



**BOARD OF ADJUSTMENT
REGULAR MEETING
THURSDAY, SEPTEMBER 07TH, 2023
ASSEMBLY HALL
395 MAGNOLIA ROAD
PINEHURST, NORTH CAROLINA**

04:00 PM or IMMEDIATELY FOLLOWING THE P&Z MEETING

Board Members Present:

Jack Farrell, Vice Chair
Jeramy Hooper
Paul Roberts
Sonja Rothstein, Alternate
Louise Mercuro, Alternate

Board Members Absent:

Matt Jones
Bruce Hironimus, Alternate
Thomas Schroeder, Alternate

Staff Present:

Alex Cameron, Planning Director
Pamela Graham, Planning Supervisor
Michael Mandeville, Senior Planner
Maria Carpenter, Planner
Shannon Konstantinou, Clerk to the Board
Paul Connors, IT Technician

Approximately 8 member(s) of the public in attendance.

I. Call to Order

Mr. Farrell called the September 07th, 2023 Regular Meeting to order at 04:15 PM.

Mr. Hooper moved to seat Ms. Sonja Rothstein and Ms. Louise Mercuro as voting members of the Board of Adjustment for the Regular Meeting of September 07th, 2023. Seconded by Mr. Roberts. Approved by a vote of 3-0.

II. Approval of Minutes

a. 06-01-2023 Regular Meeting Minutes

Mr. Roberts moved to approve the minutes of the June 01st, 2023 Regular Meeting. Seconded by Mr. Hooper. Approved by a vote of 5-0.

Mr. Farrell gave a brief introduction to the procedures and requirements of a Public Hearing.

III. Public Hearing

Mr. Roberts moved to recess the Regular Meeting and enter into the Public Hearing. Seconded by Ms. Rothstein. Approved by a vote of 5-0.

Mr. Farrell verified no Board members had ex parte communication regarding the case and no Board members had reason to believe they may have a conflict of interest.

Ms. Graham was sworn into the Public Hearing and testified as follows.

a. PLN-2023-00261 (115 Baltusrol Ln. Variance Request)

The purpose of the public hearing is to receive testimony for a variance request from Pinehurst Development Ordinance Section 9.13 Fences, Walls and Columns, Subsection (B)(1), for the property addressed as 115 Baltusrol Lane, further identified by Moore County PID # 00019443. This property is located within the R-10 (High Density Residential) Zoning District. Specifically, the owners Daniel and Anne Kochevar are requesting a variance from the limitation for the golf course setback requirements for fences.

Ms. Graham discussed the proposed work and submitted into evidence the Staff Report with attachments / exhibits, Presentation, and Application and Applicant's materials / exhibits. Mr. Farrell accepted the materials submitted by Ms. Graham into evidence.

The Board and Ms. Graham discussed Exhibit A-3 and the portion of the property where the fence would be installed that is outside the setback area; only the portion of the fence within the 30' setback requiring a variance; the distance from the dwelling to the property line (31.8'); the portion of the property where the fence will be installed (both inside and outside the setback); the fence being located 1' from the property line along the entire run of fencing (including the golf course frontage); the fence running NW, N, W, then S; and the portion of the fence that will run along the north property line will encroach into the setback by 29'.

Ms. Anne Kochevar, Applicant and Owners' Representative, was sworn into the Public Hearing.

Ms. Kochevar stated the property is now owned by her daughter, Ms. Brooke Kochevar, and son-in-law, Mr. Kyle Maher; the fence will be a black, aluminum fence, not a wood privacy fence; the intention behind installing the fence is to provide an enclosed environment for the Owners' dog to go outside and for an added sense of safety for the Owners; an 18" fence that had run along the golf course frontage of the property had been removed due to damage from carpenter bees; instead of installing an 18" aluminum fence along the golf course frontage and a 4' fence along the remaining portion of the backyard, the desire is to install a 4' fence the entire run of proposed fencing; the golf course frontage portion of the property backs up to the location of tee markers but that portion of the course is rarely used; a survey based on the exact location of the tee markers in relation to the property is being done but was not available in time for the hearing (the survey submitted shows estimates); the variance is being requested in order to make more of the backyard useable; the fence would not obstruct views of the golf course for adjacent properties; the installation of the fence is to make the backyard more useable for the Owners.

