



To: Members of the Board of Adjustment, Applicants & Neighboring Property Owners
From: Jonathan B. Kanipe, Town Manager
Date: February 6th, 2025
Re: **Board of Adjustment Meeting – February 17, 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 February 12, 2025.

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

The following items of business will be considered by the Biltmore Forest Board of Adjustment on Monday, February 17, 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 January 27th, 2025 regular meeting will be considered.
3. Hearing of Cases (Evidentiary Hearings, Deliberations & Determinations).

Case 1: 2 Cedar Hill Drive-Variance request for encroachment of accessory structure into the side yard setback as well as accessory structure located within the front yard.

Site Visit – 3:00 pm

Case 2: 28 Ridgfield Place-Variance request for fence installation within the setbacks.

Site Visit – 3:20pm

Case 3: 56 Forest Road-Rehearing of Special Use and Variance request for accessory in the front yard.

Site Visit- 3:40pm

MINUTES OF THE BOARD OF ADJUSTMENT
MEETING HELD MONDAY, JANUARY 27, 2025

The Board of Adjustment met at 4:00 p.m. on Monday, January 27, 2025

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

Ms. Allison Markovich

Mr. Nicholas Markovich

Mr. John Fleming

Ms. Amy Fleming

Ms. Kelsey Deem

Mr. Scott Huhn

Ms. Marcia Shroeder

Mr. Mario Riccolo

A motion was made by Mr. Robert Chandler to approve the minutes from September 23, 2024, Ms. Rhoda Groce seconded the motion. The minutes were unanimously approved.

HEARING (Evidentiary):

The first matter is for a Variance Request for Driveway Entrance Columns and gate at 9 Brooklawn Chase. Mr. Tony Williams stated the applicant requires a Variance from the Board of Adjustment for the installation of new driveway columns and gates. The applicants proposed project will consist of stone columns with a maximum height of ten feet. Mr. Semanik said Hurricane Helene created extensive damage to the property driveway area. They lost numerous trees that acted as a natural security buffer. They would like the gate as a security buffer. They are trying to comply with a setback from the road. They are concerned with people backing into the driveway. Ms. Lynn Kieffer asked if it would be acceptable to make it eight feet. Mr. Semanik said he would prefer ten feet. Ms. Barnes asked if the eight feet would include the lights. Mr. Williams said yes. Chairman Goosmann said they could table this matter or request to reduce it to eight feet. Mr. Semanik agreed to reduce the height to eight feet. Chairman Goosmann said Mr. Semanik agreed to amend his application to reduce the height to eight feet. The hardship for the Variance is based on the sewer line location.

DELIBERATION AND DETERMINATION:

Mr. Williams restated the facts as amended and said the applicant is requesting a Special Use Permit and Variance for the installation of new driveway columns and gate. The project consists of stone columns with the height being eight feet. Ms. Groce made a motion that a Special Use Permit be granted to John Semanik at 9 Brooklawn Chase for the installation of new driveway columns and gate and the facts as recited by Tony Williams 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.

Further, she moved that by granting this Variance further 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 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. Kieffer seconded the motion and was unanimously approved as amended.

HEARING (Evidentiary):

The second matter is for a Special Use Permit request for an Accessory Building and Variance for a fence in the side yard at 18 Hemlock Road. Mr. Williams said the property owners request permission to install a detached accessory building within the rear yard. The proposed detached accessory building is 230 square feet and 16 feet in height. The applicant states the structure will be outside of the setback and located in the rear of the home as shown on plan. As part of the project the applicant would also like to request a variance for a 4-foot-tall fence located in the side yard. The fence is located in the side yard and goes into the rear of the home but does not encroach into any setbacks.

DELIBERATION AND DETERMINATION:

Mr. Williams restated the facts and said the property owners at 18 Hemlock Road are requesting a Special Use Permit for an accessory building and Variance for a fence in the side yard. Ms. Janet Whitworth moved that a Special Use Permit and Variance be granted to Kristi and Gaylon Owens of 18 Hemlock Road and the facts as recited by Tony Williams 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.

Further, she moved that by granting this Variance further 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 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. Groce seconded the motion and was unanimously approved.

HEARING (Evidentiary):

The third matter is for a Variance request for a fence in the side yard with encroachment into the side setbacks at 20 Browntown Road. Mr. Williams said the proposed project includes a six-foot-tall and twenty-four-foot-long privacy fence, which will encroach on the side yard setbacks. The fence is needed to block the view of the neighbor's utility equipment and will be painted green and fronted by landscaping of plants and shrubs. The fence would be installed very close to the property line and located on the side of the home which would not meet the ordinance and require a Variance. Ms. Amy Fleming said the fence would be six feet tall and thirty-six feet in length. It is within the setbacks. It meets all the requirements for the accessory building. Ms. Barnes requested buffering for the fencing area and the homeowners agreed to plant shrubs and plants.

DELIBERATION AND DETERMINATION:

Mr. Williams restated the facts and said the proposed project includes a six foot tall privacy fence which will be painted green. The height of the arch will be a maximum of eight feet. Ms. Whitworth made a motion to grant a Variance request to John and Amy Fleming of 20 Browntown Road and by granting this Variance further 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 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.

Mr. Chandler seconded the motion. The motion was unanimously approved.

HEARING (Evidentiary):

The fourth matter is a Special Use Permit and Variance request for a garage/storage building at 45 Hilltop Road. This application was tabled at the September meeting. The property owners are presenting plans for a 728 square foot garage. The structure is proposed in the side yard but meets the setback requirements. However, the location does not meet the requirements for an accessory building to be located in the rear yard and therefore requires a Variance approval from the Board. The hardship is the lay of the land and the steep grade at the site location.

DELIBERATION AND DETERMINATION:

Mr. Williams restated the facts and said the homeowners at 45 Hilltop request a Special Use Permit and Variance for a garage/storage building at 45 Hilltop Road. It consists of a 728 square foot garage. The hardship is the lay of the land and the steep site location.

Mr. Robert Chandler moved that a Special Use and Variance be granted to Mr. Grant Henegan of 45 Hilltop Road and the facts as recited by Tony Williams 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.

Further, he moved that by granting this Variance further 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, literal enforcement of the provisions of this Ordinance would, in this case, result in 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. Lynn Kieffer seconded the motion and was unanimously approved.

HEARING (Evidentiary):

The fifth matter is for a Special Use Permit request and Variance request for a garage at 320 Vanderbilt Road. Mr. Williams said the homeowners have two separate garages, and they want to connect them. Their former structures were damaged during Hurricane Helene. The roof overhang is at 14', 14' and the current proposal is 14', 61' which includes overhangs. Landscaping was planted so there will be plenty of buffering. Ms. Barnes asked about the pitch, and it complies.

DELIBERATION AND DETERMINATION:

Mr. Williams restated the facts and said the homeowner is requesting a Special Use and Variance to replace two garages into one single building. It will be in the same location in the side yard where the two existing structures are now and meets the setback requirements. There is a buffering plan.

Ms. Barnes moved that a a Special Use and Variance as requested be granted to Mr. David Shroeder and the facts as recited by Tony Williams 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.

Further, she moved that by granting this Variance further 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, literal enforcement of the provisions of this Ordinance would, in this case, result in 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. Groce seconded the motion and was unanimously approved.

