AGENDA
BOARD OF ZONING APPEALS
Thursday, April 30, 2015
6:00 p.m.

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

Anyone wishing to speak during the public hearing should sign in at the front table.

Call to Order and Welcome Charles Hutto, Jr., Vice Chairman

1. Roll Call of Members Present
2. Approval of Agenda
3. Review and Consideration of Minutes
   - December 4, 2014 - Regular Meeting
   - January 8, 2015 - Regular Meeting
   - February 5, 2015 - Regular Meeting
4. Public Hearing
   A. Blue Ridge Towers Application for Variance Request:
      The applicant has requested a variance from the Town of Rocky Mount Zoning Ordinance Section 40-5-11.1, which requires that any new telecommunications towers to be located a minimum of 400 feet from all residential properties. If the variance is approved, the developer will then seek a special use permit from Planning Commission and Town Council to build three 120’ cellular towers within 160 feet from existing residential properties on a Central Business District Lot, Tax Map ID Number 20700 56700.
      I. Staff Report regarding request
      II. Comments from applicant
      III. Comments from public
5. Old Business - None at this time
6. New Business - None at this time
7. Board Concerns & Staff Updates
8. Adjournment
The Board of Zoning Appeals (Board) of the Town of Rocky Mount, Virginia met at the Rocky Mount Municipal Building on Tuesday, December 4, 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 George Gautsch, John Speidel, and Lucas Tuning; Assistant Town Manager and Zoning Administrator Matthew C. Hankins and Town Attorney John Boitnott.

APPROVAL OF AGENDA

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

APPROVAL OF MINUTES

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

   • November 18, 2014 – Regular meeting minutes

Chairman Hutto asked for any additions or corrections to the minutes. Board Member Gautsch noted that the town attorney had been omitted as being in attendance at the November 18 meeting.

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

PUBLIC HEARING

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

(A) Variance Request of Brian Olinger at 285 Franklin Street

After being duly advertised, and pursuant to the Town of Rocky Mount Zoning & Development Ordinance, and the Code of Virginia, Brian Olinger, doing business as Old’s Cool, requested a variance from Article 8-14D-4 of the Zoning and Development Ordinance, which allows each permitted business in Central Business District – CBD zoning a maximum of 60 square feet of signage. The applicant wishes to install additional signage on the side of the commercial structure located at 285 Franklin Street, known as Franklin County Tax Map and Parcel Number 2070102500, which will be in excess of the maximum allowance.

Let the record show that a site visit was held at the property at 5:15 p.m. immediately prior to the public hearing and all members of the Board are familiar with the property in question.

Assistant Manager Hankins delivered the staff report regarding the variance request, making the following points:

- Mr. Olinger has submitted sign permits and received approval for two signs located on the front of his establishment totaling 59 square feet. An additional application for a third sign totaling 32 square feet, to be located on the side of his establishment, was denied by staff.
- In Central Business District – CBD zoning, a maximum of three signs plus three directional signs is permitted per lot containing single establishments.
- Additionally, each permitted business in CBD is allowed a maximum of 60 square feet of signage.
- Ms. Hill’s property is zoned Residential Business – RB and is a conforming lot in regard to lot size, road frontage, and width at the building line.
- Mr. Olinger’s request for a third sign was denied due to the request being in excess of the 60-square-foot maximum.
- One question the Board must consider is whether the hardship is shared generally by other properties in the same district or vicinity. All business in CBD
zoning are restricted to 60 square feet of signage; however, not all businesses have both front and side facades.

- Staff makes no recommendation regarding this request.
- Planning Commission reviewed the variance request at its December 2, 2014 regular meeting, recommending approval of the request by a unanimous vote of members present.
- 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.

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

Brian Olinger (the applicant) of 285 Franklin Street, and owner of Old’s Cool, came forward to speak. He is requesting permission for a variance for a sign on the side of his building to catch the eastbound traffic on 40W because he is unique in that he has a large visible building sign, not just a store front. He wants to be easily identifiable. Like the Planning Commission, he is also interested in a mural in the future. He confirmed to Chairman Hutto that he recently closed his previous business on Route 220 behind Southern Lamp and Shade. He wanted a better location. His previous store was strictly toys, where this store is a wider range of vintage finds. He confirmed to Board Member Speidel that he purchased the building at 285 Franklin Street from the Joneses. So far, his business has been good.

Chairman Hutto called upon any member of the audience that wished to speak in regard to the request.

Donald Bonds representing First Baptist Church at 45 Patterson Avenue came forward to speak. The church owns the property where La Petite Salon is located. The church’s property is a historical property, and that is its only concern.
The applicant and the Board share with Mr. Bonds a rendering and the location of the sign, which will be on the opposite of the building from the church's property, and Mr. Bonds was satisfied that the request would have no effect on the historical nature of the church.

Let the record show that no other members of the public came forward to speak in reference to the request.

