



To: Members of the Board of Adjustment, Applicants & Neighboring Property Owners
From: Jonathan B. Kanipe, Town Manager
Date: November 1, 2022
Re: **Board of Adjustment Meeting – November 14, 2022**

Applicants:

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

Members of the Board of Adjustment & staff will conduct a site visit, as noted on the agenda, prior to the meeting. The applicant or their representative **MUST** be present for this site 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>

You are invited to attend the scheduled meeting at the Town Hall and make comment when called upon.

Additional information regarding the meeting will be provided on the Town's website no later than November 10, 2022.

*****PROPOSED AGENDA*****

The following items of business will be considered by the Biltmore Forest Board of Adjustment on Monday, November 14, 2022 at 4:00 p.m at the Biltmore Forest Town Hall. The Biltmore Forest Town Hall is located at 355 Vanderbilt Road, Biltmore Forest, NC 28803.

Those interested in viewing the meeting via Zoom may do so via the link provided at the bottom of this page.

1. The meeting will be called to order and roll call taken.
2. The minutes of the October 10, 2022 regular meeting will be considered.
3. Hearing of Cases (Evidentiary Hearings, Deliberations & Determinations).

Case 1: 31 Hilltop Road – Special Use permit request for driveway entrance columns. **(SITE VISIT – 2:30 PM)**

Case 2: 31 Cedar Hill Road – Special Use permit request for driveway gate installation and entrance columns. **(SITE VISIT – 2:15 PM)**

Case 3: 4 Hilltop Road – Special Use permit request for accessory structure installation in rear yard. **(SITE VISIT – 2:45 PM)**

Case 4: 9 Fairway Place – Special Use permit request for outdoor gas fireplace on existing patio. **(SITE VISIT – 3:40 PM)**

Case 5: 25 Eastwood Road – Special Use permit requests for accessory structures (four (4) foot high fence and associated gate; stone terrace retaining walls in rear yard; and stone columns at driveway entrance. Variance request for encroachment into side yard setback and front yard setbacks for stonework. **(SITE VISIT – 3:20 PM)**

Case 6: 3 Eastwood Road – Special Use permit request for hardscape patio and fire pit within rear yard; variance request for installation within rear yard setback. **(SITE VISIT – 3:00 PM)**

4. Request from Tom Hand (23 Eastwood Road) to consider complaint regarding deer fence on neighboring property.
5. Adjourn

<https://us02web.zoom.us/j/82405586759?pwd=VlFaQ0JMUXFCaGRRYUNoTHVHU2tmZz09>

Meeting ID: 824 0558 6759

Passcode: 804985

MINUTES OF THE BOARD OF ADJUSTMENT MEETING
HELD MONDAY, OCTOBER 10, 2022

The Board of Adjustment met at 4:00 p.m. on Monday, October 10, 2022.

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

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

Chairman Goosmann swore in the following:

Mr. Edward Riester

Mr. Jonathan Kanipe

Ms. Savanna Poole

Mr. Joseph Pollack

A motion was made by Mr. Robert Chandler to approve the minutes from September 26, 2022. Ms. Martha Barnes seconded the motion. The minutes were unanimously approved.

HEARING (Evidentiary):

The first matter is a request for a Special Use Permit at 4 Deerfield Road for an accessory building installation within the rear yard. Ms. Martha Barnes shepherded the matter. The only storage the homeowner, Mr. Riester has is on the side of the garage. He would like to get a 10x16 building out in the back. There was an email from a neighbor at 6 Deerfield Road who

had no objection to the proposal. Mr. Riester would be willing to add additional landscaping after Duke bores in his yard.

DELIBERATION AND DETERMINATION:

The facts were recited by Ms. Martha Barnes. Mr. Riester is asking to add a storage building to the rear of the house. He is also willing to add buffering if needed. The building measurement is 10'x16'. The building is aesthetically pleasing. The building faces the homeowner's yard.

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

HEARING (Evidentiary):

The next matter is for a Special Use Permit request to install a fence within the side and rear yard at 2 Amherst Road. Ms. Lynn Kieffer shepherded the matter. They would like to adjoin with the rear yard neighbor's fence. Ms. Poole said it is for their daughter's safety and for the safety of their dogs. The fence will be placed within the setback. The front will be buffered. The

back also has buffering. The fence is black wrought iron and is four feet tall. The neighbor across the street at 1 Amherst supports the project.

DELIBERATION AND DETERMINATION:

Ms. Kieffer recited the facts and said the fence is compliant with the setbacks and the homeowners will landscape additionally if necessary.

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

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

HEARING (Evidentiary):

The last matter is an appeal from a Notice of Violation; request for a Special Use Permit application for a driveway gate and posts and Variance request for location of a driveway gate and posts at 31 Cedar Hill Drive. Mr. Pearlman shepherded the matter. Mr. Pollock said he wants to have the gate and posts up for security and damage control purposes. The columns would be five feet in length and on the bottom of the columns, there would be marble frogs. The stonework will

match the house. Mr. Pollock said there are many gates in the Town and wanted to know why his was not allowed. Chairman Goosmann said the Ordinance changed in 2019 and some of the gates that are in existence were installed before the ordinance change. Chairman Goosmann said the gate would have to be set back at least sixty feet according to the ordinance.

Mr. Pollock said he did not like the idea of having it set back sixty feet and by putting the gate that far back, it would almost be at the house.

Mr. Pearlman said the structure is invading thirty feet into the front yard setback. This would also include the frogs. The ordinance states it must be sixty feet and Mr. Pollock is violating this by thirty feet and going against the ordinance requirement.

DELIBERATION AND DETERMINATION:

Ms. Lynn Kieffer made a motion to deny the project. Mr. Pollock asked to withdraw the application. It was discussed that the Board can consider columns in the front yard which would not have to be a variance. Chairman Goosmann said it would be better to table the application. Mr. Pollock withdrew his application for the Special Use and Variance.

The meeting was adjourned at 4:37 pm. The next Board of Adjustment meeting is scheduled for Monday, November 14, 2022 at 4:00pm.

ATTEST:

Greg Goosmann
Chairman

Laura Jacobs
Town Clerk

**BOARD OF ADJUSTMENT
STAFF MEMORANDUM**

November 14, 2022



Case 1 – 31 Hilltop Road

*Special Use Permit Request for Driveway Entrance
Columns*

Property Owner: Thad and Ingrid Davis
Property Address: 31 Hilltop Road

Project Description

This applicant's request a special use permit for driveway entrance columns. The entrance columns proposed location is 5 ½ feet off the edge of pavement, which is also off the Town's right of way. The applicant's proposal shows a total column height of 56 inches with a solar lamp placed on top. The columns are proposed to be constructed of stone with concrete slab tops. Please note: the drawing shows river rock drainage placed within the Town's right of way on the edge of Hilltop Road. The Town DOES NOT allow this and the applicant has agreed to remove this from their application.

Special Use Permit Request

The Town's Zoning Ordinance allows the Board of Adjustment to consider driveway entrance columns as special uses per Section 153.007. The ordinance dictates that if the Board allows this consideration as a special use, then the applicant must follow the guidelines shown in Section 153.029 for accessory structures. These ordinances are attached for the Board's review.

Zoning Compliance Application

Town of Biltmore Forest

Name

Ingrid Davis

Property Address

31 Hilltop Road

Phone

(650) 787-8690

Email

paxwsi2011@gmail.com

Parcel ID/PIN Number

ZONING INFORMATION

Current Zoning

R-1

Lot Size

1.77 acres

Maximum Roof Coverage

6,100 square feet (Up to 2 acres)

Proposed Roof Coverage Total

same

Maximum Impervious Surface Coverage

1-3 acres (25 percent of lot area)

Proposed Impervious Surface Coverage

adding approximately 25 square feet

Front Yard Setback

60 feet (R-1 District)

Side Yard Setback

20 feet (R-1 District)

Rear Yard Setback

25 feet (R-1 District)

Building Height

56 inches

Description of the Proposed Project

Construct pillars (20"x30"x56") with wall (20"x48"x36") on each side of driveway entrance, with solar lamp attached to each pillar, 5.5 feet from paved road. Cinderblock and rebar construction with stone covering. Add small swale rocks in drainage area at curb.

Estimated Start Date

11/15/2022

Estimated Completion Date

11/30/2022

Estimated Cost of Project

\$5,000.00

Supporting Documentation (Site Plan, Drawings, Other Information)

HPSCAN_20221006171558011_2022-10-06_171833744.pdf

Applicant Signature

Date
10/11/2022

Ingrid Davis

Special Use Permit Application

Town of Biltmore Forest

Name

Ingrid Davis

Address

31 Hilltop Road

Phone

(650) 787-8690

Email

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:

Pillars with solar lamps and low stone wall at driveway entrance; replace drainage pipe in apron, add swale rocks (drawings attached)

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

This will improve aesthetics of driveway entrance, improve drainage and prevent muddy area from rain during winter.

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

Signature

Date

10/6/2022



§ 153.007 DIMENSIONAL REQUIREMENTS.

(A) *Table.* The following table sets out dimensional requirements.

Districts	Minimum Lot Area In Square Feet	PUD Residential Density Maximum Number of Dwellings Per Acre	Minimum Yard Setback Requirement in Feet				
			Minimum Lot Width At Building Line in Feet	Front Yard From Street Edge	Side Yard	Rear Yard	Maximum Height in Feet
R-1	43,560	0	150	60	20	25	40
R-2	20,000	0	100	50	15	20	40
R-3	20,000	8	100	50	15	20	40
R-4	20,000	2	100	50	15	20	40
R-5	Footnote 6	8	100	50	15	20	40
PS	No Min.	0	No Min.	No Min.	No Min.	No Min.	Not App.

(B) *General provisions.* The following are footnotes applicable to the table in division (A).

(1) *Footnote 1.* The minimum lot area for lots not served by public water and/or sewer shall be subject to approval by the County Health Department to ensure the proper operation of septic tanks and wells. In no case, however, shall minimum lot area be less than those specified in the table in division (A).

(2) *Footnote 2.* The minimum lot width at the street line shall be 125 feet in the R-1 District, and 80 feet in the R-2, R-3, and R-4 Districts.

(3) *Footnote 3.* On all corner lots, a 30-foot side yard setback is required.

(4) *Footnote 4.* Accessory structures, including driveways, shall meet all setback requirements. Notwithstanding the foregoing, setback requirements for driveway entrance columns or driveway entrance walls may be waived or modified by the Board of Adjustment with the granting of a special use permit in accordance with § 153.110(C), without the need for a variance pursuant to § 153.110(D).

(5) *Footnote 5.* Height requirements may be varied upon approval of the Board of Adjustment.

(6) *Footnote 6.* Whichever is greater, 20,000 square feet, or twice the gross floor area of the building.

(7) *Footnote 7.* An increase in the side and rear yard setbacks is required for homes (structures) that exceed 25 feet in height. Homes (structures) greater than 25 feet in height shall be setback from the side and rear property lines an additional one and one-half feet for each one foot, or portion thereof, that the home (structure) exceeds 25 feet in height.

(8) *Footnote 8.* Structures exceeding a roof coverage area of 7,000 square feet shall be set back from side and rear property lines an additional 20% of the required setback for each 500 square feet, or increment thereof, that the roof coverage areas exceeds 7,000 square feet.

Example: The rear setback for a single story 8,200 square foot house in the R-1 District would be calculated as follows:

$$8,200 - 7,000 = 1,200$$

$$1,200/500 = 2.4 \text{ (round to 3 to account for increment of change)}$$

$$3 \times 20\% = 60\%$$

$$60\% \times 20 = 12$$

$$25 + 12 = 37$$

Rear setback will be 37 feet

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

§ 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

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- (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
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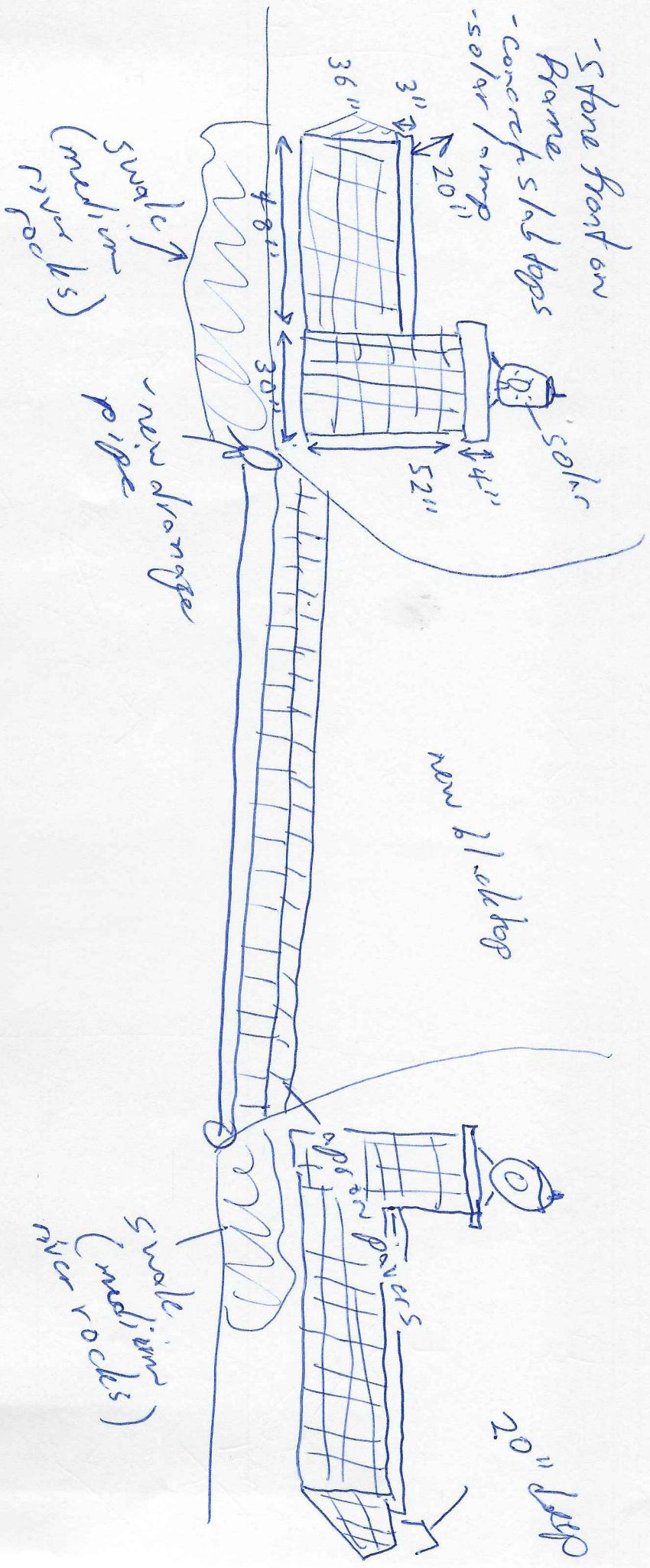
Editor's note:

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

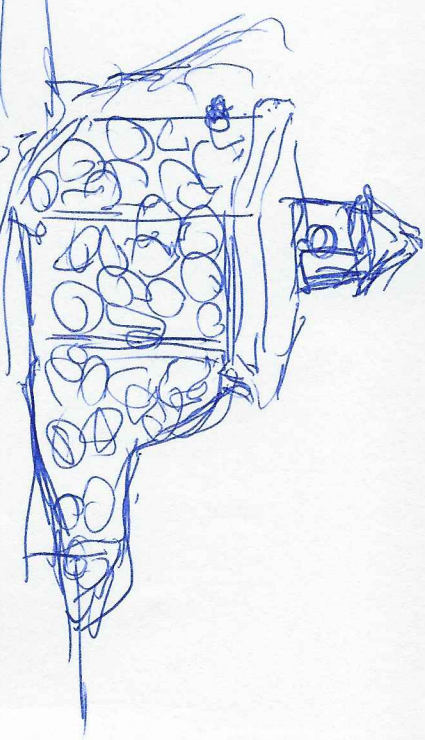
3131 S Hilltop Road
Ingrid + Brad Davis

10/2022

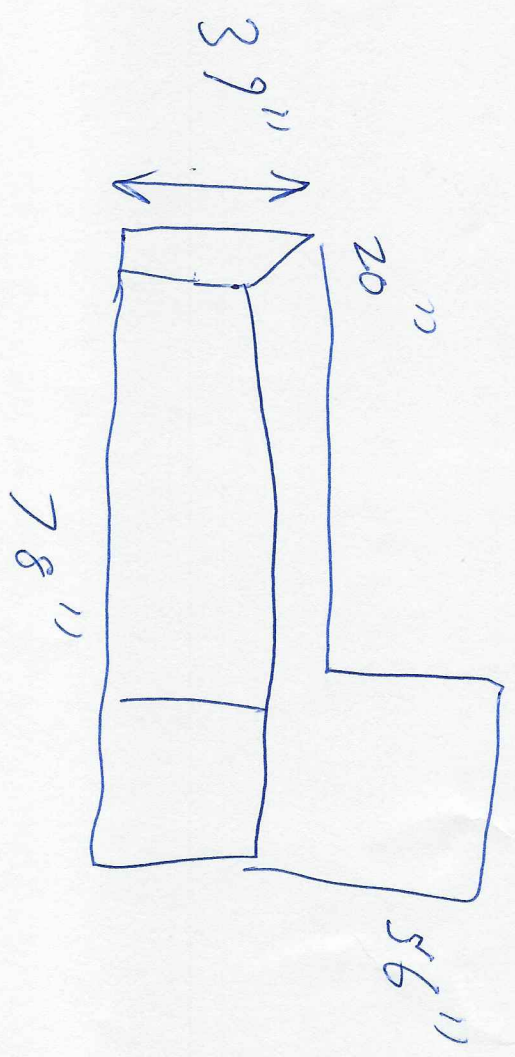
Concept #1 (Dimensions)



Concept #2



20" X 78" X 39" / 56"



**BOARD OF ADJUSTMENT
STAFF MEMORANDUM**

November 14, 2022



Case 2 – 31 Cedar Hill Drive

*Special Use Permit Request for Installation of
Driveway Gate and Two Stone Columns*

Property Owner: Larissa Pollack
Property Address: 31 Cedar Hill Drive

Project Description

This special use permit request is an amended application from the Board of Adjustment meeting last month. The applicant has proposed relocating the driveway gates to comply with the Town's Zoning Ordinance and requests a special use permit for this installation and location. In addition, a special use permit is required for the installation of two (2) stone gate columns described as follows: tier one 24" wide x 24" long x 77" high (to match height of gate posts), and tier two is 24" wide x 36" long x 36" high. The stone will match the stone at front entrance to house, and gate posts will be incorporated into stone masonry.

Special Use Permit Request

The Town's Zoning Ordinance regulates driveway gates in Chapter 153.049. This regulation is attached to the memorandum and provides additional information regarding the location of driveway gates and the required width for the gate. The two stone gate columns, as integrated into the driveway gate, may be considered part of the overall gate framework. The entire gate installation is proposed to be 70 feet from the edge of pavement on Cedar Hill Drive. This complies with the Town's Zoning Ordinance requirement that driveway gates be located a minimum of 60 feet from the road edge.

Zoning Compliance Application

Town of Biltmore Forest

Name

Larissa Pollack

Property Address

31 Cedar Hill Drive

Phone

(480) 261-7603

Email

larissa.pollack@gmail.com

Parcel ID/PIN Number

964643438900000

ZONING INFORMATION

Current Zoning

R-1

Lot Size

1.29

Maximum Roof Coverage

5,500 square feet (Up to 1.5 acres)

Proposed Roof Coverage Total

Less than 5,500 square feet

Maximum Impervious Surface Coverage

1-3 acres (25 percent of lot area)

Proposed Impervious Surface Coverage

Less than 25% of lot area.

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'

Description of the Proposed Project

Move existing 14' wide ornamental gates from current placement to 70' from edge of Cedar Hill Drive. Build 2 stone covered columns starting at 65' from road and jointing and incorporating gate posts at 70' point. Move existing electronics box from existing 4" x 4" post to back of stone column, move keypad on post from existing location to 60' from edge of road, and move small solar panel from existing post to a location at a minimum of 60' from the road and disguised with vegetation. All of the above will be clear of the 60' setback from Cedar Hill Drive.

Estimated Start Date

11/15/2022

Estimated Completion Date

11/30/2022

Estimated Cost of Project

\$7,000.00

Supporting Documentation (Site Plan, Drawings, Other Information)

F4064A74-56EB-4402-BCEC-56195A66D276.jpeg

88CAA94D-6433-4FD5-B9C4-3D7A370759C8.jpeg

Applicant Signature

Date
10/13/2022

Larissa Pollack

Special Use Permit Application

Town of Biltmore Forest

Name

Larissa Pollack

Address

31 Cedar Hill Drive

Phone

(480) 261-7603

Email

larissa.pollack@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:

Erect 14' wide ornamental metal gates that will be connected to stone columns on each side that will match the stone at the entry front entrance to the house. The gates will be located 70' from Cedar Hill Drive. The stone columns will start at the gates and will be 24" x 24" x 68", then drop down to 24" x 36" x 36" to a total length of 5' and ending at the 65' point from the road. In addition, there will be a keypad mounted on a 2" x 2" x 45" high post on the left side of the driveway at 60' from the road. Everything we are proposing will be built at least 60' from the road.

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

The gate and associated stonework will not be immediately visible from the street and it will be executed by professionals with a very good reputation. The materials will all be of good quality and have an aesthetic appeal. The home already has 3 balconies with similar metalwork. The stone on the columns and short extensions will match the house entry, the marble frogs will have a place to sit on the front extensions and a 12" x 12" stone with a metal plaque, bearing the name FROGMORE and POLLACKS, will be set into one of the columns. The area around this gated entry will be professionally landscaped to look like the gates and columns have been there as long as the house.

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

Signature

Date
10/13/2022

Larissa Pollock

(3) CAMELIA SASAN

EXISTING TO REMA
(12) COTONEASTER
(6) HYDRANGEA

(7) SEDUM SPEC

GATEPOST
MASONRY
(AT 65')

(AT 70')

GATES

TURF

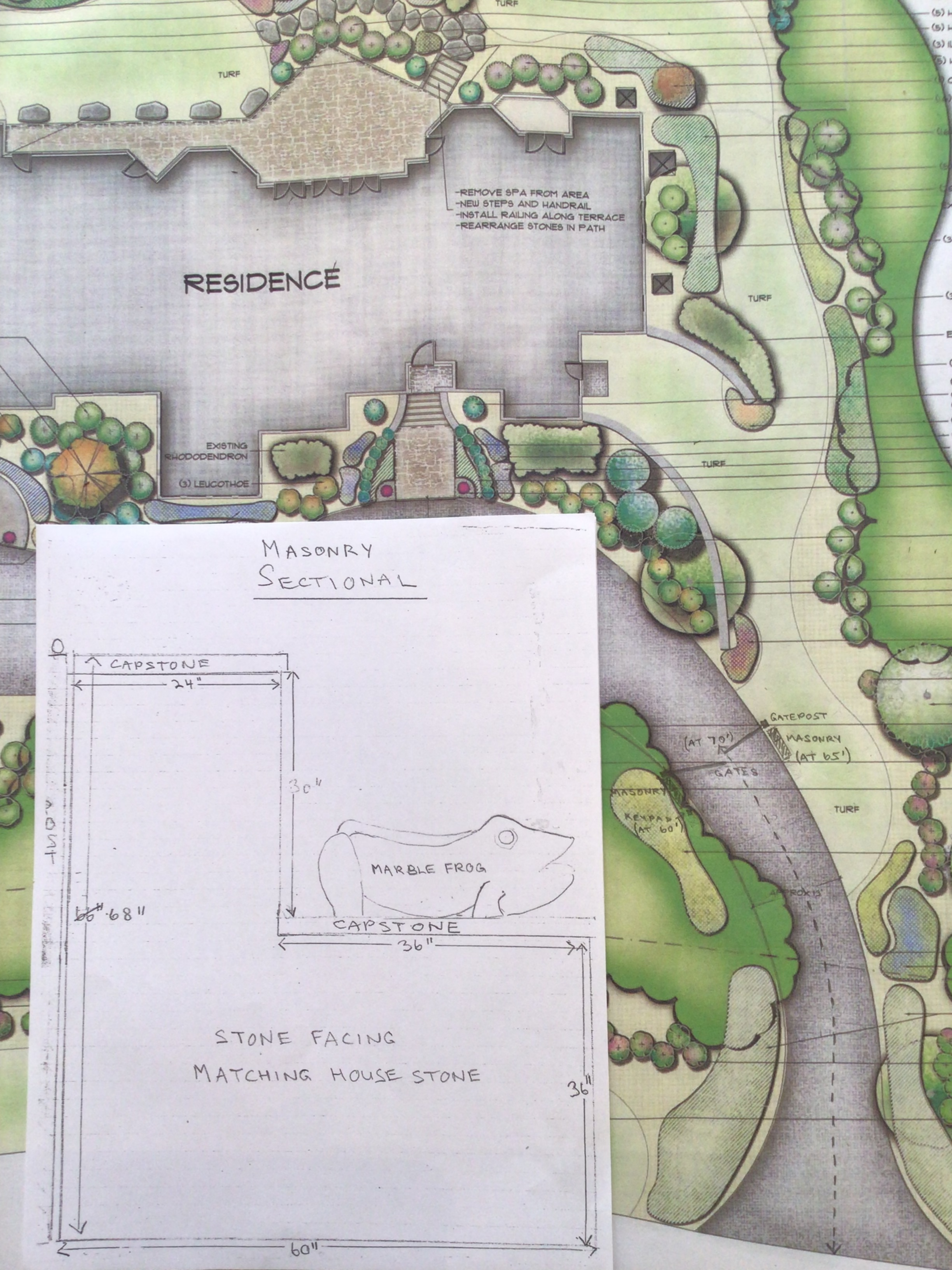
MASONRY

KEYPAD
(AT 60')

APPROX 13

TURF



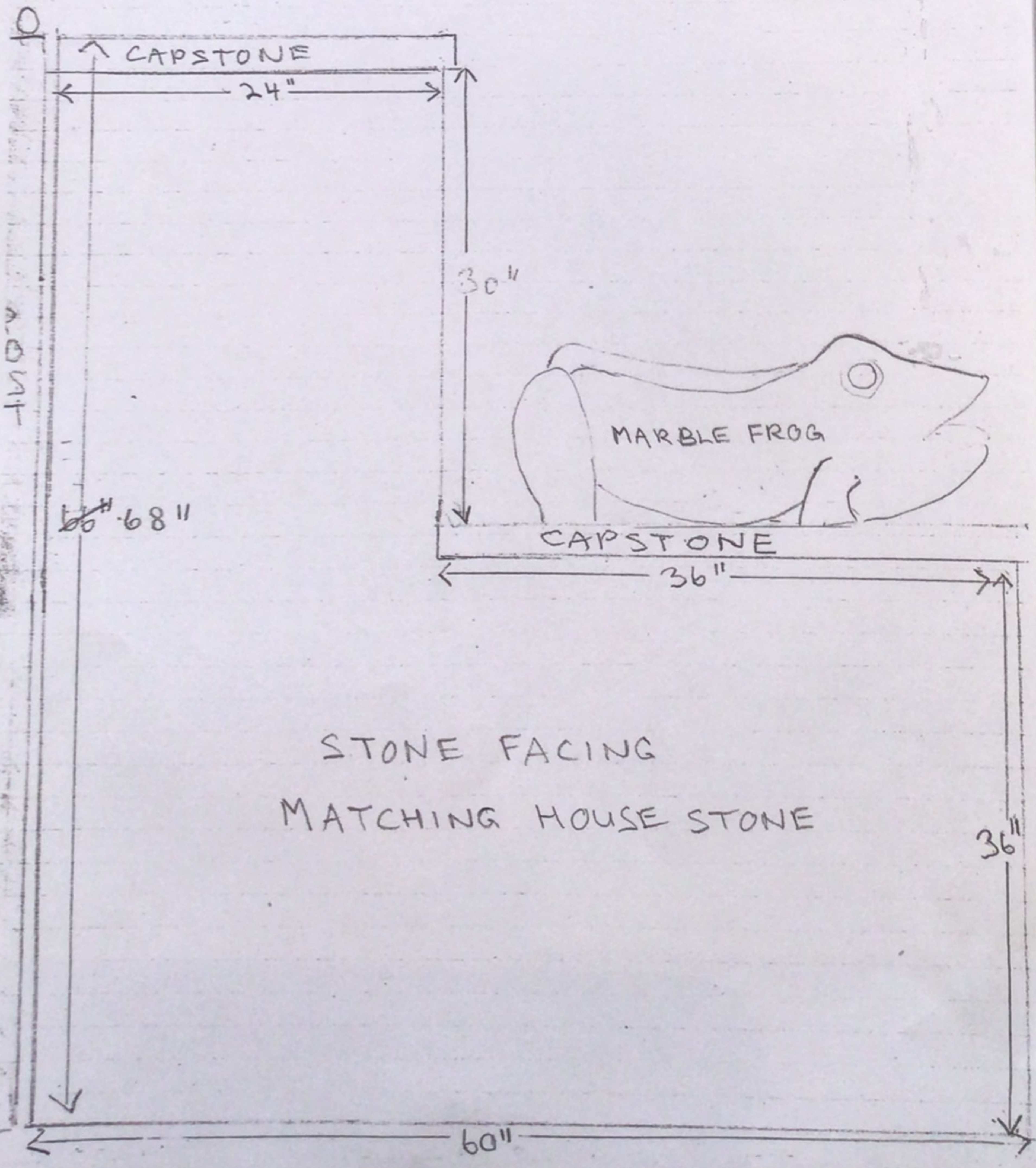


- REMOVE SPA FROM AREA
- NEW STEPS AND HANDRAIL
- INSTALL RAILING ALONG TERRACE
- REARRANGE STONES IN PATH

RESIDENCE

EXISTING RHODODENDRON
(S) LEUCOTHOE

MASONRY SECTIONAL



GATEPOST MASONRY (AT 65')

GATES

MASONRY KEYPAD (AT 60')

TURF

ROXIS

**BOARD OF ADJUSTMENT
STAFF MEMORANDUM**

November 14, 2022



Case 3 – 4 Hilltop Road

Special Use Permit Request for Accessory Structure

Property Owner: Andrew Stephens
Property Address: 4 Hilltop Road

Project Description

The applicant requests a special use permit for the construction and installation of a combination trash/recycling bin and firewood shed. The structure is projected to be six (6) feet high, twenty-five (25) feet long, and five (5) feet deep. The structure will parallel the existing driveway, in the current area where firewood and garbage and recycling bins are located. The site is approximately 200' from Hilltop Rd, in compliance with the fifteen (15) feet R-2 side yard setback, and the applicant states it is not visible from any neighbors. The structure is designed with natural wood tones and roofing to match the property.

