MEMORANDUM

To: Town of Black Mountain Zoning Board of Adjustment  
From: Jennifer Tipton, Zoning Administrator  
Re: Agenda Packet for June 18, 2020  
Date: June 5, 2020

The Town of Black Mountain Zoning Board of Adjustment will meet on Thursday, June 18, 2020, 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 January 16, 2020;
3. Appeal of Zoning Administrators Decision;
4. Variance Request for 400 S Cherokee Avenue; and
5. Variance Request for 714 Rhododendron Avenue.

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  
Josh Harrold, Town Manager
PUBLIC NOTICE

BLACK MOUNTAIN ZONING BOARD OF ADJUSTMENT

REGULAR MEETING

Thursday, June 18, 2020, at 6:00 p.m.

The Black Mountain Zoning Board of Adjustment will meet for their regular monthly meeting on Thursday, June 18, 2020, 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 714 Rhododendron Avenue to reduce the side setback from 10’ to 2.5’; to consider a variance request for 400 S Cherokee Avenue to reduce the side setback from 10’ to 9.5’; and to hear an appeal from the decision of the Zoning Administrator regarding heavy equipment service at 410 Blue Ridge Road.

The meeting is open to the public and social distancing measures will be in place. No more than ten people will be allowed in the board room at one time.

_________________________
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 06/01/2020
www.townofblackmountain.org
Zoning Board of Adjustment Regular Meeting
June 18, 2020

PROPOSED AGENDA

I. CALL TO ORDER
   • Welcome
   • Determination of Quorom

II. ADOPTION OF AGENDA
   • Motion: To adopt the agenda as presented [or as amended]

III. ADOPTION OF MINUTES
   • Motion: To adopt the minutes from January 16, 2020 as written [or as amended]

IV. OLD BUSINESS

V. NEW BUSINESS
   • Appeal of Zoning Administrator’s Decision – 6:00 p.m.
   • Variance Request for 400 S Cherokee Avenue – 6:45 p.m.
   • Variance Request for 714 Rhododendron Avenue – 7:30 p.m.

VI. COMMUNICATION FROM ZONING BOARD OF ADJUSTMENT

VII. COMMUNICATION FROM STAFF

VIII. ADJOURNMENT
TOWN OF BLACK MOUNTAIN
ZONING BOARD OF ADJUSTMENT

The Black Mountain Zoning Board of Adjustment held its regular meeting on Thursday, January 16, 2020, 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
   Rebecca Harris, Secretary
   Ted Mattson
   Bob Osmundsen
   Janet McKimpson
   Charlotte McRanie
   Greg Feightner

   Staff:
   Jennifer Tipton, Zoning Administrator

The meeting was called to order at 6:08 p.m. and duly constituted and opened for business with a quorum of four (4) regular members and three (3) alternates. Member Rebecca Harris arrived at 6:15 p.m.

II. ADOPTION OF AGENDA
Agenda was not adopted.

III. ADOPTION OF MINUTES
No minutes were adopted.

IV. OLD BUSINESS
None.

V. NEW BUSINESS
The board was given the new boards and commissions handbook. Chair Cheryl Milton spoke about social media. There was a differing of opinions among members regarding the social media policy. Jennifer Tipton asked that everyone sign that they had received the handbook and return to her.

VI. COMMUNICATION FROM ZBA
None.

VII. COMMUNICATION FROM STAFF
None.

VIII. ADJOURNMENT
Chair Cheryl Milton adjourned the meeting at 6:22 p.m.
Prepared by:

Cheryl Milton, Chair

Jennifer Tipton, Zoning Administrator

Rebecca Harris, Secretary
June 3, 2020

Chair to the Board of Adjustment
160 Midland Avenue
Black Mountain, NC 28711

VIA Email and Regular Mail

RE: Jeffery Hall (Hall’s Towing and Recovery) Appeal to the Board of Adjustment

Dear Chair:

Pursuant to N.C.G.S. §160A-388 (b1)(5), please find enclosed the Record in the above referenced case, which I am transmitting to the Board of Adjustment. If you have any questions, please do not hesitate to contact me.

Sincerely,

Jennifer Tipton

Enclosure

CC:  Mr. Jeffery Hall
    Ronald E. Sneed, Esq.
    Board of Adjustment Members
    Jessica Trotman, Planning Director
    Josh Harrold, Town Manager
BEFORE THE TOWN OF BLACK MOUNTAIN BOARD OF ADJUSTMENT  
BUNCOMBE COUNTY

JEFFEREY HALL OF HALLS TOWING  )
AND RECOVERY APPEAL OF ZONING  )
ADMINISTRATOR’S DECISION  )
410 BLUE RIDGE ROAD  )
BLACK MOUNTAIN, NC 28711  )

RECORD

<table>
<thead>
<tr>
<th>Document</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Letter Dated February 11, 2020 re: decision</td>
<td>1</td>
</tr>
<tr>
<td>Land Use Code Section 4.6.3 (TR-4 Zoning District)</td>
<td>2</td>
</tr>
<tr>
<td>Land Use Code Section 1.2.3 (Definitions)</td>
<td>4</td>
</tr>
<tr>
<td>Appeal Application Dated</td>
<td>6</td>
</tr>
<tr>
<td>Legal Notice</td>
<td>7</td>
</tr>
<tr>
<td>Certificate of Service</td>
<td>8</td>
</tr>
</tbody>
</table>
February 11, 2020

Jeffrey Hall
PO Box 23
Black Mountain, NC 28711

Dear Mr. Hall,

This correspondence is in regards to your request for zoning approval to add heavy equipment repair services to Bud Hall Towing & Recovery located at 410 Blue Ridge Road. This parcel is zoned Town Residential (TR-4).

The business conducted at the aforementioned location includes towing, vehicle storage, recovery, and automotive repair and services. The current use is determined to be “automotive sales and service” and is a legally operating non-conforming use under the 2010 zoning ordinance.

Legally non-conforming uses are allowed to operate under updated zoning conditions provided the use operates continuously, does not change in use and does not increase or intensify the non-conformity. The current use does not include repair or services of heavy equipment.

