1. CALL TO ORDER.

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

2. PLEDGE OF ALLEGIANCE.

Chairman Ott led the Pledge of Allegiance.

3. AGENDA APPROVAL.

Ms. Watson moved to approve the agenda. Mr. Willm seconded. All voted in favor. MOTION CARRIED.

4. APPROVAL OF MINUTES.

Mr. Lauer moved to approve the minutes of the August 27, 2015 meeting. Mr. Lanham seconded. All voted in favor. MOTION CARRIED.

5. HEARING APPEAL. (Public hearing portion verbatim.) and 6. BUSINESS.

Chairman Ott explained that each appeal would be addressed individually with the hearing and then business immediately thereafter.

5. a. PUBLIC HEARING: Appeal No. ZA2015-04 Thomas and Cathleen Moore request a variance from Section 17-311 (Maximum Building Height) of 35 feet to the roof peak in the R1 District to allow for a height of 41-feet 1/8-inch to the peak of the roof for property located at 1208 Dogwood Drive North (TMP#191-16-23-034).

Chairman Ott: At this time I’m going to open the hearing for the appeal ZA2015-04, Mr. Thomas and Mrs. Catherine [sic] Moore request a variance on a building they are about to build in the R1 district, and the basis of this variance is to render the 35-foot restriction that the town has in their ordinance and allow a 41-foot peak on the top of their roof. If the applicant or representative, please approach the microphone. State your name. Mr. Moss is a practicing attorney, and he does not have to be sworn in.

