



CITY OF HENDERSONVILLE BOARD OF ADJUSTMENT

Operations Center - Assembly Room | 305 Williams St. | Hendersonville NC 28792
Tuesday, December 13, 2022 – 1:30 PM

AGENDA

1. **CALL TO ORDER**

2. **APPROVAL OF AGENDA**

3. **APPROVAL OF MINUTES**

A. Minutes of October 11, 2022

4. **OLD BUSINESS**

A. Approval of Decision - Rick Moore - B22-087-VAR

B. Approval of Decision - Maria Lawing - B22-093-VAR

5. **NEW BUSINESS**

A. 714 Florida Ave. – Variance (B22-107-VAR) – *Alexandra Hunt / Planner I*

6. **OTHER BUSINESS**

A. Approval of Annual Schedule of Regular Meetings

7. **ADJOURNMENT**

The City of Hendersonville 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 an accommodation for this meeting please contact the City Clerk no later than 24 hours prior to the meeting at 697-3005.

MINUTES OF THE HENDERSONVILLE BOARD OF ADJUSTMENT

Tuesday, October 11, 2022
1:30 p.m. in the City Operations Center

The Hendersonville Board of Adjustment held its regular monthly meeting on October 11, 2022, at 1:30 p.m. in the Assembly Room in City Operations Center, 305 Williams Street, Hendersonville, North Carolina. Those present were: Melinda Lowrance, Chair, Ernest Mowell, Vice-Chair, Laura Flores, Charles Webb, Kathy Watkins, Stefan Grunwald, Peter Hanley, Alexandra Hunt, Planner I, Daniel Heyman, Staff Attorney, Tyler Morrow, Planner II and Kathy Martin, Code Enforcement Officer.

Absent: Michael Edney, Libby Collina, Fred Nace

Chair called the meeting to order at 1:35 p.m.

Approval of the Agenda: A motion was made by Mr. Hanley to approve the agenda. The motion was seconded by Mr. Mowell and passed unanimously.

Approval of the Minutes of the September 13, 2022 meeting. A motion was made by Ms. Watkins and seconded by Mr. Hanley to approve the minutes as written. The motion passed unanimously.

Approval of the Decision: **B22-051-ADMIN** – OP Management Administrative Appeal. A motion was made by Mr. Mowell to approve the decision as written. Mr. Hanley seconded the motion which passed unanimously.

Variance – Rick Moore – 153 Queen Street (B22-087-VAR).

Chair stated today we have two public hearings to consider. First, a variance application from Rick Moore for the property located at 153 Queen Street and a variance from Maria Lawing for the property located at 1523 Dawnview Drive. Any persons desiring to testify in these hearings must first be sworn in. Since this is a quasi-judicial hearing, it is very important that we have an accurate record of what goes on here. Therefore, we must ask that you refrain from speaking until recognized by the Chair and, when recognized, that you come forward to the podium and begin by stating your name and address. Anyone present who has knowledge of anything of value that has been given or promised in exchange for a position to be taken on this application should disclose it now.

Chair swore in all persons to give testimony.

Chair opened the public hearing.

Alexandra Hunt, Planner I stated her name and title for the record. She stated staff is in receipt of an application from Rick Moore for a variance from Section 5-14-6.2 Dimensional Requirements of the Zoning Ordinance.

Ms. Hunt gave the project background:

The subject property is identified as PIN 9569-75-0342 and is zoned R-20, Low Density Residential. The variance request is to reduce the setback requirements of Section 5-14-6.2 from the required 35' from

the centerline of the street to 27' from the centerline for only townhomes numbered 1-10 as shown on the submitted preliminary site plan as Exhibit C in your staff report. The purpose of this variance is to reduce the amount of required fill within the 100-year flood zone as set out in Section 17-2-2(d) of the Zoning Ordinance.

The subject property is located at 153 Queen Street and is located in the ETJ. Based on Henderson County records, the lot size is approximately 13.26 acres. Henderson County records indicate that a NC General Warranty Deed between the Estate of Martha Kate Maxwell Lancaster (Grantor) and Rick Moore and Mitch Gaither (Grantees) was recorded on April 22, 2022. Additionally, Henderson County GIS shows a portion of the subject property is in the 100-year Floodplain.

A view of the subject property on the County GIS map showing the portion of the property in the Floodplain was shown and is included in the staff report.

The preliminary site plan submitted by the applicant was shown and is included in the staff report. Ms. Hunt explained the variance requested.

Site photos were shown of the property and are included in the staff report.

Section 10-9 pertaining to variances along with Section 17-2-2(d) pertaining to the Floodplain was shown and is included in the staff report.

Staff suggested motions were presented to the Board.

Ms. Hunt stated the applicant is present.

Chair asked if there were any questions for staff. There were no questions for staff.

Chair asked if there were any questions for the applicant. There were no questions for the applicants.

Chair asked if anyone would like to speak in favor or against the application.

