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, Lanham, and Watson. Members Lauer and
Murdock were absent. A quorum was present. Others present: Administrator Fellner; Town Clerk
Herrmann; Building, Planning & Zoning Director Morris; Building Official Farria, and Executive Assistant
Ann Messall.

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

AGENDA APPROVAL. Mr. Willm moved to approve the agenda. Mr. Courtney second. All
voted in favor. MOTION CARRIED.

MINUTES APPROVAL. Ms. Watson moved to approve the March 29, 2016 minutes as
approved. Mr. Courtney second. All voted in favor. MOTION CARRIED.

BUSINESS. (This portion verbatim.)

A. Appeal No. ZA2016-02(a) Troy Berry request a variance from Section 17-321 Maximum
Building Height in the R-2 Zoning District for property located at 319 15th Avenue South.

i. Hearing. Chairman Ott: At this time, I’ll open up the hearing for Appeal Number ZA2016-02,
Mr. Troy Berry request a variance from Section 17-321 maximum building height in the R2 district for a
property located at 319 15th Avenue South. And, I’ll ask the applicant, Mr. Berry, would you please, or a
representative, please approach the microphone. I’m gonna ask you to put your hand on the Bible, and
raise your right hand. Okay, do you swear to tell the truth, the whole truth, and nothing but the truth, so
help you, God? Mr. Berry: Yes, sir. I do. Chairman Ott: Thank you, and please state your name and
address for the record. Mr. Berry: I am Troy Berry, and I have a family home and I’m down here quite
often in Surfside at 16th Avenue South. It’s 6-1-2 16th Avenue South is my home here in Surfside.
Chairman Ott: And, at this time you can explain to the Board of Zoning Appeals why you need this
variance.

a. Appellant Recitals. Mr. Berry: This variance, you’ll see two items on the variance form.
What you see in blue, for your records, I guess, was what was added on April the 1st, regarding the bath,
the utility room bath on the lower level of the home. The original variance form was submitted back in
February, which has everything typed in, which is for the second item we’ll be discussing tonight. But
what this is, is regarding a, two homes. A Unit A and a Unit B on the lot at 319, excuse me, yeah, 319
15th Avenue South is the site location, and this would be a 2,100 square foot raised beach home. This is
already contracted with the clients. The contract’s been signed to build. I am the owner of the lot, and I
am the builder. I am a local custom home builder. I build in Columbia, South Carolina, and I build here in
Surfside, and would love to, desire to build a lot more in Surfside. I built 48 custom homes over the past
14 years, and I am a former engineer. I have 14 years in the engineering profession as a civil engineer.
So, this home is gonna be 2,100 square feet. A main level floor, and a second floor level, 4-bedroom
home. On the lower level, there is a utility room area, patio, utility room area time you come in from the
carport area, a 2-car carport up under the raised home, and then there’s a storage area at the back of the
house. I think, yeah, [Ms. Morris] is showing you the floor plan of the house now. I’ll just, if I may step
over here, (approaching projector screen) I’d like to show you something. So, this is the lower level of the
house. This is the main living area, the second floor level, and this is the area we’re talking about on the
lower level. This area will be elevated up 12-inches. I do all my homes anywhere around this area in the
City of Myrtle Beach, Horry County. Always raise it up 12-inches from the existing grade. This lower floor
level plan you see here will be elevated up 12-inches. This here is the utility room area, the patio area,
and this is the storage area in the back. This here is an enclosed garage area for yard tools and a golf
cart. This is the clients’ home. We spent about five weeks with the clients. These are clients from Charlotte. They recently sold their home on 15th Avenue South, 309, I forget their address, but it’s five homes down. They’ve been residents here for eight years in Surfside, and they’re from Charlotte and they come down here probably four months out the entire year, and this is gonna be their retirement home in about ten years. This is what the clients have designed, which is gonna be Unit A, and I’m gonna be building Unit B, hopefully, the same plan, the exact same plan. But, what’s in question is the utility room area bath. Can all y’all hear me okay over there? So the utility room area, which I circled on the lower level is what’s in question and that’s what’s noted on the application is the item we’re discussing right now. What this does, if, the clients must have this utility room bath. We’ve discussed it for four or five weeks, and that’s why I’m before you now. The clients requested back in March and said we’re just not gonna build a home, if we cannot have that lower level utility room bath for many reasons. One, when they come back from the beach, they desire to jump in a shower for five or ten minutes and clean up and the second reason is, is his dad, this is Brian and Ann Patterson. They used to live here in Surfside. They sold their home two months ago on the same street, 15th Avenue South, and they’re moving to this lot here, about five lots away from their existing home they have. So, Brian and Ann Patterson is [sic] the clients. Like I said, I’m the owner of the lot and I’m the builder for them also. But, they have said they must have this lower level utility bath or they just won’t build the home, and they won’t be residents of Surfside anymore. So this creates effectively with this new 3-foot high elevation, it prohibits this bath from being in there. As the kind of general, vague Section, whatever it is, 14, I’m trying to find that zoning ordinance to spell it out for you. Section 14-19, which went into effect about four or five months ago, I believe. Is that correct, [Ms. Morris?]


Mr. Berry: But it was just started being forced [sic?]


Mr. Berry: Okay. This was regarding 3-foot high. So, effectively, we cannot build a home, if we don’t have this lower bath. The second reason I was gonna mention is that Brian Patterson’s dad, he comes down probably six to eight times out the year with them and stays for a good week at a time. Not to get into too many details, but he frequently has to use the restroom. He doesn’t want to have to climb up steps. He’s 78 years old; it’s his dad. He doesn’t want to have to climb up the steps to the main level to use the restroom all the time, so that’s why must have this utility restroom on the lower level. So, effectively, it prevents me from building this home for the clients, and with this existing ordinance the way it is vaguely written. I will state that the ordinance does not say anything in there about not having a utility room bath. It talks about mechanical equipment, heating and air, hot water heaters. Things like that must be elevated up 3-foot. The final point I’ll make regarding this lower level area is this is gonna all be unfinished, unfinished area. It’s not part of the building permit. It’s never been part of the building permit application. Everybody in that office knows and it’s documented on the permit and through emails officially, also, that this is an unheated area; unfinished area. There’s no heating and cooling. The main home is 2,000 square feet; 1,000 square feet on the first level, 1,000 square feet on the second floor level. This area down here is like a propo [sic:] what they desire is to have like a 100 square feet area for a 2,100 square foot total with this utility room bath. So this is not a living area. It’s not a habitable living area. It’s the utility room patio area and then the storage area at the back. So, that’s what we’re up against here now, is the 3-foot high requirement for this utility room bath. I will pause and address any questions you simply have regarding that from my, so I can clarify anything you have regarding this issue. What I am requesting is approval from this committee tonight that this lower level utility room bath be approved.

Chairman Ott: Mr. Berry, thank you. Do you have any more?

Mr. Berry: Unless there’s additional discussion from [Ms. Morris.]

Chairman Ott: I’ll go ahead and give the town time to present their case. Thank you.
Mr. Berry: Do you want me to sit down?

Chairman Ott: Oh, I'm gonna let you have a rebuttal. Grab a seat; you're coming back.

Mr. Courtney: You can have a seat.

Chairman Ott: Ms. Morris, would you please raise your hand? Do you swear to tell the truth, the whole truth, and nothing but the truth so help you, God? Ms. Morris: I do. Please state your name and your job.

b. Staff Recitals.

Ms. Morris: Sabrina Morris, planning, building, and zoning director for the town. Actually, this, this is the plan that was presented to the town. In the beginning where you see the word storage and it's circled, the plan say den. We notified the, Mr. Berry that he could only have storage underneath, because of the 3-foot requirement. He did change that, and marked it out and put storage. So, that will remain storage. Our only problem is the bathroom. Any, if, parking and storage below is not considered a floor. Anything that you can occupy, and he said the, you know, they may want to shower, well, if you put an outside shower or even underneath the carport, just a shower, those are exempt from FEMA requirements. When you start putting a toilet and a bath and then we're getting into you have to elevate them in 3 feet. That ordinance has been in effect. Council approved it November of 2104. I'm sure some of you, most of you, if not all, have seen all around town that's exactly what they're building now; 3 feet about highest adjacent grade. Our only problem is the bathroom, and before the ordinance came into effect, he did have a 34 feet 5-inch home, which would have met, which would have met the height requirement. But, when you elevate it 3 feet, he's going to have to either lose the bathroom and he would still remain the 34.5, which would meet the requirements or he keeps the bathroom and you're gonna have to grant a variance of 3 feet. If you have any questions, I'll be glad to answer them.

Chairman Ott: Thank you. Mr. Berry, you have a rebuttal?

Mr. Berry: (**speaking as he approached microphone.) One thing [Ms. Morris] noted is the architect, I've been working with these clients about five months, since December of last year. But the architect is from Columbia who does a lot of my custom home plans. Where he had den that was just his architectural notation. I never did think anything of it, but it has been changed. It's no longer officially a den area. It's a storage area, and that's what the clients is [sic] clearly doing. So what's in question again is the front area utility room bath, time you come through the carport area, the open carport area. As I stated before, the clients must have this here or they're not gonna build the home period. That's been made very clear to me in about the past three weeks and that's why I'm here now. That's why on behalf of the clients five weeks ago I said I will handle this and work with Surfside to get this variance approved for the utility room bath. The number two item that [Ms. Morris] mentioned is regarding FEMA. That's kind of where I'm a little concerned here about where the town is with this new ordinance Section 14-19, is this a FEMA requirement or is this a town of Surfside new ordinance that they put in effect requirement? Is this a Surfside ordinance requirement or is this something that FEMA is mandating? This area is completely out of the special flood hazard area. It's well out of the area. The old flood zone area from 2003, the new special flood zone area from FEMA maps, it's well out of there. This area is elevated up 14 feet high. (**)...see that and that's the case here too on the survey, if you want to. On the official site survey it's between 13.5 and 14 feet is the existing elevation, 14 feet above sea level is where this home is, and I'm gonna elevate up one foot above that from the existing grade. So I'm gonna be at a 15-foot high elevation. My concern is with this ordinance is, like I said, this is, total area, everything downstairs, utility room area and all this is unfinished living. Unfinished area. It's unheated, not cooled, so it's not a habitable living area. Many homes have utility area baths or whatever. So, it's not like this is a main living area at home that someone is gonna be occupying 24-hours a day. But, getting back to that point, is this a Surfside ordinance that was put into effect a year or two ago or is this a FEMA requirement? The owners have stated clearly with me and I'm stating, as I swore on the Bible, I'm stating the facts from them. They've said if we have an issue regarding insurance or something, we can purchase flood insurance. We just had a 1,000 year flood in Columbia where I live at and in Surfside.
also, there was no water nowhere near this site location from the flood back in October five or six months ago, October of 2015. So, we had a 1,000 year record flood. This ordinance is stating a 100 year flood and a 500 year flood, so we just went through a 1,000 year flood as documented by FEMA. So, it's no water issue. The clients have stated if they want to have flood insurance, they can purchase that. But, what this town is imposing upon them is a town ordinance, okay, we've got to elevate this whole house up, the whole lower level, this whole patio room area, because you can't elevate just one section of the lower level house. You have to elevate this bath up 3-foot. You have to elevate the whole house up. And, that's gonna add an additional $8 to $9 thousand in building cost due to all the footing, the foundation block, all the fill work, et cetera, et cetera. So, this is not a FEMA mandated requirement of 3-foot high. This is something of the ordinance of the town of Surfside, Section 14-19. The final point, I'll just reiterate the existing site survey as it round, it's around 14-foot high in elevation above sea level. So, I don't understand what the issue is with the utility room bath and why we would have to elevate the whole lower level up 3-foot high to have this lower level bath for the clients and then effectively violate another ordinance, which states you can only have 35-foot in height. That's the only points I have right now. Any questions you may have for me, I'm willing (**).

