

**Application for Variance**

**Unit** \_\_\_\_\_ **Lot** \_\_\_\_\_

**Variance #** \_\_\_\_\_

**Street Address:** \_\_\_\_\_

**See CARE Guide – Schedule of Fees for cost.**

Mr. & Mrs. \_\_\_\_\_, (the "Owners"<sup>1</sup>) do hereby apply to The Committee for Architectural Review and the Environment (CARE) pursuant to Article II. Land Use, Subparagraph A.2.(e), of the Keowee Key Declaration of Protective Covenants (the "Declaration") for a variance from the setback restrictions of said declaration as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Owners do state that the application of the setback restrictions for said Lot as contained in the Declaration would unreasonably limit the use of said Lot by the Owners and effectively deprive the Owners of an appropriate construction site upon said Lot, for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Owners understand that CARE will schedule a hearing on the Application for Variance at which time those neighboring property owners identified by CARE may appear and provide written and oral comments as to why this application should be granted or denied in full or in part. The Owners do state that the house plans related to this Application for Variance as submitted to the Committee are satisfactory to them. Further, they have explored the costs of construction necessitated by such plans, and, that construction in accord with CARE building procedures, will commence promptly upon approval of the Application for Variance and the approval of the Building Plans. Attached hereto is a plat prepared by a land surveyor registered with the State of South Carolina showing the proposed location on the Lot of the structure to be built and the infringement(s) of such structure into the setback(s) designated for said Lot. These infringement(s) are the basis for this Application for Variance.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Owner<sup>1</sup>

\_\_\_\_\_  
Owner<sup>1</sup>

**Note:** The Owners should recognize that in applying for a variance, it will have the effect of delaying the construction project. CARE will address the application at a future CARE meeting. Other owners have the right to appeal within 10 days of the variance decision. CARE will **not** issue the "white" construction permit until this process has run its course.

\_\_\_\_\_  
<sup>1</sup> If one or more Prospective Owners (as defined in the CARE's New Construction Rules and Procedures) of a lot at Keowee Key has applied for plan approval (or, if applicable, a variance) from the CARE, then the term "Owner", as used herein, shall apply to such Prospective Owners, rather than to the Fee Owners. In such event, when this document refers to the Owner's lot, it shall be deemed to refer to the lot or lots which the Prospective Owners have contracted to purchase, and which is the subject of the Prospective Owners' application for plan approval (and, if applicable, a variance).  
Revised July 13, 2001



# **Committee for Architectural Review and the Environment (CARE)**

## **Variances**

### **General**

Occasionally, CARE is asked to approve house plans which encroach into the front, side or rear setbacks identified for the Lot in the Declaration of Protective Covenants or in the Supplementary Covenants applying to that Lot. For new construction, a hearing will be held and the variance requested either approved or denied.

Owners of existing homes approved for construction prior to 1991 may find that their homes extend into the setback areas, and no variance had ever been applied for or granted. CARE has adopted procedures, in this instance, for the awarding of a variance, which approves the setback encroachment.

The following pages describe procedures for obtaining variances from setback limitations and the Committee's position on the location of improvements on a Lot, on setback requirements and on the granting of variances generally.

### **Variance Process**

The following is the process for a variance request:

- The process is initiated by the property owner providing a survey prepared by a licensed surveyor and paying the variance fee. See CARE Guide, Fee Schedule.
- The survey will show all proposed encroachments into any of the setbacks. When CARE receives the survey, CARE will send out a notice to the neighbors within 200 feet of the property which shows the proposed encroachment(s) into the setback.
- The variance request is sent out to the neighbors at least ten days prior to the next scheduled CARE meeting.
- A variance hearing is held so neighbors can voice an opinion for or against the encroachment. The neighbors can reply in writing by e-mail, phone call or attend the hearing.
- If the variance is approved, construction cannot start for another ten days in case someone appeals the variance approval. If there are no appeals, the application is processed to build the project.
- If the variance is disapproved, the owner can appeal to the KKPOA Board.
- Upon completion, a final "As Built" survey must be completed by a SC registered surveyor.
- CARE will prepare a Notarized Letter of Variance for the completed project.
- The final "As Built" survey and Notarized Letter of Variance are filed by owner at Oconee County Registrar of Deeds.

## **Before Processing Begins**

Prior to the start of the variance process, the following documents A and B, collectively referred to as the “Plans”, must be submitted to CARE for review and approval along with a check payable to KKPOA to cover review fees. Refer Setbacks and Variances in the Architectural Guidelines. See CARE Guide – Fee Schedule. The complete “Plans” must be submitted in whole to:

Keowee Key Property Owners’ Association, Inc.  
Committee for Architectural Review and the Environment  
1392 Stamp Creek Road  
Salem, SC 29676

The “Plans” will consist of:

- A. Two copies of a property survey prepared by a South Carolina registered surveyor.
- B. The KKPOA Application for Variance.

