



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 Zoning Board of Adjustment
From: Jennifer Tipton, Zoning Administrator
Re: Agenda Packet for June 21, 2018
Date: June 11, 2018

The **Town of Black Mountain Zoning Board of Adjustment** will meet on **Thursday, June 21, 2018 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 April 19, 2018 and May 17, 2018; and
3. Variance Request for 18 Wordsworth Road.

Please let Jennifer Tipton know if you are unable to attend this meeting.
jennifer.tipton@townofblackmountain.org or (828) 419-9373.

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) 419-9373 or by email at jennifer.tipton@townofblackmountain.org.

CC: Jessica Trotman, Planning Director
Ron Sneed, Town Attorney



PUBLIC NOTICE

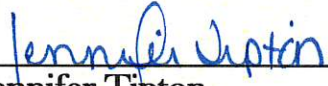
BLACK MOUNTAIN ZONING BOARD OF ADJUSTMENT

REGULAR MEETING

Thursday, June 21, 2018 at 6:00 p.m.

The Black Mountain Zoning Board of Adjustment will meet for their monthly meeting on **Thursday, June 21, 2018 at 6:00 p.m.** at Town Hall, 160 Midland Avenue, Black Mountain, N.C. The purpose of this meeting is to consider a variance request for 18 Wordsworth Road, PIN #0619-31-7318.00000, to allow the owner to encroach three feet (3') into the rear setback.

The meeting is open to the public.



Jennifer Tipton
Zoning Administrator

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, Zoning Administrator at (828) 669-2030 or by email at Jennifer.tipton@townofblackmountain.org

Posted to the Town Bulletin Board 06/01/18

www.townofblackmountain.org



**Zoning Board of Adjustment Regular Meeting
June 21, 2018**

PROPOSED AGENDA

- I. CALL TO ORDER**
 - Welcome
 - Declare 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 April 19, 2018 and May 17, 2018 as written [or as amended]
- IV. OLD BUSINESS**
- V. NEW BUSINESS**
 - Variance Request for 18 Wordsworth Road
- VI. COMMUNICATION FROM ZONING BOARD OF ADJUSTMENT**
- VII. COMMUNICATION FROM STAFF**
- VIII. ADJOURNMENT**

Town of Black Mountain Staff Report for a Variance

Case No.: V-18-05

Case Name: 18 Wordsworth Road

Hearing Date: June 21, 2018

Procedure: Zoning Board of Adjustment

Address of Variance Request:

18 Wordsworth Road

Black Mountain, NC 28711

PIN # 0619-31-7318

Applicant:

Jane Coates and Lynn Hawthorne

20 Keats Road

Black Mountain, NC 28711

Request:

The applicant is seeking a variance from the rear setback to build a new single family residence. The applicant is proposing to encroach 3' into the required 20' rear setback due to an existing sidewalk in the front of the property.

City Staff:

Jennifer Tipton, Zoning Administrator

Staff Recommendation:

Grant the variance as requested.



Jennifer Tipton, Zoning Administrator

Contents of the Report:

Report Detail

Exhibit 1 – Variance Application

Exhibit 2 – Site Plan

Exhibit 3 – Copy of Check and Receipt

Exhibit 4 – Buffer Map of Property Owners within 200'

Exhibit 5 – Property Owners within 200'

Exhibit 6 – Notice to Property Owners within 200'

Exhibit 7 – Certificate of Mailing

Exhibit 8 – Aerial Map

Exhibit 9 – Picture of Posting of Property

I. SUMMARY OF REQUEST

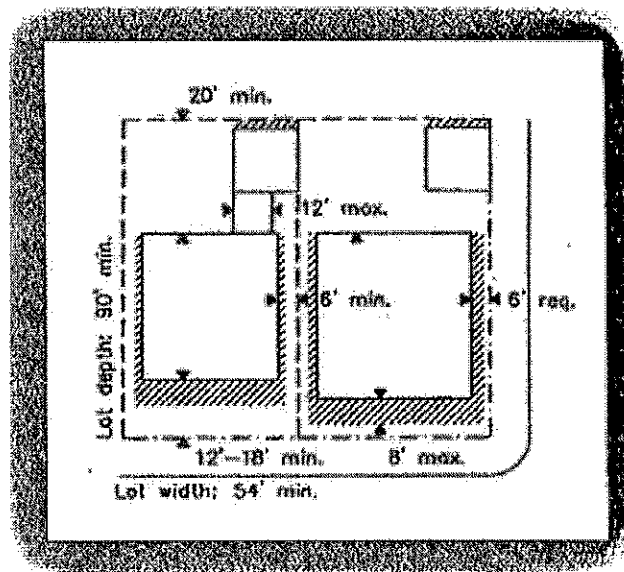
The applicant is proposing to encroach 3' into the required 20' rear setback to build a new single family residence.

