CASE A26-0008
JUSTIN HODGSON, 136 IVY DRIVE
NOTICE OF APPEAL

WRITTEN DECISION OF THE
TOWN OF BOONE BOARD OF ADJUSTMENT
DISMISSING AN APPEAL

This appeal of an administrative decision pursuant to Section 6.04 of the Town of Boone Unified Development Ordinance ("UDO") came before the Town of Boone Board of Adjustment (the "Board") on April 2, 2026, for a quasi-judicial hearing. Board members present were David Welsh, David Luther, Benjamin Ray, Pam Williamson, and Barbara Yale-Read.

Justin Hal Hodgson, property owner of 136 Ivy Drive, has appealed a notice of violation issued by the Town of Boone on December 9, 2025, regarding compliance with the Town's Use and Parking regulations (UDO Subsections 14.10.02 and 24.01.08).

Based on the Staff Report and other materials included in the agenda packet and other evidence presented at the hearing, the Board finds that the requested appeal should be dismissed and makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

The Board finds that substantial, material, and competent evidence was presented establishing the following facts:

1. The property at issue, owned by Justin Hal Hodgson ("appellant"), is located at 136 Ivy Drive, and is known as Watauga County PIN 2910-31-2760-000 (hereinafter, the "property").
2. The property is zoned R3 Multiple-Family Residential.
3. On August 18, 2025, Boone Planning & Inspection staff ("staff") received a complaint alleging an occupancy violation at the property.
4. On August 25, 2025, staff mailed an investigative letter to the property owner.
5. The property owner attested that he lived alone in the house and was leasing his front yard as parking to earn extra income.
6. A Notice of Violation ("NOV") for the addition of unpermitted parking was issued by mail and email on December 9, 2025, requiring compliance by January 20, 2026. Planning staff allowed more than the usual 30 days due to weather and holidays.
7. The NOV cited an appeal deadline of 30 days from the date of receipt of the notice of violation (January 9, 2026), consistent with the Unified Development Ordinance.
8. On January 6 and January 7, 2026, emails were sent to the appellant by staff that incorrectly cited January 20, 2026, as the appeal deadline instead of the compliance deadline.
9. An appeal application was submitted at the Town of Boone Planning & Inspections office by the appellant on January 20, 2026.
10. A January 20, 2026, site visit by staff at 12:47 p.m. revealed that the parking violation had not been corrected.

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CONCLUSIONS OF LAW

Based upon the foregoing findings of fact and UDO Section 6.04, the Board of Adjustment, on April 2, 2026, makes the following Conclusion of Law on a 3-2 vote in favor, with David Welsh, Benjamin Ray, and Barbara Yale-Read in favor and David Luther and Pam Williamson against:

Upon consideration of the foregoing facts and the provisions of UDO sections 6.04.06 and 6.04.08, the Board determines that the appeal shall be dismissed as untimely. Staff followed the requirements of the ordinance, the Notice of Violation provided the correct appeal deadline, and the appellant is charged with knowledge of the legal requirements for an appeal under the UDO.

ACCORDINGLY, based on the foregoing FINDINGS OF FACT and CONCLUSIONS OF LAW, the Board of Adjustment hereby dismisses the appeal.

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This decision shall be deemed filed with the Clerk of the Board as of the date it has been approved by the Board, signed by the Board Chair, and served on the Applicant/Appellant and any other Parties per the Certificate of Service attached hereto.

This the _____ day of _____, 20_____.

_____
David Welsh, Board Chair

Attest:

_____
Brenda Henson, Board Clerk

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Notice of Right to Appeal

If you are dissatisfied with the decision of this Board, an appeal may be taken to the Superior Court of Watauga County within thirty (30) days after the date this order is filed with the Clerk of the Board. See N.C.G.S. § 160D-406(k) and Section 6.07 of the Town of Boone Unified Development Ordinance.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this ____ day of _____, 20____, the foregoing written decision of the Town of Boone Board of Adjustment was filed with the Clerk to the Boone Board of Adjustment and served upon the following persons, being the applicant/appellant/petitioner, the other parties to the Board's proceedings (if any), and each person making a written request for a copy of this decision at the hearing (if any), by depositing a copy of same, enclosed in a first-class, postpaid wrapper in a post office or official depository under the care and custody of the United States Postal Service addressed as follows:

Appellant and Property Owner(s):
Justin Hal Hodgson
PO Box 2527
Boone, NC 28607
justinhodgson13@gmail.com

In addition, a copy of the foregoing document was provided on the same date by email if and as so indicated above.

By:_____
Brenda Henson, Clerk to the Town of Boone
Board of Adjustment

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