



**BOARD OF ADJUSTMENT
DECEMBER 7, 2023
ASSEMBLY HALL
REGULAR MEETING - IMMEDIATELY FOLLOWING THE PLANNING & ZONING
BOARD MEETING HELD AT 04:00 PM
PINEHURST, NORTH CAROLINA**

- I. Call to Order
- II. Approval of Minutes
 - A. 10-05-2023 Regular Meeting Minutes
- III. Public Hearing
 - A. Variance Request for 80 Carolina Vista (PLN-2023-00473)
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 (C), for the property addressed as 80 Carolina Vista, further identified by Moore County PID # 00025808. This property is located within the H (Hotel) Zoning District.
- IV. General Business
 - A. Approval of the 2024 Meeting Schedule
 - B. Board Organizational Items
- V. Next Meeting Date
 - C. 01-04-2024 Regular Meeting (If the Board has business to conduct.)
- VI. Motion to Adjourn

*Vision: 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.*



**10-05-2023 REGULAR MEETING MINUTES
ADDITIONAL AGENDA DETAILS:**

FROM:

Shannon Konstantinou

CC:

Alex Cameron; Pamela Graham

DATE OF MEMO:

11/30/2023

MEMO DETAILS:

Attached is a draft copy of the Regular Meeting minutes for your review.

ATTACHMENTS:

Description

📎 10-05-2023 Regular Meeting Minutes



**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:

Thomas Schroeder, Chair
Jack Farrell, Vice Chair
Paul Roberts
Matt Jones

Board Members Absent:

Jeramy Hooper
Bruce Hironimus, Alternate
Sonja Rothstein, Alternate
Louise Mercuro, Alternate

Staff Present:

Pamela Graham, Planning Supervisor
Michael Mandeville, Senior Planner
Maria Carpenter, Planner
Shannon Konstantinou, Clerk to the Board
Lori Hercules, IT Technician

Approximately 2 member(s) of the public in attendance.

I. Call to Order

Mr. Schroeder called the October 05th, 2023 Regular Meeting to order at 05:30 PM.

II. Approval of Minutes

a. 09-07-2023 Regular Meeting Minutes

Mr. Roberts moved to approve the minutes of the September 07th, 2023 Regular Meeting. Seconded by Mr. Jones. Approved by a vote of 4-0.

III. General Business

None.

IV. Next Meeting Date

a. 11-02-2023 Regular Meeting (If the Board has business to conduct)

V. Motion to Adjourn

Mr. Jones moved to adjourn the Regular Meeting. Seconded by Mr. Roberts. Approved by a vote of 4-0 at 05:32 PM.

Respectfully Submitted,

Shannon Konstantinou
Village Clerk
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.



VARIANCE REQUEST FOR 80 CAROLINA VISTA (PLN-2023-00473)

ADDITIONAL AGENDA DETAILS:

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 (C), for the property addressed as 80 Carolina Vista, further identified by Moore County PID # 00025808. This property is located within the H (Hotel) Zoning District.

FROM:

mmandeville@vopnc.org

CC:

pgraham@vopnc.org; sgrow@vopnc.org; acameron@vopnc.org

DATE OF MEMO:

11/30/2023

MEMO DETAILS:

Please see attached materials related to this item.

ATTACHMENTS:

Description

- ▣ Staff Exhibits S-1 through S-3
- ▣ Applicant Exhibits A-1 through A-2



PLANNING AND INSPECTIONS DEPARTMENT STAFF REPORT

To: Zoning Board of Adjustment
From: Michael Mandeville, Senior Planner
CC: Alex Cameron, Planning and Inspections Director
 Pamela Graham, Planning Supervisor
 Maria Carpenter, Planner
 Shelby Grow, Administrative Specialist
Date: November 29, 2023
Subject: **Variance Request for 80 Carolina Vista**

Applicant:	Calvin Burkley
Owners:	Resorts of Pinehurst
Property Location:	80 Carolina Vista
Parcel Size:	991,425.6 square feet or +/- 22.76 acres
PID#	00025808
Zoning:	H (Hotel)
Fence Height:	6 Feet
Proposed Fence Height:	8 Feet with interspersed columns up to 9'8"
Land Use:	Hotel

Request and Background:

This request is to increase the fence height from the PDO maximum of 6' to 8' with interspersed brick columns up to 9'8" along Highway 5. The location of the fence along Highway 5 is shown in the attached exhibit provided by the applicant. Additionally, this fence would vary from the fence design standards provided in Section 9.13.D(1-7) of the Village of Pinehurst PDO by adding specific trim to the top of the fence. While the PDO permits the solid wooden fence, the trim detail is not allowed by the PDO. According to the applicant, the trim detail was inspired by the historic trim detail is located on the upper floor of the Department Store Building in the heart of the Village.

Section 9.13.B(1) of the PDO states fences, walls, and similar structures not over six (6) feet in height may project into the rear or side setback provided the lot does not abut a golf course or a lake. Fences, walls, and similar structures are prohibited in the rear setback if the lot abuts a golf course or lake. If the side yard does not abut a golf course or lake, fences, walls, and similar structures may be erected to a

maximum height of six (6) feet. Such fence or wall shall not be built in or through a required buffer unless the fence or wall has been designed as an integral part of the buffer and approved as such. The property is further identified as Moore County PID Number 00025808. The existing structure (hotel) was built between 1899 – 1900.

Along with this report and attachments, Staff has included the following exhibits for review and consideration of the Board:

- Exhibit S-2 – Zoning Map
- Exhibit S-3 – Aerial Map

The applicant has submitted the following labeled exhibits for review and consideration by the Zoning Board of Adjustment:

- Exhibit A-1 – Application for Variance
- Exhibit A-2.1 – A 2.2 – Project Information
- Exhibit A-2.3 – Project Location
- Exhibit A-2.4 – Property Fence Concept
- Exhibit A-2.5 – Existing Fence
- Exhibit A-2.6 – Example of Fence Trim

Variance and Evidentiary Hearing Process:

The Variance Process is intended to provide relief from the zoning requirements of the Pinehurst Development Ordinance (PDO) only in those cases where strict application of a particular zoning requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed under the PDO. It is not intended that variances be granted merely to remove inconveniences or financial burdens that the zoning requirements of the PDO may impose on property owners in general. Rather, it is intended to provide relief where the zoning requirements of the PDO render the land difficult, unreasonable or impossible to use because of some unique attribute or aspect of the property itself, or some other factor unique to the property for which the variance is requested.

