

AMENDED MEMORANDUM

TO: Board of Adjustment Members

FROM: Community Development Department

DATE: September 9th, 2025

RE: Variance Application –1926 Haywood Road

SUMMARY: The Community Development Department has received an application from Andrew Griffin for a variance from Section 5-3-3. – Dimensional requirements in accordance with the definition of “setback” in Section 12-2 Definition of Terms to reduce the required 8’ side setback to 0’. The subject property is currently R-15 Medium-Density Residential. The specific variance requested is for the following:

VARIANCE REQUEST: The Applicant is requesting a variance from the requirement that corner lot side yards shall be a minimum of 8’ wide in accordance with Section 5-3-3 of the Zoning Ordinance. The applicant is seeking to build an addition onto an existing nonconforming structure. (Exhibit B)

The subject property is .41 acres or 17,859 square feet lot R-15 Medium-Density Residential. There is currently a 1,227 square feet building on the property currently. The side setback requirements for R-15 is 8’. Other requirements for this district are a 70’ minimum lot width, a front setback of 15’, and a rear setback of 15’.

PROPOSED FINDINGS OF FACT:

- Based on Henderson County records the subject property possesses a PIN of 9569-14-8474 and is zoned as R-15 Medium-Density Residential.
- Based on Henderson County records, the lot size is approximately .41 acres or 17,859 square feet.
- Based on Henderson County records, the subject property has one structure built on it that is 1,227 square feet.
- Based on the City of Hendersonville records, Haywood Road is a NCDOT maintained road and the right of way to the east of the property is not currently maintained by the City.
- Based on Henderson County records a North Carolina Quit Claim Deed was acquired by Diane Newman and Patrick Tighe on May 20th, 2021.
- Section 5-3-3 of the zoning ordinance requires the principal structure setbacks for R-15 be:
 - Front: 15’
 - Side: 8’

- Rear: 15'
- *Section 12-2-2* defines the building setback as an open, unobstructed area that is required by this zoning ordinance to be provided from the furthestmost projection of a structure to the property line of the lot on which the building is located.
- Based on the Variance Application (*Exhibit A*), the Applicant is proposing to construct an addition on the home measuring 7' by 12'.

CODE REFERENCES.

5-10-3 Dimensional Requirements:

Minimum Lot Area in Square Feet: 15,000

Minimum Lot Width at Building Line in Feet: 70

Minimum Yard Requirements in Feet:

Front: 15

Side: 8

Rear in Feet: 15

Maximum Height in Feet: 35

Section 12-2 Definition of Terms

Setback: An open, unobstructed area that is required by this zoning ordinance to be provided from the furthestmost projection of a structure to the property line of the lot on which the building is located.

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.