



**Town of Surfside
Special Town Commission Meeting
Quasi-Judicial Hearing
AGENDA**

January 14, 2020

6:00 p.m.

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

Rule 7.05 Decorum. Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the commission shall be barred from further appearance before the commission by the presiding officer, unless permission to continue or again address the commission is granted by the majority vote of the commission members present. No clapping, applauding, heckling or verbal outbursts in support or opposition to a speaker or his or her remarks shall be permitted. Signs or placards may be disallowed in the commission chamber by the presiding officer. Persons exiting the commission chambers shall do so quietly.

Any person who received compensation, remuneration or expenses for conducting lobbying activities is required to register as a lobbyist with the Town Clerk prior to engaging in lobbying activities per Town Code Sec. 2-235. "Lobbyist" specifically includes the principal, as defined in this section, as well as any agent, officer or employee of a principal, regardless of whether such lobbying activities fall within the normal scope of employment of such agent, officer or employee. The term "lobbyist" specifically excludes any person who only appears as a representative of a not-for-profit corporation or entity (such as charitable organization, a trade association or trade union), without special compensation or reimbursement for the appearance, whether direct, indirect, or contingent, to express support or opposition to any item.

Per Miami Dade County Fire Marshal, the Commission Chambers has a maximum capacity of 99 people. Once reached this capacity, people will be asked to watch the meeting from the first floor.

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. 1116 88th Street Variance – Guillermo Olmedillo, Town Manager

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, [APPROVING/ APPROVING WITH CONDITIONS/ DENYING] AN APPLICATION SUBMITTED BY STEPHEN SCHOTT (“APPLICANT”) FOR THE PROPERTY LOCATED AT 1116 88 STREET (“PROPERTY”) FOR TWO VARIANCES: (1) VARIANCE FROM SECTION 90-45 OF THE TOWN CODE TO PROVIDE AN UPPER STORY SIDE SETBACK OF 5 FEET, WHERE 12 FEET, 2 INCHES, IS REQUIRED, AND (2) A VARIANCE FROM SECTION 90-45 TO ALLOW AN INCREASE IN THE UPPER STORY MAXIMUM ALLOWABLE COVERAGE OF 182 SQUARE FEET FOR A TOTAL UPPER STORY COVERAGE OR FLOOR AREA OF 2,225 SQUARE FEET, WHERE 2,043 SQUARE FEET IS PERMITTED; PROVIDING FOR CONDITIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

3. Adjournment

Respectfully submitted,

Guillermo Olmedillo
Town Manager

THIS MEETING IS OPEN TO THE PUBLIC. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS THAT 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.



MEMORANDUM

ITEM NO. 2A

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Guillermo Olmedillo, Town Manager

Date: January 14, 2020

Subject: 1116 88th Street Variance

The architect, Albert Rodriguez, on behalf of the owners is requesting two variances; (1) for the upper story east side setback and (2) for an increase in the maximum allowable upper story coverage from the Town of Surfside's Zoning Code. The property is an existing, two-story, single-family residence located at 1116 88th Street within the H30A zoning district. In January of 2019, the Planning & Zoning Board approved proposed additions for the subject residence which met code requirements and did not require a need for a variance. The applicant is now reconsidering such addition and has now supplied the Town with revised plans which require variance approval. The approval of the upper story proposed setback variance is contingent upon approval of the upper story expansion variance.

The applicant has reached out to the neighbor who has not objected to the variance. The intent of this request will maintain the existing character of the home.

Location Map



Request

Regarding the first variance, the code requires an average upper story setback of 20% of the frontage for a site that consists of a lot greater than 50-feet in width when the wall length is greater than 20% of the lot depth. The frontage of the subject lot is 60.50 feet; therefore, the required upper story side setback is 12 feet, two inches. The applicant is proposing an upper story side setback of five feet, a difference of seven feet, two inches.

With respect to the second requested variance, the code requires the upper story floor area to be no greater than 80% of the first story floor area. The proposed first-floor area is 2,553 square feet; therefore, the maximum floor area of the second story is 2,043 square feet (80% of first-floor area). Under this variance application the applicant is requesting to increase that area by 182 square feet for a total upper story floor area of 2,225 square feet or 92% of the first-floor area. It should be noted that the first floor could have been 4,626 square feet. If the home had a first floor of that size, they would not have needed a variance. The 80% of the second floor is measured not by what could have been built, but what is built. The intent of that requirement is to provide more articulation, however it would result in a larger house.

