



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 May 18, 2023
Date: May 11, 2023

The **Town of Black Mountain Board of Adjustment** will meet on **Thursday, May 18, 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 March 16, 2023; and
3. Variance request for 20 Goldmont Street.

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, May 18, 2023, at 6:00 p.m.
Jueves 18 de mayo de 2023, a las 6:00 p.m.

The Black Mountain Board of Adjustment will meet for their monthly meeting on **Thursday, May 18, 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 18 de mayo 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 05/01/2023
www.townofblackmountain.org



**Board of Adjustment Regular Meeting
May 18, 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 March 16, 2023, as written [or as amended]

IV. OLD BUSINESS

V. NEW BUSINESS

- Variance Request for 20 Goldmont Street

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, March 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
Andy Homrich, Secretary
Chloe Riddle

Absent:

Ben Cooper

Staff:

Jennifer Tipton, Senior Admin

The meeting was called to order at 6:01 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

Larry Pearlman noted a couple of corrections to be made. Andy Homrich made a motion to adopt the minutes of February 16, 2023, as amended. The motion was approved by a vote of 4-0.

IV. OLD BUSINESS

None.

V. NEW BUSINESS

1. Approval of Order for 705-001 Holly Avenue Variance Request

Larry Pearlman made a motion to approve the order as written for the variance request for 705-001 Holly 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 6:04 p.m.

Prepared by:

Jennifer Tipton, Senior Admin

Lauren Dodgin, Chair

Board of Adjustment Regular Meeting

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

Case No: V-23-03

Case Name: 20 Goldmont St.

Hearing Date: May 18, 2023

Procedure: Variance Evidentiary Hearing

Address of Variance Request:

20 Goldmont Street

Black Mountain, NC 28711

PIN # 0609-94-4455-00000

Applicant:

Mark and Sharon Riley

20 Goldmont St.

Black Mountain, NC 28711

Request:

The applicant is seeking a variance from accessory structure setback requirements to replace an existing 14'3" x 24'3" (or 346 square feet) stand-alone garage that is one foot in from the property line with a new stand-alone garage that also is one foot from the property line. The dimensions of the new garage are 30' x 60' (or 1,800 square feet).

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 setback for an accessory structure from the nearest property line. Section 4.5.4 (A) of the Town of Black Mountain Land Use Code states that “in no case shall an accessory structure be located closer than five feet to the nearest property line.”

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 .25-acre parcel in the UR-8 zoning district. The average slope of the lot is 7.27%. This is an image of the lot from Buncombe County GIS with the “5 Foot Contours” layer turned on (note that Buncombe GIS doesn’t reflect the closing of the unopened right-of-way between Goldmont and W. College streets, at the rear of the subject property):



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 May 1, 2023. Legal notice appeared in the Black Mountain News the weeks of May 4, 2023, and May 11, 2023. The property was posted with a notice listing the time and date of the hearing.

V. ANALYSIS

Staff's analysis is that the existing stand-alone garage, which was built in 1950 according to the Buncombe County property record card, is a legal nonconformity – it was built before the current version of the Land Use Code was in effect. Section 4.5.4 (A) of the Town of Black Mountain Land Use Code states that “in no case shall an accessory structure be located closer than five feet to the nearest property line.”

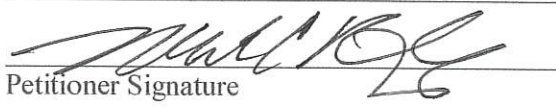
It appears that the proposed garage conforms to item *E.4* in Section 4.5.4, which states that “accessory structures shall not cover more than 30 percent of the required side or rear yards.”

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>Mark and Sharon Riley</u>		
Owner Address (Number, Street, City, State, ZIP) <u>20 Goldmont Street, Black Mountain, NC 28711</u>		
Home Phone <u>828-778-6275</u>	Cell Phone <u>828-778-6275</u>	Email Address <u>mrapi32@gmail.com</u>
APPLICATION FOR VARIANCE		
I request a variance/variances from the following provisions of the ordinance:		
Section Number(s): <u>4.5</u> Section Title(s): <u>Provisions Governing all buildings</u>		
Subsection letter(s) and/or number(s): <u>4.5.4</u> Subsection Title(s): <u>Accessory structures</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>Current sf = 346 ; current dimensions = 14'3" x 24'3"</u> <u>Current garage: 73 years old, one foot off north side property line. We desire to replace with larger garage at same one foot setback, which would line up with existing driveway. Moving garage over would create hardship in trying to direct vehicles around the corner of the house. Dimensions of proposed garage = approx 30' x 60' 1800 sq ft</u>		
PROPERTY INFORMATION		
Parcel Number <u>6099-444-55-00000</u>	Current Zoning <u>UR-8</u>	Acreage <u>.25</u>
Address <u>20 Goldmont Street, Black Mountain, NC 28711</u>		
Average Slope % <u>5%</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 		Date <u>4-17-2023</u>
OFFICE USE ONLY		
Date Received: <u>4/17/23</u>	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.

