

MINUTES OF THE BOARD OF ADJUSTMENT MEETING
HELD MONDAY, OCTOBER 23, 2023

The Board of Adjustment met at 4:26 p.m. on Monday, October 23, 2023.

Mr. Greg Goosmann, Mr. Lowell Pearlman (via Zoom), Ms. Martha Barnes (via Zoom), Ms. Rhoda Groce were present. Mr. Jonathan Kanipe, Town Manager, and Mr. Tony Williams, Town Planner, were also present. Ms. Carly Gillingham (in place of Mr. Billy Clarke, Town Attorney). Ms. Lynn Kieffer was not present.

Chairman Greg Goosmann called the meeting to order at 4:26 p.m.

Chairman Goosmann swore in the following:

Mr. Tony Williams

Mr. Jonathan Kanipe

Mr. James Mullins

Mr. Evan Remmes

Ms. Indigo Voron

Mr. Julian Moore

Mr. Drew Stephens

Mr. Jonathan Gach

Mr. George F. Goosmann, III

Mr. Gordon Taylor

Mr. Wally Hachil

Mr. William Morrison

A motion was made by Mr. Robert Chandler to approve the minutes from September 18, 2023. Ms. Rhoda Groce seconded the motion, the minutes were unanimously approved.

HEARING (Evidentiary):

The first matter is for a Special Use Permit request for fence replacement within the same location at 11 Forest Road. Mr. Lowell Pearlman shepherded the matter. Ms. Indigo Voron said there is a wooden and chain link fence. Chairman Goosmann asked Ms. Voron if she was ok with two board members participating remotely via Zoom. If not, they will postpone the hearing. Ms. Voron agreed.

Ms. Voron said currently there is a wooden fence and a chain link fence that divides the property from neighbors at 9 Forest Rd. They would like to replace the chain link fence section with more wooden fence and an iron fence. Chairman Goosmann said when the Board was at the site, they saw an existing wooden privacy fence between the Vorons and their neighbor, and the Vorons want to extend it downhill. Ms. Voron said yes, about 10 yards. Then it will connect to where there is an existing chain link fence and then replace the chain link fence and extend that with the new wrought iron fence.

DELIBERATION AND DETERMINATION:

Mr. Pearlman restated the facts and said Mr. and Mrs. Voron have requested a Special Use Permit to replace an existing fence installation with a partial extension of an existing wooden fence at 11 Forest Road.

Ms. Martha Barnes joined the meeting at 4:32 pm and was also present for the site visits. Ms. Groce moved to approve a Special Use Permit for Mr. and Mrs. Voron at 11 Forest Road.

Ms. Rhoda Groce made a motion to approve a Special Use Permit at 11 Forest Road and the facts as recited by Lowell Pearlman and his summation be accepted as findings and facts to support this grant. The Board has inspected this site, and no neighboring property owner has objected. 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. The motion was seconded by Mr. Robert Chandler and unanimously approved.

HEARING (Evidentiary):

The second matter is for a Special Use Permit request for a swimming pool construction within the rear yard at 25 Ridgefield Place. Mr. Lowell Pearlman shepherded the matter. Mr. Moore agreed to two board members being on Zoom. Mr. Julian Moore would like to put in an inground swimming pool within a 35-yard setback on all perimeters. He would like to have it installed in the upper backyard. They need the pool for health purposes. They would be willing to add additional buffering if needed. Mr. Moore said he would be agreeable to buffering all sides of the property if asked by the neighbors and said he could have evergreen installed on the borders if needed.

Ms. Mary Goodkind, a neighboring property owner, lives at 23 Ridgefield and had questions about the sketch and asked Mr. Moore where the pool equipment will be stored. Mr. Moore said it will go in the tool shed.

Ms. Goodkind asked about night lighting. Mr. Moore said there will be no light pollution to the neighbors. Ms. Goodkind asked about fencing. Mr. Moore said on Ms. Goodkind's side, they will put a weld wire fence. The whole perimeter of the back yard will be closed and will pass code. It is well within the setback.

Ms. Goodkind asked if decking will be put around the pool. Mr. Moore wasn't sure at the time but in the future, they will put stone set on gravel. Ms. Goodkind asked if he was going to have subcontractors. Mr. Moore said yes.

