



## ***City of Miami Springs, Florida***

The **Board of Adjustment** met in Regular Session at 6:30 p.m., on Monday, November 2, 2015 in the Council Chambers at City Hall.

### **1) Call to Order/Roll Call**

The meeting was called to order at 6:30 p.m.

The following were present:

Chairman Manuel Pérez-Vichot  
Vice Chair Ernie Aloma  
Juan Molina

Absent:

Bill Tallman  
Bob Calvert

Also present:

City Attorney Jan K. Seiden  
Planning and Zoning Director Chris Heid  
Board Secretary Elora R. Sakal  
Administrative Assistant I, Juan D. Garcia

### **2) Approval of Minutes**

Minutes of the September 21, 2015 meeting were approved as written.

**Vice Chair Aloma moved to approve the minutes. Board member Molina seconded the motion which was carried unanimously on voice vote.**

### **3) Swearing In:**

Board Secretary Sakal swore in the Zoning and Planning Director, the applicants or representatives of the applicants who would testify should the Board have any questions.

### **4) New Business:**

City Attorney Seiden advised the applicants that there are normally five active members on the Board. There are three Board members present which constitutes a quorum so the meeting can take place. In order to get relief, the applicants must get all three votes.

City Attorney Seiden stated that the applicants have the option to continue with the case tonight or postpone until the next Board of Adjustment meeting.

Both applicants chose to move forward with their cases.

**A) Case # 17-V-15  
LOURDES MENENDEZ-MILITELLO  
144 HOUGH DRIVE  
ZONING: R-1C  
LOT SIZE: 7,042 SQ. FT**

Applicant is seeking a variance in order to construct an attached flat roofed screen enclosure in the rear yard of an existing single family home.

Planning and Zoning Director Chris Heid read his recommendation to the Board.

Discussion ensued regarding the concern Chair Pérez-Vichot had with regards to Section 150-010 (f) which prohibits the screening of a porch.

City Attorney Seiden does not believe that screening constitutes living space. This case should be a variance for the screening.

City Attorney Seiden clarified that Section 150-009 reads *"open, semi-open, or screened enclosures including porches, patios, carports, or utility sheds, may be constructed of aluminum or similar fireproof materials."* What Chair Pérez-Vichot has brought up is under Section 150-010 (f) which reads *"flat roofs would be permitted as open patios without screening in the rear yard would constitute non-living space so long as the property owner agrees that the patio area will never be enclosed as to constitute living space and will execute a recordable covenant running with the land"*.

City Attorney Seiden said that there are two variances; the rear yard setback and the fact that it will be screened.

Planning and Zoning Director Heid commented that this house does not have the minimum required rear yard setback of 25 ft. It was allowed to be built at 20 ft. which pushes the screen room a little further into the setback than it would if it had provided the 25 ft. setback.

Chair Pérez-Vichot mentioned that there had previously been a slightly larger screened patio.

Planning and Zoning Director Heid commented that there was no correspondence in favor or against the variance.

Applicant Lourdes Menendez-Militello commented that they would like to screen the patio because her husband is terribly allergic to mosquito bites.

Laura Menendez of 100 Hough Drive commented that she has no issue with the variance. Her and her daughter will also be enjoying the enclosure.

**Board member Molina moved to approve the variance subject to the conditions recommended by Staff. Vice Chair Aloma seconded the motion which was carried unanimously on voice vote.**

City Attorney Seiden advised the applicants of the 10 day appeal period.

**B) Case # 18-V-15  
KATHIE AND MARTIN L. MARQUEZ  
401 HUNTING LODGE DRIVE  
ZONING: R-1B  
LOT SIZE: 8,159 SQ. FT**

Applicant is seeking variances in order to enlarge an existing single family house.

Planning and Zoning Director Chris Heid read his recommendation to the Board.

Chair Pérez-Vichot asked Planning and Zoning Director Heid if the code has changed for flat roofs and Planning and Zoning Director Heid replied that the code has not changed but it is in the process of being changed.

Vice Chair Aloma commented that in this case, the applicant's plans show a parapet around the flat roof so the concern with the flat roof becomes irrelevant.

Planning and Zoning Director Heid commented that he wanted to add a second condition in which the garage not be permitted to be enclosed as a living space and remain a garage.

Chair Pérez-Vichot commented that he has a difficult time recommending something that is clearly not in the Code. The Board would be distancing themselves from the Code which is the basis for any decisions they make. Having said that, the applicants have a difficult site and it would be an improvement compared to what is currently there.

