



**Town of Surfside  
PLANNING & ZONING BOARD  
MINUTES**

**OCTOBER 28, 2021 – 6:00 p.m.**  
Town Hall Commission Chambers –  
9293 Harding Avenue, 2<sup>nd</sup> Floor, Surfside, FL 33154

**1. Call to Order/Roll Call**

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

**Present:** Chair Judith Frankel, Board Member Fred Landsman, Board Member James Mackenzie, Board Member Ruben Bravo, Alternate Board Member Horace Henderson, and Alternate Board Member Carolyn Baumel.

**Absent:** Mayor Charles W. Burkett

**Also, Present:** Town Manager Andrew Hyatt, Town Planner Walter Keller, Town Attorney Tony Recio, and Building Official Jim McGuinness.

**2. Town Commission Liaison Report – Mayor Charles Burkett**

No Liaison report was provided due to Mayor Burkett being absent.

**3. Approval of Minutes – September 30, 2021 and October 14, 2021**

A motion was made by Vice Chair Landsman to approve the September 30, 2021 Planning and Zoning Board Meeting Minutes and the October 14, 2021, Planning and Zoning Board Zoning Code Workshop Meeting Minutes, seconded by Board Member MacKenzie. The motion carried with a 5-0.

**4. Applications:**

Town Attorney Recio read the quasi-judicial statement into the record.

Town Attorney Recio polled the Board Members.

No Board Members had any communication with any of the applicants.

Deputy Town Clerk Herbello confirmed notice requirements.

Deputy Town Clerk Herbello swore in all applicants.

**A. 716 88<sup>th</sup> Street – New Two-Story Residence**

Town Planner Keller provided a summary of the application.

**Background:** This application is a request to demolish an existing 2-story single-family residence and construct a new 2-story single family residence. The parcel is located in the H30A Zoning District at 716 88th Street. The average lot depth is 201 feet with a width of 75 feet. The site plan indicates the lot size is 15,149 square feet (SF). The proposed floor space totals 5,790 SF.

The setback requirements for the H30A Zoning District are 20-foot front, 7 feet 5-inch side and 50-foot rear. The Applicant is proposing a 20-foot 5-inch front setback with a setback on the rear lot of 52 feet 9 inches and a 7-foot 6-inch side setback.

Total lot pervious area is 5,318 SF or 35.10% where 35% is required. The front yard setback pervious area is proposed at 80.86% where 50% is required. The rear yard setback pervious area is 44.02% where 40% is required. The second floor under ac is proposed at 4,734 SF which is 31.24% where 32% is the maximum.

A pitched roof is proposed at 29 feet 3 inches where 30-feet is the height requirement. A 14 Foot concrete driveway with 4-inch-wide grass joints is proposed for the driveway. The site plan does not specify what percentage of landscaping will be Florida Friendly. Table 1 on page 2 provides information on site characteristics and zoning requirements.

A variety of architectural enhancements are proposed, including a 5-foot stone masonry wall surrounding the property. Architectural items include stone cladding, wood brise soleil, gunmetal finish glazing frame and alucobond cladding. The front elevation includes a 5-foot wall, concrete driveway with grass, trees, windows and terraces. Detailed drawings were provided by the Applicant with limited information on the pool.

**Applicant Package:** A package of drawings, landscape plan and an application was submitted by the Applicant with a recent survey dated August 2021.

**Staff Recommendation:** It is recommended the Application be approved subject to the following comments:

Pool deck meets the rear setback requirements in addition to landscape/pervious area.

Accessory structure need to comply with setback requirement of 50 Feet. Maximum height is limited to 12 feet.

Tree removal permit is provided prior to the removal of existing site trees.  
Preservation of canopy trees is encouraged.

Provide calculations to show landscaping meets 20% Florida Friendly landscape requirements.

Kobe Karp, representing the applicant, provided a presentation of the site plans and the project.

Chair Frankel asked if it is a flat roof and will they will meet the 30% and addressed the comments and recommendations from Town Planner Keller.

The following individual from the public spoke:

George Kousoulas spoke regarding the project and stated that the issue with this is that the code is a bit sloppy as it refers to buildings and accessories. He spoke regarding the code with the 50-foot setback refers to the buildings.