There is an unnecessary hardship because the inability to construct a usable garage will deprive us of the ability to make a use of the property that neighboring properties have, or the garage would have to be constructed in such a way that it would be difficult and unsafe to maneuver a vehicle in and out of the garage.

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 results from the property being very narrow created by subdivision of property long before current zoning and subdivision regulations were adopted.

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 hardship did not result from actions taken by us as the lot was preexisting and we had no control over the construction and location of the house.

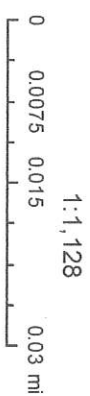
4. Indicate how the requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved.

The variance is consistent because there are other properties in the neighborhood with structures practically abutting the property line and the minimum side setbacks were adopted to maintain a 10 foot separation between structures to comply with building and fire code and there will be no structures on adjoining property within 10 feet of the proposed garage.

Buncombe County



April 15, 2023

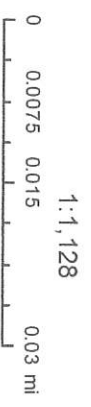


Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand).

Buncombe County



April 15, 2023

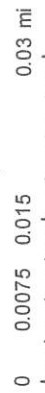


Buncombe County



April 17, 2023

1:1,128



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

Buncombe County



April 15, 2023

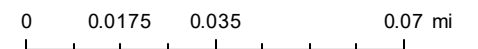
1:1,128
0 0.0075 0.015 0.03 mi

20 Goldmont Street Buffer Map



April 20, 2023

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>
MELANIE M ACCINNO; RANDALL YOUNG	106 W COLLEGE ST	BLACK MOUNTAIN	NC	28711	0609-94-2264
MELANIE M ACCINNO; RANDALL YOUNG	106 W COLLEGE ST	BLACK MOUNTAIN	NC	28711	0609-94-2279
JULIA OVERTON; ALEX KAHSAR	5913 HOLIDAY SHORES AVE	NEBO	NC	28761	0609-94-2374
BRITTANY CAMPBELL SAUNDERS; LESLIE M SAUNDERS	114 W COLLEGE ST	BLACK MOUNTAIN	NC	28711	0609-94-2379
RAYNE WHISLER	116 W COLLEGE ST	BLACK MOUNTAIN	NC	28711	0609-94-2484
LORENA A ALVAREZ	PSC 562, BOX 6758	FPO	AP	96311	0609-94-2551
THOMAS CHAPEL AME ZION CHURCH	124 W COLLEGE ST	BLACK MOUNTAIN	NC	28711	0609-94-2696
LORENA A ALVAREZ	118 W COLLEGE ST	BLACK MOUNTAIN	NC	28711	0609-94-3521
K L MCINTYRE LLC	57 YOW DR	SWANNANOA	NC	28778	0609-94-4230
DOUBLE FAULT INVESTMENTS LLC	210 SOUTHBANK DR	CARY	NC	27518	0609-94-4340
WESLEY DAVIS	18 GOLDMONT ST	BLACK MOUNTAIN	NC	28711	0609-94-4348
UFFDAH FAMILY TRUST	20 GOLDMONT ST	BLACK MOUNTAIN	NC	28711	0609-94-4455
ALEXEY V LYAPIN	555 4TH ST UNIT 843	SAN FRANCISCO	CA	94107	0609-94-4564
ROBBIE WILLIAMS; AMANDA WILLIAMS	28 GOLDMONT ST	BLACK MOUNTAIN	NC	28711	0609-94-4675
POMEROY PROPERTIES LLC	920 NC 9 HWY	BLACK MOUNTAIN	NC	28711	0609-94-6128
POMEROY PROPERTIES LLC	920 NC 9 HWY	BLACK MOUNTAIN	NC	28711	0609-94-6239
STAY GOLD REVOCABLE TRUST	30 WESTGATE PKWY #88	ASHEVILLE	NC	28806	0609-94-6440
TAYLOR JONES; JONNA MUNROE	21 GOLDMONT ST	BLACK MOUNTAIN	NC	28711	0609-94-6551
JACOB M DISABATINO; ALEXIS LORRAINE DISABATINO	25 GOLDMONT ST	BLACK MOUNTAIN	NC	28711	0609-94-6624
JACOB M DISABATINO; ALEXIS LORRAINE DISABATINO	25 GOLDMONT ST	BLACK MOUNTAIN	NC	28711	0609-94-6695



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: **May 1, 2023**

TO: **Property Owner**

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

ADDRESS OF PROPOSED VARIANCE:

20 Goldmont Street

PIN #: **0609-94-4455.00000**

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 4.5, Section 4.5.4, Accessory Structures

