

MINUTES OF THE BOARD OF ADJUSTMENT MEETING
HELD MONDAY, JULY 11, 2016

The Board of Adjustment met at 4:02 p.m. on Monday, July 11, 2016.

Members present: Goosmann, Landau, Kieffer, Groce, Pearlman, and Chandler. Mr. Jonathan Kanipe, Zoning Administrator, was present. Mr. William Clarke, Town Attorney, was also in attendance.

Chairman Goosmann called the meeting to order at 4:02 p.m.

Chairman Goosmann swore in the following:

Mr. Kenneth Williams
Mr. Charles Reynolds
Mr. John Yurko
Mr. Larry Manofsky
Ms. Amy Fahmy
Mr. Houston Hammond
Mrs. Barbara Veach

The meeting minutes from May 16, 2016 were edited by Mr. William Clarke. The word “unnecessary” should be inserted before the word “hardship” on pages 3, 6, and 7. Dr. Landau was also not present at the May 16, 2016 meeting. Mr. Lowell Pearlman made motion to approve the changes and Dr. Rich Landau seconded the motion. The motion was unanimously approved.

HEARING (Evidentiary):

Mr. Kenneth Williams, 19 Ridgefield Place, presented his plans for the home. Dr. Landau verified this was a Conditional Use Permit. Mr. Clarke verified that this was the case since there was an existing pool (accessory use) on the lot.

Mr. Williams presented his plans for the house. Dr. Landau asked whether any trees would be removed from the site. Mr. Williams indicated that no trees would be removed from the site. Mr. Williams also indicated that they plan to install landscaping on the northern property line that would buffer the neighbor to the North.

Mr. Williams indicated one small change to the plan which is to take the driveway entrance farther to the eastern side of the property, near the pool, and create a larger turning radius in that location. There were no questions about the new residence construction.

DELIBERATION & DETERMINATION

Dr. Landau recited the facts, including that none of the existing trees would be removed. Mr. Williams interjected and said he would also buffer on the southern boundary of the property bordering Carolina Day School.

Mr. Kenneth Williams of 19 Ridgefield Place is applying for a Conditional Use Permit for construction of a new residence.

Mr. Goosmann made a note that the subdivision of the lot created topographical and lot features which dictated where the home could be constructed.

Hearing no additional questions, Mr. Pearlman made the motion to approve the Conditional Use Permit for the single family residence. Mr. Pearlman moved that a Conditional Use Permit and Variance be granted to Mr. Kenneth Williams of 19 Ridgefield Place. A Conditional Use Permit for construction of a new single family residence. The facts as recited by Richard Landau and his summation be accepted as findings and facts to support this grant. The Board has inspected this site and no neighboring property owner has objected.

Mr. Pearlman moved that granting this Conditional Use Permit (a) would not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and improved, (b) met all required conditions and specifications of the Town of Biltmore Forest Zoning Ordinance, (c) would not substantially injure the value of adjoining or abutting property, and (d) would be in general conformity with the plan of development of the Town of Biltmore Forest and its environs as set forth in Sections 1005.03 (2) and (3) of the above ordinance. The applicant has been informed that he is to report to the Zoning Administrator within seven (7) days of completion of the project in order that the Zoning

Administrator can determine that the project has been completed in accordance with plans submitted to the Town.

The motion was seconded by Mrs. Groce. The motion was unanimously approved.

HEARING (Evidentiary):

Mr. Charles Reynolds, 24 Cedarcliff Road, was called forward to present his proposal for a detached garage. Mr. John Yurko, architect, was present to review the proposal as well. Mr. Yurko noted that this was a portion of a four part renovation, but only this portion was required for Board of Adjustments approval.

Mr. Yurko noted that the garage was under 25 feet in height required by the ordinance, and its dimensions were 26x26'8" (746 square feet) which fell within the maximum accessory building requirement. Mr. Yurko described in detail where the garage would fall within the existing stone wall.

Mr. Chandler reviewed the proposal and noted that it seemed to be in compliance. Mr. Chandler did ask about any potential buffering, and Mr. Yurko stated there was significant landscaping in place already which should provide enough buffering. Mr. Reynolds indicated that they would landscape more if necessary. Mr. Yurko further indicated that there would be a four (4) foot landscaping buffer as a result of an asphalt cut which would provide more buffering.

Mr. Larry Manofsky, representing his daughter and son-in-law who purchased the home at 22 Cedarcliff Road, was sworn in to provide remarks. Mr. Manofsky indicated that he felt this proposal was acceptable.

