



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 March 17, 2022
Date: March 8, 2022

The **Town of Black Mountain Board of Adjustment** will meet on **Thursday, March 17, 2022, 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 February, 17, 2022;
3. Variance Request – 16 Old Lafayette Lane;
4. Variance Request – 124 Settings Boulevard;
5. Variance Request – 602 Eighth Street;
6. Variance Request – 52 Old Lafayette Lane; and
7. Variance Request – 17 Crockett Ridge Road.

Please let Jennifer Tipton know if you are **unable** to attend this meeting.
jennifer.tipton@tobm.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@tobm.org.

CC: Jessica Trotman, Planning Director
Jake Hair, Planner I/Zoning Administrator
Ron Sneed, Town Attorney



PUBLIC NOTICE
AVISO PÚBLICO

BLACK MOUNTAIN BOARD OF ADJUSTMENT

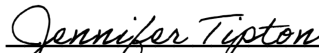
REGULAR MEETING
REUNIÓN ORDINARIA

Thursday, March 17, 2022, at 6:00 p.m.
Jueves 17 de marzo de 2022, a las 6:00 p.m.

The Black Mountain Board of Adjustment will meet for their monthly meeting on **Thursday, March 17, 2022, at 6:00 p.m.** at Town Hall, 160 Midland Avenue, Black Mountain, N.C.

La Junta de Ajuste de Black Mountain se reunirá para su reunión mensual **el jueves 17 de marzo de 2022 a las 6:00 p.m.** en Town Hall, 160 Midland Avenue, Black Mountain, N.C.

The meeting is open to the public.
La reunión está abierta al público.


Jennifer Tipton
Senior Admin

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 at (828) 419-9371 or by email at Jennifer.tipton@tobm.org.

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@tobm.org.

Posted to the Town Bulletin Board 03/01/2022
www.townofblackmountain.org



**Zoning Board of Adjustment Regular Meeting
March 17, 2022**

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 February 17, 2022, as written [or as amended]

IV. OLD BUSINESS

V. NEW BUSINESS

- Variance Request – 16 Old Lafayette Lane
- Variance Request – 124 Settings Boulevard
- Variance Request – 602 Eighth Street
- Variance Request – 52 Old Lafayette Lane
- Variance Request – 17 Crockett Ridge Road

VI. COMMUNICATION FROM ZONING BOARD OF ADJUSTMENT

VII. COMMUNICATION FROM STAFF

VIII. ADJOURNMENT

**TOWN OF BLACK MOUNTAIN
BOARD OF ADJUSTMENT**

The Black Mountain Board of Adjustment held its regular meeting on Thursday, February 17, 2022, 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:

John DeWitt, Chair
Patrick Prosser
Lauren Dodgin
Larry Pearlman

Staff:

Jennifer Tipton, Senior Admin
Jake Hair, Planner I/Zoning Administrator
Ron Sneed, Town Attorney

The meeting was called to order at 6:00 p.m. and duly constituted and opened for business with a quorum of four (4) regular members. Lauren Dodgin and Larry Pearlman introduced themselves as new members of the board.

II. ADOPTION OF AGENDA

Patrick Prosser made a motion to adopt the agenda as presented. The motion was approved by consensus.

III. ADOPTION OF MINUTES

Larry Pearl made a motion to adopt the minutes of September 16, 2021, as written. The motion was approved by consensus.

IV. OLD BUSINESS

None.

V. NEW BUSINESS

1. Variance Request – 200 Tabernacle Road

Attorney Ron Sneed has represented Highland Farms in the past but as he only supports the Board of Adjustment in procedure only so he can proceed with hearing if there is no objection. There was no objection from the board members or the applicant.

Jennifer Tipton swore in all those wishing to testify.

Jake Hair presented the variance application for Givens Highland Farms at 200 Tabernacle Road to reduce the residential parking requirement from two spaces per residential unit to one space per residential unit. The applicant has submitted two different options for the variance request. Option 1: Brookside Apartments with 30 units would require 60 parking stalls and the applicant is requesting 33 parking stalls. Vista Ridge Apartments with 36 units would require 72 parking stalls and the applicant is requesting 40 parking stalls.

Option 2: Brookside Apartments with 30 units would require 60 parking stalls and the applicant is requesting 48 parking stalls. Vista Ridge Apartments with 54 units would require 108 parking stalls and the applicant is requesting 45 parking stalls.

Per Section 10.8.1(D), owners are allowed to request a reduction in parking spaces by seeking a variance

Board of Adjustment Regular Meeting
February 17, 2022

Kevin Schwab, 200 Tabernacle Road, is the CEO of Givens Communities and did not have anything to add after Mr. Hair's presentation but is available for questions. Lauren Dodgin asked if the parking ratio is no longer sufficient then what would be the plan. Mr. Schwab said that there is sufficient parking on the campus in different locations and they do not wish to eat up more of the land and this parking variance request is only related to the new apartments project. Julia Burr, 71 Fortune Street, said that she is directly impacted by development at Givens Highland Farms and is curious where the new project and parking will be located. Mr. Schwab said the project will be taking place at buildings D, E, G, H, J, and K on the map and will not be adding to the density. Patrick Prosser asked if people have to register their vehicles or have a permit for their vehicle. Mr. Schwab said that residents and staff do receive a sticker so they can keep track of the vehicles. Mr. Prosser asked if a census was kept on the number of vehicles each day. Mr. Schwab said that there is not a gate where they count vehicles, but they do have not received any complaints about parking and most of the parking would be in the health services area where they receive the most visitors. The adult care program has been removed and parking has been freed up in that area. Daily car numbers were not studied for this request but Mr. Schwab said that they would received complaints if there was a lack of parking. Larry Pearlman spoke about the burden of proof in regard to the unnecessary hardship and asked for more information. Mr. Schwab said that they feel that they have sufficient parking to meet the requirements, but the residents and staff appreciate the environment and walking trails that are on the campus and staff and residents would prefer to have more green space and views than concrete and parking spaces that would most likely not be used. Givens Highland Farms have always had a one-to-one parking ratio since they were annexed into the Town of Black Mountain from Buncombe County. Mr. Prosser asked what the development plan does to utilize the green space. There is a creek running through the property, they would like to keep the tree line, and do not want to encroach on other units and maintain the courtyard for residential viewing areas and bird feeders. Mr. Prosser spoke about the potential to increase stormwater runoff, that they would still have to mitigate the problem. Mr. Schwab said it would just be more water to mitigate and they already have mitigation in place, but this would cause more mitigation to be put in place. Mr. Prosser asked about the upgrading of the fire department access road and Mr. Schwab said that that is for wider driveways and larger turnrounds that are required by the fire code. Mr. Pearlman asked if there have been complaints or requests about parking. Mr. Schwab said he has been with the company for a year and has not heard anything, but he did ask the team and they have not had any complaints either. There is more parking available on the campus and the only time there might be an issue is if there is a large event or presentation but there is a common space area where those visitors could park. Mr. Pearlman asked if they were to consider one or both options. Mr. Schwab said that they would be happy with either option and it would give them something to look at. A walking bridge will be constructed between the buildings to be able to cross the brook and is approximately one hundred feet. Mr. Prosser asked if the apartment buildings would be different styles as they have single family residences and care facilities. Buildings E and D are existing apartments that will be replaced with a more modern style and H and G are existing apartments and they will be replaced with a more modern style as that is what is being asked for by future tenants. The single-family homes have their own driveways and garages as well as the duplex and quadplex homes. Lauren Dodgin made a motion to close the public hearing. The motion was seconded by Patrick Prosser and approved by consensus. Jennifer Tipton summarized the evidence:

Board of Adjustment Regular Meeting
February 17, 2022

Exhibit 1: Staff Report
Exhibit 2: Variance Application
Exhibit 3: Maps (10 pages)
Exhibit 4: Buffer Map
Exhibit 5: List of Property Owners (7 pages)
Exhibit 6: Notice of Variance Request to Property Owners
Exhibit 7: Aerial Map
Exhibit 8: Legal Notice

The board deliberated by going through their worksheet and found the following findings of facts:

1. There is an unnecessary hardship that would result from the strict application of the ordinance because the area within which the construction must be to build the needed housing is confined by a stream, trees, and walking areas that Givens Highland Farms would like to preserve. Two parking stalls for each residential unit would decrease open areas, increase impervious surfaces and diminish the view that future occupants of the apartments will have.
2. The hardship results from conditions that are peculiar to the property as the area for development is limited by other development and by a stream, as well as greenspace and recreational areas already dedicated to the use of residents of the apartments.
3. The hardship does not result from actions taken by the property owner as the space limitations occurred as a result of different development standards that applied when the county ordinances applied.
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 newer apartments with more housing units made available will result from granting of the variance, fulfilling the objective of providing housing with infill development, and Givens Highland Farms will not be handicapped by developing under a new set of rules, and the evidence presented shows that the future residents of the apartments will not suffer from inadequate parking. The options presented by Givens Highland Farms provide for a greater ratio of parking stalls per unit while the evidence supports the contention that one space per unit is adequate.

The chair made a motion to reopen the public hearing to ask a question of Mr. Schwab if the layouts required that the buildings both be option one or both option two rather than building by building. Mr. Schwab said they would prefer either all option one or all option two so they can have the flexibility and not be limited to the two to one and either option is better than one to one. In no case will the parking go below one to one. Parking would be added in a different space if complaints start or if care needs change.

The chair closed the public hearing.

Patrick Prosser made a motion to grant the variance of either option one or option two as long as the parking ratio is not less than one to one. John DeWitt seconded the motion, and the motion was approved by a vote of 4-0.

VI. COMMUNICATION FROM BOARD OF ADJUSTMENT

None.

VII. COMMUNICATION FROM STAFF

Board of Adjustment Regular Meeting
February 17, 2022

None.

VIII. ADJOURNMENT

John DeWitt adjourned the meeting at 6:45 p.m.

Prepared by:

John DeWitt, Chair

Jennifer Tipton, Senior Admin

Patrick Prosser, Secretary

Board of Adjustment Regular Meeting
February 17, 2022



LEGAL NOTICE

BLACK MOUNTAIN BOARD OF ADJUSTMENT

EVIDENTIARY HEARING

Thursday, March 17, 2022, at 6:00 p.m.

