Town of Black Mountain Staff Report
Board of Adjustment

Case No: V-25-06
Case Name: 131 South Ridgeway Avenue

Hearing Date: October 16, 2025
Procedure: Variance Evidentiary Hearing

Address of Variance Request:
131 South Ridgeway Avenue
Black Mountain, NC 28711
Property ID Number (PIN): 061946241000000

Applicant:
Richard and Heidi King
1104 North Fork Rd.
Black Mountain, NC 28711

Request:
The applicants are seeking a variance from one or more of the Highway Business (HB-8) zoning district's setback requirements:

HB-8 – Residential

- Front: 15 feet
- Side: 10 feet
- Rear: 30 feet

Reference: Section 4.7.15 (Dimensional Requirements by Zoning District) of Chapter 4 (Zoning) of the Land Use Code.

The ***Application for Variance*** section of the variance application includes the following:

> So that the below mentioned property can be used in a manner indicated by the plan attached to this form, or if the plan does not adequately reveal the nature of the variance, as more fully described herein ***(if applying for a variance in dimensional requirements, state the revised setbacks or height limitations desired below)***

The applicants wrote:

> We are requesting a variance to the rear and side setbacks as seen on plat."

The applicants attached a survey dated 2/9/2016 that includes the following as ***Note 5***: "Subject property is zoned HB-8 – setback: front 15'; sides 10'; rear 30'."

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

I. SUMMARY OF REQUEST

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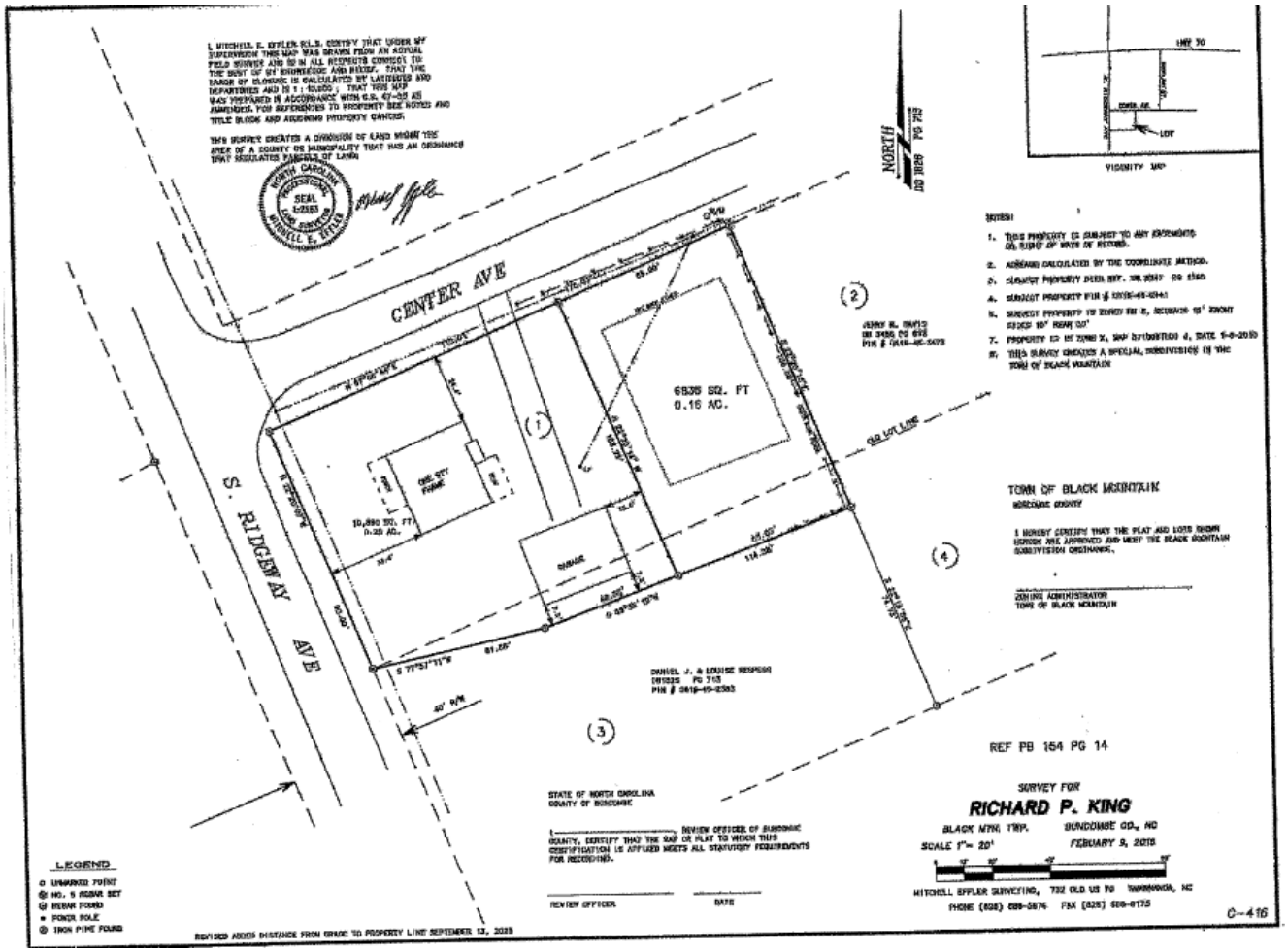
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> So that the below mentioned property can be used in a manner indicated by the plan attached to this form, or if the plan does not adequately reveal the nature of the variance, as more fully described herein ***(if applying for a variance in dimensional requirements, state the revised setbacks or height limitations desired below)***

