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 Lanham, 
Magliette, and Watson.  Members Davis and Lauer were absent.  A quorum was 
present.  Others present:  Planning Director Morris, Building Official Otte, and Town 
Clerk Herrmann.

2. PLEDGE OF ALLEGIANCE.  Chairman Ott led the Pledge of Allegiance.

3. OFFICER ELECTION.

Mr. Willm moved to elect Mr. Ott to serve as chairman for another year.  Ms. 
Watson seconded.  All voted in favor.  MOTION CARRIED.

Mr. Lanham moved to elect Mr. Willm to serve as vice chairman for another year. 
Mr. Magliette seconded.  All voted in favor.  MOTION CARRIED.

4. AGENDA APPROVAL.  Mr. Magliette moved to approve the agenda.  Mr. 
Lanham seconded.  All voted in favor.  MOTION CARRIED.

5. BUSINESS

a. Appeal No. 2014-01 by Kevin Steelman for a variance from Section 17- 
330(3) of the Zoning Ordinance to allow property at 119 Dogwood Drive North 
(TMS#195-04-11-026) to allow the encroachment of the HVAC units within the 5 
foot required side setback 4.5 feet.

Chairman Ott opened the public hearing at 6:32 p.m.  Director Morris was sworn 
in and offered the following recitals:

Director Morris:  “Mr. Steelman, who I think is here today, wishes to relocate his 
HVAC unit from the rear elevated deck to the side of his home.  The home was built in 
2006 and at that time the HVAC units were placed on the back deck.  Here’s a picture. 
Mr. Steelman is worried about the deck deteriorating, because the condensation and 
the water that’s coming from the HVAC unit is going, and I did take a picture of the 
underneath the decking.  The water gets really deep and it goes through the decks and 
it actually makes a very slippery situation underneath where the cars are parked, and of 
course, the entrance to the pool is right there.  What he’d like to do is place it on the 
side of the home within that five foot setback.  Now, I do have to make a correction.  On 
your background page, it says that the property directly beside Mr. Steelman has their 
HVAC unit in the side yard setback.  We were incorrect on that.  We went and pulled the
Chairman Ott: “That’s what we need. At this time, I’ll ask the applicant if they would like to make an address to the board of zoning appeals in reference to this. Please state your name for the record and raise your right hand.”

Mr. Steelman: “It’s Kevin Steelman.”

Chairman Ott: “Okay, do you swear to tell the truth, the whole truth and nothing but the truth, so help you God?”

Mr. Steelman: “I do. I am Kevin Steelman. I am the property owner at; it’s actually 119 North Pinewood Drive. It may be the same address on Dogwood. I don’t know, but on the agenda it says Dogwood, but I think the address I’ve always been given was Pinewood. But, at any rate, we, we’ve had the home since March of 2007. We bought it new, and so it’s six years old, going on seven years old, and like Sabrina mentioned, we’re just real concerned about the damage, water damage to the, the deck. You know, when people are standing on the deck, and then also, the, the slippery conditions it creates on the concrete underneath, and all summer there’re families that rent the property there, and aren’t familiar with it, and we’re not there as property owners on a regular enough basis to be able to keep that clean, and I’m just concerned about safety.”

Chairman Ott: “Does anybody on the board have a question for Mr. Steelman?”

Ms. Watson: “I do. Why is your air conditioning leaking to that point where there’s a such a flow of water? I mean, I, I have HVAC units, and mine are up off the ground, and I don’t have that problem.”

Mr. Steelman: “But, they’re not leaking. It’s condensation off of the a, off of the coils. They just run continuously, because you know, it’s a 100 degrees (**). So, I, I can’t speak to that.”

Chairman Ott: “I have a question. Don’t you have any kind of PVC pipe or a hose or anything that would move this water to a …”

Mr. Steelman: “Yeah, I mean we’re, we’re not able to identify the, the source. It’s not like there is a PVC pipe that’s, that removes the condensation from the air handlers that are in the attic, and that drips out, outside, but this is condensation coming off (**two speaking at once.) So, it’s not originating inside the house. If it was, we
would obviously just extend the pipe, but you know, the other thing is beyond the safety
element of it is the functionality of the, of the deck is greatly diminished when you take
up 32 square feet as a deck for storing the a/c unit.”

Chairman Ott: “So there’s no, there’s no pan or anything under this unit that
could collect that water?”

Mr. Steelman: “They sit directly on the deck right now. It was the way they were
installed by the builder. I don’t, you know, I don’t know if they make pans that could be
put on there.”

