



TOWN OF SURFSIDE BEACH ♦ TOWN COUNCIL CHAMBERS
December 10, 2007, 6:00 o'clock 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. and welcomed those in
9 attendance. Ms. Livesay stated that this is a continuation from the previous Zoning
10 meeting to discuss ZBA8, which was postponed and rescheduled for this date.
11 Commission Members Willm, Livesay, Ott, Childs, Hanson and Dodge were present.
12 Chairman Blair was absent. A quorum was present. Staff present: Clerk Pinnell;
13 Building/Zoning Director Donevant and Building/Zoning Administrator Michelle
14 Grandell.

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16 **2. PLEDGE OF ALLEGIANCE**

17 Chairwoman Livesay led the Pledge of Allegiance.
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19 **3. PUBLIC HEARING**

20 *ZBA8: Betsey Wishert/110 4th Avenue North/TMS 191-16-12-025*

21 *Ref: 17-269 and 17-364 Code of Surfside Beach*

22 Ms. Grandell stated that the applicant is requesting a variance to put in an in-ground
23 swimming pool in the front yard of a house, which is currently under construction in the
24 R-3 rental zone. Ms. Grandell stated that according to 17-269, all pools must either be in
25 the side or rear yard of the property. Ms. Grandell stated that this property does have a
26 town swash directly behind it, which basically cuts through Ms. Wishert's property and
27 cuts off part of her backyard setback. Per the applicant's filed papers there was no side
28 indicated for the pool on the original Exhibit A filing, but, since this time and for board
29 reference, calculations as to the size of the pool also in relation to the decking and the
30 parking spaces that are required for the bedroom count in this house. Per Ms. Grandell
31 this had been revised and per the calculation, Ms. Grandell is satisfied that with this size
32 pool installed the front yard Green Space would not be compromised. Ms. Grandell
33 stated that the one variance, which was indicated on the issue paper, at this point, is null
34 and void. It was confirmed that the variance request is for a pool in the front yard only.

35 *Betsey Wishert, P.O. Box 338, Springfield, SC came forward to present her application.*

36 Ms. Wishert apologized for not being able to make the original meeting; she was injured
37 and on crutches and could not make it. Ms. Wishert was sworn in to tell the truth. Ms.
38 Wishert stated that the property, in question, was purchased by her parents in 1977 and it
39 has been in her family since then and contains many good memories. Ms. Wishert called
40 Surfside Beach her home for 25 years and she has been gone from here just about 3 years
41 now and she misses it but she still has this vacation/rental property here. Ms. Wishert
42 stated that she is seeking a variance for this piece of property located at the corner of
43 Dogwood and 4th Avenue North. Ms. Wishert stated that the previous house was torn
44 down; it was old and costing too much to keep up. Ms. Wishert stated that she did not
45 want to sell the property; she wanted to be able to pass it down to her son like her parents
46 passed it onto her. Ms. Wishert stated that while they were rebuilding the house the real
47 estate company told her that she would maximize rental opportunities if she were to put
48 in a pool; this would mean more money for her and more money for Surfside Beach. Ms.
49 Wishert stated that the corner lot is an odd shape because of the creek there and this is

50 why she was caused to change the front of the house, which was originally on Dogwood
51 but now faces 4th Avenue; the change allows for a better floor plan flow and it also gave
52 more opportunity for her to utilize the land she has. Ms. Wishert stated that the property
53 extends at one point halfway into the creek but she cannot put a pool in the creek. Ms.
54 Wishert stated that a few years ago the creek was a lot smaller and it has since been dug
55 up and increased in size so this took away from the remaining size of their property; she
56 stated that she is aware that this swash needs to be there for the water flow. Ms. Wishert
57 stated that she had driven around Surfside Beach and looked at all of the different pools
58 to see what others did and how they decorated and landscaped and she became confused
59 with what she witnessed. Ms. Wishert stated that certain homes designate what looks like
60 their front yard as their backyard; they look exactly the same as how she wants her pool
61 to be built so if someone were to ride down the street, her pool would look no different
62 than these other pools. Ms. Wishert stated that a duplex was just put in one block up the
63 street from her and Ms. Wishert presented the Commission with a diagram she drew to
64 show a side pool this duplex has and stated that their fence line is 11 feet from the edge
65 of the road and if she is allowed to put in a pool her fence would be 21 feet from the edge
66 of the road; it will look somewhat similar to the one presented. Ms. Wishert stated that
67 diagonally across from her is a house which faces Ocean Boulevard and this pool is in the
68 back, which is allowed, but because he's on a corner lot his pool is right on the edge of
69 the road like her pool would be except that her pool would be further back. Ms. Wishert
70 stated that she meets all of the Green Space requirements and all of the setbacks have
71 been met so she cannot see any difference than the pool she is requesting to the many that
72 are already there. She would also put in shrubbery and landscape around the fence.
73

