

**Town of Montreat
Board of Adjustment (BOA)
Meeting Agenda
October 26th, 2023, 5:00 p.m.
Montreat Town Hall
1210 Montreat Rd., Black Mountain, NC 28711
Meeting also held via Zoom: <https://bit.ly/3oFiacy>**

I. ELECTION OF PRESIDING OFFICER

II. CALL TO ORDER

- Welcome
- Moment of Silence

III. CERTIFICATION OF QUORUM

IV. AGENDA ADOPTION

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

V. ADOPTION OF September 28, 2023, MEETING MINUTES

- **Suggested Motion:** To adopt the September 28, 2023, Meeting Minutes as drafted.

VI. SWEARING IN OF NEW MEMBERS

- If present at this meeting, swear in **Danny Sharpe** as a Regular Member of the Town of Montreat's Board of Adjustment.
- If present at this meeting, swear in **Mike Broussard** as a Regular Member of the Town of Montreat's Board of Adjustment.

VII. ORDER OF APPROVAL

- a) Variance Request (VA-2023-01)** – A Variance request submitted by Todd Hutchings, who is under contract to purchase the Subject Property, for the lot described as PIN#072015687600000 located about 800 feet south of the intersection of Appalachian Way and Oklahoma Road to the following Montreat Zoning Ordinance (MZO) sections for a proposed single-family dwelling: (1) Section 501.5 to reduce the front setback requirement from 30 feet to 10 feet, (2) Section 501.81 to reduce the side setback requirement from 15 feet to 5 feet on the north side of the Subject Property and to 10 feet on the south side of the Subject Property, and (3) Section 617 to allow the driveway connection for the proposed dwelling on the Subject Property to connect to Oklahoma Road outside of the frontage area described in this section of the MZO.

Suggested Motion: To approve/approve with revisions/deny the written order of approval for VA-2023-01.

- b) Special Use Permit Request (SUP-2023-01)** – A Special Use Permit to allow a 907-square-foot detached Garage (Accessory Building) with a final height taller than ten feet to be placed in the front yard of a single-family dwelling unit submitted by Dana Bobilya with Harrison Homes (on

**Town of Montreat
Board of Adjustment (BOA)
Meeting Agenda
October 26th, 2023, 5:00 p.m.
Montreat Town Hall
1210 Montreat Rd., Black Mountain, NC 28711
Meeting also held via Zoom: <https://bit.ly/3oFiacy>**

behalf of the Property Owners, Theodore and Susan Mourouzis and Frank and Margaret DeFilippo) on property in the R-1 Zoning District located on Oak Lane approximately 450 feet west of Oak Lane's intersection with Louisiana Road and described as PIN# 071066814100000 within the Town of Montreat.

Suggested Motion: To approve/approve with revisions/deny the written order of approval for SUP-2023-01.

VIII. EVIDENTIARY HEARING

- a) Variance Request (VA-2023-02)** – A Variance Request submitted by Charlotte and Mike Sebesta (Property Owners of the Subject Property) for the lot described as PIN#072015277900000 located approximately 700 feet south of the intersection of Appalachian Way and Florida Terrace to Section 504.7 of the Montreat Zoning Ordinance (MZO) to reduce the front setback requirement from 25 feet to 0 on the Florida Terrace side of the Subject Property feet to construct a single-family dwelling.

Suggested Motion: To grant/grant with conditions/deny VA-2023-02.

IX. NEW BUSINESS

X. ADJOURNMENT

**Town of Montreat
Board of Adjustment
Regular Meeting
September 28, 2023 – 5:00 p.m.
Town Hall**

Board members present: David Neel
Arrington Cox
Martha Chastain
Mari Gramling
Eleanor James

Board members absent: Danny Sharpe
Mark Spence
Mike Broussard

Town staff present: Kayla DiCristina, Zoning Administrator
Angie Murphy, Town Clerk

Approximately nine members of the public were present. Eleanor James called the meeting to order after a moment of silence.

The meeting was recorded and posted to the Town website on the YouTube Channel which can be found at the following link:

<https://www.youtube.com/watch?v=7Y6MkVRJr-g>

Certification of Quorum

Eleanor James certified that a quorum was indeed in attendance.

Agenda Adoption

Arrington Cox moved to amend the agenda to move Evidentiary Hearing Item B in front of Evidentiary Hearing Item A. Mari Gramling seconded and the motion carried 5/0.

Adoption of June 22, 2023 Meeting Minutes

Arrington Cox moved to adopt the June 22, 2023 Meeting Minutes as presented. David Neal seconded and the motion carried 5/0.

Order of Approval - Variance Request (VA-2022-03)

A Variance request to Section 809 of the Montreat Zoning Ordinance to allow an 18.36-square-foot wayfinding sign on the eastern side of Assembly Drive approximately halfway between Lookout Road and Community Center Circle on the lot described as PIN#071096841400000 submitted by Tanner Pickett.

This variance request was heard at the June 22, 2023 meeting where it was approved with a 5/0 vote. State statute requires approval of a formal written order followed by the vote. Martha Chastain moved to approve the written order of approval for a Variance request to Section 809 of the Montreat Zoning Ordinance to allow an 18.36-square-foot wayfinding sign on the eastern side of Assembly Drive approximately halfway between Lookout Road and Community Center Circle on the lot described as PIN#071096841400000 submitted by Tanner Pickett. Arrington Cox seconded and the motion carried 5/0.

Evidentiary Hearing - Variance Request (VA-2023-01)

A variance request submitted by Todd Hutchings, who is under contract to purchase the Subject Property, for the lot described as PIN#072015687600000 located about 800 feet south of the intersection of Appalachian Way and Oklahoma Road to the following Montreat Zoning Ordinance (MZO) sections for a proposed single-family dwelling: (1) Section 501.5 to reduce the front setback requirement from 30 feet to 10 feet, (2) Section 501.81 to reduce the side setback requirement from 15 feet to 5 feet on the north side of the Subject Property and to 10 feet on the south side of the Subject Property, and (3) Section 617 to allow the driveway connection for the proposed dwelling on the Subject Property to connect to Oklahoma Road outside of the frontage area described in this section of the MZO.

Town Clerk Angie Murphy swore in the following witnesses:

- Kayla DiCristina – Town of Montreat Zoning Administrator
- Todd Hutchings – Applicant
- Samantha Morgan – Representative of neighboring Thomas family at 375 Arkansas Trail
- Kathy Barclay – Property Owner of 367 Oklahoma Road

Variance Request (VA-2023-01):

Zoning Administrator Kayla DiCristina entered into the evidentiary record her Staff Report, presentation, exhibits and applicant's materials. Ms. DiCristina also entered a letter received into the record.

The Subject Property is zoned R-1. Single family dwellings are permitted by-right in the R-1 Zoning District. The Subject Property is an existing lot so lot size requirements do not apply.

The Subject Property is considered a double frontage lot. The proposed single-family dwelling must comply with the required setbacks for a dwelling in the R-1 Zoning District on a double frontage lot. The Applicant intends to meet the 30-foot setback requirement from Arkansas Trail. Section 617 of the MZO requires driveway connections to public roads to be made within adjacent to the front of the Subject Property extending perpendicular from the existing roadway to each side property line at the corners closest to the street. If this is not feasible a Variance is needed. The section lists “excessively steep gradient” as a justifiable existing condition or factor that may pose inordinate difficulty or preclude a driveway from being connected to a public street in this area. The Subject Property has a slope of 50.7% and is subject to the Hillside Development Ordinance. The area surrounding the Subject Property shows changes in slope, the properties found midway in the area between Arkansas Trail and Oklahoma Road near the Subject Property show sharper slope changes compared to the areas directly north and south.

Mr. Todd Hutchings, the Applicant, advised the Board that he wanted to obtain these variances to turn an unusable lot into his primary residence. The geotechnical survey indicated that 50% of the lot was unusable.

Samantha Morgan, a representative of 375 Arkansas Trail, stated that her family has owned the property for over 100 years. Her family has attempted to buy the Subject Property numerous times over the past 60 years to expand. Her family is concerned about the property line going from 15 feet to 5 feet.

Kathy Barclay, a neighbor on the South Side, has some concerns about drainage issues on the Subject Property creating more runoff onto neighboring properties. Ms. DiCristina advised that if the Hutchings’ were permitted to move forward with their development they would be required to follow a Stormwater Management Plan to manage the stormwater on their property.

The evidentiary hearing was closed and deliberations began.

After reviewing and finding all six findings of fact to be true, the Board voted in favor of reducing the front setback requirement from 30 feet to 10 feet. David Neal moved to reduce the front setback requirement from 30 feet to 10 feet. Mari Gramling seconded and the motion carried 5/0.

After reviewing and finding all six findings of fact to be true, the Board voted in favor of reducing the side setback requirement from 15 feet to 5 feet on the north side of the Subject Property and to 10 feet on the south side of the Subject Property. Arrington Cox moved to reduce the side setback requirement from 15 feet to 5 feet on the north side of the Subject Property and to 10 feet on the south side of the Subject Property. Martha Chastain seconded

and the motion carried 4/1 with Arrington Cox voting against the motion.

Arrington Cox moved to allow the driveway connection for the proposed dwelling on the Subject Property to connect to Oklahoma Road outside of the frontage area described in section 617 of the MZO. Martha Chastain seconded and the motion carried 5/0.

Eleanor James excused Martha Chastain from the meeting. The quorum numbers changed from 5 to 4.

A 5 minute break occurred.

Evidentiary Hearing – Special Use Permit Request (SUP-2023-01)

The Applicant is seeking a Special Use Permit to allow a 907-square-foot detached Garage (Accessory Building) with a final height taller than ten feet to be placed in the front yard of a single-family dwelling unit submitted by Dana Bobilya with Harrison Homes (on behalf of the Property Owners, Theodore and Susan Mourouzis and Frank and Margaret DeFilippo) on property in the R-1 Zoning District located on Oak Lane approximately 450 feet west of Oak Lane's intersection with Louisiana Road and described as PIN#071066814100000 within the Town of Montreat.

Town Clerk Angie Murphy swore in four people to testify: Kayla DiCristina, Dana Bobilya, Susan Mourouzis and Jason Dillon.

The MZO requires a Special Use Permit in the R-1 Zoning District for Accessory Buildings larger than 500-square-feet, and for Accessory Buildings taller than ten feet. The proposed Accessory Building is a two-story 907 square foot Structure containing two car parking spaces on the ground floor and a bonus space above. The final height of the Structure will be approximately 20 feet. The approved single-family-dwelling is 32.5 feet. Should the Board of Adjustment grant its approval of this application as currently proposed, the Applicant would be permitted to construct an Accessory Building. The Applicant's approval for the single-family dwelling on the Subject Property required two parking spaces, which the Applicant proposed to provide in the driveway area. With the addition of 907 heated square feet, the Applicant is required to provide one additional parking space. The Applicant is proposing an additional two parking spaces on the ground floor of the Accessory Building and an additional space in the new driveway area on the Subject Property to meet this requirement.

Dana Bobilya, of Harrison Homes, advised that the extra space above the garage is not rentable space and there is not a kitchen. Mr. Bobilya stated that the house and proposed Accessory Building are at the dead end on Oak Lane. Mr. Bobilya also stated that for accessibility, disturbance to the natural topography and cost that this is the best location for the Accessory

Building. Mr. Bobilya advised that the exterior of the Accessory Building will mimic the exterior of the main home.

Jason Dillon, a landscape architect who provided the original erosion control/stormwater control plans for the house, stated that the plans had been updated to include the garage.

The evidentiary hearing was closed and deliberations began.

The Board reviewed the requirements for the Special Use Permit

Mari Gramling moved to grant a Special Use Permit a 907-square-foot detached Garage (Accessory Building) with a final height taller than ten feet to be placed in the front yard of single-family dwelling unit submitted by Dana Bobilya with Harrison Homes (on behalf of the Property Owners, Theodore and Susan Mourouzis and Frank and Margaret DeFilippo) on property in the R-1 Zoning District located on Oak Lane approximately 450 feet west of Oak Lane's intersection with Louisiana Road and described as PIN#071066814100000 within the Town of Montreat. Arrington Cox seconded and the motion carried 4/0.

New Business

Ms. DiCristina wanted to gauge interest in Fall Board of Adjustment training and asked the members to let her know if there was interest. Ms. DiCristina also advised that the Board still needs to approve the written order about the Montreat Lodge project but it is still in the appeal process. Ms. DiCristina has formally asked for feedback and how it applies to this Board. Ms. DiCristina advised the Board that Case Law is unique in that it gives Boards the opportunity to grow stronger and to be a more effective Board.

Adjournment

Mari Gramling moved to adjourn the meeting. Arrington Cox seconded and the motion carried 4/0.

Eleanor James, Chair

Angie Murphy, Town Clerk

STATE OF NORTH CAROLINA

BUNCOMBE COUNTY

**BEFORE THE TOWN OF MONTREAT
BOARD OF ADJUSTMENT
CASE NO. VA-2023-01**

ORDER

**In the Matter of: The Variance Application
By Todd Hutchings on behalf of the owner,
Trustees of the Providence Pres. Church, to
(1) Section 501.5 of the Montreat Zoning
Ordinance to reduce the front setback
requirement from 30 feet to 10 feet, (2)
Section 501.81 of the Montreat Zoning
Ordinance to reduce the side setback
requirement from 15 feet to 5 feet on the
north side of the Subject Property and to 10
feet on the south side of the Subject
Property, and (3) Section 617 of the
Montreat Zoning Ordinance to allow the
driveway connection for the proposed
dwelling on the Subject Property to connect
to Oklahoma Road outside of the frontage
area described in this section of the
Montreat Zoning Ordinance for the lot
described as PIN# 072015687600000
located about 800 feet south of the
intersection of Appalachian Way and
Oklahoma Road;**

THIS MATTER coming on for hearing before the Town of Montreat Board of Adjustment ("Board") on consideration of the Variance Application to (1) Section 501.5 of the Montreat Zoning Ordinance to reduce the front setback requirement from 30 feet to 10 feet, (2) Section 501.81 of the Montreat Zoning Ordinance to reduce the side setback requirement from 15 feet to 5 feet on the north side of the Subject Property and to 10 feet on the south side of the Subject Property, and (3) Section 617 of the Montreat Zoning Ordinance to allow the driveway connection for the proposed dwelling on the Subject Property to connect to Oklahoma Road outside of the frontage area described in this section of the Montreat Zoning Ordinance for the lot described as Buncombe County Tax PIN# 072015687600000 located about 800 feet south of the intersection of Appalachian Way and Oklahoma Road ("Subject Property"), by Todd Hutchings ("Applicant") on behalf of the owner, Trustees of the Providence Pres. Church (Deed Book 516 at Page 387, Buncombe County Registry), pursuant to Section 310.42 and 310.5 of The Zoning Ordinance of the Town of Montreat, North Carolina ("Town") adopted June 10, 2021 ("Ordinance");

A quasi-judicial evidentiary hearing before the Board was held September 28, 2023. Based upon the testimony presented, the documentary evidence, and related materials submitted and after public deliberation, the Board does hereby make the following:

FINDINGS OF FACT

- 1) Notice of the quasi-judicial hearing, pursuant to the Ordinance and state law, was duly and timely given, the hearing was properly advertised, and the Subject Property was properly posted.
- 2) The hearing was held pursuant to Section 310.42 and 310.5 of the Ordinance, and pursuant to N.C. Gen. Stat. §160D-406, on the Variance application submitted by the Applicant, and the matter is properly before the Board, is within the Board's jurisdiction under the Ordinance, and is ripe for consideration.
- 3) The Applicant filed the application for a Variance to (1) Section 501.5 of the Montreat Zoning Ordinance to reduce the front setback requirement from 30 feet to 10 feet, (2) Section 501.81 of the Montreat Zoning Ordinance to reduce the side setback requirement from 15 feet to 5 feet on the north side of the Subject Property and to 10 feet on the south side of the Subject Property, and (3) Section 617 of the Montreat Zoning Ordinance to allow the driveway connection for the proposed dwelling on the Subject Property to connect to Oklahoma Road outside of the frontage area described in this section of the Montreat Zoning Ordinance for the Subject Property to construct a single-family dwelling.
- 4) The Subject Property is a vacant lot about 800 feet south of the intersection of Appalachian Way and Oklahoma Road. The Subject Property is in the R-1 Residential Zoning District.
- 5) On or about August 28, 2023, in accordance with Section 310.5 of the Ordinance, the Applicant submitted an application for a Variance to (1) Section 501.5 of the Montreat Zoning Ordinance to reduce the front setback requirement from 30 feet to 10 feet, (2) Section 501.81 of the Montreat Zoning Ordinance to reduce the side setback requirement from 15 feet to 5 feet on the north side of the Subject Property and to 10 feet on the south side of the Subject Property, and (3) Section 617 of the Montreat Zoning Ordinance to allow the driveway connection for the proposed dwelling on the Subject Property to connect to Oklahoma Road outside of the frontage area described in this section of the Montreat Zoning Ordinance for the Subject Property to construct a single-family dwelling. The Applicant has an executed offer to purchase the Subject Property, which is currently owned by Trustees of the Providence Pres. Church. Based on a review of the documents

presented, the Town Zoning Administrator, Kayla DiCristina, AICP, ("DiCristina") determined the application to be complete.

- 6) The public hearing was properly noticed in accordance with all applicable laws and regulations governing the noticing requirements for public hearings. DiCristina, the Applicant, Samantha Morgan (niece of Sam Thomas, one of the Property Owners of PIN# 0720156976), and Kathy Barclay (one of the Property Owners of PIN#s 0720156772 and 0720156779) presented evidence at the public hearing and were properly sworn-in.
- 7) Section 310.42 of the Ordinance provides that in approving a Variance, the Board of Adjustment must find that:
 - (A) Unnecessary hardship would result from the strict application of the Ordinance. 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.
 - (C) The hardship did not result from actions taken by the applicant or the property owner. 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.
 - (D) The Variance is consistent with the spirit, purpose and intent of the Ordinance such that public safety is secured and substantial justice is achieved.
 - (E) The Variance requested is the minimum Variance that will make possible the requested Use of the land, Building or Structure.
 - (F) The Variance is not a request to permit a Use of land, Building or Structure which is not permitted in the applicable Zoning District.
- 8) The staff report with exhibits, staff presentation, Variance application, and a letter from Sam Thomas (one of the Property Owners of PIN# 0720156976, received by DiCristina on September 27, 2023) were submitted into evidence at the public hearing.
- 9) The Applicant presented sworn testimony that the Variance is needed to change the Subject Property from an unusable lot and to a primary residence. The existing

steep slopes of the Subject Property present challenges to development, which are demonstrated by Lakeshore Construction LLC's letter and Forte Design Solutions Geotechnical Engineering Report (both of which were submitted into evidence as part of the Variance application). The Applicant stated that the steep slope, the requirements of the Montreat Hillside Development Ordinance, and size of the safe buildable area, render over half the lot unbuildable. The Applicant further stated that the slope of the driveway, if the driveway and proposed single-family dwelling are constructed to the current requirements of the Ordinance, would be of a higher than acceptable grade for vehicles to use. Due to the topography on the eastern side of the Subject Property, the driveway must connect to Oklahoma Road as the property is too steep on the Arkansas Trail side to accommodate a driveway connection. The Applicant intends to design the house to be complementary and harmonious to the neighbors and neighborhood with properly addressed stormwater and screening provided by landscaping. On the north side of the Subject Property, the side of the proposed dwelling is cantilevered so that the ground floor is further away from the northern property line than the second story. Permitting the house to be constructed closer to Oklahoma Road with the Variance to Section 501.5 of the Ordinance also moves the development further away from PIN# 0720156976, which is adjacent to the side of the Subject Property where a Variance to Section 501.81 of the Ordinance and a reduction in the required side yard setback from 15 feet to 5 feet is requested. Without the Variance, the Applicant will likely be unable to purchase the lot, as it is not buildable and is unusable under the current regulations, which is not in the spirit of the Ordinance or the Subject Property's Zoning District.

- 10) Samantha Morgan (niece of Sam Thomas, Property Owner of PIN# 0720156976) ("Morgan") presented sworn testimony on the application. Morgan officially presented the letter sent by Sam Thomas to the Board. The letter from Sam Thomas was received by DiCristina on September 27, 2023. The letter objects to the Applicant's Variance request on the north side of the Subject Property to reduce the side yard setback requirement from 15 feet to 5 feet. Morgan stated that their family has owned PIN# 0720156976 for over a hundred years and that they have tried in the past to purchase the Subject Property. Morgan stated that their family is concerned about how close the proposed dwelling would be to the existing dwelling on PIN# 0720156976. Morgan stated that the Ordinance required the 15-foot side yard setback per Section 501.81 of the Ordinance for a purpose and that the Applicant should be required to comply. In response to a Board Member's question regarding how the existing dwelling on PIN# 0720156976 was accessed and how close the existing dwelling was to the southern property line of PIN# 0720156976, Morgan stated that the dwelling was accessed via Arkansas Trail and that they did not know how close the existing dwelling on PIN# 0720156976 was to the existing southern property line abutting the Subject Property.

- 11) Kathy Barclay (Property Owner of PIN#s 0720156772 and 0720156779) ("Barclay") presented sworn testimony on the application. Barclay stated that they were concerned about potential drainage issues generated from construction on the Subject Property and how new construction would impact the driveway located on PIN# 0720156779. In response to a Board Member's question about whether Barclay had any engineering studies done to support these concerns, Barclay stated that they had not had any engineering studies done to confirm existing or potential drainage issues.
- 12) Competent, material and substantial evidence was presented by the Applicant to show the following requirements were met:
 - a. Unnecessary hardship would result from the strict application of the Ordinance. If the Subject Property is required to comply with Sections 501.5, 501.81, and 617 of the Ordinance, construction would not be feasible. Lakeshore Construction LLC's letter and the Applicant's testimony demonstrated that the existing terrain of the Subject Property where development would be required to occur under the current requirements of Sections 501.5, 501.81, and 617 of the Ordinance create safety concerns for both construction crews and future occupants. Further, if development is required to comply with Sections 501.5, 501.81, and 617 of the Ordinance, a driveway could not be connected safely to the dwelling. Lakeshore Construction LLC's letter also indicates that compliance with the current requirements of Sections 501.5, 501.81, and 617 of the Ordinance would likely result in an inability to comply with the requirements of the Hillside Development Ordinance, which would prevent the Applicant from building on the Subject Property.
 - b. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Per the Geotechnical Report prepared by Forte Design Solutions, PLLC, and the Applicant's testimony, the steep slope of the Subject Property and the existing topography changes east to west across the Subject Property result in peculiar conditions that restrict the building envelope to the northwest corner of the Subject Property.
 - c. The hardship did not result from actions taken by the applicant or the property owner as the Subject Property is existing and was subdivided prior to the enactment of the Ordinance and the Hillside Development Ordinance.
 - d. The Variances are consistent with the spirit, purpose and intent of the Ordinance such that public safety is secured and substantial justice is achieved. The Variances requested will enable the Applicant to construct a safe single-family dwelling in the Subject Property's Zoning District, which was created for the purpose of residential development.

