



**BOARD OF ZONING APPEALS MEETING MINUTES
TOWN OF SURFSIDE BEACH
TOWN COUNCIL CHAMBERS
May 4, 2017 ♦ 6:30 p.m.**

1. CALL TO ORDER.

Vice Chairman Watson called the meeting to order at 6:30 p.m. Members present: Chairman Willm (arrived at 6:02 p.m.), Vice-Chairman Watson, and members Lauer, Lanham, McKeen, and Taylor. Member Murdock was absent. A quorum was present. Others present: Town Clerk Herrmann and Building, Planning & Zoning Director Morris.

2. PLEDGE OF ALLEGIANCE.

Vice Chairman Watson led the Pledge of Allegiance.

3. AGENDA APPROVAL.

Mr. Lauer moved to approve the agenda. Mr. Lanham second. All voted in favor. **MOTION CARRIED.**

OATH OF OFFICE, MS. TERRI LAUER.

Ms. Lauer was duly sworn and executed the oath of office that is on file in the town clerk's office.

4. MINUTES APPROVAL.

Ms. Watson moved to approve the minutes from November 10, 2016. Mr. Taylor second. All voted in favor. **MOTION CARRIED.**

5. PUBLIC COMMENTS ON BUSINESS ITEM.

There were no public comments.

6. BUSINESS (This portion verbatim.) Appeal No. ZA2017-01 by Randy Ghant, Carolina Design Builders requesting a variance from Section 17-320(1) of the Zoning Ordinance allow encroachment into the front setback of a property located at 333 13th Avenue South, TMP#195-07-06-022.

Mr. Ghant: Good evening, I'm Randy Ghant.

Chairman Willm: We need to swear you in. Do you swear to tell the truth, the whole truth and nothing but the truth?

Mr. Ghant: I do. I built a house on 13th Avenue, 333. I had the house surveyed, and the foundation surveyed, and had everything done. I honestly do not know how this happened. When we did the as built survey to get the CO, it appears that one side of the foundation is into the setback area. There again, still I don't know. I got a good idea. I put a, the house is not setting square on the lot. It is setting kind a with the road, and I think what happened when I put the driveway in, I put a full driveway all the way across to make it more presentable where it would just look better. And I am not sure if we got off there or what happened, but when we did the as built, it's showing, Mr. Farria [Farria], and [Ms. Morris] and all, we went over it, and we are sitting in the setback a little way. It was not done for any kind of monetary gain or anything. I went with her to Earthworks and said hey how did this happen. Earthworks said we don't know how it happened. If you'll pay us, will be glad to go get a variance for you. Well, I went and talked to [Ms. Morris] and [Ms. Morris] advised me to do this. You know, come before you guys and just tell you, you know, it wasn't done for any kind of gain, and it doesn't help property. It doesn't; it

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56 just, by their survey it is showing that it's in that far. There again, if you look up

57 Chairman Willm: Are you trying to get a certificate of [occupancy] now?

58 Mr. Ghant: No, sir.

59 Chairman Willm: You are trying to get one?

60 Mr. Ghant: Yes, sir. I am held up. (**)

61 Chairman Willm: The house itself is in the setback?

62 Ms. Morris: The porch.

63 Mr. Ghant: Just the porch. I think it is probably just the overhang, isn't it? Or maybe the porch
64 itself. But I mean we have done everything else you know the way...I am building another house for a
65 friend of mine over on 14th Avenue. We've been hand in hand with [Mr. Farria] and [Ms. Morris] on this
66 one to make sure we have absolutely no flaws. But the house, I mean it is a nice home, really nice and if
67 I can convince my wife to keep it, I am not going to sell it, which I am trying to do, but I have to get
68 through this thing here. I ask that you guys approve it. And there again, it wasn't done for any monetary
69 gain, or to help the house or do anything like that, it was just a... I am convinced who made the
70 mistake, but, there again, it don't [sic] do any good to point any fingers now. I want to be able to move
71 into my beach house. Any questions? There again, I tried to do it right. I went hand in hand with [Mr.
72 Farria] who was very helpful and [Ms. Morris]. I mean we went...

