



To: Members of the Board of Adjustment, Applicants & Neighboring Property Owners
From: Jonathan B. Kanipe, Town Manager
Date: June 9, 2021
Re: **Board of Adjustment Meeting – June 21, 2021**

Applicants

You or a representative **MUST** attend the meeting in order to have the matter considered.

Members of the Board of Adjustment & staff may visit each property prior to the meeting. If this occurs, the property owner will be notified beforehand and asked if they approve the visit.

Neighbors

You are receiving this notice because your property is adjacent to an applicant on this month's agenda.

You may review applications & plans for the projects on this agenda at <http://www.biltmoreforest.org/board-of-adjustments>.

Parties with standing or members of the public are invited to attend the meeting at 4:00 p.m. on Monday, June 21, 2021.

AGENDA

The following items of business will be considered by the Biltmore Forest Board of Adjustment on Monday, June 21, 2021 at 4:00 pm in the Town Hall Social Room.

MEETING WILL BE HELD IN-PERSON IN ACCORDANCE WITH STATE AND CDC REGULATIONS.

1. The meeting will be called to order and roll call taken.
2. The minutes of the May 17, 2021 regular meeting will be considered.
3. Hearing of Cases (Evidentiary Hearings, Deliberations & Determinations).
 - Case 1:** 57 Forest Road – Request for tree removal in excess of ten (10) trees as part of landscaping plan.
 - Case 2:** 15 Eastwood Road – Preliminary Landscaping Plan request for Construction of New Single-Family Residence
 - Case 3:** 3 Deerfield Road – Special Use permit request for installation of fence in rear yard.
 - Case 4:** 314 Vanderbilt Road – Special Use permit request for installation of fence in rear yard.
 - Case 5:** 14 Cedarcliff Road – Special Use permit request for installation of roof-mounted solar panels on existing home and existing accessory building.
 - Case 6:** 4 Hilltop Road – Special Use permit request for installation of ground-mounted solar array.
 - Case 7:** 32 Buena Vista Road – Variance request for installation of circular driveway within side yard setback.
 - Case 8:** 307 Vanderbilt Road – Revised variance request for reconstruction of storage building within side yard setback.

4. Adjourn

MINUTES OF THE BOARD OF ADJUSTMENT MEETING
HELD MONDAY, MAY 17, 2021

The Board of Adjustment met at 4:00 p.m. on Monday, May 17, 2021. The meeting was held virtually via Zoom, with members of the Board of Adjustment in attendance at the Town Hall.

Members present: Mr. Greg Goosmann, Ms. Rhoda Groce, Mr. Robert Chandler (via Zoom), Ms. Lynn Kieffer, and Mr. Lowell Pearlman. Ms. Martha Barnes, alternate member. Mr. Jonathan Kanipe, Town Manager, were also present. Mr. William Clarke, Town Attorney was also present.

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

Mr. Goosmann swore in the following:

Mr. Jonathan Kanipe
Mr. Harry Buckner
Mr. Guy Wrenn
Ms. Laura Werner
Mr. Robert Stephenson
Ms. Merry Stephenson
Mr. Peter Ong
Mr. Bruce Johnson
Mr. Raymond Russell
Mrs. Elizabeth Russell

A motion was made by Ms. Rhoda Groce to approve the minutes, as revised, from April 19, 2021. Mr. Lowell Pearlman seconded the motion. Roll call was taken by Chairman Goosmann and the minutes as revised were unanimously approved.

HEARING (Evidentiary):

A Special Use Permit was requested for a playground structure in the rear yard at 10 Stuyvesant Crescent. Mr. Robert Chandler shepherded the matter. Mr. Guy Wrenn said the ground will be leveled and mulch put down. The play set is 10 feet high and 20 feet long with two swings on it. It looks like a traditional swing set. A picture was shown to the Board. Mr. Chandler asked if Mr. Wrenn would be willing to buffer if needed. Mr. Wrenn said yes.

DELIBERATION AND DETERMINATION:

Mr. Chandler recited the facts and said a Special Use Permit is being applied for by Mr. Guy Wrenn of 10 Stuyvesant Crescent for a swing set in the rear yard. The swing set is within the setback and is 10 feet high and 20 feet long. Mr. Wrenn is willing to buffer if needed.

Mr. Lowell Pearlman moved that a Special Use Permit be granted to Mr. Guy Wrenn of 10 Stuyvesant Crescent for a playground 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. Mr. Pearlman 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. Rhoda Groce seconded the motion. Roll call was taken by Chairman Goosmann and unanimously approved.

HEARING (Evidentiary):

The next matter was a request for a Special Use Permit for a fence within the rear yard and low retaining wall extension within the side and rear yard at 2 Hemlock Road. Ms. Lynn Kieffer shepherded the matter. Ms. Laura Werner said they are putting in a four-foot wall along the side and back of their property with a fence and gate on either side. The wall will be partially retaining because some of the property will be leveled out. The neighbors will only see part of the wall. It is all within the setback limits. The wall will be the same type of material as the other walls. The fencing will look similar to the balcony railing they have on the property currently. The reason for this wall is to control some of the water runoff as well. The current runoff is eroding.

DELIBERATION AND DETERMINATION:

Mr. Lowell Pearlman recited the facts and moved that a Special Use Permit be granted to Laura Werner and John Brackett 2 Hemlock Road 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. Mr. Pearlman 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. Rhoda Groce seconded the motion. Roll call was taken and unanimously approved.

HEARING (Evidentiary):

The next matter was for a Special Use Permit for a swimming pool within the rear yard at 341 Vanderbilt Road. Mr. Lowell Pearlman shepherded the matter. There will be leveling on the land in the back. There will be a retaining wall and the pool will be rectangular. The patio will be blue stone. The fireplace will be a natural stone. Mr. Pearlman asked if there would be any overhead lighting. Mr. Stephenson said no, just the lighting in the pool. The entire yard is already fenced in. The one fence to the North of the yard will be switched to a higher fence, which would be five or six feet tall with magnetic locks per state code.

DELIBERATION AND DETERMINATION:

Mr. Pearlman recited the facts and said Mr. Robert Stephenson and Mrs. Merry Stephenson of 341 Vanderbilt are requesting a Special Use Permit for swimming pool installation and for an outdoor fireplace and low wall in their rear yard. The property is properly screened and fenced in around the exterior. There will be no light intrusion for the neighbors. There were no addition to the facts.

Ms. Lynn Kieffer moved that a Special Use Permit be granted to Mr. Robert Stephenson and Mrs. Merry Stephenson of 341 Vanderbilt Road for a swimming pool, outdoor fireplace, and low retaining wall, 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 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. Martha Barnes seconded the motion. Roll call was taken by Chairman Goosmann and unanimously approved.

HEARING (Evidentiary):

The next matter was a request for a Special Use Permit request for a replacement fence within the rear yard setback at 300 Vanderbilt Road. Ms. Rhoda Groce shepherded the matter. Mr. Peter Ong said they want to replace an existing fence. They want to stop entry onto their property from the commercial side along Hendersonville Road upon which they back up. Mr. Ong's neighbor, Mr. Grant, has the same problem and he is fixing the issue as well.

DELIBERATION AND DETERMINATION:

Ms. Groce recited the facts and said Mr. Peter and Mrs. Marilyn Ong of 300 Vanderbilt Road are requesting a Special Use Permit for an accessory structure fence in the rear yard.

Mr. Billy Clarke added that as far as safety and security are concerned, several people have entered the Ong's property. Ms. Groce stated it is a replacement fence with the one that already exists. Chairman Goosmann said this would limit commercial traffic from the back of their property. It will also protect from the bears that enter the property.

Ms. Martha Barnes made a motion and moved that Mr. Peter and Mrs. Marilyn Ong of 300 Vanderbilt Road be granted a Special Use Permit for a replacement fence within the rear yard setback and 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. 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 and unanimously approved.

HEARING (Evidentiary):

The next request was for a Variance request to exceed maximum roof coverage for an accessory building and a Special Use Request for an Accessory Building at 63 Forest Road. The matter was shepherded by Ms. Martha Barnes. Mr. Bruce Johnson, architect for the applicant, said this is for a small guest cottage for Ms. Morgan. It will be less than 1,000 square feet and will be a 1.5 story guesthouse on the rear of her property. It meets all requirements except the maximum roof coverage allowance of 750 square feet for accessory buildings. Ms. Morgan requests the additional 44 square feet due to having appropriate overhangs on the building and resolving drainage issues. In addition, they are trying to make sure there is an edge on the roof where the water comes off the roof appropriately and the water goes off into the gulley appropriately. The 44 feet would be almost all roof overhang. The total square footage would be 5,294 square feet with both the house and guesthouse which is well under the total allowable maximum roof coverage for the whole lot.

Ms. Barnes asked about the vegetation and buffering. Mr. Johnson said Ms. Morgan's site is heavily wooded and it would be built close to the rear setback. The existing vegetation will all remain except for three trees that will be removed. The new cottage will be fiber cement siding which will match the main house. The closest neighbors, the Stricklands, had no issue with this project.

DELIBERATION AND DETERMINATION:

Ms. Barnes restated the facts and said Ms. Rebecca Morgan of 63 Forest Road is requesting a Special Use Permit for an accessory building and for a Variance because the roof coverage of the accessory building exceeds the 750-foot ordinance by 44 feet. The roof coverage of the house and cottage are well under the maximum coverage that is allowed on the property. The new building is secluded and the neighbors do not have any issue with the project. It cannot be visible from the road. The building material will be in line with the existing house. The hardship is the roof overhang needs to be taken into account for proper water drainage. It would be an additional one-foot overhang.

Ms. Rhoda Groce moved that a Variance as requested be granted to Ms. Rebecca Morgan of 63 Forest Road 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. 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.

Ms. Groce 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.

The motion was seconded by Ms. Lynn Kieffer. Roll call was taken and unanimously approved.

HEARING (Evidentiary):

The final matter was for a variance request for re-construction of a storage shed within the side yard setback at 307 Vanderbilt Road. The matter was shepherded by Mr. Robert Chandler. Mrs. Russell asked if they can withdraw before a vote but after the Board discusses the matter. Chairman Goosmann said yes. Mr. Russell said there was a prior shed there for 28 years. Since the last hearing, the residents at 309 Vanderbilt put up an eight-foot fence along the property line and the edge of the present shed would be part of the property line addition to the fence. When they had a hearing in January, Mr. Russell recalled the only problem being the prior easement and whether it allowed for the construction of the new shed. Mr. Russell said they could either get an extension of the easement or move the wall back onto the property line. Mr. Russell said the neighbor's at 309 Vanderbilt agreed to the property line shed being on the property line.

Mr. Clarke clarified and said what was on the agenda for the Board of Adjustment meeting in January 2021 was a request to replace an existing shed. At that time, an issue was identified to the Board where a portion of the shed encroached on the neighbor. The Board could not approve replacing an existing shed on someone else's property so the Board asked Mr. Clarke to look at the easement that was in place. Mr. Clarke's determination was the easement that was in place only allowed for the encroachment of the existing shed and would not allow any encroachment of a new structure. The Board never actually approved anything in January so this will be treated as a new application. This current application is to replace an existing shed and none of the new shed will encroach on the property of 309 Vanderbilt Road.

