



To: Members of the Board of Adjustment, Applicants & Neighboring Property Owners  
From: Jonathan B. Kanipe, Town Manager  
Date: February 9, 2022  
Re: **Board of Adjustment Meeting – February 21, 2022**

### Applicants:

You or a representative **MUST** attend the Zoom 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. If so, the visit will be conducted in a socially distant manner consistent with North Carolina state orders related to preventing the spread of Covid-19.

### 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>.

You are invited to attend the scheduled meeting via Zoom and make comment when called upon. Any additional information regarding the Zoom meeting will be provided on the Town's website no later than February 16, 2022.

## PROPOSED AGENDA

**The following items of business will be considered by the Biltmore Forest Board of Adjustment on Monday, February 21, 2022 at 4:00 pm. The meeting will be conducted entirely via Zoom. The format for the meeting and instructions for participating and attending the meeting remotely can be found on the second page of this agenda. The link for the Zoom meeting can be found at the bottom of the second page.**

1. The meeting will be called to order and roll call taken.
2. The minutes of the January 31, 2022 regular meeting will be considered.
3. Hearing of Cases (Evidentiary Hearings, Deliberations & Determinations).
  - Case 1: 8 Fairway Place** – Special Use Permit request for Accessory Structure (Dry Stack Stone Retaining Walls)
  - Case 2: 26 East Forest Road** – Special Use Permit request for Accessory Building (Greenhouse) and New Single Family Residence
  - Case 3: 394 Vanderbilt Road** – Special Use Permit request for Accessory Structures (Pergola Parking Area, Garden Shed, and Entrance Columns) and Variance for exceeding more than one detached accessory building.

4. Adjourn

## **Process and Procedure for February 21, 2022 Board of Adjustment Meeting via Zoom**

- Once admitted into the meeting, please mute audio until called upon by the Board chair.
- The meeting will be called to order at 4:00 p.m. by the Chair. All interested parties and applicants will be virtually sworn-in at this time.
- Each matter will be called forward and Town staff will authorize video and audio for applicants and any person with standing for that particular case. If an applicant would like to present visual evidence, they must provide this evidence to Town staff no later than Friday, February 18, 2022.
- The Board chair, or other Board of Adjustment member, will specifically ask questions to the applicant and ask for any evidence that they would like to present.
- The Board chair, or other Board of Adjustment member, will then specifically ask for any person with standing for that specific matter to provide comment. Town staff will moderate this comment period but will ensure each person who wishes to speak or provide evidence is able to do so.
- When all evidence and testimony has been provided, the Board will deliberate and render a decision, then move on to the next matter where the process will be repeated.

## **How to Access the February 21, 2022 Board of Adjustment Meeting via Zoom**

In order to access the Board of Adjustment meeting, please visit <http://zoom.us> to sign up, for free, for a Zoom account. This will enable you to participate with your desktop or laptop computer as you see fit. The Zoom link and log-in credentials are at the bottom of this page.

You may also download the free Zoom app from the Apple Store or Google Play on your mobile iOS or Android device. This app will walk you through setting up a free account.

If you are unable to access the meeting through a web or app based format, but would still like to listen and participate in the meeting, you may do so by calling one of the phone numbers listed below and entering the meeting ID and password.

Join Zoom Meeting

<https://us02web.zoom.us/j/89714430792?pwd=M0l0VVVViSUZ2WjUvbFp1djdoalldKQT09>

Meeting ID: 897 1443 0792  
Passcode: 855313

MINUTES OF THE BOARD OF ADJUSTMENT MEETING  
HELD MONDAY, JANUARY 31, 2022

The Board of Adjustment met at 4:00 p.m. on Monday, January 31, 2022.

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

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

Mr. Goosmann swore in the following:

Mr. Jonathan Kanipe

Mr. David Nelson

Ms. Martha Barnes

Mr. David Ross

Mr. Clinton Wittever

Mr. O.E. Starnes IV

A motion was made by Mr. Robert Chandler to approve the minutes from December 20, 2021. Ms. Lynn Kieffer seconded the motion. The minutes were unanimously approved with a few grammatical errors that will be corrected by the Clerk.

HEARING (Evidentiary):

A Special Use Permit request for stone steps and boulder placement within the front yard at 100 Chauncey Circle. Mr. Lowell Pearlman shepherded the matter. Mr. Pearlman disclosed Ms. Martha Barnes is also a member of the Board of Adjustment. Mr. David Barnes said the boulder placement is not very precise. It is more of a flat resin then round. The idea is to make it look natural with the boulders. The main issue is to enhance their landscaping and make it more appealing for the top of the berm.

DELIBERATION AND DETERMINATION:

Mr. Lowell Pearlman recited the facts and said David Nelson and Martha Barnes are applying for a Special Use Permit for the installation of landscape boulders in their front yard. It does not encroach with the setback requirements. It will only be visible by the occupants of the house. Mr. Pearlman also said no neighboring property owners have objected. There were no additions to the facts.

Mr. Robert Chandler made a motion for a Special Use Permit be granted to Mr. David Nelson and Ms. Martha Barnes at 100 Chauncey Circle and the facts as recited by Lowell Pearlman and his summation be accepted as findings and facts to support this grant. The Board has inspected this site and no neighboring property owner has objected. Mr. Chandler further moved the Board define that granting this Special Use Permit (a) would not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and improved, (b) met all required conditions and specifications of the Town of Biltmore Forest Zoning ordinance, (c) would not substantially injure the value of adjoining or abutting property, and (d) would be in general conformity with the plan of development of the Town of Biltmore Forest and its environs as set forth in Sections 153.110 (C)(2-3)of the above ordinance. The applicant has been informed that he/she is to report to the Zoning Administrator within seven (7) days of

completion of the project in order that the Zoning Administrator can determine that the project has been completed in accordance with plans submitted to the Town.

The motion was seconded by Ms. Rhoda Groce and unanimously approved.

HEARING (Evidentiary):

A Special Use Permit request for a 12'x20' accessory storage building within the side yard at 129 Stuyvesant Road. Ms. Kieffer shepherded the matter. Ms. Kieffer said there is an existing shed and asked Mr. Starnes if he would be willing to add some vegetation to the area where the existing shed will be torn down and rebuilt. Mr. Starnes said the neighbors are in support of the project. The old shed will be removed and a larger shed will be replaced. Mr. Starnes said it would be much more aesthetically pleasing. Mr. Starnes said it will be a roofed building. It will be a pre-fabricated wooden or composite building with a metal roof.

DELIBERATION AND DETERMINATION:

Ms. Kieffer said Mr. O.E. Starnes IV of 129 Stuyvesant Road is requesting a 12'x20' accessory storage building to replace an existing shed within the side yard and the facts as recited by Lynn Kieffer and her summation be accepted as findings and facts to support this grant. The Board has inspected this site and no neighboring property owner has objected. 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.

Mr. Lowell Pearlman seconded the motion. The motion was unanimously approved.

HEARING (Evidentiary):

A Special Use Permit request for a retaining wall in the side yard and approval for tree removal and a replacement plan at 33 Hilltop Road. Mr. Robert Chandler shepherded the matter. There will be removal and replacement of trees. Mr. David Ross and Mr. Clinton Wittever represented the homeowner. They also stated the homeowner would comply with additional buffering if needed. Mr. Chandler said his wife Jo Chandler was the homeowner's real estate agent previously, and disclosed this for the record. Mr. Chandler asked about planting of hardwoods. The plan also shows the trees that will be removed and the trees that will be replanted. Chairman Goosmann also said he has worked with the homeowner in the past before and will not be voting on this matter, as he is shepherding the matter.