Requests for variances are quasi-judicial decisions of the Board, and therefore, require an evidentiary hearing. These decisions are quasi-judicial due to the fact the Board exercises judgement and discretion in applying the standards for review. The purpose of evidentiary hearings is to gather competent, relevant, factual evidence on the application and not solicit broad public opinion. The Chair is responsible for calling witnesses, swearing in all wishing to provide testimony, following established procedures, ensuring that witnesses present relevant evidence only, and limiting repetitious testimony. Typically, staff acts as the initial witness and, after being sworn in, will present basic information and background on the request as well as enter staff exhibits into the record. Staff does not make a case or argument for or against the application. The applicant and other witnesses will be sworn in and can provide factual testimony on the application to the Board. Board Members listen and ask relevant questions, assess the credibility of all testimony, remain impartial, and vote on the case. At the conclusion of the hearing, the Board shall make its decision based on the competent, material, and substantial evidence while adopting findings of fact with all standards of review.

Standards of Review

North Carolina General Statute 160D-705 and Section 5.1.5 of the PDO set forth the standards of review the Boards of Adjustment's must review when considering applications for variances. These are the only standards the Board shall consider when making a decision on variance requests. The Board shall not grant a variance unless and until it makes findings on if all of the following standards have been met:

- (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 personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability;
- (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;

- (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.

Action by the Zoning Board of Adjustment:

After conducting the public hearing, the Zoning Board of Adjustment may:

- (1) Have the authority to subpoena witnesses and may request additional information;
- (2) Continue the public hearing on the requested variance;
- (3) Grant the requested variance;
- (4) Deny the requested variance;
- (5) Grant the requested variance with conditions. The Board of Adjustment may attach appropriate conditions, provided that the conditions are reasonably related to the request.

Any approval or denial of the request shall be made by motion, accompanied by findings of fact that the variance meets or does not meet each of the Standards of Review, stating the reasons for such findings.

The Zoning Board of Adjustment shall not grant any variance unless there is a concurring vote of at least 4 of its 5 members.

Staff does not formulate a recommendation of a variance request as decisions are to be based solely on the testimony and evidence submitted at the quasi-judicial hearing. This report along with its attachments and material submitted by the applicant shall also be included as submitted evidence and made part of the record.



HISTORY, CHARM, AND SOUTHERN HOSPITALITY_____

NOTICE OF PUBLIC HEARING VILLAGE OF PINEHURST

November 15, 2023

Dear Property Owner:

The Village of Pinehurst Board of Adjustment (BOA) will hold a Public Hearing on Thursday, December 7, 2023 at 4:30 PM, or immediately following the Planning & Zoning Board Meeting, in Village Assembly Hall 395 Magnolia Road, Pinehurst, NC. The meeting will be streamed in real-time on the Village's website, at <https://www.vopnc.org/our-government/live-stream>, for public viewing/listening and video-recorded for future reference.

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 (C), for the property addressed as 80 Carolina Vista, further identified by Moore County PID # 00025808. This property is located within the H (Hotel) Zoning District. Specifically, the owner, Resorts of Pinehurst, are requesting a variance to increase the fence height from 6' to 8' along Highway 5.

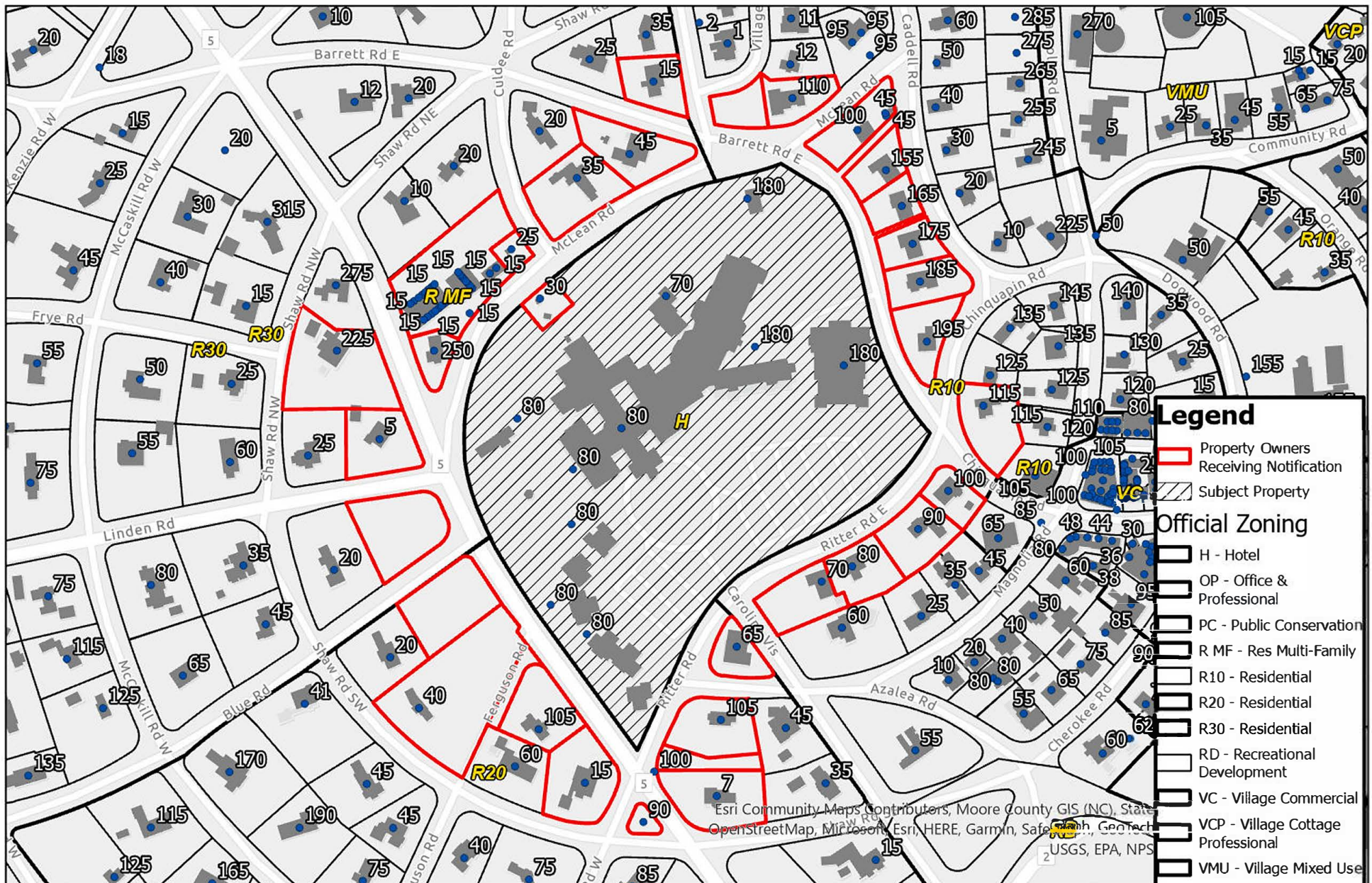
As the owner of said property, an adjacent property owner, or as the applicant; you are receiving formal notification of this Public Hearing. Information on this request is available for public review at the Planning and Inspections Department, Village Hall, 395 Magnolia Road, Pinehurst, North Carolina, Monday through Friday from 8:30 AM to 5:00 PM with the exception of holidays. Information on this request will also be made available the week of the meeting on the Village of Pinehurst's Novus Agenda website at <https://pinehurst.novusagenda.com/agendapublic/>.

