To: Members of the Board of Adjustment, Applicants & Neighboring Property Owners
From: Jonathan B. Kanipe, Zoning Administrator
Date: May 31, 2019
Re: Board of Adjustment Meeting – June 17, 2019

The following items of business are scheduled to be addressed by the Biltmore Forest Board of Adjustment on Monday, June 17, 2019 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 20, 2019 regular meeting will be considered.

3) Hearing of Cases (Evidentiary Hearings, Deliberations & Determinations):

   Case 1: A Conditional Use Permit is requested for property located at 17 Forest Road for addition of a detached accessory building. A Variance is requested for allowance of more than one detached accessory building on the lot.

   Case 2: A Variance is requested for property at 19 Eastwood Road for construction of a portion of the driveway in the side yard setback. Approval is also requested for land disturbance activities exceeding twenty percent of the lot.

4) Adjourn

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 20, 2019 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 Board of Adjustment met at 4:00 p.m. on Monday, May 20, 2019.

Members present: Goosmann, Chandler, Landau, Kieffer, Groce, and Pearlman. 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 4:07 p.m.

Mr. Goosmann swore in the following:

Mr. Jonathan Kanipe
Mr. Scott Law
Dr. Keith Black
Mr. Mike Beatty
Mr. James Miller
Mr. Glenn Kelly
Ms. Sharon Miller
Ms. Mary Dillon Moon
Mr. Charles Reynolds
Dr. Brown Crosby
Mr. Garza Baldwin
Mr. Kip Warlick
Ms. Ann Skoglund
Ms. Amy Fleming
Ms. Joyce Young

A motion was made by Mr. Robert Chandler to approve the April 22, 2019 minutes as amended with a change made by Chairman Goosmann. The motion was seconded by Mr. Lowell Pearlman. The minutes were unanimously approved as amended.

HEARING (Evidentiary):
A Conditional Use Permit is requested for property located at 1 Forest Road for addition of an outdoor fireplace in the rear yard. A Variance is requested to place a retaining wall in the front yard.

Mrs. Lynn Kieffer shepherded the matter and asked Mr. Scott Law to present his request. The project consists of two phases. Phase 1 will be discussed today which consists of three parts. The property is raised so it sits below the driveway level. The water runs down the hill by the turret that is there. Mr. Law would like to correct the moisture and the water run off by putting in a porch that would slope to a drain. There would be a small three-foot retaining wall and a French drain installed to stop the water from running down the slope.

**DELIBERATION AND DETERMINATION:**

Mrs. Kieffer summarized the facts. Mr. Scott Law of 1 Forest Road would like to add a three-foot retaining wall and a patio area to correct the flow of the water. A French drain would be added as well. No one from the road can see the retaining wall but Mr. Law is willing to buffer the area if necessary. Mr. Law said he spoke to a neighbor and they were in support of the project. The size of the patio would be 18’x 24’. The material of the patio is a blue stone in an old French style. No additional facts were stated and there were no questions about the project.

Mrs. Rhoda Groce made a motion to approve the Variance for Mr. Scott Law of 1 Forest Road for a landscaping plan for a retaining wall construction around the turret in the front yard that would prohibit further drainage. The size would be 18’x24’ and the material consists of blue stone. 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 unanimously approved.

HEARING (Evidentiary):

The second part of phase one consists of correcting drainage issues in the backyard. Mr. Law would also like to have an outdoor fireplace installed in the backyard. A tunnel drain would be installed and if this does not work, the back patio will be torn up to resolve the issue. Mr. Law would also like to have landscaping done in the backyard.

There are two areas in the back porch area where the water pools and needs to be corrected. They butt up against the house and there is dry rot on one area of the wood. He would like to have this drain installed to correct this problem. He would like to put a fireplace in that area. If they were able to correct the existing patio, there is a sitting wall. Instead of tearing that up, the linear stone would be relocated. The stone is the same as the interior of the house. The lot slopes from the back down to the house. A lot of water comes down into the backyard area. There are French drains along each side that ties into a substantial drainage system that already exists. This will be a big improvement for all the runoff water to keep that area dry. There will also be trees planted in that area.