73
74 Chairman Willm: Do you swear to tell the truth, the whole truth, and nothing but the truth?

75 Ms. Morris: I do. Mr. Ghant, he is correct, he came in in December and obtained a permit [to]
76 build a new house at 333 13th Avenue South. When he submitted the plans for the new home, it did meet
77 all the setback requirements and it met all the requirements of the zoning ordinance, so we issued his
78 permit. This is in your packet (*referring to PowerPoint*), you can see the proposed, and the as built, and I
79 have got it blown up on the next slide. (**)

80 Chairman Willm: This is what he submitted to have approved?

81 Ms. Morris: Right, this is what he submitted to have when he first started to build. All of the met
82 the setback requirements; came pretty close there, and he had some room, a few, maybe a foot back
83 here, but he did meet the setback requirements. When we got the as built, it appears that whoever
84 pulled the strings probably pulled them short of the back, excuse me, short of the front and long on the
85 back. They went, Mr. Ghant went by the strings that were pulled, and I assume it's by the surveyor, but
86 those strings were incorrect. I'll tell you our planning, excuse me, our building official also went by those
87 same lines that were pulled by the surveyor. That's the only thing we have to go by when there is new
88 home going in. We have to depend on the surveyors to pull those lines, so we know when or where they
89 are over in the setback. So no one caught it until it was finished. This is a blown up portion. Here's the
90 covered porch here, and you can see it is just a few feet, probably, I think it was two feet on one side.

91 Mr. Ghant: It was two feet.

92 Ms. Morris: And it's minimal on the other side. And then this is the home. You can see we've
93 posted the lot, and we sent letters to all the surrounding property owners within 150 feet. The home is
94 ready for a CO, but staff cannot sign off on the as built survey to be recorded unless they remove the
95 encroachment, or the board grants a variance.

96 Chairman Willm: To remove the encroachment, you got to rip that front porch off?

97 Ms. Morris: Yes.

98
99 Mr. Taylor: I have a question. I am pretty simpleminded. How many times was this construction
100 inspected during the construction process?

101 Ms. Morris: Oh, many times, the flooding, the foundation, the ...

102 Mr. Taylor: So when the original framing of the foundation, we inspected it; when the original
103 pilings were put in, we inspected it?

104 Ms. Morris: Uh huh.

105 Mr. Taylor: Is it standard that we go by whatever survey strings are pulled?

106 Ms. Morris: It is. We do not require a foundation survey in the town unless they add fill. It's not
107 required.

108 Mr. Taylor: You know, once again I'm pretty simpleminded. I went over there, and maybe I

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109 overstep my bounds, but I pulled a string between the pins, and I measured it myself, and yeah it's two
110 feet short. But it didn't take me 10 minutes to figure that out. And we couldn't figure that out as a
111 community? I mean that doesn't; I don't know, it just seems to me like that would be one of the things
112 that we would check is whether or not the home was really being placed where it supposed to be placed.

113 Ms. Morris: That's exactly what we; but we go by the surveyor's strings.

114 Mr. Taylor: Well then you are not checking. You're just going by what somebody else put down.

115 Ms. Morris: Correct, because the surveyor has to give us the ultimate as built.

116 Mr. Taylor: Then the surveyor is at fault?

117 Ms. Morris: Yes.

118 Mr. Taylor: Who hires the surveyor?

119 Ms. Morris: The contractor.

120 Mr. Taylor: Well I am going to vote for the variance, but I think it's, I just think it's silly that we
121 don't verify these things. I don't know how often this happens, but...

122 Ms. Morris: Well this is the first variance we've had on this since I've been here, but we really...

123 Mr. Taylor: It is pretty easy to verify whether something is, ah, where it is supposed be. My
124 opinion.

125 Ms. Morris: Well, if you have any questions, I will be glad to answer them.

126
127 Ms. Watson: Is the front porch, is there any room to decrease the front porch or is it at
128 maximum now. In other words, can it be downsized, the porch to get into variance, to get into code?