The Black Mountain Board of Adjustment will meet on **Thursday, March 17, 2022, at 6:00 p.m.** in the Board Room in the Town Hall Building, 160 Midland Avenue, Black Mountain, NC. The purpose of this meeting is to hear a variance request for the following properties:

602 Eighth Street (PIN #0619-89-1090) to reduce the side setback

16 Old Lafayette Lane (PIN #0618-48-3068) to reduce the front setback

124 Settings Boulevard (PIN #0618-56-5107) to reduce the front setback and increase the height limit

17 Crockett Ridge Road (PIN #0618-65-2606) to reduce the setbacks

52 Old Lafayette Lane (PIN #0618-46-0950) to reduce the front and rear setbacks

The meeting is open to the public.

Jennifer Tipton
Senior Admin

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 at 419-9371 or by email at Jennifer.tipton@tobm.org.

Posted to the Town Bulletin Board 03/01/22
Published in the Black Mountain News 03/10/22 and 03/17/22
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 <u>Doug Brock</u>	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 am not aware of~~

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 _____

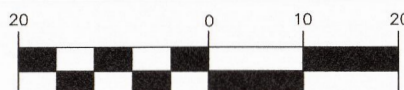
FILED FOR REGISTRATION ON THE _____ DAY OF

_____, 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

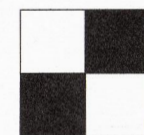
I, KEITH R. SANDERS, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY DIRECT SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK 5564, PAGE 162, BUNCOMBE COUNTY REGISTRY); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN THE 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

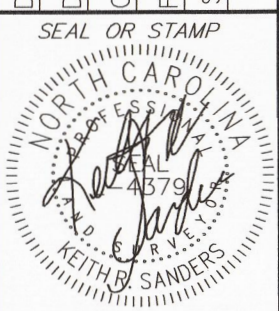
DRAWN: KRS

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

4.6.3 Town residential district (TR-4).

4.6.3.1 Intent.

The town residential district is established to allow for a variety of housing types while maintaining an overall residential character with medium density. Any use which, because of its characteristics would interfere with the residential nature of the area is excluded.

4.6.3.2 Uses.

The chart below indicates the uses generally permitted in the TR-4 zoning district.

PERMITTED BY RIGHT	ADDITIONAL REQUIREMENTS (see Chapter 5)	CONDITIONAL USES	SPECIAL USES
Government facilities Parks and open space areas Places of worship Public Utilities Single-Family Residences Two-family Residences (duplex)	Accessory Structures Agriculture Bed and Breakfast Homes Boarding House Camps, summer Conference Centers Family Care Homes Home Occupations Manufactured Homes (on individual lots) Market Gardens Recreation services, outdoor Secondary Dwellings	Bed and Breakfast Inns Cultural, Community Facilities Educational facilities Multi-family residential	<i>Residential Special Use Developments:</i> Conservation Subdivisions Cottage Housing (CHD) Residential Planned Unit Development (PUD) Manufactured Home Parks

Exclusions: Correctional institutions, all uses not specifically enumerated

4.6.3.3 Dimensional requirements (TR-4).

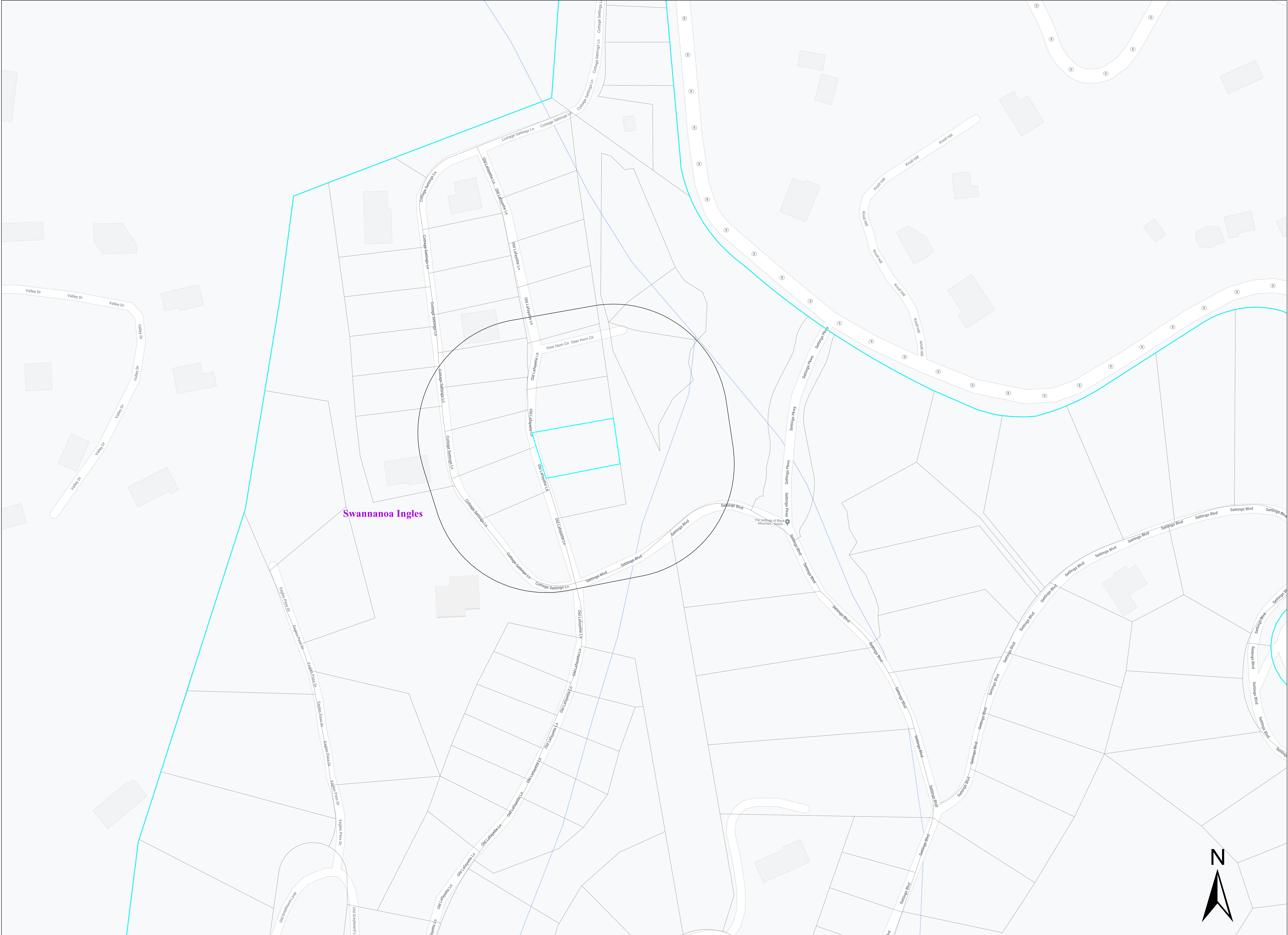
Residential Uses	Density and Lot Size				Minimum Yard Requirements			Max. Height
	Min. Lot Size/Max. Density	Min. Width (ft.)	Min. St. Front (ft.)	Min. Depth (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height (ft.)
	¼ acre (10,890 sq. ft.) 4 DUA	40 (15 ft. at street)	15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

	¼ acre (10,890 sq. ft.)	40 (15 ft. at street)	15	80	20 (15 steep hillside)	10	15	35
--	-------------------------------	--------------------------------	----	----	------------------------------	----	----	----

*A density bonus may be available for developments that include affordable housing units in accordance with chapter 12.

(Ord. No. O-17-05 , § 2, 6-12-2017)

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
Steven Press; Mona Press	6765 Burning Tree Dr	Seminole	FL	33777	0618-48-2107
Karen J Nawrocki Revocable Trust	1327 S Plymouth Ct #H	Chicago	IL	60605	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 1639	Houston	TX	77251	0618-47-2983
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 1639	Houston	TX	77251	0618-47-0890
Settings of Black Mountain	PO Box 1639	Houston	TX	77251	0618-47-5702
Timothy W Harrison; Carol M Harrison	133 Sondley Pkwy	Asheville	NC	28805	0618-47-6960
Settings of Black Mountain	PO Box 1639	Houston	TX	77251	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: **March 2, 2022**
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, March 17, 2022, @ 6:00 p.m. in the Board Room of Town Hall, 160 Midland Avenue, Black Mountain, NC 28711

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

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

Case No: V-22-02

Case Name: 124 Settings Blvd

Hearing Date: March 17, 2022

Procedure: 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 March 1, 2022. Legal notice appeared in the Black Mountain News the weeks of March 10, 2022, and March 17, 2022. 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):

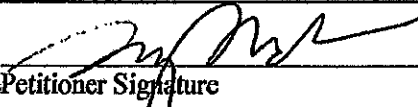
Front Setback reduced to 10'
Maximum Height to be 42' an increase

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: 5/11/21

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.

U.S. 70

40

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

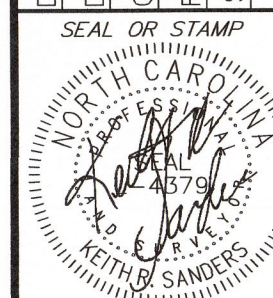
KEITH R. SANDERS
PROFESSIONAL LAND SURVEYOR # L-4379
STATE OF NORTH CAROLINA

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
ABRAMOWITZ 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"

4.6.1 Conservation residential district (CR-1).

4.6.1.1 Purpose.

The conservation residential district is established to protect areas in which the principal use of the land is residential or agricultural and where steep slopes or other environmental features make it more suitable for large lot development, conservation development and the preservation of open space.

4.6.1.2 Uses.

The chart below indicates the uses generally permitted in the CR-1 zoning district.

PERMITTED BY RIGHT	ADDITIONAL REQUIREMENTS (see Chapter 5)	CONDITIONAL USES	SPECIAL USES
Government facilities Parks and open space areas Public utilities Single-Family Residences Two-family Residences (duplex)	Accessory Structures Agribusiness Agriculture Boarding House Camps, summer Conference Centers Family Care Homes Home Occupations Park Model Housing Manufactured Homes on individual lots Market Gardens Recreation services, outdoor Secondary Dwellings	Bed and Breakfast Homes and Inns Cultural, Community Facilities Educational facilities Multi-family residential Places of worship	<i>Residential Special Use Developments:</i> Conservation Subdivisions Cottage Housing (CHD) Residential Planned Unit Developments(PUD)

Exclusions: Correctional institutions, Manufactured Home Parks, all uses not specifically enumerated.

