

TOWN OF SEABROOK ISLAND

Board of Zoning Appeals Meeting
November 2, 2020 – 2:30 PM

Virtual Meeting Hosted via Zoom
[Live Streamed on YouTube](#)



MINUTES

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

Absent: None

Guests: Heather Paton (SIPOA), Dan Kortvalesy (SIPOA)

Chairman Sewell called the meeting of the Board of Zoning Appeals to order at 2:30 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: October 20, 2020:** Ms. Gorski made a motion to approve the minutes from the October 20, 2020 meeting, as submitted. Mr. Leggett seconded the motion. The motion was **APPROVED** by a vote of 5-0.

PUBLIC HEARING ITEMS

1. **Variance #169: 2303 Seabrook Island Road (Tax Map # 147-00-00-001):** Chairman Sewell introduced the pending variance request, which was submitted by Heather Paton on behalf of the Seabrook Island Property Owners Association (SIPOA). 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 #169. 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 two new community message board signs with electronic variable message displays on the inbound and outbound lanes of Seabrook Island Road in the vicinity of the SIPOA Gatehouse. Because the proposed signs would encroach approximately 4 feet into the required setbacks, the applicant sought approval from the Board of Zoning Appeals to grant relief from the following requirements, as provided by the Town's Development Standards Ordinance (DSO):

Type	DSO Reference / Requirement	Variance Requested
Ground Signs (Setback)	6 feet (§ 12.120.10(e))	Reduce the required setback for ground signs from 6 feet to approximately 2 feet (4-foot encroachment)

Zoning Administrator Cronin noted that Town Council adopted Ordinance 2020-07 on September 20, 2020. The ordinance amended the town's signage requirements to allow "community message board signs" with "electronic variable message displays" as a conditional use, subject to the same size and setback requirements for ground signs. While the proposed signs would meet all other conditions and requirements related to size and design, the signs, as designed, could not be installed in this location unless a setback variance was granted.

As part of its variance request, the applicant stated that strict application of §12.120.10(e) of the DSO would result in an unnecessary hardship. In support of its request, the applicant argued:

- (1) Because of the width of the roadway and curbs on both the inbound and outbound lanes at the gatehouse, the grass portion of the right-of-way is narrow and doesn't provide sufficient distance to the property lines;
- (2) This property is unique due to the narrow wording of the conditions required in Section 12.60.70.20 for electronic variable message displays, and other properties in the vicinity do not meet these criteria;
- (3) The proposed message boards are intended to replace the message board that was previously in place prior to construction of the new SIPOA Gatehouse and to provide timely and important information to residents, guests and contractors. Utility services and conduits were installed in 2016, and cannot be relocated due to the many utilities in the area; and
- (4) These signs were approved and included as part of the gatehouse renovation in 2016. The requirements for message boards prevent interference with other properties. The message boards are intended for the public good to keep residents and others informed of emergency and other important information.

Prior to calling on the applicants, Chairman Sewell asked if there were any questions for Zoning Administrator Cronin. There were no 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's representative prior to receiving her testimony.

- Heather Paton: Ms. Paton, the Executive Director of SIPOA, spoke regarding the variance request. Ms. Paton stated that these signs were included in the original plans when the Gatehouse was reconstructed several years ago. While the electrical conduit was extended to the proposed sign locations, the signs themselves were never installed. She stated that the purpose of the signs was to convey important messages to residents, visitors and contractors upon their entry into the community. She added that these signs would also serve as a means of distributing information quickly and efficiently during an emergency situation. She also stated that the recent amendment approved by council was narrowly worded to allow these types of signs in the vicinity of the Gatehouse.

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

Ms. Kleinman asked how the electronic displays would have been approved in 2016 if they were not permitted by the DSO until earlier this year. Ms. Paton responded that the signs were considered in 2016, but the question of whether digital displays were specifically allowed was never discussed.

Ms. Kleinman also expressed concern about potential safety issues resulting from the signs being located so close to the street. Ms. Paton responded that the signs would be far enough from the street to minimize safety concerns, but the applicants were limited by the amount of space available within the right-of-way.

