A DISABILITY WHO NEEDS ACCOMMODATION TO FULLY PARTICIPATE IN THE PUBLIC HEARING SHOULD NOTIFY THE DEPUTY CLERK AT 540-483-0907.**

**Stacey B. Sink
Deputy Clerk**



Run Dates

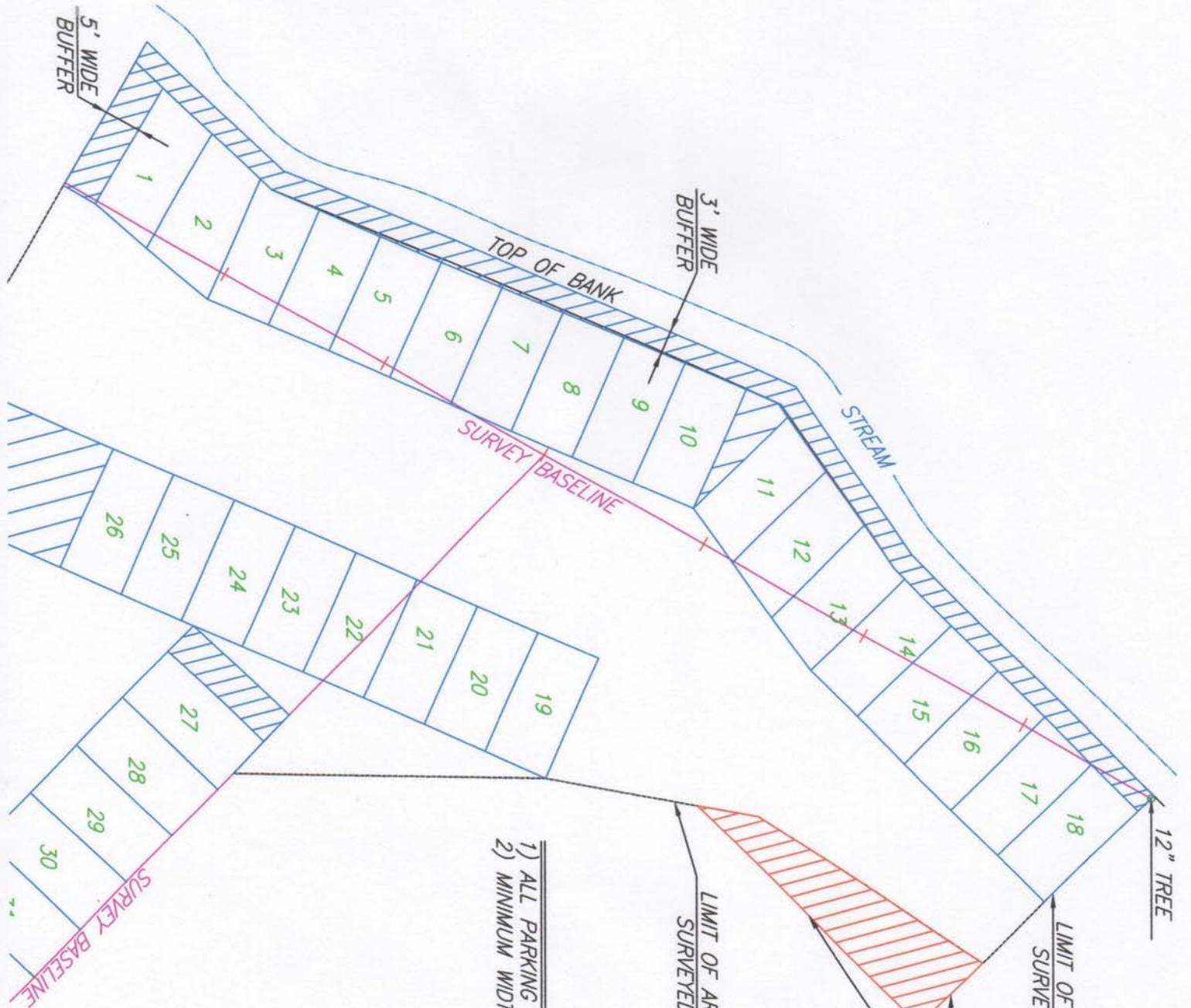
Friday, February 21st

Friday, February 28

Ad Specs

2 columns by 6.25 inches

12.5 column inches



- NOTES
- 1) ALL PARKING STALLS TO BE 9' X 18'
 - 2) MINIMUM WIDTH BETWEEN DRIVE AISLES TO BE 24'

