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Town of Maggie Valley
Regularly Scheduled Zoning Board of Adjustment Meeting
April 16th, 2026
Minutes

Members Present: Chairman David Carriker, Shelly Clement, Charlotte Ruiz, Jim Heise, Derek Worrell, Amber Patterson, David Miller.

Members Absent: None

Staff Present: Planner Director Noah Taylor and Deputy Clerk Christy Passmore.

Others Present: Adriane Gonzalas, Cynthia Powell, William Powell, George Hoover and Jason Kerslake.

Call to Order

Thursday, April 16, 2026 at 5:32pm Zoning Board of Adjustment meeting was called to order at the scheduled time.

A quorum was established.

Reappointment of David Carriker (Full Member) and Derek Worrell (Alternate) and Appointment of David Miller (Alternate) as Members of the ZBOA.

Planning Director Noah Taylor explained that David Carriker and Derek Worrell had been reappointed by the Board of Aldermen and David Miller was appointed. Deputy Clerk Christy Passmore indicated that she needed to administer the oath of office to all three members.

Christy Passmore suggested that all three members could take the oath together to make it easier. She administered the oath, asking the gentlemen to come forward: "Do you solemnly swear that you support and maintain the constitution and the laws of the United States and the constitution and the laws of North Carolina, not inconsistent therein, that you will faithfully discharge the duties of the office as a member of the zoning board for the Town of Maggie Valley. So help you God." All three members responded, "I do" and signed both copies of their oath documents.

Appointment of Chairman and Vice Chairman for 2026

Director Taylor explained that every calendar year at the first meeting, the board must appoint the chair and vice chair. He noted that David Carriker was currently Chairman and Amber Patterson was the Vice Chair.

Board Member Shelly Clement made a motion to reelect the current officers if they were willing to serve. Board Member Charlotte Ruiz seconded the motion. David Carriker expressed his willingness to fulfill the responsibilities. Chairman Carriker asked if there was any discussion needed, and hearing none, called for a vote.

Motion: Shelly Clement moved to reelect David Carriker as Chairman and Amber Patterson as Vice Chair for 2026. Charlotte Ruiz seconded. Motion passed unanimously.

Chairman Carriker thanked everyone for putting their trust in them and promised to faithfully fulfill their offices.

Disclosure of Conflicts/Ex parte Communication

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Chairman Carriker asked if anyone had any conflicts or ex parte communication regarding the two cases before them that day. Hearing none, he proceeded to read the required quasi-judicial hearing statement.

Chairman Carriker explained that the hearing was a quasi-judicial evidentiary hearing, similar to a court hearing, with specific procedures and rules set by state law. He emphasized that the board's discretion was limited and decisions must be based upon competent, relevant, and substantial evidence in the record. He clarified that this was not a popularity contest, but a decision constrained by ordinance standards and presented facts.

He explained participation rules, noting that parties with standing could participate fully, including the applicants, local government, and individuals who could show they would suffer special damage. Other individuals could serve as witnesses when called by the board, with general witness testimony limited to facts, not opinions. For certain topics requiring expert opinion testimony, such as property value impacts and traffic projections, witnesses must be qualified as experts.

Approval of Agenda

Chairman Carriker noted that he had skipped over approving the agenda and asked for a motion to approve the agenda as presented.

Motion: Charlotte Ruiz moved to approve the agenda as presented. Amber Patterson seconded. Motion passed unanimously.

Approval of Minutes

Chairman Carriker directed attention to the minutes of the regularly scheduled board meeting of April 17, 2025, noting it had been a year since they had something before them. He asked members to review the minutes and note any corrections needed.

After time for review, Charlotte Ruiz made a motion to accept the minutes as presented. Amber Patterson seconded the motion.

Motion: Charlotte Ruiz moved to accept the minutes from April 17, 2025, as presented. Amber Patterson seconded. Motion passed unanimously.

Chairman Carriker noted that it had been 364 days since their last meeting, suggesting they must be doing something right in their community since there weren't many requests for variances.

New Business

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Variance Request for Property located at 5 Mari Place

Christy Passmore administered the oath to both Director Taylor and Jason Kerslake, the contractor representing the property owner.

Chairman Carriker asked staff to present their report.

Planning Director Taylor provided the staff report, explaining that the Planning Department received a request from Haywood County to perform a final zoning inspection of the subject property at 5 Mari's Place, located in Mari's Meadow near Crockett's Meadow. The owners of the property are Steven and Linda Crouse.

