TOWN OF BLACK MOUNTAIN
BOARD OF ADJUSTMENT

The Black Mountain Board of Adjustment held its regular meeting on Thursday, August 20, 2026, at 6:00 p.m. in Town Hall at 160 Midland Avenue, Black Mountain, North Carolina.

I. CALL TO ORDER

The meeting was called to order with the following members present:

Nicole Stallings, Chair
David Barley
Mary Hall
Ted Rausch, Alternate
Alan Simmons, Alternate

Absent:

John Hines, Vice Chair
Linda Brinson
Mary Kyrke, Alternate

Staff:

Jennifer Tipton, Senior Admin
Russell Cate, Planner I/Zoning Administrator

The meeting was called to order at 6:00 p.m. and duly constituted and opened for business with a quorum of three (3) regular members and two (2) regular members.

II. ADOPTION OF AGENDA

Ted Rausch made a motion to adopt the agenda as presented. The motion was seconded by Mary Hall and approved by a vote of 5-0.

III. ADOPTION OF MINUTES

David Barley made a motion to adopt the minutes of June 18, 2026, as written. The motion was seconded by Mary Hall and approved by a vote of 5-0.

IV. OLD BUSINESS

None.

V. NEW BUSINESS

1. Variance Request – 504 Pearl View Avenue

Chair Nicole Stallings opened the evidentiary hearing for Case #VAR-26-0003.

No public was in attendance to be deemed parties with standing.

No board member reported any ethical issues and there were no objections to the panel.

Jennifer Tipton swore in Russell Cate for staff and Darah and Emily Bazargan for the applicants.

Russell Cate gave a summary of the staff report. The property at 504 Pearl View Drive is seeking a variance from Section 4.7.15, Dimensional Requirements by Zoning District. Section 4.7.15 requires a rear setback of fifteen feet in the UR-8 zoning district. The applicant is seeking a variance to allow a pergola structure to be four feet and five inches from the property line for a total variance request of ten feet and nine inches from the required fifteen-foot rear setback.

Darah Bazargan, 504 Pearl View Drive, explained that the rear deck is the only level area in the back yard. The posts of the pergola were placed in existing holes that were there for a fence that was removed and they are just trying to reuse the established location. The pergola will remain open and unenclosed. The pergola does not interfere with the neighboring driveway. They limited their request to the necessary amount needed. The neighbor did write a letter, and the board accepted the letter into evidence but were advised that they could not base their decision on the letter since the author of the letter was not present to testify. The deck was already existing, and they wanted to extend the deck and add the pergola. Their contractor did not make them aware that a permit was needed and based on their research they did not think one was required for the small deck extension. The fence will also be rebuilt, and Russell Cate did note that fences can go to the property line. The pergola cannot extend any further because there is a retaining wall where the deck stops and is not cosmetic but necessary. Based on the measurement from the house to the rear setback, only about eight feet is usable. The deck is approximately twenty inches off the ground.

Chair Stallings made a motion to close the public hearing. The motion was seconded by Ted Rausch and approved by a vote of 5-0.

The board discussed the request and noted the shape of the lot, the driveway encroachment, and the space of the back yard.

With regard to variance request VAR-26-0003, the request of Darah and Emily Bazargan, the board found the following findings of fact:

1. That unnecessary hardship does result from the strict application of the regulations because the back of the house is 15’ and 11” to the property line leaving only 11” to use before having to encroach into the rear setback of 15’.
2. The hardship does result from conditions that are peculiar to the property because the lot is atypical in shape and the neighboring driveway encroaches into the property as well as the existing retaining wall limiting space.
3. The hardship does not result from actions taken by the applicant or the property owner because the lot, driveway, and retaining wall were existing before the applicants purchased the property. (Note: The vote for this one was 4-1, with David Barley voting against.)
4. The requested variance is consistent with the spirit, purpose, and intent of the regulations such that public safety is secured and substantial justice is achieved because the neighbor can safely access the driveway and the applicants are able to extend their rear deck to make their back yard more accessible and safe.

Nicole Stallings made the following motion:

I move the board to grant the requested variance for 504 Pearl View Drive to decrease the rear setback from fifteen feet to four feet and five inches for the pergola as it currently exists and remains as intended.

The motion was seconded by Ted Rausch and approved by a vote of 5-0.

VI. COMMUNICATION FROM BOARD OF ADJUSTMENT

None.

VII. COMMUNICATION FROM STAFF

None.

VIII. ADJOURNMENT

With no further business, the meeting was adjourned at 6:57 p.m.

Prepared by:

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Nicole Stallings, Chair

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Jennifer Tipton, Senior Admin