

**RESOLUTION NO. 2024- Z- 3247**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA; APPROVING A VARIANCE APPLICATION FOR PROPERTY LOCATED AT 9341 BAY DRIVE, SURFSIDE, FL, TO ALLOW A PRIMARY FRONTAGE SETBACK FOR A THROUGH LOT WITH TWO PRIMARY FRONTAGES OF 10 FEET WHERE A MINIMUM SETBACK OF 20 FEET IS REQUIRED ON BAY DRIVE; ADDRESSING VIOLATIONS OF CONDITIONS; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Ariel Rubinovich and Sandra J. Souss (the "Applicants"), owners of the H30B single-family property located at 9341 Bay Drive, Surfside, FL 33154 (the "Property") submitted an application on October 25, 2023 (the "Variance Application"), requesting approval from the Town of Surfside, Florida (the "Town") of a variance to allow a front setback of 10 feet from the Property's Bay Drive property line where Section 90-45 of the Town's Code of Ordinances (the "Code") requires a minimum of 20 feet for the Property's primary frontage to permit a 342 square foot addition to an existing single-family home; and

**WHEREAS**, the Property is considered a through lot because its frontages on Bay Drive and Dickens Avenue are both considered primary frontages; and

**WHEREAS**, the Property's irregular, triangular shape is more typical of a corner lot with a primary frontage only on Dickens Avenue and a secondary frontage on Bay Drive; and

**WHEREAS**, had the Property qualified as a corner lot, the required secondary frontage would only be 10 feet; 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 the addition to the 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 November 30, 2023, 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 the Variance Application and the Design Review Application; 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 approved the Design Review Application subject to the Town Commission's approval of the Variance Application; and

**WHEREAS**, on January 9, 2024, 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.

**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/does not meet] the standards of Section 90-36(8) of the Code and [is/is not] otherwise in compliance with the requirements of the Town Code for approval of a variance and the Variance Application [is/is not] consistent with the Town of Surfside's Comprehensive Plan.

**SECTION 2. VARIANCE [APPROVAL/DENIAL].** The request to approve variances to allow a setback of 10 feet for the Bay Drive primary frontage where Section 90-45 of the Code requires a minimum of 20 feet for the Bay Drive primary frontage to

permit a 342 square foot addition to an existing single-family home, is hereby [granted/denied] subject to the following conditions:

1. The Property shall be developed in substantial compliance with the plans entitled "Rubinovich Residence" dated October 26, 2023, prepared by Shapiro and Associates provided in support of the Application, except as modifications are required by this approval or the Building Official.
2. The finished floor elevation (FFE) of the proposed addition must match the existing FFE for the single-family home.

**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 January, 2024.

Motion by: Vice Mayor Rose,

Second by: Commissioner Landsman

Commissioner Fred Landsman	<u>Yes</u>
Commissioner Marianne Meisheid	<u>Yes</u>
Commissioner Nelly Velazquez	<u>Absent</u>
Vice Mayor Jeffrey Rose	<u>Yes</u>

Mayor Shlomo Danzinger



*Shlomo Danzinger*

Shlomo Danzinger, Mayor

ATTEST:

*Sandra N. McCready*

Sandra N. McCready, MMC  
Town Clerk

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

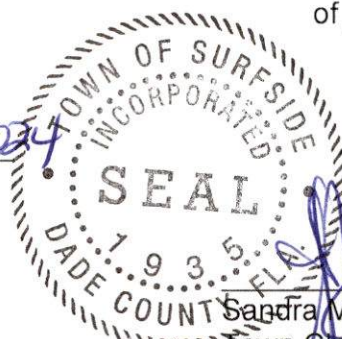
*L. Chicago*

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. 2024-~~2-3247~~ adopted by the Town Commission at its meeting held on the 9<sup>th</sup> day of January, 2024.

Issued: January 12, 2024



*Sandra N. McCready*

Sandra N. McCready, MMC  
Town Clerk