HEARING (Evidentiary):

The last matter is for a review of a landscaping plan associated with a new residential construction at Lot 6 Cedar Hill Drive. The parcel number is 964643100600000. Mr. Williams said this is for a new home construction. The application meets the requirements set forth in the Ordinance. As part of this construction, they have submitted the proposed tree removal and replacement schedule. Landscaping and grading plans with land disturbance of twenty percent or more will require the Board's approval.

DELIBERATION AND DETERMINATION:

Tony restated the facts and said the homeowners are applying for a review of a landscaping plan associated with new home construction. Ms. Kieffer made a motion to approve the landscaping plan associated with Lot 6 Cedar Hill Drive Parcel number 964643100600000. Ms. Whitworth seconded the motion and was unanimously approved.

The next meeting is scheduled for Monday, February 17, 2025 at 4:00pm.

The meeting was adjourned at 5:00pm.

ATTEST:

Greg Goosmann

Chairman

Laura Jacobs

Town Clerk



BOARD OF ADJUSTMENT MEETING

STAFF MEMORANDUM

February 17, 2025

CASE 1

Property Address: 2 Cedar Hill Dr.

Property Owner: Rick Jackson

Request: Variance Request for a Fence, Pool, and Retaining Walls in the Side and Front Yard

Background

The property owners request permission to install attached accessory structures within the front yard and one detached accessory structure in the side yard. The proposed detached accessory structure is a retaining wall thirty-six feet long with varying height from two to three and a half feet and will encroach into the setbacks. As part of the project the applicant would also like to request a variance for multiple attached accessory structures within the front yard, these would include a pool, retaining wall, and fence/gates but does not encroach into any setbacks.

Variance Request

The ordinance requires the accessory structures be located in the rear yard as well as meet setback requirements and therefore requires a variance from the Board. Section 153.110 (D) (attached) addresses the approval requirements for a variance.

153.029 ACCESSORY STRUCTURES AND BUILDINGS.

(A) Accessory structures and/or necessary buildings shall not detract from nor interfere with adjacent properties. No accessory structure or building shall be constructed, erected, or located within any front yard or within any side yard or rear yard setback.

(B) (1) In addition, the following standards are established for accessory structures and accessory buildings:

- (a) The maximum number of accessory buildings permitted on a lot shall be one;
- (b) The maximum roof coverage area for accessory buildings shall be 750 square feet;
- (c) The maximum height for accessory buildings shall be 25 feet;
- (d) The accessory building must be screened by vegetation or other buffer as set forth in § [153.008](#);
- (e) The accessory building must be located behind a line parallel to the rear of the principal structure on the lot;
- (f) The accessory building must be designed in the same architectural style as the principal structure;
- (g) Any accessory structure and/or accessory building shall be included in the calculation of allowable roof coverage and allowable impervious surface coverage on the lot pursuant to §§ [153.043](#) and [153.048](#); and
- (h) Solar collectors shall be regulated in accordance with G.S. § 160D-914.

(2) For all satellite dishes less than 24 inches in diameter, an application for a zoning compliance certificate shall be made directly to the Zoning Administrator; the Zoning Administrator shall issue a zoning compliance certificate.

(3) Fences, gates, and walls shall be regulated in accordance with § [153.049](#) of this Zoning Ordinance.

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

Editor's note:

This amendatory language was passed during a Board meeting, July 9, 2013

Zoning Compliance Application

Town of Biltmore Forest

Name

rick jackson

Property Address

2 Cedar Hill Dr.

Phone

(828) 989-4318

Email

jackson011117@gmail.com

Parcel ID/PIN Number

9646-53-5845-00000

ZONING INFORMATION

Current Zoning

R-1

Lot Size

1.6

Proposed Roof Coverage Total

3,889sf total - (allowable:5,800sf)

Proposed Impervious Surface Coverage

13,712 sf total -(allowable: 18,350sf)

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

no change

Description of the Proposed Project

new covered front entry and expanded porch. along with pool and spa w/ outdoor kitchen

Estimated Start Date

4/1/2025

Estimated Completion Date

11/1/2025

Estimated Cost of Project

\$700,000.00

Supporting Documentation (Site Plan, Drawings, Other Information)

REV_R.JACKSON POOL_1 - Photo.jpg

REV_R.JACKSON POOL_8 - Photo.jpg

REV_R.JACKSON POOL_3 - Photo.jpg

REV_R.JACKSON POOL_4 - Photo.jpg

REV_R.JACKSON POOL_9 - Photo.jpg

REV_JACKSON POOL PROPERTY DETAILS.pdf

Applicant Signature

Date
1/31/2025

Rick Jackson

VARIANCE APPLICATION

Town of Biltmore Forest

Name

Rick Jackson

Address

2 Cedar Hill

Phone

(828) 989-4318

Email

jackson011117@gmail.com

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?

add style appropriate entry and covered porch. Pool and spa with associated retaining walls. AND Additional parking area with 2 to 3ft high natural boulder wall slightly in front setback. Existing Asphalt parking is currently in side setback. AND small amount of pool fencing to meet pool required barrier. (4ft high black vertical pickets)

What does the ordinance require?

153.029 (B) (e) The accessory building must be located behind a line parallel to the rear of the principal structure on the lot; AND 153.049(A)(1): "The fence, gate, or wall is constructed entirely within the rear yard, is not located in any side or rear yard setbacks,..."

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.**

1. The rear of this home is actually the side of the lot as defined by the setbacks. There is no other location for the pool that is functionally or aesthetically appealing for this home due to the way it was oriented on the lot. 2. 3ft high boulder wall is needed to protect removal mature existing trees. and the existing limited parking area is and has been a constant inconvenience to homeowner and his guests. would also eliminate need for parking on the street during gatherings at the home.

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

1. According to section 153.0027 "All lots shall front on a public street. ..." The house does not face the road like most, therefore due to the location of the house and orientation, we only have the opportunity to place the pool as shown on the submitted plans and renderings. 2. parking area is already in side setback. plus the front

setback for this property is 75' rather than the normal R1 front setback of 60ft.

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

THE FOLLOWING STATEMENT APPLIES TO BOTH VARIANCE REQUESTS:

A variance is warranted due to the orientation and location of the home within the lot. The topography, visibility from streets and adjoining properties, and limited removal of trees/vegetation are best served by the proposed location and functions of the project.

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.

(1.) 153.029 ACCESSORY STRUCTURES AND BUILDINGS.

(A) Accessory structures and/or necessary buildings shall not detract from nor interfere with adjacent properties. The location and impact of placing the pool "essentially in front of the house" is negligible. you can not see the pool or retaining walls from any portion of the street, even at the driveway entrance, no portion of the retaining wall for the pool or pool is visible. and most importantly, no neighboring property will ever be able to see the pool or portion thereof. (2) the boulder wall is only a few feet inside the setback and is completely invisible to neighbors and 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

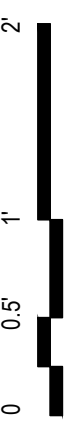
2/5/2025

Rick Jackson

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.

Yes

NOTE: IF THIS SHEET IS NOT 24" X 36", THEN IT IS NOT THE INTENDED SIZE. IN ALL CASES, WORK TO FIGURED DIMENSIONS.

