

**Town of Weaverville
Board of Adjustment
Special Called Meeting
Tuesday, February 10, 2026, 6:00pm
Agenda**

	Pg#	
1. Call to Order		Vice Chair Wright
2. Approval of the Agenda.....		Vice Chair Wright
3. Evidentiary Hearing – 60 Highland Street Appeal of an Administrative Decision.....	6	Vice Chair Wright
4. Election of Chair and Vice Chair.....	21	Vice Chair Wright
5. Adjournment		Vice Chair Wright

The Board of Adjustment almost exclusively does its work by making **QUASI-JUDICIAL** decisions on appeals from administrative decisions, variance requests, applications for special use permits, and applications for waivers of sidewalk and vegetative screening requirements. 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. **AS RIGHTS ARE DETERMINED IN THESE HEARINGS IT MAY BE ADVISABLE FOR YOU TO CONSULT WITH AN ATTORNEY ON THESE MATTERS.**

PUBLIC NOTICE OF HEARING

The Town Staff must provide notice of the hearings.

MAILED NOTICE – Notice of hearings must be mailed to the applicant, the owner of the affected property, and owners of properties abutting the property affected. Mailings are sent first class to addresses maintained by Buncombe County Tax Office and must be sent at least 10 days but not more than 25 days prior to the scheduled hearing.

POSTING OF PROPERTY – The property that is subject to an appeal, variance request, special use permit application, or other request must be prominently posted. This posting must be on the property affected or on an adjacent street or highway right of way and must also be done at least 10 days but not more than 25 days prior to the scheduled hearing.

INTRODUCTION AT HEARING

The Chairman of the Board of Adjustment or the Board's attorney will provide an introduction prior to the start of the hearing in order to make sure that those in attendance understand the matter to be heard, who is allowed to participate, and a general overview of the procedural aspects of the hearing including the burden of proof and standards the Board of Adjustment must apply.

BURDEN OF PROOF – All decisions of the Board must be based on competent, material, and substantial evidence presented during the hearing. The person appealing an administrative decision, or applying for a variance, special use permit, or sidewalk or vegetative screening/buffering waiver has the burden of providing sufficient evidence for the Board of Adjustment to conclude that the applicable standards have been met. If insufficient evidence is presented, the application must be denied or the Board of Adjustment can continue the hearing to a later date to receive additional evidence. Once sufficient evidence has been presented that the standards have been met, the applicant is entitled to approval. If conflicting evidence is presented, the Board must determine which facts it believes are correct.

STANDARDS - The Town's land development regulations provide specific standards for the issuance of variances, special use permits, sidewalk waivers, and vegetative screening/buffering waivers. See separate Section on Standards.

BOARD DISCLOSURES AND RECUSALS

The Board of Adjustment must make sure that it is an impartial decision maker and that all communications with the Board on the matter prior to the hearing have been disclosed.

RECUSAL FOR BIAS/CONFLICT OF INTEREST - Prior to the opening of the hearing, the Chairman will inquire of the Board members if there is any reason that they could not be an impartial decision maker. If any member has a fixed opinion prior to the hearing, a close familial, business or other associational relationship with an affected person, or a direct or indirect financial interest in the outcome he or she should not participate in that hearing, deliberation or vote. Alternate members of the Zoning Board of Adjustment have been appointed to fill a seat in those situations. If there are members who express bias or conflict of interest then the recusals of those members would be appropriate.

OUTSIDE COMMUNICATION – The Chairman will also provide an opportunity for members of the Board to disclose any communication that has occurred prior to the hearing. Some incidental communication is common and hard to avoid. However, substantial communication that occurs outside of the hearing should be disclosed.

IDENTIFICATION OF PARTIES

Only those people who have a sufficient interest, or standing, in the outcome of matter before the Board are allowed to become a party and present evidence. Anyone that can show some “special damage,” or damage not common to all other persons who may oppose what is being requested, will have standing to contest the matter and will be a proper party. The following have standing:

- (1) Anyone that has an ownership interest in the property that is the subject of the hearing;
- (2) Anyone that has a leasehold interest in the property that is the subject of the hearing.
- (3) Anyone that has an interest in the property that is the subject of the hearing that has been created by an easement, restriction, or covenant.
- (4) Anyone that has an option or contract to purchase the property that is the subject of the hearing.
- (5) Anyone that is an applicant before the decision-making board.
- (6) Any other person who will suffer special damages as the result of the decision.
- (7) An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual.
- (8) The Town if the Town believes that the Board of Adjustment improperly granted a variance from or made a decision that it believes is inconsistent with the proper interpretation of an ordinance adopted by Town Council.

