



To: Members of the Board of Adjustment, Applicants & Neighboring Property Owners  
From: Jonathan B. Kanipe, Town Manager  
Date: August 17, 2021  
Re: **Board of Adjustment Meeting –August 30, 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, August 30, 2021.

## AGENDA

### ***FACE COVERINGS REQUIRED FOR ALL ATTENDEES REGARDLESS OF VACCINATION STATUS***

**The following items of business will be considered by the Biltmore Forest Board of Adjustment on Monday, August 30, 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 July 26, 2021 regular meeting will be considered.
3. Hearing of Cases (Evidentiary Hearings, Deliberations & Determinations).
  - Case 1:** 8 White Oak Road – Special Use Permit request for Addition of Circular Drive
  - Case 2:** 5 White Oak Road – Special Use Permit request for Addition of Circular Drive and Parking Area in Rear of Home
  - Case 3:** 6 Stuyvesant Road – Special Use Permit Request for Rear Yard Fence Installation and Variance Request for Rear and Side Yard Setback Encroachment
  - Case 4:** 377 Vanderbilt Road – Variance Request for Side Yard Setback Encroachment for Carport Addition to Existing Detached Garage
  - Case 5:** 9 Holly Hill Road – Special Use Permit Request for Existing Soccer Goal Installation within Rear Yard and Landscaping Plan Review

4. Adjourn

MINUTES OF THE BOARD OF ADJUSTMENT MEETING HELD  
MONDAY, JULY 26, 2021

The Board of Adjustment met at 4:00 p.m. on Monday, July 26, 2021.

Members present: Mr. Greg Goosmann, Ms. Rhoda Groce, Mr. Robert Chandler, Mr. Lowell Pearlman, Ms. Lynn Kieffer, and Ms. Martha Barnes. Mr. Jonathan Kanipe, Town Manager, Town Clerk, Ms. Laura Jacobs, and Director of Public Works, Mr. Harry Buckner, were all present. Mr. William Clarke, Town Attorney was present via Zoom.

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

Mr. Goosmann swore in the following:

Mr. Jonathan Kanipe  
Mr. Drew Stephens  
Ms. Angela Newnam  
Mr. Clay Mooney  
Mr. Michael Cain  
Mr. Matt Baker  
Mr. Ben Lehman  
Dr. Doug Phillips  
Mr. Robert Dull

A motion was made by Mr. Robert Chandler to approve the minutes from June 21, 2021. Ms. Lynn Kieffer seconded the motion. The minutes were unanimously approved.

HEARING (Evidentiary):

A Variance is requested for 1 Ridgefield Place for dimensional requirements. Ms. Rhoda Groce shepherded the matter. Mr. Drew Stephens said the lot is 1.14 acres, and the original lot was

0.42 acres. These parcels were combined before Mr. Stephens bought the property. It is maintained as a separate area from the parcel abutting Eastwood Road. Mr. Stephens provided the Board a survey he had performed in regards to the project. If approved, the division of this 1.14 acre parcel would restore the two lots to their original zoning and original lot sizes.

#### DELIBERATION AND DETERMINATION:

Mr. Kanipe said it does not count as a subdivision because there is a specific exception identified in the Town's Subdivision Ordinance. The single parcel is currently split zoned, which poses a problem in terms of determining zoning allowances on the property. The division would be handled administratively if the dimensional requirements for the lots were met. The dimensional requirements associated with restoring the original lots and appropriate zoning require the Board to grant a variance before the division may proceed.

Ms. Rhoda Groce restated the facts and said Mr. Drew Stephens of 1 Ridgefield Place is applying for a Variance for dimensional requirements. Town Attorney, Mr. Clarke said he approved this matter. Ms. Lynn Kieffer made a motion to approve the Variance and that it be granted to Mr. Drew Stephens, 1 Ridgefield Place. Ms. Kieffer further moved that granting this Variance satisfies the applicable Sections of 153.110(D) and paragraphs one through four, and would not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would, in this case, result in a practical difficulty or unnecessary hardship. She further moved the Board to find the spirit of the ordinance would be observed, public safety and welfare secured and substantial justice done. The applicant has been informed that he/she is to report to the Zoning Administrator within seven (7) days of completion of the project in order that the Zoning Administrator can determine that the project has been completed in accordance with plans submitted to the Town. Ms. Martha Barnes seconded the motion. Lowell Pearlman seconded the motion. The motion was approved unanimously.

#### HEARING (Evidentiary):

The next matter was a request for a preliminary landscaping plan, grading plan, and tree removal/replacement approval at 31 Stuyvesant Road, which is the Biltmore Forest Country Club. Mr. Robert Chandler shepherded the matter. Mr. Clay Mooney represented the project for the Country

Club. Mr. Mooney said 29 trees will need to be removed and 97 trees will be replanted. Rerouting of water and utility lines and grading has been tightened up. The tennis court will be shifted and there will be a new pool and fitness facility. Mr. Mooney also discussed the landscaping plan.

Ms. Angela Newnam asked how many canopy large oaks are being taken down. Mr. Mooney said there are seventeen total being taken down. Mike Cain with Civil Design Concepts indicated the original fieldwork and tree identification was to show the community the potential extent of removal. The landscaping plan provided to the Board shows trees that will be removed marked with black dots.

Mr. Pearlman asked why Mr. Mooney chose specific species as opposed to hardwoods. Mr. Mooney said presently there is a black locust hanging across the tennis court, which is creating a maintenance nightmare. In addition, planting oaks or hardwoods results in many leaves and a nightmare for users of tennis courts.

Ms. Newnam expressed her disinterest in crepe myrtle trees and would like to see more traditional trees such as Japanese maple trees being planted around the entrance.

Mr. Kanipe said the Board is being tasked with looking at the landscape plan as well as the site plan. There is still a fire connection line issue and that is still currently being looked at. Mr. Matt Baker seconded the comment Ms. Newnam made about the crepe myrtle trees.

#### DELIBERATION AND DETERMINATION:

Mr. Chandler restated the facts and said the Biltmore Forest Country Club at 31 Stuyvesant Road is asking for renovations and removal of 29 trees. Eighty-four trees are required for replanting, and the proposal says 97 trees will be replaced. Town staff has shown the requirements have been met.

Mr. Pearlman moved that a preliminary plan be accepted. Ms. Rhoda Groce seconded the motion. The motion was approved unanimously.

#### HEARING (Evidentiary):



The next matter was an appeal from Mr. Ben Lehman regarding a soccer goal in the rear yard as an accessory structure at 9 Holly Hill Road. Ms. Martha Barnes shepherded the matter. Mr. Kanipe said the Town contacted Mr. Lehman in May 2021 and informed him there was never an accessory structure permit. Mr. Lehman had spoken with Ms. Adrienne Isenhower via email in 2019. This email referenced a soccer goal on a site plan, but there was never a description or dimensions provided. Ms. Isenhower's initial email related to the changing of the lawn to artificial turf.

Mr. Kanipe said they also talked about the fencing around the pool in May of 2018 that was approved. Ms. Isenhower did not ask what the size of the soccer goal was. Mr. Kanipe's interpretation is that the large size of the soccer goal renders it an accessory structure. Fences, walls, rocks are a few examples of an accessory structure. These accessory structures all require a Special Use Permit. Mr. Kanipe consulted with Mr. Billy Clarke who agreed this goal needed Board of Adjustment approval. Mr. Clarke said the two questions for the Board to keep in mind are as follows: is this an accessory structure, and second, does the Board wish to issue a special use permit for the soccer goal?

Mr. Lehman said he communicated thoroughly with Ms. Isenhower about having a soccer goal. Mr. Lehman said they are planning to do more plantings in the front. Mr. Lehman said the ordinances are not very clear regarding an accessory structure and there needs to be a better system. Mr. Lehman said he is being singled out for an 8'x24' soccer goal and that should be clearly addressed in the Ordinances. Mr. Lehman mentioned the people in the Town that have basketball hoops set in concrete in their front yard and whether they need to have a permit for this. Mr. Lehman feels there needs to be a better system.

Ms. Kieffer said the Board is determining if this is an accessory structure. Mr. Pearlman discussed buffering.

Ms. Charlene Price commented on Mr. Lehman's project. Ms. Price resides at 11 Holly Hill. Ms. Price objected to Mr. Lehman's Special Use request and said there has been unauthorized disruption of Mr. Lehman's property since they moved in. Ms. Price said this project should have been monitored and she thinks the standards set in place must be protected. Ms. Price also said there is not adequate landscaping and is highly visible from the street and neighboring property owners.

Ms. Price referenced an email from a neighboring property owner, Ms. Andrea Eglinton, who expressed concern about Mr. Lehman's project and wanted to know where the water from the pipes are going since the pipes are covered with turf. Ms. Price said she wants the soccer goals and artificial turf removed.

Ms. Nichole Baker who is a property owner on Holly Hill Road also objected to Mr. Lehman's project. Ms. Baker also requested a time line for completion. Mr. Kanipe said regarding landscaping, it needs to be installed within six months. For construction, work must begin within six months of permit issuance. The work must finish within two years of starting.

#### DELIBERATION AND DETERMINATION:

Each Board member present determined the soccer goal to be an accessory structure. Mr. Lehman indicated he will return next month with a landscaping plan and Special Use Permit.

#### HEARING (Evidentiary):

The next matter was a request for a Special Use Permit request for existing planned unit development driveway access improvements at 1095 Hendersonville Road. Mr. Clay Mooney represented Dr. Doug Phillips. Mr. Pearlman mentioned the actual property address is 1095 Hendersonville Road. Mr. Mooney said there should be a safer ingress and egress primarily for traffic exiting south on Hendersonville Road. The project consists of removing concrete paving and gutter work. There will be a reduction in impervious surface coverage. Dr. Phillips said it is dangerous leaving Hendersonville Road. Dr. Phillips supports this project.

#### DELIBERATION AND DETERMINATION:

Mr. Lowell Pearlman recited the facts. A hard surface adjoining 1095 Hendersonville Road and 1111 Hendersonville will expedite safety of ingress and egress. Mr. Clay Mooney represents Dr. Duncan Dorris of 1095 Hendersonville Road and Dr. Phillips represents 1111 Hendersonville Road.

Ms. Martha Barnes moved that a Special Use Permit as requested be granted to Dr. Duncan Dorris at 1095 Hendersonville Road for improved driveway access between 1095 Hendersonville Road and 1111 Hendersonville Road 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. 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. Chandler seconded and the motion was unanimously approved. Mr. Chandler disclosed he was a patient of Dr. Phillips. The project was approved.

HEARING (Evidentiary):

The next request was for a Special Use Permit for revisions to a previously approved plan for a driveway entrance at 23 Eastwood Road. Mr. Robert Dull represented the homeowners. Mr. Dull was from Site Work Studios. The driveway square footage is going to be reduced. Martha Barnes asked about the replacement trees. Mr. Dull said they are still working on the landscape plan. There were no further additions to the facts.

DELIBERATION AND DETERMINATION:

Ms. Kieffer restated the facts and said Mr. Rob Dull is working with Bob and Char Hand who are the owners at 23 Eastwood. The driveway will be reducing impervious surface coverage and changing the driveway to a circular driveway.

Ms. Rhoda Groce moved that a Special Use Permit be granted to Mr. Bob and Mrs. Char Hand of 23 Eastwood Road and the facts as recited by Ms. Lynn Kieffer and her summation be accepted as findings and facts to support this grant. The Board has inspected this site and no neighboring property owner has objected. Ms. Groce further moved the Board define that granting this Special Use Permit (a) would not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and improved, (b) met all required conditions and specifications of the Town of Biltmore Forest Zoning ordinance, (c) would not substantially injure the value of adjoining or abutting property, and (d) would be in general conformity with the plan of development of the Town of Biltmore Forest and its environs as set forth in Sections 153.110 (C)(2-3) of the above ordinance. The applicant has been informed that he/she is to report to the Zoning Administrator within seven (7) days of completion of the project in order that the Zoning Administrator can determine that the project has been completed in accordance with plans submitted to the Town.

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

Chairman Goosmann adjourned the meeting at 6:17 pm. The next Board of Adjustment meeting is scheduled for Monday, August 30, 2021 at 4:00 pm.

ATTEST:

---

Greg Goosmann  
Chairman

---

Laura Jacobs  
Town Clerk

# BOARD OF ADJUSTMENT STAFF MEMORANDUM

August 23, 2021



## Case 1 – 8 White Oak Road Special Use Permit Request for Addition of Circular Drive

---

### Special Use Permit Request

The applicant requests approval to expand their existing driveway by constructing a new portion on the northern side of the property. The proposed new portion will create a circular driveway and does not encroach within the side yard setback. The Town's Zoning Ordinance provides the following guidance regarding the placement of driveways (found within the definition of *front yard*):

*"YARD, FRONT. An open, unoccupied space on the same lot with a principal building, extending the full width of the lot, and situated between the street or property line and the front line of the building, projected to the side lot lines of the lot. Driveways, to the extent possible, shall enter the property through the front yard."*

### Parcel Information

The specific parcel consists of two lots and is 0.72 acres. The applicant has revised their original application to reduce the amount of impervious surface by utilizing pervious pavers as part of this project. The applicant has included information regarding the pervious pavers and their drainage for the Board's review. Please note, this special use request is for the circular driveway only – the remaining portions of the project will be reviewed by the Design Review Board as they are attached to the home and do not create any other special use or variance requests.

# Zoning Compliance Application

Town of Biltmore Forest

**Name**

John D. and Lizbeth P. Kimberly

**Property Address**

8 White Oak Road

**Phone**

(828) 713-0661

**Email**

pinklizzy@me.com

**Parcel ID/PIN Number**

9647 90 1549

## ZONING INFORMATION

**Current Zoning**

R-2

**Lot Size**

0.715 acres 31,159 sq.ft.

**Maximum Roof Coverage**

3,520 square feet (Up to .75 acres)

**Proposed Roof Coverage Total**

3187.8

**Maximum Impervious Surface Coverage**

Up to 1 acre (27.5 percent of lot area)

**Proposed Impervious Surface Coverage**

9119 sq.ft.

**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**

25'-3"

**Description of the Proposed Project**

Remodel and reconfigure existing kitchen and family room to include a main level addition on the South side of the existing house. Add a 2nd level Sun Room and small deck over an existing main level covered porch. Add a new circular drive to include guest parking. Driveway work will require removal of 3 large oak trees in the front yard.

**Estimated Start Date**

9/15/2021

**Estimated Completion Date**

3/15/2022

**Estimated Cost of Project**

\$283,375.00

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

13458 - 8 WHITE OAK RD.pdf

Schematic Design [3pages].pdf

**Applicant Signature**

**Date**  
7/28/2021

A handwritten signature in black ink, appearing to be "Epk", written on a horizontal line.

# Special Use Permit Application

Town of Biltmore Forest

**Name**

John and Lizbeth Kimberly

**Address**

8 White Oak Road

**Phone**

(828) 713-0661

**Email**

pinklizzy@me.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:**

Additions and Alterations to Kimberly Residence including a circular driveway addition to the existing drive. Included is a new driveway apron connection to White Oak Road.

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

Currently the existing driveway provides one or less off street parking spaces for guests. Parking options include parking along White Oak and possibly damage to the shoulder or dangerous vehicular backing out of the existing driveway onto White Oak. The project improves the entire neighborhood and the public interest by providing needed off street parking with safer driveway connections.

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

**Signature**

**Date**

8/13/2021

A handwritten signature in black ink, appearing to be 'JL Kim', is written over a horizontal line. The signature is stylized and cursive.



REFERENCES:

- DB 3853 PG 526  
- PB 2 PG 86

DEVELOPMENT DATA

-ADDRESS: 8 WHITE OAK ROAD, BILTMORE FOREST, NC  
-PIN: 9647 90 1549  
-LOT SIZE: 0.715 ACRES 31,159 SQ.FT.  
-ZONING: R-2  
-ROOF COVERAGE: EXISTING, 2837.8 S.F. + NEW 350 S.F. =  
3187.8 S.F. TOTAL [PER ORDINANCE ALLOWABLE 3520 S.F.]  
-IMPERVIOUS SURFACE: EXIST'G DRIVE 2122 S.F. + EXIST'G  
PATIO AND CONC. STEPS 725 S.F. + BUILDING ROOF  
3187.8 S.F. + EXIST'G SHED ROOF & DECK 168 S.F. + NEW  
DRIVE 2408 2281 S.F. + NEW STEPS, NEW BACK WALK,  
NEW COURTYARD PAVING 508 134 S.F. = 8617.8 S.F.  
TOTAL.  
[PER ORDINANCE ALLOWABLE 27.5% x 31363 S.F. =  
8625.7 S.F.]

LEGEND & ABBREVIATIONS:

- PB= PLAT BOOK  
DB= DEED BOOK  
PG= PAGE  
RW= RIGHT OF WAY  
PIN= PARCEL IDENTIFICATION NUMBER  
● CALCULATED POINT  
(NOT MARKED IN FIELD)  
● RECOVERED BOUNDARY MONUMENT  
(SIZE AND TYPE AS NOTED)  
● BOUNDARY MONUMENT SET BY MCABEE  
(#4 REBAR WITH "MCABEE" CAP,  
UNLESS NOTED OTHERWISE)  
+/- ABOVE OR BELOW ADJACENT GRADE  
BOUNDARY LINE (FIELD SURVEYED)  
ADJOINER LINE (COMPOSITE, PLOTTED FROM  
RECORD DESCRIPTIONS)  
☼ AREA LIGHT  
CONC.  
FFE= FINISHED FLOOR ELEVATION  
⊕ FIRE HYDRANT  
⊕ GAS METER  
⊕ HP= HEAT PUMP  
INV= INVERT ELEVATION  
LS= LANDSCAPING  
O-HANG= OVERHANG  
OHU= OVERHEAD UTILITY LINE(S)  
SEWER LINE (6" VITRIFIED CLAY PIPE, UNLESS  
NOTED OTHERWISE)  
⊕ SEWER MANHOLE  
⊕ SPOT ELEVATION  
STEPS:  
BR= BRICK STEPS  
CS= CONCRETE STEPS  
WS= WOODEN STEPS  
TBM= TEMPORARY BENCHMARK (ELEVATION)  
WATER METER  
⊕ WOOD-BOARD FENCE LINE  
⊕ WOVEN WIRE FENCE LINE  
⊕ WINDOW WELL  
⊕ YARD INLET  
— NEW CONTOUR

CALCULATED CORNER LIES  
UNDER LARGE ROCK

WHITE OAK ROAD  
30' PUBLIC RW - ASPHALT  
(SEE NOTE #9)

NEW 2'-WIDE x 9"-DEEP  
SWALE W/ 4"-TO-8" RIVER  
COBBLE OVER FILTER  
FABRIC AT EDGE OF STREET.

