



To: Members of the Board of Adjustment, Applicants & Neighboring Property Owners
From: Jonathan B. Kanipe, Zoning Administrator
Date: February 2, 2016
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, February 18th 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, February 15, 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 January 11, 2016 meeting will be presented for approval.
3. Hearing of Cases (Evidentiary Hearings, Deliberations & Determinations):

Case 1: Mrs. Lauren Meyer-Banks, 12 Ridgefield Place, is requesting a conditional use permit and variance to replace an existing fence in the rear yard and install additional fencing along the southern side of the property.

Case 2: Mr. Thomas Nash, III, 29 Hemlock Road, is requesting a variance from the Board to exceed the maximum roof coverage allowance on the property by 100 square feet to accommodate an apartment over the attached garage.

4. Adjourn.

MINUTES OF THE BOARD OF ADJUSTMENT MEETING
HELD MONDAY, JANUARY 16, 2016

The Board of Adjustment met at 4:00 p.m. on Monday, January 16, 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:

Mr. Adam Berry

Motion was made by Ms. Rhoda Groce to approve the meeting minutes from December 21, 2015. The motion was seconded by Mr. Lowell Pearlman and unanimously approved.

Chairman Goosmann also mentioned Board of Adjustment hearings will now be held the third Monday of every month. The next meeting will be held Monday, February 15th, 2016.

HEARING (Evidentiary):

Mr. Adam Berry, 20 Ridgefield Place, was called forward to present the plans. Mr. Pearlman shepherded the discussion. Mr. Berry is requesting a variance to allow an encroachment in the side set back to enlarge a deck. Mr. Berry explained the sketches. Chairman Goosmann stated the dimensions are 11'x19' and Mr. Berry agreed. Mr. Chandler asked if Mr. Berry spoke to the neighbor about the proposed project and Mr. Berry said yes. The neighbor had no objections. Mr. Chandler asked if Carolina Day School was notified because they are behind Mr. Berry's property. Mr. Kanipe said that all adjacent property owners were notified. Chairman Goosmann asked for any further comments. Mr. Pearlman recited the facts.

DELIBERATION & DETERMINATION

Mr. Lowell Pearlman summarized the facts and requests for a variance. Mr. Adam Berry, 20 Ridgefield Place, is requesting a variance to encroach on a side set back approximately 4' 6"

and build an additional deck which would structurally match what is on the house now. There have been no objections by any of the neighbors. Chairman Goosmann said the reason for the encroachment is because the house is already in the setback. Mr. Berry agreed.

Mr. Pearlman asked Mr. Berry what the hardship is in order to get the variance. Mr. Pearlman asked Mr. Berry if the hardship is to put the deck in alignment with what is in existence now. Mr. Berry agreed. The problem was already inherited this way when Mr. Berry bought the house.

Mrs. Kieffer asked about the three trees that need to be taken down. Mr. Berry said some small trees under the proposed deck area will be taken down. Mr. Berry also plans to remove the shed under the deck eventually. Chairman Goosmann asked Mr. Berry if he would agree to buffer the area if there were any complaints about the work being done. Mr. Berry agreed.

Chairman Goosmann asked for a motion. Mrs. Rhoda Groce made a motion to approve the variance as requested to Adam Berry of 20 Ridgefield Place to construct an extension of the existing deck within the side yard setback. The variance request is to allow the deck to be constructed within the setback by 4' 6" and in line with the already constructed home, and that the facts and findings recited by Lowell Pearlman 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. Groce 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.

Dr. Landau seconded the motion and it was unanimously approved.

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 4:21 p.m.

The next meeting of the Board of Adjustment was scheduled for Monday, February 15, 2016 at 4:00 p.m.

ATTEST:

Greg Goosmann
Chairman

Jonathan B. Kanipe
Town Administrator



MEMORANDUM
FEBRUARY 15, 2016

To: Board of Adjustment
From: Jonathan Kanipe, Town Administrator
Re: Case Number 1 – 12 Ridgefield Place
Date: February 10, 2016

Case 1

Property Owner: Lauren Meyer-Banks Living Trust
Property Address: 12 Ridgefield Place
Zoning District: R-2
Lot Size: 0.57 +/- acres
Application Request: Conditional Use Permit to Allow Replacement of an Existing Fence and Variance to Allow Installation of Connecting Fence in Rear Yard and Installation of Portion of Fence and Gate in the Side Yard Setback

The applicant requests permission from the Board to replace an existing white, vinyl fence with a new four (4) foot high black, vinyl coated fence. The replacement fence would blend in with the surroundings much better and stand out much less than the existing white fence. The fence is intended to match the black fence on the neighboring property at 14 Ridgefield Place.

