



Kershaw County Board of Zoning Appeals

AGENDA

JANUARY 18, 2022 SPECIAL CALLED MEETING @ 5:30 PM
COUNCIL CHAMBERS
KERSHAW COUNTY GOVERNMENT CENTER
515 WALNUT STREET, CAMDEN, SOUTH CAROLINA

I. **Call to Order, Determination of Quorum, and Election of Chairman**

(to be conducted by Joey Adams-Raczkowski, Planning Manager)

Motion to consider: Nominations for Chairman from the floor of currently appointed members of the Board of Zoning Appeals (Ben Strickland, Mike Jones, Amy Eudy, and Ned Towell)

Note: Officers of the Board shall be a chairman and vice-chairman elected for one year terms at the first meeting of the Board in each calendar year. The first order of business is the election of a Chairman for 2022, followed by the election of the Vice-Chairman. The Planning Manager chairs the meeting until a Chairman is elected.

II. **Election of Vice-Chairman** (to be conducted by newly elected Chairman)

III. **Appointment of Secretary to Board**

Note: The Board shall appoint a member of the staff as Secretary of the Board. Rhonda Darity has most recently served in this role.

IV. **Approval of Minutes**

January 7, 2020

IV. **Case 22-01:** Property owner Harold and Sheila Smith are requesting a variance from Article 5, Section 3:7.4-6(B)2 of the Kershaw County Zoning and Land Development Regulations to allow for a 180 sq. ft. retaining wall encroachment into the Lake Wateree Shoreline Buffer. The property is located at 1802 Sailing Club Road, zoned R-15 (Low Density Residential), and identified as TMS# 128-04-41-044

V. **Adjournment**



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The January 7, 2020 Board of Zoning Appeals draft minutes will be sent via a separate email by Board Secretary, Rhonda Darity.

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STAFF REPORT

APPLICATION TO THE BOARD OF ZONING APPEALS

FOR VARIANCE CASE # 22-01

HAROLD AND SHEILA SMITH AT 1802 SAILING CLUB ROAD, CAMDEN

KERSHAW COUNTY BOARD OF ZONING APPEALS PUBLIC HEARING

Tuesday, January 18, 2022 at 5:30 PM

Council Chambers, Kershaw County Government Center

515 Walnut Street, Camden, SC 29020

APPLICANT: Harold and Sheila Smith, property owners

PROPERTY: 1802 Sailing Club Road, Camden

TMS #128-04-41-044

Zoning: R-15 (Low Density Residential)

CASE: Property owners Harold and Sheila Smith are requesting a variance from Article 5, Section 3:7.4-6(B)2 of the Kershaw County Zoning and Land Development Regulations to allow for a 180 sq. ft. retaining wall encroachment / disturbance into the Lake Wateree Shoreline Buffer. The retaining wall has already been constructed, therefore, the encroachment / buffer disturbance has already taken place. The retaining wall structure was not noted on the original plot plan submitted with the building permit application for the single-family home

Specifically, the applicant is requesting to allow the southern lake-facing corner of the retaining wall to extend 12.84' southward and 16.43' eastward into the Lake Wateree Shoreline Buffer. See pages 13 and 14 for detailed survey of the encroachment / buffer disturbance.

Note: Construction of the foundation for the new single family dwelling has stopped until this buffer disturbance issue has been resolved.

Zoning and Land Development Regulations, Section 3:7.4-6(B)2: Lake Wateree Shoreline Buffer Regulations, Disturbance of Buffers: Disturbance of Buffers - Installation of any new structures (including structure replacements), disturbance of the existing terrain, or removal of existing vegetation within the water quality buffer is prohibited except as provided herein. The installation of septic systems or any portion thereof is prohibited within shoreline buffers. This prohibition includes any disturbance or removal of topsoil, trees, and other natural growth located in the buffers, for any purpose, subject to the express, limited exceptions listed below.

(see Zoning and Land Development Regulation (ZLDR) excerpts of Section 3:7.4-6(B)2 on the following pages 2 through 7)

- a. **General Exceptions** - The following exceptions are permitted within the buffers established herein without a permit, but only upon strict observance and compliance with the provisions stated below:
- 1.) **Tree Removal**
 - a.) Within the buffer, trees less than four (4) inches DBH may be removed, provided it is done using only manual labor and hand or chain saws, and not mechanical equipment.
 - b.) Additionally, any trees that are dead or have become diseased or damaged through natural processes may be removed in the same manner.
 - c.) No motorized vehicles or construction equipment other than chain saws or similar hand-operated machines are permitted within the buffer, except as specifically provided in these regulations.
 - 2.) **Underbrush Removal**
 - a.) Underbrush (defined as nuisance bushes, vines, and similar rank plant growth beneath the tree canopy) may be removed within the buffer, provided that such work is performed manually and without the use of vehicular or mechanical equipment or chemical applications.
 - b.) This activity may also include removal of any natural or man-made debris lying on or near the floor of the buffer.
 - 3.) **Pruning and Trimming**
 - a.) Pruning and trimming of trees within the buffer is permitted, provided that pruning shall be limited to tree branches beginning at the ground and extending up the tree trunk no more than one half of the total height of the tree.
 - b.) Trimming or pruning may also be performed on any limbs or branches that are diseased or naturally damaged.
 - c.) No topping of trees is permitted within the buffer.
 - 4.) **Emergency Operations** - Activities associated with emergency operations, such as hazardous materials removal, flood or fire control, evacuations, and storm damage clean up are exempt from these requirements. However, any such activity must be authorized by an appropriate government agency or conducted in accordance with prior emergency management regulations.
 - 5.) **Eminent Domain** - Activities conducted or required by the US Government, the State of South Carolina, Kershaw County, railroads, public utilities, or other entities that typically have the power of eminent domain (e.g., utility or roadway right-of-way, construction, and maintenance) are not subject to the provisions of this section. However, such activities, where practicable, should be conducted in a manner that is consistent with the requirements of the Lake Wateree shoreline buffer regulations.
- b. **Exceptions Requiring a Permit** - The following exceptions are permitted within required water quality buffers only after submission of an application for and issuance of a written permit or approval by the Planning Official:
- 1.) **View Corridors**
 - a.) Tree removal within shoreline buffers to allow for view corridors is allowed; provided that such removal shall not exceed fifteen (15) feet in width, and

