

RESOLUTION NO. 2022- 2906

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA; APPROVING A VARIANCE APPLICATION FOR PROPERTY LOCATED AT 8705 CARLYLE AVENUE, SURFSIDE, FL, TO REDUCE: (A) SETBACKS FROM THE SEA WALL PURSUANT TO SECTION 90-48.3, (B) LOT STANDARDS PURSUANT TO SECTION 90-49, (C) SETBACKS PURSUANT TO SECTION 90-45(a)(5), AND (D) SETBACKS FROM THE INDIAN CREEK BULKHEAD LINE PURSUANT TO SECTION 90-60.3, ALL FROM THE TOWN'S CODE OF ORDINANCES; SUBJECT TO CONDITIONS; ADDRESSING VIOLATIONS OF CONDITIONS; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Michael and Janette Vinciguerra (the “Applicants”), owners of the H30A single-family property located at 8705 Carlyle Avenue, Surfside, FL 33154 (the “Property”) submitted an application on May 25, 2022 (the “Variance Application”), requesting approval from the Town of Surfside, Florida (the “Town”) of variances to allow: (A) setbacks from the sea wall as depicted on the plans on file for the Design Review Application entitled “Vinciguerra Residence” dated May 25, 2022, prepared by Block 53 with Laurie M. Swedroe AIA Architecture and Interior Design (the “Plans”) where Section 90-48.3 of the Town’s Code of Ordinances (the “Code”) requires a minimum setback of 50 feet; (B) minimum lot area of 5,625 square feet where Section 90-49 of the Code requires a minimum lot area of 8,000 square feet; (C) minimum average setbacks on the second floor of five (5) feet as depicted on the Plans where Section 90-45(a)(5) of the Code requires ten (10) feet; and (D) setbacks from the Indian Creek bulkhead line of five (5) feet as depicted on the Plans where Section 90-60.3 of the Code requires a minimum setback of 15 feet for swimming pools and 20 feet for all other structures; and

WHEREAS, Section 90-36(1)a of the Code provides for the issuance of a variance for unnecessary and undue hardship upon meeting the standards provided for in Section 90-36(8) of the Code; and

WHEREAS, contemporaneous with the Variance Application, the Applicants submitted an application seeking design review of the proposed construction of a single family home (the “Design Review Application”); and

WHEREAS, Section 90-19 provides for design review of single-family homes by the Planning and Zoning Board; and

WHEREAS, the Town Planner has reviewed the Variance Application and Design Review Application and recommended approval of both subject to conditions; and

WHEREAS, on June 30, 2022, the Planning and Zoning Board (the “PZB”), at a duly noticed quasi-judicial public hearing, after reviewing the Variance Application and Design Review Application and hearing from its professional staff, the Applicant, and members of the public, considered the requirements of the Town Code for each variance application; and

WHEREAS, at the public hearing, the PZB approved the Design Review Application subject to the Plans, including the front yard retaining wall and gate, together with all conditions proposed by the Town Planner’s recommendation and an additional condition that a six (6)-foot high block wall be provided along the north property line as requested by the abutting neighbor, and subject to the approval of the Variance Application by the Town Commission; and

WHEREAS, at the public hearing, the PZB found the Variance Application met the standards of Section 90-36(8) of the Code for issuance of a variance, and recommended the Variance Application be approved by the Town Commission subject to the Plans together with all conditions proposed by the Town Planner’s recommendation; and

WHEREAS, on August 9, 2022, the Town Commission, held a duly noticed quasi-judicial public hearing to review the Application, hear from its professional staff, the Applicant, and members of the public, and consider the recommendation of the PZB, the requirements of the Town Code for approval of a variance and the Application’s consistency with the Town of Surfside’s Comprehensive Plan, and the substantial competent evidence presented at the hearing; and

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPLICABLE TO APPLICANTS, ITS SUCCESSORS AND/OR ASSIGNS, AS FOLLOWS:

SECTION 1. RECITALS AND FINDINGS OF FACT.

