

TOWN OF SMITHFIELD BOARD OF ADJUSTMENT AGENDA PACKET



Chairman: Stephen Upton
Vice-Chairman: Mark Lane

Sarah Edwards
David Johnson
Keith Dimsdale

Stephen Wensman, AICP, RLA, Planning Director
Mark Helmer AICP, CZO, Senior Planner
Julie Edmonds, Administrative Assistant

Meeting Date: Thursday, September 24, 2020

Meeting Time: 6:00 p.m.

Meeting Place: Council Chambers, Smithfield Town Hall

**AGENDA
BOARD OF ADJUSTMENT
REGULAR MEETING
SEPTEMBER 24, 2020
MEETING TIME: 6:00 PM
TOWN HALL**

Call to Order.

Approval of the minutes for August 27, 2020

Public Hearing

BA-20-06 Historic Smithfield Foundation: The applicant is requesting a variance to the Town of Smithfield Unified Development Ordinance, Article 8, Section 8.3.1 to allow for a reduction to the minimum building setback on property located within an R-8 (Residential) zoning district. The property considered for a variance is located on the east side of North Fourth Street approximately 157 feet north of its intersection with Caswell Street and further identified as Johnston County Tax ID# 15013053.

Old Business.

New Business.

Adjournment.

**Draft
Smithfield Board of Adjustment
Minutes
Thursday, August 27, 2020
6:00 P.M.,
Town Hall, Council Chambers**

Members Present:

Stephen Upton, Chairman
Mark Lane, Vice Chairman
David Johnson
Sarah Edwards
Keith Dimsdale

Members Absent:

Staff Present:

Mark Helmer, Senior Planner
Julie Edmonds, Administrative Support Specialist

Staff Absent:

Stephen Wensman, Planning Director

CALL TO ORDER

Approval of minutes from May 28, 2020

Sarah Edwards made a motion, seconded by Keith Dimsdale to approve the minutes as written. Unanimously approved

Public Hearing

Mark Lane made a motion to open BA-20-04, seconded by David Johnson

BA-20-04 Donald E. Millard: The applicant is requesting a variance to the Town of Smithfield Unified Development Ordinance, Article 10, Section 10.23.3 to allow for a reduction to the minimum sign setback requirements on property located within a B-3 (Business) zoning district. The property considered for a variance is located on the south side of the intersection of M. Durwood Stephenson Parkway and North Brightleaf Boulevard further identified as Johnston County Tax ID# 14L10199B.

Mark Helmer stated that Donald Millard of Carolina Realty is requesting a 10-foot variance from the 10-foot sign setback along North Brightleaf Boulevard to allow for a new ground mounted monument sign. The new monument sign will replace an aging, out of date and non-conforming sign. The proposed sign generally meets all current Town of Smithfield UDO sign standards to include total overall height and maximum sign area to include the digital changeable copy component. As part of the M. Durwood Stephenson Parkway construction project, NCDOT, through the power of eminent domain was required to purchase portion of the subject property for the placement of large traffic signal support structures. The portion of land purchased by NCDOT was such that the signal support structures would be located behind the front property line of the remaining portion of land not purchased by NCDOT. If the applicants sign is required to meet the UDO sign setback regulations, the proposed sign will be located behind the traffic signal support structures

causing visibility of the sign to be greatly reduced. Further exacerbating the hardship is the fact that the NCDOT has an additional 10ft of right-of way on the south side of North Brightleaf Boulevard which will in effect cause the sign to be setback an additional 10 feet from the back of the curb of Brightleaf Boulevard. If the applicant is required to meet UDO sign setback regulations, the proposed sign will be located 30 feet back from the roadway of North Brightleaf Boulevard which is considerably more than what other similar business would have to endure. If the requested variance is granted, the proposed sign will be located 20 feet behind the curb of north Brightleaf Boulevard and in front of the traffic signal support structures thus eliminating visibility issues caused by this unique configuration.

Planning staff recommends approval of the variance request for a 10-foot reduction to the 10-foot sign setback standard because of the fact that the configuration of land that NCDOT purchased and the placement of large signal support structures will reduce visibility of the proposed sign if strict adherence to the standards are required.