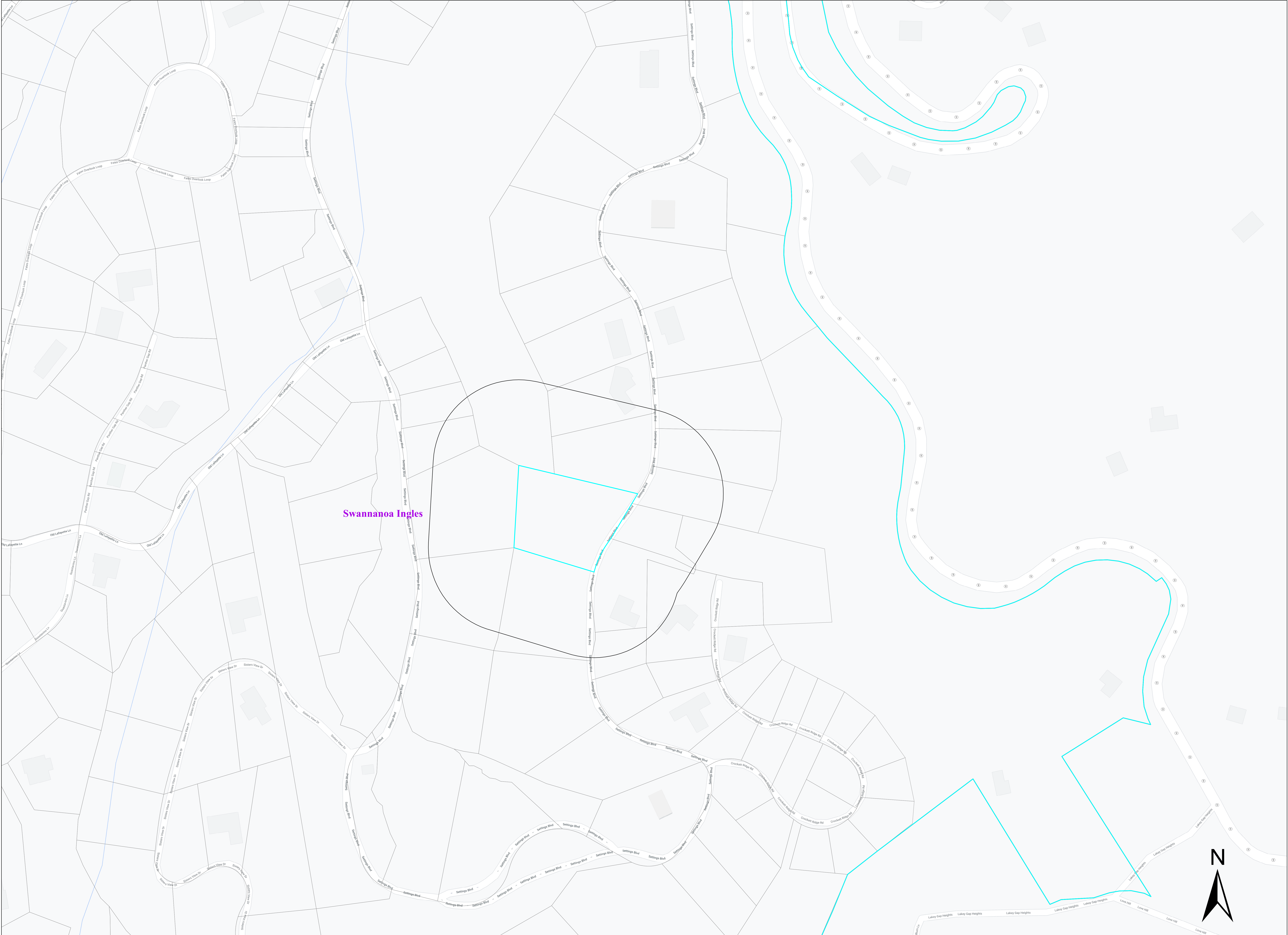
4.6.1.3 Dimensional requirements (CR-1).

Residential Uses	Density and 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 sq. ft.) 1 DUA	80 (15 ft. at street)	100	30 (25 steep hillside)	10	30	35
Other Uses	Minimum Lot Size			Minimum Yard Requirements			Max. Height
	Min. Lot Size	Min. Width (ft.)	Min. Depth (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height (ft.)

	1 acre (43,560 sq. ft.)	80 (15 ft. at street)	100	30 (25 steep hillside)	10	30	35
--	-------------------------------	-----------------------------	-----	---------------------------------	----	----	----

(Ord. No. O-17-05 , § 2, 6-12-2017)

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 1369	Houston	TX	77251	0618-56-2917
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
James Montgomery; Beverly Montgomery	418 Avon Woods CV	Memphis	TN	38117	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: **March 2, 2022**

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)

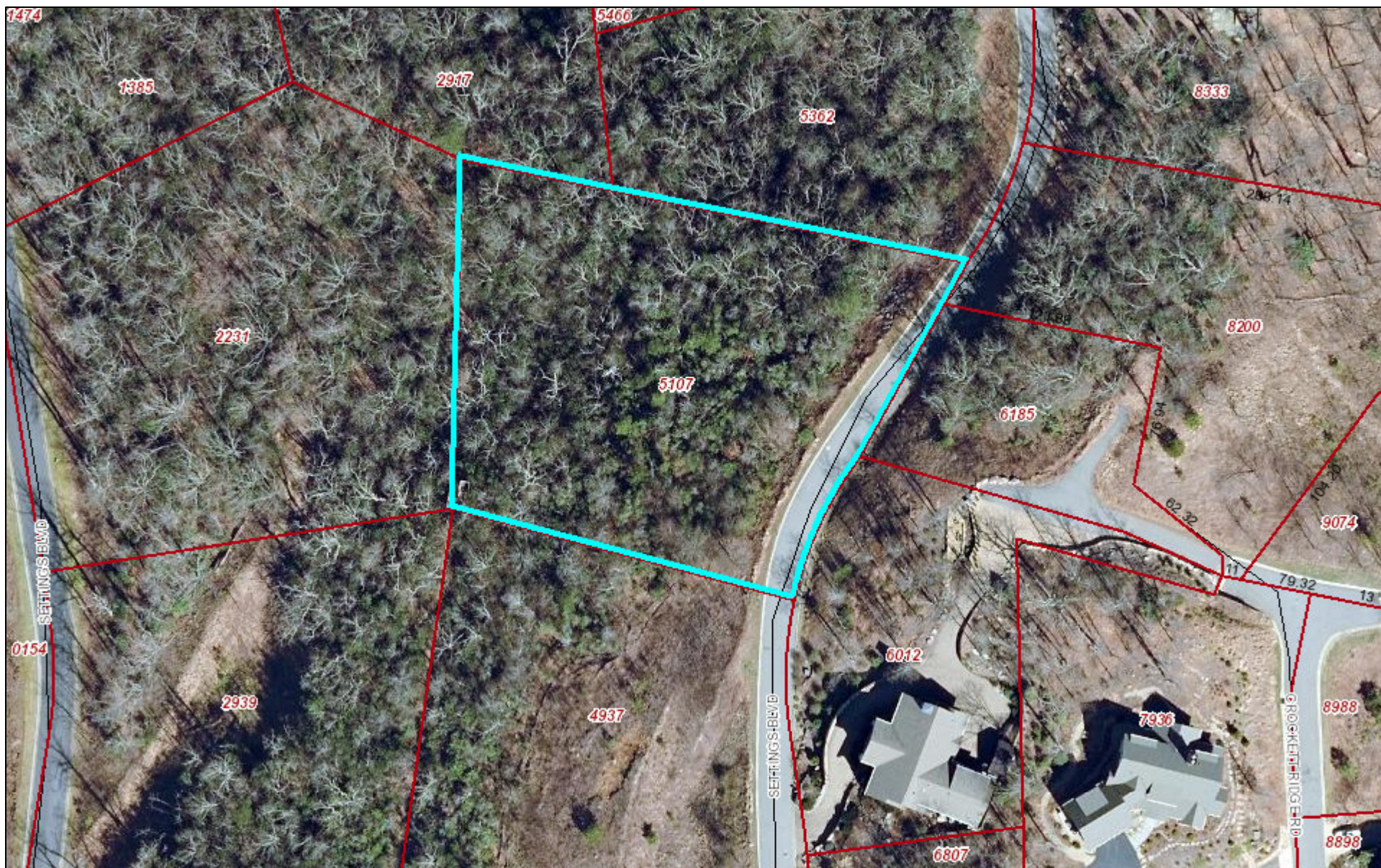
The variance is requested so that the property can be used in a manner indicated herein:

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

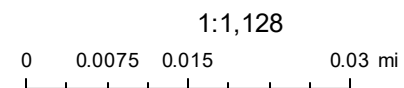
An evidentiary hearing will be held on Thursday, March 17, 2022 @ 6:00 p.m. in the Board of Room of Town Hall, 160 Midland Avenue, Black Mountain, NC 28711.

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



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

Case No: V-22-03

Case Name: 602 Eighth St

Hearing Date: March 17, 2022

Procedure: Zoning Board of Adjustment

Address of Variance Request:

602 Eighth St

Black Mountain, NC 28711

PIN #0619-89-1090.00000

Applicant:

Diane Kyker

602 Eighth St

Black Mountain, NC 28711

Request:

The applicant is seeking a variance for a home addition to encroach 3 ½ feet into the 10-foot side setback on the west side of their home.

City Staff:

Jake Hair, Planner

Jennifer Tipton, Clerk to ZBA

I. SUMMARY OF REQUEST

The applicant is requesting to reduce the side setback from ten feet (10') to six and a half feet (6 ½') on the west side of the home.

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 UR-8(Urban Residential) and required setbacks are as follows:

4.6.3.3 Dimensional requirements (UR-8).

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.)
Major Subdivisions	1/8 acre (5,446 sf) 8 DUA	15 ft	None	20 (15 steep hillside)	10	15	35
All Other Residential	5,000 sf	15 ft.	None	20 (15 steep hillside)	10	15	35

The surrounding properties are zoned and developed for residential use.

