



To: Members of the Board of Adjustment, Applicants & Neighboring Property Owners
From: Jonathan B. Kanipe, Zoning Administrator
Date: March 4, 2019
Re: **Board of Adjustment Meeting – March 18, 2019**

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 March 21, 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 following items of business are scheduled to be addressed by the Biltmore Forest Board of Adjustment on Monday, March 18, 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 February 11, 2019 regular meeting will be considered.
- 3) Hearing of Cases (Evidentiary Hearings, Deliberations & Determinations):

Case 1: Scot and Melissa Hollmann, 4 Southwood Road, request a Conditional Use Permit to relocate a driveway entrance column and wall.
- 4) Adjourn

MINUTES OF THE BOARD OF ADJUSTMENT MEETING
HELD MONDAY, FEBRUARY 11, 2019.

The Board of Adjustment met at 4:00 p.m. on Monday, February 11, 2019.

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

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

Mr. Goosmann swore in the following:

Mr. Rick Conard
Mr. Ryan Cecil
Ms. Diane Zimmerman
Ms. Joyce Young
Mr. Benjamin Mitchell
Mr. Sam Olesky
Ms. Laura Olesky
Mr. Charles Reynolds
Mr. Tom Roberts
Mr. Steven Lee Johnson
Mr. Jim Selmensberger
Mr. Robert Griffin
Mr. Chad Dorsey
Mr. Reid Fendler

A motion was made by Mr. Robert Chandler to approve the minutes January 14, 2019 meeting. The motion was seconded by Ms. Lynn Kieffer. The minutes were unanimously approved.

HEARING (Evidentiary):

The first matter discussed was William Amherst Cecil, Jr. at 7 Frith Drive requesting a Conditional Use Permit for installation of a deer fence around the perimeter of the property. A Variance is also requested for a portion of the fence located in the front yard and for the installation of driveway gates. Chairman Goosmann noted that Mr. Clarke, the Town Attorney, had recused himself from this matter due to a conflict. Mr. Rick Conard, with the Biltmore Company, and Mr. Ryan Cecil were present to review the plans for the project. Mr. Conard relayed the proposal for the plan, including the driveway gates. Dr. Rich Landau shepherded the discussion. There are about 22 acres on this property. An eight-foot deer fence would be constructed around the property. The fence along the back of the property would be one foot off the property line on the interior side. The deer fence would prevent the deer from eating the landscaping on the property. It will be built with a wood 4x4 post and a wired fence similar to what was shown in the packet. The front would have iron gates with a brick pillar. The front fence would also be landscaped on the front and back of the metal fence to obscure the view from the public.

Dr. Landau asked if the fence in the rear of the property would be a replacement. This was confirmed. Dr. Landau also confirmed that they are proposing two gates with columns. This was also confirmed.

Chairman Goosmann asked Mr. Jonathan Kanipe about the Ordinance regarding the front yard gates. Mr. Kanipe said the Board of Commissioners is reviewing ordinance tomorrow related to driveway gates. It is possible there will be a public hearing in March.

Chairman Goosmann said a decision could not be made today regarding the driveway gates but the Board will consider the replacement of the deer fence.

Chairman Goosmann said they already showed the Board the style and type of fencing that will be installed.

Mr. Kanipe told Chairman Goosmann that the letters received in opposition for this project was specifically related to the front yard portion of the plan.

DELIBERATION AND DETERMINATION:

Dr. Landau summarized the findings of fact. Mr. William Amherst Cecil, Jr. at 7 Frith Drive represented by Mr. Rick Conard is requesting a Conditional Use Permit for the replacement of a deer fence. The areas being discussed involve almost 22 acres. This area borders the Blue Ridge Parkway and the Biltmore Estate. The fence will be a wire fence with wood posts. The Board has inspected the site and no neighboring property owner has objected for the fence being placed in the rear and side yard. Chairman Goosmann also said the homeowner is willing to put additional buffering in if necessary.

Ms. Zimmerman spoke regarding the fencing and landscaping. Ms. Zimmerman also said the landscaping might be necessary on both sides.