DELIBERATION AND DETERMINATION:

Mr. Pearlman restated the facts and said Mr. Julian Moore has requested a Special Use Permit to construct a pool in his backyard. There will no outdoor lighting and no sound pollution. By State Statute, Mr. Moore must surround the pool or enclose a fence around the pool which he already has around the property. Mr. Moore is willing to buffer if needed. The pool is 16'x20'.

Mr. Chandler made a motion to have the Special Use Permit granted to Mr. Julian Moore at 25 Ridgfield Place 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. 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. Rhoda Groce seconded the motion. The motion was unanimously approved.

HEARING (Evidentiary):

The third matter is for a Special Use Permit request for an accessory structure construction at 6 Eastwood Road. Mr. Robert Chandler shepherded the matter. Mr. Drew Stephens is the owner of the property. A neighboring property owner, Mr. Jonathan Gach supports the project. This will consist of a 24'x30' open air structure on a concrete slab. Chairman Goosmann asked Mr. Stephens if he was ok with having two board members on Zoom. Mr. Stephens said yes. The structure will not have utilities. It is a structure to store lumber. It will have a brown metal roof and eight posts on a slab. It is open air on two sides. It will have a fake shake treatment to it and there will be a couple of windows in there just to let in some light in from those two sides. Mr. Stephens said he was planting some other white pines between his driveway at 4 Hilltop and his property. There's an existing row of white pines along the property line to the west toward Hilltop Road. Mr.

Stephens said he would like to have the structure put up first and then determine where the best spots are to add screening if needed. Mr. Stephens agreed to add additional screening if needed.

DELIBERATION AND DETERMINATION:

Mr. Robert Chandler restated the facts and said Mr. Drew Stephens is applying for a Special Use Permit at 6 Eastwood for an accessory structure construction which would store lumber. This will consist of a 24'x30' open air structure on a concrete slab. It will have a brown metal roof and eight posts on a slab. It is open air on two sides. Mr. Stephens is willing to add additional buffering if necessary.

Ms. Martha Barnes made a motion and moved that a Special Use Permit as requested be granted to Drew Stephens for accessory structure construction at 6 Eastwood Road and the facts as recited by Robert Chandler and his summation be accepted as findings and facts to support this grant. The Board has inspected this site, and no neighboring property owner has objected. 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.

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

HEARING (Evidentiary):

The fourth matter is for a Special Use Permit request for a retaining wall construction and Variance for a setback intrusion at 47 Hilltop Road.

DELIBERATION AND DETERMINATION:

The applicant postponed the project.

HEARING (Evidentiary):

The fifth matter is for an appeal from the homeowner at 13 Cedar Chine, Mr. James Mullins, to the Board of Adjustment regarding fence installation at 6 Hemlock Road. The matter was shepherded by Ms. Martha Barnes. Chairman Goosmann asked Mr. Mullins if he was ok with two board members attending online today via Zoom instead of in person. Mr. Mullins said he was fine with the two board members being online via Zoom.

Mr. Mullins asked about accessory structures and what year the Board of Adjustment created variance requirements for accessory structures and setbacks. Mr. Kanipe said he estimated it could have started around 1983 when the Town's code was recodified. He said he thought the Zoning Ordinance was redone at this point but didn't know that for certain.

Mr. Mullins asked about the wording of the Town's electrified fence ordinance prior to switching to the new North Carolina system, was that wording the same as what he originally submitted in his application. Mr. Kanipe said the Ordinance that was originally approved in 2017 but is no longer the Ordinance anymore was like the one Mr. Mullins had submitted. Mr. Mullins asked if it was the exact wording and Mr. Kanipe said he didn't have the original application in front of him, so he didn't know for sure if it was the same.

