



**Town of Surfside  
Special Town Commission Meeting  
Quasi-Judicial Hearing  
AGENDA  
June 13, 2017  
6 p.m.**

Town Hall Commission Chambers - 9293 Harding Ave, 2<sup>nd</sup> Floor  
Surfside, FL 33154

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

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

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

**1. Opening**

- A. Call to Order**
- B. Roll Call of Members**
- C. Pledge of Allegiance**

**2. Quasi-Judicial Hearings**

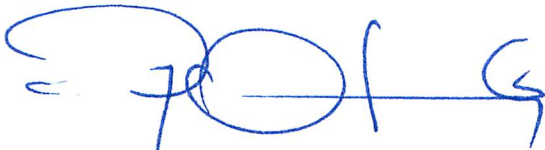
*Please be advised that the following items on the Agenda are Quasi-Judicial in nature. If you wish to object or comment upon an item, please complete a Public Speaker's Card indicating the agenda item number on which you would like to comment. You must be sworn before addressing the Town Commission and you may be subject to cross-examination. If you refuse to submit to cross-examination, the Town Commission will not consider your comments in its final deliberation. Please also disclose any Ex-Parte communications you may have had with any members of the Town Commission. Town Commission members must also do the same.*

**A. 400 90<sup>th</sup> Street – Guillermo Olmedillo, Town Manager**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING THE APPLICATION OF 400 90TH STREET TO PERMIT A VARIANCE FROM THE REQUIREMENTS OF SECTION 90-45 "SETBACKS" OF THE TOWN OF SURFSIDE CODE OF ORDINANCES; TO ALLOW AN AFTER-THE-FACT 0.32 FOOT SETBACK VARIANCE ON THE NORTH (CORNER SIDE OF LOT) AND A 5.21 FOOT SETBACK VARIANCE ON THE WEST (REAR SIDE OF LOT); PROVIDING FOR APPROVAL; PROVIDING FOR AN EFFECTIVE DATE.**

**3. Adjournment**

Respectfully submitted,



Guillermo Olmedillo  
Town Manager

---

THIS MEETING IS OPEN TO THE PUBLIC. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS THAT ARE DISABLED; WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS MEETING BECAUSE OF THAT DISABILITY SHOULD CONTACT THE OFFICE OF THE TOWN CLERK AT 305-861-4863 EXT. 226 NO LATER THAN FOUR DAYS PRIOR TO SUCH PROCEEDING.

IN ACCORDANCE WITH THE PROVISIONS OF SECTION 286.0105, FLORIDA STATUTES, ANYONE WISHING TO APPEAL ANY DECISION MADE BY THE TOWN OF SURFSIDE



COMMISSION, WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING OR HEARING, WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE WHICH RECORD SHALL INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

AGENDA ITEMS MAY BE VIEWED AT THE OFFICE OF THE TOWN CLERK, TOWN OF SURFSIDE TOWN HALL, 9293 HARDING AVENUE. ANYONE WISHING TO OBTAIN A COPY OF ANY AGENDA ITEM SHOULD CONTACT THE TOWN CLERK AT 305-861-4863. A COMPLETE AGENDA PACKET IS ALSO AVAILABLE ON THE TOWN WEBSITE AT [www.townofsursidefl.gov](http://www.townofsursidefl.gov).

TWO OR MORE MEMBERS OF OTHER TOWN BOARDS MAY ATTEND THIS MEETING.

THESE MEETINGS MAY BE CONDUCTED BY MEANS OF OR IN CONJUNCTION WITH COMMUNICATIONS MEDIA TECHNOLOGY, SPECIFICALLY, A TELEPHONE CONFERENCE CALL. THE LOCATION 9293 HARDING AVENUE, SURFSIDE, FL 33154, WHICH IS OPEN TO THE PUBLIC, SHALL SERVE AS AN ACCESS POINT FOR SUCH COMMUNICATION.



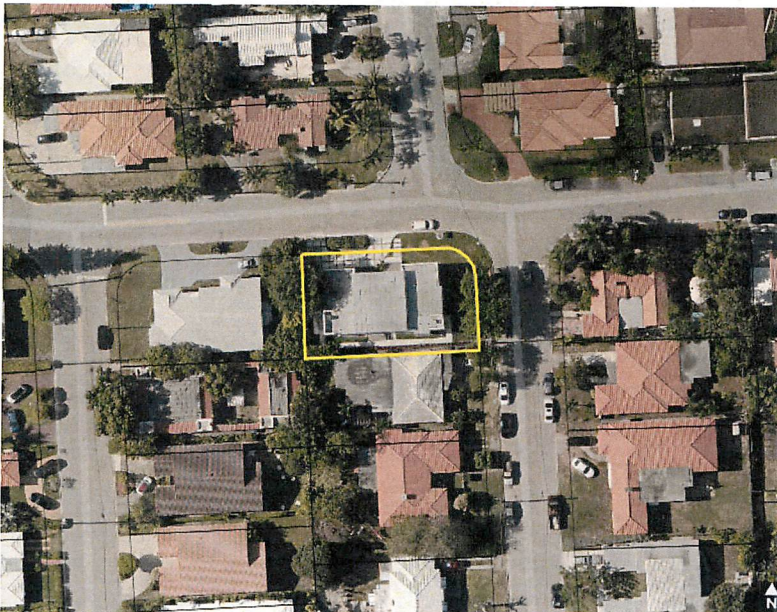
# MEMORANDUM

**To:** Town Commission  
**Thru:** Guillermo Olmedillo, Town Manager  
**From:** Sarah Sinatra Gould, AICP, Town Planner  
**CC:** Linda Miller, Town Attorney  
**Date:** June 13, 2017  
**Re:** 400 90<sup>th</sup> Street

---

## Request

The property owner, Sasha Sadovnik, is requesting variance from the Town of Surfside Code for the property at 400 90<sup>th</sup> Street. The applicant request is for two (2) after-the-fact setback variances required in order to bring the property into compliance with the Town's Code. The house was built in 1956 and substantially renovated several years ago with a Town approved building permit. The current home has a 14.79-foot setback from the rear property line (west side) and a 9.68-foot setback on the secondary frontage property line (north side). The current code requires a 20-foot setback to the rear property line and a 10-foot setback to the secondary frontage property line. Therefore, the applicant is requesting a 5.2-foot setback variance for the rear property line (west side) and a 0.32-foot setback variance for the secondary frontage property line (north side).



## Background

On March 27, 2012 pursuant to Permit #12-492, the Applicant's father, who is the previous owner, was granted the right to demolish over 50% of the value of the original structure in order to build a new structure on the existing slab. The prior home had non-conforming setbacks. By renovating more than 50% of the value of the home, it lost its non-conforming setbacks and was required to meet current setback requirements. Subsequently, the Applicant received Building Permit #12-433 to rebuild the structure on the existing slab. The building permit was issued by a prior Building Official, who did not request a zoning review of the building permit. The structure was constructed per the approved architectural plans (without zoning review or subsequent review by the Design Review Board) and received all required building trade inspections. It was not until the Applicant applied for a Certificate of Occupancy that an inspector identified the non-compliant rear and secondary frontage setback issues of the structure.

## Variance Criteria

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

This property was constructed in 1956 with a 14.87-foot rear setback and a 9.73-foot secondary frontage setback. The code requirements have been modified since that time resulting in a non-conforming structure. The non-conforming code section states that a non-conformity may remain but cannot be enlarged or altered, unless the enlargement or alteration is conforming. However, due to the issuance of a building permit for substantial reconstruction of the original house without zoning review, the original non-conformities were not corrected as required by Code.

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

The existing structure was developed under a different code, which is not the result of the applicant. In addition, the permit was issued for the reconstruction of the structure without requesting zoning review. If the applicant was notified of the setback issues, the property owner may have adjusted the structure or changed the scope of work in order to meet the code requirements. The applicant has worked with staff and agreed to meet the other Code requirements, such as adding windows on the front elevation to meet the 10% wall plane opening requirements.

*(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 existing structure does not meet current Code requirements for setbacks. However, had the building permit plan been reviewed as required, the property owner may have modified the scope of work to be in compliance with the current setback requirements or may have renovated less than 50% of the value of the structure in order to retain the non-conforming setbacks.

