

**Town of Montreat  
Board of Adjustment  
Meeting Agenda  
September 24, 2020 – 5:00 p.m. and 5:45 p.m.  
Town Hall**

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**I. Call to Order**

- Welcome
- Invocation/Moment of Silence

**II. Agenda Adoption**

**Suggested Motion:** To adopt the meeting agenda as presented/amended

**III. Minute Adoption**

**A. October 24, 2019 Meeting Minutes**

**Suggested Motion:** To adopt the meeting minutes as presented/amended

**IV. Public Hearing**

**A. Variance Request – Mississippi Road – NCPIN# 0710-65-0168 (5:00 p.m.)**

- **Suggested Motion:** To grant/deny a variance request to reduce the side yard setback from 15' to 10' for construction of a single-family home. The property is zoned R-1 Low Density Residential and is further described as PIN# 0710-65-0168.

**B. Variance Request – 362 Nisbett Lane (5:45 p.m.)**

- **Suggested Motion:** To grant/deny a variance request to encroach upon the side yard setback for construction of a deck. The property is zoned R-1 Low Density Residential and is further described as PIN# 0710-86-3699.

**V. Public Comment**

**VII. Adjournment**

**Town of Montreat  
Board of Adjustment  
October 24, 2019 – 7:00 p.m.  
Walkup Building**

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Board members present: AnnKelso Hewitt  
Mark Spence  
Martha Chastain  
Robert Sulaski  
Eleanor James

Board members absent: Margaret Waterstradt

Town staff present: Alex Carmichael, Town Administrator  
Angie Murphy, Town Clerk  
Adrienne Isenhower, Zoning Administrator

Six members of the public were present. Mr. Spence, as Chair, called the meeting to order at 7:02 p.m. and led those in attendance in a moment of silence.

**Agenda Approval**

Robert Sulaski moved to approve the agenda as presented. Eleanor James seconded and the motion carried 5/0.

**Minute Adoption**

Robert Sulaski moved to approve the September 26, 2019 Meeting Minutes as presented. Eleanor James seconded and the motion carried 5/0.

**Public Hearing**

Mark Spence gave a brief description of the purpose of this evening's variance. Town Clerk Angie Murphy swore in Zoning Administrator Adrienne Isenhower, Chris Harrin from Semper Fi Custom Remodeling and Mr. Bill Hollins of 116 Shenandoah Terrace.

Mrs. Alice Lentz of 115 Eastminster Terrace is requesting to build a 19' x 15' detached garage on the right front corner of her home. Additionally, she would like a screened in breezeway built between the proposed detached garage and the existing screened in porch. This detached garage and screened in breezeway would provide a second, more secure access to the home away from weather and wildlife. Chris Harrin of Semper Fi Custom Remodeling spoke on behalf of Mrs. Alice Lentz who was out of Town and unable to attend the meeting. Mr. Harrin stated that the topography of the lot does not allow for any other placement for the garage on the property. The hardship is the topography of the lot. The proposed structure will be located on the lot line. This structure cannot be located further left due to the turn-around access in the driveway. There is also a wildlife trail in the yard so this placement will allow for the least amount of vegetation to be disturbed.

Mr. Hollins of 116 Shenandoah Terrace stated he was a side-by-side neighbor to Mrs. Lentz. Mr. Hollins felt that the justifications given by Mrs. Lentz for hardships do not rise to the level of hardships required by the Ordinance. The property is adjacent to his property and the requested variance will place the proposed garage on the property line dividing the two lots. This is in violation of the 15 foot side setbacks for R-1 districts. The side setbacks are necessary to provide a buffer for privacy and safety. The main safety issue is for fire protection. Granting this variance can provide a precedent. Future expansion of other structures may be desired and the side setback further encroached upon. Mr. Hollins believes this can have an adverse impact by limiting future expansion of any structure on his property that may be located near the proposed garage. Mr. Hollins also believes that the value of his property may be decreased in the eyes of a prospective buyer when it is found out that a structure exists on the property line.

After some discussion it was decided by the Board of Adjustment that there was not enough information to come to a decision about this variance. Mr. Robert Sulaski moved to deny this application and requested the owner to study the plans and come back to the Board with more information. Eleanor James seconded and the motion carried 5/0.

**Public Comment**

There was no public comment at this time.

**Adjournment**

There being no further business to discuss, Marth Chastain moved to adjourn the meeting at 7:44 p.m. Eleanor James seconded and the motion carried 5/0.

