



City of Miami Springs, Florida

The Miami Springs City Council met in regular session, Monday, October 28, 2013, and during the meeting sat as the Board of Appeals. The meetings were held in the Council Chambers at City Hall, beginning at 7:00 p.m. On ROLL CALL the following were present:

1) CALL TO ORDER AND ROLL CALL

The meeting was called to order at 7:37 p.m.

The following were present:

- Mayor Zavier M. Garcia
- Vice Mayor Billy Bain
- Councilman Michael Windrem
- Councilman George V. Lob
- Councilman Jaime A. Petralanda

Also Present:

- City Manager Ronald K. Gorland
- Assistant City Manager/Finance Director William Alonso
- City Attorney Jan K. Seiden
- Planning and Zoning Director Jim Holland
- Acting City Clerk Suzanne S. Hitaffer
- Assistant City Clerk Elora R. Sakal

Sitting as the Board of Appeals, Council took the following actions:

2) MINUTES OF REGULAR MEETING:

Minutes of the November 19, 2012 Board of Appeals meeting were approved as written.

Mayor Garcia and Councilman Lob were the only two Council members who were present at the November 19, 2012 meeting. Mayor Garcia passed the gavel to Vice Mayor Bain.

Councilman Lob moved to approve the minutes. Mayor Garcia seconded the motion. The motion was carried on roll call vote with Councilman Lob and Mayor Garcia voting in the affirmative.

3) NEW BUSINESS:

Case No. 07-V-13
Alex Guillamont
1095 Raven Avenue
Zoning: R-1B
Lot Size: 14,476 sq. ft.

Applicant is requesting variances from Code Section 150-042 (E) (1) to permit a side yard setback of 14-feet where 15 feet is required and Section 150-002 (C) (80) (A) of the City Code to permit a roof overhang of 10-feet where a maximum of 30-inches is permitted.

Planning and Zoning Director James Holland commented that this is an appeal of a decision that was decided by the Board of Adjustment relative to two side yard variances at the northeast corner of Hammond Drive and Raven Avenue. One request is to permit a side yard setback of 14 feet versus 15 feet which is to accommodate a column that would support the beams of a proposed cantilever. The cantilever would extend into the street side yard by 10 feet and the maximum permitted by code is 30 inches.

Mr. Holland stated that the Board recommended denial by a vote of 3-2 and Staff's strong recommendation is that the request be denied because there is no hardship demonstrated it would set a dangerous precedent and because it would create an eyesore that would diminish property values in the area.

City Attorney Seiden advised Council that one of the reasons that the appeal is here is because the Board of Adjustment does not like to create legislation by variance and in effect, the granting of this variance would have been that. The code currently does not permit roof overhangs to the extent that is being requested in this case. If the Board were to have granted the variance based upon the circumstances of this case, a precedent would have been created for every like property that is situated similarly in the community.

City Attorney Seiden continued explaining that the Board suggested to the applicant that he file an appeal and come before Council and to suggest amending the code to accommodate this situation which would then be changed forever for everyone. His personal feeling is that the code is fine the way it is. There is an alternative solution to this matter which is a canopy. The only way to amend the code is to permit lesser side yard setbacks in these particular situations where there were roof overhangs.

To answer Mayor Garcia's question, City Attorney Seiden replied that awnings and canopies are fine. The applicant is requesting a permanent wooden structure.

Mr. Holland said that the code permits awnings in any front, side or rear yard and there is no maximum specified except that it cannot exceed 450 square feet. A code revision to consider would be to reconsider the awnings in side yards and establish a maximum distance.

To answer Councilman Petralanda's question, City Attorney Seiden responded that the solution would be to install a canopy or an awning.

George Fulmer, contractor for the applicant, commented that while the canopy would be a solution, it is a temporary structure. The gentleman is willing and wanting to install a very nice addition to his home. It impinges on nobody other than covering the lot. When it was reviewed by the City, it did not receive an immediate refusal.

Councilman Lob asked City Attorney Seiden if the code would be able to be worded so that

something like this could only be done for homes that are on a corner lot and City Attorney Seiden replied that it would certainly only be applicable to homes on a corner lot.

Vice Mayor Bain asked if the photo in the packet showed the side of the home that the applicant would like to install the roof and City Attorney Seiden replied affirmatively.