PROPOSED NEW ASPHALT  
PAVED DRIVE W/ BRICK  
PAVER BORDERS. INCLUDES  
GUEST PARKING

REMOVE TREE

DIRECT DRAINAGE  
TO EXIST'G CATCH  
BASIN

NEW BRICK PAVED DRIVE  
PARKING AT ENTRY STEPS

REMOVE TREE

REMOVE TREE

REPAVE EXIST'G DRIVE TO  
MATCH NEW DRIVE

REPAVE EXIST'G APRON  
W/ BRICK PAVING.

1.5" IRON PIPE  
FOUND -0.4'  
NC GRID COORDINATES:

SUBJECT PROPERTY  
PIN 9647-90-1549

ROBERTA AUSTIN WIDMAN  
LIVING TRUST  
PIN 9647-90-1475  
DB 5712 PG 1309  
PB 2 PG 86

NEW ASPHALT PAVING  
REPAIR ALONG EDGE OF  
WALL AND NEW BRICK WALK  
NEW PERVIOUS BRICK  
PAVING SYSTEM ON GRAVEL  
BED WITH DRAINAGE SYSTEM.  
SEE DETAIL

1 SITE Site Plan  
Scale: 1" = 10'-0"

REED CACHE  
PIN 9647-90-3602  
DB 5599 PG 514  
PB 2 PG 86

Additions and Alterations

Kimberly Residence

8 White Oak Road

Biltmore Forest, NC

ZONING  
APPLICATION

DATE:  
08-02-2021

REVISIONS:  
REV. 08-13-2021

SITE

GEORGE STOWE • ARCHITECT  
member, American Institute of Architects  
184 East Chestnut Street • Asheville, NC 28801  
828-251-2357 • gstowe@architect@bellsouth.net

www.GeorgeStoweArchitect.com





# StormPave™ Water Permeable Pavers

StormPave™ is an amazing breakthrough in water permeable paving. StormPave clay pavers have beveled edges and large spacer bars that allow rain to filter between washed aggregate in the joints to a specially constructed catchment area underneath the pavers. The water then dissipates naturally into the native soils. StormPave pavers are available in standard 4" x 8" by 2-1/4" thickness as well as 2-3/4" thickness for heavy vehicular applications. For more information, go to [pinehallbrick.com/permeable](http://pinehallbrick.com/permeable)



### North Carolina Plant



Autumn



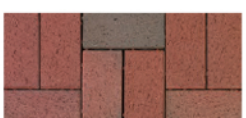
Burgundy



Cocoa



Dark Accent



Full Range



Ironspot



Red



Rose

### Georgia Plant



Buff



Gray

ASTM No. 8, 9, or 89 stone in openings

Pine Hall Brick StormPave over 6" #57 washed stone, 2" ASTM #8 or #9 stone setting bed.

ASTM No. 8 stone, 1 1/2" to 2" depth

ASTM No. 57 stone open graded, 6" depth

Mirafi 140N or equivalent filter fabric beneath permeable paver area only

4" perforated PVC underdrain, holes up; wye into 4" PVC drain line entering Drain Inlet. Min. 1% slope

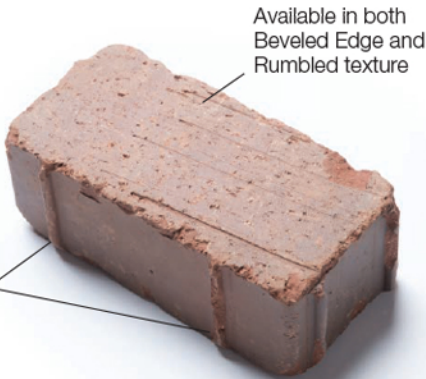
Notes:  
Installation should be completed by installer having documented experience with interlocking paver systems, and preferably, permeable paver systems.

Refer to 'https://pinehallbrick.com' for more information

## 1 | COURTYARD PERMEABLE PAVER DRAINAGE DETAIL

SITE 2 | Not to Scale

1/4" spacer bars allow water to filter between the joints



Available in both Beveled Edge and Rumpled texture

[pinehallbrick.com](http://pinehallbrick.com)



**GEORGE STOWE • ARCHITECT**  
member, American Institute of Architects  
184 East Chestnut Street • Asheville NC, 28801  
828-251-2357 • [gstowearchitect@bellsouth.net](mailto:gstowearchitect@bellsouth.net)  
[www.GeorgeStoweArchitect.com](http://www.GeorgeStoweArchitect.com)

Additions & Alterations to:  
**KIMBERLY RESIDENCE**

8 White Oak Road  
Biltmore Forest, NC

DATE:  
08-13-2021

**SITE 2**



NOTES:

1) THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY PER D.F.I.R.M. #3700964700J, EFFECTIVE DATE: JANUARY 6, 2010.

2) PROPERTY SUBJECT TO ALL RIGHTS-OF-WAY AND EASEMENTS OF RECORD, INCLUDING, BUT NOT LIMITED TO, THOSE SHOWN HEREON.

3) SURVEYOR WAS NOT PROVIDED WITH A LEGAL TITLE SEARCH. THERE MAY EXIST EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS PERTINENT TO THIS PROPERTY THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE THAT ARE NOT SHOWN ON THIS PROPERTY.

4) BUILDINGS, SURFACE AND SUBSURFACE IMPROVEMENTS ADJACENT TO THE SITE ARE NOT NECESSARILY SHOWN. SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT SURVEYED OR CONSIDERED AS PART OF THIS SURVEY. NO EVIDENCE OR STATEMENT IS MADE CONCERNING THE EXISTENCE OF UNDERGROUND CONDITIONS, CONTAINERS, OR FACILITIES THAT MAY AFFECT THE USE OR DEVELOPMENT OF THIS PROPERTY.

5) AREA BY COORDINATE COMPUTATION.

6) ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES.

7) THE ELEVATION DATUM FOR THIS SURVEY IS NAVD '88. THE CONTOUR INTERVAL IS ONE FOOT.

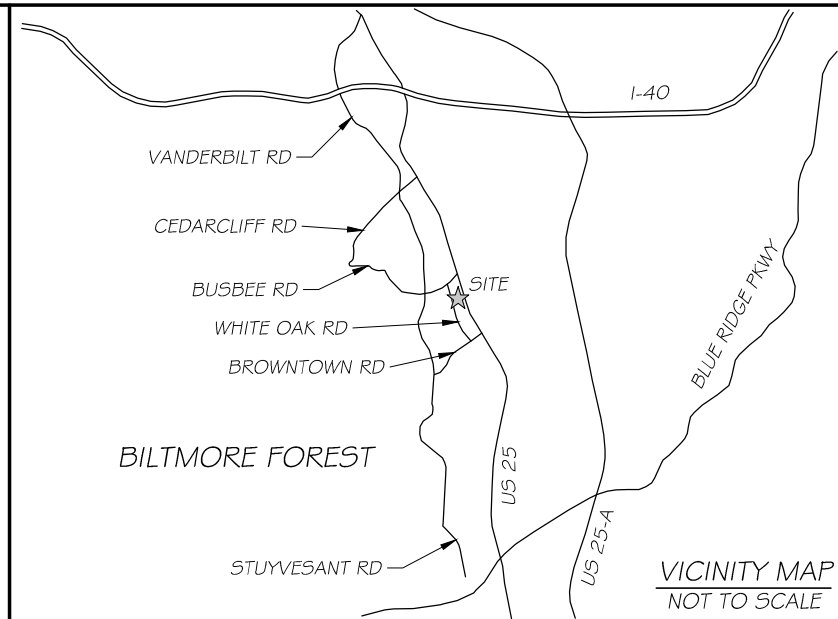
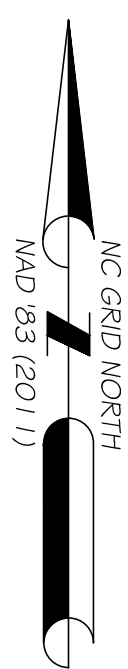
8) SUBJECT PROPERTY IS ZONED "R-2" PER THE TOWN OF BILTMORE FOREST ZONING ORDINANCE. REFER TO THIS ORDINANCE FOR REGULATIONS APPLICABLE TO THE SUBJECT PROPERTY.

BUILDING SETBACKS (PER "R-2" CLASSIFICATION):  
FRONT= 50'  
SIDE= 15'  
REAR= 20'

9) THE RIGHT OF WAY OVER WHITE OAK ROAD HAS BEEN SHOWN HEREON PER THE SCALING OF THE RIGHT OF WAY ILLUSTRATED ON PLAT BOOK 2 PAGE 86. THIS RIGHT OF WAY WAS NOT FORMALLY DIMENSIONED ON SAID PLAT AND A FORMAL RECORDED RIGHT OF WAY WIDTH OVER WHITE OAK ROAD WAS NOT RECOVERED BY THE SURVEYOR. IT IS ADVISED THAT, AT A MINIMUM, AN NCDOT MAINTENANCE LIMITS BASED RIGHT OF WAY LIKELY APPLIES TO THIS ROAD. A MAINTENANCE LIMITS RIGHT OF WAY IS GENERALLY CONSIDERED TO BE DITCH LINE TO ROAD SHOULDER, AND IS MORE SPECIFICALLY DEFINED AS THE AREA REQUIRED FOR MAINTENANCE OF THE ROADWAY.

**TOTAL AREA  
OF SURVEY  
0.715 ACRES  
(31,159 SQ. FT.)**

LOUISE S. BRACKETT  
PIN 9647-90-1891  
DB 1965 PG 667  
PB 2 PG 86

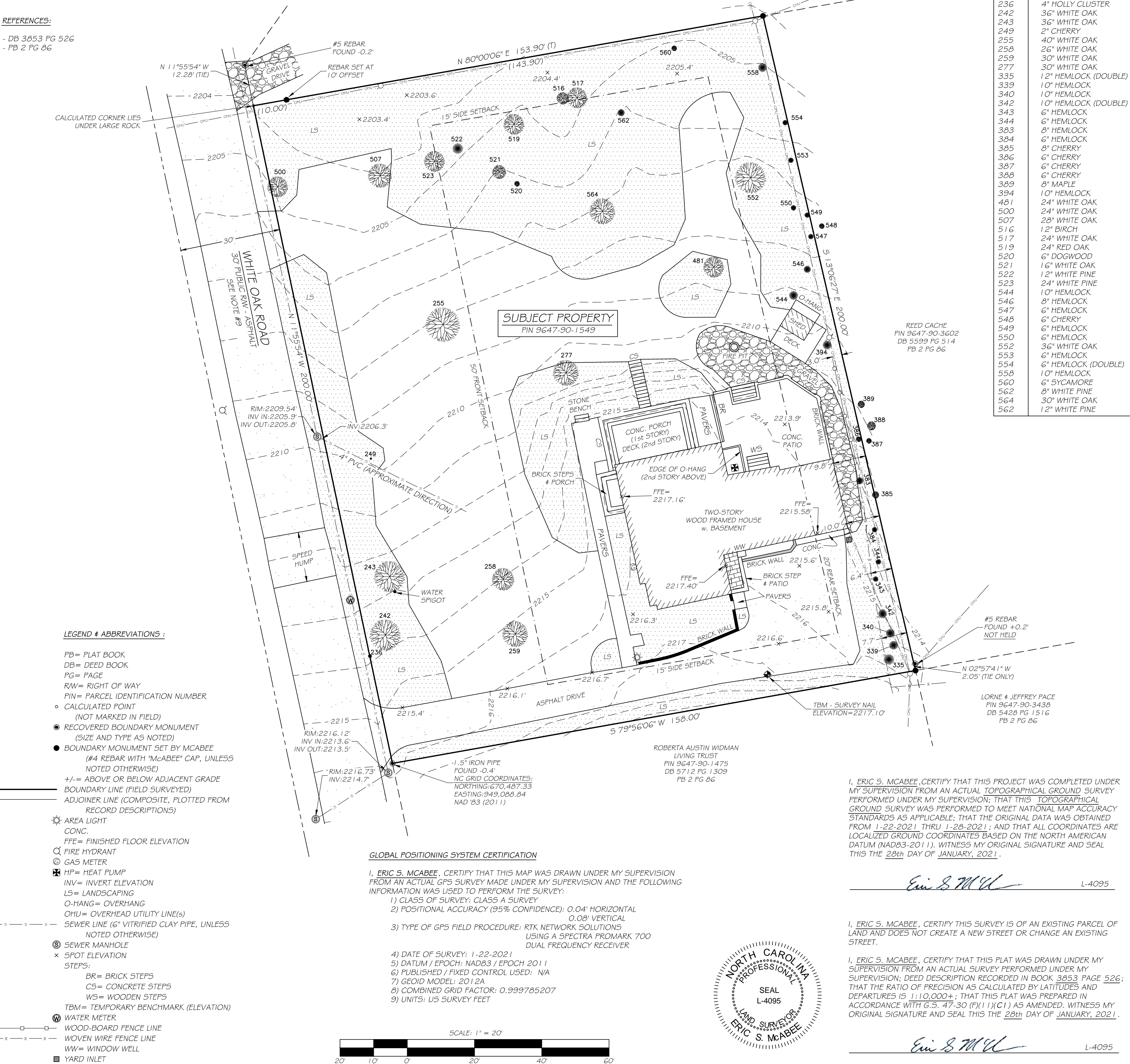


TREE CHART

TREE #	SIZE & SPECIES
562	12" WHITE PINE
236	4" HOLLY CLUSTER
242	36" WHITE OAK
243	36" WHITE OAK
249	2" CHERRY
255	40" WHITE OAK
258	26" WHITE OAK
259	30" WHITE OAK
277	30" WHITE OAK
335	12" HEMLOCK (DOUBLE)
339	10" HEMLOCK
340	10" HEMLOCK
342	10" HEMLOCK (DOUBLE)
343	6" HEMLOCK
344	6" HEMLOCK
383	8" HEMLOCK
384	6" HEMLOCK
385	8" CHERRY
386	6" CHERRY
387	6" CHERRY
388	6" CHERRY
389	8" MAPLE
394	10" HEMLOCK
481	24" WHITE OAK
500	24" WHITE OAK
507	28" WHITE OAK
516	12" BIRCH
517	24" WHITE OAK
519	24" RED OAK
520	6" DOGWOOD
521	16" WHITE OAK
522	12" WHITE PINE
523	24" WHITE PINE
544	10" HEMLOCK
546	8" HEMLOCK
547	6" HEMLOCK
548	6" CHERRY
549	6" HEMLOCK
550	6" HEMLOCK
552	36" WHITE OAK
553	6" HEMLOCK
554	6" HEMLOCK (DOUBLE)
558	10" HEMLOCK
560	6" SYCAMORE
562	8" WHITE PINE
564	30" WHITE OAK
562	12" WHITE PINE

REFERENCES:

- DB 3853 PG 526  
- PB 2 PG 86



GLOBAL POSITIONING SYSTEM CERTIFICATION

I, ERIC S. MCABEE, CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL GPS SURVEY MADE UNDER MY SUPERVISION AND THE FOLLOWING INFORMATION WAS USED TO PERFORM THE SURVEY:

- 1) CLASS OF SURVEY: CLASS A SURVEY
- 2) POSITIONAL ACCURACY (95% CONFIDENCE): 0.04' HORIZONTAL  
0.08' VERTICAL
- 3) TYPE OF GPS FIELD PROCEDURE: RTK NETWORK SOLUTIONS  
USING A SPECTRA PROMARK 700  
DUAL FREQUENCY RECEIVER
- 4) DATE OF SURVEY: 1-22-2021
- 5) DATUM / EPOCH: NAD83 / EPOCH 2011
- 6) PUBLISHED / FIXED CONTROL USED: N/A
- 7) GEOID MODEL: 2012A
- 8) COMBINED GRID FACTOR: 0.999785207
- 9) UNITS: US SURVEY FEET

I, ERIC S. MCABEE, CERTIFY THAT THIS PROJECT WAS COMPLETED UNDER MY SUPERVISION FROM AN ACTUAL TOPOGRAPHICAL GROUND SURVEY PERFORMED UNDER MY SUPERVISION; THAT THIS TOPOGRAPHICAL GROUND SURVEY WAS PERFORMED TO MEET NATIONAL MAP ACCURACY STANDARDS AS APPLICABLE; THAT THE ORIGINAL DATA WAS OBTAINED FROM 1-22-2021 THRU 1-28-2021; AND THAT ALL COORDINATES ARE LOCALIZED GROUND COORDINATES BASED ON THE NORTH AMERICAN DATUM (NAD83-2011). WITNESS MY ORIGINAL SIGNATURE AND SEAL THIS THE 28th DAY OF JANUARY, 2021.

*Eric S. Mcabee*

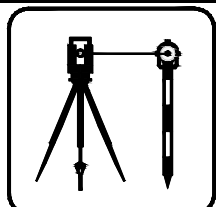
L-4095

I, ERIC S. MCABEE, CERTIFY THIS SURVEY IS OF AN EXISTING PARCEL OF LAND AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET.

I, ERIC S. MCABEE, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY PERFORMED UNDER MY SUPERVISION; DEED DESCRIPTION RECORDED IN BOOK 3853 PAGE 526; THAT THE RATIO OF PRECISION AS CALCULATED BY LATITUDES AND DEPARTURES IS 1:10,000+; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 (F)(1)(C1) AS AMENDED. WITNESS MY ORIGINAL SIGNATURE AND SEAL THIS THE 28th DAY OF JANUARY, 2021.

*Eric S. Mcabee*

L-4095



**McABEE &  
ASSOCIATES, P.A.**  
PROFESSIONAL LAND SURVEYING

Eric S. McAbree, PLS  
J. Barry West, PLS  
Wallace S. McAbree, PLS (Emeritus)  
3 McAbree Trail  
www.mcabreesurvey.com  
Fairview North Carolina, 28730  
Firm License Number: C-694

Fax (828) 628-1294  
Telephone (828) 628-1295

NO.	DATE	DESCRIPTION	BY

BOUNDARY, TREE, AND TOPOGRAPHIC SURVEY OF THE PROPERTY OF:  
**JOHN & LIZBETH KIMBERLY**  
BEING ALL OF LOTS 29 & 30 OF BLOCK D, BILTMORE FOREST (PER PB 2 PG 86)

SITE ADDRESS: 8 WHITE OAK ROAD  
PIN: 9647-90-1549

BILTMORE TOWNSHIP  
BUNCOMBE COUNTY, N.C.

