



To: Members of the Board of Adjustment, Applicants & Neighboring Property Owners
From: Jonathan B. Kanipe, Town Manager
Date: October 7th, 2025
Re: **Board of Adjustment Meeting – October 20th, 2025**

Applicants:

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

Members of the Board of Adjustment & staff will conduct a site visit prior to the meeting. Site visit times listed are approximate.

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-adjustment>

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

Additional information regarding the meeting will be provided on the Town's website no later than October 16th, 2025.

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

The following items of business will be considered by the Biltmore Forest Board of Adjustment on Monday, October 20th, 2025 at 4:00 p.m. at the Biltmore Forest Town Hall at 355 Vanderbilt Road, Biltmore Forest, NC 28803.

1. The meeting will be called to order and roll call taken.
2. The minutes of the September 22, 2025 regular meeting will be considered.
3. Hearing of Cases (Evidentiary Hearings, Deliberations & Determinations).

Case 1: 390 Vanderbilt Road-Variance request for the installation of new driveway columns.

Site visit: 3:15 pm

MINUTES OF THE BOARD OF ADJUSTMENT
MEETING HELD MONDAY, SEPTEMBER 22, 2025

The Board of Adjustment met at 4:00 p.m. on Monday, September 22, 2025

Chairman Greg Goosmann, Ms. Lynn Kieffer, Mr. Robert Chandler, Ms. Rhoda Groce, Mr. Robert Chandler, Ms. Martha Barnes, and Ms. Janet Whitworth were present. Mr. Tony Williams, Town Planner, Mr. Jonathan Kanipe, Town Manager, and Mr. Billy Clarke, Town Attorney were also present.

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

Ms. Lynn Kieffer made a motion to approve the minutes as amended from the September 22, 2025, meeting. Ms. Janet Whitworth seconded the motion and was unanimously approved.

Chairman Goosmann swore in the following:

Mr. Tony Williams

Mr. Jonathan Kanipe

Mr. Rob Carlton

Ms. Anna Gay

Mr. David Yow

Mr. Nick Anagnostopoulos

HEARING (Evidentiary):

Mr. Tony Williams presented the following facts: The property owners at Lot #11 Cedar Hill Drive Parcel 9646-54-0152 are proposing a new construction review and Variance for accessory structures in the front yard. The application does not meet the requirements for the accessory structures. own Planner Tony Williams presented the facts of the case. The property owners were presenting plans for new home construction. As part of this construction, they submitted a proposed tree removal and replacement schedule. The application did not meet the requirements set forth in the ordinance for accessory structures (specifically a carport and basketball goal) being located within the rear yard and therefore required a variance.

Mr. Rob Carlton explained that the project was for a retiring couple with three children who would be empty nesters. The property has a steeply sloping topography, especially at the front of the parcel near the road, becoming more gentle as it moves into the property. The design includes a switchback driveway that flattens out as it reaches the most gentle part of the property in the northwest corner.

Mr. Carlton and Ms. Gay presented architectural renderings showing how the home would be positioned on the property. The roofline for the house and carport would be the same pitch and elevation, with careful attention paid to the aesthetics as the roof would be visible from the road. They explained that the steep topography necessitated the driveway design and placement of structures.

Ms. Lynn Kieffer asked about the roof of the car port and if it is the same pitch and elevation as the house. Mr. Carlton clarified it would be level with the ground on the uphill side, with only about 12 inches of wall projecting above grade. Ms. Gay also detailed plans for extensive buffering with vegetation, noting that three layers of buffer would be created: at the roadside, below the first part of the driveway, and on the uphill side of the lower part of the driveway.

Ms. Martha Barnes asked about the tree removal plan, specifically regarding the 8 trees coming down inside the setback and 13 outside the setback, for a total of 21 trees. She also encouraged the use of canopy trees in replacement plantings, noting that the town has a list of trees to choose from.

No neighboring property owners objected to the proposal.

DELIBERATION AND DETERMINATION:

Ms. Rhoda Groce moved that a Variance as requested be granted to Chris and Karen Dirks of lot number 11 on Cedar Hill Road for accessory structures in the front yard (carport and basketball goal), and that the facts as recited by Tony Williams and his summation be accepted as findings of fact to support this grant. The board has inspected the site and no neighboring property owner has objected. Further, she moved the Board to find that granting this Variance satisfies the applicable sections 153.110 D paragraphs 1 through 4, 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 practical difficulty or unnecessary hardship. I further moved the board to find that the spirit of the ordinance would be observed, public safety and welfare secured, and substantial justice done. The applicant must report to the zoning administrator within 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 and was unanimously approved.

