

MINUTES OF THE BOARD OF ADJUSTMENT MEETING
HELD MONDAY, SEPTEMBER 21, 2020

The Board of Adjustment met at 4:00 p.m. on Monday, September 21, 2020. The meeting was held virtually via Zoom.

Members present: Mr. Greg Goosmann, Ms. Lynn Kieffer, Ms. Rhoda Groce, Mr. Lowell Pearlman, and Mr. Robert Chandler. Ms. Martha Barnes, alternate member, was also present. Mr. Jonathan Kanipe, Town Manager and Mr. Harry Buckner, Public Works Director, and Mr. William Clarke, Town Attorney were also present.

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

Mr. Goosmann swore in the following:

Mr. Benjamin Baldwin
Mr. Steve Haynes
Mr. Jonathan Kanipe
Mr. Graham Horne
Mr. Daniel Lopez
Mr. Harry Buckner
Mr. Samuel Olesky

A motion was made by Ms. Lynn Kieffer to approve the minutes from August 17, 2020. Ms. Rhoda Groce seconded the motion. Chairman Goosmann conducted roll call. Mr. Robert Chandler voted aye, Ms. Lynn Kieffer voted aye, Ms. Rhoda Groce voted aye, Mr. Robert Chandler voted aye, Mr. Lowell Pearlman voted aye, and Ms. Martha Barnes voted aye. The minutes were approved as written.

HEARING (Evidentiary):

A Special Use Permit was requested for installation of an outdoor brick fireplace adjacent to and abutting the existing outdoor patio. Mr. Benjamin Baldwin was sworn in. Mr. Lowell Pearlman shepherded the matter. The project meets all setback requirements. The structure will be 6'2" wide, 40" deep, and 9' tall. The next-door neighbors closest to the potential project had no objection with this project. Mr. Pearlman asked Mr. Baldwin if there would be any objection to planting buffering if requested by neighbors. There was an adjoining property owner participating in this meeting, Mr. Steve Haynes who lives at 17 Buena Vista. Mr. Haynes had no objection and approved of the project. There were no other comments or questions regarding this project.

DELIBERATION AND DETERMINATION:

Mr. Pearlman recited the facts and said the applicants at 1 Lone Pine Road are requesting a Special Use Permit to build an outdoor fireplace on the West side of their house. The total project will be twenty-two feet wide. Additional screening will be placed if needed.

Ms. Lynn Kieffer moved that a Special Use Permit as requested be granted to Mr. Benjamin Baldwin of 1 Lone Pine Road for an outdoor fireplace and seated wall and that the facts as recited by Lowell Pearlman 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.

Ms. Kieffer 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.

Ms. Groce seconded the motion. Roll call was taken by Chairman Goosmann and the motion was unanimously approved by all members.

HEARING (Evidentiary):

A Special Use Permit is requested for the installation of landscape boulders within a newly installed vegetative berm at 15 Busbee Road. Mr. Jonathan Kanipe represented the homeowners because they were unable to participate. The landscape boulders within the berm needed a Special Use Permit. They have been site verified by the Town on numerous occasions. They are outside of the right-of-way both on Busbee Road and Vanderbilt Road. A Special Use Permit is required for the five boulders. Ms. Rhoda Groce stated if the trees become a visual problem on the corner, it will be eliminated. This is stated in the Town Ordinance. There were no further questions or comments.

DELIBERATION AND DETERMINATION:

Ms. Rhoda Groce recited the facts and said Stanley Coffman of 15 Busbee Road is applying for a Special Use Permit for installation of landscape boulders within a newly installed vegetative berm. The plans have been verified by the Town and are outside the Town's right-of-way on Busbee and Vanderbilt. There are a total of five boulders.

Mr. Robert Chandler moved that a Special Use Permit as requested be granted to Mr. Stanley Coffman of 15 Busbee Road for installation of landscaping boulders and that the facts as recited by Ms. 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.

Ms. Chandler 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.

Mr. Lowell Pearlman seconded the motion. Roll call was taken by Chairman Goosmann and the motion was unanimously approved by all members.