Chairman Ott: We will open the floor for questions in a moment. Thank you, Mr. Berry. At this time, I'll open the floor to any other person in the audience that would like to speak for or against this variance. Please approach the microphone. Would you please, right, yes. Do you swear to tell the truth, whole truth, nothing but the truth so help you, God? Ms. Burgess: Yes. Chairman Ott: State your name and address for the record. Ms. Burgess: Wanda Burgess, 311 15th Avenue South.

Ms. Burgess: I'm here, I'm curious about a couple things about this. One is the height of this property that he's proposing, and I've also heard that he's planning on putting two on this particular lot. Is that correct?

Chairman Ott: [Ms. Burgess], you can't speak to; just speak to us. Thank you.

Ms. Burgess: But, he's being allowed to put two residences on this one lot?

Chairman Ott: I believe there is a, I do have a picture with two.

Mr. Courtney: I'm sorry, Ms. Morris, could you clarify that please.

Ms. Morris: Yes, I could. It's zoned R2. It allows for one residence only. He has applied for a change of, into the R2 zoning district that would allow the R, the two properties on one lot. That meeting is going to be Tuesday night at six o'clock here at the planning commission.

Ms. Burgess: I can't make that meeting. But, this is a residential area with single family homes mostly. We've got enough of the cracker box stuff from Lakeside to the beach and all along the beach and I think it's sufficient that we don't need to start making the residential area look like a commercial area. I don't think the height requirements need to be changed for one individual nor do I think we need to have two houses on one lot. Now, that's just my personal opinion.

Chairman Ott: Thank you, [Ms. Burgess.] Is there anybody else at this time that would like to speak? That all? Thank you, sir. Mr. Goddard: My name is Bill Goddard. Chairman Ott: I need, yeah, I need to swear you in. Do you swear to tell the truth, whole truth, nothing but the truth so help you, God? Mr. Goddard: Amen. Chairman Ott: Please state your name, your name and address.

Mr. Goddard: Bill Goddard, 320 15th Avenue South. We live across the street from this lot, and I don't know the gentleman. I've never met him. But, I will say this. He came in and cleared everything off that lot. There's not a blade of grass on there. He came in, we've seen him two different nights after dark, look, looked to us like he might have been fooling with his boundary stakes. Now, I'm not making accusations, but it just looked that way. The other thing is they posted a sign on the lot saying there was
a hearing tonight about it. The sign disappeared. Now, why would somebody take the sign off the lot, unless they wanted nobody to show up? I don’t know. Again, I’m not making accusations. I’m just making observations. If I was you guys, I would watch him like a hawk, and if I was me on the board right there, I would not grant this variance. Thank you.

Chairman Ott: Thank you, Mr. Goddard. Is there anybody else that would like to speak? Yes, sir. Your, raise your right hand, please, and do you swear to tell the truth, the whole truth and nothing but the truth, so help you, God? Mr. O’Hagan: I will.

Mr. O’Hagan: My name is John O’Hagan. I live next door to the property that is in question. I have the same concerns as Mr. Goddard. There seems to be some kind of discrepancies with the boundary lines of the property lines. There’s, there was a surveyor’s stakes there, but then there’s also white stakes there that are outside of the survey stakes, which are at least a foot on our, my side, and my neighbor Jim, and also on my neighbor Debbie, which I think there’s another stake another three inches on that side. We just don’t know why that is like that. Plus, I know that is whatever the zoning law is for setbacks for, you know, adjoining properties, I just hope that that law will be enforced when it comes time for this. Thank you.

Chairman Ott: Thank you very much. Anyone else? Okay, Mr. Berry, would you like a, and if you would please, would you address that you did, you’re still under oath, did you, was, were these boundary stakes moved at all? Mr. Berry: No, sir. Chairman Ott: Thank you.

Mr. Berry: I will be glad to clearly answer (**). First item from, I guess, all three people that spoke here. We’re talking specifically about this utility room bath. I don’t know if they were so opposed to the utility room bath or some other issues outside of this zoning board here tonight, because a lot of this stuff that’s been discussed is, you know, not items of the zoning board. (Facing audience) There is a planning commission meeting next Tuesday night at six o’clock and I would encourage y’all to come. Next Tuesday night.

Chairman Ott: Mr. Berry, you have to speak to the board of zoning appeals, please. Thank you.

Mr. Berry: But, the issue regarding the sign. I was down there officially on business Wednesday, Thursday, and Friday of last week and the sign was never present on the lot then. My mother, like I say, we have a family house at 612 16th Avenue South. We’ve had it 13 years down here, and I built that home myself 13 years ago. My mother was riding around on the golf cart on Monday and said she noticed the sign they put on the lot on Monday. So, the sign just appeared on the lot on Monday. I was down here Wednesday, Thursday and Friday of last week and there was no sign on the lot. I don’t know where the sign went. Was there ever a sign there before? I can swear under oath.

Chairman Ott: You are, you are under oath.

Mr. Berry: (**I did not remove any sign, whatsoever. I don’t know anything about a sign. The second point is regarding some white pipes. I did, and I met one of my neighbors here last Thursday evening when I was staking out the proposed home, I put white pipes on the home [sic] where the lot is. There was another white pipe I stuck in the ground; it’s not a survey thing, it’s just a white PVC pipe that would be more addressed in the second item we’re gonna talk about here tonight, not regarding this utility room bath. But, that pipe is just a reference pipe to pull a string off of from there to the back line, but we’ll address that issue later. That is not a survey pin. It’s not anything documented on any survey. That’s just a white pipe that I put in the ground last Thursday evening at seven o’clock. It is not a survey iron, and it’s not part of our survey, and we’ll be talking about the survey here for the next item on the agenda. But, getting back to the utility room bath, another final point I’ll make here is, is that I’ve been a builder for 14 years, a custom homebuilder. I’m not a production homebuilder. I only build quality homes. As my sign says that’s been on the lot for six years that I’ve owned the lot, Carolina Quality Homes. It’s my personal reputation and my personal pride that goes in every home I build. The point regarding this 3-foot high elevation just for a utility room bath, which is not stated nowhere in Section 14-19 that a lower level bath, it don’t say anything about a bath or anything like that, so it’s not
violating any ordinance right now, because the ordinance doesn’t specify any of that. If you desire not to have a utility room lower level bath, I would encourage you to amend your ordinance and add that to the ordinance to make that clear. You stated many other items, but you haven’t stated anything about a utility room lower bath. So, you do have that option to amend your existing ordinance or whoever created this ordinance, whether it was your committee or planning commission, committee. I don’t know who created this ordinance. But, the point I want to make is if you go up 3-foot high, you’ve gotta have a minimum of five steps. You’ve got to have five steps to get up into 36-inches high off the ground. Like I said, this man is in a wheelchair. Brian Patterson, his dad that comes down six to eight times out the year and stays for a week with them when they are down here. If I had to have a ramp going up into, just for him to get into the utility room bath, I would have to have a ramp 21 feet long. That’s part of the IRC, International Residential Building Code. For 3-foot high, if you do the calculations, I have to have a ramp that’s 21-foot long to get up there to meet ADA requirements, disability requirements. So, we’ve got many issues regarding this 3-foot high elevation just for the convenience of a lower level utility room bath for the clients. I do encourage this committee to take a position here. If you were standing here on this side and this was your home you was wanting to build, or you had a handicapped parent, what would your viewpoint be? Would this be a major concern to you and would you be appealing this issue? I would just leave it as that. Put yourself in my position. Put yourself in the clients’ position. They have clearly said they will not build this home period, and they will no longer be residents of the town of Surfside. They’ve resided here for eight years. Like I’ve stated, final point, is this section states nothing about a utility room bath being in violation of the ordinance. I think I made my case clear and I do request approval for the utility room bath without the 3-foot high elevation. Thank you.

Chairman Ott: Before I close the hearing, I’m gonna make a statement as to why we swear everybody in, a little explanation. This is a quasi-judicial board, and the results that happen here will, the next step is the South Carolina Appeals Court. They don’t go to Town Council or anywhere else. We are tied in by the South Carolina Constitution to give a variance only when those four questions are answered and that was those four questions that you a, in the variance form. They come from the South Carolina Constitution. They are not made up by anybody in the neighborhood or anything. And in fact, those same questions are answered exactly the same in many other states in the Union. Stating that, I’m gonna close the hearing. Would you like one more? Yes, please Mr. Berry.

Mr. Berry: Just one point on that since you brought it up regarding the four questions.

Chairman Ott: They’re very important to us.

Mr. Berry: I think I addressed two of ’em very clearly. But, if I need to go through all four for the record and make sure I’m clear.

Chairman Ott: You’re right, sir.

Mr. Berry: Section, Section 1, since you addressed the item, there is some extraordinary situation that prevents this utility room bath, that’s Section A. I’m just paraphrasing, but you, you know the facts, so. This is an extraordinary situation. I would like to have the question answered, was this a FEMA mandated requirement that everything in the town of Surfside be elevated up 3-foot high for any additions, remodeling, or new homes? Was it a FEMA requirement to require this here? Can someone answer that question?

Chairman Ott: And I can answer, I’ll do that at this time in the hearing section or I could do it, we’re gonna do a Q&A in a minute. I’m gonna open the board, and the board will speaking to you. We give you your rights to speak and we don’t say anything. Except, something like this, I can say a couple of words. Ms. Morris, would you like to answer that question at this time about the FEMA or an exact ordinance.

