



**BOARD OF ZONING APPEALS MEETING MINUTES  
TOWN OF SURFSIDE BEACH  
TOWN COUNCIL CHAMBERS  
JANUARY 25, 2018 ♦ 6:30 p.m.**

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7 **1. CALL TO ORDER.** Chairman Willm called the meeting to order at 6:30 p.m. Members present:  
8 Chairman Willm, Vice-Chairman Watson, and Members Dougherty, Lanham, Lauer, Murdock and Taylor. A  
9 quorum was present. Others present: Town Clerk Herrmann; Building Official Farria, and Permit Technician  
10 Mazzo.

11  
12 Chairman Willm welcomed everyone to the meeting, saying that it was nice to have so many people attend.  
13 The board members and staff introduced themselves. Ms. Watson read the Board of Zoning Appeals Mission  
14 Statement:

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16 *The mission of the Surfside Beach Zoning Board of Appeals is to listen to property owners and citizens who*  
17 *wish to appeal rulings made by the building and zoning department or are seeking variances from Surfside Beach*  
18 *Zoning Ordinances due to the irregularities or peculiarities of their property, which cause them a hardship in*  
19 *meeting the zoning setbacks. We are an independent board, and we are not influenced by town officials, councilmen,*  
20 *or any other individuals. We will strive to render fair and equitable decisions that are best for the individual, the*  
21 *town, and its citizens. All decisions are final and can only be appealed to the Circuit Court.*  
22

23 **2. Pledge of Allegiance.** Chairman Willm led the Pledge.

24  
25 **3. Officer Election**

26  
27 **i. Chairman.** Mr. Lanham moved to elect Mr. Willm to serve as chairman. Ms. Watson second. All voted  
28 in favor. **MOTION CARRIED.**

29  
30 **ii. Vice Chairman.** Mr. Taylor moved to elect Ms. Watson to serve as vice chairman. Ms. Lauer second.  
31 All voted in favor. **MOTION CARRIED.**

32  
33 **4. Agenda Approval.**

34  
35 Mr. Taylor moved to adopt the agenda as presented. Mr. Lanham second. All voted in favor. **MOTION**  
36 **CARRIED.**

37  
38 **5. Public Comments on Business Items.**

39  
40 Mr. Randle Stevens, 1<sup>st</sup> Avenue North: I'm just curious. I'm looking at this and on the application it said  
41 appeal of a decision of administrative official, and then there's a letter that says from the two ASL signs, which says  
42 the requesting a variance. Which one is it? I wondered if I could get a clarification on that. Chairman Willm: It is  
43 my understanding that this is a variance to the sign ordinance. Mr. Stevens: Okay, because I have a copy of the  
44 application and it said appeal the decision, but another letter said a variance. Chairman Willm: The actual  
45 application is an appeal to the decision of an administrative official as indicated on page four of this application. Mr.  
46 Stevens: Okay, so it is the appeal the application. Okay. Chairman Willm: Application for a new sign. Mr. Stevens:  
47 Alright, thank you.

48  
49 **6. Business Item**

50  
51 **Appeal No. ZA2017-04 by First Baptist Church of Surfside requesting a variance from Section 17-**  
52 **630(10) of the Zoning Ordinance prohibiting off premise signs. The property is located at 811 16<sup>th</sup> Avenue**  
53 **North, TMS#191-12-03-001.**  
54

Board of Zoning Appeals  
January 25, 2018

55 Chairman Willm cited the appeal and sworn in Mr. Farria: Do you swear to tell the truth, the whole truth  
56 and nothing but the truth?

57 Mr. Farria: Yes, I do.

58 Chairman Willm: Proceed.

59 Mr. Farria: Thank you, Mr. Chairman. Basically the church, First Baptist Church Surfside, basically wants  
60 to, they have an existing sign right now at the corner of 16<sup>th</sup> Avenue North and 17<sup>th</sup> North, and, which they want to  
61 replace with a new sign. Basically, the understanding is, is that that location where the existing sign is now, where  
62 the new sign is going to be, what they want to put is basically, I think it's a mobile home park property, and it is  
63 owned by basically the church itself. (Unknown speaker: on a different property) Mr. Farria: But it is on a different  
64 property than the church's property. So basically that's what the, the issue is right now that they want to put the sign  
65 where the new sign where existing sign is, but which is located on the mobile home park, which is owned by the  
66 church, but is not on the church's property itself, if that makes sense.

67 Chairman Willm: And the zoning ordinance that prohibits that; that it has to be on the same piece of  
68 property?

69 Mr. Farria: Right. Basically, if you look at prohibited signs, which is Section 17-630, item 10, off premise  
70 signs, outdoor advertising signs, and billboards. So, this would be basically classified as an off premise sign, even  
71 though the church does own that property. It is not the on the property of the church itself, and the sign is for the  
72 church. If you look on the definitions where it says off site sign, it says off site signs shall mean a sign that  
73 advertises goods, products, services, or facilities which are located, not which are located on premises other than  
74 those where the sign is located.

75 Chairman Willm: Currently the sign that is there is a legal nonconforming sign?

76 Mr. Farria: It's been in existence sign. It's been there for as long as I can remember.

77 Chairman Willm: Prior to this zoning.

78 Mr. Farria: I'm assuming so, yes, sir. It's been there for as long as I can remember. I go back 13 years ago.

79 Chairman Willm: I go back about 45, and it's been there as long as I can remember.

80 Mr. Farria: Yep, right.

81 Ms. Watson: It says in the paperwork here that the sign was originally approved back in 2015 and the  
82 church need to procure funds to buy their new sign. Can you tell me what happened between 2015 and now? Did the  
83 ordinance change? (\*\*unknown speaker not clear)

84 Mr. Farria: The ordinance didn't change, but we didn't have any record of approval at all.

85 Ms. Mazzo: (not sworn-in) I think it might have been approval (\*\*) but, I'm not 100 percent sure. I know  
86 we have no documentation is here (\*\*).

