Town of Montreat
Board of Adjustment (BOA)
Meeting Agenda
April 25, 2024, 5:00 p.m.
Montreat Town Hall
1210 Montreat Rd., Black Mountain, NC 28711
Meeting also held via Zoom: https://bit.ly/3oFiacv

I. **CALL TO ORDER**
- Welcome
- Moment of Silence

II. **CERTIFICATION OF QUORUM**

III. **AGENDA ADOPTION** *(Packet pages 1 - 2)*
- **Suggested Motion**: To adopt the meeting agenda as presented/amended

IV. **ADOPTION OF MARCH 28, 2024, MEETING MINUTES** *(Packet pages PENDING)*
- **Suggested Motion:** To adopt the March 28, 2024, Meeting Minutes as drafted/amended.

V. **EVIDENTIARY HEARING**

1) **Variance Request (VA-2024-01)** – A Variance Request (VA-2024-01) submitted by Richard Giles (Property Owner of the Subject Property) for the lot described as PIN#072007755800000 located approximately 400 feet north of the intersection of Assembly Circle and Kentucky Road to Section 501.5 of the Montreat Zoning Ordinance (MZO) to reduce the front setback requirement from 30 feet to 15 feet on the South Carolina side of the Subject Property to construct an Accessory Dwelling Unit.

   Suggested Motion: To grant/grant with conditions/deny VA-2024-01.

   Applicant materials (packet pages 3 – 14)
   Staff materials (packet pages 15 – 30)

2) **Special Use Permit Request (SUP-2024-01)** – A Special Use Permit (SUP-2024-01) to allow a 468-square-foot Accessory Dwelling Unit with a final height taller than ten feet submitted by Richard Giles (Property Owner) for the lot described as PIN#072007755800000 located approximately 400 feet north of the intersection of Assembly Circle and Kentucky Road on property in the R-1 Residential Zoning District.

   Suggested Motion: To grant/grant with conditions/deny SUP-2024-01.

   Applicant materials (packet pages 31 – 41)
   Staff materials (packet pages 43 - 58)

VI. **NEW BUSINESS**

VII. **ADJOURNMENT**

TOWN OF MONTREAT
NORTH CAROLINA

VARIANCE APPLICATION

Town of Montreat Planning and Zoning
1210 Montreat Road, Black Mountain, NC 28711 | (828) 669-8002
REQUIRED FEE: $350.00 (CASH OR CHECK)

APPLICANT INFORMATION

APPLICANT NAME: Rick and Sally Giles TELEPHONE: 904.219.0475
MAILING ADDRESS: 145 36TH Av S CITY: Jax Bch STATE: FL ZIP: 32250
EMAIL: rgiles@giles-mcivor.com

PROPERTY INFORMATION

ADDRESS: 426 Kentucky rd CITY: montreat STATE: N.C. ZIP:
PIN# : TOTAL ACREAGE: .25 FLOODPLAIN: [ ] YES [X] NO
ZONING: SELECT BELOW OTHER: OVERLAY ZONING: SELECT BELOW
PROPERTY OWNER: same as above TELEPHONE: 904.219.0475
MAILING ADDRESS: same as above

PROPOSED LAND USE

TYPE OF LAND USE: [X] Residential [ ] Non-Residential [ ] Other
DESCRIPTION OF PROPOSED DEVELOPMENT: ADU

VARIANCE REQUEST

MONTREAT ZONING ORDINANCE SECTION: 501.5
DESCRIPTION OF REQUESTED VARIANCE: Reduction in required setback from 30' to 15'.

FINDINGS OF FACT

THE TOWN OF MONTREAT'S BOARD OF ADJUSTMENT WILL RENDER A DECISION ON THIS APPLICATION AT A PUBLIC HEARING. IN APPROVING THE REQUEST, THE BOARD OF ADJUSTMENT WILL EXAMINE THE APPLICATION AND MUST FIND THAT THE FOLLOWING SIX ELEMENTS ARE SATISFIED IN THE PROPOSAL:

MZO 310.42(A) *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.*

MZO 310.42(B) *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.*

MZO 310.42(C) *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.*

MZO 310.42(D) *The Variance is consistent with the spirit, purpose and intent of the Ordinance such that public safety is secured and substantial justice is achieved.*

MZO 310.42(E) *The Variance requested is the minimum Variance that will make possible the requested Use of the land, Building or Structure.*

MZO 310.42(F) *The Variance is not a request to permit a Use of land, Building or Structure which is not permitted in the applicable Zoning District.*

ATTACHMENTS

THIS APPLICATION MUST BE ACCOMPANIED BY THE FOLLOWING ATTACHMENTS:

1. A copy of the deed for the property which is the subject of the application for a Variance, a copy of the plat showing such property if one exists, and any contract to purchase or other relevant documents.
2. A response to the six findings listed above and found in the Montreat Zoning Ordinance Section 310.42.
3. A to scale site plan showing the existing property conditions (including the adjoining road and any existing improvements) and the proposed locations, dimensions, and setbacks of any structure to be built or modified which is the subject of the Variance. If the Variance request concerns the elevation of a building, include an elevation drawing.

SIGNATURES AND ACKNOWLEDGEMENT

I, Rick Giles, hereby certify that all of the information set forth above is true and accurate to the best of my knowledge.



Signature of Applicant

3.27.24

Date

Rick Giles

Printed Name of Applicant

OFFICE USE ONLY

☐ Complete ☐ Incomplete

Zoning Administrator Signature

Date

Printed Name of Zoning Administrator

Fee:_____ Paid: ☐ Yes ☐ No Payment Method:_____

Scheduled Board of Adjustment Meeting Date:_____

Type: CONSOLIDATED REAL PROPERTY
Recorded: 9/12/2017 2:44:34 PM
Fee Amt: $546.00 Page 1 of 8
Revenue Tax: $520.00
Buncombe County, NC
Drew Reisinger Register of Deeds

BK 5589 PG 431 - 438

There are no delinquent taxes that are a lien the parcel(s) described in the deed which the Buncombe County Tax Collector is charged with collecting.
09-12-2017 Date
Nayleen Walker Deputy Tax Collector

Excise Tax $520.00	Recording Time, Book and Page
Tax Map No.	Parcel Identifier No. 0720-07-7558

Mail after recording to **Ronald E. Sneed, P.A., Box 47** 17-301.PP
This instrument was prepared by **William H. Christy, a licensed North Carolina Attorney**. Delinquent taxes, if any, are to be paid by the closing attorney to the county tax collector upon disbursement of closing proceeds. This deed was prepared at the request of the Grantor based upon information provided by the Grantor, and without title examination, survey, or verification of property description.

NORTH CAROLINA
GENERAL WARRANTY DEED

THIS DEED made this 11 day of September, 2017, by and between

GRANTOR

WILLIAM EVERARD WRIGHT, JR., Individually and as Ancillary Executor of the Estate of (Lella) Claire Carter Wright, Buncombe County Estate File No. 17 E 1122 and Spouse, ALICE M. WRIGHT, ROXANNE WRIGHT STOEHR and Spouse, JAN STOEHR, CARTER BAXTER WRIGHT and Spouse, STEPHANIE T. WRIGHT and DAVID ROBERTS WRIGHT and Spouse, JANE MCDOW WRIGHT
755 Magazine Street
New Orleans, LA 70130

GRANTEE

WILLIAM R. GILES, JR. and Spouse, SALLY RICHARDSON GILES
145 36th Avenue S.
Jacksonville Beach, FL 32250

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the Town of Montreat, Black Mountain Township, Buncombe County, North Carolina, and more particularly described as follows:

SEE ATTACHED DESCRIPTION

Submitted electronically by "Ronald E. Sneed, P.A."
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Buncombe County Register of Deeds.

RECORDED ELECTRONICALLY
ID 5589/431 County Buncombe
Date 9/12/17 Time 2:44pm
simplifile www.simplifile.com 800.460.5657

Excise Tax $520.00	Recording Time, Book and Page
Tax Map No.	Parcel Identifier No. 0720-07-7558

Mail after recording to **Ronald E. Sneed, P.A., Box** 47 17-301.PP

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SEE ATTACHED DESCRIPTION

All or a portion of the property herein conveyed ____ includes or _X_ does not include the primary residence of a Grantor.

The property hereinabove described was acquired by Grantors by the Last Will and Testament of (Lella) Claire Carter Wright, Buncombe Co. Estate File No. 17-E-1122.

A map showing the above described property is recorded in Plat Book 154, Page 1, 2 and 3, and Plat Book 16 at Page 95.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomever except for the exceptions hereinafter stated.

Title to the property hereinabove described is hereby conveyed subject to all valid and subsisting restrictions, reservations, covenants, conditions, rights of ways and easements properly of record, if any, ad valorem taxes for the current year and subsequent years, and any local, county, state, or federal laws, ordinances, or regulations relating to zoning, environment, subdivision, occupancy, use, construction, or development of the subject property, including existing violations of said laws, ordinances, or regulations.

IN WITNESS WHEREOF, the Grantors have hereunto set their hands and seals, or, if corporate, has caused this Deed to be executed by its duly authorized officers and its seal to be hereunto affixed, the day and year first above written.

William Everard Wright (SEAL)

WILLIAM EVERARD WRIGHT, JR.
as Ancillary Executor of the Estate of (Lella) Claire Carter Wright, Buncombe County Estate File 17 E 1122

William Everard Wright Jr (SEAL)

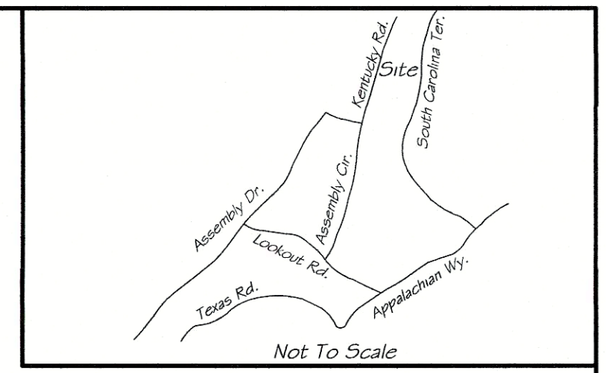
WILLIAM EVERARD WRIGHT, JR., Individually

Alice M. Wright (SEAL)

ALICE M. WRIGHT

Plat North
P.B. 16, Pg. 95

331
0.25 Acre
Area by Coordinate Computation

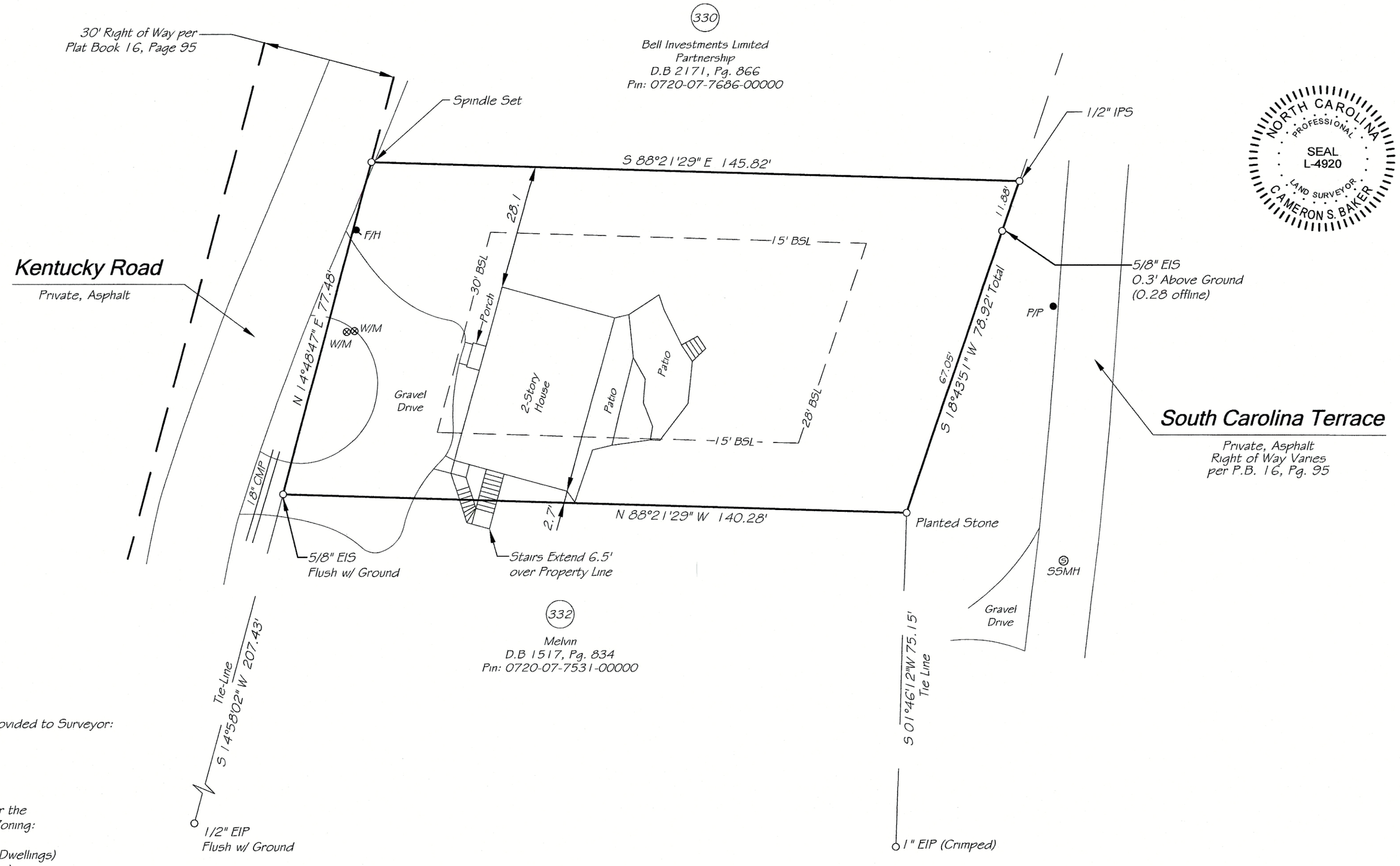


Vicinity Map

I, Cameron S. Baker, certify that this plat was drawn under my supervision from an actual survey under my supervision, (deed description recorded in Book 5589, Page 431 ,) that the ratio of precision as calculated by latitudes and departures does not exceed 1:10,000 and that this map was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, license number and seal this 25 day of JAN, 2024.