DELIBERATION AND DETERMINATION:

Mr. Chandler shepherded the matter and said Ms. Lorrie Pande at 33 Hilltop Road is applying for a Special Use Permit for a retaining wall in the side yard and approval for tree removal and replacement. Ms. Pande is willing to add additional buffering if necessary. Mr. Lowell Pearlman moved that a Special Use Permit be granted to Ms. Lorrie Pande of 33 Hilltop Road and the facts as recited by Robert Chandler and his summation be accepted as findings and facts to support this grant. The Board has inspected this site and no neighboring property owner has objected. Mr. Pearlman further moved the Board define that granting this Special Use Permit (a) would not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and improved, (b) met all required conditions and specifications of the Town of Biltmore Forest Zoning ordinance, (c) would not substantially injure the value of adjoining or abutting property, and (d) would be in general conformity with the plan of development of the Town of Biltmore Forest and its environs as set forth in Sections 153.110

(C)(2-3)of the above ordinance. The applicant has been informed that he/she is to report to the Zoning Administrator within seven (7) days of completion of the project in order that the Zoning Administrator can determine that the project has been completed in accordance with plans submitted to the Town.

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

HEARING (Evidentiary):

The matter for 35 Hilltop was removed from the agenda

Chairman Goosmann adjourned the meeting at 4:34 pm. The next Board of Adjustment meeting is scheduled for Monday, February 21, 2022 at 4:00 pm.

ATTEST:

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Greg Goosmann

Chairman

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Laura Jacobs

Town Clerk

**BOARD OF ADJUSTMENT  
STAFF MEMORANDUM**

February 21, 2022



**Case 1 – 8 Fairway Place  
Special Use Request for Accessory Structure  
*Installation of Dry Stack Retaining Wall***

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Property Owner: W. Leon Elliston  
Property Address: 8 Fairway Place

Project Description

The applicant has presented plans for a dry stack retaining wall. There are two separate walls requested in the rear yard of the existing home. The larger wall is 100 feet long and gradually increases to a maximum of 32 inches tall. Each end of the wall will begin at 18 inches tall and transition to 32 inches. The smaller wall is 30 feet long and 30 inches tall, with no height variation.

Special Use Request

The Town requires a special use permit approval for new wall construction. A full copy of this ordinance is attached to this memorandum. The proposed walls do not encroach upon any setbacks.

## § 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; Ord. passed 6-8-2021)

# Zoning Compliance Application

Town of Biltmore Forest

**Name**

Emily Gregory

**Property Address**

8 Fairway Place

**Phone**

(828) 551-4372

**Email**

emily.gregory@bbbarns.com

**Parcel ID/PIN Number**

964687975700000

## ZONING INFORMATION

**Current Zoning**

R-1

**Lot Size**

.75 acres

**Maximum Roof Coverage**

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

**Proposed Roof Coverage Total**

N/A

**Maximum Impervious Surface Coverage**

Up to 1 acre (27.5 percent of lot area)

**Proposed Impervious Surface Coverage**

N/A

**Front Yard Setback**

60 feet (R-1 District)

**Side Yard Setback**

20 feet (R-1 District)

**Rear Yard Setback**

25 feet (R-1 District)

**Building Height**

N/A

**Description of the Proposed Project**

2 dry laid stone retaining walls will be constructed in the back yard of 8 Fairway Place, Biltmore Forest. The larger wall will be lower on the property and will be 100 linear feet long and an average of 32" tall. Both ends of the wall will be 18" tall and the height will gradually increase as the topography of the land dips down. Soil will be backfilled on part of the wall and a free-standing double sided wall will sit on top of the retention wall. Total height will not exceed 32" tall. The second and smaller wall will be 30 linear feet and a consistent height of 30". There will be a formal set of stone stairs included in this wall that will look identical to existing stone steps on the property. It will be installed higher up on the property and will connect with existing stone features. After the hardscaping is completed, there will be softscapes added to both areas around the new walls to add aesthetics and soften any harshness. A mulch walking trail will be installed also.

**Estimated Start Date**

2/22/2022

**Estimated Completion Date**

5/20/2022

**Estimated Cost of Project**

\$140,000.00

**Supporting Documentation (Site Plan, Drawings, Other Information)**  
Elliston.jpeg

**Applicant Signature**

**Date**  
1/24/2022



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# Special Use Permit Application

Town of Biltmore Forest

**Name**

Emily Gregory

**Address**

8 Fairway Place

**Phone**

(828) 551-4372

**Email**

emily.gregory@bbbarns.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:**

2 dry laid stone retaining walls will be constructed in the back yard of 8 Fairway Place, Biltmore Forest. The larger wall will be lower on the property and will be 100 linear feet long and an average of 32" tall. Both ends of the wall will be 18" tall and the height will gradually increase as the topography of the land dips down. Soil will be backfilled on part of the wall and a free-standing double sided wall will sit on top of the retention wall. Total height will not exceed 32" tall. The second and smaller wall will be 30 linear feet and a consistent height of 30". There will be a formal set of stone stairs included in this wall that will look identical to existing stone steps on the property. It will be installed higher up on the property and will connect with existing stone features. After the hardscaping is completed, there will be softscapes added to both areas around the new walls to add aesthetics and soften any harshness. A mulched walking trail will be installed also.

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

The project would not adversely affect the public interest because it is a retaining wall. The wall will only increase the beauty of the home, the property and the greater neighborhood's landscape.

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

**Signature**



**Date**

1/27/2022



— Retaining wall  
 — Planting bed  
 — Mulch trail

**General Notes**  
 ALL MEASUREMENTS TAKEN FROM OWNER SUPPLIED PLAN AND/OR GOOGLE EARTH/DRONE IMAGES.  
 PLEASE CONFIRM ALL MEASUREMENTS ON SITE, INCLUDING PROPERTY LINES, BUILDING LOCATION & GRADES.  
 PLACEMENT OF NEW PLANT MATERIAL TO BE ADJUSTED ON SITE AS NEEDED.

REVISIONS	
AS-BUILT	07.06.20
REVISIONS	02.26.20
REVISIONS	12.16.19
DESIGN CONCEPT	10.24.19

Designed By:  
**B.B. BARNES LANDSCAPE COMPANY**  
 92 CRAYTON ROAD  
 ASHEVILLE, NC 28803  
 bbbarnes.com



Project/Client:  
**ELLISTON RESIDENCE**

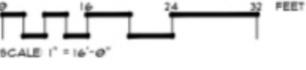
DRAWN BY: AKN

8 FAIRWAY PLACE  
 BILTMORE FOREST, NC

Project  
**LANDSCAPE**

Date  
 9.24.21

Sheet  
**LANDSCAPE PLAN**  
**001**



**BOARD OF ADJUSTMENT  
STAFF MEMORANDUM**

February 21, 2022



**Case 2 – 26 East Forest Road  
Special Use Request for Accessory Building and Accessory  
Structure  
*Detached Greenhouse  
Boulder Wall*  
Site Plan Review for New Home Construction**

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Property Owner: Michael and Marita Douglas  
Property Address: East Forest Road (Unaddressed Vacant Lot)

Project Description

The applicant has presented plans for a new single-family residence. As part of this plan, an application was submitted for a detached accessory building. The building – a greenhouse – is proposed to be located behind the home. The new single family home will be constructed upon an undeveloped, but open, parcel. As a result, there is no tree removal associated with this project and the site disturbance will be limited almost exclusively to the built upon area.