87 Ms. Watson: Okay, and you've looked at the adjacent property, and it is titled in, the mobile home park  
88 does belong to the church, the property, the mobile home property does belong to the church.

89 Ms. Mazzo: It's two different LLCs. The same people own the two LLCs, but they are different LLCs.

90 Ms. Watson: So both properties are controlled by the same party?

91 Ms. Mazzo: Yes.

Board of Zoning Appeals  
January 25, 2018

92 Mr. Farria: The church, that's correct.

93 Ms. Watson: Both properties are controlled by the same person.

94 Mr. Farria: Right. I think the understanding is that the church property, of course, is a nonprofit LLC.  
95 Where, of course, the mobile home park is a different LLC, but is still owned by the church itself.

96 Ms. Watson: Okay, so in your opinion, is the control of both properties under the control of the First  
97 Baptist Church of Surfside?

98 Mr. Farria: In my opinion, yes.

99 Ms. Watson: And is anything on this proposed sign have any type of commercial advertising or any type of  
100 service other than community services going to be advertised that you know of?

101 Mr. Farria: I can refer to you the statement from the Mr. Nicholas at ASL. He might be able to explain  
102 more on that. But if you look at the second paragraph, it will be a full-color LED message board allowing the church  
103 to bring in new members, provide updates to future events such as Bible Study, Vacation Bible School, and  
104 regarding meals for the homeless and persons in need of help. Basically, everything I see here I don't see anywhere  
105 or any evidence that they're gonna use it for commercial advertising at all. And, I'm not sure if any, if there's a, I  
106 know ASL is here. I'm not sure if there's any member from the church here, also. They can maybe also answer that  
107 question, if need be.

108 Ms. Watson: Okay, so in your opinion, this would be a noncommercial sign?

109 Mr. Farria: (\*\*) Yes, ma'am, based on what I'm seeing here, yes.

110 Ms. Watson: Okay, thank you.

111 Mr. Lanham: If I looked at these two signs, wat difference would I see, meaning size, color, whatever.  
112 What's the difference in the two signs?

113 Mr. Farria: If you look at the packet again, it's in your packet there, you can see the sign that been applied  
114 for. And then there are also if you look in the pictures of what's existing now, it also shows the existing sign.

115 Unknown speaker: It's a lot smaller.

116 Mr. Farria: So that existing sign is lots, lot smaller, of course.

117 Mr. Lanham: Okay.

118 Mr. Farria: The new sign, if you look at the proposal, will be higher up in the air, as you can see. It will be,  
119 I guess the sign itself will be also larger than what the existing sign is. You can see the existing site is basically,  
120 looks like it's only about two or three feet off the ground.

121 Mr. Lanham: So these pictures here, this would be the sign that is going to be up. It won't be changed after;  
122 that's the exact sign.

123 Ms. Mazzo: That's what they're looking at now.

124 Mr. Farria: That's what they're wanting.

125 Mr. Lanham: That's what I was wondering about. Exactly the same sign.

126 Chairman Willm: Other than the location of the sign, the sign is in compliance with all other requirements  
127 of the sign ordinance?

128 Mr. Farria: Yes.

Board of Zoning Appeals  
January 25, 2018

129 Ms. Lauer: I have a question. It's going to be a flashing and moving sign. A movement of an LED message  
130 is going across.

131 Mr. Farria: Based on again, and again, ASL might be able to answer that little bit more, but if you look at  
132 the, again, the statement from Mr. Nicholas there it says it will be a full-color LED message board, and it will be  
133 giving different events, you know, of the church.

134 Ms. Lauer: How about the light intensity; the brightness of the sign. How will that affect ...

135 Mr. Farria: Okay, that would be question that ...

136 Chairman Willm: Excuse me a minute. Let me go ahead and let Mr. Nicholas present for Baptist Church  
137 and then we'll come back and we can ask questions from both sides so we can get a full picture. Do you swear to tell  
138 the truth, the whole truth and nothing but the truth?

139 Mr. Nicholas, ASL Signs: Yes, I do.

140 Chairman Willm: Thank you, sir.

141 Mr. Nicholas: The sign that exists is roughly like they said about 5½ feet tall. It does light up, and it sits  
142 low, because of the (\*\*). The sign that we're proposing, like they said, it's gonna be 7 feet taller than the existing  
143 sign, and it will have, and it will be a lit sign. And the colors, and the logo, and what's on the sign itself is  
144 specifically to bring people to the church. It's not abrasive. It's not something that's gonna be like a billboard in your  
145 face type sign. It's a real contemporary classic sign that's in; goes along with church. The LED board on the sign is  
146 solely for the, for the church's use. Nothing commercial is gonna be on it. Now what the church is gonna, what it's  
147 gonna, the whole purposes to draw people to the church, whether it be the Bible study or an event going on at  
148 church, but more importantly, if it brings one person off, off the street to the church, even saves the person's life  
149 bringing him to God, that sign has done its part for the church. It's not intended to advertise any other company or  
150 anything like that. It's not gonna be flashing, again, it's gonna be within the church's standards. And as far as the  
151 brightness that can all be controlled. It has during the day it's gonna be one brightness. Then at night it will be  
152 bright, but it, but it tones down. And also on their sign, if a hurricane comes through, it's designed to have Amber  
153 Alerts or if you see, God forbid, somebody's kidnapped or what have you, it has the Amber Alert. It has that ability.  
154 It's like the sign that we have it at ASL signs. Anytime severe weather comes in; hurricane, it switches right over to  
155 the weather, and any types of Amber Alerts.

