

MINUTES OF THE BOARD OF ADJUSTMENT MEETING  
HELD MONDAY, SEPTEMBER 18, 2023

The Board of Adjustment met at 4:00 p.m. on Monday, September 18, 2023.

Mr. Greg Goosmann, Mr. Lowell Pearlman, Ms. Martha Barnes, Ms. Rhoda Groce, Ms. Lynn Kieffer were present. Mr. Jonathan Kanipe, Town Manager, Mr. Tony Williams, Town Planner, Mr. Harry Buckner Public Works Director were also present.

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

Chairman Goosmann swore in the following:

Mr. Tony Williams

Mr. Jonathan Kanipe

Mr. Dan Ryan

Ms. Melissa Ryan

Mr. Howard McDill

Mr. Walter Guidry

A motion was made by Mr. Lowell Pearlman to approve the minutes as amended from August 28, 2023. Mr. Rhoda Groce seconded the motion. The minutes were unanimously approved.

HEARING (Evidentiary):

The first matter discussed is a for a Special Use Permit request for a fence installation and Variance request to encroach within the rear and side yard setbacks at 9 White Oak Road. Mr. Lowell Pearlman shepherded the matter. The fence is being requested to keep children and animals confined. They have pedestrians and kids coming through the property every day. They would like to move phase two from the plan and extend the southern fence to the existing lattice work. They have spoken to the neighbors about the project.

DELIBERATION AND DETERMINATION:

Mr. Pearlman restated the facts and said Dan Ryan of 9 White Oak Road is requesting a Variance and Special Use Permit to complete the enclosure of the back yard which will require encroachment into the backway which as a result encroaches into the setback requirement. He has spoken to the neighbors, and they approve the project. The fences will be screened.

Ms. Lynn Kieffer moved that a Special Use Permit and Variance be granted to Dan Ryan of 9 White Oak Road for fencing in the rear yard and fencing that encroaches into the side yard and the facts as recited by Lowell Pearlman and his summation be supported 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.

Further, she moved by 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. He 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. Robert Chandler seconded the motion. The motion was unanimously approved.

HEARING (Evidentiary):

The second matter is for a Special Use Permit request to extend a previously approved accessory structure at 28 East Forest Road. Mr. Howard McDill represented the homeowners. Ms. Rhoda Groce shepherded the matter. They would like to extend the carport to allow parking

of one additional car. It would be an additional 900 square feet of impervious surface. Ms. Kieffer said it is not visible from the road.

DELIBERATION AND DETERMINATION:

Ms. Groce recited the facts and said Michael Douglas of 28 East Forest Road is requesting a Special Use Permit for an extension of a motor court which is an additional 900 square feet of impervious surface.

Mr. Pearlman moved that a Special Use Permit be granted to Michael Douglas of 28 East Forest Road for extension of a parking area and the facts as recited by Rhoda Groce and his summation be supported as findings and facts to support this grant. The Board has inspected this site and no neighboring property owner has objected. He 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. Barnes seconded the motion and was unanimously approved.

HEARING (Evidentiary):

The last matter is for a Special Use request for an accessory structure installation and Variance request for encroachment within the side yard setbacks at 15 Eastwood Road. Mr. Walter Guidry represented the homeowner. Ms. Martha Barnes shepherded the matter. For new builds, the Board suggested not going into the setback and the planned construction of this home goes into the setback. All parts of the wall will be within the setback. The plans will include changing the steps to a mulch path and moved in setback with the wall.

DELIBERATION AND DETERMINATION:

Ms. Barnes restated the facts and said Crockett and Eliza Dale are asking for a Special Use Permit for a retaining wall that is u-shaped on the west side of the property. It is two feet tall. It will be sixty-two linear feet. A Variance is for the circular driveway. The spheres are portable. They are doing away with the walkway and stairs and replacing it with a mulch path. Mr. Guidry said it will be more like fifty three feet once it is brought five feet into the setback.

Ms. Rhoda Groce moved that a Special Use Permit and Variance be granted to Crockett and Liza Dale of 15 Eastwood Road. The Variance request is for a circular driveway and the Special Use is for a retaining wall on the west side of the house. It will be two feet high and fifty two feet wide 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. 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.

Further, she moved by 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. He 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.

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

The meeting was adjourned at 4:37 pm. The next Board of Adjustment meeting is scheduled for Monday, October 23, 2023 at 4:00 pm.

ATTEST:

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Greg Goosmann

Chairman

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Laura Jacobs

Town Clerk