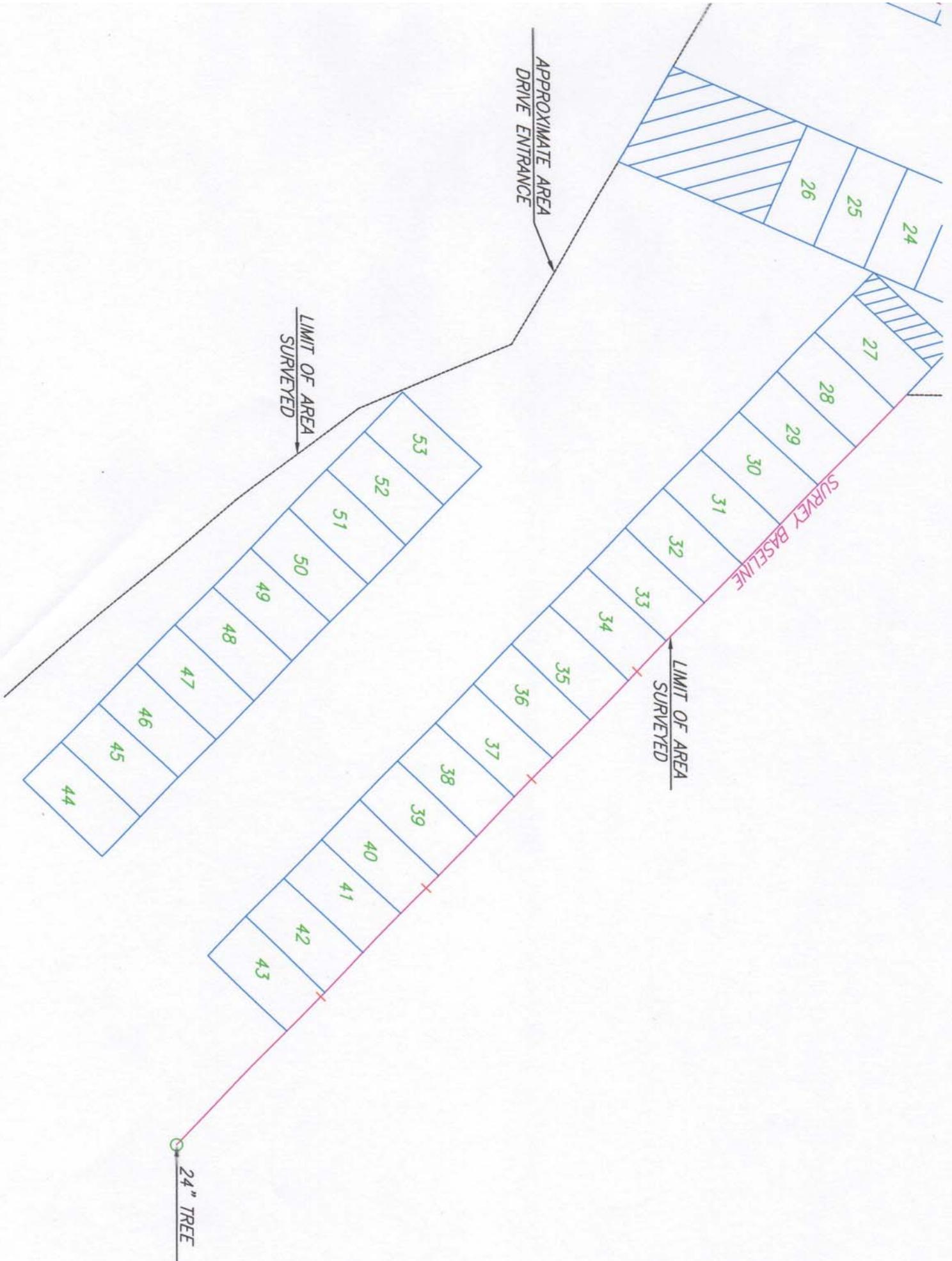
SCALE: 1" = 20'