Finding of Fact for a variance approval

4.10.2.2.1. 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 applicant has demonstrated that if the proposed monument sign is setback 10' feet from the NCDOT right-of-way line, the sign will be obstructed by the installation of NCDOT traffic signal support structures which are themselves located behind the subject property's front property line. This unique configuration of the NCDOT right-of-way lines and placement of traffic signal support structures will make strict application of the Town of Smithfield sign setback standards a hardship to the subject property.***

4.10.2.2.2. 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. ***The NCDOT condemnation of property that is behind the front of subject property and the installation of large traffic signal support structures creates an obstruction in visibility of the proposed sign. The additional 10' sign setback requirement of the UDO will exacerbate this unique hardship that is uncommon among properties within the North Brightleaf Boulevard corridor.***

4.10.2.2.3. 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 action of condemnation by the North Carolina Department of Transportation has created an undue hardship if the applicant is required to conform to the Town of Smithfield sign setback standards.***

4.10.2.2.4. 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 granting of the variance is very much consistent with the spirit, purpose and intent of the sign ordinance. The applicant has clearly demonstrated that despite varying from the required 10' sign setback standards, the proposed sign will be still be setback 20' from the back of the existing curb of North Brightleaf Boulevard thus ensuring that the health welfare and safety of public at large will not be jeopardized.***

Sarah Edwards stated based upon satisfactory compliance with the above BA-20-04 stated findings and fully contingent upon acceptance and compliance with all conditions as previously noted herein and with full incorporation of all statements and agreements entered into the record by the Planning Staff, I move to approve BA-20-04; seconded by Mark Lane. Unanimously approved

Keith Dimsdale made a motion to close BA-02-04; seconded by David Johnson. Unanimously approved.

Old Business
None

New Business
None

Sarah Edwards made a motion to adjourn, seconded by Keith Dimsdale. Unanimously Approved



Julie Edmonds
Administrative Support Specialist
Town of Smithfield Planning Department



Request for Board of Adjustment Action

Agenda
Item: BA-20-06
Date: 9/24/2020

Subject: Variance
Department: Planning
Presented by: Mark Helmer, AICP
Presentation: Yes

Issue Statement

Historic Smithfield Foundation is requesting a 23 foot variance from the minimum 30 foot front building setback for the addition of a vestibule and staircase to an existing structure located within a R-8 (Residential) zoning district.

Financial Impact

None

Action Needed

To review the variance application to approve or deny.

Recommendation

Planning Staff recommends approval of variance BA-20-06.

Approved: Town Manager Town Attorney

Attachments:

- Staff Report BA-20-06
- Application



Staff Report

Agenda Item:	BA-20-06
Date:	9/24/20

Application Number: BA-20-06
Applicant/Owner: Historic Smithfield Foundation
Agents: none
TAX ID number: 15013053
Town Limits/ETJ: City

PROJECT LOCATION: 308 North Fourth Street

REQUEST:

Historic Smithfield Foundation is requesting a 23 foot variance from the minimum 30 foot front building setback for the addition of a vestibule and staircase to an existing structure located within a R-8 (Residential) zoning district.

SITE DATA:

Acreage: 6112 square feet
Present Zoning: R-8 (Residential)
Proposed Zoning: N/A
Existing Use: N/A
Water Service: Town of Smithfield
Sewer Service: Town of Smithfield
Electrical Service: Town of Smithfield

ADJACENT ZONING AND LAND USES:

	Zoning	Existing Use
North	R-8 Residential	Residential / Multifamily
South:	R-8 Residential	Residential / Place of Worship
West:	R-10 Residential	Residential
East:	R-8 Residential	Residential

PETITION DESCRIPTION:

The Historic Smithfield Foundation is rehabilitating the Historic Freedman School House with

plans to use the structure for a public use. The Smithfield Town Council, at their June 6, 2020 meeting issued a special use permit for a public use. The Smithfield Board of Adjustment, at their January 31, 2019 meeting, issued a 6' 9" variance from a 10' side yard setback, a 5' 8" variance from a 10' side yard setback and a 1,888 square foot variance from the 8000 square foot minimum lot size for the creation of an individual lot of record in preparation for the transfer of ownership of the Freedman School House to the Historic Smithfield Foundation.

The most recent site plan indicates the removal of an enclosed front porch that was constructed in the recent past and has outlasted its usefulness. The Historic Smithfield Foundation is proposing to reconstruct the vestibule that would typically be found on a Freedman School House. The addition of the vestibule will be sensitive to the architectural history of the structure and serve as a value added feature to building and community.

The proposed site plan indicates that the existing structure, minus the demolished front porch, encroaches 10 feet into the required 30 foot building setback from North Fourth Street and the proposed vestibule with staircase will encroach an additional 13 feet into the required 30 foot building setback. Therefore a 23 foot variance will be required for the construction of the proposed vestibule and staircase.

