



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 Board of Adjustment
From: Jennifer Tipton, Senior Admin
Re: Agenda Packet for June 17, 2021
Date: June 10, 2021

The **Town of Black Mountain Board of Adjustment** will meet on **Thursday, June 17, 2021 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 April 15, 2021;
3. Variance Request for 16 Old Lafayette Lane;
4. Variance Request for 124 Settings Boulevard;
5. Variance Request for 34 Old Lafayette Lane;
6. Discussion of ZBA Decisions and Overriding Decisions; and
7. Going back to In-Person Meetings.

Please let Jennifer Tipton know if you are **unable** to attend this meeting.
jennifer.tipton@townofblackmountain.org or (828) 419-9371.

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) 419-9371 or by email at jennifer.tipton@townofblackmountain.org.

CC: Jessica Trotman, Planning Director
Jake Hair, Planner
Ron Sneed, Town Attorney



PUBLIC NOTICE

BLACK MOUNTAIN ZONING BOARD OF ADJUSTMENT

In order to maintain the safety of Town residents, staff, and the Zoning Board of Adjustment, the Zoning Board of Adjustment regular meeting scheduled for **Thursday, June 17, 2021 at 6:00 p.m. will be conducted electronically using Zoom software** in lieu of its in-person meeting. The Town of Black Mountain Town Hall will not be open for this meeting.

There are two ways the public can participate in the meeting:

1. **Join the meeting through Zoom on your computer or smart device.** **Citizen video feeds will not be enabled. There is no password.*

<https://us02web.zoom.us/j/89438062459>

Meeting ID: 894 3806 2459

If you have not used Zoom before on a computer or smart device, you are encouraged to download the application from their website at [Zoom.us/download](https://zoom.us/download) and try it out prior to the meeting. There is no cost associated with the software or attending the meeting and there are toll free number options to dial in to listen live only.

2. **Join the meeting by telephone (listen only).**

Simply call US Toll-free 1-877-853-5247 or US Toll-free 1-888-788-0099

Meeting ID: 894 3806 2459 followed by the Pound sign (#)

Jennifer Tipton
Senior Admin

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Posted to the Town Bulletin Board 06/01/2021
www.townofblackmountain.org



AVISO PÚBLICO

JUNTA DE AJUSTE DE ZONIFICACIÓN DE BLACK MOUNTAIN

Con el fin de mantener la seguridad de los residents de la Ciudad, el personal y la Junta de Ajuste de Zonificación, la reunión regular de la Junta de Ajuste de Zonificación programada para **el jueves 17 de junio de 2021 a las 6:00 p.m.** se llevará a cabo electrónicamente utilizando el software Zoom en lugar de su reunión en persona. El Ayuntamiento de Black Mountain no estará abierto para esta reunión.

Hay dos formas en que el público puede participar en la reunión:

1. **Únase a la reunion a través de Zoom en su computadora o dispositivo inteligente.**
***Las transmisiones de video ciudadanas no estarán habilitadas. No hay contraseña.**

<https://us02web.zoom.us/j/89438062459>

ID de reunión: 894 3806 2459

Si no ha utilizado Zoom antes una computadora o dispositivo inteligente, le recomienda descargar la aplicación desde su sitio web en [Zoom.us/download](https://zoom.us/download) y probarla antes de la reunión. No hay ningún costo asociado con el software o asistir a la reunión y hay opciones de número gratuito para escuchar solo en vivo.

2. **Únase a la reunión por teléfono (solo escuchar).**

Simplemente llame al número gratuito 1-877-853-5247 o al número gratuito 1-888-788-0099

ID de reunión: 894 3806 2459 seguido del signo de libra (#)

Jennifer Tipton
Administrador senior

La ciudad de Black Mountain se compromete a proporcionar instalaciones, programas y servicios accesibles para todas las personas en cumplimiento con la Ley de Estadounidenses con Discapacidades (ADA). Si necesita ayuda o un alojamiento en particular para esta reunión, comuníquese con Jennifer Tipton al (828) 419-9371 o por correo electrónico a Jennifer.tipton@townofblackmountain.org.

Publicado en el Tablón de Anuncios municipal 06/01/2021
www.townofblackmountain.org



**Zoning Board of Adjustment Regular Meeting
June 17, 2021**

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 April 15, 2021 as written [or as amended]

IV. OLD BUSINESS

V. NEW BUSINESS

- Variance Request for 16 Old Lafayette Lane
- Variance Request for 124 Settings Boulevard
- Variance Request for 34 Old Lafayette Lane
- Discussion of ZBA Decisions and Overriding Decisions
- Going back to In-Person Meetings

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, April 15, 2021, at 6:00 p.m. electronical via Zoom.

I. CALL TO ORDER

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

Chair Cheryl Milton
Vice Chair John DeWitt
Janet McKimpson
Ted Mattson
Jillian Ballard, Alternate
Patrick Prosser, Alternate

Absent:

Greg Feightner

Staff:

Jennifer Tipton, Senior Admin
Jake Hair, Zoning Administrator
William Morgan, Attorney for the Board of Adjustment

The meeting was called to order at 6:07 p.m. and duly constituted and opened for business with a quorum of four (4) regular members and one (1) alternate. Alternate Patrick Prosser observed the meeting.

II. ADOPTION OF AGENDA

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

III. ADOPTION OF MINUTES

John DeWitt made a motion to adopt the minutes of December 17, 2020, as written. The motion was seconded by Cheryl Milton and approved by a vote of 5-0.

IV. OLD BUSINESS

None.

V. NEW BUSINESS

1. Variance Request for 101 Connally Street

Cheryl Milton began the meeting by citing several references that denied variance requests are to be appealed to Superior Court within thirty days of the decision being signed for and that they are not to come back to the Board of Adjustment to be heard again.

Attorney William Morgan said that the board did hear this matter in December of 2020 and the request was denied and no appeal was taken. Mr. Morgan said that this raises the issue of res judicata in that a variance application is precluded from being heard a second time unless there has been a significant material change in conditions. Mr. Morgan said that it appears to be the identical variance request but some of the wording is different. Mr. Morgan said that the ordinance is silent on staff having the ability to cut the application off at the pass and not allow the application to proceed to a hearing before the board. Mr. Morgan said that several attorney's

Zoning Board of Adjustment Regular Meeting
April 15, 2021

take the stand that whether there is anything in the ordinance or not the better practice is to allow the board to make the decision on whether to hear the request again or not. The primary reason for this is that if the application is denied by the Zoning Administrator then the applicant could appeal to the board and it would be heard regardless. The board can decide if they want to hear the variance request and hear evidence or the board can decide to not hear the variance request. The discussion the board needs to have is there have been any material changes to the application or the ordinance that would make the request different from the one in December. Mr. Morgan said the board can hear evidence on just material changes or can open the whole case.

Brad Rachman, 109 First Street, said that the Land Use Code is confusing and that they were not sure what to put in the application to know what they were asking for. Mr. Rachman said that the original variance application is different than the one that is proposed in this request and that it is a different space and different building and that they did a terrible job presenting at the last meeting. Mr. Rachman said that they did not have input from the immediate neighbors, which they now have and letters were submitted. Mr. Rachman said that they are asking the board to consider something else in regards to the context of the use of the property. Mr. Rachman said that the accessory building in different section and is not sure how it could be considered if they were not looking at the section of the ordinance. Mr. Rachman said the clear intent is to convert to an Air B & B without having to build a second story. Mr. Rachman said the third page of the application shows the setbacks and how the required setbacks almost cut the building in half. They are looking for the highest use of the property and with the square footage they would have to go up. Mr. Rachman said that the building would be untouched from the outside and does not feel that the neighbors or the town would be impacted by leaving just the shell of the building and build out what already exists. Mr. Rachman said without the variance they would be forced to go to a second story.

The board said that cost does not factor into the decision and that they didn't neighbors would want a second story. The board said there has not been a change in evidence and they feel that neighbors will be impacted. The board said there were neighbors that testified at the December meeting who were not interested in this variance being granted. The board also mentioned that the letters submitted in support were not relevant because the people were not at the meeting to answer questions or testify. Chair Milton said that it was not the job of the board to decide on what is the most cost effective and they are to decide what is legal and should a variance be granted or not and how it is in good spirit and keeping within the neighborhood and ensuring the safety of the neighborhood is kept.

Chair Milton said that the front of the garage is already past the front of the house and that a variance cannot be granted on a building that is already noncompliant. Chair Milton said she does not feel that has been any different information given that in regards to the Land Use Code being confusing, that is why there is due diligence and an attorney can help. Chair Milton again spoke to the statement regarding the thirty days to appeal after the decision has been signed for and that it is in three different places where it states that the next step is to Superior Court and not back to the board.

Mr. Rachman said that the felt Chair Milton was making a statement of fact that could not be supported about the location of the garage in relation to the house because a survey had not been provided. Chair Milton said she read over the staff report and has been by the property many times. Janet McKimpson asked if the sight line is based on the domicile proper or if decks and porches are taken into account. Jake Hair explained that it is to the foundation of the home. Mr. Rachman reiterated that he felt statements were being made that could not be backed up.

Zoning Board of Adjustment Regular Meeting
April 15, 2021

Attorney Morgan reminded the board to focus on what was requested in December and what is being requested now. Attorney Morgan said that the request was for a reduction in the rear setback down to five feet from fifteen feet and is the same request in this application.

John DeWitt said he wanted to make sure that the board was not setting precedent about hearing their own appeals.

John DeWitt made a motion to not accept the application for the variance request for 101 Connally Street. The motion was seconded by Janet McKimpson and approved by a vote of 5-0.

2. Variance Request for 14 Pearl Street

Jake Hair summarized the case. The applicant is looking to build a detached garage with a loft and would like a variance from the side setback from ten feet to five feet and variance from the rear setback from fifteen feet to five feet. There is currently a carport in the location that is grandfathered in and a new structure would have to conform to the current setbacks. The property is currently zoned UR-8. The applicant has stated that he cannot move the structure due to the location of the house and the side yard. Secondary dwellings are permitted in UR-8 so the applicant is allowed to have the loft but does not feel that he has enough space to fit what he wants to do in the yard.

Kell Cleeland, 14 Pearl Street, said that Mr. Hair explained the application pretty sufficiently. Mr. Cleeland said that the existing carport is rotting and he has renovated his house and would now like to have a garage with a workshop space but would also like a loft for future use. Mr. Cleeland said his house is currently one thousand square feet with two bedrooms and two bathrooms and would like the additional space for future use. Mr. Cleeland said that he does own the vacant parcel next to his house.

