



**Town of Weaverville  
Zoning Board of Adjustment  
Council Chambers  
March 12, 2018, 7pm**

**Agenda**

1. Call to Order – Chairman Jeff McKenna.
2. Administering the of Oath of Office for Sylvia Valois.
3. Approval of the Minutes from the January 8 and February 12, 2018 Meetings of the Board.
4. Approval of an Order Denying a Variance from the Front Yard Setbacks Established by the R-2 Zoning District on the Property Commonly Known as 3 Penley Park Drive.
5. Any Other Business to Come Before the Board.
  - Review of Revised Variance Application
  - Updated Zoning Board of Adjustment Roster
  - Brief on Northridge Commons and Fairfield Inn Special Use Permits
  - Rules of Procedure to be Updated and Reviewed.
6. Adjournment.



## Agenda Item 2

- Attached you will find the Oath of Office for new board member Sylvia Valois

## OATH OF OFFICE

I, **SYLVIA VALOIS**, do solemnly and sincerely swear that I will support the Constitution and laws of the United States;

that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof;

that I will endeavor to support, maintain and defend the Constitution and laws of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability;

and that I will faithfully discharge the duties of my office as a member of the Town of Weaverville Zoning Board of Adjustment, so help me God.

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**SYLVIA VALOIS**

Sworn to and subscribed before me  
this the 12th day of March, 2018.

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**JENNIFER O. JACKSON**  
Notary Public

My Commission Expires: 5/29/2021  
Notary Seal Affixed



### **Agenda Item 3**

- **Attached you will find the minutes from the January 8 and February 12, 2018 meetings of the Board**

Town of Weaverville

Zoning Board of Adjustment

Minutes – January 8, 2018

The Zoning Board of Adjustment of the Town of Weaverville met for its regularly scheduled monthly meeting at 7pm on Monday, January 8, 2018 in council chambers at Town Hall at 30 South Main Street, Weaverville.

Present: Chairman Jeff McKenna, Vice Chairman Tycer Lewis, Board Members Paul Clauhs, Roger Parkin and Cynthia Wright, Town Attorney Jennifer Jackson and Planning Director James Eller. Absent: none.

**1. Call to Order**

Chairman Jeff McKenna called the meeting to order at 7:00pm.

**2. Approval of the Minutes from the October 9 and November 13, 2017 Meeting of the Board.**

Mr. Lewis motioned to approve the minutes as presented. Ms. Wright seconded and all voted unanimously.

**3. Approval of an Order Amending an Existing Special Use Permit for the Development Commonly Known as Northridge Commons.**

Mr. Clauhs motioned to approve the order as presented. Mr. Parkin seconded and all voted unanimously.

**4. Approval of an Order Reversing the Decision of the Zoning Administrator Related to Certain Finishing Materials to be Used Based Upon the Conditional Zoning District which Established the Development Commonly Known as Weaver Village.**

Ms. Wright motioned to approve the order as presented. Mr. Lewis seconded and all voted unanimously.

**5. Public Hearing Regarding an Application for a Variance on the Property Commonly Known as 52 Governor Thomson Terrace. The Nature of Said Variance is from the Front Yard Setback Established by the R-2 Zoning District.**

Chairman McKenna reviewed the procedure for the public hearing which included the following.

**INTRODUCTION:** John and Constance Aceves are the owners of a lot in Reems Creek Village having an address of 52 Governor Thomson Terrace and a Buncombe County Parcel Identification Number of 9752-05-1477. The Aceves have requested a 9.2 foot variance of the 30-foot front yard setback and are represented by Jeff Osborne of Osborne Construction.

**JURISDICTION:** Sec. 36-328(2) authorizes the BOA to grant variances when hardships would result from carrying out the strict letter of the terms of the

zoning ordinance. Variances require a 4/5 vote of the board.

**STANDARDS FOR VARIANCES:**

1. Unnecessary hardship would result from the strict application of the zoning ordinance. 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.
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 shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the zoning ordinance 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.

