

MINUTES OF THE BOARD OF ADJUSTMENT MEETING
HELD MONDAY, AUGUST 17, 2015

The Board of Adjustment met at 4:00 p.m. on Monday, August 17, 2015.

Members present: Goosmann, Pearlman, Kieffer, Groce, Chandler. Mr. Jonathan Kanipe, Zoning Administrator, was also in attendance. Mr. William Clarke, Town Attorney was also in attendance.

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

Chairman Goosmann swore in the following:

Mr. John Yurko
Mrs. Mary Margaret Saunders
Mr. David Bourne
Mr. Robert Griffin
Mr. Steven Lee Johnson

Motion was made by Mrs. Rhoda Groce to approve the meeting minutes from July 13, 2015. The motion was seconded by Robert Chandler and unanimously approved.

HEARING (Evidentiary):

Chairman Goosmann began discussion for Mrs. Debra Stonecipher at 15 East Forest Road. John Yurko, architect representing Mrs. Stonecipher, introduced and presented the plan. Lynn Kieffer shepherded the discussion.

The applicant's electrical work requires a new CT cabinet on site which does not fit on a utility pole as they exist currently. Mr. Yurko proposes a 4'x9' stone and timber wall with a slate roof. The finished materials are designed to match the house. The wall structure is located in a place on the Forest Road driveway that is adjacent to the existing utility pole. If you notice the utility pole, it serves both the Johnson house and the Stonecipher house. The location of the wall then is about 6' in board from the location of the existing meter base. The proposed CT cabinet encompasses a meter, whereas now the new cabinet will enclose the structure. Mr. Yurko indicated that this portion of the project was a conditional use permit for the stone and timber structure.

Mr. Goosmann noted the specific elevation drawing that showed the structure from

Forest Road. Mrs. Kieffer asked whether the new accessory structure would conceal the existing generator building. Mr. Yurko said yes, it would cover the existing 12'x12' building. Mr. Chandler asked if there would be buffering planned for this portion, and Mr. Yurko verified that this would be buffered if necessary. The applicant's intent is to conceal and buffer the project.

Mrs. Kieffer asked for discussion of the third portion of the project. Mr. Yurko said this would be a third accessory structure that is 7'x14', and is a self-contained endless pool that provides a current against which you can swim. The proposed location would be within a grove of rhododendron and is concealed from Forest Road, East Forest Road, and the existing house. Mrs. Groce asked whether fencing was required for an endless pool, and Mr. Yurko said no - that this was considered more of a spa. Mr. Goosmann asked whether there were additional facts regarding the pool, and Mr. Yurko said that there would be no outdoor lighting and minimal noise from the pool.

Mr. Pearlman asked whether the upgrade to the electrical units was a result of the endless pool. Mr. Yurko said there would be some draw from the pool, but a standard amount only. Mrs. Kieffer indicated that the house barely functioned with the previous, 400 amp service. Mr. Yurko then went into detail regarding the amount of electrical needs that exist with the home.

DELIBERATION & DETERMINATION

Mrs. Kieffer recited the facts. Debra Stonecipher at 15 East Forest is requesting a Conditional Use Permit to construct a 4'x9' stone and timber structure to house the new 600 amp electrical box and also an endless pool and surrounding decking. The variance is for more than one (1) accessory structure on the property. Mrs. Kieffer verified that the new stone and timber structure would not be visible from the street and that the applicants will buffer as necessary. It will be not be visible from the neighboring property.

Mrs. Mary Margaret Saunders of 73 Forest Road asked to view the plan and was pleased with the project.

Mr. Chandler made a motion to approve that a Conditional Use Permit and Variance as requested be granted to Debra Stonecipher of 15 East Forest Road. , and that the facts recited by Ms. Lynn Kieffer and her summation be accepted as findings of fact to support this grant. The Board has inspected the site and no neighboring property owner has objected.

Further, Mr. Chandler moved that the Board 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 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 1005.03 (2) and (3) of the above ordinance. The applicant has been informed that 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.

