

RESOLUTION No. 2010-30-1212-Z-91

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, DENYING THE APPLICATION SUBMITTED BY MARCIA REID FOR PROPERTY LOCATED AT 1101 NORTHWEST 203RD STREET, MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO, FOR A NON-USE VARIANCE OF SECTION 33-50 OF THE ZONING CODE TO ALLOW A PROPOSED 484 SQUARE FOOT BEDROOM ADDITION TO AN EXISTING SINGLE-FAMILY RESIDENCE TO SET BACK SEVEN AND ONE HALF (7.5) FEET FROM THE REAR PROPERTY LINE WHERE A MINIMUM SETBACK OF TWENTY-FIVE (25) FEET IS REQUIRED; AND TO ALLOW A PROPOSED 220 SQUARE FOOT EXPANSION OF AN EXISTING ATTACHED GARAGE TO SETBACK FIVE FEET FROM THE SIDE PROPERTY LINE WHERE A MINIMUM OF SEVEN AND ONE HALF (7.5) FEET IS REQUIRED; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Marcia Reid ("Applicant") has applied for a variance of Section 33-50 of the Zoning Code relating to property located at 1101 Northwest 203rd Street, more particularly described in Exhibit "A" attached hereto, and

WHEREAS, the Applicant is seeks the following approval:

1. A non-use variance of setback requirements to permit a proposed 484 square foot master bedroom addition to an existing single-family home to set back 7.5 feet from the rear property line, where a minimum 25.0 foot setback is required; and
2. A non-use variance of setback requirements to permit a proposed 220 square foot expansion of an existing attached garage to setback five 5.0 feet from the side property line, where a minimum 7.5 foot side setback is required, and

WHEREAS, the City's Planning and Zoning staff has reviewed the Application, and does not recommend approval of it, in accordance with the Staff Report attached hereto as Exhibit "B,"

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

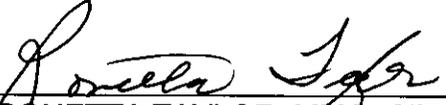
Section 2. DENIAL OF APPLICATION: The City Council of the City of Miami Gardens hereby denies the Application submitted by Marcia Reid.

Section 3. EFFECTIVE DATE: This Resolution shall take effect immediately upon its final passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS ZONING MEETING HELD ON FEBRUARY 3, 2010.


SHIRLEY GIBSON, MAYOR

ATTEST:


RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ., CITY ATTORNEY

SPONSORED BY: DANNY CREW, CITY MANAGER

MOVED BY: Vice Mayor Gilbert
SECOND BY: Councilwoman Watson

VOTE: 6-1

Mayor Shirley Gibson	<u>X</u> (Yes)	___ (No)
Vice Mayor Oliver Gilbert, III	<u>X</u> (Yes)	___ (No)
Councilman Melvin L. Bratton	<u>X</u> (Yes)	___ (No)
Councilman Aaron Campbell	<u>X</u> (Yes)	___ (No)
Councilwoman Barbara Watson	<u>X</u> (Yes)	___ (No)
Councilwoman Sharon Pritchett	<u>X</u> (Yes)	___ (No)
Councilman André Williams	___ (Yes)	<u>X</u> (No)



1515 N.W. 167TH STREET, BUILDING 5 SUITE 200
MIAMI GARDENS, FLORIDA 33169

City of Miami Gardens Agenda Cover Memo – Zoning Marcia Reid PH-2009-000045

Council Meeting Date:	Zoning Meeting February 3, 2010		Item Type:	Resolution	Ordinance		Declaration	
				X			n/a	
Fiscal Impact:	Yes	No	Ordinance Reading:		1 st Reading		2 nd Reading	
			X	Public Hearing:		Yes	No	Yes
					X			
Sponsor Name: City Manager	Department: Planning and Zoning		Advertising Requirement:		Yes		No	
					X			

Short Title:

RESOLUTION No. 2009-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION SUBMITTED BY MARCIA REID FOR PROPERTY LOCATED AT 1101 NORTHWEST 203RD STREET, MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO, FOR A NON-USE VARIANCE OF SECTION 33-50 OF THE ZONING CODE TO ALLOW A PROPOSED 484 SQUARE FOOT BEDROOM ADDITION TO AN EXISTING SINGLE-FAMILY RESIDENCE TO SET BACK SEVEN AND ONE HALF (7.5) FEET FROM THE REAR PROPERTY LINE WHERE A MINIMUM SETBACK OF TWENTY-FIVE (25) FEET IS REQUIRED; AND TO ALLOW A PROPOSED 220 SQUARE FOOT EXPANSION OF AN EXISTING ATTACHED GARAGE TO SETBACK FIVE FEET FROM THE SIDE PROPERTY LINE WHERE A MINIMUM OF SEVEN AND ONE HALF (7.5) FEET IS REQUIRED; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

Staff Summary:

The applicant, Ms. Marcia Reid, owner of a single-family residence located at 1101 N.W. 203rd Street is seeking a variance of Section 33-50 of the Zoning Code to allow the construction of a

**ITEM 10-A) RESOLUTION
PUBLIC HEARING
Approving the application of
Marcia Reid**

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proposed 484-square foot master bedroom addition to her existing single-family home with a setback of 7.5 feet from the rear property line, where a minimum 25.0 foot setback is required; and construction of a proposed 220-square foot expansion of an existing attached garage with a setback five (5) feet from the west side property line, where a minimum 7.5 foot side setback is required.