Darrin May, 312 Queen Street stated he knew when the original construction of the house and the barn took place on that single one-lane road, it created quite an issue for residents coming in and out with the heavy equipment going up and down the road. Has there been any thought process to that so that it does not affect the residents trying to get in and out of that one-lane single road? That is his only concern. Tyler Morrow, Planner stated the timetable on this project got delayed a little bit so the variance is basically accompanying an application for preliminary plat and preliminary site plan review which is a function of the Planning Board. Corrections to that plat and site plan pushed that review to November Planning Board so this is the front end of that. The preliminary site plan they have requested requires this variance to be in place in order for them to be able to do that site plan. This is an aspect of that, he would think that the construction entrance is definitely a concern, and it would be more of a concern during the preliminary and site plan approval since it doesn't coordinate with the variance exclusively. He believes this would be something good to discuss during the November Planning Board.

Chair asked if anyone else would like to speak. When no one spoke, Chair closed the public hearing.

Mr. Mowell thought minimizing the impact of the flooding was a good idea. Filling the area was discussed along with the flooding of the property and keeping the structures away from the stream.

Mr. Mowell made the following motion: *With regard to the request by Rick Moore for a variance from Section 5-14-6.2: Setback Requirements to: Reduce the setback requirement from 35' to 27' for townhomes numbered 1-10 on the submitted preliminary site plan attached and labeled as Exhibit C. I move the Board to find that (a) strict enforcement of the regulations would result in practical difficulties or unnecessary hardship to the applicant, (b) the variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit, and (c) in the granting of the variance the public safety and welfare have been secured and substantial justice has been done. The motion was seconded by Mr. Grunwald.*

Chair called for the vote. The following vote was taken by a show of hands.

Mr. Hanley	Yes
Mr. Mowell	Yes
Mr. Webb	Yes
Ms. Lowrance	Yes
Mr. Grunwald	Yes
Ms. Flores	Yes
Ms. Watkins	Yes

The vote was unanimous. Motion approved.

Variance – Maria Lawing – 1523 Dawnview Drive (B22-093-VAR).

Chair opened the public hearing.

Ms. Hunt entered the amended staff report into the record which clarifies that the variance request is to reduce the front setback requirements from the required 25' to 19.5'.

Ms. Hunt gave the project background:

Staff is in receipt of an application from Maria Lawing for a variance from Section 5-4-3 Dimensional Requirements in accordance with the exception to the minimum front yard requirements in Section 8-1 Minimum Required Front Yard Dwellings. The subject property is identified as PIN 9569-33-8202 and is zoned R-10, Medium Density Residential. The variance request is to reduce the front setback requirements of Section 5-4-3 from the required 25' to 19.5' for the purpose of constructing a 10' x 14' sunroom on the front of the existing home to accommodate the needs of a person with a disability.

The subject property is located at 1523 Dawnview Drive and is approximately 0.2 acres. Based on Henderson County records a NC General Warranty Deed between Michael C. Anderson and Paula G. Anderson (Grantors) and Maria B. Lawing (Grantee) was recorded on June 20, 2013.

The subject property is 27' from the edge of the ROW for Dawnview Drive. Section 8-1 of the zoning ordinance is an exception to the front yard requirements for dwellings if the average front yards of existing buildings fronting the same side of the street is less than the minimum front yard requirement. The minimum front yard requirement in Section 5-4-3 is 25'. The average front setbacks of eight existing homes that front Dawnview Drive is 23.5' as indicated on the table included in your packet. This would allow the applicant a 23.5' front setback.

A visual of the proposed addition was shown. In order for the applicant to construct a 10' x 14' sunroom, they would need to reduce the required setback of 25' to 19.5'. With Section 8-1 exception, the applicant is requesting to encroach a total of 4.5' into the front setback to construct a 10' x 14' sunroom.

Section 10-9 pertaining to variances was shown and is included in the staff report.

The Joint Statement of the Department of Housing and Urban Development and the Department of Justice on Reasonable Accommodations Under the Fair Housing Act was included in the staff report and labeled Exhibit D.

Staff suggested motions were presented to the Board.

Ms. Hunt stated the applicant is present.

Chair asked if there were any questions for staff.

Ms. Watkins asked if the average setback on the street was 23.5'. Ms. Hunt stated yes.

Mr. Grunwald asked how many homes make up the 23.5' average. Ms. Hunt stated eight homes. Ms. Hunt referred to the table included in the staff report and explained Section 8-1. Mr. Mowell stated so the addition would extend a little over the average, but it still wouldn't meet the one that is only 15', it would still be more of a setback than that dwelling. Ms. Hunt stated yes that property sits rather close.

Ms. Watkins asked if it was not possible to put this on the back side of the house.

Maria Lawing, 1523 Dawnview Drive stated the back of the house, she did put a gazebo back there. She introduced Angie Smith and stated she also lives there. With the gazebo being in the back of the house, there is nothing for Angie to watch back there. Others may like the seclusion, but she does not. She uses the bay window on the front of the house as her social life. The neighbors come by and wave at her, the trashman blows the horn and it is part of her social activity. The little porch they have right now is 4' x 5' so in order for them to sit out there they have to break an ADA rule by blocking the access to get out. The gazebo didn't work, and she tried a bug screen because she does not like bugs. She is red-headed, light sensitive and burns very easily. With all of those considerations, this is the only thing that she knows to do. Plus, she would have to navigate all through the house and navigate outside to the backyard which would be virtually impossible. With this addition she could go straight to it from the living room with no access to the outside. If she went on the front porch right now, she could roll off the porch and into the yard.