The Land Use Code includes a separate and distinct use in the table of permitted uses for heavy equipment sales, rental and services and automotive services. The legally operating non-conforming use, therefore, does not include services related to heavy equipment.

The Land Use Code states in section 1.3.1 (B): A nonconforming use of land or buildings or structures shall not be changed to any new use other than a use listed as permitted or conditional within the district in which it is located.

Below is a table of uses allowed in the TR-4 zoning district.
<table>
<thead>
<tr>
<th>PERMITTED BY RIGHT</th>
<th>ADDITIONAL REQUIREMENTS (see Chapter 5)</th>
<th>CONDITIONAL USES</th>
<th>SPECIAL USES</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Accessory Structures Agriculture Bed and Breakfast Homes</td>
<td>Bed and Breakfast Inns</td>
<td>Residential Special Use Developments:</td>
</tr>
<tr>
<td>Government facilities</td>
<td>Boarding House Camps, summer</td>
<td>Cultural, Community Facilities</td>
<td>Conservation Subdivisions</td>
</tr>
<tr>
<td>Parks and open space areas</td>
<td>Conference Centers</td>
<td>Educational facilities</td>
<td>Cottage Housing (CHD)</td>
</tr>
<tr>
<td>Places of worship</td>
<td>Family Care Homes</td>
<td>Multi-family residential</td>
<td>Residential Planned Unit Development (PUD)</td>
</tr>
<tr>
<td>Public Utilities</td>
<td>Home Occupations</td>
<td></td>
<td>Manufactured Home Parks</td>
</tr>
<tr>
<td>Single-Family Residences</td>
<td>Manufactured Homes (on individual lots)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Two-family Residences (duplex)</td>
<td>Market Gardens</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Recreation services, outdoor</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Secondary Dwellings</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

This decision may be appealed to the Zoning Board of Adjustment within thirty (30) days of receipt of this notice.

If you have any additional questions please feel free to contact our office at (828) 419-9300, option 4.

Respectfully,

Jennifer Tipton CZO  
Zoning Administrator
4.6.3 - Town residential district (TR-4).

4.6.3.1 Intent.

The town residential district is established to allow for a variety of housing types while maintaining an overall residential character with medium density. Any use which, because of its characteristics would interfere with the residential nature of the area is excluded.

4.6.3.2 Uses.

The chart below indicates the uses generally permitted in the TR-4 zoning district.

<table>
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</table>

**Exclusions:** Correctional institutions, all uses not specifically enumerated

4.6.3.3 Dimensional requirements (TR-4).

<table>
<thead>
<tr>
<th>Residential Uses</th>
<th>Density and Lot Size</th>
<th>Minimum Yard Requirements</th>
<th>Max. Height</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Min. Lot Size/Max. Density</td>
<td>Min. Width (ft.)</td>
<td>Min. St. Front (ft.)</td>
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</tbody>
</table>

<p>| | | | | | | | | |
|                  |                                      |                    |               |                  |                  |                  |                   |                        |</p>
<table>
<thead>
<tr>
<th>Other Uses</th>
<th>Minimum Lot Size</th>
<th>Minimum Yard Requirements</th>
<th>Max. Height</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Min. Lot Size (sq. ft.)</td>
<td>Width (ft.)</td>
<td>St. Front (ft.)</td>
</tr>
<tr>
<td>¼ acre (10,890 sq. ft.)</td>
<td>40 (15 ft. at street)</td>
<td>15</td>
<td>80</td>
</tr>
</tbody>
</table>

*A density bonus may be available for developments that include affordable housing units in accordance with chapter 12.

(Ord. No. O-17-05, § 2, 6-12-2017)
Market gardening: Cultivating herbs, plants, fruits, flowers, vegetables and home-made crafts for sale through local markets, including by not limited to tailgate markets, farmers markets, florists and produce stands, or for sale to restaurants or other establishment which serve them to the public.

Nurseries: Land or structures used to raise flowers, shrubs, and plants for sale, including greenhouses.

Alley: A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.

Amusements: Establishments engaged in providing entertainment for a fee, including arcades, bowling alleys, billiard or pool halls, miniature golf and any coin-operated machines or devices whether mechanical or electronic for use as a game; entertainment or amusement.

Animal boarding or kennel services: A commercial establishment in which dogs or other domesticated animals are housed, groomed, bred, boarded, trained or sold, for a fee or compensation.

Animal grooming services: Establishments primarily engaged in providing grooming services to domesticated animals.

Animal hospital: Establishment of licensed veterinary practitioners primarily engaged in the practice of veterinary medicine, dentistry, or surgery for animals; and establishments primarily engaged in providing testing services for licensed veterinary practitioners.

Animal or veterinary clinic: A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

Apartment unit: One or more rooms with a private bath and kitchen facilities comprising an independent self-contained dwelling in a building containing three or more dwelling units.

Art studio: The workshop of an artist, sculptor, photographer or craftsperson.

Automobile services or stations: (Also see “neighborhood fueling facility” which is distinct from this category) any building, garage, land area, or other premises or portion thereof, used for dispensing or selling vehicular fuels, or servicing and repair of automobiles. This term shall include:

Automobile wash, car wash or detail shop: Any building or premises or portions thereof used for cleaning, washing, and/or waxing automotive vehicles, such as passenger cars, trucks, and vans, and trailers.

Automobile body shop: Any premises which repairs, paints or works on the exterior of vehicles, including window repair and tinting.

Audio installation: Any premise which installs or repairs vehicle audio systems.

Automobile rentals: Establishments primarily engaged in renting passenger cars without drivers, generally for short periods of time.

Automobile sales: The use of any building, land area, or other premises for the display and sale of new or used automobiles, light trucks, vans, trailers, or recreational vehicles.

Automobile wrecking/salvage: An establishment that cuts up, compresses or otherwise disposes of motor vehicles.

Awning: A structure made of cloth, metal, or other material affixed to a building in such a manner that it shades windows or doors below, but is not a constructed canopy.

Bakery, retail: An establishment primarily engaged in the sale of bakery products. The products may be purchased from others or made on the premises.

