

REQUEST FOR COMMITTEE ACTION

HENDERSON COUNTY

Zoning Board of Adjustment

MEETING: 9/30/20

SUBJECT: **Keyse Appeal**

PRESENTER: **Toby Linville**

ATTACHMENTS: **Staff Report**

SUMMARY OF REQUEST: **Appeal of Chapter 42 Land Development Code**

Suggested Motion: **I move to uphold/overturn the Notice of Violation for a Zoning Violation at
123 Mockingbird Hill Dr**



Henderson County, North Carolina Code Enforcement Services

1. Committee Request

- 1.1. **Applicant:** David Matthew Keyse
- 1.2. **Request:** Appeal of Chapter 42 Land Development Code
- 1.3. **PIN:** 9529209358
- 1.4. **Size:** .59 acres +/-
- 1.5. **Location:** 123 Mockingbird Hill Dr

Timeline:

- 8/20/20 Notice of Violation posted
- 8/22/20 Appeal Filed
- 9/1/20 Site Visit

§42-362. Zoning Permits

A. Purpose. *Zoning Permits* are required for (1) the erection, movement, *addition* to or structural alteration of any *structure* and (2) the expansion of or change in any *use*.

§42-379. Appeals

Questions arising in connection with the enforcement of this Chapter shall be presented first to the approving official or agency and shall be presented to the appellate agency only on *appeal* from the approving official or agency (See Table 12.1). *Appeals* must be filed 30 days from the date of the decision with the approving official or agency. Where the appellate agency is the Zoning Board of Adjustment (*ZBA*), the *ZBA* shall hold a public hearing on the *appeal* in accordance with §42-371 (Quasi-Judicial Process Standards).