Mrs. Kieffer verified Mr. Law is asking for a Conditional Use Permit for installation a fireplace. Mrs. Kieffer also verified that Mr. Law is asking for a Conditional Use Permit for raised beds in the back of the house. Mr. Law said he would like to have small, raised beds for a kitchen garden for herbs. It would be set off the kitchen entrance. Mr. Law showed the Board pictures of the potential plans.
DELIBERATION AND DETERMINATION:

Mrs. Kieffer recited the facts. Mr. Scott Law of 1 Forest Road has requested a Conditional Use Permit for an outdoor fireplace and raised bed gardens worked into the landscaping plan to rectify the drainage problems in the backyard. They are both within the setback. Chairman Goosmann asked if buffering were needed, Mr. Law would be willing to have that planted. Mr. Law agreed to this. Chairman Goosmann asked if lighting was going to be installed. Mr. Law said there would be no lighting installed at this time. There were no further questions about the project.

Dr. Richard Landau made a motion to approve the Conditional Use Permit and that it be granted to Mr. Scott Law of 1 Forest Road for a fireplace and raised garden beds in the backyard. The facts as recited by Lynn Kieffer and her summation be accepted as findings of facts to support this grant. The Board has inspected the site and no neighboring property owner has objected. Dr. Landau 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 153.110 (C)(2-3)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. Robert Chandler seconded the motion. The motion was approved unanimously.
HEARING (Evidentiary):

A Conditional Use Permit is requested for property at 31 Stuyvesant Road for improvements to an existing swimming pool and accessory building, relocation of a tennis court, and a tennis court viewing deck. A Variance is requested for location of accessory structures within the front yard setback. Mr. Robert Chandler shepherded the discussion.

Mr. Billy Clarke stated that all of the members of the Board of Adjustment as well as Mr. Clarke are members of the Biltmore Forest Country Club.

Dr. Keith Black representing the Biltmore Forest Country Club and Mr. Mike Beatty, architect for the Biltmore Forest Country Club, were called forward. Mr. Beatty reviewed the rationale behind the design, including how the requests of the Biltmore Forest Country Club could be achieved to include these projects. Mr. Beatty referenced that a meeting was held with Mr. Kanipe and Mayor Goosmann a month or so ago to review the plans.

Chairman Goosmann specifically asked about the gathering area. Mr. Beatty said this was designed to allow space for parents to watch children, and not designed for a place to congregate for long periods. Mr. Beatty also spoke about the proposed Gathering Terrace and noted that this was in the same proximity to existing steps.

Mr. Beatty showed the Board the location of the pool and the tennis courts. They would like future tennis operations more centralized. A stone terrace would be placed at the top of the court. At most, the terrace would seat twenty people. There would also be a gathering terrace constructed as well. The steps will be wider than the walkway. The walkway is about five feet wide. The dimensions of the viewing area are 12’ from the edge of the walkway, smaller areas are 8’, and it will be 48’ long. Mrs. Groce asked about the low retaining wall dimensions. The wall would be 4’ high.

Mr. Pearlman asked what the hardship is for the Variance request. Mr. Clarke indicated that the replacement/reconstruction of an existing tennis court with a new tennis court did require
a Conditional Use and Variance approval, but the fact the tennis court already exists could be taken into account.

Mr. Pearlman asked about the hardship faced by the Club for this request. Mr. Clarke restated the North Carolina statutory requirements regarding variances. Mrs. Groce asked about the lighting. Mrs. Kieffer says the tennis court is non-compliant with the setback.

Chairman Goosmann asked the applicant if the process could be addressed by tackling three projects individually. Mr. James Miller said the changes to the tennis court’s location would be a significant change to the front portion of the Club. Mr. Miller was concerned about how many trees were going to be removed as part of the tennis court project.

Mr. Beatty indicated that almost all trees were going to stay as part of the tennis court relocation, and that the staff could make provisions related to reinstalling trees.

Dr. Landau asked whether additional fill material would be brought in for the fifth tennis court. Mr. Beatty indicated there would be some fill material brought in, but it would not be as high as the far tennis courts. Mrs. Groce expressed concern regarding the storm water that might come onto Stuyvesant Road or the parking lot. Mr. Beatty indicated this would be addressed by the civil engineer on the project.

