



To: Members of the Board of Adjustment, Applicants & Neighboring Property Owners
From: Jonathan B. Kanipe, Town Manager
Date: February 11, 2021
Re: **Board of Adjustment Meeting – February 22, 2021**

Applicants:

You or a representative **MUST** attend the Zoom 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 so, the visit will be conducted in a socially distant manner consistent with North Carolina state orders related to preventing the spread of Covid-19.

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 via Zoom and make comment when called upon. Any additional information regarding the Zoom meeting will be provided on the Town's website no later than February 16, 2021.

The following items of business will be considered by the Biltmore Forest Board of Adjustment on Monday, February 22, 2021 at 4:00 pm in the Town Hall Board Room via Zoom. The format for the meeting and instructions for attending the meeting via Zoom can be found on the second page of this agenda. The link for the Zoom meeting can be found at the bottom of the second page.

1. The meeting will be called to order and roll call taken.
2. The minutes of the January 25, 2021 regular meeting will be considered.
3. Hearing of Cases (Evidentiary Hearings, Deliberations & Determinations).

Case 1: 82 Chauncey Circle – Special Use Permit Request for the Installation of an Accessory Structure (Fence) in the Rear Yard.

Case 2: 31 Cedar Hill Drive – Special Use Permit Request for the Replacement of an Accessory Structure (Fence) in the Rear Yard and Variance Request to exceed fence height requirement by one (1) foot.

4. Adjourn

Process and Procedure for February 22, 2021 Board of Adjustment Meeting via Zoom

- All participants attending will be held in the “waiting room” prior to admittance by Town staff. Once admitted into the meeting, please mute audio until called upon by the Board chair.
- The meeting will be called to order at 4:00 p.m. by the Chair. All interested parties and applicants will be virtually sworn-in at this time.
- Each matter will be called forward and Town staff will authorize video and audio for the applicants and any person with standing for that particular case. If an applicant would like to present visual evidence, they must provide this evidence to Town staff no later than Friday, February 19, 2021.
- The Board chair, or other Board of Adjustment member, will specifically ask questions to the applicant and ask for any evidence that they would like to present.
- The Board chair, or other Board of Adjustment member, will then specifically ask for any person with standing for that specific matter to provide comment. Town staff will moderate this comment period but will ensure each person who wishes to speak or provide evidence is able to do so.
- When all evidence and testimony has been provided, the Board will deliberate and render a decision, then move on to the next matter where the process will be repeated.

How to Access the February 22, 2021 Board of Adjustment Meeting via Zoom

In order to access the Board of Adjustment meeting, please visit <http://zoom.us> to sign up, for free, for a Zoom account. This will enable you to participate with your desktop or laptop computer as you see fit. The Zoom link and log-in credentials are at the bottom of this page.

You may also download the free Zoom app from the Apple Store or Google Play on your mobile iOS or Android device. This app will walk you through setting up a free account.

If you are unable to access the meeting through a web or app based format, but would still like to listen and participate in the meeting, you may do so by calling one of the phone numbers listed below and entering the meeting ID and password.

Join Zoom Meeting

<https://us02web.zoom.us/j/83470524602?pwd=Mkp1MFNLTUJkZDlJZDIIcEViVjNBUT09>

Meeting ID: 834 7052 4602

Passcode: 965999

MINUTES OF THE BOARD OF ADJUSTMENT MEETING
HELD MONDAY, JANUARY 25, 2021

The Board of Adjustment met at 4:00 p.m. on Monday, January 25, 2021. The meeting was held virtually via Zoom.

Members present: Mr. Greg Goosmann, Ms. Rhoda Groce, Mr. Robert Chandler, Ms. Lynn Kieffer, and Mr. Lowell Pearlman. Ms. Martha Barnes, alternate member, was also present. Mr. Jonathan Kanipe, Town Manager, Mr. Harry Buckner, Public Works Director, Mr. Mike Dale, Assistant Public Works Director, and Mr. William Clarke, Town Attorney were also present.

