ASSEMBLY AND ORGANIZATION:

A. Call to Order
B. Pledge of Allegiance
C. Roll Call of Board Members
D. Announcement to Audience of the Public Hearing Process

QUASI-JUDICIAL ITEMS: THESE ITEMS MAY EITHER BE APPROVED, DENIED, OR APPROVED WITH CONDITIONS.

PUBLIC HEARINGS: PLEASE BE ADVISED THAT THE FOLLOWING ITEMS ON THE AGENDA ARE QUASI-JUDICIAL IN NATURE. THE APPLICANT OR DULY AUTHORIZED AGENT FOR THE APPLICANT MUST BE PRESENT. IF NO REPRESENTATIVE IS PRESENT, THE APPLICATION WILL BE TABLED TO THE NEXT BOARD OF ADJUSTMENT MEETING. WHEN THE PETITION IS ANNOUNCED, THE APPLICANT OR HIS/HER AGENT SHALL STATE HIS/HER NAME AND ADDRESS FOR THE RECORD.

ANY INTERESTED PARTY WISHING TO SPEAK ON ANY ITEM MAY PROVIDE ORAL OR WRITTEN COMMENTS ON THE MATTER. EACH PARTY SHALL STATE HIS/HER NAME AND ADDRESS FOR THE RECORD, AND SHALL ADDRESS HIS/HER COMMENTS TO THE BOARD. EACH PARTY SHALL SPEAK FOR NOT MORE THAN 3 (THREE) MINUTES IN ORDER TO PROVIDE FOR ORDER AND TIME FOR OTHER INTERESTED PARTIES TO ADDRESS THEIR CONCERNS/COMMENTS TO THE BOARD.

E. Quasi-Judicial Oath
F. Amendments to the Agenda

II. APPROVAL OF MINUTES: September 29, 2021 and January 19, 2022

III. COMMUNICATIONS

IV. CONTINUED PETITIONS:

V. NEW PETITIONS:

V-03-22 – FENCE HEIGHT VARIANCE WITHIN FRONT YARD – 1460 NE 123 ROAD

A VARIANCE TO ARTICLE 5, DIVISION 12, SECTION 5-1209(K)3 OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW A TWENTY-FIVE (25) PERCENT OPAQUE 5-FOOT TALL FENCE WITHIN TEN (10) FEET OF THE EDGE OF DRIVEWAY LEADING TO THE A PUBLIC RIGHT-OF-WAY AT THE PROPERTY LOCATED AT 1460 NE 132ND ROAD WITHIN THE R-4 MULTIFAMILY RESIDENTIAL DISTRICT; SAID VARIANCE IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.

SE-04-22 – TATTOO PARLOR SPECIAL EXCEPTION – 1675 NE 123RD STREET

A SPECIAL EXCEPTION USE PURSUANT TO ARTICLE 4, DIVISION 2, SECTION 4-202 OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW A PROPOSED TATTOO PARLOR AT THE PROPERTY LOCATED AT 1675 NE 123RD STREET WITHIN THE C-2BW COMMERCIAL/OFFICE DISTRICT; SAID SPECIAL EXCEPTION IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 5, SECTION 3-504 OF THE LDRS.
V-04-22 – VARIANCE TO THE MINIMUM DISTANCE SEPERATION – 631 NE 125TH STREET

A VARIANCE TO ARTICLE 5, DIVISION 22, SECTION 5-2203(B) OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW A BEAUTY SALON WITHIN ONE THOUSAND FIVE HUNDRED (1,500) FEET OF AN IDENTICAL OR SIMILAR USE AT THE PROPERTY LOCATED AT 631 NE 125TH STREET WITHIN THE C-3 COMMERCIAL DISTRICT; SAID VARIANCES ARE TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.

V-05-22 – FENCE HEIGHT AND OPACITY VARIANCE WITHIN FRONT YARD – 13485 NE 2ND AVENUE

A VARIANCE TO ARTICLE 5, DIVISION 12, SECTION 5-1210(A)(1) & (3) OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO: (1) ALLOW A 100% OPAQUE FENCE IN THE FRONT YARD SETBACK AND (2) ALLOW A 6-FOOT TALL FENCE WITHIN THE REQUIRED FRONT YARD AT THE PROPERTY LOCATED AT 13485 NE 2ND AVENUE WITHIN THE R-2 SINGLE FAMILY RESIDENTIAL DISTRICT; SAID VARIANCE IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.

V-06-22 – RECREATIONAL VEHICLE PARKING IN THE R-4 RESIDENTIAL ZONING DISTRICT– 1400 NE 133RD ROAD

A VARIANCE TO ARTICLE 5, DIVISION 14, SECTION 5-1405 OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW THE PARKING AN/OR STORAGE OF ONE (1) RECREATIONAL VEHICLE LOCATED AT 1400 NE 133RD ROAD WITHIN THE R-4 MULTIFAMILY RESIDENTIAL DISTRICT; SAID VARIANCE IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.

V-07-22 – A VARIANCE TO PERMIT A REDUCED SETBACK FOR A DRIVEWAY– 830 NW 121ST STREET

A VARIANCE TO ARTICLE 5, DIVISION 1, SECTION 5-113 OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW A REDUCTION FROM THE REQUIRED SIDE SETBACK OF 5 FEET (5’) FOR IMPERVIOUS OR CONCRETE SLABS TO A PROPERTY LINE TO A PROPOSED SETBACK OF 1 FEET (1’) ON THE PROPERTY LOCATED AT 830 NW 121ST STREET IN THE R-2 DISTRICT; SAID VARIANCE IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.

VI. OLD BUSINESS

VII. NEW BUSINESS

DISCUSSION ON CITY-INITIATED LAND USE MAP AMENDMENT & REZONING OF APPROXIMATELY 27 ACRES

VIII. ADJOURNMENT

A copy of the full package containing staff reports and recommendations for all items is available online at https://www.northmiamifl.gov/AgendaCenter/Board-of-Adjustment-2, and will be available for public review from Monday to Friday between the hours of 8:15 a.m. and 12:30 p.m. in the Community Planning & Development Office located at 12400 NE 8th Avenue, North Miami, Florida 33161.

NOTICE: No stenographic record by a certified court reporter will be made of the foregoing meeting. Accordingly, any person wishing to appeal the recommendations of the Board of Adjustment will need a verbatim record of the meeting's proceedings, which record includes the testimony and evidence upon, which the appeal is to be based (Chapter 286.0105 F.S.).

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, PERSONS NEEDING SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE ZONING DEPARTMENT NO LATER THAN FOUR (4) DAYS PRIOR TO THE PROCEEDING. TELEPHONE (305) 893-6511, EXT. 19004 FOR ASSISTANCE. IF HEARING IMPAIRED, TELEPHONE OUR TDD LINE AT (305) 893-7936 FOR ASSISTANCE.
The meeting was called to order at 6:35 p.m. After the pledge of allegiance, a roll call of the members was taken.

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<th>Name</th>
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Staff was represented by:
Derrick Cook, MBA, Zoning Manager
Marline Monestime, Senior Planning Technician
Gary Held, Consulting Land Use Attorney
Jennifer Warren, Deputy City Attorney

I. Assembly and Organization:
Attorney Held read the procedures for public comment. Participants were sworn-in to provide testimony for their respective requests.

