

TOWN OF SEABROOK ISLAND

Board of Zoning Appeals Meeting

June 11, 2021 – 2:30 PM



Virtual Meeting Hosted via Zoom

[Live Streamed on YouTube](#)

MINUTES

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

Absent: None

Guests: Paul Stoyanoff (2263 Seabrook Island Road), Mark & Lynette Smith (3056 Seabrook Village Drive), Rachel Burton (Swallowtail Architecture), Wendy Walker, Katrina Burrell (SIPOA)

Chairman Sewell called the meeting of the Board of Zoning Appeals to order at 2:35 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 14, 2021**: Mr. Leggett made a motion to approve the minutes from the May 14, 2021, meeting, as submitted. Mr. Fox seconded the motion. The motion was **APPROVED** by a vote of 4-0.

Ms. Gorski joined the meeting late.

PUBLIC HEARING ITEMS

1. **Variance #173: 2263 Seabrook Island Road (Tax Map # 147-00-00-151)**: Chairman Sewell introduced the pending variance request, which was submitted by Paul & Jana Stoyanoff, the owners of 2263 Seabrook Island Road. 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 #173. Chairman Sewell administered an oath to Zoning Administrator Cronin prior to receiving his testimony.

Zoning Administrator Cronin stated that the applicants were seeking approval to construct a new single-family home on the property. Because the front steps of the proposed residence would encroach into the required front and side yard setbacks, the applicants were seeking approval from the Board to grant relief from the following requirements, as provided by the Town’s Development Standards Ordinance (DSO) and the Village at Seabrook Planned Unit Development Ordinance (PUD):

Type	Required Per PUD	Variance Requested
Front Yard Setback	20 feet (Ord. 2020-01, § 2)	Reduce the front yard setback requirement for open steps from 20 feet to approximately 15 feet (5-foot encroachment)
Side Yard Setback	7.5 feet (Ord. 2020-01, § 2)	Reduce the side yard setback requirement from 7.5 feet to approximately 1.1 feet (6.4-foot encroachment)

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

- (1) The depth and location of the curved setback places a unique and additional burden on this lot in trying to meet the setback requirements for the front stairs while maintaining enough buildable area for the home;
- (2) Lot A-19 is the smallest of the “A” lots in this section of the Village at Seabrook and, therefore, has less room in which to accommodate the front stairs;
- (3) The extreme acute angles on the lot create areas that cannot be used, thereby reducing the buildable area of the lot compared to other lots in the vicinity; and
- (4) Granting the variance for only the front stairs will minimize the visual impact to the community and, further, the applicants intend to install landscaping to mitigate visual impact to the owners of lot A-18.

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

Mr. Pinckney asked when the current setback requirements went into effect. Zoning Administrator Cronin responded that the original PUD was adopted in 2001 but was last amended in 2020.

Mr. Leggett asked if the two structures would be at least 15 feet apart if the steps were allowed to encroach into the side yard setback on the right side. Zoning Administrator Cronin responded in the affirmative.

Mr. Pinckney asked if the design had been reviewed and approved by the regime and SIPOA. Ms. Katrina Burrell responded that a site visit has been conducted but no formal review had taken place.

Mr. Fox noted that the problem appears to have been caused by the design of a two-car driveway, which precludes the ability to turn the steps and stay within the setbacks.

Hearing 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.

- Paul Stoyanoff: Mr. Stoyanoff deferred to his architect, Ms. Rachel Burton of Swallowtail Architecture.
- Rachel Burton: Ms. Burton stated that the encroachment of the home to the right of the Stoyanoff's lot into the 7.5-foot side yard setback resulted in this home having to observe a larger setback requirement to ensure a minimum of 15 feet of separation between structures. She stated that this additional setback had a disproportionate effect on the design of the home. She added that the encroachment of the driveway from the neighboring lot also impacted this lot. She noted that this lot is the second smallest lot in the entire "A" section of the Village, and that its unique shape and sharp corners made it difficult to design a conforming home on the property.

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

Mr. Pinckney asked the architect if she had consulted with the owners prior to their purchase of the lot. Ms. Burton responded that she had. She stated that they knew it would be a tight fit.

