



To: Members of the Board of Adjustment, Applicants & Neighboring Property Owners  
From: Jonathan B. Kanipe, Zoning Administrator  
Date: June 13th, 2018  
Re: **Board of Adjustment Meeting – June 25th, 2018**

## 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 **Thursday, June 28th, 2018 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 or online at <http://www.biltmoreforest.org/board-of-adjustments>.

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, June 25th, 2018 at 4:00 pm 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 May 21st, 2018 regular meeting will be considered.
- 3) Hearing of Cases (Evidentiary Hearings, Deliberations & Determinations):

Case 1: Ms. John and Mrs. Sarah Garland, 6 Ridgefield Place, requests a conditional use permit for construction of an accessory building in the rear yard.

Case 2: Mr. Douglas McGregor, 8 Southwood Road, requests a conditional use permit for the revision of a previously approved plan, including the addition of a pergola and stone wall in the rear yard.

Case 3: Mr. Aaron AuBuchon, 10 Greenwood Road, requests a conditional use permit for replacement of a chain link fence with a stone wall. A variance is requested for construction of an outside fire place in the side yard setback.

Case 4: Biltmore Forest County Club, 31 Stuyvesant Road, presents plans for replacement of a maintenance building and the addition of an accessory building. A conditional use permit is requested for the detached accessory building and a variance is requested for placement of the building within setbacks.

- 4) Adjourn

MINUTES OF THE BOARD OF ADJUSTMENT MEETING  
HELD MONDAY, MAY 21 2018

The Board of Adjustment met at 4:00 p.m. on Monday, May 21, 2018.

Members present: Goosmann, Chandler, Pearlman, Kieffer, and Groce. Mr. Jonathan Kanipe, Town Manager, Mr. William Clarke, Town Attorney, and Ms. Adrienne Isenhower, Town Planner, were also present.

Chairman Greg Goosmann called the meeting to order at 4:00 p.m.

Chairman Goosmann swore in the following:

Mr. Rick Strickland  
Mrs. Christina Strickland  
Mr. Ben Lehman  
Mr. Ben Page  
Mrs. Julie Rose  
Mrs. Diane Zimmerman  
Mr. Paul Zimmerman

Mrs. Lynn Kieffer made a motion to approve the minutes from the April 16, 2018 meetings. Mr. Lowell Pearlman seconded the motion. The motion was unanimously approved.

HEARING (Evidentiary):

Mr. Rick and Mrs. Christina Strickland, 65 Forest Road, were called forward to discuss their proposal for a deer fence in the rear yard. Mr. Pearlman shepherded the discussion. Mrs. Strickland indicated that the fence would be 8 feet tall, 127 total linear feet, and constructed of wire farm fencing. This is proposed by Asheville Fence.

Mr. Pearlman asked if the fence encroached on the setback requirements. Mrs. Strickland said it does not. Mr. Pearlman asked if the fence was chain link. Mrs. Strickland said it is metal and rectangular but it is not chain link. Mrs. Groce questioned the linear feet of the fence and

said the linear feet stated on the application was 110. Mrs. Strickland said it is 127 total linear feet and not 110. Mr. Goosmann mentioned that the fence was well screened, and was not visible from neighbors or the road. Mrs. Kieffer mentioned that the screening was very well in place and is significantly in from the property line. Mr. Clarke said this property abuts the Biltmore Estate.

#### DELIBERATION AND DETERMINATION:

Mr. Pearlman summarized the findings of fact. Christina Strickland of 65 Forest Road has requested a Conditional Use Permit for construction of a deer fence in the rear yard. It does not encroach in the setback requirements. It also abuts the Biltmore Estate which excludes it from the requirements in the fencing Ordinance. It will be constructed of a material which is within the requirements of the Town of Biltmore Forest. It will enclose a 127 square foot area and will stand 8 feet high.

Mr. Goosmann asked if there was any further discussion. There was no further discussion.

Mrs. Kieffer made a motion to approve the Conditional Use Permit for Rick and Christina Strickland of 65 Forest Road for construction of a deer fence in the rear yard. The facts as recited by Lowell Pearlman and his summation be accepted as findings and facts to support this grant. The Board has inspected the site and no neighboring property owner has objected.

Mrs. Kieffer further moved that 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.

Mrs. Groce seconded the motion. The motion was unanimously approved.

HEARING (Evidentiary):

Mr. Ben Lehman, 9 Holly Hill Road, was called forward to present plans for the project. Mrs. Rhoda Groce shepherded the discussion. Mr. Lehman indicated that he wanted to remove the existing area around the pool area to create a patio, and include a fire pit on the Eastern side of the property. Mr. Lehman also indicated that the fence proposed around the pool was 6 feet high and made of aluminum. Mr. Lehman noted that the existing pergola was to be removed and no new pergola was planned to replace it. The existing hot tub was removed. Mrs. Groce noted that the railings were failing and the steps needed to be replaced.

Mr. Chandler asked about the fencing and whether they would buffer if necessary. Mr. Lehman indicated they would buffer the property if necessary and intended to do so with some more natural, selective tree plantings.

DELIBERATION AND DETERMINATION:

Mrs. Groce recited the facts of the case. Ben and Christie Lehman of 9 Holly Hill Road are requesting a Conditional Use Permit for construction of a detached accessory structure as part of an overall improvement area for the pool in the backyard.

Mr. Kanipe added that there was some tree removal related to the retaining wall construction.

Mr. Pearlman made a motion to approve the Conditional Use Permit be granted to Mr. Ben and Christie Lehman of 9 Holly Hill Road and the facts as recited by Rhoda Groce and her



summation be accepted as findings and facts to support this grant. Chandler seconded the motion. The Board has inspected the site and no neighboring property owner has objected.

Mr. Pearlman further moved that 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.

The motion was seconded by Mrs. Kieffer and unanimously approved.

HEARING (Evidentiary):

Mr. Rob Moody represented the owners of 54 Forest Road, presents plans for pool renovation with addition of a fence and construction of an accessory outbuilding. A Conditional Use Permit is requested for the detached accessory building and a variance is requested for fence addition. Mrs. Kieffer shepherded the discussion.

The goal is to remove the existing pool and construct a pool more in line with the house. A fence will also be added around the pool for safety and security. Where the parking is now will become a garden with raised beds. Mr. Moody also said that according to the arborist, hemlocks diseased with wooly adelgid will also be removed and replaced with Arbor Vitae. It will be a much more private setting.

