



TOWN OF BLACK MOUNTAIN

160 Midland Avenue ♦ Black Mountain ♦ N.C. ♦ 28711

Phone: (828) 419-9300 ♦ Fax: (828) 669-2030

MEMORANDUM

To: Town of Black Mountain Zoning Board of Adjustment
From: Jennifer Tipton, Zoning Administrator
Re: Agenda Packet for June 20, 2019
Date: June 10, 2019

The **Town of Black Mountain Zoning Board of Adjustment** will meet on **Thursday, June 20, 2019 at 6:00 p.m.** in Town Hall at 160 Midland Avenue.

Please find the following items for your information and use at the meeting:

1. The proposed agenda;
2. Draft minutes from March 21, 2019;
3. Variance Request for 102 Sixth Street.

Please let Jennifer Tipton know if you are **unable** to attend this meeting.
jennifer.tipton@townofblackmountain.org or (828) 419-9373.

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the American with Disabilities Act. Should you need assistance or a particular accommodation for this meeting, please inform Jennifer Tipton at (828) 419-9373 or by email at jennifer.tipton@townofblackmountain.org.

CC: Jessica Trotman, Planning Director
Ron Sneed, Town Attorney



PUBLIC NOTICE

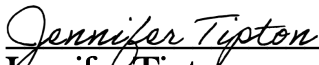
BLACK MOUNTAIN ZONING BOARD OF ADJUSTMENT

REGULAR MEETING

Thursday, June 20, 2019 at 6:00 p.m.

The Black Mountain Zoning Board of Adjustment will meet for their monthly meeting on **Thursday, June 20, 2019 at 6:00 p.m.** at Town Hall, 160 Midland Avenue, Black Mountain, N.C. The purpose of this meeting is to hear a variance request for 102 Sixth Street, further identified as PIN #0619-39-3182, to reduce the side setback for an accessory structure.

The meeting is open to the public.



Jennifer Tipton
Zoning Administrator

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or a particular accommodation for this meeting please contact, Jennifer Tipton, Zoning Administrator at (828) 669-2030 or by email at Jennifer.tipton@townofblackmountain.org

Posted to the Town Bulletin Board 05/31/19

www.townofblackmountain.org



**Zoning Board of Adjustment Regular Meeting
June 20, 2019**

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 March 21, 2019 as written (or as amended)

IV. OLD BUSINESS

V. NEW BUSINESS

- Variance Request for 102 Sixth Street

VI. COMMUNICATION FROM ZONING BOARD OF ADJUSTMENT

VII. COMMUNICATION FROM STAFF

VIII. ADJOURNMENT

TOWN OF BLACK MOUNTAIN ZONING BOARD OF ADJUSTMENT

The Black Mountain Zoning Board of Adjustment held its regular meeting on Thursday, March 21, 2019 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:

Cheryl Milton, Chair
John DeWitt, Vice Chair
Jillian Ballard, Secretary
Rebecca Harris
Bob Osmundsen
Ted Mattson, Alternate
Charlotte McRanie, Alternate

Absent:

Janet McKimpson, Alternate

Staff:

Jennifer Tipton, Zoning Administrator

The meeting was called to order at 5:58 p.m. and duly constituted and opened for business with a quorum of five (5) regular members.

II. ADOPTION OF AGENDA

John DeWitt made a motion to adopt the agenda as presented. The motion was seconded by Rebecca Harris and approved by a vote of 5-0.

III. ADOPTION OF MINUTES

Jillian Ballard made a motion to adopt the minutes of December 5, 2018 as written. The motion was seconded by John DeWitt and approved by a vote of 5-0.

IV. OLD BUSINESS

None.

V. NEW BUSINESS

1. Variance Request for 119 Oakland Drive

Jennifer Tipton presented the board a variance request for 119 Oakland Drive. The applicant is requesting a variance of one foot on each side of the lot brining the side setbacks from ten feet to nine feet due to the narrow nature of the lot. The lot is zoned TR-4. The lot size is smaller than the requirement but section 1.3.5 of the Land Use Code allows the lot to still be built upon if setbacks and other district requirements are met. Section 4.3.3 of the Land Use Code states that property lines that extend into the roadway are measured from the edge of pavement and because this lot goes across Oakland Drive, then the side setback would be measured from the edge of pavement.

