

Town of Sylva

Amended **Application for a Zoning Variance**

The issuance of a zoning variance by North Carolina Law is difficult to obtain. However, the Sylva Zoning Board of Adjustments is authorized, upon appeal in specific cases to grant such variance from the terms of the Town of Sylva's Zoning Ordinance. In granting the variance the Board of Adjustment must determine that by doing so the actions are not contrary to the public interests where, owing to special conditions, a literal enforcement of this ordinance will result in practical difficulties or unnecessary hardship, so that the spirit of the zoning ordinance is observed, public safety and welfare secured, and substantial justice done.

The application must be completed and the nonrefundable variance filing fee of \$250.00 for residential uses and \$350.00 for non-residential uses paid to the Town of Sylva before the Town Clerk will schedule a public hearing before the Sylva Zoning Board of Adjustments. **The applicant must obtain a copy of the Town of Sylva Zoning Ordinance and become familiar with it before finalizing the plans for a variance. It is the applicant's responsibility to be fully aware of the zoning regulations.**

The following information must be provided:

- (1) Name of Applicant: Joshua J. Moss, Member RLJ Land Development, LLC
- (2) Name of Property Owner: RLJ Land Development, LLC
- (3) Daytime Telephone Number: 828-200-1339
- (4) Applicant Mailing Address: 114 Duchess Drive, Sylva, NC 28779
- (5) Property Location: 423 Jackson Plaza, Sylva, NC 28779
- (6) Property Tax Identification Number: 7641-19-7590
Diane E. Sherrill 828-586-4051
559 W Main St., PO Box 365
Sylva, NC 28789
- (7) Name of Applicants Legal Counsel: diane.sherrill@wnctrustlawyer.com
- (8) Variance Requested (Attach additional pages if necessary; provide zoning ordinance
reference): Section 7.2 Design Standard for Lots under C.2 Section 7.3 Design and
Maintenance Standards for Buildings. C. Exterior Materials. Applicant maintains

that the northwest side of a proposed metal building for a fitness center as set forth in the
site and design plans for the building will not be visible from a primary frontage road and therefore
the exterior materials requirements of the Ordinance should not apply to that side of the building.

(9) Detailed Site Plan Must Be Attached: ✓ yes no

(10) Town of Sylva Zoning Ordinance Section 703 (c)

Variances.

Before the Zoning Board of Adjustment may grant a variance, it shall make the following three findings which shall be recorded in the permanent record of the case and shall include the factual reasons on which they are based:

1. There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that all five of the following conditions exist. As the applicant, you must provide the background and justification that will enable the Board to make these findings. Please provide this information in the space provided:

- a. The Board shall consider whether the variance is the minimum possible deviation from the terms of the ordinance that will make possible the reasonable use of the property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance.

The southwest side of the proposed building on applicant's property is not

visible from a primary frontage road for the property and therefore the
Ordinance should not apply and a variance should be granted.

- b. The hardship results from the application of the ordinance to the property rather than from other factors such as deed restrictions or other hardship.

There are no deed restrictions or other hardships other than application of the
Ordinance.

For purposes of transparency, and not as overriding factors stated in the Addendum hereto,
the applicant would suffer from financial hardship if the Ordinance is strictly interpreted.

- c. The hardship is due to the physical nature of the applicant's property, such

as its size, shape or topography, which is different from that of neighboring property.

See Addendum to Application as to size, shape, topography and zoning of neighboring properties and the relationships to any primary frontage road.

- d. The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the ordinance, or who purchases the property after the effective date of the ordinance and then comes to the Board for relief.

The applicant has not knowingly or unknowingly violated the Ordinance. However, after purchasing the property and before building on the property became aware that circumstances exist that may justify the granting of a variance.

- e. The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others and would not promote equal justice.

See Addendum as to the property, topography, site plan, design plan and its relationship to any primary frontage road and neighboring properties and differences in zoning.

2. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit. That is, the applicant is not seeking to establish, to expand, or to extend in area a non-conforming use. Moreover, the existence of a non-conforming use in the same or in any other zoning district shall not constitute a reason for granting the requested variance.

3. In granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would alter the essential character of the neighborhood, materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety or general welfare.

- D. In granting the variance, the Board may attach thereto such conditions regarding the location character and other features of the proposed building, structure or use as it may deem advisable in furtherance of the purpose of this ordinance.
- E. The Zoning Board of Adjustment shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.
- F. A variance issued in accordance with this section shall expire if a Zoning Certificate or Certificate of Compliance for such use is not obtained by the applicant within six months

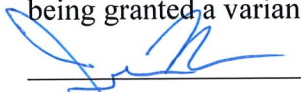
from the date of the decision.

I understand and have read the preceding sections of the Town of Sylva Zoning Ordinance.

☒ yes ☐ no

If you do not feel that your request would meet all of the hardships, please understand that the variance cannot be granted. Appeals from the Zoning Board of Adjustments shall be taken to the appropriate court of record, as provided by law.

Applicant's signature acknowledging that you have read and understand the requirements for being granted a variance.



Signature

11/26/25
Date

Joshua J. Moss, Member RLJ Land Development, LLC

Printed Name

If the applicant is not the property owner, the property owner's signature must be provided below acknowledging that the variance described above is being requested for the property.

Signature



Date

Date: 01/15/2026

Diane E. Sherrill
The law Firm of Diane E. Sherrill
Attorney for Applicant
559 W. Main St
PO Box 365
Sylva, NC 28779
Telephone: 828-586-4051
Facsimile: 828-586-3655
Email: diane.sherrill@wnctrustlawyer.com

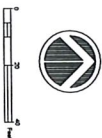
*Diane E Sherrill 01/27/2026
Go to Amended Application*

- PROPOSED LEGEND (EXCEPT AS NOTED)
- PARKING / STRENGTH
 - EDGE OF PAVEMENT
 - DEVELOPMENT
 - TRAFFIC SIGN
 - LIMITS OF DISTURBANCE
 - BUILDING FOOTPRINT
 - SEWERAGE
 - PARKING LOT LIGHTING
 - CONTOUR
 - STORM PUMP
 - STORM WATER CATCH BASIN /
 - WATER LINE
 - SEWER LINE
 - DATE VALVE AND BOX
 - SANITARY SEWER MANHOLE
 - SANITARY SEWER ELEVATION
 - WATER SERVICE / METER
 - WATER LINE
 - SEWERAGE PREVENTION
 - EXISTING WATER LINE
 - EXISTING SANITARY SEWER LINE
 - EXISTING MANHOLE
 - EXISTING WATER VALVE

- SITE NOTES:
1. PARCELS LOCATED WITHIN TOWN OF STIVA ZONING DISTRICT.
 2. PROPOSED PROJECT HAS A NET IMPERVIOUS AREA EQUAL TO OR LESS THAN EXISTING SITE IMPERVIOUS AREA.
 3. ALL EXISTING PAVEMENT AND CONCRETE TO BE REMOVED AND REPAVED OR OFF-SITE.