Mr. Lanham: “I had sort of the same question about the condensate. Have you
checked with a [sic] air conditioning people? I’m sort of like she is. I, we have the same
type of thing and we don’t have condensate coming out of it. I mean, I’m just
wondering, if you could put a pan or something. My, to be honest with you, my problem
with this is all the houses built there have those air conditionings on the deck. The
same, look like the same builder, and it’s, if you put it at the side, it’s gonna take up 4.5
feet of a 5 feet, a 5 foot…what’s my word?”

Director Morris: “Setback.”

Mr. Lanham: “Setback. That’s almost, and if, and nothing personal against you,
but if this is approved, then you might as well call the other land owners and tell ‘em
come on up and get the approval to do yours, because they’ve got the same problem,
apparently. I mean, if you look, I don’t know if the rest of you have gone by there or not,
but, all of ‘em built by the same builder. I assume the same builder, cause it’s the same
style, and I, I understand, sort of, your problem, because it looks to me like those things
are right in front of a bedroom window or something.”

Mr. Steelman: “Well, now that’s, that’s the dining room, so it wouldn’t affect like
the noise isn’t an issue for sleeping and from the noise standpoint, impact on the
neighbors it would be very, very marginally closer to them, and you know, I live in
Columbia. So I drove here from there this afternoon, so we don’t have to elevate our
houses in Columbia, and traditionally a/c units are located in the setback. It’s not
atypical for the a/c unit, cause it’s not a part of the structure. The only reason that this
would be a variance, because you’ve gotta locate the units out of the flood plain.
Therefore, they gotta be elevated off the ground, and so I guess you consider the stand
they’re on a structure. I haven’t read your zoning code to know whether that’s true or
not, but that was the assumption that I made. But, like I say, I don’t, I don’t think it’s
unusual in, in other areas where the units don’t have to be elevated for them to be
located within each setback.”

Mr. Willm: “Did you buy the house built, or did you have it built?”

Mr. Steelman: “It was already built.”
Mr. Willm: “I mean one of the concerns; I mean that’s the reason the setbacks are very, very narrow as it is in that particular area. Five foot’s not much, that’s 10 feet between houses, and God forbid there’s a fire. The reason the setbacks are there is so there’s access back and forth between there. So, and it’s, and you’re encroaching five feet of it.”

Mr. Steelman: “Well, there are fences there now.”

Mr. Willm: “That’s probably why it’s up there, because it wasn’t being allowed to be built off to the side to begin with.”

Mr. Steelman: “I’m sure that’s, you know, with the building code. I mean, the building official’s here. He could answer that. That’s probably, that’s probably the case, but I don’t know why it’s there. I just would prefer that it wasn’t.”

Mr. Lanham: “Having lived here for a long time, I was on the planning and zoning commission for quite a while. Now, I’m on this, and frankly, builders come in, and they try to get as much on a piece of property as they can, which I don’t blame ’em. But, then things like this show up a few years later, and in some cases before they even get the house built, and that’s, I guess if, if you’re going to have, if the ordinance says you’ve gotta have a setback, I just have a problem with saying, well you can take up the whole setback. If it was a half foot or a foot, or something like that, but nothing personal against you, but it just, it’s hard to accept from my standpoint. I don’t know how the other folks feel about it.”

Mr. Steelman: “Yeah, I think one thing I would point out there, it’s not like we’re consuming the whole setback for the 110 depth of the lot. It’s a structure that’s four feet wide by 8 feet long, so there’s a 8 foot by 4 foot encroachment, so the vast majority of the setback is still there.”

Ms. Watson: “Could you tell me what’s directly down below. Is it a concrete pad directly (**two speaking at once.**)”

Mr. Steelman: “(**) just a concrete pad that’s directly underneath it. It’s, I mean it’s, I guess 8 or 9 feet elevated, but it’s just straight down to the concrete parking pad.”

Ms. Watson: “So where is your grass; is there any?”

Mr. Steelman: “Grass is in the yard outside of the, outside of the foundation and around the pool. I mean there’s also grass, obviously, out between our landscaping there’s a five foot bed, landscaped bed at the edge of the foundation that goes almost to the edge of the property line and then there’s, you know, a foot of turf grass…maybe it’s four feet of bed and a foot of turf grass to the property line from the, from the edge of the foundation.”
Director Morris: “I just wanted to kind of clarify what Ms. Watson’s question is. The land, I mean from the corner of the structure to the property line is all grass. So, the only concrete is directly underneath the home.”