Ms. Joyce Young, 1 Frith Drive, asked for clarification about where the fence would be placed.

Benjamin Mitchell, 15 Frith Drive spoke in favor of the proposal.

Ms. Lynn Kieffer made a motion to approve the Conditional Use Permit for the replacement of side and rear yard deer fencing be granted to Mr. William Amherst Cecil, Jr. at 7 Frith Drive. The facts as recited by Richard Landau and his summation be accepted as findings of facts to support this grant. The Board has inspected the site and no neighboring property owner has objected. Ms. 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 153.110 (C)(2-3) of the above ordinance. The applicant has been informed that 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. Chandler seconded the motion. All voted in favor and the matter was approved unanimously.

Mr. Conard withdrew the request for front yard fencing and driveway gates on behalf of Mr. Cecil.

HEARING (Evidentiary):

The second matter for Mr. Samuel Olesky and Ms. Laura Olesky of 22 Cedarcliff Road was called forward. They would like to construct a new single family residence. The Conditional Use Permit is for an accessory building and the Variance is for a concrete parking area in the side yard setback.

Ms. Kieffer shepherded the discussion. Ms. Olesky presented the plans. There was an existing home on this site that the owners demolished due to its poor condition. The requested drive would be in the same location. This drive is already inside the side setback which leads to their request for a variance. A Conditional Use Permit is being requested to have a detached office and workshop. They require a retaining wall due to the significant grade. They would like to leave the structure in roughly the same area as the existing.

Ms. Kieffer said it would go out a bit further so they can have a back out garage.

Mr. Chandler verified they are working on a landscape plan but asked the applicant if they would be willing to buffer additionally if necessary. Ms. Olesky agreed to do so. The existing hemlocks were planted too close together. Mr. Bill Leatherwood with the United States Forest Service inspected the hemlocks and found them infested with woolly adelgid. They will be replaced with better species.

Mr. Charles Reynolds, 24 Cedarcliff Road, expressed an opinion to favor the proposed plan if the Olsekys agreed to landscape heavily around the retaining wall.

DELIBERATION AND DETERMINATION:

Ms. Kieffer recited the findings of fact. Mr. Sam and Laura Olesky of 22 Cedarcliff are requesting a Conditional Use Permit for a workshop and a Variance for the parking area and also for a retaining wall. The Oleskys are working with the Reynolds at 24 Cedarcliff to develop a landscape plan that would work for both parties.

Chairman Goosmann asked whether there was an approximate height of the retaining wall and its length. The height was approximately 3 feet tall and 14 feet long.

Dr. Landau made a motion to approve the Conditional Use Permit and Variance for the project at 22 Cedarcliff Road for Samuel and Laura Olesky for construction of an accessory building and a turnaround area that would encroach on the side yard setback. 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 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. He further moved the Board to find that the spirit of the ordinance would be observed, public safety and welfare secured and substantial justice done. The applicant has been informed that he/she is to report to the Zoning Administrator within seven (7) days of completion of the project in order that the Zoning Administrator can determine that the project has been completed in accordance with plans submitted to the Town.

Dr. Landau 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 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):

Mr. Tom Roberts, 2 Southwood Road, was called forward to present plans for construction of a new single family residence. Mr. Roberts is requesting a **Conditional Use Permit for various accessory structures and a Variance is requested to allow a change in the lot orientation.**

Mr. Pearlman shepherded the discussion. Mr. Jim Selmensberger, principal for Palladium Builders, introduced himself. The other members of the team introduced themselves. Mr. Steven Lee Johnson, Sitework Studios, and Chad Dorsey, architect, were also present.

