

**TOWN OF BLACK MOUNTAIN
BOARD OF ADJUSTMENT**

The Black Mountain Board of Adjustment held its regular meeting on Thursday, February 16, 2023, 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
Ben Cooper
Andy Homrich

Absent:

Chloe Riddle

Staff:

Jennifer Tipton, Senior Admin
Russell Cate, Planner I/Zoning Administrator
Ron Sneed, Town Attorney

The meeting was called to order at 6:04 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 consensus.

III. ADOPTION OF MINUTES

Larry Pearl made a motion to adopt the minutes of December 15, 2022, as written. The motion was approved by consensus.

IV. OLD BUSINESS

None.

V. NEW BUSINESS

Variance Request – 705-001 Holly Avenue

Ben Cooper and Andy Homrich both stated that they had received a notice of the variance hearing because they own property within the two hundred feet buffer area. Both stated that they did not have any pre-formed decisions or opinions about the variance request and the board felt that they could continue.

Jennifer Tipton swore in all persons wishing to testify and speak.

Russell Cate stated that the lot at 705-001 Holly Avenue is currently a vacant lot zoned UR-8 and the applicant is seeking a variance to allow an accessory structure to be placed in the front yard in front of the primary structure. The lot is .15 acres with an average slope of 17.04% and the setbacks are twenty feet in the front, ten feet on the sides, and fifteen feet in the rear. The site plan submitted with the application shows both the primary structure and the accessory structure

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to be in conformance with the setback requirements. The proposed accessory structure is a 192 square foot studio.

Steve Ferrell, 103 Ninth Street, is a licensed architect but will be constructing his personal residence on this property. Mr. Ferrell referenced Section 4.5.4 (a) which prohibits accessory structures in the front yard and he is seeking relief from that section due to size and topography of the property. The property is 6,500 square feet and 2,850 square feet of that lot is buildable due to the setback requirements. Approximately 56% of the lot is unbuildable. The average lot usually is only 10% to 25% unbuildable. Mr. Ferrell feels that he suffers unduly by having the same setbacks. He does not want a big house on a big lot and the primary structure will be approximately 1,000 square feet. The studio would be used for his architectural business and the work would be online and by phone, so no customers would be coming to the studio. There is a delta of approximately 20% slope from the street to the back corner so it would make building a two-story structure difficult. Mr. Ferrell said that the front yard would pull double-duty by also acting as a backyard and would have a courtyard concept. Mr. Ferrell said he could put the studio area into the primary structure but that would make the primary structure larger and taller and the houses on both sides of the lot read as single-story buildings. Staff clarified that the variance request is for the studio building only. The board asked Mr. Ferrell about reversing the structures and Mr. Ferrell stated that if he did that, he would not get his garden area and the lighting is not as good in the back lower area of the lot. Mr. Ferrell stated that this is a tricky lot and this is a solution that he thinks will work and work well. The accessory structure would still have to be twenty feet from the setback in the front and would be in-line with the other structures on the street.

Vickie Osteen, 11918 Berry Hills Road, asked about where the vehicles would be parked and Mr. Ferrell noted that they did have a parking area that would accommodate the parking requirements. The parking area will not be covered.

Kent Patton, 708 Holly Avenue, said he is impressed with the proposed drawings and appreciates Mr. Ferrell's goal to preserve the neighborhood. Mr. Patton said that he knows what eyesores accessory structures can be and worries about a precedent being set if this variance is allowed. Mr. Patton said he feels that the ordinance should be upheld, and the variance denied.

Kiersten Hall, 100 Portmanvilla Road, also expressed concerns about setting a precedent and said to keep the ordinance as it stands.

Mr. Ferrell said that he appreciated the comments but that he could, by right, connect the studio to the building but did not really want to go that route. Mr. Ferrell said that he understands the issue about accessory structures, like the pre-fabricated ones from Home Depot, and that they do not belong in the front yard, but his proposal is architecturally integrated and there are also two large oak trees in the rear yard that he would like to preserve.

Town Attorney Ron Sneed reminded everyone that variances do not set precedent as each one is an individual case and has to be considered based on the application and evidence presented.

The lot was subdivided from one larger parcel into three smaller parcels. Mr. Ferrell said that the former owner ran into the same issues and just decided to sell the lot. Mr. Ferrell said that he feels the structures would be an asset to the community and the front yard would also be landscaped.

Allen Arcand, 304 Ninth Street, asked if the door would face the street. Mr. Ferrell stated that the door would face the side and there will be a window facing the road. The studio will be connected by a porch only and the porch will have an opaque roof with a photovoltaic array.

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Marguerite Crawford, 1001 NC 9 Hwy, asked how much of a variance the applicant is requesting. Staff explained that the variance is for the studio to be placed in the front yard. Mr. Ferrell said that the parking area will be thirty-one feet from the property line so there will be room to stack parking.

Jennifer Tipton summarized the evidence as follows:

Exhibit 1: Staff Report

Exhibit 2: Variance Application

Exhibit 3: Buffer Map

Exhibit 4: List of Property Owners within 200'

Exhibit 5: Notice of Variance Request

Exhibit 6: Aerial Map

Exhibit 7: Section 4.5.4 of the Land Use Code

Andy Homrich made a motion to go into to recess. The motion was approved by consensus.

The board discussed that there were several ways that the applicant could make the project work without a variance, such as attaching the structures and a variance would not be needed unless they wanted to be closer to the street. The building would still be offset and closer to fitting into the neighborhood. The board appreciated the applicant's awareness of the trees and solar panels. The board expressed concerns that if the house were to be sold, what another owner might do with the front accessory structure.

Andy Homrich made a motion to come out of recess. The motion was approved by consensus.

Ben Cooper made a motion to close the evidentiary hearing. The motion was approved by consensus.

The board found the following:

1. The proposed variance does not result from an unnecessary hardship resulting from the strict application of the law because the site plan dictated a preference of the applicant and the characteristics of the lot.

The variance fell short of the necessary 4/5ths vote so the variance request is denied.

VI. COMMUNICATION FROM BOARD OF ADJUSTMENT

None.

VII. COMMUNICATION FROM STAFF

None.

VIII. ADJOURNMENT

With no further business, the meeting was adjourned at 6:59 p.m.

Prepared by: _____

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Lauren Dodgin, Chair

Jennifer Tipton, Senior Admin

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