- e. The Variances requested are the minimum that will make possible the requested Use of the land, Building or Structure. Lakeshore Construction LLC's letter and the Applicant's testimony demonstrated that the requested Variances are needed in order for a reasonable size structure to be built on the Subject Property in a safe manner.
- f. The Variance is not a request to permit a Use of land, Building or Structure which is not permitted in the applicable Zoning District. The Variances requested are for construction of a single-family dwelling, which is a permitted use in the R-1 Zoning District.

Therefore, based upon the foregoing FINDINGS OF FACT, and Section 310.42 of the Ordinance, the Board hereby makes the following:

CONCLUSIONS OF LAW

- 1) This Board has jurisdiction to hear and decide applications for Variances. This application is within that jurisdiction.
- 2) The Applicant's application for the Variance is complete.
- 3) If completed as proposed in the application, the Applicant's development will comply with all other requirements of the Ordinance.
- 4) Unnecessary hardship would result from the strict application of the Ordinance.
- 5) The hardship results from conditions that are peculiar to the property, such as location, size, or topography.
- 6) The hardship did not result from actions taken by the applicant or the property owner.
- 7) The Variance is consistent with the spirit, purpose and intent of the Ordinance such that public safety is secured and substantial justice is achieved.
- 8) The Variance approved is the minimum Variance that will make possible the requested Use of the land, Building or Structure.
- 9) The Variance is not a request to permit a Use of land, Building or Structure which is not permitted in the applicable Zoning District.
- 10) The application for a Variance submitted by the Applicant should be approved.

NOW, THEREFORE, IT IS ORDERED, based upon the foregoing Findings of Facts and Conclusions of Law, and by a vote of 4 in favor and 0 against of the voting Board members present at the September 28, 2023 meeting, upon a duly made motion and second, to approve the Applicant's application for a Variance to (1) Section 501.5 of the Montreat Zoning Ordinance to reduce the front setback requirement from 30 feet to 10 feet, (2) Section 501.81 of the Montreat Zoning Ordinance to reduce the side setback requirement from 15 feet to 5 feet on the north side of the Subject Property and to 10 feet on the south side of the Subject Property, and (3) Section 617 of the Montreat Zoning Ordinance to allow the driveway connection for the proposed dwelling on the Subject Property to connect to Oklahoma Road outside of the frontage area described in this section of the Montreat Zoning Ordinance for the Subject Property to construct a single family dwelling, the VARIANCE IS HEREBY GRANTED.

ORDERED this ____ day of ____ 2023.

TOWN OF MONTREAT BOARD OF ADJUSTMENT

By: _____,
_____, Chair

Attest:

Angie Murphy, Clerk to the Board

**STATE OF NORTH CAROLINA
BUNCOMBE COUNTY**

**BEFORE THE TOWN OF MONTREAT
BOARD OF ADJUSTMENT
CASE NO. SUP-2023-01**

In the Matter of: The Special Use Permit Application to allow a detached Garage (Accessory Building) in the R-1 Zoning District as required by the Montreat Zoning Ordinance Section 606.2 and Article V Table of Permitted Uses submitted by Dana Bobilya with Harrison Homes (on behalf of the Property Owners) on property located on Oak Lane approximately 450 feet west of Oak Lane's intersection with Louisiana Road and described as PIN# 071066814100000 within the Town of Montreat.

ORDER

THIS MATTER coming on for hearing before the Town of Montreat Board of Adjustment ("Board") on consideration of the Special Use Permit Application to allow a detached Garage (Accessory Building) in the R-1 Zoning District as required by the Montreat Zoning Ordinance Section 606.2 and Article V Table of Permitted Uses submitted by Dana Bobilya ("Applicant") with Harrison Homes on behalf of the property owners, Susan Mourouzis and Theodore Mourouzis (a ½ undivided interest) and Margaret DeFilippo and Frank DeFilippo (a ½ undivided interest) ("Property Owners") on property located on Oak Lane approximately 450 feet west of Oak Lane's intersection with Louisiana Road and described as PIN# 071066814100000 ("Subject Property") within the Town of Montreat ("Town") pursuant to Section 310.6 of the Montreat Zoning Ordinance ("Ordinance") adopted June 10, 2021.

A quasi-judicial evidentiary hearing before the Board was held September 28, 2023. Based upon the testimony presented, the documentary evidence and related materials submitted and after public deliberation, the Board does hereby make the following:

FINDINGS OF FACT

- 1) Notice of the quasi-judicial hearing, pursuant to the Ordinance and state law, was duly and timely given, the hearing was properly advertised, and the Subject Property was properly posted.

- 2) The hearing was held pursuant to Section 310.6 of the Ordinance, and pursuant to N.C. Gen. Stat. §160D-406, on the Special Use Permit application submitted by the Applicant, and the matter is properly before the Board, is within the Board's jurisdiction under the Ordinance, and is ripe for consideration.
- 3) The Subject Property is owned by the Property Owners, obtained via the deed recorded in the Buncombe County Register of Deeds at Deed Book 6087 page 964 dated and recorded on June 30, 2021.
- 4) The Subject Property is zoned R-1 and is currently vacant with a single-family dwelling under construction. The Applicant obtained a Certificate of Zoning Compliance from the Town on October 26, 2022, and a Building Permit from the Town on October 26, 2022, for the single-family dwelling.
- 5) The Table of Permitted Uses in Article V of the Ordinance requires a Special Use Permit for "Garages in Front Yard (See Section 606.2)" in the R-1 Zoning District.
- 6) On or about July 24, 2023, in accordance with Section 310.6 of the Ordinance, the Applicant submitted an application on behalf of the Property Owners for a Special Use Permit for a detached Garage (Accessory Building) in the front yard of the single-family dwelling that is under construction on the Subject Property. The Applicant is the builder for the permitted single-family dwelling on the Subject Property. Based on a review of the documents presented, the Town Zoning Administrator, Kayla DiCristina, AICP, ("DiCristina") determined the application to be complete.
- 7) The public hearing was properly noticed in accordance with all applicable laws and regulations governing the noticing requirements for public hearings. DiCristina, the Applicant, and Jason Gilliland (Site Design Studio, Registered Landscape Architect) presented evidence at the public hearing and were properly sworn-in.
- 8) Section 310.6 of the Ordinance provides that in approving a Special Use Permit, the Board of Adjustment must find:

310.621 That the Use will not be detrimental to or endanger the public health, safety or general welfare if located where proposed and developed according to the plan as submitted and approved;

310.622 That the Use meets or will meet all the required and applicable development standards and conditions of the Town of Montreat (including without limitation all development standards, conditions, and requirements related to utilities, parking, access, and stormwater drainage and the applicable regulations of the Zoning District in which it is located, except as such regulations may, for each case, be modified by the Board of Adjustment);

310.623 That the Use will not substantially diminish and impair the value of any property any portion of which is located within two hundred fifty feet (250') of the boundary of the parcel on which the Use will be located;

310.624 That the location and character of the Use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will not be injurious to the use and enjoyment of other property, for the purposes already permitted, within the area in which it is located;

310.625 That the location and character of the Use, if developed according to the plan as submitted and approved, will be in general conformity with the adopted policies and plans, including the Comprehensive Plan of the Town of Montreat; and

310.626 That adequate measures have been taken or will be taken to provide ingress and egress so designed as to minimize congestion in the public streets.

- 9) The staff report with exhibits, staff presentation, and Special Use Permit application were submitted into evidence at the public hearing. The Applicant provided evidence, along with Jason Gilliland's testimony, to satisfy the requirement of Section 606.21 to demonstrate that the construction of the garage in accordance with the submitted application and plan will reduce damage to the natural topography, trees, and natural green space.
- 10) The Applicant presented sworn testimony that they were representing the owners of the Subject Property in this matter. The design of the single-family dwelling and Accessory Structure are intended to blend with the existing style of Montreat. The single-family dwelling and the Accessory Structure also complement each other in their design, with the dwelling being about 29 feet in final height and the Accessory Structure being about 22 feet in final height. The Subject Property itself is located at the end of Oak Lane and no vehicles travel past the property. The location of the Accessory Structure on the Subject Property is preferable because it reduces the amount of land disturbance and construction costs, and improves accessibility. The Applicant stated that the overall development on the Subject Property is meant to serve as a family gathering place. The Accessory Structure is intended to supplement sleeping space for larger family gatherings, but it will not have a kitchen or be a rental unit.
- 11) Jason Gilliland (Registered Landscape Architect whose firm, Site Design Studio, prepared the engineered stormwater plans for the Subject Property) presented sworn testimony on the application. Gilliland stated that they have updated the engineered plans to include the Accessory Structure and that the new plans will meet the Town of Montreat's stormwater regulations.

- 12) Competent, material and substantial evidence was presented by the Applicant to the Board to show the following requirements were met:
- a) The proposed Use will not materially endanger the public health, safety, or general welfare if developed according to the submitted application because the Subject Property's location at the end of Oak Lane and has limited if any through traffic.
 - b) The proposed Use meets and will meet all required and applicable development standards and conditions of the Town because the Applicant is providing more parking than is required by Section 702 of the MZO, is meeting the required dimensional standards of the Subject Property's Zoning District, is meeting the special requirements of Section 606.2 of the MZO for Garages in Front Yards, and will be required to demonstrate compliance with the Town of Montreat's stormwater regulations to obtain development approval from the Stormwater Administrator.
 - c) The proposed Use will not substantially diminish or impair the value of any property any portion of which is located within two hundred fifty feet (250') of the boundary of the Subject Property because the proposed aesthetics of the proposed Accessory Structure will complement the existing surrounding properties.
 - d) The proposed Use, if developed according to the application and site plan submitted, will be in harmony with the area and will not injure the existing use and enjoyment of other property in the area because the proposed aesthetics of the proposed Accessory Structure will complement the existing surrounding properties.
 - e) The proposed Use, if developed according to the application and site plan submitted, will be in general conformity with the Comprehensive Plan of the Town and other adopted policies and plans because the aesthetics of the proposed Accessory Structure support the Development Vision Statement in *Montreat Tomorrow*.
 - f) The Subject Property is located at the end of Oak Lane and limited if any through traffic exists so congestion in the surrounding public streets is minimized.

Therefore, based upon the foregoing FINDINGS OF FACT, and Section 310.6 of the Ordinance, the Board hereby makes the following:

CONCLUSIONS OF LAW

- a) This Board has jurisdiction to hear and decide applications for Special Use Permits for "Garages in Front Yard (See Section 606.2)" in the R-1 Zoning District. This application is within that jurisdiction.
- b) The Applicant's application for a Special Use Permit is complete.
- c) That the Use will not be detrimental to or endanger the public health, safety or general welfare if located where proposed and developed according to the plan as submitted and approved.
- d) That the Use meets or will meet all the required and applicable development standards and conditions of the Town of Montreat.
- e) That the Use will not substantially diminish and impair the value of any property any portion of which is located within two hundred fifty feet (250') of the boundary of the parcel on which the Use will be located.
- f) That the location and character of the Use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will not be injurious to the use and enjoyment of other property, for the purposes already permitted, within the area in which it is located.
- g) That the location and character of the Use, if developed according to the plan as submitted and approved, will be in general conformity with the adopted policies and plans, including the Comprehensive Plan of the Town of Montreat.
- h) That adequate measures have been taken or will be taken to provide ingress and egress so designed as to minimize congestion in the public streets.
- i) The application for a Special Use Permit submitted by the Applicant should be approved.

NOW, THEREFORE, IT IS ORDERED, based upon the foregoing Findings of Facts and Conclusions of Law, and by a vote of 3 in favor and 0 against of the voting Board members present at the October 26, 2022, meeting, upon a duly made motion and second, to approve the Applicant's application for a Special Use Permit to allow a detached Garage (Accessory Building) in the front yard of the Subject Property, the SPECIAL USE PERMIT IS HEREBY GRANTED.

ORDERED this _____ day of _____, 2023.

TOWN OF MONTREAT BOARD OF ADJUSTMENT

By: _____
_____, Chair

Attest:

Angie Murphy, Clerk to the Board



VARIANCE APPLICATION

Town of Montreat Planning and Zoning
1210 Montreat Road, Black Mountain, NC 28711 | (828) 669-8002

REQUIRED FEE: \$350.00 (CASH OR CHECK)

APPLICANT INFORMATION

APPLICANT NAME: Charlotte & Mike Sebesta TELEPHONE: 407-963-4712
MAILING ADDRESS: 3207 Parkside Trace CITY: Roswell STATE: GA ZIP: 30075
EMAIL: charsebesta64@gmail.com

PROPERTY INFORMATION

ADDRESS: Lot 2, 330 Florida Terrace CITY: Montreat STATE: NC ZIP: 28757
PIN#: 0720152779 TOTAL ACREAGE: 0.20 Acres FLOODPLAIN: ☐ YES ☒ NO
ZONING: I/R OTHER: OVERLAY ZONING: SELECT BELOW
PROPERTY OWNER: Charlotte & Mike Sebesta TELEPHONE: 407-963-4712
MAILING ADDRESS: 3207 Parkside Trace, Roswell, GA 30075

PROPOSED LAND USE

TYPE OF LAND USE: ☒ Residential ☐ Non-Residential ☐ Other
DESCRIPTION OF PROPOSED DEVELOPMENT: Construction of a single family residence

VARIANCE REQUEST

MONTREAT ZONING ORDINANCE SECTION: I/R Institutional/Residential District
DESCRIPTION OF REQUESTED VARIANCE: 504.7 Minimum Front Yard - 25 Feet
0 foot variance for Front Yard. We were previously granted a 15.3 administrative variance.

FINDINGS OF FACT

THE TOWN OF MONTREAT'S BOARD OF ADJUSTMENT WILL RENDER A DECISION ON THIS APPLICATION AT A PUBLIC HEARING. IN APPROVING THE REQUEST, THE BOARD OF ADJUSTMENT WILL EXAMINE THE APPLICATION AND MUST FIND THAT THE FOLLOWING SIX ELEMENTS ARE SATISFIED IN THE PROPOSAL:

MZO 310.42(A) *Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the Variance, no reasonable use can be made of the property.*

MZO 310.42(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.*

Submitted deed (ab60240 p 289) & plat (ab 2210 p 90)
MZO 310.42(C) The hardship did not result from actions taken by the applicant or the property owner. 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.

MZO 310.42(D) The Variance is consistent with the spirit, purpose and intent of the Ordinance such that public safety is secured and substantial justice is achieved.

MZO 310.42(E) The Variance requested is the minimum Variance that will make possible the requested Use of the land, Building or Structure.

MZO 310.42(F) The Variance is not a request to permit a Use of land, Building or Structure which is not permitted in the applicable Zoning District.

ATTACHMENTS

THIS APPLICATION MUST BE ACCOMPANIED BY THE FOLLOWING ATTACHMENTS:

1. A copy of the deed for the property which is the subject of the application for a Variance, a copy of the plat showing such property if one exists, and any contract to purchase or other relevant documents.
2. A response to the six findings listed above and found in the Montreat Zoning Ordinance Section 310.42.
3. A to scale site plan showing the existing property conditions (including the adjoining road and any existing improvements) and the proposed locations, dimensions, and setbacks of any structure to be built or modified which is the subject of the Variance. If the Variance request concerns the elevation of a building, include an elevation drawing.

SIGNATURES AND ACKNOWLEDGEMENT

Charlotte R. Sebesta and Michael G. Sebesta

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

Charlotte R. Sebesta / Michael G. Sebesta
Signature of Applicant

October 10, 2023

Date

Charlotte R. Sebesta/Michael G. Sebesta

Printed Name of Applicant

OFFICE USE ONLY



Complete



Incomplete

Kayla Dicristina
Zoning Administrator Signature

10/10/23
Date

Kayla Dicristina
Printed Name of Zoning Administrator

Fee: *\$ 350*

Paid: ☒ Yes ☐ No

Payment Method: *Credit card*

Scheduled Board of Adjustment Meeting Date: *10/20/23*

Type: CONSOLIDATED REAL PROPERTY
Recorded: 8/4/2022 3:13:01 PM
Fee Amt: \$164.00 Page 1 of 9
Revenue Tax: \$138.00
Buncombe County, NC
Drew Reisinger Register of Deeds

BK 6246 PG 284 - 292

There are no delinquent taxes that are a lien
the parcel(s) described in the deed which the
Buncombe County Tax Collector is charged
with collecting.

08-04-2022

Date

Hace Moreau
Deputy Tax Collector

Excise Tax \$138.00

Recording Time, Book and Page

Tax Map No.

Parcel Identifier No. Portion of 0720-15-2825-00000

Mail after recording to **Stone & Christy, Box 52**

This instrument was prepared by **Barrett W. McFatter**, a licensed North Carolina attorney. Delinquent taxes, if any, are to be paid by the closing attorney to the county tax collector upon disbursement of closing proceeds.

**NORTH CAROLINA
GENERAL WARRANTY DEED**

THIS DEED made this 03 day of August, 2022, by and between

GRANTOR

**Catherine Riddle McIntosh, Jefferson Eugene Riddle and Charlotte Riddle Sebesta,
Co-Trustees of the Westburne Trust, dated December 27, 1994**

GRANTEE

**Charlotte Riddle Sebesta and Michael Gerard Sebesta, married to each other
3207 Parkside Trace
Roswell, GA 30075**

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the Town of Montreat, Black Mountain Township, Buncombe County, North Carolina, and more particularly described as follows:

SEE ATTACHED DESCRIPTION

All or a portion of the property herein conveyed _____ includes or X does not include the primary residence of a Grantor.

submitted electronically by "Stone and Christy"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Buncombe County Register of Deeds.

The property hereinabove described was acquired by Grantor by instrument in Portion of Book 1842, Page 256

A map showing the above described property is recorded in Plat Book 226, Page 90.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomever except for the exceptions hereinafter stated.

Title to the property hereinabove described is hereby conveyed subject to all valid and subsisting restrictions, reservations, covenants, conditions, rights of ways and easements properly of record, if any, ad valorem taxes for the current year and subsequent years.

IN WITNESS WHEREOF, the Grantors have hereunto set their hands and seals, or, if corporate, has caused this Deed to be executed by its duly authorized officers and its seal to be hereunto affixed, the day and year first above written.

Westburne Trust dated December 27, 1994

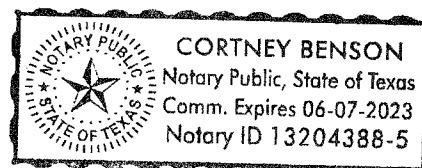
BY: Catherine Riddle McIntosh (SEAL)
Catherine Riddle McIntosh, Co-Trustee

STATE OF TEXAS
COUNTY OF LUBBOCK

Personally appeared before me this day the said Catherine Riddle McIntosh, Co-Trustee of the Westburne Trust dated December 27, 1994, known to me personally or who produced satisfactory evidence of their identity in the form of a driver's license, and who acknowledged that they voluntarily executed the foregoing instrument for the purposes stated therein this the 3rd day of AUGUST, 2022.

My Commission Expires:
06/07/2023

Cortney Benson
Notary Public



Westburne Trust dated December 27, 1994

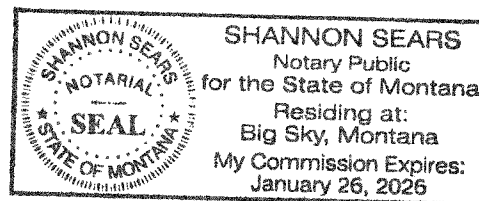
BY: Jefferson Eugene Riddle (SEAL)
Jefferson Eugene Riddle, Co-Trustee

STATE OF MONTANA
COUNTY OF Gallatin

Personally appeared before me this day the said Jefferson Eugene Riddle, Co-Trustee of the Westburne Trust dated December 27, 1994, known to me personally or who produced satisfactory evidence of their identity in the form of a driver's license, and who acknowledged that they voluntarily executed the foregoing instrument for the purposes stated therein this the 3 day of August, 2022.

My Commission Expires:
01/26/2026

Shannon Sears
Notary Public



Westburne Trust dated December 27, 1994

BY: Charlotte Riddle Sebesta (SEAL)
Charlotte Riddle Sebesta, Co-Trustee

STATE OF GEORGIA
COUNTY OF Fulton

Personally appeared before me this day the said Charlotte Riddle Sebesta, Co-Trustee of the Westburne Trust dated December 27, 1994, known to me personally or who produced satisfactory evidence of their identity in the form of a driver's license, and who acknowledged that they voluntarily executed the foregoing instrument for the purposes stated therein this the 3 day of August, 2022.

My Commission Expires:
12-2-25

af ac
Notary Public

Clayton Oliver
Notary Public
Fulton County, GA
Exp. December 2nd, 2025

Description of property for transfer from Catherine Riddle McIntosh, Jefferson Eugene Riddle and Charlotte Riddle Sebesta, Co-Trustees of the Westburne Trust, dated December 27, 1994 to Charlotte Riddle Sebesta and Michael Gerard Sebesta, married to each other

BEING ALL of Tract 2 as shown on plat for Charlotte Sebesta recorded in Plat Book 226, at Page 90, Buncombe County Public Registry, reference to which Plat is hereby made for a more particular description of said property.

TOGETHER WITH AND SUBJECT TO all restrictions, rights of way and easements of record and shown on said Plat.

AND BEING a portion of that property described in deed dated December 27, 1994, to Westburne Trust dated 27th day of December, 1994, recorded in Book 1842, at Page 256, Buncombe County Public Registry, and is further identified as a portion of Buncombe County Tax PIN 0720-15-2825-00000.

By execution of this deed, Grantors, as Co-Trustees, all consent to the sale of the above described property to Charlotte and Michael Gerard Sebesta, pursuant to Paragraph 5 (d) of the Westburne Trust Agreement.

EXHIBIT B

**STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE**

TRUST CERTIFICATION

The undersigned being the Co-Trustees of the Westburne Trust dated the 27th day of December, 1994 (the Trust) hereby certify the following pursuant to NCGS 36C-10-1013, this the 3rd day of August, 2022:

1.The Trust is in existence as of the date set forth above and the trust instrument governing the terms of the trust was executed on December 27, 1994.

2.The name of the settlor of the Trust is Sybil Corbett Riddle.

