MINUTES OF THE BOARD OF ADJUSTMENT MEETING HELD MONDAY, JUNE 21, 2021

The Board of Adjustment met at 4:00 p.m. on Monday, June 21, 2021.

Members present: Mr. Greg Goosmann, Ms. Rhoda Groce, Mr. Robert Chandler, Mr. Lowell Pearlman, and Ms. Martha Barnes. Mr. Jonathan Kanipe, Town Manager and Mr. William Clarke, Town Attorney were also present.

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

Mr. Goosmann swore in the following:

Mr. Jonathan Kanipe

Mr. Gordon Taylor

Ms. Catherine Taylor

Mr. Robert Dull

Mr. Ross Carlton

Mr. Richard Pigossi

Ms. Judith Pigossi

Ms. Eleanor Johnson

Mr. Drew Stephens

Ms. Betsy Thurlow

Ms. Kari Hubbard Mr. Josh Hubbard

Mr. Raymond Russell

Ms. Elizabeth Russell

A motion was made by Mr. Robert Chandler to approve the minutes from May 17, 2021. Ms.

Rhoda Groce seconded the motion. The minutes were unanimously approved.

HEARING (Evidentiary):

A Special Use Permit was requested for installation of a fence in the rear yard for 3 Deerfield Road. Ms. Martha Barnes shepherded the matter. The homeowners would like to install a vegetable garden in the rear yard that is rectangular. It will be 13’x13’. The fencing will be installed around it. The fencing comes from Lowe’s. The fencing will not be visible to the neighbors. There was one positive comment from a neighbor regarding this fence. There were no objections.

DELIBERATION AND DETERMINATION:

Ms. Barnes recited the facts and said a Special Use Permit is being applied for by Mr. Gordon Taylor and Ms. Catherine Taylor of 3 Deerfield Road for a rear yard fence. It will be a black metal fence and will not be visible to the neighbors. There will not be any encroachments on any of the setbacks. It is well screened inside the backyard. There were no additions to the facts.

Ms. Rhoda Groce moved that a Special Use Permit be granted to Mr. Gordon Taylor and Ms.

Catherine Taylor of 3 Deerfield Road for a rear yard fence installation 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. Martha Barnes seconded the motion. The motion was approved unanimously.

HEARING (Evidentiary):

The next matter was a request for tree removal in excess of ten (10) trees as part of the landscaping plan at 57 Forest Road. Mr. Lowell Pearlman shepherded the matter. There will be tree removal due to poor health of trees. Mr. Robert Dull represented the homeowner. The replanting of trees meets the guidelines of the Ordinance. Mr. Dull showed the Board the design plan for replacing the trees. Mr. Jonathan Kanipe said there is no Special Use or Variance required but a motion needs to be made for approval of removal and replanting. Mr. Kanipe also stated that the Tree Protection Ordinance states for the diameter to be planted if they are hardwoods and the height to be planted if they are evergreens. Mr. Dull said the homeowners would comply. There were no further comments.

DELIBERATION AND DETERMINATION:

Ms. Martha Barnes made a motion to approve the tree removal as part of the landscaping plan for 57 Forest Road. Ms. Rhoda Groce seconded and the motion was unanimously approved.

HEARING (Evidentiary):

The next matter was for a preliminary landscaping plan request for construction of a new single-family residence at 15 Eastwood Road. The matter was shepherded by Ms. Rhoda Groce. Mr. Rob Carlton represented the homeowners. The primary goal was to have the trees removed that affected the footprint of the house. The buffering will be kept except for where the house will be built. Mr. Carlton said they will only be taking about 4-5 trees of the rear side. Mr. Kanipe went into further detail about the landscaping plan and showed the Board which trees will be removed. Mr. Kanipe said the homeowners went before the Design Review Board last month to get the plans approved for the new house construction.

Ms. Barnes said if they were protected trees, the Ordinance would call for replacement of 36 trees and 18 are proposed. Ms. Barnes suggested considering hardwood canopy trees. Mr. Carlton agreed.

DELIBERATION AND DETERMINATION:

A motion was made by Ms. Barnes to approve the landscaping and grading plan because the site disturbance is greater than 20 percent at 15 Eastwood Road. Mr. Lowell Pearlman seconded the motion. The motion was unanimously approved.

HEARING (Evidentiary):

The next matter was a request for a Special Use Permit request for installation of a fence in the rear yard at 314 Vanderbilt Road. The homeowner was unable to attend. Mr. Robert Chandler recited the facts. The proposed fence is black aluminum and will be 3.5 feet high. It complies with all setbacks within the rear and side yards. There will be buffering outside the area for neighbors. Mr.

Kanipe said the fence is approximately 175 linear feet.

DELIBERATION AND DETERMINATION:

Mr. Lowell Pearlman recited the facts and said Ms. Lori Lassiter of 314 Vanderbilt Road be granted a Special Use Permit for installation of a fence in the rear yard and the facts as recited by Mr. 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. Groce seconded and the motion was unanimously approved.

HEARING (Evidentiary):

The next request was for a Special Use Permit for installation of roof-mounted solar panels on the existing home and existing accessory building at 14 Cedarcliff Road. Mr. Pearlman shepherded the matter. Mr. Richard Pigossi revised the request and the solar panels will no longer be installed on the existing accessory building. There will be nineteen solar panels all installed on the back.

Ms. Eleanor Johnson spoke and let the Board know she supports this solar panel project.

Mr. Pigossi said the technology has evolved with solar panels tremendously since 2014 and encouraged as many people as possible to get solar panels.

DELIBERATION AND DETERMINATION:

Mr. Lowell Pearlman stated the facts and said Mr. Richard Pigossi and Ms. Judith Pigossi of 14 Cedarcliff Road are applying for roof-mounted solar panels on the rear roof of the home.

