

# TOWN OF SEABROOK ISLAND

Board of Zoning Appeals Meeting

May 15, 2019 – 2:30 PM

Town Hall, Council Chambers

2001 Seabrook Island Road



## AGENDA

### CALL TO ORDER

### APPROVAL OF MINUTES

1. Board of Zoning Appeals Meeting: March 22, 2019 *[Pages 2–14]*

### NEW BUSINESS ITEMS

1. Review and Approval of New Variance Applications Form *[Pages 15–17]*

### ITEMS FOR INFORMATION / DISCUSSION

1. Status of Previous Variances
2. Development Standards Ordinance (DSO) Update
  - Project Overview
  - Introduction of Project Consultant: Paul LeBlanc (PLB Planning Group)
  - Project Scope, Approach and Timeline
  - Goals and Objectives of the DSO Update
  - General Discussion

### SITE VISIT

1. Variance # 161 \*

<b>APPLICANT:</b>	Robert & Cynthia Reddersen
<b>ADDRESS:</b>	802 Treeloft Trace
<b>TAX MAP NUMBER:</b>	147-10-00-055
<b>ZONING DISTRICT:</b>	PDD/Multi-Family
<b>PURPOSE:</b>	Applicant is requesting a variance from the 15-foot rear yard setback requirement (§ 7.60.40.30) to 3.5 feet to allow for the expansion of an existing non-conforming open deck

### ADJOURN

\* *These site visits will take place behind the Seabrook Island Property Owners Association security gate. Any individual wishing to observe one or both site visits who does not have access behind the security gate should contact (843) 768-5321 for assistance prior to the meeting.*

# TOWN OF SEABROOK ISLAND

## Board of Zoning Appeals Meeting

March 22, 2019 – 2:30 PM

Town Hall, Council Chambers  
2001 Seabrook Island Road



## MINUTES

Present: Walter Sewell (Chair), Ava Kleinman (Vice Chair), Bob Leggett, John Fox, Joe Cronin (Zoning Administrator)

Absent: Richard Finkelstein

Guests: James Ott, Deborah Ott, Judith McLean, Paul Corkish, Deborah Corkish

Chairman Sewell called the meeting of the Board of Zoning Appeals to order at 2:30 PM and introduced himself and Board members Kleinman, Fox and Leggett to those in attendance. Zoning Administrator Cronin confirmed that the requirements of the Freedom of Information Act were fulfilled, and the meeting was properly posted.

### APPROVAL OF MINUTES

1. **Board of Zoning Appeals Meeting: February 28, 2019:** Ms. Kleinman made a motion to approve the minutes from the February 28, 2019, meeting as submitted. Mr. Fox seconded the motion. The motion was **APPROVED** by a vote of 4-0.

### PUBLIC HEARING ITEMS

1. **2566 Seabrook Island Road (Tax Map # 147-01-00-033 – Lot 49, Block 5):** Chairman Sewell introduced the first variance request, which was submitted by James and Deborah Ott, the owners of 2566 Seabrook Island Road. Chairman Sewell disclosed for the record that the Board had conducted a site visit to 2566 Seabrook Island Road on February 28, 2019, at which time the Board viewed the subject property, as well as neighboring properties. He added that no testimony was received during the site visit. He asked whether any Board members had subsequently visited the property, to which none responded in the affirmative.

Chairman Sewell then administered an oath to Zoning Administrator Cronin and asked him to provide a brief overview of Variance Application #159.

Zoning Administrator Cronin stated that the town had received a completed variance application from James and Deborah Ott, the owners of 2566 Seabrook Island Road. The applicants were requesting a reduction of the 25-foot marsh setback requirement to allow for the installation of a pool/swim spa and hot tub within a deck at the rear of the property.

