



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 September 15, 2022
Date: September 7, 2022

The **Town of Black Mountain Board of Adjustment** will meet on **Thursday, September 15, 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 April 21, 2022, and August 18, 2022;
3. Variance Request for 106 Fourth Street; and
4. Variance Request for 310 Allen Mountain Drive.

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
Russell Cate, Planner 1/Zoning Administrator
Ron Sneed, Town Attorney



PUBLIC NOTICE **AVISO PÚBLICO**

BLACK MOUNTAIN BOARD OF ADJUSTMENT

REGULAR MEETING **REUNIÓN ORDINARIA**

Thursday, September 15, 2022, at 6:00 p.m.
Jueves 15 de septiembre de 2022, a las 6:00 p.m.

The Black Mountain Board of Adjustment will meet for their monthly meeting on **Thursday, September 15, 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 15 de septiembre 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 09/01/2022
www.townofblackmountain.org



LEGAL NOTICE

BLACK MOUNTAIN BOARD OF ADJUSTMENT

EVIDENTIARY HEARING

Thursday, September 15, 2022, at 6:00 p.m.

The Black Mountain Board of Adjustment will meet on **Thursday, September 15, 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 106 Fourth Street, further identified as PIN #0619-38-6422.00000, to allow a reduction in the side and rear setback for a secondary dwelling and to hear a variance request for 310 Allen Mountain Drive, further identified as PIN #0609-78-6302.00000, to allow a reduction in the front setback for a patio.

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 09/01/2022
Published in the Black Mountain News 09/01/2022 and 09/08/2022

www.townofblackmountain.org



**Board of Adjustment Regular Meeting
September 15, 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 April 21, 2022 and August 18, 2022, as written [or as amended]

IV. OLD BUSINESS

V. NEW BUSINESS

- Election of Officers
- Variance Request – 106 Fourth Street
- Variance Request – 310 Allen Mountain Drive

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, April 21, 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:

Lauren Dodgin
Larry Pearlman

Absent:

John DeWitt, Chair
Chloe Riddle

Staff:

Jennifer Tipton, Senior Admin
Ron Sneed, Town Attorney

A quorum was not present so no business was conducted. Ron Sneed provided a packet of training materials to the members.

Prepared by:

John DeWitt, Chair

Jennifer Tipton, Senior Admin

Board of Adjustment Regular Meeting

**TOWN OF BLACK MOUNTAIN
BOARD OF ADJUSTMENT**

The Black Mountain Board of Adjustment held its regular meeting on Thursday, August 18, 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:

Lauren Dodgin
Chloe Riddle
Andrew Homrich
Ben Cooper

Absent:

Larry Pearlman

Staff:

Jennifer Tipton, Senior Admin
Ron Sneed, Town Attorney

Town Attorney Ron Sneed provided a packet of training materials for the board members. Mr. Sneed went over variances, special use permits, and appeals. Mr. Sneed spoke about the new conflicts of interest requirements mandated by NCGS 160D. Mr. Sneed also allowed for a question and answer session with the board members.

Prepared by:

Jennifer Tipton, Senior Admin

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

Case No: V-22-04

Case Name: 106 Fourth St

Hearing Date: September 15, 2022

Procedure: Variance Evidentiary Hearing

Address of Variance Request:

106 Fourth Street

Black Mountain, NC 28711

PIN #0619-38-6422.00000

Applicant:

John Whitfield

106 Fourth Street

Black Mountain, NC 28711

Request:

The applicant is seeking a variance from the side and rear setbacks to allow the garage to be used as a secondary dwelling. The specific request is to reduce the required side setback of 10' to 6' and to reduce the required rear setback from 15' to 7'.

City Staff:

Jennifer Tipton, Clerk to ZBA

Russell Cate, Planner 1/Zoning Administrator

I. SUMMARY OF REQUEST

The applicant is requesting to reduce the side setback from ten feet (10') to six feet (6') on the west side of the home and to reduce the rear setback from fifteen feet (15') to seven feet (7').

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 .259-acre parcel in the UR-8 zoning district. The average slope of the lot is 6.28%.