Mr. Moss: Thank you, I am Kenneth Moss. I represent Mr. and Mrs. Moore, and am pleased to do so. We’re here tonight before you on a variance application. We came armed with some photographs, which we’ve prepared booklets for, and we have some slides for you that might give you a flavor of the home that they intend to build. They purchased a home here in Surfside Beach and they want to build a very beautiful one; in fact, an award winning home. Their architect has won these two awards for this very floor plan. So, this is the floor plan they want. It fits on their lot very nicely, and requires some width in the lot, because it’s got a sideways garage, and everything worked right up until the architect told them they had a height
restriction problem. But, the height of this house is very much one of the architectural features in this house, and so it becomes pretty much a deal breaker on this house, if they can’t obtain some variance from the height requirement. So, that’s why we’re here, and in looking, and in preparation for tonight, and in the past years I’ve done quite a lot of studying in Surfside Beach ordinances, and indeed, there is a 35-foot height restriction set forth in the R1 zoning district. But, it’s, it’s, that’s not uncommon in zoning ordinances. But, respectfully, it’s just a bad zoning tool to impose an arbitrary height limitation in development. I’ll give you some examples of what I mean. Land use is clearly a proper zoning function and important zoning function. But, height is not a use, and so we don’t really have a dispute with the Moores about the use they want to devote their property to; it’s zoned R1, which specifically intended for low density residential purposes. They want to build a single family residence in R-1. So, the use is not disputed. The use is expressly permitted. And while height restrictions are commonly found in zoning ordinances, you have to question whether they should be. You might, if you ride up and down Ocean Boulevard in Myrtle Beach and North Myrtle Beach and in some places in the county where they impose height restrictions of an arbitrary number, what they create is boxing construction, because developers will build high buildings to get all the habitable floors in them that they can get. When they get to the top to how many floors they can build, they stop and you generally have flat roofs with no aesthetically pleasing architectural features. So, height restrictions of an absolute number really don’t make a lot of sense when you restrict this plan. What does make sense is some consideration of height in the context of what is going to be built. Some recipe for consideration of the width of the structure versus the height. Some consideration for limitation of the number of habitable floors. Because remember if you go to the R1 district, your ordinance says the intent and visions of this division is to provide for quiet livable low density single family neighborhoods, prohibit the establishment of incompatible land uses, disallow any other use, which would substantially interfere with the development or continuation of single family dwellings in the district. That’s how your ordinance; nothing in there about height as far as the purpose of the ordinance. So, the height restriction is questionable as to whether or not it has any real relevance to the purpose of those R1 zoning ordinances. But it does appear there as it appears in many municipality and county zoning ordinances, and frankly, I doubt a lot of effort was put into the decision of how much it was supposed to be. At 35-feet you have to question it was designed to limit a structure to two habitable floors or three habitable floors. I’m not really sure what the legislative intent was, but in the Moore’s situation, they only intend to build two habitable floors, and therefore, their intentions would be compatible with the most restrictive of the height considerations, for whoever determined what 35-feet would be. So, they’ve gone back to their architect. Let me show you this house a little bit (displayed photos.) A couple of photos, there’s not many. This is one elevation view of the home they’d like to build. This is another of the same side of the home. A little bit different angle. And these are examples of where it was featured in different magazines. This is a feature on the one side of the house where they intended to have some outdoor entertainment. Believe it or not, this house only has about 3,000 heated and cooled square footage. It’s not a tremendous house in terms of living size, but it has some nice features that are architecturally pleasing and has some outdoor utility. This house was featured in both Charleston Style & Design and Grand Strand Magazine as an award winning house. And, the Moores would very much like to put one in Surfside Beach. So, that’s really all the slides we have, other than we have identification of who the architect is that’s designed the house, and who the Moores intended contractor should they build the house. And then attached to that are, there’s some nine expressions of, of consent and proponents for the approval of the variance that are attached. And, all these slides we’ve created a booklet for and when the PowerPoint comes down we have a booklet for each and every one of you, should you want to have that booklet for your deliberations. That’s all. If nobody else wants to see any of those slides, I’ll hand this back over to Sabrina. Now, let me talk about the height restriction a
little bit, and the logic of it. In your current ordinance, if you had an 11 lot street and the Moores bought all 11 lots, and they wanted to build one house in the middle of it, they would clearly accomplish that low density residential purpose of the R1 district. They would clearly fall within the definition of the purpose of R1. But, they still couldn’t build this house. And so, in that example it’s very telling that the purpose of the ordinance is frustrated somewhat by this arbitrary number of a height restriction, because no matter how big of a lot they build, or buy, or no matter how many lots they buy, you can’t build this house in that district. That has nothing to do with whether or not it’s low density or high density. The Moores don’t intend to put multiple kitchens in their house. They don’t intend to put multiple dwellings in their house. It’s going to be a single family residence, if they are allowed to build it. The lot sizes in R1, the minimum 9,000 square feet. They met that. In R3 the minimum lot size is substantially smaller, I think it’s 3,000 square feet, yet the height can be 55-feet. That, there’s no rational nexus between that, between having a lot that’s a third the size and having 25-foot more height allowed. And that’s relevant, because the R3 district and the PD district having higher than 35-foot elevations is immediately across the street from the Moores’ property. And if you look at the zoning map for Surfside Beach, and you compare it to the distance from the ocean, the R1 district extends back from the ocean a greater distance on either side of the Moores’ location on Dogwood Drive than in does in their location on Dogwood Drive. And so, the R1 district is not a straight line, and there’s some rationale, perhaps, for seeking rezoning on it based upon the fact of how it fits in proximity to the other R3 district. But, they don’t want to do that. What they want to do is seek your collective wisdom and your collective judgment and your good sense and seek a variance. Now, a standard for the variance, which I’m sure y’all’ve [sic] heard many, many times before, it comes out of Title 6 in our State Law, but it’s also codified in Surfside Beach’s Town Ordinances, and it gives this board, you have the power to decide appeals for variance, from strict application of the provisions of this chapter that would result in unnecessary hardship. It doesn’t say result in any hardship; it just says unnecessary hardship. Now, that word is not defined anywhere in your ordinance and I submit to you in preparation for today’s meeting I went to the Annotated Codified State Law. I could find no annotations on that statute. What that means is no appellate court has ever told us what that means, unnecessary hardship. And so, having no law to guide you on the definition of what that means, this board is free to use its own common sense and good reasoning to determine what that means, and unless challenged or appealed, when you make that decision, that’s the decision for Surfside Beach on what that means. I haven’t seen a case where that discretion’s been challenged on what unnecessary hardship is. It does say a variance may be granted in individual case, if you make findings concerning four factors, and the first of those four, well, the first two of those factors as apply to the Moores’ property are really related. The first being extraordinary and exceptional conditions pertaining to the particular piece of property, and the second being the conditions do not generally apply to other property in the vicinity. In this context, the Moores’ property is a bit of an irregular shaped lot. It’s bounded on the south side by Dogwood Lake, which of course is not developable, and the lake itself kind of creates for the Moores an inordinate amount of greenspace when you consider it to other residential lots within the R1 district that are bounded by other residential lots. So clearly that purpose in the ordinance, low density residential is protected somewhat on the south side by the lake. Nobody can build there. To the rear of the Moores’ property is a piece of property owned by some individuals that I understand, we didn’t know this until today, we understand that in expression my position that property I would understand is significantly wet and the majority of which is not buildable. So we don’t have a situation where somebody behind the Moores would be building a structure that’s gonna be impedance in anyway by the Moores’ residence, if they are allowed to have a variance from the height restriction. Nobody, in other words, nobody’s gonna build a house there that that is gonna face into the rear of the Moores’ residence. If anything is built to the extent it could be built in the wet conditions, it’s most likely gonna be a house that faces the street in one direction
and faces the lake in the other. It’s not likely to be ordained so it would be looking into the rear
of the Moores’ property. In the vicinity, because the ordinance does require you to contemplate
the vicinity, we consider those factors. Immediately across the street from the Moores’ property
is a different zoning district, PD, and the height there is much higher than 35-feet. It’s
permissible, and in fact, constructed much higher than 35-feet. Also, across the lake, across
Dogwood Lake there’s a home there that appears to be constructed in excess of 35-feet, and so
what the Moores are seeking to do is not inconsistent with what’s already been built, already
been built in their neighborhood. And the ordinance, when you seek a variance, a state law
provision in the ordinance call upon you collectively as a board to not look at this in a vacuum,
but to look at the surrounding areas and give it good common sense judgment that it deserves.
That’s why y’all are appointed. And so you kind of wear a crown like kings for the purposes of
the variance application, and that’s why we’re here. To try to bring some tenor of reasoning to
the strict application of an ordinance. The next element of the four parts is it requires you to find
that because of the conditions the application of the chapter to the particular piece of property
would effectively prohibit or unreasonably restrict utilization of the property. Now, it is true that
the Moores can build some kind of house on this property, if they don’t receive a variance. But,
it’s also clear they cannot build the house that they want to build. They cannot build the house
that they picked out. The house has won two awards to date; if they are not granted a variance.
So we get back to that word reasoning. Is it reasonable that they are not allowed to build this
house because of what appears to be an arbitrary number? Now, the Moores have gone back
to their architect and asked him specifically is there a way to modify this house plan to reduce
the overall height of the house plan and they received two responses that are consistent. One
is if the architect were to redesign the house, it would be very expensive because the structural
components of the house I understand are integrated with the roof of the house. If you go back
and look at the slides in your deliberation of the booklets, you’ll see on one side of the house the
entirety of the upstairs floor is not utilized. It’s, it’s, it’s, let’s see how to explain that? The way
the roof pitch comes down with 12-foot of pitch, it utilizes some portion of the upper living floor,
so that it won’t have the full dimensions of the upper space that you might think looking at these
exterior walls. If they redesign the house, according to the architect, the structure and functions
of the house would have to be redesigned and he’s given them significant cost to redesign the
house. But more importantly, to redesign the house the Moores are concerned and the
architect is concerned that you lose the aesthetic features the architect is trying to accomplish
with this Charleston style home, and didn’t think you should do it. And, so that’s what they are
facing. So as a practical matter, without a variance they can’t build this home, and that’s where
they are at. Now, at least nine of the neighboring property owners have expressed their
consent. We’ve given you that. We do understand that three have expressed opposition. I’ve
received those letters tonight, and I read those. One thing that came clear to me, first I don’t
discount anybody’s expression of their opinion or opposition, because everybody’s entitled to
that. But, I do have to question sometimes the rationale. It appears to me that some don’t
really understand that a height restriction in the R1 district is designed to protect the
environment in sensitive areas. In this case, you know that the height restriction is imposed in
the furtherance of the stated purpose of the ordinance, which is to preserve that district for
single family residential of a low density nature. That has nothing to do with protecting the
environment and sensitive areas. If it did, and the Moores were prohibited from building any
house at all, that might, there might be some logical nexus between protecting the environment
and sensitive area in opposing some variance. But in this case, the Moores can still build a
house with the same footprint on their property, and so it’s not, it’s not logically connected to link
the application of a variance to the protecting the environment and a sensitive area, and that’s
one of the objections that I saw expressed. Another exception I saw expressed was a little
telling, because those owners we understand also applied for a variance from the height
restriction when they sought to build their house, and were denied. At least that’s the
information we received from those owners. So, you know, perhaps that’s, you have to wonder if that’s sour grapes or some, or what the purpose of that objection is. Clearly, it’s, it calls it into question regardless of whether you’re for or against it. It’s fair, it’s fair to question the motivation. Now the last factor is for you to consider whether the authorization of the variance will be of substantial detriment to the adjacent property or to the public good, and the character of the district will not be harmed by granting the variance. We’re talking about building a single family residence in a single family residence district. It’s hard for me to believe that a house with the character that the Moores will build could be fairly criticized as being detrimental to the neighborhood. What we have in the neighborhood are commercial properties right across the street. We have other single family residences. We’re not talking about building a house with magnitudes of height above the neighboring houses. We’re talking about just a few feet. We’re talking about six feet. So that much difference; it’s hard for me to imagine how it can reasonably be said it would be detrimental to the character of the neighborhood. So that’s what, but that’s what you’re called upon to find, and that’s what I’m trying to, I guess I’m trying to tell you how old I when I was a young fellow sitting in your chair. Now, the state law and the codified version of it that Surfside has does provide that the board may not grant a variance the effect of which will allow the establishment of a use not otherwise permitted in the zoning district. We don’t have that fact right here, because single family residence is what’s being sought. That’s clearly permitted in this zoning district, and so that prohibition on your power is not applicable in the circumstance, I submit to you. When you think of land uses, you think of commercial, retail, medical, office, hotel, restaurant; you think of body shops, auto body type shops. Those are land uses. Height is not a land use. So, I would submit to you that it’s not a relevant insurmountable limitation on your power. It also provides in granting a variance the board may attach to it such conditions regarding the location, character or other features of the house for the proposed building as the board may consider advisable to protect the property values in the surrounding area. I’ve seen that done in other context. It’s hard for me to imagine how it would be applicable in this context, but the Moores are open minded to it, if the board in their deliberations feel that there’s some conditions or limitations that are called for considerations. The Moores are very open minded to it, and so I’ll offer that to you for consideration. And with that, I would ask in your deliberations to consider one other thing. If you can’t build this house in this district, I’m not sure where else in Surfside you could build it. And now it’s true that there are other places in Surfside Beach where the height restrictions are 55-feet. But the lot sizes in those other places, the minimum lot sizes are smaller and what you tend to find in other districts are smaller lots. Because of the side loading garage, the Moores have to have, it’s in the plan that I’ve got the booklets for you, they have to have at least an 80-foot lot in width. There’s not a lot of that in Surfside Beach. There just aren’t many lots that are that big, and so there aren’t many places that this house can be built in Surfside Beach and comply with the ordinance, and I’m not sure that that’s the right thing to do to turn away a house of this character from Surfside Beach, because of an arbitrary number. There’s nothing in our ordinance to say why that number was chosen, but it, I mean it was pretty arbitrary, because it’s just a number without explanation, and so on behalf of the Moores, I respectfully request that y’all grant them the variance imposing any conditions you think might be relevant, if you do, to their use along with the variance, and let them build their house. With that, we’ll, the Moores and I would be happy and the Moores would be happy to answer questions you might have. I do have the booklets if anybody would like to have them during your deliberations. (**comments away from microphone.)

