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 community-based organization for the purpose of requesting a grant without special compensation or reimbursement for the appearance; and any person who only appears as a representative of a neighborhood, homeowners or condominium association without compensation for the appearance, whether direct or indirect or contingent, to express support of 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. Call to Order/Roll Call

2. Town Commission Liaison Report – Vice Mayor Gielchinsky

3. Approval of Minutes – July 11, 2019

4. Applications:

   A. 9008 Byron - The applicant received approval from the Planning and Zoning Board at the July 11, 2019 meeting to convert their garage to approximately 251 square feet of additional living space. The Board added a condition of approval to require the window in the converted garage to be level with the existing windows. The applicant has evaluated this condition and found that it would create an economic hardship for this project. Attached is a request to rescind the condition of approval with a copy of the proposed front elevation.

   B. 9433 Bay Drive - The applicant is requesting to convert approximately 352 square feet of terraced area into interior living space. Furthermore, the applicant is also proposing a new terrace and interior renovations.
C. 9540 Harding Avenue - The applicant is requesting one (1) Permanent Wall Sign; four (4) Permanent Window Signs; three (3) on the store frontage and one (1) on the back door.

D. 8926 Froude Ave - The applicant is requesting after the fact approval for a carport.

E. 500 93rd Street - The applicant is requesting to build a new 5,538 square foot two-story home.

5. Local Planning Agency Items

A. Parking Waiver Program

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING SECTION 90-77, “OFF-STREET PARKING” OF CHAPTER 90, “ZONING” OF THE TOWN’S CODE OF ORDINANCES TO EXTEND THE PARKING EXEMPTION PROGRAM TO ADDRESS VACANCIES AND ECONOMIC REVITALIZATION IN THE SD-B40 ZONING DISTRICT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

B. Young Israel Variance - The property owner, Young Israel of Bal Harbour, Inc. (Young Israel), is requesting a variance from the Town of Surfside Zoning Code for the property located at 9580 Abbott Avenue (“Property”). The applicant is proposing to construct a ramp consisting of approximately 205 square feet in the side or north setback of the Property to provide handicapped accessibility to Young Israel.

6. Discussion Items:

A. Single Family Setbacks on Aggregated Lots
B. Future Agenda Items
C. Planning & Zoning Board Meeting Schedule [Verbal]
   1. October 31st – Proposing October 24th
   2. November 28th (Thanksgiving) – Proposing November 21st
   3. December 26th – Proposing December 19th
   4. Option – Combine November and December to December 12th.

7. Adjournment

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.


TWO OR MORE MEMBERS OF THE TOWN COMMISSION OR 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.
1. **Call to Order/Roll Call**

   Chair Lindsay Lecour called the meeting to order at 6:00 p.m.

   **Present:** Chair Lindsay Lecour, Vice Chair Judith Frankel, Board Member Peter Glynn, Board Member Brian Roller, Board Member Jorge Garcia and Board Member Marina Gershanovich.

   Vice Mayor Gielchinsky entered at 6:01 p.m.

   **Absent:** Board Member Rochel Kramer

   Board Member Jorge Garcia entered at 6:06 p.m.

2. **Town Commission Liaison Report – Vice Mayor Gielchinsky**

   Vice Mayor Gilchensky gave an update on the give a foot/get a foot program which he discussed with the Commission. He encouraged the Board to look at the video of that Commission meeting. He stated that the direction was to move forward and schedule the Joint Commission and Planning & Zoning meeting.

   Vice Mayor Gilchensky gave an update on the zoning in progress and he stated that the memo from Town Planner Sarah Sinatra Gould will show the different options.

   Vice Mayor Gilchensky spoke about the percentage of landscaping that is required and the artificial turf requirement.

3. **Approval of Minutes – May 23, 2019**

   Chair Lindsay Lecour stated that in the minutes on page 1 it shows her absent, but on page 2 it shows her arriving and she wanted to make that amendment.

   A motion was made by Vice Chair Judith Frankel to approve the May 23, 2019 minutes as amended, seconded by Board Member Peter Glynn. Motion passed with a 6-0 vote with Board Member Jorge Garcia and Board member Rochel Kramer absent.
4. Applications:

A. 9049 Froude Avenue – The applicant is requesting to repair and renovate the existing house along with converting the existing garage into a storage room.

Town Planner Sarah Sinatra Gould presented the item and the below staff recommendations:

1. Provide landscaping along the base of the new exterior wall. Per code section 90-50.1, if the garage entrance is located at the front or primary corner of the property, landscaping shall be provided along the base of the new exterior wall. When the installation of landscaping results in insufficient off-street parking, a landscaped planter shall be permitted in lieu of the required landscaping.

2. Provide details of the proposed driveway and walkway materials. The proposed driveway and walkway materials are not provided. Per code section 90-61(6), materials are limited to (a) pavers, (b) color and texture treated concrete, including stamped concrete as long as it is permeable, (c) painted concrete shall not be permitted, (d) asphalt shall not be permitted.

3. Provide calculation of each elevation to demonstrate there is no net loss of window openings.

David Burstyn, applicant, presented the item.

Vice Chair Judith Frankel asked the applicant if they have to raise the floor.

Town Planner Sarah Sinatra Gould stated that the Building Official would have to review it and since it is being used for storage, she does not believe so.

Board Member Peter Glynn asked what the difference between storage and habitable is physically.

Town Planner Sarah Sinatra Gould stated that the Building Department would determine that and flag it at that time if they decide to use it for something other than storage.

A motion was made by Board Member Peter Glynn, seconded by Board Member Marina Gershanovich to approve with staff recommendations. Motion passed with a 5-0 vote with Board Member Rochel Kramer absent.

B. 9289 Emerson Avenue - The applicant is requesting to convert their garage to approximately 216 square feet of additional living space.

Town Planner Sarah Sinatra Gould presented the item and the below staff recommendations:

1. Provide landscaping or a planter in front of the converted garage. Per code section 90-50.1, the installation of planter is only permitted when the landscaping will result in insufficient off-street parking. There is sufficient space in the front yard for a landscaped strip which will not impede off-street parking.
2. The north elevation results in a net loss of wall openings with the removal and fill of the existing door and window. Adjust accordingly so that there is no net loss of wall openings. **Per code section 90-50.1**

A motion was made by Board Member Brian Roller, seconded by Vice Chair Judith Frankel to approve with staff recommendations. Motion passed with a 6-0 vote with Board Member Rochel Kramer absent.

**C. 9008 Byron Avenue** - The applicant is requesting to convert their garage to approximately 251 square feet of additional living space.

Town Planner Sarah Sinatra Gould presented the item and the below staff recommendations:

1. Window shall be required to be flush with other windows.

2. Provide landscaping or a planter in front of the converted garage. **Per Code Section 90-50.1**, the installation of planter is only permitted when the landscaping will result in insufficient off-street parking. There is sufficient space in the front yard for a landscaped strip which will not impede off-street parking.

3. The north elevation (side) results in a net loss of wall openings with the removal and fill of the existing door. **Per Code Section 90-50.1**

4. Provide additional information showing that the 50% front setback permeability is being met **Per Code Section 90.61.1**

Chair Lindsay Lecour asked regarding the proposed east elevation and why are we not making the windows the same height as the other windows.

Jeff Rose, applicant, stated that was where the tie beam was, and they did not want to move it.

Chair Lindsay Lecour stated that she would like it to look like the other windows on the façade and maybe possibly raise the bottom or bring the stone around it but at least that way the windows will be flushed.

A motion was made by Vice Chair Judith Frankel, seconded Board Member Brian Roller to approve with staff recommendations and to make the windows to be in line with the other windows. Motion passed with a 6-0 vote with Board Member Rochel Kramer absent.

**D. 9538 Harding Avenue** - The applicant is moving the business from 9471 Harding Avenue. The applicant is requesting a permanent channel letter sign.

Town Planner Sarah Sinatra Gould presented the item and the below staff recommendations:

1. Any existing or proposed electrical boxes shall be concealed.
Board Member Brian Roller asked if they are able to leave a space between so that the water can run behind it because it is flushed against the wall right now.

Town Planner Sarah Sinatra Gould stated yes that they can add that requirement.

Board Member Peter Glynn asked if they will be refurbishing the façade.

Town Planner Sarah Sinatra Gould stated that they could add that requirement as well.

A motion was made by Board Member Peter Glynn, seconded Vice Chair Judith Frankel to approve with staff recommendations and to include refurbishment of the façade and leaving a space between in order for the water to run. Motion passed with a 6-0 vote with Board Member Rochel Kramer absent.

E. 9000 Abbott Avenue - This application was heard by the Planning and Zoning Board in September 2017. At that time the applicant was proposing a two-story addition. The revised request is to keep the structure to a one-story building and to raise the roof above a newly reconfigured master suite.

Town Planner Sarah Sinatra Gould presented the item and the below staff recommendations:

1. Remove the parking space that is beyond the front of the house. Remove the gate and replace with a fence since there will be no vehicular gate.

2. Remove parking space beyond front plan of the home and remove the vehicular gate. Fences or ornamental walls within the front yard or primary corner yard shall have a continuous hedge of a minimum height of three feet at the time of planting and shall thereafter be maintained a maximum height equal to the top of the fence or wall. The hedge shall be planted between the right-of-way and the fence or ornamental wall. The hedge shall be planted contemporaneously with the erection of the fence or wall. Per Code Section 90-56.2

Chair Lindsay Lecour asked the location of the gate. She also asked if they can add saying to remove the gate and vehicular gate.

Town Planner Sarah Sinatra Gould showed the Board the location and she explained what the Code states.

Discussion continued among the Board and staff regarding the parking space allowed.

Chair Lindsay Lecour stated that they have modified condition one to remove the 3rd space and vehicular gate and flip flopping the fence and the hedge.

A motion was made by Board Member Peter Glynn, seconded Board Member Marina Gershmanovich to approve with staff recommendations. Motion passed with a 6-0 vote with Board Member Rochel Kramer absent.
F. 1001 88th Street - The applicant is requesting to build a 3,654 square foot two-story new home.

Town Planner Sarah Sinatra Gould presented the item and the below staff recommendations:

1. Provide a professional survey of the property.

2. The proposed gate and landscaping in the primary frontage are positioned in the right-of-way. Please adjust so the gate and landscaping are within the property boundaries.

3. Reduce the width of the driveway curb cut to meet the 18’ maximum requirement as per code section 90.61.1

4. Provide the required curb cut distance for corner lots. For corner lots, no curb cut shall be located within 25 feet of the intersection of the front and secondary frontage lines, per code section 90.61.1. Currently, the driveway is setback 24’ 8”.

5. Correctly label the side setback property line on the site plan Page A.002. The side setback is being identified as the property line.

6. Provide additional details as it relates to the gates and fences if proposed.

7. Provide the material type for both the driveway and the pathway.

The following speakers spoke on the item:
Marci Varca
Wesley Kean

Chair Lindsay Lecour addressed the speakers’ remarks and questions.

Town Attorney Edward Martos clarified the code on the hours.

Chair Lindsay Lecour asked Town Planner Sarah Sinatra Gould if when they calculate the percentage of the 1st and 2nd floors if they include the garage as part of the first floor.

Town Planner Sarah Sinatra Gould answered Chair Lindsay Lecour question and stated yes; they do include the garage as part of the first floor.

Board Member Brian Roller asked if this is new that there are elevations on each one of the drawings and is happy to see it. He asked if the elevation is allowed to go to 30 feet. They are at 6 foot 4 inches from the crown and they are 23.7 feet and they are building a million-dollar house, and something doesn’t feel right.

Discussion continued among the Board regarding the elevation.

Wesley Keen, architect, clarified the question regarding the elevation and showed the plans to the Board and explained the project.
Chair Lindsay Lecour made a recommendation for the applicant to do more to identify this as a front entrance.

A motion was made by Board Member Peter Glynn, seconded Board Member Jorge Garcia to approve with staff recommendations. Motion passed with a 6-0 vote with Board Member Rochel Kramer absent.

G. 9264 Bay Dive - The applicant is requesting to build a 7,243 square foot two-story new home [Linked to item 5A]

Chair Lindsay Lecour stated that this item is linked with the quasi-judicial item (5A) which will be heard first.

Town Planner Sarah Sinatra Gould presented the item and explained the process to the applicant and that it would be placed on the August 13, 2019 City Commission Meeting Agenda.

A motion was made to deny the variance by Board Member Peter Glynn, seconded by Vice Chair Judith Frankel with the conditions stated by the Vice Mayor Gielchinsky which is a 20% appropriate set back. Motion passed with a 6-0.

5. Local Planning Agency Items

A. 9264 Bay Drive Variance – The applicant is requesting two variances for side setbacks for the first floor and upper story level from the Town of Surfside Zoning Code [Linked to Item 4G]

Chair Lindsay Lecour read the quasi-judicial statement into the record.

Town Attorney Martos polled the Board.

Town Clerk Frantza Duval swore the speakers in.

Town Planner Sarah Sinatra Gould stated that there was a letter of objection received by the Town Clerk from a neighbor.

Town Planner Sarah Sinatra Gould presented the item and stated that the applicant is proposing a first floor side set back of 6 feet and 9 inches instead of the required upper story average set back of 20 feet or 20% of the frontage, whichever is greater, plus an additional 5 feet for more than 1 lot of record. The applicant is proposing a 10-foot 2-inch average side set back on either side. This is a difference of 14 feet 10 inches per the code.

Chair Lindsay Lecour asked what the proposed setback is and what the minimum setback would be.

Town Planner Sarah Sinatra Gould stated the first floor is required to be 20 feet and they are proposing 6 feet 9 inches. The second story is supposed to be an average of 20 feet or 20% of the frontage, whichever is greater plus an additional 5 feet.
Town Planner Sarah Sinatra Gould continued explaining the variance request and the size of the property. She stated that the applicant is requesting the variance in order for the project to be constructed. She stated that what they found is that while the literal interpretation of the code may be restrictive, they might be eligible for some sort of variance. What they are suggesting is that what is being requested does not meet the minimum requirements to meet the spirit and intent of the code.

Town Planner Sarah Sinatra Gould stated that staff is recommending denial of the side set back variance for the first floor and the upper floor. She also went through the criteria of the code in reference to the zoning requirements.

Town Planner Sarah Sinatra Gould read the staff findings which were the following where the applicant did not meet the code.

1. The interior side and upper story variances did not meet the code and the applicant is requesting a variance.

2. The required 50% minimum front area permutability did not meet the code requirements. The plans state that it is a 35% permutability and the code only requires 30%, however the minimum of the code is 50% for the front setback.

3. Provide additional detail on the elevation sheet showing that the elevation meets the 10% wall opening. If this was to be approved, this must be one of the conditions.

4. They do not have information on the fences and gates. If this was to be approved, this must be one of the conditions.

5. The curb cut setback must be 5 feet curb cut being met, they need it dimensioned and a note on the plans stating they met that curb cut set back requirement.

6. Also, a note on the plans stating that when they come for permitting that the stairs on the roof cannot exceed the 30-foot height limitation.

Daniel Sorogon, architect for the applicant, presented his project and explained the hardship of needing the variance.

The following individual neighbors were against this item:

Peter Hickey

Board Member Brian Roller stated to Town Planner Sarah Sinatra Gould the requirements of the size of the lot and their concern on the setbacks.

Town Planner Sarah Sinatra Gould stated what the code requires.

Chair Lindsay Lecour stated that she is willing to maybe come up with a compromise but does not feel this project meets the proper intent of the code.
Vice Chair Judith Frankel stated that the project is large and does not meet the intent of the code and feels this house is very boxy. She stated that the neighbors are concerned. She further stated that as the variance is now, she is not able to approve their request. She does believe there might be some middle ground.

Further discussion among the Board, the applicant’s architect and staff continued regarding the setbacks, the provisions of the code and other alternatives.

Board suggested a 20% setback and stated that an arrangement can be done. They also requested to increase the setback on the north side of the property to an extra 10 to 14 feet.

Town Attorney Martos gave the explanation on the site plan application, the variance and when the applicant can come back to the Board with the criteria for the site plan.

Vice Mayor Gielchinsky discussed the item and the aggregated condition of the lot.

Board requested a 20% setback and wanted discussion noted in the minutes for future discussion as stated by Vice Mayor Gielchinsky.

Discussion continued among the Board and the architect of the project regarding the setbacks.

Chair Lindsay Lecour stated that the Board should vote on the variance and then have a brief discussion on any other comments on the site plan application.

Town Attorney Martos stated that the item that will go forward to the Commission is the variance application. He suggested the Board to possibly table the discussion on the variance and have a vote on the site plan. Then come back to the variance, have a vote on that and transfer your recommendations to the Commission along with your thoughts on the site plan.

Town Planner Sarah Sinatra Gould asked for clarification on the vote of the site plan and variance.

Town Attorney Martos gave Town Planner Sarah Sinatra Gould the clarification she requested on the site plan and variance vote.

Chair Lindsay Lecour stated to table the variance and discuss the site plan.

The following speaker spoke on the item.
Anthony Blake
Jeff Rose

The Board and Town Planner Sarah Sinatra Gould addressed the speaker’s questions and concerns.

Chair Lindsay Lecour closed the public hearing and asked for comments from the Board in regard to the site plan.
Vice Chair Judith Frankel stated that her concern is the view from the street, how is this property going to be viewed. She asked if there will be some type of fencing.

Daniel Sorogon, architect for the applicant, answered Vice Chair Judith Frankel’s question regarding the fencing stating they will not be putting a fence in the front.

A motion was made by Board Member Peter Glynn, seconded by Vice Chair Judith Frankel to deny the application based on the variance required. Motion passed with a 6-0 vote with Board Member Rochel Kramer absent and Board Member Marina Gershonovich abstaining from voting.

B. Hotel prohibition south of 93rd Street

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 90-41, “REGULATED USES”, TO CHANGE THE LIST OF PERMITTED, CONDITIONAL, AND PROHIBITED USES TO PROHIBIT HOTELS IN THE H-40 ZONING DISTRICT SOUTH OF 93RD STREET AND ADDRESS HOTEL ACCESSORY USES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk Frantza Ducal read the title into the record.

Town Planner Sarah Sinatra Gould presented the item. She stated that staff recommends the following:

1. To grandfather existing developed hotels relating solely to the use.

2. To prohibit or restrict ballrooms and hotel amenities and accessories.

3. To limit building of hotels to 100 feet in length and no aggregation of lots permitted with the intention to develop more than one hotel per lot.

4. Aggregation of lots for hotel use require a 25% reduction of allowable density.

5. A side setback of 15%.

6. If the idea was to do an office space, we would need to do a land use and a zoning map, a text amendment that creates a category for residential office, and excluding a hotel category, which allows it as an accessory use.

The following speakers spoke on the item:
Rick Superstein
Jennifer Fine
Alex Tachmes
Silvia Coltrane
George Kousoulas
Kristofer Machado
Matthew Barnes
Esther Superstein
Board Member Brian Roller responded to the comments made by the speakers and feels that the Board should respect the desire of the public. He asked Town Planner Sarah Sinatra Gould if they are planning on opening it up for office space.

Town Planner Sarah Sinatra Gould stated that was the direction of the Town Commission and they were fine deferring it, but they added additional items to analyze and one was the office space.