Brigid Belenksy, 900 Vista Lake Drive, said that she is wanting to build small house and complimented the beautiful neighborhood. Ms. Belenksy said she wants the house to fit in the with neighborhood and does not want to build a tiny home and does not want it to have a temporary structure feel. Ms. Belenksy said that when she measured the width of the lot from the

Zoning Board of Adjustment Regular Meeting
March 21, 2019

fence to the edge of pavement she measured thirty-three feet. Ms. Belensky said that she has owned the lot since October. Ms. Belensky again stated that she wants to build a small house and still have some yard.

Teresa Tatham, 126 Oakland Drive, spoke about the variance request for the same property that happened two years ago and questioned if that information had been disclosed to the applicant. Ms. Tatham gave a brief history of Oakland Drive and questioned why the Town of Black Mountain didn't own the lot. Ms. Tatham spoke about the water meter for Ms. Summey that is located on the subject property and asked if it would be responsibility of the applicant to have that moved. Ms. Tatham also said that all the utilities are located on her side of the street.

Rick Earley, 107 Oakland Drive, also spoke of the variance request for the same property that happened two years ago and said that two reasons were given for the denial of that variance, which were lack of an unnecessary hardship and danger to public welfare. Mr. Earley said that he felt that the same issues applied to the current variance request. Mr. Earley said that he had measured from the fence to the edge of pavement and got thirty-four feet. Mr. Earley also said that the current road is sixteen and a half feet and the if the town wanted to they could widen the road and if that were to happen it would most likely happen on the south side as all of the utilities are located on the north side and if that were to happen then that would only leave five and a half feet to the edge of pavement. Mr. Earley presented some pictures to help illustrate his points.

Jerry Kerlee, 5309 Emerald Isle Drive, said that he wanted to make sure that public welfare was protected and that the road should be twenty feet wide.

Pam Norton, 103 Oakland Drive, also said she was concerned about the general welfare and said that Oakland Drive is used as a cut-through street and is only sixteen and a half feet wide. Ms. Norton also said that there are lots of children and dogs who walk on the street and that a mailbox has had to be replaced because of someone hitting it. Ms. Norton said she is also concerned about speed and asked if a house were put on the lot then where would the people who were walking along the street go if they needed to get off the road in a hurry in case of a speeding car.

Steve Summey, 434 Onteora Boulevard, stated that the lot that his mother's house is on also has a garage structure and then behind that at 113 Oakland is another structure and if another structure is allowed then that would be four to five structures about twenty-five feet apart and that the Fire Chief had said that moving structures closer together would create a greater fire hazard. Mr. Summey also spoke about when the roads get slick in the winter and slide off into the ditch and that a structure being placed in the lot could be hit. Mr. Summey also spoke about widening the road and that if the road is widen then the nine feet as requested would go to five feet and would take away from the yard. Mr. Summey also spoke about the type of structure that is proposed and that it would be the same kind of structure as a trailer and that it does not meet the aesthetics of the neighborhood. Mr. Summey said the driveway was built in the early 1970's for his father's billboard business. Mr. Summey said that upon learning that they did not own that lot they went to the courthouse to try and buy the lot from auction but were outbid. Mr. Summey also mentioned the water meter and how it would be moved and who would be responsible for moving it. Mr. Summey said that the gas line runs from Rhododendron to the tree in the subject property. Mr. Summey said the fence was built in 2014 but the Summey's had fences around the entire property in years past. Mr. Summey said that they could not claim adverse possession because of a court case from the 1980's and said that he felt the applicant had not been told everything about the lot. Mr. Summey said that the outcome from the December

Zoning Board of Adjustment Regular Meeting
March 21, 2019

meeting was that it was an unbuildable lot and read a statement from the minutes of the December meeting.

Brigid Belensky, 900 Vista Lake Drive, said that she is wanting to build a fifteen by forty home with a porch in the front and would be two stories. Ms. Belensky said that she wants a small, traditional cottage with a gable roof and would not cut the trees. Ms. Belensky said the driveway would come off of Oakland. Ms. Belensky said she was told the lot was buildable for a house up to thirteen feet wide as is but was looking to get a couple of more feet and was aware that a previous variance had been asked for and denied.