Janet McKimpson asked why the garage could not move towards the street and then a variance might only be needed for the side yard. Mr. Cleeland said that there is just dead space behind his house and would rather have five more feet of driveway rather than five more feet of nothing behind the house. Mrs. McKimpson said that the lots in the area are small that setbacks are there for safety and spoke to the Fire Inspector and that while there are no ordinances for private property for putting structures closer to neighbors than the carport and could potentially cause problems in the future. Mr. Cleeland said that he has approximately twenty-five to thirty-five feet behind his house if he had to guess. Mr. Cleeland said that he understands the concerns and was not aware of future use of other property. Mr. Cleeland said that with the way his house sits, the front of the new garage would be flush with the rear deck. Mr. Cleeland said that ten feet in the back is optimal to help prevent crowding but whatever the board decides will be suitable. Mr. Cleeland said he will be within the thirty-five foot height limit. Mr. Cleeland said that he does have the right to build the garage five feet from both the side and rear property lines if he does not include the loft. Mr. Hair explained that accessory structures are allowed to be five feet from the side and rear property lines but that if living space is going to be added, then it has to meet the ten foot side and fifteen foot rear setbacks.

Michael and Martha Baldwin, 300 New Bern Avenue, said that they own 209 Ruby Avenue since 1993 and seen quite a few garage apartments in the area and are in favor of the use. Mr. Baldwin said he could not comment on the legality of garage apartments as a layman but feels they are a good use and good infill of property and is not sure of any negative long-term impacts. Mr. Baldwin said he did notice a couple of years ago that the right-of-way behind Mr. Cleeland's house was closed. Mr. Cleeland said that he did close the right-of-way behind his property along with his neighbor and he gained about five extra feet of property.

Zoning Board of Adjustment Regular Meeting
April 15, 2021

The board discussed recessing the meeting to allow Mr. Cleeland to look at the documents from the attorney to see if he would even need a variance from the rear setback since the right-of-way has been closed and additional property has been gained. The board did acknowledge that this would only relate to the rear setback and not the side setback.

Mr. Cleeland said that the carport is currently about fourteen inches from the side property line and he would be moving it towards his house to be five feet exactly. Mr. Cleeland said that he has talked to Sanders Surveying to provide a survey showing the new property lines after the right-of-way closure and the variance request is from the new property line.

Jennifer Tipton listed all of the exhibits presented:

Exhibit 1: Staff Report

Exhibit 2: Variance Application

Exhibit 3: Signed Owner Consent Form for Electronic Meeting

Exhibit 4: Applicant Summary of Variance Request

Exhibit 5: Plans for New Garage Structure

Exhibit 6: Buffer Map

Exhibit 7: List of Property Owners

Exhibit 8: Notice of Variance Request

Exhibit 9: Aerial Map

Exhibit 10: Picture of Property Posting

Exhibit 11: Legal Notice

Janet McKimpson made a motion to go into recess. The motion was seconded by John Dewitt and approved by a vote of 5-0.

The board discussed that the applicant had not really proven any hardship and that there was room to move the garage to be compliant with the setbacks. John DeWitt made a motion to reconvene. The motion was seconded by Janet McKimpson and approved by a vote of 5-0. John DeWitt made a motion to close the evidentiary hearing. The motion was seconded by Janet McKimpson and approved by a vote of 5-0.

The board found the following facts:

1. That unnecessary hardships would not result from the strict application of the Ordinance in that the applicant failed to prove that there was a hardship.
2. That the hardship does not result from conditions that are peculiar to the property, such as location, size, or topography because the applicant failed to prove that there is a hardship.
3. That the hardship does not result from actions taken by the applicant or the property owner because the applicant failed to prove that there was a hardship.
4. The variance request would be consistent with the spirit and intent of the ordinance as garages with apartments are allowed and public safety and substantial justice would be achieved in that the garage would not be abutting another structure.

Jillian Ballard made a motion to deny the variance request for 14 Pearl Street. The motion was seconded by John DeWitt and approved by a vote of 5-0.

VI. COMMUNICATION FROM ZBA

None.

VII. COMMUNICATION FROM STAFF

None.

Zoning Board of Adjustment Regular Meeting
April 15, 2021

VIII. ADJOURNMENT

Cheryl Milton made a motion to adjourn the meeting at 7:16 p.m. The motion was approved by consensus.

Prepared by:

Cheryl Milton, Chair

Jennifer Tipton, Senior Admin

Janet McKimpson, Secretary

Zoning Board of Adjustment Regular Meeting
April 15, 2021



LEGAL NOTICE

BLACK MOUNTAIN ZONING BOARD OF ADJUSTMENT EVIDENTIARY HEARING

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**Jennifer Tipton
Senior Admin**

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*Posted to the Town Bulletin Board 06/01/2021
Published in the Black Mountain News 06/03/2021 and 06/10/2021
www.townofblackmountain.org*

**Town of Black Mountain Staff Report
Zoning Board of Adjustment**

Case No: V-21-03

Case Name: 16 Old Lafayette Ln

Hearing Date: June 17, 2021

Procedure: Zoning Board of Adjustment

Address of Variance Request:

16 Old Lafayette Ln

Black Mountain, NC 28711

PIN #0618-48-3068.00000

Applicant:

Doug and Marcia Brock

296 Old Lakey Gap Rd

Black Mountain, NC 28711

Request:

The applicant is seeking a variance to decrease the front setback from 20 feet to 10 feet.

City Staff:

Jake Hair, Planner

Jennifer Tipton, Clerk to ZBA

I. SUMMARY OF REQUEST

The applicant is requesting to reduce the front setback from twenty feet (20') to ten feet (10').

II. PROCESS – REQUIRED CITY APPROVALS

In addition to this variance, the applicant will need to obtain zoning compliance approval and a building permit that demonstrates compliance with all applicable standards of the Zoning Ordinance and the North Carolina Building Codes.

III. ZONING AND LAND USE

This property is zoned TR-4 (Town Residential) and required setbacks are as follows:

4.6.3.3 Dimensional requirements (TR-4).

Residential Uses		Density & Lot Size			Minimum Yard Requirements			Max. Height
	Min. Lot Size/Max. Density	Min. Width (ft.)	Min St. Front (ft)	Min. Depth (ft.)	Front Setback (ft.)	Side Setback (ft)	Rear Setback (ft.)	Structure Height (ft.)
	¼ acre (10,890 sf) 4 DUA	40 (15 ft at street)	15	80	20 (15 steep hillside)	10	15	35

The surrounding properties are zoned and developed for residential use.

	North	South	East	West
Adjacent Zoning Designation	TR-4	TR-4	TR-4	TR-4
Adjacent Land Uses	Empty Residential Lot	Empty Residential Lot	Empty Residential Lot	Empty Residential Lot

Existing Condition

The subject property is a .3 acre parcel in the TR-4 zoning district. The average slope of the lot is 13.4%.

IV. NOTIFICATION

Notice of the variance request and hearing was mailed to all property owners within 200 feet of the project site. Public notice was posted on the Town bulletin board and on the Town of Black Mountain website on June 1, 2021. Legal notice appeared in the Black Mountain News the weeks of June 7, 2021 and June 14, 2021. The property was posted with a notice listing the time and date of the hearing. Consent forms were sent to the applicant and all property owners within 200 feet to consent to having a virtual evidentiary hearing for the variance request.

V. ANALYSIS

Staff's analysis is that the lot meets all the dimensional requirements per Section 4.6.3.3 and does not meet the steep hillside front setback reduction as the slope is under 30%.

Per Section 2.1.4 of the Town of Black Mountain Land Use Code, a permit is required before work is begun and a permit shall not be issued until the town zoning administrator has provided authorization that the proposed structure is in compliance with the zoning district in which it is located.

Section 1.7.3(A) of the Town of Black Mountain Land Use Code states that the board of adjustment shall authorize upon application in specific cases such variance from the terms of the town's land use code as will not be contrary to the public interest and where owing to special conditions, a literal enforcement of the provisions of the town ordinances will, in an individual case, result in practical difficulty or unnecessary hardship. Variances are not intended to provide limited relief from regulations in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed in the land use code and in a way that the spirit of the town regulations shall be preserved, public safety and welfare secured and substantial justice done.

Town staff has determined that the applicant's request to hear the variance is in accordance with Section 1.7.1(A).

VARIANCE APPLICATION www.townofblackmountain.org

PROPERTY OWNER INFORMATION

Owner Name Doug and Marcia Brock
 Owner Address (Number, Street, City, State, ZIP) 296 Old Lakey Gap Blk. Mtn. NC 28711
 Home Phone NA Cell Phone 777-6746 Email Address doug.m.brock@gmail.com

APPLICATION FOR VARIANCE

I request a variance/variances from the following provisions of the ordinance:

Section Number(s): _____ Section Title(s): _____

Subsection letter(s) and/or number(s): _____ Subsection Title(s): _____

So that the below mentioned property can be used in a manner indicated by the plan attached to this form, or if the plan does not adequately reveal the nature of the variance, as more fully described herein (if applying for a variance in dimensional requirements, state the revised setbacks or height limitations desired below):

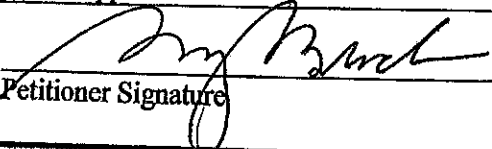
Request Front setback
to Ten Foot
Space on this small lot is
severely limited due to electric etc easement

PROPERTY INFORMATION

Parcel Number <u>061848306800000</u>	Current Zoning <u>TR-4</u>	Acreage <u>.3</u>
Address <u>16 Old Lafayette Ln</u>		
Average Slope % <u>6%</u>	Use of Property <u>Residential</u>	

CERTIFICATION

I hereby certify that all of the information presented by me on this application is accurate to the best of my knowledge, information and belief. I acknowledge that withdrawal of this application after notice has been made will result in forfeiture of any application fees associated with said application. I acknowledge that attendance at the Zoning Board of Adjustment meeting is mandatory for the review of this application.

