TOWN OF SURFSIDE PLANNING & ZONING BOARD
RESOLUTION NO. 13-Z-03

A RESOLUTION OF THE TOWN OF SURFSIDE, FLORIDA PLANNING & ZONING BOARD CONSIDERING THE APPLICATION OF 8859 CARLYLE AVENUE TO PERMIT A SIDE SET BACK VARIANCE FROM THE REQUIREMENTS OF SECTION 90-45 OF THE TOWN OF SURFSIDE CODE OF ORDINANCES TO ALLOW THE EXISTING SINGLE FAMILY HOME TO ADD A SECOND STORY; PROVIDING FOR RECOMMENDATION OF APPROVAL; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 90-45 of the Town of Surfside Code of Ordinances requires the second story setbacks to be a minimum of five (5) feet, with an average setback of seven and a half (71/2) feet in the H30B Zoning District; and

WHEREAS, the property, 8859 Carlyle Avenue, is located within the Residential Single Family H30B Zoning District; and

WHEREAS, the existing single family home is only fifteen (15) feet wide, due to the fact that the lot is only twenty-five (25) feet wide; and

WHEREAS, the average setback means that on the second floor of the home, fifty (50%) percent of each side wall is required to have an additional five (5) foot setback; and

WHEREAS, Section 90-36 of the Town of Surfside Code of Ordinances provides for variance application and review; and

WHEREAS, the property was developed in 1936 and subdivided to a twenty-five (25) foot lot between 1925 and 1936, these renovations allow for special conditions and circumstances for this peculiar land, structure or building involved, which are not applicable to other lands, structures, or buildings; and

WHEREAS, the Town Staff recommends approval of the side setback variance; and

WHEREAS, the Planning and Zoning Board recommend approval of the side setback variance.

NOW THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING BOARD 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. That the Planning and Zoning Board find the requested variance from the minimum side setback requirement of Section 90-45 of the Town of Surfside Code of Ordinances meets the variance criteria set forth in Section 90-36 of the Town of Surfside Code of Ordinances. (See also Attachment "A" Memorandum from Town Planner, Sarah Sinatra Gould, AICP,Town Planner.)

Section 3. Approval. The Planning and Zoning Board recommend approval of this variance.

Section 4. Effective Date. This resolution becomes effective upon adoption.

PASSED AND ADOPTED this 25th day of July, 2013

Motion by Planning and Zoning Board Member Glynn,
Second by Planning and Zoning Board Member Castellanos

FINAL VOTE ADOPTION

Member, Armando Castellanos Yes
Member, Jennifer Dray Absent
Member, Carli Koshal Yes
Vice Chair, Peter Glynn Yes
Chair, Lindsay Lecour Yes

Lindsay Lecour, Chair

ATTEST:

Sandra Novoa, CMC
Town Clerk

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

Linda Miller, Town Attorney

ATTACHMENT "A"

MEMORANDUM

To: Planning and Zoning Board

Thru: Michael Crotty, Town Manager

From: Sarah Sinatra Gould, AICP, Town Planner

CC: Linda Miller, Interim Town Attorney

Date: July 25, 2013

Re: Watson Variance

Project #: 08-1763.16

The applicant and property owner, James Watson, is requesting a side setback variance from the Town of Surfside Code for the property at 8859 Carlyle Avenue. The owner is proposing an addition to the first floor and adding a second story to his existing single family home. The property is located within the Residential Single Family H30B zoning district.

Request

Section 90-45 of the Town of Surfside Code requires the second story side setbacks to be a minimum of five feet, with an average setback of seven and a half feet. The proposed second story meets the side setback of five feet, but it does not provide an average setback of seven and a half feet.

The average setback means that on the second floor of the home, 50% of each side wall is required to have an additional five foot setback. This home is only 15 feet wide, due to the fact that the lot is only 25 feet wide. Requiring the average setback will result in portions of the second floor addition being five feet wide, which is unfeasible.

The lot was initially platted in 1925 and the existing home was constructed in 1936. Therefore, the lot was subdivided somewhere between 1925 and 1936. This lot is 25 feet in width and 2,812.50 square feet in area. The lot is considered non-conforming, however, since the lot is already developed, the addition of a second story will not increase the non-conformity and the only variance required for the addition is for the average side setback.

Existing Home

Location Map

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 developed in 1936 and subdivided to a 25 foot lot between 1925 and 1936. There are no other 25 foot single family lots within the Town, which makes this lot unique.

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

The existing single family home, built in 1936, meets the required five foot side setback. It was subdivided and is only a 25 foot lot, resulting in a home that is 15 feet in width. The subdivision of the lot provides a special condition to this 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;

The side setback requirement creates an undue hardship on the property owner. The intention of this setback requirement is to prevent "McMansions" whereby the second floor provides the same square footage as the first floor. In this case, the homeowner is not proposing to develop the second floor over the same footprint as the first floor. The plans indicate that there will be approximately 21 linear feet, or 315 square feet, of the first story that will not be covered by the second story. If the literal interpretation of the code were to be followed, the home would need additional setbacks for a portion of the second floor, which would render the addition impractical.

(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 hardship is a result of the lot being subdivided to a substandard size lot, prior to the Town's Comprehensive Plan or Town Code being adopted.

(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 wishes to expand his home for more livable space. Currently, the home has 741 square feet. He is proposing 1,631 square feet. He has indicated that there are no comparable properties, which has led to difficulty acquiring an appraisal of the property. The granting of the variance may ease his ability to refinance, if he so chooses.

(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 granting of the variance is specific to the conditions within this lot. This is 25 foot lot that was developed in 1936 and is the only lot in the Town with this condition. The home's first floor setbacks meet today's code requirements, however, the proposed second floor setbacks do not meet the code due to the requirement of a 7.5 foot average side setback.

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

The requested variance is the minimum needed to build the second story addition.

(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 is generally consistent with the intent of the Comprehensive Plan and the Town of Surfside Code. The existing structure, as well as the proposed addition is compatible with the neighborhood. The proposed aesthetics of the home will not diminish or impair property values within the neighborhood.

Results

Staff recommends approval of the side setback variance.

Exhibits

1. Application
2. Site Plan