

May 5, 2022

Bill Scheu, Chairperson, Montreat Planning & Zoning Commission

RE: Memo of Addendum to Staff Report – Conditional Zoning for Lot 1185, Mississippi Rd. (Mader) regarding: 1) Zoning Administrator Determination on retaining wall, 2) Notes on updated site plans provided by Applicant’s development team

Mr. Scheu:

This memo acts as an addendum to information contained in **Staff Report – Conditional Zoning for Lot 1185, Mississippi Rd. (Mader)** issued 4/21/22 to the Montreat Planning & Zoning Commission. This memo reflects additional discussion between Bill Scheu, Montreat P&Z Chairperson, and Scott Adams, Montreat Zoning Administrator, on two separate topics related to this Conditional Zoning as follows:

- 1) **Zoning Administrator Determination regarding a retaining wall** (i.e. defined as a Structure per Montreat Zoning Ordinance) not being subject to Setback requirements.
- 2) **Updated site plans from the Applicant’s development team** showing a retaining wall being located outside of a Metropolitan Sewerage District (MSD) sewer easement.

Zoning Administrator Determination Regarding a Retaining Wall

In his 4/21/22 staff report, the Montreat Zoning Administrator determined that a proposed retaining wall is not subject to zoning setbacks per the R-1 Low-Density Residential zoning district per the following process:

- 1) The Montreat Zoning Ordinance defines **Building(s)** as follows:

Building: Any Structure, fully or partially enclosed, and constructed or used for residence, business, industry or other public or private purposes, or purposes accessory thereto, including without limitation tents, Trailers, Manufactured Homes, Modular Homes, and similar Structures whether stationary or movable. **Appurtenant features, or exterior structural elements requiring permanent attachment to a Building, are considered part of the Building (emphasis added by Zoning Administrator)** for the purposes of this Section unless otherwise expressly permitted as separate Structures.

As shown on the Application’s site plans, the proposed retaining wall is not attached to the proposed building. Therefore, the Zoning Administrator determined that the retaining wall is a separate **Structure** and not a **Building**.

2) The Montreat Zoning Ordinance defines **Setback(s)** as follows:

Setback: The distance from any Property Line to the closest point of a **Principal or Accessory Building (emphasis added by Zoning Administrator)**.

The Zoning Administrator determined, via this definition, that Setbacks are applicable to **Buildings** and not applicable to **Structures**.

3) The Montreat Zoning Ordinance defines **Setback Line** as follows:

Setback Line: A line establishing the minimum allowable distance between an applicable **Property Line** (that is, front, side or rear Property Line) and the **nearest portion of any Principal or Accessory Building, (emphasis added by Zoning Administrator)**, excluding the outermost four feet (4') of any attached steps, roof, gutters and similar fixtures. Covered porches, whether enclosed or not, shall be considered as part of the Building and shall not extend beyond the Setback Line. Decks, whether free-standing or not, shall not extend beyond the Setback Line unless otherwise permitted in accordance with Section 606.4.

The Zoning Administrator determined, via this definition, that Setbacks and Setback Lines are applicable to **Buildings** and not applicable to **Structures**.

4) The Montreat Zoning Ordinance defines **Structure(s)** as follows:

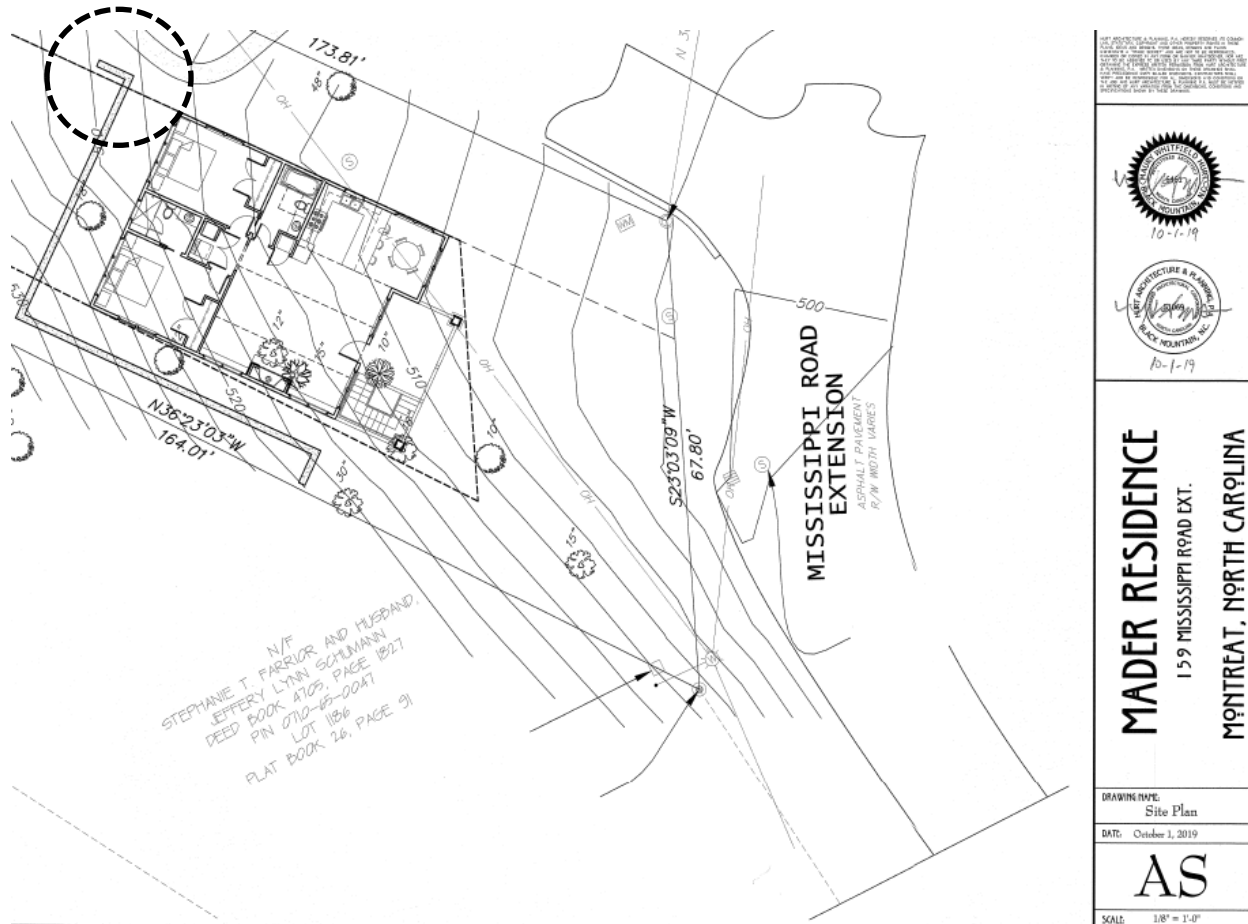
Structure: Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground, including Decks, **retaining walls, (emphasis added by Zoning Administrator)** exterior stairways, Fences, and Signs provided, however, neither a driveway (including associated guardrails), a walkway (including associated steps and railings), an elevated boardwalk, nor a fence shall be considered a Structure for the purpose of Setback and minimum Yard requirements. Accessibility Features approved pursuant to Section 606.4 and also signs complying with the requirements and limitations of this Ordinance shall not be considered a Structure for the purpose of Setback and minimum Yard requirements.

The Zoning Administrator determined, via this definition, that a retaining wall is a **Structure** and is not a **Building**.