*(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 former home was originally constructed in 1956. It was not deliberately developed to be inconsistent with the Town. It was developed prior to the current Town Code requirements. The current applicant finds herself in a predicament where she applied for all required permits, approvals and inspections prior to the CO only to find out at the end of the process that the structure is non-conforming for setbacks on two sides.

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

Granting of the variance is not intended to assist the applicant in achieving greater financial return, rather the applicant was renovating the home utilizing the original foundation (slab). However, the permit was issued without zoning and Design Review Board review. Zoning would have identified the non-conforming status of the setbacks on the rear and secondary front side of the property and requested modifications of the plans.

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

The original home was developed in 1956. The renovated home's setbacks are substantially the same as the original home. Granting of the variances would not provide the Applicant with more than what was originally approved for the property.

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

The requested variances are the minimum variance needed since it is an after-the-fact request due to circumstance not created by the applicant. If not granted the applicant would need to demolish a portion of the structure to bring the structure into compliance after previously receiving an approved building permit from the Town.

*(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 requested variances are in harmony with the general intent and purpose of the Town of Surfside Comprehensive Plan and the Town Code, it is not injurious to the neighborhood or otherwise detrimental to the public safety and welfare. It is also compatible with the neighborhood and will not substantially diminish or impair property values within the neighborhood.

**Recommendation:** The Planning and Zoning Board reviewed the request for a variance at their May 25, 2017 hearing and recommended Approval with a 4-0 vote to the Town Commission. Staff recommends approval of the variance.

#### **Exhibits**

1. Application
2. Site Plan



April 26, 2017

*via Hand-Delivery*

Ms. Sarah Sinatra Gould, Director  
Planning Department  
Town of Surfside  
9293 Harding Avenue  
Surfside, FL 33154

**Re: VARIANCE APPLICATION – 400 90<sup>th</sup> Street (the “Property”)  
Property Owner: Sasha Sadovnik**

Dear Ms. Gould,

This firm represents Ms. Sasha Sadovnik, owner of the above-referenced Property (the “Applicant”). This letter, along with the enclosed Variance Applications and additional documentation, is being submitted in support of our request for two (2) after-the-fact setback variances required in order to bring the Property into compliance with the Town of Surfside’s Code of Ordinances (the “Code”).

The Property consists of 6,860sf and is located in the H30B zoning district. The Property sits on a corner lot; the original structure was built in 1956. Much later when the Town’s Code was modified, increasing property line setbacks were issued and the then existing structure became non-conforming,

On March 27, 2012 pursuant to Permit #12-492, the Applicant’s father, who is the previous owner, was granted the right to demolish over 50% of the structure in order build a new structure on the existing foundation. The Applicant received Building Permit #12-433, issued by the Town’s Building Official, and construction commenced. Between the issuance of the demolition permit and October 9, 2014, all required trade permits were issued by the Town in order to complete the structure pursuant to the architectural plans submitted to and approved by the Town. The construction was completed after having received all required inspection approvals from Town inspectors. However, it was not until the Applicant applied for a Certificate of Occupancy that an inspector identified the non-compliance situation. That is that the structure was constructed without meeting today’s required setbacks.

It is unclear how or why the Building Permit was originally issued and how it was that the Town did not realize in its original review that because the renovations were more than 50% of the existing structure that the new setback requirements had to be applied. To not grant these variances will require the demolition of two sides of the home, which would be a severe penalty for a situation that was not premeditated, nor intended by the Applicant. To not grant these minor variances, would come at a great loss and hardship to the Applicant, which inherited the Property and the project from her father.

The Applicant respectfully requests after-the-fact setback variances for the North side, or “front” of the Property, of .32 feet; and a 5.21foot setback on the West side of the Property, which is considered the “rear” setback. The encroachments currently found are less than the original structure provided. Thus,

Ltr to Ms. Sarah Sinatra Gould

April 26, 2017

Page | 2

the impact to the property owners on the North and West side has not been and won't be negatively affected by the granting of these variances. Moreover, as the Variance Application shows, the requested variances meet all of the criteria set out by the Code.

The Property, and its existing new structure, is in complete harmony with the general intent and purpose of the Town of Surfside Comprehensive Plan and the Code. It is not injurious to the neighborhood or otherwise detrimental to public safety and welfare. It is also compatible with the neighborhood and will not substantially diminish or impair property values within the neighborhood. Rather, the property values are sure to increase by virtue of this new construction.

We respectfully request a recommendation of approval of these variances from the Planning Department and the Planning Board, with subsequent final approval by the Town Commission. If you require any additional information or documentation, please do not hesitate in contacting me.

Thank you, in advance, for your consideration and assistance.

Sincerely,



Lillian A. Ser, Esq.

cc: Ms. Sasha Sadovnik





**TOWN OF SURFSIDE  
SUBMISSION CHECKLIST  
GENERAL VARIANCE APPLICATION**

Project Name Sadovnik Residence Project Number \_\_\_\_\_  
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.
- N/A 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.



**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.

<b>PROJECT INFORMATION</b>	
OWNER'S NAME	Sasha Sadounik
PHONE / FAX	305-322-6678
AGENT'S NAME	Lillian A. Ser, Esq.
ADDRESS	2100 Ponce de Leon Blvd, St 1180
PHONE / FAX	Coral Gables, FL 33134 305-222-7282
PROPERTY ADDRESS	400 90 <sup>th</sup> Street, Surfside, FL 33154
ZONING CATEGORY	H30B
DESCRIPTION OF VARIANCE REQUESTED (please use separate sheet)	Rear Setback Variance of 5'2"

<b>INTERNAL USE ONLY</b>	
Date Submitted _____	Project Number _____
Report Completed _____	Date _____
Comments _____	

<b>ZONING STANDARDS</b>	<b>Required</b>	<b>Provided</b>
Lot Coverage	40% Max	39%
Dimension of yards	See Plans	See Plans
Setbacks (F/R/S)	See Plans	See Plans
Parking	See Plans	See Plans
Loading	N/A	N/A
Pervious Area		

SIGNATURE OF OWNER

DATE

SIGNATURE OF AGENT

DATE

4/22/17



**Tenant or Owner Affidavit**

I, Sasha Sadovnik, 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

Sasha Sadovnik  
Print Name of Petitioner

[Signature]  
Signature of Petitioner

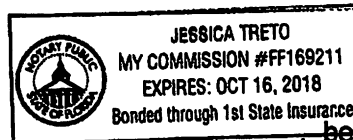
STATE OF FLORIDA COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of APRIL, 20 17, by Sasha Sadovnik who is personally known to me or who has produced DRIVERS LICENSE as identification and who (did) (did not) take an oath.

Jessica Treto  
Printed Name of Notary Public

[Signature]  
Signature of Notary Public

My Commission Expires:  
**Attorney Affidavit**



I, Lillian A. Ser, 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

Lillian A. Ser  
Print Name of Petitioner

[Signature]  
Signature of Petitioner

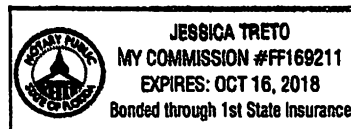
STATE OF FLORIDA COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of APRIL, 20 17, by Lillian A. Ser who is personally known to me or who has produced N/A. as identification and who (did) (did not) take an oath.

JESSICA TRETO  
Printed Name of Notary Public

[Signature]  
Signature of Notary Public

My Commission Expires:



-----

**Corporation Affidavit**

I/We, \_\_\_\_\_, being first duly sworn, depose 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 for 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

\_\_\_\_\_  
**Print Name of Petitioner**

\_\_\_\_\_  
**Signature of Petitioner**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, by \_\_\_\_\_ who is personally known to me or who has produced \_\_\_\_\_ as identification and who (did) (did not) take an oath.

\_\_\_\_\_  
**Printed Name of Notary Public**

\_\_\_\_\_  
**Signature of Notary Public**

My Commission Expires:

**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.

\_\_\_\_\_  
Corporation Name

\_\_\_\_\_  
Name, Address and Office

\_\_\_\_\_  
Percentage of Stock

_____	_____
_____	_____
_____	_____

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.]

\_\_\_\_\_  
Trust Name

\_\_\_\_\_  
Name, Address and Office

\_\_\_\_\_  
Percentage of Stock

_____	_____
_____	_____

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.]

