



To: Members of the Board of Adjustment, Applicants & Neighboring Property Owners
From: Jonathan B. Kanipe, Town Manager
Date: November 2, 2021
Re: **Board of Adjustment Meeting – November 15, 2021**

Applicants

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

Members of the Board of Adjustment & staff may visit each property prior to the meeting. If this occurs, the property owner will be notified beforehand and asked if they approve the visit.

If the project is approved, please be prepared to present your project to the Design Review Board on Thursday, November 18, 2021 at 5:30 p.m.

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>.

Parties with standing or members of the public are invited to attend the meeting at 4:00 p.m. on Monday, November 15, 2021.

AGENDA

FACE COVERINGS REQUIRED FOR ALL ATTENDEES REGARDLESS OF VACCINATION STATUS

A ZOOM LINK IS PROVIDED ON THE FOLLOWING PAGE FOR THOSE WISHING TO PARTICIPATE REMOTELY.

The following items of business will be considered by the Biltmore Forest Board of Adjustment on Monday, November 15, 2021 at 4:00 pm in the Town Hall.

1. The meeting will be called to order and roll call taken.
2. The minutes of the October 18, 2021 regular meeting will be considered.
3. Hearing of Cases (Evidentiary Hearings, Deliberations & Determinations).
 - Case 1:** 56 Cedar Hill Drive – Variance Request for Encroachment into Setback and Special Use Permit Request for Fence Installation within Rear Yard
 - Case 2:** 11 Brookside Road – Variance Request for Exceedance of Detached Accessory Building Maximum Roof Coverage and Extend beyond Line Parallel to Rear of Building and Special Use Permit request for Detached Accessory Building
 - Case 3:** 9 Holly Hill Road – Special Use Permit Request for Existing Soccer Goal Installation within Rear Yard and Landscaping Plan Review
4. Adjourn

Topic: November 2021 Board of Adjustment Meeting

Time: Nov 15, 2021 03:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/87169515793?pwd=eGpXRWswRi8xL1Rpc2RGbDVOdUNHZz09>

Meeting ID: 871 6951 5793

Passcode: 795039

One tap mobile

+16468769923,,87169515793#,,,,*795039# US (New York)

+13017158592,,87169515793#,,,,*795039# US (Washington DC)

Dial by your location

+1 646 876 9923 US (New York)

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 408 638 0968 US (San Jose)

Meeting ID: 871 6951 5793

Passcode: 795039

Find your local number: <https://us02web.zoom.us/u/kMfwjYGxh>

MINUTES OF THE BOARD OF ADJUSTMENT MEETING
HELD MONDAY, OCTOBER 18, 2021

The Board of Adjustment met at 4:00 p.m. on Monday, September 20, 2021.

Members present: Mr. Greg Goosmann, Mr. Robert Chandler, Mr. Lowell Pearlman, Ms. Lynn Kieffer, and Ms. Martha Barnes. Mr. Jonathan Kanipe, Town Manager, Town Clerk, Ms. Laura Jacobs, Town Clerk, were present. Mr. William Clarke, Town Attorney was also present.

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

Mr. Goosmann swore in the following:

Mr. Ryan Cecil
Mr. Rob Carlton
Mr. Ben Lehman
Ms. Charlene Price
Ms. Nicole Baker
Mr. Matt Baker
Mr. Jesse Swords
Ms. Ann Skoglund
Mr. Mike Dale

A motion was made by Mr. Robert Chandler to approve the minutes from September 20, 2021. Ms. Martha Barnes seconded the motion. The minutes were unanimously approved.

HEARING (Evidentiary):

A Special Use Permit was requested for driveway gate installation and Variance request for installation within the front yard setback at 7 Frith. The matter was shepherded by Mr. Robert Chandler. The initial proposal was to address security issues. They would like to add two gates to this property. There would also be more room for emergency vehicles and package delivery. The two gates will be set on the left and right hand side of the driveway. This area will also be buffered with Holly or Rhododendron. The case was amended to remove the Variance because it is now within the setback. The height will be six feet. Pictures were shown to the Board.

DELIBERATION AND DETERMINATION:

Mr. Robert Chandler recited the facts. There will be two driveway gates within the setback. A Special Use Permit is needed but a Variance is no longer required. They are within the front yard setback and meet the gate zoning regulations. Buffering will also be planted. Neighboring property owners support the project.

Ms. Lynn Kieffer made a motion to grant a Special Use Permit for Mr. Ryan Cecil and Mrs. Rebecca Cecil. 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.

Mr. Lowell Pearlman seconded the motion. The motion was unanimously approved.

HEARING (Evidentiary):

A Special Use Permit is requested for a new accessory structure and new accessory building at 46 Hilltop Road. The original application was amended and a Variance was no longer needed to exceed roof coverage. A fountain, fence, and retaining walls are being requested. Ms. Lynn Kieffer shepherded the matter. Mr. Rob Carlton represented the homeowners. The walls are located on two sides of the house. One is on the front of the house. The wall will be relocated. The walls are approximately 24" tall. The other wall will be located on the left edge of the driveway. This wall is approximately 3' tall. This will allow the driveway to be graded more appropriately. It will be 1.5'-2' broader than the existing driveway. There will be a fence that will come out to the side of the house. The proposed fence is a black, 3' high fence that will go around the side of the garage and positioned behind the hedge. It is intended for a dog run. It will also be on the other side of the house and enclosed. The existing garage will be incorporated into the house. There will be an outdoor covered breezeway that will connect the garage to the house. This will be approximately 742 square feet of roof coverage. The fountain will be inside the hedge inside the fence that is near the breezeway. The fountain should be approximately 2' high.

Chairman Goosmann disclosed Mr. Rose is his law partner and he will not be voting.

