



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 November 17, 2022
Date: November 10, 2022

The **Town of Black Mountain Board of Adjustment** will meet on **Tuesday, November 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 October 20, 2022;
3. Variance Request for 405 S Oconeechee Avenue.

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

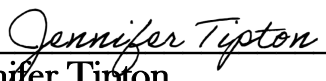
REGULAR MEETING **REUNIÓN ORDINARIA**

Thursday, November 17, 2022, at 6:00 p.m.
Jueves 17 de noviembre de 2022, a las 6:00 p.m.

The Black Mountain Board of Adjustment will meet for their monthly meeting on **Thursday, November 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 noviembre 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 11/01/2022
www.townofblackmountain.org



**Board of Adjustment Regular Meeting
November 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 October 20, 2022, as written [or as amended]

IV. OLD BUSINESS

V. NEW BUSINESS

- Variance Request – 405 S Oconeechee Avenue

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, October 20, 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:

Larry Pearlman, Vice Chair
Andi Homrich, Secretary
Chloe Riddle
Ben Cooper

Absent:

Lauren Dodgin, Chair

Staff:

Jennifer Tipton, Senior Admin
Russell Cate, 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.

II. ADOPTION OF AGENDA

The agenda was adopted by consensus.

III. ADOPTION OF MINUTES

Andi Homrich made a motion to adopt the minutes of September 15, 2022, as written. The motion was approved by a vote of 4-0.

IV. OLD BUSINESS

None.

V. NEW BUSINESS

1. Approval of Order for 106 Fourth Street Variance

Ben Cooper made a motion to approve the order denying the variance request for 106 Fourth Street as drafted. The motion was approved by a vote of 4-0.

2. Approval of Order for 310 Allen Mountain Drive Variance

Andi Homrich made a motion to approve the order granting the variance request for 310 Allen Mountain Drive as drafted. The motion was approved by a vote of 4-0.

VI. COMMUNICATION FROM BOARD OF ADJUSTMENT

None.

VII. COMMUNICATION FROM STAFF

None.

VIII. ADJOURNMENT

Board of Adjustment Regular Meeting

With no further business, the meeting was adjourned at 6:02 p.m.

Prepared by:

Lauren Dodgin, Chair

Jennifer Tipton, Senior Admin

Board of Adjustment Regular Meeting

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

Case No: V-22-06

Case Name: 405 S. Oconeechee Ave.

Hearing Date: November 17, 2022

Procedure: Variance Evidentiary Hearing

Address of Variance Request:

405 S. Oconeechee Avenue
Black Mountain, NC 28711
PIN # 0609-97-9200.00000

Applicant:

Susan G. Cannon
405 S. Oconeechee Avenue
Black Mountain, NC 28711

Request:

The applicant is seeking a variance from the side setback to allow the accessory structure to be converted to a secondary dwelling. The conversion includes adding square footage to the north side of the structure, resulting in a dwelling of 240 square feet. In addition, the project includes a deck with a total area of 192 square feet. The specific request is to reduce the required side setback of 10' to 5.'

City Staff:

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

I. SUMMARY OF REQUEST

The applicant is requesting a reduction in the side setback from ten feet (10') to five feet (5') on the south side of the parcel.

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 .27-acre parcel in the UR-8 zoning district. The average slope of the lot is 8.62%.

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 November 1, 2022. Legal notice appeared in the Black Mountain News the weeks of November 3, 2022, and November 10, 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 (shed) were built in 1976 and 2018, respectively, and met all of the requirements at those times. The primary structure is 980 square feet and the proposed secondary dwelling is 240 square feet. Therefore, the proposed secondary dwelling conforms to the requirement that secondary dwellings be no great than 50 percent of the square footage of the primary structure or 1,100 square feet, whichever is less.