Mr. Mullins asked what the wording of the electrified fence ordinance is today. Mr. Kanipe said there is no wording for electrified or electrifiable fences. Ms. Barnes said there is just a fence ordinance. Mr. Kanipe said what is allowed must meet the North Carolina State requirements. And that is where it references that it goes back to a North Carolina State law that talks about acceptable materials and standards. So, for instance, it says wooden fencing or gates will be of a natural color, non-wooden fencing and gates will be black, dark green or brown. No new chain link fencing shall be allowed. When you get into the deer or other wildlife portion of it, it allows higher fences in terms of height and goes specifically to the North Carolina fencing that allows woven wire or even taller wooden fencing. But there is nothing that relates to electrified fencing in that regard. Ms. Barnes asked Mr. Kanipe how everything was handled before the new Ordinance took effect. Mr. Kanipe said anything during that time after 2017 that was electrified, the Town attempted to find those and then asked them to be

de-electrified. We did not ask them to remove them from that location because there was a vested right for the fence to be in that location.

Mr. Mullins asked does the town has independent documentation as to where the original location of the electrifiable fence was and where it originally was allowed or installed.

Mr. Kanipe doesn't recall the Town having anything from a permit perspective for that fence. However, the original house construction in the mid-80s did show a fence proposed on part of the survey. Mr. Kanipe couldn't say for certain whether that was included or not in the approval of that fence because there's nothing related to it. Mr. Kanipe also couldn't say whether the town required approval for fences at that time. Mr. Kanipe said, we do know from a realtor who sold the house previously, and I think that was provided to you earlier, that the fence was on that location, at least when the current property owner bought the house. We also have information from other citizens in the Town that the fence was there as well but nothing he could say from a permanent perspective. Chairman Goosmann said that was provided as testimony in our previous hearing so that it's evidence from the previous hearing. Chairman Goosmann asked Mr. Mullins if he is requesting to the Board that he is wanting to appeal the decision that was made at the previous hearing. Mr. Mullins said yes. Mr. Mullins wants to know how the Town knows where the original fence was located other than a realtor saying hearsay that it was at its current location, which is on Mr. Mullins' property, which he said was not the case. Chairman Goosmann said his father lives a couple houses down from Mr. Mullins and he was on the property and those that knew the owner at the time they installed the fence, they can provide additional evidence if needed to discuss the location of the fences.

Mayor Goosmann was sworn in. Chairman Goosmann asked Mayor Goosmann if he could testify with certainty that he knew the location of the fence that presently exists at this property. Mayor Goosmann said yes. Chairman Goosmann asked Mayor Goosmann if he knew when the fence was constructed. Mayor Goosmann said the fencing was already there when Mr. Mitchell Watson bought the house. Before Mr. Watson owned the house it was Mr. Bruce Armstrong who owned the house. The fence was installed by the original owner. Mr. Mullins asked where the original location of the fence was. Mayor Goosmann said the original location of the fence is exactly where it is presently. Mr. Mullins asked if the fence was on his property/ Mayor Goosmann said it was not on his property at all.

Ms. Barnes said there may have been a little bit of movement with the fence which Mayor Goosmann may not have been aware of just because it was on his property. Ms. Barnes asked

Mayor Goosmann if he was saying the fence was generally in the same place as it is now. Mayor Goosmann said he was assuming it was and that Mr. Watson was showing him that it was on his property.

Mr. Pearlman asked if the appeal from Mr. Mullins is based on the fact that this fence has the capability of being electrified or is the appeal based on his assumption that the fence was or continues to be on his property because we are talking about two different things now. In the field based on the fact that the fence can be electrified or is it based on the fact that it is on his property now. Mr. Mullins said neither one is correct. Mr. Mullins said his appeal is the fence was moved from its original location and that more than 50% of the fence was moved a substantial amount and that should require a review by the Board of Adjustment. In this review, Mr. Mullins said it should address where the location is in the setback and where the screening is to keep it from the view of the neighbors.

Mr. Pearlman said this appeal is now based on Mr. Mullins' assumption whether it is correct or incorrect to have no idea that the fence was moved. It is not based on the original argument (the word argument being used as a legal term) that this was an electrical potentially electrified fence. As Mr. Pearlman recalls, the location of the fence did not enter that discussion at all. Mr. Mullins said that is incorrect. Ms. Barnes said it was the fact that it was moved more than 50% and it's not even moved if it's repaired. Mr. Kanipe said to the best of our information, the fence has not been repaired or removed more than 50% of it and he is aware of a portion of it that was moved, and Mr. Mullins was a part of this conversation in April of this past year because we, Mr. Remus, was alerted to it being on his property, Mr. Mullins property. I was part of the conversation wherein Mr. Remus talked to Mr. Mullins about moving it off his property and that occurred. That's the only movement of which the town is aware.