The Chairman took an opportunity to swear-in Sharon Miller and Mary Moon Dillon. Ms. Miller asked if there could be a large screen upon which this project could be displayed, as she could not view the map as they were talking about it at the Board table. Mr. Miller indicated that he did not feel the Board had received all information that was necessary for consideration.

Mr. Miller asked how many trees were going to be cut down. The representative for the Country Club said it is taking the footprint of the old building so very few trees will be taken down.
Mr. Pearlman asked about the rendering and the impact on Stuyvesant Road. Mr. Pearlman said it does not give a true picture of what that area will look like. An audience member agreed.

Mr. Pearlman said if the application is withdrawn, there would not be a one year waiting period.

Chairman Goosmann said it might be best to table this matter until drawings that are more detailed are issued and more information has been gathered. Mr. Miller indicated his belief that a more thorough review was worthwhile. He further stated that the hardship standard as referenced by Mr. Pearlman was important and that there had been no viewing or gathering stand for nearly 100 years.

Mr. Pearlman asked Chairman Goosmann to verify the process for those in attendees. Mr. Goosmann indicated there was a one-year waiting period for applications that were denied.

Mr. Glenn Kelly spoke regarding the proposal. Mr. Kelly indicated when they purchased their property over thirty years ago; they knew there were benefits and burdens. The burdens have increased tremendously and the benefits have not increased tremendously. He believed the viewing area and gathering area were unnecessary. Mr. Kelly believed that the burdens being adjacent to the Country Club increased greatly in the past few years, including noise from bands and idling buses. He indicated that tennis players were playing later into the evening and this was not an issue in the past.

Mr. Charles Reynolds asked for clarification from Mr. Kelly regarding the noise comments from the band. Mr. Reynolds indicated they did not have bands performing on tennis courts and did not know how they could improve this concern.
Mr. Reynolds indicated that Mr. Kelly’s concern would likely be received well by the Country Club if expressed to them.

Mr. Miller indicated the Club had been less than responsive regarding concerns he expressed over fans being installed on the eighth green. Mr. Reynolds said he was unfamiliar with this. Mr. Goosmann indicated that this should not be addressed during this discussion, as this was not applicable to the request.

Ms. Miller asked about the need for a viewing terrace and expressed concerns for safety of children accessing this area.

Dr. Brown Crosby, an adjacent neighbor, expressed concern over putting a viewing area on Stuyvesant Road for safety.

Dr. Black asked Mr. Goosmann where they are in the process. Chairman Goosmann indicated his recommendation would be for the Club to table this request and return with further information.

Dr. Black asked for clarification regarding whether the fifth tennis court was included as a variance, as this was not known to them. Mr. Kanipe explained that the fifth tennis court was included in the variance application.

Dr. Black withdrew the application on behalf of the Biltmore Forest Country Club. He asked what the next steps for the process would be. Mr. Kanipe indicated that he would follow up with the applicants tomorrow regarding the process and moving forward.
Chairman Goosmann asked if there were any additional questions. Mr. Garza Baldwin asked for specific problems related to the project.

Chairman Goosmann suggested the representatives from the Country Club come back with plans that are more detailed.

Mr. Pearlman said it is difficult for the Board to approve the Country Club’s request at this time.

The next meeting for the Board of Adjustment is scheduled for Monday, June 17, 2019 at 4:00pm.

The meeting was adjourned at 5:12pm.

ATTEST:

_________________________________      _______________________________
Greg Goosmann      Jonathan B. Kanipe
Chairman            Town Manager
MEMORANDUM

To: Board of Adjustments Members
From: Jonathan Kanipe, Town Manager
Re: Board of Adjustments Case Number 1 (17 Forest Road)
Date: June 7, 2019

Request for Conditional Use Permit for a Detached Accessory Building

The property owners at 17 Forest Road have submitted plans for renovations to the current house to include the addition of a garage. Based on ordinance definitions, two buildings are considered attached only when connected by an enclosed and conditioned area.

Building. Any structure having a roof supported by columns or by walls, and intended for shelter, housing, or enclosure of persons, animals, or property. Two structures shall be deemed a single building only if connected by heated and enclosed living space.