Mr. Pinckney noted that the purchase price of the lot seemed low. He asked whether the price reflected the difficulty of placing a home on the lot. Ms. Burton responded that she could not say for sure what factors went into the purchase price.

Mr. Pinckney asked if there were truly any exceptional or extraordinary conditions. Ms. Burton responded that this lot and the neighboring lot are the two smallest lots in the "A" section of the Village and that they are substantially different than other lots.

Responding to the comment about the encroachment of the neighboring home having a disproportionate effect on this lot, Zoning Administrator Cronin asked the architect whether a variance from the 15-foot separation requirement, which would eliminate the so-called impact by allowing the home to be built up to the 7.5-foot setback line, would eliminate the need for a larger variance from the front and side yard setbacks. Ms. Burton stated that they didn't design a layout for this option.

Regarding Mr. Fox's comments about the driveway, Ms. Burton stated that not having a two-car driveway and garage would likely still require a variance for the front steps, but perhaps

not as large of a variance. Mr. Fox responded that he felt that the architect did a good job designing a home on a difficult lot.

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 three written comments from the following individuals:

- Robert Hulett: Mr. Hulett of 2259 Seabrook Island Road submitted a comment in favor of the variance request.
- Cathy Patterson: Ms. Patterson of 4064 Bridle Trail Drive submitted a comment in opposition to the variance request.
- Patrick Connelly: Mr. Connelly of 2255 Seabrook Island Road 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.

The applicants thanked the Board for their consideration of this request.

Chairman Sewell then opened the meeting for additional questions. There were no additional questions.

Chairman Sewell then called on Zoning Administrator Cronin to review the four criteria under state law which must be used by the Board when hearing and deciding variance requests.

Zoning Administrator Cronin stated that the Board has the power to hear and decide appeals for variance from the requirements of the zoning ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the Board makes and explains in writing the following findings:

- (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property;
- (2) These conditions do not generally apply to other property in the vicinity;
- (3) Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and

- (4) The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

Chairman Sewell noted that, in granting a variance, the Board has the authority to attach such conditions as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare. Referencing the staff write up contained within the agenda packet, Chairman Sewell stated that the Zoning Administrator had recommended attaching three conditions, should the Board vote to approve the variance request.

Chairman Sewell opened the floor for discussion.

Ms. Gorski stated that she felt the four criteria applied to the property.

Mr. Pinckney stated that he disagreed. He stated that there was nothing exceptional about this property; what's there was there when they bought the lot and he felt there was very little effort to avoid it.

Mr. Fox stated that he felt the applicants did the best they could with what they had to deal with given the size and irregular shape of the lot.

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 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 depth and location of the curved setback places a unique and additional burden on this lot in trying to meet the setback requirements for the front stairs while maintaining enough buildable area for the home;
 - b. Lot A-19 is the smallest of the "A" lots in this section of the Village at Seabrook and, therefore, has less room in which to accommodate the front stairs;

- c. The extreme acute angles on the lot create areas that cannot be used, thereby reducing the buildable area of the lot compared to other lots in the vicinity; and
- d. Granting the variance for only the front stairs will minimize the visual impact to the community and, further, the applicants intend to install landscaping to mitigate visual impact to the owners of lot A-18; therefore

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

- a. **The required 20-foot front yard setback for open steps, as specified in § 2 of Ord. 2020-01 (Village at Seabrook PUD), is hereby reduced to 15 feet; and**
- b. **The required 7.5-foot side yard setback, as specified in § 2 of Ord. 2020-01 (Village at Seabrook PUD), is hereby reduced to 1.1 feet.**

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
Mr. Fox
Ms. Gorski
Mr. Leggett

OPPOSED (NO)

Mr. Pinckney

The motion to grant the variance was **APPROVED** by a vote of 4-1.

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 11, 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 install enhanced landscaping along the shared property line with lot A-18 so as to screen the encroaching stairs from the neighboring property.
- (3) 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.

- (4) The variance shall expire on June 11, 2023 (two years from the date of approval) if the applicants fail to obtain a building permit on or before that date.

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

Chairman Sewell recessed the meeting at 3:40 PM.

The meeting was reconvened at 3:47 PM.