Mr. Pearlman said it would be difficult for the Board to approve the "new shed" because of the various issues. There could be a problem approving it. Mr. Russell said they will withdraw their request.

Chairman Goosmann adjourned the meeting at 4:38 pm. The next Board of Adjustment meeting is scheduled for Monday, June 17, 2021 at 4:00 pm.

ATTEST:

Greg Goosmann
Chairman

Laura Jacobs
Town Clerk

BOARD OF ADJUSTMENT STAFF MEMORANDUM

June 21, 2021



Case 2 – 15 Eastwood Road

Request for Approval for Landscaping and Grading Plan for Disturbance of Lot Greater than Twenty (20) Percent

Request for Approval for Landscaping and Grading Plan for Disturbance of Lot Greater than Twenty (20) Percent

The applicant requests approval for a landscaping and grading plan in conjunction with the construction of a new single-family residence. The new residence meets all requirements of the Town's Zoning Ordinance and does not require additional review for special use or variance consideration.

The Town's Zoning Ordinance requires the following:

§ 153.034 LAND DISTURBANCE AND SEDIMENTATION CONTROL.

(A) Land disturbance becoming landscaping. Any land-disturbing activity, such as grading projects or removal of natural vegetation, that involves the disturbance of 20 % or more of the land area of any lot, shall submit a landscaping and grading plan for such activity to the Board of Adjustment for review and approval. Prior to commencing such activity in a public service district, any land-disturbing activity such as grading projects or removal of natural vegetation other than routine maintenance shall be subject to approval by the Town Board of Adjustment regardless of the area to be disturbed.

A previous home on the lot was demolished in December 2019. The lot is not overly wooded and has a substantial cleared area for the new home. The applicant's request for new construction includes a proposed landscaping and grading plan.as attached.

Zoning Compliance Application

Town of Biltmore Forest

Name

Matt Zink

Property Address

15 Eastwood Road

Phone

(828) 230-2769

Email

mzink@carlton-edwards.com

Parcel ID/PIN Number

964696 0544

ZONING INFORMATION

Current Zoning

R-1

Lot Size

54570

Maximum Roof Coverage

5,500 square feet (Up to 1.5 acres)

Proposed Roof Coverage Total

5498

Maximum Impervious Surface Coverage

1-3 acres (25 percent of lot area)

Proposed Impervious Surface Coverage

11,335 (20.77%)

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

37

Description of the Proposed Project

New construction of single family dwelling

Estimated Start Date

8/16/2021

Estimated Completion Date

12/16/2022

Estimated Cost of Project

\$4,000,000.00

Supporting Documentation (Site Plan, Drawings, Other Information)

2021.06.04_15 Eastwood Road BOA Submittal.pdf

Applicant Signature

Date
6/4/2021



A handwritten signature in black ink, appearing to be "MAG", is written above a thin horizontal line.

CARLTON
EDWARDS

1

NOT FOR CONSTRUCTION

A1.01

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[illegible]

BOARD OF ADJUSTMENT STAFF MEMORANDUM

June 21, 2021



Case 1 – 57 Forest Road

Request for Tree Removal in Excess of Ten (10) Trees per Tree Protection Ordinance

Request for Tree Removal in Excess of Ten (10) Trees

The applicant requests to remove eighteen (18) trees as part of an overall landscaping plan. Twelve (12) of these trees are considered protected per the Town's Tree Protection Ordinance and another six (6) are considered unprotected. The Town's Tree Protection Ordinance, attached, requires an application to the Board of Adjustment for approval.

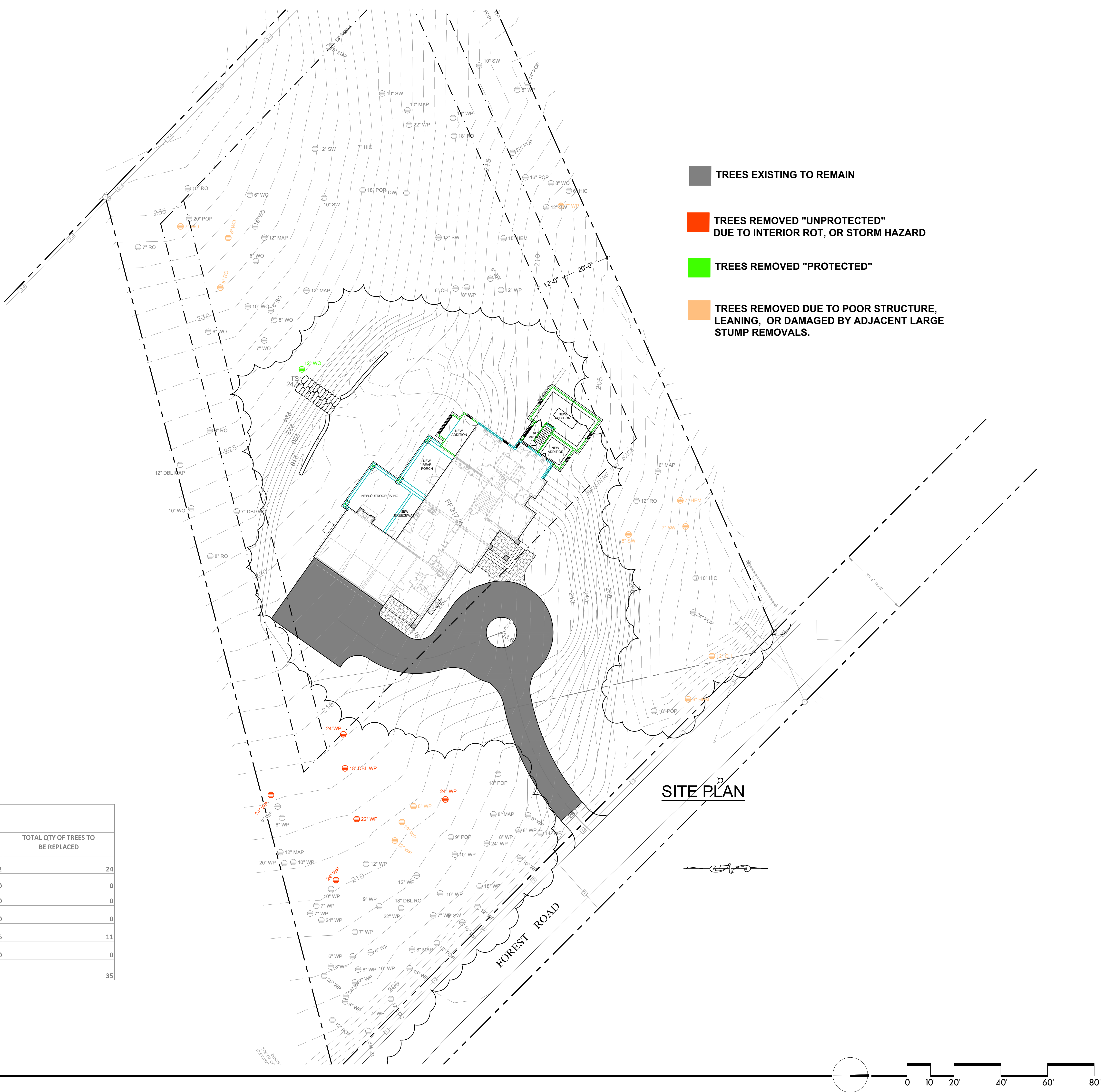
§ 93.33 APPLICATIONS FOR REMOVAL OF PROTECTED TREES IN EXCESS OF TEN.

(A) An application for a permit to remove between 11 and 29 protected trees on a property must be presented directly to the Board of Adjustment. A non-refundable fee of \$50.00 shall accompany the application. Such applications will be considered on a case-by-case basis. As a part of its review, the Board of Adjustments may require replacement and replanting of trees as the Board determines necessary, including the specific location of replacement trees.

The Tree Protection Ordinance also sets out the Town's requirements for replanting associated with the removal of protected and unprotected trees. A copy of this chart may be found in Section 93.38 of the attached ordinance. The applicant has provided the site plan showing the location of the trees requested for removal. The applicant's site plan also includes their planned replacement chart for this request.

Please note, the applicants previously received approval for removal of unprotected trees in association with their house addition and earlier landscape renovations. These earlier removals were appropriately reviewed and approved by Town staff.

WARLICK RESIDENCE TREE REPLACEMENT CHART				
SIZE OF TREES	REPLACEMENT OF TREES PER TREE REMOVED	QTY OF TREES REMOVED	TOTAL QTY OF TREES TO BE REPLACED	
6-12" DBH (A)		2	12	24
13-18" DBH (B)		3	0	0
19"-30" DBH - C		4	0	0
30" DBH or greater (D)		5	0	0
Unprotected Tree (diseased /storm hazard)			6	11
Pre-approved Trees			0	0
		TOTAL TREES TO BE REPLACED		35



CONSULTANT

WARLICK RESIDENCE

PREPARED FOR:
KIP AND MARY ANNE WARLICK
57 FOREST ROAD
BILTMORE FOREST, NC 28803

REVISIONS		
NO.	REMARKS	DATE



DATE:
9 JUNE 2021
SHEET TITLE:

ADDITIONAL
TREE
REMOVALS

SHEET NO.
L-101

TREE PROTECTION

§ 93.30 PURPOSE.

(A) In order to maintain the unique characteristics of the Town of Biltmore Forest as a residential neighborhood with a history beginning as part of the Vanderbilt Estate, it is necessary to preserve the quality and flavor that form so much of the traditional appearance of Biltmore Forest as a true forest. This is particularly true of trees along the roads and around the perimeter of lots. Reference is hereby made to § 153.034 of the Town Zoning Ordinance relating to removal of natural vegetation, which section is routinely involved when residences or other structures are placed on a lot.

(B) Preservation of trees is the intent of this subchapter. This subchapter shall apply to all properties within the Town of Biltmore Forest except properties owned, leased or controlled by the town. Trees provide shade, cooling, noise and wind reduction, prevent soil erosion, produce oxygen, filter dust and absorb carbon dioxide. Trees also provide natural habitat and aesthetic enhancement in the town. Trees provide buffer and a natural canopy, and are a hallmark of the town requiring protection. Damage to and removal of trees requires regulation and control.

(2013 Code, § 19-1) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

§ 93.31 IDENTIFICATION.

(A) For the purpose of this subchapter, a protected tree ("protected tree") is any tree six inches or more in diameter at a height of four and a half feet from the ground (DBH-diameter at breast height), that is in sound, healthy condition. A tree that is dead, produces no foliage during normal growing season, or a tree that is diseased or storm damaged to the extent that it is structurally compromised and, thus, poses a safety hazard, or a tree that, for any other reason, poses a safety hazard, is an "unprotected tree." This subchapter does not apply to trees that are less than six inches in diameter, regardless of the height of the tree.

(2013 Code, § 19-2) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

§ 93.32 REMOVAL OF PROTECTED TREES.

