

Read  Status: Submitted

Entry #: 22

 Unread

Date Submitted: 9/2/2022 9:08 AM

## Items to Accompany Application:

Completed application form

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 ceterline of street and to the side and rear lot lines, as applicable. Show placement of septic systems and drain field if applicable and distances from structures.

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

**Date:**

9/1/2022

**Applicant Name:**

Rick Moore

**Address**

103 McDowell Road, Mills River, North Carolina 28759

**Phone****Email**

brian@mooreandson.net

**Property Owner's Name (if different from above)****Property Owner's Address (if different from above)****Parcel ID #**

9569750342

**Zoning District:**

R-20

**Directions to property from Hendersonville:**

Intersection of Main Street and Queen St.

**Attach site plan and any supporting documents/pictures**[21074 Preliminary Site Plan 2022-09-01.pdf](#)  
1 MB

## To the Board of Adjustment:

**Name**

Rick Moore

(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):**

Zoning Ordinance 21-34 Section 5-14-6.2: 35' setback of structures from centerline of new public streets

## 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, 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:

**Unnecessary Hardship would result from the strict application of the 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)**

Much of the property is encumbered by the 100 year Flood Zone, in order to limit the amount of fill within the flood zone, we request that the proposed townhomes numbered 1-10 be allowed to be 27' from the centerline of the proposed City street. In order to meet the 35' setback from the centerline of the proposed street, not only would more of the only 100 year Flood Zone be required to be filled but it would require a significant amount of additional material to be hauled in, as the slope of the property steepens as the site moves away from Queen St. and towards Mud Creek.

**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. (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).**

Homes 1-10 will not have driveways directly off the public street and instead will be accessed via an alley behind the townhomes. This will keep residents from parking between the front of the home and the City street. We have allowed for a 5' sidewalk and 10' landscape buffer between the front of the house and the back of curb.

**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).**

As discussed previously topography is a significant hardship for this project as well as the City of Hendersonville limitations placed on fill within the 100 yr flood zone.

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).

The area where the variance is being requested is undeveloped.

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

Signature of Applicant:

Date:

9/2/2022

*Rick Moore*

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Signature of Property Owner:

Date:

9/2/2022

*Rick Moore*

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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:

Date:

Fee Paid:

Date Received:

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