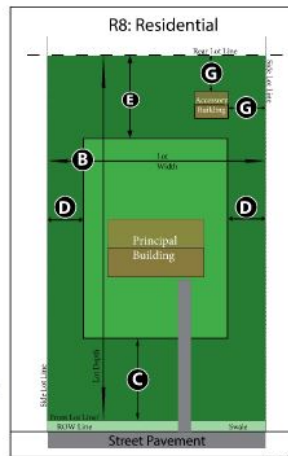
The following Unified Development Ordinance section highlights the dimensional requirements for lots located within the R-8 (Residential) zoning district.

SECTION 8.3 R-8 SINGLE, TWO, AND MULTI-FAMILY RESIDENTIAL DISTRICT.

8.3.1. Dimensional Requirements.

(A) Minimum Lot Area	
• Single-family dwelling	8,000 sq ft
• Two-family dwelling	10,000 sq ft
• Multi-family dwelling*	9,000 sq ft
• Other building	10,000 sq ft
(B) Minimum Lot Frontage	70 ft
(C) Front Yard Setback	30 ft
(D) Side Yard Width	10 ft
(E) Rear Yard Depth	25 ft
(F) Maximum Building Height	35 ft
(G) Accessory Buildings	10 ft (see Note 8.13.2)

*See Note 8.13.1 for additional multi-family dimensional requirements.



8.3.2. Additional Requirements. Refer to Section 8.13, Notes to Zoning District Design Standards.

8.3.3. Signs. Signs shall be permitted as provided in Article 10, Part III.

8.3.4. Parking. Off-street parking shall be provided as required in Article 10, Part I.

As part of a complete variance application, the applicant has submitted a surveyed plot plan indicating the vestibule and staircase will be approximately 7 feet from the public right-of-way of North Third Street.

FINDINGS OF VARIANCE APPROVAL:

In order to approval a variance, the Board of Adjustments shall find all of the following provisions must be met (Staff's findings are in ***bold/italic***):

4.10.2.2.1. 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. ***Unnecessary hardship will occur, because the existing structure predates modern zoning and cannot meet the minimum building setbacks of the R-8 (Residential) zoning district. If the variance is not granted, any effort to return the structure to its historic form would require moving the entire structure from its current location.***

4.10.2.2.2. 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. ***The existing structure was constructed before modern zoning and the historical significance of the structure results in a peculiar situation were preservation of the structure will be impossible to perform if a variance from the front building setback is not granted.***

4.10.2.2.3. 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 existing structure not meeting current building setbacks is a nonconformity that was not originally created by the applicant. Returning the structure to a more accurate historical form is not a self-created hardship.***

4.10.2.2.4. 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 variance is in keeping with the spirit, purpose, and intent of the Ordinance. The variance will serve to protect and preserve the fabric and history of the district in which this historic structure is located.***

RECOMMENDATION:

- Planning Staff recommends the Board of Adjustment approve variance BA-20-06 to allow for a 23 foot variance from the 30 foot front building setback for the construction of the proposed vestibule and staircase.

RECOMMENDED MOTION:

Planning Staff recommends the Board of Adjustment Board approve the variance with the following motion:

***“Move to approve variance BA-20-06 based on the finding of fact found in the staff report to allow for a 23 foot variance from the 30 foot front building setback for the addition of a vestibule and staircase to an existing historic structure located within a R-8 (Residential) zoning district.*”**



Town of Smithfield
 Planning Department
 350 E. Market St. Smithfield, NC 27577
 P.O. Box 761, Smithfield, NC 27577
 Phone: 919-934-2116
 Fax: 919-934-1134

VARIANCE APPLICATION

Pursuant to Article 4, of the Town of Smithfield Unified Development Ordinance, an owner of land within the jurisdiction of the Town (or a duly authorized agent) may petition the Board of Adjustment for relief from a requirement of the Unified Development Ordinance and to permit construction in a manner otherwise prohibited by this Ordinance where specific enforcement would result in unnecessary hardship.

In granting variances, the Board of Adjustment may impose such reasonable conditions as will insure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.

Variance applications must be accompanied by nine (9) sets of the complete application, nine (9) sets of required plans, an Owner's Consent Form (attached) and the application fee.

SITE INFORMATION:

Name of Project: Freedmen's School Acreage of property: 0.14
 Parcel ID Number: 15013053 Tax ID: 15013053
 Deed Book: 5329 Deed Page(s): 936
 Address: 308 N. 4th Street
 Location: _____

Existing Use: Vacant Proposed Use: Assembly
 Existing Zoning District: R-8
 Requested Zoning District _____

Is project within a Planned Development: Yes No
 Planned Development District (if applicable): _____

Variance Request (List Unified Development Code sections and paragraph numbers)
8.6.1; variance on setback requirement for front yard to instead allow addition of vestibule

FOR OFFICE USE ONLY

File Number: _____ Date Received: _____ Amount Paid: _____

OWNER INFORMATION:

Name: Historic Smithfield Foundation
Mailing Address: PO Box 2235, Smithfield, NC 27577
Phone Number: 919-938-4708 Fax: n/a
Email Address: historicsmithfieldfoundation@gmail.com

APPLICANT INFORMATION:

Applicant: Historic Smithfield Foundation
Mailing Address: PO Box 2235, Smithfield, NC 27577
Phone Number: 919-720-8605 Fax: n/a
Contact Person: Todd Johnson
Email Address: todd.johnson@johnstonc.com

REQUIRED PLANS AND SUPPLEMENTAL INFORMATION

The following items must accompany a variance application. This information is required to be present on all plans, except where otherwise noted:

- All required plans (please see the plan requirements checklist).
- Owner Consent form
- A Statement of Justification.
- Required Finding of Fact.
- Other Applicable Documentation: _____

STATEMENT OF JUSTIFICATION

Please provide detailed information concerning all requests. Attach additional sheets if necessary.

We are restoring this former two-room school to its 1869 appearance, and research has revealed that such buildings included a vestibule. It is our understanding that the addition of this vestibule in front of the building would require a variance since it does not meet the town's setback requirements.

REQUIRED FINDINGS OF FACT

Article 4, Section 4.10.2.2 of the Town of Smithfield Unified Development Ordinance requires applications for a variance to address the following findings. The burden of proof is on the applicant and failure to

adequately address the findings may result in denial of the application. Please attach additional pages if necessary.

4.10.2.2.1 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.

This building has been located on this site since 1887 and should not be moved.

4.10.2.2.2. 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.

Setback requirements were not in place at the time this structure was located on this site.

4.10.2.2.3. 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.

Since the building pre-dates setback requirements, we had no control over its location near the street.

4.10.2.2.4. 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.

Persons visiting the schoolhouse will use street side parking and nearby parking spaces owned by First Missionary Baptist Church, so the limited lot size will not adversely affect the property in terms of its use and enjoyment by the public.

APPLICANT AFFIDAVIT

I/We, the undersigned, do hereby make application and petition to the Board of Adjustment of the Town of Smithfield to approve the subject Variance request. I hereby certify that I have full legal right to request such action and that the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Smithfield, North Carolina, and will not be returned.

K. Todd Johnson
Print Name


Signature of Applicant

8/27/2020
Date



Town of Smithfield
 Planning Department
 350 E. Market St Smithfield, NC 27577
 P.O. Box 761, Smithfield, NC 27577
 Phone: 919-934-2116
 Fax: 919-934-1134

OWNER'S CONSENT FORM

Name of Project: Freedmen's School Submittal Date: 8-27-2020

OWNERS AUTHORIZATION

I hereby give CONSENT to _____ (type, stamp or print clearly full name of agent) to act on my behalf, to submit or have submitted this application and all required material and documents, and to attend and represent me at all meetings and public hearings pertaining to the application(s) indicated above. Furthermore, I hereby give consent to the party designated above to agree to all terms and conditions which may arise as part of the approval of this application.

I hereby certify I have full knowledge the property I have an ownership interest in the subject of this application. I understand that any false, inaccurate or incomplete information provided by me or my agent will result in the denial, revocation or administrative withdrawal of this application, request, approval or permits. I acknowledge that additional information may be required to process this application. I further consent to the Town of Smithfield to publish, copy or reproduce any copyrighted document submitted as a part of this application for any third party. I further agree to all terms and conditions, which may be imposed as part of the approval of this application.

Signature of Owner *Print Name* *Date*

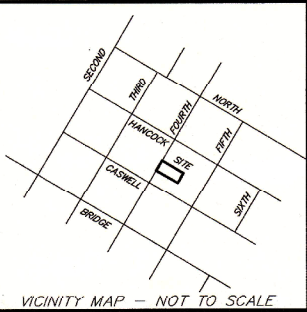
CERTIFICATION OF APPLICANT AND/OR PROPERTY OWNER

I hereby certify the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Smithfield, North Carolina, and will not be returned.