## **Procedure for Obtaining a Notarized Letter of Variance**

When a dwelling within Keowee Key is not in compliance with prescribed setbacks as set out in the Covenants, it may not be possible to sell or finance the property unless a Notarized Letter of Variance is obtained from CARE which expressly approves the identified violation of the setback provisions. This document is in recordable form for filing by the property owner with the Oconee County Land Records in Walhalla.

There are three types of circumstances for a Notarized Letter of Variance. Each is handled in a different manner. You must submit a Variance Application and an “as built” survey of the property prepared by a South Carolina Registered Surveyor. The survey must show the minimum setback lines, the location of the foundation, all roof overhangs, decks, porches, exterior stairways, and the location and dimensions of all encroachments into the prescribed setbacks.

### **Type I – identified violation of setback provisions in New Construction**

In obtaining a CARE application to begin construction of a new home, major remodeling or an addition, a variance, if needed, is applied for and approved by CARE following the procedures set out under this Guideline.

### **Type II – existing dwelling not in compliance with prescribed setbacks**

For Type II, the property owner applies for a variance, which is attached to the “as built” survey. CARE will then review the request and, if approved by CARE, a Notarized Letter of Variance will be prepared and given to the property owner. Again, it is the property owner’s responsibility to file the Letter with Oconee County.

### **Type III – existing dwelling approved prior to April 12, 1991**

An existing dwelling, approved for construction prior to April 12, 1991, was not in compliance with the prescribed setback. Most of these encroachments are roof overhangs, decks, porches and exterior stairways.,

For Type III, the property owner makes a request for a Notarized Letter of Variance to CARE and provides the “as built” survey. CARE will then review the case to be sure that it meets all the requirements for Type III. If it does, a Notarized Letter of Variance is prepared and given to the property owner. If the case does not qualify as Type III, it is handled as Type II above. It is still the property owner’s responsibility to file the Notarized Letter of Variance with Oconee County.

### **Locating Improvements**

1. Dwelling structures, including all roof overhangs to the extent they exceed 2 feet (excluding gutters), decks, stairways, and porches are to be located so as not to encroach into the setbacks prescribed for the lot. Setbacks for each Unit are specified in the Declaration of Protective Covenants and in the Supplemental Covenants governing each Unit with Keowee Key.
2. Improvements other than Dwellings are not restricted by the Covenants and may be located within the setbacks, subject to CARE approval. However, because of utility easements and other encumbrances that run within these setbacks, CARE must use care in approving anything that will be located within these setback areas. When approval is given, the property owner must be advised that approval by CARE in no way alters the existing easements on the property, and that the owner is at risk should access to these easements be required in the future.
3. Before CARE makes a determination regarding an improvement that would encroach into the setback, CARE should solicit comments from neighboring property owners that could be affected. This is not necessary when the improvements are commonly accepted types such as, driveways, walks, and shoreline, rip rap and simple docks. Contact is advised when the improvements are of a type that are highly visible or are of an unusual nature. In all cases the final determination of approval remains the sole judgment of CARE.

For most lots, the front, rear and side lot lines are obvious; and therefore, the location of setback lines prescribed by the Covenants is easily determined. For a few lots, because of location or complexity of shape, CARE may be required to make a determination as to which lot boundary lines are front, rear and side. Two common problems are:

**Lots with road access via a narrow corridor:** In this case, the front lot line is taken as the lot boundary line next to the road or cul-de-sac. The side lines follow both sides of the corridor access strip and then extend along both sides of the lot to the line, or group of connecting lines, that are designated as the rear. On waterfront lots the rear lot line is always the full length of the 804' sea level elevation. Lots with a rear narrow corridor may have their rear setback adjusted. The CARE Committee will have to review and approve these rear setbacks.

**Corner Lots:** Because a corner lot is bounded on two sides by roads, the lot, strictly speaking, has two front sides. If another lot line is defined as the rear, the available building area can become severely reduced by the large setbacks prescribed for the front and rear of the property. To avoid unnecessarily restricting available building space for the owner, CARE may elect to define the property as having two front lines and two sides with no rear line. Another option is to declare one line as the front, the line adjacent to a road, to be a sideline and other lines as rear and side. The rear line connects the two lines designated as side lines. When making such a determination, and later when approving the location of a dwelling, CARE must consider the location of existing and future utilities and other easements that may follow the lot lines to ensure that no dwelling will be located so as to interfere with, or prevent, essential utility construction, maintenance and operation authorized by the easements.