Special Use Permit Request

A special use permit is required for installation of this accessory structure. Section 153.029 of the Town's Zoning Ordinance governs this approval. A copy of this ordinance is attached to this memorandum for the Board's review.

Zoning Compliance Application

Town of Biltmore Forest

Name

Andrew Stephens

Property Address

4 Hilltop Rd

Phone

(303) 881-1595

Email

drew@thegisinstitute.org

Parcel ID/PIN Number

ZONING INFORMATION

Current Zoning

R-2

Lot Size

2 ac

Maximum Roof Coverage

6,100 square feet (Up to 2 acres)

Proposed Roof Coverage Total

123 sq ft

Maximum Impervious Surface Coverage

1-3 acres (25 percent of lot area)

Proposed Impervious Surface Coverage

0

Front Yard Setback

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

Side Yard Setback

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

Rear Yard Setback

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

Building Height

6'

Description of the Proposed Project

Combined trash/recycling/ wood shed in side yard, along driveway. 25' x 5'

Estimated Start Date

11/14/2022

Estimated Completion Date

11/18/2022

Estimated Cost of Project

\$300.00

Supporting Documentation (Site Plan, Drawings, Other Information)

SpecialUse_app.pdf

Applicant Signature

Date
10/17/2022

Andrew T Stephens

Special Use Permit Application

Town of Biltmore Forest

Name

Andrew Stephens

Address

4 Hilltop Rd

Phone

(303) 881-1595

Email

drew@thegisinstitute.org

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

Accessory Structures

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

Please provide a description of the proposed project:

This proposal is for a combination trash and recycling bin / firewood shed. The 6' high 25' long, 5' deep structure will parallel the existing driveway, in the current area where firewood and garbage and recycling bins are located. The site is approximately 200' from Hilltop Rd, within the 15' R-2 side yard setback, and cannot be seen by any neighbors. The structure is designed with natural wood tones and roofing to complement the property, and will provide easy and dry access to garbage and recycling bins for Town staff.

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

The project site is located far from any neighboring homes and street visibility. On site, the structure will aesthetically house Town of Biltmore Forest garbage and recycling bins. The structure will only be visible by resident and guests.

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

Signature

Date

10/14/2022



§ 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:

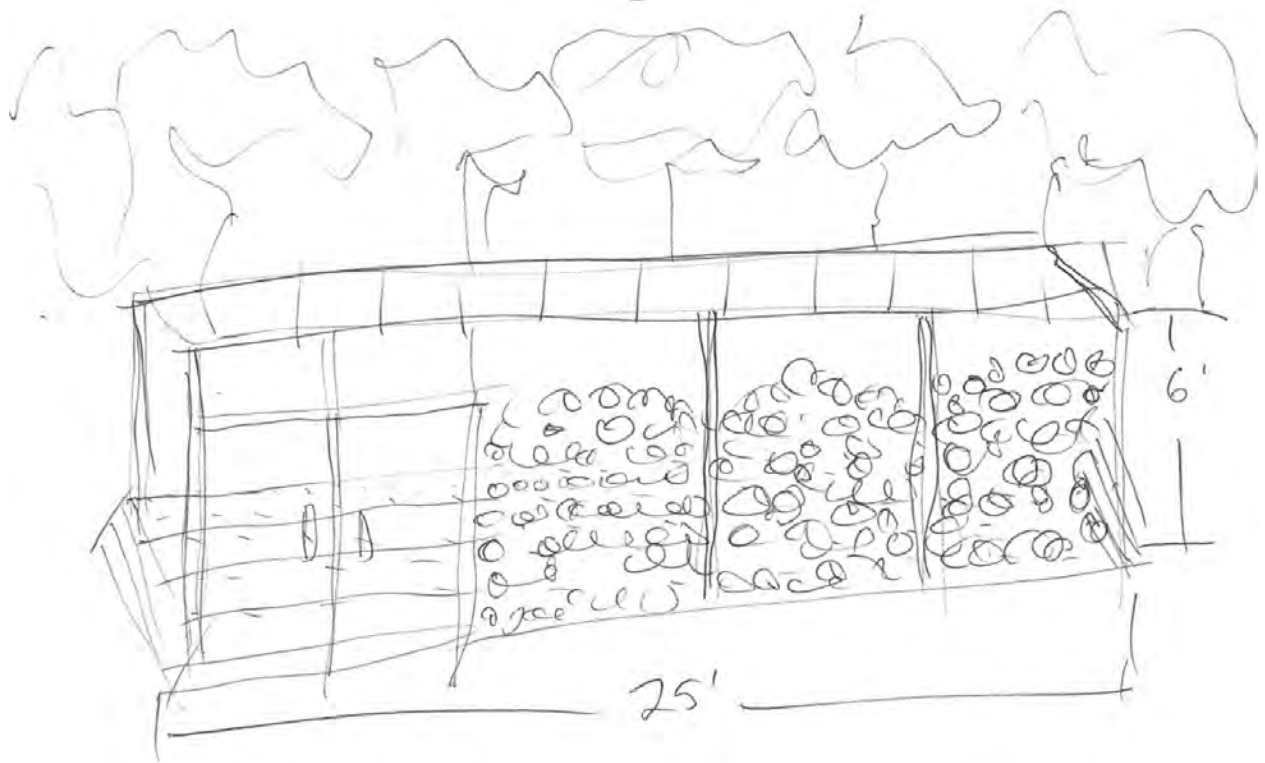
This amendatory language was passed during a Board meeting, July 9, 2013



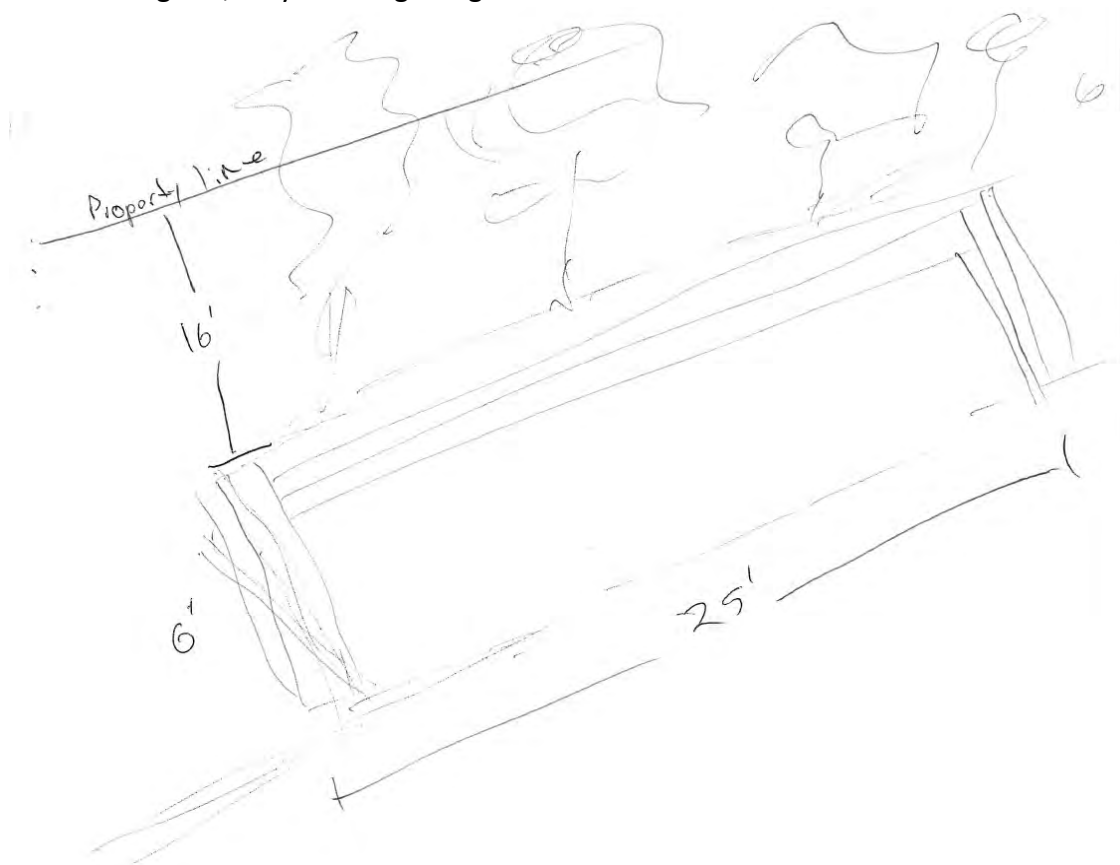
Existing scenario looking east down driveway.



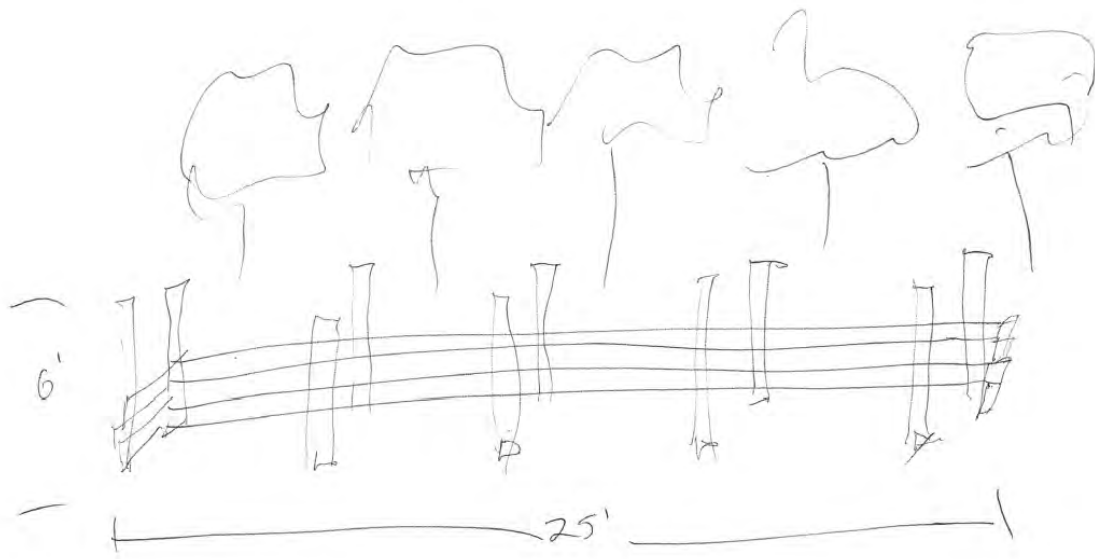
Existing scenario, looking north across driveway.



General diagram, recycle and garbage bins inside double doors.



Proposed footprint.



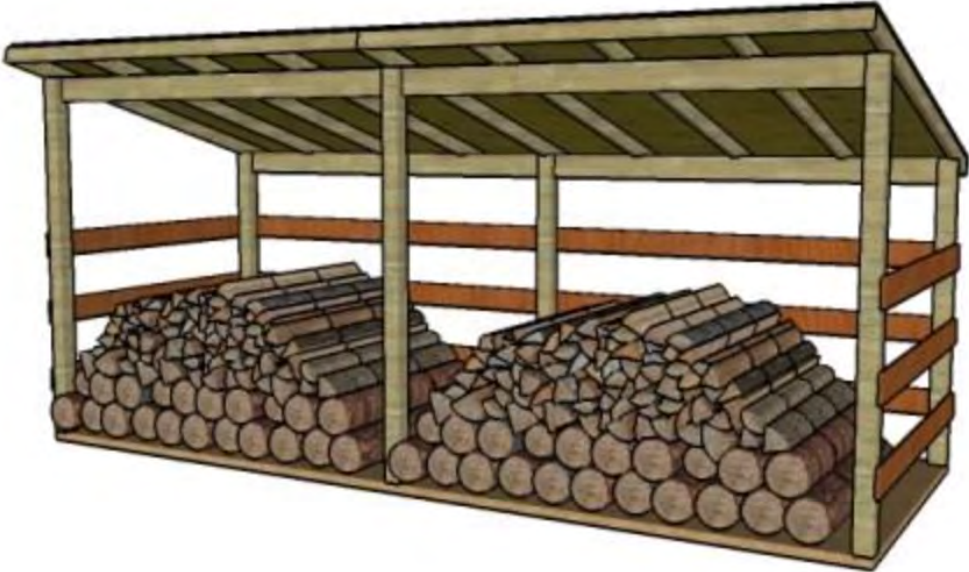
Post and timber diagram.



Example photo of 6'x6' landscape timber walls.



Example structure – proposed plan does not include walls or floors.



Example structure – proposed plan does not include walls or floors.

**BOARD OF ADJUSTMENT
STAFF MEMORANDUM**

November 14, 2022



Case 4 – 9 Fairway Place

Special Use Permit Request for Accessory Structure

Property Owner: George and Lisa Francisco
Property Address: 9 Fairway Place

Project Description

The applicant requests a special use permit for the installation of an outdoor gas fireplace on an existing patio. The gas fireplace is designed to sit where a coffee table was previously located in an effort to allow use of the patio in colder months. The applicant's survey previously identified the setback for the side property line as 25 feet, when in reality, it is 20 feet. As a result, a variance is not necessary but a special use permit is still required. Please disregard the "25 foot side setback" note on the survey.

Special Use Permit Request

A special use permit is required for installation of this accessory structure. Section 153.029 of the Town's Zoning Ordinance governs this approval. A copy of this ordinance is attached to this memorandum for the Board's review.

