



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 March 21, 2024
Date: March 11, 2024

The **Town of Black Mountain Board of Adjustment** will meet on **Thursday, March 21, 2024, 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 June January 18, 2024; and
3. Variance Request – 114 Louisa 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



PUBLIC NOTICE
AVISO PÚBLICO

BLACK MOUNTAIN BOARD OF ADJUSTMENT

REGULAR MEETING
REUNIÓN ORDINARIA

Thursday, March 21, 2024, at 6:00 p.m.
Jueves 21 de Marzo de 2024, a las 6:00 p.m.

The Black Mountain Board of Adjustment will meet for their monthly meeting on **Thursday, March 21, 2024, 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 21 de Marzo de 2024 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 03/01/2024
www.townofblackmountain.org



**Board of Adjustment Regular Meeting
March 21, 2024**

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 January 18, 2024, as written [or as amended]

IV. OLD BUSINESS

V. NEW BUSINESS

- Variance Request – 114 Louisa 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, January 18, 2024, 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
Chloe Riddle
Andy Homrich
Nicole Stallings, Alternate
John Hines, Alternate
Linda Brinson, Alternate

Absent:

Ben Cooper

Staff:

Jennifer Tipton, Senior Admin
Russell Cate, Planner I/Zoning Administrator

The meeting was called to order at 6:07 p.m. and duly constituted and opened for business with a quorum of four (4) regular members and three (3) alternates.

II. ADOPTION OF AGENDA

Larry Pearlman made a motion to adopt the agenda as presented. The motion was seconded by Andy Homrich and approved by a vote of 5-0.

III. ADOPTION OF MINUTES

Andy Homrich made a motion to adopt the minutes of November 16, 2023, as amended. The motion was seconded by Chloe Riddle and approved by a vote of 5-0.

IV. OLD BUSINESS

None.

V. NEW BUSINESS

1. Review of Order for 710 Laurel Avenue Variance

The board reviewed the order granting the variance request for 710 Laurel Avenue. Larry Pearlman noted two typo/grammatical changes for the order. Andy Homrich made a motion to approve the order as amended. The motion was seconded by Lauren Dodgin and approved by a vote of 5-0.

VI. COMMUNICATION FROM BOARD OF ADJUSTMENT

None.

VII. COMMUNICATION FROM STAFF

Jennifer Tipton introduced new alternate member Linda Brinson.

Board of Adjustment Regular Meeting
January 18, 2024

Ms. Tipton said that there will be a training opportunity coming up in March through the School of Government and will give out more details as they become available.

VIII. ADJOURNMENT

With no further business, the meeting was adjourned at 6:10 p.m.

Prepared by:

Lauren Dodgin, Chair

Jennifer Tipton, Senior Admin

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

Case No: V-24-01

Case Name: 114 Louisa St.

Hearing Date: March 21, 2024

Procedure: Variance Evidentiary Hearing

Address of Variance Request:

114 Louisa Street

Black Mountain, NC 28711

PIN # 0619-48-1069-00000

Applicant:

Steven and Christina Little

114 Louisa St.

Black Mountain, NC 28711

Request:

The applicant is seeking a variance from the rear setback requirement of 15 feet, reducing it to two feet. The context of the request is the construction of a 30-foot by 24-foot (720 square feet) secondary dwelling.

Town Staff:

Jennifer Tipton, Clerk to Board of Adjustment

Russell Cate, Planner 1/Zoning Administrator

I. SUMMARY OF REQUEST

The applicant is seeking a variance from the rear setback requirement of 15 feet, reducing it to two feet, to accommodate the construction of a secondary dwelling. Item *A* in Section 5.11 of the Land Use Code states that secondary dwellings shall meet the setbacks of the principal structure. Section 4.7.15 of the Land Use Code states that the rear setback requirement in the Urban Residential (UR-8) zoning district, in which the parcel is located, is 15 feet.

