

MINUTES OF THE BOARD OF ADJUSTMENT MEETING  
HELD MONDAY, DECEMBER 21, 2015

The Board of Adjustment met at 4:00 p.m. on Monday, December 21, 2015.

Members present: Goosmann, Landau, Kieffer, Groce, and Chandler. Mr. Jonathan Kanipe, Zoning Administrator, was present. 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:

Mrs. Melissa Mendelsohn  
Mr. Steven Mendelsohn  
Mr. William Barkley  
Mr. Jim Hughes  
Mr. Jonathan Kanipe  
Mr. George Stowe

Motion was made by Dr. Richard Landau to approve the meeting minutes from November 16, 2015. The motion was seconded by Mr. Robert Chandler and unanimously approved.

HEARING (Evidentiary):

William Barkley, 124 Stuyvesant Road, was called forward to present the plans. Dr. Landau shepherded the discussion. Mr. Barkley would like to build a detached two car garage on the left side of the house. The door will face the existing house. Mr. Barkley requests a maximum roof coverage variance because he wants to match the architectural style of his house. The house has a hip roof with a very large overhang. He would like the garage to be compatible with that structure. Dr. Landau stated the site was visited and asked Mr. Barkley if he was going to use the same type of brick and the same type of roof coverage. Mr. Barkley said yes. Dr. Landau said Mr. Barkley is asking for a Conditional Use Permit to allow construction of a detached garage and a variance to exceed the maximum allowable roof coverage which is 6,100 square feet. Mr. Barkley also requests a second variance to allow an accessory structure greater

than 750 square feet, again as a result of making the detached garage conform to the existing home. Dr. Landau asked if there were any public comments for the project. Mr. Jim Hughes, 122 Stuyvesant Road, spoke as a neighbor to Mr. Barkley and was in favor of the project.

Mr. Chandler asked Mr. Barkley to verify that the reason for exceeding the maximum roof coverage and the maximum square footage was in order to keep the detached garage architecturally similar to the main home. Mr. Barkley verified this was the case. Mrs. Kieffer also noted that the Board of Adjustments had approved a similar variance for the Segraves at 414 Vanderbilt Road due to large overhangs on the roof.

### DELIBERATION & DETERMINATION

Dr. Richard Landau summarized the facts and requests for a Conditional Use Permit and variance. Mr. William Barkley, 124 Stuyvesant Road, is requesting a conditional use permit to construct a detached garage as an accessory structure. This will be Mr. Barkley's first accessory structure. Mr. Barkley also requests a variance to exceed the maximum roof coverage allowable on his lot and to exceed the maximum square footage of an accessory structure. Each of these variances is a result of Mr. Barkley's desire to architecturally conform the detached garage to his existing home. Dr. Landau also noted that a neighbor, Mr. Jim Hughes, was present and supported the proposal. Mr. Barkley verified the facts were accurate.

Chairman Goosmann asked for a motion. Mrs. Lynn Kieffer made a motion to approve the Conditional Use Permit and variances as requested to Mr. William Barkley of 124 Stuyvesant Road for the construction of a detached garage and that the facts and findings recited by Dr. Richard Landau and his summation be accepted as findings of fact to support the grant. The Board has inspected the site and no neighboring property owner has objected.

Further, Mrs. Kieffer moved that the Board find that granting this Conditional Use Permit and variance , (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 he 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.

Mrs. Groce seconded the motion and was unanimously approved.

HEARING (Evidentiary):

The project for Dr. and Mrs. Steven Mendelsohn, 25 Busbee Road, was brought forward.

Mr. George Stowe, architect, was sworn in before the Board. Mrs. Kieffer invited Mrs. Melissa Mendelsohn to explain the project and request. Mrs. Mendelsohn said the proposal would allow the creation of an aesthetically pleasing garden area prohibitive to deer that would allow their son to know the joys of raising his own food. Mrs. Mendelsohn indicated the proposed area was the most logical space and that the additional fencing would extend from the guardrail required by building code on the project. The new fence and Emerald Arbor Vitae would provide double deterrents to deer jumping the fence. The western side of the project would also have a third deterrent with European hornbeams already located on site.

Mrs. Mendelsohn showed the plan for the fence on the plat provided to the Town. She verified with Mr. Stowe that the fence would be powder coated steel.

Mr. Goosmann asked how many of the Emerald arbor vitae would be planted. The plan shows eighteen (18), but Mrs. Mendelsohn said it will likely be twenty four (24). Mr. Goosmann asked about the existing boxwoods and the buffering for the project. Mrs. Mendelsohn went through the existing boxwoods and the Board verified that it was already very heavily buffered.

After some discussion, it was determined that the fence was approximately 174 linear feet. The guardrail is approximately 85 feet along the stone patio. Mrs. Kieffer verified that the variance was for the approximately 174 linear feet of fence.

#### DELIBERATION AND DETERMINATION

Mrs. Kieffer summarized the facts and request for a conditional use permit and variance. Mrs. Kieffer reiterated that the project was currently very well buffered and that the Emerald Arbor Vitae would be 7-8 feet tall as new plantings, and would grow to exceed the height of the fence. The second variance was to exceed the number of accessory uses.

Mr. Goosmann noted that this was a unique property in that it already had two existing accessory structures on the property. Mrs. Mendelsohn noted that there were plans in the future to possibly remove one of the existing accessory structures, the garage apartment, and create a new garage that is attached to the home via breezeway.

Chairman Goosmann asked for a motion. Mr. Robert Chandler made a motion to approve the conditional use permit and variances as requested by Dr. Steven and Mrs. Melissa Mendelsohn for the construction of a fence in their rear yard, outside of the setbacks that is completely buffered, and summation by Mrs. Lynn Kieffer be accepted as findings of fact. The Board has visited the site and no neighboring property owners have objected.

Further, Mr. Chandler moved that the Board find that granting this Conditional Use Permit and variance, (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 he is to report to the Zoning Administrator within seven (7) days of completion of

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

The motion was seconded by Dr. Richard Landau. The project was unanimously approved.

The next meeting was scheduled for Monday, January 11<sup>th</sup>. The Board did formally approve that all future Board of Adjustments meetings will be held on the on the 3rd Monday of each month, unless it was a holiday or there was no business to be conducted.

The meeting was adjourned at 4:34 p.m.

The next meeting of the Board of Adjustment was scheduled for Monday, January 11, 2016 at 4:00 p.m.

ATTEST:

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Greg Goosmann  
Chairman

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Jonathan B. Kanipe  
Town Administrator