Bakery, wholesale: Establishments primarily engaged in manufacturing fresh or frozen bread and bread-type rolls and fresh cakes, pies, pastries and other similar "perishable" bakery products for wholesale.
**TOWN OF BLACK MOUNTAIN PLANNING AND DEVELOPMENT SERVICES**

**APPEAL FORM** www.townofblackmountain.org

<table>
<thead>
<tr>
<th><strong>APPELLANT INFORMATION</strong></th>
</tr>
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<tbody>
<tr>
<td><strong>Name:</strong> Halls Towing &amp; Recovery Inc (Jeff Hall)</td>
</tr>
<tr>
<td><strong>Address:</strong> 412 Blue Ridge</td>
</tr>
<tr>
<td><strong>Phone #:</strong> 828-669-7106</td>
</tr>
<tr>
<td><strong>Email:</strong> <a href="mailto:halltowing79@gmail.com">halltowing79@gmail.com</a></td>
</tr>
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<thead>
<tr>
<th><strong>AEPEAL FROM DECISION OF ZONING ADMINISTRATOR</strong></th>
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<tbody>
<tr>
<td>This is an appeal from a decision of the Zoning Administrator, to wit:</td>
</tr>
<tr>
<td>TR 4 Great Southern Truck Auto Repair - Salvage Yard - Towing Service</td>
</tr>
<tr>
<td>Heavy Sales &amp; Services Shop</td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th><strong>AFFECTED PROPERTY</strong></th>
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<tbody>
<tr>
<td><strong>Address:</strong> 410 Blue Ridge Road</td>
</tr>
<tr>
<td><strong>PIN #:</strong> 0009-91-5276</td>
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<tr>
<td><strong>Zoning Classification:</strong> TR 4</td>
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<table>
<thead>
<tr>
<th><strong>GROUNDS FOR APPEAL</strong></th>
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<tbody>
<tr>
<td>Have been Great Southern IN for years - have been working on Heavy Equipment All Along</td>
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| **STATEMENT AND SUBSTANTIATION OF STANDING** |

<table>
<thead>
<tr>
<th><strong>ACKNOWLEDGEMENT</strong></th>
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<tbody>
<tr>
<td><strong>Appellant</strong></td>
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<tr>
<td><strong>Date:</strong> 3/13/2020</td>
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<table>
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<tr>
<th><strong>ATTORNEY FOR APPELLANT</strong></th>
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<tr>
<td><strong>Date:</strong> 3/13/2020</td>
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<tr>
<th><strong>OFFICE USE ONLY</strong></th>
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<tr>
<td><strong>Date Received:</strong> 3/13/2020</td>
</tr>
<tr>
<td><strong>Received by:</strong></td>
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Town of Black Mountain  
160 Midland Avenue, Black Mountain, NC 28711  
Phone: 828-419-9300 ~ Fax: 828-669-2030  
www.townofblackmountain.org
LEGAL NOTICE

BLACK MOUNTAIN ZONING BOARD OF ADJUSTMENT

EVIDENTIARY HEARING

Thursday, June 18, 2020 at 6:00 p.m.

The Black Mountain Zoning Board of Adjustment will meet on Thursday, June 18, 2020 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 an appeal from the Zoning Administrator’s determination the use of heavy equipment service and repair at 410 Blue Ridge Road, further identified as PIN #0609-91-5276.00000.

The meeting is open to the public, however, social distancing measures will be in place and no more than ten (10) people will be allowed in the room at one time.

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

Posted to the Town Bulletin Board 06/01/2020
Published in the Black Mountain News 06/04/2020 and 06/11/2020

www.townofblackmountain.org
CERTIFICATE OF SERVICE

This is to certify that the foregoing Record has been duly served by depositing a copy of the same in the United States Mail, first-class, postage pre-paid, as well as by electronic mail, to the following:

Mr. Jeffery Hall
PO Box 23
Black Mountain, NC 28711

Cheryl Milton
Member of Board of Adjustment
202 Mountain Street
Black Mountain, NC 28711
bullmilt@aol.com

John DeWitt
Member of Board of Adjustment
169 Hilltop Road
Black Mountain, NC 28711
drjohndewitt@me.com

Rebecca Harris
Member of Board of Adjustment
417 Avena Road
Black Mountain, NC 28711
rebecca@valleytruckservice.net

Robert Osmundsen
Member of Board of Adjustment
306 Chapel Road
Black Mountain, NC 28711
bob.osmundsen@gmail.com

Ted Mattson
Member of Board of Adjustment
1 Village Way
Black Mountain, NC 28711
matt53@bellsouth.net
Janet McKimpson
Alternate for Board of Adjustment
15 Lake Avenue
Black Mountain, NC 28711
alamomine@yahoo.com

Greg Feightner
Alternate for Board of Adjustment
559 Blue Ridge Road
Black Mountain, NC 28711
greg.feightner@gmail.com

Jessica Trotman
Planning Director
160 Midland Avenue
Black Mountain, NC 28711
jessica.trotman@townofblackmountain.org