\_\_\_\_\_  
Partnership of Limited Partnership Name

\_\_\_\_\_  
Name, Address

\_\_\_\_\_  
Percentage of Ownership

_____	_____
_____	_____



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].

Name	Date of Contract
Name and Address	Percentage of Interest

If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.


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 \_\_\_\_\_ Print Name of Applicant \_\_\_\_\_

State of \_\_\_\_\_ County of \_\_\_\_\_

The foregoing instrument was Sworn to and Subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_ by \_\_\_\_\_ who is personally known to me or who has produced \_\_\_\_\_ as identification.

Printed Name of Notary Public \_\_\_\_\_

Signature of Notary Public \_\_\_\_\_

My commission Expires: \_\_\_\_\_

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.

**General Variance Application  
Written Narrative of request**

- 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, located at 400 90<sup>th</sup> Street (the "Property") sits on a corner lot. The structure was built in 1956. At that time, the Property provided for the following setbacks:

<b>Original Setbacks Provided</b>	
Front (East)	25.70 ft
Rear (West)	14.87 ft
Side Interior (South)	10.46 ft
Side Corner Lot (North)	9.73 ft

At some point, the Town's zoning regulations were changed and the following setbacks were established:

<b>Currently Required Setbacks</b>	
Front (East)	20ft
Rear (West)	20ft
Side Interior (South)	6.1ft
Side Corner Lot (North)	10ft

Thus, at the time the Zoning Code was modified, the structure became a non-conforming structure.

On March 27, 2012 pursuant to Permit #12-492, the Town of Surfside (the "Town") granted the applicant the right to demolish over 50% of the structure and build a new structure on the existing foundation. Between the first demolition permit and October 9, 2014, all required trade permits were issued by the Town in order to complete the pursuant to the architectural plans submitted to the Town on January 1, 2012. The Applicant received Building Permit #12-433 issued by the Town's Building Official and construction commenced.

Over a period of several years, the construction was completed after having received all required inspection approvals from Town inspectors. Then, it was not until the Applicant applied for a Certificate of Occupancy that an inspector

identified the non-compliance situation, which is that the structure was constructed without meeting today's required setbacks.

Below is a summary showing original encroachments (non-conforming structure) and the existing encroachments. As you will note, the encroachments are less than the original encroachments found on the Property.

<b>SETBACK SUMMARY</b>					
	<b>New Regs Required</b>	<b>Original Structure</b>	<b>Original Encroachments</b>	<b>New Construction Provides</b>	<b>Existing Encroachments</b>
Front (East)	20ft	25.70 ft	None	23.58ft	None
Rear (West)	20ft	14.87 ft	11.1 ft	14.79ft	5.21ft
Side Interior (South)	6.1 ft	10.46ft	None	10.32ft	None
Side Corner Lot (North)	10ft	9.73 ft	.27	9.68ft	.32ft

Today, the lot coverage of homes in the neighborhood remains largely unchanged. In other words, the distance between properties have not changed from the original construction back in the late 1950s. As such, the granting of these variances would not negatively affect the neighbor to the North or West. In fact, one can say that the setbacks/encroachments remain the same. There has been no enlargement of the encroachment. No diminishment of area between the subject Property and adjacent properties to the North and West.

It is unclear how or why the Building Permit was originally issued and how it was that the Town did not realize in its original review that because of the extent of the renovations, the structure could no longer maintain the original setbacks. And, now, the Applicant has spent a very large sum of money for the construction of the existing structure. To not grant these variances will require the demolition of two sides of the home, which would be a severe penalty for a situation that was not premeditated nor intended. To not grant these minor variances, would come at a great loss to the Applicant, which inherited the Property and the project from her father, who is elderly and incapacitated to the extent that Applicant cannot obtain any further knowledge as to the original Town review and issuance of the Building Permit.

**2. The special conditions and circumstances do not result from the actions of the applicant or a prior owner of the property.**

The Applicant did not directly cause the existing circumstance. The original building permit plans were submitted in good faith. The Town, in turn and in good faith, issued all required permits and conducted all necessary inspections throughout the construction. For this reason, the Applicant was never aware that there was an issue. Moreover, the Applicant has agreed to modify the existing structure to add additional windows at her expense in order to meet the requests of the Town Planner. Apparently, the original plans also did not meet the design criteria in regards to windows. Plans are being prepared for the requested windows and the Applicant will be complete the reconstruction as quickly as possible.

**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 current code creates an extraordinary hardship for property owners in this neighborhood in that the original structures were built with smaller setbacks. Thus, in order to be able to modernize any of the existing homes by more than 50% will result in a much smaller structure. In this case, it is clear that an error occurred in the initial review and that permit after permit, inspection after inspection was conducted as if the project met all required setbacks. Moreover, all work was done to Code and in good faith. The encroachments from the original structure to the new structure are not that different. Thus, it would only require minimal setback variances to bring this property into compliance, which other property owners perhaps can seek in the future if found in the same situation.

**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 finds herself in a predicament where she obtained all required permits, approvals and inspections as required by the Town Code. She's also incurred substantial cost in constructing a beautiful new residential home. She did not deliberately or knowingly create the need for these variances. And, other than the need for these minor variances, the project is consistent with the Town of Surfside's Comprehensive Plan and 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.**

The current encroachments did not substantially change the under air square footage of the house. The error in not meeting all of the required setbacks was not done to achieve a greater financial return. Rather, the new structure was basically designed using the original foundation. The only error that occurred, however, is that when the building plans were being reviewed, no one realized that the structure now had to conform to the new setback requirements.

- 6. Granting the variance application conveys the same treatment of the applicant as to the owner of other lands, buildings, or structures in the same zoning district.**

As stated above, the neighborhood remains largely unchanged from the late 1950s where the homes were constructed with very small setbacks. Granting of these variances would not provide the Applicant with anything more than what was originally approved for the site. In fact, the encroachments remain substantially the same.

- 7. The requested variance is the minimum variance that makes possible the reasonable use of the land, building, or structure.**

The Applicant is requesting the minimum variance to make reasonable use of the existing structure. The granting of this variance, the need for which was not caused by the Applicant, will allow the continued use of a beautiful, modern home in keeping with the Surfside standards of design.

- 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 requested variance is in complete harmony with the general intent and purpose of the Town of Surfside Comprehensive Plan and the Town Code, it is not injurious to the neighborhood or otherwise detrimental to public safety and welfare. It is also compatible with the neighborhood and will not substantially diminish or impair property values within the neighborhood. Rather, the property values are sure to increase by virtue of this new construction.





**TOWN OF SURFSIDE**  
**OFFICE OF PLANNING AND ZONING BOARD HEARING**

**NOTICE IS HEREBY GIVEN** that a public hearing will be held by the Planning and Zoning Board of the Town of Surfside, Florida, in the Commission Chambers, 9293 Harding Avenue, Surfside, Florida on **THURSDAY, May 25 at 7:00 p.m.**, to consider the following **VARIANCE** application:

**Application: Sadovnik Setback Variance Request**

**Location:** 400 90<sup>th</sup> Street

**Summary:** The applicant is requesting an after-the-fact .32ft setback variance on the North and a 5.21ft setback variance on the West.

**Requests:** Pursuant to Section 90-36 of the Town Zoning Code, permits setback variances.

Plans, prepared by Jose Conde, R.A., are on file and may be examined in the Building Department

**Legal Description:** Normandy Beach 2<sup>nd</sup> Amended Plat, PB 16-44, Lot 18, Blk 8

**Size of Property:** 6,860 Square Feet

**Zone:** H30B

All persons are invited to appear at this meeting or be represented by an agent, or to express their views in writing addressed to the Town Clerk, Town of Surfside, 9293 Harding Avenue, Surfside, Florida, 33154. Maps and other data pertaining to these applications are available for public inspection during normal business hours in Surfside, Florida. Any zoning hearing may be continued at this meeting and under such circumstances, additional legal notice would not be provided. Any persons wishing to speak at a public hearing should register with the Town Clerk prior to that item being heard. Inquiries regarding the item may be directed to the Town's Building Department at (305)861-4863. Please refer to the hearing number when making an inquiry. If a person decides to appeal any decision made by the Town Commission with respect to any matter considered at such meeting or hearing, they 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 includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the Town for introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law. Any person wishing to appeal any decision made with respect to any matter considered at this meeting or hearing will need a record of the proceeding and for such purpose may need to ensure that a verbatim record of the proceeding is made; which record includes the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act of 1990, individuals who need special accommodations in order to attend or to participate in this proceeding should contact the Office of the Town Clerk, (305) 861-4863, no later than seven (7) days prior to the proceeding in order to request such assistance.