Chairman Ott: “I have another question. On the second question in the, you know, our mandatory criteria that you stated that it, that there has been encroachments into the setbacks for similar structures. Where are these at?”

Mr. Steelman: “I mean, up and down, homes that were built before the building code started requiring that…”

Chairman Ott: “Before the building code was changed.”

Mr. Steelman: “(**two speaking at once) putting ‘em on a deck. I mean I could go take pictures of ‘em. I didn’t. But, if you ride up and down Dogwood and look at some of the older homes, the a/c units are within the setback. I’m certain of it.”

Chairman Ott: “I have a question for Mr. Otte, and I need to swear you in. Mr. Otte, do you swear to tell the truth, the whole truth and nothing but the truth so help you God?”

Mr. Otte: “I do.”

Chairman Ott: “If Mr. Steelman had his moved to the side yard and another one, the one adjacent to him had one, would that be, would there be a fire hazard problem where the fire trucks and firemen couldn’t get through there because of the two units being next to each other?”

Mr. Otte: “The access would be limited, because of the fact that both of ‘em would have structures built out along side each other, so you, you’re setting into that, you know, that area of setback and you’re actually shortening that up to where you may have a foot or two to get through and, of course, fire fighter with an air pack and trying to drag a hose or whatever would, would have a hard time getting through that small area (**two speaking at once.)”

Chairman Ott: “Ladders or whatnot. Okay, thank you very much for that.”

Mr. Magliette: “It would seem to the, the easiest solution would be a drip pan, because you wouldn’t have to relocate your units; you wouldn’t have to build an additional structure, and that might be the simplest fix. If you talk to your air conditioning guy, whoever you have with your contract, because just to put a drip pan underneath that would collect all the condensate, and you would just have a, a pipe or something which would drain it off and then you wouldn’t have the problem with the mold and the slippery, slippery contact from the wood and the rot. I think that’s a real, from my point of view, a real simple fix for you without the additional cost of moving your units and having to build something.”
Mr. Steelman: “It, it, it will definitely help mitigate the, you know, moisture issue. It doesn’t solve the secondary motivation, which is freeing up 32 square feet of deck space, so.”

Ms. Watson: “I would suggest then that you could move the units directly underneath the deck, build a structure, a stand. Most people in my neighborhood have their air conditioners up on stands, wooden stands. They’re treated wood, and that way you could have your deck free. You have your air conditioning units directly up underneath your deck. You would still have some condensation on your concrete pad, but as you’re building your stand for your units to sit on you could have your air conditioning man pipe it to the grass.”

Mr. Steelman: “Well, I think the only problem with that, I, I don’t know what the flood elevation here is, but I think the a/c units have to be above…”

Ms. Morris: “They do. They actually have to be a foot above the requirement. We checked, this is pretty much where it has to be to meet the flood elevation.”

Mr. Willm: “(**) Statement said that you would be attending and may have other methods or options to consider regarding the location of the leaking.”

Mr. Otte: “Well, the pan was one of the options that was gonna be available, because of the fact that they can put a pan under it and they can direct the water accordingly, you know, from that, you know, from the bottom of that. The condensate could be put out into the grassy area to alleviate the problem with the concrete getting slippery. The other, you know, another option for you might be to check and see, you know, if you could extend the deck out, you know, maybe just extend it out enough to, you know, to get your 32, you know, 32 more square feet, and also free up that deck space for that.”

Mr. Lanham: “Could I ask a question of the town’s people? That, is it true that that air conditioner has to be as high up as that deck?”

Ms. Morris: “By our flood elevations, and of course, FEMA regulations, the ordinance says that your HVAC unit has to be a foot above the requirement for the base flood elevation, and when we looked at Mr. Steelman’s, the only option, it may have went down a foot, but not what Ms. Holly Watson had recommended, which certainly would have been a good idea, if he could’ve met the flood. But, a, no.”

Mr. Lanham: “Thanks for that. For R-3, this is in the R-3 zone, isn’t it?”

Ms. Morris: “It’s actually just in that particular flood zone, which is AE14 or 15, so yeah.”

Mr. Willm: “There’s no way to bring it out, (**). No way to bring it out, you know?”
Ms. Morris: “He, he could come out towards the back. It would impede in the pool decking.”

Mr. Willm: “That would put it right on the pool deck (**).”