Petitioner Signature 	Date <u>4/30/21</u>
---	------------------------

OFFICE USE ONLY

Date Received:	Fee: \$350.00
Case Number:	Cash: ☐ Check: ☐ # _____ Credit: ☐
	Meeting Date:

Town of Black Mountain
 160 Midland Avenue, Black Mountain, NC 28711
 Phone: 828-419-9300 ~ Fax: 828-669-2030

VARIANCE BURDEN OF PROOF

In the spaces provided below, indicate the facts you intend to demonstrate and the arguments that you intend to make to demonstrate to the ZBA that it can properly grant the variance as provided for in Chapter 1, Section 1.7.3 Variances. The Zoning Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance.

Please indicate how the proposed project meets the below requirements. If additional space is required, please provide the information on a separate sheet of paper.

1. Indicate how an 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.

Lot is limited in building area
due to ~~a~~ Electric Powerline easement
at rear of lot. See Survey

2. Indicate how 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.

Survey depicts impact to
already small lot. Duke Energy
will not allow exceptions

3. Indicate how 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.

Lot was created by developer
and town. I have not subdivided lot

4. Indicate how 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.

Housing is in short supply
this lot already has infrastructure
~~There is~~ water/sewer/gas/electric.
~~I have made to be~~

REVIEW OFFICER

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

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

REVIEW OFFICER

DATE

REGISTER OF DEEDS

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

PLAT BOOK _____, PAGE _____

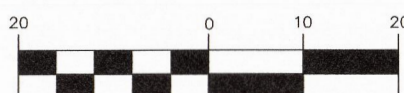
FILED FOR REGISTRATION ON THE _____ DAY OF

_____, 2020 AT _____

REGISTER OF DEEDS, BUNCOMBE COUNTY

BY: _____ DEPUTY/ASSISTANT

GRAPHIC SCALE



(IN FEET)
1 inch = 20 ft.

PLAT BOOK 96, PAGE 162



LOCATION SKETCH

NOT TO SCALE

LEGEND

- | | | | |
|-----|--|------|----------------------|
| △ | CENTRAL ANGLE | CHD | CHORD |
| L | ARC LENGTH | BRG | BEARING |
| R | RADIUS | ⊙ | DRAINAGE MANHOLE |
| R/W | RIGHT OF WAY | ⊙ | SANITARY MANHOLE |
| ○ | FOUND IRON PIN | ⊙ | WATER METER |
| □ | FOUND STONE | ⊙ | WATER VALVE |
| ⊙ | SET BENCHMARK | ⊙ | CATCH BASIN |
| ⊙ | WOOD POWER POLE | ⊙ | CLEAN OUT |
| ⊙ | CENTERLINE | ⊙ | TELEPHONE RISER |
| ⊙ | PROPERTY LINE | ⊙ | ELECTRIC STUB |
| ⊙ | FIRE HYDRANT | ⊙ | ELECTRIC TRANSFORMER |
| ⊙ | WELL | N/F | NOW OR FORMERLY |
| ⊙ | GAS STUB | —OH— | OVERHEAD WIRE |
| --- | BOUNDARY LINE NOT SURVEYED | | |
| ● | CENTERLINE POINT NOT SET | | |
| ⊙ | SET 5/8" IRON ROD WITH L-4379 CAP UNLESS NOTED | | |
| --- | LINE NOT TO SCALE | | |

NOTES

- 1.) THIS SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND OR ONE OR MORE EXISTING EASEMENTS AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET.
- 2.) THE BEARINGS SHOWN HEREON ARE BASED ON PLAT BOOK 96, PAGE 162.
- 3.) THE LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR EASEMENTS, RIGHT OF WAYS OR OWNERSHIPS.
- 4.) THE RATIO OF PRECISION OF THE UNBALANCED TRAVERSE MEETS OR EXCEEDS 1 : 10,000.
- 5.) THE SUBJECT PROPERTY IS NOT LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY F.E.M.A. FLOOD INSURANCE RATEMAP # 3710061800J EFFECTIVE DATE: 01/06/2010.
- 6.) THE FEATURE SYMBOL LOCATIONS ARE TO THE CENTER OF THE SYMBOL AND MAY BE ENLARGED FOR CLARITY.
- 7.) UNDERGROUND FOUNDATIONS AND/OR UNDERGROUND UTILITIES HAVE NOT BEEN LOCATED.
- 8.) BEARINGS AND DISTANCES SHOWN IN PARENTHESIS REPRESENT DEED AND OR PLAT VALUES.
- 9.) ACREAGE COMPUTED BY THE COORDINATE METHOD.
- 10.) THERE ARE NO NORTH CAROLINA GEODETIC CONTROL POINTS WITHIN 2000 FEET OF THIS SITE.

REFERENCES

DEED BOOK 5564, PAGE 234
PLAT BOOK 96, PAGE 162

ZONING

TR4
SETBACKS:
FRONT: 20'
SIDE: 10'
REAR: 15'
SETTINGS:
SETBACKS:
FRONT: 30' FROM BACK OF CURB
SIDE: 10'
REAR: 20'

CERTIFICATE

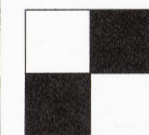
I, KEITH R. SANDERS, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY DIRECT SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK 5564, PAGE 162, BUNCOMBE COUNTY REGISTRY); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN THE BUNCOMBE COUNTY REGISTRY (SEE REFERENCES); THAT THE RATIO OF PRECISION AS CALCULATED IS 1 : 10,000+; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED.

WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 21ST DAY OF APRIL, A.D. 2021.

Keith R. Sanders

KEITH R. SANDERS
PROFESSIONAL LAND SURVEYOR # L-4379
STATE OF NORTH CAROLINA

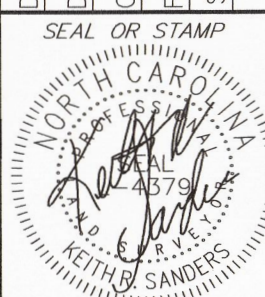
SANDERS
SURVEYING & MAPPING
SERVICES, INC.
(828) 669-2777
C-2384



BOUNDARY & TOPOGRAPHIC SURVEY FOR:

SHERIE & LORRIE WILSON
PIN # 0618-45-3068
DEED BOOK 5564, PAGE 234
TOWN OF BLACK MOUNTAIN,
BUNCOMBE COUNTY, NORTH CAROLINA

DATE: 04/21/21
DRAWN: KRS
CHECKED: KRS
F.B. # TDS
SCALE: 1" = 20'
21-0063.DWG



PROJECT:
21-0063

SHEET:
1 OF 1

TREE LEGEND

- ASH TREE
- DOGWOOD TREE
- HICKORY TREE
- BLACK GUM TREE
- CHERRY TREE

Parcel Line Table

Line #	Length	Direction
L1	11.09	N17° 24' 48.00"W

Curve Table

Curve #	Length	Radius	Delta	Chord Direction	Chord Length
C1	14.38	275.00	3.00	N15° 20' 00"W	14.37

16 Old Lafayette Variance Buffer Map



16 Old Lafayette Lane Variance Property Owners

<u>Name</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>	<u>PIN #</u>	
Douglas M Brock	296 Old Lakey Gap Rd	Black Mountain	NC	28711	0618-48-3068	
Daniel A Hale; Yvonne M Hale	301 Tabernacle Rd	Black Mountain	NC	28711	0618-48-3156	
Caitlin Nicole Chvatal; Thomas Williams Bush	3732 Waterglen Pl	Fort Collins	CO	80524	0618-48-3254	
Betty L Shotton	PO Box 996	Black Mountain	NC	28711	0618-48-3333	
Carl F Reichenbach Jr; Patricia A Reichenbach	31 Cottage Settings Ln	Black Mountain	NC	28711	0618-48-1390	
Tom R Chapman Jr	1901 Ulmerton Rd #475	Clearwater	FL	33762	0618-48-2203	
Wendell T Howard; Amy L Howard	204 Charlotte Hwy	Asheville	NC	28803	0618-48-2107	
William S Nawrocki; Karen J Nawrocki	PO Box 16565	Chicago	IL	60616	0618-48-2110	
Robert Metro; Sarah Metro	68 Stable Gate Rd	Hilton Head Island	SC	29926	0618-48-2032	
Settings of Black Mountain	PO Box 580	Arden	NC	28704	0618-47-2983	IBM Corp of Brevard Inc
Griffith A Jones; Roynan L Jones	24 Cottage Settings Ln	Black Mountain	NC	28711	0618-48-0158	
Griffith A Jones; Roynan L Jones	24 Cottage Settings Ln	Black Mountain	NC	28711	0618-48-0068	
Settings of Black Mountain	PO Box 580	Arden	NC	28704	0618-47-0890	IBM Corp of Brevard Inc
Settings of Black Mountain	PO Box 580	Arden	NC	28704	0618-47-5702	IBM Corp of Brevard Inc
Timothy W Harrison; Carol M Harrison	133 Sondley Pkwy	Asheville	NC	28805	0618-47-6960	
Settings of Black Mountain	PO Box 580	Arden	NC	28704	0618-48-5057	
Nicholas A Rubino; Matthew G McHarness	8385 Topsail Pl	Winter Garden	FL	34787	0618-48-3081	
David H & Carolyn Dike Revoc Trust	14150 Gorham Rd	Pensacola	FL	32507	0618-48-5200	
Carlis R Sabinson; Constance Sabinson	6021 NW 60th Ct	Parkland	FL	33067	0618-48-5303	
Douglas M Brock; Marcia Coit-Brock	296 Old Lakey Gap Rd	Black Mountain	NC	28711	0618-48-4475	
Gregory Hobbs; Aruna Hobbs	9 Wallacks Dr	Stamford	CT	6902	0618-48-0245	



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, 2021**
TO: **Property Owner**
FROM: **TOWN OF BLACK MOUNTAIN
ZONING ADMINISTRATOR**

Address of Proposed Variance:

16 Old Lafayette Lane

PIN #: **0618-48-3068**

Current Zoning Classification: **TR-4**

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

The variance is requested from the following provisions of the ordinance:

Chapter 4, Section 4.6.6.3 (dimensional requirements)

The variance is requested so that the property can be used in a manner indicated herein:

Request front setback to ten foot - space on this small lot is severely limited due to electric easement.

An evidentiary hearing will be held on Thursday, June 17, 2021, @ 6:00 p.m. electronically via Zoom.

Zoom Meeting Details

<https://us02web.zoom.us/j/89438062459>

Meeting ID: 894 3806 2459

or call Toll-Free

888 788 0099 US Toll-free

877 853 5247 US Toll-free

Meeting ID: 894 3806 2459

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.