74 Mr. Ott stated that he would like to see the shrubbery in there. Mr. Hanson asked Ms.
75 Wishert if she has met with Mr. Booth, the Town Administrator regarding this and she
76 answered that she did not; she was not told to. Ms. Wishert stated that she has the space
77 in the back yard but she cannot put it there because of the creek. No one in the audience
78 spoke for or against the variance request. Mr. Ott asked Ms. Grandell what happened in
79 the variance where it now met the Green Space. Ms. Grandell stated that on the
80 application in the location of the pool there was no dimension given so Ms. Grandell had
81 no idea what size pool was going in so she put that variance in there in case it applied and
82 it ended up that the dimensions given allowed Ms. Wishert to be well within her Green
83 Space limitations. The only issue that is on the table this evening is the variance to allow
84 the pool in the physical front yard. Ms. Grandell stated that the town could put in the
85 exact amount of Green Space that needs to be required in this front yard. Ms. Childs
86 asked if any of the swash was Green Space. Ms. Grandell stated that the way the
87 Building, Planning & Zoning Department can figure the calculations for any lot is when
88 they do the Green Space and the lot coverage; she stated that it is done for Ocean
89 Boulevard; the lots that are actually on the ocean run into the same situation where they
90 have property that is beyond the dune line that they cannot use, but it is still their property
91 just like Ms. Wishert's creek/swash. What they do is calculate that percentage of the
92 property into the lot coverage so it is allowed for the builders to count this as the lot
93 coverage even though they couldn't use that portion. Ms. Grandell stated that on the flip
94 side of this being done is what they do is calculate in the Green Space requirements also,
95 since they are allowed to do their lot coverage based on the total lot, they want the Green
96 Space calculated on the total lot as well.
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98 The Public Hearing portion was closed and the discussion portion was opened. Ms.
99 Livesay stated that every time the board looks at an appeal they must make sure they
100 meet the variance test requirements. Ms. Livesay stated that there are 4 things they need
101 to take into consideration, size, shape topography is the first issue, second is unnecessary
102 hardship, third is peculiar property and fourth is a public detriment. Ms. Livesay stated
103 that in order to grant an appeal they must answer yes to the first three and no to the
104 fourth. Mr. Hanson stated that this particular piece of property has come up on several
105 occasions at the Town Council meeting and at the budget retreat meeting. Mr. Hanson
106 stated that the Town is concerned about the ditch/swash and Mr. Hanson stated that he
107 could sympathize with Ms. Wishert that she has land that she cannot use. Mr. Hanson
108 stated that, as he recalls, Mr. Booth was assigned by the Town Council to meet with the
109 land owners that actually own that ditch and try to come up with a plan to do something
110 with it in connection with stormwater and drainage and this is why he asked Ms. Wishert
111 if she had been in contact with Mr. Booth so evidently, he has not been in contact with
112 the land owners as of yet. Mr. Hanson stated that this particular piece of property has
113 been talked about a couple of times so it is public knowledge and public records. Ms.
114 Dodge stated that the one thing that she keeps going back to is the profitability and the
115 fact that the property may be used more profitably if a variance is granted may not be
116 considered as grounds for a variance; this is the one she has a problem with; she stated
117 that she sees that Ms. Wishert has arguments on the others but the profitability issue
118 remains. Mr. Willm stated that he had a little problem with the profitability issue as well
119 but if this was in an R-1 or R-2 he would say no but given it is an R-3 and everyone
120 around her is allowed to build similar pools then he feels that it does unreasonably restrict
121 her in what she can build on this property. Ms. Livesay stated that she feels that
122 clarification has been made with the exhibit that Ms. Grandell provided this evening, this
123 is more or less now a beautification issue now and the board is instructed not to create
124 any kind of variance that changes the code or creates a code and she believes that the case
125 has been made somewhat that there is enough Green Space but the board needs to take
126 into consideration, the current variance to place the pool in what is designated as the front
127 yard versus the side yard. Mr. Ott stated that there are 4 laws that the board goes by and
128 they have added the 5th one, which is a South Carolina law, stating that a variance will
129 not be issued with the fact that it is going to be more profitable with that variance and if
130 the applicant was given this information they would not have brought it up in their
131 opening statement so they are at a disadvantage by not knowing this and in the future Mr.
132 Ott believes that we should make sure that applicants understand what our guidelines are.
133 Mr. Ott stated that we all know that the applicant will get a better rental if there is a pool
134 and there are extraordinary conditions involved in the size of this lot. Mr. Ott stated that
135 he does not believe that these conditions do apply to any other property in the vicinity
136 and the authorization of this variance would not be detrimental to any of the adjacent
137 properties. Mr. Ott stated that he does not think that we should include the applicants
138 opening statement. Ms. Grandell stated that although this is an addendum to the State's
139 fact sheet, the 4 criteria for any variance are as listed on the paperwork that is distributed
140 by Surfside Beach, so if the applicant is not aware of everything they should be aware of
141 this and this should not be entered into the board's decision making. Ms. Grandell stated
142 that the applicant's could have outside agencies assisting them, they could consult an
143 attorney; there are several different options that the applicants can take. Ms. Grandell
144 stated that, as staff members, we cannot help people fill out the applications; it would not
145 be ethical. Staff can only present the variances and the facts that are presented to them.
146 There was additional discussion regarding applications and that perhaps the board may

