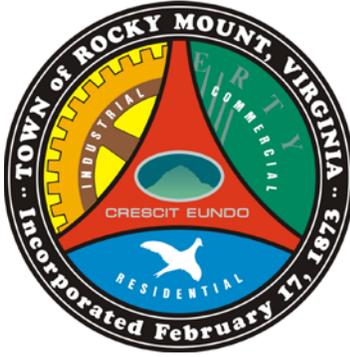


TOWN OF ROCKY MOUNT  
345 DONALD AVE.  
ROCKY MOUNT, VIRGINIA 24151

540.483.7660  
FAX : 540.483.8830

E-MAIL: MHANKINS@ROCKYMOUNTVA.ORG  
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, May 8, 2014 • 6 p.m.

To be held in the Council Chambers  
of the Rocky Mount Municipal Building  
located at 345 Donald Avenue, Rocky Mount, VA

**NOTE: Anyone wishing to speak during the public hearing  
should sign in at the front table**

Call to Order and Welcome

Charles Hutto, Jr., Chairman

1. Roll Call of Members Present
2. Approval of Agenda
3. Review and Consideration of Minutes
  - March 6, 2014 - Regular Meeting
4. Public Hearing
  - a. *Rocky Mount Baptist Church, located at 85 West Church Street, and known as Franklin County Tax Map and Parcel Number 2070060400, seeks a variance from Article 29-13-1 of the Zoning and Development Ordinance, which specifies that businesses located next to existing residential units in the Central Business District (CBD) must observe a minimum buffer of 25 feet. The applicant wishes to construct an accessory structure within the required buffer area. Accessory structures are not a use by right in the CBD, and the applicant was granted a special use permit by the Rocky Mount Town Council during an April public hearing, allowing the structure on the property.*
    - i. *Staff Report regarding request*
    - ii. *Comments from applicant*
    - iii. *Comments from public*
5. Old Business
  - a. *Review and Consideration of Proposed Bylaws Amendments.*
6. Board Concerns & Staff Updates
7. Adjournment

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

**DRAFT**

**MEETING MINUTES**

**MARCH 6, 2014**

**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, March 6, 2014, at 6:00 p.m., with Chairman Charles L. Hutto, Jr. presiding.

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

Chairman Charles L. Hutto, Jr., Vice Chairman Susan Hapgood; Board of Zoning Appeals Members John Speidel and George Gautsch; Staff members, Assistant Town Manager Matthew C. Hankins, Town Attorney John Boitnott, and Deputy Clerk Stacey B. Sink.

Let the record show that BZA Member Gautsch was welcomed to the Board as a new member and BZA Member Lucas Tuning was absent from the meeting.

**APPROVAL OF AGENDA**

- Motion was made by Vice Chairman Hapgood to approve the agenda 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 by those present.

**ELECTION OF OFFICERS**

- Motion was made by BZA Member Speidel that the currently serving chairman, vice chairman, and secretary of the BZA be returned to office, with the motion on the floor being seconded by BZA Member Gautsch. There being no further discussion, let the record show that the motion on the floor passed unanimously by those present. The current slate of officers will remain, being: Chairman, Charles Hutto, Jr.; Vice Chairman, Susan Hapgood; and Secretary, Stacey Sink.

## **APPROVAL OF MINUTES**

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

- July 12, 2012 – Regular meeting minutes

Chairman Hutto asked for any additions or corrections to the minutes as presented and, hearing none, entertained a motion.

- Motion was made by Vice Chairman Haggood 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 by those present.

## **PUBLIC HEARING**

Chairman Hutto recessed the regular meeting to hold the following public hearing:

### **(A) *Grove Rocky Mount, LLC Variance Request***

After being duly advertised, and pursuant to the Town of Rocky Mount Zoning & Development Ordinance, and the Code of Virginia, Grove Rocky Mount, LLC requested 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.

Chairman Hutto noted that all of the BZA Members in attendance visited the site prior to the meeting

Town Planner Patrick Rust delivered the staff report regarding the variance request, making the following points:

- The applicant plans to use a gravel or rock base with natural materials (such as chipped wood) on top of the base.