Jeff Rose spoke regarding cabana and accessories and provided several properties in Surfside that have these accessory structures.

Chair Frankel asked how far back it is set back.

George Kousoulas stated it is 15 feet.

Board Member Henderson asked regarding the bathroom.

Mr. Kousoulas addressed the question regarding the bathroom and stated that they are open.

Town Planner Keller spoke regarding what the code mentions regarding encroachment and the stairs be moved back 10 feet away from the seawall. He stated that it is common the way it is built and discussed the zoning in progress.

Mr. Karp stated that they accept the recommendations regarding the staircase.

Building Official McGuinness stated that for any of the approval, that the pool will be on a separate permit. He stated that the garage and all enclosed areas under 10 feet have the proper area of relief. He stated that the outdoor kitchen and the plumbing and electrical should be separated and GFI as well as raised and meet electrical and plumbing code.

Mr. Karp accepts all recommendations mentioned.

Chair Frankel asked for Town Attorney Recio's opinion as it pertains to the encroachment.

Town Attorney Recio read the zoning in progress section and explained how it pertains to a building. He stated that what they have done in the past is the Board can approve it with conditions if the code clarifies that section.

Board Member Henderson clarified what Town Attorney Recio mentioned as it pertains to if the code does not change the bathroom cannot be there.

Vice Chair Landsman asked if the Commission has any appreciation as it pertains to a building and a non-building.

Town Attorney Recio stated that the Commission is aware of that and will be addressing that.

Board Member MacKenzie asked regarding the cabana and pool bathroom and asked if they are redoing the seawall as well as if they will be raising the pool to 10 feet. He stated that he is not in favor of cabanas being so close to the seawall but also mentioned that there may be an option of approval subject to certain recommendations.

Mr. Karp stated that they will be redoing the seawall and stated that they will raise the pool to comply. He stated that he agrees with all recommendations provided.

Vice Chair Landsman asked regarding the pool equipment on the roof.

Further discussion took place among Mr. Karp and the Board Members regarding the seawall, cabana, bathrooms, pool and air conditioning equipment.

Board Member Mackenzie also stated that in the past they have not approved stairs in the setback and suggested the owner to figure a way to push them in. He asked regarding location of the pool equipment. He stated that there is a lack of articulation on the façade.

Mr. Karp stated that they will look at placing it next to the air conditioning equipment. They will also do an access point to get to the equipment and the pool equipment behind the bathroom or on the roof with an access hatch. He also addressed the comments made regarding the exterior wall materials and elevation.

Board Member Henderson stated that he is concerned with the façade of that wall and discussed the seawall and lifts. He asked if the pervious area is within the percentage it needs to be in.

Town Planner Keller stated that visually it looks like it is and wants the applicant to verify it.

Mr. Karp stated that they confirm they do meet the pervious percentage.

Board Member Bravo stated that he likes the fact that they have different components of the façade. He stated it is not so different than some they have approved. He does agree on the length of the wall. He suggests working on the length of the wall. He spoke regarding the pool and the cabana and keep that portion on hold while they build the rest of the house until they can determine if it can be approved. He asked regarding the roof.

Town Planner Keller stated that they need to clarify that it is a flat roof and they comply with the code.

Mr. Karp stated that they do comply with the height and confirms that it is a flat roof.

Board Member MacKenzie asked regarding the fence.

Mr. Karp stated that the fence is in the front and is open and you can see through it.

Chair Frankel asked to see the fence and gate image as to what it will look like. She asked regarding hedges.

Mr. Karp addressed the comments and questions made by the Board regarding the hedges, gate and fence.

David Forbes, owner, addressed the comments made regarding notification to the neighbors and he stated that they have shown everything they are doing to the house.

Board Member Baumel commented on the front doors and Mr. Karp's design and congratulated them on a great job done.

Chair Frankel stated that the stairs have to be moved in, advised taking out the cabana discussion at this moment although she does not have an issue with an accessory structure 20 feet from the seawall and cannot approve it at this moment. She appreciates the landscape architecture and materials used on the façade. She stated that the gates have become a contentious issue. She stated that they can set the gate closer to the garage where it is less visible from the street.