The applicant, the local government, and any person who would have standing to appeal the decision under PDO Section 4.1.3 shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board. All persons wishing to participate will be required to provide sworn testimony during the public hearing limited to presenting factual evidence on the request and testimony be made a matter of record.

For more information, please call (910) 295- 2581.

Public Hearing Notification

Exhibit S-1.6



Village of Pinehurst Disclaimer: It is understood that the data contained herein is subject to constant change and that its accuracy cannot be guaranteed. The maps have been created from information provided by various government and private sources at various levels of accuracy. The data is provided to you "as is" with no warranty, representation or guaranty as to the content, sequence, accuracy, timeliness or completeness of any of the information provided herein. It is the responsibility of the user of the data to be aware of the data's limitations and to utilize the data in an appropriate manner. Any resale of this data is strictly prohibited in accordance with North Carolina General Statutes 132-10. Grid is based on North Carolina State Plane Coordinate System NAD83 (feet).

December 7, 2023
Board of Adjustments
80 Carolina Vista Variance Request



WHITFIELD, LYNDA H
2802 SE DUNE DR., APT 1407
STUART,FL,34996

BUNDER, JEFFREY
20 SHAW RD SW
PINEHURST,NC,28374

GOODING, ROBERT H & NANCY W
3417 HORSESHOE BEND
RALEIGH,NC,27613

GESTION MAGB INC
2170 RENE LEVESQUE W ST202
Montreal, Canada H3HT8

MCARTHUR, DANIEL L
PO BOX 190
PINEHURST,NC,28370

MOORE COUNTY
PO BOX 905
CARTHAGE,NC,28327-0905

ADKINS, KIRK S
70 E CAROLINA VISTA
PINEHURST,NC,28374

SPEGGEN, ELIZABETH A
165 BARRETT RD E
PINEHURST,NC,28374

MOORE COUNTY
PO BOX 905
CARTHAGE,NC,28327-0905

CORDELL, CHARLES L
PO BOX 10
PINEHURST,NC,28374-0010

KASPER, FREDERICK TRUSTEE
8942 PERKINS DRIVE
MENTOR,OH,44060

RICE, COREY JAMES
PO BOX 3347
PINEHURST,NC,28374

CORDELL, CHARLES L
PO BOX 10
PINEHURST,NC,28374-0010

PHILLIPS, RICK
PO BOX 1867
PINEHURST,NC,28370

MOORE, SUSAN S
180 EDGEWATER PL
PINEHURST,NC,28374

MOSSO, JOSEPH A JR &
P O BOX 1593
PINEHURST,NC,28370-1593

FOLEY, HUGH W &
15 W RITTER ROAD
PINEHURST,NC,28374

