

**TOWN OF BLACK MOUNTAIN
ZONING BOARD OF ADJUSTMENT**

The Black Mountain Zoning Board of Adjustment held its regular meeting on Thursday, December 19, 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
Rebecca Harris, Secretary
Ted Mattson
Janet McKimpson, Alternate
Greg Feightner, Alternate

Absent:

John DeWitt, Vice Chair
Bob Osmundsen
Charlotte McRanie, Alternated

Staff:

Jennifer Tipton, Zoning Administrator
Ron Sneed, Town Attorney

The meeting was called to order at 6:01 p.m. and duly constituted and opened for business with a quorum of three (3) regular members and two (2) alternates.

II. ADOPTION OF AGENDA

Greg Feightner made a motion to remove the review of the boards and commissions' handbook until all members could be present. The motion was seconded by Ted Mattson and passed by a vote of 5-0. Rebecca Harris made a motion to adopt the agenda as amended. The motion was seconded by Janet McKimpson and passed by a vote of 5-0.

III. ADOPTION OF MINUTES

Janet McKimpson made a motion to adopt the minutes of September 19, 2019 as written. The motion was seconded by Ted Mattson and passed by a vote of 5-0.

IV. OLD BUSINESS

None.

V. NEW BUSINESS

1. Variance Request for 48 Sisters View Drive

Jennifer Tipton summarized the staff report for the variance request for 48 Sisters View Drive. The request is to reduce the rear setback from thirty feet to twenty feet because of the steepness of the slope.

Houston Hammond, 22 Weston Heights Drive, first introduced into evidence a site plan marked with the desired placement. Mr. Hammond said that they need twenty-two feet but the twenty feet would give a small buffer. The variance would allow the house to sit on a less sloped portion of the lot. The adjacent neighbor is a Duke Energy Progress power line. The variance would

Zoning Board of Adjustment Regular Meeting
December 19, 2019

allow the foundation to not be visible from the road and as a larger foundation would affect the height. The design of the house does take into account the steep slope regulations.

Thomas McClain, 227 Fairway Falls, said that in talking with the Design Review Board (DRB) of the Settings, they explained that the original rear setback was twenty feet and is shown as that in their documents but the Town had changed it to thirty feet. The house will still be forty-five feet from the power lines. There was no pushback from the DRB and they approved of the asking of the variance.

Ms. Tipton presented the following evidence:

Exhibit A: Staff Report (3 pages)

Exhibit B: Application for Variance (2 pages)

Exhibit C: Receipt of Payment

Exhibit D: Buffer Map

Exhibit E: List of Property Owners

Exhibit F: Notice of Variance Request

Exhibit G: Certificate of Mailing

Exhibit H: 2015 Aerial Map

Exhibit I: Picture of Property Posting

The applicant presented the following evidence:

Exhibit A: Site Plan

The board made the following findings of fact:

1. The slope of the western portion of the lot creates an unnecessary hardship if the land use regulations and specific requirements of the zoning district are strictly applied, because of the increased cost and danger of construction on that steeper portion of the lot if a house is constructed that does not encroach into the rear setback lines.
2. The hardship results from conditions that are peculiar to the property because of the extreme slope of a portion of the lot.
3. The hardship did not result in actions taken by the applicant or the property owner, as the slope is a characteristic of the lot the owner had no control over, and the rear setback requirement was imposed after the lot was created by the subdivision of the property known as the Settings into lots which were designed with allowance made for a twenty foot rear setback, and not the thirty foot setback as required by current zoning.
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, as a variance will allow the owner to have the same use of his property as other property owners in the neighborhood, without causing closer proximity to other housing because the lot abuts a power line easement, and by allowing a home without an extremely high foundation.

Ted Mattson made a motion to grant the variance request to reduce the rear setback from thirty feet to twenty feet. 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

Zoning Board of Adjustment Regular Meeting
December 19, 2019

Janet McKimpson made a motion to adjourn the meeting at 6:24 p.m. The motion was seconded by Greg Feightner and approved by a vote of 5-0.

Prepared by:

Cheryl Milton, Chair

Jennifer Tipton, Zoning Administrator

Rebecca Harris, Secretary