In addition to the special use application for the detached building, the applicant has also requested a special use permit for an accessory structure. This accessory structure is a boulder wall located on the side of the home.

Special Use Permit Application

The attached special use applications provide information for each proposal. The ordinance governing new wall construction is attached to this memorandum. Likewise, the ordinance governing accessory buildings is included for the Board's review.

*Special Note regarding Address: The original home at this property was located on the second of two parcels, owned and utilized by a single property owner. The parcel with the original home (since demolished) is identified as 26 East Forest Road. The parcel referenced in this attached building plan is actually unaddressed, but will likely to be 28 East Forest Road.*

## § 153.029 ACCESSORY STRUCTURES AND BUILDINGS.

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

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

- (a) The maximum number of accessory buildings permitted on a lot shall be one;
- (b) The maximum roof coverage area for accessory buildings shall be 750 square feet;
- (c) The maximum height for accessory buildings shall be 25 feet;
- (d) The accessory building must be screened by vegetation or other buffer as set forth in §153.008;
- (e) The accessory building must be located behind a line parallel to the rear of the principal structure on the lot;
- (f) The accessory building must be designed in the same architectural style as the principal structure;
- (g) Any accessory structure and/or accessory building shall be included in the calculation of allowable roof coverage and allowable impervious surface coverage on the lot pursuant to §§ 153.043 and 153.048; and
- (h) Solar collectors shall be regulated in accordance with G.S. § 160D-914.

(2) For all satellite dishes less than 24 inches in diameter, an application for a zoning compliance certificate shall be made directly to the Zoning Administrator; the Zoning Administrator shall issue a zoning compliance certificate.

(3) Fences, gates, and walls shall be regulated in accordance with §153.049 of this Zoning Ordinance.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

**Editor's note:**

*This amendatory language was passed during a Board meeting, July 9, 2013*

## § 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; Ord. passed 6-8-2021)

# Zoning Compliance Application

Town of Biltmore Forest

**Name**

Howard McDill

**Property Address**

26 E. Forest Rd

**Phone**

(828) 691-0960

**Email**

howard@mayhewnc.com

**Parcel ID/PIN Number**

9646-46-8638

## ZONING INFORMATION

**Current Zoning**

R-1

**Lot Size**

2.152

**Maximum Roof Coverage**

6,700 square feet (Up to 2.5 acres)

**Proposed Roof Coverage Total**

4181

**Maximum Impervious Surface Coverage**

1-3 acres (25 percent of lot area)

**Proposed Impervious Surface Coverage**

10620

**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**

30'4"

**Description of the Proposed Project**

New single family home

**Estimated Start Date**

3/22/2022

**Estimated Completion Date**

6/1/2023

**Estimated Cost of Project**

\$1,300,000.00

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

DOUGLAS SHEET -L1.0.pdf

**Applicant Signature**



A handwritten signature in black ink, appearing to be 'J. Smith', written over a horizontal line.

**Date**

1/29/2022

# Special Use Permit Application

Town of Biltmore Forest

**Name**

Howard McDill

**Address**

26 East Forest Rd

**Phone**

(828) 691-0960

**Email**

howard@mayhewnc.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:**

Low boulder wall at rear of home to allow for pathway to rear/side of home

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

It is at the rear of the home and not visible.

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

**Signature**

**Date**

2/12/2022



# Special Use Permit Application

Town of Biltmore Forest

**Name**

Howard McDill

**Address**

23 East Forest Rd

**Phone**

(828) 691-0960

**Email**

howard@mayhewnc.com

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

Accessory Buildings

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:**

Greenhouse used for flowers and vegetables

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

The greenhouse is located at the rear of the home.