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> We are requesting a variance to the rear and side setbacks as seen on plat."

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The applicants completed item #1 on the ***Variance Burden of Proof*** in a way that indicates the context of the variance request:

> The current house is only 2 bedrooms, 1 bath. In order for us to add living space while maintaining the original character and footprint of the historic home in a cost effective way we would like to convert the garage to livable space.

II. PROCESS – REQUIRED CITY APPROVALS

In addition to this variance, the applicants 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 Highway Business (HB-8) zoning district. The clip below is from Buncombe GIS – red is UR-8 and green is Central Business (CB). (Image is Post Helene 2024.)



The Minimum Yard Requirements in HB-8 are:

HB-8 – Residential

- Front: 15 feet
- Side: 10 feet
- Rear: 30 feet

The HB-8 height limit is 40 feet.

Reference: Section 4.7.15 (Dimensional Requirements by Zoning District) of Chapter 4 (Zoning) of the Land Use Code.

The surrounding lots are:

	North	South	East	West
Adjacent Zoning Designation	HB-8	HB-8	HB-8	CB
Adjacent Land Uses	Two-Family Residence (Duplex)	Two-Family Residence (Duplex)	Vacant lot	Single-Family Residence

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

The highway business district provides orderly growth along the town's major thoroughfares; promotes access management and traffic safety for all modes of transportation, encourages the redevelopment of existing commercial sites; creates economic opportunities ; promotes a safe, convenient and attractive environment for pedestrians to access good and services; creates gateways and

entrances into the town along central corridors; and encourages residential development that blends with the commercial character of the district and enhances the variety of housing options provided in the town. Because of the objectives and characteristics of this district, it is located contiguous to major streets or within proximity to primary commercial districts.

Reference: Section 4.7.8 (Highway Business District – HB-8) of Chapter 4.

Existing Conditions

According to the applicants' 2016 survey, the parcel is .25 acre (10,890 square feet) in size. The Buncombe County Property Record Card lists the following structures on the parcel:

Building

- Building Type: 1 Story Conventional
- Total Finished Area: 791 SF
- Year Built: 1955
- One Story
- Patio: 136 SF
- Porch: 35 SF
- Bedrooms: 2
- Full Baths: 1
- Half Baths: 0

Feature

- Type: Garage
- Year Built: 1984
- Size: 768 SF

The overall slope of the lot is 5.72 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. (The property is not impacted by any USGS 'watercourses' and is not in the 100-year floodplain. Image is *Post Helene 2024*.)



Below are views of the property (photos taken on 9/18/2025).

<u>Two views from the South Ridgeway Avenue side, looking south:</u>





View from the intersection, looking southeast:



Two views from the Center Avenue side, looking east:





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 Oct. 1, 2025. Legal notice appeared in *Black Mountain News* the weeks of Oct. 2, 2025, and Oct. 9, 2025. The property was posted with a notice listing the time and date of the hearing.

V. ANALYSIS

The applicants completed item #1 on the ***Variance Burden of Proof*** in a way that indicates the context of the variance request:

> The current house is only 2 bedrooms, 1 bath. In order for us to add living space while maintaining the original character and footprint of the historic home in a cost effective way we would like to convert the garage to livable space.

Section 4.3.1 (A) of Chapter 4 (Zoning) of the Land Use Code states:

> No building or land shall be used or occupied and no building or structure or part thereof shall be erected, moved or structurally altered except in conformity with the town zoning regulations.

By 'converting the garage to livable space,' the project involves a change of use: changing the ***accessory structure*** (garage) to the use ***Single-Family Residence***. (Specifically, the accessory structure is to become part of the existing Single-Family Residence.) A change of use triggers the requirement stated in Section 4.3.1 (A).

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).