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Mark Spence, Chair

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Angie Murphy, Town Clerk



## TOWN OF MONTREAT

P. O. Box 423, Montreat, NC 28757  
Tel: (828) 669-8002 | Fax: (828) 669-3810  
www.townofmontreat.org

### MEMORANDUM

To: Board of Adjustment Members and Property Owners

From: Adrienne Isenhower, Zoning Administrator

Re: Variance Request – **Mississippi Road: NCPIN# 0710-65-0168**

Date: September 15, 2020

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The Board of Adjustment will meet on September 24, 2020 at 5:00 p.m. at Montreat Town Hall to hear a request for a variance for the property noted above. The property is located in the R-1 Low Density Residential zoning district which requires a 15' side yard setback. The variance is requested for reduction of the side yard setback from 15' to 10' for construction of a single-family home.

The following documents are included with this packet and will be reviewed by the Board of Adjustment during the variance hearing: a variance application submitted by Keith Sanders, on behalf of Mike and Kathryn Mader, a site plan with the proposed location of the house, an elevation drawing of the proposed structure, a location map for the property and a findings of fact worksheet the Board of Adjustment will use for their decision.

The Board of Adjustment SHALL grant a variance upon presentation all of the following:

- Unnecessary hardship would result from the strict application of the ordinance.
- The hardship results from conditions that are peculiar to the property, such as location, size, or topography.
- The hardship did not result from actions taken by the applicant or the property owner.
- The variance is consistent with the spirit, purpose and intent of the ordinance such that public safety is secured and substantial justice is achieved.
- The variance requested is the minimum variance that will make possible the legal use of the land, building, or structure.
- The variance is not a request to permit a use of land, building, or structure which is not permitted in the zoning district involved.



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[www.townofmontreat.org](http://www.townofmontreat.org)

**VARIANCE APPLICATION**

I, Keith Sanders, on behalf of Mike Mader, hereby petition the Board of Adjustment for a VARIANCE from the literal provisions of the Montreat Zoning Ordinance because, under the interpretation given to me by the Zoning Official, I am prohibited from using the parcel of land described in the attached application for a Certificate of Zoning Compliance in a manner shown by the plot plan attached to that form. I request a variance from the following Zoning Ordinance language [cite Section number(s)]:

Article VII 701 of the Zoning Ordinance

**FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE**

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. According to the enabling language in the North Carolina General Statutes, the Board is required to reach three conclusions before it may issue a variance: (A) that there are unnecessary hardships in the way of carrying out the strict letter of the Ordinance; (B) that the variance is in harmony with the general purposes and intent of the Ordinance and preserves its spirit; and (C) that in granting the variance, the public safety and welfare have been assured and substantial justice has been done. In the spaces below, indicate the facts you intend to show and the arguments you intend to make to convince the Board that it can properly reach these required conclusions. **Additional sheets may be attached to this application where necessary.**

(A) **There are unnecessary hardships in the way of carrying out the strict letter of the Ordinance.** The courts have developed rules to determine whether in a particular situation “unnecessary hardships” exist. State facts and arguments in support of each of the following:

1. **The hardship of which the applicant complains is the result of a condition or existing features that are peculiar to the applicant’s land.** *(Note: Hardships suffered by the applicants in common with his/her neighbors do not justify a variance. There are extraordinary and exceptional conditions pertaining to the property in question due to its size, shape or topography that are not applicable to other land or structures in the same Zoning District. Also, unique personal or family hardships are irrelevant; a variance, if granted, runs with the land.)*

We are requesting a side setback variance for Lot 1185, Plat Book 26, page  
91. PIN #0710-65-0168. The lot is 54.6 wide with current side setbacks of  
15’. The current 15’ setbacks take up more than half of the lot width.  
Resulting in less than a 25’ wide buildable width. We are requesting a side  
Setback of 10’ on each side.

2. **The special circumstances are not the result of the actions of the applicant.** (*Note: The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.*)

The property was purchased and designed based on setbacks of 10 feet. We were informed of the 15' setback upon applying for a building permit.

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- (B) **The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.** State facts and arguments to show that the variance requested represents the *least possible deviation* from the letter of the Ordinance that will allow a reasonable use of the land. Also describe how the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood.

We have found that in the general area of this site that there are several residences that do not have a minimum of 15' side setbacks, including the residence next door. In these cases they do not even meet a 10' side setback. The granting of a 10' side setback would not be out character for the neighborhood nor certainly for a 54.5' wide lot.

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- (C) **The granting of the variance secures the public safety and welfare and does substantial justice.** State facts and arguments to show that, on balance, if the variance is denied the benefit to the public will be substantially outweighed by the harm to the applicant.