	North	South	East	West
Adjacent Zoning Designation	UR-8	UR-8	UR-8	UR-8
Adjacent Land Uses	Residential (single-family)	Residential (single-family)	Residential (single-family)	Residential (single-family)

Existing Conditions

The subject property is a .18-acre parcel in the TR-4 zoning district. The average slope of the lot is 16.99%.

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 March 2, 2022. Legal notice appeared in the Black Mountain News the weeks of March 1, 2022, and March 7, 2022. 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 and current structures are conforming to UR-8 dimensional requirements. There are no development requirements causing hardship for the owner to meet the setbacks.

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

PROPERTY OWNER INFORMATION		
Owner Name <u>DIANE E. KYKER</u>		
Owner Address (Number, Street, City, State, ZIP) <u>602 EIGHTH STREET, BLACK MOUNTAIN, NC</u>		
Home Phone <u>828.712.2666</u>	Cell Phone <u>828.712.2666</u>	Email Address <u>dianekylear@gmail.com</u>
APPLICATION FOR VARIANCE		
I request a variance/variances from the following provisions of the ordinance:		
Section Number(s): <u>4.6.4.3</u>	Section Title(s): <u>Dimensional Requirements for UR-8</u>	
Subsection letter(s) and/or number(s): <u>SIDE SETBACK</u>	Subsection Title(s): <u>SIDE SETBACK</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): <u>3.5-4 foot encroachment of side setback</u> <u>Existing privacy fence and tall shrubbery to remain in place</u>		
PROPERTY INFORMATION		
Parcel Number <u>PIN 6190-89-1090</u>	Current Zoning <u>UR-8 SINGLE FAMILY RESIDENTIAL</u>	Acreage <u>0.18</u>
Address <u>602 EIGHTH STREET, BLACK MOUNTAIN, NC 28711</u>		
Average Slope % <u>17%</u>	Use of Property <u>UR-8 SINGLE FAMILY 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 <u>Diane E. Kyker</u>	Date <u>1-20-2022</u>	
OFFICE USE ONLY		
Date Received:	Fee: \$600.00 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

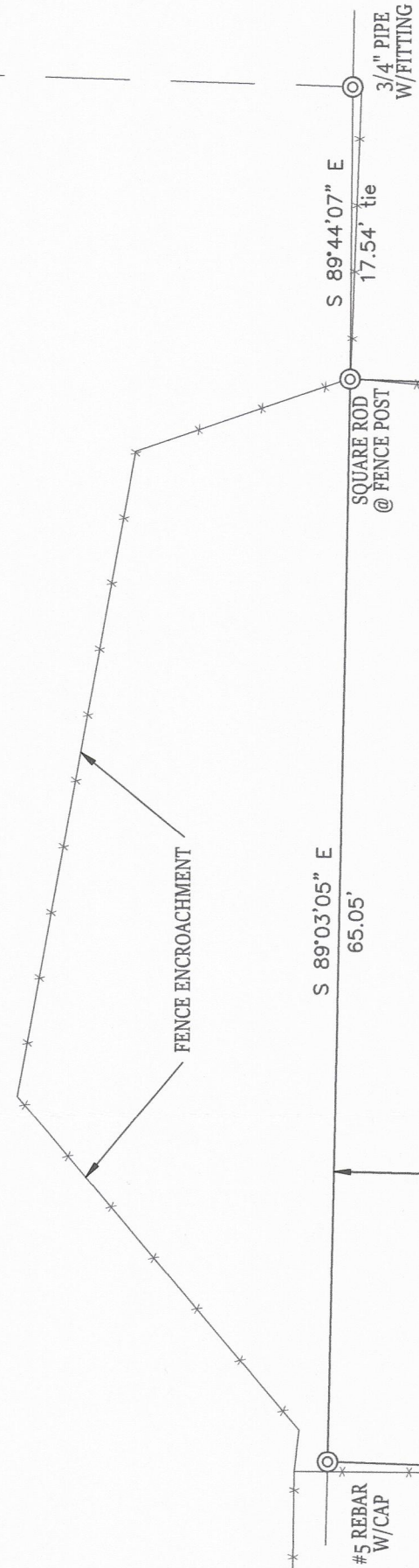
GENERAL SITE NOTES

PROTECT ALL EXISTING TREES AND SHRUBS AS DIRECTED BY THE OWNER. PARTICULAR ATTENTION SHALL BE PAID TO EXISTING HARDWOOD TREES. KEEP ALL GRADING AND CONSTRUCTION OPERATIONS, INCLUDING STORAGE OF MATERIALS AND VEHICLES, CLEAR OF THE DRIP LINE OF TREES TO REMAIN. CONTROL SEDIMENTATION AND EROSION FOR ALL DISTURBED GROUND AREAS. IT IS PROHIBITED TO a) DISCHARGE ANYTHING BUT CLEAR WATER ONTO ADJACENT PROPERTY and b) RELOCATE THE POINT OF DISCHARGE OF ANY NATURAL DRAINAGE. FINISH GRADE AND MULCH ALL AREAS DISTURBED BY CONSTRUCTION OR CONSTRUCTION TRAFFIC AT THE EARLIEST POSSIBLE DATE. SEED OR MULCH PERIMETER OF CONSTRUCTION PRIOR TO INSTALLATION OF EXTERIOR FINISH MATERIALS TO AVOID CLAY SPLATTER STAINING.

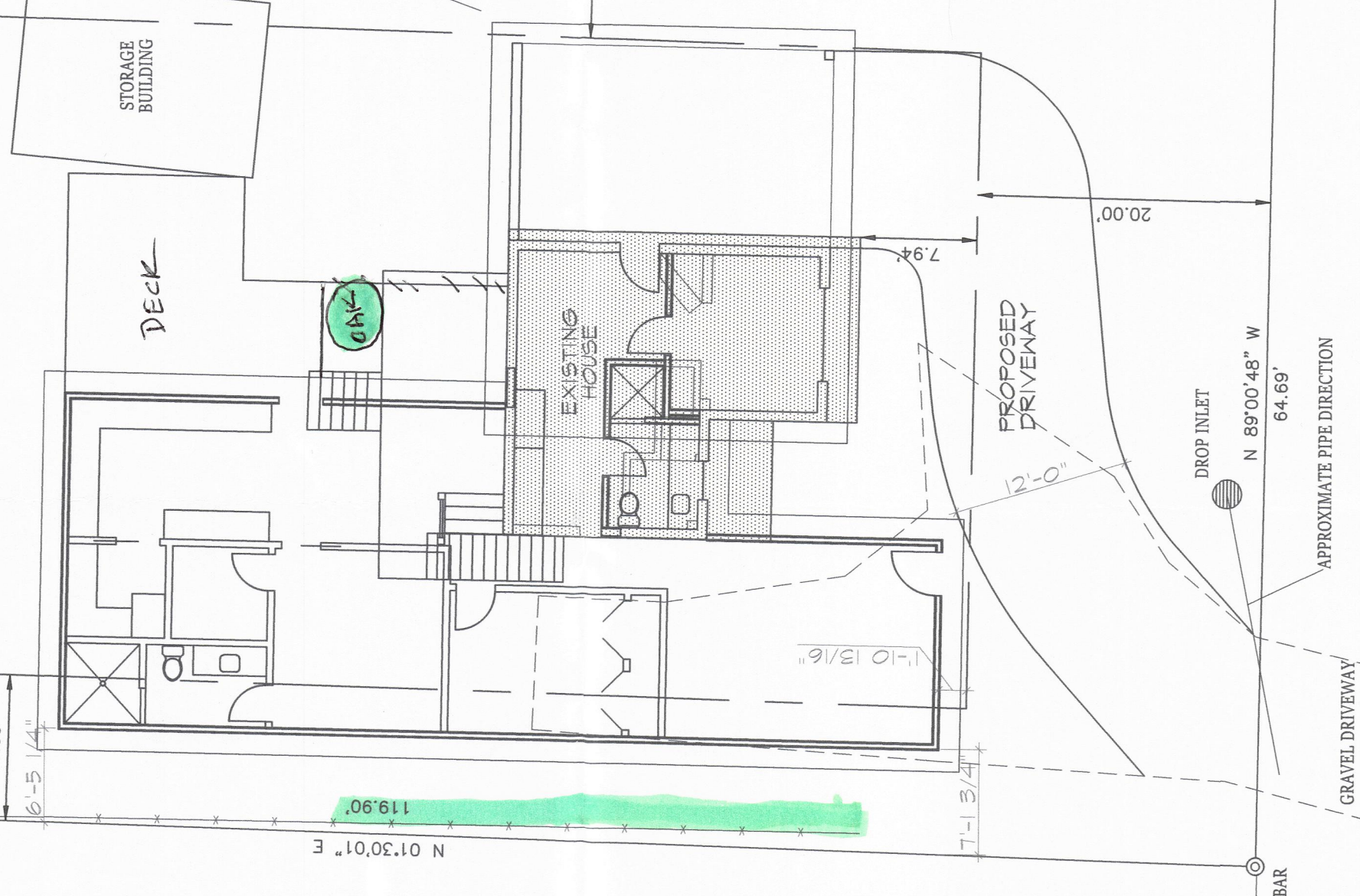
TAP AND CONNECTION TO CITY WATER AND SEWER BY CONTRACTOR. TAP AND METER FEES PAID BY CONTRACTOR. UTILITIES INCLUDING POWER AND TELEPHONE SHALL BE EXTENDED UNDERGROUND FROM UTILITY COMPANY SERVICES TO NEW RESIDENTIAL TERMINALS.

CONTRACTOR SHALL KEEP THE BUILDING CONSTRUCTION AND BUILDING SITE SAFE, CLEAN, AND FREE FROM LITTER, DEBRIS, AND EXCESS CONSTRUCTION WASTE MATERIALS AT ALL TIMES DURING THE CONSTRUCTION PERIOD. WASTE MATERIALS SHALL BE PROPERLY DISPOSED OF ON A REGULAR BASIS. PROVIDE A LITTER CONTAINER AND REQUIRE WORKERS TO USE IT.

