



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 February 16, 2023
Date: February 9, 2023

The **Town of Black Mountain Board of Adjustment** will meet on **Thursday, February 16, 2023, 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 December 15, 2023;
3. Variance Request – 705-001 Holly 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, February 16, 2023, at 6:00 p.m.
Jueves 16 de febrero de 2023, a las 6:00 p.m.

The Black Mountain Board of Adjustment will meet for their monthly meeting on **Thursday, February 16, 2023, 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 16 de febrero de 2023 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

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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 02/01/2023
www.townofblackmountain.org



**Board of Adjustment Regular Meeting
February 16, 2023**

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 December 15, 2022 as written [or as amended]

IV. OLD BUSINESS

V. NEW BUSINESS

- Variance Request – 705-001 Holly 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, December 15, 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, Chair
Larry Pearlman, Vice Chair
Andy Homrich, Secretary
Chloe Riddle

Absent:

Ben Cooper

Staff:

Jennifer Tipton, Senior Admin

The meeting was called to order at 6:03 p.m. and duly constituted and opened for business with a quorum of four (4) regular members.

II. ADOPTION OF AGENDA

Larry Pearlman made a motion to adopt the agenda as presented. The motion was approved by a vote of 4-0.

III. ADOPTION OF MINUTES

Jennifer Tipton noted that Larry Pearlman had sent some corrections to be made to the minutes. Andy Homrich made a motion to adopt the minutes of November 17, 2022, as amended. The motion was approved by a vote of 4-0.

IV. OLD BUSINESS

None.

V. NEW BUSINESS

1. Approval of Order for 405 S Oconeechee Avenue Variance Request

Chloe Riddle made a motion to approve the order as written for the variance request for 405 S Oconeechee Avenue. The motion was approved by a vote of 4-0.

VI. COMMUNICATION FROM BOARD OF ADJUSTMENT

None.

VII. COMMUNICATION FROM STAFF

None.

VIII. ADJOURNMENT

With no further business, the meeting was adjourned at 6:06 p.m.

Prepared by:

Lauren Dodgin, Chair

Board of Adjustment Regular Meeting

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

Case No: V-23-01

Case Name: 501-001 Holly Ave.

Hearing Date: February 16, 2023

Procedure: Variance Evidentiary Hearing

Address of Variance Request:

705-001 Holly Avenue
Black Mountain, NC 28711
PIN # 0619-1960-6600.00000

Applicant:

Steve Farrell
103 Ninth St.
Black Mountain, NC 28711

Request:

The applicant is seeking a variance from accessory structure location requirements to locate an accessory structure in the front yard. The accessory structure consists of a studio of 192 square feet. The front of the accessory structure is 20 feet from the front property boundary.

The accessory structure will exist in the context of the following planned other project elements: a 1,200 square foot single-family dwelling (with a height of 29 feet), and a 448 square foot porch. Directly under the porch (on the lower level) is a hobbyist wood shop of 448 square feet. Also, a garden is planned, and the site plan depicts room for two off-street parking spaces.

City Staff:

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

I. SUMMARY OF REQUEST

The applicant is requesting an exemption from the prohibition on accessory structures in front yards.

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).

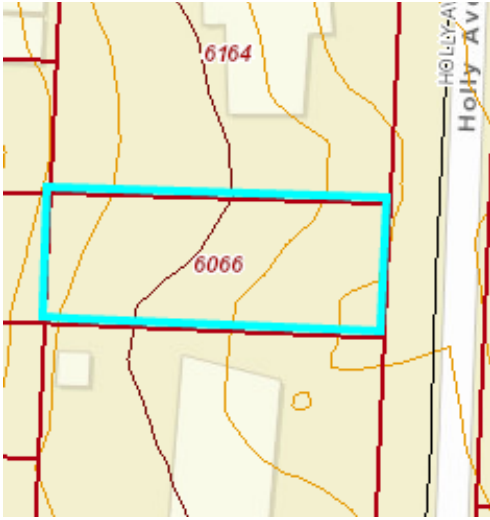
Residential Uses	Density & Lot Size			Minimum Yard Requirements			Max. Height
	Min. Lot Size/Max. Density*	Min. Width (ft.)	Min. Depth (ft.)	Front Setback (ft.)	Side Setback (ft)	Rear Setback (ft.)	Structure Height (ft.)
Major Subdivisions	1/8 acre (5,446 sf) 8 DUA	15 ft	None	20 (15 steep hillside)	10	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 .15-acre parcel in the UR-8 zoning district. The average slope of the lot is 17.04%. This is an image of the lot from Buncombe County GIS with the “5 Foot Contours” layer turned on:



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 **DATE**, 2023. Legal notice appeared in the Black Mountain News the weeks of **DATE**, 2023, and **DATE**, 2023. 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 proposed dwelling unit are conforming to UR-8 dimensional requirements. The requirement for accessory structures to be located only in the side or rear yards of lots adjacent to Town or State roadways is explained in Section 4.5.4 (E.2) of the Town of Black Mountain Land Use Code, and is the reason the variance is being requested. Holly Avenue is a Town roadway.