DATE: 1-28-2021  
PROJECT #: 13458  
DRAWING #: C-21-1963  
DRAWN BY: CJM  
SCALE: 1"=20'

# BOARD OF ADJUSTMENT STAFF MEMORANDUM

August 23, 2021



## Case 2 – 5 White Oak Road Special Use Permit Request for Addition of Circular Drive and Parking Area in Rear of Home

---

### Special Use Permit Request

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 and does not encroach within the side yard setback. The Town's Zoning Ordinance provides the following guidance regarding the placement of driveways (found within the definition of *front yard*):

*"YARD, FRONT. An open, unoccupied space on the same lot with a principal building, extending the full width of the lot, and situated between the street or property line and the front line of the building, projected to the side lot lines of the lot. Driveways, to the extent possible, shall enter the property through the front yard."*

In addition to the circular drive, the applicant also requests approval for the installation of a concrete parking area in the rear yard.

### Parcel Information

The specific parcel 0.46 acres. The maximum allowable impervious surface is 27.5 percent of the lot, or 5,557 square feet. The applicant's site plan calls for a new total impervious surface of 5,029 square feet, or 24.9 percent of the lot. The proposal is in compliance with all setbacks and the impervious surface requirements of the Town's Zoning Ordinance.

# Zoning Compliance Application

Town of Biltmore Forest

**Name**

James Clayton

**Property Address**

5 White Oak Road

**Phone**

(828) 734-9028

**Email**

jamespclayton@gmail.com

**Parcel ID/PIN Number**

9647-80-9642-00000

## ZONING INFORMATION

**Current Zoning**

R-2

**Lot Size**

20,206 sq/ft

**Maximum Roof Coverage**

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

**Proposed Roof Coverage Total**

No change

**Maximum Impervious Surface Coverage**

Up to 1 acre (27.5 percent of lot area)

**Proposed Impervious Surface Coverage**

5,029 sq/ft

**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**

N/A

**Description of the Proposed Project**

New driveway at side of house with drive through driveway in front (see plans attached).

N.B. Waiting on estimate.

**Estimated Start Date**

9/1/2021

**Estimated Completion Date**

10/31/2021

**Estimated Cost of Project**

\$0.00

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

L-1.0-Site\_Plan\_Clayton.pdf

L-0.0-Demolition\_Plan\_Clayton.pdf

**Applicant Signature**

**Date**

7/20/2021

A handwritten signature in black ink, appearing to be "L. RAY", is written over a horizontal line. The signature is stylized, with the first letter being a large capital "L" and the last name "RAY" in all caps. The signature extends to the right, crossing the line.

# Special Use Permit Application

Town of Biltmore Forest

**Name**

James Clayton

**Address**

5 White Oak Road

**Phone**

(828) 734-9028

**Email**

jamespclayton@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:**

New driveway at side of house with drive through driveway in front (see site plans from zoning application).

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

The driveway will not be out of character with other driveways in R-2 and the project will improve the curb appeal and functionality of our property.

**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 'James Clayton', written over a horizontal line.

**Date**

7/20/2021



PRELIMINARY  
FOR REVIEW  
NOT FOR  
CONSTRUCTION

ISSUE / REVISION

Schematic Design for Submittal to DRB

06/15/2021

CLAYTON RESIDENCE  
5 White Oak Drive  
Biltmore Forest, North Carolina

Sheet Title:

SITE PLAN

Sheet Number:

L-1.0

©2021 Keen Land Design, PLLC

#### SITE AND GRADING NOTES

- CONTRACTOR SHALL ASSURE ALL TREES 6" CALIPER AND GREATER IN SIZE SHALL REMAIN AND WILL NOT BE DAMAGED.
- THE SURVEY FOR THIS WORK HAS BEEN PROVIDED BY OTHERS FOR USE IN THE DESIGN OF THIS PROJECT. THE LANDSCAPE ARCHITECT IS NOT RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF THE SURVEY.
- CONTRACTOR SHALL CONTACT THE NORTH CAROLINA 811 UTILITIES NOTIFICATION CALL CENTER TO DETERMINE THE LOCATIONS OF ALL UTILITIES. CONTRACTOR IS RESPONSIBLE FOR VERIFYING THE EXACT LOCATIONS AND DEPTH OF ALL EXISTING UTILITIES PRIOR TO BEGINNING WORK.
- CONTRACTOR SHALL BECOME FAMILIAR WITH THE EXISTING SITE CONDITIONS PRIOR TO COMMENCING WORK.
- ANY MISCELLANEOUS ITEMS AND MATERIALS NOT SPECIFICALLY NOTED, BUT REQUIRED FOR THE PROPER EXECUTION, INSTALLATION, AND PERFORMANCE OF THIS WORK SHALL BE PROVIDED BY THE CONTRACTOR.
- CONTRACTOR SHALL MINIMIZE DISTURBANCE OUTSIDE THE SCOPE OF WORK. ANY DISTURBANCE OUTSIDE THE SCOPE OF WORK SHALL BE REPAIRED BY THE CONTRACTOR TO, AT A MINIMUM, ITS CONDITION PRIOR TO BEGINNING WORK.
- ALL CONNECTIONS TO EXISTING WORK SHALL BE SMOOTH AND CONTINUOUS.
- CONTRACTOR SHALL PROVIDE PROTECTION FOR NEWLY INSTALLED WORK AND FINISHES.
- CONSTRUCTION DEBRIS SHALL BE REMOVED AT THE END OF EACH WORK DAY AND THE SITE SHALL BE MAINTAINED IN A NEAT, CLEAN CONDITION. CONTRACTOR IS RESPONSIBLE FOR ALL PHASES OF HANDLING, TRANSPORTING, AND DISPOSING OF TRASH AND DEBRIS.
- CONTRACTOR SHALL INSTALL AND MAINTAIN EROSION CONTROL MEASURES IN ACCORDANCE WITH ALL APPLICABLE STANDARDS AND SPECIFICATIONS.
- CONTRACTOR SHALL ASSURE POSITIVE DRAINAGE, AT A MINIMUM SLOPE OF 2%, AWAY FROM ALL BUILDING FOUNDATIONS, WALLS, AND OTHER STRUCTURES.

#### LANDSCAPE NOTES

- CONTRACTOR SHALL SUPPLY ALL PLANT MATERIAL IN QUANTITIES SUFFICIENT TO COMPLETE THE PLANTING SHOWN ON THE DRAWINGS.
- ALL MATERIAL SHALL CONFORM TO THE GUIDELINES ESTABLISHED BY THE CURRENT AMERICAN STANDARD FOR NURSERY STOCK, PUBLISHED BY THE AMERICAN ASSOCIATION OF NURSERYMEN, OR EQUIVALENT. PLANT MATERIAL DEEMED INFERIOR BY THE PROJECT MANAGER AND/OR LANDSCAPE ARCHITECT SHALL BE REPLACED AT CONTRACTOR'S EXPENSE.
- ALL AREAS TO BE PLANTED SHALL BE TILLED TO A MINIMUM DEPTH OF 12-INCHES. CONTRACTOR SHALL THEN APPLY SOIL AMENDMENT OVER SURFACE AT MANUFACTURER'S SPECIFIED RATE. CONTRACTOR SHALL THEN TILL LANDSCAPE AREAS AGAIN TO A MINIMUM DEPTH OF 8-INCHES PRIOR TO ANY PLANTING. TILL AND AMEND WITHIN: 4' OF TREE TRUNKS, 2' OF SHRUB CENTERS, AND 1' OF GRASS AND PERENNIAL CENTERS.
- NO LANDSCAPING SHALL BE INSTALLED BEFORE FINE GRADING HAS BEEN COMPLETED AND ITS CONDITION APPROVED BY THE PROJECT MANAGER OR LANDSCAPE ARCHITECT. ANY AREAS NOT PROPERLY TILLED, AMENDED, OR FINE-GRADED WILL NEED TO BE RE-DONE AT THE CONTRACTOR'S EXPENSE.
- PROPOSED PLANT SUBSTITUTIONS MUST BE REVIEWED AND APPROVED BY THE LANDSCAPE ARCHITECT PRIOR TO TRANSPORT TO THE PROJECT SITE. PLANT MATERIAL SUBSTITUTED AND INSTALLED WITHOUT APPROVAL MAY REQUIRE REMOVAL AND REPLACEMENT AT THE DISCRETION OF THE LANDSCAPE ARCHITECT. PLANT MATERIAL REQUIRING REPLACEMENT SHALL BE DONE AT THE CONTRACTOR'S EXPENSE.
- ALL PLANTS SHALL BE BALLED AND BURLAPPED OR CONTAINER GROWN AS SPECIFIED ON THE PLANT LIST. NO CONTAINER GROWN STOCK WILL BE ACCEPTED IF IT'S ROOT BOUND. ALL ROOT WRAPPING MATERIAL SHALL BE REMOVED COMPLETELY AT TIME OF PLANTING AND PROPERLY DISPOSED OF.
- ALL PLANTS SHALL HAVE THE SAME RELATIONSHIP TO FINISHED GRADE AS THE PLANT'S ORIGINAL GRADE BEFORE DIGGING, UNLESS OTHERWISE SPECIFIED OR DETAILED.
- AFTER PLANTING, WOOD MULCH SHALL BE APPLIED TO ALL PLANTING AREAS AT A DEPTH OF 3" OVER WEED CONTROL FABRIC.
- CONTRACTOR SHALL BE RESPONSIBLE FOR WATERING AND OTHER MAINTENANCE NECESSARY FOR INITIAL ESTABLISHMENT OF PLANTINGS. PLANT MATERIAL NEEDING REPLACEMENT WITHIN ONE YEAR OF PLANTING SHALL BE DONE AT CONTRACTOR'S EXPENSE.

#### IMPERVIOUS SURFACE COVERAGE CALCULATIONS

- LOT SIZE: 20,206 S.F. (LESS THAN 1 ACRE)
- MAXIMUM IMPERVIOUS SURFACE ALLOWED:  
27.5% OF THE LOT = 5,557 S.F.
- IMPERVIOUS SURFACES:

HOUSE, GARAGE AND SHED	2,695 S.F.
CONCRETE SURFACING	2,011 S.F.
PAVER EDGER	323 S.F.
TOTAL	5,029 S.F.
	24.9%

#### PERVIOUS SURFACES

SOD	7,723 S.F.
PLANTING BED / LANDSCAPE BUFFER	5,399 S.F.
PERVIOUS 3/4" GRAVEL SURFACING	2,055 S.F.
TOTAL	15,177 S.F.
	75.1%

#### LEGEND

APPROXIMATE LIMIT OF WORK (9,884 SF)

PERVIOUS 3/4" GRAVEL SURFACING

STANDARD GRAY CONCRETE 6" THICK

PAVER EDGER

SOD TO BE REPAIRED AND RE-SEED

NEW PLANTING BED W/ WEED BARRIER FABRIC AND WOOD MULCH

EXISTING NATURAL TURF NOT TO BE DISTURBED

EXISTING PLANTING BED / LANDSCAPE BUFFER WITH TREES AND SHRUBS TO REMAIN

NEW SPADE DUG EDGE

EXISTING SPADE DUG EDGE

#### PLANT SCHEDULE

Sym.	Botanical Name	Common Name	Size	Condition	Mature Size: HxS
<b>Deciduous Shrubs</b>					
CAT	Cotoneaster apiculatus 'Tom Thumb'	Tom Thumb Cotoneaster	3 Gal.	Cont.	1.5x5'
HQP	Hydrangea quercifolia 'Pee Wee'	Pee Wee Oakleaf Hydrangea	3 Gal.	Cont.	3x4'
VCS	Viburnum carlesii 'Spice Baby'	Koreanspice Viburnum 'Spice Baby'	5 Gal.	Cont.	5x4'
<b>Evergreen Shrubs</b>					
CPG	Chamaecyparis pisifera 'Golden Mop'	Golden Mop False Cypress	Transplant *		3x3'
IMA	Ilex 'Magiana'	Acadiana Holly	7 Gal.	Cont.	14x8'
PPG	Picea pungens 'Globosa'	Dwarf Globe Blue Spruce	Transplant *		4x5'
RRA	Rhododendron 'Robleze' PP32506	Autumn Starburst Azalea	3 Gal.	Cont.	3x3.5'
<b>Groundcovers</b>					
CSS	Chrysogonum 'Superstar'	Superstar Green and Gold	4" Pot	Cont.	1x2'
PSC	Phlox subulata	Creeping Phlox	4" Pot	Cont.	0.5x2'

\* Contractor to carefully hand dig, store and care for the existing plants called out as 'To Be Salvaged' on the Demolition Plan, then transplant to the new specified location after hardscape is complete.

1

SITE PLAN

SCALE: 1" = 10' - 0"

0' 5' 10' 20'





PRELIMINARY  
FOR REVIEW  
NOT FOR  
CONSTRUCTION

ISSUE/ REVISION

Schematic Design for Submittal to DRB

06/15/2021

CLAYTON RESIDENCE  
5 White Oak Drive  
Biltmore Forest, North Carolina

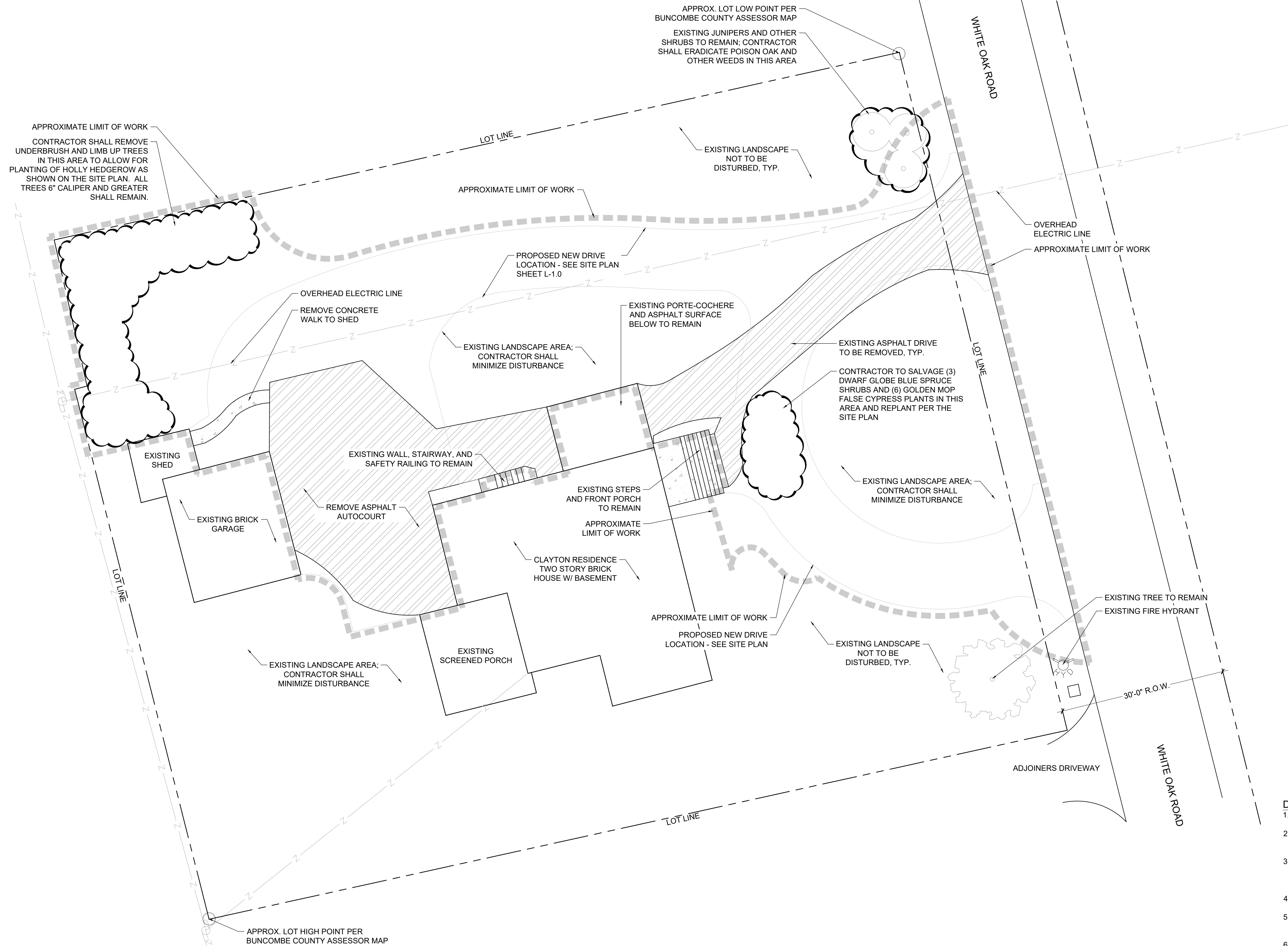
Sheet Title:

DEMOLITION  
PLAN

Sheet Number:

L-0.0

©2021 Keen Land Design, PLLC



- DEMOLITION NOTES**
1. CONTRACTOR SHALL ASSURE THAT ALL TREES 6" CALIPER AND GREATER IN SIZE SHALL REMAIN AND WILL NOT BE DAMAGED.
  2. THE SURVEY FOR THIS WORK HAS BEEN PROVIDED BY OTHERS FOR USE IN THE DESIGN OF THIS PROJECT. THE LANDSCAPE ARCHITECT IS NOT RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF THE SURVEY.
  3. CONTRACTOR SHALL CONTACT THE NORTH CAROLINA 811 UTILITIES NOTIFICATION CALL CENTER TO DETERMINE THE LOCATIONS OF ALL UTILITIES. CONTRACTOR IS RESPONSIBLE FOR VERIFYING THE EXACT LOCATIONS AND DEPTH OF ALL EXISTING UTILITIES PRIOR TO BEGINNING WORK.
  4. CONTRACTOR SHALL BECOME FAMILIAR WITH THE EXISTING SITE CONDITIONS PRIOR TO COMMENCING WORK.
  5. ANY MISCELLANEOUS ITEMS AND MATERIALS NOT SPECIFICALLY NOTED, BUT REQUIRED FOR THE PROPER EXECUTION, AND PERFORMANCE OF THIS WORK SHALL BE PROVIDED BY THE CONTRACTOR.
  6. CONTRACTOR SHALL MINIMIZE DISTURBANCE OUTSIDE THE SCOPE OF WORK. ANY DISTURBANCE OUTSIDE THE SCOPE OF WORK SHALL BE REPAIRED BY THE CONTRACTOR TO, AT A MINIMUM, ITS CONDITION PRIOR TO BEGINNING WORK.
  7. ALL CONNECTIONS TO EXISTING WORK SHALL BE SMOOTH AND CONTINUOUS.
  8. CONSTRUCTION DEBRIS SHALL BE REMOVED AT THE END OF EACH WORK DAY AND THE SITE SHALL BE MAINTAINED IN A NEAT, CLEAN CONDITION. CONTRACTOR IS RESPONSIBLE FOR ALL PHASES OF HANDLING, TRANSPORTING, AND DISPOSING OF TRASH AND DEBRIS.
  9. CONTRACTOR SHALL INSTALL AND MAINTAIN EROSION CONTROL MEASURES IN ACCORDANCE WITH ALL APPLICABLE STANDARDS AND SPECIFICATIONS.

