



**BOARD OF ZONING APPEALS MEETING MINUTES
TOWN OF SURFSIDE BEACH ♦ TOWN COUNCIL CHAMBERS
October 20, 2011 ♦ 6:30 p.m.**

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7 **1. CALL TO ORDER.**

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9 Chairman Ott called the meeting to order at 6:30 p.m. Members present: Chairman Ott, Vice-
10 Chairman Willm, and members Blair, Davis, Lanham, Sine and Watson. A quorum was present. Staff
11 present: Building Director Donevant, and Code Enforcement Official Morris. Others present: Town
12 Attorney Moss, and Town Clerk Herrmann.

13
14 **2. PLEDGE OF ALLEGIANCE.** Chairman Ott led the Pledge of Allegiance.

15
16 **3. AGENDA APPROVAL.**

17
18 Mr. Willm moved to amend the agenda to change the order of appeals to hear Appeal Number
19 2011-04 first and Appeal Number 2011-03 second. Mr. Blair seconded. All voted in favor. **MOTION**
20 **CARRIED.**

21
22 Mr. Willm moved to amend the agenda to hold the business discussion immediately after each
23 appeal. Mr. Lanham seconded. All voted in favor. **MOTION CARRIED.**

24
25 Mr. Sine moved to amend the agenda to add approval of the July 28, 2011 minutes. Ms. Watson
26 seconded. All voted in favor. **MOTION CARRIED.**

27
28 Mr. Blair moved to approve the agenda as amended. Mr. Lanham seconded. All voted in favor.
29 **MOTION CARRIED.**

30
31 **4. MINUTES APPROVAL.**

32
33 Mr. Sine moved to approve the minutes as presented of the June 23, 2011 meeting. Mr. Blake
34 seconded. All voted in favor. **MOTION CARRIED.**

35
36 Ms. Watson moved to approve the minutes as presented of the July 28, 2011 meeting. Mr.
37 Lanham seconded. All voted in favor. **MOTION CARRIED.**

38
39 **5. PUBLIC HEARING**

40
41 **2. Appeal Number 2011-04, Joe Long of Sign Studio and Graphics, agent for Cloisters II.**

42
43 Chairman Ott declared the hearing open at 6:34 p.m. and stated that the board would hear
44 Appeal Number 2011-04, Joe Long of Sign Studio and Graphics, agent for Cloisters II for a variance from
45 Section 17-640(1) of the Zoning Ordinance to allow property at 1011 North Ocean Boulevard, TMS #191-
46 16-03-009 to have freestanding subdivision signs to be within the 10-foot setback from public right-of-
47 way. Chairman Ott asked the appellants to address the board from the microphone podium.”

48
49 “I’m Joe Long.” Chairman Ott, “Excuse me. We’re going to swear him in. I remember the last
50 one we did swear them in. Raise your right hand. Do you swear to tell the truth, the whole truth and
51 nothing but the truth, so help you, God?” Mr. Long, “I do.” Chairman Ott, “Thank you. You can start
52 now.”

53
54 Mr. Long, “Sea Cloisters is, in my opinion, simply wanting to replace the existing signs that
55 they’ve had for 15-some years. They’ve got existing signage that’s been there for quite a while. They’re
56 just requesting a simple upgrade of that signage, no larger, no higher, in the same location. It is within

57 the ten-foot setback, but it is 16-some feet from the edges of the highway. It's a very simple request, and
58 I think you have pictures both past and proposed signage in your package." Chairman Ott, "Okay, thank
59 you then. I'm going to ask for a presentation from our staff member."

60
61 Chairman Ott, "Sabrina needs to be sworn, too?" *Unknown speaker indicated 'yes.'* Chairman
62 Ott, "Do you swear to tell the truth, the whole truth and nothing but the truth, so help you, God?" Ms.
63 Morris, "I do. Okay, we have a request for Cloisters II Homeowners Association. The town, as you know,
64 has revised the zoning ordinance and council approved it in March 2011. We received the application for
65 the two entrance signs for Cloisters II; the current ones are old and barely readable. They submitted it
66 just as is; you have this (*referred to photograph*) in your packet showing the existing signage and the
67 proposed signage. The ordinance as it's written now does allow for a multi-family residential use if they
68 have entrance signs. The requirement (***) they cannot be, they can be non-illuminated, the sign cannot
69 exceed five-feet in height above the ground level and it must be set back no less than 10-feet from the
70 public right-of-way. Because of the 10-foot requirement, staff denied the request and notified the
71 applicant. Once they applied for the variance, we went out and looked at it so we could determine what
72 our recommendation would be based on the existing land and it is an older multi-family residential
73 development. I'm sure most of you know exactly where this is. It's unique because, because it's multi-
74 family, and they have very limited parking there. They also, if you drive down Ocean Boulevard, most of
75 the multi-family developments have an island set back with a sign in it, and then parking on either side.
76 This one does not have that, and if they were to be required to place a sign 10-feet within the, 10-feet
77 away, excuse me, from the public right-of-way, they would actually impede in the egress and ingress of
78 the property. Not only that, they may lose a parking space, which they cannot afford to do. As Mr. Long
79 stated, it's about a 5-foot, maybe a little more, landscape island there. They want to put it exactly where it
80 was, where it is previous, where is now, excuse me, and you enter in and enter out. There's no
81 landscaping near the building, so they couldn't put it near the building, and this is the only landscaping
82 available on the property. I've included, we did post the property. I've included the pictures for you. And
83 we did notify everyone within a 150-feet of the property. If you have any questions, I'll be glad to answer
84 those at this time."

85
86 Chairman Ott: "Okay. I'll bring you back up in a second or a couple of minutes. I'll open the floor
87 to anybody that's present that is an opponent to this variance request. You can come to the podium at
88 this time. Let the record show that there is no opponent. So at this time there'll be no need for a rebuttal,
89 unless the applicant would like to make a rebuttal to what the staff has said."

90
91 Mr. Long indicated no rebuttal was desired.

92
93 Chairman Ott, "Now I can offer the floor to public comment. Any public comment at all? You feel
94 free to come to the microphone and make whatever comments you like about this. Positive, negative, or
95 okay. Let the record show there's nobody. I'll open the floor now to the board, and we can bring the
96 applicant or the staff back for questions. Now I'm still in the hearing section right, because we don't have
97 any, no public comment. (*Unknown speaker ****) We're still in the, we are still in the hearing section and
98 that means that the applicant and the staff member are under oath when they answer your questions. If
99 anybody has any questions, please."