Ms. Barnes asked Mr. Kanipe how many linear feet the fence is and how many linear feet were moved. Mr. Kanipe said he is not prepared to say that because he doesn't know that off the top of his head from looking at the survey that was provided.

Mr. Kanipe said just from visiting the property with both the Town attorney previously as well as another member of the Town previously and looking at the entirety of the fence versus what was moved off the property is not more than 50%. Mr. Mullins said this is not correct. Mr. Mullins asked if Mr. Tony Williams provided the Board with the photos. Chairman Goosmann said yes, he

did provide the photos to the Board. Mr. Kanipe said the fence includes everything that is part of the fence, not just the back property line.

Chairman Goosmann said the appeal is from our previous hearing that reviewed the fence in its location at that time, which, as I understand it, is no longer if it was ever over onto his property, no longer on his property and he's appealing our vote that occurred in June, that approved the fence to remain in its present location. Ms. Barnes said no he was just asking for his own ten-foot wooden fence.

Ms. Barnes said to Mr. Mullins the only thing that would come to the Board of Adjustment would be to ask the Town and the Remmes by saying you put this fence up without a Special Use Permit, but there's nothing that has happened that would make the Remmes do that. So that's why there's really nothing here for the Board of Adjustments.

Mr. Mullins said the fence was moved and you can see it is almost the entirety of the long fence on the entire property line was moved at least five feet which is much more than 50%.

Mr. Remmes was sworn in and said he and his wife have owned their house since 2016, and at no point has that been electric or electrified since they owned the house. The second thing is that when the fence was moved, it was done so at Mr. Mullin's request. He thought that that portion of the fence was on his land. He did a survey. The survey did show that a small portion was on his land so at his request, in coordination with the town, we moved that just that small back portion up so that it was not on his land. Mr. Remmes stated the fence may have been moved by five feet in one section, which was by the tree, which basically the fence came towards the tree and it went around the back. And that's kind of what caused it to go on his land. That is where it got pulled up the most. It was only the back portion, and it would not have been across that entire back portion that it would have been pulled up five feet, it would have just been in those sections that it came close to his land. So it was at his request, it was in coordination with the Town.

Ms. Barnes said the Town says no Special Use Permit application is required by the neighbor and Mr. Mullins wants us to overrule that. Unfortunately, we don't have any information that says it needs to be overruled. Mr. Mullins said, you can look at the pictures you can see whether it was the entire fence was new, not just the small portion except for the two side parts is well over 50%. The fence was moved into place on our property, and it was moved a second time off my property.

Mr. Remmes asked Mr. Mullins why he thinks it was moved onto his property. This is where it was when they moved into their house. Mr. Mullins said that is not true. Mr. Remmes asked what evidence Mr. Mullins has to prove that he moved it onto his property. Mr. Mullins asked if he has a survey showing where the fence was located when Mr. Remmes bought the property. Mr. Remmes said no but he knows he was not out there moving fences for a fact.

Chairman Goosmann said this discussion is based upon what the appeal or the request of what Mr. Mullins in this regard. The decision is do we wish to as a Board overrule what has been determined by the town and grant his appeal, retroactively require the town to do something or requirements for Mr. Remmes to do something different, or do we wish to deny his request for the appeal? Ms. Carly Gillingham said by the Town's decision, which entity made that? Mr. Kanipe said it was his decision as the Zoning Administrator and there's nothing required by the Remmes' on behalf of the Town. Chairman Goosmann asked Ms. Gillingham if the Board should require the town to require the property owner to do something different or affirm the decision that was made by the Town and deny the appeal that has been requested by Mr. Mullins. Ms. Gillingham said that is her understanding as well.

Mr. Mullins said, if the town has no documentation as to where the original fence was located, how can it decide when the fence was moved from my property into the rear setback. Mr. Mullins asked if that was the location originally or it was moved to a new location.

Mr. Kanipe said the Town is not saying that is the location. The Town says that it is not more than 50% of the fence that was moved and that it's also making a non-conforming use because it was on Mr. Mullins' property into a use that is more conforming.