No person shall remove or in any way damage any protected tree on a property without first filing an application for said removal, receiving approval from the Town Manager or Town Arborist for the removal, and paying any applicable fee. The Town Manager, in his or her discretion, may allow the removal of up to three protected trees on the perimeter of a property or lot within the front, side or rear yard setbacks, as such setbacks are defined in the town's Zoning Ordinance. Within the remaining central portion of a property or lot, and the portion on which structures or improvements may be located, the Town Manager, in his or her discretion, may allow up to ten protected trees to be removed. Any protected trees removed shall be replaced as outlined in § 93.38 below.

(2013 Code, § 19-3) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

§ 93.33 APPLICATIONS FOR REMOVAL OF PROTECTED TREES IN EXCESS OF TEN.

(A) An application for a permit to remove between 11 and 29 protected trees on a property must be presented directly to the Board of Adjustment. A non refundable fee of \$50.00 shall accompany the application. Such applications will be considered on a case-by-case basis. As a part of its review, the Board of Adjustments may require replacement and replanting of trees as the Board determines necessary, including the specific location of replacement trees.

(B) An application for the removal of 30 or more protected trees on a property must be submitted to the Board of Commissioners for review and approval. A non-refundable fee of \$100.00 plus \$5.00 for each protected tree requested for removal shall accompany the application. Such applications will be considered on case-by-case basis. The cumulative removal of 30 or more protected trees from a single property in one year will result in a formal review and must be approved by the Board of Commissioners. As a part of its review, the Board of Commissioners shall have the authority to require replacement and replanting of trees as the Board determines is necessary, including the specific location of replacement trees. The decision of the Board of Commissioners shall be final.

(Ord. passed - - ; Ord. 2019-02, passed 9-17-2019)

§ 93.34 REMOVAL OF UNPROTECTED TREES.

(A) An unprotected tree may be removed by the property owner after notifying the Town Manager of the plans to remove said tree(s) and receiving approval to do so from the Town Manager. The Town Manager may also require an applicant to provide documentary evidence, in the form of a survey or other documentation sufficient, in the opinion of the Town Manager, to confirm that the unprotected tree(s) are on the applicant's property. An applicant has the right to appeal a decision of the Town Manager to the Board of Adjustment within five days of the Town Manager's decision.

(B) The Town Manager may require the property owner to retain a certified arborist to render an opinion as to the health and structural integrity of the tree(s) in question and report said findings, in writing, to the town before final approval is given. The town reserves the right to consult with its own tree specialist to confirm the health and condition of any tree(s) prior to removal.

(C) Any unprotected trees removed shall be replaced as defined in §93.38 below.

(Ord. passed - - ; Ord. 2019-02, passed 9-17-2019)

§ 93.35 PRE-CONSTRUCTION CONFERENCE AND SUPERVISION.

(A) Prior to the commencement of any pre-construction land-clearing or soil disturbance, a pre-construction conference will take place between a responsible representative of the town and the applicant to review procedures for protection and management of all protected trees and other landscape elements identified in the approved landscape plan. The applicant will designate one or more persons responsible for ensuring the protection of new or existing landscaping elements to be preserved. The responsible person shall be present on site whenever activity is taking place that could damage or disturb such landscape elements, and will notify the Town Manager that such activity is taking place.

(B) The Town Manager shall have developed sites inspected frequently to ensure work is conforming to the approved landscape plan and the applicable sections of this subchapter.

(C) Prior to the commencement of any pre-construction land-clearing or soil disturbance, the developer/contractor shall be required to sign a document agreeing to abide by the conditions stipulated in this subchapter. At the option of the town, a compliance bond may be required.

(2013 Code, § 19-4) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

§ 93.36 ENFORCEMENT.

If any unauthorized removal, cutting or damage to trees takes place, the Town Manager may issue a stop-work order which shall remain in effect until all corrections are made to bring the property in compliance with this chapter.

(2013 Code, § 19-5) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

§ 93.37 DRIP LINE PROTECTION.

The health of protected trees requires the prevention of soil disturbance within the drip line of the trees. Covering this area with pavement or other materials, including excess soil, can affect the health of the tree. Landscape plans, to the extent feasible, shall protect this area around the tree.

(2013 Code, § 19-6) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

§ 93.38 REPLACEMENT OF TREES.

Any protected or unprotected tree removed shall be replaced in that general area of the property within 50 feet of the trunk of the former tree as follows:

<i>Minimum size of existing tree</i>	<i>Replacement of protected tree</i>	<i>Replacement of unprotected tree</i>
6-12" DBH	2 trees	1 tree
13-18" DBH	3 trees	1 tree
19-30" DBH	4 trees	2 trees
30" DBH or greater	5 trees	3 trees

(2013 Code, § 19-7) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

§ 93.39 INSPECTIONS.

All protected trees designated to remain, pursuant to a tree survey, plus any replacement trees shall be inspected by the Town Manager or his or her designee one year following replacement, to ensure the trees are in a healthy condition. The Town Manager can require replacement or replanting of replacement trees if necessary.

(2013 Code, § 19-8) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019)

§ 93.40 APPEALS.

Any person aggrieved by a decision made under this subchapter by the Town Manager or his or her designee may file, within five days after the date of such decision, a petition to have such decision reviewed and acted upon by the Board of Adjustment. The decision of the Board of Adjustment shall be subject to review by the Board of Commissioners.

(2013 Code, § 19-9) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019)

§ 93.41 BOND.

At the option of the town, a bond or other type of guarantee can be required of the property owner when initiating new construction, to ensure that all permits and agreements are met, to the satisfaction of the town.

(2013 Code, § 19-11) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

§ 93.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) (1) Upon determining a violation of §§ 93.30 through 93.41 has occurred, the Town Manager shall record the nature of the violation and send a notice of violation to the responsible person or entity by regular and certified mail or by hand delivery. The responsible person or entity shall have 30 days from the date of the letter to correct the violation. If the violation is not corrected within 30 days, the Town Manager may proceed with criminal charges pursuant to G.S. 14-4, or may take such other enforcement action as may be necessary to carry out the purpose of §§ 93.30 through 93.41.

(2) A violation of §§ 93.30 through 93.41 is a Class 3 misdemeanor under North Carolina law. The penalty for violating §§ 93.30 through 93.41 shall be \$250 per day. Each day of continued violation shall be a separate offense. The town shall also have the right to pursue civil remedies for a violation of §§ 93.30 through 93.41 including injunctive relief, and a civil penalty of \$250 for each day's violation of the subchapter pursuant to G.S. 160A-175.

(2013 Code, § 19-10) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

BOARD OF ADJUSTMENT STAFF MEMORANDUM

June 21, 2021



Case 3 – 3 Deerfield Road Special Use Permit Request for Rear Yard Fence Installation

Special Use Permit Request for Rear Yard Fence Installation

The applicant requests a special use permit for the installation of a fence located within the rear yard. The fence is proposed to be 45 inches tall and 26 feet in length. The applicants do not intend to install the fence permanently, but are using this as a means to discourage animals from eating vegetables from their garden. The proposed fence will be constructed of metal and be colored black.

Section 153.049 of the Town's Zoning Ordinance specifies the following requirements for new fence installation.

§ 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.

The applicants note the proposed fence will not be located within the rear or side yard setbacks and will be entirely within the rear yard. The proposed fence type is included within this application.

Zoning Compliance Application

Town of Biltmore Forest

Name

Gordon Taylor

Property Address

3 Deerfield Road

Phone

(802) 356-4954

Email

ghtvt@aol.com

Parcel ID/PIN Number

964698164000000

ZONING INFORMATION

Current Zoning

R-1

Lot Size

1.04 Acres

Maximum Roof Coverage

5,060 square feet (Up to 1.2 acres)

Proposed Roof Coverage Total

No change

Maximum Impervious Surface Coverage

1-3 acres (25 percent of lot area)

Proposed Impervious Surface Coverage

No change

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

No change

Description of the Proposed Project

Installation of approximately 26 linear feet of fencing (including a gate) representing two sides of a proposed vegetable garden to be located at the rear of our house. The house itself will be the remaining two sides of the garden. The purpose of the fence is to discourage animals from eating the vegetables to be grown in the garden. The fence will be approximately 45 inches (3.75 feet) tall and will be made of metal and black in color. The fencing to be used will be purchased from Lowe's, is modular, and will not be permanently installed (although we may keep it up over the winter for convenience). No portion of the fence will be located in either the side or rear setbacks. The fence will not be visible - or only partially visible - from our neighbors' yards due to the dense vegetation (trees and shrubs) that separate our lots from each other.

Estimated Start Date

5/26/2021

Estimated Completion Date

5/31/2021

Estimated Cost of Project

\$325.00

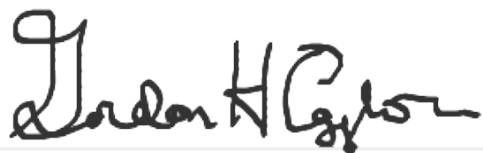
Supporting Documentation (Site Plan, Drawings, Other Information)

YARDLINK Grand Empire XL 3.8-ft H x 4.7-ft W Black Steel Pressed Point Decorative Fence Panel in the.pdf

Applicant Signature

Date

5/19/2021



Special Use Permit Application

Town of Biltmore Forest

Name

Gordon Taylor

Address

3 Deerfield Road

Phone

(802) 356-4954

Email

ghtvt@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:

Installation of approximately 26 linear feet of fencing (including a gate) representing two sides of a proposed vegetable garden to be located at the rear of our house. The house itself will be the remaining two sides of the garden. The purpose of the fence is to discourage animals from eating the vegetables to be grown in the garden. The fence will be approximately 45 inches (3.75 feet) tall and will be made of metal and black in color. The fencing to be used will be purchased from Lowe's, is modular, and will not be permanently installed (although we may keep it up over the winter for convenience). No portion of the fence will be located in either the side or rear setbacks. The fence will not be visible - or only partially visible - from our neighbors' yards due to the dense vegetation (trees and shrubs) that separate our lots from each other.

