

Henderson County

Code Enforcement Services

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MEMORANDUM

DATE: October 22, 2009
TO: Technical Review Committee
TRC MEETING DATE: November 3, 2009
REGARDING: Minor Site Plan Review
NAME OF APPLICANT: Phyllis Perry
DEPARTMENT: Code Enforcement Services
STAFF CONTACT: Toby Linville
ATTACHMENTS: Site Plan / Technical Specifications

Please find attached plans for the following proposal to be reviewed by the Henderson County Technical Review Committee on November 3, 2009.

Minor Site Plan Review

Brian Wyatt agent, on behalf of Phyllis Perry owner, submitted the minor site plan for this project. They wish to request a 30' front yard setback variance from the Zoning Board of Adjustment.

§200A-334. General

All applications for a Variance shall include, at minimum: (1) the name(s) and address(es) of the owner(s) of the property in question; (2) the location of the property; (3) the PIN as shown on the County tax listing; (4) a description and/or statement of the present zoning district; (5) the appropriate level of site plan; and, where an applicant chooses to appoint an agent to speak on their behalf, (6) an agent form. All applications for a variance shall adhere to the applicable review and approval process as outlined in this Subpart.

§200A-335. Variances

A. Purpose. Variances are intended to provide limited relief from the requirements of this Chapter in those cases where the strict application of the provisions of this Chapter would result in unnecessary hardship. Any use which requires a Variance shall not be permitted without the approval of the Zoning Board of Adjustment (ZBA) in accordance with the requirements and procedures set forth in this section.

B. Application. (1) Pre-application Conference. Each applicant for a Variance shall meet with the appropriate Administrator (within this section "Administrator" shall refer to any of the following: Communication Facilities, Manufactured Home Park, Soil Erosion and Sedimentation Control, Subdivision, or Zoning Administrator) in a pre-application conference no later than one (1) calendar week prior to the date the application is due. The purposes of this conference are to provide additional information regarding the review process and assistance in the preparation of the application. (2) Application. Each application for a Variance shall be submitted along with the appropriate fee and site plan, to the Administrator on or before the first business day of the month. Applications may be modified by the Administrator as necessary, who may require the applicant to supply additional information pertaining to the Variance. Incomplete applications must be resubmitted on or before the first business day of the month or will not be processed until the proceeding month. (3) Review Schedule. Applications for a Variance have a 45 day processing period for notification requirements and review by the Administrator (and, if necessary the Technical Review Committee (TRC)) prior to the public hearing. (4) Fees. Any review fee established by the Board of Commissioners shall be submitted with the application.

C. Staff Review. The Administrator shall process and review all applications for Variances. The Administrator may present the application to the TRC for its comments and recommendations and may forward the application on to the appropriate departments and agencies for their review. The Administrator shall also prepare a staff recommendation for the ZBA on the application for a Variance.

D. Formal Review. Prior to taking any action on a Variance, the ZBA shall consider the Administrator's recommendation on the Variance.

E. Public Hearing. Prior to considering a variance application the ZBA shall hold a public hearing on the application in accordance with §200A-339 (Quasi-Judicial Process Standards).

F. Public Notification. Public notification of such hearing shall comply with the provisions of §200A-339 (Quasi-Judicial Process Standards). The Administrator shall be responsible for all necessary public notifications.

G. Quasi-Judicial Proceeding. The concurring vote of four-fifths (4/5) of the ZBA shall be necessary to grant a Variance. Any approval or denial of the request must be in writing and permanently filed with the office of the ZBA and with the Administrator as public record. (1) Standards of Review. The ZBA shall not grant a Variance the effect of which would be to: (1) allow the establishment of a use not otherwise permitted in a general use district, (2) extend physically a nonconforming use of land or (3) change the district boundaries shown on the Official Zoning Map. No Variance shall be granted or considered where the fact that the property could be used more profitably is the reason for the request for the Variance. The following written findings must be made in order for the ZBA to grant a Variance:

a. There are practical difficulties or unnecessary hardships in carrying out the strict letter of this Chapter, as demonstrated by: 1. The fact that, if the applicant complies with the literal terms of this Chapter, he/she cannot secure a reasonable return from, or make a reasonable use of, the property. 2. The hardship of which the applicant complains results from unique circumstances related to the applicant's land. 3. The hardship is not the result of the applicant's own action.

b. The Variance is in harmony with the general purpose and intent of this Chapter and will preserve its spirit.

c. The Variance will secure the public safety and welfare and will do substantial justice.

d. The Variance shall not be based on the existence of a nonconforming use of neighboring land or structures in the same district, or permitted nonconforming uses in other districts, and shall in no way constitute a reason for the requested Variance. e. The Variance shall not allow for an increase in density for the purposes of subdividing the land that would otherwise not be permitted by the applicable zoning district or subdivision regulations. (2) Conditions. The ZBA may, in granting a Variance, prescribe: (1) additional conditions; (2) additional safeguards; (3) a time limit within which the action for which a Variance is sought shall be begun; (4) a time limit within which the action for a Variance is sought shall be completed; and (5) a time duration within which construction, operation or installation shall commence on the project for which the Variance was obtained.

H. Variance Validity. Upon issuance of a Variance, the applicant shall have 12 months within which (unless otherwise specified by the ZBA) to commence construction, operation or installation. If construction, operation or installation is commenced within the specified time period the Variance shall continue in force as long as the structure, operations or installation remains.

(1) Variance Revocation. If construction or operation is not commenced within 12 months (or other specified time period), the Variance shall no longer be valid.

The project site is located on 0.81 acre of land (PIN 9546856068) located at 410 Evans Rd, Hendersonville. The project is located in the Estate Residential (R40) zoning district. The project meets the requirements of the Land Development Code and all the applicable minor site plan requirements are met.

If you would like to submit your changes early please use the comment sheet provided and sending it back via email to tlinville@hendersoncountync.org.

Date: October 23, 2009

PIN: 9546856068

Parcel Number: 0400391

Owner Name:

PERRY, PHYLLIS E ; MORGAN, JAN LYNN

Mailing Address:

EVANS RD

Situs Address:

410 EVANS RD



History:	No History Found
Permit:	No Permit Found
Date:	No Date Found
NEW Zoning Districts:	R-40
Acreage:	0.8100
Municipality Boundaries:	No City Found
	No Ordinance Found
Water Supply Watersheds:	No Watershed Found
	No Watershed Found
	No Watershed Found
OLD 1982 Flood Zones 03-01-1982:	No Flood Zone Found
	No Flood Zone Found
NEW 2008 Flood Zones 10-02-2008:	Zone X, Not Shaded (Areas outside of the floodplain)
NEW 2008 Floodway 10-02-2008:	
NEW 2008 Flood Panel 10-02-2008:	9546
Protected Ridges:	No
City of Hendersonville Annexation Resolution:	No
Fire Tax Districts:	02 Valley Hill Fire