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

**Signature**

**Date**

2/12/2022



---



**RETRO+FIT DESIGN**

16 MT. VERNON ALLEY N.  
ASHEVILLE, NC 28804  
828-254-9150  
Email: retrofit@retro-fit-design.com

No.	Date	Revision Notes

No.	Date	Issue Notes

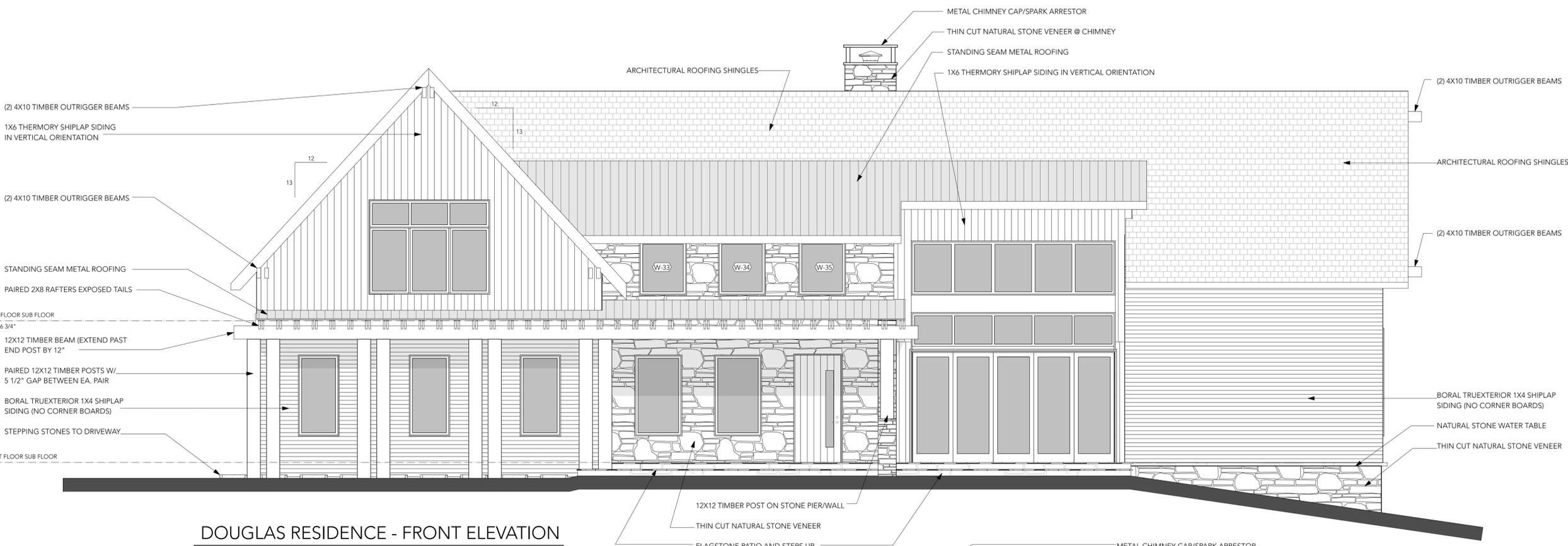
No.	Date	Issue Notes

**THE DOUGLAS RESIDENCE**

LOT 21 (26 E. FOREST RD.)  
PIN: 944646863800000  
TOWN OF BILTMORE FOREST, NC 28803

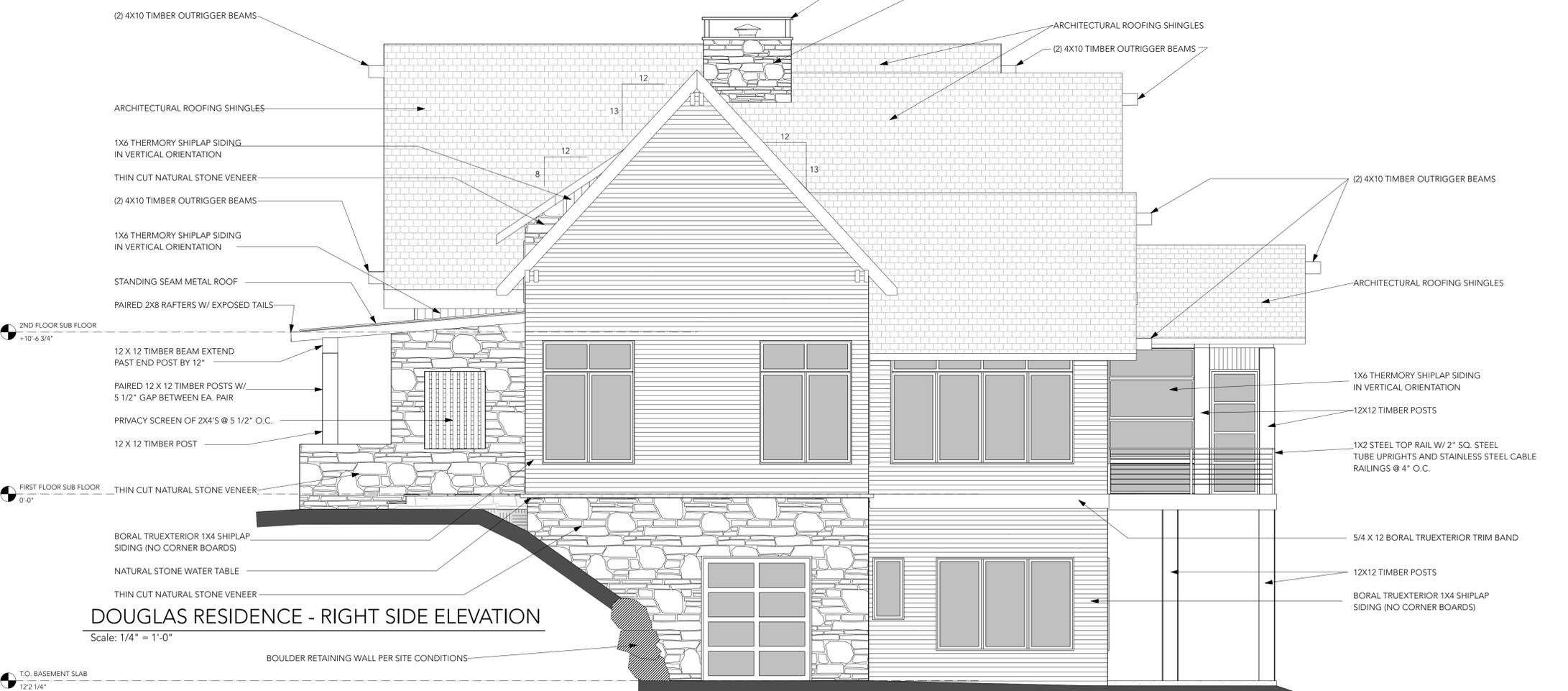
Project Title	FRONT & RIGHT SIDE EXTERIOR ELEVATIONS
Consultant	WEIL
Project ID	2021-004
Project Manager	WEIL
Drawn By	WEIL
Date	9/24/21
Scale	1/4" = 1'-0"
Sheet No.	A4.0

A4.0  
of



**DOUGLAS RESIDENCE - FRONT ELEVATION**

Scale: 1/4" = 1'-0"



**DOUGLAS RESIDENCE - RIGHT SIDE ELEVATION**

Scale: 1/4" = 1'-0"

PAYMENT OF USE FEE IS DUE RETRO+FIT DESIGN LLC. PRIOR TO CONSTRUCTION FOR EACH STRUCTURE BUILT FROM THESE PLANS. THE DESIGN OF THIS HOME AND THESE PLANS ARE COPYRIGHTED IN ACCORDANCE WITH FEDERAL STATUTES. REPRODUCTION BY ANY METHOD OF ALL OR PORTIONS OF THESE PLANS OR VARIATIONS THEREOF WITHOUT WRITTEN PERMISSION FROM RETRO+FIT DESIGN LLC. IS STRICTLY PROHIBITED. THESE DRAWINGS AND PLANS SET FORTH ON THIS SHEET AS INSTRUMENTS OF SERVICE ARE, AND SHALL REMAIN, THE PROPERTY OF RETRO+FIT DESIGN LLC.

BY BUILDING THIS HOME FROM THE DESIGNS INCLUDED IN THESE CONSTRUCTION DOCUMENTS, THE BUILDER, AFFILIATED SUB CONTRACTORS AND OWNER AGREE TO CREDIT RETRO+FIT DESIGN LLC. AS THE DESIGNER OF THIS HOUSE FOR EVERY INSTANCE THAT PHOTOS, DRAWINGS, OR RENDERINGS OF THIS HOUSE APPEAR IN ANY PRINT OR ELECTRONIC MEDIA. IT IS STRICTLY PROHIBITED TO PUBLISH IMAGES OF THIS COPYRIGHTED HOME WITHOUT EXPRESS WRITTEN CONSENT FROM RETRO+FIT DESIGN LLC.

T.O. BASEMENT SLAB  
122' 1/4"



