

MINUTES OF THE BOARD OF ADJUSTMENT MEETING  
HELD MONDAY, DECEMBER 18, 2023

The Board of Adjustment met at 4:00 p.m. on Monday, December 18, 2023.

Mr. Greg Goosmann, Ms. Martha Barnes, Ms. Lynn Kieffer, Ms. Rhoda Groce, and Mr. Robert Chandler were present. Mr. Jonathan Kanipe, Town Manager, and Mr. Tony Williams, Town Planner, and Town Attorney, Mr. Billy Clarke were also present.

Chairman Greg Goosmann called the meeting to order at 4:00 p.m.

Chairman Goosmann swore in the following:

Mr. Tony Williams

Mr. Jonathan Kanipe

Ms. Carol Jackson

Mr. George Renfro

Mr. Michael O'Buckley

Ms. Jessica Pishko

Mr. Phil Hardin

Mr. Jon Moore

A motion was made by Ms. Rhoda Groce moved to approve the minutes from November 20, 2023. Ms. Lynn Kieffer seconded and was unanimously approved.

HEARING (Evidentiary):

The first project is for a Special Use Permit at 100 Stuyvesant Road for a fence to screen utility structures. Mr. Robert Chandler shepherded the matter. Ms. Carol Jackson is the homeowner and said they want to have an area in the front to screen utility structures. Ms. Jackson said this is to enhance the house and the appearance from the street. Mr. Clarke said a Variance needs to be applied for this matter and in order to have fencing in the front yard, one would have to apply for a Variance and explain what the hardship is.

Mr. Clarke said this matter cannot be considered at this meeting since the fence request is in the front and she only applied for a Special Use Permit. She would need to withdraw her application and reapply for a Special Use and Variance. Ms. Kieffer said, if the fence were attached to the house, it wouldn't need a Variance or a Special Use Permit.

DELIBERATION AND DETERMINATION

Ms. Jackson withdrew her application and the Board advised Ms. Jackson to speak to Mr. Williams about the fence connecting to the house which would not need a Special Use or Variance.

HEARING (Evidentiary):

The next matter is for a Special Use Permit request for a replacement fence at 15 Greenwood Road. The matter was shepherded by Ms. Rhoda Groce. Mr. George Renfro said he would like to have a deer fence installed. They have an existing fence that would go around the entire back part of their house. It was built in 1969 when the house was built. They would like to replace it with a ten-foot fence to prohibit deer from coming in. Mr. Renfro spoke with the neighbor behind his house and he was supportive of the project. Ms. Groce asked if any of the neighbors asked for additional buffering, would he be able to add this. Mr. Renfro said yes. The fence will be a metal wrought iron fence.

## DELIBERATION AND DETERMINATION

Ms. Groce restated the facts and said Mr. George Renfro is applying for a Special Use Permit at 15 Greenwood Road. This would be for a replacement fence. It will be a deer fence up to ten feet and a metal PVC coated fence. He is willing to provide additional buffering if requested.

Mr. Chandler moved that a Special Use Permit be granted to Mr. George Renfro at 15 Greenwood Road and 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. He further moved the Board define that granting this Special 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 153.110 (C)(2-3) of the above ordinance. 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. The motion was seconded by Ms. Martha Barnes and unanimously approved.

## HEARING (Evidentiary):

The third matter is for a Special Use Permit request for a swimming pool in the rear yard and open-air outdoor living space at 4 Fairway Place. The matter was shepherded by Ms. Martha Barnes. Mr. Michael O'Buckley said they would like to add to the back of the house which would be approximately 400 square feet. They would like to install a 10'x20' pool. The impervious area is 10,988 square feet. The total roof coverage is 3,221. The fence will be 48 inches. It will be glass panels. The open-air living space is attached to the house. It has a fireplace. There will be can lights shooting down. There will be two small lights in the pool. They will be on opposite ends of the pool. There is currently buffering. Ms. Barnes asked Mr. O'Buckley if a neighboring property owner asked for additional screening, would he be compliant with this. Mr. O'Buckley said yes.