Ms. Leggett asked if these signs would obstruct the flow of traffic when people stop to read their content. Ms. Paton responded that these signs would be similar to the old changeable message boards and there were no issues in the past with people blocking traffic when reading the content on those signs.

Mr. Fox asked how bright the digital display would be, adding that he didn't want the town to look like Las Vegas. Ms. Paton responded that the signs would not emit a lot of light, and the brightness would be restricted by the town's new ordinance.

Mr. Leggett expressed that he was concerned about the potential disruption to the flow of traffic at the Gatehouse. He asked if the digital displays would be static or change over time. Ms. Paton responded that the town's ordinance placed restrictions on the frequency upon which the messages could change. She stated that SIPOA was not intending to display long messages over multiple displays, but rather would show only a burst of short messages.

Mr. Fox asked if the signs were intended to advertise a running string of events. Ms. Paton responded that the signs were intended to convey key messages.

Mr. Fox asked what these signs will solve that SIPOA hasn't had in the 4 years since the old signs were removed. Ms. Paton responded that the signs would allow for messages to be displayed to visitors and contractors, who may not receive other forms of communication from SIPOA or the town.

Mr. Leggett stated that he stood at the Gatehouse and tried to envision the signs. He stated that they would be difficult to see from the visitor lane. Ms. Paton stated that this was the reason SIPOA was also seeking to install a sign on the outbound lane.

Mr. Fox asked if the roadway expansion which was completed when the Gatehouse was reconstructed took up space the SIPOA could have used for the signs. Ms. Paton responded in the affirmative, adding that there was no additional space upon which to install the signs.

Ms. Gorski asked if the signs would remain dark if there were no messages to display. Ms. Paton responded that they would either be dark or would display a static "welcome" message.

Ms. Kleinman asked if the messages were intended to change every 8 seconds. Ms. Paton responded that the content could be controlled remotely and the rotation of content would depend on the volume of information to be displayed.

Chairman Sewell asked if members of the Board had any additional questions for the applicants. There were no additional questions. Chairman Sewell then asked if there were any additional comments from the applicant. Chairman Sewell administered an oath to each additional speaker prior to receiving his or her testimony.

- Dan Kortvalesy: Mr. Kortvalesy, the President of the SIPOA Board of Directors, spoke regarding the variance request. Mr. Kortvalesy stated that there were always message boards in these locations and that these signs would offer another way to provide important messages to residents, visitors and contractors. He also stated that he was not aware of any traffic issues resulting from the old signs in the same locations.

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 written comments from the following individuals:

- Christine Miniman: Ms. Miniman, of 444 Double Eagle Trace, submitted a comment in opposition to the variance request.
- Breda White: Ms. White, of 2952 Captain Sams Road, submitted a comment in opposition to the variance request.

- Patricia Call: Ms. Call, of 2216 Rolling Dune Road, submitted questions regarding the variance request. Zoning Administrator Cronin provided answers to each of these questions.
- Bart Pollard: Mr. Pollard, of 2818 Old Drake Drive, submitted a comment in opposition to the variance request.
- Casey Anderson: Ms. Anderson, of 5 Dunecrest, submitted a comment in opposition to the variance request.
- Joanne Farrell: Ms. Farrell, of 3076 Marshgate Drive, submitted a comment 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. Ms. Paton responded that SIPOA plans to landscape around the signs to soften their appearance. She added that the speed signs will encourage people to slow down when traveling between the gatehouse and the crosswalk at Landfall Way. She also stated that there appeared to be some misunderstanding about what these signs are, adding that they were not neon, and would not be similar to the town's temporary sign on Seabrook Island Road during the COVID pandemic.

Chairman Sewell then opened the meeting for additional questions.

Mr. Fox noted that the signs would be 5.5 feet wide and asked whether SIPOA considered turning them vertically to reduce the encroachment. Ms. Paton responded that the signs would be used like a television, and she wasn't sure if they would be any electrical issues caused by using them in a sideways configuration.

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

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

Mr. Fox asked if the two variance requests could be voted on separately. Zoning Administrator Cronin responded that the Board could vote on them separately.

Mr. Leggett stated that SIPOA should have thought this through before designing the new Gatehouse.