HEARING (Evidentiary):

Mr. Tony Williams presented the following facts: The property owners at 7 Brookside Road are requesting a Special Use Permit for an accessory building(garage) in the rear yard. The matter was tabled from last month's Board of Adjustment meeting. The proposed structure would be a 750 square foot garage apartment that meets the location and setback requirements. All accessory buildings within Town require a Special Use Permit for approval.

The applicant, Mr. Nick Anagnostopoulos explained that since the last meeting, they had addressed two concerns: ensuring the flow of the house matches the main house's appearance, and addressing the neighbor's concerns about sight lines being obscured. After meeting with the neighbor in the backyard, they agreed to lower the structure by digging down 7-8 feet, which would provide 18 feet of clearance for the neighbor's unobstructed view. Additionally, there would be no windows in the back that would disturb the neighbor with lights from the apartment. The driveway would also be lowered an additional 5-6 feet, forming a wall, and trees would be replanted to help with headlight concerns.

Mr. David Yow, a neighboring property owner confirmed that the applicant's efforts had addressed his concerns about maintaining the single-story character of the neighborhood. Since most of the garage level would be below natural grade, the roofline of the new apartment would be well below the horizon line from his viewshed. He felt that the combination of putting the garage and approach below grade with vegetation to provide a visual buffer would address lighting and night sky issues.

Mr. Williams noted that he had spoken with another neighbor, Adam, who stated he felt more comfortable with the project given these changes.

Mr. Anagnostopoulos confirmed they were planning landscape buffering and would work with a landscaper to determine the best types of trees to plant, including consideration of canopy trees.

DELIBERATION AND DETERMINATION:

Ms. Lynn Kieffer moved that a Special Use Permit as requested be granted to Nick Anagnostopoulos of 7 Brookside Road for a garage in the rear yard and the facts as recited by Tony Williams and his summation should be accepted as finding of facts to support this grant. The Board has inspected this site, and no neighboring property owner has objected. She 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. Groce seconded the motion and was unanimously approved.

The next meeting would be held on October 20, 2025. The meeting was adjourned at 4:31pm.

ATTEST:

Greg Goosmann, Chairman

Laura Jacobs, Town Clerk



BOARD OF ADJUSTMENT MEETING

STAFF MEMORANDUM

October 20, 2025

Case 1

Property Owner: David & Trudy Cappiello
Property Address: 390 Vanderbilt Rd
Request: Variance Request for Driveway Entrance Columns

Project Description

The applicant requests a variance from the Board of Adjustment for the installation of new driveway columns. The applicants proposed project will consist of stone columns with a max height of twelve feet. The Town's Zoning Ordinance governs new fences, gates, and walls in Chapter 153.049 as a permitted use if it meets ordinance requirements.

Variance Request

The columns as presented are higher than what the ordinance allows (8 feet), therefore would require a variance from the Board. Section 153.110 (D) (attached) addresses the approval requirements for a variance.

Zoning Compliance Application

Town of Biltmore Forest

Name

David & Trudy Cappiello

Property Address

390 Vanderbilt Road

Phone

(828) 230-4441

Email

gcck@aol.com

Parcel ID/PIN Number

9646781691

ZONING INFORMATION

Current Zoning

R-1

Lot Size

4 acres

Proposed Roof Coverage Total

N/A

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

12'

Description of the Proposed Project

DRIVEWAY COLUMNS WITH LANTERNS

Estimated Start Date

9/22/2025

Estimated Completion Date

10/30/2025

Estimated Cost of Project

\$20,000.00

Supporting Documentation (Site Plan, Drawings, Other Information)

Cappiello Entrance Columns_072325.pdf

Applicant Signature

Date
9/22/2025

David & Trudy Cappiello

VARIANCE APPLICATION

Town of Biltmore Forest

Name

David & Trudy Cappiello

Address

390 Vanderbilt Road

Phone

(828) 230-4441

Email

gcck@aol.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?

Driveway columns and lanterns to be placed on driveway. Due to topography one would need to be 12" and the other 10' on hill..

What does the ordinance require?

The Maximum height is 8'.

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.**

Due to the topography of the driveway, one side is higher and includes a bank. The opposite side is level. Because of this difference, the column on the flat side would need to be visually taller but level with the opposite side on the bank. The lanterns are needed for security, and lighting the driveway. Because of the size of the lanterns, their placement needs to be higher than 8' for adequate lighting and to be able to insure safety at the entrance. Due to the topography, the 8' in height regulation would not be sufficient and needs to be 12' on the flat side to equalize the column heights.