The portions of fence to be replaced are as follows:

- Southern side of property: 60 feet of fencing replaced with black vinyl coated fence and replacement of existing gate with black, vinyl coated gate (Photo A1 and A2)
- Northwestern corner of rear yard: Approximately 20 feet of fencing replaced with black vinyl coated fence and installation of similar constructed gate (Photo A3)
- Eastern portion of rear yard: Installation of 100 feet of black, vinyl coated fence to enclose rear yard, and inclusion of a gate on this portion of fence.

In addition to the existing, white fencing there is an existing privacy fence on the property line at the rear of the property. This fence is approximately 8 feet high and completely obstructed by bamboo. There is also a privacy fence existing on the northern property line that would remain and act as the northern boundary (photo A4).

**Please note, these photos were taken several years ago when different owners lived at the home. Some of the structures (play structure) are no longer in place at the home.*

- Conditional use permit to allow construction of fence in the rear yard
- Variance to allow installation of fence in the rear yard
- Variance to allow installation of a portion of the fence and gate within the northern side yard setback



**TOWN OF BILTMORE FOREST
BOARD OF ADJUSTMENT
APPLICATION FOR A CONDITIONAL USE PERMIT**

To: The Biltmore Forest Board of Adjustment

I, Lauren Meyer-Banks, hereby petition the Board of Adjustment to issue a

Conditional Use Permit for: replacement of old fence / install backyard fence
for the property located at 12 Ridgefield Place and described in the attached
site plan in a manner set forth in that plan, or if not adequately explained there, as more fully described as follows:

1. Description of the project.

professional install of backyard black vinyl coated chain length fence to replace old vinyl fencing presently on two sides.

Authority to grant the requested Conditional Use is contained in the Town of Biltmore Forest Zoning Ordinance Section 1005.03 and Article VIII - Conditional Uses.

2. Explain why the granting of the Conditional Use will not adversely affect the public interest of those living in the neighborhood.

I am enclosing a portion of my 2/3 acre which is inside a 8' wooden fence which surrounds on 2 sides. Only one neighbor can see my fence - and there is the old fence there now. No adverse affect to any neighbor. Neighbor across street on one side have similar fence.

3. Additional comments or Statements

The purpose of the fence is for a safe enclosure well within my property boundaries for my two inside dogs to spend some time outside with my supervision.