156 Chairman Willm: Anybody have any questions for him?

157 Mr. Taylor: No, not for him.

158 Mr. Nicholas: Just so you know, it's controlled solely by the church. Nobody else will have access to it, to  
159 what goes on it. Nobody can get into it, and again, it's all controlled by the church.

160 Chairman Willm: Any further questions for either ...

161 Mr. Lanham: I have a question for ... If this sign was the same size as the sign that's there now, would it  
162 still be in variance? If you change the sign; just put a new sign in, but the same size? It'd still be a variance?

163 Mr. Farria: Based on the prohibited signs, it's off premises, yes, that's correct.

164 Mr. Nicholas: One thing, too, keep in mind the church, the parcels are owned by the church. But the  
165 church is tucked back over seventy feet off the road. So, again, it bring people to worship.

Board of Zoning Appeals  
January 25, 2018

166 Mr. Taylor: I have a question for the staff. If this sign were deemed to be on premise, would the sign be  
167 meet code and be approved? (Mr. Farria nodded his head in agreement.) Mr. Taylor: Okay.

168 Mr. Murdock: Mr. Chairman, is somebody from the church here, or do we know? Okay.

169 Mr. Nicholas: That whole crew behind me. *(Laughter)*

170 Chairman Willm: Come up and give your name. We'll swear you in and let you, let us ask some questions.  
171 Do you swear to tell the truth, the whole truth and nothing but the truth?

172 Mr. Roger Reese: I do.

173 Mr. Murdock: My question is this FBCEBRE, LLC who owns that LLC? Does the church itself?

174 Mr. Reese: It's Greenbrier Trailer Park, LLC and we, we do own that property.

175 Mr. Murdock: Okay and when you say we, the church. The church owns it.

176 Mr. Reese: Yes.

177 Mr. Murdock: So the church that owns the property that the church sits on is the same entity of ownership  
178 of this LLC? The membership interest is the same.

179 Mr. Reese: Yes.

180 Mr. Murdock: Okay.

181 Mr. Reese: In fact, I have drawings showing future plans to encompass that property all the way to 17,  
182 money providing.

183 Mr. Murdock: Got 'cha. Like I said, I make that distinction so that even though the LLC is its own entity,  
184 the owners of the LLC is the church. Okay.

185 Chairman Willm: Was the intent on having, allowing the people that are there stay there until a certain  
186 amount of time before y'all plan on making that your full campus?

187 Mr. Reese: There is a provision that we have to give them, I think it's 12 month's notice before we attempt  
188 to do anything.

189 Chairman Willm: How long have y'all owned the trailer park?

190 Mr. Reese: It's been about five years ago. (Unknown speaker: It's actually six.)

191 Mr. Lanham: This may be a little bit off the wall, but why couldn't you just select small piece of property  
192 and deed it over to the church, and then you would be in, you wouldn't be out of variance. I know that doesn't sound  
193 practical, but it'd get you out of this whole mess.

194 Mr. Reese: Well, quite honestly, I didn't realize we were really in a big mess. *(Laughter)* You know, we're  
195 trying to replace the sign that's an eyesore with a very nice sign.

196 Mr. Lanham: No, I don't have a problem with the sign, it's just the ordinance, you know, is what it is, and  
197 it's not ... I don't know.

198 Mr. Reese: I don't know how the sign that's there got there.

199 Mr. Lanham: Before my time.

200 Ms. Lauer: Yes, way before our time.

201 Ms. Watson: Sir, can you tell me when the First Baptist Church of Surfside started?

202 Mr. Reese: Fifty years, 52 years ago.

Board of Zoning Appeals  
January 25, 2018

203 Ms. Watson: Okay.

204 Chairman Willm: Same year I moved to Surfside.

205 Mr. Reese: It started right down here on Ms. Molly Owen's front porch.

206 Chairman Willm: Any other questions?

207 Ms. Lauer: I'm just worried a little bit about the brightness of the sign. How it will affect the owners of the  
208 manufactured houses with a light shining in their bedroom with the privacy issue. I mean, that's a high light, bright  
209 light.

210 Mr. Reese: There is [sic] trees between the sign and the mobile homes.

211 Ms. Lauer: So none of the trees are being removed? They're going to stay there?

212 Mr. Reese: No, ma'am.

213 Mr. Nicholas: Remember, too, the sign is no facing; the sign is gonna project light this way and this way  
214 (*referring to a picture*), north and south. It's not gonna project sideways.

215 Ms. Watson: There's no window there.

216 Ms. Lauer: Well, I just don't want to create a nuisance with the ordinance trying to avoid a nuisance for the  
217 people that are living there. We're all concerned about that. I mean I'm sure all of wouldn't want a bright light  
218 shining in our bedrooms.

219 Mr. Reese: There are tenants, so we would be concerned, also.

220 Chairman Willm: It does appear from the picture that there is no window on the backside of that closest  
221 premise. Any other questions or discussion of the board?

