



**To: Members of the Board of Adjustment, Applicants & Neighboring Property Owners**  
**From: Jonathan B. Kanipe, Zoning Administrator**  
**Date: December 30, 2015**  
**Re: Board of Adjustment Meeting at 4 p.m.**

## **Applicants:**

You or your representative **must** be present at this meeting or your application will not be reviewed.

Members of the Board of Adjustment & the Zoning Administrator may visit the property prior to the meeting.

You or your representative **must also attend the Design Review Board meeting on the Thursday, January 21 at 5:30pm** to complete the approval process.

**Certificates of Zoning Compliance will be issued after review and approval from the Board of Adjustment & Design Review Board.**

## **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 Town Hall M-F 9am-5pm.

You are invited to attend the scheduled meeting and make comment.

The following items of business are scheduled to be addressed by the Biltmore Forest Board of Adjustment on Monday, January 11, 2016 at 4:00pm in the Town Hall Board Room.

1. The meeting will be called to order and roll call will be taken.
2. The minutes of the December 21, 2015 meeting will be presented for approval.
3. Hearing of Cases (Evidentiary Hearings, Deliberations & Determinations):

**Case 1:** Mr. George Off, 93 Chauncey Circle, is requesting approval for a conditional use permit and variance to allow the construction of an iron gate and iron railing along an existing rock seat wall in the front yard.

**Case 2:** Mr. Adam Berry, 20 Ridgefield Road, is requesting a variance to extend an attached deck on the rear of the home that will result in construction within the side yard setback.

4. Adjourn.

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



MEMORANDUM  
JANUARY 11, 2015

To: Board of Adjustment  
From: Jonathan Kanipe, Town Administrator  
Re: Case Number 1 – 93 Chauncey Circle  
Date: December 31, 2015

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**Case 1**

Property Owner: Sarah and Mike Butrum (George Off, Applicant)  
Property Address: 93 Chauncey Circle  
Zoning District: R-3  
Lot Size: 1.21 +/- acres  
Application Request: Conditional Use and Variance Approval to Construct an Iron Gate and Iron Railing along an Existing Rock Seat Wall in the Front Yard

Mr. Off is in due diligence for the purchase of the home at 93 Chauncey Circle. Sarah and Mike Butrum currently own the home and support this application.

The Butrums received variance approval from the Board of Adjustments on July 27, 2007 to construct an 18” high rock seat wall in the front yard. This seat wall was constructed around the terrace located in the front of the home.

The Offs request permission from the Board to erect an 18” high iron railing on top of this existing seat wall (bringing the total height to 36”). They also propose to install rock columns, to match the existing wall, to break up the iron railing. In conjunction with this proposal, the applicants would like to install a 36” high iron gate. This gate would allow them to close the courtyard and would be an accessory use to the existing stone wall.

The Offs have noted in their application that they intend to use the same stone mason that completed the initial rock seat wall.

- Conditional use permit request to allow construction of 18” iron railing and 36” iron gate along existing rock wall.
- Variance request to construct a 36” high iron gate within the front yard.

# Zoning Application

## Property Identification

**Name**

George Off

**Address**

93 Chauncey Circle, Biltmore Forest, North Carolina 28803

**Phone**

(610) 570-3933

**Email**

Georgewoff@gmail.com

**Zoning**

R-3

**Lot Size (Acres)**

1.21 Acres

## Scope of Project-Roof Coverage

**Does the project include increasing roof coverage?**

No

**Is the proposed roof coverage greater than the permitted maximum roof coverage?**

No

## Scope of Project-Impervious Surface

**Does the project include increasing the impervious surface coverage?**

Yes

**What is the proposed impervious surface coverage?**

21

**Is the proposed impervious surface coverage greater than the permitted maximum impervious surface coverage?**

No

## Scope of Project-Setbacks

**Does any part of the project fall within the front yard?**

Yes

**Does any part of the project fall within the side/rear yard setback(s)s?**

No

## Scope of Project-Accessory Structures

**Does the project include a detached structure or**

**building?**

No

**Will there be more than the approved number of accessory structures/buildings?**

No

## **Project Description**

### **Brief Description of Project**

We seek approval to secure and improve the existing courtyard at the front entrance, by installing an iron gate, and by adding an 18" railing to the existing courtyard's rock wall. We plan to carefully match the existing rock work. We have contacted the original stone mason, Gary Stroud. His company, G&S Stoneworks has a number of projects in the area currently. We plan to select an attractive ornamental iron railing and gate.