3.The name and address of all current acting trustee(s) of the Trust are:

- a. Catherine Riddle McIntosh, 4506 82nd Place, Lubbock, Texas 79424
- b. Jefferson Eugene Riddle, 1226 Place Royale, Houston, Texas 77056
- c. Charlotte Riddle Sebesta, 3207 Parkside Trace, Roswell, Georgia 30075

4.The trustee(s) are authorized by the trust instrument or by the provisions of applicable law (including, but not limited to NCGS 36C-8-815 and 36C-8-816) to acquire, sell, convey, pledge, mortgage, lease, manage, operate, control, or transfer title to trust property, including real property, except as limited by the following (if none, so indicate): NONE

5.The trust instrument provides that the Trust is X irrevocable; or revocable and the following person(s) hold the power to revoke: NA

6.If there is more than one trustee listed above: (a) the undersigned has the authority to sign or otherwise authenticate the existence of the Trust without joinder of the co-trustees, and (b) the trustee powers listed above [may be exercised by any co-trustee without joinder of the other co-trustees; or may not be exercised without joinder of all the other co-trustees; or may be exercised by a majority of the co-trustees without joinder of the remaining co-trustees; or something else provided by the trust agreement].

7.The taxpayer identification number for the Trust is: _____. (NOTE: This section may be left blank if the taxpayer identification number is the same as the social security number of a party to the trust instrument and this document is to be recorded in the public record)

8.The trustees of the Trust take may take title to real property by deed, will, court order or any other legal means that is effective to transfer real property, and may take title to personal property by any legal means that is effective to transfer such title.

9.The Trust has not been revoked, modified or amended in any manner so as to cause any of the representations contained in this Certification to be incorrect.

Catherine Riddle McIntosh
Catherine Riddle McIntosh, Co-Trustee

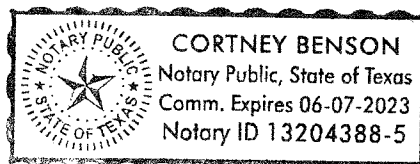
STATE OF TEXAS
COUNTY OF LUBBOCK

Personally appeared before me this day, the said Catherine Riddle McIntosh, known to me personally or who produced satisfactory evidence of her identity in the form of a driver's license, and who acknowledged that she voluntarily executed the foregoing instrument for the purposes stated therein.

This the 3rd day of AUGUST, 2022.

Cortney Benson
NOTARY PUBLIC

My Commission Expires:
06/07/2023



Jeff Eugene Riddle
Jefferson Eugene Riddle, Co-Trustee

STATE OF MONTANA
COUNTY OF Gallatin

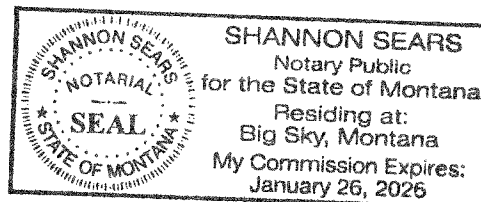
Personally appeared before me this day, the said Jefferson Eugene Riddle, known to me personally or who produced satisfactory evidence of his identity in the form of a driver's license, and who acknowledged that he voluntarily executed the foregoing instrument for the purposes stated therein.

This the 3 day of August, 2022.

Shannon Sears
NOTARY PUBLIC

My Commission Expires:

01/26/2026



Charlotte Riddle Sebesta
Charlotte Riddle Sebesta, Co-Trustee

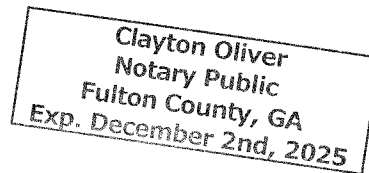
STATE OF GEORGIA
COUNTY OF Fulton

Personally appeared before me this day, the said Charlotte Riddle Sebesta, known to me personally or who produced satisfactory evidence of her identity in the form of a driver's license, and who acknowledged that she voluntarily executed the foregoing instrument for the purposes stated therein.

This the 3 day of August, 2022.

[Signature]
NOTARY PUBLIC

My Commission Expires:
12-2-25



SYMBOL LEGEND:

- CALCULATED POINT (CP)
- EXISTING IRON REBAR (ER)
- ⊙ EXISTING IRON PIPE (EIP)
- ⌵ EXISTING RAILROAD SPIKE FOUND (RRS)
- EXISTING CONCRETE MONUMENT (ECM)
- △ #5 NEW IRON REBAR W/ ID CAP (NIR)
- NEW MAGNETIC NAIL (NMN)
- ▲ C.S.D. CONTROL POINT
- ⊙ SANITARY SEWER MANHOLE (SMH)
- ⊙ SANITARY SEWER CLEAN-OUT (CO)
- ⊙ WATER METER (WM)
- ⊙ UTILITY POLE
- ✱ LIGHT POLE
- GUY WIRE
- ⊠ OUTDOOR UNIT (HVAC)
- ⊠ SIGN
- + SPOT ELEVATION
- DECIDUOUS TREE (SIZE AND TYPE AS NOTED)
- CONIFEROUS TREE (SIZE AND TYPE AS NOTED)

LINE LEGEND:

- SURVEYED BOUNDARY LINE
- ADJOINER'S DEED LINE (NOT SURVEYED)
- - - - - SETBACK LINE
- - - - - RIGHT-OF-WAY LINE
- SS - SS - SS - SANITARY SEWER LINE
- - - - - SEWER EASEMENT LINE
- - - - - TIE LINE ONLY
- - - - - BRANCH
- OHU - OHU - OVERHEAD UTILITY LINE
- - - - - INDEX CONTOUR LINE
- - - - - INTERIM CONTOUR LINE

ABBREVIATIONS:

- NTS...NOT TO SCALE
- (T)...TOTAL
- DB...DEED BOOK
- PB...PLAT BOOK
- PC...PLAT CABINET
- PG...PAGE
- PIN...PARCEL IDENTIFICATION NUMBER
- NAD...NORTH AMERICAN DATUM
- NAVD...NORTH AMERICAN VERTICAL DATUM
- NSRS...NATIONAL SPATIAL REFERENCE SYSTEM
- AG...ABOVE GRADE
- BG...BELOW GRADE
- RW...RIGHT OF WAY
- CONC...CONCRETE
- PT...PINCHED TOP

NOTES:

- THE PROPERTY OR PROPERTIES DISPLAYED WERE SURVEYED WITHOUT THE BENEFIT OF A TITLE SEARCH AND MAY NOT SHOW ALL EASEMENTS, RIGHTS OF WAY, RESTRICTIONS, ENCUMBRANCES, ETC. (WRITTEN OR UNWRITTEN) THAT WOULD BE REVEALED BY A CURRENT AND THOROUGH EXAMINATION OF TITLE BY A NC LICENSED ATTORNEY-AT-LAW. THIS SURVEY SHALL NOT BE CONSIDERED A CERTIFICATION OF OWNERSHIP, ZONING, TITLE, OR GUARANTEE THAT THE SUBJECT IS FREE FROM ENCUMBRANCES.
- ADJOINING PROPERTY OWNER INFORMATION TAKEN FROM THE BUNCOMBE COUNTY GIS WEBSITE AND DEEDS AND PLATS OF RECORD AS NOTED.
- AREA SHOWN HEREON WAS COMPUTED BY THE COORDINATE METHOD.
- ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES IN US FEET UNLESS OTHERWISE NOTED.
- THIS PROPERTY IS ZONED I-R BY THE TOWN OF MONTREAT HAVING SETBACKS AS FOLLOWS: FRONT = 25', SIDE = 12', REAR 25' (SETBACKS NOT PLOTTED. REQUIRES INTERPRETATION FROM THE TOWN OF MONTREAT) "PLEASE REFER TO THE TOWN OF MONTREAT ZONING ORDINANCE FOR ALL REGULATIONS APPLICABLE TO THE SUBJECT PROPERTY."
- BY GRAPHICAL LOCATION, PROPERTY IS SHOWN AS LYING OUTSIDE THE 1% ANNUAL CHANCE FLOODPLAIN PER FEMA FIRM MAP NO 3710072000J, EFFECTIVE DATE 1/6/2010.
- THIS SURVEY IS SUBJECT TO ANY AND ALL UNDERGROUND UTILITIES THAT MAY EXIST. UNDERGROUND UTILITIES SHOWN HEREON ARE BASED SOLELY ON ABOVE GROUND STRUCTURES AND APPURTENANCES. THIS SURVEYOR MAKES NO CERTIFICATION TO THE EXISTENCE/NO-EXISTENCE OF UNDERGROUND UTILITIES, STORAGE FACILITIES, OR OTHER UNDERGROUND STRUCTURES AND LINES, DIAL 811 BEFORE DIGGING.
- ANY STREAMS, CREEKS, PONDS, LAKES, WETLANDS, ETC. LOCATED ON THIS PROPERTY, SHOWN OR NOT SHOWN HEREON, MAY BE SUBJECT TO BUFFER AREAS. IT IS THE OWNER/DEVELOPERS RESPONSIBILITY TO HAVE THE AREAS DESIGNATED BY PROFESSIONALS AUTHORIZED BY THE PROPER AUTHORITIES TO MAKE THESE DETERMINATIONS.
- CONTOUR INTERVAL = 2 FOOT
- SURVEYOR CLAIMS THIS SURVEY TO BE EXEMPT FROM THE TOWN OF MONTREAT'S SUBDIVISION ORDINANCE PER ARTICLE III, SECTION 4 "THE DIVISION OF A TRACT IN SINGLE OWNERSHIP WHOSE ENTIRE AREA IS NO GREATER THAN TWO (2) ACRES INTO NOT MORE THAN THREE (3) LOTS, WHERE NO STREET RIGHT-OF-WAY DEDICATION IS INVOLVED AND WHERE THE RESULTANT LOTS ARE EQUAL TO OR EXCEED THE STANDARDS OF THE MUNICIPALITY, AS SHOWN IN ITS SUBDIVISION REGULATIONS."
- PER LAND OWNER, THIS BUILDING IS TO BE DEMOLISHED/REMOVED IN THE FUTURE.

TREE ABBREVIATIONS:

- APP...APPLE
- B.W...BASSWOOD
- BCH...BEECH
- B.G...BLACK GUM
- BR...BIRCH
- BCK...BUCKEYE
- B.O...BLACK OAK
- C.A...CRAB APPLE
- CAT...CATALPA
- CED...CEDAR
- CHN...CHESTNUT
- CHR...CHERRY
- CMY...GRAPE MYRTLE
- C.O...CHESTNUT OAK
- D.T...DEAD TREE
- D.W...DOGWOOD
- HEM...HEMLOCK
- HIC...HICKORY
- HOL...HOLLY
- J.M...JAPANESE MAPLE
- LOC...LOCUST
- MAG...MAGNOLIA
- MAP...MAPLE
- MM...MIMOSA
- ORN...ORNAMENTAL
- PER...PERSIMMON
- POP...POPLAR
- R.O...RED OAK
- S.G...SWEET GUM
- S.M...SILVER MAPLE
- SPR...SPRUCE
- S.W...SOURWOOD
- SYC...SYCAMORE
- U.T...UNIDENTIFIED TREE
- WAL...WALNUT
- WIL...WILLOW
- W.O...WHITE OAK
- W.P...WHITE PINE

THE FOLLOWING INFORMATION WAS USED TO PERFORM THE SURVEY:

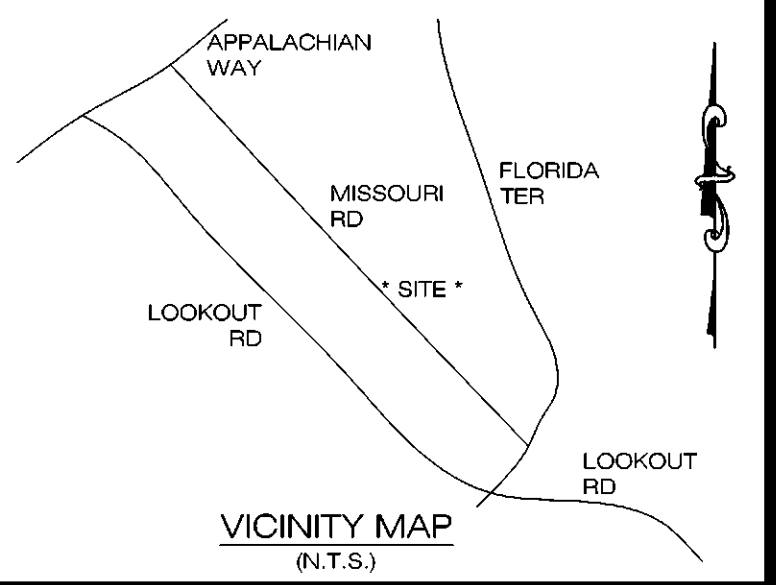
- CLASS OF SURVEY: CLASS A (HORIZONTAL)
- POSITIONAL ACCURACY: 0.05" (H) & 0.06" (V) @ 95% CONFIDENCE
- TYPE OF GPS FIELD PROCEDURE: RTK (VRS)
- DATES OF SURVEY: 01/20/2022
- DATUM/EPOCH: NAD 83 (NSRS 2011), EPOCH 2010.00 (H) & NAVD 88 (V)
- PUBLISHED/FIXED-CONTROL USED: VRS NETWORK
- GEOID MODEL: GEOID 18
- COMBINED GRID FACTOR(S): 0.999770 (@ LOCALIZED POINT)
- UNITS: US SURVEY FOOT

TOTAL AREA OF SURVEY
0.60 ACRES
26,059.6 SQ. FT.

TRACT 1
0.40 ACRES
17,577.5 SQ. FT.
BEING PORTION OF:
DB 1842 PG 256
PB 16 PG 94-97
PIN 0720-15-2825

TRACT 2
0.20 ACRES
8,482.1 SQ. FT.
BEING PORTION OF:
DB 1842 PG 256
PB 16 PG 94-97
PIN 0720-15-2825

LINE	BEARING	DISTANCE
L1	N 41°52'44" W	135.03'
L2	S 48°02'59" W	130.17'
L3	N 28°35'37" E	28.65'
L4	S 29°48'28" E	70.71'



THIS PLAT IS APPROVED BY THE ZONING ADMINISTRATOR OF THE TOWN OF MONTREAT.

4/12/2022
DATE

Designed by:
Scott Adams
ZONING ADMINISTRATOR

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, Hailee Madfis, REVIEW OFFICER OF BUNCOMBE COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

Designed by:
Hailee Madfis
REVIEW OFFICER

4/18/2022
DATE

Submitted electronically by: Cole Surveying and Design, PA, in compliance with North Carolina statutes governing recordable documents and the terms of the submitter agreement with the Buncombe County Register of Deeds.

I, RONALD JAMES CUTSHALL, CERTIFY THAT THIS PROJECT WAS COMPLETED UNDER MY DIRECT AND RESPONSIBLE CHARGE FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION; THAT THIS GROUND SURVEY WAS PERFORMED AT THE 95% PERCENT CONFIDENCE LEVEL TO MEET FEDERAL GEOGRAPHIC DATA COMMITTEE STANDARDS; THAT THIS SURVEY WAS PERFORMED TO MEET THE REQUIREMENTS FOR A TOPOGRAPHIC / PLANIMETRIC SURVEY TO THE ACCURACY OF CLASS AA AND VERTICAL ACCURACY WHEN APPLICABLE TO THE CLASS C STANDARD, AND THAT THE ORIGINAL DATA WAS OBTAINED ON 01/20/2022 THRU 01/31/22; THAT THE SURVEY WAS COMPLETED ON 02/09/22; THAT CONTOURS SHOWN AS SOLID LINES MAY NOT MEET THE STATED STANDARD; AND ALL ELEVATIONS ARE BASED ON NAD 83 (NSRS 2011) AND ALL ELEVATIONS ARE BASED ON NAVD 88.

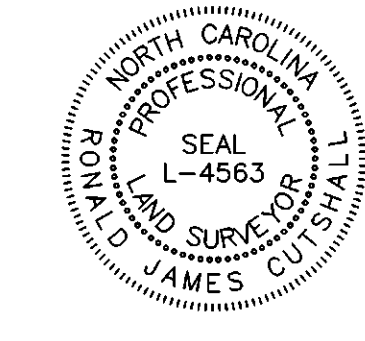
Designed by:
Ronald James Cutshall
RONALD JAMES CUTSHALL, P.L.S. L-4563

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, RONALD JAMES CUTSHALL, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN DEED BOOK 1842 PAGE 256; THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN DEED BOOK 1842, PAGE 256; THAT THE RATIO OF PRECISION AS CALCULATED IS 1:10,000+; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL ON THIS DATE 4/18/2022.

I ALSO HEREBY CERTIFY THAT THIS SURVEY IS OF THE FOLLOWING CATEGORIES AS DESCRIBED IN G.S. 47-30(11)(d): THAT THE SURVEY IS OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY, OR OTHER EXEMPTION OR EXCEPTION TO THE DEFINITION OF SUBDIVISION.

Designed by:
Ronald James Cutshall
RONALD JAMES CUTSHALL, P.L.S. L-4563



EXEMPT SUBDIVISION AND TOPOGRAPHIC SURVEY FOR:

CHARLOTTE SEBESTA

(OWNER OF RECORD: SYBIL CORBETT, ET AL CO-TRUSTEES)
TOWN OF MONTREAT, BUNCOMBE COUNTY, NC

REFERENCES:

DB 1842 PG 256
DB 365 PG 82
PB 16 PG 94-97



549 ELK PARK DRIVE, SUITE 707
ASHEVILLE, NC 28804
PHONE: 828-251-7025
NC FIRM #C-3106 | SC COA #4052

Type: CONSOLIDATED REAL PROPERTY
Recorded: 4/18/2022 9:30:16 AM
Fee Amt: \$21.00 Page 1 of 1
Buncombe County, NC
Drew Reisinger Register of Deeds

BK 226 PG 90

BACKGROUND OF REQUEST (Sebesta)

- The Sebesta's approached the previous Zoning Administrator in 2021 prior to purchasing PIN#0720152779 to inquire about the existing restrictions on the property. No regulatory stream was present on the site.
- The Sebesta's had the property surveyed and re-platted, negotiated with the Trust for a fair market price and purchased the property in 2022.
- The lot is approximately 115 feet by 69 ft. (.2 ac).
- In 2023, the Sebesta's approached the current Zoning Administrator about beginning to build on PIN#0720152779.
- Per Section 305(1) of the Montreat General Ordinance, Chapter K, Article III (i.e. the stormwater ordinance), no built-up area is permitted within 30 feet of any surface water as measured from the top of the streambank.
- During the current Zoning Administrator's review, a stream appeared on the Westburne Trust property 1:24,000 scale (7.5 minute) quadrangle topographic map prepared by the United States Geological Survey map.
- Due to the presence of the stream on this map, the 30-foot buffer required by Section 305(1) of the Montreat General Ordinance, Chapter K, Article III would be enforced.
- The Zoning Administrator advised the Sebesta's to obtain a formal stream determination from the North Carolina Division of Water Quality, as this determination would override the local ordinance.
- On June 9, 2023, a stream determination determined that an intermittent stream now ran through PIN#0720152779 and the buffer requirement applied bisecting the development envelope.
- The 1:24,000 scale (7.5 minute) quadrangle topographic map prepared by the United States Geological Survey was revised in 2022 and several new regulatory streams were added to the map, including the now intermittent stream on the Sebesta property.
- The Sebesta's were advised by the Zoning Administrator to pursue the following routes to develop their property:
 1. Amend the proposed building plans to utilize the allowed provisions of the definition of built-upon area.
 2. Obtain an administrative-level setback reduction from Florida Terrace per Section 609 of the Montreat Zoning Ordinance (MZO). The Sebesta's received this reduction in August 2023 reducing the front setback requirement from 30-feet to 15.3 feet based on the front setbacks of the structures on the adjacent properties.
 3. Obtain a Variance from the Board of Adjustment per Section 310.42 and 310.5 of the MZO for any other setback reductions needed.
 4. Apply for a Text Amendment per Section 309 of the MZO to amend Section 305(1) of the Montreat General Ordinance, Chapter K, Article III (i.e. the stormwater ordinance).
 5. Request that a portion of the right-of-way of Florida Terrace be closed and vested with the Sebesta property via the process required by N.C.G.S. 160A-299 to increase the development envelope.

Town of Montreat Section 310.42 of the Ordinance provides that the Board of Adjustment shall grant a Variance upon showing of all the following:

- a. Unnecessary hardship would result from the strict application of the Ordinance. 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.
- c. The hardship did not result from actions taken by the applicant or the property owner. 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.
- d. The Variance is consistent with the spirit, purpose and intent of the Ordinance such that public safety is secured and substantial justice is achieved.
- e. The Variance requested is the minimum Variance that will make possible the requested Use of the land, Building or Structure.
- f. The Variance is not a request to permit a Use of land, Building or Structure which is not permitted in the applicable Zoning District.

The Applicants are presenting competent, material and substantial evidence to show the following requirements were met:

- a. An unnecessary hardship would result from the strict application of the Ordinance, as the size of the Subject Property, particularly considering the 30' stream buffer requirement, in addition to the front and side setbacks, severely constrain the buildable area of the Subject Property.
- b. The hardship results from conditions that are peculiar to the property, such as location, size, and topography (stream determination), and not from personal circumstances or conditions that are common to the neighborhood or the general public, for the Subject Property.
- c. The hardship did not result from actions taken by the Applicants.
- d. The Variance is consistent with the spirit, purpose and intent of the Ordinance such that public safety is secured and substantial justice is achieved, as the construction of a single-family dwelling in the proposed location will not have a negative impact on the adjacent properties and it will not be contrary to public health and safety.
- e. The Variance requested is the minimum Variance that will make possible the requested Use of the land, Building or Structure, as a zero feet setback is the minimum Variance necessary to construct the proposed single-family dwelling.
- f. The Variance is not a request to permit a Use of land, Building or Structure which is not permitted in the applicable Zoning District.

FINDINGS OF FACT FOR VARIANCE REQUEST (Sebesta)

Town of Montreat Section 310.42 of the Ordinance provides that the Board of Adjustment shall grant a Variance upon showing of all the following:

- a. Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the Variance, no reasonable use can be made of the property.
 1. In early 2021, the Sebesta's met with the co-Trustees of the Westburne Trust to inquire about splitting the existing property into 2 lots, Lot 1 and Lot 2, and selling the vacant Lot 2 to the Sebesta's. (Charlotte R. Sebesta is a co-Trustee of the Westburne Trust) The purpose of purchasing the property was to build a retirement home for the Sebesta's.
 2. In 2021, the Sebesta's approached the previous Town of Montreat Zoning Administrator about existing zoning restrictions on the proposed Lot 2 of the property located on 330 Missouri Road, Montreat, NC. He informed the Sebesta's that the property was zoned I/R, with front/rear setbacks of 25 feet and side setbacks of 12 feet. After reviewing the said property and reviewing the then current US Geological maps, he stated that there were no other restrictions on the property, including, but not limited to, any stream or NC waterway that would be subject to the 30-foot stream buffer Ordinances. The Zoning Administrator provided the Sebesta's with a sketch that outlined a permissible dwelling of up to 3,000 square feet of buildable area that could be constructed on the Lot.
 3. The Sebesta's met with an architect (Hurt Architects) and a builder (Sineath Construction) to confirm the approximate square footage of a house that could be constructed on the lot given this information from the Zoning Administrator. This building area was determined to be more than adequate for the Sebesta's needs.
 4. The Sebesta's then had the lot surveyed by Cole Surveyors. The survey was reviewed and approved by the previous Town of Montreat Zoning Administrator. The property was then appraised by 2 independent appraisal companies to determine a fair market value.
 5. The Sebesta's negotiated a purchase price for the lot with the Westburne Trust co-Trustees and closed on the transaction in 2022. The new Lot plat and deed were filed with the Buncombe County Tax Office in August 2022.
 6. In 2023, the Sebesta's approached the current Zoning Administrator to confirm that the zoning restrictions had not changed and to review the process for constructing a new home on Lot 2.
 7. During the current Zoning Administrator's review, a stream appeared on the Westburne Trust property 1:24,000 scale (7.5 minute) quadrangle topographic map prepared by the United States Geological Survey map.
 8. Due to the presence of the stream on this map, the 30-foot buffer required by Section 305(1) of the Montreat General Ordinance, Chapter K, Article III would be enforced.
 9. The Zoning Administrator advised the Sebesta's to obtain a formal stream determination from the North Carolina Division of Water Quality, as this determination would override the local ordinance.
 10. On June 9, 2023, a stream determination determined that an intermittent stream now ran through PIN#0720152779 (Lot 2) and the buffer requirement would be applied, causing the development envelope to be bisected.