Zoning Administrator Cronin stated that the existing deck, which was proposed to be modified and expanded, would meet the 15-foot setback requirements for “open decks.” However, the pool/swim spa and hot tub would be considered “structures” under the DSO and, therefore, would need to meet the 25-foot marsh setback requirement. He stated that the applicants were seeking a variance for the pool/swim spa and hot tub (which would be set into the deck) to meet the same 15-foot setback requirement as the deck itself. He added that the applicants were also seeking a variance from the marsh setback requirement to allow a brick paver patio and fire pit in the rear yard to be located within five feet of the critical line.

In order to move forward with the proposed improvements, the applicants sought approval of a variance to grant relief from the following setback requirements, as provided in the town’s DSO:

Type	DSO Reference	DSO Requirement	Variance Requested
Marsh Setback	§ 7.60.50	25 feet	Reduce the marsh setback to 15 feet to allow the pool/swim spa and hot tub to be located within an open deck <u>and</u> Reduce the marsh setback to 5 feet to allow a paver patio and fire pit to be installed as shown on the site plan

As part of their variance request, the applicants stated that strict application of the 25-foot marsh setback requirement would result in an unnecessary hardship. The applicants further argued:

- (a) The existing home and deck were built by a previous owner, before current restrictions were in place, and in a manner that would not allow these features to be added in another location on the lot;
- (b) The unique shape of the lot and marsh location, the home’s placement on the lot, and the existing configuration of the home creates a specific hardship that is not found on neighboring properties;
- (c) The strict application of the ordinance would restrict the homeowners’ ability to utilize their rear deck space and access the non "built on" portion of the lot for relaxation and recreational purposes that other properties are able to utilize; and
- (d) The granting of the variance will allow similar uses that neighboring properties are able to enjoy. The pool and hot tub feature will be minimally visible with open decking below; and a low, permeable area, made of natural materials for a fire pit will be well shielded by vegetation.

Prior to opening the public hearing, members of the Board asked questions of Zoning Administrator Cronin.

Ms. Kleinman asked why the town has a marsh setback requirement. Zoning Administrator Cronin responded that the marsh setback primarily serves two purposes: To protect critical areas by providing a buffer from new development and to protect property owners and their property from future changes to the marsh area over time.

Ms. Kleinman also asked why the ordinance allows open decks to encroach 10 feet into the required marsh setback. Zoning Administrator Cronin responded that an open deck is pervious and would allow rainwater to pass through the structure to the ground below. This is different from a roof or other impervious structure, which would channel and direct runoff away from the structure. He noted that "open decks" are narrowly defined in the DSO.

Mr. Fox stated that water from an open deck is still channeled in some form, as a deck will have planks along its floor. He stated that it is also possible to place other impervious items, such as tables, on a deck which would channel water.

Ms. Kleinman asked why a pool or hot tub which was set into an open deck would not be considered as part of the deck. Zoning Administrator Cronin responded that while a pool or hot tub would only collect rain water rather than generate runoff, the DSO defines a "structure" (25-foot setback) fairly broadly, whereas an "open deck" (15-foot setback) is defined narrowly, and a pool or hot tub would not fall within that definition.

Chairman Sewell then called on the applicants to provide additional information related to their variance request. Chairman Sewell administered an oath to each individual prior to receiving his or her testimony.

- Jim Ott: Mr. Jim Ott of 2566 Seabrook Island Road spoke on behalf of the applicants. Mr. Ott provided a summary of the project. Mr. Ott stated that he and his wife have owned property on Seabrook Island since 2004 and purchased the home at 2566 Seabrook Island Road in 2017. He stated that he knew they would not have enough space to install a traditional pool in the rear yard as a result of the setback requirements, so they were seeking to install something within the footprint of the deck that would allow them to have a pool with minimal impact to the critical area. They were also seeking an option which was consistent with the spirit of the ordinance. The plan was to recess the pool/swim spa and hot tub within the deck. He added that the structures would remain about 5 feet above the ground level so that water could pass underneath. He stated that the patio and fire pit were intended to be a birthday gift from his wife. The intent of these amenities was to allow him and his wife to have a comfortable area to use and enjoy their rear yard. He added that he had met with the neighbors on both sides of his property, and that neither had expressed any reservations or objections with his plans.

