



To: Members of the Board of Adjustment, Applicants & Neighboring Property Owners
From: Jonathan B. Kanipe, Town Manager
Date: September 29, 2022
Re: **Board of Adjustment Meeting – October 10, 2022**

Applicants:

You or a representative **MUST** attend the meeting to have the matter considered.

Members of the Board of Adjustment & staff will conduct a site visit, as noted on the agenda, prior to the meeting. The applicant or their representative **MUST** be present for this site visit.

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 <http://www.biltmoreforest.org/board-of-adjustments>

You are invited to attend the scheduled meeting at the Town Hall and make comment when called upon.

Additional information regarding the meeting will be provided on the Town's website no later than October 5, 2022.

*****PROPOSED AGENDA*****

The following items of business will be considered by the Biltmore Forest Board of Adjustment on Monday, October 10, 2022 at 4:00 p.m at the Biltmore Forest Town Hall. The Biltmore Forest Town Hall is located at 355 Vanderbilt Road, Biltmore Forest, NC 28803.

Those interested in viewing the meeting via Zoom may do so via the link provided at the bottom of this page.

1. The meeting will be called to order and roll call taken.
2. The minutes of the September 26, 2022 regular meeting will be considered.
3. Hearing of Cases (Evidentiary Hearings, Deliberations & Determinations).

Case 1: 4 Deerfield Road – Special Use permit application for Accessory Building installation within rear yard
Site Visit – October 10, 2022 at 3:00 PM

Case 2: 2 Amherst Road – Special Use permit application for fence installation within side and rear yard
Site Visit – October 10, 2022 at 3:15 PM

Case 3: 31 Cedar Hill Road – Appeal from Notice of Violation; Request for Special Use permit application for driveway gate and posts and variance request for location of driveway gate and posts.
Site Visit – October 10, 2022 at 2:30 PM

4. Adjourn

<https://us02web.zoom.us/j/82405586759?pwd=VlFaQ0JMUXFCaGRRYUNoTHVHU2tmZz09>

Meeting ID: 824 0558 6759

Passcode: 804985

MINUTES OF THE BOARD OF ADJUSTMENT MEETING
HELD MONDAY, SEPTEMBER 26, 2022

The Board of Adjustment met at 4:00 p.m. on Monday, September 26, 2022.

Chairman Greg Goosmann, Ms. Lynn Kieffer, Mr. Robert Chandler, Mr. Lowell Pearlman, Ms. Martha Barnes, and Ms. Rhoda Groce were present. Mr. Jonathan Kanipe, Town Manager, Mr. Harry Buckner, and Mr. William Clarke, Town Attorney were also present.

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

Chairman Goosmann swore in the following:

Mr. Mike Dorsey

Mr. Jonathan Kanipe

Mr. Jim Gunn

Mr. George Stowe

Mr. James Dugan

A motion was made by Mr. Robert Chandler to approve the minutes from August 22, 2022. Ms. Rhoda Groce seconded the motion. The minutes were unanimously approved.

HEARING (Evidentiary):

The first matter is for a request for a Special Use Permit at 56 Cedar Hill Drive for a new swimming pool in the rear yard and an extension of an existing fence and gate within the side yard. The matter was shepherded by Ms. Lynn Kieffer. The fence sits behind the front plane of the house and is within the setbacks. The pool was staked off to show where it would be

located. Mr. Dorsey said Ed Holmes and Associates surveyed the property and set the property lines for the Board to view.

DELIBERATION AND DETERMINATION:

Ms. Kieffer restated the facts. Josh Shores is requesting a Special Use Permit at 56 Cedar Hill Drive, and it complies with all setbacks.

A motion was made by Ms. Rhoda Groce for a Special Use Permit and that it be granted to Josh Shores at 56 Cedar Hill Drive and that the facts as recited by Lynn Kieffer and her summation be accepted as findings and facts to support this grant. The Board has inspected this site and no neighboring property owner has objected. Ms. Kieffer further moved the Board define that granting this Special 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/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. Martha Barnes seconded the motion. The motion was unanimously approved.

HEARING (Evidentiary):

The next matter is for a Special Use Permit request to construct driveway entrance walls at 45 Forest Road. Mr. Pearlman shepherded the matter and said this includes four retaining walls and not two as originally stated. Mr. Jim Gunn said they are trying to build entrance walls at the end of the driveway. It would be a minimum of five feet from the pavement. The stonework will match the existing wall at the front of the house. There will be no columns or a gate. There will be four stone retaining walls. This project is for aesthetic purposes. The walls will be two to three feet tall, and the length will be twelve feet long and two feet wide.

