



**BOARD OF ZONING APPEALS MEETING MINUTES
TOWN OF SURFSIDE BEACH
TOWN COUNCIL CHAMBERS
MARCH 22, 2018 ♦ 6:30 p.m.**

1. CALL TO ORDER.

Chairman Willm called the meeting to order at 6:30 p.m. Members present: Chairman Willm, Vice-Chairman Watson, and Members Dougherty, Lanham, Lauer, and Taylor. Member Murdock was absent. A quorum was present. Others present: Town Clerk Herrmann; Building Official Farria, and Permit Technician Mazzo.

2. PLEDGE OF ALLEGIANCE.

Chairman Willm led the Pledge of Allegiance.

3. AGENDA APPROVAL.

Mr. Taylor moved to approve the agenda. Ms. Lauer second. All voted in favor. **MOTION CARRIED.**

4. MINUTES APPROVAL. Approval of minutes was deferred.

5. PUBLIC COMMENT ON BUSINESS ITEM.

Mr. Jack Houston, Harbor Lights Drive: Good evening, committee members and neighbors. I've been a resident for a few years and I love this town. I have to remember to say it's a town, not a city. Okay, so I'm attending this evening on behalf of my friends and neighbors, Pat and Ed Vaughan, and to inform myself on this town's variance request procedure. My general understanding of variance request procedure is that this an instrument put in place to address coded zoning that impose hardships on property owners. My experience in persons [sic] constructions was that a variance request was used to facilitate by and large commercial construction equipment to take care of business problems. On the residential; to facilitate business that's why they would request a variance for some reason or another. They would need to help their business out, like access or parking, and they would request a variance. On the residential side the variance request was for projects that the residents had determined would alleviate hardships and/or correct inherent initial designs and enhance their enjoyment of their home. Most the time not as tangible as lost or anticipated business revenues, but nonetheless important to the homeowner. Harbor Lights consists of predominantly multiple edition home designs that have been placed on lots by the developer to maximize, maximize their marketability. That's business. However, the realization of the homeowner after living in their home is that there might've been better foresight and planning regarding codes and zoning. The establishment of the variance request procedure should provide them some recourse action within reason. Harbor Lights architectural committee has approved of this proposed improvement, as well as a good number of the neighbors. I and the neighbors in agreement hope that our town chooses to the grant the Vaughan's variance request so as they may fully enjoy the new home here in Surfside Beach.

Ms. Joann Meccia, Harbor Lights Drive: My understanding is that, well in the first, where my house is, I'm directly behind the Vaughan's house, but there's the retention pond in the middle, and some HOA property. It's my understanding that, you know, you don't want your neighbor's house to be too close to your house, so if there was a fence in the yards above it, the 20 feet, that'd be 40 feet between the houses. We have multiples of that in this situation, because there's the retention pond. If you'd like, I have a picture on my phone that I took from my patio of their house to get some idea of the distance that's there. So I just question that that really would apply that we could not allow that. I would like to see the variance allowed, because it's certainly not going to encroach upon anything that I would do, and being able to utilize my property. Thank you.

Mr. Chuck Gottschall, North Poplar Drive: I live directly across from them on North Poplar Drive. I see no reason why the Vaughans shouldn't be permitted this variance. Appearance wise, it wouldn't be a problem. Thank you.

57
58 **6. Business. Appeal No. ZA2018 by Patricia Vaughan requesting a variance from Section 17-310 of**
59 **the Zoning Ordinance to allow for encroachment into the rear yard setback of property located at 910 Poplar**
60 **Drive North, Surfside Beach, SC (TMP#191-12-30-035).**

61
62 Ms. Lauer recused from this action. The completed recusal statement is filed herewith.