The privacy fence will be put back but they didn't know where to put it due to the fencing Ordinance. Mr. Goosmann asked Mr. Moody if he would like the fence issue tabled or further discussed. The fence project was tabled and the driveway area was discussed.

Mr. Moody discussed the garden and said it will be a gravel walkway with planter beds.

A neighboring property owner, Mrs. Diane Zimmerman, said in regards to the fence she would like to see it placed 20 feet from the property line because the Zimmermans had to abide by the same rule. Mr. Goosmann said the fence matter has been tabled for now. Mrs. Zimmerman said she just wanted the Board to know her opinion. Mrs. Zimmerman also mentioned the drain from the waterproofing they are doing around that house. It cuts across their existing driveway and goes directly into the Zimmerman's yard. Mrs. Zimmerman said she spoke to the gentleman who put the drain in and he put the black corrugated pipe so it would run down. It is about a 7'-8' drop from their lot to the Zimmerman's lot.

Mr. Paul Zimmerman's concern was regarding the outbuilding and the drawings for it are not to scale. Mr. Moody disagreed. The drawings were sorted out. Mr. Pearlman said perhaps in order to clarify the dimensions, the architect needs to state the correct dimensions.

Mr. Goosmann asked Mr. Moody for the correct dimensions. Mrs. Kieffer said the allowance is 750 square feet and it will be under that. Mrs. Kieffer said the proposed square footage is 360 square feet. It is also within the setback and they don't have any additional accessory structures.

Mrs. Zimmerman said she doesn't want to see the accessory structure and she doesn't want it facing her house. She also doesn't want the outdoor shower facing her house. Mr. Moody said there will be buffering. Mrs. Zimmerman asked about the driveway. Mr. Moody said asphalt will be used. Impervious paving may also be used. Mr. Clarke said the parking areas and basketball goal would be considered front yard structures and those are not allowed by the Town Ordinance. Mr. Moody questioned Mr. Clarke and asked if driveways are allowed in the front yard. Mr. Clarke said driveways are allowed in the front but there are two separate parking areas when there is parking in another location already.

Mr. Goosmann asked how close the nearest parking space will be to the street. Mr. Moody said 26 feet. Mrs. Zimmerman asked if there will be a stone wall and Mr. Moody said yes, there will be a stone retaining wall. Mr. Clarke wasn't sure if both parking areas would be allowed. Mr. Clarke Mr. Moody is really asking for three Variances. Mrs. Kieffer asked if the garden area could move into the back near the shed. Mrs. Kieffer said the setback line was really being pushed. Mr. Pearlman verified with Mr. Clarke that this plan submitted is not accordance with the Town Ordinance. Mr. Clarke said yes.

Mr. Goosmann suggested Mr. Moody bring back the plans in another month or two with the proposed changes to revisit these issues. Mr. Goosmann suggested having a pervious surface which allows access to the front door because it wasn't there before. This will get it more on the property and away from the neighbors. There also should be sufficient screening around the property and also to make sure the water drainage flowing into the neighbor's lot is not an issue.

Mr. Moody agreed to go back and make some changes and will bring back to the Board at a later date.

Mrs. Kieffer said it is ok to start work on the pool but hold off on the fence.

Mrs. Zimmerman expressed that she does not like when people park their car in front of their house. It takes away from the beauty of the Town.

#### DELIBERATION AND DETERMINATION:

Mr. Moody apologized for not issuing updated drawings and keeping the neighbors informed of the proposed plans of this home. The application was withdrawn and will be resubmitted at a later date.

HEARING (Evidentiary):

Mr. James and Mrs. Julie Rose, 31 Busbee Road, request a Variance for relocation of an existing deer fence in the rear yard setback. Mr. Robert Chandler shepherded the discussion. Mr. Goosmann said he had a previous business matter with Mrs. Rose. Mr. Goosmann will not vote on this matter.

Mrs. Rose said they recently noticed their fence was placed in the wrong location. Mrs. Rose said the fence is off the property line. The current fence which was constructed by the previous homeowners has fenced in part of their backyard neighbor's property as well. She would like to move the fence and the rear of the house more closely aligned with the property lines.

Mr. Goosmann asked Mr. Kanipe about the previous minutes from when the previous matter was permitted. Mr. Kanipe said Ms. Isenhower found them and is currently distributing copies of those minutes to the Board.

Mrs. Rose said she talked to the Town office in February and was told to fill out the proper paperwork. Mrs. Rose said Ms. Isenhower visited her property in March and said it looked fine. Mr. Chandler said moving the fence from the neighbor's property should be done. Mr. Chandler said according to the new fencing Ordinance, the location of the fence could not be changed but could be replaced. Mr. Clarke said the Board has to let them move the fence off the neighbor's property. Mr. Clarke said the way the Ordinance currently reads in 153.029 says that "Replacement to an existing fence is a Conditional Use subject to approval by the Board." Mr. Clarke said the fence is being moved and the concern about moving the fence to the property line is that it wouldn't affect approving something the Ordinance says cannot be done for a new fence or for an existing fence.

In looking at the previous minutes from 2008, Mr. Clarke said the original approval of the fence, in the third paragraph on page 271 it reads, "In the rear yard setback, the mesh deer fence will be located 1-2 feet from the property line and will be well buffered by existing rhododendrons. The West side fence will also be mesh but will not be located within the setbacks." The hardship replacing the fence in the setback is if that was the way to make it invisible as there was ample vegetation to screen the fence. In

2008, it looks some consideration was given as to the location of the fence to keep it from being seen. Today, the current location on the side is within buffering vegetation. If it were moved out, it may not look so buffered. Mrs. Kieffer said moving the fence would not be within the 20 foot setback. A portion of the fence is on the Central United Methodist Church property and they would like to move it back. The other portion is to move the fence dividing 31 and 33 Busbee Road. By currently approving this, it is not currently allowed by the Town Ordinance. Mrs. Rose said based on the approval they were given in March, they ordered and paid for the fencing supplies.

#### DELIBERATION AND DETERMINATION:

Mrs. Julie Rose and Mr. James Rose, 31 Busbee Road are requesting to relocate a fence which is within the rear fence line and within the Central United Methodist Church property.

Mrs. Rhoda Groce moved that a Variance as requested be granted to James and Julie Rose of 31 Busbee Road to move a fence from the back of their yard that backs up to 13 Forest Road into their own property. The facts as recited by Robert Chandler 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.

Further, Mrs. Groce moved that granting this Variance satisfies the applicable Sections of 153.110(d) 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. The motion was approved unanimously.

