

# TOWN OF SEABROOK ISLAND

## Board of Zoning Appeals Meeting

June 5, 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: James Luce (3713 Bonita Court), Kevin Whalley (Architect), Andrew and Susan Hodge (2710 Old Oak Walk), Michael Karamus (Architect), Robert and Lynn Miner (2385 The Haul Over), Tim Latto (Architect), Katrina Burrell (SIPOA)

Chairman Sewell called the meeting of the Board of Zoning Appeals to order at 2:33 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: May 18, 2020**: Ms. Kleinman made a motion to approve the minutes from the May 18, 2020 meeting, as submitted. Ms. Gorski seconded the motion. The motion was **APPROVED** by a vote of 5-0.

### PUBLIC HEARING ITEMS

1. **Variance #163: 3713 Bonita Court (Tax Map # 147-14-00-015)**: Chairman Sewell introduced the pending variance request, which was submitted by James Luce, the owner of 3713 Bonita Court, as well as his architect, Daniel Kim of Architects Plus, LLC. 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 #163. Chairman Sewell administered an oath to Zoning Administrator Cronin.

Zoning Administrator Cronin stated that the applicants were seeking approval to construct a

second-floor deck along the secondary street frontage at 3713 Bonita Court (Block 16, Lot 32). He stated that the proposed deck would project 8 feet from the outer wall of the existing home and would have a total length of 14 feet. At its closest point, the deck would be approximately 26 feet from the street right-of-way, and approximately 38 feet from the actual edge of pavement. He added that as a corner lot, Sec. 7.60.10.10 of the DSO requires a front yard setback from both street rights-of-way. Pursuant to Sec. 7.60.20.10 of the DSO, the minimum setback from both street frontages was 30 feet.

To allow for construction of the second-floor deck along the secondary street frontage, the applicants sought approval from the Board of Zoning Appeals to grant relief from the following requirement, as provided by the town’s DSO:

Type	DSO Reference / Requirement	Variance Requested
Front Yard Setback (Corner Lot)	30 feet (§ 7.60.20.10)	Reduce the front yard setback along the secondary street frontage from 30 feet to approximately 26 feet (4-foot encroachment)

As part of their variance request, the applicants stated that strict application of Sec. 7.60.20.10 would result in an unnecessary hardship. The applicants further argued:

- (1) The existing home was constructed prior to the town’s incorporation and under a different set of zoning requirements;
- (2) The conditions applicable to this home appear to be unique;
- (3) The existing home already encroaches into the front yard setback along the same side, and the proposed encroachment (4 feet) is less than the existing encroachment (7.9 feet); and
- (4) The granting of the Variance will not be detrimental to adjacent properties or the public good because many of the adjacent properties have similar design features on the second floor to maximize ocean views and the proposed improvements would be consistent with the overall character of the neighborhood.

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

Ms. Gorski asked whether any part of the deck would be enclosed. Zoning Administrator Cronin responded that no part of the deck would be enclosed.

Ms. Kleinman asked whether the Zoning Administrator Cronin was stating conclusions when providing the basis for the application, or if he was simply reading what was stated in the application itself. Zoning Administrator Cronin stated that he was reading information from the request and was not making any conclusions or recommendations for or against the request.

Hearing no further 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.

- James Luce: Mr. Luce, the owner of 3713 Bonita Court, spoke regarding the request. Mr. Luce stated that he purchased the property earlier in the year and was in the process of renovating the existing structure. He stated that the house had not been lived in for the last two years. He explained that the second floor was previously used as an art studio; however, as part of his renovation project, the space was being converted into a master bedroom. He was seeking approval of a second-floor balcony to provide outdoor living space for the bedroom to be able to enjoy the ocean views. He added that he had spoken to most of the neighboring property owners, who have expressed support for his variance request.
- Kevin Whalley: Mr. Whalley of Architecture Plus, LLC, also spoke on behalf of the applicant. Mr. Whalley stated that he was familiar with Seabrook Island and has worked in the community for more than 30 years. In designing the balcony, he stated that he had studied both the existing conditions as well as neighboring properties to design a solution that fits in with the neighborhood. He added that he wanted to limit the ground level encroachment to the smallest footprint possible. He stated that the home was built before the town's incorporation and was surprised to learn that they would need a variance due to the fact that the existing home was closer to the right-of-way than the proposed balcony would be. He also stated that if the home were to be built today under the current zoning ordinance, they would be able to push it back further from the street to meet the setback requirement.