100
101 Chairman Ott, "Sabrina, I'll ask you a question. The sign that I see, the small little sign that
102 belongs to the, I believe it belongs to the town, in front of their sign, is it a parking sign, it says a, does it
103 belong to the town or to the a." Ms. Morris, "It's the property's sign... (*speaking from floor ****.)" Chairman
104 Ott, "It's the homeowners sign, okay, so that will remain also?" Ms. Morris, "That is correct." Chairman
105 Ott, "Okay, because I just looked at it, it looked like it was blocking the view in certain." Ms. Morris, "This
106 actually a one-way in, one-way out, because the parking you can see they aren't 90-degree angles,
107 they're angled parking. That actually shows, that sign shows the entrance and the other side shows exit."
108 Mr. Ott, "Right." Ms. Morris, "It's a directional sign." Chairman Ott, "I, I looked at the sign in person and I
109 didn't know who put it there. I just wanted to make that clear. Okay." Mr. Willm, "That sign was
110 conforming prior to March 11th?" Ms. Morris, "That's correct."
111

112 Chairman Ott, "I have a question for the applicant. Did you, you didn't show us a picture of what
113 sign you're going to put there, right?" Mr. Long, "Yes, I did." Chairman Ott, "The same exact sign."
114 (**Severally speaking at once.) Mr. Long, "Same size, same height, just a new one, better looking."
115 Chairman Ott, "I see it, okay. That is the sign that they're going to put in there (referring to photo.) Do we
116 have any questions for the applicant?"

117
118 Mr. Willm, "Ten-foot, you're talking about from the sidewalk?" Ms. Morris, "(**Speaking from
119 floor) from the property line or the right-of-way. Technically that would be where that stops on the bottom.
120 (**)" Chairman Ott, "If there's no further questions I'm going to close this public hearing (time was 6:44
121 p.m.)"

122 123 **6. BUSINESS**

124 125 **2. Appeal Number 2011-04, Joe Long of Sign Studio and Graphics, agent for Cloisters II.**

126
127 Chairman Ott opened the business section for Appeal Number 2011-04, Joe Long of Sign Studio
128 and Graphics, agent for Cloisters II for a variance from Section 17-640(1) of the Zoning Ordinance to
129 allow property at 1011 North Ocean Boulevard, TMS #191-16-03-009 to have freestanding subdivision
130 signs to be within the 10-foot setback from public right-of-way, and asked for any motions.

131
132 Mr. Lanham moved to approve the variance request. Mr. Blair seconded. Mr. Willm said that four
133 conditions that must be met: there are extraordinary and exceptional conditions pertaining the particular
134 piece of property; the conditions do not generally apply to other property in the vicinity, because of these
135 conditions, the property would effectively prohibit or unreasonably restrict the utilization of the property,
136 and authorization of the variance will not be of substantial detriment to adjacent property or the public
137 good. Mr. Willm asked if the variance would apply to other properties in the area. Ms. Morris said there
138 were no other properties in this area with this issue. As she stated previously, most properties have a
139 landscape island within the development. This property is unique because it has only one landscape strip
140 in the front and none anywhere else on the property. Mr. Willm said that satisfied the first question. He
141 agreed that the property has extraordinary and exceptional conditions because of the ingress/egress
142 situation; that moving the signs would be reasonably restrict the property because of the parking spaces,
143 and finally that there is no detriment to neighbors because nobody had come forward to say that it is a
144 detriment. He agreed that the four conditions set before the board were met and supported the motion.
145 Chairman Ott said that Mr. Willm had answered the four questions for the board. Mr. Willm asked if staff
146 supported the variance request. Ms. Morris said yes, staff supported the request. All voted in favor.
147 **MOTION APPROVED; VARIANCE GRANTED.**

148 149 **5. PUBLIC HEARING**

150 151 **1. Appeal No. 2011-03, Appeal Number 2011-03 by Jimmy McLain.**

152
153 Chairman Ott declared the hearing open at 6:48 p.m. and stated that the board would hear
154 Appeal Number 2011-03 by Jimmy McLain for a variance from Section 17-330 of the Zoning Ordinance,
155 specifically the rear yard setback requirement for 712 Melody Lane, TMP #195-02-01-007. Chairman Ott
156 asked the appellants to address the board from the microphone podium.

157
158 "Chairman Ott and ladies and gentlemen of the board, my name is Chris Pearce. I'm a licensed
159 attorney with South Carolina." Chairman Ott, "Please raise your right hand and..." Mr. Moss, "Mr.
160 Chairman, we do not require attorneys to be sworn." Chairman Ott, "He's a local attorney? Okay. You
161 are always under oath." Mr. Pearce, "I pretty much am." Chairman Ott, "Thank you very much." Ms.
162 Herrmann, "Spell your name for the record, please." Mr. Pearce, "I will. My name is Chris Pearce, the
163 last name is P-e-a-r-c-e, which is just a little bit of a variant spelling on that. I'm with the Pearce Law
164 Group in Myrtle Beach. The applicant here this evening is Jimmy McLain. Jimmy is actually here today
165 on behalf of his wife, Alanda C. McLain and daughter-in-law, Tiffany Hamilton, who are the record title
166 owners of the property before you on this variance request. Quite frankly, those three individuals are
167 family members of mine. I'm really, I am here today as an attorney, but more so in support of Jimmy and

168 resolving this issue, which as time has passed, he's come to believe he's a little bit over his head and I
169 tend to agree with him as I've gone back and looked at how this developed over time, it's a little bit
170 puzzling, but Jimmy is here today and will gladly offer you any sworn testimony you so desire. But, just
171 briefly, what we're dealing with is about 3.9-feet of rear yard setback. It was a multi-lot subdivision that
172 was approved back in the late 1990s, I believe, and nobody is really sure what happened, or did happen
173 or didn't happen, it's a number of years ago. But, essentially the plat that was recorded for this particular
174 subdivision in this particular area in the Town of Surfside Beach, the lots, the dimensions, the setbacks
175 were not correctly identified on the recorded plat. Apparently that was recognized at some point in time."
176 Mr. Willm, "On the recorded plat?" Mr. Pearce, "It was, there was a plat recorded and staff can correct
177 me if my recitation of the facts is wrong, but there was a plat recorded, and it is one that is still out there
178 today. (***) some recognized issue with that plat and the parties involved at that time came forward and
179 the history on this is a little unclear so the secondary plat to fix or correct these issues was never put forth
180 in a recorded format with the Register of Deeds office for Horry County. What that has resulted in is,
181 move forward with me from the time that happened to today, the Alanda McLain and Tiffany Hamilton
182 own this property. They (***) under contract to sell the property. They're on the title and existing
183 conditions review process by the attorneys, and the closing attorneys, and the title insurance attorneys. It
184 brings up the issue that this, that rear yard setback is basically three 3.9-foot short and there is a deck off
185 the back of the house that was originally CO'd and approved that sits within that 15-foot setback. The
186 remedy to that really is either get a variance and allow it to stay or you're going to have to go in and, and
187 begin ripping off portions of this property to, to allow that 15-foot setback to be met, and we believe that,
188 that the more proper course of action is granting the variance. Alanda McLain and Tiffany Hamilton didn't
189 do anything to create this situation. They didn't realize it existed until the closing processes were set
190 afoot and we do believe when you look at the four criteria for a variance that this particular situation fits
191 the bill for the granting of a variance in that there are some extraordinary and exceptional conditions
192 pertaining to this particular property in regards to how we got to where we are today, and these conditions
193 generally would not apply to other properties across the board in this area. As a matter of fact, in some of
194 the research that Jimmy did in trying to address this process it appeared that the original developer
195 actually went back in to a number of the individual land owners and reached some accommodation and
196 adjusted property lines. This one was not taken care of. So we think that we're one or maybe two
197 properties within this whole subdivision that have this problem that never got addressed and we do
198 believe that (a) it's extraordinary and exceptional, (b) that it's not something that generally exists
199 throughout the Town of Surfside Beach, and even doesn't exist any longer within this platted subdivision,
200 and we believe because of those conditions, again, the choice is get a variance or start hiring a general
201 contractor to remove 3.9-feet of deck off the back of this house, which is kind of a bizarre solution, if it
202 were to come to pass. But on behalf of Jimmy and again, he'll provide you any sworn testimony he needs
203 to, but we would request that you approve the variance so that they can move forward with the sale and
204 closure of this house, and really not only for the McLains and the Hamiltons, but for their buyers and
205 future owners of this home. This situation is not going away, the issue presented by the 3.9-foot is not
206 going away, so we would like to get it addressed for the future homeowners, as well, and anybody who
207 would come into ownership of that property that this issue would be behind both the Town of Surfside
208 Beach and the owners for this particular property." Chairman Ott, "Thank you very much. At this time,
209 I'm going to ask the zoning staff to present the town's side of this."
210