Town Planner Keller suggested coming back at a later time for the fence and gate.

After a lengthy discussion among the Board Members and Mr. Karp regarding the massing, façade as well as the particulars of the application, the following motion was made.

A motion was made by Vice Chair Landsman to approve the item with staff recommendations and conditions clarification of the roof height, stairs be removed from the setback, stairs must be moved back 10 feet from the seawall, clarification on pervious area and rear yard, driveway needs to be clarified, removing the cabana, pool, gate and fence at this time, flood vents for all enclosed areas and they will come back for the other additional aspects of the design when ready, seconded by Board Member Bravo. The motion carried with a 3-2 vote with Board Member MacKenzie and Board Member Henderson voting in opposition.

#### **B. 1420 Biscaya Drive – New Two-Story Residence**

Town Planner Keller provided a summary of the application.

**Background:** This application is a request to construct a new 2-story single family residence. The vacant parcel is located in the H30A Zoning District at 1420 Biscaya Drive. The average lot depth is 202 feet with a width of 92 feet. The Applicant indicates the lot size is 18,400 square feet (SF). The proposed airconditioned floor space totals 7,548 SF. Non-airconditioned space increases the total to 10,897 SF. An overhead view of the lot from the Miami Dade County Property Appraiser is provided in Figure 1 on the following page.

The setback requirements for the H30A Zoning District are 20-foot front, 9.2 feet side and 50 feet rear (per Zoning in Progress). The Applicant is proposing a front yard setback of 25 feet 4 inches, side setbacks of 9 feet 3 or 5 inches and a rear main building setback of 50 feet. Several encroachments are located in the side setbacks and the rear setback. The Applicant's proposal regarding average setbacks is reasonable. The second floor under ac and covered porches is proposed at 4,394 SF which is 23.9% where 32% is the maximum. Another measure of the second-floor size is it cannot be larger than 80% of the first floor. Again, the second floor A/C area is 4,394 SF which is 74.3%. Lots greater than 112.5 feet are also required to have the front and rear yards combined equal 36% or more. The 25.33-foot front yard and 50-foot rear yard when added together and divided by the 202-foot lot depth is 37.3% although encroachments in the front and rear yards exist. A flat roof is proposed which is equal to the 30 feet height requirement. Table 1 on page 3 provides information on site characteristics and zoning requirements.

A variety of architectural enhancements are proposed. These items include significant breaks in the side walls, provision of balconies, terraces, doors, iron railings, front yard wall water feature and a large number of windows. Air conditioners are located adjacent to the side yard setback area.

This review may be supplemented prior to the Planning and Zoning Board meeting.

**Applicant Package:** A package of drawings and an application was submitted by the Applicant. A recent survey was also submitted.

**Staff Recommendation:** It is recommended the site plan be approved subject to the following comments:

The landscape plan is not based on the Town's landscape requirements.

Information needs to be submitted to verify the proposed plan provides 50% landscape/pervious area in the front yard setback area, 40% in the rear yard setback area and 35% on the total lot area.

Provide calculations and worksheets indicating the size of covered terraces on the first and second floors and front and rear entry area.

Verify the roof top slab elevation does not exceed more than 30 feet from the road crown elevation.

The planters need to be removed from the side yard setback.

The side yard setback is 10% of the lot width, not 5 feet. All encroachments such as, equipment pads, A/C equipment, stairs and overhangs need to be removed from the setback. For a flat roof, a 6-inch projection is allowed.

The cabana bath, BBQ/sinks, bar and roof are located in the 50-foot rear yard setback.

The FEMA Base Flood Elevation is 8.0 feet NGVD. plus 2 feet (10.0 feet).

The 4-foot-high wall and Aluminum fence and gates on the front property line required design approval by the Planning and Zoning Board.

Jose Silva, representing applicant, provided an overview and presentation of the application and project.

Roberto Riguero, representing applicant, provided an overview and presentation of the application and project.

Board Member MacKenzie asked if they would have a gable roof if the 30 feet would be from where.

Town Attorney Recio stated it would be from the trusses. He also advised the applicant that they cannot have 32 feet for the roof. He clarified the measurements as it pertains to flat roofs and gable roofs.

