



TOWN OF SURFSIDE BEACH
115 US Highway 17 North, Surfside Beach, SC 29575
www.surfsidebeach.org
☎ (843) 913-6111 ☎ (843) 238-5432

**BOARD OF ZONING APPEALS
COUNCIL CHAMBERS
MARCH 29, 2016 ♦ 6:30 P.M.**

- 1. CALL TO ORDER – Chairman Ott**
- 2. PLEDGE OF ALLEGIANCE**
- 3. AGENDA APPROVAL**
- 4. MINUTES APPROVAL - November 30, 2015**
- 5. ELECTION OF OFFICERS**
- 6. BUSINESS**
 - A. Appeal Number #ZA2016-01 Ms. Wanda Todd request a variance from Section 17-408 (for an existing carport) to allow for the carport to be moved 5' closer to the side property line in order to save a landmark Oak Tree.**
 - i. Hearing**
 - a. Appellant Recitals**
 - b. Staff Recitals**
 - iii. Q&A with Sworn Individuals**
 - ii. Business - Motion on Appeal #ZA2016-01**
- 7. PUBLIC COMMENTS – General Comments.**
- 8. BOARD COMMENTS**
- 9. ADJOURNMENT**



BOARD OF ZONING APPEALS MEETING MINUTES
TOWN OF SURFSIDE BEACH
TOWN COUNCIL CHAMBERS
NOVEMBER 30, 2015 ♦ 6:30 p.m.

1
2
3
4
5
6
7 **1. CALL TO ORDER.**

8
9 Chairman Ott called the meeting to order at 6:30 p.m. Members present: Chairman Ott, Vice-
10 Chairman Willm, and members Courtney, Lauer, Lanham, and Murdock. Member Watson was absent. A
11 quorum was present. Others present: Town Clerk Herrmann; Building, Planning & Zoning Director
12 Morris, and Executive Assistant Messall.

13
14 **2. PLEDGE OF ALLEGIANCE.**

15
16 Chairman Ott led the Pledge of Allegiance.

17
18 **3. AGENDA APPROVAL.**

19
20 Mr. Lanham moved to approve the agenda. Mr. Willm seconded. All voted in favor. **MOTION**
21 **CARRIED.**

22
23 **4. MINUTES APPROVAL.**

24
25 Ms. Lauer moved to approve the October 22, 2015 minutes as submitted. Mr. Willm seconded.
26 All voted in favor. **MOTION CARRIED.**

27
28 **5. APPEALS.**

29
30 **A. Appeal #ZA2015-06 (Deferred October 22, 2015 for further information.) Robert**
31 **Gutterman requests a variance for §17-330 Yard Setbacks to allow for a handicap lift within the 20-**
32 **foot yard setback, requesting a variance of 5-feet.**

33
34 **i. Hearing (Verbatim)**

35
36 **a. Appellant Recitals.** Neither Mr. Gutterman nor any representative were present.

37
38 Chairman Ott: I don't believe we need to go back through the recitals, unless staff wants to. You
39 know, we went through it. It was in our packet under the minutes approval, and where we were at that
40 time, we were looking for approval of a variance and what we did was referred it back, because there is a
41 request to put a stipulation on this variance that the handicapped lift be removed, if the said handicapped
42 person no longer owns that property, and the request was if it was legal for us to do that, and I'll ask the,
43 the zoning director if she would read the information that she found on this. I'm going to swear you in,
44 Ms. Morris. Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?
45 Ms. Morris: I do. Chairman Ott: Thank you.

46
47 **b. Staff Recitals.**

48
49 Ms. Morris: We did contact, Mr. Gutterman actually asked that I contact Amber Fagin with the
50 Fair Housing Accessibility, which I did. They're actually a part of the Federal Fair Housing Act through the
51 Department of Justice and the Department of Housing and Urban Development. So, the variance request
52 to allow for a handicap lift to encroach into the front yard setback at 1203 Seabridge Court was deferred
53 during the October 22nd, 2015 BZA meeting. The board deferred the item to gather additional information
54 regarding placing conditions on the approval. I spoke with Ms. Amber Fagin with the Fair Housing
55 Accessibility. She said she had spoken to Mr. Gutterman, and she, and that there are cases for
56 reasonable accommodations, but wasn't sure if it applied to this case, since it usually involves condos,

57 multi-family, et cetera. She also stated she had informed Mr. Gutterman that she was not an attorney and
58 could not give legal advice. So staff contacted the town's legal counsel. We requested and received a
59 legal opinion from the town's legal counsel in regards to the matter. Mike Battle, attorney for the town,
60 stated the board has a right to place conditions on variance approvals. In this case, the approval is to
61 accommodate for the current owner. If the property owner decides to sell the property to someone that is
62 handicapped, a variance should be sought from the new owner, otherwise the board can require the lift
63 be removed.
64