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. 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.

Due to the public hearing being held "virtually," 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:

- MJ Collins: Mr. Collins of 1502 Marsh Haven Road submitted a comment in support of the variance request.

- Joseph Penny: Mr. Penny of 3236 Middle Dam Court submitted a comment in support of the variance request.
- Tara Penny: Ms. Penny 3236 Middle Dam Court submitted a comment in support of the variance request.
- Joanna Farrell: Ms. Farrell of 2076 Marshgate Drive submitted a comment in support of the variance request.
- Marianna Price: Ms. Price of 1009 Embassy Row Way submitted a comment in support of the variance request.
- Jane Erb: Ms. Erb of 315 Cobby Creek Lane submitted a comment in support of the variance request.
- William and Elizabeth Sansom: Mr. and Mrs. Sansom of 2153 Duncan Road (Knoxville, TN) submitted a comment in support of the variance request.
- Thomas Daniels: Mr. Daniels of 5081 Rivers Avenue (North Charleston, SC) submitted a comment in support of the variance request.
- Katrina Burrell (SIPOA): Ms. Burrell submitted a comment on behalf of SIPOA. Ms. Burrell stated that while the SIPOA ARC has not yet thoroughly reviewed these plans, they had received them and after a cursory review, aside from the setback / variance issue at hand, she found no fundamental issues or reasons that this request would not be approved pending a successful variance request and possible SIPOA requirements relating to additional landscaping, etc. Additionally, since this balcony / deck would not increase the heated square footage or, due to design, overall footprint of the home, this would most likely only require SIPOA ARC Staff Approval and would not be presented to the SIPOA ARC for review.

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

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.

Ms. Kleinman stated that she felt the variance request met each of the four criteria. She stated that there were extraordinary conditions due to the house being built prior to the town's incorporation. In this case, the property was unique in that there were existing non-conformities and the proposed deck addition would not extend beyond the existing encroachment along the same street frontage. The setback requirement would prohibit the owner's use and enjoyment of the property by limiting his ability to have a second-floor balcony, similar to other homes on the same street. Lastly, she added that the proposed addition was consistent with the character of the neighborhood and that many of the comments received in support of the request were from neighboring property owners.

Ms. Gorski and Mr. Fox expressed agreement with Ms. Kleinman's analysis. Ms. Gorski stated that she also was in favor of the two conditions recommended by the Zoning Administrator.

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

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

- (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;
- (3) The Board finds that relief is warranted in this situation as a result of the following factors:
  - a. The existing home was constructed prior to the town’s incorporation;
  - b. The home has a pre-existing encroachment into the front yard setback along the same street frontage, and the proposed encroachment (4 feet) is less than the existing encroachment (7.9 feet); and
  - c. The granting of the variance will not be detrimental to adjacent properties or the public good because many of the adjacent properties have similar design features on the second floor to maximize ocean views and the proposed improvements will be consistent with the overall character of the neighborhood. Further, there was no opposition from neighboring property owners or the public at-large; therefore
- (4) **The requested variance is hereby approved, as follows: The 30-foot front yard setback, as required by §7.60.20.10 of the DSO, is hereby reduced to approximately 26 feet to allow for construction of a second-story 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 approving the variance, while a “no” vote was opposed to approving the variance.

**IN FAVOR (YES)**

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

**OPPOSED (NO)**

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

To protect established property values in the surrounding area, and to promote the public health, safety, and general welfare, Mr. Fox made a motion, seconded by Ms. Gorski, to attach the following conditions to the approved 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 applicants and reviewed by the Board on June 5, 2020. 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 June 5, 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 to the variance, while a "no" vote was opposed to attaching the conditions.

**IN FAVOR (YES)**

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

**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 3:14 PM.

The meeting was reconvened at 3:20 PM.

2. **Variance #164: 2710 Old Oak Walk (Tax Map # 147-06-00-058)**: Chairman Sewell introduced the pending variance request, which was submitted by Andrew and Susan Hodge, the owners of 2710 Old Oak Walk, as well as their architect, Michael Karamus of Michael E. Karamus Architect, LLC. 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 #164. Chairman Sewell reminded Zoning Administrator Cronin that he was still under oath.