DEWEY, PAUL H & MICHELE K
400 WATERS DR APT D305
SOUTHERN PINES,NC,28387-2292

WELCH, KEEFER D & PATRICIA A
45 MCLEAN RD
PINEHURST,NC,28374

CONDON, BREEN O
PO BOX 1870
PINEHURST,NC,28370-1870

VILLAGE OF PINEHURST
395 MAGNOLIA RD
PINEHURST,NC,28374

CLOUGH, CHRISTIAN
1506 PLEASANT VIEW RD
COOPERSBURG,PA,18036

ROBERTS PROFESSIONAL SERVICES, LLC
40 DALRYMPLE RD
PINEHURST,NC,28374

HENDERSON, GREGORY B & BONNY B
PO BOX 934
PINEHURST,NC,28370

THIGPEN, FRANK C & LYNNE S
PO BOX 1034
PINEHURST,NC,28374-1034

HALL, BERTRAM B
155 BARRETT ROAD
PINEHURST,NC,28374

ADVANTAGE PG, INC
6312 KINARD RD
DURHAM,NC,27703

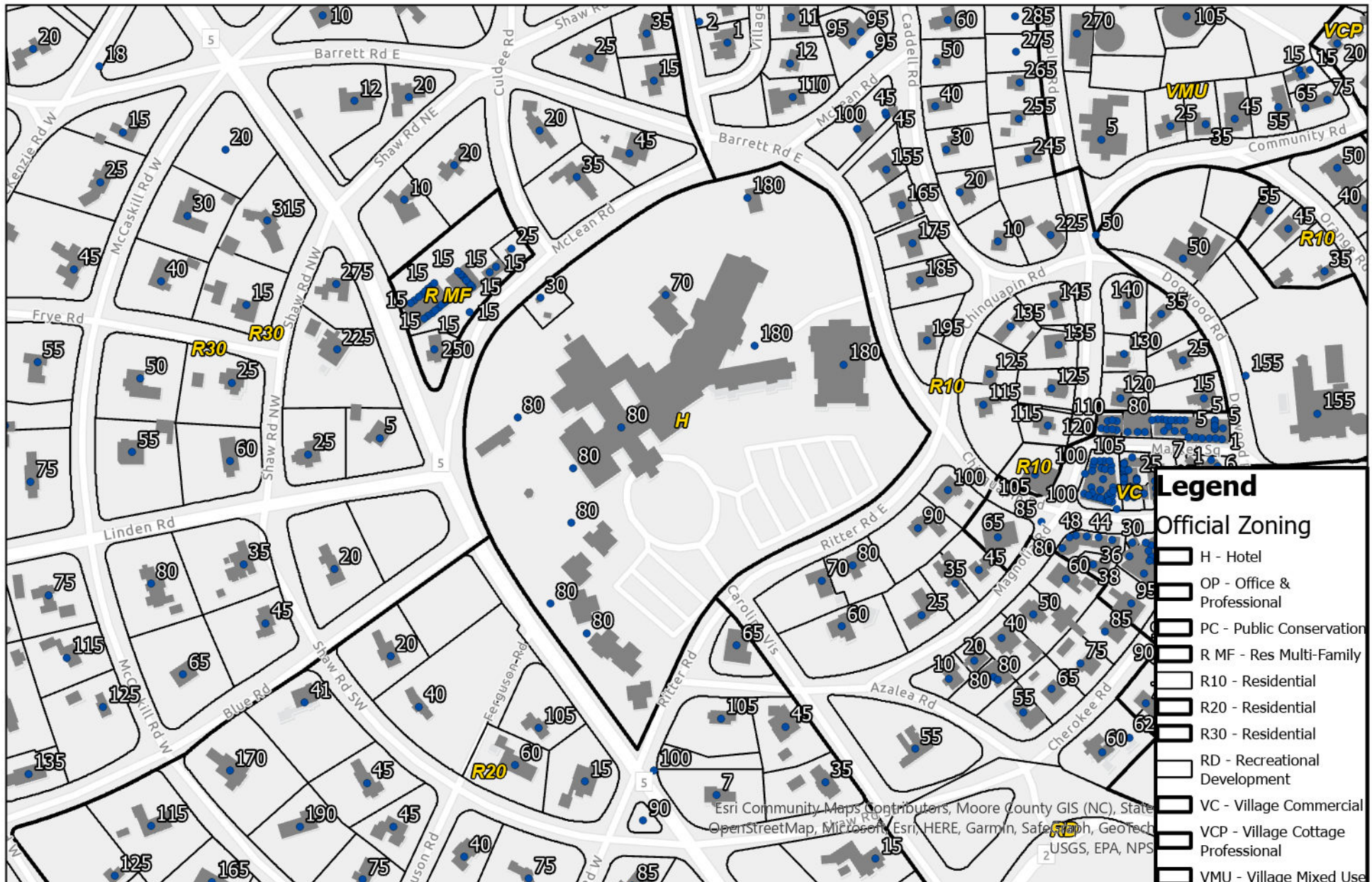
CLOUGH, CHRISTIAN
1506 PLEASANT VIEW RD
COOPERSBURG,PA,18036

RESORTS OF PINEHURST INC
PO BOX 4000
PINEHURST,NC,28374

THOMPSON, JAMES W & THOMPSON, LYNNE C
211 FOALING ROUND LANE
CARTHAGE,NC,28327

Zoning Map- 80 Carolina Vista

Exhibit S-2



Village of Pinehurst Disclaimer: It is understood that the data contained herein is subject to constant change and that its accuracy cannot be guaranteed. The maps have been created from information provided by various government and private sources at various levels of accuracy. The data is provided to you "as is" with no warranty, representation or guaranty as to the content, sequence, accuracy, timeliness or completeness of any of the information provided herein. It is the responsibility of the user of the data to be aware of the data's limitations and to utilize the data in an appropriate manner. Any resale of this data is strictly prohibited in accordance with North Carolina General Statutes 132-10. Grid is based on North Carolina State Plane Coordinate System NAD83 (feet).

December 7, 2023
Board of Adjustments
80 Carolina Vista Variance Request



Public Hearing Notification

Exhibit S-3



0 335 670 Feet

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December 7, 2023
Board of Adjustments
80 Carolina Vista Variance Request



PLN-2023-00473 - Carolina Fencing

Menu Help

File Date: 11/07/2023

Application Status: In Review

Application Type: Variance

Application Detail: Detail

Description of Work: See attached narrative

Application Name: Carolina Fencing

Address: 80 Carolina Vista Dr, Pinehurst, NC 28374

Owner Name: Resorts of Pinehurst, Inc.

