

**TOWN OF JAMES ISLAND  
BOARD OF ZONING APPEALS  
Town Hall  
1122 Dills Bluff Road, James Island, SC 29412  
BZA AGENDA  
August 21, 2018  
7:00 PM**

NOTICE OF THIS MEETING WAS POSTED IN ACCORDANCE WITH THE FREEDOM OF INFORMATION ACT

- I. CALL TO ORDER
- II. PRAYER AND PLEDGE
- III. COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT
- IV. INTRODUCTIONS
- V. REVIEW SUMMARIES AND RULINGS FROM THE JUNE 19, 2018 BZA MEETING
  1. BZAV-4-18-015  
TMS #425-02-00-046  
Variance request for the reduction of the 5' required accessory structure setback by 1.6' to 3.4' for the placement of a pavillion accessory structure on existing slab in the Low-Density Suburban Residential District (RSL) at 1792 Enoree Lane  
**DENIED**
- VI. BRIEF THE PUBLIC ON THE PROCEDURES OF THE BZA
- VII. ADMINISTER THE OATH TO THOSE PRESENTING TESTIMONY
- VIII. REVIEW OF THE FOLLOWING APPLICATIONS:  
**NEW BUSINESS:**
  1. BZAV-7-18-017  
TMS #426-08-00-079  
Variance request for the reduction of the 10' required side setback by 4.1' to 5.9' for a single-family home in the Low-Density Suburban Residential District (RSL) at 911 White Point Boulevard
  2. BZAV-7-18-018  
TMS #454-10-00-179  
Variance request for the reduction of the 10' required side setback by 4.1' to 5.9' for a single-family home in the Low-Density Suburban Residential District (RSL) at 728 Canopy Cove
- IX. Next Meeting: September 18, 2018
- X. ADJOURN

\*Full packet available for public review Monday through Friday during normal business hours.

TOWN OF JAMES ISLAND  
BOARD OF ZONING APPEALS (BZA)  
SUMMARY OF JULY 17, 2018

Members present: Mr. Jim Fralix, Mr. Jason Gregorie, Vice Chairman, Mr. Roy Smith, and Mrs. Brook Lyon, Chairman. Also, Kristen Crane, Planning Director, Bo Wilson, BZA Attorney, Mark Johnson, Public Works Director and Robin Flood (substituting for Frances Simmons, Secretary to the BZA and Town Clerk).

Call to Order: Chairwoman Lyon called the Board of Zoning Appeals meeting to order at 7:04 p.m. A quorum was present to conduct business.

Prayer and Pledge: Chairman Lyon asked members of the BZA and others who wished, to join the prayer and Pledge of Allegiance.

Compliance with FOIA: Chairwoman Lyon announced that this meeting has been noticed in compliance with the South Carolina Freedom of Information Act.

Introductions: Chairwoman Lyon introduced the members of the BZA, BZA Attorney and staff.

Review Summary and Rulings from the June 19, 2018 BZA Meeting: Chairwoman Lyon asked if there were changes, if not, a motion and second is required to approve. Motion to approve was made by Mr. Fralix, seconded by Mr. Gregorie and passed unanimously.

OLD BUSINESS (Resumed)

1. BZAV-4-18-015

TMS # 425-02-00-046

Variance request for the reduction of the 5' required accessory structure setback by 1.6' to 3.4' for the placement of a pavilion accessory structure on existing slab in the Low-Density Suburban Residential District (RSL) at 1792 Enoree Lane.

Brief the Public on the Procedures of the BZA: Chairwoman Lyon explained how the Board of Zoning Appeals Hearing would be conducted.

Administer the Oath to Persons Presenting Testimony: Attorney Wilson swore in the persons who wished to provide testimony in tonight's cases.

Chairwoman Lyon asked for a motion to resume the meeting (bring back to the table) to continue discussion. Motion made by Mr. Smith, seconded by Mr. Fralix. All were in favor and the motion carried. Chairwoman Lyon asked for a motion to enter into an Executive Session to review information requested from Mr. Wilson, BZA Attorney. Motion was made by Mr. Smith, seconded by Mr. Fralix. All were in favor and the motion carried.

The Board returned from Executive Session at 7:20 p.m. upon a motion by Mr. Fralix and a second by Mr. Smith. All were in favor to return to regular session.

Chairwoman Lyon continued the meeting that was held on June 19 and asked for a motion to approve, approve with conditions or deny the variance in order to have discussion. Mr. Smith

moved to approve the variance and Mr. Gregorie seconded. Chairwoman Lyon asked for discussion. Mr. Gregorie acknowledged covenants exists but he will base his vote on the case criteria. Chairwoman Lyon asked for additional comments or further discussion. Mr. Smith acknowledged that this case was difficult for him because he understands the applicants concerns. However, he expects people to follow the proper procedures. Mr. Smith said he will not hold honest mistakes against them and they tried to fulfill the requirements regarding the property. He said conditions do not apply to other properties in that neighborhood, as the slab was existing. If the original building was not in good shape, it had to be torn down. Chairwoman Lyon thanked Mr. Smith for his comments.

Mr. Fralix echoed Mr. Gregorie's comments. Mr. Smith also mentioned that he is in agreement with Mr. Gregorie and Mr. Fralix regarding the covenants and we are here for a zoning ordinance.

Chairwoman Lyon spoke of concern regarding the applicant's action. While there was an existing slab, they needed to get a permit for construction. She also expressed concern about the applicant meeting all of the criteria, i.e., "C and F". She noted for approval, all criteria must be met. Chairwoman Lyon also noted concern about the overhang of the roof being only a foot from the property line and water runoff. However, that is not part of her concern for meeting all of the criteria. Chairwoman Lyon felt the applicants did not meet "F" which states the need for a variance is not the result of the applicants own action. After discussion, the vote was called and recorded as follows:

|                 |     |
|-----------------|-----|
| Mr. Fralix      | nay |
| Mr. Gregorie    | aye |
| Mr. Smith       | aye |
| Chairwoman Lyon | nay |

Vote tied 2-2; and failed

Chairwoman Lyon explained that the request was not approved as the majority of the Board felt the applicant did not meet all criteria. She said the final decision of the Board would be mailed to the applicant regarding the denial and they should contact the Planning Director if they have questions.

Next Meeting: The next BZA will be held on August 21 at the New Town Hall, 1122 Dills Bluff Road.

Adjourn: There being no further business to come before the body, the meeting adjourned at 7:36 p.m.