Map A: Aerial Photo/Pictometry



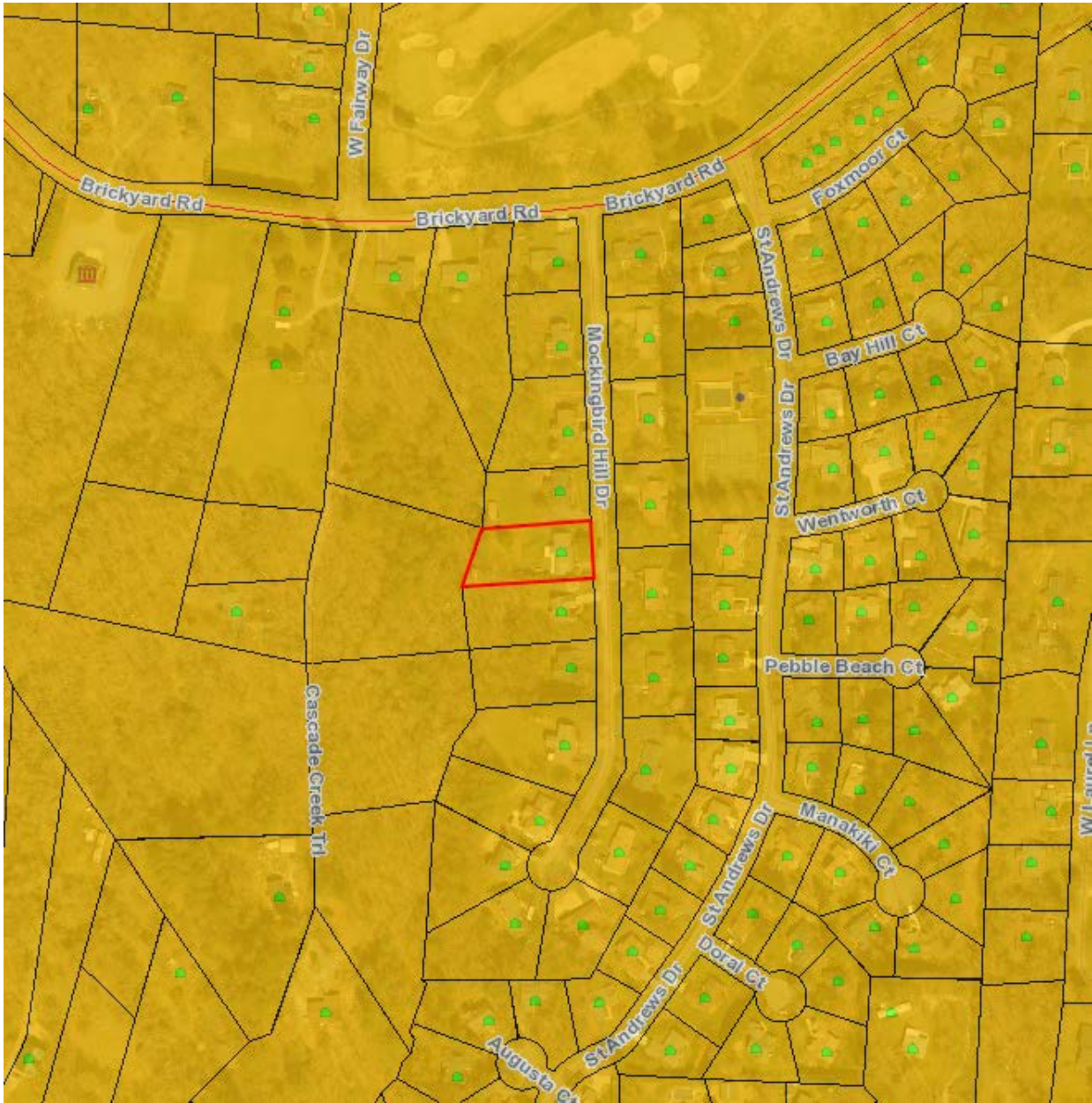
2. Current Conditions

2.1 Current Use: This parcel is currently in residential use.

2.2 Adjacent Area Uses: The surrounding properties are residential uses.

2.3 Zoning: The subject and surrounding properties are Residential One (R1)

Map B: Current Zoning



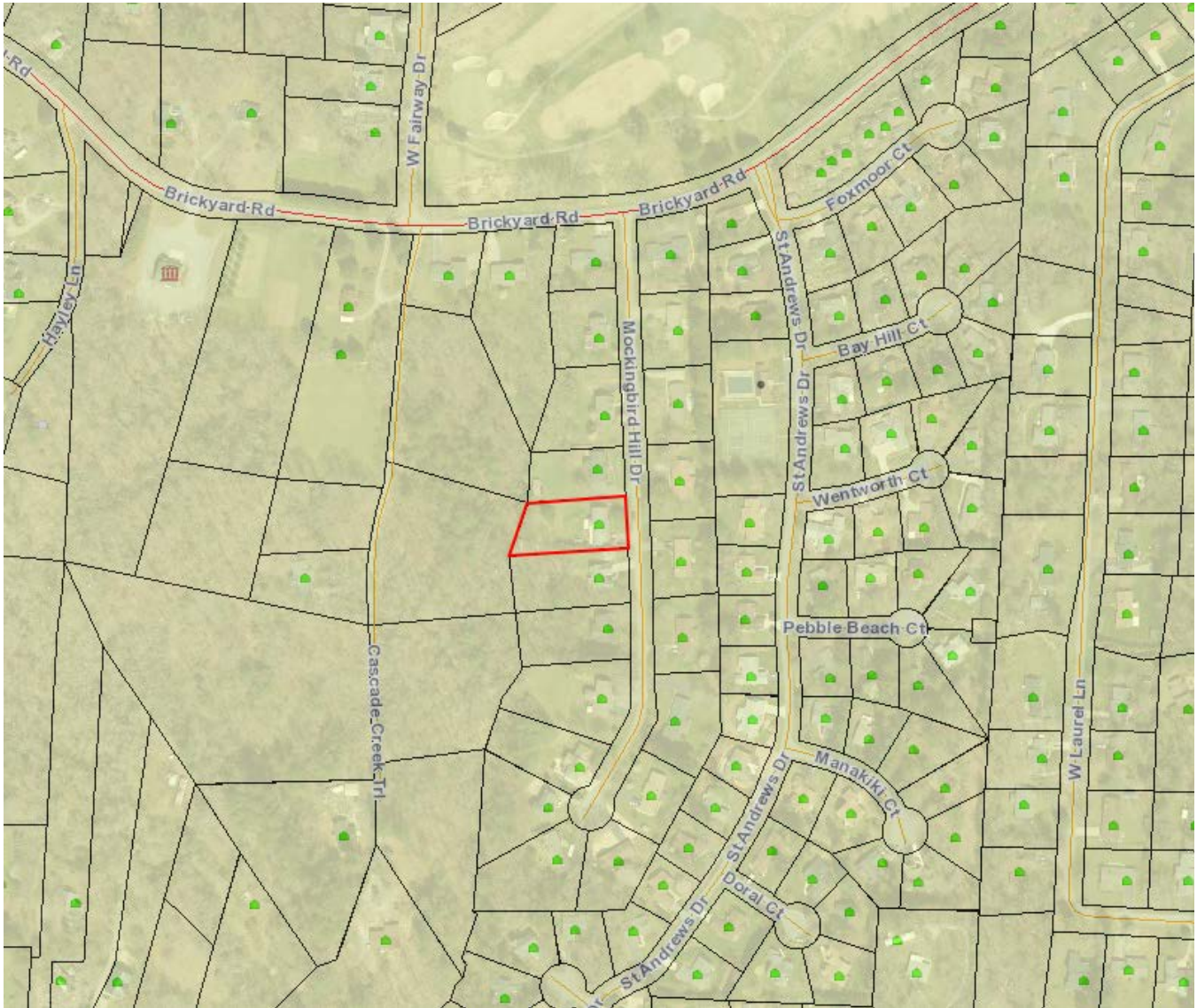
3. Floodplain /Watershed Protection The property is not located in a Special Flood Hazard Area. The property is not in a Water Supply Watershed district.