Chairman Ott: I’m gonna ask the town to state the case for the Town of Surfside Beach at this time. State your name, please. Ms. Morris: Sabrina Morris. Chairman Ott: Raise your right hand. Do you swear to tell the truth, the whole truth and nothing but the truth, so help you, God? Ms. Morris: I do.
Chairman Ott: Thank you.

Ms. Morris: My slides are not gonna be as pretty as his. I respectfully disagree with Mr. Moss on the height limitations. I think it’s a necessary, depending on the district, we don’t want to look like our surrounding municipalities or counties. There’s a reason we’re called the Family Beach, and it’s because of the low scapes of the; we don’t have 90-foot buildings. We’re not, they’re not allowed. We want that very small town feeling in the town. And, height is an ordinance. It’s listed in the ordinance under every one of the ordinance regulations. Each one of them have a different height limitation. He is correct, and we’ll look shortly at the R3 district. R3 allows for 55-feet, but R3 is also a high density residential and accommodations district that’s more of a rental district. The R1 is the most stringent district. It’s for a neighborhood feel for the entire; there’s no rentals, short term rentals. They’re only long term rentals, hopefully that someone will make a neighborhood feel. But, height is defined by the ordinance, and the highest vertical district measured from the lowest finished grade at the floor lev, at the ground level within one foot of the structure’s footprint to the highest point in the roof. The property is currently zoned R1, which again is a low density residential and it is the most stringent zoning district we have, which has a maximum height limit of 35-feet to the highest point of the roof. Chimneys are exempt, and the proposed home does meet all the setback requirements for the R1 district. So, he is correct, they do meet the requirements, they are only lacking the height. This is the house (showing photograph), and you have those plans. You were submitted those plans in the handout. Yes, it’s a gorgeous house, I will certainly say that. This is the surrounding properties, and Mr. Moss was correct, there’s Dogwood Drive North there, and this side is the R3 zoning district, but directly across is the R1 zoning district. We pulled plans for some of the homes that were recently built. This one on the other side of the lake, 34, the height is 34.9 feet. They have 10.5 foot ceilings on one story, and the other is 9.5 ceilings, and then they have an 8.5 foot bottom floor, which is for parking. This is the property they’re looking at. This is an existing home. We cannot get the information there. These two were recently built, and yes, one of these did not, their first choice was not the one that they built. This roof, the ceiling height on one floor is 8.5 foot ceilings; the other is 9.5 foot ceilings, with an 8.5 foot bottom floor. So they have been consistent. There’s consistency in the height restrictions. They, and in the district here since it’s in a flood zone, they do require a 3-foot freeboard. These two, they were built before the 3-foot free board and they still meet the 3-foot freeboard with the exception of this one. This is the property as you see it from the land. He’s right. It’s a very large lot compared to anything in the R3 zoning district. This has an established house there and then these two have been built on. We certainly have no objection for the building of the house, and we obviously don’t make recommendations to the board. We’re just here to lay out the ordinance and to tell you what the surrounding properties are. I’ll be glad to answer any questions.

Chairman Ott: Mrs. Moore, you can give a 5-minute rebuttal.

