



**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) *N/A*
- ☒ 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: EDITH & James Smith

PIN(s): 9568573034

Address(es) / Location of Property: TBD GENEVA STREET,  
HENDERSONVILLE, N.C. 28739

Type of Development: ☒ Residential ☐ Commercial ☐ Other

Current Zoning: R-6

Total Acreage: .15 ACRES

### C. To the Zoning Board of Adjustment

EDITH SMITH  
I, JAMES SMITH, 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.

*Basically this is not a buildable lot with current front AND rear setbacks*

- 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.

- 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.

Property owner is buying property from a family member. They had no knowledge of any zoning issues. There was no realtor involved.

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.

E. Applicant Contact Information

James Smith & Edith Smith  
\* Printed Applicant Name

N/A  
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.)

✓ James T Smith JR ✓ Edith Smith  
Applicant Signature

NA  
Applicant Title (if applicable)

P.O. Box 2352  
Address of Applicant

Hendersonville, NC 28793  
City, State, and Zip Code

828-489-2779  
Telephone

N/A  
Email

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

JAMES SMITH & EDITH SMITH

\* ^ Printed Owner Name

N/A

\* ^ 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 Title

✓ JAMES T SMITH JR

✓ EDITH SMITH

Owner Signature

N/A

Owner Title (if applicable)

P.O. Box 2352

Address of Property Owner

HENDERSONVILLE, N.C

City, State, and Zip Code

828-489-2779

Telephone

(NONE)

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

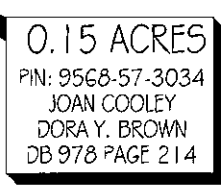
In granting a variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with the City of Hendersonville Zoning Code. Violations of the provisions of the variance granted, including any conditions or safeguards, which are part of the granting of the variance,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

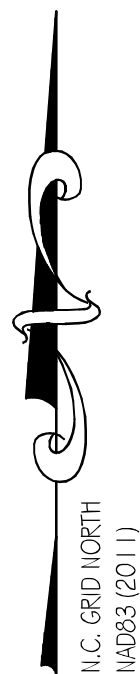
JAMES SMITH  
I, EDITH SMITH, hereby certify that all of the information set forth above is true and accurate to the best of my knowledge.

1-6-23  
Date

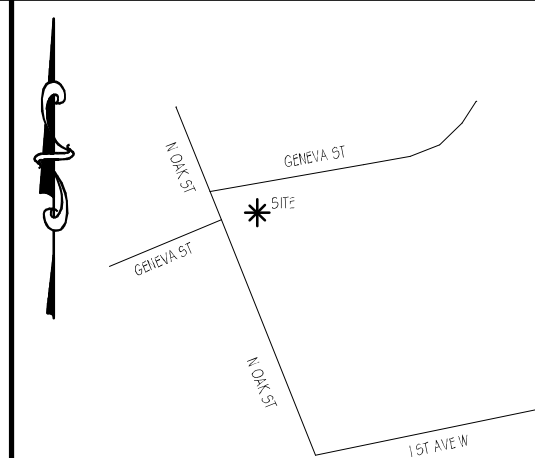
✓ James T. Smith Jr.  
✓ Edith Smith  
Applicant Signature

N/A  
Applicant Title  
✓ James T. Smith Jr.  
✓ Edith Smith  
Applicant Name (Please Print)





LINE	BEARING	DISTANCE
L1	S 04°28'57" W	13.42'
L2	N 81°24'19" E	46.98'



VICINITY MAP NOT TO SCALE

#### NOTES:

\* ALL AREAS CALCULATED BY COORDINATE COMPUTATION METHOD.

\* THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF ABSTRACT TITLE AND MATTERS OF TITLE SHOULD BE REFERRED TO AN ATTORNEY-AT-LAW.

\* THIS SURVEY MAY BE SUBJECT TO ALL RIGHTS-OF-WAYS, EASEMENTS, RESERVATIONS, AND RESTRICTIONS WRITTEN AND UNWRITTEN, RECORDED AND UNRECORDED.

\* ADJOINING PROPERTY OWNER INFORMATION TAKEN FROM THE HENDERSON COUNTY GIS WEBSITE.

\* NO UNDERGROUND UTILITIES WERE LOCATED.  
CALL 811 OR 1-800-632-4949 BEFORE DIGGING.

\* BASED ON GRAPHICAL DETERMINATION, THE SUBJECT PROPERTY DOES NOT LIE IN A FEMA/FIRM SPECIAL FLOOD HAZARD AREA PER THE NATION FLOOD INSURANCE PROGRAM, FLOOD INSURANCE RATE MAP 3700956800J, WITH AN EFFECTIVE DATE OF OCTOBER 2, 2008.

\* ALL DISTANCES SHOWN HEREON ARE HORIZONTAL GROUND DISTANCES UNLESS OTHERWISE NOTED.