Respectfully submitted:

Robin Flood, Revenue Collection Specialist

# Variance Application

## Town of James Island Board of Zoning Appeals

Town of James Island  
Zoning/Planning Department  
1238-B Camp Road  
James Island, SC 29412  
Phone 843-795-4141  
Fax 843-795-4878  
[www.jamesislandsc.us](http://www.jamesislandsc.us)



This application must be complete and submitted in person to the Town of James Island Zoning/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) Completed Variance application signed by the current property owner(s).
- 2) Copy of Current Recorded Deed to the property (Owner's signature must match documentation). 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.
- 3) Restrictive Covenants & Posted Notice Affidavit(s) signed by the applicant or current property owner(s).
- 4) 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 of §153.049 F. All proposed Variances, except single family, shall satisfy the Site Plan Review process and attend at least one Site Plan Review meeting prior to submitting this application.
- 5) An accurate, legible Site Plan drawn to Engineers 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, Pine, Sweetgum, SC Invasive Pest Trees are exempt), wetlands (properties containing DHEC-OCRM Critical Line areas must contain an up to date DHEC-OCRM signature on site plan or plat), holding basins and buffers when applicable.  
One 24 x 36 copy & fifteen (15) 11 x 17 copies.
- 6) Copy of a legible Approved and Recorded Plat showing present boundaries of property.
- 7) Fee \$250 check made out to "Town of James Island". Grand tree variances add \$50 each additional tree

Applicant Name: Thomas & Kim Willis  
Mailing Address: PO Box 80201  
City, State, Zip Code: Charleston, SC 29416 Daytime Phone: 843-327-3791  
Email Address: CamTCW@icloud.com  
Subject Property Address: 911 White Point Blvd  
Present Use of Property: New Construction  
Variance Description: Garage is in setback 4.1' reduction  
CM 7-18-18  
Applicant Signature \_\_\_\_\_ Date \_\_\_\_\_

Designation of Agent (Complete only if owner is not applicant): I hereby appoint the person named as Applicant above as my (our) agent to represent me (us) in this application.

Owner Print Name \_\_\_\_\_ Date \_\_\_\_\_ Owner Mailing Address \_\_\_\_\_  
Owner Signature \_\_\_\_\_ City, State, Zip Code \_\_\_\_\_