II. Amendments to the Agenda:
A motion to move petition V-05-21 to be heard after all other items was made by Board member Shields. The motion was seconded by Vice Chair McDearmaid. The motion passed with a 5-0 vote.

III. Approval of Minutes:
Approval of minutes from the May 19, 2021 meeting did not take place.

IV. Communications:
Vice Chair McDearmaid disclosed that he was contacted about item V-04-21. Board member Shields also shared that he had been in communication with the applicant for item V-02-21.

V. Continued Petitions:
V-02-21 – FENCE OPACITY VARIANCE WITHIN FRONT YARD – 1070 NW 131 STREET

A VARIANCE TO ARTICLE 5, DIVISION 12, SECTION 5-1209(K)3 OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW A FENCE LOCATED IN THE FRONT YARD SETBACK TO EXCEED THE MAXIMUM TWENTY-FIVE (25) PERCENT OPACITY PROVIDING SEVENTY-FIVE (75) PERCENT OF UNOBSTRUCTED VISIBILITY THROUGHOUT THE FENCE AT THE PROPERTY LOCATED AT 1070 NW 131 STREET WITHIN THE R-2 SINGLE-FAMILY DISTRICT; SAID VARIANCE IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.

The Zoning Manager, Derrick Cook presented the item to the board followed by the applicants, Joanna & Aleada Torres, speaking in regards to their request. A comment in favor of the item was received via email and was read into the record. A motion to approve the item was presented by Board member Shields and seconded by Board member Pierre-Louis. The item passed with a 5-0 vote.

VI. New Petitions:

V-04-21 – DOCK VARIANCE – 2100 NE 121 ROAD

A VARIANCE TO ARTICLE 5, DIVISION 6, SECTION 5-602(B) OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO: (1) ALLOW A DOCK TO PROJECT 50 FEET 6 INCHES FROM THE FACE OF THE SEAWALL CAP INTO BISCAYNE BAY WHERE 15 FEET IS THE MAXIMUM PROJECTION PERMITTED, AND (2) EXTEND A BOATLIFT 69 FEET FROM THE PROPERTY LINE INTO BISCAYNE BAY WHERE 35 FEET IS THE MAXIMUM EXTENSION PERMITTED AT THE PROPERTY LOCATED AT 2100 NE 121 ROAD WITHIN THE R-1 RESIDENTIAL ESTATE DISTRICT; SAID VARIANCES ARE TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.

The Zoning Manager, Derrick Cook presented the item to the board followed by representatives for the applicant, speaking in regards to their request. Public comments were heard and a comment against the item was received via email and was read into the record. A motion to approve the item was presented by Board member Shields and seconded by Vice Chair McDearmaid. The item passed with a 5-0 vote.

V-06-21 – SETBACK VARIANCE– 655 NW 128 STREET

A VARIANCE TO ARTICLE 4, DIVISION 2, SECTION 4-203 OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW FOR EXPANSION OF AN EXISTING COMMERCIAL BUILDING TO ENCROACH APPROXIMATELY TEN (10) FEET INTO
THE MINIMUM REQUIRED SIDE SETBACK OF TEN (10) FEET FROM THE WEST SIDE PROPERTY LINE AT THE PROPERTY LOCATED AT 655 NW 128 STREET WITHIN THE C-1 COMMERCIAL DISTRICT; SAID VARIANCE IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.

The Zoning Manager, Derrick Cook presented the item to the board followed by the representative for the applicant, speaking in regards to their request. Public comments were heard and a comment against the item was received via email and was read into the record. A motion to approve the item was presented by Vice Chair McDearmaid and seconded by Board member Shields. The item passed with a 5-0 vote.

V-07-21 – MINIMUM DISTANCE FROM VARIANCE– 711 NE 125 STREET

A VARIANCE TO ARTICLE 5, DIVISION 9, SECTION 5-908 OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”), TO ALLOW A DEVIATION OF THE MINIMUM REQUIRED SPACING BETWEEN RELIGIOUS INSTITUTIONS, SCHOOLS, PARKS, AND RESIDENTIAL USES FROM A LOUNGE LICENSED TO SELL ALCOHOLIC BEVERAGES AT THE PROPERTY LOCATED AT 711 NE 125 STREET WITHIN THE CENTRAL BUSINESS COMMERCIAL (C-3) DISTRICT; SAID VARIANCE IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.

The Zoning Manager, Derrick Cook presented the item to the board followed by the applicant, speaking in regards to the request. There were no previously submitted comments and no comments were made. A motion to approve the item was presented by Vice Chair McDearmaid and seconded by Board member Shields with the condition that there would only be consumption on the premises and the business would not operate as a packaging store. The item passed with a 5-0 vote.

V-05-21 – VARIANCE TO THE EDUCATIONAL FACILITY MINIMUM PARKING REQUIREMENT – 1701 NE 127 STREET, 12900 NE 17 AVENUE, & 13015 EMERALD DRIVE

A VARIANCE TO ARTICLE 5, DIVISION 14, SECTION 5-1402 OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW 439 PARKING SPACES WHERE 1,120 ARE REQUIRED FOR AN EDUCATIONAL FACILITY USE WITHIN THE PUBLIC USE DISTRICT; SAID VARIANCE IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.

The Zoning Manager, Derrick Cook presented the item to the board followed by the applicant, speaking in regards to the request. There were no previously submitted comments and live public comments were heard in favor of the item. A motion to approve the item was presented by Vice Chair McDearmaid and seconded by Board member Shields with two conditions: (1) that the
applicant make the best effort to obtain additional parking, (2) that the applicant updates staff on the effort to obtain additional parking within 90 days. The item passed with a 5-0 vote.

VII. COMMITTEE REPORTS: None

VIII. OLD BUSINESS: None

IX. NEW BUSINESS: None

X. ADJOURNMENT

A motion for adjournment was made by Vice Chair McDearmaid and seconded by Board member Shields. The meeting adjourned at 8:02 p.m.

Respectfully submitted: Attest:

Roseline Philippe, Chairperson Derrick Cook, MBA, Zoning Manager
Board of Adjustment Community Planning & Development

Prepared by:

Marline Monestime, Senior Planning Technician
Community Planning & Development
The meeting was called to order at 6:48 p.m. After the pledge of allegiance, a roll call of the members was taken.

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Staff was represented by:
- Derrick Cook, MBA, Zoning Manager
- Marline Monestime, Senior Planning Technician
- Gary Held, Consulting Land Use Attorney
- Jennifer Warren, Deputy City Attorney

I. Assembly and Organization:
Attorney Held read the procedures for public comment. Participants were sworn-in to provide testimony for their respective requests.

II. Amendments to the Agenda:
Corrections to item numbers on staff reports were stated on the record.

III. Approval of Minutes:
Approval of minutes from the September 29, 2021 meeting will be held at the next meeting.

IV. Communications: None

V. Petitions:

SE-02-21 – NIGHT CLUB SPECIAL EXCEPTION FOR NUVO CAFÉ, 14135 NW 7TH AVENUE

A SPECIAL EXCEPTION USE PURSUANT TO ARTICLE 4, DIVISION 2, SECTION 4-202 OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES,
LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW A PROPOSED NIGHTCLUB AT THE PROPERTY LOCATED AT 14135 NW 7 AVENUE WITHIN THE C-1 COMMERCIAL/OFFICE DISTRICT; SAID SPECIAL EXCEPTION IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 5, SECTION 3-504 OF THE LDRS.

