

# TOWN OF SEABROOK ISLAND

## Board of Zoning Appeals Meeting

January 21, 2021 – 2:30 PM

Virtual Meeting Hosted via Zoom

[Live Streamed on YouTube](#)



## MINUTES

Present: Walter Sewell (Chair), John Fox, Janet Gorski, Bob Leggett, Tom Pinckney, Joe Cronin (Zoning Administrator)

Absent: None

Guests: Robert & Cheryl Schuldt (2730 Gnarled Pine), Ashton Holloway (3016 Seabrook Village Drive), Cathy Patterson, Tom Kiliansky, Carl Kern, Katrina Burrell (SIPOA)

Chairman Sewell called the meeting of the Board of Zoning Appeals to order at 2:31 PM. Zoning Administrator Cronin confirmed that the requirements of the Freedom of Information Act were fulfilled, and the meeting was properly posted. Chairman Sewell introduced himself and members of the Board to those watching the meeting remotely and confirmed that a quorum was present.

### APPROVAL OF MINUTES

1. **Board of Zoning Appeals Meeting: January 7, 2021**: Ms. Gorski made a motion to approve the minutes from the January 7, 2021 meeting, as submitted. Mr. Fox seconded the motion. The motion was **APPROVED** by a vote of 5-0.

### PUBLIC HEARING ITEMS

1. **Variance #171: 2730 Gnarled Pine (Tax Map # 147-08-00-080)**: Chairman Sewell introduced the pending variance request, which was submitted by Robert and Cheryl Schuldt (Owners) and their contractor, Ron Welch (Applicant). Chairman Sewell disclosed that members of the Board were encouraged to visit the subject property prior to the hearing for the purpose of viewing existing conditions at the site, as well as neighboring properties. Members of the Board confirmed that they had visited the site prior to the meeting. Chairman Sewell added that no testimony was received during the individual site visits.

Chairman Sewell then called on Zoning Administrator Cronin to provide a brief overview of Variance Application #171. Chairman Sewell administered an oath to Zoning Administrator Cronin and asked him to confirm that the public hearing on the pending variance request was properly advertised, as required by state and local law. Zoning Administrator Cronin responded in the affirmative.

Zoning Administrator Cronin stated that the applicants were seeking approval to construct a new screened porch addition at the rear of their existing home. Because the proposed porch would encroach approximately 5.5 feet into the required rear yard setbacks, the applicants were seeking approval from the Board of Zoning Appeals to grant relief from the following requirement, as provided by the Town’s Development Standards Ordinance (DSO):

Type	DSO Reference / Requirement	Variance Requested
Rear Yard Setback	25 feet (§ 7.60.20.30 & § 7.60.60)	Reduce the rear yard setback requirement from 25 feet to approximately 19.5 feet (5.5-foot encroachment)

As part of their variance request, the applicants stated that strict application of § 7.60.20.30 and § 7.60.60 of the DSO would result in an unnecessary hardship. In support of their request, the applicants argued:

- (1) The existing home was constructed under different setback requirements than exist today;
- (2) The applicants were unaware of the 25-foot setback requirement due to a labeling error on their survey;
- (3) The neighboring property at 2740 has an enclosed back porch that that is assumed to be over the setback line;
- (4) Strict application of the rear yard setback requirement would prohibit the applicants from constructing a screened porch and enjoying their property; and
- (5) The property to the rear of the applicants’ property is owned by the Seabrook Island Club (golf course) and the proposed porch will be located more than 60 feet away from playing grounds of the golf course. The proposed porch will not extend any closer to the rear property line than the existing deck, and the porch will not affect the views of the golf course from neighboring properties.

Zoning Administrator Cronin then noted the following:

- (1) The town’s 25-foot rear yard setback requirement is the same today as it was when the home was constructed, and the enclosed portion of the existing structure currently conforms to that requirement;
- (2) 2740 Gnarled Pine appears to encroach 1-2 feet into the required 25-foot rear yard setback. It should be noted that 2740 Gnarled Pine was completed prior to the town’s incorporation and, therefore, was built under Charleston County’s setback requirements; and
- (3) The existing residence is located approximately 40 feet from the left side property

line, leaving ample space for a screened porch that meets the 25-foot rear yard setback requirement; however, interior considerations may exist which were not addressed in the variance application.

Prior to calling on the applicants, Chairman Sewell asked if there were any questions for Zoning Administrator Cronin. There were no questions.