### FOR OFFICE USE ONLY:

Application #: BZAV-7-18-017

Flood Zone: AE-12/13/14

Zoning District: PSL

Fee Paid (\$250): ck # 2290

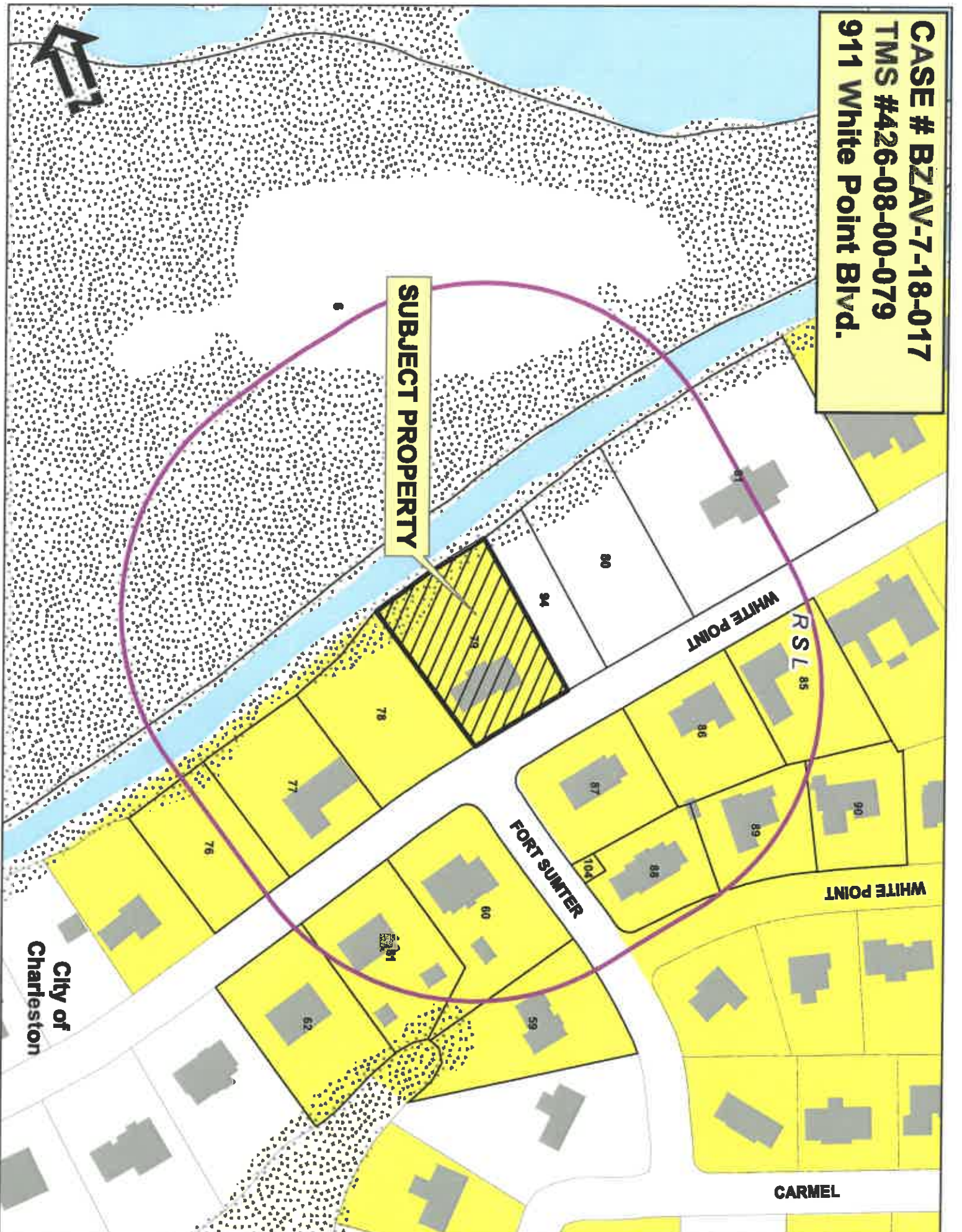
Date Filed: 7/20/2018

Zoning Officer: GC

TMS#: 4216-08-00-079

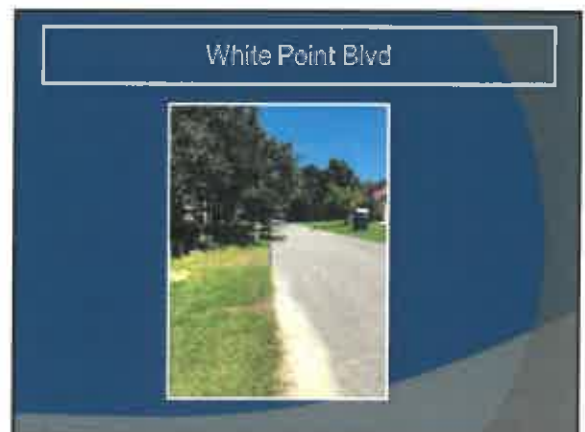
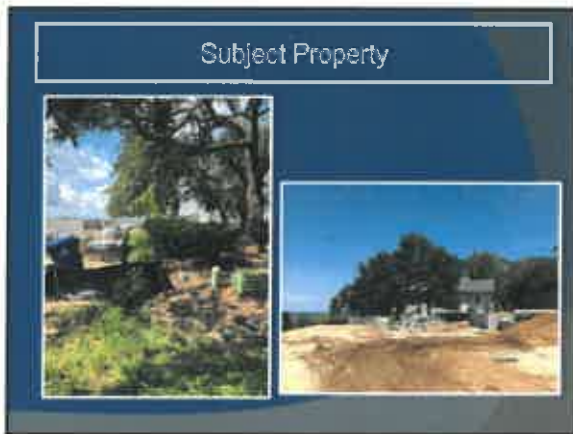
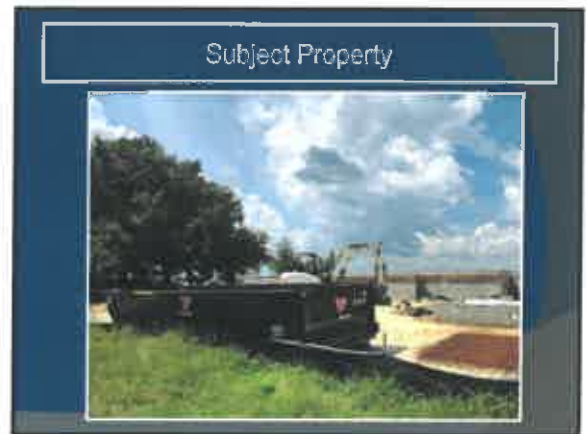
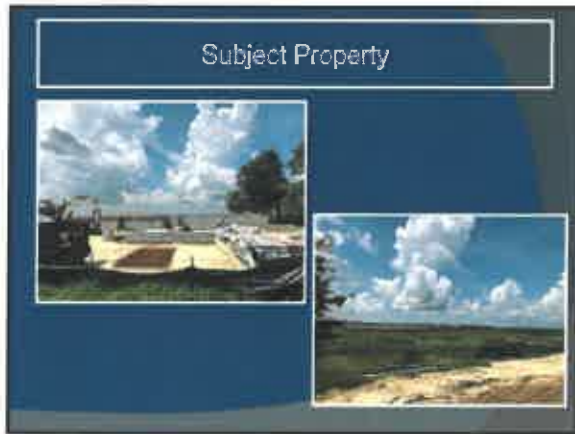
**CASE # BZAV-7-18-017**  
**TMS #426-08-00-079**  
**911 White Point Blvd.**

**SUBJECT PROPERTY**



**City of  
Charleston**

**CARMEL**



**Staff Review:**

The applicants, Mr. Thomas and Mrs. Kim Wills are requesting a Variance for the reduction of the 10' required side setback by 4.1' to 5.9' for the construction of a new single-family home in the Low-Density Suburban Residential (RSL) Zoning District at 911 White Point Blvd (TMS #426-08-00-079). Adjacent properties to the south and west are also in the RSL Zoning District and are in the Town of James Island's jurisdiction. Property to the east is single-family in nature, and is in the City of Charleston. Property to the north is marsh.

*Town of James Island Zoning and Land Development Regulations, §153.070 states that all development in the RSL district shall be subject to the following density, intensity and dimensional standards: **Minimum Setbacks, Interior Side: 10 feet.***

The subject property contained one single-family home that was constructed in 1972 per Charleston County records. The current property owners purchased the property in January 2017 and demolished the existing dwelling in January of 2018. A zoning permit was issued on January 22, 2018 for the construction of a new single family home within the required setbacks. During construction of the foundation, it was discovered that the garage extended 4.1' into the side setback. According to the applicant's letter of intent, the contractor feels that "heavy rains during foundation preparation, as well as a property line obscured by plantings contributed to this mistake". Please review the attached documents for further information regarding this request.

**Findings of Fact:**

*According to §153.049 F, Zoning Variance Approval Criteria of the Town of James Island Zoning and Land Development Regulations Ordinance (ZLDR), The Board of Zoning Appeals has the authority to hear and decide appeals for a Zoning Variance when strict application of the provisions of this Ordinance would result in unnecessary hardship. A Zoning Variance may be granted in an individual case of unnecessary hardship if the Board of Appeals makes and explains in writing the following findings:*

**F (a):** *There are extraordinary and exceptional conditions pertaining to the particular piece of property;*

**Response:** **There may be extraordinary and exceptional conditions pertaining to this piece of property. The positioning of the house on the site plan, in addition to the side property lines of the parcel not being parallel, may have contributed to the encroachment of the side setback during the building process.**

**F (b):** *These conditions do not generally apply to other property in the vicinity;*

**Response:** **These conditions may not generally apply to other property in the vicinity because the majority of parcels in the surrounding area have been developed.**

F (c): *Because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property;*

**Response:** The application of this Ordinance, §153.070, to the subject property would prohibit construction of the home in its existing location. The demolition of the current foundation and the re-construction of the foundation in its correct location in relation to the existing interior setbacks would be required.

F (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;*

**Response:** The character of the zoning district should not be harmed and the authorization of the variance should not be of substantial detriment to adjacent property. The letter of Intent states, "Our neighbors in proximity to the garage, are not in objection to the variance."

F (e): *The Board of Zoning Appeals shall not grant a variance to the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a non-conforming use of land or to change the zoning district boundaries shown on the Official Zoning Map;*

**Response:** The variance does not allow a use that is not permitted in this zoning district, nor does it extend physically a nonconforming use of land or change the zoning district boundaries.

F (f): *The need for the variance is not the result of the applicant's own actions; and*

**Response:** The need for the variance may not be the result of the applicant's own actions because the applicant began construction with approved zoning and building permits. The letter of Intent states, "Our contractor feels that heavy rains during foundation preparation contributed to this mistake." In addition, "We feel the issue was an honest mistake."