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 September 1, 2022. Legal notice appeared in the Black Mountain News the weeks of September 1, 2022, and September 8, 2022. The property was posted with a notice listing the time and date of the hearing.

V. ANALYSIS

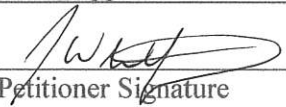
Staff's analysis is that the lot and current structures are conforming to UR-8 dimensional requirements. The requirement for secondary dwellings to meet the required setbacks of primary structures is the reason the variance is being requested. The primary structure and the accessory structure (garage) were built in 2012 and 2013 and met all of the requirements at that time.

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

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

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

VARIANCE APPLICATION www.townofblackmountain.org

PROPERTY OWNER INFORMATION		
Owner Name <u>John Whitfield</u>		
Owner Address (Number, Street, City, State, ZIP) <u>106 4th St Black Mountain, NC 28711</u>		
Home Phone	Cell Phone <u>615-603-9302</u>	Email Address <u>JWhitfield66@gmail.com</u>
APPLICATION FOR VARIANCE		
I request a variance/variances from the following provisions of the ordinance:		
Section Number(s): <u>5.11</u> Section Title(s): <u>Secondary Dwellings</u>		
Subsection letter(s) and/or number(s): <u>5.11.1</u> Subsection Title(s): <u>Secondary Dwellings</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>We request a variance to the setbacks for a primary structure so that we may convert our garage to an ADU / secondary dwelling. We request that the revised setbacks: Side: 6' Rear: 7'</u>		
PROPERTY INFORMATION		
Parcel Number <u>061938642200000</u>	Current Zoning <u>UR-8</u>	Acreage <u>0.26</u>
Address <u>106 4th St Black Mountain, NC 28711</u>		
Average Slope %	Use of Property <u>Primary Residence</u>	
CERTIFICATION		
I hereby certify that all of the information presented by me on this application is accurate to the best of my knowledge, information and belief. I acknowledge that withdrawal of this application after notice has been made will result in forfeiture of any application fees associated with said application. I acknowledge that attendance at the Zoning Board of Adjustment meeting is mandatory for the review of this application.		
Petitioner Signature 		Date <u>8/10/22</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

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.

Strict application of the zoning setbacks would prevent conversion of the garage to an accessory dwelling unit. This would prevent the best use of the structure and prevent rental income, additional housing, and local tourist revenue.

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 hardship is a result of the garage being located on the SW corner of the lot within the setback limits intended for use as a primary structure. It is within 15' of the rear lot line and 10' of the side lot line.

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 garage was built with the primary residence and was in its current location at the time of our purchase of the property.

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 intent of the ordinance, to allow for secondary dwellings which shall provide additional housing while maintaining neighborhood standards, peace, and privacy will be upheld. All occupants of the secondary dwelling would be held to the neighborhood standards of conduct. Granting this variance would allow for the creation of additional housing and community revenue.

<u>Name</u>	<u>Address</u>
John Whitfield; Heather Whitfield	106 Fourth St
David Levine; Suzanne Perrin	108 Fourth St
James Johnson	1540 Healing Springs Dr
Thomas Barker Jr; Mary Barker	111 Fourth St
Paul Gwynn; Margaret Gwynn	109 Fourth St
Marvin Secrest; Donna Secrest	110 Fifth St
Office Furniture Dist Inc	590 Lakey Gap Rd
Mike C Blankenship Revocable Trust; Rhonda S Blankenship Revoc	2211 S Jim Minor Rd
Mike C Blankenship Revocable Trust; Rhonda S Blankenship Revoc	2211 S Jim Minor Rd
Darrin Peek	66 Black Gum Dr
Gillfourth Heritage LLC	2211 S Jim Minor Rd
Fred Dillingham; Ann Dillingham	102 Fifth St
Jane Carroll	100 Fifth St
Unitarian Universalist Swannanoa	500 Montreat Rd
Jennifer Chilton; James Barnette	100 Fourth St
Thomas Turner; Atcha Turner	102 Fourth St
Will Chapman; Michelle Chapman	104 Fourth St
Susan Whitehawk	404 Montreat Rd
Debra Vial; Eugene Castello Jr	402 Montreat Road
Jack A Milton Revocable Trust	304 Mountain St
Julia DeWitt	45 Asheland Ave, Ste. 605
Julia DeWitt	45 Asheland Ave, Ste. 605
Julia DeWitt	45 Asheland Ave, Ste. 605
Robert Box Jr; Belinda Box	107 Third St
Dean Tripp; Amy Tripp	109 Third St
Taze Holdings LLC	1540 Healing Springs Dr
Shawn Slome; Mary Conino	115 Third St
Andrew Beaty; Bonnie Beaty	119 Third St
Margaret Beck	110 Third St
Patricia Alberga	106 Third St
Eric Biggs; Angela Biggs	7035 Charles St
David Andrews	PO Box 31