4. Water and Sewer Public water and private septic system serve this property.

4.1. **Public Water:** City of Hendersonville

4.2. **Public Sewer:** N/A

Map C: CCP Future Land Use Map



5. Staff Comments

The 2020 CCP: The CCP Future Land Use Map places the Subject Area in the Rural/Urban Transition Area. The text and map of the 2020 CCP suggest that the Subject Area would be more suitable for the following:

The following is a description of the patterns of development envisioned within the RTA.

1. The RTA is currently rural in character, with existing pockets of limited higher density residential and commercial development. Slopes vary across the RTA, although the area can be considered to be generally developable. The primary factor preventing urban development in the RTA is the absence of sewer and water service. The RTA will continue to experience extensive development over the operational timeframe of this Comprehensive Plan.

6. Staff Recommendations

Staff's Position, under the guidelines of current plans, policies and studies, is to overrule the appeal and uphold Henderson County's decision to enforce the Land Development Code.

7. Photographs



08.20.2020 14:10



08.20.2020 14:10



GEORGIA
7160 ASE
JUL 2019 IN GOD WE TRUST

08.20.2020 14:10



09.01.2020 14:57



PUBLIC NOTICE
ZONING BOARD
8:00 AM - 4:30 PM
4:00 PM
100 W. KIRK ST.

09.16.2020 10:40

Notice of Violation and Declaration of Public Nuisance

Name of Violator / Property Owner: DAVID Keyss DK S-9834
Street Address: 123 Mockingbird Hill Dr
PIN Number: 9529209358

On or about the 20 day of August, 2020, in the County of Henderson a violation of Henderson County Nuisance Ordinance Section 52 did occur by:

- §52-3 A. Improper sewage disposal to such degree that sewage or effluent is discharging onto the surface of the ground, backing up into a structure, or discharging into a body of water.
- §52-3 B. An unsecured opening caused by improperly abandoned cistern, well pit, sewage treatment system, unused or non-maintained swimming pool, mine shaft or tunnel.
- §52-3 C. Failure to keep waste, refuse or garbage in an enclosed building or properly contained in a closed, insect and rodent-proof container.
- §52-3 D. Accumulation of carcasses of animals, birds, or fish by failing to bury or otherwise dispose of in a sanitary manner within 24 hours after death.
- §52-3 E. Significant outdoor storage of solid waste.
- §52-3 F. Accumulations of rubbish or junk as to become dangerous or injurious to the health and safety of any individual or to the public.
- §52-3 G. Any junked motor vehicles without a current Vehicle Restoration Permit and/or any abandoned manufactured home.
- §52-3 H. Infestations of flies, fleas, cockroaches, lice, rats, mice, fly larvae, hookworm larvae or other insects, parasites or vermin.
- §52-3 I. Breeding grounds which support mosquito larvae and mosquitoes.
- §52-3 J. Use of a Recreational Vehicle as a primary residence without permitted electric, water and sewage connections.
- §52-3 K. Recreational vehicles used to store solid waste.
- §52-4 A. Improper outdoor storage location violation for zoning purposes.
- Other Zoning Violation (Section 42): RENTING TREE HOUSE - NO PERMITS
- Solid Waste Violation (Section 95):