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 Steve Farrell

Owner Address (Number, Street, City, State, ZIP) 103 Ninth Street, Blk. Mtn. 28711

Home Phone

Cell Phone

828 235 4915

Email Address

jsf@AshevilleArchitect.com

APPLICATION FOR VARIANCE

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

Section Number(s): 4.5.2 Section Title(s): PROVISIONS GOVERNING ALL BUILDINGS

Subsection letter(s) and/or number(s): E.2 Subsection Title(s): ACCESSORY STRUCTURES

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):

ACCESSORY STRUCTURE TO BE LOCATED IN FRONT OF DWELLING AS REQUIRED BY LOT SIZE, TOPOGRAPHY, AND OAK TREES

PROPERTY INFORMATION

Parcel Number

0619 1960 6600000

Current Zoning

UR-8

Acreage

0.15 ACRES

Address

TBD HOLLY AVENUE

Average Slope %

13%

Use of Property

SINGLE FAMILY DWELLING

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.

[Signature]
Petitioner Signature

1-6-23

Date

OFFICE USE ONLY

Date Received:

1/6/2023

Fee: \$600.00

Cash: ☐ Check: ☒ # 2057 Credit: ☐

Case Number: V-01-23

Meeting Date: February 14, 2023

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 subject property is extremely small (6,534 square feet). It is also very steep in back. Additionally, two oak trees "drip lines" are within the back yard. Oaks are very susceptible to soil capecation and root disruption.

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 subject property is steep in back and is very tight. Fifty six (56%) percent of the subject property is devoted to setbacks.

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 subject property is small, steep, and largely unbuildable due to setback requirements. Front property line is eleven (11') feet from the edge of the pavement further restricting the buildable area.

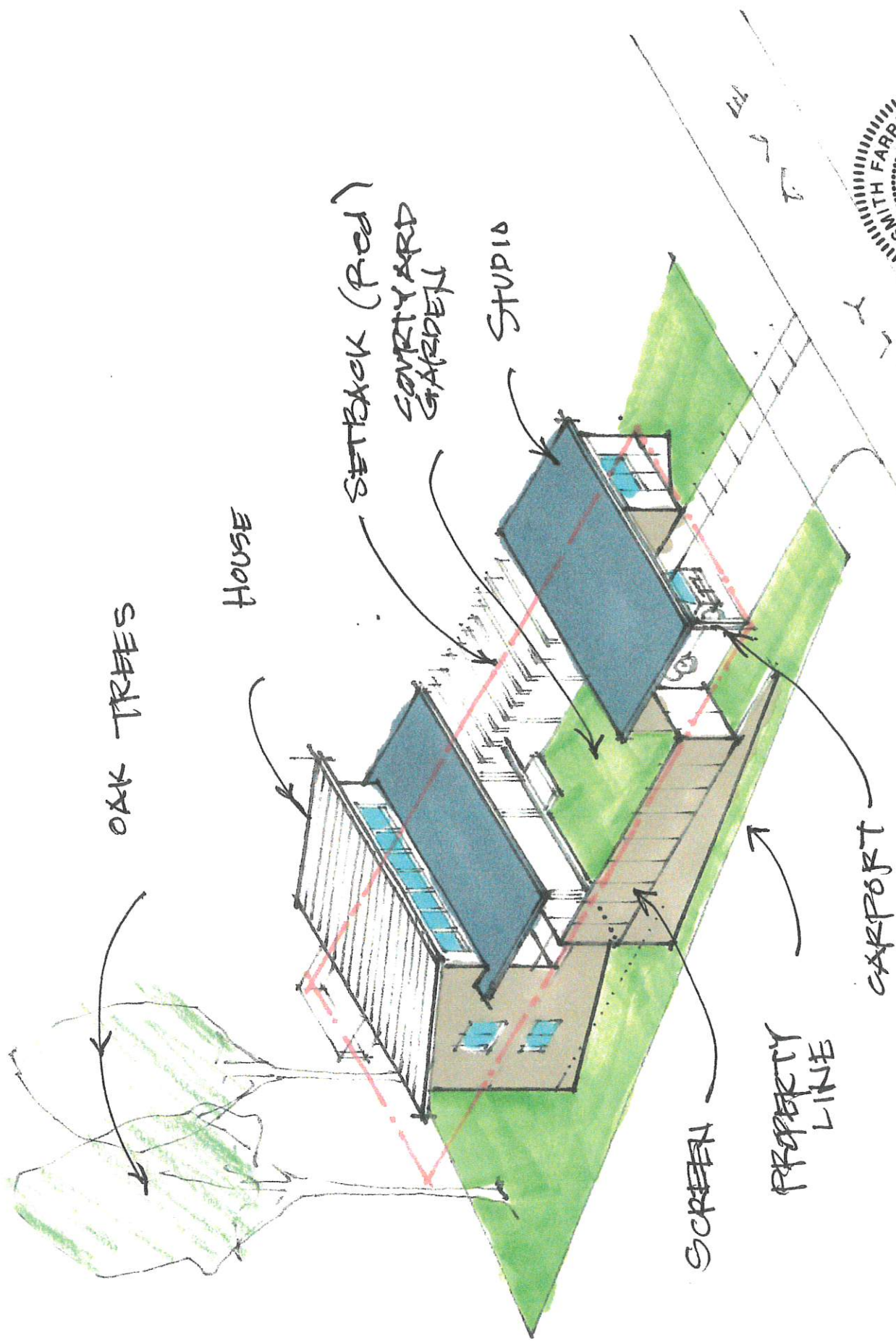
4. Indicate how the requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved.