### **Estimated Cost of Project**

10,000

### **Estimated Completion Date**

7/29/2016

**Please attach any drawings, renderings, photographs or other supporting documentation.**

93 Chauncey Circle - Courtyard Project - Biltmore Forest.pdf

Google street view.jpg

Survey for 93 Chauncey Circle.pdf

93 Chauncey Drawings.pdf

Courtyard 1.jpg

Courtyard 2.jpg

Iron Gate sample.pdf

# Variance Application

I hereby petition the Board of Adjustment for a variance(s) from the provisions of the Zoning Ordinance for the real property stated below.

**Name**

George Off

**Property Address**

93 Chauncey Circle, Biltmore Forest, NC

**Email**

Georgewoff@gmail.com

**Phone**

(610) 570-3933

**Variance to Zoning Ordinance Section(s) (Select all that apply)**

1103 Required Yards & Other Spaces

**Reason Variance(s) is(are) being requested:**

We seek approval to secure and improve the existing courtyard at the front entrance, by installing an iron gate, and by adding an 18" railing to the existing courtyard's rock wall. We plan to carefully match the existing rock work. We have contacted the original stone mason, Gary Stroud. His company, G&S Stoneworks has a number of projects in the area currently. We plan to select an attractive ornamental iron railing and gate.

We have two small dogs, Hagen (12 pounds) and Hilde (8 pounds). They both came to us from rescue, and they mean the world to us. Unfortunately our smallest dog Hilde, lost a front leg before we got her. With only 3 legs she can't do stairs or steep inclines, so common in Asheville. It has not been easy to find a level spot, that could be secured to protect Hilde from other animals, and uneven or steep terrain. This courtyard would provide a level and secure area to protect her when we take them out to potty.

We want an attractive courtyard, very much in keeping with the French Country style of the house. We would add rock columns for flower pots. We think the 3' high combination of rock and iron railing will be very attractive, and look nice from the street. The house sits a long way from the street, and an attractive courtyard would frame the front entrance nicely.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with the Zoning Ordinance. Violations of the provisions of the variance granted including any conditions or safeguards which are part of the granting of the variance, shall be deemed a violation of the Zoning Ordinance. I hereby certify that the information set forth above is true and accurate to the best of my knowledge.

**Signature**



**Date**

12/30/2015

# Conditional Use Permit Application

I hereby petition the Board of Adjustment to issue a Conditional Use Permit for:

**Name**

George Off

**Property Address**

93 Chauncey Circle

**Phone**

(610) 570-3933

**Email**

Georgewoff@gmail.com

**Type of Conditional Use**

802.07 Accessory Buildings

**Description of Project**

We seek approval to secure and improve the existing courtyard at the front entrance, by installing an iron gate, and by adding an 18" railing to the existing courtyard's rock wall. We plan to carefully match the existing rock work. We have contacted the original stone mason, Gary Stroud. His company, G&S Stoneworks has a number of projects in the area currently. We plan to select an attractive ornamental iron railing and gate.

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

We want an attractive courtyard, very much in keeping with the French Country style of the house. We would add rock columns for flower pots. We think the combination of rock and iron railing will be very attractive, and look nice from the street. The house sits a long way from the street, and an attractive courtyard would frame the front entrance nicely.

I certify that the information presented by the undersigned in this application is accurate to the best of my knowledge, information and belief.

**Signature**

**Date**

12/27/2015



George Off

## **93 Chauncey Circle - Courtyard Project.**

Ramble

### **Description of project:**

We seek approval to secure and improve the existing courtyard at the front entrance, by installing an iron gate, and by adding an 18" railing to the existing courtyard's rock wall. We plan to carefully match the existing rock work. We have contacted the original stone mason, Gary Stroud. His company, G&S Stoneworks has a number of projects in the area currently. We plan to select an attractive ornamental iron railing and gate.

### **Reason for the project**

We have two small dogs, Hagen (12 pounds) and Hilde (8 pounds). They both came to us from rescue, and they mean the world to us. Unfortunately our smallest dog Hilde, lost a leg before we got her. With only 3 legs she can't do stairs or steep inclines, so common in Asheville. It has not been easy to find a level spot, that could be secured to protect Hilde from other animals, and uneven or steep terrain. We need a level and secure area to protect her when we take them out to potty. This courtyard would work well and walking in the Ramble is ideal for her daily walk.