Board Member Brian Roller feels that it should be eliminated since the developers are not on board with it and is surprised that they did not hear about the office space prior to this meeting. He agrees with the idea that they do not know what is driving this analysis and the crime statistics does not support the suggestion being made.

Board Member Peter Glynn stated that he agrees with Mr. Kousoulas and feels he needs to reject, postpone or grandfather this request and feels that some of the buildings would be deemed worthless.

Vice Chair Judith Frankel responded to the speakers’ comments and concerns and feels that switching from hotel to office space does not make sense to her.

Board Member Jorge Garcia feels that it should be rejected and address it again and see what can be done.

Board Member Marina Gershanovitch feels that they do not have enough evidence to pass this item.

Chair Lindsay Lecour agrees that she does not have enough information to make the change to the code.

Board Member Brian Roller stated that beach use is also something that needs to be considered.

A motion was made by Board Member Peter Glynn to reject the Ordinance, seconded by Board Member Brian Roller. Motion carried with a 6-0 vote with Board Member Rochel Kramer absent.

6. **Discussion Items:**

A. **Unlocking Height from the Charter – Verbal**

Chair Lindsay Lecour stated that the Board is to watch the video and see what the individuals are requesting and suggested as part of the agenda to have the questions that were asked made part of the agenda.

Town Planner Sarah Sinatra Gould stated that they are looking at scheduling the joint meeting a month out. This will be an informational meeting to see if there is an appetite from the Town to move forward with this on the ballot.
The following speakers spoke on the item:
Jeff Rose stated that if this goes on the ballot and approved, he will not be able to build the exact same home he currently has if it is damaged or destroyed in a storm.

George Kousoulas spoke regarding the variance and what a variance is used for.

Board Member Peter Glynn answered Mr. Rose’s concern in the event of a storm, and stated that the requirement would change, and the charter would be unlocked.

Town Planner Sarah Sinatra Gould asked if there is a desire to move forward with a charter amendment, if there could be a way to do the language stating that it would be unlocked in the event of a major storm.

B. Future Agenda Items

Chair Lindsay Lecour stated to add artificial turf to a future agenda.

Town Planner Sarah Sinatra Gould stated that they will be drafting an ordinance and the Board will see it in the future as an LPI item therefore, it does not need to be added to a future agenda.

Chair Lindsay Lecour would like to make a point that maybe they could be more lenient in using artificial turn in a rear yard instead of a front yard.

Town Planner Sarah Sinatra Gould explained that it would be more constraining to place the artificial turf in the front yard. She also stated that the commission had mentioned of requiring more landscaping if they get their artificial turf approved.

Chair Lindsay Lecour stated another item for future consideration is a 40-foot-wide house on a 50-foot-wide lot correct scale.

Vice Chair Judith Frankel agrees if it is a one story, her issue is when they want to add a second floor.

Vice Mayor Gielchinsky left the meeting at 8:52 p.m.

Further discussion continued regarding lot coverage and aggregation of lot among the Board and Staff.

Chair Lindsay Lecour requested to revisit setback, massing on the second story and pitch.

Town Planner Sarah Sinatra Gould suggested a workshop for this.
7. **Adjournment**

A motion was made by Board Member Peter Glynn, seconded by Vice Chair Judith Frankel to adjourn the meeting without objection at 8:59 p.m.

Respectfully submitted,

Accepted this _____day of ____________________, 2019.

Lindsay Lecour, Chair

Attest:

Sandra Novoa, MMC
Town Clerk
MEMORANDUM

To: Planning and Zoning Board
Thru: Guillermo Olmedillo, Town Manager
From: Sarah Sinatra Gould, AICP, Town Planner
CC: Lillian Arango, Town Attorney
Date: August 29, 2019
Re: 9008 Byron Avenue – Garage Conversion

The property is located at 9008 Byron Avenue, within the H30B zoning. The applicant received approval from the Planning and Zoning Board at the July 11, 2019 meeting to convert their garage to approximately 251 square feet of additional living space. The Board added a condition of approval to require the window in the converted garage to be level with the existing windows. The applicant has evaluated this condition and found that it would create an economic hardship for this project. Attached is a request to rescind the condition of approval with a copy of the proposed front elevation.
TOWN OF SURFSIDE
SINGLE-FAMILY and TWO-FAMILY SITE PLAN APPLICATION

A complete submittal includes all items on the "Single-Family and Two-Family Site Plan Application Submission Checklist" 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.

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<tr>
<td>OWNER'S NAME</td>
<td>Silvia &amp; Marco Taglietti</td>
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<tr>
<td>PHONE / FAX</td>
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<td>AGENT'S NAME</td>
<td>Jeff Rose</td>
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<tr>
<td>ADDRESS</td>
<td>8851 Fosside Ave, Surfside, FL 33154</td>
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<tr>
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<td>305-723-2485</td>
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August 2, 2019

Dear Planning and Zoning Board,

Thank you for approving our garage conversion at last month’s Planning and Zoning meeting for our new home at 9008 Byron Avenue. We have met with the architect and contractor to review the comments from the Board and specifically the point about raising the new window, where the garage door currently is, to be level with the other front window in the master bedroom.

We concluded that this new requirement by the board is extremely expensive (around $10,000 or more additional cost) as it requires cutting the existing concrete and tie beam and making a new tie beam or a steel beam.

We also reviewed the code and, to our knowledge, this requirement is not in the zoning code. Additionally, we believe there have been many other garage conversions in the neighborhood that were completed without this new requirement.

While is not our intention to cause any trouble to the Board, we do not have the additional funds to spend on a requirement that is not in the code and, to our knowledge, has not been requested on other garage conversions.

Therefore we kindly ask to drop this specific requirement and allow the new window to be installed as per drawings we presented at the last Planning and Zoning meeting.

Thank you and we look forward to hearing back from you.

Sincerely,

Silvia and Marco Tagliatti

[Signature]

[Signature]
Dear Planning and Zoning Board,

Thank you for approving our garage conversion at last month's Planning and Zoning meeting for our new home at 9008 Byron Avenue. We have met with the residence owners and contractor at the house after the comments from the board about raising the new window where the garage door is to be replaced to be level with the other front window in our master bedroom.

If this is required by the board this is something that is very expensive to do (around $10,000 or more) as it requires cutting the existing concrete and tie beam and making a new tie beam or a steel beam. This requirement is not in the zoning code anywhere and to our knowledge.

We are not sure why the board is requesting for us to do this as there have been many other garage conversions in the neighborhood and this was not required. We are not trying to cause any problems as we just don’t have the extra money to spend on the garage conversion for something that is not required and has not been requested on all other garage conversions. Thank you and we look forward to hearing back from you.

Sincerely,

[Signature]

Arthur Glenn Pyle, Architect #7174
1016 NE 114th Street
Biscayne Park, Florida 33161
1. EXISTING EAST ELEVATION
   SCALE: 1/4" = 1'-0"

2. PROPOSED EAST ELEVATION
   SCALE: 1/4" = 1'-0"

NOTE: 1. ALL EXISTING WINDOWS TO BE REPLACED WITH NEW IMPACT WINDOWS UNDER SEPARATE PERMIT.
MEMORANDUM

To: Planning & Zoning Board

Thru: Guillermo Olmedillo, Town Manager

From: Sarah Sinatra Gould, AICP, Town Planner

CC: Lillian Arango, Town Attorney

Date: August 29, 2019

Re: 9433 Bay Drive – Conversion & Addition

The property is located at 9433 Bay Drive, within the H30B zoning. The applicant is requesting to convert approximately 352 square feet of terraced area into interior living space. Furthermore, the applicant is also proposing a new terrace and interior renovations.

Staff has reviewed the current application for consideration by the Design Review Board. In this report Staff presents the following:

- Applicable Zoning Code regulations, along with the results of the review
- Applicable Design Guideline standards, along with the results of the review
- Staff Recommendation
STANDARDS / RESULTS

Town of Surfside Zoning Code, Applicable Requirements

Sec. 90.43 Maximum building heights

<table>
<thead>
<tr>
<th>Height</th>
<th>Required Maximum</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>H30B</td>
<td>30 feet</td>
<td>Less than 30 feet</td>
</tr>
</tbody>
</table>

Sec. 90-45. Setbacks

<table>
<thead>
<tr>
<th>Setbacks</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary Frontage</td>
<td>Minimum 20 feet</td>
<td>19.5 feet – existing</td>
</tr>
<tr>
<td>Interior side (lots over 50 feet in width)</td>
<td>5 feet</td>
<td>5 feet – existing</td>
</tr>
<tr>
<td>Rear</td>
<td>Minimum 20 feet</td>
<td>25’7” – existing</td>
</tr>
</tbody>
</table>

Sec. 90.49 Lot standards

<table>
<thead>
<tr>
<th>Lot Standards H30B</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot width</td>
<td>50 feet</td>
<td>50 feet</td>
</tr>
<tr>
<td>Minimum lot area</td>
<td>5,600 feet</td>
<td>5,625</td>
</tr>
<tr>
<td>Maximum lot coverage</td>
<td>40%</td>
<td>39%</td>
</tr>
</tbody>
</table>

| Pervious area | 35% (minimum) | The applicant states 68% pervious area, which is not correct based on the 39% lot coverage, which does not include the driveway and terrace. |

Sec. 90.50 Architecture and roof decks

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unique Elevation</td>
<td>A unique elevation from the main buildings of the adjacent two (2) homes shall be created through the modulation of at least three (3) of the following architectural features: (a)Length, width and massing of the structure; (b)Number of stories; (c)Façade materials; (d)Porches and other similar articulation of the front façade; (e)Number and location of doors and windows; and (f)Roof style and pitch.</td>
</tr>
</tbody>
</table>

| Wall openings | 10% for all elevations | Wall elevations appear to be 10% for all elevations |
| Wall openings | All elevations for single story additions to existing structures | The addition does not result in a net loss of wall |
shall result in a zero percent net loss of wall openings including windows, doors or transitional spaces defined by porches, porticoes or colonnades. open openings rather it adds a net gain of wall openings.

Roof Material

(a) Clay Tile;
(b) White concrete tile;
(c) Solid color cement tile which color is impregnated with the same color intensity throughout, provided said color if granted approval by the Design Review Board;
(d) Architecturally embellished metal if granted approval by the Design Review Board; or
(e) Other Florida Building Code approved roof material(s) if granted approval by the Design Review Board.

Consistent with the existing house.

Sec. 90-77 Off-Street Parking Requirements

<table>
<thead>
<tr>
<th>Required</th>
<th>Minimum Space Requirements</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single-family</td>
<td>2 spaces</td>
<td>2 spaces are provided.</td>
</tr>
</tbody>
</table>

Town of Surfside Adopted Residential Design Guidelines

Building Massing

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building forms should be varied enough to avoid monotony and to avoid pyramidal massing and should be compatible with surrounding houses.</td>
<td>Consistent</td>
</tr>
</tbody>
</table>

Decorative Features

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Decorative features should be stylistically consistent throughout the entire building.</td>
<td>Consistent</td>
</tr>
</tbody>
</table>

Overall Architectural Style

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>The overall style of each house should be consistent on all sides of the building, as well as among all portions of the roof.</td>
<td>Consistent</td>
</tr>
</tbody>
</table>

Wall Materials and Finishes

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>The same material should be used on all building elevations unless multiple materials are a legitimate expression of the particular style.</td>
<td>Consistent</td>
</tr>
</tbody>
</table>
### Roof Materials, Types, and Slopes

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roof types and slopes should be generally the same over all parts of a single building.</td>
<td>1/4:12 pitch</td>
</tr>
<tr>
<td>Restricted materials for roofs are pre-determined in the Town's Building Code, which restricts roofing materials to: 1. Clay tile; 2. White concrete tile; 3. Solid color cement tile which color is impregnated with the same color intensity throughout, provided said color is first approved by the planning and zoning board; and 4. Metal.</td>
<td>Consistent with the existing house.</td>
</tr>
</tbody>
</table>

### Windows and Trims

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Window styles should always be consistent among all elevations of a building.</td>
<td>Consistent</td>
</tr>
<tr>
<td>Frame materials should never vary on a single building.</td>
<td>Consistent</td>
</tr>
<tr>
<td>Window, door and eave trim should be consistent on all elevations of the house</td>
<td>Consistent</td>
</tr>
</tbody>
</table>

### RECOMMENDATION

Staff finds that the application does not meet the Code subject to the following:

1) The applicant states 68% pervious area. This is incorrect. Provide correct pervious calculation. *(Code Section 90.49)*
TOWN OF SURFSIDE
SINGLE-FAMILY and TWO-FAMILY SITE PLAN APPLICATION

A complete submittal includes all items on the "Single-Family and Two-Family Site Plan Application Submission Checklist" 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.

<table>
<thead>
<tr>
<th>PROJECT INFORMATION</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>OWNER'S NAME</td>
<td>Carmen Ordonez</td>
</tr>
<tr>
<td>PHONE / FAX</td>
<td>305-537-8079</td>
</tr>
<tr>
<td>AGENT'S NAME</td>
<td></td>
</tr>
<tr>
<td>ADDRESS</td>
<td>9433 Bay Drive</td>
</tr>
<tr>
<td>PHONE / FAX</td>
<td></td>
</tr>
<tr>
<td>PROPERTY ADDRESS</td>
<td></td>
</tr>
<tr>
<td>ZONING CATEGORY</td>
<td>Residential</td>
</tr>
<tr>
<td>DESCRIPTION OF PROPOSED WORK</td>
<td>Renovations master bedroom/master bathroom</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>INTERNAL USE ONLY</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Date Submitted</td>
<td>Project Number</td>
</tr>
<tr>
<td>Report Completed</td>
<td>Date</td>
</tr>
<tr>
<td>Fee Paid</td>
<td>$</td>
</tr>
</tbody>
</table>

| ZONING STANDARDS | Required | Provided | |
|---|---|---|
| Plot Size | | |
| Setbacks (F/R/S) | | |
| Lot Coverage | | |
| Height | | |
| Pervious Area | | |

SIGNATURE OF OWNER DATE SIGNATURE OF AGENT DATE

Town of Surfside – Single-Family and Two-Family Site Plan Application
COPIES OF SITE PLANS ARE AVAILABLE AT THE CLERKS OFFICE.

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

To: Planning & Zoning Board
Thru: Guillermo Olmedillo, Town Manager
From: Sarah Sinatra Gould, AICP, Town Planner
CC: Lillian Arango, Town Attorney
Date: August 29, 2019
Re: 9540 Harding Avenue – X Beauty by Hanna

The subject property is located at 9540 Harding Avenue and is within the SD-B40 zoning district. The applicant is requesting one (1) Permanent Wall Sign; four (4) Permanent Window Sings; three (3) on the store frontage and one (1) on the back door.

Staff has reviewed the current application for consideration by the Design Review Board. In this report, Staff presents the following:

- Applicable Zoning Code regulations, along with the results of the review
- Staff Recommendation

STANDARDS / RESULTS

Town of Surfside Zoning Code, Applicable Requirements

Sec. 90-73

<table>
<thead>
<tr>
<th>Signs</th>
<th>Permitted</th>
<th>Proposed</th>
</tr>
</thead>
</table>
| Area [Wall Sign]    | Wall Sign
                     For frontages less than 25 feet, a total sign area up to 25 square feet maximum shall be permitted | Wall Sign
                     25.5 square feet                                                        |
<p>| Types [Wall Sign]   | The following types of individually-mounted letter signs shall be permitted. No open face channel letters shall be permitted. |
|                     | i. Reverse channel letter.                                                | Reverse Channel letter |
|                     | ii. Push-through letter.                                                  |                        |
|                     | iii. Pan channel letter.                                                  |                        |
|                     | iv. Raceway mounted letter. All exposed raceways must be                  |                        |</p>
<table>
<thead>
<tr>
<th>Offset [Wall Sign]</th>
<th>Signs shall be off-set from the wall a minimum of one quarter inch to a maximum of two inches to permit rain water to flow down the wall face.</th>
<th>Offset 1 inch</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illumination [Wall Sign]</td>
<td>All signage, lettering, logos or trademarks shall be required to be lit with white illumination from dusk to dawn. The illumination may be either internal illumination or external illumination, however, all walls below the sign shall be illuminated with white wall wash LED lighting. It shall be located and directed solely at the sign. The light source shall not be visible from or cast into the right-of-way, or cause glare hazards to pedestrians, motorists, or adjacent properties. Lighting shall meet all applicable electrical codes. Intensities of illumination shall be approved by the building official of the town before issuance of a sign permit.</td>
<td>Illumination is white LED</td>
</tr>
</tbody>
</table>
| Area [Window Signs] | **Window Signs**  
20 percent of the area of the glass window or door in which the sign is displayed. | |
| Location [Window Signs] | With the exception of theater marquees and V-box signs, no sign shall be erected so that any portion thereof shall project over a dedicated street or sidewalk or so that any portion thereof shall project more than five feet from any main building wall. | Window Signs  
**Front Door**  
1. < 20 percent of the glass area  
**Back Door**  
2. < 20 percent of the glass area  
Window Signs  
Signs do not project over the sidewalk or street |
| Permanent window sign [Window Signs] | Lettering shall not exceed eight inches in height. Acceptable materials include painted gold leaf or silver leaf, silk-screened, cut or polished metal, cut or frosted vinyl, and etched glass. | Lettering does not exceed eight inches in height |

**RECOMMENDATION**

Staff finds the application meets the Code requirements subject to the following;

**Condition of Approval**

1) Provide a wall sign that meets the maximum coverage of 25 square feet. Currently, the applicant is proposing a wall sign which is 25.5 square feet. Please adjust accordingly. **Code section 90-73**
**TOWN OF SURFSIDE**

**MULTI-FAMILY AND NON-RESIDENTIAL DESIGN REVIEW APPLICATION**

(Signs, awnings, store fronts, fences, and walls etc)

A complete submittal includes all items on the "Multi-family and Non-Residential Design Review Application Submission Checklist" 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**

Donato J. Kahn

**PHONE / FAX**

305-865-4311

**AGENT'S NAME**

Fernando Montes

**ADDRESS**

317 71st St Miami Beach, FL 33141

**PROPERTY ADDRESS**

9540 Harding Av, Surfside FL 33154

**ZONING CATEGORY**

SIGN

**DESCRIPTION OF PROPOSED WORK**


### INTERNAL USE ONLY

<table>
<thead>
<tr>
<th>Date Submitted</th>
<th>Project Number</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>Report Completed</th>
<th>Date</th>
</tr>
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<tbody>
<tr>
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</table>

<table>
<thead>
<tr>
<th>Fee Paid</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>$</td>
<td></td>
</tr>
</tbody>
</table>

### ZONING STANDARDS

<table>
<thead>
<tr>
<th>Required</th>
<th>Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>24 SQF</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SIGNATURE OF OWNER</th>
<th>DATE</th>
<th>SIGNATURE OF AGENT</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Town of Surfside - Multi-Family and Non-Residential Design Review Application
COPIES OF SITE PLANS ARE AVAILABLE AT THE CLERKS OFFICE.