Chairman McKenna declared the public hearing open.

Chairman McKenna also inquired of the Board if any member had any bias or had participated in any ex parte communication regarding the matter to be heard. No Board Member disclosed such a bias or action.

Chairman McKenna asked which individuals wished to participate as parties to the matter before the Board. The Board acknowledged applicant Jeff Osborne, Planning Director James Eller, resident of Reems Creek Village Gayle Smy and resident of Reems Creek Village Terry Dawson had standing to participate in the hearing, each were duly sworn and made parties to the matter. No other appearances or requests were made to be a party to this matter.

Mr. Eller described the nature of the application which called for an encroachment of approximately 9 feet into the 30 foot front yard setback established by the R-2 Zoning District.

Mr. Eller submitted into evidence an affidavit of mailing as exhibit 1-A, an affidavit of posting as exhibit 1-B and provided testimony that the public hearing had been duly advertised in a paper of record but the affidavit of publication had not been received prior the meeting.

Mr. Eller also submitted a packet of information into evidence as exhibit 2. Said packet of information included the application for a variance and a site plan for the property.

Applicant Jeff Osborne testified that he was the contractor for a proposed home on the subject property, that he had been authorized by owners John and Constance Aceves to represent them in this matter and spoke in support of the application.

Testimony was provided indicating that the Applicant owns the unimproved lot located at 52 Governor Thomson Terrace, which bears Buncombe County parcel identification number 9752-05-1477 and is zoned R-2 residential. The lot is a triangular shaped lot with a significant drop-off towards the rear of the lot. In the

process of digging the basement for a timber block modular home that the owner purchased for the site, Mr. Osborne encountered a large area of fill consisting of stumps, trees, and other unstable debris. Mr. Osborne marked the fill area with a pink highlighter on the site plan included in Exhibit 2. Mr. Osborne indicated that the depth of the fill area was extensive as the soil was still unstable 13 feet below the level of the basement. Consistent with industry norms, the owner did not have a geotechnical analysis done on the site prior to ordering the modular home or beginning the grading work for the basement. It was reasonable that the conditions found on the site were unforeseeable. Timber block modular homes must be ordered and substantially paid for months in advance of delivery, so it was unreasonable to expect that grading work would commence prior to substantial monies being spent on the home. The placement of the modular home in its original location, within the standard setbacks, would be substantially affected by the fill area in that the ground is too unstable to support the home without a costly remediation of the site. Mr. Osborne testified that the cost of repairing the site so that the home could be located within the standard setbacks is likely to be between \$30,000 and \$40,000. This is an unreasonably high cost to impose on the owner as compared to the \$7,000 in additional cost to be incurred if the variance is granted.

Gayle Smy testified that the owners could hire an engineer to ensure the home is properly constructed with pilings within the established setbacks or to have the fill removed from the site. Ms. Smy also alleged that approval of the variance could potentially diminish property values of other lots within Reems Creek Village.

Ms. Jackson noted to the Board that non-expert testimony related to property values are not considered competent evidence upon which a decision can be made.

Terry Dawson spoke to the Board briefly regarding his review of the property and the application for a variance.

While other lots within the area have proven to be challenging to build upon and required engineered construction due to topography issues, the site conditions on this particular lot are unique in that the fill site was unknown and unexpected and the surveying and other testing normally done on residential lots would not and did not show the nature and scope of the fill site. The requested encroachment into the front setback will have a minimal impact on the neighboring properties.

Based upon the testimony and documentary evidence provided during the hearing, the Board found and concluded that:

- a) an unnecessary hardship will result in the strict application of the Zoning Ordinance as the lot without the variance cannot reasonably be used for single family residential purposes, the primary use within an R-2 zoning district, without incurring a substantial and unreasonable cost;
- b) the hardship results from conditions that are peculiar to the property, including specifically the unexpected fill site, are not a result of personal circumstances, and did not result from action taken by the applicant or property owner;
- c) the requested variance is consistent with the spirit, purpose and intent of the Zoning Ordinance;
- d) the requested variance is not a request to permit a use of land, building or structure which is not permitted within a residential zoning district, nor does the variance concern a prohibited sign.