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

The fence will be enclosing two sides of a 13' by 13' (169 square foot) vegetable garden to be located at the rear of our house and not visible - or only partially visible - from our neighbors' yards due to the dense vegetation that separates our lots from each other. The fencing will not be permanent (although we may elect to keep it up during the winter) and will be in full compliance as to material and color with the requirements for such fencing in Section 153.049 (D)

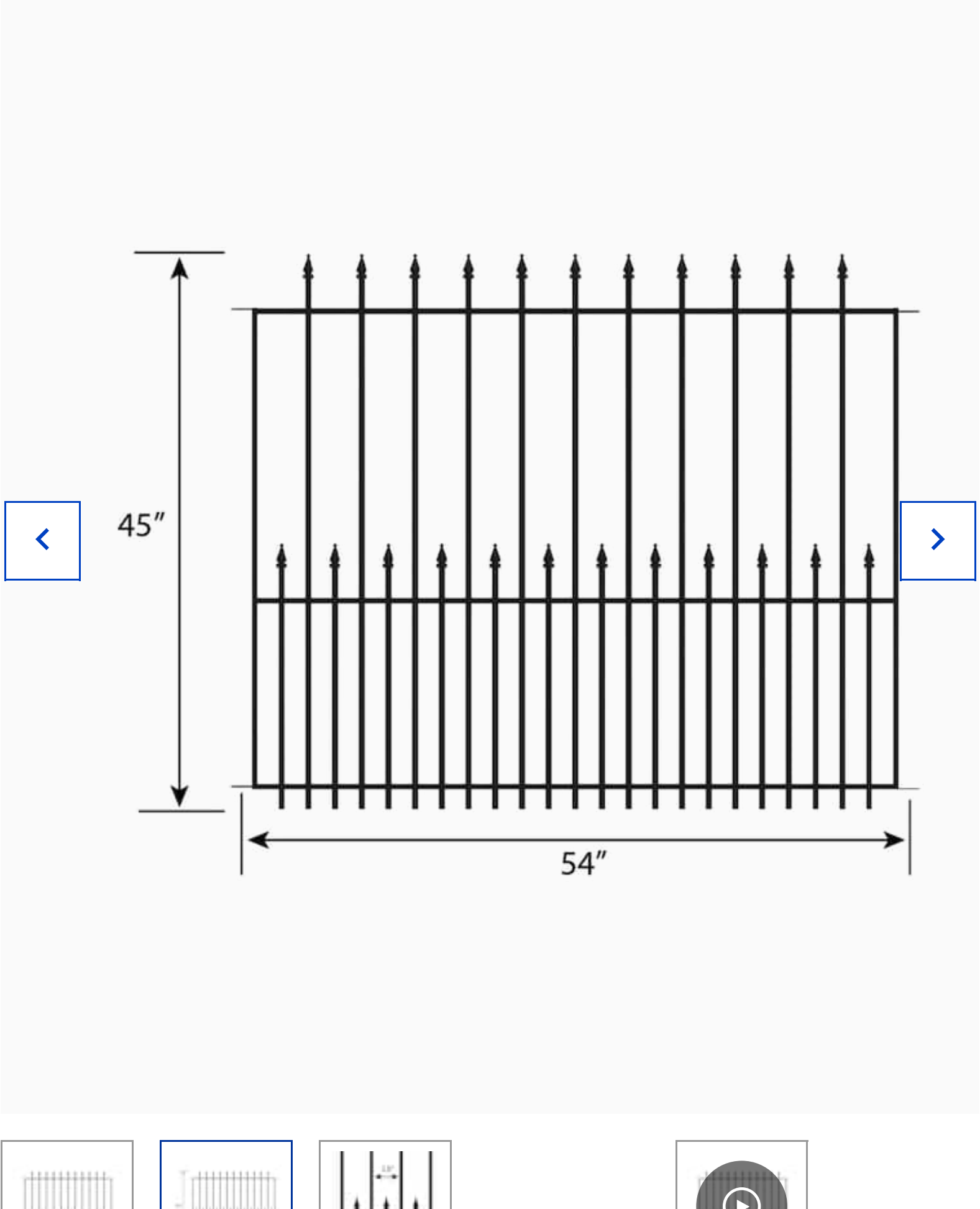
I hereby certify that all of the information set forth above is true and accurate to the best of my knowledge.

Signature

Date

5/19/2021





\$47.28

★★★★☆ 79

View Q&A

\$44.92

Save 5% on eligible purchases made with your Lowe's Advantage Card.

Learn how

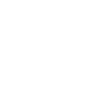
YARDLINK Grand Empire XL 3.8-ft H x 4.7-ft W Black Steel Pressed Point Decorative Fence Panel

Item #758830 Model #504094

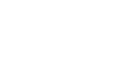
- Durable powder-coated finish helps prevent rusting and stands the test of time and weather
- Quick and easy to install- no digging or concrete required for installation
- Quick connecting, innovative panel design; no screws required - panel and gate connect togethe...

1 City

Add to Cart



Free Store Pickup
6 Available at
E. Asheville Lowe's >

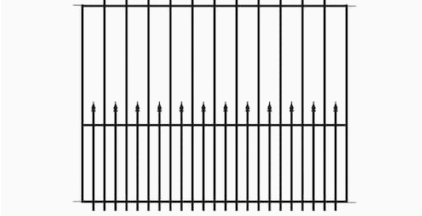


Delivery
Available

In-use/lifestyle images - accessories not included

BETTER TOGETHER

THIS ITEM



\$47.28

★★★★☆ 79

YARDLINK Grand Empire XL 3.8-ft H x 4.7-ft W Black Steel Pressed Point Decorative Fence Panel

Selected

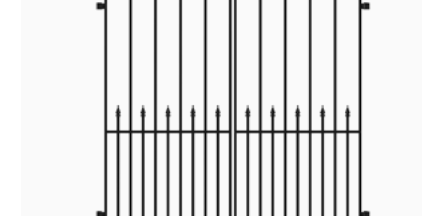


\$10.98

★★★★☆ 67

YARDLINK Grand Empire XL 4-in x 4-in W x 5-ft H Black Galvanized Steel Post

Selected



\$49.48

★★★★☆ 2

No Dig Grand Empire XL 3.94-ft H x 3.96-ft W Powder-Coated Steel Gate

Selected



\$6.48

★★★★☆ 1

4-1/2-in Galvanized Gate Hinge

Selected

Subtotal \$114.22

Add 4 Items to Cart

OVERVIEW

The Grand Empire XL fence is a versatile fencing solution that will add style and elegance to your garden or walkway. The panel features a powder-coating for added durability and to help prevent corrosion so your fence will last for years to come. The fencing system is quick, easy, and painless to install. No digging or concrete is required for installation, simply drive stake post unit into ground using a hammer or mallet and join panels together by passing the posts through the eyelets. Each panel is sold separately. Please refer to the Grand Empire XL fence line for matching posts, gates, and required accessories for installation.

- Durable powder-coated finish helps prevent rusting and stands the test of time and weather
- Quick and easy to install- no digging or concrete required for installation
- Quick connecting, innovative panel design; no screws required - panel and gate connect together using post
- Install panels by driving the post spike into the ground, pass post through eyelets on panel, and attach the post to spike
- Grand Empire XL fence is ideal for fencing gardens and walkways, light duty pet containment, and other fencing projects
- 5 ft Grand Empire XL fence post (item# 758833) is needed for installation (sold separately)
- Refer to Grand Empire XL fence line for matching posts, gates, and required accessories for installation
- 5-Year limited warranty

CA Prop 65

PDF

CA Residents: Warning(s)

SPECIFICATIONS

+ Show All

REVIEWS

+ Show More

COMMUNITY Q & A

+ Show More

COMPARE

+ Show All

CUSTOMERS ALSO VIEWED

\$40.68

★★★★☆ 247

No Dig Grand Empire 3.37-ft H x 4.12-ft W Black Steel Pressed Point Decorative Fence Panel

Add to Cart

\$59.98

★★★★☆ 19

Freedom Pre-Assembled New Haven 4.5-ft H x 6-ft W Black Aluminum Standard Fence Panel

Add to Cart

\$25.28

★★★★☆ 213

No Dig Empire Empire 2.42-ft H x 3.15-ft W Black Steel Pressed Point Decorative Fence Panel

Add to Cart

\$30.78

★★★★☆ 363

No Dig 3.7-ft H x 3-ft W Black Steel Decorative Fence Panel

Add to Cart

\$21.98

☆☆☆☆ 0

No Dig Grand Empire 3-ft H x 4-ft W Black Steel Pressed Point Decorative Fence Panel

Add to Cart

\$20.33

★★★★☆ 5

No Dig Grand Empire 3-ft H x 2.23-ft W Black Steel Pressed Point Decorative Fence Panel

Add to Cart

RELATED ITEMS

\$10.98

★★★★☆ 67

YARDLINK Grand Empire XL 4-in x 4-in W x 5-ft H Black Galvanized Steel Post

Add to Cart

\$49.48

★★★★☆ 2

No Dig Grand Empire XL 3.94-ft H x 3.96-ft W Powder-Coated Steel Gate

Add to Cart

\$9.88

★★★★☆ 128

No Dig Grand Empire 4-in x 4-in W x 4-1/2-ft H Black Steel Post

Add to Cart

\$7.98

★★★★☆ 62

YARDLINK Yardlink Black Steel Multi-Style Fence Post and Stake

Add to Cart

\$38.48

★★★★☆ 126

No Dig Grand Empire 3-ft H x 4-ft W Powder-Coated Steel Gate

Add to Cart

\$3.84

☆☆☆☆ 0

No Dig 1-1/2-in x 1-1/2-in W x 4-3/4-ft H Black Steel Universally Compatible Post

Add to Cart

PREVIOUSLY VIEWED

\$47.28

★★★★☆ 79

YARDLINK Grand Empire XL 3.8-ft H x 4.7-ft W Black Steel Pressed Point Decorative Fence Panel

Add to Cart

\$49.48

★★★★☆ 2

No Dig Grand Empire XL 3.94-ft H x 3.96-ft W Powder-Coated Steel Gate

Add to Cart

\$10.98

★★★★☆ 67

YARDLINK Grand Empire XL 4-in x 4-in W x 5-ft H Black Galvanized Steel Post

Add to Cart

\$59.98

★★★★☆ 19

Freedom Pre-Assembled New Haven 4.5-ft H x 6-ft W Black Aluminum Standard Fence Panel

Add to Cart

\$360.75

★★★★☆ 1

Freedom New Haven Standard 4.5-ft H x 6-ft W Black Aluminum Standard Fence Panel

Add to Cart

5% Off*

Exclusions apply.

or

6 Months

Special Financing**

Minimum purchase required.

Get Details

* **Offers subject to credit approval and cannot be combined with other credit offers.

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Assembled Metal Fence Panels

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BOARD OF ADJUSTMENT STAFF MEMORANDUM

June 21, 2021



Case 4 – 314 Vanderbilt Road Special Use Permit Request for Rear Yard Fence Installation

Special Use Permit Request for Rear Yard Fence Installation

The applicant requests approval for a special use permit to install a fence in the rear yard. The proposed fence is black aluminum and will be 3 ½ feet high. The proposed fence complies with all setbacks for the rear and side yard. The applicant notes the purpose for this fence is to keep pets and children safe with the proximity to Hendersonville Road.

Section 153.049 of the Town's Zoning Ordinance specifies the following requirements for new fence installation.

§ 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.

The applicant included several site descriptions showing the fence location, and additionally, has provided two example photographs for the proposed fence type.

Zoning Compliance Application

Town of Biltmore Forest

Name

Lori Lassiter

Property Address

314 Vanderbilt Rd

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

N/A (house: roof coverage 3300)

Maximum Impervious Surface Coverage

1-3 acres (25 percent of lot area)

Proposed Impervious Surface Coverage

N/A (5000 sq ft)

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 (house: 27'max, 18'min)

Description of the Proposed Project

Fence behind house.

*Minimal height: 3.5 feet, meets set back requirements. The fence will be 125 ft from center of Cedarcliff road and 25 feet from rear property line (will not abut chain link fence at neighboring property on property line). The fence will only be in the rear of the residence, black in color, less visible from the road, shrubbery and landscaping to mask side yard. Purpose of fence to keep pets and children safe given the proximity to Hendersonville road. Please see attached drawings.