If the variance is granted the vacant lot can be developed and improve the value and aesthetics of the neighborhood. If denied the lot will be considered unbuildable due to the restricted width.

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1. **Granting the requested variance will not confer upon the applicant any special privileges that are denied to other residents of the Zoning District in which the property is located.**

Again, the 10' side setbacks are in common and still more restrictive than several existing residences.

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2. **A literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.**

Yes, the requested setback of 10' is still more than several existing residences.

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3. **The variance is not to request a use of land, Building or Structure which is not permitted in the subject Zoning District.**

No, the single family home is a permitted use.

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**I certify that all of the information presented by me in this application is accurate to the best of my knowledge, information and belief.**

Signature of Applicant:



Date: 8/11/2020

**LEGEND**

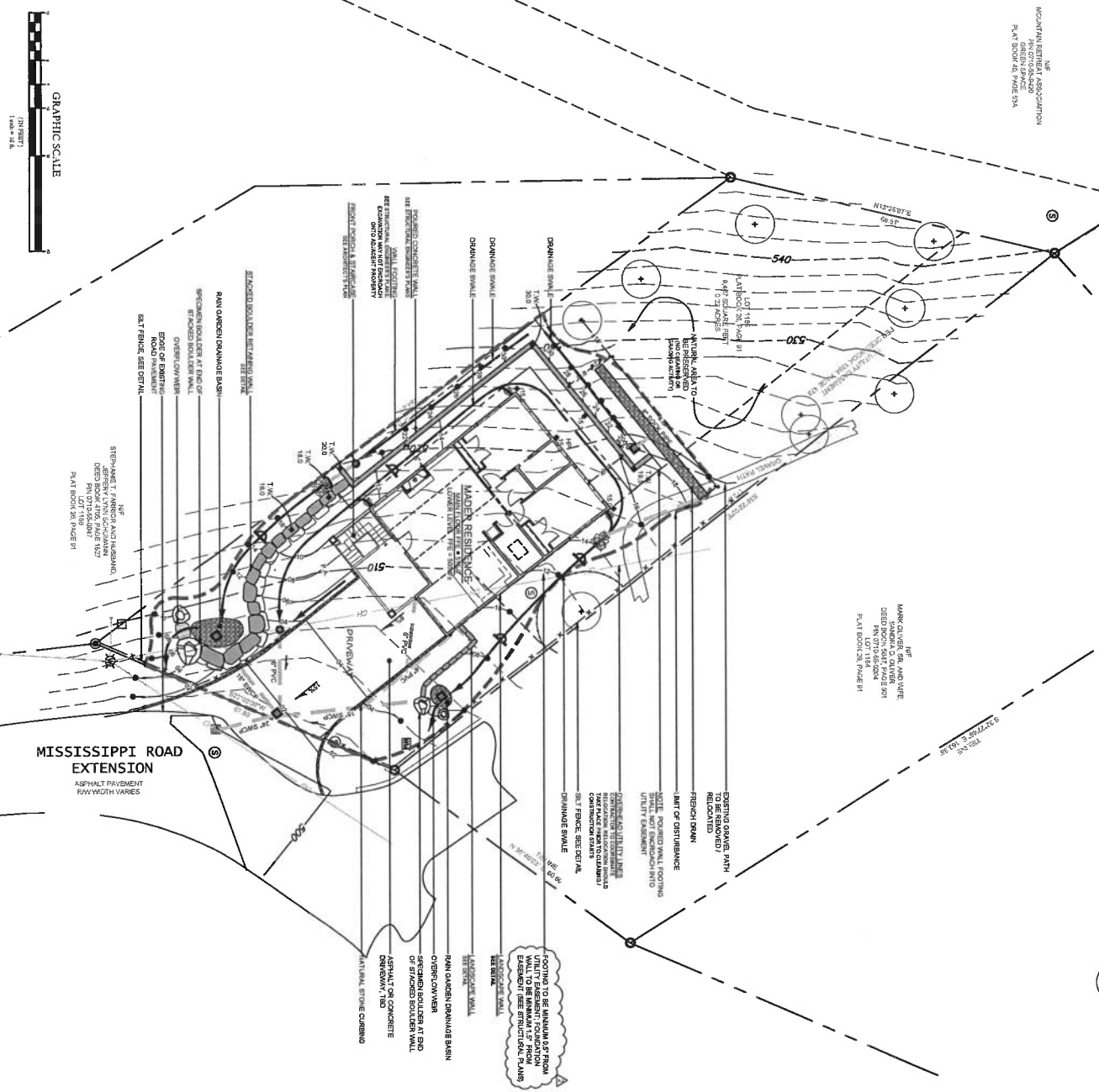
- PARCEL BOUNDARY
- - - BUILDING SETBACK
- PIPE
- DRAINAGE SWALE
- LOW POINT
- HIGH POINT
- FINISHED FLOOR ELEVATION
- DRAINAGE
- YARD INLET
- TOP OF WALL
- TOP OF COLUMN
- PLANTING AREA
- E.O.P
- DRAINAGE DIRECTION AND SLOPE
- CONSTRUCTION FENCE
- TREE PROTECTION FENCE
- SILT FENCE
- SLOTTED WALLS/DEGRADED SLOTTED CURB/WALL
- CONSTRUCTION ENTRANCE
- EXISTING TREES
- TREES TO BE REMOVED
- CHECK DAM