The Board, Ms. Kochevar, and Ms. Graham discussed the Ordinance allowing a fence / structure up to 18" within the setback; the previously existing 18" fence along the golf course frontage having been removed due to damage; the only portion of fencing subject to the variance is the portion extending into the 30'

setback; if the variance is granted, a 4' fence will be used for the entire portion of proposed fencing (if the variance is not approved, a 4' fence will be used for the portion of proposed fencing outside the setback and an 18" fence will be used for the portion of proposed fencing inside the setback); the Applicant having confirmed with a representative of the Resort that fencing is not installed by the Resort along their golf course properties; the Applicant seeking a variance based on the peculiarity of the property being located along a golf course; the portion of the golf course that is adjacent to the property not being frequently used; the Applicant seeking a variance based on hardship due to the Owners not being able to use a portion of the backyard and the installation of a fence not interfering with the section of the Ordinance designed to protect the useability and enjoyment of the golf course; based on the aerial photograph submitted, no nearby fences or encroachments into the 30' setback are seen; the purpose of the fencing being for use by a dog and future children / grandchildren; the portion of the backyard inside the setback still being available for use by the Owner, just not usable in the way the Owner desires; and the Applicant's opinion being that the portion of the backyard outside the setback is sufficient for use by the dog and future children / grandchildren.

Mr. Farrell asked if there was any member of the audience wishing to provide testimony either in favor or against the requested variance.

Mr. Kyle Rudd, 50 Thunderbird Ln., was sworn into the Public Hearing. Mr. Rudd's property is directly behind 115 Baltusrol Ln. Mr. Rudd opposes the installation of 4' fencing within the setback because Mr. Rudd feels the fencing will obstruct the view of the golf course from his property.

Mr. Calvin Burkley, Resorts of Pinehurst, was sworn into the Public Hearing.

Mr. Burkley stated the Resort has no objection to the fencing as long as the fencing does not encroach into the 30' setback and the Resort would like to have the 30' setback remain intact.

The Board deliberated whether the testimony provided by the Applicant was sufficient enough to justify the argument of hardship and peculiarity of the property in relation to other properties in the surrounding area and the community.

Mr. Hooper moved the Board of Adjustment deny the variance request for 115 Baltusrol Ln. AND adopt the following Findings of Fact:

A. Unnecessary hardship would not result from the strict application of the ordinance because although the applicant may not be able to use the property to their own interest, those interests are not unique enough to themselves compared to other citizens of the community.

B. The hardship does not result from conditions that are peculiar to the property compared to others in the surrounding area and the community.

C. The hardship did not result from actions taken by the applicant or the property owner because no hardship was found.

D. The requested variance is not consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved because no hardship was found.

Seconded by Ms. Rothstein. Approved by a vote of 5-0.

Mr. Roberts moved to adjourn the Public Hearing and re-enter the Regular Meeting. Seconded by Ms. Rothstein. Approved by a vote of 5-0.

IV. Next Meeting Date

a. 10-05-2023 Regular Meeting (If Board Has Business to Conduct)

V. Motion to Adjourn

Mr. Roberts moved to adjourn the Regular Meeting. Seconded by Ms. Rothstein. Approved by a vote of 5-0 at 05:24 PM.

Respectfully Submitted,

Shannon Konstantinou
Clerk to the Board &
Planning Administrative Specialist
Village of Pinehurst

A videotape of this meeting is located on the Village website: www.vopnc.org.

The Village of Pinehurst is a charming, vibrant community which reflects our rich history and traditions.

Mission: Promote, enhance, and sustain the quality of life for residents, businesses, and visitors.

Values: Service, Initiative, Teamwork, and Improvement.