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 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

SUSAN G CANNON

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

405 S OCONEECHEE AVENUE, BLACK MOUNTAIN, NC 28711

Home Phone

Cell Phone

610-348-2712

Email Address

susangelbercannon@gmail.com

APPLICATION FOR VARIANCE

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

Section Number(s): 4.7.15

Section Title(s): Zoning Regulations by DISTRICT

Subsection letter(s) and/or number(s): 4.7.15

Subsection Title(s): DIMENSIONAL REQUIREMENTS

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 want to create a secondary dwelling from existing accessory structure. The current requirement calls for 10' feet setback on side. I am asking for setback to be 5' feet from edge of secondary dwelling to side property LINE.

PROPERTY INFORMATION

Parcel Number

060997920000000

Current Zoning

UR-8

Acreage

.27

Address

405 S Oconeechee Avenue Black Mountain, NC 28711

Average Slope %

@ 5%

Use of Property

Primary Residence

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.

Susan G. Cannon
Petitioner Signature

10/17/22
Date

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.

I cannot use this building in the way I want to use it as a "secondary dwelling" because of setback. At the time of building as an "accessory structure," the permit was pulled for that purpose. The purpose has changed, and I want to use it for "secondary dwelling."

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.

My neighbor created an unusual lot shape, making it hard for me to use my property in a usual way.

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.

It was not clear - when permit was pulled for 2018 construction - that the only use was for an "accessory structure."

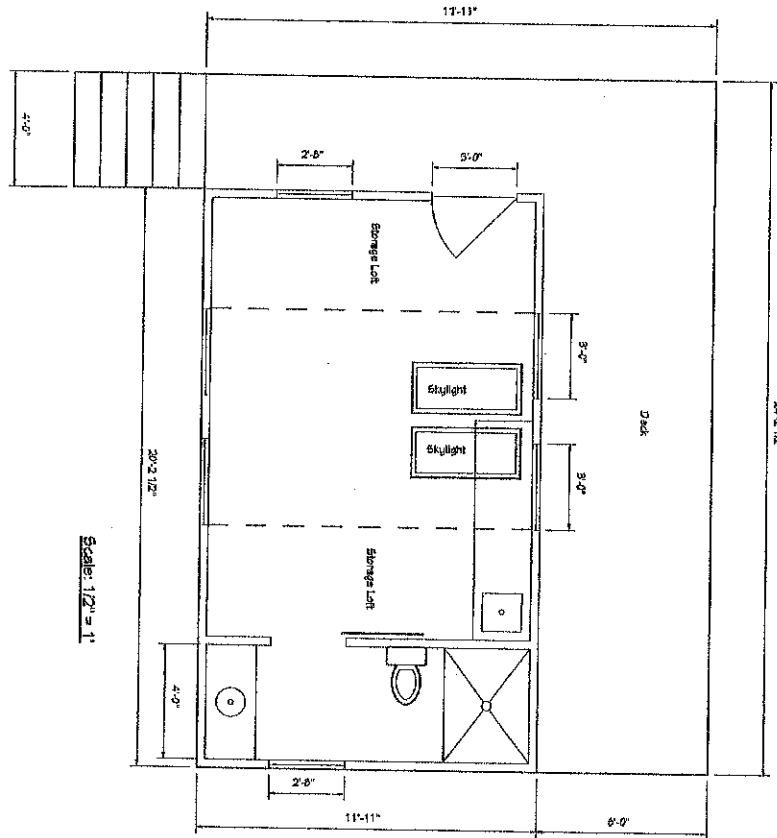
4. Indicate how the requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved.

I respectfully request you grant this variance to allow me to use my property and building in the way I'd like to use it. Since its construction, our situation has changed. In addition to spine disease, my husband developed dementia. It was to have been his workshop. Now I need it for my family (son) to help me take care of him. I hope you agree a variance fits the "spirit, purpose, + intent of the ordinance" to promote solid, healthy owner-occupied property. Thank you for your consideration.