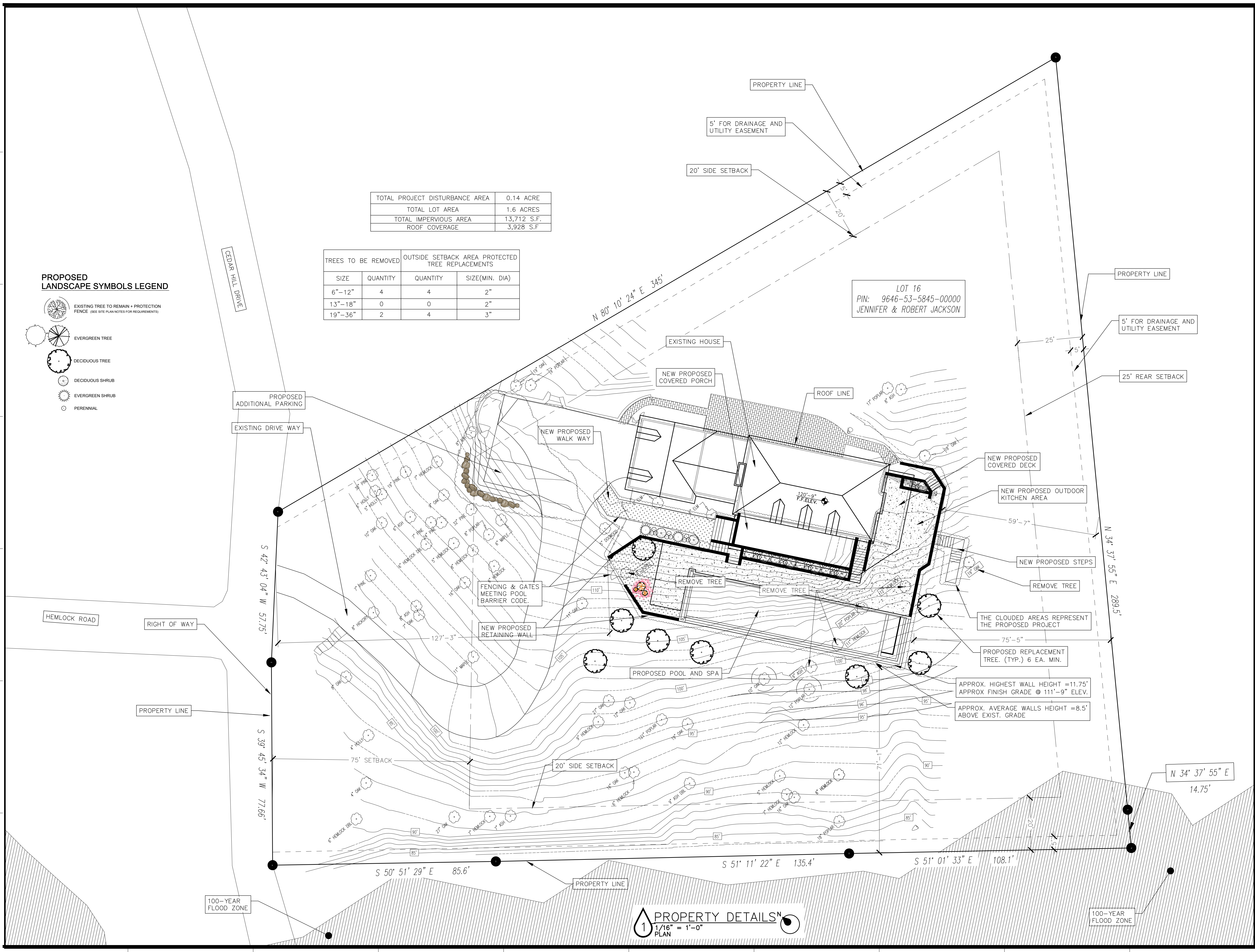


PROPOSED LANDSCAPE SYMBOLS LEGEND

- EXISTING TREE TO REMAIN + PROTECTION FENCE (SEE SITE PLAN NOTES FOR REQUIREMENTS)
- EVERGREEN TREE
- DECIDUOUS TREE
- DECIDUOUS SHRUB
- EVERGREEN SHRUB
- PERENNIAL

TOTAL PROJECT DISTURBANCE AREA	0.14 ACRE
TOTAL LOT AREA	1.6 ACRES
TOTAL IMPERVIOUS AREA	13,712 S.F.
ROOF COVERAGE	3,928 S.F.

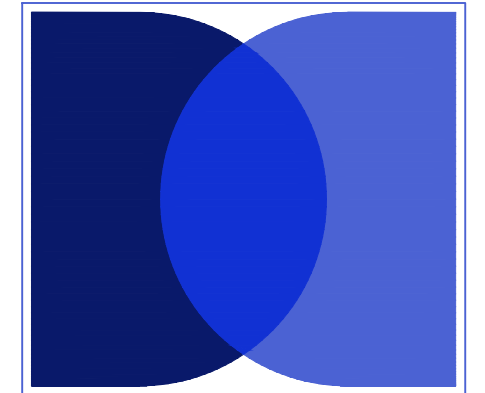
TREES TO BE REMOVED		OUTSIDE SETBACK AREA PROTECTED TREE REPLACEMENTS	
SIZE	QUANTITY	QUANTITY	SIZE (MIN. DIA)
6"-12"	4	4	2"
13"-18"	0	0	2"
19"-36"	2	4	3"



LOT 16
PIN: 9646-53-5845-0000
JENNIFER & ROBERT JACKSON

APPROX. HIGHEST WALL HEIGHT = 11.75'
APPROX. FINISH GRADE @ 111'-9" ELEV.
APPROX. AVERAGE WALLS HEIGHT = 8.5'
ABOVE EXIST. GRADE

PROPERTY DETAILS
1/16" = 1'-0"
PLAN



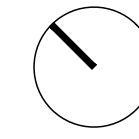
DORSEY DESIGNS, PA
AQUATIC ARCHITECTURE & ENGINEERING

51 North Merrimon Ave., Suite 101
Asheville, NC, 28804
828 253 4594
mark@medallionpool.com

THESE PLANS ARE COPYRIGHTED AND SUBJECT TO COPYRIGHT AS AN "ARCHITECTURAL WORK" UNDER SEC. 102 OF THE COPYRIGHT ACT, 17 U.S.C. AS AMENDED DECEMBER 1990 AND KNOWN AS ARCHITECTURAL WORKS COPYRIGHT PROTECTION ACT OF 1990. THE PROTECTION INCLUDES BUT IS NOT LIMITED TO THE OVERALL FORM AS WELL AS THE ARRANGEMENT AND COMPOSITION OF SPACES AND ELEMENTS OF THE DESIGN. UNDER SUCH PROTECTION, UNAUTHORIZED USE OF THESE PLANS, WORK OR HOME REPRESENTED CAN LEGALLY RESULT IN THE CESSATION OF CONSTRUCTION OR BUILDINGS BEING SEIZED AND/OR MONETARY COMPENSATION TO DORSEY DESIGNS, PA
© 2022 DD