K. Todd Johnson K. Todd Johnson 8-27-2020
Signature of Owner/Applicant *Print Name* *Date*

FOR OFFICE USE ONLY

File Number:	Date Received:	Parcel ID Number:
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SITE IS LOCATED IN R-8 ZONING DISTRICT

PRE DEMOLIITION BUILDING FOOTPRINT

- CC CONTROL CORNER (CMS UNLESS OTHERWISE NOTED)
- DASHED LINES LINES NOT SURVEYED
- MBSL MINIMUM BUILDING SETBACK LINE
- EIP EXISTING IRON PIPE (CONTROL CORNER)
- EIS EXISTING IRON STAKE (CONTROL CORNER)
- ECM EXISTING CONCRETE MONUMENT (CONTROL CORNER)
- PROV NEW IRON PIPE
- NP NEW IRON PIPE
- NIS NEW IRON STAKE (REBAR)
- ELS EXISTING LIGHTWOOD STAKE
- TPW T - POST WITNESS
- N/F NOW OR FORMERLY
- PP POWER POLE
- OHPL OR E OVERHEAD POWER LINE
- NPS NO POINT SET
- R/W RIGHT-OF-WAY
- DB DEED BOOK
- E CENTERLINE
- CS COTTON SPRINGLE

NORTH CAROLINA
JOHNSTON COUNTY

I, W. STANTON MASSENGILL, PROFESSIONAL LAND SURVEYOR, CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION, DEED DESCRIPTION RECORDED IN BOOK 4880, PAGE 762, THAT THE RATIO OF PRECISION AS CALCULATED BY LATITUDE AND DEPARTURES IS 1:10,000. THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES PLOTTED FROM INFORMATION FOUND IN BOOKS REFERENCED, THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH G. S. 47-30 AS AMENDED. WITNESS MY HAND AND SEAL THIS 3RD DAY OF NOVEMBER, A. D. 20 18

W. STANTON MASSENGILL, PROFESSIONAL LAND SURVEYOR, L-2472

I, W. STANTON MASSENGILL, PROFESSIONAL LAND SURVEYOR No. L-2472, CERTIFY THAT THIS PLAT IS OF A SURVEY THAT CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.

W. STANTON MASSENGILL, PROFESSIONAL LAND SURVEYOR No. L-2472

NORTH CAROLINA
JOHNSTON COUNTY

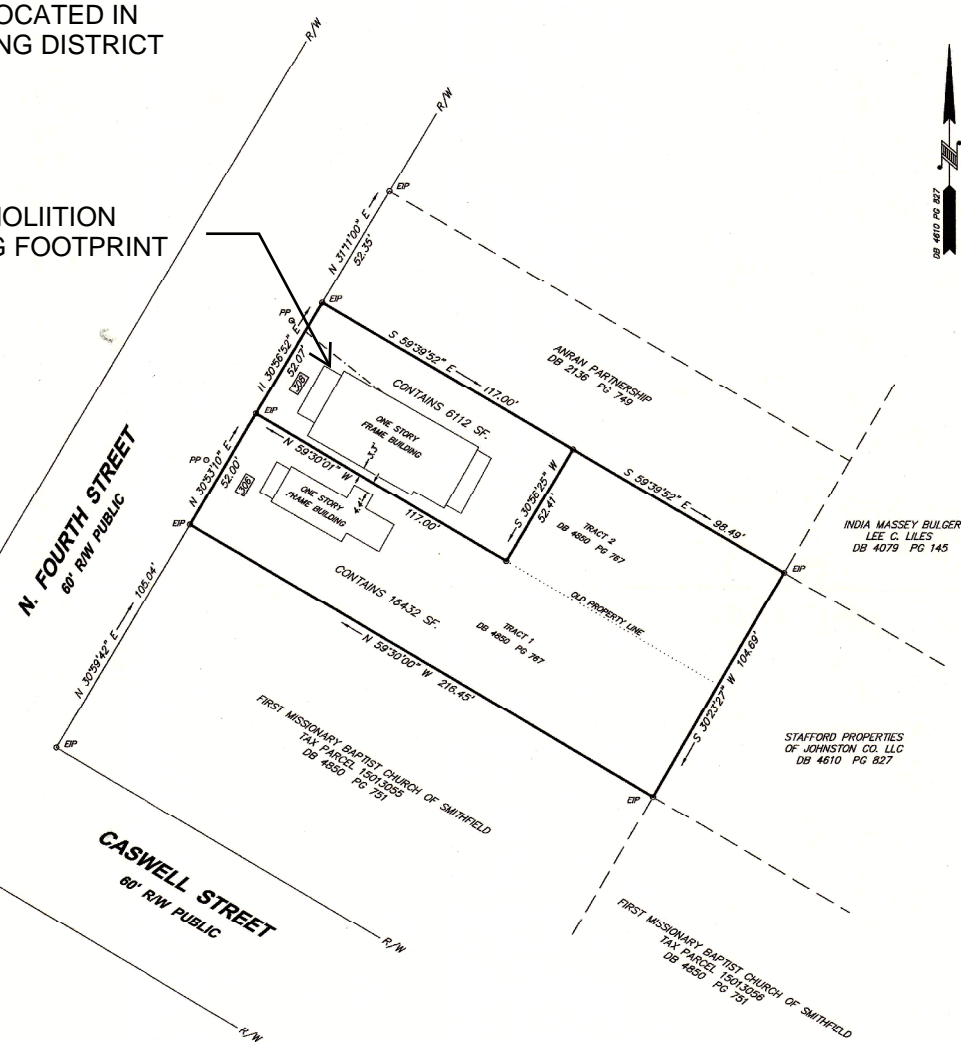
I, _____, REVIEW OFFICER OF JOHNSTON COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