Josh Harrold
Town Manager
160 Midland Avenue
Black Mountain, NC 28711
josh.harrold@townofblackmountain.org
<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>City</th>
<th>State</th>
<th>Zip</th>
<th>PIN #</th>
</tr>
</thead>
<tbody>
<tr>
<td>Halls Towing and Recovery Inc</td>
<td>PO Box 23</td>
<td>Black Mountain</td>
<td>NC</td>
<td>28711</td>
<td>0609-91-5276</td>
</tr>
<tr>
<td>Jeffery Dalton Hall</td>
<td>414 Blue Ridge Road</td>
<td>Black Mountain</td>
<td>NC</td>
<td>28711</td>
<td>0609-91-8533</td>
</tr>
<tr>
<td>George W Drummond and Angela B Drummond</td>
<td>63 Highland Drive</td>
<td>Black Mountain</td>
<td>NC</td>
<td>28711</td>
<td>0609-91-7291</td>
</tr>
<tr>
<td>M &amp; M Mountain Properties LLC</td>
<td>PO Box 1060</td>
<td>Black Mountain</td>
<td>NC</td>
<td>28711</td>
<td>0609-91-9491</td>
</tr>
<tr>
<td>Arnold Jones and Mary Sue Jones</td>
<td>405 Blue Ridge Road</td>
<td>Black Mountain</td>
<td>NC</td>
<td>28711</td>
<td>0609-90-7729</td>
</tr>
<tr>
<td>Deborah Jones Ogle and Larry K Ogle</td>
<td>407 Blue Ridge Road</td>
<td>Black Mountain</td>
<td>NC</td>
<td>28711</td>
<td>0609-90-6817</td>
</tr>
<tr>
<td>Christine A Kientz</td>
<td>111 Beechtree Drive</td>
<td>Black Mountain</td>
<td>NC</td>
<td>28711</td>
<td>0609-91-5072</td>
</tr>
<tr>
<td>Scotty A Wagner</td>
<td>739 N Morgan Branch Rd</td>
<td>Candler</td>
<td>NC</td>
<td>28715</td>
<td>0609-90-4829</td>
</tr>
<tr>
<td>Robt L Ellis and Laverne J Ellis</td>
<td>16 Old Lakey Gap Road</td>
<td>Black Mountain</td>
<td>NC</td>
<td>28711</td>
<td>0609-90-2947</td>
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<tr>
<td>Jeffery Dalton Hall</td>
<td>414 Blue Ridge Road</td>
<td>Black Mountain</td>
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<td>0609-91-4501</td>
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<td>0609-91-5417</td>
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<td>Jeffery D Hall</td>
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<td>0609-91-6453</td>
</tr>
</tbody>
</table>
DATE: June 4, 2020

TO: Property Owner

FROM: TOWN OF BLACK MOUNTAIN
ZONING ADMINISTRATOR

This is an appeal from a decision of the Zoning Administrator, to wit:

TR-4 grandfathered truck auto repair - salvage yard - towing service - heavy sales and services shop.

Address, PIN # and Zoning Classification of Property Affected: 410 Blue Ridge Road 0609-91-5276

Name, Address and Telephone Number of Party Appealing: Halls Towing and Recovery (Jeff Hall) 412 Blue Ridge Road, Black Mountain, NC 28711 828-669-7106

Brief Statement of Grounds for Appeal: Have been grandfathered in for years - have been working on heavy equipment all along.

An appeal hearing in the nature of certiorari will be held on Thursday, June 18, 2020 @ 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 APPEAL OF ZONING ADMINISTRATORS DECISION) has been duly served by depositing a copy of the same in the United States Mail, first-class, postage pre-paid, to the following:

Halls Towing and Recovery Inc
PO Box 23
Black Mountain, NC 28711

Jeffery Dalton Hall
414 Blue Ridge Road
Black Mountain, NC 28711

George W & Angela B Drummond
63 Highland Drive
Black Mountain, NC 28711

M & M Mountain Properties LLC
PO Box 1060
Black Mountain, NC 28711

Arnold & Mary Sue Jones
405 Blue Ridge Road
Black Mountain, NC 28711

Deborah Jones & Larry K Ogle
407 Blue Ridge Road
Black Mountain, NC 28711

Christine A Kientz
111 Beechtree Drive
Black Mountain, NC 28711

Scotty A Wagner
739 N Morgan Branch Road
Candler, NC 28715

Robt L & Laverne J Ellis
16 Old Lakey Gap Road
Black Mountain, NC 28711

Jennifer Tipton, CZO
Zoning Administrator

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: ___________________________.

Date: _________________________

Notary Signature: _________________________________

Notary Printed Name: ______________________________   (Official Seal)

My Commission Expires: ___________________________
Case No: V-20-02  Hearing Date: June 18, 2020
Case Name: 400 S Cherokee Ave  Procedure: Zoning Board of Adjustment

Address of Variance Request:
400 S Cherokee Avenue
Black Mountain, NC 28711
PIN #0619-07-2017.00000

Applicant:
Marion Wisner Revocable Living Trust
400 Thomas Street
Oxford, MS 38655

Request:
The applicant is seeking a variance to reduce the side setback from ten feet (10’) to nine and a half feet (9.5’) to subdivide the property.

City Staff:
Jennifer Tipton, Zoning Administrator

Contents of the Report:
Report Detail
Exhibit 1 – Variance Application (2 pages)
Exhibit 2 – Copy of Receipt
Exhibit 3 – Buffer Map of Property Owners within 200’
Exhibit 4 – List of Property Owners within 200’
Exhibit 5 – Notice to Property Owners within 200’
Exhibit 6 – Certificate of Mailing
Exhibit 7 – Aerial Map
Exhibit 8 – Picture of Posting of Property
Exhibit 9 – Staff Report
Exhibit 10 – Legal Notice
Exhibit 11 – Section 4.6.4.3
I. SUMMARY OF REQUEST

The applicant is requesting to reduce the west side setback from ten feet (10’) to nine and a half feet (9.5’) to subdivide the property and the two existing structures.

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:

4.6.4.3 Dimensional requirements (UR-8).

<table>
<thead>
<tr>
<th>Residential Uses</th>
<th>Density and Lot Size</th>
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<td>All Other Residential</td>
<td>5,000 sf</td>
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The surrounding properties are zoned and developed for residential use.

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<tr>
<th>Adjacent Zoning Designation</th>
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<th>South</th>
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<tr>
<td>Adjacent Land Uses</td>
<td>Residential (single-family)</td>
<td>Residential (single-family)</td>
<td>Residential (single-family)</td>
<td>Residential (single-family)</td>
</tr>
</tbody>
</table>

Existing Conditions

The subject property is a .36 acre parcel in the UR-8 zoning district. The average slope of the lot is 8.99%. Both residential structures were constructed in 1953 according to Buncombe County tax records. Zoning for the Town of Black Mountain was not put into place until the early 1980’s so the houses did not have to conform to any setbacks at the time of construction.

IV. NOTIFICATION

Notice of the variance request and hearing was mailed to 24 property owners within 200 feet of the project site. Public notice was posted on the Town bulletin board on June 1, 2020 and on the
V. ANALYSIS
The applicant purchased the property in March of 2016. The property was transferred to the trust in September of 2018. The owner has done some renovations of the property and recently demolished part of the structure facing S Cherokee Avenue.