211 Ms. Morris, "In your package you have several plats and we'll go through that. I hope all of you
212 replaced the plat that was incorrect with the newer version of the plat. Mr. McLain did come into our
213 office in September of this year and he requested a review and approval of a plat. He explained to us
214 that he was, or his wife and property owners were selling the property. We reviewed it. After review staff
215 noted that the existing structure did not meet the setback requirements outlined in the town's Zoning
216 Ordinance. This is actually zoned commercial, but in the Zoning Ordinance it does allow for residential
217 development as long as it meets the Residential R-3 requirements so far as the lot size and setbacks.
218 The existing structures met the front, the sides, but not the rear. It is correct that there is a deck on the
219 rear that encroaches into the setback 3-foot 9-inches. After further review, staff discovered the lot was
220 one of six within a subdivision that had been platted and recorded July 23 of 1998. The lots were
221 recorded as having a front yard frontage width of 37.03-feet. The length is 109.85, and the rear width is
222 37.3 [sic] and I think you have that in your packet. That is the only plat that we have found for this lot that

223 has ever been recorded, and we did go to the Register of Deeds and do a search, but this is, that's all we
224 found. The plat; there was also another around March of 1999 another plat was presented to the Building
225 and Planning Department after a home was built on the property. This plat showed the structure meeting
226 all setback requirements, all applicable requirements and a certificate of occupancy was issued for the
227 new structure that was going on the lot. It appears that the as-built or retracement plat relied on an
228 unrecorded plat which revised rear lot setback lines within the subdivision and that, of course, came
229 where, that's where the inconsistency came from. When Mr. McLain submitted the new plat based on the
230 recorded plat of the subdivision, staff discovered that the as-built plat had an apparent error in the lot
231 length. The correct length, of course, is 109 [sic], the as-built showed 118.69. To our knowledge, Mr.
232 McLain nor staff was aware of the error made at the time of the CO, because we were relying on the
233 survey presented at that time to be accurate. Staff does feel this is a hardship, and if you'll look under the
234 recommendations, we did go through the four points and at no fault of the property owner or staff, the as-
235 built survey, or the retracement provided by a third party illustrated all portions of the structure met all the
236 setback requirements, the property owners and staff accepted the certified survey as being true. It wasn't
237 until the property owner submitted the most recent plat that the error was discovered. The foregoing
238 circumstances are highly unusual, if not unique, and it adversely affects the existing residence located on
239 the lot. This condition does not apply; generally apply to any other property in the vicinity, because the
240 as-built plat presented for this particular piece of property was drawn in error. Most others, we're hoping,
241 are not. Also, (*referring to photo*) this is actually a portion of the plat that Mr. McLain provided and was
242 requesting approval for. If you'll look on the, at the very back it does show that the porch or deck is 11.1-
243 inches [sic] from the rear property line. There's also a 10-foot stormwater easement on either side of that
244 property, so it goes on this lot and the one opposite of that there's also a 10-foot stormwater easement.
245 Can't build in the easement at all, so there's certainly a setback, a required setback of 10-feet, where it
246 should have been, they should have met the 15-feet. There's also a 5-foot drainage. This is actually the
247 rear of the property and (*referring to photograph*) that stick with the, I'm hoping you can see the orange
248 tape, that's actually the rear property line as the surveyor has listed, from that stick to the deck, again
249 11.1-feet. Because of these conditions, the applicant [sic] of the ordinance to the particular piece of
250 property would effectively prohibit or unreasonably restrict the util [sic]; we say the structure is existing
251 and if you don't grant the variance, obviously, they would have to remove the portion of the deck that
252 does not meet the setback requirements, which would be half of that deck. The properties, again, around
253 it have a required drainage easement in the rear, so each lot would be greatly separated anyway because
254 you can't build within that 20-foot stormwater. I'll be glad to answer any questions that I can. We may
255 have to refer to other staff."

257 Chairman Ott, "I'll bring you back for the board in, in, in a few moments. At this time I'd like to
258 open the microphone and podium to any opponents to the a, to this request for a variance. Anybody that
259 does not like this request, you can step up and speak now. Let it be shown that there is [sic] no
260 opponents. At this time we don't, unless the applicant would like to make a rebuttal to the staff. Is there
261 anything?"

262
263 Mr. McLain from chair indicated no rebuttal was desired.

264
265 Chairman Ott, "At this time I would like to open the floor to the a board to question the applicant
266 and the staff, the staff at this time. I'm sure there's a few questions here." Mr. Willm, "I've got a lot."
267 Chairman Ott, "Mr. Willm, you have the floor." Mr. Willm, "One question, can we, is the board allowed to
268 retro-approve, approve something that's already been done? I know (***) my biggest concern right now is
269 that this is out of our jurisdiction as far as..." Chairman Ott, "Mr. Moss." Mr. Moss, "I understand the
270 concerns." Mr. Willm, "(***) that's going to be the biggest thing about an ord, a variance is that something
271 comes before us and has got these conditions and they presented for us, now you know, it comes up, it
272 opens up a can of worms if somebody can go ahead and build something and come back and then ask
273 permission because it's a hardship to take down what they did, and I understand that there's some other
274 conditions, too, but my first question is can we retro-approve a variance? Cause I've never done that."

