

**TOWN OF BLACK MOUNTAIN
BOARD OF ADJUSTMENT**

The Black Mountain Board of Adjustment held its regular meeting on Thursday, February 17, 2022, at 6:00 p.m. in Town Hall at 160 Midland Avenue, Black Mountain, North Carolina.

I. CALL TO ORDER

The meeting was called to order with the following members present:

John DeWitt, Chair
Patrick Prosser
Lauren Dodgin
Larry Pearlman

Staff:

Jennifer Tipton, Senior Admin
Jake Hair, Planner I/Zoning Administrator
Ron Sneed, Town Attorney

The meeting was called to order at 6:00 p.m. and duly constituted and opened for business with a quorum of four (4) regular members. Lauren Dodgin and Larry Pearlman introduced themselves as new members of the board.

II. ADOPTION OF AGENDA

Patrick Prosser made a motion to adopt the agenda as presented. The motion was approved by consensus.

III. ADOPTION OF MINUTES

Larry Pearl made a motion to adopt the minutes of September 16, 2021, as written. The motion was approved by consensus.

IV. OLD BUSINESS

None.

V. NEW BUSINESS

1. Variance Request – 200 Tabernacle Road

Attorney Ron Sneed has represented Highland Farms in the past but as he only supports the Board of Adjustment in procedure only so he can proceed with hearing if there is no objection. There was no objection from the board members or the applicant.

Jennifer Tipton swore in all those wishing to testify.

Jake Hair presented the variance application for Givens Highland Farms at 200 Tabernacle Road to reduce the residential parking requirement from two spaces per residential unit to one space per residential unit. The applicant has submitted two different options for the variance request. Option 1: Brookside Apartments with 30 units would require 60 parking stalls and the applicant is requesting 33 parking stalls. Vista Ridge Apartments with 36 units would require 72 parking stalls and the applicant is requesting 40 parking stalls.

Option 2: Brookside Apartments with 30 units would require 60 parking stalls and the applicant is requesting 48 parking stalls. Vista Ridge Apartments with 54 units would require 108 parking stalls and the applicant is requesting 45 parking stalls.

Per Section 10.8.1(D), owners are allowed to request a reduction in parking spaces by seeking a variance

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Kevin Schwab, 200 Tabernacle Road, is the CEO of Givens Communities and did not have anything to add after Mr. Hair's presentation but is available for questions. Lauren Dodgin asked if the parking ratio is no longer sufficient then what would be the plan. Mr. Schwab said that there is sufficient parking on the campus in different locations and they do not wish to eat up more of the land and this parking variance request is only related to the new apartments project. Julia Burr, 71 Fortune Street, said that she is directly impacted by development at Givens Highland Farms and is curious where the new project and parking will be located. Mr. Schwab said the project will be taking place at buildings D, E, G, H, J, and K on the map and will not be adding to the density. Patrick Prosser asked if people have to register their vehicles or have a permit for their vehicle. Mr. Schwab said that residents and staff do receive a sticker so they can keep track of the vehicles. Mr. Prosser asked if a census was kept on the number of vehicles each day. Mr. Schwab said that there is not a gate where they count vehicles, but they do have not received any complaints about parking and most of the parking would be in the health services area where they receive the most visitors. The adult care program has been removed and parking has been freed up in that area. Daily car numbers were not studied for this request but Mr. Schwab said that they would received complaints if there was a lack of parking. Larry Pearlman spoke about the burden of proof in regard to the unnecessary hardship and asked for more information. Mr. Schwab said that they feel that they have sufficient parking to meet the requirements, but the residents and staff appreciate the environment and walking trails that are on the campus and staff and residents would prefer to have more green space and views than concrete and parking spaces that would most likely not be used. Givens Highland Farms have always had a one-to-one parking ratio since they were annexed into the Town of Black Mountain from Buncombe County. Mr. Prosser asked what the development plan does to utilize the green space. There is a creek running through the property, they would like to keep the tree line, and do not want to encroach on other units and maintain the courtyard for residential viewing areas and bird feeders. Mr. Prosser spoke about the potential to increase stormwater runoff, that they would still have to mitigate the problem. Mr. Schwab said it would just be more water to mitigate and they already have mitigation in place, but this would cause more mitigation to be put in place. Mr. Prosser asked about the upgrading of the fire department access road and Mr. Schwab said that that is for wider driveways and larger turnrounds that are required by the fire code. Mr. Pearlman asked if there have been complaints or requests about parking. Mr. Schwab said he has been with the company for a year and has not heard anything, but he did ask the team and they have not had any complaints either. There is more parking available on the campus and the only time there might be an issue is if there is a large event or presentation but there is a common space area where those visitors could park. Mr. Pearlman asked if they were to consider one or both options. Mr. Schwab said that they would be happy with either option and it would give them something to look at. A walking bridge will be constructed between the buildings to be able to cross the brook and is approximately one hundred feet. Mr. Prosser asked if the apartment buildings would be different styles as they have single family residences and care facilities. Buildings E and D are existing apartments that will be replaced with a more modern style and H and G are existing apartments and they will be replaced with a more modern style as that is what is being asked for by future tenants. The single-family homes have their own driveways and garages as well as the duplex and quadplex homes. Lauren Dodgin made a motion to close the public hearing. The motion was seconded by Patrick Prosser and approved by consensus. Jennifer Tipton summarized the evidence:

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- Exhibit 1: Staff Report
- Exhibit 2: Variance Application
- Exhibit 3: Maps (10 pages)
- Exhibit 4: Buffer Map
- Exhibit 5: List of Property Owners (7 pages)
- Exhibit 6: Notice of Variance Request to Property Owners
- Exhibit 7: Aerial Map
- Exhibit 8: Legal Notice

The board deliberated by going through their worksheet and found the following findings of facts:

1. There is an unnecessary hardship that would result from the strict application of the ordinance because the area within which the construction must be to build the needed housing is confined by a stream, trees, and walking areas that Givens Highland Farms would like to preserve. Two parking stalls for each residential unit would decrease open areas, increase impervious surfaces and diminish the view that future occupants of the apartments will have.
2. The hardship results from conditions that are peculiar to the property as the area for development is limited by other development and by a stream, as well as greenspace and recreational areas already dedicated to the use of residents of the apartments.
3. The hardship does not result from actions taken by the property owner as the space limitations occurred as a result of different development standards that applied when the county ordinances applied.
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved, as newer apartments with more housing units made available will result from granting of the variance, fulfilling the objective of providing housing with infill development, and Givens Highland Farms will not be handicapped by developing under a new set of rules, and the evidence presented shows that the future residents of the apartments will not suffer from inadequate parking. The options presented by Givens Highland Farms provide for a greater ratio of parking stalls per unit while the evidence supports the contention that one space per unit is adequate.

The chair made a motion to reopen the public hearing to ask a question of Mr. Schwab if the layouts required that the buildings both be option one or both option two rather than building by building. Mr. Schwab said they would prefer either all option one or all option two so they can have the flexibility and not be limited to the two to one and either option is better than one to one. In no case will the parking go below one to one. Parking would be added in a different space if complaints start or if care needs change.

The chair closed the public hearing.

Patrick Prosser made a motion to grant the variance of either option one or option two as long as the parking ratio is not less than one to one. John DeWitt seconded the motion, and the motion was approved by a vote of 4-0.

VI. COMMUNICATION FROM BOARD OF ADJUSTMENT

None.

VII. COMMUNICATION FROM STAFF

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None.

VIII. ADJOURNMENT

John DeWitt adjourned the meeting at 6:45 p.m.

Prepared by:

John DeWitt, Chair

Jennifer Tipton, Senior Admin

Patrick Prosser, Secretary

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