In order to subdivide the property, there must be ten feet (10’) from the side of the structure to the property line with a total of twenty fee (20’) between both structures).

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).

Staff’s analysis is that twenty feet (20’) is required between the structures to accommodate the required ten foot (10’) side setbacks to be able to subdivide the property. The houses were constructed and in place prior to zoning requirements being in place for the Town of Black Mountain.
VARIANCE APPLICATION www.townofblackmountain.org

PROPERTY OWNER INFORMATION

Owner Name: The Marion F. Wisner Revocable Living Trust
Andrea Wisner, POA for Marion Wisner, Trustee

Owner Address (Number, Street, City, State, ZIP): 400 S. Cherokee Ave., Black Mountain, NC 28805

Home Phone: 727-365-2209
Cell Phone: Email Address: amwisner@yahoo.com

APPLICATION FOR VARIANCE

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

Section Number(s): Appendix A SECTION 4.6
Section Title(s): ZONING REGULATIONS BY DISTRICT Dimensional requirements (UR-8).

Subsection letter(s) and/or number(s): 4.6.4.3
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):

We have applied for minor subdivision of the property. See survey. The southeast corner of the house on the west side of the property would be only 9' 3" from the new property line between the 2 houses. 2 feet farther north on that east side of the same house it's the full 10 feet from the line, so it's just that little bit of corner sunroom that's the issue as the house is laid out at an angle to the property lines.

PROPERTY INFORMATION

Parcel Number: 0619-07-2017-00000
Current Zoning: UR-8
Acreage: 0.36 acres

Address: 400 S Cherokee Ave., Black Mountain NC 28711

Average Slope %: Less than 30%
Use of Property: Residential

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: 4/25/2020

OFFICE USE ONLY

Date Received: Fee: $350.00
Cash: ☐ Check: ☐ # Credit: ☐
Case Number: Meeting Date:
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.

   It seems that if we don’t get a variance for those few inches in that one spot (corner of house), we will not be able to divide the property. We already have put over $15,000 into dividing the property, and we have a buyer ready to buy the half that we are not keeping. We are not able to continue to maintain both houses. The house facing Cherokee is in poor condition and the buyer is ready to rehab it.

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.

   -There already are two houses on the property and the way they are situated there is just that tiny bit of the corner of the sunroom that is too close to the intended property line.

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.

   When we purchased the property we weren’t planning to divide it and didn’t realize that in the future setbacks might be an issue.

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 property is of such a size that there is sufficient space around each of the houses that are to be separated. The two new lot sizes will be 9,430 square feet, Cherokee Ave, house, and 6,239 square feet, Hickory St, house. The 6,239 is the lot in question, still well over the required minimum of 5,000 required per zoning. Again, the requested variance is just a matter of no more than 9 inches at just one corner of the Hickory St, house.
RECEIPT

Date: 4/27/2020  Amount Paid: 350

Customer: Andrea Wisner

For: variante application 400 S Cherokee

Balance: 0

Received by: [Signature]

CC

TOWN OF BLACK MOUNTAIN
Building, Planning & Zoning
160 MIDLAND AVE.
BLACK MOUNTAIN, NC 28711
(828) 419-9300
400 S Cherokee Avenue 200' Buffer
<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>City</th>
<th>State</th>
<th>Zip</th>
<th>PIN #</th>
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<tr>
<td>Marion F Wisner Revocable Living Trust</td>
<td>55 Piney Mountain Dr., Apt. 516</td>
<td>Asheville</td>
<td>NC</td>
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<td>Virginie Cloutier Pomeroy &amp; John Stewart Pomeroy</td>
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<td>407 Tomahawk Avenue</td>
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<td>OK</td>
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<td>Carol Lorraine Tanner</td>
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<tr>
<td>Robert E Sway &amp; Harriette H Fulton</td>
<td>60 Lake Pt</td>
<td>Sautee Nacoochee</td>
<td>GA</td>
<td>30571</td>
<td>0619-06-2973</td>
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<tr>
<td>Sue Shelley-Williams &amp; Robert J Williams</td>
<td>4191 Bay Beach Ln, Apt. 266</td>
<td>Fort Myers Beach</td>
<td>FL</td>
<td>33931</td>
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<tr>
<td>Christine B O'Connor</td>
<td>306 S Oconeechee Ave</td>
<td>Black Mountain</td>
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<tr>
<td>Alfred Gardner &amp; Margaret Gardner</td>
<td>107 Westwood Avenue</td>
<td>Swannanoa</td>
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<td>Virginia Carr Alexander</td>
<td>402 Hickory Street</td>
<td>Black Mountain</td>
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<td>0619-07-1017</td>
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<td>Levon Lindsey &amp; Mary L Lindsey</td>
<td>400 S Oconeeche Avenue</td>
<td>Black Mountain</td>
<td>NC</td>
<td>28711</td>
<td>0619-07-0048</td>
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<tr>
<td>Rhea W Bockhorst &amp; Anna Marcel De Hermanas</td>
<td>404 S Oconeechee Avenue</td>
<td>Black Mountain</td>
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<td>28711</td>
<td>0619-07-0186</td>
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<td>Patrick Forrest Dorsey &amp; Jessica Alexander Dorsey</td>
<td>406 S Oconeechee Avenue</td>
<td>Black Mountain</td>
<td>NC</td>
<td>28711</td>
<td>0619-07-0282</td>
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<tr>
<td>George L Foose &amp; Lisa O Foose</td>
<td>384 Montevista Ave</td>
<td>Marion</td>
<td>NC</td>
<td>28752</td>
<td>0619-07-0391</td>
</tr>
<tr>
<td>Jerry M Cannon &amp; Susan G Cannon</td>
<td>128 Woodside Ave</td>
<td>Narberth</td>
<td>PA</td>
<td>19072</td>
<td>0609-97-9200</td>
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<tr>
<td>Matthew B Howie</td>
<td>403 S Oconeechee Avenue</td>
<td>Black Mountain</td>
<td>NC</td>
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<td>0609-97-9103</td>
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<tr>
<td>Jonathan E Douglas &amp; Tiffany A Douglas</td>
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<td>0609-97-8097</td>
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</tbody>
</table>
NOTICE OF VARIANCE REQUEST
(REGARDING NEIGHBORS WITHIN 200 FEET OF PROPERTY)

DATE: June 4, 2020

TO: Property Owner

FROM: TOWN OF BLACK MOUNTAIN
ZONING ADMINISTRATOR

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

Marion Wisner Revocable Living Trust
400 S Cherokee Avenue

Property Description/PIN #: 0619-07-2017

Current Zoning Classification: UR-8

This property is currently used for the purpose of: residential

The variance is requested to allow the property owner to:

To be able to subdivide the property into two parcels that will each have an existing residence. One house sits at an angle and would be 9'-3" from the proposed new property line rather than the required 10'.