LIMIT OF AREA SURVEYED

LIMIT OF AREA SURVEYED

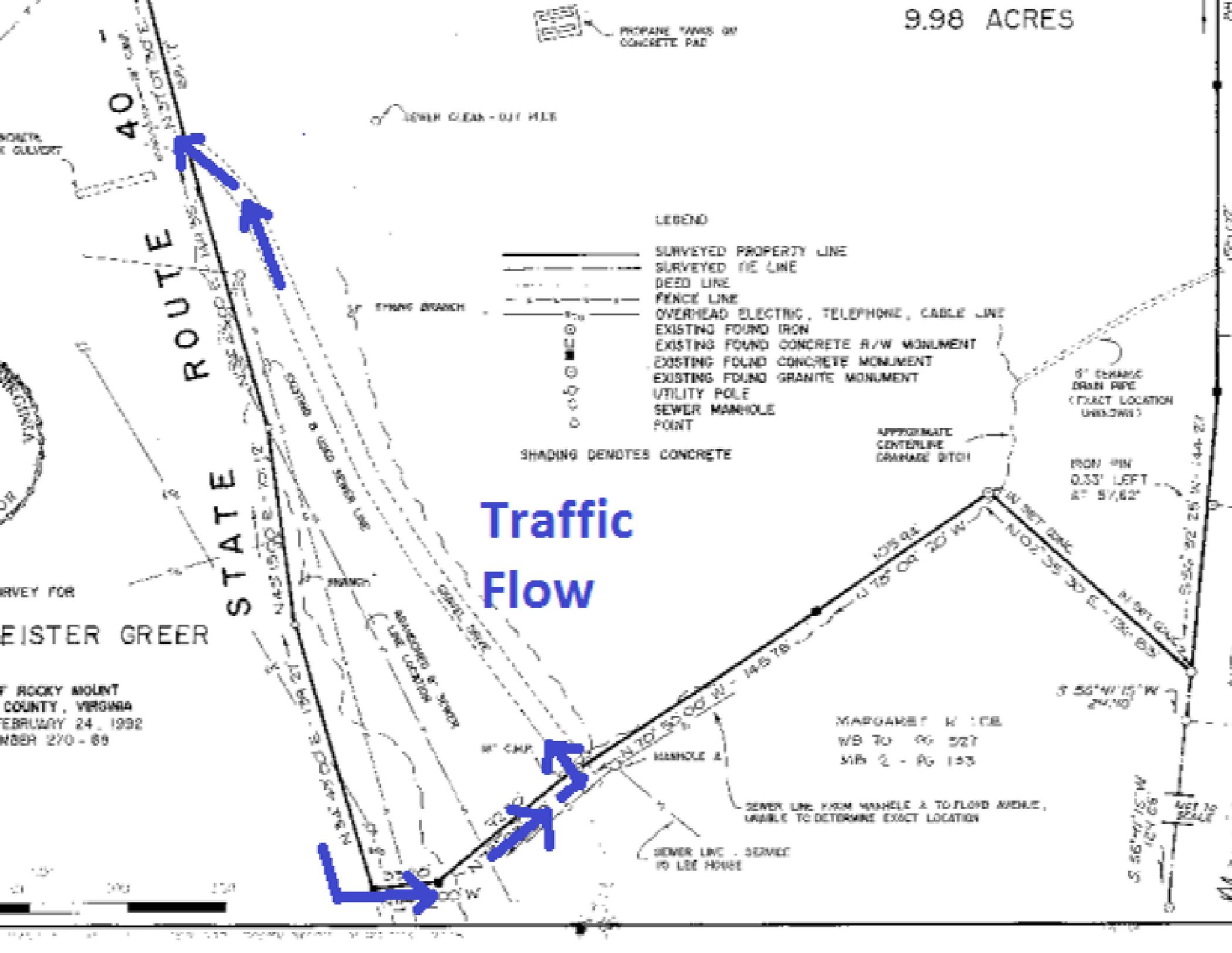
AREA TO BE CLEARED



9.98 ACRES



PROpane TANK ON CONCRETE PAD



LEGEND

- SURVEYED PROPERTY LINE
- SURVEYED I/E LINE
- DEED LINE
- FENCE LINE
- OVERHEAD ELECTRIC, TELEPHONE, CABLE LINE
- EXISTING FOUND IRON
- EXISTING FOUND CONCRETE R/W MONUMENT
- EXISTING FOUND CONCRETE MONUMENT
- EXISTING FOUND GRANITE MONUMENT
- UTILITY POLE
- SEWER MANHOLE
- POINT