Chair Pérez-Vichot stated that on the south side of the property, Mr. Marquez is providing 20 ft. when 15 ft. is required, but on the north side, he is only providing 3 ft.

Mr. Marquez commented that he is only providing 3 ft. because of the garage.

Planning and Zoning Director Heid commented that he received one letter today in favor of the variance.

Planning and Zoning Director Heid mentioned that he distributed a footprint that Mr. Marquez provided showing the existing home in red overlaid with the proposed house in the shaded area (attached).

**Vice Chair Aloma moved to deny the variances as requested. He believes that once the current home is demolished, it will be a new lot and there needs to be an effort to comply with the code. Board member Molina seconded the motion which failed 2-1 with Board member Molina being the dissenting vote.**

**5) Old Business: None.**

**6) Adjournment**

There was no further business to be discussed and the meeting was adjourned at 6:54 p.m.

**B) Case # 18-V-15  
KATHIE AND MARTIN L. MARQUEZ  
401 HUNTING LODGE DRIVE  
ZONING: R-1B  
LOT SIZE: 8,159 SQ. FT**

Planning and Zoning Director: This is in the R-1B, single family residential District. The applicant is seeking variances from Section 150-042 and 150-002 in order to construct a new single family house, replacing an existing house, which would be demolished, as follows:

1. Requests variance from Section 150-042(D) to waive 5'6" (five foot six inches) of the minimum required front yard setback of 30' (thirty feet). Continuation of an existing non-conforming front yard setback of 24'6" (twenty four feet six inches) is proposed.
2. Requests variance from Section 150-042(E) to waive 12' (twelve foot) of the minimum required north corner side yard setback of 15' (fifteen feet). (3' (three foot) north corner side yard setback proposed.
3. Requests variance from Section 150-042(F) to waive 18'4" (eighteen four four inches) of the minimum required rear yard setback of 25' (twenty five feet). Continuation of an existing non-conforming rear yard setback of 6'8" (six feet eight inches) proposed.
4. Requests variance from Section 150-002 (C)(79)(b) to waive 21'4" (twenty one feet four inches) of the minimum required setback of 22' (twenty two feet) for a staircase in the rear yard. 8" (eight inch) setback proposed.
5. Requests variance from Section 150-010 (A) to waive the minimum roof pitch of two and one half inches rise per foot. A flat roof is proposed.

Chair Pérez-Vichot: Chris, on the flat roof issue, the code has not changed right?

Planning and Zoning Director: It has not yet but we are in the process of working on code revisions.

Chair Pérez-Vichot: For the time being it is still a pitch roof. It does not allow a flat roof.

Planning and Zoning Director: That is correct.

Board Member Aloma: But I think in this case, because he has a parapet around it, it is sort of an irrelevant point. The past rule was that it would not be visible, but now we are hiding it so...

Planning and Zoning Director: But this is why we are changing it. What people were doing who wanted a modern look on a house was building a house with a two and half, two and a half and twelve pitch and then hiding it behind a parapet. My thinking is, why make them go through that if you can't see it and they are hiding with a parapet? Just let them do a flat roof.

Board Member Aloma: I agree. It is totally aesthetic.

Planning and Zoning Director: It also creates a drainage problem when you have the two and a half and twelve draining into a continuous parapet. You've got to get involved in scuppers and drainage systems. It's a lot more complicated.

Board Member Aloma: The rendering has the scuppers on the a... not the scuppers, the drainage

Chair Pérez-Vichot: You still need the scuppers, because you got a quarter inch pitch per foot.

City Attorney Seiden: Let him finish his...

Chair Pérez-Vichot: Oh yea, please.

Planning and Zoning Director: The project essentially involves the replacement of the existing house with a new structure that meets the previous non-conforming setbacks. The exception is the garage, which would extend well in the north side yard setback in the northwest corner of the property. The house is designed in a contemporary take on the traditional Pueblo style, with textured stucco, irregular parapet, simulated wood vigas, scuppers to drain the roof, a belfry, and a flat roof. The parapet is taller than any rooftop equipment, effectively screening it from ground view of surrounding properties. Um, although five variances are requested, most of them are meeting the currently existing non-conforming setbacks, and only slightly enlarged the existing house. In addition, this is a particularly difficult lot to develop, with three street frontages and a rounded corner. It is also, as I've noted in the staff report, very encouraging to me to see a house designed in the Pueblo style, albeit with a contemporary flare to it, but that was our roots and it is nice to see. Um, and I have recommended favorably with the...