Chairman Sewell asked if members of the Board had any questions for Mr. Ott.

Mr. Leggett asked if the deck would be enclosed by side boards. Mr. Ott responded in the affirmative.

Mr. Fox asked if the swim spa and hot tub would be permanently affixed or whether they would simply be sitting on or within the deck like furniture. Mr. Ott responded that they would be fully self-contained units and would be dropped into the deck by a crane. He said that the units are not permanent fixtures, and no mechanical equipment would be located on the ground.

Zoning Administrator Cronin noted that the town had received a letter from Chris Bonner, the architect for the project, in advance of the meeting. He stated that a copy of the letter had been forwarded to board members the previous day. He asked that this letter be entered into the public record for Variance Request #159. There was no objection.

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

Chairman Sewell opened the public hearing to individuals who wished to speak in favor of the variance request. Chairman Sewell administered an oath to each individual prior to receiving his or her testimony.

- Paul Corkish: Mr. Paul Corkish of 2545 Seabrook Island Road spoke in favor of the request. He stated that he thought it was a reasonable request and had no objections.
- Deborah Corkish: Ms. Deborah Corkish of 2545 Seabrook Island Road also spoke in favor of the request. Ms. Corkish stated that she had read through the public notice and had no concerns regarding the request. She stated that she and her husband have a pool at the rear of their home and that it is a great amenity to have in the summer months.

Chairman Sewell then opened the public hearing to individuals who wished to speak in opposition to the variance request. No one spoke in opposition to the request.

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

Chairman Sewell asked if the applicants or their representatives had any additional comments. No additional comments were offered.

Chairman Sewell asked members of the Board whether they had any 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 the following conditions, should the Board vote to approve the variance request:

- 1) The approved variance shall apply to the building layout as shown on the site-specific plan prepared by the applicant and reviewed by the Board on March 22, 2019. 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 variance shall expire on September 25, 2022 (five years from the date of the current OCRM Critical Line Certification) if no zoning permit has been issued by the town on or before that date.

Chairman Sewell opened the floor for additional discussion.

Ms. Kleinman stated that she understands the reasons why the applicants are coming forward with a variance request; however, she didn't feel that they have documented that an "extraordinary condition" truly exists. She added that approving this variance would establish a precedent for future variance requests from the marsh setback requirement. While she had less concern about the pool than the patio and fire pit (which would be 5 feet from the critical line), she stated her belief that the pool/swim spa and hot tub were structures and not "furniture."

Mr. Fox stated that he didn't think anything being proposed would be classified as permanent construction. He added that the pavers would be unanchored, permeable, set in sand and could be carried off at any time.

Mr. Leggett stated that he didn't see a difference between moving a fire pit and chairs into and out of the rear yard any time they were being used.

Chairman Sewell noted that much of what the Board deals with is associated with marshfront lots. He stated that there are several practical reasons for this, such as the fact that these lots are all irregular, they are generally of shallower depth, and regardless of the critical line moving over time, there would still be issues as a result of developers trying to maximize the number of marshfront lots.

There being no further discussion, Chairman Sewell called for a motion. Ms. Kleinman recommended that the requests be taken up separately. Chairman Sewell responded that the Board may take up the request as three separate motions. The first would be whether to approve or deny the variance request for the pool/swim spa and hot tub. The second would be whether to approve or deny the variance request for the patio and fire pit. Lastly, if one or both of the first two motions are approved, the third would be whether to attach the conditions recommended by the Zoning Administrator.

Mr. Fox recommended that if the Board votes to approve a variance for the pool/swim spa and hot tub, then the Board should also clarify that these types of self-contained units are not considered "structures" and, therefore, would not be subject to the regular setback requirements. Zoning Administrator Cronin responded that he understood the basis for Mr. Fox's comment; however, he did not feel that this type of decision was properly before the Board for consideration. He added that if this was an appeal of an administrative determination, then the Board could certainly make such a decision. However, as a variance request, the Board should only determine whether the request meets the minimum requirements for a variance, as established by state law. He stated that this would be a question of a broader policy interpretation rather than a property-specific request, and that such a decision has not been properly advertised as required by state and local law.