DELIBERATION AND DETERMINATION:

Mr. Pearlman restated the facts and said Mr. Jim Gunn is applying for four driveway entrance walls that will be two to three feet tall and the length will be twelve feet long and two feet wide.

Ms. Martha Barnes made a motion to have a Special Use Permit granted to Mr. Jim Gunn at 45 Forest Road and the facts as recited by Lowell Pearlman 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. Ms. Barnes further moved the Board define that granting this Special 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/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. Rhoda Groce seconded the motion. The motion was unanimously approved.

HEARING (Evidentiary):

The third matter is a variance request to exceed maximum roof coverage and an associated Special Use request for construction of a detached accessory building at 32 Hilltop Road. Ms. Rhoda Groce shepherded the matter. Mr. George Stowe represented the homeowner. The accessory building is a detached garage. The location of the garage is along the side property line and in compliance with setbacks. The roof coverage is slightly over the total allowable amount, by approximately 120 square feet. The owner has a two-car garage and an RV vehicle he would like

to store on sight. This garage will accommodate this. In order to shelter his commuting vehicle, he would like to have the RV out of sight. Ms. Rhoda Groce asked if the property owner would be willing to buffer if necessary. Mr. Stowe said yes.

DELIBERATION AND DETERMINATION:

Ms. Groce restated the facts. The proposed accessory building is over the maximum roof coverage by 120 square feet. A motion was made by Ms. Kieffer that a Special Use and Variance be granted to David and Gay Cogburn, with the variance allowing an overage for roof coverage.

Ms. Lynn Kieffer made a motion to have a Special Use Permit granted to David and Gay Cogburn at 32 Hilltop Road and the facts as recited by Rhoda Groce and her summation be accepted as findings and facts to support this grant. The Board has inspected this site and no neighboring property owner has objected. Ms. Kieffer further moved the Board define that granting this Special 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/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 the spirit of the ordinance would be observed, public safety and welfare secured, and substantial justice done. The applicant has been informed that he/she is to report to the Zoning Administrator within seven (7) days of completion of the project in order that the Zoning Administrator can determine that the project has been completed in accordance with plans submitted to the Town.

The motion was seconded by Mr. Pearlman. Ms. Barnes asked for clarification on how tall the garage will be. Mr. Stowe said approximately fourteen or fifteen feet. The matter was unanimously approved.

HEARING (Evidentiary):

The last matter is a Special Use Permit request to construct a swimming pool in the rear yard and a Variance request to reconstruct an existing fence on the property line with a new fence at 327 Vanderbilt Road. Mr. Chandler shepherded the matter.

Mr. James Dugan said the fence will be placed in six-foot sections. The fence will be a 4.5-foot-tall aluminum fence. This fence would replace the existing chain-link fence. Mr. Dugan said the pool will be within the existing fence footprint. The raised beds are alongside the pool. There will be a six-inch step down from the existing patio. The pool will set below the existing patio. The new decking will be on the house side of the pool. The back side will be grass. Mr. Chandler asked for dimensions, and Mr. Dugan replied that the pool will be 23x23 foot square. The pool will be 945 square foot of water surface. The decking is ten feet of decking across the square part of the pool. The landscaping focus is at the long edge of the pool.

DELIBERATION AND DETERMINATION:

Mr. Chandler restated the facts and said James Dugan at 327 Vanderbilt Road is applying for a Special Use and Variance. The project includes new patio decking and raised garden beds which will be added to the pool. This will be behind the house, so it is not visible from the road. The pool is 23x23 and attached to a 52x8 lap pool which would make it L-shaped. The fence will be replaced with an existing fence. It will be a 4.5-foot-tall aluminum fence. It will be black. The owners agreed to buffer and landscape as necessary.

A motion was made by Mr. Pearlman to grant a Special Use Permit and Variance to James Dugan at 327 Vanderbilt Road and 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. Ms. Pearlman further moved the Board define that granting this Special 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/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. Pearlman moved by 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 the spirit of the ordinance would be observed, public safety and welfare secured, and substantial justice done. The applicant has been informed that he/she is to report to the Zoning Administrator within seven (7) days of completion of the project in order that the Zoning Administrator can determine that the project has been completed in accordance with plans submitted to the Town.