65 Chairman Ott: Thank you, Ms. Morris. I'll also add that during that hearing it was brought up, you
66 can see in your graphs on Line 807 to 809 that the person that has this lift, it changes their height limits
67 on their, for their flood insurance, and it works from the bottom floor to the finished floor, which would
68 create a higher cost for flood insurance. So, for this reason also, if somebody bought the property, they
69 need to know this, so they don't have a surprise that they're paying extra insurance. This property is right
70 at the beach, too. At this time I'm gonna ask the board for a motion to, where we were, a motion to
71 approve this variance with a stipulation to have written into the, what is that, the deed, it'll be written on to
72 the deed that we would ask to have this apparatus removed, if there is nobody, if there, if somebody
73 comes in and buys the property, and they are handicapped, all they would have to do is go to the zoning
74 department to get the variance reapproved. But, if not, we're gonna have, we would like to have it
75 removed. Do I have a motion on this?
76

77 **iii. Q&A with Sworn Individuals.** There were no questions.

78
79 **ii. BUSINESS – MOTION ON APPEAL #ZA2015-06.**

80
81 Ms. Lauer moved to approve the variance with a condition that the lift apparatus be removed
82 upon sale of the property, unless the new owner is handicapped; said new owner shall seek a variance
83 through the zoning department. Mr. Courtney seconded. Chairman Ott noted that the concrete pad could
84 remain, only the lift mechanism would have to be removed. All voted in favor. **MOTION CARRIED.**
85

86 Chairman Ott asked how this condition would be written onto the deed. Ms. Morris said the
87 variance order would be recorded at the Horry County Register of Deeds office.
88

89 **B. Appeal #ZA2015-07 Joseph and Robin Littleton request a variance from §17-408 under**
90 **exceptions (3) of the zoning ordinance to allow for the encroachment of a garage in the rear and**
91 **side yard requirements. Requesting a rear yard variance of 11-feet allowing the rear yard to be 9-**
92 **feet from the required 20-foot setback and side yard variance of 2-feet allowing the side yard to be**
93 **8-feet from the required 10-foot setback.**
94

95 **i. Hearing (Verbatim)**

96
97 Chairman Ott: Alright, at this time I'll open up the Appeal Number ZA2015-07 Joseph and Robin
98 Littleton requests a variance from Section 17-408 under the exceptions of number 3 of the zoning
99 ordinance to allow for the encroachment of a garage into the rear and side yard requirements.
100 Requesting a rear yard variance of 11-feet allowing the rear yard to be 9-feet from the required 20-foot
101 setback and side yard of 2-feet allowing the side yard to be 8-feet from the 10-foot setback. I'll ask the
102 applicants, if they are present, to approach the microphone to recite for the variance. Would you please
103 state your name and address for the record.
104

105 Ms. Littleton: Sure, Robin Littleton, 412 9th Avenue South, Surfside Beach.

106 Chairman Ott: Would you raise your right hand, please. Do you swear to tell the truth the whole
107 truth and nothing but the truth, so help you God?

108 Ms. Littleton: Yes.

109 Chairman Ott: Thank you very much.
110

111 Mr. Littleton: I'm Joseph Littleton, also known as Joe, 412 9th Avenue South, Surfside Beach.

112 Chairman Ott: Thank you very much. If you are gonna recite, I need to swear you in, too.

Board of Zoning Appeals
November 30, 2015

113 Mr. Littleton: I'll swear in.
114 Chairman Ott: Okay. Do you swear to tell the truth the whole truth and nothing but the truth, so
115 help you God?