Mr. Steven Lee Johnson presented the rationale for utilizing Southwood Road and the Variance request. This is a corner lot and Stuyvesant Road would serve as the front street as it has the longest linear footage. The variance request would allow Southwood Road to be the front road due to safety concerns of where the driveway would be located. Mr. Johnson indicated the safety aspect of placing the home on Southwood Road versus Stuyvesant Road and indicated that this was much safer from the perspective of the design team. There is much less traffic on the Southwood side as opposed to the Stuyvesant side. Mr. Johnson noted that he is working for two clients in Biltmore Forest, the Roberts property and the Hollmann property on Southwood Road. The Hollmanns driveway is accessed differently than the Roberts property. The Hollmanns driveway is located right at the curb and the Roberts location is on a straightaway, which is much

safer. Mr. Selmensberger said there might be a possible misinterpretation of the site plan by the Hollmanns as to the location of the driveway.

Dr. Landau was concerned if the location was put at Stuyvesant Road, he wondered about safety of bicyclists. Mr. Selmesnberger also added that his commute home is driving down Eastwood Road and Stuyvesant, which is very busy.

Dr. Landau asked about the impact to landscape disturbance and tree removal along Stuyvesant Road. Mr. Johnson said they did review this and it was the first scheme they proposed, but this created significant fill dirt, more disturbance, and tree removal.

Mr. Chandler asked whether any house was located there previously. Mr. Selmensberger said this was not a tear down but rather was the first house that would be built here.

Mr. Pearlman asked the question about impacts if the property is facing Stuyvesant versus Southwood. Mr. Selmensberger said it would have been much more invasive. There is much less of an impact if the house is facing Southwood.

Mr. Johnson noted that the finished floor elevation was 44 feet below the finished floor elevation from the property at 4 Southwood Road. Mr. Johnson also referred to the letter regarding bamboo and its placement on the lot. He noted the site plan did show a correct location for the bamboo. This information will be shared with the Hollmanns. The bamboo provides a significant buffer on the Hollmanns property. There is such an extreme change in elevation, and more trees will be saved utilizing Southwood Road as the front yard.

Mr. Selmensberger indicated that the disturbance off Southwood Road would result in maintaining and improving the Stuyvesant Road side of the property. The applicants intend to heavily buffer Stuyvesant Road.

Mr. Pearlman stated that it appeared they are saying that safety would be improved by using Southwood Road; the tree removal and site disturbance would be lessened by using Southwood Road. Mr. Selmensberger agreed, and added that the topography and site work is significantly more difficult by coming in on Stuyvesant Road.

Ms. Kieffer reviewed the specific trees already selected as part of the overall landscaping plan. Mr. Johnson indicated that the specific trees had been picked out and would be utilized that were included in the replanting plan. The replacement trees will exceed the trees being removed.

Mr. Johnson indicated that the preliminary planting plan was in place to improve the existing lot by removing the invasive and monoculture that currently exists on the property. This would restore a native area and provide a polyculture of forest materials.

Ms. Kieffer asked about the retaining walls on the project. Mr. Johnson reviewed the proposed retaining walls, and specifically noted the trees that would be preserved along the Hollmann boundary. Mr. Johnson indicated that these retaining walls were specifically included to preserve trees along the Hollmann property. Mr. Selmensberger indicated that the grading plan would include a more involved grading scheme to preserve these trees.

Ms. Zimmerman asked a question related to the circular driveway and its necessity. Mr. Selmensberger indicated the applicant was concerned with safety of his children and had previously had two tragedies where children were killed by cars backing out. The major concern for them was safety.

Ms. Kieffer asked whether there had been any discussion with the neighbors across Stuyvesant Road on Eastwood Road. Mr. Johnson said this plan was the least obtrusive to Stuyvesant Road and the neighbors along Stuyvesant Road.

Mr. Pearlman agreed to consider the conditional use permit requests at this time. Mr. Johnson spoke about the small residential pool with accompanying, and required, black picket fencing. The pool was 18 feet by 10 feet. There are also five (5) retaining walls on the property. The pool is not visible from any adjacent property due to the topography of the property.

Mr. Kanipe said there were several letters provided by neighboring property owners which were provided to the Board.

Mr. Chandler asked about the colors or material of the home. Mr. Clarke reiterated that the Town was specifically prohibited by North Carolina General Statute from imposing any changes or design requirements on the home itself.