At the November 4, 2009 meeting the application was deferred by the Council to allow the applicant an opportunity to meet with staff to discuss what revisions can be made to the plans that would address staff's concerns. The applicant and applicant's architect met with staff on December 7, 2009. After discussions between the applicant, the architect, and staff it was concluded that the applicant was not considering alterations of the plans in a manner that would address staff's concerns, and would consider withdrawing the application. The applicant and applicant's architect were advised at the meeting, and on a subsequent follow-up letter, that if revisions were to be made to the plans, staff would require the plans no later than first week in January 2010, in order to evaluate the changes and possible change of recommendation. Staff also indicated to the applicant that a withdrawal of the application would have to be a request made to the Council at the meeting, since it is too late in the process to withdraw the application administratively.

To date, staff has not received revised plans nor any correspondence in response to staff's letter dated January 12, 2010 (attached).

Recommendation:

Recommend denial of the Resolution based on findings contained in Exhibit "B" Staff Recommendation.

Attachments:

RESOLUTION
EXHIBIT "A" LEGAL DESCRIPTION
EXHIBIT "B" STAFF RECOMMENDATION
EXHIBIT "C" LETTER TO APPLICANT

MARCIA REID

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EXHIBIT "A"
LEGAL DESCRIPTION

35 51 41 NORTH DADE COUNTRY CLUB VILLAGE SEC 1 PB 71-100 LOT 3 BLK 2
LOT SIZE SITE VALUE OR 19229-2323 0700 1

STAFF RECOMMENDATION PH-2009-000045 Marcia Reid

APPLICATION INFORMATION

Applicant: Marcia Reid
Property Location: 1101 N.W. 203rd Street
Property Size: ± 0.23acre or 10,000 square feet
Future Land Use: Neighborhood
Existing Zoning: RU-1, Single-Family Residential District
Requested Action(s):

1. A NON-USE VARIANCE OF SETBACK REQUIREMENTS to permit a proposed 484 square foot master bedroom addition to an existing single-family home to set back 7.5 feet from the rear property line, where a minimum 25.0 foot setback is required; and
2. A NON-USE VARIANCE OF SETBACK REQUIREMENTS to permit a proposed 220 square foot expansion of an existing attached garage to setback five 5.0 feet from the side property line, where a minimum 7.5 foot side setback is required.

RECOMMENDATION:

Recommend denial of the Resolution based on finding contained herein.

REVIEW AND ANALYSIS

Neighborhood Land Use Characteristics

Property	Future Land Use Designation	Zoning Classification	Existing Use
Site	Neighborhood	RU-1, Single-Family Residential Zone	Single-Family Dwelling
North	Neighborhood	RU-1, Single-Family Residential Zone	Single-Family Dwelling
South	Neighborhood	RU-1, Single-Family Residential Zone	Single-Family Dwelling
East	Neighborhood	RU-1, Single-Family Residential Zone	Single-Family Dwelling
West	Neighborhood	RU-1, Single-Family Residential Zone	Single-Family Dwelling

The subject property is located on the north side of N.W. 203rd Street, approximately 400 feet east of unimproved N.W. 12th Avenue. The properties surrounding the site have all been developed with single-family homes.

Project Summary/Background

- The 10,000 square feet subject property is developed with a one-story, 4 bedroom/2 bath, 2,330-square foot single-family residence built in 1961 with frontage on N.W. 203rd Street.
- The Applicant's letter of intent and as shown on the submitted plans proposes construction of a 484 square-foot master bedroom to the rear of the existing residence; proposed construction to expand the existing attached garage by 220 square feet; and a expansion of the existing kitchen.
- The proposed master bedroom will set back 7.5 feet from the rear of the property just outside a 6.0' utility easement that runs along the rear property line; the garage expansion will setback 5.0 feet from the west side property line; and the kitchen expansion is internal to the property and does not impact any required yard setbacks.

Zoning History

There is no zoning history on the subject property or any of the adjacent properties impacted by the requested actions. Notwithstanding, there have been several zoning actions by Miami-Dade County which have been approved by Resolution and by administrative approval for similar non-use variances setback requests within the surrounding neighborhood (see attached Historical Zoning Approvals, and Historical Zoning Approvals map). The following is a summary of those previous approvals:

1. In 1978, Resolution 4ZAB-135-78 approved a rear setback of 6.0 feet to enable the legalization of an existing playroom and storage room addition to the existing single-family residence located at 900 N.W. 203rd Street;
2. In 1990, Administrative Adjustment V1990000097 approved a rear setback of 12.50 feet for the proposed expansion of the existing single-family located at 1540 N.W. 203rd Street.
3. In 1997, Resolution CZAB3-4-97 approved a rear setback of 7.2 feet for a proposed master bedroom addition to the existing single-family residence located at 1285 N.W. 203rd Street;
4. In 1998, Administrative Variance AV-092-98 approved a rear setback of 12.75 feet for the proposed expansion of the existing single-family residence located at 800 N.W. 203rd Street.