222 Mr. Taylor: I have a comment. This entire thing centers around the definition of on premise or off premise.  
223 You know, as the operator of the 235 acre golf course that consists of about 14 different plats, some of them owned  
224 by other people, I'm inclined to believe that in my mind this meets the definition of an on premise sign versus an off  
225 premise. The fact that they have the same ownership and it's contiguous to the other piece of property, it's not  
226 separated from the property. Kind of like if they wanted to put the sign across the street where the parking lot is. It's,  
227 it's a separate piece of property owned by the same people, but it's on premise. So I'm, I'm inclined to say this is  
228 really an on premise signs, and I would be inclined to vote in favor of the variance.

229 Ms. Watson: Are we done with the appellant?

230 Chairman Willm: No, you can ask them a question, if you want.

231 Ms. Watson: No questions.

232 Chairman Willm: If nobody has any more questions for them, you may sit down, and we can entertain a  
233 motion or more discussion amongst the board.

234 Ms. Watson: I have discussion. I've been looking into something called the Merger Doctrine, okay, and,  
235 but for a technicality, these two pieces are merged together. They're absolutely the same ownership, and I also went  
236 back to 14th Century meaning of the Diocese, and I know we use that in the Catholic terms, but this is a Christian  
237 organization. And a Diocese is a district under the control and pastoral care of a bishop or a pastor. It is a  
238 jurisdiction, a province, a parish, or a territory that is under the control of a religious pastor, and so I feel like  
239 premises as a definition also is a house or building together with its, all of its land and outbuildings, occupied and

Board of Zoning Appeals  
January 25, 2018

240 considered in an official context. Also, I would like to remind the board of the constitutionality of signs, and I  
241 picked this up out of some cases that I was studying about the sign ordinances of other places. The constitutionality  
242 of signs, the language of the United States Constitution regarding speech is well known. Congress shall make no law  
243 abridging the Freedom of Speech. Early in the last century this fundamental rule was extended to the states. So what  
244 is it mean to abridge the Freedom of Speech when it comes to signs? The First Circuit Court of Appeals held in 1996  
245 that the combined effect of the Massachusetts statute and a local sign ordinance, which together permitted on-site  
246 noncommercial billboards but prohibited such billboards off-site violated the First Amendment. The court pointed  
247 out that while the prohibition against off-site noncommercial billboards was not on its face based on the billboards  
248 content its practical effect was to penalize noncommercial rather than commercial billboards. Since most billboards  
249 expressing ideas or advocating policies like 'Stop the War' or 'Smith for Mayor' are by their very nature located off-  
250 site. In 2009 the US District Court for Rhode Island applied these principles to a suit based not on a local sign  
251 ordinance, but on the Rhode Island Outdoor Advertising Act. It boils down to this: there was an owner of a small  
252 business with the rooftop outdoor advertising sign that was visible from Interstate 95. He used the sign to both  
253 advertise his own products made on the premises and other products and services for both commercial and  
254 noncommercial entities. So when the DOT wanted to have his sign removed, he sued. [He] claimed that he had a  
255 constitutional right to maintain the sign. The court acknowledged that prohibitions of off premise commercial  
256 advertising may be constitutional, but it held the statute to be unconstitutional, content-based restriction on free  
257 speech because it allowed on premises noncommercial advertising but prohibited such advertising off premises.  
258 These cases make it clear that sign ordinances cannot broadly prohibit off premises signs, unless all noncommercial  
259 signs are exempt. In other words, anyone anywhere can post or carry a sign promoting religious, political, or other  
260 kinds of ideas. So it doesn't mean that we can't reasonably regulate signs in locations and dimensions, but we have to  
261 be real careful about religious free speech, and I believe that's what we have here, and I vote to approve this sign.

262 Chairman Willm: We don't have a motion yet. But, thank you very much. Any other comments or  
263 questions from the board for discussion? Would somebody like to make a motion to approve the appeal of the  
264 decision of the administrative decision on the sign or a motion to not approve the appeal or any, as a reminded to the  
265 board, we can put any stipulations on our approvals or denials.

266 Ms. Watson: I make a motion we approve the appeal.

267 Mr. Taylor: Second.

268 Chairman Willm: Any further discussion?

269 Mr. Murdock: And approving the appeal is simply to grant this sign as submitted?

270 Chairman Willm: That wasn't the motion on the table.

271 Ms. Watson: Yes.

272 Mr. Murdock: That's why I want to know is what was the appeal exactly?

273 Ms. Lauer: I'm with him. What are we approving?

274 Chairman Willm: Allowing First Baptist Church to put a sign on ... actually, what we're approving  
275 whether this is ...

276 Ms. Watson: We find it is not an off premise sign.

Board of Zoning Appeals  
January 25, 2018

277 Chairman Will: So we're not really doing the sign, we're just determining whether is on site or off site  
278 premise. So, the motion is that we approve the appeal and rule in favor of First Baptist Church on this appeal, and  
279 the decision that is on ...

280 Mr. Lanham: And, again, that based that it's all one piece of property.

281 Chairman Willm: Correct.

282 Mr. Murdock: Or common, commonality of ownership.

283 Ms. Lauer: That's better.

284 Chairman Will: Any other discussion or questions?

285 Mr. Murdock: Just from a discussion standpoint, I will tell you that you as an attorney, if I was going to  
286 argue premises liability for something that happened on the trailer park, I would go after the church under the  
287 diocese argument that [Ms. Watson] just made, you, because I think that is, I would argue that is the same premises  
288 even though you're separated into two separate legal entities.