Mr. Mullins asked Mr. Kanipe if he had measured the fence. Mr. Kanipe said he has not physically measured the fence, but he estimated based on what he saw on the ground that it is not more than 50%. Mr. Mullins said he had it measured along the property line, and it is much more than 50% that was moved. Mr. Kanipe asked if that includes the side property lines. Mr. Mullins said yes. Chairman Goosmann asked Mr. Mullins if he had any kind of physical documentation that he can supply that shows the location of the existing fence and the measurements that he had taken. Mr. Mullins said yes, it is provided in the Board packet. Mr. Mullins said there is a calculation page that shows it to support his answer.

Ms. Barnes said she sees a lot of measurements but no conclusion. Mr. Chandler asked what the percentage of the fence that was moved. Ms. Barnes said it doesn't state this information. Mr. Mullins said he doesn't have the documentation in front of him. Chairman Goosmann said it also doesn't include the side property lines either. Ms. Barnes said, since we don't have the math, can we just base it on the information the Board of Adjustment has on hand? Ms. Barnes said since we don't have the math on hand and based on the information provided, can the Board make a motion. Chairman Goosmann asked Ms. Gillingham for guidance. Mr. Mullins said the fence was moved so why isn't the fence screened from the neighbor's view after being moved. Ms. Barnes said this never came to the Board of Adjustment. There wasn't anything that happened when the Remmes bought the property to come to the Board of Adjustment. If you don't come to the Board of Adjustment for approval, then you don't get asked that question. Nothing has said the Town did the wrong thing. The fence was already there. Mr. Mullins said a hardscape was put in right at the property line over Mr. Mullins' side. It was a bunch of boulders, rocks, and drainage. Ms. Barnes said swales and drainage do not come before the Board of Adjustment. Mr. Pearlman said we are being diverted attention wise from the case before us which is an appeal on a decision and now, we are diverting on a lot of extraneous issues which have nothing to do with the appeal.

DELIBERATION AND DETERMINATION:

Ms. Martha Barnes moved that the Board of Adjustment accepts the Town's decision not to require the Remmes to apply for a Special Use Permit for the fence that was in their backyard when they purchased their house. Ms. Gillingham suggested the Board say they move to deny the appeal. Ms. Barnes moved that the Board of Adjustment deny the appeal which was an appeal the Town made an erroneous decision to not require the Remmes to make a Special Use Permit for their fence that was at their house when they bought it. Mr. Lowell Pearlman seconded the motion. Ms. Rhoda Groce was also in favor of denying the appeal. Ms. Barnes is also in favor of denying the appeal. Mr. Pearlman is in favor of denying the appeal. Mr. Robert Chandler also voted to deny the appeal. Chairman Goosmann said it was voted unanimously by the Board to deny the appeal that was made.

Mr. Mullins asked what his options are at this point. Mr. Kanipe said the next appeal process is to go to the Superior Court. Mr. Mullins asked if he could get advice on the time frame. Ms. Gillingham said it is 30 days from the written order which are the minutes.

HEARING (Evidentiary):

The next matter is for a Special Use Permit for a fence installation within the rear yard at 44 Forest Road.

DELIBERATION AND DETERMINATION:

The matter was tabled to a later date.

HEARING (Evidentiary):

The next matter is for a Special Use Permit request for a swimming pool in the rear yard at 6 Fairway Place.

DELIBERATION AND DETERMINATION:

The matter was tabled to a later date.

HEARING (Evidentiary):

The next matter is a Special Use Permit request for a swim spa construction in the rear yard at 3 Deerfield Road. The matter was shepherded by Ms. Martha Barnes. Mr. Gordon Taylor said he and his wife said they would like to install a swim spa which is a 450 roughly 15 by 8 foot. It will be largely inground surrounded by decking the originally proposed to be installed adjacent to our existing porch. The potential conflict with North Carolina State regulations regarding fencing encouraged us to move it. An altered location where compliance with state law would be far less difficult and cumbersome. The new location is still well within the existing setbacks. The pool would be roughly 65 feet from our rear property. One of our side property lines and about 65 feet from the other property lines. Total area is of the pool and the surrounding decking would be roughly 364 square feet. There will be no lighting and there is proper screening.