SHADING DEMOTES CONCRETE

Traffic Flow

REVESTER GREER

ROCKY MOUNT COUNTY, VIRGINIA
FEBRUARY 24, 1992
NUMBER 270-89

MARGARET W : CB
WB TO PG 527
MB E - PG 143

SEWER LINE FROM MANHOLE 2 TO FLOYD AVENUE,
UNABLE TO DETERMINE EXACT LOCATION

SEWER LINE - SERVED
TO LEE HOUSE

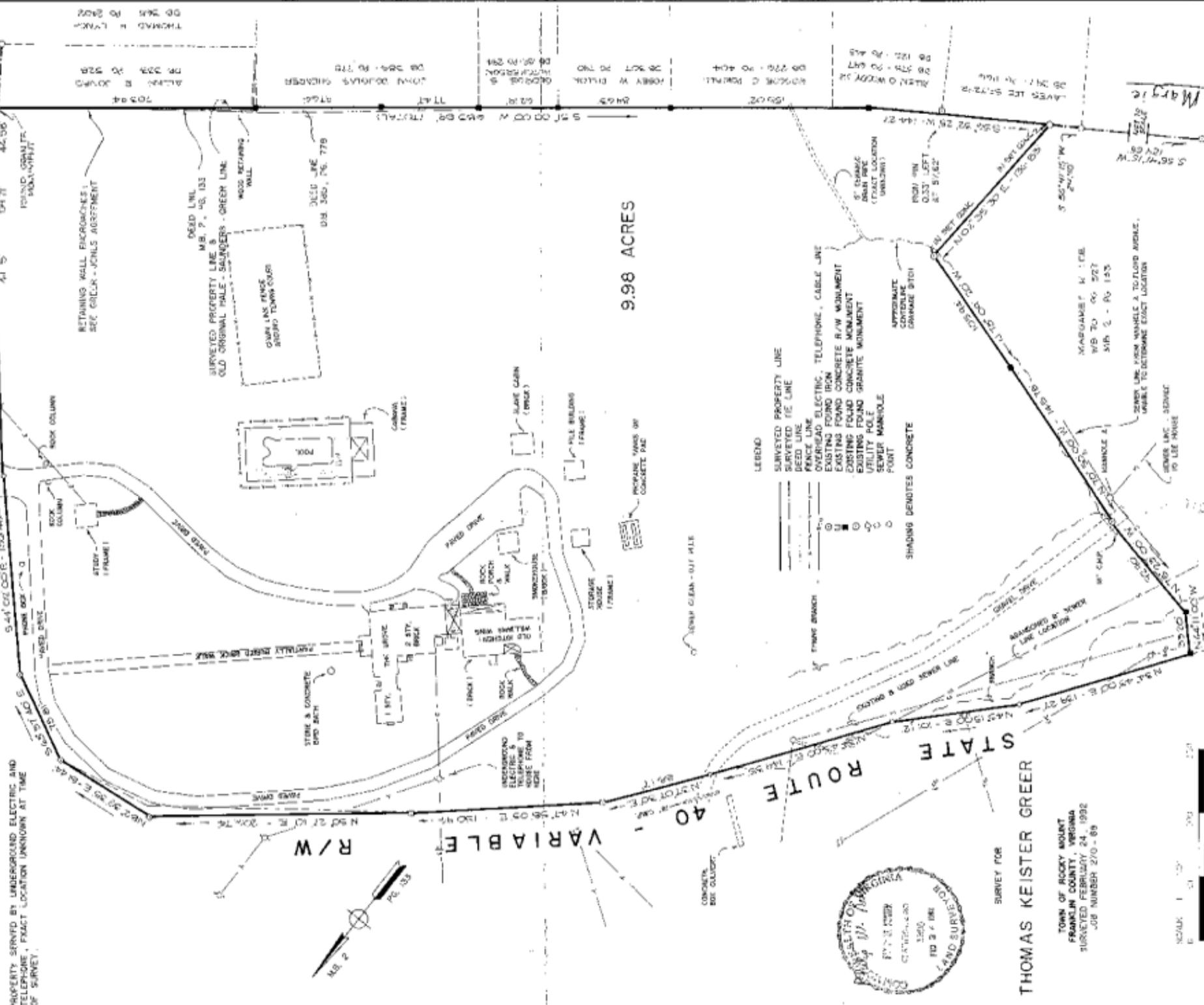


NOTES

- LEGAL REFERENCE: USED ROCK 170, PAGE 325
MAP BOOK 2, PAGE 53
- TAX RETURN: 207.00 - 506
- PROPERTY LOCATED IN FLOOD HAZARD ZONE C.
- SURVEY PERFORMED WITHOUT BENEFIT OF A TITLE REPORT
AND MAY NOT INCLUDE ALL ENCUMBRANCES ON THE PROPERTY.
- PROPERTY SERVED BY UNDERGROUND ELECTRIC AND
TELEPHONE, EXACT LOCATION UNKNOWN AT TIME
OF SURVEY.

FLOYD AVENUE - VARIABLE R/W

5°34'50"20"E
44'9"0"
S 47°41'00"E - 145.85
S 43°28'00"E - 9.98
S 30°15'36"E
44'9"0"
DR 225 - PO 528
ALLEN B JOYNS
703 84



9.98 ACRES

LEGEND

- SURVEYED PROPERTY LINE
- SURVEYED E/C LINE
- FENCE LINE
- DEAD LINE
- EXISTING FOUND IRON OVERHEAD ELECTRIC, TELEPHONE, CABLE LINE
- EXISTING FOUND CONCRETE R/W MONUMENT
- EXISTING FOUND CONCRETE MONUMENT
- EXISTING FOUND GRANITE MONUMENT
- UTILITY POLE
- SEWER MANHOLE
- POINT
- SHADING DENOTES CONCRETE



SURVEY FOR
THOMAS KEISTER GREER

TOWN OF ROCKY MOUNT
FRANKLIN COUNTY, VIRGINIA
SURVEYED FEBRUARY 24, 1992
JOB NUMBER 270-69



Maryie
S 56°15'18"W
150.00
S 55°41'57"W
150.00
S 21°15'18"W
150.00
ALLEN O WOODY JR
DR 278 - PO 647
DR 122 - PO 415
ROSCOE C BOWMAN
DR 278 - PO 404
ROBBY W BULLOCK
DR 307 - PO 740
GEORGE S
DR 81 - PO 284
JOHN DOUGLAS GIBBENS
DR 284 - PO 778
ALLEN B JOYNS
DR 225 - PO 528
THOMAS H LYONS
DR 245 - PO 292

MARGARET K. LEB
WB TO PO 227
SB 2 - PO 133
SEWER LINE - SOUND
PO LEE HOUSE
SEWER LINE FROM MANHOLE A TO FLOYD AVENUE.
UNABLE TO DETERMINE EXACT LOCATION

MANHOLE A
BY CMP
GRAVEL DRIVE
MANHOLE B TYPICAL
LINE LOCATION

DRIVING & USED HEAVY LINE
CONCRETE SET CURB

STATE ROUTE 40
VARIABLE R/W

STATE ROUTE 40
VARIABLE R/W

STATE ROUTE 40
VARIABLE R/W

**BYLAWS
of the
Town of Rocky Mount
Board of Zoning Appeals**

Adopted: October 8, 1996
Amended/Readopted: **Month Day, 2014**

Article I. Authorization

1-1. This Board of Zoning Appeals is established in conformance with the organizational meeting set forth on May 2, 1988, and in accord with the provisions of **Section 15.2-2308¹** of the Code of Virginia (1950), as amended.