Mrs. Rose said they are still out based on the cost of the materials they purchased and the Town approved their request back in March. Mr. Clarke said they are requesting a Variance for a fence to be moved to the property line because the language of the existing Ordinance. Mrs. Rose said they ordered and purchased the materials for the fence to be put up. Mr. Clarke said this Board does not have the authority to issue money back, they just have authority to approve the fence. The Board can consider the fact there were discussions between Mrs. Rose and the Town Manager and that materials were ordered. Mr. Clarke said the Board doesn't have the authority to reimburse her. Mrs. Rose said they will withdrawal their request for that specific portion of the application.

The meeting was adjourned at 5:16 p.m.

The next Board of Adjustment meeting is scheduled for Monday, June 25th, 2018 at 4:00pm.

ATTEST:

---

Greg Goosmann  
Chairman

---

Jonathan B. Kanipe  
Town Manager

355 Vanderbilt Rd | Biltmore Forest, NC  
Po Box 5352 | Biltmore Forest, NC 28803  
P (828) 274-0824 | F (828) 274-8131

[www.biltmoreforest.org](http://www.biltmoreforest.org)



George F. Goosmann, III, Mayor  
Fran G. Cogburn, Mayor-Pro Tem  
E. Glenn Kelly, Commissioner  
Doris P. Loomis, Commissioner

Jonathan B. Kanipe,  
Town Manager

## MEMORANDUM

To: Board of Adjustments Members  
From: Jonathan Kanipe, Town Manager  
Re: Board of Adjustments Case Number 1 (6 Ridgefield Place)  
Date: June 14th, 2018

---

### Request for Conditional Use Permit for an Accessory Building

The applicants request a conditional use permit to construct an accessory building in the rear yard. The building will be utilized as a storage shed for lawn maintenance equipment and serve as a replacement a temporary garage structure that is non-compliant with current standards. The structure will be made of wood with white siding, and match the color of the residence. The building will be approximately 9' in height, 12' long, and 10' in depth.

The ordinance language pertaining to conditional use permits for accessory buildings is as follows:

#### **§ 153.008 CONDITIONAL USES.**

##### *(8) Accessory buildings.*

*(a) All accessory buildings shall meet the standards of the State Building Code where applicable.*

*(b) All accessory buildings shall be of a design compatible with the principal building on the lot and with the structures in the neighborhood.*

*(c) An additional parking space shall be required when an accessory building is permitted for use as a dwelling by a family member.*

*(d) Accessory buildings shall comply with the district's setback requirements.*

The Board must also find that the conditional use request for an accessory building meets the following requirements, as established in the Zoning Ordinance's General Regulations.

#### **§ 153.029 ACCESSORY STRUCTURES AND BUILDINGS.**

*(A) Accessory structures and/or necessary buildings shall not detract from nor interfere with adjacent properties. No accessory structure or building shall be constructed, erected, or located within any front yard or within any side yard or rear yard setback.*

*(B) (1) In addition, the following standards are established for accessory structures and accessory buildings:*

- (a) The maximum number of accessory buildings permitted on a lot shall be one;*
- (b) The maximum roof coverage area for accessory buildings shall be 750 square feet;*
- (c) The maximum height for accessory buildings shall be 25 feet;*
- (d) The accessory building must be screened by vegetation or other buffer as set forth in § 153.008;*
- (e) The accessory building must be located behind a line parallel to the rear of the principal structure on the lot;*
- (f) The accessory building must be designed in the same architectural style as the principal structure;*
- (g) Any accessory structure and/or accessory building shall be included in the calculation of allowable roof coverage and allowable impervious surface coverage on the lot pursuant to §§ 153.043 and 153.048.*



# Zoning Application

## Property Identification

**Name**

Sarah Garland

**Address**

6 Ridgefield Place, Biltmore Forest, North Carolina 28803

**Phone**

(315) 775-3051

**Email**

johnsarahgarland@gmail.com

**Zoning**

R-2

**Lot Size (Acres)**

.40

**Email -Submission Verification**

johnsarahgarland@gmail.com

## Scope of Project-Roof Coverage

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

Yes

**What is the proposed roof coverage?**

120

**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)s?**

No

## Scope of Project-Accessory Structures

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

Yes

An application for a conditional use permit will be required in addition to this zoning application.

**Will there be more than the approved number of**

**accessory structures/buildings?**

No

## **Project Description**

### **Brief Description of Project**

Build yard shed for storage of lawn maintenance items, garden and yard items, etc.

### **Estimated Cost of Project**

2,000

### **Estimated Completion Date**

8/15/2018

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

6 Ridgefield GIS Map Shed Placement.jpg

Residence.jpg

Shed Dimensions and Specs 6 Ridgefield Place.jpg

# Conditional Use Permit Application

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

**Name**

Sarah Garland

**Property Address**

6 Ridgefield Place

**Phone**

(315) 775-3051

**Email**

johnsarahgarland@gmail.com

**Type of Conditional Use**

802.07 Accessory Buildings

**Email-Submission Verification**

johnsarahgarland@gmail.com

**Description of Project**

Build shed for storage of lawn maintenance equipment, garden and yard items

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

The shed would be placed in the bottom of the rear yard and will match the style, color and roof materials of the main residence. The shed will be utilized to store lawn maintenance and other items out of sight from neighbors, thus improving the overall look of the yard and property.

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**

5/15/2018





**Asphalt Shingles  
in style found on  
residence**



**9"  
Front  
Height**

**Wood structure with paintable vinyl siding**

**Siding and trim paint match colors used on residence (see  
photo #2)**





355 Vanderbilt Rd | Biltmore Forest, NC  
Po Box 5352 | Biltmore Forest, NC 28803  
P (828) 274-0824 | F (828) 274-8131

[www.biltmoreforest.org](http://www.biltmoreforest.org)



George F. Goosmann, III, Mayor  
Fran G. Cogburn, Mayor-Pro Tem  
E. Glenn Kelly, Commissioner  
Doris P. Loomis, Commissioner

Jonathan B. Kanipe,  
Town Manager

## MEMORANDUM

To: Board of Adjustments Members  
From: Jonathan Kanipe, Town Manager  
Re: Board of Adjustments Case Number 2 (8 Southwood Road)  
Date: June 14th, 2018

---

### Request for Conditional Use Permit for an Accessory Structure

This request is in reference to amended plans previously approved by the Board of Adjustment. The applicants are requesting a conditional use permit for a pergola in the rear yard. In August 2017, the Board granted a conditional use permit for plans consisting of a detached garage, pool, pergola and exterior fireplace. In addition, a variance was approved under the same plans for construction of a stonewall/guardrail. Under the amended plans, the pool size is reduced and a pergola is requested to be located above a fire pit terrace. In addition, a new stone landing terrace will be added as well as a new stone retaining wall. The application notes that all materials will match those used in front yard renovations on the property.