PRELIMINARY - NOT FOR CONSTRUCTION

Exhibit 1 - Addendum to Application for Zoning Variance



Holland
1000 E. 10th St.
PO Box 1000
Stiva, NC 28777

1000 E. 10th St.
PO Box 1000
Stiva, NC 28777

Grindstaff, Alice (Trustee)
PO Box 1000
Stiva, NC 28777

PROPOSED 12" WIDE, 4-INCH THICK 60" STONE
WITH MASONRY TIE-IN FABRIC BASE FOR
PROPOSED RETAINING WALL (6'x 10')

1.48 Acres

F.F.E.: 2,142.00'

F.F.E.: 2,142.00'
(FUTURE - PAD TO BE
REMOVED / RELOCATED)

EXISTING ONE LINE
TO BE REMOVED / RELOCATED

PROPOSED 12" WIDE, 4-INCH THICK 60" STONE
WITH MASONRY TIE-IN FABRIC BASE FOR
PAD ACCESS DRIVE

END OF PROPOSED
PARKING - THIS PHASE
PROPOSED 5" WIDE SEWERAGE
FLUSH WITH PAVEMENT / GRADE
PER DETAIL (FUTURE)

PROPOSED 5" WIDE SEWERAGE
FLUSH WITH PAVEMENT / GRADE
PER DETAIL (FUTURE)

PROPOSED 5" WIDE SEWERAGE
FLUSH WITH PAVEMENT / GRADE
PER DETAIL (FUTURE)

PROPOSED 5" WIDE SEWERAGE
FLUSH WITH PAVEMENT / GRADE
PER DETAIL (FUTURE)

EXISTING ONE LINE
TO BE REMOVED / RELOCATED

PROPOSED 5" WIDE SEWERAGE
FLUSH WITH PAVEMENT / GRADE
PER DETAIL (FUTURE)

PROPOSED 5" WIDE SEWERAGE
FLUSH WITH PAVEMENT / GRADE
PER DETAIL (FUTURE)

PROPOSED 5" WIDE SEWERAGE
FLUSH WITH PAVEMENT / GRADE
PER DETAIL (FUTURE)

C.11

DATE: 5/23/2024

PROJECT NO.

DATE: 5/23/2024

FITNESS CENTER / FUTURE MIXED USE FACILITY
RLJ LAND DEVELOPMENT
SYLVA
JACKSON COUNTY, NORTH CAROLINA

William A. Stillwell
17000 S. 10th St.
Stiva, NC 28777

NO.	DESCRIPTION	BY	DATE



PO BOX 838
STIVA, NC 28777
PHONE: 828-586-6066
FAX: 828-586-6066
N.C. FIRM LICENSE NO. C-2998

Exhibit 2 - Addendum to Application for Zoning Variance

https://www.thesylvaerald.com/history/article_597e1b78-1a05-11e7-8c90-7f74a01c7b4a.html

Looking back

Apr 5, 2017

70 years ago - April 10, 1947

- D.C. Higdon, chairman of Jackson County AAA, has announced that the farmers of this county have been furnished pasture seeds during the months of January, February and March in the amount of \$11,498.22.
- Ritz Theatre screened "The Locket," starring Laraine Day and Robert Mitchum and "Prairie Rustlers," starring Buster Crabbe.

60 years ago - April 11, 1957

- A Jackson County school bus carrying 20 passengers overturned on the old Webster-Dillsboro Road, injuring two children, at 8:20 a.m. Frank Wilkey, driver of the bus, said the "wheels locked."
- W. Vernon Cope was elected to serve another two-year term as superintendent of Jackson County Schools.

50 years ago - April 13, 1967

- Congressman Roy Taylor announced that the Post Office Department has authorized the construction of a new post office building in Dillsboro
- A 1967 Model Station Wagon owned by Jim Gray of The Sylva Herald, was crushed while parked in front of The Jarrett House in Dillsboro, when a two-foot-plus diameter tree fell. There was no wind. The tree just fell.

40 years ago - April 14, 1977

- Kenneth Franks, 9, and Ernie Franks, 7, stopped traffic to show motorists the 16-and-a-half-inch long brown trout they caught in Greens Creek.
- Weather on April 11 was a high of 83 and a low of 38; for April 12, a high of 80 and a low of 40.

30 years ago - April 9, 1987

- An unusual April snowstorm shocked residents with what was believed to be record accumulations in Sylva. The storm caused massive power outages, disrupted mail service and closed schools and many businesses. Accumulations in most areas of Sylva ranged from 12-16 inches, with reports of more than 20 inches in places.
- Former Presbyterian College standout and longtime Western Carolina football coach Bob Waters is the latest to be named for induction into the South Carolina Athletic Hall of Fame.

20 years ago - April 10, 1997

- Firefighters battled a blaze that destroyed the Western Sizzlin steak house in Jackson Plaza April 3. The fire is believed to be the result of a foiled safe cracking attempt.
- Sylva officials took the first step toward controlling signage within the city limits and voted unanimously to create a scenic view corridor along a portion of U.S. 23-74 to protect views of Jackson County's historic courthouse.

10 years ago - April 12, 2007

- During the Tuckaseegee Water and Sewer Authority's work session, members talked about a new rate structure that would get rid of TWSA's current acreage fees, making it part of an overall charge for the impact to water and sewer systems.
- Kay Byer of Cullowhee, North Carolina's poet laureate, was presented a Hanes Award for Poetry by the Fellowship of Southern Writers during its recent Conference on Southern Literature in Chattanooga, Tennessee.

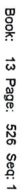
This property is not located within a prohibited area as defined in the National Firearms Act of 1934, as amended, in the Register of Controlled Substances.

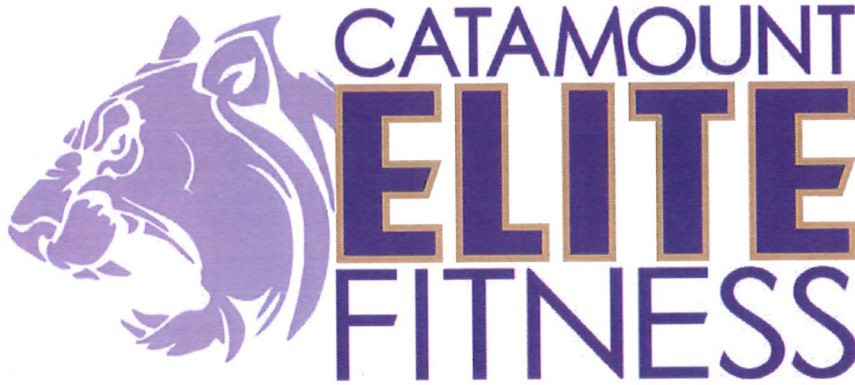
12-10-04 Danona Powell
 Date Registered Administrator

Exhibit 3 - Addendum to Application for Zoning Variance

1) ACRESIDE CALCULATED BY COORDINATE COMPARISON
2) THIS PROPERTY DOES NOT LIE IN A FLOOD HAZARD AREA
3) THIS PLAT IS A RE-ENTRY OF THE CLEVELAND ESTATE
4) SURVEYED BY THIS FIRM ON NOV. 28, 1964 (MAP REF. DWS 1-427)
5) PLATED SEP. 30-1964, 164-167, 208-429

RELEASE SCHEDULE
RELEASE # 1 - TRACTS 24, 28, 32, 44, 48 & 39
RELEASE # 2 - TRACT 4D
RELEASE # 3 - TRACT 4C & 4D





*RJL Land Development, LLC
Catamount Elite Fitness*

Codes Summary

IBC 2021
NFPA

North Carolina State Building Code: Building Code for
TABLE 1004.1.2

Type V
• Assembly Group A3 (303.4)
• Exercise Rooms

Occupant Load: 50gross/12,178=244

Table of Contents

A1: Cover Sheet
A100: Client Plans Levels 1 & 2
A101: Area Plans Levels 1 & 2
A102: Dimensioned Floor Plan Level 1
A103: Dimensioned Floor Plan Level 2
A104: Reflected Ceiling Plan Level 1
A105: Reflected Ceiling Plan Level 2
A106: Switching & Electrical Plan Level 1
A107: Switching & Electrical Plan Level 2
A108: Door Schedule Level 1
A109: Door & Window Schedule Level 2
A110: Life Safety Plans Levels 1 & 2
A111: Exterior Elevations
A112: Exterior Perspective Views
A113: Exterior Materials

Revisions

Sheet	Date	Initials	Sheet	Date	Initials
A100	11-11-18	SG SG	A109	11-11-18	SG SG
A101	11-11-18	SG SG	A110	11-11-18	SG SG
A102	11-11-18	SG SG	A111	11-11-18	SG SG
A103	11-11-18	SG SG	A112	11-11-18	SG SG
A104	11-11-18	SG SG	A113	11-11-18	SG SG
A105	11-11-18	SG SG			
A106	11-11-18	SG SG			
A107	11-11-18	SG SG			

Location and Map

Jackson Plaza, Sylva, NC



Disclaimer:
These plans are the property of the creator and designer, Lynette M. Gregg and are issued for design purposes only. Any unauthorized use or duplication in whole or in part, without written consent is strictly prohibited.

