

# TOWN OF SEABROOK ISLAND

## Board of Zoning Appeals Meeting

May 28, 2019 – 1:00 PM

Town Hall, Council Chambers  
2001 Seabrook Island Road



## MINUTES

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

Absent: None

Guests: Robert Reddersen, Cynthia Reddersen, Steve Hildreth, Amber Neale, Robin Girardi

Chairman Sewell called the meeting of the Board of Zoning Appeals to order at 1:04 PM and introduced himself and Board members Kleinman, Leggett, Fox and Finkelstein 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: March 22, 2019:** Ms. Kleinman made a motion to approve the minutes from the March 22, 2019, meeting as submitted. Mr. Finkelstein seconded the motion. The motion was **APPROVED** by a vote of 5-0.
2. **Board of Zoning Appeals Meeting: May 15, 2019:** Ms. Kleinman made a motion to approve the minutes from the May 15, 2019, meeting as submitted. Mr. Finkelstein seconded the motion. The motion was **APPROVED** by a vote of 5-0.

### PUBLIC HEARING ITEMS

1. **802 Treeloft Trace (Tax Map # 147-10-00-055):** Chairman Sewell introduced the pending variance request, which was submitted by Robert and Cynthia Reddersen, the owners of 802 Treeloft Trace. Chairman Sewell disclosed for the record that the Board had conducted a site visit to 802 Treeloft Trace on May 15, 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 #161. Chairman Sewell administered an oath to Zoning Administrator Cronin.

Zoning Administrator Cronin stated that the town had received a completed variance application from Robert and Cynthia Reddersen, the owners of 802 Treeloft Trace. The applicants were requesting a reduction in the 15-foot rear yard setback requirement for open decks in order to allow for the replacement and expansion of an existing non-conforming deck at the rear of the property.

Zoning Administrator Cronin stated that while conducting routine inspections in March of 2019, the town’s Code Enforcement Officer identified a deck being installed at 802 Treeloft Trace without necessary permits from the town and county. A stop-work order was issued, and the contractor was instructed to come to town hall to apply for a permit. On March 19, 2019, the applicants – through their contractor (Mike Dohoney’s Barrier Island Construction Specialists) – submitted a zoning permit application (#15680) seeking approval to remove and replace the existing deck at the rear of their property. Upon review by the Zoning Administrator, it was determined that 1) The existing deck was located approximately 7.5 to 8.0 feet from the rear property line and did not conform to the town’s current Development Standards Ordinance (DSO); and 2) At its closest point, the proposed deck expansion would be located approximately 3.5 feet from the rear property line, thereby making the new deck **more** non-conforming than the existing deck. Zoning Administrator Cronin advised the applicants that the permit could not be approved without a variance.

In order to move forward with the proposed improvements, the applicants are seeking a variance to grant relief from the following setback requirements:

Type	DSO Reference	DSO Requirement	Variance Requested
Rear Yard (Open Deck)	§ 7.60.60	15 feet	Reduce the rear yard setback requirement for open decks from 15 feet to approximately 3.5 feet to allow for the replacement and expansion of an existing non-conforming deck

As part of their variance request, the applicants stated that strict application of the 15-foot setback requirement would result in an unnecessary hardship. The applicants further argued:

- a) The Treeloft Villas regime was laid out and developed in 1978 (prior to the town’s incorporation) under different zoning requirements than existing today. The application of the town’s current setback standards will severely restrict the applicants’ use and enjoyment of their property;
- b) Had it been built under the town’s current zoning requirements, the existing unit would have been constructed to meet or exceed the minimum setback requirements;
- c) The original decks in Treeloft Villas (49.2 square feet) were designed to accommodate only two people, while the units themselves were designed to accommodate 4-6

individuals. The extended plan (91.2 square feet) would allow for four chairs and a small table, which is more in keeping with the designed capacity of the villa; and

- d) The modification will not be of substantial detriment to neighboring properties, the public good or the character of the district, as the proposed design was created specifically for units located within the Treeloft Villas and Sealoft Villas regimes. These designs were approved by both regimes as well as SIPOA. The plan will extend to, though not exceed, the outer walls of the villa, and the only encroachment will be on the golf course side of the building. Additionally, this standard design has been used by many other villa owners in the Treeloft and Sealoft regimes, many of which further encroached into the rear yard setback area.

