

MINUTES OF THE BOARD OF ADJUSTMENT MEETING
HELD MONDAY, OCTOBER 19, 2020

The Board of Adjustment met at 4:00 p.m. on Monday, October 19, 2020. The meeting was held virtually via Zoom.

Members present: Mr. Greg Goosmann, Ms. Lynn Kieffer, 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.

Ms. Kieffer swore in the following:

Mr. Greg Goosmann.

Mr. Goosmann swore in the following:

Mr. Jonathan Kanipe
Ms. Betsy Gillespie
Mr. Joseph Redmond
Mr. Jason Smiley
Dr. Doug Phillips
Mr. George Stowe
Dr. David Cogburn
Ms. Gay Cogburn
Ms. Ingrid Davis
Mr. Ronald Hunt
Mr. Bruce Johnson

A motion was made by Mr. Lowell Pearlman to approve the minutes from September 21, 2020. Mr. Robert Chandler seconded the motion. Chairman Goosmann conducted roll call. Mr. Robert Chandler voted aye, Ms. Lynn Kieffer 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 the installation of a rock patio and fire pit in the rear yard at 8 East Forest Road. Chairman Greg Goosmann stepped down for this matter due to the project being his own. Ms. Lynn Kieffer chaired the matter. Mr. Greg Goosmann was sworn in by Ms. Kieffer. Mr. Lowell Pearlman shepherded the matter. Stone will be installed flat to the surface of the ground. There will be a stacked stone fireplace in the center that will be approximately 3-3.5 feet tall and 3-4 feet wide. It will be located in the back yard. The entire flat area should be approximately 15'x15' which will be approximately 225 square feet of area. It will not interfere with the setback. Mr. Goosmann contacted his surrounding neighbors and submitted the plans to them. All of them were in favor of the project, which included Ryan (neighbors to the North), Pritchard, Justice, Chambers, and Groce. This will not change the impervious surface area.

DELIBERATION AND DETERMINATION:

Mr. Pearlman recited the facts and said Mr. Greg and Ann Goosmann of 8 East Forest Road has requested a Special Use Permit for construction of a fire pit in the backyard. There is no encroachment of the setback and no neighboring property owner has objected to the project.

Mr. Robert Chandler moved that a Special Use Permit as requested be granted to Mr. Greg and Ann Goosmann of 8 East Forest Road and 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.

Mr. 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.

Ms. Barnes seconded the motion. Roll call was taken by Acting Chairman Kieffer and the motion was unanimously approved by all members.

Chairman Greg Goosmann resumed the session moving on to the next matter.

HEARING (Evidentiary):

A Special Use Permit is requested for the installation of landscaping boulders at 3 Brookside Road. Ms. Kieffer shepherded the matter. Mr. Joseph Redmond said boulders and low shrubs would be planted. Ferns, distyliums, and astilbe would be the shrubs planted. Ms. Kieffer confirmed the number of boulders with Mr. Redmond. There will be six boulders placed. They are compliant with the setbacks and will be 8-10 feet from the road. They will be 4-5 feet long.

DELIBERATION AND DETERMINATION:

Ms. Lynn Kieffer recited the facts and said Tim and Betsy Gillespie of 3 Brookside Road are applying for a Special Use Permit for installation of six landscape boulders with plantings. This project is compliant with the setback.

Ms. Martha Barnes moved that a Special Use Permit as requested be granted to Mr. Tim and Betsy Gillespie of 3 Brookside Road for installation of landscaping boulders and that 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. Barnes 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 the installation of a fence in the rear yard at 24 Amherst Road. A variance is also requested for the placement of the fence on the rear property line. Mr. Robert Chandler shepherded the matter. Mr. Smiley said it would be a six-foot high privacy fence that would be installed on the rear property line, which would block vehicle traffic and road noise. The fence would be 240 feet long and nestled in the tree line and buffered. Mr. Smiley also agreed to buffer additionally if needed. Dr. Phillips, a neighboring property owner was supportive of Mr. Smiley's request.

The hardship is the transition from the commercial property to the residential property and the security of the property.

DELIBERATION AND DETERMINATION:

Mr. Chandler recited the facts and Mr. Jason Smiley for the installation of a fence in the rear yard at 24 Amherst Road. A variance is also requested for the placement of the fence on the rear property line. The fence will be six feet tall. The fence will assist in keeping road noise down and blocking the view of cars in the commercial parking lot. Mr. Smiley is willing to place additional buffering if needed.

Ms. Lynn Kieffer moved that a Special Use Permit and variance be granted to Mr. Jason Smiley at 24 Amherst Road for installation of a fence in the rear yard and the facts as recited by Mr. 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.

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. Kieffer further moved that granting this variance 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. Roll call was taken by Chairman Goosmann and the motion was unanimously approved by all members.

HEARING (Evidentiary):

A landscaping plan approval is required in association with the construction of a new residence at 2 Greenwood Road. Ms. Barnes shepherded the matter. Landmark Landscaping is planning to perform the work. Dr. David Cogburn went over the landscape plan with the Board and trees cleared for the home site. The areas of the lot abutting Hilltop and Greenwood Roads would remain natural. Mr. Jonathan Kanipe said the house meets all the Zoning requirements. Ms. Barnes asked for a final version of the landscape plan when it is ready. Ms. Ingrid Davis, a neighboring property owner asked about where the driveway entrance would be to the house. Ms. Davis asked how many stories the house would be. The house will be one story. Ms. Davis was in favor of the project.

DELIBERATION AND DETERMINATION:

Ms. Martha Barnes made a motion to accept the preliminary landscape plan for Dr. David Cogburn and Ms. Gay Cogburn as part of their residential construction process. Mr. Robert Chandler seconded the motion. Roll call was taken by Chairman Goosmann and the motion was unanimously approved by all members.

HEARING (Evidentiary):

Mr. Bruce Johnson, architect representing the property owner, Mr. Ron Hunt, presented a request for a variance. The variance request is to allow the driveway to enter from the rear of the property along Cedar Hill Drive in association with the construction of a new residence on Fir Tree Lane. Mr. Pearlman shepherded the matter. Mr. Pearlman said the driveway by statute has to be placed on Fire Tree Lane, but is being proposed to be moved to Cedar Hill Drive. Mr. Johnson said there are two frontages and Cedar Hill Drive is the smaller of the two. The proposed variance would result in much less clearing of the trees. Mr. Johnson showed the elevation of the drawings and stated that the entrance at Cedar Hill Drive was more logical and appropriate for the new home site. Mr. Pearlman said that in order to grant a variance a hardship must be determined. Mr. Johnson submitted that the lay of the land is the hardship, as locating the drive on Fir Tree would require greater tree removal, more extensive grading, and more flow to come in at Fir Tree Drive versus the entrance at Cedar Hill Drive.

DELIBERATION AND DETERMINATION:

Mr. Pearlman recited the facts and stated Mr. Ronald Hunt of 5 Fir Tree Lane is requesting to relocate a driveway, which by ordinance needs to be on Fir Tree Lane. Because of the hardships described, they want to change the entrance of the driveway to Cedar Hill Road.

Ms. Lynn Kieffer moved that a variance as requested be granted to Mr. Ronald Hunt of 5 Fir Tree Lane for the driveway to enter the rear property and the facts as recited by Mr. 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 that granting this variance 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. Martha Barnes 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 pm. The next Board of Adjustment meeting is scheduled for Monday, November 16, 2020 at 4:51 pm.

ATTEST:

Greg Goosmann
Chairman

Laura Jacobs
Town Clerk