1-2. The official title of this body shall be the Town of Rocky Mount Board of Zoning Appeals, hereinafter referred to as "Board".

Article II. Purpose

2-1. The primary purpose of the Board is:

2-1-1. To hear and decide appeals from any order, requirement, **or^{1.1}** determination made by an administrative officer in the administration or enforcement of the Zoning and Development Ordinance;

2-1-2. To hear and decide applications for interpretation of the **official zoning²** map where there is an uncertainty as to the location of a district **boundary³**; and

2-1-3. To authorize upon appeal **or original application** in specific cases such variance **as defined in Section 15.2-2201 of the Code of Virginia (1950), as amended, from the terms of the ordinance** as will not be contrary to the public interest, **when, owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship**, and provided that all variances shall be **in** harmony with the intended spirit and purpose of the ordinance. ⁴

Article III. Membership

3-1. The Board shall consist of five members appointed by the Circuit Court of Franklin County. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term. ⁵

3-2. The terms of members shall be for five years. One of the appointed members

shall be an active member of the Planning Commission for the Town of Rocky Mount.

3-3. Members may be removed by the Circuit Court for cause upon written charges and after a public hearing.

3-4. The Town Council may provide for the **compensation for services and the payment of expenses incurred by Board members in the performance of their official duties.**⁶

3-5. The Zoning Administrator shall meet with each Board member for an orientation.

3-6. The Board members are encouraged to attend any seminars and any training **opportunities which pertain to their duties as Board members.**⁷ (i.e. - The Virginia Certified Board of Zoning Appeals Program).

3-7. All Board members shall be residents of the Town of Rocky Mount, Virginia.

Article IV. Selection of Officers

4-1. Officers of the Board shall consist of a chairman, vice chairman, and secretary. The chairman and vice chairman shall be elected by the membership. The secretary shall serve at the request of the Board and may be a member of the Board, an employee of the Town of Rocky Mount, or a volunteer citizen, **and if not a member of the Board, shall not be entitled to vote on matters before the Board.**⁸

4-2. Nominations of officers shall be made from the Board at the first meeting of the calendar year. Election of officers shall follow immediately. A candidate receiving a majority vote of the entire membership shall be declared elected.

4-3. Terms of office shall be for two years or until a successor takes office.

4-4. Office vacancies shall be filled for an unexpired term by a majority vote of the Board.

Article V. Duties of Officers

5-1. The chairman shall:

5-1-1. Preside at meetings.

5-1-2. Appoint committees.

5-1-3. Rule on procedural questions (subject to reversal by a two-thirds

majority vote of the members present.)

5-1-4. Certify official documents involving authority of the Board.

5-1-5. Certify minutes as true and correct copies.

5-1-6. Carry out other duties as assigned by the Board.

5-2. The vice chairman shall:

5-2-1. Assume the full powers of the chairman in the absence or inability of the chairman to act.

5-3. The secretary shall:

5-3-1. Record attendance at all meetings.

5-3-2. Record the minutes of the Board meetings.

5-3-3. Notify members of all meetings.

5-3-4. Maintain a file of all official Board records and reports.

5-3-5. Certify maps, records, and reports of the Board.

5-3-6. Give notice and be responsible for publishing public notices of all Board public hearings and public meetings.

5-3-7. Attend to the correspondence for the execution of the duties and function of the Board.

Article VI. Committee(s)

6-1. Special committee may be appointed by the chairman for purposes and terms approved by the Board.

6-2. The chairman shall be an ex-officio member of every committee.

6-3. Committees may request the participation of the **Community Development Director, Planning and Zoning Administrator⁹**, and/or the Town Attorney at committee meetings.

6-4. All committees will present a report to the Board.

Article VII. Meetings

7-1. The meeting of the Board shall be held at the call of its chairman, or at such times as a quorum of the Board may determine.

7-2. Regular meetings shall be held on the **first Thursday of each month at 6:00 p.m.**¹⁰ if there is business pending.

7-3 The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

7-4. The Board shall keep minutes of its proceedings showing each member upon each question, or if it absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be public record.

7-5. All meetings of the Board shall be open to the public. All speakers must identify themselves by name and address before speaking. Speakers may be limited to five minutes, unless extended by the approval of a majority of the Board **present.**^{10.1}

Article VIII. Voting

8-1. A quorum shall **not be less than a majority of all members of the Board.**¹¹

8-2. **The concurring vote of a majority of the membership of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant on any matter upon which the Board is required to pass under the ordinance or to effect any variance from the ordinance.**

8-3. **Except for matters governed by Section 15.2-2312 of the Code of Virginia (1950), as amended and Article 8-2 of these bylaws, no action of the board shall be valid unless authorized by a majority vote of those Board members present and voting.**¹²

Article IX. Order of Business

9-1. The order of business shall be:

9-1-1. Call to order.

9-1-2. Roll call.

9-1-3. Determination of a quorum.