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 TND (traditional neighborhood district) and is located in the Village of Cheshire. New single family residences are allowed and have setbacks of 12' – 18' in the front, 6' on the sides and 20' in the rear.



The surrounding properties are zoned and developed for residential use. (See Exhibit 8 – Aerial Map).

	North	South	East	West
Adjacent Zoning Designation	TR-4 (town residential)	TND (traditional neighborhood)	TND (traditional residential)	TR-4 (town residential)
Adjacent Land Uses	Residential (single family)	Residential (multi-family)	Residential (multifamily)	Residential (single family)

Existing Conditions

The site is located in the Village of Cheshire. The existing grade of the site is 12.58%. There is access to the site from Wordsworth Road. The existing site is .15 acres and does not have a stream running through it or near it nor is it in the floodway or floodplain. There is an existing sidewalk that runs through the front of the property. (See Exhibit 3).

Development History

The Village of Cheshire was approved as a TND in 1998. The original plat showed a sidewalk easement of two feet along the properties on Wordsworth Road. The easement is recorded in Plat Book 98 Page 157. (See Exhibit 10).

IV. NOTIFICATION

Notice of the variance request and hearing was mailed to 28 property owners within 200 feet of the project site. Public notice was posted on the Town bulletin board on June 1, 2018 and on the Town of Black Mountain website on June 1, 2018. Public notice appeared in the Black Mountain News the week of June 7, 2018. The property was posted with a notice listing the time and date of the hearing. (See Exhibit 9). To date, no comments have been received regarding this variance request.

V. ANALYSIS

The applicant owns a vacant lot that is located in the Village of Cheshire. The site meets the minimum lot size requirements as dictated by the Cheshire guidelines. The owners are looking for the opportunity to build a single family residence, which is a permitted use, and is a similar land use of neighboring properties. Due to the sidewalk encroaching into the front yard and the minimum front setback, the applicants are seeking to encroach into the rear setback to allow the house to sit on the lot.

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 on 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). The applicant is stating that because of the encroachment of the sidewalk on the front of the property into the minimum front setback, they cannot place the house to conform to the setbacks. The current setbacks are 12' – 18' in the front, 6' on the sides and 20' in the rear.

Therefore, the owners are requesting to encroach three feet into the rear setback giving a desired area for the house to sit without impacting the sidewalk and while complying with the Cheshire Architectural Review Committee (ARC). The house will meet all other requirements and applicable standards for the TND district.

Staff's analysis is that single family residences are a permitted use in the TND district, the house will conform to all of the other setbacks and there would not be a negative impact on neighboring properties as surrounding properties are residential.

VI. REQUIRED FINDINGS

Section 1.7.3 (D) of the Town of Black Mountain Land Use Code allows the zoning board of adjustment to grant a variance in an individual case of hardship if the variance request meets the criteria outlined in Section 1.7.3 (D) (1-4). The following is staff's analysis and findings as they relate to the criteria for granting a variance.

1. Are there exceptional conditions and circumstances pertaining to the particular piece of property, structure or building because of its size, shape or topography, historical contribution or location that are not applicable to other lands or structures in the same district?

Analysis: Yes because the sidewalk encroaches into the minimum front setback and to meet the minimum front setback the house needs to be pushed back on the lot so the house is not constructed on the sidewalk.

2. Are there unnecessary hardships in the way of carrying out the strictest letter of the Town land use regulations or the specific requirements of the zoning district? (The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing the property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded a self-created hardship.)

Analysis: Yes because the sidewalk was installed prior to the owners purchasing the lot and the sidewalk encroaches into the minimum front setback and a structure can't be built on the sidewalk.