- The applicant proposes to construct a 50 to 70 space parking area on the lower part of the property.
- The applicant is requesting a variance based on the perceived hardship that an asphalt parking area will take away from the historic, pastoral setting and charm of the property. In addition, the applicant believes that a green or natural parking area will be more suitable in proximity to the creek on the property, and the stormwater will be minimal.
- After due consideration and review, staff recommends that the BZA 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 with the property's historical character.
- To approve the variance request, the BZA 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; (3) that the authorization of the variance will not be of substantial detriment to adjacent properties and that the character of the district will not be change by the granting of the variance
- The BZA has 90 days from the date of filing on the application to make a determination. Also, the BZA may impose such conditions regarding the location, character and other features of the proposed 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.
- The Planning Commission was briefed on the variance request on Tuesday, March 4, 2014, as is required by § 15.2-2310 of the Code of Virginia, and did recommend the approval of the variance request as presented.

Next, Chairman Hutto called upon the applicant to speak in reference to the request.

**Brian Hochstein, representative of Grove Rocky Mount, LLC (and one of the partners),** came forward to make the following statements:

- He showed a picture of the property with a diagram of the parking on Route 40.
- There will be one-direction traffic.
- The area is currently overgrown grass.
- There will be a based covered with natural material such as chipped wood or other materials. The base will be several inches of gravel or chrusher run that is packed and the coated. The parking area will not be just chipped wood on top of dirt.

- He does anticipate having to raise areas of the road and to place a retaining wall along the creek. He is hiring engineers to look at this.
- In response to a question about there being a concern about flooding: He does not know the history of the flooding in the area and is concerned about it. It is not in a flood zone.

Chairman Hutto called upon any member of the audience that wished to speak in regard to the request. Let the record show that no members of the public came forward to speak about the request.

There being no further discussion, Chairman Hutto entertained a motion:

- Motion was made by BZA Member Speidel that the variance request for 50 Floyd Avenue, Tax Map & Parcel Number 20700 50600, be granted, on the grounds that the strict application of the ordinance would produce undue hardship relating to the property, that the hardship is not shared generally by other properties in the same zoning district and the same vicinity, and that the authorization of the variance will not be of substantial detriment to adjacent properties, and that the character of the district will not be changed by the granting of the variance, with the motion on the flooring being seconded by Vice Chairman Hapgood. Assistant Town Manager Hankins clarified that, if approved, the applicant will present staff with a grading plan for the parking area. There being no further discussion, let the record show that the motion on the floor passed unanimously by those present.

## **OLD BUSINESS**

### ***(1) Discussion regarding bylaws amendments***

Chairman Hutto noted that Secretary Sink and BZA Member Speidel have worked to produce an updated bylaws document, and that document is available in the packet for review. The Board has 30 days to review and then can vote to adopt the new bylaws. Secretary Sink advised she would be happy to discuss any of the proposed changes with the Board. Chairman Hutto noted that he would like to schedule a meeting to make sure the bylaws are adopted in a timely fashion rather than waiting several months, in the event that no new applications come before the Board.

## **NEW BUSINESS**

**BOARD CONCERNS & STAFF UPDATES**

- The assistant town manager gave a brief update on the Harvester Performance Center project and several other private development projects going on within the town limits, as well as some economic development prospects and indicators for the Town.

**ADJOURNMENT**

There being no further business to discuss, motion was made by BZA Member Gautsch to adjourn the meeting at 6:30 p.m., with motion being seconded by BZA Member Speidel and carried unanimously by those present.

---

Charles L. Hutto, Jr., Chairman

ATTEST:

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Stacey B. Sink, Secretary

/sbs

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**DRAFT**

**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, May 8, 2014, in the Council Chambers of 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:

**Rocky Mount Baptist Church**, located at 85 West Church Street, and known as Franklin County Tax Map and Parcel Number 20700 60400, is seeking a variance from Article 29-13-1 of the Zoning and Development Ordinance which specifies that businesses located next to existing residential units in the Central Business District (CBD) must observe a minimum buffer of 25 feet. The applicant wishes to construct an accessory structure within the required buffer area. Accessory structures are not a use by right in the CBD, and the applicant was granted a special use permit by the Rocky Mount Town Council during an April public hearing, allowing the structure on the property. A site visit will be held immediately prior to the public hearing at 5:30 p.m.

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](mailto: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, April 25

Friday, May 2

Ad Specs

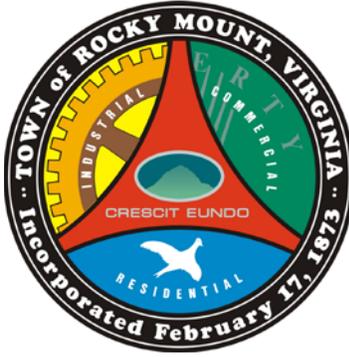
2 columns by 6.50 inches

13.0 column inches

TOWN OF ROCKY MOUNT  
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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: May 2, 2014

Re: Variance Request of Rocky Mount Baptist Church  
85 West Church Street, Tax Map & Parcel Number 20700 60400

### Members of the Board:

The Town has received a variance request from Jack Strickler on behalf of Rocky Mount Baptist Church. The Church was granted a special use permit from the Town Council in April 2014 to place an accessory structure on the property located at 85 West Church Street and identified as Franklin County Tax Map and Parcel Number 20700 60400. The property is zoned Central Business District (CBD), and accessory structures are not permitted uses in the CBD.

