



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

**1. CALL TO ORDER.**

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

**2. PLEDGE OF ALLEGIANCE.**

Chairman Ott led the Pledge of Allegiance.

**3. AGENDA APPROVAL.**

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

**4. MINUTES APPROVAL.**

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

**5. APPEALS.**

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

**i. Hearing (Verbatim)**

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

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

**b. Staff Recitals.**

Ms. Morris: We did contact, Mr. Gutterman actually asked that I contact Amber Fagin with the Fair Housing Accessibility, which I did. They're actually a part of the Federal Fair Housing Act through the Department of Justice and the Department of Housing and Urban Development. So, the variance request to allow for a handicap lift to encroach into the front yard setback at 1203 Seabridge Court was deferred during the October 22<sup>nd</sup>, 2015 BZA meeting. The board deferred the item to gather additional information regarding placing conditions on the approval. I spoke with Ms. Amber Fagin with the Fair Housing Accessibility. She said she had spoken to Mr. Gutterman, and she, and that there are cases for 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 9<sup>th</sup> 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 9<sup>th</sup> Avenue South, Surfside Beach.

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

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 9<sup>th</sup> 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

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 \_\_\_\_\_  
310 Ron Ott, Chairman

311  
312 \_\_\_\_\_  
313 Darrell Willm, Vice Chairman Timothy Courtney, Board Member  
314  
315 \_\_\_\_\_  
316 Terri Lauer, Board Member Guy Lanham, Board Member  
317  
318 \_\_\_\_\_  
319 Phil Murdock, Board Member Holly Watson, Board Member  
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.