Designer: Shelly Gregg
Past Forward Design
828-507-5797
Sylva, NC

Cover Sheet

Project Name: RJL Land Development - Catamount Elite Fitness
Date: Revisions as noted
Drawn By: H. Deal, L. Queen/S. Gregg
Checked By: S. Gregg
A1
Scale:



*RJL Land Development, LLC
Catamount Elite Fitness*

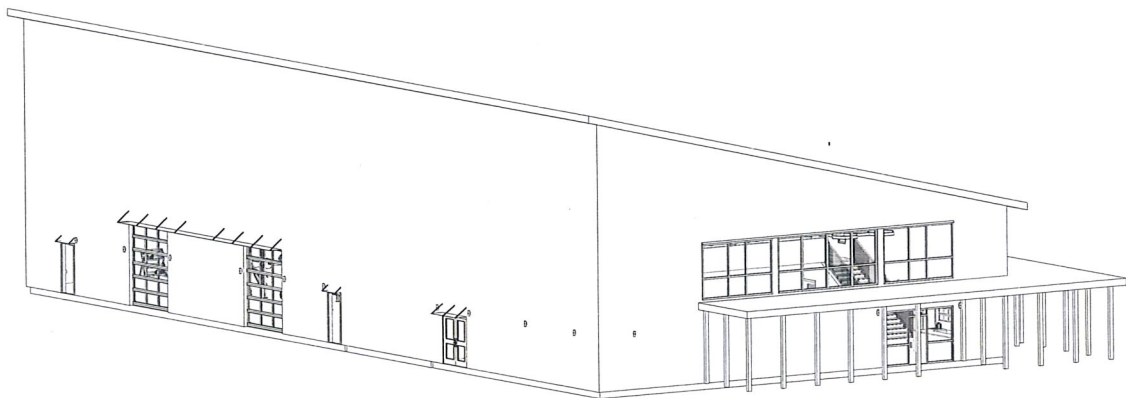
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Designer: Shelly Gregg
Past Forward Design
828-507-5797
Sylva, NC

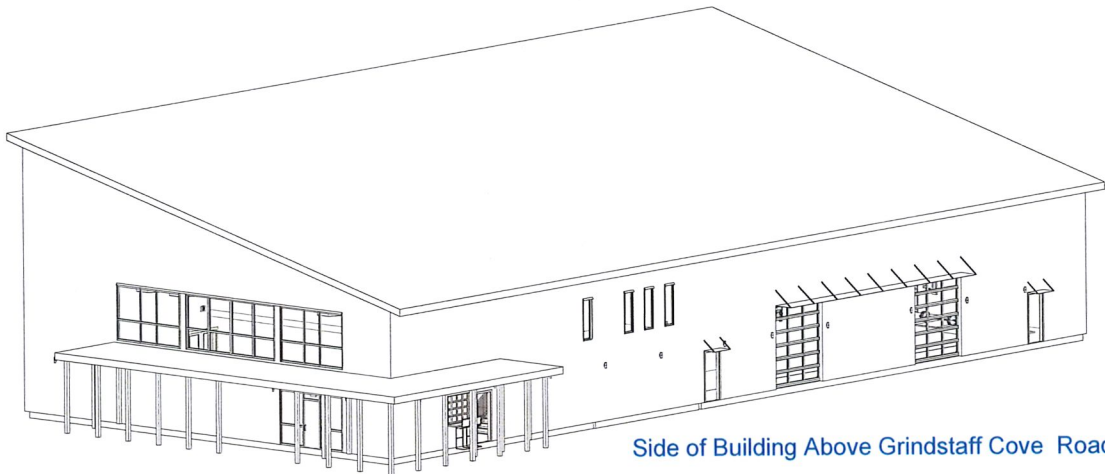
Exterior Building Perspective Views

Project Name	RJL Land Development - Catamount Elite Fitness
Date	Revisions as noted
Drawn By	H. Deal/L. Queen/S. Gregg
Checked By	Shelly Gregg
Scale	A-112

6/20/2018 3:35:54 PM



① Exterior Perspective 1



② Exterior Perspective 2

Side of Building Above Grindstaff Cove Road



Charcoal
SCRS 306

5V Metal Roof
Titan Steel



Black
SCRS 262

5V Metal Building
Titan Steel



Black Glazed Brick
Exterior Wainscoting-
Manufacturer TBD



NewTech Wood
Exterior Cladding
Peruvian Teak

Exhibit 4 - Addendum to Application for Zoning Variance Page 3



R/L Land Development, LLC
Calamant Elite Fitness

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Designer: Shelly Gregg
Past Forward Design
828-507-5797
Sylva, NC

Exterior Materials

Project Name	R/L Land Development - Calamant Elite Fitness
Date	Revisions as noted
Drawn By	H. Deal/L. Queen/S. Gregg
Checked By	Shelly Gregg
Scale	A-113