PIN 6190-88-3810
ANDREW A. ROSKY & SHEAR D. GALANT
DB 5490, PAGE 1124
PB 154, PAGE 193

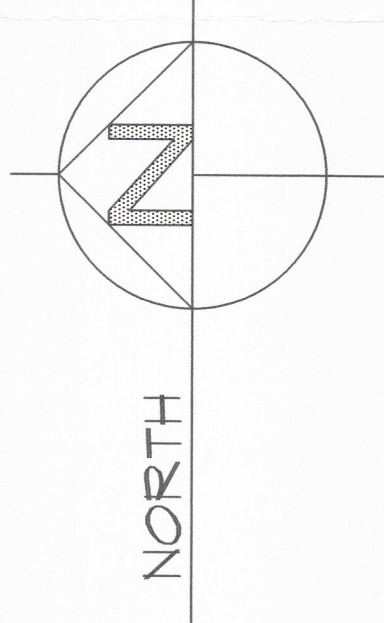


PIN 6190-89-1090
DIANE E. KYKER
DB 4429, PAGE 1759
PB 154, PAGE 193
0.18 ACRES +/-



PIN 6190-88-1396
EDDIE J. BELL
DB 0485, PAGE 1026
PB 154, PAGE 193

PIN 6190-89-1680
MICHAEL COLLINS NEDER &
BETHANNE ROWE NEDER
DB 5490, PAGE 1183
PB 154, PAGE 193



- LEGEND:
- = CALCULATED & UNMARKED POINT
 - = PROPERTY CORNER SET (AS NOTED)
 - = PROPERTY CORNER SET (AS NOTED)
 - = OPEN TOP PIPE
 - R/W = RIGHT OF WAY
 - = WATER METER
 - = SANITARY SINK
 - = PAGE
 - = ADJUNCTION LINE (NOT SURVEYED)
 - /H/L = OVERHEAD UTILITY LINE
 - = UTILITY POLE
 - = WATER METER
 - = SANITARY SINK
 - = STORM SINK

EIGHTH STREET
40' R/W (PAVED)
(PUBLIC ROAD)

SITE PLAN

SCALE 1" = 10'-0"

INFORMATION FROM ELK SURVEYING, PLLC; SURVEY DATED 26 AUGUST 2020

casa design studio, pllc
hendersonville, nc
280 espresso lane
(828)216-8198

Kyker residence
ADDITION AND RENOVATIONS FOR DIANE KYKER
602 EIGHTH STREET - BLACK MOUNTAIN - NORTH CAROLINA

26 DEC 2021

1

4.6.4 Urban residential district (UR-8).

4.6.4.1 Intent.

The mixed residential district is established to provide a variety of housing types, promote density in the more urbanized and developable areas or town, and structure the orderly development of residential neighborhoods.

4.6.4.2 Uses.

The chart below indicates the uses generally permitted in the UR-8 zoning district.

PERMITTED BY RIGHT	ADDITIONAL REQUIREMENTS (see Chapter 5)	CONDITIONAL USES	SPECIAL USES
Government facilities Parks and open space areas Places of worship Public utilities Shared housing arrangements/community living Single-Family Residences Two-family Residences (duplex)	Accessory Structures Agriculture Bed and Breakfast Homes Boarding House Camps, summer Conference Centers Family Care Homes Home Occupations Manufactured Homes (on individual lots) Garden Markets Multi-family residential Recreation services, outdoor Secondary Dwellings	Educational facilities Bed and Breakfast Inns Day Care Centers	<i>Residential Special Use Developments:</i> Conservation Subdivisions Cottage Housing (CHD) Residential Planned Unit Development (PUD) Manufactured Home Parks

Exclusions: Correctional institutions, all uses not specifically enumerated

4.6.4.3 Dimensional requirements (UR-8).

Residential Uses	Density and 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.)
Major Subdivisions	½acre (5,446 sq. ft.) 8 DUA	15 ft.	None	20 (15 steep hillside)	10	15	35
All other Residential	5,000 sq. ft.	15 ft.	None	20 (15 steep hillside)	10	15	35

Other Uses	Minimum Lot Size			Minimum Yard Requirements			Max. Height
	Min. Lot Size (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height (ft.)
	½acre (5,446 sq. ft.)	40 (15 ft. at street)	None	20 (15 steep hillside)	10	15	35

* A density bonus may be available for developments that include affordable housing units in accordance with chapter 12.

(Ord. No. O-11-01, § 2, 5-9-2011; Ord. No. O-17-05 , § 2, 6-12-2017)

602 Eighth Street - 200' Buffer Map



602 Eighth Street Property Owners

<u>Name</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>	<u>PIN</u>	
Diane Kyker	1317 4th Ave W	Hendersonville	NC	28739	0619-08-9109	
Michael & Bethanne Neder	604 Eighth St	Black Mountain	NC	28711	0619-08-9168	
James & Terry Smith	601 Azalea Ave	Black Mountain	NC	28711	0619-18-0138	
WM D Vickery Et Al	600 Azalea Ave	Black Mountain	NC	28711	0619-18-1167	
John & Sara Stillwell	PO Box 1167	Black Mountain	NC	28711	0619-18-1276	
John & Sara Stillwell	PO Box 1167	Black Mountain	NC	28711	0619-18-1372	
Bird-In-Hand LLC	585 Arrowhead Dr	Earlysville	VA	22936	0619-08-9565	
Barrie & Matilda Flitcroft	610 Laurel Ave	Black Mountain	NC	28711	0619-08-8486	
Barrie & Matilda Flitcroft	610 Laurel Ave	Black Mountain	NC	28711	0619-08-8480	
Andrew Rosky; Shari Galant	606 Laurel Ave	Black Mountain	NC	28711	0619-08-8381	
Dennis & Lynda Martin	8131 32nd Pl N	Minneapolis	MN	55427	0619-18-0310	
Town of Black Mountain	160 Midland Ave	Black Mountain	NC	28711	0700-90-1165	
Jonathan & Emily Payne	601 Laurel Ave	Black Mountain	NC	28711	0619-08-7232	
Eddie Frizsell	121 Lytle Cove Rd	Swannanoa	NC	28778	0619-08-8139	
Mary McKenzie	31 Whitaker Rd	Fairview	NC	28730	0619-08-8055	Virginia Vaughn
Marc & Phyllis Koenings	55 Mountain View Rdg	Fairview	NC	28730	0619-07-9917	
Edith Gerta	512 Laurel Ave	Black Mountain	NC	28711	0619-07-8849	
Jessica Powell; Adam Greenspan; Kevin Greenspan	517 Azalea Ave	Black Mountain	NC	28711	0619-07-9878	
Richard & Sueanna Moore	521 Eighth St	Black Mountain	NC	28711	0619-08-9082	
Carolyn Byus Revocable Trust	526 Azalea Ave	Black Mountain	NC	28711	0619-18-1050	



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: **March 2, 2022**

TO: **Property Owner**

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

Address of Proposed Variance:

602 Eighth Street

PIN #: **0619-89-1090.00000**

Current Zoning Classification: **UR-8**

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

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

Chapter 4, Section 4.6.4.3, side setbacks

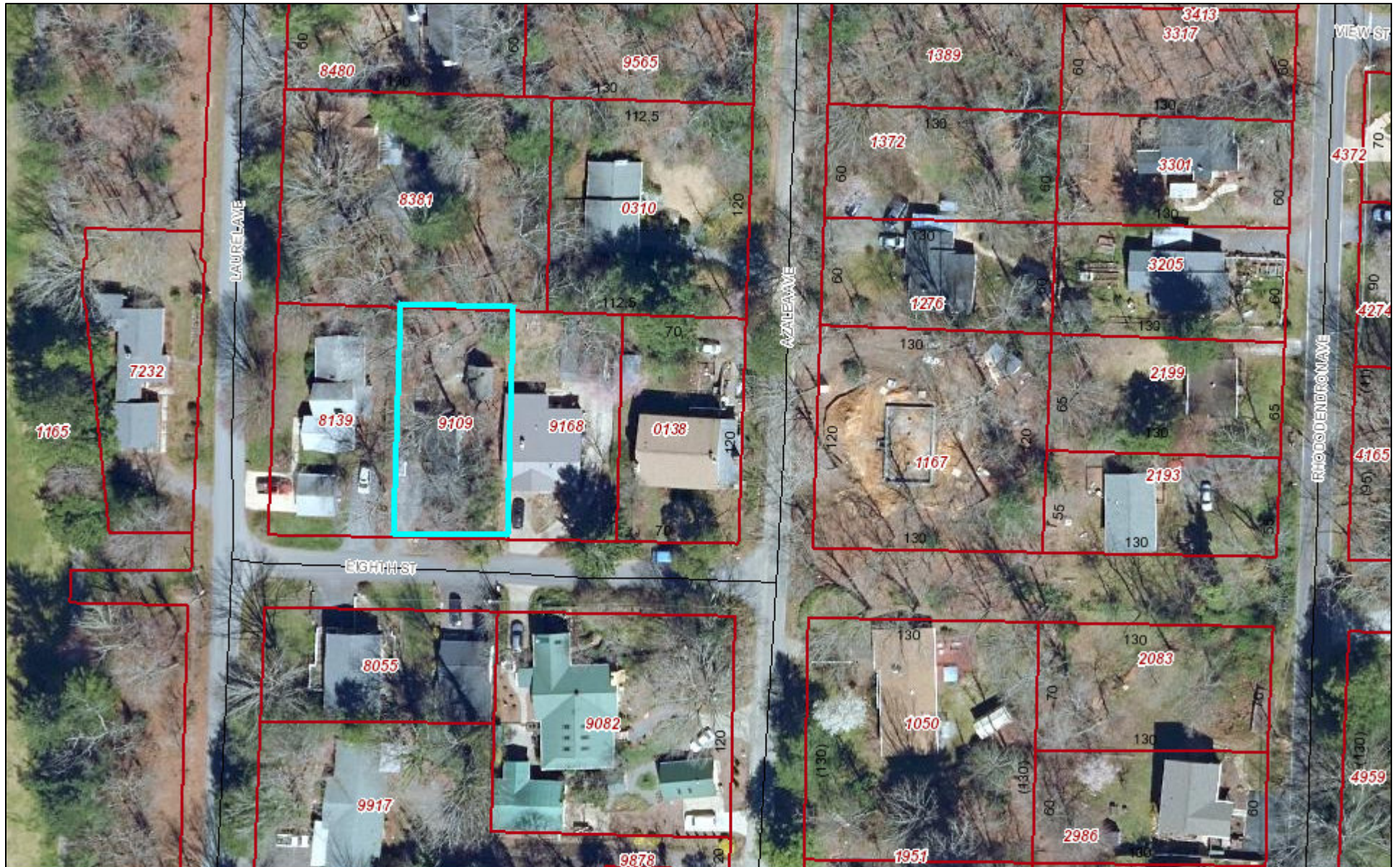
The variance is requested so that the property can be used in a manner indicated herein:

Request 3.5 foot encroachment of side setback (existing privacy fence and tall shrubbery to remain in place).