**GENERAL NOTES**

1. REFER TO SITE SPECIFICATIONS FOR DRAWING.
2. REFER TO ARCHITECTURAL PLANS FOR BUILDING LAYOUT AND GUTTER AND DOWNSPOUT LOCATIONS ARE NOT SHOWN.
3. CONTRACTOR SHALL THE GUTTERS AND DOWNSPOUT LAYOUT WITH DOWNSPOUTS SHALL BE LOCATED TO SUBSIDIZED DRAINAGE WITH FLOOR, RECYCLING AND WOOD.
4. THE IN ALL PROVIDED FROM DOWNHILL TO PROPOSED EROSION CONTROL MEASURES SHALL BE LOCATED TO SUBSIDIZED DRAINAGE WITH FLOOR, RECYCLING AND WOOD.
5. ALL INLET SHALL BE PROTECTED BY PROTECTION IMMEDIATELY AND NOTIFY MANAGER/INSPECTOR IF ANY CONTRACTOR AND/OR CONTRACTOR IS RESPONSIBLE FOR MINIMAL DISTURBANCE OF UNDERGROUND UTILITIES.
6. LAYOUT ALL SITE EXISTING IN FIELD PRIOR TO CONSTRUCTION FOR EXISTING UTILITIES.
7. LAYOUT AND BARRIERS OF PROPOSED WALLS TO BE VERIFIED WITH LANDSCAPE ARCHITECT.