129 Ms. Morris: It could be, but they would have to take off, the only thing that can go inside the
130 setback is the overhang, so the roof could not go in, so they'd have to actually take a lot of the roof off
131 and then the porch itself two feet, because all that's required in the building code is the 3 x 3 landing.

132 Mr. Ghant: If you see the first one there where the new pipe and all is, right here where the new
133 pipe and all is, I had, when Earthworks come [sic] out, and y'all know Earthworks, they're a big company
134 up in Murrells Inlet, and I hired them to do everything from start to finish. The one we're doing over on
135 14th Avenue, I went over there, and did like you did. I put strings out pulled it to make sure there was no
136 way that this was going to happen again. When we laid this house out, this was all old existing stuff and
137 I had new stuff put in now. What I think happened is when I had these new pipes and all put in, they
138 may have back them up a little bit, and then the surveyors come out to do the as built, they backed
139 these pegs up. The setback lines that go here, I don't know if you can't see them, it is about the only
140 place, but there's another stake right on the side that starts your setback line, and what I think happened
141 is all this new stuff in to make it look good, they backed these lines up. Because, when I started this
142 house, it was not in setback. Ms. Morris and I, we, I got off on the wrong foot because of my mouth
143 down here, and I don't mind telling you that. But since then, we worked together and got everything
144 fixed and we, we haven't had a problem here or over on 14th Avenue. And that house was not built in
145 the setback to begin with, it just wasn't. The surveyors, I said look, you know, I need a sealed survey.
146 Well, we didn't; we can't find where we did it. Well you did it, here's the bill where you did it. There
147 again, that's neither here nor there. So it all leads to right here. There again, my house, I mean you can
148 see it is a nice house. To do what you were talking about ma'am, I would have to tear the whole front of
149 that house off. I would have to tear these posts out all along the front. You know, it would be, it probably
150 cost me 50 or \$60,000 to try to fix that house, if I could do it good.

151
152 Mr. Taylor: Well, there's no question that it's a beautiful home, and indeed, your neighbor's
153 house is closer to the road. It was built obviously before code, and there's another house being built
154 across the street appears to be pretty close to the setback, as well. So, like I said, I'm gonna vote for the
155 variance.

156 Mr. Ghant: I appreciate you guys' time, and I hate for even having to come. I promise you that
157 if I build anymore houses down here, I will lay 'em out, because we went over the one on 14th Avenue.
158 [Mr. Farria] checked it with me. I've checked it, and we will not have any issues there. I don't know how
159 this happened. I really don't. If I could pinpoint it, I could stand here and say yeah, it's their fault.
160 Ultimately, it's mine. I own the property. It's my house.

161

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162 Chairman Willm: I'm just concerned with, if, do we have the jurisdiction to give you relief from
163 this. I mean, this basically [is] on the surveyor to give, or whoever surveyed it is ...

164 Mr. Ghant: They can't grant me a variance.

165 Chairman Willm: No, I mean, but that's where you would; the variance like I said, the four
166 criteria to go by on the variance, and one of them you haven't filled out. The first one, and okay, this is a
167 judicial committee. Any of our decisions are reviewed, can be reviewed by [the] court system as far as
168 appeals. So, we, we're bound to go by the four things; these four criteria. The first one, extraordinary
169 and exceptional conditions pertaining to this particular piece of property as follows; well, there wasn't
170 any. You've created one. Your surveyors created one, but there was nothing particular to that piece of
171 property that caused this.

172 Mr. Ghant: I agree, I agree.

173 Chairman Willm: Like I said, it's not that; I don't that we; I'm not sure how the committee will
174 vote, the committee votes, but going by what we're here for and what we are charged to do, this is not
175 really in our purview. Your relief would come from your surveyor, and I would assume in a lawsuit type of
176 thing, but unless I could be swayed, but now I know how we operate as this committee. We go by these
177 four criteria, and it's supposed to fit all four criteria. But, I'm willing to listen to the debate on how that
178 should be done.