Now that the special use has been granted, the Church is in need of a variance to place the accessory structure on its property in its chosen location. Specifically, the Church is seeking a variance from Article 29-13-1 of the Zoning and Development Ordinance which specifies that businesses located next to existing residential units in the CBD must observe a minimum buffer of 25 feet.

In considering this variance request, staff reviewed the following:

- The request is to construct a 12-foot by 16-foot (192 square feet) accessory building behind the main structure on the property. In its chosen location, the building would only be visible from Scott Street.
- All of the parcels adjacent to or adjoining the property in question are also zoned CBD; however, most of the parcels are currently used solely for residential purposes.
- The distance from the main structure to the rear property line is approximately 20 feet. As it currently exists, the property is already non-conforming with Article 29-13-1, which requires a 25-foot buffer.

- The proposed building will take up an additional 12 feet of the rear yard, leaving approximately 8 feet to be collectively dispersed between the distance from the main structure to the accessory building and the buffer from the accessory building to the neighboring property line.
- The neighboring property (which the proposed accessory building will abut against and which is currently used for residential purposes) is of a higher elevation and is separated from the church property by a retaining wall. As such, the addition of an accessory building will have little impact on the neighboring property.
- Most of the Church property is paved for parking area, and the Church wishes to conserve its parking while also placing the building in an inconspicuous location on the property. The Church believes that the addition of the building will not be detrimental to any of the neighboring properties.

After due review and based on these considerations, staff recommends that the Board approves the variance request.

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.

(Possible Motions are listed on next page.)

**POSSIBLE MOTIONS**

**Staff Recommendation:**

Approval

I move that the Board approves the variance request for 85 West Church Street, Tax Map & Parcel Number 20700 60400.

**Other Recommendations:**

Conditional Approval

I move that Board approves the variance request for 85 West Church Street, Tax Map & Parcel Number, 20700 60400, with the following conditions:

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Denial

I move that the Board denies the variance request for 85 West Church Street, Tax Map & Parcel Number 20700 60400 (on the following grounds, if needed):

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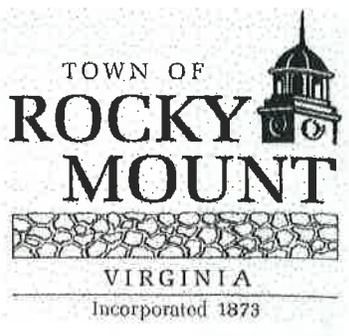
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# VARIANCE APPLICATION

## APPLICANT INFORMATION

NAME: \_\_\_\_\_  
 ADDRESS: ROCKY MOUNT BAPTIST CHURCH  
85 WEST CHURCH ST.  
ROCKY MOUNT, VA 24151

PHONE: (540) 483-2441



## PROPERTY OWNER & PROPERTY INFORMATION

PROPERTY OWNER NAME: Rocky Mount Baptist Church  
(IF DIFFERENT FROM APPLICANT)

MAILING ADDRESS: 85 Church St, Rocky Mount, VA 24151

EXACT LOCATION OF THE PROPERTY: 85 Church St

TAX MAP & PARCEL NUMBER: 2070060400

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.): \_\_\_\_\_

SIZE OF PROPOSED VARIANCE REQUEST (ACRES/SQ.FT.): \_\_\_\_\_

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:  
WE NEED A UTILITY BUILDING FOR STORAGE.

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):  
WE ARE LAND LOCKED. WE HAVE NO OTHER PLACE FOR THE BUILDING EXCEPT BEHIND THE CHURCH NEXT TO ADJOINING PROPERTY.

NATURE OF VARIANCE REQUEST (CONTINUED)

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

YES, WE ARE IN A UNIQUE SITUATION.

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

WE DO NOT BELIEVE IT WOULD BE DETRIMENTAL TO ANY OTHER PROPERTY OWNERS.

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.

Jack Serinsky

APPLICANT SIGNATURE

3-13-14

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.

