

TOWN OF ROCKY MOUNT
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BOARD OF ZONING APPEALS
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MATTHEW C. HANKINS
*Assistant Town Manager &
Community Development Director*

**BOARD OF ZONING APPEALS
AGENDA
THURSDAY, OCTOBER 6, 2016**

COUNCIL CHAMBERS, ROCKY MOUNT MUNICIPAL BUILDING
345 DONALD AVENUE, ROCKY MOUNT, VIRGINIA

Call to Order and Welcome

- I. Roll Call of Members Present
- II. Approval of Agenda
- III. Appointment of Board Secretary - Jessica H. Heckman
- IV. Review and Consideration of Minutes - None at this time
- V. Public Hearing

The applicant, Milford D. Welch, owner, has applied for a side yard variance for Franklin County Tax Map Parcel Number 21000-34800, commonly known as 50 Tyree Avenue, Rocky Mount, Va. The applicant seeks a variance of Article 20-8-1 of the Town of Rocky Mount Zoning Ordinance to reduce the minimum side yard setback requirement for the R1 Zoning District in order to construct a carport attached to the primary dwelling.

- i. Staff Report regarding request
 - ii. Comments from applicant
 - iii. Comments from public
- VI. Board Concerns & Staff Updates
- VII. Adjournment

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TOWN COUNCIL
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JOSH GIBSON
TOWN PLANNER

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: September 28, 2016
Re: Variance Request pending before Board of Zoning Appeals

BOARD OF ZONING APPEALS STAFF REPORT

PETITIONER: Milford D. Welch
HEARING DATE: October 6, 2016
PROPERTY ZONING: R1 Residential
TAX PARCEL: 2100034800 - 50 Tyree Avenue
APPLICABLE REGULATIONS: *Zoning Ordinance Article 20-8-120-8-1: Side Yard Regulations - Each side yard of a main structure shall be 15 percent or more of the lot width at the building line.*
REQUEST: A variance of Article 20-8-1 of the Town of Rocky Mount Zoning Ordinance to reduce the minimum side yard setback requirement for the R1 Zoning District in order to construct a carport (to be attached to the primary dwelling). The side yard setback would be reduced to effectively zero feet from the adjoining property.

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, Milford D. Welch desires a variance from the Town of Rocky Mount Zoning & Development Ordinance for the purpose of installing a carport on his property in the R1 zoning district. The applicant intends to extend the existing primary dwelling an additional ten feet to the property line to install the carport.

The variance request before the Board of Zoning Appeals pertains to a reduction in the setback requirements for the R1 Residential zoning district. The Town of Rocky Mount Zoning Ordinance establishes a minimum side setback requirement of "15% or more of the lot width at the building line". In this instance, the lot is approximately 60 feet wide at the building line thus a minimum setback of 9 feet is normally required.

The house originally had a carport but it was enclosed and now exists as a finished room. This previous carport (on the right side, facing) will be the location where the new carport will be attached (see FIGURE 1 below). If this variance request is approved, the applicant must apply for a zoning permit in order to move forward with the construction.

The adjoining property owner appears to be amenable to the addition, and the driveway currently exists (legally) in the space slated for the new carport, right up to the property line.



Figure 1. Rendering of proposed addition

II. VARIANCE CRITERIA:

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

1. The property was acquired in good faith;

- The property does appear to have been (or will be) acquired in good faith, and the request is not intended to correct an existing variance.

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 a lot, or the granting of the variance will alleviate a clearly demonstrable hardship;

- **SIZE & SHAPE:** These physical conditions of the property do not appear to 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. Generally, the position of the house on the lot and past additions appear to have resulted in the issue at hand.
- **TOPOGRAPHY:** As far as setbacks are concerned, a carport may be added on to the other side of the house without the need for a variance. However, the topography on the other side is less suitable to expansion and would greatly increase the expense of a carport, and would change the character of the lot and house, since the driveway and main access doors are not well set up for an addition on the other side.

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 an addition (on this property only) that reaches to the adjoining property line is in harmony with the spirit of the zoning ordinance. As far as use is concerned, there is no issue with adding a carport and it would under normal circumstances be approved as a by right use.

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.**
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

Although there appears to be minimal impact from granting the variance, staff has not identified *obvious* evidence of a hardship. However, the sloping topographic qualities of the lot do present a possible hardship based on the physical conditions of the property.

POSSIBLE MOTIONS:

Approval

I move that the Board approves the variance request for 50 Tyree Avenue (on the following grounds, if needed): _____

Conditional Approval

I move that Board approves the variance request for 50 Tyree Avenue, with the following conditions:

Denial

I move that the Board denies the variance request for 50 Tyree Avenue (on the following grounds, if needed): _____

PREPARED BY: Josh Gibson
HEARING DATES: Board of Zoning Appeals: 09/28/2016