275
276 Mr. Moss, "You've touched on a lot of issues, if I may, you do have jurisdiction to approve or deny
277 this variance application. As far as any precedent that you might set in doing so, it would only apply to
278 this particular piece of property and to no others. There are certain matters which might come before you

279 in an appellant nature, if someone's appealing an interpretation of a zoning administrator, for example,
280 and those decisions that you make are precedent setting throughout the town. But in this context, what
281 you do only applies to this particular piece of property for which a variance has been sought. And, it is
282 true that self-imposed hardships are not those that variances can generally be granted for. It's also true
283 that you're not empowered to grant variances that would have the effect of mooted or obviating the
284 ordinances of the Town of Surfside Beach. What you are permitted to grant, what you are charged with
285 using your collective wisdom and knowledge is to maybe look at properties where the application of
286 variance does create an unintended and unanticipated hardship. I think here there has been a finding by
287 the staff and obviously staff will tell you if they if they take issue with what I'm about to say, but I think
288 there has been a finding that there's not been any self-imposed hardship here by these current owners.
289 Something did happen in the past that maybe shouldn't have happened. The other thing is, if you look at
290 the plat, this property does have kind of an odd shape, and under the statute you're, you're empowered to
291 grant variances if the property is unique because of its size, shape or topography, and I'll submit to you
292 that this is not a rectangle. In fact, if this deck and this stairway had been reversed, it might actually have
293 met the requirements. Looking at that rear yard, that rear property line it looks like it's at an angle such
294 that the distance between the rear portion of the house and the property line is wider on the, I guess it
295 would be the north or northwest corner than it is on the southeast corner. So I do think it's properly
296 before you, and it would be up to you guys to make a decision whether or not you think it's a proper
297 variance to grant. I would not be concerned about any precedent other than how it might be affecting this
298 particular piece of property. Did I answer your question, I'm not sure?" Mr. Willm, "So we are allowed to
299 do retro-approvals." Mr. Moss, "You are." Mr. Willm, "Just for the record, I mean what we decide to go
300 by, the format we're given and the four criteria, so to just, if we decide something tonight, I'd like to take
301 exception to it being a bizarre decision that we made, you know, we try to make an educated decision.
302 To that question, yes, (***)"

303
304 Chairman Ott, "I have one question. Was this development ever a PDD at all?" Ms. Morris, "No."
305 Chairman Ott, "It was never classified under that?" Ms. Morris, "No." Chairman Ott, "And one other
306 statement I'll make, we're not, the board's not here to find out how we got into this predicament, but just
307 to decide if we're going to award this variance or deny it." Mr. Willm, "When did the current owner, when
308 did they purchase this property?"

309
310 Mr. McLain, (***Speaking from the floor.*) Ms. Herrmann, "Come to the speaker [sic], please. Mr.
311 Chairman, does he need to be sworn?" Chairman Ott, "I need to swear you in; raise your right hand. Do
312 you swear to tell the truth, the whole truth, nothing but the truth, so help you God?" Mr. McLain, "Yes."
313 Ms. Herrmann, "And you are Mr. McLain?" Mr. McLain, "Yes." Ms. Herrmann, "Thank you."
314

315 Mr. McLain, "The property was given to my wife and my sister-in-law about a year-and-a-half or
316 two years ago. Now my mother-in-law had bought the property, it's been probably six or seven years
317 ago." Mr. Willm, "One of my questions is why wasn't this discovered then?" Mr. McLain, "Well, because
318 we got no report." Mr. Willm, "Title search?" Mr. McLain, "We got no recorded, we didn't record the plat
319 when we first bought it." Mr. Sine, "A new plat is not required to make a purchase." Mr. McLain, "That
320 answer your question?"
321

322 Ms. Watson, "I have a question. I have a question." Chairman Ott, "Okay, Ms. Watson has the a
323 floor." Ms. Watson, "Okay, John Black was your surveyor; recently did your survey here, and I see that
324 there was a Jeff Solan plat that was prepared on this piece of property for James and Helen McLain
325 dated April 19th, 2004, plat book 198, page 182, and we do not have a copy of that plat. That should have
326 been furnished to them in 2004, so what we have here is a plat of eight lots in June of '98, then all of
327 sudden in March 19, March 12th of '99, when Culler went back and resurveyed the back pins, one-half
328 inch iron pins moved, okay, March 12th of '99. Then in 2004 evidently James J. and Helen McLain, April
329 19th, 2004 had it resurveyed by Jeff Solan. We don't have a copy of that plat, and I do not have a copy of
330 the deed recorded on this property that would give you the actual dimensions, it's written in the deed
331 itself. I, I need some critical information that we could have that would explain maybe why these pins
332 have been moved back and forth three and four times. I'm missing that 2004..."
333

334 Mr. McLain, "In 2004 my son and his wife, there was a problem then, and we've been trying to get
335 it straightened out since then. That's how long the problem's been going on." Ms. Morris, "(***) The 2004
336 plat that you are looking for, that was not recorded." Mr. Blair, "that's where the problem is at; it wasn't
337 recorded." *Several speaking at once...* Ms. Morris, "If you look at that, what you're talking about, that
338 deed book, page number is this plat. That is the plat, the only plat that was recorded." Mr. Willm, "You
339 don't have to record it, but that's what y'all require?" Ms. Morris, "When it's a new subdivision they're
340 required to record the new subdivision (***)" Mr. Willm, "But as far as what he's trying to do now, what
341 he's bringing back to you, you're having to go back to that original, because that what you, because that
342 what you require." Ms. Morris, "That's exactly right." Mr. Willm, "So that's what we have to go by. I mean
343 that's why I'm telling you; I'm not a real estate agent, I'm not a lawyer. I just don't; I do know when I buy a
344 house I do hire a lawyer to do a property search and a title search to make sure that everything, that what
345 I'm buying, and then that's on me like you said you know that goes back to myself, so I'm putting a
346 hardship on myself in the future, if I don't do a title search. So you were saying, just going back to the
347 comment about, you know, self-imposed hardship that's a choice you make at the time, and that's his,
348 that's somewhat my opinion; that's a self-imposed hardship." Chairman Ott, "Mr. Moss, can you bring
349 some clarity to this?"