The garage presented is attached by a breezeway so it is considered a detached accessory building, requiring approval of a Conditional Use Permit. It should be noted that the plans also include interior remodeling, a screened porch, and renovations to the driveway that do not require Board of Adjustment approval.

Request for a Variance for Allowance of Two Accessory Buildings

An existing garden shed, original to the house, is also located on the lot. Section §153.029 (B)(1)(a) of the Zoning Ordinance states, “The maximum number of accessory buildings permitted on a lot shall be one”. The addition of the detached garage creates the need for a variance due to the existing garden shed. The applicant notes limited pedestrian access and excess site disturbance as the hardships created by the ordinance in requiring enclosed or attached structures.
Zoning Compliance Application
Town of Biltmore Forest

Name
William Wharton

Property Address
17 Forest Road, Biltmore Forest, NC  28803

Phone
(828) 545-5808

Email
wwwharton@gmail.com

 Parcel ID/PIN Number
964771464800000

ZONING INFORMATION

Current Zoning
R-1

Lot Size
2.32 Acres

Maximum Roof Coverage
6,700 square feet (Up to 2.5 acres)

Proposed Roof Coverage Total
5,490 SF

Maximum Impervious Surface Coverage
1-3 acres (25 percent of lot area)

Proposed Impervious Surface Coverage
13,734

Front Yard Setback
60 feet (R-1 District)

Side Yard Setback
20 feet (R-1 District)

Rear Yard Setback
25 feet (R-1 District)

Building Height
26’ Existing, 18’ proposed addition

Description of the Proposed Project
Project consists of partial interior remodeling including family room and rear entrance area, addition of screened rear porch, addition of garage attached by 10’ by 6’ covered porch/breezeway, renovation of existing driveway, and updates to landscaping.

Estimated Start Date
8/1/2019

Estimated Completion Date
7/31/2020

Estimated Cost of Project
$550,000.00

Supporting Documentation (Site Plan, Drawings, Other Information)
190528 Wharton-WatermarkLandscapeArchitecture.pdf
190528 Wharton-Scott Keels.pdf
Applicant Signature: Hunter Marks for Dr. William Wharton

Date: 5/28/2019
VARIANCE APPLICATION
Town of Biltmore Forest

Name
William Wharton

Address
17 Forest Road

Phone
(828) 545-5808

Email
wwwharton@gmail.com

Current Zoning/Use
Residential

Requested Use
Residential

APPLICATION REQUIREMENTS: An application to the Board of Adjustment for a variance must be submitted to the Town of Biltmore Forest Town Manager at least 21 days prior to the meeting at which the application will be considered. A pre-application meeting with Town staff is required prior to applicaiton submittal to the Board of Adjustment.

What would you like to do with your property?
This project consists of partial interior remodeling including multi-use room and rear entrance area, the addition of a screened rear porch, the addition of a garage attached to the house with a 10' long by 6' wide open porch/breezeway, renovation of existing driveway, and updates to landscaping.

What does the ordinance require?
The town ordinance allows one detached structure on site. An existing garden shed, original to the house (1956), is located in a secluded wooded area to the rear of the property, and is to remain. While the new garage is attached to the house with a 10' long, 6' wide porch/breezeway, the town ordinance considers the new garage to be detached, as the connection is not fully enclosed and conditioned space.

BOARD OF ADJUSTMENT: N.C.G.S. 160A-388(D) requires that the Board of Adjustment shall vary the provisions of the Zoning Ordinance only upon a showing of ALL the items below. The Board of Adjustment must follow strict procedure and all determinations must be decided by a concurring vote of four-fifths of the members of the Board. It is important to provide detailed supporting documentation for the Board of Adjustment to review. If necessary, additional sheets may be attached to this application.

REQUIRED FINDINGS: Please provide a thorough response to each.

Unnessary hardship would result from the strict application of the ordinance.
Allowing the proposed open porch/breezeway provides reasonable pedestrian access and flow to the rear of the property and the existing garden shed. It also allows for the passage of typical garden items such as wheelbarrows, lawn mowers, trimmers, large garden tools, etc. Enclosing the space would require a new path on the north end of the proposed garage, necessitating additional grading and removal of vegetation. We also believe this additional site disturbance and building expense result in unnecessary costs to the applicant.