Chair asked if anyone would like to speak in favor or against the application. No one spoke.

Chair closed the public hearing.

Mr. Grunwald made the following motion: *With regard to the request by Maria Lawing for a variance from Section 5-4-3: Dimensional Requirements to: Reduce the front setback requirement from 25' to 19.5' for the construction of a 10' x 14' sunroom. I move the Board to find that (a) strict enforcement of the regulations would result in practical difficulties or unnecessary hardship to the applicant, (b) the variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit, and (c) in the granting of the variance the public safety and welfare have been secured and substantial justice has been done. The motion was seconded by Mr. Hanley.*

Chair called for the vote. The following vote was taken by a show of hands.

Mr. Hanley	Yes
Mr. Mowell	Yes
Mr. Webb	Yes
Ms. Lowrance	Yes
Mr. Grunwald	Yes
Ms. Flores	Yes
Ms. Watkins	Yes

The vote was unanimous. Motion approved.

Discussion was made about the next meeting. There was no new business as of today. The deadline would be this Friday for applications. Ms. Hunt will reach out if any applications are received. Otherwise since the next meeting date is Election Day in November, she will cancel the meeting that day. Ms Hunt also stated the School of Government training video will be shown October 20th at 1:00 pm until 3:30 pm in the Downtown office on 5th Avenue.

Meeting adjourned at 2:07 p.m.

Melinda Lowrance, Chair

Terri Swann, Secretary



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY PLANNING DIVISION

SUBMITTER: Alexandra Hunt, Planner I **MEETING DATE:** December 13, 2022

AGENDA SECTION: New Business **DEPARTMENT:** Community Development

TITLE OF ITEM: 714 Florida Ave. – Variance (B22-107-VAR) – *Alexandra Hunt / Planner I*

SUGGESTED MOTION(S):

<p><u>1. For Recommending Approval:</u></p> <p>With regard to the request by Patricia Addiss for a variance from <i>Section 5-10-3: Dimensional Requirements</i> to:</p> <p><i>1. Reduce the side setback requirement from 10' to 1.4' and the rear setback requirement from 20' to 4' for an existing storage shed.</i></p> <p>I move the Board to find that:</p> <ol style="list-style-type: none"> 1) An unnecessary hardship would result from the strict application of the ordinance. 2) The hardship results from the conditions that are peculiar to the property, such as location, size, or topography. 3) The hardship did not result from actions taken by the applicant or the property owner. 4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved <p>For the following reasons: <i>[list factual basis for Approval here. Rationale examples provided by staff]</i></p> <ol style="list-style-type: none"> 1. The lot size of the subject property does not meet the minimum lot size requirements of the MIC zoning district and is a condition peculiar to the subject property. 2. The MIC zoning district requires accessory structures conform to principal structure setbacks and does not include separate setback provisions for accessory structures. <p style="text-align: center;">[DISCUSS & VOTE]</p>	<p><u>1. For Recommending Denial:</u></p> <p>With regard to the request by Patricia Addiss for a variance from <i>Section 5-10-3: Dimensional Requirements</i> to:</p> <p><i>1. Reduce the side setback requirement from 10' to 1.4' and the rear setback requirement from 20' to 4' for an existing storage shed.</i></p> <p>I move the Board to find that:</p> <ol style="list-style-type: none"> 1) An unnecessary hardship would <u>not</u> result from the strict application of the ordinance. 2) The hardship <u>does not</u> result from the conditions that are peculiar to the property, such as location, size, or topography. 3) The hardship <u>did</u> result from actions taken by the applicant or the property owner. 4) The requested variance <u>is not</u> consistent with the spirit, purpose, and intent of the regulation, such that public safety <u>is not</u> secured and substantial justice <u>is not</u> achieved <p>For the following reasons: <i>[list factual basis for Denial below. Rationale examples provided by staff]</i></p> <ol style="list-style-type: none"> 1. The lot size is not a condition peculiar to the subject property. <p style="text-align: center;">[DISCUSS & VOTE]</p>
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SUMMARY:

The Community Development Department has received an application from Patricia Addiss for a variance from Section 5-10-3 Dimensional Requirements. The subject property is currently zoned MIC, Medical, Institutional, & Cultural. The specific variance requested is for the following:

Applicant is requesting a variance from the required 10' side setback requirements in Section 5-10-3 to 1.4'; and from the required 20' rear setback requirements in Section 5-10-3 to 4' for an existing storage shed (Exhibit A).

The Community Development Department received a complaint about a storage shed at 714 Florida Avenue that did not meet the setback requirements of Section 5-10-3. The Code Enforcement Officer for the City of Hendersonville investigated the complaint and determined that the storage shed did not meet the required side and rear setbacks. The property owner was notified of the violation and promptly filed for a variance. (*see* Exhibit B)

The Applicant made the following statement related to their request:

“Due to the limited physical dimensions of the property, it would not be possible to physically move or relocate the utility shed on my property to meet the Zoning Ordinance.” (*see* Exhibit A).

