

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

The Black Mountain Zoning Board of Adjustment held its regular meeting on Thursday, December 17, 2020, at 6:00 p.m. electronically via Zoom.

I. CALL TO ORDER

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

Cheryl Milton, Chair
John DeWitt, Vice Chair
Ted Mattson
Janet McKimpson
Greg Feightner
Patrick Prosser, Alternate

Absent:

Jillian Ballard, Alternate

Staff:

Jennifer Tipton, Senior Admin
Jake Hair, Planner
William Morgan, Attorney

The meeting was called to order at 6:03 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. The motion was seconded by Janet McKimpson and approved by a vote of 5-0.

III. ADOPTION OF MINUTES

John DeWitt made a motion to adopt the minutes of August 20, 2020 as written. The motion was seconded by Janet McKimpson and approved by a vote of 5-0.

IV. OLD BUSINESS

None.

V. NEW BUSINESS

1. Election of Officers

John DeWitt made a motion that the current officers remain. Cheryl Milton made note that Rebecca Harris had been the Secretary and she was no longer on the board. John DeWitt amended his motion to nominate Janet McKimpson as Secretary. The motion was seconded by Janet McKimpson and approved by a vote of 5-0. The officers are as follows:

Chair – Cheryl Milton
Vice Chair – John DeWitt
Secretary – Janet McKimpson

2. Variance Request for 101 Connally Street

Jake Hair gave a summary of the case to the board. The applicant is requesting a variance to reduce the rear setback from fifteen feet to five feet for a secondary dwelling. The existing

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building is currently a garage and meets the setback requirements for an accessory structure. The applicant would like to turn the garage into a secondary dwelling and therefore must meet the minimum rear setback of fifteen feet. Mr. Hair stated that the property is currently zoned TR-4 and secondary dwellings are a permitted use.

Martia Rachman, 109 First Street, said that the current house is 1,414 square feet and she is looking to convert the garage into additional living space. Ms. Rachman stated that there are three properties that have buildings that are only five or ten feet apart and she is just looking to have the same rights as her neighbors. Ms. Rachman said she was aware that the building was grandfathered and said she wanted to leave her options open on adding living space. Ms. Rachman said she cannot afford to add to the existing house as she would have to go up with an addition but has a space that could be turned into living space and wants to be able to use that space. Ms. Rachman said she is asking to leave the building at the five foot setback just as three other buildings next to her are.

Julie Hightower, 125 Church Street, read a statement she prepared (which is attached and made a part of these minutes) expressing concerns about allowing the building to become living space while remaining so close to her residence where her granddaughter and guests sleep. Ms. Hightower also expressed concerns about excessive noise from rentals.

Elizabeth Ann Provost, 126 Church Street, expressed concerns about parking and said that the fabric of the neighborhood is permanent residences and not short term or long term rentals.

Ben Hill, 110 Connally Street, also expressed concerns about noise and feels that there should not be further disruption of the neighborhood.

Martia Rachman, 109 First Street, said that Church Street would never be used for parking as they would create a parking space for the secondary dwelling. Ms. Rachman said she could not say definitively if she and her family would move into this residence or not but wants the highest and best use for her property.

Jake Hair explained that there are currently no rules or regulations for rentals.

Julie Hightower, 125 Church Street, said that she prepared her statement based on the application that was submitted. Ms. Hightower said she did not see how the garage would be additional living space since it is a separate structure. Ms. Hightower also said that the parking and noise of rentals is more disruptive than that of homeowners.

Chair Cheryl Milton said that the board was not there to determine if the structure could be a secondary dwelling or a rental as both uses are permitted and that they cannot control what she does with the property if it is an allowable use.

Elizabeth Anne Provost, 126 Church Street, said that her concerns were noise and parking and that it was her opinion that this should not be a rental.

Jennifer Tipton listed all of the exhibits presented:

Exhibit 1: Variance Application

Exhibit 2: Receipt of Payment

Exhibit 3: Owner Consent Form for Electronic Meeting

Exhibit 4: Buffer Map

Exhibit 5: List of Property Owners

Exhibit 6: Notice of Variance Request

Exhibit 7: Aerial Map

Exhibit 8: Picture of Property Posting

Exhibit 9: Legal Notice

Exhibit 10: Party with Standing Consent Form and Statement – Julie Hightower

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Greg Feightner made a motion to go into recess at 7:09 p.m. The motion was approved by a vote of 5-0.

The board acknowledged that secondary dwellings are a permitted use, however, they expressed concerns about allowing a residential structure to remain at five feet on the setback as the Fire Department likes to have more than five feet between a structure and the property lines. Some of the board members expressed confusion and uncertainty on what exactly the request was for. The concern was that the application stated that the variance was for additional living space but then Ms. Rachman stated it was to be a secondary dwelling and felt that the application needed to be clearer. The board did agree that the conversation about rentals was speculation and assumption and irrelevant to making a decision on the variance request.

John Dewitt made a motion to reconvene at 7:22 p.m. The motion was approved by a vote of 5-0.

John DeWitt made a motion to close the public hearing at 7:26 p.m. The motion was approved by a vote of 5-0.

Chair Cheryl Milton said that setbacks are in place for a reason and are provided as safety to other property owners. Chair Milton said that if owners could do whatever they wanted, there would not be a need for rules on setbacks.

The board found the following facts:

1. That unnecessary hardships would not result from the strict application of the Ordinance in that the house and property are livable and can be occupied as is and that the application did not explain the purpose of the variance and is unclear.

Janet McKimpson made a motion to deny the variance request. The motion was seconded by John DeWitt and approved by a vote of 3-2 with Greg Feightner and Ted Mattson voting against the motion.

VI. COMMUNICATION FROM ZBA

None.

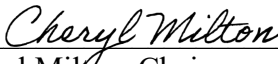
VII. COMMUNICATION FROM STAFF

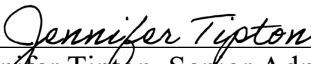
None.

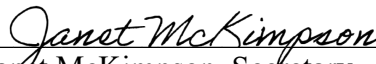
VIII. ADJOURNMENT

John Dewitt made a motion to adjourn the meeting at 7:46 p.m. The motion was approved by a vote of 5-0.

Prepared by:


Cheryl Milton, Chair


Jennifer Tipton, Senior Admin


Janet McKimpson, Secretary