**RICK JACKSON'S RESIDENCE
SWIMMING POOL DESIGN**
2 CEDAR HILL DRIVE,
ASHEVILLE
NORTH CAROLINA 28803

KEY PLAN



STAMP



NO	DATE	DESCRIPTION
REVISIONS		
SUBMISSION		

NOT FOR CONSTRUCTION

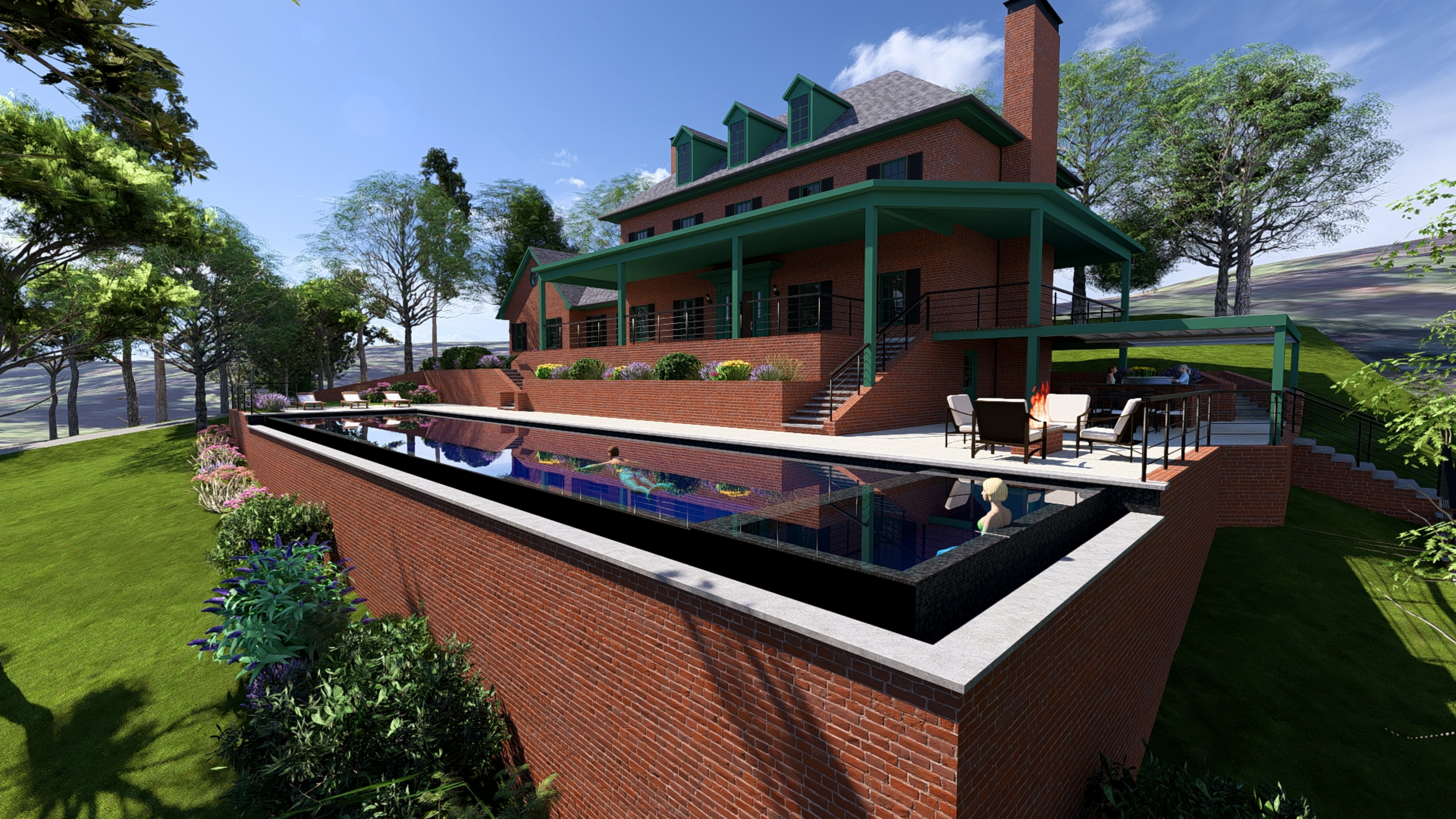
DRAWING TITLE

PROPERTY DETAILS

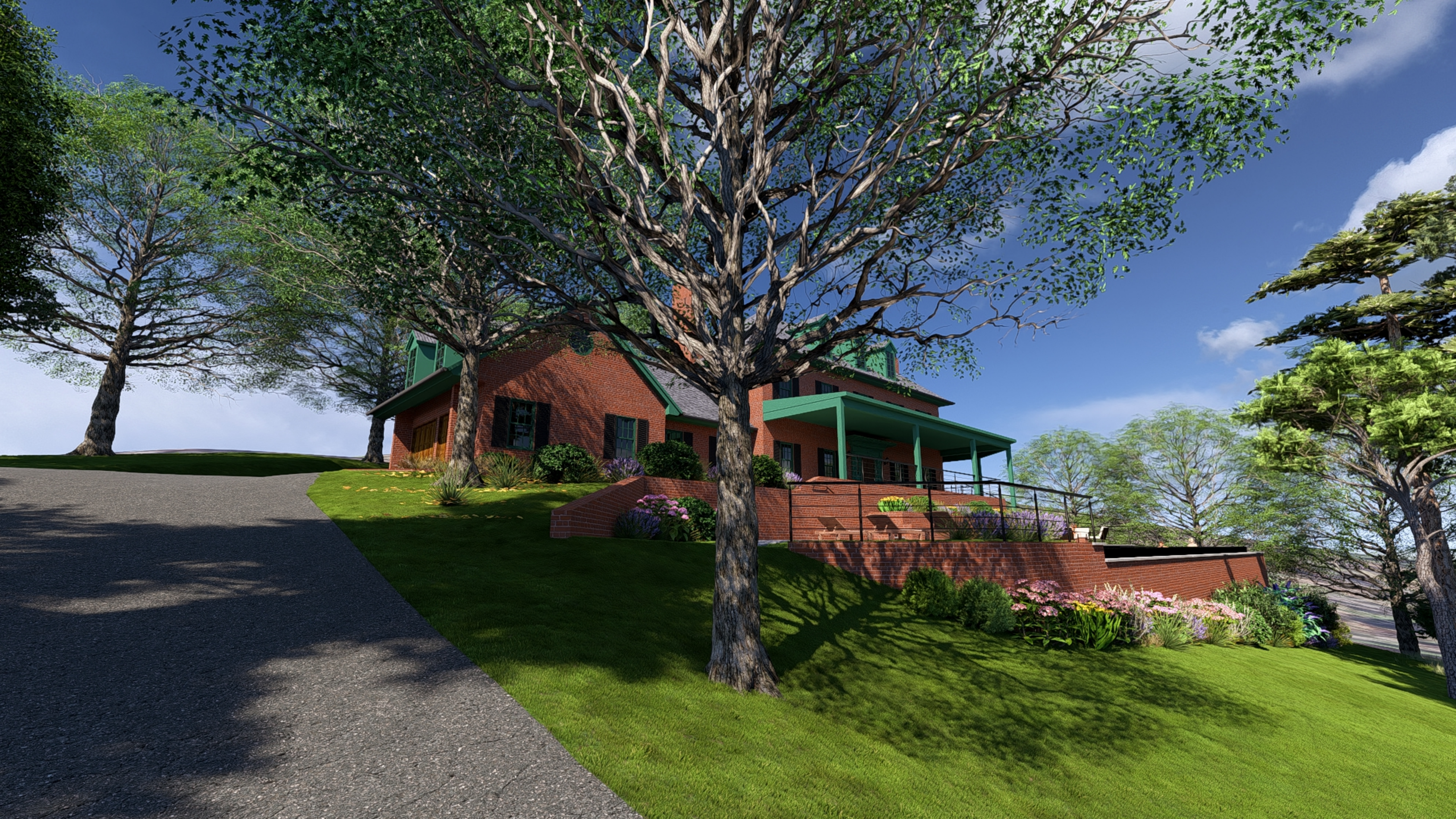
SCALE	AS NOTED
PRINT DATE	February 6, 2025
PROJECT NUMBER	2432
DRAWING NUMBER	

P2.2













BOARD OF ADJUSTMENT MEETING

STAFF MEMORANDUM

February 17, 2025

CASE 2

Property Address: 28 Ridgefield Place
Property Owner: Lauren Colvard
Request: Variance request for Fencing in Rear Yard
with Encroachment into Side Setbacks

Background

The applicant requests permission to install a fence within the rear and side yard. The proposed fence is six (6) feet tall and would attach to an existing fence already located along the side property line. The proposed material is a wooden privacy fence.