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

To: Planning and Zoning Board
Thru: Guillermo Olmedillo, Town Manager
From: Sarah Sinatra Gould, AICP, Town Planner
CC: Lillian Arango, Town Attorney
Date: August 29, 2019
Re: 8926 Froude Avenue – Carport in Driveway

The property is located at 8926 Froude Avenue, within the H30B zoning district. The applicant is requesting after the fact approval for a carport.
Staff has reviewed the current application for consideration by the Planning & Zoning Board. In this report Staff presents the following:

- Applicable Zoning Code regulations, along with the results of the review
- Staff Findings

### STANDARDS / RESULTS

**Town of Surfside Zoning Code, Applicable Requirements**

**Sec. 90-58. – Carport canopies**

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Such canopy shall not exceed 20 feet in length, and 20 feet in width.</td>
<td>1. 9.7’x16.4’ = 160 sq. ft.</td>
</tr>
<tr>
<td>(2) The height of such canopy shall not exceed ten feet.</td>
<td>2. 7.1’ in height</td>
</tr>
<tr>
<td>(3) The height of the side openings shall be at least six feet, three inches.</td>
<td>3. +6’3”</td>
</tr>
<tr>
<td>(4) Such canopy shall be subject to the following minimum setbacks:</td>
<td>4(a). +5’</td>
</tr>
<tr>
<td>a. Rear: Five feet.</td>
<td>4(b). +2’</td>
</tr>
<tr>
<td>b. Interior side: Five feet.</td>
<td>4(d). Exceeds 8’ from rear of street curb</td>
</tr>
<tr>
<td>c. Primary (front) and secondary (corner): Two feet.</td>
<td>(5) Open all four sides</td>
</tr>
<tr>
<td>d. Rear of street curb: Seven feet.</td>
<td></td>
</tr>
<tr>
<td>(5) A canopy shall at all times remain open on all four sides, if free standing, and open on three sides if attached to the main building.</td>
<td></td>
</tr>
<tr>
<td>(6) The area under a canopy must be entirely paved by an approved paving material.</td>
<td></td>
</tr>
</tbody>
</table>

Carport canopies may be constructed, in a front, secondary side or rear yard setback in the H30A and H30B districts.

Staff finds the application meets the Code.
TOWN OF SURFSIDE
SINGLE-FAMILY and TWO-FAMILY SITE PLAN APPLICATION

A complete submittal includes all items on the "Single-Family and Two-Family Site Plan Application Submission Checklist" 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       Julio Valdes and Eirelan Manning
PHONE / FAX         917 340 9903 / 917 815 3924
AGENT'S NAME       
ADDRESS             8926 Froude Ave Surfside FL 33154
PHONE / FAX         917 340 9903 / 917 815 3924
PROPERTY ADDRESS    8926 Froude Ave Surfside FL 33154
ZONING CATEGORY    
DESCRIPTION OF PROPOSED WORK
                    car port in driveway 1/27 case 190655

INTERNAL USE ONLY

Date Submitted       Project Number
Report Completed     Date
Fee Paid             $

ZONING STANDARDS

Plot Size
Setbacks (F/R/S)
Lot Coverage
Height
Pervious Area

SIGNATURE OF OWNER   DATE   SIGNATURE OF AGENT   DATE

Page 30
COPIES OF SITE PLANS ARE AVAILABLE AT THE CLERKS OFFICE.

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

To: Planning and Zoning Board
Thru: Guillermo Olmedillo, Town Manager
From: Sarah Sinatra Gould, AICP, Town Planner
CC: Lillian Arango, Town Attorney
Date: August 29, 2019
Re: 500 93rd Street – New 2 Story Home

The property is located at 500 93rd Street, within the H30B zoning district. The applicant is requesting to build a new 5,538 square foot two-story home. The plans include a new driveway, walkways, pool, deck, carport, porte-cochere, covered terrace and front courtyard.

Staff has reviewed the current application for consideration by the Design Review Board. In this report Staff presents the following:

- Applicable Zoning Code regulations, along with the results of the review
- Applicable Design Guideline standards, along with the results of the review
- Staff Recommendation

STANDARDS / RESULTS

Town of Surfside Zoning Code, Applicable Requirements

Sec. 42.92 Lowest Floor Elevation

<table>
<thead>
<tr>
<th>Residential</th>
<th>Lowest Floor</th>
<th>Proposed (Resub)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single-Family Residential</td>
<td>Base Flood +2</td>
<td>10 feet</td>
</tr>
</tbody>
</table>

Sec. 90.43 Maximum building heights

<table>
<thead>
<tr>
<th>Height</th>
<th>Required Maximum</th>
<th>Proposed (Resub)</th>
</tr>
</thead>
<tbody>
<tr>
<td>H30B</td>
<td>30 feet</td>
<td>30'</td>
</tr>
</tbody>
</table>

Sec. 90-45. Setbacks

<table>
<thead>
<tr>
<th>H30A AND H30B UPPER STORY FLOOR AREA IS LESS THAN 50% OF FIRST STORY FLOOR AREA</th>
<th>Required</th>
<th>Proposed (Resub)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Lot Coverage</td>
<td>40%</td>
<td>40%</td>
</tr>
<tr>
<td>FIRST STORY (UP TO 15 FT IN HEIGHT)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Primary frontage</td>
<td>Minimum 20 FT</td>
<td>20'</td>
</tr>
<tr>
<td>------------------</td>
<td>--------------</td>
<td>-----</td>
</tr>
<tr>
<td>Interior side (when the site consists of more than one lot of record, as shown on plats in effect on November 13, 2018)</td>
<td>20 FT or 20% of the frontage whichever is greater (20% of 105’ = 21’)</td>
<td>21’</td>
</tr>
<tr>
<td>Rear</td>
<td>Minimum 20 FT</td>
<td>20'</td>
</tr>
<tr>
<td>Secondary frontage (corner only)(when the site consists of more than one lot of record, as shown on plats in effect on November 13, 2018)</td>
<td>20 FT or 20% of the frontage whichever is greater (20% of 105’ = 21’)</td>
<td>21’</td>
</tr>
</tbody>
</table>

**UPPER STORY OR WALL PLANES GREATER THAN 15 FT IN HEIGHT**

<table>
<thead>
<tr>
<th>Primary frontage</th>
<th>Minimum 20 FT / Average 22.5</th>
<th>Conforms</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interior side (when the site consists of more than one lot of record, as shown on plats in effect on November 13, 2018)</td>
<td>20 FT or 20% of the frontage whichever is greater / Average n/a</td>
<td>Conforms</td>
</tr>
<tr>
<td>Rear</td>
<td>Minimum 20 FT / Average n/a</td>
<td>Conforms</td>
</tr>
<tr>
<td>Secondary frontage (corner only)(when the site consists of more than one lot of record, as shown on plats in effect on November 13, 2018)</td>
<td>20 FT or 20% of the frontage whichever is greater</td>
<td>Conforms</td>
</tr>
</tbody>
</table>

### Sec. 90-47. – Yards generally, allowable projections

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed (Resub)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Every part of a required yard shall be open to the sky, except ordinary projections of sills, cornices, roof eaves and ornamental features</td>
<td>May project not more than 24 inches into any required yard</td>
<td>Conforms</td>
</tr>
<tr>
<td>Air conditioning equipment, pool pump or other mechanical equipment may be located in a required rear setback, provided;</td>
<td>a. such equipment is at least 15 feet from any other single-family or two-family residence b. shall maintain at least a five-foot setback from the rear and side yards c. is not visible from any street or waterway</td>
<td>a. Equipment is setback 13’11” from the property line (assuming that the residence to the west is setback 5’ for a total distance of 18’11”) b. +5’ setback c. Not visible from any street</td>
</tr>
</tbody>
</table>
Open, unenclosed building entrance porches, platforms, stairs or paved terraces, not covered by a roof or canopy, and which do not extend above the level of the grade or entrance floor of the building

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed (Resub)</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) May extend or project into the required front or side yard no more than six feet</td>
<td>a) Does not extend above grade</td>
</tr>
<tr>
<td>b) and the encroachments shall not provide less than a 24-inch setback to the property line.</td>
<td>b) Does not extend or project into the required front or side yard</td>
</tr>
<tr>
<td>1) The structure must be completely supported (cantilevered) from the main structure;</td>
<td><em>Cantilevered canopy has been removed from proposal</em> The applicant is now proposing a 22” concrete projection.</td>
</tr>
<tr>
<td>2) The structure must be transparent in nature with a solid to transparent material ratio of no more than 35 percent solid to 65 percent transparent;</td>
<td></td>
</tr>
<tr>
<td>3) The structure must not have a frontage of more than 30 feet in width;</td>
<td></td>
</tr>
<tr>
<td>4) The structure must not extend more than 20 feet into the required front setback; and</td>
<td></td>
</tr>
<tr>
<td>5) The structures shall not extend into any side setback area.</td>
<td></td>
</tr>
</tbody>
</table>

A cantilevered canopy will be permitted in the required front yard, subject to the following:

Sec. 90-48. – Modification of side and rear yard regulations

<table>
<thead>
<tr>
<th>Standards</th>
<th>Required</th>
<th>Proposed (Resub)</th>
</tr>
</thead>
<tbody>
<tr>
<td>New balconies or decks located more than five feet above grade on new or existing single family homes</td>
<td>Shall not encroach into any setbacks</td>
<td>Not provided- Revise the portion of the deck in the side setback to no greater than five feet above grade</td>
</tr>
</tbody>
</table>

Sec. 90.49 Lot standards

<table>
<thead>
<tr>
<th>Lot Standards H30A</th>
<th>Required</th>
<th>Proposed (Resub)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot width</td>
<td>50 feet</td>
<td>105'0”</td>
</tr>
<tr>
<td>Minimum lot area</td>
<td>8,000 feet</td>
<td>11,681 SF</td>
</tr>
<tr>
<td>Maximum lot coverage</td>
<td>40%</td>
<td>40% (4,672/11,681=0.36)</td>
</tr>
<tr>
<td>Pervious area</td>
<td>35% (minimum)</td>
<td>33% (3,906/11,681=0.33)</td>
</tr>
</tbody>
</table>

Sec. 90.50 Architecture and roof decks
<table>
<thead>
<tr>
<th>Unique Elevation</th>
<th>Required</th>
<th>Proposed (Resub)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A unique elevation from the main buildings of the adjacent two (2) homes shall be created through the modulation of at least three (3) of the following architectural features: (a) Length, width and massing of the structure; (b) Number of stories; (c) Façade materials; (d) Porches and other similar articulation of the front façade; (e) Number and location of doors and windows; and (f) Roof style and pitch.</td>
<td>A unique elevation from the main buildings of the adjacent two (2) homes is created through the modulation of; (a) Length, width and massing of the structure; (b) Number of stories; (c) Roof style and pitch.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Wall openings</th>
<th>10% for all elevations</th>
<th>+10% for all elevations</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Roof Material</th>
<th>Required</th>
<th>Proposed (Resub)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Clay Tile; (b) White concrete tile; (c) Solid color cement tile which color is impregnated with the same color intensity throughout, provided said color if granted approval by the Design Review Board; (d) Architecturally embellished metal if granted approval by the Design Review Board; or (e) Other Florida Building Code approved roof material(s) if granted approval by the Design Review Board.</td>
<td>Flat roof</td>
<td></td>
</tr>
</tbody>
</table>

**Sec. 90-52. – Required clearances**

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed (Resub)</th>
</tr>
</thead>
<tbody>
<tr>
<td>All corner properties shall provide and maintain Unobstructed corner clearance areas along both the front and side lot lines</td>
<td>Conforms</td>
</tr>
</tbody>
</table>

| All objects, fences, walls, gateways, ornamental structures, signs, hedges, shrubbery, and other fixtures, construction, and planting within any corner clearance areas shall provide unobstructed cross-visibility at a level | Between 30 inches and eight feet, with the exception of tree trunks that do not create a traffic hazard | No obstructions |
### Sec. 90.54 Accessory Structures

<table>
<thead>
<tr>
<th>Accessory buildings</th>
<th>Required</th>
<th>Proposed (Resub)</th>
</tr>
</thead>
</table>
| 90-54.2 Accessory swimming pools and decks, open and unenclosed, or covered by a screen enclosure, may occupy a required rear, front, or side setback, subject to the following minimum setbacks: | | (a) +5’
| | (b) 5’ 5”
| | (c)10’
| (a) Rear: Five feet. | |
| (b) Interior side: Five feet. | |
| (c) Primary (front) and secondary (Corner): Ten feet. | |

90-54.3 An open, uncovered porch, patio, or terrace may occupy a required rear or interior side setback, subject to the following minimum setbacks:

- (a) Rear: Five feet
- (b) Interior side: Five Feet
- (c) Primary (front) and secondary (corner): Ten feet

### Sec. 90.56 Fences, walls and hedges

<table>
<thead>
<tr>
<th>Fence</th>
<th>Required</th>
<th>Proposed (Resub)</th>
</tr>
</thead>
<tbody>
<tr>
<td>90-56.1.A</td>
<td>A fence or ornamental wall not more than six feet in height, as measured from grade, may project into or enclose an interior side or rear yard only.</td>
<td>The perimeter fence conforms, however, the 14’ stone cladded wall may not exceed 6 feet in height.</td>
</tr>
<tr>
<td>90-56.2</td>
<td>A fence or ornamental wall may be placed within the front yard or primary corner yard if granted design review approval by the planning and zoning board</td>
<td>Requires approval by the planning and zoning board</td>
</tr>
<tr>
<td>90-56.4</td>
<td>Front yard and corner yard fences and ornamental walls</td>
<td>Conforms</td>
</tr>
</tbody>
</table>

Lot frontage is wider than or equal to 100 ft

Maximum Height:

- (a) 4ft + ½ ft per 10 feet of lot width exceeding 50 feet, maximum 6 ft>
- (b) Secondary frontage shall adhere to the height and opacity limitations for corresponding lot frontage

Maximum Opacity:

All wall and fence surfaces two (2) feet measured from grade shall maintain a maximum opacity of fifty (50) percent
90-56.5 Modification of secondary frontage fence and ornamental walls

(1) A fence or ornamental wall that has a maximum opacity of 100 percent and a maximum height of six feet, as measured from grade, may project into or enclose the street side yard of a corner lot, provided:
   a. Not placed in front of the front façade of the primary residential structure and extends beyond the plane of the front façade on only one side of the primary residential structure;
   b. The fence/wall is setback 3 feet from any property line
   c. Shrubs shall be installed at the time the fence or wall is installed
   d. Shrubs shall be planted a minimum of 36” in height, shall be placed a maximum of 24” on center and shall cover the exterior of the fence or wall within one year after the final inspection of the fence.

Access gates

All temporary construction fences shall contain access gates with a minimum clear opening width of 12 feet. Access gates must be provided at the front and rear of the enclosure. Gates must be kept unlocked during inspection hours.

12 width has been provided

Sec. 90-58. – Carport canopies

Carport canopies may be constructed, in a front, secondary side or rear yard setback in the H30A and H30B districts.

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed (Resub)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Such canopy shall not exceed 20 feet in length, and 20 feet in width.</td>
<td>(1) Conforms</td>
</tr>
<tr>
<td>(2) The height of such canopy shall not exceed ten feet.</td>
<td>(2) 9’ ½”</td>
</tr>
<tr>
<td>(3) The height of the side openings shall be at least six feet, three inches.</td>
<td>(3) 8’0”</td>
</tr>
<tr>
<td>(4) Such canopy shall be subject to the following minimum setbacks:</td>
<td>(4)(a) 5’</td>
</tr>
<tr>
<td>a. Rear: Five feet.</td>
<td>(4)(b) +5’</td>
</tr>
<tr>
<td>b. Interior side: Five feet.</td>
<td>(4)(c) +2’</td>
</tr>
<tr>
<td>c. Primary (front) and secondary (corner): Two feet.</td>
<td>(4)(d) +7’</td>
</tr>
<tr>
<td>d. Rear of street curb: Seven feet.</td>
<td>(5) Provide details showing that the carport is open on all four sides at building permit.</td>
</tr>
<tr>
<td>(5) A canopy shall at all times remain open on all four sides, if free standing, and open on</td>
<td>(6) Provide details showing that the area under the canopy is entirely paved by an approved paving material.</td>
</tr>
</tbody>
</table>
three sides if attached to the main building.

(6) The area under a canopy must be entirely paved by an approved paving material.

**Sec. 90.61 Paving in front and rear yards in H30 and H40 Districts**

<table>
<thead>
<tr>
<th>Paving Yards</th>
<th>Required</th>
<th>Proposed (Resub)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front setback permeability</td>
<td>50% minimum</td>
<td>50%</td>
</tr>
<tr>
<td>Front yard landscaped</td>
<td>30% minimum</td>
<td>&gt;30%</td>
</tr>
<tr>
<td>Rear yard landscaped</td>
<td>20% minimum</td>
<td>&gt;20%</td>
</tr>
<tr>
<td>Number of Curb Cuts</td>
<td>One minimum</td>
<td>3</td>
</tr>
<tr>
<td>Curb Cut side set back</td>
<td>5 feet minimum</td>
<td>&gt;5 feet</td>
</tr>
<tr>
<td>Curb cut width</td>
<td>Three curb cuts, each curb cut shall not be more than 12 feet in width, and there shall be at least 12 feet between curb cuts</td>
<td>3 curb cuts all 12’ in width and a separation between curb cuts of 30’</td>
</tr>
<tr>
<td>Driveway Materials</td>
<td>Limited to the following 1. Pavers 2. Color and texture treated concrete, including stamped concrete 3. Painted concrete shall not be permitted. 4. Asphalt shall not be permitted.</td>
<td>Concrete pavers</td>
</tr>
</tbody>
</table>

**Sec. 90-77 Off-Street Parking Requirements**

<table>
<thead>
<tr>
<th>Required</th>
<th>Minimum Space Requirements</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single-family</td>
<td>2 spaces</td>
<td>+ 2 spaces</td>
</tr>
</tbody>
</table>

**Sec. 90-89.4(6). Street Tree Requirements**

<table>
<thead>
<tr>
<th>Required</th>
<th>Required</th>
<th>Proposed (Resub)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street trees shall be required at one shade tree/palm tree per 20 linear feet of street frontage thereof along all public or private street right-of-ways in all zoning districts.</td>
<td>2 trees</td>
<td>Conforms</td>
</tr>
</tbody>
</table>

**Sec. 90-95. Single-family H30A and H30B district landscape requirements.**

<table>
<thead>
<tr>
<th>Required</th>
<th>Required</th>
<th>Proposed (Resub)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A minimum of five trees of two different species and 25 shrubs shall be planted per lot.</td>
<td>5 trees, 25 shrubs</td>
<td>Conforms</td>
</tr>
</tbody>
</table>
### Building Massing

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building forms should be varied enough to avoid monotony and to avoid pyramidal massing and should be compatible with surrounding houses.</td>
<td>Consistent</td>
</tr>
</tbody>
</table>

### Decorative Features

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Decorative features should be stylistically consistent throughout the entire building.</td>
<td>Consistent</td>
</tr>
</tbody>
</table>

### Overall Architectural Style

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>The overall style of each house should be consistent on all sides of the building, as well as among all portions of the roof.</td>
<td>Consistent</td>
</tr>
</tbody>
</table>

### Wall Materials and Finishes

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>The same material should be used on all building elevations unless multiple materials are a legitimate expression of the particular style.</td>
<td>Consistent</td>
</tr>
</tbody>
</table>

### Roof Materials, Types, and Slopes

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed (Resub)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roof types and slopes should be generally the same over all parts of a single building.</td>
<td>The applicant is proposing both a flat roof and a curved roof</td>
</tr>
<tr>
<td>Restricted materials for roofs are pre-determined in the Town's Building Code, which restricts roofing materials to: 1. Clay tile; 2. White concrete tile; 3. Solid color cement tile which color is impregnated with the same color intensity throughout, provided said color is first approved by the planning and zoning board; and 4. Metal.</td>
<td>Flat Roof Proposed</td>
</tr>
</tbody>
</table>

### Windows and Trims

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Window styles should always be consistent among all elevations of a building.</td>
<td>Consistent</td>
</tr>
</tbody>
</table>
Frame materials should never vary on a single building. | Consistent
Window, door and eave trim should be consistent on all elevations of the house | Consistent

Staff finds the application meets the code with the following conditions of approval:

1) Correct the second floor square footage to include the open space above the playroom. The correct square footage for the second floor is 1,780 square feet.