16 Old Lafayette Variance Aerial Map



May 5, 2021

1:1,128
0 0.0075 0.015 0.03 mi

34 Old Lafayette Variance Property Owners

<u>Name</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>	<u>PIN #</u>	
Karen W Ledford	103 Windward Dr	Asheville	NC	28803	0618-47-2481	
Steve Nespoli Revocable Trust	1140 SE 14th Ter	Deerfield Beach	FL	33441	061847-3448	
Kavid J Kadau; Melissa Ann Kadau	54 Cheshire Dr	Black Mountain	NC	28711	0618-47-3574	
Donna L Bayer; Sandra C Macherone	16721 Appaloosa Trl	Montverde	FL	34756	0618-47-3691	
John J Bonenberger; Marty Beth Bonenberger	605 S Miramar Ave #3401	Indialantic	FL	32903	0618-47-2677	
John J Bonenberger; Marty Beth Bonenberger	605 S Miramar Ave #3401	Indialantic	FL	32903	0618-47-2652	
Elizabeth Green	19523 Schooner Dr	Cornelius	NC	28031	0618-47-2526	
Jeffrey Budd	4625 Loughton Ln	Rockledge	FL	32955	0618-47-2500	
R Douglas Fabel	PO Box 1663	Blowing Rock	NC	28605	0618-47-1474	
SBM Realty LLC	64 W 48th St #510	New York	NY	10036	0618-47-1305	JWG Co Attn: J Wohlstein
Settings of Black Mountain Association	PO Box 580	Arden	NC	28704	0618-47-0890	IPM Corp of Brevard Inc
Christopher A Verlander; Karen R Verlander	1311 Heritage Manor Dr #30	Jacksonville	FL	32207	0618-47-0518	
SBM Realty LLC	64 W 48th St #510	New York	NY	10036	0618-47-0430	
SBM Realty LLC	64 W 48th St #510	New York	NY	10036	0618-47-0132	
Settings of Black Mountain Association	PO Box 580	Arden	NC	28704	0618-47-1130	
Tom R Chapman Jr	1901 Ulmerton Rd #475	Clearwater	FL	33762	0618-47-2025	
Paul K Dalessandro; John Stewart Pomeroy; Virginia C Pomeroy	PO Box 749	Franklink Lakes	NJ	7417	0618-47-2226	
Monte Hutchins	PO Box 435	Hubert	NC	28539	0618-47-3343	
William K Moore; Therese B Moore	3000 Mason Ln #3105	Pittsburgh	PA	15205	0618-47-3194	
Elizabeth Blake	8721 Bradmoor Dr	Bethesda	MD	20817	0618-47-4361	
Settings of Black Mountain Association	PO Box 580	Arden	NC	28704	0618-47-5702	

**Town of Black Mountain Staff Report
Zoning Board of Adjustment**

Case No: V-21-02

Case Name: 124 Settings Blvd

Hearing Date: June 17, 2021

Procedure: Zoning Board of Adjustment

Address of Variance Request:

124 Settings Blvd

Black Mountain, NC 28711

PIN #0618-56-5107.00000

Applicant:

Doug and Marcia Brock

296 Old Lakey Gap Rd

Black Mountain, NC 28711

Request:

The applicant is seeking a variance to decrease the front setback from 25 feet to 10 feet as well as increase the building height from the 35 foot limit to 42 feet.

City Staff:

Jake Hair, Planner

Jennifer Tipton, Clerk to ZBA

I. SUMMARY OF REQUEST

The applicant is requesting to reduce the front setback from twenty-five feet (25') to ten feet (10') and increase the maximum building height from thirty-five feet (35') to forty-two feet (42').

II. PROCESS – REQUIRED CITY APPROVALS

In addition to this variance, the applicant will need to obtain zoning compliance approval and a building permit that demonstrates compliance with all applicable standards of the Zoning Ordinance and the North Carolina Building Codes.

III. ZONING AND LAND USE

This property is zoned CR-1 (Conservation Residential) and required setbacks are as follows:

4.6.3.1 Dimensional requirements (CR-1).

Residential Uses	Density & Lot Size			Minimum Yard Requirements			Max. Height
	Min. Lot Size/Max. Density	Min. Width (ft.)	Min. Depth (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height (ft.)
	1 acre (43,560 sf) 1 DUA	80 (15 ft. at street)	100	30 (25 steep hillside)	10	30	35

The surrounding properties are zoned and developed for residential use.

	North	South	East	West
Adjacent Zoning Designation	CR-1	CR-1	CR-1	CR-1
Adjacent Land Uses	Empty Residential Lot	Empty Residential Lot	Residential (single-family)	Empty Residential Lot

Existing Conditions

The subject property is a 1.04 acre parcel in the CR-1 zoning district. The average slope of the lot is 70%. Because the slope is over 30% they have the option to reduce the front setback from 30' to 25'.

IV. NOTIFICATION

Notice of the variance request and hearing was mailed to all property owners within 200 feet of the project site. Public notice was posted on the Town bulletin board and on the Town of Black Mountain website on June 1, 2021. Legal notice appeared in the Black Mountain News the weeks of June 7, 2021 and June 14, 2021. The property was posted with a notice listing the time and date of the hearing. Consent forms were sent to the applicant and all property owners within 200 feet to consent to having a virtual evidentiary hearing for the variance request.

V. ANALYSIS

Staff's analysis is that with a steep slope of well over 30% it will be hard for the owner to build on this lot. They are already allowed the 5 foot reduction in the front setback per Section 4.3.4 - Steep hillside setback allowance for residential lots.

Per Section 2.1.4 of the Town of Black Mountain Land Use Code, a permit is required before work is begun and a permit shall not be issued until the town zoning administrator has provided authorization that the proposed structure is in compliance with the zoning district in which it is located.

Section 1.7.3(A) of the Town of Black Mountain Land Use Code states that the board of adjustment shall authorize upon application in specific cases such variance from the terms of the town's land use code as will not be contrary to the public interest and where owing to special conditions, a literal enforcement of the provisions of the town ordinances will, in an individual case, result in practical difficulty or unnecessary hardship. Variances are not intended to provide limited relief from regulations in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed in the land use code and in a way that the spirit of the town regulations shall be preserved, public safety and welfare secured and substantial justice done.

Town staff has determined that the applicant's request to hear the variance is in accordance with Section 1.7.1(A).

VARIANCE APPLICATION www.townofblackmountain.org

PROPERTY OWNER INFORMATION

Owner Name Doug and Marcia Brock		
Owner Address (Number, Street, City, State, ZIP) 296 Old Lakey Gap		
Home Phone NA	Cell Phone 777-6746	Email Address doug.m.brock@gmail.com

APPLICATION FOR VARIANCE

I request a variance/variances from the following provisions of the ordinance:

Section Number(s): _____ Section Title(s): _____

Subsection letter(s) and/or number(s): _____ Subsection Title(s): _____

So that the below mentioned property can be used in a manner indicated by the plan attached to this form, or if the plan does not adequately reveal the nature of the variance, as more fully described herein (if applying for a variance in dimensional requirements, state the revised setbacks or height limitations desired below):

Front Setback reduced to 10'
Maximum Height to be 42' an increase

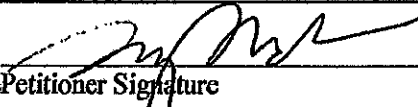
of 7'

PROPERTY INFORMATION

Parcel Number 061856510700000	Current Zoning CR-1	Acreage 1.04
Address 124 Settings Blvd		
Average Slope % 60%	Use of Property Residential	

CERTIFICATION

I hereby certify that all of the information presented by me on this application is accurate to the best of my knowledge, information and belief. I acknowledge that withdrawal of this application after notice has been made will result in forfeiture of any application fees associated with said application. I acknowledge that attendance at the Zoning Board of Adjustment meeting is mandatory for the review of this application.

Petitioner Signature 	Date 4/29/21
---	------------------------

OFFICE USE ONLY

Date Received:	Fee: \$350.00
Case Number:	Cash: ☐ Check: ☒ # _____ Credit: ☐
	Meeting Date: 5/1/21

Town of Black Mountain
160 Midland Avenue, Black Mountain, NC 28711
Phone: 828-419-9300 ~ Fax: 828-669-2030

VARIANCE BURDEN OF PROOF

In the spaces provided below, indicate the facts you intend to demonstrate and the arguments that you intend to make to demonstrate to the ZBA that it can properly grant the variance as provided for in Chapter 1, Section 1.7.3 Variances. The Zoning Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance.

Please indicate how the proposed project meets the below requirements. If additional space is required, please provide the information on a separate sheet of paper.

1. Indicate how an 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.

A concrete bridge will be required to access the property. The front setback will allow the project to be economically feasible and less environmentally destructive.

2. Indicate how 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.

Topography with a slope over 60% makes this variance necessary.

3. Indicate how 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.

I have only purchased the property and I have not subdivided it.

4. Indicate how 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.

Less environmentally damaging with unnecessary cost is avoided. Less footprint and less storm water.

REVIEW OFFICER

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

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

REVIEW OFFICER

DATE

REGISTER OF DEEDS

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

PLAT BOOK _____, PAGE _____

FILED FOR REGISTRATION ON THE _____ DAY OF

_____, 2017 AT _____

REGISTER OF DEEDS, BUNCOMBE COUNTY

BY: _____ DEPUTY/ASSISTANT

GRAPHIC SCALE



(IN FEET)
1 inch = 30 ft.



PLAT BOOK 100, PAGE 43

U.S. 70

BLUE RIDGE RD.