DATE _____ REVIEW OFFICER _____

STATE OF NORTH CAROLINA _____ COUNTY _____
FILED FOR REGISTRATION AT _____ M. _____, IN THE _____

REGISTER OF DEEDS OFFICE
RECORDED IN BOOK _____, PAGE _____
REGISTER OF DEEDS, BY _____

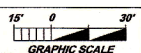
RECORDED IN BOOK OF MAPS _____, PG. _____



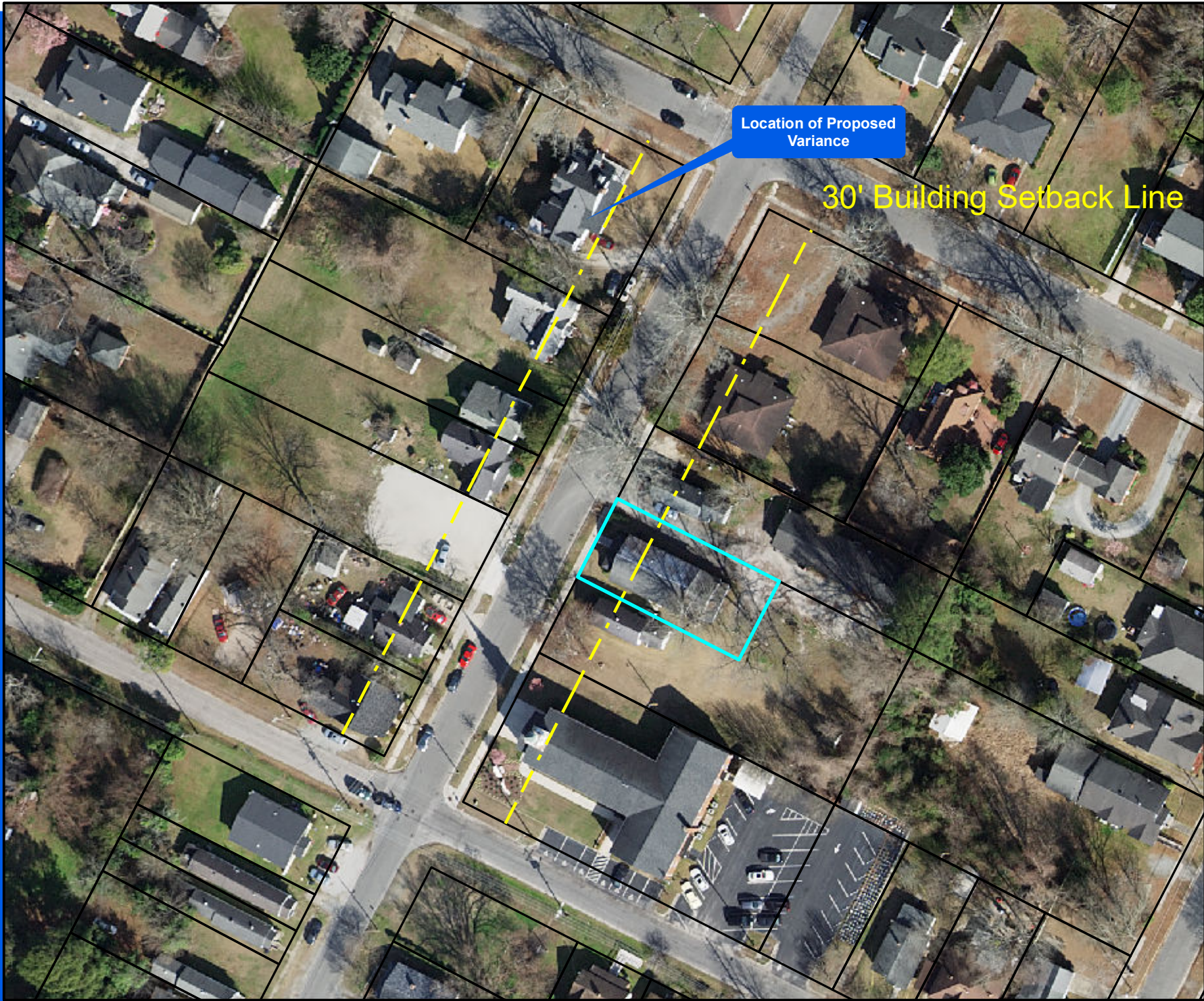
TAX PARCEL 15013053

PRELIMINARY MAP

REVISIONS 12 - 13 - 2018		PROPERTY OF FIRST MISSIONARY BAPTIST CHURCH OF SMITHFIELD		W. STANTON MASSENGILL, PLS 7193 STRICKLAND'S CROSSROADS ROAD FOUR OAKS, NC 27524 919-894-2584	
TOWNSHIP: SMITHFIELD	COUNTY: JOHNSTON	DATE: 11-03-2018	SURVEYED BY: WSM	FIELD BOOK 160-44	
STATE: NORTH CAROLINA		SCALE: 1" = 30'	DRAWN BY: WSM	DRAWING No. _____	
ZONE: _____	TAX MAP: _____	PARCEL: _____	CHECKED & CLOSURE BY: WSM	18 - 113 - B	



300 Block of North Fourth Street



Project Name:
Freedman
Schoolhouse
Variance

Existing Use:
Single Family
Dwelling

File Number:
BA-20-06

Property Owner:
Historic Smithfield
Foundation

Applicant:
Historic Smithfield
Foundation

Location:
309 North
Fourth Street

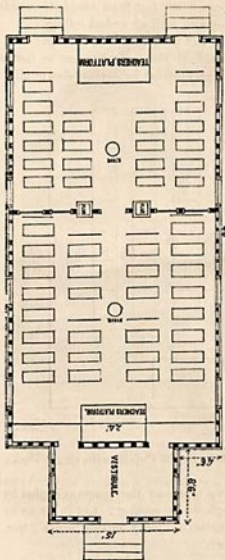
Tax ID#
15013053

Zoning District:
R-8 (Residential)

Map created by the
Mark E. Helmer, AICP
Senior Planner,
GIS Specialist
on 9/14/2020



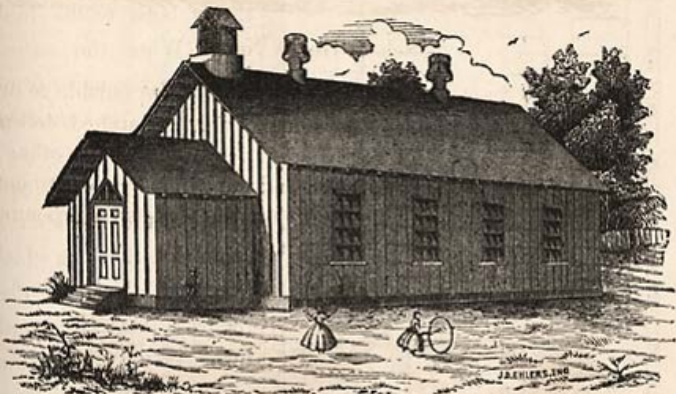
1 inch = 84 feet



The vestibule is $15 \times 8\frac{1}{2}$ feet from outside to outside.

The main building is divided by a sash partition into two rooms—one 24×28 feet; the other 24×18 feet. The sashes are hung upon cords and pulleys, and may be raised so as to throw both rooms into one. When the sashes are down, the noise from one room is entirely shut