350
351 Mr. Moss, (***) Chairman Ott, "Would you step over to the, I'm sorry." Mr. Willm, "I don't mean
352 to be hard on you, this is a very complicated thing to follow and we want to do the right thing. " Mr. Moss,
353 "It is, and I, some of you know that I may close a lot of real estate transactions, and I could tell you that for
354 most of them, we don't have new surveys prepared for existing structures, because particularly in platted
355 subdivisions those are done when building permits are issued and it's usually not a problem, and of
356 course, we closing attorneys, we make sure our buyers understand if we don't have current survey we
357 can't tell them about matters that would show up in a current survey, but the industry doesn't often require
358 that. In this situation, it is my understanding that the lender did require a new survey and that's why this
359 was discovered. Had that not been a requirement, and a new survey not been obtained, this property
360 would most likely have closed and then it would have never been any request of the town at all, because
361 it was an existing lot of record." Mr. Willm, "So you said if they don't, I don't know all the terminology, but
362 if they didn't do that properly that you would tell them that I can't, you can't, you're basically not holding
363 yourself responsible for it if there's any issues that's not recorded." Mr. Moss, "That is correct and
364 obviously I couldn't opine..." Mr. Willm, "But you advise your client of that at the time the closing?" Mr.
365 Moss, "That's right and in this particular property, there would have been a trap for the for them informed
366 because there was a plat of record that showed a different property dimension than this one, and when
367 the survey was ordered in the closing process for this particular closing it turns out that there was a
368 different lot dimension, which was, I think it surprised everyone."

369
370 Ms. Watson, "Excuse me, but the plat that I'm looking for is by Jeff Solan and Associates in all the
371 plats that you've given us." Ms. Donevant, "The Solan plat was never recorded." Mr. Sine, "May I have
372 the floor for a moment? One thing that I wanted to mention is we keep going back to the recorded versus
373 a plat or a survey made. A private individual is welcomed to have a survey of their property at any time.
374 It's an additional cost to take it to the county and have it recorded. Most folks get a survey just for their
375 knowledge, not to get it recorded. So, whether there's five surveys or just two, the ones that count are
376 only the ones that were recorded at the county." Mr. Moss, "Correct." (***) Mr. Sine, "That's what they're
377 not here this evening, because they really don't count." Ms. Watson, "Why do we have a plat book
378 number and a page number by the Jeff Solan map, if it has been recorded why would, why did John
379 Black sign it with a plat book number and a page number? Book 198, page 182." Chairman Ott, "She's
380 looking at the paper that has John Black on the box, name on the bottom. " *Several speaking at once.*
381 Ms. Watson, "...it's a matter of the real property pins are being moved and they just need to go back to
382 their original place." Chairman Ott, "This one? (***) Here's a book and a page number for 2004." (***)
383 Chairman Ott, "The notation on the bottom." Ms. Watson, "If you look at this plat (***) the property here,
384 my concern is that maybe they just need to move it back (***) to where they (***) and we need the Solan
385 survey shows (***)"

386
387 Mr. Lanham, "I'd like to make a comment on that. If in fact those pins were moved that would
388 affect the property in the back, so." Ms. Watson, "(***) and you see this adjacent property here has an
389 additional (***) piece on the corner here has the right dimensions, but the property (***) there's actually

390 eight..." Mr. Moss, "I rather suspect it had to do with the drainage easement that was put in there by the
391 developer, but I honestly don't know the answer to the question. I can certainly find that for the board, but
392 staff members may be or Mr. Pearce may be prepared to answer, but I'm not." Chairman Ott, "We're
393 going to have to have it tonight, if we're going to make a decision."
394

395 Mr. Pearce, "Let me explain something as far as the applicant that is before you," Chairman Ott,
396 "Yes, sir." Mr. Pearce, "which is his claim on behalf of Alanda McClain and Tiffany Hamilton. This, this
397 property was subdivided based on this original subdivision plat, okay. Then it was changed hands, I think
398 in 2004 basically, and my dates wrong, so just let me avoid some dates for a minute to give you a
399 scenario. The builder and developer came back to the Town of Surfside Beach, submitted the
400 construction drawings for permitting and went through that process with, and I believe staff will support us
401 on this, with drawings that did not reflect what was on the recorded plat. That's how we got here today.
402 That building was CO-d, okay, it approved as it was built with the wrong dimensions on the plat that was
403 submitted at that time by the builder. That builder sold this property to a different individual. That
404 property was then sold, and this same property was again sold to Barbara Calhoun, which is where the
405 McLain-Hamilton lineage begins on this property. They were not involved with the original construction of
406 this property, the subdivision of the property; they came into to it along the way, and, and you guys have
407 made a lot of great points about your survey, your not survey, basically they assumed as most property
408 owners do that the subdivision plat that was on record in Horry County matched what was submitted by
409 the builder who got a building permit and was issued a CO for this property and that anything that would
410 have happened along the way that was erroneous would have been addressed. The problem now and
411 Ms. Watson brings up some great points about where these lines (***) can't be moved, somebody owns
412 the lot behind them there. If you want them to move that property line they've got to enter into some
413 extraordinary negotiation with the people behind them to purchase property of theirs and to move a
414 property line, which puts us back before the town moving subdivision lines, and to be honest with you
415 again, the developer of this property has gone back in on several of these back-to-front lots and made,
416 quote, accommodations to the buyers to fix this problem for other people. It didn't get done here, and you
417 guys are absolutely right, this problem could've gone on for 25 more years, but when a title company, and
418 I, Kenneth does closings and I deal with title claims all the time, but title companies have changed on
419 surveys and documentation and what's right and what's wrong in today's real estate world."
420

421 Mr. Willm, "Can I ask you one question on that?" Mr. Pearce, "You can." Mr. Willm, "Is that this
422 Mr. Stewart, is that the developer that you're talking about that's done this?" Mr. Pearce, "I don't know
423 who the devel..." Mr. Willm, "I mean that you said that somebody's gone back and..." Mr. Pearce, "Yes,
424 somebody, the developer, they have gone back..." Mr. Willm, "He's still in business, I know, my question
425 is why wouldn't he have done this one?" Mr. Pearce, "I have no idea. That's why we're here today. If he
426 had done that and through some legal process and negotiation between land owners or people, if he had
427 done that we would not be before you, but that did not happen on this lot, and these folks, (***) one, one
428 point I would to make is, I'm not sure if you can cut 3.9-feet off of this deck and still meet your building
429 codes on egress..." Mr. Willm, "It sounds like he didn't do that before, he just was swapping land back
430 and forth, it sounds like." Mr. Pearce, "Well, if you move the property line back in one direction or
431 another, I don't know what they did there. I'll be honest with you, we could probably spend months trying
432 to recreate..." Mr. Willm, "Actually, and I'm not trying to be hard. It's just, you know, we have a certain
433 job to do and it's, without all the facts, it's hard to do our jobs." Mr. Pearce, "I understand, but again, I
434 think we can look at the picture, the reality is I'm not sure, and I do a ton of construction litigation, but I'm
435 not sure you can take 3.9-feet off the back of this deck without creating ingress and egress issues and
436 making this an uninhabitable property, and a non-sellable property. You can wince, but I mean you've got
437 to have the minimum, the minimum widths, the minimum turning ranges, whatever." Mr. Willm, "Right, but
438 (***) you don't have to have a porch to be uninhabitable [sic.]" Mr. Pearce, "You have to have a certain
439 number of ingresses and egresses to meet fire code in residential elevated structures, and what we're
440 talking about here is potentially making by not granting this variance, this house is literally, and I'm not
441 saying it is, but by the time we get done with it, it could be an uninhabitable property, and we are simply
442 trying to get a variance to allow this 3.9-feet to remain and so that this issue for this, and it's really a, if
443 you look at the plat, it's really a front and a back lot issue, but this issue will essentially be permanently
444 resolved for this lot and the one behind it, just like the developer and the other people have gone in and
445 fixed the lot line issue with the others, this one didn't get taken care of, and Jimmy's right, at least, I have

