

# Town of Biltmore Forest

## Design Review Board

### April 2021 Projects for Review

1. 9 White Oak Road – Request for Repainting and Porch Roof Addition
2. 793 Hendersonville Road – Request for Rear Deck Addition
3. 314 Vanderbilt Road – Request for Carport Addition to Existing Garage
4. 394-A Vanderbilt Road – Request for Driveway Expansion & Addition of Pea Gravel Path

*Note: BOA Approval Required for Following Matters – All Granted 4/19/21*

5. 412 Vanderbilt Road – Request for Driveway Gate and Associated Columns  
(Board of Adjustment Approved Special Use Request – April 19, 2021)
6. 57 Forest Road – Request for Driveway Expansion, addition of Stone Terrace, and Arbor in Rear Yard  
(Board of Adjustment Approved Special Use Request – April 19, 2021)
7. 309 Vanderbilt Road – Request for Driveway Realignment and Deer Fence in Rear Yard  
(Board of Adjustment Approved Special Use Request – April 19, 2021)
8. 5 Stuyvesant Crescent – Request for Fence Installation within Rear and Side Yard Setbacks  
(Board of Adjustment Approved Special Use and Variance Request – April 19, 2021)

# Zoning Compliance Application

Town of Biltmore Forest

**Name**

MELISSA RYAN

**Property Address**

9 White Oak road

**Phone**

(720) 724-8777

**Email**

Melissa.martin.ryan@gmail.com

**Parcel ID/PIN Number**

Lot 35, block D, plat 2-119

## ZONING INFORMATION

**Current Zoning**

R-2

**Lot Size**

0.36 acres

**Maximum Roof Coverage**

2,874 square feet (Up to .5 acres)

**Proposed Roof Coverage Total**

50 square feet

**Maximum Impervious Surface Coverage**

Up to 1 acre (27.5 percent of lot area)

**Proposed Impervious Surface Coverage**

N/A - covering existing porch

**Front Yard Setback**

50 feet (R-2, R-3, R-4, and R-5 Districts)

**Side Yard Setback**

15 feet (R-2, R-3, R-4, and R-5 Districts)

**Rear Yard Setback**

20 feet (R-2, R-3, R-4, and R-5 Districts)

**Building Height**

8-12 feet

**Description of the Proposed Project**

We would like to paint all our virgin red brick white, as well as all trim white except for the moveable parts of the windows- which will be painted black. We would also like to add a porch roof for protection from water, as well as to add some dimension to the front of the house. The front door will most likely also be replaced to one resembling the attached mock-up. Thank you for your consideration!

**Estimated Start Date**

6/1/2021

**Estimated Completion Date**

9/30/2021

**Estimated Cost of Project**

\$8,000.00

**Supporting Documentation (Site Plan, Drawings, Other Information)**

Untitled-1-1.png

**Applicant Signature**

**Date**  
4/9/2021

A handwritten signature in black ink, consisting of stylized, cursive letters. The signature appears to be 'Mh' followed by a large, looped 'n' that extends horizontally to the right. Below the signature is a thin horizontal line.





# Zoning Compliance Application

Town of Biltmore Forest

**Name**

Andy Hinds

**Property Address**

792 Hendersonville Road, Asheville, NC 28803

**Phone**

(133) 621-0986 x8

**Email**

ahinds1946@yahoo.com

**Parcel ID/PIN Number**

9647-81-8755-00000

## ZONING INFORMATION

**Current Zoning**

R-1

**Lot Size**

1.58

**Maximum Roof Coverage**

6,100 square feet (Up to 2 acres)

**Proposed Roof Coverage Total**

0

**Maximum Impervious Surface Coverage**

1-3 acres (25 percent of lot area)

**Proposed Impervious Surface Coverage**

320

**Front Yard Setback**

60 feet (R-1 District)

**Side Yard Setback**

20 feet (R-1 District)

**Rear Yard Setback**

25 feet (R-1 District)

**Building Height**

0

**Description of the Proposed Project**

Attached Trex composite 16' x 20' open deck. Base will be a combination of a 7'7" x 15'2" monolithic concrete slab 12" thick and 2" x 10" pressure treated wooden base set on concrete piers and concrete footers over 18 inches below grade. The deck will be 5 1/2" x 16' v 1" Trex composite decking material. The deck will not be higher than 30 inches above grade so will have no railing. There will be one or two 8" steps from existing concrete walk. No roof.

**Estimated Start Date**

5/3/2021

**Estimated Completion Date**

7/1/2021

**Estimated Cost of Project**

\$6,000.00

**Supporting Documentation (Site Plan, Drawings, Other Information)**

**Applicant Signature**

Andy Hinds

---

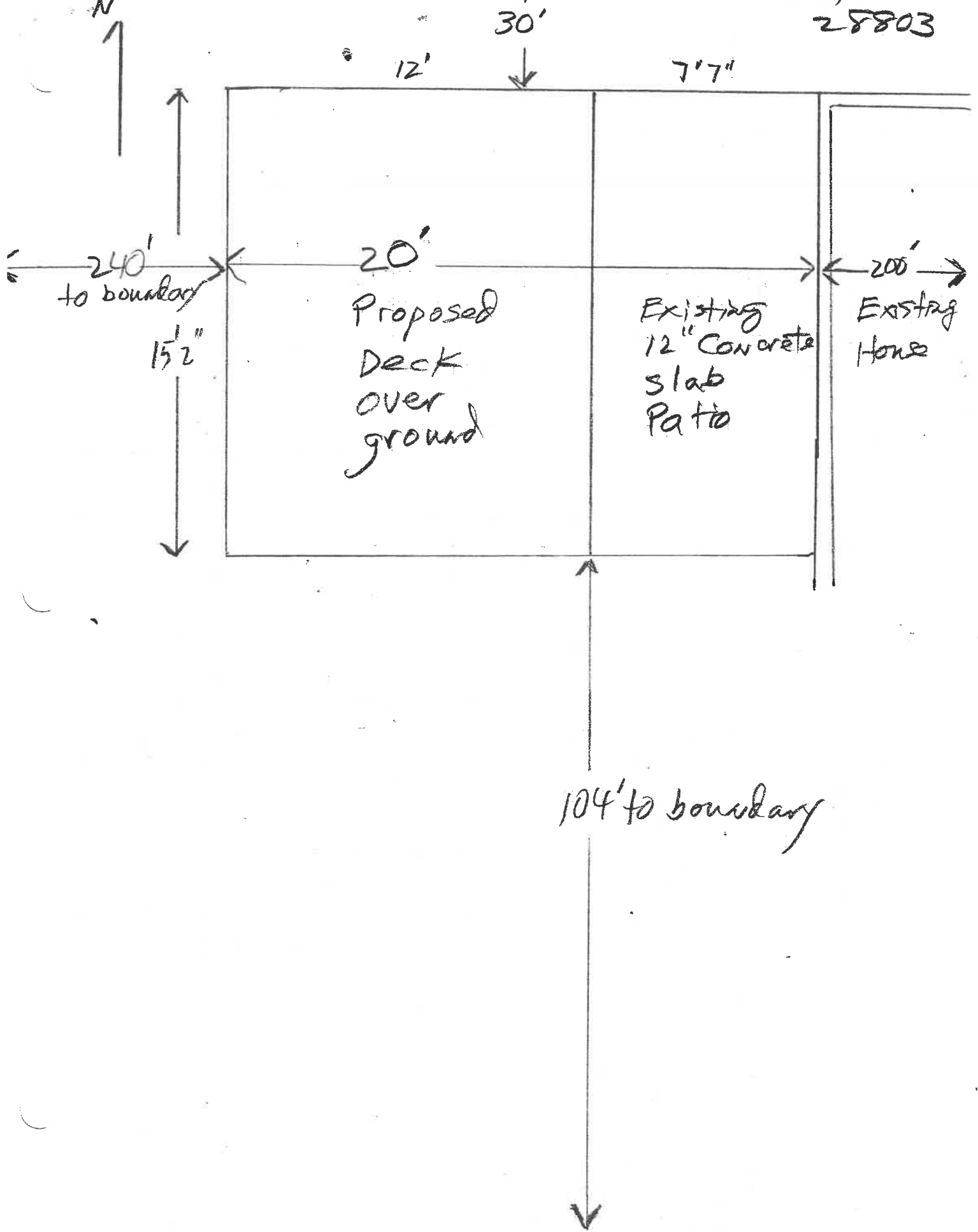
**Date**

4/1/2021

Jonathan,  
I have submitted my application on line & paid.  
I have one question about my proposed  
deck. On my drawing of the deck  
details, the southernmost <sup>center</sup> concrete  
support pier will be directly over my  
6" thick concrete walk to the existing  
concrete patio. Can I set the pier  
on the existing concrete walk or  
do I need to jack hammer the walk  
there and install a new concrete section  
etc. as needed for the other 7 pier  
locations? Please excuse my  
amateur drawings. Thank you for  
your help.  
(336) 210-9868

Andy Hurd

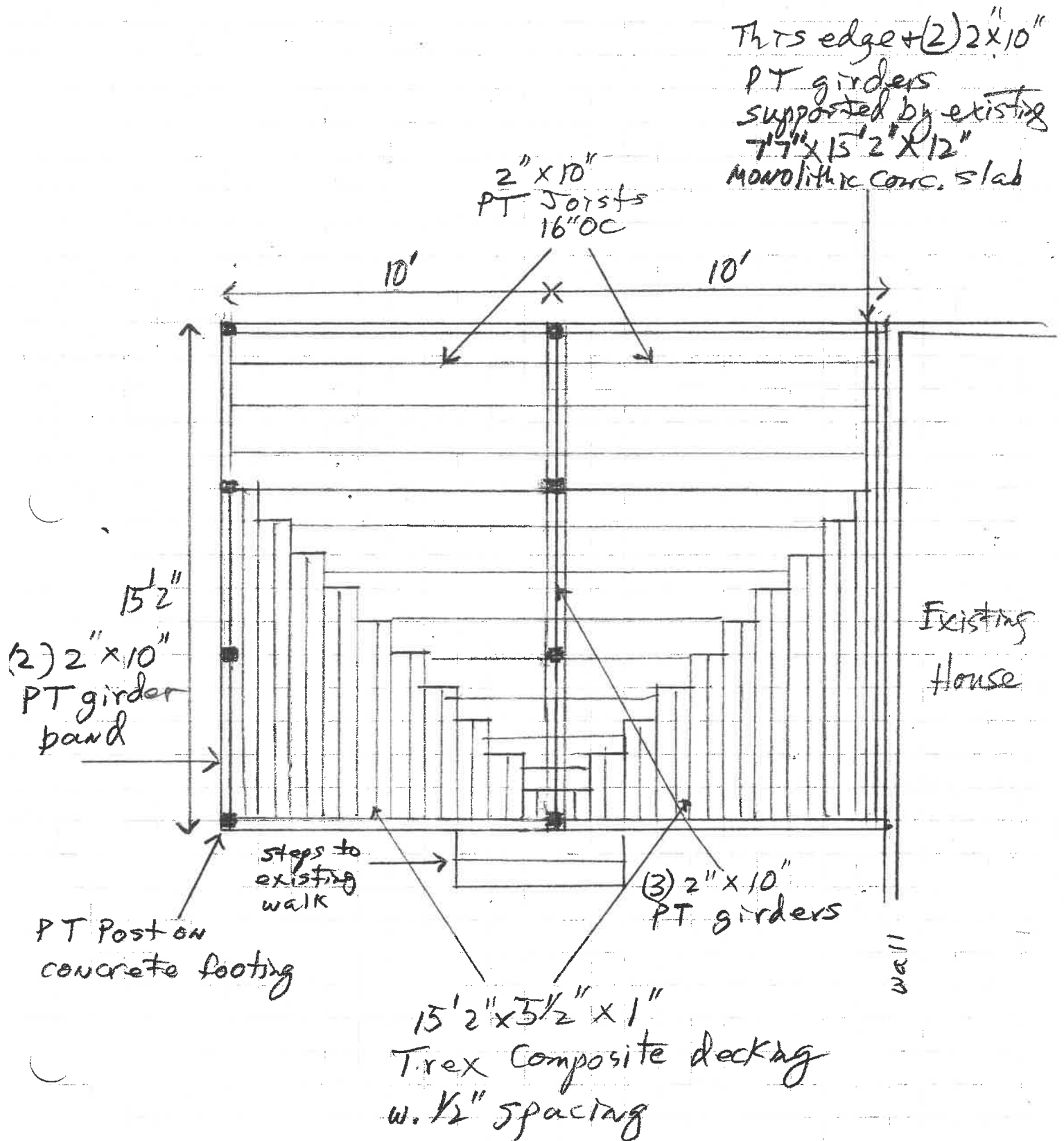
N 793 Hendersonville Road, Asheville, NC 28803