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

Mr. Goosmann swore in the following:

Mr. Jonathan Kanipe
Mr. Harry Buckner
Mr. Jim Davis
Ms. Terry Davis
Mr. Kevin Brown
Mr. Hunter Dendy
Ms. Ann Jennings
Mr. Horace Jennings
Mr. Brian Morris

A motion was made by Ms. Lynn Kieffer to approve the minutes from December 14, 2020. Roll call was taken. Ms. Rhoda Groce seconded the motion and was unanimously approved.

HEARING (Evidentiary):

A Special Use Permit was requested for 24 Busbee Road. A variance is requested for the installation of a driveway in the side setback in conjunction with the construction of a new

residence. A landscaping plan is included for review and consideration by the Board of Adjustment. Mr. Pearlman shepherded the matter. Mr. Jim Davis described the landscaping plan and said they reviewed the requirements of the Town and want to plant materials that will survive with semi sunlight. They also want to have these plantings in as a buffer before the construction process begins to help eliminate some of the noise. When the driveway is built, they are going to take some of the dirt from the house to create a slope for the driveway, which will be further up the hill from the neighbors. For the two sets of neighbors, the Wyatts and Jennings, there will be a significant landscape buffer. There is a planned motor court in the back and there will be a buffer along that. The goal is to buffer so the house cannot be seen from Busbee Road. They would like to keep as many trees as possible that are currently on the property.

Mr. Pearlman suggested proceeding to the variance request because this will impact the landscaping plan. Mr. Davis showed the Board the landscaping plan and showed the setback line and where the driveway enters the setback. This is where they are requesting the variance. Mr. Davis said the space within the setback is around 16 feet. Mr. Pearlman clarified and said the encroachment and the setback in the driveway has a total length of 16 feet. Mr. Davis said no, the 16 feet is the distance within the setback, which is the width of the setback. Ms. Davis said it measures 16.2 feet. Ms. Kieffer said they would like to keep it to at least 15 feet. Ms. Davis said this is for the safety of the garbage trucks, emergency vehicles, and the mail carrier. Ms. Kieffer said if the house were brought forward, it would make the grade steeper. Mr. Davis said yes, the landscape architect is currently working on how much the house would have to be moved over to minimize the setback. They tried to balance keeping trees on both sides of the house. Mr. Davis said if the house were to be moved over and the driveway would be less into the setback, many more trees would have to be removed.

Mr. Pearlman asked about the hardship and if the placement of the house would create the hardship. Mr. Davis said they thought a lot about where to place the house and they prefer not to encroach on Ms. Diefenthal and cut down additional trees.

Chairman Goosmann said the lot is unique in the shape and size of it in the rear and said there is a double rear setback as well as issues Ms. Davis described with safety. Mr. Clarke said

the Board could take all these things into consideration such as the slope of the lot and the shape of the lot which are not things the current owner had anything to do with. The variance statute says, "Practical difficulties or unnecessary hardship." If strict application of the zoning regulation is going to result in practical difficulty or unnecessary hardship, that is when the Board can grant a variance. At least four out of the five Board members have to vote in favor. Ms. Kieffer asked Mr. & Mrs. Davis if there is a possibility of slightly adjusting the house to the right toward the Diefenthal property. Mr. Davis showed the Board that specific plan of what it would look like to adjust the house to the right. The slope is currently 15.5 feet and if the house were to be adjusted to the right, it would be less than 18 feet.

Ms. Barnes asked about the linear feet that were encroaching. Mr. Davis said it was 75 linear feet and the other plan is considerably less.

Ms. Kieffer said Mr. and Mrs. Davis are working with the Jennings by telling them there will be significant buffering between them and the Davis property.

Chairman Goosmann verified the proposal could be revised to cut into the setback to cut down half the width, the linear distance looks like it would be about the same and the Davis' have put in much effort to buffer between neighbors.

Mr. Pearlman said the Board of Adjustment received a late letter from Mr. McCue who is a neighboring property owner regarding the proposed project. Mr. Kanipe said the email came in late yesterday and there was no definitive support or opposition to the proposal. Mr. Kanipe said the message was directed toward the site of the proposed home and not the home itself. Mr. Kanipe read a sentence out of the letter Mr. McCue wrote which states, "His driveway will be so steep and long, and he'll have less privacy long-term than if he locates his residence nearer the center of his property."