F (g): *Granting of the variance does not substantially conflict with the Comprehensive Plan or the purposes of this Ordinance.*

**Response:** The granting of the variance does not substantially conflict with the Comprehensive Plan or the purposes of this Ordinance.



*In granting a Variance, the Board of Zoning Appeals may attach to it such conditions regarding the location, character, or other features of the proposed building or structure 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 (§153.045 E 2).*

**Action:**

The Board of Zoning Appeals may approve, approve with conditions or deny Case # BZAV-7-18-017 (Variance request for the reduction of the 10' required accessory structure setback by 4.1' to 5.9' for the construction of a new single-family home) based on the "Findings of Fact" listed above, unless additional information is deemed necessary to make an informed decision.

**153.049 zoning variance explanation letter**

**We are requesting a right set back variance, due to contractor error.**

**Our site plan was approved by the zoning department.**

**In the framing stage of construction, our contractor noticed that our garage was four feet within the right side setback.**

**We were unaware of the issue.**

**Our contractor feels heavy rains during foundation preparation was a contributing factor for the mistake.**

**Also, the right property line was obscured by plantings. The garage is at an odd angle making the property line very hard to visualize.**

**Meyer and Lynn Moore, our neighbors in proximity to the garage, are not in objection to the variance.**

**There have been no objections to our variance request by adjacent neighbors.**

**The extra space provided on the left setback will save several trees on that property line.**

**The portion of the garage that protrudes into the setback shields our hvac systems from the road.**

**No utilities would be affected by the variance.**

**We apologize for the issue. We are happy with our contractor. We feel the issue was an honest mistake.**

**Thank your for considering or variance request.**

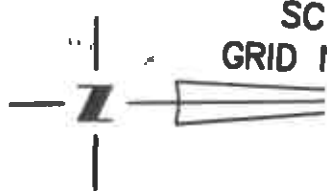
**Cam and Kim Wills**

**Po box 80201**

**Charleston sc, 29416**

**843-327-3791**

SC  
GRID 1



NOW OR FORMERLY  
PATRICK H DENNIS  
TMS# 426-08-00-078  
DB: V098 PG 131

10

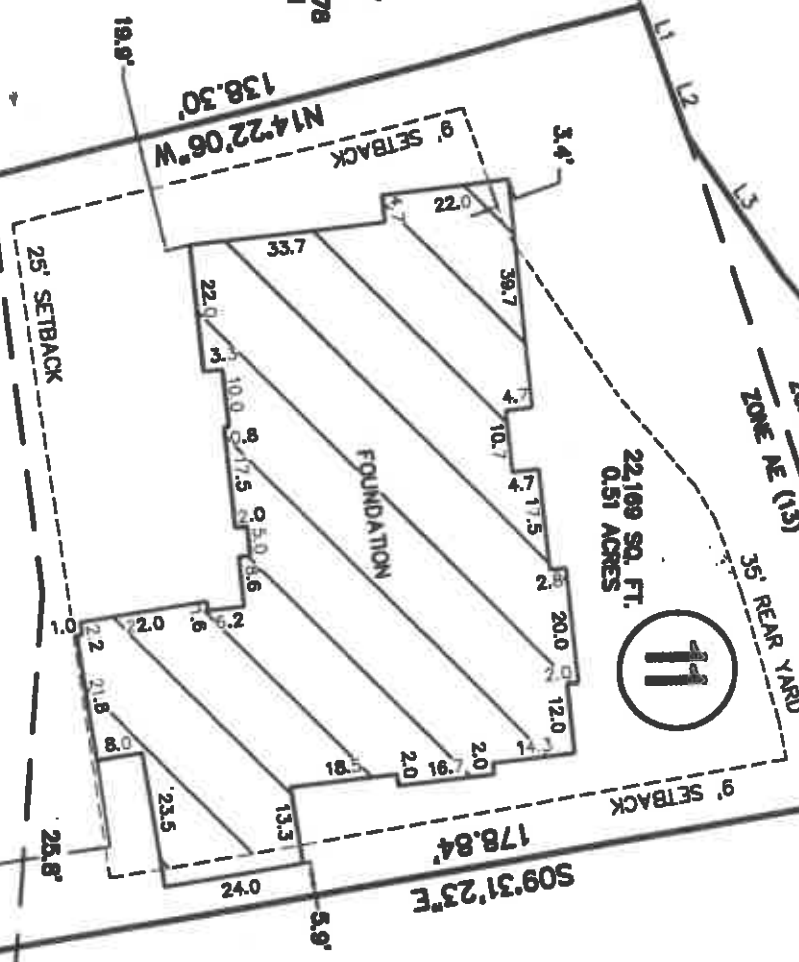
ZONE AE (14)  
ZONE AE (15)

22,169 SQ. FT.  
0.51 ACRES

11

35' REAR YARD

FUTURE ACCESS  
NOW OR FORMERLY  
WHITE POINT 1 LLC  
TMS# 426-08-00-094  
DB: 0516 PG 609



ZONE AE (15)  
ZONE AE (12)

$S74^{\circ}56'43''W$   
 $124.52'$

50' R/W

$S81^{\circ}24'42''W$   
 $130.00'$

#911 WHITE POINT BLVD

THIS PROPERTY MAY BE SUBJECT TO ANY AND ALL APPLICABLE DEED  
RESTRICTIONS, EASEMENTS, RIGHT-OF-WAY, UTILITIES AND  
RESTRICTIVE COVENANTS WHICH MAY BE OF RECORD OR IMPLIED

TMS 426-08-00-079

FLOOD NOTE:  
PROPERTY APPEARS TO BE LOCATED IN FLOOD  
ZONE AE 12, 13 & 14 AS PER FRM MAP  
45019C 0518A, REVISED NOVEMBER 17, 2004.

## Flannery Wood

---

**From:** Kristen Crane  
**Sent:** Wednesday, August 15, 2018 10:16 AM  
**To:** Flannery Wood  
**Subject:** FW: Neighbors email in support of my variance.

Kristen Crane

**From:** Cam Wills <camtcw@icloud.com>  
**Sent:** Tuesday, August 14, 2018 10:31 AM  
**To:** Kristen Crane <kcrane@jamesislandsc.us>  
**Subject:** Neighbors email in support of my variance.