The principal structure is a single family residence that Buncombe County lists as having a total finished area of 2,328 square feet. A 720 square foot secondary dwelling would conform to the requirement in item *C* of Section 5.11 of the Land Use Code that secondary dwellings be no more than 50 percent of the square footage of the livable area of the primary structure (and never more than 1,100 square feet).

In addition to the total finished area of 2,328 square feet, the residence has a 552 square foot garage.

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 Urban Residential (UR-8) and the required setbacks are as follows:

Section 4.7.15 - Dimensional Requirements for 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 for residential and commercial use. All but one of the properties are developed.

	North	Southwest	Southeast	East	West
Adjacent Zoning Designation	UR-8	UR-8	NMU-8	UR-8	UR-8
Adjacent Land Uses	Residential (single-family)	Residential (single-family)	Vacant Lot	Commercial Class C Building (Black Mountain Masonic Lodge)	Residential (single-family)

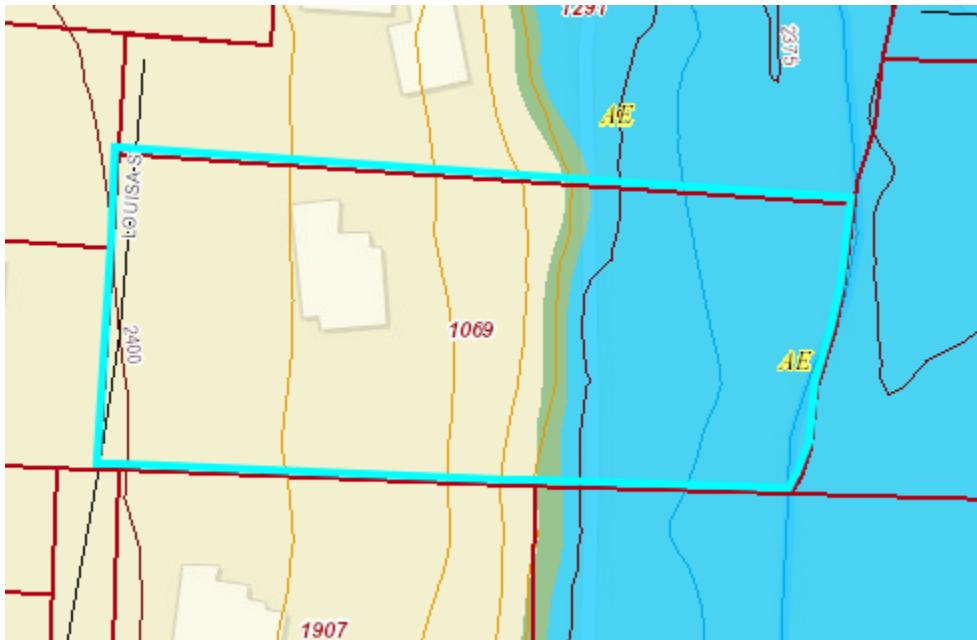
Existing Conditions

The subject property is a .83-acre parcel in the UR-8 zoning district. The average slope of the lot is 10.15%.

Below is an image from the FEMA Flood Map Service Center (msc.fema.gov).



Below are two images from Buncombe County GIS. The first has the *5 Foot Contours*, *Stream & River*, and *2020-DFIRM Foodway* layers turned on. The second also has *2023 Imagery* turned on.



Below is a street view of the property from Louisa St. (GoogleMaps; image date: Oct. 2022).



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 March 1, 2024. Legal notice appeared in the Black Mountain News the weeks of March 7, 2024, and March 14, 2024. The property was posted with a notice listing the time and date of the hearing.