Mr. Steelman: “Yeah, there’s not much room between the, the foundation and the edge of the pool.”

Ms. Morris: “Yeah, uh uh.”

Chairman Ott: “If there’s no more questions for a, Mr. Steelman, I’ll release him from the hot seat there.”

Mr. Steelman: “Thank you very much.”

Chairman Ott: “Is there anybody else present in the public that would like to speak on this matter?”

Chairman Ott declared the public hearing closed at 6:40 p.m. and called for a motion on the variance request.

Ms. Watson moved to deny the variance request based on criteria number one, there are extraordinary and exceptional conditions pertaining to this particular piece of property. The applicant has options to fix his dilemma. Mr. Lanham seconded.

Mr. Willm said for the record, “I don’t think the extra ordinary and exceptional conditions pertain to this property as follows, there’s nothing about the property that’s, that is a problem here. The prob [sic.] I mean, the particular piece of property is not the issue. It’s where the deck is and where it’s located. It’s not the property design or anything. The property is not, is not hindering him in any way, and then conditionally, the conditions do not generally apply to other properties in the vicinity. It’s been shown that we’ve already seen everybody built by this same builder has the exact same issue, and it doesn’t effectively prohibit or unreasonably restrict the utilization of the property. It does minimize some of the use of the deck, but the deck is still usable, and subject B is not a prob [sic], itemized fee is not an issue here. I don’t think it hurt; it’s not a detriment to the adjacent property, other than the fact that the idea behind that setback is to have room between the two buildings and putting five feet in, even though it’s a small area, can still hinder any kind of rescue or fire department work in that area. So, I agree with the motion.”

All voted in favor of motion to deny. MOTION CARRIED.

b. Appeal No. 2014-02 by Tyler Servant for a variance from Section 17-330(1) of the Zoning Ordinance to allow front stairway on property at 212 South Dogwood Drive (TMS#195-04-07-019) to encroach into the required 20 foot front yard setback by 8 feet.
Chairman Ott declared the public hearing open at 6:54 p.m.

Ms. Morris: “Okay, Mr. Tyler Servant is constructing a new residence in the R-3 zoning district. While applying for the building permit, it was noted the property has three very healthy Live Oaks on the northern side of the parcel. Mr. Servant would like to save the trees, as would staff. The code does allow for the Board of Zoning Appeals to grant a variance to save protected trees. Mr. Servant actually came. He was very cooperative. Let me just kind of give you; you have the plat in front of you. But he was actually going to put the stairway on the side of the structure. He moved the structure as far over as he could, which it meets the five foot setback, and then the steps were gonna be located on the other side, which this picture certainly does not give it justice. There’s three Live Oaks there. Live Oaks are protected trees in the town, and he actually asked if he could apply for the variance to save the trees. Typically, we’re asking them to apply for a variance to save the trees. But, in saying that, he would need eight feet on the front property out of the 20 foot setback. So he would be 12 feet from the property line as opposed to the 20. Someone is here for the applicant, so if you have any questions for them, or if you have any questions for me, I’ll be glad to answer them.”

Mr. Lanham: “Mr. Chairman, I have a question for her. When you talk about the back side and front side, you’re talking about Pinewood being the front?”

Ms. Morris: “Dogwood is (**), yeah, Dogwood is (**two speaking at once.)”

Mr. Lanham: “The address is on Pinewood is the reason I ask. Same situation we had with the other house.”

Ms. Morris: “Yeah, the actual address is 212 Dogwood.”

Mr. Lanham: “It is?”

Ms. Morris: “Yeah, on the issue paper.”

Chairman Ott: “That’s the mailing address, right?”

Ms. Morris: “Yes, on the issue paper at the top subject, allow property at 212 South Dogwood Drive to encroach. A little bit of background; we did as with the other, we did notify everyone within 150 of the property asking if they had any concerns or comments regarding the request. We did hear from; we heard from no one on the last [case]; we’ve heard from at least seven on this case all recommending the variance to save the trees.”

Chairman Ott: “And there was nothing in writing. You just surveyed the neighbors, or?”
Ms. Morris: “They actually called and one actually faxed something in today, so I could send it around if you’d like.”

Chairman Ott: “Yes, please. Oh, okay. I think we’re done with Ms. Morris for now. I’m gonna ask the applicant, Mr. Servant, would you raise your right hand, please?”

Mr. Servant: “Yes, sir.”

Chairman Ott: “Do you swear to tell the truth, the whole truth, so help you God?”