## DELIBERATION AND DETERMINATION

Ms. Barnes restated the facts and said Mr. O'Buckley at 4 Fairway Place is requesting a Special Use Permit for a 10'x20' pool and has some concrete surround and grass surround. It meets the impervious surface requirement. The open-air living space is about 17'x22' which abuts the pool. The open-air living space will also include a fireplace. The pool is going to be surrounded by a four-foot glass panel fence. He is open to screening if additional screening is needed. The lighting is minimal and is faced down.

Ms. Kieffer made a motion to grant a Special Use Permit to Mr. Michael O'Buckley at 4 Fairway Place for a swimming pool and outdoor living space in the rear yard and the facts as recited by Martha Barnes 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. She further moved the Board define that granting this Special 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 153.110 (C)(2-3) of the above ordinance. 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. The motion was seconded by Ms. Rhoda Groce and unanimously approved.

## HEARING (Evidentiary):

The next matter is for a Special Use Permit for a fence within the rear yard and Variance request to encroach upon the rear setback at 44 Forest Road. Ms. Kieffer shepherded the matter. Ms. Jessica Pishko said they would like to install a four-foot-high fence. It will be coated black iron that will extend out on one side to encompass part of the patio. It will be in the back to connect to an existing chain link fence. It is within the setback. A Variance is requested so it could meet with the existing fence in the back. The lot was surveyed to make sure they were in the setbacks.

They spoke with the Cantrell's next door and will put in screening so it will not be a problem. The fence has three gates. The fence will not be visible from the road either as buffering will be placed so it is not visible from the road.

#### DELIBERATION AND DETERMINATION

Ms. Kieffer restated the facts and said Ms. Jessica Pishko is requesting a Special Use Permit for fence installation in the rear yard and a Variance for the fence to attach to the existing fence in the backyard. It will be 261 linear feet and four feet tall.

Ms. Rhoda Groce moved that a Special Use Permit as requested be granted to Ms. Jessica Pishko of 44 Forest Road for a fence within the rear yard and 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. She further moved the Board define that granting this Special 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 153.110 (C)(2-3) of the above ordinance. 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. The motion was seconded by Ms. Rhoda Groce and unanimously approved.

Further she moved that by granting this Variance Further satisfies the applicable Sections of 153.110(D) 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 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.

Ms. Barnes seconded the motion. The motion was unanimously approved.

HEARING (Evidentiary):

The last matter is for a Variance request to encroach the front yard setback for an addition and a Special Use Permit request for construction of a new accessory building (detached garage) in the rear yard at 27 Park Road. Mr. Robert Chandler shepherded the matter. Mr. Jon Moore said the house is a bit over the setback line on the corner (about nine feet over). They would like to square off, which would result in an addition of approximately 14'x16'. It would project into the front yard another fourteen feet at its maximum. It would run at an angle diagonally to the line. The house is a corner lot and built in 1954. The front and side setbacks were discussed. Mr. Phil Hardin said the plans are well presented.

Mr. Chandler restated the facts and said Ellen Farmer and Thomas Jennings of 27 Park Road are applying for a Variance request for encroachment. The applicant would like to expand a bedroom on the eastern side of the house with encroachment into the setback line. The reason is because of when it was built and the lot itself, they will fill in the corner 14'x16' but no further out of the existing home parameters already. The hardship is when the rules were created and where the house is now positioned in this complicated lot. It doesn't violate the impervious surface or roof coverage.

Ms. Barnes moved that a Variance as requested be granted to Ellen Farmer and Thomas Jennings of 27 Park Road for encroachment into the front yard setback due to a house expansion and 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. Further, she moved that by granting this Variance further satisfies the applicable Sections of 153.110(D) 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 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.

Ms. Lynn Kieffer seconded the motion and was unanimously approved.

Mr. Kanipe recommended tabling the second matter (the garage) so they can look further into this setback issue in terms of front, rear, and sides. Mr. Kanipe said he would feel more comfortable for the Town making sure the proposed site plan is compliant with the Ordinance.

The matter was tabled until the Town could verify the setbacks appropriately.

The meeting was adjourned at 4:52 pm. The next Board of Adjustment meeting is scheduled for Monday, January 22, 2024, at 4:00 pm.

ATTEST:

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Greg Goosmann

Chairman

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Laura Jacobs

Town Clerk