Mr. Moss: We really don’t have any disagreement between Ms. Morris and the Moores and myself, about what’s being proposed and what’s being asked for. I will comment that the one house across the lake that she referred to, a lot of fill was put on that lot. Some of it went below grade and built basically the same house, and had that not been disguised in fill, we might have a house there was higher than above grade. And obviously, the Moores can impose similar type processes, but they don’t want anyone to do that. It’s not deceiving the building official, or trying to manipulate the rules to build what they want to build is not what they want to do. What they want to do is a straightforward way to say this is what we want to build. It’s an award winning house. Please help us build it with the variance that you have the power to grant, if you’re so inclined to do so. Thank you.
Chairman Ott: At this time I’ll open the floor to anybody that’s present here that would like to speak in reference to this variance request. Let the record show that no one...oh, I’m sorry. Please step to the microphone and say your full name, and I need to swear you in for this.

Mr. John Ellis: John Ellis. Chairman Ott: Would you please raise your right hand. Do you swear to tell the truth, the whole truth and nothing but the truth, so help you, God? Mr. Ellis: I do. Chairman Ott: Thank you.

Mr. Ellis: Okay, I’m a resident of the neighborhood, and so I didn’t, I just, I’m here sometime, but I just found about this variance and I thank you for the opportunity to talk. I’m a landowner right adjacent, three or four block, three or four houses up, and you know, I think there’s a couple of issues I’d like to raise. I’m concerned because I want the value of my property to remain, you know, at a good value, and I don’t want to detract from that either. I also am concerned about the aesthetics in the community, and that we have, you know, maintain that. Height does make a difference in my mind. I think because once you allow a variance of 45-feet or whatever, you’ve set that limitation for everybody else, because no one else is gonna be able to come to the board and say I want a variance, because you issued a variance for one landowner. I think you set a precedent, and so then if you break that precedent, then how high does it go? So, I think height is important. I think architecturally talk, the attorney speaks about that the award winning house, I think that’s a relative issue, because you have to look at architecture in the context of the community, and it is a beautiful looking house, but you know, that’s in the eye of the beholder. So, the award winning doesn’t necessarily fit in all, in all situations, and I haven’t had the opportunity to look at the house plan. Thirdly, we’re not in a flood zone, and it appears that this house is built on stilts, and that’s my concern from the aesthetic point of view, because I don’t see anybody else in our area with a house on stilts, and what the house on stilts does allow is, I suspect, some storage and some parking garage essentially, parking spaces under the house. So, I think that may be their motive, but I don’t know their motive, but I suspect that’s it. But, the stilts doesn’t [sic] serve a purpose, because it’s not a flood zone, and number two, is it does vary from the other homes in the, in the community. And, I think that’s my points, so I appreciate your time.

Chairman Ott: Thank you very much. Is there anybody else in the audience that would like to...yes, sir? You’ll have to come to the microphone please, and you have to state your name, and...this is a hearing, because the next step is the circuit court. Please state your name. Mr. James Buchanan: James Buchanan, Buchanan Construction. Chairman Ott: Would you please raise your right hand and swear do you swear to tell the truth, the whole truth and nothing but the truth, so help you, God? Mr. Buchanan: I swear to tell the truth, the whole truth, and nothing but the truth. Chairman Ott: Thank you.

Mr. Buchanan: I believe we are in the flood zone there. That’s one reason why we’re raising the house up on stilts. Also, with the new FEMA map coming out, no one really knows what’s gonna happen with the flood elevations. Is it gonna go higher or lower? I don’t think we know, yet. Higher? We don’t know, yet. Ms. Morris: Lower. Mr. Buchanan: It’s going lower? (***) Normally, we build two feet above the flood. So, for insurance purposes, it’s better for the town and for the homeowner when they go to get insurance. That’s one reason why the house is the height it is. That’s all I have to say, and this house in any neighborhood would just increase the value of everyone around them. It’s a benefit to the town. It’s a benefit to the neighbors. All property values go up based on this type of house. H**l, (expletive) if was my neighbor, I would love to see it next to me. Thank you.
Chairman Ott: Thank you very much. Anybody else? Any other citizen would like to speak? At this time there is no others [sic.] Ms. Herrmann: Mr. Chairman, the gentleman back there would like to speak. Chairman Ott: Oh, okay. Please state your name for the record. Mr. Darrell Kemp: Darrell Kemp. Chairman Ott: And would you please raise your right hand. Do you swear to tell the truth, the whole truth and nothing but the truth, so help you, God? Mr. Kemp: I do.

Mr. Kemp: I guess the point that was made about once a variance is bypassed then the rules have changed. If someone else comes in then from that point on I think it would be open for lawsuit, if one person got a variance, and how can you tell the next person not to. The point about the residential R3 being on the other side of the street I think is a moot issue because in an R3 you can build an apartment. There’s a reason for R1 and R3 to separate these type of things [sic] and so, if there’s an apartment across the street, using that argument, then you should be able to build an apartment in an R1, using that logic. So, I don’t think that logic is valid. The other thing is there are, this, this has been in place for a long time. A lot of people have abided by it. I know two people who have changed their house height, because of the ordinance. I had approved plans for a house that I have not built for various reasons, and my architect said you’re exceeding the height, and we did change the house plans and they were approved by the city. So, I don’t know if it’s fair to people that live here that have abided by the rules that have been in place for a long time for a reason, is for what the neighborhood looks like and what people wanted to have built in the neighborhood, and so there are a lot of people that have changed and is it fair to them to change? I had one more point, but I can’t remember. (Laughter.) It’s, I’m sure that it’s a [sic] absolutely beautiful home, but when you buy in a neighborhood you look at the rules, and you come in and you make your plans based on that, and I think you pretty much have to stick by that, so I think that’s all the points that I have for right now. I can’t remember what the other one was.

Chairman Ott: Thank you very much. I’ll ask once again? I don’t see any hands. Okay. Now at this time, I’ll give a chance for a quick rebuttal to anything that was said to Mr. Moss and to Ms. Morris before we close the hearing, if you have...

Mr. Moss: Thank you, Mr. Chairman. All good comments by the public. You know, I don’t know why others didn’t come in and seek variances when they sought to build their plans if they wanted to build something different than they built. But, variances are taken on a case-by-case basis by this board, and that’s exactly what this board’s slated to do, to take the application on a case-by-case basis, and so, with all due respect, unless someone came before this board and asked for a variance and was denied, they’re really not a comparable person who says.

Chairman Ott: Thank you, Ms. Morris.

Ms. Morris: Just for clarification purposes, while you a, this property is definitely in a flood zone. They are required to build 3-feet above the required flood elevation. But as far as the new maps, they did go down. Those not are not approved, and they will not be approved until next year, and that’s again, that’s up in the air if they ever do get approved. But, I wanted to clarify that it is in a flood zone. They do have to build 3-feet above the required elevation. Okay.