THIS
SITE

LOCATION SKETCH

NOT TO SCALE

LEGEND

△	CENTRAL ANGLE	CHD	CHORD
L	ARC LENGTH	BRG	BEARING
R	RADIUS	⊙	DRAINAGE MANHOLE
R/W	RIGHT OF WAY	⊙	SANITARY MANHOLE
○	FOUND IRON PIN	⊙	WATER METER
□	FOUND STONE	⊙	WATER VALVE
⊙	SET BENCHMARK	⊙	CATCH BASIN
⊙	WOOD POWER POLE	⊙	CLEAN OUT
⊙	CENTERLINE	⊙	CABLE RISER
⊙	PROPERTY LINE	⊙	ELECTRIC RISER
⊙	FIRE HYDRANT	CMP	CULVERT
⊙	FIBER OPTIC	N/F	NOW OR FORMERLY
⊙	SQUARE FEET	—OH—	OVERHEAD WIRE
---	BOUNDARY LINE NOT SURVEYED		
⊙	CENTERLINE POINT NOT SET		
⊙	SET 5/8" IRON ROD WITH L-4379 CAP		
---	LINE NOT TO SCALE		

NOTES

- 1.) THIS SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND OR ONE OR MORE EXISTING EASEMENTS AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET.
- 2.) THE BEARINGS SHOWN HEREON ARE BASED ON PLAT BOOK 100, PAGE 43 AND ARE REFERENCED TO THE NORTHERLY LINE OF LOT 212 OF SAID PLAT BOOK HAVING A BEARING OF S76°37'21"E.
- 3.) THE LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR EASEMENTS, RIGHT OF WAYS OR OWNERSHIPS.
- 4.) THE RATIO OF PRECISION OF THE UNBALANCED TRAVERSE MEETS OR EXCEEDS 1 : 10,000.
- 5.) THE SUBJECT PROPERTY IS NOT LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY F.E.M.A.
- 6.) THE FEATURE SYMBOL LOCATIONS ARE TO THE CENTER OF THE SYMBOL AND MAY BE ENLARGED FOR CLARITY.
- 7.) UNDERGROUND FOUNDATIONS AND/OR UNDERGROUND UTILITIES HAVE NOT BEEN LOCATED.
- 8.) BEARINGS AND DISTANCES SHOWN IN PARENTHESIS REPRESENT DEED AND OR PLAT VALUES.
- 9.) ACREAGE COMPUTED BY THE COORDINATE METHOD.
- 10.) THERE ARE NO NORTH CAROLINA GEODETIC CONTROL POINTS WITHIN 2000 FEET OF THIS SITE.
- 11.) ELEVATIONS AND CONTOURS SHOWN HEREON ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988.

REFERENCES

DEED BOOK 4272, PAGE 295
PLAT BOOK 100, PAGE 43

ZONING

CR1
SETBACKS:
FRONT: 30'
15' STEEP SLOPE
SIDE: 10'
REAR: 30'

CERTIFICATE

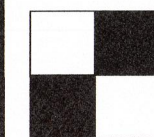
I, KEITH R. SANDERS, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY DIRECT SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK 4272, PAGE 295, BUNCOMBE COUNTY REGISTRY); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN THE BUNCOMBE COUNTY REGISTRY (SEE REFERENCES); THAT THE RATIO OF PRECISION AS CALCULATED IS 1 : 10,000+; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED.

WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 7TH DAY OF DECEMBER, A.D. 2017.

Keith R. Sanders

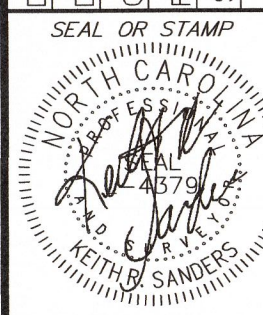
KEITH R. SANDERS
PROFESSIONAL LAND SURVEYOR # L-4379
STATE OF NORTH CAROLINA

SANDERS
SURVEYING & MAPPING
SERVICES, INC.
(828) 669-2777
C-2384



BOUNDARY & TOPOGRAPHIC SURVEY FOR:
LIVINGSTONE DESIGN + BUILD
PIN # 0618-56-5107
DEED BOOK 272, PAGE 295
TOWN OF BLACK MOUNTAIN,
BUNCOMBE COUNTY, NORTH CAROLINA

DATE: 12/01/17
DRAWN: KRS
CHECKED: KRS
F.B. #: TDS
SCALE: 1" = 30'
17-0201.DWG



PROJECT:
17-0201
SHEET:
1 OF 1

TREE LEGEND

- OAK TREE
- ⊙ MAPLE TREE
- ⊙ HICKORY TREE
- ⊙ PINE TREE

N/F
THE SETTINGS OF BLACK MOUNTAIN ASSOCIATION, INC.
DEED BOOK 4925, PAGE 1964
PLAT BOOK 100, PAGE 43
0618-56-2371
COMMON AREA II

N/F
EWALD K. YAO AND
PIAR C. YAO
DEED BOOK 4499, PAGE 1791
PLAT BOOK 100, PAGE 43
0618-56-2231
LOT 250

N/F
ABROMOWITZ INVESTMENTS CO., INC.
DEED BOOK 4915, PAGE 284
PLAT BOOK 100, PAGE 43
0618-56-5962
LOT 214

N/F
STEVEN KERN
DEED BOOK 4916, PAGE 1999
PLAT BOOK 100, PAGE 43
0618-56-1121

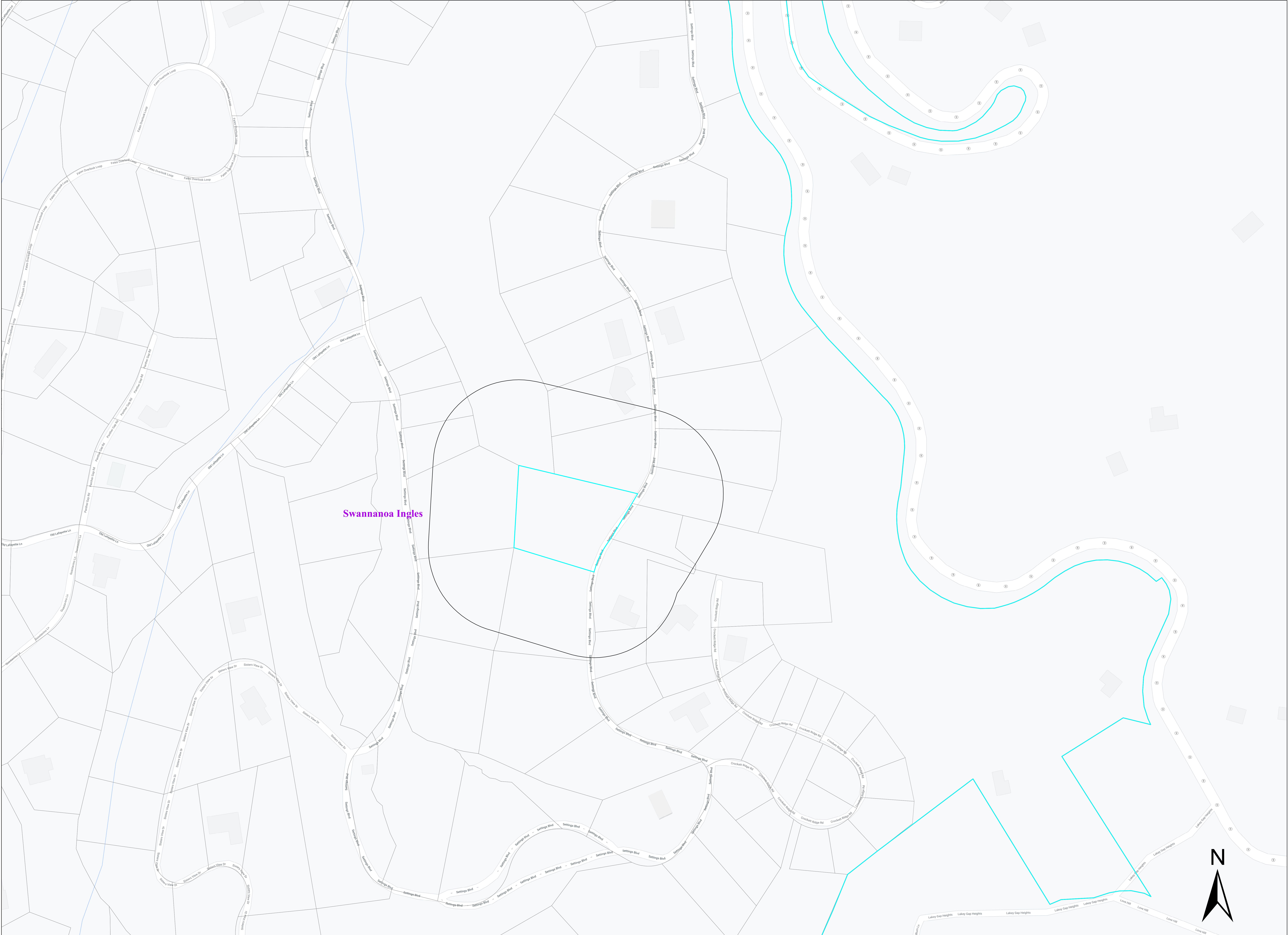
N/F
JOSEPH LAMB AND
MARY LOU LAMB
DEED BOOK 4815, PAGE 1034
PLAT BOOK 100, PAGE 30
0618-56-6155

N/F
JUDY HUSTON
DEED BOOK 4625, PAGE 1625
PLAT BOOK 100, PAGE 30
0618-56-6071

N/F
KARL S. SCHULMANN AND WIFE,
NANCY M. SCHULMANN
DEED BOOK 4226, PAGE 303
PLAT BOOK 100, PAGE 43
0618-56-4951
LOT 211

R=200.00
L=71.09
Ch Brg=S24°54'02"W
Ch Dist=70.72
Δ=20°22'02"

124 Settings Blvd Variance Buffer Map



124 Settings Boulevard Variance Property Owners

<u>Name</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>	<u>PIN #</u>	
Douglas Brock; Marcia Coit-Brock	296 Old Lakey Gap Rd	Black Mountain	NC	28711	0618-56-5107	
Abromowitz Investments Co Inc	5101 Garden Springs Cr	Dayton	OH	45429	0618-56-5362	
Roderick James Allan; Karen Bertha Allan	136 Settings Blvd	Black Mountain	NC	28711	0618-56-5466	
Stephen J Wooden (ETAL); Patrick Wooden (ETAL)	3814 Lake Breeze Dr	Land O Lakes	FL	34639	0618-56-5528	
Settings of Black Mountain Association	PO Box 580	Arden	NC	28704	0618-56-2917	IPM Corp of Brevard Inc
Michael F Graybar	1113 Rivage Promenade	Wilmington	NC	28412	0618-56-1474	
Grayson B Deal; Margaret C Deal	706 Azalea Ave	Black Mountain	NC	28711	0618-56-1385	
Ewald K Yao; Pilar C Yao	8012 180th Pl SW	Edmonds	WA	98026	0618-56-2231	
Keith Greenspon	3028 Cambridge Rd	Charlotte	NC	28209	0618-55-2939	
Thirumal Thirupuvanam; Deborah L Thirupuvanam	8729 Gleneagles Dr	Raleigh	NC	27613	0618-55-4937	
Henry L Judy; Suzanne A Judy	23 Briarcliff Dr	Asheville	NC	28803	0618-55-6807	
Judy E Houston	400 Canmore Pl	Vestavia	AL	35242	0618-56-6012	
Joseph K Lamb Sr; Mary Lou Lamb	132 Carolina Bluebird Loop	Arden	NC	28704	0618-56-6185	
Stephen V Kern; Benjamin Y Brock	855 St Charles Ave NE	Atlanta	GA	30306	0618-56-8200	
Rodney Hershberger; Elaine Hershberger	3420 Flamingo Ave	Sarasota	FL	34242	0618-56-8333	
Rodney G Hershberger Trust	3420 Flamingo Ave	Sarasota	FL	34242	0618-56-8436	
Nasca Family Trust	32 Crockett Ridge Rd	Black Mountain	NC	28711	0618-55-7936	
Stephen V Kern; Benjamin Y Brock	855 St Charles Ave NE	Atlanta	GA	30306	0618-56-9074	