<u>City</u>	<u>State</u>	<u>Zip</u>
Black Mountain	NC	28711
Black Mountain	NC	28711
Denton	NC	27239
Black Mountain	NC	28711
Black Mountain	NC	28711
Black Mountain	NC	28711
Black Mountain	NC	28711
Mebane	NC	27302
Mebane	NC	27302
Old Fort	NC	28762
Mebane	NC	27302
Black Mountain	NC	28711
Black Mountain	NC	28711
Black Mountain	NC	28711
Black Mountain	NC	28711
Black Mountain	NC	28711
Black Mountain	NC	28711
Black Mountain	NC	28711
Black Mountain	NC	28711
Asheville	NC	28801
Asheville	NC	28801
Asheville	NC	28801
Black Mountain	NC	28711
Black Mountain	NC	28711
Denton	NC	27239
Black Mountain	NC	28711
Black Mountain	NC	28711
Black Mountain	NC	28711
Black Mountain	NC	28711
St. Augustine	FL	32080
Black Mountain	NC	28711



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: **September 1, 2022**

TO: **Property Owner**

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

ADDRESS OF PROPOSED VARIANCE:

106 Fourth Street

PIN #: **0619-38-6422**

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 5, Section 5.11, Secondary Dwellings

THE VARIANCE IS REQUESTED SO THAT THE PROPERTY CAN BE USED IN A MANNER INDICATED HEREIN:

To reduce the side setback to six feet and the rear setback to seven feet for the garage to be able to have a secondary dwelling.

An evidentiary hearing will be held on Thursday, September 15, 2022 @ 6:00 p.m. in the Council Room of Town Hall, 160 Midland Avenue.

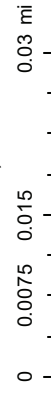
This is your notification for this request specified under 1.7 of the Land Use Code for the Town of Black Mountain. Section 1.7.1 (d) (3) indicates that notice be provided to all property owners within 200 feet of the site's property lines. Notice of the time, date, and place of the hearing will be published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

This is an aerial map of a residential neighborhood. The map shows several streets including Fourth St, Fifth St, and Sixth St. Property addresses are labeled in red text. A specific property at 6422 is highlighted with a blue border. The map also shows various other houses, trees, and parking areas.

Property addresses visible on the map include:

- 4511
- 0405
- 0303
- 9299
- 9294
- 9147
- 1291
- 8017
- 8213
- 7244
- 8300
- 8307
- 8404
- 7589
- 8568
- 9671
- 7610
- 6630
- 5624
- 3780
- 3488
- 4473
- 5443
- 6422
- 6492
- 6287
- 6208
- 5238
- 4259
- 3364
- 3256
- 3471
- 3145
- 4151

1:1,128



5.11.1 Secondary dwellings.

Secondary dwellings may be located in a building separate from the principal dwelling subject to the following requirements:

- A. Secondary dwellings shall meet the setbacks of the principal structure as set forth for the zoning district in which it is located.
- B. Secondary dwellings shall be built to North Carolina Residential Building Code Standards.
- C. The secondary dwelling size shall not exceed 50 percent of the square footage of the livable area of the primary structure or 1,100 square feet, whichever is less.
- D. No secondary dwelling will be sited between the principal building and an adjacent public roadway, not including a private alleyway or driveway.
- E. Only one secondary dwelling unit shall be permitted per zoning lot.
- F. The exterior of the secondary dwelling will be of same style as the principal residence in terms of exterior material, siding, roof pitch, window detailing, roofing materials, and foundation or skirting appearance.
- G. If a manufactured home, the secondary dwelling shall not be pulled up to or attached to the primary residence, and must meet the requirements for manufactured housing in section 5.16 of this chapter.
- H. Adequate off-street parking shall be provided at a ratio of two cars per dwelling unit on the same lot.
- I. If there will be no public sanitary sewer service to the secondary dwelling, the county health department shall approve a septic system prior to construction.
- J. Lots with duplexes shall not be allowed a secondary dwelling.