The proposed accessory structure will be hidden by a carefully detailed screen that will enclose the entire courtyard. By allowing the accessory structure in the front yard the height of the main structure matches both adjacent houses. If the Studio space is in the house, the house will be much higher than the adjacent buildings.

Town of Black Mountain

160 Midland Avenue, Black Mountain, NC 28711

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

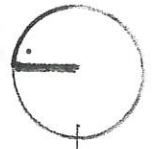
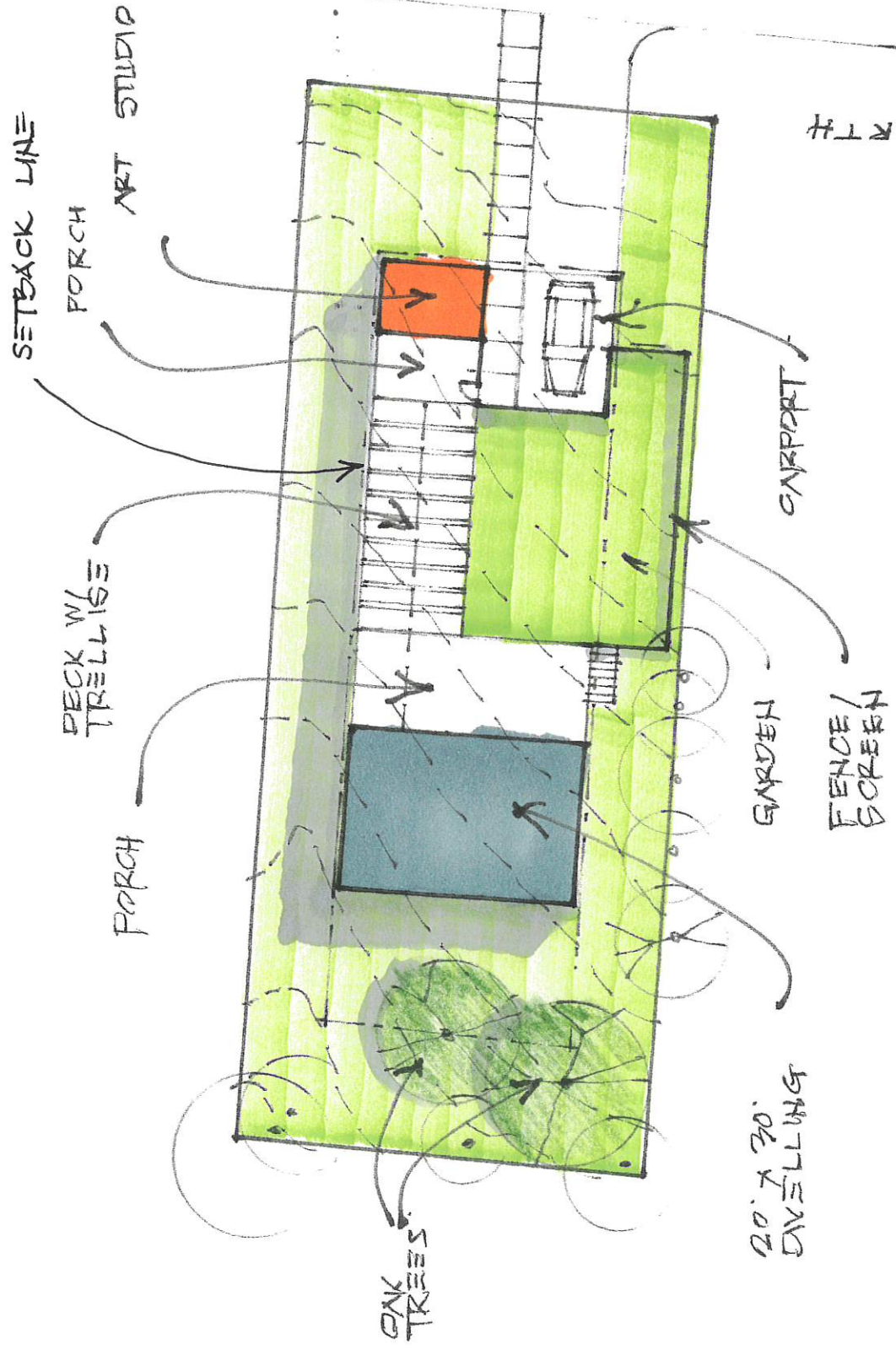


