



TOWN OF SURFSIDE BEACH ♦ TOWN COUNCIL CHAMBERS
May 28, 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 6:08 p.m. Commission Members Hanson,
9 Ott, Childs, Blair and Dodge were present. Commission member Willm was absent. A quorum
10 was present. Staff present: Clerk Pinnell and Building/Zoning Director Donevant.

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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 Ms. Livesay suggested that going forward she would like to see the item 'old business' added to
17 the agenda; this would give the board the opportunity to discuss previous business if they needed
18 to. Mr. Ott made a motion to add an item 'old business' to this and future agendas. Mr. Hanson
19 seconded the motion. **All present voted in favor. MOTION CARRIED.** Ms. Dodge approved the
20 agenda as presented. Mr. Blair seconded the motion. **All members present voted in favor.**
21 **MOTION CARRIED.**

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23 **4. MINUTES APPROVAL**

24 Mr. Hanson made a motion to approve the November 26, 2007 and December 10, 2007 meeting
25 minutes. Ms. Childs seconded. **All members present voted in favor. MOTION CARRIED.**

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27 **5. PUBLIC HEARING**

28 ***ZBA2008-001: Lee Moore, 1018 Cedar Drive South***

29 Ms. Donevant stated that Ms. Lee Moore is requesting an approximate 3-foot variance on a rear
30 setback for an addition.

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32 Mr. Hanson stated that in one place the application indicates a 3-foot variance and in another it
33 states that less than 5 feet is being requested and he asked for confirmation on which was
34 actually being requested. Ms. Donevant stated that the plans show 3 feet.

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36 Ms. Moore stated that she is actually requesting a 4-foot variance and explained that the plan is
37 for a 3-foot alcove that will have 2 sides to the wall, which adds another foot. Ms. Moore went on
38 to explain that the alcove has an overhang and the purpose of the overhang is to add privacy;
39 when she first moved into the home she had more privacy, since that time additions have been
40 done on surrounding homes, one with an added second story that has a window that faces her
41 yard. The alcove will enable her to have a master bedroom where she would not be required to
42 close her drapes 100 percent of the time; the alcove will block the view from the second story
43 window of her neighbor. Ms. Moore stated that she has an elongated ranch style home and is
44 very limited as to where she can expand. Ms. Moore stated that she also has a chimney that
45 limits her in designing a plan. Her plan is to change her master bedroom into a
46 bathroom/hallway/master bedroom. Ms. Moore stated that she also currently has a privacy fence,
47 which has been there since she moved in and she fully

48 intends to keep this fence in place. Ms. Moore stated that she had contacted most of her
49 neighbors and was able to get signed affidavits from them; some of her neighbors do not live
50 there full time so she was unable to get some. The signed affidavits were from neighbors right
51 next to her or directly across the street from her. Ms. Moore presented the sworn affidavits to the
52 board. She explained that there were no negative responses received from her neighbors that
53 she was able to contact.
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55 Mr. Hanson asked if Ms. Moore would still meet the impervious coverage limit for this lot. Ms.
56 Donevant stated that she would. Mr. Blair asked what the original setbacks were when the house
57 was originally built. Ms. Moore stated that the house was built back in the 70's and she was not
58 sure what the original setbacks were. Mr. Hanson stated that in the 70's it used to be 15 feet on
59 the front and 10 or 15 on the rear. Ms. Dodge asked where the addition would be in the pictures
60 she presented. Ms. Moore stated that it would be to the left corner in the photo. Mr. Ott asked if
61 any of the sworn affidavits belonged to the neighbors directly behind her and Ms. Moore stated
62 that she is not familiar with the names of all of her neighbors and that she had a chart filled out
63 with who she received one from and where they were located but did not bring it with her in her
64 rush to get to the meeting. Mr. Ott asked her if she had looked at a retractable awning, which
65 would probably accomplish the same thing. Ms. Moore stated that she did consider this but her
66 roofline is very flat and it would be difficult to attach it to the house with the way the roofline is built
67 and it would not give her the height needed. Ms. Livesay stated that there is a 12 inch Hickory on
68 her property which is in the protective status of the town and it looks like it is in the footprint of the
69 addition and asked how zoning was going to approach that; it looks like the roots will be
70 damaged. Ms. Donevant stated that the tree would need to be removed regardless of the
71 variance being approved. Ms. Moore stated that she enjoys her trees and she plans on replacing
72 this tree with another. There were no public comments. Mr. Hanson made a motion to close the
73 public hearing and move into the business section. Mr. Ott seconded the motion. **All present**
74 **voted in favor. MOTION CARRIED.**
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76 **6. BUSINESS**