- shall not constitute an area greater than one-fifth of the total buffer area required on each lot; or
- b.) alternatively, trees may be removed randomly for the purpose of improving the lake view, provided that an amount not greater than one-tenth of the total DBH of all trees located in the buffer area of each lot is removed.
 - c.) Any tree removal shall be manually performed using hand or chain saws, and no other disturbance of the natural terrain is permitted.
 - d.) Any view corridors or open area created through the utilization of this provision shall be stabilized and improved with shrubs, low-growing trees, or other natural groundcover plantings.
- 2.) **Access Corridors**
- a.) **Tree Removal** - Tree removal within buffers is allowed in order to:
 - i. Provide a limited access corridor to the lakeshore;
 - ii. install shoreline stabilization and water-dependent structures;
 - iii. remove large debris or previously existing nonconforming structures; and
 - iv. install paths, boardwalks, or stairs to access water-dependent structures.
 - b.) **Standards**
 - i. This access corridor shall not exceed fifteen (15) feet in width and shall not constitute an area greater than one-fifth of the total buffer area required for each lot.
 - ii. Vehicular equipment may be operated in an approved access corridor; provided that, to the furthest extent practicable, the equipment utilizes rubberized mini-track systems and the natural terrain is disturbed only to the extent required to safely operate such equipment.
 - iii. After such disturbance, the resulting terrain shall be stabilized and revegetated with shrubs, low-growing trees, and other natural groundcover plantings that closely match the existing terrain on either side of the access corridor.
 - iv. When the access corridor provided in this section is used for the installation of paths, boardwalks, or stairs leading to the Lake, such structures shall not exceed six (6) feet in width.
- 3.) **Separation Between Corridors** - Applications for multiple view and access corridors will be considered under the following conditions:
- a.) There shall be a minimum of 100 linear feet of buffer between corridors.
 - b.) The combined area of all corridors cannot exceed twenty-five (25) percent of the total buffer area of each lot.
- 4.) **Shoreline Bank Stabilization** - Proposed shoreline bank stabilization plans must be submitted to Duke Energy for their authorization under the Duke Energy Shoreline Management Guidelines Shoreline Stabilization Program.
- 5.) **Nonconforming Structures** - Any structure located within the buffer or under construction on a lot existing as of the effective date of this Ordinance, including dwellings, barns, outbuildings, garages, carports, guesthouses, patios, decks, outdoor recreation structures, or water-dependent structures such as docks, boathouses, or piers, shall be allowed to remain as a nonconforming structure. The property owner must be able to document its prior existence through property tax records, building permits, contracts for construction, or other clear evidence.

- a.) Work within the existing footprint of a nonconforming structure may be undertaken for purposes of maintenance, repair, and renovation of the nonconforming structure lying within the shoreline buffers.
 - b.) In any such case, however, the nonconformity may not be expanded or the use of the nonconforming structure altered.
- 6.) **Water-Dependent Structures** - Proposed water-dependent structures such as docks, boathouses, or piers must be submitted to Duke Energy for their authorization under the Duke Energy Shoreline Management Guidelines Private Facilities Program.
- 7.) **Exceptions for Public Recreational Facilities**
- a.) **Purpose** - Lake Wateree is a valuable recreational resource for the citizens of Kershaw County and its guest tourists. The value of the Lake as a recreational resource is dependent upon the protection of its water quality. Because public recreational facilities such as swimming beaches, boat ramps, trails, picnic areas, bank fishing areas, and fishing docks require direct shoreline access and/or viewsheds, the following exceptions to the disturbance of buffers at such facilities are provided.
 - b.) **Modification of Buffer Boundaries** - Activity areas of public recreational facilities that are strictly water and shoreline dependant (swimming beaches, boat launches, and bank fishing areas) may have the exterior (lakeside) boundary of the fifty (50) foot buffer adjusted to follow the proposed perimeter of the activity area. In such cases, the distance of the interior edge of the buffer shall be measured horizontally, such that at any point along the interior edge, a horizontal line would be exactly fifty (50) feet from a vertical line extending up from the perimeter of the activity area.
 - c.) **Location of Facilities** - Public recreational facilities that are not water dependant (parking lots, bath houses, club houses, picnic shelters, etc.) shall be located behind the interior buffer boundaries.
 - d.) **Access and View Corridors at Public Recreational Facilities**
 - i. **Access Corridors** - Corridors through the buffer shall be permitted to allow pedestrian access to water dependant shoreline activity areas. The number of access corridors shall be limited to those needed to provide adequate access between the activity areas and recreational facilities. Access corridors shall also be permitted to provide vehicular access to boat launches.
 - ii. **View Corridors** - Lake views are an important factor in the recreational experience for non-water dependant activities such as picnicking and walking. Recreational facilities master plans shall consider the placement of facilities desiring viewsheds and the design of the viewshed to accommodate the lake view without diminishing the water quality functionality of the buffer.
 - e.) **Stormwater Management** - The public recreational facility master plan shall incorporate the following stormwater best management practices and stormwater pollution prevention measures:
 - i. Access corridors shall be designed such that there is positive drainage of the corridors into the buffer area and such that the corridors do not function

as a conduit for direct stormwater discharge into the Lake. Corridor drainage shall be designed to promote sheet flow to minimize channelization of runoff.