63
64 Chairman Willm: I had a question on the application itself to just make sure that we know what we're;
65 everybody knows what we're talking about. In the issue paper, it states that it's allowable to have a 4 foot addition;
66 the owner is requesting a 6 foot addition, and the plot says 12 foot addition, which would make it an eight foot
67 variance, if I'm interpreting it right, and the final thing is on the letter to the property owners, it stated that applicant
68 would like a variance to encroach nine feet into the front yard setback. So we all clear I want to make sure that we
69 are all on the same page before we; so we're looking at that eight foot encroachment, they're allowed 4, and they're
70 looking for 12? (** comments from audience)

71
72 Ms. Mazzo: They can square, if you look at the plat at the back of the house is not completely square. So,
73 if they go out 4 feet and across the 12 foot is where the 12 comes in. They want to go across 12. They can square that
74 off. That is allowable because it's not going beyond the existing footprint of the house. So they wanted to do an
75 additional 6 feet out of that 4 feet. So that's where the 6 foot comes, and so it's gonna be a total of a 10 x 12. So,
76 they want to go out the 4 that they're allowed, which they're allowed to do, so they want to go out another 6 feet.

77
78 Chairman Willm: This plot says 12 x 16.8, am I reading this correct? The actual plot. (**) It's okay, we
79 can accommodate whichever, we just need to know what were actually looking at here. (**side discussion regarding
80 plats)

81
82 Ms. Mazzo: Okay, I think that's where she's counting. She was counting 6 feet from the furthest point, and
83 you're counting 6 feet from the short point, right?

84
85 Ms. Vaughan: We're counting 12 from here (referring to plat); 12 out this way, 8.5 this way, because this
86 is further, and then 16.5 across. (** side discussion). This is 12 from this point (**) from the short point, and this is
87 where the bedroom comes out already, which is part of the 20 foot that goes back from the property line to this
88 point. So from here to where we want to go is 8.5 feet, and from here to here is 12, so it's a 9, we were told it's a 9
89 foot encroachment.

90
91 Ms. Mazzo: So, that letter's right, the 9 feet.

92
93 Ms. Vaughan: It's 9 feet.

94
95 Ms. Mazzo: It's wrong on the discussion paper. Because 9 feet is what the letter says.

96
97 Ms. Vaughan: She ended up rounding it, because it was 8.5 foot from the longest point, so she rounded it
98 from 8.5 to 9 foot.

99
100 Ms. Mazzo: So, I just wonder if she hit just a wrong key when she typed it, you know, with the 6 foot.

101
102 Ms. Vaughan: I wasn't aware of that. I was just going by...

103
104 Ms. Mazzo: Yeah.

105
106 Chairman Willm: So, to be clear we want a 9 foot variance, and the letter to the property owners should've
107 been back, it just said backyard, not front yard, and the issue paper should say 9 feet, not 6 six. Madam Secretary,
108 should I take a motion to approve those changes in this appeal, or how do I have this handled?

109
110 Ms. Herrmann: However you desire, Mr. Chairman. You can do it my motion or concurrence that you
111 agree that these are the measurements to be considered; either way.

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113 Chairman Willm: Everybody in concurrence that we're looking at a 9 foot setback on the back?

114

115 Mr. Taylor: Do we need concurrence by the homeowner, as well, just for the record?

116

117 Ms. Vaughan: Absolutely, yes.

118

119 There were no objections stated by members to the corrections.

120

121 Chairman Willm: So we will start with the business section, and do you promise to tell the truth, the whole
122 truth, and nothing but the truth?

123 Ms. Mazzo: Yes, sir. The Vaughans would like to add on the back in their property a lanai that is gonna go
124 out an existing 9 feet from their setback, which their property is currently zoned an R1, which allows for rear
125 setback of 20 feet. We sent the letter to the surrounding properties, and that the property was also advertised in the
126 local paper as required by law, and the property was also posted as required by law.

127 Chairman Willm: Okay. So, we'll let the appellants state their case. (**from audience) You're appealing
128 in the zoning, you're appealing the zoning decision of the zoning board [sic]. So, I need you to state your name and
129 promise to tell the truth, the whole truth and nothing but the truth.

130 Ms. Vaughan: My name is Patricia Vaughan. I promise to tell the truth, and nothing but the truth. This is
131 my husband.