Variance Request

The fence is requested to be constructed within the rear yard and encroach into the side yard setback to connect to the neighbors existing fence. The Town's Zoning Ordinance requires that fences be installed in compliance with setbacks unless the Board issues a variance. Section 153.110 (D) (attached) addresses the approval requirements for a variance.

153.110 POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT.

The powers and duties of the Board of Adjustment shall be as follows:

(A) *Interpretation.* To interpret zoning maps and pass upon disputed questions of lot lines or district boundary lines and any other questions of interpretation that may arise in the administration of this chapter;

(B) *Administrative review.*

(1) The Board of Adjustment shall hear and decide requests for special use permits, variances, and appeal of decisions of the Town Manager. The term **DECISION** includes any final and binding order, requirement, or determination. The Board of Adjustment shall follow quasi-judicial procedures when deciding appeals and requests for special uses and variances. The Board of Adjustment may hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use or development in the town.

(2) Notice of hearings conducted pursuant to this division (B) shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the zoning or unified development ordinance. In the absence of evidence to the contrary, the town may rely on the county tax listings to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least ten days, but not more than 25 days, prior to the date of hearing. Within that same time period, the town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. If an evidentiary hearing is set for a given date and a quorum of the Board is not then present, the hearing shall be continued until the next regular Board meeting without further advertisement.

(3) The Board of Adjustment shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. The Board of Adjustment must allow parties with standing to participate fully in the evidentiary hearing, including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments. The Board may allow parties without standing to present competent, material, and substantial evidence that is not repetitive. If an objection arises at the hearing as to the inclusion or exclusion of administrative materials, the Board Chair must rule on this objection at the hearing. An appeal of this ruling may be considered by the full Board pursuant to G.S. § 160D-406(d). Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the Chair or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision with the Town Manager. The decision shall be delivered by personal delivery, electronic mail, or by first class mail to the applicant or property owner as may be applicable, and to any person who has submitted a written

request for a copy, prior to the date the decision becomes effective. The Town Manager shall certify that proper notice has been made.

(4) Every quasi-judicial decision shall be subject to review by the Superior Court by proceedings in the nature of certiorari (G.S. § 160D-406(k)). A petition for review shall be filed with the Clerk of Superior Court within the period specified by G.S. § 160D-1405(d).

(5) Members of the Board of Adjustment exercising quasi-judicial functions shall not have a fixed opinion on a matter prior to hearing; shall not have undisclosed ex-parte communication with an applicant, a close familial, business, or other associational relationship with an applicant or a financial interest in the outcome. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

(6) The Chair of the Board of Adjustment or any member acting as Chair and the Town Manager are authorized to administer oaths to witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely is guilty of a Class I misdemeanor.

(7) The Chair of the Board of Adjustment or anyone acting as Chair, may subpoena witnesses and compel the production of evidence. Any person with standing under G.S. § 160D-406(g) may make a written request to the Chair explaining why it is necessary for certain witnesses or evidence to be compelled. The Chair or person acting as the Chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope and not oppressive. The Chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the Chair may be appealed to the full Board of Adjustment. If a person subpoenaed fails to obey the subpoena, the Board of Adjustment or the party that requested the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed.

(C) *Special uses.*

(1) Upon application, the Board of Adjustment may grant in particular cases and subject to appropriate conditions and safeguards, permits for special uses as authorized by this chapter, and set forth as special uses under the various use districts.

(2) A special use permit may be granted by the Board of Adjustment only after making the following findings:

(a) An application for the special use has been submitted as prescribed by this chapter;

(b) 1. If the Board of Adjustment finds, in the particular case in question, that the use, including any proposed structures:

a. Will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;

- b. Meets all required conditions and specifications of this chapter and other applicable rules, regulations, and standards;
- c. Will not substantially injure the value of adjoining or abutting property;
- d. Will be in general conformity with the plan of development of the town and its environs;
- e. Will be reasonably compatible with significant natural and topographic features on the site and within the immediate vicinity of the site given the proposed site design and structure design;
- f. Will be in harmony with scale, bulk, height, coverage, density, and character of the area or neighborhood in which it is located; or
- g. Is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities, and will not cause undue traffic congestion or create a traffic hazard.

2. In granting such a permit, the Board of Adjustment may designate such conditions in connection therewith that will, in its opinion, assure that the proposed use will conform to the requirements and spirit of this chapter. However, the Board of Adjustment shall not impose conditions on special use permits that the town is not statutorily allowed to impose.

(c) Before any special use permit is issued, the Board shall make written findings certifying compliance with the specific rules governing the individual special use (see § [153.008](#)), and that satisfactory provision and arrangement has been made for at least the following, where applicable:

1. Satisfactory ingress and egress to property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow, and control;
2. Provision of off-street parking and loading areas where required, with particular attention to the items in division (C)(2)(c)1. above, and the economic, noise, and odor effects of the special use on adjoining properties in the area;
3. Adequate and proper utilities, with reference to locations, availability, and compatibility;
4. Buffering, with reference to type, location, and dimensions;
5. Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
6. Playgrounds, open spaces, yards, landscaping, access ways, pedestrian ways, with reference to location, size, and suitability;
7. Buildings and structures, with reference to location, size, and use;
8. Hours of operation, with particular reference to protecting and maintaining the character of the neighborhood;

9. With the exception of Americans with Disabilities Act, being 42 U.S.C. § 12101, lighting requirements and street lighting, the design standards as outlined in § [153.047](#), "Site Design and Form and Mass Commercial Buildings," shall apply when exterior lighting is proposed and/or required;

10. A site plan has been submitted as required in § [153.008](#); and

11. The applicant/landowner must provide written consent to conditions placed on a special use permit by the Board of Adjustment.

(d) 1. The Zoning Administrator shall make periodic inspections during construction as well as a final inspection after construction is complete to determine whether the conditions imposed and agreements made in the issuance of the permit have been met as well as whether all other requirements of this chapter have been met. The Zoning Administrator shall report his or her findings to the Board of Adjustment.

2. If at any time after a special use permit has been issued, the Board of Adjustment determines that the conditions imposed and agreements made have not been or are not being fulfilled by the holder of a special use permit, the permit shall be terminated and the operation of such use discontinued.

3. If a special use permit is terminated for any reason, it may be reinstated only after reapplying for a special use permit.