116 Mr. Littleton: I do.

117
118 **a. Appellant Recitals.**
119

120 Ms. Littleton: Good evening. We're here tonight to request a setback variance on our property
121 located at 412 9th Avenue South as shown, I believe, on the paperwork that you have. Our home was
122 constructed in 1979 to ordinances that were in place at that time and is now considered to be
123 nonconforming. Homes built during that period were allowed to be constructed deep to the back of the
124 property leaving a large front yard area, in our case a very small back yard area. Even with our 11,690,
125 nine, square foot lot this manner of construction accompanied with today's ordinances makes our need
126 for updating our home and increasing the storage and square footage very difficult. Our ultimate goal is
127 to add the two car garage and a screen, to screen an existing deck as seen on the proposed survey,
128 update the interior of the home and convert the attached garage to living and storage space. Our first
129 step would be to construct a two car garage to adequately store our current vehicles and household
130 items. So, I'll just go ahead and start answering these questions we were supposed to answer. (Note:
131 Mr. Littleton distributed photographs to the board.) Our property is shaped in a narrow rectangle as
132 recorded on the original subdivision plat in 1979. With current site setbacks this allows for approximately
133 55-feet between the side setbacks to work with. The current 20-foot rear setback, along with the
134 placement of the dwelling allows us little to no area behind our home to place a standard size two car
135 garage that would not interfere with the aesthetics of the property or be detrimental to the surrounding
136 neighbors and the community. The shape of the lot and the placement of the dwelling are beyond our
137 control as the land was platted and the dwelling built 30-years ago. The dwelling was constructed to
138 guidelines and ordinances in place at that time leaving no consideration for expansions, additions or
139 future changes to the ordinances, which are now in place that help to make the dwelling a nonconforming
140 home. Most of the homes that are in close vicinity to us and that are lived in year round have two car
141 garages or large protected parking areas to protect the owners' vehicles and other items from physical
142 sources and from weather. Most of the surrounding homes have increased heated square footage
143 allowing space needed for active living and storage. Our home is placed farther to the rear of the
144 property than the other homes providing less rear yard area than the others, therefore not allowing space
145 for additions or expansions with the current setbacks. As stated and as shown on the provided survey,
146 the new garage would sit in the footprint of the storage building, the current storage building constructed
147 in 1979 with the difference being the length and the width. It will not require additional encroachment
148 upon the setbacks that are currently shown. Approval of a variance will allow us the maximum
149 development potential on the lot without having a negative impact on the front yard area that is viewed by
150 our neighbors, community and the passing public. It will also allow us the same reasonable consistency
151 in size and nature as detached garages and homes in the same vicinity and zone. With, without a
152 variance we will be prevented from updating our home to maintain a reasonable property value. With the
153 recent downfall of the housing market we are now in steep competition to maintain property values with
154 newly constructed homes built to modern standards and the current ordinances. In addition, we will be
155 unable to increase our current living and storage space to that which are in line with today's family needs.
156 Our attached garage is not wide enough to hold a small SUV [sports utility vehicle.] Currently, it holds our
157 motorcycle. Our other vehicles are unprotected from the elements and other physical entities that could
158 do them harm. Since 2000 when we moved in, we've had the paint on one car blister across the roof and
159 the hood due to the constant sun damage. The dash in our truck is cracked in five places due to the sun
160 and heat damage and must be replaced. In 2004 we had a vehicle stolen from our driveway when
161 intruders walked into our home while we were sleeping. Our storage capacity is not enough to sustain
162 the needs of our household. We rent a basic 10 by 20 storage unit for \$172 each month to hold our
163 household items, including bikes, seasonal decorations, and custom hurricane boards. This expense
164 itself is an unnecessary hardship. The cost for this unit increases each year. Our home was constructed
165 with the washer and dryer hookups in the garage. We have replaced the washer and dryer three times
166 since 2000 due to the damage from the elements, particularly the rust in the drums. We need to add
167 space to bring these machines that we use almost daily into our home where they are protected. Today's
168 electronics offer us large televisions that hang on walls, cable and satellite dishes that require receivers,

169 sound systems with multiple speakers, DVR's and DVD players, and game systems with different users'
170 parts and controllers, all of which require space. Refrigerators and other appliances have more space,
171 more features, and more efficient, and are more efficient [sic], yet they are larger. Blenders, juicer,
172 juicers, Magic Bullets, mixers, Keurig coffee makers, things that were not fathomable in 1979 are now a
173 way of life and require additional space. This home can no longer be safely and enjoy, enjoyably
174 inhabited with today's modern standards, just as the ordinance currently in place deemed the dwelling
175 non-conforming. We're not just a household of two people. In our 1,470 approximate square feet, of
176 heated square feet, we raised, finished raising our seven children, and we have nine grandchildren. All of
177 which [sic] love to come to the beach and visit granny and grandpa. We have beach toys, bicycles,
178 buckets, all kinds of stuff that we have to keep almost a mile and a half away in a locked storage unit.
179 The decision not to build toward the front of the lot, which answers the last question, was made so that
180 the aesthetic value along with the look of the surrounding properties would be similar. There are similar
181 garages. There are similar setbacks. But, the fronts of the homes have large front yards. It is our belief
182 that building a garage to the front of the yard would be unseemly and a detriment to the property values
183 around us. The garage is being placed in the same footprint as the existing building, with the difference
184 being the size. This building would be behind the existing dwelling and would not be viewed as out of
185 place or be a detriment to the property values of our neighbors.