132 Mr. Vaughan: My name is Edward Vaughan. I promise to tell the truth and nothing but the truth.

133 Chairman Willm: Thank you very much. Proceed.

134 Ms. Vaughan: Well, to begin, I'd like to thank you all for your time tonight, first of all. We've already
135 introduced ourselves. We've discussed requesting a variance to encroach 9 feet into the rear yard setback for the
136 proposed lanai. It's looking to build a 12 foot x 16.5 foot lanai in the rear. I think the pictures that you've been
137 provided, if you can open up to those pictures, please. If you look at the one that has the arrows and you see, yes,
138 those arrows actually point to two wood stakes. We have two Crepe Myrtles in the back that have, were planted
139 there previously, and those arrows point out the distance from the furthest point, which is the bedroom that is the
140 furthestmost to the end of the midpoint here in the home that shows how far it would go out relationally to where the
141 pond is. So if you do look at the layout, you can see that it would not impact anybody in the rear as Joanne Meccia
142 pointed out. So, I just wanted to show relationally, and then in the next, next picture actually just shows the stakes a
143 little better to show the distance or the depth of what the lanai would be. I just wanted to have you see what that
144 would look like. I don't believe that a picture was provided for what we're proposing to build.

145 Chairman Willm: There was a drawing, and...

146 Ms. Vaughan: Okay, that, that drawing that you do have, there's been a change or a modification since. We
147 were actually going to follow the same roof line instead of having it down below, so it would make it appear more in
148 keeping with the home itself. So that black mark, marker line that you see that follows the inside of that roof line is
149 incorrect. Yes. So it'll actually mirror or will extend the current roof line out. Not that that really makes a difference.
150 But, I just wanted to clarify, since you did have that picture. The reason we want this lanai is, or we're asking for the
151 variance, rather, is utilize the backyard of our home. The sun shines into the rear of our house in the afternoon and
152 the intensity of that sun precludes us from using the back of the home. When putting together our thoughts for

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153 presenting our request to you, I thought it would be helpful if we discussed each of the 4 point criteria that are used
154 to approve a variance here in the town of Surfside. First and foremost, there is extraordinary and exceptional
155 conditions pertaining to our property. The topography of our lot is different, because the lot is curved. It's not
156 square, and so the home was built lot line to lot line. So if you look at the survey, if you'll pull, pull out a copy of the
157 survey, please, you can see that it's curved, and by having be built lot line to lot line of placed on an angle, it leaves
158 no room for expansion in the back. So we are limited in the rear lot by a pond, and we don't have an adjoining
159 neighbor in the back. So it's actually the lot itself that's unique, because it is curved. It's not squared and the builder
160 is the one who actually placed the home on the lot. Second of all, these conditions generally don't apply to other
161 property in the vicinity, as other properties are squared, whereas ours is the abnormally curved shape. So due to the
162 placement of our home on that lot, any expansion is restricted. You can see where the 20 foot setback is on from the
163 solid line back, which is our property line to both points on the home is 20 feet, so it precludes us from any
164 expansion. Third, because of these conditions, the application of the ordinance to the property would effectively
165 prohibit the util [sic], prohibit the utilization of our property. In other words, we're not able to add anything to the
166 rear of the home. Fourth, the authorization of the variance will not be of substantial detriment to adjacent properties
167 or the public good. We've surveyed our neighbors. Please see letters signed by them showing their support. I
168 actually have copies if the committee would like to see. I have like a dozen letters that... (***) In addition to those
169 signed letters, I also spoke with any other neighbors. For example, one of our neighbors is out of town in Ohio, and I
170 touched base with him to see how he felt about it, and he showed his support. So you can see that the neighbors are
171 in generally in support. I didn't come across anyone that had any negative comments. Our nearest neighbors behind
172 us are across the pond, and have also given their support. Joanne would be probably the one directly across from us
173 would be most impacted. The lanai will be built in keeping with our HOA's architectural control committee. I think
174 you have a copy of the HOA approval letter in your packet.