Ms. Morris: Yes, I certainly would. Section 14-19, areas outside the flood zone, that is not a FEMA mandated requirement, although FEMA did recommend that we put a height elevation so we would not have slab on grades, because we’re not just looking at ocean waters coming in, we’re also
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looking at stormwater coming in from Horry County, and I will also say we, we did not have the 1,000 year flood. Other areas of the state did. We had, and we asked FEMA two weeks ago, they said this could have been a 100 year flood in areas, some of it was 500 year flood. The 1,000 year flood was on the Black River and the Pee Dee Rivers, which they’re still suffering. But, to go a little further, FEMA has used our ordinance, because, for sustainability, we’re, we’re just here and we wrote the ordinance and council approved it to protect property, properties in the town, and I’m sure you all can understand at the last flood, even though it was not the 1,000 year flood, we were the only municipality in the area that did not get flooded in the homes.

Chairman Ott: Okay, thank you very much. You may have rebuttal, again. I’ll give you as much time as necessary.

Mr. Berry: I was going through the four points of the variance, which I want to make sure I get clear for the record on that to satisfy everybody’s needs on this board; adjust and reiterate what [Ms. Morris] stated and she can clarify if I misstate anything. This was a town ordinance to protect property. Like these clients have said, if we want to protect our property, we can. We can get flood insurance or we can personally elevate it up 1-foot high, 2-foot, 3-foot, 8-foot high. It’s a personal choice of an individual, but this is a town ordinance. This was not a FEMA required ordinance that we’re talking about here tonight. Like I said, stated, this is one of the highest areas of Surfside, 14 feet above sea level is where this site is located at. There was many flooding in the Conway area, Socastee area, yes, this was a 1,000 year flood for the entire state as documented by Governor Nicki Haley. But, like I stated, there was no water nowhere on this lot. I was down here three days after at our home on 16th Avenue South, and I personally took pictures. It was completely dry. No water nowhere near the lot. So, just to state that this is not a FEMA mandated requirement. It’s just a town ordinance. On some of these town ordinances, particularly this one here, this is where we get back into committees create these ordinances, particularly this one here we’re talking about, but then you’re creating a burden on the residents and businesses. Just like many businesses, I’ve heard from three businesses personally. They will not build in the town of Surfside anymore, because they have to elevate their business up 3-foot high. A point I will make there is, this covers all of the town of Surfside outside of the original 2003 flood zone area, which this area is well out of the way on it, and I could show you the flood maps, and just for the record, I probably need to do that, since we’re talking about all these FEMA issues. I’m sure you’re all aware of this and I’m sure it’s on the town website.

Chairman Ott: Yes, I am.

Mr. Berry: Ms. Herrmann can state that. What you see here in blue, this blue line, I’m just showing to you and I’m turning around and showing to people behind me, was the original 2003 FEMA flood zone area. This is the new, the red line is the FEMA, which moved closer to the ocean. So now we’re getting further away for the special flood hazard area, and y’all are pretty familiar with that. So, the special flood hazard area is the red line, which is much closer to the ocean. This here is the site location here where you see 15th Avenue South where this x is. Is there any question to that? Y’all can have a copy of this to look at.

Chairman Ott: Yeah, we have it. We all have this.

Ms. Morris: Correction.

Chairman Ott: Okay.

Ms. Morris: The red line is not the new flood map line.

Mr. Berry: Proposed.

Ms. Morris: It is not the proposed.

Chairman Ott: Okay.
Ms. Morris: The white line, the dark line here that’s the darkest one is the current flood zone in the town.

Chairman Ott: Right.

Ms. Morris: The lighter grey area that goes all the way up here and comes down, that is the new flood line. The red line is the LMWA line, which is the limit in moderate wave action line. Want to clear that up. It is not the red line.

Chairman Ott: We’re gonna clear this, and at this time I’m gonna, my board is ready for some questions, and they’re gonna be to Mr. Berry. At this time I’m gonna...

Mr. Berry: She made a point about the FEMA and I just want to clarify that.

Chairman Ott: Yes, and I, I...

Mr. Berry: It’s just a town ordinance. This applies totally outside of the special flood hazard area. So, this home is nowhere near the special flood hazard area. To close out my points that I was making to get through the four items of the variance to make sure I cover the official record on them, just because I don’t potentially get the nod because I didn’t cover all points here, this is an extraordinary issue. This is just a recently new town ordinance. Not required by FEMA. So that covers Section A. This is an extraordinary situation and this is just regarding a utility room bath that in a nonliving area of the home. Item B, these conditions do not generally apply to other properties. Well, this doesn’t apply to Horry County and the town, City of Myrtle Beach. This is a local, town of Surfside recently new ordinance that went into effect. So, this is conditions that don’t apply to other areas surrounding the 2-mile section of Surfside Beach. Item number C, because of these conditions the applicant of these ordinance and a particular piece effectively to this property and talking about this particular piece of property would effectively not allow the utilization of the property. As I have stated, if the clients don’t have the utility room bath, they’re not going to pay an extra $9,000 to elevate their home up 3-foot high, and then violate a second ordinance regarding the 35-foot maximum height, which it would. So they must have the bath, so this addresses item C. It effectively prohibits the building of this home for the clients, and the home for me, Unit B, which is going to my home, my personal home, my family home. Right now I have a family home. And item number D as you all know, does this affect any adjacent property owners anywhere around the property owners. It’s a utility room bath, if it’s 12-inches off the ground or whether it’s 3-foot high, does this affect neighbors? I don’t think a utility room bath affects neighbors. Does it impact the town of Surfside? That’s addressing item C, does it impact any adjacent neighbors or property owners or does it impact the town in any way. This utility room bath does not impact the town of Surfside. So, I’ve covered all four points. I request approval for the utility room bath at the standard 12-inch high raised elevation for the lower level utility room area and the storage area.

Chairman Ott: Mr. Berry, thank you very much. At this time, I’m gonna close the hearing section and open the business section, and I will take whoever would like to ask a question, if anybody would like to ask a question.

c. Q&A with Sworn Individuals.

Mr. Willm said the variance criteria does not dictate that we follow FEMA’s rules. This is a town ordinance that Mr. Berry was requesting a variance form, and he wanted to make it clear that flood zone had no relevance in regard to the bathroom. Mr. Berry said his point was that Ms. Morris stated this was a FEMA mandated requirement only in the special flood zone area; it is a recommendation outside of the special flood hazard area. Mr. Willm said the town utilized that to create this ordinance, so we are not here to debate what the town does as far as the ordinance. This board is to address the variance. The discussion about whether you like the ordinance or not should go to the planning commission and Town Council. The board is here to consider the bathroom and the four points. Mr. Berry said correct, and asked if the bathroom violated the existing ordinance as it was written in Section 14-19. Mr. Willm said
the section states all mechanical and electrical equipment. Mr. Berry argued that a bathroom is not a mechanical system; it is a plumbing system and is not, in his opinion, in violation of the ordinance. Mr. Willm said he had a different interpretation.

Mr. Lanham agreed with Mr. Willm that this board was not to debate the ordinance. He asked what would be in the utility room, a toilet or what. Mr. Berry said a standard full bath, a shower, a toilet, and a 36-inch vanity in an 8-foot by 6-foot area. Mr. Lanham asked if this gentleman had to have a downstairs bath, how would he use the rest of the house. Mr. Berry said he can go upstairs using other means; they will have to put a lift going up. Mr. Patterson’s father has ADA related health issues and he believed it was unreasonable to require him to go up and down stairs several times a day to use the bathroom.

Chairman Ott said there was no lift in the plan. Mr. Berry said correct, there is no lift. He was talking about a rail lift on the staircase. Chairman Ott asked what would happen if it was not approved. That could be another variance matter. Mr. Courtney agreed that a stair lift could create another variance. Mr. Berry said that did not affect this committee, because they should base their facts on what’s here for the variance. Chairman Ott explained this board considers why the house could not just be built and why a variance was needed; why there is a hardship is the main question. Mr. Berry replied that the hardship was ADA, and because it was not in violation of the code. Chairman Ott said the board is trying to help him prove the hardship. Mr. Berry replied the hardship was the addition $9,000 cost to the clients to elevate up 3-foot. Chairman Ott said the Constitution states that money cannot enter into the equation. Mr. Berry agreed with that. But, Mr. Patterson is disabled.

Mr. Courtney said the lot had been cleared; was a floor plan submitted before clearing? Ms. Morris said a permit was never issued to clear the lot, and they were not informed that it was going to be cleared. Mr. Courtney asked Mr. Berry to inform the board about this. Mr. Berry said he had been working with the town of Surfside and Ms. Morris’s office since the third week of January. This has been going on since around January the 21st. The building permit was officially issued for this one unit, Unit A, was officially issued on March the 10th in the building permit package. The lot goes under the building permit issue. The lot was cleared due to a building permit. If you have a building permit on the record, then the lot can be cleared. That is a totally separate issue. It’s not part of a variance issue and not part of what this committee was to consider.

Ms. Morris said Mr. Berry applied for a permit March 10th. We are still holding the permit. There is no permit that has been issued. The ordinance for landscaping very clearly states you have to have a building permit before any land clearing. So, we will certainly be addressing that before a permit is issued. Chairman Ott said that was a separate issue. Mr. Berry said it is a separate issue, but the required number of trees were left on the lot. But, the commission was straying from the facts of what was to be considered.

Mr. Lanham said the lot had been cleared; was a floor plan submitted before clearing? Ms. Morris said a permit was never issued to clear the lot, and they were not informed that it was going to be cleared. Mr. Courtney asked Mr. Berry to inform the board about this. Mr. Berry said he had been working with the town of Surfside and Ms. Morris’s office since the third week of January. This has been going on since around January the 21st. The building permit was officially issued for this one unit, Unit A, was officially issued on March the 10th in the building permit package. The lot goes under the building permit issue. The lot was cleared due to a building permit. If you have a building permit on the record, then the lot can be cleared. That is a totally separate issue. It’s not part of a variance issue and not part of what this committee was to consider.

Mr. Lanham said the board was getting away from the issue, which is the toilet.

Chairman Ott said the survey was of concern, because of the statements made that stakes were moved the board would address that.

Mr. Lanham said the board hears many variance requests. The request must pass all four criteria. Sometimes it is subjective as to whether the criteria are met. Number 1 is extraordinary and exceptional conditions, then it states “is impossible for the applicant’s land to yield a reasonable return without a variance.” He did not see where this was an extraordinary case and said Mr. Berry may not be able to build this house exactly like he wants, but there were many other home styles that could be built on this property.

Mr. Berry did not understand Mr. Lanham’s point, so Chairman Ott explained that Mr. Lanham was seeking an answer to the question what are the extraordinary conditions that would not allow anything to be done on that land. What hardship do you have that will not allow you to build a house there? The problems appear to be self-inflicted. You are asking for something of your own.
Mr. Berry said early the commission said that costs were not considered in extraordinary circumstances. If you don’t have the utility room bath, then it affects the return on investment.

Mr. Lanham asked Mr. Berry if this house was not built, could another house be built with basically for same costs without having the ground floor toilet.