186
187 Mr. Joseph Littleton made comments from in front of the projector screen without using a
188 microphone that were not recorded clearly and were unintelligible. He showed the board members the
189 general layout of the property and where the proposed garage would be placed. (*Comments from clerk's*
190 *notes; not verbatim.*) He said they would use porous concrete so as not impact stormwater drainage.
191 The proposal is for a screen porch to be placed where the deck currently exists. The only way to allow for
192 proper ingress and egress was to place the garage in the proposed location. The current garage would
193 be turned into living space. Best utilization of the property is the plan submitted by Walton Builders. They
194 like living here and are not asking for anything enormous, but if the variance cannot be granted, they will
195 have to move.

196
197 **b. Staff Recitals**

198
199 Director Morris: Okay, you all do have a copy of the plat. I actually on the next slide, as you saw
200 before, I blew it up and then took the section of the back portion of the lot where they're wanting to put the
201 proposed garage. If you look at the plat, the setback requirements in R1, the property is currently zoned
202 R1 and has been zoned R1 as far back as we can find. Private garages are permitted, provided they
203 meet the minimum setback requirements, and the setback requirements for the district is 25-feet from the
204 front property line, 10 on each side, unless it's a corner lot, and 20-foot on the rear, and if you look at the
205 plat, the house is pretty close to meeting those setback requirements, except on the side. One of the
206 sides is 9.1, 9.8 and then the other side is 9.8. I'm not sure how they measured back whenever this
207 house was built. That was '79. But, it does come pretty close to meeting the setback requirements. We
208 did check with Horry County tax records, and it did show that the current owner purchased the property in
209 2000, and the setback requirements for garages have not been changed since that time. This is the plat
210 that you have in front of you, the survey. The hatched area is an existing storage building. It's gonna be
211 removed, and they're gonna, and they're proposing to place the 572 square foot garage in that area. The
212 garage according to the code has to meet the requirements of 10-feet off the side and 20-feet off the rear.
213 We did, it was discussed whether they wanted to add to the structure, and of course, they just
214 acknowledged that they really did not want to do that. They want to put it in the rear. I do have, I gave
215 you a copy in your packet of the ordinance section where it does show that the garages have to meet the
216 setback requirements. That's under exceptions number 3, and of course, they can't exceed a square
217 footage of 850 square feet or 50-percent of the footprint of the building. This does not exceed that so the
218 size would meet. It's the setbacks that have the problem.

219
220 Chairman Ott: Thank you, Ms. Morris. Does the applicant have any rebuttal to the town's recital?
221 The appellants indicated from the audience that they had no rebuttal.

222
223 **c. Q&A with Sworn Individuals**

224 Chairman Ott: Then, I'll open the floor to any resident or anybody who's present that would like to
225 make a statement. We will say that there's nobody at this time. At this time, I'll close the hearing portion
226 and open the business portion.

227
228 **B. Business**

229
230 Mr. Lanham asked if the setback requirements now are the same as when the property was
231 purchased in 2000. Ms. Morris said yes.

232
233 Chairman Ott said since the package was received, he had asked people he thought had
234 influence on what the setbacks were and how enforcement was done. He found the same information.
235 The R1 setbacks have remained the same for as long as everybody can remember. It was R2 and R3
236 that were changed, because they changed the density, and allowed the separation lots in R3.

237
238 Mr. Littleton said the home in back of him was built in 2001 by Chris Burroughs and its garage is
239 6-feet 8-inches from the property line. If the setbacks were the same since 2000, then that house did not
240 meet the setbacks. Because of that, we assumed it would be okay to have our garage closer to the lot
241 line.

242
243 Chairman Ott agreed with Mr. Littleton's comment, and said there were quite a few houses in
244 town that were nonconforming, and he suspected there was no permit issued to build that garage.

245
246 Ms. Littleton said when they purchased the home they did not foresee changes that would
247 necessitate changes to the home to keep it modern and livable. Had they known in 2000 what the
248 setbacks were, (**).

249
250 Mr. Murdock said just about everywhere in the country, the setback is 10-feet.

251
252 Chairman Ott said the appeals board is charged to uphold the ordinances and try to help
253 residents as long as they are upheld. He asked if they had considered placing the garage to another
254 location. There was a lengthy discussion about options for garage placement. Ms. Littleton said they
255 want to keep the back structure of the house as it exists, and that is the only place the garage would work
256 to enable them to remodel.

