



To: Members of the Board of Adjustment, Applicants & Neighboring Property Owners
From: Jonathan B. Kanipe, Town Manager
Date: April 6, 2022
Re: **Board of Adjustment Meeting – April 18, 2022**

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.

Neighbors:

You are receiving this notice because your property is adjacent to an applicant on this month's agenda.

You may review applications & plans for the projects on this agenda at <http://www.biltmoreforest.org/board-of-adjustments>.

You are invited to attend the scheduled meeting at the Town Hall and make comment when called upon. Any additional information regarding the meeting will be provided on the Town's website no later than April 14, 2022.

PROPOSED AGENDA

The following items of business will be considered by the Biltmore Forest Board of Adjustment on Monday, April 18, 2022 at 4:00 pm at the Biltmore Forest Town Hall.

1. The meeting will be called to order and roll call taken.
2. The minutes of the February 21, 2022 regular meeting will be considered.
3. Hearing of Cases (Evidentiary Hearings, Deliberations & Determinations).

Case 1: 12 East Forest Road – Special Use Permit request for Accessory Structure (Installation of Landscaping Boulders)

4. Adjourn

ZOOM INSTRUCTIONS

For those interested in viewing the meeting via Zoom, please use the following information.

[Click Here for Meeting Link](#)

Meeting ID: 843 5279 2239

Passcode: 559198

MINUTES OF THE BOARD OF ADJUSTMENT MEETING
HELD MONDAY, FEBRUARY 21, 2022

The Board of Adjustment met at 4:00 p.m. on Monday, February 21, 2022.

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

Chairman Greg Goosmann called the meeting to order at 4:05 p.m.

Mr. Goosmann swore in the following:

Mr. Jonathan Kanipe

Ms. Emily Gregory

Mrs. Marita Douglas

Mr. Howard McDill

Mr. Jason Weil

Mrs. Angela Newnam

Mr. Ed Broadwell

A motion was made by Mr. Robert Chandler to approve the minutes from February 21, 2022. Ms. Lynn Kieffer seconded the motion. Roll call was taken and the minutes were unanimously approved.

HEARING (Evidentiary):

The matter was for a Special Use Permit request for an accessory structure (dry stack stone retaining walls at 8 Fairway Place. Ms. Lynn Kieffer shepherded the matter. Ms. Emily Gregory represented the homeowner. The overall intent is to mitigate a lot of water that goes through the property. There will be one placed higher up on the property that is approximately thirty feet long that is not visible from the upper part of the property. The lower wall will roughly be about 106 feet long. It will look identical to the existing walls that are already on site. The larger wall will also be a retaining wall. It will be seen from both sides of the property. There are multiple springs on the property where much of this water is coming from.

Ms. Kieffer clarified the shorter wall is located in the side of the yard. Ms. Kieffer asked if additional buffering were needed, would the homeowner comply with this request. Ms. Gregory said yes. Ms. Kieffer said a neighbor across the street, Mr. Glenn Kelly said he is in support of the project.

DELIBERATION AND DETERMINATION:

Ms. Kieffer recited the facts and said Dr. Leon Elliston is requesting a Special Use Permit for an accessory structure (two dry stack retaining walls) at 8 Fairway Place. The walls are compliant with the setbacks.

Ms. Martha Barnes made a motion for a Special Use Permit be granted to Dr. Leon Elliston of 8 Fairway Place 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. Mr. 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.

The motion was seconded by Mr. Lowell Pearlman. Roll call was taken and unanimously approved.

HEARING (Evidentiary):

The next request was for a Special Use Permit at 26 East Forest Road for an accessory building (greenhouse) and a new single-family residence. Ms. Martha Barnes shepherded the matter. Mr. Jason Weil and Mr. Howard McDill represented the homeowner. Mr. Weil said there will be an asphalt driveway. The garage will be at the main level. It is a flat lot and then it drops off. The house will be set at the edge so the basement can be level. There is also a secondary gravel driveway. The greenhouse will be a kit. It is placed on the site plan and want to have areas where they can garden. It is approximately 10'x16'. The approximate height is 8 feet tall. The low boulder wall is approximately 3.5 feet tall and 15-20 feet long.

DELIBERATION AND DETERMINATION:

Ms. Barnes recited the facts and said Mr. Michael and Mrs. Marita Douglas of 26 East Forest Road for an accessory building (greenhouse) and an accessory structure (retaining wall). The greenhouse is estimated to be 10 feet by 16 feet. The retaining wall will be 15-20 feet long and won't be any higher than four feet. There were no additions to the facts.