Estimated Start Date

7/9/2021

Estimated Completion Date

7/23/2021

Estimated Cost of Project

\$6,500.00

Supporting Documentation (Site Plan, Drawings, Other Information)

Lassiter fence.jpg

Lassiter Fence - Distance from Cedarcliff and Rear Property Line.pdf

IMG 2 Fence.pdf

Ring Style-2nd choice.jpg

Applicant Signature

Date

5/21/2021

A handwritten signature in black ink, consisting of a stylized, cursive letter 'Z' or 'S' shape, positioned above a horizontal line.

Special Use Permit Application

Town of Biltmore Forest

Name

Lori Ann Lassiter

Address

314 Vanderbilt Rd

Phone

(828) 273-2081

Email

lorilassiter@gmail.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:

3.5 ft black aluminum fence back of house.

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

Minimal height: 3.5 feet, meets set back requirements. The fence will be 125 ft from center of Cedarcliff road and 25 feet from rear property line (will not abut chain link fence at neighboring property on property line). The fence will only be in the rear of the residence, black in color, less visible from the road, shrubbery and landscaping to mask side yard. Purpose of fence to keep pets and children safe given the proximity to Hendersonville road.

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

Signature

A handwritten signature in black ink, appearing to read 'Lori Ann Lassiter', written over a horizontal line.

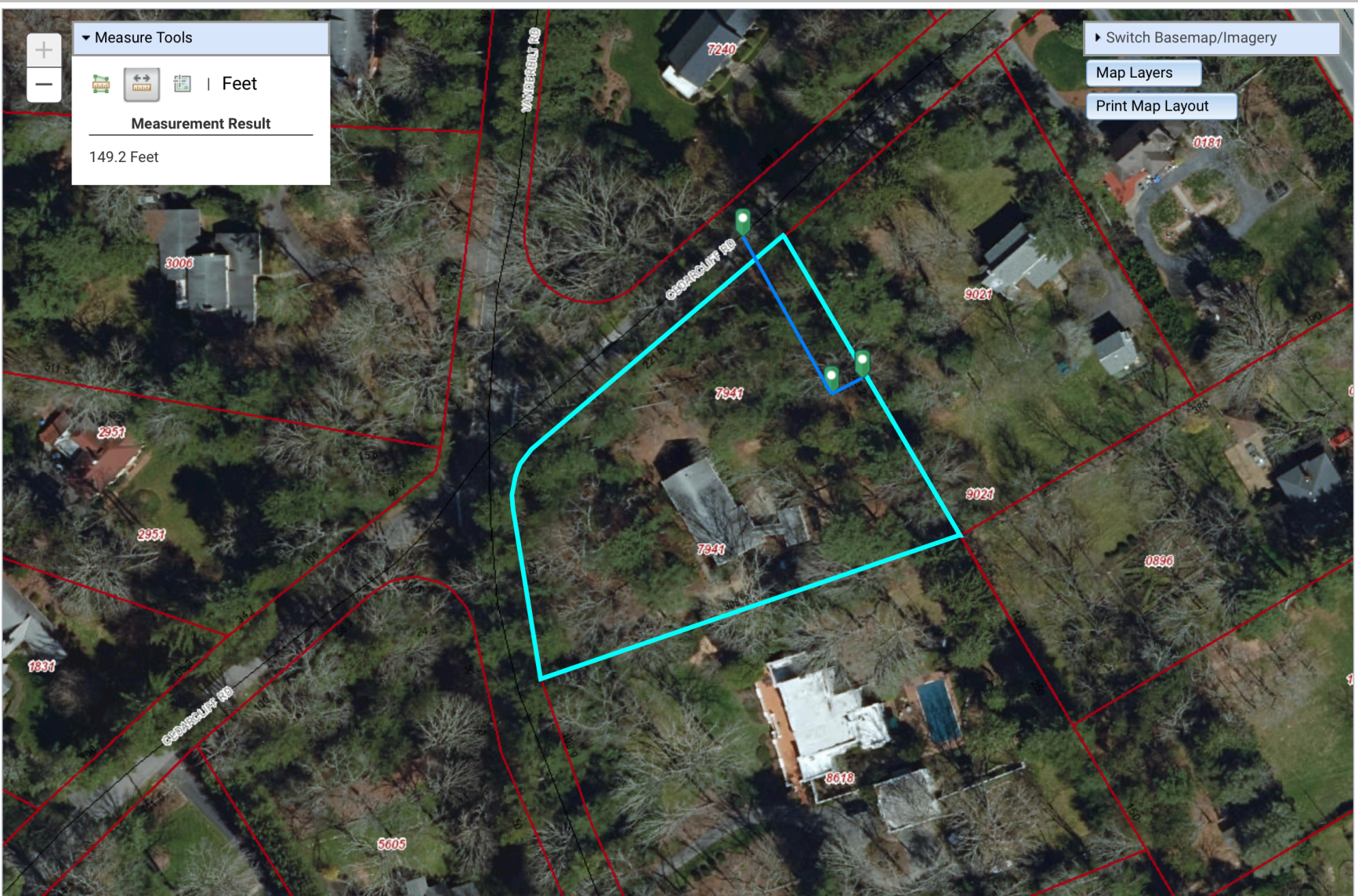
Date

5/21/2021

Search Results

Export to Excel Print Results

PropCard [PROPERTY CARD](#)
DEEDBOOK/DEEDPAGE: [5986/0946](#)
PLATBOOK/PLATPAGE: [0212/0104](#)
Sales Report: [Sales Report](#)
PINNUM: 964773794100000
OWNER: LASSITER LORI
CONDOUNIT:
CONDOBUILDING:
SUBNAME:
SUBLOT: 42
SUBBLOCK:
SUBJECT:
HOUSENUMBER: 314
NUMBERSUFFIX:
DIRECTION:
STREETNAME: VANDERBILT
STREETTYPE: RD
TOWNSHIP: 13
ACREAGE: 1.19000006
DEEDDATE: 20201201
COUNTY: BUN
CITY: CBF
FIREDISTRICT:
SCHOOLDISTRICT:
CAREOF:
ADDRESS: 314 VANDERBILT RD
CITYNAME: ASHEVILLE
STATE: NC
ZIPCODE: 28803
CLASS: 100
TOTALMARKETVALUE: 769600
APPRAISEDVALUE: 769600
TAXVALUE: 769600
LANDUSE:
NEIGHBORHOODCODE: BMFG
LANDVALUE: 586100
BUILDINGVALUE: 179700





Next >

Owner
LASSITER LORI

Address
314 VANDERBILT

Parcel ID
964773794100000

County
Buncombe, NC







**BOARD OF ADJUSTMENT
STAFF MEMORANDUM**

June 21, 2021



**Case 5 – 14 Cedarcliff Road
Special Use Permit Request for Roof-Mounted Solar Panel
Installation on Existing Home and Existing Accessory
Building**

Special Use Permit Request for Roof Mounted Solar Panel Installation on Existing Home and Existing Accessory Building

The applicant requests approval for a special use permit to install roof-mounted solar panels on the existing home and existing accessory building. The applicant has included the proposed location of the solar installation. The solar panel installations are located on the south facing slopes not facing Cedarcliff Road. The applicant notes this application and proposed installation is part of the Solarize Asheville-Buncombe program, which seeks to increase the usage of solar energy throughout Buncombe County.

The Town's Zoning Ordinance regulates roof-mounted solar panels as accessory structures and states they "shall be regulated in accordance with NCGS 160D-914". A copy of NCGS 160D-914 is attached to this memorandum.

Zoning Compliance Application

Town of Biltmore Forest

Name

Richard Pigossi

Property Address

14 Cedarcliff Road

Phone

(828) 274-3124

Email

rpigossi@mac.com

Parcel ID/PIN Number

964773124900000

ZONING INFORMATION

Current Zoning

R-1

Lot Size

1.98 acres

Maximum Roof Coverage

6,100 square feet (Up to 2 acres)

Proposed Roof Coverage Total

No change

Maximum Impervious Surface Coverage

1-3 acres (25 percent of lot area)

Proposed Impervious Surface Coverage

No change

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

House 7-18 feet (slope), Annex ~15 feet to peak

Description of the Proposed Project

Installation of solar panels on main house and annex (studio) under the Solarize Asheville-Buncombe program. Attached are the preliminary panel layouts, not expected to change significantly in the final contract.

Estimated Start Date

7/1/2021

Estimated Completion Date

7/15/2021

Estimated Cost of Project

\$32,200.00

Supporting Documentation (Site Plan, Drawings, Other Information)

Summit House Proposal Design.pdf

Summit Annex Proposal Design.pdf

Applicant Signature

A handwritten signature in black ink, consisting of a large, stylized 'R' followed by a short horizontal stroke.

Date
5/20/2021

Special Use Permit Application

Town of Biltmore Forest

Name

Richard Pigossi

Address

14 Cedarcliff Road

Phone

(828) 274-3124

Email

rpigossi@mac.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 solar panels on main house and annex (studio) rooftops under the Solarize Asheville-Buncombe program.

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

No physical changes to the property are involved other than the roof-top solar panels. The impact will simply be visual and unobtrusive.

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

Signature

Date

5/20/2021



§ 160D-914. Solar collectors.

(a) Except as provided in subsection (c) of this section, no local government development regulation shall prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a residential property, and no person shall be denied permission by a local government to install a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a residential property. As used in this section, the term "residential property" means property where the predominant use is for residential purposes.