**6. Consideration of a Motion Establishing a Ruling on the Aforementioned Application for a Variance.**

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

Mr. Lewis made a motion to approve the variance of a 9.2 foot encroachment into the front yard setback as presented. Mr. Parkin seconded and all voted unanimously.

**7. Any Other Business to Come Before the Board.**

There being no further business before the Board, Chairman McKenna called for a motion to adjourn.

**8. Adjournment.**

Mr. Lewis motioned to adjourn. Mr. Clauhs seconded and all voted unanimously.

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**Jeff McKenna, Chairman  
Zoning Board of Adjustment**

**ATTEST:**

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**James W. Eller  
Town Planner / Deputy Town Clerk**

Town of Weaverville

Zoning Board of Adjustment  
Minutes – February 12, 2018

The Zoning Board of Adjustment of the Town of Weaverville met for its regularly scheduled monthly meeting at 7pm on Monday, February 12, 2018 in council chambers at Town Hall at 30 South Main Street, Weaverville.

Present: Chairman Jeff McKenna, Vice Chairman Tycer Lewis, Board Members Paul Clauhs, Roger Parkin and Cynthia Wright, Town Attorney Jennifer Jackson and Planning Director James Eller. Absent: none.

**1. Call to Order**

Chairman Jeff McKenna called the meeting to order at 7:00pm.

**2. Approval of an Order Granting a Variance from the Front Yard Setback Established by the R-2 Zoning District on the Property Commonly Known as 52 Governor Thomson Terrace.**

Mr. Lewis motioned to approve the order as presented. Mr. Parkin seconded and all voted unanimously.

**3. Public Hearing Regarding an Application for a Variance on the Property Commonly Known as 3 Penly Park Drive. The Nature of Said Variance is from the Front Yard Setback Established by the R-2 Zoning District.**

Chairman McKenna reviewed the matter for this public hearing which included the following.

**INTRODUCTION:** Solid Rock Builders, LLC, through its manager Travis Meinch, is the owner of property located at 3 Penley Park Drive, a corner lot adjacent to Union Chapel Road and Penley Park Drive in Reems Creek Village and having a Buncombe County Parcel Identification Number of 9752-16-0624. Mr. Meinch has requested a +/- 5 foot variance of the 30-foot front yard setback to allow construction of a residence fronting Penley Park Drive.

**JURISDICTION:** Sec. 36-328(2) authorizes the BOA to grant variances when hardships would result from carrying out the strict letter of the terms of the zoning ordinance. Variances require a 4/5 vote of the board.

**STANDARDS FOR VARIANCES:**

1. Unnecessary hardship would result from the strict application of the zoning ordinance. 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.

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 shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the zoning ordinance 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.

Chairman McKenna asked Attorney Jackson to give those in attendance a description of the quasi-judicial process to which the Zoning Board of Adjustment is bound which included the following. Ms. Jackson's description included the following:

*The purpose of the quasi-judicial hearing is for the Zoning Board of Adjustment to hear and consider pertinent facts related to the request. The Board is required to comply with procedural rules much like those of a trial court and to provide for the constitutional right to due process such as proper notice of the meeting, an impartial decision maker, sworn testimony of witnesses, and an opportunity for parties to be heard by allowing direct examination and cross examination of witnesses.*

*The hearings that will be held tonight are formalized means of gathering evidence relevant to the issues that are before the Board tonight. This is not an opportunity for citizens to come and just speak their minds like in a public hearing on a legislative matter before Town Council. The Board's decisions can only be made based on competent, material and substantial evidence in the record of the respective hearings. "Competent" evidence is generally understood to mean that evidence which is legally admissible in a court of law. Competent evidence does not include the opinion testimony of lay witnesses as to any of the following:*

- *Use of property in a particular way affecting the value of other property;*
- *Increase in vehicular traffic resulting from a proposed development posing a danger to the public safety;*
- *Matters about which only expert testimony would generally be admissible under rules of evidence applicable to trial courts.*

Attorney Jackson indicated that she would guide the parties and the Board through the proper quasi-judicial procedures in order to ensure everyone's rights.

