



TOWN OF SURFSIDE BEACH ♦ TOWN COUNCIL CHAMBERS
August 25, 2008, 6:00 p.m.

ZONING BOARD OF APPEALS
MEETING MINUTES

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7 **1. CALL TO ORDER**

8 Chairwoman Livesay called the meeting to order at 6:00 p.m. Commission Members Ott,
9 Willm, Blair and Dodge were present. A quorum was present. Staff present: Clerk
10 Pinnell, Building/Zoning Director Donevant and Town Attorney David Durant.

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12 **2. PLEDGE OF ALLEGIANCE**

13 Chairwoman Livesay led the Pledge of Allegiance.

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15 **3. AGENDA APPROVAL**

16 Mr. Dodge made a motion to approve the agenda as presented. Mr. Blair seconded the
17 motion. **All members present voted in favor. MOTION CARRIED.**

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19 **4. MINUTES APPROVAL**

20 Mr. Ott made a motion to approve the May 28, 2008 meeting minutes. Ms. Dodge
21 seconded the motion. **All members present voted in favor. MOTION CARRIED.**

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23 **5. PUBLIC HEARING**

24 ***ZBA2008-02: Richard and Marge Torrone, 810 Cedar Drive South***

25 Ms. Donevant stated that the applicants are seeking a front yard setback variance of seven
26 feet to construct an addition to an existing home. The two code sections requiring a 25-
27 foot front yard setback had been presented to the committee along with Section 17-263
28 where it shows corner lot regulations that requires one side yard to be 50 percent greater
29 than the other side. Ms. Donevant stated that all of the property owners within 150 feet
30 of the above referenced property were notified; the property was posted with signage and
31 all of the supporting documents from Mr. Torrone had been supplied to the committee.

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33 Ms. Livesay stated that during this public hearing segment individuals in the audience
34 could speak for or against the variance being requested and asked if anyone wanted to
35 speak.

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37 ***Mr. Childs, 14th Avenue North:*** Mr. Childs addressed the committee stating that he
38 assumed that they were all well aware of the problems the committee has had in the past
39 with some variances that were granted by the board. He stated that the people that come
40 before the board and ask for variances should do what they promise the committee that
41 they will do and added that the board should have a way to check on them and the staff.
42 Mr. Childs stated that the last two individuals who asked for variances swore they would
43 do certain things and they did not do it and added that it is on record that they did not do
44 it. Mr. Childs stated that he believes that this board is not taken seriously enough and this
45 should be a new day and it should start today and the board should make sure that these
46 things are followed through to the letter of what they promised they would do.

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48 There were no other public comments.

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6. BUSINESS

ZBA2008-02: Richard and Marge Torrone, 810 Cedar Drive South

Ms. Donevant was sworn in. Mr. Ott asked Ms. Donevant about how many residents she thought were presently non-conforming and asked if there were more than ten. Ms. Donevant stated that there might be but that she would not want to say without researching it. It was agreed that there were quite a few. Ms. Donevant stated that the changes made to the setbacks had created this situation. Mr. Willm asked if the Planning & Zoning Board at that time realized they would be putting many people out of the limits when they passed this. Ms. Donevant stated that the Planning & Zoning Board has always been known to be good at “doing their homework” before they enact. Mr. Willm asked if there were any stipulations put in for those individuals who had existing homes that would be effected at the time. Ms. Donevant stated that there was not. Mr. Willm stated that there is the 4 criteria the board must go by and the first is that there are extraordinary and exceptional conditions pertaining to this property and added that there were no extraordinary or exceptional conditions since there are many people in the same position. Ms. Donevant asked if Mr. Torrone could speak on his behalf. Mr. Ott stated that the board will proceed with the hearing but wanted to stress to the applicant that the board is held by the State of South Carolina to answer these 4 criteria questions and this is what allows them to issue a variance or deny it and added that the second question “puts us right out of the ballpark” but agreed to proceed with the hearing. Ms. Donevant introduced the Town Attorney, David Durant, who was present.

Mr. Torrone was sworn in. Mr. Torrone stated that he and his wife purchased the house back in April 2008 and wanted to make it into their permanent residence. Mr. Torrone stated that it was not until after they purchased the house that they found out that the zoning laws had been changed; it used to be 10 to 15 feet and now it was 25 feet. Mr. Torrone stated that one of reasons that they want to add onto the house is that they have grandchildren that want to come and spend time with them during the summer. Mr. Torrone presented the plan, which is on file, to the board. Mr. Torrone stated that they had looked into adding a second story but it was too costly. Mr. Torrone stated that they had spoken to all their neighbors and no one was against them adding on. There were only 3 other houses in the neighborhood, that are currently up for sale, who they were unable to get a response from; they did send them letters to let them know of their plans. Mr. Torrone added that if they do not get the variance approved then they do not know what they will do with the property because it is too small for them right now and they cannot afford to add a second story. Mr. Torrone stated that the plan is basically to replace an existing deck with new construction. Mr. Torrone then asked the board for approval.