Board Member MacKenzie continued discussion regarding the roof, high ceiling options and setbacks.

Mr. Riguero discussed the roof and what the client desires is having a flat room.

The following individuals from the public spoke:

Robert Hill, neighbor, he stated that the home is large and too close.  
Darryl Wall, neighbor, likes the home and stated that the neighbors are stranded in Paris for 2 years due to COVID.

Town Planner Keller stated that the house is at 9 feet 2 inches from the neighbors.

Mr. Silva stated that they will be redoing the seawall as well.

Building Official McGuinness stated that the home is to be built 10 feet above flood plain and gave his recommendations.

Chair Frankel stated that she is not a fan of fences and gates but has never seen such a nice one like this one and it was an architectural feature of the home.

Board Member Henderson stated that the gate is on the property line and has 2 gates.

Chair Frankel stated that they did approve one that was 3 ½ feet previously or having it set back further from the setback.

Board Member Henderson stated that they have been consistent approving them further back in the property line.

Mr. Silva stated that if they move it back it will be hard to get out of the garage and move around to move out and he will consider lowering it to 3 ½ feet.

Chair Frankel stated that 20 feet to her is the correct accessory setback for a cabana and would allow the condition if the zoning code changes to allow approval at a future date without coming back if the code changes.

Town Attorney Recio clarified that it is the bathroom section not the BBQ.

Mr. Silva asked regarding if a rooftop terrace would be allowed.



Town Attorney Recio stated that it has been discussed and they stated that they will not allow rooftop terraces.

Board Member Henderson asked regarding rooftop equipment.

Mr. Silva stated that there is nothing on the roof.

Vice Chair Landsman agrees that this design on the sides of the homes brings articulation and it is beautiful. He spoke regarding the design criteria.

Board Member MacKenzie stated that there is a lot to be said how neighbors can coexist with this house and there is a beautiful courtyard.

Discussion took place among the Board Members, applicant and Town Planner regarding the elements of the project, the cabana and recommendations.

Mr. Silva asked if they can approve the fence and gate if they do it 3 ½ feet.

A motion was made by Board Member Bravo to approve the item with staff recommendations and additional conditions provided by the Town Planner, seconded by Board Member MacKenzie. The motion carried with a 5-0 vote.

### **C. 1452 Biscaya Drive – New Two-Story Residence**

Town Planner Keller provided a summary of the application.

**Background:** This application is a request to construct a new 2-story single family residence. The vacant parcel is located in the H30A Zoning District at 1452 Biscaya Drive. The average lot depth is 200 feet with a width of 92.5 feet. The Applicant indicates the lot size is 18,287 square feet (SF). The proposed air-conditioned floor space totals 10,070 SF. The garage is 676 SF. An overhead view of the lot from the Miami Dade County Property Appraiser is provided in Figure 1 on the following page.

The setback requirements for the H30A Zoning District are 20-foot front, 10 feet adjacent to the waterway connecting to Point Lake, 9.25 feet side and 50 feet rear (per Zoning in Progress). The Applicant is proposing a front yard setback of 20 feet, 25 Feet to the Waterway to Point Lake, side setbacks of 9.25 feet, and a rear main building setback of 52 feet. An encroachment is located in the front setback. The Applicant's proposal regarding average setbacks is reasonable. The second floor under ac and covered porches need additional information. The 20-foot front yard and 52-foot rear yard when added together and divided by the 200-foot lot depth is 36.0% although an encroachment is located in the front yard. A flat roof is proposed which is

equal to the 30 feet height requirement. Table 1 on page 3 provides information on site characteristics and zoning requirements.

A variety of architectural enhancements are proposed. These items include significant breaks in the side walls, provision of balconies, terraces, ribbed concrete, wooden slat panel on garage front and at locations around the building, glass railings, front entry water feature and bronze mullion windows and doors. Mechanical equipment and generator are centered on the roof which is accessed from stairs located on the second floor.

This review may be supplemented prior to the Planning and Zoning Board meeting.

**Applicant Package:** A package of drawings and an application was submitted by the Applicant. A recent survey was also submitted.