Planning and Zoning Director: I only have one page. You have yours?

City Attorney Seiden: No.

Planning and Zoning Director: Does anybody...

Chair Pérez-Vichot: I have it here. Your recommendation?

Planning and Zoning Director: Yea, no I just wanted to say that we recommended favorably with... it's not here either.

Board member Molina: Is it my copy?

City Attorney Seiden: It is not on my copy. You wrote it somewhere. Tell us what it was.

Planning and Zoning Director: I don't know. I don't have it.

City Attorney Seiden: Something about the garage?

Planning and Zoning Director: Yea, but I thought there was another one. Were there others besides the timeframe?

Martin Marquez: You had mentioned, excuse me. Martin Marquez, 401 Hunting Lodge Drive...

Planning and Zoning Director: That I am going to add, but is that the only one?

Martin Marquez: That was the only one and I am okay with that condition.

Planning and Zoning Director: So, and I did want to add a second condition. That the garage not be permitted to be enclosed as a living space, it must remain a garage.

Martin Marquez: That can be a covenant. That doesn't...

Planning and Zoning Director: With those two conditions I recommend favorably.

Chair Pérez-Vichot: I myself, I do not have a problem with the flat roof. It could be modern and beautiful. It can be pueblo and beautiful. We are not a design board. And, so if our code does not allow a flat roof, and it might change from what I hear – it is changing, so I don't think you will have a problem council granting that variance. But I have a difficult time recommending something that is clearly not, at this moment anyway, in our zoning book. We are distancing ourselves from the zoning book, which is the basis for any decision we make. Having said that, you have a difficult site, no question about it. It's an improvement, definitely, over what is there now. There are a lot of pluses. Now, it would be disrespectful for me to tell you how to design your house, but I think and I see here you've got a blank... you are pretty much starting off with a blank piece of property. In other words, you're gutting what is there now. So you can pretty much do anything you want. And I can see where you have a hardship here with two street sides, that doesn't help. But on the South side you're exceeding the requirement, but on the North side your short. In other words on the South side you're providing 20' (twenty feet) when 15' (fifteen feet) is required...

Martin Marquez: On the South side.

Chair Pérez-Vichot: On the South side, right?

Martin Marquez: Okay.

Chair Pérez-Vichot: So, 15' (fifteen feet) is required and you're providing 20' (twenty feet). You're providing 5' (five feet) more than what's required.

Martin Marquez: Yea, that's all of...

Chair Pérez-Vichot: But on the North side you're short about – your required 15' (fifteen feet) – you're providing on the North side... your short there, because of the garage.

Martin Marquez: That's because of the garage, and the house next to us has done...

Chair Pérez-Vichot: Well the garage, mainly the garage. If even though for the garage, you would be in compliance, pretty much in compliance on the North side.

Martin Marquez: Yea, pretty much. Yea, pretty much.

Chair Pérez-Vichot: So in other words, you chose to build a garage. It's not a necessity and in many times it turns into a storage room, not a garage.

Martin Marquez: That's true.

Chair Pérez-Vichot: So that, I have a problem with that. The front, again – the site is small, definitely. In other words, it's tough to fit that many square feet on that particular site. But I don't really see an effort to even come close to comply with some of those variances, like I say, on the side, the North and the South side.

Martin Marquez: Yea, the difference is not big enough to have a garage. So, it's either have a garage or don't have a garage and obviously, you know, that's the decision. And that is what we are requesting.

Chair Pérez-Vichot: That's the question. And then obviously on the rear, you're like what, 8' (eight feet)? That will be on the, ugh... you're 6'8 (six feet, eight inches) when 25' (twenty five feet) is required. So that is really tight there.

Martin Marquez: Yea, that's the existing setback too.

Chair Pérez-Vichot: But there is not existing setback because once you remove your house, it's gone. I mean, we've had driveways, when they're removed; the new one needs to comply. Once you've removed what is there you have a blank piece of paper to work with. Those are my concerns. I will leave it up to the board to make their comments and Mr. Marquez can obviously reply or anyone else in the audience can pick up on this, but those are my main concerns. I do appreciate the replacing of an existing older home with a new one. I do recognize the difficulty of the site. I think when it comes to the front we are giving you the maximum, right Chris? Not really following the curb, but we are giving him the maximum distance for setback.

Planning and Zoning Director: That's correct.

