







Board of Adjustment - Dec 09 2024 Agenda

Monday, December 9, 2024 at 6:00 PM

Council Chambers

1. **Call to Order**
2. **Annual Election of Officers** [Election of Officers 12.9.24.pdf](#)  2
3. **Adoption of Annual 2025 Schedule of Meetings** 3
[2025 Council and Boards Meeting Schedule Master.pdf](#) 
4. **Approval of Minutes- April 8, 2024 Regular Meeting** 4 - 7
[Minutes.pdf](#) 
5. **Variance Application- 9 North Street** 8 - 42
[9 North Street Variance Agenda Item.pdf](#) 
 - 5.1 Evidentiary Hearing Regarding Proposed Variance- 9 North Street
 - 5.2 Consideration /Establish a Ruling of the Board of Adjustment on requested variance
6. **Adjournment**
 - 6.1 Adjourn Meeting

TOWN OF WEAVERVILLE
ZONING BOARD OF ADJUSTMENT AGENDA ITEM

Date of Meeting: Monday, December 9, 2024

Subject: Election of Officers

Presenter: Planning Director

Attachments: None

Description:

Municipal ordinance currently calls for an annual election of officers for the Board as per the following Sec. 2-163.

Sec. 2-163. Officers.

The board of adjustment shall elect a chair and a vice-chair from its membership, who shall each serve for one year or until reelected or until their successors are elected. The board of adjustment shall appoint a secretary, who may be a municipal officer, an employee of the town, or a member of the board.

(Ord. of 5-24-2021(1) , § 4b(Att. A))

Staff is willing and prepared to continue serving as secretary should this be the consensus of the Board.

Action Requested:

Staff is requesting action related to the annual election of officers as stated. Action may be taken via a motion to the specific appointment and simple majority vote of the Board.

TOWN of WEAVERVILLE

2025 Council and Boards Meeting Schedule Master

Meeting Type	recurring day	Time	January	February	March	April	May	June
Town Council Workshop	3rd Tuesday	6:00 PM	1/21/25	2/18/25	3/18/25	4/15/25	*5/13/2025	6/17/25
Town Council Planning Retreat		9:00 AM	1/18/25					
Town Council Budget Workshop		6:00 PM						6/3/25
Town Council Meetings	4th Monday	6:00 PM	1/27/25	2/24/25	3/24/25	4/28/25	*5/19/25	6/23/25
Planning Board	1st Tuesday	6:00 PM	1/7/25	2/4/25	3/4/25	4/1/25	5/6/25	6/3/25
Board of Adjustment	2nd Monday	6:00 PM	1/13/25	2/10/25	3/10/25	4/14/25	5/12/25	6/9/25
ABC Board	1st Wed. Quarterly	10:00 AM			3/5/25			6/4/25
Tree Board	1st Wed.	6:00 PM	*1/8/2025	2/5/25	3/5/25	4/2/25	5/7/25	6/4/25
Meeting Type	recurring day	Time	July	August	September	October	November	December
Town Council Workshop	3rd Tuesday	6:00 PM	7/15/25	8/19/25	9/16/25	10/21/25	11/18/25	*12/9/2025
Town Council Meetings	4th Monday	6:00 PM	7/28/25	8/25/25	9/22/25	10/27/25	11/24/25	*12/15/2025
Planning Board	1st Tuesday	6:00 PM	7/1/25	8/5/25	9/3/25	10/7/25	11/4/25	12/2/25
Board of Adjustment	2nd Monday	6:00 PM	7/14/25	8/11/25	9/15/25	10/13/25	11/10/25	12/8/25
ABC Board	1st Wed. Quarterly	10:00 AM			9/3/25			12/3/25
Tree Board	1st Wed.	6:00 PM	7/2/25	8/6/25	9/3/25	10/1/25	11/5/25	12/3/25
Town Council Workshops are generally held the 3rd Tues. of month at 6:00 p.m.								
Town Council Regular Meetings are generally held the 4th Mon. of month at 6:00 p.m.								
Planning Board Meetings are generally held the 1st Tues. of month at 6:00 p.m.								
Board of Adjustment Meetings are generally held the 2nd Mon. of month at 6:00 p.m.								
ABC Board on a quarterly basis beginning March- 1st Wed. at 10:00 a.m.								
Tree Board Meetings are generally held on the 1st Wed. of the month at 6:00 p.m.								
* Adjusted date due to holiday or other conflict or Special Called meeting								
Election Day- Tues. November 4, 2025								

**TOWN OF WEAVERVILLE
BOARD OF ADJUSTMENT AGENDA ITEM**

Date of Meeting: Monday, December 9, 2024

Subject: Minutes

Presenter: Town Clerk

Attachments: Minutes from the April 8, 2024 Meeting of the Board

Description:

Attached you will find proposed minutes from the April 8, 2024 regularly scheduled meeting of the Board.

Action Requested:

Staff is requesting that the Board adopt the aforementioned minutes as presented or amended by motion of the Board.

Draft

Town of Weaverville
Board of Adjustment
Regular Monthly Meeting
Monday, April 8, 2024, 6:00pm
Agenda

Present: Tycer Lewis, Cynthia Wright, Paul Clauhs, Roger Parkin, Larry Murray, Brent Koenig

Absent: Paul DeCrosta

1. Call to Order

Chairman Lewis called the meeting to order at 6:00 p.m.

2. Approval of the Minutes – 1/8/2024 Regular Meeting

Chairman Lewis requested a motion to consider approval of the minutes from January 8, 2024.

Mr. Murray moved to adopt the meeting minutes of January 8, 2024, and Mr. Clauhs seconded the motion. Carried unanimously.

3. Variance Standards – What Is Hardship?

Planning Director Eller /Attorney Jackson

Attorney Jackson presented variance standards and cited UNCSOG resources and case law via author, Adam Lovelady, Attorney for School of Government.

Mr. Eller referenced the code Sec. 20-3108: Quasi-judicial zoning decisions:

(d) Variances. When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the board of adjustment shall vary any of the provisions of the zoning regulation when, based on competent, material, and substantial evidence, it finds all of the following:

(1) Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made on 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. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability;

(3) *The hardship did not result from the 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 is not a self-created hardship;*

(4) *The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured, and substantial justice is achieved;*

(5) *The requested variance is not a request to permit a use of land, building, or structure which is not permitted in the zoning district in which the property is located; and*

(6) *The requested variance is not a request to permit a prohibited sign.*

Appropriate conditions may be imposed on any variance, provided the conditions are reasonably related to the variance. Other development regulations that regulate land use or development, including the subdivision regulations, may provide for variances from the provisions of those ordinances consistent with the provision of this section.

Examples were given by Director Eller as he provided parcel sites and map layout.

In-depth discussion and review of unnecessary hardship cases ensued, not self-created hardship and what is peculiar to the property, followed by public safety, ordinary purpose, and substantial justice examples. Attorney Jackson reviewed the procedures and recordation of a variance that runs with the land. There was further question-and-answer-period regarding bright line rule, second layer versus zoning layer of regulations, restrictions and covenants of Homeowner Associations as factors in determining hardship and decision-making.

Review of the code amendments Part V, in Chapter 20, Environmental Protections and regulations for stormwater management, flood plain environmental regulation to Chapter 13 & 20 in the Code pertaining to steep slopes, mountain ridge protection, and various aspects of stormwater management including flood hazard area development, sedimentation and erosion control, and other related technical amendments. Mr. Eller said the Planning Board reviewed the proposed text amendments on February 6, 2024, and a favorable recommendation and consistency statement with the Comprehensive Land Use Plan is included in the packet.

3. Adjournment

There being no further business and without objections, Mr. Murray moved to adjourn. Chairman Lewis adjourned the meeting at 7:30 p.m.

ATTEST:

Tamara Mercer, Town Clerk

Draft

TOWN OF WEAVERVILLE
BOARD OF ADJUSTMENT AGENDA ITEM

Date of Meeting: Monday, December 9, 2024
Subject: Public Hearing – Variance Request
Presenter: Planning Director / Applicant
Attachments: Public Notice; Staff Report; Variance Application and Supporting Documents; Affidavit of Mailing and Posting

Description:

INTRODUCTION: Noelle Curry and Sean Sarnelli are the owners of the property located at 9 North Street that has a Buncombe County Parcel Identification Number of 9742-25-5572, which is zoned R-1. The owners have applied for a side/rear setback variance.

JURISDICTION:

Code Sec. 20-3108(d) authorizes the BOA to grant variances when hardships would result from carrying out the strict letter of the terms of the land development regulations. Variances require a 4/5 vote of the board.

STANDARDS FOR VARIANCES:

1. Unnecessary hardship would result from the strict application of the regulation. It is not 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 the variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the regulation such that public safety is secured and substantial justice is achieved.