257
258 Mr. Murdock said sometimes this is not a "fun" position to be in, because the board does in a
259 sense pass judgment on our neighbors. In looking at the application of the ordinance requirements for
260 exemptions, in particular, A, B, C, and D, he drew a distinction between somebody who bought the
261 property in 1979 when the ordinance was not in place and the house was built, but somebody who bought
262 the property after the ordinance was already in place, and the house was already built. It is a buyer
263 beware situation. Mr. Murdock moved to deny the variance. Mr. Lanham seconded. All voted in favor.
264 **MOTION CARRIED TO DENY THE VARIANCE.**

265
266 **6. PUBLIC COMMENTS – GENERAL COMMENTS.**

267
268 There were no public comments.

269
270 **7. BOARD COMMENTS.**

271
272 Mr. Murdock appreciated that several board members reached out to him after his father passed
273 last month, and did the council, as well. I miss him terribly, but I do appreciate the kind comments and
274 sentiments from my fellow board members.

275
276 Mr. Willm said regarding the Littleton's request that the property was bought after the setbacks
277 were established. The family, unfortunately, outgrew the home. The board cannot set variances for that
278 kind of reason, nor can the board grant variances for increasing the property value. The four criteria
279 make it very hard when you want to help somebody improve their home. It is a zoning issue than a feel

Board of Zoning Appeals
November 30, 2015

280 good issue. Setbacks are established for a reason. It is not the board's job to dictate whether they are
281 right or wrong. The determination has to be based on whether there are exception circumstances that
282 would allow the board to grant a variance. Mr. Willm said he appreciated everybody on the board and
283 what they do. The members are united and understand how things are supposed to be done, although it
284 is an unfortunate decision sometimes.

285
286 Mr. Courtney said thank you to everybody and Happy Holidays. The board members have said it
287 all. It is hard to be on the board and make decisions like this. He was all for improving the community,
288 but when it comes down to it, we are governed by the standards.

289
290 Mr. Lanham wished everybody a good holiday. He said all of his relatives were coming, and he
291 did not have enough room. *(Laughter)* They had to rent a house.

292
293 Chairman Ott said he wanted the board to meet in January to have a round table training session.
294 Merry Christmas and Happy New Year. Thank you very much.

295
296 **8. ADJOURNMENT.**

297
298 Ms. Lauer moved to adjourn at 7:11 p.m. Mr. Murdock seconded. All voted in favor. **MOTION**
299 **CARRIED.**

300
301 Prepared and submitted by,
302
303 _____
304 Debra E. Herrmann, CMC, Town Clerk
305
306 Approved: _____, 2016
307
308 _____
309 Ron Ott, Chairman
310
311 _____
312 Darrell Willm, Vice Chairman Timothy Courtney, Board Member

313
314 _____
315 Terri Lauer, Board Member Guy Lanham, Board Member
316
317 _____
318 Phil Murdock, Board Member Holly Watson, Board Member
319
320

321 Note: Be advised that these minutes represent a summary of items with a verbatim transcript of the
322 hearing section insofar as can be determined by the recording thereof and are not intended to represent a
323 full transcript of the meeting. The audio recording of the meeting is available upon request; please
324 provide a flash drive on which to copy the audio file. An agenda of this meeting was published pursuant
325 to FOIA §30-4-80(a) including publishing on the town website; sent to the town's email subscription
326 service, and the agenda was posted outside Council Chambers. Meeting notice was also posted on the
327 town marquee.

ISSUE PAPER FOR ZONING BOARD OF APPEALS CONSIDERATION

Meeting Date: March 29, 2016

Prepared by: Sabrina Morris

Agenda Item: 6

Subject: **Appeal Number #ZA2016-01 Ms. Wanda Todd request a variance from Section 17-408 (for an existing carport) to allow for the carport to be moved 5' closer to the side property line in order to save a landmark Oak Tree.**

BACKGROUND:

The property owner at 310 15th Avenue South has a Laurel Oak tree located in her front yard. Town Council approved an ordinance stating Laurel Oaks are protected and further, if a Laurel Oak exceeds 24" in diameter the tree is classified as a landmark tree. The Laurel Oak in her yard is over 30" in diameter. The tree is located directly beside the existing carport. The carport touches the oak and needs to be removed from that immediate area. The property owner wishes to move the carport over 5' which would leave an additional 5' to the side property line.

The tree is healthy at this time, however allowing the carport to remain as is would place the tree in jeopardy of damage and decay.

Section 17-727 allows the Board of Zoning Appeals to approve a variance in order to save a protected or landmark tree.

ATTACHMENTS

BOZA Application
Section 17-727 of the zoning ordinance



Town of Surfside Beach Board of Zoning Appeals
Application for Variance, Special Exception or Appeal of
Administrative Official Decision

843-913-6341(Phone) 843-839-0057(Fax)

OFFICE USE ONLY
Application #: 2016-01
Date Filed: February 20, 2016
Appeal No.: ZA2016-01
Meeting Date: March 29, 2016

Instructions - Submit this application, along with the required information and fee, to the Planning, Building & Zoning Department at 115 Hwy. 17 North, Surfside Beach, SC 29575. Applications are due 30 days prior to the scheduled meeting date and must be complete to be accepted and placed on the agenda. A sign will be posted on the property, and the public hearing will be conducted by the Board of Zoning Appeals.