- ii. Land development shall be planned in harmony with the natural runoff pattern and along the contours.
- iii. Impervious surfaces shall be limited. Surface drainage shall be designed to promote sheet flow to minimize channelization of runoff.
- iv. Chemicals such as fertilizers and pesticides shall be applied at appropriate rates and shall not be applied within 100 feet of unprotected shorelines.
- v. All trash receptacles shall be firmly secured from animal and weather disturbances and contact with stormwater.

f.) **Review and Approval of Public Recreational Facility Master Plans** - The recreational facility master plans shall be included in the group development submittal and review and shall be approved by the Planning and Zoning Commission per the submittal requirements and approval process provisions of this Ordinance.

c. Approval Procedures for Permitted Activity

- 1.) Except as permitted under the General Exceptions provisions, no shoreline stabilization, tree removal, or land disturbance activity of any kind, including those permitted under the Exceptions Requiring a Permit provisions, shall be conducted in the buffer without a written permit for such activity issued by the Kershaw County Planning and Zoning Department. In order to apply for approval, the lot owner must supply the Planning and Zoning Department with three (3) copies of a survey prepared by a South Carolina-registered land surveyor, showing the following:
 - a.) The extent of the shoreline buffer on the subject property shown by metes and bounds.
 - b.) The labeling of the shoreline buffer.
 - c.) The location of any previously existing nonconforming structures located within the buffer.
 - d.) The location and size of any existing tree, four (4) inches DBH or greater, located in the buffer.
 - e.) The location of the proposed activities for which approval is being requested.
- 2.) The approval request shall be submitted in writing and shall include a detailed description of the permitted activity with any required supporting information needed to establish that the requested activity meets the requirements of this section. Requests with incomplete information to support the proposed activity will not be considered. Survey flagging shall clearly indicate the following:
 - a.) The location of the project boundary.
 - b.) The interior edge of the buffers.
 - c.) All trees four (4) inches DBH or greater.
 - d.) All trees proposed to be removed.
 - e.) All areas proposed to be disturbed on the subject property.

d. Restoration of Previously Disturbed Buffers

- 1.) **Applicability** - These provisions apply to undeveloped parcels in which the shoreline buffer has been disturbed prior to the effective date of this Ordinance

through logging or other activity. The fifty (50) foot buffer shall be restored prior to obtaining a land development and/or building permit.

- 2.) **Restoration Plan** - In areas in which the natural shoreline buffer has been disturbed or compromised, the buffer shall be enhanced with additional plantings within the fifty (50) foot buffer zone perpendicular to project boundary. When landscaping within the buffer is conducted as a means of restoring the natural buffer, it shall be performed manually and without the use of vehicular or mechanical equipment to the greatest extent practicable, and stringent sediment and erosion controls shall be utilized to protect the Lake from siltation as a result of landscaping activities. Planting of native and adaptive species is encouraged. The planting of invasive species is not allowed. A list native and adaptive species is available from the Planning and Zoning Department. The applicant shall submit a shoreline buffer restoration plan to the Planning and Zoning Office which must be approved prior to the issuance of a land development and/or building permit. Final project certification of approval shall not be issued until the approved shoreline buffer restoration plan has been implemented and inspected. The plan shall include:
- a.) Existing conditions of the shoreline buffer zone to include the location and species of all trees over four (4) inches DBH, and existing non-conforming structures.
 - b.) Landscape plan and planting schedule showing location and species of new plantings within the buffer zone.
 - c.) Vegetation Density of the Restored Shoreline Buffer - Utilize existing vegetation and augment with new plantings to achieve the following minimum densities:
 - d.) At installation or planting, all plant material shall meet the following specifications:
 - i. Shrubbery shall be a minimum three (3) gallon container size.
 - ii. All evergreen and medium-maturing trees shall be no less than ten (10) gallon container size or one and one-half (1½) inch caliper, balled and burlapped.
 - iii. All large-maturing trees shall be not less than fifteen (15) gallon container size or two (2) inch caliper, balled and burlapped.
 - iv. All plant material shall comply with ANSI Z60.1-2004: American Standard Nursery Stock - American Nursery and Landscape Association.
 - e.) Location of proposed view and access corridors per the Exceptions Requiring a Permit provisions of this section.
 - f.) A double row of silt fence (with metal posts and wire backing) or other sediment/erosion control device approved by the Stormwater Manager shall be shown on the project boundary side of the buffer area.

Table 3-19 VEGETATION DENSITIES FOR RESTORATION OF BUFFERS DISTURBED PRIOR TO DEVELOPMENT			
Vegetation Type	Number of Plantings	Coverage	Minimum Number of Species
Large-Maturing Tree	1	Per 200 sq. ft.	3
Small-Maturing Tree or Shrubbery	1	Per 100 sq. ft.	4
Groundcover Plugs	70	Per 100 sq. ft.	1
Groundcover Seedlings*	General seed broadcast	Complete coverage of bare soil	1

*Groundcover may be planted utilizing plugs or seed broadcasting, or a combination of both methods.

- 3.) **Minimum Mature Size** - Plant material shall be selected that will meet the following specification at maturity:
 - a.) Evergreen plant material and medium-maturing trees shall attain a minimum average of twenty-five (25) feet in height.
 - b.) Deciduous large-maturing trees shall attain a minimum average of thirty-five (35) feet in height.
- 4.) **Maintenance of Restored Buffer** - The maintenance of planted materials in restored buffer areas shall be the responsibility of the property owner. All such areas shall be properly maintained so as to ensure continued buffering. Dead or diseased plants shall be removed and replaced. Replacement plants shall be of similar type and sized per the installation of planted material.

