

TOWN OF SEABROOK ISLAND

Board of Zoning Appeals Meeting

October 20, 2021 – 2:30 PM

Town Hall, Council Chambers

2001 Seabrook Island Road

[Live Streamed on YouTube](#)



MINUTES

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

Absent: None

Guests: Daniel and Anne Arnold (Applicants), Charles Hudson (Architect)

Chairman Sewell called the meeting of the Board of Zoning Appeals to order at 2:37 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 attending the meeting in-person and remotely and confirmed that a quorum was present.

APPROVAL OF MINUTES

1. **Board of Zoning Appeals Meeting: October 7, 2021:** Mr. Fox made a motion to approve the minutes from the October 7, 2021, meeting, as submitted. Mr. Leggett seconded the motion. The motion was **APPROVED** by a vote of 4-0, with Ms. Gorski abstaining due to her absence at the meeting.

PUBLIC HEARING ITEMS

1. **Variance #177: Tax Map # 147-01-00-025:** Chairman Sewell introduced the pending variance request, which was submitted by Daniel and Anne Arnold (Owners) and Charles Hudson (Applicant). Chairman Sewell disclosed that members of the Board conducted a site visit prior to the hearing for the purpose of viewing existing conditions at the site, as well as neighboring properties. Chairman Sewell added that no testimony was received during the site visit.

Chairman Sewell then called on Zoning Administrator Cronin to provide a brief overview of Variance Application #177. Chairman Sewell administered an oath to Zoning Administrator Cronin prior to receiving his testimony.

Zoning Administrator Cronin stated that the applicants were requesting a reduction in the 30-foot front yard setback and the 25-foot marsh setback requirement to allow for expansion of

a front porch on an existing single-family residence located at 2472 Seabrook Island Road (Block 5, Lot 65). Zoning Administrator Cronin stated that property is currently zoned SR Single-Family Residential, and a single-family residence is a permitted use by-right. The property is 16,988 square feet in area. A total of 12,937 (or 76.15% of the lot) is designated as “highland.”

The porch expansion was proposed to be located approximately 26.6 feet from the front property line, and approximately 22 feet from the marsh critical line. § 7.60.20.10 of the DSO requires a minimum front yard setback of 30 feet from the front property line. § 7.60.50 of the DSO requires that all covered structures be located at least 25 feet from the OCRM critical line.

In order to allow for construction of the proposed porch expansion, the applicants requested the following variances from the requirements of the DSO:

TYPE	REQUIRED PER DSO	VARIANCE (REQUESTED)
Front Yard Setback	30 feet (§ 7.60.20.10)	Reduce the front yard setback requirement from 30 feet to approximately 26.6 feet (3.4-foot encroachment)
Marsh Setback	25 feet from OCRM Critical Line (§ 7.60.50)	Reduce the marsh setback requirement from 25 feet to approximately 22 feet (3-foot encroachment)

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

- (1) The irregular lot shape prevents any perimeter front addition; and
- (2) The house is bordered to the south by marsh.

Prior to calling on the applicants, Chairman Sewell asked if there were any questions for Zoning Administrator Cronin.

Chairman Sewell asked what the three lines were that were shown on the site plan. Zoning Administrator Cronin responded that one was the SCDHEC-OCRM critical line, one was the 15-foot setback line (for open decks) and the last was the 25-foot setback line (for all other structures).

Mr. Pinckney asked what the total amount of the encroachment was. Zoning Administrator Cronin stated that the structure would encroach 3.4 feet into the front yard and 3 feet into the marsh setback. The total area over the setbacks was shown on the plans was 133.7 square feet.

Mr. Fox asked what portion of the encroachment was made up of the eaves as opposed to the porch itself. Zoning Administrator Cronin responded that this wasn't called out specifically in the plans, but that the DSO allows eaves to encroach only 18" into the required setback on non-conforming lots.

There being no additional questions, 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.

- Charles Hudson (3690 Bohicket Road Ste C, Johns Island, SC): Mr. Hudson, the project architect, spoke on behalf of the applicants. Mr. Hudson stated that the total area of the encroachment was 133.7 square feet. He stated that there was no room at the rear of the structure to install an outdoor living area. He added that the new porch would allow for a larger usable living space, while also allowing for architectural enhancement of the front of the house.

Chairman Sewell opened the floor for questions for the applicants.

Mr. Pinckney asked how the present condition was an exceptional condition. Mr. Hudson responded that this was an irregularly shaped lot that was bordered by marsh, and that the critical line is constantly moving.

Mr. Leggett asked why the proposed porch couldn't be shortened. Mr. Hudson responded that they would run into issues with the two dormers. Mr. Leggett responded that the new roof was shown below the dormers on the plan set. Mr. Hudson responded that the applicants were trying to maintain symmetry at the front of the house.