THE APPLICANT HEREBY REQUESTS:

- A Variance as indicated on page 2 of this application (complete pages 1 & 2 only)
A Special Exception as indicated on page 3 of this application (complete pages 1 & 3 only)
An Appeal of a decision of the administrative official as indicated on page 4 of this application (complete pages 1 & 4 only)

Property Address: 310 15th Avenue South TMP# 195-07-05-002
Property Owner: Wanda Todd Daytime Phone
Applicant: Same Daytime Phone
Applicant's Mailing Address: Same as above
E-Mail Address

Relationship of applicant to owner (same, representative, prospective buyer, other) same

Zoning of Property R-2 Commercial Residential Planned Development

Information required with application: (Check information submitted)

- Scaled plan(s) or plat(s), including elevations of structures and locations of structures (proposed and existing) showing the variance(s) or special exception(s) being requested
Stamped envelopes addressed to property owners within 150 ft. of the property requesting the variance or special exception. The return address of all the envelopes should be labeled as: Planning, Building & Zoning Dept. 115 Hwy. 17 N. Surfside Beach, SC 29575
A list of same property owners on a separate piece of paper for the Planning, Building and Zoning Department file.
Filing fee of \$200.00

DESIGNATION OF AGENT [Complete only if owner is not applicant]:

I (we) hereby appoint the person named as Applicant as my (our) agent to represent me (us) in this application.

See Attached
Owner Signature

2-20-16
Date

Owners Signature

I hereby certify that the information on this application and any attachments is correct, that the proposed improvement(s) comply with private neighborhood covenants, if there is any, and that I am the owner of the subject property or the authorized agent of the owner. I authorize the subject property to be posted with a notice of the Board hearing and inspected.

Date

Owners / Authorized Agent Signature

VARIANCE FORM

1. Applicant hereby appeals to the Board of Zoning Appeals for a variance from the strict application of the ordinance applicable to the property described on page 1 of this document of the following provisions of the Zoning Ordinance: Section 17-408 (for existing carport- permitted in November of 1995) and Section 17-726(4)

so that a zoning permit may be issued to allow use of the property in a manner shown on the attached scaled plan or plat, described as follows: Existing carport, approved several years ago at the current location
For which a permit has been denied by the Development Administrator on the grounds that the proposal would be in violation of the cited section(s) of the Zoning Ordinance.

2. The application of the ordinance will result in unnecessary hardship, and the standards for a variance set by State Law and the ordinance are met by the following facts:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property as follows:

A landmark oak tree (exceeding 24" in diameter) is located beside the existing carport. The carport is causing damage to the tree. In order to protect the tree from damage and prevent an infestation of ants and other insects a variance is needed to move the carport over 5' of the side yard requirements of 10'

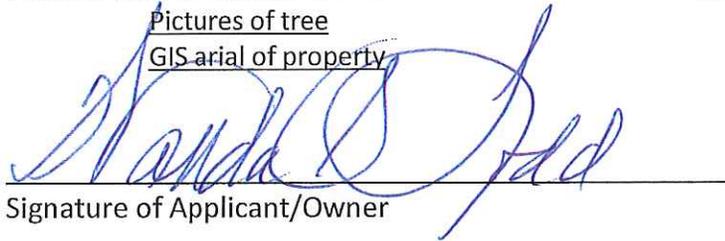
- b. These conditions do not generally apply to other property in the vicinity as shown by:
Although there are beautiful trees located on the property adjacent to ours, these trees are not landmark trees. The tree we are requesting approval of the variance is over 150 years old according to the arborist.

- c. 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 as follows:
If the variance is not granted, the tree will become more damaged and may allow for ants and other insects to infest the tree causing the tree to get diseases and/or die

- d. The authorization of the variance will not be of substantial detriment to the adjacent property(ies) or the the public good, and the character of the district will not be harmed by the granting of the variance for the following reasons: The granting would not be a detriment to the adjacent properties, but would allow the beauty of the tree to live on.