**RETRO+FIT DESIGN**

16 MT. VERNON ALLEY N.  
ASHEVILLE, NC 28804  
828-254-9150  
Email: retrofit@retro-fit-design.com

No. Date Revision Notes

No.	Date	Revision Notes

No. Date Issue Notes

No.	Date	Issue Notes

**THE DOUGLAS RESIDENCE**

LOT 21 (26 E. FOREST RD.)  
PIN: 944646863800000  
TOWN OF BILTMORE FOREST, NC 28803

Project Title

Consultant

Sheet Title

**REAR & LEFT SIDE  
EXTERIOR ELEVATIONS**

Project ID

2021-004

Project Manager

WEIL

Drawn By

WEIL

Date

9/24/21

Scale

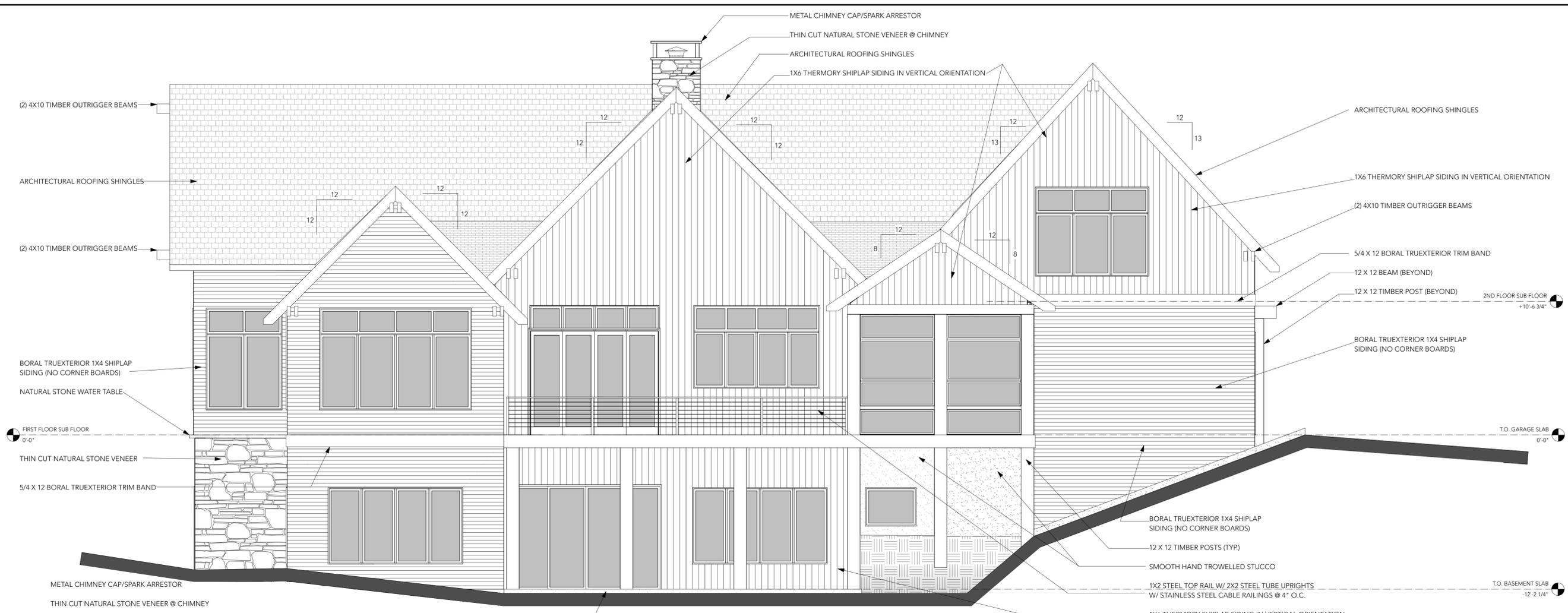
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Sheet No.

A4.1

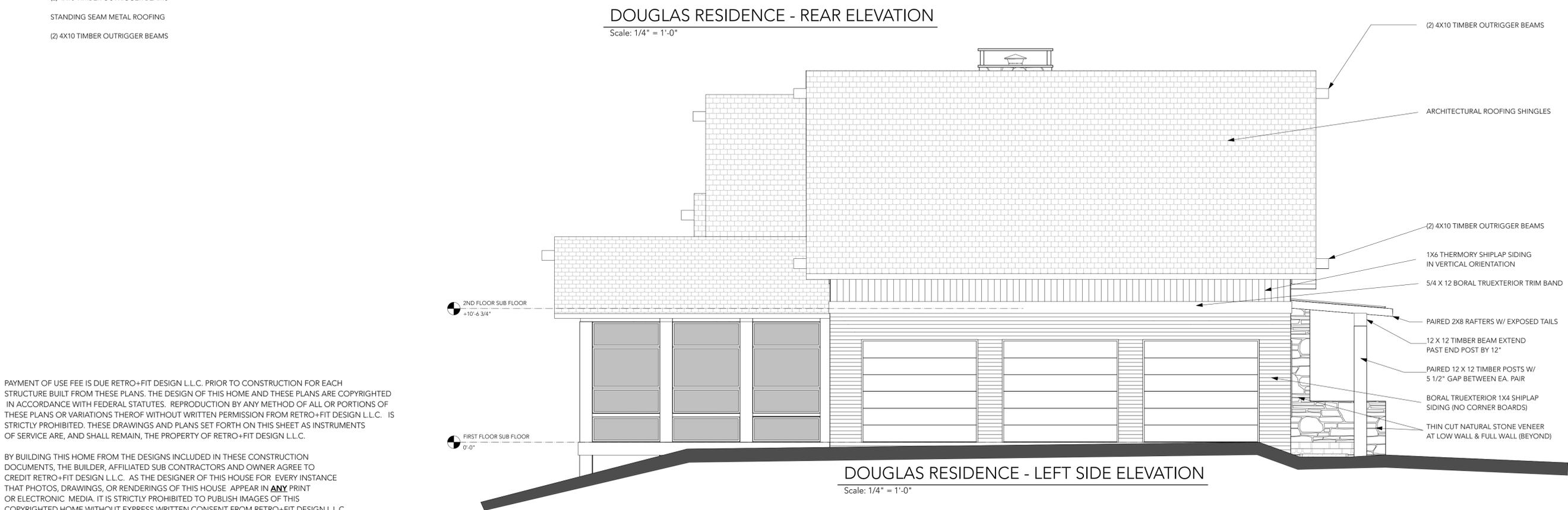
of

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**DOUGLAS RESIDENCE - REAR ELEVATION**

Scale: 1/4" = 1'-0"



**DOUGLAS RESIDENCE - LEFT SIDE ELEVATION**

Scale: 1/4" = 1'-0"

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BY BUILDING THIS HOME FROM THE DESIGNS INCLUDED IN THESE CONSTRUCTION DOCUMENTS, THE BUILDER, AFFILIATED SUB CONTRACTORS AND OWNER AGREE TO CREDIT RETRO+FIT DESIGN L.L.C. AS THE DESIGNER OF THIS HOUSE FOR EVERY INSTANCE THAT PHOTOS, DRAWINGS, OR RENDERINGS OF THIS HOUSE APPEAR IN ANY PRINT OR ELECTRONIC MEDIA. IT IS STRICTLY PROHIBITED TO PUBLISH IMAGES OF THIS COPYRIGHTED HOME WITHOUT EXPRESS WRITTEN CONSENT FROM RETRO+FIT DESIGN L.L.C.



**BOARD OF ADJUSTMENT  
STAFF MEMORANDUM**

February 21, 2022



**Case 3 – 394 Vanderbilt Road  
Special Use Request for Accessory Buildings  
*Parking Arbor*  
*Potting Shed*  
Variance Request for Additional Accessory Buildings**

---

Property Owner: Todd and Angela Newnam  
Property Address: 394 Vanderbilt Road

Project Description

The applicant is continuing the restoration of the property at 394 Vanderbilt Road known as *Raoulwood*. As part of this renovation, they request a more formalized kitchen garden that includes a small garden shed and a parking arbor. The kitchen garden will be connected to the kitchen via an existing wooden fence. The parking arbor and potting shed are both considered detached accessory buildings under the ordinance since they are roofed and not attached to the main residence or to an existing building.

The parking arbor is 20 feet by 20 feet and the pottery shed is 8 feet by 8 feet. Each will be constructed and roofed to match the existing home and improvements currently underway.

Special Use and Variance Applications

The improvements are accessory buildings under the Town's ordinance. The pertinent portion of the Town's Zoning Ordinance is attached. As part of these requirements, only one additional accessory building is allowed without a variance. The applicant previously received a variance to construct an additional detached building, and has provided information relative to this new request within the application.