An evidentiary hearing will be held on Thursday, March 17, 2022, @ 6:00 p.m. in the Board Room of Town Hall, 160 Midland Avenue, Black Mountain, NC 28711

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.

Buncombe County



March 8, 2022

1:1,128

0 0.0075 0.015 0.03 mi

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

Case No: V-22-01

Case Name: 17 Crockett Ridge Rd

Hearing Date: March 17, 2022

Procedure: Zoning Board of Adjustment

Address of Variance Request:

17 Crockett Ridge Rd

Black Mountain, NC 28711

PIN #0618-65-2606.00000

Applicant:

Carla Ferreira- The Ferreira Revocable Trust

4759 Laurel Walk

Dunwoody, GA 30338

Request:

The applicant is seeking a variance to decrease the rear setback from 30 feet to 20 feet.

City Staff:

Jake Hair, Planner

Jennifer Tipton, Clerk to ZBA

I. SUMMARY OF REQUEST

The applicant is requesting to reduce the rear setback from thirty feet (30') to twenty feet (20').

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	County Zoning	CR-1
Adjacent Land Uses	Empty Residential Lot	Empty Residential Lot	Empty lot owned by The Settings	Empty Residential Lot

Existing Condition

The subject property is a .45-acre parcel in the CR-1 zoning district. The average slope of the lot is 28%.

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 March 2, 2022. Legal notice appeared in the Black Mountain News the weeks of March 1, 2022, and March 7, 2022. 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

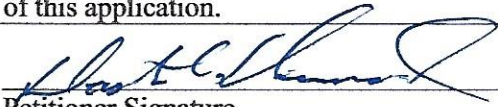
Staff's analysis is that the lot is nonconforming as it does not meet the minimum lot size requirement per Section 4.6.3.3 and does not meet the steep hillside front setback reduction as the slope is under 30%.

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 Carla Ferreira - The Carla Ferreira Revocable Trust		
Owner Address (Number, Street, City, State, ZIP) 4759 Laurel Walk, Dunwoody, Ga 30338		
Home Phone same as cell	Cell Phone 404-610-6960	Email Address carlaferreira817@gmail.com
APPLICATION FOR VARIANCE		
I request a variance/variances from the following provisions of the ordinance:		
Section Number(s): 4		Section Title(s): Zoning Regulations
Subsection letter(s) and/or number(s): 6.14		Subsection Title(s): Table of Uses
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 (<i>if applying for a variance in dimensional requirements, state the revised setbacks or height limitations desired below</i>): Amend the rear set back requirement from 30 ft (as required by the town of Black Mountain) to 20 ft (as allowed by The Settings Architectural Design Standards and Construction Guidelines).		
PROPERTY INFORMATION		
Parcel Number 0618-65-2606-00000 and 0618-65-2536-00000 Warranty Deed to recombine both pins into one parcel has been filed with the County.	Current Zoning CR-1	Acreage .45
Address 17 Crockett Ridge Rd., Black Mountain, NC 28711		
Average Slope % 30	Use of Property Single Family 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	February 28, 2022 Date	
OFFICE USE ONLY		
Date Received:	Fee: \$600.00 Cash: ☐ Check: ☒ # 4069 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.

The lot narrowness of depth + the 30 ft. set back ordinance requirement creates an unnecessary burden on the design and construction of the home and creates a practical unnecessary difficulty. The lot backs to The Settings Common Area, and The Settings Architectural Design Standards and Construction Guideline allows for the 20 ft. rear set back being requested.

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.

The 30 ft. set back added to the lot narrowness of depth adds an unnecessary level of restriction and difficulty to the design and building on the lot.

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.

The lot depth dimension and the more restrictive 30 ft. rear set back versus the rear set back allowed by The Settings Standards was not created by any action taken by the property owner.

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.

The zoning Board members are authorized and welcomed to visit/enter the lot should they desire. The lot backs into The Settings common area. My request is for the Town of Black Mountain to allow The Settings rear set back of 20 ft. to govern the design and construction of my home. My request is consistent with the spirit, purpose, and intent of the use of the land, with The Settings standards set by The Settings Association and the DRB (Design Review Board), while keeping the design in harmony with the topography and the lot natural elements. My request for the variance would not interfere with public safety, would be consistent with the community theme, while preserving the natural beauty of the surroundings. Thank you for your consideration.

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

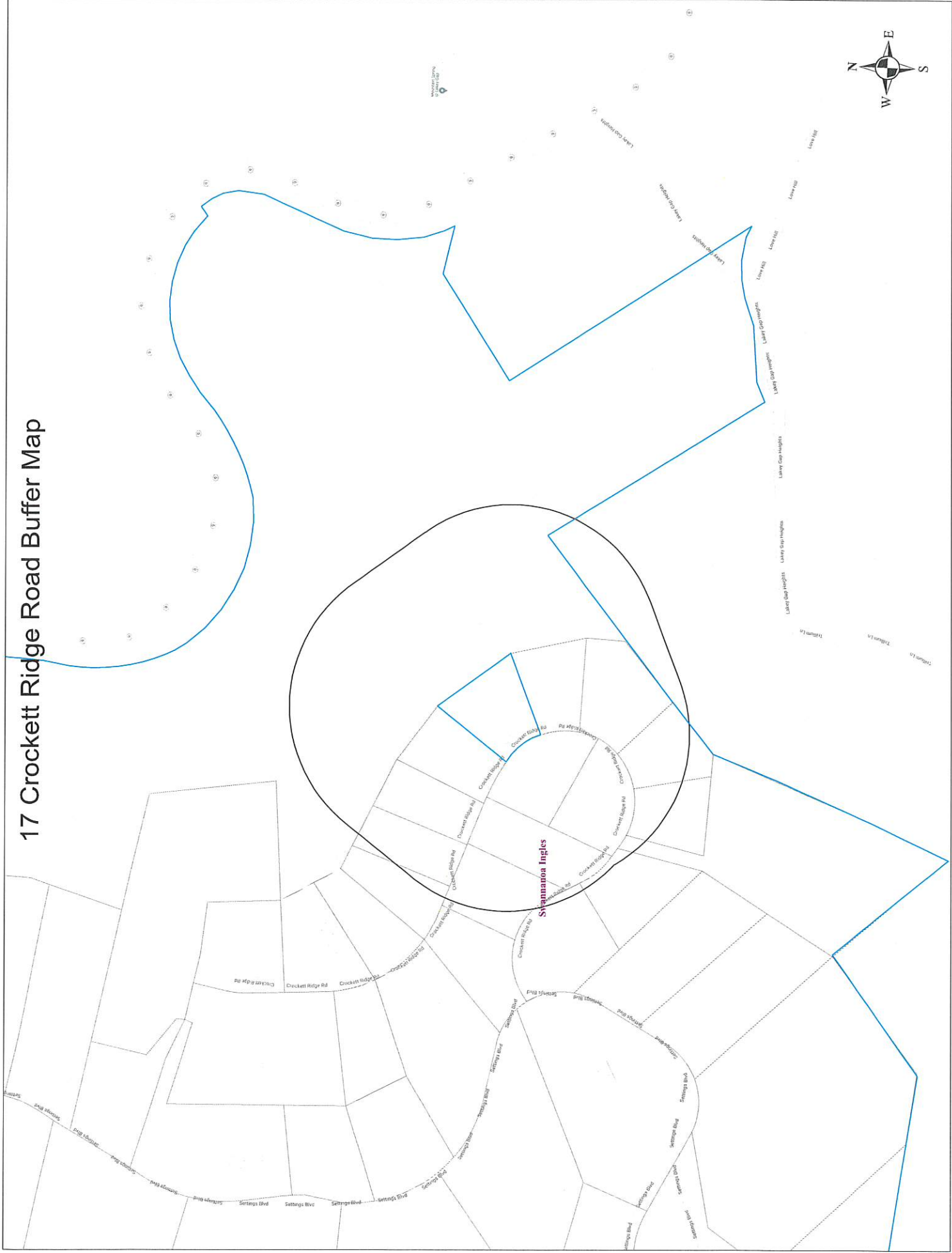
4.6.14 Table of uses by zoning district.

Dimensional Requirements by Zoning District

Zoning District*	Use	Density and 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.)
CR-1	All Uses	1 acre, 1 DUA	80, 15 at street	100	30, 25 steep hillside	10	30**	35
SR-2	All Uses	½ acre, 2 DUA	60, 15 at street	100	30, 25 steep hillside	10	30	35
TR-4	All Uses	¼ acre, 4 DUA	40, 15 at street	80	20, 15 steep hillside	10	15	35
UR-8	Major Subdivision	½acre, 8 DUA	15	None	20, 15 steep hillside	10	15	35
	Other Residential	5,000 sq. ft.	15	None	20, 15 steep hillside	10	15	35
	Non-Residential	½acre	40, 15 at street	None	20, 15 steep hillside	10	15	35
OI-6	Residential	½acre, 6 DUA	60	100	30	10	20	35
	Non-Residential	½acre	100	100	40	30	30, 40 abutting residential district	35
NMU-8	Residential	½acre, 8 DUA	50	100	25	10	10	35
	Non-Residential	½acre	75	100	25	20	10, 20 abutting residential district	35
CBD	All Uses	None	None	None	12 from curb	none, comply with fire and building code	none, comply with fire and building code	40
HB-8	Residential	½acre, 8 DUA	50 ft.	None	15	10	30	40
	Non-Residential	None	50	None	15	10, 20 abutting residential district	20, 30 abutting residential district	40
LI-8	Residential	½acre, 8 DUA	50 ft.	None	15	10	30	55
	Non-Residential	None	None	None	0 on private street, 30 on public street, 50 across from residential district	10, 20 abutting residential district	20, 30 abutting residential district	55