Zoning Administrator Cronin stated that the applicants were seeking approval to convert a portion of the existing deck at the rear of their home into a 224.5 square foot screened porch addition. The property is located at 2710 Old Oak Walk (Block 41, Lot 7/8). He stated that, at its closest point, the roof overhang for the proposed porch would be located approximately 22.8 feet from the rear property line (41.3 feet from the edge of the pond). The closest wall would be located approximately 23.5 feet from the rear property line. Pursuant to Sec.

7.60.20.30 of the DSO, the screened porch must be set back a minimum of 25 feet from the rear property line.

To allow for construction of the screened porch addition at the rear of their home, the applicants sought approval from the Board of Zoning Appeals to grant relief from the following requirement, as provided by the town's DSO:

Type	DSO Reference / Requirement	Variance Requested
Rear Yard Setback	25 feet (§ 7.60.20.30)	Reduce the rear yard setback from 25 feet to approximately 22.8 feet (2.2-foot encroachment)

As part of their variance request, the applicants stated that strict application of Sec. 7.60.20.30 would result in an unnecessary hardship. The applicants further argued:

- (1) The existing home was constructed prior to the town's incorporation [*Note: Zoning Administrator Cronin noted for the record that a town zoning permit was issued for construction on June 27, 1990, which was after incorporation*];
- (2) The home is situated on a water body and, as such, the nearest structure to the rear of the home will be approximately 108 feet away;
- (3) The conditions applicable to this lot appear to be unique given that the home sits on a double lot, resulting in neighboring homes being located much further away and, therefore, much less affected by the proposed variance request;
- (4) Strict application of the rear yard setback requirement would result in an awkward visual design for the proposed porch addition; and
- (5) The granting of the variance will not be detrimental to adjacent properties or the public good because the proposed porch addition at the rear of the home will not have any adverse impact on the streetscape. The proposed design will also utilize the existing [deck] footprint and will allow more separation from the neighboring structures.

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

Hearing no 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.

- Andrew Hodge: Mr. Hodge, the owner of 2710 Old Oak Walk, spoke regarding the request. Mr. Hodge stated that he and his wife would like for the porch to line up with the railing along the back side of the existing deck, which would result in an



encroachment of up to 2.2 feet at its closest point. He added that the home was located on a double lot and was situated at the rear of the property during its original construction so as to preserve the large oak trees at the front of the lot.

- Michael Karamus: Mr. Karamus of Michael E. Karamus Architect, LLC, also spoke on behalf of the applicant. Mr. Karamus apologized for the unintentional error in the application regarding the original date of construction for the home. Mr. Karamus echoed the owner's comments regarding the importance of protecting the large oak trees at the front of the lot. He added that because the house backs up on a lake, the separation between 2710 Old Oak Walk and the home immediately behind it would be approximately 108 feet apart, which is more than double what would be required if the two homes shared a rear property line. He stated that the rear of the lot featured heavy vegetation which would provide additional screening, and any adverse impact to the lots on the right and left side of the property would be mitigated by the fact that the home is centered on a double lot. Mr. Karamus also stated that the applicants were seeking to use the existing footprint of the deck so as to avoid any awkward design situations on the existing deck.

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. 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.

Due to the public hearing being held "virtually," 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:

- Michael Karamus: Following the meeting on May 18th, Mr. Karamus provided additional information regarding the distance between the proposed porch addition and the top of the lagoon.
- Katrina Burrell (SIPOA): Ms. Burrell submitted a comment on behalf of SIPOA. Ms. Burrell stated that while the SIPOA ARC has not yet thoroughly reviewed these plans, they had received them and after a cursory review, aside from the setback / variance issue at hand, she found no fundamental issues or reasons that this request would not be approved pending a successful variance request. Additionally, since this screened porch would not increase the heated square footage or, due to design, overall footprint of the home, this would most likely only require SIPOA ARC Staff Approval and would not be presented to the SIPOA ARC for review.

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

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. Fox stated that when he visited the property, he immediately noticed the large oak trees. He said that as soon as he got out of the car, he understood why the home was situated so far back on the lot. He stated that if the original owner did not care about the trees, the home could have been easily centered on the lot, thereby making this variance request unnecessary. He added that the "extraordinary condition" was the oak trees and the effort to save them.

Ms. Gorski stated that the property is unique due to the lagoon, which provides significant separation between this lot and the properties behind it. She added that while the porch could be designed to meet the setback requirement, it would look awkward architecturally. In addition, most of the encroachment would be the overhang at the roofline.