Chairman Hutto noted that he has an email to read into the record:

“As a local resident, I would like to express my opinion as to the sign variance request by Brian Olinger dba Old's Cool. While I understand the need for oversight of signage for businesses, I also believe there should be allowances for business signage outside those limitations when appropriate. I believe this instance to be one of those cases where additional signage as requested would not only be appropriate but would enhance the look and feel of that downtown area. The type of business Mr Olinger has created is exactly the kind of endeavor we, as a downtown community, should embrace and encourage. A business such as this, which is displaying and marketing vintage and antique items, should have the opportunity to display signage which is appropriate to the time period of his wares. The stores of old often had signage either painted or mounted on the sides of their buildings. This business has the opportunity to do that since his building has an entire side exposed to public view. I would strongly encourage the decision makers to embrace new business efforts by allowing additional signage as requested by Mr Olinger. I look forward to being able to drive past the Old's Cool business and see an "old school" sign on the side of his building. Thank you for the opportunity to express my opinion.” Leon Sink, 260 W College Street

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

Motion was made by Vice Chairman Hapgood that the variance request for 285 Franklin Street, Tax Map and Parcel Number 2070102500 be granted, with motion made 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 or the character of the district, with the motion on the floor being seconded by Board Member Tuning. There being no further discussion, let the record show that the motion on the floor passed unanimously.

OLD BUSINESS
Let the record show there was no old business to discuss at this time.

NEW BUSINESS

Review of 2015 meeting dates

The Board was given a schedule of its 2015 regular meeting dates.

Motion was made by Board Member Speidel to approve the 2015 meeting dates as presented, with motion on the floor being seconded by Board Member Gautsch. There being no further discussion, let the record show that motion on the floor passed unanimously.

BOARD CONCERNS & STAFF UPDATES

- The Board presented no concerns at this time.
- Assistant Manager Hankins gave a brief update on the status of new employees being hired for the Planning Department.

ADJOURNMENT

There being no further business to discuss, motion was made by Board Member Speidel to adjourn the meeting at 6:24 p.m., with motion being seconded by Board Member Tuning and carried unanimously.

Charles L. Hutto, Jr., Chairman

ATTEST:

Stacey B. Sink, Secretary

/sbs
The Board of Zoning Appeals (Board) of the Town of Rocky Mount, Virginia met at the Rocky Mount Municipal Building on Thursday, January 8, 2015, 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 George Gautsch, John Speidel, and Lucas Tuning; Town Attorney John Boitnott, and Deputy Clerk/Secretary to the Board Stacey B. Sink (staff members)

**APPROVAL OF AGENDA**

- Motion was made by Board Member Gautsch to approve the agenda as presented with motion on the floor being seconded by Vice Chairman Hapgood. There being no further discussion, let the record show that the motion on the floor passed unanimously.

**APPROVAL OF MINUTES**

Let the record show there were no minutes presented for review and consideration of approval at this time.

**PUBLIC HEARING**

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

(A)  *Variance Request of Ferguson Land and Lumber Company*

After being duly advertised, and pursuant to the Town of Rocky Mount Zoning &
Development Ordinance, and the Code of Virginia, Ferguson Land & Lumber Company, Inc. requested a variance from Article 6-4-4 of the Zoning & Development Ordinance which requires that properties in Light Manufacturing – M2 zoned areas maintain a transitional yard of 60 feet when abutting residentially zoned areas. The applicant wishes to construct a 24-foot high drying shed on its property located on North Main Street near Trail Drive and known as Franklin County Tax Map & Parcel Numbers 2040034801, 2040039002, and 2040334900, which will be within the required buffer area. The shed will be used for additional drying capacity.

Let the record show that a site visit was held at the property at 5:15 p.m. immediately prior to the public hearing and all members of the Board are familiar with the property in question.

Assistant Manager Hankins delivered the staff report regarding the variance request, making the following points:

- Ferguson Land & Lumber, represented by Hatcher Ferguson, desires to build a new drying shed (location shown on the survey map included in the Board packet). However, in order to build in the desired location, the building will encroach on the required 60’ buffer between R1 and M2 zoning required in Zoning Ordinance 6-4-4.
- The matter has been duly advertised.
- Why is the buffer contemplated? The Zoning Ordinance rightly recognizes that high-intensity uses of Heavy Industrial zoning (M2) are incompatible with the peaceful maintenance of Low-Density Residential (R1) properties, and institutes a minimum buffer to try to minimize the disturbance to the nearby residents.
- Ferguson Land & Lumber is in a growth mode. The lumber market has increasing demand with a housing market on the rebound and international buyers securing contracts to purchase American lumber. In order to increase its drying efficiency and increase its output, Ferguson needs additional covered space on its property off North Main Street.
- Price Buildings and its surveyor, Ron Yount, have surveyed space currently used for outdoor lumber drying and determined that the best location for the building would encroach on the required buffer by nearly 31 feet at the point closest to the adjoining properties.
- The M2 is currently separated from the adjoining two R1 lots by a solid wooden fence. The fence does provide some visual protection, but the uphill neighbor still overlooks the M2 zoning; I understand from neighbors that they still encounter issues with sawdust. The fence, installed by Ferguson Land & Lumber after the rezoning of that property to M2 in the early 1990s, is also in need of repair, maintenance and regular upkeep.
• The proposed drying shed would be 24 feet tall, similar to the other similar sawmill, kilns and drying racks already in place.
• In order to encroach into the required buffer, a variance would be required.
• Variances require the Board to find positively on three questions. Is there an undue hardship? Is this a unique situation? Will the variance create a “substantial” detriment to adjoining properties?