289 Mr. Reese: We're so insured.

290 Mr. Murdock: Yeah, good.

291 Chairman Willm: Another good point. Any further discussion? We have a motion and a second. All in  
292 favor say aye. *(All members voted aye.)* Any disagree? *(No responses were made.)* **The motion passes to approve**  
293 **the appeal unanimously.** *(Applause)*

294

295 **Appeal No. ZA2017-05 by June W. Scroggs requesting a variance from Section 17-402 of the Zoning**  
296 **Ordinance specifically the side yard setback for corner lot requirement of 7.5'. The applicant would like a**  
297 **variance to encroach 3'6" into the side yard setback. The property is located at 1110-B Dogwood Drive South,**  
298 **TMS #195-07-10-005.**

299

300 Chairman Willm cited the appeal and reminded Mr. Farria that he is under oath.

301 Mr. Farria: Thank you, Mr. Chairman. Basically the variance is the being requested is being allowed to  
302 have steps and landing leading to the door, front door, which will be, which is facing 11<sup>th</sup> Avenue.

303 Unknown speaker: 11<sup>th</sup> Avenue South.

304 Mr. Farria: 11<sup>th</sup> Avenue South itself. Basically, just to meet the code, which code requires that any egress  
305 door has a landing on each side of the door, and of course, then steps would be leading out from there running back  
306 towards Dogwood, which the steps would not go any further out, if the basically landing and the stairs would be  
307 basically the same with going, going along 11<sup>th</sup> Avenue itself.

308 *(Comments from audience, inaudible.)*

309 Mr. Murdock: Mr. Chairman, point of order. I, I, we've already, we've already made a determination on  
310 this, this exact case, previously, I do believe. I believe that that; so I'm wondering is this an appeal of our  
311 determination, because I don't think that you can do that.

312 Ms. Watsons: You can't do that. You have to go to the Circuit Court.

313 Mr. Murdock: Yeah, that's got to go to Circuit Court.

314 Chairman Willm: Well, the first case, I understand that was a set, a different variance.

315 Mr. Murdock: Right, okay.

Board of Zoning Appeals  
January 25, 2018

316 Chairman Willm: I mean a different...

317 Unknown speaker: A different size.

318 Chairman Willm: In size; it wasn't the exact variance, but it's pretty close modification of the previous.

319 Mr. Murdock: Okay, thank you, Mr. Chairman.

320 Mr. Taylor: In the original the first time we reviewed this we had a copy of the original approved design of  
321 the home when it was, when it was originally permitted for construction. Where was the entrance?

322 Mr. Farria: The entrance is at the same. It was at the same...

323 Mr. Taylor: So when it was originally improved approved for construction there was an entrance located  
324 there and we approved construction?

325 Mr. Farria: We did approve it. We basically, we did not realize that landing itself was encroaching until  
326 basically through the inspection process.

327 Chairman Willm: If I remember right, it was the frontal picture of it showed a door there, but the side  
328 pictures didn't have any indication that there was an opening.

329 Mr. Farria: Right.

330 Mr. Taylor: So we approved construction knowing that there was a front door there, so this is basically just  
331 adding the stoop.

332 Mr. Farria: That's correct, and the code does requires in the 2015 South Carolina Residential Code that  
333 you have to have a landing on both sides of the door, and of course, with the with the built, with the door being high  
334 up, you know, you can't have just steps coming down. You have to have a landing, and then with steps.

335 Mr. Taylor: Okay.

336 Ms. Lauer: So, I ...

337 Mr. Lanham: We approved, I mean the town, not this group...

338 Mr. Farria: The department; the department.

339 Mr. Lanham: The department, yeah.

340 Mr. Farria: The building department.

341 Ms. Lauer: So I'm reading that they can't get into front of house without steps. There's no way to get into  
342 your house right now.

343 Mr. Scroggs: Unless you jump.

344 Ms. Lauer: And the front of your house, is it on Hollywood or 11<sup>th</sup> Avenue South?

345 Ms. Herrmann: Mr. Chairman, excuse me, we're hearing testimony and they have not been sworn.

346 Ms. Lauer: So sorry.

347 Mr. Scroggs: I'm Wes Scroggs. I'm June Scroggs' son.

348 Chairman Willm: Do you swear to tell the truth, the whole truth and nothing but the truth?

349 Mr. Scroggs: Yes, sir.

350 Chairman Willm: Now, you may ask him questions, if you'd like to.

351 Ms. Lauer: Yes.

352 Mr. Scroggs: I'm the builder.

Board of Zoning Appeals  
January 25, 2018

353 Ms. Lauer: Okay. I just wanted to know your house is on, the front of your house is 11<sup>th</sup> Avenue South or  
354 Hollywood?

355 Mr. Scroggs: Dogwood.

356 Ms. Lauer: Dogwood, I'm sorry.

357 Mr. Scroggs: The front of the house actually faces 11<sup>th</sup> Avenue South.

358 Chairman Willm: Point of clarification, I believe when we heard this, this wasn't a house. This was a ...

359 Unknown Speakers: Accessory building.

360 Chairman Willm: Accessory dwelling to a house.

361 Mr. Scroggs: Yes, sir.

362 Mr. Murdock: So the house as it exists there, just to follow up on what the chairman is saying it actually  
363 does face South Dogwood. This is accessory building to the house that faces South Dogwood; is that correct.

364 Mr. Scroggs: Yes.

365 Mr. Murdock: Okay.

366 Ms. Lauer: This is a one family dwelling?

367 Chairman Willm: I'm sorry. This faces 11<sup>th</sup> South. The assessor side faces; one faces 11<sup>th</sup> South and the  
368 other faces towards the ocean.