4.5.4 Accessory structures.

- A. In no case shall an accessory structure be located closer than five feet to the nearest property line.
- B. For land used for agriculture or as a bona fide farm that is greater than one acre, there is no limit to the number of accessory structures allowed, provided that such structures shall be incidental to the agricultural use and shall not cover more than 30 percent of the total lot area.
- C. In industrial districts, there is no limit to the number of accessory structures provided that such structures are incidental to the industrial use.
- D. In commercial districts, unless otherwise provided in a special use permit, no more than two accessory structures shall be permitted per lot.
- E. In residential and mixed-use districts, no more than two accessory structures shall be permitted per lot, provided that any such structure shall meet the following requirements:
 - 1. Accessory structures shall not be more than two stories.
 - 2. For lots adjacent to town or state roadways, accessory structures shall be located only in the side or rear yards.
 - 3. For lots not adjacent to town or state roadways, accessory structures may be located in what is determined as the front yard by the zoning administrator. The accessory structure may be located no further forward than the primary structure furthest from the road of any adjacent properties never to be less than the existing setback requirements.
 - 4. Accessory buildings shall not cover more than 30 percent of the required side or rear yards. Accessory structures may require screening at the direction of the zoning administrator if the accessory structure may be considered a nuisance under the town's nuisance regulations or if it is being used for commercial purposes while abutting a residential use or district.

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

Case No: V-22-05

Case Name: 310 Allen Mountain Dr

Hearing Date: September 15, 2022

Procedure: Variance Evidentiary Hearing

Address of Variance Request:

310 Allen Mountain Drive
Black Mountain, NC 28711
PIN #0609-78-6302.00000

Applicant:

Carol Hile
310 Allen Mountain Drive
Black Mountain, NC 28711

Request:

The applicant is seeking a variance from the front setback to install a patio. The specific request is to reduce the required front setback of 30' to 20'.

City Staff:

Jennifer Tipton, Clerk to ZBA
Russell Cate, Planner 1/Zoning Administrator

I. SUMMARY OF REQUEST

The applicant is requesting to reduce the front 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:

4.7.15 Dimensional requirements 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

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	Residential (single-family)	Residential (single-family)	Residential (single-family)	Residential (single-family)

Existing Conditions

The subject property is a .419-acre parcel in the CR-1 zoning district. The average slope of the lot is 29.64%.

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 September 1, 2022. Legal notice appeared in the Black Mountain News the weeks of September 1, 2022, and September 8, 2022. The property was posted with a notice listing the time and date of the hearing.

V. ANALYSIS

Staff's analysis is that the lot and current structures are legally non-conforming to CR-1 dimensional requirements. The structure was built in 1965 prior to any zoning requirements for the Town of Black Mountain and the house and lot were still in existence when the zoning changed to CR-1 in 2010.

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

CAROL HILE

Owner Address (Number, Street, City, State, ZIP)

310 Allen Mtn DR Black Mtn

Home Phone

Cell Phone

423-991-8701

Email Address

chile752@gmail.com

APPLICATION FOR VARIANCE

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

Section Number(s): 4.7.11

Section Title(s): Conservation Residential

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):

I would like A patio that will extend
10 feet from the front of my house.