NORTH CAROLINA PROFESSIONAL SEAL L-4920 LAND SURVEYOR CAMERON S. BAKER

Professional Land Surveyor No. L-4920



Building Setbacks as provided to Surveyor:
Front: 30'
Side: 15'
Rear: 28'

Building Setbacks as per the
Town of Montreat R-1 Zoning:
Front: 30'
Side: 15' (Single-family Dwellings)
25' (All Other Uses)
Rear: 35'

Notes:
1. Property is subject to all easements, restrictions and right of ways of record.
2. The locations of underground utilities are based on above-ground structures and record drawings provided to the surveyor. Locations of underground utilities/structures may vary from locations shown hereon. Additional buried utilities/structures may be encountered.
3. Surveyor has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate title search may disclose.
4. The certification of survey and plat was prepared for the entity named in the title block hereon and does not extend to any other entity, unless recertified by the professional land surveyor.
5. All miscellaneous survey related materials, including but not limited to, project plans, deed and ROW research, maps, field notes and data, survey reports, record title report, calculations, working drawings, estimates, and other materials acquired and/or prepared by the surveyor as instruments of service shall remain the property of the surveyor and assigns.
6. This drawing is not valid unless the original signature and stamp are attached. Any reproduction or variance to this survey by electronic or any other means are not to be considered issued by the professional surveyor.
7. Property is currently zoned R-1 as per the Town of Montreat.
8. Property is located in Zone X (Minimal Flood Risk) as per FRIS Map Panel 0720, Map #3710072000J effective date 01/06/2010

20 0 20 40 60
GRAPHIC SCALE – FEET

Legend:
ECM = Existing Concrete Monument
EIP = Existing Iron Pipe
EIS = Existing Iron Stake
IPS = Iron Pipe Set
O = Unmarked Point, Unless Otherwise Noted
ROW/MON = Right of Way Monument
ROW = Right of Way
RRS = Railroad Spike
CMP = Corrugated Metal Pipe
F/H = Fire Hydrant
P/P = Power Pole
SSMH = Sanitary Sewer Manhole
W/M = Water Meter

Being all of Lot 331 of the
Mountain Retreat Association Subdivision
recorded at Plat Book 16, Page 95

Map of boundary Survey for

William R. Giles, Jr.
and
Sally Richardson Giles

-Owners-
D.B. 5589, Pg. 431
Pin: 0720-07-7558-00000

Black Mountain Township | Buncombe County, NC

ASSOCIATED LAND SURVEYORS
& PLANNERS PC.
P.O. BOX 578 * HORSE SHOE, NC 28742
(828) 890-3507 NC BUSINESS LICENSE NO. C-2774

SCALE: 1 Inch = 20 Feet | DATE: January 9, 2024
JOB NO.: S-23-717 | DRAWN BY: PGA IntelliCAD 8.0

Town of Montreat Variance Application Findings of Fact

Location: 426 Kentucky Road

Owner: Rick and Sally Giles

Proposed front setback (from South Carolina Terrace) variance from 30 feet to 15 feet to allow for the placement of an Accessory Dwelling Unit

Please find the following responses to findings of fact

MZO 310.42(A) Complying with the required setback would place the proposed ADU into the area of stormwater sheet flow constricting that flow.

MZO 310.42(B) The right-side rear of the property as you face uphill takes a very substantial amount of concentrated stormwater from South Carolina terrace and the homes above. The unique thing about this property is the distance along South Carolina terrace that drains to an approximately 25-foot-wide portion of the right of way above the subject property. To the north the road is only one lot uphill but to the south the road drains from at least 5 lots. This means that there are 6 homes, the mountain above those homes and that amount of road that drains onto one portion of one lot. This amount of water can be massive when we experience some of the large rainfall events. There are no other lots along the entire length of Kentucky Rd with South Carolina Terrace above and probably very few in Montreat that take concentrated stormwater into the center of the lot from a drainage area so large. There is no curbing or other drainage solution to move this stormwater away from the subject property like other portions of the Town's right of way along South Carolina Terrace. Placing the ADU uphill and to the north allows the subject lot's existing topography, grassing, planted trees and swale to continue to function.

MZO 310.42(C) No action has been taken by the applicant and property owner to create the hardship caused by the downhill stormwater flow. Topography and the grading of South Carolina Terrance dictates that drainage direction.

MZO 310.42(D) Allowing a variance to maintain existing stormwater flow is consistent with the spirit, purpose and intent of the Ordinance and facilities public safety achieving justice.

MZO 310.42(E) Every effort was made to minimize the footprint of the proposed ADU, to adjust the shape wide rather than deep, to minimize tree removal and to get an adequate distance away from the stormwater flow. A 15-foot setback makes this possible. Please note that this property has a much larger town right of way than a lot of properties (distance of property line to the asphalt road) and the homes across South Carolina Terrace are substantially uphill and away from this property. For example, the subject property's left front corner is in the asphalt of Kentucky Rd.

MZO 310.42(F) This variance is to a setback, not a use. A Special Use Permit for the ADU was submitted concurrently with the Variance application.

330

Bell Investments Limited
Partnership
D.B 2171, Pg. 866
Pin: 0720-07-7686-00000

ay per
ge 95

Spindle Set

1/2" IPS

S 88°21'29" E 145.82'

95'-6" To proposed ADU

F/H

28.1

11.88'

15' BSL

EXISTING DRAINAGE SWALE

PAVED ROAD

Kentucky Rd

N 14°48'47" E 77.48'

PARKING

W/M

W/M

30' BSL

Porch

26

40.3

2124 SqFt

2-Story House

PLANTER

EXISTING DRAINAGE SWALE DIVERTER STRIP

PROPOSED REDUCED SETBACK

15'-0"

103/1.55 ×

429 SqFt

× 1037.30

NEW RETAINING WALL

DRAINAGE direction

pipe from downspout to existing swale

× 1024.90

Stone Patio

Conc. Patio

4 dn

1029.11 ×

28' BSL

× 1038.18

30'-3"

15' BSL

× 1032.53

EXISTING DRAINAGE direction

1046.09 ×

× 1040.04

× 1024.40

Gravel Drive

PARKING

18" CMP

2.7'

N 88°21'29" W 140.28'

30'

Planted Stone

S 18°48'51" W 78.92' Total

67.05'

5/8" EIS
0.3' Above Ground
(0.28 offline)

P/P

South C

Pri
Right
per F

edge of asphalt

South Carolina Terrace

SSMH

Gravel Drive

5/8" EIS
Flush w/ Ground

Stairs Extend 6.5'
over Property Line

Square footage - existing home 1st floor 484 sf
1st floor crawl 569 sf
1st floor porch 24 sf
2nd floor 1048 sf

ADU covered porch 197 sf
1st floor 468 sf
665 sf

Proposed Impervious - ADU 665 sf
Stone wall 190 sf
Total 855 sf

332

Melvin
D.B 1517, Pg. 834
Pin: 0720-07-7531-00000

Tie-Line
S 14°58'02" W 207.43'

S 01°46'12" W 75.15'
Tie Line

PRELIMINARY- NOT FOR CONSTRUCTION

PRELIMINARY- NOT FOR CONSTRUCTION

HURT ARCHITECTURE & PLANNING P.A.

101
MIDLAND
AVENUE

BLACK
MOUNTAIN
NC 28711

PHONE
828.669.1750

FAX
828.669.1762

INFO@HURTARCHITECTS.COM
WWW.HURTARCHITECTS.COM

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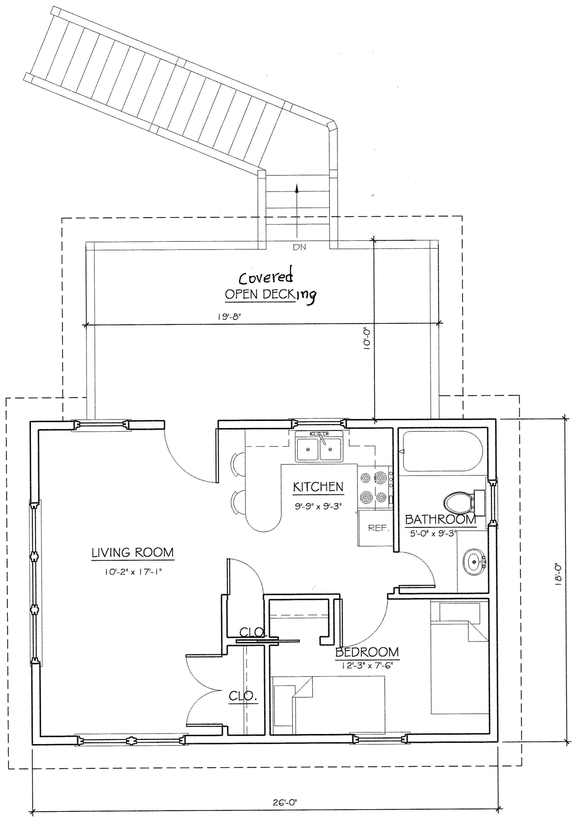
PRELIMINARY- NOT FOR CONSTRUCTION

AN ACCESSORY COTTAGE FOR THE
GILES RESIDENCE
426 KENTUCKY ROAD
MONTREAT, NORTH CAROLINA

DRAWING NAME: Architectural Site Plan
DATE: March 18, 2024

AS

SCALE: 1/8" = 1'-0"



1 / A-1 Preliminary Floor Plan

Scale: 1/4" = 1'-0"

AREA: 429 SqFt interior
468 total

PRELIMINARY- NOT FOR CONSTRUCTION

HURT
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PRELIMINARY- NOT FOR CONSTRUCTION

AN ACCESSORY COTTAGE FOR THE

GILES RESIDENCE

426 KENTUCKY ROAD

MONTREAT, NORTH CAROLINA

DRAWING NAME: Floor Plan

DATE: March 18, 2024

A-1

SCALE: 1/4" = 1'-0"

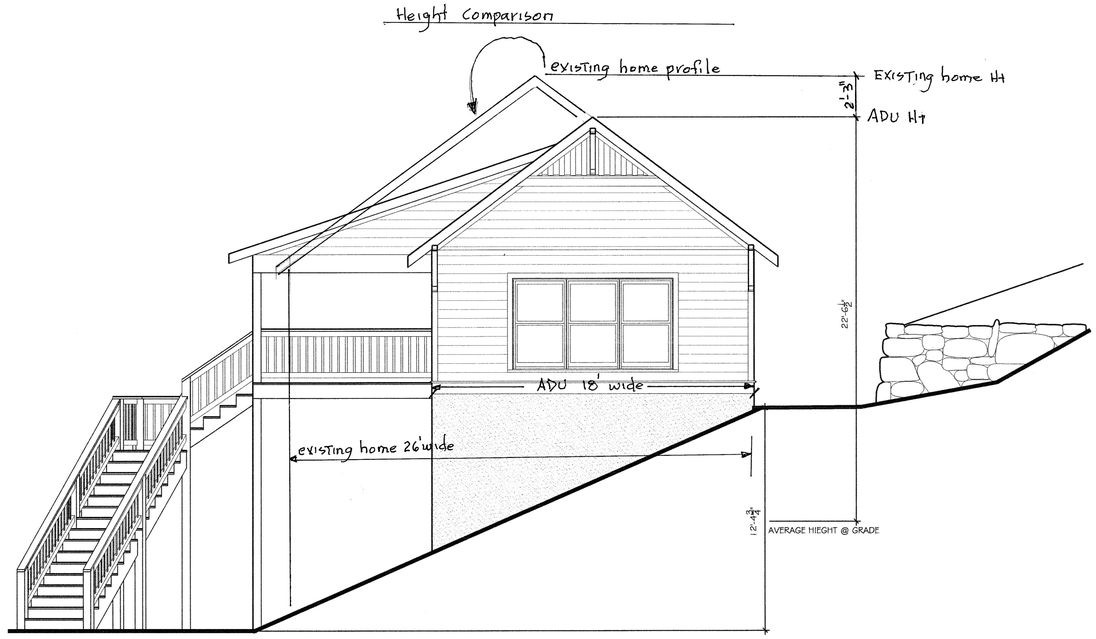
PRELIMINARY- NOT FOR CONSTRUCTION

PRELIMINARY- NOT FOR CONSTRUCTION



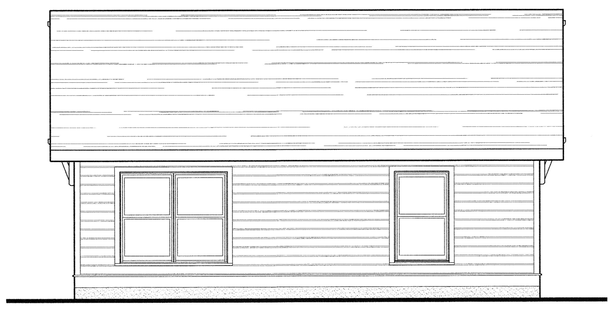
1 / A-2 Preliminary Front Elevation

Scale: 1/4" = 1'-0"



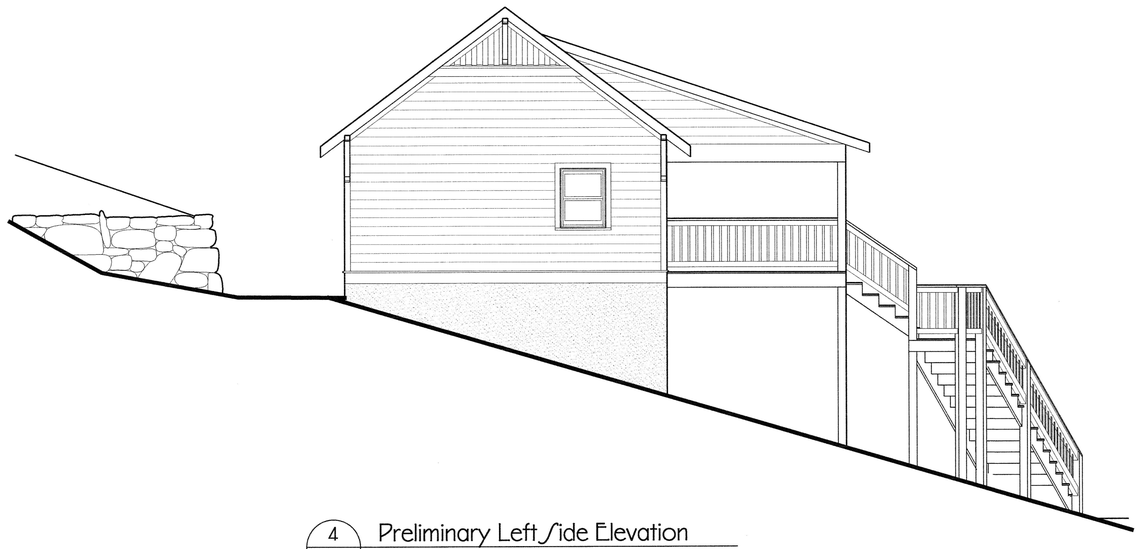
2 / A-2 Preliminary Right Side Elevation

Scale: 1/4" = 1'-0"



3 / A-2 Preliminary Rear Elevation

Scale: 1/4" = 1'-0"



4 / A-2 Preliminary Left Side Elevation

Scale: 1/4" = 1'-0"

PRELIMINARY- NOT FOR CONSTRUCTION

PRELIMINARY- NOT FOR CONSTRUCTION

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PRELIMINARY- NOT FOR CONSTRUCTION

AN ACCESSORY COTTAGE FOR THE

GILES RESIDENCE

426 KENTUCKY ROAD

MONTREAT, NORTH CAROLINA

DRAWING NAME: Prelim. Elevations

DATE: March 18, 2024

A-2

SCALE: 1/4" = 1'-0"

Town of Montreat Board of Adjustment

Location : 426 Kentucky

Owner: Rick and Sally Giles

RE: Statement of stormwater drainage design

As a retired general and site work contractor, the applicant assures that permit documents will be designed to insure all stormwater diverted by the proposed ADU is contained on the applicant's lot.