446 no reason to doubt him that they've been trying to do something with it or figure out what to do or how to
447 do it for a long time and just haven't gotten it done. But again, all we're asking for is a 3.9-foot variance
448 for this lot to fix this back-to-back lot issue in this subdivision and we believe that it meets the criteria for a
449 variance and we don't believe it extends, the uniqueness of this situation, the uniqueness of this situation,
450 which I think staff has actually spelled out in their recommendation, the uniqueness of this situation
451 coming before you again is next to impossible unless there are other situations of this ilk in your
452 jurisdiction, and I have no reason to believe that they do. I've never seen anything like this, and I've done
453 a...(***)" (*Two speaking at once.*) Mr. Willm, "(***)" Another one of our is that because of this condition
454 the application of the ordinance to this particular piece of property would effectively prohibit unreasonably
455 restrict the utilization of the property as follows, says does, I mean, it restricts the selling of the property,
456 but it doesn't restrict the, right now currently, if you don't sell the property, the property is fine to be
457 utilized, correct?" Mr. Pearce, "That is correct, but it (***)..." (*Two speaking at once.*) Mr. Willm, "...that,
458 that goes back to another interpretation that I got to ask, to figure out in my head, because currently right
459 now it doesn't affect the utilization of this property, if they sell, and I can't..." (*Two speaking at once.*) Mr.
460 Willm, "...Sir. My, I can't make my decision based on money issues, you know, buying and selling is not
461 really in my..." (*Two speaking at once.*) Mr. Pearce, "...the property as it sits today is in violation of your
462 ordinances." Mr. Willm, "But nothing's being done, I mean, it's basically been that way." Mr. Pearce, "It's
463 in violation of the ordinance, if you expect..." (*Two speaking at once.*) Mr. Willm, "...legally
464 nonconforming? Right now it's legally nonconforming, so it's not in violation." (*Several speaking at*
465 *once.*) Ms. Morris, "It's in violation." Mr. Willm, "It's been in violation for seven years as far as y'all know
466 and nobody's done anything?"
467

468 Mr. Blair, "Mr. Chairman, I have a question?" Chairman Ott, "Mr. Blair has the floor." Mr. Blair,
469 "It's my understanding since there is a storm drain and a 10-foot setback that granting this variance would
470 in no way impact the property directly behind it, right?" Ms. Morris, "That is correct, (***) 10-foot drainage
471 easement on this property and the property opposite also has a 10-foot drainage easement. You can't
472 build anything with 20-feet of the other property." Mr. Blair, "So it would actually have no direct impact on
473 the property adjoining this one." Ms. Morris, "No, and I'm glad you mentioned that. If you, (***) there's a
474 letter in front of you from Mr. Munkin that is the opposing property owner and he sent that after the
475 package went out and he does not oppose the variance." Chairman Ott, "I'll make a mention for the
476 board that there are no bad questions in here because the appointed members of this board are the only
477 ones here that will be putting their names on this, so we need to be sure and understand what we are
478 doing."
479

480 Ms. Watson, "I have a question." Chairman Ott, "Mrs. Watson." Ms. Watson, "The property next
481 to this one on the left hand side appears to have the proper length of a lot to be able to have an identical
482 house basically to the applicant. I rode by there, there's a vinyl fence and the applicant's property
483 appears to have a fence that's closer to the house than the adjacent property. My question is whether or
484 not the people behind the applicant have, how do we know that their survey is correct and that the
485 property pins have not just been moved. They've been moved we know of twice before." Ms. Morris,
486 "Well, we don't know that, but they, that question hasn't, they haven't asked for a permit. They haven't
487 asked us to record a plat, and if that does come about, then it's not true or factual, we'll be back." Ms.
488 Watson, "But, but my question is if the adjacent property owner in the back of this property, if they have,
489 they've got a deed and they've got a recorded plat on their property, so all we would need to do would be
490 compare the two and make sure that the total length of the two properties meet the original plat." Ms.
491 Morris, "I understand, I understand exactly what you're saying, but the property beside it, which is the one
492 on the corner, I'm assuming is the one you're talking about." Ms. Watson, "No, the one behind it, in case
493 the property pins have been moved by the current property owner or there's been some more movement
494 of these back property pins. I would like to see the plat of the property that is in the back of them that has
495 these movable property pins and I would like to see whether or not the whole entire run with the two
496 pieces together equal what's originally shown here. He evidently has spoken to his adjacent property
497 owner, I'm sure, because they don't have a problem with us granting the variance. So we have no deed
498 dimensions and I still have a problem with that 2004 plat and we don't have anything to compare with the
499 adjacent property owner to see whether or not they moved the pins." Chairman Ott, "And there are other
500 plats in here that have this, have a problem also. Is that correct? There will be another one behind this."
501 Ms. Morris, "There could be based on the." Chairman Ott, "(***) Okay, we're not." Ms. Morris, "But again,

502 we're not..." Chairman Ott, "We are not sure." Ms. Morris, "We are not dealing with those. Right."
503 Chairman Ott, "Okay, Mr. Moss."

504
505 Mr. Moss, "Those obviously are very good questions, if you're trying to solve this entire puzzle
506 when and, and y'all feel like that's important to do, and if you do, by all means that what you do here to
507 determine what you need to know. But, the kinds of questions that you're asking are what we rely upon
508 the surveyors to do, and when the surveyor gives us a survey like has been produced here and they
509 show us these, and in their notes section they refer to all these other plats, what they're telling us is
510 they've done the task that you're describing. They've looked at the other plats. They've solved the
511 puzzle in their mind before they put their name on the survey. And so, in my business that's what we rely
512 upon the surveyors to do, and so I'd rather, I'm not saying it's right, I'm not saying it's not right as
513 presented on the survey, because I'm not a surveyor, and I, and I haven't done that puzzle, but that really
514 isn't something that the surveyor is supposed to do or charged with doing. Now, I'm sorry that that
515 information is not before you tonight, and then I'd like to offer one other comment that's not been
516 suggested, but y'all might consider as well, because when you grant a variance to a setback like this,
517 you're really granting a variance for that lot for perpetuity, and that variance goes with that lot and
518 subsequent projects and constructions are entitled to that variance. So, but, you are entitled to attach
519 conditions to a variance. And so that's very often done, and your conditions might be that the existing
520 structure cannot be increased in size, for example. So, you know, for example, if they wanted to come
521 back later on and make a porch across the whole back of the house, they wouldn't be able to do that in
522 the offending area. The conditions would be appropriate to attach to a variance if you were concerned
523 about any future use."