### **Describe why this will not adversely affect the public interest of those living in the neighborhood.**

We want an attractive courtyard, very much in keeping with the French Country style of the house. We would add rock columns for flower pots. We think the combination of rock and iron railing will be very attractive, and look nice from the street. The house sits a long way from the street, and an attractive courtyard would frame the front entrance nicely.

### **Impervious coverage**

We would extend the existing rock wall about 14' to connect to the house and enclose the courtyard. This would add about 21 sq. ft of impervious coverage, a very small amount on a 1.21 acre lot.

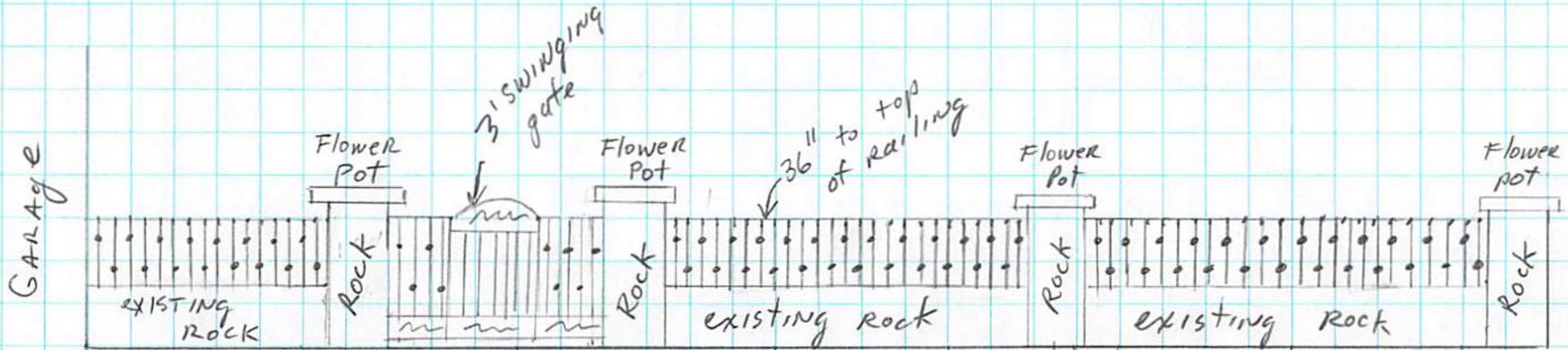
### **Exhibits:**

1. Google street view of the house
2. A copy of the lot survey showing the existing courtyard and rock wall
3. Drawings (Front view, gate view, top view)
4. Two pictures of the existing courtyard taken in December 2015
5. Picture of the gate we will copy