There was some discussion as to where the addition would be located. Mr. Torrone stated that he had Susan Weiss in the audience from Classic Homes Design who drew up the design for Mr. Torrone and his next-door neighbors were also in the audience if the board had any questions for them. Ms. Livesay asked if Mr. Torrone felt that his property was peculiar to the area. Mr. Torrone stated that he feels that it is a nice lot for the area and one of the reasons they bought the property was because it was a large size lot; 75 feet by 150 feet which would give them enough room to add on to the back of the house but being that it is a corner lot with a 25 foot setback from the street makes it

98 impossible for them to build anything onto the house. Mr. Torrone stated that they had
99 lived in Surfside 5 years ago and wanted to move back and was familiar with the setbacks
100 at that time so they thought they were good with this house purchase but then found out
101 that there was a revised 25 foot setback.

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103 Ms. Livesay stated that when considering a variance there are certain questions that the
104 board is held to answer the variance correctly; they are given a very simple test and there
105 are certain answers that need to be given to these questions in order to allow a variance.
106 The first question is: Is there an extraordinary and exceptional condition pertaining to the
107 particular piece of property. Ms. Livesay stated that Mr. Torrone had stated that he did
108 not feel that his property was peculiar. Ms. Livesay stated that it is a legally conforming
109 hardship with it written in the Town of Surfside Beach ordinances. Mr. Torrone stated
110 that the home was not built correctly on the plot of land; there is only 14 feet from the
111 front of the house and at the back of the house there is 30 feet from the property line. If
112 the house was moved back and centered on the property it would be much easier to build
113 the addition to the house. Ms. Livesay stated that it is not a detriment to any of the
114 neighbors that meets one of the criteria. Ms. Livesay stated that another criteria is if there
115 is anything that causes this lot to be a different size, shape of topography and there is
116 nothing that causes this. Ms. Livesay stated that each member would now vote and have
117 to answer each of these criteria questions. Unnecessary hardship is another criteria and
118 Ms. Livesay stated that this would be considered a hardship; aesthetics and personal gain
119 is not a hardship and the board would need to answer no to this as well. Ms. Livesay
120 stated that a lot of people who move into Surfside Beach are not aware of the rules and
121 regulation changes and we will have to all work harder to inform the public. Mr. Torrone
122 stated that if they do not get this variance granted then they would need to put the house
123 back on the market; he cannot afford to add a second floor. Ms. Livesay stated that there
124 have been many more variances to consider recently than in the past and she feels that
125 there are creative ways to address these issues and believes that the Building and Zoning
126 Department would have some good ideas without having to hire an engineer. Mr. Ott
127 made a motion to take these non-conforming legal homes back to the Planning & Zoning
128 Commission and ask for further clarification on the ordinance adding that this would
129 open the door for everyone who resides in these homes and prevent them from all coming
130 before the Zoning Board and asking for variances. Mr. Ott stated that since the board has
131 to answer the four criteria it limits what they can allow and they cannot currently approve
132 all of these variance requests. Mr. Ott added that the way the ordinance currently reads it
133 would not allow a home to be rebuilt after a major storm. Ms. Donevant agreed with this.
134 Ms. Livesay stated that perhaps this motion does not pertain to the current variance
135 request and perhaps it could be brought up as a discussion. Mr. Willm made a motion to
136 deny the ZBA-2008-02 Richard and Marge Torrone, 810 Cedar Drive South appeal for a
137 7 foot variance based on the 4 criteria. Ms. Dodge seconded the motion. Mr. Kinnerly,
138 neighbor to the applicant, requested to make a statement. Mr. Ott made a motion to have
139 an exception to the rules to allow the testimony. There was then discussion.

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141 ***Bo Kinnerly, 713 8th Avenue***, lives directly behind the applicant. Mr. Kinnerly was
142 sworn in. Mr. Kinnerly stated that his and Mr. Torrone's lots are very low; they have a
143 bad problem with water flow and they had discussed trying to come up with a solution
144 once the landscaping part of the project was to be done. Mr. Kinnerly stated that there
145 was a pipe over to the side on Cedar where the water can be funneled and it would work
146 well as a catch basin. Mr. Kinnerly stated that both of them would need to address this

147 adding that there actually is a topography problem. Mr. Willm asked Mr. Kinnerly how
148 granting a variance would help this issue. Mr. Kinnerly stated that part of Mr. Torrone's
149 project includes a landscape plan. Mr. Torrone stated that with the addition the plan was
150 to also rebuild the land, add topsoil, new pipes and trees. Mr. Kinnerly stated that there
151 were various items of criteria that they could discuss. Mr. Kinnerly added that he is a
152 real estate appraiser and has been doing this for 15 years and is very familiar with the
153 way the lots run and added that perhaps there are all of these variance requests because
154 the zoning was not thought through enough. Mr. Kinnerly stated that the corner lots are
155 always difficult in town and they should probably be valued differently. Mr. Kinnerly
156 added that his particular lot works fine with the setbacks but a corner lot has limited
157 possibilities and are not as functional. Mr. Kinnerly stated that he feels that the design
158 presented for Mr. Torrone's lot is a good design for that lot and added that he feels it
159 conforms to the neighborhood's design and appeal. Mr. Kinnerly stated that Mr.
160 Torrone's house was vacant for some time before he purchased it. It is a home that needs
161 improvements both inside and out; it does not have a good flowing floor plan inside and
162 it is a utility and design problem because of the setbacks. Ms. Livesay stated that this
163 board has no control over establishing or changing ordinances. Mr. Ott reiterated that
164 this board has a standard and they must ask and answer the criteria questions. Mr. Ott
165 stated that if there were just one question that they cannot answer positively then the
166 board would not issue the variance. Ms. Livesay stated that perhaps it could be addressed
167 in another way; either through the Planning & Zoning Commission or perhaps the
168 Building and Zoning Department could come up with some alternate ideas where they
169 would not have to go to a second story.