The ordinance language regarding conditional use permits for accessory structures is provided below.

#### **§ 153.008 CONDITIONAL USES.**

##### *(8) Accessory buildings.*

*(a) All accessory buildings shall meet the standards of the State Building Code where applicable.*

*(b) All accessory buildings shall be of a design compatible with the principal building on the lot and with the structures in the neighborhood.*

*(c) An additional parking space shall be required when an accessory building is permitted for use as a dwelling by a family member.*

*(d) Accessory buildings shall comply with the district's setback requirements.*

The Board must also find that the conditional use request for an accessory building meets the following requirements, as established in the Zoning Ordinance's General Regulations.

#### **§ 153.029 ACCESSORY STRUCTURES AND BUILDINGS.**

*(A) Accessory structures and/or necessary buildings shall not detract from nor interfere with adjacent properties. No accessory structure or building shall be constructed, erected, or located within any front yard or within any side yard or rear yard setback.*

*(B) (1) In addition, the following standards are established for accessory structures and accessory buildings:*

*(a) The maximum number of accessory buildings permitted on a lot shall be one;*

*(b) The maximum roof coverage area for accessory buildings shall be 750 square feet;*

*(c) The maximum height for accessory buildings shall be 25 feet;*

*(d) The accessory building must be screened by vegetation or other buffer as set forth in § 153.008;*

*(e) The accessory building must be located behind a line parallel to the rear of the principal structure on the lot;*

*(f) The accessory building must be designed in the same architectural style as the principal structure;*

*(g) Any accessory structure and/or accessory building shall be included in the calculation of allowable roof coverage and allowable impervious surface coverage on the lot pursuant to §§ 153.043 and 153.048.*



# Zoning Application

## Property Identification

**Name**

Doug McGregor

**Address**

8 Southwood Road, Biltmore Forest, North Carolina 28803

**Phone**

(603) 986-8706

**Email**

douglasamcgregor@yahoo.com

**Zoning**

R-1

**Lot Size (Acres)**

2.204

**Email -Submission Verification**

rdull@siteworkstudios.com

## 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?**

950

**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?**

No

**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?**

Yes

An application for a conditional use permit will be required in addition to this zoning application.

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

No

## **Project Description**

### **Brief Description of Project**

Redesign of approved backyard development plans. Removed large pergola over walkway. Reduced size of pool and associated terrace. New stone landing terrace from garage steps to backyard. New pergola over firepit terrace and back terrace of house. New stone retaining wall on back slope to accommodate pool and proper drainage. All materials to match those used in the front yard renovations.

### **Estimated Cost of Project**

100,000

### **Estimated Completion Date**

8/31/2018

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

McGregor L-500 Backyard Plan.pdf

McGregor Terrace Precedent Pic.pdf

# Conditional Use Permit Application

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

**Name**

Douglas McGregor

**Property Address**

8 Southwood Road

**Phone**

(603) 986-8706

**Email**

douglasamcgregor@yahoo.com

**Type of Conditional Use**

802.07 Accessory Buildings

**Email-Submission Verification**

rdull@siteworkstudios.com

**Description of Project**

Redesign of approved backyard development plans. Removed large pergola over walkway. Reduced size of pool and associated terrace. New stone landing terrace from garage steps to backyard. New pergola over firepit terrace and back terrace of house. New stone retaining wall on back slope to accommodate pool and proper drainage. All materials to match those used in the front yard renovations.

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

All proposed elements are located behind the existing home and are not visible from any public areas of the neighborhood. All materials used are appropriate within the design vernacular of the home and Biltmore Forest.