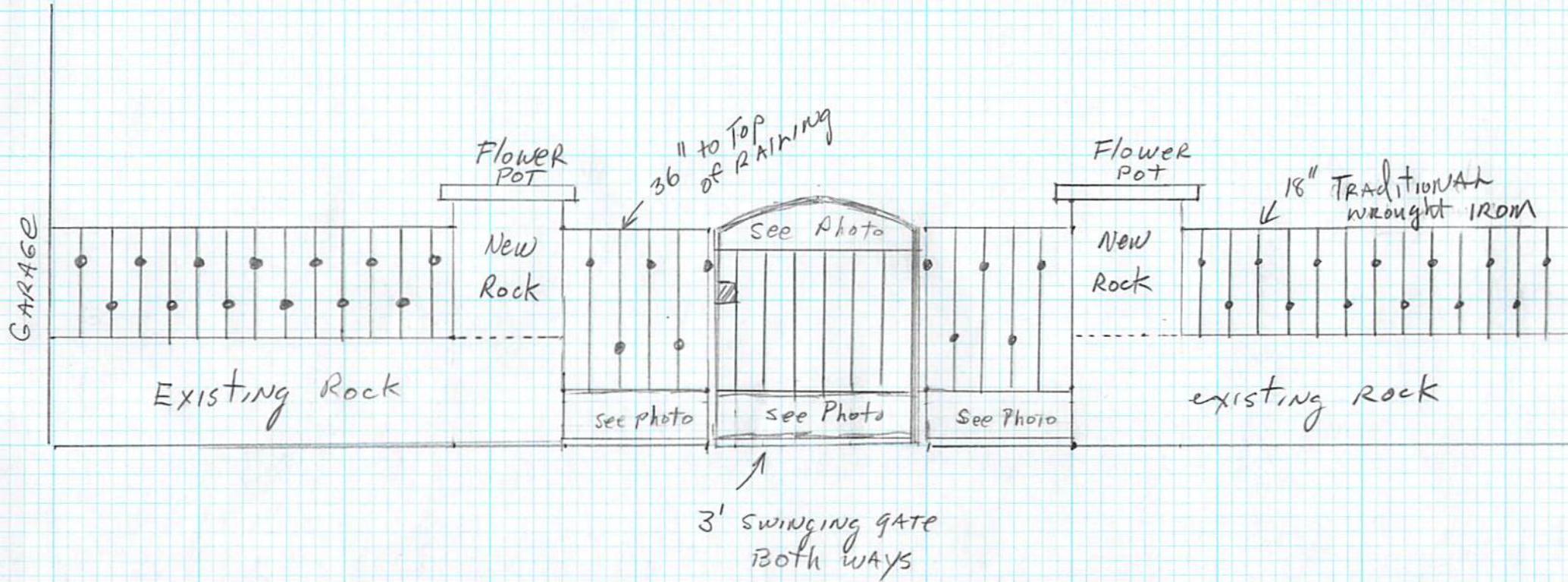
93 Chauncey Circle

Courtyard project

Front View

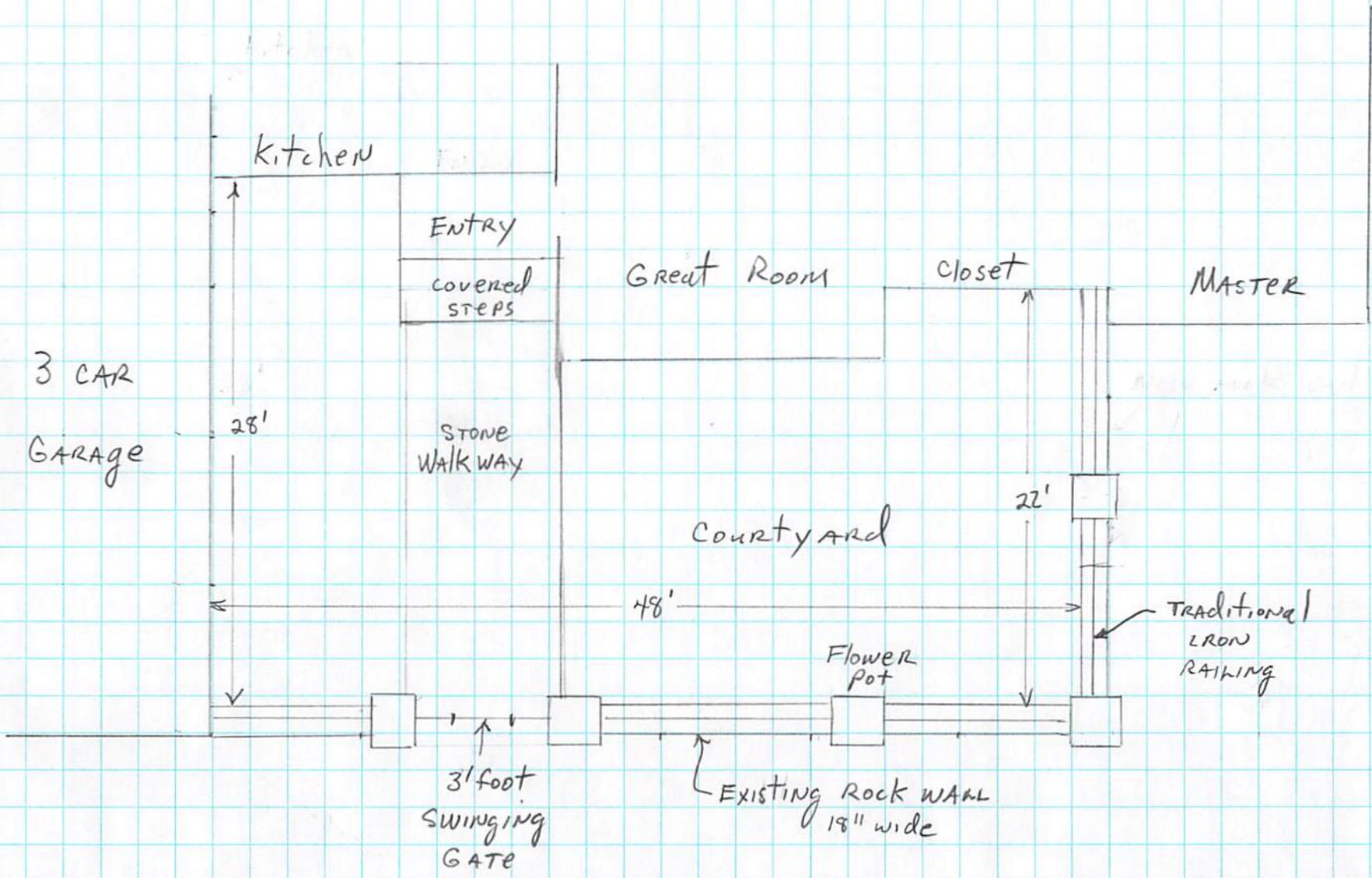


93 Chuancey Circle  
COURTYARD GATE



George OFF  
12/21/2015

93 Chauncey Circle  
Courtyard  
Top View



RAMBLE BILTMORE FOREST LLC  
PIN: 9646-19-60-2285  
DB 306 PG 521  
PB 100 PG 109

20' OPEN SPACE  
N87°28'14"E  
157.00'

20' REAR SETBACK

TOTAL AREA  
1.21± ACRES  
52,627SF  
(D.M.D.)

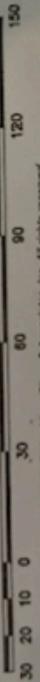
DOUGLAS & SANDRA MCKINNEY  
DB 4149 PG 1519  
PB 100 PG 110  
PIN: 9646-20-70-7866

WILLIAM & PATRICIA CALDWELL  
DB 4151 PG 529  
PB 100 PG 110  
PIN: 9646-20-70-9442

SURVEY FOR  
**CASHIN CONSTRUCTION**  
OF THE PROPERTY OF  
**SARAH & MICHAEL BUTRUM**

LIMESTONE TOWNSHIP  
PIN: 9646-20-70-9641  
BUNCOMB COUNTY, NC  
DATE: 11/30/07

SCALE: 1"=30'



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**Hutchison-Biggs & Associates, Inc.**  
Beth B. Gilliam, P.L.S., NC L-3933  
PO Box 2778 Asheville, NC 28802  
Phone: (828)258-1055 Fax: (866)720-5131 www.hba-surveys.com

IPF

15' SIDE SETBACK

N33°43'07"E  
232.48'

(3)

(4)

WOODEN STEPS

STONE STEPS

STONE WALKWAY

GRAVEL AREA

GRAVEL PARKING/DRIVE

COVERED DECK

TWO STORY STUCCO ON FOAM CONCRETE BASEMENT

ROCK WALL

5' SIDE SETBACK

50' RIGHT OF WAY AS PER PB 100 PG 110

N55°35'30"W L=105.99'

R=150.00' L=108.33'