Ms. Kleinman agreed with the comments from Mr. Fox and Ms. Gorski. She added that she felt the variance request met each of the four criteria.

Ms. Gorski stated that she was in favor of attaching the two conditions recommended by the Zoning Administrator.

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 Ms. Gorski:

- (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;
- (3) The Board finds that relief is warranted in this situation as a result of the following factors:
  - a. The home is situated on a water body and, as such, the nearest structure to the rear of the home is approximately 108 feet away;
  - b. The conditions applicable to this lot appear to be unique given that the home sits on a double lot, resulting in neighboring homes being located much further away and, therefore, much less affected by the proposed variance request;
  - c. The proposed screened porch addition will be substantially located within the footprint of an existing (conforming) deck at the rear of the home;
  - d. Strict application of the rear yard setback requirement would result in an awkward visual design for the proposed screened porch addition; and
  - e. The granting of the variance will not be detrimental to adjacent properties or the public good because the proposed addition at the rear of the home will not have any adverse impact on the streetscape. The proposed design will also utilize the footprint of the existing deck and will allow more separation from the neighboring structures. Further, there was no opposition from neighboring property owners or the public at-large; therefore

- (4) **The requested variance is hereby approved, as follows: The 25-foot rear yard setback, as required by §7.60.20.30 of the DSO, is hereby reduced to approximately 22.8 feet to allow for construction of a screened porch addition at the rear of the existing home.**

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

**IN FAVOR (YES)**

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

**OPPOSED (NO)**

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

To protect established property values in the surrounding area, and to promote the public health, safety, and general welfare, Ms. Gorski made a motion, seconded by Ms. Kleinman, to attach the following conditions to the approved 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 applicants and reviewed by the Board on June 5, 2020. 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 June 5, 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 to the variance, while a “no” vote was opposed to attaching the conditions.

**IN FAVOR (YES)**

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

**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 3:44 PM.

The meeting was reconvened at 3:50 PM.

3. **Variance #165: 2385 The Haul Over (Tax Map # 147-03-00-020)**: Chairman Sewell introduced the pending variance request, which was submitted by Robert and Lynn Miner, the owners of 2385 The Haul Over. 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 #165. Chairman Sewell reminded Zoning Administrator Cronin that he was still under oath.

Zoning Administrator Cronin stated that the applicants were seeking approval to convert a portion of the existing deck at the rear of their home into a 145 square foot screened porch addition. The property is located at 2385 The Haul Over (Block 28, Lot 23). He stated that, at its closest point, the roof overhang for the proposed porch would be located approximately 13 feet from the rear property line (and 45 feet from the top of the pond). The closest wall would be located approximately 14.5 feet from the rear property line. Pursuant to Sec. 7.60.20.30 of the DSO, the screened porch must be set back a minimum of 25 feet from the rear property line.

To allow for construction of the screened porch addition at the rear of their home, the applicants sought approval from the Board of Zoning Appeals to grant relief from the following requirement, as provided by the town's DSO:

Type	DSO Reference / Requirement	Variance Requested
Rear Yard Setback	25 feet (§ 7.60.20.30)	Reduce the rear yard setback from 25 feet to approximately 13 feet (12-foot encroachment)

As part of their variance request, the applicants stated that strict application of Sec. 7.60.20.30 would result in an unnecessary hardship. The applicants further argued:

- (1) The existing home was constructed prior to the town's incorporation, and moving the home to accommodate current setback requirements would be prohibitive;
- (2) The conditions do not apply to other properties in the vicinity due to this home being one of the oldest in the neighborhood;
- (3) Strict application of the rear yard setback requirement would prohibit the applicants from enjoying the outdoors without protection from insects; and

- (4) The adjacent property is owned by the Seabrook Island Club, which has submitted a letter in support of the applicants' variance request.

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

Hearing no 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.

- Robert Miner: Mr. Miner, the owner of 2385 The Haul Over, spoke regarding the request. Mr. Miner thanked the Board and members of staff for assisting him and his wife in this process. He stated that he and his wife enjoy the property; however, it was their hope to be able to have a covered, bug-free location from which to enjoy the outdoors and the lagoon views.
- Tim Latto: Mr. Latto, the Miners' architect, also spoke on behalf of the applicants. Mr. Latto stated the owners were unable to enjoy the outdoors due to the mosquitoes. He stated that the porch was designed to be located on the edge of the existing deck as this was a logical place in which to put it. The design and finishes of the porch would match the existing home. He added that the porch would be a simple structure with vertical supports, screens and a hipped roof.

