

MINUTES OF THE BOARD OF ADJUSTMENT MEETING  
HELD MONDAY, MARCH 21, 2016

The Board of Adjustment met at 4:00 p.m. on Monday, March 21, 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. Kirk Duncan  
Mr. Robert McArthur  
Mr. Clay Mooney  
Mr. Robert Ingle  
Mrs. Melissa Mendelsohn  
Mr. George Stowe  
Mrs. Pat Wood  
Mr. Hubert Wood  
Mr. Matt Butler  
Mrs. Stephanie Brien  
Mr. Fred Kroon  
Mrs. Lisa Eby  
Mr. Richie Martin  
Mr. Greg Kloos  
Mr. Mallory Fuller  
Mr. Houston Hammond

The minutes from February 15, 2016 were amended to correct the name of Rebecca Reinhardt and the wording “accessory buildings” plural. Motion was made to accept the minutes as amended by Mrs. Rhoda Groce and to approve the meeting minutes from February 15, 2016. The motion was seconded by Mrs. Lynn Kieffer and unanimously approved.

HEARING (Evidentiary):

Mrs. Lauren Myer-Banks of 12 Ridgefield Place was called forward to present her plans for a replacement fence. Mrs. Groce shepherded the discussion and asked Mrs. Meyer-Banks to present her request. Mrs. Meyer-Banks indicated that she originally proposed a replacement fence last month, but since that time has removed the bamboo in the rear yard and the new replacement fence will simply go back to the existing privacy fence. Mrs. Meyer-Banks showed the placement of the two gates that were associated with the property. There was a 10-15' section of the fence that had to be added to go back to the replacement fence.

Chairman Goosmann reiterated that the Board was considering the case at 12 Ridgefield Place and invited anyone else to move forward to review the site if requested.

DELIBERATION & DETERMINATION

Mrs. Groce reviewed the facts of the case. Mrs. Lauren Myer-Banks of 12 Ridgefield Place is seeking a Conditional Use Permit to request replacement of an existing fence and a variance to allow construction of a replacement fence on the Northern side-yard setback. She has presented photos of the fence she will be using and it will be professionally installed black vinyl, powder coated steel fence that will be four (4) feet high.

Chairman Goosmann asked if there were any further comments about the facts recited. There were no further comments.

Chairman Goosmann asked for a motion. Mrs. Lynn Kieffer made a motion to approve a Conditional Use Permit and Variance as presented be granted to Mrs. Lauren Myer-Banks of 12 Ridgefield Place to replace a fence. The Conditional Use Permit is for a 4' high steel fence and gate and that the facts and findings as supported by Rhoda Groce and her summation be accepted

as findings of fact to support the grant. The Board has inspected the site and no neighboring property owner has objected.

Mrs. Kieffer moved that the Board 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 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.

Further, Mrs. Kieffer moved that granting the Variance 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.

Mr. Robert Chandler seconded the motion and was unanimously approved.

Mrs. Meyer-Banks asked how long she had to have the fence constructed. Mr. Kanipe responded and said the time frame was six (6) months from the issuance of the permit.

### HEARING (Evidentiary):

Mr. Kirk Duncan and Mr. Robert McArthur, representing Carolina Day School at 1345 Hendersonville Road, were present and called forward to submit their request to continue the use of one (1) modular unit at the school campus. Dr. Richard Landau shepherded the discussion. Mr. Duncan, headmaster of the school, indicated the modular unit would be used to ease the space concerns present at the Lower School and for the Key School. Additionally, Mr. McArthur noted this was the most cost effective measure since water and sewer were already in place.

Dr. Landau asked what space was included in the modular unit. There are eight (8) classrooms and some office space in each modular unit. Mr. Clay Mooney, a neighbor at Carolina Day School, was present to ask whether this was a plan to only have it for four (4) years or if this was something to keep for a longer time frame. Mr. Duncan stated that the intent was only to have this for a maximum length of four (4) years and no longer. Mr. Mooney stated he had no objections to the plan.