### **Variations in Lot Setbacks**

- CARE firmly resists pressure to approve encroachment into any setbacks. However, “In the event that the Committee shall determine that application of the setbacks contained in the Covenants to a particular Lot would unreasonably limit the use thereof by the Owner and effectively deprive him of an appropriate construction site upon said Lot, the Committee shall grant a variance to the Owner of such Lot from the provisions of these setback restrictions” (Article II A2(e) of the Declaration of Protective Covenants).
- A property owner’s desire to build a house larger than what the property can accommodate, within the prescribed setbacks, is not adequate justification for a variance, unless the maximum house area that can be accommodated is less than the minimum house area required by the Covenants.
- Any owner constructing an improvement within a setback without a variance is subject to a fine as detailed in the Fine Guidelines.
- Side – Encroachment into the side setbacks should be avoided and considered only in conditions of extreme need and where house locations will remain well spaced apart. For fire safety reasons, it is important to keep dwellings spaced as far apart as possible.

- Front – Encroachment into the front setback should also be avoided when the dwelling will face a major traffic-bearing road or where the existing homes form a natural line which would be broken by allowing encroachment into the front setback.
- Rear– The rear setback for most lots is 25 feet within Keowee Key, which is different than that of Oconee County, which is typically 10 feet. When justified, a variance to allow encroachment into the area of the 25 foot setback may be considered. Encroachment into the 25 foot setback line should be avoided unless there is no impact to neighboring properties.
- On lake front property, no encroachment into the 25 foot setback shall be considered without the approval of Oconee County, referred to the Natural Vegetative Buffer. With all lots, encroachment into the 25 foot line must consider the easements that run across the rear of the lot. CARE must not allow installation of an improvement over an easement if it will materially interfere with the construction, maintenance or operation of an existing or possible future utility. In some units, the lots have rear setbacks different from the 25 foot rule, but the determining principles described should apply.
- If, after a variance has been granted, a new survey shows there is a difference in the encroachment, a new variance will not be required if the variance falls within 5% of the previously approved variance.



# Committee for Architectural Review and the Environment (CARE)

## Schedule of Fees

Fee amounts are subject to change at the sole discretion of CARE without notice.

### New Construction

Review	\$1,200
Road Use	\$3,100
*Owner's Deposit	\$5,000
Keowee Key® Utility (KKUS)	
Water Tap	\$ 750
Sewer Tap	\$ 750
Impact	\$3,000
KKUS Total	\$ 4,500

### Variances

**Variance Request	\$ 150
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### Razing

Review	\$ 500
Road Use	\$1,000
*Owner's Deposit	\$5,000
Keowee Key Utility (KKUS)	

(KKUS fees are on a case-by- case basis and will be assessed at the time of application.)

Water Shut Off	\$ 40
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### Major Renovations / Drainage / Landscape / Tree Removal

Fees for these projects may be assessed on a case-by-case based on the project or combination of projects. On the next page are proposed fees depending on the type of project or combination of projects.

Review	minimum \$150	\$ 300 maximum
Road Use	minimum \$100	\$ 725 maximum
*Owner's Deposit		\$2,500 maximum

\*Owner's Deposits – This fee is a refundable deposit and is held to enforce compliance of the owner, contractor, their workers, subcontractors, and suppliers with the Covenants and related rules and procedures as set forth by Keowee Key and CARE. Effective September 29, 2010.

\*\*Variance Request – This fee is a non-refundable process fee required at the time of the request. Grandfathered variances are exempt from this fee. Effective September 29, 2010

**Proposed fees depending on the type of project or combination of projects. Some of these projects may require an Oconee County Permit in addition to CARE's approved application.**

	<b>Review Fee</b>	<b>Road Use Fee</b>
Tree removal of more than 10 trees		\$100
Asphalt Driveway Replacement	\$150	\$100
Concrete Driveway Replacement	\$150	\$100 per concrete TL
New patios/replacement under 200 sq feet	\$150	
New patios/replacement over 200 sq feet	\$150	\$100 per concrete TL
Garage/room additions/ Open Covered Porch Addition	\$300	\$750
Deck Additions under 200 sq feet	\$150	
Deck additions over 200 sq feet	\$150	\$100
Retaining Walls under 2 feet height	\$150	
Retaining Walls over 2 feet height	\$150	\$200
Drainage rock swales	\$150	\$100
Landscaping (site renovations)	\$150	up to \$725
Outdoor wood burning chimneys	\$150	