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

The Layout of the Land and the Topography both come into play as described above.

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

The hardships are due to nature and the topography.

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

The project meets and secures the intent of the ordinance and would add to public and personal safety

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

Signature

Date

David & Trudy Cappiello

Have you paid the \$300 variance application fee? Your permit application will not be reviewed until payment has been received. You can visit the link below to pay. Copy & paste the link in your browser.

I plan to pay in person or mail a check

§ 153.049 FENCE, GATE AND WALL REGULATIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Fences shall not exceed six feet in height except that fences designed to prevent deer or other wildlife from entering the property shall not exceed ten feet in height. Deer fences shall be constructed in accordance with North Carolina Wildlife Resources Commission standards for "Permanent Woven Wire Fencing" and "Permanent Solid-Wire Fencing." Copies of these standards are available at the Town Hall or at the following web address (<https://www.nxwildlife.org/Learning/Species/Mammals/Whitetail-Deer/Fencing-to-Exclude-Deer#42041180-permanent-fencing>).

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

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

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

153.110

(D) *Variances*. Upon application, when unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

(1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;

(2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from conditions that are common to the neighborhood or the public may not be the basis for granting a variance;

(3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship; and

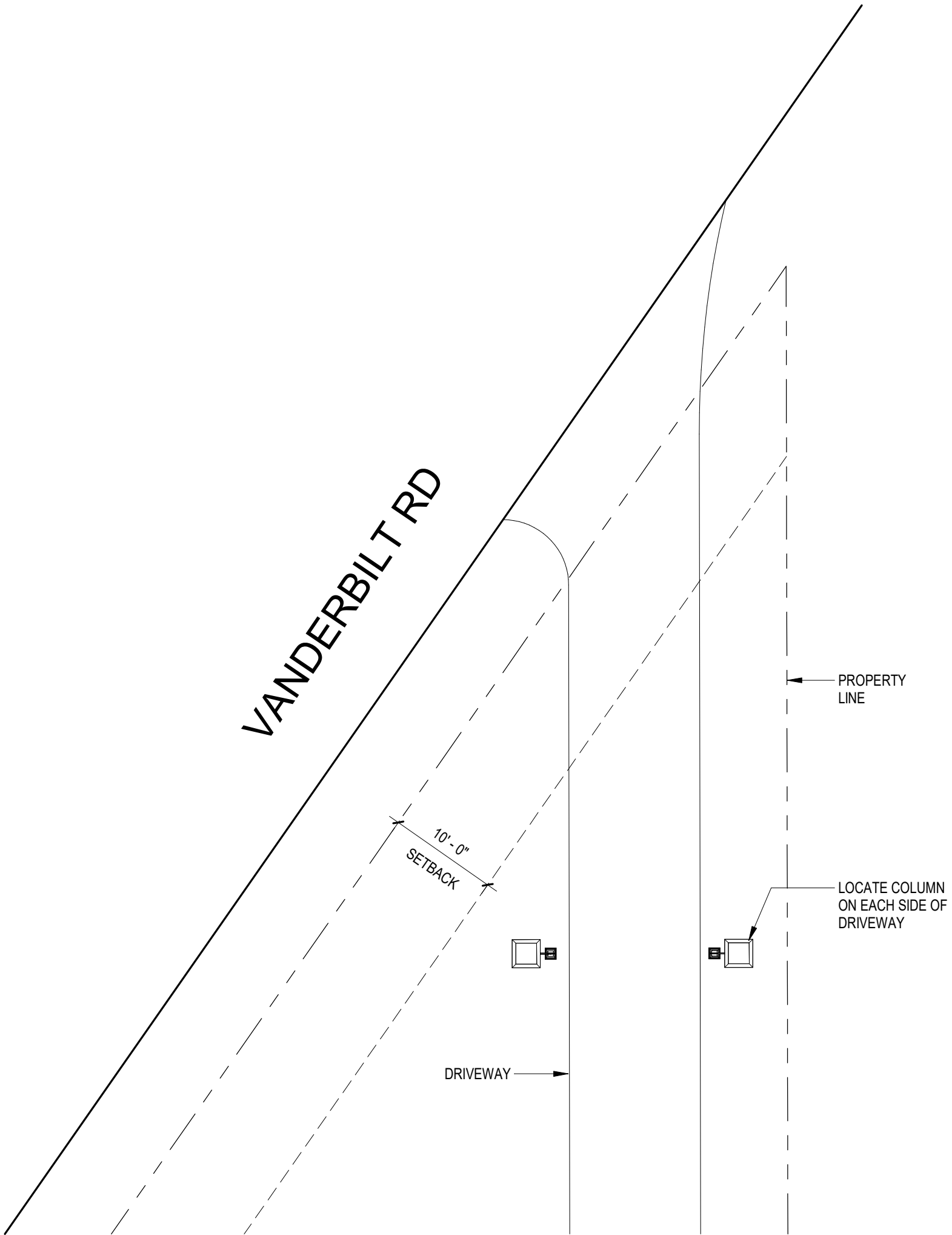
(4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