The Zoning Manager, Derrick Cook presented the item to the board followed by the applicant(s), speaking to the request. A motion to approve the item was presented by Vice-Chair McDearmaid and seconded by Board member Williams. The item passed with a 6-0 vote.

V-08-21 – MINIMUM DISTANCE VARIANCE FOR NUVO CAFÉ – 14135 NW 7TH AVENUE

A VARIANCE TO ARTICLE 5, DIVISION 9, SECTION 5-908 OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO: ALLOW A DEVIATION OF THE MINIMUM REQUIRED SPACING FROM OTHER SIMILAR USES, RELIGIOUS INSTITUTION, SCHOOLS, PARKS AND RESIDENTIAL USE FROM A NIGHTCLUB AT THE PROPERTY LOCATED AT 14135 NW 7TH AVENUE WITHIN THE C-1 COMMERCIAL/OFFICE DISTRICT; SAID VARIANCE IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.

The Zoning Manager, Derrick Cook presented the item to the board followed by the applicant(s), speaking to the request. A motion to approve the item was presented by Vice-Chair McDearmaid and seconded by Board member Shields. The item passed with a 6-0 vote.

V-09-21 – HOURS DURING WHICH SALES ARE ALLOWED; CONSUMPTION VARIANCE FOR NUVO CAFÉ – 14135 NW 7TH AVENUE

A VARIANCE TO ARTICLE 5, DIVISION 9, SECTION 5-913 OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO: ALLOW A DEVIATION OF THE HOURS DURING WHICH SALES ARE ALLOWED AND CONSUMPTION OF ALCOHOLIC BEVERAGES AT THE PROPERTY LOCATED AT 14135 NW 7TH AVENUE WITHIN THE C-1 COMMERCIAL/OFFICE DISTRICT; SAID VARIANCE IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.

The Zoning Manager, Derrick Cook presented the item to the board followed by the applicant(s), speaking to the request. A motion to approve the item was presented by Vice-Chair McDearmaid and seconded by Board member Shields. The item passed with a 6-0 vote with the inclusion of a 6-month administrative review of the operations as it pertains to the request.
SE-01-22 – NIGHT CLUB SPECIAL EXCEPTION FOR NOMI BAR AND GRILL– 738 NE 125 STREET

A SPECIAL EXCEPTION USE PURSUANT TO ARTICLE 4, DIVISION 2, SECTION 4-202 OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW A PROPOSED NIGHTCLUB AT THE PROPERTY LOCATED AT 738 NE 125 STREET WITHIN THE C-3 COMMERCIAL/OFFICE DISTRICT; SAID SPECIAL EXCEPTION IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 5, SECTION 3-504 OF THE LDRS.

Vice Chair McDearmaid, and Board members Shields and Williams disclosed they had communicated with the applicant for items SE-01-22 and V-01-22. The Zoning Manager, Derrick Cook presented the item to the board followed by the applicant(s), speaking to the request. A motion to approve the item was presented by Vice-Chair McDearmaid and seconded by Board member Shields. The item passed with a 6-0 vote with the inclusion of a 6 month administrative review of the operations and mandatory staffing of an off-duty City of North Miami officer, as it pertains to the request.

V-01-22 – MINIMUM DISTANCE VARIANCE FOR NOMI BAR AND GRILL– 738 NE 125 STREET

A VARIANCE TO ARTICLE 5, DIVISION 9, SECTION 5-908 OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW A DEVIATION OF THE MINIMUM REQUIRED SPACING FROM OTHER SIMILAR USES, RELIGIOUS INSTITUTION, SCHOOLS, PARKS AND RESIDENTIAL USE FROM A NIGHTCLUB AT THE PROPERTY LOCATED AT 738 NE 125 STREET WITHIN THE C-3 COMMERCIAL/OFFICE DISTRICT; SAID VARIANCE IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.

The Zoning Manager, Derrick Cook presented the item to the board followed by the applicant(s), speaking to the request. A motion to approve the item was presented by Vice-Chair McDearmaid and seconded by Board member Shields. The item passed with a 6-0 vote.

V-02-22 - SINGLE FAMILY RESIDENCE REQUEST FOR VARIANCE TO ALLOW FOR SETBACK DEVIATION – 1115 NE 121 STREET

A VARIANCE TO ARTICLE 4, DIVISION 2, SECTION 4-203 (A) OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW AN ADDITION TO A SINGLE FAMILY RESIDENCE TO ENCROACH INTO THE REAR YARD SETBACK AT THE PROPERTY LOCATED AT 1115 NE 121 STREET WITHIN THE R-2 SINGLE-FAMILY
DISTRICT; SAID VARIANCE IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.

The Zoning Manager, Derrick Cook presented the item to the board followed by the applicant(s), speaking to the request. A motion to approve the item was presented by Board member Alina Medina and seconded by Vice-Chair McDearmaid. The item passed with a 6-0 vote.

SE-02-22 – TECHNICAL VOCATIONAL SPECIALTY SCHOOL SPECIAL EXCEPTION FOR ALWAYS PROFESSIONAL INSTITUTE—13992 NE 12 AVENUE

A SPECIAL EXCEPTION USE PURSUANT TO ARTICLE 4, DIVISION 2, SECTION 4-202 OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW A PROPOSED TECHNICAL VOCATIONAL SPECIALTY SCHOOL AT THE PROPERTY LOCATED AT 13992 NE 12 AVENUE WITHIN THE C-1 COMMERCIAL DISTRICT; SAID SPECIAL EXCEPTION IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 5, SECTION 3-504 OF THE LDRS.

The Zoning Manager, Derrick Cook presented the item to the board followed by the applicant(s), speaking to the request. A motion to approve the item was presented by Board member Williams and seconded by Board member Shields. The item passed with a 6-0 vote.

SE-03-22 – TECHNICAL VOCATIONAL SPECIALTY SCHOOL SPECIAL EXCEPTION FOR SYLVESTER SECURITY SCHOOL & MULTI SERVICE LLC—607 NE 123 STREET

A SPECIAL EXCEPTION USE PURSUANT TO ARTICLE 4, DIVISION 2, SECTION 4-202 OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW A TECHNICAL VOCATIONAL SPECIALTY SCHOOL AT THE PROPERTY LOCATED AT 607 NE 123 STREET WITHIN THE C-3 COMMERCIAL/OFFICE DISTRICT; SAID SPECIAL EXCEPTION IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 5, SECTION 3-504 OF THE LDRS.

The Zoning Manager, Derrick Cook presented the item to the board followed by the applicant(s), speaking to the request. A motion to approve the item was presented by Board member Shields and seconded by Board member Williams. The item passed with a 6-0 vote.

VI. COMMITTEE REPORTS: None

VII. OLD BUSINESS: None

VIII. NEW BUSINESS: None
IX. ADJOURNMENT

A motion for adjournment was made by Vice Chair McDearmaid and seconded by Board member Shields. The meeting adjourned at 9:11 p.m.