PROJECT/PETITIONER NUMBER:	B22-107-VAR
PETITIONER NAME:	Patricia Addis (Owner/Applicant)
EXHIBITS:	<ul style="list-style-type: none"> A. Staff Report B. Application C. 10.13.22 Notice of Violation D. West Side Historic District Overlay Map E. Warranty Deed F. Site Photos G. Aerial Map

MEMORANDUM

TO: Board of Adjustment Members

FROM: Community Development Department

DATE: December 13, 2022

RE: Variance Application –714 Florida Ave. (B22-107-VAR)

SUMMARY: The Community Development Department has received an application from Patricia Addiss for a variance from *Section 5-10-3 Dimensional Requirements*. The subject property is currently located in the Medical, Institutional, & Cultural (MIC) Zoning District. The specific variance requested is for the following:

VARIANCE REQUEST: The Applicant is requesting a variance from Section 5-10-3 to reduce the required 10' side setback to 1.4'; and to reduce the required 20' rear setback to 4' to bring an existing storage shed into compliance with the zoning code (*Exhibit A*).

The Community Development Department received a complaint about a storage shed at 714 Florida Avenue that did not conform with the setback requirements of Section 5-10-3. The Code Enforcement Officer for the City of Hendersonville investigated the complaint and determined that the storage shed was in violation of side and rear setback requirements. The property owner was notified of the violation and promptly filed for a variance. (*see Exhibit B*)

The Applicant made the following statement related to their request:
“Due to the limited physical dimensions of the property, it would not be possible to physically move or relocate the utility shed on my property to meet the Zoning Ordinance.” (*see Exhibit A*).

PROPOSED FINDINGS OF FACT:

- Based on Henderson County records the subject property possesses a PIN of 9568-58-3641 and is zoned as MIC, Medical, Institutional, & Cultural.
- Based on the National Register of Historic Places the subject property is located in the West Side Historic District (*Exhibit C*).
- Section 5-10-1 requirements list single-family residential dwellings as a permitted use in the MIC zoning district.
- Based on Henderson County records, the lot size of the subject property is approximately 5,227.2 square feet or 0.12 acres.
- Section 5-10-3 requires a minimum lot size of 8,000 square feet or .18 acres in the MIC zoning district.

- Based on Henderson County GIS records, there are eleven (11) lots fronting Florida Avenue with the average lot size being .23 acres or 10,019 square feet.
- Based on Henderson County GIS records, approximately seven (7) of the eleven (11) lots fronting Florida Avenue, meet the minimum lot size requirements in Section 5-10-3 of the MIC zoning district. The subject property is one (1) of the four (4) lots that do not meet the minimum lot size requirements of the MIC zoning district.
- Based on Henderson County records, the single-family dwelling on the subject property was constructed in 1930, prior to the establishment of the MIC zoning district, and is considered a legal non-conforming lot.
- Based on Henderson County records a Quitclaim Deed between Marcus B. Liles, III, (Grantor) and Patricia E. Addiss (Grantee) was recorded on August 27, 2021. (*Exhibit C*).
- Section 5-10-3 requires the Minimum Yard Requirements for MIC are:
 - Front: 20'
 - Side: 10'
 - Rear: 20'
- There are no setback standards for accessory structures in the MIC zoning district. Accessory structures in the MIC zoning district must adhere to the same setbacks as principal structures.
- Based on the Variance Application (*Exhibit A*), the Applicant is requesting a variance from Section 5-10-3 to reduce the required 10' side setback to 1.4'; and to reduce the required 20' rear setback to 4' to bring an existing storage shed into compliance with the zoning code.

CODE REFERENCES.

5-10-3 Dimensional Requirements:

Minimum Lot Area in Square Feet:	8,000
Lot Area per Dwelling Unit in Square Feet:	10,000 for the first; 5,000 square feet for each additional dwelling unit in one building.
Minimum Lot Width at Building Line in Feet:	70
Minimum Yard Requirements in Feet:	Front: 30 Side: 10 Rear: 20

Maximum Height in Feet: 50 (No building shall exceed 50 feet in height unless the depth of the front and total width of side yards required herein shall be increased by one foot for each two feet, or fraction thereof, of building height in excess of 50 feet.)

Section 10-9 Variance.

A Variance is a means whereby the City may grant relief from the effect of the Zoning Ordinance in cases of hardship. A Variance constitutes permission to depart from the literal requirements of the ordinance. When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of the following:

- 1) Unnecessary hardship would result from the strict application of the ordinance. It is not necessary to demonstrate that, in the absence of the Variance, no reasonable use can be made of the property.
- 2) 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. A Variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
- 3) 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 is not a self-created hardship.
- 4) The requested Variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

The Board of Adjustment shall not have authority to grant a Variance when to do so would:

- 1) result in the extension of a nonconformity regulated pursuant to Section 6-2, above, or
- 2) permit a use of land, building or structure which is not permitted within the applicable zoning district classification. Per NCGS 160D-705 (d), appropriate conditions may be imposed on any Variance, provided that the conditions are reasonably related to the Variance.

REVIEW, ANALYSIS, & CONSIDERATIONS:

- The single-family use on the subject property pre-dates the City's Zoning Ordinance.
- The subject property is 2/3rds the size of the minimum lot size for the MIC zoning district.
- The City's single-family residential districts (R-40, R-20, R-15, R-10, & R-6) establish standards for the setbacks of accessory structures separate from those required for principal structures. These accessory structure setbacks are reduced from those of principal structures and allow for greater flexibility of placement of

accessory structures on a lot. The MIC Zoning District does not have separate standards for accessory structures and principal structures. In the MIC, accessory structures must adhere to the same setback standards as principal structures.

