



**Town of Surfside
Special Town Commission Meeting
Quasi-Judicial Hearing
MINUTES**

October 29, 2019

6:00 p.m.

Town Hall Commission Chambers - 9293 Harding Ave, 2nd Floor
Surfside, FL 33154

1. Opening

A. Call to Order

Mayor Dietch call the meeting to order at 6:05 p.m.

B. Roll Call of Members

Deputy Town Clerk Herbello called the roll with the following members present:

Present: Mayor Dietch, Vice Mayor Gielchinsky, Commissioner Karukin, and Commissioner Paul.

Absent: Commissioner Cohen

Also present were Town Manager Olmedillo, Town Attorney Arango and Town Planner Sinatra.

C. Pledge of Allegiance

Police Captain Bambis led the 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. 8810 Abbott Avenue – Guillermo Olmedillo, Town Manager

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, [APPROVING/ APPROVING WITH CONDITIONS/ DENYING] AN APPLICATION SUBMITTED BY SAMUEL FRONT (“APPLICANT”) FOR THE PROPERTY LOCATED AT 8810 ABBOTT

AVENUE (“PROPERTY”) FOR A PRACTICAL DIFFICULTY VARIANCE FROM SECTION 90-49 OF THE TOWN CODE TO PERMIT AN ADDITIONAL 3% LOT COVERAGE OR 43% LOT COVERAGE, WHERE A MAXIMUM LOT COVERAGE OF 40% IS PERMITTED; AND PROVIDING FOR AN EFFECTIVE DATE

Deputy Town Clerk Herbello read the title into the record.

Town Attorney Arango read the quasi-judicial statement into the record and asked the members of the Town Commission if they had any Ex-Parte communications.

Vice Mayor Gielchinsky stated that after the owner presented the item, he congratulated and commended the architect.

All other Commissioners had no communication to report.

Town Attorney Arango confirmed with Deputy Town Clerk Herbello compliance with the advertising and notice requirements.

Deputy Town Clerk Herbello confirmed compliance with advertising and notice requirements.

Deputy Town Clerk Herbello swore in any individual(s) who would be speaking or testifying in these proceedings.

Town Planner Sinatra presented the item and gave the staff recommendations and conditions for approval that the applicant has to be able to comply with. She also stated that the Planning & Zoning Board recommended approval with the required landscaping requirements per Chapter 90 of Code of Ordinances.

Edwardo Herrera, representing the owners of the property, stated that they need is an additional 3% to be able to enclose the garage and gave a summary of the project.

Mayor Dietch opened the floor to public comment.

There being no speakers, Mayor Dietch closed the floor to public comment.

A motion was made by Commissioner Paul to approve the Resolution with staff recommendations and conditions. The motion received a second from Commissioner Karukin. All voted in favor.

B. 9264 Bay Drive – Variance – Guillermo Olmedillo, Town Manager

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, [APPROVING/ APPROVING WITH CONDITIONS/ DENYING] AN APPLICATION SUBMITTED BY DAVID KRIEGER AND BELLA TENDLER KRIEGER (“APPLICANT”) FOR THE PROPERTY LOCATED AT 9264 BAY DRIVE (“PROPERTY”) FOR A VARIANCE FROM SECTION 90-45 OF THE TOWN CODE TO PROVIDE A FIRST-FLOOR SIDE SETBACK OF 8 FEET, WHERE 20 FEET ARE REQUIRED AND AN UPPER STORY SETBACK OF 13 FEET, WHERE 25 FEET ARE REQUIRED; AND PROVIDING FOR AN EFFECTIVE DATE.

Deputy Town Clerk Herbello read the title into the record.

Town Attorney Arango read the quasi-judicial statement into the record and asked the members of the Town Commission if they had any Ex-Parte communications.

Commissioner Paul received an email in support of the item.

Commissioner Karukin received an email in support of the item.

Vice Mayor Gielchinsky stated that as the Planning and Zoning Commission Liaison, he addressed the architect of the property, spoke with the applicant, Dr. Krieger and his wife as well as neighbors regarding their position on the project.

Mayor Dietch also spoke with neighbors regarding this project.

Town Attorney Arango confirmed with Deputy Town Clerk Herbello compliance with the advertising and notice requirements.

Deputy Town Clerk Herbello confirmed compliance with advertising and notice requirements.

Deputy Town Clerk Herbello swore in any individual(s) who would be speaking or testifying in these proceedings.

Town Planner Sinatra presented the item and gave the staff recommendations and conditions for approval of said variance.

Mayor Dietch opened the floor to public comment.

Daniel Saragon, architect representing the applicant, summarized the project and explained the hardship being experienced which is the reason for the variance request. He stated that they met with the neighbors and made the modifications requested by the neighbors.

The following individuals spoke regarding the item.
Reuven Herssein spoke in support of the item.

Dr. David Krieger, applicant gave an update on the survey and stated that they made the changes pursuant to the neighbors' requests and approval.

Bella Krieger, applicant, asked the Commission for approval of their project.