Zoning Compliance Application

Town of Biltmore Forest

Name

Noah Illes

Property Address

9 FAIRWAY PLACE

Phone

(828) 274-5979

Email

noah@griffinarchitectspa.com

Parcel ID/PIN Number

964687855900000

ZONING INFORMATION

Current Zoning

R-1

Lot Size

.84 acre

Maximum Roof Coverage

4,682 square feet (Up to 1 acres)

Proposed Roof Coverage Total

existing

Maximum Impervious Surface Coverage

Up to 1 acre (27.5 percent of lot area)

Proposed Impervious Surface Coverage

existing

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

existing

Description of the Proposed Project

installation of a built-in gas fireplace at an existing uncovered patio.

Estimated Start Date

11/15/2022

Estimated Completion Date

12/1/2022

Estimated Cost of Project

\$5,000.00

Supporting Documentation (Site Plan, Drawings, Other Information)

FRANCISCO_ZONING APPLICATION R1_2022.10.24.pdf

Applicant Signature

Date
10/24/2022

Noah Fles

Special Use Permit Application

Town of Biltmore Forest

Name

Noah Illes

Address

1 village lane suite 1

Phone

(828) 274-5979

Email

noah@griffinarchitectspa.com

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

Accessory Structures

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

Please provide a description of the proposed project:

installation of a built-in gas fireplace, centered on an existing patios seating area

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

This project would not adversely affect the public for two primary reasons. the proposed location has been used as a gathering space in the past. The proposed project is to install a source of heat where a coffee table was previously used, so that the space can be used as intended during the colder months. This space is also well buffered from the associated neighbor, as well as the golf course.

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

Signature

Date

10/24/2022



THESE DRAWINGS ARE THE RESULT OF A LIMITED SERVICES AGREEMENT BETWEEN THE OWNER AND THE ARCHITECT. INFORMATION, DETAILS, AND SPECIFICATIONS, NOT INCLUDED IN THIS UNBUNDLED SET OF DRAWINGS SHALL BE THE RESPONSIBILITY OF OTHERS. IT SHALL BE THE RESPONSIBILITY OF OTHERS TO INTERPRET THESE DRAWINGS AND COORDINATE THE DRAWINGS WITH THE WORK. FURTHER IT SHALL BE THE RESPONSIBILITY OF OTHERS TO OBSERVE THE WORK TO DISCOVER, CORRECT AND/OR MITIGATE ERRORS, INCONSISTENCIES, OR OMISSIONS IN BOTH THE WORK, AND IN THE DRAWINGS. USE OF THESE DRAWINGS WITHOUT THE PARTICIPATION OF THE ARCHITECT AND ITS CONSULTANTS THROUGHOUT THE CONSTRUCTION PHASE OF THE PROJECT SHALL INDEMNIFY THE ARCHITECT AND ITS CONSULTANTS AGAINST LIABILITY RESULTING FROM ERRORS, INCONSISTENCIES, OR OMISSIONS IN BOTH THE WORK, AND IN THE DRAWINGS.



FRANCISCO RESIDENCE RENOVATION
9 FAIRWAY PLACE BILTMORE FOREST NC

SITE PLAN
CONSTRUCTION DOCUMENTS

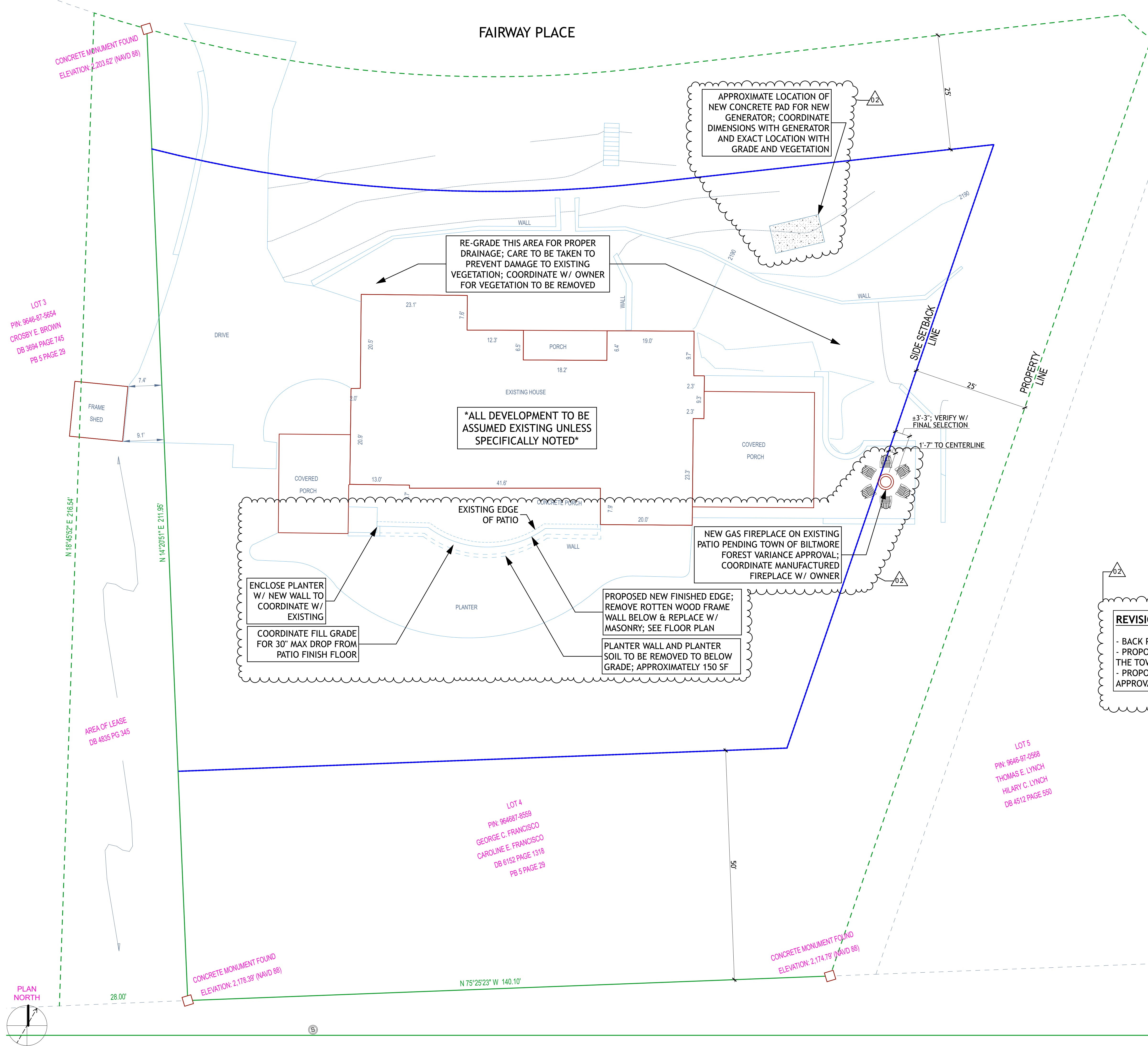
PROJECT ARCHITECT: RSG	
DRAWN BY: NDI	
ISSUED FOR: ####	
REVISIONS:	DATE: 10/24/2022
NO. 01	DATE:
NO.:	DATE:
NO.:	DATE:
NO.:	DATE:
NO.:	DATE:



SHEET NO:
A1.1
DATE:
6/23/22

ZONING APPLICATION_REVISION 01

FAIRWAY PLACE



REVISION NARRATIVE:

- BACK PORCH REWORK NOTED AND UPDATED AFTER SELECTIVE DEMOLITION
- PROPOSED LOCATION OF NEW GENERATOR ADDED; LOCATION APPROVED BY THE TOWN VIA EMAIL CORRESPONDENCE WITH JONATHAN KANIPE 8/29/2022
- PROPOSED GAS FIREPLACE NOTED, PENDING VARIANCE AND CONDITIONAL USE APPROVAL

SITE PLAN A1
SCALE: 1" = 10'
A1.1

**BOARD OF ADJUSTMENT
STAFF MEMORANDUM**

November 14, 2022



Case 5 – 25 Eastwood Road

*Special Use Permit Request for Accessory Structures
Fence, Gate, Stone Walls, and Stone Entrance
Columns*

*Variance Request for Encroachment into Front and
Side Yard Setbacks*

Property Owner: George and Elizabeth Pacal
Property Address: 25 Eastwood Road

Project Description

The applicants request special use permits for several accessory structures, as noted below.

- (1) Four (4) foot high black metal fencing at far left side & near the back of house patio
- (2) Low stone accent/planter walls near drive entries
- (3) Stone terracing within rear yard

Special Use Permit Request

Each proposed accessory structure requires a special use permit from the Board of Adjustment per Section 153.029. The fence and stone walls are governed by Section 153.049 of the Town's Zoning Ordinance. Each specific ordinance is attached to this memorandum. The applicant has provided a site plan and dimensions for each of the proposed accessory structures.

Variance Request

The proposal includes a variance request from the applicant to encroach into the side and rear front yard setbacks. Specifically, a portion of the four (4) foot high fencing is shown within the side yard setback and planter walls are shown within the front yard setback. Section 153.007 of the Town's Zoning Ordinance provides dimensional requirements for each lot, including setbacks. This ordinance is attached to this memorandum.

Zoning Compliance Application

Town of Biltmore Forest

Name

Liz & George Pacal

Property Address

25 Eastwood Road, Biltmore Forest, NC -28803-

Phone

(818) 517-8205

Email

Lizzieinthegarden@msn.com

Parcel ID/PIN Number

5012

ZONING INFORMATION

Current Zoning

R-1

Lot Size

1.64 Acres / 71,438 s.f.

Maximum Roof Coverage

6,100 square feet (Up to 2 acres)

Proposed Roof Coverage Total

N/A

Maximum Impervious Surface Coverage

1-3 acres (25 percent of lot area)

Proposed Impervious Surface Coverage

Exist. HOUSE footprint @ +/-2000 s.f. +Exist. Drive...++Expanding Rear Parking by +/-700 s.f. (+/- 4% Increase)

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

Landscape Enhancements: Front Yard tree plantings & accent plants/stonework @ (2) drive entrances; Left Side Yard plantings & portion of 4' ht. black metal fencing; Rear Yard stone terrace-retaining walls, plantings, & 4' ht. black fencing; some path & accent lighting.

Estimated Start Date

11/18/2023

Estimated Completion Date

11/23/2022

Estimated Cost of Project

\$39,500.00

Supporting Documentation (Site Plan, Drawings, Other Information)

Pacal_Landscape Plan - REV. 1-24x36_Landscape Plan.pdf

Pacal_Landscape Plan - REV. 1-24x36_Sch. & Notes.pdf

Pacal_Landscape Plan - REV. 1-24x36_Lighting Plan.pdf

Applicant Signature

Date
10/17/2022

George & Elizabeth Pacal

Special Use Permit Application

Town of Biltmore Forest

Name

Liz & George Pacal

Address

25 Eastwood Road, Biltmore Forest, NC -28803-

Phone

(818) 517-8205

Email

Lizzieinthegarden@msn.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:

Landscape enhancements to include: 4' ht. black metal fencing at far left side & near the back of house-patio; Front Yard plantings & low stone accent/planter walls near drive entries; Rear Yard stone terracing & plantings for slope stabilization & beautification; some (minimal) path & accent lighting--Per plans submitted simultaneously today w/ the Zoning Compliance Application.

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

Any/All of the desired/proposed accessory structures (fencing & stone terracing-retaining...) are in keeping with the spirit of Biltmore Forest ordinances & with existing neighborhood ambiance. Only a small portion of what we propose would be at all visible from the street or from adjacent properties. We feel that what we do desire within left side & front setbacks is respectful, modest, attractive, & of high quality--and would not differ from other property enhancements/variances within 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

10/17/2022

George & Elizabeth Pacal

VARIANCE APPLICATION

Town of Biltmore Forest

Name

Liz & George Pacal

Address

25 Eastwood Road, Biltmore Forest NC -28803-

Phone

(828) 517-8205

Email

Lizzieinthegarden@msn.com

Current Zoning/Use

R

Requested Use

R1

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?

As part of desired/proposed landscape enhancements, we would like to extend a portion of 4'ht. black metal fencing into the left side yard 20' setback, as well as 4 path lights along this portion of fence. ALSO, we would like to include low stone accent/planter walls (w/ plantings) near our drive entrances, which would be within the 60' front setback--

[AND Rear Yard stone terracing-slope stabilization that doesn't encroach on any setbacks]--

Per plans submitted simultaneously today with the Zoning Compliance Application...

What does the ordinance require?

Per ordinance, fencing and/or any retaining/planter walls, should be outside of the 20' side yard setback & outside of the 60' front yard setback.

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

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

Proposed fencing is for safety (of Owners & Owners' dogs); [It would also greatly add to the Owner's ability to use & enjoy their property.] Proposed low stone planter-accent walls near drive entries helps direct traffic & protect the street-property edges by better-defining entry locations.

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

The house was built in 1936. The side yards, especially on the left, are somewhat narrower than other properties in Biltmore Forest, and so present constraints to usage of the property relative to other neighborhood properties.

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

Please see above...

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 requested fencing & other desired landscape enhancements are for safety considerations as well as beautification (and for rear yard slope stabilization & beautification that do not encroach on any setbacks). We have tried to minimize any variance from the ordinance for these enhancements.

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

Signature

Date

10/17/2022

George & Elizabeth Pacal

§ 153.007 DIMENSIONAL REQUIREMENTS.

(A) *Table.* The following table sets out dimensional requirements.

Districts	Minimum Lot Area In Square Feet	PUD Residential Density Maximum Number of Dwellings Per Acre	Minimum Yard Setback Requirement in Feet				
			Minimum Lot Width At Building Line in Feet	Front Yard From Street Edge	Side Yard	Rear Yard	Maximum Height in Feet
R-1	43,560	0	150	60	20	25	40
R-2	20,000	0	100	50	15	20	40
R-3	20,000	8	100	50	15	20	40
R-4	20,000	2	100	50	15	20	40
R-5	Footnote 6	8	100	50	15	20	40
PS	No Min.	0	No Min.	No Min.	No Min.	No Min.	Not App.

(B) *General provisions.* The following are footnotes applicable to the table in division (A).

(1) *Footnote 1.* The minimum lot area for lots not served by public water and/or sewer shall be subject to approval by the County Health Department to ensure the proper operation of septic tanks and wells. In no case, however, shall minimum lot area be less than those specified in the table in division (A).

(2) *Footnote 2.* The minimum lot width at the street line shall be 125 feet in the R-1 District, and 80 feet in the R-2, R-3, and R-4 Districts.

(3) *Footnote 3.* On all corner lots, a 30-foot side yard setback is required.

(4) *Footnote 4.* Accessory structures, including driveways, shall meet all setback requirements. Notwithstanding the foregoing, setback requirements for driveway entrance columns or driveway entrance walls may be waived or modified by the Board of Adjustment with the granting of a special use permit in accordance with § 153.110(C), without the need for a variance pursuant to § 153.110(D).