11. The 1:24,000 scale (7.5 minute) quadrangle topographic map prepared by the United States Geological Survey was revised in 2022 and several new regulatory streams were added to the map, including the now intermittent stream on the Sebesta property.
 12. This development significantly impacted the allowable buildable area on Lot 2.
- 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.
1. The change in the stream determination by the NC DEQ has created this hardship on the Sebesta's. The lot that they purchased, which was surveyed, approved and appraised with approximately 3,000 square feet of buildable area, has now been significantly impacted. This condition is unique to Lot 2.
 2. The "intermittent" stream that bisects Lot 2 only appears on the Westburne Trust/Sebesta survey, and is described as an unnamed branch.
 3. The lot is not a large lot to begin with, but with a new 30-foot stream buffer requirement, the buildable area has been reduced such that it will be difficult to build a suitable structure with the existing front and side setbacks, while maintaining and preserving the buffer area. The hardship is a direct result of the stream determination and the Sebesta's would not have purchased the lot had they known about the 30-foot buffer restriction.
 4. Including the 30-foot stream buffer, there will be an approximate 75 foot setback from the Missouri Road frontage (back setback).
 5. With the requested reduction of the front setback to zero, the buildable area can be increased to an amount that would be minimally sufficient to build the home the Sebesta's require.
- c. The hardship did not result from actions taken by the applicant or the property owner. 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.
1. This hardship was not the result of any actions taken by the Applicant/owners of the property.
 2. The Sebesta's purchased the property after conducting a full due-diligence review and based their decision on the expert advice of the previous Zoning Administrator, professional surveyors, a well-respected architect and an experienced builder. The previous Zoning Administrator was clear that there was not a 30-foot stream buffer requirement.
 3. The Sebesta's relied on this advice to their detriment, now that it has been determined there is an intermittent stream that is present on their property, as determined by the updated US Geological Survey Maps.
 4. The advice the Sebesta's received was accurate at the time it was provided.
- d. The Variance is consistent with the spirit, purpose and intent of the Ordinance such that public safety is secured and substantial justice is achieved.

- e. **The Variance requested is the minimum Variance that will make possible the requested Use of the land, Building or Structure.**
1. This Variance request is the minimum Variance that will make possible the requested use for the land in order to build an adequate retirement home for the Sebesta's, along with a minimum of 2 parking spaces (garage).
 2. As this is anticipated to be a retirement home for the Sebesta's, they are expecting to have conveniences and elderly accessible features such as a main level primary bedroom and limited stairs throughout the home. The expectation is that most of the main living area will be one-level, which will necessitate utilizing the maximum area requested. Expectations are that there will be an elevator from lower level to main level.
 3. It is anticipated that there will be front and rear porches that are not reflected in the attached preliminary plan.
 4. Without this Variance request, the Lot will not be adequate for the Sebesta's to build their house.
 5. With Variance request, buildable area will be a maximum of 2,000 square feet.
- f. The Variance is not a request to permit a Use of land, Building or Structure which is not permitted in the applicable Zoning District.

ROY COOPER

Governor

ELIZABETH S. BISER

Secretary

RICHARD E. ROGERS, JR.

Director



NORTH CAROLINA
Environmental Quality

SENT VIA ELECTRONIC MAIL ONLY: NO HARD COPY WILL BE MAILED.

June 9, 2023

Michael and Charlotte Sebesta
3207 Parkside Trace
Roswell, GA 30075
Email: charsebesta64@gmail.com

Subject: On-Site Stream Determination (applicability of vegetated offset)
99999 Florida Terrace (PIN #072015277900000)
Buncombe County

Dear Mr. and Mrs. Sebesta:

On June 8, 2023, Division of Water Resources (Division) staff conducted an on-site review of features located on the subject property at the request of Charlotte Sebesta in accordance with the standardized **"Methodology for Identification of Intermittent and Perennial Streams and Their Origins"** which includes the North Carolina Stream ID Manual Version 4.11

The feature is shown as a blue line on the most recent published NRCS Soil Survey of Buncombe County, North Carolina, and/or the most recent copy of the USGS topographic map at 1:24,000 scale (see attached figure). The table below reflects all Division stream determinations conducted during the site visit.

Feature ID	E/I/P/ Other	Start @	Stop @
Reach 1	Intermittent	Approximate southeast property boundary	Approximate northwest property boundary

This on-site determination shall expire five (5) years from the date of this letter. The owner (or future owners) should notify the Division (and other relevant agencies) of this decision in any future correspondences concerning this property. Landowners or affected parties that dispute this determination made by the Division may request a determination by the Director of Water Resources. **This determination is final and binding, unless an appeal request is made within sixty (60) calendar days of the date of this letter to the Director in writing.**



North Carolina Department of Environmental Quality | Division of Water Resources
Asheville Regional Office | 2090 U.S. Highway 70 | Swannanoa, North Carolina 28778
828.296.4500

<i>If sending via U.S. Postal Service:</i> Stephanie Goss - DWR 401 & Buffer Permitting Branch Supervisor 1617 Mail Service Center Raleigh, NC 27699-1617	<i>If sending via delivery service (UPS, FedEx, etc.)</i> Stephanie Goss -DWR 401 & Buffer Permitting Branch Supervisor 512 N Salisbury St. Raleigh, NC 27604
---	---

This letter only addresses the applicability of the stated regulations on the features identified on the subject property and/or within the proposed project area. This letter does not approve any activity within buffers or within waters of the state. There may be other regulated waters, streams or other features located on the property. Any waters, streams, or other features on the site, including the features identified in this letter, may be considered jurisdictional according to the US Army Corps of Engineers and subject to the Clean Water Act.

If you have any additional questions or require additional information, please contact me at 828-296-4684 or Andrew.W.Moore@deq.nc.gov. This determination is subject to review as provided in Articles 3 & 4 of G.S. 150B.

Sincerely,

DocuSigned by:
Andrew Moore
5C147F587AE9400...

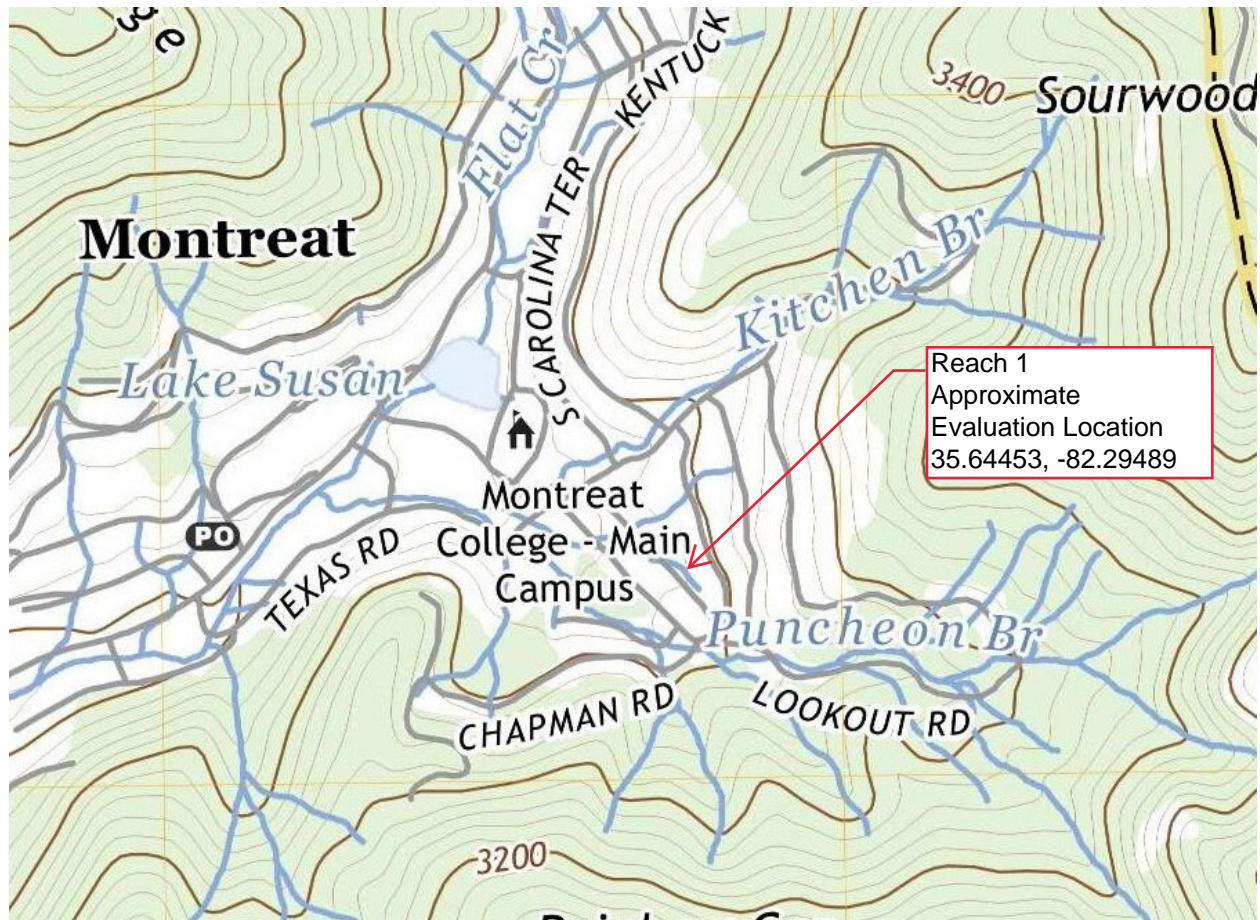
Andrew Moore
Asheville Regional Office
Water Quality Regional Operations Section
NCDEQ – Division of Water Resources

Enclosures: USGS Topographical Map, Site Map

Electronic cc: Kayla DiCristina, Town of Montreat Zoning Administrator
DWR Asheville Regional Office



North Carolina Department of Environmental Quality | Division of Water Resources
Asheville Regional Office | 2090 U.S. Highway 70 | Swannanoa, North Carolina 28778
828.296.4500



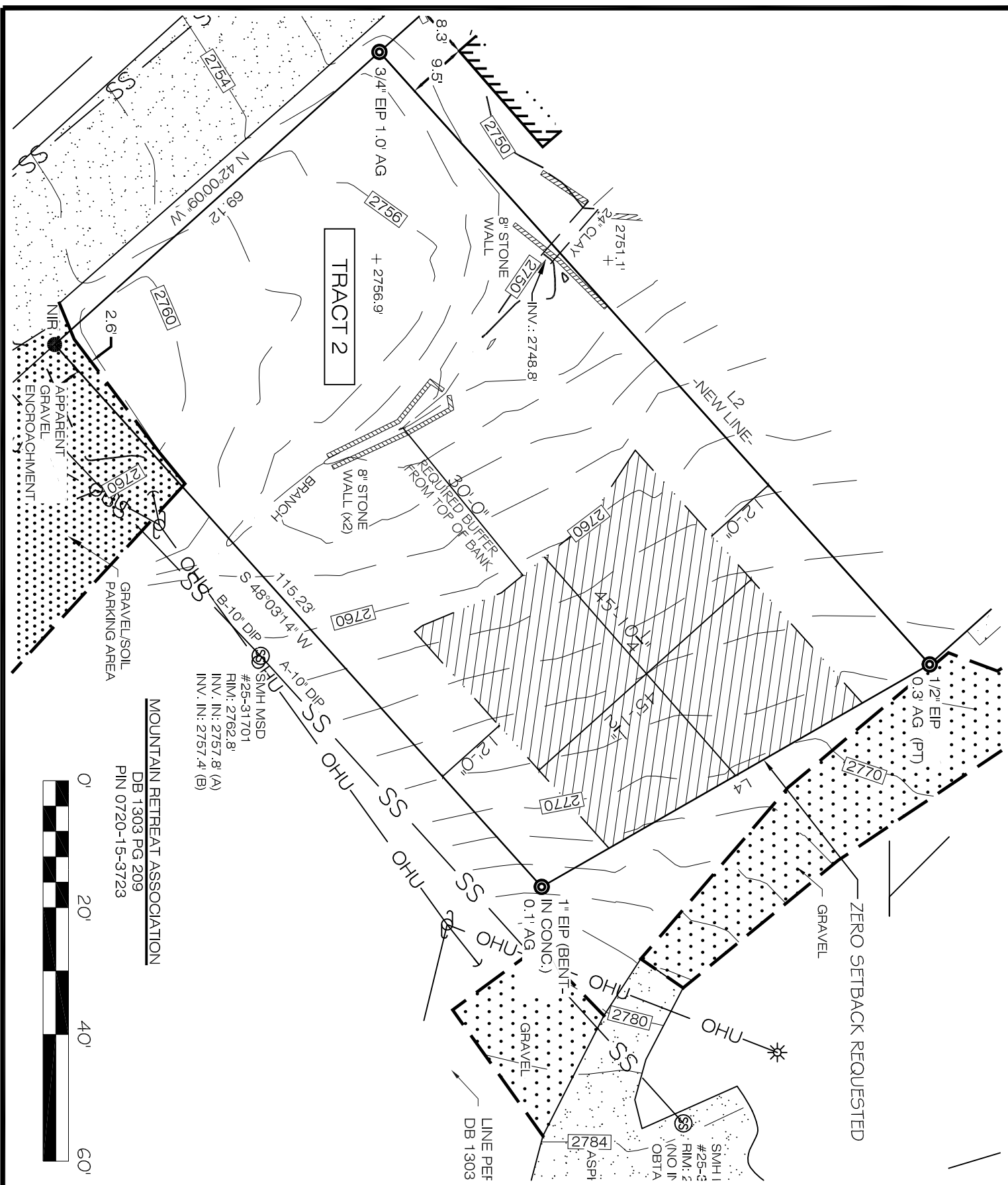
From: United States Geological Survey. Montreat Quadrangle. 1:24,000. 7.5-Minute Series. Reston, Va: United States Department of the Interior. 2022.

Buncombe County

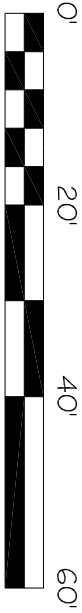


June 7, 2023

1:1,128
0 0.0075 0.015 0.03 mi



MOUNTAIN RETREAT ASSOCIATION
DB 1303 PG 209
PIN 0720-15-3723



DATE: OCTOBER 10, 2023

SCALE: GRAPHIC

SEBESTA RESIDENCE

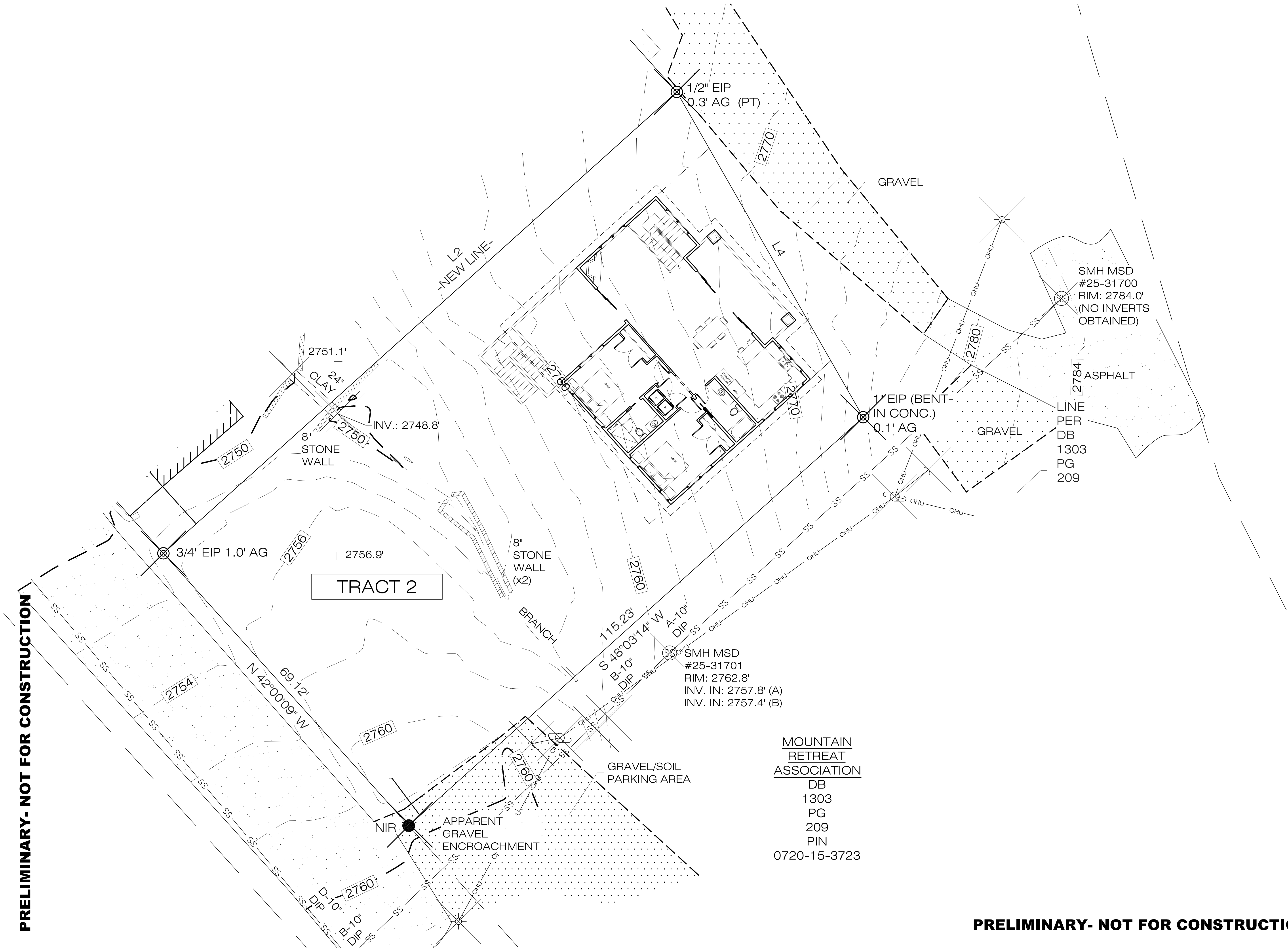
VARIANCE REQUEST SITE DRAWING
MONTREAT, NORTH CAROLINA

HURT
ARCHITECTURE
& PLANNING

0
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

1000 HURTCOURT RD
WWW.HURTCOURT.COM

PRELIMINARY- NOT FOR CONSTRUCTION



MOUNTAIN
RETREAT
ASSOCIATION
DB
1303
PG
209
PIN
0720-15-3723

PRELIMINARY- NOT FOR CONSTRUCTION



1 0 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
N C 2 8 7 1 1
P H O N E
8 2 8 . 6 6 9 . 1 7 3 0
F A X
8 2 8 . 6 6 9 . 1 7 6 2

INFO@HURTARCHITECTS.COM
WWW.HURTARCHITECTS.COM

■ ■ ■

HURT ARCHITECTURE & PLANNING, P.A. HEREBY RESERVES ITS COMMON LAW, STATUTORY, COPYRIGHT AND OTHER PROPERTY RIGHTS IN THESE PLANS, BOOKS AND SPECIFICATIONS. THESE PLANS, BOOKS AND SPECIFICATIONS ARE THE PROPERTY OF HURT ARCHITECTURE & PLANNING, P.A. AND ARE NOT TO BE REPRODUCED, COPIED OR USED IN ANY MANNER WITHOUT THE WRITTEN CONSENT OF HURT ARCHITECTURE & PLANNING, P.A. ANY REPRODUCTION OR USE OF THESE PLANS, BOOKS AND SPECIFICATIONS WITHOUT THE EXPRESS WRITTEN PERMISSION FROM HURT ARCHITECTURE & PLANNING, P.A. WILL BE CONSIDERED A VIOLATION OF THE COPYRIGHT LAWS OF THE UNITED STATES OF AMERICA. CONTRACTORS SHALL OBTAIN THE NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES BEFORE CONSTRUCTION. HURT ARCHITECTURE & PLANNING, P.A. SHALL NOT BE HELD RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THESE PLANS, BOOKS AND SPECIFICATIONS.