EXHIBITS

Exhibit A – Application

Exhibit B – 10.13.22 Notice of Violation

Exhibit C – West Side Historic District Overlay Map

Exhibit D - Quitclaim Deed

Exhibit E – Site Photos

Exhibit F - Aerial Map

CITY OF HENDERSONVILLE
ZONING DEPARTMENT

ITEMS TO ACCOMPANY APPLICATION
TO THE
CITY OF HENDERSONVILLE ZONING BOARD OF ADJUSTMENT
FOR A

VARIANCE

- Completed application form (typed or printed)
- Site plan of property showing existing structures, natural features (i.e. streams, ponds, etc.) proposed building or addition and indicating distance from such to the centerline of street and to the side and rear lot lines, as applicable. Show placement of septic system and drain field if applicable and distances from structures.

NOTE: Site plan should be clearly legible and reproducible.

- Copy of septic permit, if applicable.
- Other documents supporting application, if applicable.
- Photographs (optional)
- Application fee of \$75.00

(Shortly after application for a variance is accepted, staff will take photographs of the site. Please have the corners of the proposed structure and septic system staked so that they may be seen in such photos.)

For more information call (828)-697-3010

CITY OF HENDERSONVILLE
STATE OF NORTH CAROLINA
APPLICATION FOR A VARIANCE

11 7 2022
Month Day Year

Applicant: Patricia E. Addiss Phone: 919 817 6477
Address: 714 Florida Ave. Hendersonville NC, 28739
Property Owner's Name (if different from above): same
Property Owner's Address (if different from above): same
Parcel ID Number: _____ Zoning District: _____

Directions to property from Hendersonville: House is on Florida Ave.
and sits between Oak (YMCA) and Justice
(Elks Club).

TO THE ZONING BOARD OF ADJUSTMENT:

I, Patricia E. Addiss (owner/agent), hereby petition the Zoning Board of Adjustment for a VARIANCE from the literal provisions of the Zoning Ordinance of the City of Hendersonville because I am prohibited from using the parcel of land described in the form "Zoning Permit Application" in a manner shown by the site plan. I request a variance from the following provisions of the ordinance (cite section numbers): Ordinance
sec. 9-2

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:

The Zoning Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the state enabling act the Board is required to reach four conclusions as a prerequisite to the issuance of a variance: (a) 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, (b) the variance is in harmony with the general purpose and intent of the ordinance, preserves its spirit, public safety is secured, and substantial justice is achieved, (c) 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 general public, may not be the basis for granting a variance, (d) the hardship did not result from actions taken by the applicant or owner of the property. 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. In the spaces provided below, indicate the facts that you intend to show and the arguments that you intend to make to convince the Board that it can properly reach these four required conclusions:

- (a) UNNECESSARY HARDSHIP WOULD RESULT FROM THE STRICT APPLICATION OF THIS ORDINANCE. State facts and arguments to show that, 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) _____

See Attached

- (b) THE VARAINCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE, PRESERVES ITS SPIRIT, PUBLIC SAFETY IS SECURED, AND SUBSTANTIAL JUSTICE IS ACHIEVED. (State facts and arguments to show that, on balance, if the variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the applicant.) _____

See Attached

- (c) 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. (State facts and arguments to show that the variance requested represents the least possible deviation from the letter of the ordinance that will allow a reasonable use of the land and that the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood.) _____

See Attached

- (d) 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. (State any facts pertaining to the hardship that is not the result of the applicant's own actions.) _____

See Attached

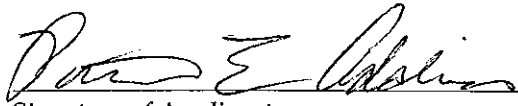
(Please continue remarks on separate page if necessary)

I certify that all of the information presented by me in this application is accurate to the best of my knowledge, information and belief.

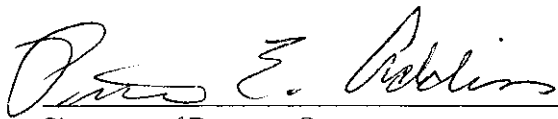


Address / 714 Florida Ave

- (a) Due to the limited physical dimensions of the property, it would not be possible to physically move or relocate the utility shed on my property to meet the Zoning Ordinance. The cost of demolishing and removing the shed would exceed its value. The company where I purchased it would not take it back nor would they give me a refund. It has been over one year since time of purchase. I am a retired U.S. Air Force veteran of 24 years with a pension income and limited ability to pay to have the shed removed, relocated or demolished.
- (b) The shed currently sits on my lot and is not encroaching on any surrounding neighbor's property. As shown on the attached "exhibits", the neighboring property adjacent to the shed is a driveway along the side and back. Nothing can be built between the neighboring driveway and my property. There will not be a safety issue to the public if I am granted a variance due to the existing distance that exists.
- (c) My lot was reduced in size prior to my purchasing the home 3 1/2 years ago. When I purchased the shed from a local company, they used specialized equipment to deliver and situate the shed on its current location. The small size of my lot would not allow the shed to be located in my back yard to meet the zoning requirements and it would be physically improbable for the equipment to fit in my yard to do so. The cost to relocate the shed would exceed its value.
- (d) There was nothing on the property until I placed the shed there. Due to the reduction of the property size before I purchased it, there is very limited space for a garage or storage.

