



**Kiawah Island
Board of Zoning Appeals
Meeting of September 22, 2025**

Updated: 09/16/2025

**Public Comments Regarding
Case #BZA25-000014**

Town of Kiawah Island
Board of Zoning Appeals
Re: BZA25-000014 (138 Blue Heron Pond Road)

My husband and I reside at 146 Blue Heron Pond Road. By letter dated September 5, 2025, we were notified of the above-referenced request for variance. I write to object to the variance request.

BACKGROUND

The owners purchased 138 Blue Heron Pond Road in 2020. At the time it was acquired, 138 Blue Heron Pond Road was a .57 acre undeveloped lot. When purchased, the side, front and rear setback was 30'. The setbacks within the Preserve vary depending on lot size and configuration. The property right next door to 138 Blue Heron Pond Road (to the west) also has a side, front and rear setback of 30' as do a number of other properties within the neighborhood (*see, e.g.,* 3, 9, 10, 11, 19 and 20 Blue Heron Pond Road).

Blue Heron Pond forms the southern border of 138 Blue Heron Pond Road. At the time the owners purchased 138 Blue Heron Pond Road, it was in a designated flood zone. When we commenced construction on our home in 2016 it was in the same designated flood zone. The practical effect of this designation is that outlets and equipment, such as HVAC units, must be above a mandated height from ground level.

On or about March 10, 2022, the owners purchased an additional .2 acres from the owners of 136 Blue Heron Pond Road. As a result of this second purchase, (1) the former western property line for 138 was abandoned, (2) the property line to the west was redrawn and (3) the total acreage of the property increased to ~.77 acres. Following this second acquisition, the eastern side, front and rear setbacks remained 30'.

In early 2024, the owners commenced construction of their home. According to their contractor, the home was originally designed to include a geothermal HVAC system, which would not require any exterior units. At some unidentified point during construction, the owners apparently decided not to install geothermal wells but, rather, to heat and cool the home utilizing three Mitsubishi units. Thereafter, a decision was made to install these units in the 30' required eastern side setback rather than in any other place within the permitted envelope of the house. According to the owners, the units were hung against the eastern wall of the house, using metal brackets, and not shielded or otherwise baffled, because the owners were worried about aesthetics. Indeed, the submissions make clear that there were (and are) at least 2 other places to position the Mitsubishi units but they were rejected because one "visually ... was most impactful to the Cherfs" while the other would "detract from the architectural details of the Primary wing and would be visible from the Primary Office and Front Stair Entry of the home." Notably, there is no indication that either of these 2 alternatives would require a variance. Driven by the owners' view of aesthetics, the eastern side of the property looked like this shortly after the CO issued.



OBJECTION

Section 12-163(4) of the Town of Kiawah Island Ordinances makes clear that a variance should be granted in only exceptional circumstances and that no variance should even be considered unless 9 conditions are present.

The 1st of those 9 required conditions is that “[t]here are extraordinary and exceptional conditions pertaining to the particular piece of property.” 12-163(4)(a). Here, the lot is bigger than most in the neighborhood and the highland area is almost rectangular and, therefore, much more “buildable” than any number of lots on the street. Moreover, the owner posits that location of utilities for the house was limited however, there is no indication that utility placement on this lot differed in any material respect from what we and many, if not most, other owners experienced when constructing their homes in this neighborhood. As such, the utility placement issues for this lot are neither extraordinary nor exceptional. Similarly, while the owner advances the argument that the setbacks on the lot at issue were “more restrictive”

than others, 30' setbacks are common in our neighborhood. *See, e.g.,* 1, 3, 8, 9, 10, 11, 13, 19, 20, 21, 134 Blue Heron Pond Road; 1 Grey Widgeon. In any event, the owners knew the setbacks for this lot when they purchased it.

The 2nd prerequisite for a variance is a demonstration that the utility placement and setback limits for 138 Blue Heron Pond Road “do not generally apply to other property in the vicinity.” 12-163(4)(b). As set forth above, the utility placement requirements designed to ameliorate flood concerns is common in this neighborhood as is a 30' setback.

The 3rd delineated requirement is that the utility placement limits and the established setback mandates “effectively prohibit or unreasonabl[y] restrict the utilization of the property.” 12-163(4)(c). By the owner’s own admission “[t]hese conditions don’t prohibit utilization....”