Steve Summey, 434 Oteora Boulevard, asked if the front of the house would be facing Oakland or Rhododendron.

Brigid Belensky, 900 Vista Lake Drive, said the front of the house would face Rhododendron. Ms. Belensky said she would not restrict access if someone needed to step off the road.

Jerry Kerlee, 5309 Emerald Isle Drive, supported Mr. Summey's comment about a fence around the property.

Ms. Tipton said that the property is classified as a residential building lot by Buncombe County and is not listed as a substandard lot per the tax records.

Rick Earley, 107 Oakland Drive, said his concern is that the width of the lot is not really known.

Brigid Belensky, 900 Vista Lake Drive, said she could only afford a fifteen foot wide house and that anything larger is not in her budget.

The board went into recess at 6:56 p.m. The board discussed the road, the lot size, the use of the road and the potential for the widening of the road, and if there was a hardship or not.

The board reconvened at 7:05 p.m. Jillian Ballard made a motion to close the public hearing. The motion was seconded by John DeWitt and approved with a vote of 5-0. The board found that there was not an unnecessary hardship as a small house could still be built on the lot. Jillian Ballard made a motion to deny the variance request because there was not an unnecessary hardship. The motion was seconded by Rebecca Harris and approved by a vote of 5-0.

VI. COMMUNICATION FROM ZBA

None.

VII. COMMUNICATION FROM STAFF

None.

VIII. ADJOURNMENT

Bob Osmundsen made a motion to adjourn at 7:08 p.m. The motion was seconded by John DeWitt and approved by a vote of 5-0.

Prepared by:

Cheryl Milton, Chair

Jennifer Tipton, Zoning Administrator



LEGAL NOTICE

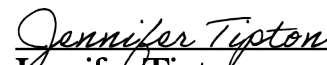
BLACK MOUNTAIN ZONING BOARD OF ADJUSTMENT

VARIANCE HEARING

Thursday, June 20, 2019 at 6:00 p.m.

The Black Mountain Zoning Board of Adjustment will meet on **Thursday, June 20, 2019 at 6:00 p.m.** in the Board Room in the Town Hall Building, 160 Midland Avenue, Black Mountain, N.C. The purpose of this meeting is to hear a variance request for 102 Sixth Street, further identified as PIN #0619-39-3182, to reduce the side setback for an accessory structure.

The meeting is open to the public.



Jennifer Tipton
Zoning Administrator

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or a particular accommodation for this meeting please contact, Jennifer Tipton, Zoning Administrator at 419-9373 or by email at Jennifer.tipton@townofblackmountain.org

*Posted to the Town Bulletin Board 05/31/19
Published in the Black Mountain News 06/06/19 and 06/13/19*

www.townofblackmountain.org



Town of Black Mountain

160 Midland Avenue ♦ Black Mountain, North Carolina ♦ 28711

Phone: 828-419-9300 ♦ Fax: 828-669-2030

OFFICE OF THE ZONING ADMINISTRATOR

APPLICATION FOR VARIANCE

Date: 5/22/19

To: **ZONING ADMINISTRATOR**
TOWN OF BLACK MOUNTAIN

NAME OF OWNER AND ADDRESS OF THE REAL ESTATE AFFECTED BY THE PROPOSED VARIANCE:

Susanne Strull
102 6th St, Black Mtn 28711

PROPERTY DESCRIPTION/PIN #: Residence / PIN # 0619-39-3182

CURRENT ZONING CLASSIFICATION: UR8

THIS PROPERTY IS CURRENTLY USED FOR THE PURPOSE OF:

Residential - single family

THE VARIANCE IS REQUESTED TO ALLOW THE PROPERTY OWNER TO:

Place an appropriate-sized outbuilding
in the best use of space (please see
attached letter).

ATTACHED HERETO IS A PLOT PLAN OF THE REAL ESTATE AFFECTED, INDICATING THE SIZE OF THE LOT, SIZE OF IMPROVEMENTS NOW ERECTED, AND THOSE PROPOSED TO BE ERECTED.

THE APPLICANT BELIEVES THAT THE VARIANCE BE GRANTED FOR THE FOLLOWING REASONS:

Please see attached letter + photos.

