



**CITY OF HENDERSONVILLE
COMMUNITY DEVELOPMENT DEPARTMENT**

100 N. King Street, Hendersonville, NC 28792

Phone (828) 697-3010 | Fax (828) 698-6185

www.hendersonvillenc.gov

APPLICATION FOR A VARIANCE

Section 10-9 City Zoning Ordinance

The following information is **required** to be submitted prior to review by the Administrative Officer for placement on the Board of Adjustment agenda. Staff will not review applications until each item has been submitted and determined complete. Once the Administrative Officer is in receipt of a complete application, the Administrative Officer will schedule the application for an Evidentiary Hearing before the Board of Adjustment (*Section 10-8-3*).

The Board of Adjustment meets the second Tuesday of each month at 1:30PM at the Operations Center located at 305 Williams Street. Completed applications must be submitted to the Administrative Officer no later than the second Friday of each month, to be included on the following month's agenda.

The Board of Adjustment shall conduct an Evidentiary Hearing (quasi-judicial hearing) on the application. Per NCGS 160D-406(d), the applicant, the local government, and any person who would have standing under NCGS 160D-1402(c), shall have the right to participate as a party at the Evidentiary Hearing. Other witnesses may present, competent, material, and substantial evidence that is not repetitive as allowed by the board (*Section 10-8-3*).

The City Zoning Ordinance can be found on the City of Hendersonville Community Development website: www.hendersonvillenc.gov/community-development

By placing a check mark by each of the following items, you are certifying that you have performed that task.

- ☒ 1. Pre-application meeting with the Planning staff.
- ☒ 2. Completed Variance Application
- ☒ 3. Completed Zoning Permit Application
- ☒ 4. Site Plan of property showing any existing structures, natural features (e.g. streams, ponds, etc.), **as well as** the proposed building or additions indicating distance from such to the centerline of street, side & rear lot lines, and elevations, as applicable, and placement of septic system & drainage field with distances from structures, if applicable.
- ☒ 5. One copy of the septic permit (if applicable)
- ☒ 6. Application Fee of \$75.00
- ☒ 7. Petitioner has checked for Homeowner Association rules, property covenants, deed restrictions, Building Safety Department permits, and other requirements that might have a bearing on the application.

Office Use:

Date Received: _____ By: _____ Fee Received? Y/N

A. Quasi-Judicial Process

The Board of Adjustment is given the authority under Section 10-3 of the Zoning Ordinance of the City of Hendersonville to hear and decide requests for variances from the dimensional requirements of the Zoning Ordinance in accordance with Section 10-9. The Board conducts quasi-judicial hearings and may consider sworn testimony and evidence presented during the hearing. Applicants are advised to bring data or experts in the relevant field to provide fact-based evidence to support any information they want considered. The Board may not consider personal opinions, subjective observations, or personal preferences.

NOTE: The City Planning staff may not provide legal advice to applicants. Applicants are encouraged to consult the appropriate sections of the North Carolina General Statutes, City of Hendersonville Zoning Ordinance, and the Rules of Procedure for the Board of Adjustment, or to consult with an attorney, if more information is needed.

B. Property Information

Name of Project: Signal Hill Townhomes

PIN(s): 9579065791, 9579068507, 9579068308, 9579068117, 9579067975, 9579076259

Address(es) / Location of Property: No address assigned; adjacent to 365 Signal Hill Road

Type of Development: ☒ Residential ☐ Commercial ☐ Other

Current Zoning: R-15

Total Acreage: 13.73

C. To the Zoning Board of Adjustment

I, Travis Fowler, hereby petition the Board of Adjustment for a variance(s) 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 Applicant" in a manner shown by the Site Plan.

I request a Variance from the following provision(s) of the ordinance (cite section numbers):

Sec. 4.03.C.1 - Minimum Right of Way; Sec 4.03.C.8 - Minimum Curve Radii

D. Variance Burden of Proof

When unnecessary hardships would result from carrying out the strict application of a zoning ordinance, the Board of Adjustment shall vary any of the provisions upon a showing of the factors listed below. The Board **does not** have unlimited discretion in deciding whether to grant a variance. Under the state enabling act, the Board shall grant a variance **only upon showing of all of the factors** below as provided in Section 10-9 of the City of Hendersonville Zoning Ordinance.

Instructions: *In the spaces provided below, indicate the **facts you intend to demonstrate** and **the arguments that you intend to make** to demonstrate to the Board that it can properly grant the variance as provided in Section 10-9 of the City of Hendersonville Zoning Ordinance. (If additional space is required, please provide the information on a separate sheet of paper).*

1. Unnecessary hardship would result from the strict application of the ordinance. In order to determine whether an unnecessary hardship exists, the Applicant must demonstrate the following factors:

- a. Indicate how an 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.