(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)

Zoning Compliance Application

Town of Biltmore Forest

Name

Lauren Colvard

Property Address

28 Ridgefield Place

Phone

(919) 720-3075

Email

laurenmcolvard@gmail.com

Parcel ID/PIN Number

40

ZONING INFORMATION

Current Zoning

R-4

Lot Size

.51 acres

Proposed Roof Coverage Total

0

Proposed Impervious Surface Coverage

0

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

6ft

Description of the Proposed Project

Installation of 6ft Wooden Privacy Fence in backyard of Property.

Estimated Start Date

3/1/2025

Estimated Completion Date

3/5/2025

Estimated Cost of Project

\$10,000.00

Supporting Documentation (Site Plan, Drawings, Other Information)

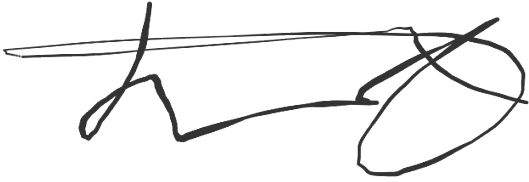
28 Ridgefield.docx

28 Ridgefield_Fence Design.heic

28 Ridgefield.pdf

Applicant Signature

Date
1/7/2025

A handwritten signature in black ink, consisting of a series of connected loops and a long horizontal stroke extending to the left.

VARIANCE APPLICATION

Town of Biltmore Forest

Name

Lauren Colvard

Address

28 Ridgefield Pl

Phone

(919) 720-3075

Email

laurenmcolvard@gmail.com

Current Zoning/Use

Residential

Requested Use

Fence abutting into neighbors fence

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?

Install a 6ft wooden privacy fence that ties into neighbors fence in the side of the rear yard

What does the ordinance require?

15' side, 20' rear

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.**

Public safety:

Our property backs up to a school, and we are seeking both privacy and safety from any unwanted persons cutting through our yard. Additionally, we worry about liability if any person got hurt on our property while trespassing.

Inability to make use of the land:

Due to the steep slope of the yard, we would need a variance to make use of the land. The existing ordinances thwart our ability to achieve a reasonable return on our property. Due to the current setback requirements, we would lose a large portion of flat space in our yard. We have small children, as well as a dog, and would like for them to play safely on the flat portions of the yard.

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

Please see above

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

Please see above

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, public safety and maximize use of property for pets, children and privacy.

