

RESOLUTION NO. 2012-Z- 2094

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, CONSIDERING THE APPLICATION OF 8985 BAY DRIVE, TO PERMIT A SIDE SETBACK VARIANCE FROM SECTION 90-45 OF THE CODE OF ORDINANCES TO ALLOW A 15.9 FOOT SIDE SETBACK VARIANCE ON THE EAST SIDE OF THE PROPERTY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 90-45 of the Town of Surfside Code requires a minimum side setback of 10 percent of the frontage of the lot within the H-30 B zoning district; and

WHEREAS, the property is located within the Residential Single Family 30B zoning district; and

WHEREAS, the code requires the side setbacks to be ten (10%) percent of the street frontage of the lot or in this case 20.9 feet; and

WHEREAS, the applicant is proposing an interior or in-fill addition to their existing single family home and has applied for a variance from of the Code to expand the living room by an addition of 25'4" x 17'9' which would still be within the wall planes of the existing house; and

WHEREAS, the existing single family home currently has a five foot side setback on the south and east sides and the applicant is requesting a 15.9 foot side setback variance on the east side; and

WHEREAS, approximately 5 feet of the 25'4' length addition does not meet the side setback of 20.9 feet; and

WHEREAS, the addition is still set back further than the existing garage and the request does not result in any additional encroachments toward the neighboring properties; and

WHEREAS, Section 90-36 of the Code of Ordinances provides for variance application and review of whether the Applicant meets the following 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;
- (2) The special conditions and circumstances do not result from the actions of the applicant or a prior owner of the property;
- (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;
- (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;
- (5) An applicant's desire or ability to achieve greater financial return or maximum financial return from his property does not constitute hardship;
- (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;
- (7) The requested variance is the minimum variance that makes possible the reasonable use of the land, building, or structure; and
- (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; and

WHEREAS, the Planning and Zoning Board reviewed the application on May 31, 2012 and unanimously recommended approval of the application to the Town Commission and the Town Planner recommends approval of the variance request.

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. **Request Granted.** That the Town Commission finds the requested variance from the minimum setback requirement of Section 90-45 of the Code of Ordinances meets the criteria set forth above.

Section 3. Effective Date. This Resolution shall become effective immediately upon its adoption.

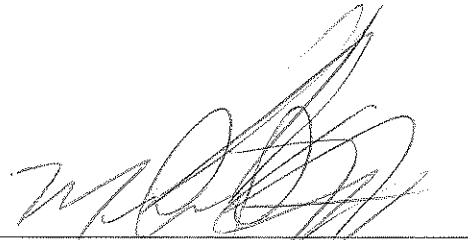
PASSED and **ADOPTED** on this 17 day of July, 2012

Motion by Commissioner Kligman, second by Commissioner Olchyk.

FINAL VOTE ON ADOPTION

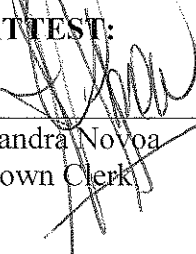
Commissioner Michelle Kligman
Commissioner Marta Olchyk
Vice Mayor Michael Karukin
Mayor Daniel Dietch

yes
yes
yes
Absent




Daniel Dietch, Mayor

ATTEST:



Sandra Novoa
Town Clerk

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



Lynn M. Dannheisser, Town Attorney