179
180 Ms. Watson: We are under South Carolina law. We have to have you pass all four of these
181 questions, and you have, and question "B" these conditions do not generally apply to other property, you
182 left that blank. And "C", cause of these conditions, the application of the ordinance to this particular piece
183 of property would prohibit or restrict the utilization of the property. Can't get a CO for the house. But that
184 has nothing to do with any hardship. This was a hardship that was created; not by the town, okay, and
185 our codes, and so we're the Town of Surfside Beach Board of Zoning Appeals, and everybody in the town
186 has to abide by the zoning in the codes.

187 Mr. Ghant: I understand.

188 Mr. Watson: So, when we get up here we have to answer all four of these. If you leave one out,
189 we can't vote for a variance. I, this house to begin with on this plat as proposed was so close, I think I
190 would've been out there every day checking to make sure nobody moved anything, because it was so
191 close, it was so close that everything had to line up perfectly in order for that house to fit on that lot and
192 be in compliance. I'm sorry but I can't, I can't answer these four questions to the point where I don't
193 think I would have any legal basis to vote for it. I'm sorry.

194
195 Mr. Lanham: This is a very, very interesting appeal. I don't think we've ever had one like this.
196 And as I looked down the four, the four proofs that we have to have, I think number two, number three,
197 [and] number four absolutely fit. The first one, extraordinary and exceptional conditions, I think that one
198 fits. Now the second part of that in parentheses is 'is it possible for the applicant's land to yield a
199 reasonable return without a variance,' I don't know if that fits or not. But I kept thinking about this one.
200 You know, a lot of times people come in here they have an ulterior motive, and I couldn't see an ulterior
201 motive in this one. I mean, this seems to me like, I don't know. I would have to vote for the variance for
202 this one, even though at least one of the four items is questionable, but it's just, I don't know, this
203 probably is the toughest one we've ever had.

204 Ms. Morris: Well, our comments, and I've talked to the building official, [Mr.] Farria, and I would
205 agree, this is definitely not a self-imposed hardship. He, this was not something that he intended to do.
206 They did have, I mean according to [Mr. Farria,] it was an error on both their parts. [Mr. Farria]
207 depended on the string and so did Mr. Ghant.

208
209 Mr. Taylor: I think that's the part that creates the extraordinary and exceptional circumstances,
210 is the fact that clearly your survey was incorrect. Not your fault. Shame on us we didn't realize it. But I
211 think that's extraordinary. I think what's in the best interest of the city is not to cause additional undue
212 hardship by, I mean I can see you in a long drawn out lawsuit trying to settle this one and it is a nice
213 addition to our city.

214 Mr. Ghant: In the meantime, the house goes down ... (**)

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215 Ms. Herrmann: Mr. Ghant, excuse me, please speak at the microphone. It won't record if you
216 don't.

217 Mr. Ghant: Oh, I'm sorry. In the meantime, the house deteriorates, if I can't CO it. You know,
218 you know, and anybody will tell you, if a house sits empty long enough, temperature changes, things
219 happen. And I promise you guys, this wasn't done for me to try to make money off of it or any other
220 way. I mean, you see I build nice homes. I don't, this one's mine. So, I want to come to Surfside. This is
221 where I'm going to retire one day. So, it wasn't done out of anything of trying to gain anything
222 monetarily or put anybody in a bad spot. God knows, I wouldn't put [Mr.] Farria in one. He has helped
223 me so much, I really wouldn't. I know you guys have to go by criteria, but if none of the neighbors, if
224 anybody voices an objection, all I would ask is, I can assure you that [I] will never let it happen in
225 Surfside again. The one I am building over on 14th it's got hard stakes out there. And it won't ever
226 happen again. It wasn't done maliciously at all.

227
228 Mr. McKeen: I've got a question for you. How many homes have you built? Just out of ...