DELIBERATION AND DETERMINATION:

Mr. Pearlman recited the facts. Emily and Tom Roberts, 2 Southwood Road, are requesting a Conditional Use Permit and Variance for construction of a new home and a retaining wall. The conditions submitted by Jim Selmensberger and Steven Lee Johnson have been reviewed and all questions have been answered by the Board. Chairman Goosmann added that a Variance is being requested for the lot orientation and a Conditional Use Permit is being requested for the retaining walls.

There were no additional questions from the audience.

A motion was made by Ms. Lynn Kieffer to approve the Conditional Use Permit and Variance for Mr. Tom Roberts and Ms. Emily Roberts of 2 Southwood Road. The facts as recited by Lowell Pearlman and his summation be accepted as findings of facts to support this grant. The Board has inspected the site the neighboring property owners' responses have been taken into consideration. Ms. 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 153.110 (C)(2-3) of the above ordinance. The applicant has been informed that 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.

Further, Ms. Kieffer 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. Chandler seconded the motion. The matter was approved unanimously.

HEARING (Evidentiary):

Mr. Thad and Ms. Ingrid Davis were called forward to present plans for building improvements at 31 Hilltop Road. A Conditional Use Permit is requested for accessory structures in the rear yard, which includes a swimming pool, tennis court, and water feature. The original plans included an 8-foot tall black cyclone fence. Mr. Chandler shepherded the discussion and noted this had changed. Mr. Robert Griffin began to explain the changes to the plans that were in relation to noise concerns and other concerns related to the tennis court.

Mr. Griffin indicated changes to the plans from the last meeting included reorienting the court 90 degrees.

Several neighbors had expressed concerns about noise. The applicants modified their plan to utilize a clay surface instead of an asphalt tennis court to reduce the noise. A wood, lattice fence will also be utilized instead of the black cyclone fence. The applicants also believed that rotating the court 90 degrees will cut down on noise and allow for additional buffering. Mr. Kanipe noted that residents from 33 Hilltop Road and 57 Stuyvesant Road also raised objections due to noise. There were no letters written but just two residents expressing their concern regarding this. There will be no tennis court lighting.

Chairman Goosmann asked about lighting around the pool area. Mr. Griffin indicated this would be low-level landscape lighting and no sound amplification equipment.

Reid Fendler, a resident who lives at 12 Busbee Road, was supportive of the project. Mr. Kanipe answered a previous question from a board member related to the Town's noise ordinance and informed the Board this related only to construction activity.

DELIBERATION AND DETERMINATION:

Mr. Chandler recited the facts. Thad and Ingrid Davis of 31 Hilltop Road have applied for a Conditional Use Permit for multiple accessory structures. A clay tennis court with a wood lattice fence, a new pool and patio, a four-foot picket fence, and a water fountain. The fire pit will be fixed and will be gas. The width of the fire pit is 3- feet in diameter.

A motion was made by Dr. Landau to approve the Conditional Use Permit for Mr. Thad Davis and Ms. Ingrid Davis of 31 Hilltop for a tennis court, pool and several additional accessory structures. The pool will be fenced. The facts as recited by Robert Chandler and his summation be accepted as findings of facts to support this grant. The Board has inspected the site the neighboring property owners' responses have been taken into consideration. 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 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.

Ms. Lynn Kieffer seconded the motion. There was no additional discussion. The matter passed unanimously.

The next meeting for the Board of Adjustments is scheduled for Monday, March 18, 2019.

The meeting was adjourned at 5:19 p.m.

ATTEST:

Greg Goosmann
Chairman

Jonathan B. Kanipe
Town Manager

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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 1 (4 Southwood Road)
Date: March 8, 2019

Request for a Conditional Use Permit for Relocation of Driveway Gate and Wall

The applicants are requesting a conditional use permit for relocation of a driveway entrance column and wall. The current width of the driveway is very narrow and provides limited space for ingress and egress. In order to widen the driveway approximately ten feet (285 square feet), a column and wall on one side of the driveway will need to be relocated. The replacement column and wall will match the current structures.