- 9-1-4. Approval of agenda.
- 9-1-5. Review/approval of minutes.
- 9-1-6. **Recess to public hearings/testimony.**¹³
- 9-1-7. Reconvene **for consideration of application and action.**^{14,14.1}
- 9-1-8. Unfinished business.
- 9-1-9. New business.
- 9-1-10. Board concerns and staff updates.**¹⁵
- 9-1-11. Adjournment.

9-2. Parliamentary procedure in all meetings shall be governed by *Robert's Rules of Order, Newly Revised*.

9-3. The Board shall keep minutes of its proceedings and other official actions which shall be filed by the secretary and shall be public records. The chairman of the Board, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.

Article X. Public Hearings and Appeals

10-1. The Board shall fix a reasonable time for hearing an application of appeal, give public notice thereof, as well as due notice to the parties in interest and decide the same within **90 days of the filing of the application or appeal in accordance with Section 15.2-2312**¹⁶ of the Code of Virginia (1950), as amended. The appeal shall be placed on the calendar of the Board for public hearing when the Board has sufficient factual information to hear the case.

10-2. There may not be a rehearing on the same issue, but the case may be appealed to the Circuit Court.

10-3. Any person may appear in person, by agent or attorney, at any public hearing.

10-4. The order of proceedings shall be as follows:

10-4-1. Conflict of interest disclaimer.

10-4-2. Reading of the public notice and affidavit of publication for the hearing by the secretary.

10-4-3. Notation for the record that all members of the Board have made a personal inspection, or are familiar with, the property prior to the public hearing.

10-4-4. Reading of pertinent written comments, reports, and staff presentation concerning the appeal and/or incorporation into the record by reference.

10-4-5. Questions/Comments from the Board for staff.¹⁷

10-4-6. Applicant's response to staff presentation.

10-4-7. Questions/Comments from the Board for the applicant.¹⁸

10-4-8. Comments from witnesses/public concerning the matter.¹⁹

10-4-9. Rebuttals/Additional comments²⁰ from the applicant.

10-5. The chairman, or in his absence the acting chairman, may require any witness to swear or affirm that his or her statements of fact are true. The chairman, or in his absence the acting chairman, may compel the attendance of witnesses.

10-6. All public hearings²¹ of the Board shall be open to the public. All speakers must identify themselves by name and address before speaking. Speakers will be limited to five minutes unless extended by the approval of a majority of the Board present.

10-7. The Board may, by majority vote of members present and voting, continue a meeting to a future date if necessary (all actions must be taken within 90 days of the filing of the request).

10-8. Parliamentary procedure in all public hearings shall be governed by *Robert's Rules of Order, Newly Revised*.

Article XI. Amendments

11-1. These bylaws may be amended by a majority vote of the entire membership after 30 days prior notice.

LIST OF PROPOSED AMENDMENTS

¹ Corrected code of Virginia reference... old reference Section 15.1-427.1 is no longer valid.

^{1.1} Added word "or" for clarity.

² Added words "official zoning" before *map* for clarification.

³ Changed the word "bounty" to "boundary" for clarification.

⁴ Previously read: "To authorize upon appeal in specific cases such variance terms of the ordinance as will not be contrary to the public interest and provided that all variances shall be harmony with the intended spirit and purpose of the ordinance."

⁵ Removed the phrase: "The Board shall serve without pay, other than for traveling expenses" ...Also removed: "ADDENDUM: Upon motion of the Rocky Mount Town Council in October 1996, the Board will receive twenty dollars (\$20.00) for each meeting they attend" ...no longer relevant.

⁶ Rearranged wording for clarity.

⁷ Changed wording: "seminars and training setup for the Board of Zoning Appeals".

⁸ Added phrase: "and if not a member of the Board shall not be entitled to vote on matters before the Board."

⁹ Changed "Planning and Zoning Director" to "Community Development Director, Planning and Zoning Administrator".

¹⁰ Changed from: "Tuesday after the first Monday of each month..."

^{10.1} Added word "present", so that if only three voting members are present, a majority of two could decide to extend the speaking time.

¹¹ Changed from: "A quorum shall be at least three members."

¹² Previous: "A favorable vote of three members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant on any matter upon which the Board is required to pass." **NOTES: Amended Article 8-2 and added Article 8-3.** Section 15.2-2308 and Section 15.2-2312 differentiate between types of Board action. 8-2 applies to variance requests and appeals decisions and requires a majority of the entire board. 8-3 applies to other types of Board action (such as for board business) where only a majority vote of the

board members present and voting is required.

¹³ Added words “recess to” - Chairman should recess the regular meeting to go into public hearing.

¹⁴ Previously read “Reconvene and action on new cases.”

^{14.1} Removed 9-1-7: “The Board may adjourn to Executive Session for deliberation.” - The board may not go into Executive Session (Closed Meeting) for public hearing deliberation.

¹⁵ Added 9-1-10 into order of business.

¹⁶ Changed referenced code section from 15.2-1431 to 15.2-2312...also changed 60 days to 90 days to correspond with State Code.

^{17,18,19,20} Changed language regarding public hearing order of proceedings for better flow.