Thank you!

SIGNATURE OF APPLICANT:

[Signature]

Susie Strull

102 6th St

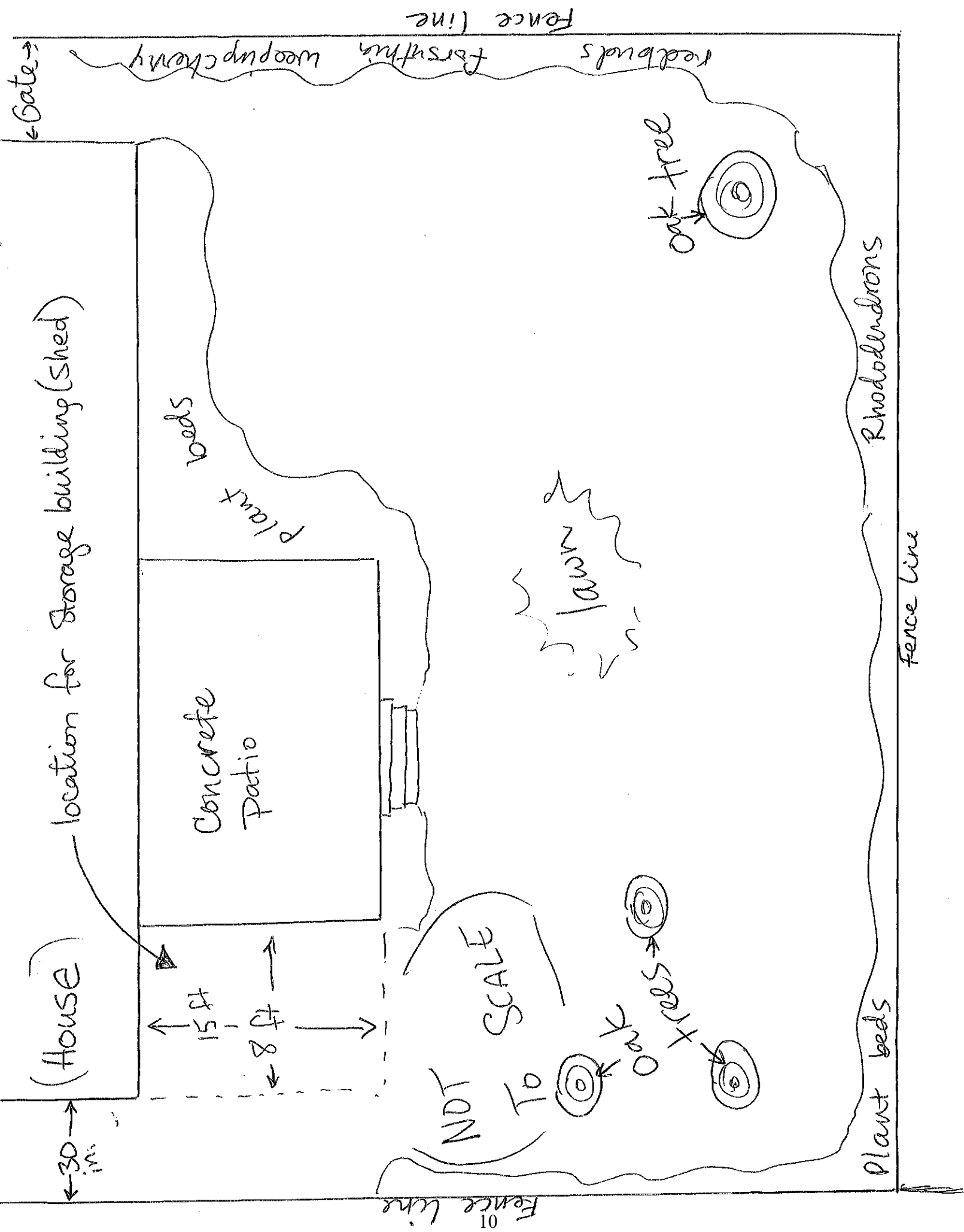
Black Mountain, NC 28711

May 21, 2019

I am applying for a variance for a permit to put a good-quality storage shed in the most logical and aesthetically appropriate place in my back yard. It is an 8 x 15' flat space that is right next to my concrete patio, and would align with the end wall of my house. This spot allows the best use of space in my back yard, and is a location that would not affect the use and aesthetic of the rest of the yard. I want to use this shed partially as a work studio, and will need good electrical access, so this location makes the most sense for that reason, as well.