OATH OF WITNESSES

State law requires that the Board of Adjustment’s decisions be based on testimony that is given under oath. The Chairman will ask that anyone wishing to testify at the hearing come forward to be sworn under oath before the hearing begins.

HEARING IS OPENED FOR THE PRESENTATION OF EVIDENCE

The hearing is conducted in order to determine the facts relevant to the matter before the Board of Adjustment. The decision of the Board of Adjustment must be made based on competent, material, and substantial evidence in the record of the hearing. The Board of Adjustment’s scope is limited to applying facts to the standards set forth in the land development regulations. Any testimony as to unrelated matters is inappropriate and cannot be considered.

DOCUMENTARY EVIDENCE/EXHIBITS – Examples of documents that can be entered into evidence include: the application, staff reports, supporting documentation, documents from witnesses, maps, photographs, videos, studies.

FACTUAL TESTIMONY – Testimony about facts within the personal knowledge of a witness can be fully considered by the Board of Adjustment. Factual testimony should be limited to those facts which relate to the standards. The Board of Adjustment can only rely on opinions offered by qualified experts. The testimony of lay witnesses offering only opinions or conclusions is not considered as competent evidence on which the Board can basis its determination.

OPINION TESTIMONY BY QUALIFIED EXPERTS – Opinion testimony should be provided only by properly qualified experts. North Carolina law specifically prohibits the use of non-expert testimony on how the use of a property would affect property values, the increase in vehicular traffic resulting from the proposed development would pose a danger to public safety, or any other matters that a court would require expert testimony in court. Non-expert opinions on these technical matters are not considered to be competent evidence upon which a decision can be made.

CROSS-EXAMINATION

In order to preserve constitutional rights, parties have the right to cross-exam or question all witnesses. Board members are also free to pose questions to anyone presenting evidence.

HEARING IS CLOSED AND BOARD DELIBERATION BEGINS

At the close of the hearing the Board then takes an opportunity to review the evidence in light of the standards that the Board must apply. The Board's review should focus on contested facts. Where conflicting evidence is presented, the Board of Adjustment has the responsibility of deciding how much weight to accord each piece of evidence. The Board also has the responsibility of determining credibility of witnesses. In its discussion the Board can consider conditions that might be imposed in order to bring the project into compliance with a standard.

VOTING

For most matters coming before the Board of Adjustment a simple majority vote is all that is needed. For variance applications, however, North Carolina law requires a super majority of at least 4/5.

WRITTEN DECISIONS

The Board's decision must be reduced to writing; however, this is usually done at a subsequent meeting. Prior to that it is permissible to issue a temporary order consistent with the Board's deliberations and vote. The written decision must determine any contested facts and apply the facts to the applicable standards. Staff drafts a written decision and presents it to the Board at the Board's next meeting for consideration and adoption.

APPEALS

Anyone "aggrieved" by a decision of the Board of Adjustment can appeal a decision by filing a petition for writ of certiorari with the Buncombe County Superior Court within 30 days of the mailing of the written decision or the filing of that decision with the Board's clerk or secretary, which is later. It is important to remember that the time is not measured from the date of the decision, but from the mailing of the written decision. It is also important to note that appeals are not heard by Town Council.

STANDARDS

The standards as adopted by the Town Council must be set forth in an unambiguous manner so that the Board of Adjustment can apply those standards to the facts of a particular case. This doesn't mean that the standards must all be objective standards; subjective standards (such as "general welfare" and "hardship") are permissible.

STANDARDS FOR SPECIAL USE PERMITS

- (1) The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
- (2) The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor substantially diminish and impair property values within the neighborhood.
- (3) The establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- (4) The exterior architectural appeal and functional plan of any proposed structure will not be so at variance with the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or with the character of the applicable district as to cause a substantial depreciation in the property values within the neighborhood.
- (5) Adequate utilities, access roads, drainage and/or other necessary facilities have been, are being, or will be provided.
- (6) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (7) The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the board of adjustment.

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.