5. The variance is not a request to permit a use of land, building or structure which is not permitted in the zoning district in which the property is located.
6. The variance is not a request to permit a prohibited sign.

QUESTION FOR DELIBERATION: Does the record include competent, material, and substantial evidence that the variance requested by the property owner meets the standards and should therefore be granted?

Draft

NOTICE OF PUBLIC EVIDENTIARY HEARING WEAVERVILLE BOARD OF ADJUSTMENT

Public Notice is hereby given that the Town of Weaverville Board of Adjustment will hold a Public Evidentiary Hearing following quasi-judicial procedures on Monday, December 9, 2024 at 6:00p.m. This meeting will occur within the Community Room and Council Chambers at Town Hall located at 30 South Main Street, Weaverville, NC to consider the following item:

An application for a variance for an accessory structure that does not meet the minimum required setbacks established by the R-1 Zoning District on a property bearing Buncombe County PIN#9742-25-5572, 9 North Street, Weaverville, NC 28787.

If you would like additional information or to review the content related to the Public Evidentiary Hearing, you may contact Planning Director and Town Clerk James Eller at 828-484-7002 or jeller@weavervillenc.org.

Town of Weaverville, North Carolina

Staff Report: Proposed Variance at 9 North Street

Prepared December, 2024

Sources: Town of Weaverville Code of Ordinances

Introduction to the Property

The subject parcel, commonly known as 9 North Street, consists of .17 acres respectively as shown on Buncombe County tax records. The property may be found at the intersection of North Street and West Street with Merrimon Avenue to the west and South Main Street to the east. The properties are also in close proximity to Weaverville Elementary School which may be found immediately to the south.

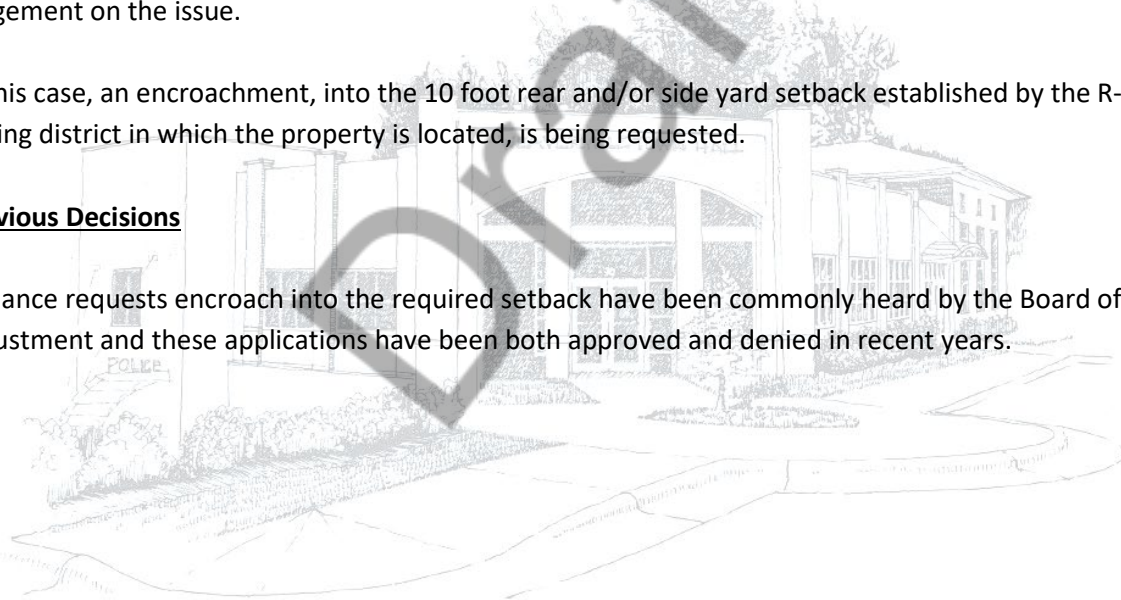
Question of Jurisdiction

Section 20-3108(d) tasks the Board of Adjustment to consider requests for variances and establishes the standards which must be met in order for a variance to be granted. Based upon this section of town code, it is clear the Board of Adjustment has jurisdiction to hold the requisite hearing and offer judgement on the issue.

In this case, an encroachment, into the 10 foot rear and/or side yard setback established by the R-1 zoning district in which the property is located, is being requested.

Previous Decisions

Variance requests encroach into the required setback have been commonly heard by the Board of Adjustment and these applications have been both approved and denied in recent years.



**TOWN OF WEAVERVILLE APPLICATION FOR
A VARIANCE**

Planning and Zoning Department, 30 South Main Street, P.O. Box 338, Weaverville, NC 28787
(828) 484-7002 --- fax (828) 645-4776 --- jellerig@weavervillenc.org
Application Fee: \$250.00

General Notes:

- Applications for a variance are required to be submitted at least three weeks in advance of the next scheduled meeting of the Zoning Board of Adjustment to afford sufficient time for the legal advertising of the evidentiary hearing.
- Fees associated with the application cover the cost of legal advertising of the evidentiary hearing and are nonrefundable once submitted.
- Subsequent permit fees may be applicable dependent upon the type and scope of construction.
- The Zoning Board of Adjustment follows a quasi-judicial process when making a determination on an application for a variance. Strict adherence to statutorily prescribed procedures before, during and after a hearing must be followed to ensure that constitutional due process rights of all parties are preserved.
- A document providing an overview of Zoning Board of Adjustment matters can be furnished by staff at the request of the applicant.
- Each item listed in subsections A-F listed below must be addressed in order for an application to become complete and eligible for review by the Zoning Board of Adjustment.

A. Property Information

Address of Subject Property: 9 North St, Weaverville, NC 28787
PIN(s) of Subject Property: 9742-25-5572

B. Contact Information

Owner's Name: Sean Sarnelli + Noelle Curry
Mailing Address: 9 North St, Weaverville, NC 28787
Telephone #: 828-774-6389 Email: Sean.T.Sarnelli@gmail.com
914-774-1734 currynoelleJ@gmail.com
Primary Contact if Other Than Owner and Authorization to Represent
Owner: _____
Mailing Address: _____
Telephone #: _____ Email: _____

C. Type of Submission

Describe the Variance

Requested: variance for zoning ordinance of
shed/structure on our property

Provision of Ordinance Relevant to Variance Application Including Section Title, Section Number, Subsection Number or Letter: _____

**TOWN OF WEAVERVILLE APPLICATION FOR
A VARIANCE**

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(828) 484-7002 -- fax (828) 645-4776 -- jellisa@weavervillenc.org
Application Fee: \$250.00

D. Variance Burden of Proof

The Zoning Board of Adjustment is authorized to grant a variance when unnecessary hardships would result from carrying out the strict letter of the terms of Chapter 20 of the Code of Ordinances upon a showing of all of the following criteria. The burden of proof falls upon the applicant for each of the six standards listed below. Following each standard please indicate the facts you intend to demonstrate and the arguments you intend to make in support of the variance application. You may attach a separate page if necessary.

a. Unnecessary hardship would result from the strict application of this chapter. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

See attached.

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.

See attached

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.

See attached

d. The requested variance is consistent with the spirit, purpose, and intent of this chapter such that public safety is secured and substantial justice is achieved.

See attached.

e. The variance is not a request to permit a use of land, building or structure which is not permitted in the zoning district in which the property is located.

See attached.

f. The variance is not a request to permit a prohibited sign.

See attached.

Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance

**TOWN OF WEAVERVILLE APPLICATION FOR
A VARIANCE**

Planning and Zoning Department, 30 South Main Street, P.O. Box 338, Weaverville, NC 28787
(828) 484-7002 --- fax (828) 645-4776 --- jellera@weaverville.org
Application Fee: \$250.00

E. List of Supporting Documents

Please provide an inventory of additional documentation submitted to the Board in support of the application. Such documentation should include a site plan with such information as the zoning administrator determines as needed for a full review of the application. See attached

F. Certification

*I hereby certify that the information contained on this application is accurate to the best of my knowledge.

Signature of Owner: [Signature] Date: 10/31/2024

Please indicate on the following line how you wish to receive a copy of the written order establishing a decision related to this application.