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

Signature

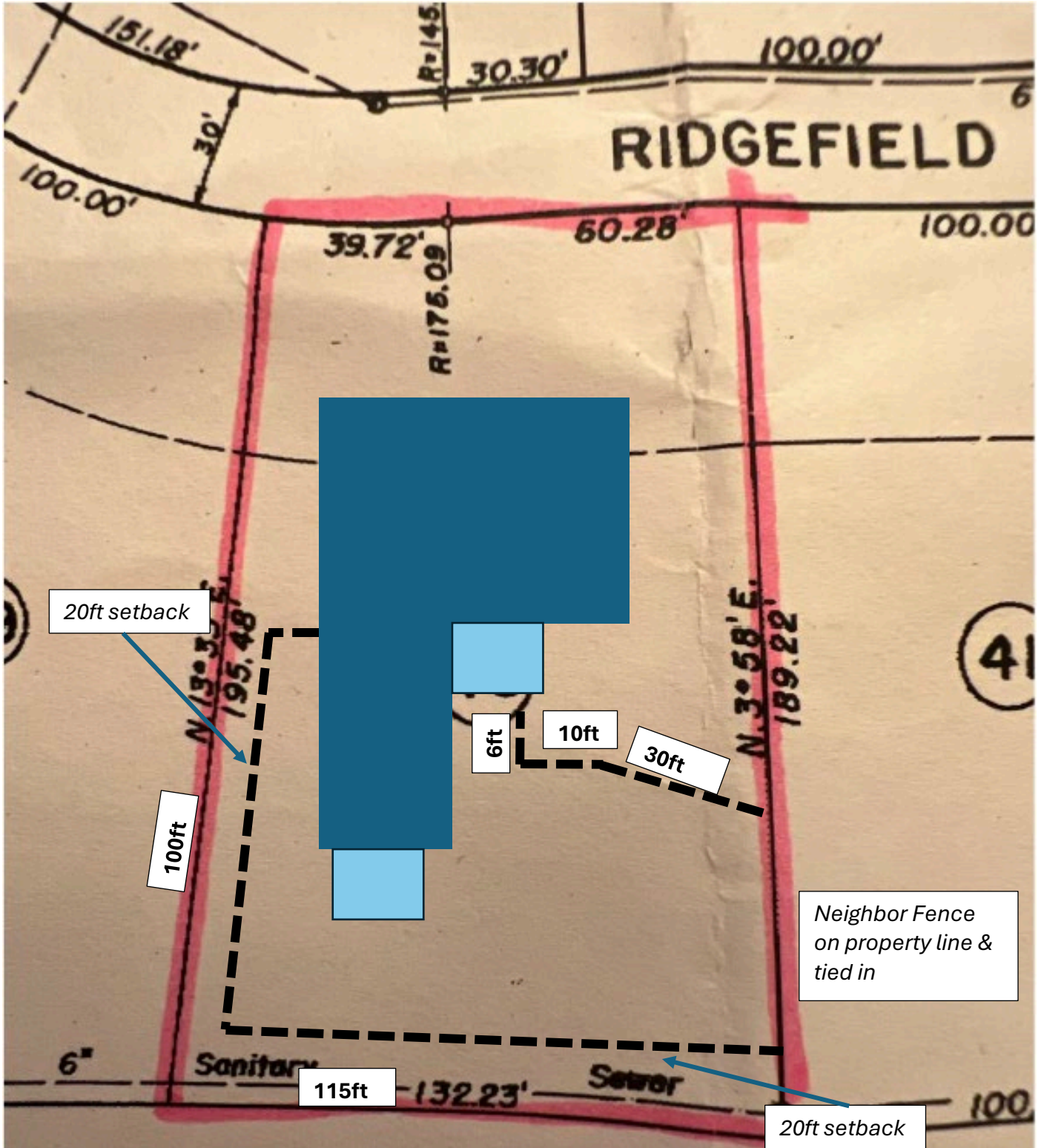
Lauren Colvard

Date

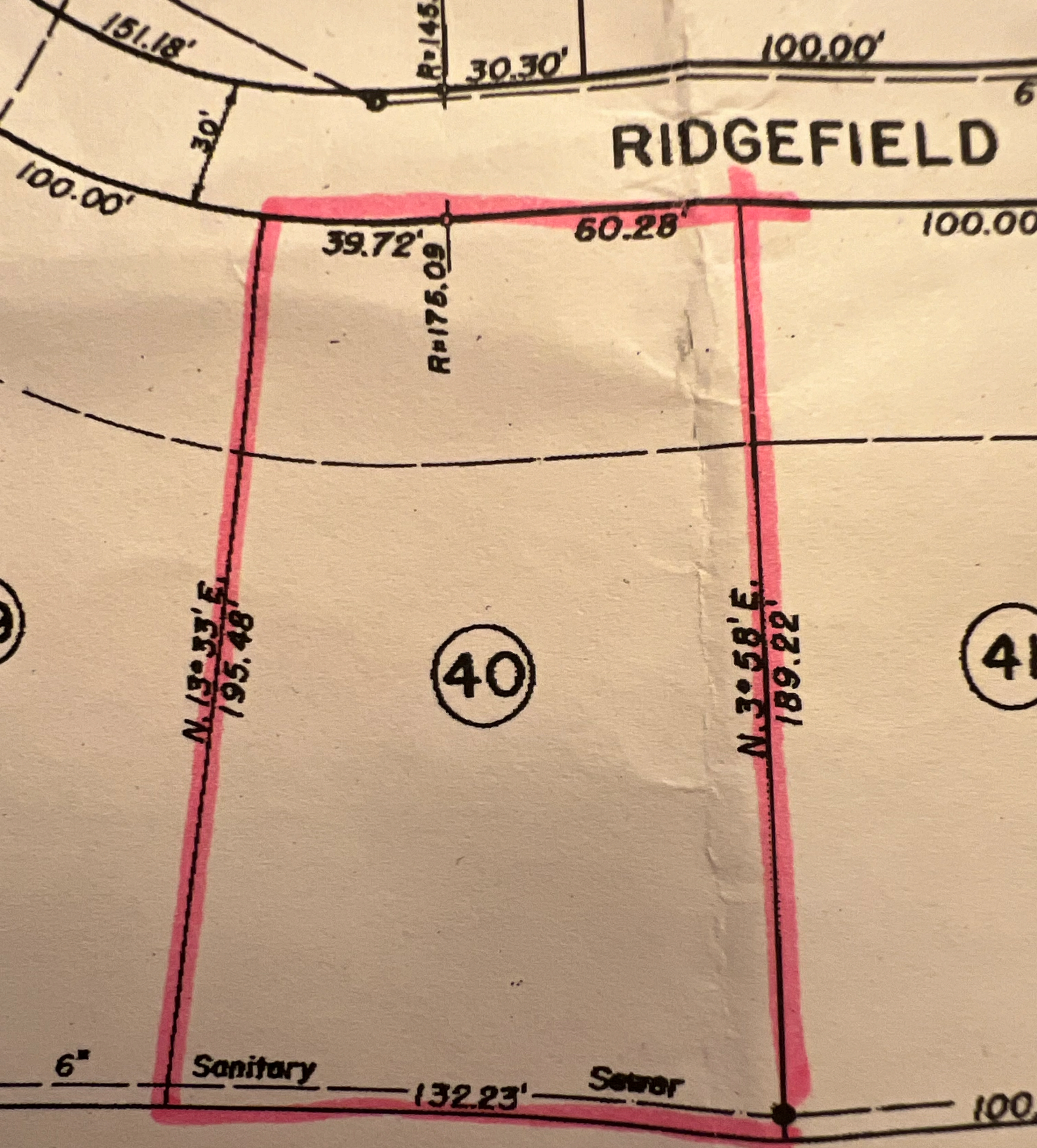
1/16/2025

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



RIDGEFIELD



40

41

N. 3° 53' E.
195.48'

N. 3° 58' E.
189.22'

39.72'
R=175.09'

60.28'

Sanitary

Sewer

132.23'

J U L I A F

Asheville



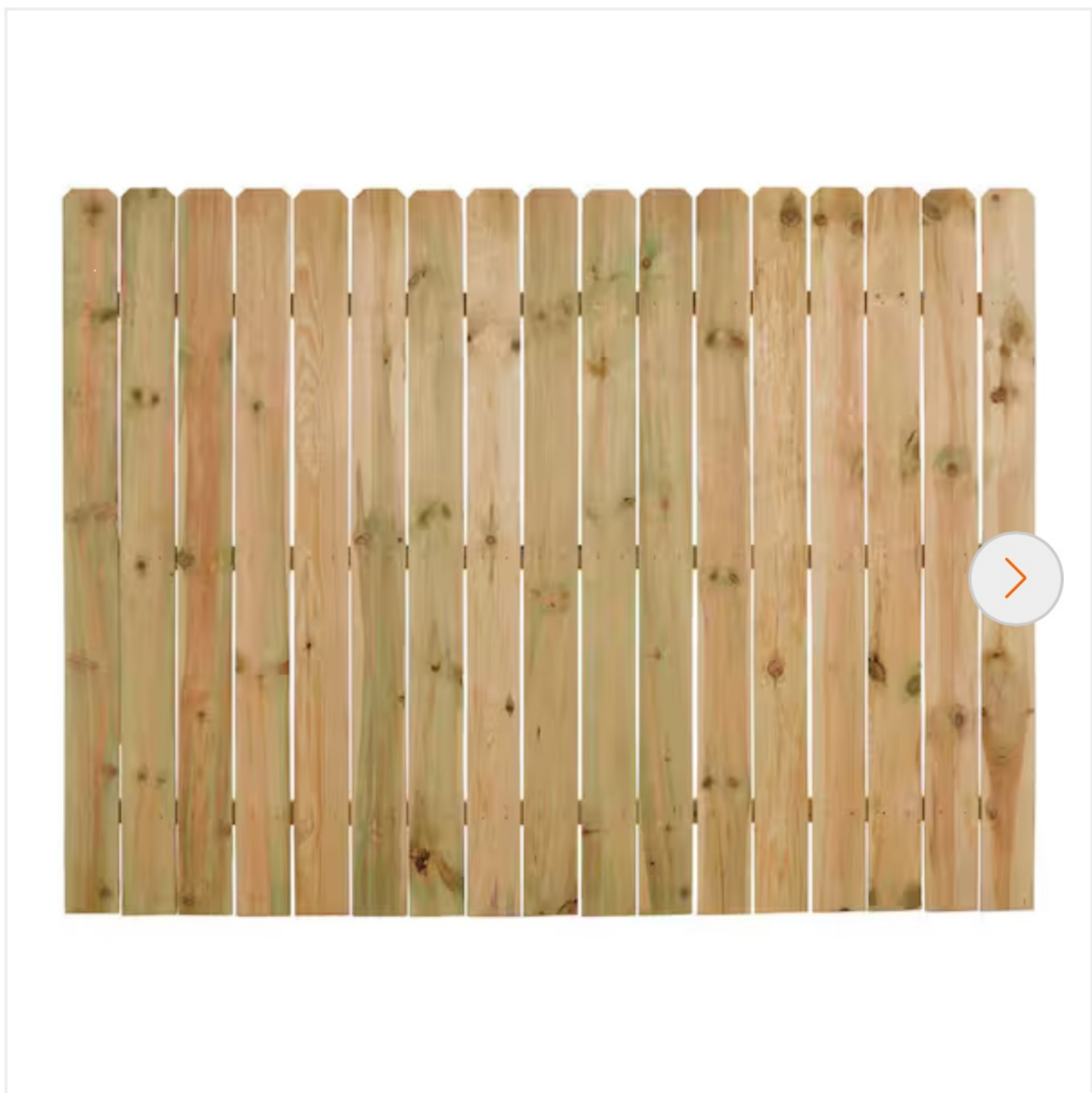
3.7k

Best Seller

Outdoor Essentials

6 ft. H x 8 ft. W Pressure-Treated Pine Dog-Ear Fence Panel

★★★★☆ (1142)



Home



Shop



Me

2



Store Mode



Cart



BOARD OF ADJUSTMENT MEETING

STAFF MEMORANDUM

February 17, 2025

CASE 3

Property Address: 56 Forest Rd

Property Owner: Julie Tatar

Request: Rehearing for Variance Request for Accessory Structures

Background

The property owners are presenting plans for multiple accessory structures within the front of their home. Structures are to include an existing 4' tall statue setback from the edge of the road approximately 9' with a solar light to illuminate. Closer to the home would be 2 or 3 Japanese lanterns, a water feature, and some decorative rock hardscaping as seen on the plan. Some of the structures will be located within the front setback of 60 feet. The application does not meet the requirements set forth in the ordinance, therefore it would require a variance.

