

Jeff Wenzel
Mayor

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Mayor Pro-Tem

Greg Hines
Councilmember

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Heather Reynolds, CMC
Town Manager

Tracy Martin
Deputy Town Clerk

HOLLY RIDGE BOARD OF ADJUSTMENT MEETING AGENDA February 23, 2021 6:00pm

1. Call to Order
2. Pledge of Allegiance
3. Election of Chair and Vice-Chair
Section 7-2-6 of the Holly Ridge Zoning Ordinance states that a Chair and Vice-Chair be appointed to serve on an annual basis.
4. Adoption of Agenda
5. Adoption of 2021 BOA Meeting Schedule
6. Approval of September 22, 2020 Meeting Minutes
7. New Business
 - A. Variance Request
Highland Paving Co. LLC—Section 7-3-16—40' Height Limit
8. Board Questions/Comments
9. Adjournment



**Planning & Zoning Department
Staff Report
Variance
Board of Adjustment Meeting Date:
February 23, 2021**

Brain Raynor (Highland Paving), owner/applicant, is requesting a variance from Section 7-3-16 related to the building height limits of 40 feet.

<p>Applicant: Brian Raynor, Highland Paving</p> <p>Property Owner: Highland Paving, Fayetteville</p> <p>Property: 500 Betty Taylor Wood Drive Parcel #167917 (Map #734-56.13)</p> <p>Current Zone: LI (Light Industrial)</p> <p>Acreage: 8.42 acres</p> <p>Number of Properties: 1</p> <p>Board of Adjustment Action Required: Yes</p> <p>Town Council Action Required: No</p> <p><u>Actions:</u></p> <ol style="list-style-type: none"> 1. Approve or Deny of the requested variance to height limitations, as present in the Staff Report or with changes. 2. Continue to a future date to obtain additional information or to further consider information presented. The next available meeting date is March 23, 2021. 3. Determine findings in granting approval or denying proposal. 	<p>Relevant History: Highland Paving Co., LLC has purchased a parcel within the Camp Davis Industrial Park. They specialize in site work and asphalt paving for property owners, developers, general contractors, and government agencies throughout the Southeast region of NC. The site within the Industrial Park will serve as an additional location for their hot mix asphalt plant. The property is currently zoned as Light Industrial (LI) and would accommodate such a use as found within the Holly Ridge Permitted Use Table. Highland Paving has submitted a request for a variance from the required building height limitation of 40 feet as found in Section 7-3-16 for structures within the LI Zoning District. Their request is petitioning that they receive a variance in order to construct a vertical silo for storage up to 80 feet.</p> <p>As required under local and State law, the BOA shall vary any provisions of the ordinances upon a finding of fact for specific standards as outlined by Section 7-8-4 of the Town’s Zoning Ordinance.</p> <p>The applicant has provided written statements, included, they feel state facts and arguments satisfactorily supporting said standards for granting the requested variance.</p>
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OVERVIEW

The applicant is requesting a variance from Section 7-8-4 of the Holly Ridge Zoning Ordinance the limits the height of structures within the Light Industrial District at 40 feet.

Highland Paving Co., LLC has purchased property within the Camp Davis Industrial Park for the purpose of constructing a hot mix asphalt plant. Their request is associated with a concrete holding silo proposed in excess of 40 feet.

Camp Lejeune has been notified of said request and their comments will be supplied during the hearing.

Additionally, an Air Permit application has been submitted to NCDEQ as required for such use. While not pertinent to the BOA's purview, the Board is provided that for informational purposes.



VARIANCE REQUIREMENTS

The Board of Adjustment shall hear and decide petitions for variances from the terms of this Ordinance or the Subdivision Ordinance pursuant to the requirements of Section 7-8-1 through 7-8-4. The Board of Adjustment shall hear and decide on the petition for variance within a reasonable time. The hearing shall conform to the requirements for quasi-judicial hearings contained in Section 7-2-7 of the Holly Ridge Zoning Ordinance.

When necessary hardships would result from carrying out the strict letter of this Ordinance or the Subdivision Ordinance, the Board of Adjustment shall vary any of the provisions of the ordinances upon a showing of all of the following (applicant's reply emphasized):

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

The equipment used in the production o asphalt at our facility requires the use of a silo to store material. Our silo reaches a height of 75' not to exceed 80'. This silo is essential in the production and storage of asphalt at our facility.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

Without the variance granted, we would not be able to place our asphalt plant on said property due to the height of our silo and the current height restrictions.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

The hardship is a result of the equipment utilized in the asphalt industry. Our facility is a state-of-the-art facility with the latest technology inclusive of a vertical silo.

4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

The property is in an industrial area and the variance has been granted previously in the same industrial park at a height of 85', which exceeds our 80' request.

Supplies asphalt to the region at a reduced rate and provides jobs to the area.

In order to grant a variance, the board must find that unless a variance is granted, the property owner will undergo unnecessary hardships.

As provided above, the board must conclude:

- If the property owner complies with ordinance provisions, the owner will undergo unnecessary hardship.
- The hardship affecting the property results from the application of the ordinance (not from market conditions or the existence of private restrictive covenants).
- The hardship is suffered by the applicant's property. (The applicant's personal, social, or economic circumstances are irrelevant.)
- The hardship does not result from the applicant's own actions. (Purchasing a site with knowledge that development plans may necessitate a variance does not qualify as a "self-imposed" hardship.)
- The hardship is peculiar to the applicant's property and does not affect other properties in the same neighborhood. (If a number of properties suffer the same problem, the governing board should consider amending the zoning ordinance.)
- The variance is in harmony with the general purpose and intent of the zoning ordinance and preserves its spirit. Use variances, which purport to authorize land uses not otherwise authorized in the district, are prohibited by statute.
- By granting the variance, the board will ensure the public safety and welfare and promote substantial justice.

Staff has requested that the applicant receive approval from both the FAA and Camp Lejeune, who adjoins the site in question, in order to verify this request, if approved, would not interfere with their operations and falls in line with their specifications.

BOARD OF ADJUSTMENT ACTION

The following sequence should be utilized during the Variance quasi-judicial hearing:

1. Chair opens hearing and announces case.
2. Witnesses are sworn in.
3. Staff gives summary overview the case.
4. The applicant presents case, documents, evidence, witnesses. BOA may ask questions. Chair allows cross-examination.
5. Objectors present case (if present), documents, evidence, witnesses. BOA may ask questions. Chair allows cross-examination.
6. Applicant's rebuttal (if applicable).
7. Objector's rebuttal (if applicable).
8. Chair summarizes evidence and excludes hearsay, opinion. BOA may add/clarify.
9. Deliberation and determination of facts and conclusions.
10. Hearing closed.
11. Motion and vote on each of the four findings above.