Chair Pérez-Vichot: And I think that is fair. So, having said that, I will open for other comments.

Martin Marquez: Any other questions, before I sit down?

Board Member Aloma: Did we get any other correspondence, other than his petition?

Planning and Zoning Director: The petitions are the... Oh, we actually did get a letter today from one of the neighbors supporting it as well in addition to the petitions.

Martin Marquez: I was surprised at the amount of people that really wanted the adobe style architecture. That was very exciting.

Chair Pérez-Vichot: Mr. Marquez I did notice that some of those people had like three or four from the same address.

Martin Marquez: I just went around to the... Every house that was adjacent to ours, we've got them all covered.

Chair Pérez-Vichot: Right, right, so three or four. Some of them were three, some of them were two.

Martin Marquez: Well we like to get the husband and the wife. They obviously own the property so...

Chair Pérez-Vichot: That's okay. This is not like a popularity type of thing...

Martin Marquez: No, No we just tried to get all the properties.

Chair Pérez-Vichot: We have to review our code. We only make recommendations. If it is in line with our code obviously we recommend approval, if it is not, I cannot bring myself to recommend approval.

Martin Marquez: I understand.

Planning and Zoning Director: By the way I meant to point out that I also... Mr. Marquez also submitted a footprint that shoes the existing house in the red, overlaid with the proposed house in the shaded area...

Board Member Aloma: I didn't get that one.

Chair Pérez-Vichot: Yea we have that one.

Planning and Zoning Director: To show that it's...

Board Member Aloma: In this packet?

Chair Pérez-Vichot: What happened was, I think I got a hard print on some of the...

Planning and Zoning Director: It came later.

City Attorney Seiden: Elora do you have a copy of this?

Administrative Assistant Garcia: Yea.

City Attorney Seiden: Okay.

Chair Pérez-Vichot: Okay. Motion?

Board Member Molina: I am not going to move.

Board Member Aloma: I have a motion to disapprove the variance as requested.

City Attorney Seiden: If you're going to do that then please be specific as to why?

Board Member Aloma: No, I mean I share the same. As we discussed in the last meeting, this is a brand new lot as far as once you get over demolishing it, then obviously if we don't make an effort to try to make it fit within the rules then... but it is a blank canvas and that's my opinion.

Chair Pérez-Vichot: Do we have a second?

Board Member Molina: I second.

City Attorney Seiden: Maybe people in the audience would...

Chair Pérez-Vichot: Yes, please. So then we will...

Board Member Molina: Are there people in the audience that want to speak?

Chair Pérez-Vichot: Nobody?

Secretary Sakal: Should the motion... Should we...

City Attorney Seiden: Hold the motion in advance

Secretary Sakal: Okay.

Board Member Aloma: Somebody wanted to speak.

City Attorney Seiden: Did you want to speak?

Chair Pérez-Vichot: No? Okay. So the motion is to deny. To deny. If you vote "Yes" is to deny, right. Okay, so you want to call the roll please.

Secretary Sakal: Sure. Chair Pérez-Vichot...

City Attorney Seiden: Excuse me for one second before you start. The motion is to deny all the variances. Is that correct?

Board Member Aloma: That's correct.

City Attorney Seiden: I want the record to be reflective.

Chair Pérez-Vichot: Yes to deny.

Secretary Sakal: Ernie Aloma.

Board Member Aloma: Yes to deny.

Secretary Sakal: Juan Molina.

Board Member Molina: No.

Chair Pérez-Vichot: So we have a two to one to deny. Again, you can obviously appeal to council. We only make recommendations.

City Attorney: Ten days, ten days... Just get with the...

Martin Marquez: Thank you, I know the procedure

Chair Pérez-Vichot: Okay. Thank you.

City Attorney: Alright, very good.

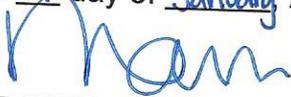
Chair Pérez-Vichot: Hopefully we will get that alternate. Okay, meeting adjourned.

Respectfully submitted:



Juan D. Garcia  
Administrative Assistant I

Adopted by the Board on  
this 4 day of January, 2016.



Manny Perez-Vichot, Chair

Words ~~stricken through~~ have been deleted. Underscored words represent changes.  
All other words remain unchanged.

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*"The comments, discussions, recommendations and proposed actions of City Citizen  
Advisory Boards do not constitute the policy, position, or prospective action of the City,  
which may only be established and authorized by an appropriate vote or other action of  
the City Council".*  
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