**Staff Recommendation:** The site plan package is generally consistent with the Town's Zoning in Progress. It is recommended the site plan be approved subject to the following comments:

Design features of the front of the building extend 3 feet into the front setback area where a 6-inch encroachment is allowed.

Provide calculations and worksheets clarifying the size of uncovered steps and exterior balconies; covered and uncovered terraces, patios, breezeways or porches on the first and second floors and front and rear entry area; and, that all exemptions do not exceed 15% of the total footprint of all principal and accessory building and structures.

Roof top mechanical is not currently included in the Zoning in Progress. Clarify the height of the roof and any extensions above which are limited to 3 feet with a 30-foot roof height.

The driveway and entry walk total 44 lineal feet. Town Code allows 18 feet for driveway connection to garage. Recommend the driveway and walk be reduced in width.

The 4-foot-high wall and aluminum fence and gates on the front property line required design approval by the Planning and Zoning Board.

Reinaldo Borges, representing the applicant, provided a presentation of the project.

Chair Frankel asked if they can approve the rooftop mechanicals if the zoning code allows it.

Town Attorney Recio stated that they can approve it conditionally if the zoning code allows it if not it will have to be placed on the ground.

Chair Frankel asked regarding the eaves of the sloped roof.

Town Attorney Recio stated what the zoning in progress says as it pertains to sloped roofs and it would be 24 inches and this could be applied here.

The following individual from the public spoke:  
George Kousoulas spoke regarding the encroachment issue and the zoning in progress.

Building Official McGuinness provided his recommendations.

Board Member Henderson asked on A-0010 shows the lot and spoke regarding the vacant lot and if they are together.

Mr. Borges stated there is a unity of title on the lots.

Mr. Kousoulas spoke regarding the lot and how it is recorded.

Discussion took place among the Board Members and staff regarding the location of the equipment.

Town Planner Keller suggested a conditional approval.

Board Member MacKenzie spoke regarding the equipment on the ground and on the roof and what types of equipment they are. He also asked regarding the pitched roof.

Mr. Borges answered the comments made by Board Member MacKenzie.

After a lengthy discussion regarding the recommendations, the specifics of this project, and some inconsistencies of the plans that were physically submitted compared to the PowerPoint presentation, the following motion was made.

Town Planner Keller provided his recommendations and conditions for approval.

A motion was made by Board Member MacKenzie to approve the item with staff recommendations and conditions, seconded by Board Member Bravo. The motion carried with a 5-0 vote.

**D. 9437 Harding Avenue – Sign and Awning Fabric**

Town Planner Keller provided a summary of the application.

**Background:** The subject property is located at 9435 & 9437 Harding Avenue in the SD-B40 Zoning District. The Applicant is requesting to install one (1) permanent wall sign and replace existing canopies for TMobile.

The proposed wall sign is face lit channel letter, with a sign area of 32.8 SF. Two proposed canopies will replace existing canopies, and be placed across the store frontage (33'-8"). The proposed canopies will be black and flame retardant. The proposed canopies will utilize the existing frame (7'-0" X 16'-2").

**Governing Codes:**

**Current Municode:**

**Sec 90-73.a(3)(1-3)**– Provides a wall sign of 1 square foot (SF) for each 1 foot of frontage. In the Business District for stores with less than 25 feet of frontage, a 25 SF sign is allowed. This store has 33 feet of frontage. The maximum size of any one sign is 45 SF. The Code has further restrictions including requiring a 1/4 inch to 2-inch offset from the wall to allow rainwater to drain and limits illumination to white LEDs. All signage to be lit with white illumination from dusk to dawn.

**Current Municode:**

**Sec 90-49.2.a(2)** – Awnings and canopies shall remain consistent with architectural details and proportions harmonious with the overall building design and historic context.

**Sec. 90-49.2.a(4)** - After 25 feet in length, an awning or canopy shall have either a break of a minimum of six inches or articulation of the awning or canopy. The proposed canopies are each 16"-2" in width, the plans do not provide a measurement between the two canopies.

**Sec. 90-49.2.a(9)**- Awnings shall project a minimum of three feet and a maximum six feet over the sidewalk, not to exceed the width of the sidewalk. The proposed canopy exceeds the maximum six feet and proposes seven feet but does not exceed the width of the sidewalk and is replacing like for like.