Mr. Courtney asked if an elevator could be added to this house. Mr. Berry said an elevator would not be allowed for the same reason as the utility room bath. Ms. Morris said that was not correct. Elevators were exempt from the 3-foot rule.

Ms. Watson said the home is 35 feet restricted height. There are three floors, and asked how tall each floor was. There was 11.33 feet per floor. She asked if that could be reduced to 9 or 8 feet. Mr. Berry said no, ma’am. There are two homes being built right now that well exceed 35 feet in height on Melody Lane at the corner of Lakeside, being built by Tyler Servant. They are four story homes. He asked if a variance was granted by this board. Chairman Ott said no. Ms. Watson said those homes were in a different zone, the R3 zone. Ms. Morris said those homes were in a different zoning district that allows heights of 55 feet. Mr. Berry noted those homes were only about 500 feet away from his property. Mr. Berry said the original plan has the home at 34.5 feet and proceeded to discuss in detail the various floor heights, roof pitch and his reasons why the bathroom could not be added without a variance, saying the ordinance cites mechanical and electrical must be 3 feet off the ground, and reiterated this was a plumbing issue.

Mr. Willm asked if the bathroom would have electricity. Mr. Berry said there would be a GFI outlet that would be 4 feet high. Mr. Willm said he interpreted the code as saying mechanical, electrical, air compressors, air conditioners, or pretty much anything of substance is to be raised off the ground. In his opinion, a bathroom was more obtrusive than any kind of mechanical or electrical related equipment. Mr. Will said that extraordinary and exceptional conditions pertaining to the property would be. The exception for height would apply to every other property in the R2 district if there was a request to build this house as Mr. Berry submitted it, nor was there anything extraordinary about the property.

Chairman Ott said without the toilet on the ground floor, Mr. Berry could build that house tomorrow. Mr. Lanham said that was right. Mr. Berry said if there was a meeting of the minds, and everything in life was about negotiations, discussions, and meeting of the minds, could a half bath be built. Mr. Courtney said this board does not negotiate.

Chairman Ott said the board keeps going over the four criteria because it is tied in by the Constitution of the State to answer those four questions to give him a variance. If a variance was granted, and somebody took you to the next court level, they could stop construction if the board denied another request based on the same criteria. Every applicant is treated the same at this level.

Mr. Willm said Mr. Berry’s answer to the question that the conditions do not generally apply to other properties in the vicinity, he said the conditions did not apply in Horry County and City of Myrtle Beach. The reference is to properties in the town that neighbor the subject property. The statement that the ordinance did not have to be followed because the clients could buy insurance did not play into the board’s decision. He did not believe the bathroom would impact the town. But item C that states because of these conditions the application of the ordinance to the particular piece of property would effectively prohibit or restrict utilization of the property. Mr. Willm said in his opinion, any kind of house could be built; this house could be built without the bathroom. The code unreasonably restricts what Mr. Berry wants to build, but in his opinion, application of the ordinance to this particular piece of property would effectively prohibit or unreasonably restrict utilization of the property does not apply. Mr. Willm said if Mr. Berry did not like how the town wrote its ordinances, he could appeal through the voting process to elect town councilmembers. If Mr. Berry is dissatisfied with the board’s decision, he may appeal to Circuit Court, where the judge will review the board’s verbatim minutes and make a ruling. The volunteers on the board try to do the best job they can for the town and its citizens to follow the code. The members
were not to debate whether an ordinance was proper. Board members consider the four questions, and are trained extensively yearly on proper interpretation of the rules.

Ms. Watson asked the height of the bottom floor. Mr. Berry said 8 feet. Ms. Watson discussed constructions options, including changing floor heights, installing an elevator or using a different style roof. Mr. Berry said the roof could not be changed due to the 7:12 pitch required by code. He said Ms. Watson was correct, the floor heights could be adjusted, but all the new homes have 9-foot ceiling in their main living area. Making that change would create a hardship on him, and his clients. Mr. Berry said he was talking about building two units, Unit A, and Unit B.

Mr. Willm took exception saying the board was not creating the hardship. The board was here to hear his appeal and decide on the variance request.

Mr. Berry began reciting his variance requests again. Chairman Ott said ample time had been allowed for Mr. Berry to address the board, and called for a motion.

Mr. Lanham moved to deny the variance. Mr. Courtney second. Chairman Ott said the reason for the denial should be stated for the record. Mr. Lanham said the extraordinary and exceptional conditions were not found. Chairman Ott said the board found no extraordinary and exceptional conditions. Mr. Courtney agreed. All voted in favor to deny the variance. **MOTION TO DENY CARRIED.**

Chairman Ott said this appeal was closed.

**B. Appeal Number #ZA2016-02(b) Troy Berry request a variance from Section 17-320 Yard Setbacks, specifically the side yard setback of 10’ required in the R-2 Zoning District for property at 319 15th Avenue South.**

i. Hearing. Chairman Ott cited the appeal request for a variance from Section 17-320 Yard Setbacks, specifically the side yard setback of 10’ required in the R-2 Zoning District for property at 319 15th Avenue South.

a. Appellant Recitals. Mr. Berry: I respectfully accept your decision that we just had regarding the utility room bath. But, now, we’ve gotta get back to the original ordinance which is stated in blue regarding a 38-foot high variance. We’ve gotta go back to the original appeal variance form regarding the item we just addressed and now since you’re requiring me to elevate it up 3-foot high to include the utility room bath, which the clients must have, I am requesting a variance of 38-foot high in the height requirement for the R2 zone. So, R2 zone requires 35 right now, I need to go up to 38-foot.

Ms. Morris: They, they just denied that.

Chairman Ott: Maybe I’m confused. I’m reading a different ordinance. I’m reading the side setback change.

Ms. Morris: He, excuse me, if I could, he’s asking you about the first variance, which you just denied. No height variance of 38 feet.

Chairman Ott: While that, you’d have to schedule a different hearing for that one.

Ms. Morris: No, no. The very first one you just denied.

Chairman Ott: Right.

Mr. Berry: I got on here need a height variance of 38 feet.

Ms. Morris: I don’t think he understands that you just denied it.
Mr. Berry: You denied a utility room bath on the lower level without it being raised up 3-foot, is that correct?

Chairman Ott: And we don’t make any other decision on that; you’re not, no, you’re not. The variance requested denied at that point now.

Mr. Berry: For the record, clarification, is it the utility room bath that’s being denied and are you requiring me to elevate it up 3-foot high, if I want the utility room bath?

Chairman Ott: We didn’t off, that was not a, the variance was denied.

Mr. Willm: Three foot.

Chairman Ott: And, I can read the variance.

Mr. Willm: You gave us the reason you needed the variance was for the 3-foot for the bathroom and we did not feel that that was a reasonable reason to give a variance. The variance that we [heard] as the Chairman read at the beginning of the thing, he requested a variance of 3-foot to allow the single family residence to be built on a height of 38 feet opposed to 35. That’s what we just heard, and that’s what we just voted on. The bathroom was the discussion.

Mr. Berry: I’m still a little confused and I guess we’ve gotta clear up the record for everyone here tonight and for further action, if it’s needed, and for Ms. Herrmann. So, you denied the first variance. So, if I desire to put the utility room bath in, I must go up 3-foot high, is that correct?

Chairman Ott: That’s correct.

Mr. Berry: So that gets back to my application here on the variance form its states (**two speaking at once)…Section 2-8 I need a height variance.

Chairman Ott: That would bring you over the, that would bring you to 38-foot, sir, and that’s what we’ve denied. We did not find an extraordinary condition that would allow us to grant you a variance of 3 feet to allow you to build that house at 38 feet. That was what the board members decided on that.

Mr. Berry: So I don’t get an extra 2-foot in R-2 zone. So R2 zoning is at 35-foot high requirement. Now that you have a recently new ordinance in of about five to six months… (**two speaking at once)

Chairman Ott: Again, I’ll state, excuse me, sir. Again, I’ll state that there was no extraordinary conditions found that would allow us according to those four questions to grant you a variance of the extra 3 feet. We cannot do that, because we have not been proven any hardship that you have according to those four questions.

Mr. Berry: (**two speaking at once) It’s a hardship (**five steps and ramp of 21 feet long, and $9,000 in construction cost.

Chairman Ott: (**two speaking at once) And, let me again say that I closed that meeting. I’m sorry. You’ can (**two speaking at once) speak with the zoning director and she’ll explain to you later on the decision, and we’re gonna follow through and we’re gonna go into the next variance. This is a side setback.

Mr. Berry: What you just mentioned about me going today (**two speaking at once.)

Chairman Ott: Unless you want to a… (**two speaking at once.)
Mr. Berry: ... there’s a communication issue there and I get no communication from her, the director.

Chairman Ott: Well, you’re getting; it was plain English. It was more than plain English.

Mr. Berry: If we can go back to my ... (**two speaking at once) ... in blue, it says I need a height variance of 38 feet.

Mr. Courtney: Mr. Chairman, (**two speaking at once) can we close this discussion and move on?

Chairman Ott: Excuse me?

Mr. Berry: Can we address the height variance of 38 feet? It’s gonna be denied or not?

Mr. Lanham: Mr. Chairman, I make a motion that we close this hearing.

Chairman Ott: Would you like to make a motion?

Mr. Lanham: I make a motion that we close this part of this hearing and go to the next hearing.

Mr. Courtney: I’ll second that motion.

Chairman Ott: Any discussion on this?

Mr. Berry: I’d like to make a point. Are we gonna address item two on here?

Chairman Ott: All in favor. All voted in favor. MOTION CARRIED. Gavel, that’s it.

Mr. Willm: Now he wanted to go to the second item.

Chairman Ott: We, we did, I did close that and we did close the first one.

Mr. Berry: So, let’s discuss item two now.

Chairman Ott: And, I opened the second one, and that was the side setback, and the applicant asked for further explanation of (**two speaking at once)

Mr. Berry: I asked for clarification of what you just ruled.

Chairman Ott: ... denied the exact variance that he requested.

Mr. Courtney: He’s got two variances here. One for the setbacks. One for the height.

Mr. Berry: So we denied, I’m not gonna be allowed to have 2.5 extra feet in height for R2.

Chairman Ott: Yes, we did not approve the 38-foot, the additional 3-foot that you needed to build the house.

Mr. Berry: Okay, thank you.

Chairman Ott: I thought it was clear what we were, that’s what we were talking about from the start of this an hour ago. That’s what we have been speaking about.

Ms. Morris: And if the bath is built below, it still has to be elevated to the 3 feet. That was not part of the variance. It was just explaining why he needed it.
Chairman Ott: When I read this it says that is what he was requesting to build and that was the only way that house would have been built with that bathroom where it was. Now, if I can we'll, I'll ask the applicant to do a recital on the side setbacks now. I don't know if this is needed, because right now, the only way you're gonna build that house, right, is without that additional restroom at the bottom, right.

