

## MINUTES OF THE HENDERSONVILLE BOARD OF ADJUSTMENT

Tuesday, September 12, 2023  
1:30 p.m. in the Council Chambers

The Hendersonville Board of Adjustment held its regular monthly meeting on September 12, 2023, at 1:30 p.m. in the Council Chambers in City Hall, 160 6<sup>th</sup> Avenue East, Hendersonville, North Carolina. Those present were: Melinda Lowrance, Chair, Ernest Mowell, Vice-Chair, Charles Webb, Kathy Watkins, Chauncey Whiting, Laura Flores, Lynette Oliver, Alexandra Hunt, Planner I, Daniel Heyman, Staff Attorney.

Absent: Libby Collina

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

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

Approval of the minutes of the August 8, 2023 meeting. A motion was made by Ms. Watkins to approve the minutes as written. The motion was seconded by Mr. Webb and passed unanimously.

Approval of the Decision for B23-064-VAR (Collina). A motion was made by Mr. Mowell to approve the Decision as written. The motion was seconded by Mr. Webb and passed unanimously.

### **Variance – Jared Webb – 318 Resort Street (B23-069-VAR).**

Chair stated today we have one public hearing to consider. A variance request from Jared Webb for the property located at 318 Resort Street. 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. Jared Webb and Alexandra Hunt were sworn in.

Chair opened the public hearing.

Alexandra Hunt, PlannerI stated her name and title for the record. She stated there is an amended memorandum (staff report) in front of you as there was a mistake with the PIN number of the subject property on the staff report only. Staff requests that the amended staff report be entered into the record. The City is in receipt of an application from Jared Webb for a variance to reduce the required transitional area defined in Section 17-3-3 Prohibition Against Development Within the Stream Buffer from the required 20' to 0'. The subject property possesses a PIN 9577-19-9746 and is zoned R-15 Medium Density Residential. The purpose of the requested variance is for the construction of a single-family residential home on an existing vacant lot.

Ms. Hunt gave the project background:

The subject property was originally part of 318 Resort St. until it was subdivided and platted in 2022. The subdivision created what is termed a flag lot. It is zoned R-15 Medium Density Residential and is approximately 0.51 acres or 22,215.6 sq ft. The subject property is currently a vacant lot and based on the most recent USGS maps, the subject property has a blue line stream running through its boundaries specifically the northern corner of the property.

The Henderson County GIS parcel map was shown of the property.

The USGS map was shown and is included in the staff report.

The proposed site plan was shown and is included in the staff report.

Site photos of the property were shown.

A diagram of Section 17-3-3 was shown in the presentation. Review of Section 17-3-3 in the Zoning Ordinance. Section 17-3- requires a 20' transitional area immediately landward of the stream buffer. It can be graded, landscaped and/or used for pedestrian or vehicular purposes so long as no impervious materials are utilized. The Applicant has proposed to revegetate the stream bank area by staking live cuttings along the stream bank and buffer area. As you saw in the cover page and motion, the suggested conditions for approval included that the Applicant provide a revegetation plan to Staff – so in short, the Applicant can work with Staff to provide revegetation plan for the 30' buffer area.

Section 10-9 of the Zoning Ordinance states that a variance constitutes permission to depart from the literal requirements of the ordinance. In order for a variance to be granted, the findings of fact in subsections 1-4 of Section 10-9 must be made.

Staff suggested motions with conditions were presented to the Board.

Ms. Hunt stated the applicant is present.

Chair asked if there were any questions for staff.

Discussion was made on how far the proposed house would sit from the creek bank. Ms. Watkins asked about the curved setback and the differences on the site plan. Ms. Hunt explained the front setback and the updates to the site plan. Ms. Hunt explained how the house looks like it is pushed back further than it really is. She stated she had talked with the applicant concerning this and he can explain the actual distance the house will be.

Discussion was made on the blue line stream.

There were no further questions for staff.

Chair asked the applicant to address the Board.

Jared Webb, applicant stated this is a small stream. There have been times when hardly any water is there whatsoever. There are other times when it get up a little bit but nothing major or substantial. He talked about moving the house forward to be able to meet all of the setbacks however, there is a two-car garage and there would no place to turn around. He had considered this because it would be a whole lot quicker but it just will not work.

Mr. Whiting asked about mirroring the plans and putting it on the other side. Mr. Webb stated if he did that there would be hardly any space to get anything inside the garage.

Mr. Webb stated he bought the property back in 2010 and this had been his intention since he bought the property.

Discussion was made on the creek, the creek bank and the topography of the lot.

There were no further questions for the applicant.

Chair asked if anyone would like to speak for or against the application. No one spoke. Chair stated a neighbor had submitted a comment and was not opposed to the application.

Chair closed the public hearing for Board discussion. The Board discussed the 30 foot requirement and erosion control.

Mr. Mowell made the following motion: *With regard to the request by Jared Webb for a variance from Section 17-3-3 Dimensional Prohibition Against Development Within the Stream Buffer to: Reduce the stream buffer transitional area from the required 20' to 0' to construct a single-family residential home. I move the Board to find that: 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 for the following reasons: there is a mitigation plan in place, the uniqueness of how the property is shaped and the fact the stream and the transition area cuts diagonally across and he does not see it creating a huge impact. With the following conditions: The applicant shall submit a site plan illustrating that no further disturbance can occur beyond that which is permitted by Section 17-3-3 and 17-3-5 of the Zoning Ordinance. The applicant shall submit a revegetation plan of the 30' buffer area to the Community Development Department for approval prior to a zoning compliance permit being issued. The revegetation of the 30' buffer area must be comprised of appropriate native sedges, grasses, herbaceous, woody ground covers, and low shrubs. No turf grasses are to be used. The Community Development Department shall inspect the site for compliance prior to the issuance of a Certificate of Occupancy. Ms. Watkins seconded the motion.*

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

Mr. Mowell	Yes
Mr. Webb	Yes
Ms. Lowrance	Yes
Ms. Flores	Yes
Ms. Oliver	Yes
Ms. Watkins	Yes
Mr. Whiting	Yes

The vote was unanimous. Motion approved.

Meeting adjourned at 2:03 p.m.

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Melinda Lowrance, Chair

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Terri Swann, Secretary

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