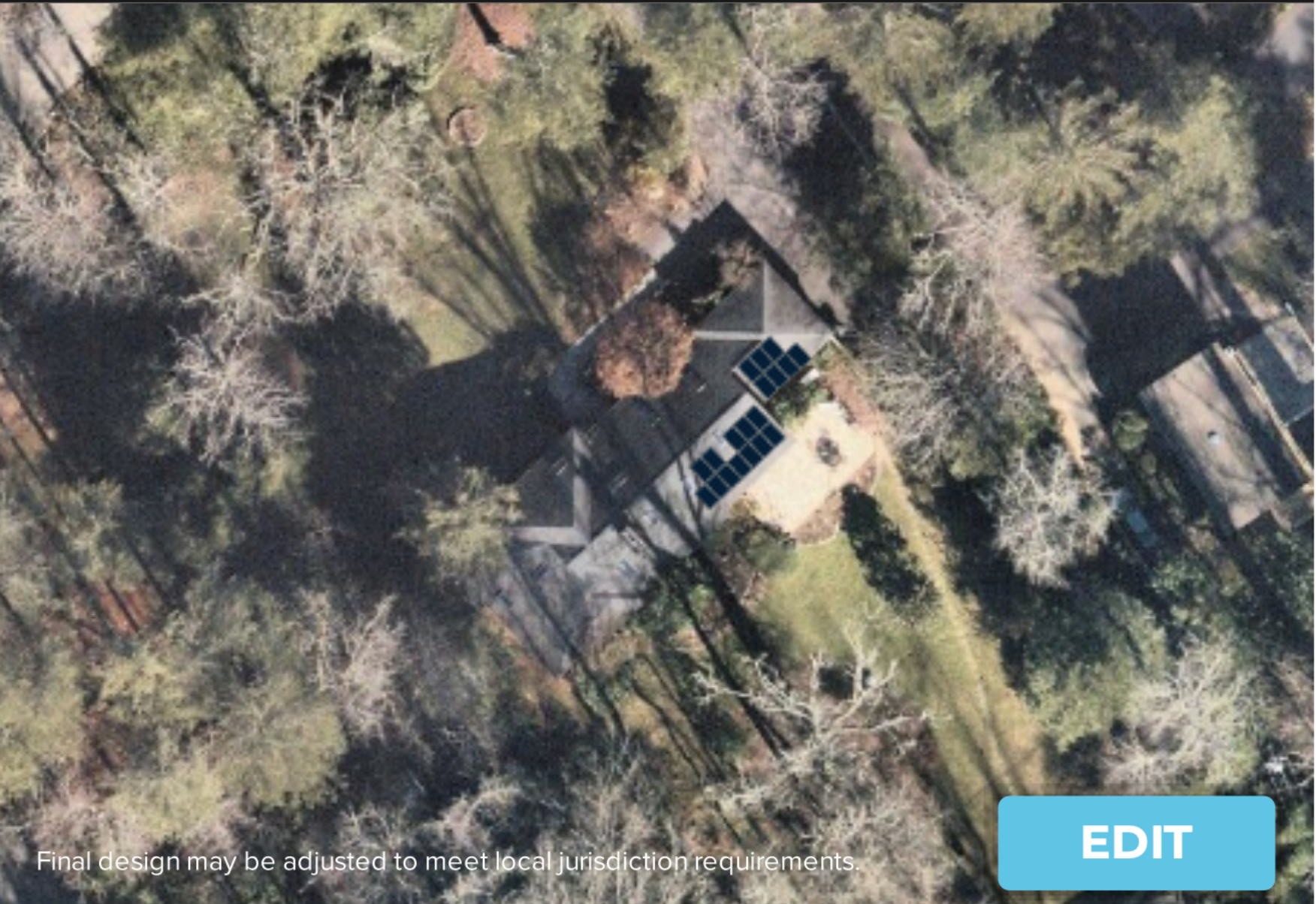
(b) This section does not prohibit a development regulation regulating the location or screening of solar collectors as described in subsection (a) of this section, provided the regulation does not have the effect of preventing the reasonable use of a solar collector for a residential property.

(c) This section does not prohibit a development regulation that would prohibit the location of solar collectors as described in subsection (a) of this section that are visible by a person on the ground and that are any of the following:

- (1) On the facade of a structure that faces areas open to common or public access.
- (2) On a roof surface that slopes downward toward the same areas open to common or public access that the facade of the structure faces.
- (3) Within the area set off by a line running across the facade of the structure extending to the property boundaries on either side of the facade, and those areas of common or public access faced by the structure.

(d) In any civil action arising under this section, the court may award costs and reasonable attorneys' fees to the prevailing party. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

YOUR SOLAR DESIGN



Final design may be adjusted to meet local jurisdiction requirements.

EDIT

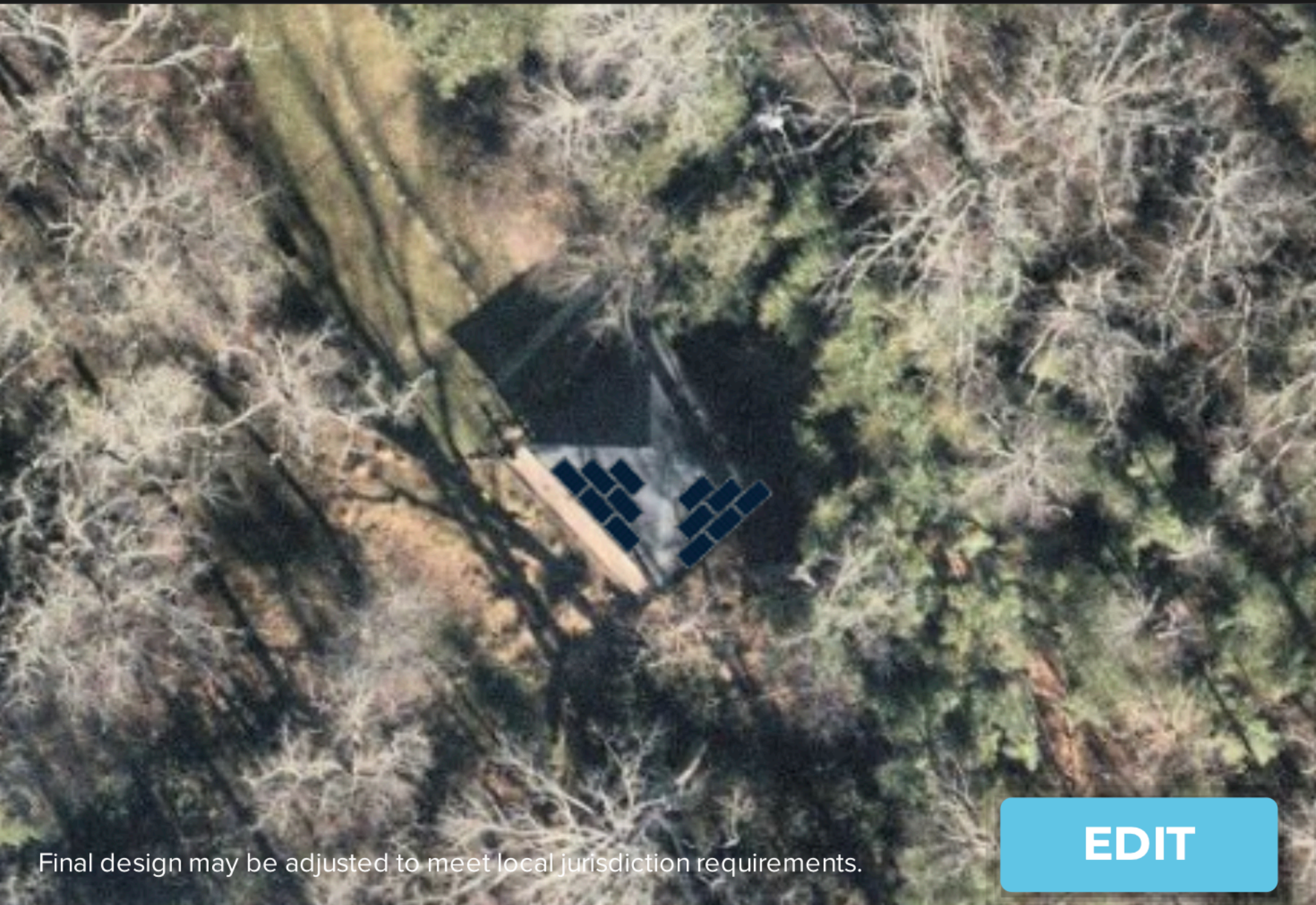
SYSTEM SIZE
6.745 kW

ESTIMATED YEARLY
PRODUCTION
8,892 kWh
[Show Details](#)

MODULES
19 LG 355N1K-A6

INVERTER
SolarEdge SE6000H-USRGM

YOUR SOLAR DESIGN



Final design may be adjusted to meet local jurisdiction requirements.

EDIT

SYSTEM SIZE
4.26 kW

ESTIMATED YEARLY
PRODUCTION
4,761 kWh
[Show Details](#)

MODULES
12 LG 355N1K-A6

INVERTER
SolarEdge SE3800H-USRGM

BOARD OF ADJUSTMENT STAFF MEMORANDUM

June 21, 2021



Case 6 – 4 Hilltop Road Special Use Permit Request for Ground Mounted Solar Array Installation

Special Use Permit Request for Ground Mounted Solar Array Installation

The applicant requests approval for a special use permit to install a ground mounted solar array. The applicant has included the proposed location of the solar installation, as well as a site plan showing the location of the ground mounted panels relative to the residence, Hilltop Road, and Ridgefield Place. The proposed solar panel installation is ground-mounted due to existing trees preventing installation on the south-facing slopes. The applicant notes this application and proposed installation is part of the Solarize Asheville-Buncombe program, which seeks to increase the usage of solar energy throughout Buncombe County.

The application notes the panels will be hidden by trees on the north and west sides and an existing wall on the east side. The applicant has contacted neighbors regarding the proposal and plans for additional screening to cover posts that may be visible. The proposed site for the solar array complies with the Town's setback requirements.

The Town's Zoning Ordinance regulates solar panels as accessory structures and states they "shall be regulated in accordance with NCGS 160D-914". A copy of NCGS 160D-914 is attached to this memorandum.

Zoning Compliance Application

Town of Biltmore Forest

Name

Andrew Stephens

Property Address

4 Hilltop Rd

Phone

(303) 881-1595

Email

drew@thegisinstitute.org

Parcel ID/PIN Number

ZONING INFORMATION

Current Zoning

R-2

Lot Size

1.96

Maximum Roof Coverage

6,100 square feet (Up to 2 acres)

Proposed Roof Coverage Total

na

Maximum Impervious Surface Coverage

1-3 acres (25 percent of lot area)

Proposed Impervious Surface Coverage

na

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

Description of the Proposed Project

Two, 12-panel ground-mounted solar arrays, placed completely out of view from any home or street. Site is surrounded by vegetation and a wall on all sides. 1"1/4 underground conduit installed from site to basement in 2018 while geothermal infrastructure was installed/ inspected. Only minor digging required at install site.

Estimated Start Date

8/2/2021

Estimated Completion Date

8/6/2021

Estimated Cost of Project

\$28,926.00

Supporting Documentation (Site Plan, Drawings, Other Information)

Drew Stephens Solar Proposal.pdf

Inverter Specification.pdf

LG Neon 2 (355W).pdf

Battery Specifications.pdf

solarsite.pdf

SunModoGroundMount.pdf

Applicant Signature

Date

6/1/2021

A handwritten signature in black ink, appearing to read "Drew Stephens", is written over a horizontal line.

Special Use Permit Application

Town of Biltmore Forest

Name

Andrew Stephens

Address

4 Hilltop Rd

Phone

(303) 881-1595

Email

drew@thegisinstitute.org

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 proposed project is the installation of 24 ground mounted solar panels, in two mounts, 2X6 panels each. Roof mounted panels are not possible, as house is surrounded by trees on the south side. The panels will be hidden by trees on the north and west sides, and an existing wall on the east side. Panels cannot be seen from roads or neighboring houses. Evergreen viburnum bushes will be planted in any exposed gap post installation. All neighbors have been contacted, and are excited for this green project! I expect written support from each adjacent neighbor.

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

After installation, the solar panels will be hidden from view, and will not produce any noise or other distractions. My neighbors are excited to see this move to reduce my carbon footprint.