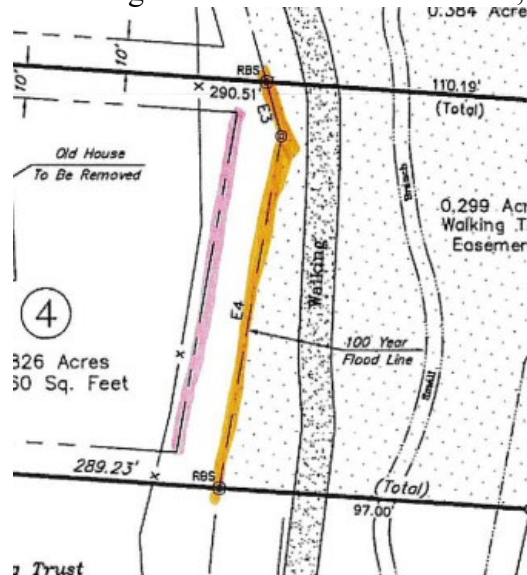
V. ANALYSIS

Staff's analysis is that the applicant's site plan (drawn on a copy of a Surveyor-prepared *Boundary & House Location* plat dated 10/31/2014) depicts both the edge of the walking trail easement (which also is the edge of the FEMA blue *AE* zone) and the 15-foot rear setback line exactly in alignment with the respective lines depicted on the recorded subdivision plat for the parcel (dated 1/9/2014).

From applicant's site plan:



From recorded subdivision plat (orange highlighting is the edge of the walking trail easement and edge of the FEMA blue AE zone; purple is the 15-foot rear setback line):



The depiction of the secondary dwelling (in yellow on the applicant's site plan) shows the structure right up to the walking trail easement (which is also the edge of the FEMA blue AE zone), thus depicting a zero-foot setback as opposed to what the applicant's stated in the application: a two-foot setback. This is a minor graphical error that can be fixed by the applicant showing the entire rear of the secondary dwelling conforming to a two-foot setback, including writing a note on the site plan stating that the distance between the rear of the structure and the point at which it's closest to the line is no less than two feet.

Staff notes that a two-foot setback (as opposed to a smaller distance) provides space that is recommended as a best practice to prevent a building plan triggering flood regulations related to a heat pump or similar exterior feature encroaching into a flood zone.

Section 4.4.3(A) of the Town of Black Mountain Land Use Code states that "Yard and setback requirements shall be met unless variance is granted by the board of adjustment."

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

Steven + Christina Little

Owner Address (Number, Street, City, State, ZIP)

114 Louisa St. Black Mtn. NC 28711

Home Phone

Cell Phone

828.342.1938

Email Address

Kriste@ewingconstruction.co

APPLICATION FOR VARIANCE

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

Section Number(s): 1.7.3 Section Title(s): Variances

Subsection letter(s) and/or number(s): Subsection Title(s):

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):

Attached is my Survey with the desired location of the Secondary dwelling in yellow. I am requesting the current setback (in green) be pushed back 13 feet to the red line.

PROPERTY INFORMATION

Parcel Number

0619-48-1069

Current Zoning

UR-8

Acreage

.826 acres

Address

114 Louisa St.

Average Slope %

23%

Use of Property

Primary Residence

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.

Kriste J. Little
Petitioner Signature1/29/2024
Date**OFFICE USE ONLY**

Date Received:

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

Our hardship results from conditions that are peculiar to our property. Our actual lot is .826 acres. However, .299 acres are taken up by the “walking trail easement”. We pay taxes on the entire property and have for the past 10 years and are happy to provide the town with a nice location for a greenway right through our lot.

We do not want to encroach on the actual easement area, nor do we want to take away from what the greenway provides for the public, but we would like to be able to use the space right up to the easement line.