The motion was seconded by Ms. Groce and unanimously approved.

The meeting was adjourned at 4:32 pm. The next Board of Adjustment meeting is scheduled for Monday, October 10, 2022 at 4:00pm.

ATTEST:

Greg Goosmann
Chairman

Laura Jacobs
Town Clerk

**BOARD OF ADJUSTMENT
STAFF MEMORANDUM**

October 10, 2022



Case 1 – 4 Deerfield Road

**Special Use permit request to Install Accessory Building
within Rear Yard**

Property Owner: Ed Riester
Property Address: 4 Deerfield Road

Project Description

The applicant requests permission to install an accessory building within the rear yard. The planned building is a pre-fabricated garden/storage building that is 10 feet by 16 feet. The applicant states that it will be located on an existing lawn and no trees will be removed as part of the project.

Special Use Permit Request

The Town's Zoning Ordinance regulates accessory buildings in Chapter 153.029. This chapter is attached to this memorandum. The applicant has provided a site plan showing the approximate location of the building, as well as photos showing the views from each neighboring property owner's vantage point.

§ 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; and
- (h) Solar collectors shall be regulated in accordance with G.S. § 160D-914.

(2) For all satellite dishes less than 24 inches in diameter, an application for a zoning compliance certificate shall be made directly to the Zoning Administrator; the Zoning Administrator shall issue a zoning compliance certificate.

(3) Fences, gates, and walls shall be regulated in accordance with §153.049 of this Zoning Ordinance.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

Editor's note:

This amendatory language was passed during a Board meeting, July 9, 2013

Zoning Compliance Application

Town of Biltmore Forest

Name

Edward Riester

Property Address

4 Deerfield Rd

Phone

(828) 230-1162

Email

edriester4@gmail.com

Parcel ID/PIN Number

3736/Pin:964698373600000

ZONING INFORMATION

Current Zoning

R-1

Lot Size

0.88

Maximum Roof Coverage

4,682 square feet (Up to 1 acres)

Proposed Roof Coverage Total

3394

Maximum Impervious Surface Coverage

Up to 1 acre (27.5 percent of lot area)

Proposed Impervious Surface Coverage

N/A

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

9 ft, 7.7 inches

Description of the Proposed Project

Landscape equipment storage (10'x16') on existing lawn. No trees will be affected.

Estimated Start Date

11/30/2022

Estimated Completion Date

11/30/2022

Estimated Cost of Project

\$7,800.00

Supporting Documentation (Site Plan, Drawings, Other Information)

4 Deerfield Backyard Storage.jpg

4 Deerfield House Outlines.jpg

View from proposed storage building.docx

4 Deerfield Plat.jpg

Applicant Signature

Date
9/26/2022

Edward Riester

Special Use Permit Application

Town of Biltmore Forest

Name

Edward Riester

Address

4 Deerfield Rd

Phone

(828) 230-1162

Email

edriester4@gmail.com

Please select the type of special 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:

Storage building for landscaping equipment.

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

The proposed building is manufactured by Leonard in North Carolina (since 1963). I have owned another of their buildings on a different property and am pleased with their quality. The Saltbox design in the sample color is tasteful and would minimize any possible view from my side and rear neighbors. With it located within my mature trees and shrubs it should almost be impossible to see. Equipment is currently located in my legal front-loading garage and the storage building behind my home would minimize any view to traffic on Deerfield Rd.

