



**Town of Surfside
Special Town Commission Meeting
Quasi-Judicial Hearing
AGENDA
April 12, 2016
6 p.m.**

Town Hall Commission Chambers - 9293 Harding Ave, 2nd Floor
Surfside, FL 33154

1. Opening

- A. Call to Order**
- B. Roll Call of Members**
- C. Pledge of Allegiance**

2. Quasi-Judicial Hearings


Please be advised that the following items on the Agenda are Quasi-Judicial in nature. If you wish to object or comment upon an item, please complete a Public Speaker's Card indicating the agenda item number on which you would like to comment. You must be sworn before addressing the Town Commission and you may be subject to cross-examination. If you refuse to submit to cross-examination, the Town Commission will not consider your comments in its final deliberation. Please also disclose any Ex-Parte communications you may have had with any members of the Town Commission. Town Commission members must also do the same.

- A. Ness Practical Difficulty Variance – 9464 Byron Avenue – Guillermo Olmedillo, Town Manager**

A RESOLUTION OF THE TOWN OF SURFSIDE, FLORIDA TOWN COMMISSION CONSIDERING THE APPLICATION OF 9464 BYRON AVENUE TO PERMIT A PRACTICAL DIFFICULTY VARIANCE FROM THE REQUIREMENTS OF SECTION 90-49 OF THE TOWN OF SURFSIDE CODE OF ORDINANCES PURSUANT TO SECTION 90-36.1 OF THE TOWN OF SURFSIDE CODE OF ORDINANCES; TO PERMIT 7% ADDITIONAL LOT COVERAGE FOR AN ADDITION AND RENOVATION TO THE FIRST FLOOR OF THE EXISTING SINGLE FAMILY HOME; PROVIDING FOR APPROVAL; PROVIDING FOR AN EFFECTIVE DATE.

3. Adjournment

Respectfully submitted,



Guillermo Ohmedillo
Town Manager

THIS MEETING IS OPEN TO THE PUBLIC. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS ARE DISABLED; WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS MEETING BECAUSE OF THAT DISABILITY SHOULD CONTACT THE OFFICE OF THE TOWN CLERK AT 305-861-4863 EXT. 226 NO LATER THAN FOUR DAYS PRIOR TO SUCH PROCEEDING.

IN ACCORDANCE WITH THE PROVISIONS OF SECTION 286.0105, FLORIDA STATUTES, ANYONE WISHING TO APPEAL ANY DECISION MADE BY THE TOWN OF SURFSIDE COMMISSION, WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING OR HEARING, WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE WHICH RECORD SHALL INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

AGENDA ITEMS MAY BE VIEWED AT THE OFFICE OF THE TOWN CLERK, TOWN OF SURFSIDE TOWN HALL, 9293 HARDING AVENUE. ANYONE WISHING TO OBTAIN A COPY OF ANY AGENDA ITEM SHOULD CONTACT THE TOWN CLERK AT 305-861-4863. A COMPLETE AGENDA PACKET IS ALSO AVAILABLE ON THE TOWN WEBSITE AT www.townofsurfsidefl.gov

TWO OR MORE MEMBERS OF OTHER TOWN BOARDS MAY ATTEND THIS MEETING.

THESE MEETINGS MAY BE CONDUCTED BY MEANS OF OR IN CONJUNCTION WITH COMMUNICATIONS MEDIA TECHNOLOGY, SPECIFICALLY, A TELEPHONE CONFERENCE CALL. THE LOCATION 9293 HARDING AVENUE, SURFSIDE, FL 33154, WHICH IS OPEN TO THE PUBLIC, SHALL SERVE AS AN ACCESS POINT FOR SUCH COMMUNICATION.



Town of Surfside Commission Communication

Agenda #: 2A
Agenda Date: April 12, 2016
Subject: Ness Practical Difficulty Variance
From: Sarah Sinatra Gould, AICP, Town Planner

Background: A practical difficulty variance is a relaxation of the terms or provisions of the Zoning Code which is less rigorous than the unnecessary and undue hardship standard. The proposed text relating to practical difficulty variances shall only be applicable to lot coverage for single family homes located on single platted lots in the H30B zoning district. The standard provides for a variance where a literal enforcement of a zoning regulation will create a practical difficulty in the use of the parcel of land for the purpose or in the manner for which it is zoned.