## § 153.029 ACCESSORY STRUCTURES AND BUILDINGS.

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

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

- (a) The maximum number of accessory buildings permitted on a lot shall be one;
- (b) The maximum roof coverage area for accessory buildings shall be 750 square feet;
- (c) The maximum height for accessory buildings shall be 25 feet;
- (d) The accessory building must be screened by vegetation or other buffer as set forth in §153.008;
- (e) The accessory building must be located behind a line parallel to the rear of the principal structure on the lot;
- (f) The accessory building must be designed in the same architectural style as the principal structure;
- (g) Any accessory structure and/or accessory building shall be included in the calculation of allowable roof coverage and allowable impervious surface coverage on the lot pursuant to §§ 153.043 and 153.048; and
- (h) Solar collectors shall be regulated in accordance with G.S. § 160D-914.

(2) For all satellite dishes less than 24 inches in diameter, an application for a zoning compliance certificate shall be made directly to the Zoning Administrator; the Zoning Administrator shall issue a zoning compliance certificate.

(3) Fences, gates, and walls shall be regulated in accordance with §153.049 of this Zoning Ordinance.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

**Editor's note:**

*This amendatory language was passed during a Board meeting, July 9, 2013*

## § 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; Ord. passed 6-8-2021)

# Zoning Compliance Application

Town of Biltmore Forest

## Name

Angela  
First

Newnam  
Last

## Property Address

394 Vanderbilt Road  
Address Line 1

## Phone

(704) 996-5035

## Email

angelanewnam@gmail.com

## Parcel ID/PIN Number

964696349900000

## ZONING INFORMATION

### Current Zoning

R-1  R-2  R-3  R-4  R-5  P-S

### Lot Size

lot 15- 2.194 acres

### Maximum Roof Coverage

6,700 square feet (Up to 2.5 acres)  
Choose appropriate lot size

### Proposed Roof Coverage Total

Current 6,013 + 500 covered parking and shed = 6,513

*Must not exceed maximum coverage allowed*

### Maximum Impervious Surface Coverage

1-3 acres (25 percent of lot area)  
Choose appropriate lot size

### Proposed Impervious Surface Coverage

14,796 current+580 stone paths+500 roofed=15,876 ft sq

*Must not exceed maximum coverage allowed*

### Front Yard Setback

60 feet (R-1 District)

### Side Yard Setback

20 feet (R-1 District)

### Rear Yard Setback

25 feet (R-1 District)

### Building Height

Parking - 10 feet , shed - 16 feet

## Description of the Proposed Project

We would like to complete the restoration of the gardens with a private kitchen garden connecting the new itchen/garage addition, the house and the existing wood fence. Within the garden will be pea gravel (pervious) and stone paths (impervious) and landscaping. In the corner, an attractive tudor garden shed would anchor the garden and provide a consistent style shed to match the house and be attractive from all directions. Attached to to garden would be a roofed parking arbor to hide 2 vehicles and protect from the acorns/trees. The area aligns with the existing buildings and has pathway connections and 2 small gate access. The total new roofed is 500 ft square still under the 6,700 ft rule (6513) The impervious is also under the limit at 1,080 new for a total of 15,876. (23,893 allowed)

**Estimated Start Date**

3/21/2022

**Estimated Completion Date**

5/31/2022

**Estimated Cost of Project**

\$30,000.00

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

scan024 (1).pdf

DOC091.pdf

**Applicant Signature**

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

**Date**

1/20/2022

# VARIANCE APPLICATION

Town of Biltmore Forest

**Name**

Angela Newnam

**Address**

394 Vanderbilt Road

**Phone**

(704) 996-5035

**Email**

angelanewnam@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?**

We are requesting to build a structure that ties the existing wood fence to the garage to create a kitchen garden, potting shed and parking arbor. The potting shed and the car arbor both have roofs which requires a variance application. Neither has heat/air. The location is to the back/side of the house and is not visible from the road. A very small portion of the tudor style potting shed with a slate roof would be visible from the golf course. The shed is in keeping with the house, made of wood and slate. The parking arbor is made of stucco, timbers and a copper roof - all to match existing materials on the house. The small window and door in the structure are original from the main house, Raoulwood. The covered parking arbor would block visibility of our cars from the golf course and protect our vehicles from the acorns/branches. The fenced kitchen garden will provide a protected garden as well as a small area to contain our dogs when needed. We evaluated placing these structures elsewhere on the property but this location ties the entire design together and is more in keeping with the original parklike setting of the long driveway approach. We have reviewed with the our neighbors (Broadwell and Davis) and have already planted several large trees between both property lines. The design is well inside the setback. The parking arbor is 400 ft square, and the potting shed is 8x8 and 15 feet tall at the point. The paths and various driveway area will be pea gravel. (pervious). We are well under the impervious guidelines as noted in the application.

**What does the ordinance require?**

The ordinance specifies only 2 structures per property. The ordinance requires secondary structures remain under 750 ft square.

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.**

We appreciate consideration of adding the potting shed (roofed) as part of the kitchen garden and arbor carpark(roofed). We have gone to significant lengths to achieve two goals as we restore Raoulwood. 1.

Build structures that are true to the property and 2. Preserve the majestic white oaks planted as part of Chauncy Beadle's design.

Given the significant tree cover at the house we are experiencing nuts and branches dropping and damaging our vehicles. We do not want to prune back the amount of branches that would create "safe" space, so we are requesting the roofed cap park for 2 vehicles. The location as designed is the most discreet area for the car park and the cars will be hidden from the golf course and the neighbors by the copper roofed arbor and landscaping. The potting shed as part of the fenced kitchen garden completes the design of the area, tying the existing wood fence to the garage in a purposeful design. This structure was modelled after the golf structure along Southwood and only the peak roof will show from the golf course. The materials will be wood, stucco, copper and slate to keep the historic design intact. We do not want to buy a temporary "Lowe's" shed for potting and tools to put in the woods.

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

The massive white oaks are historic. We have pruned, fertilized, root aerated and installed lightning protection to preserve them. Our garage addition used a special beam to float over the tree roots by the kitchen and give the tree root room to expand. We have consulted with Bartlett Tree and have been told that significant further pruning to major branches would put the trees at risk. In addition, the 3.5 acres at Raoulwood has plenty of space for the structure. Historic properties from the 1920s typically had multiple outbuildings.(stables, garages, sheds, cabins, etc)

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

The trees are existing. The large property is two lots (15 and 17). None of the structures are on lot 17. To build on lot 17 and adhere to the ordinance, the structure for a car park and shed would be a minimum of over 2,000 feet and be placed in the middle of Chauncy Beadle's original (and now restored) green allee toward Pisgah which is surrounded by original boxwoods and hemlocks. (to the right side of the driveway as you come in. Our request for structure placement keeps the property design as it was intended in 1923.

**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.**

Our variance request is intended to preserve and improve historic Raoulwood - both home and grounds, while achieving modernization with integrity. We believe that Biltmore Forest's ordinances are intended in the spirit of preservation and ongoing development of landscapes and tasteful structures. We believe that our request achieves these objectives.