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

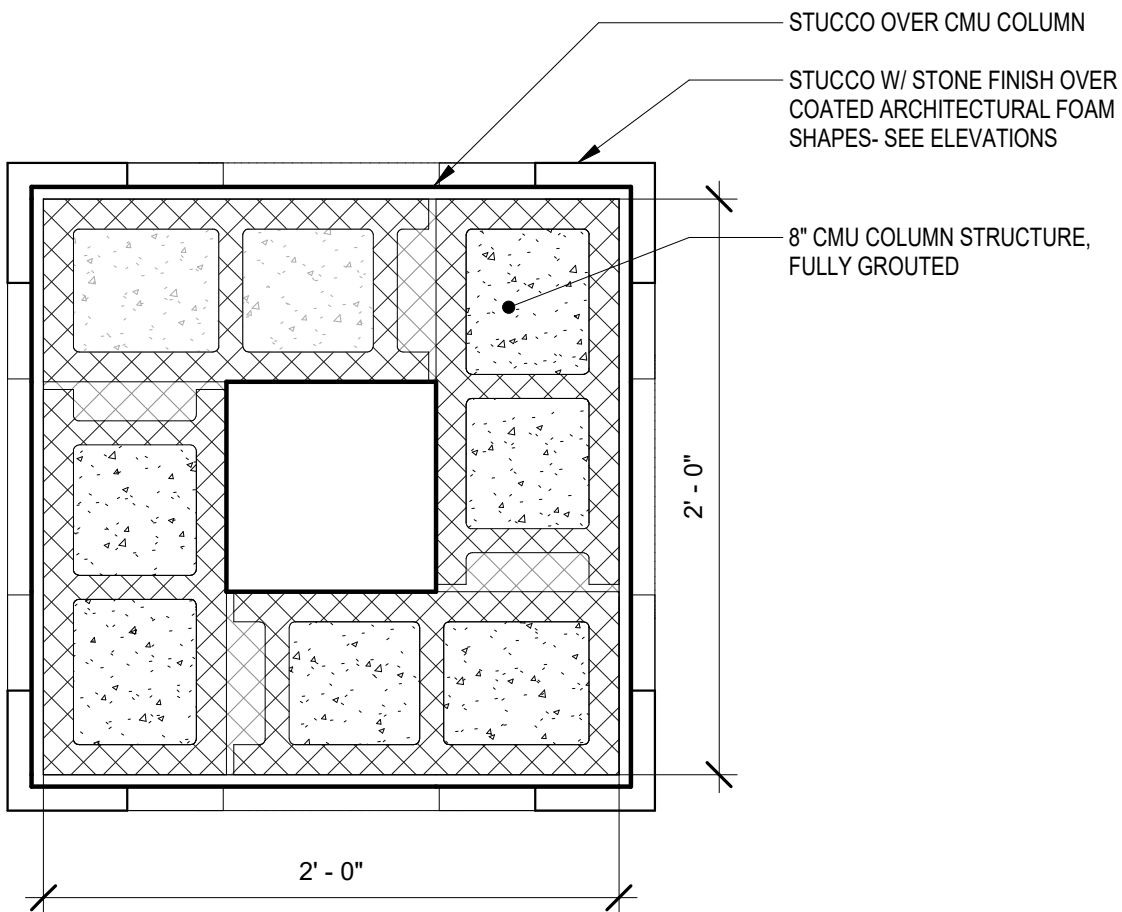
Editor's note:

This amendatory language was passed during a Board meeting, May 14, 2014

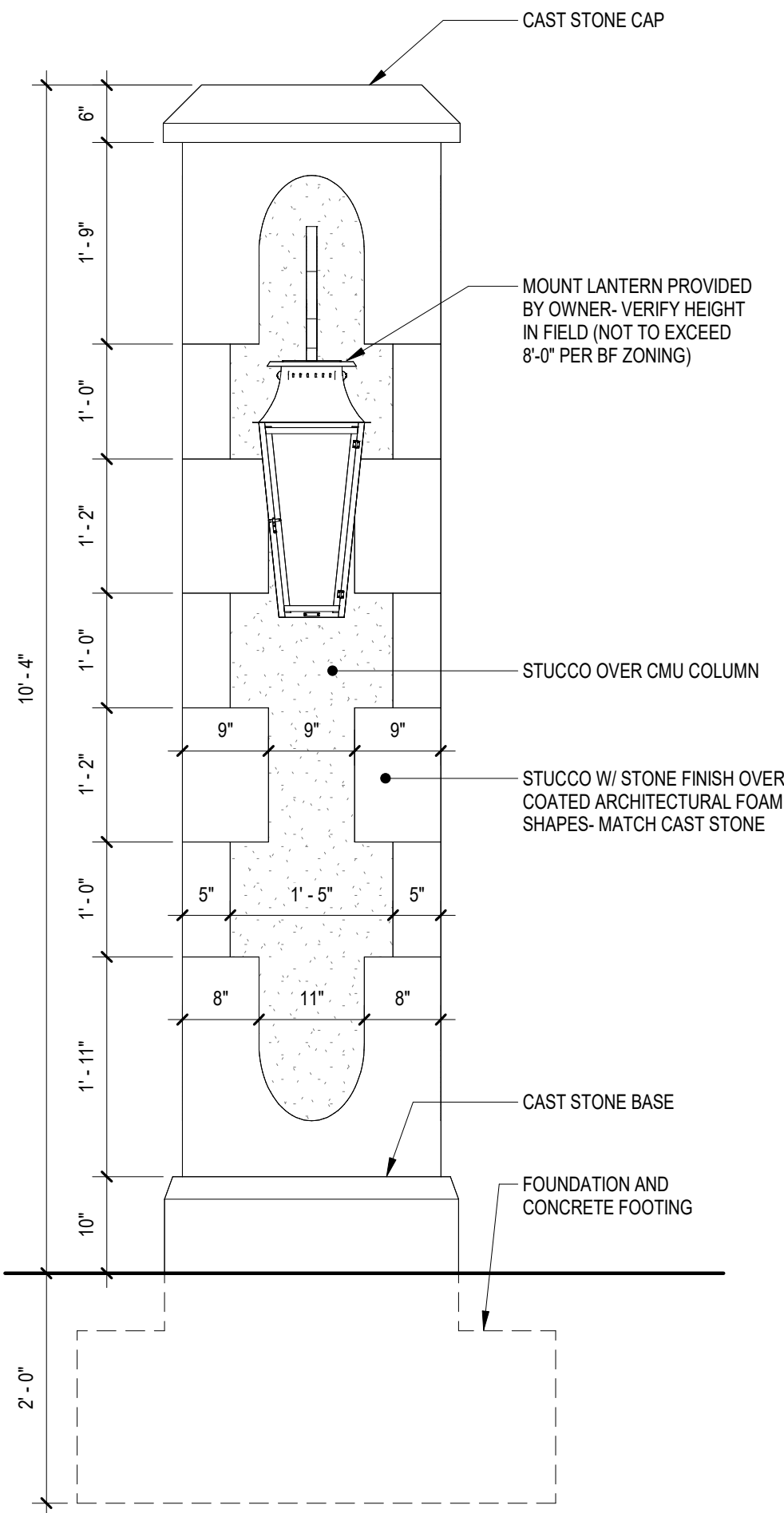
PROPERTY INFORMATION	
PROPERTY OWNERS	DAVID & TRUDY CAPPIELLO
ADDRESS	390 VANDERBILT RD. ASHEVILLE, NC 28803
CONTACT	LAURA HUDSON, AIA 626-676-0569
PIN NUMBER	9646781691
LOT SIZE	3.47 ACRES
ZONING DISTRICT	RES >3 ACRES
FRONT SETBACK	10' (MIN)
CONTRACTOR	ALLEN PEELE, BEVERLY-GRANT 828-274-7084; ext. 105