(5) *Footnote 5.* Height requirements may be varied upon approval of the Board of Adjustment.

(6) *Footnote 6.* Whichever is greater, 20,000 square feet, or twice the gross floor area of the building.

(7) *Footnote 7.* An increase in the side and rear yard setbacks is required for homes (structures) that exceed 25 feet in height. Homes (structures) greater than 25 feet in height shall be setback from the side and rear property lines an additional one and one-half feet for each one foot, or portion thereof, that the home (structure) exceeds 25 feet in height.

(8) *Footnote 8.* Structures exceeding a roof coverage area of 7,000 square feet shall be set back from side and rear property lines an additional 20% of the required setback for each 500 square feet, or increment thereof, that the roof coverage areas exceeds 7,000 square feet.

Example: The rear setback for a single story 8,200 square foot house in the R-1 District would be calculated as follows:

$$8,200 - 7,000 = 1,200$$

$$1,200/500 = 2.4 \text{ (round to 3 to account for increment of change)}$$

$$3 \times 20\% = 60\%$$

$$60\% \times 20 = 12$$

$$25 + 12 = 37$$

Rear setback will be 37 feet

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

§ 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.

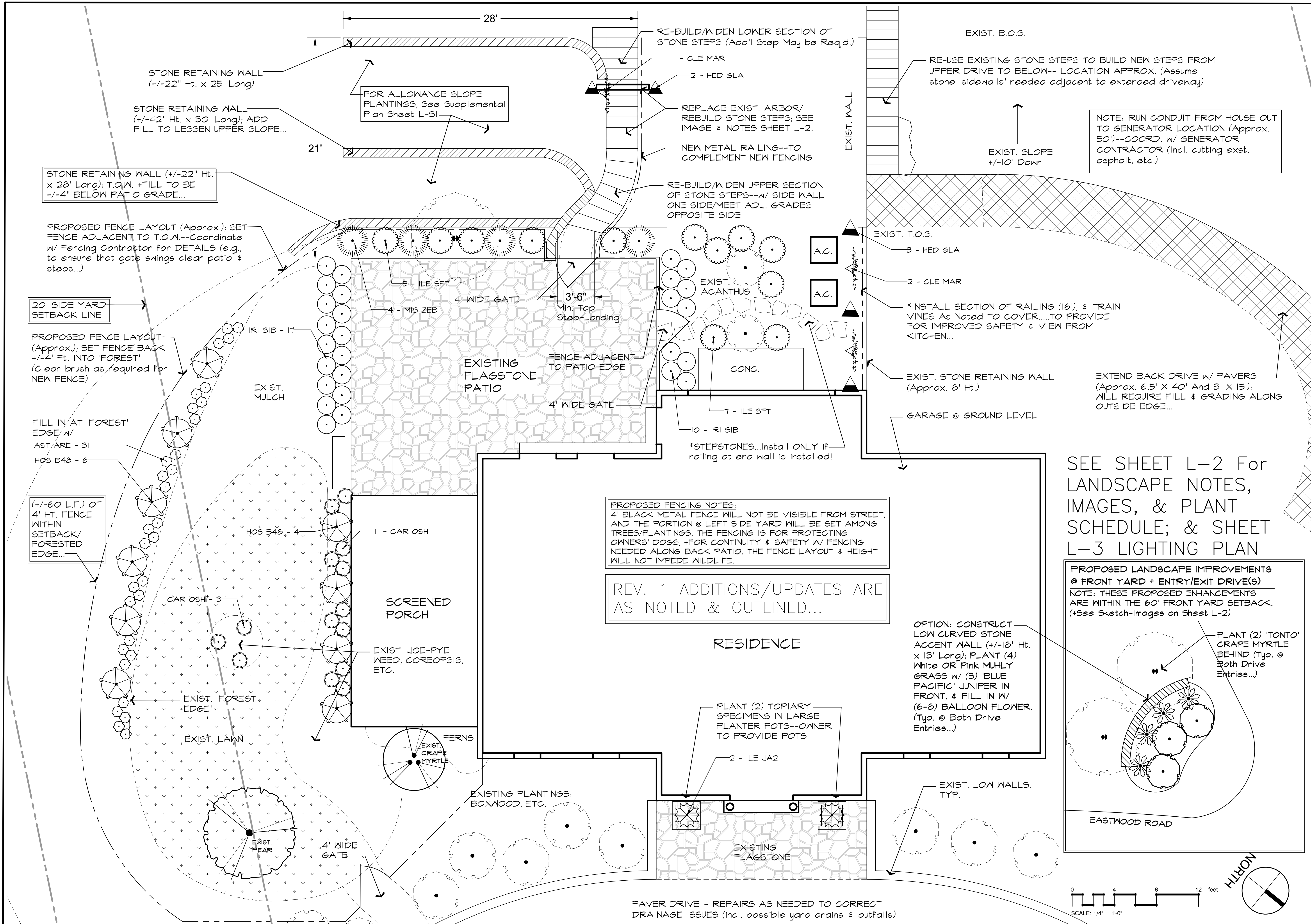
(3) No new chain link fencing or gates shall be allowed.

(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)



LANDSCAPE PLAN FOR

SEE SHEET L-2 For LANDSCAPE NOTES, IMAGES, & PLANT SCHEDULE; & SHEET L-3 LIGHTING PLAN

REVISIONS

1.	B.O.A./Applications: Minor Scope Adds/Changes
----	---

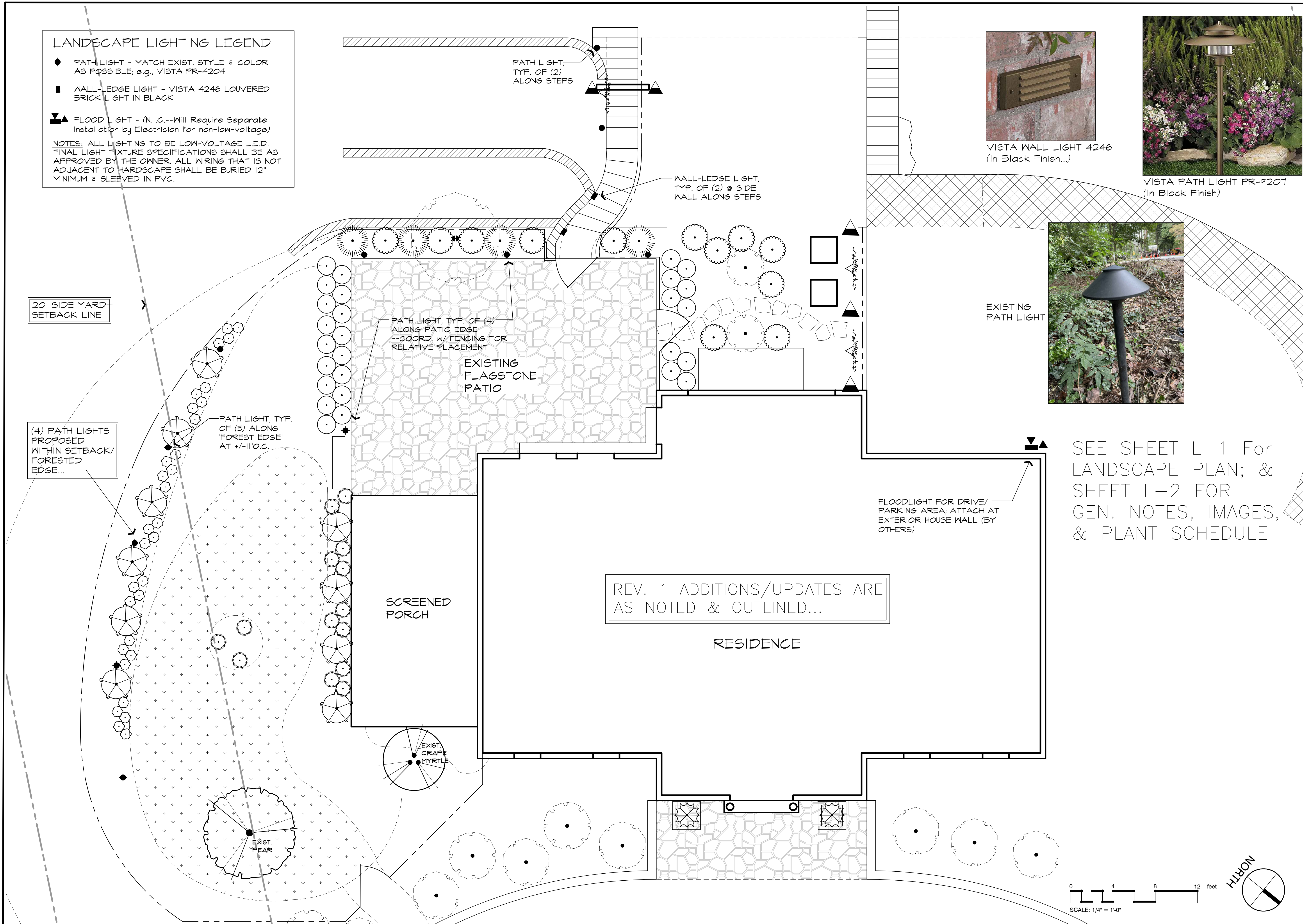
SCALE:	1/4" = 1'-0"
DATE	10/17/22
Drawn By	BBAM

SHEET #
L-1

LANDSCAPE LIGHTING LEGEND

- PATH LIGHT - MATCH EXIST. STYLE & COLOR AS POSSIBLE; e.g., VISTA PR-4204
- WALL-LEDGE LIGHT - VISTA 4246 LOUVERED BRICK LIGHT IN BLACK
- ▲ FLOOD LIGHT - (N.I.C.--Will Require Separate Installation by Electrician for non-low-voltage)

NOTES: ALL LIGHTING TO BE LOW-VOLTAGE L.E.D. FINAL LIGHT FIXTURE SPECIFICATIONS SHALL BE AS APPROVED BY THE OWNER. ALL WIRING THAT IS NOT ADJACENT TO HARDSCAPE SHALL BE BURIED 12" MINIMUM & SLEEVED IN PVC.



VISTA WALL LIGHT 4246
(In Black Finish...)



VISTA PATH LIGHT PR-4207
(In Black Finish)



EXISTING
PATH LIGHT

SEE SHEET L-1 For
LANDSCAPE PLAN; &
SHEET L-2 FOR
GEN. NOTES, IMAGES,
& PLANT SCHEDULE

REV. 1 ADDITIONS/UPDATES ARE
AS NOTED & OUTLINED...

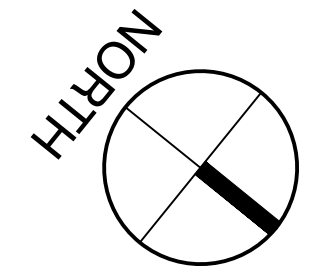
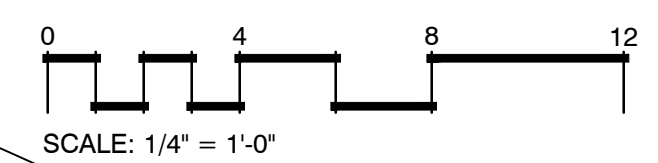


LANDSCAPE LIGHTING PLAN FOR
PACAL RESIDENCE
25 EASTWOOD ROAD
BILTMORE FOREST, NC 28803

REVISIONS	
1.	B.O.A./Applications: Minor Scope Adds/Changes

SCALE: 1/4" = 1'-0"
DATE 10/17/22
Drawn By BBAM

SHEET #
L-3



PLANT SCHEDULE

ALSO, SEE NOTES FOR FRONT YARD & ENTRY DRIVE RECOMMENDATIONS BELOW...

SHRUBS	CODE	BOTANICAL NAME	COMMON NAME	SIZE	QTY
	AST ARE	Astilbe x arendsii	Astilbe	---	31
	CAR OSH	Carex oshimensis	Japanese Sedge-EverColor	---	14
	CLE MAR	Clematis x 'Ernest Markham'	Ernest Markham Clematis	---	3
	HED GLA	Hedera helix 'Glacier'	Glacier-Variegated-English Ivy	---	5
	HOS B48	Hosta sieboldiana 'Blue Angel'	'Blue Angel' Hosta	---	10
	ILE SFT	Ilex cornuta 'Soft Touch'	Soft Touch Chinese Holly	---	12
	ILE JA2	Ilex crenata	Japanese Holly *TOPIARY SPECIMEN*	---	2
	IRI SIB	Iris sibirica	Siberian Iris	---	27
	MIS ZEB	Miscanthus sinensis 'Zebrinus'	Zebra Grass	---	4

LANDSCAPE / PROJECT NOTES

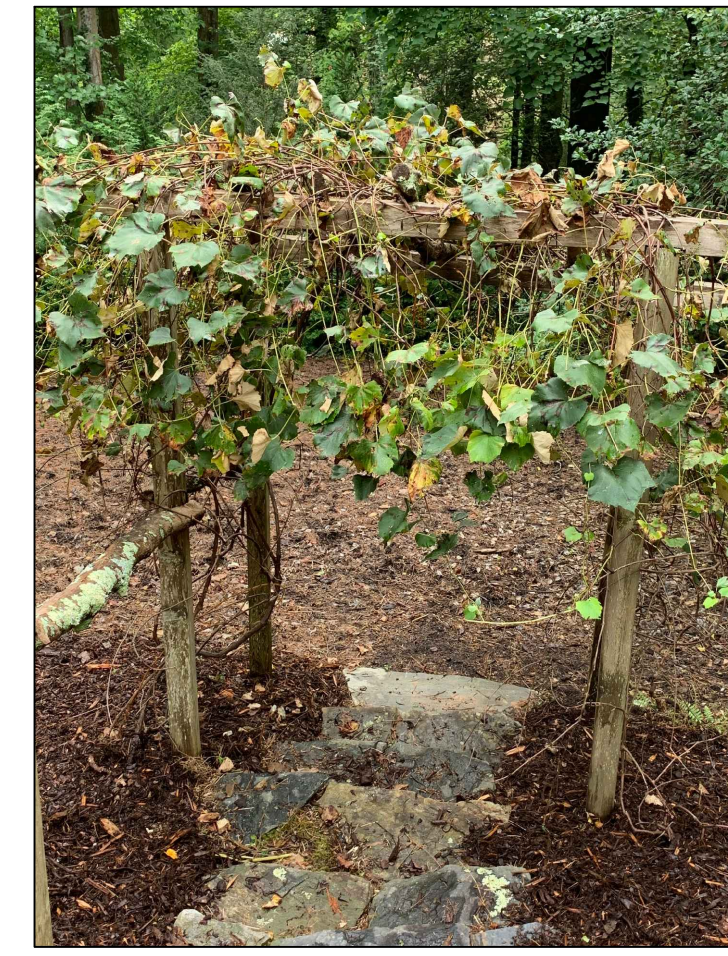
= ALL NEW & MODIFIED PLANT BEDS TO BE MULCHED W/ HARDWOOD MULCH, EXCEPT USE 'NO FLOAT' MULCH @ BACK SLOPED BED. TOP OFF EXIST. MULCH AREAS & REPAIR EXIST. LAWN AREAS AS NEEDED.