Vice Mayor Bain asked if the roof would run the entire length of the home and Mr. Fulmer replied that it would except for 10 feet from the front due to a small gable roof.

Alex Guillamont, homeowner of 1095 Raven Avenue commented that he had the Board of Adjustment's sympathy but the way that the code was written did not allow the Board to accept the request. He spoke with his neighbors and some have written letters in support of the variance. He thinks that it would be a pity to have to install something less permanent.

Mayor Garcia advised Mr. Guillamont that Council respects the fact that his neighbors are okay with the roof but Council also has to think about the future of Miami Springs.

Mr. Guillamont mentioned that he received suggestions from the Board of Adjustment and took them into consideration and amended the project. He has tried to accommodate everyone.

Councilman Windrem said that there are no zero lot lines in Miami Springs and this is very similar to a zero lot line. The setbacks have been consistent for many years. He regrettably cannot support this variance.

To answer Mayor Garcia's question, Mr. Fulmer said that there is 5 feet between the end of the overhang and the side walk.

Councilman Lob noted that the plan says that it is 3 feet but it is obvious that it is supposed to be 5 feet.

To answer Mayor Garcia's question, Mr. Guillamont said that the area will be for his children to play.

To answer Councilman Petralanda's question, Mr. Holland stated that there was one letter of objection which is the property owner at the southwest corner of the intersection of Hammond Drive and Raven Avenue.

Mayor Garcia asked if Mr. Holland had the letter of objection since it was not in the packet and Mr. Holland responded that the letter is in the street file but the reason was that it would result in the reduction of property values and he shares that position.

Vice Mayor Bain asked why he shared that position and Mr. Holland replied that it would create an eyesore. The technical reason is that no hardship was demonstrated for the variance.

City Attorney Seiden clarified that the main issue is that the side yard overhang is permitted to be 30 inches and this request is ten-feet.

Mayor Garcia said that he has seen very ugly awnings that are permitted and encroach on the side of homes. He tends to side with what the applicant is stating in terms of putting something temporary versus something permanent. He would only be okay with this if it were on a side lot adjacent to a property. If Council would allow this then he recommends that staff put this on the next agenda so it could be considered and a permanent change could be made within the code.

Mayor Garcia does not see it as an eyesore. He asked if Council was willing to consider the variance and have it brought before Council to change per review for corner lots.

City Attorney Seiden clarified that what Council is looking to change is permitting overhangs of more than 30 inches. If Council approves this variance, they are automatically permitting anyone who wants to encroach 10 feet into their side yards on open lots anywhere in the City. The proper thing to do by changing the code would be to put conditions on it.

Vice Mayor Bain asked how long it would take to change the code and City Attorney Seiden replied that it would take at least two Council meetings.

City Attorney Seiden explained what precedents are and factors that would mitigate against precedents. He said that Council would be making the job of the Building Department and the Legal Department harder by doing this by variance. He is not saying this cannot be done by variance, but he would suggest that as soon as reasonably possible, it should be done by legislation.

Vice Mayor Bain asked if a resident would have to come for a variance if they wanted to install this type of structure in a side yard and City Attorney Seiden replied affirmatively.

Mayor Garcia asked if a moratorium could be put into effect for anyone wanting to build side yard encroachments on their property until the new legislation is adopted.

City Attorney Seiden said that a moratorium would be taking it too far. If Council is inclined to grant the relief, then they should do that and then it can be legislated. The argument can be made that although Council created a bad precedent, they thought enough about it to go back and correct or modify it in a way that can be legislated.

Mr. Fulmer noted that one of the mitigating factors of the overhang was the fact that at ten-feet he reached the limit of the structure.

Vice Mayor Bain moved to grant the appeal to overturn the denial of the variance by the Board of Adjustment and to grant the appeal as stated. Councilman Lob seconded the motion.

Councilman Lob would like to discuss modifying the code at the next meeting.

The motion was carried 4-1 on roll call vote, with Councilman Windrem casting the dissenting vote.

4) **OTHER BUSINESS:** None.

5) ADJOURNMENT

There was no additional business to be considered by the Council sitting as the Board of Appeals and the meeting was adjourned at 8:10 p.m. to the City Council Regular Meeting.

Respectfully submitted,



Suzanne S. Hitaffer, CMC
Acting City Clerk

Approved as written during meeting of: 02-24-2014

Transcribed by Assistant City Clerk Elora R. Sakal.