369 Mr. Scroggs: It was ...

370 Unknown Speakers: (\*\*)

371 Ms. Lauer: And this is a one family house dwelling?

372 Mr. Farria: Single family.

373 Ms. Lauer: Single, yes. Single family, okay.

374 Chairman Willm: In R3?

375 Mr. Farria: R3.

376 Mr. Lanham: To be honest with you, I'm a little bit confused about this whole thing. When I; I've looked  
377 at it several times. The addresses in on Dogwood, which we've already said, but the thing, I don't know what, if you  
378 can say it faces 11<sup>th</sup>, at least one side of it's on 11<sup>th</sup>, and then there's a connection between that and the other house.  
379 Is that permanent?

380 Mr. Scroggs: Yes, sir. That deck, yes.

381 Mr. Lanham: So we're talking about one house, not two houses.

382 Mr. Farria: No, you have the house, you have the deck and you have the accessory dwelling.

383 Mr. Lanham: And they're allowed to be connected?

384 Mr. Farria: Well, they're connected by the, I guess, by the deck. They're not connected by the structure, as  
385 far as the house. You have the house, and you have the deck, and you have (\*\*).

386 Mr. Lanham: Some time ago, if I remember correctly, and it may not have even be in this area, but there  
387 was putting two houses on one lot, and they were connecting them with one step and they changed that ordinance.  
388 Does anybody know anything about that so that they couldn't do that? I'm probably not explaining it correctly.

Board of Zoning Appeals  
January 25, 2018

389 Mr. Murdock: I think they were, I think they were in that situation creating two single-family residences,  
390 but because of the setback requirements, they had to conjoin those so that you had two single-family residence with  
391 a common wall.

392 Mr. Lanham: And that's what they change the ordinance so you couldn't do that, I think.

393 Mr. Murdock: I think you still can do that, but I think that it depends on the square footage of a lot; it  
394 depends on your setbacks, and, and all that stuff. But that's not what this is. This is an accessory building, correct?

395 Several Speakers: Accessory dwelling.

396 Mr. Murdock: Accessory dwelling.

397 Chairman Willm: Does an assessor dwelling have to have that opening there? It's not a (\*\*), I mean if you  
398 have an opening, you have to have the steps. I understand it. You have to have the opening.

399 Mr. Farria: As far as what, do you mean the door?

400 Chairman Willm: Yeah, considering it's an accessory; I mean you've gotta have somebody [sic] in and out  
401 the house.

402 Mr. Farria: (\*\*) That's where the code comes in, okay, and the code requires that you have to have at least  
403 one main egress, okay. Now, to be honest, they do have egress which will go out if you're, and I'm gonna have to  
404 show you this floor plan, but it would be basically going out on the south side, okay, which is where they have a  
405 carport and everything. This would be coming out onto, basically, the public way right on 11<sup>th</sup> Avenue itself. So,  
406 you know, basically, the, the advantages of it is you give yourself an (\*\*), you give the dwellers another way out in  
407 case of an emergency, and also it's easy access for emergency personnel to be able to go into the building, if need  
408 be.

409 Chairman Willm: What was the intent of the building? I think this is like a full apartment.

410 Mr. Scroggs: It's gonna be a family; we're calling it our family go to. Mom's 89, and at the time, Dad was  
411 95, and we were putting in an elevator in this part of the house so that we can keep them coming as long as we  
412 could, the thing is accessibility.

413 Ms. Watson: Well, don't we, don't we have a way; this thing in the middle is a deck, you're saying. Well,  
414 isn't there any access to the deck to get out? I mean...

415 Mr. Farria: Not from the accessory dwelling unit, no.

416 Mr. Lanham: Is that because they just designed it that way or could they put a door in?

417 Mr. Farria: I don't know if they could put a door right there, because of the stories and everything that's  
418 involved in it. So I don't think they would be able to. (\*\*)

419 Chairman Willm: This is what, 850 square feet accessory?

420 Mr. Farria: Floor area.

421 Mr. Taylor: This appears to once again be a case where we missed it up front during the initial approval  
422 process of the structure. I've been over there to look at building. I don't think, I mean certainly putting steps out  
423 there is not gonna be unsightly or dangerous, but it will encroach into the setback.

424 Mr. Farria: Just to be clear, also, it's basically will have a roof, it will have a roof, of course. The roof  
425 won't encroach any further. It will be a covered landing.

Board of Zoning Appeals  
January 25, 2018

426 Mr. Taylor: But it's only coming out 3.6 feet?

427 Mr. Farria: It'd have to be, that's correct.

428 Ms. Lauer: So it's a turn staircase?

429 Mr. Farria: Basically, if you come out the door which would be facing 11<sup>th</sup>, you come out to the landing  
430 and then you will turn to the right which will be heading towards Dogwood itself towards the east. So, of course, the  
431 stairs won't be going any further into the setback itself. The stairs will be flush with the landing itself.

432 Ms. Lauer: And the two dwellings still's a single-family dwelling that we're...

433 Chairman Willm: I believe the rule is as long as it's less than 850 square feet or less, it can be considered a  
434 (several speaking at once \*\*).

435 Mr. Lanham: So they can't count, can't count the doorways in the other house.

436 Mr. Farria: As a means of egress (\*\*).

437 Mr. Lanham: Since it's one.

438 (\*\*)

439 Mr. LaBrie: I'm Ron LaBrie with Inlet Custom Builders.

440 Chairman Willm: Do you swear to tell the truth, the whole truth, and nothing but the truth?

441 Mr. LaBrie: Yes, sir. I think what the confusion is here is there is no access from the original house into  
442 this house without going outside and going in the front door of the new house. It's the only way; you can't access  
443 one from the other, if that helps anything. You can't just go jump from this one into that one. You have to actually  
444 go out from one front door to one house and get into the other one.