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

Signature

Date

9/26/2022

Edward Riester



2967

1962

5921

0840

3736

6719

Deerfield Rd

4

HERE

4657

1640

16.2

6507

Amherst Rd

40.1

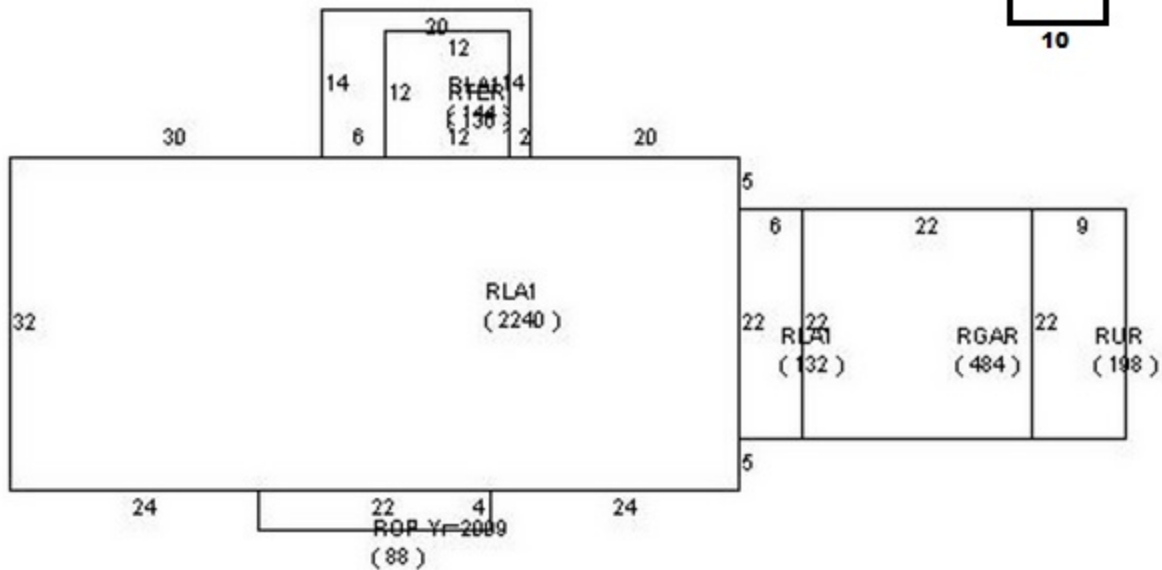


These are photos from the proposed center of my requested 10" x 16" building in my back yard. It would be almost impossible for any of my three neighbors (side, side, back) to see it. It cannot be seen from the street.

Ed Riester

16

10





**BOARD OF ADJUSTMENT
STAFF MEMORANDUM**

October 10, 2022



Case 2 – 2 Amherst Road

Special Use permit request to Install Fence within Rear and Side Yard

Property Owner: Savanna Poole
Property Address: 2 Amherst Road

Project Description

The applicant requests permission to install a fence within the rear and side yard. The proposed fence is four (4) feet tall and would attach to an existing fence already located along the rear property line. The proposed material complies with the Town's requirements. There are two gates associated with the project as well.

Special Use Permit Request

The Town's Zoning Ordinance regulates fences and gates in Chapter 153.049. This regulation is attached to the memorandum and provides additional information regarding buffering. The applicant notes substantial evergreen tree plantings that currently exist along the northern property line.

Zoning Compliance Application

Town of Biltmore Forest

Name

Savanna Poole

Property Address

28 Foundry Lane

Phone

(678) 983-3631

Email

savannaclark91@gmail.com

Parcel ID/PIN Number

9646-99-6108-0-00000

ZONING INFORMATION

Current Zoning

R-1

Lot Size

.54 acres

Maximum Roof Coverage

2,874 square feet (Up to .5 acres)

Proposed Roof Coverage Total

0

Maximum Impervious Surface Coverage

Up to 1 acre (27.5 percent of lot area)

Proposed Impervious Surface Coverage

0

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

0 (fencing)

Description of the Proposed Project

Fencing

Estimated Start Date

9/20/2022

Estimated Completion Date

10/31/2022

Estimated Cost of Project

\$7,000.00

Supporting Documentation (Site Plan, Drawings, Other Information)

Screen Shot 2022-09-15 at 6.43.49 PM.png

Screen Shot 2022-09-15 at 6.43.55 PM.png

Applicant Signature

Date
9/15/2022

A handwritten signature in black ink, appearing to be "J. Scott". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke at the end.

Special Use Permit Application

Town of Biltmore Forest

Name

Savanna Poole

Address

2 Amherst Road Asheville NC 28803

Phone

(678) 983-3631

Email

savannaclark91@gmail.com

Please select the type of special 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:

New fencing

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

I'd like to fence in my yard with black iron fencing. Attached please find photos.