The requirement of a conditional use permit for driveway entrance columns and walls is found in **Section §153.007 Dimensional Requirements, Footnote 5** of the Biltmore Forest Zoning Ordinance and reads as follows:

(4) Footnote 5. Accessory structures, including driveways, shall meet all setback requirements. Notwithstanding the foregoing, setback requirements for driveway entrance columns or driveway entrance walls may be waived or modified by the Board of Adjustment with the granting of a conditional use permit in accordance with § [153.110\(C\)](#), without the need for a variance pursuant to § [153.110\(D\)](#).

Zoning Compliance Application

Town of Biltmore Forest

Name

Scot and Melissa Hollmann

Address

4 Southwood Road Biltmore Forest, NC 28803

Phone

(828) 274-5979

Email

jon@griffinarchitectspa.com

Parcel ID/PIN Number

9646-75-8739

ZONING INFORMATION

Current Zoning

R-1

Lot Size

4.687 Acres

Maximum Roof Coverage

9,100 square feet (Up to 5 acres)

Proposed Roof Coverage Total

NA

Maximum Impervious Surface Coverage

20 percent of lot area (3-6 acres)

Proposed Impervious Surface Coverage

31718 SF

Front Yard Setback

60 feet (R-1 District)

Side Yard Setback

20 feet (R-1 District)

Rear Yard Setback

25 feet (R-1 District)

No buildings or structures may be located within these setback areas. A variance application is required if your project requires encroachment upon the setback.

Description of the Proposed Project

In addition to work currently under way at 4 Southwood Road, removal and relocation of an existing driveway entrance column and wall is proposed in accordance with Article VII - Dimensional Requirements; Footnote #5. The relocated driveway entrance column and wall will be built to match the existing driveway entrance columns and walls. 285 SF of new driveway is also proposed adjacent to Southwood Road. Please see the attached drawing SD1.

Estimated Cost of Project

\$50,000.00

Estimated Completion Date

9/30/2020

Applicant Signature



Supporting Documentation (Site Plan, Drawings, Other Information)

HOLL SD1 DRIVEWAY COND USE APP.pdf

Conditional Use Permit Application

Town of Biltmore Forest

Name

Scot and Melissa Hollman

Address

4 Southwood Road

Phone

(828) 274-5979

Email

jon@griffinarchitectspa.com

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

Accessory Structures

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:

In addition to work currently under way at 4 Southwood Road, removal and relocation of an existing driveway entrance column and wall is proposed in accordance with Article VII - Dimensional Requirements; Footnote #5. The relocated driveway entrance column and wall will be built to match the existing driveway entrance columns and walls. 285 SF of new driveway is also proposed adjacent to Southwood Road. Please see the drawing SD1 included with the Zoning Compliance Application.

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

The proposed removal and relocation of an existing driveway entrance column and wall at 4 Southwood Road will improve safety for vehicles entering and exiting the roadway, and likewise for vehicles in the roadway, by creating a wider and more accessible space for vehicles at the transition of the driveway and roadway. Visually the replaced driveway entrance column and wall match the existing driveway entrance columns and walls.