### DELIBERATION & DETERMINATION

Dr. Landau recited the facts as presented. Carolina Day School at 1345 Hendersonville Road is requesting permission to allow for continual use of a modular unit for up to four (4) years and it measures 165'. It is the modular unit located nearest to Hendersonville Road. They request permission to leave this is until August 2020. The reason is for the expansion of the school and also to allow for the continuing construction of the school.

Mr. Lowell Pearlman made a motion to approve a Conditional Use Permit and Variance as requested be granted to Carolina Day School of 1345 Hendersonville Road for a Conditional Use Permit to allow a placement of a modular unit on the Eastern end of the Carolina Day School campus until August 2020 and that the facts recited by Rich Landau and his summation be accepted as findings and fact to support this grant. The Board has inspected this site and no neighboring property owner has objected.

Mr. Pearlman moved that the Board 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 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.

Further, Mr. Pearlman moved that granting the Variance 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. Groce seconded the motion.

Mr. Robert Chandler stated he had a son who is a junior at Carolina Day School. Mr. Goosmann also noted he has a daughter who attends first grade at Carolina Day School.

The vote was unanimously approved.

HEARING (Evidentiary):

Mr. Robert Ingle, 18 Busbee Road, was called forward to present his plans for a renewal of a previously approved Zoning Permit. Mr. Goosmann disclosed that Mr. Ingle was his brother-in-law and he would not take part in any of the discussion for the project.

Mr. Pearlman shepherded the discussion. Mr. Ingle indicated that everything remained the same on the home plan, but they had considered changing the pervious paver to a pervious concrete. Mr. Pearlman asked for clarification regarding the change and whether this is something they could consider at this time. Mr. Clarke indicated that the change in previous material, whether concrete or pavement, was not material as it did not change the impervious surface and was more for the Design Review Board portion.

Mrs. Kieffer asked when the project might commence. Mr. Ingle indicated that they hoped to begin construction within the next six (6) months.

#### DELIBERATION & DETERMINATION

Mr. Pearlman recited the facts as presented. Mr. Robert Ingle has applied for a reissuing of a Zoning Permit which was previously granted in May 2015.

Chairman Goosmann asked if there were any questions about the Zoning Permit renewal, and restated that Mr. and Mrs. Ingle had reapplied because the original permit expired. The zoning permit was in fact approved previously and we are being asked once again to approve it.

Chairman Goosmann asked for a motion.

Dr. Landau moved that a Zoning Permit be reissued to Mr. and Mrs. Robert Ingle of 18 Busbee Road and the facts as stated by Lowell Pearlman and his summation be accepted as facts and findings to support this grant.

Dr. Richard Landau made a motion to approve a renewal of the Zoning Permit as issued in May 2015. Mrs. Kieffer seconded the motion. Mrs. Groce abstained from voting. The motion was approved by the remaining Board members.

HEARING (Evidentiary):

Dr. Steven Mendelsohn and Mrs. Melissa Mendelsohn, 25 Busbee Road, were called forward to present plans for a new garage attached to an existing accessory building.

Mr. Goosmann invited any new attendees who planned to speak to swear themselves in and sign in. Mr. George Stowe, architect for the Mendelsohn's, Mrs. Pat Wood, 12 Hemlock Road, and Mr. Matt Butler, contractor, were sworn in.

Mrs. Lynn Kieffer shepherded the discussion.

Mrs. Mendelsohn reviewed her project. The home was built in the late 1920s and the original garage was designed for much smaller vehicles. Mrs. Mendelsohn noted that the original house layout was constructed in what is now the present day side setback. There was no setback or zoning ordinance during the original construction of the house. There is also an underground stream which runs through the property. They have to keep any structure above grade in order to prevent water damage. After three years, they have come up with an idea that marries all of these issues together. They would like to build a two car garage off the current carriage house and the garage doors will face south. This is really the only way to work this. If the garage doors face north, there will not be enough turning radius to get out and if the garage doors face toward the house, we will not be able to keep the water out. By facing the garage door toward the guest cottage it will give us plenty of turning radius and a lovely motor court which will keep the period correctness of the house. It will be the best aesthetics for their neighbors as well. The neighbors will look at a cottage instead of garage doors. Mrs. Mendelsohn also said this would make a more colonial style look by adding windows and shutters. The roof lines will also tie in together beautifully. They intend to replace the slate that was there with a slate composite. The garage will be built off the current carriage house. A covered walkway will come off the carriage house and

connect to the side porch of the main house. The reason for doing this is because they did not want to compromise the historical or aesthetic appeal of this Georgia Colonial.