Chairman McKenna declared the public hearing open.

Chairman McKenna inquired of the Board if any member had any bias or had participated in any ex parte communication regarding the matter to be heard. No Board Member disclosed such a bias or action.

Chairman McKenna asked which individuals wished to participate as parties to the matter before the Board. The Board acknowledged owner and applicant Travis Meinch, Planning Director James Eller, resident of Reems Creek Village Nancy Donahue had standing to participate in the hearing, each were duly sworn and made parties to the matter. Mario Salamone of Solid Rock Builders was not made a party but was sworn in as a witness. No other appearances or requests were made to be a party to this matter.

Mr. Eller described the nature of the application which called for an encroachment of approximately 6 feet into the 30 foot front yard setback established by the R-2 Zoning District.

Mr. Eller submitted into evidence an affidavit of mailing as exhibit 1-A, an affidavit of posting as exhibit 1-B and an affidavit of publication as exhibit 1-C.

Mr. Eller also submitted a packet of information into evidence as exhibit 2. Said packet of information included the application for a variance, a site plan for the property, a North Carolina general warrantee deed related to the subject property and a plat illustrating a recent recombination of three parcels in which the subject property was affected.

Mr. Eller testified that the recombination of the three parcels found at the intersection of Union Chapel and Penley Park lead to the depth of the subject parcel being reduced.

Applicant Travis Meinch testified that he was the owner of the subject parcel and noted the recombination of the parcel, two front yard setbacks due to the lot being located on a corner, and a sizeable landscape and sign easement found on the property as contributing factors for his decision to apply for the variance. Mr. Meinch further testified that he had a misunderstanding of how the setbacks were measured when he purchased the property, the home would be no closer to the road than other homes in the neighborhood and a financial hardship would be incurred based upon an architect's fee for revising the desired home.

The Applicant owns the 0.27 acre unimproved lot located at 3 Penley Park Drive, which bears Buncombe County parcel identification number 9752-16-0624, and which is zoned R-2 residential. The lot is a corner lot abutting both Penley Park Drive and Union Chapel Road. Said lot is subject to a landscape and sign easement affecting the lot on its easternmost corner. The lot is small, oddly angled, subject to two front yard setbacks, and subject to a landscape and sign easement, all conditions making it difficult to construct a home in accordance with the building plans that Mr. Meinch was hoping to use within the buildable area on the lot. For this reason Mr. Meinch has requested a 6-foot front yard setback to allow him to pull the home forward towards Penley Park Drive. Mr. Meinch new that the lot was subject to the setbacks when he purchased the property but mistakenly thought that the setbacks were measured from the edge of the road, not the property line.

Mr. Meinch indicated that if the variance was granted the front of the home would not be any closer to the edge of the road than the home across the street so that the size of the front yard on this lot would be consistent with the neighborhood.

Mr. Meinch testified that a residence could be constructed within the standard buildable area, but that it would likely be more costly due to needing to hire an architect to develop or revise building plans. Mr. Meinch estimated that architect's fees could be \$8,000-\$10,000.

Nancy Donahue raised a question about whether the minimum 2000 square foot footprint requirement that is generally applicable to all lots within the Reems Creek Village subdivision applied to this lot. There was testimony and some Board discussion about the 2000 square foot requirement, however, this standard, even if it is applicable to the lot, was determined to be a restrictive covenant issue and is beyond the Board's purview. The Board must only focus on the buildable area as establish by the standard setbacks stated within the Town's zoning ordinance.