Town of Black Mountain

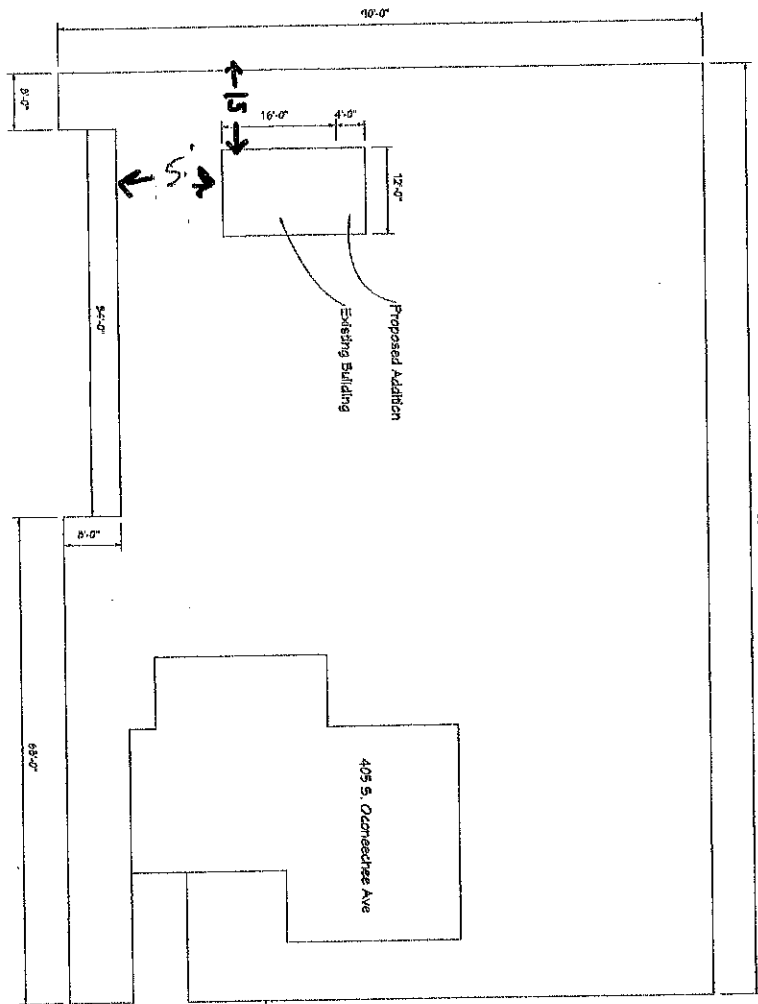
160 Midland Avenue, Black Mountain, NC 28711

Phone: 828-419-9300 ~ Fax: 828-669-2030



Scale: 1/2" = 1'