Rick Giles

TOWN OF MONTREAT
P. O. Box 423, Montreat, NC 28757
Tel: (828) 669-8002 | Fax: (828) 669-3810
www.townofmontreat.org

Staff Report
VA-2024-01

Variance Request (VA-2024-01) – A Variance Request submitted by Richard Giles (Property Owner of the Subject Property) for the lot described as PIN#072007755800000 located approximately 400 feet north of the intersection of Assembly Circle and Kentucky Road to Section 501.5 of the Montreat Zoning Ordinance (MZO) to reduce the front setback requirement from 30 feet to 15 feet on the South Carolina side of the Subject Property to construct an Accessory Dwelling Unit.

Created by:

Kayla DiCristina, AICP
Zoning Administrator
Town of Montreat

Created for:

Montreat Board of Adjustment
April 25, 2024

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STAFF REPORT

See **STAFF FINDINGS** (i.e. Kayla DiCristina, AICP, Montreat Zoning Administrator) in addition to applicant-provided materials. **STAFF FINDINGS** contain references to the Montreat Zoning Ordinance (MZO) where noted. Only those findings relevant to the variance requested are included in this staff report.

Application Summary

The following report summarizes the Zoning Administrator's review of an application for a Variance by Richard Giles (Property Owner of the Subject Property) for the lot described as PIN#072007755800000 located approximately 400 feet north of the intersection of Assembly Circle and Kentucky Road to Section 501.5 of the Montreat Zoning Ordinance (MZO) to reduce the front setback requirement from 30 feet to 15 feet on the South Carolina side of the Subject Property to construct an Accessory Dwelling Unit.

Property Summary

Parcel Identifier Number (PIN#): 072007755800000

Address: 426 Kentucky Road
Black Mountain, NC 28711

Owner: Giles William R, Giles Sally Richardson
145 36th Ave S,
Jax Bch, FL, 32250

Applicant: Richard Giles (Property Owner)

Zoning: R-1 Residential District.

Current Land Use: The Subject Property contains an existing single-family dwelling.

Acres: 0.25 acres.



Figure 1: Subject Property Aerial

Public Notice

Staff mailed notice to properties within 250 feet of the Subject Property on **April 11, 2024** (see Figure 2: 250 feet Public Notice for Variance Request). Staff posted the Subject Property on **April 11, 2024**. BOA Hearing: **April 25, 2024.**



Figure 2: 250 feet Public Notice for Variance Request

Variance Request

The Applicant, Richard Giles (Property Owner of the Subject Property), requests that the Board of Adjustment grant a variance to Section 501.5 of the Montreat Zoning Ordinance (MZO) to reduce the front setback requirement from 30 feet to 15 feet on the South Carolina Terrace side of the Subject Property to construct an Accessory Dwelling Unit.

Staff Findings

Subject Property Summary

- The Subject Property is 0.25 acres and currently contains a single-family dwelling. The Applicants intend to construct an Accessory Dwelling Unit.
- The Subject Property abuts South Carolina Terrace to the east and Kentucky Road to the west. Both are public roads maintained by the Town of Montreat.
- The slope of the Subject Property is 31.36 percent.
- There are no floodplains on the Subject Property. There may be a stream on the side of the Subject Property adjacent to Kentucky Road per the 1:24,000 scale (7.5 minute) quadrangle topographic map prepared by the United States Geologic Survey.

Subject Property & Surrounding Lots

Use & Zoning

The Subject Property of the Variance Request is in the R-1 Residential Zoning District (R-1). The existing single-family dwelling is 2,124 square feet and approximately 25 feet in height and was built in approximately 1926 per the Buncombe County Tax Card for the Subject Property. The Applicant seeks to obtain the Variance to construct an Accessory Dwelling Unit. Accessory Dwelling Units require a Special Use Permit in this Zoning District per Section 500 of the MZO, which the Applicant has submitted an application for concurrently with the Variance request. Section 606.13 of the MZO also requires a Special Use Permit for Accessory Buildings, including Accessory Dwelling Units, with a final height taller than 10 feet.

The surrounding properties are zoned R-1. To the north is an existing single-family dwelling on property zoned R-1, to the east is South Carolina Terrace and single-family dwellings beyond on properties zoned R-1, to the west is Kentucky Road with single-family dwellings beyond on properties zoned R-1, and to the south is a single-family dwelling on property zoned R-1. Most of the lots surrounding the subject property are developed, although at least one in either direction does not contain a structure.

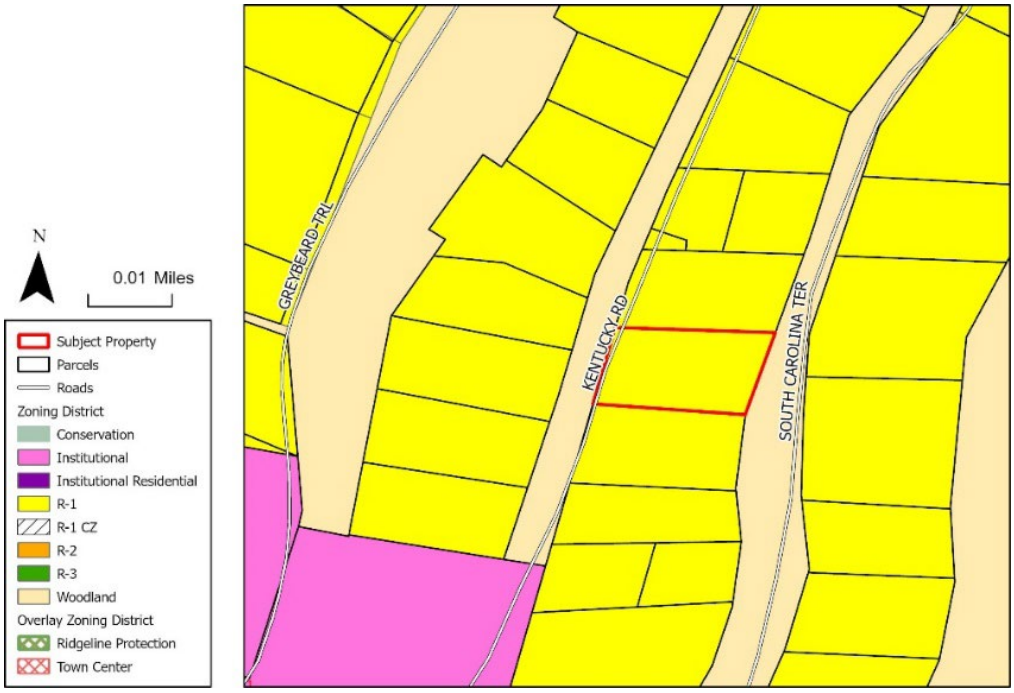


Figure 3: Subject Property and Surrounding Zoning

The Subject Property is an existing lot, and no subdivision activities are proposed with this application. Therefore, lot size requirements do not apply.

The Subject Property is in the R-1 Zoning District and is considered a double frontage lot. Double frontage lots are defined in the MZO as lots that have frontage on two separate streets. The Applicant's proposed Accessory Dwelling Unit is subject to the setback requirements of a double frontage lot in R-1. Additionally, Section 606.14 of the MZO requires that Accessory Buildings, including Accessory Dwelling Units, meet the minimum Setbacks required by the applicable Zoning District. The Applicants' Variance Request is to the front setback requirement per Section 501.5 of the MZO from South Carolina Terrace. The Applicant's proposed Accessory Dwelling Unit intends to meet the required 15-foot side yard setbacks per Section 501.81 of the MZO and the 30-foot setback per Section 501.5 of the MZO from Kentucky Road. The table below shows the required setbacks for R-1 and the requested setback Variance from the Applicant's application. As a note, the Applicant's site plan shows the roof overhang encroaching into the required Side Yard Setback on the northside of the Subject Property. The definition of "Setback Line" in Section 201 of the MZO states that "any attached steps, roof, gutters, or similar fixtures" are permitted to encroach up to four feet into the required Setback.

	Required R-1 Zoning District Setback	Requested Variances
Front (South Carolina Terrace)	30 feet	15 feet
Side (L/R)	15 feet/15 feet	N/A
Front (Kentucky Road)	30 feet	N/A

The Subject Property is 0.25 acres. The average lot size of the properties to the east of the Subject Property (across South Carolina Terrace) is 0.36 acres, to the west of Subject Property (across Kentucky Road) is 0.23 acres, to the south of the Subject Property is 0.27 acres, and to the north of the Subject Property is 0.23 acres. Exhibit A includes a breakdown of individual lot sizes, as well as slope.

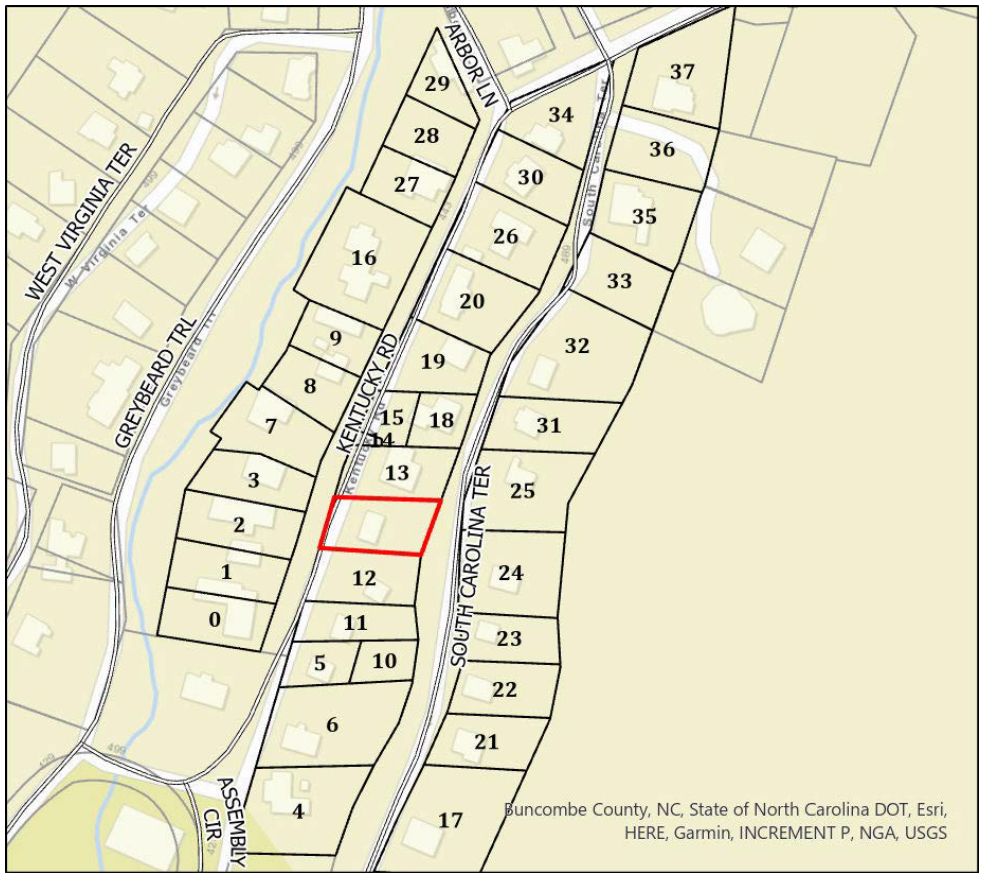


Figure 4: Subject Property and Surrounding Properties

Topography

The slope of the Subject Property, per the Buncombe County Steep Slope Calculator, is 31.36 percent. The Subject Property slopes down from South Carolina Terrace to Kentucky Road with flatter areas on the western side of the Subject Property containing the existing single-family dwelling. The topography of the properties to the east of the Subject Property (across South Carolina Terrace) shows steep increases as one moves eastward away from South Carolina Terrace to the western boundaries of these properties. The average slope of the lots to the east of the subject property, per the Buncombe County Steep Slope Calculator, is 47.04%. On the other hand, the topography of the properties to the east of the Subject Property (across Kentucky Road) are mostly flat. The average slope of the lots to the west of the Subject Property, per the Buncombe County Steep Slope Calculator, is 9.09%. The topography of the lots to the south and north of the Subject Property is similar to the Subject Property. The average slope of the lots to the south and north of the Subject Property, per the Buncombe County Steep Slope Calculator, are 40.14% and

27.83%, respectively. Exhibit A includes a breakdown of the slopes of individual lots, as well as lot size.

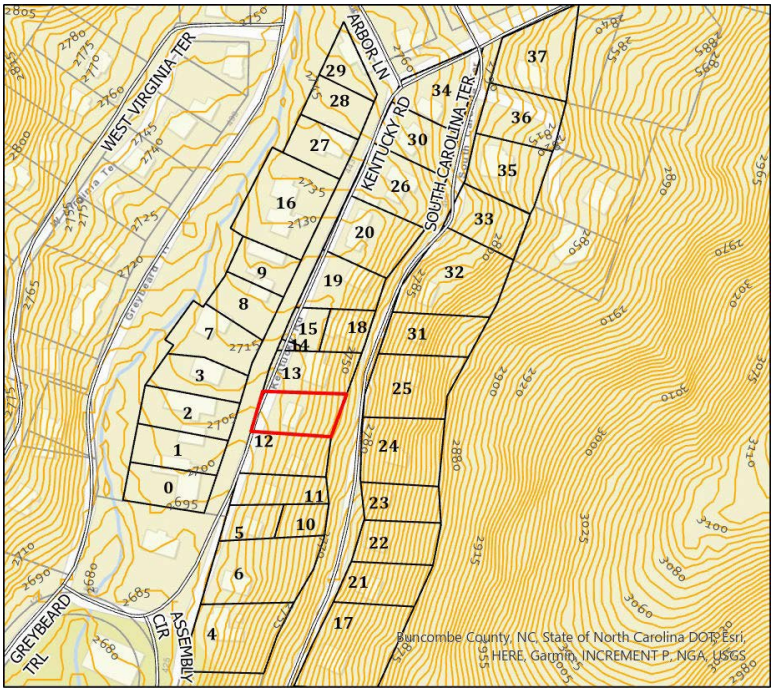


Figure 5: Subject Property and Surrounding Topography

Rights-of-Way

To the east of the Subject Property is South Carolina Terrace. South Carolina Terrace has a variable width right-of-way that is approximately 59 feet wide in front of the Subject Property. The width increases as one moves south through the roadbed to approximately 64 feet south of the Subject Property and decreases as one moves north to about 34 feet above the Subject Property. At about the northern property line of the Subject Property the roadbed of South Carolina Terrace begins to increase in height. Along the eastern boundary of the Subject Property, the roadbed of South Carolina Terrace begins to increase in slope. To the west of the Subject Property is Kentucky Road. Kentucky Road has a uniform 30-foot right-of-way.