# OFFICE OF THE PROPERTY APPRAISER

## Summary Report

Generated On : 4/4/2017

Property Information	
Folio:	14-2235-005-1130
Property Address:	400 90 ST Surfside, FL 33154-3228
Owner	SASHA SADOVNIK
Mailing Address	400 - 90 ST SURFSIDE, FL 33154 USA
PA Primary Zone	0800 SGL FAMILY - 1701-1900 SQ
Primary Land Use	0101 RESIDENTIAL - SINGLE FAMILY : 1 UNIT
Beds / Baths / Half	3 / 2 / 0
Floors	1
Living Units	1
Actual Area	2,215 Sq.Ft
Living Area	1,844 Sq.Ft
Adjusted Area	2,021 Sq.Ft
Lot Size	6,860 Sq.Ft
Year Built	1956



Assessment Information			
Year	2016	2015	2014
Land Value	\$497,442	\$339,371	\$288,380
Building Value	\$140,662	\$140,662	\$137,024
XF Value	\$0	\$0	\$0
Market Value	\$638,104	\$480,033	\$425,404
Assessed Value	\$468,012	\$425,466	\$386,788

Benefits Information				
Benefit	Type	2016	2015	2014
Non-Homestead Cap	Assessment Reduction	\$170,092	\$54,567	\$38,616

Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).

Short Legal Description
NORMANDY BEACH 2ND AMD PL PB 16-44 LOT 18 BLK 8 LOT SIZE 61.250 X 112

Taxable Value Information			
	2016	2015	2014
<b>County</b>			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$468,012	\$425,466	\$386,788
<b>School Board</b>			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$638,104	\$480,033	\$425,404
<b>City</b>			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$468,012	\$425,466	\$386,788
<b>Regional</b>			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$468,012	\$425,466	\$386,788

Sales Information			
Previous Sale	Price	OR Book-Page	Qualification Description
03/27/2011	\$340,000	27677-2071	Qual by exam of deed
10/01/1972	\$47,500	00000-00000	Sales which are qualified

The Office of the Property Appraiser is continually editing and updating the tax roll. This website may not reflect the most current information on record. The Property Appraiser and Miami-Dade County assumes no liability, see full disclaimer and User Agreement at <http://www.miamidade.gov/info/disclaimer.asp>

Version:



Subject Property



Browsing Search Results 1 - 11 of 11 results

<p>1. 8989 BYRON AVE SURFSIDE, FL 33154-3450 Owner(s): 8989 BYRON LLC Last Sale: \$1,077,500 on 11/05/2015</p>	<p>PID # 14-2235-005-0980 Market Value: \$584,482 Assessed Value: \$584,482 Waterfront: No Covered Parking: No</p>	<p>Bedrooms: 6 Bathrooms: 6 Stories: 1 No Pool:</p>	<p>Living Area: 2,816 sf Total Area: 2,816 sf Year Built: 1935 Land Area: 5,650 sf</p>
<p>2. 8975 ABBOTT AVE SURFSIDE, FL 33154-3430 Owner(s): IPI HOLDINGS LLC Last Sale: \$480,000 on 09/02/2014</p>	<p>PID # 14-2235-005-0810 Market Value: \$618,836 Assessed Value: \$508,748 Waterfront: No Covered Parking: GARAGE, UNFINISHED</p>	<p>Bedrooms: 2 Bathrooms: 1 Stories: 1 No Pool:</p>	<p>Living Area: 1,470 sf Total Area: 1,750 sf Year Built: 1930 Land Area: 6,860 sf</p>
<p>3. 424 90TH ST SURFSIDE, FL 33154-3228 Owner(s): ZAMEK MIGUEL &amp; LE ESTHER F ZAMEK FREEMAN REM ALINA &amp; ZAMEK ALBERT Last Sale: on 09/01/2006</p>	<p>PID # 14-2235-005-0972 Market Value: \$699,929 Assessed Value: \$246,877 Waterfront: No Covered Parking: GARAGE, FINISHED</p>	<p>Bedrooms: 3 Bathrooms: 2 Stories: 1 No Pool:</p>	<p>Living Area: 1,992 sf Total Area: 2,422 sf Year Built: 1990 Land Area: 6,921 sf</p>
<p>4. 8951 ABBOTT AVE SURFSIDE, FL 33154-3430 Owner(s): PAZOS CONCEPCION M PAZOS KARLA M Last Sale: on 07/01/2004</p>	<p>PID # 14-2235-005-0830 Market Value: \$803,657 Assessed Value: \$241,377 Waterfront: No Covered Parking: No</p>	<p>Bedrooms: 4 Bathrooms: 3 Stories: 1 No Pool:</p>	<p>Living Area: 2,929 sf Total Area: 2,954 sf Year Built: 1950 Land Area: 8,400 sf</p>