Mayor Dietch closed the floor to public comment.

Commissioner Karukin stated that he has not seen what the new code will state and asked staff for clarification of the setbacks.

Town Planner Sinatra clarified the recommendations and setbacks.

Town Manager Olmedillo stated that moving the house could be made part of the conditions of approval.

Mayor Dietch asked the applicant's architect for clarification on the changes made.

Daniel Saragon, architect, stated the new changes were made pursuant to the neighbor's request.

Town Planner Sinatra explained the free boarding and pitched roofs. She also stated that she tried to present it two months ago and the Planning & Zoning Board rejected the flat roof idea.

Commissioner Karukin asked what was the lot coverage for the proposed property and the pervious area.

Town Planner Sinatra stated that the lot coverage is 34% maximum and the applicant currently has it at 40%. She stated that the pervious is exceeded, it is at 40% instead of 35%.

Commissioner Karukin asked regarding size and scale and applying FAR to residential, which he encourages to be done. He also asked if there are homes of that same size in the neighborhood.

Town Planner Sinatra stated that FAR would not help because the house is large as well as the lot. She stated they are less than the 40% for the first floor and explained what the Town counts towards that calculation which some other cities would not count. She gave an example of a terrace which is counted towards lot coverage in the Town which other municipalities do not count. They are under the required percentage for the second floor as well as for the first floor.

Commissioner Karukin stated that his concern is the size and scale in comparison to the neighborhood and do they have homes of that size on Bay Drive.

Town Planner Sinatra stated that yes you do have some of those size homes on Bay Drive. She stated that this home is not maxed out. She stated that the Planning & Zoning Board wanted more flexibility and have understanding that these lots are on the water.

David Saragon, architect, showed the Commission the plan on how the house would look.

Commissioner Paul commented on the flaw in the Code and is glad that it is being fixed. She asked Town Planner Sinatra if we can approve this as to what would naturally fit the code.

Town Planner Sinatra answered Commissioner Paul's question and stated that the applicant meets the formula for the first floor but does not meet the formula for the second floor. She explained that they are proposing a 13-foot side setback for the second floor. They went forward with the feedback they received from the Planning & Zoning Board. They have subsequently worked with the Planning & Zoning Board's request of a 13-foot side setback from the property line. The suggestion was a 7 ½ foot average setback measured from the second floor, which will reduce the massing feel.

Town Planner Sinatra explained the reasoning for this item coming before them tonight for approval and it is due to the meeting dates with the Planning & Zoning Board. She stated that the Planning & Zoning Board will be combining their meetings and this item will not be able to be heard until the Planning & Zoning Board meeting of December 12, 2019 and then it would come before the Town Commission for approval sometime in January 2020.

Commissioner Karukin stated he was looking at the aerial, is the applicant's house smaller than the one to the north.

Town Planner Sinatra stated the footprint is smaller.

Dr. David Krieger, applicant, stated the footprint is smaller even though it is a 2-story house and gave the size of the houses next door.

Vice Mayor Gielchinsky commented on the intention of what was going to be done and that they have accomplished that and thanked the applicant. He advised he would support the item.

Mayor Dietch opened the public hearing for one speaker.

Peter Hickey stated he was concerned about the scale and massing of the project and believes the applicant has gone over and beyond and is in support of their project. He stated that he feels the code should be revisited.

Mayor Dietch closed the public hearing.

Mayor Dietch addressed the applicants and apologized for the challenges they faced with the ordinance and how it affects other property owners in the Town. He spoke regarding building the homes higher to try and avoid flooding. He asked the owner if they have flexibility in terms of the average setback on the second floor on the North or South side of the property.

Dr. David Krieger, applicant, answered Mayor Dietch's question stating that their side setback on the 2nd floor will be 13 feet. He would have to redesign the house. He stated that the only way to create a larger setback would be to build a larger house both on the first and second floor. They would have to redesign the house.

Ellen Tandler Krieger, applicant, spoke regarding several meetings they attended. She stated that they have redesigned their house more than once and they have been at this for over 1 ½ years.

After a lengthy discussion between the Commission and the applicant the following motion was made.

A motion was made by Vice Mayor Gielchinsky to approve the item with staff recommendations and stated conditions. The motion received a second from Commissioner Karukin All voted in favor.

C. Young Israel - Guillermo Olmedillo, Town Manager

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, [APPROVING/ APPROVING WITH CONDITIONS/

DENYING] AN APPLICATION SUBMITTED BY YOUNG ISRAEL OF BAL HARBOUR, INC. ("APPLICANT") FOR THE PROPERTY LOCATED AT 9580 ABBOTT AVENUE ("PROPERTY") FOR A VARIANCE FROM SECTION 90-45 OF THE TOWN CODE AND REASONABLE ACCOMMODATION PURSUANT TO THE AMERICANS WITH DISABILITIES ACT (ADA) TO PROVIDE FOR A ZERO (0) FOOT SETBACK ALONG THE NORTH SIDE OF THE PROPERTY FOR THE INSTALLATION OF A HANDICAPPED ACCESSIBLE RAMP, WHERE ADDITIONAL SETBACK REQUIREMENTS ARE IMPOSED BY SETTLEMENT STIPULATION AGREEMENT DATED JANUARY 23, 2012; AND PROVIDING FOR AN EFFECTIVE DATE.