3. Will the variance be in harmony with the purpose and intent of this chapter and will the variance be injurious to the neighborhood or to the general welfare?

Analysis: Yes the variance will be in harmony as it will allow the property owners to build a single family residence like other properties surrounding the lot. The variance will not be injurious as it will be single family home with the proper front setback and a minimal encroachment into the rear setback and will be similar in size and scale of other homes in the surrounding area.

4. Is the variance a request to permit a use of land, building, or structure which is not permitted in the district involved?

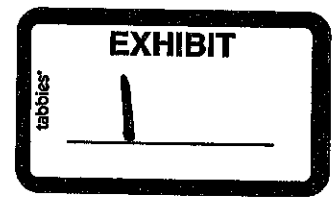
Analysis: No as single family residences are a permitted use by right in the TND district.

VII. STAFF RECOMMENDATION

Based upon the information and materials provided in the staff report, the Town of Black Mountain staff recommends that the Zoning Board of Adjustment find that:

- a. The notification and posting requirements as stated above in the Notification section have been met; and
- b. The strict application of the zoning ordinance would result in peculiar or unnecessary hardship on the property owners because the sidewalk encroaches into the required front yard setback; and
- c. The requested variance will be in harmony with the purpose and intent of the this chapter, will not be injurious to the neighborhood or to the general welfare; and
- d. The requested variance is not a request for a use that is not permitted; and

GRANT the Variance Request Case Number V-18-05, to allow for a 3' encroachment into the 20' rear setback as proposed in the attached site plan.



Town of Black Mountain

160 Midland Avenue ♦ Black Mountain, North Carolina ♦ 28711

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

OFFICE OF THE ZONING ADMINISTRATOR

APPLICATION FOR VARIANCE

Date: 5/21/2018

To: ZONING ADMINISTRATOR
TOWN OF BLACK MOUNTAIN

NAME OF OWNER AND ADDRESS OF THE REAL ESTATE AFFECTED BY THE PROPOSED VARIANCE:

Jane Coates & Lynn Hawthorne
18 Wordsworth Road Bk Mtn, NC 28711 (LOT 51)

PROPERTY DESCRIPTION/PIN #: 18 Wordsworth Road (Lot) ^{Bldg} Pin# 0619-31-7318-00000

CURRENT ZONING CLASSIFICATION: TND

THIS PROPERTY IS CURRENTLY USED FOR THE PURPOSE OF:

Primary Residence - Cheshire Village

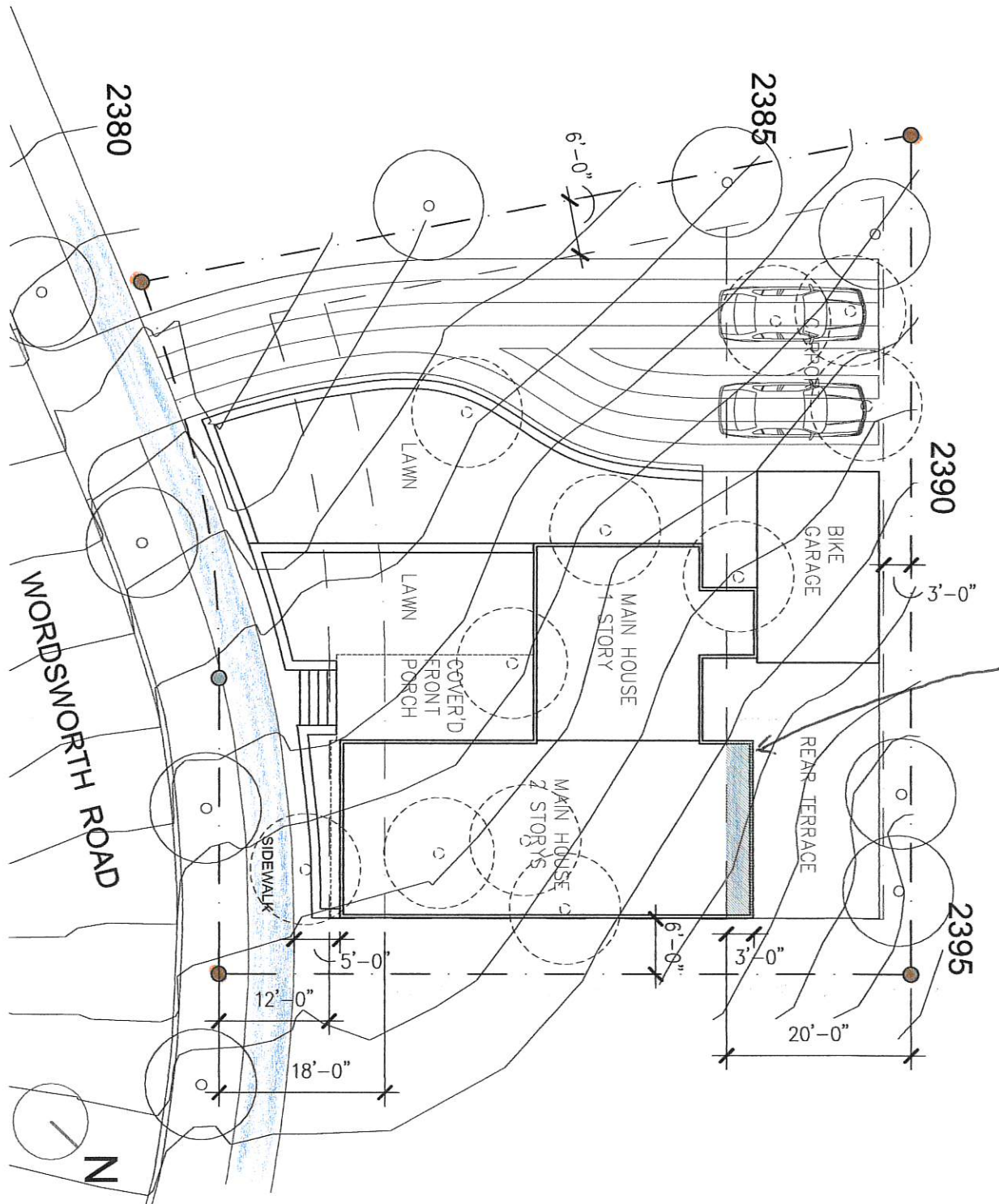
THE VARIANCE IS REQUESTED TO ALLOW THE PROPERTY OWNER TO:

We are requesting 3' x 19' into the rear setback due to
conditions unique to this lot; sidewalk encroachment
in front of the property does not allow us ~~the~~ enough room
to encroach into the front setback. House is sitting in the desired area per ARC
ATTACHED HERETO IS A PLOT PLAN OF THE REAL ESTATE AFFECTED, INDICATING THE SIZE OF THE LOT, SIZE OF IMPROVEMENTS NOW ERECTED, AND THOSE PROPOSED TO BE ERECTED.

THE APPLICANT BELIEVES THAT THE VARIANCE BE GRANTED FOR THE FOLLOWING REASONS:

- ① We met with ARC for Cheshire and they stated that
they will approve variance on ~~comments~~ ^{size} due
to sidewalk issue and the desired driveway placement
per ARC. PER RYAN REQUEST VARIANCE THROUGH TOWN Bk Mtn.
- ② The Home ^{will be} located in the area as drawn per
site plan (SEE ATTACHED site plan)

SIGNATURE OF APPLICANT: Jane Coates Lynn Hawthorne



*Chester APC
3' x 19' min. w/c (per Ryan McEllen)*

NOT FOR CONSTRUCTION

PROJECT NAME COATES HAWTHORNE RESIDENCE				DATE MAY 21, 2018			
PROJECT NUMBER 18.01				REVISION # -			
DRAWN BY SH				SCALE 3/32" = 1'-0"			
CHECKED BY SH				DATE -			
PHASE SD-1				COPYRIGHT 2018 BRICKSTACK ARCHITECTS, PLLC			

SITE PLAN Lot 51 18 Wordsworth
COATES / Hawthorne

A1

18 Wordsworth Road - 200' Buffer

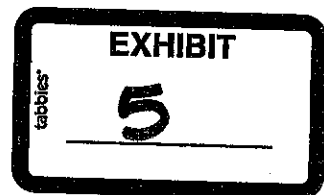
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EXHIBIT