Ms. Donahue testified that since this lot is the first lot within the subdivision it sets the tone of the neighborhood. She indicated that she was concerned about the house being closer to the road than the other houses if the variance was granted. She indicated that a smaller house could be built within the buildable area of the lot if the 2000 square foot footprint doesn't apply and that it wouldn't be inconsistent with the neighborhood. She also felt like a uniquely designed house would not be upsetting as the subdivision has a variety of shapes and sizes of houses.

As a result of the board's discussion of the evidence and testimony, the Board found that a residence can be constructed within the buildable area of the lot without the granting of a variance and that any extra cost associated with a design to fit within the buildable area is not unreasonably substantial as compared to the cost of design and construction on other lots. The Board further found and concluded that an unnecessary hardship will not result in the strict application of the Zoning Ordinance as the lot without the variance can reasonably be used for single family residential purposes, the primary use within an R-2 zoning district.

**4. Consideration of a Motion Establishing a Ruling on the Aforementioned Application for a Variance.**

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

Mr. Lewis made a motion to deny the variance of a 6 foot encroachment into the front yard setback as presented. Mr. Parkin seconded and all voted unanimously.

**5. Any Other Business to Come Before the Board.**

There being no further business before the Board, Chairman McKenna called for a motion to adjourn.

**6. Adjournment.**

Mr. Clauhs motioned to adjourn. Mr. Parkin seconded and all voted unanimously.

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**Jeff McKenna, Chairman  
Zoning Board of Adjustment**

**ATTEST:**

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**James W. Eller  
Town Planner / Deputy Town Clerk**



#### **Agenda Item 4**

- **Attached you will find an order establishing a denial of a variance request during the February meeting of the Board**

**TOWN OF WEAVERVILLE  
ZONING BOARD OF ADJUSTMENT**

**ORDER DENYING  
A VARIANCE**

**APPLICANT:** Solid Rock Builders, LLC (Travis Meinch, Member)

**PROPERTY LOCATION:** 3 Penley Park Drive, Weaverville, NC

**PARCEL IDENTIFICATION NUMBERS:** 9752-16-0624

The Zoning Board of Adjustment of the Town of Weaverville (hereinafter “Board”) held a quasi-judicial evidentiary hearing (hereinafter “Hearing”) on Monday, February 12, 2018, at 7 p.m. in Council Chambers at Town Hall at 30 South Main Street, Weaverville, on a request for a 6 foot variance of the 30-foot front yard setback.

A quorum of the Board was present with Chairman Jeff McKenna, Vice Chairman Tycer Lewis, Board Members Paul Clauhs, Cynthia Wright, and Roger Parkin in attendance. Town Attorney Jennifer Jackson and Town Planner James Eller were also present.

The Hearing was held after notice of the meeting had been mailed to property owners within five hundred feet of the subject property, notice of the meeting was posted on the subject property and notice of the meeting was duly advertised in a paper of record.

At the Hearing on February 12, 2018, Chairman McKenna presided. The Board acknowledged that the following had standing to participate in the Hearing and were made parties to this matter:

Applicant/property owners Solid Rock Builders, LLC, through its Member Travis Meinch and Town Planner James Eller. Nancy Donahue, who resides at 18 Al Dorf Drive which is located just down the street, must pass in front of this property to get to her house, was also made a party to the matter.

The Zoning Board of Adjustment for the Town of Weaverville, after having held the Hearing in this matter and having considered all the evidence and arguments presented at the hearing, finds as fact and concludes as follows:

1. Documentary evidence was submitted and admitted into evidence without objection as follows:
  - a. An affidavit of mailing, an affidavit of posting, and an affidavit of publication were submitted into evidence by James Eller as Exhibits 1-A, 1-B and 1-C, respectively.
  - b. A packet of information submitted to the Board in which the following items were included: Application for a Variance dated January 23, 2018; a vicinity map with the property highlighted in blue; and subdivision plat showing the Lot and the landscape and sign easement affecting the lot; a site plan submitted by the applicant showing proposed location of the house with a +/-5 foot encroachment into the 30-foot front setback; the deed to the property; and the NC Secretary of State information showing Travis Meinch as the member of Solid Rock Builders, LLC; said packet was submitted into evidence by James Eller as Exhibit 2.
2. The following individuals were sworn in and gave testimony: James Eller, Travis Meinch, and Nancy Donahue. Mario Salamone was sworn in but did not offer any testimony.