**Applicant Package:** A building permit for the sign and awnings were submitted by the Applicant.

**Staff Recommendation:** Approval subject to the sign packet stating a minimum six-inch break or articulation of the awning or canopy will be maintained. The plan submitted with the building permit does not provide the measurement of the break.

The Planning and Zoning Board needs to give design approval for the wall sign and canopies.

Andy Ocendo, representing the applicant provided an explanation of the project.

Vice Chair Landsman asked why black in color.

Mr. Ocendo stated it is the TMobile color scheme.

Board Member MacKenzie asked if the sign is boxed.

Mr. Ocendo stated that they are individual letters just the way it currently is.

Board Member Bravo spoke regarding the existing sign and the new one and the awning being black.

Marianne Meisheid, DVAC Chair, stated that they do not have a color scheme for awnings at this time.

A motion was made by Vice Chair Landsman to approve the item with staff recommendations and conditions, seconded by Board Member Bravo. The motion carried with a 5-0 vote.

#### **E. 9588 Harding Avenue – Reverse Channel Letters-Sign**

Town Planner Keller provided a summary of the application.

**Background:** The subject property is located at 9588 Harding Avenue and within the SD-B40 Zoning District. The applicant is requesting to remove the existing wall sign and replace it with another permanent wall sign.

The proposed wall sign is an illuminated reverse channel letter and will be painted black. The proposed sign area is 20.3 SF and will be placed across the existing store frontage (24'). The proposed sign meets zoning requirements.

**Governing Codes:**

**Current Municode:**

**Sec 90-73.a(3)(1-3)**– Provides a wall sign of 1 square foot (SF) for each 1 foot of frontage. Stores with less than 25 feet of frontage are allowed a 25 SF sign. This store has 24 feet of frontage. The maximum size of any one sign is 45 SF. The Code has further restrictions including requiring a ¼ inch to 2-inch offset from the wall to allow rainwater to drain and limits illumination to white LEDs. All signage to be lit with white illumination from dusk to dawn.

**Applicant Package:** A building permit for the sign was submitted by the applicant.

**Staff Recommendation:** Approval of the submitted sign packet. The Planning and Zoning Board needs to give design approval for the proposed wall sign.

Mary Brewster, representing applicant was present to address any questions.

No discussion took place among the Board.

A motion was made by Vice Chair Landsman to approve the item with staff recommendations and conditions, seconded by Board Member Henderson. The motion carried with a 5-0 vote.

#### **F. 601 88<sup>th</sup> Street – Double Wood Fence and Gate**

Town Planner Keller provided a summary of the application.

**Background:** This Applicant is requesting approval for a fence and two gates off 88th Street. This corner lot is located in the H30B Zoning District with 6,860 square feet of lot area with a width of 61.25 feet. In addition to this Memorandum, an Agenda Packet was submitted by the Applicant. The Applicant's property photo is more current than the Google Street View and is included in the Applicant's submittal.

The Applicant constructed a wood fence approximately 5 feet 8 inches high to screen a boat and trailer. The existing fence connects to the side of the residence and continues to a large existing hedge approximately 4 feet off the 88th Street property line. The hedge continues along the south property line to the corner and continues north along Carlyle Avenue. The wood fence has two manual swing gates which allow the Applicant to remove his boat and trailer from the property. The fence is perpendicular to 88th Street.

**Governing Codes:** The March 2021 Zoning in Progress requirements for fences and walls are detailed in the following Zoning Code sections:

**Current Municode: 90-56.2 & 3** – Allows fence or ornamental walls in the front yard or primary corner yard if granted design review approval by the

Planning and Zoning Board. Further limits height for a lot wider than 50 feet a 4-foot height plus 1/2 foot for each 10 feet exceeding 50 feet.

**Current Municode 90-56.5 – 11** Modification of secondary frontage fence and ornamental wall regulations.

(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. The fence or wall is not placed in front of the front facade of the primary residential structure and extends beyond the plane of the front facade on only one side of the primary residential structure;
- b. The fence or wall is setback three feet from any property line;
- c. Shrubs shall be installed at the time the fence or wall is installed; and
- d. The shrubs shall be planted a minimum of 36 inches in height, shall be placed a maximum of 24 inches on center and shall cover the exterior of the fence or wall within one year after the final inspection of the fence.