Practical difficulty variances are only be applicable to lot coverage for single family homes located on single platted lots in the H30B zoning district. If a practical difficulty variance is granted, the maximum lot coverage afforded shall be 50%. Any property granted additional lot coverage by a practical difficulty variance shall not increase the square footage permitted on the second story. Further, any square footage added by the practical difficulty variance on the first floor, shall be considered a reduction in the available square footage be added to the second floor.

The homeowners of 9464 Byron Avenue have requested a practical difficulty variance to exceed the maximum lot coverage in the code by 7% for a total lot coverage of 47%. They are proposing an addition and renovation to the first floor of the existing single family home. The property is located within the Residential Single Family H30B zoning district.

Analysis:

Section 90-49 of the Town of Surfside Code requires maximum lot coverage of 40% of the lot. The proposed addition provides 47% lot coverage. The code offers a practical difficulty variance as an option for homeowners to be granted additional lot

coverage if they demonstrate there is a practical difficulty. In this case, the homeowner could potentially build a second story addition, however, this could result in raising the home to meet the 50% rule on flood.

Practical Difficulty Variance Criteria:

- *How substantial is the variance in relation to the requirement sought to be varied? (Express in square footage and percentage)*

The applicant is requesting a 7% increase over the maximum lot coverage for a total of 47% lot coverage.

- *Will any adverse changes be produced in the character of the neighborhood as a result of the proposed work?*

The majority of the neighboring properties are single story homes. The request is to add a bedroom to the front of the home, which equates to approximately 400 square feet. The applicant is staying within the required setbacks thus resulting in minimal impact to the neighboring properties.

- *Can the difficulty be obviated by some method feasible for the applicant to pursue other than by a variance?*

The option the applicant has to add the additional bedroom is to add a second floor. While this is permitted by the code, this is not a feasible method. The appearance of a second floor is more of an impact to the neighborhood that a one story addition within the setbacks. Also, a second floor addition may result in the entire structure being subjected to the 50% rule. This would usually result in a tear down of the home and new construction. The most minimal impact is permitting the one story bedroom addition.

- *Whether, in view of the manner in which the difficulty arose, the interest of justice will be served by allowing the variance.*

Justice will be served by permitted the variance. The homeowner is attempting to remain in the home and do a one bedroom expansion to provide a more usable building. The addition proposed provides minimal impact to the neighborhood.

- *Do the plans demonstrate that the property meets or exceeds the landscape requirements in Chapter 90, Article VIII of the Town of Surfside Code of Ordinances?*

The plans meet the landscape requirements described in the code of ordinances.

Budget Impact: None, this review was paid for by the applicant under Cost Recovery.


Growth Impact: None

Staff Impact: None, this review was paid for by the applicant under Cost Recovery.

Staff Recommendation: The Planning and Zoning Board recommended approval to the Town Commission. Staff recommends approval to the Town Commission for the practical difficulty variance to permit lot coverage of 47%.



Sarah Sinatra Gould, AICP, Town Planner



Guillermo Olmedillo, Town Manager

RESOLUTION NO. 16-Z- ____

A RESOLUTION OF THE TOWN OF SURFSIDE, FLORIDA TOWN COMMISSION CONSIDERING THE APPLICATION OF 9464 BYRON AVENUE TO PERMIT A PRACTICAL DIFFICULTY VARIANCE FROM THE REQUIREMENTS OF SECTION 90-49 OF THE TOWN OF SURFSIDE CODE OF ORDINANCES PURSUANT TO SECTION 90-36.1 OF THE TOWN OF SURFSIDE CODE OF ORDINANCES; TO PERMIT 7% ADDITIONAL LOT COVERAGE FOR AN ADDITION AND RENOVATION TO THE FIRST FLOOR OF THE EXISTING SINGLE FAMILY HOME; PROVIDING FOR APPROVAL; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the property, a single-family home, is located at 9464 Byron Avenue, within the Residential Single Family H30B zoning district; and

WHEREAS, the Applicant is proposing an addition and renovation to the first floor of the existing single family home; and

WHEREAS, Section 90-49 of the Town of Surfside Code provides a maximum lot coverage of 40% of the lot; and

WHEREAS, the Applicant is requesting a practical difficulty variance to permit a 7% increase over the maximum lot coverage for a total of 47% lot coverage; and

WHEREAS, Section 90-36.1 of the Town of Surfside Code provides a practical difficulty variance as an option for property owners to be granted if they demonstrate there is a practical difficulty; and