The hardship results from conditions that are peculiar to the property, such as location, size, or topography.
The original location of the proposed garage was on the far side, or north, side of the existing parking area, which would necessitate additional site grading and vegetation removal. The proposed garage footprint
was reduced, and the location changed to minimize grading and disturbance to existing vegetation.

The hardship did not result from actions taken by the applicant or the property owner. The hardship results from existing topography. The final proposed garage location is an effort by the applicant to minimize changes to the existing topography and vegetation.

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. We believe the requested variance is in keeping with the spirit of the town ordinance, which we feel was intended to prevent multiple detached structures from proliferating on one property. Public safety is not negatively affected by this request, and we believe this request is fair to both the town and the applicant. It is also noted that the connection between the residence and the garage will not be visible from the street, and much of the property is wooded, including the areas surrounding the proposed garage, connection, and existing garden shed.

I hereby certify that all of the information set forth above is true and accurate to the best of my knowledge.

Signature

Dr. William Wharton

Date

5/28/2019
Conditional Use Permit Application
Town of Biltmore Forest

Name
William Wharton

Address
17 Forest Road

Phone
(828) 545-5808

Email
wwwharton@gmail.com

Please select the type of conditional use you are applying for:
Accessory Buildings

The applicant must show that the proposed use will not materially endanger public health or safety or injure value of adjoining or abutting property. In addition, the proposed use must be in general conformity with the plan of development of the town and be in harmony with scale, bulk, height, coverage, density, and character of the neighborhood.

Please provide a description of the proposed project:
Project consists of partial interior remodeling including family room and rear entrance area, addition of screened rear porch, addition of garage attached by 10' by 6' covered porch/breezeway, renovation of existing driveway, and updates to landscaping.

Explain why the project would not adversely affect the public interest of those living in the neighborhood:
The project is in keeping with typical residential standards in Biltmore Forest, and are improvements to the existing house and grounds. We feel it fits well with the existing scale, bulk, height, coverage, density, and character of the neighborhood. It will have no adverse affect on public safety.

I hereby certify that all of the information set forth above is true and accurate to the best of my knowledge.

Signature

Date
5/28/2019

Hunter Marks for
Dr. William Wharton
Know what's below before you dig.

Call WATERMARK LANDSCAPE ARCHITECTURE
HUNTER MARKS, RLA, ASLA, LEED AP / BROOKE JOHNSON, BLA
HENDERSONVILLE, NC
(828) 595-2327
WWW.WATERMARKLAND.COM

LANDSCAPE ARCHITECTURE I LAND PLANNING I CONSULTING

YARD GRATE D.I.
INLET ELEV 2204.00'

BILTMORE FOREST, NORTH CAROLINA
Wharton Residence
FOREST ROAD
(PUBLIC)

RESIDENCE EF: 2228.23'

STEVEN STRANG
DB 1997 PG 412
PB 4 PG 51

QUALIFIED P.R. TRUST BUSBEE NO. 1
DB 4847 PG 844
PB 4 PG 51

RICHARD BENFIELD
DB 2449 PG 888
PB 12 PG 25

ALLEN FREEMAN
DB 4416 PG 1461
PB 12 PG 25

POWER POLE (TYP)
EX. HOLLIES (TYP)
EX. BOXWOODS (TYP)
EX. TREE (TYP)
REMOVE EX. CONCRETE / BRICK PAD AND COLUMNS, COORDINATE WITH BUILDING CONTRACTOR