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

Chairman Sewell asked Zoning Administrator Cronin if he knew when a permit was issued for the deck expansion at 803 Treeloft Trace, which also encroached into the rear yard setback. Zoning Administrator Cronin responded that he did not have the answer right off hand but noted that it was after the current Treeloft deck standard was adopted.

Zoning Administrator Cronin then requested the Board's consent to enter the email communication between himself and Ms. Kleinman on May 16, 2019, into the public record. He also noted that the town had received one additional public comment from Robert Fine and Elizabeth Duncan after the agenda was published. The comment in support of the variance request was received via email on May 27, 2019. There was no objection, and the correspondence was entered into the public record.

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.

- Robert Reddersen: Mr. Robert Reddersen, one of the owners of 802 Treeloft Trace, spoke on behalf of the applicants. Mr. Reddersen stated that the Treeloft Villas were developed in the late 1970's and pre-date the town's incorporation. He noted that the town's current setback requirements adversely impact property owners in Treeloft Villas; in many instances, both the front yard and rear yard setbacks overlap, leaving no developable area. He referenced a recent SIPOA survey which emphasized the need for property owners to improve the value of their property in an effort to improve overall values on the island, adding that the proposed deck would increase not only the value, but also the usability, of his unit. He stated that the original decks in Treeloft were 49.2 square feet and could accommodate only two people. The new deck, which is now the regime standard, is 91.2 square feet and can accommodate 4-6 people, which is more in line with what the villas themselves are designed to accommodate. He stated that the standard deck design has already been used on 12 of the 19 units in Treeloft. While the deck will encroach into the rear yard setback, the existing deck has encroached for the last 40 years.

Chairman Sewell asked what work still needed to be completed on the deck. Mr. Reddersen responded that the only item remaining to be completed was painting.

Chairman Sewell asked if members of the Board had any other questions for the applicants. 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.

- Steve Hildreth: Mr. Steve Hildreth stated that he has been the president of the Treeloft Villas regime for the last 4 years. He stated that the standard deck plans were originally developed for the Sealoft Villas but were later purchased in 2012 for use in Treeloft Villas as well. He stated that 12 of the 19 units in Treeloft have expanded their decks, and the purpose of these expansions has been to improve the usability and property values of the existing units. He stated that the regime has undertaken several improvements in the last several years, including landscaping, irrigation, painting and deck replacement. Lastly, he stated that the regime is in support of the Reddersen's variance application.
- Robin Girardi: Ms. Robin Girardi noted that many property owners in Treeloft Villas have also been adding vertical posts to provide better stability and structural support for their units. She questioned whether these improvements would violate the code as well. Zoning Administrator Cronin responded that these types of structural reinforcements were allowable as long as they were within building's existing footprint (ie. no further encroachment into a setback area).

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 the applicants if they wished to make any additional comments. The applicants did not have any 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 two conditions, should the Board vote to approve the variance request.

Chairman Sewell asked if members of the Board had any additional questions or comments prior to voting.

Mr. Leggett asked whether the 12 decks replaced within Treeloft Villas to date have all been "open decks." Mr. Hildreth responded in the affirmative.

Mr. Fox stated that he believes a hardship exists. He stated that the villas were never intended to conform to the town's setback requirements. This is an issue which has been happening all over the island within the villas and regimes, and that the code makes no allowance for their unique situation.

Chairman Sewell stated that this request appears to be similar to a variance which was granted for the Marina Village in 2016 (steps).

Mr. Fox recommended that the issue should be addressed with blanket changes as part of the town's DSO update.

Mr. Hildreth supported Mr. Fox's statement. He added that there is one additional deck which is currently pending, and others are waiting to see how this plays out. With 6-7 other units remaining, he stated that he would hate for all of those owners to have to go through the variance process.