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, 2021**
TO: **Property Owner**
FROM: **TOWN OF BLACK MOUNTAIN
ZONING ADMINISTRATOR**

Address of Proposed Variance:

124 Settings Boulevard

PIN #: **0618-56-5107**

Current Zoning Classification: **CR-1**

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

The variance is requested from the following provisions of the ordinance:

Chapter 4, Section 4.6.1.3 (dimensional requirements)

The variance is requested so that the property can be used in a manner indicated herein:

Front setback reduced to 10' and maximum height to be 42', an increase of 7'.

An evidentiary hearing will be held on Thursday, June 17, 2021, @ 6:00 p.m. electronically via Zoom.

Zoom Meeting Details

<https://us02web.zoom.us/j/89438062459>

Meeting ID: 894 3806 2459

or call Toll-Free

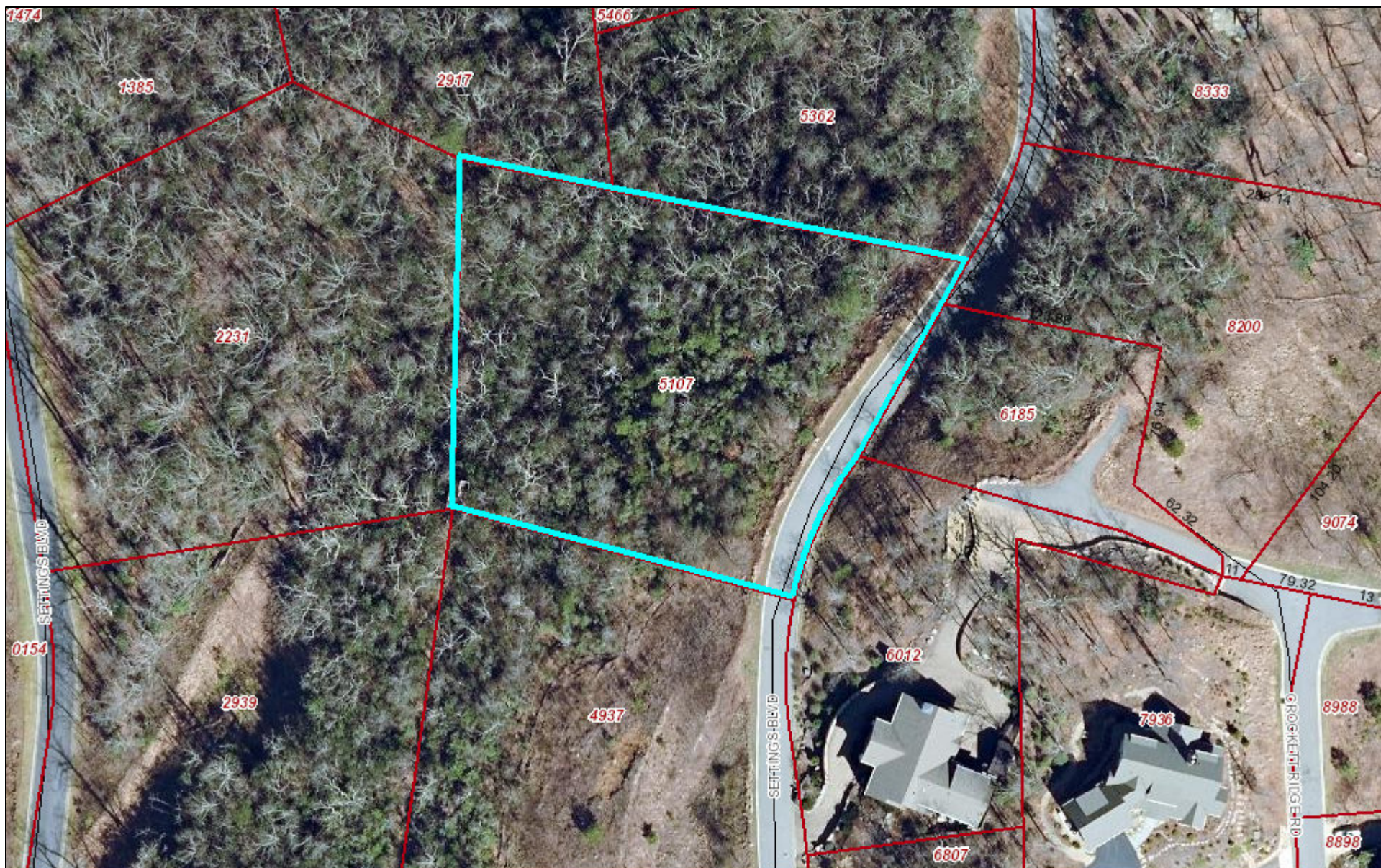
888 788 0099 US Toll-free

877 853 5247 US Toll-free

Meeting ID: 894 3806 2459

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.

124 Settings Blvd Variance Aerial Map



May 5, 2021

1:1,128
0 0.0075 0.015 0.03 mi

**Town of Black Mountain Staff Report
Zoning Board of Adjustment**

Case No: V-21-04

Case Name: 34 Old Lafayette Ln

Hearing Date: June 17, 2021

Procedure: Zoning Board of Adjustment

Address of Variance Request:

34 Old Lafayette Ln

Black Mountain, NC 28711

PIN #0618-47-2481.00000

Applicant:

Karen W. Ledford

103 Windward Dr

Asheville, NC 28803

Request:

The applicant is seeking a variance to reduce the front and rear setbacks from 30 feet to 15 feet.

City Staff:

Jake Hair, Planner

Jennifer Tipton, Clerk to ZBA

I. SUMMARY OF REQUEST

The applicant is requesting to reduce the front and rear setbacks from thirty feet (30') to fifteen feet (15').

II. PROCESS – REQUIRED CITY APPROVALS

In addition to this variance, the applicant will need to obtain zoning compliance approval and a building permit that demonstrates compliance with all applicable standards of the Zoning Ordinance and the North Carolina Building Codes.

III. ZONING AND LAND USE

This property is zoned CR-1 (Conservation Residential) and required setbacks are as follows:

4.6.3.1 Dimensional requirements (CR-1).

Residential Uses	Density & Lot Size			Minimum Yard Requirements			Max. Height
	Min. Lot Size/Max. Density	Min. Width (ft.)	Min. Depth (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height (ft.)
	1 acre (43,560 sf) 1 DUA	80 (15 ft. at street)	100	30 (25 steep hillside)	10	30	35

The surrounding properties are zoned and developed for residential use.

	North	South	East	West
Adjacent Zoning Designation	CR-1	CR-1	CR-1	CR-1
Adjacent Land Uses	Empty Residential Lot	Empty Residential Lot	Empty Residential Lot	Empty Residential Lot

Existing Condition

The subject property is a .29 acre parcel in the CR-1 zoning district. The average slope of the lot is 17.87%.

IV. NOTIFICATION

Notice of the variance request and hearing was mailed to all property owners within 200 feet of the project site. Public notice was posted on the Town bulletin board and on the Town of Black Mountain website on June 1, 2021. Legal notice appeared in the Black Mountain News the weeks of June 7, 2021 and June 14, 2021. The property was posted with a notice listing the time and date of the hearing. Consent forms were sent to the applicant and all property owners within 200 feet to consent to having a virtual evidentiary hearing for the variance request.

V. ANALYSIS

Staff's analysis is that this is a nonconforming lot that is limited in buildable area by a stream that runs near the back of the property. Per Section 20-382 there is a mandatory 30' stream buffer on each side of the bank for any USGS recognized stream.

Per Section 2.1.4 of the Town of Black Mountain Land Use Code, a permit is required before work is begun and a permit shall not be issued until the town zoning administrator has provided authorization that the proposed structure is in compliance with the zoning district in which it is located.

Section 1.7.3(A) of the Town of Black Mountain Land Use Code states that the board of adjustment shall authorize upon application in specific cases such variance from the terms of the town's land use code as will not be contrary to the public interest and where owing to special conditions, a literal enforcement of the provisions of the town ordinances will, in an individual case, result in practical difficulty or unnecessary hardship. Variances are not intended to provide limited relief from regulations in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed in the land use code and in a way that the spirit of the town regulations shall be preserved, public safety and welfare secured and substantial justice done.

Town staff has determined that the applicant's request to hear the variance is in accordance with Section 1.7.1(A).

VARIANCE APPLICATION www.townofblackmountain.org**PROPERTY OWNER INFORMATION**

Owner Name <u>Karen W. Ledford</u>		
Owner Address (Number, Street, City, State, ZIP) <u>103 Windward Drive Asheville NC 28803</u>		
Home Phone <u>(828) 337-2515</u>	Cell Phone	Email Address <u>KWLNurse@gmail.com</u>

APPLICATION FOR VARIANCE

I request a variance/variances from the following provisions of the ordinance:

Section Number(s): <u>4.6.1</u>	Section Title(s): <u>Conservation Residential district</u>
Subsection letter(s) and/or number(s): <u>4.6.1.3</u>	Subsection Title(s): <u>dimensional requirements</u>

So that the below mentioned property can be used in a manner indicated by the plan attached to this form, or if the plan does not adequately reveal the nature of the variance, as more fully described herein (if applying for a variance in dimensional requirements, state the revised setbacks or height limitations desired below):

Reduce front setback to 15 feet.
Reduce rear setback to 15 feet.