2) Provide a consistent lowest floor elevation. The zoning summary table states 8’ NGVD and does not indicate the additional 2 feet for finished floor. Provide language in the zoning table reflecting this change. **code section 42.92**

3) Provide opacity details for all proposed fences and walls showing that they meet the maximum 50% opacity. All wall and fence surfaces above 2 feet measured from grade shall maintain a maximum opacity of 50 percent per **code section 90-56**

4) Revise the pool deck to be consistent with **code section 90-48.6** for the portion of the pool deck that’s within the side setback which require no greater than five feet in height above grade.

5) The applicant is proposing a four foot wall on the pool deck. The pool deck is five feet above grade. This results in a nine foot wall total. Walls cannot exceed six feet in the setback. **code section 90.56**

6) Provide 36” shrubs on the exterior of the fence in the secondary frontage. Currently, 30” shrubs are proposed. **code section 90.56**

7) Provide additional details showing that the carport is open on all four sides. **code section 90-58**.

8) Provide additional details as it relates to the proposed stone cladded CMU wall located at the north east corner of the property.

9) Adjust the typo in the zoning data table related to the allowable lot coverage. The maximum required is 40%. **code section 90-49**

10) Provide a consistent five foot setback for the pool/deck to the side property line. A portion of the deck appears to encroach.
TOWN OF SURFSIDE
SINGLE- FAMILY and TWO-FAMILY SITE PLAN APPLICATION

A complete submittal includes all items on the "Single-Family and Two-Family Site Plan Application Submission Checklist" 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.

<table>
<thead>
<tr>
<th>PROJECT INFORMATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>OWNER'S NAME</td>
</tr>
<tr>
<td>PHONE / FAX</td>
</tr>
<tr>
<td>AGENT'S NAME</td>
</tr>
<tr>
<td>ADDRESS</td>
</tr>
<tr>
<td>ZONING CATEGORY</td>
</tr>
<tr>
<td>DESCRIPTION OF PROPOSED WORK</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>INTERNAL USE ONLY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date Submitted</td>
</tr>
<tr>
<td>Report Completed</td>
</tr>
<tr>
<td>Fee Paid $</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ZONING STANDARDS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plot Size</td>
</tr>
<tr>
<td>Setbacks (F/R/S)</td>
</tr>
<tr>
<td>Lot Coverage</td>
</tr>
<tr>
<td>Height</td>
</tr>
<tr>
<td>Pervious Area</td>
</tr>
</tbody>
</table>

SIGNATURE OF OWNER DATE SIGNATURE OF AGENT DATE

Town of Surfside – Single-Family and Two-Family Site Plan Application
The Planning and Zoning Board shall generally meet the last Thursday of each month at 7:00 pm. at Town Hall.

Plans and completed applications (including all supporting documentation) must be submitted to the Building Department at least 21 days prior to the meeting, with the payment of applicable fees (example: $200.00 for Plan Review for Zoning), at which time they will be considered. Incomplete plans and applications will not be processed.

The applicant or duly authorized agent (per ownership affidavit) must be present at the meeting. If there are no applications for consideration by the Planning and Zoning Board, the monthly meeting may be cancelled at the discretion of the Chairman of the Board.

Please advise the name of the Representative who will attend the hearing on behalf of this application:

NAME OF REPRESENTATIVE: MARKUS FRANKEL
ARCHITECT: FISHMAN, 8/06/9
DATE: 

Page 41
Owner's Affidavit

08/07/19

To whom it may concern,

I, Irwin Tauber, trustee for Opaoma Trust / owner of the property located on:

500 93 St
Surfside, FL 33154

Authorize Frankel Benayoun Architects, INC to submit the site plans application and perform all the necessary reviews throughout the permit process.

Shall you need to contact me for any additional information, you may contact me at: 305-861-8085

Thanks in advance.

__________________________
Irwin Tauber, Trustee
COPIES OF SITE PLANS ARE AVAILABLE AT THE CLERKS OFFICE.

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

To: Members of the Planning & Zoning Board

From: Sarah Sinatra Gould, AICP, Town Planner

Date: August 29, 2019

Subject: Parking Waiver Program

On July 10, 2018, the Town Commission approved an ordinance establishing a waiver program for required parking for vacancies in the downtown business district. The program expired on July 10, 2019. At the July 11, 2019 Town Commission meeting, the Commission approved a one year extension of this program. 50% of the stores vacant in July 2019 are now rented to retail or restaurant operations, which is further described in the attachment to this memorandum.

At the July 11, 2019 Town Commission meeting, it was suggested that as properties become vacant, they may be included in the program. The following two changes in the ordinance are proposed since the first reading:

1. The Manager may add properties to the vacant properties list.
2. Properties may be eligible if they are vacant at any time through July 10, 2020.

Staff is recommending the Planning and Zoning Board as the Local Planning Agency to recommend approval to the Town Commission for a one year extension of this program.
MEMORANDUM

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

From: Guillermo Olmedillo, Town Manager

Date: July 9, 2019

Subject: One-Year Extension of the 2018 Parking Exemption Ordinance

At the June 11, 2019 Town Commission meeting, direction was given to return with a one-year extension to the parking exemption program that was established at the July 10, 2018 Town Commission Meeting via Ordinance No. 2018-1686 (Attachment A).

The Town updated its Vacant Properties in the Business District Inventory on July 1, 2019 with additional vacant properties within the SD-B40 Zoning District that could potentially benefit from the program. These properties were added to the inventory (Exhibit "A") provided with the accompanying ordinance extension.

The Town Administration seeks approval on the proposed ordinance as presented.
MEMORANDUM

To: Honorabe Mayor, Vice-Mayor and Members of the Town Commission
From: Guillermo Olmedillo, Town Manager
Date: June 11, 2019
Subject: Parking Waiver Program Update

On July 10, 2018 the Town Commission approved Ordinance No. 2018-1686 to establish a waiver program for “off-street parking requirements of Chapter 90 Zoning” in an effort to address vacancies downtown, and provide an incentive for economic revitalization (Attachment A). This ordinance is slated to expire on July 10, 2019.

As of May 31, 2019, five of the eligible ten vacant properties have been rented, and four of the five new businesses utilized the parking waiver provision. This initiative has proven successful in addressing the goals set forth: assist with filling vacant properties and in the revitalize efforts downtown.

<table>
<thead>
<tr>
<th>Location</th>
<th>Spaces Waived</th>
<th>New Business</th>
</tr>
</thead>
<tbody>
<tr>
<td>9472 Harding Avenue</td>
<td>0*</td>
<td>Mesa Kosher Restaurant</td>
</tr>
<tr>
<td>9488 Harding Avenue</td>
<td>In Progress</td>
<td>Café Vert extension</td>
</tr>
<tr>
<td>9588 Harding Avenue</td>
<td>2</td>
<td>BH Home Design</td>
</tr>
<tr>
<td>9433 Harding Avenue</td>
<td>N/A</td>
<td>Vacant</td>
</tr>
<tr>
<td>9441 Harding Avenue</td>
<td>N/A</td>
<td>Vacant</td>
</tr>
<tr>
<td>9491 Harding Avenue</td>
<td>N/A</td>
<td>Vacant</td>
</tr>
<tr>
<td>9509 Harding Avenue</td>
<td>N/A</td>
<td>Vacant</td>
</tr>
<tr>
<td>9555 Harding Avenue</td>
<td>3</td>
<td>The Fishery (Coming Soon)</td>
</tr>
<tr>
<td>9571 Harding Avenue</td>
<td>N/A</td>
<td>Morelia Gourmet Paletas</td>
</tr>
</tbody>
</table>

*There was a restaurant previously in this space

Parking requirements for restaurants and retail spaces are more than office spaces. Therefore, if a retail of restaurant business were to replace a space that was previously occupied by an office space, a payment of $38,000 per parking space, into the Parking Fund, for any space not accounted for by the prior use is required. The payments would then be connected to the Town offsetting the "parking deficit" with the establishment of additional parking.
It could be construed that this program eliminates this additional (conditional) revenue to the Town and, therefore, a loss. However, once an applicant realizes the additional cost for the parking, they typically find another location as expressed by some of the vacant downtown property owners. This results in a loss of a tenant and a perpetually vacant space. The benefit of the parking waiver program is that it has filled vacant spaces with retail and restaurant uses, and that the new restaurants will have a positive revenue effect from Resort Tax.

Due to the fact that fifty percent (50%) of the previously vacant store fronts are now rented, and eighty percent (80%) of the new businesses participated in the parking waiver program, this initiative can be viewed as a contributing factor in the attraction of new downtown businesses.

The parking waiver program, if extended and inclusive of the newly vacant properties, would include a total of sixteen properties, five from the original vacant property inventory identified in the chart below.

<table>
<thead>
<tr>
<th>West Side</th>
<th>East Side</th>
</tr>
</thead>
<tbody>
<tr>
<td>9452 Harding Avenue</td>
<td>9433 Harding Avenue (still vacant)</td>
</tr>
<tr>
<td>9482 Harding Avenue</td>
<td>9438 Harding Avenue</td>
</tr>
<tr>
<td>9486 Harding Avenue</td>
<td>9441 Harding Avenue (still vacant)</td>
</tr>
<tr>
<td></td>
<td>9453 Harding Avenue</td>
</tr>
<tr>
<td></td>
<td>9455 Harding Avenue</td>
</tr>
<tr>
<td></td>
<td>9461 Harding Avenue</td>
</tr>
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<td>9471 Harding Avenue</td>
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<td>9491 Harding Avenue (still vacant)</td>
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<td>262 95th Street (still vacant)</td>
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<td>9509 Harding Avenue</td>
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<td>9513 Harding Avenue</td>
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<td>9555 Harding Avenue (still vacant)</td>
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<td>9599 Harding Avenue</td>
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</table>

There is no direct budgetary impact. Staff time would be required to bring the ordinance provision to the Commission and monitor the initiative for another year.

The Town Administration seeks direction on whether to extend the provision for the sixteen properties (new vacancy inventory) or to allow it to expire.
Town of Surfside
Commission Communication

Agenda Item #

Agenda Date: July 10, 2018

Subject: Downtown Business District Parking Requirement Waiver

Background: At the May 8, 2018 Town Commission meeting there was a discussion item on providing a parking waiver for new retail or restaurant businesses filling existing vacancies downtown. The Administration received direction to return with an ordinance that facilitates the waiver (4:1 vote in favor). At the June 12, 2018 Town Commission meeting the ordinance was approved on first reading (5:0 vote in favor). The Planning & Zoning Board recommended moving forward with the ordinance at their June 27, 2018 meeting.

Analysis: While there are probably many factors affecting the vacancies downtown, this waiver addresses the property owners’ stated issue of the parking requirement being the foremost issue in filling their vacancies.

In a good faith effort to address their stated view, and to reinvigorate the economic development of downtown, the Administration is proposing a waiver of the parking requirement with the following restrictions:

- The waiver would sunset after one year unless extended by the Town Commission. This is a change from the two-year waiver discussed on May 8, 2018 due to the desire to spur a more immediate economic resurgence
- The waiver would only apply to new businesses locating in existing vacant store fronts at the time of the ordinance adoption. An inventory of the existing vacancies will be conducted. Vacancy inventory attached (Attachment A)
- Businesses would be defined as retail or restaurant only for waiver eligibility

Budget Impact: While there is potential loss of Parking Fund revenue, this can only be determined if the waiver achieves its projected effect of filling the downtown vacancies and by the type of new businesses that open. This may not in effect be a valid “loss” as these businesses are not presently locating in Surfside.

New tenants, especially restaurants, can have a positive effect on Resort Tax Revenue. This could counteract any loss of payments to the Parking Fund. Filling vacancies can enhance the downtown experience and improve the desirability and marketability of the area. Thus, potentially resulting in increased patronage downtown and to all food and beverage establishments.
Staff Impact: The Tourist Bureau will assist with the outreach to the property owners and will monitor the venture. The Planning and Building operations will provide the waiver to applicable businesses when reviewed as part of a site plan, building permit or Certificate of Use issuance (whichever is the earliest).

Recommendation: The Administration is recommending the adoption of the accompanying ordinance on second reading as presented.

Guillermo Olmedillo, Town Manager

DT
AN ORDINANCE OF THE TOWN OF SURFSIDE, FLORIDA AMENDING SECTION 90-77 "OFF-STREET PARKING REQUIREMENTS," OF "CHAPTER 90 ZONING" OF THE TOWN OF SURFSIDE CODE OF ORDINANCES TO PROVIDE A PARKING EXEMPTION PROGRAM TO ADDRESS VACANCY AND ECONOMIC REVITALIZATION IN THE SD-B40 ZONING DISTRICT; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Commission of the Town of Surfside, Florida, recognizes that changes to the adopted Code of Ordinances are periodically necessary in order to ensure that the Town’s regulations are current and consistent with the Town’s planning and regulatory needs; and

WHEREAS, the Town has worked with downtown businesses and property owners to improve the economic health and vitality of the downtown and analyze and address operational issues, vacancy, and economic growth; and

WHEREAS, the Town has conducted an inventory of downtown ground floor vacancies, attached hereto and incorporated herein as the “2018 Downtown Vacancy Inventory”; and

WHEREAS, the large number of vacancies has reduced the vibrancy and economic vitality of the Town’s Downtown; and

WHEREAS, the Town desires to take positive action to avoid the onset of blight and restore the economic health and welfare of its crucial commercial district; and

WHEREAS, economic vitality and restoration can be enhanced with proactive policy interventions designed to improve economic viability, therein fostering new business activity, productivity and operational feasibility; and

WHEREAS, parking, and the limited availability of land may impact redevelopment, changes of use and occupancy; and
WHEREAS, in order to help reduce vacancy, improve aesthetics, and restore the pedestrian experience and downtown vitality, the Town desires to develop a temporary Parking Exemption Program; and

WHEREAS, the Town Commission held its first public hearing on these regulations on June 12, 2018; and

WHEREAS, the Planning and Zoning Board, sitting as the Local Planning Agency, has reviewed the revisions to the Code for consistency with the Town’s Comprehensive Plan at a duly noticed hearing on June 27th, 2018; and

WHEREAS, the Town Commission has conducted a second duly noticed public hearing on these regulations as required by law on July 10th; and

WHEREAS, the Town Commission hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFside, FLORIDA, AS FOLLOWS:

Section 1. Recitals. Each of the above stated recitals is true and correct and the recitals are incorporated herein by this reference.

Section 2. Code Amendment. The Code of Ordinances of the Town of Surfside, Section 90-77 “Off-street parking requirements” of Chapter 90 “Zoning” is hereby amended as follows:

Sec. 90-77. - Off-street parking requirements.

(a) Except as otherwise provided herein, when any building or structure is hereafter constructed; or structurally altered so as to increase the number of dwelling units or hotel rooms to increase its total commercial floor area, including provision of outdoor seating; or when any building or structure is hereafter converted to any of the uses listed in subsection 90-77(c), off-street parking spaces shall be provided in accordance with the requirements of subsection 90-77(c), or as required in subsequent sections of this article. The requirement for an increase in the number of required parking spaces shall be provided on the basis of the enlargement or change of use.

(b) Parking compliance for properties and uses located in SD-B40 zoning district and for religious places of public assembly in other areas of the town.

(1) Off-street parking applicability. This section applies to:

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1 Additions to text are shown in underline. Deletions to text are shown in strikethrough.
a. Uses within the SD-B40 zoning district where changes of use from service businesses to restaurant or retail occur; and

b. Religious places of public assembly located within the area depicted on the Public Assembly Places as set forth in subsection 90-41(d)(23) hereinabove.

(2) Options to satisfy parking requirements for uses specified in (1) above. Satisfaction of the off-street parking requirements may be achieved with the permission of the town commission through compliance with any combination of the following options:

a. On site provision of required parking spaces as more specifically set forth in subsection 90-77(c);

b. Tandem parking as more specifically set forth in subsection 90-77(d);

c. Joint use and off-site facilities as more specifically described in section 90-80. If parking is satisfied by agreement with a private third party, the town shall require an agreement in writing for an effective period of no less than five years. No less than 60 days prior to the expiration of such agreement, either a new agreement shall be in place or the owner of the property for which the parking is being provided shall receive the town's approval of the employment of one of the other prescribed options contained in this subsection. Failure to secure the town's approval of one or a combination of the prescribed options shall result in revocation of the owner's certificate of occupancy and certificate of use;

d. Shared parking; or

e. Payment of parking trust fee that can be used to finance the provision of parking whether through the purchase, construction or modification of parking facilities or to otherwise provide for additional parking as more specifically set forth in subsection 90-77(b)(4).

(3) Modification of parking requirements. In tandem with the use of options (2)c—e to satisfy parking requirements, requests may be made for a reduction in the minimum parking requirements which may be considered by the town upon receipt of an application from the owner of the site seeking a reduction as follows:

a. Minor reductions. Requests for a reduction of one to three required parking spaces may be approved by the town manager in consultation with the town planner as a de minimus reduction upon a finding that the applicant has utilized the options available in subsection 90-77(b)(2) above, to the greatest extent feasible. If the request is denied by the town manager, that decision may be appealed to the town commission.

b. Major reductions. The planning and zoning board shall hear requests for reductions in parking in excess of the town manager's authority under subsection (3)a hereinabove. Such requests shall be accompanied by a report prepared by the town manager and town planner and approved for legal sufficiency by the town attorney, analyzing existing and future parking demands, the availability of underutilized public parking spaces, and traffic circulation. The report prepared by the town manager and town planner and approved for legal sufficiency by the town attorney
will be based upon an independent study completed by a professional traffic engineer licensed in the State of Florida.

c. Criteria for approval of major or minor reduction. Requests for reduction may be approved, in whole or in part, upon a finding that there is sufficient available parking that is open to the public and is judged adequate to accommodate the parking reduction request within 300 feet of the subject property along a practical and usable pedestrian route excluding residential districts.

If the request is denied by the planning and zoning board, that decision may be appealed to the town commission.