Holly Avenue: 120 METRIC
1" = 20'



Stephens

HOLLY AVENUE



SITE PLAN

1" = 20'

20' x 30'
DWELLING

SQUARE FOOTAGE:

I. DWELLING

A. LOWER 600

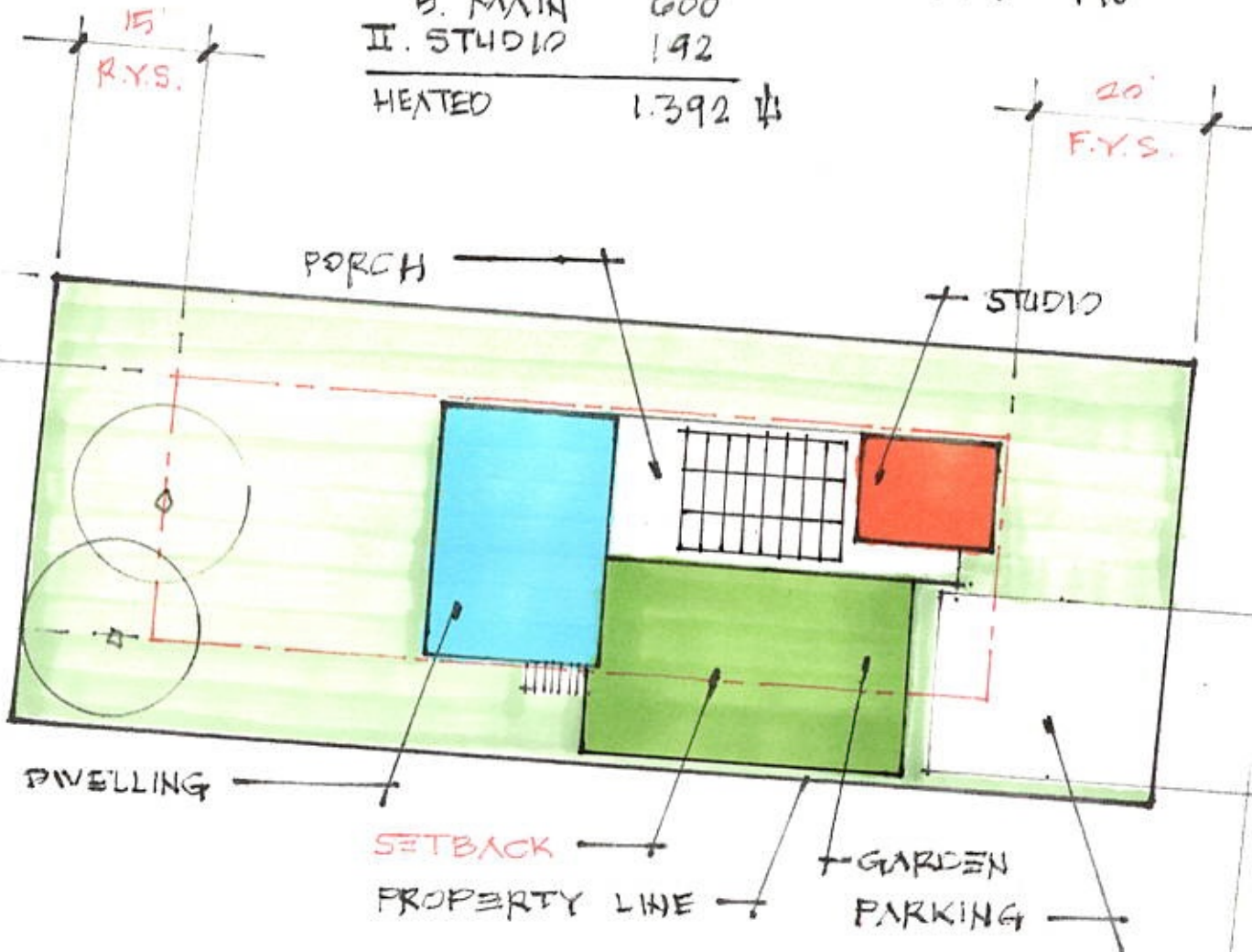