Chairman Sewell stated that, in his opinion, the pool/swim spa and hot tub didn't appear to be much different than a large glass-top table or other furniture placed on a deck.

Mr. Leggett stated that he lives around the corner from the subject property. He observed that most homes in the area have similar issues to those discussed today. He felt that what made this request "extraordinary" was the fact that the critical lines have moved over time.

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 the following motion regarding the variance request for the **SWIM SPA/HOT TUB**, which was seconded by Mr. Fox:

- 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 applicants' 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; and
- 3) The requested variance is hereby approved, and the marsh setback requirement for the Property is amended, as follows:

Type	DSO Requirement	Variance Approved
Marsh Setback	25 feet	Reduce the march setback to <b>15 feet</b> to allow the pool/swim spa and hot tub to be located within the open deck as shown on the proposed site plan

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 granting the variance, while a "no" vote was opposed to granting the variance.

**IN FAVOR (YES)**

Chairman Sewell  
Mr. Leggett  
Mr. Fox

**OPPOSED (NO)**

Ms. Kleinman

The motion to grant the variance was **APPROVED** by a vote of 3-1.

Mr. Leggett then made the following motion regarding the variance request for the **PAVER PATIO & FIRE PIT**, which was seconded by Mr. Fox:

- 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 applicants' 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; and
- 3) The requested variance is hereby approved, and the marsh setback requirement for the Property is amended, as follows:

Type	DSO Requirement	Variance Approved
Marsh Setback	25 feet	Reduce the march setback to <b>5 feet</b> to allow the paver patio and fire pit to be installed as shown on proposed site plan



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 granting the variance, while a “no” vote was opposed to granting the variance.

**IN FAVOR (YES)**

Chairman Sewell  
Mr. Leggett  
Mr. Fox

**OPPOSED (NO)**

Ms. Kleinman

The motion to grant the variance was **APPROVED** by a vote of 3-1.

To protect established property values in the surrounding area, and to promote the public health, safety, and general welfare, Mr. Fox made a motion, seconded by Mr. Leggett, to attach the following conditions to the above referenced 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 applicant and reviewed by the Board on March 22, 2019. 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 variances shall expire on September 25, 2022 (five years from the date of the current OCRM Critical Line Certification) if no zoning permit has been issued by the town on or before that date.

The motion to attach the conditions to the two variances was **APPROVED** by a vote of 4-0.

Chairman Sewell recessed the meeting at 3:21 PM.

The meeting was reconvened at 3:30 PM.

2. **3009 Rascal Run (Tax Map # 149-05-00-059 – Lot 5, Block 48)**: Chairman Sewell introduced the second variance request, which was submitted by Clarkson and Judith McLean, the owners of 3009 Rascal Run. Chairman Sewell disclosed for the record that the Board had conducted a site visit to 3009 Rascal Run on February 28, 2019, at which time the Board viewed the subject property, as well as neighboring properties. He added that no testimony was received during the site visit. He asked if any Board members had subsequently visited the property, to which none responded in the affirmative.

Chairman Sewell then called on Zoning Administrator Cronin to provide a brief overview of Variance Application #160. Chairman Sewell reminded Zoning Administrator Cronin that he was still under oath.