Mr. Pearlman said the Board discussed the possibility if the owner wanted to postpone the application; they can bring it back in 30 days. If the Board denies it, the owner would not have the ability to build on the property for one year. Mr. Pearlman also suggested Mr. Davis have a discussion with Mr. McCue to clarify what Mr. McCue wrote in his letter.

Chairman Goosmann asked Mr. Clarke to revisit Mr. Pearlman's comment regarding the timeline for reapplication.

Mr. Clarke said if a request for a variance were denied, then Mr. Davis would have to wait some time to come back. Mr. Clarke said Mr. Davis can build but he cannot come back and ask for the same variance. Chairman Goosmann said Mr. Davis could still build as long as the setback was not violated. Mr. Clarke agreed. Mr. Goosmann said four out of the five members would have to vote since Chairman Goosmann would not vote in this matter.

Ms. Kieffer said if the house is moved forward, it would be sitting in the backyard of the Jennings and the other neighbor. If the house were moved forward even more, it would be difficult to keep the grade of the driveway below 18%.

Ms. Barnes said based on Mr. McCue's letter, the Board read it and are not sure where Mr. McCue stands. Ms. Barnes said if the Board does approve it, what would be Mr. McCue's recourse. Mr. Clarke said if the statement were to be considered, the person writing the letter would need to attend the hearing. In this case, it would be attended via Zoom. Mr. McCue let Mr. Kanipe know that he would not be able to attend the Zoom meeting so that is why he submitted the email to Mr. Kanipe. Mr. Davis reached out to Mr. McCue in December and much information was exchanged about the details of the home. Mr. Davis said they met with the McCue's on January 5.

Mr. Morris described the two rows of vegetation that will be planted on the corner of where the McCue and Davis yards meet. Ms. Barnes asked Mr. and Mrs. Davis if a neighbor requested further buffering, would they be willing to do so. Mr. and Mrs. Davis said yes.

Mr. Davis said he would try his best to talk to Mr. McCue again. Mr. Davis said they have cut the depth in half and what he is showing the Board today is what he would like to submit.

Ms. Kieffer said there would be about 75 feet between the back of the Jennings house and the edge of the driveway. Mr. Davis said approximately 50-75 feet.

DELIBERATION AND DETERMINATION:

Mr. Pearlman recited the facts. Thomas and Terry Davis at 24 Busbee are applying for a setback variance on a new home they are proposing to build toward the rear corner of the lot. There will be an infringement of eight feet and just under 75 feet long. There has been one letter from an adjoining property owner who has not attended the meeting and the Board is not sure whether the letter is in support, neutral, or against the proposal, which needs to be taken into account.

Chairman Goosmann asked if Mr. Davis was going to change the encroachment from eight feet to 12.5 feet. Mr. Davis said the extra couple of feet would help with the tree situation. Mr. Davis said he does not want to wait a year and is unsure.

Mr. Clarke said the Board needs clarification on whether they would like to stick with eight feet or increase to 12.5 feet. Mr. Davis said he would like to amend the variance request to a maximum of ten feet.

Mrs. Davis thanked the Board for all of their hard work and time they have put in for this case.

Chairman Goosmann also thanked Mr. and Mrs. Davis for putting in so much effort to speak with the neighbors and preserving the trees on this lot, which is so important in Biltmore Forest as a whole.

Ms. Lynn Kieffer moved that a variance as requested be granted to Jim and Terry Davis of 24 Busbee Road for a driveway variance 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. Kieffer further 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.

Ms. Martha Barnes seconded the motion. Mr. Chandler asked Mr. Clarke if he felt comfortable for the justification of the Variance. Mr. Clarke said yes. Chairman Goosmann took roll call.

Mr. Chandler voted aye, Ms. Martha Barnes voted aye, Mr. Lowell Pearlman voted aye, Ms. Lynn Kieffer voted aye, and Ms. Rhoda Groce voted nay. Chairman Goosmann said the motion was approved as four out of five members approved the motion.

The landscape plan was discussed and Mr. Jonathan Kanipe said there would be 20% lot disturbance. They are also at 12.5% impervious so they are under the threshold.

Ms. Barnes asked how many trees would be removed for this project. Mr. Kanipe said there are 12 being removed but there are 49 being replaced.