793 Hendersonville Road, Asheville, NC  
28803

Proposed 15'2" x 20' Deck



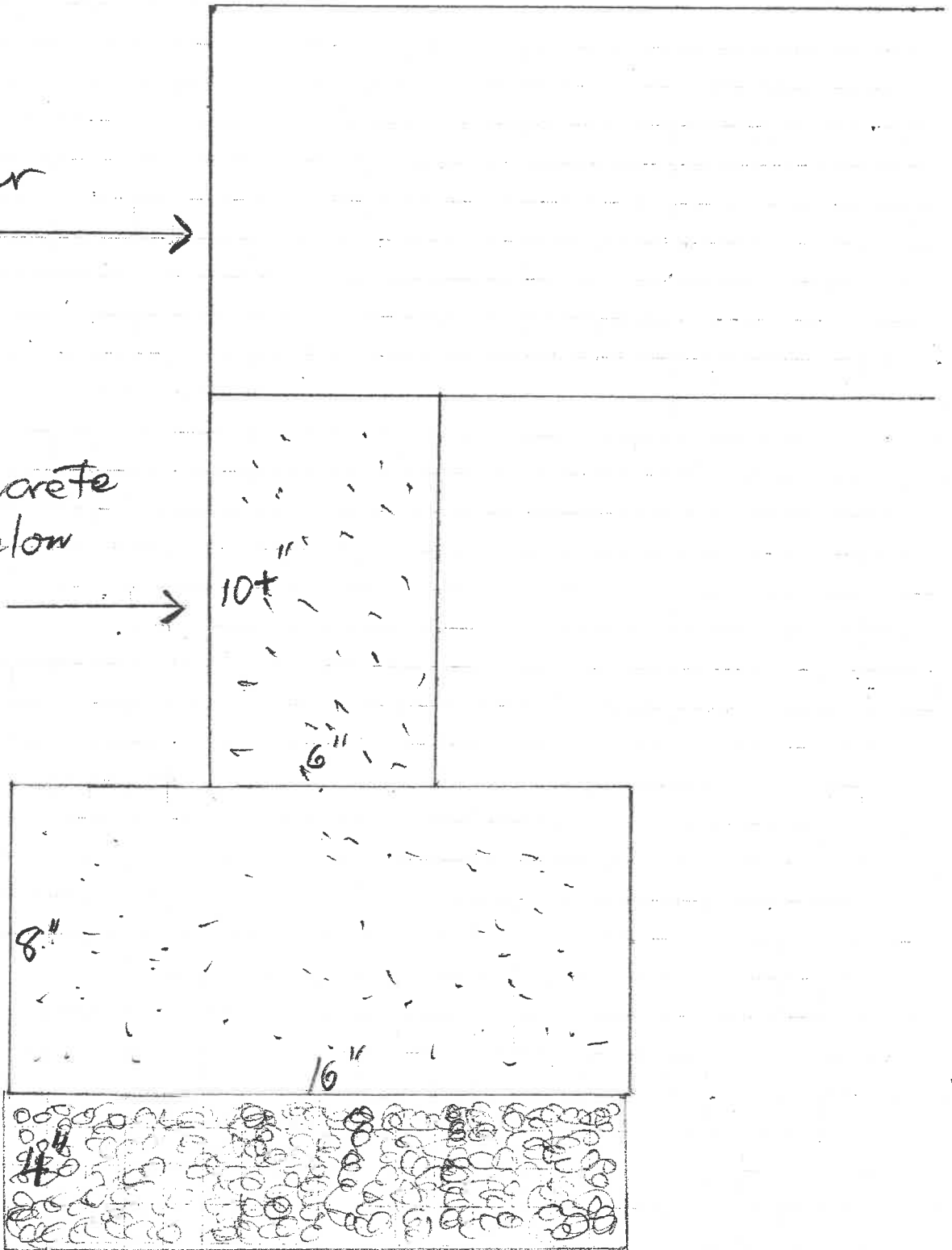
793 Hendersonville Road, Asheville, NC  
28803

(2) 2" x 10"  
PT girder  
band →

10+" concrete  
pier below  
grade →

8" deep  
x 16" wide  
concrete  
footer →

4" of  
stone +  
gravel →



# Zoning Compliance Application

Town of Biltmore Forest

**Name**

Lori Lassiter

**Property Address**

314 Vanderbilt Drive

**Phone**

(828) 273-2081

**Email**

lorilassiter@gmail.com

**Parcel ID/PIN Number**

964773794100000

## ZONING INFORMATION

**Current Zoning**

R-1

**Lot Size**

1.19 Acres

**Maximum Roof Coverage**

5,060 square feet (Up to 1.2 acres)

**Proposed Roof Coverage Total**

3300 square feet

**Maximum Impervious Surface Coverage**

1-3 acres (25 percent of lot area)

**Proposed Impervious Surface Coverage**

5,000 Square feet

**Front Yard Setback**

60 feet (R-1 District)

**Side Yard Setback**

20 feet (R-1 District)

**Rear Yard Setback**

25 feet (R-1 District)

**Building Height**

27' tall Maximum, 18' tall minimum

**Description of the Proposed Project**

Request to add a Carport structure where I currently park additional cars beside my one car garage. The proposed carport is 23' x 24', which will be attached with 6' x 6' covered breezeway to my existing one-car garage. The carport is designed with 3 open sides & one closed in wall on the rear (Cedar Cliff rd. side). Carport will be in keeping with the design on the existing home with painted wood posts & asphalt shingle roofing (matching existing). See attached documents for design details.

In the request, I would like to seek permission to remove (2) trees, that will be impeded upon with the proposed carport structure. See attached. Car port location & (2) trees are marked on-site.