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

Signature

Date

9/15/2022



AD

EVERGREEN TREES (Solid wall)

O TREE

N 57°06'24" E
117.55' Tie Line

N 57°06'24" E 92.61'

13 SECTIONS

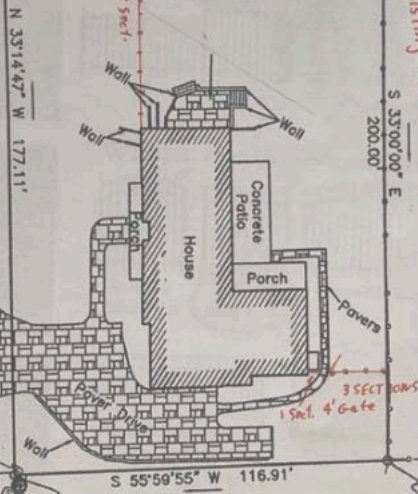
Reference IPF
1/2" Pipe
3.90'

6' GATE
4' sect.
8' sect.

Existing fence

S 33°00'00" E
200.00'

Hugo Fonseca
Maria Salas
D.B. 5625 Pg. 5
P.B. 28 Pg. 8.



S 55°59'55" W 116.91'

3 SECT OWNS
1 Sect. 4' Gate

IPF
2" Pipe
With Concrete

1/2" IPF
With Br

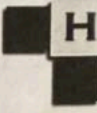
S 33°14'47"
149.24' Tie Line

George & J
D.B. 106
P.B.

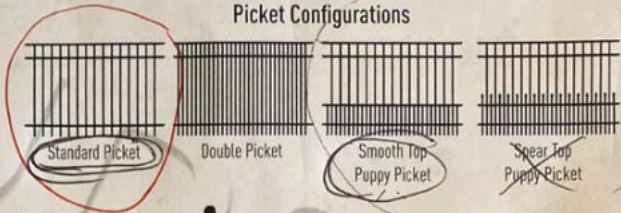


Belhaven - Smooth Top

36, 48, 54, 60, 72" HIGH



Picket Configurations



Heights

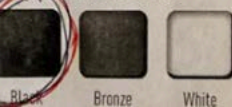


Gate Types: All Gate Types Are Offered in Standard, Double or Puppy Picket Configurations



Gates can be fabricated up to 20 ft. in length per leaf.

Available Colors



B.O.C.A. POOL CODE APPROVED HEIGHTS:
 Standard Picket Design: 54" Flush Bottom, 60" & 72"
 Double Picket Design: 48", 54", 60" & 72"

**BOARD OF ADJUSTMENT
STAFF MEMORANDUM**

October 10, 2022



Case 3 – 31 Cedar Hill Drive

Appeal from Notice of Violation

*Special Use Permit Request for Installation of
Driveway Gate and Posts*

*Variance Request for Installation of Gate within Front
Yard Setback*

Property Owner: Larissa Pollack
Property Address: 31 Cedar Hill Drive

Project Description

This application is an appeal from the Town's notice of violation regarding a non-permitted driveway gate installation. The Town notified the applicant of this issue and provided information regarding compliance. A copy of this Notice of Violation is attached to the memo.

The applicant requests an approval from the Board of Adjustment for the installation of two (2) stone gate columns, described as follows: tier one 24" wide x 24" long x 77" high (to match height of gate posts), and tier two is 24" wide x 36" long x 36" high. Stone will match same stone at front entrance to house. Gate posts will be incorporated into stone masonry.

Special Use Permit Request

The Town's Zoning Ordinance regulates driveway gates in Chapter 153.049. This regulation is attached to the memorandum and provides additional information regarding the location of driveway gates and the required width for the gate. In addition, the applicant requests two stone gate columns which should be considered part of the overall gate framework.

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

Jonathan B. Kanipe,
Town Manager

September 22, 2022

Joseph and Larissa Pollock
31 Cedar Hill Drive
Asheville, NC, 28803

Re: NOTICE OF VIOLATION – TOWN ZONING ORDINANCE
SECTION 153.029 AND SECTION 153.049

Unpermitted Driveway Gate and Accessory Structure Installation
31 Cedar Hill Drive

Dear Mr. and Ms. Pollock,

The Town has observed an unpermitted driveway gate installation, along with associated posts containing a solar panel and sign, on your property at 31 Cedar Hill Drive. The above referenced structures were not permitted by the Town of Biltmore Forest and are in violation of the Town's Zoning Ordinance. Section 153.049 of the Town Zoning Ordinance governs driveway gate installation and section 153.029 of the Town's Zoning Ordinance governs accessory structure installation. Each pertinent portion of the Zoning Ordinance is attached for your reference.