Figure 6: Adjacent Rights-of-Way

Streams & Stormwater

There may be a stream on the northwestern corner of the Subject Property. However, this stream is not impacted by the proposed development. This stream appears to impact the development envelopes of the lots to the north of the Subject Property and the access of lots southwest of the Subject Property to Kentucky Road. Per the Town's Public Works Director, Barry Creasman, the area immediately east of the Subject Property on South Carolina Terrace experiences frequent stormwater that flows onto the Subject Property. In the Public Works Director's experience, the Subject Property catches more stormwater than other lots on South Carolina Terrace. It is unclear why this occurs in the right-of-way of South Carolina Terrace.

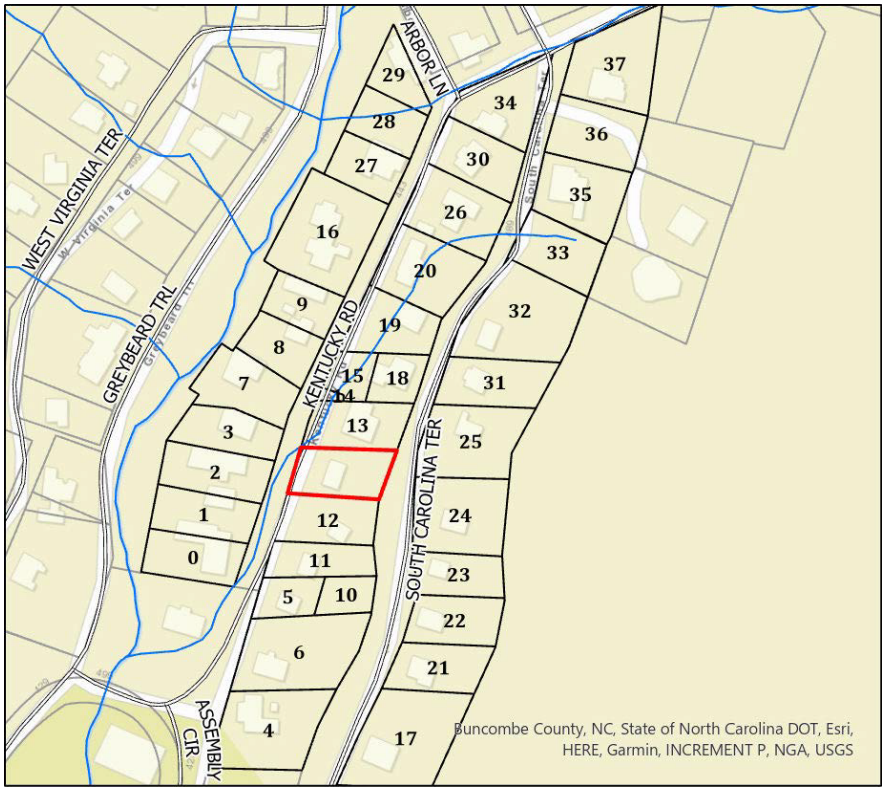


Figure 7: Subject Property and Streams

Post-Construction Stormwater Management Ordinance

As part of the Applicant's overall development plan, the Applicant will manage stormwater generated by the Accessory Dwelling Unit using a system of gutters and downspouts that feed into the existing drainage swale on the Subject Property. The Applicant will also address the need to divert stormwater around and away from the proposed retaining wall at the time of permitting. For purposes of this Variance application, the Applicant's proposed stormwater management system sufficiently details how post-development stormwater run-off will be controlled and managed. Prior to permit issuance, the Applicant will be required to comply with the Town of Montreat's General Ordinance (MGO) Chapter K Article III.

Template Variance Decision Language

The Board is welcome to use the language below to issue a decision on the Variance Request. Prior to making the approval motion, the Board must state the specific findings that lead to the approval of each finding of fact as required by Section 310.42 of the MZO.

Findings of Fact:

1. The Board finds that unnecessary hardship would result from the strict application of the Ordinance because…
2. The Board finds that the hardship results from conditions that are peculiar to the property because…
3. The Board finds that hardship did not result from actions taken by the applicant or the property owner because…
4. The Board finds that the variance is consistent with the spirit, purpose, and intent of the ordinance …
5. The Board finds that the variance requested is the minimum variance that will make possible the requested use of the land because…
6. The Board finds that the variance is not a request to permit a use of land that is not permitted in the applicable Zoning District as the variance request is for…

Motion for Decision: "I move that the Board [*approve/approve with conditions/deny*] the Variance Request VA-2024-01 to Section 501.5 of the Montreat Zoning Ordinance (MZO) to reduce the front setback requirement from 30 feet to 15 feet on the South Carolina Terrace side of the Subject Property to construct an Accessory Dwelling Unit on the Subject Property. [*List any conditions of approval in the motion, if applicable*]

Exhibits

Exhibit A Surrounding Conditions

EXHIBIT A: SURROUNDING CONDITIONS

Parcel No.	PIN	Street Address	Acreage	Structure?	Slope
Subject Property (SP)	72007755800000	426 KENTUCKY RD	0.25	Y	31.36
North of Subject Property					
13	72007768600000	428 KENTUCKY RD	0.26	Y	32.32
14	72007773000000	KENTUCKY RD	0.02	N	30.25
15	72007777300000	430 KENTUCKY RD	0.11	Y	9.34
18	72007874300000	431 SOUTH CAROLINA TER	0.14	Y	52.59
19	72007883200000	432 KENTUCKY RD	0.26	Y	26.88
20	72007899000000	434 KENTUCKY RD	0.31	Y	28.4
26	72007993900000	436 KENTUCKY RD	0.39	Y	24.24
30	72008906800000	438 KENTUCKY RD	0.26	Y	25.05
34	72018010600000	440 SOUTH CAROLINA TER	0.31	Y	21.41
South of Subject Property					
4	72007614800000	412 ASSEMBLY CIR	0.44	Y	44.97
5	72007637900000	420 KENTUCKY RD	0.14	Y	33.32
6	72007639000000	416 KENTUCKY RD	0.49	Y	39.51
10	72007736900000	SOUTH CAROLINA TER	0.11	N	48.94
11	72007742500000	422 KENTUCKY RD	0.21	Y	38.04
12	72007753100000	424 KENTUCKY RD	0.25	Y	36.04
East of Subject Property					
16	72007793600000	435 KENTUCKY RD	0.51	Y	10.71
17	72007815700000	408 SOUTH CAROLINA TER	0.53	Y	55.1
21	72007920800000	412 SOUTH CAROLINA TER	0.25	Y	59.68
22	72007933500000	414 SOUTH CAROLINA TER	0.25	Y	57.1
23	72007944200000	416 SOUTH CAROLINA TER	0.22	Y	60.17
24	72007954200000	420 SOUTH CAROLINA TER	0.38	Y	61.79
25	72007966300000	424 SOUTH CAROLINA TER	0.40	Y	60.97
31	72017070200000	426 SOUTH CAROLINA TER	0.29	Y	59.15
32	72017083400000	428 SOUTH CAROLINA TER	0.53	Y	51.84
33	72017099300000	SOUTH CAROLINA TER	0.25	N	40.01
35	72018103200000	434 SOUTH CAROLINA TER	0.32	Y	32.59
36	72018115200000	SOUTH CAROLINA TER	0.29	N	28.71
37	72018128200000	438 SOUTH CAROLINA TER	0.40	Y	33.65
West of Subject Property					
0	72007542500000	421 KENTUCKY RD	0.25	Y	10.08
1	72007554200000	423 KENTUCKY RD	0.25	Y	6.52
2	72007555800000	425 KENTUCKY RD	0.27	Y	9.61
3	72007567500000	421 KENTUCKY RD	0.24	Y	9.38
7	72007670200000	429 KENTUCKY RD	0.30	Y	10.94
8	72007675800000	431 KENTUCKY RD	0.24	Y	8.74
9	72007689500000	433 KENTUCKY RD	0.19	Y	9.48
27	72008709600000	439 KENTUCKY RD	0.21	Y	6.85
28	72008812300000	KENTUCKY RD	0.20	N	7.66
29	72008824200000	443 ARBOR LN	0.15	Y	11.63

	Average	
	Lot Size	Slope
North of SP	0.23	27.83
South of SP	0.27	40.14
East of SP	0.36	47.04
West of SP	0.23	9.09

TOWN OF MONTREAT
NORTH CAROLINA

VA-2024-01
Variance Request

PIN # 072007755800000
Montreat Board of Adjustment
April 25, 2023

1

1

Subject Property Overview & Summary

PIN: 072007755800000

Address: 426 Kentucky Rd
Black Mountain, NC 28711

Owner: Giles William R, & Giles Sally Richardson
145 36th Ave S,
Jax Bch, FL, 32250

Size: 0.25 acres

Current Zoning and Use:
R-1 Zoning District; existing single-family dwelling





2

2

Application Overview

Applicant: Richard Giles (Property Owner)

Application Summary:

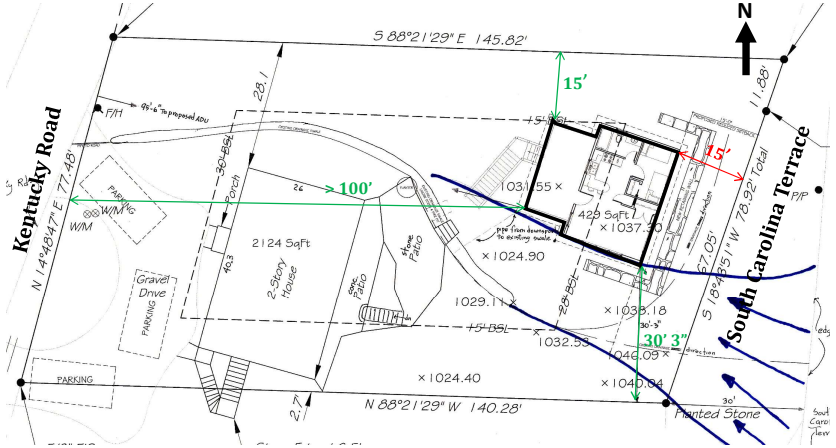
- Variance to Section 501.5 MZO reduce the front setback required on the Subject Property from 30 feet to 15 feet from South Carolina Terrace to construct an Accessory Dwelling Unit.
- A Special Use Permit application has been submitted concurrently with this application to permit the use in the Subject Property's Zoning District.

	Required R-1 Zoning District Setback	Requested Variances
Front (South Carolina Terrace)	30 feet	15 feet
Side (L/R)	15 feet/15 feet	N/A
Front (Kentucky Road)	30 feet	N/A

3

3

Application Overview



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4

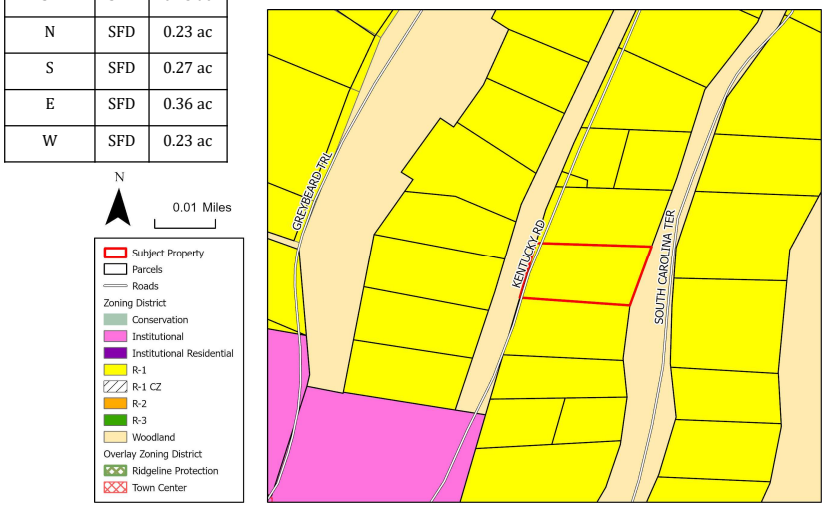




Site Pictures

5

Direction	Use	Av. Size
SP	SFD	0.25 ac
N	SFD	0.23 ac
S	SFD	0.27 ac
E	SFD	0.36 ac
W	SFD	0.23 ac

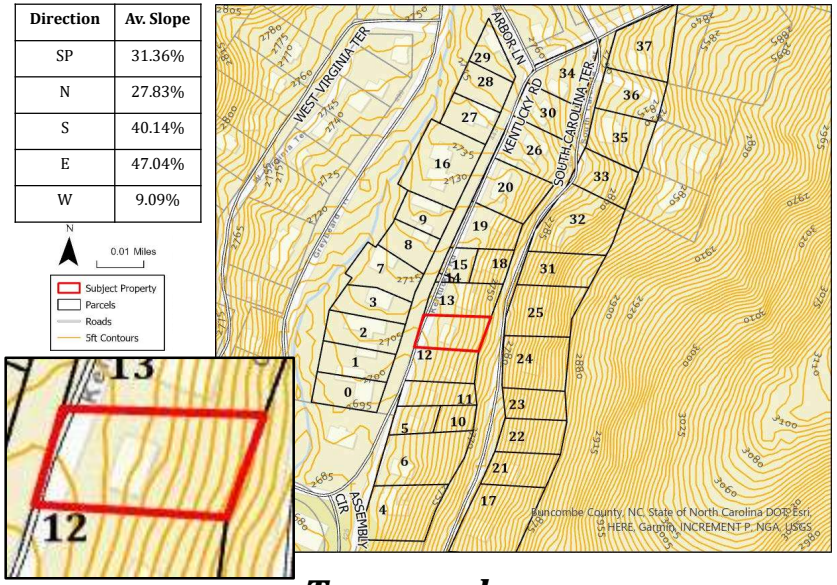


Zoning & Land Use

6

6

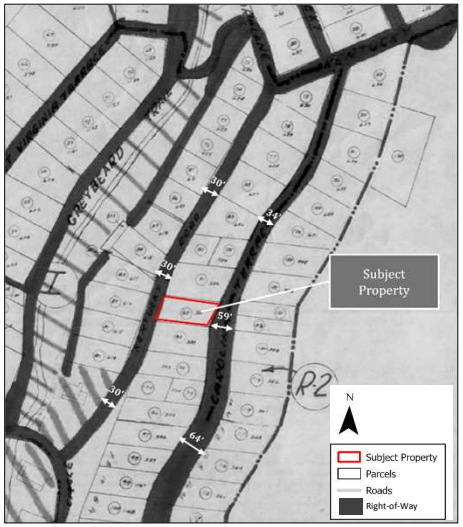
Direction	Av. Slope
SP	31.36%
N	27.83%
S	40.14%
E	47.04%
W	9.09%