1. All recitals set forth above are incorporated into the body of this Resolution as if same were fully set forth herein.
2. The Commission finds that the Variance Application for the unnecessary and undue hardship variance, as modified by conditions, meets the standards of Section 90-36(8) of the Code and is otherwise in compliance with the requirements of the Town Code for approval of a variance and the Variance Application is consistent with the Town of Surfside’s Comprehensive Plan.

SECTION 2. VARIANCE APPROVAL. The request to approve variances to allow: (A) setbacks from the sea wall as depicted on the plans on file for the Design Review Application (the “Plans”) where Section 90-48.3 of the Town’s Code of Ordinances (the “Code”) requires a minimum setback of 50 feet; (B) minimum lot area of 5,625 square feet where Section 90-49 of the Code requires a minimum lot area of 8,000 square feet; (C) minimum average setbacks on the second floor of five (5) feet as depicted on the Plans where Section 90-45(a)(5) of the Code requires ten (10) feet; and (D) setbacks from the Indian Creek bulkhead line of five (5) feet as depicted on the Plans where Section 90-60.3 of the Code requires a minimum setback of 15 feet for swimming pools and 20 feet for all other structures, is hereby granted subject to the following conditions:

1. The Property shall be developed in substantial compliance with the plans entitled “Vinciguerra Residence” dated May 25, 2022, prepared by Block 53 with Laurie M. Swedroe AIA Architecture and Interior Design provided in support of the Application, except as modifications are required by this approval or the Building Official.
2. The Applicants shall construct a six (6) foot masonry wall along the north Property line as requested by the abutting neighbor at the Planning and Zoning Board hearing of June 30, 2022.
3. The driveway shall be reduced to a maximum 18 feet in width.
4. The elevation of the top of the seawall shall be established to the satisfaction and approval of the Town Planner.
5. The landscape plans shall be made to conform to the Town’s minimum requirements. All landscaped/pervious areas shall be 40% Florida-Friendly materials. Provide table on site plan and calculations to show this requirement is met.
6. The understory shall be constructed and hydrostatically vented as per Federal Emergency Management Agency and Florida Building Code requirements, and Chapter 42 of the Town Code.

SECTION 3. VIOLATION OF CONDITIONS. Failure to adhere to the terms and conditions of this Resolution shall be considered a violation of the Code and persons found violating the conditions shall be subject to the penalties prescribed by the Code, including but not limited to, the revocation of any of the approval(s) granted in this Resolution. The Applicants understand and acknowledge that they must comply with these conditions and all other applicable requirements of the Code before they may commence construction or occupancy, and that the foregoing approval in this Resolution may be revoked by the Town at any time upon a determination by the Town Commission, following a public hearing, that the Applicants are in non-compliance with the Code or the conditions of this Approval and have failed to cure, or to provide an acceptable plan to timely cure, the non-compliance.

SECTION 4. SEVERABILITY CLAUSE. In the event any portion or section of this Resolution is determined to be invalid, illegal or unconstitutional by a court or agency of competent jurisdiction, such decision shall in no way affect the remaining portions of this Resolution, which shall remain full force and effect.


SECTION 5. EFFECTIVE DATE. This Resolution shall become effective upon adoption.

PASSED AND ADOPTED this 9th day of August, 2022.

Motion by: Vice Mayor Rose

Second by: Commissioner Meischeid

Commissioner Fred Landsman	<u>Yes</u>
Commissioner Marianne Meischeid	<u>Yes</u>
Commissioner Nelly Velazquez	<u>No</u>
Vice Mayor Jeffrey Rose	<u>Yes</u>
Mayor Shlomo Danzinger	<u>Yes</u>



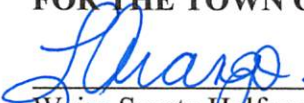
Shlomo Danzinger, Mayor

ATTEST:



Sandra N. McCready, MMC
Town Clerk

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



Weiss Serota Helfman Cole & Bierman, P.L.
Town Attorney

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

I, Sandra McCready, 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. 2022-2906 adopted by the Town Commission at its meeting held on the 9th day of August, 2022.

Issued: _____

Sandra N. McMcready, MMC
Town Clerk