²¹ Changed the word “meetings” to “public hearings”. Article VII addresses Meetings. Article X addresses Public Hearings.

§ 15.2-2308. Boards of zoning appeals to be created; membership, organization, etc.

A. Every locality that has enacted or enacts a zoning ordinance pursuant to this chapter or prior enabling laws, shall establish a board of zoning appeals that shall consist of either five or seven residents of the locality, appointed by the circuit court for the locality. Boards of zoning appeals for a locality within the fifteenth or nineteenth judicial circuit may be appointed by the chief judge or his designated judge or judges in their respective circuit, upon concurrence of such locality. Their terms of office shall be for five years each except that original appointments shall be made for such terms that the term of one member shall expire each year. The secretary of the board shall notify the court at least thirty days in advance of the expiration of any term of office, and shall also notify the court promptly if any vacancy occurs.

Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. Members of the board shall hold no other public office in the locality except that one may be a member of the local planning commission. A member whose term expires shall continue to serve until his successor is appointed and qualifies. The circuit court for the City of Chesapeake and the Circuit Court for the City of Hampton shall appoint at least one but not more than three alternates to the board of zoning appeals. At the request of the local governing body, the circuit court for any other locality may appoint not more than three alternates to the board of zoning appeals. The qualifications, terms and compensation of alternate members shall be the same as those of regular members. A regular member when he knows he will be absent from or will have to abstain from any application at a meeting shall notify the chairman twenty-four hours prior to the meeting of such fact. The chairman shall select an alternate to serve in the absent or abstaining member's place and the records of the board shall so note. Such alternate member may vote on any application in which a regular member abstains.

(Note: we currently have no alternate members).

B. Localities may, by ordinances enacted in each jurisdiction, create a joint board of zoning appeals that shall consist of two members appointed from among the residents of each participating jurisdiction by the circuit court for each county or city, plus one member from the area at large to be appointed by the circuit court or jointly by such courts if more than one, having jurisdiction in the area. The term of office of each member shall be five years except that of the two members first appointed from each jurisdiction, the term of one shall be for two years and of the other, four years. Vacancies shall be filled for the unexpired terms. In other respects, joint boards of zoning appeals shall be governed by all other provisions of this article.

C. With the exception of its secretary and the alternates, the board shall elect from its own membership its officers who shall serve annual terms as such and may succeed themselves. The board may elect as its secretary either one of its members or a qualified individual who is not a member of the board, excluding the alternate members. A secretary who is not a member of the board shall not be entitled to vote on matters before the board. For the conduct of any

need to add this language ↘

↪ need to amend this language in bylaws.

2

hearing, a quorum shall be not less than a majority of all the members of the board. Except for matters governed by § 15.2-2312, no action of the board shall be valid unless authorized by a majority vote of those present and voting. The board may make, alter and rescind rules and forms for its procedures, consistent with ordinances of the locality and general laws of the Commonwealth. The board shall keep a full public record of its proceedings and shall submit a report of its activities to the governing body or bodies at least once each year.

* Annual Report is required.

D. Within the limits of funds appropriated by the governing body, the board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Members of the board may receive such compensation as may be authorized by the respective governing bodies. Any board member or alternate may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court that appointed him, after a hearing held after at least fifteen days' notice.

E. Notwithstanding any contrary provisions of this section, in the City of Virginia Beach, members of the board shall be appointed by the governing body. The governing body of such city shall also appoint at least one but not more than three alternates to the board.

(Code 1950, §§ 15-825, 15-850, 15-968.8; 1950, pp. 176, 489; 1952, c. 688; 1962, c. 407, § 15.1-494; 1975, c. 641; 1976, c. 642; 1977, c. 172; 1982, c. 3; 1989, c. 27; 1992, c. 47; 1997, cc. 570, 587; 1998, cc. 346, 520, 528; 1999, c. 838; 2002, cc. 205, 545; 2007, c. 813; 2009, c. 734; 2010, c. 705.)

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→ 15.2-2312 requires a concurring vote of a majority of the membership of the board on an appeal determination.

§ 15.2-2309. Powers and duties of boards of zoning appeals.

Boards of zoning appeals shall have the following powers and duties:

- ✓ 1. To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The board shall consider the purpose and intent of any applicable ordinances, laws and regulations in making its decision.
- ✓ 2. To authorize upon appeal or original application in specific cases such variance as defined in § 15.2-2201 from the terms of the ordinance as will not be contrary to the public interest, when, owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of the ordinance shall be observed and substantial justice done, as follows:

When a property owner can show that his 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 condition of the piece of property, or of the condition, 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 the variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance.

No such variance shall be authorized by the board unless it finds:

- a. That the strict application of the ordinance would produce undue hardship relating to the property;
- b. That the hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
- c. That the authorization of the 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.

No variance shall be authorized except after notice and hearing as required by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or

certified mail.

No variance shall be authorized unless the board finds that 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.