DELIBERATION & DETERMINATION

Mr. Robert Chandler recited the facts. Mr. Charles Reynolds of 24 Cedarcliff Road is applying for a Conditional Use Permit for a detached garage on the rear of his property which

will be 746 square feet. The garage is under 25 feet in height as required by the ordinance and is 26 feet x 26 feet, 8 inches.

Mrs. Lynn Kieffer moved that a Conditional Use Permit be granted for an accessory building and that the facts as recited by Robert Chandler and his summation be accepted as findings and facts to support this grant. The Board has inspected this site and no neighboring property owner has objected.

Mrs. Kieffer moved that granting this Conditional Use Permit (a) would not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and improved, (b) met all required conditions and specifications of the Town of Biltmore Forest Zoning Ordinance, (c) would not substantially injure the value of adjoining or abutting property, and (d) would be in general conformity with the plan of development of the Town of Biltmore Forest and its environs as set forth in Sections 1005.03 (2) and (3) of the above ordinance. The applicant has been informed that he is to report to the Zoning Administrator within seven (7) days of completion of the project in order that the Zoning Administrator can determine that the project has been completed in accordance with plans submitted to the Town.

The motion was seconded by Dr. Landau and unanimously approved.

HEARING (Evidentiary):

The project for Mr. Norwood and Mrs. Sidney Thornton, 6 Southwood Road, was called forward. Mr. Pearlman shepherded this case. Houston Hammond, designer of the home and garage, was present on behalf of the Thorntons. Mr. Thornton has requested permission for a Conditional Use Permit constructing a detached garage ahead of the initial home design. The structure is 486 square feet, and located on the southern end of the property.

Mrs. Kieffer asked about the design of the house, and Mr. Hammond indicated that the house design would likely be finalized in the next few weeks. Mr. Pearlman asked Mr.

Hammond whether the main garage, still to be requested, was attached to the home. Mr. Hammond said the main garage would be attached by a roofline. Mr. William Clarke indicated that the breezeway would need to be enclosed for this portion not to be considered a second, detached structure.

DELIBERATION & DETERMINATION

After some discussion, Mr. Hammond asked to table the item until next month.

HEARING (Evidentiary):

Mrs. Barbara Veach, 20 Cedarcliff Road, was called forward to review her proposal for a new driveway to circle into the existing drive. They are requesting a Conditional Use Permit and Variance approval to allow construction of a dry stacked retaining wall and new driveway within the front yard and within the side yard setback. Mrs. Veach reviewed her proposal, and indicated that she hoped to stay at a maximum slope of 16-18 degrees. The retaining wall would be necessary if they elected to do a higher degree of slope. Mrs. Kieffer asked whether they needed the retaining wall on the western border. Ms. Amy Fahmy, Sitework Solutions landscape architect, indicated that they would highly recommend the stone retaining wall.

Mr. Larry Manofsky, representing his daughter and son-in-law at 22 Cedarcliff Road, indicated no objection to the stone wall being placed on this property line.

Dr. Landau asked if the slope was a concern. Mr. Clarke said that based on his experience, 18 degrees for a slope was acceptable for emergency services. Ms. Fahmy indicated that 18 degrees would be doable.

For the record, a hardship was noted in relation to the existing topography and for the preservation of large hardwood trees.

DELIBERATION & DETERMINATION

Mrs. Kieffer reviewed the findings of fact, including the specific Conditional Use request and Variance requests. Mr. Tucker and Barbara Veach of 20 Cedarcliff Road are applying for a retaining wall in the driveway and the driveway in the front and side yard setback. The driveway will be 47 linear feet.

Mr. Robert Chandler made a motion to approve the Conditional Use Permit and Variance. He moved that a Conditional Use Permit be granted for an accessory building and that the facts as recited by Lynn Kieffer and her summation be accepted as findings and facts to support this grant. The Board has inspected this site and no neighboring property owner has objected.

Mr. Chandler moved that granting this Conditional Use Permit (a) would not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and improved, (b) met all required conditions and specifications of the Town of Biltmore Forest Zoning Ordinance, (c) would not substantially injure the value of adjoining or abutting property, and (d) would be in general conformity with the plan of development of the Town of Biltmore Forest and its environs as set forth in Sections 1005.03 (2) and (3) of the above ordinance. The applicant has been informed that he is to report to the Zoning Administrator within seven (7) days of completion of the project in order that the Zoning Administrator can determine that the project has been completed in accordance with plans submitted to the Town.