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

Hatcher Ferguson, representing Ferguson Land and Lumber Company, came forward to speak, noting that his brother Tatum was also in attendance. The business started in 1968 and moved to its current location in 1980. The lumber market has changed. It used to be that its customers were here in Rocky Mount. Now they are overseas, which requires them to store kiln dried lumber in different lengths and grades to be able to meet the demand. The proposed shed will be between the kiln and plane, and the chosen location is not well suited to drying lumber on the yard (blocked by hills and trees from wind/air). The business has 65 employees and is growing every year. There are lots of area loggers that supply to Ferguson, and he feels that the company creates a lot of business for Rocky Mount.

Tatum Ferguson, came forward, noting that the addition of this building will create no additional manufacturing for the company. There will be no additional noise or dust. At this time, they are not even sure if this building will have lights.

Board Member Speidel questioned if there are any future plans for making this building a dust-producing building, or if it will contain machinery. Hatcher Ferguson confirmed that the building will only be used for storage.

Board Member Gautsch questioned if the building will be completely enclosed. Hatcher Ferguson showed drawings of the buildings footprint along with front and rear elevations. The rear elevation will have no doors. The building will fit where the gravel currently is on the property. They have no plans to move dirt, but are simply going to put in footers and build walls, then come back and poor a floor. There will be no increase to impervious surfaces. The building will be enclosed.

Board Member Speidel noted that transitional areas are required between heavy manufacturing and residential areas. He questioned the fence as a buffer and what the applicant is proposing regarding improvements to the existing fence. Hatcher Ferguson admitted that the current fence is in poor shape, as he thinks it was built around 1995 or 1996 when there was a rezoning and some of the land was traded to the neighbors. The
fence was built on the neighbors’ property, not on the Ferguson property. He thinks it would be easier to rebuild the fence in the same location, but would need to get with the neighbors. He has already spoken to Powers Fence Company about putting up a chain-link fence approximately 6 feet high. His building will be 24 feet high.

Board Member Gautsch questioned Ferguson’s business hours, how much noise is created, and where the lumber is currently stored, with Hatcher Ferguson confirming that the plant opens at 6:45 a.m. Some lumber is currently stored in the east end of the planning mill. There is also an additional building where lumber is stored. One has pine wood, and the other has kiln dried wood that goes overseas. The new building will be able to store both.

Chairman Hutto noted that an email was received from Benjamin Hartman. For the record, his comments were as follows:

“I recently received a letter from the Town of Rocky Mount about the request for a variance in the current zoning of the privacy/ buffer of 60 feet. Tina and I do not agree with this request. The following attachments show a few of my reasons to oppose this request: Attachment: 1.) Privacy Fence (12-30-14) and Privacy Fence #2 (12-30-14) show that Ferguson Land and Lumber has not maintained the privacy/ buffer fence; 2.) 1170 North Main with no buffer and a chain link fence that looks very bad.

Additional Concerns: 1.) Throughout the years the amount of wood dust has increased due to the rezoning from M1 to M2; 2.) The amount of noise that this 24 foot high drying shed will add? 3.) The 24 foot building would become an eye sore if my pines die out; 4.) The safety of our neighborhood should be everyone’s concern.

I do feel that Ferguson Land and Lumber has the ability to make this area of his operation and our adjoining property’s a comfortable and pleasant place if they would put forward the needed effort.”

Let the record show that no members of the public came forward to speak in reference to the request.

Board Member Speidel noted that one of his concerns is the difference between the residential zone and the manufacturing. He does not see where this addition will have any effect on the neighboring properties. There will be no issue with noise or additional sawdust. The Planning Commission discussed the request on Tuesday and made no
recommendation to the Board.

There being no further comments, Chairman Hutto entertained motion.

Motion was made by Board Member Speidel that the Board approves the variance request of Ferguson Land and Lumber for the property located at 2040034801, 2040039002, and 2040034900 to allow for the construction of the structure within the required 60-foot buffer based on the information provided that it will not be a noise- or dust-producing building and 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 or the character of the district, with the motion on the floor being seconded by Vice Chairman Hapgood. Discussion ensued: Chairman Hutto noted that he thinks the fence should be addressed, noting that he does not want to tie the hands of Ferguson Land and Lumber, but thinks that the company should look at replacing the current fence with something of greater longevity, and he wants this request noted for the record, although it is not included in the motion. There being no further discussion, let the record show that the motion on the floor passed unanimously.

OLD BUSINESS

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

NEW BUSINESS

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

BOARD CONCERNS & STAFF UPDATES

Let the record show there were no Board concerns or staff updates.

ADJOURNMENT

There being no further business to discuss, motion was made by Board Member
Gautsch to adjourn the meeting at 6:34 p.m., with motion being seconded by Vice Chairman Hapgood and carried unanimously.

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Charles L. Hutto, Jr., Chairman

ATTEST:

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Stacey B. Sink, Secretary

/sbs
TOWN OF ROCKY MOUNT
BOARD OF ZONING APPEALS
MEETING MINUTES
February 5, 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, February 5, 2015, at 6:00 p.m., with Vice Chairman Susan Hapgood presiding.

ROLL CALL OF MEMBERS PRESENT

Board Members Present: Vice Chairman Susan Hapgood; Board of Zoning Appeals Members George Gautsch, John Speidel, and Lucas Tuning

Board Members Absent: Chairman, Charles L. Hutto, Jr.