Ms. Barnes moved that the landscape plan for 24 Busbee Road for Thomas and Theresa Davis be accepted. Ms. Lynn Kieffer seconded the motion. Chairman Goosmann took roll call. Ms. Rhoda Groce voted aye, Mr. Robert Chandler voted aye, Ms. Martha Barnes voted aye, Ms. Lynn Kieffer voted aye, and Mr. Lowell Pearlman voted aye. The landscaping plan passed unanimously.

Chairman Goosmann adjourned the meeting at 5:08 pm. The next Board of Adjustment meeting is scheduled for Monday, February 22, 2021 at 4:00 pm.

ATTEST:

Greg Goosmann
Chairman

Laura Jacobs
Town Clerk

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

MEMORANDUM

To: Board of Adjustment Members
From: Jonathan Kanipe, Town Manager
Re: Board of Adjustment Case Number 1 (82 Chauncey Circle)
Date: January 20, 2021

Special Use Permit for Accessory Structure (Fence) in Rear Yard

The applicant requests a special use permit for a fence installation in the rear yard. The applicant applied for a fence in September 2019 as part of the original home construction plan. The applicant withdrew the fence request and application prior to the Board's consideration of the matter.

Since that time, the Town Board of Commissioners approved a new ordinance related to fences and their allowance as a special use provided they were installed entirely in the rear yard. A copy of that ordinance is attached to this memorandum for the Board's review in relation to this request.

The application states their intent is to install an iron fence in the rear yard that is four (4) feet tall and has included a map showing the proposed location of the fence. The special use application notes that The Ramble Homeowners Association has granted approval for this fence and that the applicant agrees to plant additional foliage where the fence may be visible from the street. The site plan indicates that the fence is not within any Town setback and appears to be in the rear yard.

§ 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

David Owen

Property Address

82 Chauncey Circle

Phone

(240) 593-8763

Email

dave.pitt.owen@gmail.com

Parcel ID/PIN Number

9646-70-6380-00000

ZONING INFORMATION

Current Zoning

R-3

Lot Size

1.4 acres

Maximum Roof Coverage

5,500 square feet (Up to 1.5 acres)

Proposed Roof Coverage Total

N/A

Maximum Impervious Surface Coverage

1-3 acres (25 percent of lot area)

Proposed Impervious Surface Coverage

N/A

Front Yard Setback

50 feet (R-2, R-3, R-4, and R-5 Districts)

Side Yard Setback

15 feet (R-2, R-3, R-4, and R-5 Districts)

Rear Yard Setback

20 feet (R-2, R-3, R-4, and R-5 Districts)

Building Height

4 feet

Description of the Proposed Project

A backyard fence, 4 feet tall, in the simple iron fence style detailed on page 67 of the Ramble DRC guidelines (attached). A rough map of the lot, showing the backyard fence location, is also attached. Of note, this map is slightly inaccurate on two points: 1. The map references a 6 foot privacy fence, and this is no longer accurate. We would like a 4 foot fence as detailed above. 2. The fence will extend up to the 70 foot setback on the west side of the lot.

Estimated Start Date

4/1/2021

Estimated Completion Date

4/15/2021

Estimated Cost of Project

\$20,000.00

Supporting Documentation (Site Plan, Drawings, Other Information)

DRC Guidelines UPDATED 3.12.19.pdf

Owen - Lot 9 - Preliminary SP 3-5-19.pdf

Applicant Signature

Date
1/20/2021



A handwritten signature in black ink, appearing to read "D. H. O.", written over a horizontal line.

Special Use Permit Application

Town of Biltmore Forest

Name

David Owen

Address

82 Chauncey Cir

Phone

(240) 593-8763

Email

dave.pitt.owen@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:

Backyard fence.

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

The fence has already been approved by the neighborhood HOA (The Ramble), and is in an approved Ramble style that is used throughout the neighborhood, to include on this street (4 foot simple iron style). Additionally, we plan to plant foliage to conceal the fence on the one corner where it will be easily visible from the road.

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

Signature

Date

2/8/2021

A handwritten signature in black ink, appearing to read "David Owen", written over a horizontal line.