DELIBERATION AND DETERMINATION:

Ms. Martha Barnes restated the facts and said Gordon and Catherine Taylor of 3 Deerfield Rd. are requesting to install a swim spa 15 feet by 8 feet by 4 feet deep and it's all within the setbacks. Their property is close to their house. Their property is extremely screened. Except for this little

35-foot corridor, which they've agreed to screen if it's requested, no outdoor lighting. They are compliant with fencing. There is no issue with Board members hearing the meeting on Zoom by Mr. Taylor.

Mr. Robert Chandler made a motion to grant a Special Use Permit to Mr. Gordon Taylor of 3 Deerfield Road 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. H 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 Ms. Rhoda Groce and unanimously approved.

HEARING (Evidentiary):

The last matter is for a Special Use Permit request for access drive construction and Variance request for side setback intrusion at 7 Stuyvesant Road. Ms. Rhoda Groce shepherded the matter. Mr. Wally Hachil said he is here today to request a special use permit for the access drive on the property at 7 Stuyvesant Road subject to some enhancements which he talk about in a couple minutes as well as the variance for the portion of the you know, access path that's within the setbacks. What we've done based on our last meeting is to take into consideration the comments that we received and the feedback that we got from the board, which we appreciate and discussed that with our landscape consultants at BB Barnes and come back with a revised proposal. One addressed the concern that there be significantly smaller gravel placed on top of what's there now to cover the path which will be done. It's a much smaller and much finer gravel that will be placed on top of the path that's there now. Which will provide a much smoother surface. In addition, we've taken into consideration that there was a suggestion to not use the grass clippings as a covering,

but rather pine straw that was there on portion of the path and used that for the entire path. So again, we've discussed that with B.B Barnes and have agreed to incorporate that into the proposal. There will be a significant amount of pine straw 60 bills. I think that will be brought in, placed over the path once the finer gravel is put down again to provide another layer of barrier as well as to aesthetically improve you know the image of the path. Regarding the buffering, again I know there was, a recommendation to go back and look at what was proposed, and we've gone back and discussed that again with B.B. Barnes, and I know there were two holly's, smaller ones that were sort of planted there before the last meeting. They will place five skip laurels basically in areas where there is buffering that's needed and the reasoning for that is you know these plantings grow much more quickly and provide much broader screening. Mr. William Morrison, who is a neighboring property owner does not approve the project. He says they are not satisfactory. Mr. Morrison said it would be nice being a good neighbor to just walk over and say how can we work this out which has never happened. I think that's important.

Mr. Morrison said he wants it to be exactly the way it was a year ago. There's never been stone, there's never been stone you had presented earlier that pictures that said there was stone there, the previous owner of our property said that he had no knowledge ever of a path existing with stone. The photographs that were presented did not support stone. He wants the stone driveway to be removed. The previous dirt path was perfectly acceptable so there is no noise. Mr. Hachil described what the crushed gravel is to Ms. Barnes.

Mr. Pearlman said there is a disagreement. Mr. Pearlman said I'm hearing Wally say is he wants to put dirt over the rock and have a firmer base because the rock is there and then put sod over the dirt so that there is grass on top of the dirt on top of the rock. But such that that it's not that there's. The rock is buried at that point in the same location, and the entire length of the rock is covered by dirt and sod. What Mr. Morrison is saying is what I'm hearing is saying we've done this dance for seven months and he doesn't want to go back to the way it originally was.

DELIBERATION AND DETERMINATION:

Ms. Rhoda Groce made a motion to deny the Special Use Permit for an accessory structure and a Variance request for replacement within the setback of the gravel road which would require them to restore this back to a dirt road to its original state. Mr. Pearlman seconded the motion. Ms. Barnes is for the motion, Mr. Pearlman is for the motion, Mr. Chandler is for the motion, and Ms.

Groce is for the motion. It passes unanimously to deny the request to ask the property to be restored to its original state as a dirt path.

The meeting was adjourned at 6:08 pm. The next Board of Adjustment meeting is scheduled for Monday, November 20, 2023 at 4:00 pm.

ATTEST:

Greg Goosmann

Chairman

Laura Jacobs

Town Clerk