Staff Members Present: Matthew C. Hankins, Assistant Town Manager; Joshua Gibson, Town Planner; Deanna Alexander, Deputy Clerk, and Stacey Sink, Town Clerk.

INTRODUCTION OF COMMUNITY DEVELOPMENT & PLANNING NEW STAFF MEMEBERS

- Joshua Gibson, Town Planner
- Deanna Alexander, Deputy Town Clerk and Community Development & Planning Administrative Assistant

ELECTION OF OFFICERS

Motion: To approve serving Chairman Hutto and Vice Chairman Hapgood be returned to office, with appointment of Deanna Alexander as Secretary, to the Board of Zoning Appeals.

Motion by: Board Member Speidel
Second: Board Member Lucas Tuning
Action: Approved by a unanimous vote of members present
APPROVAL OF AGENDA

Additions or Corrections: None

Motion: To approve the agenda as presented.

Motion By: Board Member Gautsch

Second: Board Member Speidel

Action: Approved by a unanimous vote of members present

REVIEW AND CONSIDERATION OF MINUTES

Let the record show there were no draft minutes presented at this time.

PUBLIC HEARING

Vice Chairman Hapgood recessed the regular meeting to hold the following public hearing:

(A) Appeal by R. Fralin Development regarding the Planning and Zoning Administrator/Subdivision Agent decision at the Oaks at Rakes Tavern.

The applicant, R. Fralin Development, wishes to appeal an administrative ruling of the Rocky Mount Planning & Zoning Administrator and Subdivision Agent. The developer owns and is responsible for developing the Oaks at Rakes Tavern community, a Residential Planned Unit Development within the Town of Rocky Mount. The company wants to deviate from its approved development plan by constructing a 190’ subdivision connector road not in the original development plan adjacent to the property adjacent to or near 660 Old Fort Road, Tax Map & Parcel Number 21002 01600. The Planning & Zoning Administrator/Subdivision Agent determined the new connector is a substantial change from the original plan. The developer is appealing that ruling.

Staff Report:

Matthew Hankins came before the board to present the Staff Report Memorandum.

Fralin Homes, the developer of the Oaks at Rakes Tavern, is appealing an administrative determination I made last year.

Fralin is developing 249 homes in an approved subdivision master plan under Residential Planned Unit Development zoning and regulation, as provided by the Zoning Ordinance of the Town of Rocky Mount. The first section of 30 lots has been
subdivided; the company has submitted for review a second subdivision of 10 lots at the current end of Old Fort Road.

In October of last year, the developer’s engineer asked if the Town would consider allowing the installation of a temporary road to allow for the development of the lots directly uphill from Section 1. The affected area is at the current end of Old Fort Road; the “temporary” road would make a right turn at the current cul-de-sac and extend uphill to allow development of other sections of the Oaks at Rakes Tavern RPUD.

After consideration, I determined that adding another street, even if temporarily, would be counter to the approved master plan and would require review by the Planning Commission and Town Council.

Fralin Homes wishes to dispute that determination, countering that the addition of a road is not a significant deviation from the master plan and should be approved administratively.

I used the following considerations in determining my ruling.

1. Article 23-13 of the Zoning Ordinance governs revisions to the final development plan. Article 23-13-1 (2) requires that any “substantial change in circulation or access” is subject to the requirement of Article 5, the General Provisions section of the ordinance, which governs the zoning, rezoning and conditional rezoning of this type of development.

2. The proposed temporary road runs through the easement designated for the Pigg River Heritage Trail, which the developer is responsible for building in this section. Article 23-13-1 (5) requires an Article 5 review when the developer proposes “reduction in the approved open space, landscaping or buffering.” The trail is a part of the approved, required open space for the project.

3. Temporary roads have a tendency to become permanent. No timetable is set for the completion of this section, the next road segments or the overall development of the RPUD. No expiration or removal date has been offered for this “temporary” segment by the developer. Contrary to Article 23-11-2 (10) of the zoning ordinance, the developer has not submitted a “development schedule and/or precedence order indicating when construction of the RPUD or stages of the RPUD can be expected to begin and be completed.”

4. Should the temporary road become permanent, it would reduce the amount of land previously dedicated as green space; however, the requirement to complete the trail under the green space rules of RPUD zoning would still exist. Relocating the trail to meet those requirements would result in the loss of buildable lots in this segment, which would damage the town by preventing it from recouping its full infrastructure investment. Loss of those lots would represent a loss of the developer’s $2,805 per lot connection fee, customer usage fees from those lots and the taxation of the lots and homes.

5. The Town Planning Office had a reasonable expectation that lots in this RPUD would develop largely in the order of the numbering of the lots. Again, contrary to Article 23-11-2 (10) of the zoning ordinance, the developer has not submitted a “development schedule and/or precedence order indicating when construction of the RPUD or stages of the RPUD can be expected to begin and be completed.”

6. The developer appears to be working to develop its “easier” lots first, which may create conflict with the adjoining property owners. I believe that owners in the first phase had a reasonable expectation that the lots uphill from the first section would develop in later years.
7. A favorable decision for Fralin Homes would remove a significant oversight responsibility and public hearing opportunities for this development. Planning Commission and Town Council are tasked with making determinations regarding large developments in order to assure the orderly development contemplated by your zoning ordinance; those bodies should be given the opportunity for review when significant changes arise.