Ms. Gorski asked if the rear yard setback requirement was 15 feet when the home was built. Zoning Administrator Cronin responded that the town code has always required a 25-foot rear yard setback, but that open decks could be 15 feet from the rear property line. He added that that is what currently exists on the property today.

Chairman Sewell then called on the applicant to provide additional information related to their variance request. Chairman Sewell administered an oath to each of the applicant's representative prior to receiving his or her testimony.

- Cheryl Schuldt: Ms. Schuldt stated that she and her husband were seeking to expand the living area for the purpose of adding a dining area that could accommodate a dining table large enough for her family. She stated that she and her husband didn't know that the minimum setback was 25 feet since the survey they received illustrated a 15-foot rear yard setback requirement. She stated that the proposed addition would not impact neighboring property owners or the golf course, adding that there was a large plot of land between the proposed porch and the playing greens.

Chairman Sewell asked if there were any questions for the applicants.

Mr. Pinckney stated that he thought that the addition would add to the quality of the home and didn't see any downside but asked whether there was truly an extraordinary or exceptional condition.

Mr. Fox stated that the open space behind the property made it exceptional as the proposed addition would not jam up against anyone else's house.

Mr. Pinckney asked why the town distinguishes between open decks and structures. Mr. Leggett responded that they were distinguished because that's what's in the DSO. Mr. Pinckney stated that it would be beneficial to have flexibility in these types of situations. Chairman Sewell responded that the Board doesn't have flexibility; it only has the ability to make a determination of whether a hardship exists and whether a variance is warranted.

Ms. Gorski noted that the home was built under the town's current setback requirements and was situated on a large lot. Therefore, she was having difficulty identifying any real site constraints.

Mr. Leggett asked if the owners had contacted the golf course. Ms. Schuldt responded that they had not.

Ms. Schuldt added that not having a porch was detrimental to the resale value of the house. She stated that the proposed location for the porch was the most logical given its proximity to the kitchen. She noted that there was room of the left side of the lot, but that area was adjacent to the bedrooms and not the kitchen. Mr. Robert Schuldt also noted the presence of several large trees on the left side of the property.

Mr. Fox asked if SIPOA had approved the design. Zoning Administrator Cronin responded that he had received a letter of approval from SIPOA.

Mr. Fox and Mr. Leggett agreed that the open space behind the property made it exceptional. Chairman Sewell estimated that there was at least 120' between the back of the home and the out-of-bounds stake.

Chairman Sewell asked if members of the Board had any additional questions for the applicants. There were no additional questions.

Chairman Sewell then opened the public hearing for comments. Due to the public hearing being held "virtually" as a result of the ongoing COVID-19 pandemic, Zoning Administrator Cronin noted that interested parties were invited to submit written comments regarding the variance request prior to the meeting via the town's website, email, mail or in person. He stated that the town received one written comment from the following individual:

- Jeffrey Noel: Mr. Noel, of 2740 Gnarled Pine, submitted a comment in favor of the variance request.

There being no further comments, Chairman Sewell closed the public hearing.

Chairman Sewell asked the applicants if they wished to make any additional comments. There were no additional comments.

Chairman Sewell then opened the meeting for additional questions. There were no additional questions.

Chairman Sewell then called on Zoning Administrator Cronin to review the four criteria under state law which must be used by the Board when hearing and deciding variance requests.

Zoning Administrator Cronin stated that the Board has the power to hear and decide appeals for variance from the requirements of the zoning ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the Board makes and explains in writing the following findings:

- (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property;
- (2) These conditions do not generally apply to other property in the vicinity;

- (3) Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
- (4) The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

Chairman Sewell noted that, in granting a variance, the Board has the authority to attach such conditions as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare. Referencing the staff write up contained within the agenda packet, Chairman Sewell stated that the Zoning Administrator had recommended attaching three conditions, should the Board vote to approve the variance request.

There being no further discussion, Chairman Sewell called for a motion.