Owner Address: 1 Carolina Vista, Pinehurst, NC 28374

Parcel No: 00025808

Contact Info:	Name	Organization Name	Contact Type	Contact Primary Address	Status
	Calvin Burkley		Applicant		Active
	Bob Koontz	Koontz Jones De...	Contact		Active

Licensed Professionals Info:	Primary	License Number	License Type	Name	Business Name	Business License #
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Job Value: \$0.00

Total Fee Assessed: \$500.00

Total Fee Invoiced: \$500.00

Balance: \$0.00

Custom Fields: PROJECT INFORMATION

Legal Basis for Application

Owner of the Land Affected by the Variance

Ordinance Text (Verbatim)

(C)Fences and walls in non-residential zoning districts and/or on non-residential properties: ex

cept in the RD zoning district, fences and walls or similar structures not over six feet in height,

may project into any required setback

Description of how the hardship did not result from actions taken by the applicant/ownerExplanation of how the requested variance is consistent with the intent of the ordinance

See attached narrative

General Description of Variance Request

The applicant requests to increase the fence height from PDO maximum of 6' to 8' along Highway 5

Description of unnecessary hardship that would result from the strict application of the ordinance

See attached narrative

Ordinance Section Reference

Section 9.13(C)

Description of how the hardship results from conditions that are peculiar to the property

See attached narrative

Workflow Status:	Task	Assigned To	Status	Status Date	Action By
	Appeal Filed		Accepted	11/13/2023	Michael Mandeville
	Review for Completeness	Alex Cameron	Complete	11/30/2023	Michael Mandeville
	Planning Review	Alex Cameron	Complete	11/30/2023	Michael Mandeville
	BOA Notification	Alex Cameron	Meeting Noti...	11/30/2023	Michael Mandeville
	Staff Report	Alex Cameron	In Progress	11/30/2023	Michael Mandeville
	BOA Hearing	Alex Cameron			

Condition Status:	Name	Short Comments	Status	Apply Date	Severity	Action By
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Documents:	File Name	Document Group	Category	Description	Type	Document Status	Document Status Date
	Variance Application -...	PLN_VAR	Other	-Application -Narra...	application/pdf	Uploaded	11/07/2023
	Variance Application s...	PLN_VAR	Other	Signed application	application/pdf	Uploaded	11/07/2023
	Your application PLN-1...	PLN	Email		application/octet-s...	Uploaded	11/30/2023
	Show all						

Application Comments:	View ID	Comment	Date
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Initiated by Product: ACA

Scheduled/Pending Inspections:	Inspection Type	Scheduled Date	Inspector	Status	Comments
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Resulted Inspections:	Inspection Type	Inspection Date	Inspector	Status	Comments
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Required Inspections:

October 9, 2023 – Updated November 29, 2023

Alex Cameron
Planning Director
Village of Pinehurst
395 Magnolia Road
Pinehurst, NC 28374

Re: Pinehurst Resort
Fence Variance Request

Dear Mr. Cameron,

Pinehurst Resort requests a variance to modify the fence along Highway 5, which surrounds the Carolina Hotel, the hotel pool, and the hotel Villas. The Resort would like to increase the fence height to 8' with interspersed brick columns up to 9'8". Additionally, this fence would vary from the fence design standards provided in the Pinehurst Development Ordinance (PDO) by adding a specific trim detail at the top of the fence. While the PDO permits the solid wooden fence, the trim detail is not shown in the PDO. The trim detail was inspired by the historic fence detail located on the upper floor of the Department Store Building in the heart of the Village (see attached photographs). The following information demonstrates the hardship incurred by the Resort and justification for the variance based on the Pinehurst Development Ordinance (PDO) criteria.

- (A) 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.

With the location of the Carolina Hotel, Hotel Villas, and Hotel pool directly adjacent to Highway 5, vehicular noise is a growing concern. The increased traffic and truck volume on Highway 5 is raising the noise levels throughout the day and evening hours. Pinehurst Resort would like to replace the existing fence with a taller, more solid fence with masonry columns to reduce the noise levels for the guests and visitors in this area. The trim detail at the top of the fence serves to break up the perceived height of the fence and add design interest, inspired by historic Village fencing.

- (B) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

This is a unique request for this particular property. The hotel use is unique along the Highway 5 corridor. Special events occur in this area, including weddings, receptions, and other notable events. In addition, the hotel lodging is unique to this property along Highway 5.



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

The Resort facilities and events in this area have been in place for a significant time. There has been a fence in place in this area for many years. The increased traffic volume and noise are not a result of any actions taken by the applicant. The applicant is seeking the variance to mitigate the impacts of the increased traffic volume, which is out of their control.

- (D) 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 variance request is consistent with the spirit of the ordinance and simply the result of increased traffic volumes on a primary transportation corridor within the Village. The increased fence height will have no negative impacts on public safety. It will protect the Resort experience for visitors, guests, and people attending special events in this particular area of the Resort. The fence will be upgraded from the existing fence and be visually appealing, in character with the Resort and historic Village. Trim detailing, while not consistent with the PDO, is consistent with design elements in other locations within the core Village. The fence design will still require the Historic District Commission's approval to determine whether the fence fits within the Village of Pinehurst Historic District.