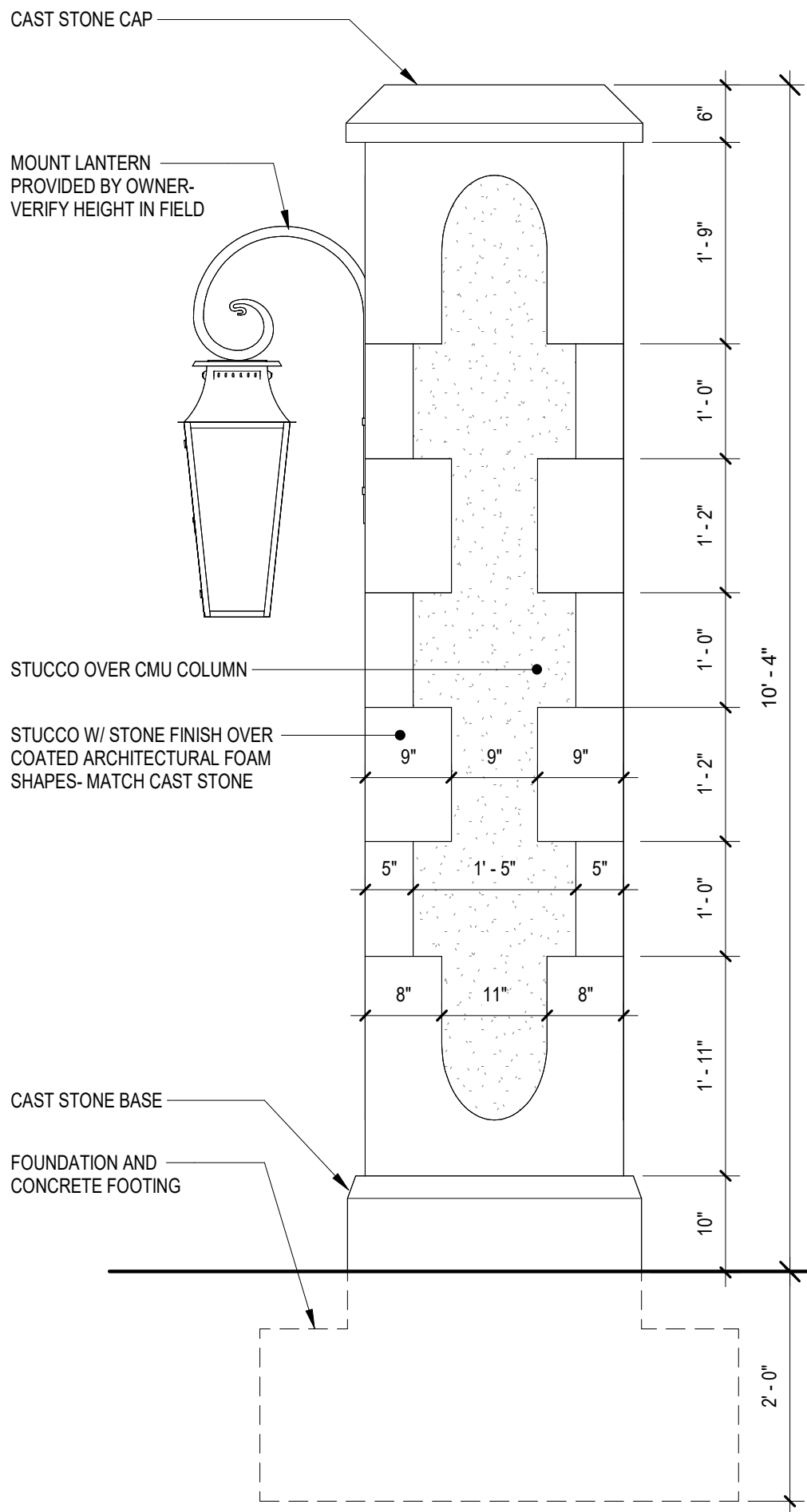
5 SITE PLAN
3/32" = 1'-0"