JUSTIFICATION FOR A VARIANCE:

The following is an analysis of the justification given by the applicant on the application:

1. **Describe the provision of the Kershaw County Zoning and Land Development Regulations from which you seek a variance.**

Response from Applicant: KCZLD Regulation- 3:7.4-6(B)2-page 3-124.

Staff Analysis and Additional Observations: This section of the Zoning and Land Development Regulations provides for the express prohibition of buffer disturbance except for certain general exceptions as outlined on pages 2 thru 7 of this staff report. A retaining wall is not allowed under any of the general exceptions.

2. **Describe unusual conditions of the property causing unnecessary hardship which may justify variance from the terms of the ordinance.**

Response from Applicant: "DHEC did not approve a conventional septic system due to the slope of the land. The old septic system was inside the 50 foot buffer. We were approved for an engineered system which will take up most of the right side of our

property, causing our house to be built more to the left side of the property instead of centered as initially planned. Before the installation of the retaining wall everytime it rained the water, road trash, leaves, tree branches, and silt ran down the property and into the lake. Nothing would grow grass, plants, trees, etc. We planted grass several times only to have it wash away.”

Staff Analysis and Additional Observations: The retaining wall was not shown on the original plot plan submitted and approved with the permit application for the new single family dwelling (see survey on page 12 of this staff report). The footprint of the home as shown on the original plot plan submitted and approved with the permit application shows that the home as planned does fit on the lot, outside of the buffer. Additionally, the location of the home shifted only slightly from the original plot plan as compared to the more recent plot plan of the home showing the location of the retaining wall (see survey on page 13 of this staff report). Lastly, the septic permit was required to be issued by DHEC before the county released the building permit. Therefore, the location of the septic tank and home were known at the time the building permit for the single-family home was issued.

3. *Describe extraordinary and exceptional conditions pertaining to the particular piece of property.*

Response from Applicant: “To meet the setback rules for the from the road side of the house-the house has to be moved forward as far as possible. A pad was built in order to take the house out of the flood zone. A retaining wall was built to secure the pad to prevent runoff into the lake. Our house is not in the buffer zone; only eleven foot of the retaining wall on the left corner. The retaining wall corner was mistakenly put into the buffer zone by me. It’s my mistake and I thought it went straight across from stake to stake. Please take in to consideration the lot size and slope of the lot.”

Staff Analysis and Additional Observations: Again, the regulations expressly prohibit any buffer encroachment / disturbance except for the general exceptions outlined in the regulations. The applicant admits that this is a self-created and self-inflicted hardship.

4. *Explain how the conditions described above do not generally apply to other property in the vicinity.*

Response from Applicant: “The property on the right side of us is a wider, deeper and has less of a slope to it allowing them to have a traditional septic system To our knowledge there are not any engineered septic systems in the vicinity. On the left side of our property is a dry lake bed.”

Staff Analysis and Additional Observations: All properties along the lakefront of Lake Wateree must adhere to the 50’ buffer standards, many properties also have FEMA regulatory floodplain located on the property, and all properties must have an

authorized method of septic disposal. Therefore, these conditions mentioned by the applicant do apply to other properties in the vicinity.

5. ***Due to these conditions, explain how the application of the Ordinance to this particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.***

Response from Applicant: “Due to the slope of the property without the retaining wall more runoff during rain will result in more sediment runoff into the lake.”

Staff Analysis and Additional Observations: The entire retaining wall does not have to be removed in order to comply with the non encroachment buffer standards. Only the portion of the retaining wall that is within the 50’ buffer has to be removed. Once removed, the disturbed area of the buffer will have to be environmentally restored per the regulations. The property can still be utilized for building a single-family home as long as all applicable regulations are met, and is therefore not unreasonably restricted.

6. ***Explain how the authorization of a variance will not be of substantial detriment to the adjacent property or to the public good, and how the character of the surrounding area will not be harmed by granting of the variance.***

Response from Applicant: “On the left side of the retaining wall is the dry lake bed no homes can be built there. This is a professionally built retaining wall which adds improvement to shoreline protection by preventing further pollution and sediment from entering into the lake.”

Staff Analysis and Additional Observations: All properties fronting Lake Wateree are subject to the 50’ Lake Wateree Shoreline Buffer Standards.

STAFF FINDINGS AND RECOMMENDATIONS:

An owner is not entitled to relief from a self-created or self-inflicted hardship. This variance request is clearly a self-created and self-inflicted hardship, as evidenced by the application materials as submitted.

According to the Comprehensive Planning Guide for Local Government as published by the Municipal Association of South Carolina, “A variance allows the board to modify an otherwise legitimate zoning restriction when, due to unusual conditions, the restriction may be more burdensome than was intended. The variance must not impair the public purpose. To obtain a variance on the ground of unnecessary hardship, there must at least be proof that a particular property suffers a singular disadvantage through the operation of a zoning regulation.”

A variance must be granted on conditions of the specific piece of property and may not be granted because an applicant wants something other than what is allowed under the Ordinance and applied to all other properties within the same zoning district category.

The Board of Zoning Appeals is required to determine that the application of the Ordinance will result in unnecessary hardship, and that all four standards for a variance set by State law and the Ordinance are met by the following facts:

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.
4. The authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the surrounding area will not be harmed by granting the variance.