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Jackson County Custom Map

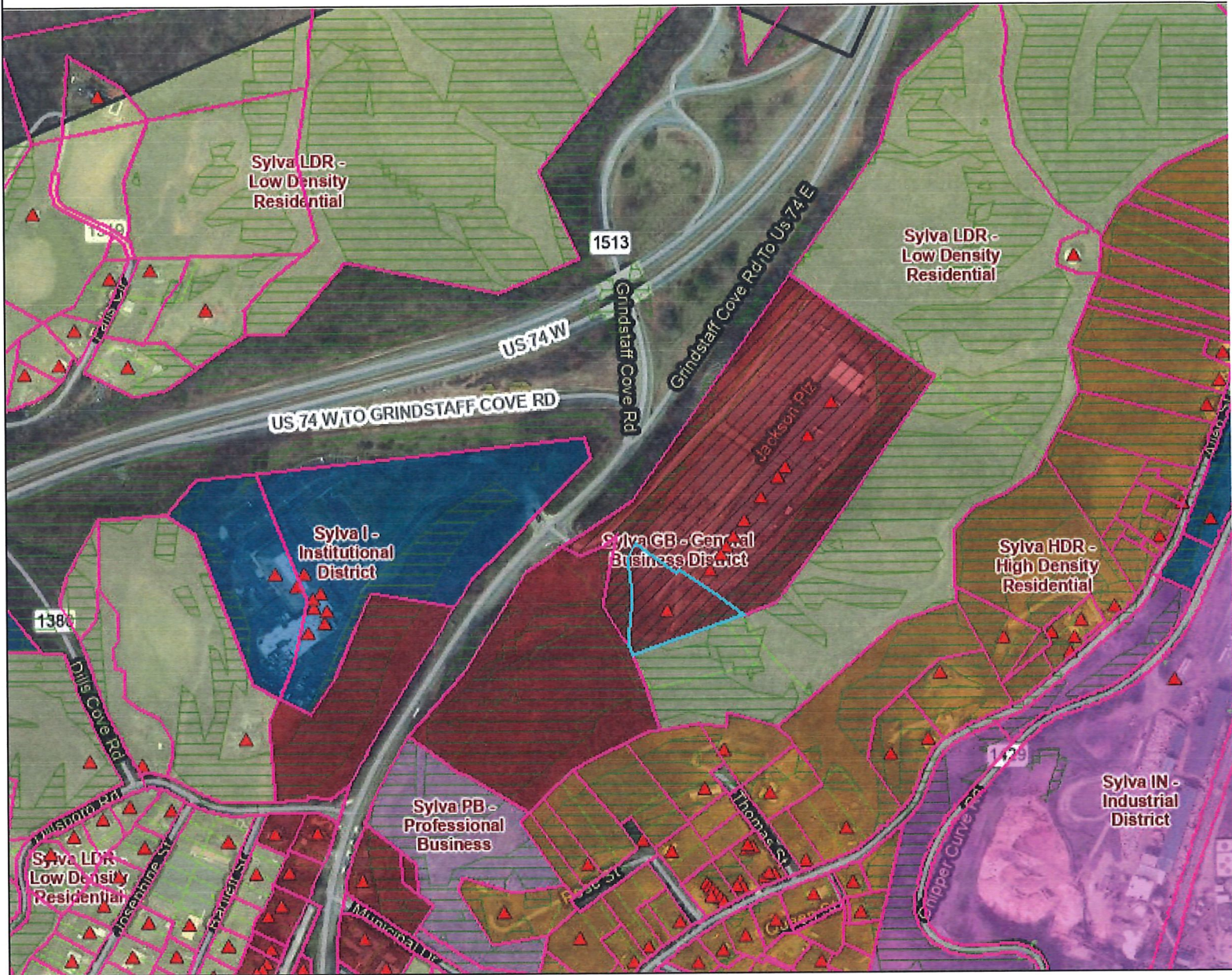


- | | | |
|---------------------|-------------------|------------------|
| ▲ Address_Points | — Hooks | — Deed Plot |
| — Centerlines | — Leader Line | □ Jackson_bou... |
| Parcel Lines | — Lot Line | |
| — Easement | — Subdivision ROW | |

Exhibit 5 - Addendum to Application for Zoning Variance



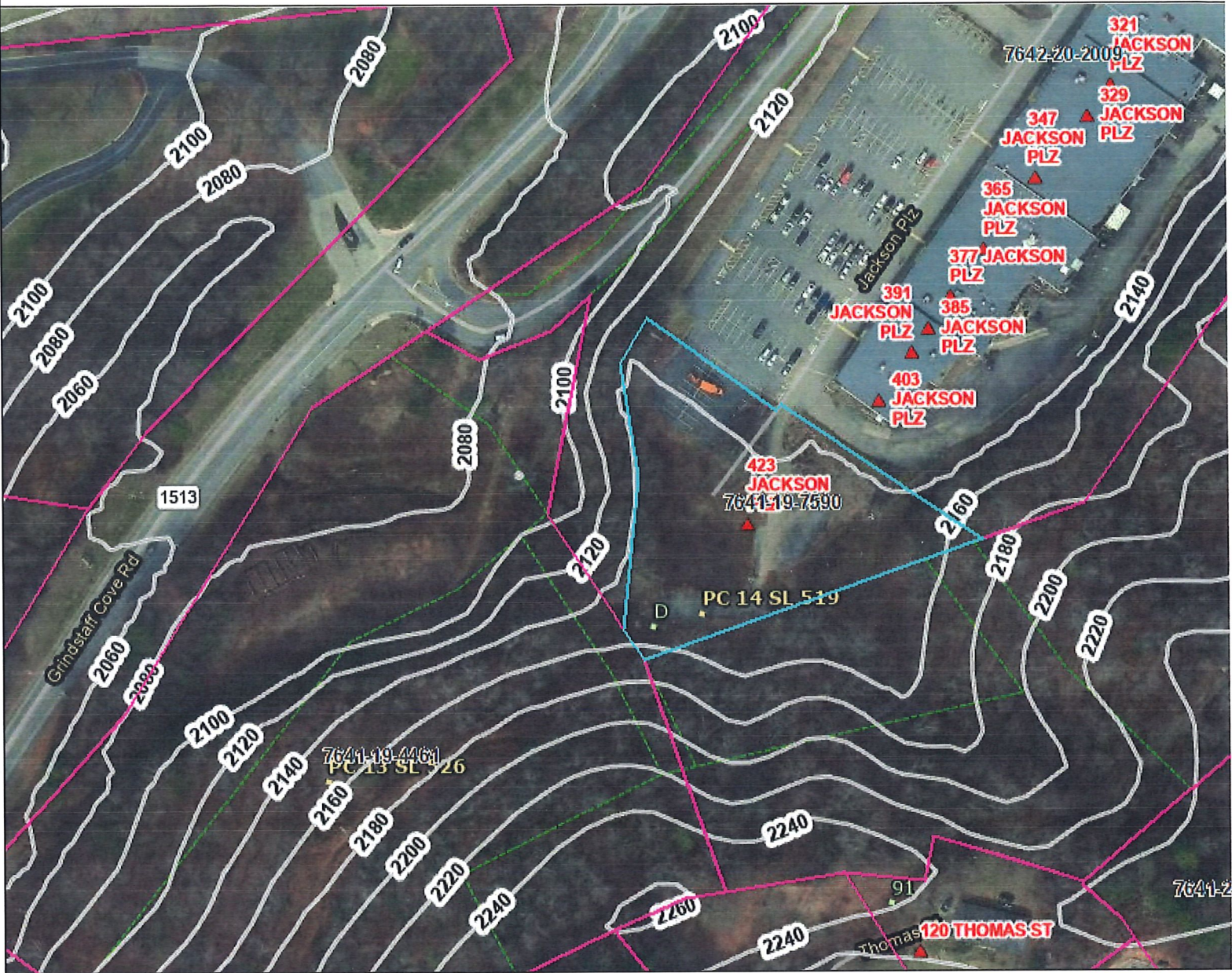
Jackson County Custom Map



- | | | | |
|---|---|---|---|
|  Lease Holds | Overlay Districts |  CD - Conditional District |  HSO - Hillside and Steep Slope Development Overlay |
|  Address_Points |  CCO - Commercial Corridor Overlay | | |
|  Municipal Limits | | | |

Exhibit 6 - Addendum to Application for Zoning Variance

Jackson County Custom Map



▲ Address_Points	Parcel Annotation	Lot Number	Sub	Leader Line	Deed Plot
Contours 20ft	Dimension	Miscellaneous	Parcel Lines	Lot Line	Jackson_bou...
Centerlines	Easement	Road	Easement	Subdivision ROW	
	Hydro	State	Hooks		