NE  
MOUNTAIN HERITAGE ASSOCIATION  
FOR CROSSSECTION  
PLAT BOOK 44, PAGE 19A

NE  
MADDER CONSULTANT AND ARCHITECT  
SHELDON A. MADDER  
LOT 1184  
PLAT BOOK 28, PAGE 11

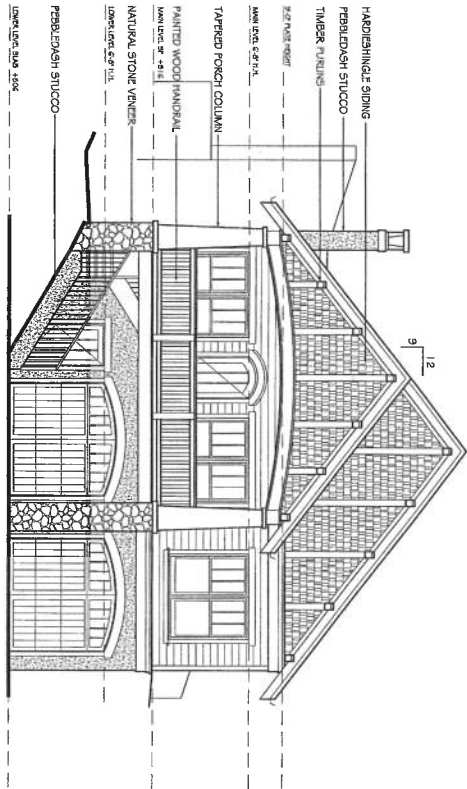


**811**  
Know what's below  
Call before you dig.  
811  
OR CALL 800-858-8111

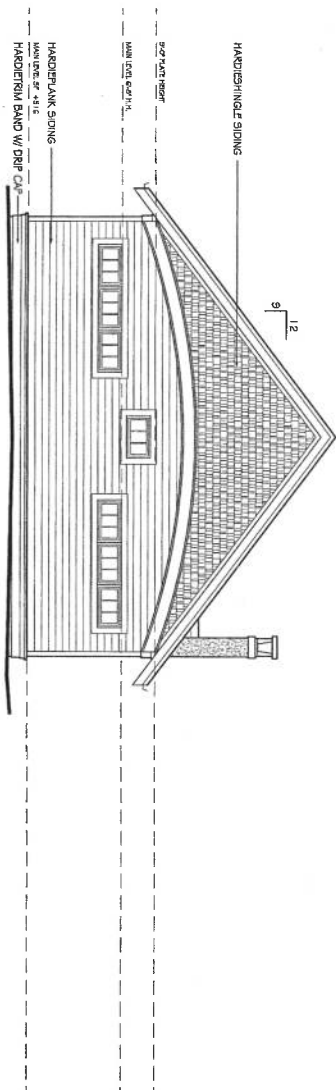


<p><b>SHEET:</b> <b>L 1.03</b></p>	<p><b>SITE PLAN</b></p> <p>MADDER PROJECT</p> <p>Black Mountain, North Carolina</p>		<p><b>KERNS</b> LAND PLANNING &amp; DESIGN</p> <p>14 Church Street Asheville, North Carolina 28801</p> <p>© 2018 255 2450 www.kernslasdo.com</p>
<p><b>DATE ISSUED:</b> DATE: OCTOBER 14, 2019</p> <p><b>REVISIONS:</b> REVISION: DECEMBER 10, 2019 WALL LOCATION CHANGES REVISED MARCH 26, 2020 HOUSING LOCATION UPDATES</p>			