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171 Ms. Dodge stated that she would love to help Mr. Torrone but is bound to answer the 4
172 criteria and that his request does not meet these criteria so her vote was to deny the
173 request. Mr. Blair stated that he agreed with Ms. Dodge and voted to deny the request
174 and added that he would like to see this go back to the Planning and Zoning as soon as
175 possible; it is a constant reoccurring issue and it needs to be addressed. There was
176 additional discussion regarding how many houses are currently non-conforming. Mr. Ott
177 stated that he was going to deny the request adding that some of the criterias were not
178 met. Mr. Willm voted to deny adding that he himself had a similar problem with a home
179 he had purchased. There was additional discussion regarding the setback requirements.
180 **The request for ZBA2008-02: Richard and Marge Torrone, 810 Cedar Drive South**
181 **was denied.** Mr. Ott made a motion to open the floor for discussion absenting these non-
182 conforming legal properties to the Planning & Zoning for consideration. Mr. Blair
183 seconded the motion. **All voted in favor.**

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185 **7. OLD BUSINESS**

186 Mr. Ott stated that a previous variance was issued on Cedar Avenue North and during the
187 hearing the board was informed that the owner would remove a small roof and it has
188 never been removed. Mr. Ott stated that per their laws they can bring this back for
189 consideration and find out why it was never removed. Ms. Livesay asked if Mr. Ott was
190 making a motion to have a public hearing with regards to this variance issued. Mr.
191 Durant stated that this sounds more like an enforcement issue and the request should be
192 made for staff to review the final granting of the variance and find out if they are in fact
193 conforming and then they could report back to the Board as a body. If they did not
194 conform with the conditions of the variance then there are issues that need to be
195 addressed. Mr. Ott stated that those conditions swayed the vote of the board. Ms.

196 Livesay explained to those in the audience that the variance included a detached garage.
197 Mr. Durant stated that whatever the boards conditions were for the granting of that
198 variance need to go back to staff and staff can check to make sure those conditions have
199 been met; if they have not been met then they would need to bring that to this boards
200 attention and the variance would be in question. It was confirmed with Mr. Durant that
201 there would still need to be a public hearing and it would need to be publicized. Ms.
202 Livesay stated that the motion would be to have a follow up by staff to clarify the
203 variance and the results. Ms. Livesay added that this is why we needed to add 'old
204 business' to the agenda; if board members were not comfortable with something that had
205 occurred in the past then it could be brought up and resolved. Ms. Livesay stated that this
206 would be left to Ms. Donevant's timetable since 15 days are needed to publicize. Ms.
207 Donevant stated that she would investigate the matter and then call Ms. Livesay, the
208 Chairperson; Ms. Livesay would then set up a meeting. Mr. Ott stated that when there is
209 meeting to discuss this variance he would like to request that the attorney be present and
210 be placed on the agenda. Mr. Willm seconded. **All voted in favor of the procedure for**
211 **the recalled meeting.**

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213 **8. PUBLIC COMMENTS**

214 There were no public comments.

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216 **9. BOARD COMMENTS**

217 Mr. Ott stated that he believes that all of his questions will be answered at the next
218 meeting. Ms. Livesay stated that she feels that the way this business was conducted was
219 correct and fair and that the board has done their best to follow the letter of the law;
220 everyone makes mistakes but added that she thinks that this board did a good job and
221 thanked the board for persevering and keeping each other informed.

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223 **10. ADJOURNMENT**

224 There was no other business to discuss. Ms. Dodge made motion to adjourn. Mr. Ott
225 seconded the motion. **All voted in favor. The meeting adjourned at 6:50 p.m.**

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Sharon Pinnell, Town Clerk

230 Approved: _____

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Lynn Livesay, Chairwoman

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236 **RESIGNED**

237 _____
238 Bob Hanson, Commission Member

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238 Robert Blair, Commission Member

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242 Ron Ott, Commission Member

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242 Darrell Willm, Vice-Chairman

243
244 **RESIGNED**

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246 Nancy Childs, Commission Member

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246 Ann Dodge, Commission Member

Zoning Board of Appeals

Meeting August 25, 2008

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249 **Clerk's Note: This document constitutes minutes of the meeting, which was audio taped. In accordance with**
250 **FOIA, meeting notice and the agenda were faxed and/or emailed to local media and interested parties. A**
251 **complete list is on file in the clerk's office. The agenda was posted on bulletin boards outside council**
252 **chambers and in the town hall reception area. Meeting notice was also posted on the town marquee.**