Mrs. Mendelsohn showed a digital image of the Armstrong residence, 10 Greenwood Road, as their model for how to construct the walkway and garage. The home included boxwoods, walkways, and lamps that are located in various places. The construction will include pervious pavers. Mrs. Mendelsohn indicated that she had spoken to her neighbor, Mrs. Terry Van Duyn, who supported and endorsed the plan. Mrs. Mendelsohn indicated that the Freemans, located on Forest Road, also were in support of the project. Mrs. Mendelsohn believed this project would assist in restoring the home to its previous luster.

Mr. Chandler asked how tall the lowest point would be. Mr. Stowe said the minimum height would be 6'8" or 6'9" at its lowest point as the walkway slopes up on the grade. There is a higher roof on the main house balcony that comes out and they hoped to extend the roof but make it appear as though it is a portion of the balcony. Mr. Chandler indicated that the project would be very well screened from the road, both Busbee and Forest, and is tucked away in the corner of the home. Mrs. Mendelsohn also noted that seventeen (17) Evergreens were planted between her property and the Van Duyn property that are now starting to grow and mature. Mrs. Mendelsohn also noted the plans for a painted, pierced brick wall that would connected to the home and is four (4) feet high. The brick wall is attached to the home, and as such a Conditional Use Permit or Variance is not required for this.

Chairman Goosmann asked if there were any questions about this case.

#### DELIBERATION & DETERMINATION

Mrs. Kieffer recited the facts of the case. Dr. Steve Mendelsohn and Mrs. Melissa Mendelsohn of 25 Busbee Road are requesting a Conditional Use Permit and a Variance to allow for the addition of a two bay automobile parking area to an existing accessory building. The project also includes a 405 square foot covered walkway connecting the garage to the main residence.

A motion was made by Mrs. Groce to approve the Conditional Use Permit and Variance. I, Rhoda Groce, move that a Conditional use Permit and Variance be granted to Steven and Melissa Mendelsohn of 25 Busbee Road for the Conditional Use Permit and Variance to allow for the two bay auto parking area to the existing accessory building. The project includes a 405 customized square foot walkway attached to the main residence and that the facts as recited by Lynn Kieffer and her summation be accepted as findings and fact to support this grant. The Board has inspected this site and no neighboring property has objected.

Mrs. Groce moved that the Board 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 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.

Further, Mrs. Groce moved that granting the Variance 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.

The motion was seconded by Robert Chandler and unanimously approved.

## HEARING (Evidentiary):

Mr. Matt Butler, representing Carl Christian Radinger at 34 Hilltop Road, came forward for this project to renew an expired permit. Mr. Robert Chandler shepherded the discussion and reviewed the previous approval. Mr. Butler reviewed the plans and stated there had been issues with the pool contractor and work not being completed and performed well. Mr. Butler said there were changes to the landscape plan that had just come up, but Mr. Kanipe indicated the landscape plan was not for discussion at this meeting. The pool only, as a Conditional Use, was the matter being considered.

Mrs. Groce asked when the planned completion of the project was expected. Mr. Butler hoped to have the pool project completed by June 1, 2016.

Mr. Billy Clarke stated they got a Zoning Permit then they got a Building Permit. When you get a Building Permit, you have to complete construction within two years. They haven't completed construction in two years so there is no Building Permit so they have to apply for a new Zoning Permit for the pool so they can get a Building Permit from Buncombe County.

Chairman Goosmann asked if there were any further questions or discussion for this matter.

## DELIBERATION & DETERMINATION

Mr. Chandler summarized the facts. Carl Christian Radinger of 34 Hilltop Road is asking for a renewal of an expired Conditional Use Permit for a swimming pool. A permit was issued to the applicant in September 2012. The permit expired so the Town was asked to approve the Conditional Use Permit for construction of a swimming pool renewing the original application.