Mr. Servant: “I do.”

Chairman Ott: “Would you state your name and spell your last name for the record, please.”

Mr. Servant: “My name is E. J. Servant, III. S-e-r-v-a-n-t. My nickname is Mil, M-i-l, so I go by that, and I’m actually here today representing my son, Jonathon Tyler Servant, and I have a limited power of attorney to represent him in this proceeding, if you’d like a copy of that.”

Chairman Ott: “And if you would like to give us a recital on the request for a variance.”

Mr. Servant: “Yes, I’ll, I’ll be glad to, and let me thank all of you for serving, and for allowing me to come before you tonight. The particular property is on, located between Pinewood and Dogwood on the south end of Surfside. The pictures that Sabrina has up here pretty well tell the story. I, I do have handouts. I’ll let you look at those. Those’ll give you a little better look at what we’re dealing with. The house actually is narrower than the lot itself, and as we laid the house out, we knew the trees were there, and we felt like that we would be able to make the stairs work as it was originally laid out. The stairs do go down the north side of the house. As you’re looking at the picture where you see the dumpster, the stairs were actually coming out there and then going down the side of the house. After working with, with the, the trees and talking to Sabrina, she suggested that we get an arborist involved. So, we did call an arborist in, and you’ll notice in the first two sets of pictures, the first picture shows the trees after the arborist was called and worked on the trees. The second set is after the arborist, before the arborist actually worked on the trees. But, once he worked on the trees, he suggested to us that the steps not be put in at all. The steps would fit, but if we dig the trenches for the steps as well as put the foundation and support the steps, he was afraid it would damage the trees, and the trunks of those trees where they go into the ground, they’re intertwined, if you will, and he was afraid if we damaged one, we could, in fact, damage all three trees, causing them all to come down, and/or rot out over time. So, we came up with plan B, and that was, was to come with the steps coming down the front side of the house. You’ll notice in there in the hand out there’s a plat that actually shows the steps coming into the setback. They’re a
little over seven and a half feet coming in, into the setback itself. Additionally, you should know to make it work, before, before we even got the arborist in we moved the house nine feet to the south side of the lot. So, the north side of the lot is sitting almost 14 feet off that north side of the lot. We moved it nine feet at the south side so that we’ve got a five foot setback on the south side; almost 14 feet on the north side, but again, he was concerned that if we had disturbed those trees in any way it might kill them. Our neighbor to the north side was very emphatic that she wanted to save the trees also, as have all the other neighbors in the neighborhood. So, with that said, we redrew the plan for the steps to come out the front side of the house. They do go seven and a half feet into the setback itself. We did, of course, get the engineer involved, and we realized that we had this setback problem. We did go back to the town staff and I will tell you that they’ve been very supportive with us in this endeavor. If approved, what we feel we would have would be a minimal impact on the setback itself, again being seven and half feet. The trees obviously would be saved. Additionally, we’ll have to work with the town on the stormwater plan for the north side, because again the arborist wants us to be very careful that we don’t disturb the trees again in any way, so that’s another thing that will have to be resolved. The neighbors, again, have voiced their support to try and save the trees. The front steps would, again, provide easy emergency egress and ingress. The house is a six bedroom house. It is in the summer rentals zone. We feel it would provide the safest ingress and egress for people to get in and out of the house. It really enhances the neighborhood in that the trees would be saved. Finally, I would say that as far as your variance test is concerned, I have studied that. Number one – the size, shape, and topography of the property-it is unique with the trees there. It does require some additional planning on our part, of course, to make the house work. We have moved it to the south side of the lot. The encroachment would allow us, again, to save those trees. Unnecessary hardship – I think it would be an unnecessary hardship on us to take the trees down, as well as the neighbors in the, in the area, as well as the town, for that matter. It is a peculiar piece of property in that the trees are located where they are, and finally, public detriment – I think we all know the town of Surfside’s gone out of its way to try and save these Live Oaks, in, in the majority of the town and the efforts are made to do that, and we certainly support that effort and that’s what we’ve tried to do in this particular situation.”

Chairman Ott: “Thank you, very much. It was very complete. Does anybody on the board have a question for Mr. Servant?”