Variance Criteria

(1) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same zoning district;

The property is a rectangular-shaped lot which is similar to other H30A properties along 88th Street. The property has 60.50 feet of frontage along 88th street. The special conditions and circumstances which exists on site relating to the setback is self-imposed

by proposing to remodel and expand the upper story floor area. However, the character of the existing home is intended to be preserved.

(2) The special conditions and circumstances do not result from the actions of the applicant or a prior owner of the property;

The applicant is requesting the variances in order to request additional square footage to remodel and expand the upper story floor area of their existing structure. The applicant has indicated it is requesting the variance to be consistent with the architecture of the existing home.

(3) Literal interpretation of the provisions of the Town Code deprives the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Town Code and results in unnecessary and undue hardship on the applicant;

The intent of this provision of the Code was to provide additional separation between existing structures and new structures constructed on parcels in the H30A zoning district.

(4) The hardship has not been deliberately or knowingly created or suffered to establish a use or structure which is not otherwise consistent with the Town of Surfside Comprehensive Plan or the Town Code;

In January of 2019, the Planning & Zoning Board approved proposed additions for the subject residence which met code requirements and did not require a need for a variance. The applicant is now reconsidering such addition and has now supplied the Town with revised plans which requires variance approval. The hardship is a result of a proposed remodel/addition, which exceeds the allowable upper story floor area and requires the property to provide larger upper story setbacks due to the lot width, however the request maintains the existing character of the home and the 80% maximum setback would not be needed if the homeowner built to the maximum allowed for the first floor. The home is only 22% of lot coverage while they could have built to 40%.

(5) An applicant's desire or ability to achieve greater financial return or maximum financial return from his property does not constitute hardship;

It appears the applicant's desire is to remodel the structure for their occupancy.

(6) Granting the variance application conveys the same treatment to the applicant as to the owner of other lands, buildings, or structures in the same zoning district;

The special conditions and circumstances which exists on site relating to the setback is self-imposed by proposing to remodel and expand the upper story floor area. However, the character of the existing home is intended to be preserved as well as a reduced size footprint.

(7) The requested variance is the minimum variance that makes possible the reasonable use of the land, building, or structure; and

As proposed the applicant is requesting to remodel/expand the upper story floor area, in doing so, such expansion exceeds the allowable floor area by 182 square feet and requires a greater upper story setback. This request is not the minimum variance necessary for the reasonable use of the land, however there would not be a need for a

variance if the homeowner expanded the first floor footprint since the maximum square footage of the second floor is based on the square footage of the first floor. Such proposed addition exceeds the allowable upper story floor area and required upper story setback.

(8) The requested variance is in harmony with the general intent and purpose of the Town of Surfside Comprehensive Plan and the Town Code, is not injurious to the neighborhood, or otherwise detrimental to the public safety and welfare, is compatible with the neighborhood, and will not substantially diminish or impair property values within the neighborhood.

The proposed upper story expansion is consistent with the intent of the Town to have reduced footprints and additional open space on site.

Findings

Staff finds that the applicant has not met all of the criteria for the variance, but finds that the request is within the intent of the code as it will result in a home of a smaller footprint.



TOWN OF SURFSIDE
NOV 14 10 25 AM '14

**TOWN OF SURFSIDE
GENERAL VARIANCE APPLICATION**

A complete submittal includes all items on the "Submission Checklist for General Variance Application" document as well as completing this application in full. The owner and agent must sign the application with the appropriate supplemental documentation attached. Please print legibly in ink or type on this application form.

PROJECT INFORMATION

OWNER'S NAME Stephen H. Schott

PHONE / FAX 786 390 8721

AGENT'S NAME _____

ADDRESS 1116 88th Street

PHONE / FAX _____

PROPERTY ADDRESS 1116 88th Street

ZONING CATEGORY H30A

DESCRIPTION OF VARIANCE REQUESTED (please use separate sheet) Please see the attached

INTERNAL USE ONLY

Date Submitted _____

Project Number _____

Report Completed _____

Date _____

Comments _____

ZONING STANDARDS

	Required	Provided
Lot Coverage	<u>40%</u>	<u>22.5%</u>
Dimension of yards	<u>Please see plans</u>	<u>Please see plans</u>
Setbacks (F/R/S)	<u>20' / 20' / 6.1'</u>	<u>34'-11" (R), 6.1' / 68'-11"</u>
Parking	<u>-</u>	<u>-</u>
Loading	<u>-</u>	<u>-</u>
Pervious Area (Front Yard)	<u>50% (605 sq ft)</u>	<u>614 sq ft</u>

SIGNATURE OF OWNER [Signature] DATE NOV 14, 2019

SIGNATURE OF AGENT _____ DATE _____

Variance Written Narrative

To Whom It May Concern:

The following narrative will seek to describe each of the (2) variances being requested under this application, and why we believe these are appropriate.