Variance

The proposed statue and light along with some of the boulders do not comply with the front setback of 60 feet therefore would require a variance. The remaining structures are located within the front yard but out of the front setback, all which would require a variance due to being in the front yard. Section 153.110 (D) (attached) addresses the approval requirements for a variance.

VARIANCE APPLICATION

Town of Biltmore Forest

Name

Julie Tatar

Address

56 Forest Road

Phone

(608) 712-3432

Email

firehorseforte@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?

Please refer to special use application and drawing which has already been submitted. The variance is related to a statue and accompanying low voltage solar light to light create ambient light on the statue for a couple hours in the evening that we would like to place at 9 ft from road edge instead of the required 10 ft. We would like to request permission to add several large rock or small boulders to the landscaped area of our yard that is within the 60ft setback area to stop soil erosion and contribute to visual appeal of our landscaping.

What does the ordinance require?

There is an ordinance that requires decorative lighting be set back 10 feet from road, ordinance 153.045. Additionally there is an ordinance related to accessory structures within the 60 ft front setback, ordinance 153.029.

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.

The grade of our lot precludes us from siting the lighting and the statue further back to comply with the respective required setbacks. It would fall down the hill. Continued soil erosion during heavy rains. Secondary to slope of lot erosion needs to be managed proactively to maintain landscape plantings.

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

Steep slope/topography precludes strict conformance with site lighting design ordinances and placement of the asian art statue within required setbacks.

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

The natural topography of our lot is outside our control. Continued soil erosion during heavy rains.

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 is intended to enhance and preserve the character of the neighborhood and to augment the pleasant living environment of Biltmore Forest. The statue does not impact the open spaces between neighboring structures or the low density character of the environment. It is also compatible with the materials, height, scale, and proportion of other structures in the neighborhood. This hardscaping request is consistent with the parameters of set forth in Ordinance 153.045

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

Signature

Date

8/4/2024

Julie A Tatar

Have you paid the \$300 variene 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

Special Use Permit Application

Town of Biltmore Forest

Name

Julie Tatar

Address

56 Forest Road

Phone

(608) 712-3432

Email

firehorseforte@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:

We would like to make the following improvements to our recently acquired home:

1) A decorative Asian art statue at the side of the driveway toward the road. It is set back 9 ft from the road and is approximately 4 ft tall. The intention is to provide a welcoming and peaceful image to other residents of Biltmore Forest as well as our guests.

We tried to paste a photo of the statue in this text box---but were not able to do so. We are very happy to provide a photo in another format or bring one to the meeting.

2) We would like to have a low intensity (soft) solar light on the statue in the evenings for a couple of hours at dusk to illuminate the statue.

3) Rock hardscaping. We would like to get some Tennessee Finger Boulders to put in our front yard where it is landscaped. The main intention is to stop soil erosion given the steep slope of the yard.

We may put one or two small flat rocks as the base of the statue. One or two in the area that is landscaped between the road and the lawn (front yard). One larger one on the steep hill in front of the house. And maybe a group of two small ones in that steep area as well.

Additionally one or two smaller rocks the other side (in front of house to balance it). It is hard to know exactly until we go select a pallet of rock...and we know the shape and size. Until we see the actual rock it is hard to determine how we can place it harmoniously. But that is the general plan we would like to implement.

4) We would like request to have 2 or 3 Japanese lanterns in the landscaped area in the front of the house to illuminate the walkway to our front door at night--low/soft lighting

5) One pair of matched pots placed on either side of front door

6) A water feature in landscaped area near the front door. Currently we have a very plain low black bowl which is very discrete. However, if we can find someone to drill out a low flat boulder and put a pump in it and create a very small pooling area or catch basin at the base of the rock (approximately 2 ft X 2 ft). we would eventually like to get that done instead. This is for the peaceful sound of the trickling water, and the birds also like to drink from it.

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

This is our overall landscape plan. It will take some time to implement this plan--pending approval. Lots to do with a new house :-). But our intention is to create a peaceful and welcoming environment that is not cluttered. We want to be good members of the community and have our home be an asset to Biltmore Forest. I hope that people will walk by or drive by and look at the house and find it to be beautiful and peaceful, and maybe smile.

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

Signature

Date

7/31/2024

A handwritten signature in black ink that reads "Julie Tator". The signature is written in a cursive style with a large, stylized initial 'J' and a prominent horizontal line across the top of the name.

Have you paid the \$100 special use permit 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

Zoning Compliance Application

Town of Biltmore Forest

Name

Julie Tatar

Property Address

56 Forest Road

Phone

(608) 712-3432

Email

firehorseforte@gmail.com

Parcel ID/PIN Number

Lot 22 Section N

ZONING INFORMATION

Current Zoning

R-1

Lot Size

1.2 acres

Proposed Roof Coverage Total

No roof

Proposed Impervious Surface Coverage

1 1/2 square ft

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

4 ft

Description of the Proposed Project

Siting of Asian Art Statue at driveway entrance to home. 3 japanese lanterns, 1 water feature, and several large rocks or small boulders

Estimated Start Date

8/23/2024

Estimated Completion Date

8/23/2024

Estimated Cost of Project

\$17,000.00

Supporting Documentation (Site Plan, Drawings, Other Information)

IMG_7428.jpg

IMG_7429.jpg

Landscaped.pdf

Applicant Signature

Date
8/4/2024

Julie A Tatar

WARNING:This email originated from outside of the Town of Biltmore Forest Network.

Hi Tony,

I'd like to give some more specifics regarding our application so we can move forward. Given the fact most of our front yard was wiped out. It's a good time to hopefully get approval for placement of some large stones before we start replanting and it makes the whole job more difficult.

We would like to put a stone retaining wall on the side of our house. Since it's on the side of the house, I don't even know if we need approval? If so, the council asked for more details. It would be approximately 12 feet long. It would start at about 4 inches in height and gradually increase in height to about a foot and a half. This is to stop soil erosion and runoff on the side of our house.

Regarding the stones I would like to have placed. I would like to place one rock that's approximately 4 feet long by 3 feet wide. This would be set back from the Road 32 feet.

I would also like to place two smaller rocks about 3 feet long by 2 feet wide 40 feet back from the road.

Lastly, I would like to place one more rock approximately 3 feet long by 2 feet wide in front of our house in the landscape area. It is well beyond the 60 foot setback.

I'm still going to continue to ask for the statue, Japanese lanterns in the water feature. It seemed the council had no problem with the Japanese lands and water feature when they came the first time. But I suppose they should be left on the application?

This information is just add a little more specificity to my application regarding the rock and the stone retaining wall. But once again, it appears people can do anything on the sides of their house? As I am looking out the side of my house and see a bunch of kayaks being stored outside by my neighbor shed.

Warm regards,
Julie