Standards and limitations on **SIDEWALK REQUIREMENT WAIVERS** and **VEGETATIVE SCREENING/BUFFERING WAIVERS** are available upon request.

TOWN OF WEAVERVILLE
BOARD OF ADJUSTMENT AGENDA ITEM

Date of Meeting: Tuesday, February 10, 2026

Subject: Evidentiary Public Hearing – Appeal of an Administrative Decision

Presenter: Planning Director / Applicant

Attachments: Public Notice; Affidavit of Mailing and Posting; Staff Report; Appeal Application and Supporting Documents.

Description:

INTRODUCTION: Cynthia Zalman-Wolhart is the owner of the property located at 60 Highland Street that has a Buncombe County Parcel Identification Number of 9742-07-4152, which is zoned R-1. An application has been filed to appeal an administrative decision which denied a zoning permit to construct a second principal dwelling unit on the same parcel of land as an existing principal dwelling unit.

JURISDICTION: Code Sec. 20-3108(b) authorizes the BOA to hear and decide appeals of administrative decisions regarding administration and enforcement of all development regulations and to hear and decide appeals arising out of any other ordinance that regulates land use or development.

STANDARDS FOR APPEALS OF ADMINISTRATOR DECISIONS: When hearing an appeal, the board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision. The board must also ensure that the rights of the appellant have not been prejudiced because the administrative findings, inferences, conclusions, or decision were:

1. In violation of constitutional provisions, including those protecting procedural due process rights.
2. In excess of the authority conferred upon staff by ordinance.
3. Inconsistent with applicable procedures specified by statute or ordinance.
4. Affected by other error of law.
5. Unsupported by competent, material, and substantial evidence in view of the entire record.
6. Arbitrary or capricious.

QUESTION FOR DELIBERATION: Based on the competent, material, and substantial evidence in the record, should the decision/determination/order be reversed or affirmed, wholly or partly, or does the board wish to modify the decision?

NOTICE OF SPECIAL CALLED MEETING AND QUASI-JUDICIAL HEARING

Public Notice is hereby given that the Town of Weaverville Board of Adjustment will hold a special-called meeting on **Tuesday, February 10, 2026, at 6:00p.m.**, or at such time as the Board reaches the matter. This meeting will occur within Council Chambers at Town Hall located at 30 South Main Street, Weaverville, NC, to consider the following items:

- (1) Administrative matters to elect a Board Chair
- (2) Conduct a hearing following quasi-judicial procedures to consider and decide an application for an appeal of an administrative decision denying a request to permit a second principal building on a single lot on a property bearing Buncombe County PIN#9742-07-4152, 60 Highland Street, Weaverville, NC.

If you would like additional information or to review the content related to the matters you may contact Planning Director at 828-484-7002 or jeller@weavervillenc.org.

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

Appeal of an Administrative Decision
60 Highland Street

AFFIDAVIT OF MAILING AND POSTING

Being first duly sworn, I, James W. Eller, do hereby swear or affirm that on the 28th day of January, 2026, 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 28th day of January, 2026.



James W. Eller

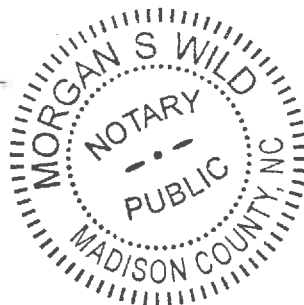
Sworn to and subscribed before me
this 28 day of Jan, 2026



Notary Public

My Commission Expires:
8/11/2029

[Notary Seal]