Mr. Berry: That is correct, yes. So, I'll have to unpleasantly inform clients tonight time I walk out of here that they cannot have a utility room bath.

Mr. Courtney: Mr. Berry, we're not trying to be, you know, wrong about this, or ugly about this. We're just, we have to go by the ordinances that are set by council. That's all there is to it. You did not meet the criteria for it and we're trying to help you as much as we can.

Mr. Berry: I was answering his question. Yes, we need to move forward, because I will continue to build the home without the bath. I guess we'll (**two speaking at once).

Mr. Courtney: Thank you.

Mr. Berry: … schedule a meeting for next month regarding a half bath.

Chairman Ott: So, we're moving on.

Mr. Berry: … a powder room bath. Just a toilet and a sink without a shower. So, we'll take that up next month.

Chairman Ott: Okay. Thank you, Mr. Berry.

Mr. Berry: So, getting back to item number 2 on the agenda here, we're talking about the side setbacks.

Chairman Ott: Yes, sir.

Mr. Berry: Okay.

Chairman Ott: Is everybody on board with us now? (Several "yes" responses.) Thank you.

Mr. Berry: We're switching subjects. We're not going back and forth.

Mr. Courtney: Mr. Chairman, would you just repeat the appeal number, please?

(**several speaking at once)

Ms. Watson: Appeal number, the appeal number.

Mr. Willm: The second.

Chairman Ott: Oh, I did that. I've gotta find my, okay, we are on Appeal Number ZA2016-02(b) and that is Mr. Troy Berry request a variance from Section 17-320 Yard Setbacks, specifically the side yard setback of 10-foot required in R2 zoning district for property at 319 15th Avenue South. I might have done that too fast for everybody (**) and this time, Mr. Berry is still under oath and recite for the Board of Zoning Appeals his reasoning for the side setback.

Mr. Berry: Would you like for me to move forward now?

Chairman Ott: The floor is yours, yes sir.
Mr. Berry: What was requested in the building permit and then was to have a Unit A and a Unit B. That's a separate item that will be taken up on Tuesday night for the final meeting at the planning commission for Unit A and Unit B. This is regarding R2. In R2 you can have two single family homes, Unit A, Unit B as is all around in R2 right now existing as the old style duplex of 35-years ago when the ordinance was put in. We’ve gotta backtrack here to so we can move forward on the item here. So it is gonna be, the permit was for a Unit A and a Unit B. So, you can have a duplex or you can have a semi-detached.

Chairman Ott: Mr. Berry, I’m sorry. May I, for everybody’s idea, this, this lot has been separated and approved?

Ms. Morris: No, it has not.

Chairman Ott: Okay.

Mr. Berry: Under R2 zoning you are not allowed to separate the lot. The lot was sold six months ago and there’s a recorded deed in the Horry County Courthouse and was recorded in their courthouse as Brian Patterson and Ann Patterson own one-half Unit A side of the lot, and I own the remaining Unit B.

I used to own the entire lot. So, I’m the applicant. I’m the owner of the lot and there is a deeded, deeded Unit A one-half ownership, and one-half full rights recorded in the Horry County Courthouse in Conway, for the record.

Chairman Ott: Okay.

Mr. Berry: But no, in R2 your existing ordinances do not let you officially survey and split the lots as Unit A and Unit B. You can, you can from Lakeside; you can from Lakeside to the ocean. But, you can’t in R2. I think the zoning officer can speak to that, if you’re confused on that item. So, this is a Unit A and a Unit B what is the building permit is for. Two of these homes exactly alike. There’s many options that’s gonna be discussed Tuesday night for the planning commission. We are the two owners of the lot.

Brian Patterson and Ann Patterson, which [sic] used to be residents of Surfside, and desire to continue to be with this new home, have Unit A. It’s under contract for me to build as of January, mid-January of this year, and the lot is deeded and recorded. So, they own Unit A. I own Unit B, so I want to build Unit B.

Our desire is as me as a resident, a current resident of Surfside, and them, is to have this as a semi-detached townhome; Unit A, Unit B townhome. There’s many Unit A’s and Unit B’s all in R2. Just for the record, R2 is anything from Lakeside, I believe, all the up to kind of Poplar Street [sic] coming back towards Business 17 here. That’s the R2 zoning district. This is in R2, which clearly states under the ordinance you must have a 10-foot side setback in R2. So, with the two homes, I cannot get the home no small than 19 and ½ feet, 19.5 feet in width. So, this is getting into the meat of this discussion here tonight. So the homes must be 19.5 feet. There is no effective way, most of all the raised beach homes around here, they’re 20 feet or greater in width. I can, 19.5 is the smallest I can shrink it down to and the hardship comes into because you can’t get a hallway upstairs of the 42-inch wide width required if the house is not 19.5 feet, so it does create a hardship in the second floor living area in the hallway for the three bedrooms up front, if I was required to shrink the house down. So, we have two units at 19.5, and if we do the math real quick, here’s where we are if you just want to jot this down for the record. It’s probably gonna be easier to follow along if y’all jot these numbers down. If you take the right hand side setback required by R2 is 10-foot, so you put 10-foot, and then you put the house, Unit A at 19.5, and then in the center you put the 10-foot in the center, and then you put Unit, the proposed Unit B house at 19.5 feet, and then you put the left hand lot required setback at 10-foot, that comes up to a total of 69 feet. That’s the hardship. I cannot shrink this down anymore; no more than 69 feet. So that kind of addresses item A this is a hardship and a unique situation here. Now, to move forward with the discussion, survey, I purchased the lot in 2011. It was based on the survey of 2005. So the last survey on this lot was in 2005. This is for the record is what [Ms. Morris] has on the screen and this is the original from Michael Culler, which is here in Surfside, Culler Land Surveying. He went out on January 28th of 2016 as noted in the bottom left hand corner; well, he went out on the 28th. This is dated on the 29thg when it went back to the office and brought all the records and put on paper. He surveyed the
A lot. The front of the lot at the roadside, do we need to wait on this gentleman, so we can have a full quorum?

Chairman Ott: Yeah, I, I would appreciate it if you would. I'm sorry. I need you to do that, and thank you for your consideration. Yes. Maybe I could, should give everybody a [recess.]

Recess at 7:43, Reconvene at 7:49 p.m.

Chairman Ott: Thank you, everybody for their time, and we're back on the clock, right now.

Mr. Berry: I will try to pick back up where I left off since one of the committee members got up and left during the discussion.

Chairman Ott: Yes, sir. You're in the middle of your recital. I'm sorry.

Mr. Berry: So, I think I was getting to the point of 2A here, which is talk about the hardship and the extraordinary circumstance. That a survey was done in 2005, that was the recorded survey that I bought the lot from in 2009; 2011 is when I bought the lot, excuse me, correction. The survey at that time showed the lot at approximately 70 feet on the front. Michael Culler, Culler Land Surveying here in Surfside, Surfside, South Carolina, for the legal record, surveyed this property on January the 28th of 2016. He showed a front survey at that time of 69.97 feet, which is on the screen and I have an original copy here, which you can just look at if you need to very, and I have 'em circled. So, we're talking about the front of the property is 69.97 feet. If we're standing at the back of the lot looking at the front of the lot, if we're standing near the back of that property line looking at the front of the road, the right property iron as stated on the survey here is 5/8 inch iron found, excuse me, the left, left is 5/8 inch found. The right side of my lot, which is 319 15th Avenue South, shows that a 1 inch iron was found. So there's no discrepancies there. The two irons were found when Michael Culler, January the 28th, 2016 surveyed out the lot and showed it as 69.67 feet. The back of the lot is, back property line is 67.9 feet. So on this survey, there is a taper to the lot. So, the back of the lot is at 67.9 feet with the irons found. All the original irons found and documented on his survey. So here's the question, if you do the math, and you draw a taper here, a picture, we have 67.9 feet at the back and we have 69.97 feet at the front. So we've got about a two foot taper from the back of the lot to the front, and I'm just kind of illustrating on my hands; exaggerating my illustration just to show you. So, those irons were found. Does everybody follow that? I think she's...

Ms. Watson: No.

Mr. Berry: My I return to show her the survey?

Ms. Watson: My survey says 67.95 in the front. Where do you get 60...

Mr. Berry: Correct, and that's what we're gonna get to. That's the second.

Ms. Watson: Okay.

Mr. Berry: So, I'm talking about, what I'm talking about and label this here. I'm talking about Exhibit A, the original survey, and then we'll get to, I guess, an Exhibit B, because you have two surveys here, which should have been part of the record.

Chairman Ott: Well, I have this (**two speaking at once.)

Mr. Berry: Well, the director's office had all this here.

Chairman Ott: Why are the, excuse me, why are there two surveys now? What is, which one is, is in Conway?
Ms. Watson: Which one is at the courthouse?

Chairman Ott: I'm sorry, I have to stop this now, since there are two different surveys. There's something; something's not correct here. Somebody, I want the one that is correct.

Mr. Berry: Okay. Both of these are correct, if you want to muddy up this water here, and that's what we're all here to hash out today and have a reasoning to. Both are correct. The one from January the 28th, which I just noted with the two front, talking about the front and the back of the lot that creates a taper, which gets into my variance request for a side setback of 5 inches. I'm requesting 5 inches, approximately this much of variance in side.

Chairman Ott: I would like to know, excuse me, I'd like to know why the board doesn't have this other survey that's also correct.

Mr. Berry: This is part of the building …

Mr. Courtney: Mr. Chairman, when were the last dates of the surveys.

Ms. Morris: Yeah, you should have it. Let me, someone asked which one was the latest. We were given this, this, and this. But you should have all this in your file. But not one of these are recorded.

Mr. Berry: All these are called site surveys, which y'all require for a building permit, you require a site survey.

Chairman Ott: Which is the recorded one? The one we have?

Ms. Morris: We didn't get any recorded plat. We got no recorded plat.

Mr. Berry: Yeah, and to state for the record there is...

Ms. Morris: We didn't get any.

Mr. Berry: The original survey is still recorded in the courthouse in 2005.

Chairman Ott: Okay.

Mr. Berry: So that's the original lot survey recorded in 2005.

Ms. Morris: We don't have that.

Chairman Ott: You don't have this original?

Ms. Morris: We don't have the recording, no.

Mr. Berry: That's not the issue. It's in the courthouse.

Mr. Courtney: It is an issue.

Mr. Berry: It's public record for everyone. So it is recorded. The survey that I had when I bought the lot in 2011. Just clarify, as part of the building permit package, y'all require a site survey. You cannot record a site survey in Horry County. So, none of these surveys are recorded. Michael Culler with Culler Land Surveying will state to that. You cannot record any site surveys as this town requires. You must have a site survey submitted with your building permit package up front. Am I correct there, [Ms. Morris?]

Ms. Morris: That's correct.
Mr. Berry: But, you cannot record a site survey. When the home is completed, you will have a recorded as built survey.