Respectfully submitted: Attest:

Roseline Philippe, Chairperson Derrick Cook, MBA, Zoning Manager
Board of Adjustment Community Planning & Development

Prepared by:

Marline Monestime, Senior Planning Technician
Community Planning & Development
NOTICE OF PUBLIC HEARING

April 7, 2022

Dear Property Owner:

Notice is hereby given that the City of North Miami has received and will consider the following requests:

**V-03-22 – FENCE HEIGHT VARIANCE WITHIN FRONT YARD – 1460 NE 123 ROAD**

A VARIANCE TO ARTICLE 5, DIVISION 12, SECTION 5-1209(K)3 OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW A TWENTY-FIVE (25) PERCENT OPAQUE 5-FOOT TALL FENCE WITHIN TEN (10) FEET OF THE EDGE OF DRIVEWAY LEADING TO THE A PUBLIC RIGHT-OF-WAY AT THE PROPERTY LOCATED AT 1460 NE 132ND ROAD WITHIN THE R-4 MULTIFAMILY RESIDENTIAL DISTRICT; SAID VARIANCE IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.

The Board of Adjustment will hear this request on **Wednesday, April 20, 2022 at 6:30 p.m.** You are welcome to attend this meeting where you will be given an opportunity to express your support or concerns, if you so choose. **The meeting will be held in the City Council Chambers on the second floor of the City Hall located at 776 Northeast 125 Street, North Miami, FL 33161.**

The City is mailing notice of this request as a courtesy to the surrounding property owners. No response is necessary on your part. However, if you wish to respond and cannot attend the meeting, you may respond in writing to the Board of Adjustment, c/o Community Planning & Development Department, City of North Miami, 12400 NE 8 Avenue, North Miami, FL 33161. The application documents are available for review upon request in the Community Planning & Development Department.

Sincerely,

Derrick L. Cook, MBA
Zoning Manager
Community Planning & Development
To: The Board of Adjustment

From: Cameron Palmer, BURPl
    Planner, Community Planning & Development Department

Through: Derrick Cook, MBA – Acting Director __________________ DATE: 04/20/2022

Date: April 1, 2022 May 18, 2022

V-03-22: FENCE HEIGHT VARIANCE WITHIN FRONT YARD – 1460 NE 132nd ROAD

APPLICATION SUMMARY

Applicant: Yinney Andrade (Property Owners)
Location: 1460 NE 132nd Road, North Miami FL 33161
Land Area: 9,480 square feet
Folio Number: 06-2229-022-0800

Petition: A VARIANCE TO ARTICLE 5, DIVISION 12, SECTION 5-1209(K)3 OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW A TWENTY-FIVE (25) PERCENT OPAQUE 5-FOOT TALL FENCE WITHIN TEN (10) FEET OF THE EDGE OF DRIVEWAY LEADING TO THE A PUBLIC RIGHT-OF-WAY AT THE PROPERTY LOCATED AT 1460 NE 132ND ROAD WITHIN THE R-4 MULTIFAMILY RESIDENTIAL DISTRICT; SAID VARIANCE IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.

PROJECT SUMMARY

The applicant and property owner, Yinney Andrade, is requesting hardship relief from Article 5, Division 12, Section 5-1209(K) 3: Height Limitation, of the Land Development Regulations (LDRs), for the property located at 1460 NE 132nd Road (east of NE 14th Ave and south of 132nd Road). The applicant intends to install an aluminum fence that is a maximum of twenty-five (25) percent opaque not exceeding five (5) feet in height within the front yard of an existing single-family residence. The proposed fence requires a variance to of the LDRs to permit the fence
placement against the property lines of the front yard, whereas the fence shall be setback ten (10) feet from the edge of the driveway for properties within the R-4, Multifamily Residential zoning district.

**BACKGROUND**

This item was originally scheduled to be heard at the April 20, 2022 Board of Adjustment meeting however was deferred to the May 18, 2022 meeting due to the Board’s inability to attain quorum.

The property is approximately 9,480 square feet and, according to the Miami-Dade County’s Property Appraiser, contains a single-story residential building that totals approximately 1,186 square feet constructed in 1948.

The applicant underwent a permit (BFE00-2021-00263) to install a five-foot aluminum fence with one (1) swing gate to provide the homeowners a barrier intended to mark a boundary, provide security and provide a decorative function. The intent was to place the fence against the front property line where a previous fence once was located. Upon further review, the permit was denied by staff according to Section 5-1209(K)3 of the LDRs, as the height of the fence shall not exceed two and one half (2½) feet in height within ten (10) feet of the edge of the driveway leading to a public right-of-way, except that in the R-1 or R-2 District.

The applicant is seeking a variance to deviate from the required maximum height of two and one half (2½) feet to the proposed height of five (5), providing the fence is a maximum twenty-five (25) percent opaque, and to deviate from the setback of ten (10) feet to locate the fence against/on the front yard’s property lines. Each deviation requiring Board of Adjustment (BOA) approval.

**PRIOR CITY CASES RELEVANT TO SUBJECT PROPERTY**

1. **BFE00-2021-00263**: Installing aluminum fence approximately 12.1 feet in length with one (1) swinging gate, applied on October 28, 2021.
2. The subject property has no open code violations.

**SURROUNDING LAND USE CHARACTERISTICS**

<table>
<thead>
<tr>
<th>Property</th>
<th>Future Land Use</th>
<th>Existing Zoning</th>
<th>Existing Use/Subdivision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site</td>
<td>Low-Medium Density Residential (35 ft., 12.0 du/ac)</td>
<td>R-4 Multifamily District</td>
<td>Single-Family Home</td>
</tr>
<tr>
<td>North</td>
<td>Low-Medium Density Residential (35 ft., 12.0 du/ac)</td>
<td>R-4 Multifamily District</td>
<td>Single-Family Home</td>
</tr>
<tr>
<td>South</td>
<td>Low-Medium Density Residential (35 ft., 12.0 du/ac)</td>
<td>R-4 Multifamily District</td>
<td>Single-Family Home</td>
</tr>
<tr>
<td>East</td>
<td>Low-Medium Density Residential (35 ft., 12.0 du/ac)</td>
<td>R-4 Multifamily District</td>
<td>Single-Family Home</td>
</tr>
</tbody>
</table>
The subject property together with most of the surrounding properties is zoned R-4 Multifamily District. Many of the surrounding properties to the north, east, and west consist of single-family homes constructed in the 1950s.

The area is classified as Low-Medium Residential on the Future Land Use Map and is intended primarily for residential dwellings. Figure 1 and 2 illustrates the zoning map, and an aerial image of the subject property and its surroundings, respectively.

*Figure 1: North Miami Zoning Map*
OVERVIEW OF REQUEST

At this time, the applicant is requesting a variance to allow a five (5) foot tall fence that is approximately 12 feet in length and is twenty-five (25) percent opaque to be located against/on the front property line.