CHAUUNCEY CIRCLE

PINS

IPF

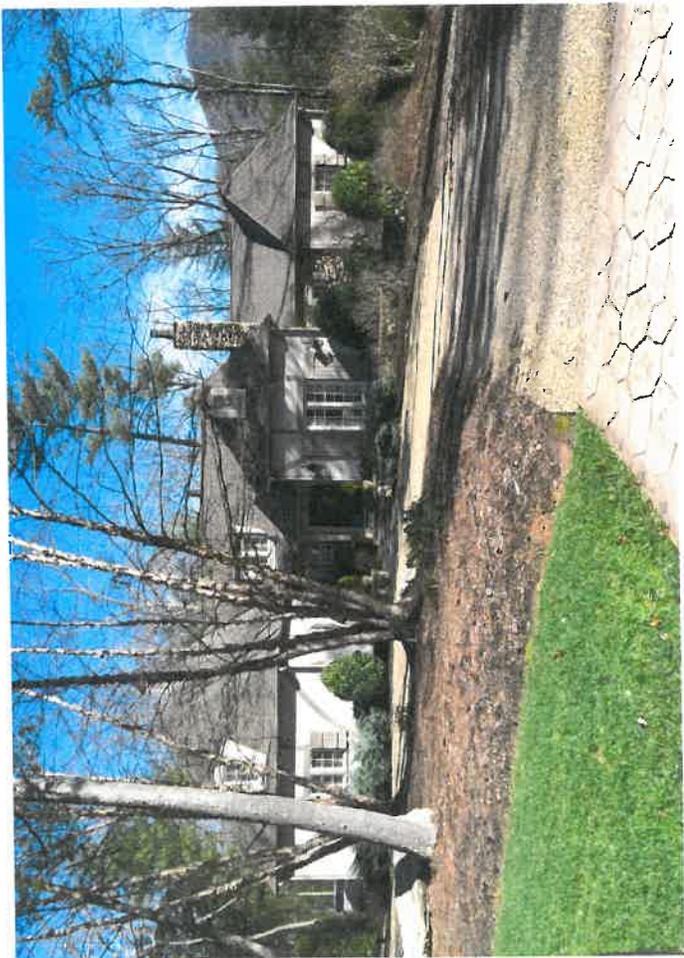
**LEGEND:**

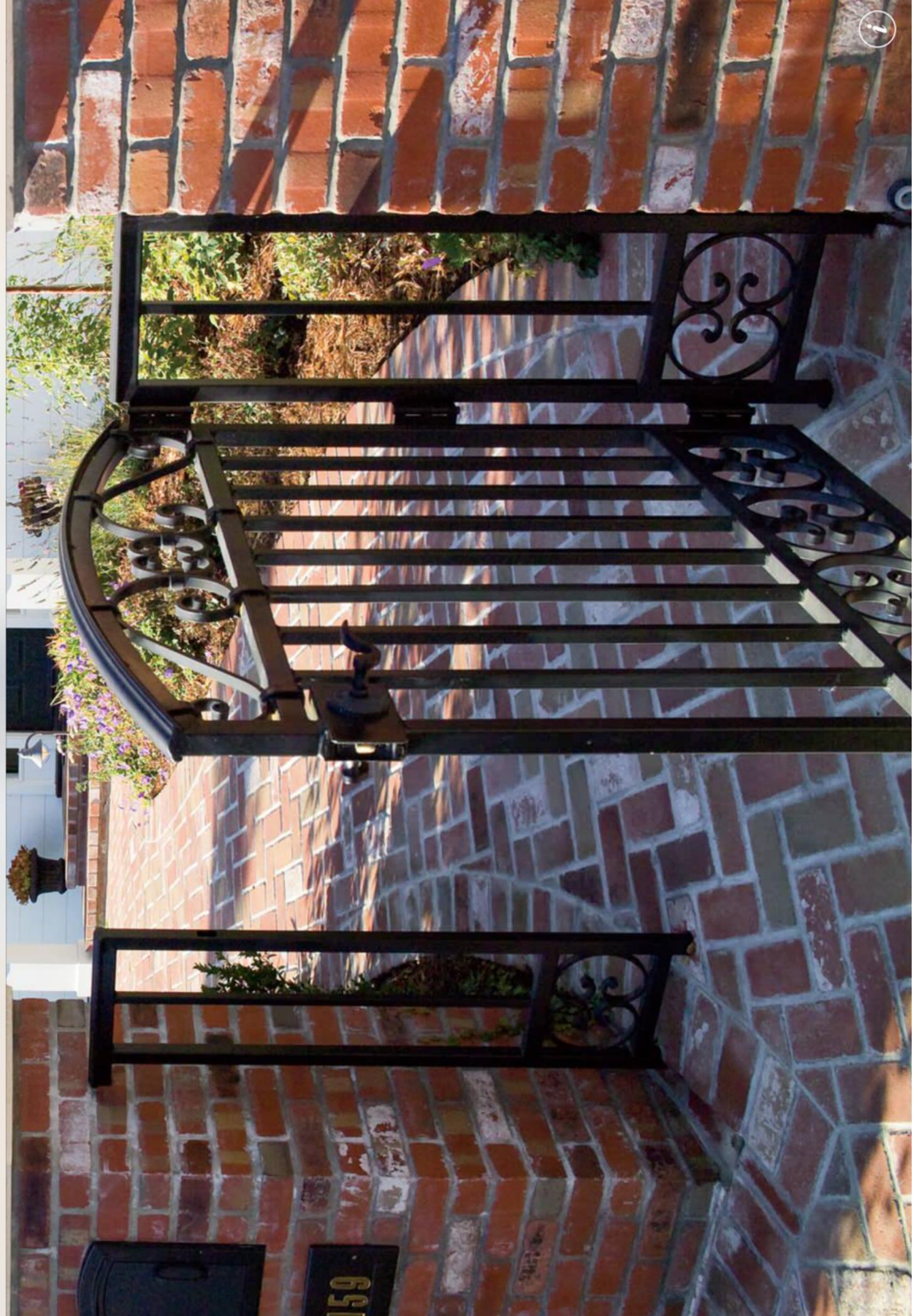
- IPS - IRON PIN SET
- IPF - IRON PIN FOUND
- PMS - POINT NOT SET
- ⊕ - WATER METER
- ⊕ - WATER SPIGOT
- ⊕ - FIRE HYDRANT
- ⊕ - UTILITY POLE
- ⊕ - SANITARY SEWER MANHOLE
- ⊕ - WELL
- ▭ - ROAD HATCH
- ▭ - BUILDING HATCH
- ▭ - CONCRETE