Ms. Watson: “Mr. Servant, I, I have a question. It appears that the porch was moved from the original plan entirely flipped to the other side. Why didn’t you address this whole situation with the steps when you had that redesign done, instead of having to worry about where the steps are gonna go after the house is now built? I mean…”

Mr. Servant: “We a, that, that’s an excellent question. When we were dealing with the steps and we decided to move it the nine feet to the south side, it changed where the pool would be on the back side, and aesthetically, the pool would not fit as well. So to try and save the trees, we flip flopped the plan. That was all part of moving the house nine feet to the south side of the property. The pool would have butted up
against the neighbor’s pool, and the pool deck, quite frankly, wouldn’t have fit. We would only have had five feet in the R-3 zone, you can build the pool to the setback line. You can build the pool deck into the setback line. We would have had a five foot pool deck on that south side of the lot. By flip flopping the plan, now we can build the pool to the setback line, and have almost 14 feet to work with as far as pool deck, grass and aesthetically making it much more appealing.”

Chairman Ott: “Now, the 20 inch tree that, that’s right on the property line, isn’t it? It belongs to both owners?”

Mr. Servant: “One is right on the property line, and the other two, but they really, they’re all joined together at the base, and if you interrupt one, by the arborist’s opinion, you probably could run a chance of (** two speaking at once.)”

Chairman Ott: “And the arborist said that the, all trees were healthy?”

Mr. Servant: “All trees are healthy. Now, he has come back with a renourishment plan that, that we’ve got to adhere to also, because we have trimmed them back.”

Chairman Ott: “A question for Ms. Morris, if this variance was approved, of course, to cut down these trees, there’d have to be another, another variance, right? They wouldn’t just be able to cut these trees down. They will be written into the variance.”

Ms. Morris: “That they have to leave the trees.”

Chairman Ott: “They couldn’t just cut ‘em down.”

Ms. Morris: “That’s correct.”

Mr. Servant: “Let me say one more thing that, and I know that this is not part of a variance request, and really holds no water in your deliberations, but there are numerous houses, including the adjacent house that actually the steps encroach in the setback. In the two blocks, there are three homes that encroach into the setback, so from a neighborhood appeal, this encroachment we’ve got will not stick out. It won’t be obvious. It will really blend in with the neighborhood, and again, allow those trees to be saved. It’s not something that’s gonna be openly obvious to anyone driving down the street that there’s (**two speaking at once.)

Mr. Willm: “(**) are these grandfathered in? The other ones you’re speaking of?”

Mr. Servant: “That’s correct, they were grandfathered in.”

Mr. Willm: “(**) on the paperwork side on the Section 17-26 for the guidelines. Do we have, it says shall be removed, shall not be removed unless a licensed or ISA
certified arborists, South Carolina registered forester, landscaper certifies that one of
these four; do we have the certification? I’m not sure what you consider certification,
but we have?"

Ms. Morris: “We have a certified arborist saying that it’s healthy, yes.”

Mr. Willm: “We have that cert; you’ve got that in writing, I guess?”

Ms. Morris: “Yes, yes we do.”

Mr. Willm: “Does that super, does that part of this ordinance supersede where
we need, we still need the four criteria for a variance?”

Ms. Morris: “Yes, it does.”

Mr. Willm: “It supersedes so we don’t even have to worry about the four
questions.” (**two speaking at once)

Ms. Morris: “No, all you need to do, (** if they meet the requirement, exactly.”

Mr. Willm: “(**) basically it’s just kind of a rubber stamp. If they’ve done it, you
just need to bring it here and we say yes. We agree basically, because it’s an
ordinance, we have to do this, but it has to presented and on paper here.”

Ms. Morris: “That is correct, and by, if, if the board grants the variance, you’re
telling Mr. Servant that yes, you can encroach in the setbacks, but you cannot cut those
trees, and he does have to maintain, which he certainly agreed to, because they do
want to save the trees.”

Mr. Willm: “Actually, I think he did a very good job on the four criteria, but I just
wanted to make sure in case there was any question that we were not debating the four
criteria as that is superseded by the ordinance. The ordinance states for some reason
that it has to come here, and it seems like it would allow y’all to go ahead and do it. But,
since the ordinance does, you brought it here, we’re all good.”

Mr. Magliette: “You had said when you talked to the arborist that there was a
stormwater management or something that has to be done before the house is
completed to mitigate it. Is that you don’t want the rainwater rushing into that area? Is it
gonna need gutters or some type of underground piping or what exactly were the
recommendations as far as stormwater?”