PROPERTY INFORMATION

Parcel Number <u>0618-47-2481-00000</u>	Current Zoning <u>CR-1</u>	Acreage <u>0.29</u>
Address <u>34 Old Lafayette Lane, Lot #18</u>		
Average Slope % <u>17.87</u>	Use of Property <u>Residential Building</u>	

CERTIFICATION

I hereby certify that all of the information presented by me on this application is accurate to the best of my knowledge, information and belief. I acknowledge that withdrawal of this application after notice has been made will result in forfeiture of any application fees associated with said application. I acknowledge that attendance at the Zoning Board of Adjustment meeting is mandatory for the review of this application.

Petitioner Signature <u>Karen W. Ledford</u>	Date <u>5/3/21</u>
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OFFICE USE ONLY

Date Received:	Fee: \$350.00 Cash: ☐ Check: ☐ # Credit: ☐
Case Number:	Meeting Date:

Town of Black Mountain
160 Midland Avenue, Black Mountain, NC 28711
Phone: 828-419-9300 ~ Fax: 828-669-2030

VARIANCE BURDEN OF PROOF

In the spaces provided below, indicate the facts you intend to demonstrate and the arguments that you intend to make to demonstrate to the ZBA that it can properly grant the variance as provided for in Chapter 1, Section 1.7.3 Variances. The Zoning Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance.

Please indicate how the proposed project meets the below requirements. If additional space is required, please provide the information on a separate sheet of paper.

1. Indicate how an 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.

Very small usable building site.

2. Indicate how 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.

Lot is tapered on front and rear making area too small to build a home. Property requires adjustments to setbacks to build a proper home to satisfy "The Settings" building qualifications.

3. Indicate how 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.

I bought this property Jan 2018 off of an old survey in hopes to build my home. My most recent survey 3/20/2019; See current survey requesting 15 feet setback for front & rear of property to allow construction of single family home.

4. Indicate how 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.

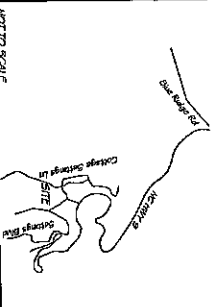
This is necessary to build minimum square footage in "The Settings". Thank you for your consideration.

Curve	Radius	Length	Chord	Chord Bear.
C1	500.00'	51.36'	31.36'	N 36°11'29" E
C2	250.00'	31.90'	31.96'	N 34°19'23" E

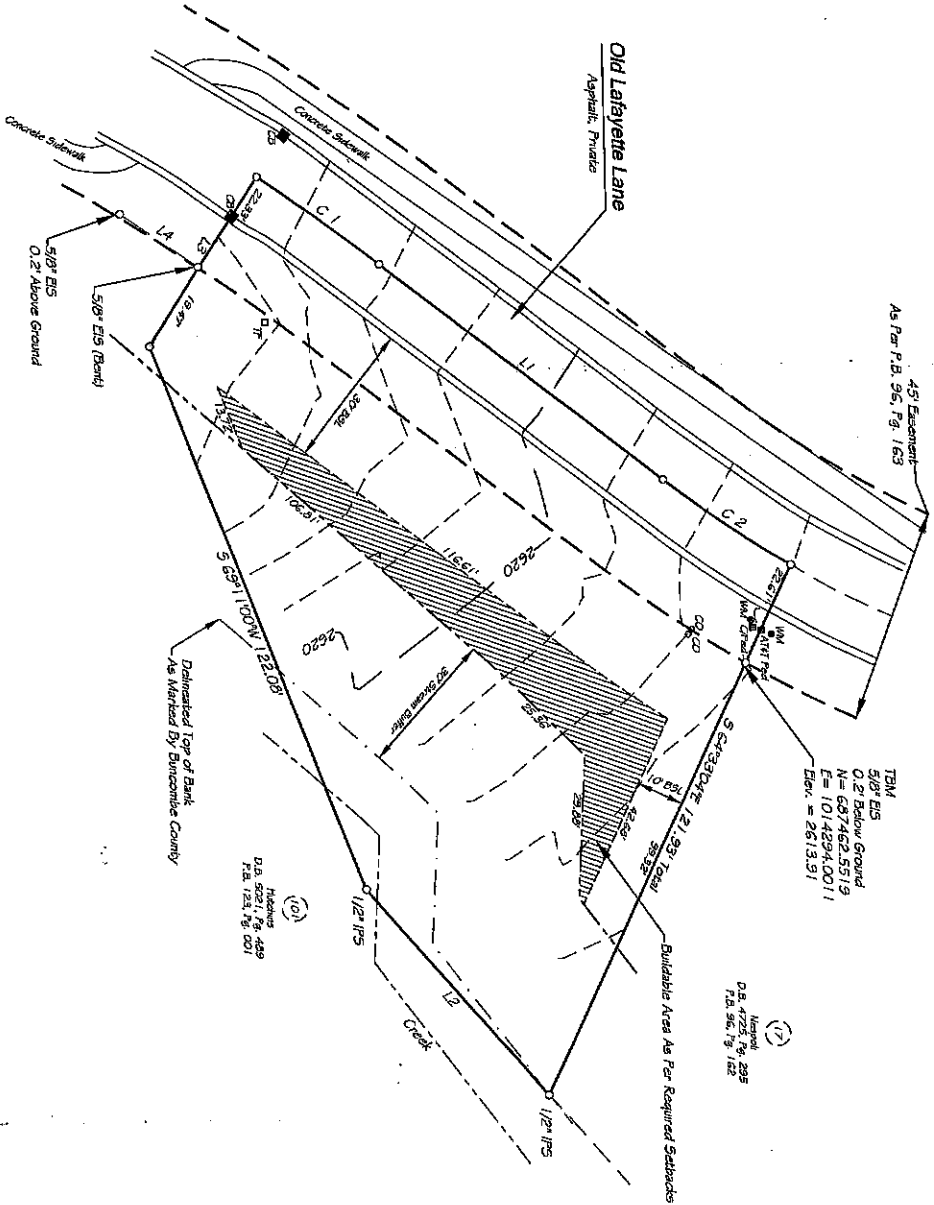
L4 is a Tie Line

Course	Bearing	Distance
L1	N 37°59'15" E	74.37'
L2	S 49°10'42" W	57.84'
L3	N 56°48'18" W	41.80' (Total)
L4	S 34°41'44" W	19.75'

0.29 Acre
Area By Coordinate Computation



Grid North
NAD83(2011)



Building Setbacks as per
The Architectural Design Guidelines for
The Settings At Black Mountain:
Front: 30'
Side: 10'
Rear: 30'
Stream Buffer 30'

- Notes:
1. Property is subject to all easements, restrictions and right of ways of record.
 2. The locations of underground utilities are based on above ground structures and record drawings provided to the surveyor. Locations of underground utilities/structures may vary from locations shown hereon. Additional buried utilities/structures may be encountered.
 3. Surveyor has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate title search may disclose.
 4. The certification of survey and plat was prepared for the entity named in this block hereon and does not extend to any other entity, unless recited by the professional and surveyor.
 5. All miscellaneous survey related materials, including but not limited to project plans, deed and R/W research, maps, field notes and data, survey reports, record title report, calculations, working drawings, estimates, and other materials accepted for preparation by the surveyor as instruments of service shall remain the property of the surveyor and surveyor.
 6. This drawing is not valid unless the original signatures and stamp are attached. Any reproduction or variance to this survey by electronic or any other means are not to be considered issued by the

- Legend:
- EIP = Existing Iron Pipe
 - EIS = Existing Iron Stake
 - IP = Iron Pipe Set
 - U = Unmarked Point, Unless Otherwise Noted
 - ROMANION = Right of Way Monument
 - BSL = Building Setback Lines
 - CB = Catch Basin
 - CO = Clean Out
 - C/Rod = Cable Television Pedestal

Black Mountain Township Buncombe Co

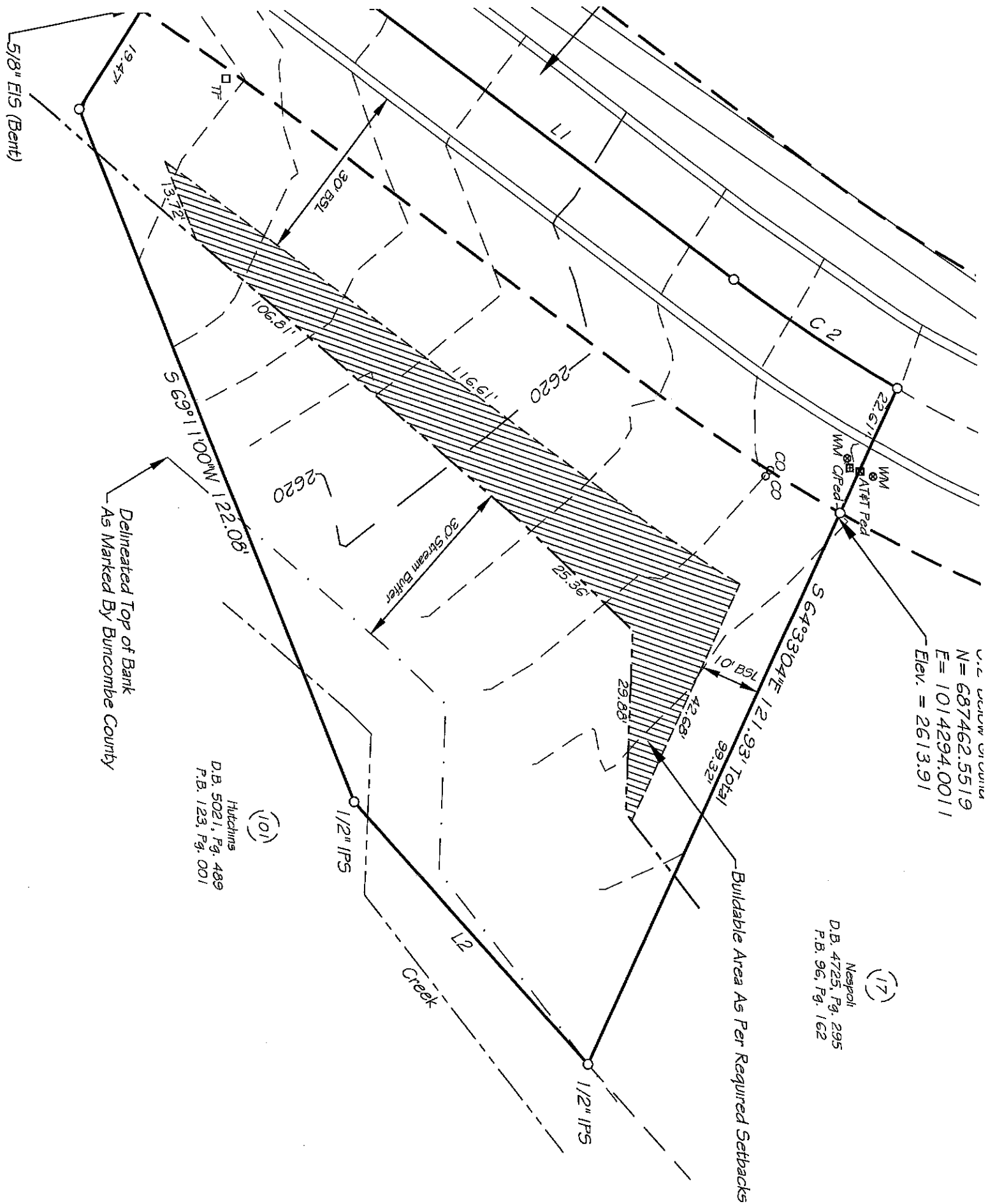
ASSOCIATED LAND SURVEY
& PLANNERS P.C.
P.O. BOX 578 * HORSE SHOE, NC 28
(828) 890-3507 NC BUSINESS LICENSE NO.