Mr. Butler verified this was the completion of an existing pool, since it had already been partially constructed. Dr. Landau made a motion to approve this Conditional Use Permit. I, Rich Landau move that a request for an extension of the Zoning Permit for construction of a pool be

granted to Mr. Carl Radinger of 34 Hilltop Road and that the summation of facts as cited by Robert Chandler be accepted as findings to support this grant.

Mr. Pearlman asked whether this was a Conditional Use Permit or a Zoning Permit, and Mr. Clarke stated this was a Zoning Permit. Mr. Clarke also reiterated that this was a renewal of an expired permit, not an extension of a permit.

Mrs. Rhoda Groce seconded the motion and was unanimously approved.

#### HEARING (Evidentiary):

Dr. James Brien and Mrs. Stephanie Brien, 29 Hilltop Road, were called forward to present plans for the planned accessory building. Mrs. Groce shepherded the discussion. The storage shed would be located on an existing 12'x16' concrete slab. Mr. Chandler asked whether they had spoken to their neighbors, and Mrs. Brien indicated they had not. Mr. Chandler asked whether they would be agreeable to screening the structure additionally if requested, and Mrs. Brien said yes. They would more than likely go with pine trees or holly trees to keep in conformity with the rest of the landscape. Mrs. Groce recited the facts, and Chairman Goosmann reiterated that Mrs. Brien was comfortable with screening if necessary. Mrs. Brien agreed with these facts.

#### DELIBERATION & DETERMINATION

James and Stephanie Brien of 29 Hilltop Road are seeking a Conditional Use Permit to allow the construction of an accessory building on an existing 12 x 16 concrete slab and a Variance to allow for construction of more than one accessory structure. The proposed location is on an existing slab and will be designed and conformed to the main residence. It will not be constructed within any setbacks. Chairman Goosmann added that they are also willing to put in additional buffering if needed.

Mr. Chandler made a motion to approve the Conditional Use and Variance. I, Robert Chandler move that a Conditional Use Permit and Variance be granted to James and Stephanie Brien of 29 Hilltop Road for a Conditional Use Permit for allowing construction of an additional accessory building and existing 12 x 16 concrete slab and a Variance to allow construction of more than one accessory structure and that the facts recited by Rhoda Groce and her summation be accepted as findings of fact to support this grant.

Mr. Chandler moved that the Board 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 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.

Further, Mr. Chandler moved that granting the Variance 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.

Mr. Pearlman seconded the motion and was unanimously approved.

HEARING (Evidentiary):

Mr. Hubert and Mrs. Pat Wood, 12 Hemlock Road, were called forward to review their plans for a four (4) foot retaining wall and a six (6) foot fence on the top portion of the home. Mr. George Stowe, architect, and Mr. Fred Koon, contractor, were also present on the Wood's behalf. Dr. Landau shepherded the case and asked Mr. Stowe to present the plans for the home. Mr. Stowe indicated this request was in conjunction with a media room addition that would replace an existing screened in porch.

There is a steep bank which is on the rear of the property, and Mr. Stowe indicated that to keep drainage out of the new structure, they would like to build a masonry retaining wall along the existing bank. This would allow them to drop the grade and have a more level area behind the structure, and additionally, they would like to have a six (6) foot high steel picket fence to keep deer and other animals out of the rear of the yard.

Mr. Stowe stated that the remainder of the property would be kept the same and while there was visibility to neighbors on Cedar Chine they hoped that large, mature boxwoods could be removed from the front of the home and relocated to immediately hide the fence from the rear property lines. Mr. Stowe indicated on the plan the portion of the wall and fence that would be included for this approval process.

Mrs. Groce asked for clarification regarding the gates on the project. There are two gates attached to the wall area and that the gates are at the corner of the home and over behind the garage.

Mrs. Kieffer confirmed that the retaining wall is ninety (90) feet and Mr. Stowe said this was correct. Mr. Stowe reiterated that the idea was to allow drainage to flow away from the house by using the retaining wall.