VARIANCE APPLICATION

Town of Biltmore Forest

Name

David Owen

Address

82 Chauncey Cir

Phone

(240) 593-8763

Email

dave.pitt.owen@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?

Add a backyard fence as detailed in the zoning application.

What does the ordinance require?

Approval from the Board of Adjustment as per Ordinance 153.049, passed on 2-11-2020.

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.**

Backyard fences are permitted in the ordinance, with Board of Adjustment approval. This fence will allow my wife space to train our new puppy in schutzhund (a dog sport that includes tracking, obedience, and protection).

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

The requested fence is within the allowed scope as detailed in ordinance 153.049.

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

This is a new home, and we moved in less than a month ago. The fence has already been approved by the Ramble DRC as part of the new home build review.

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.

This fence style (4 foot simple iron) is unobtrusive, and will be largely concealed by the surrounding vegetation. Additionally, it is already used by other homes on this street (1/3 of the homes on this street have fences of some type, and that doesn't count the Ramble perimeter fence). We also plan to add

additional trees along the fence perimeter to make this fence even less visible from the street.

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

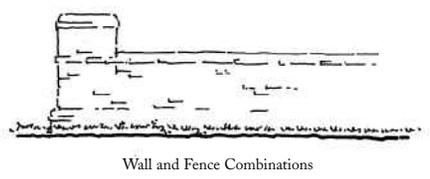
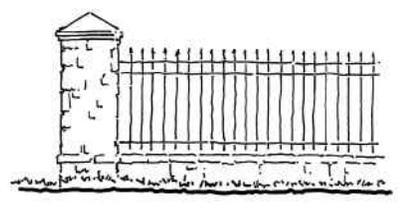
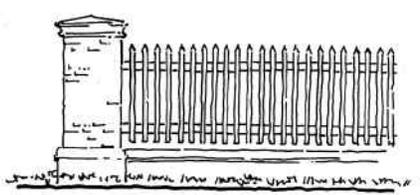
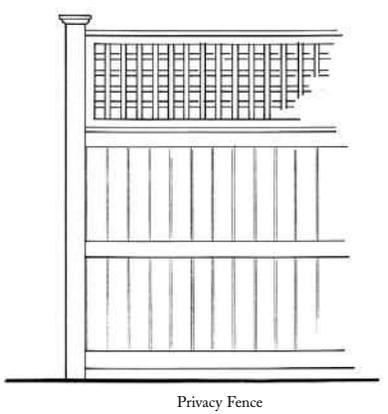
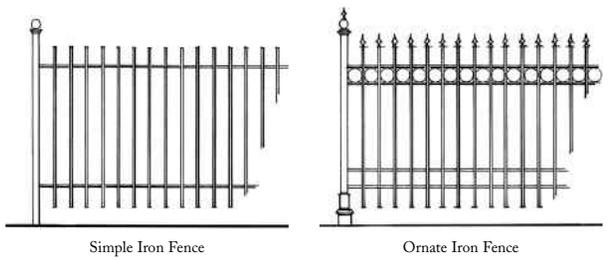
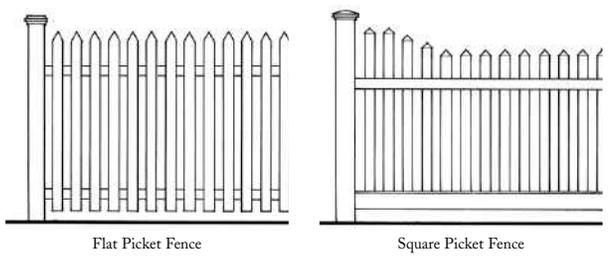
Signature

Date

1/20/2021



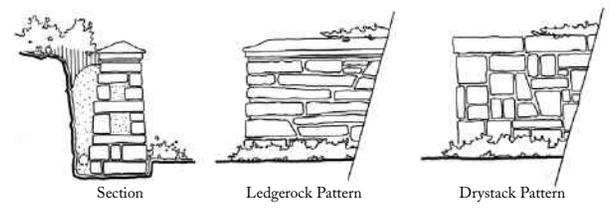
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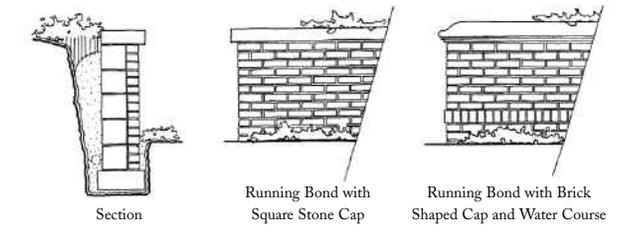
Fences