(4) Parking exemption. There is hereby created a "Parking Exemption Program".

a. Program. For the period from [July 10, 2018 - Effective date of this Ordinance] to [July 10, 2019 - 1 year from the effective date of this Ordinance], first floor properties in the SD-B40 zoning district which are vacant as of [July 10, 2018 - Effective date of this Ordinance] shall not be required to provide parking spaces, beyond those currently provided for the property, for any additional parking spaces required by the following:

1. The development of currently vacant existing first floor square footage for a change of use to retail or restaurant use which creates a requirement for additional parking spaces;

2. The development of a new sidewalk café in conjunction with a new retail or restaurant occupancy in currently vacant space;

3. The development of second floor square footage for a change of use to retail or restaurant use which creates a requirement for additional parking spaces provided the second floor area is an integral part of and accessed solely from the interior of a connected first floor space.

b. Application required. To qualify for the Parking Exemption Program, a parking exemption application must be submitted, in a form to be approved by the Town, with all supporting documentation as required by the application.

c. Eligibility for Program.

1. Only properties vacant as of July 10, 2018 as identified by Town inventory dated July 10, 2018 are eligible for the Program.

2. The application for a parking exemption, and all supporting documents, including any applicable certificate of use, building permit or development approval applications, shall have been submitted and deemed to be complete by the Town prior to the Program expiration, and all required permits received
and the retail or restaurant space subsequently built and opened to the public
within one year from approval of parking exemptions.

3. Eligibility is limited to first floor square footage which was existing and
vacant as of July 10, 2018, which is changing use and will be utilized for
retail, restaurant, or new sidewalk café space in conjunction with the new
retail or restaurant occupancy of currently vacant space, or the occupancy of
existing vacant second floor space for retail or restaurant use in conjunction
with, and which is an integral part of and accessed solely from, the interior of
a currently vacant connected first floor space.

d. Program guidelines.

1. Program duration. The Parking Exemption Program shall last for a period of
one year, from July 10, 2018, to July 10, 2019. Notwithstanding the
foregoing, the Town Commission, may, for any reason and in its sole
discretion, discontinue this Parking Exemption Program at any point during
the duration of the Program.

2. This Program does not allow the elimination of any existing parking spaces
and exemptions cannot be obtained to replace existing parking.

3. This Program may not be used for new construction, expanded building area
or for independently accessed, stand-alone second floor square footage.

4. Once parking exemptions are awarded, failure to complete construction and
open to the public within one year of approval of any parking exemptions
shall result in forfeiture of any parking exemptions obtained.

5. Status following end of Program.

i. Nonconforming. At the end of the Parking Exemption Program, all retail,
restaurant, and sidewalk café area built under the Parking Exemption
Program will become nonconforming use as to parking, and shall be
subject to the requirements of the nonconforming use provisions of the
Town's Code of Ordinances. Notwithstanding the foregoing, retail,
restaurant and sidewalk café uses which were granted parking exemptions
under this Program may be completely remodeled or rebuilt without
providing additional parking, as originally permitted through the Parking
Exemption Program, as long as it is the same business and use and the
retail floor area or restaurant seating capacity is not increased. If floor
area or seating capacity are increased, compliance with the parking
requirements in effect at that time is required for the new floor area or
seating capacity, through a mechanism available in the Code then in effect.

ii. Availability of exemptions to successor businesses. Parking exemptions are granted to a specific business for a specific use and are not assignable or transferable to another business, use, or property.

***

(c) Required parking table. The number of off-street parking spaces that shall be required to serve each building or structure and use shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Type of Residential Unit/Type of Use</th>
<th>Minimum Space Requirements</th>
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<tbody>
<tr>
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</tr>
<tr>
<td>Grocery, fruit or meat market</td>
<td>1 space each 250 gross floor area</td>
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<tr>
<td>Retail store or Personal service establishment</td>
<td>1 space each 300 gross floor area</td>
</tr>
<tr>
<td>Office or Professional services use, except Financial institutions</td>
<td>1 space each 400 gross floor area</td>
</tr>
<tr>
<td>Medical or Dental uses</td>
<td>1 space each 300 gross floor area</td>
</tr>
<tr>
<td>Restaurants or other establishments for the consumption of food and beverages on the premises</td>
<td>1 space for every 4 seats</td>
</tr>
<tr>
<td>Financial institutions</td>
<td>1 space each 300 gross floor area</td>
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Section 3. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.
Section 4. Conflict. All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

Section 5. Inclusion in the Code of Ordinances. It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word “Ordinance” may be changed to “Section” or other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective upon final adoption on second reading.

PASSED on first reading this 12th day of June, 2018.
PASSED and ADOPTED on second reading this 10th day of July, 2018.

On Final Reading Moved by: Vice Mayor Gielchinsky
On Final Reading Second by: Commissioner Karukin

FINAL VOTE ON ADOPTION

Commissioner Barry Cohen (Absent)
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
**Town Inventory of Vacant Properties in the Business District**

**As of July 10, 2018**

<table>
<thead>
<tr>
<th>West Side</th>
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<tbody>
<tr>
<td>9472 Harding Avenue</td>
<td>9433 Harding Avenue</td>
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<td>9488 Harding Avenue</td>
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<td>9555 Harding Avenue</td>
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<td>9571 Harding Avenue</td>
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ORDINANCE NO. 2019-_______

AN ORDINANCE OF THE TOWN COMMISSION OF THE
TOWN OF SURFSIDE, FLORIDA, AMENDING SECTION
90-77, “OFF-STREET PARKING” OF CHAPTER 90,
“ZONING” OF THE TOWN’S CODE OF ORDINANCES TO
EXTEND THE PARKING EXEMPTION PROGRAM TO
ADDRESS VACANCIES AND ECONOMIC
REVITALIZATION IN THE SD-B40 ZONING DISTRICT;
PROVIDING FOR CODIFICATION; PROVIDING FOR
SEVERABILITY; PROVIDING FOR CONFLICTS; AND
PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Commission of the Town of Surfside (the “Town”) recognizes that changes to the adopted Code of Ordinances (the “Code”) are periodically necessary in order to ensure that the Town’s regulations are current and consistent with the Town’s planning and regulatory needs; and

WHEREAS, the Town has worked with downtown businesses and property owners to improve the economic health and vitality of the downtown and analyze and address operation issues, vacancy, and economic growth; and

WHEREAS, in 2018, the Town conducted an inventory of downtown ground floor vacancies and identified ten vacant properties (the “2018 Downtown Vacancy Inventory”); and

WHEREAS, the large number of vacancies has reduced the vibrancy and economic vitality of the Town’s Downtown; and

WHEREAS, economic vitality and restoration can be enhanced with proactive policy interventions designed to improve economic viability, therein fostering new business activity, productivity, and operational feasibility; and

WHEREAS, parking and the limited availability of land may impact redevelopment, changes of use, and occupancy rates; and

WHEREAS, on July 10, 2018, the Town Commission adopted Ordinance No. 2018-1686 to amend Section 90-77 “Off-Street Parking Requirements” of Chapter 90 “Zoning” of the Town Code to provide a temporary, one-year parking exemption program (the “Parking Exemption Program”) to help reduce vacancies, improve aesthetics, restore the pedestrian experience and downtown vitality, and incentivize economic revitalization in the SD-B40 Zoning District; and

WHEREAS, since the Parking Waiver Program was adopted, five of the ten eligible properties were leased and four out of the five new businesses participated in the Parking Waiver Program; and

WHEREAS, the Parking Exemption Program is scheduled to expire on July 10, 2019; and
WHEREAS, on July 1, 2019, the Town conducted a review of the inventory of downtown
ground floor vacancies in the SD-B40 Zoning District and identified eleven additional properties
that are vacant and should be eligible for participation in the Parking Waiver Program; and

WHEREAS, in an effort to continue incentivizing the economic revitalization of the SD-
B40 Zoning District, the Town Commission wishes to extend the duration of the Parking Waiver
Program through July 10, 2020 and increase the number of properties eligible for participation in
the Parking Waiver Program from ten to twenty-one properties as identified in the 2019 Downtown
Vacancy Inventory attached hereto and incorporated herein as Exhibit “A”; and

WHEREAS, the Town Commission held its first public hearing on these regulations on
July 9, 2019; and

WHEREAS, the Planning and Zoning Board, sitting as the Local Planning Agency, has
reviewed the revisions to the Code for consistency with the Town’s Comprehensive Plan at a duly
noticed hearing on July 11, 2019; and

WHEREAS, the Town Commission conducted a second duly noticed public hearing on
these regulations as required by law on August 13, 2019; and

WHEREAS, the Town Commission finds that this Ordinance is necessary, appropriate,
and advances the public interest.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE TOWN
OF SURFSIDE AS FOLLOWS:¹

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

Section 2. Town Code Amended. The Code of Ordinances of the Town of Surfside,
Florida is hereby amended by amending Section 90-77, “Off-street parking requirements” as
follows:

Chapter 90 – Zoning

Article VII. – Off-Street Parking and Loading

***

Division 1. - Off-street parking

Section 90-77. Off-street parking requirements.

¹ Coding: Strikethrough words are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with highlighted double-striethrough and double underline.
(4) **Parking exemption.** There is hereby created a "Parking Exemption Program".

a. Program. For the period from [July 10, 2018 - Effective date of this Ordinance] to [July 10, 201920 - 1 year from the effective date of this Ordinance], first floor properties in the SD-B40 zoning district which are vacant as of [July 10, 2018 - Effective date of this Ordinance] through and including July 1, 2019 shall not be required to provide parking spaces, beyond those currently provided for the property, for any additional parking spaces required by the following:

1. The development of currently vacant existing first floor square footage for a change of use to retail or restaurant use which creates a requirement for additional parking spaces;

2. The development of a new sidewalk café in conjunction with a new retail or restaurant occupancy in currently vacant space;

3. The development of second floor square footage for a change of use to retail or restaurant use which creates a requirement for additional parking spaces provided the second floor area is an integral part of and accessed solely from the interior of a connected first floor space.

b. Application required. To qualify for the parking exemption program, a parking exemption application must be submitted, in a form to be approved by the town, with all supporting documentation as required by the application.

c. Eligibility for program.

1. Only properties vacant as of [July 10, 2018 and July 1, 2019], as identified by the Town's Downtown Vacancy inventory dated July 10, 2018 and updated July 1, 2019, are eligible for the program.

2. The application for a parking exemption, and all supporting documents, including any applicable certificate of use, building permit or development approval applications, shall have been submitted and deemed to be complete by the town prior to the program expiration, and all required permits received and the retail or restaurant space subsequently built and opened to the public within one year from approval of parking exemptions.

3. Eligibility is limited to first floor square footage which was existing and vacant as of [July 10, 2018 and July 1, 2019], which is changing use and will be utilized for retail, restaurant, or new sidewalk café space in conjunction with the new retail or restaurant occupancy of currently vacant space, or the occupancy of existing vacant second floor space for retail or restaurant use in conjunction with, and which is an integral part of and accessed solely from, the interior of a currently vacant connected first floor space.

d. Program guidelines.

1. Program duration. The parking exemption program shall last for a period of one year, from July 10, 2018, to July 10, 201920. Notwithstanding the foregoing, the
town commission, may, for any reason and in its sole discretion, discontinue this
parking exemption program at any point during the duration of the program.

2. This program does not allow the elimination of any existing parking spaces and
exemptions cannot be obtained to replace existing parking.

3. This program may not be used for new construction, expanded building area or
for independently accessed, stand-alone second floor square footage.

4. Once parking exemptions are awarded, failure to complete construction and
open to the public within one year of approval of any parking exemptions shall
result in forfeiture of any parking exemptions obtained.

5. Status following end of program.
   i. Nonconforming. At the end of the parking exemption program, all retail,
restaurant, and sidewalk café area built under the parking exemption
program will become nonconforming use as to parking, and shall be subject
to the requirements of the nonconforming use provisions of the Town's
Code of Ordinances. Notwithstanding the foregoing, retail, restaurant and
sidewalk café; uses which were granted parking exemptions under this
program may be completely remodeled or rebuilt without providing
additional parking, as originally permitted through the parking exemption
program, as long as it is the same business and use and the retail floor area
or restaurant seating capacity is not increased. If floor area or seating
capacity are increased, compliance with the parking requirements in effect
at that time is required for the new floor area or seating capacity, through a
mechanism available in the Code then in effect.
   ii. Availability of exemptions to successor businesses. Parking exemptions are
granted to a specific business for a specific use and are not assignable or
transferable to another business, use, or property.

***

Section 3. Codification. It is the intent of the Town Commission that the provisions
of this ordinance shall become and be made a part of the Town’s Code of Ordinances, and that the
sections of this Ordinance may be renumbered or relettered, and the word “ordinance” may be
changed to “section,” “article,” “regulation,” or such other appropriate word or phrase in order to
accomplish such intentions.

Section 4. Severability. The provisions of this Ordinance are declared to be severable
and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be
invalid or unconstitutional, such decision shall not affect the validity of the remaining sections,
sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the
legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Conflicts. All ordinances or parts of ordinances, resolutions or parts of
resolutions, in conflict herewith, are repealed to the extent of such conflict.
Section 6. Effective Date. This Ordinance shall become effective immediately upon final adoption on second reading.

PASSED on first reading on the 9th day of July, 2019.

PASSED AND ADOPTED on second reading on the 13th day of August, 2019.

On Final Reading Moved By: __________________________

On Final Reading 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”

Town Inventory of Vacant Properties in the Business District
(Updated July 1, 2019)

<table>
<thead>
<tr>
<th>West Side</th>
<th>East Side</th>
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<tbody>
<tr>
<td>9452 Harding Avenue²</td>
<td>9433 Harding Avenue</td>
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<td>9466 Harding Avenue²</td>
<td>9441 Harding Avenue</td>
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<tr>
<td>9472 Harding Avenue</td>
<td>9453 Harding Avenue²</td>
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<td>9486 Harding Avenue²</td>
<td>9455 Harding Avenue²</td>
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<td>9488 Harding Avenue³</td>
<td>9461 Harding Avenue²</td>
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<tr>
<td>9540 Harding Avenue²</td>
<td>9471 Harding Avenue²</td>
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<tr>
<td>9588 Harding Avenue³</td>
<td>9491 Harding Avenue</td>
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<tr>
<td></td>
<td>262 95th Street</td>
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<td></td>
<td>9509 Harding Avenue³</td>
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<tr>
<td></td>
<td>9513 Harding Avenue²</td>
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<td>9541 Harding Avenue²</td>
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<td>9555 Harding Avenue</td>
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<tr>
<td></td>
<td>9571 Harding Avenue³</td>
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<tr>
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<td>9599 Harding Avenue²</td>
</tr>
</tbody>
</table>

² Designates those properties that have been added to the inventory since July 10, 2018 and were vacant as of July 1, 2019
³ Designates those properties that were in the original 2018 Downtown Vacancy Inventory dated July 10, 2018 and have already participated in the Parking Exemption Program
MEMORANDUM

To: Members of the Planning & Zoning Board

From: Sarah Sinatra Gould, AICP, Town Planner

Date: August 29, 2019

Subject: Young Israel of Bal Harbour Variance/9580 Abbott Avenue

The property owner, Young Israel of Bal Harbour, Inc. (Young Israel), is requesting a variance from the Town of Surfside Zoning Code for the property located at 9580 Abbott Avenue (“Property”). The applicant is proposing to construct a ramp consisting of approximately 205 square feet in the side or north setback of the Property to provide handicapped accessibility to Young Israel. Specifically, Section 90-45 of the Town Code requires a 10 foot setback on the north side of the property. The parcel was developed in accordance with a Settlement Stipulation Agreement that was approved by the Town Commission on January 23, 2012, which allowed 50% of the north side setback to have a zero foot setback and 50% to have a five foot setback. This request will now be a zero foot setback along the entire length of the north side of the building. Currently, the north side of the Property has landscaping and stairs with an attached wheelchair lift for handicapped access. Religious institutions are not obligated to provide American’s with Disability Act (ADA) accommodations and this building was designed without an ADA accessible ramp. Young Israel is proposing to develop an accessibility ramp which allows for access without the use of electrical equipment.

The applicant has submitted a request for a reasonable modification, pursuant to the ADA in order to install a handicapped accessible ramp in the north setback. Reasonable modifications are governed by ADA’s Technical Assistance Manual for Title II, which supersedes the Town’s Code of Ordinances.

The Settlement Stipulation Agreement approved by the Town Commission on January 23, 2012 granted a number of allowances to the property, which deviated from the Zoning Code requirements, including the following that are affected by this application:

- Stairs may project into the setback in accordance with the 5 feet for 50% building length and 0 feet for 50% of the building length setback requirement (Code requires no more than a 2-foot projection into the setback)

- Young Israel will install landscaping along the entire length of the north side of the building, including the area under the cantilevered feature of the building.
- Impervious area: The project may exceed the 65% maximum impervious area requirement set forth in the Code, but in no event will exceed 83% (Code requires no more than 65% impervious coverage)

Section 90-36 of the Town Code establishes the following standards of review and criteria for an unnecessary and undue hardship variance:

(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 was developed in a residentially zoned district where the stipulation agreement approved certain deviations to the Towns requirements. The property was developed with reduced setbacks on the north side of the site as well as reductions in the required pervious area making this parcel unique.
(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 variance in order to construct a handicapped accessible ramp within a required setback in order to provide accessibility to its congregants. The property was previously developed without a ramp and instead an electric chair lift was approved as part of the design. The applicant now requests to install a ramp for handicapped accessibility for its members and guests.

(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 literal interpretation of the provisions of the Town Code does not deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Town Code and does not result in unnecessary and undue hardships on the applicant. However, the applicant has submitted a request for a reasonable modification pursuant to the ADA. Reasonable modifications are governed by the ADA's Technical Assistance Manual for Title II, which supersede the Town's Code of Ordinances.

(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;

The applicant is requesting a ramp for accessibility. The encroachment into the setback is not consistent with the code, however, the applicant has submitted a request for a reasonable modification. Reasonable modifications are governed by ADA's Technical Assistance Manual for Title II, which supersede the Town's Code of Ordinances.

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

The ramp is not expected to increase or provide greater financial return.

(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;

Granting the variance application would not convey the same treatment to the applicant as to the owner of other lands, buildings, or structures in the same zoning district as granting of such variance would be in conflict with code requirement for a setback and landscaping and the established Settlement Stipulation Agreement between the Town of Surfside and Young Israel of Bal Harbour, Inc. that identified there would be a five foot setback and landscaping along 50% of the north side of the building. However, the applicant has submitted a request for a reasonable modification pursuant to the ADA. Reasonable modifications are governed by ADA's Technical Assistance Manual for Title II, which supersede the Town's Code of Ordinances.

(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 develop roughly 205 square feet of accessibility ramp. The ramp will eliminate required landscaping and exceed the maximum impervious coverage total. This will also encroach into the established side setback area. Lastly, drainage and lighting have not been described. This request is not the minimum variance necessary for the reasonable use of the land, however, it appears to be the minimum needed to provide an ADA ramp.

(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 addition removes the required trees and other landscaping on the north side of the building, and adds additional impervious area to the site. Drainage could be impacted by the additional impervious area. The applicant has indicated it will provide mitigation to address the impervious conditions. The applicant has indicated it will relocate the trees it will remove on the north side of the site, however, there is no additional space onsite. Therefore, they are considered removed, not relocated.