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

To be able to subdivide to sell one half of the lot with the house that is in poor condition to someone who wants to rehab the house.

A public hearing will be held on June 18, 2020 @ 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 FOR 400 S CHEROKEE AVENUE) has been duly served by depositing a copy of the same in the United States Mail, first-class, postage pre-paid, to the following:

Marion F Wisner Revocable Living Trust
55 Piney Mountain Drive, Apt. 516
Asheville, NC 28805

Virginie Cloutier Pomeroy
John Stewart Pomeroy
920 NC 9 Hwy
Black Mountain, NC 28711

Margaret H Warren
407 Tomahawk Avenue
Black Mountain, NC 28711

J Hunter Mitchell
409 Tomahawk Avenue
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David William Moller
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Harriette H Fulton
60 Lake Pt
Sautee Nacoochee, GA 30571

Sue Shelley-Williams
Robert J Williams
4191 Bay Beach Ln, Apt. 266
Fort Myers Beach, FL 33931

Alfred & Margaret Gardner
c/o Charles Mumpower
107 Westwood Avenue
Swannanoa, NC 28778

Levon Lindsey
Mary L Lindsey
400 S Oconeechee Avenue
Black Mountain, NC 28711
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Rhea W Bockhorst                             Patrick Forrest Dorsey
Anna Marcel De Hermanas                      Jessica Alexander Dorsey
404 S Oconeechee Avenue                      406 S Oconeechee Avenue
Black Mountain, NC 28711                     Black Mountain, NC 28711

George L Foose                               Jerry M Cannon
Lisa O Foose                                 Susan G Cannon
384 Montevista Avenue                        128 Woodside Avenue
Marion, NC 28752                              Narberth, PA 19072

Jonathan E Douglas                           Toby D Ives
Tiffany A Douglas                             Sarah Broughton-Ives
401 S Oconeechee Avenue                      313 S Oconeechee Avenue
Black Mountain, NC 28711                     Black Mountain, NC 28711

_______________________________   ______________________________
Jennifer Tipton, CZO                     Date
Zoning Administrator

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: ___________________________.

Date: _________________________

Notary Signature: _________________________________

Notary Printed Name: _____________________________    (Official Seal)

My Commission Expires: ___________________________
LEGAL NOTICE

BLACK MOUNTAIN ZONING BOARD OF ADJUSTMENT

EVIDENTIARY HEARING

Thursday, June 18, 2020 at 6:00 p.m.

The Black Mountain Zoning Board of Adjustment will meet on Thursday, June 18, 2020 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 400 S Cherokee Avenue, further identified as PIN #0619-07-2017.00000, to reduce the west side setback from 10’ to 9’3”.

The meeting is open to the public, however, social distancing measures will be in place and no more than ten (10) people will be allowed in the room at one time.

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

Posted to the Town Bulletin Board 06/01/2020
Published in the Black Mountain News 06/04/2020 and 06/11/2020

www.townofblackmountain.org
Town of Black Mountain Staff Report  
Zoning Board of Adjustment

**Case No:** V-20-01  
**Hearing Date:** June 18, 2020  
**Case Name:** 714 Rhododendron Ave  
**Procedure:** Zoning Board of Adjustment

**Address of Variance Request:**
714 Rhododendron Avenue  
Black Mountain, NC 28711  
PIN #0618-45-8043.00000

**Applicant:**
Scott MacKenzie & Deanna Kreisel  
400 Thomas Street  
Oxford, MS 38655

**Request:**
The applicant is seeking a variance to allow a deck and hot tub to extend into the ten foot (10’) side setback by seven and a half feet (7.5’).

**City Staff:**
Jennifer Tipton, Zoning Administrator

**Contents of the Report:**
- Report Detail
- Exhibit 1 – Variance Application (7 pages)
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- Exhibit 9 – Staff Report
- Exhibit 10 – Legal Notice
- Exhibit 11 – Section 4.3.3 (K)(3)
- Exhibit 12 – Section 2.1.4
I. SUMMARY OF REQUEST

The applicant is requesting to reduce the south side setback from ten feet (10’) to two and a half feet (2.5’) to accommodate a deck and hot tub.

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:

4.6.4.3 Dimensional requirements (UR-8).

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<td>Min. Width (ft.)</td>
<td>Min. Depth (ft.)</td>
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<td>Residential (single-family)</td>
</tr>
</tbody>
</table>

Existing Conditions
The subject property is a .14 acre parcel in the UR-8 zoning district. The average slope of the lot is 16.37%. A new single family residence was constructed on the site and granted a Certificate of Occupancy in January of 2020. The new construction met all setbacks at the issuance of the Certificate of Occupancy.

IV. NOTIFICATION
Notice of the variance request and hearing was mailed to 25 property owners within 200 feet of the project site. Public notice was posted on the Town bulletin board on June 1, 2020 and on the
Town of Black Mountain website on June 1, 2020. Legal notice appeared in the Black Mountain News the weeks of June 4, 2020 and June 11, 2020. The property was posted with a notice listing the time and date of the hearing.

V. ANALYSIS
The applicant purchased the home in February of 2020. The owners have added a twenty foot (20’) by twenty foot (20’) deck and hot tub on the front and side of the house. A deck is a permitted use and is a similar land use of neighboring properties.