B. MAIN 600

II. STUDIO 142

HEATED 1,392 1/4

III. PORCH 448

IV. SHOP 448

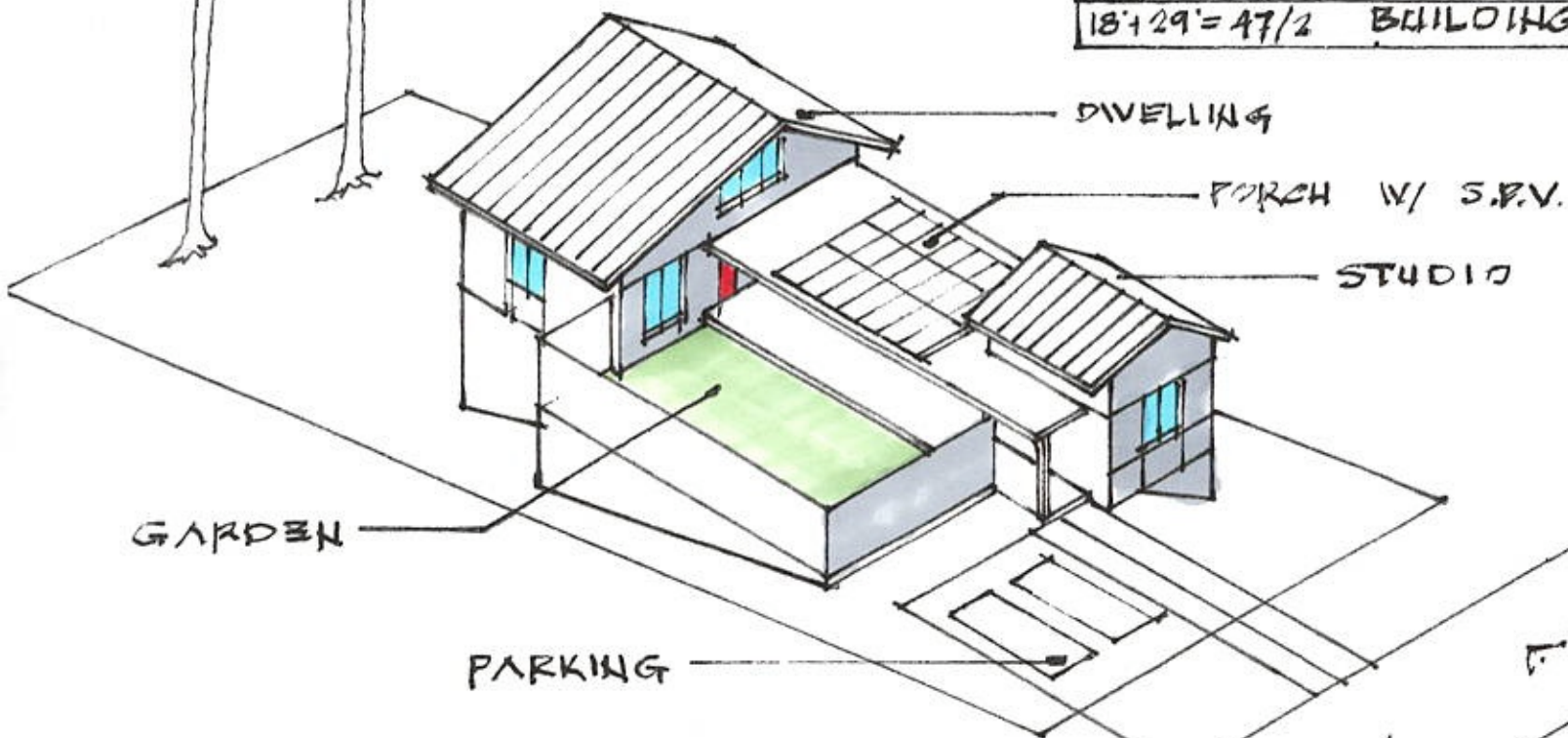
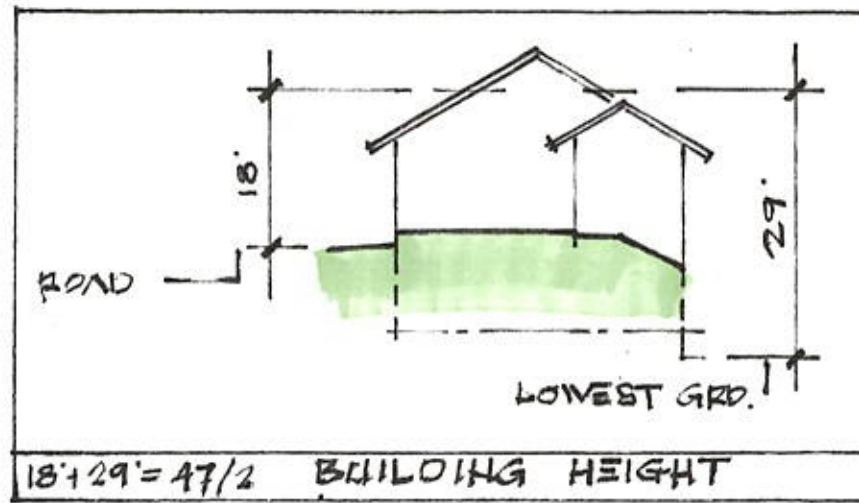
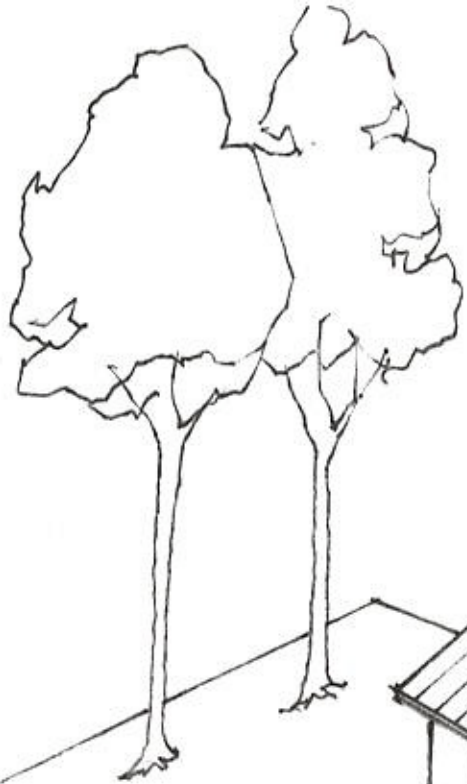