PROPERTY INFORMATION

Parcel Number

0009-78-0302

Current Zoning

CR-1

Acreage

.419

Address

310 Allen Mtn DR

Average Slope %

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

Chile

Date

Aug 24, 2022

OFFICE USE ONLY

Date Received:

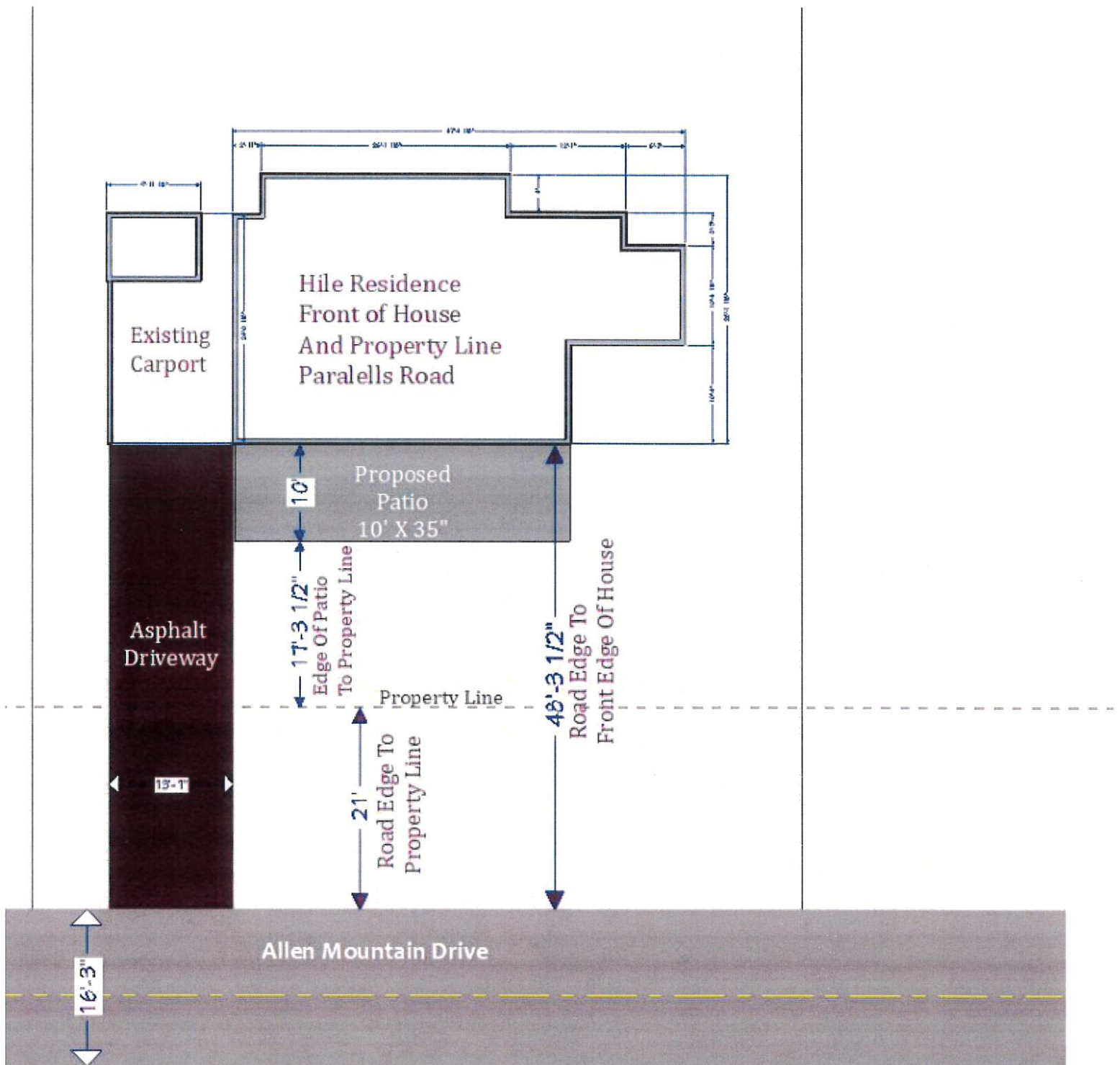
Fee: \$600.00

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

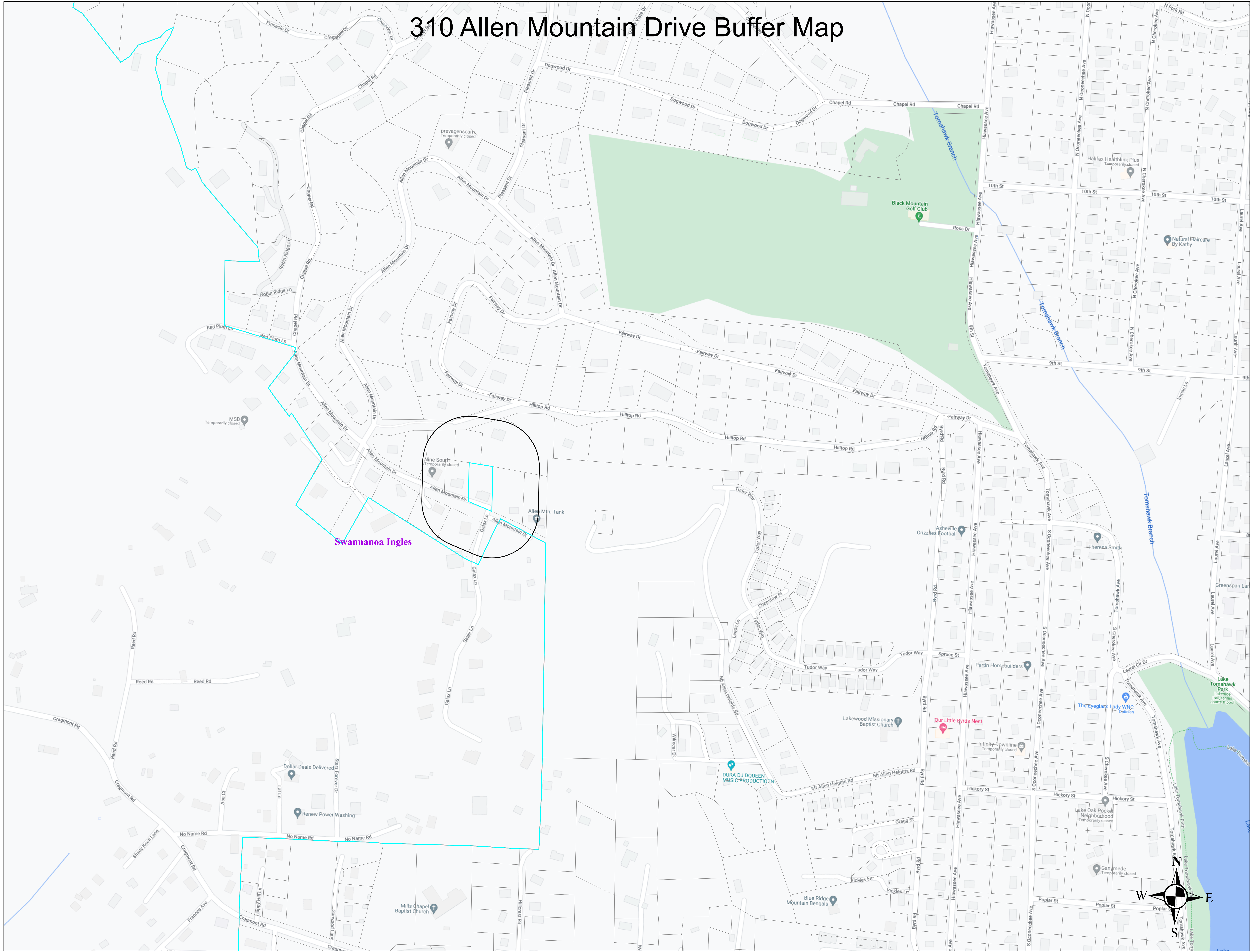








310 Allen Mountain Drive Buffer Map



<u>Name</u>	<u>Address</u>	<u>City</u>	<u>State</u>
Carol Hile	310 Allen Mounain Drive	Black Mountain	NC
Roger McElroy	117 Ross Lake Ln	Sanford	FL
Richard Blum; Ann Watcher	10921 Deerberry Ct	Matthews	NC