Exhibit 7 - Addendum to Application for for Zoning Variance

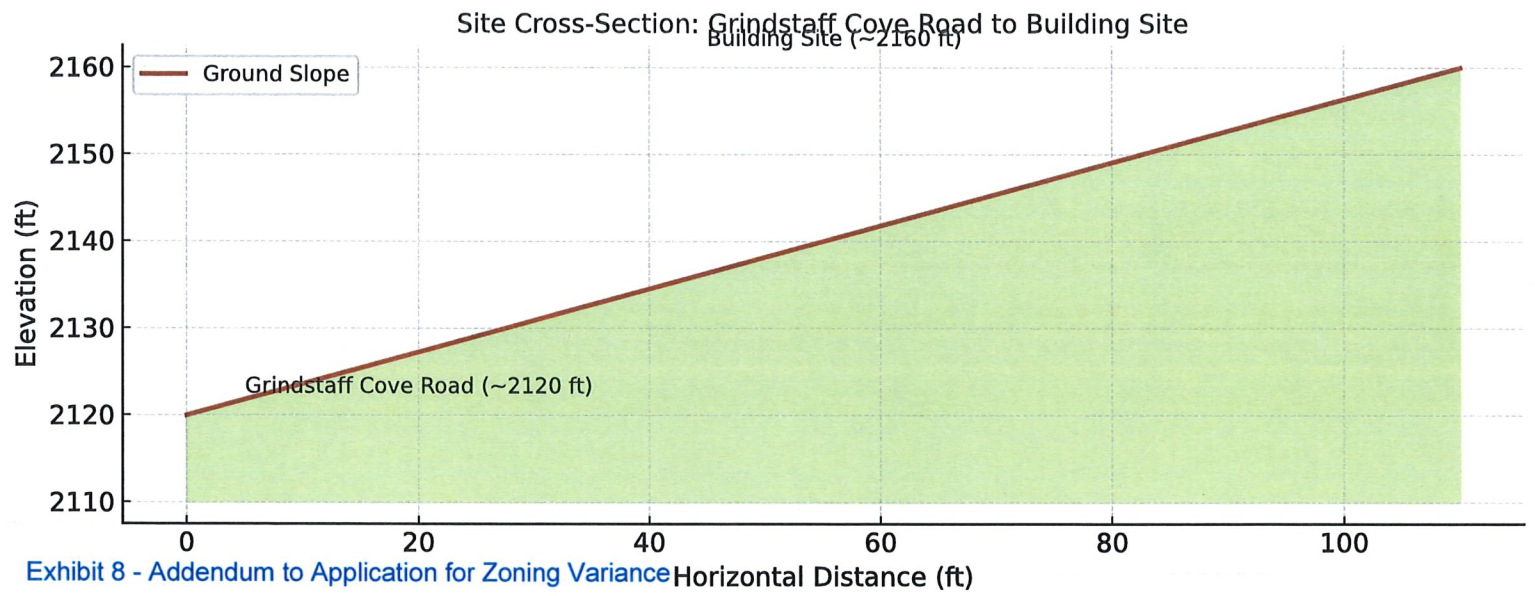


Exhibit 8 - Addendum to Application for Zoning Variance

AMENDED ADDENDUM TO

Town of Sylva

Application for Zoning Variance

Joshua J. Moss, Member/Manager (President)

RLJ Land Development, LLC, Owner

423 Jackson Plaza, PIN: 7641-19-7590, Property

REQUEST FOR VARIANCE

The applicant respectfully requests that the Zoning Board of Adjustment waive the requirement that a portion of the metal building proposed for the property located at 423 Jackson Plaza (Lot 3D, Jackson Plaza) (hereinafter referred to as the "Property") is subject to the materials requirement of Article 7, Section 7.3.C.1 of Appendix A, Zoning and Subdivisions Ordinance (hereinafter the "Zoning Ordinance"), of the Sylva Municipal Code. The applicant seeks waiver of the requirement for a covering on the exterior side of the proposed metal building where the Property abuts a portion of the Jackson Plaza Property which includes the private access road across the Jackson Plaza Property and to the Property from Grindstaff Cove Road (S.R. 1613).¹ This portion of the Jackson Plaza Property adjoins the Holland Property and those two properties form a steep and mostly wooded (trees, native plants and shrubs) buffer between the Property and Grindstaff Cove Road.² More particularly, the applicant submits that this request is in keeping with the intent of the Zoning Ordinance because the exterior side of the proposed building at issue is not "visible from a primary frontage road" as contemplated by the Zoning Ordinance.

The Property

The Property is an approximate 1.48 acre lot which is vacant and has been owned by the applicant since May 15, 2023. It has been vacant since April 3, 1997 when a fire destroyed the former Western Sizzlin' Steakhouse which was located on the property.³ Also, it was considered

¹ The side of the building at issue is the portion of the building facing the wooded area of the Jackson Plaza Property and marked with a blue heavily dashed line as shown on the site plan, attached hereto as "Exhibit 1". The applicant does not object to placing a covering on the side of proposed building facing the Jackson Plaza Property parking lot. This area is also marked with a blue heavily dashed line on the site map. Further, the applicant understands that no covering is required by the Zoning Ordinance on any other side of the building. The private access road is designated as such because the Property has a deeded right of way even though the road also serves the Jackson Plaza Property.

² The Jackson Plaza Property and the Holland Property are further identified hereinafter.

³ The Sylva Herald "Looking Back" archive article is attached as "Exhibit 2".

at one time as a site for the Jackson County Library.⁴ The Property is an irregular but close to triangular shape that is positioned such that the Property's northernmost corner, above Grindstaff Cove Road, points in the direction of U.S. Hwy 74. The Property is accessed via a right-of-way from Grindstaff Cove Road (S.R. 1613) over an existing private paved road ("private access road") that runs across an adjoining property owner's property (Alice Grindstaff, Trustee; PIN: 7642-20-2009 (hereinafter the "Jackson Plaza Property")).

The adjoining Jackson Plaza Property which is approximately 12.68 acres is presently home to Jackson Plaza. The Jackson Plaza Property is a shopping center or strip mall that is part concrete block, part brick and has a portico or covering above the walkway running the entire length of the front of the building that consists of painted metal.⁵ Jackson Plaza currently hosts the United States Post Office, Roses, Galaxy Lanes and Games, Sylva Pawn and Gun, Peking Gourmet, II and other retail type businesses and one religious organization. The front of the proposed building will face the parking lot of the Jackson Plaza Property.

The Property is bounded on the west in some part by a wooded portion of the Jackson Plaza Property. The Jackson Plaza Property then continues in a northeastern direction and includes the private access road leading to the Jackson Plaza Property and the Property from Grindstaff Cove Road. The private access road is located at the bottom of an embankment and on its mostly wooded east side abuts the Grindstaff Cove entrance ramp for U.S. Hwy 74. The Property also shares a common boundary for a short distance on its northwest side where the Jackson Plaza Property joins with a vacant or unimproved property owned by Reginald G. Holland, Jr. and Tamara B. Holland consisting of approximately 7.98 acres (PIN: 7641-19-4461 (hereinafter the "Holland Property")). The Holland Property forms a small portion of a wooded boundary with the Property before it adjoins the wooded portion of the Jackson Plaza Property and continues all the way to Grindstaff Cove Road. Otherwise, the Property is bounded on the southern side by a portion of an approximate 87.07 acre vacant or unimproved tract or parcel of land (which continues around the Jackson Plaza Property and crosses over U.S. Hwy 74), a separate tract of parcel of land also owned by Alice Grindstaff, Trustee (PIN: 7642-10-4865).⁶

The wooded portion of the Jackson Plaza Property adjoins the Holland Property and both properties form a steep and mostly wooded buffer between the Property and Grindstaff Cove Road. The Property is situated at the top of embankments which rise with a steep grade from the Holland Property and the Jackson Plaza Property above Grindstaff Cove Road. Also, there is a steep embankment which is partially wooded and that provides a buffer for the Property

⁴A plat of survey recorded with the Register of Deeds of Jackson County, North Carolina with a description of the Property is attached as "Exhibit 3" and identifies the Property as the "Proposed Jackson County Library Site".