Beth B. Gilliam

THIS PLAN IS PRELIMINARY, UNLESS A SIGNATURE IS AFFIXED TO THE SEAL







MEMORANDUM  
JANUARY 11, 2016

To: Board of Adjustment  
From: Jonathan Kanipe, Town Administrator  
Re: Case Number 2 – 20 Ridgefield Place  
Date: December 31, 2015

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**Case 2**

Property Owner: Adam and Jacqueline Berry  
Property Address: 20 Ridgefield Place  
Zoning District: R-2  
Lot Size: 0.44 +/- acres  
Application Request: Variance request to allow construction of an attached deck within the western side yard setback

The applicants purchased this home last year and are making renovations. As part of this process, they would like to extend an existing sunroom/deck that is attached to the rear of the home. Their proposal is to extend this deck by 19 feet and then attach it flush with the southwestern corner of the home.

The side yard setback for this R-2 lot is 15 feet. The home was constructed within that setback and, as a result of their desire to tie the deck into the rear of the home, their deck piers would be constructed within the side yard setback. Their variance request is to allow this deck to be constructed within the side yard setback by 4 feet, 6 inches and in line with the already constructed home.

The remainder of their renovation plans (adding a full second story, rehabbing an existing deck, and residing the home) do not require Board of Adjustments approval.

- Variance request to construct an extension of the existing deck within the side yard setback.

# Zoning Application

## Property Identification

**Name**

Adam Berry

**Address**

20 Ridgefield Place, Biltmore Forest, North Carolina 28803

**Phone**

(832) 731-5960

**Email**

briceberry@yahoo.com

**Zoning**

R-2

**Lot Size (Acres)**

.44

## Scope of Project-Roof Coverage

**Does the project include increasing roof coverage?**

No

**Is the proposed roof coverage greater than the permitted maximum roof coverage?**

No

## Scope of Project-Impervious Surface

**Does the project include increasing the impervious surface coverage?**

No

## Scope of Project-Setbacks

**Does any part of the project fall within the front yard?**

No

**Does any part of the project fall within the side/rear yard setback(s)?**

Yes

An application for a variance to encroach the side/rear yard setback(s) will be required in addition to this zoning application.

## Scope of Project-Accessory Structures

**Does the project include a detached structure or building?**

No

**Will there be more than the approved number of accessory structures/buildings?**

No

## **Project Description**

### **Brief Description of Project**

Adding a deck on to the back of my house. The deck will be 19' x 11'.

### **Estimated Cost of Project**

2,500

### **Estimated Completion Date**

1/14/2016

**Please attach any drawings, renderings, photographs or other supporting documentation.**

20151231\_131911.jpg

20151231\_131756.jpg

20151231\_133258.jpg

20151231\_131826.jpg

# Variance Application

I hereby petition the Board of Adjustment for a variance(s) from the provisions of the Zoning Ordinance for the real property stated below.

**Name**

Adam Berry

**Property Address**

20 Ridgefield Place

**Email**

briceberry@yahoo.com

**Phone**

(832) 831-5960

**Variance to Zoning Ordinance Section(s) (Select all that apply)**

1103 Required Yards & Other Spaces

**Reason Variance(s) is(are) being requested:**

We would like to add an 11'x19' foot deck on to the back of the house. There is already a deck along half of the back of the house and we would like to extend it the full length of the back of the house. We need a variance because, for aesthetic purposes, we would like to have the deck follow the line of the house. The deck would extend to the edge of the house to make a even line with the west side of the house. The west side of the house is already in the side setback.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with the Zoning Ordinance. Violations of the provisions of the variance granted including any conditions or safeguards which are part of the granting of the variance, shall be deemed a violation of the Zoning Ordinance. I hereby certify that the information set forth above is true and accurate to the best of my knowledge.