DELIBERATION AND DETERMINATION:

Ms. Kieffer recited the facts. Mr. John and Mrs. Jill Rose of 46 Hilltop Road are requesting a Special Use Permit for accessory structures. The fountain will be in the rear. There will also be a fence, retaining walls and a garage in the back to adjoin the house with a breezeway. The neighboring property owners support this project. There will be buffering added and the project complies with the setbacks.

Ms. Martha Barnes made a motion to approve a Special Use Permit to John and Jill Rose at 46 Hilltop Road for accessory structures and 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. 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.

Mr. Robert Chandler seconded the motion. The motion was unanimously approved.

HEARING (Evidentiary):

Mr. Ben Lehman, 9 Holly Hill Road, presented revised plans for a Special Use Permit for an existing soccer goal installation within the rear yard and landscaping plan review. Ms. Martha Barnes shepherded the matter. Ms. Barnes said the pictures issued to the Board do not fully reflect what Mr. Lehman has and asked Mr. Lehman to go over the landscaping plan. Mr. Lehman said he is going to make significant efforts to buffer the goal area and showed the Board where he is planning to buffer. Mr. Lehman would like to add needlepoint hollies which would get 6-8' wide and 8-10' tall. This should block out the goal post area and a lot of the goal itself. There will also be distylium and a magnolia tree in this area, which will add height to obstruct the view. There are many plantings that have already been installed between Mrs. Price and Mr. Lehman's house and they will grow significantly in height within the next few years. Mr. Lehman is making sure this area will not be seen from the road once plantings are in place and have matured.

Mr. Chandler asked if Mr. Lehman is looking to buffer the entire soccer area, which includes the goal, so others will not see it. Mr. Lehman said yes. Ms. Barnes verified the soccer goal is 8'x24'. Mr. Lehman said yes. Chairman Goosmann asked if the four tall poles would also be buffered once the landscape has matured. The poles are 6' in height. Mr. Lehman said yes. A 20" high raised bed will be added and stained.

Ms. Charlene Price said it was suggested by the Board at the last meeting that Mr. Lehman get advice from a professional landscape architect to determine size and shape of plantings and subsection to light. Ms. Price said in Mr. Lehman's appeal there was no way to buffer it from the street. Chairman Goosmann said they do not require someone to hire a professional but did say it is encouraged.

Chairman Goosmann said it is also the homeowner's responsibility to maintain the landscaping, which is something the Town does require. Mr. Lehman said since he is now proposing raised beds, he will be able to buffer the soccer goal from the street view.

Ms. Price asked how many trees were taken out of the area where the current soccer area is located. Mr. Kanipe was unsure how many trees were removed but the tree removal for this project was approved. Mr. Kanipe said Mr. Lehman has not had any tree removals since the revised Tree Protection Ordinance was enacted. Mr. Lehman said he has not removed any trees since the Tree Protection Ordinance.

Ms. Nicole Baker asked the Board to consider what would happen if project location were neighboring the Biltmore Forest Country Club or Town Hall, or any residence on Vanderbilt or Stuyvesant Road.

Mr. Jessie Swords, an attorney from Allen Stahl and Kilbourne Law Firm attended and represented Ms. Charlene Price regarding her opposition to this project. Mr. Swords said he wrote a letter to Mr. Kanipe requesting a review of the AstroTurf field itself and to declare this is as an accessory structure. Mr. Swords also said this should be subject to a Special Use Permit request. Chairman Goosmann said the Board is here today to meet regarding the landscaping plan proposed to blend in or block the view from the neighbors' in regards to a soccer goal which has determined to be an accessory structure. The turf issue is not in the Ordinance.

Mr. Billy Clarke said there is nothing in the Town Ordinance to regulate turf. Mr. Clarke said Mr. Swords letter is received as acknowledged and Mr. Kanipe can make the determination. Mr. Sword asked regarding the Special Use Permit request, has the applicant gone through and met each provision of the Special Use Permit Ordinance? Chairman Goosmann said this is what they are voting on at today's meeting. Mr. Swords said this is a Special Use Permit application, which is a creature of North Carolina statute that allows local governments and adjustment boards to set out rules for land uses that are not simply permitted without a hearing within certain conditions. If these conditions are met, the Board is bound to grant that Special Use Permit. Mr. Swords said this is a fact-finding process and what the Board is charging with essentially is finding facts to support each factor in the Town's Ordinance. In this case, Mr. Swords said the Town Ordinance lays out the following which states: An application for the Special Use has to be submitted and then the Board has to find it (a)will 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. (e) Will be reasonably compatible with significant natural and topographic features on the site and within the immediate vicinity of the site given the proposed site design and structure design; (f) Will be in harmony with scale, bulk, height, coverage, density, and character of the area or neighborhood in which it is located; or (g) is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities, and will not cause undue traffic congestion or create a traffic hazard. Mr. Swords said, this is a Special Use application and it is subject to the applicant producing evidence in support of each of the Special Use factors. North Carolina law also requires expert testimony in particular the statute that calls out neighboring property values as a subject for requiring expert testimony. Mr. Swords said it would be helpful to have a licensed landscape architect to look at this landscaping plan. Mr. Sword also noted letter (c) which states, “would not substantially injure the value of adjoining or abutting property.” Mr. Swords said Mr. Lehman has not met the requirements for a Special Use Permit.