During the final inspection, it was determined that the house did not meet the right-side setback. After reviewing, the property owner needed to seek a variance to obtain their Certificate of Occupancy. The current structure met all setbacks for the R2 district except for the right side of the house, which encroached 2.5 feet into the required setback, leaving 7.5 feet from the property line. The applicant was seeking a variance to encroach 3 feet into the side setback, resulting in a 7-foot right side setback.

Director Taylor emphasized that the existing part of the structure that violated the setback housed a handicap bathroom that the homeowner's elderly mother needed to use. He noted that the variance use was consistent with surrounding residential properties and that the property met all other requirements for the R2 district.

He showed the board the location map, indicating the property was directly behind the nursing home, with a bright red X marking where it violated the setback. The third page showed the structure already in place, and the last page showed the bathroom in question.

Board Member Charlotte Ruiz asked if the setbacks weren't known before. Director Taylor responded that they were known and that the contractor would discuss his appeal regarding why it happened.

Board Member Shelly Clement asked if the people who owned lot 8 were fine with the encroachment. Director Taylor explained that lot 8 didn't reach out directly, but the contractor had been notified because they used the same surveyor, and that's how they found out about the setback encroachment.

Chairman Carriker asked if there were no further questions for staff, that Mr. Kerslake could proceed with his testimony.

Jason Kerslake explained that he was responsible for laying out the house, digging and pouring the footers, and doing the rebar work. He stated that he decided to take a 3-foot shower and make it into a 5-foot shower for Mrs. Crouse's mother. He had hired a surveyor to pin the setbacks, but when they got to that point, he wasn't sure if stakes were moved or what happened, but he decided to make it a 5-foot shower and completed the house. Director Taylor later brought it to his attention

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that he needed to hire his surveyor again, which he did, and it was determined he was 2.4 feet over the setback line. He emphasized it was his fault and wasn't done intentionally or with any disrespect toward the zoning requirements.

Chairman Carriker asked for clarification about why the shower space was expanded. Mr. Kerslake explained that he had a 3-foot shower originally planned but opened it up to 5 feet to make it accessible for the elderly mother, creating an open shower with a pan, glass, and tile so she could step in and have bars inside for support.

Board Member Jim Heise asked if this was done without going to the permit office, noting that the plans were approved for certain dimensions and you can't just increase them without approval. Mr. Kerslake explained that the plan was exactly what it was, but he changed the configuration within the bathroom and adjusted it, though he wasn't aware of exactly where the setbacks were. He knew he was close but didn't mean any disrespect.

Jim Heise asked if no one picked this up during an inspection period, and Mr. Kerslake confirmed that was correct.

Charlotte Ruiz asked about lot 8 having no problem with the encroachment. Director Taylor explained that the HOA president reached out but he didn't hear anything from the lot 8 owner except for the initial notification about the setback encroachment. He confirmed that proper notices were mailed to property owners and surrounding adjacent properties, giving them time to respond.

Amber Patterson asked if no response meant they gave up their right to appeal. Director Taylor clarified that they don't necessarily give up their right, but they would need to have standing, such as having a licensed appraiser demonstrate that the encroachment devalued their property by a specific amount.

Director Taylor mentioned that a sewer connection had to be made on the left-hand side of the house, which pushed the whole foundation over to begin with. Mr. Kerslake confirmed this, explaining that the sewer connection location adjustment moved things around.

Chairman Carriker reviewed the variance application, which stated that unless a hardship would result from strict application of the ordinance, the residence was complete and homeowners were ready to move in but would have to remove the handicapped bathroom for the elderly mother. The application noted that the sewer line on the property's west side forced an adjustment to the home footprint toward lot 8. The applicant stated the intention was not to purposely violate the setback but was adjusting the home due to existing utilities. The request was consistent with the spirit, purpose and intent of the ordinance, as the house was pleasing to the neighborhood and met all HOA standards and all other required setbacks.

The board examined the four required findings for variance approval. Chairman Carriker explained that all four must be agreed upon to approve the variance, and if they cannot accept one, they must deny the variance. Chairman Carriker read the 4 finding of fact:

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<p>1. If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because:</p>	<p>Strict Application of the ordinance would prevent the owner's mother from using a handicap bathroom due to mobility issues.</p>
<p>2. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because:</p>	<p>The property made it's sewer connection on the left hand side of the property, which pushed the house into the right hand setback.</p>
<p>3. The hardship is not the result of the applicant's own actions because:</p>	<p>Yes, it was caused by the owner, but was due to the house needing to have a handicap bathroom.</p>
<p>4. The variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit and assures public safety, welfare and substantial justice because:</p>	<p>The ordinance is meant to control growth while still allowing property owners to use their properties as intended.</p>

Jim Heise raised a concern about finding number 3, which stated "yes it was caused by the owner but was due to the house needing to have a handicap bathroom." He pointed out that it had a handicap bathroom prior to it, just smaller, so the wording should perhaps say "needing to have a larger handicap bathroom" since there's a difference between not having a bathroom versus having one the size they want.