1 Front Elevation  
Scale: 1/8" = 1'-0"



2 Rear Elevation  
Scale: 1/8" = 1'-0"

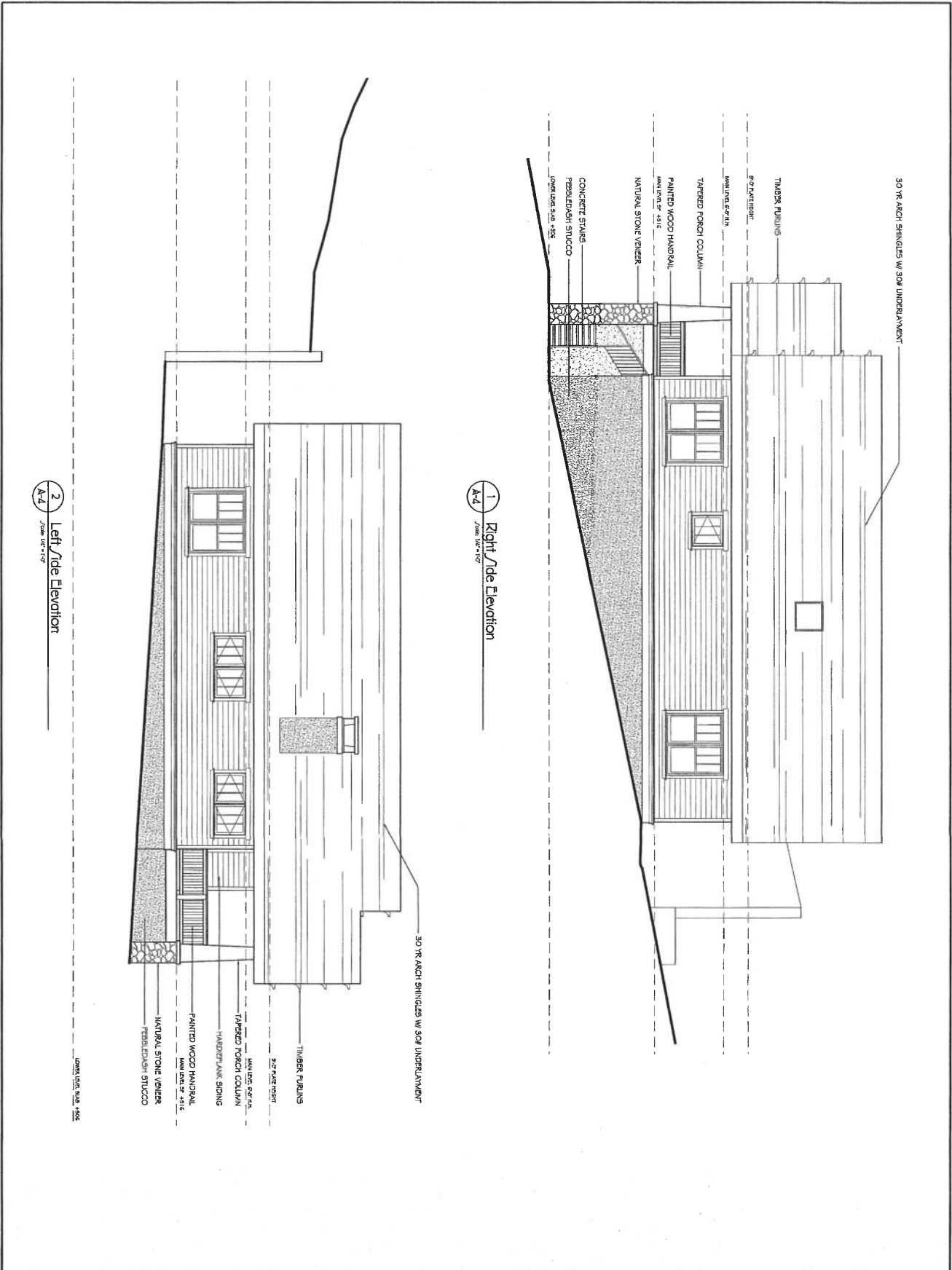


1001 MONTAGNETTE ST., SUITE 100  
 WYOMING, WYOMING 82201  
 P: 307.438.1700  
 F: 307.438.1762  
 WWW.HURTARCHITECTS.COM



**MADER RESIDENCE**  
 159 MISSISSIPPI ROAD EXT.  
 MONTREAT, NORTH CAROLINA

DRAWING DATE: Front & Rear Elevations  
 DATE: October 1, 2019  
**A-3**  
 SCALE: 1/8" = 1'-0"



1 Right Side Elevation  
Scale: 1/4" = 1'-0"

2 Left Side Elevation  
Scale: 1/4" = 1'-0"



10  
1  
M I D L A N D  
A V E N U E  
B L A C K  
M O U N T A I N  
R C 2 8 7 1 1  
F N 9 N 1  
8 2 8 . 6 5 9 . 1 7 2 0  
F A X  
I N F O @ H U R T A R C H I T E C T S . C O M  
W W W . H U R T A R C H I T E C T S . C O M



**MADER RESIDENCE**  
159 MISSISSIPPI ROAD EXT.  
MONTREAT, NORTH CAROLINA

DRAWING NAME  
Right & Left Elevations  
DATE October 1, 2019  
**A-4**  
SCALE 1/4" = 1'-0"





**Variance Worksheet (Findings of Fact)**

**Applicant:** \_\_\_\_\_ **Property Address:** \_\_\_\_\_

The property owner provided competent, material and substantial evidence to establish that:

1. There are unnecessary hardships in the way of carrying out the strict letter of the Ordinance:

Ordinance Section(s): \_\_\_\_\_

Findings: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2. The hardship results from conditions that are peculiar to the property and did not result from actions taken by the Property Owner.

Findings: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3. The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.

Findings: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

Findings: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
**Board of Adjustment Chairman**

\_\_\_\_\_  
**Date**



## TOWN OF MONTREAT

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### MEMORANDUM

To: Board of Adjustment Members and Property Owners

From: Adrienne Isenhower, Zoning Administrator

Re: Variance Request – **362 Nisbett Lane**

Date: September 15, 2020

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The Board of Adjustment will meet on September 24, 2020 at 5:45 p.m. at Montreat Town Hall to hear a request for a variance for the property noted above. The property is located in the R-1 Low Density Residential zoning district which requires a 15' side yard setback. The variance is requested for encroachment upon the side yard setback for construction of a deck.

The following documents are included with this packet and will be reviewed by the Board of Adjustment during the variance hearing: a variance application submitted by Doug Nuernberger; property owner, a site plan with the proposed location of the deck, an image of the deck design, a schematic drawing of the deck, a location map for the property and a findings of fact worksheet the Board of Adjustment will use for their decision.

The Board of Adjustment SHALL grant a variance upon presentation all of the following:

- Unnecessary hardship would result from the strict application of the ordinance.
- The hardship results from conditions that are peculiar to the property, such as location, size, or topography.
- The hardship did not result from actions taken by the applicant or the property owner.
- The variance is consistent with the spirit, purpose and intent of the ordinance such that public safety is secured and substantial justice is achieved.
- The variance requested is the minimum variance that will make possible the legal use of the land, building, or structure.
- The variance is not a request to permit a use of land, building, or structure which is not permitted in the zoning district involved.



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### VARIANCE APPLICATION

I, Doug Nuernberger, hereby petition the Board of Adjustment for a VARIANCE from the literal provisions of the Montreat Zoning Ordinance because, under the interpretation given to me by the Zoning Official, I am prohibited from using the parcel of land described in the attached application for a Certificate of Zoning Compliance in a manner shown by the plot plan attached to that form. I request a variance from the following Zoning Ordinance language [cite Section number(s)]:

According to section 710 of the Town of Montreat Zoning Ordinance, the ordinance requires a setback of 15 feet in the side yard and 30 feet of the front yard for a home in the R-1 zoning district

We would like to extend the existing 2nd story deck on the south side of the house by 3 feet toward North Carolina Terrace per the design plans. In addition, we would like to connect the south side deck to the "front porch" deck on the east side of the house to create both a secondary egress route in case of emergency and an ADA compliant access route into the house. We would do this by wrapping the deck around the corner of the house and extending it along the east side of the house to attach it.