445 Ms. Lauer: So it's two dwellings.

446 Mr. LaBrie: Two dwellings, yes. They're just attached; the back of the original house is attached to the  
447 side of the new accessory dwelling by the 7 foot deck in between 'em.

448 Mr. Taylor: Is the interior of the house complete?

449 Mr. LaBrie: It's dry walled and the trimmed out and everything. So, it's just about.

450 Mr. Taylor: So you couldn't realigning that particular area of the house to make the entrance...

451 Mr. LaBrie: No, right there, that front door as soon as you walk in there's a bathroom right there and then  
452 on the other side is obviously is the garage, so.

453 Chairman Willm: The house itself is a permanent residence?

454 Mr. Scroggs: Yes. A permanent residence, no. No, it's rental.

455 Chairman Willm: It's a rental property.

456 Mr. Scroggs: Yes, the front property, it's a rental property, yes.

457 Chairman Willm: What about the attachment?

458 Mr. Scroggs: It's gonna be a family go to.

459 Mr. Murdock: So, we're gonna have two families?

460 Chairman Willm: It's not gonna be rented?

461 Mr. Scroggs: The back part, no.

462 Mr. Murdock: The new part.

Board of Zoning Appeals  
January 25, 2018

463 Mr. Scroggs: Yep.

464 Mr. Murdock: But the front part would be rented.

465 Mr. Scroggs: It has been for, since 1974.

466 Mr. Murdock: Right.

467 Unknown Speaker: So, it's not single.

468 Mr. Murdock: Well, that, that's not the purpose of an accessory building. It's not, not to turn a single-  
469 family into a, into a two family. An accessory building is meant to service as the primary building. That's why it's  
470 called accessory. It's not, not meant to be a separate, separate two family, I mean that, that doesn't work. Of course, I  
471 guess the other problem I have with it though is, or concern I have with it is, if you had set it back, and it does look  
472 like it was possible assuming this drawing is anywhere near to scale, you could've slid the property, you could've  
473 slid the property southward and you would've had room without having any issues. But, the fact is that you're in  
474 front of us, because you do have an issue, because you didn't slide it back. So...

475 Ms. Watson: Is this a two-story? Has it got a crawl space? What is it?

476 Mr. LaBrie: It's three stories.

477 Chairman Willm: Yeah, three stories; the attachment or the original house.

478 Mr. LaBrie: The original is a single story.

479 Chairman Willm: On stilts.

480 Mr. LaBrie: Yeah, on stilts.

481 Ms. Watson: So it's up on stilts, right?

482 Mr. Farria: No, it's not on stilts. It's actually called a raised slab.

483 Ms. Watson: Okay.

484 Charmain Willm: That was allowed because it was an attachment?

485 Mr. Farria: It's allowed because, basically, it's above the flood zone, and meets all the flood zone  
486 requirements and everything.

487 Mr. LaBrie: We're up about three feet.

488 Mr. Farria: We're up about three feet high.

489 Mr. Murdock: If memory serves when I saw the last, and I think this was, this is where you guys were  
490 going over there a minute ago, when the first permit was secured there was no landing showed [sic]. There was a  
491 door, but there was no landing showed [sic]; is that correct?

492 Mr. LaBrie: Yeah, I don't think there's any, I don't think there was any landing there. (\*\*several speaking  
493 at once.) That's honestly probably why it got missed, and when we had the surveyors go out and plot the corners of  
494 the house for us, because we knew it was a tight area, we went by the survey stakes, and nobody caught the whole  
495 stair thing until it was too late, basically. So, we were already up three stories framed up, dried in, and...

496 Chairman Willm: The town had come out for an inspection and...

497 Mr. LaBrie: That's when we noticed it. Him [sic] and I both had long discussions about it. That's what  
498 brought us here.

Board of Zoning Appeals  
January 25, 2018

499 Mr. Taylor: When I read the definition about accessory buildings in our code, we, I mean we're way out of  
500 line all the way around with this structure, it seems to me. I mean it says accessory buildings in residential districts  
501 must be no greater than 15 feet in height when located less than 10 feet from the property. Accessory building shall  
502 not exceed a maximum height of 25 feet when located a minimum of 10 feet from the property line.

503 Mr. Farria: You're talking, basically, that's the definition of like a storage building or something.

504 Mr. Taylor: It's accessory buildings in residential areas. We're calling this an accessory building.

505 Ms. Mazzo: It's considered an accessory dwelling unit.

506 Mr. Taylor: Accessory dwelling, and where would I find the definition of an accessory dwelling?

507 Ms. Mazzo: Accessory dwelling unit shall mean a dwelling unit not exceeding 850 square feet in floor area  
508 that has been added to or created within a single family detached structure or is located on a lot containing a single  
509 family detached structure. This definition includes garage apartment and guesthouses.

510 Mr. Taylor: Okay.

511 Mr. Murdock: Right, but understand that that a guesthouse doesn't mean renters. Guesthouse means a guest  
512 of the owner, not, and, and I don't mean the main use for.

513 Mr. LaBrie: The original part that is already there, they've been renting that since 1975 before whenever.

514 Mr. Murdock: It doesn't matter. This is, this building is attendant to the primary structure. The primary  
515 structure, if that's a rental property, then we have a single-family that is residing in that that's a renter. Then we have  
516 this accessory dwelling that's behind it that has another single-family in there.

517 Mr. LaBrie: I think you're thinking; it's not a long term rental. It's a people in it this week; new people  
518 next week kind of renting.