In addition to the Ramble Community Association deer fence at the edge of the property and the entrance gate fence, additional fencing for privacy may be desired in the private zones. Here, fences can be opaque to a height of 48 inches with 24 inches of transparent fencing (lattice above). The privacy fences can be constructed only within the private zone of the house lot.

Stone Wall Options



Brick Wall Options

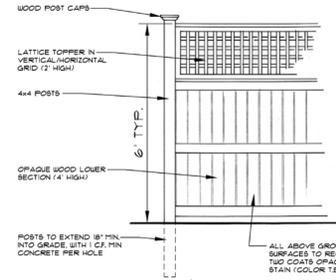


Walls, Piers and Steps

Aside from the stone walls at the edges of properties, the use of walls within the private spaces of the lot are appropriate to accommodate changes in grade or create privacy. Here the walls can match the architectural character of the house. Steps should conform to other paving types used on the lot, as well as reflect the character of the walls. Walls used for privacy screen should not exceed 48 inches.



Landscape Guidelines- Fences, Walls, & Piers



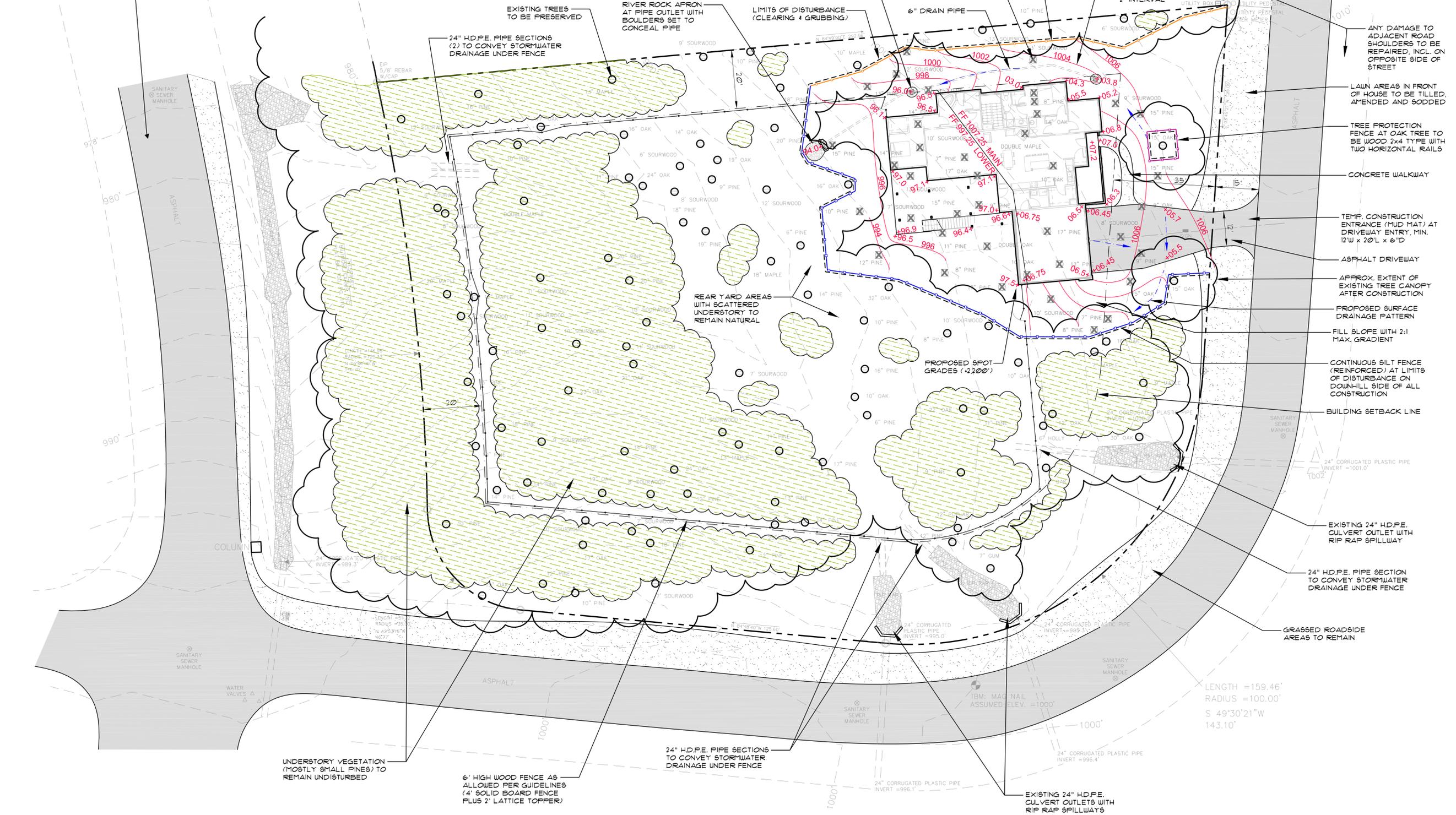
6' HIGH WOOD PRIVACY FENCE WITH LATTICE TOPPER (COLOR TO BE VERY DARK BROWN)