**Estimated Start Date**

4/26/2021

**Estimated Completion Date**

7/1/2021

**Estimated Cost of Project**

\$24,000.00

**Supporting Documentation (Site Plan, Drawings, Other Information)**

lassiter car port drawings pkg.pdf

**Applicant Signature**

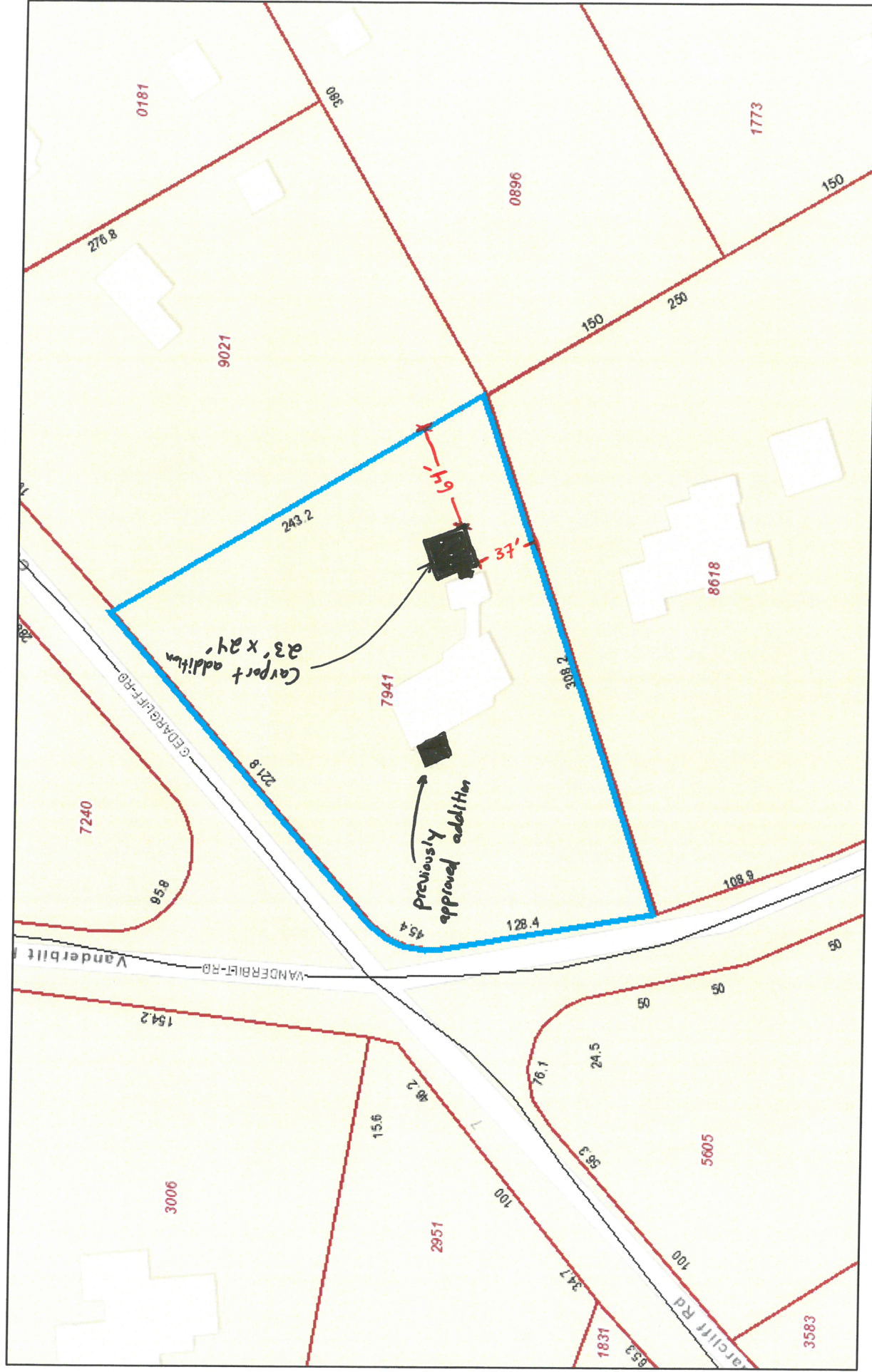
**Date**  
4/12/2021



---



# Lassiter Lot



January 26, 2021

1:1,128

0 0.0075 0.015 0.03 mi

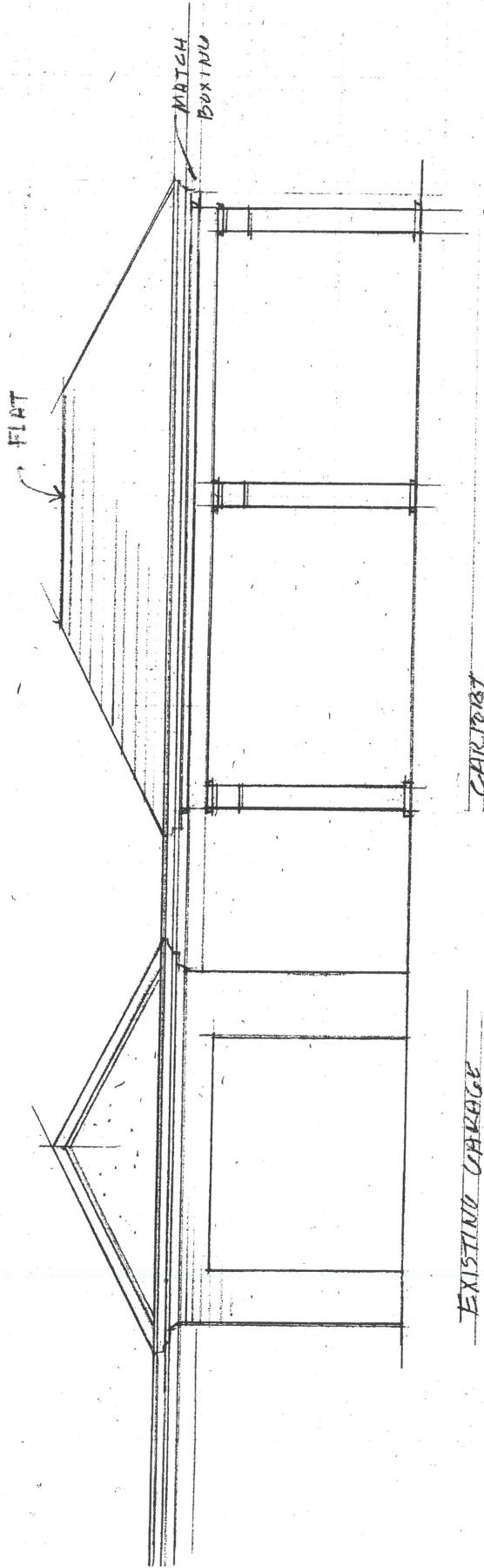
0 0.015 0.03 0.06 km

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand),

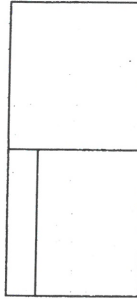
Front Elevation

Meyer | Greeson | Paulin | Benson  
ARCHITECTURE | INTERIOR DESIGN

320 South Tryon Street | Suite 222 | Charlotte, NC 28202  
704.575.1001 | 704.333.3600 (fax) | www.mgbp.com

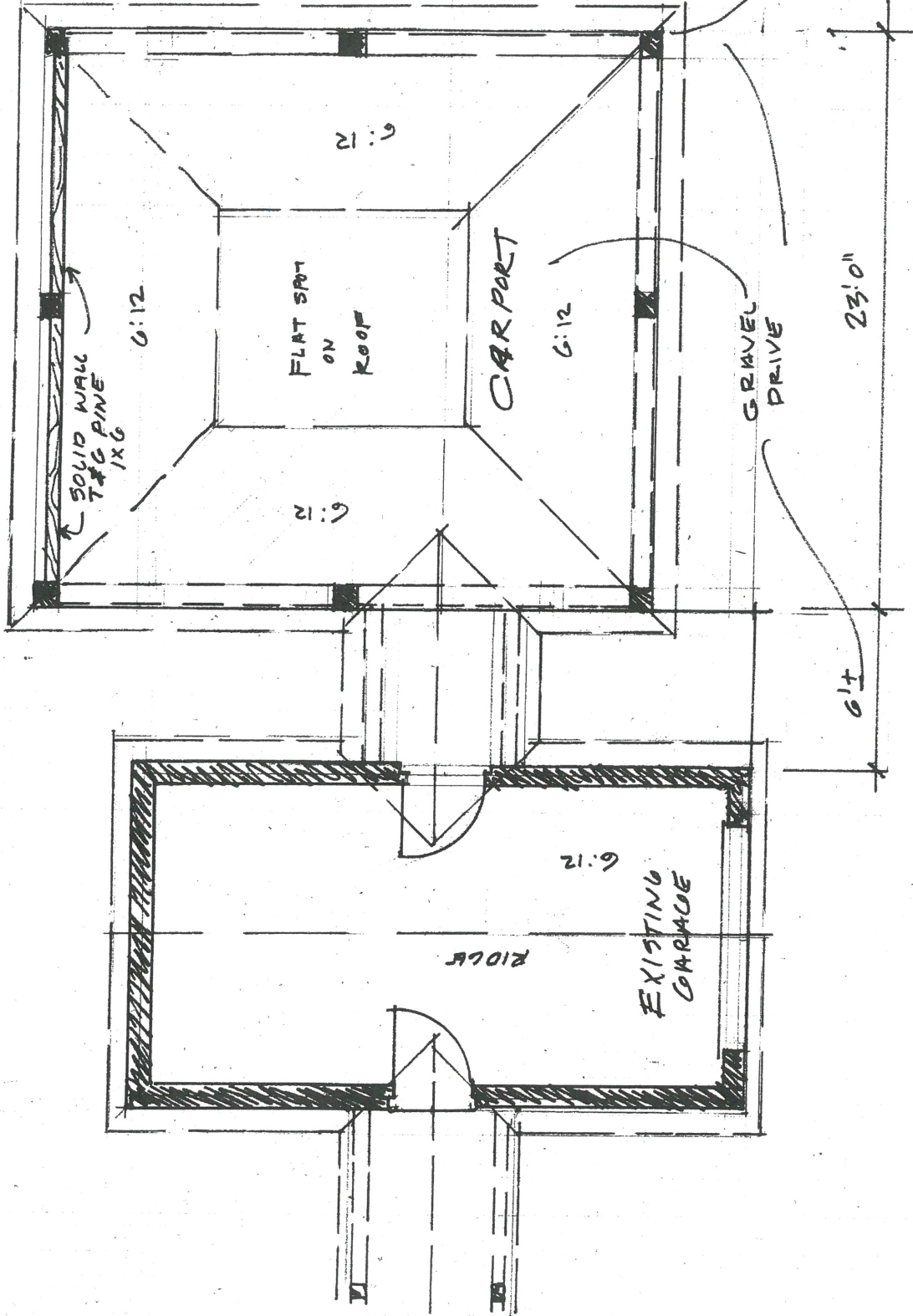


LASSITER





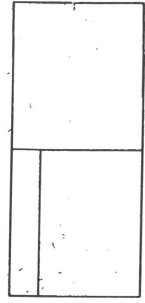
# FLOOR PLAN



Remove (2)  
trees



LADDER



**Site Pics for proposed Car Port addition @ 314 Vanderbilt Rd.**

-Pictures taken below are in reference to the proposed 23' x 24' car port addition to existing house.

-Please note in the pics below: White flags represent corners of proposed addition; orange spray-painted lines indicate footprint of proposed Car Port.

Front Elevation of proposed car port. Looking towards Cedar Cliff Road.





Trees requested to remove due to proposed Car Port location. Trees marked with Orange flagging tape.





Rear Elevation, with Cedar Cliff road at my back.



# Zoning Compliance Application

Town of Biltmore Forest

**Name**

Floyd Davis

**Property Address**

394A Vanderbilt Road

**Phone**

(281) 923-5854

**Email**

fkentdavis@gmail.com

**Parcel ID/PIN Number**

BF Lot 16/ 9646-68-7292-00000

## ZONING INFORMATION

**Current Zoning**

R-1

**Lot Size**

1.05 Acres

**Maximum Roof Coverage**

5,060 square feet (Up to 1.2 acres)

**Proposed Roof Coverage Total**

3450 sq ft (Existing-will not change)

**Maximum Impervious Surface Coverage**

1-3 acres (25 percent of lot area)

**Proposed Impervious Surface Coverage**

N/A - not changed as new surface will be pervious

**Front Yard Setback**

60 feet (R-1 District)

**Side Yard Setback**

20 feet (R-1 District)

**Rear Yard Setback**

25 feet (R-1 District)

**Building Height**

21.5 ft (Existing-will not change)

**Description of the Proposed Project**

As an adjacent consideration for the recently approved driveway split project (re: 394 and 394A Vanderbilt Road), we are seeking BF approval to widen and extend an existing 4 foot wide pea gravel path leading from the front of our house to the rear. The purpose of the pathway expansion/ extension is to provide personal vehicle access to a 2 car garage on the lower rear of the house. We would also like to add a similarly (pervious) surfaced area in front of the garage to allow vehicle turn around room. There is currently no vehicle access to the garage.

I have attached a sketch of the proposed path extension and widening. Approximately 60' of the current 4 foot wide pea gravel path, beginning at the front of the house, would remain, and approximately 175 feet of current pathway would be widened to 8-10 feet before connecting with a new turnaround area in front of the garage. The turnaround area would be about 16 feet wide where it reaches the garage, and extend out from the house about 30 feet. Additionally, an approximate 40 foot long new path/ drive connector would be added from the intersection of the current path/ widened path to the new asphalt drive (previously approved) that will singularly access the property. The contractor (Wright Construction) that will be doing the asphalt drive work would also be handling the path extension widening project, and the same project management/ drainage /grading considerations taken into account for the asphalt drive project would apply. An older survey excerpt, showing the current lot house and drive layout, is attached as well for reference.

Additional relevant information is:

-No tree removal is anticipated - the path way surrounding trees are smaller ornamentals and appear to be sufficiently distanced from the widened path.

-The garage access pathway would be pea gravel (or similar with comparable pervious characteristics).