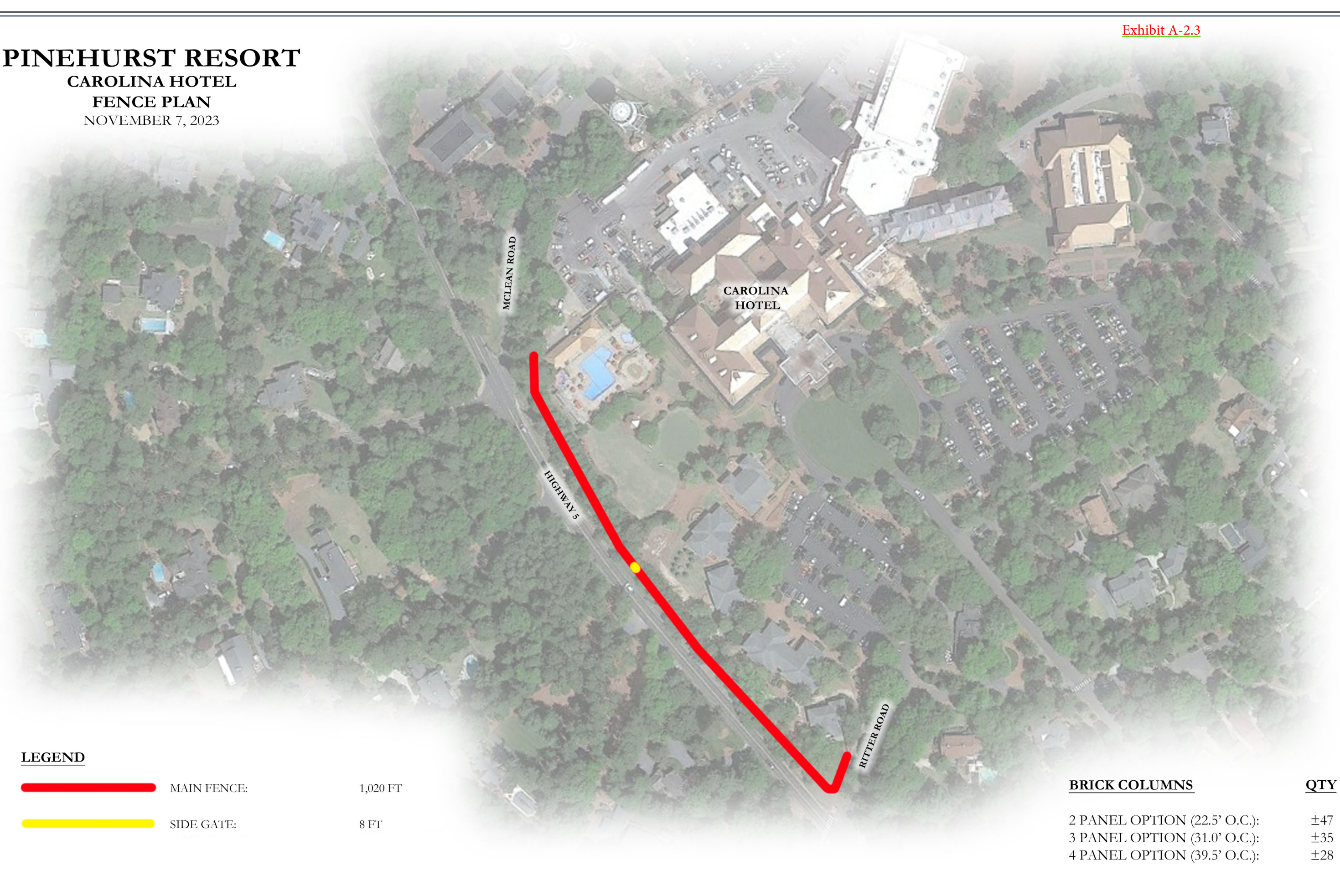
The above narrative is a justification for the increased fence height based on the PDO criteria for a variance. Pinehurst Resort appreciates your consideration of this variance request and the unique circumstances that have led to the request for additional fence height along Highway 5.

Best Regards,

A handwritten signature in black ink, appearing to read "Rt Koontz", with a stylized flourish at the end.

Robert Koontz, PLA

PINEHURST RESORT
CAROLINA HOTEL
FENCE PLAN
NOVEMBER 7, 2023



LEGEND

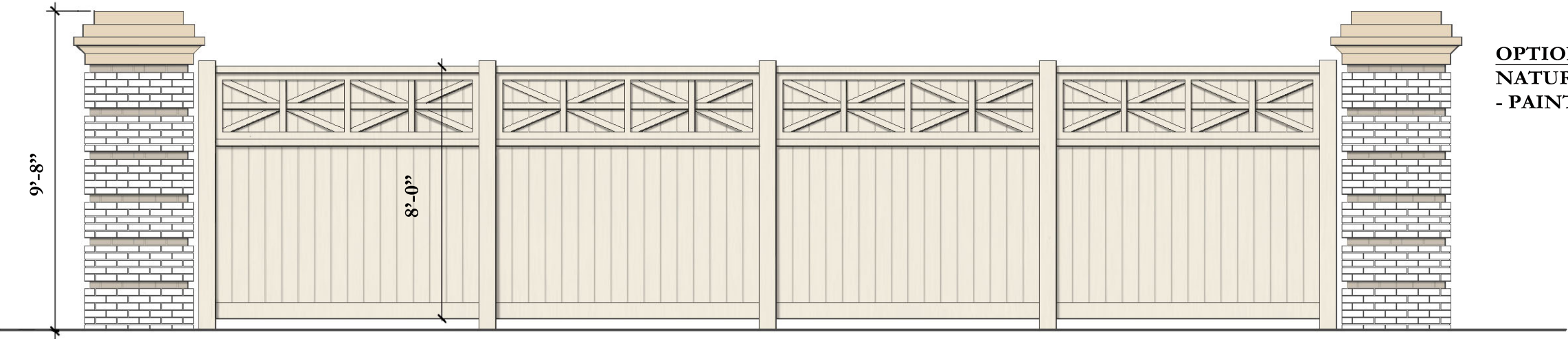
- MAIN FENCE: 1,020 FT
- SIDE GATE: 8 FT

BRICK COLUMNS		QTY
2 PANEL OPTION (22.5' O.C.):		±47
3 PANEL OPTION (31.0' O.C.):		±35
4 PANEL OPTION (39.5' O.C.):		±28

PINEHURST RESORT

CAROLINA HOTEL
PROPERTY FENCE CONCEPTS
NOVEMBER 7, 2023

CONCEPT B2
OPTION 1



OPTION 1
NATURAL WOOD FENCE
- PAINTED OFF WHITE

SCALE: 1/4" = 1'-0"



Exhibit A-2.5





**APPROVAL OF THE 2024 MEETING SCHEDULE
ADDITIONAL AGENDA DETAILS:**

FROM:

Shannon Konstantinou

CC:

Alex Cameron

DATE OF MEMO:

11/1/2023

MEMO DETAILS:

Attached is a draft copy of the 2024 BOA / P&Z Meeting Calendar. The Board may adopt the 2024 meeting schedule by motion.

