



TOWN OF BLACK MOUNTAIN BOARD OF ADJUSTMENT

August 21, 2025

REGULAR MEETING AGENDA

Time: 6:00 PM

Town Hall Council Chambers | 160 Midland Avenue, Black Mountain, NC 28711

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1. **CALL TO ORDER**
 - 1.A. **Welcome**
 - 1.B. **Determination of Quorum**
 2. **ADOPTION OF AGENDA**
 - 2.A. **Motion: To adopt the agenda as presented [or as amended]**
 3. **ADOPTION OF MINUTES**
 - 3.A. **Motion: To adopt the minutes of July 17, 2025, and July 24, 2025, as written [or as amended]**
 4. **OLD BUSINESS**
 5. **NEW BUSINESS**
 - 5.A. **Approval of Order for 15 Avena Street**

6. COMMUNICATION FROM ZONING BOARD OF ADJUSTMENT
7. COMMUNICATION FROM STAFF
8. ADJOURNMENT



**Board of Adjustment Regular Meeting
August 21, 2025**

PROPOSED AGENDA

I. CALL TO ORDER

- **Welcome**
- **Determination of Quorum**

II. ADOPTION OF AGENDA

- **Motion:** To adopt the agenda as presented [or as amended]

III. ADOPTION OF MINUTES

- **Motion:** To adopt the minutes of July 17, 2025, and July 24, 2025, as written [or as amended]

IV. OLD BUSINESS

V. NEW BUSINESS

- Approval of Order for 15 Avena Street

VI. COMMUNICATION FROM ZONING BOARD OF ADJUSTMENT

VII. COMMUNICATION FROM STAFF

VIII. ADJOURNMENT

**TOWN OF BLACK MOUNTAIN
BOARD OF ADJUSTMENT**

The Black Mountain Board of Adjustment held its regular meeting on Thursday, July 17, 2025, at 6:00 p.m. in Town Hall at 160 Midland Avenue, Black Mountain, North Carolina.

I. CALL TO ORDER

The meeting was called to order with the following members present:

Lauren Dodgin, Chair
Nicole Stallings
David Barley

Absent:

John Hines
Linda Brinson

Staff:

Jennifer Tipton, Senior Admin
Russell Cate, Planner I/Zoning Administrator

The meeting was called to order at 6:00 p.m. and duly constituted and opened for business with a quorum of three (3) regular members.

II. ADOPTION OF AGENDA

Jennifer Tipton announced one change to the agenda. The applicant for the special use permit request at 399 Blue Ridge Road has withdrawn their application and that item will be removed from the agenda. Nicole Stallings made a motion to approve the agenda as amended. The motion was approved by a vote of 3-0.

III. ADOPTION OF MINUTES

Nicole Stallings made a motion to adopt the minutes of June 26, 2025, as written. The motion was approved by a vote of 2-0 (with David Barley abstaining).

IV. OLD BUSINESS

None.

V. NEW BUSINESS

1. Approval of Order for 500 Blue Ridge Road and 99999 Blue Ridge Road Variance

Nicole Stallings made a motion to approve the order granting the variance request for 500 Blue Ridge Road and 99999 Blue Ridge Road as written. The motion was approved by a vote of 3-0.

2. Variance Request – 15 Avena Street

Chair Lauren Dodgin explained to the applicant that there were not enough board members to vote on the variance request. The applicant agreed to a continuation of the meeting to the following week.

VI. COMMUNICATION FROM BOARD OF ADJUSTMENT

None.

VII. COMMUNICATION FROM STAFF

Board of Adjustment Regular Meeting
July 17, 2025

None.

VIII. ADJOURNMENT

The meeting is continued to Thursday, July 24, 2025, at 6:00 p.m.

Prepared by:

Lauren Dodgin, Chair

Jennifer Tipton, Senior Admin

Board of Adjustment Regular Meeting
July 17, 2025

**TOWN OF BLACK MOUNTAIN
BOARD OF ADJUSTMENT**

The Black Mountain Board of Adjustment held a continuation of the July 17, 2025, meeting on Thursday, July 24, 2025, at 6:00 p.m. in Town Hall at 160 Midland Avenue, Black Mountain, North Carolina.

I. CALL TO ORDER

The meeting was called to order with the following members present:

Lauren Dodgin, Chair
Nicole Stallings
David Barley
John Hines

Absent:

Linda Brinson

Staff:

Jennifer Tipton, Senior Admin
Russell Cate, Planner I/Zoning Administrator

The meeting was called to order at 6:00 p.m. and duly constituted and opened for business with a quorum of four (4) regular members.

II. ADOPTION OF AGENDA

There was no agenda to adopt.

III. ADOPTION OF MINUTES

There were no minutes to adopt.

IV. OLD BUSINESS

1. Variance Request – 15 Avena Street

Jennifer Tipton swore in all parties testifying.

Russell Cate presented the staff report. The variance request is for a reduction of three feet and eight inches from the required thirty-foot setback to repair a deck from TS Helene and expand the deck. Mr. Cate noted that the zoning for the parcel is OI-6 and the neighboring properties are residential with front porches being a common feature. The property does not have a stream buffer or floodplain.

Aaron Goglin, of Semper Fi Custom Remodeling, said that the deck was built in conformance with the thirty-foot setback when the house was built in 2006. The property has a large front setback even though the parcel and neighboring parcels are residential. The goal is to extend the porch to the concrete sidewalk in the front yard and to make the deck more accessible and usable.

