



BOARD OF ADJUSTMENT

APRIL 4, 2024

ASSEMBLY HALL

**04:00 P.M. OR IMMEDIATELY FOLLOWING THE PLANNING & ZONING BOARD
MEETING
PINEHURST, NORTH CAROLINA**

- I. Call to Order
- II. Approval of Minutes
 - A. 03-07-2024 BOA Regular Meeting Minutes
- III. General Business
- IV. Next Meeting Date
 - A. 05-02-2024 Regular Meeting (If the Board has business to conduct)
- V. 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.



**03-07-2024 BOA REGULAR MEETING MINUTES
ADDITIONAL AGENDA DETAILS:**

FROM:

Shelby Grow

CC:

Alex Cameron, Pamela Graham, Michael Mandeville, Maria Carpenter

DATE OF MEMO:

3/25/2024

MEMO DETAILS:

Attached is a draft copy of the Regular Meeting minutes.

ATTACHMENTS:

Description

- 03.07.2024 BOA Regular Meeting Draft Minutes



**BOARD OF ADJUSTMENT
REGULAR MEETING
THURSDAY, MARCH 07TH, 2024
ASSEMBLY HALL
395 MAGNOLIA ROAD
PINEHURST, NORTH CAROLINA
04:00 PM or IMMEDIATELY FOLLOWING THE P&Z MEETING**

Board Members Present:

Thomas Schroeder, Chair
Matt Jones, Vice-Chair
Jeramy Hooper
Bruce Hironimus, Alt.
Sonja Rothstein

Board Members Absent:

Paul Roberts
Louise Mercuro, Alt.
Carol Henry, Alt.

Staff Present:

Alex Cameron, Planning Director
Pamela Graham, Planning Supervisor
Michael Mandeville, Senior Planner
Maria Carpenter, Planner
Shelby Grow, Clerk to the Board
Josh Dockery, IT Technician

Approximately 4 member(s) of the public were in attendance.

I. Call to Order

Mr. Schroeder called the March 07th, 2024 Regular Meeting to order at 04:30 PM.

Mr. Hooper moved to seat Mr. Hironimus as a voting member of the Board of Adjustment for the Regular Meeting of March 07th, 2024. Seconded by Mr. Jones. Approved by a vote of 5-0.

Mr. Schroeder confirmed that Mr. Hironimus viewed the materials for this case and was prepared to make a decision on the matter.

II. Approval of Minutes

a. 02-01-2024 Regular Meeting Minutes

Mr. Jones moved to approve the minutes of the February 01st, 2024 Regular Meeting. Seconded by Mr. Hooper. Approved by a vote of 5-0.

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

III. Public Hearing

a. PLN-2023-00473 (80 Carolina Vista 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 (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.

Mr. Schroeder verified that no Board members had ex parte communication regarding the case and asked if they had visited the site between the last meeting and the current meeting. Mr. Hironimus stated that he visited the site on 2 occasions and had no ex parte communication.

Mr. Bob Koontz, and Mr. Calvin Burkley, representatives of the Pinehurst Resort, and Mr. Tad Hardy, a representative of Kimley Horn Associates, were sworn into the public hearing.

Mr. Cameron stated that he and Mr. Mandeville were sworn in at the previous meeting, which had been continued and they are still under oath.

Mr. Mandeville discussed the proposed work and submitted into evidence the Staff Report with attachments / exhibits, Presentation, and Application and Applicant's materials / exhibits.

The Board had no questions for Mr. Mandeville.

Mr. Burkley thanked Mr. Hironimus for attending the meeting, and thanked Mr. Roberts for encouraging them to get the decibel testing done. Mr. Koontz addressed the Board regarding the decibel testing that was completed and additional materials that have been submitted to prove a hardship in the variance request, including the importance of the fence location and what materials work best for screening noise, also adding that the areas they are interested in screening include the pool area, the event space, and the Villas. Mr. Hardy addressed the Board stating his qualifications and background, allowing him to provide expert testimony on the case. Mr. Hardy stated that the NCDOT Traffic Noise Policy was used as the basis for the analysis, and testing and measurements were done mid-January of this year. Mr. Hardy explained how the testing is completed and analyzed to form a model of the existing conditions, comparing them to ADT (Annual Daily Traffic) volumes from the NCDOT online traffic system, including peak hour traffic volume along this section of Highway 5. Mr. Hardy stated that the existing fence allows noise to spill through with little to no reduction due to slats in the fence and the current material used. Mr. Hardy presented slides showing the difference in decibel readings between a 6- and 8-foot fence at the current location compared to a 6- and 8-foot fence along the property line; aiming for a decibel reading of 55-50 dB(A) or less and confirmed that shifting the barrier within the setback allows for a reduction in noise along with the 8-foot height increase.