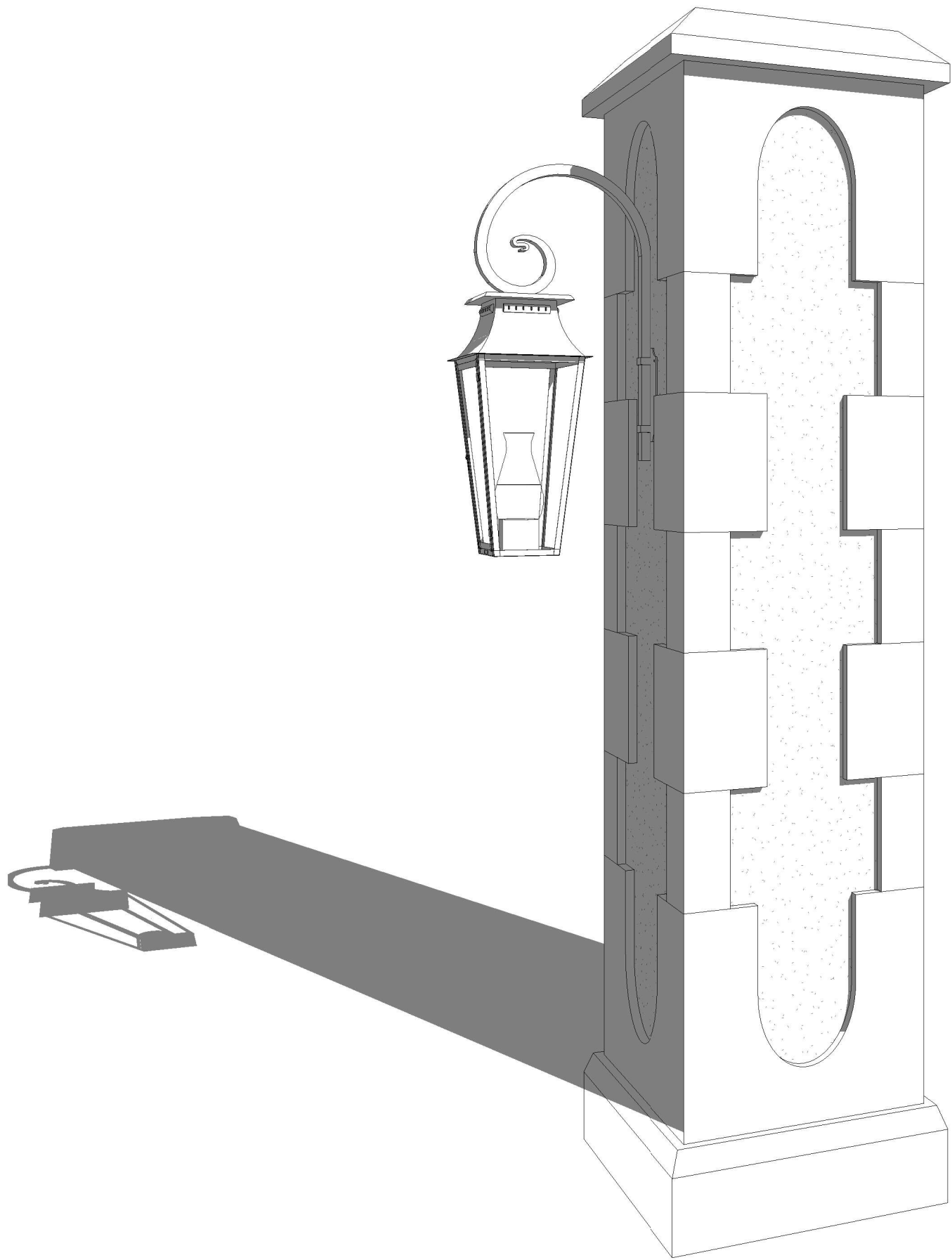
1 COLUMN PLAN
1 1/2" = 1'-0"



3 SIDE ELEVATION
3/4" = 1'-0"



2 FRONT ELEVATION
3/4" = 1'-0"



Revisions		
No.	Date	Description

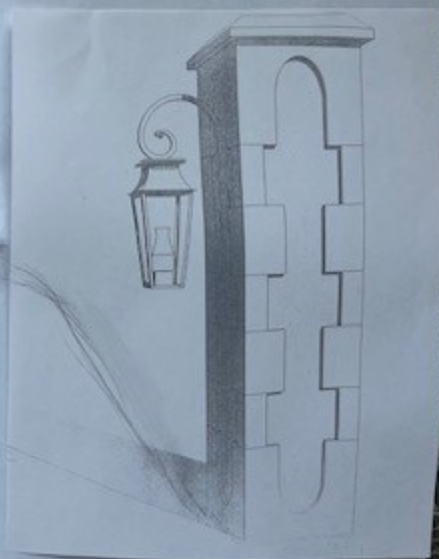
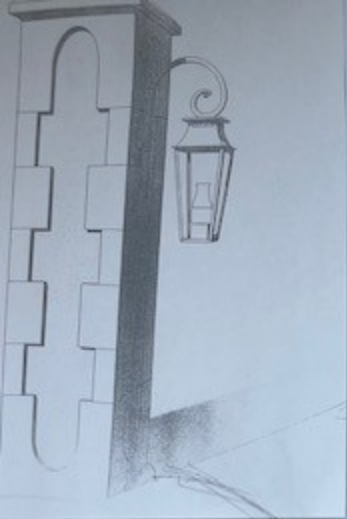
Project Number:	2345
Date:	07/23/2025
Drawn by:	LHA