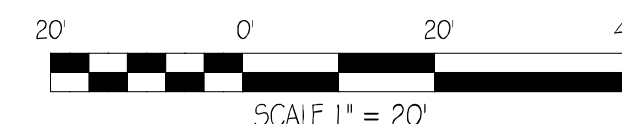
\* THE SUBJECT PROPERTY LIES WITHIN THE CITY OF HENDERSONVILLE ZONING DISTRICT "R6" AND IS SUBJECT TO THE FOLLOWING SETBACKS:  
- FRONT = 20'  
- SIDES = 8'  
- REAR = 10'

#### CURRENT RECORD OWNER INFORMATION:

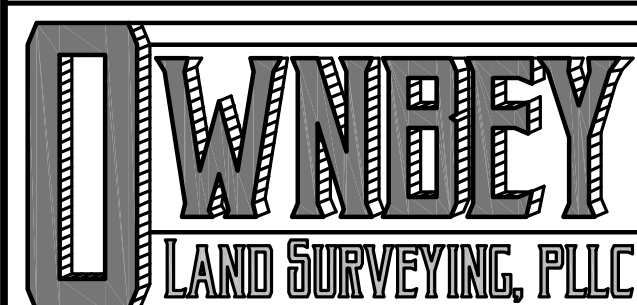
JOAN COOLEY  
DORA Y. BROWN 1711 SANDRIDGE WIND LANE  
CHARLOTTE, NC 28262

EXHIBIT FOR  
**JAMES SMITH**  
AND WIFE  
**EDITH SMITH**

REFERENCES  
PIN: 9568-57-3034  
DB 978 PAGE 214  
TOTAL AREA = 0.15 ACRES  
HENDERSONVILLE TOWNSHIP, HENDERSON COUNTY, N.C.  
DATE: 11-11-2022  
DRAWN BY: J.R. OWNBIE/D.D. WADDELL CREW CHIEF: EJV  
CHECKED BY: J.R. OWNBIE  
JOB #221007



LEGEND:  
EIP = EXISTING IRON PIPE  
CTP = CRIMPED TOP PIPE  
RRS = RAILROAD SPIKE  
IPS = IRON PIN SET  $\nabla$  REBAR WITH CAP  
R/W = RIGHT OF WAY  
B.S.L. = BUILDING SETBACK LINE  
EP = EDGE OF PAVEMENT  
CMP = CORRUGATED METAL PIPE  
CPP = CORRUGATED PLASTIC PIPE  
RCP = REINFORCED CONCRETE PIPE  
CO = SEWER CLEANOUT  
● = CALCULATED & UNMARKED POINT  
○ = PROPERTY CORNER FOUND (AS NOTED)  
● = SET  $\nabla$  REBAR WITH U.R. OWNERS' I.D. CAP  
○ = UTILITY POLE  
○ = WATER METER  
○ = WATER VALVE  
○ = FIRE HYDRANT  
○ = TELEPHONE PEDESTAL  
○ = SANITARY SEWER MANHOLE  
○ = STORM SEWER MANHOLE  
-OU- = OVERHEAD UTILITY LINE  
-E- = UNDERGROUND ELECTRIC  
-G- = UNDERGROUND GAS  
-SS- = SANITARY SEWER LINE  
-T- = UNDERGROUND TELEPHONE  
--- = EDGE OF GRAVEL  
--- = FENCE  
--- = SUBJECT PROPERTY LINE (SURVEYED)  
--- = ADJOINER LINE (LINE NOT SURVEYED)  
--- = BUILDING SETBACK LINE (B.S.L.)  
--- = RIGHT-OF-WAY LINE (R/W)  
--- = TIE LINE  
--- = SUBJECT PROPERTY LINE (LINE NOT SURVEYED)



FIRM LICENSE NO. P-11189  
522 FLEMING STREET  
HENDERSONVILLE, NC 28739  
PHONE: (828)-595-9668  
MOUNTAINLANDSURVEYOR.COM

PRELIMINARY  
FOR REVIEW PURPOSES ONLY.  
NOT FOR RECORDING, SALES,  
OR CONVEYANCE

0.15 ACRES

PIN: 9568-57-3034  
JOAN COOLEY  
DORA Y. BROWN  
DB 978 PAGE 214

PIN: 9568-56-3977  
HENRY TRENTON CRESWELL  
ALLENE J. CRESWELL  
DB 1553 PAGE 700

PIN: 9568-57-4081  
JOAN COOLEY  
DB 970 PAGE 351

PIN: 9568-57-4077  
JOAN COOLEY  
DB 970 PAGE 351

1" EIP FOUND  
N: 587138.33  
E: 965445.95  
NAD83 (2011)

PIN: 9568-57-4105  
JOSE L. RAMIREZ  
ENDIRA RAMIREZ  
DB 1353 PAGE 363

PIN: 9568-57-3154  
ANDREA D. SIMMONS  
TERRY L. SIMMONS  
DB 1342 PAGE 3309

PIN: 9568-57-2171  
JOSEPH WILLIAMS  
DB 447 PAGE 481

PIN: 9568-57-1073  
EQUITY TRUST COMPANY  
CUSTODIAN FBO  
JOHN C. BERRY IRA  
DB 1339 PAGE 493

PIN: 9568-56-2925  
HENRY TRENTON CRESWELL  
DB 3981 PAGE 715