Mr. Robert Chandler said Mr. Richard Pigossi and Ms. Judith Pigossi of 14 Cedarcliff Road be granted a Special Use Permit for installation of roof mounted solar panels and the facts as recited by Mr. Lowell Pearlman and his summation be accepted as findings and facts to support this grant. The Board has inspected this site and no neighboring property owner has objected. Mr. Chandler further moved the Board define that granting this Special Use Permit (a) would not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and improved, (b) met all required conditions and specifications of the Town of Biltmore Forest Zoning ordinance, (c) would not substantially injure the value of adjoining or abutting property, and (d) would be in general conformity with the plan of development of the Town of Biltmore Forest and its environs as set forth in Sections 153.110 (C)(2-3)of the above ordinance. The applicant has been informed that he/she is to report to the Zoning Administrator within seven (7) days of completion of the project in order that the Zoning Administrator can determine that the project has been completed in accordance with plans submitted to the Town.

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

HEARING (Evidentiary):

The next request was for a Special Use Permit for installation of ground-mounted solar array at 4 Hilltop Road. Mr. Drew Stephens said there would be two ground-mounted arrays that are approximately 18 feet wide by 12 feet high. They will be ground mounted at 22 degrees up. The maximum height for the first will be six feet and the second one will be eight feet. There are two rows of hemlock trees and arborvitae. There are also two peach trees and an apple tree between a neighboring property owner. There will also be arborvitae planted all around the property so it will not be seen from the road. Mr. Stephens showed and explained the plans in further detail to the Board.

Ms. Betsy Thurlow commented, and said she was unaware of the plans before the meeting, but approves it now that she attended the meeting.

DELIBERATION AND DETERMINATION:

Ms. Rhoda Groce restated the facts and said Mr. Drew Stephens of 4 Hilltop Road is requesting a Special Use Permit for installation of ground-mounted solar array. The panels will be hidden by trees and the north and west side. The applicant will add additional buffering if needed.

Ms. Martha Barnes made a motion to approve the Special Use Permit request for Mr. Drew Stephens at 4 Hilltop Road for ground mounted solar array 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. Robert Chandler seconded the motion. The motion was unanimously approved.

HEARING (Evidentiary):

The next case was a Variance request for installation of a circular driveway within the side yard setback at 32 Buena Vista Road. Ms. Martha Barnes shepherded the matter. Ms. Kari Hubbard said it would be more convenient to have a circular driveway for when they have guests over and for the inclement weather. Mr. Josh Hubbard said the hardship for the variance is access to the water main.

The driveway would have to be fourteen feet outside the water main.

DELIBERATION AND DETERMINATION:

Ms. Barnes restated the facts and said Mr. Josh Hubbard and Ms. Kari Hubbard of 32 Buena Vista Road are requesting a Variance for driveway installation. The driveway will fall into the side yard setback and the hardship is there is a MSD manhole meter that should not be run across it for effective use. The driveway will be gravel. It is well screened from the neighbors and they are adding proposed landscaping due to a tree that fell down in the past.

Ms. Rhoda Groce moved that a variance as requested be granted to Mr. Josh and Ms. Kari Hubbard of 32 Buena Vista Road for installation of a driveway in the side yard setback and the facts as recited by Ms. Martha Barnes and her summation be accepted as findings and facts to support this grant. The Board has inspected this site and no neighboring property owner has objected.

Ms. 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 Mr. Lowell Pearlman and unanimously approved.

HEARING (Evidentiary):

The final matter was for a revised Variance request for reconstruction of a storage building within the side yard setback at 307 Vanderbilt Road. The matter was shepherded by Mr. Robert Chandler. Mr. Chandler said there is already an existing shed and homeowners had started reconstruction. Meanwhile, the he neighboring property owners would like to put a fence up which was also approved by the Board. Part of the existing shed was in the neighbor’s property and the homeowners at 307 Vanderbilt are correcting this. The new replacement will be reconstructed to where the height will be ten feet and within 6-8 inches of the neighbor’s fence. There will be room between the fence and the structure.

Ms. Russell said there would be a bit of a gap between the fence and the shed. There were no

changes in the facts as stated.

DELIBERATION AND DETERMINATION:

Mr. Chandler restated the facts and said Mr. Raymond Russell and Ms. Elizabeth Russell of 307 Vanderbilt Road are requesting a Variance for reconstruction of a storage building within the side yard setback. It will be reconstructed entirely on their property. The height will be ten feet or less and reconstructed similar to what it was before.

Mr. Lowell Pearlman made a motion to approve a revised Variance for reconstruction of a storage building within the side yard setback to Mr. Raymond Russell and Ms. Elizabeth Russell of 307 Vanderbilt Road and the facts as recited by Mr. Chandler and his summation be accepted as findings and facts to support this grant. The Board has inspected this site and no neighboring property owner has objected.

Mr. Pearlman further moved that granting this Variance satisfies the applicable Sections of 153.110(D) and paragraphs one through four, and would not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would, in this case, result in a practical difficulty or unnecessary hardship. She further moved the Board to find the spirit of the ordinance would be observed, public safety and welfare secured and substantial justice done. The applicant has been informed that he/she is to report to the Zoning Administrator within seven (7) days of completion of the project in order that the Zoning Administrator can determine that the project has been completed in accordance with plans submitted to the Town.

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

Chairman Goosmann adjourned the meeting at 5:19 pm. The next Board of Adjustment meeting is scheduled for Monday, July 26, 2021 at 4:00 pm.

ATTEST:

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Greg Goosmann Laura Jacobs

Chairman Town Clerk