NOTICE OF SPECIAL CALLED MEETING AND QUASI-JUDICIAL HEARING

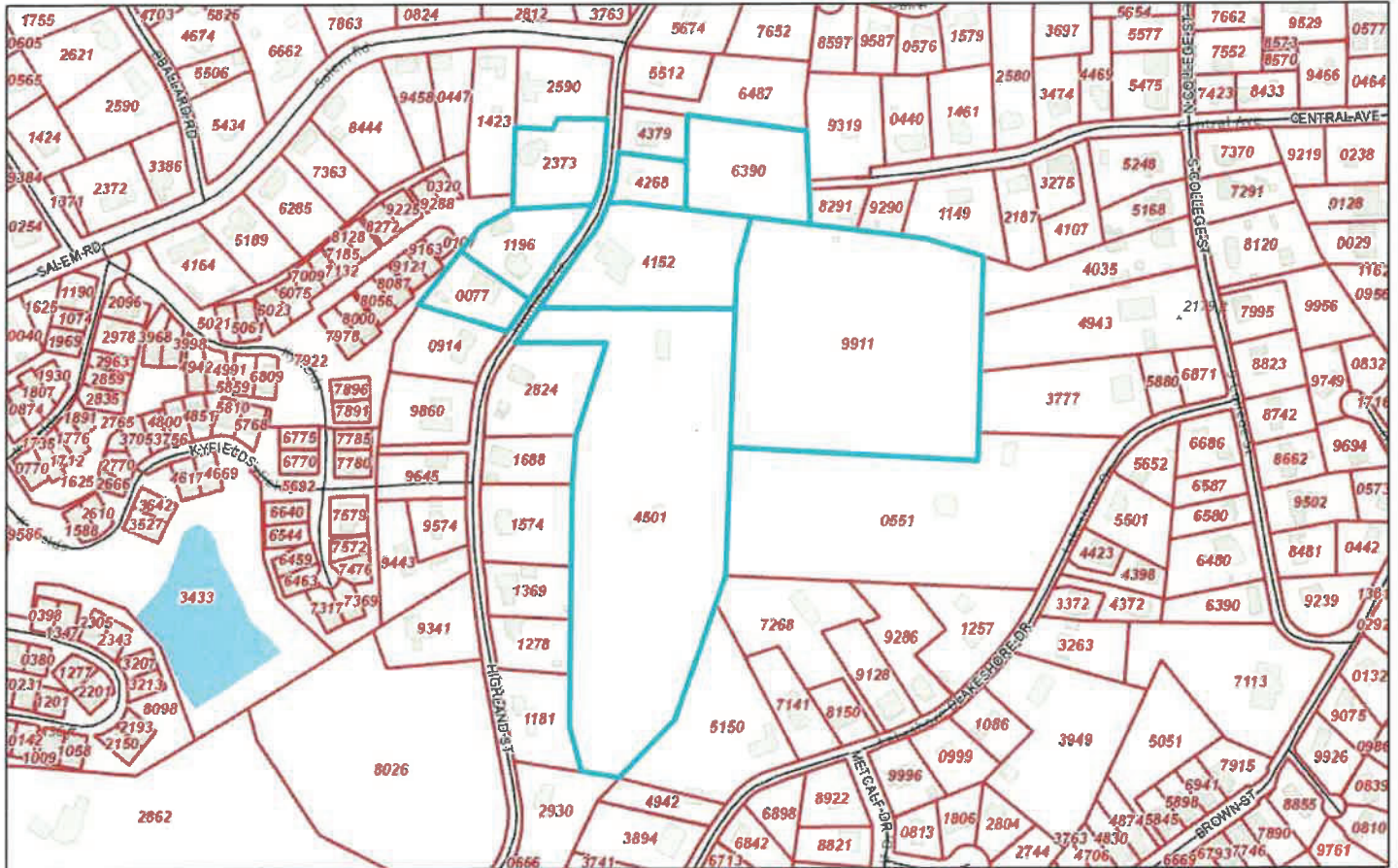
Public Notice is hereby given that the Town of Weaverville Board of Adjustment will hold a special-called meeting on **Tuesday, February 10, 2026, at 6:00p.m.**, or at such time as the Board reaches the matter. This meeting will occur within Council Chambers at Town Hall located at 30 South Main Street, Weaverville, NC, to consider the following items:

- (1) Administrative matters to elect a Board Chair
- (2) Conduct a hearing following quasi-judicial procedures to consider and decide an application for an appeal of an administrative decision denying a request to permit a second principal building on a single lot on a property bearing Buncombe County PIN#9742-07-4152, 60 Highland Street, Weaverville, NC.

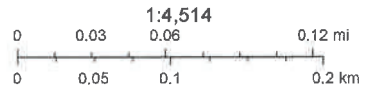
If you would like additional information or to review the content related to the matters you may contact Planning Director at 828-484-7002 or jeller@weavervillenc.org.

