Town of Black Mountain Staff Report
Board of Adjustment

Case No: V-25-05
Case Name: 107 Sixth Street

Hearing Date: September 18, 2025
Procedure: Variance Evidentiary Hearing

Address of Variance Request:
107 Sixth Street
Black Mountain, NC 28711
Property ID Number (PIN): 061939525700000

Applicant:
Bar Investments and Holdings LLC Bartholf
2508 Grimmersborough Ln.
Charlotte, NC 28270

Request:
The applicant is seeking a variance from the Urban Residential (UR-8) zoning district's 10-foot size setback requirement for a single-family home to be built on a lot. Section 4.4.3 (J) (1) of Chapter 4 (Zoning) of the Land Use Code states that ornamental features like roof overhangs that project from the principal building may encroach up to 18 inches into any required setback.

The applicant wants the roof overhang on both sides of the home to encroach 27 inches into the 10-foot side setback. Thus, on both sides of the home the applicant is seeking a nine-inch variance from the 10-foot side setback requirement. If the project proceeds as depicted on the site plan, the structure would be nine feet, three inches from both side property lines.

Town Staff:
Jennifer Tipton, Clerk to Board of Adjustment
Russell Cate, Planner 1/Zoning Administrator

I. SUMMARY OF REQUEST

The applicant is seeking a variance from one of the requirements stated in the *Minimum Yard Requirements* portion of **Dimensional Requirements by Zoning District** (which is Section 4.7.15 of Chapter 4 of the Land Use Code): in the Urban Residential (UR-8) zoning district, the side setback requirement is 10 feet. The context of the request is the construction of a single-family home.

Section 4.4.3 (J) (1) states that ornamental features like roof overhangs that project from the principal building may encroach up to 18 inches into any required setback.

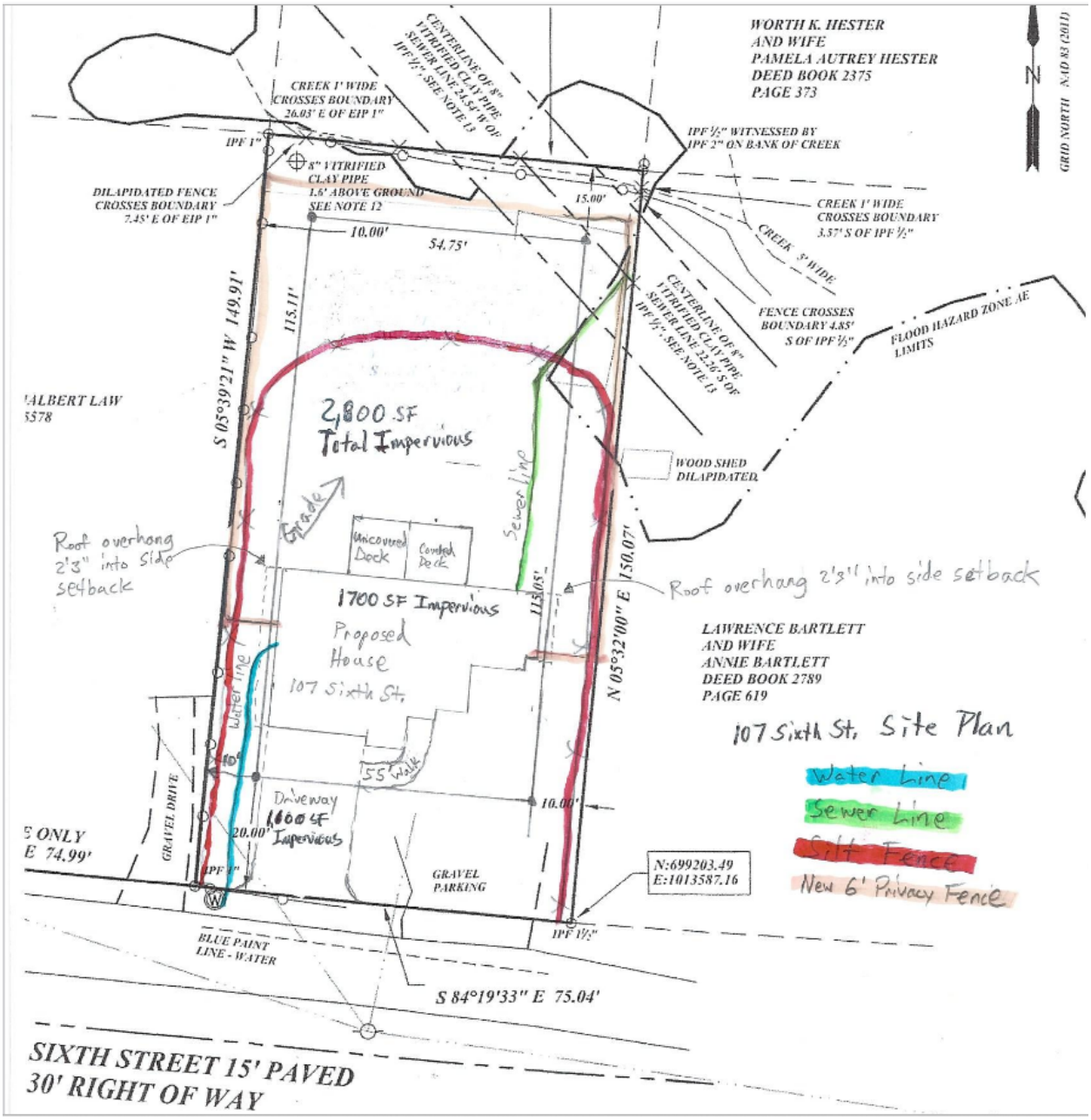
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variance from the 10-foot side setback requirement. If the project proceeds as depicted on the site plan, the structure would be nine feet, three inches from both side property lines.