An additional reason we want to build this deck is to create more space on the main level of the house, where our family can be outside and enjoy Montreat and its beautiful vistas. The design we have chosen creates that space and does it in a way that maintains the spirit of the original house design. Of the design alternatives we considered, we think this one with a wraparound deck joining the 2 existing decks would be the most attractive.

### FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. According to the enabling language in the North Carolina General Statutes, the Board is required to reach three conclusions before it may issue a variance: (A) that there are unnecessary hardships in the way of carrying out the strict letter of the Ordinance; (B) that the variance is in harmony with the general purposes and intent of the Ordinance and preserves its spirit; and (C) that in granting the variance, the public safety and welfare have been assured and substantial justice has been done. In the spaces below, indicate the facts you intend to show and the arguments you intend to make to convince the Board that it can properly reach these required conclusions. **Additional sheets may be attached to this application where necessary.**

- (A) There are unnecessary hardships in the way of carrying out the strict letter of the Ordinance. The courts have developed rules to determine whether in a particular situation "unnecessary hardships" exist. State facts and arguments in support of each of the following:
1. **The hardship of which the applicant complains is the result of a condition or existing features that are peculiar to the applicant's land.** *(Note: Hardships suffered by the applicants in common with his/her neighbors do not justify a variance. There are extraordinary and exceptional conditions pertaining to the property in question due to its size, shape or topography that are not applicable to other land or structures in the same*

*Zoning District. Also, unique personal or family hardships are irrelevant; a variance, if granted, runs with the land.)*

The existing house structure has one main egress point for the main and second level which is through the front door. This design creates an alternative egress route to exit the house from the south end of the main level in the event the primary egress route becomes blocked or unusable. Additionally, for someone who is wheelchair bound or restricted by mobility issues, this new route would provide an ADA compliant ramp option that removes the need to 'step' into the house.

2. **The special circumstances are not the result of the actions of the applicant.** (*Note: The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.*)

The home was constructed on a very narrow lot with a home width of only 28 feet, and the current setback makes any expansion of the deck with ADA compliant width impossible. The deck design we are submitting would require a setback variance on the east side of the house where the deck wraps around toward the front door deck and driveway. We considered alternatives that would potentially not require a setback variance such as extending the deck to the south or southwest toward North Carolina Terrace. This would be difficult because the ground is sloping down requiring engineered post due to the severe height. We do not think those designs would be practical or as attractive as the one we've chosen. With an approved variance, we could create a stable and level deck that connects the 2 existing decks and wraps around the side of the house creating another egress route. We think the design of this deck will look more integrated with the house than the other designs we considered.

- (B) **The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.** State facts and arguments to show that the variance requested represents the *least possible deviation* from the letter of the Ordinance that will allow a reasonable use of the land. Also describe how the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood.

If granted a variance, the egress route will not adversely affect any neighboring citizens and is designed to look aesthetically pleasing from the neighbor's point of view. There will be no impact to the neighbor's homes, walkways, or outdoor walls and patios. And the design is such that no large trees will need to be removed.

- (C) **The granting of the variance secures the public safety and welfare and does substantial justice.** State facts and arguments to show that, on balance, if the variance is denied the benefit to the public will be substantially outweighed by the harm to the applicant.

This decks will add increase the safety, attractiveness, and overall enjoyment of our Montreat home with minimal impact on the neighbors.

1. **Granting the requested variance will not confer upon the applicant any special privileges that are denied to other residents of the Zoning District in which the property is located.**

The wraparound deck we are trying to build is similar to many others around Montreat. And other Montreat home owners have required setback variances for similar projects.

2. **A literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.**

We just want a larger wraparound deck but one that still looks appropriate with the house. There are many good examples of this around Montreat.