Email and Mail

OFFICE USE ONLY

Date Received: 10.31.24

Date of Public Hearing: 12.9.24

Staff

Comments: _____

Fee: \$250

Date: 11.4.24

Decision: _____

Date: _____

Approved with

Conditions: _____

Signature of Zoning Administrator: [Signature]

The Town of
Weaverville
SHERIFF'S OFFICE

D. Variance Burden of Proof

The Zoning Board of Adjustment is authorized to grant a variance when unnecessary hardships would result from carrying out the strict letter of the terms of Chapter 20 of the Code of Ordinances upon a showing of all of the following criteria. The burden of proof falls upon the applicant for each of the six standards listed below. Following each standard please indicate the facts you intend to demonstrate and the arguments you intend to make in support of the variance application. You may attach a separate page if necessary.

a. Unnecessary hardship would result from the strict application of this chapter. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

The whole reason we started the project to build this shed was to expand our small business, Second Flora Microgreens. We serve the Greater Asheville community at farmers markets. We offer home delivery for those in the area who are not able to access or attend farmers markets. We supply local restaurants and grocery stores with our products. We were able to expand our presence because of the additional production space these sheds offer, allowing us to quadruple the amount of production we were previously achieving. As a result, we have benefited our community. Without the approval of this variance, we would lose the shed that allows us space for storage (seeds, packaging, soil, trays, etc) as well as our core production space for planting > 100 trays/week of microgreens. This would basically gut our small business and cut our production amounts by more than 50%, directly affecting our livelihood and ability to support our community with food.

This shed is 5' from our neighbors property line who is in full support of our small business. We consulted with our neighbor throughout the entire process of this shed project. He is a loyal customer, friend, and is no way affected by the presence of this shed. The shed sits closest to the back corner of his property, far away from his house, and does not obstruct anything related to his property.

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.

The location of the site plan was determined due to the unique topography of the property and to accommodate the appropriate spacing from the road. With the backyard sloping away from the house, the location for the shed was chosen because it was the only flat piece of the yard we could build on that wouldn't obstruct access to anything below ground. Two sewer lines run diagonally down the property - one line is ours, the other is our aforementioned neighbor. We could not build over the location of those sewer lines; any location up the slope of the property would obstruct access to the lines. We've already had two instances since we moved here in 2021 where the sewer lines needed to be replaced, requiring the yard to be trenched several feet down.

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.

Prior to and during the process of the sheds being built, we adhered to the permitting process that was outlined for us. The shed vendor, Tuff Shed, has their own permitting team who helped facilitate the process of securing permits through Buncombe county. At no point during this process, by Buncombe County or Tuff Shed, were we directed to also secure permitting through the Town of Weaverville - not based on our address or any other criteria sent to the County.. If we were advised of this at any point throughout the process, we would have adhered to it the same way we followed through with Buncombe County. This is our first home - we've never been through a project like this before and we relied heavily on the guidance of the contractors we worked with as well as Buncombe County.

d. The requested variance is consistent with the spirit, purpose, and intent of this chapter such that public safety is secured and substantial justice is achieved.

- The variance will be used for a shed that will help a Weaverville-based small business.
- Our property is partially located on a gravel road that is not heavily trafficked and does not cause any obstruction to surrounding properties. This shed does not increase foot/car traffic in the neighborhood, does not solicit any visitors, and cannot be used in any way as an ADU (no plumbing, water, etc.)

- We have the full support of our neighbor who's property this shed is within 10' of. Our neighbor is a customer, friend, and was aware and supportive of the project well before construction started.

e. The variance is not a request to permit a use of land, building or structure which is not permitted in the zoning district in which the property is located.

This variance is not a request to permit use of an unpermitted structure on our property. The structure is a simple storage shed that will be utilized as a production space for our small business.

f. The variance is not a request to permit a prohibited sign.

Confirmed. This variance is not related to a request to permit a prohibited sign.

E. List of Supporting Documents

Please provide an inventory of additional documentation submitted to the Board in support of the application. Such documentation should include a site plan with such information as the zoning administrator determines as needed for a full review of the application

- Zoning Permit Letter
- Site Plan

Draft

Sec. 20-1202. Specific definitions.

Unless otherwise provided in this chapter or any other development regulations adopted by the town, the following definitions shall apply in the administration of all development regulations adopted by the town:

Setback means:

- (1) The required minimum horizontal distance between the building line and the related front, side, or rear property line.
- (2) For the sign regulations found in article 1 of part IV of this chapter, setback shall mean the horizontal distance between the leading face of the curb of a street and the closest point of a sign or sign structure on such lot. Where there is no curb, the measurement shall be made from the edge of the pavement.

Variance. A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

Zoning permit. A permit issued by the Town of Weaverville stating that a particular development project, change in use, or addition, is in compliance with the ordinances of the town pertaining to use of the land on which such use is situated. A zoning permit is typically issued after all other approvals have been obtained.

Sec. 20-1304. Enforcement.

- (a) **Notices of violation.** When staff determines work or activity has been undertaken in violation of a development regulation adopted pursuant to G.S. Chapter 160D or other local development regulation, including specifically Code chapter 20, or any State law delegated to the local government for enforcement purposes in lieu of the State or in violation of the terms of the development approval, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail, and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the local government that the notice was provided and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1123, 160D-1206, or otherwise provided by law, a notice of violation may be appealed to the board of adjustment pursuant to G.S. 160D-405.

The notice of violation may provide a time period within which corrective action is to be taken in order to avoid further enforcement action or civil penalty.

- (b) **Stop work orders.** Whenever any work or activity subject to regulation pursuant to G.S. 160D or other applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State is undertaken in substantial violation of any State or local law, or in a manner that endangers life or property, staff may order the specific part of work or activity that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefor, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail. The person or persons delivering the stop work order shall certify to the local government that the notice was provided and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1112, 160D-1208, or otherwise provided by law, a notice of violation may be appealed to the board of

adjustment pursuant to G.S. 160D-405. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.

- (c) *Remedies.* In addition to revocation of development approval as provided for in G.S. 160D-403(f) and Code section 20-1302(e), all development regulation adopted pursuant to authority conferred by G.S. Chapter 160D, including specifically Code chapter 20, may be enforced by any remedy provided in G.S. 160A-175. If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used or developed in violation of G.S. Chapter 160D or any development regulation or other regulation adopted by the town under authority of G.S. Chapter 160D, the town, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, use, or development; to restrain, correct, or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises.

(Ord. of 5-24-2021(1), § 5)

Sec. 20-1305. Civil penalties for violations.

Any person who erects, constructs, reconstructs, alters, repairs, converts, or maintains any building, structure, sign or sign structure, or develops, grades, or otherwise alters property in violation of this chapter, or any person who uses any building, structure, sign or sign structure, or land in violation of this chapter, or owns property where a person erects, constructs, reconstructs, alters, repairs, converts, or maintains any building, structure, sign or sign structure, or develops, grades, or otherwise alters property in violation of this chapter, shall be subject to a civil penalty as provided in section 1-6 of the Code of Ordinances of the town.

(Ord. of 5-24-2021(1), § 5)

Sec. 20-3110. Zoning permit required.

A zoning permit shall be obtained from the zoning administrator before beginning any construction on any lot within the town's zoning jurisdiction. No lot shall be graded so as to alter its contour and no building or other structure shall be erected, moved, added to, or structurally altered prior to the issuance of said zoning permit. In no event will the zoning administrator approve any permit for the grading of any lot or the construction or alteration of any building if such building, or its intended use would be in violation of any of the provisions of this chapter, or if the contour of any lot would be altered or graded in violation of the screening and buffering requirements of this chapter.

- (a) *Application for permit.* All applications for zoning permits shall be accompanied by such information as the zoning administrator determines as needed for a full review of the request. The zoning administrator shall ensure that all applications are compliant with the applicable sections of this chapter prior to issuance of permit or transmittal to the decision-making board.
- (b) *Issuance of zoning permit.* Prior to issuing a zoning permit the zoning administrator shall first review the application and supporting documentation to determine compliance with all of the applicable requirements of this chapter. If the plans show that the proposed construction meets all of the requirements of this chapter the zoning administrator shall, prior to the issuance of the zoning permit, make an inspection of the site to determine that the actual location of all existing or proposed buildings or structures, parking areas, buffer strips etc. are located as shown on the plans. If the services of the town engineer or of a registered land surveyor are required to assure that the actual locations, on the ground, are as shown on the plans, the cost of this service shall be paid by the applicant prior to issuance of the zoning permit. Any such charges shall be in addition to the normal charges for such zoning permit. After the zoning administrator finds that the plans and on-site locations meet the requirements of this chapter, the administrator shall issue a zoning

permit stating that the proposed construction, if built as located, meets the provisions of this chapter and that the applicant can apply for building and other permits. When reviewing proposed uses of land related to new commercial, industrial or multi-family residential development, or uses which require the issuance of or an amendment to a special use permit or the adoption of a conditional zoning district, the planning director shall coordinate an evaluation of the proposed development with a technical review committee consisting of members of individual municipal departments, including but not limited to the fire marshal and public works director or their designees, who may offer expertise on the proposed development. The technical review committee shall offer an opinion on the proposed development to the planning board and town council based upon the committee's findings or compliance with various sections of municipal ordinance and relevant federal and state laws, rules and regulations.