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

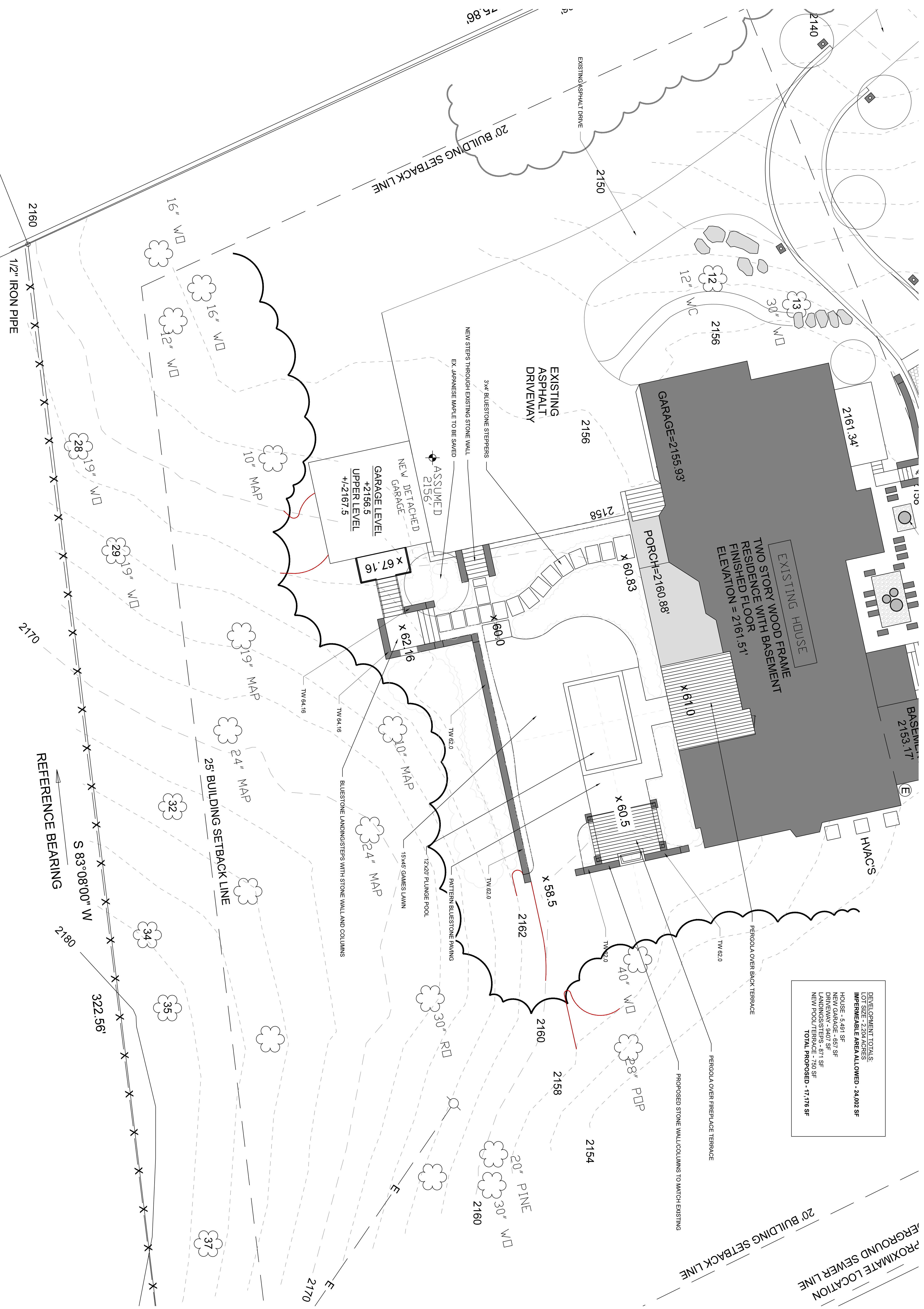
**Signature**

**Date**

6/4/2018

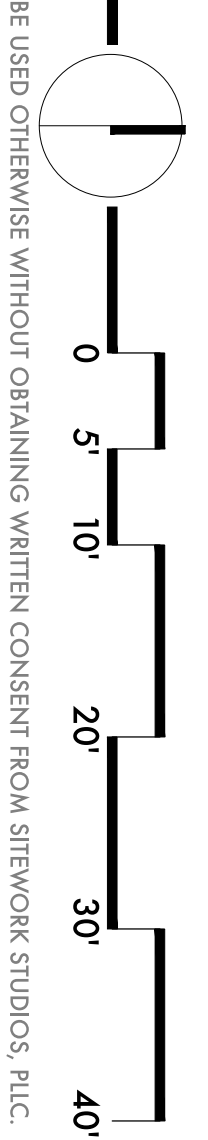
A handwritten signature in black ink on a light blue horizontal line. The signature consists of the name "Rob Dull" written in a cursive, stylized font. The "R" is large and loops around the "o", and the "Dull" is written in a similar cursive style.

DEVELOPMENT TOTALS  
 LOT SIZE - 2.24 ACRES  
 IMPERVIOUS AREA ALLOWED - 24,002 SF  
 HOUSE - 5,481 SF  
 NEW GARAGE - 657 SF  
 DRIVEWAY - 9407 SF  
 LANDINGS/STEPS - 871 SF  
 NEW POOL/TERRACE - 750 SF  
 TOTAL PROPOSED - 17,178 SF



REFERENCE BEARING  
 S 83°08'00" W

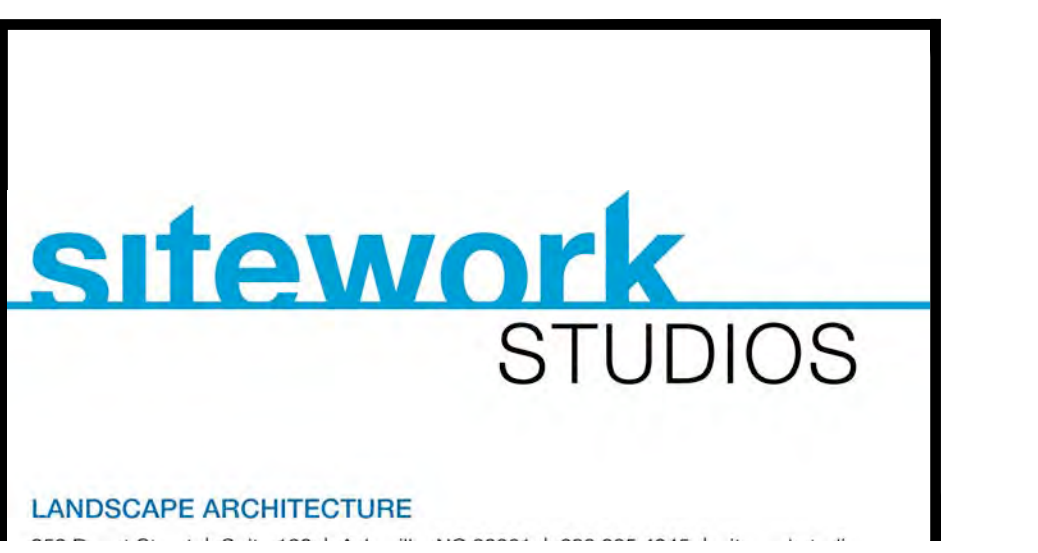
THIS DOCUMENT IS THE PROPERTY OF SITWORK STUDIOS, PLLC. IT IS TO BE USED FOR THIS SPECIFIC PROJECT ONLY AND IS NOT TO BE USED OTHERWISE WITHOUT OBTAINING WRITTEN CONSENT FROM SITWORK STUDIOS, PLLC.



<p>SHEET NO.  <b>L-500</b></p>	
<p>SHEET TITLE:  <b>BACKYARD DEVELOPMENT PLAN</b></p>	
<p>DATE:          1 JUNE 2018</p>	
<p>REVISIONS          REMARKS          DATE</p>	

**McGREGOR RESIDENCE**  
 PREPARED FOR:  
**DOUG McGREGOR**  
 8 SOUTHWOOD ROAD  
 BILTMORE FOREST, NC

CONSULTANT







355 Vanderbilt Rd | Biltmore Forest, NC  
Po Box 5352 | Biltmore Forest, NC 28803  
P (828) 274-0824 | F (828) 274-8131

[www.biltmoreforest.org](http://www.biltmoreforest.org)



George F. Goosmann, III, Mayor  
Fran G. Cogburn, Mayor-Pro Tem  
E. Glenn Kelly, Commissioner  
Doris P. Loomis, Commissioner

Jonathan B. Kanipe,  
Town Manager

## MEMORANDUM

To: Board of Adjustments Members  
From: Jonathan Kanipe, Town Manager  
Re: Board of Adjustments Case Number 3 (10 Greenwood Road)  
Date: June 14th, 2018

---

Request for Conditional Use Permit for an Accessory Structure  
Request for a Variance for Fireplace in Side Yard Setback

The applicants request a conditional use permit to replace a chain link fence with a stone wall. The location of the structure is in the side yard setback. The new structure will match an original stone retaining wall still present on the property. Replacement of existing fences and walls is currently allowed as a conditional use as long the material used for replacement is not chain-link fencing and the location is not in the front yard. The specific ordinance language is as follows:

**§ 153.029 ACCESSORY STRUCTURES AND BUILDINGS.**

*(4) Replacement of existing fences and walls. Replacement of an existing fence or wall is a conditional use subject to the approval of the Board of Adjustment and the requirements of this zoning ordinance. An application to replace an existing fence or wall must include a photograph of the existing fence or wall, specify the type of fence or wall, include a map or sketch depicting the height and length of the fence, and state whether or not the fence is in any setbacks.*

*(a) Existing chain link fences may not be replaced with new chain link fences.*

*(b) Existing fences or walls in the front yard may not be replaced. No new fences or walls shall be allowed in the front yard.*

*(c) Repair of more than half of an existing fence or wall shall be considered a replacement and shall be subject to this section.*

The applicants also request a variance to place a stone fireplace in the side yard setback. Under the same zoning ordinance provision provided above, it is stated that no accessory structure shall be allowed in the side yard setback. The specific text can be found below.