3. The following documents are submitted and attached in support of this application:

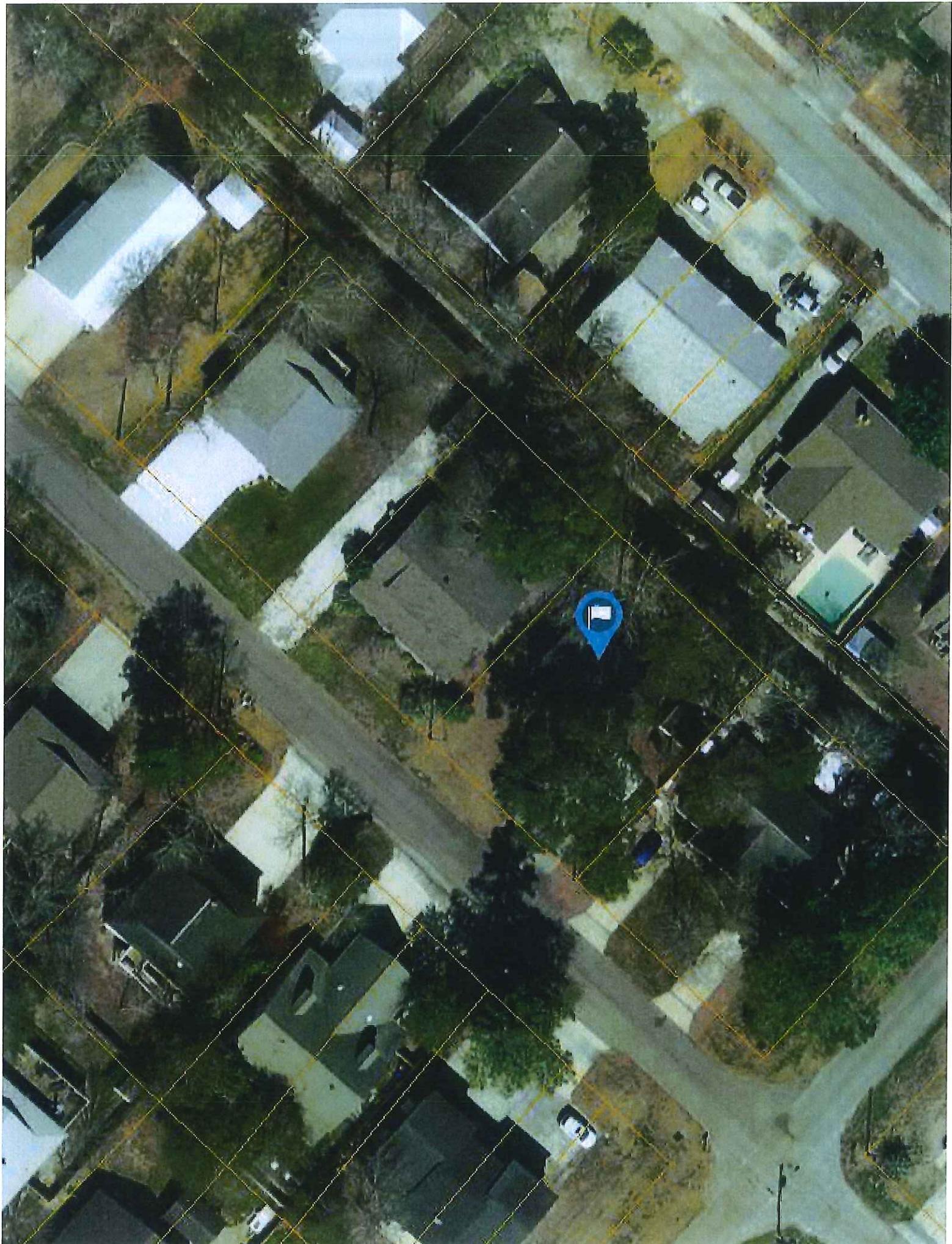
Pictures of tree
GIS arial of property



Signature of Applicant/Owner



Date



ARTICLE VII. LANDSCAPING AND TREE PROTECTION

- (1) The tree poses a safety hazard to pedestrian or vehicular traffic;
- (2) The tree poses a hazard to buildings or utilities. For the purpose of this article, any tree or root system that poses a hazard to a building or utilities foundation or driveway may be removed with the approval of the code enforcement official;
- (3) The tree presents a situation, which prevents the development of a lot or the physical use thereof for proposed development. Tree removal of non-protected trees may be allowed by the code enforcement officials, and only those trees whose removal is determined by the code enforcement official essential for development will be removed;
- (4) The tree is diseased, dead, or weakened by age, storm, fire, or other injury which is a source of hazard to people, buildings or other improvements on a lot; or
- (5) The property owner wishes to thin or remove existing trees from his property to allow for the proper growth of remaining trees or to enhance the overall appearance of the landscaped area. Thinning may be authorized by the code enforcement official(s) provided thinning is limited to twenty (20) percent of existing trees.
- (6) The tree is located within the footprint of the home to be constructed. In these cases a building permit for the construction must be issued prior to the removal of the tree(s). (Amended 4/28/15 Ordinance #15-0799)