4



<u>Name</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>	<u>PIN #</u>
Jane Coates & Lynn Hawthorne	20 Keats Road	Black Mountain	NC	28711	0619-31-7318
Benjamin & Davette Buchanan	114 Hill Street	Black Mountain	NC	28711	0619-31-6423
Joseph & Carol Tyson	309 N. Dougherty Street	Black Mountain	NC	28711	0619-31-8763
Joseph & Carol Tyson	309 N. Dougherty Street	Black Mountain	NC	28711	0619-31-5713
Joseph & Mildred Lytle	PO Box 699	Black Mountain	NC	28711	0619-31-4428
George & Rebecca Webb	108 Hill Street	Black Mountain	NC	28711	0619-31-4204
C S Ragan LLC	14 Jane Jacobs Road	Black Mountain	NC	28711	0619-31-5105
Jane Coates & Lynn Hawthorne	20 Keats Road	Black Mountain	NC	28711	0619-31-6224
James Vickers	22 Keats Road #20	Black Mountain	NC	28711	0619-31-6238
Johanna Cressy	6 Fitzgerald Road	Black Mountain	NC	28711	0619-31-6362
Robert & Jane Sumner	1211 Silversmith Circle	Gastonia	NC	28056	0619-31-7474
Walter Biber III & Carol Black	6447 Whitney Woods	Richland	MI	49083	0619-31-8447
Gretchen Naff	26 Wordsworth Road	Black Mountain	NC	28711	0619-31-9436
Nancy Dinsmore & John Cox	725 Dragon Drive	Mt Pleasant	SC	29464	0619-41-0405
Fonville Properties LLC	PO Box 11309	Charlotte	NC	28220	0619-31-9343
Thomas & Therese Kosten	4615 Holt Street	Bellaire	TX	77401	0619-31-8965
Robert & Lisa Singletary	8117 Netherlands Dr	Raleigh	NC	27606	0619-31-7279
Robert & Lori Cottone	13040 SW 30th Ct	Davie	FL	33330	0619-31-8218
Christine Corwin	6 Fitzgerald Road	Black Mountain	NC	28711	0619-31-8246
Fitzgerald Townhomes Homeowners Asc	2010 S Tryon St, Ste. 1C	Charlotte	NC	28203	0619-31-8214
Fitzgerald North LLC	PO Box 398	Wrightsville Beach	NC	28480	0619-31-9204
Fitzgerald North LLC	PO Box 398	Wrightsville Beach	NC	28480	0619-31-9232
James & Wanda Schmidt	14 Fitzgerald Road	Black Mountain	NC	28711	0619-31-9271
Fitzgerald North LLC	PO Box 398	Black Mountain	NC	28711	0619-31-9139
Congaree Holdings LLC	811 9th St., Ste. 120-129	Durham	NC	27705	0619-31-7034
Carolyn Wilson	1 Fitzgerald Road	Black Mountain	NC	28711	0619-31-7157
Marvin & Donna Davis	3 Fitzgerald Road	Black Mountain	NC	28711	0619-31-7176
Cindy Nord	PO Box 989	Blythewood	SC	29016	0619-31-7195
Michael & Linda Creed	PO Box 398	Wrightsville Beach	NC	28480	0619-31-8124
Fitzgerald Townhomes Homeowners Asc	2010 S Tryon St, Ste. 1C	Charlotte	NC	28203	0619-31-7181





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: **June 1, 2018**

TO: Name
Address
City, State, Zip

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

Name of owner and address of the real estate affected by the proposed variance:

**Jane Coates and Lynn Hawthorne
18 Wordsworth Road**

Property Description/PIN #: **06919-31-7318.00000**

Current Zoning Classification: **TND (traditional neighborhood district)**

This property is currently used for the purpose of: **Primary residence in Cheshire Village**

The variance is requested to allow the property owner to:

We are requesting 3' x 19' into the rear setback due to conditions unique to this lot; sidewalk encroachment in front of the property does not allow us enough room to encroach into the front setback. The house is sitting in the desired area per the Architectural Review Committee (ARC).