**§ 153.029 ACCESSORY STRUCTURES AND BUILDINGS.**

*(A) Accessory structures and/or necessary buildings shall not detract from nor interfere with adjacent properties. No accessory structure or building shall be constructed, erected, or located within any front yard or within any side yard or rear yard setback.*

The proposed fireplace will be made of stone and will replace the original patio. According to the application, the ability to place the fireplace in the setback approximately three feet would allow it to be placed behind an existing evergreen that could serve as a buffer. This would also provide additional room for added landscaping, if requested by the Board. The applicants note that the entire project is located in the back yard and some landscaping is already present that will serve as a buffer to the patio.

# Zoning Application

## Property Identification

**Name**

Aaron AuBuchon

**Address**

10 Greenwood Road, Biltmore Forest, North Carolina 28803

**Phone**

(828) 707-0809

**Email**

aaron@aubuchon.biz

**Zoning**

R-1

**Lot Size (Acres)**

.77

**Email -Submission Verification**

aaron@aubuchon.biz

## 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?**

Yes

An application for a conditional use permit will be required in addition to this zoning application.

**Will there be more than the approved number of**



**accessory structures/buildings?**

No

## **Project Description**

### **Brief Description of Project**

Replacing original patio, adding outdoor fireplace (will email pictures separately), and replacing old green chainlink fence with stone wall that to match the original stone retaining wall on left side of driveway (picture to be emailed).

### **Estimated Cost of Project**

20,000

### **Estimated Completion Date**

7/1/2018

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

New Stone Fence .jpg

Old Stone Wall.jpg

# Conditional Use Permit Application

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

**Name**

Aaron AuBuchon

**Property Address**

10 Greenwood Road

**Phone**

(828) 707-0809

**Email**

aaron@aubuchon.biz

**Type of Conditional Use**

802.07 Accessory Buildings

**Email-Submission Verification**

aaron@aubuchon.biz

**Description of Project**

Replacing original stone patio with new flagstone patio, new fireplace and replacing old chain link fence that faces the street with stone wall that matches the retaining wall on left side of driveway

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

The entire project is in the back yard and we have landscaping that buffers any neighbors views. The only visible work from the road is 1) replacing the existing green chainlink fence with a stone wall which we believe is a great improvement to the history of the home and 2) the addition of an outdoor stone fireplace.

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**

5/15/2018

A handwritten signature in black ink, appearing to read 'Aaron AuBuchon', written over a horizontal line.

# 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**

Aaron AuBuchon

**Property Address**

10 Greenwood Road

**Email**

aaron@aubuchon.biz

**Phone**

(828) 707-0809

**Email-Submission Verification**

aaron@aubuchon.biz

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

1103 Required Yards & Other Spaces

N.C.G.S. 160A-388(D) requires that the Board of Adjustments shall vary the provisions of the Zoning Ordinance only upon a showing of ALL the following:

- 1) Unnecessary hardship would result from the strict application of the ordinance.
- 2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- 3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- 4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

**State specific hardship that results in variance request to not comply with the Zoning Ordinance**

With the original stairs and gate opening the new fireplace would fall directly in front of the gate which would cause the most noticeable from the road. Our three foot variance request would allow the fireplace to be hidden behind an existing evergreen and enable us to do additional landscaping to mask the fireplace if required. The proposed fireplace would be hidden by a 10-12 foot evergreen hedge that is on our property. Please see pictures in separate email.

**State what conditions are peculiar to the property that require a variance.**

The 100 year old original stairs and pathway.

**Did the hardship result from actions taken by the applicant or property owner?**

The fireplace is a request to enhance the usability of the backyard, but we are trying to position it based on the original stairs, pathway and gate.

**State how the requested variance is consistent with the spirit, purpose, and intent of the ordinance.**

Trying to maintain the original stairs and pathways which match the original stone walls present on the property.

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**

5/16/2018

A handwritten signature in black ink, appearing to be 'A. B.', written over a horizontal line. The signature is stylized and somewhat abstract.



































355 Vanderbilt Rd | Biltmore Forest, NC  
Po Box 5352 | Biltmore Forest, NC 28803  
P (828) 274-0824 | F (828) 274-8131

www.biltmoreforest.org



George F. Goosmann, III, Mayor  
Fran G. Cogburn, Mayor-Pro Tem  
E. Glenn Kelly, Commissioner  
Doris P. Loomis, Commissioner

Jonathan B. Kanipe,  
Town Manager

## MEMORANDUM

To: Board of Adjustments Members  
From: Jonathan Kanipe, Town Manager  
Re: Board of Adjustments Case Number 4 (31 Stuyvesant Road)  
Date: June 14th, 2018

---

### Request for Conditional Use Permit for an Accessory Building Variance Request for Reduction of Side Yard Setback

The applicant requests a conditional use permit for construction of an accessory building. The building will be used primarily for storage and is part of a larger project of replacing the old maintenance facility with a larger, more modern building. The primary structure will be T-shaped and a detached accessory building helps to maximize circulation within the site. The applicants note that the scope of the project also calls for removal of several non-conforming utility structures and site walls. The ordinance language regarding conditional use permits for accessory buildings can be found below.

#### **§ 153.008 CONDITIONAL USES.**

##### *(8) Accessory buildings.*

*(a) All accessory buildings shall meet the standards of the State Building Code where applicable.*

*(b) All accessory buildings shall be of a design compatible with the principal building on the lot and with the structures in the neighborhood.*

*(c) An additional parking space shall be required when an accessory building is permitted for use as a dwelling by a family member.*

*(d) Accessory buildings shall comply with the district's setback requirements.*

The Board must also find that the conditional use request for an accessory building meets the following requirements, as established in the Zoning Ordinance's General Regulations.