Deputy Town Clerk Herbello read the title into the record.

Town Attorney Arango read the quasi-judicial statement into the record and asked the members of the Town Commission if they had any Ex-Parte communications.

Vice Mayor Gielchinsky met with the applicant's officer and lobbyist and posted a message on a community chat advising of the meeting tonight and encouraging participation.

Commissioner Paul stated that she had some communications with some of the congregants whom she spoke to over 3 years ago.

Mayor Dietch stated that over the years he has had conversations with the applicant and congregants.

Town Attorney Arango confirmed with Deputy Town Clerk Herbello to confirm compliance with the advertising and notice requirements.

Deputy Town Clerk Herbello confirmed compliance with advertising and notice requirements.

Deputy Town Clerk Herbello swore in any individual(s) that would be speaking or testifying in these proceedings.

Town Planner Sinatra presented the item and gave staff recommendations and conditions.

Mayor Dietch opened the public hearing.

The following individuals spoke on this item:

Jerry Proctor, Jerry Proctor PA, representing the applicant, Young Israel, spoke regarding the settlement agreement and that they are in compliance

and being in compliance. He explained that they are willing to provide those accommodations. They could not build the electrical lift due to religious reasons. He addressed the plans for the ramp and he showed the plans to the Commission. He also stated that he would suggest sufficient landscaping due to the loss of the trees and will mitigate for the loss of the trees. He stated he would be accommodating any reasonable accommodations by the Planning and Zoning Board as well.

Reuven Herssein spoke in support of the item.

Stanley Price, Bilzin Sumberg, representing the applicant, Young Israel. He spoke regarding the congregants wanting to be able to access their house of worship. He explained the ADA case law and stated that they have filed an application on behalf of Young Israel and the congregants.

Mayor Dietch closed the public hearing.

Commissioner Paul requested that the words "without the use of electrical equipment" be stricken from the first and fourth whereas clause in the Resolution.

Commissioner Karukin asked if some of the trees could be donated to the earlier applicant and maybe staff could assist.

Mayor Dietch stated that ADA is abundantly clear and stated to Commissioner Paul that the applicant was the one that chose the mechanical lift. He stated that he wished the congregation would have contemplated this at the time which would have resulted in them not being here tonight.

Mayor Dietch stated that dealing with Miami-Dade County regarding trees is not easy and asked Town Manager Olmedillo if this would be an acceptable option. He also asked the applicant what is their plan if the County allows it.

Town Manager Olmedillo answered Mayor Dietch's question regarding the trees. There is a need to shield 96th Street on the north side because of the construction project. He has spoken to the Manager of the neighboring Village to have trees on 96th street because the walls are very white and reflect light. One thing to explore with FDOT is if that median can be planted with substantial trees. He believes that throughout the Town they can find places to plant trees, they would need to know the type of tree, caliber of the tree and height.

Stanley Price, representing applicant, stated they can contact FDOT and they will get the details regarding a landscape plan that they have to approve and if they need to remove trees for life safety they will.

Mayor Dietch stated that he would like Town Manager Olmedillo to have some decision-making authority regarding the removal of the trees.

Mayor Dietch asked what material the ramp is made of.

Jerry Proctor, representing the applicant, stated that primarily it is made out of glass and there are 8 columns that will not be pervious but the actual walking material of the ramp. He also stated that some elements will be a type of gel material that will have the ability for water to accrue. It will not be the entire surface but certain materials. He also stated that it will not be a solid concrete floor. It will have different materials for seepage.

Mayor Dietch asked where the ramp terminates and where does it tie into.

Mr. Shapiro, Shapiro and Associates, architect for the applicant, stated that it goes all the way to the sidewalk and it is a straight line to the sidewalk. He showed the Commission the plan.

Mayor Dietch asked if there is a metal box in the vicinity of where the ramp terminates.

After a lengthy discussion among the Commission and Mr. Proctor, the following motion was made.

A motion as made by Commissioner Paul to approve with conditions stated. The motion received a second from Commissioner Karukin. All voted in favor.

3. Adjournment

A motion was made by Vice Mayor Gielchinsky to adjourn the meeting without objection at 7:42 p.m. The motion received a second from Commissioner Karukin. All voted in favor.

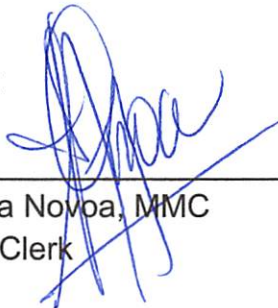
Respectfully submitted,

Accepted this 12th day of November, 2019.



Daniel Dietch, Mayor

Attest:



Sandra Novoa, MMC
Town Clerk