S I T E P L A N

S C A L E : 1" = 20'



Stephens



HOLLY AVE.

ISOMETRIC

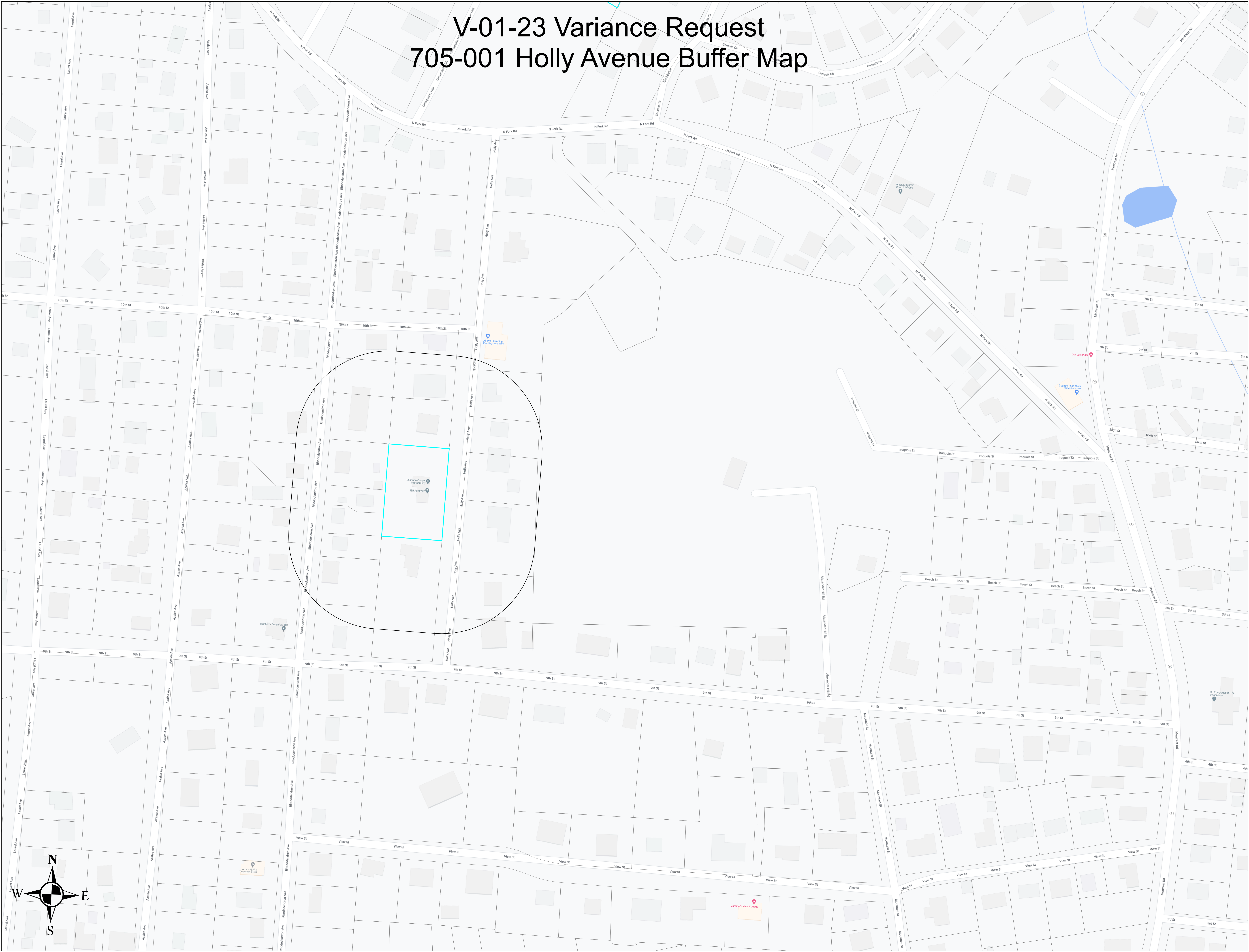
1" = 20'