ANALYSIS

Article 3, Division 6, Section 3-606 of the City’s LDRs authorizes the Board of Adjustment (BOA) to hear and grant or deny applications for variances from the terms of these LDRs. In evaluating an application for variances, the BOA shall find that the applicant demonstrates compliance with four (4) of the six (6) items as listed below:

1. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

   *No. The property contains a legally nonconforming single-family residence that exists within the R-4 multifamily zoning district. As such, the R-4 development standards govern*
the site. The R-4 district expands the development-capacity of the legally nonconforming single-family site with increased density to 12.0 units per acre, which exceeds what the R-1 and R-2 districts offer. However, the R-4 development standards prevents certain benefits allotted single-family residence located in the single-family district of R-1 and R-2 with regards to fences along property lines. The R-4 development standards causes partiality to the existing nonconforming single-family use that constrains fence placement and heights that represents a signature aesthetic of a single-family residence site.

2. The unusual circumstances or conditions necessitating the variance request are present in the neighborhood and are not unique to the property.

Yes. As shared, the single-family home exists within the R-4 multi-family zoned district. The neighborhood contains several single-family residences. Staff conducted an unofficial survey within an approximate 400-feet radius of the applicant’s property. Within the 400-feet radius are ninety-six (96) lots of which eighty-three (83) lots house single-family homes with several single-family lots situated with fences along the front property line. The neighborhood’s disposition exposes the applicant’s request represents a prevalent characteristic of the neighborhood. In that, the application of a fence along the front yard’s edge denotes an intrinsic element of a single-family residence that would not constitute a unique circumstance of the subject property within the neighborhood.

3. That the requested variance maintains the basic intent and purpose of the subject regulations, particularly as it affects the stability and appearance of the City.

Yes. The basic intent and purpose of the fence is to mark a boundary, provide security and provide a decorative function. Further, the LDRs states, “fences and walls shall be solely for the demarcation and separation of properties for privacy and use purposes”. The proposed fence matches the standard requirements for fences located within R-1 and R-2 districts. Whereas, single-family residential districts permit fences along the front property lines, no taller than five feet providing such fence is a maximum of twenty-five percent opaque, and no other structures or portions of the fence interferes with the safe distance visibility triangle. Additionally, the applicant’s fence location corresponds with the prevailing aesthetics of fences installed on single-family lots in the city and the immediate area. Therefore, as proposed, the installation of the fence will not adversely affect the stability and appearance of the neighborhood or the city. As such, the propose fence will maintain the basic intent and propose of a fence installed within a single-family zoned district and the LDRs deviation will maintain the single-family lot aesthetic attributes. In that, the fence shall comply with building permit procedures, be located against/on the property lines and shall not encroach into the right-of-way.

4. The literal interpretation of the provisions of these LDRs would deprive the applicant of the rights commonly enjoyed by other properties in the same zoning district under the terms of these LDRs.

No. These LDRs allow the installation of fences within the R-4 multi-family residential district. However, the literal interpretation of these LDRs prevents any fences, walls,
hedges of a height that exceeds two and one half (2½) feet within ten feet of the edge of the driveways leading to a public right-of-way. As such, the single-family use is subject to the R-4 development standards that governs the fence placement at a setback 10 feet from the front property line that will bifurcate the existing driveway and the front yard of the single-family residence. Under the current LDRs criteria, the fence installation could occur as prescribed by the regulations and/or possible other fence installation variations could transpire that meet the setback requirement, or even proposing no fence at all.

That said, the literal interpretation of these LDRs provisions do not accomplish the same purpose and intent of a fence located on a single-family residence in the R-1 and R-2 zoning districts. The fence regulations outside of the R-1 and R-2 districts presents the fence composition awkwardly in the middle of the front yard of a typical single-family property in the City of North Miami.

The literal interpretation of the LDRs contemplate multifamily projects in R-4 Multifamily Residential District with developments that provide medium density use, i.e. townhomes and multi-family uses, not a single-family residence. Therefore, the prescribed fence height intended for multi-family, commercial and industrial zoned are oriented to accommodate higher volume trip generate developments as not to impede ingress and egress of the site traffic the site.

5. The variance requested is the minimum variance that will make possible the reasonable use of the land, structure or building.

Yes. In that, the fence will meet the minimum standards for fences in residential districts subject to R-1 Residential Estate District and R-2 Single-Family District. Whereas, in all single-family residential districts, no fence or wall shall exceed five (5) feet in height within the required front yard; provided, however, that the fence is a maximum twenty-five (25) percent opaque, and no other structures or portions of the fence shall interfere with the safe distance visibility triangle.

6. The granting of the variance will be in harmony with the general intent and purpose of these LDRs and such variance will not be injurious to the area involved.

Yes. The variance request will allow the placement of the fence on or near the front yard’s property line and an increase of the maximum allowed height of two and one-half (2.5) feet to five (5) feet. The proposed fence location and height represents the maximum permitted fence height (5 feet) within the front yard area of R-1 and R-1 district for fences that meet the minimum twenty-five (25) percent opacity. Further, as earlier stated, ninety-six (96) properties exists in the immediate area of the subject property and several of the single-family lots have fences located along the front property line. Therefore, the granting of the variance would not be injurious to the area because the proposed fence design and location is consistent with the single-family residences of the neighborhood and the City of North Miami at-large.
Additionally, the fence will be harmonious with the intent and purpose of the LDRs. In that, the proposed fence will comply with each of the LDRs standard that allows the installment of a fence within the front yard area of the single-family districts. Thus, the fence placement and height will be in harmony with existing fences located in the neighborhood and on R-1 or R-2 lot that comply with LDRs criteria.

**STAFF RECOMMENDATION**

In light of these findings, staff recommends **approval with conditions** of the requested variance to the Land development Regulations (LDRs), Article 5, Division 12, Section 5-1209(K)3, Height Limitation, to allow a five (5) foot tall fence, that is twenty-five (25) percent opaque to be located against/on the front property line and located along the eastern side property line running north thirty-five feet leading to the existing six-foot wood fence within the subject property with the following conditions:

1. That there are no spikes, spear or any exposed sharp projections part of the fence; and
2. That the applicant obtain a building permit and all necessary licenses prior to the erection of the fence.

**PUBLIC NOTIFICATION/COMMENTS**

In accordance with Subsections (A), (B) and (C) of Article 3, Division 3, Section 3-302 of the LDRs, notification of the applicant’s request was published in the Daily Business Review, posted on the property, and mailed to property owners within a 500-foot radius of the subject property.

- **Mailed Written Notification:** on or before April 7, 2022
- **Published Newspaper Notification:** on or before April 7, 2022
- **Posted Property Notice:** on or before April 7, 2022

To date, no comments were received from neighboring property owners within a 500-foot radius.

**APPLICABLE LDR SECTIONS**

- Article 3, Division 3, Section 3-302 (A), (B) and (C): Notice;
- Article 3, Division 6, Section 3-606 (A) and (B): Standards for Variances;
- Article 4, Division 2, Section 4-201: Purpose of Districts;
- Article 5, Division 12, Section 5-1209: Fences, walls and hedges;
- Article 5, Division 12, Section 5-1210: General standards for residential and residential office districts, nonresidential districts, safety barriers for swimming pools, and barbed wire;
- Article 6, Division 1: Nonconforming uses and structures; and
- Article 7, Section 7-101: Definitions.