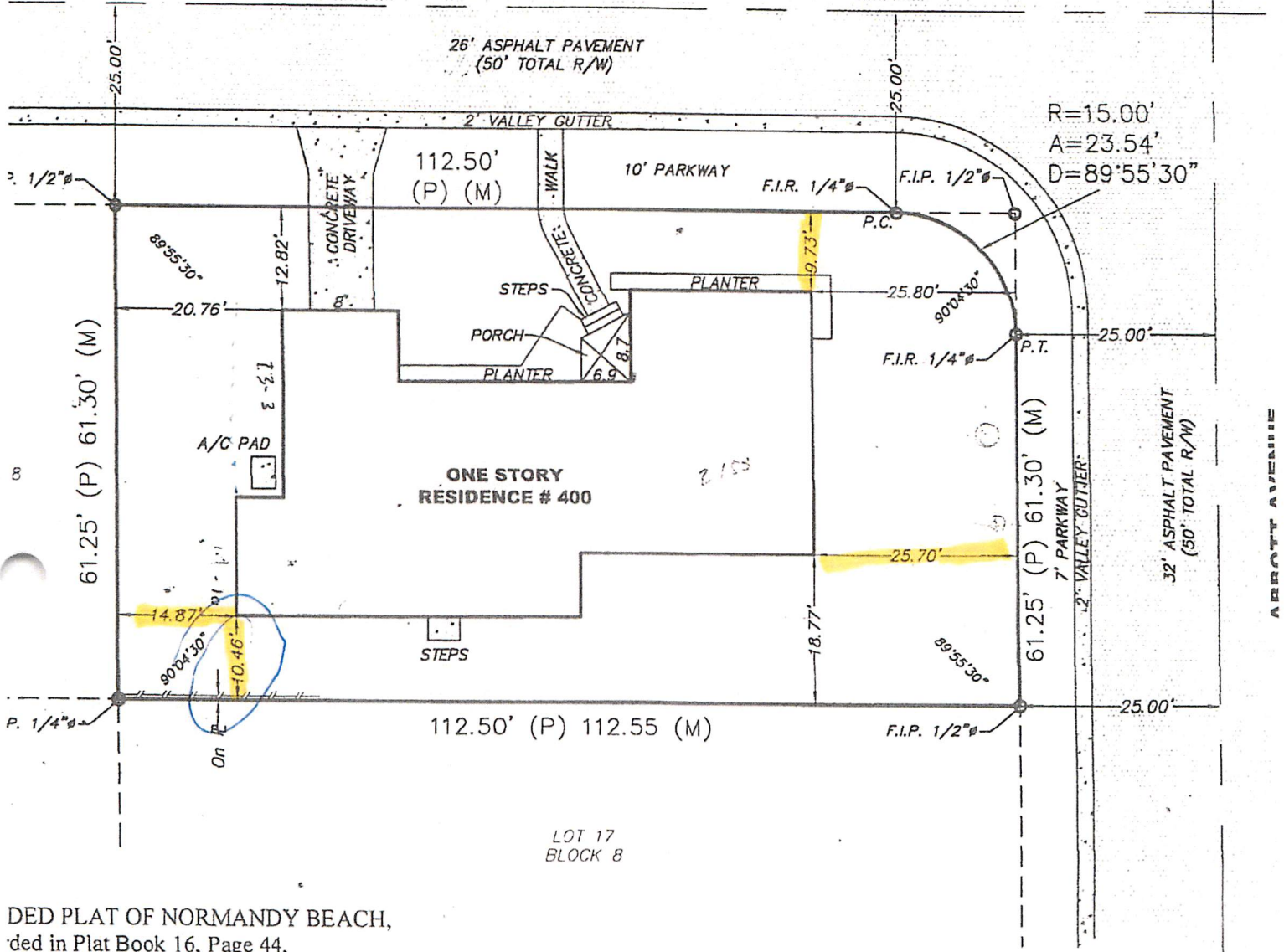
5.	9001 ABBOTT AVE SURFSIDE, FL 33154-3235 Owner(s): RADELAT FELIPE A RADELAT ANA I Last Sale: \$94,900 on 03/01/1985	PID # 14-2235-001-0580 Market Value: \$584,977 Assessed Value: \$439,355 Waterfront: Covered Parking: No	Bedrooms: 3 Bathrooms: 2 Stories: 1 No Pool:	Living Area: 1,619 sf Total Area: 2,325 sf Year Built: 1954 Land Area: 6,160 sf
6.	9000 ABBOTT AVE SURFSIDE, FL 33154-3236 Owner(s): 9000 ABBOTT LLC Last Sale: \$750,000 on 11/10/2015	PID # 14-2235-001-0940 Market Value: \$554,492 Assessed Value: \$554,492 Waterfront: Covered Parking: GARAGE, FINISHED	Bedrooms: 3 Bathrooms: 2 Stories: 1 No Pool:	Living Area: 1,302 sf Total Area: 1,672 sf Year Built: 1937 Land Area: 6,160 sf
7.	9000 HARDING AVE SURFSIDE, FL 33154-3226 Owner(s): DANZINGER SHLOMO DANZINGER ROCHEL LEAH Last Sale: \$450,000 on 05/18/2012	PID # 14-2235-001-0410 Market Value: \$618,532 Assessed Value: \$403,246 Waterfront: Covered Parking: No	Bedrooms: 3 Bathrooms: 2.5 Stories: 1 No Pool:	Living Area: 2,070 sf Total Area: 2,140 sf Year Built: 1980 Land Area: 6,160 sf
8.	9008 ABBOTT AVE SURFSIDE, FL 33154-3236 Owner(s): GARCIA SORAYA-BATISTA & MARIO Last Sale: \$125,000 on 09/01/1994	PID # 14-2235-001-0950 Market Value: \$477,537 Assessed Value: \$169,078 Waterfront: Covered Parking: GARAGE, UNFINISHED	Bedrooms: 2 Bathrooms: 2 Stories: 1 No Pool:	Living Area: 1,257 sf Total Area: 1,641 sf Year Built: 1937 Land Area: 5,600 sf
9.	8959 ABBOTT AVE SURFSIDE, FL 33154-3430 Owner(s): KOCAK AZIZ & FERIDE Last Sale: \$35,000 on 04/01/2005	PID # 14-2235-005-0820 Market Value: \$537,132 Assessed Value: \$293,920 Waterfront: Covered Parking: GARAGE, UNFINISHED	Bedrooms: 3 Bathrooms: 2 Stories: 1 No Pool:	Living Area: 1,734 sf Total Area: 2,056 sf Year Built: 1953 Land Area: 5,600 sf
10.	440 90TH ST SURFSIDE, FL 33154-3228 Owner(s): SADOVNIK SASHA Last Sale: \$340,000 on 03/27/2011	PID # 14-2235-005-1130 Market Value: \$638,104 Assessed Value: \$468,012 Waterfront: Covered Parking: GARAGE, UNFINISHED	Bedrooms: 3 Bathrooms: 2 Stories: 1 No Pool:	Living Area: 1,844 sf Total Area: 2,215 sf Year Built: 1956 Land Area: 6,860 sf
11.	8958 ABBOTT AVE SURFSIDE, FL 33154-3431 Owner(s): PAZ FERNANDO C PAZ ANA INTRIERI Last Sale: \$426,000 on 03/30/2012	PID # 14-2235-005-1120 Market Value: \$508,766 Assessed Value: \$312,439 Waterfront: Covered Parking: GARAGE, UNFINISHED	Bedrooms: 3 Bathrooms: 2 Stories: 1 No Pool:	Living Area: 1,804 sf Total Area: 2,108 sf Year Built: 1956 Land Area: 5,600 sf

© PropertyKey, Inc., 2017 | Information is believed accurate but not guaranteed and should be independently verified.



Old Survey

90<sup>th</sup> STREET



112.50' (P) 112.55 (M)

LOT 17  
BLOCK 8

DED PLAT OF NORMANDY BEACH,  
ded in Plat Book 16, Page 44,  
County, Florida.

is Lending, Inc,  
LA.

re Company.

THIS  
DATE I  
TRAI

- NOTES:
- No Visible encroachments.
  - No Platted easements on this Lot.

FLOOD ZONE AE	COMM. No. 120659	PANEL No. 0163	SUFFIX: L	ELEVATION NOTE: (IF APPLICABLE) L.F.Elev.= <u>7.77</u> (lowest habitable floor elevation). Elevation shown hereon refer to N.G.V.D. 1929. Lowest adjacent grade elevation= <u>5.5</u> BM. <u>T-243</u> Elev.= <u>12.98</u> Garage Elev.= <u>5.99</u> Erp.= <u>N/A</u>	Not valid unless it bears the signature and the original raised seal of Florida licensed Surveyor and Mapper.
F.I.R.M.DATE 09/11/09	F.I.R.M.INDEX 09/11/09	BASE ELEV. + 8.0 N.G.V.D.			

FLC  
AND  
Co









ARCHITECT:

**JOSE R CONDE**

JOSE R CONDE P.A.  
 REG # AR 0010924  
 8500 WILES DRIVE, #100  
 MIAMI, FLORIDA 33155  
 PHONE: (305) 534 0685  
 E-MAIL: conde@jrcpa.com

PROJECT TITLE:

**SADOVNIK HOUSE RENOVATION**

100 90 STREET  
 SUFFOLK, FL 33514

CLIENT:  
**DEL VAL CONSTRUCTION**  
 786 286 1205

DESIGN PERIODS:  
 TO CLIENT: 03-18-2011  
 FOR PERMIT: 01-15-2012

PROJECT COORDINATION

DRAWING TITLE:  
**ELEVATIONS**

REVISIONS: DATE  
 STRUCTURES 7/27/12  
 STRUCTURES 7/31/12  
 VANDORP 4/7/17

SCALE: INDICATED  
 UNITS: FEET & INCHES  
 COUNTRY: U.S.  
 CAD NAME: SADOVNIK/SASA  
 PROJECT FILE: 2011-010

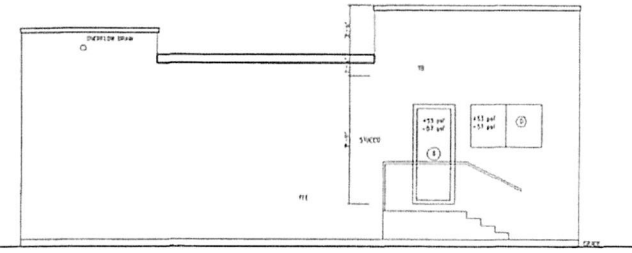
ALL DRAWINGS AND NOTES SHALL BE READ AND UNDERSTOOD IN CONNECTION WITH THE PROJECT MANUAL AND SPECIFICATIONS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF ALL DIMENSIONS AND CONDITIONS OF THE EXISTING STRUCTURE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITIES.