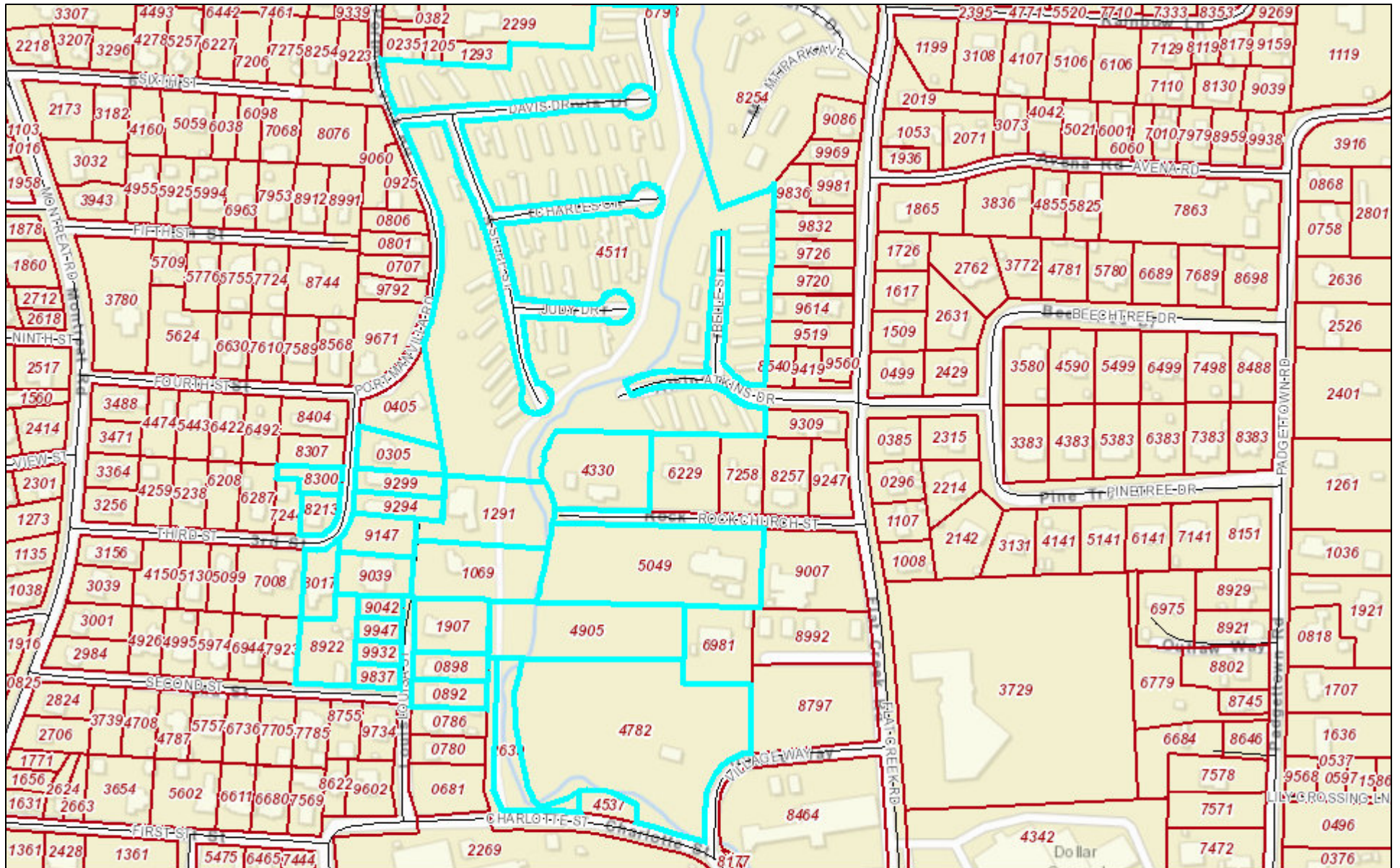
We would like to request that the setback back be pushed back 13 feet. On the attached survey, you can see the desired location of the secondary dwelling in yellow. Our request is that the setback be pushed back from the current setback (the line in green) to the easement line (the line in red).

There are several reasons we would like to utilize this part of our lot, but the major one is that the slope drops off drastically in those 13 feet and therefore we would be able to build the 24x24 structure on a basement and keep the footprint and visual impact as minimal as possible and it is a cost-effective way to build my father a place to live.