⁵ The applicant acknowledges that the Jackson Plaza building predates the current Zoning Ordinance.

⁶ The approximate 87.07 acre property owned by Alice Grindstaff Trustee is zoned Low Density Residential.

along the eastern side of the private access road leading from Grindstaff Cove Road. The Jackson Plaza Property on the opposite or west side of the private access road abuts Grindstaff Cove Road entrance ramp leading to U.S. Hwy 74 and is wooded. The Property does not touch, concern or abut Grindstaff Cove Road.

Site Plan

The Preliminary Site Plan for the Property proposes a Fitness Center and Future Mixed Used Facility. Adjoining property lines can be located on the plan as well as the access right of way for the Property. Otherwise, the plan is comprehensive and includes, *inter alia*, the proposed building footprint and how it will be placed on the Property, building setbacks, landscape buffers, sidewalks, parking lots and spaces, and existing overhead power lines proposed to be relocated.⁷ Placement of the proposed building will not be on the boundary with the Holland Property or the Jackson Plaza Property but closer to the center of the property allowing for parking on the side of the building above Grindstaff Cove Road as well as spaces for outdoor food/beverage vendors in the same area. Utilities are available to the Property through Duke Energy and Tuckasegee Water & Sewer Authority.

Design Plan

The design plan for Catamount Elite Fitness proposes a manufactured 5V metal structure of high grade material from Titan Steel.⁸ The façade in the front of the building as proposed will have a wainscoting of black glazed brick and above the wainscoting will be clad in NewTech Wood. The side of the proposed building at issue in this application, and that faces the Jackson Plaza Property and the Holland property before those properties abut Grindstaff Cove Road and as set forth in the proposed design will have at least three entry or exit doors and at least four windows with tempered glass. The exterior curtain walls doors will have black aluminum mullions. The exposed metal if not clad will be black in color.

The applicant describes the vision for the proposed building as follows:

- 45' x 70' (3000 sq. ft.) climbing gym
- area designated for climbing athletes (kilterboard + other tools)
- mezzanine level with cardio equipment overlooking the mountains
- 40'x18' yoga/dance studio
- bathrooms with multiple stalls and showers (women's includes "cosmetic" space and dressing area)
- recovery room with Sauna & Cold Plunge

⁷ The site plan was prepared by Stillwell Engineering, P.A., William A. Stillwell on 05/23/2024 and is attached hereto as "Exhibit 3".

⁸ The design plan was prepared by Shelly Gregg with latest revisions on 06/02/202, and relevant portions of the design plan are attached hereto as a cumulative "Exhibit 4".

- 82'x60' (4000+ sq. ft.) CrossFit gym with designated Olympic lifting platforms & Strongman elements
- room for on-site Physical Therapist / Massage Therapist
- outdoor food/beverage vendor spaces in the parking on the side of the proposed building at issue and between the proposed building and embankment above the adjoining Jackson Plaza Property, the Holland Property and Grindstaff Cove Road
- outdoor turf area surrounding the gym plus a space designated for an outdoor climbing experience

It is obvious from the design plan that metal buildings are no longer tin boxes or garage type structures. Innovations in design, materials, and construction methods make metal buildings versatile, aesthetically pleasing, and a practical alternative to traditional construction and is particularly true in this incident. The design plan conforms to the following zoning requirements in all respects if the variance is granted due to the exterior side of the proposed building at issue not being “visible from a primary frontage road” as contemplated by the Zoning Ordinance.

Zoning

The different zoning designations for the Town of Sylva do obviously influence the applicant’s current building proposal, its feasibility and create compatibility or integration challenges. And, of course financial challenges. The Property is zoned by the Town of Sylva as being within the General Business District with a Commercial Corridor Overlay.⁹ The Jackson Plaza Property is zoned the same as the Property. The Holland Property is zoned within the General Business District, but without the Commercial Corridor Overlay. The difference in with or without the Commercial Corridor Overlay could simply be because the Property is located at the very end of the parking lot for the Jackson Plaza Property and the Holland Property is not, but the distinction is not readily obvious. As previously stated, the approximate 87.07 acre property owned by Alice Grindstaff, Trustee (which wraps around the east side of the Jackson Plaza Property and continues across U.S. Hwy 74) is zoned Low Density Residential.

Section 4.2 E. of Article 4 of the Zoning Ordinance defines the General Business District as follows:

4.2 E. GB, General Business District

*The General Business District provides commercial and retail opportunities along corridors that are reliant on automobiles and through traffic. **The General Business District strives to continue the small-town character of Sylva but offers a broad range of permitted and special uses in buildings with varying architectural styles. (Emphasis added).** These commercial areas are intended to*

⁹ Jackson County GIS Map of the Property without the Zoning Overlay is attached as “Exhibit 5”. Jackson County GIS Map with Zoning Overlay is attached as “Exhibit 6”.

serve both the local and regional residents in its proximity to neighborhoods and accessibility to the local road network.

Section 4.3. B. of Article 4 the Zoning Ordinance describes a Commercial Corridor Overlay and the applicability of the Commercial Corridor Overlay as follows:

4.3.B.1. Commercial Corridor Overlay (CCO).

1. Purpose. The purpose of the Commercial Corridor Overlay District (CCO) is to promote safety and mobility while protecting the scenic vistas that exists along Highway 107/Main Street (emphasis added), which serves as the major access and gateway into the Town of Sylva. The regulations herein are to provide consistency but also flexibility in site design based on the improvements to Highway 107. The design and policies applied to this roadway are important and necessary to not only preserve the natural landscape but also to control commercial growth, protect public safety, maximize the efficiency of traffic, and encourage unified development. It is the intent that this highway corridor continues to be a valuable asset to the economic viability of Sylva and provide a safe and efficient gateway for the Town.

The Commercial Corridor Overlay District shall be in addition to any other zoning district designated on the Town of Sylva Zoning Map so that any parcel of land lying in a CCO may also lie in one (1) or more of the zoning districts provided for by this Article. The development of all uses permitted by right or by special use permit in the underlying district, if any, shall be subject to the requirements of both the CCO and the underlying zoning district. In the event the CCO requirements conflict with the underlying district requirements, the requirements of the CCO shall take precedence.

4.3.B.2. Applicability. For the purposes of this section, the CCO is defined as and applicable to all property fronting on the portions of Highway 107/East Main Street, as shown on the Town's official zoning maps. (Emphasis added).

The Commercial Corridor Overlay District has specific requirements in addition to those in the General Business District. For example, setbacks, driveways and shared access, parking and loading, activities within buildings and outdoor storage, signage, and open spaces . In general between the General Business District and the Commercial Corridor Overlay, the most restrictive of the two applies.

Further, flexibility is provided in the Commercial Corridor Overlay for the acquisitions of rights of way and widening of Hwy 107. It appears the enactors of the Zoning Ordinance had more of a concern for properties situated along the Hwy 107 Corridor due to the anticipated widening of

Hwy 107 as opposed to other areas designated with a Commercial Corridor Overlay. Nonetheless, the Property has the burdens and benefits of such designation, but those are not at issue for the purposes of this application for a variance.

Design and Maintenance Standards

Section 7.3 of Article 7 of the Zoning Ordinance, in relevant part, reads as follows:

Section 7.3. – Design and Maintenance Standards for Buildings.

A.

Applicability.

1.