**ATTACHMENTS**

- Exhibit A: Application
- Exhibit B: Letters of Intent
- Exhibit C: Survey
Board of Adjustment Public Hearing Application

Instructions: Please print or type all information. The application must be filled out accurately and completely.

TYPE OF APPLICATION:
☐ Special Exception
☐ Variance
☐ Appeal by Applicant
☐ Appeal by Aggrieved Party

PROPERTY OWNER’S INFORMATION:
Owner’s Name: Yinney Andrade
Mailing Address: 1460 NE 132 Rd.
City: North Miami State: Florida Zip: 33161
Phone #: 305-262-2059 E-mail Address: yinney74@hotmail.com

APPLICANT/DUTY APPOINTED AGENT INFORMATION:
Contact Name: Same as above
Company Name:
Mailing Address:
City: State: Zip:
Phone: E-mail Address:

PROJECT INFORMATION:
Project Name: Standard Open Aluminum Fence
Address of Property: 1460 NE 132nd, North Miami, FL 33161
Folio Number(s): 012-2229-022-0800

Size of Property: Building Square Footage:

LEGAL DESCRIPTION: Lot 14, block 4, "Green Oaks," according to the plat thereof, recorded in plat book 46, at page 78, of the Public Records of Miami-Dade County, Florida.

PREVIOUS APPROVALS:
Previous approvals (list all previous approvals that substantial compliance/site plan modification/administrative modification is being sought):
N/A Date Approved:

Received 2/22/22
2022 - 06
OWNER'S LIMITED POWER OF ATTORNEY PERMITTING APPLICANT TO FILE FOR THE REQUEST
(INDIVIDUAL)

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

Yinney Andrade, the fee owner, which is the fee owner of the property legally described below
and which is the subject of the proposed request, do hereby grant limited power of attorney to
Yinney Andrade to file this application for the proposed request.

LEGAL DESCRIPTION:
Lot 14, Block 4, "Green Oaks," according to the Plat thereof,
recorded in Plat book 162 at page 78, of the Public Records of
Miami-Dade county, Florida.

WITNESSES:

Signature
Isaiah Valen
Print Name

Signature
Fee Owner's Signature
Yinney Andrade
Print Name

Address
1460 NE 132 Rd, NW Miami FL

Sworn to and subscribed before me on the 22 day of February 2022.
Affiant is personally known to me or has produced DLT# A536-960-74 for identification.

Notary

Commission Expires:
STATE OF FLORIDA
COUNTY OF MIAMI-DADE

Before me, the undersigned authority, personally appeared

Jinney Andrade
hereinafter the Affiant, who being first duly sworn by me, on oath, deposes and says:

1. Affiant is the fee owner of the property that is the subject of this request.
2. The subject property is legally described as:
   Lot 14, Block 4, "Green Oaks", recorded in Plat Book 46, Page 78, of Public Records of
   County, F
3. Affiant understands this affidavit is subject to the penalties of law for perjury and the possibility of voiding of the zoning
   approval.
4. The Affiant has authorized as the applicant, duly appointed
   agent to file this application and to receive all correspondence and represent the Affiant.

WITNESSES:

Signature
Isaac Valcin
Print Name

Signature
Print Name

Sworn to and subscribed before me on the 27 day of February 2022.
Affiant is personally known to me or has produced FL-DX A534-976 as identification.

Notary

Commission Expires:

Notary Public State of Florida
Isaac C. Valcin
My Commission HH 099283
Expires 03/01/2025
Letter of Intent

Board of Adjustment (BOA)
12400 NE 8 Ave
North Miami, Florida 33161

Re: Permit for aluminum picket fence at the front gate of a residential home.

To whom it may concern,

My name is Yinney Andrade and I live at 1460 N.E. 132nd rd., North Miami, FL. In October 2021, I submitted paperwork for a permit in order to build a front gate in my home. The gate was to be an aluminum picket fence with a gate and sliding gate, with specifications of 5 feet in height and 135 feet in length. The area where the gate is to go has already been surveyed and all the specifications were submitted. There is an existing driveway where we previously had a fence that was also 5 inches tall and expanded across the front yard. Further details of this project include: (1) total fence equals to 30’ + 86’ + 30’ (2) the gate includes a swing gate that opens into the property and not the sidewalk, and (3) it is a sliding gate, it is not electric. Attached are concrete and drawn-out maps with details for your review.

This action was denied because of “Land Development Regulations, Sec- 5-1209” which states that hedges shall not exceed two and one half (2 ½) feet in height within ten (10) feet of the edge of the driveway. When I purchased this home, there was a chain-link fence in place, 5 feet tall, encompassing the same length and height as the project I am now proposing. The original chain-link fence was old, rusting, and dangerous to the touch, as well as bending in certain areas, and slowly started falling until completely detaching itself. I am asking this board to please reconsider my request to build a fence in my home so that I can have a proper fence back up and have peace of mind while living in my home.

If there is anything else I can provide to the board at this time, please do not hesitate to ask. Attached is my statement of hardship and the rest of the required paperwork.

Sincerely,

Yinney Andrade

Encls.
**SCOPE OF WORK**

HORIZONTAL Picket FENCE

TOTAL FENCE = 30' x 8' + 10'

= 144'F

**NOTE**

SWING GATE OPENS INTO PROPERTY AND NOT THE SIDEWALK
NOTICE OF PUBLIC HEARING

April 7, 2022

Dear Property Owner:

Notice is hereby given that the City of North Miami has received and will consider the following requests:

SE-04-22 – TATTOO PARLOR SPECIAL EXCEPTION – 1675 NE 123RD STREET

A SPECIAL EXCEPTION USE PURSUANT TO ARTICLE 4, DIVISION 2, SECTION 4-202 OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW A PROPOSED TATTOO PARLOR AT THE PROPERTY LOCATED AT 1675 NE 123RD STREET WITHIN THE C-2BW COMMERCIAL/OFFICE DISTRICT; SAID SPECIAL EXCEPTION IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 5, SECTION 3-504 OF THE LDRS.

The Board of Adjustment will hear this request on Wednesday, April 20, 2022 at 6:30 p.m. You are welcome to attend this meeting where you will be given an opportunity to express your support or concerns, if you so choose. The meeting will be held in the City Council Chambers on the second floor of the City Hall located at 776 Northeast 125 Street, North Miami, FL 33161.

The City is mailing notice of this request as a courtesy to the surrounding property owners. No response is necessary on your part. However, if you wish to respond and cannot attend the meeting, you may respond in writing to the Board of Adjustment, c/o Community Planning & Development Department, City of North Miami, 12400 NE 8 Avenue, North Miami, FL 33161. The application documents are available for review upon request in the Community Planning & Development Department.

Sincerely,

Derrick L. Cook, MBA
Zoning Manager
Community Planning & Development
To: The Board of Adjustment

From: Cameron Palmer, BURPI
   Planner, Community Planning & Development Department

Through: Derrick Cook, MBA – Acting Director       DATE: 04/20/2022

Date: March 18, 2022 – May 18, 2022

SE-04-22: TATOO PARLOR SPECIAL EXCEPTION – 1675 NE 123RD STREET

APPLICATION SUMMARY

Applicant/Agent: Carlos Stiven Hernandez
Location: 1675 NE 123rd Street, North Miami, FL 33161
Land Area: 1,375 square feet
Folio Numbers: 06-2229-008-0580

Petition: A SPECIAL EXCEPTION USE PURSUANT TO ARTICLE 4, DIVISION 2, SECTION 4-202 OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW A PROPOSED TATTOO PARLOR AT THE PROPERTY LOCATED AT 1675 NE 123RD STREET WITHIN THE C-2BW COMMERCIAL/OFFICE DISTRICT; SAID SPECIAL EXCEPTION IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 5, SECTION 3-504 OF THE LDRS.

