



Variance Application

Project Description

Please describe the nonconformity:

The Real Property, located at 709 Florida Avenue, Hendersonville, NC, is a 0.08-acre (3,484-square-foot) lot zoned in the MIC (Medical Institutional Cultural) Zoning District. The lot is nonconforming due to its small size, the smallest in its neighborhood, and the existing residence (1,872 square feet) built circa 1930, which does not meet the current minimum yard requirements and setbacks under Section 5-10-3 of the City of Hendersonville Zoning Ordinance. The residence is grandfathered as a nonconforming use under Section 6-2-1 of the Code.

Please describe the requested modifications:

The Applicant seeks a variance from the minimum yard requirements and setbacks under Section 5-10-3 to construct a 336-square-foot garage with finished space above, adjoining the existing residence. The proposed garage will be set back at least 10.2 feet from the southern boundary (Florida Avenue) and will adjoin buffer trees and an asphalt drive along the western boundary. The modification involves a reduction in the side setback, but the proposed use complies with permitted uses under Section 5-10-1 and accessory structure requirements under Section 16-4-1.

Total Project Area (acres)

0.08

Variance Burden of Proof			
<p>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.</p>			
<p>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.</p>			
<p>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:</p>	<p>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.</p> <p>Strict application of Section 5-10-3 would prevent the construction of the proposed 336-square-foot garage, limiting the Applicant's ability to fully utilize and enjoy the Real Property. The small size (0.08 acres) and irregular shape of the lot, combined with the footprint of the existing residence established circa 1930, create unique constraints that restrict reasonable development. The proposed garage is a modest addition that aligns with permitted uses in the MIC District, and denying the variance would impose an unnecessary hardship by prohibiting a reasonable accessory structure without compromising the property's permitted residential use.</p>	<p>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</p> <p>The hardship stems from the Real Property's peculiar characteristics: it is the smallest lot in the neighborhood at 0.08 acres, significantly less than one-tenth of an acre, and its boundaries and residence footprint have remained unchanged since circa 1930. These conditions are unique to the property and not common to the surrounding neighborhood, which primarily consists of larger lots with commercial uses. The lot's size and shape, combined with the grandfathered residence, limit the feasible placement of additional structures, necessitating a variance to accommodate the proposed garage.</p>	<p>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.</p> <p>The hardship is not self-created, as it arises from the inherent characteristics of the Real Property, including its small size and the established footprint of the residence built circa 1930, long before the Applicant's ownership. The Applicant has not altered the lot's boundaries or residence footprint, and the need for a variance is due to the property's preexisting conditions, not actions taken by the Applicant or property owner.</p>

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.

The requested variance is consistent with the spirit, purpose, and intent of the City of Hendersonville Zoning Ordinance. The proposed 336-square-foot garage is a permitted accessory structure under Section 16-4-1 and aligns with the allowed residential uses in the MIC District under Section 5-10-1. The garage's minimal footprint and de minimis impact, ensure it does not detract from the neighborhood's character, which includes surrounding commercial uses. The variance secures public safety by maintaining adequate setbacks (e.g., 10.2 feet from Florida Avenue) and avoiding obstruction of public rights-of-way. Granting the variance achieves substantial justice by allowing the Applicant reasonable use of the property while preserving the ordinance's intent to support compatible development in the MIC District. The proposed use is less intensive than surrounding commercial uses and enhances compatibility with the neighborhood.



Zoning-Applicant (Developer) Company Information

Applicant (Developer) Company Information	
Authorized Representative Name: Andrew Griffin	Company Name (if applicable, check corresponding box below)
Company Type: <div><input type="checkbox"/> Corporation:</div> <div><input type="checkbox"/> Limited Liability Company:</div> <div><input type="checkbox"/> Partnership:</div> <div><input type="checkbox"/> Trust:</div> <div><input type="checkbox"/> Other:</div>	If other:
Authorized Representative Title (if applicable - i.e. Member/Manager, President, etc.)	



Zoning-Property Owner Company Information

Property Owner Company Information (if different from Applicant)	
Authorized Representative Name: Andrew Griffin	Company Name (if applicable, check corresponding box below)
Company Type: <div><input type="checkbox"/> Corporation: <input type="checkbox"/> Limited Liability Company: <input type="checkbox"/> Trust:</div> <div><input type="checkbox"/> Partnership: <input type="checkbox"/> Other:</div>	If other:
Authorized Representative Title (if applicable - i.e. Member/Manager, President, etc.)	