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. 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.

Due to the public hearing being held "virtually," 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:

- Sean Hardwick: Mr. Hardwick, Director of Golf Course Maintenance for the Seabrook Island Club, submitted a letter in support of the Miners' request. The Club owns the property immediately behind the Miners' residence.
- Richard Creedon: Mr. Creedon of 2400 The Haul Over submitted a comment in support of the variance request.

- Ann Edwards: Ms. Edwards of 3208 Wood Duck Place submitted a comment in support of the variance request.
- Katrina Burrell (SIPOA): Ms. Burrell submitted a comment on behalf of SIPOA. Ms. Burrell stated that while the SIPOA ARC has not yet thoroughly reviewed these plans, they had received them and after a cursory review, aside from the setback / variance issue at hand, she found no fundamental issues or reasons that this request would not be approved pending a successful variance request. Additionally, since this screened porch would not increase the heated square footage or, due to design, overall footprint of the home, this would most likely only require SIPOA ARC Staff Approval and would not be presented to the SIPOA ARC for review.

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

Chairman Sewell asked the applicants if they wished to make any additional comments. Mrs. Miner thanked everyone for working with them. The applicants did not have any additional comments.

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

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.

Ms. Gorski disclosed for the record that she lives around the corner from 2385 The Haul Over; however, she is not an adjacent property owner and will have no direct impact from this request. She added that she had the same observations for this property as she had for the previous variance application: that the house was built at the rear of the lot to preserve trees at the front of the property; that the lagoon would provide additional separation from neighboring properties on the rear; and that the existing building footprint will not be enlarged as a result of the screened porch.

Mr. Fox stated that the home was likely placed at the rear of the lot to afford the best views of the lake. The home's location ultimately became a detriment to the current owners based on the town's current setback requirements.

Ms. Kleinman agreed with the comments from Ms. Gorski and Mr. Fox. She added that, in her opinion, the age and configuration of the home on the lot prior to the town's incorporation, as well as the enhanced separation from neighboring structures given the large lot and the lake, satisfied the four criteria for a variance.

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 Ms. Gorski:

- (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;
- (3) The Board finds that relief is warranted in this situation as a result of the following factors:
  - a. The existing home was constructed prior to the town's incorporation, and moving the home to accommodate current setback requirements would be prohibitive;
  - b. The conditions do not apply to other properties in the vicinity due to this home being one of the oldest in the neighborhood;
  - c. Strict application of the rear yard setback requirement would prohibit the applicants from enjoying the outdoors without protection from insects; and



d. The granting of the variance will not be detrimental to adjacent properties or the public good because the proposed addition at the rear of the home will not have any adverse impact on the streetscape. The proposed design will also utilize the footprint of the existing deck. Further, there was no opposition from neighboring property owners or the public at-large; therefore

- (4) **The requested variance is hereby approved, as follows: The 25-foot rear yard setback, as required by §7.60.20.30 of the DSO, is hereby reduced to approximately 13 feet to allow for construction of a screened porch addition at the rear of the existing home.**

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

**IN FAVOR (YES)**

Chairman Sewell

Ms. Kleinman

Mr. Fox

Ms. Gorski

Mr. Leggett

**OPPOSED (NO)**

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

To protect established property values in the surrounding area, and to promote the public health, safety, and general welfare, Ms. Gorski made a motion, seconded by Mr. Leggett, to attach the following conditions to the approved 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 applicants and reviewed by the Board on June 5, 2020. 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 June 5, 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 to the variance, while a “no” vote was opposed to attaching the conditions.

**IN FAVOR (YES)**

Chairman Sewell

**OPPOSED (NO)**

Ms. Kleinman  
Mr. Fox  
Ms. Gorski  
Mr. Leggett

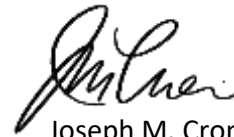
The motion to attach the conditions to the variance was **APPROVED** by a vote of 5-0.

**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. Ms. Kleinman seconded the motion. The motion was **APPROVED** by a vote of 5-0 and the meeting was adjourned at 4:13 PM.

Minutes Approved: August 4, 2020



Joseph M. Cronin  
Zoning Administrator