



**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

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.

The former Coca-Cola bottling plant is perfectly suited for an adaptive reuse project in the 7th Ave. corridor. Rather than build some type of industrial storage I felt the highest and best use is an urban apartment development. However, the success of a modern building in today's market requires some basic amenities, common areas and open space. Given the existing parameters of the building, there were no areas for such spaces other than the roof deck. The enclosed space allows residents and their guests to enjoy the space rain or shine, while the open space provides pedestrian engagement to the street. I see the subject site as a vibrant anchor project that will spur future development in the 7th Ave. corridor.

- 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.

I am requesting a variance to increase the height by 3.2' without meeting the dimensional standards (increased setbacks) for I-1 that are required when increasing the height above 35'. The property does not allow me to completely meet the increased setback requirements because the building currently does not meet the setback requirements.

~~Given this is a redevelopment of an existing building and since we have yet to commence demolition, the final roof height is unknown at the moment. Rather than a 3.2' height variance, we prefer to keep the proposed structure under the existing height of the stairwell access on the North side and under the existing height of the chimney on the South side as shown on the provided elevations. The proposed structure will really only be noticeable from the North side.~~

- 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.

~~This is my fault as I assumed the building was built to code from a height perspective and both the existing stairway access and chimney were under the height limit. I was so excited about purchasing the building in our families' favorite city, I didn't think about the height until we started working on the elevations. My focus was on making an impact as a new developer in the community with the redevelopment of one of the most appealing multifamily projects in the downtown corridor.~~

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.

~~Although we couldn't meet every aspect of the variance, my architect and I took several measures to mitigate the issue as best we could.~~

- ~~1. We designed the roof deck in a way that significantly set back the front and rear structure and we are certain that one cannot see it from either the front street or rear driveway. The only side you will be able to see the roof structure will be from Lynn St., which is an underutilized side street that very few people use.~~
- ~~2. We are setting back the roof structure from each side of the exterior wall, similarly to what the code suggested.~~
- ~~3. All proposed roof structures will remain under the existing height of the stairwell access on the North side and under the existing height of the chimney on the South side.~~
4. The viewshed impact is minimal as Locust St. is a less traveled street compared to Main St. or 7th Ave.
5. As we increase the residents and foot traffic to the area, this will naturally encourage development making it safer at all hours of the day and night.

E. Applicant Contact Information

Dan Mock

*** Printed Applicant Name**

AYD Partners LLC

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 City Council except through sworn testimony at the public hearing. (Applicable if box is checked.)


Applicant Signature

Member

Applicant Title (if applicable)

638 Spartanburg Hwy, Ste 70-338

Address of Applicant

Hendersonville, NC 28792

City, State, and Zip Code

310-750-7117

Telephone

dan@rockwooddevelopment.com

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 City Council except through sworn testimony at the public hearing. (Applicable if box is checked.)

Owner Signature

Owner Title (if applicable)

Address of Property Owner

City, State, and Zip Code

Telephone

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.

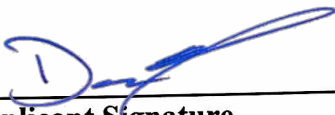
^ If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized 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, Dan Mock, hereby certify that all of the information set forth above is true and accurate to the best of my knowledge.

1/16/22
Date


Applicant Signature

Member
Applicant Title

Dan Mock
Applicant Name (Please Print)