Mr. Billy Clarke asked for expert testimony on how this would damage the neighboring property. Mr. Sword said there is a real estate agent present to testify as to her expert opinion based on her experience and training with the impact of property values. Mr. Swords said all Mr. Lehman has to do is set forth competent material and evidence of each of the facts presented by Mr. Sword. If Mr. Lehman were to do this, then the burden would be on the opposing party to rebut this. Mr. Clarke said there have been two prior hearings before this one. Mr. Clarke said there has been no evidence of property values going down prior to this hearing or damage to neighboring property owners. Mr. Sword said he would like to see the applicant held to that standard which is set forth in the ordinance and said this board is in bound by what is in this Ordinance whether this Special Use Permit can be approved. Mr. Clarke said this is an improvement to real property and certain items in the Special Use Permit were approved in 2017 or 2018. This soccer goal was brought to the Board’s attention as an enforcement issue. Ms. Nicole Baker said what is currently in place is very different from what was originally applied for. Mr. Clarke said in 2018, there was no soccer goal and when the Town found out the soccer goal had been constructed, there was a requirement to submit the application for the soccer goal. Ms. Barnes said it came to use three or four meetings ago that it came to the Board not to approve but to determine what part of the Special Use Permit. Mr. Clarke said

they determined it did need approval for to have the soccer goal and then Mr. Lehman came forward. Mr. Swords asked the Board to consider if this project had not been constructed already to consider this application. Mr. Swords said this is a desirable place to live and these types of rules and Ordinances have been held to by the people that live here. Ms. Price would like the applicant to be held to this standard if this was not already built.

Ms. Ann Skoglund was sworn in. Ms. Price introduced Ms. Ann Skoglund who is a broker associate with 28 years of experience with Beverly-Hanks. Ms. Price stated that Ms. Skoglund's expertise and client base is highly regarded within Buncombe County as well as nationally and internationally. Ms. Skoglund is also a long time resident of the town. Ms. Skoglund said she will limit her comments to value but did mention that astro turf is a professionally installed surface that does have tremendous water run-off. Part of getting a permit is to ensure everything has been done correctly from the start. When residents have landscaping done, they do not have anyone checking all the details of the work being done which is the nature of the landscape permits that are done here. Ms. Skoglund said AstroTurf is bright green year round and does not look attractive to have in our Town. Ms. Skoglund said it would affect the value. Driving down the street seeing a bright green field is like seeing a commercial field as opposed to a field of natural elements in the Town. Ms. Skoglund emphasized it will influence value because it does not look natural. Ms. Skoglund said one should not leave landscape plans proposed that no one checks on again, which is what happened in this situation. Ms. Skoglund said it does not look uniform or natural.

Mr. Swords asked Ms. Skoglund if the soccer goal and net have an impact on property values. Ms. Skoglund said not as much as the field itself because people put up play structures.

Mr. Pearlman asked Mr. Clarke about the Town of Biltmore Forest not having any authority over the surface of the soccer area. Mr. Clarke said this statement is correct; the Town has no authority to regulate this type of surface. Mr. Swords said he has asked the Town to reevaluate the soccer field itself. Mr. Swords said Ms. Skoglund did say this project would affect property value.

Ms. Price shared additional comments with the Board and said 9 Holly Hill has had to move things in the past. The value of the adjoining property must conform. She said neither the goals nor the field fall within the Town's ordinance. Ms. Price discussed the general welfare of the community and the Town's Ordinances and how the residents at 9 Holly Hill needs to abide by these ordinances.

Mr. Swords noted his objection to the Board previously accepting non-expert evidence on property values. Mr. Swords asked to submit Ms. Skoglund's testimony as expert testimony based on her training and qualifications in real estate. Mr. Swords said this Board does not have grounds under North Carolina law to create this permit.

Mr. Clarke asked if Ms. Skoglund has conducted an appraisal on Ms. Price's property. Ms. Skoglund said yes, she conducted one two years ago. Mr. Clarke said to Ms. Skoglund that she feels the field has an impact on value. Ms. Skoglund said yes. Mr. Clarke asked if she had a quantitative number. Ms. Skoglund was unable to provide a number. Ms. Skoglund said she could provide this but would have to study the matter first. Mr. Clarke asked Ms. Skoglund if she is licensed as an appraiser in North Carolina. Ms. Skoglund said no but she does market valuations for estates. Mr. Clarke asked if Ms. Skoglund has conducted one on Ms. Price's property. Ms. Skoglund said she has not done one in the past two years.

Mr. Chandler asked based on proposed buffering and landscaping, how would it affect property value if the landscaping were suitable? Ms. Skoglund said it depends on the size of the buffering and whether it is mature landscaping.

Mr. Mike Dale was sworn in and Ms. Barnes asked Mr. Dale about the needlepoint hollies in a raised planter which is 20" high and 2' wide. Ms. Barnes wanted to know if this would grow near to full size or will they be restrained by the containers. Mr. Dale said there would be some constraint just by the container. Mr. Dale explained the root issue that it may cause. Mr. Dale said he has seen plants like these in planters before where they have grown to full potential. Mr. Dale was unsure if these would grow to their full potential because it would be difficult to predict. It also depends on the level of care that the customer provides.

Mr. Lehman mentioned previous emails with Ms. Adrienne Isenhower and said he had communicated with her previously about the soccer goal and the size of the soccer goal. Mr. Lehman said he was taking the appropriate steps to have the soccer goal put up by communicating with Ms. Isenhower about the steps he was taking to put this up. Mr. Lehman asked Ms. Price if she and Ms. Skoglund were good friends. Ms. Skoglund said she is friends with many people in Biltmore Forest. Mr. Lehman said there is a conflict of interest. Mr. Lehman said he has a friend who is a realtor and by

improving his property over the years has increased the value of his home. Mr. Lehman said Ms. Skoglund is not an independent appraiser.

Mr. Clarke asked Mr. Lehman how much he has spent improving his house. Mr. Lehman said approximately \$250,000.

