



April 26, 2017

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1. Call to Order. Chairman Arteaga called the meeting to order at 6:30 p.m. Chairman Arteaga and Members Oslin, O'Brien, O'Quinn, and Stewart were present. Member Johnson was absent. One seat is vacant. A quorum was present. Also present: Town Clerk Herrmann and CBO Mike Farria.

2. Oath of Office Construction Board of Appeals Members Nathan Johnson and John O'Brien. Mr. O'Brien was duly sworn and executed the oath of office that is on file in the clerk's office.

3. Minutes Approval. Mr. Stewart moved to approve the minutes of the January 20, 2017 meeting and the April 5, 2017 meeting. Mr. O'Brien second. All voted in favor. **MOTION CARRIED.**

4. Recital of Appeal #CBA2017-01, CBO Mike Farria. Mr. Farria: Thank you, Mr. Chairman and the Board. Basically, this meeting is being held on the order from myself and the department of the property, on the building on the property at 1012 Glens Bay Road. As you can see in the packet, I sent out a condemnation condemning the structure on February 6 of 2017. It would either have to be demolished or be removed within 30 days of the receipt of this letter. I state the, it is the opinion of this department, and I state the structure violates Sections 108, and specifically 108.1.3, Section 108.1.5, notes 5, 6, and 7, and Section 304 of the 2015 International Property Maintenance Code, and that the structure in its current state is unfit for human occupancy. There is a copy of each section in your packet. Then in the letter, of course, I did give the property owner the right to appeal, which he has taken. So basically, in our opinion, based on those sections that I've cited that the building itself is not fit for human occupancy at this time, and it is the opinion of myself and the department that the building should either be removed or demolished from the property. I've also included pictures of the property, which will be in your packet; should be in your packet. Basically the building has not, to my knowledge, been occupied since at least since I've been in office as the building official, which will be two years on July 1st of this year. I'm sure it goes back even further. I was ordered to do a, to condemn the structure by my director, Sabrina Morris, who had been to the property recently for someone who was interested in using the building for commercial use, and at that time was seen to her, in her opinion that the building itself also was not fit for human occupancy. So it is the position of the department and the position of myself that the building in its current state should either be removed from the property or demolished completely.

5. Appellant Recitals. Mr. Couture: Thank you, Mr. Chairman and members. My name is Mike Couture. I own Myrtle Beach Realty. I've been a resident of Surfside Beach and a business owner in Surfside Beach for probably going on 20 years. I recently purchased that property; about two and half years ago. I currently have an office in the adjacent building to this building. I've used this building somewhat for storage and so on and so forth. It has been occupied as recently as about two and half years ago by a landscape company. They had moved out; had a split up of partnership or so on so forth. Since my ownership in the last, oh, I say about nine months, we've had two different people come here to try to open up a business there. One a car lot that was denied for various reasons; need to pave the parking lot and several other things that didn't make it feasible for him to do. The same exact landscaper that was previously occupying the building came to me and wanted to go back to it. He came here to file for a, I guess, a business license, permit occupancy, for it. Evidently [Ms. Morris] felt it was unfit for human occupancy. The building, the structure itself, although it's not the prettiest in the world, I'm presently residing the current building I'm in now. I have intentions on doing some work to the exterior of this building primarily which was damaged by some equipment that is working on the road widening project now. I recently, you know, obtained a letter from the city or town, basically doing as Mr. Farria said to remove or tear it down. You know, I understand it's not the prettiest building in the world. I've had no evidence of any, any, why would be unfit for human occupancy. He refers to several things in the building codes. You know, there's, it's been locked. It's not available for children to go in and play as a

57 clubhouse. He's got several other things on here that does not relate to what I feel the property is.
58 Furthermore, he refers back to the International Property Maintenance Code, which the town adopted,
59 and its code of ordinances. That same building code also requires proof of notice. Improper notice was
60 giving, given to me in that they failed to officially post a notice in a conspicuous place in or about the
61 structure affected. That was not ever done to my knowledge. Also in proper notice under Section 107-2.4
62 which requires the building official to include a corrective order allowing reasonable time to make repairs
63 and improvements required to bring the dwelling unit or structure into compliance with the provision that
64 was never done. Additionally the department alleges that construction in its current state is unfit for
65 human occupancy and violates Section 108 and 304 with no facts supporting the allegation, only
66 conclusions as to the section of the code that were allegedly violated. Again, I don't disagree. It's not the
67 prettiest building in the world. With a widening of the road it's gonna be close to the road. But, there's
68 been no, no documentation as to where they get their conclusions from. I've always been a pretty
69 reasonable person. If somebody's would've come [sic] to me and said, you know, it's not the prettiest
70 thing coming into our town, I may have reacted differently. But whenever somebody sends me a demand
71 notice, I'm not one that's gonna just say okay. So that, that's basically where we're at. We allege that
72 improper notice was given as per the same code that they're saying that is in violation.