Topography

7

7







Rights-of-Way

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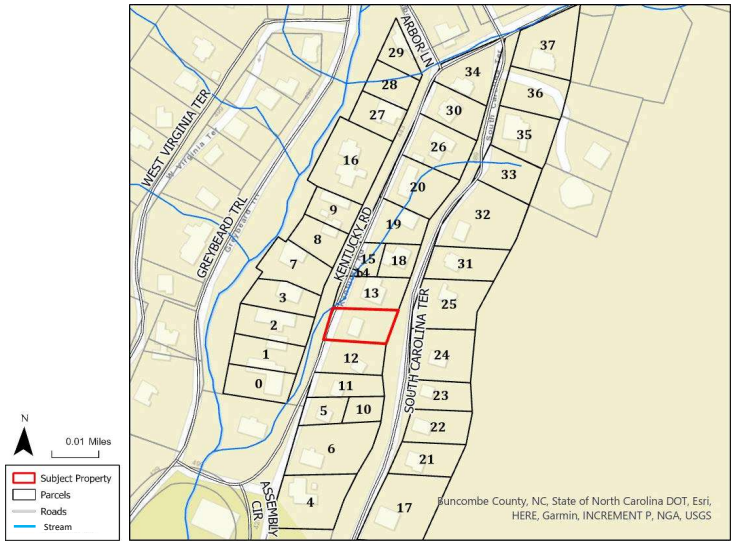

Streams & Stormwater

9

9

Board of Adjustment Decision

The Board shall grant a Variance upon showing of **all** of the following:

310.42(A) 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.

310.42(B) 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

310.42(C) 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.

310.42(D) The Variance is consistent with the spirit, purpose and intent of the Ordinance such that public safety is secured and substantial justice is achieved.

310.42(E) The Variance requested is the minimum Variance that will make possible the requested Use of the land, Building or Structure.

310.42(F) The Variance is not a request to permit a Use of land, Building or Structure which is not permitted in the applicable Zoning District.

As a note… If a Variance is granted it shall be the least possible deviation from the requirements of this Ordinance. In granting any Variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Setback Variances are granted for the development shown on the site plan included in the application.

10

10

TOWN OF MONTREAT
NORTH CAROLINA

SPECIAL USE PERMIT APPLICATION

Town of Montreat Planning and Zoning
1210 Montreat Road, Black Mountain, NC 28711 | (828) 669-8002
REQUIRED FEE: $300.00 (CASH OR CHECK)

APPLICANT INFORMATION

APPLICANT NAME: Rick & Sally Giles TELEPHONE: 904.219.0475
MAILING ADDRESS: 145 36TH Av S CITY: Jax Bch STATE: FL ZIP: 32250
EMAIL: rgiles@giles-mciver.com

PROPERTY INFORMATION

PLEASE NOTE: *A RECORDED SURVEY MAP, DEED, OR OFFER TO PURCHASE MAY BE REQUIRED AT THE ZONING ADMINISTRATOR'S DISCRETION.*

ADDRESS: 426 Kentucky rd CITY: Montreat STATE: NC ZIP:
PIN# : 0720077550 TOTAL ACREAGE: .25 FLOODPLAIN: ☐ YES ☒ NO
ZONING: SELECT BELOW R1 OTHER: OVERLAY ZONING: SELECT BELOW
PROPERTY OWNER: same as above TELEPHONE: 904.219.0475
MAILING ADDRESS: same as above

PROPOSED LAND USE

TYPE OF LAND USE: ☒ Residential ☐ Non-Residential ☐ Other
DESCRIPTION OF PROPOSED DEVELOPMENT: ADU. 468SF single story dwelling with one bedroom, kitchen, full bath and living room, and covered front porch.

FINDINGS OF FACT

THE TOWN OF MONTREAT'S BOARD OF ADJUSTMENT WILL RENDER A DECISION ON THIS APPLICATION AT A PUBLIC HEARING. IN APPROVING THE REQUEST, THE BOARD OF ADJUSTMENT WILL EXAMINE THE APPLICATION AND MUST FIND THAT THE FOLLOWING SIX ELEMENTS ARE SATISFIED IN THE PROPOSAL:

MZO 310.621 *The use will not be detrimental to or endanger the public health, safety or general welfare if located where proposed and developed according to the plan as submitted and approved.*

MZO 310.622 *The use meets or will meet all the required and applicable development standards and conditions of the Town of Montreat of the zoning district in which the subject property is located (including without limitation all development standards, conditions, and requirements related to utilities, parking, access, and stormwater drainage).*

MZO 310.623 *The use will not substantially diminish and impair the value of any property any portion of which is located within two hundred fifty feet (250') of the boundary of the subject property.*

MZO 310.624 *The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will not be injurious to the use and enjoyment of other property, for the purposes already permitted, within the area in which it is located.*

MZO 310.625 *The location and character of the use, if developed according to the plan as submitted and approved, will be in general conformity with the adopted policies and plans, including the comprehensive plan of the Town of Montreat.*

MZO 310.626 *Adequate measures have been taken or will be taken to provide ingress and egress so designed as to minimize congestion in the public streets.*

ATTACHMENTS

THIS APPLICATION MUST BE ACCOMPANIED BY THE FOLLOWING ATTACHMENTS:

1. A response to the six findings listed above and found in the Montreat Zoning Ordinance Sections 310.621 through 310.626.
2. A to scale site plan showing the existing property conditions, the proposed locations, dimensions, and setbacks of any structure to be built or modified, existing and proposed impervious areas, proposed areas of disturbance, and parking areas.

SIGNATURES AND ACKNOWLEDGEMENT

I, Rick Giles, hereby certify that all of the information set forth above is true and accurate to the best of my knowledge.

Signature of Applicant — Date: 3.27.24

Rick Giles
Printed Name of Applicant

OFFICE USE ONLY

☐ Complete ☐ Incomplete

Zoning Administrator Signature — *Date*

Printed Name of Zoning Administrator

Fee:_____ Paid: ☐ Yes ☐ No Payment Method:_____

Scheduled Board of Adjustment Meeting Date:_____

Type: CONSOLIDATED REAL PROPERTY
Recorded: 9/12/2017 2:44:34 PM
Fee Amt: $546.00 Page 1 of 8
Revenue Tax: $520.00
Buncombe County, NC
Drew Reisinger Register of Deeds

BK 5589 PG 431 - 438

There are no delinquent taxes that are a lien the parcel(s) described in the deed which the Buncombe County Tax Collector is charged with collecting.
09-12-2017 Date
Nayleen Walker Deputy Tax Collector

Excise Tax $520.00	Recording Time, Book and Page
Tax Map No.	Parcel Identifier No. 0720-07-7558

Mail after recording to **Ronald E. Sneed, P.A., Box 47** 17-301.PP
This instrument was prepared by **William H. Christy, a licensed North Carolina Attorney**. Delinquent taxes, if any, are to be paid by the closing attorney to the county tax collector upon disbursement of closing proceeds. This deed was prepared at the request of the Grantor based upon information provided by the Grantor, and without title examination, survey, or verification of property description.

NORTH CAROLINA
GENERAL WARRANTY DEED

THIS DEED made this 11 day of September, 2017, by and between

GRANTOR

WILLIAM EVERARD WRIGHT, JR., Individually and as Ancillary Executor of the Estate of (Lella) Claire Carter Wright, Buncombe County Estate File No. 17 E 1122 and Spouse, ALICE M. WRIGHT, ROXANNE WRIGHT STOEHR and Spouse, JAN STOEHR, CARTER BAXTER WRIGHT and Spouse, STEPHANIE T. WRIGHT and DAVID ROBERTS WRIGHT and Spouse, JANE MCDOW WRIGHT
755 Magazine Street
New Orleans, LA 70130

GRANTEE

WILLIAM R. GILES, JR. and Spouse, SALLY RICHARDSON GILES
145 36th Avenue S.
Jacksonville Beach, FL 32250

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the Town of Montreat, Black Mountain Township, Buncombe County, North Carolina, and more particularly described as follows:

SEE ATTACHED DESCRIPTION

Submitted electronically by "Ronald E. Sneed, P.A."
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Buncombe County Register of Deeds.

RECORDED ELECTRONICALLY
ID 5589/431 County Buncombe
Date 9/12/17 Time 2:44pm
simplifile www.simplifile.com 800.460.5657

Excise Tax $520.00	Recording Time, Book and Page
Tax Map No.	Parcel Identifier No. 0720-07-7558

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WILLIAM EVERARD WRIGHT, JR., Individually and as Ancillary Executor of the Estate of (Lella) Claire Carter Wright, Buncombe County Estate File No. 17 E 1122 and Spouse, ALICE M. WRIGHT, ROXANNE WRIGHT STOEHR and Spouse, JAN STOEHR, CARTER BAXTER WRIGHT and Spouse, STEPHANIE T. WRIGHT and DAVID ROBERTS WRIGHT and Spouse, JANE MCDOW WRIGHT
755 Magazine Street
New Orleans, LA 70130

GRANTEE

WILLIAM R. GILES, JR. and Spouse, SALLY RICHARDSON GILES
145 36th Avenue S.
Jacksonville Beach, FL 32250

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the Town of Montreat, Black Mountain Township, Buncombe County, North Carolina, and more particularly described as follows:

SEE ATTACHED DESCRIPTION

All or a portion of the property herein conveyed ____ includes or _X_ does not include the primary residence of a Grantor.

The property hereinabove described was acquired by Grantors by the Last Will and Testament of (Lella) Claire Carter Wright, Buncombe Co. Estate File No. 17-E-1122.

A map showing the above described property is recorded in Plat Book 154, Page 1, 2 and 3, and Plat Book 16 at Page 95.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomever except for the exceptions hereinafter stated.

Title to the property hereinabove described is hereby conveyed subject to all valid and subsisting restrictions, reservations, covenants, conditions, rights of ways and easements properly of record, if any, ad valorem taxes for the current year and subsequent years, and any local, county, state, or federal laws, ordinances, or regulations relating to zoning, environment, subdivision, occupancy, use, construction, or development of the subject property, including existing violations of said laws, ordinances, or regulations.

IN WITNESS WHEREOF, the Grantors have hereunto set their hands and seals, or, if corporate, has caused this Deed to be executed by its duly authorized officers and its seal to be hereunto affixed, the day and year first above written.

William Everard Wright (SEAL)

WILLIAM EVERARD WRIGHT, JR.
as Ancillary Executor of the Estate of (Lella) Claire Carter Wright, Buncombe County Estate File 17 E 1122

William Everard Wright Jr (SEAL)

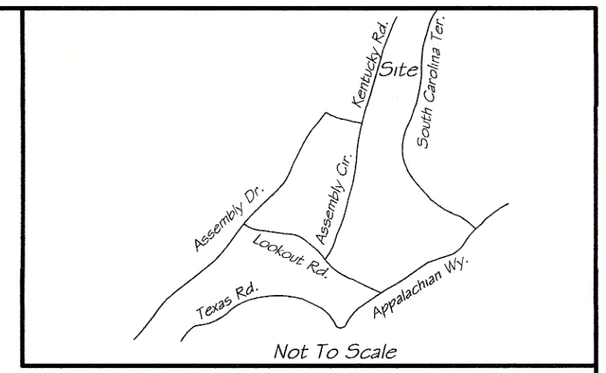
WILLIAM EVERARD WRIGHT, JR., Individually

Alice M. Wright (SEAL)

ALICE M. WRIGHT

Plat North
P.B. 16, Pg. 95

331
0.25 Acre
Area by Coordinate Computation

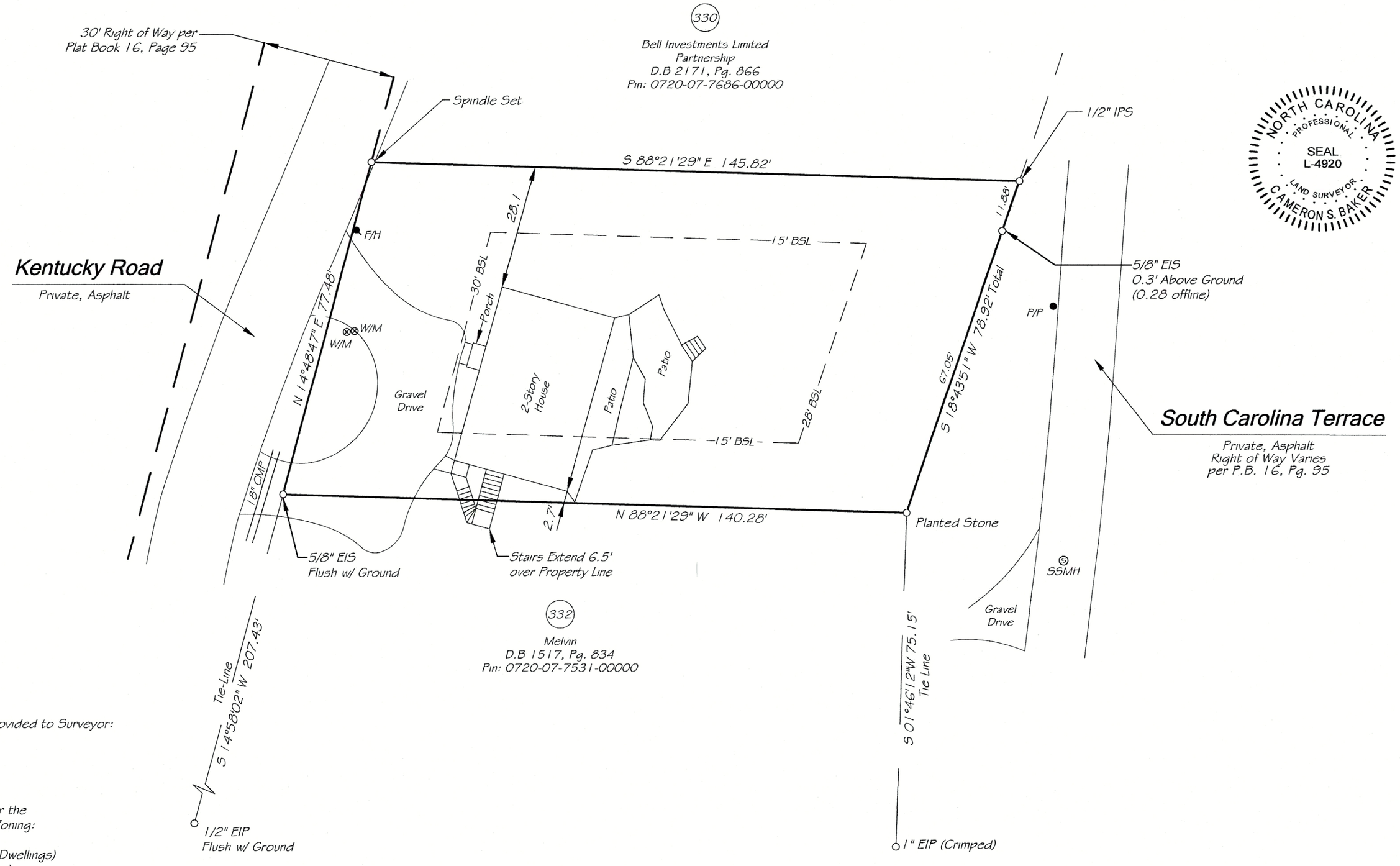


Vicinity Map

I, Cameron S. Baker, certify that this plat was drawn under my supervision from an actual survey under my supervision, (deed description recorded in Book 5589, Page 431 ,) that the ratio of precision as calculated by latitudes and departures does not exceed 1:10,000 and that this map was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, license number and seal this 25 day of JAN, 2024.