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

Date

1/3/2016

Signature

Lauren Meyer Banks

Greetings Board of Adjustment, Jan 3, 2016

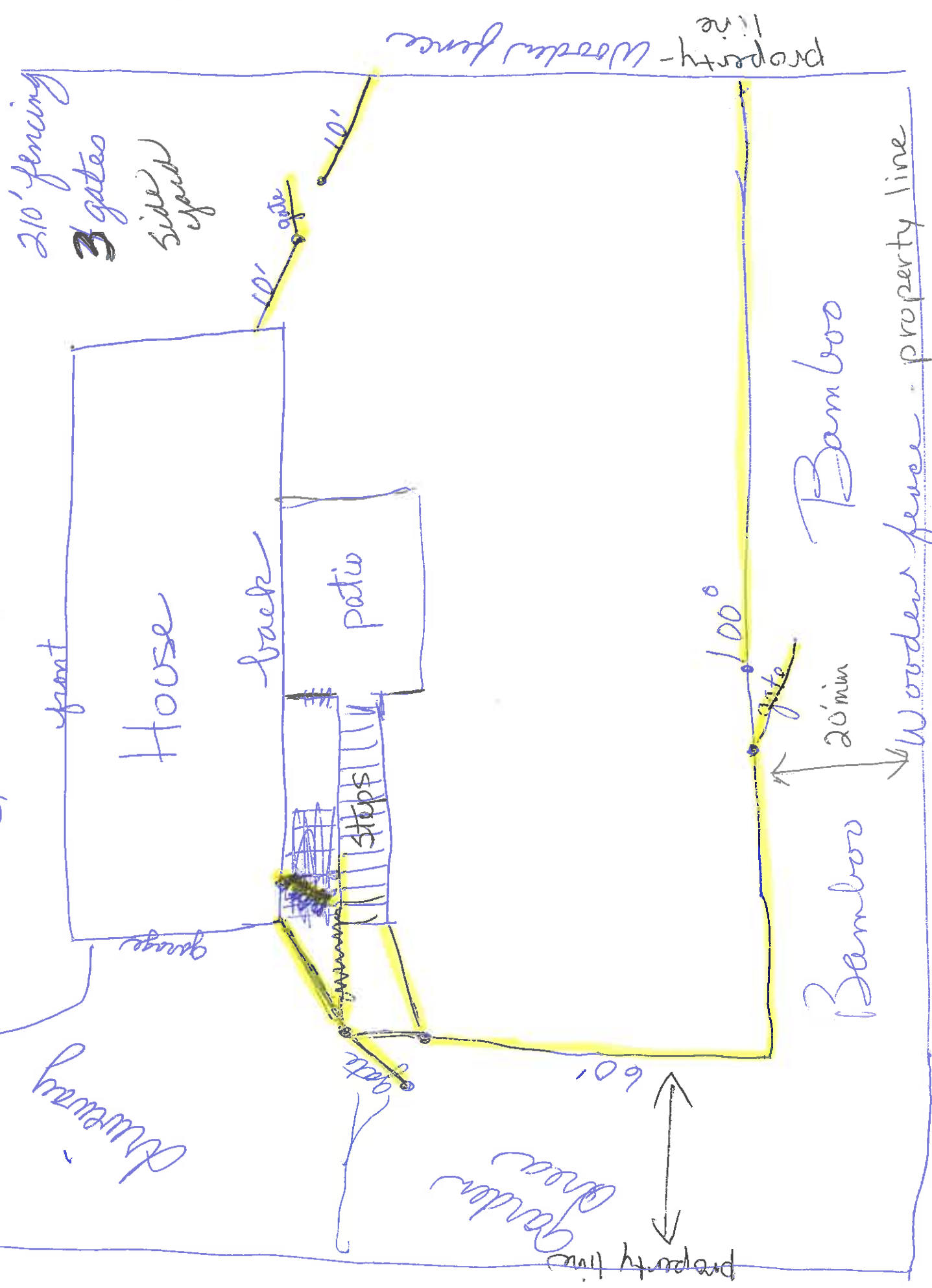
I am requesting permission to replace a poorly installed and incomplete fence around a portion of my back yard. It is important that I get this done as soon as possible, because I cannot let my dog outside off leash. I am a senior citizen, and walking him on leash is dangerous for me on slippery surfaces. As colder weather arrives, I need a safe area for him to be outside periodically. The fence I need to install is at least 20' inside my property borders. I enclosed a diagram with new fence outlined in yellow.

Thank you,

Lauren Meyer-Bank

12 Ridgelyfield Place
Lawren Mayne Banks

~~Remove old fence \$70~~



A1



A2



A3







MEMORANDUM
FEBRUARY 15, 2016

To: Board of Adjustment
From: Jonathan Kanipe, Town Administrator
Re: Case Number 2 – 29 Hemlock Road
Date: February 10, 2016

Case 2

Property Owner: Thomas and Marcia Nash
Property Address: 29 Hemlock Road
Zoning District: R-1
Lot Size: 1.539 +/- acres
Application Request: Variance to Exceed Maximum Roof Coverage

The applicants received permission from the Board of Adjustments in May 2015 to construct a new home. The home had several additional variances and conditional use permits associated with it, and these were approved at that time. The applicants presented a plan in August 2015 for a greenhouse and basketball court that would have resulted in an increase in the maximum roof coverage. The application was pulled by the applicant at that board meeting and no action on the matter was ever taken by the Board.

The applicants request permission to modify their existing permit to exceed the maximum roof coverage allowance on their property. They are allowed a total of 6,100 square feet and their current plan is under this amount. They request permission to exceed the total by 100 square feet (1.64 percent) and increase their allowance to 6,200 square feet. The increase is associated with their desire to expand their approved garage to allow an apartment for family members. In order to accommodate this apartment and the HVAC and stairs associated with it, the garage size would change slightly resulting in this overage. Mr. Nash plans to have some drawings available at the meeting to provide an idea of what the change might look like.

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| <ul style="list-style-type: none">• Variance to exceed the maximum roof coverage allowance by 100 square feet (1.64 percent) |
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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

Thomas Nash III

Property Address

29 Hemlock Road

Email

Thomas@Nashinvestments.com

Phone

(828) 776-5512

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

1112 Accessory Structures or Buildings Utilized as Dwellings

1118 Maximum Roof Coverage

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

Due to the declining health of my family members it has come to my attention that we need to add an apartment above the attached garage. Robert Griffin has drawn this addendum and Marcia and I feel like we quite possibly may be in need of this extra space as an option for either of our mothers. Both Steve Wiggins and Robert Griffin agree that it would cause an overage of 96 SF... We are asking for a variance of 100 SF just to be safe.

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**

1/31/2016