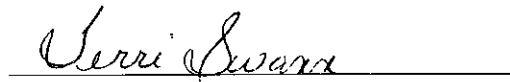

Signature of Applicant

11/7/2022
Date


Signature of Property Owner

11/7/2022
Date

IN THE EVENT THAT ANY DISCREPANCIES EXIST BETWEEN THE CRITERIA OUTLINED
ON THIS FORM AND THE ZONING ORDINANCE OF THE CITY OF HENDERSONVILLE,
THE ORDINANCE SHALL PREVAIL.


Received By

11-8-22
Date

\$75.00
Fee Paid

11-8-22
Date Received

A VOTE OF SEVEN MEMBERS OF THE BOARD IS REQUIRED TO APPROVE A
VARIANCE.

10000 - TIE
9' 19.17" E

62.40 (TIE)
S 86° 14' 44" E

COORDINATES:

7' NAD 83/11

10' NAD 83/11

GRAVEL DRIVE

PATRICIA E. ADDRESS

DB 3772 PG 695

PIN 5568-58-3641

714
Florida
Ave

RESIDENT

89.53

S 01° 22' 25" E

17 in

16 feet

10 feet

74 feet

17 in

10 feet

74 feet

17 in

10 feet

74 feet

17 in

10 feet

74 feet

17 in

1/2" EP

S 84° 07' 17" E

75" EIR

1.0" AG

57.63

NO UTILITY LINES
T TO EASEMENTS

NO RIGHT OF WAY FOUND OR

Smolski
Drive way
Continues

Exhibit A

Smolski workshop
properties





Notice to Remedy Code Violation

CITY OF HENDERSONVILLE, NORTH CAROLINA

Date: October 13, 2022

Name: PATRICIA E. ADDIS
Mailing Address: 714 FLORIDA AVE
HENDERSONVILLE NC 28739

YOU ARE HEREBY NOTIFIED that at or on property owned or occupied by you located at:
714 FLORIDA AVE

There exists Violations of the Code of Ordinances of the City of Hendersonville.
Upon investigation, your property is in violation of:

Sec. 9-2 No building or other structure shall be erected, moved, added to or structurally altered without a building permit issued by the administrative officer. No building permit shall be issued by the administrative officer except in conformity with the provisions of this ordinance, unless the administrative officer receives a written order from the board of adjustment in the form of an administrative review, special use, or variance as provided by this ordinance.

In accordance with Section 1-6 and Ordinance #20-0589 of said Code, which states the following:

Whenever in this Code or in any ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor or whenever in such Code or ordinance the doing of any act is required or the failure to do such act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision shall subject the offender to one or more of the following:

1. A Class 3 misdemeanor, punishable by a fine not exceeding \$500.00 or by imprisonment for a term not exceeding 30 days; or
2. A civil penalty in the amount of \$50.00 per violation to be recovered by the City in a civil action in the nature of debt if the offender does not pay the penalty within forty-five (45) days after the citation for violation of the ordinance or this Code.

Each day that any violation of this Code or of any ordinance shall continue shall constitute a separate offense. The ordinances contained in this Code and other ordinances of the City may be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction.

You are hereby directed to remedy the violations by the end of day on: 10/28/2022

or the City shall cause the same to be remedied and assess the cost to you in addition to any fines associated with said violations in accordance with the Ordinance, a copy is enclosed for your information.

The shed erected on the rear of the property is required to have a building permit and to be placed outside of the setbacks for the property – Accessory Structure setbacks for Medical, Institutional and Cultural Zoning District Classification setback for the side lot line is 10 feet and rear lot lines are 20 feet.



KATHY G. MARTIN
Code Enforcement Officer
100 N. King Street, Hendersonville, NC 28712
Community Development Dept. – Planning Division Phone: 828-233-3214
<mailto:kmartin@hvlnc.gov>

5-10.3. - Dimensional requirements.

Minimum lot area in square feet:	8,000
Lot area per dwelling unit in square feet:	10,000 for the first 5,000 square feet for each additional dwelling unit in one building.
Minimum lot width at building line in feet:	30
Minimum yard requirements in feet:	Front: 30
	Side: 10
	Rear: 20
Maximum height in feet:	50 (no building shall exceed 50 feet in height unless the depth of the front and total width of the side yards required herein shall be increased by one foot for each two feet, or fraction thereof, of building height in excess of 50 feet)

Henderson County, NC

Tax Parcel Report

Thursday, October 13, 2022



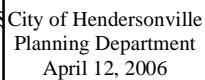
WARNING: THIS IS NOT A SURVEY

Parcel Information

REID:	114816	Pin:	9568583641
Listed to:	ADISS, PATRICIA E	Neighborhood:	FLORIDA AVE
Mailing Address:	714 FLORIDA AVE	Township:	Hendersonville
Mailing City, State, Zip:	HENDERSONVILLE, NC 28739	Municipality:	HENDERSONVILLE
Physical Address:	714 FLORIDA AVE	Tax District:	HENDERSONVILLE CITY
Deed:	003772/00695	Plat:	Not Available
Date Recorded:	2021-08-27 10:25:00.0	Elementary School District:	BRUCE DRYSDALE
Revenue Stamps:	0	Middle School District:	HENDERSONVILLE MIDDLE
County Zoning:	Cities	High School District:	HENDERSONVILLE HIGH