The building design standards of this section are applicable to all buildings except for structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings.

2.

All sides of a structure visible from the primary frontage road shall be in compliance with the design standards in this Section. (Emphasis added).

C. 1. Exterior Materials.

Exterior materials permitted on non-residential buildings shall include, but may not be limited to, at least eight-five (85) percent of wood, brick, stone, cement board, stucco, and high-quality metal products, when approved by the Planning Board. Additions and new construction shall use facing materials compatible in quality, color, texture, finish, and dimension to those common on surrounding parcels. Under no circumstances shall metal siding, unfinished concrete block, or vinyl siding be allowed. Metal clad or covering may be used as an accent material and cumulatively may not exceed fifteen (15) percent of each exterior wall area with road frontage.

The applicant respectfully seeks a variance from the above design and maintenance standards. With regard to the above design and maintenance standards, the Zoning Ordinance provides no definition of what is meant by “**visible from the primary frontage road**”.

However, Section 1.2 of Article I of Chapter 1 of the Sylva Municipal Code, in relevant part, reads as follows:

ARTICLE I - GENERAL

Sec. 1-2. Definitions and rules of construction.

*In the construction of this Zoning Ordinance and of all ordinances, the following definitions and rules of construction shall be observed, **unless inconsistent with the manifest intent of the board of commissioners or the context clearly requires otherwise (emphasis added):***

Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

Further, Section 1.8 of Article 1 of Chapter 1 of the Sylva Municipal Code, in relevant part, reads as follows:

Section 1.8. - Interpretations.

In the event any question arises concerning the application of regulations, performance standards, definitions, development criteria, or any other provision of this Ordinance, the Zoning Administrator shall be responsible for the interpretation and shall look to the Ordinance for guidance. Responsibility for interpretation by the Zoning Administrator shall be limited to standards, regulations, and requirements of the Ordinance, but shall not be construed to include interpretation of any technical Zoning Ordinances adopted by reference in the Ordinance and shall not be construed as overriding the responsibilities given to any commission, board, building inspector, or town officials named in other sections or articles of the Ordinance.

Therefore, the Zoning Administrator has responsibility for interpretation of definitions and development criteria but not to the exclusion of this Board. The Zoning Administrator as well as this Board must look to the Ordinance itself for guidance.

Section 10.1 of Article 10 of the Zoning Ordinance does provide some guidance in discerning the meaning of certain words, terms and phrases and in relevant part:

Section 10.1. - General Terms.

The following words, terms, and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

The following terms, as may be relevant to this request, are included in this Section:

Road, public: Any road or highway which is now or hereafter designated and maintained by the North Carolina Department of Transportation as part of the State Highway System, whether primary or secondary, hard surfaced or other dependable highways.

Street (road): A right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

Hillside area: Areas where the average natural slope is 15% to 29%.¹⁰

Steep slope: Any areas where the average natural slope is 30% or greater.¹¹

Definitions of the following words and phrases are defined by Merriam-Webster Dictionary as follows:

“Primary Road”: a principal usually state-maintained road in a recognized system of highways¹²

“Frontage Road” is defined by a local street that parallels an expressway or through street and that provides access to property near the expressway;

called also service road¹³

“Visible” “capable of being seen”.¹⁴

As previously stated, the words or terms, “visible” and “primary frontage road” are not defined in whole or part in the Sylva Municipal Code or the Zoning Ordinance contained therein. Therefore, the task is two-fold: 1. To determine the **“the manifest intent of the board of commissioners”** with regard to enactment of the Zoning Ordinance taking into account **“the context”** of the above words or terms; and 2. To give consideration to **“the common and approved usage of the language”** but for **“technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law”** which **“shall be construed and understood according to such meaning”**.

Variance Process

The variance process is set forth in Article 3, Section 3.8 of Appendix A, of the Zoning Ordinance, and in relevant part, reads as follows:

¹⁰ This definition is provided with regard to applicant’s “Topography” and “Visible” argument.

¹¹ This definition is also provided with regard to applicant’s “Topography” and “Visible” argument.

¹² MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/primary%20road> (1/16/2026).

¹³ MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/frontage%20road> (1/16/2026).

¹⁴ MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/visible> (1/16/2026).

3.8.B. Variances. The variance process administered by the Board of Adjustment is intended to provide limited relief from the requirements of this ordinance in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of the land in a manner otherwise allowed under this ordinance. However, in no event shall the Board of Adjustment grant a variance that would conflict with any state Zoning Ordinance, would allow the establishment of use that is not otherwise allowed in a particular zoning district, or which would change the zoning district classification or the district boundary of the property in question.

3.8.B.3. Required Findings. The Board of Adjustment shall not grant a variance unless and until it makes all of the following findings:

a.

Carrying out the strict letter of the ordinance would result in unnecessary hardship. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

b.

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.

The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with the knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

d.

The requested variance is consistent with the spirit, purpose, and intent of this ordinance, such that public safety is secured, and substantial justice is achieved.

e.

The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit. That is, the applicant is not seeking to establish, or expand, or extend a nonconforming use. Moreover, the existence of a nonconforming use is the same or in any other zoning district shall not constitute a reason for granting the requested variance.

ARGUMENT

The Proposed Building is not Visible from the Primary Frontage Road

Primary Frontage Road

The Property and its proposed building site is accessed via a deeded easement over a private paved road across the Jackson Plaza Property from Grindstaff Cove Road. While Grindstaff Cove Road may constitute the primary frontage road for the Property, or some part of the private access road may as well, the side of the proposed building above Grindstaff Cove Road is not capable of being seen from the private access road or Grindstaff Cove Road because there is no clear line of site.

Topography

The proposed building site sits atop a steep embankment which has a vertical rise of approximately 40 feet and a horizontal run of 100-120 feet, giving a slope of 36% above the road grade, based on the attached diagram which uses as a base the Jackson County GIS contour map for the Property.¹⁵ The Property is an irregular but close to triangular shape that is situated such that the Property's northernmost corner points in the direction of U.S. Hwy 74 which makes it difficult for placement of a building on the Property but also does not provide for a clear line of site from Grindstaff Cove Road to the northwest side of the building as proposed.

Vegetation

The Jackson Plaza Property and the Holland Property as they border the Property form a steep and mostly wooded (trees, native plants and shrubs) buffer as those properties slope away from the Property and toward Grindstaff Cove Road. There is a steep embankment which is partially wooded and that provides a buffer for the Property along the eastern side of the private access road leading from Grindstaff Cove Road. The Jackson Plaza Property on the opposite or west side of the private access road abuts Grindstaff Cove Road leading to U.S. Hwy 74 and is mostly wooded. Both features provide significant visual screening between Grindstaff Cove Road, the private access road and the side of the Property above Grindstaff Cove Road year round.

¹⁵ See, Exhibit 7, Jackson County GIS Contour Map for the Property, and Exhibit 8, Cross-Section of the elevation of the building site based upon the GIS Contour Map. (Slope = Rise ÷ Run = $\sim 40 \div 110 = \sim 36\%$ grade, which is quite steep). See, also Sylva Municipal Code definitions, on page 8 of this Addendum, for Hillside area: Areas where the average natural slope is 15% to 29%; and Steep slope: Any areas where the average natural slope is 30% or greater.¹⁵

Distance and Line of Sight

The site plan indicates the building as proposed will not be on the boundary with the Jackson Plaza Property near the edge of the embankment but closer to the center of the property allowing for parking spaces for outdoor food/beverage vendors on the side of the proposed building above the adjoining Jackson Plaza Property, the Holland Property, and Grindstaff Cove Road. Photographs indicate the proposed building site is not visible from a primary frontage road, particularly from Grindstaff Cove Road or the private access road.¹⁶ The elevation of the site, steep embankments, grade of the site from the road, as well as the vegetation (trees, native plants and shrubs) screen the view from Grindstaff Cove Road and the private access road. Vehicular or pedestrian passersby on Grindstaff Cove Road, the private access road, or even U.S. 74 cannot reasonably see the side of the proposed building above Grindstaff Cove Road because there is no clear line of sight.