Mr. Robert Chandler made a motion to grant a Special Use Permit for a detached greenhouse and boulder placement and the facts as recited by Martha Barnes 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. Mr. Chandler 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 request for accessory structures (pergola parking area, garden shed, and entrance columns) and Variance for exceeding more than one detached accessory building at 394 Vanderbilt Road. The matter was shepherded by Mr. Lowell Pearlman. Mrs. Newnam said they wanted to make an arbor with a very low profile roof to protect the cars. Bushes will be planted on the side so neighbors would not see the vehicles on the side. The wood fence would be dark brown and the columns would be stucco. Mrs. Newnam has been working with the Broadwells who live next door.

Mr. Pearlman asked Mrs. Newnam what the hardship is based on. Mrs. Newnam said this plan provides a solution where no trees would be cut down. Mr. Ed Broadwell and Mrs. Donna Broadwell support Mrs. Newnam's project and they have put a great deal of effort into making this landscape look attractive. Mr. Kanipe said Mr. Davis is a neighboring property owner and is in support of the Newnam's project as well.

DELIBERATION AND DETERMINATION:

Mr. Pearlman recited the facts and said Todd and Angela Newnam are requesting a Special Use Permit for accessory structures (pergola parking area, garden shed, and entrance columns) and Variance for exceeding more than one detached accessory building at 394 Vanderbilt Road.

Ms. Lynn Kieffer made a motion that a Special Use permit be granted to Angela and Todd Newnam of 394 Vanderbilt Road and the facts as recited by Lowell Pearlman and his summation be accepted as findings and facts to support this grant. The Board has inspected this site and no neighboring property owner has objected. Ms. Kieffer further moved the Board define that granting this Special Use Permit (a) would not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and improved, (b) met all required conditions and specifications of the Town of Biltmore Forest Zoning ordinance, (c) would not substantially injure the value of adjoining or abutting property, and (d) would be in general conformity with the plan of development of the Town of Biltmore Forest and its environs as set forth in Sections 153.110 (C)(2-3)of the above ordinance. The applicant has been informed that he/she is to report to the Zoning Administrator within seven (7) days of completion of the project in order that the Zoning Administrator can determine that the project has been completed in accordance with plans submitted to the Town.

Ms. 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.

The motion was seconded by Ms. Martha Barnes and unanimously approved.

Chairman Goosmann adjourned the meeting at 4:52 pm. The next Board of Adjustment meeting is scheduled for Monday, March 21, 2022 at 4:00 pm.

ATTEST:

Greg Goosmann
Chairman

Laura Jacobs
Town Clerk

**BOARD OF ADJUSTMENT
STAFF MEMORANDUM**

April 18, 2022



Case 1 – 12 East Forest Road

Special Use Request for Accessory Structure

*Installation of Landscape Boulders within Front Yard
Setback*

Property Owner: Phil & Lila Hardin
Property Address: 12 East Forest Road

Project Description

The applicant has presented plans for a several landscaping boulders to be placed within the front yard setback along an existing slope adjacent to East Forest Road. The purpose of the landscaping boulders is to hold materials and ensure the stability of the existing steep sloped bank.

The proposed dimensions for the boulder wall are 25 feet long by 2 feet deep. They will not be placed within the Town's five (5) foot right of way.

Special Use Request and Variance Request

The Town requires a special use permit approval for new accessory structures including boulders or other rocks that are being set within a new location. In addition, the Town requires a variance approval since the boulders are located within a front yard setback.

Zoning Compliance Application

Town of Biltmore Forest

Name

Phil & Lila Hardin

Property Address

12 East Forest Road

Phone

(828) 230-3102

Email

phardin9107@charter.net

Parcel ID/PIN Number

964657991800000

ZONING INFORMATION

Current Zoning

R-1

Lot Size

0.56

Maximum Roof Coverage

3,520 square feet (Up to .75 acres)

Proposed Roof Coverage Total

N/A

Maximum Impervious Surface Coverage

Up to 1 acre (27.5 percent of lot area)

Proposed Impervious Surface Coverage

N/A

Front Yard Setback

60 feet (R-1 District)

Side Yard Setback

20 feet (R-1 District)

Rear Yard Setback

25 feet (R-1 District)

Building Height

N/A

Description of the Proposed Project

Installation of landscaping boulders outside of Town right of way to retain materials and slope from existing bank.