In order to come into compliance with the Town's Zoning Ordinance, the driveway gate and associated structures must be removed by Friday, October 28, 2022. You have the right to appeal this notice of violation. In order to appeal, you may request a special use permit from the Board of Adjustment (for both the driveway gate and associated posts). It may also be necessary to apply for a variance from the Board of Adjustment due to the proximity of the gate to the public road and the structures located within the front yard. In addition to the above referenced applications, a zoning permit is also required. Each of these applications may be found on the Town's website at the following address: <https://www.biltmoreforest.org/zoning-and-land-use-application-forms>

Your response to this correspondence is requested by October 1, 2022 if you intend to appeal the notice of violation to the Board of Adjustment. Please feel free to reach out with any questions. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jonathan B. Kanipe".

Jonathan B. Kanipe
Town Manager

§ 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; and

(h) Solar collectors shall be regulated in accordance with G.S. § 160D-914.

(2) For all satellite dishes less than 24 inches in diameter, an application for a zoning compliance certificate shall be made directly to the Zoning Administrator; the Zoning Administrator shall issue a zoning compliance certificate.

(3) Fences, gates, and walls shall be regulated in accordance with § 153.049 of this Zoning Ordinance.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

Editor's note:

This amendatory language was passed during a Board meeting, July 9, 2013

§ 153.049 FENCE, GATE AND WALL REGULATIONS.

The Board of Commissioners for the Town of Biltmore Forest that the following amendments to the Zoning Ordinance and subsequent regulations be placed on fence, gate, and wall construction and replacement as of the effective date of this section.

(A) New fences, gates or walls may be approved by the Board of Adjustment as a special use, so long as the gate, fence or wall meets the following requirements.

(1) The fence, gate, or wall is constructed entirely within the rear yard, is not located in any side or rear yard setbacks, and is constructed of materials deemed acceptable in § 153.049(D).

(2) Mature vegetation or other buffering sufficient to screen the fence, gate, or wall from neighboring properties shall be required to the extent necessary.

(B) A driveway gate and supporting columns may be approved by the Board of Adjustment as a special use so long as it meets the following requirements:

(1) The driveway gate and columns shall not be located in the front or side yard setback of a property.

(2) The driveway gate shall not be more than eight feet in height.

(3) The driveway gate must provide access for emergency services and first responders. This may be done via a lockbox code, strobe or siren activation switch, or other method with demonstrated reliability.

(4) The driveway gate must open wide enough to provide for ingress and egress of emergency vehicles. The minimum acceptable standard is for the gate access to be 14 feet wide with a 14 foot minimum height clearance.

(C) Replacement of existing fences, gates, and walls shall be approved by the Board of Adjustment as a special use so long as the replacement fence is constructed of materials deemed acceptable in § 153.049(D) and meets the requirements below. A special use permit application to replace an existing fence, gate, or wall shall include a photograph of the existing fence or wall, specify the type of fence, gate, or wall, include a map or sketch depicting the height and length of the fence, gate, or wall and state whether or not the fence, gate, or wall is located within any setbacks.

(1) Existing chain link fences or gates shall not be replaced with new chain link fences or gates.

(2) Existing fences, gates, or walls in the front yard shall not be replaced. No new fences, gates, or walls shall be allowed in the front yard.

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

(D) Acceptable materials and standards for fences and walls/maintenance. The following materials and standards for fences and walls shall be deemed acceptable.

(1) Wooden fencing or gates shall be of natural color or painted in a manner compatible with the residence and the lot.

(2) Non-wooden fencing and gates shall be black, dark green or brown and shall blend with surrounding trees or vegetation.

(3) No new chain link fencing or gates shall be allowed.

(4) Fences shall not exceed six feet in height except that fences designed to prevent deer or other wildlife from entering the property shall not exceed ten feet in height. Deer fences shall be

constructed in accordance with North Carolina Wildlife Resources Commission standards for "Permanent Woven Wire Fencing" and "Permanent Solid-Wire Fencing." Copies of these standards are available at the Town Hall or at the following web address (<https://www.nxwildlife.org/Learning/Species/Mammals/Whitetail-Deer/Fencing-to-Exclude-Deer#42041180-permanent-fencing>).

(5) Walls should be constructed of stone or similar material, and shall be compatible with the construction materials of the house located on the same property.

(6) When a fence, gate or wall is not properly maintained or fails to comply with condition(s) imposed by the Board of Adjustment, the town shall require the property owner to repair the fence, gate, or wall, or, remove the fence, gate, or wall at the property owner's expense. If the property owner fails to repair or remove the fence, gate, or wall, the town may remove the fence, gate, or wall and recover the cost of removal, including the cost of disposal, if any, from the property owner.