175 Chairman Willm: Yes, ma'am.

176 Ms. Vaughan: Okay, and it will, in fact, look as if it was part of the original structure of the home once
177 built and completed. The lanai does not effectively; lake maintenance easement. If you look at the survey, there's a
178 12 foot lake maintenance easement 6 foot on one side of the property line and 6 foot on our side of the property line,
179 and that lanai would not affect that easement. So maintenance would still have access to the pond, but more
180 importantly, there's no effect on the drainage system or the runoff, if we were to build this lanai. To sum it up, the
181 shelter that would be provided by this lanai is essential to the utilization of our property, because of the position of
182 the sun in the afternoon and evening hours, we are forced to do our grilling and socializing in our driveway
183 (*laughter.*) Our neighbors, not that that I can say this, but you know, with a hint of humor, I'm not sure how much
184 they enjoy seeing us grilling; sit in our front driveway in the afternoon and evenings. But, we ask that you give our
185 requests strong consideration, and thank you again for your time.

186 Chairman Willm: Yes, ma'am. At the time, if you want to stay there a moment, does the board have any
187 questions for Ms. Vaughan or Mr. Vaughan?

188 Mr. Taylor: Are you the original homeowners? (Appellants indicated yes.) So it was a new home when
189 you moved in.

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190 Ms. Vaughan: Yes, we purchased the home back in 2012, but we didn't move in permanently until we
191 retired just about a year ago. So we used it may be a couple weeks a year while we were still working.

192 Mr. Taylor: Okay. So, I noticed that there currently is a 10 foot screened porch. So if you add the lanai, the
193 room will be 22 feet. Is that correct?

194 Ms. Vaughan: Yes.

195 Mr. Taylor: That's my only question.

196 Mr. Lanham: Just to be clear, this is a 9 foot variance. \

197 Ms. Vaughn: Yes, and that 9 foot, I believe, based upon my conversations and dialogue with Sabrina, was
198 based upon the furthestmost point on the survey, which if you look on the, where it juts on the far right in the rear,
199 from that point out to where the prop [sic], the edge of the lanai would be is just about 8.5 feet and so she rounded to
200 9 feet; that's my understanding.

201 Chairman Willm: And that was the recent change in the zoning after a few of our appeals is that they can
202 even outside for the furthest point they can bring it out at least to there, even if it's nonconforming. They've got 4
203 feet, because of that extension of the bedroom, I think it is.

204 Mr. Lanham: But the total variance is...

205 Chairman Willm: Is for 9 feet; to go an additional nine more feet or thereabouts.

206 Ms. Vaughan: Right, and my understanding of that 9 feet, if you look, unfortunately, I don't have a picture
207 that shows the layout of the pond and the properties around the pond, if you were to see that drawing, I think you'd
208 see that our property line, the solid line on the survey here, there is additional land and our grass even that that we
209 mow and maintain, in addition to where the pond actually meets, and I think it was, what, 11 feet or so; 11 or 12 feet
210 beyond our property line in addition to what you see here. So relationally when you saw the other photo, our
211 property line doesn't even, doesn't go to the pond itself. So there's additional room so that the 12 foot out that we
212 would go, there is still additional room. I'm not saying that concisely. I'm sorry.

213 Mr. Taylor: We understand.

214 Chairman Willm: Any other questions?

215 Ms. Watson: I see where you have a 12 foot lake maintenance easement in the back of your property. Who
216 maintains that?

217 Ms. Vaughan: We do. We, not we, I'm sorry, I misspoke. He (indicating Mr. Vaughan) mows and weed
218 whacks and he does all that. So, I think each of the neighbors around the pond maintain the land that's in addition to
219 what we have. (**)

220 Chairman Willm: Does anybody have any questions of the zoning board or zoning department? Any
221 discussion from the board?

222 Mr. Taylor: I just thought there would be a lot of discussion. I don't know. I'm; the 9 feet as an issue for
223 me. We are, our body is, is a legally appointed body. The next level of appeal is the Appeals Court, and we take an
224 oath to enforce the ordinance as it's written, and you know the four variances and it has to meet all four. And I'm
225 just having a hard time getting to the 9 feet. We've had similar requests actually in Harbor Lights where that we have
226 denied in the past. I'm just having a hard time with it, with the amount of the variance. You know, I'm not, I agree

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227 totally. I think it would be a great addition to your home, and if it was me, personally, I would want the same thing.
228 But, I'm sitting here in this capacity looking at the zoning ordinance and it's, it's a large variance. It's not a 1 or 2
229 foot variance; it's a 9 foot variance in a 20 foot easement. That's a lot. Each time we do something like this, we have
230 to evaluate each case on its own merit, and that's what I'm trying to do.