HEARING (Evidentiary):

A Special Use Permit is requested for installation of a roof mounted solar panel system at 453 Vanderbilt Road. Ms. Lynn Kieffer shepherded the matter. Mr. Graham Horne represented the homeowner, Mr. Daniel Lopez, who was also present.

Mr. Billy Clarke recused himself since these projects are being installed by Sugar Hollow Solar, whose owner is Mr. Clarke's son. Mr. Clarke also reminded the Board of the limited authority the Board has to regulate solar projects. Municipalities cannot regulate the installation of solar collectors. The only thing they can do is regulate the location and screening of solar collectors if the Ordinance does not have the effect of preventing the reasonable use of a solar collector for

a residential use. This Statute is in effect until January 2021. Mr. Clarke stepped out of the room while the matter was discussed.

On one side of the house, there would be nineteen panels and on the opposite side of the house, there will be twenty-one panels. While the Board was on-site, Ms. Kieffer stated a neighboring property owner had a question about the angle of the panels on the flat part of the roof. Mr. Graham Horne said the panels are going to be at a ten-degree angle. It will be very low profile. The highest point will most likely be eight to ten inches off the roof decking. The panels are 43.9 inches wide and 63.8 inches long. The 43.9 inches width would be the distance it tilts at a ten-degree angle. The area over the roof will be a flat. It has a few degree pitch. It is a TPO roof. The neighbor has a few trees that would provide quite a bit of buffer to this. Mr. Lopez also has a Holly tree that was planted at fourteen feet when he moved into the residence last year. Ms. Kieffer said this should most likely provide a fair amount of buffering for the panels. Chairman Goosmann asked if Mr. Lopez would be willing to provide more buffering if requested by the neighboring property owners. Mr. Lopez agreed to provide more buffering if needed and work with his neighbor. Mr. Graham also added these were top choice panels and they are non-reflective.

DELIBERATION AND DETERMINATION:

Ms. Kieffer recited the facts and stated Daniel Lopez of 453 Vanderbilt Road has requested a Special Use Permit for the installation of roof mounted solar panels. Chairman Goosmann also mentioned the homeowner; Mr. Lopez is willing to add additional buffering if necessary.

Ms. Rhoda Groce moved that a Special Use Permit as requested be granted to Mr. Daniel Lopez of 453 Vanderbilt Road for installation of roof mounted solar panels and the facts as recited by Ms. 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.

Ms. Groce 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.

Mr. Lowell Pearlman seconded the motion. Roll call was taken by Chairman Goosmann and the motion was unanimously approved by all members.

HEARING (Evidentiary):

The last matter discussed was for a Special Use permit requested for the installation of a roof mounted solar panel system at 22 Cedarcliff Road. Ms. Martha Barnes shepherded the case. Mr. Olesky said there would be thirty-four panels installed. It is an all-black panel design. They are 10.5-kilowatt solar array panels. The panels will be mounted with the same racking as the roof. Mr. Robert Chandler asked Mr. Olesky if all the paneling would be facing 24 Cedarcliff Road. Mr. Olesky said yes. Mr. Olesky and Mr. Kanipe spoke to both neighbors and they both approve of the project. Mr. Robert Chandler asked if the homeowner would be willing to provide additional buffering if needed. Mr. Olesky said yes.

DELIBERATION AND DETERMINATION:

Ms. Martha Barnes recited the facts and stated Mr. Samuel Olesky at 22 Cedarcliff Road has requested a Special Use Permit for installation of roof mounted solar panels, which is an all-black panel design and will be 10.5 kilowatt solar array panels. The homeowner is willing to provide buffering if needed and stated he is currently working with a neighboring property owner with plantings options.

Ms. Lynn Kieffer moved that a Special Use Permit as requested be granted to Mr. Samuel Olesky of 22 Cedarcliff Road for installation of roof mounted solar panels and the facts as recited by Ms. 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.

Ms. Kieffer 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.

Mr. Rhoda Groce seconded the motion. Roll call was taken by Chairman Goosmann and the motion was unanimously approved by all members.

Chairman Goosmann adjourned the meeting at 4:47 pm. The next Board of Adjustment meeting is scheduled for Monday, October 19, 2020 at 4:00 pm.

ATTEST:

Greg Goosmann
Chairman

Laura Jacobs
Town Clerk