Begin forwarded message:

**From:** Meyer Moore <[meyermoore@yahoo.com](mailto:meyermoore@yahoo.com)>  
**Date:** August 14, 2018 at 10:05:38 AM EDT  
**To:** "[camtcw@icloud.com](mailto:camtcw@icloud.com)" <[camtcw@icloud.com](mailto:camtcw@icloud.com)>  
**Subject:** Encroachment  
**Reply-To:** Meyer Moore <[meyermoore@yahoo.com](mailto:meyermoore@yahoo.com)>

Cam,

As the owners of the property bordering where your garage foundation is slightly into the required setback.  
We have no objection to a variance being issued.

Meyer Moore  
917 White Point Blvd  
Charleston, SC 29412  
803-429-0699

912 White Point Boulevard  
Charleston, SC 29412

August 11, 2018

Town of James Island  
Board of Zoning Appeals  
1122 Dills Bluff Road  
James Island, SC 29412

RECEIVED

AUG 14 2018

BY: 

Re: Variance Request Notification  
911 White Point Boulevard  
Case # BZAV-7-18-017

To the Members of the Board of Zoning Appeals:

Our home is directly across White Point Boulevard from the subject property. We take exception to the request for the variance. In talking by telephone with Ms. Kristen Crane, Planning Director, on August 7, 2018, I questioned the reasoning for this variance, and asked why construction was being allowed to continue prior to a variance approval. Ms. Crane said that because the weather was very rainy when the house was laid out, chalk lines were washed away. Having been in construction and engineering during my professional career (I was formerly a registered professional engineer and registered land surveyor), I know that buildings are not (or should not) be laid out with chalk lines. The normal way is to build batter boards with string lines for the layout of the foundations and foundation walls of a structure. These, if maintained do not wash away. In actuality, some batter boards were constructed, but obviously in error of location. It is inconceivable that the structure could be located with an error of about five feet when this scale of error is apparent by eye without using any survey instruments. Property corners of the subject lot had been either set or recovered prior to the start of construction, and were readily observable for reference in laying out the structure.

Ms. Crane also said that the builder was working on the structure at his own risk. When I spoke to Ms. Crane, the foundation walls were essentially completed, and the walls were being backfilled. On the date of this letter, concrete was being placed for the main floor slab of the structure. This makes me feel that the variance has essentially been granted, and the builder is doing as much work as possible, including Saturdays and Sundays, so he can use the cost of the work as a tool to show the financial ramification of having to meet the proper requirements of constructing the structure.

I also have two other questions, not necessarily related to the variance. First, why was the construction entrance not installed according to South Carolina Office of Coastal Resource Management requirements? OCRM requires coarse crushed rock to be installed to the edge of the pavement of the frontage road to minimize the tracking of dirt and sediment to the pavement. The construction entrance rock stops approximately six to eight feet from the pavement with construction vehicles tracking a considerable amount of dirt onto the adjacent pavement (the bare part of the construction entrance crosses a shallow drainage ditch which is being churned up by construction vehicles). My second question is regarding the maintenance of silt fencing along the White Point Boulevard side of the property. There are several portions of the fencing that are knocked down or needs to be tightened. Is this going to be done?

For these reasons, I urge you not to approve this variance.

Sincerely,



Edwin G. Kridler

# Variance Application

## Town of James Island Board of Zoning Appeals

Town of James Island  
Zoning/Planning Department  
1238-B Camp Road  
James Island, SC 29412  
Phone 843-795-4141  
Fax 843-795-4878  
www.jamesislandsc.us



This application must be complete and submitted in person to the Town of James Island Zoning/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) Completed Variance application signed by the current property owner(s).
- 2) Copy of Current Recorded Deed to the property (Owner's signature must match documentation). 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.
- 3) Restrictive Covenants & Posted Notice Affidavit(s) signed by the applicant or current property owner(s).
- 4) 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 of §153.049 F. All proposed Variances, except single family, shall satisfy the Site Plan Review process and attend at least one Site Plan Review meeting prior to submitting this application.
- 5) An accurate, legible Site Plan drawn to Engineers 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, Pine, Sweetgum, SC Invasive Pest Trees are exempt), wetlands(properties containing DHEC-OCRM Critical Line areas must contain an up to date DHEC-OCRM signature on site plan or plat), holding basins and buffers when applicable.  
One 24 x 36 copy & fifteen (15) 11 x 17 copies.
- 6) Copy of a legible Approved and Recorded Plat showing present boundaries of property.
- 7) Fee \$250 check made out to "Town of James Island". Grand tree variances add \$50 each additional tree

Applicant Name: Shannon and James Oleksak

Mailing Address: 1061 Harborturne Road

City, State, Zip Code: Charleston, SC 29412 Daytime Phone: (843) 813-1431, (843) 810-5269