Chairman Carriker acknowledged this was the challenging finding, noting that findings 1, 2, and 4 were easier to agree with, but number 3 required them to determine if expanding from a 3-foot stand-up shower to a 5-foot accessible shower was still within the spirit of the law without violating its intent.

Charlotte Ruiz pointed out that the sewer line impact wasn't the homeowner's fault but also part of the city's responsibility. Amber Patterson added her concern that the foundation had multiple inspections that should have caught this issue, questioning why it wasn't identified until they were

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seeking a Certificate of Occupancy when they were move-in ready. She expressed having a problem with multiple inspections being signed off on, allowing continued investment in the property, only to find out there was a problem at the end.

Jim Heise noted that as a contractor, if he wanted to move something over 2 feet, he would need to go to the permit department first for approval. However, Amber Patterson responded that even so, the inspectors needed to take a tape measure and ensure everyone was adhering to the law, noting the problem with having multiple inspections that were signed off on.

Chairman Carriker acknowledged the challenge of having a completed house before discovering the issue, agreeing that somewhere along the way the system failed. He emphasized the need to find the line between strict application of the law and following its spirit for their community.

Charlotte Ruiz suggested that if there was a real problem, the person in lot 8 should have been present to express disagreement, noting they hadn't heard any negative feedback from the HOA either.

Director Taylor explained that the HOA had asked what would happen if the variance was denied, and anyone had the right to appeal to the Superior Court of North Carolina if it was denied. If the Superior Court upheld the board's decision, they would have to remove the bathroom and remedy the situation.

Amber Patterson interpreted this to mean the HOA was essentially supporting the approval, since they only asked what happens if it's not approved.

Chairman Carriker asked if there was further discussion needed. After determining whether the board was ready to vote, Director Taylor reminded them that unless there are not enough full members to make a quorum, Alternates do not vote. If there was a conflict of interest or multiple absences, the alternate members would have to be appointed at the beginning of the meeting. But at this meeting, the full members are sufficient and will be the ones making the vote.

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1. If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because:	Strict Application of the ordinance would prevent the owner's mother from using a handicap bathroom due to mobility issues.
2. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because:	The property made it's sewer connection on the left hand side of the property, which pushed the house into the right hand setback.
3. The hardship is not the result of the applicant's own actions because:	Yes, it was caused by the owner, but was due to the house needing to have a larger handicap bathroom.
4. The variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit and assures public safety, welfare and substantial justice because:	The ordinance is meant to control growth while still allowing property owners to use their properties as intended.

Motion: Based on the stated findings of fact and discussion, Chairman Carriker moved that the zoning enforcement officer be overruled and the variance granted, finding that all four required criteria were met with an adjustment to the language in finding number 3 to specify "larger handicap bathroom." Jim Heise requested this language change for clarity. The motion passed unanimously among voting members.

Jason Kerslake thanked the board for their consideration and kindness.

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Variance Request for Property located at 57 Susan Drive

Christy Passmore administered the oath to William and Cindy Powell as Director Taylor had already been sworn in.

Chairman Carriker asked staff to present their report.

Director Taylor provided the staff report, explaining that the Planning Department was approached by John Ciervo, the contractor for the property owners of 57 Susan Drive. The contractor was seeking information on building a garage addition to the side of the house on the right-hand side. After review by planning staff, it was determined they must seek a variance to proceed with the project.

The applicants, William and Cindy Powell, wanted to build a garage addition on the side of their house due to concerns about easy access to the home, but the proposal was unable to meet current setback requirements due to lot size. The planning department noted that while this lot was average for the neighborhood, it was small compared to new standards.

Originally, the applicants applied for only a side setback variance of 8 feet, which would result in a 2-foot right side setback. However, after a planning staff site visit, it was determined that the proposed structure would also need a 3-foot rear setback variance. After discussing with the contractor, who was an approved agent for the property owners, he requested that the rear setback also be included in the variance application.