PROJECT SUMMARY

According to Land Development Regulations (LDRs), Article 4, Division 2, Section 4-202: Types of Uses, the applicant, Carlos Stiven Hernandez, is requesting a special exception review to allow a “tattoo parlor” in an existing commercial/retail plaza. The proposed use will be located on the north side of NE 123rd Street (west of NE 123rd Street and Biscayne Blvd), within the C-2BW, Commercial zoning designation. Per Miami-Dade Property Appraiser’s record, the property area is 1,375 square feet and is being used for sale and service uses. The applicant intends to occupy 1,000 square feet of the building in its existing condition and will repurpose the space to be used as a tattoo parlor. According the Applicant’s Letter of Intent, the tattoo parlor will be open by appointment only and will have 1 employee (the applicant).
Pursuant to Article 4, Division 2, Section 4-202 of the Land Development Regulations (LDRs), tattoo parlors may be permitted within the C-2BW, Commercial District, with special exception approval by the Board of Adjustment (BOA). As such, the Applicant has filed this special exception request to the BOA in order to bring the above-described service to the City.

**BACKGROUND**

This item was originally scheduled to be heard at the April 20, 2022 Board of Adjustment meeting however was deferred to the May 18, 2022 meeting due to the Board’s inability to attain quorum.

The proposed use will utilize an existing building and occupy 1,000 square feet of floor area within a commercial strip plaza along NE 123rd Street. The proposed tattoo parlor will be serviced by the existing parking spaces to the rear (north) of the building and by the parking spaces within the City’s right-of-way on 123rd Terrace.

**PRIOR CITY CASES RELEVANT TO SUBJECT PROPERTY**

None | No open code violations

**SURROUNDING LAND USE CHARACTERISTICS**

<table>
<thead>
<tr>
<th>Property</th>
<th>Future Land Use</th>
<th>Existing Zoning District</th>
<th>Existing Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site</td>
<td>Commercial (55 ft.)</td>
<td>C-2BW -Planned Corridor Development Overlay -North Miami Transit Station Overlay District</td>
<td>Service and Retail uses</td>
</tr>
<tr>
<td>North</td>
<td>Community Facility University (110 ft)</td>
<td>Public Use District</td>
<td>Surface parking lot</td>
</tr>
<tr>
<td>South</td>
<td>Commercial (55 ft.)</td>
<td>C-2BW -Planned Corridor Development Overlay -North Miami Transit Station Overlay District</td>
<td>NE 123rd Street</td>
</tr>
<tr>
<td>East</td>
<td>Commercial (55 ft.)</td>
<td>C-2BW -Planned Corridor Development Overlay -North Miami Transit Station Overlay District</td>
<td>Service and Retail uses</td>
</tr>
<tr>
<td>West</td>
<td>Commercial (55 ft.)</td>
<td>C-2BW -Planned Corridor Development Overlay -North Miami Transit Station Overlay District</td>
<td>Open space, Service and Retail uses, restaurant uses</td>
</tr>
</tbody>
</table>

The subject property is located on the north side of NE 123rd Street, bordered by NE 123rd Terrace and a surface parking lot and open space area to the north. Immediately east of the subject property
are existing retail, service, and commercial uses, to the west is an open space parcel that is part of the adjacent animal hospital with further retail and restaurant uses to the west, to the south is NE 123rd Street automotive service, retail, and service uses.

The subject property is zoned C-2BW, Commercial District. The purpose of C-2BW district is to designate areas appropriate for business, office, retail, service uses, light industrial and other commercial enterprises. Figures 1 and Figure 2 illustrate the zoning map and an aerial image of the subject property and its surroundings, respectively.

**Figure 1: North Miami Zoning Map**
CONSISTENCY WITH THE NORTH MIAMI 2036 COMPREHENSIVE PLAN

Commercial – The areas designated as Commercial on the City’s adopted Future Land Use Map (FLUM) are intended to promote economic activity, but other land uses such as community facilities, including school and places of worship, schools, and light industrial uses may also be appropriate. Uses permitted in areas classified Residential are as follows:

1. Retail uses, including restaurants.
2. Office and business uses.
3. Professional offices and businesses.
4. Community facilities such as schools, museums, places of worship, child and adult day care centers, nursing homes, governmental administration, police and fire protection facilities, and libraries.
5. Passive parks and open space.
6. Nonprofit neighborhood social and recreational facilities.
7. Light industrial uses.

The applicant’s proposed tattoo parlor is a permitted use in the Commercial land use designation through a special exception review and approval by the Board of Adjustment (BOA). The proposed tattoo parlor will contribute to the existing commercial uses along NE 123rd Street and does not seek to increase the existing height or intensity of the site. The proposed use is not anticipated to create adverse parking and transportation effects. As such, the proposed use contributes to the healthy and diverse economic activity encouraged in this designation while focusing new uses along a transit supportive major roadway corridor.

The applicant’s special exception request conforms to the goals, objectives, and policies of the Comprehensive Plan that supports a variety of commercial uses within the designation.

COMPLIANCE WITH THE CITY OF NORTH MIAMI LDRs

Criteria for granting special exceptions according to Article 3, Division 5, Section 3-504 of the LDRs provide authority to the BOA to hear and grant or deny applications for special exceptions. In evaluating an application for such a request, the BOA shall find that the application demonstrates compliance with the following standards:

A. The use is a listed special exception in the district where the property is located.
B. There is appropriate provision for access facilities adequate for the estimated traffic from public streets and sidewalks to assure the public safety and to avoid traffic congestion.
C. There are adequate parking areas and off-street truck loading spaces (if applicable) for the anticipated number of occupants, employees, patrons, and the layout of the parking is convenient and conducive to safe operation.
D. There is suitable landscaping or fencing alongside lot and rear lot lines adjacent to residential uses or residential zoning districts.
E. The proposed special exception is reasonable in terms of logical, efficient and economical extension of public services and facilities, such as public water, sewers, police and fire protection, and transportation.
F. The proposed special exception will constitute an appropriate use in the area and will not substantially injure or detract from the use of the surrounding property or from the character of the neighborhood.

G. No open code violations or unpaid code enforcement fines exist.

ANALYSIS

A review of the applicant’s request was performed using a six-prong test based on the standards noted above, as outlined in Section 3-504 of the LDRs. The request is found to comply with all such applicable standards, as demonstrated below.

✔ Is the use a listed special exception in the district where the property is located?

Yes. The Type of Uses chart provided in Article 4, Division 2, Section 4-202 of the LDRs lists, “Tattoo Parlor/Body Piercing” as a use that is permitted through special exception review and approval by the BOA in the C-2BW, Commercial District.