Jack Serinsky

OWNER SIGNATURE

3-13-14

DATE

ADDITIONAL INFORMATION/ATTACHMENTS

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

FOR COMMUNITY DEVELOPMENT OFFICE USE ONLY

FEE AMOUNT: \$121.28 DATE RECEIVED: 03/13/2014

CASH CHECK (CHECK No.)

DATE TO BE HEARD BY BOARD OF ZONING APPEALS: April 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.

Patricia N. B...

ZONING ADMINISTRATOR SIGNATURE

03/13/2014

DATE

ADDY LN1	ADDY LN2	ADDY LN3	ADDY LN4	TMPN
Planters Bank & Trust Company of Virginia	c/o Stellar One Accounts Payable	590 Peter Jefferson Pkwy., Suite 250	Charlottesville, VA 22911	2070059800
Chapter 10 Mental Retardation Group Homes, Inc.	24 Clay Street	Martinsville, VA 24112		2070058300
Gary L. Swicegood	Charles W. Robertson	P.O. Box 826	Rocky Mount, VA 24151	2070058400
Claude C. Perdue	Nancy R. Perdue	2259 Golden View Road	Glade Hill, VA 24092	2070058600
John W. Goodhart, Sr.	Diana H. Goodhart	111 West Church Street	Rocky Mount, VA 24151	2070059600
Robert S. Strong	Susan M.B. Strong	P.O. Box 358	Ferrum, VA 24088	2070060500
John B. Faircloth, Jr.	1508 Honor Drive	Richmon, VA 23228		2070060600
Sarah Peyton Moody	Joseph Mathew Arnold	45 Scott Street	Rocky Mount, VA 24151	2070060300
Martha F. Seidel	55 Scott Street	Rocky Mount, VA 24151		2070060200
Franz M. Wertz	Gail A. Wertz	1498 Six Mile Post Road	Callaway, VA 24067	2070060100
Mr. Rick Huff, Administrator	County of Franklin	1255 Franklin Street, Suite 112	Rocky Mount, VA 24151	2070060000, 2070103201

BZA CERT MAIL
7010 2780 0002 9728 4335
7010 2780 0002 9728 4342
7010 2780 0002 9728 4359
7010 2780 0002 9728 4366
7010 2780 0002 9728 4373
7010 2780 0002 9728 4397
7010 2780 0002 9728 4403
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7010 2780 0002 9728 4434
7010 2780 0002 9728 4441

**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 15.2-2308<sup>1</sup>** 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<sup>1.1</sup>** 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 zoning<sup>2</sup>** map where there is an uncertainty as to the location of a district **boundary<sup>3</sup>**; 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. <sup>4</sup>

**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. <sup>5</sup>

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.**<sup>6</sup>

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.**<sup>7</sup> (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.**<sup>8</sup>

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 Administrator<sup>9</sup>**, 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.**<sup>10</sup> 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.**<sup>10.1</sup>

## Article VIII. Voting

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

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.**<sup>12</sup>

## 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.**<sup>13</sup>
- 9-1-7. Reconvene **for consideration of application and action.**<sup>14,14.1</sup>
- 9-1-8. Unfinished business.
- 9-1-9. New business.
- 9-1-10. Board concerns and staff updates.**<sup>15</sup>
- 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**<sup>16</sup> 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.<sup>17</sup>

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

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

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

10-4-9. Rebuttals/Additional comments<sup>20</sup> 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 hearings<sup>21</sup> 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

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

<sup>1.1</sup> Added word "or" for clarity.

<sup>2</sup> Added words "official zoning" before *map* for clarification.

<sup>3</sup> Changed the word "bounty" to "boundary" for clarification.

<sup>4</sup> 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."

<sup>5</sup> 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.

<sup>6</sup> Rearranged wording for clarity.

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

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

<sup>9</sup> Changed "Planning and Zoning Director" to "Community Development Director, Planning and Zoning Administrator".

<sup>10</sup> Changed from: "Tuesday after the first Monday of each month..."

<sup>10.1</sup> Added word "present", so that if only three voting members are present, a majority of two could decide to extend the speaking time.

<sup>11</sup> Changed from: "A quorum shall be at least three members."

<sup>12</sup> 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.

<sup>13</sup> Added words "recess to" - Chairman should recess the regular meeting to go into public hearing.

<sup>14</sup> Previously read "Reconvene and action on new cases."

<sup>14.1</sup> 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.

<sup>15</sup> Added 9-1-10 into order of business.

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

<sup>17,18,19,20</sup> Changed language regarding public hearing order of proceedings for better flow.

<sup>21</sup> Changed the word "meetings" to "public hearings". Article VII addresses Meetings. Article X addresses Public Hearings.