In their variance application, the applicant wrote:

> This variance is requested to allow us to keep the architectural look and feel of the home proposed for 107 Sixth St. The 2'6" overhangs are also important for erosion control and moisture around the foundation of the home.
>
> The other confusion that should allow for this variance in my opinion, is that section 4.4.3 J 1 says ornamental features such as sills and cornices shall not extend more than 18" into the setback. It does not mention roof overhangs. However 4.4.3 J 2 allows for bay windows and balconies to extend up to 3 feet into the setback. A bay window would have a roof and roof overhang which would be part of the 3 foot encroachment into the setback. It seems odd to me that the main roof overhang would not have the same allowance of up to 3 feet, and be included in the 4.4.3 J 2 description.

This is the site plan:



II. PROCESS – REQUIRED CITY APPROVALS

In addition to this variance, the applicant will need to obtain zoning compliance approval and a building permit that demonstrates compliance with all applicable standards of the Zoning Ordinance and the North Carolina Building Codes.

III. ZONING AND LAND USE

The property is in the Urban Residential (UR-8) zoning district. The clip below is from Buncombe GIS – blue is UR-8 (***5257*** is the subject property; the home shown in this October 2024 image has been demolished. Image is *Post Helene 2024*.)



The *Minimum Yard Requirements* in UR-8 are:

Front: 20 feet
Side: 10 feet
Rear: 15 feet

The UR-8 height limit is 35 feet.

Reference: Section 4.7.15 (Dimensional Requirements by Zoning District) of Chapter 4.

The surrounding lots are:

	North	South	East	West
Adjacent Zoning Designation	UR-8	UR-8	UR-8	UR-8
Adjacent Land Uses	Vacant lot	Single-family home	Vacant lot	Single-family home

The *Purpose and Intent* of the UR-8 zoning district is:

> The mixed residential district is established to provide a variety of housing types, promote density in the more urbanized and developable areas or town, and structure the orderly development of residential neighborhoods.
>
> Reference: Section 4.7.4 (Urban Residential District – UR-8) of Chapter 4.

Existing Conditions

According to the Buncombe County Property Record Card for 107 Sixth Street, the lot is .26 acre (11,325 square feet) in size. The overall slope of the lot is 7.49 percent (according to https://www.mapwnc.org/find-slope-for-parcel).

Below is a clip from Buncombe GIS with the *5 Foot Contours*, *Stream & River* and *2020 – DFIRM Flood Data* layers turned on. (***5257*** is the subject property; the home shown in this October 2024 image has been demolished. Image is *Post Helene 2024*.)



As shown on the site plan, the home is being built outside the Stream Buffer and the Transitional Area that exist along the USGS 'watercourse' in the northeast corner of the lot. And as shown on the site plan, the project area is outside the 100-year floodplain that touches the northeast corner of the lot.

Below is a street view of the lot (photo taken on 8/28/2025).



IV. NOTIFICATION

Notice of the variance request and hearing was mailed to all property owners within 200 feet of the project site. Public notice was posted on the Town bulletin board and on the Town of Black Mountain website on Sept. 1, 2025. Legal notice appeared in *Black Mountain News* the weeks of Sept. 4, 2025, and Sept. 11, 2025. The property was posted with a notice listing the time and date of the hearing.

V. ANALYSIS

The context of the variance request is the construction of a four-bedroom, two-bathroom single-family home that has 2,319 heated square feet, and that also has 530 square feet of covered, unheated space, and a 145 square foot open deck. The home has an attached two-car garage. The height of the structure is 17 feet. The lot is in an area of single-family homes and a few vacant lots.

Section 4.4.3 (A) of the Land Use Code states that “Yard and setback requirements shall be met unless a variance is granted by the Board of Adjustment.”

Per Section 2.1.4 of the Land Use Code, a permit is required before work is begun and a permit shall not be issued until the town zoning administrator has provided authorization that the proposed structure is in compliance with the zoning district in which it is located.

Section 1.7.3 (A) of the Land Use Code states that the board of adjustment shall authorize upon application in specific cases such variance from the terms of the town's land use code as will not be contrary to the public interest and where owing to special conditions, a literal enforcement of the provisions of the town ordinances will, in an individual case, result in practical difficulty or unnecessary hardship. Variances are not intended to provide limited relief from regulations in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed in the land use code and in a way that the spirit of the town regulations shall be preserved, public safety and welfare secured, and substantial justice done.

Town staff has determined that the applicants' request to hear the variance is in accordance with Section 1.7.1 (A).