(Ord. passed 2-11-2020; Ord. passed 6-8-2021)

Zoning Compliance Application

Town of Biltmore Forest

Name

Larissa Pollack

Property Address

31 Cedar Hill Drive, Biltmore Forest, NC 28803

Phone

(480) 261-7603

Email

larissa.pollack@gmail.com

Parcel ID/PIN Number

96464348900000

ZONING INFORMATION

Current Zoning

R-1

Lot Size

1.29

Maximum Roof Coverage

5,060 square feet (Up to 1.2 acres)

Proposed Roof Coverage Total

5000

Maximum Impervious Surface Coverage

1-3 acres (25 percent of lot area)

Proposed Impervious Surface Coverage

20% of lot area

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

25 feet

Description of the Proposed Project

Driveway gates and stone columns

Estimated Start Date

9/28/2022

Estimated Completion Date

9/28/2022

Estimated Cost of Project

\$5,000.00

Supporting Documentation (Site Plan, Drawings, Other Information)

02881B7E-E409-4F72-ACF6-64096F09A50B.jpeg

Applicant Signature

Date
9/28/2022

Larissa Pollack

VARIANCE APPLICATION

Town of Biltmore Forest

Name

Larissa Pollack

Address

31 Cedar Hill Drive

Phone

(480) 262-7603

Email

larissa.pollack@gmail.com

Current Zoning/Use

Residential

Requested Use

Driveway gates

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?

Add a set of ornamental wrought iron driveway gates 14' wide at a distance of 34.5' from roadway edge.

What does the ordinance require?

60' from roadway edge.

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.**

Delivery vehicles and other visitors drive up the curved and ascending driveway to the front of house regularly, and, upon departure, either attempt to turn around in front of the house or back down driveway which has repeatedly resulted in irrigation and plants being driven over and damaged or destroyed along the curve, despite back-up cameras. Markers on edge of driveway were also driven over and knocked down. If the gates and columns were set at 60' setback, this would exacerbate the situation because someone backing down curve in driveway would eventually run into the gates and columns. Even backing down outside of the gates would be difficult. If, on the other hand the gates were situated further in toward the house, it would difficult to install the gates because the concrete driveway widens considerably towards the front of the house, as well as look absurd and serve no purpose.

Additionally, the house will be unoccupied for several months a year, therefore without gates, trespassers would be able to drive to the side garages and break in unseen. With the gates clearly visible from the road nobody would attempt to park in front of them without being seen and a quick drive by of the Biltmore Forest police would spot a parked vehicle in front of the gates.

The hardship results from conditions that are peculiar to the property, such as location, size, or topography.

Driveway ascends into a 90 degree turn in front of the house. Gates are set at only straight and relatively level part of driveway.

The hardship did not result from actions taken by the applicant or the property owner.

No.

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.

The ornamental gates, 2 tiered stone columns which will match the front of the house, and additional landscaping around the entryway onto the property will all add to the aesthetic appeal consistent with the neighborhood. Security from trespassers will also be addressed.

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

Signature

Date

9/28/2022

Larissa Pollock

Special Use Permit Application

Town of Biltmore Forest

Name

Larissa Pollack

Address

31 Cedar Hill Drive, Biltmore Forest, NC 28803

Phone

(480) 261-7603

Email

larissa.pollack@gmail.com

Please select the type of special 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:

Stone gate columns, tier one 24" wide x 24" long x 77" high (to match height of gate posts), and tier two 24" wide x 36" long x 36" high. Stone will match same stone at front entrance to house. Gate posts will be incorporated into stone masonry.

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

Masonry will be done by Wright's Stoneworks who have done exceptional work in Biltmore Forest.

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

Signature

Date

9/28/2022

Larissa Pollack

HOUSE



- (10) ROSA 'KNOCK
- (3) CORNUS FLORIDA
- (30) EUPHORBIA
- (5) COTONEASTER '1
- (10) LEUCOTHOE FO
- (20) ALCHEMILLA M
- (12) COREOPSIS '91
- (15) NEPETA X FA
- (615 SF) SPOROBC
- (8) ROSA 'KNOCK
- (10) ROSA 'KNOCI
- EXISTING TO REM
- (12) ITEA VIRGINIC

31 CEDAR HILL DRIVE

1" = 10'