= PLANT (8) 'TONT0' CRAPE MYRTLE & (1) WHITE FLOWERING DOGWOOD AT FRONT YARD TO REPLACE REMOVED TREES-- SEE IMAGE/NOTES BELOW.

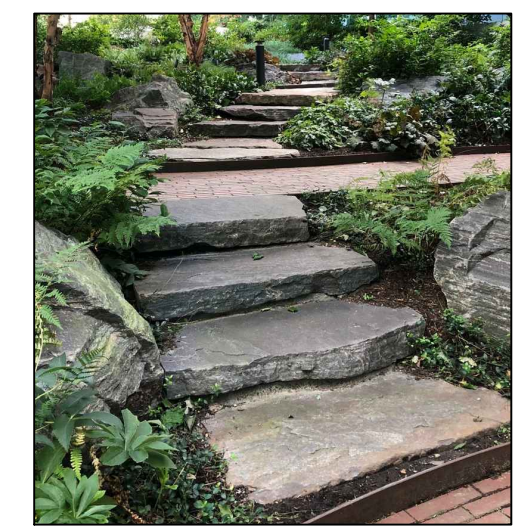
= COORDINATE W/ FENCING & GENERATOR CONTRACTORS FOR ALL ASPECTS OF FENCING & GENERATOR INSTALLATIONS.

= SEE PLAN NOTES ON BOTH SHEETS L-1 & L-2 FOR OPTIONAL INSTALLATION ITEMS.

= OWNER TO REVIEW & APPROVE NEW LANDSCAPE ACCENT LIGHTING IN CONJUNCTION W/ PROPOSED WORK SHOWN HERE-- COORDINATE DESIGN & INSTALLATION SCHEDULE W/ TPS (BY SEPARATE CONTRACT).

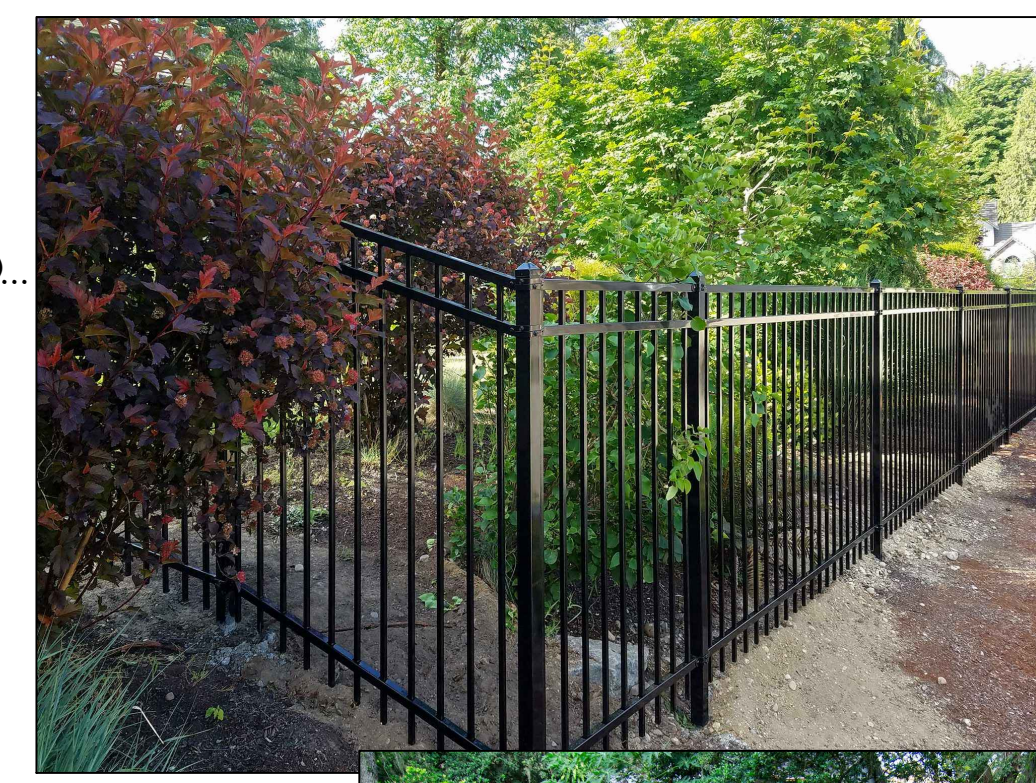


EXISTING STONE STEPS & ARBOR AT BACK SLOPE: REPLACE ARBOR (OWNER TO PROCURE & CONTRACTOR TO INSTALL); RE-BUILD STEPS--SEE PLAN ON SHEET L-1

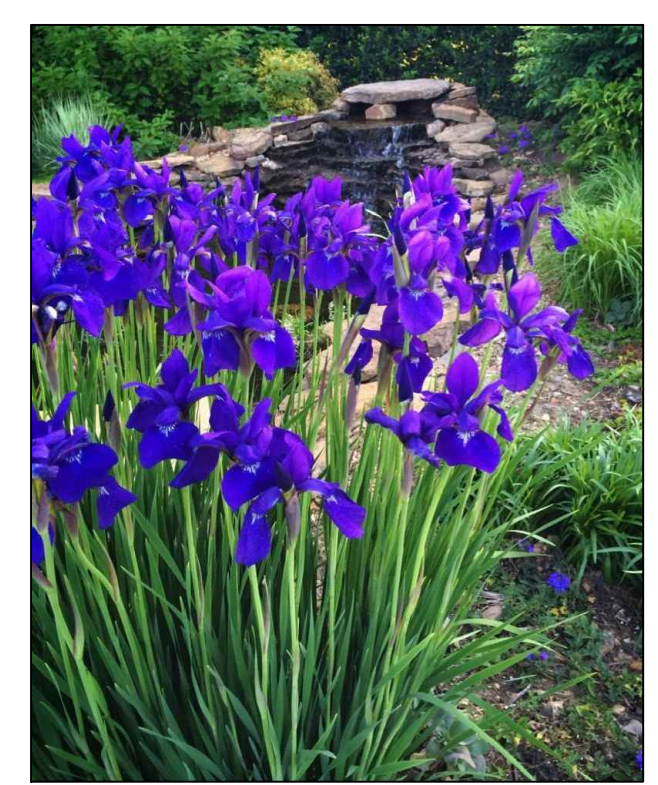


NEW AND/OR RE-BUILT STONE SLAB STEPS (SIMILAR)

PROPOSED 4' HT. BLACK METAL FENCING (SIMILAR)... W/ 4' WIDE GATES, TYP.



PROPOSED 18" HT. CURVED STONE LANDSCAPE ACCENT WALL (SIMILAR; SHOWN UNDER CONSTRUCTION). SEE SKETCH & NOTES BELOW.



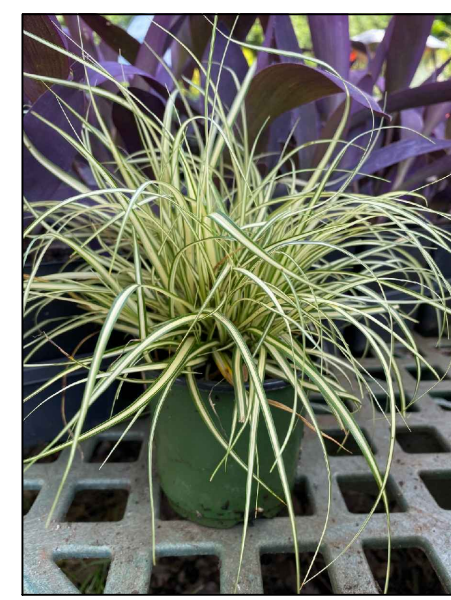
SIBERIAN IRIS (BLUE)



'SOFT TOUCH' CHINESE HOLLY



'BLUE ANGEL' HOSTA



'EVERCOLOR' JAPANESE SEDGE



ZEBRA GRASS



ASTILBE - VARIETIES...

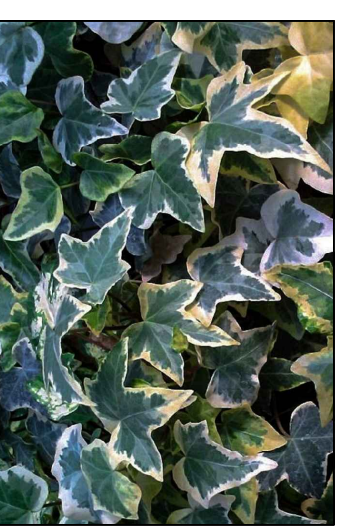
VARIEGATED ENGLISH IVY:
(NOTE: Variegated cultivars are not invasive; Monitor & trim seasonally...)



'ERNEST MARKHAM' CLEMATIS



PINK--OR WHITE-- MUHLY GRASS



BALLOON FLOWER



'TONT0' CRAPE MYRTLE

PLANT (1) WHITE FLOWERING DOGWOOD AT APPROX. CENTER OF FRONT YARD (Not Shown...)

PLANT (2ea.) 'TONT0' CRAPE MYRTLES BEHIND NEW PLANT BEDS @ BOTH ENTRY DRIVES; (4 TOTAL) & (4 TOTAL) @ FAR EDGE OF LAWN AREA...



PROPOSED LANDSCAPE IMPROVEMENTS @ FRONT YARD & ENTRY / EXIT DRIVE(S)

NOTE: PLANT BEDS NEAR DRIVES ARE WITHIN THE 60' FRONT YARD SETBACK.

PLANT (8) WHITE OR PINK MUHLY GRASS TO ACCENT/FILL IN AT EXIST. BED NEAR BENCH & LARGE MAPLE.

CONSTRUCT 18" Ht. x 13' Long CURVED STONE ACCENT WALL (WALL IS OPTIONAL); PLANT (4) PINK OR WHITE MUHLY GRASS W/ (3) BLUE PACIFIC' JUNIPER IN FRONT, & FILL IN W/ (6-8) BALLOON FLOWER.

**MIRROR INSTALLATION ON FAR SIDE OF YARD @ 2ND DRIVEWAY

LANDSCAPE NOTES, IMAGES & PLANT SCHEDULE

PACAL RESIDENCE
25 EASTWOOD ROAD
BILTMORE FOREST, NC 28803



REVISIONS

1. B.O.A./Applications: Minor Scope Adds/Changes

SCALE: N.T.S.

DATE 10/17/22

Drawn By BBAM

SHEET #

L-2

**BOARD OF ADJUSTMENT
STAFF MEMORANDUM**

November 14, 2022



Case 6 – 3 Eastwood Road

*Special Use Permit Request for Accessory Structures
within Rear Yard*

*Variance Request for Encroachment into Rear Yard
Setback*

Property Owner: David and Terry Brown
Property Address: 3 Eastwood Road

Project Description

The applicants request a special use permit to construct a hardscape patio and fire pit in the rear yard. This installation is considered an accessory structure and requires a special use permit from the Board of Adjustment. The proposed patio and fire pit would be made of stone to match the existing rock walls on the property.

Special Use Permit Request

The installation requires a special use permit from the Board of Adjustment. This is governed under Section 153.029 of the Town's Zoning Ordinance.

Variance Request

The applicant has provided two location options for the Board's consideration. The first option, which is preferred by the applicant, is within the rear yards setback. This requires a variance from the Board of Adjustment. The second option shows the location of the accessory structure in compliance with the rear yard setback.

Zoning Compliance Application

Town of Biltmore Forest

Name

Christopher Michalski

Property Address

3 Eastwood Road, Biltmore Forest NC 28803

Phone

(828) 808-7870

Email

christopher@scroggsconstruction.com

Parcel ID/PIN Number

9646-76-2927

ZONING INFORMATION

Current Zoning

R-1

Lot Size

1.9 Acres

Maximum Roof Coverage

6,100 square feet (Up to 2 acres)

Proposed Roof Coverage Total

4,706 sf, no change

Maximum Impervious Surface Coverage

1-3 acres (25 percent of lot area)

Proposed Impervious Surface Coverage

+/- 150 sf additional sf, less than 25% of lot is impervious

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

2 stories

Description of the Proposed Project

Install hardscape patio and fire pit, in one of two locations. Preferred location, Option 1(see attached plan) is contingent upon approval of variance. The alternate location Option 2(see attached plan) will meet current rear yard setback criteria

Estimated Start Date

12/12/2022

Estimated Completion Date

1/12/2023

Estimated Cost of Project

\$20,000.00

Supporting Documentation (Site Plan, Drawings, Other Information)

Brown - Landscape Drawings and Plot Plans.pdf

Applicant Signature

Date
10/24/2022

Chris Michalski

Special Use Permit Application

Town of Biltmore Forest

Name

Christopher Michalski

Address

3 Eastwood Road, Biltmore Forest NC 28803

Phone

(828) 808-7870

Email

christopher@scroggsconstruction.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:

This application is for the installation of a hardscape patio and firepit at the above referenced address, to match existing stone and rock wall already installed on the property.

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

The proposed work is on private property, and would not be accessible to the general public. The location of the proposed fire pit is free and clear of any above or adjacent trees, shrubbery, existing structures on or adjacent the property. The proposed patio would allow for seating for 4 - 6 adults. It would not allow for large gatherings that could possibly be a nuisance to neighbors or the general public. Furthermore, the topography of the lot is such that the proposed patio would not be visible to neighbors or passers by...

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

Signature

Date

10/24/2022

Christopher Michalski for David and Terry Brown

VARIANCE APPLICATION

Town of Biltmore Forest

Name

Christopher Michalski

Address

3 Eastwood Road, Biltmore Forest NC 28803

Phone

(828) 808-7870

Email

christopher@scroggsconstruction.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?

Scroggs Construction has been hired to install a hardscape patio and firepit at the above referenced address, per the plans submitted with the zoning application.

What does the ordinance require?

Current ordinances require a 25ft setback from the property line. The preferred location of the hardscaped patio (Option 1) would not meet this requirement. However, the rear of the property is bound by a creek, and the golf course. It is unclear how the proposed setback of approximately 15 ft, for Option 1, would negatively impact the township, the general public, adjacent properties or the golf course. The creek is approximately 35ft from the proposed Option 1 location, and fair distance from the fairway of the adjacent golf course.

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.

The area for the proposed patio is very far from the existing structure. Getting lawn equipment to this area, even for routine maintenance could, be deemed extremely difficult, if not dangerous. The issue of getting equipment to this area of the property would only be exacerbated as the current residents age... Once this patio was finished the surrounding area on the property could be allowed to grow, and eventually blend with the surrounding flora and existing topography of the property, thus eliminating the need for excessive maintenance.

