

**STAFF REPORT TO THE  
SURRY COUNTY BOARD OF ZONING APPEALS**

**BZA CASE No. 2019-03 - VARIANCE**

**\*\*\*PUBLIC HEARING\*\*\***

**January 15, 2020**

**Applicants / Owners Name & Address**

John M. Seward, Trustee  
The K. Marshall Seward Living Trust  
1195 Colonial Trail  
Surry, VA 23883

**Property Location and Description**

Parcel 28-81A  
47 Brownsview Lane  
Surry, VA 23883  
Brownsview Lane (Rt.624)  
 $\pm$  445ft West of Colonial Trail East

**Statistical Data**

Current Zoning District  
Current Use

A-R, Agricultural-Rural  
Residential

**Surrounding Zoning / Land Uses**

A-R, Agricultural-Rural; agricultural,  
residential

**BZA Case No. 2019-03:**

Variance application of John M. Seward per Section 1-300, of the Surry County Zoning Ordinance (ZO). The application is to allow the minimum front yard setbacks to decrease an additional 8ft lesser than the current setbacks on a parcel that is approximately one-half acre, not meeting the standards of section 3-305.B.1

The subject property is zoned Agriculture Rural District (A-R), consists of .56 acres, and is located on Brownsview Lane (Rt.624) and  $\pm$  445ft west of Colonial Trail East. The Tax Parcel Number is 28-81A.

Specifically, the applicant requests a variance from Section 3-305.B.1 to allow a thirty-five foot (35') front yard setback on a .56 acre lot, which does not meet the required setbacks as follows:

- Minimum front yard setbacks:  
On existing public roads: 100 feet.

The applicant wants to build an eight foot by sixteen foot (8'x16') addition to the primary structure. Currently, the .56 acre lot has a legally non-conforming (grandfathered) front yard setback of forty-three feet (43') and the addition would result in decreasing the front yard setback to thirty-five feet (35').

## **Zoning Ordinance Summary:**

Please find relevant sections of the Surry County Zoning Ordinance below:

### **Article I, General Provisions, Sec. 1-305. - Variances.**

- A. Applications for variances may be made by any property owner, tenant, government official, department, board or bureau of the county. All applications shall be submitted to the administrator in accordance with rules adopted by the BZA. All applications and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the BZA who shall place the application on the agenda to be acted upon by the BZA, within 90 days of the filing of the application. The administrator may, and at the direction of the commission shall, transmit notice of the variance application to the commission, which may send a recommendation to the BZA, or appear as a party at the hearing.
- B. The board of zoning appeals (BZA) shall have the power to grant variances in the yard lot area and other dimensional requirements in any district so as to relieve practical difficulties or particular hardships in cases, when a property owner can show that his property was acquired in good faith and where, by reason of exceptional narrowness, shallowness, size, or shape of a specific piece of property at the time of the effective date of this ordinance, or where by reason of exceptional topographic conditions of other extraordinary situation, or condition of such piece of property, or the use or development or property immediately adjacent thereto, the strict application of the terms of this ordinance would effectively prohibit or unreasonably restrict the use of the property, or where the BZA is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant, provided, that all variances shall be in harmony with the intended spirit and purpose of this ordinance.
- C. No variance shall be authorized by the BZA unless it finds:
  - 1. That the strict application of the ordinance would produce undue hardship.
  - 2. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
  - 3. That the authorization of such variance will not be substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
  - 4. That the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.
- D. The BZA shall hold a public hearing on the variance request within 90 days of receipt of a completed application, after due notice as required by section 1-600 of this ordinance.
- E. Variances for a use, principal or accessory, shall be prohibited.
- F. In authorizing a variance the BZA may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the

public interest, and may require a guarantee or bond to ensure that the conditions imposed are met.

G. Variance shall expire after two years from the date of approval if no substantial construction has taken place in accordance with the plans for which such variance was granted, unless the BZA grants a longer period of time for good cause shown.

**Article III, Zoning Districts and Boundaries, A-R Agricultural Rural District,  
Sec. 3-305. - Height, bulk, and yard requirements.**

The following standards shall apply to the building of any structure on lots within this district:

A. *Maximum building height:*

1. All principle buildings: Two and one-half stories but not to exceed 35 feet.
2. Buildings accessory to a single-family residence: No more than the height of the principle building.

B. *Minimum front yard setbacks:*

1. On existing public roads: 100 feet.
2. On new subdivision roads: 50 feet.
3. Accessory structures shall only be allowed in the side or rear yard (behind the front face of the principle building) or on lots greater than two acres, 150 feet from a public road.

C. *Minimum side yard setback:*

1. On existing public roads: 25 feet.
2. On new subdivision roads: 20 feet.
3. Accessory structures: Five feet, or if larger than 1,200 square feet, 25 feet.

D. *Minimum rear yard setback:*

1. Principle structures: 50 feet
2. Accessory structures: Five feet, or if larger than 1,200 square feet, 25 feet.

E. *Maximum size of accessory building:* Accessory structures shall not exceed four percent of the lot area not to exceed 5,000 square feet unless a special use permit is approved by the BZA.

**Staff Comments:**

It is within the power of the BZA to approve this variance as requested, if it feels that the criteria in Section 1-305.C,1-4 have been met.

**Staff Contact:**

Contact Doreatha Pierce at (757) 294-5210 or [dpierce@surrycountyva.gov](mailto:dpierce@surrycountyva.gov) with any questions.



**LEGEND**

IRF- IRON ROD FOUND  
IPF- IRON PIPE FOUND

IR-IRON FIRE HOUND  
IRS-IRON ROD SET

## ► CONCRETE MONUMENT FOUND

DOL/WEB DOL/E AND DOL/F

הנִזְמָנָן וְהַנִּזְמָנָן

BROWNSVIEW LANE SR 634 50' RW

HICKORY N 58° 06' 20" E

EXISTING 1ST CB RES 10.5x28.5

PROPOSED ADDITION 8'x16' 128 SF

WELL 263.00

AXLE

K. MARSHALL SEWARD LIVING TRUST  
TAX ID 28-81A  
DB 233/230  
AREA 0.50 AC  
21,650 SF

COLONIAL TRAIL EAST SR 70 50 RW

ON ROD SET CONCRETE MONUMENT FOUND COMPUTED POINT POWER POLE AND LINE

VDOT 0634

CHASS. R. SHECKLER, SURVEYOR, P. O. BOX 27, SURRY, VIRGINIA 23883

ZONING EXHIBIT FOR  
K. MARSHALL SEWARD  
LIVING TRUST  
TAX PARCEL 28-81A

COBHAM DISTRICT, SURRY COUNTY, VIRGINIA

JO	93382019	SCALE 1"=50'
		REFERENCE      NOTED
	DECEMBER 5, 2019	DATE