NORTH CAROLINA PROFESSIONAL SEAL L-4920 LAND SURVEYOR CAMERON S. BAKER

Professional Land Surveyor No. L-4920



Building Setbacks as provided to Surveyor:
Front: 30'
Side: 15'
Rear: 28'

Building Setbacks as per the
Town of Montreat R-1 Zoning:
Front: 30'
Side: 15' (Single-family Dwellings)
25' (All Other Uses)
Rear: 35'

Notes:
1. Property is subject to all easements, restrictions and right of ways of record.
2. The locations of underground utilities are based on above-ground structures and record drawings provided to the surveyor. Locations of underground utilities/structures may vary from locations shown hereon. Additional buried utilities/structures may be encountered.
3. Surveyor has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate title search may disclose.
4. The certification of survey and plat was prepared for the entity named in the title block hereon and does not extend to any other entity, unless recertified by the professional land surveyor.
5. All miscellaneous survey related materials, including but not limited to, project plans, deed and ROW research, maps, field notes and data, survey reports, record title report, calculations, working drawings, estimates, and other materials acquired and/or prepared by the surveyor as instruments of service shall remain the property of the surveyor and assigns.
6. This drawing is not valid unless the original signature and stamp are attached. Any reproduction or variance to this survey by electronic or any other means are not to be considered issued by the professional surveyor.
7. Property is currently zoned R-1 as per the Town of Montreat.
8. Property is located in Zone X (Minimal Flood Risk) as per FRIS Map Panel 0720, Map #3710072000J effective date 01/06/2010

20 0 20 40 60
GRAPHIC SCALE – FEET

Legend:
ECM = Existing Concrete Monument
EIP = Existing Iron Pipe
EIS = Existing Iron Stake
IPS = Iron Pipe Set
O = Unmarked Point, Unless Otherwise Noted
ROW/MON = Right of Way Monument
ROW = Right of Way
RRS = Railroad Spike
CMP = Corrugated Metal Pipe
F/H = Fire Hydrant
P/P = Power Pole
SSMH = Sanitary Sewer Manhole
W/M = Water Meter

Being all of Lot 331 of the
Mountain Retreat Association Subdivision
recorded at Plat Book 16, Page 95

Map of boundary Survey for

William R. Giles, Jr.
and
Sally Richardson Giles

-Owners-
D.B. 5589, Pg. 431
Pin: 0720-07-7558-00000

Black Mountain Township | Buncombe County, NC

ASSOCIATED LAND SURVEYORS
& PLANNERS PC.
P.O. BOX 578 * HORSE SHOE, NC 28742
(828) 890-3507 NC BUSINESS LICENSE NO. C-2774

SCALE: 1 Inch = 20 Feet | DATE: January 9, 2024
JOB NO.: S-23-717 | DRAWN BY: PGA IntelliCAD 8.0

Town of Montreat Special Use Permit Application Findings of Fact

Location: 426 Kentucky Road

Owner: Rick and Sally Giles

Proposed Accessory Dwelling Unit (ADU)

Please find the following responses to fact

MZO 310.621 The proposed Accessory Dwelling Unit will provide flexible housing for the 0wner family and located where proposed will not be detrimental to or endanger the public health, safety or general welfare.

MZO 310.622

- **a.** The proposed ADU will be located on the rear of the residential lot containing an existing single family principal structure and no other accessory structures.
- **b.** The proposed ADU will not exceed the height of the principal structure.
- **c.** The proposed ADU meets appropriate side and Kentucky Rd front setbacks, and a variance request is proposed for the South Carolina Terrace front setback. (rear of lot)
- **d.** The proposed single story ADU, at 665 SF including heated space and covered porch, is subordinate to the 2-story principal structure at 1048 SF 2nd floor and 484 SF 1st floor.
- **e.** The proposed ADU will contain the kitchen and bath requirements set out in the zoning ordinance.
- **f.** The existing circular drive can park up to 4 large vehicles.
- **g.** The proposed ADU will not be a manufactured housing unit.
- **h.** The proposed ADU contains only one small bedroom.
- **i.** The proposed ADU will make use of existing utilities and parking access.
- **j.** The proposed ADU location is the only placement on the property that allows for the large stormwater runoff from the uphill housing and South Carolina Terrace Street runoff. The proposed structure will make use of the existing swale that was installed to handle this runoff. All roof stormwater will be guttered and piped to this swale.

MZO 310.623 The proposed ADU is buffered by trees and vegetation on each side and is substantially downhill from the neighbors on South Carolina Terrace, all of whom are located across the street from 426 Kentucky and so not immediately joined to this property. We are not proposing to use South Carolina Terrace for any vehicular parking, diminishing that use by those neighbors and are not diminishing any views or other values.

MZO 310.624 The proposed ADU will match the character and look of the existing principal home, is located in the logical site location for tree cover and avoiding stormwater runoff and does not diminish any views or other enjoyment of other property.

MZO 310.625 As outlined above, the proposed ADU conforms in every way to the policies and plans of the comprehensive plan of the Town.

MZO 310.626 The existing drive will remain the only ingress or egress to the lot causing no public street congestion.

330

Bell Investments Limited
Partnership
D.B 2171, Pg. 866
Pin: 0720-07-7686-00000

ay per
ge 95

Spindle Set

1/2" IPS

S 88°21'29" E 145.82'

95'-6" To proposed ADU

F/H

28.1

11.88'

15' BSL

EXISTING DRAINAGE SWALE

PAVED ROAD

Kentucky Rd

N 14°48'47" E 77.48'

PARKING

W/M

W/M

30' BSL

Porch

26

40.3

2124 SqFt

2-Story House

PLANTER

EXISTING DRAINAGE SWALE DIVERTER STRIP

PROPOSED REDUCED SETBACK

15'-0"

1031.55 ×

429 SqFt

× 1037.30

NEW RETAINING WALL

DRAINAGE direction

pipe from downspout to existing swale

× 1024.90

Stone Patio

Conc. Patio

4 dn

1029.11 ×

28' BSL

× 1038.18

30'-3"

15' BSL

× 1032.53

EXISTING DRAINAGE direction

1046.09 ×

× 1040.04

× 1024.40

S 18°48'51" W 78.92' Total

67.05'

5/8" EIS
0.3' Above Ground
(0.28 offline)

P/P

South C

Pri
Right
per F

edge of asphalt

18" CMP

PARKING

2.7'

N 88°21'29" W 140.28'

30'

Planted Stone

South Carolina Terrace

SSMH

5/8" EIS
Flush w/ Ground

Stairs Extend 6.5'
over Property Line

Gravel Drive

Tie-Line
S 14°58'02" W 207.43'

S 01°46'12" W 75.15'
Tie Line

332

Melvin
D.B 1517, Pg. 834
Pin: 0720-07-7531-00000

Square footage - existing home 1st floor 484 sf
1st floor crawl 569 sf
1st floor porch 24 sf
2nd floor 1048 sf

ADU covered porch 197 sf
1st floor 468 sf
665 sf

Proposed Impervious - ADU 665 sf
Stone wall 190 sf
Total 855 sf

PRELIMINARY- NOT FOR CONSTRUCTION

PRELIMINARY- NOT FOR CONSTRUCTION

HURT ARCHITECTURE & PLANNING P.A.

101 MIDLAND AVENUE
BLACK MOUNTAIN NC 28711
PHONE 828.669.1750
FAX 828.669.1762
INFO@HURTARCHITECTS.COM
WWW.HURTARCHITECTS.COM

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AN ACCESSORY COTTAGE FOR THE

GILES RESIDENCE

426 KENTUCKY ROAD

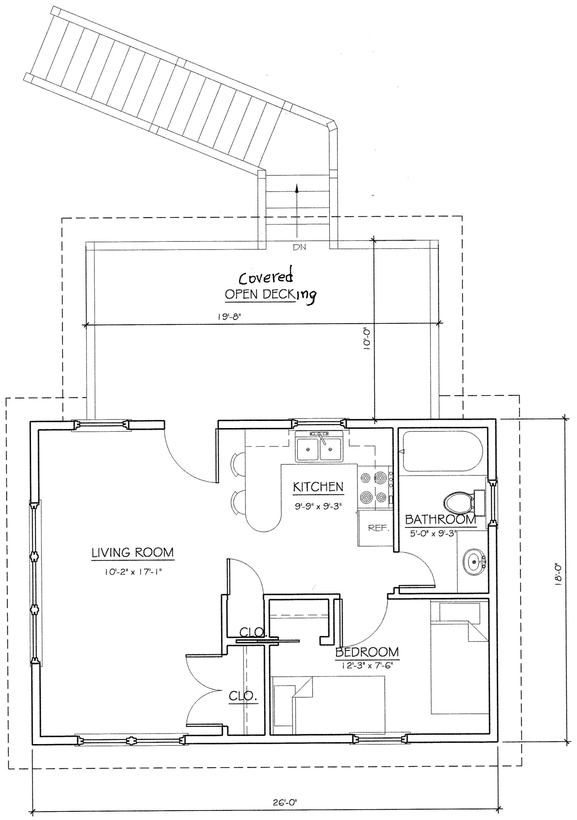
MONTREAT, NORTH CAROLINA

DRAWING NAME: Architectural Site Plan

DATE: March 18, 2024

AS

SCALE: 1/8" = 1'-0"



1 / A-1 Preliminary Floor Plan

Scale: 1/4" = 1'-0"

AREA: 429 SqFt interior
468 total

PRELIMINARY- NOT FOR CONSTRUCTION

HURT
ARCHITECTURE & PLANNING P.A.

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MIDLAND
AVENUE

BLACK
MOUNTAIN
NC 28711

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PRELIMINARY- NOT FOR CONSTRUCTION

AN ACCESSORY COTTAGE FOR THE

GILES RESIDENCE

426 KENTUCKY ROAD

MONTREAT, NORTH CAROLINA

DRAWING NAME: Floor Plan

DATE: March 18, 2024

A-1

SCALE: 1/4" = 1'-0"

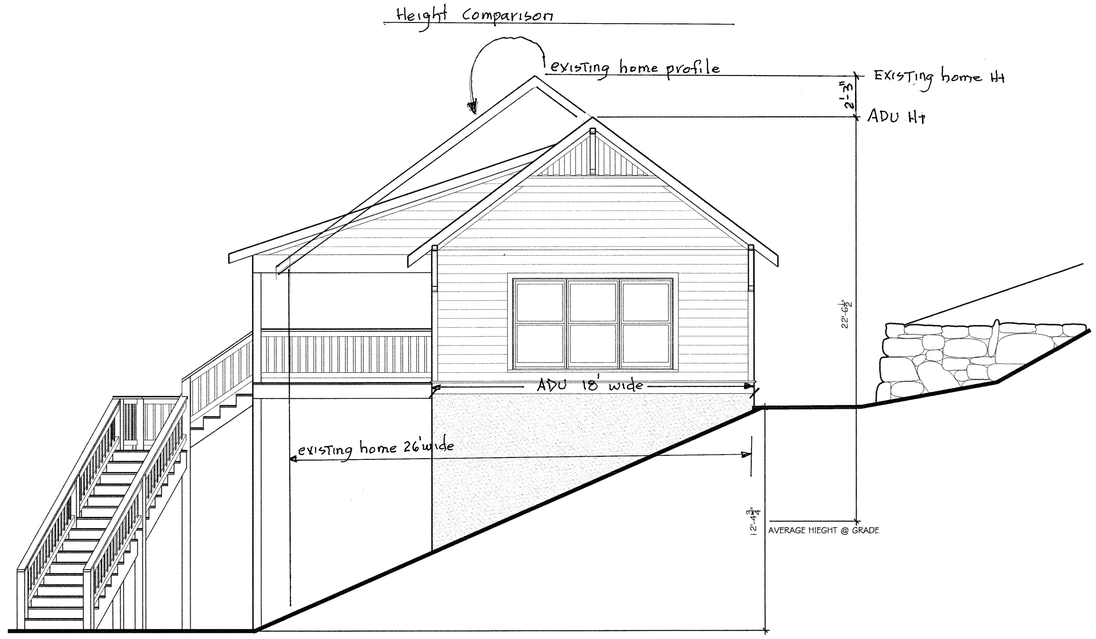
PRELIMINARY- NOT FOR CONSTRUCTION

PRELIMINARY- NOT FOR CONSTRUCTION



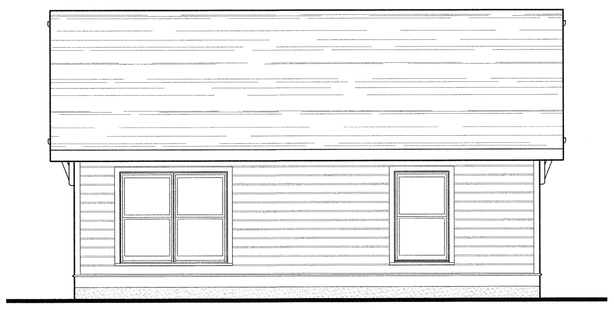
1 / A-2 Preliminary Front Elevation

Scale: 1/4" = 1'-0"