Findings

In addition to the evaluation of the standards and criteria for the variance request as set forth hereinabove, Staff provides the following findings:

1. There is no space onsite to relocate the removed trees to within the property, therefore the tree removal permit from Miami-Dade County will be for a removal, not relocation.

2. The chair lift was included in the original application as a way to address accessibility issues without a ramp. This allowed for the current building size with a five foot setback.

3. The addition of the ramp will result in the building having a zero foot setback along the entire northern side of the property.

4. The applicant has not demonstrated the additional impervious impacts on the drainage.

5. The applicant has not indicated what, if any, lighting impacts will occur.

6. The applicant has not indicated the amount of impervious area affected by this application.

7. The applicant is requesting a reasonable modification pursuant to the ADA. Reasonable modifications are governed by ADA’s Technical Assistance Manual for Title II, which supersede the Town’s Code of Ordinances. The following is applicable to this specific scenario, as defined in Illustration 1 from ADA’s manual.

   a. II-3.6000 Reasonable modifications

   b. II-3.6100 General. A public entity must reasonably modify its policies, practices, or procedures to avoid discrimination. If the public entity can
demonstrate, however, that the modifications would fundamentally alter the nature of its service, program, or activity, it is not required to make the modification.

c. ILLUSTRATION 1: A municipal zoning ordinance requires a set-back of 12 feet from the curb in the central business district. In order to install a ramp to the front entrance of a pharmacy, the owner must encroach on the set-back by three feet. Granting a variance in the zoning requirement may be a reasonable modification of town policy.

8. The applicant is eligible for a reasonable modification based on the ADA's Technical Assistance Manual for Title II.

Exhibits
1. Application
2. Supplemental information from the applicant
3. Comments response
4. Letters of Support
5. Site Plan
June 28, 2019

Ms. Sarah Sinatra Gould, AICP
Director
Planning Department
Town of Surfside
c/o Calvin Giordano & Associates, Inc.
1300 Eller Drive, Suite 600
Fort Lauderdale, FL 33316

Re: Young Israel of Bal Harbour, Inc.
Property: 9580 Abbott Avenue,
Town of Surfside
Folio No.: 14-2235-007-1160

Dear Ms. Gould:

I represent Young Israel of Bal Harbour, Inc. ("Young Israel"), owner of approximately 16,576 square feet of land at the southwest corner of NE 96 Street and Abbott Avenue in Surfside (the "Property"). The Property is zoned H-30B.

In conjunction with the Code of Town of Surfside, please accept this application by Young Israel for approval of an amended site plan for the Property. The amendment consists primarily of the development of a ramp in the northern area of the Property to provide handicapped accessibility to workers, members and visitors of Young Israel.

In your consideration of the variances that comprise this application, please note:

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 small (16,367 net square feet) and has a limited amount of frontage on Abbott and Byron Avenues (about 50 feet); as a result, there is very limited space to place the necessary structure for the religious facility. These physical limitations are unique to this particular Property and result in a physical circumstance that make it essential to place part of the Temple structure within the Code-required setback area.

2. The special conditions and circumstances do not result from the actions of the applicant or a prior owner of the property. The special conditions and circumstances, i.e., the size and configuration of the Property, were not created by the applicant.
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. Young Israel, as a religious institution, is exempt from the American with Disabilities Act (ADA) as it relates to public accommodation. However, Young Israel wishes to create full handicapped accessibility for its members and guests. As a property owner in the Town of Surfside, Young Israel has the right to place handicapped accessibility structures and facilities within its Property as do all other property owners in the H-30B District. By law, the Town must not impede such reasonable accommodation in a building of public assembly.

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. The proposed use of the land, and all components of the site plan are consistent with the policies and aspirations of the Town Zoning Code and the Comprehensive Plan.

5. 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. Young Israel and all property owners in the H-30B zoning district have the right to place handicapped accessibility features within their Property, and to deny same would subject the Town to significant liabilities because it would exclude a disabled person from participating in the activities and benefits offered by Young Israel. 42 USC §12132 (Discrimination) states that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.”

6. The requested variance is the minimum variance that makes possible the reasonable use of the land, building, or structure. Placement of a well-buffered ramp for accessibility on this small parcel of land allows for the reasonable accommodation of landscaping, parking, and architectural features to complement an adequate amount of worship and patron floor area. Due to the size and configuration of the Property, the denial of the requested variance would place a substantial burden on Young Israel by preventing them from operating an acceptable facility on the rest of the Property, or alternatively, by preventing them from serving all congregants, workers and visitors.

7. 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 ramp will be well buffered from the right of way by landscaping. The ramp does not increase usage or impacts of the facility on the surrounding area. Accordingly, the proposed addition does not injure or impact the surrounding area.

Thank you for your consideration of this application.

Sincerely,

Jerry B. Proctor, P.A.
Jerry B. Proctor
President
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.

<table>
<thead>
<tr>
<th>PROJECT INFORMATION</th>
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<tbody>
<tr>
<td>OWNER'S NAME</td>
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<tr>
<td>Young Israel of Bal Harbour, Inc.</td>
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<tr>
<td>PHONE / FAX</td>
</tr>
<tr>
<td>305-866-0203</td>
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<tr>
<td>AGENT'S NAME</td>
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<tr>
<td>Jerry B. Proctor, Esq.</td>
</tr>
<tr>
<td>ADDRESS</td>
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<tr>
<td>Jerry B. Proctor, P.A., 9130 S. Dadeland Blvd., Suite 1700</td>
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<tr>
<td>PHONE / FAX</td>
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<tr>
<td>305-779-2924</td>
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<tr>
<td>PROPERTY ADDRESS</td>
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<tr>
<td>9580 Abbott Avenue, Surfside, FL 33154</td>
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<tr>
<td>ZONING CATEGORY</td>
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<td>DESCRIPTION OF VARIANCE REQUESTED</td>
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<td>See attached Letter of Intent (please use separate sheet)</td>
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<td>Date Submitted</td>
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<td>Project Number</td>
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<td>Report Completed</td>
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<td>Date</td>
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<td>Comments</td>
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<td>Dimension of yards</td>
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<td>Setbacks (F/R/S)</td>
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<td>Parking</td>
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<tr>
<td>Loading</td>
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<td>Pervious Area</td>
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SIGNATURE OF OWNER 3-13-19
SIGNATURE OF AGENT 7-3-19

Town of Surfside – General Variance Application

Page 72
TOWN OF SURFSIDE
SUBMISSION CHECKLIST
GENERAL VARIANCE APPLICATION

Project Name: Young Israel Congregation

Review Date

SUBMITTAL REQUIREMENTS FOR REVIEW (Permit clerk shall initial if item has been submitted):

- Completed “General Variance Application” form

- Statements of ownership and control of the property, executed and sworn to by the owner or owners of one hundred (100) percent of the property described in the application, or by tenant or tenants with the owners' written, sworn consent, or by duly authorized agents evidenced by a written power of attorney if the agent is not a member of the Florida Bar.

- The written consent of all utilities and/or easement holders if the proposed work encroaches into any easements

- Survey less than one (1) year old (including owner’s affidavit that no changes have occurred since the date of the survey). A survey over one (1) year is sufficient as long as the property has not changed ownership and the owner provides an affidavit that no changes change occurred since the date of the survey.

- Recent photographs of the subject property and all abutting, diagonal and fronting properties visible from the street. (to be provided prior to Design Review Board Meeting)

- Site Plan (Minimum scale of 1" = 20').
  - Ten (10) full sized sets of complete design development drawings (24" x 36" sheets) signed and sealed
  - Eight (8) reduced sized copies of the plans (11" x 17" sheets) (to be provided prior to Design Review Board Meeting)

Please show / provide the following:
- Tabulations of total square footage, lot coverage, setbacks and acreage
- Entire parcel(s) with dimensions and lot size in square feet
- Existing and proposed buildings with square footage
- Buildings to be removed
- Setbacks
- Dimensions and locations of all existing and proposed right-of-ways, easements and street frontage, including sidewalks, curb and gutter and planting strips
- All existing and proposed site improvements, including, but not limited to, all utilities, retaining walls, fences, decks and patios, driveways and sidewalks, signs, parking areas, and erosion control features
- Location of all existing and proposed trees, vegetation, palms and note tree species
- Locations and dimensions of parking spaces and lot layout
A map indicating the general location of the property.

Written Narrative of request that addresses each of the following standards of review:

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.

Such additional data, maps, plans, or statements as the Town may require to fully describe and evaluate the particular proposed plan.
Tenant or Owner Affidavit

I, ____________________________________________, being first duly sworn, depose and say that I am the owner/tenant of the property described and which is the subject matter of the proposed hearing; that all the answers to the questions in this application, and all sketch data and other supplementary matter attached to and made a part of the application are honest and true to the best of my knowledge and belief. I understand this application must be completed and accurate before a hearing can be advertised. In the event that I or any one appearing on my behalf is found to have made a material misrepresentation, either oral or written, regarding this application, I understand that any development action may be voidable at the option of the Town of Surfside.

Print Name of Petitioner _______________________________ Signature of Petitioner _______________________________

STATE OF ____________________ COUNTY OF ____________________

The foregoing instrument was acknowledged before me this ______ day of ________, 20 ______, by ________________________________, who is personally known to me or who has produced identification and who (did) (did not) take an oath.

Printed Name of Notary Public _______________________________ Signature of Notary Public _______________________________

My Commission Expires: ______________________________________

Attorney Affidavit

I, ____________________________________________, being first duly sworn, depose and say that I am a State of Florida Attorney at Law, and I am the Attorney for the Owner/Applicant of the property described and which is the subject matter of the proposed hearing; that all the answers to the questions in this application, and all sketch data and other supplementary matter attached to and made a part of this application are honest and true to the best of my knowledge and belief. I understand this application must be complete and accurate before a hearing can be advertised. In the event that I or any one appearing on my behalf is found to have made a material misrepresentation, either oral or written, regarding this application, I understand that any variance, special exception or plat approval shall be voidable at the option of the Town of Surfside.

Print Name of Petitioner _______________________________ Signature of Petitioner _______________________________

STATE OF ____________________ COUNTY OF ____________________

The foregoing instrument was acknowledged before me this ______ day of ________, 20 ______, by ________________________________, who is personally known to me or who has produced identification and who (did) (did not) take an oath.

Printed Name of Notary Public _______________________________ Signature of Notary Public _______________________________

My Commission Expires: ______________________________________
Corporation Affidavit

I/We, Israel Kopel, being first duly sworn, deprecate and say that I/we are the President/Vice President, and Secretary of the aforesaid corporation, and as such, have been authorized by the corporation to file this application for public hearing; that all answers to the questions in said application and all sketches, data and other supplementary matter attached to and made a part of this application are honest and true to the best of our knowledge and belief; that said corporation is the owner/tenant of the property described herein and which is the subject matter of the proposed hearing. We understand that this application must be complete and accurate before a hearing can be advertised. In the event that I or any one appearing on our behalf is found to have made a material misrepresentation, either oral or written, regarding this application, I understand that any development action may be voidable at the option of the Town of Surfside.

Israel Kopel, Vice President
Print Name of Petitioner

STATE OF Florida
COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me this 13th day of March, 2019, by Israel Kopel, who is personally known to me or who has produced as identification and who (did) (did not) take an oath.

Vanessa Castro Gonzalez
Printed Name of Notary Public

Signature of Petitioner

My Commission Expires:

Notary Public State of Florida
Vanessa Castro Gonzalez
My Commission GG 270967
Expires 10/24/2022
Disclosure of Interest

If the property, which is the subject of the application, is owned or leased by a CORPORATION, list the principal stockholders and the percentage of stock owned by each. Note: where the principal officers or stockholders consist of another corporation(s), trustee(s), partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.

Young Israel of Bal Harbour, Inc.
Corporation Name

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<tr>
<th>Name, Address and Office</th>
<th>Percentage of Stock</th>
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If the property which is the subject of the application is owned or leased by a TRUSTEE, list the beneficiaries of the trust and the percentage of interest held by each. Note: where the beneficiary(ies) consist of corporation(s), another trust(s), partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.

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If the property which is the subject of the application is owned or leased by a PARTNERSHIP or LIMITED PARTNERSHIP, list the principals of the partnership, including general and limited partners, and the percentage of ownership held by each. Note: where the partners(s) consist of another partnership(s), corporation(s), trust(s), or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.

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If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the principal officers, stockholders, beneficiaries, or partners. [Note: where the principal officers, stockholders, beneficiaries, or partners consist of another corporation, trust, partnership, or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural person) having the ultimate ownership interest in the aforementioned entity].

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<tr>
<th>Name</th>
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<th>Name and Address</th>
<th>Percentage of Interest</th>
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If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

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For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final public hearing, a supplemental disclosure of interest shall be filed. The above is full disclosure of all parties of interest in this application to the best of my knowledge and belief.

Signature of Applicant:  
Isreal Kopel

Print Name of Applicant:  
Isreal Kopel

State of:  
Florida  
County of:  
Miami-Dade

The foregoing instrument was Sworn to and Subscribed before me this 13th day of March, 2019 by Isreal Kopel, who is personally known to me or who has produced _______________________ as identification.

Printed Name of Notary Public:  
Vanessa Castro Gonzalez

Signature of Notary Public:  
Vanessa Castro Gonzalez

My commission Expires:  
Notary Public State of Florida  
Expires 10/24/2022

Note: Disclosure shall not be required of any entity, the equity interests in which are regularly traded on an established securities market in the United States or other country; or of any entity, the ownership interest of which are held in a limited partnership consisting of more than 5,000 separate interest and where no one person or entity holds more than a total of 5% of the ownership interest in the limited partnership.
E-Mail and U.S. Mail

August 5, 2019

Ms. Sarah Sinatra Gould, AICP
Director
Planning Department
Town of Surfside
c/o Calvin Giordano & Associates, Inc.
1300 Eller Drive, Suite 600
Fort Lauderdale, FL 33316

Re: Young Israel of Bal Harbour, Inc.
Property: 9580 Abbott Avenue,
Surfside

Dear Ms. Gould:

In the Town of Surfside’s consideration of Young Israel’s zoning application to permit a handicapped-accessible ramp in front of their house of worship, please be advised that we believe that the denial of this improvement would expose the Town to liability under the relevant case law, including the Americans with Disabilities Act (ADA) and the Fair Housing Amendments Act (FHAA). Court generally apply the same analysis to claims under the ADA and FHAA. The touchstone is whether the governing body has made a “reasonable accommodation in rules, policies and services when such accommodations may be necessary to afford a handicapped individual with equal opportunity to use and enjoy a dwelling.” 42 U.S.C. §3604(f)(3)(b). 10th Street Partners, LLC v. County Commission for Sarasota County, Florida, 2012 WL 4328655 (U.S.D.C., M.D. Florida, September 20, 2012).

Enclosed, please find four (4) letters from regular congregants of Young Israel who cannot reasonably attend events at this public entity. We will re-introduce these points at the upcoming public hearings on this matter.

Thank you.

Sincerely,

Jerry B. Proctor, P.A.
President

cc: Guillermo Olmedillo, Town Manager
2012 WL 4328655
Only the Westlaw citation is currently available.
United States District Court, M.D. Florida,
Tampa Division.

10TH STREET PARTNERS, LLC, Plaintiff,
v.
COUNTY COMMISSION for SARASOTA
COUNTY, FLORIDA, Defendant.

No. 8:11–cv–2362–T–33TGW.


Attorneys and Law Firms

Joseph Michael Herbert, Icard, Merrill, Cullis, Timm,
Furen & Ginsburg, PA, Sarasota, FL, for Plaintiff.

David Michael Pearce, Stephen E. Demarsh, Sarasota,
FL, for Defendant.

ORDER

VIRGINIA M. HERNANDEZ COVINGTON, District
Judge.

*1 This matter comes before the Court pursuant to
Defendant County Commission for Sarasota County,
Florida’s Motion for Summary Judgment and Request
for Judicial Notice (Doc. # 11), filed on January 3, 2012.
Plaintiff 10th Street Partners, LLC filed a response in
opposition to the Motion for Summary Judgment (Doc. 
# 23) on February 24, 2012. For the reasons that follow,
Defendant’s Request for Judicial Notice is granted and
Defendant’s Motion for Summary Judgment is denied
without prejudice.

I. Background

10th Street is the owner of 5.06 acres of property in
Sarasota County, Florida, on which 10th Street intends
to build a two-story assisted living facility called “Grey
Oaks.” (Doc. # 1 at ¶ 9). Pursuant to the property’s current
zoning, 10th Street could construct a facility housing up
to 68 beds on the property. Id. at ¶ 18. On September
14, 2010, 10th Street’s agent, Robert Medred, filed an
initial application for Rezone Petition No. 10–13, seeking
a rezoning of the property to allow for construction of a
facility housing up to 96 beds, a portion of which would
house disabled residents with dementia and memory
disorders. (Doc. # 1–1).

The Sarasota County Planning Commission considered
10th Street’s zoning variance request at a public hearing on
Commission recommended denial of the petition based
upon three findings of fact: (1) the proposed change
would not be compatible with the existing land use
pattern and designated future land uses; (2) the proposed
change would adversely influence living conditions in
the neighborhood; and (3) the proposed change would
create adverse impacts in the adjacent area or the County
in general. Id. at 21. 10th Street did not request at
this hearing a reasonable accommodation under the
Americans with Disabilities Act, the Fair Housing Act,
or the Rehabilitation Act, nor did the Rezone Petition
contain such a request.

The Sarasota Board of County Commissioners considered
10th Street’s Rezone Petition and the Planning
Commission’s recommendation at a public hearing on
February 22, 2011. Medred testified in support of the
zoning variance request and explained that the additional
28 beds would “have very little additional impact on the
neighborhood, but [would] make it possible to include
amenities that will offer a modern, state-of-the-art assisted
living and dedicated secure memory care unit within
this facility.” (Hr’g Tr. Doc. # 7–1 at 13). Dr. Gary
Assarian also testified in support of the zoning variance
request regarding the amenities and benefits that would
be provided to residents, particularly disabled residents,
by the proposed facility. Assarian’s testimony indicated
that the proposed amenities and services would not be
economically feasible in a facility constructed on the
property at the current zoning density of 68 beds. Id. at
16–21.

Following Assarian’s testimony, Medred resumed the
presentation and stated that:

*2 We believe that since our residents are disabled, we believe
that the requested zoning change for
an additional 28 beds is a reasonable
accommodation within the meaning
of the Americans with Disabilities
Act. And Attorney Joe Herbert with the Icard Merrill Law Firm is here to discuss if you have any of those questions concerning that.

Id. at 23–24.

After the conclusion of Medred's presentation, the Board took comments from the public who spoke primarily about traffic concerns posed by the zoning variance request. The Board subsequently posed questions to Medred relating to the potential increase in traffic and other issues, but did not ask any questions regarding 10th Street's reasonable accommodation ADA request and did not ask for Herbert to speak as to that issue. Citing concerns about the proposed facility's "compatibility with this particular neighborhood," the Board voted 5–0 to deny 10th Street's zoning variance request. Id. at 49–50. The Board adopted Substitute Resolution No. 2011–042 on February 22, 2011, which memorialized their decision at the hearing.