While it may be obvious that a proposed building or structure to be located on a large tract of land meets the setback requirements by simple observation, actual field measurements would be required to determine compliance on a typical residential lot. All such measurements must be made from actual property or right-of-way lines using property corner or right-of-way markers. It may be assumed that the paved portion of any street or alley is in the center of the right-of-way for this purpose only if the right-of-way of record cannot be otherwise established by actual surveys.

- (c) *County permits required.* After the zoning permit is approved and issued, the applicant shall apply to the Buncombe County Permits and Inspections Department, or any successor thereto, for building, plumbing, electrical or other required permits. If such permits are not issued within 60 days after issuance of the zoning permit, the zoning permit shall become invalid.
- (d) *Construction progress.* If no substantial construction progress has been made within 180 calendar days of the date of the issuance of the zoning permit, or if work is suspended for 365 calendar days, the zoning permit shall become invalid; provided, however, the zoning administrator may extend the time for substantial construction progress to be made by up to 180 calendar days, for good cause shown. This provision shall not be applicable, however, for time periods for projects in conditional districts, which shall be governed by Code section 3203 or special use permits, which shall be governed by Code section 20-3204.

(Ord. of 5-24-2021(1), § 5; Ord. of 5-23-2022(2), § 7)

Sec. 20-3206. Table of dimensional requirements.

Zoning District	R-1	R-2	R-3	R-12	C-1	C-2	I-1	MHO ¹¹
Minimum Lot Area (sq. Ft.)	10,000 ^{2,7}	7,500 ^{1, 2,3,4,7}	5,445 ^{1,2,3,4,7}	7,500 ^{4,7, 8}	0	0	0	5,445 ^{1,2,3,4,7}
Minimum Lot Width(ft.)	100	75	75	75	0	50	0	75
Minimum Front Yard (ft.)	30	30	30	30	0	0	0	30
Major Thoroughfare	30	30	30	30 ⁵	0	60	35 ⁵	30
Minor Thoroughfare	30	30	30	30 ⁵	0	25 ⁵	35 ⁵	30
With Parking in Front	-	-	-	-	-	60	-	-
Without Parking in Front	-	-	-	-	-	40	-	-
Minimum Side Yard (ft.) Abutting Residential District	10	10 ⁶	10 ⁶	10 ⁶	0	30	40	10 ⁶
Minimum Side Yard (ft.) Abutting Commercial or Industrial District	10	10 ⁶	10 ⁶	10 ⁶	0	0	40	10 ⁶

Minimum Rear Yard (ft.) Abutting Residential District	10	10 ⁶	10 ⁶	10 ⁶	0	30	40	10 ⁶
Minimum Rear Yard (ft.) Abutting Commercial or Industrial District	10	10 ⁶	10 ⁶	10 ⁶	0	0	40	10 ⁶
Height Limit (ft.)	35	35	35	45 and no more than 3 stories	Note 10	75	75	18
Buffer if Abutting a Residential District (ft.)	0	0	0	20	Note 9	20	20	0

The following notes apply to the Table of Dimensional Requirements set out above:

See sections on dwelling setbacks (Code section 20-3208(h) and (i)), nonconforming lots (Code section 20-1602); and right-of-way (Code section 20-3208(b)).

Additional Notes corresponding to the table:

1. 10,000 square feet if no public sewerage is available.
2. 20,000 square feet if neither public water or sewerage is available.
3. 5,000 additional square feet for each additional dwelling unit when public water and/or sewer is available, but in no event may density exceed 8 units per acre.
4. 10,000 additional square feet for each additional dwelling unit when public water and/or sewer is not available.
5. 40 feet if property directly across the right-of-way is zoned residential.
6. 15 feet for duplexes; 25 feet for all other multi-family dwelling units.
7. Additional square footage may be required by the authority having jurisdiction over private water and/or sewerage systems located on individual lots.
8. 3,280 additional square feet for each additional dwelling unit when public water and/or sewer is available, but in no event may density exceed 12 units per acre.
9. Where a lot in the C-1 district abuts a residential district, either directly or across a street (on the side of the C-1 lot), and any use is hereafter established on the C-1 lot by the construction of a new building thereon or by the enlargement of an existing building on the C-1 lot which enlargement exceeds by 25 percent the floor area of the existing building, such building and such lot shall be screened from the lot in the residential district by a vegetative screen on the side of the building or lot facing the residential lot shall require screening. Exceptions to this buffering requirement in C-1 are as follows:
 - (a) These provisions shall not apply to any lot which is used for a use which would be permitted in the adjacent residentially zoned district.
 - (b) The vegetative screen required shall be omitted along the street where the C-1 lot fronts.
 - (c) The board of adjustment shall have the authority to alter or eliminate the required vegetative screen where the lot requiring the vegetative screen and the adjacent lot zoned residential are in single ownership or upon receipt of a notarized statement waiving or modifying the screening provisions of this section, between the owner of the lot requiring the vegetative screen and the

owner of the adjacent lot zoned residential. Any such agreements shall be attached to the application for zoning permit and retained by the town.

10. In the C-1 district, every building or structure hereafter erected or structurally altered to exceed 35 feet in height, shall, above such 35-foot height, be set back from the front line of the property on which the building or structure is located on the ratio of one set back foot for each two-foot rise above such 35-foot height. In no case shall the height be greater than 57 feet (which would require a setback of 11 feet).

Where more than one-half of the street frontage in a particular street block is zoned residential and the remaining frontage on the same side of that street block is zoned C-1, the height regulations for the residential district shall apply to the lots zoned for commercial uses on that side of the street block.

11. The dimensional standards for the MHO district only apply to manufactured homes. To the extent that a dimensional requirement for a manufactured home in the MHO district is inconsistent with the corresponding dimensional requirement of the underlying use district, the more restrictive dimensional requirement shall apply to that manufacture home.

(Ord. of 5-24-2021(1), § 5; Ord. of 4-24-2023(1), § 3)

Sec. 20-3208. Miscellaneous provisions.

- (a) *Height, buffering, and density.* No building or structure shall hereafter be erected or altered so as to exceed the height limits, or to exceed the density regulations (minimum lot area) of this chapter for the district in which it is located. Height limits and densities are shown on the Table of Dimensional Requirements found at Code section 20-3206. For lots abutting a residential district, buffering requirements are set forth on the Table of Dimensional Requirements found at Code section 20-3206.
- (b) *Effect of street and highway rights-of-way on calculations.* Street and highway rights-of-way shall not be included in determining the size of a lot.
- (c) *Setback calculations.* All setbacks shall be calculated from the property line.
- (d) *Lot reduction prohibited.* No building lot, even though it may consist of one or more adjacent lots of record, shall be reduced in size so that the lot width or depth, front, side or rear yards, lot area per dwelling, or other requirements of this chapter are not maintained. Building lots created after the effective date of the ordinance from which this chapter derives shall meet the minimum dimensional requirements established for the district in which they are located.
- (e) *Yard use limitations.* No part of a yard or other open space required to surround any building for the purpose of complying with the provisions of this chapter shall be included as part of a yard or other open space similarly required for another building.
- (f) *Limit of one principal building.* Only one principal building and its customary accessory building(s) may hereafter be erected on any lot, except as authorized by a special use permit or a conditional district, except for multi-unit residential development.
- (g) *Street access.* No building shall be erected, structurally altered, moved to, or relocated on any lot which does not abut at least 35 feet on a publicly dedicated or maintained street or on a private street which meets the standards of the North Carolina Department of Transportation as to maintenance, disclosure and construction. The right-of-way of any dedicated public or private street shall not be considered in computing any required square footage of a lot necessary to meet the other requirements of this chapter. Any lot in the C-2 district used for commercial purposes shall have its primary access upon the street on which it fronts.