#### **§ 153.029 ACCESSORY STRUCTURES AND BUILDINGS.**

*(A) Accessory structures and/or necessary buildings shall not detract from nor interfere with adjacent properties. No accessory structure or building shall be constructed, erected, or located within any front yard or within any side yard or rear yard setback.*

*(B) (1) In addition, the following standards are established for accessory structures and accessory buildings:*

- (a) The maximum number of accessory buildings permitted on a lot shall be one;*
- (b) The maximum roof coverage area for accessory buildings shall be 750 square feet;*
- (c) The maximum height for accessory buildings shall be 25 feet;*
- (d) The accessory building must be screened by vegetation or other buffer as set forth in § 153.008;*
- (e) The accessory building must be located behind a line parallel to the rear of the principal structure on the lot;*
- (f) The accessory building must be designed in the same architectural style as the principal structure;*
- (g) Any accessory structure and/or accessory building shall be included in the calculation of allowable roof coverage and allowable impervious surface coverage on the lot pursuant to §§ 153.043 and 153.048.*

In addition, the applicants request a variance for placement of the primary facility in the front and side yard setbacks. The slope of the property at the Hendersonville Road boundary (front) and the north boundary (side) limits the amount of buildable area within the section of land to be utilized for the new building. The request for the variance specifically asks for a front yard setback reduction from 60' to 42', and a side yard setback reduction from 20' to 12'.

# Zoning Application

## Property Identification

**Name**

Biltmore Forest Country Club

**Address**

31 Stuyvesant Road, Asheville, North Carolina 28803

**Phone**

(828) 253-8265 x313

**Email**

eb@fisher-pa.com

**Zoning**

R-1

**Lot Size (Acres)**

135.18

**Email -Submission Verification**

eb@fisher-pa.com

## Scope of Project-Roof Coverage

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

Yes

**What is the proposed roof coverage?**

16,816

**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?**

20,825

**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)?**

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?**

Yes

An application for a conditional use permit will be required in addition to this zoning application.

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

No

## **Project Description**

### **Brief Description of Project**

The Owner is looking to replace a nearly forty five year old maintenance facility with a new structure and accessory building that meets the current requirements for golf course maintenance.

### **Estimated Cost of Project**

1,250,000

### **Estimated Completion Date**

3/15/2019

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

06.04.18\_BFCC\_PS1.0\_ExistingSite.pdf

06.04.18\_BFCC\_PS1.1\_PrelimSite.pdf

06.04.18\_BFCC\_PS1.2\_PrelimSite\_AerialData.pdf



# Conditional Use Permit Application

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

**Name**

Biltmore Forest Country Club

**Property Address**

31 Stuyvesant Road

**Phone**

(828) 253-8265 x313

**Email**

eb@fisher-pa.com

**Type of Conditional Use**

802.07 Accessory Buildings

**Email-Submission Verification**

eb@fisher-pa.com

**Description of Project**

Project calls for the replacement of an obsolete maintenance facility with a larger modern structure and accessory building on an existing site along Hendersonville Road. The current use and operation will be maintained in a state-of-the-art facility designed to meet current best practices.

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

The site will be used in the same manner as it is currently. Public vehicle access will be restricted to the current drive on Hendersonville Road. The property to the west and south are owned by the same entity and the property to the north is presently undeveloped.

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**

6/4/2018



---

# 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**

Biltmore Forest Country Club

**Property Address**

31 Stuyvesant Road

**Email**

eb@fisher-pa.com

**Phone**

(828) 253-8265 x313

**Email-Submission Verification**

eb@fisher-pa.com

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

1103 Required Yards & Other Spaces

N.C.G.S. 160A-388(D) requires that the Board of Adjustments shall vary the provisions of the Zoning Ordinance only upon a showing of ALL the following:

- 1) Unnecessary hardship would result from the strict application of the ordinance.
- 2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- 3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- 4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

**State specific hardship that results in variance request to not comply with the Zoning Ordinance**

The Owner is requesting a reduction in the front yard setback from 60' to 42' and a reduction in the north side yard setback from 20' to 12'.

The property is somewhat pie shaped with steep grades along the east/front/Hendersonville Road boundary and the north/side yard boundary. The existing golf course is to the west and a sloping drive down from the only public entrance is to the south. The amount of buildable area is limited by these constraints.

**State what conditions are peculiar to the property that require a variance.**

The existing grades have the majority of the site well below the property to the north and Hendersonville Road to the east and somewhat less so the boundaries to the south and west. The building location attempts to take advantage of the current graded limits to the north and west by placing the long wall of the building against the hill, but in doing so locates a small percentage of the overall building square footage within the established setbacks. The accessory building is located behind the setback line of the principal structure and outside the required setback.

**Did the hardship result from actions taken by the applicant or property owner?**

No

**State how the requested variance is consistent with the spirit, purpose, and intent of the ordinance.**

While a reduction in the side yard setback to the north is being requested, the westerly location has it abutting the steepest grades of the adjacent property. In addition, the proposed development calls for the removal of several non-conforming utility structures and site walls. Only a small corner of the building will be within the front yard setback and at its closest to Hendersonville Road it will approximate the setbacks for the three commercial buildings to the immediate north of the adjacent property. The geometry of the T-shaped principle structure and the building of the accessory structure break down the mass of the built component while affording a means for creating the necessary circulation within the site.

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.