**90-56.6** When being installed as a safety feature for a swimming pool in a front or primary corner yard, a fence or ornamental wall shall be permitted at a maximum of four feet in height. The applicant shall demonstrate evidence relative to this hardship.

**90-56.7** Reserved.

**90-56.8** In order to prevent water ponding at the base of ornamental walls, the installation of weep holes or other similar drainage features shall be required. The number and spacing shall be determined per lot per review.

**90-56.9** Hedges shall be no more than four feet in height in the front yard and side corner yards and ten feet in height in the rear and interior side yards, except as required by section 90-56.5(1). Hedges may be higher if granted approval by the design review board, on a case-by-case basis.

**90-56.10** Under no circumstances is any fence, wall or hedge to be located on a corner lot in such a way as to conflict with the requirements of section 90-52 (Required clearances) or fire codes, including concealment of fire hydrants.

**90-56.11** No fence, wall or hedge maybe placed within the public right-of-way except that landscaped islands surrounded by circular driveways on lots no more than 115 feet in width shall be permitted, provided that it is understood

by the property owner that the town does not waive its right to demand removal without notice as deemed necessary within the town's discretion and the town shall not be liable for any damages arising from such removal. Property owner shall install or plant such materials at own risk. All improvements, other than groundcovers, as defined in the landscape section, shall be placed on private property.

**90-56.12** Fences and walls shall be constructed so that the finished side shall face out or away from the property upon which it is constructed, and all support posts and the unfinished side shall be on the inside facing the property upon which said fence or wall is constructed. All masonry fences or walls shall be constructed so as to have a finished surface, including concrete block walls which shall have a plastered finish on all sides above ground level. In the event that a wood fence is constructed against a significant obstacle on the adjoining property, such as a hedge or another fence, that line of fence against the obstacle may be constructed with posts on the outside of the fence provided that the horizontal rails are at least 50 percent covered by boards on the side facing away from the property on which the fence is constructed.

**Current Municode: 90-65 – Boat Parking**

- (b) No boat, or boat trailer shall be parked within the required interior side setback and/or required rear setback, or project or encroach on any public right-of-way.
- (c) A boat trailer and personal watercraft may be parked in the front, side, or rear yards. If parked in the side or rear yard, the boat trailer and personal watercraft shall not be visible to the neighboring property. A fence, wall or hedge, consistent with the Code, shall be installed in order to limit visibility to the maximum extent possible.
- (d) When parked or stored in the front or secondary frontage yard the place of parking shall be parallel with and immediately adjacent to or on the driveway and shall be at least five feet from the interior side or rear property line.
- (e) The parking, storage or keeping of any boat or boat trailer shall not obstruct driveways or impede the ability of the abutting property owner to maintain the right-of-way clearance. The parking, storage or keeping of any boat or boat trailer shall not cause other vehicles to be parked in rights-of-way so as to create a hazard. The parking or storage of a boat or boat trailer shall not be in conflict with the provisions of 90-52.

This review may be supplemented prior to the Planning and Zoning Board meeting.



**Staff Recommendation:** Staff supports approval of this Fence/Gate request since it screens the boat and trailer and is generally consistent with Sec 90-56.5-11 and Sec 90-65. provided the Planning and Zoning Board issues design approval.

Chair Frankel asked if the front of the house is still visible from the street.

Town Planner Keller stated that it is still visible.

Conrado Cabrera, applicant explained the application to the Board.

Vice Chair Landsman asked if this is a new or existent fence.

Mr. Cabrera stated that it is a new fence.

Chair Frankel stated that she does not have an issue with this application.

Board Member Bravo asked if they have to go through these types of applications.

Town Planner Keller stated that the way the code is written, if there is a fence on the front or side yard it does come before this Board. He stated that this applicant was cited by Code Enforcement and that is why he is before the Board.

A motion was made by Vice Chair Landsman to approve the item with staff recommendations and conditions, seconded by Board Member MacKenzie. The motion carried with a 5-0 vote.