Mr. Lehman asked Ms. Skoglund about the property affecting a future homeowner (with kids) for Ms. Price. Ms. Skoglund said it depends on the buyer and what they are looking for. Ms. Skoglund said overall it would be a hindrance because of the non-natural appearance.

Mr. Lehman said he spoke to John Dalton who has installed many artificial turfs and putting greens throughout Biltmore Forest.

Mr. Lehman said the Mulfords submitted a letter for approval and several other people on the street who support this and feels he should have a right to do this due to him making a reasonable attempt to do the right thing.

Mr. Chandler asked what the objections are for Mr. Lehman's buffering. Mr. Swords said the objection is the turf field. In addition, this accessory structure requires a Special Use Permit under the Biltmore Forest Ordinances. Mr. Swords said it is unusual for a town to require a permit for every time of accessory structure and there would not be a quasi-judicial hearing about it. The Board should require expert testimony on this landscape plan as well.

Ms. Barnes asked where the Ordinance is that says one needs mature vegetation. Mr. Kanipe said mature vegetation only applies to fences.

Ms. Kieffer said they deserve the soccer goal but said in her opinion, it is reasonable to have mature landscaping on the driveway side. Ms. Barnes agreed with Ms. Kieffer.

Ms. Price said she was looking at the landscaping plan from 2017 and Mr. Lehman just planted all this landscaping. Ms. Price wanted to know who would monitor his landscaping in the future. Chairman Goosmann said Mr. Kanipe would monitor this.

Chairman Goosmann said he is hearing from two of the four votes that are needed for this proposal to be approved is two of them have concerns about the proposed landscaping that is being presented.

Mr. Lehman was advised to consult with a landscape architect for mature vegetation along the driveway. Mr. Pearlman said it is the applicant's responsibility to determine the size of the landscaping and not the Board.

Mr. Clarke said the goal is to not have the soccer goal be visible from the drive from the street passing Mr. Lehman's driveway.

Mr. Swords said to look at the Special Use requirements and if the applicant were to request plans from his landscape architect would "meet the requirements and specifications of this chapter." It would also be in "general conformity with the Town of Biltmore Forest and its environs." The Special Use requirements do add some specifics the applicant can use.

Mr. Lehman tabled the matter until the November meeting.

The motion was unanimously approved.

Chairman Goosmann adjourned the meeting at 6:09 pm. The next Board of Adjustment meeting is scheduled for Monday, November 15, 2021 at 4:00 pm.

ATTEST:

Greg Goosmann
Chairman

Laura Jacobs
Town Clerk

DRAFT

**BOARD OF ADJUSTMENT
STAFF MEMORANDUM**

November 10, 2021



**Case 1 – 56 Cedar Hill Drive
Special Use Request for Rear Yard Fence
Variance Request for Placement within Rear Yard Setback**

Property Owner: Shores Revocable Living Trust
Property Address: 56 Cedar Hill Drive

Project Description

The applicant requests approval from the Board of Adjustment for a new wooden privacy fence in the rear yard. The portion of the Zoning Ordinance regulating fences is included in its entirety within this packet. Pertinent portions, related to fences, are highlighted. The application details include the material (wood) and a site plan showing the approximate location of the fence within the rear yard. Fences are allowed with special use approval when the ordinance conditions are met. In this case, however, the applicant requests a variance in order to locate the fence along a portion of the rear yard property line.

Variance Application

The application notes a surveyor staked the rear yard setback and the existing home was located farther back than plans showed – this resulted in their subsequent amended request for a variance to extend into the rear yard setback. The required setback for the R-1 district is 25 feet from the rear property line. The applicants would like to place the fence on a portion of the rear property line in an effort to contain their dogs and ensure they do not chase horses that utilize the horse trail located on Biltmore Estate property behind them.

§ 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)

Zoning Compliance Application

Town of Biltmore Forest

Name

Jared White

Property Address

56 cedar hill dr

Phone

(828) 708-8056

Email

Jared@juddbuilders.net

Parcel ID/PIN Number

9646-32-6624-00000

ZONING INFORMATION

Current Zoning

R-1

Lot Size

1.489 acres

Maximum Roof Coverage

5,500 square feet (Up to 1.5 acres)

Proposed Roof Coverage Total

0

Maximum Impervious Surface Coverage

1-3 acres (25 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

31'

Description of the Proposed Project

Wood fence in back yard.

Estimated Start Date

11/1/2021

Estimated Completion Date

11/5/2021

Estimated Cost of Project

\$6,500.00

Supporting Documentation (Site Plan, Drawings, Other Information)

AD521C31-FAE3-4052-B755-94354842444E.jpeg

Applicant Signature

Date
10/12/2021



A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right. The signature is positioned above a thin horizontal line.

1

VARIANCE APPLICATION

Town of Biltmore Forest

Name

Jared White

Address

56 Cedar Hill Dr.

Phone

(828) 708-8056

Email

jared@juddbuilders.net

Current Zoning/Use

Requested Use

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?

Install a wooden privacy fence

What does the ordinance require?

After having a surveying company come stake the property line we realized the house is set back further in the property than the plans show. In order for us to install the privacy fence we will need to set it on the property line.

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.

None

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

Location of portion of fence needs to be on property line

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

Owner worried about dog possibly chasing horses on trail behind house

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.

Correct, main reason for variance is the safety of the patrons on horse trails behind home

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

knowledge.

Signature



A handwritten signature in black ink, written over a horizontal line. The signature is highly stylized and cursive, with several loops and overlapping strokes. It appears to be a name, possibly starting with a large 'C' or 'K' followed by several letters that are difficult to decipher due to the cursive style.

Date

11/3/2021

Special Use Permit Application

Town of Biltmore Forest

Name

Jared White

Address

56 cedar hill dr.