Mr. Servant: “No, in that area, because of the size of the, there’s a stormwater
plan that has to be approved by town staff and it goes into the setbacks. There’s plenty
of room to do it on the property, he’s just, just saying be careful around the trees, and
it’s just something that town staff, it will be designed by our engineer and approved by
staff.”
Ms. Morris: “Right, and I was just gonna add, Mr. Magliette, that a lot of the stormwater plans that we get submitted to us and approved have swales, which means they would have to dig out the root, and obviously, we don’t want that to happen, because that would damage the tree. So, we’ll work with him and his engineer to get a new stormwater plan that meets the requirements.

Mr. Magliette: “Okay, thank you.”

Mr. Servant: “It’ll have to be mitigated to save those trees.”

Mr. Lanham: “I want to make sure I understand this. You, you’re, the north side of your house is actually 14 feet from the line. Is that what you’re saying?”

Mr. Servant: “It’s 13.5, whatever. It’s about that, I believe.”

Ms. Morris: “Fourteen point five eight.”

Mr. Servant: “It actually has a five foot setback. We moved it nine feet further south to put the steps in, and the steps could go in there, but again, Sabrina said let’s call in an arborist and make sure that we’re not gonna kill the trees. And, when the arborist came in, he said, you know, cut down the trees or not, I think if we put those steps in, you’re gonna damage those trees, and odds are that they’ll die.”

Mr. Lanham: “The other question is, was there any thought of instead of bringing steps straight out, bringing them down and to the sides?”

Mr. Servant: “Yes, and, and, and, we can look at that, and, and, we don’t mind looking at that. The problem is with the driveways where they are, you may get ‘em down and maybe have two steps or two risers, if you will, coming up from each side, which may take it back two feet or so, but, you couldn’t, couldn’t keep it within the setback. We’d have to have some encroachment into the setback, because if you just brought it down to the setback and then brought it down north and south, it would go into the driveway and you wouldn’t be able to pull the cars in and out.”

Mr. Lanham: “But you could get the cars in the other side.”

Mr. Servant: “No, sir. That’s swimming pool across the back.”

Chairman Ott: “Make it into a diving platform.” (Laughter.)

Mr. Lanham: “Just as a side here, that’s really just one tree, isn’t it? I mean, it has nothing…I know there’s three trees coming up, but I’ll bet you if you get to the bottom of it, it’s one. But, that’s nothing to do with this.”

Mr. Servant: “Well, I’ll tell you this, as far as the arborist is concerned, that’s one tree. You’re correct.”
Mr. Lanham: “But it has nothing to do with this situation.”

Mr. Servant: “It looks like three trees to me, but I’m not an arborist. But, I think you’re correct. As far as he’s concerned, that’s one tree, and if you mess with the roots, you’re liable to kill the entire tree.”

Mr. Lanham: “Yes.”

Chairman Ott: “The board have any other questions? Mr. Servant?”

Ms. Watson: “I have a question for staff, but not for Mr. Servant.”

Chairman Ott: “Okay, thank you very much. Is there anybody else here in the public that would like to speak on this matter? While we’re still in the public hearing phase, I’d like to make a statement that the board needs to remember that the initial variance is to move the, move the staircase, not actually, it’s, the reason is the trees, and in the last eight years I’ve been on this board we have moved whole house structures on two different occasions to save trees, which was in my opinion appropriate. So, at this time I will close the public hearing, and open the business section. (The public hearing was closed at 7:13 p.m.) I’ll ask the board for a motion on this request.”

Mr. Willm moved to approve the variance request based on Section 17-726, Guidelines for removal of protected and/or specimen trees, paragraph (4) that states (4) The tree presents a situation which prevents the development of a lot or the physical use thereof for proposed development. The board of zoning appeals may grant a variance to minimum yard setbacks to save specimen trees when feasible. Ms. Watson seconded.

All voted in favor. MOTION CARRIED.

7. BOARD COMMENTS.

Ms. Watson asked how a house could be built without knowing how you would get into it. What happened with this plan when the porch was moved, the tree situation came up, the access into the house came up. Before the house was structurally modified, why wasn’t access into and out of the house addressed? Ms. Morris said staff did address the issue before a permit was issued, because at the beginning of the process a plat was submitted showing the steps near the tree. If the variance had been denied, then he would have had to build the steps exactly as they were originally planned. Staff recommended that the owner request a variance, which was why the permit was issued. If the board had denied the variance, the owner would have to build the stairs on the side with the Live Oaks, and cut down the trees.