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

**Signature**

**Date**

1/31/2022

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

# Special Use Permit Application

Town of Biltmore Forest

**Name**

Angela Newnam

**Address**

394 Vanderbilt Road

**Phone**

(704) 996-5035

**Email**

angelanewnam@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:**

We would like to complete the restoration and renovation of the house and gardens at Raoulwood with a private kitchen garden connecting the new kitchen/garage addition, the house and the existing wood fence. Within the garden would be pea gravel (pervious) and stone paths (impervious) and landscaping. In the corner, an attractive tudor garden shed would anchor the garden and provide a consistent style shed to match the house and be attractive from all directions. Attached to the garden would be a roofed parking arbor to hide 2 vehicles and protect from the acorns/trees. The area aligns with the existing buildings and has pathway connections and 2 small gates for access. In addition, the design is friendly to the massive white oak. We used a special beam for the tree roots at the breezeway and will install a drain system so water is not held in the area which is currently low. We also aerated the tree roots (Bartlett) of this tree and 9 others as part of the tree restoration of the white oaks. The total new roofed is 500 feet square still under the 6,700 foot rule (6,513 feet total) The impervious is also under the limit at 1,080 new feet for a total of 15,876. (23,893 allowed)

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

The kitchen garden is not visible from the road or golf course. The parking roofed arbor will help block the vehicle view from the golf course and from the neighbors (Ed and Donna Broadwell)..In addition, the new kitchen / breezeway has significant windows so the garden wall and shed will provide light blocking and more privacy. Materials on the structure would be consistent with the house, timbers, stucco, copper and slate. The garden fence would match the existing wood fence. Lastly, the enclosed garden provides a place to keep the dogs when we do not want them to roam the golf course side.

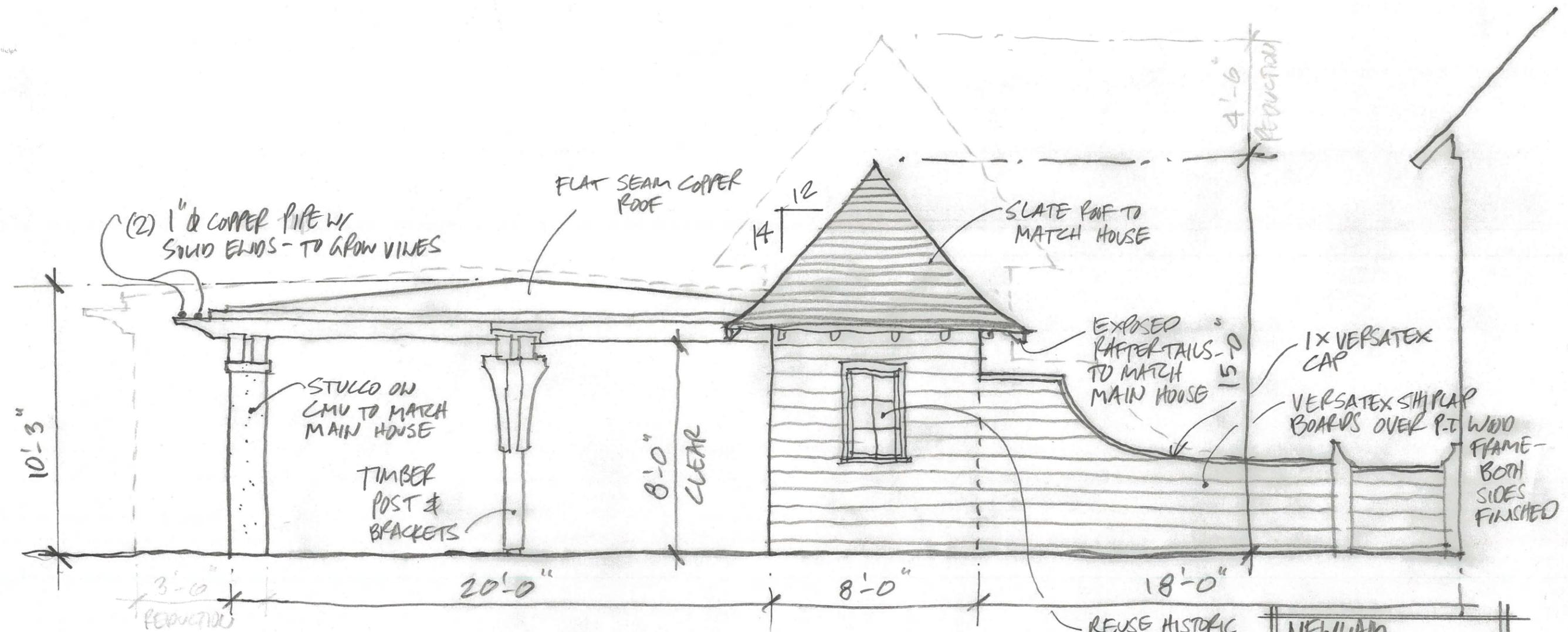
**I hereby certify that all of the information set forth above is true and accurate to the best of my knowledge.**

**Signature**

A handwritten signature in black ink, consisting of several stylized, overlapping loops and lines, positioned above a thin horizontal line.

