TOWN OF BLACK MOUNTAIN
COUNTY OF BUNCOMBE

BEFORE THE BLACK MOUNTAIN
BOARD OF ADJUSTMENT

In the Matter of the Application of	)	
Brian and Tammy Gregg For a	)	
Variance for Property at 200 Old State Ten	)	ORDER
PIN No. 0619-77-0021.00000	)	
_____	)	

THIS CAUSE, coming on before the Board of Adjustment for the Town of Black Mountain on January 16, 2025, upon the application of Brian and Tammy Greg to reduce the stream buffer and transitional buffer to place an accessory structure for property at 200 Old State Ten Road in Black Mountain, PIN #0619-77-0021.00000, which is Plat Book 0000 at Page 0000, Buncombe County Registry.

Tammy Gregg appeared to present her case.

Jennifer Tipton, Senior Admin, and Russell Cate, Zoning Administrator, appeared for the Town staff and four members of the Board of Adjustment were in attendance.

The Board of Adjustment, having heard and considered the testimony of town staff, the Applicant, and parties with standing and having considered all the evidence presented by the town staff, the Applicant, and parties with standing, the statements and arguments of the Applicant and parties with standing, makes the following.

FINDINGS OF FACT

1. The Board of Adjustment has jurisdiction over this matter pursuant to Section 1.7.3 of the Land Use Code (the "LUC").

2. Proper notice of this meeting and hearing of the Board of Adjustment was provided as required by the Town ordinances and the state law.

3. Applicants are the owners of the property located at 200 NC 9 Highway, Black Mountain, North Carolina, which has the current PIN number of 0619-77-0021.00000 as shown on the Buncombe County tax maps, also being Plat Book 0000 at Page 0000, Buncombe County Registry.

4. The property is zoned HB-8.

5. The property is .33 acres.

6. The property has always been a residential single-family home.

7. The Applicants propose to place a 12' x 20' accessory structure at the side of the house

to store belongings while the house is being repaired from flood damage.

8. The Stream Buffer Protection ordinance requires a stream buffer on either side of watercourse depicted as a solid blue line on the most recent USGS map and is measured thirty feet horizontally from the top of the streambank or watercourse in a direction perpendicular to the stream flow (Section 20-382 of the Code of Ordinances).

9. The Stream Buffer Protection ordinance also requires a transitional area of twenty feet immediately landward of the stream buffer (Section 20-383 of the Code of Ordinances).

10. There is an exception that would allow the stream to be piped and would therefore not have to meet the stream buffer and transitional area requirements (Section 20-385 (6) of the Code of Ordinances).

11. The Applicants propose to use the accessory structure to store yard equipment after the belongings are returned to the home after the repairs are made.

12. The Applicants wish to have the accessory structure located closer to the house for security purposes as the buffer requirements would require that the accessory structure be located at the road.

13. The Applicants are currently using a temporary conex box for storage.

14. The Applicants have owned the home since 1993.

15. To be granted a variance, the Applicant is required to prove all the following:

    (1) 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.

    (2) 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.

    (3) 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.

    (4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. (N.C.G.S. Section 160D-705; Section 1.7.3.E. of the LUC).

16. There are unnecessary hardships because due to the natural disaster of Hurricane Helene, there is not an alternative for the Applicants to place an accessory structure in another location.

17. The hardship results from conditions that are peculiar to the property as the topography of the property and the amount of rain that fell flooded the property, when the property has never flooded before.

18. The hardship did not result from actions taken by the Applicants or the property owner in that the property already existed, and the Applicants did not create the stream or cause the flooding.

19. The requested variance is consistent with the spirit, purpose, and intent of the ordinance such that public safety is secure and substantial justice is achieved because the stream buffer regulations were not created to punish property owners in the wake of natural disasters.

BASED UPON THE FOREGOING FINDINGS OF FACT, THIS BOARD by a vote of 4 to 0 concludes that the Applicants should be granted a variance to reduce the stream buffer and transitional area requirements to allow for the placement of an accessory structure.

IT IS NOW, THEREFORE, ORDERED, that the Applicants are granted a variance reducing the stream buffer and transitional area requirements to allow for the placement of an accessory structure at 200 Old State Ten Road.

This the _____day of _____, 2025.

_____
LAUREN DODGIN, Chairman

If you are dissatisfied with the decision of this Board, an appeal may be taken to the Superior Court of Buncombe County within 30 days after the date this order is served on you. See Section 1.7.5 of the Land Use Code., Appeals from Decisions of the Board of Adjustment, in the Town of Black Mountain Code of Ordinances.