Zoning Administrator Cronin stated that the town had received a completed variance

application from Clarkson and Judith McLean, the owners of 3009 Rascal Run. The applicants were requesting a reduction in the 25-foot rear/marsh setback requirement to allow an unheated sunroom to be converted into conditioned living space at the rear of their existing single-family residence. He stated that the existing residence was constructed in 1986, which was prior to the town’s incorporation. The property was purchased by Mr. and Mrs. McLean in July of 2018. In October of 2018, the applicants (through their contractor, Harper Construction) applied for and received a zoning permit from the town to enclose 2 openings in their “hot tub porch” and replace 5 remaining windows with impact resistant glass (Permit #15267). The permit application did not include a request to install ductwork, which would thereby convert the existing “porch” into conditioned living space. The project scope was subsequently modified to add ductwork and vents without review and approval from the town. Because the existing residence encroaches approximately 5.1 feet into a required rear yard setback, this modification would result in the expansion of an existing non-conforming dwelling. Zoning Administrator Cronin noted that while the heated square footage of the non-conforming residence would increase, the footprint of the existing building would not change, as no walls, roofing or other structures would further encroach into the required setback.

In order to move forward with the proposed improvements, the applicants sought approval of a variance to grant relief from the following setback requirements, as provided in the town’s DSO:

Type	DSO Reference	DSO Requirement	Variance Requested
Rear Setback Marsh Setback	§ 7.60.20.30 § 7.60.50	25 feet	To allow encroachment of up to 5.1 feet into the required rear/marsh setback so an existing non-conforming porch may be converted into conditioned living space.

As part of their variance request, the applicants stated that strict application of the 25-foot marsh setback requirement would result in an unnecessary hardship. The applicants further argued:

- a) The existing home was built in 1986 (prior to the town’s incorporation) under different zoning requirements than existing today;
- b) Had it been built under the town’s current zoning requirements, the existing home would meet or exceed the 25-foot setback;
- c) The existing porch area is already fully enclosed with a roof, walls and windows, and the applicants are only seeking to install HVAC ducts to condition (though not expand) the existing space; and
- d) The modification will not be of substantial detriment to neighboring properties, the public good or the character of the district as no exterior modifications will be made to the existing structure. (ie. No visible changes to the building footprint, walls, roofline, etc.)

Prior to opening the public hearing, members of the Board asked questions of Zoning Administrator Cronin.

Mr. Leggett asked if the applicant had requested a permit prior to installing the duct work whether the application would have been approved. Zoning Administrator Cronin responded that the work still would have been inconsistent with the DSO; however, because it was such a minor change and did not alter the existing building footprint in any way, he likely would have signed off on the request. This request was ultimately brought before the Board because of a complaint submitted by another party.

Ms. Kleinman asked if the name of the complainant was public information. Zoning Administrator Cronin responded that this property was discussed publicly at a prior meeting of the Board of Zoning Appeals. He added that the complaint was submitted by email by one of the parties to that appeal.

Mr. Fox noted his observation during the site visit that the two new registers were actually located outside the setback area. He stated that if the variance was denied, the owners could still achieve the same objective by simply leaving the bedroom doors open. Zoning Administrator Cronin confirmed both of these observations.

Chairman Sewell asked about the nature of the complaint. Zoning Administrator Cronin responded that the complainant alleged the owners were expanding the home by converting a porch into heated square footage, thereby making the existing home more non-conforming than it is today, even though the building footprint would remain unchanged. Chairman Sewell asked if the Board had been furnished copies of the complaint. He stated that he would not have a problem giving copies to the board, but he would be hesitant to include it in the public agenda packet. He recommended obtaining an opinion from the Town Attorney. Chairman Sewell recommended that this information should be provided to the Board when it is germane to a variance request. Ms. Kleinman responded that such information does not impact or alter the town's standards. Zoning Administrator Cronin added that, in his opinion, *how* an issue is identified does not have as much bearing as the fact the property was inspected and non-permitted work was found to have taken place by the town's Code Enforcement Officer, which is how we got to this point.

Chairman Sewell then called on the applicants to provide additional information related to their variance request. Chairman Sewell administered an oath to each individual prior to receiving his or her testimony.