73 74 **6. Rebuttals and/or Exhibits.**

75
76 **i. Town of Surfside Beach.** Mr. Farria: Thank you, Mr. Chairman. In response, is it Koo-
77 chure? Mr. Couture: Yes. Mr. Farria: My apologies. Mr. Couture's statement on that no notice was given
78 per Section 107, I think is what he states, it is the opinion of the a, of myself here and the department
79 that that is due, that is for violations. If you notice in 107.1 where it says notice to the person responsible
80 says whenever the code official determines that there has been a violation of this code, or has grounds to
81 believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 107.2 and
82 107.3 to the person responsible for the violation as specified in this code. Then you'll notice it says
83 notices for condemnation procedures shall also comply with Section 108.3. It is the opinion of the
84 department and myself that there was no violations [sic.] That this was a condemnation order, so his
85 citing of 107.2 I think Note 4, where he's asking for a correction order allowing for a reasonable time to
86 make the repairs and improvements required to bring the dwelling unit or structure in compliance with
87 the provisions of this code is not valid, and also about the putting a notice on a conspicuous space or
88 area on the building or on the property, because again it is not a violation. We're not, were not saying
89 there is a violation. We're just saying that the building itself is in disrepair and is not in conditions for
90 human occupancy. If you look, again, at 108.3, which states whenever the code official has condemned
91 the structure or equipment under the provisions of this section, okay, it does say in a conspicuous notice
92 shall be posted in a conspicuous place in or about the structure affected by such notice and served on
93 the owner, owner's authorized agent, or the person or persons responsible for the structure or equipment
94 in accordance with Section 107.3. If the notice pertains to equipment, it shall be placed on the
95 condemned equipment. The notice shall be in the form prescribed 107.2. So, again, it is the position of
96 the department that there's no vio ...; I mean basically a violation has [sic] been served on him like
97 saying, for example, that maybe his guardrails are not in compliance, or, or so on. That basically this is a
98 condemnation notice, and that the; what he stating is that a correction order be in order is, is not valid,
99 and not required. As far as the other items he has stated, again, if Mr. Couture wanted, or if someone
100 wanted to use the building for a for commercial use, there's no way could be used right now for, for
101 commercial use. There's no way a commercial business could go into that building, and be able to begin
102 their business. You can see the pictures from the outside itself. I wasn't able to take a look too much on
103 the inside. I was on the inside about a, probably about a year or so ago, and it was from what I
104 remember it needed some work on the inside, also. Again, based on what [Ms. Morris] told me when her
105 and the tenant, the possible tenants, went out there, you know, their foot, basically, I think she said,
106 stated that his foot went through this, the floor. So again, it is our position that it is not fit for human
107 occupancy or for business.

108
109 Chairman Arteaga: Okay, Mr. Farria, do you have any further comments. Mr. Farria: No, sir. I
110 think basically, I think pretty much the pictures pretty much state the case for the department. I do

111 believe that we served Mr. Couture appropriately by sending him a certified letter, and basically, you
112 have that in there. I believe that we're in good standing on this based on, again, that the property or the
113 structure has not been occupied for at least almost two years. Mr. Couture says basically two and a half
114 years, and then I think I really don't have any other comment.
115