Further, Mr. Chandler moved that granting the Variance based upon the foregoing findings of fact, satisfied the applicable Sections of 1005.04 and paragraphs one through four, and would not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would, in this case, result in a practical difficulty or unnecessary hardship. She further moved the Board to find that the spirit of the ordinance would be observed, public safety and welfare secured and substantial justice done. The applicant has been informed that he/she is to report to the Zoning Administrator within seven (7) days of completion of the project in order that the Zoning Administrator can determine that the project has been completed in accordance with plans submitted to the Town.

Dr. Landau seconded the motion. The motion was unanimously approved.

HEARING (Evidentiary):

Dr. Blair and Mrs. Gabriel Holl, 1 Stuyvesant Road, are requesting a Conditional Use Permit and Variance approval to construct a stone wall and black metal and wood fence within the side yard setbacks, and will replace existing retaining wall and fencing. The project also includes the replacement of an existing deck, awning, and a Conditional Use request for a new, low stone retaining wall.

Ms. Amy Fahmy, representing Dr. Blair and Mrs. Gabriel Holl at 1 Stuyvesant Road, was called forward to review this proposal. Mrs. Groce shepherded the discussion. Mrs. Groce asked specifically about the fence sections that were included for approval. There was a black metal fence, stone wall, and wooden fence. Mrs. Groce asked Ms. Fahmy to verify where the proposed fences would be. Ms. Fahmy reviewed each proposal individually, and begin with the wood fencing to screen the HVAC and utility areas, and would then be used for some of the pool fencing. This is a replacement fence that would then tie back into the black metal fencing that would surround the remainder of the pool.

Ms. Fahmy's second request was to construct a low stone wall to the west of the pool that would be used to create a larger pool deck area. The black, four foot fence would be constructed on this wall in accordance with pool insurance requirements. Ms. Fahmy assured the Board that the stone wall and black fencing on this side would be screened by large evergreens, more than likely hollies.

The next item was the replacement of the white vinyl fence on the southern end of the property. The existing proposal indicated that the new black metal fence would be on the property line, but upon inspection at the property, the new proposal is to create the black metal fencing in the existing footprint of the current fence or a maximum of two feet farther away from the setback.

Ms. Fahmy asked whether tree removal came before this Board. Mr. Kanipe said he reviewed the trees on the site and they were fine to remove.

Mr. Pearlman verified once more that the change to the southern fence proposal would result in the shrubbery and screening being planted on the neighbor's side of the fence.

Ms. Fahmy then reviewed the proposal for a vegetable garden. Mr. Chandler asked whether they intended to have the vegetable garden, and Ms. Fahmy said that it would remain but they had removed the wooden fence per the Board's review and would only utilize plantings in this area.

Ms. Fahmy noted the location of the gates and fire pit within the fencing and the existing retaining wall, respectively. Mr. Kanipe asked for plans for the fireplace.

Mrs. Kieffer asked about the mud mats being utilized, and Ms. Fahmy indicated these were utilized to keep mud off Vanderbilt Road.

DELIBERATION & DETERMINATION

Mrs. Groce recited the facts. Dr. and Mrs. Holl, 1 Stuyvesant Road, are requesting a Conditional Use Permit for a stone wall to replace an existing wall in the same location, black metal fencing to replace the existing vinyl fence surrounding the pool. The requests include the following: a wood privacy fence around the mechanical equipment; a stone retaining wall 2'-3' in height in compliance with the setback, and finally a black metal fence which will replace the white plastic fence which will remain in the same place. The final request is the stone fireplace which will be built into the existing wall. There were no changes to the findings of fact.

Dr. Landau made a motion to approve the Conditional Use Permit and Variance. He moved that a Conditional Use Permit be granted to Dr. Blair and Gabriel Holl of 1 Stuyvesant Road for the various structures, and that the facts as recited by Rhoda Groce and her summation

be accepted as findings and facts to support this grant. The Board has inspected this site and no neighboring property owner has objected.

Dr. Landau moved that granting this Conditional Use Permit (a) would not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and improved, (b) met all required conditions and specifications of the Town of Biltmore Forest Zoning Ordinance, (c) would not substantially injure the value of adjoining or abutting property, and (d) would be in general conformity with the plan of development of the Town of Biltmore Forest and its environs as set forth in Sections 1005.03 (2) and (3) of the above ordinance. The applicant has been informed that he is to report to the Zoning Administrator within seven (7) days of completion of the project in order that the Zoning Administrator can determine that the project has been completed in accordance with plans submitted to the Town.

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The motion was seconded by Mr. Pearlman and unanimously approved.

The meeting was adjourned at 5:03 p.m.

The next meeting of the Board of Adjustment was scheduled for Monday, August 15th 2016 at 4:00 p.m.

ATTEST:

Greg Goosmann
Chairman

Jonathan B. Kanipe
Town Administrator