Oct 6, 2022 2:12:56 PM
714 Florida Avenue
Hendersonville
Henderson County
North Carolina



BK 3772 PG 695 - 696 (2)

DOC# 961395

This Document eRecorded:

08/27/2021 10:25:25 AM

Fee: \$26.00

Henderson County, North Carolina

William Lee King, Register of Deeds

Instrument Prepared By: Staton Law, P.A., 112 North Washington Street, Hendersonville, NC 28739

Mail After Recording To: Whitney Staton, Staton Law, P.A., 112 North Washington Street, Hendersonville, NC 28739

Excise Tax: \$0.00

Tax ID No.: 114816

QUITCLAIM DEED

State of North Carolina
County of Henderson

THIS DEED, made this 23rd day of August, 2021, by and between Marcus B. Liles, III, Grantor(s), and Patricia E. Addiss, Grantee(s), of 714 Florida Avenue, Hendersonville, NC 28739;

WITNESSETH:

That said Grantor(s), for and in consideration of the sum of 0.00 (\$0.00) Dollar(s) to her in hand paid, the receipt of which is hereby acknowledged, have remised and by these presents do remise, release, and forever quitclaim unto the Grantee(s) and her heirs and assigns all right, title, claim, and interest of the said Grantor(s) in and to a certain tract or parcel of land lying and being in the County of Henderson, and State of North Carolina, in _____ Township, and more particularly described as follows:

BEGINNING at a stake in the south margin of Florida Avenue, said stake standing North 88 deg West 135 feet from the western margin of Justice Street, the northwest corner of Lot #2 of the subdivision hereinafter referred to, and runs thence with the western boundary line of Lots #2 and #3 of said subdivision, South 4 deg West 94 feet to a stake; thence North 84 deg West 49 feet to a stake; thence North 3 1/2 deg West 100 3/4 feet to a stake in the south margin of Florida Avenue; thence with the south margin of Florida Avenue, South 88 deg East 61 feet to the BEGINNING.

BEING all that property described in a deed from B.M. Gerson and wife, Clam D. Gerson, to Maggie J. Howell, widow and recorded in Deed Book 255 at Page 129, Henderson County Registry.

AND BEING the same property as described in deed recorded in Deed Book 920, Page 49 of the Henderson County Registry.

TO HAVE AND TO HOLD the aforesaid tract or parcel of land and all privileges thereunto belonging to the Grantee(s) and her heirs and assigns, free and discharged of all right, title, claim, or interest of the Grantor(s) or anyone claiming by, through, or under them.

IN TESTIMONY WHEREOF, said Grantor(s) have hereunto set their hands and seals the day and year first above written.

 (seal)

Marcus B. Liles, III

(seal)

(seal)

(seal)

submitted electronically by "Staton Law P.A."
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Henderson County Register of Deeds.