PINNUM	OWNER	ADDRESS	CITYNAME	STATE	ZIPCODE
'974206091400000'	PARRAMORE DAVID M;WATLINGTON AMY L	75 HIGHLAND ST	WEAVERVILLE	NC	28787
'974206282400000'	EMOFF RONALD;GOLDIE CATHLEEN	74 HIGHLAND ST	WEAVERVILLE	NC	28787
'974206450100000'	HOYLE ROSE MARY	68 HIGHLAND ST	WEAVERVILLE	NC	28787
'974206991100000'	MERRILL RAY A;MERRILL LINDA L	36 SHUFORD RD	WEAVERVILLE	NC	28787
'974207007700000'	ERVIN CHARLES H;ERVIN KAREN E	69 HIGHLAND ST	WEAVERVILLE	NC	28787
'974207119600000'	DUNN J MICHAEL;DUNN CYNTHIA ANN	PO BOX 834	WEAVERVILLE	NC	28787
'974207237300000'	MANN DONNA L;BELT W THOMAS JR	53 HIGHLAND ST	WEAVERVILLE	NC	28787
'974207415200000'	ZALMAN-WOLHART CYNTHIA J	60 HIGHLAND ST	WEAVERVILLE	NC	28787
'974207426800000'	MCFARLAND ANNE L	54 HIGHLAND ST	WEAVERVILLE	NC	28787
'974207639000000'	IRMITER-MORRIS FAMILY TRUST REVOCABLE TRUST	451 BLACKBURN ST	ENGLEWOOD	FL	34223

Buncombe County



January 28, 2026



Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community





TOWN OF WEAVERVILLE APPLICATION TO APPEAL DECISION OF ZONING ADMINISTRATOR

Planning and Zoning Department, 30 South Main Street, P.O. Box 338, Weaverville, NC 28787
(828) 484-7002--- fax (828) 645-4776 --- jeller@weavervillenc.org
Application Fee: No Charge

DATE APPLICATION SUBMITTED:

APPELLANT NAME: Nathan Elliott

APPELLANT PHONE: 828-337-9518

PROPERTY OWNER NAME: Cindy Zalman Worhart

PROPERTY OWNER PHONE: 828-713-5687

PIN: 22974209074005

PROPERTY ADDRESS: 60 Highland Ave.

ZONING DISTRICT:

DESCRIBE THE NATURE OF THE APPEAL:

Only one house on the property will be occupied at any time. Upon completion of the new (proposed) house the existing house is to be demolished and disposed of. To demolish the existing house prior to completing the new house will create an unnecessary hardship for the homeowner and could endanger the prospects of a new house being completed. Water and sewer taps from the existing house will be switched over to the new house ensuring only one house will be occupied at a time. Additionally, there is language in the financing documents stipulating that the existing house is to be demolished upon completion of the new house.

It is the applicant's responsibility to obtain a copy of the Town of Weaverville Zoning Ordinance and to be fully aware of the regulations detailed therein. Language related to appeals of an administrative decision may be found at Sec. 20-1308. This application must be filed with the Town Clerk.

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 to: Nelliottconstruction@gmail.com

I certify that the above information is accurate and true.

Nate Elliott
SIGNATURE OF APPELLANT

1/20/26
DATE

Cindy Zalman Worhart
SIGNATURE OF PROPERTY OWNER

01/20/26
DATE

OFFICE USE ONLY

FEE: N/A

DATE PAID: N/A

CHECK

CASH

CARD

TOWN OF WEAVERVILLE APPLICATION FOR ZONING PERMIT

Planning and Zoning Department, 30 South Main Street, P.O. Box 338, Weaverville, NC 28787
(828) 484-7002 --- fax (828) 645-4776 --- jeller@weavervillenc.org
Permit Fee Based Upon Size of Structure

OWNER/APPLICANT NAME: Cindy Zalman Workart/Nathan Elliott G.Co PHONE NUMBER: 828-337-9518

PROPERTY ADDRESS: 60 Highland Ave PIN: 22974209074005

LOT AREA (acres): 1.84 ZONING DISTRICT:

BRIEFLY DESCRIBE THE PROJECT INCLUDING PROPOSED SQUARE FOOTAGE:

Building anew 1100sf single family home. And then demolishing the existing large house

All applications shall be accompanied by a general site plan draw to scale and containing all elements deemed necessary to ensure compliance with the code of ordinances as determined by the Zoning Administrator.

Prior to submission of the application and site plan, all property corners shall be in place and proposed buildings and structures shall be accurately located upon the lot by stakes or other acceptable means.