out from the other; but the Principal can overlook the Assistant's room through the glass partition. Each of the rooms is ventilated and furnished in the same manner as the building before described. This house will accommodate one hundred pupils.

Plan of House No. 5.



School House No. 5.

Figure 5 is a frame house, $24\frac{1}{2} \times 46$ feet from outside to outside, and 14 feet high to the square, with an arched ceiling.

**Town of Smithfield
Variance Application
Finding of Fact / Approval Criteria**

Application Number: BA-20-06 **Name:** Historic Smithfield Foundation

Request: Applicant seeks a variance Article Article 8, Section 8.3.1 to allow for a reduction to the minimum building setback on property located within an R-8 (Residential) zoning district.

In accordance with **Article 4, Sections 4.10.2.2.1 - 4.10.2.2.4** of the Town of Smithfield Unified Development Ordinance (UDO), when unnecessary hardships would result from carrying out the strict letter of the UDO, the Board of Adjustment shall vary any of the provisions of the Ordinance upon a showing of having met all of Article 4, Sections 4.10.2.2.1 -4.10.2.2.4. The Board of Adjustments may impose appropriate conditions and safeguards upon the approval as long as they are related to the variance. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Board of Adjustments. The Board of Adjustments shall include in its comments a statement as to the application having met all of Article 4, Sections 4.10.2.2.1 - 4.10.2.2.4. The applicant has the burden of producing competent, substantial evidence tending to establish the facts and conditions which the below requires.