# BOARD OF ADJUSTMENT

## STAFF MEMORANDUM

August 23, 2021



### Case 3 – 6 Stuyvesant Road

#### Special Use Permit Request for Rear Yard Fence and Variance Request for Encroachment into Rear and Side Yard Setbacks

---

#### Project Description

The applicant requests approval for a fence within the rear yard to prevent deer from entering the garden. The fence project includes 611 linear feet of 8 feet tall, post and wire fencing. This height and type of fencing is permitted under the Town's Zoning Ordinance regarding fence design standards. The project also includes two (2) 4-foot gates to access the fenced in area – these gates are located within the rear yard.

#### Special Use Permit Request

The Town's Zoning Ordinance allows fences within the rear yard as a special use. The Ordinance allows fence height up to 8 feet for deer fencing, and refers applicants to the NC Wildlife Resources Commission for appropriate deer fencing materials. The project complies with these specific portions of the ordinance.

#### Variance Request

The ordinance requires fences in the rear yard to comply with the side and rear yard setbacks. This property is located in the R-1 district that includes a 20-foot side setback and 25-foot rear setback. The applicant's variance request is to be inside the setbacks in order to allow existing vegetation and buffering to remain in place. Their application states compliance with the setbacks would lead to intrusion into a pond and garden area that is established. The location within the setbacks would likely require removal and replanting with less mature vegetation.

## § 153.049 FENCE, GATE AND WALL REGULATIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Ord. passed 2-11-2020)

# Zoning Compliance Application

Town of Biltmore Forest

**Name**

Miles Elmore

**Property Address**

6 Stuyvesant Rd

**Phone**

(828) 274-5435

**Email**

melmore2@me.com

**Parcel ID/PIN Number**

## ZONING INFORMATION

**Current Zoning**

R-1

**Lot Size**

1.2 acres

**Maximum Roof Coverage**

5,060 square feet (Up to 1.2 acres)

**Proposed Roof Coverage Total**

not applicable

**Maximum Impervious Surface Coverage**

Up to 1 acre (27.5 percent of lot area)

**Proposed Impervious Surface Coverage**

not applicable

**Front Yard Setback**

60 feet (R-1 District)

**Side Yard Setback**

20 feet (R-1 District)

**Rear Yard Setback**

25 feet (R-1 District)

**Building Height**

NA

**Description of the Proposed Project**

Install approx 611 linear feet of 8ft tall post and wire fence with black vinyl coated welded wire (2"x3")

Fence will have 4x4 wood posts with welded wire stapled to the posts

2 gates

Fence posts will be 4x4 posts set in concrete

gate posts will be 6x6 posts set in concrete

**Estimated Start Date**

11/1/2021

**Estimated Completion Date**

11/14/2021

**Estimated Cost of Project**

\$18,000.00

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

**Applicant Signature**

**Date**  
8/3/2021



---

# Special Use Permit Application

Town of Biltmore Forest

**Name**

Miles Elmore

**Address**

6 Stuyvesant Rd

**Phone**

(828) 274-5435

**Email**

melmore2@me.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:**

variance on property line setback

Deer fence install approx 611 linear feet of 8' tall post and wire fence with black vinyl coated welded wire (2"x3" mesh)

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

Hidden in back yard with vegetation on sides.....Our neighbors informed and agree with project.

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

**Signature**

**Date**

8/3/2021



# VARIANCE APPLICATION

Town of Biltmore Forest

**Name**

Miles Elmore

**Address**

6 Stuyvesant Rd

**Phone**

(828) 274-5435

**Email**

melmore2@me.com

**Current Zoning/Use**

residential

**Requested Use**

residential

**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?**

deer fence

**What does the ordinance require?**

variance to set back

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.**

To protect our garden with present property setback we would lose 15 feet on side and 25ft on rear yard which would include pond, vegetable garden and valuable shrubs.

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

We have a very narrow lot....

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

No...was set in place when we took ownership

**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.**

Yes!

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

**Signature**

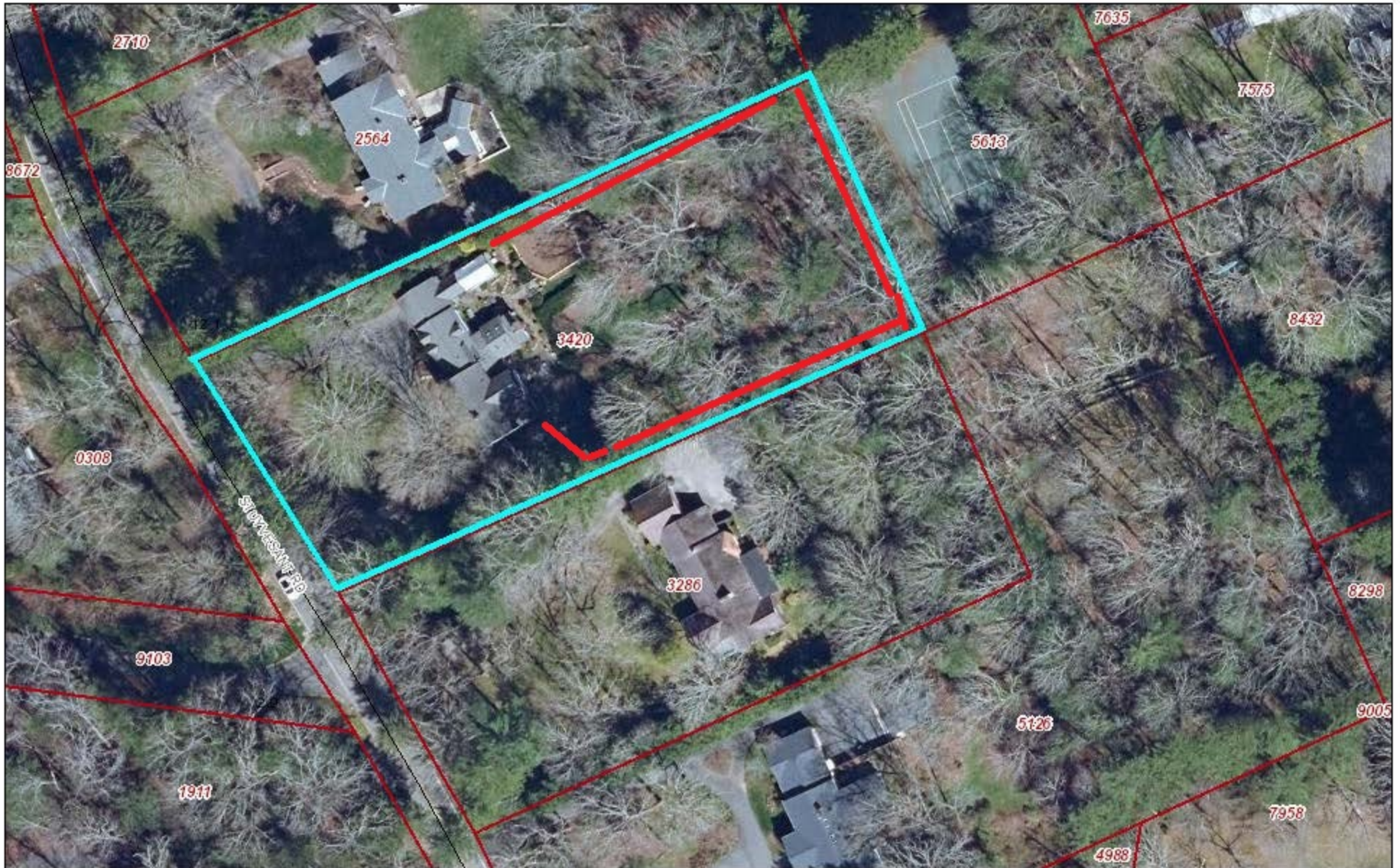
**Date**  
8/3/2021



A handwritten signature in black ink, consisting of two distinct parts. The left part is a cursive, stylized name, and the right part is a more legible, cursive name. The signature is written on a light gray horizontal line.



# 6 Stuyvesant Road



August 24, 2021

1:1,128  
0 0.0075 0.015 0.03 mi

# BOARD OF ADJUSTMENT STAFF MEMORANDUM

August 23, 2021



## Case 4 – 377 Vanderbilt Road

### Variance Request for Encroachment into Side Yard Setback

---

#### Project Description

The applicant requests approval for a variance to extend a new carport, attached to the existing 1928 garage, into the side yard setback. The applicant's variance request notes the existing driveway is already within the side yard setback. The posts for the new carport would extend 11'4" into the side yard setback. There is no special use permit required for this project since it is attached to an existing accessory building. The project complies with the impervious surface and maximum roof coverage requirements for the lot. As part of this project, the existing 1928 manual garage doors will be replaced with a single mechanized garage door.

#### Variance Request

The ordinance requires structures to comply with the rear and side yard setbacks. The applicant notes the existing driveway is already within the side yard setback and the lot itself is in non-conforming with the existing Zoning Ordinance since it is 0.56 acres. The garage, constructed in 1928, is original to the lot. A similar variance request was approved by the Board of Adjustment in July 2020 for the property at 375 Vanderbilt Road.



# Zoning Compliance Application

Town of Biltmore Forest

**Name**

Art and Penny Kiser

**Property Address**

377 Vanderbilt Rd

**Phone**

(828) 505-6208

**Email**

artkiser6@gmail.com

**Parcel ID/PIN Number**

964679678400000

## ZONING INFORMATION

**Current Zoning**

R-1

**Lot Size**

0.546

**Maximum Roof Coverage**

3,520 square feet (Up to .75 acres)

**Proposed Roof Coverage Total**

3400

**Maximum Impervious Surface Coverage**

Up to 1 acre (27.5 percent of lot area)

**Proposed Impervious Surface Coverage**

4320

**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 in height

**Description of the Proposed Project**

Add a carport on to existing garage and change entry to garage to a single 16ft automatic door.

**Estimated Start Date**

10/1/2021

**Estimated Completion Date**

1/1/2022

**Estimated Cost of Project**

\$20,000.00


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

A4.1 Sections and Details.pdf

A1.1 Carport Addition.pdf

**Applicant Signature**

**Date**  
8/4/2021



---

# VARIANCE APPLICATION

Town of Biltmore Forest

**Name**

Art and Penny Kiser

**Address**

377 Vanderbilt Rd

**Phone**

(828) 505-6208

**Email**

artkiser6@gmail.com

**Current Zoning/Use**

Residential

**Requested Use**

Residential

**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?**

Add a carport to existing garage and modify entrance doors to existing garage

**What does the ordinance require?**

Construction is in the side setback

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

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

Due to lot size the driveway is already in the side setback.

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

The carport will be 8ft 8in from neighbors fence. I have reviewed the plans and drawings with the affected neighbors. The primary hardship is the existing garage does not accomodate cars easily. Because of restricted turnaround space, when the owners two cars are parked in turnaround area visitors and delivery vehicles, such as mail, can not turnaround and must back out the driveway into Vanderbilt Rd. This is very inconvenient and unsafe.

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

The garage was built at time home was constructed in 1928. No changes have been made to this garage to date

**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 request will permit owner to park one or two cars in the garage and a guest can park under the carport

,leaving sufficient space to turn cars or delivery vehicles around and drive out to Vanderbilt safely.

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

**Signature**

**Date**

8/4/2021

Arthur Kish

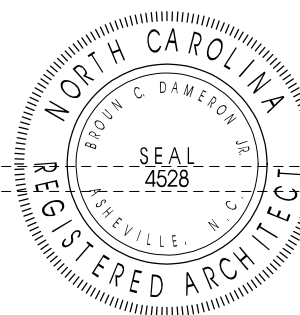
---

HISTORIC ADAPTATION  
LONG RANGE PLANNING  
OFFICE PLANNING  
RESIDENTIAL DESIGN  
MOUNTAIN SITES  
COMMERCIAL DESIGN  
COASTAL ARCHITECTURE  
INTERIOR RENOVATIONS

This drawing, specification and other documents prepared by the Architect are the property of the Architect and are to be used only for the project for which they were prepared. The Architect shall be deemed the author of these documents and shall retain all common law, statutory and other reserved rights, including the copyright. These documents shall not be used in whole or in part for any other project, in any form, or in any manner without the prior written consent of the Architect. The Architect reserves the right to use or modify these documents for any other project.

Copyright 2021, The Architectural Practice

Architect's seal



Firm seal

KISER  
RESIDENCE

377 VANDERBILT ROAD  
BILTMORE FOREST  
NORTH CAROLINA

DRAWING REVISIONS:

CARPORT  
ADDITION

CONSTRUCTION DOCUMENTS

SCALE: 1/4"=1'-0"  
AUGUST 4, 2021

ARCHITECTURAL DRAWINGS

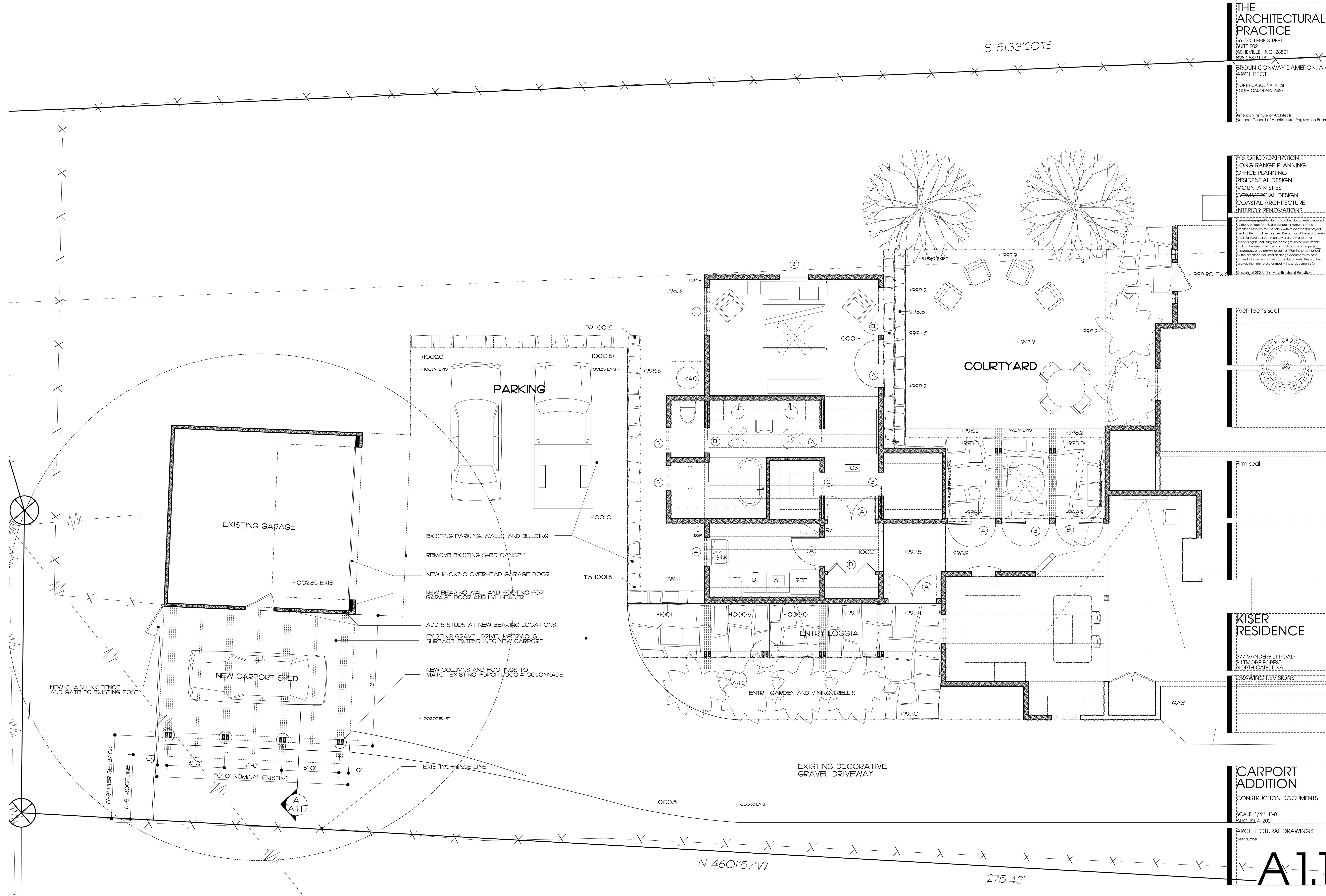
Sheet Number

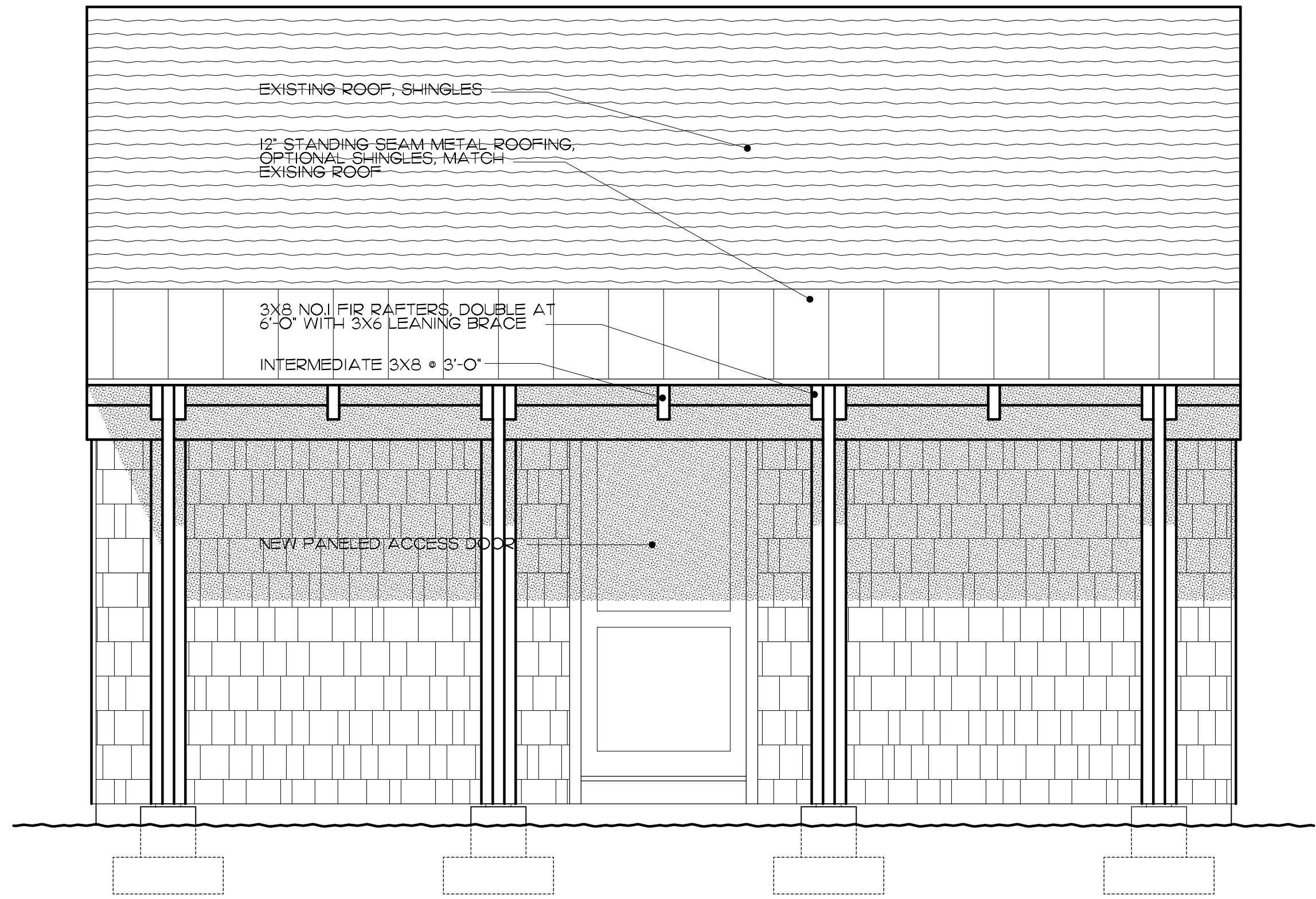
A1.1

S 51°33'20"E

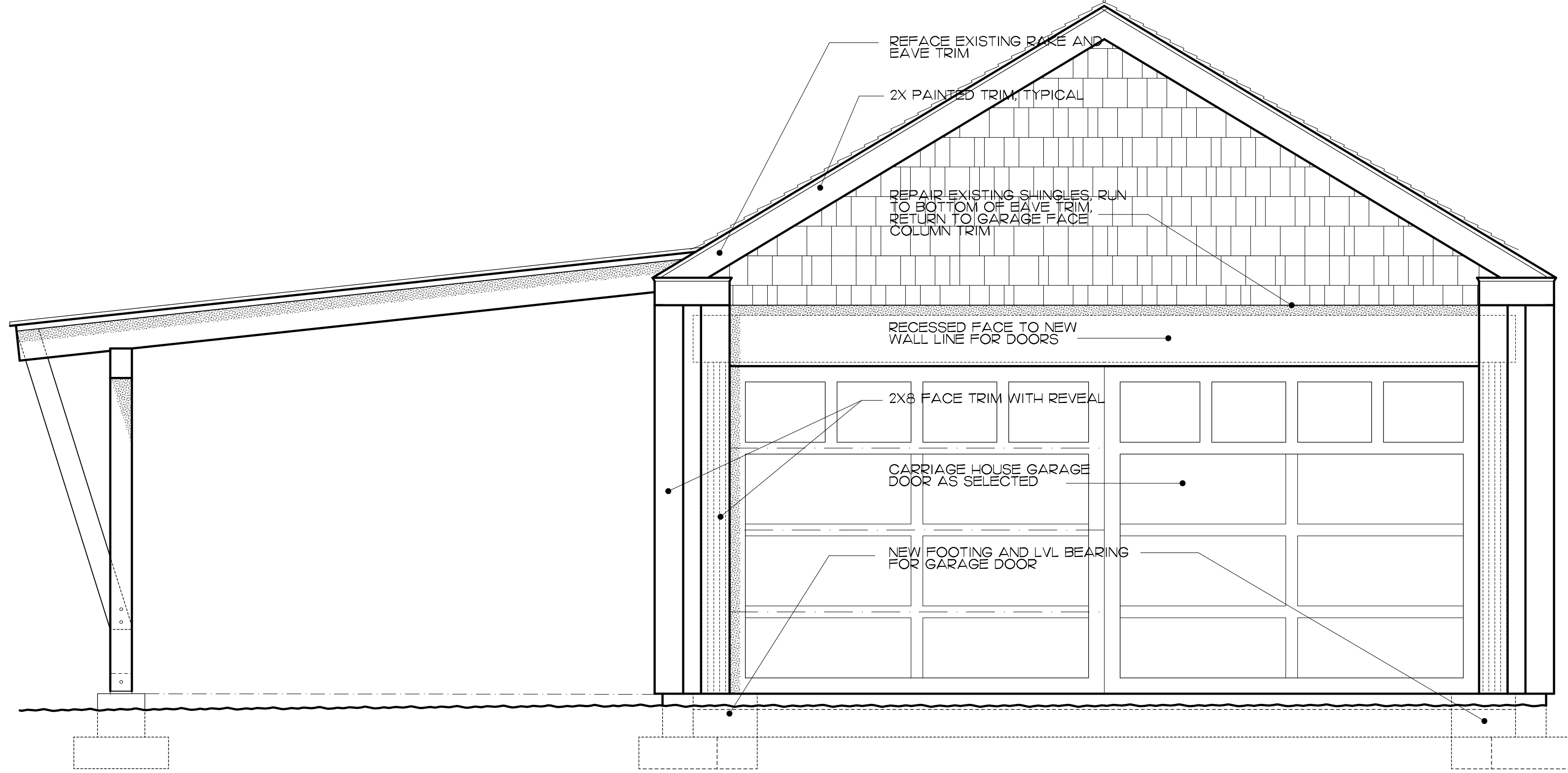
N 46°01'57"W

275.42'

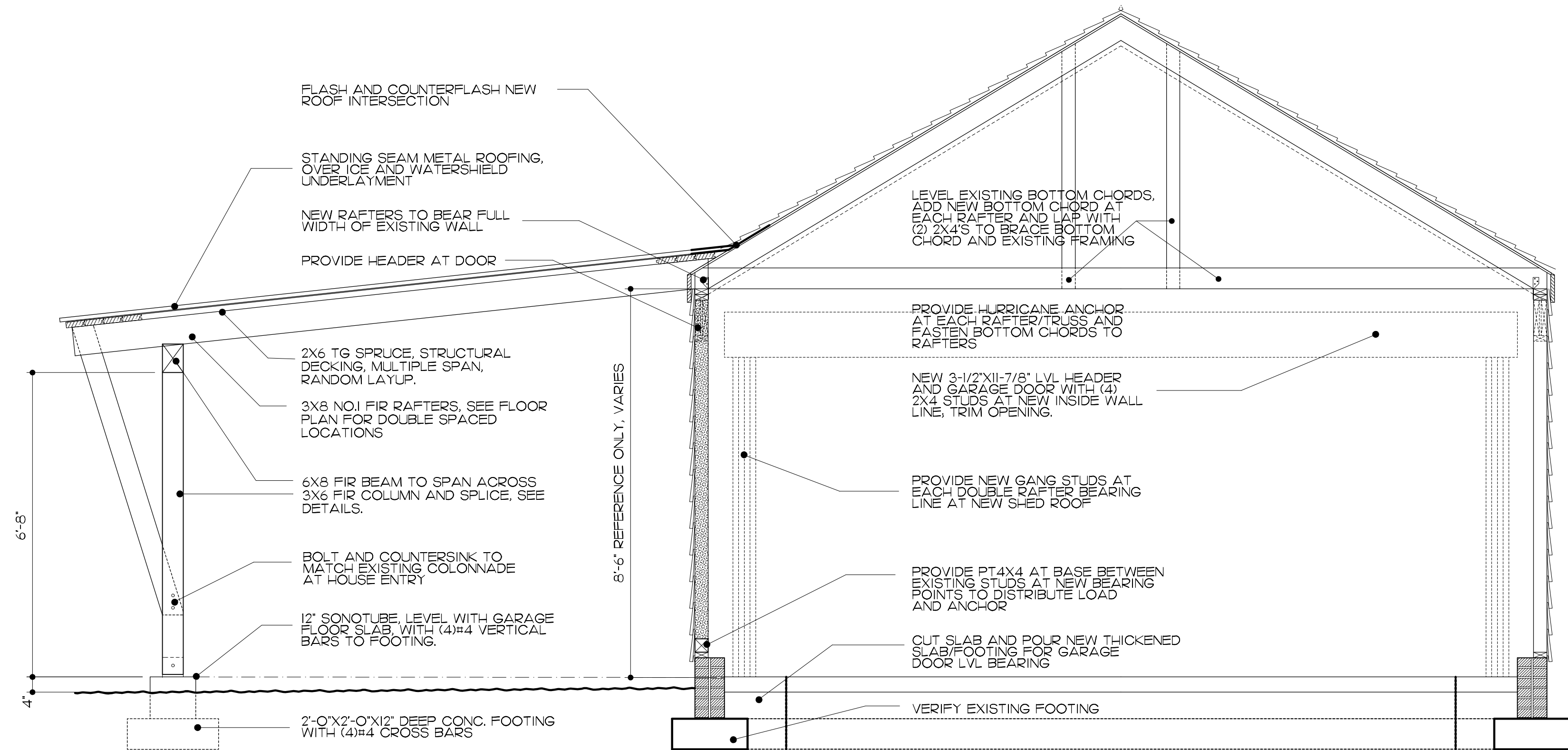




**SIDE ELEVATION**  
SCALE: 1/2"=1'-0"



**FRONT ELEVATION**  
SCALE: 1/2"=1'-0"



**BUILDING SECTION-A**  
SCALE: 1/2"=1'-0"



# BOARD OF ADJUSTMENT STAFF MEMORANDUM

August 23, 2021



## Case 5 – 9 Holly Hill Road Special Use Request for Existing Soccer Goal Installation and Landscape Plan Review

---

### Project Description

Last month, the Board of Adjustment determined that a soccer goal, installed at 9 Holly Hill Road, was an accessory structure and required a special use permit. The Board heard from the property owner and neighbors regarding the project, and requested additional information from the applicant pertaining to the installation of a turf field (instead of the lawn field originally specified to the Board in May 2018), the installation of a fence around the swimming pool, and drainage related to the overall projects.

### Special Use Permit Request

The property owner has applied for a special use permit in order to keep the existing soccer goal in place. The soccer goal, as currently installed, is within the rear yard and not in violation of the rear or side yard setbacks. The applicant has also included information related to the field turf installation, the fencing installed around the swimming pool, and email communications between himself, the Town, and County related to the downstream neighbor's drainage concerns.

As part of the special use permit request, the applicant has provided a revised landscaping plan. This plan calls for full installation by the end of November 2021. The fence was two-thirds installed between the last meeting and the draft of this memorandum.

# Zoning Compliance Application

Town of Biltmore Forest

**Name**

Benjamin Lehman

**Property Address**

9 Holly Hill Road

**Phone**

(434) 249-0257

**Email**

blehman\_007@yahoo.com

**Parcel ID/PIN Number**

964672798900000

## ZONING INFORMATION

**Current Zoning**

R-1

**Lot Size**

1.57

**Maximum Roof Coverage**

6,100 square feet (Up to 2 acres)

**Proposed Roof Coverage Total**

no additional roof surfaces

**Maximum Impervious Surface Coverage**

1-3 acres (25 percent of lot area)

**Proposed Impervious Surface Coverage**

no additional impervious surfaces

**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 building is being constructed

**Description of the Proposed Project**

A synthetic turf field measuring approximately 43ft x 85ft was installed in place of Bermuda grass sod as part of the 2018 backyard project. The synthetic turf field is permeable and drains 30 inches of water per hour per square yard. The field was installed per manufacturer recommendations on a 3 inch sub-base of compacted 1/4" minus.

I am applying for a full size soccer goal along with a net system to prevent the soccer balls from going onto lower neighboring property. The goal and net system are located at the rear of the turf field which is in the rear yard of the house. It is not located in the side setback. It will be appropriately screened with plantings to obstruct the view of the goal from the side yard. Plantings will be installed at the front side of the field to block the view of the goal as best possible, but because of the driveway configuration it will be impossible to completely obstruct the entire roadway view. I would like to install the full size soccer goal as all three of my children play competitive travel soccer and will use the goal to practice their skills. A smaller goal would not be nearly as helpful to them in developing their skills.

I also am reapplying for a fence to be installed around the pool. It was part of the original project but was delayed significantly because of contractor issues out of my control. The fence is currently being worked on, but may not be complete before this upcoming meeting. I was told to include this in my application. It is a 54" tall black aluminum pool code fence and is traditional in appearance.

**Estimated Start Date**

8/30/2021

**Estimated Completion Date**

10/31/2021

**Estimated Cost of Project**

\$3,500.00

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

**Applicant Signature**

**Date**

8/9/2021



---

# Special Use Permit Application

Town of Biltmore Forest

**Name**

Benjamin Lehman

**Address**

9 Holly Hill Road

**Phone**

(434) 249-0257

**Email**

blehman\_007@yahoo.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:**

I am applying for a full size soccer goal along with a net system to prevent the soccer balls from going onto lower neighboring property. The goal and net system are located at the rear of the turf field which is in the rear yard of the house. It is not located in the side setback. This accessory structure abides by the current ordinances in that it does not fall within the side setback and it is located in the rear of the yard. It will be appropriately screened with plantings to obstruct the view of the goal from the side neighbor. Plantings will be installed at the front side of the field to block the view of the goal as best possible from the road, but because of the driveway configuration it will be impossible to completely obstruct the entire roadway view. I would like to install the full size soccer goal as all three of my children play competitive travel soccer and will use the goal to practice their skills. A smaller goal would not be nearly as helpful to them in developing their skills.

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

Many residents throughout Biltmore Forest have soccer goals in their yards and many of them are only slightly smaller than full size and measure 6' x 18' instead of mine which is 8' x 24'. Many of these goals are located in front yards and completely visible to the road. I don't mind seeing these goals, nor the volleyball nets or lacrosse goals or basketball hoops that are visible from the road, because it means that there are kids in this neighborhood who play and are active. It represents an active and vibrant neighborhood which is appealing to families with kids who are considering moving into Biltmore Forest. My synthetic turf field is a beautiful addition to our property and increases the value of our home. It is always beautiful green and looks like natural grass and it doesn't require chemicals and large noisy mowing crews to come into the neighborhood on a regular basis. The field and soccer goal will be screened from view from the side neighbor through dense plantings so they should have no issues to be concerned about. The field and goal will be screened as best possible from the road but the view won't be completely obstructed which really isn't any different than many other residents/homes in Biltmore Forest where accessory buildings and structures can be seen from the road as you drive by. There are several other homes in Biltmore Forest with tennis courts and sport courts on their property and a few of them can be seen from the road. My proposed field and soccer goal is not dissimilar to many other homes in the neighborhood and I don't see any reason why it would be considered inappropriate or out of the ordinary for this neighborhood. Therefore, I do not believe that it has any adverse affect on the public interest of the

neighborhood.

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

**Signature**

**Date**

8/9/2021

A handwritten signature in dark ink, appearing to read "Ben [unclear]", written over a horizontal line.



All plantings to be installed as plants are available and to be completed by November of 2021. If some plants unavailable, then similar plants may be substituted.

### Impervious Surfaces

Pool	989 ft <sup>2</sup>
Stamped Concrete	2273 ft <sup>2</sup>
Fire Pit Stone Patio	314 ft <sup>2</sup>
House Structure	2734 ft <sup>2</sup>
Driveway/Entry Walk	5540 ft <sup>2</sup>

Pool Equipment Concrete Pad	24 ft <sup>2</sup>
Shed	50 ft <sup>2</sup>
Stone Stepper Walkways	120 ft <sup>2</sup>
Stone wall and steps	115 ft <sup>2</sup>
Timber Steps	60 ft <sup>2</sup>