Phone

(828) 708-8056

Email

Jared@juddbuilders.net

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:

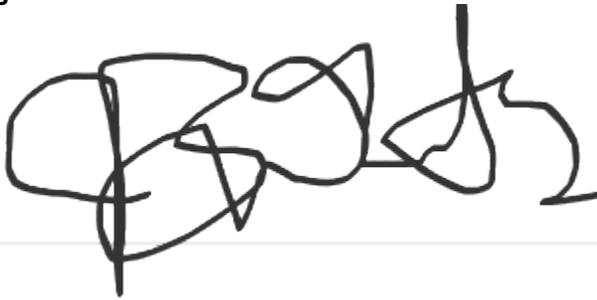
Fence in back yard

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

The fence cannot be seen from the road or adjacent houses

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

Signature

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

Date

10/12/2021

**BOARD OF ADJUSTMENT
STAFF MEMORANDUM**

November 10, 2021



**Case 2 – 11 Brookside Road
Special Use Request for Rear Yard Fence
Variance Request for Placement within Rear Yard Setback**

Property Owner: Andrew & Karen Franklin
Property Address: 11 Brookside Road

Project Description

The applicant requests a special use permit approval from the Board of Adjustment for a new accessory dwelling unit adjacent to the existing home. The applicant notes that the accessory building would be utilized as an accessory dwelling by a family member. The Town’s Zoning Ordinance, Section 153.037, specifies, “any new accessory structure intended for use as dwellings shall only be occupied by a family member”. The additional provisions of Section 153.029, accessory structures and buildings, also apply to this request and generate the variance request. The pertinent ordinances are attached to this memorandum.

Variance Application

As noted above, Section 153.029 provides specific standards for the construction of accessory buildings. Among these, the maximum roof coverage shall not exceed 750 square feet and the accessory building must be located behind a line parallel to the rear of the principal structure on the lot. The variance application states the roof coverage associated with this accessory building is 1,705 square feet. The impervious surface coverage and maximum roof coverage for the entire lot is not violated. The application includes the rationale for this variance request. Additionally, the application notes the second variance request (extending in front of a line parallel to the rear of the house) results from topographical issues and constructing and excavating into the existing trees.

Not Included for Board of Adjustment Review

Please note, that items 1 and 2 on the Zoning Compliance Application are not included for the Board of Adjustment review. These items are reviewed solely by the Design Review Board.

§ 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

§ 153.037 ACCESSORY STRUCTURES OR BUILDINGS UTILIZED AS DWELLINGS.

(A) Upon adoption of this chapter, accessory buildings used as dwelling units and occupied by a "family" (see definition in § 153.004) member shall be a conforming use. Such units occupied by a non-family member shall be nonconforming uses.

(B) (1) The definitions and provisions of this chapter provide for this situation.

(2) Therefore, the following shall apply:

(a) An existing accessory structure occupied at the time of adoption of this chapter by a non-family member can continue to be used for such purpose. If the unit occupied by a non-family member becomes vacant for more than 60 days (see § 153.036(C)(2)(c)4.), then such unit could only be reoccupied by a family member.

(b) New accessory structures intended for use as dwellings shall only be occupied by a family member.

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

Zoning Compliance Application

Town of Biltmore Forest

Name

Andrew Franklin

Property Address

11 BROOKSIDE RD

Phone

(573) 280-2813

Email

andrew01franklin@gmail.com

Parcel ID/PIN Number

964663384900000

ZONING INFORMATION

Current Zoning

R-1

Lot Size

1.44

Maximum Roof Coverage

5,060 square feet (Up to 1.2 acres)

Proposed Roof Coverage Total

4980

Maximum Impervious Surface Coverage

1-3 acres (25 percent of lot area)

Proposed Impervious Surface Coverage

3693

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

14 feet (highest point), single story roof starts at 9 feet.

Description of the Proposed Project

Multiple improvements will be performed on the property to improve livability and accommodate aging in place.

1. Screened in porch in the rear of the house to allow more enjoyment of the outdoors. Will go over the existing patio and will be screening. The roof will be a standing seam metal roof to accommodate for the shallow pitch and the color will match the current roof. The colors and finishes will match the current house theme. Will increase roof coverage by 267sqft.
2. Garage extension of 6 feet. The garage can only accommodate one car due to internal additions made by previous owners. This 6-foot addition would allow the garage to accommodate 2 cars. The extension would also allow for a small mudroom. The finishes would match the current theme of the house. Will increase roof coverage by 96 sqft.
3. Accessory dwelling. This would be a combination of an apartment with a single car garage meeting the standards of aging in place for an elderly member of the family. Also, there would be a workshop and carport to accommodate our family's needs. This would necessitate an increase in the driveway. This would increase the roof coverage by 1705sqft and impervious surface coverage by 807 sqft.

Estimated Start Date

1/1/2022

Estimated Completion Date

4/4/2022

Estimated Cost of Project

\$400,000.00

Supporting Documentation (Site Plan, Drawings, Other Information)

Franklin Addition - Pricing Set - 10-24-2021.pdf

Applicant Signature

Date

10/24/2021



Special Use Permit Application

Town of Biltmore Forest

Name

Andrew Franklin

Address

11 brookside rd

Phone

(573) 280-2813

Email

andrew01franklin@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:

Our family would like to build a detached apartment and garage with flex space. This would provide a comfortable living space for my mother and allow her to "age in place" safely. The project would allow for additional parking. We also plan on extending the footprint of the garage slightly to allow a mudroom and two cars adequate room to park. The final part of our plan is to add a screened-in porch on the back of the house.

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

The project would architecturally mirror the main house and seeks to blend into the surrounding forest. Likely few trees would be required to be removed. Furthermore, our lot is well suited for this additional structure and it won't have to be "squeezed" in.