John Ellery Jr; Elizabeth Jones	189 Hilltop Rd	Black Mountain	NC
John Ellery Jr; Elizabeth Jones	189 Hilltop Rd	Black Mountain	NC
Cyrus King Jr	3407 Clark Ave	Raleigh	NC
Quang Pham; Nicole Hoover	138 Fairway Dr	Black Mountain	NC
Janet Blanchard; Charles Brown Jr	304 Allen Mountain Dr	Black Mountain	NC
Hugh Hogue; Jane Hogue	209 Greenfield Pl	Brandon	MS
Janice Donnell	307 Allen Mountain Dr	Black Mountain	NC
William Hile; Deborah Hile	309 Allen Mountain Dr	Black Mountain	NC
Thos Cannon; Katharine Cannon	4 Galax Ln	Black Mountain	NC
Melisa Johns	3 Galax Ln	Black Mountain	NC

<u>Zip</u>
28711
32771
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27607
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39047
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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: **September 1, 2022**

TO: **Property Owner**

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

ADDRESS OF PROPOSED VARIANCE:

310 Allen Mountain Drive

PIN #: **0609-78-6302**

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 4.7.1 and table of dimensional requirements

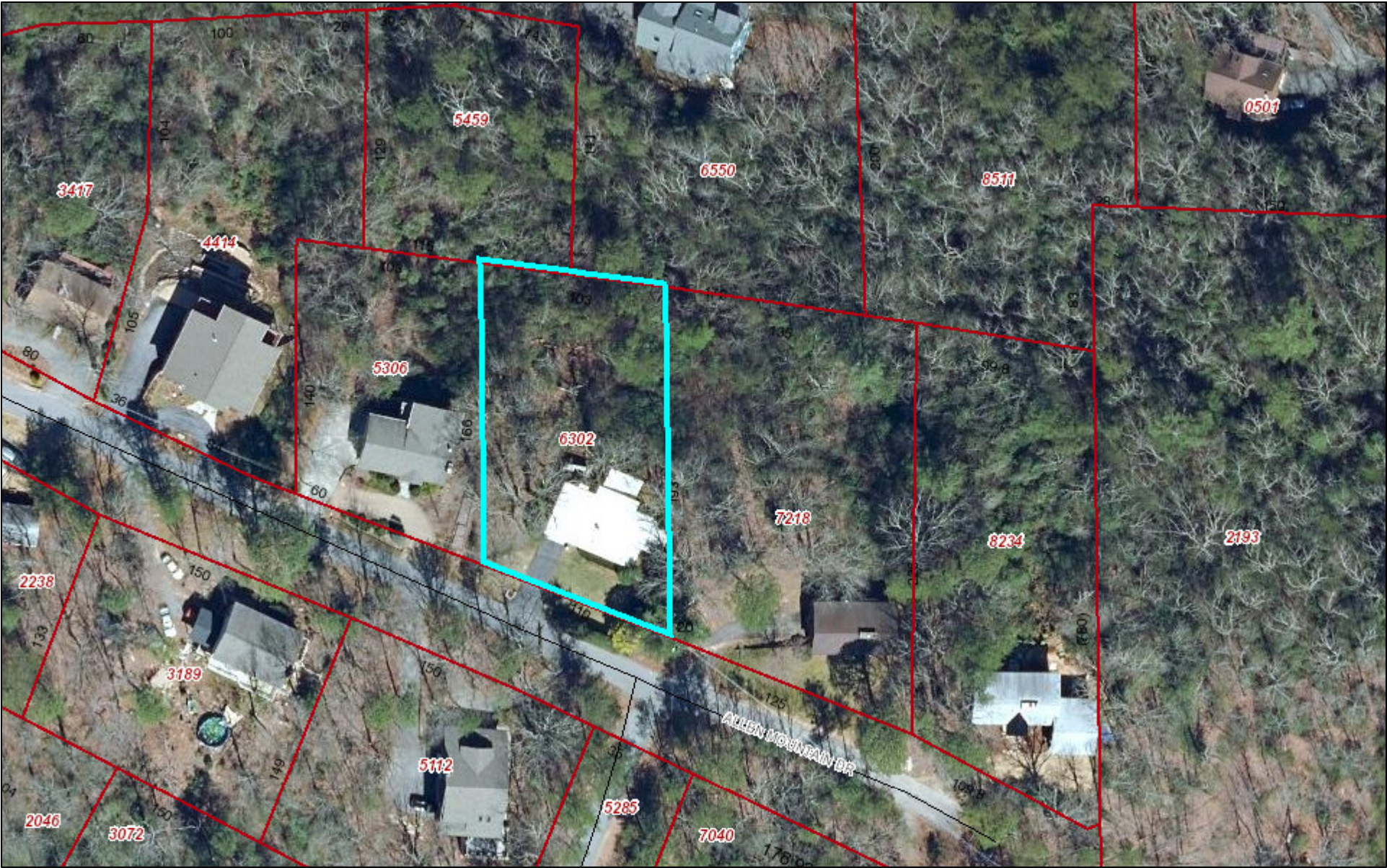
THE VARIANCE IS REQUESTED SO THAT THE PROPERTY CAN BE USED IN A MANNER INDICATED HEREIN:

To extend a patio ten feet from the front of the house.

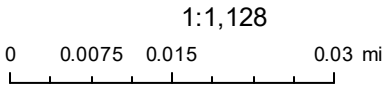
An evidentiary hearing will be held on Thursday, September 15, 2022 @ 6:00 p.m. in the Council Room of Town Hall, 160 Midland Avenue.

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

Buncombe County



September 6, 2022



4.4.3 Setbacks, corner lots and double frontage lots.

- A. Yard and setback requirements shall be met unless variance is granted by the board of adjustment.
- B. Minimum setbacks shall be measured horizontally from the origin of the setback as the right-of-way, or property boundary, to the nearest portion of the building or structure.
- C. If the property line extends into a roadway or highway, then the setback line shall be measured from the edge of the roadway or back of the curb when computing setback requirements.
- D. Wherever right-of-way has not been established, setback shall be measured from the outer edge of the existing drainage ditch running parallel and adjacent to the road, or four feet off the edge of pavement where no ditch exists, or from the edge of the traveled area on an unpaved road.
- E. Public rights-of-way or easements for streets and roads shall not be considered a part of a lot or open space, or as front, side, or rear yard for the purpose of meeting yard requirements. Driveways, parking areas, loading zones, sidewalks, or greenways may encroach or be included within a yard setback without affecting the setback requirements (see also 4.4.7).
- F. In developed areas where more than three structures already exist, the setback may be determined by the average setback on already built upon lots located wholly or in part within the same block and zoning district and fronting the same street. In such cases, the setback on such a lot may be less than the required setback but not less than the average of the existing setbacks on the developed lots. However, in no case shall setbacks be less than 15 feet, except in the CB, central business district, where the minimum setback is 12 feet.
- G. No building or structure shall be placed within a roadway or highway right-of-way, except as otherwise provided in these regulations.
- H. Any structure on a corner lot shall comply with the minimum setback (front yard) requirements of the street which it faces, and shall comply with 50 percent of the minimum front yard setback requirements, if applicable, on any other street which the corner lot abuts. In case of doubt as to which street a structure faces, or if a structure is built so as not to face any street, the zoning administrator shall determine which setback, side yard and rear yard requirements apply.
- I. For lots having frontage on two or more streets, but not located on a corner, the minimum front yard shall be provided on each street in accordance with the applicable district(s).
- J. Allowable encroachments into required setbacks. The following may encroach upon required setbacks as set forth below unless specifically prohibited elsewhere in this chapter.
 - 1. Sills, cornices, and similar ornamental features projecting from the principal building may encroach up to 18 inches into any required setback.
 - 2. Bay windows, balconies, and similar features projecting from the principal building may encroach up to three feet into any required setback.
 - 3. Decks, steps, uncovered porches, patios, and terraces may encroach into a required side or rear setback, but no closer than six feet to the side or rear property line.
 - 4. Fences and walls.
 - 5. If a handicapped accessibility or life safety feature cannot meet this requirement due to the location of an existing structure or other impeding site feature on a residential lot, the setback requirement shall be waived to the extent necessary to accommodate the accessibility or life safety feature.