DRAWING NUMBER:

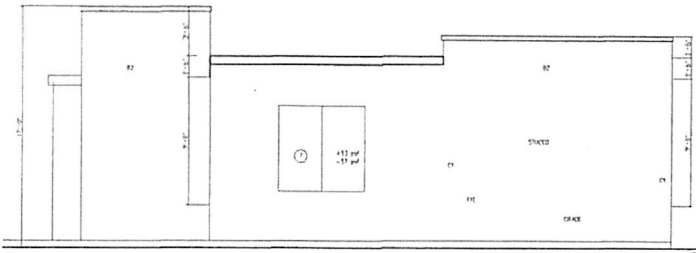
**A4**

OF 4

1514.4.2 Overflow drains and scuppers. Where roof drains are required, overflow drains having the same size as the roof drains shall be installed with the low flow line located 2 inches (51 mm) above the low point of the roof, overflow scuppers shall be a minimum of 4 inches (102 mm) in height and shall be placed in walls or parapets with the low flow line not less than 2 inches (51mm) above the roof surface, excluding scuppers, or more than 4 inches (102 mm) above the roof surface and shall be located as close as practical to required vertical leaders or downspouts or wall end parapet scuppers. Overflow drains and scuppers shall also comply with the Florida Building Code, Planning, and §1615 of this code.



WEST ELEVATION SCALE: 1/4"=1'-0"

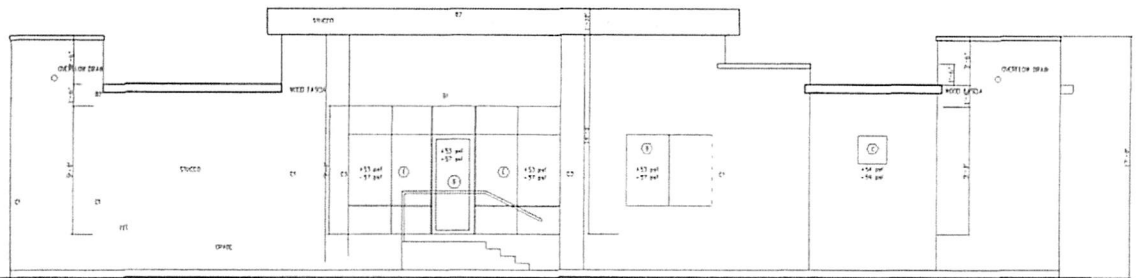


EAST ELEVATION SCALE: 1/4"=1'-0"

NOTE: WINDOWS & DOOR PRESSURES ARE "ASD" CONVERTED

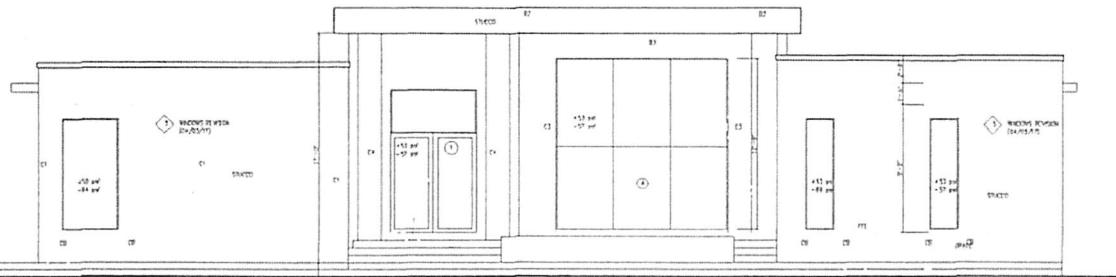
**ELEVATIONS AREAS**

DESCRIPTION	FINISH AREA	WINDOW AREA	PERCENTAGE
WALLS	100	37	37
DOOR	480	37	7.7
WINDOWS	170	100	58.8
TOTAL	750	174	23.2

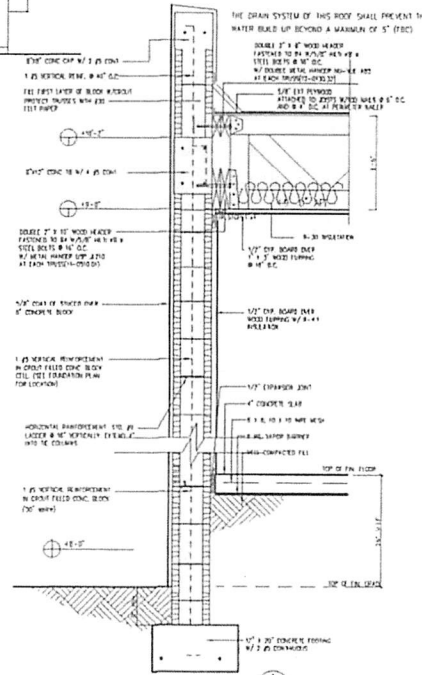


SOUTH ELEVATION SCALE: 1/4"=1'-0"

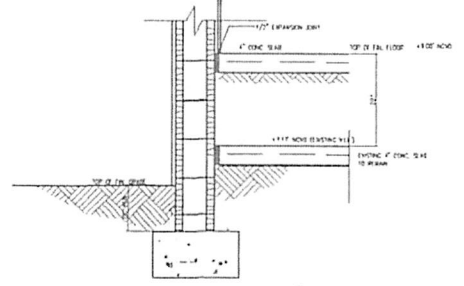
NOTE: WINDOWS & DOOR PRESSURES ARE "ASD" CONVERTED



NORTH ELEVATION SCALE: 1/4"=1'-0"



TYPICAL WALL SECTION SCALE: 1" = 1'-0"



NEW SLAB DETAIL SCALE: 1" = 1'-0"



New Survey

1355N.W. 97th AVE. SUITE 200  
MIAMI, FLORIDA 33172  
TELEPHONE: (305) 264-2660  
FAX: (305) 264-0229

# Nova Surveyors Inc.

SURVEY No. 12-0000927-4

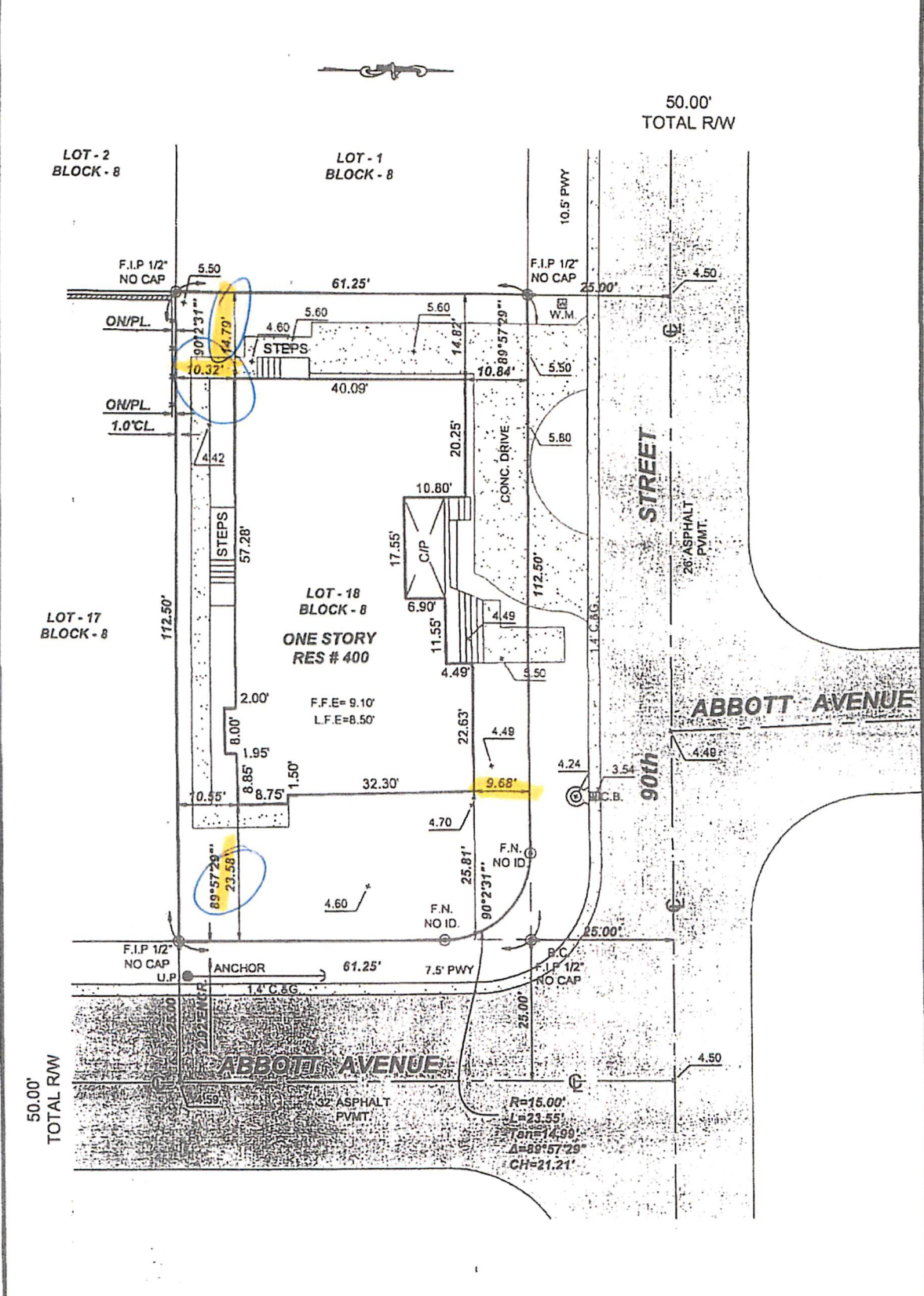
LAND SURVEYORS

SHEET No. 2 OF 2

DRAWN BY: AL (LG.)