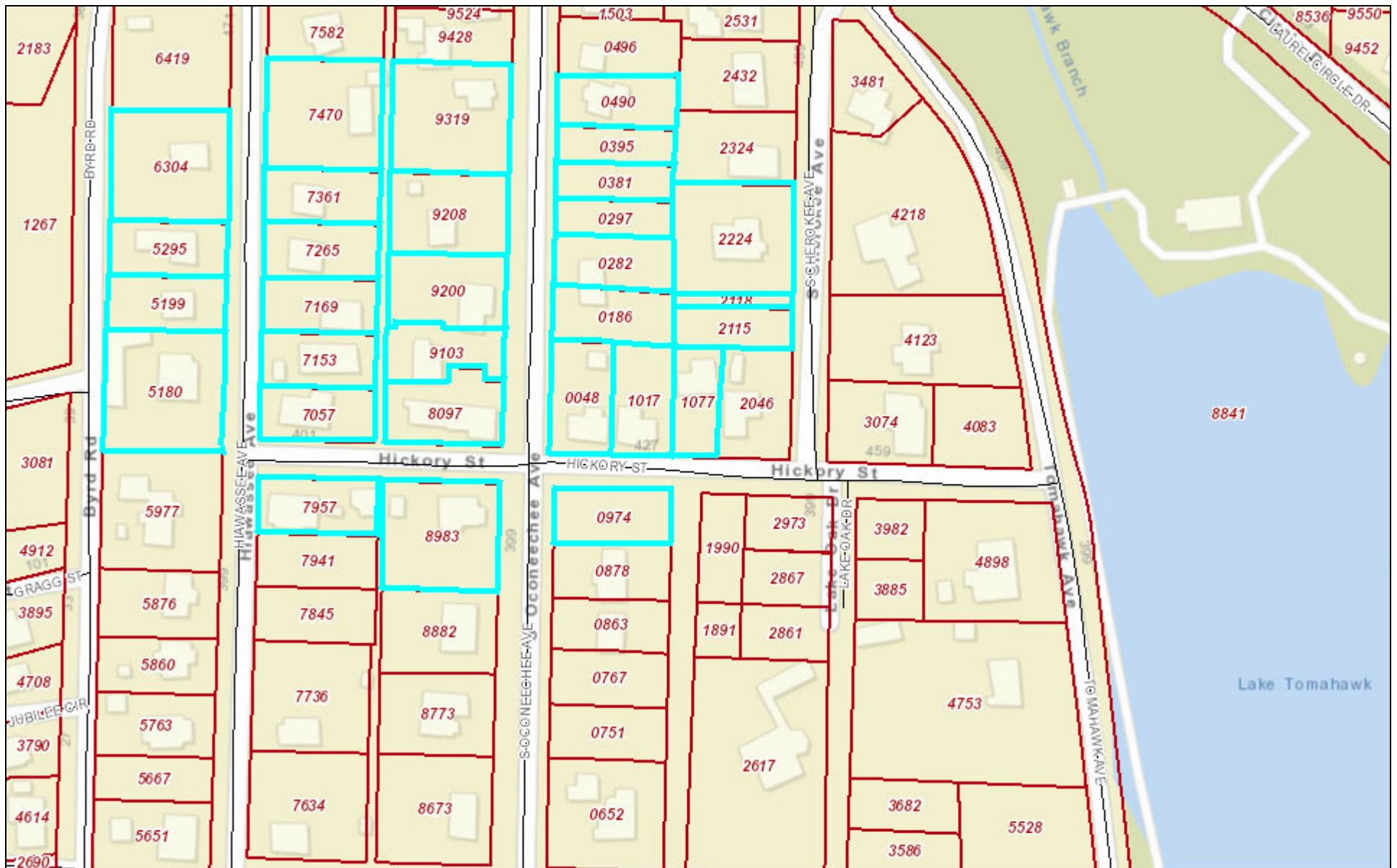
(Cover) →



South Oconeechee Ave

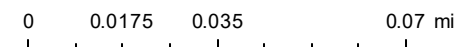


Buncombe County



November 8, 2022

1:2,257



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand),

<u>Name</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>	<u>PIN</u>
Juanita Jean Aimone	405 Hiawassee Ave	Black Mountain	NC	28711	0609-97-5199
Jason Corrado; Stacy Furlong Corrado	PO Box 1295	Black Mountain	NC	28711	0619-07-2115
Toby Ives; Sarah Broughton-Ives	313 S Oconeechee Ave	Black Mountain	NC	28711	0609-96-8983
Mario Salamone and Rachel Anne Salamone Living Trust	377 Merrimon Ave., Ste. A	Asheville	NC	28801	0619-07-0381
Rhea W Bockhorst; Anna Marcel De Hermanas	404 S Oconeechee Ave	Black Mountain	NC	28711	0619-07-0186
Joyce C Ammons	409 S Oconeechee Ave	Black Mountain	NC	28711	0609-97-9208
Rebecca Janes	PO Box 174	Ridgecrest	NC	28770	0609-97-7057
Virginia Carr Alexander	402 Hickory St	Black Mountain	NC	28711	0619-07-1017
Carolyn T Glasgow; Angela Signore	656 Bear River Lodge Trl	Marshall	NC	28753	0609-97-7265
Jason Corrado; Stacy Furlong Corrado	PO Box 1295	Black Mountain	NC	28711	0619-07-2118
Jerry W Boone; Carolyn D Boone	306 Marion Ave	Swannanoa	NC	28778	0609-97-9319
Jonathan E Douglas; Tiffany A Douglas	401 S Oconeechee Ave	Black Mountain	NC	28711	0609-97-8097
Justin K Carpenter; Jamie L Ashley	407 Hiawassee Ave	Black Mountain	NC	28711	0609-97-5295
Matthew Howie	403 S Oconeechee Ave	Black Mountain	NC	28711	0609-97-9103
Forrest Patrick Dorsey; Jessica Alexandra Dorsey	406 S Oconeechee Ave	Black Mountain	NC	28711	0619-07-0282
Darla J Sublette	402 Hiawassee Ave	Black Mountain	NC	28711	0609-97-7153
Mario Salamone and Rachel Anne Salamone Living Trust	377 Merrimon Ave., Ste. A	Asheville	NC	28801	0619-07-0395
William Davis Folsom Trust; Kathleen Dixon Folsom	232 Black Skinner Dr	Beaufort	SC	29907	0619-06-0974
Gail C Elliott; Kevin De Wayne Elliott	403 Hiawassee Ave	Black Mountain	NC	28711	0609-97-5180