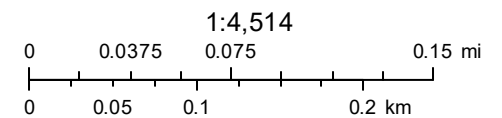
Thank you for taking the time to review and consider this request.

Steve and Kriste Little

Buncombe County



March 5, 2024



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

PINNUM	OWNER	ADDRESS
'061937892200000'	VITELLI STEPHEN M;VITELLI DIANA M	113 2ND ST
'061937983700000'	BLACK MOUNTAIN SECOND STREET LLC	75 WESTOVER DR
'061937993200000'	JOLINDA M COLLINS REVOCABLE LIVING TRUST	109 LOUISA ST
'061937994700000'	KELLY M KAVANAGH AND MARY ELLEN OCONNELL JOINT REVOCABLE TRUST	2814 GLADE VALE WAY
'061938801700000'	HALL KEVIN M;HALL PHOEBE A	122 WOODBURN DR
'061938821300000'	TAZE HOLDINGS LLC	1540 HEALING SPRINGS DR
'061938830000000'	SLOME SHAWN LEX;CONINO MARY CANDACE	115 3RD ST
'061938903900000'	LEIVE GARY W;LEIVE SUSAN H	119 LOUISA ST
'061938904200000'	PHILLIPS RANDEL E;PHILLIPS EMILY H	113 LOUISA ST
'061938914700000'	REED LEE S;REED NANCY K	121 LOUISA ST
'061938929400000'	ROSS DAVID F	811 HIAWASSEE AVE
'061938929900000'	ENTELIS STEVEN J;ENTELIS LORRAINE P	118 3RD ST
'061947089200000'	LEIVE PROPERTIES LLC	119 LOUISA ST
'061947089800000'	HUNLEY DONALD L;HUNLEY SHERRY LOUISE	114 EASTWOOD AVE
'061947190700000'	CARTER CHARLES L III	4516 SOUTH LAKE ORLANDO PKWY
'061947263900000'	TOWN OF BLACK MOUNTAIN	160 MIDLAND AVE
'061947478200000'	KERSHNER GREGORY JOHNSON;KERSHNER SHANNON JOHNSON	772 SPRINGLAKE LN NW
'061947490500000'	KERSHNER GREGORY JOHNSON;KERSHNER SHANNON JOHNSON	772 SPRINGLAKE LN NW
'061948030500000'	SALAS FAMILY TRUST MICHAEL A SALAS (TRUSTEE)(ETAL)	PO BOX 1580
'061948106900000'	LITTLE STEVEN DOUGLAS;LITTLE CHRISTINA J	114 LOUISA ST
'061948129100000'	BUDDE JOHN;BUDDE KATHLYN	PO BOX 1468
'061948433000000'	HART SAMUEL;HART KATHY	110 ROCK CHURCH ST
'061948451100000'	THE STEPP-NICHOLS CO INC	PO BOX 1338
'061948504900000'	BLACK MOUNTAIN MASONIC LODGE # 663	PO BOX 663

[illegible]



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: **March 9, 2024**

TO: **Property Owner**

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

ADDRESS OF PROPOSED VARIANCE:

114 Louisa Street

PIN #: **0619-48-1069.00000**

CURRENT ZONING CLASSIFICATION: **UR-8**

THIS PROPERTY IS CURRENTLY USED FOR THE PURPOSE OF:

single-family residence

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

Chapter 4, Section 4.7.15 and Chapter 5, Section 5.11

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

To encroach 13' into the rear setback of 15' just short of the easement for the greenway.

An evidentiary hearing will be held on Thursday, March 21, 2024 @ 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.