LOT 10 NELSON
D.B. 5139, PG. 1935
PIN #9646-70-6478-00000

Survey Info Provided By
David C. Huntley & Assoc.
(828) 693-8077

VALLEY SPRINGS ROAD
50' R/W

CHAUNCEY CIRCLE
50' R/W



ANY DAMAGE TO ADJACENT ROAD SHOULDERS TO BE REPAIRED, INCL. ON OPPOSITE SIDE OF STREET
LAWN AREAS IN FRONT OF HOUSE TO BE FILLED, AMENDED AND SODED

TREE PROTECTION FENCE AT OAK TREE TO BE WOOD 2x4 TYPE WITH TWO HORIZONTAL RAILS
CONCRETE WALKWAY

TEMP. CONSTRUCTION ENTRANCE (MUD MAT) AT DRIVEWAY ENTRY, MIN. 12'W x 20'L x 6\"/>

ASPHALT DRIVEWAY
APPROX. EXTENT OF EXISTING TREE CANOPY AFTER CONSTRUCTION

PROPOSED SURFACE DRAINAGE PATTERN
FILL SLOPE WITH 2:1 MAX. GRADIENT

CONTINUOUS SILT FENCE (REINFORCED) AT LIMITS OF DISTURBANCE ON DOWNHILL SIDE OF ALL CONSTRUCTION
BUILDING SETBACK LINE

EXISTING 24\"/>

24\"/>

GRASSED ROADSIDE AREAS TO REMAIN

LENGTH = 159.46'
RADIUS = 100.00'
S 49°30'21\"/>

PRELIMINARY - NOT FOR CONSTRUCTION

Cloos Landscape Architecture, P.A.
47 YELLOOOD LANE, HORSE SHOE, NC 28742
PHONE: 828-243-1070 - EMAIL: gctoo@msnr.com



David & Jennifer Owen Residence
82 Chauncey Circle, Lot 9
The Ramble at Biltmore Forest

Preliminary Site Plan
Date: March 5, 2019

SP-1

Note: Client is responsible for obtaining structural design from registered engineer for any retaining wall over 5' tall.

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

MEMORANDUM

To: Board of Adjustment Members
From: Jonathan Kanipe, Town Manager
Re: Board of Adjustment Case Number 2 (31 Cedar Hill Drive)
Date: February 11, 2021

Special Use Permit for Accessory Structure (Fence) in Rear Yard Variance Request for Fence Height to Exceed Maximum Height by One (1) Foot

The applicant requests a special use permit for the replacement of an existing picket fence in the rear yard. The existing fence is in a deteriorated condition and the applicant and adjoining property owner whose yard this abuts have both agreed to the proposed change. The Town's fence ordinance specifies that existing fences shall be approved by the Board of Adjustment as a special use so long as the materials for the fence and other conditions are met. A copy of the Town's fence ordinance is attached to the memorandum that lays out these specific requirements.