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. Notwithstanding any other provision of law, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

3. To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

4. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

5. No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

6. To hear and decide applications for special exceptions as may be authorized in the ordinance. The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

→ special exceptions are decided upon by Town Council after recommendation by Planning Commission

No special exception may be granted except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of

abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

7. To revoke a special exception previously granted by the board of zoning appeals if the board determines that there has not been compliance with the terms or conditions of the permit. No special exception may be revoked except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. If a governing body reserves unto itself the right to issue special exceptions pursuant to § 15.2-2286, and, if the governing body determines that there has not been compliance with the terms and conditions of the permit, then it may also revoke special exceptions in the manner provided by this subdivision.

8. The board by resolution may fix a schedule of regular meetings, and may also fix the day or days to which any meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting in accordance with § 15.2-2312 shall be conducted at the continued meeting and no further advertisement is required.

(Code 1950, §§ 15-831, 15-850, 15-968.9; 1950, p. 176; 1962, c. 407, § 15.1-495; 1964, c. 535; 1972, c. 695; 1975, cc. 521, 641; 1987, c. 8; 1991, c. 513; 1996, c. 555; 1997, c. 587; 2000, c. 1050; 2002, c. 546; 2003, c. 403; 2006, c. 264; 2008, c. 318; 2009, c. 206.)

§ 15.2-2310. Applications for special exceptions and variances.

Applications for special exceptions and variances may be made by any property owner, tenant, government official, department, board or bureau. Applications shall be made to the zoning administrator in accordance with rules adopted by the board. The application and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the board who shall place the matter on the docket to be acted upon by the board. No special exceptions or variances shall be authorized except after notice and hearing as required by § 15.2-2204. The zoning administrator shall also transmit a copy of the application to the local planning commission which may send a recommendation to the board or appear as a party at the hearing. Any locality may provide by ordinance that substantially the same application will not be considered by the board within a specified period, not exceeding one year.

(Code 1950, §§ 15-828 through 15-830, 15-832, 15-833, 15-850, 15-968.10; 1950, p. 176; 1962, c. 407, § 15.1-496; 1966, c. 256; 1975, cc. 521, 641; 1989, c. 407; 1997, c. 587.)

§ 15.2-2311. Appeals to board.

Zoning Denial Required Language

A. An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the locality affected by any decision of the zoning administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this article, any ordinance adopted pursuant to this article, or any modification of zoning requirements pursuant to § 15.2-2286. Notwithstanding any charter provision to the contrary, any written notice of a zoning violation or a written order of the zoning administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within 30 days in accordance with this section, and that the decision shall be final and unappealable if not appealed within 30 days. The zoning violation or written order shall include the applicable appeal fee and a reference to where additional information may be obtained regarding the filing of an appeal. The appeal period shall not commence until the statement is given. A written notice of a zoning violation or a written order of the zoning administrator that includes such statement sent by registered or certified mail to, or posted at, the last known address of the property owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed sufficient notice to the property owner and shall satisfy the notice requirements of this section. The appeal shall be taken within 30 days after the decision appealed from by filing with the zoning administrator, and with the board, a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. The fee for filing an appeal shall not exceed the costs of advertising the appeal for public hearing and reasonable costs. A decision by the board on an appeal taken pursuant to this section shall be binding upon the owner of the property which is the subject of such appeal only if the owner of such property has been provided notice of the zoning violation or written order of the zoning administrator in accordance with this section. The owner's actual notice of such notice of zoning violation or written order or active participation in the appeal hearing shall waive the owner's right to challenge the validity of the board's decision due to failure of the owner to receive the notice of zoning violation or written order. For jurisdictions that impose civil penalties for violations of the zoning ordinance, any such civil penalty shall not be assessed by a court having jurisdiction during the pendency of the 30-day appeal period.

B. An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the board or by a court of record, on application and on notice to the zoning administrator and for good cause shown.

C. In no event shall a written order, requirement, decision or determination made by the zoning

administrator or other administrative officer be subject to change, modification or reversal by any zoning administrator or other administrative officer after 60 days have elapsed from the date of the written order, requirement, decision or determination where the person aggrieved has materially changed his position in good faith reliance on the action of the zoning administrator or other administrative officer unless it is proven that such written order, requirement, decision or determination was obtained through malfeasance of the zoning administrator or other administrative officer or through fraud. The 60-day limitation period shall not apply in any case where, with the concurrence of the attorney for the governing body, modification is required to correct clerical errors.

D. In any appeal taken pursuant to this section, if the board's attempt to reach a decision results in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.

(1975, c. 521, § 15.1-496.1; 1983, c. 12; 1993, c. 780; 1995, c. 424; 1997, c. 587; 2005, cc. 625, 677; 2008, c. 378; 2010, c. 241; 2011, c. 457; 2012, cc. 400, 550, 606.)

bylaws currently allow for (60 days).

§ 15.2-2312. Procedure on appeal.

The board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and make its decision within ninety days of the filing of the application or appeal. In exercising its powers the board may reverse or affirm, wholly or partly, or may modify, an order, requirement, decision or determination appealed from. The concurring vote of a majority of the membership of the board shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or to effect any variance from the ordinance. The board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the board and shall be public records. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

(1975, c. 521, § 15.1-496.2; 1983, c. 444; 1986, c. 483; 1997, c. 587.)