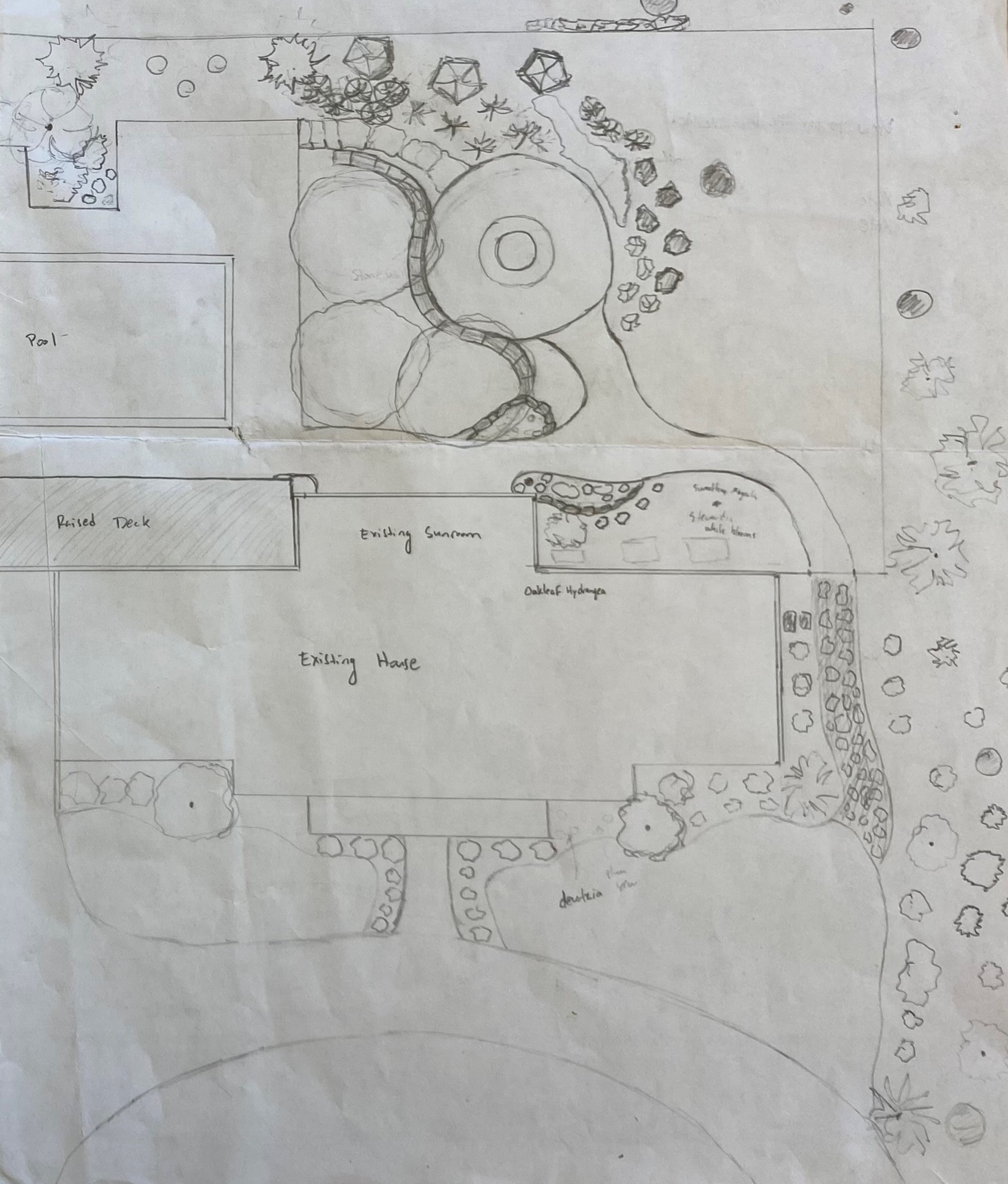
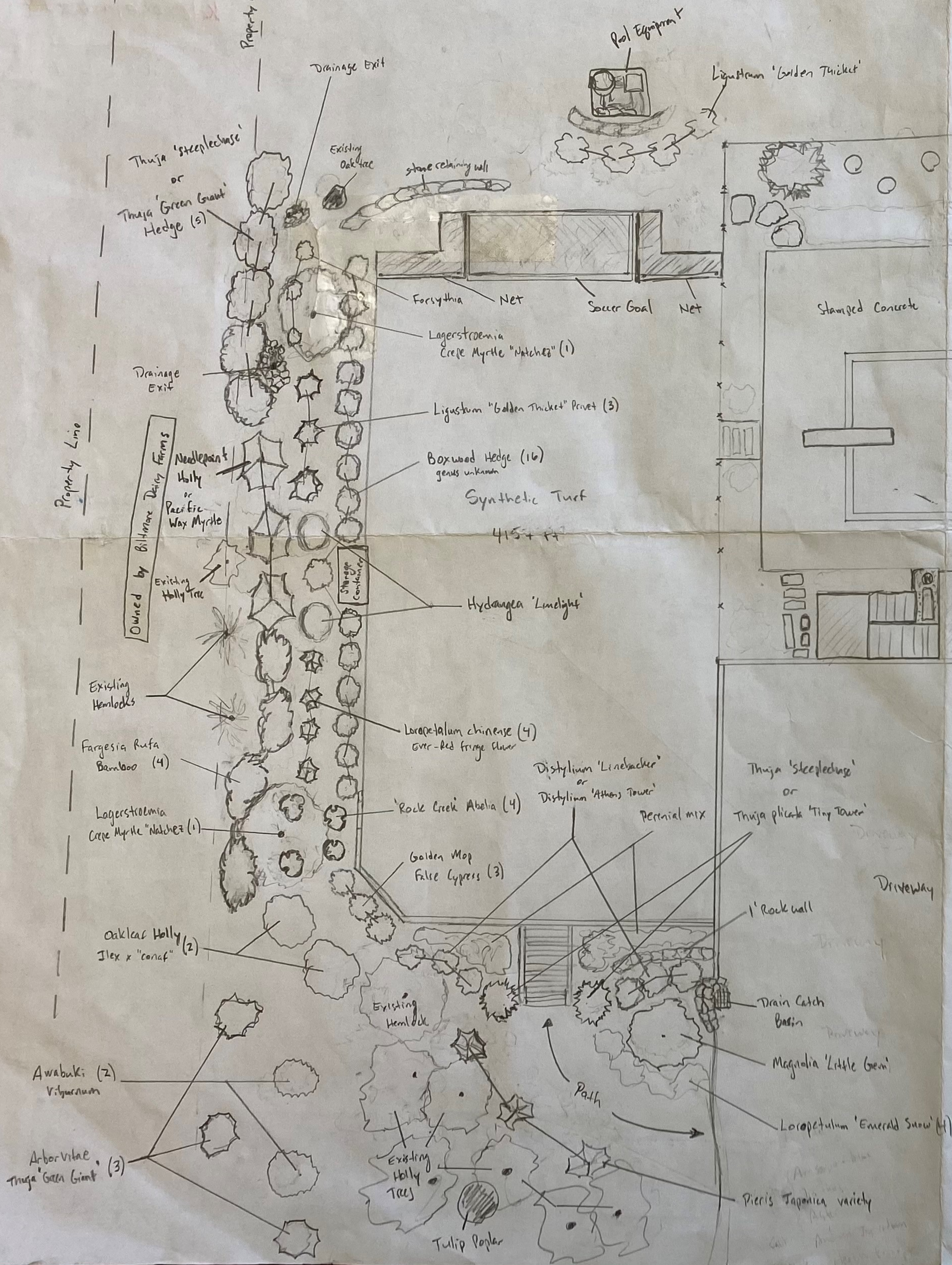
Total Impervious Surface Area 12,219 ft<sup>2</sup>

### Semi-Permeable Surface

Synthetic Turf 4157 ft<sup>2</sup>

Total Allowable Impervious Surface Area

$$1571 \times 43,560 \times (0.25) = 17,108 \text{ ft}^2$$





## Versa

A 1.375 inch pile, polyethylene monofilament with thatch construction. Designed specifically for landscape application to enhance recovery.

Recommended Use: Moderate to Heavy Traffic  
Main Application: Landscape  
Colors: Field Green/Lime Green

### LEAD FREE PRODUCTS:

- All of our products undergo rigorous stringent testing to ensure safety and non-toxicity.
- Our products contain no detectable traces of lead or other RCRA hazardous waste heavy metals.

**CALL TODAY! 877.643.8006**

### Main Advantage

- Designed to truly replicate grass
- A 1.375 inch blade height helps to achieve a natural appearance
- Uniquely formulated polyurethane coated backing provides greater seam strength and durability
- Not water soluble
- Heat and frost resistant
- UV stabilized
- No harmful environmental effects
- Non-flammable, ant-acid yarn resistant to chemical attack

### Yarn Characteristics

Type: Monofilament PE with Thatch  
Composition/Structure: Polyethylene  
Denier: 12,000/5,500  
Colors: Field Green/Lime Green

### Manufactured Rolls

Width: 15 feet  
Length: 100 feet  
Shipping Weight: 1090 pounds\*  
Roll Diameter: 24 inches  
Total Product Weight: Approximately 92 ounces per square yard

### Additional Info

Recommended Maintenance:  
Rinse and groom as needed to limit matting

\*Approximate Weight

Drainage Rate: 30+ inches of rain per hour per square yard

### Turf Characteristics

Pile/Face Weight: Approx. 65 ounces  
Pile Height: Approx. 1.375 inches  
Machine Gauge: 3/8 inch  
Thatch Color: Green

### Particulate Infill

Type: Quality Infill  
Weight: 1.5-2.5 pounds per square foot\*  
Height: Approximately .5 inch to .75 inch  
Colors: Green, Black or Natural

### Backing Characteristics

Primary Backing 1  
Composition/Structure: 13 Pic  
Weight: 3.5 ounces per square yard  
Finish Coating: Polyurethane 20 ounces per square yard\*

Primary Backing 2  
Composition/Structure: 15 Pic  
Weight: 3.5 ounces per square yard  
Tuft Bind: 10+ pounds

**EXCLUSIVELY  
DISTRIBUTED  
BY SGW**

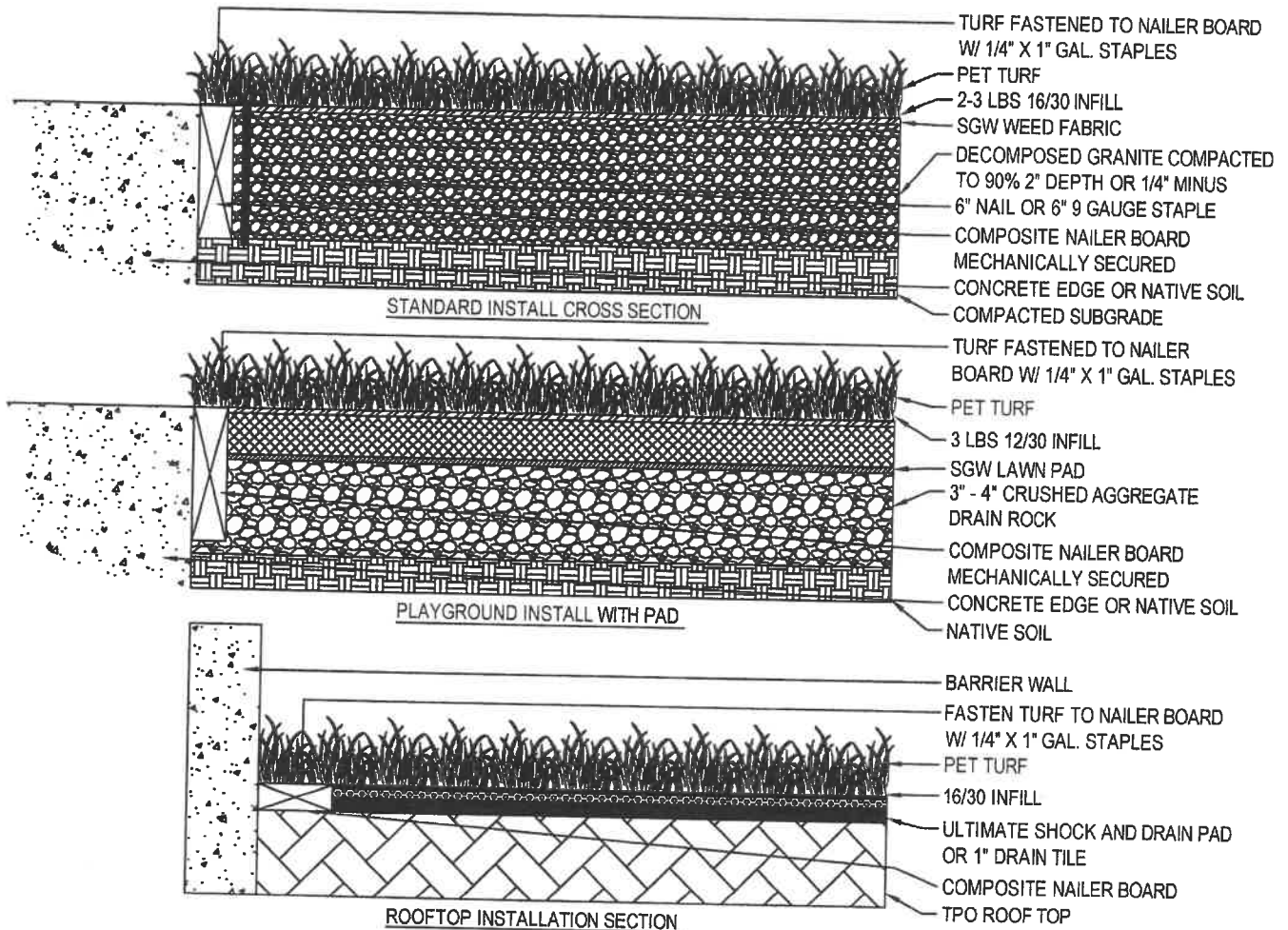


**LEAD  
FREE  
PRODUCT**

# SGW

**synthetic grass warehouse**

**SYNTHETIC GRASS WAREHOUSE**  
 1317 WEST ROYAL LANE  
 DALLAS, TX 75261  
 PHONE: (469) 206-7008  
[www.sgwcorp.com](http://www.sgwcorp.com)



## **SPECIFICATIONS:**

**MODEL:** PET

**RECOMMENDED USE:** MODERATE TO HEAVY TRAFFIC

**YARN COLORS:** FIELD GREEN / LIME GREEN

**YARN TYPE:** MONOFILAMENT

**YARN COMPOSITION:** PE WITH THATCH

**THATCH COLOR:** BROWN

**YARN DENIER:** 9000 / 5000

**FACE WEIGHT:** APPROX. 60 OZ/YD

**TOTAL WEIGHT:** 87 OZ/YD

**PILE HEIGHT:** APPROX. 1"

**GAUGE:** 3/8"

**ROLL WIDTH:** 15'

**ROLL LENGTH:** 100'

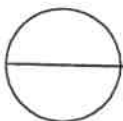
**ROLL WEIGHT:** 945 LB

**RECOMMENDED INFILL:** 0 ~ 2 LBS/S.F.

**WEIGHT/SQ.FT:** 0.63 LB

## **NOTES:**

1. INSTALLATION TO BE COMPLETED IN ACCORDANCE WITH MANUFACTURER'S SPECIFICATIONS.
2. DO NOT SCALE DRAWING.
3. THIS DRAWING IS INTENDED FOR USE BY ARCHITECTS, ENGINEERS, CONTRACTORS, CONSULTANTS AND DESIGN PROFESSIONALS FOR PLANNING PURPOSES ONLY. THIS DRAWING MAY NOT BE USED FOR CONSTRUCTION.
4. ALL INFORMATION CONTAINED HEREIN WAS CURRENT AT THE TIME OF DEVELOPMENT BUT MUST BE REVIEWED AND APPROVED BY THE PRODUCT MANUFACTURER TO BE CONSIDERED ACCURATE.
5. CONTRACTOR'S NOTE: FOR PRODUCT AND COMPANY INFORMATION VISIT [www.CADdetails.com/info](http://www.CADdetails.com/info) AND ENTER REFERENCE NUMBER 5028-015.



**SYNTHETIC GRASS WAREHOUSE**

PET TURF





A very common topic of concern our installers receive from their customers is drainage. Many homeowners worry about pet urine or potential flooding from heavy rain.

Where does it go? How does it work? You don't have to worry – our artificial grass is engineered for superior drainage.

The drainage systems of synthetic grass are primarily designed to allow water to percolate through the backing of the turf and drain through the base layer into the water table. Most artificial grass backing is perforated with holes that measure approximately ½ centimeter in diameter and can drain at a rate of more than 30 inches per hour per square yard. Believe it or not, this is actually better than a natural lawn!

With the exception of most synthetic putting greens, nearly all landscape turf is perforated and allows for easy, worry-free drainage. A good drainage system can not only help with clean up, but it will also help prevent spores and bacteria from building up within the synthetic grass.

Whether it's water or pet urine, the drainage capacity ensures your turf will continue to look great after installation. No need to feel like you can't have a picnic, run around, or let your dogs loose on it. Synthetic grass harnesses the technology to keep your landscape hassle free with great drainage capability.



## SGW Charlotte, North Carolina

Our water rates here in Charlotte / Mecklenburg County have gone up 20.5% in just 2 years. The average family now pays \$45/month for water, compared to \$35 dollars/month in 2010. This makes water the fastest rising utility expense for families in not only the Charlotte region, but the entire nation. [Source: [Charlotte Utilities](#)]

We must do everything we can to conserve this increasingly precious resource. 1/3 of our water consumption goes toward watering lawns. At the current rate that water rates are rising, we can expect to pay over \$1,000 per year for water by 2015. Never before has artificial grass been a better investment. No more harmful pesticides and chemicals seeping back into our water supply, no more holes dug in the yard from your pets, no more mowing, and most importantly, no more watering. Just an occasional rake!

SGW's artificial grass is the safest, most durable, and most realistic grass you can find in the nation. We have plenty of service reps in Mecklenburg that can consult you and explain how an artificial grass lawn can pay for itself in just a few years!

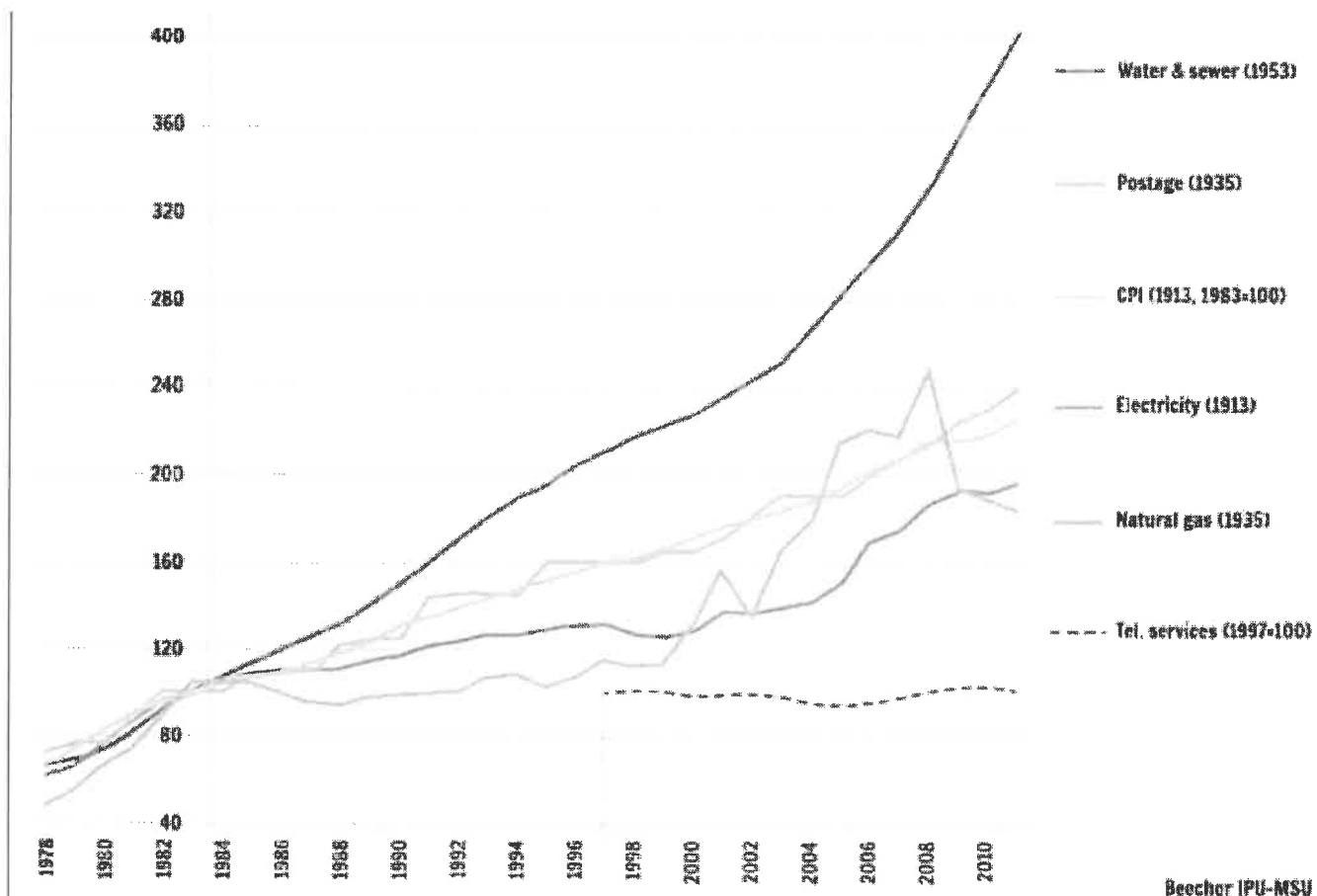
---

## Water Use Facts for Charlotte, NC

\*Average daily per capita residential use (gallons) = N/A

Source: Information was collected from websites of each city's water utility page, or by reaching out directly to utility companies. Stats are current as of Q3 2012.