Marion F Wisner Revocable Living Trust	55 Piney Mountain Dr., Apt. 516	Asheville	NC	28805	0619-07-1077
Brandon Philbeck; Tammy Philbeck	408 Hiawassee Ave	Black Mountain	NC	28711	0609-97-7361
Levon Lindsey; Mary L Lindsey	400 S Oconeechee Ave	Black Mountain	NC	28711	0619-07-0048
Judith K Weseman	104 Cedar St	Chapel Hill	NC	27514	0609-97-6304
Susan G Cannon	405 S Oconeechee Ave	Black Mountain	NC	28711	0609-97-9200
Rebecca Janes	PO Box 174	Ridgecrest	NC	28770	0609-96-7957
Judy Shultz Hunt Living Trust	4890 Whispering Pine Way	Naples	FL	34103	0619-07-2224
Mario Salamone and Rachel Anne Salamone Living Trust	377 Merrimon Ave., Ste. A	Asheville	NC	28801	0619-07-0297
Elias Yohannes Beyene; Caris Wetzel Yohannes	410 S Oconeechee Ave	Black Mountain	NC	28711	0619-07-0490
Kristina Trivette	412 Hiawassee Ave	Black Mountain	NC	28711	0609-97-7470
Douglas L Melton ET AL	404 Hiawassee Ave	Black Mountain	NC	28711	0609-97-7169



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: **November 1, 2022**
TO: **Property Owner**
FROM: **TOWN OF BLACK MOUNTAIN
ZONING ADMINISTRATOR**

ADDRESS OF PROPOSED VARIANCE:

**405 S Oconeechee Avenue
Black Mountain, NC 28711**

PIN #: **0609-97-9200.00000**

CURRENT ZONING CLASSIFICATION: **UR-8 (urban residential)**

THIS PROPERTY IS CURRENTLY USED FOR THE PURPOSE OF:

residential

THE VARIANCE IS REQUESTED FROM THE FOLLOWING PROVISIONS OF THE ORDINANCE:

Appendix A

Section 4.7.15 - Zoning Regulations by District - Dimensional Requirements

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

To create a secondary dwelling from existing accessory structure. The current requirement calls for 10' feet setback on side. Request is for setback to be 5' feet from edge of secondary dwelling to side property line.

An evidentiary hearing will be held on Thursday, November 17, 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.