STAFF RECOMMENDATION

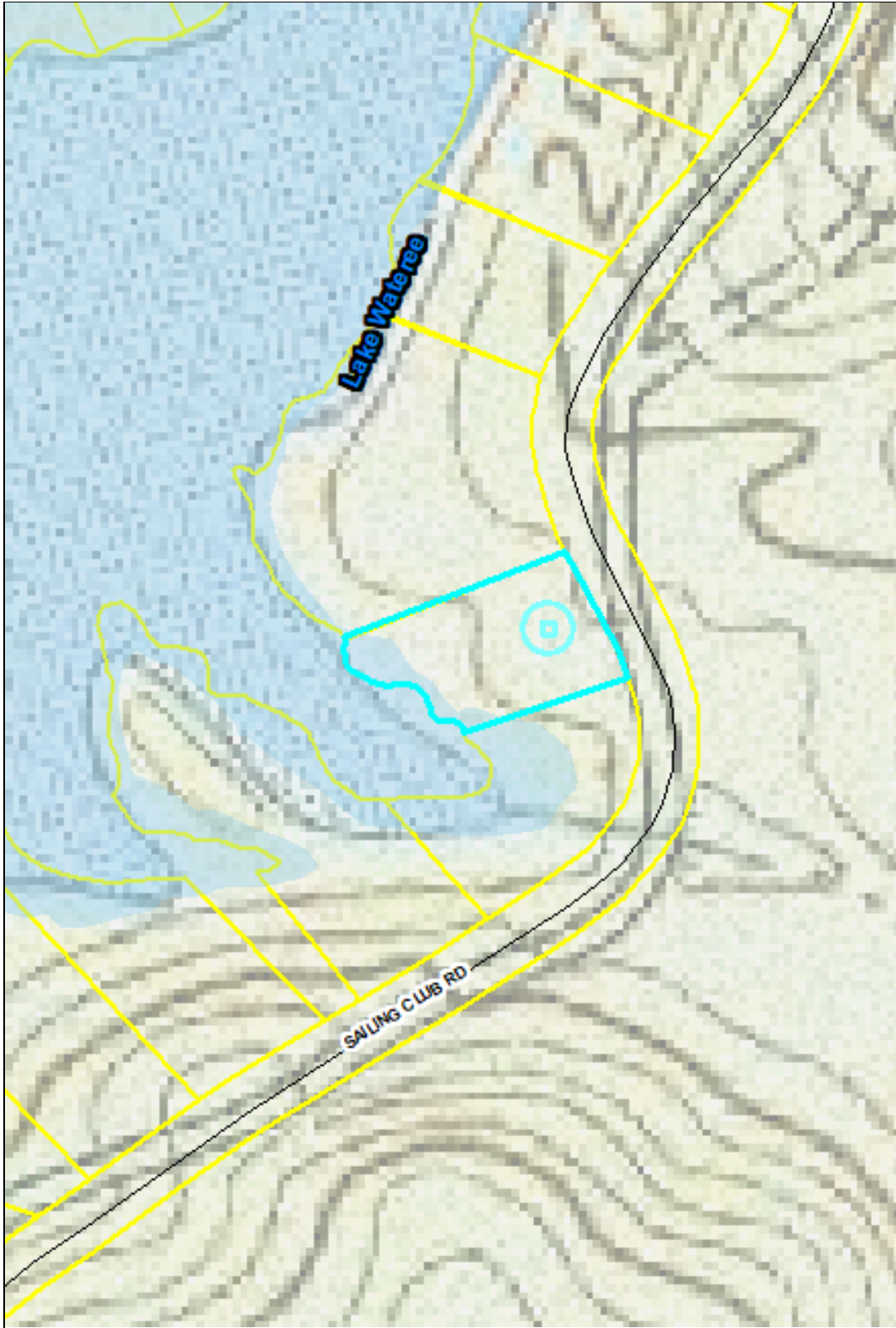
Based upon the application materials as applied to the four (4) State law standards, staff has not identified any justifiable reasoning for approving a variance to allow the 180 sq. ft. retaining wall encroachment / disturbance into the Lake Wateree Shoreline Buffer to remain.

Therefore, staff recommends that a variance not be granted to allow for a 180 sq. ft. retaining wall encroachment / disturbance into the Lake Wateree Shoreline Buffer to remain on the property identified in this application as 1802 Sailing Club Road with TMS #128-04-41-044.

Aerial view of subject property (BZA# 22-01)