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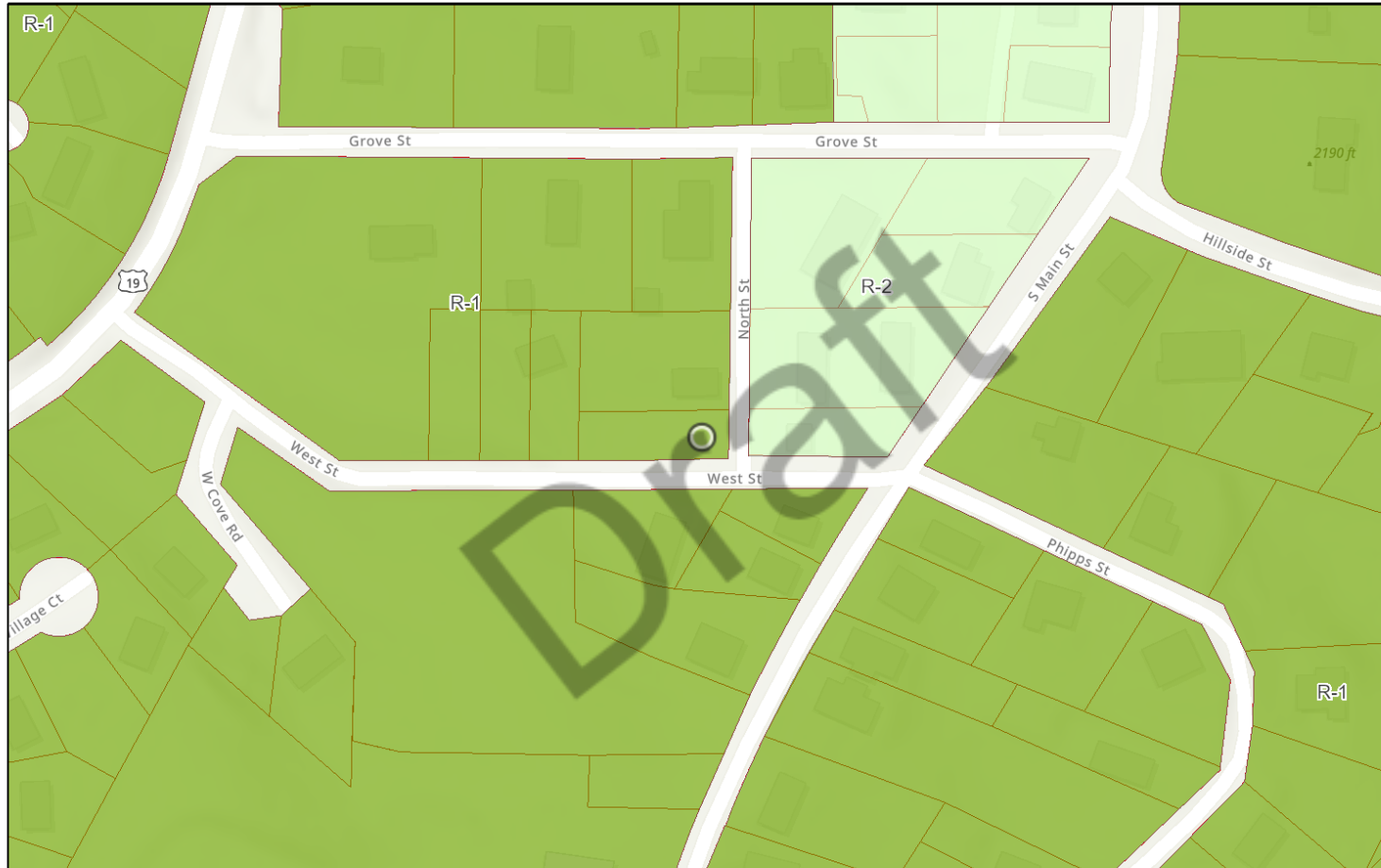
(Supp. No. 23)

- (h) *Alternate setbacks for some dwellings.* The front yard setback requirements of this chapter for dwellings shall not apply to any lot where the average front yard setback of the existing buildings, located either wholly or in part within 100 feet on each side of such lot and on the same side of the street and within the same zoning district, is less than the minimum required front yard setback. In such case, the setback on the lot in question may be less than the required setback, but no less than the average of the setbacks of the aforementioned adjacent buildings.
- (i) *Front yard setbacks for corner lots and double fronted lots.* For properties having frontage on two streets, the minimum front yard setbacks shall be provided for each street.
- (j) *Projections into open space and required yards.* Every part of a required yard, established by setbacks or otherwise, shall be open and unobstructed from its lowest point to the sky, except for the ordinary projection of sills, cornices, buttresses, ornamental features, eaves, chimneys and flues into such area; provided, however, that none of the above shall project into a minimum required yard (front or side) more than 24 inches.
- (k) *Visibility at intersections.* In all use districts except the C-1 district, no fence, wall, shrubbery or other landscaping, gutter or other obstruction to vision over the height of 2½ feet shall be permitted to exist within 20 feet of the intersection of the right-of-way lines of streets.
- (l) *Fences.* No fence shall be located within the right-of-way of any street or highway. Fences located within any minimum required "yard" as provided for in this chapter shall not exceed seven feet in height. Where a fence is located at the top of a slope or retaining wall, the fence height shall be measured from the top of the slope or retaining wall. Fencing shall not be erected in such a fashion as to obstruct visibility at intersections.
- (m) *Conflict with other laws.* Whenever the regulations of this article require a greater width or size of yard, or require a lower height of buildings or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other more restrictive standards than are required in or under any other statute, code chapter, or article, the requirements of this article shall govern. Whenever the provisions of any other statute require more restrictive standards than are required by this chapter, the provisions of such statute shall govern. If there are conflicting provisions within this chapter then the more restrictive provisions apply.
- (n) *Traffic impact study:*
 - (1) *Purpose.* The purpose of this section is to ensure that applicants for new development and redevelopment consider and mitigate the impact of the development on the existing and/or proposed roadway systems. While the town acknowledges responsibility to build and maintain a public transportation system, the project applicants may need to assist in improving transportation facilities in order to maintain an acceptable level of service by accommodating additional traffic generated by the development. These transportation facilities involve pedestrian, non-motorized vehicular traffic and motorized vehicular traffic.
 - (2) *Applicability.* A traffic impact analysis (also known as a traffic impact study) is required for all proposals for new construction, additions and/or expansions to existing structures, and/or changes of use located on town streets or NCDOT maintained roadways, which will result in trips equal to or greater than 750 daily trips, using the trip generation rates from the most recent edition of the Trip Generation Manual published by the Institute of Transportation Engineers. The following table provides average daily trips for various types of developments and is provided for guidance purposes only:

Type of Development	Average Daily Trips
Single Family Residential Subdivision with 70 lots	750
Multi-Family Residential Apartment with 105 units	750

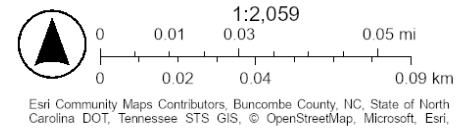
-
- (3) *Format, review and recommendation.* Any traffic impact analysis required by this section shall follow the guidelines of NCDOT's "Policy on Street and Driveway Access to North Carolina Highways" for traffic impact studies. All traffic impact analyses shall be submitted to the planning director, who shall forward it to the town's technical review committee, and NCDOT for review and comment. All recommendations prepared or received, including a staff recommendation reflecting comments from the town's technical review committee, which involve town public streets shall be submitted to town council.
- (4) *Improvements required.*
- (i) NCDOT will determine what improvements are required to NCDOT maintained roads to accommodate the additional traffic generated by the proposed development.
 - (ii) Town council will determine what improvements are required to the town public street system to accommodate the additional traffic generated by the proposed development.
 - (iii) Required improvements must be funded and/or constructed by the project developer in accordance with the standards and direction provided by NCDOT and/or the town.
- (o) *Design standards for flag lots and related driveways and street access.*
- (1) The minimum street frontage for a flag lot shall be 35 feet in accordance with [section] 20-3208(g).
 - (2) The minimum width of the entire flagpole portion of a lot shall be 35 feet.
 - (3) The flagpole portion of a lot shall not be included in the calculation of minimum lot area.
 - (4) The maximum length of a flagpole portion of a lot shall be 200 feet.
 - (5) No more than two lots or ten percent of the total lots in a subdivision, whichever is greater, shall be permitted as flag lots.
 - (6) The number and location of curb cuts shall be designed to minimize traffic and pedestrian hazards.
 - (7) Use of a shared driveway to serve flag lots and/or an adjoining lot is permitted and encouraged.
- (Ord. of 5-24-2021(1), § 5; Ord. of 11-22-2021(1), § 4)

Town of Weaverville Zoning



11/4/2024, 2:27:49 PM

- Weaverville Town Limits
- R-2
- Buncombe County Parcels - Property
- R-1



The Town of
Weaverville
NORTH CAROLINA

Monday, May 13, 2024

Buncombe County Permits and Inspections
30 Valley Street
Asheville, NC 28801

Noelle Curry has received a Zoning Permit to construct or place an accessory structure, depicted as structure A on the attached site plan, adjacent to the single family home located at PIN: 9742-25--5572, 9 North Street. The application was found to comply with the Zoning Ordinance of the Town of Weaverville and the aforementioned lot is not in the flood zone.