## BOUNDARY SURVEY

SCALE = 1" = 20'



**SURVEYOR'S NOTE:**  
There may be Easements recorded in the Public Records not shown on this Survey.





























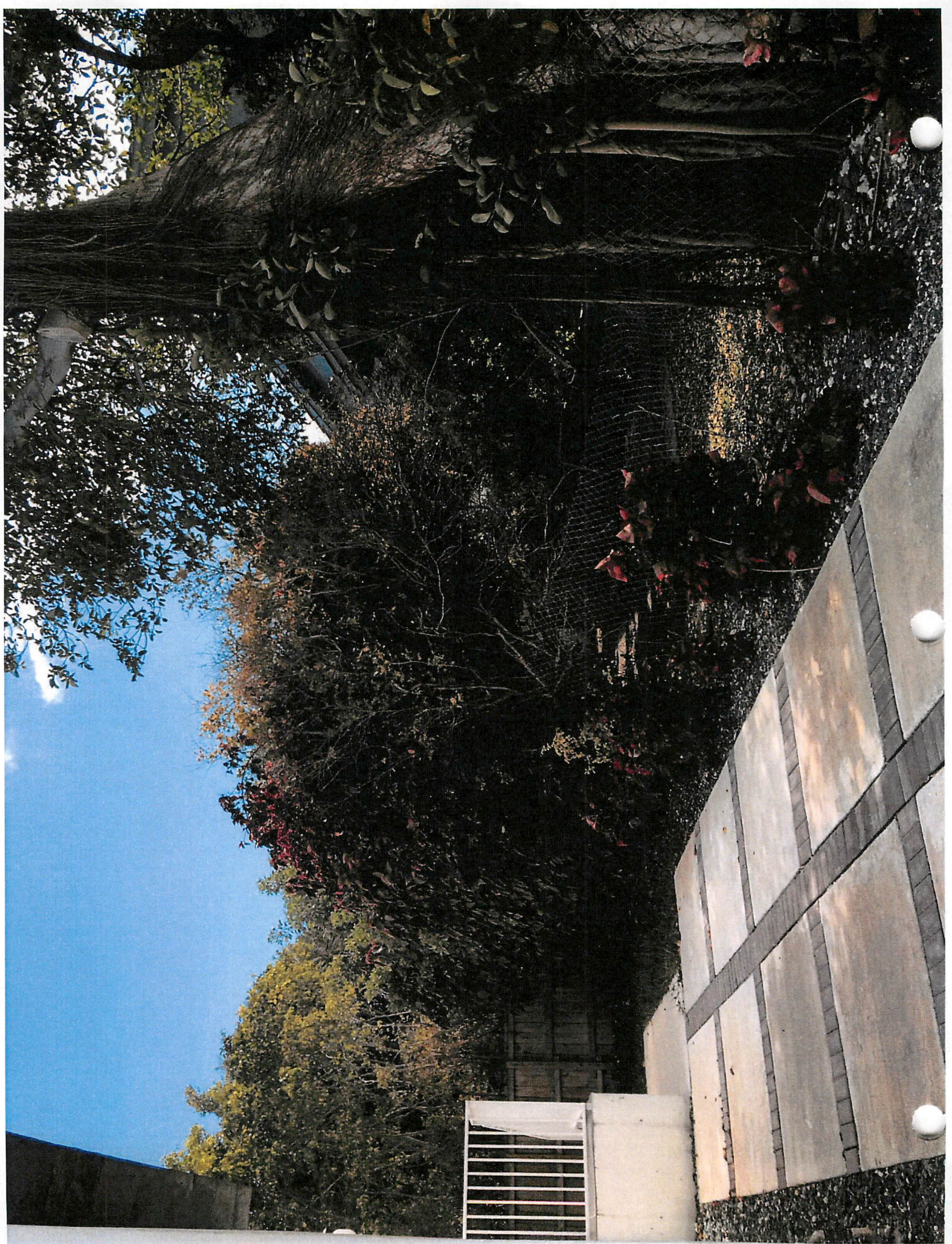




















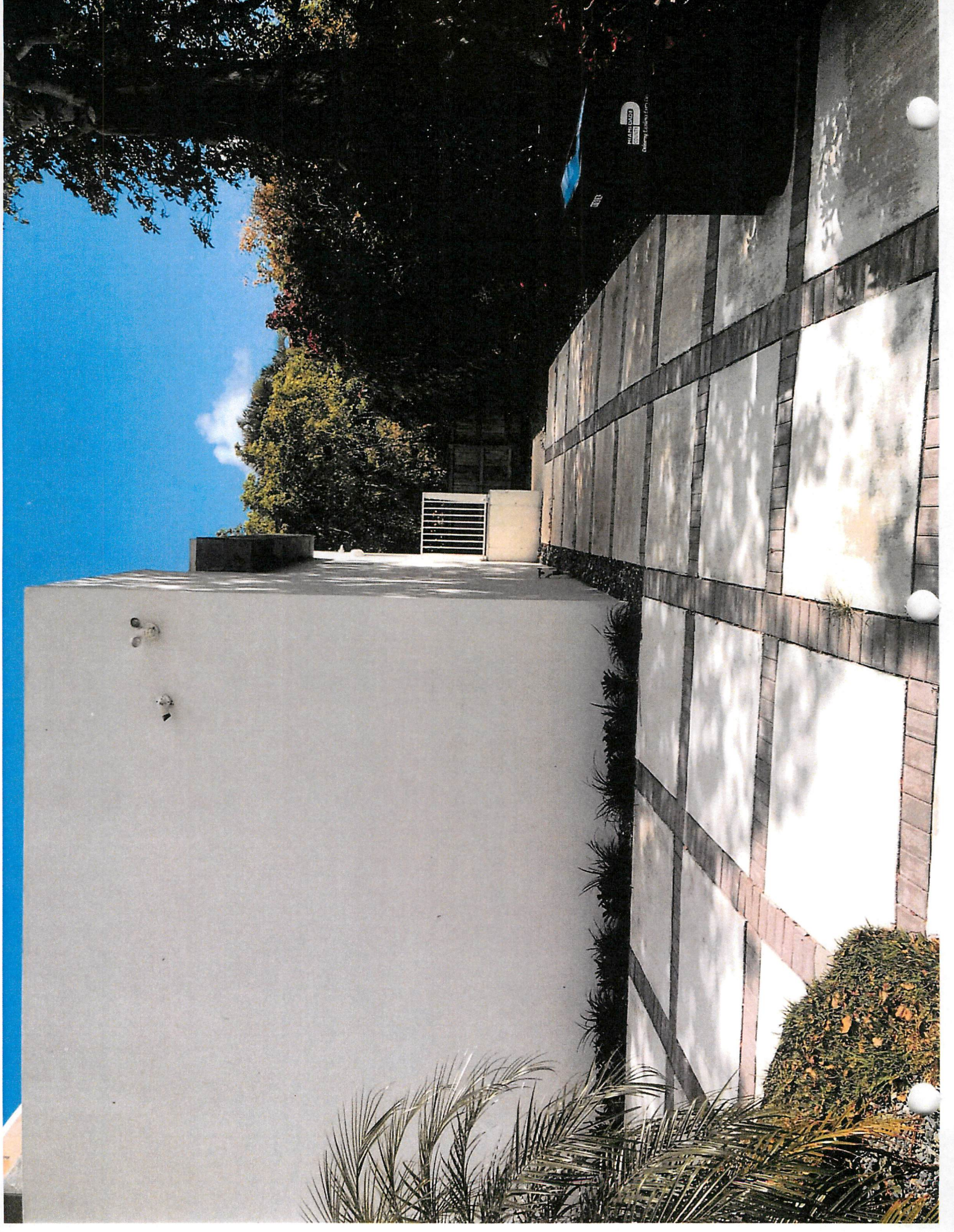






























**RESOLUTION NO. 17-Z-\_\_\_\_**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING THE APPLICATION OF 400 90TH STREET TO PERMIT A VARIANCE FROM THE REQUIREMENTS OF SECTION 90-45 "SETBACKS" OF THE TOWN OF SURFSIDE CODE OF ORDINANCES; TO ALLOW AN AFTER-THE-FACT 0.32 FOOT SETBACK VARIANCE ON THE NORTH (CORNER SIDE OF LOT) AND A 5.21 FOOT SETBACK VARIANCE ON THE WEST (REAR SIDE OF LOT); PROVIDING FOR APPROVAL; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the property owner, Sasha Sadovnik (Applicant), is requesting an after-the-fact variance from the Town of Surfside Code for the single-family home located at 400 90<sup>th</sup> Street within the Residential Single Family H30B Zoning District (Attachment "A" Legal Description); and

**WHEREAS**, Applicant's request is for two (2) after-the-fact setback variances required in order to bring the property into compliance with the Town's Code; and

**WHEREAS**, Section 90-45 of the Town of Surfside Code of Ordinances requires a 20-foot setback to the rear property line and a 10-foot setback to the secondary frontage property line for single-story structures up to 15 feet in height; and

**WHEREAS**, the existing home, which was built in 1956, was substantially renovated several years ago with a Town approved building permit; and

**WHEREAS**, by renovating more than 50% of the value of the home, the property lost its non-conforming setbacks and was required to meet current setback requirements; and

**WHEREAS**, subsequently, Applicant received Building Permit #12-433 to rebuild the structure on the existing slab. The building permit was issued by a prior Building Official, who did not request a zoning review of the building permit; and

**WHEREAS**, the structure was constructed per the approved architectural plans and received all require building trade inspections; and

**WHEREAS**, it was not until Applicant applied for a Certificate of Occupancy that an inspector identified the non-compliant rear and secondary frontage setback issues of the structure; and

**WHEREAS**, the existing home has a 14.79-foot setback from the rear property line (west side) and a 9.68-foot setback on the secondary frontage property line (north side); and

**WHEREAS**, the Applicant is requesting an unnecessary and undue hardship variance from the Town of Surfside Code to allow an after-the-fact 0.32 foot setback variance on the north (corner side of lot) and a 5.21 foot setback variance on the west (rear side of lot); and

**WHEREAS**, Section 90-36 of the Town of Surfside Code of Ordinances provides an unnecessary and undue hardship variance shall be approved only if the variance applicant demonstrates by clear and convincing evidence that all of the following are met and satisfied:

- a. 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;
- b. The special conditions and circumstances do not result from the actions of the applicant or a prior owner of the property;
- c. Literal interpretation of the provisions of the Zoning Code deprives the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Code and results in unnecessary and undue hardship on the applicant;
- d. 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 Comprehensive Plan or the Zoning Code;
- e. An applicant's desire or ability to achieve greater financial return or maximum financial return from his property does not constitute hardship;
- f. 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;
- g. The requested variance is the minimum variance that makes possible the reasonable use of the land, building, or structure; and
- h. The requested variance is in harmony with the general intent and purpose of the Town Comprehensive Plan and the Zoning 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.

**WHEREAS**, the variance is consistent with the intent of the Town Comprehensive Plan and the Town of Surfside Code, and is compatible with the neighborhood and will not diminish or impair property values within the neighborhood; and

**WHEREAS**, Town Staff has reviewed the application and recommends approval of the after-the-fact variance; and

**WHEREAS**, on May 25, 2017 the Planning and Zoning Board recommended approval of the after-the-fact variance.



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

**Section 1. Recitals.** That the above and foregoing recitals are true and correct and are incorporated herein by reference.

**Section 2. Variance.** The Town Commission finds the requested variance meets the variance criteria set forth in Section 90-36 of the Town of Surfside Code of Ordinances and recommends approval of the variance from the requirements of Section 90-45 of the Town of Surfside Code of Ordinances to allow an after-the-fact 0.32 foot setback variance on the north (corner side of lot) and a 5.21 foot setback variance on the west (rear side of lot) based on the following variance criteria:

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