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

Signature

Date

2/25/2019



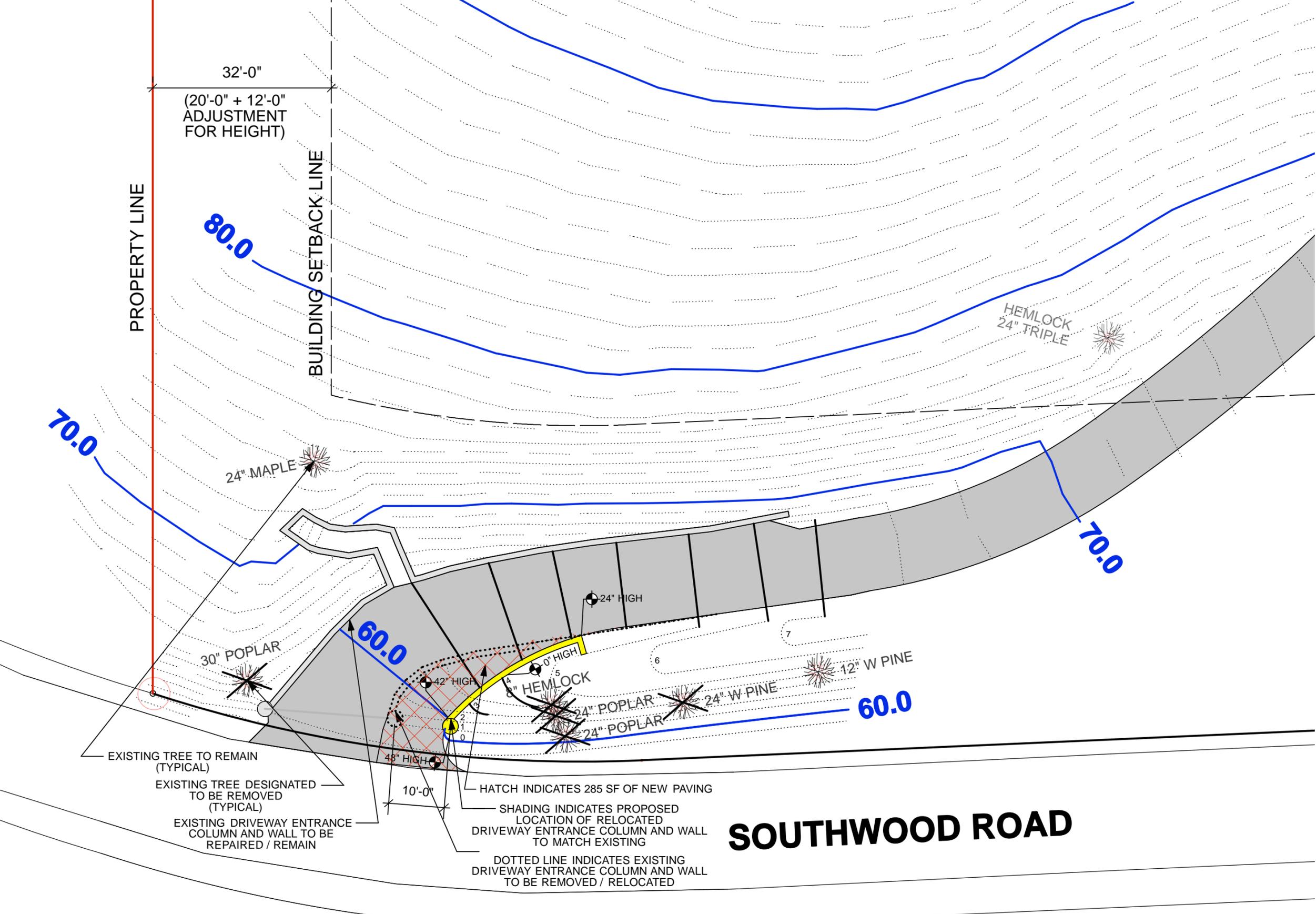


Project: **RENOVATIONS AND ADDITIONS TO 4 SOUTHWOOD ROAD**
 BILTMORE FOREST, NORTH CAROLINA
 Sheet No: **DRIVEWAY ENTRANCE COLUMN AND WALL**

GRIFFIN ARCHITECTS P.A.
 DESIGN: INTERIOR DESIGN, PLANNING, PRESERVATION
 ONE VILLAGE LANE, SUITE ONE, ASHEVILLE, NC 28803
 TEL: 828-274-5979 FAX: 828-274-1995
 © 2017 ROBERT GRIFFIN



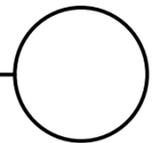
Sheet No: **SD 1**
 Date: **02/24/19**



SOUTHWOOD ROAD

PARTIAL SITE PLAN SHOWING DRIVEWAY ENTRANCE

0 5 10 15 20
 1" = 16'
 ON 12"X18" SHEET



SUPPLEMENTARY DRAWING