Following a thorough review of the application, including all supporting materials received in advance of the meeting, and all testimony received during the public hearing, Mr. Fox made the following motion, which was seconded by Mr. Leggett:

- (1) The Board finds that strict application of the Town's DSO would result in an unnecessary hardship;
- (2) For the reasons referenced in the applicant's request for variance, the Board finds that the Property meets the criteria for approval of a variance, as outlined in §6-29-800(A)(2) of the SC Code of Laws;
- (3) The Board finds that relief is warranted in this situation as a result of the following factors:
  - a. An unnecessary hardship exists due to the location and layout of the existing structure;
  - b. The conditions applicable to the property do not apply to other properties in the vicinity;
  - c. Strict application of the setback requirement will result in insufficient space in which to install a usable porch area in a logical location based on the interior layout of the home; and
  - d. The granting of the variance will not be detrimental to adjacent properties or to the public good due to the large amount of open space at the rear of the property; therefore

(4) The requested variance is hereby APPROVED, as follows:

- a. The 25-foot rear yard setback, as required by § 7.60.20.30 and § 7.60.60 of the DSO, is hereby reduced to 19.5 feet to allow for construction of a screened porch addition at the rear of the existing residence.

There being no further discussion on the motion, Chairman Sewell called for a vote. Chairman Sewell reminded members that a “yes” vote was in favor of approving the variance, while a “no” vote was opposed to approving the variance.

**IN FAVOR (YES)**

Chairman Sewell

Mr. Fox

Ms. Gorski

Mr. Leggett

Mr. Pinckney

**OPPOSED (NO)**

The motion to approve the variance was **APPROVED** by a vote of 5-0.

To protect established property values in the surrounding area, and to promote the public health, safety, and general welfare, Mr. Leggett made a motion, seconded by Ms. Gorski, to attach the following conditions to the approved variances, as allowed by §6-29-800(A)(2)(d)(i) of the South Carolina Code of Laws:

- (1) The approved variance shall apply to the building layout as shown on the site-specific plan prepared by the Applicants and reviewed by the Board on January 21, 2021. Any modification to this site-specific plan prior to the issuance of a zoning permit, with the exception of minor corrections and/or modifications which conform to the requirements of the town’s DSO, shall require further review and approval by the Board of Zoning Appeals prior to permitting.
- (2) The applicants shall prepare and submit to the Zoning Administrator an as-built survey prior to the issuance of a Certificate of Occupancy (or within 30 days of passing the final inspection if no Certificate of Occupancy is required). The as-built survey shall be prepared and stamped by a professional land surveyor who is qualified to perform such services in the State of South Carolina.
- (3) The variance shall expire on January 21, 2023 (two years from the date of approval) if the applicants fail to obtain a building permit on or before that date.

There being no further discussion on the motion, Chairman Sewell called for a vote. Chairman Sewell reminded members that a “yes” vote was in favor of attaching the conditions, while a “no” vote was opposed to attaching the conditions.

**IN FAVOR (YES)**

Chairman Sewell

**OPPOSED (NO)**

Mr. Fox  
Ms. Gorski  
Mr. Leggett  
Mr. Pinckney

The motion to attach the conditions to the variance was **APPROVED** by a vote of 5-0.

Chairman Sewell recessed the meeting at 3:31 PM.

The meeting was reconvened at 3:36 PM.

2. **Variance #172: 3016 Seabrook Village Drive (Tax Map # 147-00-00-059)**: Chairman Sewell introduced the pending variance request, which was submitted by Ashton Holloway (Owner/Applicant). Chairman Sewell disclosed that members of the Board were encouraged to visit the subject property prior to the hearing for the purpose of viewing existing conditions at the site, as well as neighboring properties. Members of the Board confirmed that they had visited the site prior to the meeting. Chairman Sewell added that no testimony was received during the individual site visits.

Chairman Sewell then called on Zoning Administrator Cronin to provide a brief overview of Variance Application #172. Chairman Sewell reminded Zoning Administrator Cronin that he was still under oath.

Zoning Administrator Cronin stated that the applicant was seeking approval to construct a new single-family home on the property. Because the structure would be built on a corner lot which does not front a cul-de-sac street, a 30-foot front yard setback would be required from both street frontages. The proposed structure would encroach up to 10 feet into the required front yard setback along one street frontage; therefore, the applicant was seeking approval from the Board of Zoning Appeals to grant relief from the following requirement, as provided by the Town’s Development Standards Ordinance (DSO):

Type	DSO Reference / Requirement	Variance Requested
Front Yard Setback	30 feet (§ 6.80.10 & Ordinance 2020-01)	Reduce the front yard setback requirement along the secondary street frontage (Seabrook Island Road) from 30 feet to 20 feet (10-foot encroachment)

As part of his variance request, the applicant stated that strict application of § 6.80.10 of the DSO, along with Ordinance 2020-01 (Village at Seabrook PUD), would result in an unnecessary hardship. In support of his request, the applicant argued:

- (1) Other corner lots on the same side of Seabrook Island Road can take advantage of a reduced 20-foot front yard setback along the secondary street frontage due to those lots being classified as fronting a “cul-de-sac” street;

- (2) Seabrook Village Drive should be considered a cul-de-sac street because it is closed at one end and, therefore, a reduced 20-foot setback from the secondary street frontage should be permitted, as allowed by the DSO and Village at Seabrook PUD;
- (3) Reducing the secondary front yard setback would promote consistency with other corner lots on the same side of Seabrook Island Road; and
- (4) Strict application of the 30-foot front yard setback requirement from the secondary street frontage will restrict the applicant's ability to construct a home of similar size and character as other homes on Seabrook Island Road.

Chairman Sewell asked if property owners in the Village are still allowed to build on the lot line (ie. zero setback). Zoning Administrator Cronin responded that the Village at Seabrook PUD was amended in early 2020 (Ordinance 2020-01). Under the current PUD, zero setbacks were no longer permitted.

Prior to calling on the applicants, Chairman Sewell asked if there were any other questions for Zoning Administrator Cronin. There were no additional questions.

Chairman Sewell then called on the applicant to provide additional information related to their variance request. Chairman Sewell administered an oath to the applicant prior to receiving his testimony.

- Ashton Holloway: Mr. Holloway stated that he currently resides in High Hammock Villas but was seeking to build a new single-family home in the Village at Seabrook. Because of the presence of a 15-foot drainage easement, he was limited in his ability to shift the location of the proposed structure. He stated that none of the approved plans in the Village would fit on this lot. He noted that if he had to remove the porch from the structure, all that would be visible from Seabrook Island Road would be an unsightly, long, flat wall. He felt that this would be out of character with the Village at Seabrook. The extra 10 feet that he was seeking in the variance request would allow the home to have a façade that addresses both street frontages and preserves the character of both the home and the Village. He noted that other corner lots on the same side of the street have a 20-foot setback from Seabrook Island Road, so his request was consistent with similar lots in the "A" section of the Village. Lastly, he called attention to the fact that the neighboring lot was combined from two original lots, B-2 and B-3. The home on the combined lot was situated on the opposite side from his property, so the articulation of the exterior was also intended to prevent his home from "sticking out" given its distance from the next closest home.

Chairman Sewell asked the applicant when he purchased the property. Mr. Holloway responded that he purchased the property in September of 2020.

Chairman Sewell asked if there were any other questions for the applicant.



Mr. Leggett asked if the alternative to obtaining a variance was to design a smaller house with less character. Mr. Holloway responded that his request was not so much about the size of the house as it was about ensuring that the character of the home fit in with existing development within the Village.

Chairman Sewell noted that the homes on the other side of Seabrook Island Road both observe a 30-foot front yard setback from Seabrook Island Road. Chairman Sewell also stated that Seabrook Island Drive did not appear to meet the general definition of a cul-de-sac because it intersects with itself rather than having a turnaround at a dead end. Mr. Holloway responded that the “divots” in the “A” section of the Village were the same way but were treated as lots fronting a cul-de-sac street.

Chairman Sewell asked if members of the Board had any additional questions for the applicants. There were no additional questions.

Chairman Sewell then opened the public hearing for comments. Chairman Sewell administered an oath to each individual prior to receiving his or her testimony.

- Cathy Patterson: Ms. Patterson, of 4064 Bridle Trail Drive, spoke in opposition to the variance request. Ms. Patterson stated that corner lots in the Village are larger than non-corner lots in order to accommodate the larger setbacks. She noted that the original plat for this lot showed two 30-foot front yards plus a 25-foot rear yard; however, a recent change to the PUD changed the setbacks to 30 feet along both street frontages and 7.5 feet from the two interior lines, thereby reducing the setback on one side from a 25-foot rear to a 7.5-foot side. She noted that the minimum home size in the Village is 1,500 square feet. She added that there is one approved model that could be accommodated on this lot; however, the applicant can use any architect he chooses to design a home. Lastly, she noted that the neighboring lot (B-2) could be re-subdivided in the future.