EX. BOARD FENCE
POWER LINE (TYP)
DEMO EX. BRICK WALK, COORDINATE WITH BUILDING CONTRACTOR

EX. DRAINAGE TO BE REPAIRED/REPLACED AS REQUIRED
2:1 MAX. SLOPE, MINIMIZE DISTURBANCE TO EX. TREE ROOTS AND VEGETATION

6" X 20' PVC CONDUIT (TYP)
POSSIBLE CONCRETE SLAB TO BE REMOVED UNDER ENTIRE WALK

ALL STEPS 7" (TYP)
PROPOSED PLANTS ON BANK ARE SHOWN IN THEIR APPROXIMATE LOCATIONS. ADJUST BASED ON EXISTING VEGETATION. REMOVE ALL ROSE OF SHARON FROM THIS AREA.
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Know what's below. Call before you dig.
1. PRIOR TO ANY SITE GRADING, INSTALL TREE PROTECTION FENCE AT DRIP EDGE OF ALL TREES ADJACENT TO GRADING. FENCE MAY BE TEMPORARILY REMOVED ONLY AS NECESSARY. DO NOT STORE MATERIALS OR PARK VEHICLES INSIDE FENCE. USE ENVIROFENCE NET OR APPROVED EQUIVALENT.

2. ALL GRADING, UNLESS OTHERWISE APPROVED, SHALL NOT DISTURB EXSISTING TREES AND VEGETATION. DURING CONSTRUCTION, BUILDING CONTRACTORS AND ALL SUBCONTRACTORS SHALL BE RESPONSIBLE FOR PROTECTION OF ALL TREES TO BE RETAINED ON THE SITE, INCLUDING ROOT ZONES, TRUNKS, LIMBS, AND CANOPIES.

3. TREES MARKED WITH AN 'X' ON PLAN ARE TO BE REMOVED.

4. ALL OTHER EXISTING TREES ARE TO BE PRESERVED UNLESS DISEASED, DANGEROUS, OR OTHERWISE DIRECTED BY LANDSCAPE ARCHITECT.

TREE PROTECTION NOTES
1. PRIOR TO ANY SITE WORK COMMENCING, INSTALL TREE PROTECTION FENCE AT DRIP EDGE OF ALL TREES ADJACENT TO GRADING. FENCE MAY BE TEMPORARILY REMOVED ONLY AS NECESSARY. DO NOT STORE MATERIALS OR PARK VEHICLES INSIDE FENCE. USE ENVIROFENCE NET OR APPROVED EQUIVALENT.

2. ALL GRADING, UNLESS OTHERWISE APPROVED, SHALL NOT DISTURB EXISTING TREES AND VEGETATION. DURING CONSTRUCTION, BUILDING CONTRACTORS AND ALL SUBCONTRACTORS SHALL BE RESPONSIBLE FOR PROTECTION OF ALL TREES TO BE RETAINED ON THE SITE, INCLUDING ROOT ZONES, TRUNKS, LIMBS, AND CANOPIES.

3. TREES MARKED WITH AN 'X' ON PLAN ARE TO BE REMOVED.

4. ALL OTHER EXISTING TREES ARE TO BE PRESERVED UNLESS DISEASED, DANGEROUS, OR OTHERWISE DIRECTED BY LANDSCAPE ARCHITECT.

5. ADJACENT TREES TO BE REMOVED IN THIS AREA TO ALLOW FOR PROPOSED GRADING. ALL UNMARKED TREES ARE 6" IN DIAMETER OR SMALLER AS NOTED BY THE SURVEYOR.

6. ADDITIONAL TREES TO BE REMOVED IN THIS AREA TO ALLOW FOR PROPOSED GRADING. ALL UNMARKED TREES ARE TO BE REMOVED OR MARKED AS NOTED BY THE SURVEYOR.

7. ALL TREES TO BE REMOVED (TYP). 10" WHITE OAK

8. ALL TREES TO BE REMOVED (TYP). 16" WHITE PINE

9. 10" WHITE PINE-REQUESTED

10. 8" HEMLOCK

11. 6" HEMLOCK

12. 10" PINE

13. 24" WHITE OAK

14. 26" WHITE OAK

15. 6" SPRUCE

16. 6" SPRUCE

17. 22" WHITE OAK

18. 20" WHITE PINE

19. 10" WHITE OAK

20. 20" WHITE PINE

21. 8" HEMLOCK

22. 24" WHITE OAK

23. 8" HEMLOCK

24. 10" PINE

25. 12" WHITE PINE

26. 24" WHITE OAK

27. 10" DEAD TREE-APPROX. LOCATION

28. 20" LEANING OAK

29. 10" WHITE PINE-REQUESTED

30. 26" POPLAR- DEAD
Dr. William Wharton & Mrs. Lisa Wharton Residence
MEMORANDUM

