TOWN OF BLACK MOUNTAIN
COUNTY OF BUNCOMBE

BEFORE THE BLACK MOUNTAIN
BOARD OF ADJUSTMENT

In the Matter of the Application of	)	
Max and Brooke Cherry	)	ORDER
For a Variance for Property at 15 Avena St	)	
PIN No. 0609-43-9868.00000	)	

THIS CAUSE, coming on before the Board of Adjustment for the Town of Black Mountain on July 24, 2025, upon the application of Max and Brooke Cherry, to reduce the required front setback of thirty-feet by three feet and eight inches at 15 Avena St in Black Mountain, PIN #0609-43-9868.00000, which is Plat Book 0115 at Page 0063, Buncombe County Registry.

Aaron Gonglin of Semper Fi Custom Remodeling, 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 Max and Brooke Cherry are owners of the property located at 15 Avena Street, Black Mountain, North Carolina, which has the current PIN number of 0609-43-9868.00000 as shown on the Buncombe County tax maps, also being Plat Book 0115 at Page 0063, Buncombe County Registry.

4. The property is zoned OI-6.

5. The property is .17 acres.

6. The property currently has a single-family residence that was constructed in 2006.

7. The OI-6 district has a required front setback of thirty feet.

8. The neighboring properties are residential with front porches being a common feature among the structures.

9. The existing deck is very small and was damaged by TS Helene and the Applicant's would like to extend the deck during the repairs to make the deck more accessible and usable.

10. 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).

11. There are unnecessary hardships because the ordinance because restrictions imposed by the required front setback do not allow for any type of expansion of the front porch.

12. The hardship results from conditions that are peculiar to the property because the lot is small and doesn't provide for additional space beyond the required setback.

13. The hardship did not result from actions taken by the Applicants or the property owner in that the property was already in existence and house was already constructed before the Applicant's purchased the property.

14. 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 as it allows the Applicant's to have what others in the neighborhood have and does not pose a danger and would make it closer in look to neighboring properties.

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 required front setback of thirty feet by three feet and eight inches.

IT IS NOW, THEREFORE, ORDERED, that the Applicants are granted a variance to reduce the required front setback of thirty feet to three feet and eight inches for 15 Avena Street.

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.