This property was constructed in 1956 with a 14.87-foot rear setback and a 9.73-foot secondary frontage setback. The Code requirements have been modified since that time resulting in a non-conforming structure. The non-conforming Code section states that a non-conformity may remain but cannot be enlarged or altered, unless the enlargement or alteration is conforming. However, due to the issuance of a building permit for substantial reconstruction of the original house without zoning review, the original non-conformities were not corrected as required by Code.

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

The existing structure was developed under a different Code, which is not the result of the applicant. In addition, the permit was issued for the reconstruction of the structure without requesting zoning review. If the applicant was notified of the setback issues, the property owner may have adjusted the structure or changed the scope of work in order to meet the Code requirements. The applicant has worked with staff and agreed to meet the other Code requirements, such as adding windows on the front elevation to meet the 10% wall plane opening requirements.

*(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 existing structure does not meet current Code requirements for setbacks. However, had the building permit plan been reviewed as required, the property owner may have modified the scope of work to be in compliance with the current setback requirements or may have renovated less than 50% of the value of the structure in order to retain the non-conforming setbacks.

*(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 former home was originally constructed in 1956. It was not deliberately developed to be inconsistent with the Town. It was developed prior to the current Town Code requirements. The current applicant finds herself in a predicament where she applied for all required permits, approvals and inspections prior to the CO only to find out at the end of the process that the structure is non-conforming for setbacks on two sides.

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

Granting of the variance is not intended to assist the applicant in achieving greater financial return, rather the applicant was renovating the home utilizing the original foundation (slab). However, the permit was issued without zoning and Design Review Board review. Zoning would have identified the non-conforming status of the setbacks on the rear and secondary front side of the property and requested modifications of the plans.

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

The original home was developed in 1956. The renovated home's setbacks are substantially the same as the original home. Granting of the variances would not provide the Applicant with more than what was originally approved for the property.

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

The requested variances are the minimum variance needed since it is an after-the-fact request due to circumstance not created by the applicant. If not granted the applicant would need to demolish a portion of the structure to bring the structure into compliance after previously receiving an approved building permit from the Town.

*(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 requested variance is in harmony with the general intent and purpose of the Town of Surfside Comprehensive Plan and the Town Code, it is not injurious to the neighborhood or otherwise detrimental to the public safety and welfare. It is

also compatible with the neighborhood and will not substantially diminish or impair property values within the neighborhood.

**Section 3. Approval.** The Town Commission approves the after-the-fact variance.

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

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Motion by \_\_\_\_\_,

Second by \_\_\_\_\_.

**FINAL VOTE ON ADOPTION**

Commissioner Daniel Gielchinsky	_____
Commissioner Michael Karukin	_____
Commissioner Tina Paul	_____
Vice Mayor Barry Cohen	_____
Mayor Daniel Dietch	_____

\_\_\_\_\_  
Daniel Dietch, Mayor

**ATTEST:**

\_\_\_\_\_  
Sandra Novoa, MMC, Town Clerk

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

  
\_\_\_\_\_  
Linda Miller, Town Attorney

STATE OF FLORIDA                    )  
COUNTY OF MIAMI-DADE         )

I, Sandra Novoa, Town Clerk of the Town of Surfside, Florida, do hereby certify that the above and foregoing is a true and correct copy of Resolution No. 17-Z\_\_\_\_ adopted by the Town Commission at its meeting held on the \_\_\_ day of \_\_\_\_\_, 2017.

Issued: \_\_\_\_\_

\_\_\_\_\_  
Sandra Novoa, MMC  
Town Clerk



**ATTACHMENT "A"**

Legal Description  
400 90<sup>TH</sup> Street  
Surfside, Florida 33154

NORMANDY BEACH 2ND AMD PL  
PB 16-44  
LOT 18 BLK 8