Mr. Ott: Thank you. At this time, I’m gonna close the hearing portion, and I’m gonna open the business section of this hearing. I’m gonna make a quick statement to everybody that’s hear, the reason that we swear everybody in is this is a quasi-judicial board, and the next
step goes to the circuit court. It does not go back to our Town Council. What we decide here today stays and has to be appealed to the court system.

6. a. BUSINESS: Appeal No. ZA2015-04 Thomas and Cathleen Moore request a variance from Section 17-311 (Maximum Building Height) of 35 feet to the roof peak in the R1 District to allow for a height of 41-feet 1/8-inch to the peak of the roof for property located at 1208 Dogwood Drive North (TMP#191-16-23-034).

Chairman Ott said at this time he was going to issue some type of a directive to the board members, because he had been trying to find a way in which to help the citizen and at the same time to defend the ordinance. We do try to defend the ordinances; that’s one of our main points here. The ordinances were made up by the planning and zoning commission, and approved by the town’s elected officials. What he found in the South Carolina Comprehensive Plan was that in this case to obtain a variance on the grounds of unnecessary hardship, and that’s every variance must have hardship, and there must be at least proof the particular property suffers from hardship, but an owner is not entitled to relief from self-created or self-inflicted hardship. The claim of unnecessary hardship cannot be based on the conditions created by the owner, nor can it on the property after the enactment of the zoning regulations, meaning that there is no house on this property, on this land. Normally, the variances are given for properties when they are doing expansions, changing something on the house. Whatever we do from this point, what the applicant does, is inflicted upon himself.

Mr. Courtney asked when this ordinance was adopted. Ms. Morris said the 35-foot height limit had been in place for over ten years.

Mr. Lanham said it was a beautiful house. Mr. Moss gave a very thorough presentation, and he was correct in that the height limitation was an arbitrary ordinance. However, many laws are arbitrary; speeding limits, for one. He agreed with Chairman Ott that this situation was self-inflicted.

Ms. Watson moved to deny the variance. She did not think the property had met the qualification under item C, which is effectively prohibit or unreasonably restrict the utilization of the property. There is no house there. It hasn’t been built. The property owner has an option to seek a different design, a modification or any other remedy that he so chooses. Ms. Watson said nothing that the town has done has impacted him in any way, in her opinion.

Chairman Ott asked Ms. Watson to restate the motion. Ms. Watson moved to deny the variance application based on Section C, which states because of these conditions the application of the ordinance to the particular piece of the property would effectively prohibit or unreasonably restrict the utilization of the property as follows, and I do find that this does not unreasonably restrict the utilization of this his property. Mr. Lanham seconded.

Ms. Lauer supported the motion as it also applied to an area that has a height restriction. Looking at the area when purchasing a lot and it is was not built, you have the option to find a different design that would absolutely go on that lot without causing any problems.

All voted in favor. MOTION CARRIED TO DENY THE VARIANCE.

5. B. PUBLIC HEARING: Appeal No. ZA2015-05 Urita K. Lanham requested a variance from Section 17-740 (Penalties) for fines related to the removal of trees over 4”
Chairman Ott: I’m gonna open up the hearing for Appeal No. ZA2015-05 Mr. Lanham requested a variance from Section 17-740 (Penalties) for fines related to the removal of trees over 4" in diameter without approval or permit. This is actually not a variance, but it’s an appeal, appeal of the decision of the official. Do I have a, Mr. Lanham? Mrs.? Mrs. Lanham, I’m sorry. Please forgive me.

Mrs. Urita Lanham: My name is Urita Lanham. Chairman Ott: Okay, do you swear to tell the truth, the whole truth, and nothing but the truth, so help you, God? Ms. Lanham: I do. Chairman Ott: Thank you. Ms. Lanham: I would just like to read an appeal that I have. Chairman Ott: You have to speak into the microphone. Ms. Lanham: Is that alright? Chairman Ott: Urita, you have to speak into the mike so we have it on the transcript. Thank you. Ms. Lanham: I’m going to read an appeal. Chairman Ott: Okay.

Ms. Lanham: Okay, just a little explanation. I have owned a vacant lot located at 658 7th Avenue North in the town of Surfside since it was developed more than ten years ago. Over the years, the lot has become over grown and I can no longer determine how the land slopes in order to decide about building on the lot. Some of the underbrush was simply being cut in order to see the lay of the land. There was never any intention to clear the lot for the house as that will be the contractor’s responsibility when a decision is made regarding the house. If I decide to go ahead and build, the contractor selected will, of course, obtain the proper permits. In clearing away some of the underbrush for this purpose, apparently there were three saplings cut that were slightly more than the allowed four inches, but not more than an inch. I mean, you can look at the photos. At no time were the trees that were on the lot at the time I purchased it disturbed nor were any limbs cut off. I have always been a good citizen and have worked at Surfside Realty on Ocean Boulevard for a number of years. I own property here, and I’ve lived in the Surfside area for the past 12 years, and I am requesting that the penalty against me be voided or reduced as the error was truly unintentional on my part.

Chairman Ott: Thank you very much. Would the town, please?