SECTION 5.11 SECONDARY DWELLINGS

5.11.1 Secondary dwellings.

Secondary dwellings may be located in a building separate from the principal dwelling subject to the following requirements:

- A. Secondary dwellings shall meet the setbacks of the principal structure as set forth for the zoning district in which it is located.
- B. Secondary dwellings shall be built to North Carolina Residential Building Code Standards.
- C. The secondary dwelling size shall not exceed 50 percent of the square footage of the livable area of the primary structure or 1,100 square feet, whichever is less.
- D. No secondary dwelling will be sited between the principal building and an adjacent public roadway, not including a private alleyway or driveway.
- E. Only one secondary dwelling unit shall be permitted per zoning lot.
- F. The exterior of the secondary dwelling will be of same style as the principal residence in terms of exterior material, siding, roof pitch, window detailing, roofing materials, and foundation or skirting appearance.
- G. If a manufactured home, the secondary dwelling shall not be pulled up to or attached to the primary residence, and must meet the requirements for manufactured housing in section 5.16 of this chapter.
- H. Adequate off-street parking shall be provided at a ratio of two cars per dwelling unit on the same lot.
- I. If there will be no public sanitary sewer service to the secondary dwelling, the county health department shall approve a septic system prior to construction.
- J. Lots with duplexes shall not be allowed a secondary dwelling.

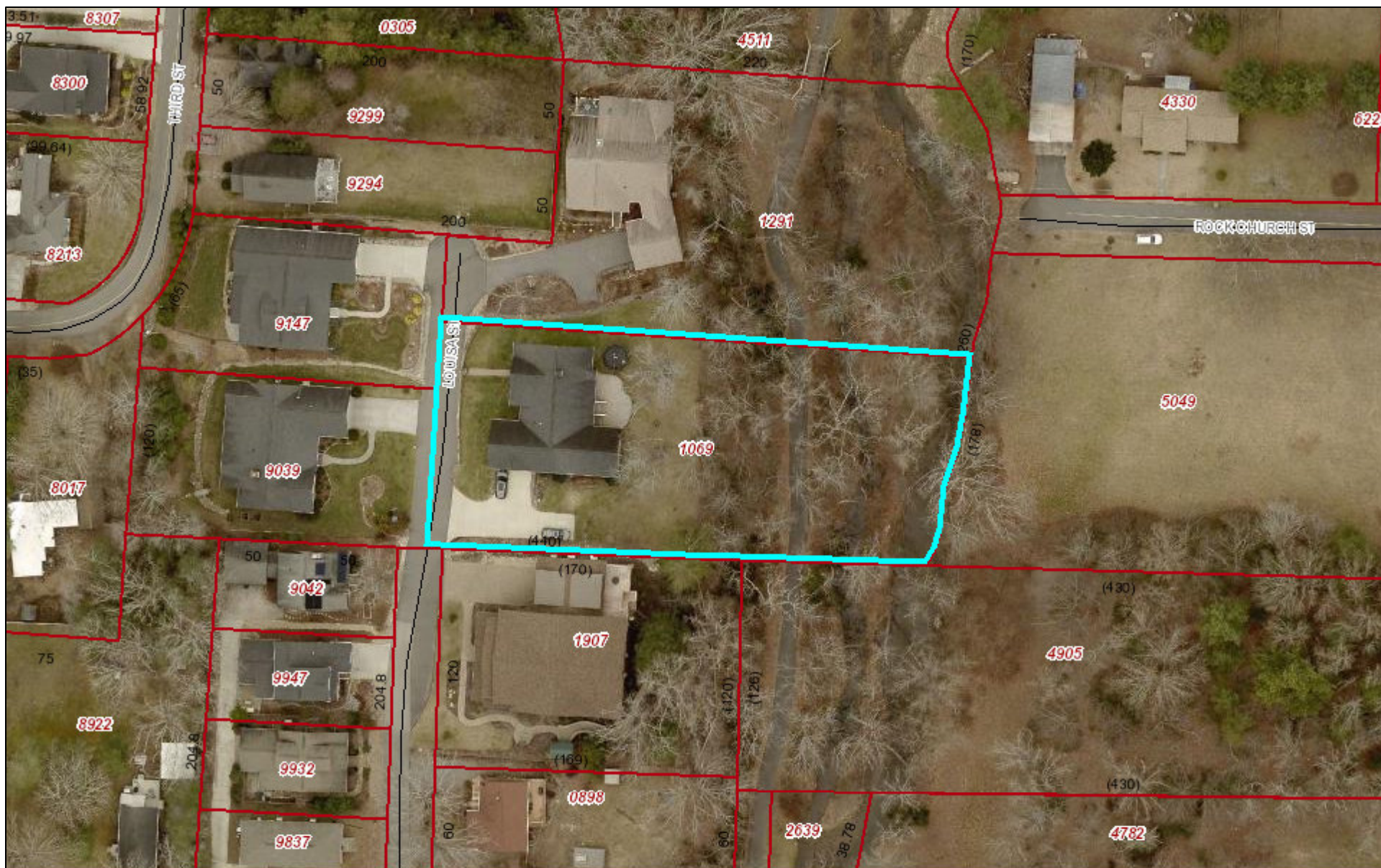
4.7.15 Dimensional requirements by zoning district.