I need permission for a variance because in order to make the best use of this space, and align it with the side of my house, it would be set approximately 30 inches back from the fence line (instead of 5 feet). This is the distance of my house from the fence line. Because of the concrete patio location, a five-foot clearance will not allow me to put an appropriate-sized shed in that space. Please see attached photographs of my yard and location of the house and patio. I don't believe this will negatively impact any neighbors, as it is no closer to the fence line than my house already sits, and it would add to the value of the property. I have already spent time and money clearing out shrubbery and removing an old brick planter box in the area. I'm very hopeful that the committee will grant this request, as I have 3 children and limited space, and this outbuilding will be very helpful for my family. It is the only logical location to place it. If I put it in any other location, I would have to cut down beautiful old oak trees, and it would ruin the useable space of the back yard.

Thank you so much for your consideration!





RECEIPT

Date: 5/22/19 Amount Paid: 350-
Customer: Susanne Strull
For: Variance application
Balance: φ
Check # 102 Received by: J. Upton



TOWN OF BLACK MOUNTAIN
Building, Planning & Zoning
160 MIDLAND AVE.
BLACK MOUNTAIN, NC 28711
(828) 419-9300

102 Sixth Street Buffer Map



<u>Name</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>	<u>PIN #</u>
Susanne Lynch Strull	102 Sixth Street	Black Mountain	NC	28711	0619-39-3182
Michael J Guzalek	4092 Lower Kula Road	Kula	HI	96790	0619-39-4160
B Cubed Group LLC	241 Holland Dr	Black Mountain	NC	28711	0619-39-5059
Ramon Berrayarza and Maria Hernandez	110 Sixth Street	Black Mountain	NC	28711	0619-39-6038
Joseph A and Mildred R Lytle	PO Box 699	Black Mountain	NC	28711	0619-38-5994
Steven M and Tracey L Goldfarb	107 Fifth Street	Black Mountain	NC	28711	0619-38-5925
Mary S Anderson	105 Fifth Street	Black Mountain	NC	28711	0619-38-4955
Carolyn S Sparks	600 Montreat Road	Black Mountain	NC	28711	0619-38-3943
Anita Metcalf Hawkins	39 Moody Road	Asheville	NC	28806	0619-39-3032
Steven W Wonson and Karen S Wonson, Brian Wonson and Stephanie Wonson	606 Montreat Road	Black Mountain	NC	28711	0619-39-2173
Timothy Reid and Summer Brooke Kirkpatrick	100 Beech Street	Black Mountain	NC	28711	0619-38-1958
Florence Tyler	PO Box 489	Swannanoa	NC	28778	0619-39-1016
Dana Babich Smith	1 Iroquois Street	Black Mountain	NC	28711	0619-39-1103
TP Capital LLC	70 Green Knob Road	Old Fort	NC	28762	0619-39-2218
Thelma L Roberts	702 Montreat Road	Black Mountain	NC	28711	0619-39-3307
Deborah K Roland	173 Jacktown Road	Marion	NC	28752	0619-39-3207
Deborah Whitson	173 Jacktown Road	Marion	NC	28752	0619-39-3296
Deborah K Roland	173 Jacktown Road	Marion	NC	28752	0619-39-4493
Deborah K Roland	173 Jacktown Road	Marion	NC	28752	0619-39-5472
Christian Halbert Law	105 Sixth Street	Black Mountain	NC	28711	0619-39-4278
David Everett Burgess and Carolyn P Morris	107 Sixth Street	Black Mountain	NC	28711	0619-39-5257
Annie Bartlett	201 Portmanvilla Road	Black Mountain	NC	28711	0619-39-6227

[illegible]



Town of Black Mountain

160 Midland Avenue ♦ Black Mountain, North Carolina, 28711
Phone: 828-419-9300 ♦ Fax: 828-669-2030 ♦ TDD: 1-800-735-5962

NOTICE OF VARIANCE REQUEST (REGARDING NEIGHBORS WITHIN 200 FEET OF PROPERTY)