8. The Subdivision Ordinance Section 8-3C requires the dedication of streets. If this street is temporary, it cannot be dedicated. Therefore, the Town cannot and would not take it over for maintenance purposes, cannot provide services using this street and cannot receive maintenance reimbursement from the Commonwealth. The Town last month agreed to take maintenance of Old Fort Road to the end of the cul-de-sac; it could not extend past the current cul-de-sac if it were an undedicated street.

9. The Subdivision Ordinance Section 9f1 requires: “The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas where streets already exist. Major, collector and local streets shall be respectively extended as such. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when the subdividers plat their land and seek to provide for convenient vehicle access to it.” I do not consider this request to meet that orderly street development in harmony with the approved development plan.

In light of these considerations, staff strongly recommends that the Board of Zoning Appeals deny the appeal of Fralin Homes, Inc., in this matter and uphold the determination of the Planning & Zoning Administrator as exercised under Article 5-8-1 of the Zoning ordinance of the Town of Rocky Mount.

Open discussion ensued amongst board members and Mr. Hankins regarding the definition of significant change. Mr. Hankins clarified the misunderstanding of the request by R. Fralin Development. R. Fralin Development is not asking for a temporary road. The developer is requesting the installation of a permanent road that deviates from the original approved plan. Mr. Hankins has recommended to R. Fralin Development to submit new site plans to be reviewed and approved with the Planning Commission and Town Council.

Applicant Comments:

Mr. Robert Fralin with R. Fralin Development Corporation came before the board to present the applicants comments regarding the appeal of Mr. Hankins decision. Mr. Fralin presented to the Deputy Clerk and Board members an outline and documents to support the appeal.

Mr. Fralin “explained” his definition of significant change as a developer. Examples where given of how other localities interpret “significant” and why R. Fralin Development disagrees with Mr. Hankins decision. Mr. Fralin does not feel that the proposed road is a significant change to the original approved plan.
Open discussion ensued amongst board members and Mr. Fralin regarding the next phase of the development at the Oakes at Rakes Tavern, the defined green space, the reduction of the number of lots in the subdivision, the utility connect fees and the interpretation of significant change to the original plan.

Public Comments:

Mr. Robert Moyer: Concerned about redirection of traffic onto Glenwood Drive with changes to original plan.

Ms. Erin Tate: When she purchased her home in the Fralin Development on Old Fort Road, she understood that the lots located directly behind her home would not be developed until the extension in the original plan was finished first. She understood the lots would be developed in order by lot number, not jump around. She does not want the proposed permanent road added to the subdivision. She questioned Mr. Fralins comments on improvement of EMS services. Feels this is a matter of money, not safety.

John Boitnott, Town Attorney: Reminder of why the board is hearing this issue. The Board is not here to decide if the subdivision is going to continue or not. The Board is here tonight to hear an appeal from R. Fralin Development regarding Mr. Hankins’s decision and if it was the correct decision.

Trish Conklin: Supports Mr. Hankins’s opinion and feels any changes need to go back through the review process.

Raymond Gaubatz: Lives on Glenwood Drive. No way should anything be changed. Upset about when they build behind you they make a mess. The land was a wild life preserve and this development is ruining that section of the county.

Jason Tate – Owns a home in the Fralin Development on Old Fort Road. He is concerned about removal of green space between lots 16 & 17. By placing the proposed road in the green space this is altering what they thought when they purchased their home. He has concerns of kids running into the road and getting hurt.

Lonnie Janney – Lives on lot 16. He was the first to purchase a home in the Fralin subdivision. He choose his lot based on the designated green space next to him. He was promised by Robert Fralin that lot 16 would be a green space. He does not want a road beside his house.
Vice Chairman Hapgood asked if anyone else wish to speak in front of the board. Mr. Robert Fralin questioned the absence of Mr. Hutto, Chairman of the Board and asked the Board if he could table the R. Fralin Development appeal until Mr. Hutto could be present. Vice Chairman Hapgood advised that the Board does have a quorum and can take action tonight.

**Motion:** To proceed tonight.
**Motion By:** Board Member Gautsch  
**Second:** Board Member Speidel  
**Action:** Approved by a unanimous vote of members present

Vice Chairman Hapgood hearing no other comments entertained a motion to affirm the decision.

**Motion:** To affirm Mr. Hankins decision.  
**Motion By:** Board Member Gautsch  
**Second:** Board Member Speidel  
**Action:** Approved by a unanimous vote of members present

**NEW BUSINESS**

Let the record show there is no new business at this time.

**OLD BUSINESS**

Let the record show there is no old business at this time.

**BOARD CONCERNS AND STAFF UPDATES**

Hankins: Offered to answer any questions or concerns regarding Community Development.  
Vice Chair Hapgood: No Comments  
Member Gautsch: No Comments
Member Speidel: No Comments
Member Tuning: No Comments

Vice Chairman Hapgood hearing no other comments entertained a motion to adjourn.