Financial Hardship

Lastly, for purposes of transparency, but while not overriding other portions of the applicant's argument, it is not denied that it would lessen the financial burden on the applicant in pursuing the applicant's vision for the Property if this request is granted.

CONCLUSION

Section 1.5 of the Zoning Ordinance defines the purpose of the Zoning Ordinance:

Section 1.5. Purpose. The purpose of this Ordinance is to preserve the social, economic, cultural, historic, and aesthetic conditions that make up the Town of Sylva. The land use and development standards contained in this Ordinance are intended to promote and enhance the Town's unique community atmosphere. Given the geographic location and size of the Town, the controls contained in this Ordinance are necessary and will help to ensure that the Town of Sylva will continue to thrive and stand out as a desirable place to live and conduct business.

Section 7.1 of the Zoning Ordinance sets for the purpose for development standards:

Section 7.1. - Purpose. The site development standards set forth in this Ordinance are provided to protect life and property and to minimize nuisances through responsible development, design, and construction in the Town of Sylva.

¹⁶ Various photographs and driving videos will be identified and submitted as exhibits prior to or at the hearing on this Application.

The purpose of the Zoning Ordinance as stated is succinct in stating 1. *“the manifest intent of the board of commissioners”* with regard to enactment of the Zoning Ordinance taking into account *“the context”* of the words and terms of *“visible from a primary frontage road”*; and 2. while giving consideration to *“the common and approved usage of the language”*.

It is respectfully submitted that carrying out the strict letter of the Ordinance without the requested interpretation would result in unnecessary hardship to the applicant. Allowing responsible development on a site unused for 28 years, arguably for the same reasons set forth above that are peculiar to the land, justifies granting the variance even if the request already meets the requirements of the variance as interpreted. Granting of the variance is warranted based on the following:

1. The unique nature of the Property;
2. The high grade materials and design for the building which is aesthetically appealing,
3. There is no interference does not interfere with public safety or mobility;
4. It does not create a nuisance;
5. It promotes responsible development.

This request promotes the purpose of the Zoning Ordinance and particularly Section 7 of the Zoning Ordinance and meets all of the requirements for granting of a variance as set forth in Section 3.8.B. of Article 3 the Zoning Ordinance. The proposed building as it will be situated above Grindstaff Cove Road and the private access road does not meet the undefined threshold of “visible from a primary frontage road” and therefore the design standards in Section 7.3 of Article 7 the Zoning Ordinance should not apply to the side of the building above Grindstaff Cove Road or the private access road.

Town of Sylva, North Carolina
Zoning Variance Request – Staff Report
February 16, 2026

Project: Catamount Fitness

Applicant: RLJ Land Development, LLC (Josh Moss)

Property Location: 423 Jackson Plaza, Sylva, PIN number 7641-19-7590

Property Zoning: GB (General Business District)

Ordinance Request: Article 3, Section 3.5.H-Variance Review Process; Section 3.8.B-Variances, Quasi-Judicial Procedures

Description of Request: The applicant is requesting a variance for Section 7.2.C.2 – Design Standards for Lots; Section 7.3.C-Exterior Materials (buildings). The Zoning Board of Adjustment shall have the power to authorize a variance from the terms of this Article (Article 7 – Development Standards). The variance process administered by the Board of Adjustment is intended to provide limited relief from the requirements of this ordinance in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of the land in a manner otherwise allowed under this ordinance. However, in no event shall the Board of Adjustment grant a variance that would conflict with any state code, would allow the establishment of use that is not otherwise allowed in a particular zoning district, or which would change the zoning district classification or the district boundary of the property in question.

Background: The property for the requested variance is located at 423 Jackson Plaza in Sylva adjacent to the Jackson Plaza Shopping Center. This property is 1.48 acres in land area and is bordered Jackson Plaza to the northeast and vacant land to the west and south. The applicant is seeking a variance for exterior siding materials (northwest side), which will be required on the northeast and northwest sides of the proposed structure. Section 7.3.C.1 is stated as follows:

“Exterior materials permitted on non-residential buildings shall include, but may not be limited to, at least eighty-five (85) percent of wood, brick, stone, cement board, stucco, and high-quality metal products, when approved by the Planning Board. Additions and new construction shall use facing materials that are compatible in quality, color, texture, finish, and dimension to those common on surrounding parcels. Under no circumstances shall metal siding, unfinished concrete block, or vinyl siding be allowed. Metal clad or covering may be used as an accent material and cumulatively may not exceed fifteen (15) percent of each exterior wall area with road frontage.”

Staff Findings: Based on the submitted documents by the applicant, the requirements for a variance application have been met for review by the Town Planning Board and Board of Adjustment.

The findings as required by:

- **Article 3, Section 3.8 Quasi-Judicial Procedures; 3.8.B Variances:**

Section 3.8.B.2 Review Process:

- a. Upon receipt of the request for a variance from the Zoning Administrator, the Board of Adjustment shall hold a public, evidentiary hearing on the request.
- b. After conducting the hearing and within forty-five (45) days, the Board of Adjustment may: deny the application; conduct an additional public hearing on the application; approve the application; or approve the application with additional conditions. A concurring vote of four-fifths (4/5) of the members of the Board of Adjustment shall be necessary to grant a variance.
- c. Conditions. In granting any variance, the Board of Adjustment may attach such conditions to the approval as it deems necessary and appropriate to satisfy the purposes and objectives of this ordinance. The Board of Adjustment may also attach conditions in order to reduce or minimize any injurious effect of such variance upon other property in the neighborhood and to ensure compliance with other terms of this ordinance. Such conditions and safeguards must be reasonably related to the condition or circumstance that gives rise to the need for a variance.
- d. Any approval or denial of the request shall be accompanied by written findings of fact supporting the conclusion that the variance meets or does not meet each of the standards set forth in Section 7.3.B.3.

Section 3.8.B.3 Required Findings:

The Board of Adjustment shall not grant a variance unless and until it makes all of the following findings:

- a. Carrying out the strict letter of the ordinance would result in unnecessary hardship. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- b. 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. The hardship did not result from actions taken by the applicant of the property owner. The act of purchasing property with the knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- d. The requested variance is consistent with the spirit, purpose, and intent of this ordinance, such that public safety is secured, and substantial justice is achieved.
- e. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit. That is, the applicant is not seeking to establish, or expand, or extend a nonconforming use. Moreover, the existence of a nonconforming use is the same or in any other zoning district shall not constitute a reason for granting the requested variance.

Additional Information:

- Planning Staff met with the applicant March 15, 2023 (before ownership of the subject property) and May 23, 2023 (the week after taking ownership of the subject property); on both occasions, the ordinance development and architectural regulations were discussed at length and the applicant acknowledged these standards.
- On March 13, 2024, Planning Staff received site development plans from the applicants Civil Engineer. These plans could meet the ordinance standards for site development.
- On December 4, 2024, Planning Staff received architectural renderings showing the exterior materials for the building northeast and northwest frontages of the proposed structure. The materials shown are composite cladding and are acceptable for meeting ordinance standards.