State of North Carolina

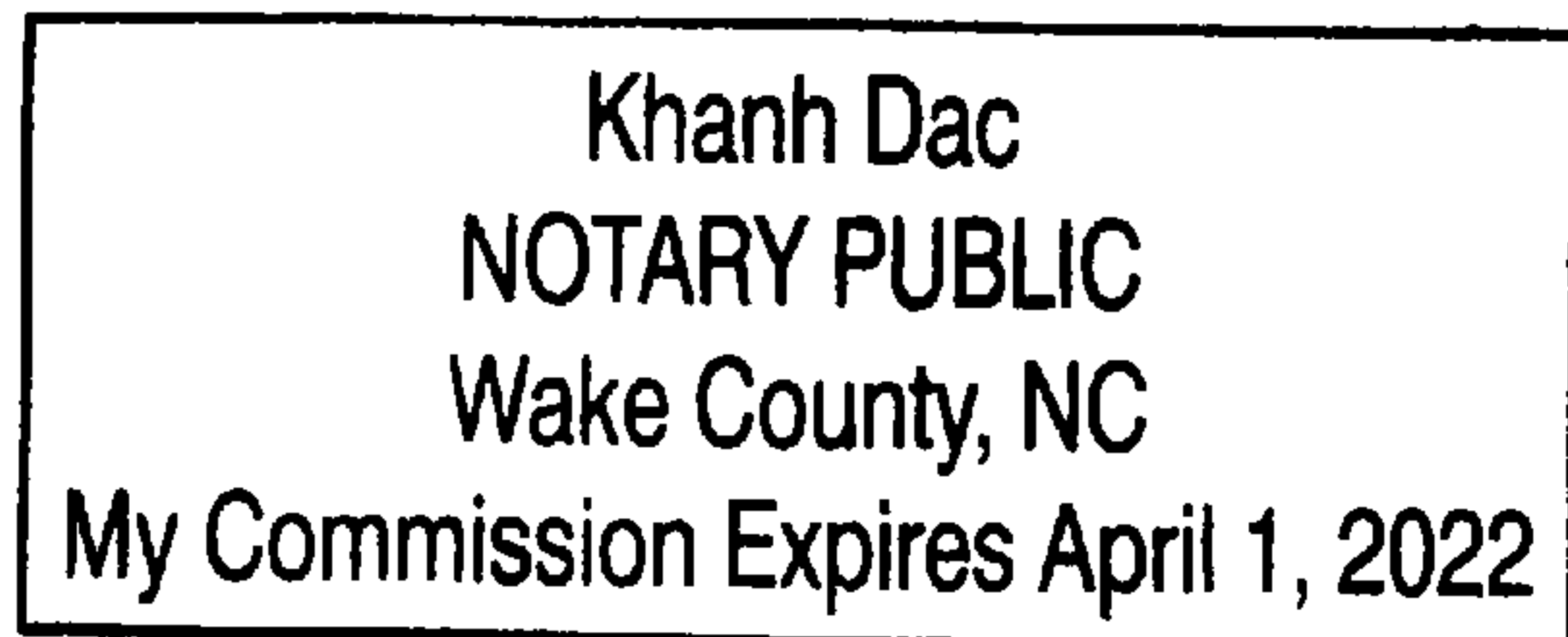
County of ~~Henderson~~ Wake

I, Khanh Dac, a Notary Public, do hereby certify that Marcus B. Liles, III personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this ~~August 23, 2021.~~

August 20, 2021

My commission expires:



Khanh Dac

Notary Public



Photo taken of Florida Ave. facing west towards N Oak St.



Photo of subject property fronting Florida Ave.



Photo of rear corner of storage shed facing Florida Ave.



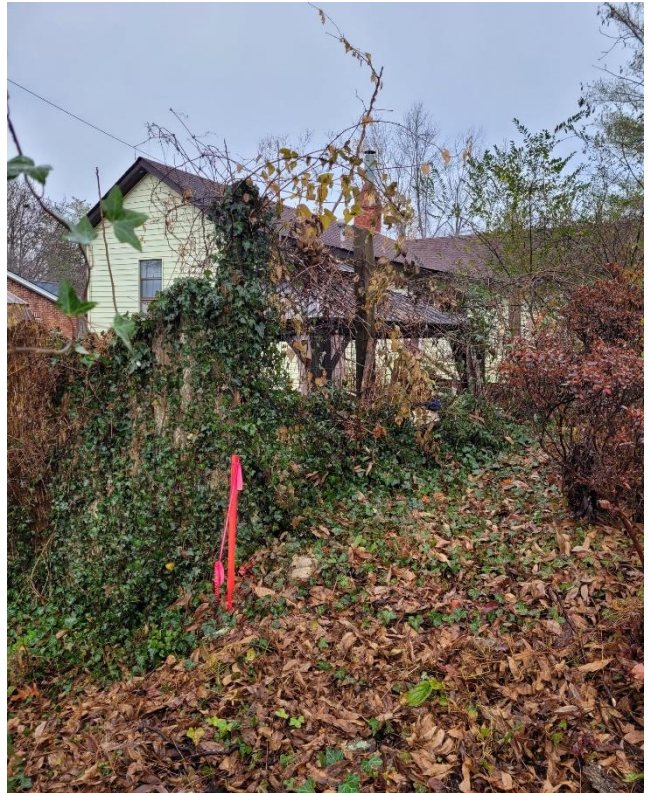
Photo of back of storage shed/rear of subject property.



Photo of rear of subject property



Additional view of storage shed and rear corner of lot.



View of the southeast corner of the subject proeprty.



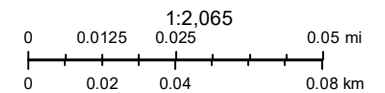
December 1, 2022

Streets and Highways

- | | |
|--|---|
| — FREEWAY | — THOROUGHFARE |
| — INTERSTATE | — COLLECTOR |
| — BOULEVARD | — Local Roads |
| Parcels | |

THIS IS NOT A SURVEY.

All information or data provided, whether subscribed, purchased or otherwise distributed, whether in hard copy or digital media, shall be at the user's own risk. Henderson County makes no warranties or guarantees, including the warranties of merchantability or of fitness for a particular purpose. Map data is not appropriate for, and is not to be used as, a geodetic, legal, or engineering base system. The data is not intended as a substitute for surveyed locations such as can be determined by a registered Public Land Surveyor, and does not meet the minimum accuracy standards of a Land Information System/Geographic Information System Survey in North Carolina (21 NCAC 56.1608).



NOTICE

City of Hendersonville Board of Adjustment

305 Williams St. Hendersonville, NC 28792

NOTICE OF BOARD OF ADJUSTMENT REGULAR MEETINGS

Regular Meetings of the City of Hendersonville Board of Adjustment are held on the **second Tuesday** of each month beginning at **1:30 p.m.** in the Assembly Room of the Operation Center located at 305 Williams Street, Hendersonville NC. The following regular meetings have been scheduled for 2023:

January 10, 2023
February 14, 2023
March 14, 2023
April 11, 2023
May 9, 2023
June 13, 2023

July 11, 2023
August 8, 2023
September 12, 2023
October 10, 2023
November 14, 2023
December 12, 2023

Melinda Lowrance
Chair

The City of Hendersonville 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 the City Clerk no later than 24 hours prior to the meeting at 697-3005.

Approved 12/13/2022
<https://www.hendersonvillenc.gov>