SECTION 17-726. GUIDELINES FOR REMOVAL OF PROTECTED AND/OR SPECIMEN TREES

When there is clear evidence that the protected tree or specimen tree poses a hazard, (i.e. roots visibly extending under a habitable structure, trees located within 10 feet of the foundation of a habitable structure with visible foundation damage (amended 4/28/15 Ordinance #15-0799), tree is dead, diseased, weakened by storm, fire, or other injury) or for trees whose removal is essential for development, tree removal for a protected tree or specimen tree may be allowed by the code enforcement official for those trees. When staff cannot determine whether a tree meets the criteria for removal, a protected tree or specimen tree (including those located in the buildable area) as well as protected trees located within the front, side, or rear yard setbacks of the applicable zoning district, shall not be removed unless a licensed or ISA certified arborist, South Carolina registered forester, landscape architect, architect or engineer certifies that:

- (1) The tree poses a safety hazard to pedestrian or vehicular traffic.
- (2) The tree poses a hazard to existing buildings or utilities.
- (3) The tree is diseased, dead, or weakened by age, storm, fire, or other injury, which is a source of hazard to people, buildings or other improvements on a lot.
- (4) The tree presents a situation which prevents the development of a lot or the physical use thereof for proposed development. Should this situation exist, tree removal for a protected or specimen tree may be allowed by the code enforcement official for only those trees whose removal is essential for development. In these cases a building permit for the construction must be issued prior to the removal of the tree(s). (amended 4/28/15 Ordinance #15-0799) The board of zoning appeals may grant a variance to minimum yard setbacks to save specimen trees when feasible.

SECTION 17-727. GUIDELINES FOR REMOVAL OF LANDMARK TREES

Landmark Trees shall not be removed unless a licensed ISA Certified Arborist, Landscape Architect or professional engineer certifies:

ARTICLE VII. LANDSCAPING AND TREE PROTECTION

- (1) The tree poses a hazard, (i.e. roots visibly extending under habitable structure);
- (2) Trees located within 10 feet of the foundation of a structure causing visible foundation damage.
- (3) The tree poses a safety hazard to pedestrian or vehicular traffic.
- (4) The tree poses a hazard to existing habitable buildings or utilities.
- (5) The tree is diseased, dead, or weakened by age, storm, fire, or other injury, which is a source of hazard to people, buildings or other improvements on a lot.

Tree removal for a landmark tree may be allowed by the code enforcement official for only those trees whose removal is essential for development (trees located within the footprint of the building). In these cases a building permit for the construction must be issued prior to the removal of the tree(s). **The board of zoning appeals may grant a variance to minimum yard setbacks to save specimen trees when feasible.** (amended 4/28/15 Ordinance #15-0799)

SECTION 17-728. TREE REPLACEMENT FOR PERMITTED TREE REMOVAL

(a) Except as provided by section 17-733, all replacement trees shall be planted in order to replace existing protected trees, specimen trees, and any trees when the number or cumulative diameter (DBH) of trees on a parcel falls below the minimum required for the district in which the lot is located.

(b) When replacement trees are required, the tree caliper inches will be calculated as specified below:

- (1) The total caliper inches of replacement trees required to be planted shall equal the total DBH inches of the trees removed at a ratio of one inch replaced per one inch removed.
- (2) Once any building development site meets the minimum number of trees required, the remaining replacement to meet the caliper inch requirement may be satisfied by paying into the tree mitigation fund as established in section 17-732 of this article.
- (3) *Retained trees.* Trees two (2) inches or greater in diameter retained on the property can count toward any required replacement. To avoid a monoculture there shall be diversity in the plantings required.
- (4) *Mitigation limited.* Where Table 17-724 establishes a minimum tree diameter (cumulative) for a zoning district, the replacement and/or mitigation requirements of subsections (1) and/or (2) shall not be construed to require plantings or mitigation beyond that required to satisfy the number of trees and the minimum diameter requirements of the zoning district. This provision shall not apply to districts where no minimum diameter has been established by Table 17-724 or where additional plantings are required pursuant to section 17-725(4).

(c) The following, Table 17-727(c), is a list of approved trees and includes all trees on the list of protected and specimen trees as well as others noted in italics:

| Table 17-728(c) Trees Approved for Planting as Replacements | |
|--|-------------------------|
| Beech (American) | <i>Myrtle (Crepe)</i> |
| Birch (River) | <i>Myrtle (Wax)</i> |
| Cedar (Eastern Red) | <i>Nelli R. Stevens</i> |