---



**Exhibit 2. Trends in the Consumer Price Index for utilities (general, 1979-2011).**  
The index is set to 100 for 1982-1984 except for telephone services, where the index is set to 100 for 1997.

Beecher IPU-MSU



**SGW**  
Synthetic Grass Warehouse



**INSTALLERS**  
Resources & Benefits



**800.730.2675**  
[info@sgwcorp.com](mailto:info@sgwcorp.com)

**GET FREE  
SAMPLES**

# HAVING A SYNTHETIC LAWN SIMPLY MAKES SENSE

	SYNTHETIC GRASS	NATURAL GRASS
SQUARE FEET	1,200	1,200
INITIAL INSTALLATION COST	\$9.00	\$2.50
INITIAL INVESTMENT	\$10,800	\$3,000*

*\* Includes initial cost of irrigation system and installation: \$4,500.*



Annual Power Brush	\$175	Irrigation	\$57	\$684
ROI REALIZED IN APPX. 2.5 YRS.		Fertilizer	\$8.50	\$102
		Chemical	\$8.50	\$102
		Irrigation Repair	\$15	\$180
		Mowing + Trimming	\$100	\$1,200
<b>TOTAL</b>	<b>\$175</b>	<b>TOTAL</b>	<b>\$189</b>	<b>\$2,268</b>
Year 1	\$175	Year 1		\$2,268
Year 2	\$175	Year 2		\$2,268
Year 3	\$175	Year 3		\$2,268
Year 4	\$175	Year 4		\$2,268
Year 5	\$175	Year 5		\$2,268
Year 6	\$175	Year 6		\$2,268
Year 7	\$175	Year 7		\$2,268
Year 8	\$175	Year 8		\$2,268
Year 9	\$175	Year 9		\$2,268
Year 10	\$175	Year 10		\$2,268
Year 11	\$175	Year 11		\$2,268
Year 12	\$175	Year 12		\$2,268
<b>TOTAL COST</b>	<b>\$12,900</b>	<b>TOTAL COST</b>		<b>\$34,716</b>



**INSTALLERS**  
Resources & Benefits



**800.730.2675**  
[info@sgwcorp.com](mailto:info@sgwcorp.com)

**GET FREE  
SAMPLES**

## The Benefits of Synthetic Grass

Whether you're a gardening perfectionist or an environmental advocate, current statistics and trends continue to show that a synthetic grass lawn can benefit not only your pocketbook, but also your lifestyle. Among the many benefits SGW synthetic grass has to offer, here are some of the most important and poignant reasons why you should make your yard a SGW synthetic grass yard:

**Conserve water:** Over 50 percent of our water bill is dedicated to watering natural grass and many states across the nation are placing more water restrictions in residential and commercial areas. For every square foot of SGW synthetic grass installed, you can save up to 55 gallons of water, according to the Southern Nevada Water Authority. Help you and your communities save water while maintaining a safe and comfortable environment with SGW synthetic grass!

**Save time and money:** When you install synthetic grass to your application, not only do you save thousands of dollars over the years, but you also save valuable time. Spend more time with family and friends and less time keeping up with your yard.

**Reduce air pollution:** Five percent of air pollution in the United States is contributed to lawn and gardening equipment. Without using unnecessary gardening equipment, you can help reduce carbon emissions with our synthetic grass products!

**Low maintenance:** Forget the lawn mower and weed wacker! SGW synthetic grass requires minimal maintenance to maintain a beautiful ever-green yard. Just an occasional brush up, water spray and sanitary items for animals helps maintain your beautiful ever-green grass.

**Reduce Non-point source pollution:** According to the Environmental Protection Agency, over 65 million pounds of toxic fertilizers and lawn pesticides are released into the local water supply each year. With SGW synthetic grass, all of our products are safe and non-toxic! Keep harmful pesticides out of your water supply!

**Maintain a beautiful looking yard all year long:** Never worry about brown patches and seasonal changes that require expensive treatments. Our synthetic grass is equipped with U.V. inhibitors that prevent your grass from fading. Our grass has a tuft bind which makes it very durable and able to handle all types of harsh weather conditions, as well.

**From:** [Jonathan Kanipe](#)  
**To:** [Andi Eglinton](#)  
**Subject:** FW: 9 Holly Hill Road site  
**Date:** Friday, January 04, 2019 4:49:00 PM  
**Attachments:** [9 HOLLY HILL RD REPORT.pdf](#)

---

Good afternoon Mrs. Eglinton,

I hope you are well and are getting things dried out as best as possible. I received a copy of the report from the Buncombe County inspector this afternoon and wanted to pass along a copy to you. The gist of it is that they are requiring the homeowner to provide more ground covering behind the home and on the grading site for the property. In speaking with Mr. Lehman, they intend to do this and go with some specific landscape matting as well as additional groundcover.

The County Inspector did indicate the remaining measures in place were appropriate and that the property owner was permitted (since the area of disturbance is under 1 acre) to allow the storm water to flow through their property. My assumption is he did not view your property, so you may want to contact him directly at the number or email below to discuss his findings and whether there anything else can be done to prevent this from occurring in the future. Since Mr. Guess is the subject matter expert on this (and inspector for the Town) I will defer to him and hope that he can provide you with more information if you need. Please let me know if I can facilitate this occurring or if I can do anything further.

Thank you,

Jonathan Kanipe  
Town Manager  
Town of Biltmore Forest  
(828) 274-0824 // [jkanipe@biltmoreforest.org](mailto:jkanipe@biltmoreforest.org)  
<http://www.biltmoreforest.org>

All email correspondence to and from this address is subject to public review under the NC Public Records Law.

---

**From:** Terry Crouch  
**Sent:** Friday, January 04, 2019 11:59 AM  
**To:** Jonathan Kanipe <[jkanipe@biltmoreforest.org](mailto:jkanipe@biltmoreforest.org)>  
**Subject:** Fwd: 9 Holly Hill Road site

Jonathan here is the report from Jason Guess from Buncombe County Soil Erosion about 9 Holly Hill

Get [Outlook for Android](#)

---

**From:** William J. Guess <[jason.guess@buncombecounty.org](mailto:jason.guess@buncombecounty.org)>  
**Sent:** Friday, January 4, 2019 11:54:46 AM  
**To:** Terry Crouch

**Subject:** 9 Holly Hill Road site

Terry,

Attached is a copy of the inspection report for the 9 Holly Hill Road site. In the inspection report, I noted that erosion control measures were installed on the site and that it was the responsibility of the homeowner to maintain these measures as well as the establishment of temporary ground cover. I stated in the report that the owner has the right to control and convey the stormwater runoff that is entering his property as long as his disturbance is less than one acre. I did see signs of runoff leaving the home site, but there was no evidence of off-site sedimentation on the neighboring property from the construction. If you feel that we need to discuss this further or if you have any questions, please contact me at our office. Thank you.

Sincerely,  
W. Jason Guess

*W. Jason Guess  
Buncombe County Planning and Development  
Erosion Control Department  
46 Valley Street  
Asheville, NC 28801  
(828)250-4848*







## COUNTY OF BUNCOMBE

Department of Planning  
Erosion Control Office  
46 Valley Street  
Asheville, NC 28801  
(828) 250-4848

### SEDIMENTATION INSPECTION REPORT

Project Name: PIN# 9646-72-7989 Permit No: \_\_\_\_\_

Person(s) Financially Responsible: BEN LEHMAN

Project Location: 9 HOLLY HILL ROAD

(1) Pictures taken on this inspection? No ☐ Yes ☒ Number \_\_\_\_\_ Prints ☐ Slides ☐ Digital ☐ Video ☐

(2) Weather and Soil Conditions: CLOUDY 46°F WET

(3) Is the site currently under Notice of Violation? No ☒ Yes ☐ Yes, ☐ per this inspection.

(4) Is site in compliance with the North Carolina Sedimentation Pollution Control Act of 1973 (N.C.G.S. 113A, Article 4) and Article V. Soil Erosion & Sedimentation Control of Chapter 26 Environment of The Buncombe County Code of Ordinances?

Yes ☐ No ☒

- (5)
- a. ☐ No approved plan [G.S.113 A-57 (4); Section 26-211a 26-228]
  - b. ☐ Failure to obtain a Land Disturbing Permit [B.C. Ordinance-Section 26-226]
  - c. ☐ Failure to take all reasonable measures [15A N.C.A.C. 4B.005, B.C. Ordinance Section 26-211b]
  - d. ☐ Failure to comply with the Design & Performance Standards for High Quality Water (HQW) Zones [B.C. Ordinance - Section 26-247b]
  - e. ☐ Failure to follow approved plan [G.S. 113A-61.1, B.C. Ordinance-Section 26-230b]
  - f. ☐ Insufficient measures to retain sediment on site [G.S.113A-57(3); B.C. Ordinance Section 26-212 (5) & 26-246(3)]
  - g. ☐ Inadequate buffer zone [G.S. 113A-57(1), B.C. Ordinance Section 26-246(1)]
  - h. ☐ Failure to maintain erosion control measures [15N.C.A.C.4B.0013, B.C. Ordinance Section 26-252]
  - i. ☐ Graded slopes and fills too steep, [G.S. 113A-57(2) or 15A N.C.A.C 4B.0024 (d), B.C. Ordinance Section26-246(2)]
  - j. ☐ Unprotected exposed slopes, [G.S. 113A-57(2); B.C. Ordinance-Section26-246(2)]
  - k. ☒ Failure to provide adequate ground cover [G.S. 113A-57(3) and; 15A N.C.A.C.4B.0007 (b) or 15A N.C.A.C. 4B.024 (e) B.C. Ordinance Section 26-246(2, 3)]
  - l. ☐ Failure to submit revised plan [G.S. 113A-54.1(b) & N.C.A.C.4B.0018 (a), B.C. Ordinance-Section 26-228d]
  - m. ☐ Other (Describe) \_\_\_\_\_

(6) Has off-site sedimentation occurred since last inspection? Yes ☐ No ☒

Degree: Slight ☐ Moderate ☐ Severe ☐

Remarks:

(7) Corrective action(s) needed:  
TEMPORARY GROUND COVER MUST BE ESTABLISHED (IE. GRASS, MULCH, STONE, HYDROMULCH, STRAW, MATTING....)

(8) Comments:  
HOME SITE CONSTRUCTION IS CURRENTLY ONGOING. GROUND COVER MUST BE ESTABLISHED ON ALL BARE AREAS NOT CURRENTLY IN CONSTRUCTION TO PREVENT THE POTENTIAL OF SOIL EROSION ON NEIGHBORING PROPERTY. EXISTING MEASURES (SILT FENCING, BASINS) ARE IN AND APPEAR TO BE PREVENTING SEDIMENT FROM LEAVING SITE. MAINTENANCE OF SILT FENCING AND/OR OTHER MEASURES MUST BE MAINTAINED THROUGHOUT CONSTRUCTION. EVIDENCE THAT CURRENT OWNER HAS ATTEMPTED TO CONSTRUCTED MEASURES TO CONVEY EXISTING STORMWATER RUNOFF ENTERING THE PARCEL AROUND THE CONSTRUCTION SITE WAS OBSERVED. CONVEYANCE OF STORMWATER IS ALLOWED AS LONG AS THE TOTAL DISTURBANCE OF CONSTRUCTION IS LESS THAN ONE ACRE. THIS INSPECTOR OBSERVED NO SIGNS OF OFFSITE SEDIMENTATION FROM CURRENT GRADING ACTIVITIES. PLEASE ADDRESS THE ABOVE ACTIONS BY THE DEADLINE STATED TO PREVENT ANY POSSIBLE ISSUES WITH SOIL EROSION. PLEASE CONTACT OUR OFFICE IF YOU HAVE ANY QUESTIONS. THANK YOU.

(9) **DEADLINE FOR CORRECTIVE ACTIONS ON OR BEFORE:** 01/30/19

**INSTALL TEMPORARY MEASURES IMMEDIATELY AND BEFORE:** \_\_\_\_\_

(10) Copy of inspection report to be sent to person(s) responsible: Yes ☒ No ☐

Report By: W. Jason Guess

Signature: William Jason Guess

Digitally signed by William Jason Guess  
DN: cn=William Jason Guess, o=Buncombe County Government, ou=Buncombe  
County Planning, email=jason.guess@buncombecounty.org, c=US  
Date: 2019.06.15 10:04:12 -0400

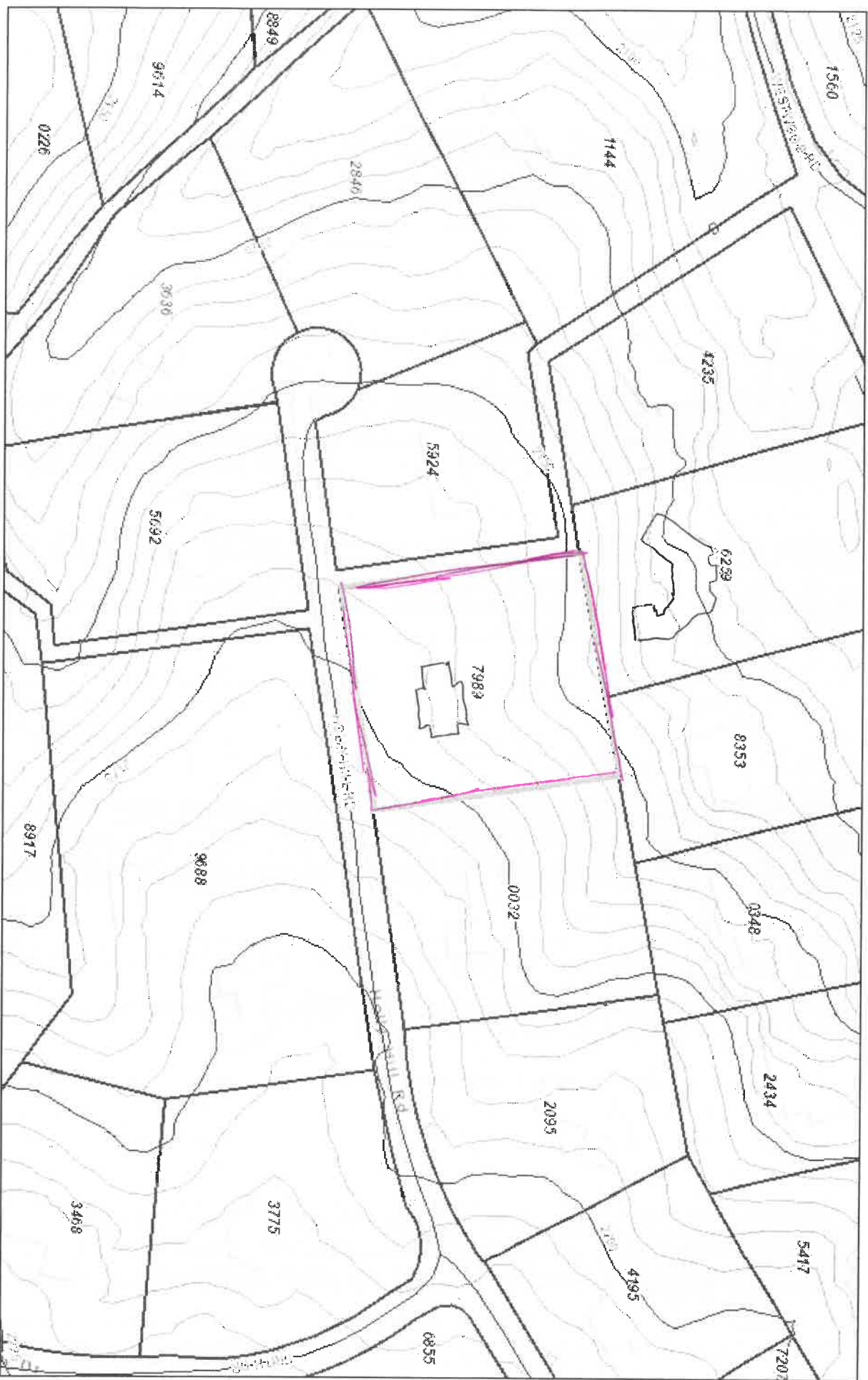
Date of Inspection: 01/02/19

Date Sent: 01/03/19

Copy to: FILE, PERMITS, TOWN OF BILTMORE FOREST

Others Present: \_\_\_\_\_

# Buncombe County



August 9, 2021

Topographical Map

- Stormwater Drainage Pattern Purposes

1:2,257  
0 0.0175 0.035 0.07 mi

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

RE: 9 Holly Hill Rd.

From: Jonathan Kanipe (jkanipe@biltmoreforest.org)

To: blehman\_007@yahoo.com

Date: Friday, January 4, 2019, 03:31 PM EST

Good afternoon Ben,

Thanks for your detailed email, and in the interim since you sent this, I did receive the report from Mr. Guess. I have attached it for your review and will provide a copy of it to Mrs. Eglinton as well. As Mr. Guess is the expert on this matter, I certainly will refer her to discuss the observations and recommendations with him, and note that you are planning to take protective ground cover measures as laid out in the report and per your email.

I will certainly pass this information along to Mrs. Eglinton and follow up with her regarding any further information. Thank you for all this information and your attention to performing the requested actions per Mr. Guess's report.