On May 9, 2011, 10th Street's counsel sent a demand letter to the Board requesting the Board to re-open the hearing and reconsider its decision on the Rezone Petition. (Doc. # 9–2 at 71–72). The letter stated that "[b]y failing to grant a reasonable accommodation to persons clearly within the ambit of protections from discrimination based on disability, this Commission has committed a violation--and remains in violation--of the requirements of the ADA and the FHA as to the Grey Oak facility and its prospective residents." Id. at 72.

The Board responded by letter dated June 16, 2011, stating that:

10th Street Partners alleges a failure to provide a reasonable accommodation associated with higher dwelling unit density. Unfortunately, the record of the proceedings does not indicate why an accommodation of density is necessary. There is no record evidence as to why a density increase is needed to properly afford persons with disabilities the equal opportunity to use and enjoy a dwelling in the neighborhood.

(Doc. # 9–2 at 74). The letter asked 10th Street to provide other evidence which had not been supplied during the proceedings and which would demonstrate the necessity of the requested reasonable accommodation. The letter further stated that the Board would "be in a better position to determine your demand for a reasonable accommodation" once it was in receipt of the requested information. Id.

10th Street's counsel sent a written response to the Board's letter on June 24, 2011, but did not supply additional evidence as requested by the Board, stating in part:

I understand your desire to have my clients present evidence of an economic analysis of the efficacy and necessity of the requested rezoning. However, the Commission made its determination on the basis of the evidence presented at the hearing on February 22, 2011 and the December 16, 2010 hearing before the Planning Commission. The County Commission did not request additional evidence at that time to support the necessity of the proposed density changes for provision of a dedicated memory care unit. Therefore, the failure of the Commission to grant a reasonable accommodation--and, therefore, the discriminatory act--has already taken place.

*3 (Doc. # 9–2 at 76). However, the letter further stated that if the Board elected to re-open the petition for reconsideration, 10th Street would consider providing additional testimony and evidence in support of its reasonable accommodation request. Id.

On July 27, 2011, the Board adopted Resolution No. 2011–147 to specifically deny 10th Street's reasonable accommodation request.
accommodation request. The resolution stated in part that:

Based on evidence and testimony presented in the record from the February 22, 2011 public hearing, and the correspondence exchanged between the parties, the request for a reasonable accommodation for additional density association with Rezone Petition 10-13 is hereby DENIED.

(Doc. # 24–1 at 4).

10th Street filed its complaint on October 19, 2011, alleging a failure to accommodate in violation of Title II of the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq., the Fair Housing Act, 42 U.S.C. § 3604(f), and the Rehabilitation Act, 29 U.S.C. § 794. (Doc. # 1). Prior to conducting discovery, on January 3, 2011, the Board filed the instant Motion for Summary Judgment and Request for Judicial Notice, to which 10th Street responded on February 24, 2012. The Board subsequently filed a motion seeking to transfer the case to Track 1 and to limit discovery and the Court's review to the administrative record from the zoning proceedings below. (Doc. # 25). After conducting a hearing on the motion, the Magistrate Judge denied the motion to change the case to Track 1 and to limit discovery.

II. Judicial Notice
Pursuant to Federal Rule of Evidence 201, the Board requests the Court to take judicial notice of certain relevant portions of the Sarasota County Code of Ordinances and Comprehensive Plan.

Rule 201(b) of the Federal Rules of Evidence provides that:

F.R.E. 201(b).

"In order for a fact to be judicially noticed under Rule 201(b), indisputability is a prerequisite." United States v. Jones, 29 F.3d 1549, 1553 (11th Cir.1994) (citing 21 C. Wright & K. Graham, Federal Practice and Procedure: Evidence§ 5104 at 485 (1977 & Supp.1994)). Further, Rule 201(d) of the Federal Rules of Evidence provides that "A court shall take judicial notice if requested by a party and supplied with the necessary information."

10th Street's response does not contain any objection to the Board's request for judicial notice. The Court finds that the above-noted municipal document is capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. Additionally, the Board has furnished the Court with a copy of the relevant ordinances of which it seeks judicial notice and has provided the internet address for the entire Sarasota County Code of Ordinances. (Doc. # 11–1). Thus, the Court finds it appropriate to take judicial notice of the Sarasota County Code of Ordinances and Comprehensive Plan and grants the Board's request accordingly.

III. Summary Judgment
A. Legal Standard
*4 Summary judgment is appropriate if the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law. Fed.R.Civ.P. 56(a).

An issue is genuine if the evidence is such that a reasonable jury could return a verdict for the nonmoving party. Mize v. Jefferson City Bd. of Educ., 93 F.3d 739, 742 (11th Cir.1996) (citing Hairston v. Gainesville Sun Publg Co., 9 F.3d 913, 918 (11th Cir.1993)). A fact is material if it may affect the outcome of the suit under the governing law. Allen v. Tyson Foods, Inc., 121 F.3d 642, 646 (11th Cir.1997).
The Court must draw all inferences from the evidence in the light most favorable to the non-movant and resolve all reasonable doubts in that party's favor. See Porter v. Ray, 461 F.3d 1315, 1320 (11th Cir. 2006). The moving party bears the initial burden of showing the Court, by reference to materials on file, that there are no genuine issues of material fact that should be decided at trial. See id. When a moving party has discharged its burden, the non-moving party must then go beyond the pleadings, and by its own affidavits, or by depositions, answers to interrogatories, and admissions on file, designate specific facts showing there is a genuine issue for trial. See id.

B. Analysis

10th Street brings its failure to accommodate claim pursuant to Title II of the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq., the Fair Housing Act, 42 U.S.C. § 3604(f), and the Rehabilitation Act, 29 U.S.C. § 794. Under the ADA, “no qualified individual with a disability shall, by reason of such disability, ... be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” 42 U.S.C. § 12132. Similarly, discrimination under the Fair Housing Act includes “a failure to make a reasonable accommodation in rules, policies and services when such accommodations may be necessary to afford a handicapped individual with equal opportunity to use and enjoy a dwelling.” 42 U.S.C. § 3604(f)(3)(b). Finally, the Rehabilitation Act provides that “[n]o qualified individual with a disability in the United States, ... shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” 29 U.S.C. § 794.

Although there are certain differences between the statutes, due to their similarities, courts generally apply the same analysis to reasonable accommodation claims brought under each of the statutes. United States v. Hialeah Hous. Auth., 418 F. App'x 872, 876 (11th Cir. 2011) (“We have previously recognized that we look to case law under the Rehabilitation Act and the Americans with Disabilities Act for guidance in evaluating reasonable accommodation claims under the FHA.”); Caron Found. of Fla., Inc. v. City of Delray Beach, No. 12–80215–CIV, 2012 WL 2249263, *5 (S.D.Fla. May 4, 2012) (“Due to the similarity of the ADA and the FHA’s protections of individuals with disabilities in housing matters, courts often analyze the two statutes as one.”). Additionally, the ADA, FHA, and the RHA all apply to municipal zoning decisions. Caron Found., 2012 WL 2249263 at *5; Oconomowoc Residential Programs v. City of Milwaukee, 300 F.3d 775, 782–83 (7th Cir. 2002). Accordingly, the Court's analysis applies to 10th Street's claims brought under each of the statutes.

*5 The Eleventh Circuit has discussed failure to accommodate claims on a number of occasions. In Hialeah Housing Authority, the court enumerated the elements for a failure to accommodate claim as follows: “A plaintiff must establish that (1) he is disabled or handicapped within the meaning of the FHA, (2) he requested a reasonable accommodation, (3) such accommodation was necessary to afford him an opportunity to use and enjoy his dwelling, and (4) the defendants refused to make the requested accommodation.” 418 F. App'x at 875. The court noted that “whether a requested accommodation is required by law is highly fact specific, requiring case-by-case determination.” Id. The Court also explained that “for a demand to be specific enough to trigger the duty to provide a reasonable accommodation, the defendant must have enough information to know of both the disability and a desire for an accommodation, or circumstances must at least be sufficient to cause a reasonable [defendant] to make appropriate inquiries about the possible need for an accommodation.” Id. at 876.

Furthermore, in Schwarz v. City of Treasure Island, 544 F.3d 1201, 1218–1219 (11th Cir. 2008), the court noted, “[T]he duty to make a reasonable accommodation does not simply spring from the fact that the handicapped person wants such an accommodation made. Defendants must instead have been given an opportunity to make a final decision with respect to Plaintiffs' request, which necessarily includes the ability to conduct a meaningful review of the requested accommodation to determine if such an accommodation is required by law.”

The parties disagree on the appropriate scope of review the Court should employ in evaluating Defendant’s denial of the zoning variance request and 10th Street’s challenge to it. Finding no binding authority on point, Defendant urges the Court to follow several other Circuits by limiting its review “to the materials that were presented to [the] local land use board, except in circumstances where
the board prevents applicants from presenting sufficient information.” (Doc. # 11 at 9) (citing Lapid–Laurel, LLC v. Zoning Bd. of Adjustment, 284 F.3d 442 (3d Cir.2001)). Defendant argues that based on the evidence or the lack of evidence provided by 10th Street to the Board in support of its reasonable accommodation request, 10th Street failed to demonstrate that its requested accommodation was necessary to afford disabled persons an opportunity to use and enjoy a dwelling on the property, as required to establish a reasonable accommodation violation. Specifically, Defendant argues that 10th Street failed to present sufficient evidence establishing “the requested accommodation—an increase in density that would allow 96 beds instead of 68 beds—as being necessary to allow persons with a disability to live at this location.” (Doc. # 11 at 17). Accordingly, Defendant contends that its denial of 10th Street's zoning variance request did not violate the ADA, FHA, or RHA as a matter of law.

6 10th Street, on the other hand, asserts that the Court's review is not limited to the administrative record from the zoning proceedings, but rather, the Court may consider any evidence supplied by the parties to evaluate the efficacy of 10th Street's claims, whether or not the evidence was presented to the Board when it made its decision. 10th Street contends that such further evidence will show that its requested accommodation was reasonable and necessary and, accordingly, that Defendant's denial of the requested accommodation violated the ADA, FHA, and RHA. Additionally, 10th Street argues that even if the Court were to utilize Defendant's proffered standard, the exception to the rule applies in this case because Defendant prevented 10th Street from presenting sufficient information to support its request.

The Court need not determine at this juncture the appropriate scope of its evidentiary review. The Court agrees with 10th Street that even if it adopted Defendant's proffered scope of review, disputed issues of material fact remain regarding whether the exception to the rule should apply that would allow the Court to go beyond the evidence provided to the Board in its analysis of 10th Street's claims. Specifically, 10th Street contends that the Board prevented it from presenting sufficient information in support of its zoning variance request, due to the strict 20-minute time limitation the Board placed on 10th Street at the February 22, 2011, hearing. 10th Street contends that the 20-minute time limitation with a 5-minute rebuttal period did not allow it to sufficiently address the reasonable accommodation request while also necessarily addressing the other related concerns raised by the Board and the public at the hearing.

Although the Board asserts that it did not limit 10th Street's testimony at the February 22, 2012, hearing, the transcript of the hearing shows that at the beginning of 10th Street's presentation, Commissioner Nora Patterson stated to 10th Street's representative, Bo Medred, "Bo, you know the drill and you'll have 20 minutes.” (Hr'g Tr. Doc. # 7–1 at 11). At the end of 10th Street's 20 minutes, Patterson interrupted Medred to alert him that the 20 minute period had expired and allowed him an additional 30 seconds to wrap up. Id. at 28. 10th Street's presentation was followed by a public testimony session, a 5-minute rebuttal period by 10th Street, and questions from the Board members, none of which specifically addressed the reasonable accommodation issue, after which the Board voted to deny the zoning variance request.

10th Street contends that it did have more evidence to present to support its reasonable accommodation request if more time had been allowed. Indeed, the transcript shows that 10th Street specifically informed the Board that its attorney was present to discuss the reasonable accommodation request if the Board had questions about it. Id. at 23–24. Furthermore, 10th Street contends that the Board's failure to ask any questions about the reasonable accommodation request also effectively prevented 10th Street from submitting sufficient evidence in support. 10th Street asserts that the Board's failure to ask any questions of its attorney on the reasonable accommodation request or request any further evidence in support of the request reasonably led it to believe that its arguments and evidentiary presentation on the issue were sufficient and that further evidence was not needed.

7 The Court agrees with 10th Street that issues of material fact remain which preclude summary judgment at this time. Based on the time limitation of only 25 total minutes allowed to 10th Street for its presentation and based on the Board's failure to ask to hear the further evidence proffered by 10th Street at the hearing, a jury could reasonably find that the Board prevented 10th Street from submitting sufficient evidence in support of its reasonable accommodation request.

Notwithstanding the above, the Court is mindful that the Board responded to 10th Street's May 9, 2011,
demand letter seeking reconsideration of the Board's
decision, by requesting 10th Street to provide more
evidence demonstrating why 10th Street's requested
accommodation was necessary. (Doc. # 9–2 at 74).
However, rather than providing the additional evidence
at that time, by letter dated June 24, 2011, 10th Street's
counsel requested the Board to first re-open the zoning
variance petition for reconsideration upon which 10th
Street would consider submitting additional evidence
demonstrating the necessity of the accommodation. Id. at
76–78. Based on 10th Street's failure to provide additional
evidence in response to the Board's request, the Board
adopted Resolution No. 2011–147 on July 27, 2011, which
expressly denied the reasonable accommodation request.

Although the Board contends that its June 16th invitation
to supply more evidence demonstrates that it did not
prevent 10th Street from presenting sufficient evidence
in support of its reasonable accommodation request,
the Court agrees with 10th Street that questions remain
regarding what effect any additional evidence would have
had at that point, given that the Board had already denied
the zoning variance petition and had not agreed to re-
open the petition for reconsideration. Indeed, the Board's
Resolution No. 2011–147 expressly states that the Board
in fact “cannot reopen the public hearing months after
its final action to reconsider Rezone Petition No. 10–
13.” (Doc. # 24–1 at 3).

Because the Board apparently could not re-open the
zoning variance hearing for reconsideration even if 10th
Street had provided further evidence on the issue, a jury
could reasonably find that Defendant's request for further
evidence did not actually provide 10th Street with an
opportunity to present sufficient evidence in support of its
reasonable accommodation request. Thus, as it appears
that the Board's denial of the accommodation request
at the February 22, 2011, hearing was effectively the
final decision on the issue, and given that the Court has
determined that a genuine issue of material fact remains
as to whether the Board prevented 10th Street from
presenting sufficient evidence at the hearing, the Court
finds that summary judgment is not warranted at this time.

However, the Court notes that even if it were to consider
all of the evidence permitted under the Federal Rules
in evaluating 10th Street's claims (either by adopting
10th Street's preferred scope of review or by finding that
the exception to Defendant's preferred standard applies),
although 10th Street claims to possess sufficient evidence
to demonstrate that its requested accommodation is
reasonable and necessary under the ADA, FHA, and
RHA, it does not appear that 10th Street has filed such
evidence on the record for the Court's consideration.
Instead, 10th Street argues that the summary judgment
motion is premature as it was filed prior to discovery
taking place and asserts that discovery is necessary to
“shed light on a number of issues that are factually
material to this action.” (Doc. # 23 at 21).

Upon due consideration, the Court determines
that Defendant's Motion for Summary Judgment should
be denied without prejudice on the issue of whether
10th Street has established entitlement to a reasonable
accommodation under the ADA, FHA, or RHA. On the
present record, the Court is unable to make the “highly
fact-specific” inquiry as to whether the requested increase
in density was a required accommodation necessary to
afford disabled persons an equal opportunity to use and
enjoy a dwelling at this location. After the parties have
had the opportunity to engage in discovery, Defendant
may reassert the arguments contained in the Motion for
Summary Judgment on this issue.

Accordingly, it is hereby

ORDERED, ADJUDGED, and DECREED:

Defendant Sarasota County's Request for Judicial Notice
(Doc. # 11) is granted and Defendant's Motion for
Summary Judgment (Doc. # 11) is denied without
prejudice.

DONE and ORDERED.

All Citations

Not Reported in F.Supp.2d, 2012 WL 4328655
August 7, 2019

Ms. Sarah Sinatra Gould, AICP
Director
Planning Department
Town of Surfside
C/O Calvin Giordano & Associates, Inc.
1300 Eller Drive, Suite 600
Fort Lauderdale, FL 33316

Re: Young Israel of Bal Harbour, Inc.
Property: 9580 Abbott Avenue,
Town of Surfside

Dear Ms. Gould:

Thank you for sending me the initial staff comments for the August 29 hearing for the above styled matter.

I hope that the following comments will be instructive. Please note:

1. Pervious area - Sheet A 2 of the drawings, at the top, indicates a 'mesh' material for the ramp that will be pervious. There will be a minimal area that will be used for the foundations for the ramp that will not be pervious; the applicant will work with the Town to provide a pervious substance similar to that of a French drain within the Temple property to mitigate for any loss of pervious area caused by the foundations.

2. The applicant and design team believe that the relocation of landscaped material can occur both within the site and on the adjacent right of way in an amount equal to the area lost to the placement of the proposed ramp.

Thank you for your consideration of these issues.

Sincerely

Jerry B. Proctor, P.A.
Jerry B. Proctor
President

cc: Guillermo Olmedillo, Town Manager
Stanley B. Price, Esq.
9511 Collins Ave.
Apt 1409
Surfside FL 33154
July 22, 2019

Young Israel Congregation
9580 Abbott Ave.
Surfside FL 33154

Dear Menno;

As one of the members of the Young Israel Congregation and unfortunately confined to a wheelchair, it is most important that the Congregation provide wheelchair access to the building. A ramp must be constructed as soon as possible enabling myself and others who are disabled to enter the building.

Thank you for your prompt attention and action to this request.

Yours truly.

Dr. Allen Packer
July 25, 2019

Young Israel Congregation
9580 Abbot Ave.
Surfside, FL 33154

To Whom It May Concern,

As members of the Young Israel Congregation, who are both handicapped and require walkers and wheelchairs. Utilizing the ramp into the garage is dangerous, risky, and not helpful at all. Please take our request seriously. My wife is 85 years of age and I am pushing 90.

Thank you for your kind consideration,

Dr. Felix Glaubach

Dr. Miriam Glaubach
To whom it may concern:

I am and my husband, ages 88 and 90 respectively are part time residents in a coop apartment listed above. We have been apartment owners from 1985 on, residing approximately 4 months a year. Since 8/30/2017 my wife has been diagnosed as a handicap by the Center for Orthopedic (Prescription Blank herewith provided) and further attached is a copy of the NEW JERSEY Commission attesting to her Disability.

My husband was a founding member of the Young Israel Congregation, who was a member of the Morgan David Synagogue when that was the only orthodox synagogue in 1972 when we first started to visit the Bay Harbor, Surf-Side, Bay Harbor multi-plex.

As age has caught up to us, I am unable to attend services or social events at the synagogue, as presently constructed. I have challenged the officers under the protection of the American Disability Act requiring them to provide a ramp or other method of entry to the Synagogue so that I do not have to walk up the staircase leading to the front entry to the synagogue. Any other way currently that they try to provide is unsatisfactorily as it requires long standing waiting or calling for assistance.