229 Mr. Ghant: In Surfside, four.

230 Mr. McKeen: Anywhere? About?

231 Mr. Ghant: Well, I have been doing this for 33 years.

232 Mr. McKeen: You've never had this happen to you before?

233 Mr. Ghant: Never, ever. I build in Mecklenburg County. If any of you know anything about
234 Charlotte, I'll tell you Mecklenburg County is, you know. No sir, this is the first variance I have ever had
235 to come before, because I trust my surveyors. Earthworks has a really good reputation down here. I
236 don't, I don't, you know, I don't know how it happened. I really don't. I wish I did. But all I can do is
237 ensure that anything I do in the future, it won't ever happen again. Thank you.

238
239 Ms. Lauer: I have a question. I look at the house and it's beautiful. It's very nice. The problem I
240 see with us, if it's not hardship right now, the conditions are not a hardship.

241 Mr. Ghant: It is on me.

242 Ms. Lauer: It is on you, correct. But, to take it down, that is a hardship on you. So this is an
243 extraordinary circumstance just because of 2 feet, which is so sad.

244
245 Mr. McKeen: Yeah, I'm torn with Ms. Watson's comments about our legal responsibilities, and
246 the practical human view of what's occurred here. I'm inclined myself to vote for the variance. Though,
247 I'm kind of worried about voting that way. But the house, I went by and looked at the house. It fits in the
248 neighborhood. You know, you compare it to the other houses. I would've never known there was
249 something wrong with the way it was built without taking measurements and finding your survey posts
250 and stuff like that.

251 Mr. Ghant: I mean, we did the stormwater, I did everything by the book.

252 Mr. McKeen: I noticed the ditches and stuff.

253 Mr. Ghant: I promise you guys, if I was trying to get one over on you, it would have been in a
254 lot of other places than this. Like I said, [Mr.] Farria kind of walked me hand-in-hand through that
255 because, you know, things change down here. I built the on over on 16th Avenue for [Mr. and Mrs.] Mike
256 Sloop. [Mr. Otte] was the building official then, and we went through that, and since then, from then to
257 this one a lot of things have changed. But, but that's not an excuse for happened.

258
259 Chairman Willm: Any other questions?

260
261 Ms. Watson: When did you find out you were out of compliance.

262 Mr. Ghant: When I had the as built survey done.

263 Ms. Morris: A few weeks ago.

264 Mr. Ghant: Yeah, a few weeks ago. I had planned on moving stuff down here. I was ready.

265
266 Chairman Willm: What would you do different, [Ms. Morris,] what do you do different when you
267 did that versus when the inspectors come later or earlier and didn't discover it?

268 Ms. Morris: Well, he has to submit an as built survey by a surveyor, and the surveyors went back
269 out and said yes.

270 Chairman Willm: Sorry you asked, weren't you?

271

272 Mr. McKeen: This was the same, the same surveyor, Earthworks?

273 Mr. Ghant: Yes.

274 Ms. Morris: Yes.

275

276 Mr. Lanham: What was their comment?

277 Mr. Ghant: They don't know how it happened.

278 Mr. Lanham: The first survey happens was one thing, and the second survey was something
279 else.

280 Mr. Ghant: I asked the guys and said was it possible that the front pegs were moved? No, that's
281 our same pegs. Yeah, it's the same pegs, but who is to say that when we put that driveway in that the
282 guy didn't pull them up and drive em back down when he was done. And they come out there and done
283 the as built, they shot off of those pegs. And that's all, and that's all they told me. That's all we can go
284 by. So, I didn't know until I had the as built done. They sent it to [Mr. Farria] and [Mr. Farria] called me
285 and said hey, [Mr. Ghant,] we've got an issue, and that's where we are now. That's why I immediately
286 drove down here from Rock Hill, and sat down with [Mr. Farria and Ms. Morris] and say hey, what do I
287 need to do? I gotta fix this.

288

289 Ms. Watson: Okay, let's talk about the porch, again, because that goes back to my previous
290 question. Originally you put a plan in that says that your porch is gonna be 8 feet, but now it is 7½ feet.
291 So, didn't you know before you put the porch on that you were encroaching on your lot setback?