Mr. Pinckney stated that he thought the existing house looked terrible and didn't like the design. Mr. Hudson stated that the owners intend to re-roof the house, modify the façade, repaint and add new landscaping. He also added that SIPOA has granted preliminary approval for these changes.

Ms. Gorski asked about the depth of the current porch. Mr. Hudson responded that the current porch is 6.7' feet deep. On the proposed porch, the 10-foot depth is to the edge of the footing. He added that approximately 2 feet would be used for support columns and would not be usable space.

Chairman Sewell asked why the porch couldn't be added at the rear of the home. Mr. Hudson responded that there was only 6 feet to the rear setback line, which would have required a greater setback variance. He added that SIPOA preferred the porch at the front of the structure. Chairman Sewell responded that the SIPOA ARC doesn't approve these types of things, which is why the applicants are currently before the Board.

Chairman Sewell asked if any consideration was given to respacing the dormers. Mr. Hudson responded that there was nothing there and it wouldn't make any sense to build upon an element to nothing. It was the applicants' intent to keep it simple.

Chairman Sewell asked if the two small windows would be retained by the front door. Mr. Hudson responded that the windows would remain.

- Daniel Arnold (2472 Seabrook Island Road): Mr. Arnold, the property owner, also spoke about the variance request. Mr. Arnold stated that he and his wife were trying to make the home more presentable and enjoyable. He stated that they have lived in the home full-time since July 31, 2021. He added that the encroachment would not adversely impact any neighbor's view or the marsh.

Chairman Sewell asked what practical use the porch would provide. Mr. Arnold responded that they had a 10-foot wraparound porch at their previous home in Maryland which they frequently used and enjoyed.

There being no further questions, Chairman Sewell then opened the public hearing for comments. Chairman Sewell asked if anyone wished to make a comment in support of the request. There were no public comments made in support of the request.

Chairman Sewell then asked if anyone wished to make a comment in opposition to the request. There were no public comments made in opposition to the request.

Chairman Sewell then asked if there were any other comments about the pending variance request. There were no other comments from the public.

Due to 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 had received 5 comments in advance of the meeting, including:

- 3 comments in support of the variance request; and
- 2 comments in opposition 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. There were no additional comments.

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.

Chairman Sewell opened the floor for discussion.

Mr. Leggett stated that he felt this lot was extraordinary because there was no sufficient space to add-on. The applicants were restricted by not having a usable sitting space. He added that the lot was different from neighboring lots and that the request would enhance the surrounding area.

Mr. Pinckney expressed support for Mr. Leggett's comments.

Ms. Gorski added that there was an exceptional condition due to the size and shape of the lot. She added that the location of the house also created additional limitations.

Mr. Fox stated that he agreed with Mr. Leggett, Mr. Pinckney and Ms. Gorski. He added that the existing deck is useless if not covered.

Chairman Sewell stated that while there was room at the northeast corner of the lot, it was not feasible to place a porch in this location as it would abut a bedroom.

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. Pinckney made a motion to find that the request meets the four criteria established by state law and, therefore, to approve the variance request, as follows:

- a. **The required 30-foot front yard setback, as specified by Sec. 7.60.20.10 of the DSO, is hereby reduced from 30 feet to approximately 26.6 feet (3.4-foot encroachment); and**
- b. **The 25-foot marsh setback required by Sec. 7.60.50 of the DSO is hereby modified from 25 feet to approximately 22 feet (3-foot encroachment).**

The motion was seconded by Mr. Fox.

Prior to voting, Chairman Sewell reminded members that a “yes” vote was a determination that the request meets each of the four criteria established by state law and, therefore, would be in favor of approving the variance, while a “no” vote would reflect a determination that the request does not meet one or more of the criteria and, therefore, would be opposed to approving the variance.

IN FAVOR (YES)

OPPOSED (NO)

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

The motion to grant 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. Pinckney 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 October 20, 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 become null and void if the Applicants (or a subsequent property owner) fail to obtain a building permit prior to October 8, 2024 (five years after the current OCRM critical line certification 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
Mr. Fox
Ms. Gorski
Mr. Leggett
Mr. Pinckney

OPPOSED (NO)

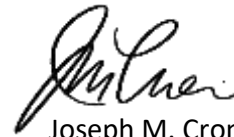
The motion to attach the conditions to the variance was **APPROVED** by a vote of 5-0.

ITEMS FOR INFORMATION / DISCUSSION

There were no Items for Information / Discussion

There being no further business, Ms. Gorski made a motion to adjourn the meeting. Mr. Fox seconded the motion. The motion was **APPROVED** by a vote of 5-0 and the meeting was adjourned at 3:31 PM.

Minutes Approved:



Joseph M. Cronin
Zoning Administrator