Furthermore, the property mentioned above is hereby declared a Public Nuisance by Henderson County Code Enforcement Services and will remain so until the specific problem(s) is/are abated and approved by Code Enforcement Services at which time the Declaration of Public Nuisance will be dismissed. It is your responsibility to abate the existing problem on the property.

You have 30 days, ending on 9 / 20 / 20, to abate the current nuisance. Failure to legally abate the nuisance could result in a warrant being issued against you. Each day that the violation exists past the allotted time period shall constitute a separate violation. Per Section 1-14 of the Henderson County Code, violation of the Code shall constitute a Class 3 misdemeanor for criminal violation and/or \$50 per day per violation for civil violation.

As the owner, occupant or person in control of the property mentioned it is your responsibility to bring the property into compliance with Henderson County ordinances. You are hereby ordered to bring the property into compliance by remedying the nuisance in a legal manner and notifying the Henderson County Code Enforcement Department once completed. If the property is not abated or remedied in accordance with this order, Henderson County will have the nuisance abated or removed at the expense of the owner under the provisions of North Carolina Statute 153A-132 and this ordinance.

Right to appeal: As the owner or occupant of the property, you may appeal this Declaration by filing a written request with the Zoning Board of Adjustment for an administrative hearing within ten calendar days of receiving this notice. Correspondence may be made by mail to 100 N King St. Hendersonville, NC 28792.

Please contact Officer: Toby Linville as soon as possible at 828-697-4857.

TSL 8/20/20 2822
Zoning Enforcement Officer Date ID#



WARNING: THIS IS NOT A SURVEY

Parcel Information

Listed To:	KEYSE, DAVID MATTHEW	Jurisdiction:	UNINCORPORATED
Mailing Address:	123 MOCKINGBIRD HILL DR	Tax District:	ETOWAH - HORSE SHOE FIRE
Mailing City, State, Zip Code:	ETOWAH, NC 28729	County Zoning:	R1
Physical Address:	123 MOCKINGBIRD HILL DR	Flood Zone:	Zone X, Not Shaded (Areas outside of the floodplain)
Physical Address Zip:		Watershed:	
REID:	801556	Protected Ridges Buffer	
PIN:	9529209358	Perennial Streams:	Null
Neighborhood:	MOCKINGBIRD HILL	Soils:	Bradson gravelly loam, 7 to 15 percent slopes
Assessed Acreage:	0.59000000	Agricultural District	
Deed:	001067/00682	Future Land Use	Rural/Urban Transition Community
Date Recorded:	2001-07-03 00:02:00.0		



Henderson County
 Geographic Information Systems (GIS)
 200 North Grove Street
 Hendersonville, NC 28792
 P: (828) 698-5124
 F: (828) 698-5122

THIS IS NOT A SURVEY.

All information or data provided, whether subscribed, purchased or otherwise distributed, whether in hard copy or digital media, shall be at the user's own risk. Henderson County makes no warranties or guarantees, including the warranties of merchantability or of fitness for a particular purpose. Map data is not appropriate for, and is not to be used as, a geodetic, legal, or engineering base system. The data is not intended as a substitute for surveyed locations such as can be determined by a registered Public Land Surveyor, and does not meet the minimum accuracy standards of a Land Information System/Geographic Information System Survey in North Carolina (21 NCAC 56.1608).