The applicant believes that the variance be granted for the following reasons:

- 1. We met with the ARC for Cheshire and they stated that they will approve a variance due to the sidewalk issue and the desired driveway placement per ARC.**
- 2. The home will be located in the area as drawn per site plan (see attached site plan).**

A public hearing will be held on Thursday, June 21, 2018 @ 6:00 p.m. in the Board Room of Town Hall at 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.

CERTIFICATE OF MAILING

This is to certify that the foregoing document (NOTICE OF VARIANCE REQUEST FOR 18 WORDSWORTH) has been duly served by depositing a copy of the same in the United States Mail, first-class, postage pre-paid, to the following:

Jane Coates & Lynn Hawthorne
20 Keats Road
Black Mountain, NC 28711

Joseph & Carol Tyson
309 N. Dougherty Street
Black Mountain, NC 28711

George & Rebecca Webb
108 Hill Street
Black Mountain, NC 28711

James Vickers
22 Keats Road #20
Black Mountain, NC 28711

Robert & Jane Sumner
1211 Silversmith Circle
Gastonia, NC 28056

Gretchen Naff
26 Wordsworth Road
Black Mountain, NC 28711

Fonville Properties LLC
PO Box 11309
Charlotte, NC 28220

Robert & Lisa Singletary
8117 Netherlands Drive
Raleigh, NC 27606

Christine Corwin
6 Fitzgerald Road
Black Mountain, NC 28711

Benjamin & Davette Buchanan
114 Hill Street
Black Mountain, NC 28711

Joseph & Mildred Lytle
PO Box 699
Black Mountain, NC 28711

C S Ragan LLC
14 Jane Jacobs Road
Black Mountain, NC 28711

Johanna Cressy
6 Fitzgerald Road
Black Mountain, NC 28711

Walter Biber III & Carol Black
6447 Whitney Woods
Richland, MI 49083

Nancy Dinsmore & John Cox
725 Dragon Drive
Mt. Pleasant, SC 29464

Thomas & Therese Kosten
4615 Holt Street
Bellaire, TX 77401

Robert & Lori Cottone
13040 SW 30th Ct
Davie, FL 33330

Fitzgerald Townhomes Homeowners
2010 S Tryon St., Ste. 1C
Charlotte, NC 28203

Fitzgerald North LLC
PO Box 398
Wrightsville Beach, NC 28480

Congaree Holdings LLC
911 9th St., Ste. 120-129
Durham, NC 27705

Marvin & Donna Davis
3 Fitzgerald Road
Black Mountain, NC 28711

Michael & Linda Creed
PO Box 398
Wrightsville Beach, NC 28480

Jennifer Tipton
Jennifer Tipton, CZO
Zoning Administrator

James & Wanda Schmidt
14 Fitzgerald Road
Black Mountain, NC 28711

Carolyn Wilson
1 Fitzgerald Road
Black Mountain, NC 28711

Cindy Nord
PO Box 989
Blythewood, SC 29016

6/1/18
Date

Buncombe County, North Carolina

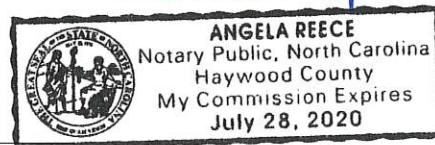
I certify that the following person personally appeared before me this day,
acknowledging to me that she signed the foregoing document: Jennifer Tipton

Date: June 1, 2018

Notary Signature: Angela Reece

Notary Printed Name: Angela Reece

My Commission Expires: July 28, 2020



(Official Seal)

[illegible]