292 Mr. Ghant: No, ma'am. It's 8 feet to the outside. It is 7½ to the walkway, I think. And the other
293 half a foot is on, that thing has like a little eyebrow on the front of it, and you have to count your outside
294 dimensions.

295

296 Chairman Willm: Do we have questions? I'll entertain a motion.

297

298 Mr. Taylor: I move we grant the variance.

299 Mr. Lanham: I second it.

300 Chairman Willm: Any discussion? We'll vote.

301 Ms. Lauer: I grant it.

302 Mr. McKeen: I'll grant it. I grant it.

303 Ms. Watson: No.

304 Mr. Taylor: Yes.

305 Mr. Lanham: Yes.

306 Chairman Willm: I vote no. So with that vote the variance has passed. Close the business section
307 and open for public comments.

308

309 **7. PUBLIC COMMENTS – General Comments.**

310

311 Mr. Ghant said thank you, folks.

312

313 **8. BOARD COMMENTS.**

314

315 Ms. Lauer: It's a lovely home, good luck, and welcome to Surfside.

316

317 Mr. McKeen: I don't have anything else to ask or comment on.

318

319 Mr. Lanham: As I said before this, I don't think we ever had one even close to this situation and
320 the number one extraordinary exceptional conditions, at least in my mind, I had think it through, and say

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321 you know, this is extraordinary and exceptional. One of the reasons I thought that was because as long
322 as I've been on here, we've never had anything even compare with this. So, that was my thought
323 process.

324
325 Mr. Taylor: I don't have any further comments.

326
327 Ms. Watson: No comment.

328
329 Chairman Willm: So, these are hard ones. We try to do this as a judicial committee, so it doesn't
330 go to the thing. And it does go to interpretations as far as extraordinary and exceptional conditions
331 pertaining to a particular piece of property. How I interpret that is does the property, we had one before
332 where the property is too small to build a house on it due to setbacks. The setbacks been changed from
333 time these lots were cut. That is to me that's; you buy the piece of property, and you can't do nothing
334 with it unless we give you a variance to build a building within those setbacks. So, this to me is, when we
335 call it self-imposed, you didn't do anything, but in my mind your surveyor did, and in my mind your relief
336 would come from them. And I agree that that is that creates in itself a hardship that wasn't created by
337 the ordinance or the piece of property, so, we are fortunate that we have a board, and it's not a one man
338 vote. And that's what we come here to get for the town; you have six normally seven people's
339 interpretation of this, and we take a vote and we follow through with that vote. With that said, these very
340 hard. We don't; we've had to turn some down that emotionally, for emotional reasons, are illogical
341 reasons. We'd like to approve, but for the four criteria, we couldn't as a board. But you're fortunate this
342 time as the board you got approved. That is all I have. Does anyone else have anything else? I will take
343 a motion to adjourn.

344
345 **9. ADJOURNMENT.** Ms. Lauer moved to adjourn the meeting at 7:02 p.m. Ms. Watson second.
346 All voted in favor. **MOTION CARRIED.**

347
348 Prepared and submitted by,

349
350 _____
351 Debra E. Herrmann, CMC, Town Clerk

352
353 Approved: _____

354
355 _____
356 Darrell Willm, Chairman

357
358 _____
359 Holly Watson, Vice Chairman Terri Lauer, Board Member

360
361 _____
362 Guy Lanham, Board Member Larry McKeen, Board Member

363
364 _____
365 Phil Murdock, Board Member Steve Taylor, Board Member

366
367 Clerk's Note: Be advised that these minutes represent a summary of items with a verbatim transcript of the business section insofar
368 as can be determined by the recording thereof and are not intended to represent a full transcript of the meeting. The audio recording
369 of the meeting is available upon request; please provide a flash drive on which to copy the audio file. In accordance with FOIA §30-
370 4-80 (A) and (E), meeting notice and the agenda packet were distributed to local media and interested parties via the town's email
371 subscription list. The agenda was posted on the entry door at Town Council Chambers. Meeting notice was also posted on the town
372 website at www.surfsidebeach.org and the marquee.