HI-0	All Uses	None	None	None	15	10, 20 abutting residential district	20, 30 abutting residential district	48
*See Land Use Code section 4.6 for design standards in TND and ICD districts **CR-1 includes the following grandfathered setbacks: 30 ft. Front, 10 ft. Side, and 20 ft. Rear. See Land Use Code Vested Rights Section ***See Land Use Code Section 5 for requirements related to accessory structures and secondary dwellings								

(Ord. No. O-14-02 , § 2, 3-10-2014)

[illegible]

17 Crockett Ridge Road Property Owners

<u>Name</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>	<u>PIN</u>
Carla Ferreira Revocable Trust	4759 Laurel Walk	Dunwoody	GA	30338	0618-65-2606
Settings of Black Mountain Association	PO Box 1639	Houston	TX	77251	0618-65-4716
Carla Ferreira Revocable Trust	4759 Laurel Walk	Dunwoody	GA	30338	0618-65-2536
Thomas & Patrice Goedjen	2100 Parsons Rdg	Duluth	GA	30097	0618-65-2416
James & Virginia Oliver III	4015 Winterberry Pl	Charlotte	NC	28210	0618-65-4309
1014 Investments LLC	2939 W Bayshore Ct	Tampa	FL	33611	0618-65-1451
Mary Margaret Jones	24 Cardinal Dr	Taylors	SC	29687	0618-64-0954
1014 Investments LLC	2939 W Bayshore Ct	Tampa	FL	33611	0618-65-0450
James & Cathy Schorr	1779 Oakview Dr	Ann Arbor	MI	48108	0618-65-0203
Kevin & Jennifer Tootle	12274 Orange Blvd	West Palm Beach	FL	33412	0618-55-9446
Michael & Jean McNamara	235 Norma Dean Dr	Warrenton	VA	20186	0618-55-8585
Bruce & Penny Patterson	5364 Wade Ct	Warrenton	VA	20187	0618-55-9681
Gretchen Naff Revocable Trust	6805 Walnut Branch Ln, Apt. 512	Charlotte	NC	28277	0618-65-0580
Whitney Williams	50 Kuykendall Branch Rd	Asheville	NC	28804	0618-65-1509
Monte Hutchins	PO Box 435	Hubert	NC	28539	0618-65-1730
Edward & Wava Vigen	413 Heartwood Xing	Blacksburg	VA	24060	0618-65-0773
Blantain LLC	830 Yorkshire Rd	Winston-Salem	NC	27106	0618-65-0715
Brenda Bowman	145 Wisdom Path	Chesapeake	VA	23322	0618-55-9756



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: **March 2, 2022**

TO: **Property Owner**

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

Address of Proposed Variance:

17 Crockett Ridge Road

PIN #: **0618-65-2606.00000**

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 4.6.14

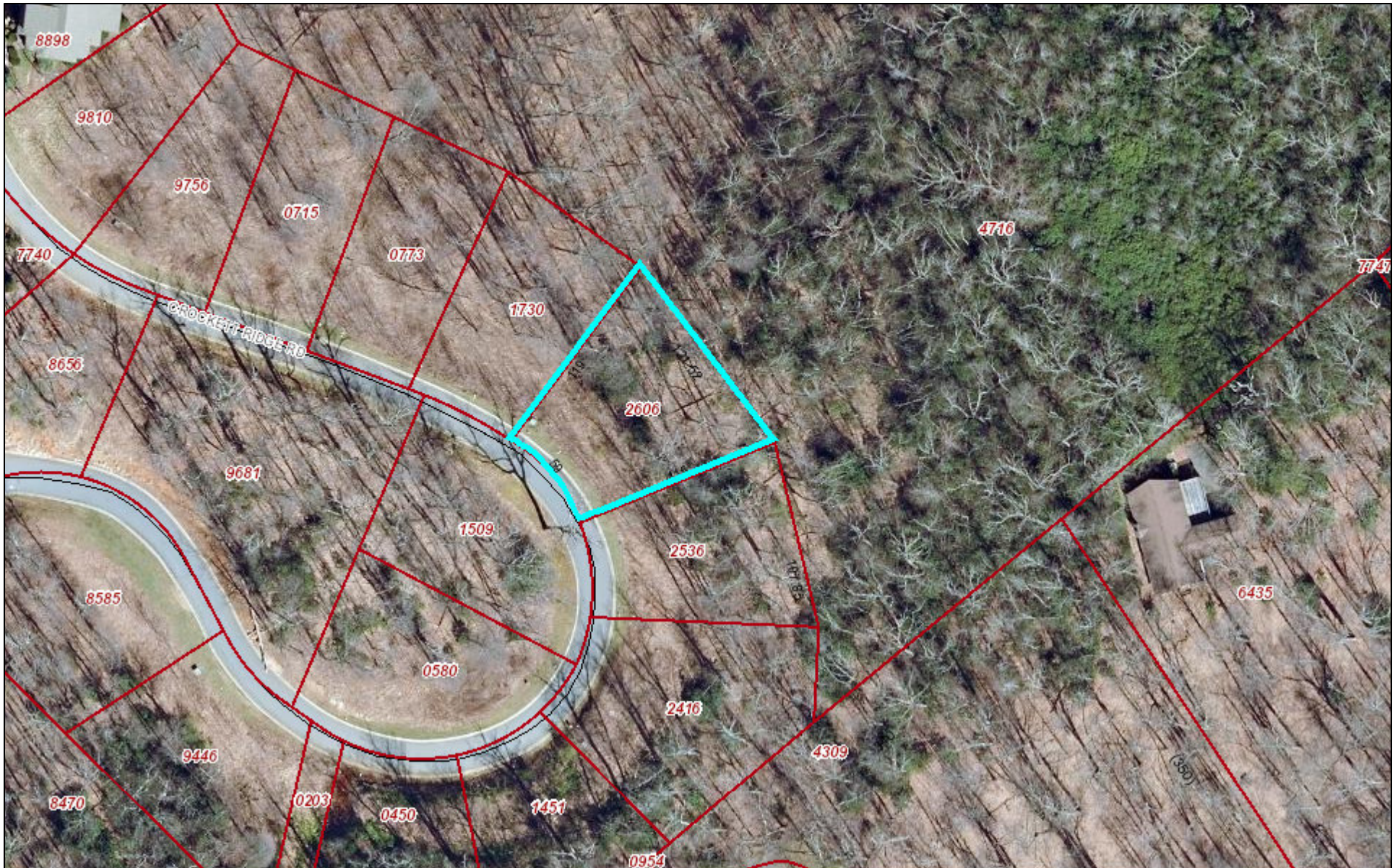
The variance is requested so that the property can be used in a manner indicated herein:

Request to reduce the rear setback from thirty feet (30') to twenty feet (20').

An evidentiary hearing will be held on Thursday, March 17, 2022, @ 6:00 p.m. in the Board Room of Town Hall, 160 Midland Avenue, Black Mountain, NC 28711

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.

Buncombe County



March 8, 2022

1:1,128
0 0.0075 0.015 0.03 mi

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

Case No: V-22-02

Case Name: 52 Old Lafayette Ln

Hearing Date: March 17, 2022

Procedure: Zoning Board of Adjustment

Address of Variance Request:

52 Old Lafayette Ln

Black Mountain, NC 28711

PIN #0618-46-0950.00000

Applicant:

Milton McClurkan Jr & Ginger Williams

554 Ballymote Ct

Matthews, NC 28104

Request:

The applicant is seeking a variance to decrease the front setback from 30 feet to 20 feet and the rear setback from 30 feet to 26 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 thirty feet (30') to twenty feet (20') and the rear setback from thirty Feet (30') to twenty-six feet (26').

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 .25-acre parcel in the CR-1 zoning district. The average slope of the lot is 21.34%.

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 March 2, 2022. Legal notice appeared in the Black Mountain News the weeks of March 1, 2022, and March 7, 2022. 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 is nonconforming as it does not meet the minimum lot size requirement 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 Milton McClurkan Jr and Ginger Williams (a married couple)		
Owner Address (Number, Street, City, State, ZIP) 554 Ballymote Ct - Matthews, NC 28104		
Home Phone n/a	Cell Phone (269) 929-4308	Email Address mac.mcclurkan@sbcglobal.net
APPLICATION FOR VARIANCE		
I request a variance/variances from the following provisions of the ordinance:		
Section Number(s): 4.6.1.3 Section Title(s): Dimensional requirements (CR-1)		
Requesting front setback of 20' and rear setback of 26', while maintaining side setbacks of 10'.		
Other ordinances cited by reference: 4.6.3.3 (dimensional requirements for TR-4), storm water ordinances 8.2.2 and 8.2.14, and sections 20-382 (stream buffer), 20-383 (protecting streams), 20-387 (diffuse flow), and 20-388 (special provisions for certain residential uses) of Chapter 20, Article 19 (Stream Buffer Protection Standards).		
PROPERTY INFORMATION		
Parcel Number	Current Zoning	Acreage
Lot #25 - The Settings of Black Mountain	CR-1	0.25
Address 52 Old Lafayette Lane		
Average Slope % 21.34%	Use of Property Single-family 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.		
	2/18/2022	
Petitioner Signature	Date	
OFFICE USE ONLY		
Date Received:	Fee: \$600.00 Cash: o Check: o # _____ Credit: o	
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