Case No. V-18-05
18 Wordsworth Road
PIN #0619-31-7318

tabbles®

EXHIBIT

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VARIANCE

JUNE 21, 2018

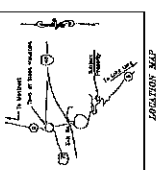
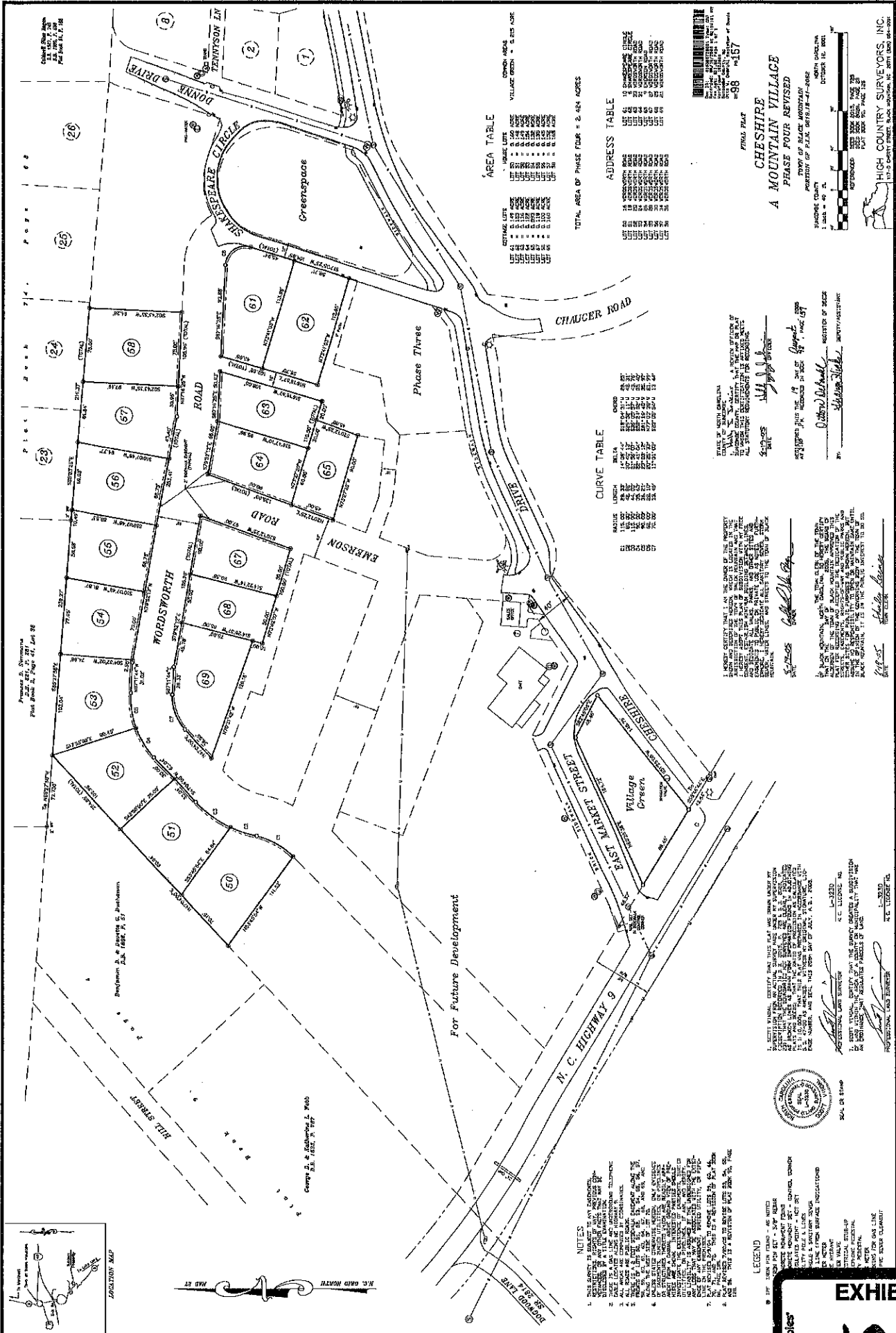
6:00 P.M.

*Town Hall
160 Midland Avenue
Black Mountain, NC 28711
828-419-9373 for more information*

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EXHIBIT

9



N. C. ROAD NORTH
ROAD 27

Corner of Wordsworth & Road 27
N. C. ROAD NORTH

For Future Development

AREA TABLE

REMARKS	AREA
1. TOTAL AREA	10.00
2. VILLAGE GREEN	0.50
3. CHAUCER ROAD	0.25
4. EMERSON ROAD	0.25
5. WORDSWORTH ROAD	0.25
6. DONN DRIVE	0.25
7. SINKHOLE CIRCLE	0.25
8. TANTON LANE	0.25
9. GREENHOUSE	0.25
10. TOTAL AREA	10.00

TOTAL AREA OF PHASE FOUR = 2.424 ACRES

ADDRESS TABLE

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