PRELIMINARY- NOT FOR CONSTRUCTION

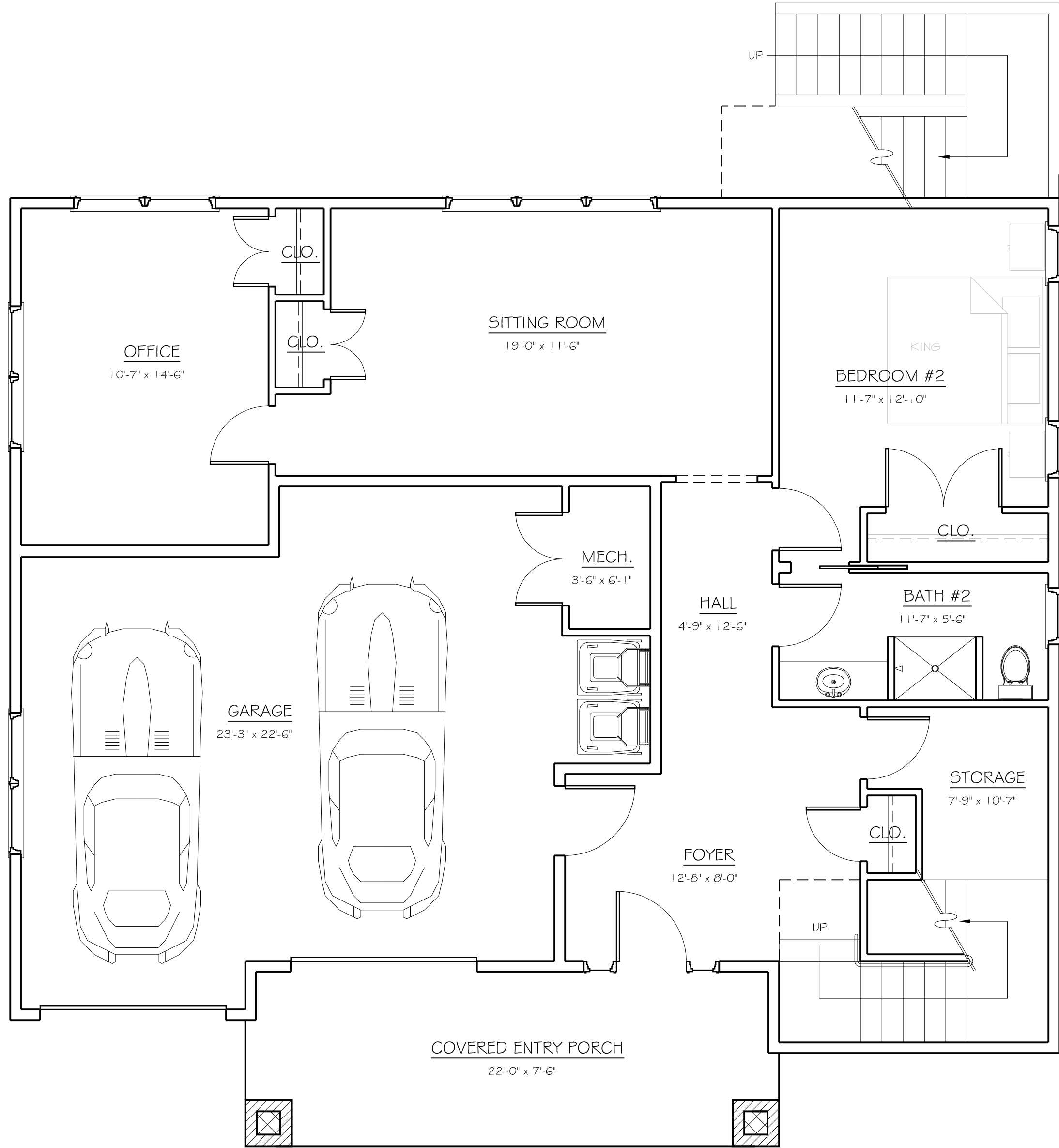
SEBESTA RESIDENCE
FLORIDA TERRACE
MONTREAT, NORTH CAROLINA

DRAWING NAME:
Architectural Site Plan

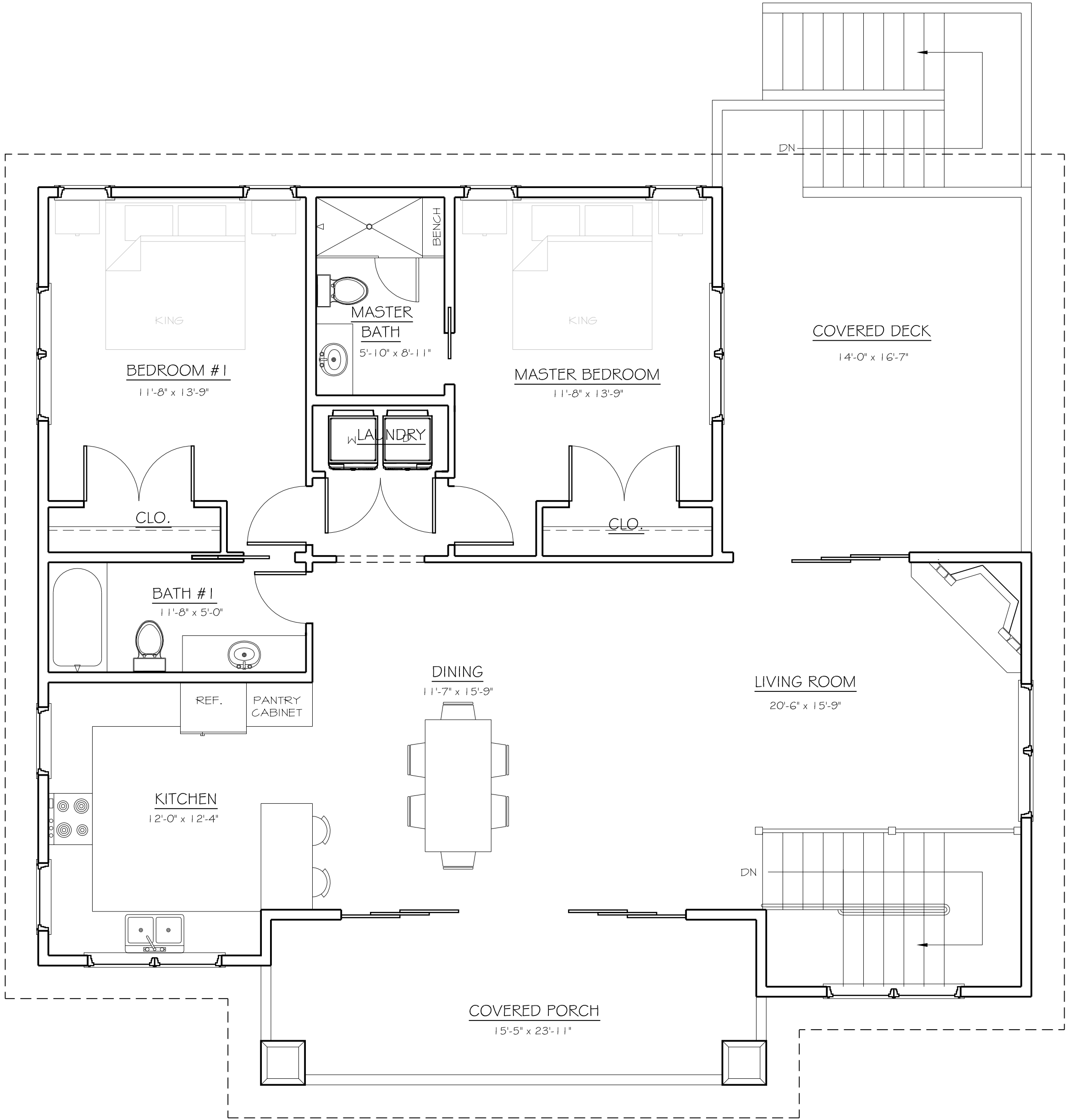
DATE: October 17, 2023

AS

SCALE: 1/8" = 1'-0"



1 Preliminary Lower Level Plan
A-1
Scale: 1/4" = 1'-0"
HEATED AREA: 961 SqFt



2 Preliminary Main Level Plan
A-1
Scale: 1/4" = 1'-0"
HEATED AREA: 1258 SqFt



101
MIDLAND
AVENUE
BLACK
MOUNTAIN
NC 28711
PHONE
828.669.1750
FAX
828.669.1762

info@hurtarchitects.com
www.hurtarchitects.com

HURT ARCHITECTURE & PLANNING, P.A. HEREBY RESERVES ITS COMMON LAW, STATUTORY, COPYRIGHT AND OTHER PROPERTY RIGHTS IN THESE FLOOR PLANS AND DRAWINGS. THESE PLANS, DRAWINGS AND MATERIALS, INCLUDING A "TRIAL" SET, ARE NOT TO BE REPRODUCED, COPIED OR COPIED IN ANY FORM OR MANNER WHATSOEVER, NOR ARE THEY TO BE LOANED, TO OR USED BY ANY THIRD PARTY WITHOUT FIRST OBTAINING THE EXPRESS WRITTEN PERMISSION FROM HURT ARCHITECTURE & PLANNING, P.A. ANY VIOLATIONS OF THESE PROVISIONS SHALL BE PROSECUTED TO THE FULL EXTENT OF THE LAW. CONTRACTORS SHALL USE A 1/4" = 1'-0" SCALE FOR ALL DIMENSIONS. DIMENSIONS SHOWN ON THESE PLANS SHALL BE USED IN CONSTRUCTION. DIMENSIONS SHOWN ON THESE PLANS SHALL BE USED IN CONSTRUCTION. DIMENSIONS SHOWN ON THESE PLANS SHALL BE USED IN CONSTRUCTION.

PRELIMINARY- NOT FOR CONSTRUCTION

SEBESTA RESIDENCE
FLORIDA TERRACE
MONTREAT, NORTH CAROLINA

DRAWING NAME:
Preliminary Floor Plans

DATE: October 17, 2023

A-1

SCALE: 1/4" = 1'-0"

PRELIMINARY- NOT FOR CONSTRUCTION



1
A-2

Preliminary Front Elevation
Scale: 1/4" = 1'-0"

PRELIMINARY- NOT FOR CONSTRUCTION

HURT

ARCHITECTURE

& PLANNING

P.A.

I O I

MIDLAND

AVENUE

B L A C K

MOUNTAIN

N C 28711

P H O N E

828.669.1750

F A X

828.669.1762

INFO@HURTARCHITECTS.COM

WWW.HURTARCHITECTS.COM

■ ■ ■

HURT ARCHITECTURE & PLANNING, P.A. HEREBY RESERVES ITS COMMON LAW, STATUTORY, COPYRIGHT AND OTHER PROPERTY RIGHTS IN THESE DRAWINGS AND CONTENTS. THESE DRAWINGS, SPECIFICATIONS, CONDITIONS, A "TRUE COPY" AND ARE NOT TO BE REPRODUCED, COPIED OR COPIED IN ANY FORM OR MANNER WHATSOEVER, NOR ARE THEY TO BE LOANED, TO OR USED BY ANY THIRD PARTY WITHOUT WRITTEN PERMISSION FROM HURT ARCHITECTURE & PLANNING, P.A. ANY REPRODUCTION OF THESE DRAWINGS WITHOUT WRITTEN PERMISSION FROM HURT ARCHITECTURE & PLANNING, P.A. SHALL BE CONSIDERED A VIOLATION OF THE COPYRIGHT LAWS OF THE UNITED STATES OF AMERICA. ANY REPRODUCTION OF THESE DRAWINGS WITHOUT WRITTEN PERMISSION FROM HURT ARCHITECTURE & PLANNING, P.A. SHALL BE CONSIDERED A VIOLATION OF THE COPYRIGHT LAWS OF THE UNITED STATES OF AMERICA. ANY REPRODUCTION OF THESE DRAWINGS WITHOUT WRITTEN PERMISSION FROM HURT ARCHITECTURE & PLANNING, P.A. SHALL BE CONSIDERED A VIOLATION OF THE COPYRIGHT LAWS OF THE UNITED STATES OF AMERICA.

PRELIMINARY- NOT FOR CONSTRUCTION

SEBESTA RESIDENCE

FLORIDA TERRACE

MONTREAT, NORTH CAROLINA

DRAWING NAME:

Prelim. Front Elevation

DATE: October 17, 2023

A-2

SCALE: 1/4" = 1'-0"

Staff Report

VA-2023-02

Variance Request (VA-2023-02) – A Variance Request submitted by Charlotte and Mike Sebesta (Property Owners of the Subject Property) for the lot described as PIN#072015277900000 located approximately 700 feet south of the intersection of Appalachian Way and Florida Terrace to Section 504.7 of the Montreat Zoning Ordinance (MZO) to reduce the front setback requirement from 25 feet to 0 feet on the Florida Terrace side of the Subject Property to construct a single-family dwelling.

Created by:

Kayla DiCristina, AICP
Zoning Administrator
Town of Montreat

Created for:

Montreat Board of Adjustment
October 26th, 2023

Table of Contents

STAFF REPORT	3
Application Summary.....	3
Property Summary.....	3
Public Notice	4
Variance Request.....	5
Subject Property Background	5
Staff Findings	8
Subject Property Summary	8
Use & Zoning.....	8
Setbacks and Lot Size	8
Stormwater Ordinance	11
Template Variance Decision Language	12
Exhibits	12
Exhibit A: North Carolina Department of Environmental Quality, Division of Water Resources – Stream Determination Report	12
Exhibit B: PIN# 072015372300000 Site Plan.....	12
Exhibit C: PIN# 072015281600000 Plat (Plat Book 226, Page 90)	12

Table of Figures

Figure 1: Subject Property Aerial	4
Figure 2: 250 feet Public Notice for Variance Request.....	4
Figure 3: United States Geological Survey - 1:24,000 scale (7.5 minute) Quadrangle Topographic Map (Approximate Site Location Identified).....	6
Figure 4: North Carolina Department of Environmental Quality, Division of Water Resources – Stream Determination Report (Subject Property Outlined)	6
Figure 5: Subject Property and Surrounding Zoning	8
Figure 6: Site Plan	Error! Bookmark not defined.
Figure 7: Subject Property, Adjoining Properties, and Right-of-Way	10
Figure 8: Florida Terrace Roadbed.....	10

STAFF REPORT

See **STAFF FINDINGS** (i.e. Kayla DiCristina, AICP, Montreat Zoning Administrator) in addition to applicant-provided materials. **STAFF FINDINGS** contain references to the Montreat Zoning Ordinance (MZO) where noted. Only those findings relevant to the variance requested are included in this staff report.

Application Summary

The following report summarizes the Zoning Administrator's review of an application for a variance submitted by Charlotte and Mike Sebesta (Property Owners of the Subject Property) for the lot described as PIN#072015277900000 located approximately 700 feet south of the intersection of Appalachian Way and Florida Terrace to Section 504.7 of the Montreat Zoning Ordinance (MZO) to reduce the front setback requirement from 25 feet to 0 feet on the Florida Terrace side of the Subject Property to construct a single-family dwelling.

Property Summary

Parcel Identifier Number (PIN#): 072015277900000

Address: No E-911 address assigned. The Subject Property is approximately 700 feet south of the intersection of Appalachian Way and Florida Terrace.

Owner: Sebesta Charlotte Riddle, Sebesta Michael Gerard
3207 Parkside Trce,
Roswell, GA, 30075

Applicant: Charlotte and Michael Sebesta (Property Owners)

Zoning: I/R Institutional/Residential District.

Current Land Use: The Subject Property is vacant and wooded.

Acres: 0.20 acres.

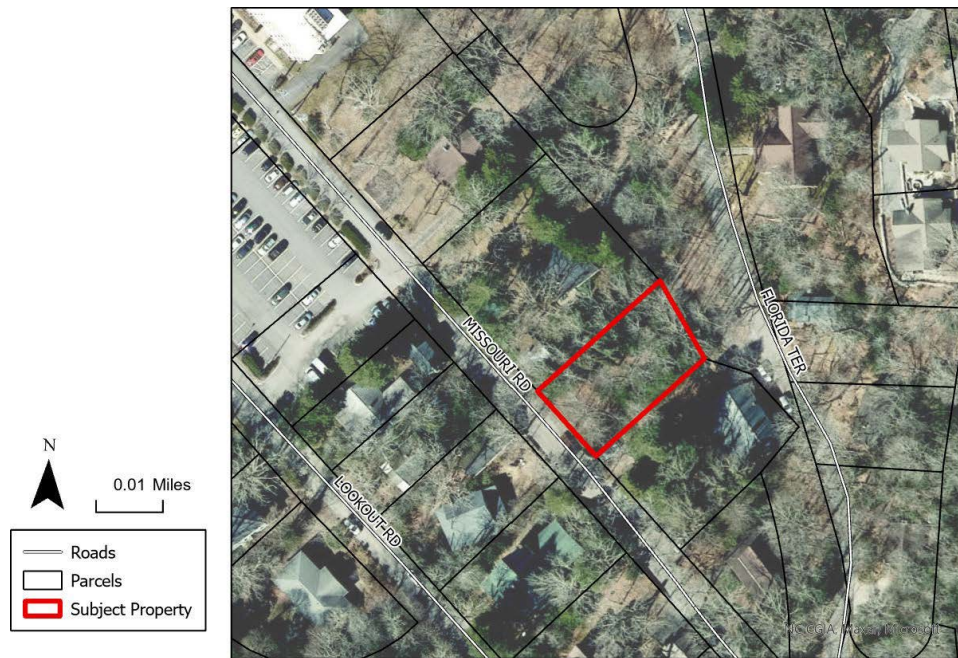


Figure 1: Subject Property Aerial

Public Notice

Staff mailed notice to properties within 250 feet of the Subject Property on **October 12th, 2023** (see Figure 2: 250 feet Public Notice for Variance Request). Staff posted the Subject Property on **October 12th, 2023**. BOA Hearing: **October 26th, 2023**

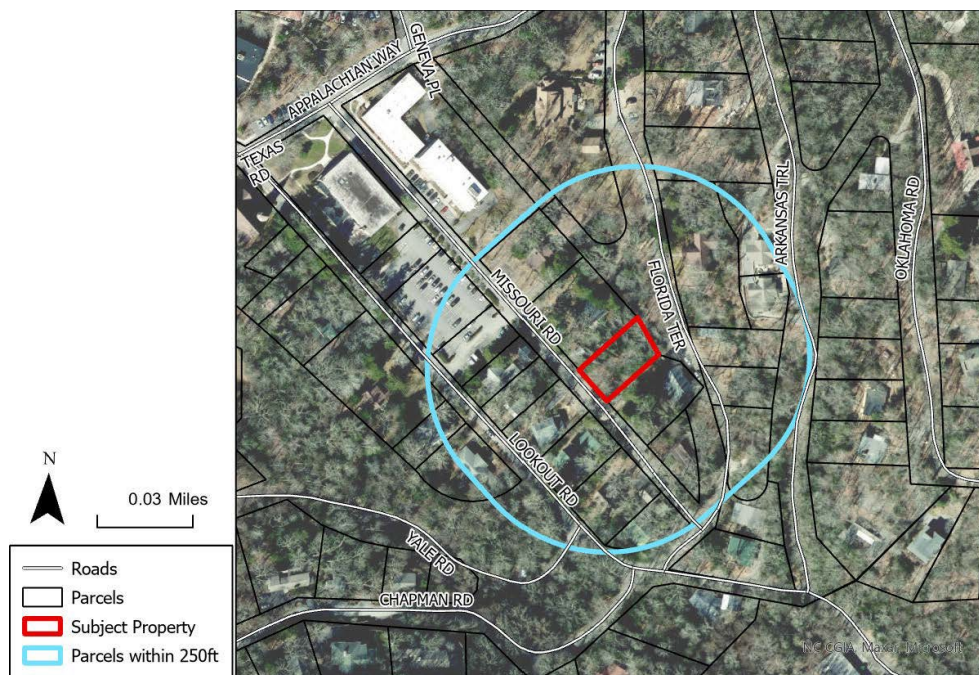


Figure 2: 250 feet Public Notice for Variance Request

Variance Request

The Applicants, Charlotte and Mike Sebesta (Property Owners of the Subject Property), request that the Board of Adjustment grant a variance to Section 504.7 of the Montreat Zoning Ordinance (MZO) to reduce the front setback requirement from 25 feet to 0 feet on the Florida Terrace side of the Subject Property to construct a single-family dwelling.

Subject Property Background

In September of 2021, the Applicants approached the previous Zoning Administrator, Scott Adams, prior to purchasing the Subject Property, to inquire about any existing development restrictions on the Subject Property. At the time, no intermittent or perennial streams were noted on the property by the Zoning Administrator, so the Applicants purchased the land on August 3rd, 2022 (Buncombe County Register of Deeds, Deed Book 6246, Page 284). The previous Zoning Administrator's approval did not provide any vested rights as no development applications were submitted. At the time of their initial inquiry, the Applicants did not apply for a stream determination from the North Carolina Department of Environmental Quality (NCDEQ) Division of Water Resources (DWR).

In July of 2023, the Applicants approached the current Zoning Administrator about beginning to build on the Subject Property. The current Zoning Administrator reviewed the subject property to confirm that nothing had changed since the previous review in 2021. Per Section 305(1) of the Montreat General Ordinance, Chapter K, Article III (i.e. the stormwater ordinance), no built-up area is permitted within 30 feet of any surface water as measured from the top of the streambank. This section instructs the Zoning Administrator to determine that an intermittent or perennial stream is present if the feature appears on the newest available soil survey map prepared by the National Resources Conservation Service of the United States Department of Agriculture or the 1:24,000 scale (7.5 minute) quadrangle topographic map prepared by the United States Geological Survey. The current Zoning Administrator identified a stream on the 1:24,000 scale (7.5 minute) quadrangle topographic map prepared by the United States Geological Survey map and informed the Applicants that the 30-foot buffer required by Section 305(1) of the Montreat General Ordinance, Chapter K, Article III would be enforced.

The Zoning Administrator advised the Applicants to obtain a formal stream determination from the NCDEQ DWR, as this determination would override the enforcement of the stream buffer required by the local ordinance. On June 9th, 2023, the Applicants obtained a stream determination and Andrew Moore, an Environmental Specialist II with the NCDEQ DWR, determined that an intermittent stream now ran through the Subject Property (Exhibit A). Per an inquiry made by the current Zoning Administrator via phone to Andrew Moore as to the change in the stream classification, the 1:24,000 scale (7.5 minute) quadrangle topographic map prepared by the United States Geological Survey was revised in 2022 and several new regulatory streams were added to the map, including the now intermittent stream on the Subject Property. As stated above, intermittent streams are subject to a 30-foot buffer from built-upon areas per Section 305(1) of the Montreat General Ordinance, Chapter K, Article III. Following the stream determination, the Applicants returned to the Zoning Administrator to discuss their next steps. The newly determined intermittent stream now bisected the previous development envelope therefore restricting the area the Sebestas could build in.