Email Address: hello@shannanoleksak.com, oleksakjake@gmail.com

Subject Property Address: 728 Canopy Lane Charleston, SC 29412

Present Use of Property: vacant lot

Variance Description: requesting a 4.1' encroachment in the 10' side setback

*[Signature]*  
Applicant Signature

Date: 7/24/18 to remain outside opposite side tree canopy

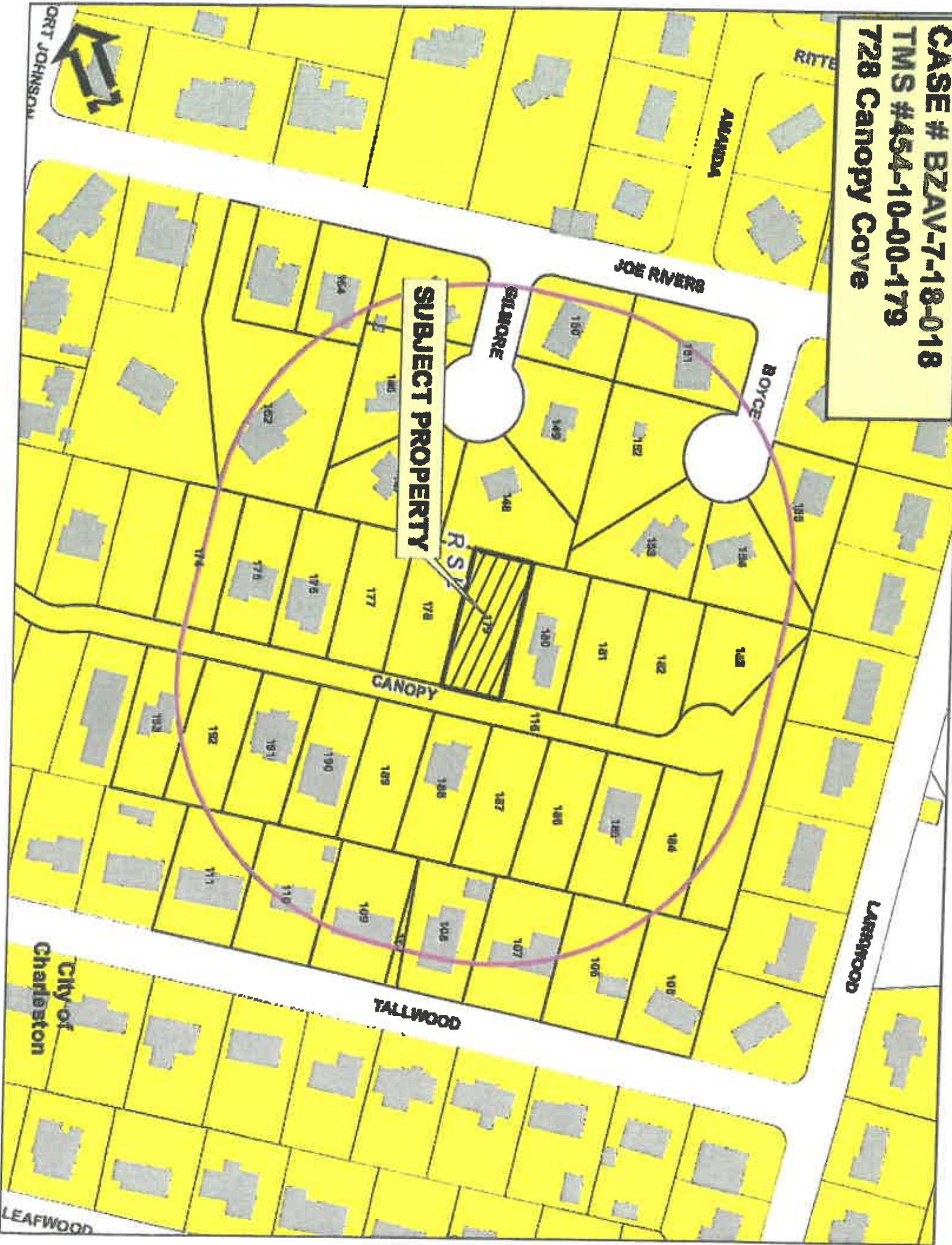
Designation of Agent (Complete only if owner is not applicant): I hereby appoint the person named as Applicant above as my (our) agent to represent me (us) in this application.

Owner Print Name \_\_\_\_\_ Date \_\_\_\_\_ Owner Mailing Address \_\_\_\_\_

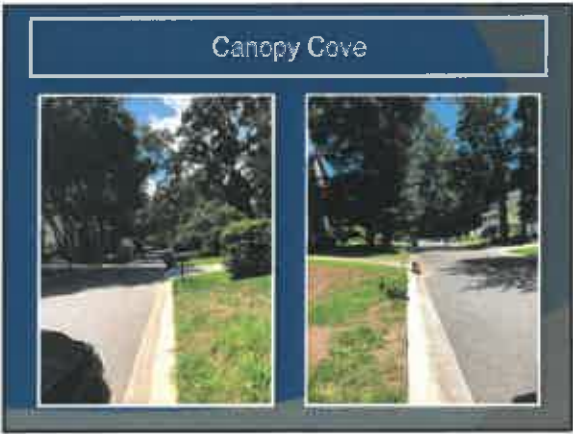
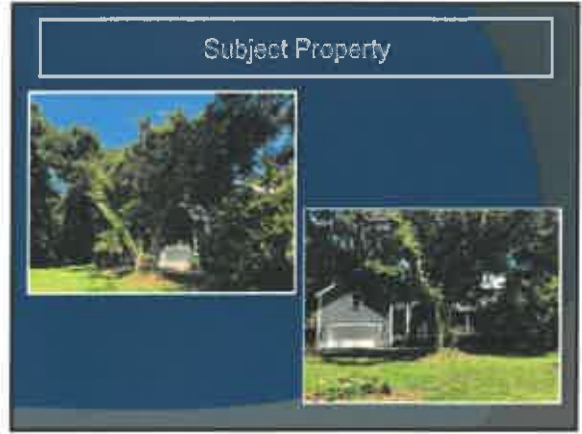
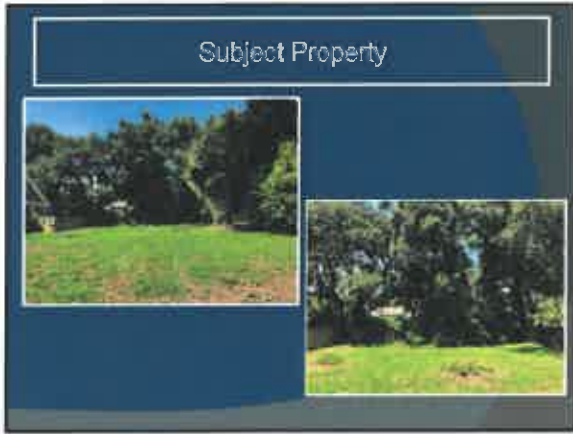
Owner Signature \_\_\_\_\_ City, State, Zip Code \_\_\_\_\_

|                                     |                            |
|-------------------------------------|----------------------------|
| FOR OFFICE USE ONLY:                |                            |
| Application #: <u>B2AV-7-18-018</u> | Flood Zone: <u>X</u>       |
| Zoning District: <u>RSL</u>         | Fee Paid (\$250): _____    |
| Date Filed: <u>7/20/2018</u>        | Zoning Officer: <u>KAC</u> |
| TMS#: <u>454-10-00-179</u>          |                            |

**CASE # BZAV-7-18-018**  
**TMS #454-10-00-179**  
**728 Canopy Cove**







**Staff Review:**

The applicants, Mr. James and Mrs. Shannon Oleksak are requesting a Variance for the reduction of the 10' required side setback by 4.1' to 5.9' for the construction of a new single-family home in the Low-Density Suburban Residential (RSL) Zoning District at 728 Canopy Cove (TMS #454-10-00-179). Adjacent properties to the north, south, east, and west are also in the Low-Density Suburban Residential Zoning District and are in the Town of James Island's jurisdiction.