519 Mr. Murdock: Sure, because it's in R3.

520 Mr. LaBrie: Right.

521 Mr. Murdock: I got that.

522 Mr. Scroggs: And it's not 12 months out of the year; six, seven months. (\*\*)

523 Unknown Speaker: 13 weeks of summer.

524 Ms. Watson: I would like to see the builders take the steps and go into the house structure with them  
525 instead of constantly going over the setback. I mean, I've seen houses everywhere that actually have entrances that  
526 lead into the houses and they don't interfere with the setbacks. I mean, so you lose a few feet; you lose...

527 Mr. LaBrie: We thought about doing that, but in this case it's impossible.

528 Ms. Watson: Impossible.

529 Mr. LaBrie: I mean, the way the house designed, it's just...

530 Ms. Watson: But, you said it's just got the sheet rock up now. I know it's designed, but they designed it.  
531 Whoever drew this left off the steps, so I mean, it can be moved, if you've only got sheet rock up, can't it? I mean I  
532 would take it back to this person who drew this and tell 'em to do something different.

533 Chairman Willm: Any other questions or discussion? Can we entertain a motion to approve or to deny this  
534 variance for a 3.6 foot setback?

535 Mr. LaBrie: And another thing I'd like to say, too, remember what Mike said about the code being  
536 accessible, you know, if this thing was flat on the ground, we wouldn't even be here, because we could just pour  
537 concrete on the ground and be able to walk out the door. But, since it is up three feet off the ground, we're probably  
538 gonna need two, maybe three steps to get into this building, plus the landing for the front door.

539 Mr. Lanham: Let's start; I'll make a motion to deny.

540 Chairman Willm: Do we have a second?

541 Mr. Murdock: I'll second that.

542 Chairman Willm: Any further discussion?

543 Mr. Murdock: I would just stipulate, I don't think the application of the ordinance, and I'm looking at  
544 number "C", the application of the ordinance to the particular piece of property would effectively prohibit and  
545 unreasonably restrict utilization of the property. The property is already a single-family residence. I don't think that  
546 the fact that they can't get into an accessory dwelling built after the fact does not otherwise restrict what they're  
547 already using the single-family residence on the front for. So I've, I'm not on board.

548 Chairman Willm: Okay, we have a motion to deny it and a second based on not meeting item "C", because  
549 of the conditions, application of the ordinance of this particular piece of property will effectively prohibit or  
550 unreasonably restrict the utilization of this property as follows. All in favor say aye.

551 All members: Aye.

552 Chairman Willm: Anybody opposed? (There was no opposition.) So, the appeal has not been granted. The  
553 appeal has been denied. Thank you very much.

554  
555 **7. Public Comments.**

556  
557 Mr. Randle Stevens, 1<sup>st</sup> Avenue North: I just want to say I haven't been to the board of zoning appeals  
558 meeting in probably 10 years. I, I am very impressed. Y'all are the most professional group, bunch of people I've  
559 ever seen up here. Y'all really handled yourself very well. Council can take a lesson from you. Thank you for  
560 serving and y'all are really doing a great job. I'm really impressed. Thank you.

561  
562 **8. Board Comments**

563  
564 Mr. Murdock: I would say first of all, I sincerely apologize to the board for having missed the last meeting.  
565 The great thing about iPhones is that they're fantastic. It reminded me when you actually put something into the  
566 calendar to remind you of, so that was entirely my fault. Second thing is with all the fun that seems to be going on in  
567 the small town, I would like to say thank you to Tina and Mike and Debra and all of the people who work here in the  
568 city of Surfside that actually keep the lights on and keep things moving. I know it's got to be; it's distressing, I think  
569 when from a citizen's perspective to see some of the things that have gone on, and I think internally when you feel  
570 like their bombs going off over your head and you're in the middle of no man's land caught between strong  
571 personalities, it's got to be; it's got to add a tremendous amount of stress in a job that's already not particularly stress-  
572 free. So, I appreciate very much the job that you guys do, and the tone deafness you take sometimes that some of the  
573 clutter that goes on around. So, thank you to all of you guys, particular Debra, because I think you get...you can't  
574 escape it.

575  
576 Chairman Willm: I'll echo those comments, and extend that out to our police department, fire department  
577 and the rest of our staff in Surfside Beach. I think they all do a fantastic job.

578  
579 Ms. Lauer: Actually, all the heads of the departments, thank you very much, because I know this is all on  
580 you, and I know the town and the people appreciate it.

Board of Zoning Appeals  
January 25, 2018

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**9. Adjournment.** Mr. Taylor moved to adjourn the meeting at 7:28 p.m. Ms. Watson second. All voted in favor. **MOTION CARRIED.**

Prepared and submitted by,

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Debra E. Herrmann, CMC, Town Clerk

Approved: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Darrell Willm, Chairman

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Holly Watson, Vice Chairman

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Terri Lauer, Board Member

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Guy Lanham, Board Member

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Jon Dougherty, Board Member

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Phil Murdock, Board Member

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Steve Taylor, Board Member

Clerk's 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 and are not intended to represent a full transcript of the meeting. The audio recording of the meeting is available upon request; please provide a flash drive on which to copy the audio file. In accordance with FOIA §30-4-80 (A) and (E), meeting notice and the agenda packet were distributed to local media and interested parties via the town's email subscription list. The agenda was posted on the entry door at Town Council Chambers. Meeting notice was also posted on the town website at [www.surfsidebeach.org](http://www.surfsidebeach.org) and the marquee.