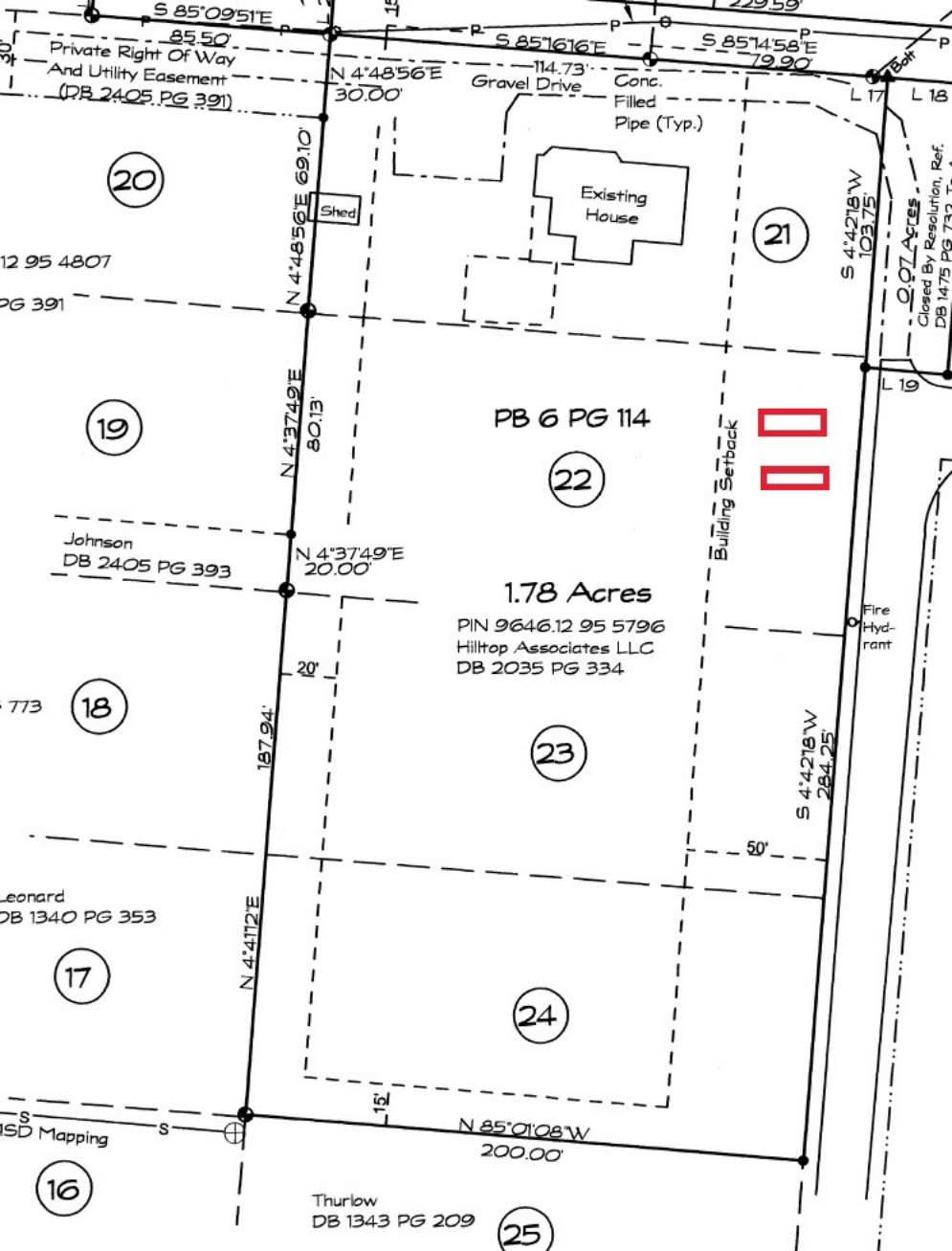
I hereby certify that all of the information set forth above is true and accurate to the best of my knowledge.

Signature

A handwritten signature in dark ink, appearing to read 'Andrew Stephens', written over a horizontal line.

Date

6/1/2021



UTILITY PRICES
HAVE STEADILY
INCREASED.

SINCE 2003
NATIONAL AVERAGE
UTILITY PRICES
HAVE NEARLY
DOUBLED.

Pre-design and Solar System Production
Estimate Acknowledgment

System design is subject to change based on jurisdictional and/or engineering requirements.

RELOAD CLEAR SAVE

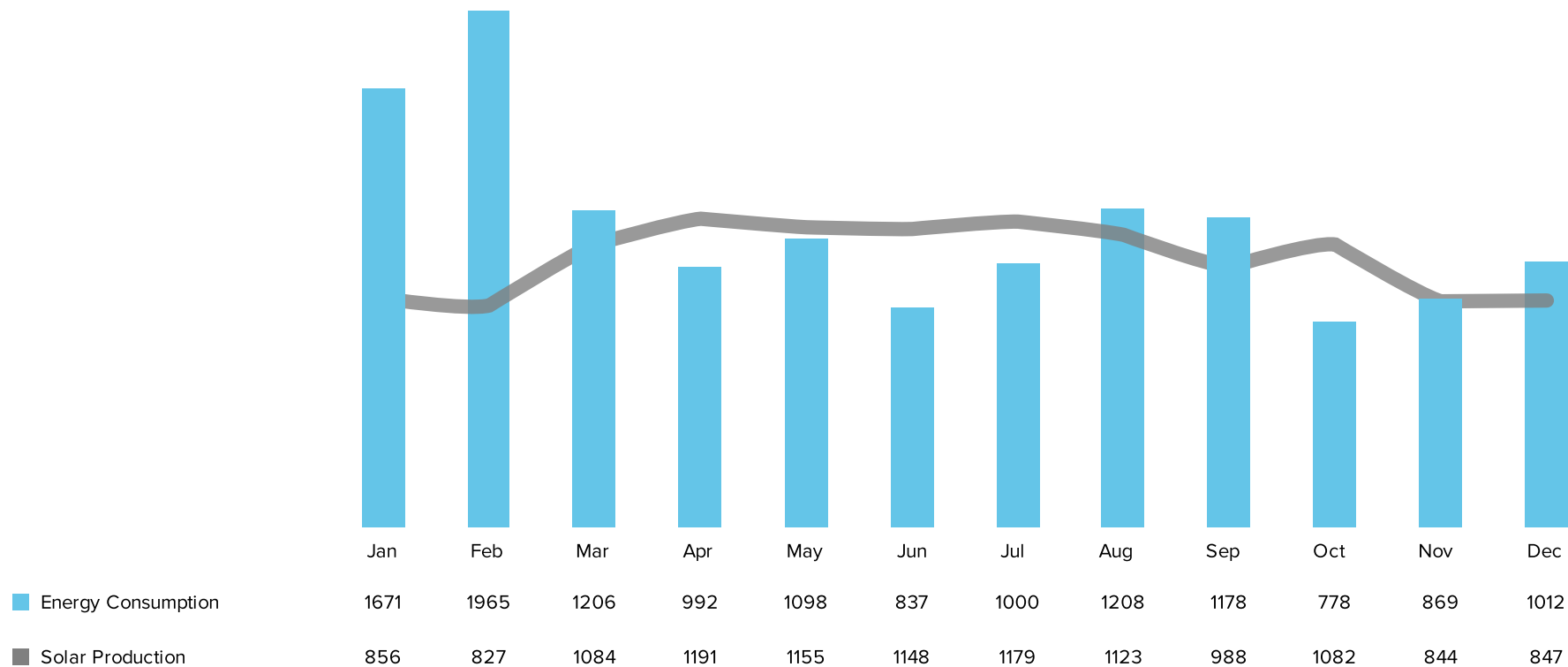
YOUR SOLAR DESIGN



Final design may be adjusted to meet local jurisdiction requirements.

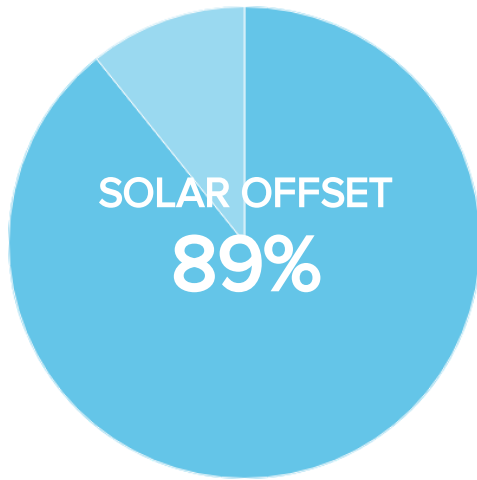
EDIT

<div>SYSTEM SIZE</div> <div>8.52 kW</div>	<div>ESTIMATED YEARLY PRODUCTION</div> <div>12,323 kWh</div> <div>Show Details</div>
<div>MODULES</div> <div>24 LG 355N1K-A6</div>	<div>INVERTER</div> <div>SolarEdge SE7600H-USRGM</div>



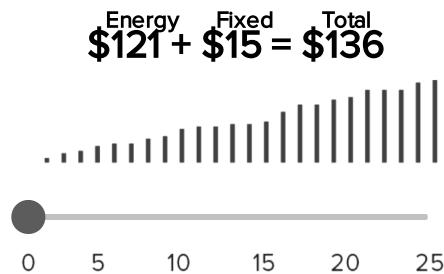
Your solar system production is built and designed based on your Prior 12 months consumption. If customer consumption changes the energy offset is subject to change. Production can also vary based on seasons, and 12-month production is based on all months combined. Each month can vary in production and Summit Solar needs a full 12 months of usage to determine accurate performance. Summit Solar allows a 10% Variance in production on Proposal year 1. Weather varies by year and can affect your Solar Energy production.

[Sign Acknowledgment Here](#)



- ☐ LED Bulbs
- ☐ T-Stat (\$300 Home Depot / Lowes Gift Card)

YOUR CURRENT UTILITY BILL



Current Cost per kWh **\$0.118/kWh**

YOUR SOLAR PAYMENT

\$0

Energy Fixed Total
New Utility Bill: \$15 + \$15 = \$30

Avg. 25-yr Cost per Solar kWh **\$0.10/kWh**



Cash

Select Finance Option

HOW WILL YOU USE YOUR INCENTIVE?



Fed. Tax Credit

\$10,163.14

Cash Price

\$39,089.00

Fed. Tax Credit

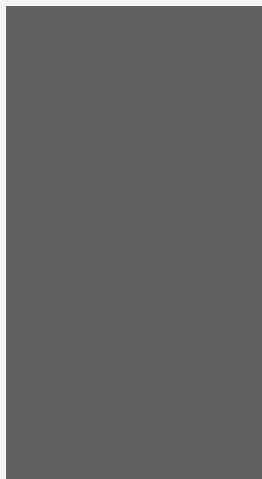
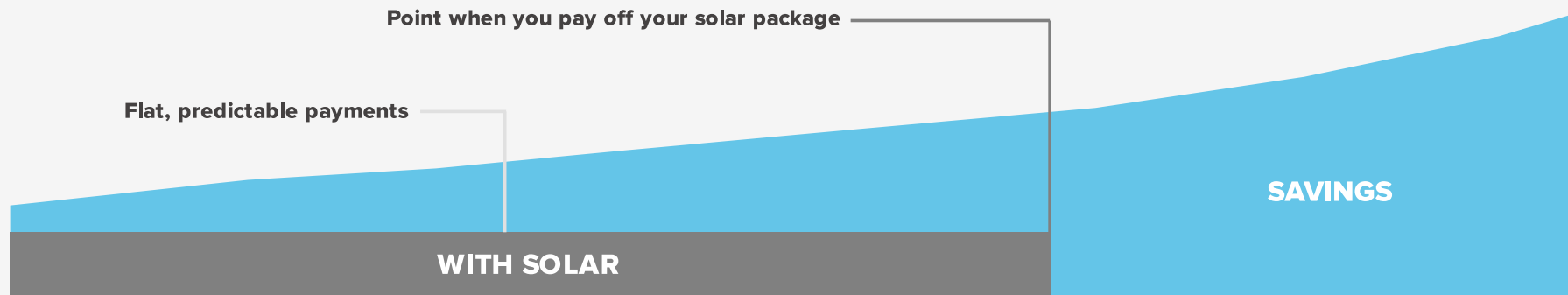
(\$10,163.14)

Net System Cost

\$28,926

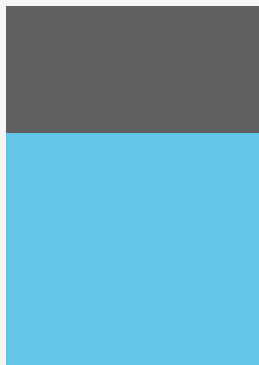


THE SAVINGS



\$58,467

STAY WITH ELECTRIC



\$44,375

SWITCH TO SOLAR

\$136
Current Average
Bill



\$276
Average Bill in
25 years

\$1,627
Current Annual
Utility Bill



\$3,316
Annual Utility Bill in
25 years

\$58,467

25 year cost of doing nothing

THE FACTS

More solar will be installed in the United States in the **next two years** than the **last 40+ years combined**



6

Tons of
Co2 Offset*

([source](#)).