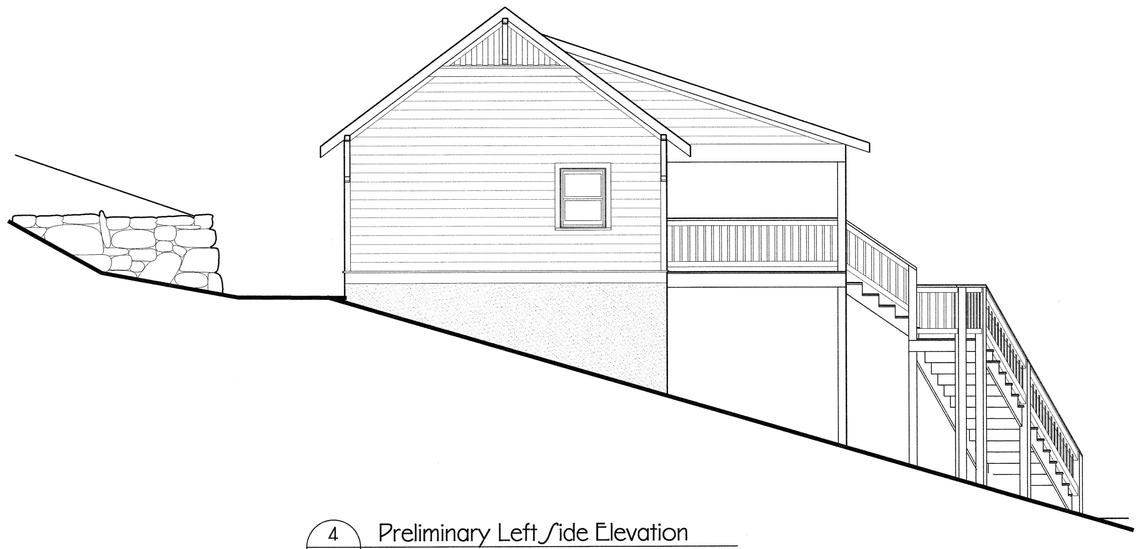
2 / A-2 Preliminary Right Side Elevation

Scale: 1/4" = 1'-0"



3 / A-2 Preliminary Rear Elevation

Scale: 1/4" = 1'-0"



4 / A-2 Preliminary Left Side Elevation

Scale: 1/4" = 1'-0"

PRELIMINARY- NOT FOR CONSTRUCTION

PRELIMINARY- NOT FOR CONSTRUCTION

HURT
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PRELIMINARY- NOT FOR CONSTRUCTION

AN ACCESSORY COTTAGE FOR THE

GILES RESIDENCE

426 KENTUCKY ROAD

MONTREAT, NORTH CAROLINA

DRAWING NAME: Prelim. Elevations

DATE: March 18, 2024

A-2

SCALE: 1/4" = 1'-0"

TOWN OF MONTREAT
P. O. Box 423, Montreat, NC 28757
Tel: (828) 669-8002 | Fax: (828) 669-3810
www.townofmontreat.org

Staff Report
SUP-2024-01

Special Use Permit Request (SUP-2024-01) - A Special Use Permit to allow a 468-square-foot Accessory Dwelling Unit with a final height taller than ten feet submitted by Richard Giles (Property Owner) for the lot described as PIN#072007755800000 located approximately 400 feet north of the intersection of Assembly Circle and Kentucky Road on property in the R-1 Residential Zoning District.

Created by:

Kayla DiCristina, AICP
Zoning Administrator
Town of Montreat

Created for:

Montreat Board of Adjustment
April 25, 2024

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STAFF REPORT

See **STAFF FINDINGS** made by Kayla DiCristina, AICP ("Zoning Administrator") in addition to Applicant-provided materials. **STAFF FINDINGS** contain references to the Montreat Zoning Ordinance ("MZO") where noted. Only those findings relevant to the Special Use Permit requested are included in this staff report.

Application Summary

The following report summarizes the Zoning Administrator's review of an application for a Special Use Permit to allow a 468-square-foot Accessory Dwelling Unit with a final height taller than ten feet submitted by Richard Giles (Property Owner) for the lot described as PIN#072007755800000 located approximately 400 feet north of the intersection of Assembly Circle and Kentucky Road on property in the R-1 Residential Zoning District. The MZO requires a Special Use Permit in the R-1 Residential Zoning District ("R-1") for Accessory Dwelling Units per Section 500 of the MZO. A Special Use Permit is also required for Accessory Buildings, including Accessory Dwelling Units, with final heights taller than ten feet per Section 606.13 of the MZO.

Subject Property Summary

Parcel Identifier Number (PIN#): 072007755800000

Address: 426 Kentucky Road
Black Mountain, NC 28711

Owner: Giles William R, Giles Sally Richardson
145 36th Ave S,
Jax Bch, FL, 32250

Applicant: Richard Giles (Property Owner)

Zoning: R-1 Residential District.

Current Land Use: The Subject Property contains an existing single-family dwelling.

Acres: 0.25 acres.



Figure 1: Subject Property Aerial

Public Notice

Staff mailed notice to properties within 250 feet of the Subject Property on **April 11, 2024** (see Figure 2: 250 feet Public Notice for Variance Request). Staff posted the Subject Property on **April 11, 2024**. BOA Hearing: **April 25, 2024.**



Figure 2: 250 feet Public Notice for Variance Request

Staff Findings

Subject Property Summary

- The Subject Property is 0.25 acres and currently contains a single-family dwelling. The Applicants intend to construct an Accessory Dwelling Unit.
- The Subject Property abuts South Carolina Terrace to the east and Kentucky Road to the west. Both are public roads maintained by the Town of Montreat.
- The slope of the Subject Property is 31.36 percent.
- There are no floodplains on the Subject Property. There may be a stream on the side of the Subject Property adjacent to Kentucky Road per the 1:24,000 scale (7.5 minute) quadrangle topographic map prepared by the United States Geologic Survey.

Use & Zoning

The Subject Property currently contains a single-family dwelling. Single-family dwellings are permitted by right in R-1. The existing single-family dwelling is 2,124 square feet, approximately 25 feet in height, and was built in approximately 1926 per the Buncombe County Tax Card for the Subject Property. The Applicant submitted a Special Use Permit application to construct an Accessory Dwelling Unit on the eastern side of the Subject Property. Section 500 of the MZO requires a Special Use Permit for Accessory Dwelling Units in R-1. Section 606.13 of the MZO also requires a Special Use Permit for Accessory Buildings, including Accessory Dwelling Units, with a final height taller than 10 feet. The Accessory Dwelling Unit is proposed to be 468 square feet in size and have a final height of 22 feet 6.5 inches. The surrounding properties are zoned R-1. To the north is an existing single-family dwelling on property zoned R-1, to the east is South Carolina Terrace and single-family dwellings beyond on properties zoned R-1, to the west is Kentucky Road with single-family dwellings beyond on properties zoned R-1, and to the south is a single-family dwelling on property zoned R-1.

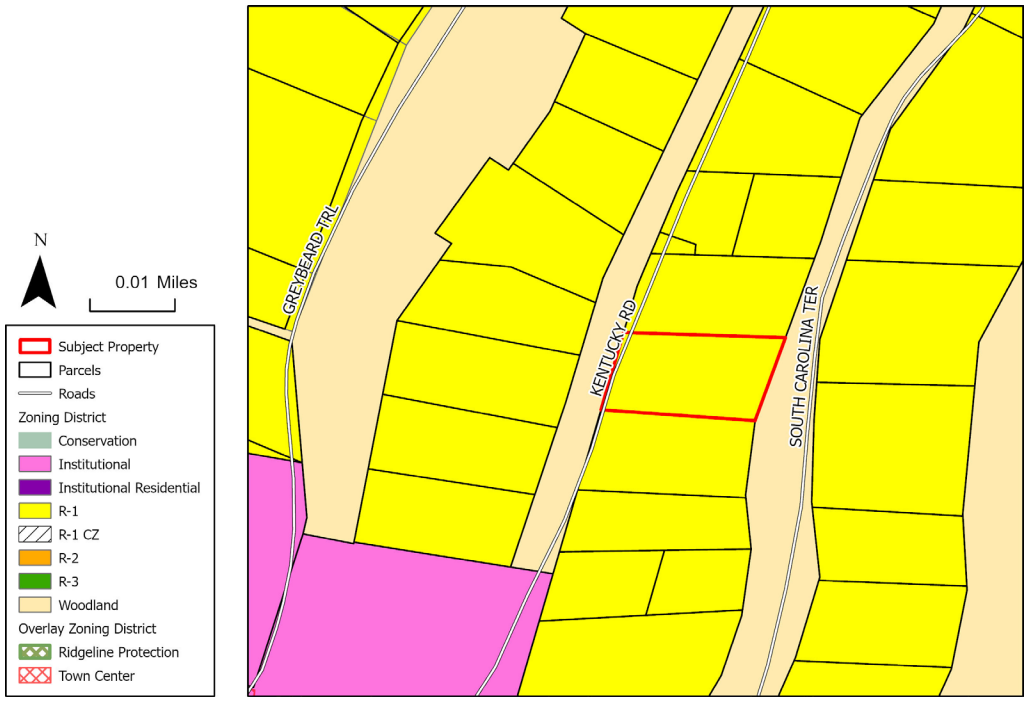

Figure 3: Subject Property Zoning

Comprehensive Plan

The Town of Montreat's comprehensive plan, *Montreat Tomorrow,* does not contain a future land use map. The following vision in *Montreat Tomorrow* may be relevant to this application:

***Development**: Montreat will be a community that respects buildings with historic value, encourages new development to consider the surrounding architecture, and strives for resilience in the face of a changing climate.*

Setbacks and Lot Size

The Subject Property is an existing Lot, and no subdivision activities are proposed with this application. Therefore, lot size requirements do not apply.

The Subject Property is in the R-1 Zoning District and is considered a double frontage lot. Double frontage lots are defined in the MZO as lots which have frontage on two separate streets. The Applicant's proposed Accessory Dwelling Unit is subject to the setback requirements of a double frontage lot in R-1. Additionally, Section 606.14 of the MZO requires that Accessory Buildings, including Accessory Dwelling Units, meet the minimum Setbacks required by the applicable Zoning District. The table below shows the required setbacks for R-1 and the proposed setbacks from the Applicant's application. The Applicant submitted a Variance request to Section 501.5 of the MZO concurrently with this application to reduce the front yard setback adjacent to South Carolina Terrace from 30 feet to 15 feet. The Applicant's site plan shows the proposed Accessory Dwelling Unit meeting all of the other required setbacks in Section 501.5 and 501.81 of the MZO.

	Required R-1 Zoning District Setback	Proposed Setback
Front (South Carolina Terrace)	30'	> 100'
Side (L/R, from South Carolina Terrace)	15'/15'	30' 3" / 15'
Front (Kentucky Road)	30'	15'

As a note, the Applicant's site plan shows the roof overhang encroaching into the required Side Yard Setback on the northside of the Subject Property. The definition of "Setback Line" in Section 201 of the MZO states that "any attached steps, roof, gutters, or similar fixtures" are permitted to encroach up to four feet into the required Setback.

The slope of the Subject Property per the Steep Slope Calculator is 31.36 percent. The property slopes down from South Carolina Terrace to Kentucky Road with flatter areas on the western side of the Subject Property containing the existing single-family dwelling.

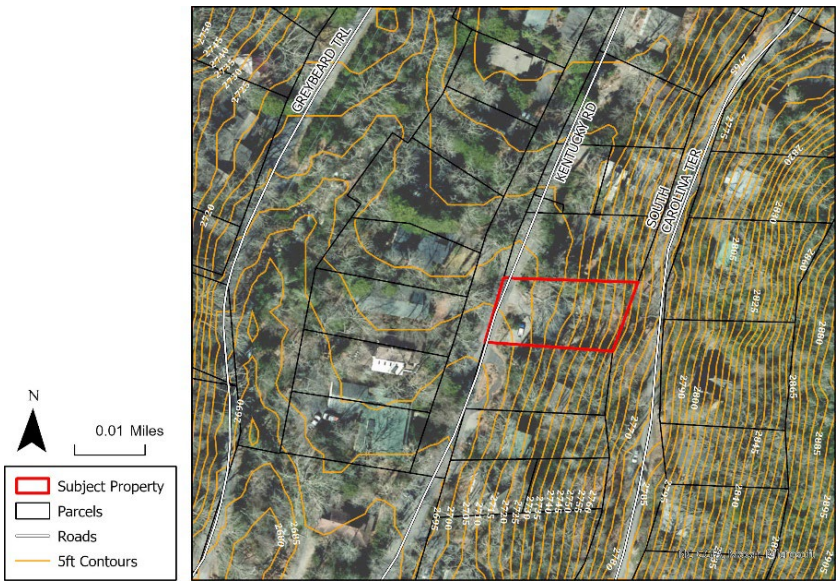

Figure 4: Subject Property Contours

Parking

Section 619.1(7) of the MZO requires that at least one Parking Space be provided in addition to those required for the principal dwelling. The existing single-family dwelling predates the enactment of the MZO. As such, Section 700 of the MZO states that parking requirements only apply to those structures constructed after the effective date of the MZO. The Applicant states that they have four existing Parking Spaces on the Subject Property, which is sufficient to meet the requirement of Section 619.1(7).

Landscaping and Trees

Per Section 900.2 of the MZO, landscaping provisions are not applicable to the Subject Property as it is zoned R-1. As a note, no trees or vegetation or proposed to be removed from the Town of Montreat's right-of-way with the construction of the proposed Accessory Building.

Special Requirements

Section 606.1 of the MZO lists the following requirements for Accessory Buildings, which includes Accessory Dwelling Units. The Zoning Administrator's comments on these requirements are **bolded** below.

