



TOWN OF KIAWAH ISLAND

21 BEACHWALKER DRIVE • KIAWAH ISLAND, SC 29455 • (843) 766-9166 • FAX (843) 768-4784

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Tumiko Rucker

JUN 01 2009

TOWN OF KIAWAH ADMINISTRATOR Attn: TUMIKO RUCKER  
21 BEACHWALKER DR  
KIAWAH ISLAND, SC 29455

May 29, 2009

Refer to Board of Zoning Appeals **Case # BZAV-4-09-3706**

Recently you were notified of The Town of Kiawah Island Board of Zoning Appeals (BZA) public hearing held on **May 18, 2009** regarding a Variance request for the reduction of the required 30' rear yard setback along the lagoon for a proposed dining room/kitchen and screened porch addition encroachment of 126 square feet for the property located at 206 Glen Abbey (TMS# 264-14-00-117). This Variance request was **approved with a condition**. Please find an enclosed copy of the Order on Variance Application # **BZAV-4-09-3706**.

Sincerely,

Daniel C. Pennick, AICP  
BZA Secretary

DCP/rjh  
Cc: File BZAV-4-09-3706  
Enclosure



**Town of Kiawah Island  
Board of Zoning Appeals Final Decision and Order on  
Variance Application # BZAV-4-09-3706 for property  
located at 206 Glen Abbey**

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Findings of Fact

The Town of Kiawah Island Board of Zoning Appeals ("BZA") makes the following findings of fact pursuant to S.C. Code Ann. §6-29-800 and Article 12 of the *Town of Kiawah Island Code of Ordinances*, Article 12A *Land Use Planning/Zoning Ordinance* §12A-509. Based on the evidence presented at the hearing held May 18, 2009, to include the Planning Department's staff review and pursuant to §12A-509.4 of the Town's Code of Ordinances, the Town of Kiawah Island BZA finds that Steven A. Wells with Clancy Wells Architects ("the Applicant") filed an application on April 17, 2009, for a Zoning Variance for property identified as TMS # 264-14-00-117 and located at 206 Glen Abbey, Town of Kiawah Island, Charleston County, South Carolina. The Applicant requested a Zoning Variance for the reduction of the required 30' rear yard setback along the lagoon for a proposed dining room/kitchen and screened in porch addition encroachment of 126 square feet.

The BZA also finds that there are extraordinary and exceptional conditions pertaining to the property because the existing rear deck is a legal non-conforming structure which currently encroaches into the rear yard setback.

The BZA also finds that these setback conditions do not generally apply to other properties in the vicinity because recently two rear yard setback reduction variance requests were approved on Glen Abbey.

The BZA also finds that the application of this Ordinance to 206 Glen Abbey would prohibit the proposed screened in porch addition and a portion of the proposed kitchen addition to the existing residence as shown on the proposed site plans.

The BZA also finds that the authorization of this variance will not be of substantial detriment to the adjacent properties or to the public good and the character of the Residential (R-1) Zoning District will not be harmed by the granting of this variance because the proposed screened in porch will not extend beyond the furthestmost extension of the rear of the existing residence on the subject property. Therefore, the proposed additions will not further obstruct the view from adjacent parcels.

The BZA also finds that granting of this variance would not allow the establishment of a use not otherwise permitted in this zoning district, extend physically a nonconforming use of land, or change the zoning district boundaries.

The BZA also finds that the fact that property may be utilized more profitably, by granting the variance, was not considered grounds for this variance approval.

The BZA also finds the need for the variance is not the result of the applicant's own actions because the existing rear deck is a legal non-conforming structure which currently encroaches into the 30' rear yard setback. Any expansion of the deck along the rear of the residence beyond its current location would require an approved variance.

The BZA also finds that granting of this variance will not be contrary to the public or neighborhood interest, nor will not adversely affect other property in the vicinity, nor interfere with the harmony, spirit, intent, and purpose of these regulations because a letter was submitted

from the KIARB dated September 16, 2008, stating, "The ARB approves the rear yard setback variance due to the reduction of existing deck encroachment."

The BZA also finds that granting of this variance does not substantially conflict with the *Comprehensive Plan* or the purposes of this *Ordinance* because the proposed additions would reduce the rear yard setback encroachment from 281 square feet to 126 square feet and reduce the total lot coverage.

The BZA also finds that the applicant shall meet the following condition:

1. Prior to zoning permit approval, the applicant shall submit a landscape plan approved by the Kiawah Island ARB and install the appropriate vegetation around the improvements as shown on the approved plan.

#### Conclusions of Law

The BZA is authorized pursuant to S.C. Code Ann. §6-29-800 and Article 12 of the *Town of Kiawah Island Code of Ordinances*, Article 12A *Land Use Planning/Zoning Ordinance* §12A-509 to hear and approve, approve with conditions, or deny zoning variances. Based upon the findings of fact, the Board of Zoning Appeals concludes as a matter of law that the applicant's request for the zoning variance satisfies the Approval Criteria in the *Land Use Planning/Zoning Ordinance* §12A-509.4. A party in interest may appeal this decision to the Circuit Court of Charleston County within 30 calendar days after the decision of the Board of Zoning Appeals is mailed.

**THEREFORE**, the Town of Kiawah Island Board of Zoning Appeals approves this zoning variance request for the reduction of the required 30' rear yard setback along the lagoon for a proposed dining room/kitchen and screened in porch addition encroachment of 126 square feet at 206 Glen Abbey with the above referenced condition.



Daniel C. Pennick, AICP  
BZA Secretary

Date issued: May 18, 2009

Date mailed to parties in interest: May 29, 2009