The 4th element an owner must demonstrate in order to secure a variance is that “authorization of a variance will not be of substantial detriment to adjacent property or to the public good.” 12-163(4)(d). Here, the HVAC units were deliberately placed within the setback, without any stand or buffering. The owners never sought permission before undertaking this placement and only came to the Town seeking “forgiveness’ after the issue was detected by a neighbor. The owners have conceded that the units can be located in at least 2 other spots seemingly without the need for a variance. How can granting an unnecessary variance be “in the public good” under these circumstances? What message does “blessing” this behavior send to all the neighbors who actually complied with the known building requirements, including with respect to setbacks and utility placement?

The 7th itemized precondition to a variance is a showing that “[t]he need for the variance shall not be the result of the applicant’s own actions.” 12-163(4)(g). Here, the owner made the decision not to install geothermal. Next, the owner authorized building plans that pushed the eastern wall of the house up to the side setback line. Finally, the owner authorized placement of the units on the eastern side of the house, and not in the two other alternative sites suggested by the builder, because the owner didn’t want to see the units. Quite simply, the applicant’s own actions resulted in the need for this after-the-fact variance request.

The 8th variance requirement requires a showing that “[g]ranting the variance will not be contrary to the public or neighborhood interest nor will [not] adversely affect other property in the vicinity.” 12-163(4)(h). Here, the owners secured letters from 5 of the more than 20 property owners who received notice of this application. Most reference an aesthetic concern for shielded units on the front of the house without acknowledging that we already have houses in the neighborhood that have an enclosed stand positioned on the front facade including 127 Blue Heron Pond Road. That stand is well hidden from the road and I am confident this screening could also be accomplished at 138 Blue Heron Pond Road. In any event, because the owners cannot satisfy all 9 requirements for a variance, this body should deny this request.

Maura McIlvain
146 Blue Heron Pond Road

Karen and Steven Brody
140 Blue Heron Pond Road
Kiawah Island, SC 29455

August 8, 2025

Town of Kiawah Island Zoning Department
4475 Betsy Kerrison Parkway,
Kiawah Island, SC 29455

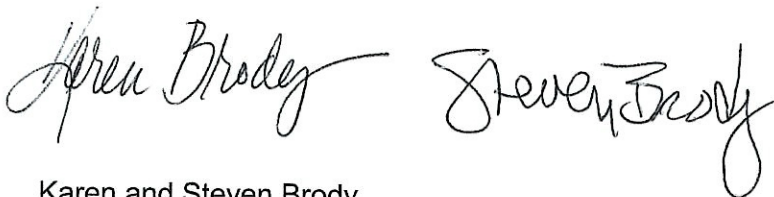
RE: 138 blue Heron Pond Road

Dear Board of Zoning Appeals,

We understand that the issue of the HVAC equipment at 138 Blue Heron Pond Road has received a setback variance from the Kiawah Island ARB and is now applying for the same setback variance with the Town of Kiawah Zoning Department. Dr. Cherf has openly and transparently shared the proposed solution as approved by the Kiawah Island ARB. We are the abutting neighbors and only property owners who will feel the brunt of the proposed variance. In the interest of being good neighbors we will acquiesce to Dr. Cherf's wish not to have the stand positioned on the front or rear elevation of the house where a variance wouldn't be necessary.

We advocate for the proposed HVAC stand to be on the east side of the house as shown on the current proposed site plan and approved ARB variance documents. The only viewscape affected will be ours. We support the granting of a variance to allow for a 12'-0" wide x 3'-6" deep stand. Even with the variance, the stand will be further from our common property line than the closest corner of our house. We also feel that a stand will be the easiest option to screen with plantings. Dr. Cherf has assured us that he is confident that the stand will be maximally screened. We have every reason to trust his commitment to that goal.

Sincerely,

Handwritten signatures of Karen Brody and Steven Brody in cursive script.

Karen and Steven Brody

August 6, 2025

Dear Board of Zoning Appeals,

We are writing to express our support for the proposed setback variance for an HVAC stand at 138 Blue Heron Pond Road. We understand that this variance has already been approved by the Kiawah Island ARB and is now awaiting a BZA Variance Hearing from the Town of Kiawah Zoning Department. John Cherf has shared the solution approved by the Kiawah Island ARB and we agree with their approval.