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

The existing topography is steep, rocky and not conducive to routine lawn maintenance. There are several pre-existing stone/rock walls on the property. Getting even a small lawn mower to the area of the property

where the proposed patio is to be installed could prove to be rather treacherous...

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

The topography and rock walls on the property were not in anyway altered or placed by the current residents, David and Terry Brown... These are all pre-existing site conditions.

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 proposed hardscape patio has been designed in such a way so as to blend with the existing stone and rock retaining walls already present on the property. There would be no risk to public health or safety, nor would it have a negative impact to the neighboring properties. The proposed patio is consistent with the existing feel and landscape of the property and would simply make outdoor living spaces more enjoyable, and easier to maintain.

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

Signature

Date

10/24/2022

Christopher Michalski for David and Terry Brown

§ 153.007 DIMENSIONAL REQUIREMENTS.

(A) *Table.* The following table sets out dimensional requirements.

Districts	Minimum Lot Area In Square Feet	PUD Residential Density Maximum Number of Dwellings Per Acre	Minimum Yard Setback Requirement in Feet				
			Minimum Lot Width At Building Line in Feet	Front Yard From Street Edge	Side Yard	Rear Yard	Maximum Height in Feet
R-1	43,560	0	150	60	20	25	40
R-2	20,000	0	100	50	15	20	40
R-3	20,000	8	100	50	15	20	40
R-4	20,000	2	100	50	15	20	40
R-5	Footnote 6	8	100	50	15	20	40
PS	No Min.	0	No Min.	No Min.	No Min.	No Min.	Not App.

(B) *General provisions.* The following are footnotes applicable to the table in division (A).

(1) *Footnote 1.* The minimum lot area for lots not served by public water and/or sewer shall be subject to approval by the County Health Department to ensure the proper operation of septic tanks and wells. In no case, however, shall minimum lot area be less than those specified in the table in division (A).

(2) *Footnote 2.* The minimum lot width at the street line shall be 125 feet in the R-1 District, and 80 feet in the R-2, R-3, and R-4 Districts.

(3) *Footnote 3.* On all corner lots, a 30-foot side yard setback is required.

(4) *Footnote 4.* Accessory structures, including driveways, shall meet all setback requirements. Notwithstanding the foregoing, setback requirements for driveway entrance columns or driveway entrance walls may be waived or modified by the Board of Adjustment with the granting of a special use permit in accordance with § 153.110(C), without the need for a variance pursuant to § 153.110(D).

(5) *Footnote 5.* Height requirements may be varied upon approval of the Board of Adjustment.

(6) *Footnote 6.* Whichever is greater, 20,000 square feet, or twice the gross floor area of the building.

(7) *Footnote 7.* An increase in the side and rear yard setbacks is required for homes (structures) that exceed 25 feet in height. Homes (structures) greater than 25 feet in height shall be setback from the side and rear property lines an additional one and one-half feet for each one foot, or portion thereof, that the home (structure) exceeds 25 feet in height.

(8) *Footnote 8.* Structures exceeding a roof coverage area of 7,000 square feet shall be set back from side and rear property lines an additional 20% of the required setback for each 500 square feet, or increment thereof, that the roof coverage areas exceeds 7,000 square feet.

Example: The rear setback for a single story 8,200 square foot house in the R-1 District would be calculated as follows:

$$8,200 - 7,000 = 1,200$$

$$1,200/500 = 2.4 \text{ (round to 3 to account for increment of change)}$$

$$3 \times 20\% = 60\%$$

$$60\% \times 20 = 12$$

$$25 + 12 = 37$$

Rear setback will be 37 feet

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

§ 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.

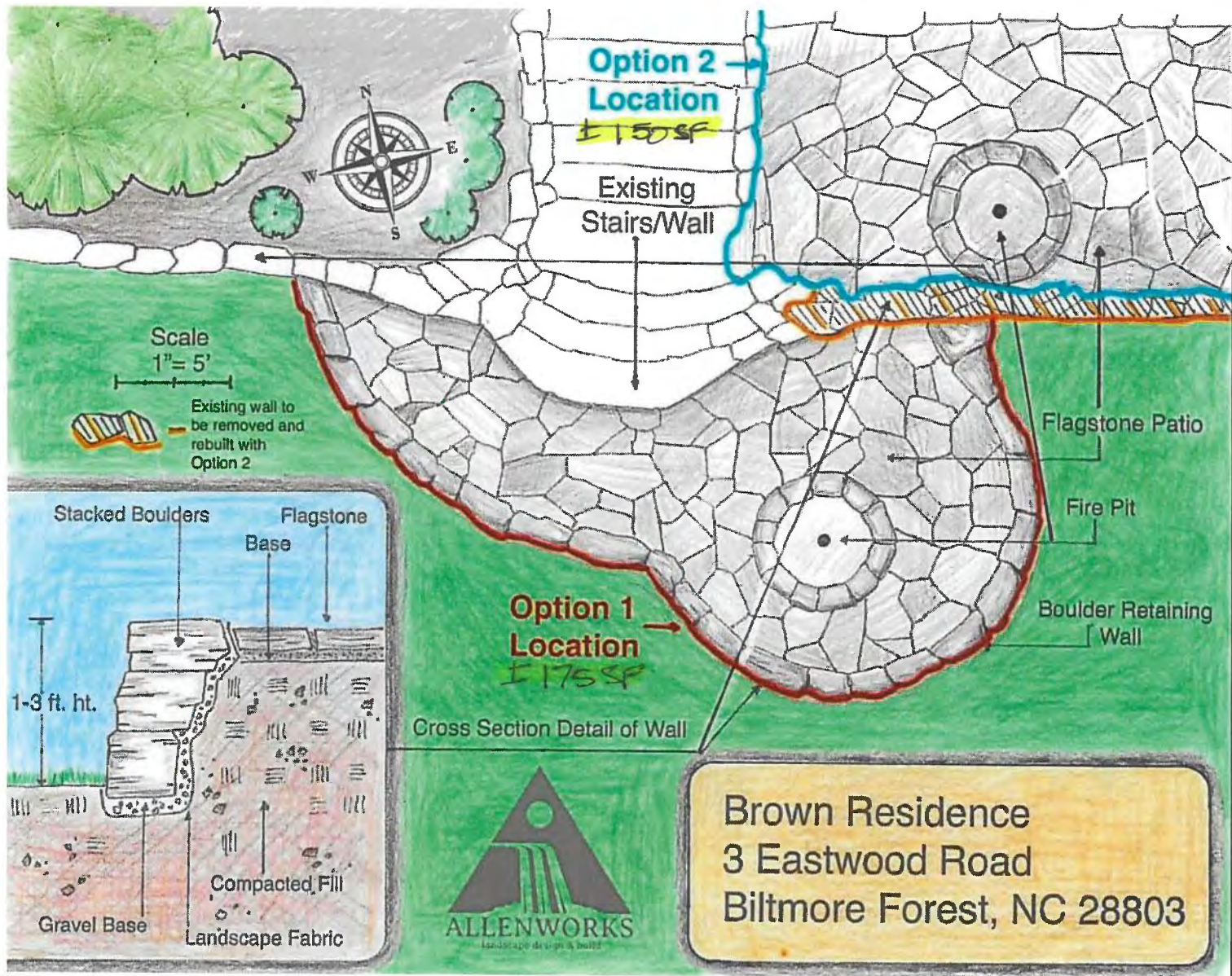
(2) For all satellite dishes less than 24 inches in diameter, an application for a zoning compliance certificate shall be made directly to the Zoning Administrator; the Zoning Administrator shall issue a zoning compliance certificate.

(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)

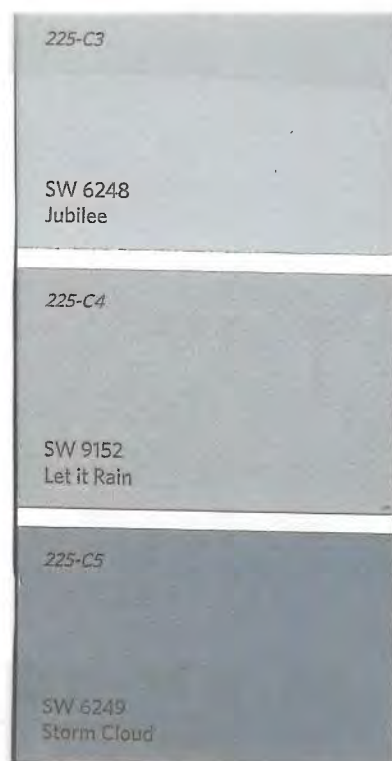
Editor's note:

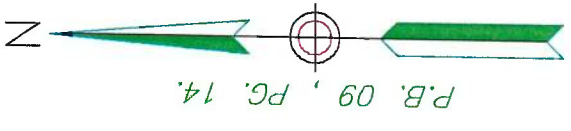
This amendatory language was passed during a Board meeting, July 9, 2013



In Addition to Landscape/Hardscape Plans, SC200165 CONSTRUCTION HAS BEEN CONTRACTED TO PAINT THE EXTERIOR SIDING OF THE EXISTING HOME

Outside Paint
 Storm Cloud
 Sherwin Williams
 (SW6249)





P.B. 09, PG. 14.

BILTMORE FOREST COUNTRY CLUB, INC.
D.B. ???, PG. ??
PIN : 9646-76-2927.

CHRISTOPHER P. KRAGEL
D.B. 5325, PG. 1425
PIN : 9646-96-7415.

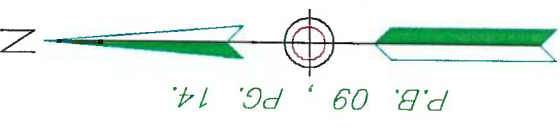
FOR: DAVID & TERRY BEAUN
3 EASTWOOD RD
BILTMORE FOREST NC 28503

I, David A. Ingle, certify that this plat was drawn under my supervision from an actual survey made

BILTMORE FOREST COUNTRY
D.B. 1780, PG. 1
PIN : 9646-76-29



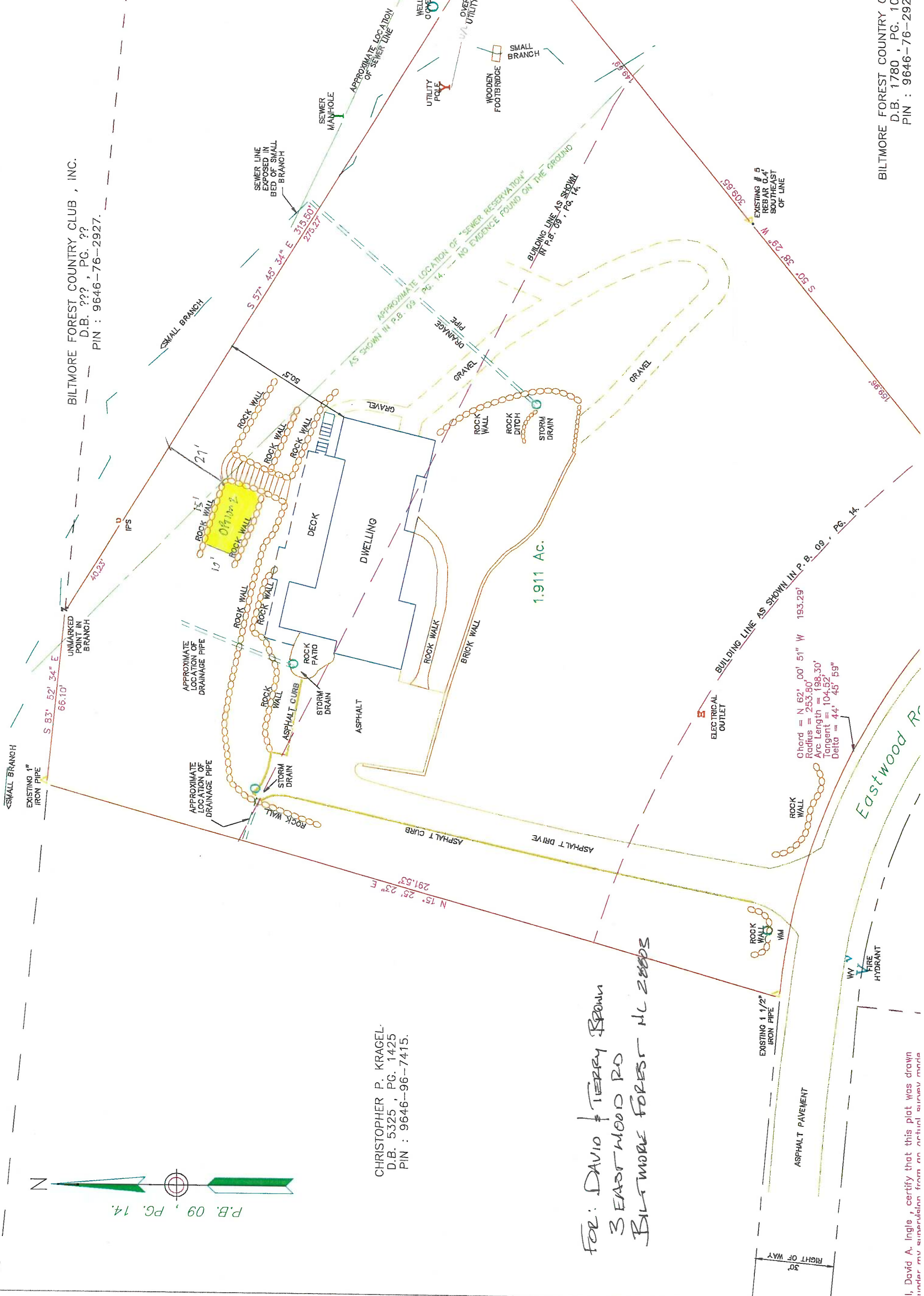
BILTMORE FOREST COUNTRY CLUB, INC.
 D.B. ???, PG. ??
 PIN : 9646-76-2927.



P.B. 09, PG. 14.

CHRISTOPHER P. KRAGEL
 D.B. 5325, PG. 1425
 PIN : 9646-96-7415.

FOR: DAVID & TERRY BROWN
 3 EASTWOOD RD
 BILTMORE FOREST NC 28003



Eastwood Rd

Chord = N 62° 00' 51" W 193.29'
 Radius = 253.50'
 Arc Length = 198.30'
 Tangent = 104.52'
 Delta = 44° 45' 59"

I, David A. Ingle, certify that this plot was drawn under my supervision from an actual survey made

October 19, 2022

Biltmore Forest Board of Adjustment,

I own the property at 23 Eastwood Road in Biltmore Forest. I have an issue with the deer fence on the adjoining property, 24 Eastwood Road, intruding into the setback and request a few minutes of your time to explain my concerns.