116 **ii. Appellant.** Mr. Couture: Yes sir, I have not seen pictures, but I've seen the building many
117 times. I'm assuming the pictures there may show a little bit of dilapidated siding. That's something that
118 can be repaired. Many of y'all are in the construction business. I'm gonna say for less than a thousand
119 dollars, probably closer to 500. I'm remodeling many multi-unit condo buildings right now, so I'm pretty
120 familiar with how to repair T111 siding. The structure itself is sound. Again, it's some minimal siding work
121 that needs be done. There are allegations that it is unfit for human occupancy. There's no supporting
122 data to that other than a couple pictures of the dilapidated siding. I challenge anybody to go there and
123 put their foot through the floor. I'm not saying anybody's not telling the truth here, but I've walked in
124 that unit, that structure several times. My foot has never gone through the floor, and shouldn't go
125 through the floor. Again, it's a simple repair to make. Subflooring is pennies on the dollar compared
126 removing the whole structure on a commercial piece of property. Basically, everything there is cosmetic.
127 Obviously work would have to be done in order to meet certain criteria. I may need to put an exit sign in
128 there or something that. I may need to add a railing or two to the walkway. Obviously, those items will
129 be done prior to occupancy. Just because it's been vacant for two and half years does not mean that
130 people haven't offered to do things in there several times. It's is nothing I really wanted to do. Of the two
131 people that have come to me, one was a personal friend. I was gonna do something for him as a favor.
132 The other one was a prior occupant who is kind of residing in the back at Mike's Landscaping's area back
133 there that wanted to go back out to the front. Again, there's no supporting document as to the reason
134 why they want to condemn it. Again, improper notices under Section 108.3 and 104.5 was not provided.
135 It's basically a visual from the road. Admittedly so, he has not been on the interior of it. I don't believe
136 anybody has been underneath it to check any of the structure there. The only evidence they have is a
137 couple pieces of T111 that is dilapidated and rotted. Again, I can go over with a masonry T111 on that
138 and guarantee you I can do the whole exterior of that for less than \$1,000. It's, it's, again, I strongly feel
139 that it's not being condemned. It's wanted to eminent domained [sic.] You know, it's something that's
140 grandfathered in. It doesn't meet setback things, and so on so forth. And again, it's not the most
141 prettiest [sic] structure you've ever seen coming into the town limits of Surfside and I fully understand
142 that. I'd be willing to work with anybody that that I need to work with to get that, but to come in and
143 condemn a structure and tell me I have 15 days to remove it or tear it down, I just don't think is fair, and
144 there is no evidence to support that in any of the sections and ordinances that that has been provided or
145 any of the evidence that has been provided. So, for that reason or those reasons is the reason that I'm
146 appealing it. You say it's unfit for human occupancy, and it's an ugly; but I feel sound structure and I
147 deal with that line of work pretty much every day. I manage over 40 condo associations and we're
148 constantly doing maintenance and repair work. And, I just don't see it. There's differences of opinion,
149 and I understand that. But, you know, if they're gonna refer back to an ordinance and code, then, then I
150 also have certain procedures they have to go through in order for me to go through, and I don't feel they
151 followed the proper procedure, nor gave me the opportunity to make whatever repairs needed to be to
152 be in compliance with whatever they feel is wrong with the structure, and it's that simple and I'm glad I
153 found out the reason why I was denied being able to rent that structure with no other information
154 coming from the town as to reason why other than getting a condemnation notice shortly thereafter. So
155 again, you know, I think that the process was not done properly. Therefore, I feel I should have an
156 appeal ruling in my favor. Thank you.
157

158 **7. Questions to Appellant and/or Town.**

159

160 Mr. O'Quinn asked why Mr. Couture allowed the property to become dilapidated. Mr. Couture said
161 I purchased that property about 2.5 years ago. It was vacated just prior to that. I didn't much use for the
162 building, and was contemplating using it as a temporary office until a new office building could be built.
163 Due to the economy and some other things, I did not build a new office, but remained in my old office
164 location. Just recently friends expressed interest in the building, which began this process. After

165 completing repairs on my current building, I plan to work on this building. I argue that the building is not
166 inhabitable by any means. Mr. Stewart asked how old the structure is. Mr. Couture did not know. Mr.
167 Stewart asked if the building was grandfathered to be sitting that close to the road. Mr. Couture said as
168 far as he knew, it was. It is my understanding that because the Highway Department took between five
169 and eight feet of the property for the road widening on Glens Bay, they cannot make me move it back.
170 The former land owner was compensated for that taking. I received some compensation from Grand
171 Strand Water and Sewer Authority because it came across my property to relocate some utilities, which
172 did not affect the structure itself. Mr. Stewart asked if water and sewer was connected. Mr. Couture said
173 to the best of my knowledge, yes. Mr. McKeen asked if the property not meeting setbacks would prohibit
174 a permit to install siding being issued. Mr. Couture said since the property is grandfathered, that should
175 not be a problem. Mr. Farria said there is not a current survey. His question was how the road widening
176 affected the building's proximity to the road. Mr. Couture cited a history of the property, but believed as
177 long as the building footprint did not change, he was allowed to maintain and upkeep his property. If
178 because of the road proximity, he welcomed a letter from the town condemning the property that he
179 could take to the Highway Department to request fair compensation. A lengthy conversation followed
180 discussing responsibility for design to bring the building up to code; current ordinances; allowable
181 property uses; necessary upgrades and safety features, etc. Mr. O'Quinn believed that Mr. Couture
182 should have been contacted by the town prior to being sent a condemnation notice. Mr. O'Brien agreed,
183 and added that failure to provide proper notice for a condemnation was a 'slippery slope.' Mr. Couture
184 said that all he asked was an opportunity to make this right.
185