3. **The variance is not to request a use of land, Building or Structure which is not permitted in the subject Zoning District.**  
Correct

**I certify that all of the information presented by me in this application is accurate to the best of my knowledge, information and belief.**

Signature of Applicant:

Date: 8/4/2020

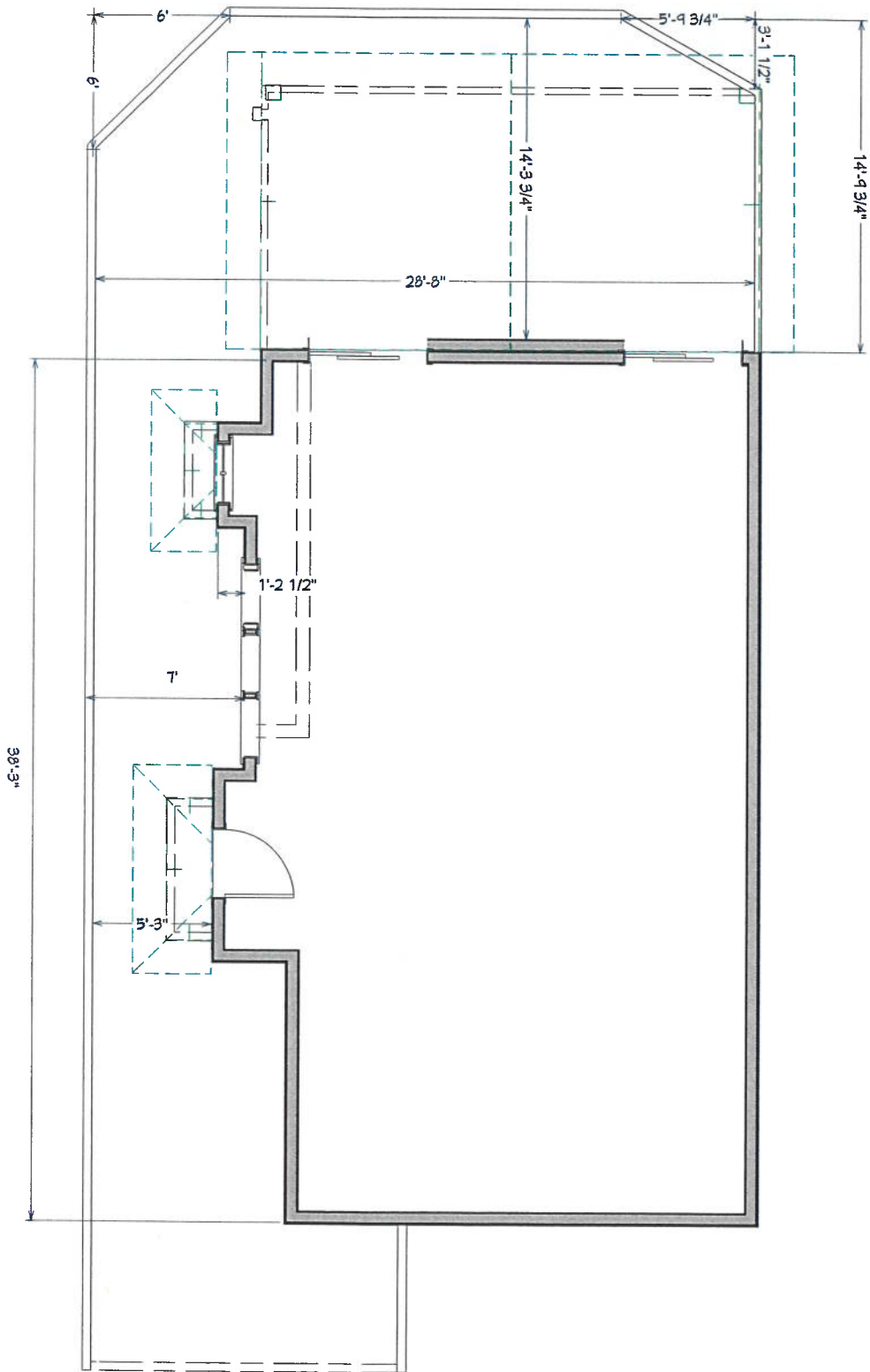








LIVING AREA  
855 SQ. FT.

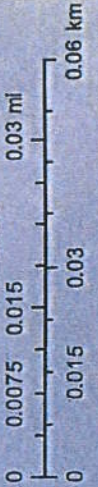


# Durham County



July 30, 2020

1:1,128



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand).



**Variance Worksheet (Findings of Fact)**

**Applicant:** \_\_\_\_\_ **Property Address:** \_\_\_\_\_

The property owner provided competent, material and substantial evidence to establish that:

1. There are unnecessary hardships in the way of carrying out the strict letter of the Ordinance:

Ordinance Section(s): \_\_\_\_\_

Findings: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2. The hardship results from conditions that are peculiar to the property and did not result from actions taken by the Property Owner.

Findings: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3. The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.

Findings: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

Findings: \_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_  
**Board of Adjustment Chairman**

\_\_\_\_\_  
**Date**