It is not my intention to be difficult, but it is only fair that we all follow the same property rules and guidelines in Biltmore Forest. You may recall, I violated the Biltmore Forest setback requirements without permission and was required to remove my unapproved intrusions from the setback. I only ask that my neighbors be made to remove their unapproved intrusion (ie, their deer fence) from the setback.

My specific concerns are shown below.

1. The approval of the conditional use and variance application was for a “temporary” fence. That approval was granted eighteen years ago. Additionally, Mr. Fuller stated, “the only thing that would be permanent would be the foundation (of the gate).” It seems reasonable, after all this time and considering Mr. Fuller’s statement, to ask 24 Eastwood to apply for a variance for a “permanent” fence.
2. The approval was specifically granted for a “front yard” fence. The current fence flows from the front yard all the way around the side yard adjacent to my property and around the back yard as well. Locating the fence to the side and back of the home was neither requested nor granted by the application.
3. The application did not seek, nor did it obtain, approval for a variance to locate the fence within the 20-foot property setback as set forth in the Town of Biltmore Forest ordinances.
4. The fence shown in the “Partial Site Plan” from a 2014 meeting is made of “black PVC mesh with black stakes” and is located about 10’ off the property line (I am estimating based on the drawing). The current fence is made of green metal with green metal stakes and runs right on the property line. Therefore, neither the material nor the location of the current fence has ever been approved, even in a “temporary” condition. It also suggests that at some point a new unapproved fence was erected in a new unapproved location.

My specific request is that the deer fence be removed from within the property setback adjacent to my home at 23 Eastwood Road.

Thank you for your time.

Tom Hand

355 Vanderbilt Rd | Biltmore Forest, NC
Po Box 5352 | Biltmore Forest, NC 28803
P (828) 274-0824 | F (828) 274-8131
www.biltmoreforest.org



George F. Goosmann, III, Mayor
Doris P. Loomis, Mayor-Pro Tem
Fran G. Cogburn, Commissioner
E. Glenn Kelly, Commissioner

Jonathan B. Kanipe,
Town Manager

September 29, 2022

Tom and Char Hand
23 Eastwood Road
Biltmore Forest, NC 28803

Re: Property Violation Complaints by 24 Eastwood Road Property

Dear Mr. and Ms. Hand,

Thank you for your note to the Town dated August 26, 2022 regarding potential violations by the owners at 24 Eastwood Road, related to fencing and other matters. I will address your questions as directly as possible, below, using the same numbering system provided in your letter to the Town. A copy of your letter, and photos, is attached for reference.

1. Complaint #1:

Response: The prior property owners received a zoning permit from the Town of Biltmore Forest on May 11, 2004 for "temporary front yard fencing and a gate". The Board of Adjustment approved both a conditional use and variance application to allow this installation. There was no expiration period specified within the minutes regarding the "temporary" nature. I am unclear as to whether the Town's Zoning Ordinance in 2004 required approval for fencing in the side and/or rear yard.

In 2014, however, the Board of Adjustment did approve a wrought-iron gate installation within the rear yard in the "existing" deer fence, as described in the application. The Board made no determination and had no discussion at that meeting regarding the allowance of the deer fence. As a result, I do not think a code violation exists in regard to the *allowance* of the deer fence within the 20-foot side yard setback adjacent to your property.

I have attached copies of the zoning permit and minutes from 2004, and the zoning permit, application, and minutes from the gate application in 2014 for your reference.



TOWN OF BILTMORE FOREST

CERTIFICATE OF ZONING COMPLIANCE

Permission is hereby granted to: **Mark Fuller**

to use the land located in the **R-1** district at **24 Eastwood Road**

For the following use:

A conditional use permit and variance for temporary front yard fencing and a gate.

Nelson E. Smith

N/A

Zoning Administrator

Water & Sewer Connections are not available
Director of Public Works

Date: **May 11, 2004**

Value of construction: **\$13,000**

Sewer & Water Tapping fee: n/a

Certificate Fee: **\$34.00**

Substantial construction progress must be made within six months of the issuance of this certificate or it becomes invalid. If this certificate is issued by directions of the Board of Adjustment, it shall be subject to any and all conditions specified by that Board. If any conditions specified here or any part thereof shall be held void or invalid, or if any conditions are not complied with, this certificate shall be void and have no effect.

Conditions:

To construct in accordance with plans submitted to the Town. The wooden posts along the driveway will be removed once the gate is installed. The Board of Adjustment may ask for the removal of the temporary fencing and gate should the deer problem be resolved.

cantilever - a bracket or block projecting as a support (cover)

Mr. Mallory Fuller, representing, Mr. Mark Fuller, 24 Eastwood Road, was applying for a conditional use permit and variance for temporary front yard fencing and a gate. Mr. Fuller stated that the gate would be located 10-feet from the end of the brick wall, which is as close as they can possibly locate the gate. Mr. Fuller stated that it would be thirty-five to forty-feet back from the roadway, located between some existing shrubs. Mr. Fuller stated that it would be a cantilevered wrought iron gate, with stone columns and would be on a timer so that it would be open during the day and closed at night. The gate will slide towards Stuyvesant Road because of the topography.

Chairman Bolton stated that the gate appeared to be permanent. Mr. Fuller answered and said that the only thing that would be permanent was the foundation and it would not be visible. Furthermore, with the additional buffering growth, Mr. Fuller felt confident that the gate would be very well concealed. Mr. Fuller added that more cypress trees would be planted if necessary. Mr. Fuller added that the gravel would also be removed from the cattle guard.

Chairman Bolton advised that the hardship for the variance was continual damage by deer and Mrs. Fuller's health problems. Chairman Bolton asked if the gate would be left on a timer when the Fullers were in Florida. Mr. Fuller stated yes.

Dr. Russell stated that the Fullers have been very cooperative with this project.

Mr. Rogers asked about the electric fence. Mr. Fuller said that the deer fence will be removed and relocated but the details had not been finalized.

Mr. Fuller confirmed that the gate would be six feet high and drop to four feet in the center and the gate would be 15 feet from post to post. Mr. Fuller stated that when the gate was open it would cantilever 12 feet toward Stuyvesant Road, and the posts would be buffered.

Chairman Bolton stated in summation that Mr. Mark Fuller, 24 Eastwood Road, was applying for a conditional use permit and variance for temporary front yard fencing and a gate in the front yard. The existing electric fence and the wrought iron gate would be located ten feet from where the brick wall ends. The gate would be cantilevered on a timer so that the gate would not be visible during the day. The gate would be six-feet high dropping to four feet at the center. The gate would be approximately fifteen feet wide. There would be two posts, which would be buffered and would be made of stone. Mr. Mallory Fuller is confident that the gate would not be visible once the additional buffering is planted. The Board has visited the site on several occasions and no neighbors had objected. Chairman Bolton asked if there were any other conditions other than the removal of the wooden posts along the driveway once the gate was installed. Mr. Fuller replied "none at the moment."

Chairman Bolton asked for additional questions or comments.

Motion was made by Mrs. Cogburn that a conditional use permit as requested be granted to Mr. Mark Fuller, 24 Eastwood Road for temporary front yard fencing and gate, and that facts

as recited by the Chairman in his summation be accepted as findings of fact to support this grant. The Board had inspected the site and no neighboring property owners had objected.

Further, she moved the Board to find that granting this conditional use permit (a) would not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved, (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 1005.03(2) and (3) of the above ordinance. The motion was seconded by Dr. Russell and unanimously approved.

Mrs. Cogburn moved that a variance for temporary front yard fencing and a gate as requested by Mr. Mark Fuller, 24 Eastwood Road, be granted and that facts as recited by the Chairman in his summation be accepted as findings of fact to support this grant. The Board had inspected the site and no neighbors had objected.

Further, she moved the Board to find that granting this variance satisfied the applicable Sections 1005.04 and paragraphs one through eight 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 practical difficulty or unnecessary hardship. She further moved the Board to find that the spirit of the ordinance would be observed, public safety and welfare secured and substantial justice done. Dr. Russell seconded the motion and it was unanimously approved.



Pin #

TOWN OF BILTMORE FOREST

CERTIFICATE OF ZONING COMPLIANCE

Permission is hereby granted to:

to use the land located in the district at

for the following use:



Zoning Administrator

Water & Sewer Connections are not available
Director of Public Works

Date:

Value of Construction:

Water Tapping Fee:

Certificate Fee:

Substantial construction progress must be made within six months of the issuance of this certificate or it becomes invalid. If this certificate is issued by directions of the Board of Adjustment, it shall be subject to any and all conditions specified by that Board. If any conditions specified here or any part thereof shall be held void or invalid, or if any conditions are not complied with, this certificate shall be void and have no effect.

Conditions:

- Applicant is to construct in accordance with plans submitted to the Town.
- Applicant 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 Board of Adjustment may request additional buffering and that the fence be painted once the project is complete.

Applicant Robert Pew & Susan Taylor
Address 24 Eastwood Road
Meeting Date June 17, 2014

Project #1	
Conditional Use	Gate in an existing deer fence
Variance	N/A
Buffering	N/A
Location	Rear yard-east corner
Setback Encroachment	N/A
Dimensions	7' x 6'
Materials	Unmilled timber, custom iron-painted brown, black frame
Permitted Roof Cov	N/A
Proposed Roof Cov	N/A
Permitted Imp Surf	N/A
Proposed Imp Surf	N/A

Additional Comments or Facts

The gate would be located perpendicular to the street to minimize visibility from the street and neighboring properties. The gate would be custom iron to simulate branches, painted brown with a black frame and would be supported with un-milled timber posts. The gate would provide access through an existing deer fence to allow access to a planting bed in the rear, east corner of the property.

GRIFFIN ARCHITECTS, P.A.

ONE VILLAGE LANE SUITE ONE
ASHEVILLE, NORTH CAROLINA 28803

(828) 274-5979
Fax: (828) 274-1995

LETTER OF TRANSMITTAL

TO Town Of Biltmore Forest

DATE	06/05/14	JOB NO.
ATTENTION	Nelson Smith	
RE:	24 Eastwood Road	

WE ARE SENDING YOU ATTACHED FAX _____ UNDER SEPARATE COVER VIA _____ THE FOLLOWING ITEMS

- SHOP DRAWINGS ORIGINALS PLANS SAMPLES SPECIFICATIONS
 COPY OF LETTER CHANGE ORDER _____

COPIES	DATE	NO.	DESCRIPTION
1	06/05/14		Conditional Use Application - 24 Eastwood Road
1	06/05/14	A1.1	Partial Site Plan

THESE ARE TRANSMITTED AS CHECKED BELOW:

- FOR APPROVAL REVIEWED AS SUBMITTED RESUBMIT: _____ COPIES FOR APPROVAL
 FOR YOUR USE REVIEWED AS NOTED SUBMIT _____ COPIES FOR DISTRIBUTION
 AS REQUESTED RETURNED FOR CORRECTIONS RETURN _____ CORRECTED PRINTS
 FOR REVIEW AND COMMENT _____
 FOR BIDS DUE _____ PRINTS RETURNED AFTER LOAN TO US

REMARKS _____

COPY TO _____

SIGNED: Don Moore

If enclosures are not as noted, kindly notify us at once.



TOWN OF BILTMORE FOREST
BOARD OF ADJUSTMENT
APPLICATION FOR A CONDITIONAL USE PERMIT

To: The Biltmore Forest Board of Adjustment

I, **Jon Moore for Rob Pew and Susan Taylor**, hereby petition the Board of Adjustment to issue a

Conditional Use Permit for: **a new gate in an existing deer fence**

for the property located at **24 Eastwood Road** and described in the attached site plan in a manner set forth in that plan, or if not adequately explained there, as more fully described as follows:

1. Description of the project.

To create access to planting beds outside of an existing deer protection fence, a walk-through gate is proposed. The existing fence is black PVC mesh with black steel stakes. The proposed gate is custom iron to simulate branches, and is painted brown with a black frame. The gate is supported with unmilled timber posts.

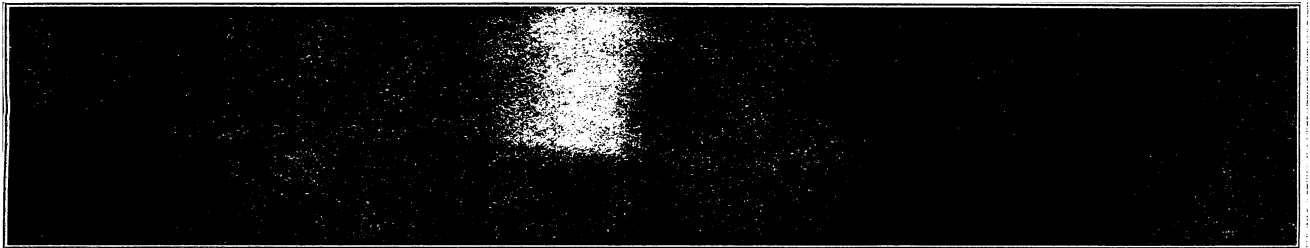
Authority to grant the requested Conditional Use is contained in the Town of Biltmore Forest Zoning Ordinance Section 1005.03 and Article VIII - Conditional Uses.

2. Explain why the granting of the Conditional Use will not adversely affect the public interest of those living in the neighborhood.

The gate is located perpendicular to the street and the neighboring property in order to minimize its impact on views looking into the site. Further the gate is designed to create natural camouflage, and is colored to blend into the surrounding plantings.

The request meets the requirements of Sections 801 and 1005.03

3. Additional comments or Statements



I, **Jon Moore -Griffin Architects, P.A.** certify that the information presented by the undersigned in this application is accurate to the best of my knowledge, information and belief.

Date **Jun 5, 2014**

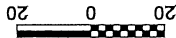
Signature *Jon Moore*

NO



A1.1
1

1" = 20'-0"

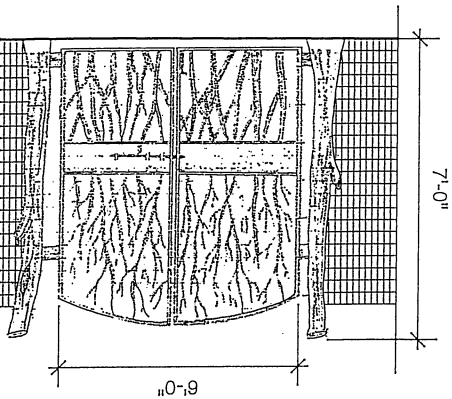


PARTIAL SITE PLAN

S T U Y V E S A N T
R O A D

ELEVATION AT PROPOSED GATE

NOT TO SCALE



DASHED LINE INDICATES
EXISTING DEER FENCE
(BLACK PVC MESH WITH
BLACK STEEL STAKES)

SOUTHWOOD ROAD

EXISTING STEPPING STONE
WALK WAY
PROPOSED NEW IRON GATE
LOCATION

60'-0"

30'-0"

25'-0"

BUILDING SETBACK LINE

PROPERTY LINE