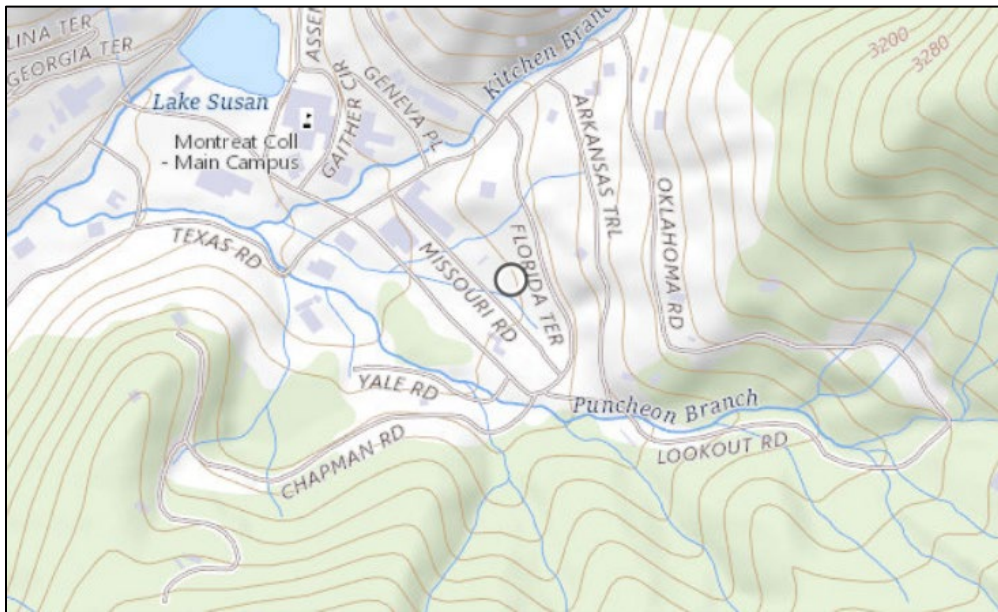


Figure 3: United States Geological Survey - 1:24,000 scale (7.5 minute) Quadrangle Topographic Map (Approximate Site Location Identified)

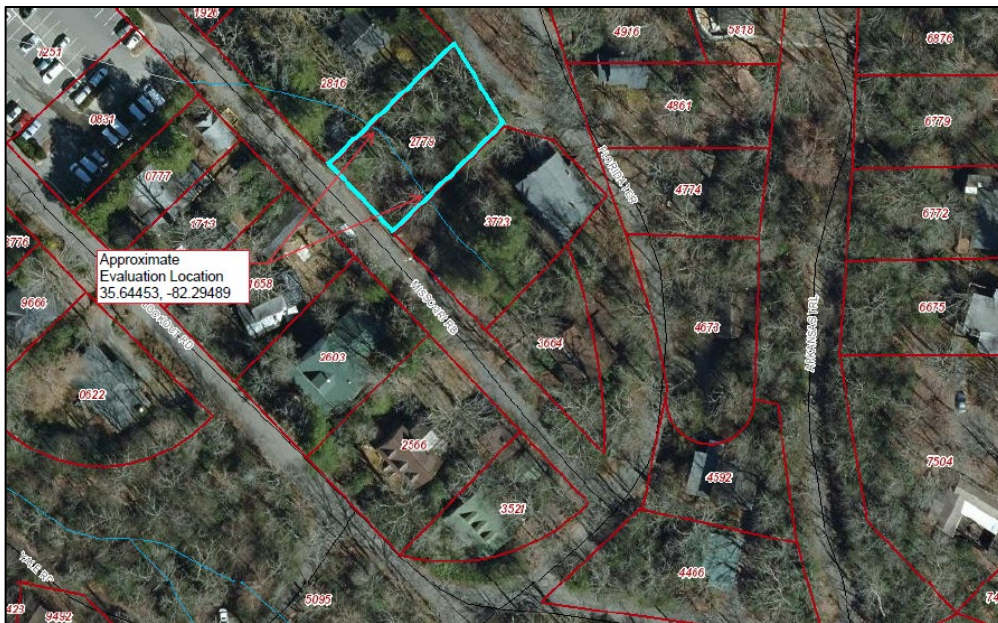


Figure 4: North Carolina Department of Environmental Quality, Division of Water Resources – Stream Determination Report (Subject Property Outlined)

Following the stream determination results, the Applicants pursued an administrative level front setback reduction per the procedure outlined in Section 609 of the MZO. Per this section, the front yard setback of a Lot can be reduced to no less than 15 feet if the average front yard setbacks of already built-upon Lots located directly adjacent to, on either side of, and fronting on the same side of the Street as the Lot is less than the minimum required front Setback in the Lot's Zoning District. The reduced front setback of the Lot is calculated by the average of the existing Setbacks of the Lots on each side of the subject Lot. The Applicants measured the front Setbacks of the Lots on either side of the Subject Property and found the front Setback of the existing dwelling on the lot to the north (PIN# 072015281600000) to be 28 feet and the dwelling to the south (PIN# 072015372300000) to be 1.5 feet. These measurements were confirmed by the Zoning Administrator using Buncombe County GIS, an existing site plan of PIN# 072015372300000 found in the Town of Montreat's development records (Exhibit B), and the plat for PIN# 072015281600000 recorded among the Buncombe County Register of Deeds at Plat Book 226, Page 90 (Exhibit C). The Zoning Administrator calculated the reduced setback based on these figures as 15.3 feet on August 2nd, 2023. The administrative reduction granted by Section 609 of the MZO reduced the front yard setback from 25 feet to 15.3 feet.

Following this discussion with the Applicants, the Zoning Administrator suggested the following paths should the Sebestas need additional area for construction:

1. Amend the proposed building plans to utilize the allowed provisions of the definition of built-upon area. The definition for a built-up area per the Montreat General Ordinance, Chapter K, Article III is the portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots and paths; and recreation facilities such as tennis courts. This definition does not include a wooden slated deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material. The Applicants have not submitted formal building plans as of October 12th, 2023, but are aware of this suggestion.
2. Obtain a Variance from the Board of Adjustment per Section 310.42 and 310.5 of the MZO for any other setback reductions needed. The Applicants are pursuing this option with submission of this application.
3. Apply for a Text Amendment per Section 309 of the MZO to amend Section 305(1) of the Montreat General Ordinance, Chapter K, Article III (i.e. the stormwater ordinance) to allow either encroachments into the required built-upon area buffer or reduce the buffer width (both amendments would likely subject to specific conditions and situations). The Applicants have not submitted a Text Amendment application as of October 12th, 2023.
4. Request that a portion of the right-of-way of Florida Terrace be closed and vested with the Applicants' property via the process required by N.C.G.S. 160A-299 to increase the development envelope and eliminate the need for a Variance or Text Amendment. On September 14th, 2023, the Applicants (with legal counsel from Mike Begley) approached the Board of Commissioners at their regularly scheduled September meeting to inquire about the possibility of closing a portion of the right-of-way of Florida Terrace to increase the development envelope on the Subject Property and eliminate the need for a Variance or Text Amendment. While no formal determination was made by the Board of Commissioners at that meeting, the general consensus

of the attending Commissioners was not amenable and the Commissioners requested additional time to review the Applicants' request. In lieu of approaching the Board of Commissioners with the formal request for the right-of-way closure, the Applicants chose to pursue the variance option instead.

Staff Findings

Subject Property Summary

- ❖ The Subject Property is 0.20 acres and is currently vacant and wooded. The Applicants intend to construct a single-family dwelling.
- ❖ The Subject Property abuts Florida Terrace to the east and Missouri Road to the west. Both are public roads maintained by the Town of Montreat.
- ❖ There is an intermittent stream on the Subject Property (as determined by Andrew Moore of NCDEQ DWR on 06/09/23, Exhibit A). There is no floodplain area on the Subject Property.

Use & Zoning

The Subject Property of the Variance Request is in the I/R Institutional/Residential Zoning District (I/R). Single-family dwellings are allowed by-right in this Zoning District. The surrounding properties are zoned I/R. To the north is an existing single-family dwelling on property zoned I/R, to the east is Florida Terrace and single-family dwellings beyond on properties zoned I/R, to the west is Missouri Road with single-family dwellings beyond on properties zoned I/R, and to the south is a single-family dwelling (Black Balsam Lodge) on property zoned I/R.



Figure 5: Subject Property and Surrounding Zoning

Setbacks and Lot Size

The Subject Property is an existing lot, and no subdivision activities are proposed with this application. Therefore, lot size requirements do not apply.

The Subject Property is in I/R and is considered a double frontage lot. Double frontage lots are defined in the MZO as lots which have lot frontage on two separate streets. The Applicants' proposed single-family dwelling is subject to the setback requirements of a double frontage lot in I/R. The Applicants' Variance Request is to the front setback requirement per Section 504.7 of the MZO from Florida Terrace. The Applicants' proposed single-family dwelling intends to meet the required 12-foot side yard setbacks per Section 504.81 of the MZO and the 25-foot setback per Section 504.7 of the MZO from Missouri Road.

	Required I/R Zoning District Setback	Requested Variances
Front (Florida Terrace)	25 feet*	0 feet
Side (L/R)	12 feet/12 feet	N/A
Front (Missouri Road)	25 feet	N/A

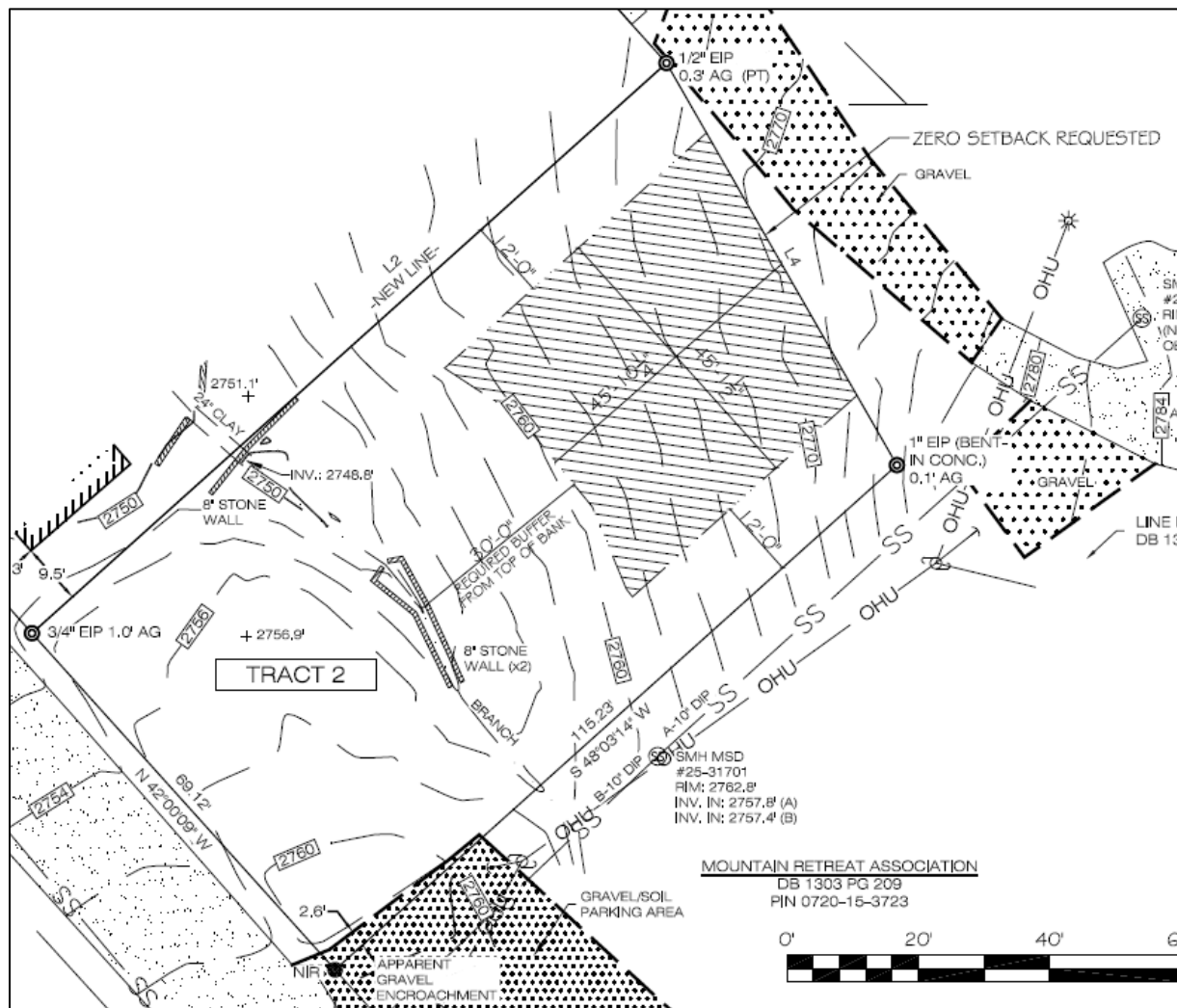


Figure 6: Site Plan

Florida Terrace, which the Subject Property's fronts on and to which side of the Subject Property the Variance is requested, is a variable width right-of-way. In the right-of-way area of Florida Terrace abutting the Subject Property the area is wooded and contains an asphalt/gravel area used as parking and a travel way to access the eastern sides of PIN#s 0720151926 and 0720152816 and the roadbed of Florida Terrace. The driveway for PIN# 0720151926 and the garage for PIN# 0720152816 connect to Missouri Road. There is no driveway or garage for PIN# 0720153723. The roadbed of Florida Terrace in the area of right-of-way abutting the Subject Property begins approximately 50 feet away from the closest point of the Subject Property. Between the Subject Property and the roadbed of Florida Terrace are the asphalt/gravel area and vegetation.

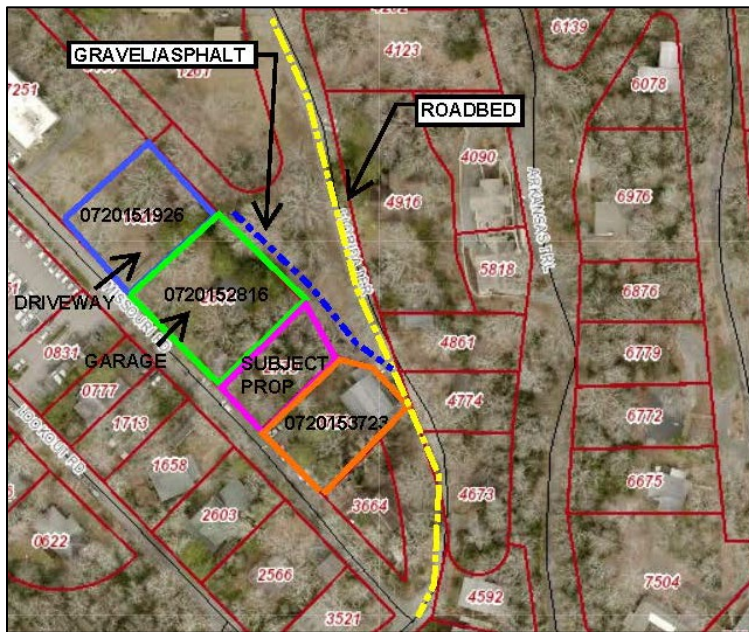


Figure 8: Subject Property, Adjoining Properties, and Right-of-Way

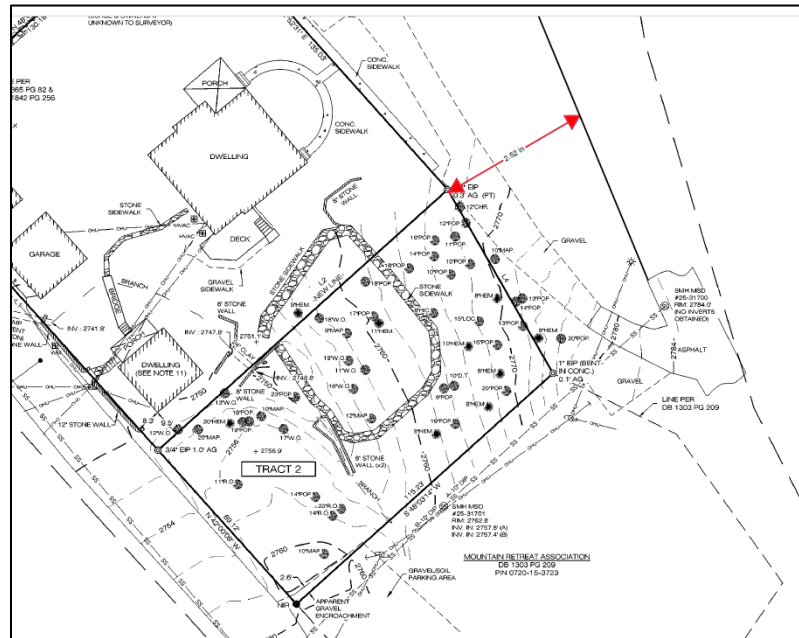


Figure 7: Florida Terrace Roadbed (Scale 1" = 20')

* Per Section 609 of the MZO, the front yard setback of a Lot can be reduced to no less than 15 feet if the average front yard setbacks of already built-upon Lots located directly adjacent to, on either side of, and fronting on the same side of the Street as the Lot is less than the minimum required front Setback in the Lot's Zoning District. The reduced front setback of the Lot is calculated by the average of the existing Setbacks of the Lots on each side of the subject Lot. The Applicants measured the front Setbacks of the Lots on either side of the Subject Property and found the front Setback of the existing dwelling on the lot to the north (PIN# 072015281600000) to be 28 feet and the dwelling to the south (PIN# 072015372300000) to be 1.5 feet. These measurements were confirmed by the Zoning Administrator using Buncombe County GIS, an existing site plan of PIN# 072015372300000 found in the Town of Montreat's development records (Exhibit B), and the plat for PIN# 072015281600000 recorded among the Buncombe County Register of Deeds at Plat Book 226, Page 90 (Exhibit C). The Zoning Administrator calculated the reduced setback based on these figures as 15.3 feet on August 2nd, 2023. The administrative reduction granted by Section 609 of the MZO reduced the front yard setback from 25 feet to 15.3 feet.

Stormwater Ordinance

Section 305(1) of the Montreat General Ordinance, Chapter K, Article III (i.e. the stormwater ordinance), states that no built-up area is permitted within 30 feet of any surface water as measured from the top of the streambank. This section instructs the Zoning Administrator to determine that an intermittent or perennial stream is present if the feature appears on the newest available soil survey map prepared by the National Resources Conservation Service of the United States Department of Agriculture or the 1:24,000 scale (7.5 minute) quadrangle topographic map prepared by the United States Geological Survey.

A stream appears on the 1:24,000 scale (7.5 minute) quadrangle topographic map prepared by the United States Geological Survey map on the Subject Property. Therefore, the 30-foot buffer required by Section 305(1) of the Montreat General Ordinance, Chapter K, Article III will be enforced on the Subject Property.

The Applicants obtained a stream determination on June 9th, 2023, from Andrew Moore, an Environmental Specialist II with the NCDEQ DWR, confirming that an intermittent stream runs through the Subject Property.

The definition for a built-up area per the Montreat General Ordinance, Chapter K, Article III is the portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots and paths; and recreation facilities such as tennis courts. This definition does not include a wooden slated deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.

The Applicants have not submitted building plans as of the time of this application. Conformance to Section 305(1) of the Montreat General Ordinance, Chapter K, Article III will be determined at the time of permitting.

Template Variance Decision Language

The Board is welcome to use the language below to issue a decision on the Variance Request. Prior to making the approval motion, the Board must state the specific findings that lead to the approval of each finding of fact as required by Section 310.42 of the MZO.

Findings of Fact:

1. The Board finds that unnecessary hardship would result from the strict application of the Ordinance because...
2. The Board finds that the hardship results from conditions that are peculiar to the property because...
3. The Board finds that hardship did not result from actions taken by the applicant or the property owner because...
4. The Board finds that the variance is consistent with the spirit, purpose, and intent of the ordinance ...
5. The Board finds that the variance requested is the minimum variance that will make possible the requested use of the land because...
6. The Board finds that the variance is not a request to permit a use of land that is not permitted in the applicable Zoning District as the variance request is for...

Motion for Decision: "I move that the Board [*approve/approve with conditions/deny*] the Variance Request VA-2023-02 to Section 504.7 of the Montreat Zoning Ordinance (MZO) to reduce the front setback requirement from 25 feet to 0 feet on the Florida Terrace side of the Subject Property to construct a single-family dwelling on the Subject Property. [*List any conditions of approval in the motion, if applicable*]"

Exhibits

Exhibit A: North Carolina Department of Environmental Quality, Division of Water Resources – Stream Determination Report

Exhibit B: PIN# 072015372300000 Site Plan

Exhibit C: PIN# 072015281600000 Plat (Plat Book 226, Page 90)



NORTH CAROLINA
Environmental Quality

EXHIBIT A

ROY COOPER

Governor

ELIZABETH S. BISER

Secretary

RICHARD E. ROGERS, JR.

Director

SENT VIA ELECTRONIC MAIL ONLY: NO HARD COPY WILL BE MAILED.

June 9, 2023

Michael and Charlotte Sebesta
3207 Parkside Trace
Roswell, GA 30075
Email: charsebesta64@gmail.com

Subject: On-Site Stream Determination (applicability of vegetated offset)
99999 Florida Terrace (PIN #072015277900000)
Buncombe County

Dear Mr. and Mrs. Sebesta:

On June 8, 2023, Division of Water Resources (Division) staff conducted an on-site review of features located on the subject property at the request of Charlotte Sebesta in accordance with the standardized **"Methodology for Identification of Intermittent and Perennial Streams and Their Origins"** which includes the North Carolina Stream ID Manual Version 4.11

The feature is shown as a blue line on the most recent published NRCS Soil Survey of Buncombe County, North Carolina, and/or the most recent copy of the USGS topographic map at 1:24,000 scale (see attached figure). The table below reflects all Division stream determinations conducted during the site visit.

Feature ID	E/I/P/ Other	Start @	Stop @
Reach 1	Intermittent	Approximate southeast property boundary	Approximate northwest property boundary

This on-site determination shall expire five (5) years from the date of this letter. The owner (or future owners) should notify the Division (and other relevant agencies) of this decision in any future correspondences concerning this property. Landowners or affected parties that dispute this determination made by the Division may request a determination by the Director of Water Resources. **This determination is final and binding, unless an appeal request is made within sixty (60) calendar days of the date of this letter to the Director in writing.**



North Carolina Department of Environmental Quality | Division of Water Resources
Asheville Regional Office | 2090 U.S. Highway 70 | Swannanoa, North Carolina 28778
828.296.4500

<i>If sending via U.S. Postal Service:</i> Stephanie Goss - DWR 401 & Buffer Permitting Branch Supervisor 1617 Mail Service Center Raleigh, NC 27699-1617	<i>If sending via delivery service (UPS, FedEx, etc.)</i> Stephanie Goss -DWR 401 & Buffer Permitting Branch Supervisor 512 N Salisbury St. Raleigh, NC 27604
---	---

This letter only addresses the applicability of the stated regulations on the features identified on the subject property and/or within the proposed project area. This letter does not approve any activity within buffers or within waters of the state. There may be other regulated waters, streams or other features located on the property. Any waters, streams, or other features on the site, including the features identified in this letter, may be considered jurisdictional according to the US Army Corps of Engineers and subject to the Clean Water Act.

If you have any additional questions or require additional information, please contact me at 828-296-4684 or Andrew.W.Moore@deq.nc.gov. This determination is subject to review as provided in Articles 3 & 4 of G.S. 150B.

Sincerely,

DocuSigned by:
Andrew Moore
5C147F587AE9400...