The footprint depicted as structure B is impermissible based upon its proximity to the neighboring property line and is specifically not permitted under this document. In order for structure B to be permitted, it must be relocated outside the setbacks established by the R-1 Zoning District in which the property is located, or the property owner must achieve a variance from the Board of Adjustment.

James Eller

James Eller
Planning Director
Town of Weaverville
828-645-7116
jeller@weavervillenc.org



Noelle Curry
9 North Street
Weaverville, NC 28787
974225557200000
05/08/2024

Noelle Curry
9 North Street
Weaverville, NC 28787

Friday, October 25, 2024

RE: 9 North Street, Weaverville, NC 28787, PIN 9742-25-5572

NOTICE OF VIOLATION AND WARNING CITATION

To Whom It May Concern:

This letter is to yet again inform you that a structure located on the aforementioned property under your ownership is existing in violation of the Town of Weaverville Code of Ordinances, Chapter 20, Section 20-3206, Table of Dimensional Requirements, and Section 20-3323 (c), Accessory structures, copies of which are attached to this letter.

In short, an accessory structure was erected within the back yard setbacks established by the R-1 zoning district without the requisite zoning permit from the Town of Weaverville. Additionally, in an effort to mitigate the situation you were informed over email that the structure in question did not meet the required standards for setbacks and would not be permitted unless relocated outside the setbacks established by the R-1 Zoning District or if you as the property owner achieved a variance from the Board of Adjustment. Neither of these options has been fulfilled, and upon reviewing the property, it is clear that the building has been utilized and is equipped with an electrical connection.

This notice constitutes a warning citation establishing an order to immediately remove the offending structure from the property due to the aforementioned violations of municipal ordinance pursuant to Chapter 1, General Provisions, Section 1-6(b)(1). Should the unpermitted structure remain on the property following receipt of this notice, or an application for a variance or an appeal of an administrative decision is not filed a civil citation of \$100 per day for this violation will be issued pursuant to Chapter 1, General Provisions, Section 1- 6(b)(2) beginning Friday, November 1, 2024 and may be issued for each day's continuing violation as each day's violation constitutes a separate and distinct offense.

Please contact my office at your earliest convenience to discuss how you wish to proceed with mitigating the issue found on your property.

Sincerely,



James Eller
Planner / Code Enforcement Officer
Town of Weaverville
828-645-7116
jeller@weavervillenc.org

Sec. 20-3206. Table of dimensional requirements.

Zoning District	R-1	R-2	R-3	R-12	C-1	C-2	I-1	MHO ¹¹
Minimum Lot Area (sq. Ft.)	10,000 ^{2,7}	7,500 ^{1,2,3,4,7}	5,445 ^{1,2,3,4,7}	7,500 ^{4,7,8}	0	0	0	5,445 ^{1,2,3,4,7}
Minimum Lot Width(ft.)	100	75	75	75	0	50	0	75
Minimum Front Yard (ft.)	30	30	30	30	0	0	0	30
Major Thoroughfare	30	30	30	30 ⁵	0	60	35 ⁵	30
Minor Thoroughfare	30	30	30	30 ⁵	0	25 ⁵	35 ⁵	30
With Parking in Front	-	-	-	-	-	60	-	-
Without Parking in Front	-	-	-	-	-	40	-	-
Minimum Side Yard (ft.) Abutting Residential District	10	10 ⁶	10 ⁶	10 ⁶	0	30	40	10 ⁶
Minimum Side Yard (ft.) Abutting Commercial or Industrial District	10	10 ⁶	10 ⁶	10 ⁶	0	0	40	10 ⁶
Minimum Rear Yard (ft.) Abutting Residential District	10	10 ⁶	10 ⁶	10 ⁶	0	30	40	10 ⁶
Minimum Rear Yard (ft.) Abutting Commercial or Industrial District	10	10 ⁶	10 ⁶	10 ⁶	0	0	40	10 ⁶
Height Limit (ft.)	35	35	35	45 and no more than 3 stories	Note 10	75	75	18
Buffer if Abutting a Residential District (ft.)	0	0	0	20	Note 9	20	20	0

The following notes apply to the Table of Dimensional Requirements set out above:

See sections on dwelling setbacks (Code section 20-3208(h) and (i)), nonconforming lots (Code section 20-1602); and right-of-way (Code section 20-3208(b)).

Additional Notes corresponding to the table:

1. 10,000 square feet if no public sewerage is available.
2. 20,000 square feet if neither public water or sewerage is available.
3. 5,000 additional square feet for each additional dwelling unit when public water and/or sewer is available, but in no event may density exceed 8 units per acre.
4. 10,000 additional square feet for each additional dwelling unit when public water and/or sewer is not available.
5. 40 feet if property directly across the right-of-way is zoned residential.

6. 15 feet for duplexes; 25 feet for all other multi-family dwelling units.
7. Additional square footage may be required by the authority having jurisdiction over private water and/or sewerage systems located on individual lots.
8. 3,280 additional square feet for each additional dwelling unit when public water and/or sewer is available, but in no event may density exceed 12 units per acre.
9. Where a lot in the C-1 district abuts a residential district, either directly or across a street (on the side of the C-1 lot), and any use is hereafter established on the C-1 lot by the construction of a new building thereon or by the enlargement of an existing building on the C-1 lot which enlargement exceeds by 25 percent the floor area of the existing building, such building and such lot shall be screened from the lot in the residential district by a vegetative screen on the side of the building or lot facing the residential lot shall require screening. Exceptions to this buffering requirement in C-1 are as follows:
 - (a) These provisions shall not apply to any lot which is used for a use which would be permitted in the adjacent residentially zoned district.
 - (b) The vegetative screen required shall be omitted along the street where the C-1 lot fronts.
 - (c) The board of adjustment shall have the authority to alter or eliminate the required vegetative screen where the lot requiring the vegetative screen and the adjacent lot zoned residential are in single ownership or upon receipt of a notarized statement waiving or modifying the screening provisions of this section, between the owner of the lot requiring the vegetative screen and the owner of the adjacent lot zoned residential. Any such agreements shall be attached to the application for zoning permit and retained by the town.
10. In the C-1 district, every building or structure hereafter erected or structurally altered to exceed 35 feet in height, shall, above such 35-foot height, be set back from the front line of the property on which the building or structure is located on the ratio of one set back foot for each two-foot rise above such 35-foot height. In no case shall the height be greater than 57 feet (which would require a setback of 11 feet).

Where more than one-half of the street frontage in a particular street block is zoned residential and the remaining frontage on the same side of that street block is zoned C-1, the height regulations for the residential district shall apply to the lots zoned for commercial uses on that side of the street block.

11. The dimensional standards for the MHO district only apply to manufactured homes. To the extent that a dimensional requirement for a manufactured home in the MHO district is inconsistent with the corresponding dimensional requirement of the underlying use district, the more restrictive dimensional requirement shall apply to that manufacture home.

Sec. 20-3323. Accessory structures.

(a) The footprint of accessory structures within any residential zoning district shall not exceed the following maximum footprint(s).

Lot Size	One Structure	All Structures
Less than 1 acre	800 square feet	1,000 square feet
1 to 3 acres	1,200 square feet	1,600 square feet
More than 3 acres	No limit	No Limit

- (1) The footprint of any structure defined as "dwelling - secondary" shall not be included in the calculation of footprint for accessory structures but such structures shall meet the additional standards established by Code section 20-3309.
 - (2) The footprint of any structure defined as "solar collector system - ground mounted" shall not be included in the calculation of footprint for accessory structures but such structures shall meet the additional standards established by Code section 20-3327.
 - (3) The footprint of any accessory structure implemented with any use defined as "agriculture - commercial" or "agriculture - neighborhood" shall not be included in the calculation of foot print for accessory structures but such structures shall meet the additional standards established by Code section 20-3305 and Code section 20-3306.
- (b) Accessory structures shall not exceed the height of the primary structure and in no event exceed 25 feet.
- (c) Accessory structures shall only be located within the side or rear yard of the primary structure and shall only be permitted within the setbacks established by the applicable zoning district.
- (d) Accessory structures providing common facilities for residential developments, including but not limited to a clubhouse, mail receptacle facilities, pool house, rental or property management office, shall not be subject to the footprint limits or location requirements established in this section.

From: [Noelle Curry](#)
To: [James Eller](#)
Subject: Re: Town of Weaverville Zoning Permit Application
Date: Thursday, May 9, 2024 11:24:59 AM
Attachments: [image001.png](#)
[9 North St Site Plan A + B Sheds.pdf](#)

James, thank you so much. That will give us the ability to do the electrical inspection and cover the trench while the second shed remains out of use while we apply for a variance. Attached is the updated site plan with the sheds labeled. Please let me know if you need anything else from me.