Per Section 4.3.3 (K)(3), decks may encroach into the required side setback but can be no closer than six feet to the side property line. This would allow a deck to encroach a maximum of four feet (4’) into the side property line. The deck currently encroaches seven and a half feet (7.5) into the side property line. With the encroachment allowance, the actual amount of variance being requested would be three feet (3’).

The owners consulted with a contractor who informed them that a permit was not needed to add a deck and hot tub addition. Neither the contractor nor the homeowner called the Planning Department to check on setback or permit requirements.

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.

The homeowner states that the property is narrow and has a limited yard area with the north side of lot being a steep up-slope and the west side sloping down immediately beyond the existing deck.

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).

Staff’s analysis is that decks are a permitted use by right in the UR-8 district and the deck conforms to all other setback requirements for front and rear yard. A permit has been applied for and the deck and hot tub will need to be inspected by the Building Inspector to ensure conformance to all applicable building codes.
**APPLICATION FOR VARIANCE**

**PROPERTY OWNER INFORMATION**

<table>
<thead>
<tr>
<th>Owner Name</th>
<th>Scott MacKenzie and Deanna Kreisel</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner Address</td>
<td>400 Thomas St, Oxford, MS 38655</td>
</tr>
<tr>
<td>Home Phone</td>
<td>662-607-9777</td>
</tr>
<tr>
<td>Cell Phone</td>
<td></td>
</tr>
<tr>
<td>Email Address</td>
<td><a href="mailto:smackenzbc@yahoo.com">smackenzbc@yahoo.com</a></td>
</tr>
</tbody>
</table>

**APPLICATION FOR VARIANCE**

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

- **Section Number(s):** 4.6.4
- **Section Title(s):** Urban Residential District
- **Subsection letter(s) and/or number(s):** 4.6.4.3
- **Subsection Title(s):** Dimensional Requirements

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):

- Installation of hot tub in extended deck at level of existing deck with access from ground floor of house.

**PROPERTY INFORMATION**

<table>
<thead>
<tr>
<th>Parcel Number</th>
<th>Current Zoning</th>
<th>Acreage</th>
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<tbody>
<tr>
<td>0619-19-5142</td>
<td>UR-8</td>
<td>.13</td>
</tr>
</tbody>
</table>

**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.

__________________________  April 13, 2020
Petitioner Signature       Date

**OFFICE USE ONLY**

- **Date Received:**
- **Fee:** $350.00
- **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.

   Situation of house, size, shape, and topography of lot dictate that deck extension and hot tub installation cannot be accomplished on any part of lot without encroaching at least 7.5 feet on some part of 10-foot side setback.

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.

   Property has very narrow and limited yard area (see survey/plan) that is suitable for deck and hot tub. North side is steep up-slope, west side slopes down immediately beyond existing deck (see photo 1). Deck plan for south side is as narrow as can reasonably accommodate hot tub, especially since crawl space access is at west corner of south side of house (see photo 2).

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.

   Planning for deck was completed in discussion with contractor (All Star Fence) who stated that no permit would be required and no obstacles existed to construction as planned (see email).

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.

   Deck faces open lot (backyard of 712 Rhododendron Avenue) and is not in any proximity to house at 712 (see survey 2). Deck does not disrupt any potential uses of adjacent lot. Underside of deck will be concealed by trellis and decorative plantings. Access is unimpeded to rear of 714 lot, which is not suitable for use. In the absence of a deck, the outside space of 714 is not available for owner enjoyment — grassed area is narrow, sloping, and subject to dampness because of drainage from lots above 714.
Re: All Star Fence, Inc

From: Scott MacKenzie (smackenzbc@yahoo.com)
To: smackenzbc@yahoo.com
Date: Friday, April 10, 2020, 12:14 PM CDT

From: Cody Grindstaff <allstarfencenc@gmail.com>
To: Scott MacKenzie <smackenzbc@yahoo.com>
Sent: Friday, April 3, 2020, 04:50:57 PM CDT
Subject: Re: All Star Fence, Inc

Mr. MacKenzie,

We should be excluded from needing a permit due to size of the project. They set limits for size and cost of project. However, if overlooked we can straighten that out. As far as a drawing or site plan we can draw the layout based on the original drawing you sent us.

Sent from my iPhone

On Apr 3, 2020, at 5:37 PM, Scott MacKenzie <smackenzbc@yahoo.com> wrote:

Hi Cody,

I just got a letter from the Town of Black Mountain asking us to pull a permit for the deck and hot tub. Of course that's not what we were hoping to hear and we are pretty concerned about the town's setback requirement, which is 10 feet, subject to variance. We don't want to receive a violation, so we would like to try to work this out as soon as we can. I will fill out the permit application, but I'm going to need to provide a site plan. Are you able to come up with something like that for us?

Hope you're well
Scott
Survey 2 (showing 712 Rhododendron Ave)

- **Lot 2**: 5,792 square feet, 0.13 acres
  - Found 5/8" iron rod w/ cap (disturbed) reset
  - Overhang
  - Block garage
  - Multi-level residence #714

- **Lot "D"**: 1,250 square feet, 0.11 acres
  - 1 story residence #712
  - Planned deck & tub

- **Lot "C"**: 6,411 square feet, 0.15 acres
  - Found 5/8"
  - 2 story house
  - Deep pool

Open lot
RECEIPT

Date: 5/27/2020  
Amount Paid: 350  

Customer: Scott MacKenzie  

For: variance application - 714 Rhododendron  

Balance:  

Received by:  