186 **8. Deliberation and Decision of the Construction Board of Appeals.** Chairman Arteaga
187 said the appeal is to ask the board to reverse the condemnation order and allow the appellant an
188 opportunity to make the structure habitable. Mr. Couture said, yes, he was asking for a reversal of the
189 condemnation order, and then he could obtain a permit with a reasonable time to make repairs and
190 improvements to bring the building into compliance. The board asked several questions and held a
191 lengthy discussion after which, Chairman Arteaga said for the record, "The property owner acknowledges
192 that the current condition of the property is certainly an eyesore, but he is willing to address the issues to
193 bring the building into compliance with Town Ordinances, within reason." Mr. Couture said yes, sir.
194 Chairman Arteaga moved to reverse the order of condemnation and ask the appellant to give the town
195 access to the property to perform a proper inspection inside and outside the building, and give the
196 appellant an opportunity within a reasonable period of time to make repairs. Mr. Oslin second. All voted
197 in favor. **MOTION CARRIED. The order of condemnation was reversed pursuant to the terms**
198 **stipulated in the motion.**
199

200 Mr. Farria asked the board to stipulate the time frame and to ask the appellant to provide the
201 most recent survey prepared by Culler Land Surveying. Chairman Arteaga moved to direct the appellant
202 meeting with the building official within 30 days to inspect the property as approved in the condemnation
203 reversal. Mr. O'Brien second. All voted in favor. **MOTION CARRIED.**
204

205 Mr. Couture said his understanding was that the building was to be brought up to code to avoid
206 condemnation; not to comply with the overlay ordinance, because it was not being rented. Several
207 members concurred. Chairman Arteaga said the only request at this time was improve the building to a
208 presentable condition. Mr. Farria said because the property was located in the overlay district the
209 grandfather rules did not apply, therefore, parking and landscaping would have to be compliant with
210 current code. Mr. Couture asked if that was required prior to occupancy by a tenant. Mr. Farria said yes,
211 that is part of the process. Chairman Arteaga said the parties would need to resolve those questions
212 during the inspection. Mr. O'Brien said that was separate from this issue and out of the purview of this
213 board.
214

215 Mr. Couture was excused at 8:04 p.m.

216 **7. Board Comments.**
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218

219 Chairman Arteaga said that member Johnson had not attended a single meeting since his
220 appointment in December 2016, and moved to recommend to Town Council to declare the seat vacant.
221 Mr. O'Quinn second. All voted in favor. **MOTION CARRIED.**
222

223 Mr. Stewart said I appreciate the inspector's work for the town, and the procedure needs to be
224 followed. This was a good learning experience for everyone.
225

226 Mr. O'Brien agreed 100-percent. The intent is probably spot-on, but we have to be fair and give
227 owners the opportunity to make repairs.
228

229 Mr. Oslin did not think the structure could be brought up to code. But believed all board members
230 believe he should be allowed to try.
231

232 Chairman Arteaga thanked everyone for their work, and said he knew it was the best intentions of
233 the staff to keep the town beautiful. I think we are all in agreement that owners must be given the
234 opportunity to improve their property without just simply condemning a building. Mr. Farria said he
235 understood and hoped the board understood the town's position was that the building sat vacant for 2.5
236 years by the appellant's admission. We are willing to work with him. Chairman Arteaga said that was all
237 he board asked; allow Mr. Couture the opportunity to take care of his property; if that cannot be done, he
238 may appear before the board again.
239

240 **8. Adjournment.** Chairman Arteaga adjourned the meeting at 6:45 p.m.
241

242 Prepared by submitted by,

243 Approved: January 22, 2018

244 _____
245 Debra E. Herrmann, CMC, Town Clerk
246

247 _____
248 Orlando Arteaga, Chairman
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250 _____
251 Danny Oslin, Board Member
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253 _____
254 Shane Stewart, Board Member
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256 _____
257 John O'Brien, Board Member
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259 _____
260 Jack O'Quinn, Board Member

Clerk's Note: This document constitutes summary minutes of the meeting, except Items 4, 5, and 6 that
are verbatim. In accordance with FOIA §30-4-80 (A) and (E) meeting notice and the agenda were
distributed to local media and subscribers on the town's email subscription list. The meeting was posted
on the town website calendar, the entry door at Town Council Chambers, also on the Town marquee.