Chairman Ott said the owner was within his right to cut down the trees. Ms. Morris said absolutely.
Ms. Watson believed the town had a tree protection ordinance. Ms. Morris said it does and it stated that if it affects the buildable area, which in this case it does, then the owner has every right to cut the tree down. The owner was within his rights when the steps were placed on the side. Staff asked him to reconsider to save the trees, to which he agreed. The permit was issued with no stairs, and the owner knew the stair location would depend on the variance approval.

Ms. Watson said there was no ingress if the steps were on the side. Mr. Servant said that is the kitchen and an entry door could easily be added. Ms. Morris said that could be done and there would be no stairs on the front. Ms. Watson wondered why most steps were straight and not turned half way up, which made it easier for the occupants. She asked if staff ever suggested that to builders. Ms. Morris said staff does when there is a larger or wider structure. In this case, the house has six bedrooms. Code requires one parking space per bedroom, so he is required to have six parking spaces on the lot. If a stairway turns, it would be impossible to have space for the six parking spaces. Ms. Watson asked if the steps on the right would have run into the tree, if they were turned. Ms. Morris said no, they would have a stoop and go down. It would have affected the two larger trees and then also the one at the bottom. Staff did ask that Mr. Servant have patience and apply for the variance, to which he agreed.

Mr. Lanham said so the town actually told him the best thing to do was to apply for a variance. Ms. Morris said staff requested that, and does so often, especially when there are Live Oaks on the lot. Staff asks every developer or property owner to apply for the variance. They do not always agree, and are not required to apply, but in this case it worked out.

Mr. Magliette was very happy that the process worked and they were able to save the Live Oaks, and he was also very pleased that he solicited feedback from the neighbors and that the neighbors had said they wanted the trees saved. That means that the process works, and we were able to save the Live Oaks and everybody came out being very happy on this one. Mr. Magliette said a good job to the developer, and to our staff, and to the board for being able to save the oak trees and to be able to make everyone happy. It was a win for everyone.

Chairman Ott thanked Mr. Servant for going through the trouble to do this and save the trees. He knew this was not free; there was cost involved to accomplish this. The town of Surfside appreciates his efforts.

Mr. Servant said staff had been very good to work with on this issue, and have afforded them all the knowledge needed. He said quite frankly, if they had not requested that an arborist be contacted, they probably would not have gotten to where they are today. That was an excellent suggestion on staff’s part.

Mr. Lanham thought he heard that Mr. Servant could have legally cut the trees to build the house, and he agreed with and supported the variance. He asked if anyone was ever told they needed to build a smaller house or bring the house in. He was
questioning whether these plans were evaluated in advance. Ms. Morris said they were evaluated in advance, and staff would be very happy to tell some of the builders they needed to make the house smaller. But, the town code is very clear as to the specific requirements for building. As long as the open space, pervious versus impervious, and other requirements were met, staff was required to issue a permit. Staff encourages everyone to save trees, because the town has beautiful Live Oaks and a list of protected trees. Very seldom does anyone agree to seek the variance, because they are in a hurry to build the home. Ms. Morris said a few weeks ago another contractor was asked to seek a variance to save a larger Live Oak, and he refused. The tree was removed because it was in the buildable area. Mr. Lanham reiterated that in this case, he thought the board did the right thing, but he was not sure whether this was the way it should be done, particularly when trees are not in the buildable area.

Mr. Willm said that was up to Town Council to decide as the council adopts the codes. The setback used to be 20 feet and it was reduced to 5 feet to allow more development in the district. He thanked Ms. Morris and Mr. Servant for taking the extra steps to save the trees.

8. ADJOURNMENT.

Mr. Willm moved to adjourn at 7:23 p.m. Ms. Watson seconded. All voted in favor. MOTION CARRIED.

Prepared and submitted by,

Debra E. Herrmann, CMC, Town Clerk

Ron Ott, Chairman

Darrell Willm, Vice Chairman

Blake Davis, Board Member

Terri Lauer, Board Member

Guy Lanham, Board Member

Ralph Magliette, Board Member

Holly Watson, Board Member

Note: Be advised that these minutes represent a summary of items with a verbatim transcript of the hearing section insofar as can be determined by the recording thereof of the board of zoning appeals and are not intended to represent a full transcript of the meeting. The recording of the meetings is available upon request, to be heard in the office of the secretary to the board. An agenda of this meeting was made available to persons, organizations and local news media. The agenda gives the date, time and place of the meeting as well as the order of business. This disclosure is in compliance with the SC Code of Laws 1976, §30-4-80(e).