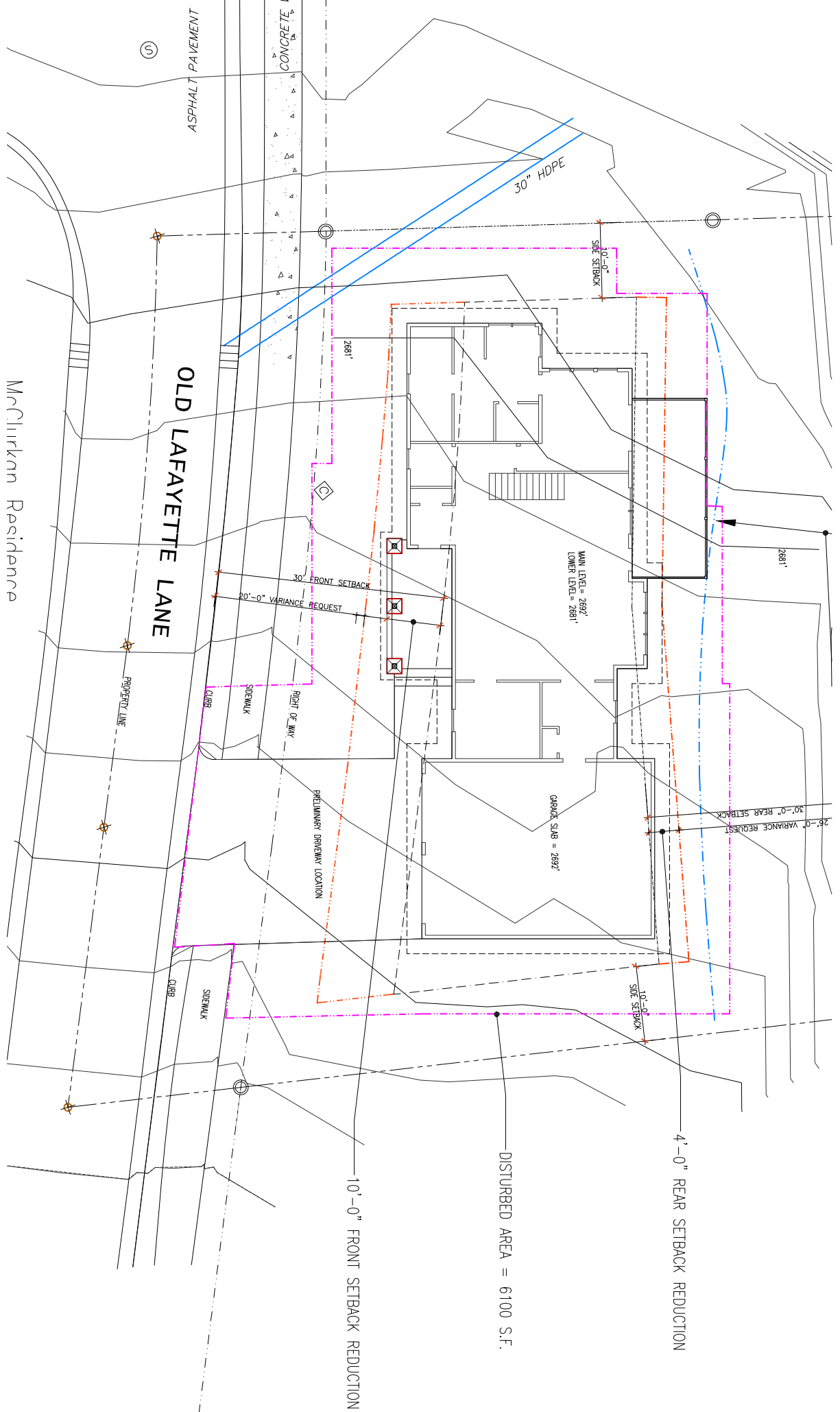
In the spaces provided below, indicate the facts you intend to demonstrate and the arguments that you intend to make to demonstrate to the ZBA that it can properly grant the variance as provided for in Chapter 1, Section 1.7.3 Variances. The Zoning Board of Adjustment does not have unlimited discretion 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.
 - **The current setbacks would require building a house that is 19 feet deep (front to back) and 89 feet wide (side to side) to fit the minimum house size plus 2-car garage required for this lot.**
 - **That type of footprint would require unnecessary “dead space” in the form of hallways between living areas, and livable “flow” would be difficult to achieve.**
 - **Additionally, achieving the required “mountain house” look required by the Design Review Board of The Settings would be difficult in a house that is 4 times wider than it is deep.**
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.
 - **According to documentation from The Settings of Black Mountain, it appears that our ¼ acre lot is zoned CR-1.**
 - **Per the Town of Black Mountain Zoning Ordinance 4.6, the minimum lot size for CR-1 is 1 acre.**
 - **Setbacks for CR-1 lots are 30 feet front and 30 feet rear.**
 - **A residential lot of ¼ acre, per the Ordinance, is typically zoned TR-4.**
 - **Setbacks for these smaller lots are typically smaller, which is logical:**
 - § **20 feet front**
 - § **15 feet rear**

- **Applying setbacks designed for a 1-acre lot to a lot of ¼-acre in size creates an unnecessary hardship based on simple math.**
 - **Considering the setback variances granted to two adjacent lots (essentially the same as this request in both cases), it appears this hardship is peculiar to a few of the smaller, shallower pieces of property along this stretch of Old Lafayette Lane.**
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.
- **We purchased the property with knowledge that setback variances might be required and that they had previously been granted for similar lots, though future variances were not guaranteed.**
 - **Specifically, similar variances were granted for properties immediately adjacent to our Lot #25 (e.g., William O'Connor/Lot #27 and Eileen and Kevin Raywood/Lot #26).**
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.
- **We are requesting a 20' front yard setback, consistent with TR-4 lots in Section 4.6 of the Black Mountain Zoning Ordinance (the smallest of which are comparable to our lot size).**
 - **Similarly, the rear setback we are requesting is 26', compared to the 15' for a TR-4 lot in the Ordinance.**
 - **According to our recent survey, this variance results in the entire house being constructed "landward" of the 30-foot stream setback requirement, consistent with Zoning Ordinance 8.2.14.**
 - **Additionally, in the spirit of being consistent with the purpose and intent of Black Mountain Ordinances in general, by using impervious materials for the driveway, our construction complies with the exemption under Sec. 20-388 of the Stream Buffer Protection Standards, which allows for a 15-foot stream buffer + 15-foot transitional area, rather than the standard 30-foot and 20-foot areas, respectively.**

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



4.6.1 Conservation residential district (CR-1).

4.6.1.1 Purpose.

The conservation residential district is established to protect areas in which the principal use of the land is residential or agricultural and where steep slopes or other environmental features make it more suitable for large lot development, conservation development and the preservation of open space.

4.6.1.2 Uses.

The chart below indicates the uses generally permitted in the CR-1 zoning district.

PERMITTED BY RIGHT	ADDITIONAL REQUIREMENTS (see Chapter 5)	CONDITIONAL USES	SPECIAL USES
Government facilities Parks and open space areas Public utilities Single-Family Residences Two-family Residences (duplex)	Accessory Structures Agribusiness Agriculture Boarding House Camps, summer Conference Centers Family Care Homes Home Occupations Park Model Housing Manufactured Homes on individual lots Market Gardens Recreation services, outdoor Secondary Dwellings	Bed and Breakfast Homes and Inns Cultural, Community Facilities Educational facilities Multi-family residential Places of worship	<i>Residential Special Use Developments:</i> Conservation Subdivisions Cottage Housing (CHD) Residential Planned Unit Developments(PUD)

Exclusions: Correctional institutions, Manufactured Home Parks, all uses not specifically enumerated.

4.6.1.3 Dimensional requirements (CR-1).

Residential Uses	Density and 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 sq. ft.) 1 DUA	80 (15 ft. at street)	100	30 (25 steep hillside)	10	30	35
Other Uses	Minimum Lot Size			Minimum Yard Requirements			Max. Height
	Min. Lot Size	Min. Width (ft.)	Min. Depth (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height (ft.)

	1 acre (43,560 sq. ft.)	80 (15 ft. at street)	100	30 (25 steep hillside)	10	30	35
--	-------------------------------	-----------------------------	-----	---------------------------------	----	----	----

(Ord. No. O-17-05 , § 2, 6-12-2017)

52 Old Lafayette Lane Buffer Map



52 Old Lafayette Lane Property Owners

<u>Name</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>	<u>PIN</u>	
Milton McClurkan Jr; Ginger Williams	554 Ballymote Ct	Matthews	NC	28104	0618-46-0950	
Settings of Black Mountain Association	PO Box 1639	Houston	TX	77251	0618-47-1130	
SBM Realty LLC	64 W 48th St, Ste. 510	New York	NY	10036	0618-47-0132	JWG Co Attn J Wohlstein
SBM Realty LLC	64 W 48th St, Ste. 510	New York	NY	10036	0618-37-8273	JWG Co Attn J Wohlstein
SBM Realty LLC	64 W 48th St, Ste. 510	New York	NY	10036	0618-36-8905	JWG Co Attn J Wohlstein
SBM Realty LLC	64 W 48th St, Ste. 510	New York	NY	10036	0618-36-7770	JWG Co Attn J Wohlstein
Stephen Murphy; Amy Conner-Murphy	214 Amblewood Trl	Hendersonville	NC	28739	0618-36-8792	
Chrisopher Mears	9 Tree Canopy Ln #A	Black Mountain	NC	28711	0618-36-9826	
Really Windy LLC	241 Holland Dr	Black Mountain	NC	28711	0618-36-9948	
Kevin & Eileen Raywood	9374 Promontory Cir	Indianapolis	IN	46236	0618-46-0820	
William & Elizabeth Green	19523 Schooner Dr	Cornelius	NC	28031	0618-46-0721	
William & Elizabeth Green	19523 Schooner Dr	Cornelius	NC	28031	0618-46-0568	
Jason & Darby Farmer Revoc Trust	61 Saint Albans Fwy	Memphis	TN	38111	0618-46-1779	
Tom Chapman Jr	1901 Ulmerton Rd., Ste. 475	Clearwater	FL	33762	0618-47-2025	
Steve Nespoli Revocable Trust	1140 SE 14th Ter	Deerfield Bch	FL	33441	0618-46-2780	
Anthony Sola; Hilma Yu	9 Canterbury Rd	Glen Head	NY	11545	0618-46-3835	
Anthony Sola; Hilma Yu	9 Canterbury Rd	Glen Head	NY	11545	0618-46-4912	
William & Therese Moore	3000 Mason Ln., Apt. 3105	Pittsburgh	PA	15205	0618-47-3194	



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: **March 2, 2022**
TO: **Property Owner**
FROM: **TOWN OF BLACK MOUNTAIN
ZONING ADMINISTRATOR**

Address of Proposed Variance:

52 Old Lafayette Lane

PIN #: **0618-46-0950.00000**

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

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

Request front setback of 20' and rear setback of 26', while maintaining side setbacks of 10'.

An evidentiary hearing will be held on Thursday, March 17, 2022, @ 6:00 p.m. in the Board Room of Town Hall, 160 Midland Avenue, Black Mountain, NC 28711

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.

Buncombe County



March 8, 2022