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

Signature



Date

9/26/2021

VARIANCE APPLICATION

Town of Biltmore Forest

Name

Andrew Franklin

Address

11 BROOKSIDE RD

Phone

(573) 280-2813

Email

andrew01franklin@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 application submittal to the Board of Adjustment.

What would you like to do with your property?

Build an accessory dwelling. This would be a combination of an apartment with a single car garage meeting the standards of aging in place for an elderly member of the family. Also, there would be a workshop and carport to accommodate our family's needs. This would necessitate an increase in the driveway. This would increase the roof coverage by 1705 and impervious surface coverage by 807 ft. Also, the building would not be located behind a parallel line rear of the principal structure on the lot.

What does the ordinance require?

153.029 ACCESSORY STRUCTURES AND BUILDINGS.

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

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

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.**

There are several issues to be covered:

The accessory structure is greater than 750 square feet. The need for a larger structure is due to a number of factors.

1. The efficient apartment and single car garage are being built for an elderly member of our family (my mother) and were designed to the latest standards of aging in place. My mother is 65 and our goal is for her to live with us until no longer feasible. Our current house layout does not allow for this. The apartment and garage are designed to accommodate all aspects of aging in place. All key doors are 3ft, which allows for easy wheelchair access and would allow for a hospital bed. There are minimal trip points and no steps. The bathroom is designed to be easily fitted with a zero clearance shower when needed. There is are no "tight corners" allowing for easy access of EMS stretcher if ever needed. Also, there is enough space to

accommodate an in-home caregiver if needed. The garage has enough area to provide for easy walker accessibility to a car and also fit a wheelchair conversion van. Furthermore, the garage provides protection from the elements and minimizes the risk of a fall. All of these aging-in-place considerations resulted in a larger footprint and there are no reasonable ways to decrease the size.

2. Workshop and carport. Our original plan was to connect these structures to the backside (Northwest corner) of our current garage but this would lead to several significant hardships. The area directly adjacent to the rear of our garage is the only viable access to the rear of the house. The opposite end of the house (Southeast corner) would not allow meaningful access to the rear of the house. Also, there is a significant slope for any vehicle that would need to cross the front yard to access the southwest corner. Our electrical and communication utilities come into the rear of the house; any maintenance of the powerlines or communication lines would be blocked. Access to our HVAC would also be blocked. Finally, our house has required foundation repairs due to the hydrostatic forces of the lot. It also has been regraded to help mitigate those forces. The issues were the worst in the Northwest corner of the house where the garage is located. Building a structure there could possibly worsen the hydrostatic issues on the foundation and block access for any foundation work that would need to be done.

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

Here I will address the need for the accessory building to be partially located in front of a line parallel to the rear of the house. There are several reasons for the location selected and there is no suitable alternative. With the current location, the structure would sit in an area that is already mostly clear of trees and only require minimal tree removal. Also, the selected area has a manageable slope and would require very minimal changes to the natural topography of the lot. Moving the structure back any further would push it onto heavily forested and steep-sloped areas of the lot. This would lead to the loss of significant old-growth trees, and significant excavation for the accessory structure to be on the same elevation as the main house. The character of the lot and house would be changed for the worse. If the decision was made to leave the structure at a higher elevation to minimize excavation this would cause it to significantly stand out and be more visible, and defeat the purpose of this ordinance. Moving the structure back would also dramatically increase the impervious surface, again impacting the forest, rainwater runoff, and other factors like this. The current design and layout would conceal the bulk of the structure and screen the front with current old-growth trees and vegetation.

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

Hardship is a result is not result of actions taken by the applicant or the property owner.

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.

Yes

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

Signature

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end.

Date

10/25/2021

BOARD OF ADJUSTMENT STAFF MEMORANDUM

November 15, 2021



Case 3 – 9 Holly Hill Road Special Use Request for Existing Soccer Goal Installation with Review of Landscaping and Buffering Plan

Property Owner: Ben and Christine Lehman
Property Address: 9 Holly Hill Road

Project Description

The Board of Adjustment reviewed this matter at the October 18, 2021 meeting, and has reviewed portions of this case in prior months. A copy of last month's staff memorandum is attached for the Board's use as it includes specific information regarding setbacks, dimensions of the soccer goal and soccer field, and other pertinent information. During review of potential buffering for the soccer goal last month, the applicant tabled the matter and agreed to bring back supplemental information this month related to buffering. The specific request before the Board is the consideration of a special use permit for an existing soccer goal installation, and associated with this request, is the inherent discussion of a landscape plan or buffering for the soccer goal.

New Information Provided by Applicant

The applicant has worked with a landscape architect on a new buffering plan for the soccer goal. Renderings of these potential options are attached to this memorandum, and show a trellis placed atop the existing retaining wall that would block the view of the goal from the road. The applicant has provided an updated landscaping plan (noted as #2 in the attached plans) that shows this trellis. The applicant has also provided example photos of trellises for the Board to use in your consideration. In addition to this trellis, the previous planting plan proposed by Mr. Lehman remains, but the landscape architect indicates the trellis provides the immediate buffering requested by the Board. Mr. Lehman has also provided the previous landscape plan (noted as #1 in the attached materials) which show the raised bed and shrub hedge that was previously discussed.

Mr. Lehman has also provided photos showing the changes to his property and improvements made during his ownership. He has asked these photos be provided to the Board as well to demonstrate improvements made in the property over the past several years.