- Judith McLean: Ms. Judith McLean of 2480 Cat Tail Pond Road spoke on behalf of the applicants. Ms. McLean stated that the owners' contractor, Harper Construction, had obtained a permit to install windows and make other improvements to the property. While this work was taking place, an HVAC contractor was called to the property to do repair work which did not require a permit. Her husband, Clarkson, asked the contractor what would be involved in putting two additional vents in the sunroom at the rear of the property. This was a minor improvement and the contractor was able

to install the duct work and vents that same day. The owners did not realize at the time that this was a big deal. She stated that the person who complained was never invited onto their property, nor did they contact the owners prior to going onto their property. She stated that she and her husband are respectfully requesting a variance so that the vents will not have to be removed and they can have heating and air conditioning in the space.

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

Chairman Sewell opened the public hearing to individuals who wished to speak in favor of the variance request. No one spoke in favor of the request.

Chairman Sewell then opened the public hearing to individuals who wished to speak in opposition to the variance request. No one spoke in opposition to the request.

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

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 two conditions, should the Board vote to approve the variance request.

Chairman Sewell asked if there were any additional questions or comments prior to voting.

Ms. Kleinman observed that this situation appeared to her to meet the standards for a variance because it was an unusual situation and an extraordinary situation. She added that this would be a “de minimus” encroachment.

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 applicants’ 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; and
- 3) The requested variance is hereby approved, and the marsh setback requirement for the Property is amended, as follows:

Type	DSO Requirement	Variance Approved
Marsh Setback	25 feet	To allow encroachment of up to <b>5.1 feet</b> into the required rear/marsh setback so an existing non-conforming porch may be converted into conditioned living space.

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 granting the variance, while a “no” vote was opposed to granting the variance.

**IN FAVOR (YES)**

Chairman Sewell  
Ms. Kleinman  
Mr. Leggett  
Mr. Fox

**OPPOSED (NO)**

The motion to grant the variance was **APPROVED** by a vote of 4-0.

To protect established property values in the surrounding area, and to promote the public health, safety, and general welfare, Mr. Fox made a motion, seconded by Mr. Leggett, to attach the following conditions to the above reference variance, 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 applicant and reviewed by the Board on March 22, 2019. 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 variance shall expire on July 13, 2023 (five years from the date of the current survey) if no zoning permit has been issued by the town 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  
Ms. Kleinman  
Mr. Leggett  
Mr. Fox

**OPPOSED (NO)**

The motion to attach the conditions was **APPROVED** by a vote of 4-0.

**ITEMS FOR INFORMATION / DISCUSSION**

There were no Items for Information / Discussion.

There being no further business, Chairman Sewell called for a motion to adjourn. Mr. Fox made a motion, seconded by Mr. Leggett, to adjourn the meeting. The motion was **APPROVED** by a vote of 4-0, and the meeting was adjourned at 3:52 PM.

Minutes Approved:



Joseph M. Cronin  
Zoning Administrator



**TOWN OF SEABROOK ISLAND**

2001 Seabrook Island Road  
 Seabrook Island, SC 29455  
 (843) 768-9121

**APPLICATION FOR VARIANCE**

Board of Zoning Appeals

Any applicant seeking a variance from the zoning requirements of the Town of Seabrook Island’s Development Standards Ordinance (hereafter, the “DSO”) must submit a written application, along with a \$350.00 application fee and all required supplemental information. Applications must be typed or written legibly in ink. Please attach an additional sheet of paper if more space is needed. If you need assistance filling out this application form, please contact the Zoning Administrator by phone at (843) 768-9121 or by email at [jcronin@townofseabrookisland.org](mailto:jcronin@townofseabrookisland.org).

**1. PROPERTY INFORMATION**

Please provide information regarding the property which is subject to the variance request.

Property Address			
Tax Map Number	Block	Lot	
Lot Size (Square Feet)			
Is this property subject to an OCRM critical line? (eg. Marsh or Beachfront Lots)		Yes	No
Is this property subject to private restrictions or covenants? (eg. SIPOA or regime)		Yes	No

**2. APPLICANT(S)**

Please provide information regarding the individual(s) who is (are) submitting the variance request.