205

Trees Planted
Offsetting Co2*

([source](#)).



25,986

Estimated Value
Added to Your Home*

([source](#)).

*These estimates are based on national studies but are not guaranteed. Click the above links for more information.

PROPOSAL DETAILS

Utility

Annual Utility Bill	\$1,627
Current Consumption	13,814 kWh
Estimated Cost Per KWh	\$0.118/kWh
Annual Utility Price Escalator	2.89%
Current Rate Plan	Schedule RES-65
Post Solar Rate Plan	Schedule RES-65
Utility Company	Duke Energy Progress

System

System Size	8.52 kW
Year 1 Solar Production	12,323 kWh
Annual Degradation	0.5%
25 Year System Production	289,600 kWh
Estimated Cost Per KWh	\$0.10/kWh
Estimated 25 Year Savings	\$14,092

Cost

Total Cost	\$39,089.00
Post Solar Annual Utility Bill	\$360

Summit Solar does not provide tax or legal advice. You should consult your tax advisor for more information. The interest rate provided in this proposal is subject to credit approval by the financing provider for your loan. The data provided in this proposal is a preliminary estimate and does not represent a binding agreement or obligation. No party provides and guarantees, warranties, or representations regarding the production, utility rate increases, or any other data in this sales proposal. This proposal is a preliminary estimate and not an approval for financing.

§ 160D-914. Solar collectors.

(a) Except as provided in subsection (c) of this section, no local government development regulation shall prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a residential property, and no person shall be denied permission by a local government to install a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a residential property. As used in this section, the term "residential property" means property where the predominant use is for residential purposes.

(b) This section does not prohibit a development regulation regulating the location or screening of solar collectors as described in subsection (a) of this section, provided the regulation does not have the effect of preventing the reasonable use of a solar collector for a residential property.

(c) This section does not prohibit a development regulation that would prohibit the location of solar collectors as described in subsection (a) of this section that are visible by a person on the ground and that are any of the following:

- (1) On the facade of a structure that faces areas open to common or public access.
- (2) On a roof surface that slopes downward toward the same areas open to common or public access that the facade of the structure faces.
- (3) Within the area set off by a line running across the facade of the structure extending to the property boundaries on either side of the facade, and those areas of common or public access faced by the structure.

(d) In any civil action arising under this section, the court may award costs and reasonable attorneys' fees to the prevailing party. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

BOARD OF ADJUSTMENT STAFF MEMORANDUM

June 21, 2021



Case 7 – 32 Buena Vista Road

Variance Request for Driveway Installation within Side Yard Setback

Variance Request for Driveway Installation within Side Yard Setback

The applicant requests approval to expand their existing driveway by constructing a new portion on the southern side of the property. The proposed new portion will create a circular driveway but encroaches within the side yard setback.

Within the definition section of the Town's Zoning Ordinance, reference is made to driveways entering through the side yard as follows.

YARD, SIDE. An open, unoccupied space on the same lot with a principal building extending the full width of the lot and being situated between the building and the side lot line and extending from the rear line of the front yard to the front line of the rear yard. Notwithstanding the above definition, for the purposes of determining compliance with minimum yard setback of § 153.007, the SIDE YARD shall be the entire length of each side lot line extending from the front lot line to the rear lot line and shall equally apply to lots with a principal building, lots without a principal building and vacant lots. Driveways shall not be located in the side yard setback.

The applicant's variance request notes a three (3) foot intrusion into the side yard setback for the circular driveway results from the location of a water meter that cannot be relocated and cannot be constructed over. The applicant has included a schematic showing landscaped areas and the location of the proposed driveway.

Zoning Compliance Application

Town of Biltmore Forest

Name

Josh Hubbard

Property Address

32 Buena Vista Rd

Phone

(828) 243-9098

Email

Joshmhubbard@gmail.com

Parcel ID/PIN Number

ZONING INFORMATION

Current Zoning

R-2

Lot Size

0.44

Maximum Roof Coverage

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

Proposed Roof Coverage Total

0

Maximum Impervious Surface Coverage

Up to 1 acre (27.5 percent of lot area)

Proposed Impervious Surface Coverage

0

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

0

Description of the Proposed Project

Installation of circular driveway in the front yard. Will include a natural stone 4 foot apron adjacent to the road and white gravel surface material for the drive.

Estimated Start Date

7/14/2021

Estimated Completion Date

7/31/2021

Estimated Cost of Project

\$3,000.00

Supporting Documentation (Site Plan, Drawings, Other Information)

448500E8-5D33-4404-8873-E2996F51A8A5.jpeg

013B661A-F7D4-454F-8A89-E73A9C54CFDF.jpeg

9A3A62B5-9CCB-460D-9DFA-827830EF32F5.jpeg

Applicant Signature

Date
5/23/2021



A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke, positioned above a thin horizontal line.

VARIANCE APPLICATION

Town of Biltmore Forest

Name

Josh Hubbard

Address

32 Buena Vista Rd

Phone

(828) 243-9098

Email

Joshmhubbard@gmail.com

Current Zoning/Use

Lawn

Requested Use

Driveway

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?

We would like to install a circular driveway, similar in style to multiple on our street, using white gravel to allow a more permeable surface.

What does the ordinance require?

The ordinance suggests a 15 foot setback from property lines, although it is unclear if this applies to gravel rather than asphalt. Many yards nearby appear to have driveways extending right up to the property lines; however, we are requesting a variance from 15 feet to 12 feet.

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.**

Strict enforcement could make driving on the driveway surface unsafe as it would require driving over the water meter cover, which is not supported by a rigid material such as asphalt. In addition, it may limit the turning radius of vehicles.

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

The necessary position is needed due to the water meter cover in the front yard, as well as the size of our front yard, forcing us to go along the outside margin of the yard.

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

The hardship is due to the placement of the water meter as installed by the town and the size of the lot.

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.

The variance is requesting the minimal change necessary to avoid the above issues and maximize the safety of the driveway. It would also allow guests and service trucks to not park on the road, preventing restriction of traffic flow.

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

Signature

Date

5/22/2021

A handwritten signature in black ink, consisting of a series of fluid, connected strokes. The signature is positioned above a thin horizontal line.



manhole





BOARD OF ADJUSTMENT STAFF MEMORANDUM

June 21, 2021



Case 8 – 307 Vanderbilt Road

Variance Request for Reconstruction of Storage Shed within Side Yard Setback

Variance Request for Reconstruction of Storage Shed within Rear Yard Setback

Note: Amended Application

The applicant requests approval to reconstruct a storage shed within the side yard setback of their property. The applicant has previously presented this request to the Board of Adjustment but withdrawn the application both prior times. The applicant's new variance request proposes the following:

- (1) The storage shed will be entirely reconstructed on the property at 307 Vanderbilt Road.
- (2) The proposed height of the storage shed will be dropped from its current, reconstructed height of sixteen (16) feet to ten (10) feet. The applicants have noted the neighbors at 309 Vanderbilt Road support this reduction in height.

Prior facts related to this case include the following:

- The original shed was constructed inside the 20-foot setback and across the property line, thereby encroaching on the property at 309 Vanderbilt Road.
- An easement was in place allowing the existence of the storage shed in its original location, across the property line, provided the storage shed was not expanded or reconstructed in that location. The Town Attorney reviewed and verified this easement did not cover the planned reconstruction for the storage shed.
- In April 2021, a special use permit was granted for an eight (8) foot tall deer fence by for the property at 309 Vanderbilt Road.
- The Board of Adjustment previously reviewed applications related to this plan in January and May 2021.

Special Use Permit Application

Town of Biltmore Forest

Name

Raymond and Elizabeth Russell

Address

307 Vanderbilt Road

Phone

(828) 274-3979

Email

rrusseb@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 special use/variance requested is for a storage shed partially under reconstruction (framed) in order to restore the former storage shed which had become unsafe and collapsed during attempt to repair. Currently, the south wall is about 10.5' and the north wall stands at 12.5'. The design of the structure is to be modified now from a 10.5' height on the easement line in place since 1987 to the property line established in recent survey by 309 and 307 property owners. The new south wall of the shed is proposed to adhere/align to this property line. It is the understanding of the property owners of 307 Vanderbilt Rd. that the owners of 309 will erect an 8' wooden fence on/immediately adjacent to this same property line per a variance granted by the Town BOA. One suggestion has been made in a text by Mrs. Manley in text to use this fencing as the back wall of the shed. This is a problem because that was the type of enclosure material in the original shed that deteriorated, collapsing the support of the roof on both south and north sides. It is important to ensure sufficient roof drainage for the shed; as a result 307 wishes to retain the current height of the south wall of the shed at 10' in order to permit the inner north wall to slope downward enough for roof drainage but still allow access for equipment/supplies there. It is anticipated that this wall will then be less in height than the height of the south wall of 10'.

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

The owners of 307 have considered many ideas for the project. Mrs. Russell has spoken with the property owners over time on numerous occasions with offers to restore the easement, to assist with costs of purchase of the easement, to share expenses related to the property boundaries. At some point, in text, 307 was notified that the Manleys preferred 307 to keep the shed within our property lines on 307 property. We do not recall any discussion of height with 309 neighbors. Mrs. Russell does remember a question during the first use meeting with BOA the question of why we proposed the height as framed. Indeed, we were hoping for an upper storage area and more window space on the north wall to provide interior daylight. The former shed was open to wildlife. The Russells believe that their plan to construct an accessory structure will have the aesthetics and the integrity to make this a safe and sound structure. We are using high grade materials, already purchased. The frame was carefully sealed to the existing slab to keep it from becoming deteriorated by the rains. While difficult to relocate this south wall, 307 agrees to adhere/align to the property line, once permission to move forward is granted.

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

Signature

Date

5/28/2021

J. Hansen

E. Hansen