524
525 Mr. Willm, "Just one other question as far as the conditions do not generally apply to the property,
526 other property in the vicinity as shown. Basically the answer to that from what I understand, what I've
527 heard is we don't know." Mr. Moss, "Actually, I think the staff is of the opinion..." Mr. Willm, "Well, when I
528 was looking at that other piece of property, that seems to have the shortest porch. The third one down, I
529 think that's further out, so I'm wondering if, you know, that's, this is the one we're looking at has about the
530 shortest porch on the back, and I looked B-line coming by there on the way here and I looked a B-line
531 down there and the others, this is about the shortest; the other two were even further out, so I'm
532 wondering if they have the same issue. The problem is, it seems like every time one of these houses
533 has been sold, sell that we're going to be here for that very same reason." Mr. Moss, "If, if, I think there
534 are two or three lots in this area where the property line has been changed, and as to those lots, if a
535 survey is requested, it might implicate the exact same issue. But, because this line is not, I mean these
536 aren't, these lines are straight lines, but they're not perpendicular lines, I rather suspect that the further
537 you go, the less the problem does exist on the..." (*Two speaking at once.*) Mr. Willm, "...going further
538 out." Mr. Moss, "The lots that would lie [sic] to the north." Mr. Willm, "(***) So we really can't say yes or
539 no to that." Mr. Moss, "I think the property next door, I think that staff is of the opinion that it does have
540 the same problem." Mr. Willm, "I've heard tonight I think, and I've heard I hope." Mr. Moss, "Well, you
541 know, she could probably testify to that; I'm sure she measured it."

542
543 Mr. Lanham, "May I make a comment? You keep discussing all the other lots, but my
544 understanding is if we make a decision, whatever decision we make on this lot doesn't have any effect on
545 any decision we make on any other lots, if it happens to come up. I mean we have to judge this..." Mr.
546 Willm, "But, it does require it to not be these conditions, these conditions do not generally apply to other
547 property, but we don't know that, so." Chairman Ott, "That is one of the four questions that has to be
548 answered, if this problem is particular to this property, and this property alone." Mr. Lanham, "Well you
549 have two choices, we have three choices: you can approve it, not approve it, but I don't know if you could
550 in any effect say, well, we're going to go back and do surveys for all this property, and have all the other
551 people involved before we make a decision (***)" Chairman Ott, "We have to look at where our legal
552 bounds are too, and if we're approving something and it's going to be a detriment to the abutting property
553 also. We don't, that we don't know." Mr. Moss, "There are three options, if I might, and, and you, and Mr.
554 Lanham, you pretty much summed them up appropriately. If you, if, if the board feels like that you have
555 to have additional information, I would encourage you not to deny this motion, because that would bar the
556 applicant from coming back for twelve more months, and that would probably be not what the board was
557 intending, but y'all could make that decision. But instead, if y'all feel that you have to have more

558 information, you could make a motion to table..." Chairman Ott, "And ask for a continuance?" Mr. Moss,
559 "No, it would be a motion to table the matter and then come back in a subsequent meeting and have
560 motion to retrieve from the table for further deliberations."
561

562 Mr. Willm, "In your opinion, do you feel that the 2004 plat will give us more information?" Mr.
563 Moss, "I really, it might, it may give you more information about the neighborhood, because as I stated,
564 we rely upon the surveyors who just surveyed this lot, and the surveyor went and researched those. You
565 saw in the surveyor's notes that the plat that the surveyor relied upon in researching the data to make this
566 current survey and so I don't think you're going to get any new information on this particular lot. You
567 probably could compile information about the neighborhood."
568

569 Mr. Sine, "May I have the floor, Mr. Chair? I'm sorry, go... That plat is not recorded, so it really
570 has no, has no affect on, it shouldn't have any effect on our decision, because it's not a recorded plat."
571 *(Unknown Speaker ***)* Mr. Sine, "Have we declared whether that is recorded or not? It's not recorded?"
572 Ms. Morris, "We went to the Register of Deeds and actually had them look and it was their, we were
573 informed that that was the only plat that was recorded." Mr. Sine, "2004?" Ms. Morris, "Which was, you
574 know, in 1998." Mr. Sine, "Very good. With the facts that we have today, we have to go with the idea that
575 it's not a recorded plat, 2004. We seem to be going back to the same issues over and over again. I'd like
576 to move to the business side, if we could and talk amongst the committee." Chairman Ott, "We're still, we
577 haven't moved yet."
578

579 Mr. Lanham, "I'd like to ask another question, if I could. If we went back and I guess I'm asking
580 Mr. Moss, if we went back to the a, if we went to the table here and going back to get information from all
581 the other lots, which could boil down to having to get surveys on all the other lots, if it got that bad, who
582 would pay for all of this stuff." Mr. Sine, "We don't have the authority to make a homeowner get a survey."
583 Chairman Ott, "No we don't (***)" Mr. Lanham, "No, what I'm saying is, if we want more information, then
584 the information we want might require surveys and who's going to, see what I'm getting at?" Chairman
585 Ott, "We can't approve or deny without the information." Mr. Lanham, "Well, I get back to the thing, we're
586 only, we are not really looking at the whole subdivision. We're looking at one lot. I don't think we should
587 be, even though there could be other problems, we don't know that there's not, the question before us is
588 what are we going to do with this lot? Approve it, or disapprove it?"
589

590 Mr. Sine, "Mr. Chairman, I, I've got to say this, we are having, we need to go back to facts that we
591 have in front of us. We're talking about things that might be, could be, or might be out there. We have
592 facts in front of us and the information provided by staff, by the applicant. We can't really talk about these
593 variables that may be. We're here to make a decision on the facts that we have in front of us, and we
594 seem to go in circles here. I'd like to move it to the business side, because I'd like to make a motion and
595 stop going in circles, and then we can discuss it amongst the committee." Chairman Ott, "Well, there's no
596 motion and to end this at this time." Mr. Sine, "I'm just making a suggestion." Chairman Ott, "I
597 understand what you're saying, and none of the other lots here mean anything to us at this time." Mr.
598 Sine, "Exactly." Chairman Ott, "Absolutely, they don't mean anything. We don't, and we don't care if
599 they're all wrong, we're just looking at the one."
600

601 Ms. Watson, "Okay, I have a comment. I have a comment that we're supposed to have a copy of
602 the deed that belongs to the property in our package and we do not have a copy of the deed, and on that
603 deed will give us the dimensions of the property that these people bought or inherited or whatever. The
604 fact that the clerk over at the courthouse could not find another deed, I mean another plat for 2004, it's
605 clearly marked here; my question again would be the rear property line whether or not they have been
606 moved, because then you go eight-and-a-half months Culler Surveying did the original subdivision and
607 then, you know, what from March, from June until March, eight-and-a-half months later, he goes to the
608 same surveyor, they do make mistakes evidently, because now you've got an additional 10-feet added to
609 the lot. So, yes, surveyors make mistakes." Chairman Ott, "I thought it was only 10-feet." Ms. Morris, "I
610 understand exactly what you're saying, and, and, if you'd like staff to go and do some additional research,
611 we certainly could do that. But, I will add that you're right, he did reference a 1998 and a 2004 plat, but
612 he still came up with the exact same dimensions as the existing recorded map of 1998. So it would be
613 best, it would be my opinion, that if there is a plat dated April 19th, 2004, it would [be] matching to the

614 1998. But again, we went to the Register of Deeds and they, they informed us, we did look, but they
615 looked with us, and they told us the only recorded map that they could find was the 1998.”