Applicant Name(s)			
Applicant Address			
Applicant Phone Number			
Applicant Email Address			
If the Applicant is <u>NOT</u> an owner of the property, what is the relationship to the Property Owner(s)?			

**3. PROPERTY OWNER(S)**

If the Applicant(s) is (are) NOT the property owner(s), please provide information for the property owner(s).

Owner Name(s)			
Owner Mailing Address			
Owner Phone Number			
Owner Email Address			
<b>Designation of Agent (Required if the Applicant(s) is (are) NOT a Property Owner):</b> I (we) hereby designate and appoint the above named Applicant(s) as my (our) agent(s) to represent me (us) in this application.			
Owner Signature(s)		Date	
		Date	

**4. CERTIFICATION**

Under penalty of perjury, I (we) hereby certify that the information contained in this application, including all supplemental materials, is true and accurate to the best of my (our) knowledge.

Applicant Signature(s)		Date	
		Date	

OFFICE USE ONLY		
Date Filed:	Variance Application #:	Hearing Date:

**5. VARIANCE REQUEST**

A. Please provide a brief description of the proposed scope of work:

B. In order to complete the proposed scope of work, the Applicant(s) is (are) requesting a variance from the following requirement(s) of the town’s DSO:

1) DSO Section Reference(s):

2) DSO Requirement(s):

C. The application of the zoning requirements of the town’s DSO will result in unnecessary hardship, and the standards for a variance set by State Law and the DSO are met by the following facts:

1) There are extraordinary and exceptional conditions pertaining to this particular piece of property as follows:

2) These conditions do not generally apply to other property in the vicinity as shown by:

3) Because of these conditions, the application of the zoning requirements to this particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows:

4) The authorization of the 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 for the following reasons:



## 6. APPLICATION MATERIALS

In addition to the completed Variance Application Form, all requests for variance must be accompanied by the supplemental materials listed below. An application is not considered “complete” until all required documentation has been received by the Zoning Administrator. Below is a checklist of the required materials:

### **Completed & Signed Variance Application Form (Paper Required; PDF Optional)**

- Please submit one *completed* paper application. All signatures must be original.

### **\$350.00 Application Fee**

- The application fee may be paid by cash or check only.

### **As-Built Survey / Survey of Existing Conditions (Paper Required; PDF Optional)**

- All applications must be accompanied by an as-built survey which accurately illustrates the existing conditions on the property, including setback measurements for all structures.

### **Proposed Site Plan (Paper & PDF Required)**

- Required for all new structures and/or exterior modifications which will change the footprint of one or more existing structures.
- For lots abutting a marsh or beachfront jurisdictional line, the location of the critical line must be certified by OCRM within the previous five (5) years.

### **Scaled Architectural Drawings: (Paper & PDF Required)**

- Required for all new structures and/or exterior modifications to existing structures.
- Architectural drawings must show, at a minimum:
  - A detailed floor plan or plan view; and
  - Front, side and rear elevations, as appropriate.

### **Letter of Approval from Property Owners Association and/or Regime: (Paper Required; PDF Optional)**

- Required for all properties which are subject to private restrictions and/or covenants.
- If approval is pending, please attach a Letter of Acknowledgement from the POA and/or Regime.

**Letters of support, petitions, photographs, and any other documentation which an Applicant feels may support his or her request may be attached but are not required. (Paper & Digital Files Optional)**

## CRITERIA FOR REVIEW

Pursuant to Section 6-29-800(A)(2) of the SC Code of Laws, the Board of Zoning Appeals 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:

- (a) there are **extraordinary and exceptional conditions** pertaining to the particular piece of property;
- (b) these conditions **do not generally apply to other property** in the vicinity;
- (c) 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
- (d) 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.

The board may not grant a variance, the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance. Other requirements may be prescribed by the zoning ordinance.

In granting a variance, the board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use 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.