Estimated Start Date

5/2/2022

Estimated Completion Date

7/1/2022

Estimated Cost of Project

\$5,000.00

Supporting Documentation (Site Plan, Drawings, Other Information)

Applicant Signature

Date
3/28/2022

A handwritten signature in black ink, consisting of a single, continuous, wavy line that starts with a small upward curve on the left and ends with a small downward curve on the right.

Special Use Permit Application

Town of Biltmore Forest

Name

Phil and Lila Hardin

Address

12 East Forest Rd.

Phone

(828) 230-3102

Email

phardin9107@charter.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:

25 feet by 2 and a half feet natural stone retaining wall (see submitted proposal)

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

No obstruction of view, no hazardous materials, or excessive deminsions, and no encroachments.

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

Signature

Date

3/17/2022

Phil
Hardin

VARIANCE APPLICATION

Town of Biltmore Forest

Name

Phil and Lila Hardin

Address

12 East Forest Rd.

Phone

(828) 230-3102

Email

phardin9107@charter.net

Current Zoning/Use

R

Requested Use

Natural stone retaining wall

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?

Reinforce the sloping bank adjacent to the front road side driveway.

What does the ordinance require?

Setback distances and wall height (see submitted proposal)

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.

Yes, topography steeply sloped bank.

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

No

The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

Yes

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

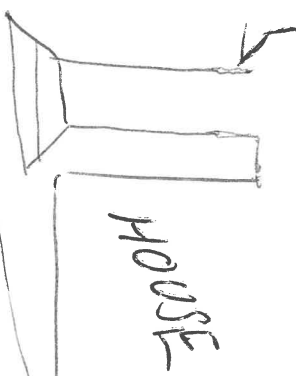
Signature

Phil
Hardin

Date

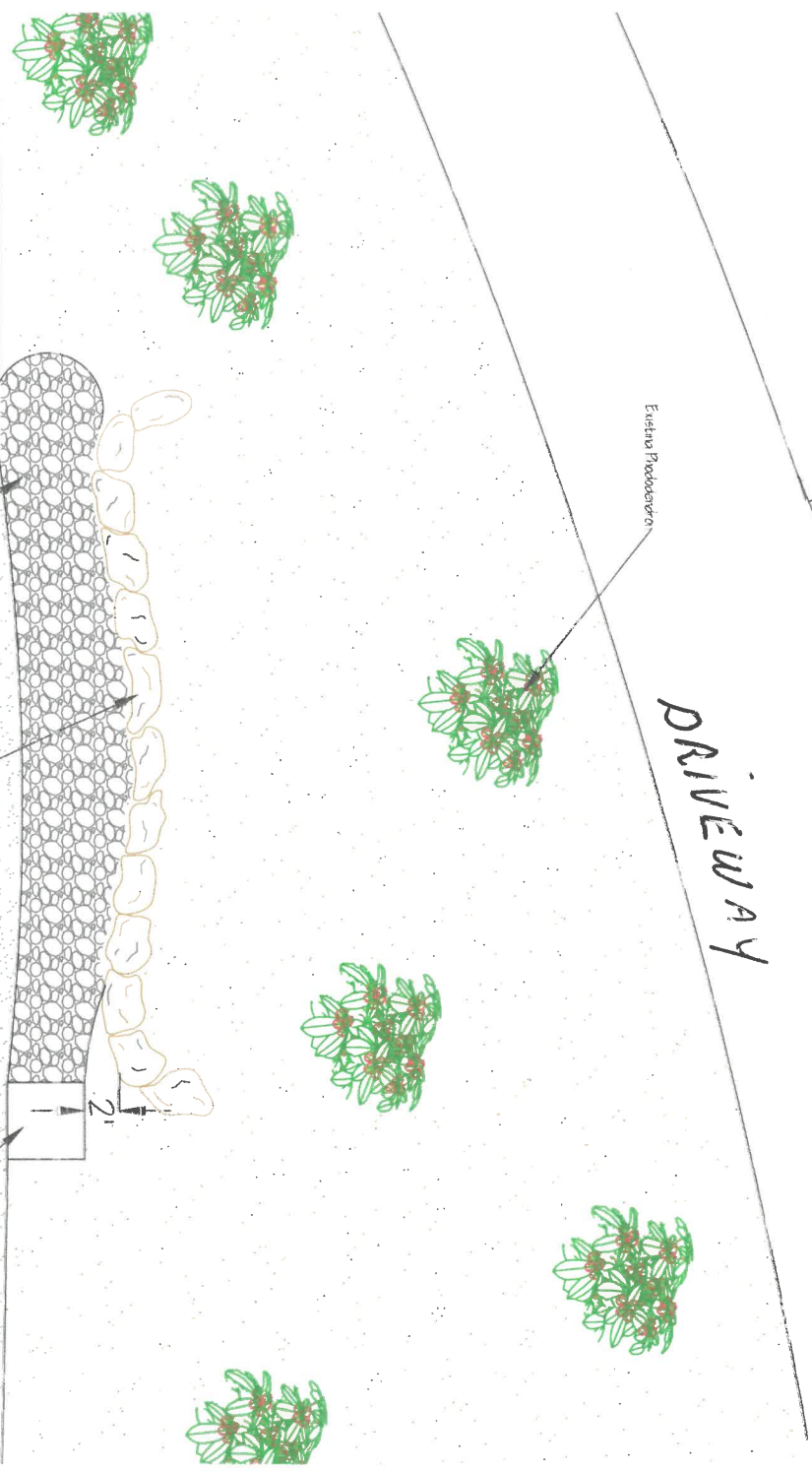
3/17/2022

TOP VIEW



DRIVEWAY

Evelyn Prodeiro



2' Green Space from road

New River cobble Stone

New Boulder retaining Wall

Storm Water Drain

EAST FOREST RD

LANDSCAPE DESIGN
FOR Hardin Residence

FTH GENERATION LANDSCAPE DESIGN
70 ROCKY HILLS RD
SOUTHINGTON CT 06488

DATE	1/25/22
SCALE	0"

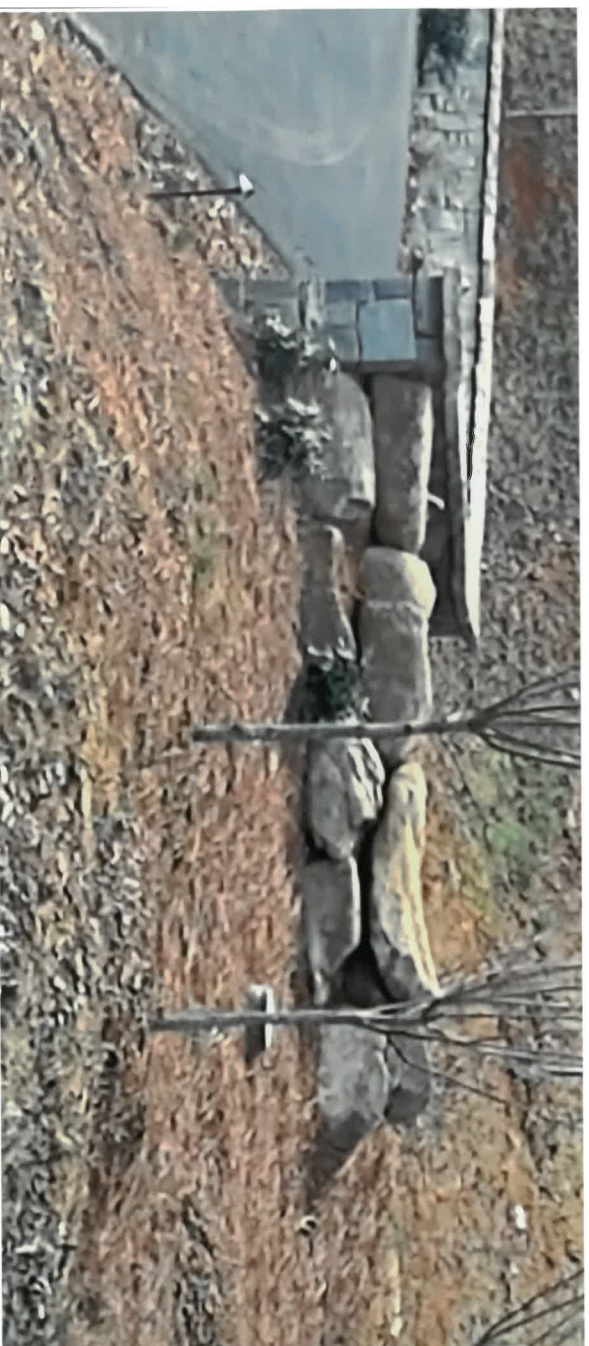
These plans and the information shown hereon are the property of the author and are to be used only for the project and site indicated. No reproduction or other use without the written permission of the author is permitted.

70' to
Removal



← 25 FT →

← SET BACK
6 FT FROM
FRONT EDGE



SAMPLE ON EASTWARD
SOUTH