Due to the public hearing being held “virtually” as a result of the ongoing COVID-19 pandemic, Zoning Administrator Cronin noted that interested parties were also invited to submit written comments regarding the variance request prior to the meeting via the town’s website, email, mail or in person. He stated that the town received written comments from the following individuals:

- Carl Kern: Mr. Kern, of 2275 Seabrook Island Road, submitted a comment in opposition to the variance request.
- Katrina Burrell: Ms. Burrell submitted a comment on behalf of the SIPOA stating that the ARC has not yet received or approved a submittal utilizing the requested reduction in the front yard setback from 30 feet to 20 feet. Therefore, SIPOA could not offer any additional comments in relation to the variance request.

There being no further comments, Chairman Sewell closed the public hearing.

Chairman Sewell asked the applicants if they wished to make any additional comments.

Mr. Holloway asked if the Board would take a position on what constitutes a cul-de-sac street. Zoning Administrator Cronin advised that the request before the Board was whether or not to grant a variance from the 30-foot front yard setback requirement. He stated that if the applicant – or any other applicant – wishes to appeal the determination of what constitutes a cul-de-sac street, then that would require a separate appeal to the Board.

There being no further comments, Chairman Sewell then opened the meeting for additional questions and comments from the Board.

Ms. Gorski asked if there were other plans that would fit on the lot without the need for a variance. Mr. Holloway responded that he could design an alternate layout, but the structure would look out of character with other homes in the Village. Ms. Gorski then asked if the home would fit within the buildable area if the floorplan was reduced. Mr. Holloway responded that he had already reduced the heated square footage of the structure and that the encroaching area would be unheated living space designed to enhance the character of the structure.

Mr. Fox stated that he felt it was not up to the Board to determine what constitutes a cul-de-sac. Zoning Administrator Cronin stated that if his determination was appealed, it would be up to the Board to determine whether he erred in interpreting or applying the DSO.

Mr. Pinckney stated that he was not convinced that the request met the four criteria required by state law for the granting of a variance.

Chairman Sewell stated that he thought it would look awkward to have properties on one side of the street with a 20-foot setback from Seabrook Island Road, while properties on the other side have a 30-foot setback. Zoning Administrator Cronin noted that corner lots in the “A” section of the village (which do front a cul-de-sac) are set up with a 20-foot setback from Seabrook Island Road, while lots in the “C” section (which do not front a cul-de-sac) observe a 30-foot setback from the same road. Therefore, this would not be an unprecedented situation.

Chairman Sewell then called on Zoning Administrator Cronin to review the four criteria under state law which must be used by the Board when hearing and deciding variance requests.

Zoning Administrator Cronin stated that the Board has the power to hear and decide appeals for variance from the requirements of the zoning ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the Board makes and explains in writing the following findings:

- (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property;

- (2) These conditions do not generally apply to other property in the vicinity;
- (3) Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
- (4) The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

Chairman Sewell noted that, in granting a variance, the Board has the authority to attach such conditions as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare. Referencing the staff write up contained within the agenda packet, Chairman Sewell stated that the Zoning Administrator had recommended attaching three conditions, should the Board vote to approve the variance request.

There being no further discussion, Chairman Sewell called for a motion.

Following a thorough review of the application, including all supporting materials received in advance of the meeting, and all testimony received during the public hearing, Mr. Leggett made a motion to APPROVE the variance request, as submitted. Mr. Fox seconded the motion.

There being no further discussion on the motion, Chairman Sewell called for a vote. Chairman Sewell reminded members that a “yes” vote was in favor of approving the variance, while a “no” vote was opposed to approving the variance.

**IN FAVOR (YES)**

**OPPOSED (NO)**

Chairman Sewell  
Mr. Fox  
Ms. Gorski  
Mr. Leggett  
Mr. Pinckney

The motion to approve the variance **FAILED** by a vote of 0-5 and the variance was **DENIED**.

Mr. Fox suggested that the town should consider clarifying the definition of “cul-de-sac.” Chairman Sewell noted that this would be addressed in the new DSO.

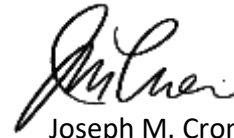
Mr. Pinckney left the meeting at 4:44 PM.

**ITEMS FOR INFORMATION / DISCUSSION**

*There were no Items for Information / Discussion*

There being no further business, Mr. Fox made a motion to adjourn the meeting. Mr. Leggett seconded the motion. The motion was **APPROVED** by a vote of 4-0 and the meeting was adjourned at 4:47 PM.

Minutes Approved: May 14, 2021



Joseph M. Cronin  
Zoning Administrator