5. **Ordinance to Amend Side Setback in H120 District – Tony Recio, Town Attorney**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 90-47, "YARDS GENERALLY, ALLOWABLE PROJECTIONS" AND SECTION 90-48 "MODIFICATION OF SIDE AND REAR YARD REGULATIONS" TO PROVIDE ALTERNATIVE SIDE SETBACK REQUIREMENTS IN THE H120 DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

Deputy Town Clerk Herbelo read the title of the ordinance into the record.

Town Attorney Recio provided an overview and explanation of the item and the setback requirements.

Board Member Henderson asked for clarification and if this is suggesting that the developer will have 3 choices.

Town Attorney Recio stated that the wedding cake design is applicable across the board and also explained the other choices available.

Vice Chair Landsman asked if there is a developer that requested this.

George Kousoulas stated no.

Chair Frankel stated that the people in Town are the ones that are requesting information on this.

Board Member MacKenzie asked what the objective is.

Town Attorney Recio explained the process of ordinances and if the Board would make a recommendation then it would go back to the Commission.

Board Member MacKenzie stated that if this passed on first reading something must have taken place and is not in agreement that this Board is the last to be asked.

Board Member Baumel stated that this is very important.

The following individual from the public spoke:

George Kousoulas addressed the comment made by Board Member MacKenzie and explained how this item came about.

Jeff Rose stated that this was brought forth by Vice Mayor Paul due to the collapse of the Champlain Tower South. He stated that one day the Regent Palace will go down and be redeveloped and stated that a wedding cake would produce more of a setback and he supports this ordinance.

Mariane Meischeid stated that this allows more insight for the architects and better than the wedding cake design.

Christopher Machado, attorney representing victims of the Champlain Tower South collapse, stated that the interest is to maximize the value for the victims of the Champlain Tower South collapse and their own concern is the amount of projection of the balcony. He requested an exception for the building that would go on the Champlain Tower South site.

Further discussion took place among the Board Members and Mr. Kousoulas regarding the specifics of the ordinance as well as setbacks and balconies.

Board Member Henderson does believe this feels a bit rushed. He cannot see any developer consider the text amendment.

Chair Frankel spoke regarding the wedding cake design and allowing the possibility of something else and allowing the architect other possibilities makes sense.

Board Member Henderson stated that they need to think about what happens if you are in an older building beside the new one and you looking at the same issues with single family homes.

Town Attorney Recio explained the concern Vice Mayor Paul had regarding the balconies.

Board Member MacKenzie agrees with Board Member Henderson. He stated that he would like more time to digest this ordinance.

Chair Frankel stated that they do not have an ability to make a recommendation at this time.

Vice Chair Landsman stated that they can decide not to make a recommendation at this point.

Town Attorney Recio explained their options.

Town Planner Keller explained that they can tweak it later but to get it started.

Town Attorney Recio reiterated what the motion on the table is.

A motion was made by Vice Chair Landsman to recommend to the Town Commission to approve the previous text amendment version for the Town Commission to adopt the ordinance on second reading at the next Commission Meeting, seconded by Board Member Bravo. The motion carried with a 5-0 vote.

**6. Draft Proposed Zoning Code**

**7. Next Meeting Date: December 16, 2021**

Consensus was reached to hold the next meeting on December 16, 2021.

**8. Discussion Items:**

**A. Pools**

Deferred to next meeting

**B. Future Agenda Items**

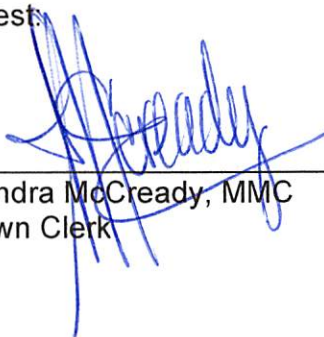
**9. Adjournment.**

A motion was made Vice Chair Landsman to adjourn the meeting without objection at 10:18 p.m. The motion received a second from Board Member Bravo. The motion carried with a 5-0.

Respectfully submitted,

Accepted this 16 day of December, 2021.

  
\_\_\_\_\_  
Judith Frankel, Chair

Attest:  
  
\_\_\_\_\_  
Sandra McCready, MMC  
Town Clerk