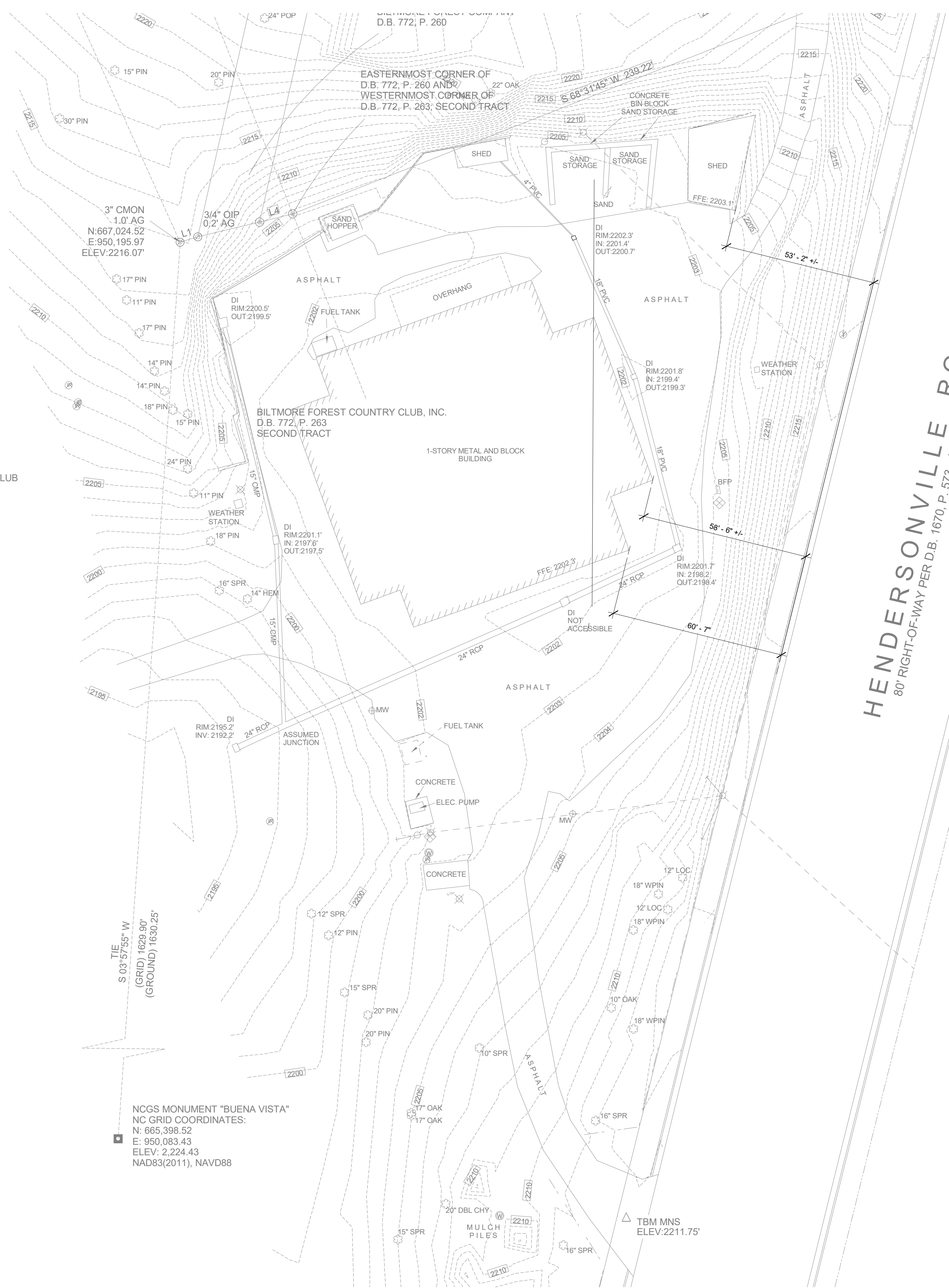
**Signature**

**Date**

6/4/2018

A handwritten signature in black ink, appearing to read "E. Britton", is written over a horizontal line. The signature is cursive and somewhat stylized.

BILTMORE FOREST COUNTRY CLUB  
D.B. 662, P. 71



3" C/MON  
1.0' AG  
N: 667,024.52  
E: 950,195.97  
ELEV: 2216.07

EASTERNMOST CORNER OF  
D.B. 772, P. 260 AND  
WESTERNMOST CORNER OF  
D.B. 772, P. 263; SECOND TRACT

BILTMORE FOREST COUNTRY CLUB, INC.  
D.B. 772, P. 263  
SECOND TRACT

1-STORY METAL AND BLOCK  
BUILDING

TIE  
S 03° 57' 55" W  
(GRID) 1629.90'  
(GROUND) 1630.25'

NCGS MONUMENT "BUENA VISTA"  
NC GRID COORDINATES:  
N: 665,398.52  
E: 950,083.43  
ELEV: 2,224.43  
NAD83(2011), NAVD88

HENDERSONVILLE ROAD  
80' RIGHT-OF-WAY PER D.B. 1670, P. 573 - ASPHALT PAVEMENT

**1 Site - Existing**  
1" = 20'-0"

REVISIONS	

FOR  
REVIEW  
ONLY

**FISHER**  
Fisher Architects, PA  
351 Merriam Avenue  
Asheville, NC 28801  
Copyright 2018, Fisher Architects, PA  
(828) 253-8265

Maintenance Facility for  
Biltmore Forest Country Club

Enter address here

SHEET <b>PS1.0</b>	DATE 2018 June 04	JOB NO. 180190
	SHEET TITLE Existing Site	





3" C/MON  
-1.0" AG  
N:667,024.52  
E:950,195.97  
ELEV:2216.07'

BILTMORE FOREST COMPANY  
D.B. 772, P. 260

EASTERNMOST CORNER OF  
D.B. 772, P. 260 AND  
WESTERNMOST CORNER OF  
D.B. 772, P. 263, SECOND TRACT

BILTMORE FOREST COUNTRY CLUB, INC.  
D.B. 772, P. 263  
SECOND TRACT

TIE  
S 03°57'55" W  
(GRID) 1629.90'  
(GROUND) 1630.25'

NCGS MONUMENT "BUENA VISTA"  
NC GRID COORDINATES:  
N: 665,398.52  
E: 950,083.43  
ELEV: 2,224.43  
NAD83(2011), NAVD88

HENDERSONVILLE ROAD  
80' RIGHT-OF-WAY PER D.B. 1670, P. 573 - ASPHALT PAVEMENT

**1 Site Plan**  
1" = 20'-0"

REVISIONS


FOR  
REVIEW  
ONLY

**FISHER**  
Fisher Architects, PA  
351 Merrimon Avenue  
Asheville, NC 28801  
Copyright 2018, Fisher Architects, PA  
(828) 253-8265

Maintenance Facility for  
Biltmore Forest Country Club

Enter address here

SHEET TITLE <b>Prelim. Site</b>	DATE	2018 June 04
	JOB NO.	180190
SHEET <b>PS1.1</b>		





**1 Site Plan with Aerial Data**  
1" = 20'-0"

REVISIONS


FOR REVIEW ONLY

**FISHER**  
Fisher Architects, PA  
351 Merriam Avenue  
Asheville, NC 28801  
Copyright 2018, Fisher Architects, PA (828) 253-8265

Maintenance Facility for  
Biltmore Forest Country Club

Enter address here

SHEET TITLE <b>Prelim. Site with Aerial</b>	DATE	2018 June 04
	JOB NO.	180190
SHEET	<b>PS1.2</b>	