231 Mr. Lanham: Just to add to what he said about the four criteria that have to be passed, the first one, as you
232 read it, extraordinary and exceptional conditions, that's true. But, it also says it's impossible for the applicant's land
233 to yield a reasonable return without a variance. I don't see where it passes that; passes metal there.

234 Ms. Vaughan: I don't think I understand what you mean by yield a reasonable return.

235 Mr. Lanham: Well, you purchased the house. You paid whatever for it. If you wanted to sell the house, I
236 don't know what the market it, but there's nothing that says you couldn't get a reasonable cost out of your house;
237 price out of your house with it being like it is, because you bought it like that. You know, so that, that's, that one is
238 my hang up.

239 Chairman Willm: Guy's correct. I mean the original, the intent of that is to give a good example, is if you
240 were trying to build a; if the lot size was so restricted that according to these setbacks you couldn't even put a facil
241 [sic] building on that piece of property, then that means that the lot is extraordinary and exceptional, because your
242 lot, if you bought a lot, laws have changed, zoning has changed, and now you have to build a house so large, a
243 certain size, you can't build little small houses according to the zoning, but if you were to build a house according to
244 the zone, and it was impossible to build that house because the setbacks, that would be an extraordinary exception to
245 the rule. I mean, I mean a lot of these are interpretation. I think we've all taken classes and this has been discussed.
246 Just to give you an example, let's say there is a little bit more detailed into what the extent of it was, but that's really
247 the problem, and it goes; like I say, all these can be somewhat up to interpretation, and the one that really that
248 usually we have the hardest time with is "C", because these conditions in the application the ordinance of a
249 particular piece of property will effectively prohibit or unreasonably restrict the utilization of the property and the
250 property is; you've got a house. You have a beautiful house on the lot, and it's not; there is inconveniences, but that
251 the zoning is not really the; our appeal, our role, is not really able to take that kind thing into the account. Now if it's
252 a zoning issue, as far as that you feel there's more room back there, that's more of a zoning board [sic] changing their
253 setbacks and stuff. Our jurisdiction here is to see if they have fairly applied the zoning laws to your request, and if
254 you feel like they didn't, then that's why we're here today. So, personally to me, that's the hardest one, because it
255 doesn't; you have a house that you can utilize. The inconvenience during certain of the year with the sun being
256 where it is and having cookouts that's when we start opening up to those kind of variances, it puts us in the, it kind
257 of takes us out of what he's saying; we here by judicial law. We have to follow these four criteria. That's how we
258 were trained to interpret 'em, so. That would be one of my concerns, also.

259 Ms. Vaughan: Well, I apologize if I appeared a little flip.

260 Chairman Willm: You don't need to apologize.

261 Ms. Vaughan: Well, no, if I appeared a little flip in terms of when I mentioned the grilling and sitting in
262 the front yard. I didn't mean to portray that in a glib manner.

263 Chairman Willm: And I didn't mean to minimize it. (**two speaking at once)

264 Ms. Vaughan: I think I, you know, for my husband and I, we have a grandson that we take care of a couple
265 days during the week. He's 17 months, and so we like to be outside and do stuff outside and in the screened-in area
266 that that small screened-in area we have, it's so ungodly hot that you can't be outside in the screened area. So what
267 ends up happening is we're forced to either be inside, which a 17 month a little boy doesn't really want to be inside,
268 but so it's not; I didn't mean to be glib in terms of the barbecuing, and this...(** two speaking at once)

269 Chairman Willm: I understand, and I'm not trying to minimize that. I'm just saying then that whole arena
270 there is not really what we're; that's not really our jurisdiction from my point of view.

271 Ms. Vaughan: But in terms of utilizing our property in the most effective way, we can't use the backyard
272 because we can't do anything in the backyard. That was the point I was trying to make. I wasn't being facetious. I'm
273 sorry.

274 Chairman Willm: No, I wasn't taking it that way. Not at all. If I came across like that, like I thought like
275 that wasn't the case. It goes back to effectively prohibit and unreasonably restrict is what we follow by, go by. Any
276 other comments or questions or discussion?