The applicant is requesting a variance from the height requirement of the ordinance. The applicant requests the new fence be a maximum of seven (7) feet tall in order to screen light from his neighbor and to screen the light from his home to his neighbor's home. The applicant notes the topography of the lot and orientation of the homes dictates this height exceedance. The applicant has included a photo of the existing fence as required by the Town's ordinance and notes the photo provides a good perspective on why a taller fence is requested as well. The ordinance requires a non-deer fence to be a maximum of six (6) feet tall, so the applicant's formal request is a variance to exceed the fence height limitation by one (1) foot.

Zoning Compliance Application

Town of Biltmore Forest

Name

Roger Cerasoli

Property Address

31 Cedar Hill Drive

Phone

(304) 646-5761

Email

rceasoli@earthlink.net

Parcel ID/PIN Number

964643438900000

ZONING INFORMATION

Current Zoning

R-1

Lot Size

1.29 acres

Maximum Roof Coverage**Proposed Roof Coverage Total**

N/A

Maximum Impervious Surface Coverage**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**Description of the Proposed Project**

We desire to replace existing picket fence at rear of property with a new privacy fence. Existing fence is unattractive and totally ineffective at providing privacy or shielding security or use lighting for 31 Cedar Hill Drive or 47 Cedar Hill Drive. Both property owners are in agreement with this request. New fence would be both attractive and functional in reducing view between the first floor of each home, and of security and other lighting, Fence is not visible from the road or from any other properties.

Estimated Start Date

3/8/2021

Estimated Completion Date

3/12/2021

Estimated Cost of Project

\$14,000.00

Supporting Documentation (Site Plan, Drawings, Other Information)

Applicant Signature

Roger Carozzi

Date

2/9/2021

Special Use Permit Application

Town of Biltmore Forest

Name

Roger Cerasoli

Address

31 Cedar Hill Drive, Biltmore Forest, NC 28803

Phone

(304) 646-5761

Email

rceasoli@earthlink.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:

Existing picket fence is in bad shape and provides no privacy for our property or for our neighbors the Watsons. We desire to replace the existing fence with a new privacy fence in exactly the same footprint. The requested replacement will provide both properties with an attractive fence and solve the direct views now existing into each other's first floor living area, as well as reducing the security and use lighting between the yards.

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

The fence is not visible from the road, or from any property other than 31 Cedar Hill Drive and 47 Cedar Hill Drive. Both property owners agree and desire this change. The impact would be a more attractive fence, and provision of very much desired lighting and activity privacy between the two properties.

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

Signature



Date

2/9/2021

VARIANCE APPLICATION

Town of Biltmore Forest

Name

Roger Cerasoli

Address

31 Cedar Hill Drive

Phone

(304) 646-5761

Email

rceasoli@earthlink.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?

A fenced pet area at the rear of the home is unattractive and requires constant maintenance. The enclosure runs along part of the rear property line and returns to the house on both ends. The fence provides no privacy between the properties, and security lighting as well as general use of the rear of both homes would be hidden with replacement of the fence. Second property is 47 Cedar Hill Drive and discussion with the owner (Don Watson) resulted with his support and approval for the fence upgrade. The picket fence (now 4' tall) would be replaced with a quality wood solid fence 7' tall to create privacy and increase attractiveness on both sides.

What does the ordinance require?

The ordinance limits fence height to 6' meaning a variance to a height of 7' is requested. The terrain between the properties incorporates a drop off from lot 31 to lot 47 that makes the additional 1 foot necessary. Both owners agree to this request.

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.**

Lights from each living area are clearly impacting the privacy for each home. The existing picket fence provides no privacy and was apparently installed for the confinement of pets only.

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

The rear of both homes are parallel to each other and visual access from one interior to the other is the problem. The new installation height of 7 feet is required to visually shield the first floor windows from each other as is desired by both owners.

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

The existing fence was installed some time in the past by prior owners, and is inadequate and insufficiently attractive.

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.

This request would enhance appearance and livability. The fence is not visible from the road, and would be visible only to the rear of the two homes concerned.

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 that reads "Roger Coraschi". The signature is written in a cursive style with a large initial "R" and a distinct "C".

Date

2/1/2021