Total (new pervious drive) length would be approximately 215 feet long with approximate surface area of 1935 sq ft. This, less the existing 4 ft wide path that 175 ft of the drive would straddle (700 sq ft), totals about 1235 sq ft additional pea gravel surface. The approximate surface area of the new pea garage turnaround would be 615 sq ft. Total new pea gravel (or similar) surface is estimated at 1235 sq ft + 615sq ft = 1850 sq ft.

**Estimated Start Date**

4/26/2021

**Estimated Completion Date**

5/21/2021

**Estimated Cost of Project**

\$5,000.00

**Supporting Documentation (Site Plan, Drawings, Other Information)**

394A VANDERBILT ROAD PROPOSED.JPG

394A VANDERBILT ROAD CURRENT.jpg

**Applicant Signature**

**Date**

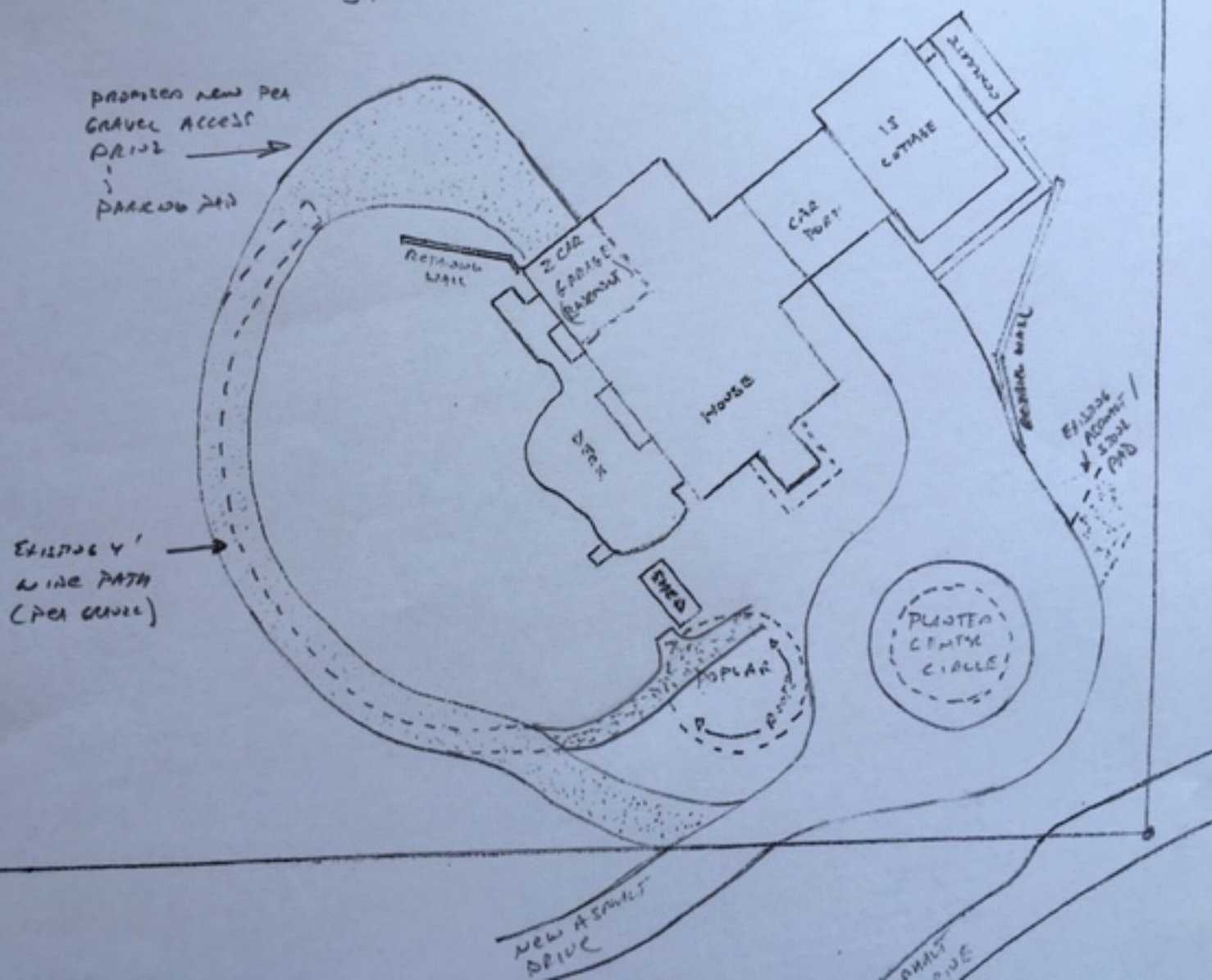
4/13/2021



---



394A VANDERBILT RD



AND CONCRETE  
11'05" W ~ 2.16'  
REBAR  
36'07" E ~ 2.84'  
CORNER SHOWN

143.6'

65.0'

(16)

±1.113 ACRES

WALL

ONE STORY WOOD FRAME  
RESIDENCE

CAR  
PORT

PORCH

ONE STORY  
COTTAGE

CONCRETE

62.1'

DECK

RAMP

SHED

ASPHALT

175.32'

171.91'

S 10°13'22" W

285.35'

N 82°35'38" W

290.56' (TOTAL)

5.21'

23.14'

LB

6.57'

3.41'

NAIL IN  
ASPHALT

WAY

# BOARD OF ADJUSTMENT

## STAFF MEMORANDUM

April 19, 2021



### Case 1 – 412 Vanderbilt Road Special Use Permit Request for Driveway Gates & Columns

---

The applicant requests permission for a special use permit to install driveway gates and associated columns along the front drive of the property. Existing columns and a secondary driveway on the property will be removed in conjunction with this project.

Section 153.049 of the Zoning Ordinance (attached) specifies the following:

*(B) A driveway gate and supporting columns may be approved by the Board of Adjustment as a special use so long as it meets the following requirements:*

- (1) The driveway gate and columns shall not be located in the front or side yard setback of a property.*
- (2) The driveway gate shall not be more than eight feet in height.*
- (3) The driveway gate must provide access for emergency services and first responders. This may be done via a lockbox code, strobe or siren activation switch, or other method with demonstrated reliability.*
- (4) The driveway gate must open wide enough to provide for ingress and egress of emergency vehicles. The minimum acceptable standard is for the gate access to be 14 feet wide with a 14 foot minimum height clearance with a 14 foot minimum height clearance.*

The initial proposal includes a gate opening of 12 feet. After reviewing the proposal, I contacted Skyland Fire Department and asked them to provide thoughts on this plan. Interim Chief Trevor Lance has indicated that a column width of 14 feet (particularly since the proposed gate/columns are farther onto the property than present) will be sufficient to provide access. Sitework Studios and the applicant are in agreement with this and are working on a revised plan showing the 14 foot wide entrance. This will allow full compliance with the Special Use requirements for this specific accessory structure within the Town's Zoning Ordinance.

# Zoning Compliance Application

Town of Biltmore Forest

## Name

<input type="text" value="Steven Lee"/>	<input type="text" value="Johnson"/>
First	Last

## Property Address

<input type="text" value="412 Vanderbilt Road, Asheville, NC"/>
Address Line 1

## Phone

<input type="text" value="(828) 225-4945"/>
---

## Email

<input type="text" value="sljohnson@siteworkstudios.com"/>
--

## Parcel ID/PIN Number

<input type="text" value="964666247700000"/>
--

## ZONING INFORMATION

### Current Zoning

☒ R-1 ☐ R-2 ☐ R-3 ☐ R-4 ☐ R-5 ☐ P-S

### Lot Size

<input type="text" value="2.23"/>
-----------------------------------

### Maximum Roof Coverage

<input type="text" value="6,100 square feet (Up to 2 acres)"/>
Choose appropriate lot size

### Proposed Roof Coverage Total

<input type="text" value="no change"/>
<i>Must not exceed maximum coverage allowed</i>

### Maximum Impervious Surface Coverage

<input type="text" value="1-3 acres (25 percent of lot area)"/>
Choose appropriate lot size

### Proposed Impervious Surface Coverage

<input type="text" value="2,500SF of existing impervious area to be removed"/>
<i>Must not exceed maximum coverage allowed</i>

### Front Yard Setback

<input type="text" value="60 feet (R-1 District)"/>
---

### Side Yard Setback

<input type="text" value="20 feet (R-1 District)"/>
---

### Rear Yard Setback

<input type="text" value="25 feet (R-1 District)"/>
---

### Building Height

<input type="text" value="no change"/>
--

## Description of the Proposed Project

<p>The scope of work for this project will be to construct and install a new driveway gate and stone columns. The new gate will be located within the property and outside the front property setbacks as required by the Town of Biltmore Forest Ordinance. In addition, the existing four white masonry columns near the road, as well as the secondary driveway, will be permanently removed and landscaped. 2,500sf of impervious asphalt driveway will be permanently removed and become permeable garden area.</p>
--

**Estimated Start Date**

4/28/2021

**Estimated Completion Date**

5/31/2021

**Estimated Cost of Project**

\$50,000.00

**Supporting Documentation (Site Plan, Drawings, Other Information)**

412 Vanderbilt Driveway Improvements BOA Site Plan.pdf

**Applicant Signature**

**Date**

3/29/2021



---

# Special Use Permit Application

Town of Biltmore Forest

**Name**

Steven Lee Johnson

**Address**

412 Vanderbilt Road, Asheville, NC

**Phone**

(828) 225-4945

**Email**

sljohnson@siteworkstudios.com

**Please select the type of special use you are applying for:**

Accessory Structures

The applicant must show that the proposed use will not materially endanger public health or safety or injure value of adjoining or abutting property. In addition, the proposed use must be in general conformity with the plan of development of the town and be in harmony with scale, bulk, height, coverage, density, and character of the neighborhood.

**Please provide a description of the proposed project:**

The scope of work for this project will be to construct and install a new driveway gate and stone columns. The new gate will be located within the property and outside the front property setbacks as required by the Town of Biltmore Forest Ordinance. In addition, the existing four white masonry columns near the road, as well as the secondary driveway, will be permanently removed and landscaped.

**Explain why the project would not adversely affect the public interest of those living in the neighborhood:**

Given that the new entrance columns will be installed 45' further into the property and away from the street, the aesthetic of the natural roadside edge of Vanderbilt Road will be enhanced. The scale, materials and design of the entrance gate and columns will be in keeping with the existing historic home's aesthetic. 2,500sf of impervious asphalt driveway will be permanently removed and become permeable garden area.