3. The Applicant owns the 0.27 acre unimproved lot located at 3 Penley Park Drive, which bears Buncombe County parcel identification number 9752-16-0624, and which is zoned R-2 residential. The lot is a corner lot abutting both Penley Park Drive and Union Chapel Road. Said lot is subject to a landscape and sign easement affecting the lot on its easternmost corner.
4. The lot is small, oddly angled, subject to two front yard setbacks, and subject to a landscape and sign easement, all conditions making it difficult to construct a home in accordance with the building plans that Mr. Meinch was hoping to use within the buildable area on the lot. For this reason Mr. Meinch has requested a 6-foot front yard setback to allow him to pull the home forward towards Penley Park Drive. Mr. Meinch new that the lot was subject to the setbacks when he purchased the property but mistakenly thought that the setbacks were measured from the edge of the road, not the property line.
5. Mr. Meinch indicated that if the variance was granted the front of the home would not be any closer to the edge of the road than the home across the street so that the size of the front yard on this lot would be consistent with the neighborhood.
6. Mr. Meinch testified that a residence could be constructed within the standard buildable area, but that it would likely be more costly due to needing to hire an architect to develop or revise building plans. Mr. Meinch estimated that architect's fees could be \$8,000-\$10,000.
7. There was testimony from Nancy Donahue raising a question about whether the minimum 2000 square foot footprint requirement that is generally applicable to all lots within the Reems Creek Village subdivision applied to this lot. There was testimony and some Board discussion about the 2000 square foot requirement, however, this standard, even if it is applicable to the lot, is a restrictive covenant issue and is beyond the Board's purview. The Board must only focus on the buildable area as establish by the standard setbacks stated within the Town's zoning ordinance.
8. Ms. Donahue testified that since this lot is the first lot within the subdivision it sets the tone of the neighborhood. She indicated that she was concerned about the house being closer to the road than the other houses if the variance was granted. She indicated that a smaller house could be built within the buildable area of the lot if the 2000 square foot footprint doesn't apply and that it wouldn't be inconsistent with the neighborhood. She also felt like a uniquely designed house would not be upsetting as the subdivision has a variety of shapes and sizes of houses.
9. The Board finds that a residence can be constructed within the buildable area of the lot without the granting of a variance and that any extra cost associated with a design to fit within the buildable area is not unreasonably substantial as compared to the cost of design and construction on other lots.
10. The Board further finds and concludes that an unnecessary hardship will not result in the strict application of the Zoning Ordinance as the lot without the variance can reasonably be used for single family residential purposes, the primary use within an R-2 zoning district.

**NOW THEREFORE**, based upon the foregoing findings of fact and conclusions, the Zoning Board of Adjustment for the Town of Weaverville, in a unanimous vote, concludes that (1) it has jurisdiction to hear this variance request, and (2) the request for a 6 foot variance from the front setback as shown on the attached site plan should not be granted as the request fails to meet all of the required findings of subsection 36-328(2)(a) – (f) of the Code of Ordinances of the Town of Weaverville.

**IT IS, THEREFORE, ORDERED** that the Applicant's request for a 6 foot variance as shown on the attached site plan is hereby denied.