Once the permit is issued for the one shed, do I pass that information along to my electrician so he can have the county inspectors come out? Just want to make sure I know what my next step is. Thank you so much.

On Thu, May 9, 2024 at 9:53 AM James Eller <jeller@weavervillenc.org> wrote:

Noelle,

I am willing to permit the compliant building with a revised site plan labeling the two structure as A and B so that it may be clearly written into the permit.

As far as the neighbor, they may absolutely attend the meeting of the Board of Adjustment, but they do not have the authority to approve the placement of structures.

As far as agricultural uses, these are allowed in both county and municipal jurisdictions. However, this use of property or some qualification through the county does not override the applicable setbacks.

James Eller

Planning Director

Town of Weaverville

Email: jeller@weavervillenc.org

Phone: (828) 484-7002, (828) 645-7116



From: Noelle Curry <currynoellej@gmail.com>
Sent: Thursday, May 9, 2024 9:09 AM
To: James Eller <jeller@weavervillenc.org>
Subject: Re: Town of Weaverville Zoning Permit Application

Completely understand. Thank you for providing all of this information. For the northern most building, our neighbor absolutely approved the proximity to the property line. When applying for a variance, are the neighbors able to provide their input for approval to the location? We will need to apply for that in this case as I am not sure moving the structure is feasibly currently.

Alternatively, the buildings are being used for agriculture purposes (urban farming). We are in the process of obtaining our qualifying farmer exception certificate number which allows in instances of buildings to be exempt from some zoning restrictions. We qualify for buncombe county but I'm not sure if the exemptions still qualify for the town of Weaverville. Are you familiar with this and would you have any insight on this?

And finally (sorry for the lengthy response!), would it be possible to only obtain a permit for the southernmost building so that we would be able to have the inspection complete for the electrical work solely for this building while we work on applying for a variance for the northernmost building or figure out possibly relocating? Just wondering if that would be an option to only move forward with the one building since that one fits the location parameters.

Thank you so much for your time and help.

On Thu, May 9, 2024 at 8:56 AM James Eller <jeller@weavervillenc.org> wrote:

Noelle,

At least one of the structures which have been placed cannot be permitted due to its proximity to a neighboring property line. The R-1 zoning district, in which the property is located, establishes setbacks of 30 in the front and 10 on the sides and rear.

Sec. 20-3206. Table of dimensional requirements.

Zoning District	R-1	R-2	R-3	R-12	C-1	C-2	I-1	MHO ¹¹
Minimum Lot Area (sq. Ft.)	10,000 ^{2,7}	7,500 ^{1, 2,3,4,7}	5,445 ^{1,2,3,4,7}	7,500 ^{4,7, 8}	0	0	0	5,445 ^{1,2,3,4,7}
Minimum	100	75	75	75	0	50	0	75

Lot Width(ft.)								
Minimum Front Yard (ft.)	30	30	30	30	0	0	0	30
Major Thoroughfare	30	30	30	30 ⁵	0	60	35 ⁵	30
Minor Thoroughfare	30	30	30	30 ⁵	0	25 ⁵	35 ⁵	30
With Parking in Front	-	-	-	-	-	60	-	-
Without Parking in Front	-	-	-	-	-	40	-	-
Minimum Side Yard (ft.) Abutting Residential District	10	10 ⁶	10 ⁶	10 ⁶	0	30	40	10 ⁶
Minimum Side Yard (ft.) Abutting Commercial or Industrial District	10	10 ⁶	10 ⁶	10 ⁶	0	0	40	10 ⁶
Minimum Rear Yard (ft.) Abutting Residential District	10	10 ⁶	10 ⁶	10 ⁶	0	30	40	10 ⁶
Minimum Rear Yard (ft.) Abutting Commercial or Industrial District	10	10 ⁶	10 ⁶	10 ⁶	0	0	40	10 ⁶
Height Limit (ft.)	35	35	35	45 and no more than 3 stories	Note 10	75	75	18
Buffer if Abutting a Residential District (ft.)	0	0	0	20	Note 9	20	20	0

Additionally, we must consider a couple miscellaneous provisions which come into play here.

Sec. 20-3208. Miscellaneous provisions.

(h) *Alternate setbacks for some dwellings.* The front yard setback requirements of this chapter for dwellings shall not apply to any lot where the average front yard setback of the existing buildings, located either wholly or in part within 100 feet on each side of such lot and on the same side of the street and within the same zoning district, is less than the minimum required front yard setback. In such case, the setback on the lot in question may be less than the required setback, but no less than the average of the setbacks of the aforementioned adjacent buildings.

(i) *Front yard setbacks for corner lots and double fronted lots.* For properties having frontage on two streets, the minimum front yard setbacks shall be provided for each street.

Considering subparagraph (i) the front yard setback of 30 feet must be taken from each street frontage. However, and even if by accident, subparagraph (h) allows for reduced front yard setbacks under certain circumstances which are found here. The southern most building may remain in its current location but the northern most building must be relocated due to its placement five feet from the property line.

Under these circumstances a zoning permit cannot be administratively issued as the parameters of the zoning ordinance have not been adhered to. At this point we have two options:

1. Relocate the northern building outside the ten foot setback. A zoning permit may be issued at that point.
2. Apply for a variance from the Board of Adjustment. The Board of Adjustment meet the second Monday of the month as needed and at this point we would be aiming for June 10th to afford time for the legal advertising of the hearing.

For scenario 2 the following information is not provided to dissuade you from applying for a variance but rather giving you an indication of some resistance which may be encountered. When considering a variance the Board must find each of the following...

Sec. 20-3108. Quasi-judicial zoning decisions.

(d) *Variations.* When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the board of adjustment shall vary any of the provisions of the zoning regulation when, based on competent, material, and substantial evidence, it finds all of the following:

- (1) Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made on 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. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability;

(3) The hardship did not result from the 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 is not a self-created hardship;

- (4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved;
- (5) The requested variance is not a request to permit a use of land, building, or structure which is not permitted in the zoning district in which the property is located; and
- (6) The requested variance is not a request to permit a prohibited sign or to eliminate a required sidewalk.

Appropriate conditions may be imposed on any variance, provided the conditions are reasonably related to the variance. Other development regulations that regulate land use or development, including the subdivision regulations, may provide for variances from the provisions of those ordinances consistent with the provision of this section. The concurring vote of four-fifths (4/5) of the board of adjustment shall be necessary to grant a variance. Approved variances are required to be recorded with the Buncombe County Register of Deeds upon approval.

While I do not speak for the Board, subparagraph 3, which speaks to self-created hardships, will be difficult to overcome.

Attached you will find an application for a variance should you wish to pursue. Otherwise, a zoning permit application, also attached, showing conditions compliant with the zoning ordinance must be furnished in order to secure a permit.

My apologies for being the bearer of bad news. Please feel free to contact me if I may offer any additional information.

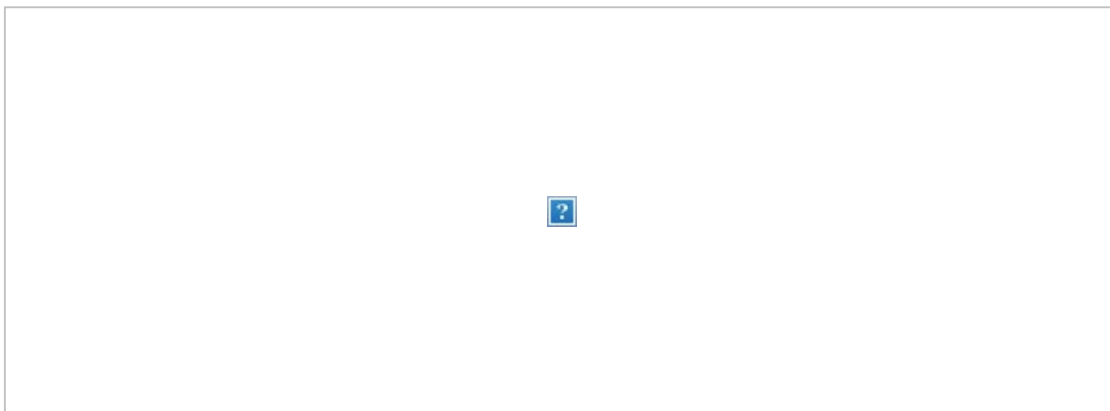
James Eller

Planning Director

Town of Weaverville

Email: jeller@weavervillenc.org

Phone: (828) 484-7002, (828) 645-7116



From: Noelle Curry <currynoellej@gmail.com>
Sent: Wednesday, May 8, 2024 3:55 PM
To: James Eller <jeller@weavervillenc.org>
Subject: Re: Town of Weaverville Zoning Permit Application

You don't often get email from currynoellej@gmail.com. [Learn why this is important](#)

Hi James,

Just to follow up... if you could please get back to me via email or call whenever you have the chance to let me know what the next steps are! When I spoke with the buncombe county zoning and they said that after weaverville had the amended site plan to call them back to move forward with inspections. Because I have a trench in my yard dug, I'm just hoping to get an idea of what the timeline & next steps would be.