Chair Lauren Dodgin made a motion to go into recess to deliberate and the motion was approved by a vote of 4-0. The overall consensus was that there is onerous zoning in this area forcing residential properties to conform to requirements for an office or industrial property. It was noted that the deck as it exists is very small and not very usable.

Board of Adjustment Regular Meeting
July 24, 2025

The board voted on each variance requirement and found the following:

1. There are unnecessary hardships that would result from the strict application of the ordinance because onerous industrial setbacks are being applied to a residential parcel. The board voted 4-0 on this requirement.
2. The hardship results from conditions that are peculiar to the property because the property is quite small and doesn't provide additional space beyond the required setbacks. The board voted 4-0 on this requirement.
3. The hardship does not result from actions taken by the applicant or property owner as the property existed and the house was built before the applicant purchased the property. The board voted 4-0 on this requirement.
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 because it allows the applicant to have what others in the neighborhood have and does not pose a danger and would make it closer in look to neighboring properties. The board voted 4-0 on this requirement.

Chair Dodgin made a motion to come out of recess and the motion was approved by a vote of 4-0.

Chair Dodgin made a motion to close the evidentiary hearing, and the motion was approved by a vote of 4-0.

Chair Dodgin made a motion to grant the variance to allow a reduction of the required thirty-foot setback by three feet and eight inches.

V. NEW BUSINESS

None.

VI. COMMUNICATION FROM BOARD OF ADJUSTMENT

None.

VII. COMMUNICATION FROM STAFF

None.

VIII. ADJOURNMENT

With no further business, the meeting was adjourned at 6:21 p.m.

Prepared by:

Lauren Dodgin, Chair

Jennifer Tipton, Senior Admin

In the Matter of the Application of)
Max and Brooke Cherry) ORDER
For a Variance for Property at 15 Avena St)
PIN No. 0609-43-9868.00000)

THIS CAUSE, coming on before the Board of Adjustment for the Town of Black Mountain on July 24, 2025, upon the application of Max and Brooke Cherry, to reduce the required front setback of thirty-feet by three feet and eight inches at 15 Avena St in Black Mountain, PIN #0609-43-9868.00000, which is Plat Book 0115 at Page 0063, Buncombe County Registry.

Aaron Gonglin of Semper Fi Custom Remodeling, appeared as the representative for the Applicants to present their case.

Jennifer Tipton, Senior Admin, and Russell Cate, Zoning Administrator, appeared for the Town staff and four members of the Board of Adjustment were in attendance.

The Board of Adjustment, having heard and considered the testimony of town staff and the representative for the Applicant, and having considered all the evidence presented by the town staff and the representative for the Applicant and the statements and arguments of the representative of the Applicant, makes the following.

FINDINGS OF FACT

1. The Board of Adjustment has jurisdiction over this matter pursuant to Section 1.7.3 of the Land Use Code (the "LUC").
2. Proper notice of this meeting and hearing of the Board of Adjustment was provided as required by the Town ordinances and the state law.
3. Applicants Max and Brooke Cherry are owners of the property located at 15 Avena Street, Black Mountain, North Carolina, which has the current PIN number of 0609-43-9868.00000 as shown on the Buncombe County tax maps, also being Plat Book 0115 at Page 0063, Buncombe County Registry.
4. The property is zoned OI-6.
5. The property is .17 acres.
6. The property currently has a single-family residence that was constructed in 2006.
7. The OI-6 district has a required front setback of thirty feet.

8. The neighboring properties are residential with front porches being a common feature among the structures.
9. The existing deck is very small and was damaged by TS Helene and the Applicant's would like to extend the deck during the repairs to make the deck more accessible and usable.
10. To be granted a variance, the Applicant is required to prove all the following:
 - (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.
 - (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.
 - (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) 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. (N.C.G.S. Section 160D-705; Section 1.7.3.E. of the LUC).
11. There are unnecessary hardships because the ordinance because restrictions imposed by the required front setback do not allow for any type of expansion of the front porch.
12. The hardship results from conditions that are peculiar to the property because the lot is small and doesn't provide for additional space beyond the required setback.
13. The hardship did not result from actions taken by the Applicants or the property owner in that the property was already in existence and house was already constructed before the Applicant's purchased the property.
14. The requested variance is consistent with the spirit, purpose, and intent of the ordinance such that public safety is secure and substantial justice is achieved as it allows the Applicant's to have what others in the neighborhood have and does not pose a danger and would make it closer in look to neighboring properties.

BASED UPON THE FOREGOING FINDINGS OF FACT, THIS BOARD by a vote of 4 to 0 concludes that the Applicants should be granted a variance to reduce the required front setback of thirty feet by three feet and eight inches.

IT IS NOW, THEREFORE, ORDERED, that the Applicants are granted a variance to reduce the required front setback of thirty feet to three feet and eight inches for 15 Avena Street.

This the _____ day of _____, 2025.

LAUREN DODGIN, Chairman

If you are dissatisfied with the decision of this Board, an appeal may be taken to the Superior Court of Buncombe County within 30 days after the date this order is served on you. See Section 1.7.5 of the Land Use Code., Appeals from Decisions of the Board of Adjustment, in the Town of Black Mountain Code of Ordinances.