The subject property is an existing, 2-story, single-family CBS residence located at 1116 88th Street, Surfside, Florida. The property is zoned as H30A. A previous construction permit for a remodeling of said property was secured in August of 2019 and work is currently proceeding as permitted under said permit No. 19-5292.

There are (2) variances being applied for under this application affect only the second floor along the east side of property. Nothing else is impacted by these requests. The (2) variances can be described as follows:

REQUESTED VARIANCE No. 1:

We are requesting to reduce the currently required 12'-2" second floor (east) side setback to 5'-0" to match the currently existing non-conforming 5 foot setback along east property line at both first and second floors (existing).

REQUESTED VARIANCE No. 2:

The second variance seeks approval of additional 182 s.f. which will exceed the currently required max. allowed second floor area of 2,043 s.f. (or 80% of ground floor area). The previously approved permit (No. 19-5292) shows a second floor area of 2,043 s.f. Under this variance application we are asking to be allowed to increase that area by 182 s.f. to a new second floor total of 2,225 s.f.

It is our sincere belief and opinion that these requested variances do not in any way upset or alter the harmony and general intent of the Town of Surfside Comprehensive Plan and Town Code. The existing residence is an original structure built in the 1920's and we believe that these requests are in keeping with the existing architecture. In particular, we believe that the currently required 12'-2" setback at the rear, east side of property creates a second floor offset that is unnatural and that it detracts from the original architecture. The requested variance – if granted – will remedy this unfortunate situation.

We hope this narrative serves to explain our intent with these requested variances.

Respectfully,

Albert I. Rodriguez, Architect
Dalima Studio Architecture

RESOLUTION NO. 2020-_____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, [APPROVING/ APPROVING WITH CONDITIONS/ DENYING] AN APPLICATION SUBMITTED BY STEPHEN SCHOTT (“APPLICANT”) FOR THE PROPERTY LOCATED AT 1116 88 STREET (“PROPERTY”) FOR TWO VARIANCES: (1) VARIANCE FROM SECTION 90-45 OF THE TOWN CODE TO PROVIDE AN UPPER STORY SIDE SETBACK OF 5 FEET, WHERE 12 FEET, 2 INCHES, IS REQUIRED, AND (2) A VARIANCE FROM SECTION 90-45 TO ALLOW AN INCREASE IN THE UPPER STORY MAXIMUM ALLOWABLE COVERAGE OF 182 SQUARE FEET FOR A TOTAL UPPER STORY COVERAGE OR FLOOR AREA OF 2,225 SQUARE FEET, WHERE 2,043 SQUARE FEET IS PERMITTED; PROVIDING FOR CONDITIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the architect, Albert Rodriguez, on behalf of the property owner, Stephen Schott (collectively, the “Applicant”), propose to remodel and expand the upper story of the existing structure (“Project”) and have applied for two variances on the property located at 1116 88th Street, Surfside, Florida , and legally described in Exhibit A attached hereto (“Property”): (1) a variance from Section 90-45 of the Town of Surfside (“Town”) Code of Ordinances (“Code”) to allow an upper story side setback of 5 feet, where 12 feet, 2 inches, is required; and (2) a variance from Section 90-45 of the Town Code to allow an increase in the upper story maximum allowable coverage or floor area of 182 square feet for a total of 2,225 square feet, where 2,043 square feet is permitted (collectively, the “Application”); and

WHEREAS, the Applicant is seeking a variance pursuant to Section 90-36 of the Town Code to allow a 5 foot upper story side setback, where Section 90-45 of the Town Code requires an upper story side setback of 12 feet, 2 inches, and

WHEREAS, the Applicant is seeking an increase in floor area of 182 square feet for a total upper story floor area of 2,225 square feet, where Section 90-45 of the Town Code requires that the upper story floor area be no greater than 80% of the first story floor area, resulting in a maximum permissible floor area of 2,043 square feet, and

WHEREAS, Section 90-36 of the Town Code provides for a process and criteria for unnecessary and undue hardship variances; and

WHEREAS, on January 14, 2020, the Town Commission conducted a public hearing on the Application for which a hearing was noticed, posted, advertised and held as required by law, all interested parties concerned in the matter were heard, and due and proper consideration was given to the matter; and

WHEREAS, the Town Commission, having reviewed the Application, the written and oral findings of Town staff, and all other relevant testimony and evidence, including the Applicant's voluntary proffers, finds that the Application *[select one: meets or does not meet]* the criteria for a variance.