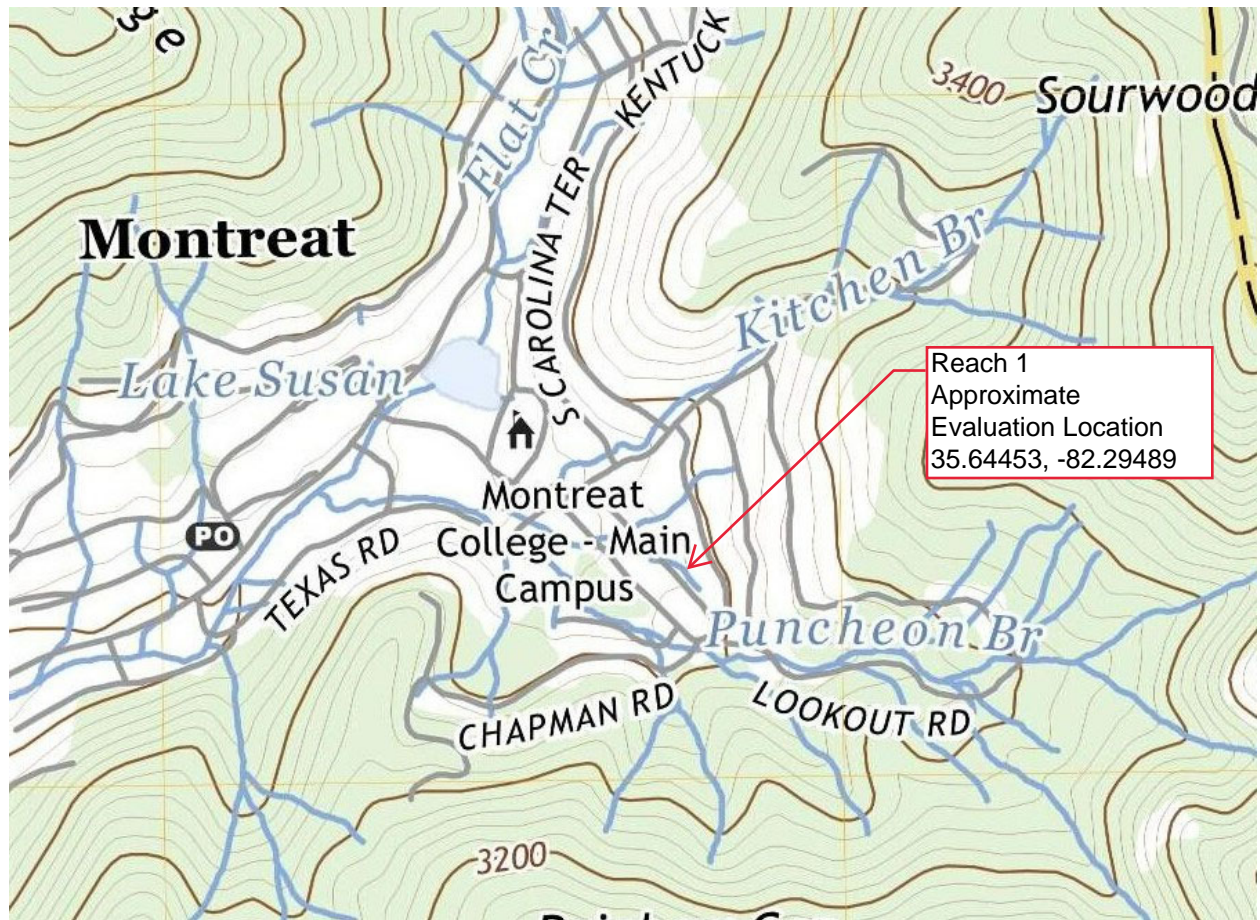
Andrew Moore
Asheville Regional Office
Water Quality Regional Operations Section
NCDEQ – Division of Water Resources

Enclosures: USGS Topographical Map, Site Map

Electronic cc: Kayla DiCristina, Town of Montreat Zoning Administrator
DWR Asheville Regional Office



North Carolina Department of Environmental Quality | Division of Water Resources
Asheville Regional Office | 2090 U.S. Highway 70 | Swannanoa, North Carolina 28778
828.296.4500



From: United States Geological Survey. Montreat Quadrangle. 1:24,000. 7.5-Minute Series. Reston, Va: United States Department of the Interior. 2022.

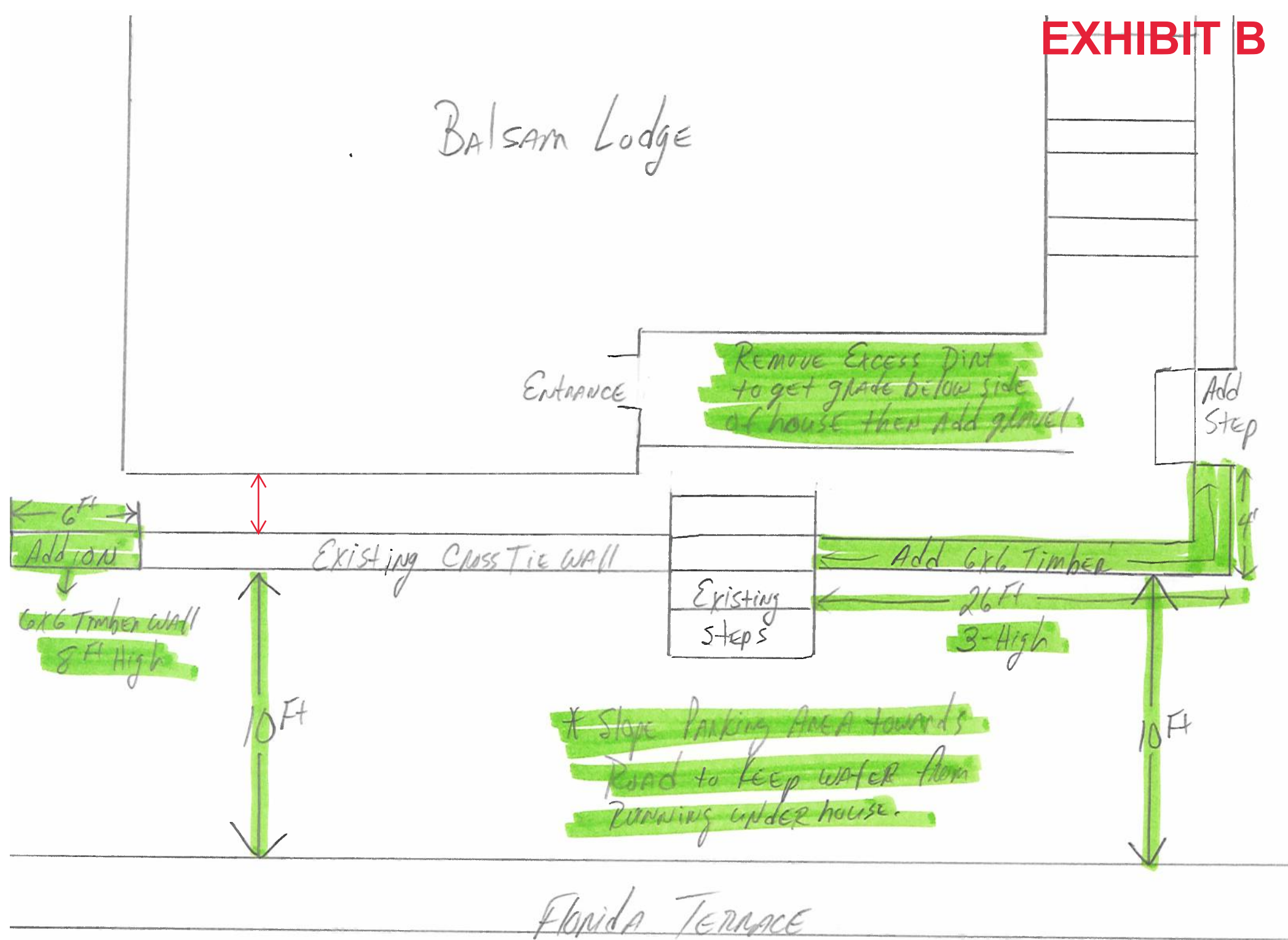
Buncombe County



June 7, 2023

1:1,128
0 0.0075 0.015 0.03 mi

Balsam Lodge



SYMBOL LEGEND:

- CALCULATED POINT (CP)
- EXISTING IRON REBAR (ER)
- ⊙ EXISTING IRON PIPE (EIP)
- ⌵ EXISTING RAILROAD SPIKE FOUND (RRS)
- EXISTING CONCRETE MONUMENT (ECM)
- △ #5 NEW IRON REBAR W/ ID CAP (NIR)
- NEW MAGNETIC NAIL (NMN)
- ▲ C.S.D. CONTROL POINT
- ⊙ SANITARY SEWER MANHOLE (SMH)
- ⊙ SANITARY SEWER CLEAN-OUT (CO)
- ⊙ WATER METER (WM)
- ⊙ UTILITY POLE
- ✱ LIGHT POLE
- GUY WIRE
- ⊠ OUTDOOR UNIT (HVAC)
- ⊠ SIGN
- + SPOT ELEVATION
- DECIDUOUS TREE (SIZE AND TYPE AS NOTED)
- CONIFEROUS TREE (SIZE AND TYPE AS NOTED)

LINE LEGEND:

- SURVEYED BOUNDARY LINE
- ADJOINER'S DEED LINE (NOT SURVEYED)
- - - SETBACK LINE
- - - RIGHT-OF-WAY LINE
- - - SS - - - SS - - - SANITARY SEWER LINE
- - - SEWER EASEMENT LINE
- - - TIE LINE ONLY
- - - BRANCH
- - - OHU - - - OHU OVERHEAD UTILITY LINE
- - - INDEX CONTOUR LINE
- - - INTERIM CONTOUR LINE

ABBREVIATIONS:

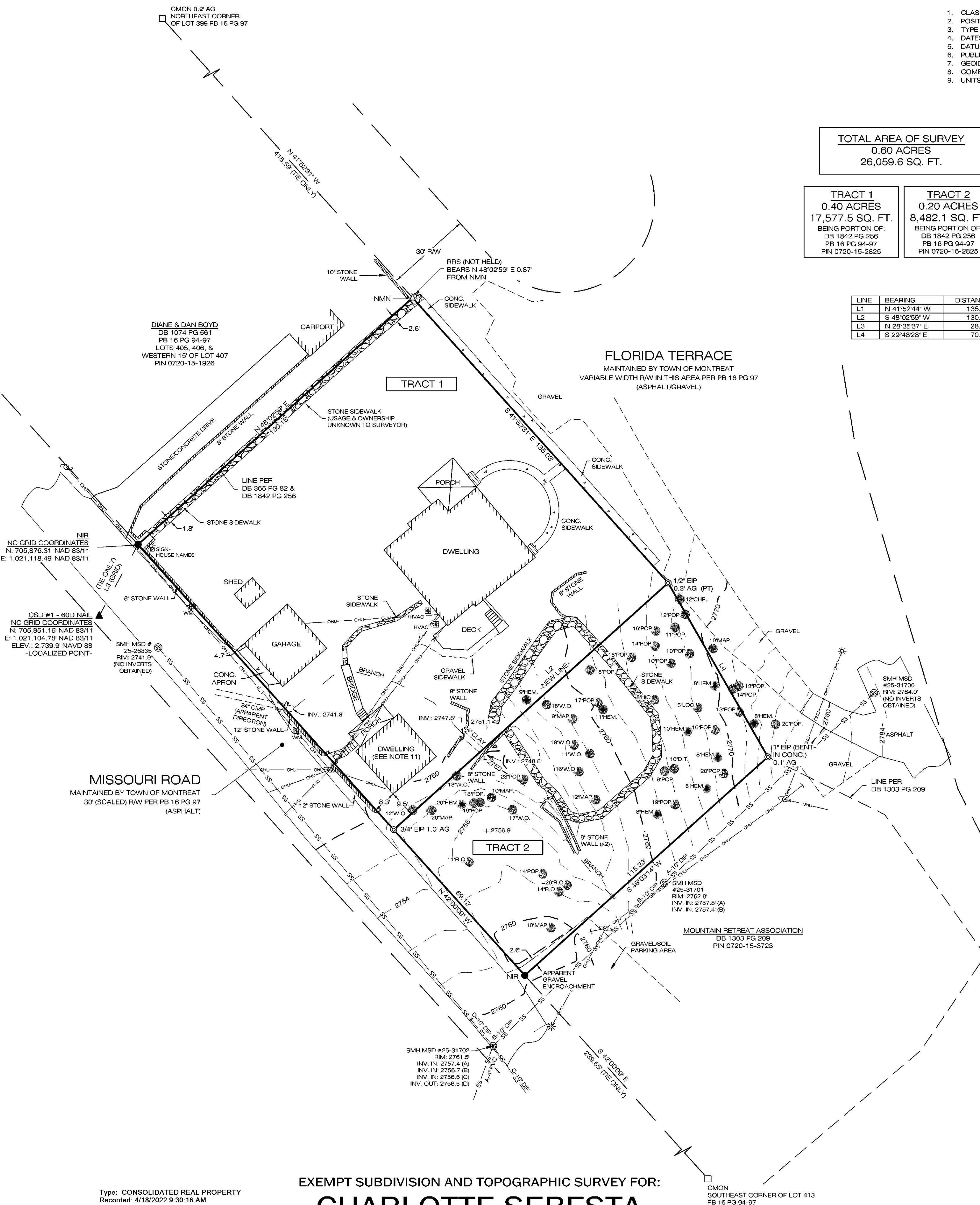
- NTS...NOT TO SCALE
- (T)...TOTAL
- DB...DEED BOOK
- PB...PLAT BOOK
- PC...PLAT CABINET
- PG...PAGE
- PIN...PARCEL IDENTIFICATION NUMBER
- NAD...NORTH AMERICAN DATUM
- NAVD...NORTH AMERICAN VERTICAL DATUM
- NSRS...NATIONAL SPATIAL REFERENCE SYSTEM
- AG...ABOVE GRADE
- BG...BELOW GRADE
- RW...RIGHT OF WAY
- CONC...CONCRETE
- PT...PINCHED TOP

NOTES:

- THE PROPERTY OR PROPERTIES DISPLAYED WERE SURVEYED WITHOUT THE BENEFIT OF A TITLE SEARCH AND MAY NOT SHOW ALL EASEMENTS, RIGHTS OF WAY, RESTRICTIONS, ENCUMBRANCES, ETC. (WRITTEN OR UNWRITTEN) THAT WOULD BE REVEALED BY A CURRENT AND THOROUGH EXAMINATION OF TITLE BY A NC LICENSED ATTORNEY-AT-LAW. THIS SURVEY SHALL NOT BE CONSIDERED A CERTIFICATION OF OWNERSHIP, ZONING, TITLE, OR GUARANTEE THAT THE SUBJECT IS FREE FROM ENCUMBRANCES.
- ADJOINING PROPERTY OWNER INFORMATION TAKEN FROM THE BUNCOMBE COUNTY GIS WEBSITE AND DEEDS AND PLATS OF RECORD AS NOTED.
- AREA SHOWN HEREON WAS COMPUTED BY THE COORDINATE METHOD.
- ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES IN US FEET UNLESS OTHERWISE NOTED.
- THIS PROPERTY IS ZONED I-R BY THE TOWN OF MONTREAT HAVING SETBACKS AS FOLLOWS: FRONT = 25', SIDE = 12', REAR 25' (SETBACKS NOT PLOTTED. REQUIRES INTERPRETATION FROM THE TOWN OF MONTREAT) "PLEASE REFER TO THE TOWN OF MONTREAT ZONING ORDINANCE FOR ALL REGULATIONS APPLICABLE TO THE SUBJECT PROPERTY."
- BY GRAPHICAL LOCATION, PROPERTY IS SHOWN AS LYING OUTSIDE THE 1% ANNUAL CHANCE FLOODPLAIN PER FEMA FIRM MAP NO 3710072000J, EFFECTIVE DATE 1/6/2010.
- THIS SURVEY IS SUBJECT TO ANY AND ALL UNDERGROUND UTILITIES THAT MAY EXIST. UNDERGROUND UTILITIES SHOWN HEREON ARE BASED SOLELY ON ABOVE GROUND STRUCTURES AND APPURTENANCES. THIS SURVEYOR MAKES NO CERTIFICATION TO THE EXISTENCE/NO-EXISTENCE OF UNDERGROUND UTILITIES, STORAGE FACILITIES, OR OTHER UNDERGROUND STRUCTURES AND LINES, DIAL 811 BEFORE DIGGING.
- ANY STREAMS, CREEKS, PONDS, LAKES, WETLANDS, ETC. LOCATED ON THIS PROPERTY, SHOWN OR NOT SHOWN HEREON, MAY BE SUBJECT TO BUFFER AREAS. IT IS THE OWNER/DEVELOPERS RESPONSIBILITY TO HAVE THE AREAS DESIGNATED BY PROFESSIONALS AUTHORIZED BY THE PROPER AUTHORITIES TO MAKE THESE DETERMINATIONS.
- CONTOUR INTERVAL = 2 FOOT
- SURVEYOR CLAIMS THIS SURVEY TO BE EXEMPT FROM THE TOWN OF MONTREATS SUBDIVISION ORDINANCE PER ARTICLE III, SECTION 4 "THE DIVISION OF A TRACT IN SINGLE OWNERSHIP WHOSE ENTIRE AREA IS NO GREATER THAN TWO (2) ACRES INTO NOT MORE THAN THREE (3) LOTS, WHERE NO STREET RIGHT-OF-WAY DEDICATION IS INVOLVED AND WHERE THE RESULTANT LOTS ARE EQUAL TO OR EXCEED THE STANDARDS OF THE MUNICIPALITY, AS SHOWN IN ITS SUBDIVISION REGULATIONS."
- PER LAND OWNER, THIS BUILDING IS TO BE DEMOLISHED/REMOVED IN THE FUTURE.

TREE ABBREVIATIONS:

- APP...APPLE
- B.W...BASSWOOD
- BCH...BEECH
- B.G...BLACK GUM
- BR...BIRCH
- BCK...BUCKEYE
- B.O...BLACK OAK
- C.A...CRAB APPLE
- CAT...CATALPA
- CED...CEDAR
- CHN...CHESTNUT
- CHR...CHERRY
- CMY...GRAPE MYRTLE
- C.O...CHESTNUT OAK
- D.T...DEAD TREE
- D.W...DOGWOOD
- HEM...HEMLOCK
- HIC...HICKORY
- HOL...HOLLY
- J.M...JAPANESE MAPLE
- LOC...LOCUST
- MAG...MAGNOLIA
- MAP...MAPLE
- MM...MIMOSA
- ORN...ORNAMENTAL
- PER...PERSIMMON
- POP...POPLAR
- R.O...RED OAK
- S.G...SWEET GUM
- S.M...SILVER MAPLE
- SPR...SPRUCE
- S.W...SOURWOOD
- SYC...SYCAMORE
- U.T...UNIDENTIFIED TREE
- WAL...WALNUT
- WIL...WILLOW
- W.O...WHITE OAK
- W.P...WHITE PINE



THIS PLAT IS APPROVED BY THE ZONING ADMINISTRATOR OF THE TOWN OF MONTREAT.

4/12/2022
DATE

Designed by:
Scott Adams
ZONING ADMINISTRATOR

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, **Hailee Madfis**, REVIEW OFFICER OF BUNCOMBE COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

Designed by:
Hailee Madfis
REVIEW OFFICER

4/18/2022
DATE

Submitted electronically by Cole Surveying and Design, PA, in compliance with North Carolina statutes governing recordable documents and the terms of the submitter agreement with the Buncombe County Register of Deeds.

I, RONALD JAMES CUTSHALL, CERTIFY THAT THIS PROJECT WAS COMPLETED UNDER MY DIRECT AND RESPONSIBLE CHARGE FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION; THAT THIS GROUND SURVEY WAS PERFORMED AT THE 95% PERCENT CONFIDENCE LEVEL TO MEET FEDERAL GEOGRAPHIC DATA COMMITTEE STANDARDS; THAT THIS SURVEY WAS PERFORMED TO MEET THE REQUIREMENTS FOR A TOPOGRAPHIC / PLANIMETRIC SURVEY TO THE ACCURACY OF CLASS AA AND VERTICAL ACCURACY WHEN APPLICABLE TO THE CLASS C STANDARD, AND THAT THE ORIGINAL DATA WAS OBTAINED ON 01/20/2022 THRU 01/31/22; THAT THE SURVEY WAS COMPLETED ON 02/09/22; THAT CONTOURS SHOWN AS SOLID LINES MAY NOT MEET THE STATED STANDARD; AND ALL COORDINATES ARE BASED ON NAD 83 (NSRS 2011) AND ALL ELEVATIONS ARE BASED ON NAVD 88.

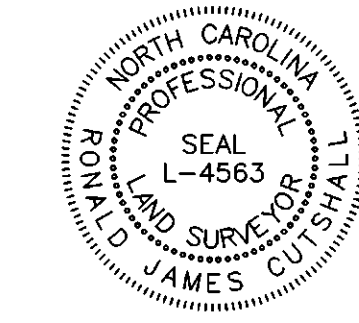
Designed by:
Ronald James Cutshall
RONALD JAMES CUTSHALL, P.L.S. L-4563

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, RONALD JAMES CUTSHALL, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN DEED BOOK 1842 PAGE 256; THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN DEED BOOK 1842, PAGE 256; THAT THE RATIO OF PRECISION AS CALCULATED IS 1:10,000+; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL ON THIS DATE 4/18/2022.

I ALSO HEREBY CERTIFY THAT THIS SURVEY IS OF THE FOLLOWING CATEGORIES AS DESCRIBED IN G.S. 47-30(11)(d): THAT THE SURVEY IS OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY, OR OTHER EXEMPTION OR EXCEPTION TO THE DEFINITION OF SUBDIVISION.

Designed by:
Ronald James Cutshall
RONALD JAMES CUTSHALL, P.L.S. L-4563



EXEMPT SUBDIVISION AND TOPOGRAPHIC SURVEY FOR:

CHARLOTTE SEBESTA

(OWNER OF RECORD: SYBIL CORBETT, ET AL CO-TRUSTEES)
TOWN OF MONTREAT, BUNCOMBE COUNTY, NC

REFERENCES:

- DB 1842 PG 256
- DB 365 PG 82
- PB 16 PG 94-97



549 ELK PARK DRIVE, SUITE 707
ASHEVILLE, NC 28804
PHONE: 828-251-7025
NC FIRM #C-3106 | SC COA #4052

Type: CONSOLIDATED REAL PROPERTY
Recorded: 4/18/2022 9:30:16 AM
Fee Amt: \$21.00 Page 1 of 1
Buncombe County, NC
Drew Reisinger Register of Deeds

BK 226 PG 90

VA-2023-02

Variance Request

PIN # 072015277900000
 Montreat Board of Adjustment
 October 26th, 2023



1

1

Subject Property Overview

PIN: 072015277900000

Address: No E-911 address assigned. The Subject Property is approximately 700 feet south of the intersection of Appalachian Way and Florida Terrace.