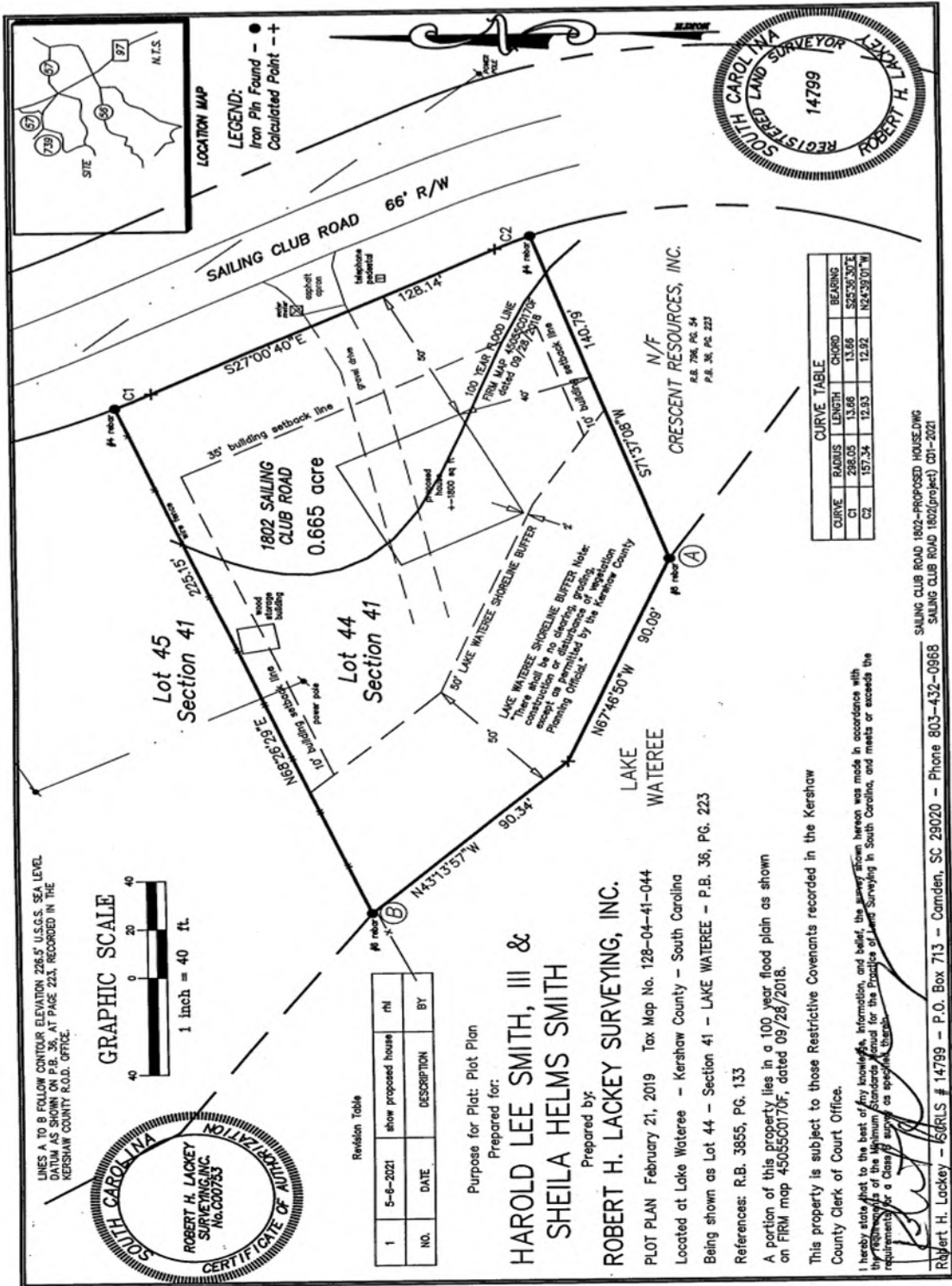


Topography of Subject and Surrounding Properties (BZA# 22-01)



Survey Plot Plan Approved with Building Permit Application (BZA# 22-01)

(does not show a retaining wall)



Area of encroachment / disturbance enlarged (BZA# 22-01)



Subject properties as viewed from Sailing Club Road (Case# 22-01)



Below, subject property as viewed from the lake front. Retaining wall encroachment / disturbance on the right side of this picture. (Case 22-01)



Below, water front to left, road front to right. Survey stake with blue flagging tape marks the 50' buffer. To the left is within the buffer, to the right is outside of the buffer. (Case 22-01)



View of 50' buffer on portion of retaining wall facing the lakefront. Survey stake with blue flagging tape marks the 50' buffer. Forward toward the retaining wall is outside of the buffer. The other survey stake on the other side of the retaining wall as shown in the previous picture cuts across the retaining wall at an angle. See yellow highlighted portion on survey for clarification. (Case 22-01)



Below, portion of the area of the retaining wall located within the buffer (Case 22-01)



Kershaw County Planning and Zoning Department
 515 Walnut Street, Room 160, Camden, SC 29020 803-425-7233

Case 22-01

**PETITION TO BOARD OF ZONING APPEALS
 FOR A VARIANCE**

All data and exhibits found herein or appended to this petition shall be deemed to be public record.

DATE: August 31, 2021-amended 11/29/2021	REQUEST NO.:
I, <u>Harold L. Smith, III & Sheila H. Smith</u> , hereby make application to the Kershaw County Board of Appeals for a variance.	

PROPERTY LOCATION

STREET ADDRESS: 1802 Sailing Club Road		COMMUNITY/SUBDIVISION: N/A	
TMS#: 128-04-41-044		PROPERTY AREA: 0.665 acres	
DEED BOOK: 3855	PLAT BOOK: 36, pg. 223	SEWER DISTRICT:	WATER DISTRICT:
CURRENT USE: Residential		PROPOSED USE: Residential	
Has previous variance application been made for all or any part of this property? Yes [] No [X] If yes when?			
Per the South Carolina Local Government Planning enabling Act (Section 6-29-1145 of the South Carolina Code of Laws), is/are this/these tract(s) or parcel(s) restricted by any recorded covenant, restriction, easement, etc., that is contrary to, conflicts with, or prohibits the proposed land use? Yes [] No [X]. If so, submit a copy with this application.			
THE APPLICANT IS: PROPERTY OWNER [X] AGENT OF PROPERTY OWNER [] OPTION HOLDER []			

PROPERTY OWNER (If property is owned by more than one person, each owner must be listed. An additional form is provided at the end of this application and may be duplicated if necessary.)

NAME: Harold Lee Smith, III		E-MAIL: leeandsheilasmith333@gmail.com	
MAILING ADDRESS: 4098 Locker Road		CITY: Lancaster	STATE: SC ZIP: 29720
TELEPHONE:	CELL: 803-287-1120	FAX:	

APPLICANT (If other than property owner.)

NAME: n/a		E-MAIL:	
MAILING ADDRESS:		CITY:	STATE: ZIP:
TELEPHONE:	CELL:	FAX:	

If applicant is other than owner, state applicant's interest in the proposed variance:

DESIGNATION OF AGENT (To be completed by owner, only if owner is not applicant. If property is owned by more than one person, each owner must complete a Designation of Agent Form. An additional form is available at the end of this application. The signature of each owner must be notarized.)