Director Taylor explained that all surrounding properties were used for residential homes and the houses pre-existed before their current ordinance. He showed the board the current property and adjoining properties, noting a recent survey showing the existing house and explaining why they needed a rear setback variance - because the back porch was close to the property line, and connecting the garage addition to that porch required the rear setback variance as well.

Amber Patterson asked if there was a variance for the rear back porch. Director Taylor explained that the existing deck was built long before the current ordinance.

Charlotte Ruiz asked about the deck already being built and whether a variance was granted. Director Taylor confirmed it was built long before the current ordinance existed.

Director Taylor showed the board where the garage addition would be located and displayed the site plan the contractor drew showing what would be done if approved.

Chairman Carriker asked to confirm if it was a double-car garage, which Jim Heise stated yes as it was noted in the documentation.

Shelly Clement asked about a stake in the top photo, and Director Taylor confirmed it was the property line, noting it curved which caused the setback to get closer to the house as it went.

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Charlotte Ruiz asked for clarification on the setbacks that are being requested - 7 feet rear and 2 feet right side, which Director Taylor confirmed.

Chairman Carriker asked if there was any further for questions for staff. Hearing none, he asked the applicants, William and Cindy Powell, to make their testimony.

William Powell explained their reasoning for the variance request. As they were getting older, they wanted easier access to the house and out of the weather. Their cars were also damaged by trees, with dents and cracked windshields, so indoor parking would help. The houses in the area were built as vacation homes without much storage space, and this garage would provide needed storage. As they were both retired and spending more time at what their summer home was currently, they needed weatherproof storage and easier access.

He mentioned that the neighbor behind them had expressed concerns about ceiling height, so they planned to keep it low with probably a 4/12 roof pitch so the neighbor could still see mountains from over the top from his deck. The neighbor seemed happy with that approach. George Hoover, the neighbor most affected by the side setback, seemed to have no problems with them getting as close to the line as possible.

Chairman Carriker asked to confirm that George was the neighbor to the right, and George Hoover, who was present, confirmed he was George, their right-side neighbor and fully supported the variance request. He explained that his house was set mostly to the right side of his property, similar to Powell's house, and there was a large yard between the two homes with plenty of room for his children to play. He didn't expect any property value issues and had no concerns about the variance.

Chairman Carriker thanked George for coming to support his neighbors, noting it was important to hear from those affected.

Jim Heise asked if this wouldn't be a variance issue if it were a single-car garage instead of double-car. William Powell acknowledged they could probably make single-car garage work but stated it wouldn't meet their needs and wouldn't do any good for them.

Jim Heise pointed out that they knew the limitations when they bought the property, referring to "buyer beware," though he didn't see a problem with adding a garage. However, he noted that a double garage would be almost the size of the house itself, adding 20 feet to the side of the house.

Cindy Powell added that they had two cars and a motorcycle, and they were currently renting warehouse space for storage.

Charlotte Ruiz asked about the property behind them. Director Taylor explained that property owners did contact him, but when they were advised with the variance was for, they did not seem to have an issue with it. He stated that the house is near the police department up Summit Drive in those neighborhoods.

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Charlotte Ruiz noted that all those homes were built long before current standards, perhaps around 1986, meaning they were built when setbacks and regulations were much more relaxed than current rules.

Jim Heise asked George Hoover to confirm what house he was in. Director Taylor explained that while it didn't show on that map, looking at the GIS map would show George was the house to the left of 57 Susan Drive, and he was indeed the neighbor next to where the garage was being built.

Chairman Carriker reviewed the variance application, which stated the need to expand use of the house due to setbacks, better access to the home due to age with fewer steps, additional storage, and indoor parking for cars. The hardship resulted from the lot size being determined before new codes, making it a smaller lot compared to others in the area. The application noted the property was purchased in "as is" condition, and an attached two-car garage would allow use consistent with other homes in the neighborhood.

Charlotte Ruiz confirmed the garage would be attached to the house, and William Powell confirmed it would be attached with no living space, which was why they were keeping the roof low - there wouldn't be enough room for living space anyway, and it wouldn't be built as two stories.

Jim Heise asked Director Taylor if approving this variance would set a precedent for others in the area to build garages or request similar variances. Director Taylor responded that it wouldn't necessarily set a precedent because others would still have to come through the board for approval, but it could encourage other people. He noted that this lot was smaller than what was currently allowed, which was why they needed a variance, and the board would be overruling what he was enforcing.