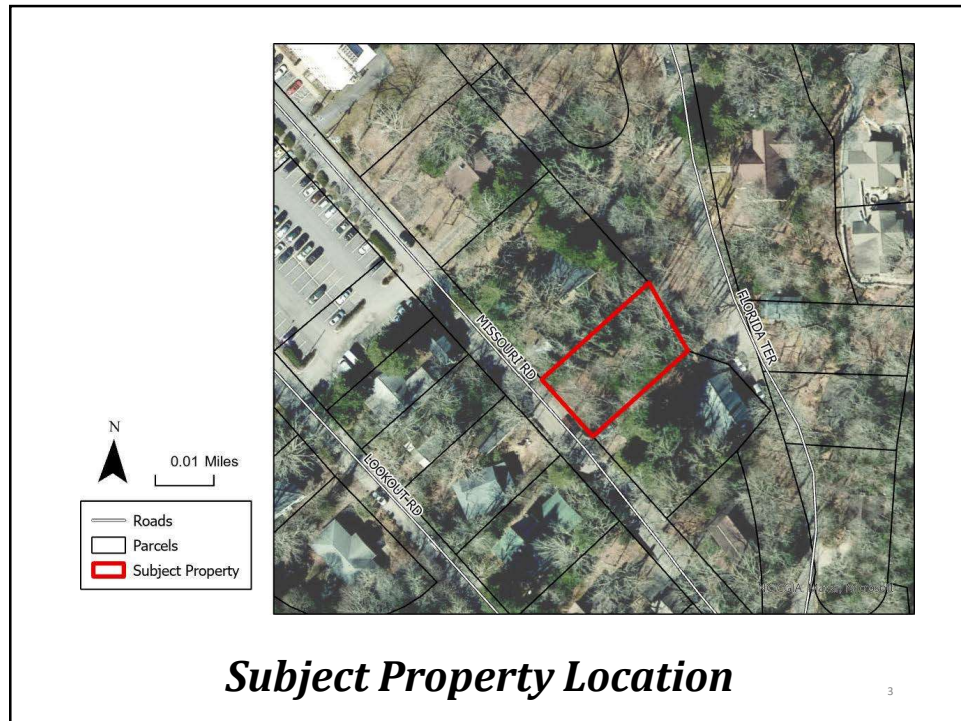
Owner: Sebesta Charlotte Riddle, Sebesta Michael Gerard
 3207 Parkside Trce,
 Roswell, GA, 30075

Size: 0.20 acres

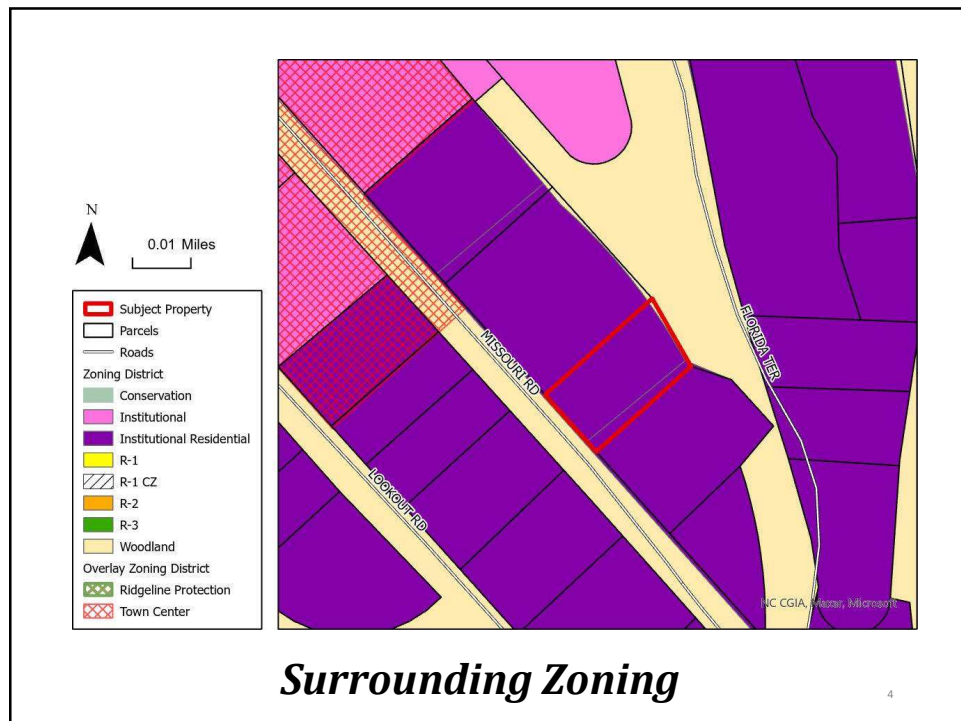
Current Zoning and Use: I/R Institutional/Residential District; Subject Property is vacant and wooded.

2

2



3



4

Application Overview

Applicant: Charlotte and Mike Sebesta (Property Owners of the Subject Property)

Request Summary:

- ❖ The Applicant proposes to construct a single-family dwelling on the Subject Property.
- ❖ The Applicant requests a variance to Section 504.7 of the Montreat Zoning Ordinance (MZO) to reduce the front setback requirement from 25 feet to 0 feet on the Florida Terrace side of the Subject Property .

5

5

REQUEST BACKGROUND

- ❖ The Applicants approached the previous Zoning Administrator in 2021 prior to purchasing PIN#0720152779 to inquire about the existing restrictions on the property. No regulatory stream was present on the site.
- ❖ The Applicants purchased the property in 2022.
- ❖ In 2023, the Applicants approached the current Zoning Administrator about beginning to build a single-family dwelling on PIN#0720152779.
- ❖ Per Section 305(1) of the Montreat General Ordinance, Chapter K, Article III (i.e. the stormwater ordinance), no built-up area is permitted within 30 feet of any surface water as measured from the top of the streambank.
- ❖ During the current Zoning Administrator's review, a stream appeared on the Westbourne 1:24,000 scale (7.5 minute) quadrangle topographic map prepared by the United States Geological Survey map.

6

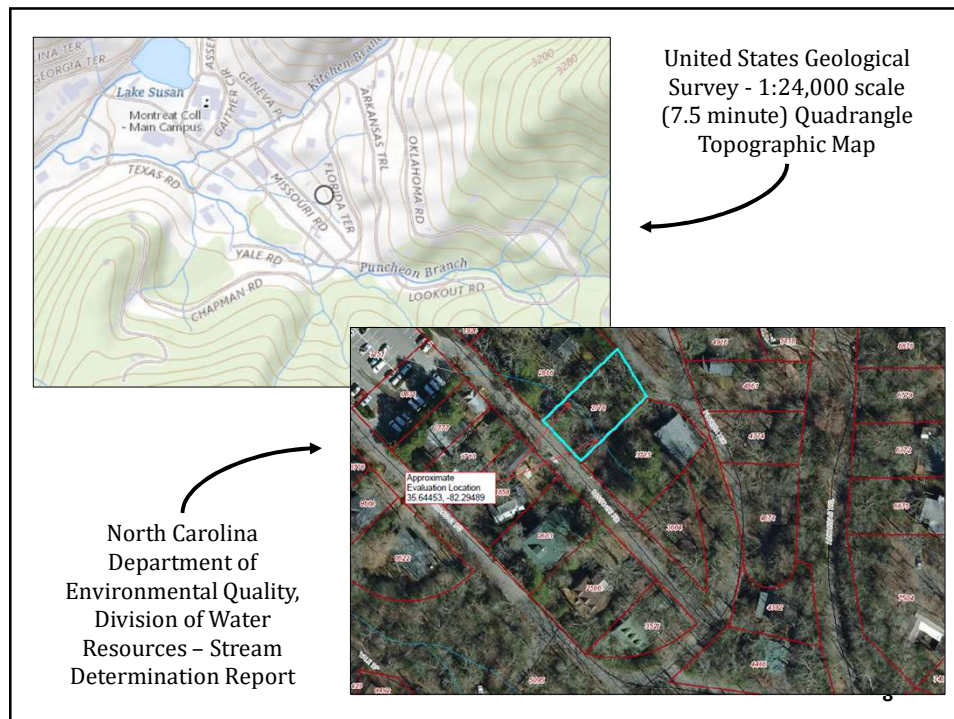
6

REQUEST BACKGROUND

- ❖ Due to the presence of the stream on this map, the 30-foot buffer required by Section 305(1) of the Montreat General Ordinance, Chapter K, Article III would be enforced.
- ❖ The Zoning Administrator advised the Applicants to obtain a formal stream determination from the North Carolina Division of Water Quality, as this determination would override the local ordinance.
- ❖ On June 9, 2023, a stream determination determined made by Andrew Moore found that an intermittent stream now ran through the Subject Property.
- ❖ The buffer requirement per Section 305(1) of the Montreat General Ordinance, Chapter K, Article III now applied bisecting the development envelope.
- ❖ The 1:24,000 scale (7.5 minute) quadrangle topographic map prepared by the United States Geological Survey was revised in 2022 and several new regulatory streams were added to the map, including the now intermittent stream on the Subject Property.

7

7



8

REQUEST BACKGROUND

❖ The Applicants were advised by the Zoning Administrator to pursue the following routes to further increase their development envelope:

1. Amend the proposed building plans to utilize the allowed provisions of the definition of built-upon area.
2. Obtain an administrative-level setback reduction from Florida Terrace per Section 609 of the MZO. The Applicants received this reduction in August 2023 reducing the front setback requirement from 25 feet to 15.3 feet based on the front setbacks of the structures on the adjacent properties.
3. Obtain a Variance from the Board of Adjustment per Section 310.42 and 310.5 of the MZO for any other setback reductions needed.
4. Apply for a Text Amendment per Section 309 of the MZO to amend Section 305(1) of the Montreat General Ordinance, Chapter K, Article III (i.e. the stormwater ordinance).
5. Request that a portion of the right-of-way of Florida Terrace be closed and vested with the Subject Property via the process required by N.C.G.S. 160A-299 to increase the development envelope.

9

9

STAFF FINDINGS

Use and Zoning

- ❖ The Subject Property is zoned I/R.
- ❖ Single-family dwellings are permitted by-right in the I/R Zoning District.

Setbacks and Lot Size

- ❖ The Subject Property is an existing lot so lot size requirements do not apply.
- ❖ The Subject Property is considered a double frontage lot. The proposed single-family dwelling must comply with the required setbacks for a dwelling in the I/R Zoning District on a double frontage lot.
- ❖ The following setbacks apply to single-family dwellings on the Subject Property:

	Required I/R Zoning District Setback	Requested Variances
Front (Florida Terrace)	25 feet*	0 feet
Side (L/R)	12 feet/12 feet	N/A
Front (Missouri Road)	25 feet	N/A

- ❖ The Applicant intends to meet the 25-foot setback requirement from Missouri Road and both side yard setback requirements.

10

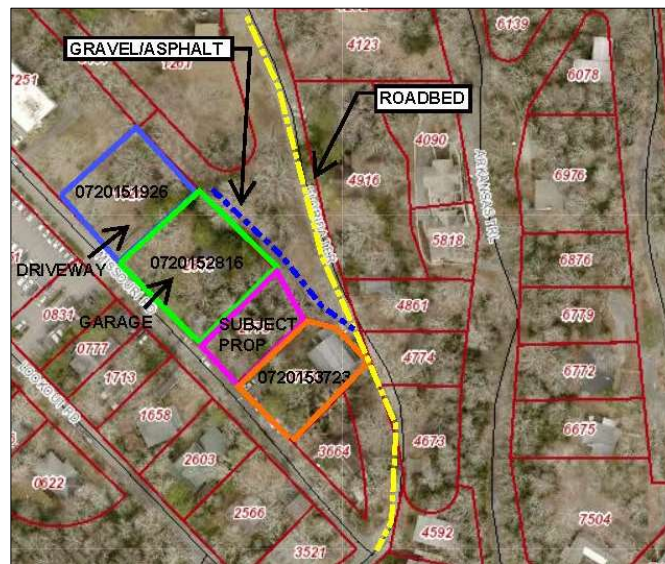
10

****Section 609 of MZO***

- ❖ Per Section 609 of the MZO, the front yard setback of a Lot can be reduced to no less than 15 feet if the average front yard setbacks of already built-upon Lots located directly adjacent to, on either side of, and fronting on the same side of the Street as the Lot is less than the minimum required front Setback in the Lot's Zoning District.
- ❖ The reduced front setback of the Lot is calculated by the average of the existing Setbacks of the Lots on each side of the subject Lot.
- ❖ The front Setback of the existing dwelling on the lot to the north (PIN# 072015281600000) is 28 feet and the dwelling to the south (PIN# 072015372300000) is 1.5 feet.
- ❖ The Zoning Administrator calculated the reduced setback based on these figures as 15.3 feet on August 2nd, 2023. The administrative reduction granted by Section 609 of the MZO reduced the front yard setback from 25 feet to 15.3 feet.

11

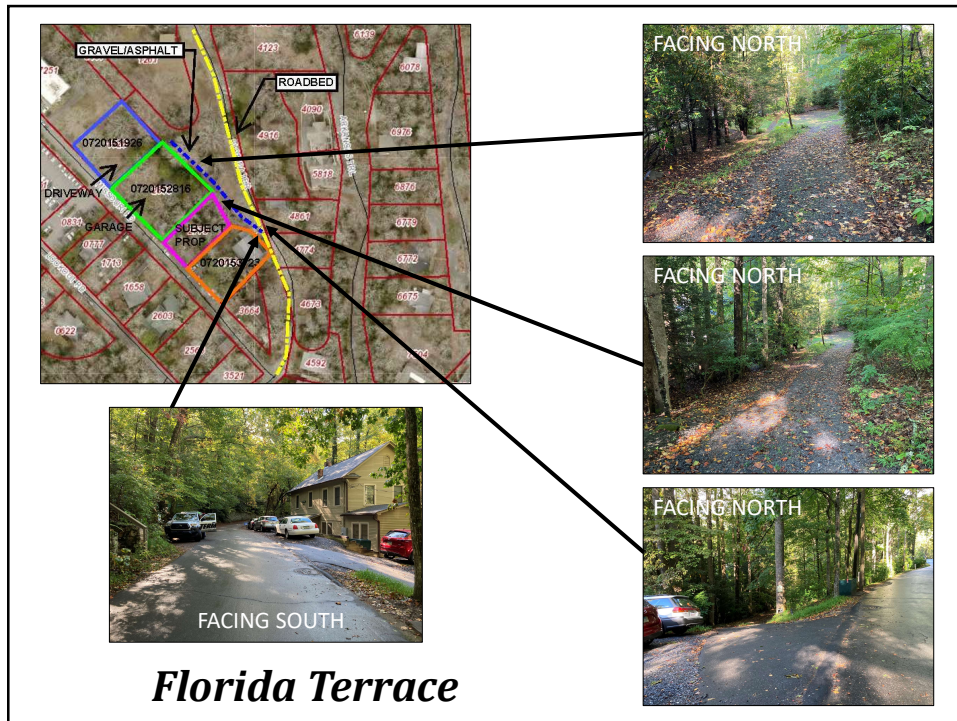
11



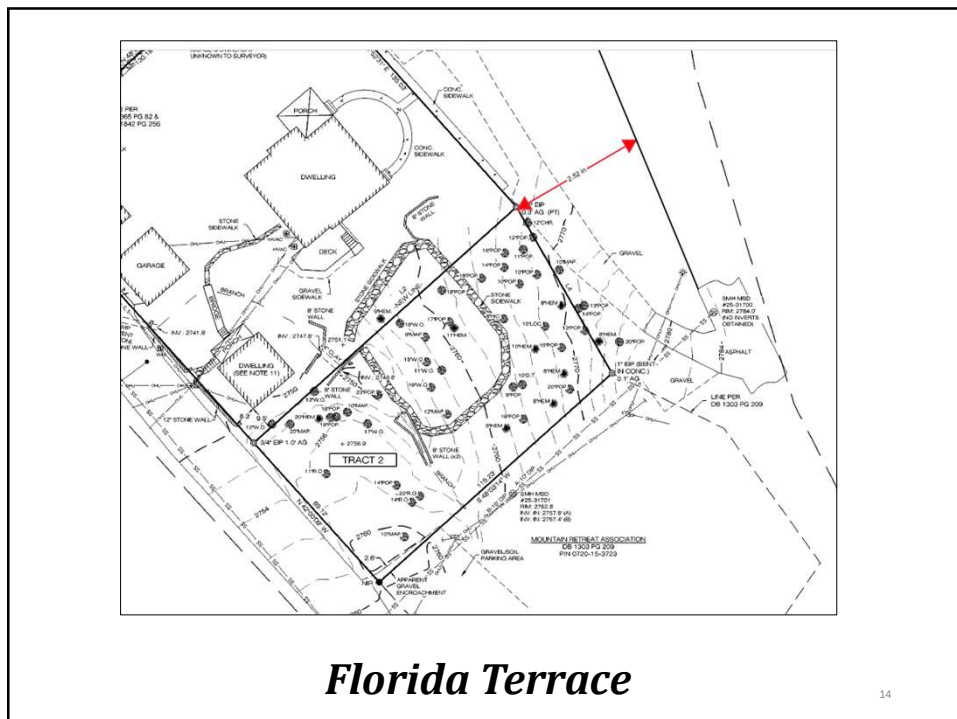
Florida Terrace

12

12

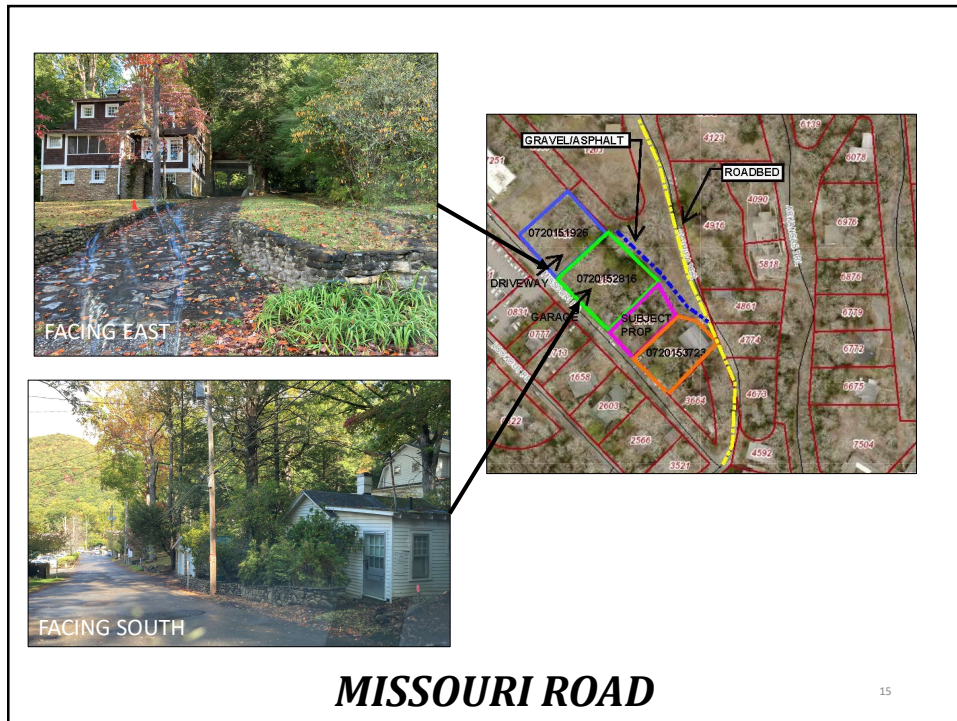


13

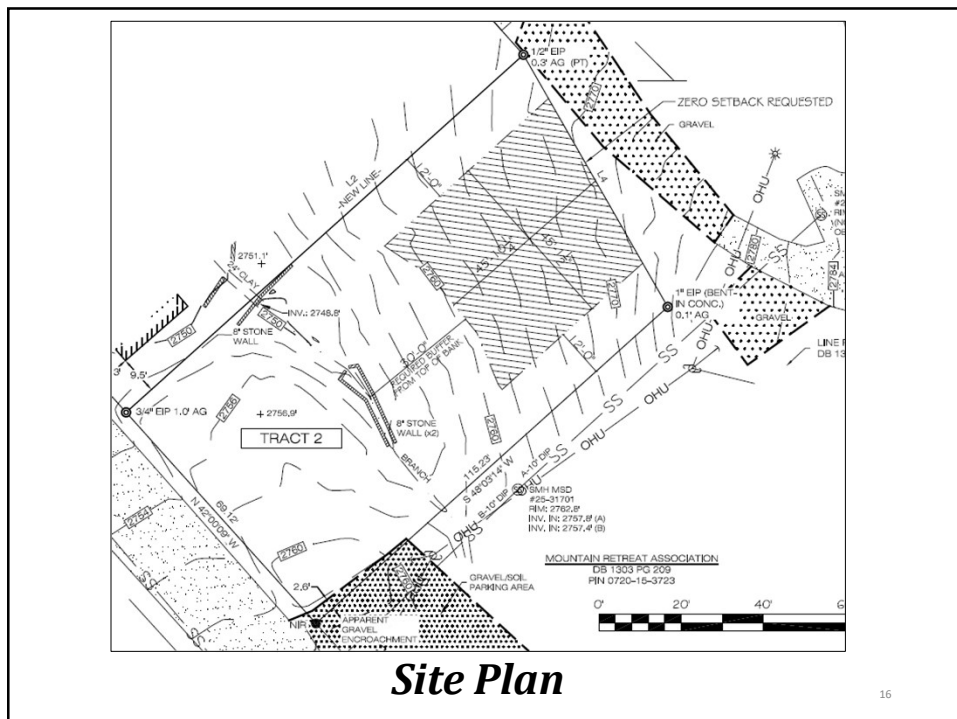


14

14



15



16

Stormwater Ordinance

- ❖ The Subject Property is subject to Section 305(1) of the Montreat General Ordinance, Chapter K, Article III for the intermittent stream present on site.
- ❖ Section 305(1) of the Montreat General Ordinance, Chapter K, Article III (i.e. the stormwater ordinance), states that no built-up area is permitted within 30 feet of any surface water as measured from the top of the streambank.
- ❖ The definition for a built-up area per the Montreat General Ordinance, Chapter K, Article III is the portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots and paths; and recreation facilities such as tennis courts. This definition does not include a wooden slated deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.

17

17

Board of Adjustment Decision

The Board shall grant a Variance upon showing of **all** of the following:

310.42(A) Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the Variance, no reasonable use can be made of the property.

310.42(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

310.42(C) The hardship did not result from actions taken by the applicant or the property owner. 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.

310.42(D) The Variance is consistent with the spirit, purpose and intent of the Ordinance such that public safety is secured and substantial justice is achieved.

310.42(E) The Variance requested is the minimum Variance that will make possible the requested Use of the land, Building or Structure.

310.42(F) The Variance is not a request to permit a Use of land, Building or Structure which is not permitted in the applicable Zoning District.

As a note... If a Variance is granted it shall be the least possible deviation from the requirements of this Ordinance. In granting any Variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Setback Variances are granted for the development shown on the site plan included in the application.

18

18

VA-2023-02

Variance Request

PIN # 072015277900000

Montreat Board of Adjustment

October 26th, 2023



19