**ORDERED THIS** the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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**Jeff McKenna, Chairman  
Zoning Board of Adjustment**

**ATTEST:**

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**James W. Eller  
Town Planner / Deputy Town Clerk**



#### **Agenda Item 5**

- **With a relatively light agenda staff is proposing to brief the Board on several matters of interest. Attached you will find a revised variance application incorporating recent comments by Board Members and an updated roster indicative of Ms. Valois' recent appointment. Other items noted will be addressed in real time with the Board.**

# 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 --- [jeller@weavervillenc.org](mailto:jeller@weavervillenc.org)  
**Application Fee: \$250.00 + \$50.00 for each variance requested**

**General Notes:**

- Applications for a variance are required to be submitted at least two 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: \_\_\_\_\_  
PIN(s) of Subject Property: \_\_\_\_\_

### B. Contact Information

Owner's Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
Telephone #: \_\_\_\_\_ Email \_\_\_\_\_

Primary Contact if Other Than Owner and Authorization to Represent

Owner: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
Telephone #: \_\_\_\_\_ Email \_\_\_\_\_

### C. Type of Submission

Describe the Variance Requested: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

**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 --- [jeller@weavervillenc.org](mailto:jeller@weavervillenc.org)  
**Application Fee: \$250.00 + \$50.00 for each variance requested**

**D. Variance Burdon 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 36 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.

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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.

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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.

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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.

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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.

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

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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 --- [jeller@weavervillenc.org](mailto:jeller@weavervillenc.org)  
**Application Fee: \$250.00 + \$50.00 for each variance requested**

**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: \_\_\_\_\_  
\_\_\_\_\_

**F. Certification**

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

Signature of Owner: \_\_\_\_\_ Date: \_\_\_\_\_

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

**OFFICE USE ONLY**

Date Received: \_\_\_\_\_

Date of Public Hearing: \_\_\_\_\_

Staff

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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Fee: \_\_\_\_\_ Date: \_\_\_\_\_

Decision: \_\_\_\_\_ Date: \_\_\_\_\_

Approved with

Conditions: \_\_\_\_\_  
\_\_\_\_\_

Signature of Zoning Administrator: \_\_\_\_\_

**WEAVERVILLE  
ZONING BOARD OF ADJUSTMENT**

Regularly meets 2<sup>nd</sup> Monday of the month at 7:00 pm  
in Town Hall Council Chambers

<b>NAME AND POSITION</b>	<b>CONTACT INFORMATION</b>	<b>DATE OF APPOINTMENT</b>	<b>TERM (3 YEARS STAGGERED)</b>
Jeff McKenna Chairman	30 Yost Street Weaverville, NC 28787 484-9202; (cell) 231-8811 <a href="mailto:jeffmckenna3@gmail.com">jeffmckenna3@gmail.com</a>	August 2016	September 2016 – 2018
John “Tycker” Lewis Vice-Chairman	14 South College Street Weaverville, NC 28787 (cell) 279-4290 <a href="mailto:tycerrenovations@gmail.com">tycerrenovations@gmail.com</a>	August 2017	September 2017 – 2020
Paul Clauhs Regular Member	P.O. Box 483 74 Hamburg Drive Weaverville, NC 28787 768-6679 <a href="mailto:WeavervillePlumbing@hotmail.com">WeavervillePlumbing@hotmail.com</a>	August 2016	September 2016 – 2019
Cynthia Wright Regular Member	88 Hillcrest Drive Weaverville, NC 28787 658-1579; (cell)703-862-8428 <a href="mailto:wright.cindy2011@gmail.com">wright.cindy2011@gmail.com</a>	August 2016	September 2016 – 2018
Roger Parkin Regular Member	57 Church Street Weaverville, NC 28787 828-337-2868 <a href="mailto:rdplimey@gmail.com">rdplimey@gmail.com</a>	August 2017	September 2017 – 2020
Sylvia Valois Alternate Member	42 Loftin Street Weaverville, NC 28787 504-717-0275 <a href="mailto:svalois2000@yahoo.com">svalois2000@yahoo.com</a>	March 2018	March 2018 – September 2019
Alternate Member			
James Eller Zoning Administrator	484-7002 <a href="mailto:jeller@weavervillenc.org">jeller@weavervillenc.org</a>		
Jennifer Jackson Town Attorney	484-7003; 828-442-1858 <a href="mailto:jjackson@weavervillenc.org">jjackson@weavervillenc.org</a>		

*Approved by Town Council as of February 26, 2018*