Dimensional Requirements by Zoning District

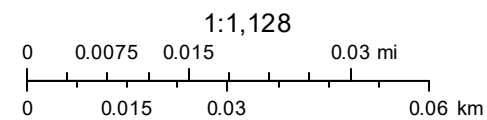
Zoning District*	Use	Density and Lot Size			Minimum Yard Requirements			Max. Height
		Min. Lot Size/ Max. Density	Min. Width (ft.)	Min. Depth (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height (ft.)
CR-1	All Uses	1 acre, 1 DUA	80, 15 at street	100	30, 25 steep hillside	10	30**	35
SR-2	All Uses	½ acre, 2 DUA	60, 15 at street	100	30, 25 steep hillside	10	30	35
TR-4	All Uses	¼ acre, 4 DUA	40, 15 at street	80	20, 15 steep hillside	10	15	35
UR-8	Major Subdivision	½ acre, 8 DUA	15	None	20, 15 steep hillside	10	15	35
	Other Residential	5,000 sq. ft.	15	None	20, 15 steep hillside	10	15	35
	Non-Residential	½ acre	40, 15 at street	None	20, 15 steep hillside	10	15	35
OI-6	Residential	½ acre, 6 DUA	60	100	30	10	20	35
	Non-Residential	½ acre	100	100	40	30	30, 40 abutting residential district	35
NMU-8	Residential	½ acre, 8 DUA	50	100	25	10	10	35
	Non-Residential	½ acre	75	100	25	20	10, 20 abutting residential district	35
CBD	All Uses	None	None	None	12 from curb	none, comply with fire and building code	none, comply with fire and building code	40
HB-8	Residential	½ acre, 8 DUA	50 ft.	None	15	10	30	40
	Non-Residential	None	50	None	15	10, 20 abutting residential district	20, 30 abutting residential district	40
LI-8	Residential	½ acre, 8 DUA	50 ft.	None	15	10	30	55
	Non-Residential	None	None	None	0 on private street, 30 on public street, 50 across from residential district	10, 20 abutting residential district	20, 30 abutting residential district	55

HI-0	All Uses	None	None	None	15	10, 20 abutting residential district	20, 30 abutting residential district	48
*See Land Use Code Section 5 for requirements related to accessory structures and secondary dwellings								

Buncombe County



March 5, 2024





LEGAL NOTICE

BLACK MOUNTAIN BOARD OF ADJUSTMENT

EVIDENTIARY HEARING

Thursday, March 21, 2024, at 6:00 p.m.

The Black Mountain Board of Adjustment will meet on **Thursday, March 21, 2024, 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 114 Louisa Street, PIN #0619-48-1069.0000, to reduce the rear setback to construct a secondary dwelling.

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 02/29/2024
Published in the Black Mountain News 03/07/2024 and 03/14/2024

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