Ms. Watson: What does it say on the deed?

Chairman Ott: Somewhere there's a deed.

Ms. Morris: We haven't seen the deed and we haven't seen the recorded plat that he says is in the courthouse. We haven't been given that information.

Chairman Ott: (**) Somewhere there's a deed, and the deed (**)

Mr. Berry: Correct.

Ms. Watson: The deed will tell you how many feet from so and so.

Mr. Berry: Okay, let's address the deed issue. I had the original deed and a, everything goes back to, for the record if Ms. Herrmann wants to note this here …

Chairman Ott: I think I might have (**two speaking at once.)

Mr. Berry: ... is Deed Book 35, 3547 is the Deed Book page 3547, and page is 69. So, under official survey things and Deed Books in the Horry County Courthouse, it's DB 3547, which is the Deed Book and page 69. That's where everything is officially recorded. All this goes back to, let me pause for one second here so I can get the record straight. All this is back in 1963, so there's a difference in what y'all are discussing. A plat was done when all the town of Surfside was divided up back in the mid-50's and early 60's. The plat is what's recorded in the courthouse, and that's what I just referenced the Deed Book and the page. That was on May the 28th, 1963. Surveys are done every time a lot is sold or when a building is being built and you have a quote, as built survey done at the end. An as built survey when this home is built, if anything is every built, if at the very end you have an as built survey which shows the, documents the footprint of the home, all the side setbacks, any variances (** as noted on the as built survey that is recorded on the backend before a CO can be issued for the home, and that's recorded in the courthouse at that time, the as built survey, not a site survey. What you're looking at is [sic] surveys, which just a, this town requires up front with your building permit package. But, that's where the issue come [sic] in at. So, I initially submitted this here to [Ms. Morris] just in verbal for the first two or three weeks, I would say back in late January, first of February. We were talking about various things for this lot. So Exhibit A, which is the original survey which we mentioned about ten minutes ago, with the front side, front line at 69.97 feet and the back at 67.9 feet creates a hardship because it's a tapered lot. I have a tapered lot, which is an extraordinary circumstance and how this has happened is over the years, I'm the only lot that's undeveloped in here. So, as the surveyor explained to me, back in 1955 and 1963 when everything was surveyed out, people used chains. They would just pull chains along; chains would get all kinked up and linked up, and he said if you could get something plus or minus 6 inches you're doing very good. From 1963 chain method to today's GPS technology methods. When they were doing the office work about two or three days later, they discovered an encroachment on the very back of the lot. So, Michael Culler went back out three days later towards the very end of January of this year, 2016, just to verify what was initially noted on his survey. What was noted on the 2005 survey and what was noted on the survey we just discussed. He re, went out there and that's when he said okay, the back is confirmed at 67.9 feet. He said you effectively, somewhat have lost about a foot off the back of your lot. If we just round up, we're talking about approximately 68 feet. It's technically on the survey at 67.9 feet, but if you want to round up one-tenth of inch, we're talking about somewhere around 68 feet plus or minus on the back. When he went to re-verify the front, he cross referenced back two lots on both sides, which you are required to do by surveying law. I used to be a survey, also. I worked for the Department of Transportation headquarters back from 1989 to the year 1994 and I surveyed out the I-77 Beltway in Columbia during that time period. That's five years. So, I do understand surveying, and I'm a former engineer also. So, he went back and cross referenced everything and he said you have an encroachment with the existing fence, which is to the right of my property. So if you're on the road front,
looking straight at my property, at the very back right there's slight encroachment of the fence as it is now. Well, he didn't want to have an encroachment on his survey, so he went back there and started verifying all kinds of things, and he said, well I'm just gonna make the front of the lot the same as the back of lot. So he went back out there and three days later, they reset a new pin on the very front of the lot, and this is Exhibit B, a new survey which [Ms. Morris] and her office has on file with the building permit package, which shows now 67.95 feet on the front. This is the survey here, so we have the survey done on January the 28th, 2016, and this one done three days later. Once they did some office work and they found out that things were just not stacking up, and I’ve got effectively, I’ve become the squeeze lot, because I’m the only undeveloped lot and things have fluctuated a couple of inches over the years in all the 40 or 50 years of building in Surfside. So, he went ahead and just made so there was not a variance, so there was not a variance issue with the fence encroaching upon my lot, he went ahead and set a new pin without my knowledge. I didn't find out about this until a week later. He set the front pin then, and he's got stated on here as ½ inch iron set. So he set a new ½ inch iron and pulled up the original 5/8 inch iron on the front of the lot.

Chairman Ott: Could I stop you a second?

Mr. Berry: Yes, sir.

Chairman Ott: I don’t normally this, okay. What I have in front of me is, and all the, the whole board knows is something with a certification authorization from South Carolina and this is done by Culler Land, and it was done recently, January 29th. This is the one that we’re gonna go by, okay?

Mr. Berry: Okay, correct, and that’s why, that’s why my variance is here tonight. … (**two speaking at once.)

Chairman Ott: (**two speaking at once) … is available, we’re gonna say is hearsay not approved and I want the board to know that. Do you agree that this, this is the one. Would you take a look at this, and say this is what we’re gonna look at today?

Mr. Berry: Yes, sir. I agree with that.

Chairman Ott: That clears up a lot, because I see all kinds of papers being shown. We’ll just stick (**two speaking at once.)

Mr. Berry: That’s why the variance is here and that’s why we have the issue and the hardship that I’m addressing to night.

Chairman Ott: Is these other surveys; are they, is that what your issue is here?

Mr. Berry: It’s a survey issue, which has created a hardship.

Chairman Ott: That is not (**two speaking at once.)

Mr. Berry: Which has created a side setback variance of 5 inches that I’ve requested. So, I’m asking a variance of 5 inches from a side survey due to a tapered lot that I’ve been squeezed in to, and new survey iron being set from the original 2005 survey. It creates a, setback for me is an issue for these side setbacks required of 10 foot.

Chairman Ott: There’s a lot more to this than normally, and that’s why I’m asking these questions inside your recital, and I appreciate being able to do that. I know I’m getting a little confused and probably everybody else is. But, we’re gonna use this and this alone.

Mr. Berry: Okay. That’s what I’m here for and I’ll agree. So, we’re gonna talk specifically as Chairman Ott has just mentioned, what I’m classifying as the Exhibit B survey and that’s why I’m having to have a variance here tonight.
Chairman Ott: Exhibit B survey?

Mr. Berry: Which is the 67.9 feet on the front and we’re getting away from the old Exhibit A which I just talked about 15 minutes ago.

Chairman Ott: This one?

Mr. Berry: Correct.

Chairman Ott: This is Exhibit B, is this what you’re calling Exhibit B?

Mr. Berry: We had two surveys that we were talking about.

Mr. Courtney: (**I only have one.)

Chairman Ott: Yes.

Mr. Berry: Okay, that’s the survey. Everybody’s on the same page now. I was just trying to give you the history of how this happened. It happened without my knowledge. A week later they set a new survey pin.

Chairman Ott: I know. Thank you. (**)

Mr. Courtney: Yes, I’d like to move on with this.

Ms. Watson: Yeah, I have a question.

Chairman Ott: There’s so many different things being thrown out here, I’m gonna, I’m gonna, and we normally don’t do this, and I’m gonna let the board ask you a question so we can clarify, which piece of paper we’re using and why we’re using it.

Mr. Berry: So, I’m gonna put this one in my folder so we don’t look at it anymore.

Chairman Ott: Yeah.

Mr. Berry: Which was the original recorded survey, 2005.

Chairman Ott: Can you hold off then, and let Mr. Berry do his whole recital of this?

Ms. Watson: Sure.

Chairman Ott: Thank you.

Mr. Berry: So we’re all on the same survey which shows (**two speaking at once.)

Chairman Ott: And I did this so we, we could go through everything and there was confusion.

Mr. Berry: … which was recorded and stamped by Michael Culler. Yep. So he did all this January the 29th, 2016 the very next day. That was just the date that was preprinted, but it is signed by Michael Culler, a local surveyor here, Surfside Beach, South Carolina. So he reset a new iron on the front left hand part of the property. If you’re standing at the back, that’s the way the surveyor is done. If you’re at the back of the property looking to the front at the road, he set a new ½ inch iron.

Chairman Ott: Is that the same one?
Mr. Berry: Yes, this is it. That same survey. This is all what we’re looking at now. (**) several speaking at once.) … new one shows on your paper, which you can see clearly. You(**) he set a new ½ inch iron, which made the road front 67.95 feet and the back stayed the originally same 67.9 feet.

Chairman Ott: Right.

Mr. Berry: So, the issue I have here is, is originally I had like a 2 foot taper from the recorded 2005 survey, which we’re not gonna talk about anymore. With this new survey, this is what’s submitted with my building permit package. Unfortunately, this was done without my knowledge with Michael Culler coming out and setting a new iron just to alleviate the fence that he would have to show on here as an encroachment fence on my property line at the back. So he set the, he just said okay I’m just gonna kind of square the lot up, make it kind of square and rectangular; make the front and the back kind of equal in widths, approximately, let’s just round up, approximately 68 feet. We’re talking about 67.95, so let’s just for the record, let’s kind of talk around approximately 68 feet width of the lot. That is what’s set and once he sets an iron, he cannot change it, unless someone else requests a new survey from a surrounding property owner, and they can come in and they can go back and set the pin. We don’t want to get into surveying issues, but this is what we have to deal with now. So now this is part of the record and the recorded site survey, which [Ms. Morris’s] office has, I am requesting, the bottom line here is I am requesting a 5 inch variance now on the side setbacks. Because as we talked about earlier, if you do all the math, I need 69 feet. I must have 69 feet and that’s my hardship to build Unit A and Unit B with everything we’ve talked about. So, with 69 feet, I’m short approximately 12 inches. I can take one inch off of each house, and I’ve agreed to do that and the clients, so we can take the house down by one inch just in width, both units, which only gives me a 5 inch. So, I’m asking for 5 inches of variance on this side setbacks, which your ordinance states in R2 of 10 foot. So, instead of having 10 foot, I need to take 5 inches off of one side due to this new survey and that’s my hardship is because this new survey now. So that kind of sums it all up. We can keep going deeper in the weeds, if we need to, but I think we ought to use common sense; 5 inches doesn’t impact this town on a side setback and this is a hardship, because this is a survey issue and a new survey iron was set on the front just to kind of square the lot up to make it the record with the back [sic.] So, with this new survey these units will not fit on the lot that’s been designed since, well, it’s been designed for two and a half years and it was revised slightly by these new clients. Unit A and Unit B cannot be built without the 5 inch variance on these sideline setbacks. That’s the point I want to make, so make sure I cover all four of these points here. Let’s just run through 2A.

Chairman Ott: Yes, sir.