277 Ms. Vaughan: Could I ask a question?

278 Chairman Willm: Certainly.

279 Ms. Vaughan: With regard to the other variances that were requested in Harbor Lights, were the denials
280 based upon something similar to ours, or were there other factors involved?

281 Chairman Willm: I don't know that we're really at liberty; all our minutes are online to be reviewed, but I
282 don't know that we're really at liberty to...

283 Ms. Vaughan: Because I didn't see anything for Harbor Lights in there online.

284 Chairman Willm: There's, we've had; it's been several years, but we have had appeals from Harbor Lights.
285 Any more discussion or questions?

286 Mr. Taylor: I would just comment that I, you know, I understand completely the sun and how your house
287 sits and all that, but without sounding insensitive that's how it was. That's how it was built. I wish, I wish I could
288 approve this, though, but I can't. I'll make a motion to deny the requested based on, based on that the conditions do
289 not generally apply to other property in the vicinity. All the, all the homes that face that direction experience the
290 same hardship, the same setting sun, and heat until the trees grow, and the shade comes.

291 Chairman Willm: Okay, we have a motion on the table. Second?

292 Mr. Lanham: Second.

293 Chairman Willm: Okay, Guy seconds. All in favor the motion say aye. (All members said aye.) It looks
294 unanimous. The motion has approved, and the appeal has been denied. Thank you and we will close the business
295 section.

296 Ms. Vaughan: Thank you.

297
298 **7. Public Comments – General Comments.** There were no comments.

299
300 **8. Board Comments:**

301 Mr. Taylor: No, I'm gonna pass this time.
302
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304 Chairman Willm: Okay, I'll just make a comment. These are the hardest things. We try to do the right
305 thing by the town. We are appointed by the town to follow these ordinances. We try to follow the 4 things. These are
306 some of the kind of the variances that we have a hard time with, like I say, when you pull at our heartstrings and do
307 what we want to do. We have an issue that we have to be fair about everybody and follow the same criteria by
308 everybody. It's not always the easiest job. We're all volunteers but we try to do the best job we can to try to interpret
309 it. I think this is one comment: I think why your screened-in porch is how it is now is because the builder couldn't
310 get that done to begin with. That's why it's kind of level with the house, and that's the way it was. It's not buyer
311 beware, but that, like I said, that's how the house was built and it was built to code. As you see, I think board didn't
312 see a reason to go outside, and you do have all alternative remedies, as far as our decision can be appealed to the
313 Judicial Courts and the other thing as far as the setbacks and variances and all that, I think that's done through the
314 zoning department and apply that. That is basically a Town Council decision whether they are going to change the
315 setbacks. Setbacks are there for a reason. I mean it doesn't always seem equitable to every person, but I think the
316 town try to do the best with the zoning laws, and we try to do our best with what were handed.

317
318 **9. Adjournment.** Ms. Watson moved to adjourn the meeting at 7:05 p.m. Mr. Lanham second. All voted in
319 favor. **MOTION CARRIED.**

320
321 Prepared and submitted by,

322
323 _____
324 Debra E. Herrmann, CMC, Town Clerk
325

326 Approved: _____, 20____

327
328 _____
329 Darrell Willm, Chairman
330

331 _____
332 Holly Watson, Vice Chairman

331 _____
332 Terri Lauer, Board Member

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334 _____
335 Guy Lanham, Board Member

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334 _____
335 Jon Dougherty, Board Member

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337 _____
338 Phil Murdock, Board Member

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337 _____
338 Steve Taylor, Board Member
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340 Clerk's Note: Be advised that these minutes represent a summary of items with a verbatim transcript of the hearing
341 section insofar as can be determined by the recording thereof and are not intended to represent a full transcript of the
342 meeting. The audio recording of the meeting is available upon request; please provide a flash drive on which to
343 copy the audio file. In accordance with FOIA §30-4-80 (A) and (E), meeting notice and the agenda packet were
344 distributed to local media and interested parties via the town's email subscription list. The agenda was posted on the
345 entry door at Town Council Chambers. Meeting notice was also posted on the town website at
346 www.surfsidebeach.org and the marquee.