Ms. Morris: We have a tree ordinance that’s been in place for well over five years now, and this section of the ordinance has not changed within the last five, almost ten years. Under the terms of this article, a zoning permit is required prior to any of the following activities: the removal of any tree 4-inches or greater in diameter; pruning of limbs over 4-inches in diameter, and the removal of any required tree to include replacement trees, which would not apply here. Again, this has been in effect for over five years. The town currently makes on an average 35 to 40 tree inspections a month. We have people calling in. They want to clear their brush. They want us to go out. They’ll tag the trees or tag things that they have questions about, and we tell them whether, yes, you can cut it or no, you cannot. In April of 2015, the council decided that it was; we had a lot of people coming in, the fine at that time was $200 per tree to cut or limb [sic.] We had a lot of people coming in and they would ask how much the penalties were, and they would write a check, and then they would go cut the tree. We wanted to eliminate that problem. We called around every municipality in the state that was a Tree City, which we are, and the planning commission and council came up with the fines that were listed here. So, if you remove a limb over 4-inches in diameter without approval, it’s $500. Removing an unprotected tree without a permit is $500. Protected trees removal without a permit is $500 per 4-inch caliper for each tree. A landmark tree, which is anything certain, Live Oak, Laurel Oaks, anything over 24-inches in diameter is $10,000. Then a fine for failure to obtain a permit is
$500. What we did not do; what our code enforcement officer did not do, which he certainly was within his rights to do, is issue a summons to court, as well, which is in addition to the fines, violators shall be subject to all of the provisions established in Section 1-16 that is a summons to court. We have issued five violations, citations for the removal of tree limbs since this has come into effect. Three have already paid; two are pending. One you’re hearing tonight. We don’t mind going out. In fact, right near here while I was out the other day, we don’t, we ask that everyone call us if they’re not sure of the diameter of the trees, or if they’re clearing underbrush, let us look at it to see what you’re gonna do. Before these fines were put into place, we had a public hearing before the planning commission even made recommendations to Town Council. So, it was a public notice was advertised. Town Council approved the ordinance with two readings, and each council meeting notice with the attachments are emailed to those requesting notification by our town clerk, and they are also placed on the town website in advance of the meeting. The public is invited to address council all issues being proposed. Once the ordinance was approved, the ordinance was added to the town website, and the new changes were included, the new changes including the changes for the fees, were included in the town newsletter, which was mailed to everyone owning property within the town limits. Our code enforcement officer, who is here tonight and will be glad to answer any questions you have, he saw the removal of the trees and shrubs on August 25th, 2015. After conducting an onsite inspection, it was noted that at least three limbs had been removed that were over 4-inches in diameter. He issued a stop work order, and the property owner was notified by registered mail of the violation, and the fines associated with them (**) excuse me, with the failure to obtain a permit and failure to obtain approval of the limbs. This is just pictures of, and you have all of this in your packet, but the top is what it looks like now, except I think the dead limbs have been removed by public works. The removal of the stumps that left, 5-inches some of them were 7-inches, some of them were 5.5-inches. The ordinance does not say you can trim four and just a little bit. It says you shall be fined, shall meaning we don’t have a, we have an obligation as the code enforcement official to fine whoever violates the ordinance. And, that’s all I have, so if you have any questions for me, I’ll be glad to answer those, or our code enforcement is here when that time comes.

Chairman Ott: I’ll ask Mrs. Lanham if she would like a rebuttal; want to add anything to that? Okay. At this time, I’ll also open the microphone to the floor, if anybody wants to speak in reference to this. Mr. Willm, you want to speak? Please, take the microphone, and you need to state your name for the. Mr. Koa Willm: Koa Willm. Chairman Ott: And, raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you, God. Mr. Willm: Yes, sir. (**)

Mr. Willm: I was just gonna say that 4-inches and a little bit over is just that much over (hand motion indicating small space), so, Surfside tiny little town, but they’re big in our hearts. So, that if she does receive the fines for these tree limbs that’s she has cut illegally and that she shall pay that she should not be fined for it, because it was on, it was not on purpose and if it was on purpose, then she should be fined. But, if it wasn’t, then she shouldn’t.

Chairman Ott: Thank you very much for that statement. Anyone else? I don’t see anybody else that wants to speak. Do you have a rebuttal to Mr. Willm’s statement, at all? Okay. And, at this time, I’m gonna close the hearing portion, and open the business section, and I’m gonna allow the board of zoning appeals to ask questions.

6. B. BUSINESS: Appeal No. ZA2015-05 Urita K. Lanham requested a variance from Section 17-740 (Penalties) for fines related to the removal of trees over 4” in
diameter without approval or permit for property located at 658 7th Avenue North
(TM#191-16-59-013.)

Ms. Watson asked Ms. Morris to display the fines again. She saw and understood
where Mrs. Lanham was fined three limbs times $500, and then one tree, failure to obtain a
permit. But, there were three limbs $500, what would happen if all three limbs came off one
tree. Would it be a $500 fine for the entire tree? Ms. Morris explained that the pictures showed
stumps that were still in the ground that's the bottom of the tree. Those stumps are still there.
That's not a part of the limb. That's the tree. See his boot, that's still in the ground. Ms.
Watson said one stump on the left looked fresh, but the other two looked old. Was that
possible? Ms. Morris said no.

Mr. Willm said there appeared to be multiple pictures. Ms. Morris said only three fines
were issued. There were more pictures, because when the code enforcement officer went out
after once he issued the stop work order and took pictures of additional stumps found over 4-
inch in diameter. The letter had already been written and sent, so Ms. Morris instructed him
to disregard the other cuttings. There were no additional fines.

Mr. Courtney asked if a contractor cleared the brush. Ms. Morris said no, it was not. Mr.
Courtney asked if the code enforcement officer had discretion when he inspected properties and
observed violations. Ms. Morris explained that the code enforcement officer went on; the trees
that were cut in addition to these three, they were cut at the exact same time as these three. He
went further into the property and found the others, but that was after he had already notified the
property owner. I felt there was a hardship at that point, and we just had to not fine them for any
additional trees. There is no discretion. The ordinance is very clear. It says shall, which is a
law. So, anything over 4-inches in diameter we have to charge for.

Mr. Willm said the purpose of the board of zoning appeals in this case is to air and
decide appeals where there is alleged there is error in order, requirement, decision, or
determination made by an administrator official in the enforcement of the zoning ordinance. Ms.
Morris said that was correct. Mrs. Lanham asked for a waiver of the fees, but staff did not have
that authority. The only authority the board would have is to determine whether the members
saw an error in what staff had done. Mr. Willm asked if the variance criteria applied. Ms. Morris
said yes.

Chairman Ott asked Mrs. Lanham if she remembered receiving a notice in the mail of
the ordinance change. Mrs. Lanham replied that she did not. Chairman Ott said the South
Carolina Constitution states that the maximum fine if $500, but it did not say per limb or per tree.
He did not know if legal representation was present and reviewed the ordinance before
adoption. Ms. Morris said yes, and the $500 limit referred to in the Constitution is a summons to
court. The fines are established by Town Council. That's is why both options were included.
The $10,000 fine came from the City of Myrtle Beach, because they were having a lot of people
cutting trees without approval, or the fines were so limited, people chose to just pay fines. The
town is a Tree City; we are trying to protect our trees, so we chose to use the higher amounts.
In addition to the fines, a summons to court with charges of $500, plus court fees could have
also been issued that totals $1,092.50. The code enforcement officer did not issue a summons.

Mr. Lanham said the tree stumps were not round, and asked if it was possible that one
or more of them could have been measured in another manner that would be less than 4-
inch. Ms. Morris said the stump referred to by Mr. Lanham was almost 6-inches across.
Chairman Ott asked if the same type ordinance existed in Myrtle Beach. Ms. Morris said in Myrtle Beach, North Myrtle Beach, Georgetown, and Horry County. Almost every Tree City, USA in South Carolina has a fine in addition to a summons.