CL asheville > housing > rooms & shares

favorite

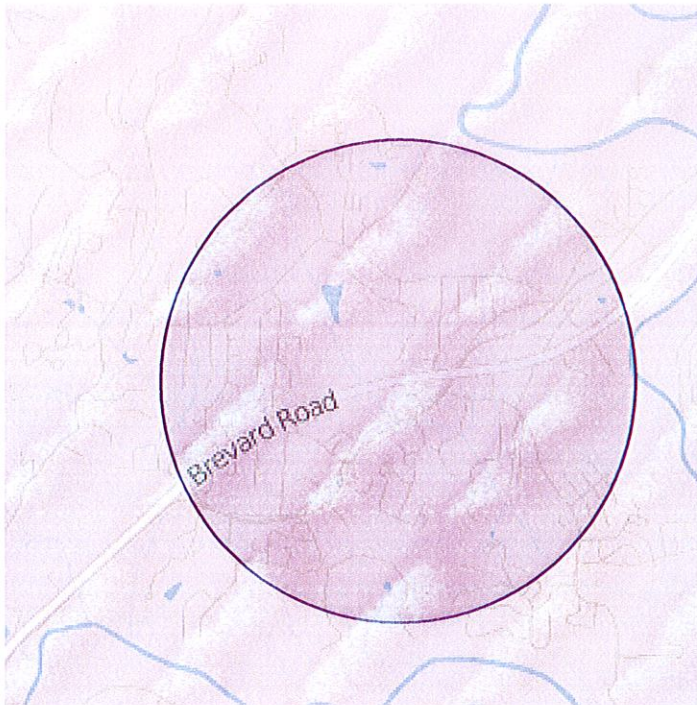
hide

flag

Posted about a month ago on: 2020-07-19 09:37

Contact Information:

\$200 Tree house (Etowah)



5.5ft by 7.5 ft with stand up ceiling

loft

available now

laundry on site

street parking

no private bath

private room

QR Code Link to This Post



CL

asheville > housing >

apartments / housing for rent

favorite

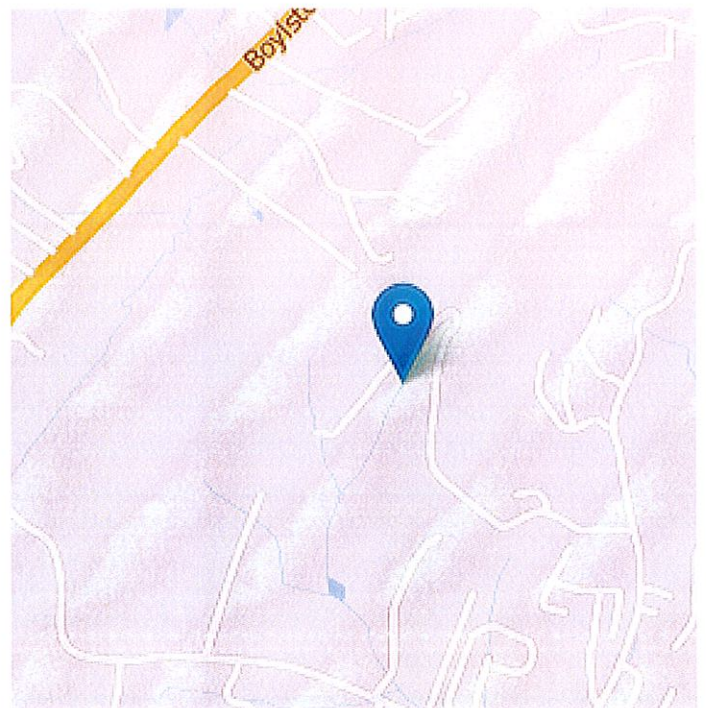
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Posted 25 days ago on: 2020-07-25 05:33

Contact Information:

\$200 / 1br - Tree house (Etowah)



1BR / 0Ba

available now

cats are OK - purrr

dogs are OK - woof

loft

laundry on site

street parking

6 by 7 ft tree house. Climb a ladder to reach it.

QR Code Link to This Post

22 Aug 2020

To: HENDERSON COUNTY ZONING BOARD

Att: TOBY LINVILLE

FROM: DAVID KEYES

123 MOCKINGBIRD HILL DR

ETOWAH NC

To Whom It May Concern:

I would like to request an Administrative Hearing.

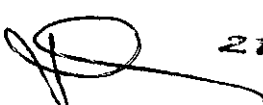
828 490 0763

Date of the hearing

THANKS,
David Keyes
DAVID KEYES

22 Aug 2020

WITNESS:
JACK COLLINS

 22 Aug 2020