**ADJOURNMENT**

Motion to Adjourn By: Board Member Gautsch
Second: Board Member Speidel
Action: Adjourned by a unanimous vote of members present
Time of Adjournment: 6:48pm

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Susan Hapgood, Vice Chairman

ATTEST:

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Deanna L. Alexander, Clerk/Secretary

DLA/
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To: Chuck Hutto, Chair, and Members of Rocky Mount Board of Zoning Appeals  
From: Matthew C. Hankins, Planning & Zoning Administrator  
Josh Gibson, Town Planner  
Date: April 22, 2015  
Re: Variance Request pending before Board of Zoning Appeals

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**BOARD OF ZONING APPEALS STAFF REPORT**

**PETITIONER:** Blue Ridge Towers, LLC, represented by Anthony R. Smith  
**HEARING DATE:** April 30, 2015  
**PROPERTY ZONING:** CBD Central Business District  
**TAX PARCEL:** 2070056700  
**APPLICABLE REGULATIONS:** Zoning Ordinance Article 40-5-11.1: Towers must be set back a distance equal to 200 percent of the height of the tower from any off-site residential structure and in no case less than 400 feet.  
**REQUEST:** A variance of Article 40-5-11.1 of the Town of Rocky Mount Zoning Ordinance to reduce the minimum setback requirement for wireless communication towers from residential structures from the required minimum 400 feet to a proposed 160 feet and waive the requirement that setback from residential structures be 200% of the height of the tower.

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I. BACKGROUND:

In accordance with Article 11 of the Zoning & Development Ordinance of the Town of Rocky Mount and §15.2-2201 of the Code of Virginia, Blue Ridge Towers, LLC, desires a variance from the Town of Rocky Mount Zoning & Development Ordinance for the purpose of installing wireless communication towers in the Central Business District (CBD) on Tax Map Parcel 2070056700, a one-half acre vacant lot on West Court Street. The petitioner intends to erect three “concealment” or “stealth” towers on the property, designed to disguise the communication towers as flagpoles (they can be equipped with the ability to fly flags). The applicant intends to build one 120-ft tower (the maximum permitted for the Central Business District) and two 110-ft towers. Preliminary plans show a triangular arrangement of the towers on the lot, with security fencing and a landscape buffer.

The variance request before the Board of Zoning Appeals pertains to a reduction in the setback requirements for any proposed tower(s) on the lot. The Town of Rocky Mount Zoning Ordinance establishes a minimum setback requirement for wireless communication towers from residential structures (400 feet), and the applicant is requesting that setback be reduced (to 160 feet). In addition, the Code requires that such towers be set back from residential structures at a distance not less than 200% of their height; the variance request before you would require waiving this setback.

If this variance request is approved, the applicant must apply for a Special Exception, to be reviewed by the Planning Commission and Town Council, in order to move forward with any towers on the property.
II. VARIANCE CRITERIA:

ESTABLISHING THE RIGHT TO A VARIANCE *(must show all three)*

1. **The property was acquired in good faith;**
   - The property is or will be under contract for purchase; there do not appear to be any violations on the property that will be knowingly corrected by granting a variance. Therefore the property does appear to have been (or will be) acquired in good faith.

2. **Because of a physical condition of the property (exceptional narrowness, shallowness, size or shape; exceptional topographic conditions or other extraordinary situation or condition of the piece of property; or because of the condition, situation, or development of property immediately adjacent thereto) either the strict application of the ordinance will effectively prohibit or unreasonably restrict the use of the lot, or the granting of the variance will alleviate a clearly demonstrable hardship;**
   - No physical conditions of the property (size, shape, topography) substantiate a variance; the size and shape are not unique to other parcels in the district, and neither size nor shape has any bearing on the variance requested. However, the BZA may choose to interpret the property to exhibit some other “extraordinary situation or condition” as noted above.

3. **The variance is in harmony with the intended spirit and purpose of the zoning ordinance.**
   - The BZA must decide whether permitting the ability to construct a tower within the Central Business District is in harmony with the spirit of the zoning ordinance. The CBD is a mixed use district, and higher-intensity uses such as wireless communication towers are often less suitable for areas with such residential dispersion, as dictated by the minimum 400-ft setback per code. However, the tower fabricator has submitted a letter indicating a 50-ft fall radius which will keep the tower away from residential structures and can restrict the fall zone entirely to the subject property.

FINDINGS TO GRANT A VARIANCE *(must meet all four)*

1. **The strict application of the ordinance would produce undue hardship relating to the property.**
2. **The hardship is not shared generally by other properties in the same zoning district and the same vicinity.** The setback in question from Article 40 applies to all parcels and zoning districts in the Town of Rocky Mount. Staff has roughly mapped CBD residential uses and found that the situation described in #1 above is true for a large majority of parcels and locations in the Central Business District, with the exception of portions of some parcels.
3. **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 BZA must determine whether the change is a detriment to adjacent parcels and the district.
4. **The condition or situation of the property is not so general or of a recurring nature as to make a general regulation reasonably practicable.** This request is neither common nor recurring in Town limits, and prudent planning practice dictates that a variance application process such as the one before you is the best method for handling similar requests.

III. SUMMARY

The mixed-use nature of the Central Business District creates a situation where the ability to establish a 400-ft setback from residential structures is very rare within the district, and most other parcels in the Central Business District would also experience difficulty meeting the setback. The
setback required by Article 40-5-11.1 is a standard across ALL zoning districts, and is not specific to the Central Business District. As such, the Town’s Code does contemplate to some degree the appropriateness of certain uses within certain districts. However, the code also states that if the goals of the ordinance are better served by reducing the setbacks, then the Board has the authority to do so. Other nearby localities’ use and design standards for telecommunication towers near residential structures generally dictate a similar or less stringent setback than that which is required by the Town of Rocky Mount.