Jim Heise asked if Director Taylor had compared the lot sizes using GIS mapping or similar tools, questioning whether the lot was smaller just because someone said it was. Director Taylor confirmed that some lots in the area were even closer to property lines than this house, depending on when they were built during periods of very lax setback requirements. If this lot were to be subdivided today, it would have to be bigger to meet current standards.

Chairman Carriker asked if they could subdivide the lot as it currently existed. Director Taylor explained that it was zoned R2, which required 0.25 acres, and this lot was smaller than that requirement.

Chairman Carriker noted that they would probably face similar situations again because there were many small lots created before current codes. Jim Heise agreed, which was why he had asked about setting precedent. Chairman Carriker acknowledged this was something to consider as there were many such lots that predated current codes, though each would be evaluated on a case-by-case basis.

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Chairman Carriker asked Director Taylor about fire safety concerns, specifically how far the 2-foot setback would be from the neighboring house. Director Taylor estimated it was probably about 20 feet from where the edge of the garage would be to George's home, which would be much more than the minimum he believed the fire marshal required.

George Hoover confirmed this estimate and offered to show a better image of the yard. He added that his house was built on the same part of his property as the Powell's house, with identical floor plans, and there was plenty of room between the houses.

Shelly Clement noted it was helpful that there was a large yard area between the two homes and that the affected neighbor was present to speak in support.

Director Taylor agreed that they weren't building right up against someone's house, and Chairman Carriker noted they hadn't heard anyone objecting to the proposal.

Chairman Carriker reviewed the four required findings for variance approval, reading through each criterion for a 2-foot right side setback and 7-foot rear setback. He noted William's consideration for the neighbor behind them in keeping the roof low.

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1. If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because:	Strict application of the ordinance would prevent the property owner for expanding their home and limiting use of the house
2. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because:	The property is smaller than many lots and was subdivided before current standards
3. The hardship is not the result of the applicant's own actions because:	Existing Zoning District and lot size at time of purchase
4. The variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit and assures public safety, welfare and substantial justice because:	The ordinance is meant to control growth while still allowing property owners to use their properties as intended

During review of the findings, Charlotte Ruiz questioned the language in finding number 2, which stated the property was smaller than many lots. Looking at the GIS map and surrounding properties, she noted that many lots in the area were small, including adjacent properties which were smaller than the subject property.

Director Taylor suggested they could modify the language to say "the property is smaller than current standards" rather than "smaller than many lots." Jim Heise agreed this was more accurate language, and Charlotte Ruiz supported this change, noting it would also apply when other small lots in the area came before them for similar requests.

The board agreed to adjust the language in finding number 2 to read "the property is smaller than what is required at current standards and was subdivided before current standards."

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1. If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because:	Strict application of the ordinance would prevent the property owner for expanding their home and limiting use of the house
2. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because:	The property is smaller than what is required of current standards and was subdivided long before current standards
3. The hardship is not the result of the applicant's own actions because:	Existing Zoning District and lot size at time of purchase
4. The variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit and assures public safety, welfare and substantial justice because:	The ordinance is meant to control growth while still allowing property owners to use their properties as intended

Amber Patterson asked if they could add a condition to maintain the low-pitch roof to prevent it from becoming a two-story structure. Director Taylor explained that the standard for R2 residential district was 35 feet, and even if they did a two-story, it would meet the standards for 35 feet since they weren't asking for a height variance.

William Powell confirmed they planned to move downstairs because he didn't like climbing stairs and wouldn't want to add another set.

Motion: Based on the stated findings of fact with the language adjustment to finding number 2, all voting members approved the variance for a 2-foot right side setback and 7-foot rear setback. The motion passed unanimously.

Chairman Carriker thanked the Powells for going through the process and expressed hope that they would become full-time residents of Maggie Valley. He also thanked George Hoover for coming to support his neighbors.

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Other Business

Charlotte Ruiz requested that since they had completed reappointments and voting, could they have a list of board members and phone numbers for future reference and communication, particularly for situations like when they were sitting outside the door trying to coordinate.

Director Taylor offered to send out an Excel spreadsheet with everyone's contact information if the board members agreed to share their contact information within the group. The board agreed to this arrangement.

Adjourn

Motion: Jim Heise made a motion to adjourn at 6:24 pm, Amber Patterson seconded the motion. The motion carried unanimously.

The meeting was adjourned with Chairman Carriker encouraging everyone to enjoy their evening.

s/ David Carriker
Chairman, David Carriker

s/ Noah Taylor
Noah Taylor, Planning Director

Attest:

s/Christy Passmore
Christy Passmore, Deputy Clerk