Jonathan Kanipe  
Town Manager  
Town of Biltmore Forest

(828) 274-0824 // [jkanipe@biltmoreforest.org](mailto:jkanipe@biltmoreforest.org)

<http://www.biltmoreforest.org>

All email correspondence to and from this address is subject to public review under the NC Public Records Law.

**From:** Ben Lehman <blehman\_007@yahoo.com>  
**Sent:** Thursday, January 03, 2019 12:02 PM  
**To:** Jonathan Kanipe <jkanipe@biltmoreforest.org>  
**Subject:** Re: 9 Holly Hill Rd.

Jonathan,

Thank you for reaching out so quickly to the Buncombe County Planning and Development office. The Erosion Control Technician from their office, Jason Guess, came by my property yesterday morning and I was able to speak with him at length and he inspected our property including all aspects of the current construction project. He told me that he would be in immediate contact by phone with the Public Works Administrator of the Town of Biltmore Forest in regard to his inspection findings, and he said that he would soon after be mailing out (e-mailing?) a copy of his written report upon its completion. I am hoping that the report has been received on your end at this point, and if not it should be arriving soon.

My understanding from my discussion with Jason is that the county does not regulate stormwater runoff from properties. He said that they only regulate erosion control issues. He inspected our silt fences which he said looked good and fulfilled the county's requirements, and he said that there was no sign of migration of silt from my property onto the property of 8 Greenwood Place. He did note that we should put down some type of surface covering on the sloped areas

of my property that have been disrupted by the construction that are not currently under active construction. We had previously done this with straw which was then washed away by all of the recent rains. Jason said this is a common occurrence and instructed us to do this again and also suggested another alternative to straw such as an erosion control mat which my landscape contractor will look into. We will be fulfilling this requirement in the very near future. As per the stormwater runoff issue though, Jason said there is no responsibility on our part to divert the stormwater coming off of our property away from our lower neighbor. He noted that the large volume of rainfall we have had over the past 2 years has supersaturated the ground making it impossible for any precipitation to be absorbed and he noted that the natural topography of the land directs all the stormwater runoff onto the 8 Greenwood Place property directly above their driveway. He concluded that we have not changed the natural topography of the land in a way as to cause this stormwater issue and he noted that there was no sign of silt migration onto our lower neighbor's property and therefore no responsibility on our part to take any further action to remediate any current issue or prevent any further potential issue. He stated that according to all local building code requirements and expectations that it is up to the builder or owner of the property located on the downhill slope or at the bottom of a slope to collect, redirect, or divert the stormwater runoff coming down the slope due to the natural topography of the land. I do want to make you aware that my landscape contractor did take further action above any county requirements after the first occurrence of stormwater runoff onto the 8 Greenwood Place property several months ago. He did this by digging out several shallow retention ditches in an attempt to slow down stormwater runoff from our property onto the lower neighboring property. Jason Guess agreed that this was a good idea.

My wife and I feel that it is very unfortunate that Mrs. Eglinton is having issues with stormwater entering her home, but we do not believe that we are the cause of this nor the responsible party for preventing any further episode of this. We are fulfilling all county building code requirements. Mrs. Eglinton continues to drive by our house several times a day making us very uncomfortable, and my landscape contractor informed me yesterday that this past Monday she actually engaged one of his workers in conversation. I am unaware of what was said and the tone of the conversation, but this behavior seems quite inappropriate. At this point, I think this issue will only be resolved by having a county official or Biltmore Forest Town official directly convey the report findings with her and inform her that it is her responsibility to collect, redirect, or divert all stormwater entering her property from higher elevation in a way as to protect her home and other property. We would like her to understand that our construction project has not been the cause of the stormwater entering her home, and this is what Jason Guess' report will support. We want her to do what she needs to do to protect her home and property from stormwater drainage that has been a direct result of the record amount of rainfall that we have had over the past 2 years and the natural topography of the land.

I would be glad to meet with you in the next few days at our property so you can inspect what all we have done and look at the topography of the land for yourself. I am hoping that you or someone from the town can speak with Mrs. Eglinton in the immediate future to discuss the report with her. We are concerned of any potential future action she may take while she continues to act under the false belief that we are at fault for this issue and are failing to act accordingly. We would like this issue remedied as soon as possible and ask for your assistance in this.

Thank you,

Ben Lehman

---

**From:** Jonathan Kanipe <[jkanipe@biltmoreforest.org](mailto:jkanipe@biltmoreforest.org)>  
**To:** Ben Lehman <[blehman\\_007@yahoo.com](mailto:blehman_007@yahoo.com)>  
**Sent:** Wednesday, January 2, 2019 9:30 AM  
**Subject:** RE: 9 Holly Hill Rd.

Good Morning Mr. Lehman,

I appreciate you getting back to me and the actions undertaken on Friday during the rain event. As I was out of state and unable to view anything, I was working with third hand information as well which is why I just wanted to make you all aware and ask that you contact your contractor. I appreciate you doing so.

I believe you are correct in regards to the work you are doing, including the permissions you have received to perform the work and not exceeding any impervious surface coverage, etc. The Town's storm water/erosion control ordinance is ran and enforced by Buncombe County, which means that we do not have any one on staff to come out and make additional recommendations/inspections regarding storm water, but try to facilitate that conversation when there are issues between property owners. The County does this as part of their inspections and will likely be by to review the silt fence with your contractor – again, the repairs made Friday may be sufficient and the County would have the expertise to determine that. I will follow up with our Public Works Director (who is in charge of coordinating with the County) and see what information he has received back from them, and be in touch if there is anything further they recommend. Once I hear back from them, I will be back in touch and we can find a time to get together. Again, I appreciate you following up and taking the steps to contact the contractor on Friday.

Jonathan Kanipe  
Town Manager  
Town of Biltmore Forest

(828) 274-0824 // [jkanipe@biltmoreforest.org](mailto:jkanipe@biltmoreforest.org)

<http://www.biltmoreforest.org>

All email correspondence to and from this address is subject to public review under the NC Public Records Law.

**From:** Ben Lehman <[blehman\\_007@yahoo.com](mailto:blehman_007@yahoo.com)>  
**Sent:** Tuesday, January 01, 2019 4:15 PM  
**To:** Jonathan Kanipe <[jkanipe@biltmoreforest.org](mailto:jkanipe@biltmoreforest.org)>  
**Subject:** 9 Holly Hill Rd.

Jonathan,

My family and I were out of town last week, arriving back home this past Sunday evening. My wife received a voicemail on her cell phone last Friday from Mrs. Eglinton informing us that she was experiencing water coming into her garage and basement. Upon receiving this information, I called my landscape contractor and informed him of this and requested that he go to our house and inspect the situation. He did this during the middle of the heavy rains and got back to me. He said that a few of the silt fences needed sured up which he did. My wife called Mrs. Eglinton back and listened to her concerns and informed her that the only thing we could do at that time was to speak with our contractor and have him inspect the situation. Mrs. Eglinton was adamant that we were at fault for the water coming into her house and was not pleased with what she perceived was our unwillingness to take any action. My wife, Christie, told her that we contacted our landscape contractor immediately upon hearing her voicemail message to have him inspect the situation and look into the silt fences. She was not pleased with this and became contentious over the phone eventually hanging up on my wife.

At this point in time, it is unclear to me and my landscape contractor what further action or steps if any need to be taken on our part. It is my understanding that we are within our rights to perform landscape work on our property and we have not exceeded the allowed non-permeable surface area allotment and we have abided by the silt fence requirements. I believe that silt fences are only intended to control surface erosion and migration of surface material and not intended to control stormwater run-off. Our lot is located on high ground and all stormwater run-off from the street in front of us along with our lot and parts of both lots adjacent to ours travels downhill due to gravity towards the 8 Greenwood Place lot. The topography of the surrounding land dictates the stormwater run-off which happens to be directed onto their driveway. None of the work on our property has changed this stormwater run-off pattern. The record rainfall over the course of the year and the record rain-fall on this past Friday was the cause of Mrs. Eglinton's water problem, not our construction project. I believe that a homeowner is responsible for making sure that any rainfall and any stormwater runoff entering onto their property is redirected away from their home by way of gutters, drain systems, and appropriate sloping of the lot. I am worried that every time there is a significant rain that Mrs. Elginton is going to unfairly hold us responsible for any water entering her home. I would like to ask for your help in mediating this issue and of course to make sure that we are doing what is required by law on our part. The nature and tone of the phone call between my wife and Mrs. Eglinton has naturally left us hesitant to directly reach out to her without a mediator, especially not knowing what the responsibilities for each of us as homeowners are for this situation. We have noticed Mrs. Eglinton slowly drive up and down the street in front of our home several times over the past few days, periodically stopping and staring at our property, which is beginning to make us feel very uncomfortable. I would appreciate your assistance and guidance in this matter and would be happy to meet with you at your office or at my home in the next several days. Please, let me know what works best for you.

Thanks,

Ben Lehman

---

**From:** Jonathan Kanipe <[jkanipe@biltmoreforest.org](mailto:jkanipe@biltmoreforest.org)>  
**To:** "[blehman\\_007@yahoo.com](mailto:blehman_007@yahoo.com)" <[blehman\\_007@yahoo.com](mailto:blehman_007@yahoo.com)>  
**Cc:** Adrienne Isenhower <[adrienne@landofsky.org](mailto:adrienne@landofsky.org)>  
**Sent:** Friday, December 28, 2018 10:17 AM  
**Subject:** FYI

Good morning Ben,

I realize it is the end of a holiday week and you may not be in town (I am in fact out of state at present) but I wanted to alert you that the neighbor behind you at 8 Greenwood Place is apparently experiencing storm water coming into her basement via the back yard. I know you asked the contractor previously to reinforce silt fencing and again, not knowing if you were present, I wasn't sure how much you were aware or if this could be reinforced again. If there is anything that can be done to alleviate this please take those steps.

Thank you,

Jonathan

Re: 9 Holly Hill Road

From: Jonathan Kanipe (jkanipe@biltmoreforest.org)

To: blehman\_007@yahoo.com

Date: Tuesday, September 11, 2018, 06:17 PM EDT

Thank you for the prompt attention, Ben. I appreciate it.

> On Sep 11, 2018, at 4:51 PM, Ben Lehman <blehman\_007@yahoo.com> wrote:

>

> Jonathan,

>

> I have just forwarded this email onto my contractor. I have instructed him to address this immediately.

>

> Ben

>

>

>

>

> Sent from my iPhone

>

> On Sep 11, 2018, at 4:05 PM, Jonathan Kanipe <jkanipe@biltmoreforest.org<mailto:jkanipe@biltmoreforest.org>> wrote:

>

> Mr. Lehman,

> I know that Steve Ayers and Adrienne Isenhower stopped by earlier from the town regarding the erosion controls in place for your construction site. I wanted to follow up and provide you with an emailed photo sent from the neighbor behind your property on Greenwood Place showing the two waterfalls of mud/silt coming onto their property. Silt and erosion control measures need to be in place as soon as possible to prevent this from occurring again, and particularly in light of the weather we are forecast to have tomorrow through the beginning of next week.

>

> If you need specific information for your contractor, please have them contact Buncombe County's Stormwater department as they enforce the Town's ordinances and do site inspections when issues like this arise. You may contact Mike Goodson with Buncombe County at (828) 250-4830 for more information about what may be necessary to prevent this from occurring in the future.

>

> Thank you,

>

> Jonathan Kanipe

> Town Manager

> Town of Biltmore Forest

> (828) 274-0824 // jkanipe@biltmoreforest.org<mailto:jkanipe@biltmoreforest.org>

> <http://www.biltmoreforest.org><<http://www.biltmoreforest.org>>

>

> All email correspondence to and from this address is subject to public review under the NC Public Records Law.

>

> [cid:373a559e-b06f-446a-91f5-30962ee0568f@namprd18.prod.outlook.com]

>

>

>

>

> <IMG\_0176.JPG>



IMG\_0176.JPG

2.6MB

Re: 9 Holly Hill Road

From: Rip Hooker (riphooker@gmail.com)  
To: blehman\_007@yahoo.com  
Date: Tuesday, September 11, 2018, 04:52 PM EDT

Yes, I spoke with them and they are going to check back on Friday. I agreed to have fencing in by end of the day Thursday.

Sincerely,  
Rip Hooker  
828-458-7690  
[rip@splashluxurypools.com](mailto:rip@splashluxurypools.com)  
[www.splashluxurypools.com](http://www.splashluxurypools.com)

On Tue, Sep 11, 2018, 4:48 PM Ben Lehman <[blehman\\_007@yahoo.com](mailto:blehman_007@yahoo.com)> wrote:

Hey Rip,

I was just sent this email from the Biltmore Forest town administrator. They want something done immediately to prevent further silt erosion down the back. Obviously with The heavy rainfall there w

Ben

Sent from my iPhone

Begin forwarded message:

**From:** Jonathan Kanipe <[jkanipe@biltmoreforest.org](mailto:jkanipe@biltmoreforest.org)>  
**Date:** September 11, 2018 at 4:05:48 PM EDT  
**To:** Ben Lehman <[blehman\\_007@yahoo.com](mailto:blehman_007@yahoo.com)>  
**Cc:** Steve Ayres <[sayres@biltmoreforest.org](mailto:sayres@biltmoreforest.org)>, Adrienne Isenhower <[adrienne@landofsky.org](mailto:adrienne@landofsky.org)>  
**Subject:** 9 Holly Hill Road

Mr. Lehman,

I know that Steve Ayers and Adrienne Isenhower stopped by earlier from the town regarding the erosion controls in place for your construction site. I wanted to follow up and

If you need specific information for your contractor, please have them contact Buncombe County's Stormwater department as they enforce the Town's ordinances and do site

Thank you,

Jonathan Kanipe  
Town Manager  
Town of Biltmore Forest  
(828) 274-0824 // [jkanipe@biltmoreforest.org](mailto:jkanipe@biltmoreforest.org)  
<http://www.biltmoreforest.org>

All email correspondence to and from this address is subject to public review under the NC Public Records Law.



## Style B Residential Aluminum Fencing - Smooth Top

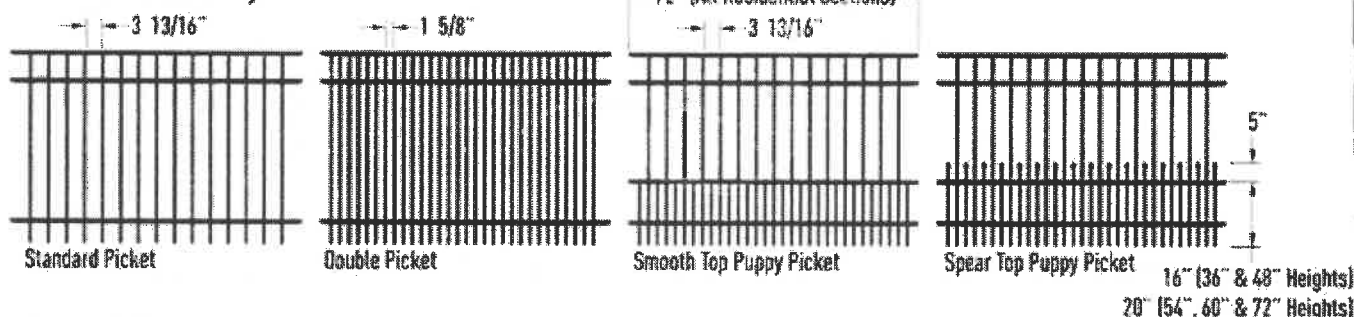
Material: 6063-T5 Aluminum • 72" Section Length • Pickets: 5/8" sq. x .050" Wall • Rails: 1" sq. x .055" Wall • PP6® TGIC Polyester Powder Coating  
Screws: Hardened 410 Stainless Steel With Cr6 Plating & Colored Heads • All Sections Are Offered Pre-Assembled Or Un-Assembled • Posts Sold Separately

### Available Heights



Style B Pool Code Approved Heights: Standard Picket Design - 54" Flush Bottom, 60" & 72" • Double Picket Design - 48", 54", 60" & 72"  
Please Note That 36" Height & Any Puppy Picket Design Fence Sections Do Not Meet Pool Code

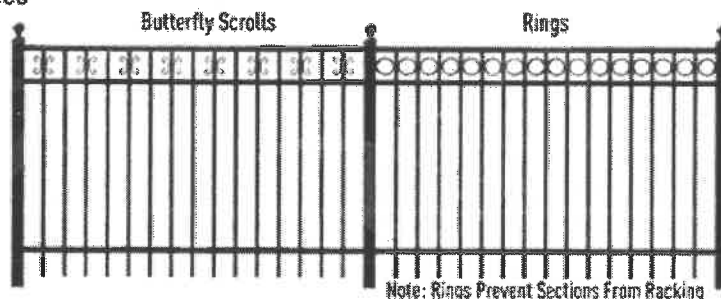
### Available Picket Styles



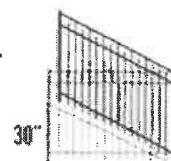
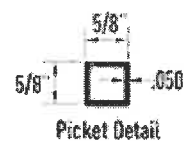
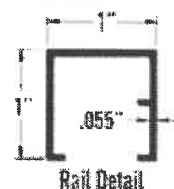
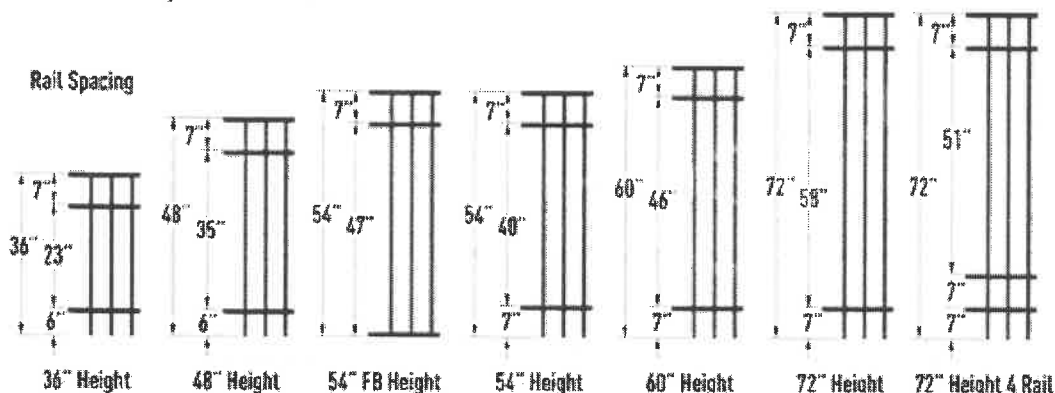
### Available Colors



### Optional Product Upgrades



### Additional Specifications



Note: Accent Rings Prevent Sections From Racking