ATTACHMENTS:

Description

▣ 2024 BOA / P&Z Meeting Schedule



2024 PLANNING AND ZONING BOARD / BOARD OF ADJUSTMENT SCHEDULE

BOARD/COMMITTEE	FREQUENCY	LOCATION	TIME	DATES	
PLANNING AND ZONING BOARD BOARD OF ADJUSTMENT (FOLLOWING P&Z AS NEEDED)	1 st Thursday	Assembly Hall	4:00 PM	01/04/2024 02/01/2024 03/07/2024 04/04/2024 05/02/2024 06/06/2024	07/11/2024* 08/01/2024 09/05/2024 10/03/2024 11/07/2024 12/05/2024

**Date has been changed due to a Holiday*



BOARD ORGANIZATIONAL ITEMS ADDITIONAL AGENDA DETAILS:

ATTACHMENTS:

Description

- ☐ BOA Rules of Procedure
- ☐ PDO Combination of BOA and P&Z

RULES OF PROCEDURE
BOARD OF ADJUSTMENT
VILLAGE OF PINEHURST, NORTH CAROLINA

I. General Rules

- A. **General Authority.** Under authority of the General Statutes of North Carolina, §160A-388, and the Pinehurst Development Ordinance (hereinafter “PDO”) of the Village of Pinehurst, North Carolina, the Village of Pinehurst Board of Adjustment (hereinafter “Board”) hereby adopts these general rules for the hearing of matters coming before it.
- B. **Specific Authority.** The Board’s specific approval authority is established in Chapter 5 of the PDO, and the Board shall neither have power to vary requirements of any other section of the PDO, nor other local laws or the General Statutes of North Carolina.

II. Officers and Duties

- A. **Chairperson** (hereinafter “Chair”). The Chair shall be appointed by the Village of Pinehurst Village Council (hereinafter “Village Council”). The Chair shall decide on all points of order and procedure, subject to the rules herein, unless directed otherwise by a majority of the Board in session at the time. The term of office for the Chair shall be as set by Village Council or until a new Chairperson is named by Village Council.
- B. **Vice Chairperson** (hereinafter “Vice Chair”). A Vice Chairperson shall be elected by the Board from among its members. The term of office for the Vice Chair shall be the same as that of the Chair. The Vice Chair shall serve as Acting Chair in the Chairperson’s absence and at such times shall have the same powers and duties as the Chair.

III. Board Powers and Duties

- A. **Powers.** The presiding officer (Chair or Vice Chair) shall have the following powers and duties:
1. With the Board’s informal consent, to append the meeting’s agenda;
 2. To rule motions in or out of order, including any motion patently offered for obstructive or dilatory purposes;
 3. To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this ground;

4. To entertain and answer questions of parliamentary law or procedure;
5. To call a brief recess at any time;
6. To continue a meeting to a future date and;
7. To adjourn in an emergency.

IV. Members

- A. **Source of Board Members.** Members of the Board shall be drawn from the Village of Pinehurst's Planning and Zoning Board. Membership shall include five named permanent members; the remaining Planning and Zoning members shall serve as alternates.
- B. **Board Member Responsibilities.** Members of the Board shall have the following duties and responsibilities:
 1. Those duties and responsibilities outlined in the General Statutes of North Carolina, §160A-388;
 2. Other such duties as assigned by the Chair.
- C. **Board Member Conduct.**
 1. Members of the Board may be removed for cause, which shall be defined as dishonorable conduct that has compromised the integrity of the Board.
 2. No Board member shall take part in the hearing, consideration, or determination of any case in which he/she is personally or financially interested.
 3. No Board member shall vote on any matter deciding an application or appeal unless he/she shall have attended the public hearing on that application or appeal. If a matter is continued to a subsequent date following a public hearing, a Board member who was not present at the public hearing may vote on the matter only if the member has reviewed the minutes of the proceeding/hearing.
 4. Members of the Board will not express individual opinions on the proper judgment of any case with any parties thereto prior to its determination of that case. Violation of this rule shall be cause for dismissal from the Board.

V. Meetings

- A. **Organization Meeting.** The regularly scheduled December meeting will serve as the annual organization meeting for the Board of Adjustment. At such meeting a Vice

Chair shall be nominated and elected by the Members. In addition, any other governance/protocol matters will be reviewed and decided upon by the Members.

- B. **Special Meetings.** Special meetings of the Board may be called at any time by the Chairperson. At least 48 hours notice of the time and place of special meetings shall be given by either the Clerk or the Chair to each member of the Board and to anyone who is required to receive notice.
- C. **Quorum.** A quorum shall consist of three Members of the Board at least one of whom should be Chair or Vice Chair. All matters or appeals shall be decided by majority vote of the Members. A concurring vote of four Members of the Board present at the hearing of a particular case shall be necessary to grant a variance.
- D. **Conduct of Meetings.** All meetings shall be open to the public, subject to the provisions of North Carolina General Statutes, § 143-318.11 pertaining to closed sessions of public bodies. The order of business at regular meetings shall be as follows: (a) consideration and approval of Board minutes (b) hearing of cases, beginning first with any unfinished business before moving to new business; and (c) any other matters properly brought before the Board.
- E. **Time and Place.** Regular meetings will be held on the first Thursday of each month at 4:30PM or following the Planning and Zoning Board meeting. Meeting location will be in the Village of Pinehurst Assembly Hall.

VI. Appeals and Applications

A. Procedure for Filing Applications.

- 1. All applications for hearing shall be filed with the Planning and Inspections Department, which shall act as Clerk for the Board in receiving this notice. All applications shall be made upon the form furnished for that purpose, and all required information shall be provided thereon before an appeal or any application shall be considered as having been filed.
- 2. Any person with standing may appeal any order or act of the Zoning Administrator or an administrative official pertaining to enforcement of the PDO. Any such appeal of an administrative decision shall be filed with the Village Clerk.
- 3. No appeal shall be heard by the Board unless notice thereof is filed within 30 days after the interested party or parties receive notice of the order, requirement, decision or determination by an administrative official.
- 4. No application shall be considered by the Board unless a completed application is received in accordance with Chapter 5 of the PDO.

- B. **Fees.** No application or notice of appeal shall be considered as having been completed until there has been paid to the Village of Pinehurst a filing fee to cover the cost of providing notice and such further investigation or verification of the application as is necessary.