Mr. Willm asked if there were directions on proper measuring of stumps, because he too thought some of the stumps might not be 4-inches if measured differently. Ms. Morris said there were no directions, but honestly, she believed the code enforcement officer generally looked to see if there is a way to avoid citing a violation so the owner does not have to be fined. Ms. Morris said the code enforcement officer was certainly fair, and thought if the picture was taken and he said the measurement was over 4-inches, then it was over 4-inches.

Ms. Lauer felt as homeowners and property owners it was easier to come to the town first and find out when you’re clearing land or finding out what needs to be done, whether permits are needed. That saved a lot of hardship.

Mrs. Lanham said that was just it. She was not intending to clear the land. She was just trying to remove some of the undergrowth, because nothing had been done to it for over ten years. She couldn’t see the lay of the land. This was an attempt to clear some underbrush away to see how the property settled in anticipation of building a house. That was the reason. She was simply trying to clear some brush away. If she goes ahead, the contractor would obtain all the permits, because there was a lot more that would have to be cleared in order to put a house on the lot. She was surprised that the saplings grew that much in that amount of time. They grew fast.

Ms. Lauer moved to suspend rules to allow a citizen to speak. Mr. Willm seconded. All voted in favor. MOTION CARRIED.

Ms. Diane Taylor, 7th Avenue North, said she did not know Mrs. Lanham, but she did live on our street. She thought it was very possible that she did not know about the new fines. It’s been quite a while since the brush was cut, and she didn’t pay any attention until she saw it on the sheet. Obviously, as citizens, we should know to check, but I think this happened quite a while ago. We’ve been watching this for a while. I mean, it’s been laying there for a while. So, I’d cut her some slack.

Ms. Watson moved to reconvene regular session. Mr. Courtney seconded. All voted in favor. MOTION CARRIED.

Mr. Willm said based on the information given and the fact that the zoning department has already given some leeway and it was the board’s decision to decide whether an error was made, he moved to deny the request. Mr. Courtney seconded.

All voted in favor. MOTION CARRIED TO DENY THE APPEAL TO THE DECISION OF THE ZONING DIRECTOR.

5. C. PUBLIC HEARING: Appeal #ZA2015-06 Robert Gutterman request a variance from Section 17-330 (Yard setbacks) to allow for a handicap lift within the 5’ required side yard setback at 1203 Seabridge Court (TMP#191-16-18-020.)
Chairman Ott: We’re now gonna enter the hearing phase for the appeal from ZA2015-06, Mr. Robert Gutterman requests a variance from Section 17-30 yard setback to allow for a handicap lift within the 5-foot required setback.

Ms. Morris: There’s a correction on the issue paper. He is not requesting an encroachment in the 5-foot setback. He is requesting encroachment on the front 20-foot setback of 5-feet. I apologize. I just want to make that clear.

Chairman Ott: Mr. Gutterman, or whoever you are, would you like to make a statement or are you okay? Mr. Gutterman: Yes, I am. Chairman Ott: Do you want us to bring the microphone to you? Mr. Gutterman: No, I’m fine. Chairman Ott: Okay. Would you state your name for the record, please? Mr. Gutterman: Robert Gutterman, also known as Bob.

Chairman Ott: And, 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? Mr. Gutterman: I do. Chairman Ott: Thank you.

Mr. Gutterman: I don’t any attorneys, fancy slides or anything, but I’ve been a resident of Surfside almost 25.5 years. I’ve been living in that house the whole time. I own a house. I live alone, and as you see, I’m disabled. So, it’s come to a point, you know, it’s an elevated house, and it’s come to a point that I can’t get up and down the steps without a stroke. So, my plan is to put a lift to get me up so I have access to the house. So, in order to do that I have to have a concrete pad poured in front of the house and due to the nature of the location of the house, this is really the only place you can place this lift. So, apparently this lift and pad is within the setback. In fact, and you have to excuse my ignorance, two months ago, I didn’t know what a setback was. So, I don’t know anything about these things. So, it’s come to my attention that I have to do this, and so, I’m just trying to install this lift so I can gain access to the house. I don’t want to move, and so, you know, it’s pretty simple, and that’s basically why I’m asking, requesting this variance to put this concrete pad down so I can have this lift installed. It’s been approved, there’s an HOA. It’s been approved by the HOA to put the a [sic] you know, to put the lift on the property. So, it’s just a question of asking for the variance so I can get in my house there. I really don’t want to move, and as I said, I live alone. It’s, you know, that’s about it.

Chairman Ott: Thank you very much. I’m gonna ask the town to present the town’s case.

Ms. Morris: Well, he did a pretty good job. You have this in your packet. But, I wanted to clarify what they were requesting. This is his home (showed photographs). He is adjacent to the common area, which is the pool. The steps on this side is where he would like to put the lift. You have the lift in your packet, as well. He is actually requesting a 5-foot variance, so he would be 15-feet from the front property line. He’s not; we haven’t heard from any of the adjacent property owners opposing the request, and he is correct, the HOA has approved it. We don’t have the authority to grant any variances, so we’ve asked him to come tonight for your consideration.

Chairman Ott: Thank you very much. Anybody in the audience that would like to speak on this matter? For the record, I see no one who wants to speak. You have a chance, Mr. Gutterman, to, if you want a rebuttal of the town.
Mr. Gutterman: (** comments made away from the microphone) ... the lift will go right in that front, so I can get up, because (***) flight, it's a long flight, like 50 steps. That's the only access I have.

Chairman Ott: At this time I'm going to close the hearing section.

6. C. BUSINESS: Appeal #ZA2015-06 Robert Gutterman request a variance from Section 17-330 (Yard setbacks) to allow for a handicap lift within the 5' required side yard setback at 1203 Seabridge Court (TMP#191-16-18-020.)

Chairman Ott said opened the business section for the board of zoning appeals to ask questions.

Mr. Courtney asked Ms. Morris if this would obstruct the common way. Ms. Morris said it would not. It would still be on his property, and there was still access from his property to the pool area. Mr. Courtney asked if adding the lift would compromise the drainage ditch that ran by the property. Ms. Morris said it would not, because the lift would be placed directly beside the stairs and would not impede the drainage ditch. Mr. Courtney asked how large the concrete pad would be. Ms. Morris said it would be 5-feet by 5-feet.

