TOWN OF BLACK MOUNTAIN COUNTY OF BUNCOMBE	BEFORE THE BLACK MOUNTAIN BOARD OF ADJUSTMENT
In the Matter of the Application of) Darah and Emily Bazargan) Variance for Property at) 504 Pearl View Drive) PIN #0619-78-0053.00000)	ORDER

THIS CAUSE, coming on before the Board of Adjustment for the Town of Black Mountain on August 20, 2026, upon the application of Darah and Emily Bazargan, to decrease the rear setback at 504 Pearl View Drive in Black Mountain, PIN #0619-78-0053.00000, which is Plat Book 5843 at Page 1811, Buncombe County Registry.

Darah and Emily Bazargan, Applicants, appeared to present their case.

Jennifer Tipton, Senior Admin. and Russell Cate, Planner I/Zoning Administrator appeared for Town Staff, and five members of the Board of Adjustment were in attendance.

The Board of Adjustment, having heard and considered the testimony of Town Staff and the Applicants, and having considered all the evidence presented by Town Staff and the Applicants and the statements and arguments of the Applicants, 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 Darah and Emily Bazargan are the owners of property located at 504 Pearl View Drive, Black Mountain, North Carolina, which has the current PIN number of 0619-78-0053.00000 as shown on the Buncombe County Tax Maps, also being Plat Book 5843 at Page 1811, Buncombe County Registry.

4. The property is zoned UR-8.

5. The property is .17 acres.

6. The property is a single-family residence.

7. The property has an average slope of 10.26%.

8. Chapter 4, Section 4.7.15, Dimensional Requirements, requires a rear setback of fifteen feet in the UR-8 zoning district.

9. The Applicants are requesting a variance from the rear setback of ten feet and nine inches.

10. There is an existing retaining wall that restricts the deck encroaching any further than the requested variance.

11. The deck existed when the residence was purchased by the Applicants.

12. The Applicants have extended the deck and have added an open-air pergola.

13. To be granted a variance, the Applicant is required to prove all of 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 the 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 1.7.3E. of the LUC.)

14. There are unnecessary hardships that would result from the strict application of the ordinance because the back of the house is fifteen feet and eleven inches to the property line leaving only eleven inches of usable space before having to encroach into the required fifteen-foot setback.

15. The hardship results from conditions that are peculiar to the property such as location, size or topography because the lot is atypical in shape and the neighboring driveway encroaches into the property as well as the existing retaining wall limiting space.

16. The hardship does not result from actions taken by the property owner because the lot, driveway, and retaining wall existed before the applicants purchased the property.

17. 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.

BASED UPON THE FOREGOING FINDINGS OF FACT, THIS BOARD, by a vote of 5-0, concludes that the Applicants should be granted a variance to decrease the required rear setback of fifteen feet to four feet and five inches for the pergola as it currently exists and remains as intended.

IT IS NOW THEREFORE, ORDERED, that the Applicants are granted a variance to decrease the required rear setback of fifteen feet to four feet and five inches for the pergola as it currently exists and remains as intended.

This the _____ day of _____, 2026.

_____
Nicole Stallings, Chair

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 of this order is served on you. See Section 1.7.2 of the Land Use Code, Appeals from Decisions of the Board of Adjustment, in the Town of Black Mountain Code of Ordinances.