DATE: **June 1, 2019**

TO: Name
Address
City, State, Zip

FROM: **TOWN OF BLACK MOUNTAIN
ZONING ADMINISTRATOR**

Name of owner and address of the real estate affected by the proposed variance:

**Susanne Strull
102 Sixth Street
Black Mountain, NC 28711**

Property Description/PIN #: **102 Sixth Street / PIN #0619-39-3182**

Current Zoning Classification: **UR-8 (urban residential)**

This property is currently used for the purpose of: **residential - single-family**

The variance is requested to allow the property owner to:

Place an appropriate-sized outbuilding in the best use of space.

The applicant believes that the variance be granted for the following reasons:

Please see attached letter.

A public hearing will be held on Thursday, June 20, 2019 @ 6:00 p.m. in the Board Room of Town Hall at 160 Midland Avenue.

This is your notification for this request specified under 1.7 of the Land Use Code for the Town of Black Mountain. Section 1.7.1 (d) (3) indicates that notice be provided to all property owners within 200 feet of the site's property lines. Notice of the time, date, and place of the hearing will be published in the Black Mountain News in accordance with the Land Use Code of the Town of Black Mountain.

CERTIFICATE OF MAILING

This is to certify that the foregoing document (NOTICE OF VARIANCE REQUEST FOR 102 SIXTH STREET) has been duly served by depositing a copy of the same in the United States Mail, first-class, postage pre-paid, to the following:

Susanne Lynch Strull
102 Sixth Street
Black Mountain, NC 28711

B Cubed Group LLC
C/O Russell Boardman
241 Holland Drive
Black Mountain, NC 28711

Joseph A & Mildred R Lytle
PO Box 699
Black Mountain, NC 28711

Mary S Anderson
105 Fifth Street
Black Mountain, NC 28711

Anita Metcalf Hawkins
39 Moody Road
Asheville, NC 28806

Timothy Reid & Summer Brooke Kilpatrick
100 Beech Street
Black Mountain, NC 28711

Dana Babich Smith
1 Iroquois Street
Black Mountain, NC 28711

Thelma L Roberts
702 Montreat Road
Black Mountain, NC 28711

Christian Halbert Law
105 Sixth Street
Black Mountain, NC 28711

Michael J Guzalek
4092 Lower Kula Road
Kula, HI 96790

Ramon Berrayarza
Maria Hernandez
110 Sixth Street
Black Mountain, NC 28711

Steven M & Tracey L Goldfarb
107 Fifth Street
Black Mountain, NC 28711

Carolyn S Sparks
600 Montreat Road
Black Mountain, NC 28711

Steve W & Karen S Wonson
Brian & Stephanie Wonson
606 Montreat Road
Black Mountain, NC 28711

Florence Tyler
PO Box 489
Swannanoa, NC 28778

TP Capital LLC
70 Green Knob Road
Old Fort, NC 28762

Deborah K Roland
173 Jacktown Road
Marion, NC 28752

David Everett Burgess
Carolyn P Morris
107 Sixth Street
Black Mountain, NC 28711

CERTIFICATE OF MAILING

This is to certify that the foregoing document (NOTICE OF VARIANCE REQUEST FOR 102 SIXTH STREET) has been duly served by depositing a copy of the same in the United States Mail, first-class, postage pre-paid, to the following:

Annie Bartlett
201 Portmanvilla Road
Black Mountain, NC 28711

Jennifer Tipton
Jennifer Tipton, CZO
Zoning Administrator

6/4/19
Date

Buncombe County, North Carolina

I certify that the following person personally appeared before me this day, acknowledging to me that she signed the foregoing document: Jennifer Tipton.