Ms. Gorski stated that SIPOA doesn't have enough room based on the setback requirements contained in the ordinance.

Chairman Sewell asked if there were other areas with a 15-mph speed limit where electronic signs would be permitted, such as the area near the Seabrook Island Club. Zoning Administrator Cronin clarified that the signs were only permitted along an arterial street; the only street so designated in the DSO was Seabrook Island Road between the Gatehouse and Freshfields. Currently, only the area surrounding the gatehouse has a 15-mph speed limit.

Mr. Fox stated that council could have addressed this issue in Ordinance 2020-07, but instead now wants the Board to fix it.

Ms. Gorski stated that the Board should be mindful of what is being asked, which is to grant a setback variance for a long, narrow piece of property. She stated that the conditions affecting this property definitely do not apply to other properties, there is no room for anything else, there are no residences on the left side of the Gatehouse which will be impacted by the signs (and the horses won't be bothered), and that the message boards will provide for the public good. She noted how difficult it was for the public to see and read small signs, referencing the public hearing signs for today's meeting as an example.

Ms. Kleinman stated that she concurred with Ms. Gorski's comments. She added that the ordinance allowing electronic displays has already been approved by council, and that the Gatehouse is one of few places where vehicles will come to a complete stop. She noted that the signs meet all other criteria in the DSO, and that providing information to the public serves the public good and is an important function of SIPOA.

Ms. Kleinman asked if the Board should consider restricting the number of times the sign may change per day. Ms. Gorski noted that the ordinance states that the electronic display may not change more than once every 8 seconds.

Mr. Fox disagreed with the comment that the character of the community will not be harmed. He stated that these signs don't add anything to the town and are a monstrosity, adding that they posed a traffic hazard and were garish.

Mr. Leggett stated that his concern wasn't so much vehicles hitting the signs, but rather that they are designed to distract motorists and would likely result in people stopping to read them.

Ms. Kleinman asked if there were any photos of the proposed sign. Zoning Administrator Cronin noted that they would be fairly similar to the signs at the gatehouse entering Kiawah Island. He then pulled up a Google Street View of the signs on both the inbound and outbound lanes on Kiawah Island.

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, Ms. Gorski made the following motion, which was seconded by Ms. Kleinman:

- (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 narrowness of the lot and the width of the roadway on both the inbound and outbound lanes at the SIPOA Gatehouse;
 - b. The conditions applicable to the Property do not apply to other properties in the vicinity due to Property's unique size, shape and use;

- c. Strict application of the setback requirement will result in insufficient space between the edge of pavement and the adjacent property lines in which to install community message board signs on the Property; and
- d. The granting of the variance will not be detrimental to adjacent properties or the public good because the proposed signs will not be visible from neighboring residences and the primary purpose of the message board signs is to facilitate the sharing of important information (including emergency information) with the public; therefore

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

- a. The required 6-foot setback for ground signs, as specified in §12.120.10(e) of the DSO, is hereby reduced to 2 feet to allow for construction of 2 community message board signs with electronic variable message displays on the inbound and outbound lanes of Seabrook Island Road at the SIPOA Gatehouse.

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.

<u>IN FAVOR (YES)</u>	<u>OPPOSED (NO)</u>
Chairman Sewell	Mr. Fox
Ms. Kleinman	Mr. Leggett
Ms. Gorski	

The motion to approve the variance was APPROVED by a vote of 3-2.

To protect established property values in the surrounding area, and to promote the public health, safety, and general welfare, Ms. Gorski made a motion, seconded by Mr. Fox, 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 sign renderings, specifications and site-specific plan prepared by the Applicant and reviewed by the Board on November 2, 2020. Any modification to the design, materials, specifications or 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 signs shall be oriented (or screened) in a way that will limit light spill from the electronic variable message displays onto neighboring properties; and
- (3) The variance shall expire on November 2, 2022 (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.

<u>IN FAVOR (YES)</u>	<u>OPPOSED (NO)</u>
Chairman Sewell	
Ms. Kleinman	
Mr. Fox	
Ms. Gorski	
Mr. Leggett	

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 3:46 PM.

Minutes Approved: January 7, 2021



Joseph M. Cronin
Zoning Administrator