- 2. Variance #174: 3056 Seabrook Village Drive (Tax Map # 147-00-00-070):** Chairman Sewell introduced the pending variance request, which was submitted by Mark & Lynette Smith, the owners of 3056 Seabrook Village Drive. 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 #174. Chairman Sewell reminded Zoning Administrator Cronin that he was still under oath.

Zoning Administrator Cronin stated that the applicants were seeking approval to construct a new single-family home on the property. Because the rear porch of the proposed residence would encroach into the required rear yard setback, the applicants were seeking approval from the Board to grant relief from the following requirements, as provided by the Town's Development Standards Ordinance (DSO) and the Village at Seabrook Planned Unit Development Ordinance (PUD):

Type	Required Per PUD	Variance Requested
Rear Yard Setback	25 feet (Ord. 2020-01, § 2)	Reduce the rear yard setback requirement from 25 feet to approximately 18.7 feet (6.3-foot encroachment)

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

- (1) There are several grand trees on the property which have resulted in the home being moved further toward the rear of the lot; and
- (2) The encroachment will be situated along the shared property line with the Village's common open space and will not adversely impact neighboring residential lots.

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

Mr. Leggett asked how far from the pathway the proposed home would be located. Zoning Administrator Cronin responded that he did not know the exact distance from the pathway but noted that there was a bit of space between the pathway and the rear property line.

Mr. Pinckney asked about the tree preservation requirements for the lot. Since tree preservation requirements behind the security gate are handled by the SIPOA ARC, Ms. Burrell responded that some of the trees would be removed from the lot. She added that the ARC tries to determine which cluster of trees is best to be preserved as the project goes through the site plan review process. Mr. Fox noted that the house appeared to be moved toward the rear of the lot to preserve the grand trees at the front.

Hearing 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.

- Mark Smith: Mr. Smith stated that he and his wife have been homeowners on the island since 2005. He stated that they sold their previous property with the intent of building a larger house in the Village. In an effort to preserve the significant trees at the front of the lot, the structure had to move further toward the rear of the lot. He stated that they had originally intended to add a deck beyond the porch, but this was removed during the design process. He stated that they attempted to make the encroachment as least intrusive on neighboring properties, adding that the rear of the home would back up to Palmetto Lake.

Chairman Sewell asked if there were any questions for the applicants. There were no questions.

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 one written comment from the following individual:

- Wendy Walker: Ms. Walker, of 3052 Seabrook Village Drive, submitted a comment in support of the variance request, but asked if the HVAC equipment could be relocated so as not to be situated directly across from their screened porch.

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

Chairman Sewell asked the applicants if they wished to make any additional comments.

Mr. Smith stated that he would speak with his architect and attempt to move the HVAC equipment to another location.

Chairman Sewell then opened the meeting for additional questions. There were no additional questions.

Chairman Sewell then called on Zoning Administrator Cronin to review the four criteria under state law which must be used by the Board when hearing and deciding variance requests.

Zoning Administrator Cronin stated that the Board has the power to hear and decide appeals for variance from the requirements of the zoning ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the Board makes and explains in writing the following findings:

- (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property;
- (2) These conditions do not generally apply to other property in the vicinity;
- (3) Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
- (4) The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

Chairman Sewell noted that, in granting a variance, the Board has the authority to attach such conditions as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare. Referencing the staff write up contained within the agenda packet, Chairman Sewell stated that the Zoning Administrator had recommended attaching three conditions, should the Board vote to approve the variance request.

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 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. There are several grand trees on the property which have resulted in the home being moved further toward the rear of the lot; and
- b. The encroachment will be situated along the shared property line with the Village's common open space and will not adversely impact neighboring residential lots; therefore

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

- a. **The required 25-foot rear yard setback, as specified in § 2 of Ord. 2020-01 (Village at Seabrook PUD), is hereby reduced to 18.7 feet.**

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

Mr. Fox

Ms. Gorski

Mr. Leggett

Mr. Pinckney

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, Mr. Leggett 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 11, 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 expire on June 11, 2023 (two years from the date of approval) if the applicants fail to obtain a building permit on or before that date.

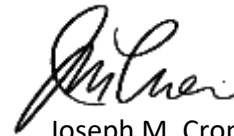
The motion to attach the conditions was **APPROVED** by a vote of 5-0.

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 4:12 PM.

Minutes Approved: June 29, 2021



Joseph M. Cronin
Zoning Administrator