**I hereby certify that all of the information set forth above is true and accurate to the best of my knowledge.**

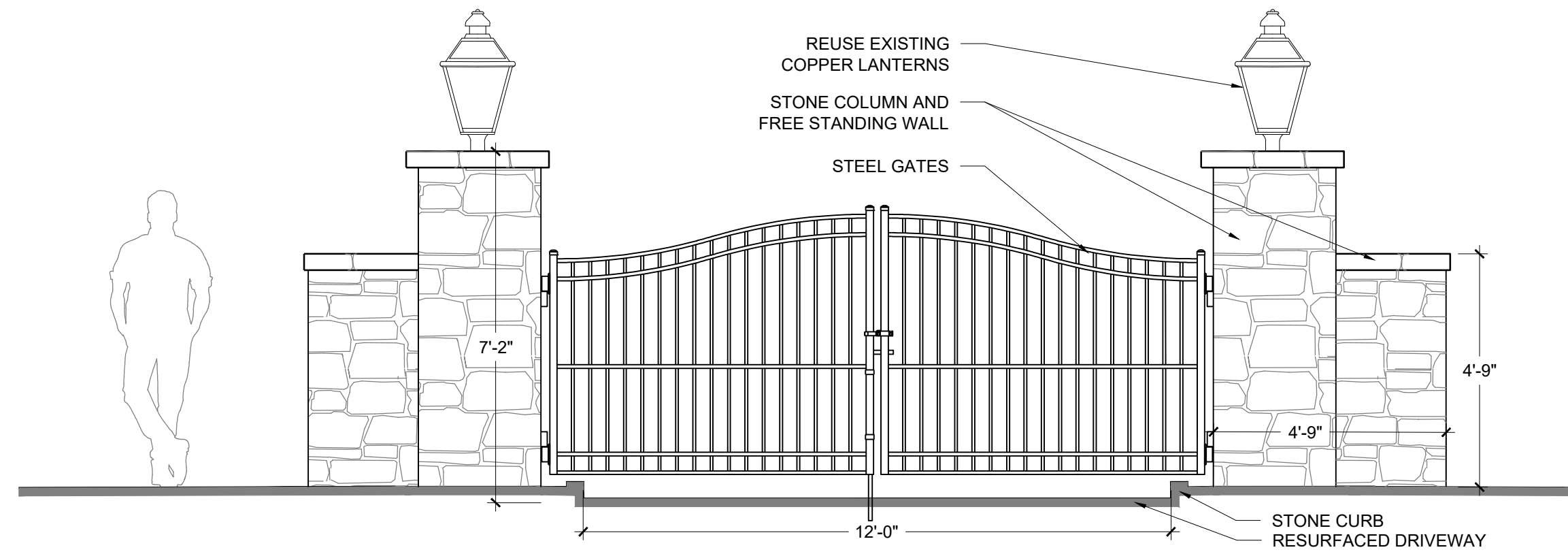
**Signature**

**Date**

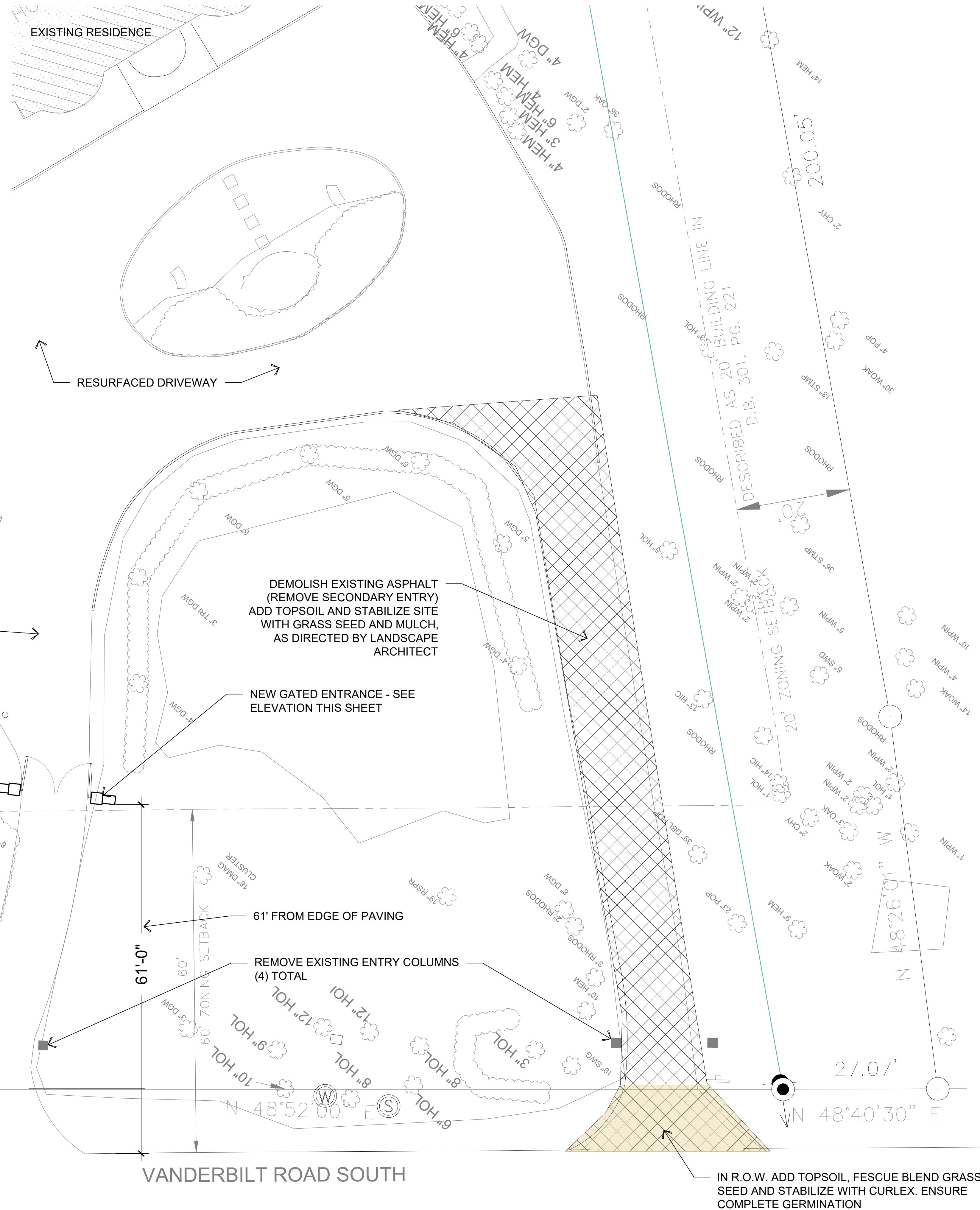
3/29/2021







GATED ENTRANCE ELEVATION



CONSULTANT

DRIVEWAY IMPROVEMENTS

PREPARED FOR:  
**412 VANDERBILT RD.**  
Lot 26  
Bilmore Forest, North Carolina

REVISIONS		
NO.	REMARKS	DATE



DATE:  
3.23.2021  
SHEET TITLE:

SITE PLAN

SHEET NO.  
**L-100**



# BOARD OF ADJUSTMENT

## STAFF MEMORANDUM

April 19, 2021



### Case 2 – 57 Forest Road

#### Special Use Permit Request for Accessory Structure in Rear Yard and Driveway Expansion

---

The applicant requests permission for a special use permit to construct an accessory structure in the rear yard and expand the driveway footprint by 12 inches to allow for access to the garage. The existing driveway turnaround does not allow for direct entry into the garage. The arbor construction will be detached from the home and constructed within the rear yard in compliance with all setbacks. The applicants purchased the home within the past year and have removed two detached accessory structures that were previously on this property.

#### § 153.029 ACCESSORY STRUCTURES AND BUILDINGS.

(A) Accessory structures and/or necessary buildings shall not detract from nor interfere with adjacent properties. No accessory structure or building shall be constructed, erected, or located within any front yard or within any side yard or rear yard setback.

(B) (1) In addition, the following standards are established for accessory structures and accessory buildings:

- (a) The maximum number of accessory buildings permitted on a lot shall be one;
- (b) The maximum roof coverage area for accessory buildings shall be 750 square feet;
- (c) The maximum height for accessory buildings shall be 25 feet;
- (d) The accessory building must be screened by vegetation or other buffer as set forth in § 153.008;
- (e) The accessory building must be located behind a line parallel to the rear of the principal structure on the lot;
- (f) The accessory building must be designed in the same architectural style as the principal structure;
- (g) Any accessory structure and/or accessory building shall be included in the calculation of allowable roof coverage and allowable impervious surface coverage on the lot pursuant to §§ 153.043 and 153.048; and
- (h) Solar collectors shall be regulated in accordance with G.S. § 160A-201.

# Zoning Compliance Application

Town of Biltmore Forest

**Name**

Kip and Mary Anne Warlick

**Property Address**

57 Forest Road, Biltmore Forest

**Phone**

(828) 691-4598

**Email**

pwwjr1@aol.com

**Parcel ID/PIN Number**

9646-69-1228

## ZONING INFORMATION

**Current Zoning**

R-1

**Lot Size**

1.79 Acres

**Maximum Roof Coverage**

6,100 square feet (Up to 2 acres)

**Proposed Roof Coverage Total**

4,535 SF

**Maximum Impervious Surface Coverage**

1-3 acres (25 percent of lot area)

**Proposed Impervious Surface Coverage**

13,323 SF

**Front Yard Setback**

60 feet (R-1 District)

**Side Yard Setback**

20 feet (R-1 District)

**Rear Yard Setback**

25 feet (R-1 District)

**Building Height**

NA

**Description of the Proposed Project**

The scope of work for this project will be to widen the existing asphalt driveway by 12", and repave with asphalt. The new driveway will feature curbstone edging and a stone apron at the entry on Forest Road. A new stone terrace will be added off the porch in the rear of the house. New tree plantings, arbor, handrail, and new landscaping will be installed. All work will be located within the property and within the front property setbacks as required by the Town of Biltmore Forest Ordinance.

**Estimated Start Date**

5/31/2021

**Estimated Completion Date**

10/31/2021

**Estimated Cost of Project**

\$40,000.00

**Supporting Documentation (Site Plan, Drawings, Other Information)**

L-100 Prelim Site Plan.pdf

**Applicant Signature**



Amy Farley/SWS

---

**Date**

3/29/2021

# Special Use Permit Application

Town of Biltmore Forest

**Name**

Kip and Mary Anne Warlick

**Address**

57 Forest Road, Biltmore Forests

**Phone**

(828) 691-4598

**Email**

pwwjr1@aol.com

**Please select the type of special use you are applying for:**

Accessory Structures

The applicant must show that the proposed use will not materially endanger public health or safety or injure value of adjoining or abutting property. In addition, the proposed use must be in general conformity with the plan of development of the town and be in harmony with scale, bulk, height, coverage, density, and character of the neighborhood.

**Please provide a description of the proposed project:**

The scope of work for this project will be to widen the existing asphalt driveway by 12", and repave with asphalt. The new driveway will feature curbstone edging and a stone apron at the entry on Forest Road. A new stone terrace will be added off the porch in the rear of the house. New tree plantings, arbor, handrail, and new landscaping will be installed. All work will be located within the property and within the front property setbacks as required by the Town of Biltmore Forest Ordinance.