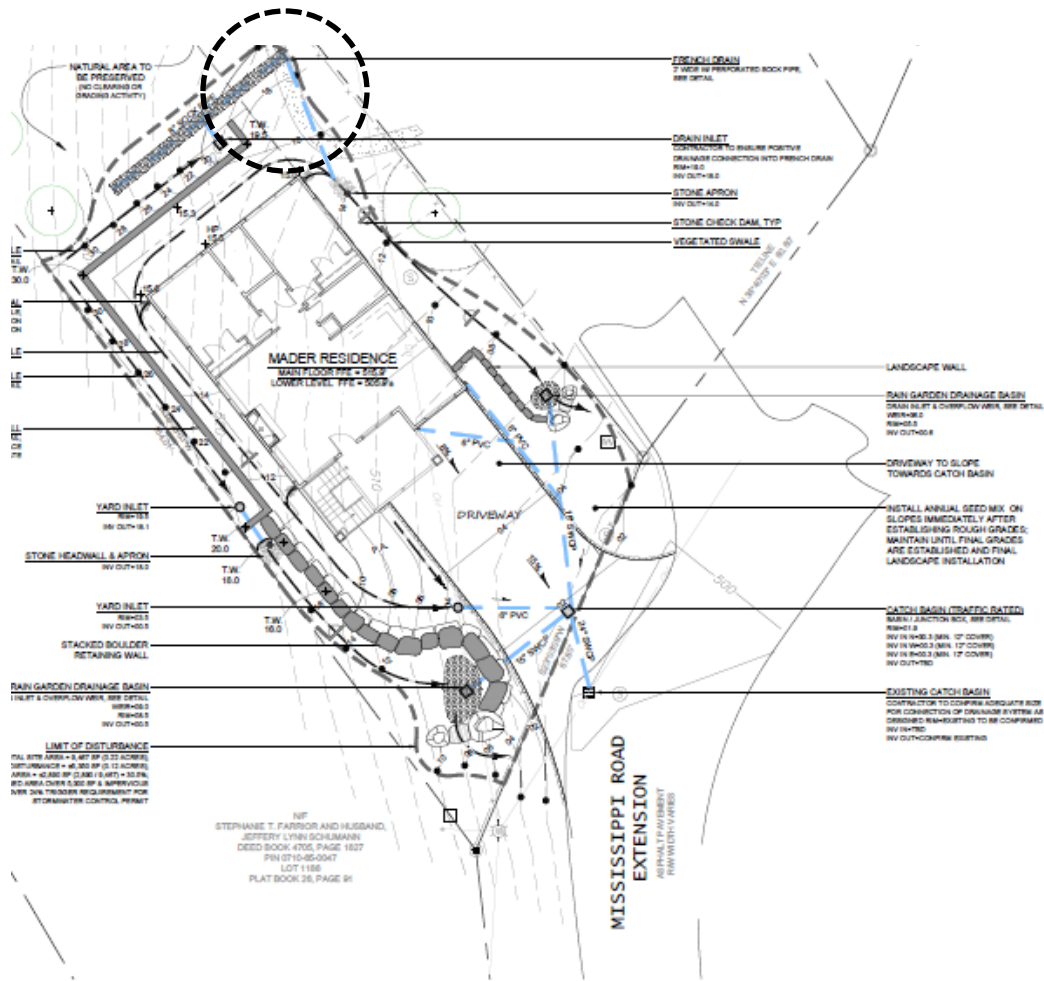
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Updated Site Plans from Applicant's Development Team

The *Staff Report – Conditional Zoning for Lot 1185, Mississippi Rd. (Mader)* issued 4/21/22, contains reference to an older site plan, see *Figure 2: Estimated site setback dimensions (by Zoning Administrator)*. The referenced site plan (Sheet AS, Site Plan, by Hurt Architecture, dated October 1, 2019) shows a retaining wall encroaching into the MSD sewer easement on the north/east side of the property (see below, highlighted with dashed-circle).



The Applicant's landscape architect, Kern Land Planning & Design, included updated site plans (Sheets L 1.02 and L 1.03) showing the proposed retaining wall outside of the MSD sewer easement. These are spatially accurate and up to date. (see next page, highlighted with dashed-circle).




**GRADING, DRAINAGE,
& EROSION
CONTROL PLAN**
MADER PROJECT
Black Mountain, North Carolina

DATE ISSUED:
DATE: OCTOBER 14, 2019
REVISIONS:
REVISED: DECEMBER 10, 2019
WALL LOCATION UPDATES
REVISED: MARCH 26, 2020
HOUSE LOCATION UPDATE

SHEET: L 1.02

As such, the Applicant’s development team will provide updated site plans, including a simplified exhibit showing proposed side setbacks clearly labeled. These are expected for submittal to the Montreat Zoning Administrator and Montreat Planning & Zoning Commission on or before Friday, May 6, 2022.

This concludes the Montreat Zoning Administrator’s follow-up on these questions relating to this Conditional Zoning application.

Sincerely,

 Scott Adams, AICP
 Zoning Administrator
 Town of Montreat

CC: Montreat Planning & Zoning Commission members
 John Noor, Attorney acting as Agent for the Applicant