



Planning

Kiawah Island BZA Variance Application Package

Forms to be returned to the Planning Department with Items 1-8

- Variance Application
- Restrictive Covenants Affidavit
- Variance Approval Criteria
- Owners signature information memo

Variance Application

Town of Kiawah Island Board of Zoning Appeals

Submit applications via email to
jtaylor@kiawahisland.org or
Town of Kiawah Island Municipal Center
Planning Department
4475 Betsy Kerrison Parkway
Kiawah Island, SC 29455
Phone 843-768-9166
Fax 843-768-4764



This application must be complete and submitted in person to the Town of Kiawah Island Planning Department in order to apply for a Variance. Please read the entire form prior to completing the application. The applicant shall receive a copy of this completed form at the time the application is filed. **This application will be returned to the applicant within fifteen (15) working days if these items are not submitted with the application or if any are found to be inaccurate:**

1. Copy of **Current Recorded Deed** to the property. If the applicant is not the owner of the property, the **Current Property Owner(s)** must sign and print the **Designation of Agent** found below.
2. **Restrictive Covenants Affidavit** signed by the applicant or current property owner(s).
3. A **letter of intent** signed by the applicant or property owner(s) stating the reason for the request that explains why this request should be granted and how it meets the Approval Criteria.
4. An accurate, legible **Site Plan drawn to Engineer's Scale** must be attached. The site plan must show property dimensions, dimensions and locations of all existing and proposed structures and improvements, parking areas, Grand trees (24" DBH or greater), wetlands (properties containing DHEC-OCRM Critical Line areas must contain an up to date DHEC-OCRM signature on the site plan or plat), holding basins and buffers when applicable. **One (1) 24 x 36 copy and twenty (20) 11 x 17 copies.**
5. **Twenty (20)** copies of a legible **Approved and Recorded Plat** showing present boundaries of property.
6. If requesting a variance from property or OCRM Critical Line setbacks, the footprint of the proposed structure that encroaches on the required setback must be staked out on the property prior to submitting this application.
7. **ARB stamp and signature or approval letter.**
8. **Fee \$300** check made out to "Town of Kiawah Island".

Applicant Name:

Mailing Address:

City, State, ZIP Code: Daytime Phone #:

Subject Property Address:

Variance Description:

[Applicant Signature] [Date]

[Applicant Email Address]

Designation of Agent *(Complete only if owner is not applicant).*

I hereby appoint the person named as Applicant as my (our) agent to represent me (us) in this application.

[Owner Print Name] [Date] [Owner Mailing Address]

[Owner Signature] [City, State, ZIP Code]

[Owner Email Address]

FOR OFFICE USE ONLY

Application #:

Flood Zone:

Zoning District:

Fee Paid (\$300):

Date Filed:

Zoning Officer:

TMS #:

Permit Application: Restrictive Covenants Affidavit

Town of Kiawah Island

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4475 Betsy Kerrison Parkway
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I, , have reviewed the restrictive covenants
[Print Name]
applicable to Parcel Identification Number(s) , located
at (address) , and the proposed permit application is not
contrary to, does not conflict with, and is not prohibited by any of the restrictive
covenants, as specified in South Carolina Code of Laws, Section 6-29-1145.

[Print Name]

[Signature]

[Date]

Explanation:

Effective July 1, 2007, South Carolina Code of Laws Section 6-29-1145 requires local governments to inquire in the permit application, or in written instructions provided to the applicant, if a tract or parcel of land is restricted by a recorded covenant that is contrary to, conflicts with or prohibits an activity for which a permit is being sought.

[Section 6-29-1145 is copied on the back of this page].