*Town of James Island Zoning and Land Development Regulations, §153.070 states that all development in the RSL district shall be subject to the following density, intensity and dimensional standards: **Minimum Setbacks, Interior Side: 10 feet.***

The subject property is 0.25 acres in size and is currently a vacant residential lot. The current property owners purchased the property in May of 2018. There is a 24" + 29" DHB double Live Oak on the right side of the parcel in which the applicants address in their letter of intent stating "we are requesting this variance to work around the protected oak tree on the property and to adhere to HOA guidelines". Please review the attached documents for further information regarding this request.

**Findings of Fact:**

*According to §153.049 F, Zoning Variance Approval Criteria of the Town of James Island Zoning and Land Development Regulations Ordinance (ZLDR), The Board of Zoning Appeals has the authority to hear and decide appeals for a Zoning Variance when strict application of the provisions of this Ordinance would result in unnecessary hardship. A Zoning Variance may be granted in an individual case of unnecessary hardship if the Board of Appeals makes and explains in writing the following findings:*

F (a): *There are extraordinary and exceptional conditions pertaining to the particular piece of property;*

**Response:** **There may be extraordinary and exceptional conditions pertaining to this piece of property as the property is considered a legal nonconforming lot due to it's size and is somewhat narrow. Additionally, a large protected live oak tree sits on the right hand side of the property.**

F (b): *These conditions do not generally apply to other property in the vicinity;*

**Response:** **These conditions may generally apply to other property in the vicinity as all of the lots on Canopy Cove are legal nonconforming, resulting in administrative setback reductions. However, the location of grand trees on surrounding lots varies.**

F (c): *Because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property;*

**Response:** The application of this Ordinance, §153.070, to the subject property may restrict the construction of a new single-family home as proposed due to the size of the parcel and the protected tree canopy.

F (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;*

**Response:** The character of the zoning district should not be harmed and the authorization of the variance should not be of substantial detriment to adjacent property.

F (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 non-conforming use of land or to change the zoning district boundaries shown on the Official Zoning Map;*

**Response:** The variance does not allow a use that is not permitted in this zoning district, nor does it extend physically a nonconforming use of land or change the zoning district boundaries.

F (f): *The need for the variance is not the result of the applicant's own actions; and*

**Response:** The need for the variance may not be the result of the applicant's own actions because the location of grand trees are existing site conditions, and the subdivision was previously platted and recorded in 2008.

F (g): *Granting of the variance does not substantially conflict with the Comprehensive Plan or the purposes of this Ordinance.*

**Response:** The Comprehensive Plan, Land Use Element Strategies and Time Frames states that The Town of James Island should "implement sustainable and flexible development guidelines to maintain the suburban character of the Town"; therefore the granting of the variance may not substantially conflict with the Comprehensive Plan or the purposes of this Ordinance.

*In granting a Variance, the Board of Zoning Appeals may attach to it such conditions regarding the location, character, or other features of the proposed building or structure 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 (§153.045 E 2).*

**Action:**

The Board of Zoning Appeals may approve, approve with conditions or deny Case # BZAV-7-18-018 (Variance request for the reduction of the 10' required front setback by 4.1' to 5.9' for the construction of a new single-family home), based on the "Findings of Fact" listed above, unless additional information is deemed necessary to make an informed decision. In the event the Board decides to approve the application, the Board should consider the following conditions:

1. The applicant/owner shall install tree barricades around the grand trees on the property, as described in §153.334 of the *Ordinance*, throughout the duration of construction.
2. Prior to obtaining a Zoning Permit for the proposed site improvements, the applicant/owner shall provide documentation that the grand trees on the subject parcel have been pruned and fertilized as recommended by a Certified Arborist, in order to mitigate potential damage to the tree caused by construction.

July 24, 2018

Kristen Crane  
Planning Director, Town of James Island  
1238-B Camp Road  
James Island, SC 29412

Dear Ms. Crane,

Our names are James and Shannon Oleksak, and we are writing to request a variance for our proposed house construction at 728 Canopy Cove. We are requesting a setback reduction variance from the Board of Zoning Appeals. We are requesting a 4.1' reduction in the 10' side setback, so that the home will remain outside of the protected tree canopy on the opposite side.

This variance request meets the criteria listed in 153.049:

d. The authorization of the 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 variance.

In summary, we are requesting this variance to work around the protected oak tree on the property and to adhere HOA guidelines.

Please contact us with any further questions.

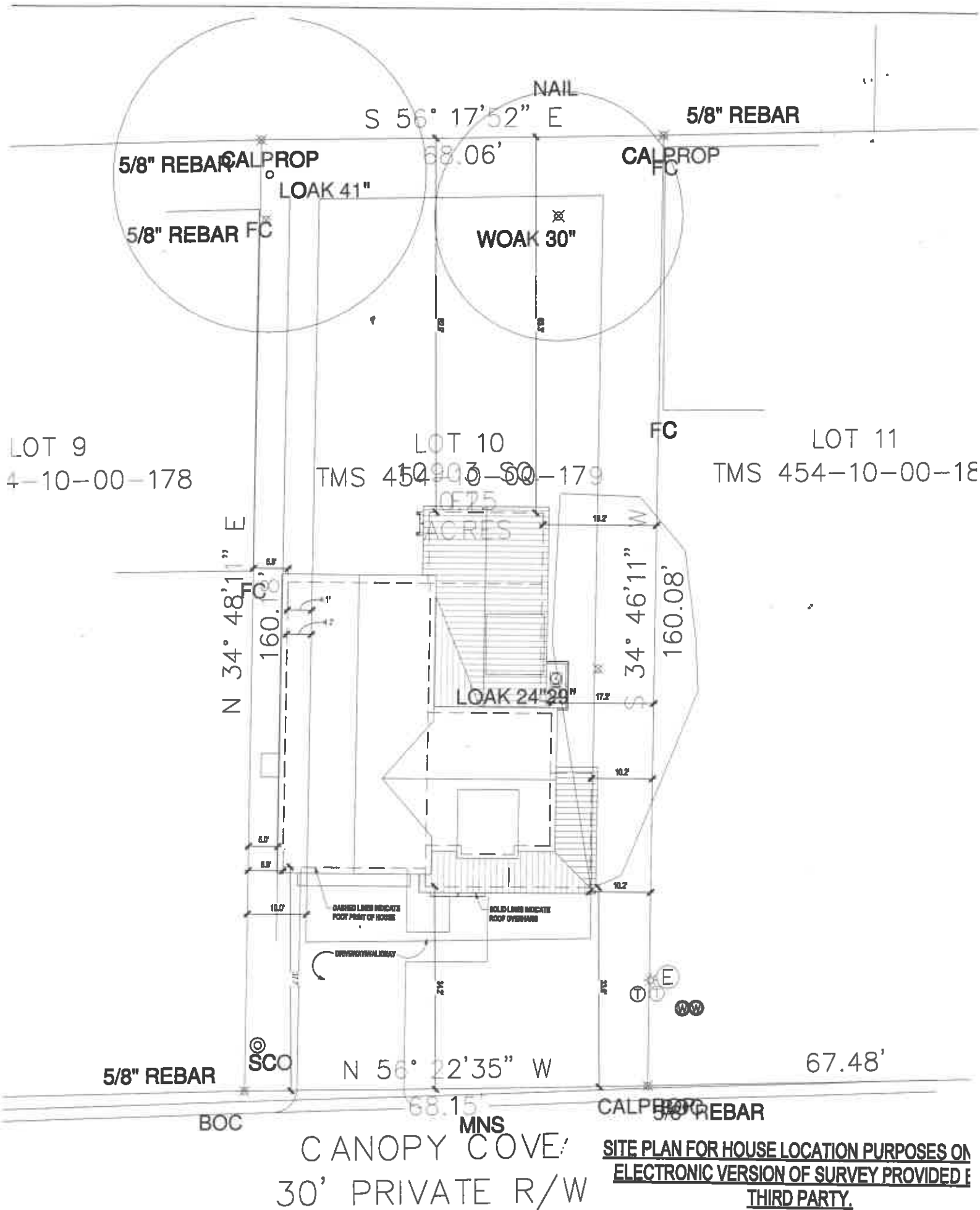
Thank you for your time.