SITE PLAN

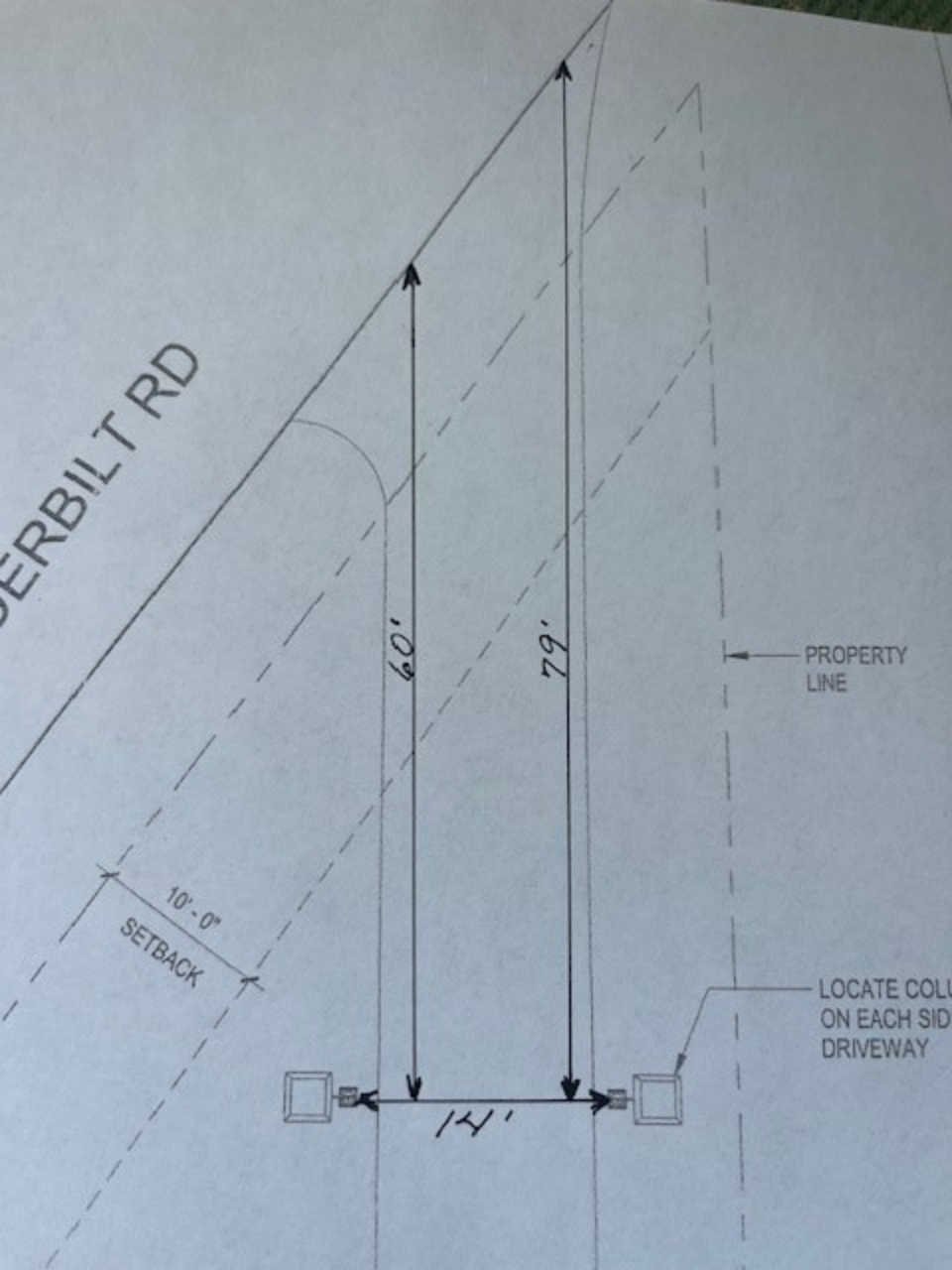
Sheet Number:

A1.0





DERBILT RD



PROPERTY
LINE

LOCATE COLL
ON EACH SIDE
DRIVEWAY

10'-0"
SETBACK

60'

79'

14'