TOWN OF BLACK MOUNTAIN
Building, Planning & Zoning
160 MIDLAND AVE.
BLACK MOUNTAIN, NC 28711
(828) 419-9300
714 Rhododendron Avenue 200' Buffer
<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
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<th>State</th>
<th>Zip</th>
<th>PIN #</th>
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<tr>
<td>Deanna Kreisel &amp; Scott MacKenzie</td>
<td>400 Thomas St</td>
<td>Oxford</td>
<td>MS</td>
<td>38655</td>
<td>0619-19-5412</td>
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<tr>
<td>Farmbound Holdings LLC</td>
<td>PO Box 5474</td>
<td>Asheville</td>
<td>NC</td>
<td>28813</td>
<td>0619-19-5027</td>
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<td>Rebecca E Askew &amp; Helen Cornelia Summerlin</td>
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<td>James Michael Baldwin &amp; Martha J Baldwin</td>
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<td>Alan F Huskins</td>
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<td>Jean E Stafford</td>
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<td>Heath K Rada &amp; Peggy F Rada</td>
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<td>Kent W Patton Et Al</td>
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<td>Shannon Kay Cooper &amp; Benjamin J Cooper</td>
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<td>Patricia M Osteen, Vickie Osteen, Edward Keith Osteen; Jed Douglas Osteen</td>
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<td>0619-19-6163</td>
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<td>Eric Charles Nystrom &amp; Melinda Mia Nystrom</td>
<td>7626 La Bosla Dr</td>
<td>Dallas</td>
<td>TX</td>
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<td>Donald B Stikeleather &amp; Diane B Ouellette</td>
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<td>Alejo Rottenberg</td>
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<td>Lynn C Mitchell</td>
<td>711 Rhododendron Ave</td>
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<td>Kara Kimberly Glenn</td>
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<td>Grayson B Deal &amp; Margaret Clayton</td>
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<td>Grayson B Deal</td>
<td>706 Azalea Ave</td>
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<td>28711</td>
<td>0619-19-2046</td>
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<tr>
<td>Janet E Blanchard &amp; Charles H Brown Jr</td>
<td>304 Allen Mountain Dr</td>
<td>Black Mountain</td>
<td>NC</td>
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<td>0619-19-2146</td>
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<tr>
<td>Mary C Parton &amp; Jim H Parton</td>
<td>714 Azalea Ave</td>
<td>Black Mountain</td>
<td>NC</td>
<td>28711</td>
<td>0619-19-2557</td>
</tr>
</tbody>
</table>
Attn: Christopher S Eller
DATE: June 1, 2020

TO: Property Owner

FROM: TOWN OF BLACK MOUNTAIN
ZONING ADMINISTRATOR

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

Scott MacKenzie and Deanna Kreisel
714 Rhododendron Avenue

Property Description/PIN #: 0619-19-5142.00000

Current Zoning Classification: UR-8 (urban residential)

This property is currently used for the purpose of: single family residence

The variance is requested to allow the property owner to:

Reduce the side setback from ten feet (10') to two and a half feet (2.5') to accommodate a deck and hot tub.

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

The property has a narrow and limited yard area and the west side is the only side to reasonably accommodate a deck and hot tub.

A public hearing will be held on Thursday, June 18, 2020 @ 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 714 RHODODENDRON AVENUE) has been duly served by depositing a copy of the same in the United States Mail, first-class, postage pre-paid, to the following:

Deanna Kreisel
Scott MacKenzie
400 Thomas Street
Oxford, MS 38655

Farmbound Holdings LLC
Attn: Christopher S Eller
PO Box 5474
Asheville, NC 28813

Rebecca E Askew
Helen Cornelia Summerlin
710 Rhododendron Avenue
Black Mountain, NC 28711

James Michael Baldwin
Martha J Baldwin
PO Box 415
Black Mountain, NC 28711

Alan F Huskins
702 Rhododendron Avenue
Black Mountain, NC 28711

Jean E Stafford
703 Holly Avenue
Black Mountain, NC 28711

Heath K Rada & Peggy F Rada
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Mary E Cockrell
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708 Holly Avenue
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Darrell E Johnson & Gayle Lynn
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Black Mountain, NC 28711

Shannon Kay Cooper
Benjamin J Cooper
PO Box 5472
Charlotte, NC 28299

Bruce S Cotton Jr
709 Holly Avenue
Black Mountain, NC 28711

Patricia M Osteen
Vickie Osteen
Edward Keith Osteen
Jed Douglas Osteen
705 Holly Avenue
Black Mountain, NC 28711

Stirico LLC
104 Parkway Vista Dr
Asheville, NC 28805

Carol Lynn Marett
718 Rhododendron Avenue
Black Mountain, NC 28711

Alejo Rottenberg
713 Rhododendron Avenue
Black Mountain, NC 28711
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Eric Charles Nystrom               Donald B Stikeleather
Melinda Mia Nystrom                 Diane B Ouellette
76726 La Bosla Drive                719 Rhododendron Avenue
Dallas, TX 75248                     Black Mountain, NC 28711

Robin Alan Glenn                    Lynn C Mitchell
Meredith K Glenn                    711 Rhododendron Avenue
16 Carolina Hts                     Black Mountain, NC 28711
Black Mountain, NC 28711

Kara Kimberly Glenn                 Blueberry Bungalow LLC
707 Rhododendron Avenue             513 Tomahawk Avenue
Black Mountain, NC 28711

Grayson B Deal                      Janet E Blanchard
Margaret Clayton                    Charles H Brown Jr
706 Azalea Avenue                   304 Allen Mountain Drive
Black Mountain, NC 28711
Black Mountain, NC 28711

Mary C Parton & Jim H Parton        Mary C Parton & Jim H Parton
714 Azalea Avenue                   714 Azalea Avenue
Black Mountain, NC 28711
Black Mountain, NC 28711

_______________________________   ______________________________
Jennifer Tipton, CZO      Date
Zoning Administrator

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: __________________________.

Date: _________________________

Notary Signature: _________________________________  (Official Seal)

Notary Printed Name: ______________________________
My Commission Expires: ___________________________
LEGAL NOTICE

BLACK MOUNTAIN ZONING BOARD OF ADJUSTMENT

EVIDENTIARY HEARING

Thursday, June 18, 2020 at 6:00 p.m.

The Black Mountain Zoning Board of Adjustment will meet on Thursday, June 18, 2020 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 714 Rhododendron Avenue, further identified as PIN #0619-19-5142.00000, to south side setback from 10’ to 2.5’.

The meeting is open to the public, however, social distancing measures will be in place and no more than ten (10) people will be allowed in the room at one time.

__________________________
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 419-9373 or by email at Jennifer.tipton@townofblackmountain.org

Posted to the Town Bulletin Board 06/01/2020
Published in the Black Mountain News 06/04/2020 and 06/11/2020

www.townofblackmountain.org