Mr. Schoeder asked if any Board Members had questions specific to the information that Mr. Hardy had presented. Mr. Hironimus asked for clarification on whether constructing this type of sound barrier had any deleterious effect on the other side of the road, pushing decibel levels higher there. Mr. Hardy confirmed that generally it would not, and any change would be very minimal. Mr. Hironimus

and Mr. Koontz discussed retaining as much of the vegetation and trees along the roadway as possible to aid in noise reduction, but no landscaping design has been planned yet. Mr. Jones confirmed with Mr. Hardy that the models did not include decibel testing on the existing fence and material; the models show the difference between a 6- and 8-foot fence using a more robust material, and this data was also based on ADT volumes which can be adjusted to mimic peak hour traffic noise levels. Mr. Hooper asked for clarification on barrier material and sound traveling through gaps, and over the proposed fence. Mr. Hardy stated that the existing fence provides a minimal amount of noise deflection due to the slats and porous material, and a more robust barrier with fewer gaps would still allow some sound to travel through, but it could be designed and constructed in a manner to keep that from happening to a minimal standard. Mr. Hardy stated sound will always travel over a barrier no matter the height, but an increase in height to 8 feet would also increase the blockage line of sight, which also reduces sound. Mr. Hooper and Mr. Hardy discussed the proposed material for the fence to be used, with options being composite, fiberglass, PVC, or concrete masonry, all of which would provide a greater reduction in sound. Mr. Hooper confirmed with Mr. Hardy that a 6-foot fence made of those materials would also provide a greater reduction in sound, compared to the existing fence. Mr. Koontz stated that the original proposed wood fence material would not make a difference in sound reduction, so they researched alternate materials. Ms. Rothstein, Mr. Koontz, and Mr. Hardy discussed the existing fence being in disrepair with numerous slats missing from the interior of the existing fence. Mr. Schroeder asked the Board if they had additional questions regarding decibel testing. The Board members had none.

Mr. Koontz addressed the Board regarding the proposed columns in the design reflecting those used at the Hotel, being 4' 4" wide, and the proposed materials for fence being composite and or brick, or both to better reduce the noise issues. Mr. Koontz confirmed with Mr. Schroeder that the decorative border at the top of the proposed fence is no longer part of the design. Mr. Hardy stated a tongue and groove design would be used to reduce noise. Mr. Jones, Mr. Cameron, and Mr. Koontz discussed the new proposed designs and material types, and how they are more consistent with the current PDO. Mr. Jones confirmed with Mr. Koontz that the Board is not being asked to consider a variation on the material types. Mr. Koontz stated the design and exact materials have not been decided yet and this would most likely be a decision for the Historic Preservation Commission. Mr. Hooper confirmed with Mr. Koontz that this request is not related to materials and design, and the request is being made to define a hardship related to traffic noise, the fence location and height. Mr. Cameron confirmed that the proposed decorative top of the fence design in the original renderings was the only thing that staff deemed to be inconsistent with the PDO regulation. Mr. Koontz confirmed with Mr. Schroeder that the fence materials needed for better sound reduction would not allow a decorative design at the top, and they are no longer asking the Board for a variance request on the design elements. Mr. Hironimus asked for clarification on whether masonry or composite materials provided a better sound barrier. Mr. Hardy responded that masonry, being a more robust material, would generally provide

