



**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 City Staff for placement on the Board of Adjustment agenda. By placing a check mark by each of the following items, you are certifying that you have performed that task. A check mark must be placed by each numbered item before placement on the Board agenda.

- ☒ 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.

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 advised 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.

Office Use:

Date Received: _____ By: _____ Fee Received? Y/N

B. Property Information

PIN(s): 9569774636

Address(es): (0) John Halford Court Hendersonville, NC 28792 (no address assigned yet) Lot 3

Current Zoning: residential Acreage: .34

C. Applicant Contact Information

Bruce Fleming

* Printed Applicant Name

Halford 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.)

Bruce Edward Fleming III
Applicant Signature

Member

Applicant Title (if applicable)

415 Overhill Drive

Address of Applicant

Hendersonville NC 28792

City, State, and Zip Code

828-275-9739

Telephone

bthreeservices@gmail.com

Email

D. Owner Contact Information (if different from Applicant)

Steve Katsadouros

* ^ Printed Owner Name

ALPHA Investments 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.)

Owner Signature

Member

Owner Title (if applicable)

373 Kenmure Drive

Address of Property Owner

Flat Rock NC 28731

City, State, and Zip Code

828 674 7922

Telephone

skatsadouros@aol.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.

Note: Additional Owner Signature pages attached.

E. To the Zoning Board of Adjustment

I, Bruce Fleming, 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):
zoning ordinance XVII section 17-3-2, 17-3-3, 5-3-3

F. 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.

applying the ordinance makes the lot unusable for residential construction

the buffer zones would push even the narrowest designs outside of the setback

and even into the sidewalk areas. we would also like a variance for the 30'

setback from the front of the property to allow a house to sit closer to the road.

We are applying for an 18' setback variance (we would provide a 12' setback).

- 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.

Horse creek is actually closer to the center of the property

Than indicated on the GIS map. When the 30' and 20' buffer area is marked out, the outermost edge of the buffer is on the John Halford Court side of the setback area.

- 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.

The creek's location has not been impacted by the property owner.

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 variance will not do away with the stream buffer, only reduce its size.

We request a variance similar to the special provisions described in section 17-3-8 of the regulation, except that the time of recording the lot is after 2001. We wish to both protect the creek with a smaller buffer and make use of the property for a residence.

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, Bruce Fleming, hereby certify that all of the information set forth above is true and accurate to the best of my knowledge.

12/1/21

Date

Bruce Edward Fleming III

Applicant Signature

Member, Halford Partners LLC

Applicant Title

Bruce Fleming

Applicant Name (Please Print)

Additional Property Owners: (Signature indicates intent that this page be affixed to Application.)

*** ^ 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.

Additional Property Owners: (Signature indicates intent that this page be affixed to Application.)

*** ^ 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.

Additional Property Owners: (Signature indicates intent that this page be affixed to Application.)

*** ^ 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.