With much frustration, I am told that Religious House of Prayers are exempt from ADA requirements, but aside from that they are prepared to provide the necessary Access ramp, in full compliance to code regulation, but the Town fathers have to be willing to issue the proper building permits to do so.

It is with this in mind, I ask and plead with your council to consider issuing the Necessary building permits to allow the synagogue to proceed with the construction of a code conforming ramp so that I, and the numerous other disabled members of the Synagogue can attend services and social events to occupy our lonely hours.

With much respect, I remain

Mrs. Shirley Weiss
July 23, 2019

Gentleman,

Please be advised that I am handicapped and I need access to the front of the synagogue via a wheelchair. Using the garage entrance is not a solution to my situation. I must have wheelchair access to the front entrance of the synagogue. I’m sure there are many handicap people who are members of the synagogue that feel the same as I do.

Thanking you in advance for your consideration,

Dov Wolowitz.
August 8, 2019

To whom it may concern,

In reference to having an electronic handicap chair lift outside our Synagogue in lieu of a ramp would not be acceptable, due to the fact that it must be operated electronically in full public view. This would be very inappropriate for an orthodox Synagogue not to mention the problematic issues in Jewish law of operating such a system on our holy Sabbath.
Thank you for your understanding regarding this matter.

Sincerely,

Rabbi Moshe Gruenstein
Rabbi Young Israel Congregation
8/6/19

Re: Wander-Brum Adrianne 03/15/1944

To whom it may concern:

Please be advised that the above named patient is afflicted by severe gait limitations and is presently unable to safely attend her house of worship due to lack of/difficult access. It would be greatly appreciated if changes were made to allow for a safe arrival.

I appreciate your understanding in this matter.

Should you need additional information please contact me.

Thank You

Ronny Aquinin, MD.
MEMORANDUM

To: Members of the Planning & Zoning Board

From: Sarah Sinatra Gould, AICP, Town Planner

Date: August 29, 2019

Subject: Setbacks on aggregated single family lots

The Town Commission previously directed staff to prepare an ordinance modifying the zoning code to address the effects of aggregation of single family lots. This ordinance was adopted in 2018.

The change required aggregated lots to have setbacks of 20 feet or 20%, whichever was greater, regardless of the width of the lot. Therefore, an aggregated lot that is 65 feet in width would have a house that is 25 feet in width, while non-aggregated lot that is 50 feet in width could have a house that is 40 feet in width. A house on an aggregated lot of less than 80 feet in width would be required to build a house smaller than on a lot that is 50 feet in width.

The Exhibit 1 demonstrate the disproportionate setbacks for aggregated lots less than 80 feet in width compared to a non-aggregated lot of 50 feet in width.

A concept was presented at the August 13, 2019 Town Commission meeting for a formula that would provide a sliding scale of setbacks based on the lot width. Attached as Exhibit 2 is that concept and graphics to assist in the interpretation of this concept. This concept was not agreed to by the Commission and the purpose is to aid in a discussion of options.

The Town Commission requests the Planning and Zoning Board to provide direction to Staff to prepare a modification to the ordinance addressing lot width. The Commission also requested the Planning and Zoning Board to consider measuring the front of a lot from the setback, rather than the location where it meets the street. This would provide equity for lots that are parallelogram shaped.
Code Requirements Per Code Section 90-45 – Setbacks

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<td>20 FT</td>
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<td>20 FT or 20% of the frontage which is greater</td>
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<td><strong>Rear</strong></td>
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**Building Footprint: 170’*27’**
Exhibit 1

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**Building Footprint:** 171’*40’
Code Requirements Per Code Section 90-45 – Setbacks

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Building Footprint: 171’*15’
### Code Requirements Per Code Section 90-45 – Setbacks

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**Building Footprint:** 171’*20’
### Code Requirements Per Code Section 90-45 – Setbacks

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**Building Footprint:** 171’*35’
\[ y = mx + b \]

setback = \(-0.3\) (lot width) + 10

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<th>Lot Width</th>
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<tr>
<td>95'</td>
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<tr>
<td>90'</td>
<td>17'</td>
<td>56'</td>
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<td>85'</td>
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<tr>
<td>55'</td>
<td>6'-6&quot;</td>
<td>42'</td>
</tr>
<tr>
<td>50'</td>
<td>5'</td>
<td>40'</td>
</tr>
</tbody>
</table>
Exhibit 2

BUILDING FOOTPRINT

Lot Dimensions: 112' x 60'

Page 101
Lot Dimensions: 112' x 70'
<table>
<thead>
<tr>
<th>ITEM</th>
<th>OUTCOME</th>
<th>NEXT STEPS</th>
<th>TENTATIVE SCHEDULE</th>
<th>COMPLETE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FUTURE PZ DISCUSSION ITEMS</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Freeboard &amp; Height</td>
<td>PZ requests discussion on additional freeboard &amp; height</td>
<td>Joint meeting with Commission on 8-26-19</td>
<td>Waiting feedback from meeting specific to unlocking the height from the charter</td>
<td></td>
</tr>
<tr>
<td>Impact fee discussion</td>
<td></td>
<td>Town is requesting a proposal from a consultant to do the impact fee analysis.</td>
<td>Working with consultant on proposal</td>
<td></td>
</tr>
<tr>
<td>Update to sign code</td>
<td>Need to make revisions to the sign code including limiting the overall allowances for window signage to one window or door rather than multiple</td>
<td>Staff to prepare</td>
<td>Future PZ</td>
<td></td>
</tr>
<tr>
<td>Stepback discussion</td>
<td>Commission has requested the PZ board analyze this requirement</td>
<td>Prepare visual and calculation of volume, how much square footage does this equate to</td>
<td>Future PZ</td>
<td></td>
</tr>
<tr>
<td>Reduce the allowable area of a 2nd story to no greater than 65% of the 1st story</td>
<td>PZ Requests discussion including side setbacks</td>
<td>Provide text to PZ</td>
<td>September PZ</td>
<td></td>
</tr>
<tr>
<td>Aggregated Lots</td>
<td>PZ requested discussion analyzing impacts on lots</td>
<td></td>
<td>August PZ</td>
<td></td>
</tr>
<tr>
<td><strong>ON FUTURE COMMISSION AGENDA</strong></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Landscaping in front of fences</td>
<td>PZ requested fences along a ROW to have landscaping</td>
<td>Propose code amendment to propose landscaping</td>
<td>Future Commission</td>
<td></td>
</tr>
<tr>
<td>Circulation pattern</td>
<td>PZ discussion on pedestrian safety and walkability</td>
<td>Pilot project</td>
<td>Ongoing</td>
<td>Ongoing</td>
</tr>
<tr>
<td><strong>COMPLETED</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parking needs</td>
<td>Evaluate if parking code requirements are expected to be</td>
<td>Commission gave direction not to move</td>
<td>No action</td>
<td></td>
</tr>
<tr>
<td>Topic</td>
<td>Item Description</td>
<td>Status/Details</td>
<td></td>
<td></td>
</tr>
<tr>
<td>--------------------------------------------</td>
<td>------------------------------------------------------------------------------------------------------------------------------------------------</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Fences &amp; Hedges in the front of single-family residences</td>
<td>Discussion on hedge height in the front</td>
<td>December Commission — 2nd reading, Fences &amp; Hedges in the front of single-family residences, Approved</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Landscape Plans</td>
<td>Require landscape plans for large scale renovations (renovations affecting more than 50% of the square footage of the house)</td>
<td>Requested Ross to attend meeting to discuss requirements for landscape plans as well as the drainage review process, November PZ</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sidewalk aesthetics</td>
<td>Prepare discussion item to determine if walkability can be improved.</td>
<td>Prepare graphics depicting 8 ft wide sidewalk &amp; landscape buffer, November PZ, Sidewalk aesthetics, No action</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aggregation of Single Family</td>
<td>Requested by the Town Commission</td>
<td>Discuss limitations on building length relating to single-family, August Commission — First Reading, November second reading, Adopted</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Resiliency Strategy</strong></td>
<td>PZ has requested staff to prepare a discussion item was to improve sustainability</td>
<td>Invite Betsy Wheaton from Miami Beach to discuss what improvements Miami Beach has implemented</td>
<td>Future PZ or Sustainability Committee</td>
<td>Move to sustainability</td>
</tr>
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</tr>
<tr>
<td><strong>Parking in Single-Family</strong></td>
<td>In order to increase pervious areas, evaluate if two vehicles on a driveway are needed.</td>
<td></td>
<td>October PZ</td>
<td>No-action</td>
</tr>
<tr>
<td><strong>Update on business district</strong></td>
<td>Follow up with PZ to notify the board of who is working on strategies &amp; any improvements to the business district</td>
<td>Discussion of reinstating DVAC on October 9th commission agenda</td>
<td>October PZ</td>
<td>Completed</td>
</tr>
<tr>
<td><strong>Ways to increase pervious area of lots</strong></td>
<td>Place on PZ agenda for discussion. Provide PZ with current standards</td>
<td></td>
<td>September PZ</td>
<td>No-action</td>
</tr>
<tr>
<td><strong>Limitation on building length in H40 &amp; H30C</strong></td>
<td>Revisit building limitations as well as green walls to soften the breaks in the building.</td>
<td>PZ Review. Commission heard on first reading; March 13</td>
<td>April PZ</td>
<td>Completed</td>
</tr>
<tr>
<td><strong>H40, H30 &amp; SDB40 Architecturally Significant ordinance</strong></td>
<td>Review with PZ options for architecturally significant ordinance for other zoning districts.</td>
<td>PZ discussion</td>
<td>March PZ</td>
<td>No-action</td>
</tr>
<tr>
<td><strong>Green Roofs</strong></td>
<td>Requested by the Town Commission</td>
<td></td>
<td>February PZ</td>
<td>No-action</td>
</tr>
<tr>
<td><strong>Photovoltaic Incentives</strong></td>
<td>Requested by the Town Commission</td>
<td>Discussed requiring</td>
<td>February PZ</td>
<td>No-action</td>
</tr>
<tr>
<td>Topic</td>
<td>Action</td>
<td>Commission Date</td>
<td>Status</td>
<td></td>
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</tr>
<tr>
<td>Driveway</td>
<td>Prepare code modification that limits a driveway so that it does not exceed the front plane of the home.</td>
<td>January Commission</td>
<td>Complete</td>
<td></td>
</tr>
<tr>
<td>Give a foot, get a foot relating Sea Level Rise</td>
<td>Place on agenda for discussion on referendum</td>
<td>February Commission 2nd reading</td>
<td>Complete</td>
<td></td>
</tr>
<tr>
<td>Flat Roof vs. Pitch roof</td>
<td>Modify ordinance to include roof pitch above top of the truss as an architectural feature</td>
<td>February Commission 2nd reading</td>
<td>Complete</td>
<td></td>
</tr>
<tr>
<td>Roof Pitch of Single Family</td>
<td>Provide side by side elevation in current code to the top of the flat roof to demonstrate it is 3 feet above the top of a pitched roof.</td>
<td>February Commission 2nd reading</td>
<td>Complete</td>
<td></td>
</tr>
<tr>
<td>Trellis</td>
<td>Review if a trellis attached to the house is considered an accessory structure. This has not been a reoccurring issue. Provide direction if this is necessary.</td>
<td>Trellis</td>
<td>This has not been a reoccurring issue.</td>
<td></td>
</tr>
<tr>
<td>Average side setback /Massing</td>
<td>Modify ordinance for additional side setbacks on upper floors for single family homes</td>
<td>Direction if this is necessary. The Town has already modified the code to prohibit covered balconies counted towards setbacks.</td>
<td>Average side setback /Massing</td>
<td>Modify ordinance for additional side setbacks on upper floors for single family homes</td>
</tr>
<tr>
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</tr>
<tr>
<td>Satellite dishes</td>
<td>Further review—by staff</td>
<td>Direction if this is necessary. This issue has not come up as a problem and it is not clear if this is still desired to be regulated.</td>
<td>Satellite dishes</td>
<td>Further review—by staff</td>
</tr>
<tr>
<td>Commercial waste and recycling container screening</td>
<td>Screening for containers, green screen, vegetation, include pictures from Commissioner Kligman</td>
<td>Draft code amendment</td>
<td>Did not move forward</td>
<td>Draft code amendment</td>
</tr>
<tr>
<td>Driveway material regulations</td>
<td>Modify code to allow stamped concrete and concrete slabs with decorative rock or grass in between</td>
<td>Draft code amendment</td>
<td>Did not move forward</td>
<td>Draft code amendment</td>
</tr>
<tr>
<td>Painting of commercial structures</td>
<td>Town Staff to prepare ordinance</td>
<td>Prepare ordinance for commission</td>
<td>Did not move forward</td>
<td>Prepare ordinance for commission</td>
</tr>
<tr>
<td>Residential or commercial wind turbine regulations</td>
<td>Prepare ordinance regulating wind turbines including hurricane precautions, noise regulations, insurance considerations</td>
<td>Direction if this is necessary. This issue has not come up as a problem and it is not clear if this is still desired to be regulated.</td>
<td>Residential or commercial wind turbine regulations</td>
<td>Prepare ordinance regulating wind turbines including hurricane precautions, noise regulations, insurance considerations</td>
</tr>
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</tr>
<tr>
<td>Setback for parapet above 30 feet on single family homes</td>
<td>Prepare ordinance to require additional setback</td>
<td>Direction if this is still necessary as the code could be modified to encourage pitched roofs.</td>
<td>Setback for parapet above 30 feet on single family homes</td>
<td>Prepare ordinance to require additional setback</td>
</tr>
<tr>
<td>Final Zoning Inspections</td>
<td>Town Manager will analyze</td>
<td>Building performs inspections based on conditions on the plans. Need direction if anything further is necessary</td>
<td>Final Zoning Inspections</td>
<td>Town Manager will analyze</td>
</tr>
<tr>
<td>Requiring noticing for demolition of houses</td>
<td>Research option and place on agenda for discussion</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sign Definitions</td>
<td>Modify sign definitions for monument and sign area</td>
<td>Drafted code amendment</td>
<td></td>
<td></td>
</tr>
<tr>
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<td>--------------------------------------------------</td>
<td>------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Carports</td>
<td>Require improved surface on frame</td>
<td>Addressed in Code</td>
<td>September PZ</td>
<td></td>
</tr>
<tr>
<td>Provide summary on construction-hours and noise ordinance</td>
<td>Place update on PZ-agenda</td>
<td></td>
<td>September PZ</td>
<td></td>
</tr>
</tbody>
</table>

**Workforce housing update**

<table>
<thead>
<tr>
<th>Add requirement for licensed architect for DRB submittals</th>
<th>Reviewing entire section relating to DRB</th>
<th>Draft code amendment</th>
<th>May Commission Agenda</th>
</tr>
</thead>
</table>

**Corridor Analysis**

<table>
<thead>
<tr>
<th>Single-Family Paint Colors</th>
<th>Discussion with the Planning &amp; Zoning Board to determine if a color palette is appropriate for single family homes and what colors/criteria should be included</th>
<th>Place on future Planning and Zoning agenda for discussion</th>
<th>In-contract</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parking Trust Fund</td>
<td>Discussion with the Planning &amp; Zoning Board to provide a cap for payment into the fund</td>
<td>Ordinance on July PZ agenda</td>
<td>In-contract</td>
</tr>
<tr>
<td>Turtle Lighting</td>
<td>Town Staff to prepare review</td>
<td>No ordinance necessary. Turtle lighting already required—in code.</td>
<td>COMPLETE</td>
</tr>
</tbody>
</table>

- Turtle Lighting: Complete
- Town Staff to prepare review: Complete
<table>
<thead>
<tr>
<th>Downtown Color Palette</th>
<th>Discussion with the Planning &amp; Zoning Board to determine if a color palette is appropriate and what colors/criteria should be included</th>
<th>Place on future Planning and Zoning agenda for discussion</th>
<th>In-contract</th>
<th>Replaced—with repainting—of structures.</th>
<th>Complete</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bay Drive &amp; 96th Street</td>
<td>Open Bay Drive off 96th Street</td>
<td>Staff will research</td>
<td>Police and Building to research</td>
<td>No change. Police Chief cited safety concerns</td>
<td>COMPLETE</td>
</tr>
<tr>
<td>Sign/awning code</td>
<td>Discussed at Joint Meeting</td>
<td>Staff beginning to work on draft</td>
<td>Work Authorization—approved</td>
<td>July Commission August Commission</td>
<td>COMPLETE</td>
</tr>
<tr>
<td>As built reviews for residential projects</td>
<td>Discuss increasing canopy in town, street trees, what can be planted in ROW</td>
<td>Research and prepare report for discussion and possible code amendment</td>
<td>In-contract</td>
<td>March PZ</td>
<td>COMPLETE Added a program modification to FY2015 budget</td>
</tr>
<tr>
<td>Interpretation of base flood elevation for the H120 district</td>
<td>No change</td>
<td>No further action needed</td>
<td>N/A</td>
<td>COMPLETE</td>
<td></td>
</tr>
<tr>
<td>Solar panel regulations</td>
<td>Prepare ordinance regulating solar panels</td>
<td>Draft code amendment</td>
<td>In-contract</td>
<td>March PZ</td>
<td>COMPLETE</td>
</tr>
<tr>
<td>Car charging station regulations</td>
<td>Prepare ordinance regulating car charging stations requiring them in new multi-family</td>
<td>Draft code amendment</td>
<td>In-contract</td>
<td>December PZ</td>
<td>COMPLETE</td>
</tr>
<tr>
<td>Pyramiding effects of stepbacks in the H120 district</td>
<td>No action necessary since Planning and Zoning Board currently reviewing stepbacks as part of wall frontage modifications</td>
<td></td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Garage door clarification</td>
<td>Modify code to remove requirement for two separate garage doors</td>
<td>Draft code amendment</td>
<td>In-contract</td>
<td>November PZ</td>
<td>COMPLETE</td>
</tr>
<tr>
<td>Issue</td>
<td>Description</td>
<td>Action</td>
<td>Status</td>
<td>Details</td>
<td></td>
</tr>
<tr>
<td>---------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------</td>
<td>---------------------------------</td>
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<td>--------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>10% window opening requirement per story</td>
<td>Discussion with the Planning &amp; Zoning Board</td>
<td>Prepare ordinance for commission</td>
<td>In-contract</td>
<td>June PZ</td>
<td></td>
</tr>
<tr>
<td>Landscaping in front of converted garage</td>
<td>Determine if landscaping planter is sufficient versus requiring landscaping</td>
<td>Reviewed code and determined</td>
<td>In-contract</td>
<td>No further modification necessary</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>that planter is only permitted in cases where the driveway would be too short</td>
<td></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Sheds</td>
<td>Modify ordinance to increase square footage, but reduce height and add</td>
<td>Draft code amendment</td>
<td>In-contract</td>
<td>Discussed at March meeting</td>
<td></td>
</tr>
<tr>
<td></td>
<td>landscape requirements.</td>
<td></td>
<td></td>
<td>Commission 1st reading in May. PZ in May</td>
<td></td>
</tr>
</tbody>
</table>