147 want to work on amending the application. Mr. Ott made a motion to approve the
148 variance in ZBA8. Ms. Dodge seconded the motion. Mr. Hanson stated that this pool
149 was not in the original building plan; if it had been it could have possibly been approved
150 at that time or denied; also if the pool had been in the original plan the front door could
151 have been put on Dogwood and the pool would have been in the side yard, which is
152 permissible. Mr. Hanson added that if the variance is granted it will not set a precedence,
153 the town has been quite adamant about no pools in front yards and no pools under
154 parking areas so the town has severely restricted where pools can be; the town ordinance
155 states no pools in the front yard and he can sympathize with the applicant. Mr. Ott asked
156 if the board could ask for a stipulation to add vegetation around the pool area. There was
157 additional discussion as to adding an amendment to the motion regarding landscaping and
158 reducing the decking size and moving the fence back. There was additional discussion
159 about altering and turning the pool a little to accommodate plantings. The amendment
160 was made by Mr. Ott to accept the following motion as stated by Ms. Grandell: the
161 amended motion is to permit the construction of a pool in the front yard, being 4th
162 Avenue North, with the provision and conditions as follows; that the mandated fence
163 surrounding the pool be at minimum 2 feet inside the property line to allow for plantings
164 in front of the fence, also on the applicants property, to provide for a landscaped buffer in
165 front of the fence and that all variances will meet current Surfside Beach Green Space
166 requirements. Mr. Willm seconded the motion. Ms. Dodge stated that she agrees to give
167 the variance with the stipulations stated. Ms. Childs stated that she agrees with Ann to
168 give the variance with the stipulations. Mr. Hanson stated that he votes no, adding that
169 he does not believe that it meets the 4 criteria, especially number 4, detriment to adjacent
170 property; adding that he believes that it is setting a precedent to have pools in the front
171 yard and he believes that the real problem is the ditch and that this is the problem that
172 needs to be addressed and resolved. Mr. Ott stated that he wished he heard Mr. Hanson's
173 thoughts on this earlier but he voted for the motion. Mr. Willm stated that there would not
174 be an issue if the house were built differently as mentioned; he voted no. **MOTION**
175 **CARRIED WITH ADDENDUM.**
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177 **4. ADJOURNMENT**

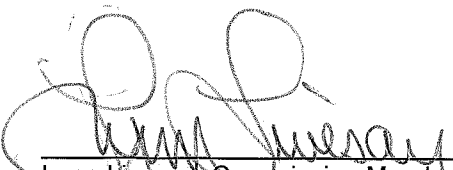
178 There was no other business to discuss. The meeting adjourned at 6:45 p.m.
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183 Approved:


Sharon Pinnell, Town Clerk



Bob Hanson, Chairman



Lynn Livesay, Commission Member


ABSENT

Robert Blair, Commission Member


Ron Ott, Commission Member

Darrell Willm, Vice-Chairman


Nancy Childs, Commission Member


Ann Dodge, Commission Member

Zoning Board of Appeals
Meeting December 10, 2007

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