Mrs. Wood indicated that she, the landscape architect, and landscape contractor had met that morning to review the mature boxwoods and that they did not believe neighbors would be able

to see the fence. Mrs. Lisa Eby, a rear property neighbor on Cedar Chine, indicated that she did not want to prevent them from constructing the wall or fence, but that they spent a significant amount of their time in the rear yard and enjoyed having it open. She did not want to look at a fence.

Dr. Landau asked whether the neighbor might enjoy the property more so if the boxwoods were there anyway. Mrs. Eby stated that if it were buffered she would have no problem with it. Mrs. Wood stated that she would be more than happy to screen and landscape the fence if the boxwoods did not survive or did not block the view.

Mr. Pearlman asked for clarification regarding the Board of Commissioner's discussion on fencing requirements and allowances. Mr. Kanipe indicated that the Board had made no changes as of yet, but the ordinance revisions were being worked on presently. Mr. Clarke agreed and stated it would be some time before the fence decisions were made. Mr. Kanipe indicated that at present the Ordinance, as written, still allowed fences and quoted the language that stated "chain link fences were discouraged".

Discussion then turned from Mrs. Kieffer as to whether the Woods had considered using deer fence materials. Mrs. Wood said she was unclear as to what material was best for this, as there are several types of it within Biltmore Forest.

Mr. Goosmann readdressed that the Conditional Use was being requested. Mr. Chandler asked Mrs. Wood to reiterate whether she agreed with adding increased buffering if necessary. Mrs. Wood said yes.

#### DELIBERATION & DETERMINATION

Dr. Landau recited the facts of the case, including noting that at least twenty (20) boxwoods would be relocated to work with Mrs. Eby's concern regarding seeing the fence. Hubert and Pat Wood are requesting a Conditional Use Permit to allow for construction of a masonry wall of a fence in the rear yard. They are requesting a four (4) foot high masonry wall in the backyard and

this masonry wall will allow them to compliment the addition to their house and the wall will be ninety (90) feet long and the applicants propose to construct a six (6) foot tall painted steel fence on a segment of the wall. The fence would be sixty (60) feet in length and they will relocate twenty (20) boxwoods from the front of the house to buffer this fence. If the relocation of these boxwoods fail, the Woods are willing to provide additional buffering.

Mrs. Groce asked whether there could be a condition that the screening be done in accordance with the Eby's standards. Mr. Goosmann stated that this would be left to the Town Administrator to verify that landscaping was done within accordance of the permit.

Mrs. Kieffer asked whether the fence would extend above the final grade in the rear yard. Mr. Stowe reiterated that the boxwoods would be planted and that the neighbors would only be able to see the top of the boxwoods or some portions of the fence located in between the boxwoods. Discussion turned to whether the fence would be screened from all sides and how this would be done.

Mr. Goosmann verified that the permit could only be issued if the applicant was agreeable to screening the fence from all sides. Mrs. Wood verified this was the case.

Mr. Goosmann asked for a motion based on the recitation of facts.

Mr. Pearlman made a motion to approve the Conditional Use Permit to allow the construction of masonry wall and fence in the rear yard. I, Lowell Pearlman, move that a Conditional Use Permit be granted to Hubert and Pat Wood of 12 Hemlock Road for an addition and fence in the rear yard. Chairman Goosmann clarified it is a four (4) foot high masonry wall and fence in the rear yard. The facts as recited by Rich Landau and his 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 moved that the Board 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 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.

Dr. Landau asked to add to the motion that some concerns for screening of the fence were expressed by neighbors. Mr. Pearlman amended his motion to include this screening, and that buffering would have to be done to the Board of Adjustment's standards. The motion was seconded by Dr. Landau.

Mrs. Kieffer asked for clarification about when the project would commence. Mr. Stowe indicated the work would begin next month, and Mrs. Wood said the boxwood planting would be performed at the time the fence was constructed to fill in as many spaces as possible.

Chairman Goosmann if there were any further comments or questions regarding this matter. The vote was approved unanimously.