Should the Board of Zoning Appeals approve this request, the Board may also impose conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest (according to Virginia Code §15.2-2309). The following are possible staff-recommended conditions for consideration:

- Any tower erected at this site must be designed as a stealth flagpole-style tower or other similar design with equal or better masking properties
- Reduce/limit the permitted heights of towers
- Require engineered fall-zone data be provided prior to site plan approval

POSSIBLE MOTIONS:

Approval

I move that the Board approves the variance request for Tax Map Parcel 2070056700 (on the following grounds, if needed):

Conditional Approval

I move that Board approves the variance request for Tax Map Parcel 2070056700, with the following conditions:

Denial

I move that the Board denies the variance request for Tax Map Parcel 2070056700 (on the following grounds, if needed):

PREPARED BY:  Josh Gibson
HEARING DATES:  Board of Zoning Appeals: 04/30/2015
ATTACHMENTS:  Pertinent Code References
Aerial Map
ADDENDUM: PERTINENT CODE REFERENCES

PETITIONER: Blue Ridge Towers, LLC, represented by Anthony R. Smith
HEARING DATE: May 7, 2015
PROPERTY ZONING: CBD Central Business District
TAX PARCEL: 2070056700

Code of Virginia
From Definitions in § 15.2-2201:
"Variance" means, in the application of a zoning ordinance, a reasonable deviation from those provisions regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure when the strict application of the ordinance would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of the ordinance, and would result in substantial justice being done. It shall not include a change in use which change shall be accomplished by a rezoning or by a conditional zoning.

Comprehensive Plan:

Future Land Use Map Designation: Mixed Use

Mixed Use (Central Business) Definition: This area is the Central Business District area for the Town of Rocky Mount. This area permits for a multiplicity of uses including single and multi-family residential, office, retail, dining, public space, and government services. In addition to commercial development, more emphasis should be placed on housing opportunities in the Central Business District. The CBD needs to become more vital with people, specialty businesses and office activities that will increase traffic into the business district.

Zoning & Development Ordinance
In the Wireless Telecommunication Facilities chapter in the Zoning & Development Ordinance (Article 40), the following is set forth with regard to setbacks:

40-5-11. The following setback requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the governing authority may reduce the standard setback requirements if the goals of this ordinance would be better served thereby:

40-5-11.1. Towers must be set back a distance equal to 200 percent of the height of the tower from any off-site residential structure and in no case less than 400 feet.

In the Wireless Telecommunication Facilities chapter in the Zoning & Development Ordinance (Article 40), the following is set forth as the Statement of Intent:

Wireless Telecommunication Facilities Statement of Intent: The purpose of this ordinance is to establish guidelines for the siting of wireless telecommunication facilities. The goals of this ordinance are to: (1) protect residential areas from potential adverse impacts of wireless telecommunication facilities; (2) encourage the location of wireless telecommunication facilities in nonresidential areas; (3) minimize the total number of wireless telecommunication facilities throughout the community; (4) strongly encourage the joint use of new and existing wireless telecommunication facilities as a primary option rather than the construction of additional single use facilities; (5) encourage users of wireless telecommunication facilities to locate in areas where the adverse affect on the community is minimized; (6) encourage users of wireless telecommunication facilities to
configure them in ways that minimize the adverse visual impact of wireless telecommunication facilities through careful design, siting, landscape screening, and innovative camouflaging techniques; (7) enhance the ability of the providers of wireless telecommunications to provide such services to the community quickly, effectively, and efficiently; (8) consider the public health and safety of wireless telecommunication facilities; (9) avoid potential damage to adjacent properties from facility failure through engineering and careful siting of structures; and (10) build wireless telecommunication facilities at the lowest height possible that will still allow for co-location opportunities.

In the Central Business District chapter of the Zoning & Development Ordinance (Article 29), the following is set forth as the statement of Intent:

Central Business District Statement of Intent: The purpose of this district is to promote the harmonious use and development of the historic uptown, downtown and surrounding areas, which is the traditional commercial, governmental, residential, and cultural center of Rocky Mount. The central business district is characterized by an uptown professional office district and a downtown commercial district, which surrounds a residential core. The central business district is distinct due to the historic architecture that lines and is directly adjacent to the pedestrian way and the street. It is the intent of the town to maintain the unique nature of the district by promoting the use of existing buildings, and maintaining and extending the current building arrangement, architectural style, and scale.
TOWN OF ROCKY MOUNT
APPLICATION FOR VARIANCE REQUEST

I/we ___Blue Ridge Towers, LLC___ as Applicant of the below described property, hereby apply for a
Rezoning Request as hereinafter described:

1. Applicant’s Name: ___Anthony R. Smith___ Phone: ___540-397-6628___
   Address: ___401 Gainsboro Road, Roanoke___ State: ___VA___ Zip: ___24016___

2. Property Owner’s Name: ___Stonebranch Inc.___ Phone: ___
   Address: ___PO Box 779, Rocky Mount___ State: ___VA___ Zip: ___24151___