Existing view from corner



~~View~~ View from Corner
with Trellis (Proposed)



Existing View from Road



Proposed View from Road
with trellis



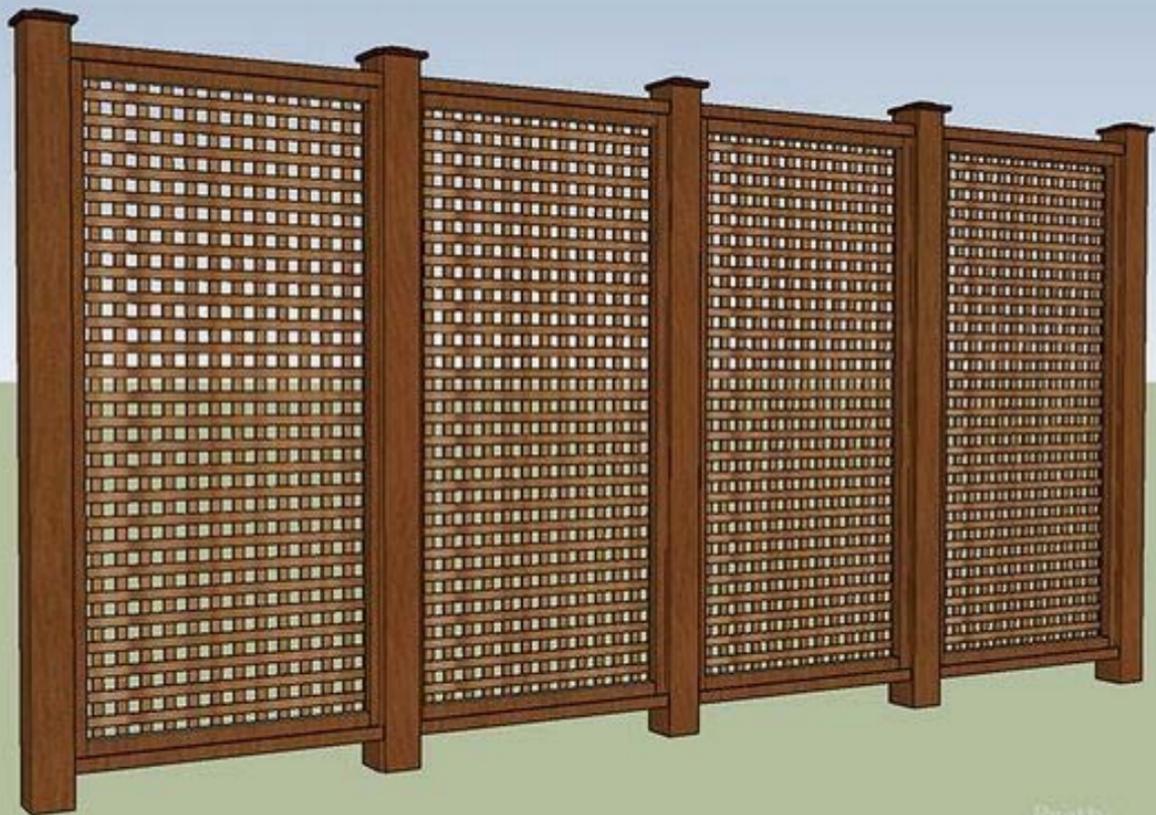














**BOARD OF ADJUSTMENT
STAFF MEMORANDUM**

October 18, 2021



**Case 3 – 9 Holly Hill Road
Special Use Request for Existing Soccer Goal Installation
and Landscape Plan Review**

Project Description

In July 2021, the Board of Adjustment determined the soccer goal, installed at 9 Holly Hill Road, was an accessory structure and required a special use permit. The Board heard from the property owner and neighbors regarding the project and requested additional information from the applicant pertaining to the installation of a turf field (instead of the lawn field originally specified to the Board in May 2018), the installation of a fence around the swimming pool, and drainage related to the overall projects.

In August 2021, the Board reviewed the requested information and provided an opportunity for the applicant to review and resubmit a landscaping plan in conjunction with this special use permit request.

New Information Provided by Applicant

The applicant has provided a rendering for his proposed landscaping/buffering plan, the landscape plan being utilized for the project, and purchased plantings for the specific area in question. The applicant has also provided a letter of support from a neighboring property owner and an example of another home located in the area (Biltmore Park) with similar landscaping/screening plans.

Prior Information

Prior to this meeting, the Board received information from the applicant related to the field turf, the installation of the (previously approved) pool around the fence, and earlier submissions/plans reviewed and approved by the Board of Adjustment in 2018.

Special Use Permit Request

The property owner's specific application is for a special use permit in order to keep the existing soccer goal in place. The soccer goal, as currently installed, is within the rear yard and not in violation of the rear or side yard setbacks. The applicant has also included information related to the field turf installation, the fencing installed around the swimming pool, and email communications between himself, the Town, and County related to the downstream neighbor's drainage concerns.

As part of the Town's review of the application, Public Works staff conducted a site visit on Monday, October 4, 2021. The purpose of this site visit was to verify distances from the property line separating the applicant from the neighboring property. Please note: there is a twenty (20) foot strip

November 15, 2021 Board of Adjustment Meeting
Staff Memorandum from Prior Meeting (October 18, 2021)

that separates 9 Holly Hill Road (Lehman) from 11 Holly Hill Road (Price). This twenty (20) foot strip is owned by Biltmore Farms, and contact was made with Biltmore Farms representatives during this review process to ensure appropriate knowledge of the site visit and distance analysis. Town staff found the following information relative to the distance from the property line, as well as the full size of the soccer field:

- The soccer goal is approximately 30 feet from the Biltmore Farms strip parcel. The setback for accessory structures in the side of a property is 20 feet. There is no concern regarding the setback from the rear yard property line.
- Distance from Biltmore Farms strip parcel to planting area, as shown on the landscape plan and field verified is eight (8) feet. There is no requirement for planting a certain distance from a property line.
- Staff found both corner pins for the side yard and old survey stakes that appeared to mark the side property line. Please note: there are no registered surveyors on Town staff and a registered surveyor did not perform this work. This was done with a best effort to field verify the locations of these structures in relation to the Biltmore Farms strip.
- Staff measured the turf field and found the following: the field is 50 feet x 80 feet (4000 square feet) with a small corner cut out on one side that is 25 square feet. The turf field, therefore, is 3,975 square feet. Mr. Lehman's initial landscape plan concluded the turf field was 4,157 square feet, so the Town's measurement shows this is actually further below that amount. The goal area is 24 feet x 8 feet for a total of 192 square feet.