To: Board of Adjustments Members
From: Jonathan Kanipe, Town Manager
Re: Board of Adjustments Case Number 2 (19 Eastwood Road)
Date: June 7, 2019

Request for a Variance for Construction of Portion of Driveway in Side Yard Setback

The property owners at 19 Eastwood Road have presented plans for new construction of a single-family home. The driveway used to service the previous home, partially located in the side yard setback, will be utilized and does not require additional approval. The new plans, however, request an expansion of the portion of the driveway closer to the house to be used as an “auto court” which will also be located in the side yard setback. The new portion of the driveway will require approval of a variance. The ordinance language regarding driveways in the side yard setback can be found below:

YARD, SIDE. An open, unoccupied space on the same lot with a principal building extending the full width of the lot and being situated between the building and the side lot line and extending from the rear line of the front yard to the front line of the rear yard. Notwithstanding the above definition, for the purposes of determining compliance with minimum yard setback of § 153.007, the SIDE YARD shall be the entire length of each side lot line extending from the front lot line to the rear lot line and shall equally apply to lots with a principal building, lots without a principal building and vacant lots. Driveways shall not be located in the side yard setback.

Request for Approval of Land Disturbance Activities Exceeding Twenty Percent of Lot

Section §153.034 of the Zoning Ordinance requires Board of Adjustment approval for any land disturbance activities over 20% of the lot area. The plans presented show site disturbance of .75 acres on a 2.001 acre lot, which results in 37% of the land area to be disturbed. A landscaping plan and a grading plan are included in this submittal.

§ 153.034 LAND DISTURBANCE AND SEDIMENTATION CONTROL.

(A) Land disturbance becoming landscaping. Any land-disturbing activity, such as grading projects or removal of natural vegetation, that involves the disturbance of 20% or more of the land area of any lot shall submit a landscaping and grading plan for such activity to the Board of Adjustment for review and approval. Prior to commencing such activity in a public service district, any land-disturbing activity such as grading projects or removal of natural vegetation other than routine maintenance shall be subject to approval by the Town Board of Adjustment regardless of the area to be disturbed.
Zoning Compliance Application
Town of Biltmore Forest

Name
Dick and Joyce Funk

Property Address
Eastwood Drive, Biltmore Forest

Phone
(727) 641-8770

Email
funk@bradleyconstruction.com

Parcel ID/PIN Number
9646-86-6649

ZONING INFORMATION

Current Zoning
R-1

Lot Size
2.001

Maximum Roof Coverage
6,700 square feet (Up to 2.5 acres)

Proposed Roof Coverage Total
6697 square feet

Maximum Impervious Surface Coverage
1-3 acres (25 percent of lot area)

Proposed Impervious Surface Coverage
14,015 square feet

Front Yard Setback
60 feet (R-1 District)

Side Yard Setback
20 feet (R-1 District)

Rear Yard Setback
25 feet (R-1 District)

Building Height
40 feet (at highest consistent grade)

Description of the Proposed Project
Construction of a new single family residence

Estimated Start Date
7/15/2019

Estimated Completion Date
9/15/2020

Estimated Cost of Project
$2,200,000.00
Supporting Documentation (Site Plan, Drawings, Other Information)
01-Front Elevation Rendering.pdf
02-Right Side Elevation Rendering.pdf
03-Left Side Elevation Rendering.pdf
04-Rear Elevation Rendering.pdf
05-First Floor Plan.pdf
06-Second Floor Plan.pdf
07-Lower Level Floor Plan.pdf
08-Roof Plan.pdf
09-Site Plan.pdf
10-Grading Plan.pdf
11-Landscape Plan.pdf
12-Details 1.pdf
13-Details 2.pdf
14-Lighting Plan.pdf

Applicant Signature

Date
5/30/2019
VARIANCE APPLICATION
Town of Biltmore Forest

Name
Dick and Joyce Funk

Address
19 Eastwood

Phone
(727) 641-8770

Email
funk@Bradleyconstruction.com

Current Zoning/Use
Residential

Requested Use
Residential

APPLICATION REQUIREMENTS: An application to the Board of Adjustment for a variance must be submitted to the Town of Biltmore Forest Town Manager at least 21 days prior to the meeting at which the application will be considered. A pre-application meeting with Town staff is required prior to application submittal to the Board of Adjustment.