**Signature**



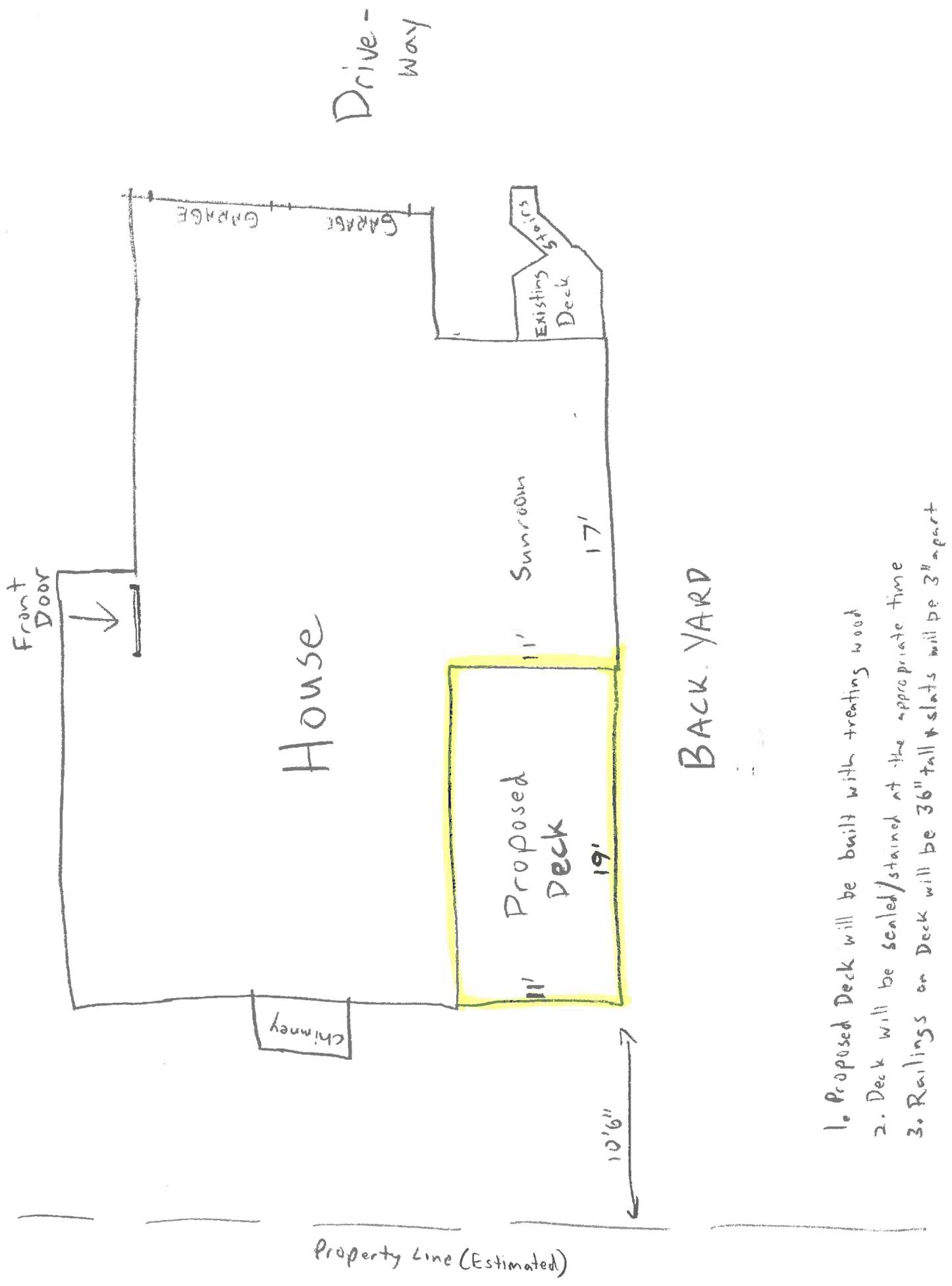
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**Date**

12/31/2015

View of House from Above

FRONT YARD



Property Line (Estimated)

BACK YARD

1. Proposed Deck will be built with treating wood
2. Deck will be sealed/stained at the appropriate time
3. Railings on Deck will be 36" tall & slats will be 3" apart