**Explain why the project would not adversely affect the public interest of those living in the neighborhood:**

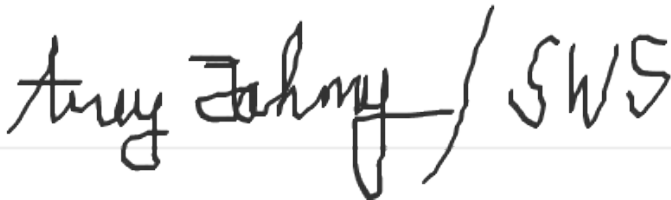
The majority of the updates will not be in public view. The entry drive will be improved with new paving, new stone apron and new curbstone. The materials and design of the driveway will be in keeping with the existing home's aesthetic and will be an improvement in appearance and longevity for the benefit of the neighborhood.

**I hereby certify that all of the information set forth above is true and accurate to the best of my knowledge.**

**Signature**

**Date**

3/29/2021



Amy Zahmy / SWS





REMODELED / EXISTING PROJECT DATA (WRIGHT CONSTRUCTION)

1.79 Acres = Total Lot Area  
R-1 = Zoning District  
19,493 SF = Maximum Impervious Area per Zoning (25% of Lot)  
10,662 SF = Proposed Impervious Area Existing / Remodeled / Addition  
6,100 SF = Maximum Roof Coverage per Zoning  
4,535 SF = Proposed Roof Coverage Existing  
1,402 SF = Proposed Roof Coverage Remodeled / Addition  
5,503 SF = Proposed Hardscape Area Existing  
(-) 778 SF = Proposed Hardscape Area Removed

EXISTING PROJECT DATA  
1.79 Acres = Total Lot Area  
R-1 Zoning District  
19,493 SF = Maximum Impervious Area per Zoning (25% of Lot)  
10,662 SF = Total Existing Impervious Area / Remodeled / Addition  
(Roof = 5,937 Hardscape = 4,725)

PROPOSED NEW HARDSCAPE (Sitework Studios)	
Driveway Expansion =	1,639 SF
New Stone Terrace =	780.5 SF
Miscellaneous Step Stones =	241.5 SF
	2,661 SF

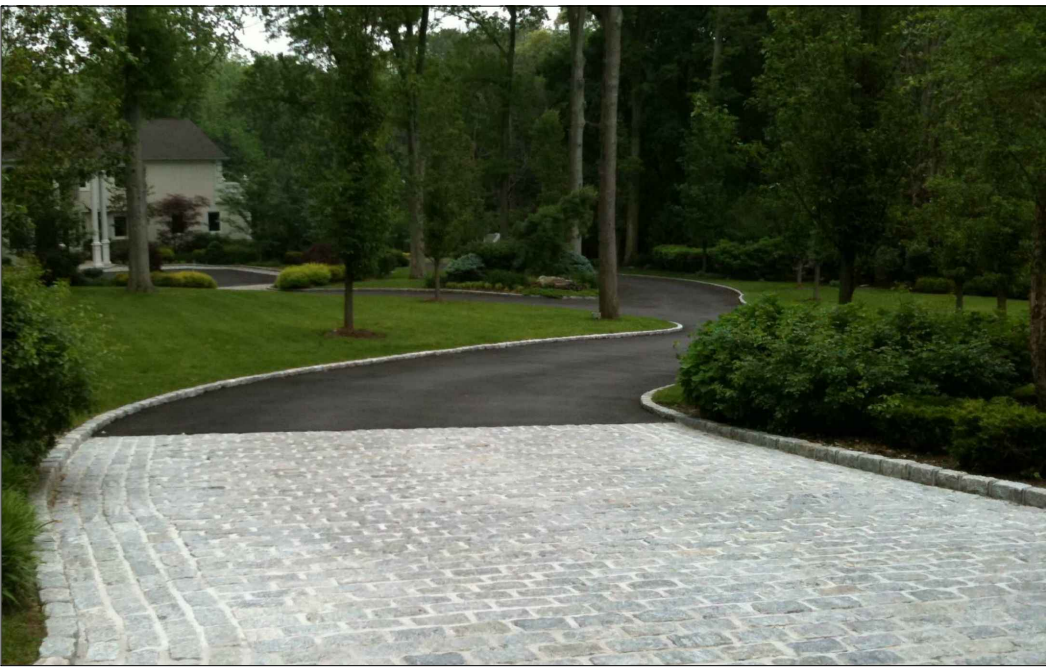
Total Impervious: Roof (5,397) Existing Hardscape (4,725) Proposed New Hardscape (2,661) = 13,323 SF



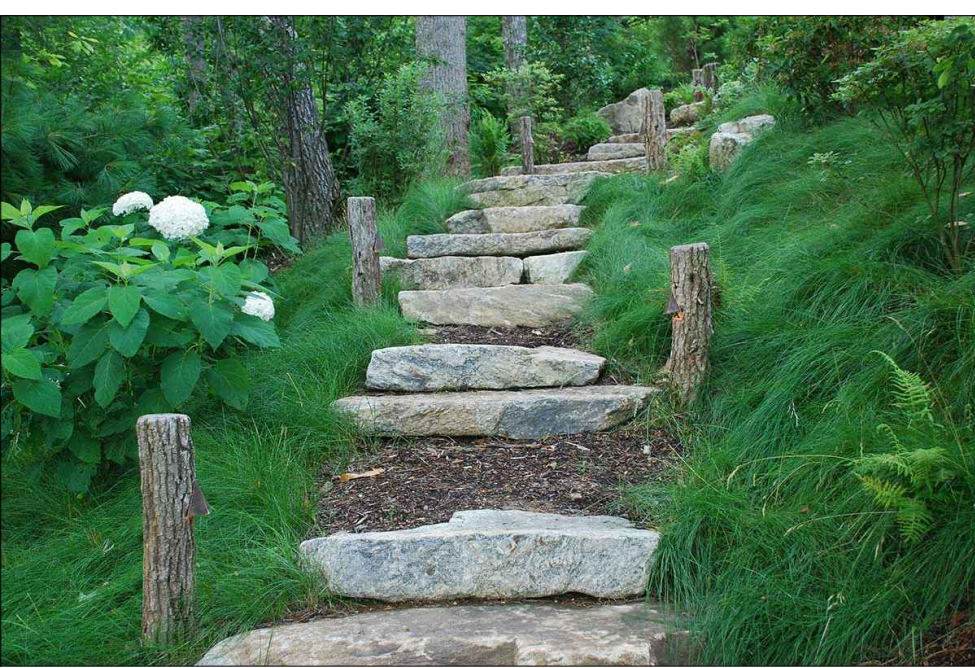
STAINED WOOD GARDEN ARBOR



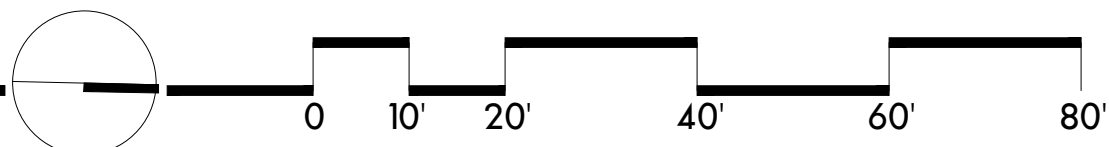
METAL HANDRAIL



ASPHALT DRIVE WITH MORTARED STONE APRON AND CURBSTONE EDGE



STONE STEPS



REVISIONS		
NO.	REMARKS	DATE


NOT FOR CONSTRUCTION  
C-188  
SITework STUDIOS, PLLC

DATE:

3.16.21

SHEET TITLE:

PRELIMINARY  
SITE PLAN

SHEET NO.

L-100



# BOARD OF ADJUSTMENT

## STAFF MEMORANDUM

April 19, 2021



### Case 3 – 309 Vanderbilt Road Special Use Permit Request for Rear Yard Fence & Driveway Realignment

---

The applicant requests permission for a special use permit to construct an eight-foot tall deer fence in the rear yard. The fence type is consistent with the deer fence types noted in the Town's Zoning Ordinance (attached) related to fences, gates, and walls. Specifically, the ordinance states that fences may be 8 feet tall if they are constructed as approved on the NC Wildlife Resources Commission's website under "permanent solid-wire fencing". The proposed fence is wooden and matches these requirements. The applicants note the fence would blend into the environment and be located in compliance with setbacks from the property line. The special use ordinance requirements for fences from the Town's Zoning Ordinance is located on the following page.

An additional request by the applicants is to connect the driveway to the garage to the existing circular driveway in order to correct drainage issues and make necessary repairs. This driveway realignment and connection is permissible within the Town's Zoning Ordinance.

# Zoning Compliance Application

Town of Biltmore Forest

**Name**

John Manley

**Property Address**

309 Vanderbilt Road

**Phone**

(828) 215-5941

**Email**

jamanley@mtnkidney.com

**Parcel ID/PIN Number**

## ZONING INFORMATION

**Current Zoning**

R-1

**Lot Size**

1.5 acres.

**Maximum Roof Coverage**

5,500 square feet (Up to 1.5 acres)

**Proposed Roof Coverage Total**

n/a

**Maximum Impervious Surface Coverage**

1-3 acres (25 percent of lot area)

**Proposed Impervious Surface Coverage**

n/a

**Front Yard Setback**

60 feet (R-1 District)

**Side Yard Setback**

20 feet (R-1 District)

**Rear Yard Setback**

25 feet (R-1 District)

**Building Height**

n/a

**Description of the Proposed Project**

Reference the Conditional permits that have submitted regarding the backyard fence and the modification of the circular driveway.

**Estimated Start Date**

4/5/2021

**Estimated Completion Date**

4/9/2021

**Estimated Cost of Project**

\$50,000.00

**Supporting Documentation (Site Plan, Drawings, Other Information)**



**Applicant Signature**

**Date**  
3/11/2021

John Mzenber

# Special Use Permit Application

Town of Biltmore Forest

**Name**

John Manley

**Address**

309 Vanderbilt Road

**Phone**

(828) 215-5941

**Email**

jamanley@mtnkidney.com

**Please select the type of special use you are applying for:**

Accessory Structures

The applicant must show that the proposed use will not materially endanger public health or safety or injure value of adjoining or abutting property. In addition, the proposed use must be in general conformity with the plan of development of the town and be in harmony with scale, bulk, height, coverage, density, and character of the neighborhood.

**Please provide a description of the proposed project:**

8 foot wooden backyard fence. The type of wooden fence would blend into the environment. The fence would extend to the rear of my property line with appropriate offset.

**Explain why the project would not adversely affect the public interest of those living in the neighborhood:**

The fence would be minimally visible from Vanderbilt road. My house almost completely obscures my backyard area. The boundary between 311 Vanderbilt and my house is obscured by a dense amount of trees. The property of 311 Vanderbilt sit at a significant elevation above my property further obscuring my backyard area.

307 Vanderbilt has a fence plus a structure that sits between 307 and my house. I have also received permission from the residents of 307 to place a backyard fence as described.