1. Accessory Buildings, other than Accessory Dwelling Units, as defined herein, shall not be used as a Dwelling Unit. **In accordance with Section 500 of the MZO, the Applicant is applying for a Special Use Permit to use the proposed Accessory Building as an Accessory Dwelling Unit.**

2. In residential zoning Districts, no more than two (2) Accessory Buildings or Uses shall be permitted per Lot. **There are currently no Accessory Buildings or Uses on the Subject Property.**

3. Accessory Buildings larger than six hundred (600) square feet including entrance and/or outside covered areas or exceeding ten feet (10') in height at eave line shall only be permitted by Special Use Permit. **The proposed Accessory Building is 468 square feet in size and has a final height of 22 feet 6.5 inches.**

4. Accessory Buildings or Uses must meet the minimum Setbacks required by the applicable zoning District. Garages shall be located only in the side or rear Yards, unless as permitted in Section 606.2, and must meet the minimum Setbacks required by the applicable zoning District except under the provisions found in Section 606.2. **The Applicant intends to meet the Setback requirements of Section 501.5 for Kentucky Road and 501.81 of the MZO and applied for a Variance to Section 501.5 for South Carolina Terrace concurrently with this application.**

5. Accessory Buildings with any dimension greater than twelve feet (12') must meet the provisions of current NC State Residential Building Code. **This requirement will be enforced at the time of permitting.**

Section 619 of the MZO lists the following standards for Accessory Dwelling Units. The Zoning Administrator's comments on these standards are **bolded** below.

1. An Accessory Dwelling Unit shall be located only on a residential Lot containing one Single-Family detached Structure. The residential Lot may contain other accessory Structures as provided in this ordinance. **The Subject Property is zoned R-1, which is a residential Zoning District, and contains an existing single-family dwelling.**

2. Only one Accessory Dwelling Unit shall be permitted per Lot. **The Subject Property does not have an existing Accessory Dwelling Unit.**

3. No Accessory Dwelling Unit shall exceed the height of the principal Structure. The Accessory Dwelling Unit shall meet the appropriate Setbacks. **The height of the principal Structure is approximately 25 feet, and the height of the Accessory Dwelling Unit is 22 feet 6.5 inches. The Applicant intends to meet the Setback requirements of Section 501.5 for Kentucky Road and 501.81 of the MZO and applied for a Variance to Section 501.5 for South Carolina Terrace concurrently with this application.**

4. The Accessory Dwelling Unit shall be clearly subordinate to the main Structure. **The principal Structure is 2,124 square feet and the Accessory Dwelling Unit is 468 square feet.**

5. The Accessory Dwelling Unit must contain complete kitchen facilities including a stove or cook top and a full bath including lavatory, water closet, and tub or shower (or combination).

The draft floor plans for the proposed Accessory Dwelling Unit include kitchen facilities and a full bath.

6. At least one Parking Space shall be provided in addition to those required for the principal Dwelling. **Parking is discussed in the "Parking" section above.**

7. Manufactured housing, campers, travel trailers and recreational vehicles are not permitted for Use as an Accessory Dwelling Unit. **The Applicant is not proposing to use any of these as an Accessory Dwelling Unit.**

8. An Accessory Dwelling Unit shall be occupied by no more than four (4) persons. **The Applicant's proposal is for a two-bed Accessory Dwelling Unit. Should the Variance and Special Use Permit applications be approved, the Applicant will be reminded of this requirement at the time of permitting.**

Post Construction Stormwater Management

There may be a stream on the northwestern corner of the Subject Property. However, this stream is not impacted by the proposed development. As part of the Applicant's overall development plan, the Applicant will manage stormwater generated by the Accessory Dwelling Unit using a system of gutters and downspouts that feed into the existing drainage swale on the Subject Property. The Applicant will also address the need to divert stormwater around and away from the proposed retaining wall at the time of permitting. For purposes of this Variance application, the Applicant's proposed stormwater management system sufficiently details how post-development stormwater run-off will be controlled and managed. Prior to permit issuance, the Applicant will be required to comply with the Town of Montreat's General Ordinance (MGO) Chapter K Article III.

Template Special Use Permit Decision Language

The Board is welcome to use the language below to issue a decision on the Special Use Permit Request. Prior to making the approval motion, the Board must state the specific findings that lead to the approval of the four findings of fact as required by Section 310.62.

1. The Use will not be detrimental to or endanger the public health, safety or general welfare if located where proposed and developed according to the plan as submitted and approved because…

2. The Use meets or will meet all the required and applicable development standards and conditions of the Town of Montreat unless modified by this Board because…

3. The Use will not substantially diminish and impair the value of any property any portion of which is located within two hundred fifty feet of the boundary of the Subject Property…

4. The location and character of the Use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will not be injurious to the use and enjoyment of other property, for the purposes already permitted, within the area in which it is located because…

5. The location and character of the Use, if developed according to the plan as submitted and approved, will be in general conformity with the adopted policies and plans, including the Comprehensive Plan of the Town of Montreat because…

6. Adequate measures have been taken or will be taken to provide ingress and egress so designed as to minimize congestion in the public streets because…

Motion for Decision: "I move that the Board [*approve/approve with conditions/deny*] SUP-2024-01 to permit a 468 square foot Accessory Dwelling Unit with a final height taller than ten feet submitted by Richard Giles (Property Owner) for the lot described as PIN#072007755800000 located approximately 400 feet north of the intersection of Assembly Circle and Kentucky Road on property in the R-1 Residential Zoning District. [*List any conditions of approval in the motion, if applicable*]

TOWN OF MONTREAT
NORTH CAROLINA

SUP-2024-01

Special Use Permit Request

PIN # 072007755800000
Montreat Board of Adjustment
April 25, 2023

1

1

Subject Property Overview

PIN: 072007755800000

Address: 426 Kentucky Rd
Black Mountain, NC 28711

Owner: Giles William R, & Giles Sally Richardson
145 36th Ave S,
Jax Bch, FL, 32250

Size: 0.25 acres

Current Zoning and Use:
R-1 Zoning District; existing single-family dwelling



2

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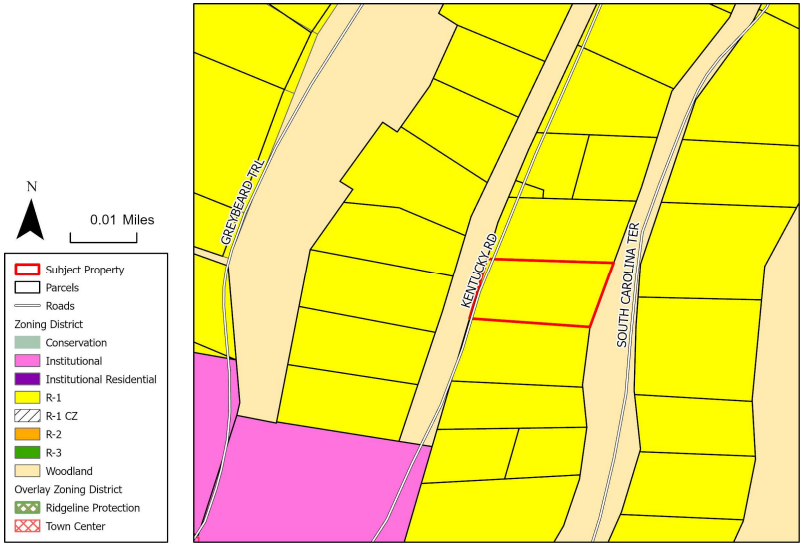

Zoning & Land Use

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Application Overview

Applicant: Richard Giles (Property Owner)

Application Summary:

- Approval for a Special Use Permit to allow a 468 square foot Accessory Dwelling Unit with a final height taller than ten feet.
- Accessory Dwelling Units in the R-1 Zoning District require a Special Use Permit (MZO Section 500).
- Accessory Buildings exceeding ten feet in height require a Special Use Permit (MZO Section 606.13).
- A Variance request has been submitted concurrently with this application to reduce the required front setback.

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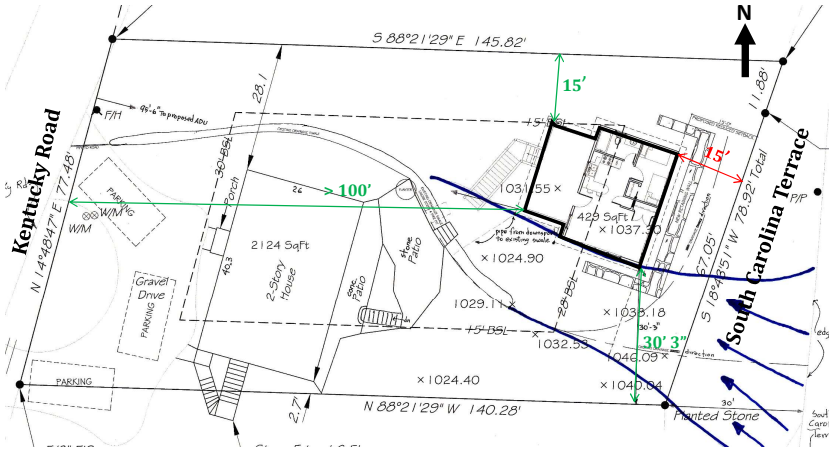
Application Overview



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Site Pictures

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Staff Findings

USE & ZONING

- The existing single-family dwelling on the Subject Property is permitted by right in the R-1 Zoning District. The existing single-family dwelling was built in approximately 1926, is 2,124 square feet, and is approximately 25 feet in height.
- Accessory Dwelling Units in the R-1 Zoning District require a Special Use Permit (MZO Section 500).
- Accessory Buildings exceeding ten feet in height require a Special Use Permit (MZO Section 606.13).
- The Subject Property is an existing lot so lot size requirements do not apply.
- The Subject Property is considered a double frontage lot. The proposed Accessory Dwelling Unit must comply with the required setbacks for a dwelling in the R-1 Zoning District on a double frontage lot.

SETBACKS	Required R-1 Zoning District Setback	Proposed Setback
Front (South Carolina Terrace)	30'	15'
Side (L/R from South Carolina Terrace)	15'/15'	30' 3" / 15'
Front (Kentucky Road)	30'	> 100'

COMPREHENSIVE PLAN

- The following vision in *Montreat Tomorrow* may be relevant to this application:

  ***Development**: Montreat will be a community that respects buildings with historic value, encourages new development to consider the surrounding architecture, and strives for resilience in the face of a changing climate.*

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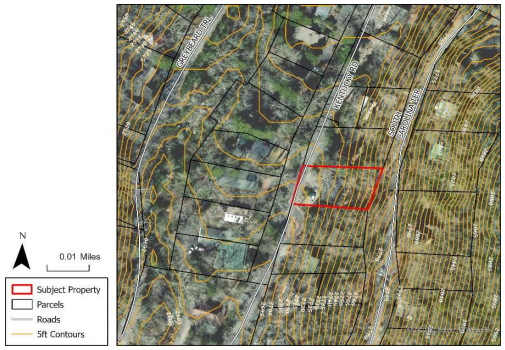
Staff Findings

TOPOGRAPHY

- The Subject Property has a slope of 31.36 percent. It slopes down from east to west.



PARKING

- The single-family dwelling is not subject to parking requirements (Section 700 MZO).
- The proposed Accessory Building requires an additional parking space to be added.
- The Applicant has four existing parking spaces on the Subject Property.

LANDSCAPING AND TREES

- Landscaping requirements of Section 900.2 of the MZO do not apply.
- No trees or vegetation are proposed to be removed within the Town's right-of-way.

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Staff Findings

SPECIAL REQUIREMENTS (MZO Section 606.1)

❖ Accessory Buildings must meet the following requirements.

1. Accessory Buildings, other than Accessory Dwelling Units, as defined herein, shall not be used as a Dwelling Unit. **In accordance with Section 500 of the MZO, the Applicant is applying for a Special Use Permit to use the proposed Accessory Building as an Accessory Dwelling Unit.**

2. In residential zoning Districts, no more than two (2) Accessory Buildings or Uses shall be permitted per Lot. **There are currently no Accessory Buildings or Uses on the Subject Property.**

3. Accessory Buildings larger than six hundred (600) square feet including entrance and/or outside covered areas or exceeding ten feet (10') in height at eave line shall only be permitted by Special Use Permit. **The proposed Accessory Building is 468 square feet in size and has a final height of 22 feet 6.5 inches.**

4. Accessory Buildings or Uses must meet the minimum Setbacks required by the applicable zoning District. Garages shall be located only in the side or rear Yards, unless as permitted in Section 606.2, and must meet the minimum Setbacks required by the applicable zoning District except under the provisions found in Section 606.2. **The Applicant intends to meet the Setback requirements of Section 501.5 for Kentucky Road and 501.81 of the MZO and applied for a Variance to Section 501.5 for South Carolina Terrace concurrently with this application.**

5. Accessory Buildings with any dimension greater than twelve feet (12') must meet the provisions of current NC State Residential Building Code. **This requirement will be enforced at the time of permitting.**

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Staff Findings

SPECIAL REQUIREMENTS (MZO Section 619)

❖ Accessory Dwelling Units must meet the following standards.

1. An Accessory Dwelling Unit shall be located only on a residential Lot containing one Single-Family detached Structure. The residential Lot may contain other accessory Structures as provided in this ordinance. **The Subject Property is zoned R-1, which is a residential Zoning District, and contains an existing single-family dwelling.**

2. Only one Accessory Dwelling Unit shall be permitted per Lot. **The Subject Property does not have an existing Accessory Dwelling Unit.**

3. No Accessory Dwelling Unit shall exceed the height of the principal Structure. The Accessory Dwelling Unit shall meet the appropriate Setbacks. **The height of the principal Structure is approximately 25 feet and the height of the Accessory Dwelling Unit is 22 feet 6.5 inches. The Applicant intends to meet the Setback requirements of Section 501.5 for Kentucky Road and 501.81 of the MZO and applied for a Variance to Section 501.5 for South Carolina Terrace concurrently with this application.**

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Staff Findings

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7. Manufactured housing, campers, travel trailers and recreational vehicles are not permitted for Use as an Accessory Dwelling Unit. **The Applicant is not proposing to use any of these as an Accessory Dwelling Unit.**

8. An Accessory Dwelling Unit shall be occupied by no more than four (4) persons. **The Applicant's proposal is for a two-bed Accessory Dwelling Unit. Should the Variance and Special Use Permit applications be approved, the Applicant will be reminded of this requirement at the time of permitting.**

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Board of Adjustment Decision

The Board shall grant a Special Use Permit upon showing of **all** of the following per Section 310.6 of the MZO:

1. The Use will not be detrimental to or endanger the public health, safety or general welfare if located where proposed and developed according to the plan as submitted and approved.
2. The Use meets or will meet all the required and applicable development standards and conditions of the Town of Montreat unless modified by this Board.
3. The Use will not substantially diminish and impair the value of any property any portion of which is located within two hundred fifty feet of the boundary of the Subject Property.
4. The location and character of the Use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will not be injurious to the use and enjoyment of other property, for the purposes already permitted, within the area in which it is located.
5. The location and character of the Use, if developed according to the plan as submitted and approved, will be in general conformity with the adopted policies and plans, including the Comprehensive Plan of the Town of Montreat.
6. Adequate measures have been taken or will be taken to provide ingress and egress so designed as to minimize congestion in the public street.

In granting any Special Use Permit, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with any of the Town's land development Ordinances.

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