4.03.C.1 - Requiring the expansion of the existing 30' right of way would limit access opportunities and would require additional land disturbance to create an emergency turnaround.

4.03.C.8 - A 150' centerline radius would cause additional land disturbance; NCDOT standards allow a 90' centerline radius for Residential Local Subdivision Roads.

- b. 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. 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.

4.03.C.1 - The existing 30' right of way has inhabited properties on both sides and any expansion of the right of way would create non-compliant setback conditions for the existing structures.

4.03.C.8 - The current right of ways into the property, which are being expanded are set at a connecting radius of 94. Having to expand this to 150' will required additional land disturbance and will encroach into the steeper sections of the property.

- c. Indicate how the hardship did not result from actions taken by the applicant or 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.

4.03.C.1 - The 30' right of way is an existing right of way along Lafolette Street per PB2 PG156.

4.03.C.8 - The existing right of way locations along Lafolete Street and Amazing Grace Ln are revorded in PB2 PG156.

- 2. Indicate how 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.

4.03.C.1 - Within the existing 30' right of way we are able to provided sufficient drive aisle width for emergency access and also provide the required 5' sidewalk therefore meeting the intent of the ordinance.

4.03.C.8 - The minimum 90' centerline radius is the NCDOT standard and therefore meets the intent of the ordinance.

E. Applicant Contact Information

Travis Fowler

*** Printed Applicant Name**

First Victory Inc.

Printed Company Name (if applicable)

☒ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership

☐ Other: _____

☒ By signature below, I hereby acknowledge, as/on behalf of (circle one) the Applicant named above my understanding this application will be considered in a quasi-judicial proceeding and that neither I, nor anyone on my behalf, may contact the Board of Adjustment except through sworn testimony at the public hearing. (Applicable if box is checked.)



Applicant Signature

Manager

Applicant Title (if applicable)

542 S. Caldwell St

Address of Applicant

Brevard, NC 28712

City, State, and Zip Code

(828) 577-4201

Telephone

Travis@FirstVictory.com

Email

F. Owner Contact Information (if different from Applicant)

Herta Swess Trust

* ^ Printed Owner Name

* ^ Printed Company Name (if applicable)

☐ Corporation ☐ Limited Liability Company ☒ Trust ☐ Partnership

☐ Other: _____

☐ By signature below, I hereby acknowledge, as/on behalf of (circle one) the Applicant named above my understanding this application will be considered in a quasi-judicial proceeding and that neither I, nor anyone on my behalf, may contact the Board of Adjustment except through sworn testimony at the public hearing. (Applicable if box is checked.)

Owner Signature

Owner Title (if applicable)

592 S. Caldwell St

Address of Property Owner

Brevard, NC 28712

City, State, and Zip Code

828) 884-7934

Telephone

Travis@FirstVictory.com

Email

* Property owner hereby grants permission to the City of Hendersonville personnel to enter the subject property for any purpose required in processing this application.

^ If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION.

Certification

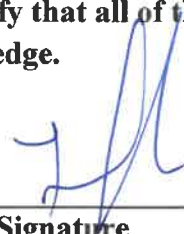
In granting a variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with the City of Hendersonville Zoning Code. Violations of the provisions of the variance granted, including any conditions or safeguards, which are part of the granting of the variance, shall be deemed in violation of the City of Hendersonville Zoning Ordinance.

I, Travis A. Fowler, hereby certify that all of the information set forth above is true and accurate to the best of my knowledge.

Date

9/7/2023

Applicant Signature



Applicant Title

owner/developer

Applicant Name (Please Print)

Travis A. Fowler

Applicant(s): (Developer)

Printed Name First Victory Inc

☒ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature [Signature]

Title President Email Travis@FirstVictory.com

Address of Applicant 542 S. Caldwell St Breward, AL 38712

Printed Name _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____

Title _____ Email _____

Address of Applicant _____

Printed Name _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____

Title _____ Email _____

Address of Applicant _____

Printed Name _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____

Title _____ Email _____

Address of Applicant _____

Printed Name _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____

Title _____ Email _____

Address of Applicant _____

Property Owners(s):

* ^ Printed Name Herta Swess Trust

☐ Corporation ☐ Limited Liability Company ☒ Trust ☐ Partnership ☐ Other: _____

Signature [Signature]

Title Owner Email Travis@FirstVictory.com

Address of Property Owner 540 S. Caldwell St Brevard, NC 28712

* ^ Printed Name _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____

Title _____ Email _____

Address of Property Owner _____

* ^ Printed Name _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____

Title _____ Email _____

Address of Property Owner _____

* ^ Printed Name _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____

Title _____ Email _____

Address of Property Owner _____

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