It is the applicant's responsibility to obtain a copy of the Town of Weaverville Planning and Development Ordinances and to be fully aware of the regulations detailed therein.

Appropriate measures shall be taken to control erosion and sedimentation related to construction or any other land disturbance activity. Properties found to be noncompliant with municipal ordinance or other local or state rules and regulations may be subject to permit revocation or civil penalties issued to the property owner. Additional information related to erosion and sedimentation controls can be obtained upon request.

I certify that the above information is accurate and true and that I am the owner or a duly appointed agent of the owner.

Nathan Elliott

PRINTED NAME OF APPLICANT

Nat. G. Co

SIGNATURE OF APPLICANT

1-12-26

DATE

OFFICE USE ONLY

FEE:	DATE PAID:	<input type="checkbox"/>	CHECK	<input type="checkbox"/>	CASH	<input type="checkbox"/>	CARD
SITE PLAN DECISION	<input type="checkbox"/>	APPROVED	<input type="checkbox"/>	DISAPPROVED	DATE:		
<input type="checkbox"/>	APPROVED WITH CONDITIONS:	<u>Denied - Sec 20-3208 (f)</u>					

The Town of
Weaverville
NORTH CAROLINA

Town of Weaverville, North Carolina

Staff Report: Appeal of Administrative Decision – 60 Highland Street

Prepared February, 2026

Sources: Town of Weaverville Code of Ordinances

Introduction to the Property

The subject parcel, commonly known as 60 Highland St, consists of approximately 1.84 acres and is located just south of the intersection of Salem Road and Highland Street.

Question of Jurisdiction

Section 20-1308 tasks the Board of Adjustment to consider requests for appeals of administrative decisions. Based upon this section of town code, it is clear the Board of Adjustment has jurisdiction to hold the hearing and make a determination on the issue by affirming the decision, overruling the decision or modifying the decision.



In this case, the allowance of two primary structures on a single lot.

Case Summary – 60 Highland Street

The property owner of 60 Highland Street submitted a zoning permit application proposing to construct a new single-family residence on the lot in advance of demolishing the existing dwelling. Under the Town's Code of Ordinances, only one primary structure is permitted on a single lot at any given time within the zoning district in which the property is located.

As submitted, the application indicates construction of a new primary structure prior to removal of the existing dwelling. Because this would result in two primary structures existing on the lot concurrently, (in violation of Section 20-3208. (f).), the zoning permit cannot be approved administratively. The application is therefore being referred to the Board of Adjustment for review and determination on appeal from the administrative decision to deny or disapprove the permit application.

Staff Communications and Compliance Options Provided

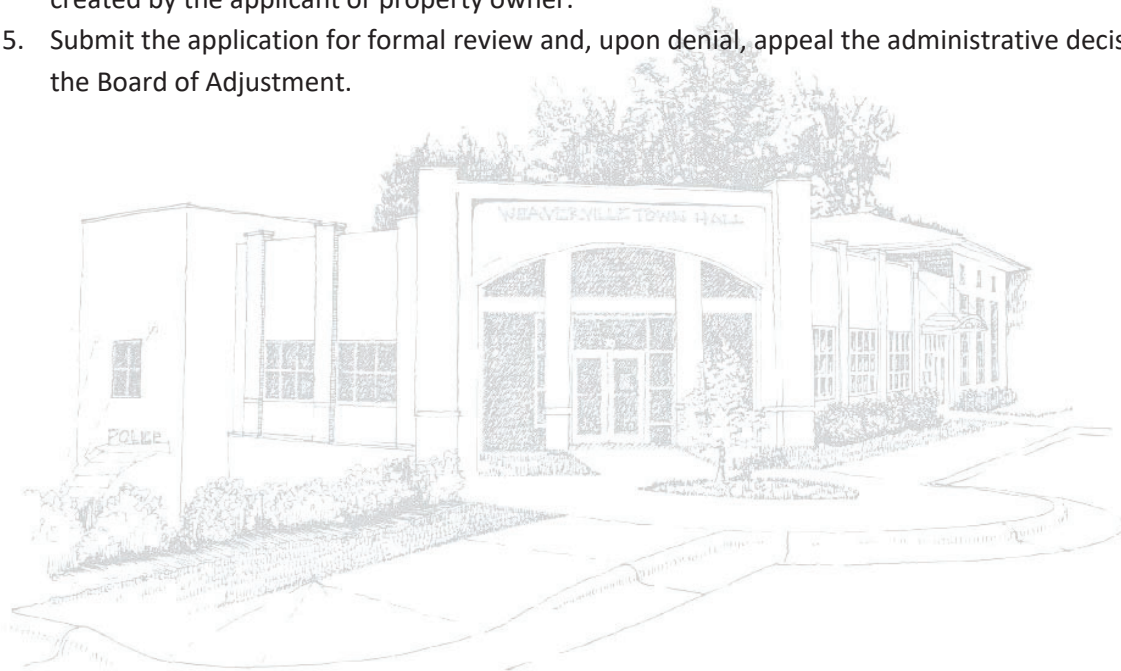
Staff communicated with the applicant regarding the zoning limitation that allows only one primary structure per lot at any given time and explained that the application could not be approved as submitted. In an effort to identify paths toward approval, staff outlined the following compliance options:

Town of Weaverville, North Carolina
**Staff Report: Appeal of Administrative
Decision – 60 Highland Street**

Prepared February, 2026

Sources: Town of Weaverville Code of Ordinances

1. Demolish the existing dwelling prior to construction of the new primary structure.
2. Revise the proposal to construct the new building as a secondary dwelling, limited to 800 square feet and located within the side and/or rear yard. While the proposed location met the locational requirements, the structure exceeded the maximum allowable size. Staff advised that the applicant could construct up to 800 square feet, demolish the existing primary structure, and then pursue an addition.
3. Subdivide the property to allow one primary structure per lot, followed by demolition of the existing structure and subsequent recombination of the lots.
4. Apply for a variance from the Board of Adjustment; however, staff noted this option was unlikely to meet the required findings, including the requirement that the hardship not be self-created by the applicant or property owner.
5. Submit the application for formal review and, upon denial, appeal the administrative decision to the Board of Adjustment.



Sec. 2-303. Administrative staff.

No staff member shall make a final decision on an administrative decision, including but not limited to any decision required by G.S. Chapter 160D or Code chapter 20, if the outcome of the decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest, the decision shall be assigned to the supervisor of the staff person. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this chapter unless the staff member is the owner of the land or building involved. No staff member of other individual or an employee of a company contracting with the town to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the town as determined by the town.

(Ord. of 5-24-2021(1), § 4c(Att. A))

Sec. 2-304. Quasi-judicial decisions.

A member of any board exercising quasi-judicial functions shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business or other associational relationship with the affected person, or a financial interest in the outcome of the matter.

(Ord. of 5-24-2021(1), § 4c(Att. A))

Sec. 20-1308. Appeals.

- (a) *Appeals.* Appeals of administrative decisions made by the staff as allowed by G.S. 160D and the development regulations adopted by the town under the authority of G.S. Chapter 160D, shall be made to the board of adjustment.
 - (b) *Standing.* Any person who has standing under G.S. 160D-1402(c) or the town may appeal an administrative decision to the board of adjustment. An appeal is taken by filing a notice of appeal with the town clerk. The notice of appeal shall state the grounds for the appeal.
 - (c) *Time to appeal.* The owner or other party has 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal has 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice pursuant to G.S. 160D-403(b) and Code section 20-1302(b) given by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.
 - (d) *Record of decision.* The official who made the decision shall transmit to the board of adjustment all documents and exhibits constituting the record upon which the decision appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.
 - (e) *Stays.* An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the board of adjustment and any subsequent appeal in accordance with G.S. 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom, unless the official who made the decision certifies to the board of adjustment after the notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulation. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board of adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding any other provision of this section, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulation does not stay the further review of an application for development approvals to use the property; in these situations the appellant or the town may request and the board of adjustment may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.
 - (f) *Alternative dispute resolution.* The parties to an appeal that has been made under this section may agree to mediation or other forms of alternative dispute resolution.
 - (g) *No estoppel.* G.S. 160D-1403.2, limiting a local government's use of the defense of estoppel, applies to proceedings under this section.
- (Ord. of 5-24-2021(1), § 5)

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. If the property line extends into a roadway, the setback shall be measured from the edge of the road or back of curb.
- (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.
- (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.

TOWN OF WEAVERVILLE
BOARD OF ADJUSTMENT AGENDA ITEM

Date of Meeting: Tuesday, February 10, 2026

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.