FOR STAFF USE ONLY

[Received By]

[Date]

[Application #]

Section 6-29-1145

- A. "In an application for a permit, the local planning agency must inquire in the application or by written instructions to an applicant whether the tract or parcel of land is restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the permitted activity.
- B. If a local planning agency has actual notice of a restrictive covenant on a tract or parcel of land that is contrary to, conflicts with, or prohibits the permitted activity:
1. in the application for the permit;
 2. from materials or information submitted by the person or persons requesting the permit; or
 3. from any other source including, but not limited to, other property holders, the local planning agency must not issue the permit unless the local planning agency receives confirmation from the applicant that the restrictive covenant has been released for the tract or parcel of land by action of the appropriate authority or property holders or by court order.
- C. As used in this section:
1. 'actual notice' is not constructive notice of documents filed in local offices concerning the property, and does not require the local planning agency to conduct searches in any records offices for filed restrictive covenants;
 2. 'permit' does not mean an authorization to build or place a structure on a tract or parcel of land; and
 3. 'restrictive covenant' does not mean a restriction concerning a type of structure that may be built or placed on a tract or parcel of land."



Town of Kiawah Island: Land Use Planning and Zoning Ordinance

APPROVAL CRITERIA FOR VARIANCES

The Town of Kiawah Island Land Use Planning and Zoning Ordinance, Sec. 12-163.(4), Approval Criteria for Variances. The Board of Zoning Appeals may grant a variance only if exceptional circumstances exist, and where practical difficulty or unnecessary hardship is substantial, serious and compelling that relaxation of the general restrictions ought to be granted. No variance shall be granted unless the applicant shall show and the Board of Zoning Appeals shall find that:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property;**
- b. These conditions do not generally apply to other property in the vicinity;**
- c. 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;**
- d. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the zoning district will not be harmed by the granting of the variance;**
- e. The Board of Zoning Appeals shall not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land, or to change the zoning district boundaries shown on the official zoning map;**
- f. The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance;**
- g. The need for the variance shall not be the result of the applicant's own actions;**
- h. Granting the 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; and**
- i. Granting of the variance does not substantially conflict with the Comprehensive Plan or the purposes of this Ordinance.**



Daniel C. Pennick, AICP
Zoning/Planning Director

843.202.7200
1.800.524.7832
Fax: 843.202.7222
Lonnie Hamilton, III
Public Services Building
4045 Bridge View Drive
North Charleston, SC 29405-7464

TO: Variance and Special Exception Applicants
FROM: Jenny J. Werking, AICP
DATE: April 30, 2008
SUBJECT: Signatures for Variance and Special Exception Applications

This memo is to inform potential and current Variance and Special Exception applicants of the documentation required for signatures on the applications. All signed documents submitted must be the original documents (no copies). All signed documents must be dated by the person(s) signing the document.

General:

Variance and Special Exception applications must be signed by all property owners as listed on the current, recorded deed of record for the subject property(ies). If more than one parcel is included in the request, the parcels may only be placed on the same application if (1) they are in the same zoning district; (2) they are owned by the same person(s) or entity(ies); (3) the properties are contiguous; and (4) the Variance or Special Exception request is the same (i.e. a tree variance and a setback variance would be a separate request, requiring an additional application and fee.) Planning Staff will determine if separate applications are necessary. Please consult Planning Staff in advance with any questions regarding this procedure.

Properties owned by corporations or partnerships:

Supporting documentation regarding owner signatures is required for properties that are owned by corporations or partnerships. As part of the Variance or Special Exception application, the applicant must submit a letter from an attorney that (1) states who can sign for the corporation or partnership and (2) describes that person's role in the corporation or partnership. This letter must be notarized and must include the raised seal of the notary.

Properties for which there are multiple owners:

Applicants for properties that are owned by multiple persons (as shown on the current, recorded deed) may submit separate sheets (other than the application) for the signatures of the owners on a case by case basis. If this is permitted, one property owner must sign on the application and each of the other owners must sign a statement that reads "I have read the application for and agree with the request for the Variance or Special Exception on property located at TMS # _____ (describe Variance or Special Exception request)" This statement must be notarized (with the raised seal) and submitted as part of the application.