3. Exact location of the property: ___Vacant Lot West Court Street at dead end of Bank Street___

4. Tax Map and Parcel Number: ___2070056700___

5. Size of Property: ___5___ Acres/Square Feet
   Size of proposed rezoning request: ___5___ Acres/Square Feet

6. Existing Land Use: Vacant Agriculture Residential Commercial Industrial Other ___
   Existing Zoning: R-1 R-2 R-3 R-A R-B RPUD GB CBD C-1 C-2 M-1 M-2 POS 
   Flood Plain? Y/N ___

7. Requested variance: ___Allow placement of a Wireless Telecommunications Facility ___
   160 feet from an existing residential use rather than the required 400 feet ___

8. Necessary Findings (must be found in order to have a variance granted):

   A) Description of “undue hardship” (relating to the physical characteristics of the property):
   ___The general requirement to not allow a Wireless Telecommunications Facility within ___
   400 feet of an existing residential use in the CBD renders virtually all property within ___
   this zone as unusable. The random disbursement of both single family and multi- ___
   family used structures within this zone creates a blanket whereby no usable property ___
   can be located to allow this Special Use as indicated by the Zoning Ordinance ___
   thereby excluding this Special Use from all properties in this zone and the immediate ___
   vicinity. ___

   B) Hardship is not shared generally by other properties in the same zoning district or ___
   neighboring properties (unique situation):
   ___The restrictions on the specific use do not allow for the development of this site, or ___
   any other similarly zoned or situated parcel to have a Wireless Telecommunications ___
   Facility. This use is thereby excluded from this zone and vicinity by this restriction. ___
C) Variance will not be a substantial detriment to adjacent properties and the character of the district will not be changed:

This variance will allow this parcel to be used as a location for a Wireless Telecommunications Facility as specified as an allowable use in the Zoning Ordinance. This Variance addresses an oversite in the original drafting whereby a specific use is hereby allowed in one section and then excluded by further general restrictions that do not take into account the uniqueness of the random dispersement of residential in a predominately commercial area. The character of the district will not suffer from this variance.

9. Check Completed Items:
- [ ] Size and Shape of Land
- [ ] Size and Shape of building in respect to property lines
- [ ] Parking Space(s) shown in respect to property lines and buildings
- [ ] Right-of-way of streets or highways adjoining land

Signature of Applicant(s): [Signature]
Address: 401 Gamble Road, Longview, WA 24016
Date: 1/27/15  Telephone Number: (540) 397-6628

Owner's Consent (If different from applicant):

Signature of Applicant(s): ________________________________
Address: ____________________________________________
Date: ____________________  Telephone Number: ________________

I hereby approve this application as presented; noting that all required information is attached according to the specifications of this application for rezoning.

Zoning Administrator: __________________________________ Date: ____________
March 25, 2015

Blue Ridge Towers

Attn: Joshua Gibson- Town Planner- Rocky Mount, VA

Re: TAPP proposed concealment pole/ Site # VA002

Site: VA002 Rocky Mount, VA

Dear Mr. Joshua Gibson:

The proposed structures will be inspected at various points during fabrication to insure the structures conformance to the Customer supplied engineering plan including 50’ fall radius. The steel pole for the Flag Pole site will be fabricated according to plans and all applicable building codes and industry standards. Site # VA002, Flag Pole, Rocky Mount, VA, any deviation or revisions shall be subject customer approval prior to proceeding with any changes. Following the procedures used with your previous orders.

All welding and welder qualifications shall be in accordance to American Welding Society AWS D1.1 Latest Edition. WQR available.

All inspections shall be in accordance to American Welding Society AWS D1.1 Latest Edition. Inspectors qualified meeting requirements of American Society of Non-Destructive Testing. TAPP NDE Procedures approved per ASNT Level III.

Material shall meet the requirements American Society of Testing Material. ASTM grades as specified per supplied Customer Plans. MTR’s available.

Certified fabricator of steel structures per City of Los Angeles, License # 1965, date 3/1/14.

Documentation required will be provided upon request.

TransAmerican is a reputable supplier of steel poles, and has provided 1,000’s of structures throughout the industry without significant incident. Communication poles are safe structures with a long history of reliable operation.

If you have any additional questions please call me at 281-444-8277.

Sincerely,

Ken Blackburn

Senior Construction/ Quality Assurance Manager
From: Anthony R. Smith [mailto:asmith@blueridgetowers.com]  
Sent: Wednesday, March 25, 2015 11:25 AM  
To: Joshua Gibson  
Subject: Fwd: Rocky Mount Flagpole Project

Please the attached email for your report.

Thank you,

Anthony Smith

Sent from my iPhone

Begin forwarded message:

From: Stacy Hettesheimer <stacyh@stealthsite.com>  
Date: March 25, 2015 at 11:01:52 AM EDT  
To: jginson@rockymountva.com  
Cc: asmith@blueridgetowers.com  
Subject: Rocky Mount Flagpole Project

Joshua,

Thank you for allowing Stealth® the opportunity to work with Blue Ridge Towers on the Rocky Mount flagpole project. We are excited about this opportunity!

In regards to the design of this concealment flagpole, STEALTH will consider your 50' fall zone radius requirements and the pole will be designed with a 22' fall zone (currently the height of the concealment). This means the pole will be designed to break where the concealment section meets the base pole and fall within the 50' fall radius. If the concealment height changes, the fall zone will most likely change as well.

Please let us know if you have any questions.

Stacy Hettesheimer

Inside Sales Support

To check out our extensive gallery of finished concealments click here!

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