1. CALL TO ORDER.

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

2. PLEDGE OF ALLEGIANCE.

Vice Chairman Watson led the Pledge of Allegiance.

3. AGENDA APPROVAL.

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

OATH OF OFFICE, MS. TERRI LAUER.

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

4. MINUTES APPROVAL.

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

5. PUBLIC COMMENTS ON BUSINESS ITEM.

There were no public comments.

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

Mr. Ghant: Good evening, I'm Randy Ghant.
Chairman Willm: We need to swear you in. Do you swear to tell the truth, the whole truth and nothing but the truth?
Mr. Ghant: I do. I built a house on 13th Avenue, 333. I had the house surveyed, and the foundation surveyed, and had everything done. I honestly do not how this happened. When we did the as built survey to get the CO, it appears that one side of the foundation is into the setback area. There again, still I don't how. I got a good idea. I put a, the house is not setting square on the lot. It is setting kind a with the road, and I think what happened when I put the driveway in, I put a full driveway all the way across to make it more presentable where it would just look better. And I am not sure if we got off there or what happened, but when we did the as built, it's showing, Mr. Farria [Farria], and [Ms. Morris] and all, we went over it, and we are sitting in the setback a little way. It was not done for any kind of monetary gain or anything. I went with her to Earthworks and said hey how did this happen. Earthworks said we don't know how it happened. If you'll pay us, will be glad to go get a variance for you. Well, I went and talked to [Ms. Morris] and [Ms. Morris] advised me to do this. You know, come before you guys and just tell you, you know, it wasn't done for any kind of gain, and it doesn't help property. It doesn't; it
just, by their survey it is showing that it’s in that far. There again, if you look up ...

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

Mr. Ghant: No, sir.

Chairman Willm: You are trying to get one?

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

Chairman Willm: The house itself is in the setback?

Ms. Morris: The porch.

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

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

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

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

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

Mr. Ghant: It was two feet.

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

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

Ms. Morris: Yes.

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

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

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

Ms. Morris: Uh huh.

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

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

Mr. Taylor: You know, once again I’m pretty simpleminded. I went over there, and maybe I
overstep my bounds, but I pulled a string between the pins, and I measured it myself, and yeah it’s two feet short. But it didn’t take me 10 minutes to figure that out. And we couldn’t figure that out as a community? I mean that doesn’t; I don’t know, it just seems to me like that would be one of the things that we would check is whether or not the home was really being placed where it supposed to be placed.

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

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

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

Mr. Taylor: Then the surveyor is at fault?

Ms. Morris: Yes.

Mr. Taylor: Who hires the surveyor?

Ms. Morris: The contractor.

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

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

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

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

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

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

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

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

Mr. Ghant: I appreciate you guys’ time, and I hate for even having to come. I promise you that if I build anymore houses down here, I will lay ’em out, because we went over the one on 14th Avenue. [Mr. Farria] checked it with me. I’ve checked it, and we will not have any issues there. I don’t know how this happened. I really don’t. If I could pinpoint it, I could stand here and say yeah, it’s their fault. Ultimately, it’s mine. I own the property. It’s my house.
Chairman Willm: I’m just concerned with, if, do we have the jurisdiction to give you relief from this. I mean, this basically [is] on the surveyor to give, or whoever surveyed it is …

Mr. Ghant: They can’t grant me a variance.

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

Mr. Ghant: I agree, I agree.

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

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

Mr. Ghant: I understand.

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

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

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

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

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

Page 4 of 7
Ms. Herrmann: Mr. Ghant, excuse me, please speak at the microphone. It won't record if you don't.

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

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

Mr. Ghant: In Surfside, four.

Mr. McKeen: Anywhere? About?

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

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

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

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

Mr. Ghant: It is on me.

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

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

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

Mr. McKeen: I noticed the ditches and stuff.

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

Chairman Willm: Any other questions?

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

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

Ms. Morris: A few weeks ago.

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

Chairman Willm: What would you do different, [Ms. Morris,] what do you do different when you did that versus when the inspectors come later or earlier and didn't discover it?
Ms. Morris: Well, he has to submit an as built survey by a surveyor, and the surveyors went back out and said yes.
Chairman Willm: Sorry you asked, weren't you?
Mr. McKeen: This was the same, the same surveyor, Earthworks?
Mr. Ghant: Yes.
Ms. Morris: Yes.
Mr. Lanham: What was their comment?
Mr. Ghant: They don't know how it happened.
Mr. Lanham: The first survey happens was one thing, and the second survey was something else.
Mr. Ghant: I asked the guys and said was it possible that the front pegs were moved? No, that's our same pegs. Yeah, it's the same pegs, but who is to say that when we put that driveway in that the guy didn't pull them up and drive em back down when he was done. And they come out there and done the as built, they shot off of those pegs. And that's all, and that's all they told me. That's all we can go by. So, I didn't know until I had the as built done. They sent it to [Mr. Farria] and [Mr. Farria] called me and said hey, [Mr. Ghant,] we've got an issue, and that's where we are now. That's why I immediately drove down here from Rock Hill, and sat down with [Mr. Farria and Ms. Morris] and say hey, what do I need to do? I gotta fix this.
Ms. Watson: Okay, let's talk about the porch, again, because that goes back to my previous question. Originally you put a plan in that says that your porch is gonna be 8 feet, but now it is 7½ feet. So, didn't you know before you put the porch on that you were encroaching on your lot setback?
Mr. Ghant: No, ma'am. It's 8 feet to the outside. It is 7½ to the walkway, I think. And the other half a foot is on, that thing has like a little eyebrow on the front of it, and you have to count your outside dimensions.
Chairman Willm: Do we have questions? I'll entertain a motion.
Mr. Taylor: I move we grant the variance.
Mr. Lanham: I second it.
Chairman Willm: Any discussion? We'll vote.
Ms. Lauer: I grant it.
Mr. McKeen: I'll grant it. I grant it.
Ms. Watson: No.
Mr. Taylor: Yes.
Mr. Lanham: Yes.
Chairman Willm: I vote no. So with that vote the variance has passed. Close the business section and open for public comments.
7. PUBLIC COMMENTS – General Comments.
Mr. Ghant said thank you, folks.
8. BOARD COMMENTS.
Ms. Lauer: It's a lovely home, good luck, and welcome to Surfside.
Mr. McKeen: I don't have anything else to ask or comment on.
Mr. Lanham: As I said before this, I don't think we ever had one even close to this situation and the number one extraordinary exceptional conditions, at least in my mind, I had think it through, and say
you know, this is extraordinary and exceptional. One of the reasons I thought that was because as long
as I've been on here, we've never had anything even compare with this. So, that was my thought
process.

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

Ms. Watson: No comment.

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

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

Prepared and submitted by,

Debra E. Herrmann, CMC, Town Clerk

Approved: ____________________

Darrell Willm, Chairman

Holly Watson, Vice Chairman

Terri Lauer, Board Member

Guy Lanham, Board Member

Larry McKeen, Board Member

Phil Murdock, Board Member

Steve Taylor, Board Member

Clerk’s Note: Be advised that these minutes represent a summary of items with a verbatim transcript of the business 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. In accordance with FOIA §30-
4-80 (A) and (E), meeting notice and the agenda packet were distributed to local media and interested parties via the town’s email
subscription list. The agenda was posted on the entry door at Town Council Chambers. Meeting notice was also posted on the town
website at www.surfsidebeach.org and the marquee.