TOWN OF BLACK MOUNTAIN
COUNTY OF BUNCOMBE

BEFORE THE BLACK MOUNTAIN
BOARD OF ADJUSTMENT

In the Matter of the Application of	)	
Taylor and Sarah Hada for a	)	
Variance for Property at 501 Montreat Rd	)	ORDER
PIN No. 0619-38-2414.00000	)	
	)	

THIS CAUSE, coming on before the Board of Adjustment for the Town of Black Mountain on March 20, 2025, upon the application of Taylor and Sarah Hada to remove the stream buffer and transitional area requirements for property at 501 Montreat Road in Black Mountain, PIN #0619-38-2414.00000, which is Plat Book 0154 at Page 0106, Buncombe County Registry.

Brian Daniel of Scroggs Construction appeared as the representative for the Applicants to present their 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 and the representative for the Applicant, and having considered all the evidence presented by the town staff and the representative for the Applicant and the statements and arguments of the representative of the Applicant, 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 Taylor and Sarah Hada, owners of the property located at 501 Montreat Road, Black Mountain, North Carolina, which has the current PIN number of 0619-38-2414.00000 as shown on the Buncombe County tax maps, also being Plat Book 0154 at Page 0106, Buncombe County Registry.

4. The property is zoned HB-8.

5. The property is .25 acres.

6. The property has a 1,230 square foot single-family residence that was constructed in 1924.

7. The Applicants propose to add a 308 square foot addition to the existing structure.

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 representative for the Applicants noted that there is not an active stream on the property, but rather it is an active drainage area.

12. The representative for the Applicants noted that the active drainage area meets the statistical data threshold to be listed on the USGS maps, but it is only from a topographical point.

13. The addition would meet all setback requirements.

14. 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).

15. There are unnecessary hardships because the area in question appears to be a drainage area and not an actual blue line stream and would not allow the Applicants to use the property as intended.

16. The hardship results from conditions that are peculiar to the property due to the

placement of the house and in conjunction with the active drainage area, and being shown as a blue line stream.

17. The hardship did not result from actions taken by the Applicants or the property owner in that the property is already existing and developed.

18. 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 it allows the Applicants to use the property as others in the neighborhood and does not interfere with the stream and water quality.

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 remove the stream buffer and transitional area requirements.

IT IS NOW, THEREFORE, ORDERED, that the Applicants are granted a variance removing the stream buffer and transitional area requirements from 501 Montreat 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.