



**CITY OF HENDERSONVILLE  
COMMUNITY DEVELOPMENT DEPARTMENT**

100 N. King Street, Hendersonville, NC 28792

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

[www.hendersonvillenc.gov](http://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](http://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: \_\_\_\_\_

PIN(s): 9569338202

Address(es) / Location of Property: 1523 dawnview drive  
hendersonville nc 28791

Type of Development:       X  Residential            Commercial            Other

Current Zoning: cities

Total Acreage: .23

### C. To the Zoning Board of Adjustment

I, maria b lawing, 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):

\_\_\_\_\_

#### **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.

i am an AFL (alternate family living) provider for Angie Smith my friend of 14 years she has mobility issues and mental challenges due to her cerebral palsy having the addition would allow her to have social interaction with the neighbors.

- 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.

the addition would allow Angie to independently and safely transition from our livingroom in her wheelchair this would allow her to be outside without the issues of too much sun exposure, bugs and health or safety concerns.

- 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.

i purchased the property 10 years ago with no foreknowledge that i would be removing Angie from the group home she had lived in for 33 years to come live with me however covid shut down the group home and after 7 months of zero contact with her they also stated it could be up to 2 years before they would allow anyone to see her i ask her mother if she could live with me and the rest is history. so with all that said i had no idea building an addition onto the front would require a variance.

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.

I'm not sure how to answer this i do not feel it will cause a public safety issue. only 1 of my neighbors meet the variance.

**E. Applicant Contact Information**

maria b lawing  
\* **Printed Applicant 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.)

\_\_\_\_\_  
**Applicant Signature**

\_\_\_\_\_  
**Applicant Title (if applicable)**

\_\_\_\_\_  
**Address of Applicant**

\_\_\_\_\_  
**City, State, and Zip Code**

\_\_\_\_\_  
**Telephone**

\_\_\_\_\_  
**Email**

**F. Owner Contact Information (if different from Applicant)**

\* ^ **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)**

1523 dawnview drive  
\_\_\_\_\_  
**Address of Property Owner**

Hendersonville nc 28791  
\_\_\_\_\_  
**City, State, and Zip Code**

828-674-5871  
\_\_\_\_\_  
**Telephone**

marialawing1523@gmail.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, maria b lawing, hereby certify that all of the information set forth above is true and accurate to the best of my knowledge.

9-29-2022  
Date

maria b lawing  
Applicant Signature

homeowner  
Applicant Title

maria b lawing  
Applicant Name (Please Print)