Mr. Berry: There’s an extraordinary situation on this particular piece of property. This particular piece of property being 319 15th Avenue South in Surfside Beach, South Carolina. Yes, there is a particular hardship and extraordinary circumstance, because we have a new survey where a local surveyor set a new iron pin on the front from the original recorded survey which shortens up the lot to approximately plus or minus 68 feet, and I have a hardship because now all the plans that’s been in the office of [Ms. Morris] and all officially since March the 10th and all, everything I have submitted and I cannot shrink anything no more, and fit it on the lot, the hardship is I cannot get the houses built, Unit A and Unit B built on the lot, the semi-detached Unit A and Unit B townhomes. So that’s Item A. Item B these conditions do not generally apply to other properties in the vicinity as shown. Okay, Item B as we talked about back in 1955 when this town was established and chains were pulled and in 1963 is what the plats, everythings recorded on the plats and everybody used chains. It was all surveyor said and Michael Culler stated to me about three months ago, back in February and we were discussing this issue in detail for two or three days and how to resolve it where you go from chains to GPS technology now. So unfortunately, he said two points. You just got kind of like a squeeze Domino effect, because you’re the last lot developed and you got squeezed in by a couple of inches over the years, and he just squared the lot up with the back to match the front to alleviate a fence variance that’s encroaching on my lot right now. I have no problem with the encroached fence, so if it’s [sic] any residents here that are concerned about an encroached fence, you’re not gonna have to remove your fence. I will state that legally for the record and submit them a document that their fence can stay regarding what survey we go buy. I’m not requesting them to remove any fence. So, Item B, yes, these conditions do not generally apply to any other residence or whatever, but for a unique survey tapered lot situation. Getting back to the point, I’m
Chairman Ott: You'll be able, you'll be able to be rebuttal everything as you'll have plenty of time.

Mr. Berry: Thank you, sir.

Chairman Ott: At this time I'll ask the director of our building and zoning to state the (**) and you're still under oath.

Ms. Morris: Yes, thank you. Okay. As you can see on the survey that's been provided to the town, the property owner is requesting or recommending there are two separate homes on one lot. The lot is a little over 7,000 square feet, and if you subdivide it, you're looking at a little over 3,000 square feet per lot or even if you leave it like that, you're looking at a little over 3,000 square feet per lot. The code as it's written right now in R2, which is what you have to go by, you cannot issue a use variance if a use is not permitted, you can't grant the variance. What is allowed in this district is a duplex, and a duplex has to be connected with one wall or one floor. Mr. Berry is going to the planning commission to try to get that changed. But, that is, as of right now, it is the law. It's, two, two homes are not allowed in R2 on one property right now. The property owner's requesting a variance contingent to the planning commission and Town Council approving the allowance of two homes on a property without being connected as a duplex. If you made the two units a du, a true duplex and had the shared wall, this variance would not be required, and he could have two units. They would just be connected by a solid wall or a floor, and he'd have the 10 feet that he has separating the homes so he'd have 5 additional feet on each side. In, in my issue paper, I did caution, it's really not recommended to make a, for the board to make a variance, grant a variance conditional of something else getting approved. If you have any questions, I'll be glad to answer them, but I think, yes?
Chairman Ott: I’m gonna open the floor to our board, because we can’t grant a variance on a contingency that something else happens. Just can’t do that. I would like to have the board, this is an extraordinary conditions here on your request.

Ms. Watson: Looking at the two houses there, you have 10 feet in between them. If you separate them into two lots, to which building do you give your setback of 10 feet?

Ms. Morris: Well, you can’t separate it into two lots in R2, because you have to have a 6,000 square feet lot in R2 and this entire lot is just a little over 7,000 square feet, so he could not split it and build two houses. That’s why we told him you are allowed one house or a duplex that’s connected, and with the one house or the duplex that’s connected he could meet the setback requirements. He doesn’t want the two homes to be connected. He wants them to be separate.

Mr. Courtney: Mr. Chairman.

Chairman Ott: We should defer this.

Mr. Courtney: Mr. Chairman, I have a problem with this because it hasn’t gone to planning and zoning. I don’t think we should be hearing this case at this time.

Ms. Watson: We don’t have anywhere to send him.

Mr. Willm: We have two options. One is either deny the request outright or postpone the meeting.

Chairman Ott: I’m gonna ask the board to defer this until the planning and zoning.

Mr. Berry: May I make a point there before you make a decision.

Chairman Ott: Yes, give me one minute, because we’re looking at this under a contingency that something else happens, and this board cannot, so the variance cannot be done at all. And I don’t like it that it got into that at all. But, I would like to defer this until the planning and zoning department [sic] looks at this and comes back to us, and then we would look at it if necessary. But, if they approve the change of the ordinance, you’re gonna get what you want, and we’re not gonna be able to do anything for you.

Mr. Courtney: By law, I don’t think we can hear this case at this time until planning and zoning has given their opinion.

Mr. Berry: Let me state a couple of points on that.

Chairman Ott: Yes.

Mr. Berry: This has been going on with the town of Surfside building, planning and zoning office since our verbal discussions since the fourth week of January of this year. So, I’ve been going over nearly four months trying to get a building permit. That’s a whole side issue. We had about two or three weeks of discussions of what we could do, and I kept compromising, and said, okay, if I can’t have this, I’ll do this. I was told no, you can’t do that. I wanted to do this. So, I went through tree different options. I’m down to the final option here as to what I can build and get a permit on, and that’s a sidebar, so yes, this has been going on since approximately the last week of January of this year. For the record, let me get the record, my papers, if, if you (**two speaking at once) look at my original zoning variance …

Chairman Ott: (**two speaking at once) … giving him his right to state his case.

Mr. Berry: … when I discovered in about three weeks of discussions with [Ms. Morris] back in late January, the first of February that we were gonna have an issue here, which is totally outside of your jurisdiction, but what we’re talking about for 5 inches is under your jurisdiction to rule upon tonight, and
that’s what I’m requesting tonight. My application was submitted, for the record, it was submitted on February the 1st, time I knew I had an issue. So on February the 1st I submitted this, the official town of Surfside Board of Zoning Appeals Variance for this 5 inch setback that I’m requesting tonight. So, this has been going on for sufficient time. We’ve gone through the month of February. We’ve gone through the month of March. We’ve gone through the month of April. Now, we’re gonna defer it, potentially defer it and we’re gonna keep going on. So I submitted my application, if you look at the date, it’s February the 1st, 2016. Approximately two or three days before this committee meeting was supposed to be scheduled by the town clerk, [Ms.] Hermann, I got a call from [Ms.] Morris not know what the call was about, she said well I just need to talk to you. You need to come into the office. Well, I drove all the way from Columbia down here to come into her office for her to tell me on March the 2nd, 2016 that she was not gonna allow this to move forward, my request here tonight for variance, she was not gonna allow it to come before your committee. I was notified on that on March the 2nd, 2016. How you can note that is, is that very top pen, top right hand corner of my application, is she’s got on there check returned to Mr. Berry. She returned my check of $200 and said I am not submitting this to your committee and you can make a decision of what you want to.

Chairman Ott: This is basically, to us, this is hearsay, and has nothing to do with what we have in front of us, and what we look at is according to the ordinance as it is today, we cannot issue you a variance, because what you want cannot happen according to that.

Mr. Berry: The point I was going to make is that this went before the planning commission, because I went to the planning commission also. I went before the planning commission on the 1st Thursday, March of 2016. Is that correct, Thursday, the planning commission meets on Thursday?

Ms. Morris: First Tuesday of every month.

Mr. Berry: So I went before the planning commission think it was a business item agenda. We’re getting to the full circle here, because it affects your committee. So, yes, this did go before the planning commission, which I thought was a business item agenda, approximately around the first week of March. On a Tuesday night, I was here in this same room of Town Council Chambers of 2016. I thought it was a business item agenda. We was [sic] gonna discuss all the facts. They had all the facts, and then I come to find out no, that was just a discussion meeting for public comments and you were not a business item agenda at the planning commission. So, we just had general discussion regarding the issue, there was no viewpoints of any way, because we were just laying out all the facts. This was at the planning commission, which affects this semi-detached townhome Unit A and Unit B for this particular site. So it got put on the item as a business item agenda for the next month, the month of April at the planning commission and it was scheduled for the first Tuesday, which unfortunately was Election Day, on April of 2016, for the planning commission to rule. Why you can’t make a decision is because the planning commission hasn’t fully heard everything yet. If you desire not to make a decision and keep deferring, we keep delaying this whole process for six months, a year, or wherever it might go. So, it was cancelled two days before. I got notice, and the only way I got notice is I was down here on business and other business in Myrtle Beach, the City of Myrtle Beach and I was down here on other business. I stopped by the office to follow up on my application process. I was noted by [Ms.] Morris at that time that, oh, well the planning commission meeting is not gonna meet on …

Chairman Ott: You can’t speak …

Mr. Berry: I’m stating the facts, because I’m getting to the point as to why you can’t rule on something potentially tonight and you’re gonna defer it, because the planning commission meeting was cancelled.

Mr. Willm: Please note that it’s the chairman’s right to allow you to speak. So, I mean, if you, he can cut it off right now. So, we’re just asking for you to be a little polite about addressing us and staff.
Mr. Berry: But the meeting, the planning commission meeting was cancelled two business days before without my knowledge, and if I wouldn’t’ve asked the question on something else, I would’ve never found out two days before, two business days before that the planning commission meeting was cancelled for the month of April. So then, it was deferred until May, so it’s coming up this Tuesday night, May the 5th.

Chairman Ott: And, I’ll be there.

Mr. Berry: So, correct. So, your committee, if you want to defer it, because we’re two business days away, we got Friday and we got Monday and then the planning commission’s gonna hear all this here. With all respect, from us going full circle, y’all have to come back here for the following month of whatever it will be, June, because I can’t do nothing in the month of May. I’d have to do something the month of June then. We’re delaying this whole building process. With all respect, for two business days, regardless of which way the planning commission rules, whether they rule yes or no regarding an old duplex law or a semi-detached townhome, Unit A and Unit B. Can we just make a decision for the record tonight and vote on my variance application for the 5 inch setback?

Chairman Ott: I can’t do that.

Mr. Berry: And, it doesn’t apply, if the… (**two speaking at once.)

Chairman Ott: That I can’t do. I can ask the question (**two speaking at once) to defer and bring it back after the planning and zoning acts. (**two speaking at once)

Mr. Berry: … planning commission doesn’t allow it, then the building never goes into effect.

Chairman Ott: After the planning and zoning makes a decision and if they change that ordinance, we’ll run right back here, but we’ll see if they are going to do that. And, I’ll go Tuesday night.

Mr. Berry: So at that point saying …

Chairman Ott: Excuse me.

Mr. Berry: I’m sorry.