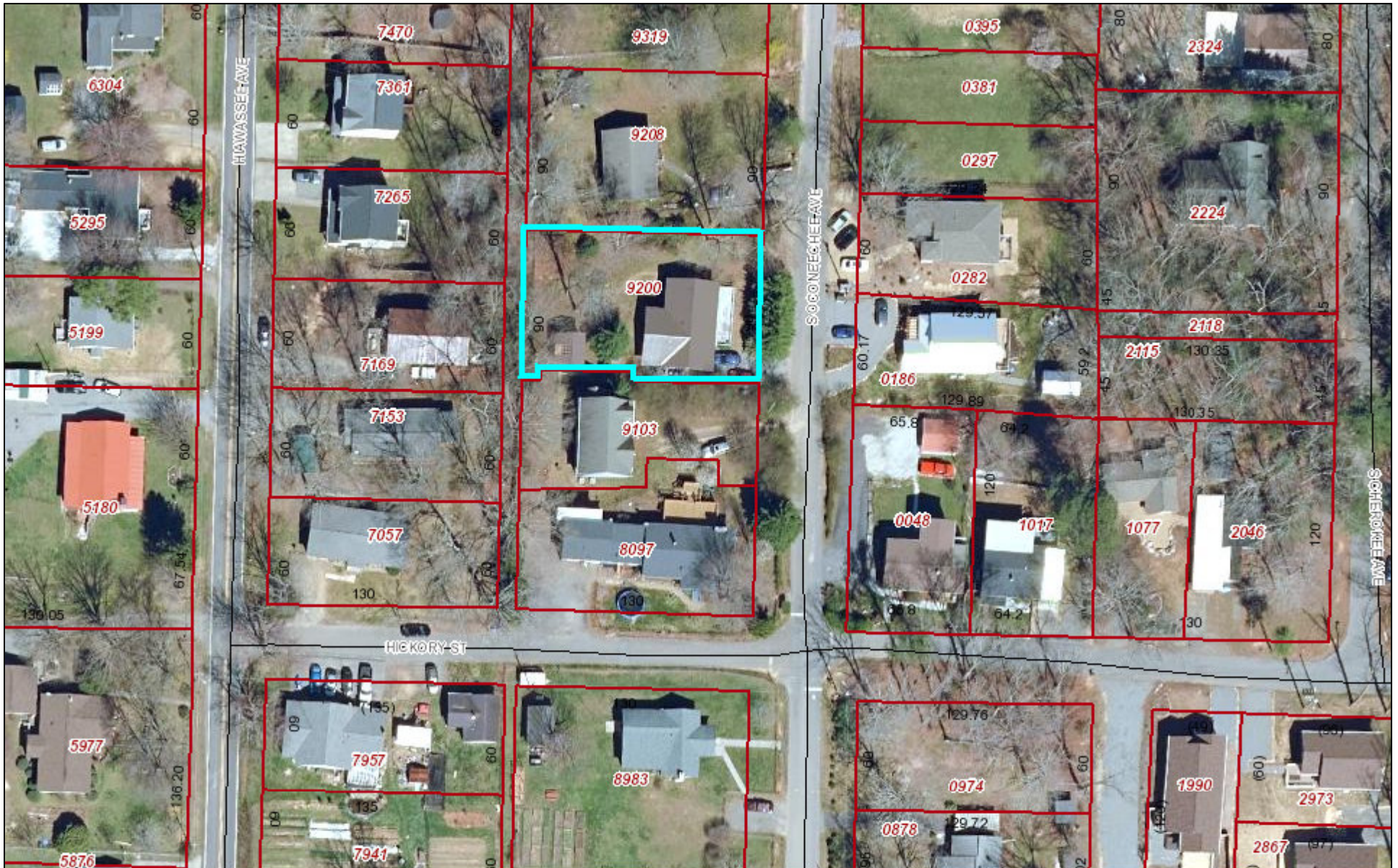
4.7.15 Dimensional requirements by zoning district.

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
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	½ acre, 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	½ acre	40, 15 at street	None	20, 15 steep hillside	10	15	35
OI-6	Residential	½ acre, 6 DUA	60	100	30	10	20	35
	Non-Residential	½ acre	100	100	40	30	30, 40 abutting residential district	35
NMU-8	Residential	½ acre, 8 DUA	50	100	25	10	10	35
	Non-Residential	½ acre	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	½ acre, 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	½ acre, 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 5 for requirements related to accessory structures and secondary dwellings								

405 S Oconeechee Avenue Aerial Map



October 18, 2022

1:1,128

0 0.0075 0.015 0.03 mi



LEGAL NOTICE

BLACK MOUNTAIN BOARD OF ADJUSTMENT

EVIDENTIARY HEARING

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

The Black Mountain Board of Adjustment will meet on **Thursday, November 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 405 S. Oconeechee Avenue, further identified as PIN #0609-97-9200.00000, to allow a reduction in the side setback for a secondary dwelling.

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 11/01/2022
Published in the Black Mountain News 11/3/2022 and 11/10/2022

www.townofblackmountain.org