Impervious Surface Calculations

Per the Town's Zoning Ordinance, the applicant is allowed 17,097.3 square feet for impervious surface. This is determined by the lot acreage of 1.57 acres (utilizing Buncombe County GIS) and finding 25% of the total lot area. The applicant's impervious surface area is 12,219 square feet. If considering the artificial turf field impervious utilizing the above listed measurements, this adds an additional 3,975 square feet to the calculations for a total of 16,194 square feet of impervious area. This is 903.3 square feet, or 5.28 percent, below the allowable limit.

Neighbor Submissions and Appeals

Ms. Charlene Price, a neighbor at 11 Holly Hill Road, has submitted two appeals regarding this project. The first is in relation to the soccer goal structure itself and includes her request that this not be approved as a special use permit. The second appeal is that the turf field be deemed an accessory structure. This appeal is in relation to Town staff's earlier interpretation that the turf field did not equate to an accessory structure. These two letters and an additional addendum are included for the Board's review.

From: [Charlene Price](#)
To: [Jonathan Kanipe](#)
Subject: Request for Designation of Soccer Field @ 9 Holly Hill Rd.
Date: Saturday, September 25, 2021 11:50:17 AM
Attachments: [C. Price Addendum to Email 9.2021.docx](#)

WARNING: This email originated from outside of the Town of Biltmore Forest Network.

To: Town of Biltmore Forest Town Manager, Jonathan Kanipe

Town of Biltmore Forest Board of Adjustments

Re: Request for Designation of Soccer Field @ 9 Holly Hill Road

This is a request that the Town of Biltmore Forest designate the soccer field at 9 Holly Hill Road as an unpermitted, permanent structure and that the Town require its removal immediately.

This request is specific to the unpermitted, permanent, in-ground structure required to accommodate and secure the artificial turf.

Attached is additional information pertaining to this request.

Respectfully submitted,

Charlene Price

From: [Charlene Price](#)
To: [Jonathan Kanipe](#)
Subject: Unpermitted Permanent Soccer Goals/Nets @ 9 Holly Hill
Date: Friday, September 24, 2021 2:29:22 PM

WARNING: This email originated from outside of the Town of Biltmore Forest Network.

TO: Town of Biltmore Forest Town Manager, Jonathan Kanipe
Town of Biltmore Forest Board of Adjustments

RE: Unpermitted Permanent Soccer Goal/Nets @ 9 Holly Hill Road

This is a request that the unpermitted 15-foot soccer nets/goals at 9 Hilly Hill Road be removed immediately as they have been formally designated as an unpermitted permanent structure by the Town of Biltmore Board of Adjustments.

This is also an objection to any variance to this unpermitted permanent structure that would allow any alternative (such as screening).

Respectfully submitted,

Charlene Price

A PERMANENT STRUCTURE IS REQUIRED TO SECURE/INSTALL ARTIFICIAL TURF

A permanent structure is a structure that is placed on or in the ground or attached to another structure or fixture in a fixed position to remain in place for more than six months.

Artificial turf that is used for a playing surface, like a soccer field, has an average life span of ten years and requires installation of a permanent base structure (which includes a permanent edging system) to not only stretch the artificial material “to size” but also to secure it to the designated surface area.

This permanent, constructed base and edging system is most commonly made of timbers. While timbers are the least expensive material used, composite plastic or steel 2 x 4’s can be used. As well, artificial turf can also be secured to layers of composite materials that have been permanently installed. The turf is attached to the permanent structure with six-inch galvanized steel garden pins or galvanized metal spiral landscape stakes.

The soccer field at 9 Holly Hill Road did not get approval or permitting for construction of a permanent structure to secure the artificial turf field.

PROFESSIONAL INSTALLATION OF THE PERMANENT STRUCTURE BY A LICENSED CONTRACTOR IS REQUIRED TO ENSURE SAFETY & QUALITY

Professional installation of a permanent, constructed base and edging system by a licensed contractor is required not only because of the complexity of the base system installation but also because such permanent systems and the artificial turf create drainage and run-off.

Nearly all artificial turf companies recommend professional installation of the permanent base and edging system as well as the artificial turf. According to recommendations from SGW (Synthetic Grass Warehouse), the company Ben Lehman references in his materials, determining where run-off water will go and installing proper draining- like exit drains, French drains and catch basins for example - must be done by a professional contractor who can assess the topography of the property and adjoining properties and install the required drainage.

Because Ben Lehman did not apply to the board of adjustments for approval/permitting to install this permanent structure to secure his artificial turf, there is no documentation that a licensed contractor oversaw and approved the correct construction and required drainage of the permanent structure.

These ongoing and often unpermitted construction projects (like the soccer field) have dramatically changed the topography of 9 Holly Hill Road. While not under the jurisdiction of the Biltmore Forest Board of Adjustments, it is important to acknowledge that Ben Lehman's back-door neighbor (Mrs. Andrea Eglinton) has experienced three extensive floods since 2018 due to these ongoing and often unpermitted construction projects. Prior to that, the neighbor has never had a problem with run off and flooding on their property.

###