Date: 6/4/2019

Notary Signature: Cortney N. Kidd

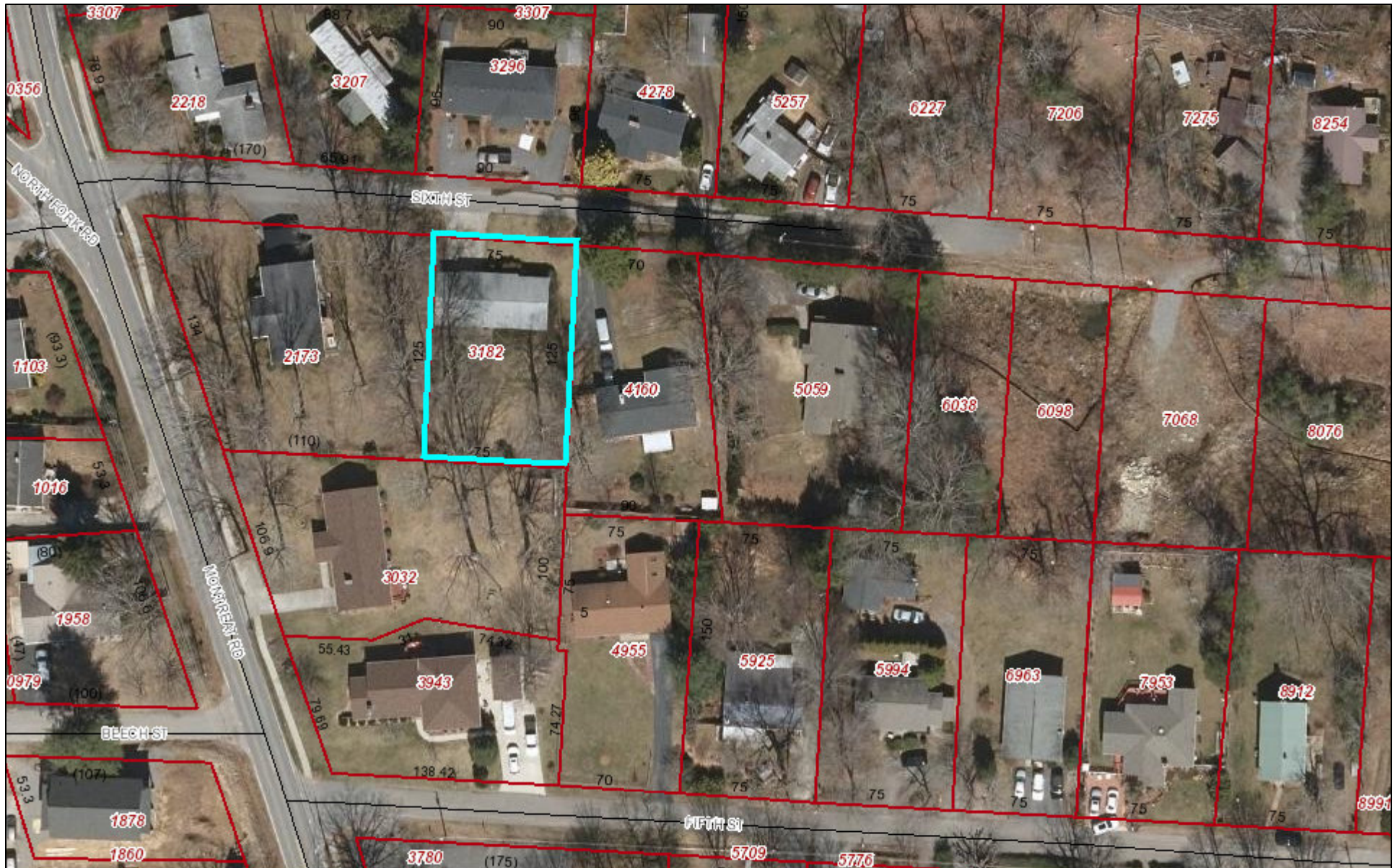
Notary Printed Name: Cortney N. Kidd

My Commission Expires: 5/17/2020

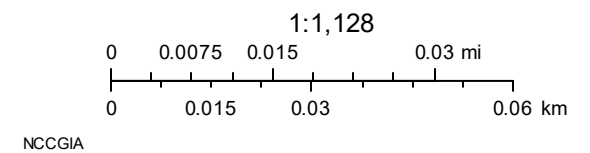


Buncombe County

102 Sixth Street - 2015 aerial



May 28, 2019



VARIANCE

JUNE 20, 2019

6:00 P.M.

*Town Hall
160 Midland Avenue
Black Mountain, NC 28711
828-419-9373 for more information*