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

Section 1. **Recitals.** The above-stated recitals are true and correct and are incorporated herein by this reference.

Section 2. **Variances [Approval/Approval with Conditions/Denial].** The requested variance from the upper story side setback requirement of Section 90-45 of the Town Code is hereby *[select one: approved / approved with conditions / denied]*, to allow an upper story side setback of 5 feet, where 12 feet, 2 inches, is required on the Property. The requested variance from the upper story maximum allowable coverage or floor area requirement of Section 90-45 of the Town Code is hereby *[select one: approved / approved with conditions / denied]*, to allow an increase of 182 square feet for a total upper story coverage or floor area of 2,225 square feet, where 2,043 square feet is permitted.

Section 3. **Conditions.** If applicable, the approval granted by this Resolution is subject to the Applicant's compliance with the following conditions, which the Applicant voluntarily proffered and stipulated to at the public hearing:

- a. The variances are effective solely for purposes of the Project depicted in the Applicant's plans dated and submitted to the Town on November 14, 2019, and prepared by DALIMA Studio Architecture and for no other purpose, and the Project must be developed substantially in accordance with the approved plans.
- b. In the event that the Applicant desires to develop the Property in a manner other than in substantial compliance with the plans dated and submitted to the Town on November 14, 2019 and prepared by DALIMA Studio Architecture, the variances shall be deemed never to have been granted, and shall become null and void. The

Property shall automatically revert to the development status it had prior to this approval.

- c. The Applicant shall comply with all conditions and permit requirements of the Miami-Dade County Department of Environmental Resource Management, the Miami-Dade County Fire Rescue Department, the Miami-Dade County Water and Sewer Department, the Florida Department of Environmental Protection, the Florida Department of Transportation, and all other governmental agencies with jurisdiction over the Project.
- d. In accordance with Section 166.033(6), Florida Statutes, the Applicant is advised that this Resolution does not create any right on the part of the Applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the Town for issuance of the permit if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. All other applicable state or federal permits must be obtained before commencement of the Project.
- e. As provided in Section 90-35(a)(9) of the Town Code, approval of the variances shall be void if the Applicant does not obtain a building permit within 24 months after the granting of this approval. The Town Commission may grant one or more extensions for a period of up to a total of six months for good cause shown by the Applicant.
- f. Failure by the Town to timely enforce any of the above conditions does not constitute a waiver of same, and if the Applicant, its successors or assigns, do not perform such conditions within five (5) days after written notice, the Town reserves the right to stop construction, if necessary, until that condition is met. By acting in accordance with this approval, the Applicant hereby consents to all of the foregoing terms and conditions.

Section 4. **Effective Date.** This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED on this 14th day of January, 2020.

Moved By: _____

Second By: _____

FINAL VOTE ON ADOPTION

Commissioner Barry Cohen _____

Commissioner Michael Karukin _____

Commissioner Tina Paul _____

Vice Mayor Daniel Gielchinsky _____

Mayor Daniel Dietch _____

Daniel Dietch

Mayor

ATTEST:

Sandra Novoa, MMC

Town Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**

Weiss Serota Helfman Cole & Bierman, P.L.

Town Attorney

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Lot 1, Block 28, of Second Amended Plat of Normandy Beach, according to the Plat thereof, as recorded in Plat Book 16, Page 44, of the public records of Miami-Dade County, Florida

Parcel Identification Number: 14-2235-005-3880

**COPIES OF SITE
PLANS ARE
AVAILABLE AT
THE TOWN
CLERK'S OFFICE.**

PLEASE CALL 305-861-4863 FOR MORE
INFORMATION OR EMAIL TOWN
CLERK SANDRA NOVOA AT
SNOVOA@TOWNOFSURFSIDEFL.GOV