What would you like to do with your property?
Locate the driveway motor court/turnaround approximately 8 feet into the 20 foot side setback.

What does the ordinance require?
The zoning ordinance requires that no driveways be allowed in the side setback.

BOARD OF ADJUSTMENT: N.C.G.S. 160A-388(D) requires that the Board of Adjustment shall vary the provisions of the Zoning Ordinance only upon a showing of ALL the items below. The Board of Adjustment must follow strict procedure and all determinations must be decided by a concurring vote of four-fifths of the members of the Board. It is important to provide detailed supporting documentation for the Board of Adjustment to review. If necessary, additional sheets may be attached to this application.

REQUIRED FINDINGS: Please provide a thorough response to each.

Unnecessary hardship would result from the strict application of the ordinance.
The hardship that will occur is that the new single family residence that we are proposing to build on the existing property located at 19 Eastwood in Biltmore Forest, will be forced to move to the right of the property, placing the new structure further into a deep ravine that exist on the property. The hardship is a financial higher cost in foundation cost, retaining walls, and fill soil to accommodate the placement in this deep ravine area. The house will have a much better site orientation and massing if allowed to remain positioned on the property as we have shown on our site plan and landscape plan. Also, the existing natural site drainage on this property in this ravine will remain in effect and undisturbed if the variance is allowed.

The hardship results from conditions that are peculiar to the property, such as location, size, or topography.
The hardship occurs due to the topographical existence of a rather steep ravine located along the right hand side of the property.

The hardship did not result from actions taken by the applicant or the property owner.
The hardship of the deep ravine on the property is an exiting topographical hardship that is a detraction of
the existing property.

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. It is our feeling that the new home to be built will fit into the character and general intent of Biltmore Forest if the driveway motor court is allowed to be positioned over the left side setback approximately 8 feet.

I hereby certify that all of the information set forth above is true and accurate to the best of my knowledge.

Signature

Date
6/3/2019
Review Notes
1. This plan is for general landscape concepts and areas only. A complete landscape
plan will be provided by owner at 95% completion of the house construction.
1. This plan is for general lighting concepts and areas only. A complete landscape lighting plan will be provided by owner at 50% completion of the house construction.
1. DURING ESTABLISHMENT PERIODS MAINTENANCE:
   - Check Stone Ditches After Each Rainfall And Immediately Make Check Stone Ditches After Each Rainfall.
   - Stones And Increase Stone Sizes As Needed To Achieve Full Vegetation And Grass Growth.
   - Remove Sediment Accumulations.

2. AFTER ESTABLISHMENT CHECK AFTER REQUIRED
   - Dirt Is Visible At All Times.
   - Keep Stone Coverage So That No Remove Sediment Accumulations.
   - Outlet For Bank Stability And Heavy Rainfalls. Check Channel

3. REMOVE CHECK DAM WHEN DITCH CHANNEL IS HEIGHT AND CROSS SECTION.
   - Damage Immediately. If Significant Erosion Sediment Above Check Dam, Correct All
   - Dam AFT E REA C HR U N O FE V E N T. A N T I C I P A T E
   - Damage Immediately. If Significant Erosion Sediment Above Check Dam, Correct All
   - Dam AFT E REA C HR U N O FE V E N T. A N T I C I P A T E

4. FABRIC REINFORCED SLOPES GREATER THAN 10’ IN HEIGHT
   - TYPICAL CHECK DAM DETAIL
   - TYPICAL DITCH CHECK SECTION
   - TYPICAL DITCH CHECK SECTION

5. STONE DITCH
   - DRAIN INLET
   - DRAIN INLET PROTECTION
   - BOULDER WALL (HEIGHT LESS THAN 5 FEET)

6. TYPICAL CHECK DAM DETAIL
   - TYPICAL DITCH CHECK SECTION
   - TYPICAL DITCH CHECK SECTION
   - TYPICAL DITCH CHECK SECTION

7. BOULDER WALL (HEIGHT LESS THAN 5 FEET)
   - SCALE 1:1