616
617 Chairman Ott, “If there are no more questions; you have a statement?” Mr. Pearce, “I would, I
618 would try to address Ms. Watson’s questions. I think staff just alluded to it. This is the recorded plat that
619 we are all trying to wrap our heads around; (***) the subdivision, the top and the bottom, the side lot
620 lengths are roughly 109, one hundred and nine feet. This is the latest plat that the McLains and
621 Hamiltons had done on the property, and again, the resurveyed lines in 2011 are roughly within tenths of
622 an inch of 109-feet. I don’t believe that there’s any evidence before you today that these property lines
623 have magically moved. That is the one thing that was relatively consistent about this mess is that those
624 have not changed and that’s what places us in the position of needing the variance today. So, I, I don’t
625 believe that there’s any evidence before you, again, that that there’s lot lines on this particular lot have
626 been moved or changed, because the 2011 survey that was required as part of sale and closing process
627 that brought this issue to a head is the same as the 1998 plat. The problem is that, again, the distance is
628 the 109-feet and it’s basically the same. There’s nothing before us that suggests that those lines have
629 moved back and forth or are different than the lines on the application before you tonight.” (*Mr. Pearce*
630 *was standing away from the microphone holding up a map.*)

631
632 Chairman Ott, “If there are no more questions by the board at this time, I will close the public
633 hearing section. Let the record show that I am closing the public hearing section, and we will open the
634 business section at this time.” The hearing closed at 7:40 p.m.

635
636 **6. BUSINESS**

637
638 **1. Appeal No. 2011-03, Appeal Number 2011-03 by Jimmy McLain.**

639
640 Mr. Sine moved to approve the variance as requested by the applicant with a couple of
641 conditions: that the existing deck or balcony structure not be enlarged, and that if it goes into disrepair, it
642 cannot be replaced. Mr. Blair seconded. Mr. Sine explained that his intent was it would be the future
643 owners responsibility to keep the deck in working order. Chairman Ott asked if it would create a hardship
644 to prohibit repairing the deck, and that it could become a liability for the homeowner. Mr. Willm said the
645 motion requires the homeowner to keep the deck maintained and in good repair. The motion offers
646 protection to prohibit the homeowner from trying to rebuild past the house. He saw no evidence of any
647 bearing on the proposed purchaser, and believed that this issue would come up again. Mr. Will still
648 questioned whether this matter was within the board’s jurisdiction. Chairman Ott asked how the motion
649 would transfer with the property and future owners. Mr. Moss said the variance is a matter of public
650 record; it could be referred to by future surveyors on future plats, or could be placed in the deed. A
651 cautious closing attorney might want to actually include it in the deed so that subsequent parties could
652 find it, but it doesn’t have to be in the deed.

653
654 Mr. Sine moved to amend the motion to add that the boards decision should be added to the
655 deed for recording. Mr. Blair seconded. Mr. Lanham supported the motion and asked who would
656 determine the level of disrepair that could not be rebuilt. His understanding was that if the deck was in
657 such disrepair that it had to be razed and rebuilt, it would not be allowed. Mr. Sine said a similar
658 precedence is seen with bulkheads; at some point if the bulkhead goes into total disrepair, it cannot be
659 razed and rebuilt. Mr. Willm said the town would be the enforcement authority. Mr. Sine said yes as it
660 would issue the permits. Mr. Lanham said it could be repaired and maintained. Mr. Sine said yes that
661 was correct. All voted in favor of the motion to amend. **MOTION TO AMEND CARRIED.** All voted in
662 favor of the original motion as amended. **MOTION CARRIED AND VARIANCE GRANTED SUBJECT**
663 **TO CONDITIONS THAT THE EXISTING DECK/BALCONY CANNOT BE ENLARGED AND THAT IF IT**
664 **IS NOT PROPERLY MAINTAINED AND FALLS INTO DISREPAIR IT CANNOT BE RAZED AND**
665 **REBUILT, AND FURTHER THAT THIS VARIANCE SHALL BE ADDED TO ANY DEED OF TRANSFER**
666 **AS A MATTER OF PUBLIC RECORD.**

667
668 **7. PUBLIC COMMENTS.** There were no public comments.
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8. BOARD COMMENTS.

Chairman Ott thanked Mr. Blake Davis and Mr. Dan Sine for volunteering to serve on the board. He said they are good realty agents and will add a lot to the board.

Mr. Sine said he would not offer an opinion unless he was sure of his information. He has a lot of experience with zoning and development. He thanked the board for allowing him to serve. He looks forward to learning more about how the board is governed and operates.

Mr. Davis appreciated the opportunity to serve on the board.

Mr. Willm said this was very muddy issue, and believed the realtors had more knowledge of the realty laws. This board must go by the four criteria, which is open to interpretation. He believed the biggest issue tonight on the lot line was determining whether it was through no fault of the owner. Discussion is for the public good. His biggest concern was what would happen with the other properties; he asked whether this board be proactive as he believes the issue will come before the board again.

Chairman Ott thanked staff for its work on the appeal; there were a lot of questions. He also thanked the board again for its efforts.

Ms. Watson said the board should always remember that a property owner has other recourses; appeals, and complaint departments to which they can appeal.

Mr. Lanham welcomed the new members and said he was glad there was a full complement on the board.

Mr. Blair welcomed the new members.

ADJOURNMENT. Ms. Watson moved to adjourn at 7:50 p.m. Mr. Blair seconded. All voted in favor. **MOTION CARRIED.**

Respectfully submitted,

Debra E. Herrmann, CMC, Town Clerk

Approved: _____

Ron Ott, Chairman

Robert Blair, Board Member

Blake Davis, Board Member

Guy Lanham, Board Member

Dan Sine, Board Member

Holly Watson, Board Member

Darrell Willm, Vice Chairman

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 tape(s) of the meetings is available upon request, to be heard in the office of the secretary to the board. An agenda of this meeting has been made available to persons, organizations and local news media as requested. The agenda gives the date, time and place of the meeting as well as the order of business. This disclosure is in compliance with the SC Code of Laws 1976, §30-4-80(e).