C. **Hearings.**

1. **Time.** After receipt by the appropriate Village official of the completed notice of appeal or application, the Clerk to the Board shall schedule the time for a hearing, which shall be either at the next regularly scheduled meeting or at a special meeting.
2. **Notice.** The Board shall give public notice of the hearings by all of the following means:
 - a) By making notification by mail all property owners of parcels of land abutting the parcel of land that is the subject of the hearing and to any other persons entitled to receive notice under the PDO at least 10 days but no more than 25 days prior to the hearing.
 - b) By posting notice of the hearing at a prominent place or places on the property which is the subject of the action at least 10 days but no more than 25 days prior to the hearing.

All such notices shall state the location of the building or lot, the general nature of the question involved, and the time and place of the hearing.

3. **Conduct of Hearing.** Any party with standing may appear in person or by attorney at the hearing. The order of business for each hearing shall be as follows:
 - a) The Chair shall direct and shall call the case as advertised on the official agenda.
 - b) A member of the Village of Pinehurst Planning and Inspections Department shall make a statement regarding the manner in which the application relates to the PDO.
 - c) Either the applicant or the applicant's attorney shall present the arguments in support of his/her case or application.
 - d) Either persons with standing opposed to granting the application or their attorneys shall present the argument against the application.
 - e) Both sides will be permitted to present rebuttals to opposing testimony, at the discretion of the Chair.

- f) Witnesses may be called and competent evidence may be submitted.
 - g) Any presentation on behalf of either an applicant or a party with standing who are not natural persons must be made by an attorney.
4. Postponement. Requests for postponing or continuing the hearing for good cause on a particular appeal or application may be made either to the Chair or to the Board.
5. Withdrawal. An application or appeal will be considered to have been withdrawn under the following circumstances: (a) The applicant submits a written request to withdraw the application or appeal; (b) The property owner, if different than the applicant, submits a notarized request to withdraw the application or appeal; (c) The Board requests the applicant to furnish additional information within a specified period of time, and such information is not furnished by the applicant within the time period allowed; (d) Without prior notification to the Chair, applicant does not appear at the scheduled hearing to testify regarding the merits of the application; or (e) The applicant appears at the scheduled hearing and requests that the application be withdrawn. The Chairperson has authority to determine whether an application or appeal has been withdrawn or may be considered withdrawn.
6. Rehearing. A Motion for a Rehearing may be made by the applicant or any party with standing by filing the appropriate application form with the Planning and Inspections Department within 10 days after the Board votes on the Application and announces its decision in the original case. Only one Motion for Rehearing may be filed for any case.

Upon receipt of a Motion for a Rehearing in proper form, the Clerk will schedule the Motion for consideration by the Board at its next regularly scheduled meeting after proper advertising in accordance with these rules and the PDO. Evidence presented on a Motion for Rehearing shall be limited to only new evidence that was not submitted to the Board during the hearing of the original application. Such evidence may include evidence of changes in circumstances or conditions since the hearing on the original application.

At the conclusion of the presentation of the evidence, the Board will determine whether to grant the rehearing. If the rehearing is granted, the rehearing will ordinarily be held at the same meeting at which the Motion is considered, although the Board may set the rehearing at a later scheduled meeting.

7. Refiling. Except as provided in Section VI.C.6 herein, once the Board has made its decision in a case, any applicant shall be prohibited from

submitting the same request for the subject property for a period of one year from the date of the previous application.

8. Review. A review proceeding will be scheduled when a review proceeding is made a condition of the issuance of a variance.
9. Appeals. An appeal from a decision by the Board of Adjustment must be made to the Superior Court of Moore County within 30 days of the decision, and in accordance with the General Statutes of North Carolina, §160A-388.

D. Decisions.

1. Time. Decisions by the Board shall be made as soon as practicable after the hearing. The Board will ordinarily vote on the application and announce its decision at the same meeting at which the hearing takes place. The final decision of the Board is made when the written decision is signed by the Chair and filed with the Board Clerk.
2. Form. Written notice of the decision in a case shall be given to the applicant in accordance with the notification requirements in Chapter 5 of the PDO after the minutes setting out the Board's final decision are approved. The record shall show the reasons for the decision with a summary of the evidence introduced in the findings of facts made by the Board.
 - a) Variances. Where a variance is granted, the record shall state any unnecessary hardship upon which the variance request was based and which the Board finds to exist. The record shall state what, if any, conditions and safeguards are imposed by the Board in connection with a granting of a variance.
 - b) Interpretations. The decision may reverse or affirm wholly or partly or modify the order, requirements, decision, or determination being appealed.

VII. AMENDMENTS

These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of not less than a simple majority of the Board, provided that such amendment be presented in writing at a regular or special meeting before the meeting at which the vote is taken. All such amendments must be reviewed by the Attorney of the Village of Pinehurst prior to their taking effect.

ADOPTED this the 7 day of November, 2019

VILLAGE OF PINEHURST BOARD OF ADJUSTMENT



, Chairman



, Director, Planning and Inspections

COMBINATION OF PLANNING AND ZONING BOARD AND ZONING BOARD OF ADJUSTMENT

§ 31.50 CREATION.

The Planning and Zoning Board and the Zoning Board of Adjustment may be combined into one board in regard to membership.

(Ord. 12-10, passed 03-13-2012)

§ 31.51 MEMBERS; APPOINTMENT.

Members will be appointed as stated in §§31.20 and 31.40 by Village Council. Of the total board members, only five members will serve on the Zoning Board of Adjustment. Zoning Board of Adjustment members serve in ex-officio capacity as Planning and Zoning Board members; members appointed to the Zoning Board of Adjustment shall also serve on the Planning and Zoning Board. All other members of the combined board will be named as alternates to the Zoning Board of Adjustment. At least one representative on each board must be a resident of Pinehurst's extraterritorial jurisdiction; this may be the same member for each board.

(Ord. 12-10, passed 03-13-2012)

§ 31.52 MEETINGS.

Separate meetings shall be held for the Planning and Zoning Board and the Zoning Board of Adjustment.

(Ord. 12-10, passed 03-13-2012)