Stephens Smith Farrell

V-01-23 Variance Request

705-001 Holly Avenue Buffer Map



<u>Owner</u>	<u>Address</u>
Stephens Farrell; Dana Wingate	103 Ninth St
De Soria Blake Revocable Living Trust	305 Waynesville Ave
Vickie Osteen	1198 Teaberry Hills Rd
Bruce Cotton Jr	709 Holly Ave
Benjamin Cooper; Shannon Cooper	PO Box 5472
Mary Etta Cockrell	706 Holly Ave
Anne Stieber; Lois Steele	730 Rhododendron Ave
Eric Nystrom; Melinda Nystrom	7626 La Bolsa Dr
Carol Marett	718 Rhododendron Ave
Stirlco LLC	104 Parkway Vista Dr
Deanna Kreisel; Scott Mackenzie	400 Thomas St
Farmbound Holdings LLC	PO Box 5474
Andrew Homrich; Jami Homrich	309 Lake Oak Dr
James Baldwin; Martha Baldwin	PO Box 415
Alan Huskins	702 Rhododendron Ave
Jean Stafford	703 Holly Ave
Taze Holdings LLC	1540 Healing Springs Dr
Donald Stikeleather; Diane Ouellette	719 Rhododendron Ave
Olegario Delatorre; Elena Delatorre	572 Buckeye Access Rd
Alejo Rottenberg	713 Rhododendron Ave
Lynn Mitchell	711 Rhododendron Ave
Kara Glenn	707 Rhododendron Ave
Mitchell Effler	730 Holly Ave
Gay Fox; Marguerite Crawford	1001 NC 9 Hwy
Darrell E Johnson and Gayle Lynn Petty Revocable Trust	122 Fairway Dr
Kent Patton ET AL	708 Holly Ave
Mary Etta Cockrell	706 Holly Ave
Heath Rada	219 Valley Ridge Ln
Allen Arcand; Merle Arcand	304 Ninth St
Carson Family LP ETAL	704 Walnut St

<u>City</u>	<u>State</u>	<u>ZIP</u>	<u>PIN #</u>	
Black Mountain	NC	28711	0619-19-6066	
Asheville	NC	28806	0619-19-6164	
Boone	NC	28607	0619-19-6271	
Black Mountain	NC	28711	0619-19-6288	
Charlotte	NC	28299	0619-19-6387	
Black Mountain	NC	28711	0619-19-6495	
Black Mountain	NC	28711	0619-19-5466	
Dallas	TX	75248	0619-19-5358	
Black Mountain	NC	28711	0619-19-5259	
Asheville	NC	28805	0619-19-5149	
Oxford	MS	38655	0619-19-5142	
Asheville	NC	28813	0619-19-5027	Attn: Christopher Eller
Black Mountain	NC	28711	0619-19-5022	
Black Mountain	NC	28711	0619-18-5924	
Black Mountain	NC	28711	0619-18-5814	
Black Mountain	NC	28711	0619-18-6940	
Denton	NC	27239	0619-19-3387	
Black Mountain	NC	28711	0619-19-3289	
Swannanoa	NC	28778	0619-19-3179	
Black Mountain	NC	28711	0619-19-3153	
Black Mountain	NC	28711	0619-19-3077	
Black Mountain	NC	28711	0619-18-3969	
Black Mountain	NC	28711	0619-19-9407	
Black Mountain	NC	28711	0619-19-8364	
Black Mountain	NC	28711	0619-19-8255	
Black Mountain	NC	28711	0619-19-8156	
Black Mountain	NC	28711	0619-19-8043	
Black Mountain	NC	28711	0619-18-8931	
Black Mountain	NC	28711	0619-18-8310	
Marks	MS	38646	0619-29-4213	



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: **February 3, 2023**

TO: **Property Owner**

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

ADDRESS OF PROPOSED VARIANCE:

705-001 Holly Avenue

PIN #: **0619-19-6066.00000**

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

THIS PROPERTY IS CURRENTLY USED FOR THE PURPOSE OF:

single-family residence

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

Section 4.5.4, E2, Accessory Structures

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

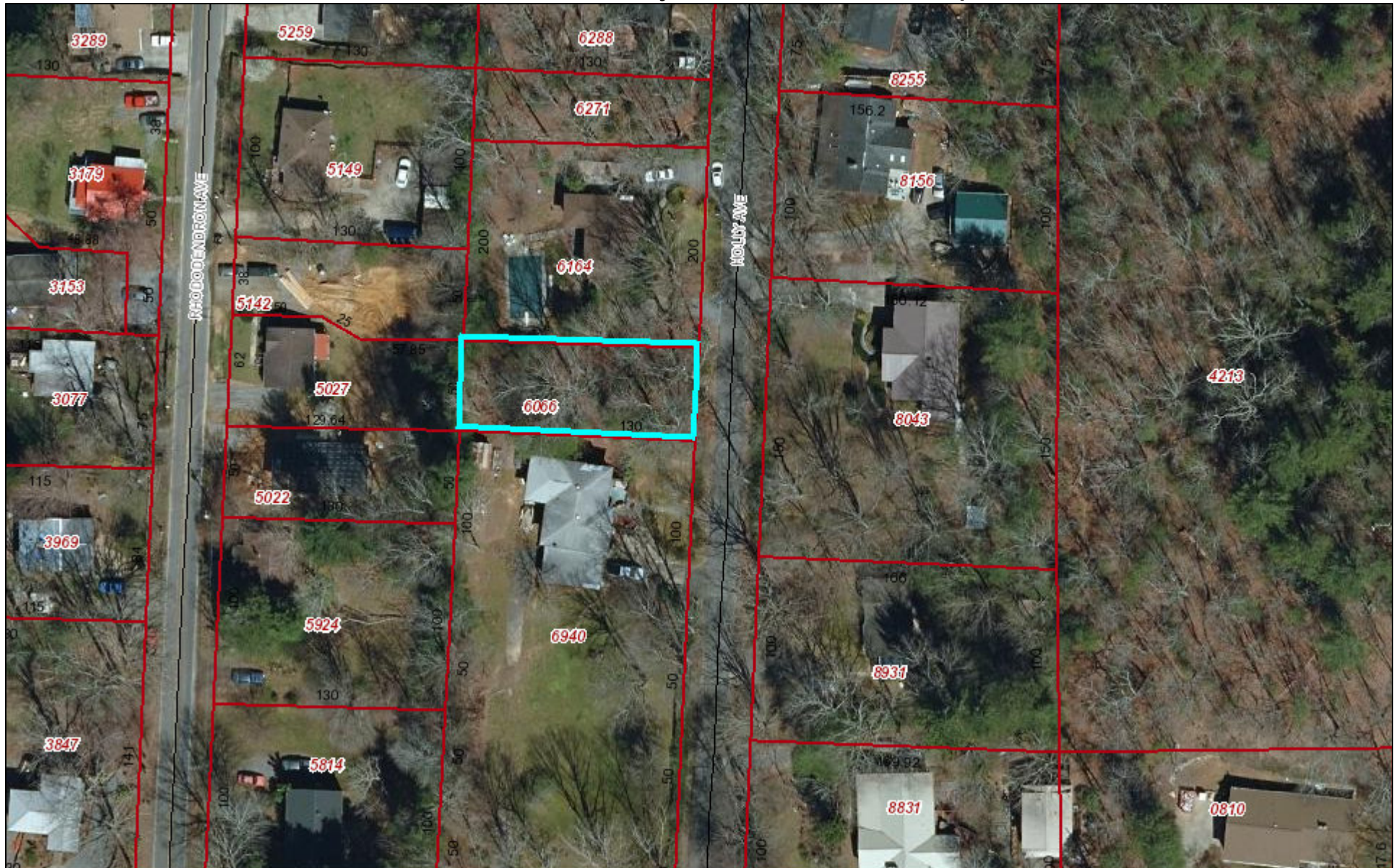
Accessory structure to be located in front of dwelling as required by lot size, topography, and oak trees.

An evidentiary hearing will be held on Thursday, February 16, 2023 @ 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.

V-01-23 Variance Request

705-001 Holly Avenue Aerial Map



January 9, 2023

1:1,128
0 0.0075 0.015 0.03 mi

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.



LEGAL NOTICE

BLACK MOUNTAIN BOARD OF ADJUSTMENT

EVIDENTIARY HEARING

Thursday, February 16, 2023, at 6:00 p.m.

The Black Mountain Board of Adjustment will meet on **Thursday, February 16, 2023, 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 705-001 Holly Avenue, further identified as PIN #0619-19-6066.00000, to allow an accessory structure to be located in the front yard.

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 02/01/2023
Published in the Black Mountain News 02/02/2023 and 02/09/2023

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