77 ***ZBA2008-001: Lee More, 1018 Cedar Drive South***

78 Ms. Livesay stated that when a variance is considered the board needs to consider certain
79 specific items. There must be special conditions existing so that the literal enforcement of the
80 ordinance would result in unnecessary hardship to the property owner. The reason for the
81 variance request cannot be self imposed through action or inaction by the applicant; the granting
82 of a variance cannot constitute or create a zoning amendment; the fact that other non-conforming
83 uses are present in a district are not grounds for granting a variance; the granting of a special
84 exception that is unavailable to others should not be used in granting a variance; a variance may
85 not be granted for a use not generally permitted in a district involved or specifically prohibited by
86 the zoning ordinance. In granting a variance the board may designate any special conditions or
87 safeguards that conform to the zoning ordinance. The fact that a special variance was granted for
88 another property is not grounds for a variance; the property cannot be used for any other
89 permitted uses without a variance. Ms. Livesay stated that there are four questions the board
90 must ask themselves when performing the variance test. They must answer 'yes' to three and
91 'no' to four in order to grant a variance. Ms. Livesay added that the board does take this seriously
92 and they do not handle this lightly. Mr. Hanson made a motion to grant a four foot variance for
93 this property and that any trees that are removed be replaced with a like diameter tree, not
94 specifically one tree but if it were an eight inch tree then with two four inch, etc. Mr. Blair
95 seconded the motion. Mr. Hanson stated that he believes that a variance should be allowed due
96 to the setbacks on these lots being changed from the time the house was built and also there
97 does not seem to be any opposition from the neighbors, which he would take into consideration
98 quite heavily, so he is in favor of granting the variance. Mr. Blair stated that the fact that the yard
99 is well maintained and the fact that the original setbacks were changed he is in agreement to
100 grant the variance. Ms. Childs amended the motion to include that the fence remains. Ms. Dodge
101 seconded the amended motion. **All present voted in favor. MOTION CARRIED.** The original
102 motion as stated by Mr. Hanson would now include the amended motion. Mr. Blair seconded the
103 motion. Mr. Hanson voted in favor to include like size trees. Mr. Ott voted in favor adding that
104 there is an extraordinary condition with the depth of this lot and that it is not intruding on anyone's
105 property and that it is not that deep into the setback. Ms. Dodge voted in favor for the same
106 reasons and feels that the changes in the setback is a detriment to the property owner, Mr. Blair

voted in favor for the same reasons; because of the change to the original setbacks; they were efficient at the time and that she has maintained the property in a very nice order and does not see it as a detriment, Ms. Childs stated that she is voting in favor for all the same reasons that everyone else has stated. **Five members voted and voted in favor. Variance was granted.**

7. OLD BUSINESS

Ms. Livesay stated that this portion will be added to the agendas in case a board member would like to discuss variances already granted or if they have questions for the Zoning Department or if they need clarification on previous variances discussed.

Mr. Hanson stated that at the last meeting a board member had expressed the desire to change their vote after the vote was taken and Roberts Rules of Order does have a provision that after the vote is taken the vote can be changed; it is called a motion to reconsider. This member could have made a motion to reconsider where it would have been brought back on the table and anyone who wanted to change their vote could have. There are two stipulations, first is that you need to be on the winning side and second it has to be done the same day; it cannot be made a month or so later. Mr. Hanson stated that he just wanted to clarify this to the other members.

8. PUBLIC COMMENTS

There were not public comments.

9. BOARD COMMENTS

Mr. Ott stated that just because a board member puts a motion out to approve or disallow an ordinance it does not mean that everyone has to vote that way; it is just being brought out for discussion at that time and they can agree or disagree and sometimes people tend to lean a certain way because a motion was put out.

Ms Livesay stated that during the discussion time the board members have time to debate the motion if they so choose. Mr. Ott had a question as to how this motion should be made. Mr. Hanson stated that during previous training he had, he was instructed to always make the motion in the positive and then if you do not like it then you vote against it. Mr. Hanson added that at a previous zoning meeting there was a motion to deny the variance and then they had to go through two motions in order to get it straightened out.

10. ADJOURNMENT

There was no other business to discuss. Ms. Dodge made motion to adjourn. Mr. Ott seconded the motion. **All voted in favor. The meeting adjourned at 6:35 p.m.**

Sharon Pinnell, Town Clerk

Approved: _____

Lynn Livesay, Chairwoman

RESIGNED

Bob Hanson, Commission Member

Robert Blair, Commission Member

Ron Ott, Commission Member

Darrell Willm, Vice-Chairman

RESIGNED

Nancy Childs, Commission Member

Ann Dodge, Commission Member

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Zoning Board of Appeals

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