**I hereby certify that all of the information set forth above is true and accurate to the best of my knowledge.**

**Signature**

**Date**

3/11/2021

A handwritten signature in black ink that reads "John Manley". The signature is written in a cursive, flowing style. It is positioned above a thin horizontal line that spans the width of the signature area.

# Special Use Permit Application

Town of Biltmore Forest

**Name**

John Manley

**Address**

309 Vanderbilt Road

**Phone**

(828) 215-5941

**Email**

jamanley@mtnkidney.com

**Please select the type of special use you are applying for:**

Accessory Structures

The applicant must show that the proposed use will not materially endanger public health or safety or injure value of adjoining or abutting property. In addition, the proposed use must be in general conformity with the plan of development of the town and be in harmony with scale, bulk, height, coverage, density, and character of the neighborhood.

**Please provide a description of the proposed project:**

Circular driveway. We already have a circular drive, however, it is in poor condition and not very user friendly. We would like to connect the driveway going to the garage to the circular drive that already exists. In addition we need to correct water drainage issues that are present.

**Explain why the project would not adversely affect the public interest of those living in the neighborhood:**

This is a modification of the drive that already exists. Our goal is that it will be more user friendly for people visiting my house.

**I hereby certify that all of the information set forth above is true and accurate to the best of my knowledge.**

**Signature**

**Date**

3/11/2021

A handwritten signature in black ink that reads "John Manley". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

## § 153.049 FENCE, GATE AND WALL REGULATIONS.

The Board of Commissioners for the Town of Biltmore Forest that the following amendments to the Zoning Ordinance and subsequent regulations be placed on fence, gate, and wall construction and replacement as of the effective date of this section.

(A) New fences, gates or walls may be approved by the Board of Adjustment as a special use, so long as the gate, fence or wall meets the following requirements.

(1) The fence, gate, or wall is constructed entirely within the rear yard, is not located in any side or rear yard setbacks, and is constructed of materials deemed acceptable in § 153.049(D).

(2) Mature vegetation or other buffering sufficient to screen the fence, gate, or wall from neighboring properties shall be required to the extent necessary.

(B) A driveway gate and supporting columns may be approved by the Board of Adjustment as a special use so long as it meets the following requirements:

(1) The driveway gate and columns shall not be located in the front or side yard setback of a property.

(2) The driveway gate shall not be more than eight feet in height.

(3) The driveway gate must provide access for emergency services and first responders. This may be done via a lockbox code, strobe or siren activation switch, or other method with demonstrated reliability.

(4) The driveway gate must open wide enough to provide for ingress and egress of emergency vehicles. The minimum acceptable standard is for the gate access to be 14 feet wide with a 14 foot minimum height clearance.

(C) Replacement of existing fences, gates, and walls shall be approved by the Board of Adjustment as a special use so long as the replacement fence is constructed of materials deemed acceptable in § 153.049(D) and meets the requirements below. A special use permit application to replace an existing fence, gate, or wall shall include a photograph of the existing fence or wall, specify the type of fence, gate, or wall, include a map or sketch depicting the height and length of the fence, gate, or wall and state whether or not the fence, gate, or wall is located within any setbacks.

(1) Existing chain link fences or gates shall not be replaced with new chain link fences or gates.

(2) Existing fences, gates, or walls in the front yard shall not be replaced. No new fences, gates, or walls shall be allowed in the front yard.

(3) Repair of more than half of an existing fence, gate, or wall shall be considered a replacement and shall be subject to this section.

(D) Acceptable materials and standards for fences and walls/maintenance. The following materials and standards for fences and walls shall be deemed acceptable.

(1) Wooden fencing or gates shall be of natural color or painted in a manner compatible with the residence and the lot.

(2) Non-wooden fencing and gates shall be black, dark green or brown and shall blend with surrounding trees or vegetation.

(3) No new chain link fencing or gates shall be allowed.

(4) Fences shall not exceed six feet in height except that fences designed to prevent deer or other wildlife from entering the property shall not exceed ten feet in height. Deer fences shall be constructed in accordance with North Carolina Wildlife Resources Commission standards for "Permanent Woven Wire Fencing" and "Permanent Solid-Wire Fencing." Copies of these standards are available at the Town Hall or at the following web address (<https://www.nxwildlife.org/Learning/Species/Mammals/Whitetail-Deer/Fencing-to-Exclude-Deer#42041180-permanent-fencing>).

(5) Walls should be constructed of stone or similar material, and shall be compatible with the construction materials of the house located on the same property.

(6) When a fence, gate or wall is not properly maintained or fails to comply with condition(s) imposed by the Board of Adjustment, the town shall require the property owner to repair the fence, gate, or wall, or, remove the fence, gate, or wall at the property owner's expense. If the property owner fails to repair or remove the fence, gate, or wall, the town may remove the fence, gate, or wall and recover the cost of removal, including the cost of disposal, if any, from the property owner.

(Ord. passed 2-11-2020)



# BOARD OF ADJUSTMENT STAFF MEMORANDUM

April 19, 2021



## **Case 4 – 5 Stuyvesant Crescent Special Use Permit and Variance Request for Fencing Located within Side and Rear Yard Setback**

---

The applicant requests permission for a special use permit to construct a decorative aluminum fence within the side and rear yard setbacks. The applicant requests permission for this variance due to the topography and placement of the home. The applicant has provided examples of screening and existing vegetation that indicate the fence will not be visible from the street or neighboring properties.

One neighbor, Mr. Jim Hughes, contacted me regarding the proposal and indicated that he had no issues with the installation of this fence. The ordinance for fences, gates, and walls is located on the opposite page.

# Zoning Compliance Application

Town of Biltmore Forest

## Name

John  
First

Spake  
Last

## Property Address

5 Stuyvesant Crescent  
Address Line 1

## Phone

(828) 674-3372

## Email

john@spakerealestate.com

## Parcel ID/PIN Number

964693155300000

## ZONING INFORMATION

### Current Zoning

☒ R-1 ☐ R-2 ☐ R-3 ☐ R-4 ☐ R-5 ☐ P-S

### Lot Size

.89 acre

### Maximum Roof Coverage

4,682 square feet (Up to 1 acres)  
Choose appropriate lot size

### Proposed Roof Coverage Total

N/A  
*Must not exceed maximum coverage allowed*

### Maximum Impervious Surface Coverage

Up to 1 acre (27.5 percent of lot area)  
Choose appropriate lot size

### Proposed Impervious Surface Coverage

N/A  
*Must not exceed maximum coverage allowed*

### Front Yard Setback

60 feet (R-1 District)

### Side Yard Setback

20 feet (R-1 District)

### Rear Yard Setback

25 feet (R-1 District)

### Building Height

N/A

## Description of the Proposed Project

Installation of a new fence along with additional landscaping to be installed for screening of the fence from the road. See attached four (4) documents as exhibits for this project.

\* Note Below: Exact timeline and cost of project still yet to be determined, but will happen ASAP so we can move into the house.

**Estimated Start Date**

4/26/2021

**Estimated Completion Date**

5/28/2021

**Estimated Cost of Project**

\$10,000.00

**Supporting Documentation (Site Plan, Drawings, Other Information)**

5 Stuyvesant Crescent - Fence Site Plan.pdf

5 Stuyvesant Crescent - Fence - Existing Conditions.pdf

5 Stuyvesant Crescent - Fence - Example of interior yard view & fence material.pdf

5 Stuyvesant Crescent - Fence - Finished Conditions with New Plantings to Screen Fence from Road.pdf

**Applicant Signature****Date**

3/28/2021



---

# Special Use Permit Application

Town of Biltmore Forest

**Name**

John Spake

**Address**

5 Stuyvesant Crescent

**Phone**

(828) 674-3372

**Email**

john@spakerealestate.com

**Please select the type of special use you are applying for:**

Accessory Structures

The applicant must show that the proposed use will not materially endanger public health or safety or injure value of adjoining or abutting property. In addition, the proposed use must be in general conformity with the plan of development of the town and be in harmony with scale, bulk, height, coverage, density, and character of the neighborhood.

**Please provide a description of the proposed project:**

Installation of a fence along with additional evergreen landscaping to be installed for screening of the fence from the road. Fence would be decorative aluminum installed along our rear property line (immediately adjacent to or replacing the neighbor's existing chain link fence), down the side yard (on inside of existing landscaped hedge and attach to front corner of house (buffered from view of road with new landscaping) to secure the read and side yards.

**Explain why the project would not adversely affect the public interest of those living in the neighborhood:**

This fence will improve and/or not negatively impact the neighbor to the rear as the new decorative aluminum fence would be installed immediately adjacent to or replacing the neighbor's existing chain link fence. And, this fence will not negatively impact the neighbor to the right as the new decorative aluminum fence would be installed inside of the existing large landscaped evergreen hedge (approx. 8' tall), thus not visible to neighbor and will not impact their existing deer fencing (a portion of which is on our property). Also, this fence will not negatively impact the neighbor to the left as the new decorative aluminum fence would not be installed on that side of our property. Finally, this fence will not negatively impact the other living in the neighborhood as we will also screen the new fence from view of the road by installing new evergreen landscaping on the outside of the fence to hide it from view.

**I hereby certify that all of the information set forth above is true and accurate to the best of my knowledge.**

**Signature**

**Date**

3/28/2021



---



# VARIANCE APPLICATION

Town of Biltmore Forest

**Name**

John Spake

**Address**

5 Stuyvesant Crescent

**Phone**

(828) 674-3372

**Email**

john@spakerealestate.com

**Current Zoning/Use**

Residential

**Requested Use**

Fence Installation

**APPLICATION REQUIREMENTS:** An application to the Board of Adjustment for a variance must be submitted to the Town of Biltmore Forest Town Manager at least 21 days prior to the meeting at which the application will be considered. A pre-application meeting with Town staff is required prior to application submittal to the Board of Adjustment.

**What would you like to do with your property?**

Installation of a fence along with additional evergreen landscaping to be installed for screening of the fence from the road. Fence would be decorative aluminum installed along our rear property line (immediately adjacent to or replacing the neighbor's existing chain link fence), down the side yard (on inside of existing landscaped hedge and attach to front corner of house (buffered from view of road with new landscaping) to secure the read and side yards.

**What does the ordinance require?**

No fence in the side or rear yard setback

BOARD OF ADJUSTMENT: N.C.G.S. 160A-388(D) requires that the Board of Adjustment shall vary the provisions of the Zoning Ordinance only upon a showing of ALL the items below. The Board of Adjustment must follow strict procedure and all determinations must be decided by a concurring vote of four-fifths of the members of the Board. It is important to provide detailed supporting documentation for the Board of Adjustment to review. If necessary, additional sheets may be attached to this application.

**REQUIRED FINDINGS: Please provide a thorough response to each.****Unnecessary hardship would result from the strict application of the ordinance.**

There is no are for a rear yard due to the original placement of this house at the rear of the lot in 1984 and it sitting above the road allows for very little backyard area (and almost none if staying out of the rear setback).