Consistency with City of Miami Gardens Comprehensive Development Master Plan

The subject property is designated Neighborhood on the Future Land Use Map of the Future Land Use Element of the City of Miami Gardens Comprehensive Development Master Plan (CDMP). Locational policies and criteria for low-density residential development apply to the site and surrounding neighborhood.

Conclusion: The requested variance does not change the use of the property as a single-family home. Therefore, the request does not impact policies of the CDMP and is consistent with same.

Zoning Review and Analysis

Section 33-311(A)(4)(b) Non-use variances from other than airport regulations, states in relevant terms that:

Upon appeal or direct application in specific cases to hear and grant applications for non-use variances from the terms of the zoning and subdivision regulations, the Board (following a public hearing) may grant a non-use variance upon a showing by the applicant that the non-use variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the land is required. For the purpose of this subsection, the term "non-use variances" involves matters such as setback lines, frontage requirements, subdivision regulations, height limitations, lot size restrictions, yard requirements and other variances which have no relation to change of use of the property in question.

In reviewing the requested actions for setback variances consideration is given to a few combined factors; the size of the property in relation to the proposed additions and encroachments; the impact on the adjacent properties; and the appearance and detriment to the surrounding area. The residential lot is 10,000 square feet, measuring 100' by 100' allowing for a substantial size residential home while maintaining the required yard setbacks. This property, like others in this established neighborhood, enjoys generous 15.0' side yard setbacks and 25.0' rear and front yard setbacks as constructed, creating a mature estate like neighborhood appearance. The proposed significant encroachment into the rear yard and side yard setback area impacts are intrusive and out of character of the general character of the neighborhood. The large 10,000 square foot lots with such generous setbacks are unlikely to be established in newer neighborhoods and therefore the stability and preservation of the character and appearance of this established neighborhood should be maintained with consideration of the general interest and welfare of the community in mind.

The other consideration is that the encroachments into the yard setbacks are for proposed construction and are not due to the limited size of the property or any physical hardship due to the lot configuration.

Furthermore, the proposed master bedroom addition may be a prelude to a potential illegal subdivision of the single family residence to a multiple use dwelling in accordance with Section 33.20.1.1 of the Code which states :

Sec. 33-20.1.1. Prima facie evidence of illegal multiple use or illegal subdivision of a residence.

(a) It shall be presumed that a multi-family use has been established when one (1) or more of the following conditions are observed:

- (1) There are two (2) or more electrical, water gas or other types of utility meters, or mailboxes on the premises.*
- (2) There is evidence of a liquid propane (LP) gas tank installed in an unauthorized detached structure on the premises.*
- (3) There is more than one (1) cooking area in the primary structure.*
- (4) All living areas in the dwelling are not interconnected.*
- (5) Multiple paved numbered parking spaces.*

(6) *An unauthorized detached building with air conditioning, interior cooking areas or utility meters.*

(7) *There is more than one (1) different house address unit number posted on the premises.*

(8) *An advertisement indicating the availability of more than one (1) living unit on the premises.*

(9) *An unpermitted exterior door.*

(b) *For duplex or triplex structures, the terms "structure" and "dwelling" as used herein shall apply as to each unit.*

(c) *The presumption may be rebutted by the submission of a current floor plan prepared by an engineer or architect, surveying the residence and accessory structures and showing all rooms are interconnected as a single-family dwelling accompanied by a notarized affidavit from the property owner attesting that the residence or accessory structure is being maintained for single-family occupancy and/or substantiated by an interior inspection of the dwelling by a compliance officer. If the compliance officer is able to enter the interior of the property and verify its use as a single-family dwelling, the property owner is exempt from the above submission.*

(d) *Nothing contained in this section shall prevent the enforcement actions authorized by the Code of Miami-Dade County, Florida independent of this section.*

Though not the intent of the Applicant, the proposed layout of the home requires access to the master bedroom through another bedroom or from an outside entrance of the residence, and does not allow for the interconnection between living areas as typical for single family residences.

Conclusion: Consideration and analysis of the requests conclude that the requested actions would fail to maintain the basic intent and purpose of the Zoning Code.

Anticipated Facilities Impact

The subject application pertains to an existing accessory structure in connection with an existing single-family residence and, as such, will not create any additional impact upon the existing urban services and facilities.

Public Notification/Comments

In accordance with the zoning code, notification of the applicant's requests was mailed to property owners within a 500 foot radius of the subject site to provide them an opportunity to comment on the application. No comments were received from property owners within that radius. (See Mailed Notice Radius Map, attached).

Attachments:

Public Hearing Checklist

Letter of Intent

Hearing Map-Zoning

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Hearing Map-Aerial
Mailed Notice Affidavit
Mailed Notice Radius Map
Submitted Plans and Survey
Photographs of Subject Property
Zoning History Approvals
Zoning History Map
Transmittal Notice
Letter to Applicant