



City of Miami Springs, Florida

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

1) Call to Order/Roll Call

The meeting was called to order at 6:36 p.m.

The following were present:

- Chairman Manuel Pérez-Vichot
- Vice Chair Ernie Aloma
- Juan Molina
- Bill Tallman
- Bob Calvert

Also present:

- City Attorney Jan K. Seiden
- Planning and Zoning Director Chris Heid
- Board Secretary Elora R. Sakal

2) Approval of Minutes

Minutes of the February 2, 2015 meeting were approved as written.

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

3) New Business:

Board Secretary Sakal swore in the applicants who wished to speak and the Planning and Zoning Director.

- A) Case # 05-V-15
ENNA ALCAIN
919 HUNTING LODGE DRIVE
Zoning: R1-A

Applicant is seeking a variance from Section 150-041 in order to construct an addition that continues the existing non-conforming side yard setback as follows:

1. Requests variance from Section 150-041 (E)(1) to waive 1'4" of the minimum required side yard setback of 7'6". (Side yard setback of 5'8" proposed).

Planning and Zoning Director Chris Heid read the recommendation to the Board. This variance and project was approved in 1993 and 2002 but was never completed and therefore lapsed.

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

City Attorney Seiden advised the applicants of the ten day appeal process.

- B) Case # 07-V-15
PATRICK MALONE
1184 HERON AVENUE
Zoning: R1-B

Applicant is seeking a variance from Section 150-015, Parking of Commercial Vehicles, to park a vehicle in excess of maximum allowed standards, as follows:

1. Requests variance from Section 150-015 (A)(1)(d) to park a vehicle that exceeds by 7 ½ inches the maximum permitted height of 8 feet for vehicle that is used exclusively for family transportation in a single family neighborhood. (Parking of a vehicle 8' 7 ½" (eight feet seven and one half inches) proposed).

Planning and Zoning Director Heid read the recommendation to the Board. This case is similar to the case from last month's meeting. In looking at the vehicle, it is clear that it is being used as a residential vehicle.

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

City Attorney Seiden advised the applicant of the ten day appeal process.

- C) Case # 06-V-15
PAUL LOMBARDI
1000 ORIOLE AVENUE
Zoning: R1- C

Applicant is seeking a variance from Section 150-043 in order to construct a front porch that does not meet the minimum required front yard setback.

1. Requests variance from Section 150-043(D) to waive 2'6" of the minimum required front yard setback of 30 feet. (Front yard setback of 27'6" proposed).

Planning and Zoning Director Heid read the recommendation to the Board. He mentioned that the house itself is setback further than the 30ft setback requirement. If this were a cantilevered porch it could be exactly the same size and location because the code currently allows the eave to extend 2ft 6in into the required side yard.

Chair Pérez-Vichot said that there does not seem to be a hardship for the variance.

Mr. Lombardi said that if they had to move the columns 2ft it would take up the usable space.

City Attorney Seiden stated that front yards in Miami Springs have always been treated with very much respect. Encroaching into the front yard setback has been guarded against by predecessor boards before this one. If this variance is approved it can create a precedent.

Chair Pérez-Vichot stated that the applicants can accomplish what they want to do with the porch without having to encroach into the front setback.

Board member Tallman moved to deny the variance. Board member Calvert seconded the motion which was carried 5-0 on roll call vote.

City Attorney Seiden explained to the applicants that they have the right to appeal the decision of the Board. They can get in contact with the Planning and Zoning Director if they wish to do so.

D) Case # 01-V-15
BEATRIZ MARTA ANGELUCCI
372 PAYNE DRIVE
Zoning: R1-C
Lot Size: 12,025 SQ. FT.

Applicant is seeking an after-the-fact variance from Section 150-043 to retain a pergola with an outdoor kitchen located in the required side yard setback as follows:

1. Requests variance from Section 150-043 (E)(1) to waive 5'11" of the minimum required side yard setback of 6'6". (Side yard setback of 7" proposed).

Planning and Zoning Director Heid read the recommendation to the Board. This meeting was originally scheduled for February 2, 2015 but was tabled at the applicant's request. The pergola is 9ft 7in in width and 36ft 3in in length for a total of 356 sq. ft. The outdoor kitchen is "L" shaped and measures 7ft 9in by 11ft 8in. It contains a barbeque, sink and refrigerator and electrical and plumbing service has been provided.

City Attorney Seiden clarified that the applicant has a power of attorney and provided the documentation at the last meeting.

Eugenio Labardi, son of the applicant, commented that he was unaware that constructing a pergola needed a permit. He has letters of approval from all of his neighbors. He believes that this brings value to the property.

Chair Pérez-Vichot said that the Board has to follow the code unless there is a reason to deviate from it and he does not see any reason to deviate from the code. The structure is right on the property line.

Mr. Labardi commented that he is investing in the property which is giving value to all of the properties.

Vice Chair Aloma stated that the structure bringing value to the property is not what is being questioned, it is about the location that it is in.

City Attorney Seiden said that from the City's standpoint it is a serious violation. If this were to be approved it would create a precedent and other residents would believe that it is ok to build structures with electricity and water without any inspections or permits. In some cases the Boards have taken into consideration the fact that a neighbor is ok with a half an inch encroachment but this is a major violation of the code. In the past when the party was asked who built the structure, the party said it was an owner who built the structure when in fact it was later found out that a contractor built it.

To answer Vice Chair Aloma's question, City Attorney Seiden said that the city became aware of this issue from Code Enforcement.

Mr. Labardi stated that the contractor told him that a permit was not required for a pergola. He noted that he searched online for permits for pergolas.

City Attorney Seiden asked Mr. Labardi if he would be willing to provide the name of the contractor so he can be informed of what he is doing incorrectly. The contractor misled him terribly and if this variance is denied everything will have to be removed and that's a terrible penalty to have to pay because of false information that was given to the applicant.

City Attorney Seiden explained that applicants may get exceptions for an inch or a yard where there is a hardship. This contractor built a structure right up to the property line without any permits, inspections or consideration of the city.

Mr. Labardi stated that it is not a structure; it only has four wooden poles and Chair Pérez-Vichot replied that according to the survey it is a structure.

Board member Calvert commented that the Fire Department would not approve of this.

Board member Tallman said that it is a bad situation and he hopes that the applicant can be compensated by the builder.

Board member Tallman moved to deny the variance. Vice Chair Aloma seconded the motion which was carried unanimously on voice vote.

City Attorney Seiden explained to the applicants that they have the right to appeal the decision of the Board. They can get in contact with the Planning and Zoning Director if they wish to do so. Since this is an after the fact case, if there is no appeal, this case will need to be sent back to Code Enforcement.

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4) Adjournment

There was no further business to be discussed and the meeting was adjourned at 7:08 p.m.

Respectfully submitted:



Elora R. Sakal
Board Secretary

Adopted by the Board on
this 6th day of April, 2015.



Manny Perez-Vichot, Chair

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

"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".
