

MINUTES OF THE BOARD OF ADJUSTMENT MEETING  
HELD MONDAY, FEBRUARY 15, 2016

The Board of Adjustment met at 4:00 p.m. on Monday, February 15, 2016.

Members present: Goosmann, Landau, Kieffer, Groce, Pearlman, 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. Lauren Meyer-Banks  
Mr. Thomas Nash  
Mrs. Marcia Nash

One correction was made to the minutes with Rebecca Reinhardt being present in place of Mr. William Clarke. Motion was made to accept the minutes as amended by Mrs. Lynn Kieffer and to approve the meeting minutes from January 11th, 2016. The motion was seconded by Mrs. Rhoda Groce and unanimously approved.

HEARING (Evidentiary):

Mrs. Lauren Meyer-Banks, 12 Ridgefield Place, was called forward to present her plans for a replacement fence. She requests a Conditional Use Permit and Variance to replace an existing fence in the rear yard. Mrs. Rhoda Groce shepherded the discussion. Mrs. Meyer-Banks stated when they moved to the property in July 2015, there was existing white fencing that is falling apart. Mrs. Meyer-Banks showed where she would like the new fence replaced. She is interested in this fence for her dogs. Mr. Chandler suggested Mrs. Meyer-Banks look into invisible fencing. Mrs. Meyer-Banks had researched invisible fences and was not interested in an invisible fence. Mrs. Meyer-Banks got an estimate for a black chain link fence which she believed would be less visible. Mrs. Kieffer said the current fence looks very visible from the

road. Some of the fences we have approved in the past have not been visible from the road. Mrs. Groce thought chain link fences were not allowed anymore. Mr. Clarke said you can replace an existing chain link fence with a chain link fence but it would have to be black or green. Mrs. Groce said for this particular fence, it would be very visible. Mrs. Meyer-Banks asked what kind of fencing would be acceptable to put up. Dr. Landau said in general, we do not really like fences in Biltmore Forest. He suggested cutting down the bamboo. Mrs. Meyer-Banks said there would be increased road noise if bamboo was cleared out. Dr. Landau said that Mrs. Meyer-Banks could put something other than chain link all the way to the existing wooden fence so there is no fence within a fence. That would be something you would be replacing an existing fence but not adding more fences. Mrs. Meyer-Banks agreed.

Chairman Goosmann discussed a few options for Mrs. Meyer-Banks and asked if she would like to put the application on hold for the moment and research the type of fence to install or go with the suggestion of something other than chain link all the way to the existing fence. Mr. Goosmann encouraged Mrs. Meyer-Banks to table the item if she was not certain. Mrs. Meyer-Banks said she is ok with this second suggestion. Mr. Kanipe said the permit cannot be issued until the Design Review Board signs off on the fence design anyway.

#### DELIBERATION & DETERMINATION

Mr. Pearlman suggested the motion be tabled for 30 days and the new plans are brought back so we can see what it will look like. Chairman Goosmann asked Mrs. Meyer-Banks if she was comfortable with this suggestion. Mrs. Meyer-Banks agreed to table the matter for 30 days until new plans are shown.

#### HEARING (Evidentiary):

Mr. Thomas Nash & Mrs. Marcia Nash were called forward to present plans for 29 Hemlock Road. Mr. Chandler shepherded the discussion. They are requesting a Variance to exceed the maximum roof coverage allowance on the property by 100 square feet to accommodate an apartment over the attached garage. Mrs. Kieffer asked to see drawings of the garage. Drawings were shown and explained to the Board. Mr. Nash said the reason for this is to

provide a place for his elderly parents if they decide to move in with them. Mrs. Kieffer asked whether an elevator would work instead of the stairs, and whether this would take up less room than the stairs. Mr. Pearlman said he didn't think Mr. & Mrs. Nash's request was unreasonable given the circumstances. Chairman Goosmann agreed and said he wanted to make sure we visited this thought process of the hardship and how and when it came about. Chairman Goosmann also asked if Mr. Kanipe could recap this.

Chairman Goosmann also added that it is very rare for us to go over the maximum roof coverage on new construction. If it has happened, it has been a minimal amount. Mr. Kanipe said about 3-5 percent of the lot itself, generally. The two that he remembered 414 Vanderbilt and 124 Stuyvesant and those were existing homes and existing lots. Mr. Kanipe was unsure about exceeding maximum amounts for new construction. Chairman Goosmann indicated that this came up as an issue after the Nash's had already broke ground on this project. Mr. Nash agreed and said yes, the ground has already been graded. Mrs. Kieffer referenced the earlier applications and that the Nash's had worked hard to minimize the square footage on this project. Chairman Goosmann said this should not have any impact on the community as a whole since this is such a minuscule amount. Mr. Chandler said from what he understood it appears to be the same as it was. Chairman Goosmann asked if there were any further comments about the facts recited.

#### DELIBERATION & DETERMINATION

Mr. Chandler summarized the facts and requests for a variance. Mr. Thomas Nash and Mrs. Marcia Nash of 29 Hemlock Road are requesting a variance to exceed the maximum roof coverage allowed by 100 square feet. This is 1.64 percent over their maximum roof allowance. Due to circumstances that have happened after they already started construction, there is a need to have a garage apartment to help care for parents and relatives that may need assistance. With that information, they would need to be 100 square feet over the roof coverage, there is a hardship involved in doing that. There would not be any difference to neighbors in the community except for maybe an additional two feet that be seen from the road.

Chairman Goosmann asked for a motion. Mrs. Lynn Kieffer made a motion to approve the variance as requested be granted to Thomas and Marcia Nash of 29 Hemlock Road for an apartment over the garage and that the facts and findings recited by Robert Chandler 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 variance, further based upon the foregoing findings of fact, 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. 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. 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.

Mrs. Rhoda Groce seconded the motion and Chairman Goosmann asked if there was any further discussion. Chairman Goosmann also clarified that the reason for this was to install the HVAC and internal stairs are the cause for increase of the size to the structure. Mr. Nash agreed. Chairman Goosmann stated the facts as amended are what we would be voting on. The project was approved unanimously.

Chairman Goosmann appreciated the opportunity to discuss fences and roof coverage with the Board members. These two are difficult matters for the Board to discuss. Mr. Clarke said we increased the roof coverage 5 percent three years ago and perhaps we should consider whether to increase that once more. Chairman Goosmann said maybe just a modest increase. If we come within 1-5 percent, which has been brought to us on a couple of different occasions, maybe it would be worthwhile to consider a slight increase on roof coverage that might decrease some of the activity that comes here. Chairman Goosmann thanked Mr. Clarke and Mr. Kanipe for their efforts on this matter.

Mr. Clarke stated the current Zoning Ordinance limits accessory buildings to one, it does not limit accessory structures. Mr. Clarke noted that he and Mr. Kanipe had presented a new definition of accessory structures. There is no limit on accessory structures, and they cannot be in the side or rear yard setback.

The meeting was adjourned at 4:48 p.m.

The next meeting of the Board of Adjustment was scheduled for Monday, March 21, 2016 at 4:00 p.m.

ATTEST:

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Greg Goosmann  
Chairman

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Jonathan B. Kanipe  
Town Administrator