HEARING (Evidentiary):

John Miles Smith, 8 Chauncey Circle, was called forward in regards to his new house project. Mr. Richie Martin, Dillard-Jones Builders, was present to review this case. Mrs. Kieffer shepherded the discussion. Mr. Martin reviewed the site plan generally, including the presence of two ornamental walls in the front yard and three in the rear yard. The three (3) rock walls in the rear yard are there in order to allow for the drainage of the crawl space basement. There is a lighted column that is eighteen (18) inches within the setback and the rock wall, at its highest point, is three (3) feet within the setback. Mr. Chandler asked whether there was any neighbor that could see the rock wall within the three (3) foot setback. Mr. Martin indicated that it was already well screened with planned plantings.

## DELIBERATION & DETERMINATION

Mrs. Kieffer recited the facts of the case and that a Conditional Use Permit and Variance were requested for the construction of the four (4) rock walls and lighted column. Mr. John Miles Smith at 8 Chauncey Circle is requesting plans for a new residence. A Conditional Use Permit for the construction of a rock wall and column located on the side of the home. Additionally, Variances are requested for the construction of four (4) rock headwalls within the setbacks of the property.

Mr. Chandler made a motion to approve this request. I, Robert Chandler, move that a Conditional Use Permit and Variance as requested be granted to Mr. John Smith of 8 Chauncey Circle for the Zoning Permit of a new residence and landscape plan approval and the Conditional Use to be allowed for construction of a stone wall and lighted columns and a Variance for the portion that is going to be in the setback. The facts as recited by Mrs. 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.

Mr. Chandler moved that the Board 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 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.

Further, Mr. Chandler moved that granting the Variance 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. Groce seconded the motion. Mr. Goosmann asked Mr. Martin to revisit what lighting was planned for the column. Mr. Martin said it was not decided yet, but was advised to review the Town Zoning Ordinance before making a decision. The vote was unanimously approved.

HEARING (Evidentiary):

Mr. Nathan and Mrs. Erin Renfro, 57 Forest Road, are presenting plans for a new residence and request permission for a Conditional Use Permit for an accessory use to construct an 18” high stacked stone wall in the rear yard.

Mr. Greg Kloos, Mr. Mallory Fuller, and Mr. Houston Hammond were present to review the landscape plan, site plan, and Conditional Use Permit request for an 18” stone wall. Mr. Chandler shepherded the discussion. The purpose of the stone wall is to limit the amount of grading to be done in the back yard, and this allows several large trees in the back yard to be saved. Mr. Kloos indicated that the wall would also assist with drainage and provided a photo that reflected what the wall might look like. The wall in the photo was noted to be higher than the one planned on site.

Mr. Clarke asked if they were disturbing over twenty (20) percent of the lot, and Mr. Hammond said no. Mr. Kloos indicated they were under their impervious surface and maximum roof coverage requirements. Mrs. Groce thanked the applicants for a design that worked within the Ordinance.

## DELIBERATION & DETERMINATION

Mr. Chandler recited the facts and noted that the 18” stone wall was present to preserve some of the larger trees on the rear of the lot and for drainage purposes. Mr. Nathan and Mrs. Erin Renfro at 57 Forest Road are applying for a Zoning Permit for construction of a new residence and a Conditional Use Permit to construct an eighteen (18) inch stone wall in the rear yard as an accessory use. That wall will act as a retaining wall to help with drainage and other factors that are needed on the site. They will be buffered and most likely not be seen by any of the neighbors.

I, Lynn Kieffer, move that a Conditional Use Permit as requested be granted to Nathan and Erin Renfro at 57 Forest Road to construct an eighteen (18) inch stone wall in the rear yard and that the facts as recited by Robert Chandler and his summation be accepted as findings and fact to support this grant. The Board has inspected this site and no neighboring property owner has objected.

Mrs. Kieffer moved that the Board 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 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.

Mr. Pearlman seconded the motion and was unanimously approved.

The meeting was adjourned at 5:46 p.m.

The next meeting of the Board of Adjustment was scheduled for Monday, April 25, 2016  
at 4:00 p.m.

ATTEST:

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Greg Goosmann  
Chairman

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Jonathan B. Kanipe  
Town Administrator