WHEREAS, Section 90-36.1(b) of the Town of Surfside Code of Ordinances provides that a practical difficulty variance is a relaxation of the terms or provisions of the Zoning Code which is less rigorous than the unnecessary and undue hardship standard; and

WHEREAS, Section 90-36.1(9) of the Town of Surfside Code of Ordinances provides that the Town Commission shall approve a practical difficulty variance if it finds, based on substantial competent evidence, that the following factors demonstrate that a practical difficulty exists: a). how substantial the variance is in relation to the requirement sought to be varied, b). whether an adverse change will be produced in the character of the neighborhood, c). whether the difficulty can be obviated by some method feasible for the Applicant to pursue other than by a variance, and d). whether in view of the manner in which the difficulty arose, the interest of justice will be served by allowing the variance; and

WHEREAS, a 7% increase of lot coverage is not substantial in relation to the requirement sought to be varied; and

WHEREAS, granting the practical difficulty variance will not produce an adverse change to the character of the neighborhood. The majority of the neighboring properties are single story homes and the applicant is staying within the required setbacks, thus resulting in minimal impact to the neighboring properties; and

WHEREAS, the difficulty cannot be obviated by some method feasible for the Applicant to pursue other than by a practical difficulty variance; and

WHEREAS, the interest of justice will be served by permitting the practical difficulty variance because the Applicant is attempting to remain in the home for a one bedroom expansion to provide a more usable building; and

WHEREAS, granting the practical difficulty variance is not intended to assist the Applicant in achieving greater financial return; rather, the Applicant wishes to expand the home for additional living space; and

WHEREAS, the practical difficulty variance is consistent with the intent of the Town of Surfside Comprehensive Plan, compatible with the neighborhood, and will not diminish or impair property values within the neighborhood; and

WHEREAS, the Town Staff recommends approval of the practical difficulty variance; and

WHEREAS, on February 25, 2016, the Planning and Zoning Board, at a duly noticed and televised quasi-judicial public hearing, after reviewing the Application and hearing from its professional staff, the Applicant, and members of the public, considered the requirements of the Town Zoning Code and recommended approval of the practical difficulty variance to the Town Commission.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. That the above and foregoing recitals are true and correct and are incorporated herein by reference.

Section 2. Practical Difficulty Variance. The Town Commission finds that based on substantial competent evidence, that the following factors demonstrate a practical difficulty exists based on the variance criteria set forth in Section 90-36.1(9) of the Town of Surfside Code of Ordinances and recommends a practical difficulty variance from the requirements of Section 90-49: a 7% increase of lot coverage is not substantial in relation to the requirement sought to be varied; granting the practical difficulty variance will not produce an adverse change to the character of the neighborhood because the majority of the neighboring properties are single story homes and the Applicant is staying within the required setbacks, thus resulting in minimal impact to the neighboring properties; the difficulty cannot be obviated by some method feasible for the applicant to pursue other than by a variance; and the interest of justice will be served by permitting the variance because the homeowner is attempting to remain in the home for a one bedroom expansion to provide a more usable building. (See Attachment "A" Commission Communication dated April 12, 2016 from Sarah Sinatra Gould, AICP, Town Planner).

Section 3. Approval. The Town Commission approves this practical difficulty variance.

Section 4. Effective Date. This resolution becomes effective upon adoption.

PASSED AND ADOPTED this _____ day of _____, 2016.

Motion by _____,

Second by _____.

FINAL VOTE ON ADOPTION

Commissioner Daniel Gielchinsky	_____
Commissioner Michael Karukin	_____
Commissioner Tina Paul	_____
Vice Mayor Barry Cohen	_____
Mayor Daniel Dietch	_____

Daniel Dietch, Mayor

ATTEST:

Sandra Novoa, MMC, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE TOWN OF SURFSIDE ONLY:**



Linda Miller, Town Attorney

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

I, Sandra Novoa, Town Clerk of the Town of Surfside, Florida, do hereby certify that the above and foregoing is a true and correct copy of Resolution No. 16-Z____ adopted by the Town Commission at its meeting held on the ___ day of _____, 2016.

Issued: _____

Sandra Novoa, MMC
Town Clerk



Town of Surfside Commission Communication

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Sarah Sinatra Gould, AICP, Town Planner

Guillermo Olmedillo, Town Manager