Town of Black Mountain Staff Report
Board of Adjustment

Case No: V-26-03
Case Name: 504 Pearl View Dr.

Hearing Date: August 20, 2026
Procedure: Variance Evidentiary Hearing

Address of Variance Request:
504 Pearl View Drive
Black Mountain, NC 28711
Property ID Number (PIN): 061978005300000

Applicants:
Darah and Emily Bazargan
504 Pearl View Drive
Black Mountain, NC 28711

Request:
The applicants are seeking a variance from the Urban Residential (UR-8) zoning district's 15-foot rear setback requirement. The context is wanting "to allow the existing open, unenclosed pergola accessory structure associated with the existing rear deck to remain in its current location." Additional information provided by the applicants includes: "The pergola support posts are located approx. 4 feet, 4 inches from the rear property line, where a 15-foot setback is required."

This means that the applicants are seeking a variance of 10 feet, 8 inches (10', 8") from the 15-foot setback requirement.

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

I. SUMMARY OF REQUEST

The applicants are seeking a 10-foot-and-eight-inch (10', 8") variance from the 15-foot rear setback requirement of the Urban Residential (UR-8) zoning district. The context is an addition.

Section 4.4.3 of Chapter 4 (Zoning) explains that the setback measurement is taken from the right of way line or the property line, whichever is further back, and that the measurement is "to the nearest portion of the building or structure."

Item ***J*** in Section 4.4.3 of Chapter 4 (Zoning) of the Land Use Code lists the following "allowable encroachments into required setbacks":

1. Roof overhangs, sills, cornices, and similar ornamental features projecting from the principal building may encroach up to 18 inches into any required setback.

2. Bay windows, balconies, and similar features projecting from the principal building may encroach up to three feet into any required setback.
3. Decks, steps, uncovered porches, patios, and terraces may encroach into a required side or rear setback, but no closer than six feet to the side or rear property line.
4. Fences and walls.
5. If a handicapped accessibility or life safety feature cannot meet this requirement due to the location of an existing structure or other impeding site feature on a residential lot, the setback requirement shall be waived to the extent necessary to accommodate the accessibility or life safety feature.

Section 1.2.3 (Definitions) of the Land Use Code includes the following:

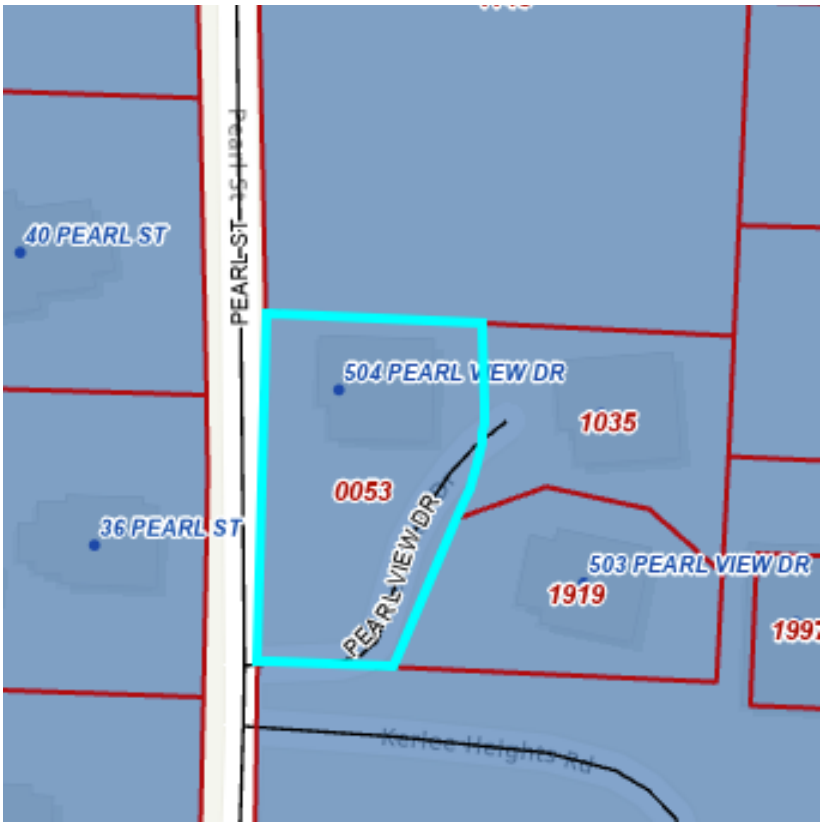
> *Accessory structure:* A structure detached from a principal building and located on the same lot and incidental and subordinate to the principal building or use which is not used as a dwelling unit.
>
> *Building:* A structure with a roof and walls built for permanent use. When used in reference to a residential structure, any one- or two-family dwelling or portion thereof, including townhouses, that is used, or designed or intended to be used for habitation for living, sleeping, cooking, or eating purposes or any combination thereof, including accessory structures.

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. This clip is from Buncombe GIS *(**0053** is the subject property)*:



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

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

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

The surrounding lots are:

	North	South	East	West
Adjacent Zoning Designation	UR-8	UR-8	UR-8	UR-8
Adjacent Land Uses	Vacant lot	Town-home community	Single-family homes	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 (Zoning).

Pear View Drive is a private street.

Existing Conditions

According to the Buncombe County Property Record Card for 504 Pearl View Drive, the parcel has a two-bedroom, single-family home that has a total finished area of 930 square feet, a deck of 40 square feet, and a porch of 100 square feet. The county lists the "year built" as 2018, and the lot size as .17 acre. The lot has a slope of 10.26 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 does not have any NC DEQ-classified surface waters and is not in the 100-year flood zone). **0053** is the subject property. Note: image is *Post Helene 2024*.



Below are photos of the property taken on July 28, 2026.

View from Pearl Street:



View from Pearl View Drive (subject property is on the left):



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 August 1, 2026. Legal notice appeared in *Black Mountain News* the weeks of July 30, 2026, and August 6, 2026. The property was posted with a notice listing the time and date of the hearing.

V. ANALYSIS

The context of the variance request is a project referred to by the applicants as an "accessory structure." But the applicants properly frame their request in the context of the UR-8 zoning district's 15-foot rear setback requirement (they note that "a 15-foot setback is required.")

The variance request is in the context of an addition to the home. Thus, the UR-8 setback requirements apply, not the accessory structure setback requirements. (Accessory structures can be as close as five feet to the nearest property line.)
[*reference*: Section 4.5.4 (Accessory Structures) of Chapter 4 (Zoning) of the Land Use Code.]

The applicants are seeking a variance from the Urban Residential (UR-8) zoning district's 15-foot rear setback requirement. They want "to allow the existing open, unenclosed pergola accessory structure associated with the existing rear deck to remain in its current location." Also noted by the applicants: "The pergola support posts are located approx. 4 feet, 4 inches from the rear property line, where a 15-foot setback is required."

This means that the applicants are seeking a variance of 10 feet, 8 inches (10', 8") from the 15-foot setback requirement.

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).