I, Harold Lee Smith, III (PROPERTY OWNER) hereby appoint myself (APPLICANT) as my agent to represent me in this request for administrative appeal.

Owner's signature: Harold Lee Smith III Date: 11/29/2021

Given under my hand and seal, this 29 day of Nov, 2021

[Signature] (Seal)
 Notary Public for South Carolina

My commission expires on 6 day of Jan, 2031

Describe the provision of the Kershaw County Zoning and Land Development Regulations from which you seek a variance. KCZLD Regulation- 3:7.4-6(B)2- page 3-124

JUSTIFICATION FOR VARIANCE – If additional space is needed, use a separate sheet of paper.

Describe unusual conditions of the property causing unnecessary hardship which may justify variance from the terms of the ordinance.
DHEC did not approve a conventional septic system due to the slope of the land. The old septic system was inside the 50 foot buffer. We were approved for an engineered system which will take up most of the right side of our property, causing our house to be built more to the left side of the property instead of centered as initially planned. Before the installation of the retaining wall everytime it rained the water, road trash, leaves, tree branches and silt ran down the property and into the lake. Nothing would grow grass, plants, trees, etc. We planted grass several times only to have it wash away.
Describe extraordinary and exceptional conditions pertaining to the particular piece of property.
To meet the setback rules for the from the road side of the house- the house had to be moved forward as far as possible. A pad was built in order to take the house out of the flood zone. A retaining wall was built to secure the pad to prevent runoff into the lake. Our house is not in the buffer zone; only eleven foot of the retaining wall on the left corner. The retaining wall corner was mistakenly put into the buffer zone by me. It's my mistake and in no way is my builder responsible for this. I did not know the buffer zone followed the contour of the shoreline. I thought it went straight across from stake to stake. Please take in to consideration the lot size and the slope of the lot.
Explain how the conditions described above do not generally apply to other property in the vicinity.
The property on the right side of us is a wider, deeper and has less of a slope to it allowing them to have a traditional septic system. To our knowledge there are not any engineered septic systems in the vicinity. On the left side of our property is a dry lake bed.
Due to these conditions, explain how the application of the Ordinance to this particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.
Due to the slope of the property without the retaining wall more runoff during rain will result in more sediment runoff into the lake.

Explain how the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and how the character of the surrounding area will not be harmed by the granting of the variance.

On the left side of the retaining wall is the dry lake bed no homes can be built there. This is a professionally built retaining wall which adds improvement to shoreline protection by preventing further pollution and sediment from entering into the lake.

APPLICANT'S SIGNATURE: _____ DATE: 11/29/2021

ACTION BY APPEALS BOARD:

SIGNATURE OF CHAIRMAN: _____ DATE: _____

ADDITIONAL PROPERTY OWNER AND DESIGNATION OF AGENT FORMS

(To be duplicated if needed for additional property owners.)

PROPERTY OWNER FORM (To be completed by each owner if property is owned by more than one person.)

NAME: Sheila Helms Smith		E-MAIL: leeandsheilasmith333@gmail.com		
MAILING ADDRESS: 4098 Locker Road		CITY: Lancaster	STATE: SC	ZIP: 29720
TELEPHONE: 803-287-1120	CELL: 803-287-1120	FAX:		

DESIGNATION OF AGENT FORM (To be completed by each owner if owner is not the applicant.)

I, Sheila Helms Smith (PROPERTY OWNER) hereby appoint myself (APPLICANT) as my agent to represent me in this request for administrative appeal.

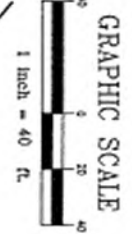
Owner's signature: Sheila Helms Smith Date: 11/29/2021

Given under my hand and seal, this 29 day of Nov, 2021

[Signature] (Seal)
 Notary Public for South Carolina

My commission expires on 6 day of Jan, 2021

LINE 5 TO 8 FOLLOW CONTOUR ELEVATION 228.7' U.S.G.S. 524 LIND. DATA AS SHOWN ON P.B. 36, AT PAGE 213, RECORDED IN THE KENDHAW COUNTY R.O.D. OFFICE.



NO.	DATE	DESCRIPTION	BY
1	11-22-2021	to show well notices	RH

Revised Table

Purpose for Plat: To show distances and area of Well Variance
 Prepared for:

**HAROLD LEE SMITH, III &
 SHEILA HELMS SMITH**

Prepared by:
ROBERT H. LACKEY SURVEYING, INC.

FOUNDATION SURVEY September 29, 2021 Tax Map No. 128-04-41-044
 Located at Lake Wateree - Kershaw County - South Carolina
 Being shown as Lot 44 - Section 41 - LAKE WATEREE - P.B. 36, PG. 223
 Reference: R.B. 3855, PG. 133

A portion of this property lies in a 100 year flood plain as shown on FEMA map 45055C0170F, dated 09/28/2018.