Zoning Administrator Cronin noted that there is currently a text amendment pending before Town Council. The purpose of this amendment is to allow replacement HVAC units and stands in the Multi-Family District to encroach into a required setback when existing units must be elevated to conform to current building and flood elevation standards.

Ms. Kleinman stated that the situation appears to be extraordinary, as the villas were built prior to the town’s current zoning requirements came into effect and, in many instances, the front and rear setbacks now overlap. She stated that the issue generally applies only in Treeloft Villas. She stated that the applicants provided justification that the zoning requirements unreasonably restrict or prohibit the use of their property. She also noted that the only property which would be impacted by the encroachment would be the Seabrook Island Club, and the Club has submitted a letter of support. Therefore, she did not feel that the issuance of a variance would be detrimental to neighboring property owners.

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. Finkelstein:

- 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 rear yard setback requirement for open decks at the Property is hereby amended, as follows:

Type	DSO Requirement	Variance APPROVED
Rear Yard (Open Deck)	15 feet	Reduce the rear yard setback requirement for open decks from 15 feet to approximately <b>3.5 feet</b> to allow for the replacement and expansion of an existing non-conforming deck

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
- Mr. Finkelstein

**OPPOSED (NO)**

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, Ms. Kleinman made a motion, seconded by Mr. Fox, to attach the following conditions to the above referenced 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 May 28, 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) Consistent with the state's Vested Rights Act, the variance shall expire on May 28, 2021 (two years from the date of approval) 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 condition to the variance, while a "no" vote was opposed to attaching the conditions.

**IN FAVOR (YES)**

Chairman Sewell  
Ms. Kleinman  
Mr. Leggett  
Mr. Fox  
Mr. Finkelstein

**OPPOSED (NO)**

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

Chairman Sewell recessed the meeting at 1:47 PM.

The meeting was reconvened at 1:52 PM.

**OLD BUSINESS ITEMS**

1. **Review and Approval of New Variance Application Form:** Town Administrator Cronin presented a draft version of the new Variance Application Form. He noted that the items previously recommended by the Board had been included in the updated draft. He also mentioned that an ordinance was currently pending before Town Council which, if approved, would reduce the variance application fee from \$350.00 to \$150.00 while the town is engaged in a comprehensive update to its DSO. Staff recommended in favor of approving the new Variance Application Form.

Regarding the requirement for an applicant to provide a letter of approval or acknowledgement, Ms. Kleinman asked if there were any instances where a project came to the Board for a variance prior to review and approval by a POA or regime. Town Administrator

Cronin responded that the town's DSO requires confirmation from a POA or regime (where required) must be provided prior to the town's review and approval. Town Administrator Cronin added that the language in the new form would allow for a letter of acknowledgement in instances where the POA or regime approval is pending the outcome of an applicant's variance request. He stated that the letter of acknowledgement would be a written indication from the POA or regime that a request does not violate any covenants and restrictions, and that the POA or regime intends to approve the request pending approval of the variance.

There being no further discussion, Ms. Kleinman made a motion to approve the new Variance Application Form. Mr. Finkelstein seconded the motion. The motion was **APPROVED** by a vote of 5-0.

#### **ITEMS FOR INFORMATION / DISCUSSION**

1. **Status of Previous Variances:** Zoning Administrator Cronin provided an update on the status of Variance #131, which was approved by the Board in 2004. He stated that the town's License and Permit Specialist, Lynda Stearns, had contacted the previous owner of Cotton Island (Tax Map # 149-00-00-004). The previous owner informed Ms. Stearns that a septic system was never installed on the property. He also informed Ms. Stearns that the conservation easement for Cotton Island was amended prior to the property being transferred to its current owner. The amended easement now prohibits the installation of a septic system on the property. Therefore, the status of Variance #131 is now moot.

There being no further business, Chairman Sewell called for a motion to adjourn. Mr. Fox made a motion, seconded by Mr. Finkelstein, to adjourn the meeting. The motion was **APPROVED** by a vote of 5-0, and the meeting was adjourned at 1:59 PM.

Minutes Approved: July 2, 2019



Joseph M. Cronin  
Zoning Administrator