No rush at all, I just got a bit confused with this and want to stay as in the loop as possible.

Thanks for understanding.

On Wed, May 8, 2024 at 9:02 AM James Eller <jeller@weavervillenc.org> wrote:

Noelle,

Attached you will find a zoning permit application as per our conversation. Please feel free to contact me if I may provide any additional information or assistance.

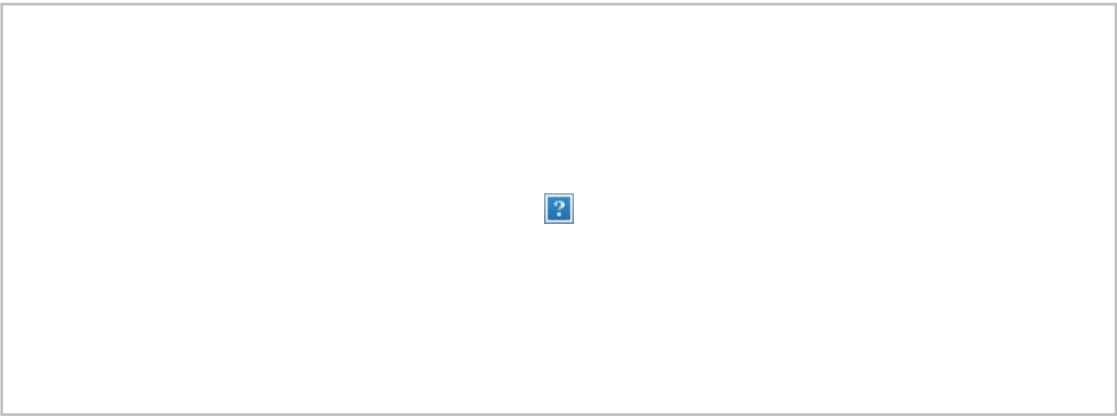
James Eller

Planning Director

Town of Weaverville

Email: jeller@weavervillenc.org

Phone: (828) 484-7002, (828) 645-7116



Draft

**TOWN OF WEAVERVILLE
REGARDING THE MATTER OF:**

Variance Application
9 North Street

AFFIDAVIT OF MAILING AND POSTING

Being first duly sworn, I, James W. Eller, do hereby swear or affirm that on the 18th day of November, 2024, I:

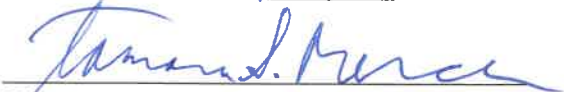
- 1. Mailed the attached Notice of Public Hearing, attached as Exhibit A, to all of the persons listed on the attached Exhibit B and that said mailing was accomplished by putting the Notice in envelopes, with postage pre-paid, addressed to all persons shown and at the addresses reflected on the attached Exhibit B, and that said envelopes were deposited in a U.S. Mail Box under the exclusive control of the U.S. Postal Service; and
- 2. Posted the attached Notice of Public Hearing Sign(s), Exhibit C, at the location(s) shown on Exhibit C and that a Notice of Public Hearing, Exhibit A, was affixed to the reverse side of same.

This the 18 day of November, 2024.



James W. Eller

Sworn to and subscribed before me
this 18th day of Nov., 2024



Notary Public

My Commission Expires: 10/4/2026

[Notary Seal]

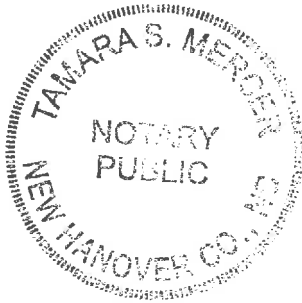


Exhibit A

**NOTICE OF PUBLIC EVIDENTIARY HEARING
WEAVERVILLE BOARD OF ADJUSTMENT**

Public Notice is hereby given that the Town of Weaverville Board of Adjustment will hold a Public Evidentiary Hearing following quasi-judicial procedures on Monday, December 9, 2024 at 6:00p.m. This meeting will occur within the Community Room and Council Chambers at Town Hall located at 30 South Main Street, Weaverville, NC to consider the following item:

An application for a variance for an accessory structure that does not meet the minimum required setbacks established by the R-1 Zoning District on a property bearing Buncombe County PIN#9742-25-5572, 9 North Street, Weaverville, NC 28787.

If you would like additional information or to review the content related to the Public Evidentiary Hearing, you may contact Planning Director and Town Clerk James Eller at 828-484-7002 or jeller@weavervillenc.org.

Exhibit A

Exhibit B

PINNUM	OWNER	ADDRESS	CITYNAME
'974225263700000'	KDAN ANDREA;COVINGTON SCOTT	26 GROVE ST	WEAVERVILLE
'974225357800000'	VANUKA SARA RAINES;VANUKA ROBERT ALAN	84 WEST ST	WEAVERVILLE
'974225430300000'	WEAVER CEMETERY	UNKNOWN STREET	WEAVERVILLE
'974225452700000'	YOKOI NORIKO;GARTNER STEVE	96 WEST ST	WEAVERVILLE
'974225457700000'	YOKOI NORIKO;GARTNER STEVE	96 WEST ST	WEAVERVILLE
'974225478200000'	DANA BRISCOE BROWN REVOCABLE TRUST	18 GROVE ST	WEAVERVILLE
'974225547200000'	ELLINGWOOD MICHAEL L	85 WEST ST	WEAVERVILLE
'974225557200000'	SARNELLI SEAN;CURRY NOELLE	9 NORTH ST	WEAVERVILLE
'974225558900000'	DIRK GRAMMEL LIVING TRUST AGREEMENT	7 NORTH ST	WEAVERVILLE
'974225630200000'	RESCORLA GRANT DANIELS;BAKER HEATHER MARIE	119 S MAIN ST	WEAVERVILLE
'974225636900000'	DAVISON WILMA CATHERINE	27 COLE COVE RD	CANDLER
'974225671200000'	BUCKNER KENNETH J;BUCKNER KATHERINE M	14 GROVE ST	WEAVERVILLE
'974225741300000'	CARTER THOMAS E	113 S MAIN ST	WEAVERVILLE
'974225755100000'	HALL JAMES WALTER JR;HALL NORA R	PO BOX 1672	WEAVERVILLE
'974225759900000'	PALAS WILLIAM B	PO BOX 9385	ASHEVILLE
'974225776200000'	GREENE C REBECCA	86 MARLBOROUGH RD	ASHEVILLE
'974225866700000'	BOYD CAROLYN J;BOYD ERNEST W	103 S MAIN ST	WEAVERVILLE

Exhibit B

DAN ANDREA COVINGTON SCOTT
26 GROVE ST
WEAVERVILLE NC 28787

YOKOI NORIKO GARTNER STEVE
96 WEST ST
WEAVERVILLE NC 28787

ELLINGWOOD MICHAEL L
85 WEST ST
WEAVERVILLE NC 28787

RESCORLA DANIELS BAKER
HEATHER
119 S MAIN ST
WEAVERVILLE NC 28787
CARTER THOMAS E
113 S MAIN ST
WEAVERVILLE NC 28787

GREENE C REBECCA
86 MARLBOROUGH RD
ASHEVILLE NC 28804

VANUKA SARA ROBERT ALAN
84 WEST ST
WEAVERVILLE NC 28787

YOKOI NORIKO GARTNER STEVE
96 WEST ST
WEAVERVILLE NC 28787

SARNELLI SEAN CURRY NOELLE
9 NORTH ST
WEAVERVILLE NC 28787

DAVISON WILMA CATHERINE
27 COLE COVE RD
CANDLER NC 28715

HALL WALTER HALL NORA
PO BOX 1672
WEAVERVILLE NC 28787

BOYD CAROLYN BOYD ERNEST
103 S MAIN ST
WEAVERVILLE NC 28787

WEAVER CEMETERY
UNKNOWN STREET
WEAVERVILLE NC 28787

DANA BRISCOE BROWN
REVOCABLE TRUST
18 GROVE ST
WEAVERVILLE NC 28787
DIRK GRAMMEL LIVING TRUST
7 NORTH ST
WEAVERVILLE NC 28787

BUCKNER KENNETH BUCKNER
KATHERINE
14 GROVE ST
WEAVERVILLE NC 28787
PALAS WILLIAM B
PO BOX 9385
ASHEVILLE NC 28815

*BOA Variance Request
9 North St.*

Exhibit C



Exhibit C