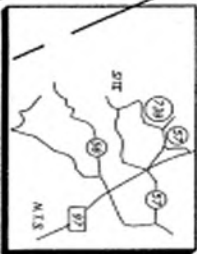
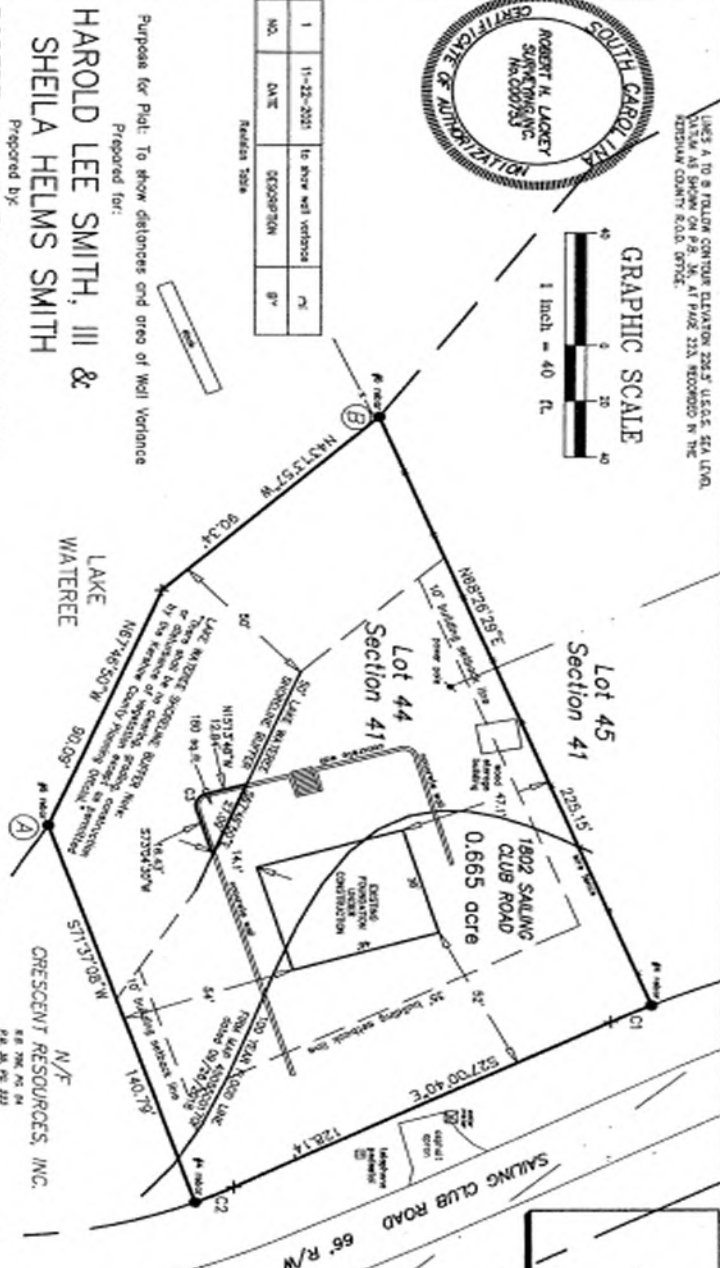
This property is subject to those Restrictive Covenants recorded in the Kershaw County R.O.D. Office. The owner(s) of this property shall be responsible for the practice of land surveying in South Carolina and hereby accepts the responsibility of a Certified Public Surveyor.

Robert H. Lackey, S.C.R.S. # 14799 - P.O. Box 713 - Camden, SC 29220 - Phone 803-437-0868

SALENG CLUB ROAD 100'-NALL VARIANCE/200' SALENG CLUB ROAD 100'-NALL VARIANCE/200'

CURVE TABLE

CHORD	RADIUS	CHORD BEING	CHORD	CHORD
C1	248.00	13.66	13.66	507.961074
C2	107.34	13.83	13.82	1043.90174
C3	4.35	7.40	6.54	2927.41074



LEGEND:
 from Pin Found - ●
 Calculated Point - +



Septic Tank Permit (Case# 22-01)



PERMIT TO CONSTRUCT
Onsite Wastewater System

File Nbr: 282019080041

County: Kershaw

Name: Harold and Sheila Smith

Type Facility: House

Subdivision:

Block: Lot: 44

TM#: 128-04-41-044

Address: 4098 Locker Rd.
Lancaster, SC 29720

Site: 1802 Sailing Club Rd.
Camden, SC 29020

Program Code: 360

System Code: 610

Water Supply: Public

PERMIT TO CONSTRUCT SYSTEM SPECIFICATIONS

See engineered system design and supporting documentation.

SPECIAL INSTRUCTIONS/CONDITIONS

THIS PERMIT IS SITE SPECIFIC. ANY CHANGES TO THE SYSTEM MUST BE APPROVED BY DHEC. ALTERNATIVE TRENCH PRODUCTS APPROVED UNDER STATE RULES AND REGULATIONS MAY BE SUBSTITUTED. ANY UNAPPROVED CHANGES WILL VOID THIS PERMIT.

This Permit To Construct and Operate is issued pursuant to the SCDHEC Specialized Onsite Wastewater Systems for Peak Flows less than 1500 GPD.

Issuance of this Specialized Onsite Wastewater System Permit To Construct does not relinquish the property owner of responsibility in attaining any and all necessary approvals or permits required to develop this property.

PERMIT TO CONSTRUCT

The Permit To Construct is issued upon the system design, certification, and other supporting documentation as required by this standard and supplied by:

D.H. Hagins and Associates, LLC

(Engineering Company)

Donna H. Hagins

(Consulting Engineer)

13920

(State and License Number)

Michael Lance Brewington

(Soil Classifier)

55

(State and License Number)

11/19/2019

(Plan Date)

DHH Job # 303.220

(Project Number)

Any Permit To Construct and Operate that is issued pursuant to this Standard shall be based upon the consulting engineer's design, certification, and other supporting documentation.

Reviewed By: 

Date: 12/3/19

DHEC 1781 (01/2014)

This Permit will Expire and Become Null and Void Five (5) Years from the Issuance Date.

This Permit is Appealable Under the Administrative Procedures Act.

There may be an Additional Fee for Changes in this Permit that Require a Site Reevaluation.

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