Ms. Morris: Yeah, if I may. I’d prefer, I’d actually love to address some of the things that Mr. Berry said, but I’m not. We have two planning commission members here and you’re welcome to ask them what, what happened. But, I will go further to say if the planning commission approves it Tuesday night or makes a recommendation to council, council has to approve two readings of that before it ever becomes a law, and then it would come back in front of the board.

Chairman Ott: Right …

Mr. Berry: Which I’m aware of that, too … (**two speaking at once,) I’ve been stated by the director’s office.

Chairman Ott: (**two speaking at once,) … what we’re doing is we’re, I am actually wasting everybody’s time. I’m sorry, Mr. Berry … (**two speaking at once.)

Mr. Berry: So you call this here meeting tonight wasting of everybody’s time?

Chairman Ott: (**two speaking at once.) No, no, no.

Mr. Berry: (**two speaking at once.) We have business items on the agenda that I have a variance that I need a ruling on.
Mr. Courtney: Mr. Berry, you’ve gotta understand … you’ve gotta understand the process.

Chairman Ott: It’s the way the ordinance reads, (**several speaking at once) … you a variance. It’s impossible. Okay.

Mr. Courtney: We’d love to give you a variance today. We’d love to help you. (**two speaking at once.)

Chairman Ott: I’m going to ask the board to make a motion to defer this until after that planning … (**two speaking at once.)

Mr. Berry: I’m not asking for any (**two speaking at once) …

Mr. Lanham: Could I make one statement?

Chairman Ott: Yes.

Mr. Lanham: I think this has been stated before. We can’t make a variance on something that would have to be a variance before we can make the variance. We just can’t do that.

(**Several speaking at once.)

Chairman Ott: … you gotta bring it back.

Mr. Courtney: It would have to go under planning and zoning and in front of the council.

Ms. Herrmann: Order please, order please. Several people are speaking at once.

Chairman Ott: Yes.

Mr. Berry: If the planning commission meeting .. (**two speaking at once.)

Chairman Ott: I’ll ask for a motion now to defer this till after the planning and zoning. If they don’t approve it, that will be it.

Mr. Courtney: I’d like to make a motion to defer this to planning and zoning.

Chairman Ott: Do I have a second?

Mr. Wilm: Second.

Chairman Ott: That’s it.

Mr. Berry: So, let me ask for the record, he said he makes a motion to defer it to the planning commission. If this your decision to defer to the planning commission?

Mr. Courtney: I made a motion to defer this at this time on the contingency that you go to the planning and zoning and then it would have to go to council.

Mr. Berry: For the record, then … (**two speaking at once.)

Mr. Courtney: Mr. Berry, I’m trying to be polite about this. We cannot hear this unless this goes in front of planning and zoning. I’m being honest with you.
Mr. Berry: I understand now. I understand the process, and everything in the town of Surfside is a delayed process for the record. But, getting back to the point, if I have two business days from now on Tuesday night of next week, can this committee come back as a special session and rule upon this hearing without it having a delay of 45 to 60 days?

(**two speaking at once.)

Ms. Morris: Not until after council approves it. (**)

Chairman Ott: After council approves it, there’s, there is a process, and I’m sorry.

Mr. Berry: So, if I can make a statement here … (**two speaking at once.)

Chairman Ott: And I don’t have control of that process.

Mr. Berry: … because we’re getting into much legal stuff here, unfortunately. I have been told by [Ms.] Morris, director for planning, building, and zoning that if the planning commission approves something, then she could go ahead that was verbally stated to me about two months, she could go ahead and issue a building permit. (**two speaking at once.)

Ms. Morris: No, I have not. I did not say that. For the record, I did not say that.

Chairman Ott: I’m gonna stop and I’m gonna go to the next thing. We’re gonna, and boy I’d like to stop. Public comments are here.

Mr. Berry: Thank you, we’ll see one other again soon.

Chairman Ott: Okay, thank you. Thank you, Mr. Berry. Your request has been deferred until (**).


Mr. John O’Hagan, 312B 15th Avenue South. I have two concerns. One is multiple surveys. I’d kind of like to know what’s the actual survey. Pipes have been moved. It kind of gives me concern. Two is setbacks. There by law it’s supposed to be in, you know, I have firsthand knowledge about setbacks, because I was a fireman for years. As a fireman, you can’t have too many buildings close, because when you have fire, it goes from one to the other to the other. I have experience with Hurricane Sandy on Breezy Point burnt down and lost hundreds of homes. But, my main concern is service and pipe being moved two inches here, and squeeze. That’s my concern. I just have a really big concern about that, and I’m gonna discuss it with my neighbor, Jim, who’s at 321A, who’s fence was mentioned. Thank you.

Mr. Bill Goddard, 320 15th Avenue South. Iron pins don’t mean anything, because we had iron pins when we moved into our house, and the surveyors came and they resurveyed and then moved the things. So, don’t tell me pins are there and they stay there, because I know they moved our pins.

Mr. Troy Berry, this is just a public comment. For the gentleman that was up here, yes, I agree with what he’s stating. Survey pins are moved by surveyors. Not by me. I haven’t moved any survey pins. Survey pins are moved over the years as they correct the records using GPS technology. So as that gentleman was just stating, when he bought his home a survey pin was moved. So, that gets back to my fact here tonight that I have a hardship issue, because a survey pin was moved just to square it up with the back property line, and that’s why I requested a 5 inch variance. That’s just a general public comment to answer the gentleman’s questions about survey pins being moved.
7. Board Comments.

Ms. Watson. I have a, just a little bit of advice for a builder, who’s a builder that would buy a piece of property that you get a survey done before you put your money out to buy a piece of property that hasn’t been surveyed in a while, or demand that the owner get a survey, a proper survey before you purchase the lot. And, I also would suggest that the board get our recital together before we start any other board meetings to let the public know exactly what we are able to do within South Carolina Law and what we’re not able to do, because we are so limited in our scope of what we can do. We can’t make laws. We can’t enforce laws. We can just interpret these four criteria to the best of our knowledge.

That’s all I have to say. I think it would be good every time we come before the public and before an applicant to make sure that they understand that we’re not here to create a problem for anybody. We’re just here to try and enforce our town’s ordinances as they have been put forth by Town Council and the planning and zoning commission. We have no control over any of it. It’s our town’s laws. All we do here is just answer four questions that have been stipulated by the State of South Carolina. So, we are limited in what we can do. Very, very, very limited, and you really have to have a hardship in order to be able to qualify. You have to qualify for all four of these criteria. Not just one, but four, and it is difficult. But it, at sometimes it can be done, but that’s all I have to say.

Mr. Willm: I second all that. I think, I mean the hardship gets kind of misinterpreted. I think the hardship as far as what we’ve heard tonight is one that the hardship that it was the intent of the law was if you have a size lot where you have certain setbacks, plus the house has to be a certain size and there’s no way to do, to comply with all three to build to utilize the property, that’s a hardship that the zoning inadvertently caused for that homeowner. It’s not for hardships if you can’t, you know, we understand and we have compassion. That’s the hardest part about this job is to tell ’em about the issue with the man going up the stairs. We’ve had all kind of these issues. A person in a wheelchair, permanent wheelchair that we had to deny a permit. Understanding as we read it, it seems like that’s definitely a hardship. But that was not the intent of the law as it was stated. It was not our intent is to make variances for everybody’s issues. We’ve caught a lot of grief in the paper recently about a height restriction that we didn’t issue a variance for. The purpose of the height restriction is under council’s purview to decide what they want it to be. Ours is to decide if there’s an issue with it. It was stated in the paper that we colluded and we did all this kind of stuff and [Chairman Ott] made all these decisions as chairman, which he doesn’t even vote. So, that’s not the case. This is a very hardworking group and actually two of ’em are going on to council now. But we all work very independently. We don’t talk to each other before the meetings. We don’t collude with anything. I haven’t spoken to any of the members about any of these variances prior to stepping up here tonight, and I purposely don’t do that, and none of them reach out to me. So, this board tries to do what we can, what we’ve been appointed to by the Town Council who was voted on by the town. So, we’re just trying to do the best job we can. We try to help uphold the ordinances. Like I said, we’re not here to interpret the ordinances. We’re not here to say this that ordinance is dumb. It’s not the same as Georgetown or Horry County or any of those reasons. The Town Council decides which ordinances are gonna be on the books and that’s our job to make sure that nothing inadvertently happens that somebody can’t utilize their piece of property. When it says utilize a piece of property it doesn’t mean utilize how you exactly want to, but that you can actually build a house on it within those guidelines. Public comment has every right to make any kind of comment you want, just as the board does. But, we have no purview over staff’s actions or staff’s job or what they do. That’s handled by the Town of Surfside Beach. You can come tell us, but there is no action we can take. It doesn’t mean that we don’t have sympathy for that you’ve gone through. The town gets a lot of complaints about how long it takes about how long it takes to do business. You can have legitimate concerns, but that’s not our purview to be looking at those things and we have no ability to make any changes on how long it takes you to go through the process. But, I believe everybody on the board appreciates it. If there’s anybody in the town that wants to be on the board, I think we have a few openings coming up. Congratulations to [Chairman Ott] and [Mr. Courtney] for election to the council. It’s a tough job. We try to do the best we can and appreciate y’all staying so long tonight.

Chairman Ott said the meeting went on for a while, because he liked to give the citizens of the United States that come in here, they have rights, and they need to be able to say everything they think and maybe sometimes it does drag on. There is a limit, but I believe they need that time to plead their
case, because it ends here, and I want everybody, and I’m leaving after ten years, I want everybody to always be treated the same. Everybody in this town is the same. That way it’s fair to everybody. Nobody has ever come in here and gotten preferential treatment. But, everybody has had preferential treatment, because we’re all treated the same. We’re all treated fairly and trustly [sic.] That’s what I would like this board to continue to do. Thank everybody for coming here tonight.

8. **ADJOURNMENT.**

Mr. Courtney moved to adjourn at 8:37 p.m. Mr. Willm second. All voted in favor. **MOTION CARRIED.**

(Note: Mr. Berry approached the podium after the motion to adjourn and continued speaking after adjournment saying the floor was still open for public comments. Those comments were not part of the meeting.)

Prepared and submitted by,

Debra E. Herrmann, CMC, Town Clerk

Approved: _____________________________

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Ron Ott, Chairman

_________________________
Darrell Willm, Vice Chairman Timothy Courtney, Board Member

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Terri Lauer, Board Member Guy Lanham, Board Member

_________________________
Phil Murdock, 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 and are not intended to represent a full transcript of the meeting. The audio recording of the meeting is available upon request; please provide a flash drive on which to copy the audio file. An agenda of this meeting was published pursuant to FOIA §30-4-80(a) including publishing on the town website; sent to the town’s email subscription service, and the agenda was posted outside Council Chambers. Meeting notice was also posted on the town marquee.