**Date**

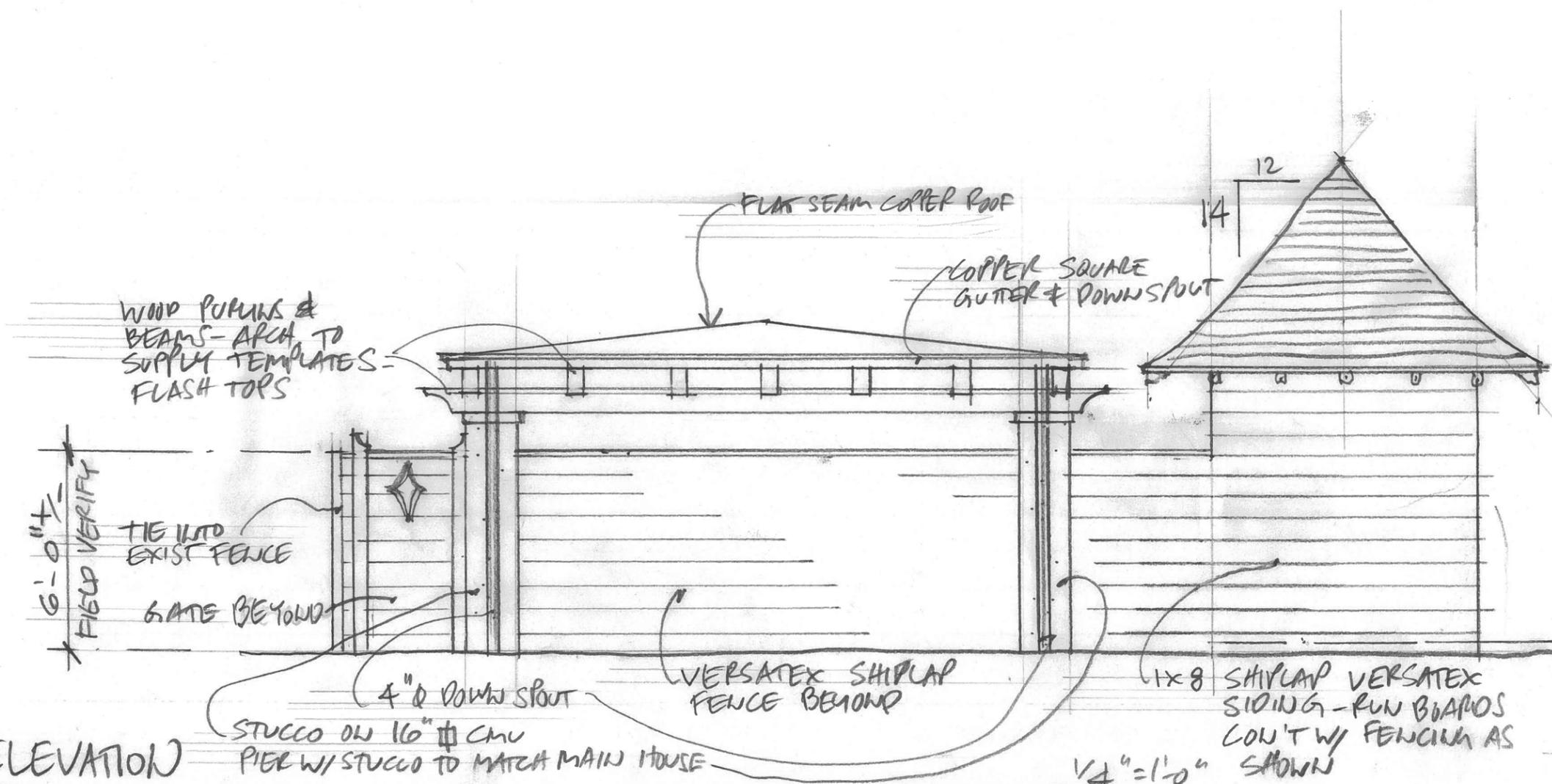
1/20/2022



1 ELEVATION

1/4" = 1'-0"

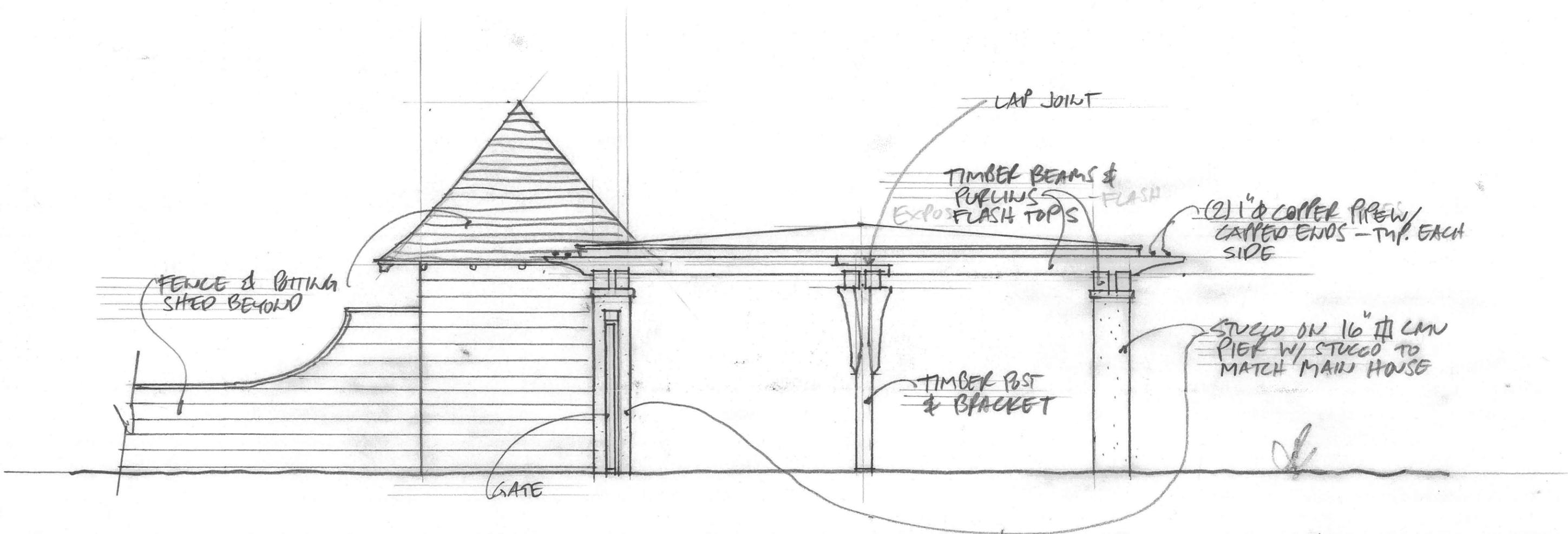
NEWHAM KITCHEN GARDEN 2/8/22 POA
--



2 ELEVATION

NEWNAM KITCHEN GARDEN 2/8/22 PDA
--

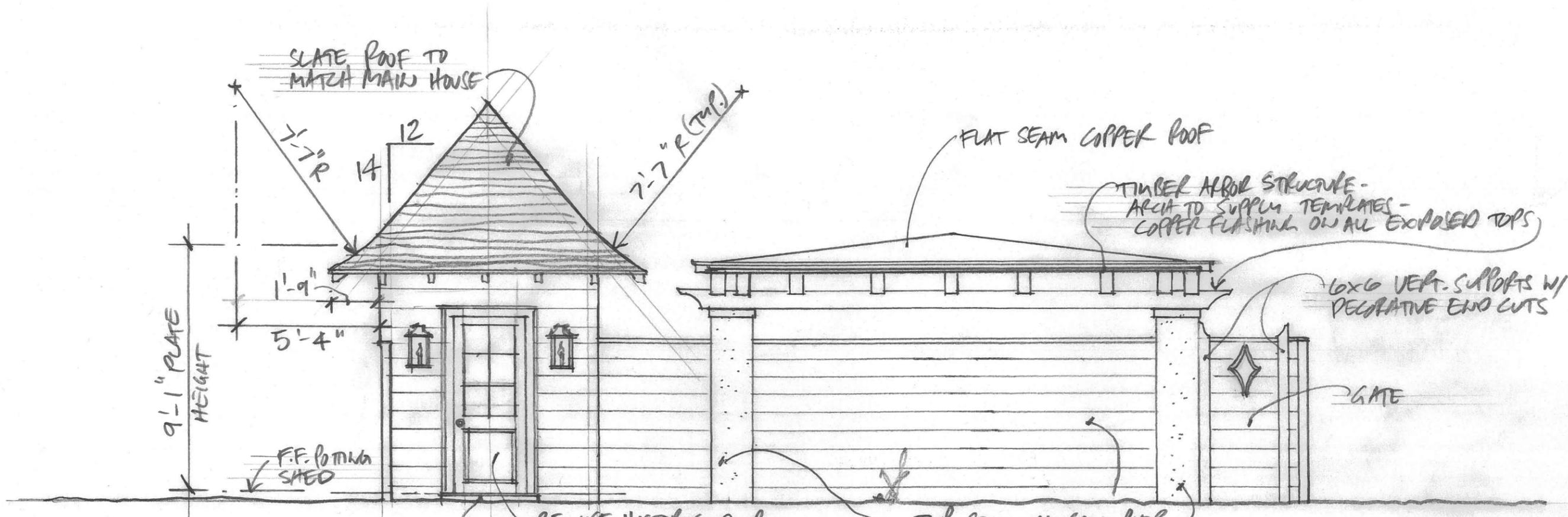
1/4" = 1'-0"



3 ELEVATION

1/4" = 1'-0"

NEWNAM
KITCHEN GARDEN
2/8/22



4 ELEVATION

RE-USE HISTORIC DOOR  
 BLUESTONE THRESHOLD - EXTEND TO RECEIVE TRIM - 4" THICK  $\frac{1}{2}$ " - PITCH TOP TO DRAIN

TYP. STUCCO ON CMU PIER  
 TYP. FENCE

$\frac{1}{4}" = 1'-0"$

NEWNAM KITCHEN GARDEN 2/8/22 POA
--