Best,

A handwritten signature in black ink, appearing to read 'Shannon and James Oleksak', with a long horizontal line extending to the right.

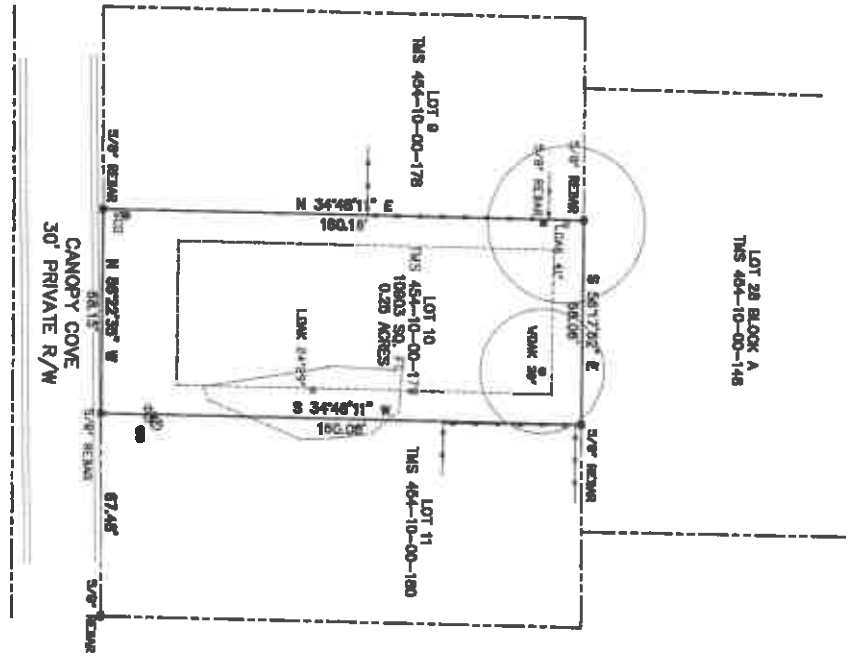
Shannon and James Oleksak

[oleksakiake@gmail.com](mailto:oleksakiake@gmail.com)  
[hello@shannonoleksak.com](mailto:hello@shannonoleksak.com)  
843.813.1431 and 843.810.5269



**LEGEND**

- PROPERTY LINE
- ADJACENT PROPERTY LINE
- IDENTIFY EGRESS LINE
- NEW EGRESS LINE
- SETBACK LINE
- ADVANCE 1/2" LINE
- PROPERTY CORNER POINTS AS SHOWN
- PROPERTY CORNER, 1/4" BEARING, SET
- WOOD LOTTER
- METEORICAL, PERSONAL
- BOUNDARY MARK
- TELECOMMUNICATIONS FACILITY
- UNCALLED PROPERTY CORNER
- PILE SET MARK
- TEMPORARY BOUNDARY MARK
- CONCRETE MARKER/SET POINTS
- SIGN
- FENCE POLE
- UTILITY POLE
- UTILITY POLE



RESERVED FOR SHOWN

- NOTES**
1. THIS SURVEY DELINEATES A BOUNDARY SURVEY OF LOT 10 CHARLENA OAKS @ LIGHTHOUSE.
  2. PROPERTY IS ZONED PLANNED DEVELOPMENT IN THE TOWN OF HOLLYWOOD.
  3. BUILDING SETBACKS ARE: 30' FRONT SETBACK, 10' SIDE SETBACK AND 10' REAR SETBACK.
  4. PROPERTY APPEARS TO BE LOCATED IN R-300 ZONE, X AS PER PLAN MAP 480000000000, EFFECTIVE DATE OF NOVEMBER 17, 2004.
  5. TOTAL ACRES IS 0.25 ACRES.
- REFERENCES**
1. TMS 464-10-00-178
  2. PLAN BY ATLANTIC SURVEYING INC DATED FEBRUARY 27, 2008
  3. PLAN BY ATLANTIC SURVEYING INC DATED FEBRUARY 27, 2008

**CERTIFICATION STATEMENT:**

I hereby certify that to the best of my knowledge, information, and belief the foregoing is a true and correct copy of the original survey as shown to me by the owner or his authorized agent, and that I am a duly licensed and qualified land surveyor in the State of South Carolina.

*Laura Kennedy*  
**Laura Kennedy**  
 Licensed Professional Land Surveyor  
 No. 417-18  
 42 LORD CALVERT DRIVE  
 CHARLESTON, SOUTH CAROLINA 29407



**FOUNDATION SURVEY OF LOT 10**  
**CAROLINA OAKS @ LIGHTHOUSE POINT**  
**CANOPY COVE**

LOCATED IN THE TOWN OF HOLLYWOOD, CHARLESTON COUNTY SC

PREPARED FOR JANE OLDFIELD



**KENNERTY SURVEYING INC.**

42 LORD CALVERT DRIVE  
 CHARLESTON, SC 29407  
 843-571-2121  
 EMAIL: [l.kennerty@ccmcnst.net](mailto:l.kennerty@ccmcnst.net)

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