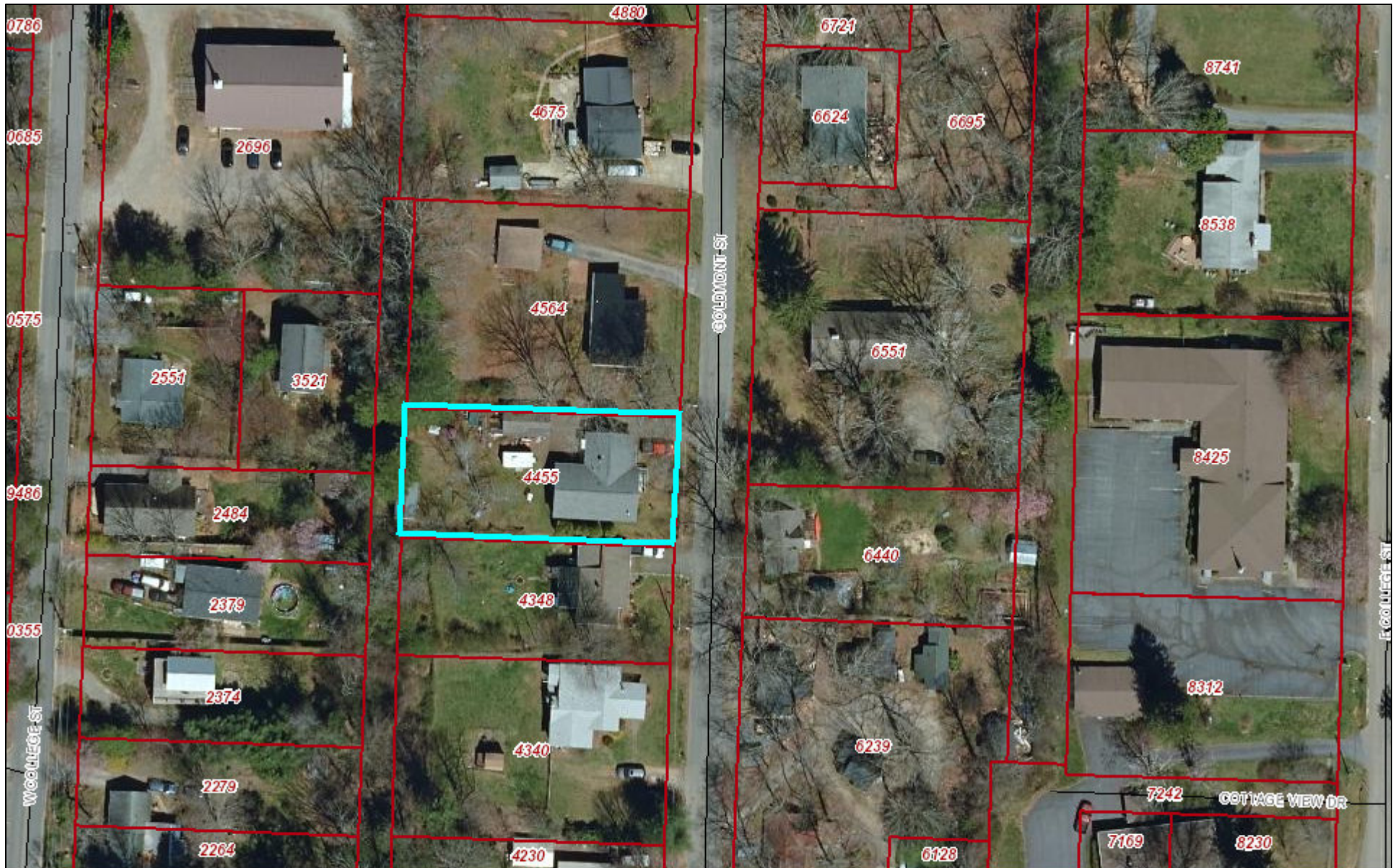
THE VARIANCE IS REQUESTED SO THAT THE PROPERTY CAN BE USED IN A MANNER INDICATED HEREIN:

We desire to replace existing garage with a larger garaage at same one foot setback, which would line up with existing driveway.

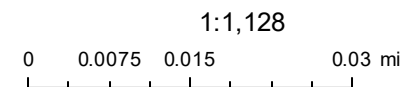
An evidentiary hearing will be held on Thursday, May 18, 2023, @ 6:00 p.m. in the Council Room of Town Hall, 160 Midland Avenue.

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.

20 Goldmont Street Variance Aerial Map



April 20, 2023



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, May 18, 2023, at 6:00 p.m.

The Black Mountain Board of Adjustment will meet on **Thursday, May 18, 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 20 Goldmont Street, further identified as PIN #0609-94-4455.00000, increase the size of the current garage.

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.

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