Chairman Ott said he searched the Americans with Disabilities Act (ADA) and found nothing that he could tag. Mr. Gutterman said the Department of Housing & Urban Development (HUD) covers residential homes. The ADA applies to commercial properties and businesses. There is legislation under HUD. Chairman Ott asked if there was any battery backup in the event of a power outage. Mr. Gutterman asked the manufacturer, and was told there is no battery backup. It depends on electricity to operate. He would have his cell phone to call for help. Chairman Ott said the fire and rescue squad would need to be notified that he lived there and he had a disability. Mr. Gutterman said there would be a panic button, and they would get the message on the house alarm.

Mr. Willm asked if there was any other place to put the lift. Mr. Gutterman said there was a pool on the other side of the house; and a hedge on the side of the house. The back stairway backs up to the swash, so it was not suitable. This was the only place. Mr. Willm asked if this was unique to his house. Ms. Morris pointed out the swash location on a photograph; it would be difficult for him to get from the front to the back. There is a very small area to cross. Mr. Gutterman said there is no way to place it anywhere else. The front is the only place.

Ms. Morris said she spoke with Fire Chief Otte, because she knew everyone was concerned about the fire apparatus accessibility. The fire department was fine with the 5-foot encroachment in the setback.

Ms. Lauer asked if she heard correctly that Mr. Gutterman was a full time resident. Mr. Gutterman said yes, for over 25-years, since right after Hurricane Hugo.

Chairman Ott said the board could add a restriction that if Gutterman does leave, it will be mandatory that the lift will be removed at that time. Mr. Gutterman has already checked into the requirements and believed that such a restriction would be an unnecessary hardship in violation of the HUD legislation. He asked that the town check that before requiring that stipulation. Chairman Ott said that could be a stipulation in order for the variance to be approved. Ms. Morris said yes. Chairman Ott said that was why the HOA had nothing to say to
that point. Mr. Gutterman said in his opinion, the lift was expensive; installation. Chairman Ott
said it was a necessity for Mr. Gutterman. Mr. Gutterman said he hoped he would live here as
long as possible, but to remove it would be additional excessive expense. There may come a
time when he cannot handle; to him it added value to the house, because he was adding the lift.
Chairman Ott explained that if the board issued a variance, it would be temporary for Mr.
Gutterman. At the time Mr. Gutterman sells the house, the lift would have to be removed. Mr.
Gutterman said he would have to appeal that part of it. Chairman Ott believed the board
understood that the lift would have to be removed when Mr. Gutterman left the residence.
Unless somebody else needed it, and they came for another variance (** several speaking at
once.)

Mr. Lanham said if Mr. Gutterman was correct, and he had no reason to think otherwise,
then placing a stipulation to remove the lift when he sells the house would be an unreasonable
accommodation on the property. Mr. Gutterman said that ruling was from HUD. Chairman Ott
said HUD had no jurisdiction over this board. Mr. Gutterman said HUD was Federal
Government; if a complaint was made to HUD, the officials would investigate. Mr. Gutterman
said he was not trying to be difficult. Chairman Ott said the variance was being considered for a
handicapped individual living in that home. If there was no handicapped person living there,
there was no need to have a variance structure in the setback. It does not stay there forever.
Mr. Gutterman understood, but all he was saying to the board was that when he checked into
the regulations previously, they indicated to him that removing the lift would be … Chairman Ott
interrupted saying that he would ask the board to put that into the variance, if the variance is
approved.

Ms. Morris said the board of zoning appeals did have the right to postpone the hearing
until HUD can be contacted, and then reconvene once an answer is determined. Chairman Ott
said the matter could be remanded to staff. Mr. Willm asked Mr. Gutterman if the matter was
postponed if it would create a hardship for him. Mr. Gutterman said no, he actually did not plan
to begin construction until after the first of the year. Chairman Ott said again that it would be an
unusable structure sitting in the setback, if Mr. Gutterman no longer owned the home and there
was no one else living there that was handicapped and needed a lift.

Mr. Courtney believes it was important to require the lift to be removed when Mr.
Gutterman sold the house, because the problem he saw was that abandoned lifts would
become an eyesore for the community.

Mr. Lanham moved to remand the matter back to the zoning director to allow time to
contact HUD, and then reconvene at a later date for a determination.

Ms. Watson recalled that the FEMA (Federal Emergency Management Agency)
discussions for the Community Rating System (CRS) prohibited elevators, and asked how this
applied. Ms. Morris said the town is a member of CRS, which means the town receives points
for meeting certain requirements above and beyond the National Flood Insurance program.
Staff asked Town Council to prohibit elevators in the Coastal A flood zone, where this particular
property is located, and the V zone. However, Town Council chose to allow elevators in all
areas of the flood zone. Once FEMA was contacted, staff was advised to ensure that the
homeowner and/or the contractors of the property were advised that because of the elevator,
the flood insurance premium would be increased, because the finished floor would be measured
from the elevator ground level, which would create a nonconforming structure. But, that would
not affect the town’s CRS rating.
Mr. Courtney asked if a lift was classified as an elevator. Ms. Morris said yes. Mr. Gutterman said an elevator has a shaft. Ms. Morris said that was true. Mr. Gutterman said the vertical lift did not have a shaft. Chairman Ott said it was a classification of a type of elevator. The problem that he saw was if there were other ones and people sold the houses, and then they would not be maintained, and structures would be in the setbacks. The board’s job was to control the setbacks. Mr. Gutterman said he would be using it as a selling point and maybe someone getting a handicapped person to buy his house. Chairman Ott said they could go to the handicapped store and get one.

Mr. Lanham moved to remand the matter back to the zoning official for more information. Ms. Watson seconded. All voted in favor. MOTION CARRIED to remand the matter back to the zoning official for more information.

7. BOARD COMMENTS.

Mr. Willm noted that granting a variance did not set a precedent as each appeal was judged by its own merit, not based on whether a similar action had been granted.

Ms. Morris said the next hearing date was proposed for November 30th, since the usual meeting date was on Thanksgiving Day. Ms. Lauer moved to schedule the next hearing on November 30. Mr. Willm seconded. All voted in favor. MOTION CARRIED.

8. ADJOURNMENT.

Mr. Willm moved to adjourn 8:08 p.m. Ms. Lauer seconded. All voted in favor. MOTION CARRIED.

Prepared and submitted by,

Debra E. Herrmann, CMC, Town Clerk

Approved: November 30, 2015

Ron Ott, Chairman

Darrell Willm, Vice Chairman
Timothy Courtney, Board Member

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 of the board of zoning appeals 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), and made available to all interested parties.