**The hardship results from conditions that are peculiar to the property, such as location, size, or topography.**

The hardship is peculiar to this lot due to the house originally being built in 1984 at the rear of the lot and house site sitting above the road with every little yard (grass) area to easily secure.

**The hardship did not result from actions taken by the applicant or the property owner.**

The placement of the house is an existing condition that we inherited when we purchased the home that was built in 1984.

**The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.**

Many other residences in the neighborhood have fences that are present in the side yards (and some in front yards), a lot of them are unscreened from view. We feel the addition of this fence will not negatively impact anyone else living in the neighborhood or the immediate neighbors to the property due to our extra measure of installing evergreen landscaping to screen it from view. Unlike many of the other existing fences in the neighborhood, our installing and maintaining new evergreen landscaping on the outside of the decorative aluminum fence will block it from view of neighbors on that side of our property and the general public passing by on the road.

**I hereby certify that all of the information set forth above is true and accurate to the best of my knowledge.**

**Signature**

**Date**

3/28/2021

A handwritten signature in black ink, appearing to read "John Spok", written over a horizontal line.

JIMMIE F HUGHES LIVING TRUST  
DEED BOOK 5712 PAGE 1159  
PLAT BOOK 32 PAGE 18

THIS PORTION OF EXISTING  
CHAINLINK FENCE TO BE  
REPLACED WITH DECORATIVE  
ALUMINUM FENCE  
REBAR W/  
CAP  
"MCMAHAN"

PROPOSED  
FENCE TO BE  
PLACED INSIDE  
OF EVERGREEN  
SCREEN PLANTS  
6.5' TALL DE  
DETERRENT FE

EXISTING  
EVERGREEN  
SCREEN  
PLANTINGS  
TO REMAIN  
NANCY  
A TUN  
DEED  
PLA

NEW PLANTINGS  
TO SCREEN VIEW  
OF FENCE FROM  
THE STREET

PROPOSED FENCING  
SITE PLAN 1"=20'

SHEET  
#1

9646931553  
HOLLI ALEXANDREA TOWE. &  
JOHN DAVID SPAKE  
DEED BOOK 6033 PAGE 1660  
PLAT BOOK 46 PAGE 180

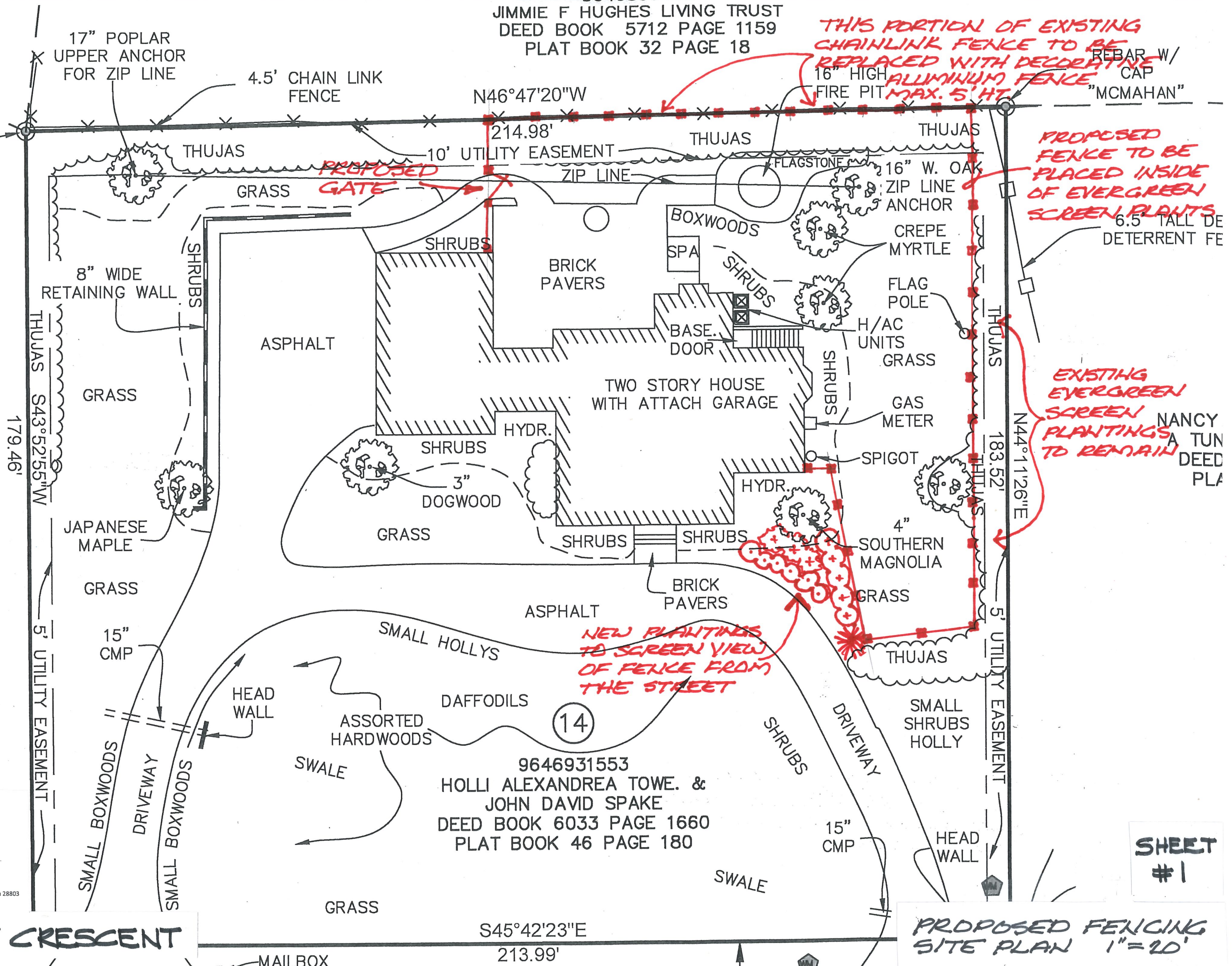
DESIGN  
ASSOCIATES  
LANDSCAPE ARCHITECTS  
& LAND PLANNERS

1293 Hendersonville Road, Suite 21 - Asheville, North Carolina 28803  
Office: 828-277-7410 Fax: 828-277-7413

5 STUYVESANT CRESCENT

13

933309  
R & MONICA L TURBYFILL  
FEBRUARY 10, 2016  
397 PAGE 1156  
46 PAGE 180





## § 153.049 FENCE, GATE AND WALL REGULATIONS.

The Board of Commissioners for the Town of Biltmore Forest that the following amendments to the Zoning Ordinance and subsequent regulations be placed on fence, gate, and wall construction and replacement as of the effective date of this section.

(A) New fences, gates or walls may be approved by the Board of Adjustment as a special use, so long as the gate, fence or wall meets the following requirements.

(1) The fence, gate, or wall is constructed entirely within the rear yard, is not located in any side or rear yard setbacks, and is constructed of materials deemed acceptable in § 153.049(D).

(2) Mature vegetation or other buffering sufficient to screen the fence, gate, or wall from neighboring properties shall be required to the extent necessary.

(B) A driveway gate and supporting columns may be approved by the Board of Adjustment as a special use so long as it meets the following requirements:

(1) The driveway gate and columns shall not be located in the front or side yard setback of a property.

(2) The driveway gate shall not be more than eight feet in height.

(3) The driveway gate must provide access for emergency services and first responders. This may be done via a lockbox code, strobe or siren activation switch, or other method with demonstrated reliability.

(4) The driveway gate must open wide enough to provide for ingress and egress of emergency vehicles. The minimum acceptable standard is for the gate access to be 14 feet wide with a 14 foot minimum height clearance.

(C) Replacement of existing fences, gates, and walls shall be approved by the Board of Adjustment as a special use so long as the replacement fence is constructed of materials deemed acceptable in § 153.049(D) and meets the requirements below. A special use permit application to replace an existing fence, gate, or wall shall include a photograph of the existing fence or wall, specify the type of fence, gate, or wall, include a map or sketch depicting the height and length of the fence, gate, or wall and state whether or not the fence, gate, or wall is located within any setbacks.

(1) Existing chain link fences or gates shall not be replaced with new chain link fences or gates.

(2) Existing fences, gates, or walls in the front yard shall not be replaced. No new fences, gates, or walls shall be allowed in the front yard.

(3) Repair of more than half of an existing fence, gate, or wall shall be considered a replacement and shall be subject to this section.

(D) Acceptable materials and standards for fences and walls/maintenance. The following materials and standards for fences and walls shall be deemed acceptable.

(1) Wooden fencing or gates shall be of natural color or painted in a manner compatible with the residence and the lot.

(2) Non-wooden fencing and gates shall be black, dark green or brown and shall blend with surrounding trees or vegetation.

(3) No new chain link fencing or gates shall be allowed.

(4) Fences shall not exceed six feet in height except that fences designed to prevent deer or other wildlife from entering the property shall not exceed ten feet in height. Deer fences shall be constructed in accordance with North Carolina Wildlife Resources Commission standards for "Permanent Woven Wire Fencing" and "Permanent Solid-Wire Fencing." Copies of these standards are available at the Town Hall or at the following web address (<https://www.nxwildlife.org/Learning/Species/Mammals/Whitetail-Deer/Fencing-to-Exclude-Deer#42041180-permanent-fencing>).

(5) Walls should be constructed of stone or similar material, and shall be compatible with the construction materials of the house located on the same property.

(6) When a fence, gate or wall is not properly maintained or fails to comply with condition(s) imposed by the Board of Adjustment, the town shall require the property owner to repair the fence, gate, or wall, or, remove the fence, gate, or wall at the property owner's expense. If the property owner fails to repair or remove the fence, gate, or wall, the town may remove the fence, gate, or wall and recover the cost of removal, including the cost of disposal, if any, from the property owner.

(Ord. passed 2-11-2020)





**DESIGN  
ASSOCIATES**  
LANDSCAPE ARCHITECTS  
& LAND PLANNERS

1293 Hendersonville Road, Suite 21 - Asheville, North Carolina 28803  
Office: 828-277-7410 Fax: 828-277-7413

**5 STUYVESANT CRESCENT**

**SHEET  
# 2**

**EXISTING CONDITIONS**





1293 Hendersonville Road, Suite 21 - Asheville, North Carolina 28803  
Office: 828-277-7410 Fax: 828-277-7413

5 STUYVESANT CRESCENT

SHEET  
#3

VIEW OF PROPOSED DECORATIVE  
ALUMINUM FENCE IN SIDE YARD.





1293 Hendersonville Road, Suite 21 - Asheville, North Carolina 28803  
Office: 828-277-7410 Fax: 828-277-7413

# 5 STUYVESANT CRESCENT

SHEET  
#4

PROPOSED PLANTINGS TO SCREEN  
DECORATIVE ALUMINUM FENCE  
FROM THE STREET