Further, based upon the foregoing findings of fact, he moved the Board to find that granting this variance satisfied the applicable Sections of 1005.04 and paragraphs one through four, and would not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would, in this case, result in a practical difficulty or unnecessary hardship. Mr. Chandler further moved the Board to find that the spirit of the ordinance would be observed, public safety and welfare secured and substantial justice done. The applicant has been informed that he/she is to report to the Zoning Administrator within seven (7) days of completion of the project in order that the Zoning Administrator can determine that the project has been completed in accordance with plans submitted to the Town.

The motion for a Conditional Use Permit and Variance was seconded by Mr. Pearlman and unanimously approved.

HEARING (Evidentiary):

Chairman Goosmann presented the next case of Mr. and Mrs. Thomas and Marcia Nash of 29 Hemlock Road for a greenhouse and half basketball court in their rear yard. They are represented by Mr. Robert Griffin of Griffin Architecture, and Steven Lee Johnson, Siteworks Studio.

Mrs. Groce asked about the fountain and pool being installed by owner as listed on the new site plan. Mr. Griffin indicated this was included on the original submission. Mr. Kanipe showed the earlier site plan from May 2015 and the fountain and pool were not delineated on the plan. Mr. Griffin said they would submit for this approval at a subsequent meeting.

Mr. Griffin reviewed the project plans for the greenhouse and half basketball court. Mr. Griffin outlined the uniqueness of this lot as it is the back corner of Biltmore Forest and bordered by the Biltmore Estate and the Blue Ridge Parkway. Mr. Griffin indicated that the greenhouse would provide sunshine opportunities for one of the property owners during the winter. Mrs. Kieffer asked if the greenhouse was not just for growing plants, and Mr. Griffin indicated that this would be for her recreation. Mr. Pearlman asked about the noise pollution possibilities from the basketball court. Mr. Griffin said he did not believe there would be much, and if any neighbors had an issue, they would certainly be willing to resolve this.

Mrs. Groce asked about whether the greenhouse could be connected, and Mr. Griffin said that it was attached. Mr. Griffin pointed to page BOA-1 of the site plan and pointed out the glass roof that connects the laundry to the greenhouse. Mr. Griffin then indicated that on his review of the ordinance, he believed that the intent was satisfied as these structures and buildings would be located on the rear of the property and not exceeding the scale of the site. Steven Lee Johnson also mentioned the transparent nature being glass, there may be some merit with that in the Board's consideration.

Chairman Goosmann mentioned a new construction from several years ago where the applicants were approximately 300 square feet over and the issue settled on whether a hardship exists when someone starts building from the ground up designing a structure. They were actually asked to reduce the size of their original plan by over 300 square feet.

Mr. Griffin said this is something we did not take into account and was not part of the program originally, it was something later that she felt like she needed and we were asked to add it to the existing drawings. Mr. Griffin also stated that this is a location where it would not seem to impact anybody.

Mrs. Kieffer referenced a conversation with a neighbor who was concerned that he was not able to construct a garage on his property without exceeding maximum roof coverage and impervious surface.

Mr. Griffin did not believe that the Board would set case law with this particular case, as only the Biltmore Estate and National Park Service bordered where this construction would occur. Mrs. Groce said there would be neighbors, and indicated the Bourne's lot to the east of the home. Mr. Griffin said that this was not a neighbor who would see the property; rather, the adjacent properties that would see these structures were not houses.

Mr. Johnson showed some areas where a new landscape plan would exist to the east and coordination was done with the new neighbors to the east. Mr. Griffin and Mr. Johnson went through the landscaping that was present to the east, as well as what would be planned with the neighbors in the future.

Mr. Pearlman asked again about the noise coming from the basketball court, and Mr. Griffin indicated that the material used on the court was more for residential purposes and should muffle the sound more.

Mrs. Groce asked about whether they would consider a smaller basketball court.

DELIBERATION & DETERMINATION

Mr. Griffin asked whether they could withdraw their application at this time. They will resubmit at a later date and discuss the Board's concerns with their client, Mr. and Mrs. Nash, and see what they would like to do to modify this.

Mr. Bourne noted, for the record, that they were fine in regards to the basketball court noise moving forward.

The next meeting was set for Monday, September 28th 17th at 4:00 pm. Chairman Goosmann adjourned the meeting at 4:49 pm.

ATTEST:

Greg Goosmann
Chairman

Jonathan B. Kanipe
Town Administrator