The Board of Adjustment shall vary any of the provisions of the Ordinance as it pertains to this property upon a showing of having met all of Article 4, Sections 4.10.2.2.1 - 4.10.2.2.4 listed below through a quasi-judicial process:

4.10.2.2.1. 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.

4.10.2.2.2. 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.

4.10.2.2.3. 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.

4.10.2.2.4. 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

Once all findings have been decided one of the two following motions must be made:

Motion to Approve: *Based upon satisfactory compliance with the above stated findings and fully contingent upon acceptance and compliance with all conditions as previously noted herein and with full incorporation of all statements and agreements entered into the record by the testimony of the applicant and applicant's representative, I move to approve variance # **BA-20-06** with the following condition(s):*

Motion to Deny: *Based upon failure to meet all of the above stated findings and for reasons stated therein, I move to deny variance **BA-20-06** for the following stated reason:*

Record of Decision:

Based on a motion and majority vote of the Town of Smithfield Board of Adjustments for the Variance Application Number BA-20-06 is hereby:

_____ **approved upon acceptance and conformity with the following conditions:**

_____ **denied for the noted reasons.**

Decision made this __ day of __, 2020 while in regular session.

Mr. Stephen Upton
Chair of the Board of Adjustment

ATTEST:

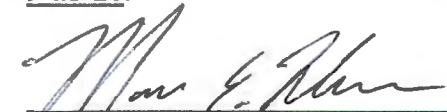
Julie Edmonds, Administrative Support Specialist



PLANNING DEPARTMENT
Mark E. Helmer, AICP, Senior Planner

ADJOINING PROPERTY OWNERS CERTIFICATION

I, Mark E. Helmer, hereby certify that the property owner and adjacent property owners of the following petition, BA-10-06, were notified by First Class Mail on 9-15-20.



Signature

Johnston County, North Carolina

I, Julianne Edmonds, Notary Public for Johnston County and State of North Carolina do hereby certify that Mark E. Helmer personally appeared before me on this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal, this the

15th day of September, 2020

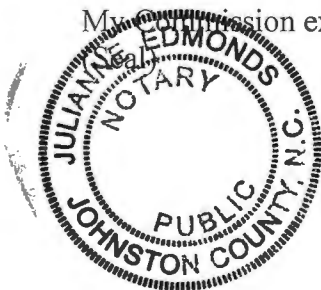


Notary Public Signature

Julianne Edmonds

Notary Public Name

My Commission expires on 1-15-2023



Adjacent Property Owners of
BA-20-06

TAG	PIN	NAME1	ADDRESS1	CITY	STATE	ZIPCODE
15013012	169419-52-4404	SNIPES, ELAINE GUNTER	2312 JOMAC RD	CHAPEL HILL	NC	27516-0000
15013011	169419-52-3461	FIRST MISSIONARY BAPTIST CHURCH	PO BOX 1422	SMITHFIELD	NC	27577
15013052	169419-52-6366	ANRAN PARTNERSHIP	484 WEST MARKET ST	SMITHFIELD	NC	27577-0000
15013053A	169419-52-7354	FIRST MISSIONARY BAPTIST	PO BOX 1422	SMITHFIELD	NC	27577-1422
15013053	169419-52-6462	HISTORIC SMITHFIELD FOUNDATION	PO BOX 2235	SMITHFIELD	NC	27577-2235
15013013	169419-52-4447	ROBINSON, ABRILLA O	309 N 4TH ST	SMITHFIELD	NC	27577-4027



PLANNING DEPARTMENT

Mark E. Helmer, AICP, Senior Planner

Notice Of Public Hearing

Notice is hereby given that a public hearing will be held before the Board of Adjustment of the Town of Smithfield, N.C., on Thursday, September 24, 2020 at 6:00 p.m. in the Town Hall Council Chambers located at 350 East Market Street to consider the following request:

BA-20-06 Historic Smithfield Foundation: The applicant is requesting a variance to the Town of Smithfield Unified Development Ordinance, Article 8, Section 8.3.1 to allow for a reduction to the minimum building setback on property located within an R-8 (Residential) zoning district. The property considered for a variance is located on the east side of North Fourth Street approximately 157 feet north of its intersection with Caswell Street and further identified as Johnston County Tax ID# 15013053.

All interested persons will be given an opportunity to be heard on this request. To accommodate disabilities and to comply with ADA regulations, please contact the town office if you need assistance. Further inquiry regarding this matter may be directed to the Smithfield Planning Department at 919-934-2116 or online at www.smithfield-nc.com.