Phase 1, The Settings of Black Mountain
Recorded At P.B. 96, Pg. 163

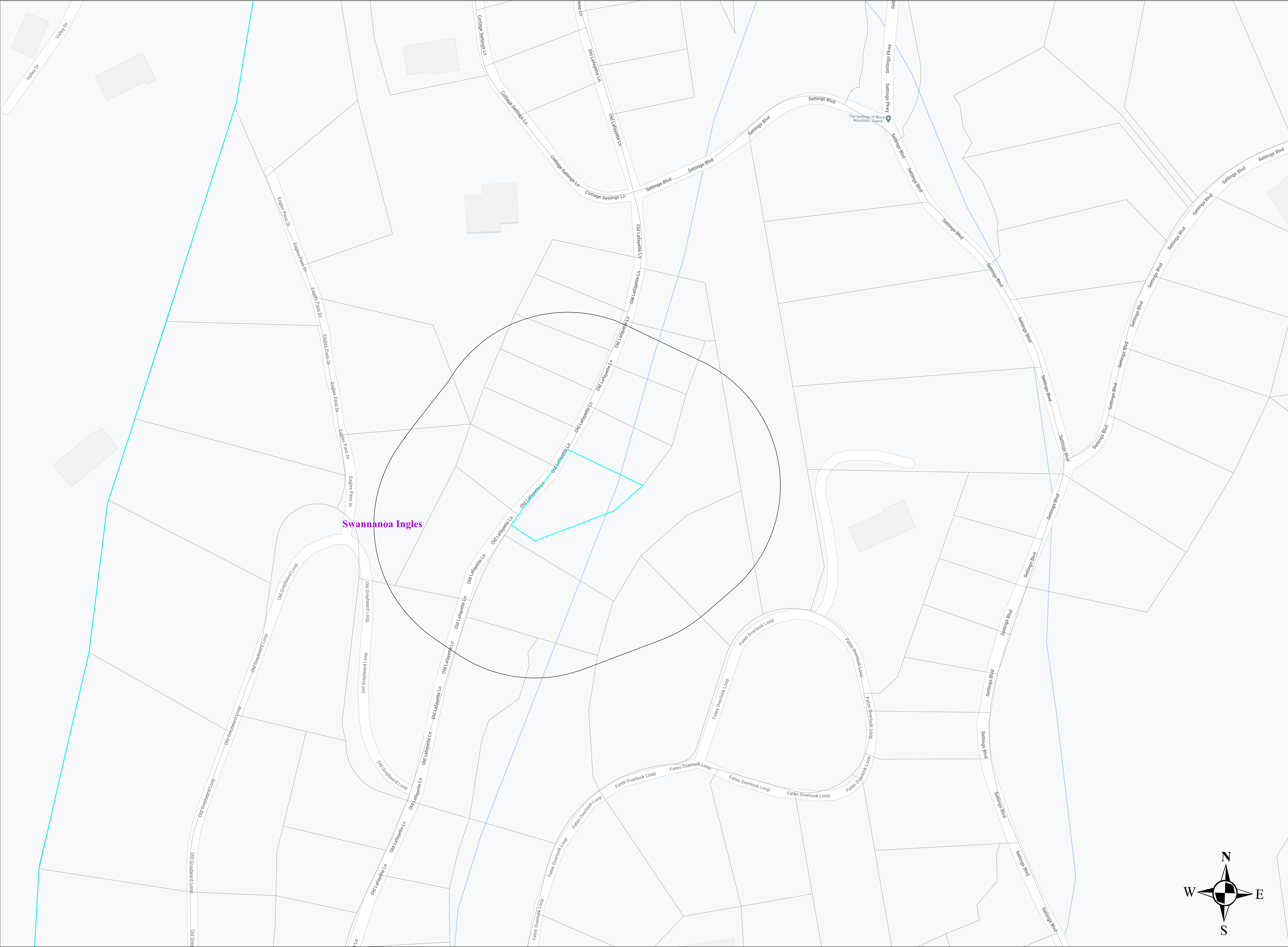
Map of Topographic Survey For
Karen W. Lefford

Owner:
D.B. 5627, Pg. 1757

Preliminary
For Review Purposes Only



34 Old Lafayette Variance Buffer Map





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, 2021**
TO: **Property Owner**
FROM: **TOWN OF BLACK MOUNTAIN
ZONING ADMINISTRATOR**

Address of Proposed Variance:

34 Old Lafayette Lane, Lot #18

PIN #: **0618-47-2481**

Current Zoning Classification: **CR-1**

This property is currently used for the purpose of: **residential building**

The variance is requested from the following provisions of the ordinance:

Chapter 4, Section 4.6.1.3 (dimensional requirements)

The variance is requested so that the property can be used in a manner indicated herein:

Reduce front setback to 15 feet and reduce rear setback to 15 feet.

An evidentiary hearing will be held on Thursday, June 17, 2021 @ 6:00 p.m. electronically via Zoom.

Zoom Meeting Details

<https://us02web.zoom.us/j/89438062459>

Meeting ID: 894 3806 2459

or call Toll-Free

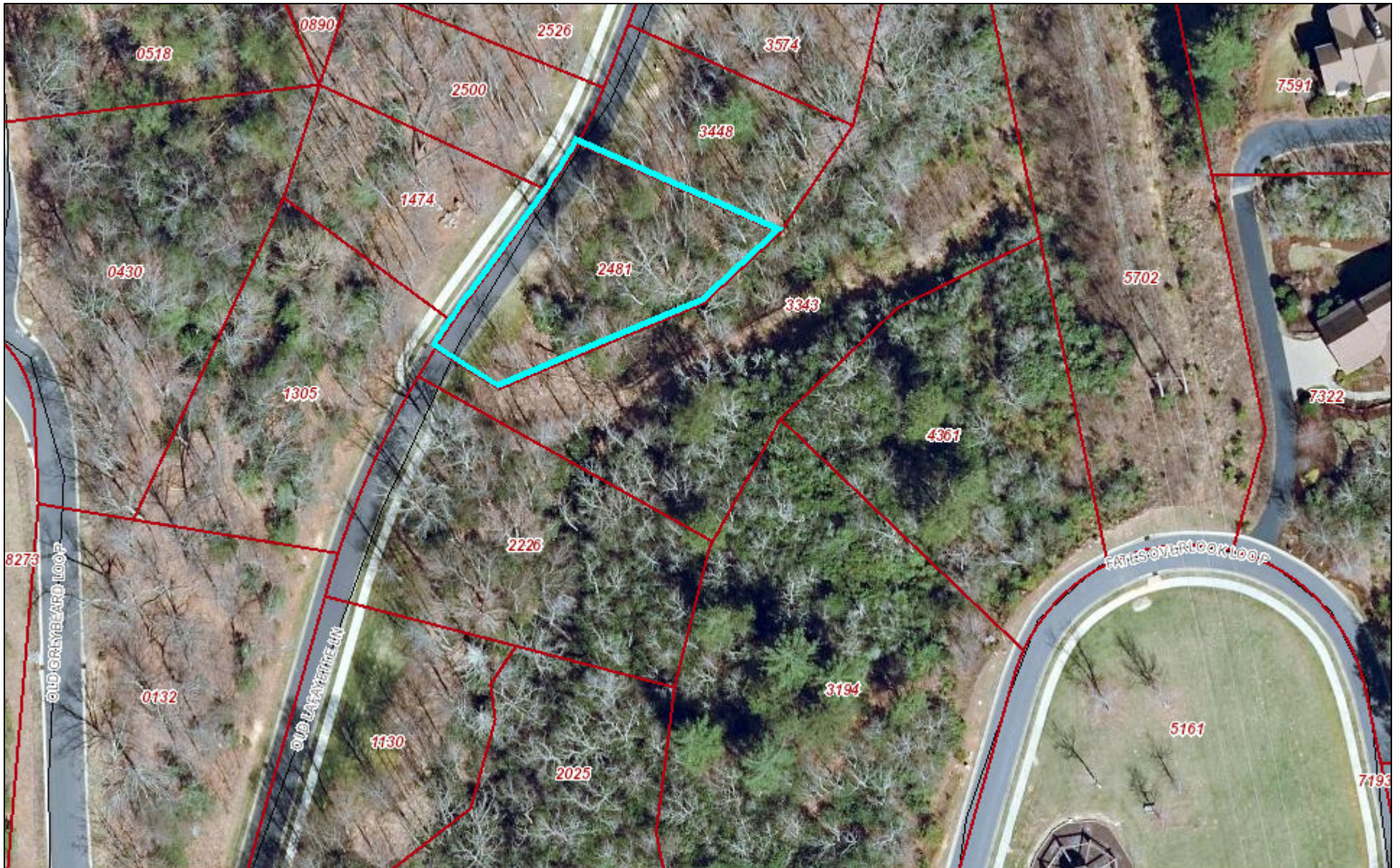
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34 Old Lafayette Lane Variance Aerial Map



May 5, 2021