We strongly prefer that the HVAC stand not be located on the front elevation of the house. We believe such a placement would detract from the street scene and the thoughtful design of the Cherf residence, impacting the aesthetic enjoyment of the entire neighborhood.

We strongly advocate for the proposed HVAC stand to be situated on the east side of the house, as depicted in the current proposed site plan and approved ARB variance documents. This location allows for the best opportunity to screen with nature and newly implemented landscaping and is also the least visible placement on the lot.

Sincerely,



Lisa Mascolo and Todd Singleton
134 Blue Heron Pond Road
Kiawah Island, SC 29455

August 11, 2025

Dear Board of Zoning Appeals,

We are writing to express our full support for the proposed setback variance for the HVAC stand at 138 Blue Heron Pond Road. This plan has already been reviewed and approved by the Kiawah Island ARB and now awaits your consideration. Having reviewed the ARB-approved design shared by Dr. Cherf, I believe it offers the most appropriate and thoughtful solution.

As a nearby neighbor, I feel strongly that placing the HVAC stand on the front elevation would detract from the home's design and the visual harmony of the street. The east-side location shown in the approved plans provides the best opportunity for natural and landscaped screening, making it the least visible and most aesthetically pleasing option.

For these reasons, I respectfully urge the Board to approve the proposed variance.

Sincerely,

A handwritten signature in blue ink that reads "Tacey and Jim Carroll". The signature is fluid and cursive, with the first names being more prominent.

Tacey and Jim Carroll
119 Blue Heron Pond Road
Kiawah Island, SC 29455

August 13, 2025

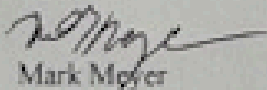
Kiawah Island Board of Zoning Appeals
475 Betsy Kerrison Parkway,
Kiawah Island, SC 29455.

Dear Board of Zoning Appeals,

I'm writing in support of the proposed setback variance for the HVAC stand at 138 Blue Heron Pond Road. This plan has already been carefully reviewed and approved by the Kiawah Island ARB, whose decision we fully endorse. The ARB-approved design, as shared by Dr. Cherf and his building team, is the most thoughtful, practical, and visually sensitive option available.

Locating the HVAC stand on the front elevation would inevitably diminish the home's architectural appeal and disrupt the cohesive streetscape that makes this neighborhood so attractive. In contrast, the east-side placement shown in the approved plans allows for natural and landscaped screening, significantly reduces visibility, and best preserves the beauty of both the property and its surroundings.

Approving this variance will not only protect the aesthetic character of the Cherf residence but also uphold the visual harmony valued by the entire community. We respectfully urge the Board to grant the variance as proposed.



Mark Meyer

143 & 145 Grey Fox Den Ct.
Kiawah Island, SC 29455

August 5, 2025

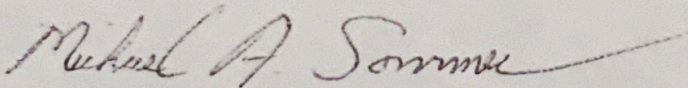
Dear Board of Zoning Appeals,

I am writing to express my support for the proposed setback variance for an HVAC stand at 138 Blue Heron Pond Road. I understand that this variance has already been approved by the Kiawah Island ARB and is now awaiting a BZA Variance Hearing from the Town of Kiawah Zoning Department. Dr. Cherf has shared the solution approved by the Kiawah Island ARB and we agree with their approval.

As neighbors who frequently pass by this home, we strongly prefer that the HVAC stand not be located on the front elevation of the house. We believe such a placement would detract from the street scene and the thoughtful design of the Cherf residence, impacting the aesthetic enjoyment of the entire neighborhood.

We strongly advocate for the proposed HVAC stand to be situated on the east side of the house, as depicted in the current proposed site plan and approved ARB variance documents. **This location allows for the best opportunity to screen with nature and newly implemented landscaping and is also the least visible placement on the lot.**

Sincerely,



Michael Sommers
144 Blue Heron Pond Road
Kiawah Island, SC 29455