

TOWN OF BLACK MOUNTAIN ZONING BOARD OF ADJUSTMENT

The Black Mountain Zoning Board of Adjustment held its regular meeting on Thursday, January 18, 2018 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:

Cheryl Milton, Chair
John DeWitt, Vice Chair
Jillian Ballard, Secretary
Bob Osmundsen
Ted Mattson, Alternate
Janet McKimpson, Alternate
Pam Pauly, Alternate

Absent:

Rebecca Harris

Staff:

Jennifer Tipton, Zoning Administrator
Ron Sneed, Town Attorney

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 and one (1) alternate.

II. ADOPTION OF AGENDA

John DeWitt made a motion to adopt the agenda. The motion was seconded by Ted Mattson and approved by a vote of 5-0.

III. ADOPTION OF MINUTES – December 14, 2017

John DeWitt made a motion to adopt the minutes as written. The motion was seconded by Jillian Ballard and approved by a vote of 5-0.

IV. BUSINESS

1. Variance Request for 506 Tenth Street

Jennifer Tipton gave a brief summary of the variance request. The lot has a sewer line that runs through the lot that has a 20' easement that cannot be built into as well as two drainage fields with 30' radii that cannot be built into therefore limiting the amount of buildable area. The request is to build a porch 10' into the front setback of 20'. There is a platted right-of-way on Tenth Street giving more barrier from the road.

Dennis Schaubert, 5385 Apple Glen Drive, is the owner of the property. Mr. Schaubert reiterated what Ms. Tipton has stated in that because of the restrictions of the sewer line easement and the drainage field radii, they were looking to extend the porch into the front setback. Mr. Schaubert stated that this would be an open porch and only the porch would extend into the setback.

Oliver Morgan, 144A La Mancha Drive, is the neighbor to the east of Mr. Schaubert and is currently building a house on his lot. Mr. Morgan stated that the front of his property is on Laurel Avenue and the side of his property is on Tenth Street so his lot already has a 10' setback

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on the Tenth Street side. Mr. Morgan said that there is approximately 6' between the pavement and the right-of-way. Mr. Morgan said he feels that this is a reasonable request and the plan would align very nicely with his house and has no complaints or reservations about the request. John DeWitt asked Mr. Schaubert if he was aware of the issues with the lot when he purchased it. Mr. Schaubert said that they were aware of the sewer easement but were not aware of the drainage filed radii. Mr. Schaubert said that an architect had drawn up the plan presented and suggested the variance so as to maximize the buildable area. Town Attorney Ron Sneed reminded the board that the act of purchasing a lot knowing that a variance might be needed is not considered as a self-imposed hardship when looking at the criteria that has to be met to grant a variance. Ms. Tipton explained that Mr. Morgan has a corner lot and because of that he can choose which road he wants to be his front and which he wants to be his side and that the side setback has to be half of the front setback. Since the property is zoned UR-8 the front setback is 20' and half of that would be 10' which is already the required side setback in UR-8. There were no rebuttal or closing comments from staff, Mr. Schaubert or Mr. Morgan. Ms. Tipton presented the following evidence into the record:

- Town's Exhibit 1: Variance Application (3 pages total)
- Town's Exhibit 2: Copy of check and receipt for variance fee
- Town's Exhibit 3: Buffer map of property owners within 200 feet
- Town's Exhibit 4: List of property owners within 200 feet
- Town's Exhibit 5: Notice of variance request to property owners within 200 feet
- Town's Exhibit 6: Certificate of Mailing
- Town's Exhibit 7: Aerial map
- Town's Exhibit 8: Picture of property posting

John DeWitt made a motion to close the public hearing. The motion was seconded by Jillian Ballard and approved by a vote of 5-0. The board found the following:

1. There are exceptional conditions and circumstances pertaining to this piece of property because there is a sewer line that cuts through the middle of the property and the drainage field radii make it nearly impossible to have a side or rear porch leaving only the option for a front porch.
2. There are unnecessary hardships because the sewer line cuts through the property and requires a 20' easement and the drainage fields require a 30' radius that cannot be built into.
3. The hardship did not result from actions taken by the property owner because the sewer line and drainage fields were in existence prior to the owner purchasing the property.
4. The variance will be in harmony with the purpose and intent of the Land Use Code because it makes the lot buildable and will be uniform with the neighboring lot on the side setback and the footprint is consistent with other requirements. The variance will not be injurious because the porch will not be too close to the street and the lot will be buildable. John DeWitt made a motion to approve the variance as presented with no conditions. The motion was seconded by Bob Osmundsen and approved by a vote of 5-0.

V. ZBA COMMISSION/STAFF COMMENTS – Reports, Communications and Announcements

None at this time.

VI. PUBLIC COMMENT

None at this time.

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VII. ADJOURNMENT

John DeWitt made a motion to adjourn at 6:24 p.m. The motion was seconded by Jillian Ballard and approved by a vote of 5-0.

Prepared by:

Cheryl Milton, Chair

Jennifer Tipton, Zoning Administrator

Jillian Ballard, Secretary

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