better sound reduction, but the difference would be minimal. Mr. Jones confirmed with Mr. Hardy that the testing locations were conducted 10 feet from the inside of the fence line, one on the north end of the property, the Villas area, and the putting green area, for a total of 3 concurrent measurements at various distances on the property. Mr. Hooper confirmed with Mr. Hardy that current traffic data was used and compared with historical traffic data, which showed consistency for the past 5 years, and that testing also included different vehicle types, and speeds. Mr. Hooper and Mr. Burkley discussed complaints from the resort guests regarding the noise being lost data, due to a system change, and just having verbatim complaints from event planners, which have been increasing recently. Mr. Jones stated that he does not see a hardship demonstrated in this case, and an increase in fence height, along with moving the location does not make a significant difference in noise reduction. Mr. Burkley and Mr. Hardy stated there was a greater reduction in sound with the fence placement closer to the road and sound source, but there was no data on the exact location of the current fence within the setback. Mr. Schroeder read Subsection C from the PDO regarding fences. Mr. Cameron clarified that this variance request only pertains to the first part of this subsection because this is an existing fence predating the ordinance. Mr. Hironimus asked for clarification on the sound testing decibel difference between the 6- and 8-foot fences heights. Mr. Hardy stated that there was a 3-5 decibel difference denoting a notable change to the human ear. Mr. Hooper and Mr. Hardy discussed max noise levels and at which level it is considered irritating. Mr. Hardy stated that 70 dB's and above are considered high, with a goal being 59 dB's or lower; traffic is counted concurrently for 20 minutes, and these fluctuations are summarized into an hourly equivalent. Mr. Jones and Mr. Koontz discussed whether the noise reduction difference between a 6- and 8-foot fence would be great enough to grant a variance and prove a hardship.

Mr. Cameron and Mr. Schroeder asked if anyone would like to come forward to provide additional testimony. No one came forward.

The Board deliberated on proving a hardship with this request, and the difference in sound reduction between a 6- and 8-foot fence being minimal. The Board discussed improvement and enhancement of appearance being a positive outcome, and discussed this needing to go before the Historic Preservation Commission for approval if the variance was granted. Mr. Cameron stated that fences are approved by Staff but this may need to go before the Historic Preservation Commission depending on the request; the Historic District Standards would apply, and the Board should not consider design elements during deliberation as this variance pertains to the location and height of the fence only. The Board discussed when the traffic study was done because the current construction vehicle traffic is not a daily occurrence. Mr. Hardy stated that this was taken into account and clarified the process involved with a traffic study, using NCDOT data to compare against the actual decibel readings collected, tracking all types of vehicles and speeds, using average peak data, which is then calculated to provide an average decibel reading. The Board discussed the motion stating that this variance request was based on

allowing a fence over 6- feet in height to be constructed inside the setback, and that a fence over 6-feet in height would potentially be allowed if it was 20 feet from the property line.

Mr. Jones moved the Board of Adjustment deny the variance request for 80 Carolina Vista. AND adopt the following Findings of Fact:

- A. Unnecessary hardship would not result from the strict application of the ordinance because a hardship was not demonstrated by constructing a fence at the proposed 8-foot height instead of the current 6-foot height in proximity to the setback.**
- B. The hardship results from conditions that are peculiar to the property based on the use of the property as a hotel.**
- C. The hardship did not result from actions taken by the applicant or the property owner because traffic is not solely the cause of the hotel.**
- 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 because no hardship was found.**

Seconded by Ms. Rothstein.

The Board discussed the motion and allowed Mr. Koontz to address the Board regarding if moving the fence back 20 feet would potentially allow them to increase the fence height to 8 feet, could they, in order to remain consistent with design along the area in front of the Villas, be allowed to construct columns over 6 feet. Mr. Hooper stated that they were still in the motion and would need to back out of it to consider this request and the Board would have to discuss it. Mr. Cameron informed the Board that columns are included in the regulated height restriction of 6 feet.

Mr. Schroeder asked for the motion to be repeated and called for a roll call vote.

Mr. Hironimus:	No
Mr. Hooper:	No
Mr. Schroeder:	Yes
Mr. Jones:	Yes
Ms. Rothstein:	Yes

The motion to deny the variance request passed by a vote of 3-2.

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

IV. General Business

None.

V. Next Meeting Date

a. 04-04-2024 Regular Meeting

VI. Motion to Adjourn

Mr. Jones moved to adjourn the Regular Meeting. Seconded by Ms. Rothstein.
Approved by a vote of 5-0 at 06:00 PM.

Respectfully Submitted,

Shelby Grow
Clerk to the Board &
Planning Administrative Specialist
Village of Pinehurst

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

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