✔ Is there appropriate provision for access facilities adequate for the estimated traffic from public streets and sidewalks so as to assure the public safety and to avoid traffic congestion?

Yes. There is full frontal access to the existing development along NE 123rd Street. The existing spacing has been suitable for two-way circulation. The applicant has not proposed any redevelopment works to the exterior areas. Accordingly, the existing sidewalk, parking areas, and entrance will maintain its current condition.

✔ Are there adequate parking areas and off-street truck loading spaces (if applicable) for the anticipated number of occupants, employees, patrons, and the layout of the parking is convenient and conducive to safe operation?

Yes. Pursuant to LDRs, Article 5, Division 14, Section 5-1402: Schedule of Required Parking, the minimum required parking spaces for, “Retail sales and Services” shall be 1 space for each 300 square feet of floor area. Accordingly the proposed tattoo parlor at 1,000 square feet necessitates 3 parking spaces. There are approximately 34 parking spaces on-site shared with other commercial, retail, and service uses (to the rear of the building) and 26 parking spaces off-site (within the 123rd right-of-way parking area).

The proposed tattoo parlor will be located in an existing commercial/retail building with parking to the rear of the building on-site and off-site parking within dedicated parking areas within the City’s right-of-way along 123rd Terrace. The tattoo parlor, as per the Applicant’s letter of intent, will have 1 employee and operate by appointment. Accordingly, the new use is not anticipated to create an increased demand on the existing parking and transportation network due to the size and nature of the proposed use. The existing parking...
spaces that were allocated for the commercial uses of the plaza will be used to accommodate the patrons of tattoo parlor.

✓ Is there suitable landscaping or fencing alongside lot and rear lot lines adjacent to residential uses or residential zoning districts.

The adjacent land uses are similar non-residential and public uses and therefore no landscaping buffering is required.

✓ Is the proposed special exception reasonable in terms of logical, efficient, and economical extension of public services and facilities, such as public water, sewers, police and fire protection, and transportation?

Yes. All basic public services, such public water, sewers, police and fire protection are readily available and currently serve the property at the appropriate level-of-service. The proposed use will not require an extension of the public water and sewer lines and will not negatively impact the transportation system.

✓ Will the proposed special exception constitute an appropriate use in the area and will not substantially injure or detract from the use of the surrounding property or from the character of the neighborhood?

Yes. Tattoo parlors are an allowable use in the LDRs and are deemed to be generally suitable for location in the C-2BW District. Such uses may be permitted on a case-by-case basis after review and possible attachment of conditions by the BOA, pursuant to the procedures and criteria of Article 3, Division 5, Section 3-504 of the LDRs. The requested special exception clearly constitutes an appropriate use for this commercial section of the City and is harmonious with the existing and planned context for the area. This development is not anticipated to adversely impact or detract from the use of the surrounding properties or diminish the character of the areas.

✓ No open code violations or unpaid code enforcement fines exist.

No open code violations or unpaid fines exist for the subject property.

STAFF RECOMMENDATION

In light of these findings, staff recommends approval of the requested special exception use in accordance to Article 3, Division 5, Section 3-504: Standards of Approval of the Land Development Regulations (LDRs), to allow a tattoo parlor on the subject property with the following conditions:

1. That the applicant obtain the appropriate building permits for any remodel of the interior space, where applicable;
2. That the applicant obtain a Certificate of Use (CU) and Business Tax Receipt (BTR) prior to opening the proposed business; and
3. That the applicant comply with all local, state, and federal regulations.

PUBLIC NOTIFICATION/COMMENTS

In accordance with Subsections (A), (B) and (C) of Article 3, Division 3, Section 3-302 of the LDRs, notification of the applicant’s request was published in the Daily Business Review, posted on the property, and mailed to property owners within a 500-foot radius of the subject property.

Mailed Written Notification: on or before April 7, 2022
Published Newspaper Notification: on or before April 7, 2022
Posted Property Notice: on or before April 7, 2022

To date, no comments were received from neighboring property owners within a 500-foot radius.

APPLICABLE LDR SECTIONS

Article 3, Division 2: General Development Review Procedures
Article 3, Division 3, Section 3-302 (A), (B) and (C): Notice;
Article 3, Division 5, Section 3-504: Standards for Approval;
Article 4, Division 2, Section 4-201, 4-202 & 4-203: Zoning Districts;
Article 5, Division 14: Parking and Loading; and
Article 7, Section 7-101: Definitions.

ATTACHMENTS

Exhibit A: Application
Exhibit B: Letter of Intent
Exhibit C: Floorplan
Board of Adjustment Public Hearing Application

Instructions: Please print or type all information. The application must be filled out accurately and completely.

TYPE OF APPLICATION:
☒ Special Exception  ☐ Appeal by Applicant
☐ Variance  ☐ Appeal by Aggrieved Party

PROPERTY OWNER'S INFORMATION:
Owner's Name: Lazaro Amoral
Mailing Address: 501 35th Ave
City: Miami  State: FL  Zip: 33135
Phone #: 786-769-6859  E-mail Address: lazaro@lazaroamoralart.com

APPLICANT/DUALLY APPOINTED AGENT INFORMATION:
Contact Name: Carlos Steven Hernandez
Company Name: Hernandez Tattoo Corp
Mailing Address: 1445 NE 121st St North Miami
City: North Miami  State: FL  Zip: 33161
Phone: 305 244 6187  E-mail Address: HernandezTattoo.Bookings@Gmail.com

PROJECT INFORMATION:
Project Name: Tattoo Shop
Address of Property: 1445 NE 123 St
Folio Number(s): TLE-2009-108-0550

Size of Property: 1,315 sq-ft  Building Square Footage: 535 sq-ft for space

LEGAL DESCRIPTION: 22595-0400 08 2004

PREVIOUS APPROVALS:
Previous approvals (list all previous approvals that substantial compliance/site plan modification/administrative modification is being sought):

☐ N/A  Date Approved: _____________
☐ N/A  Date Approved: _____________

RWD 2/18/22
By Zoning Clerk
OWNER'S LIMITED POWER OF ATTORNEY PERMITTING APPLICANT TO FILE FOR THE REQUEST

(INDIVIDUAL)

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

I, LAZARO AMARANT, the fee owner, which is the fee owner of the property legally described below and which is the subject of the proposed request, do hereby grant limited power of attorney to CARLOS HERNANDEZ, to file this application for the proposed request.

LEGAL DESCRIPTION:


WITNESSES:

Signature
Print Name
Signature
Print Name

Sworn to and subscribed before me on the 18 day of February, 2022.
Affiant is personally known to me or has produced FL DL # AS 520, as identification.

Notary

Commission Expires:

Notary Public State of Florida
Isaiah C. Valcin
My Commission HH 099263
Expires 03/01/2025
OWNERSHIP AFFIDAVIT FOR INDIVIDUAL

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

Before me, the undersigned authority, personally appeared _______________________________ hereinafter the Affiant, who being first duly sworn by me, on oath, deposes and says:

1. Affiant is the fee owner of the property that is the subject of this request.
2. The subject property is legally described as:

3. Affiant understands this affidavit is subject to the penalties of law for perjury and the possibility of voiding of the zoning approval.
4. The Affiant has authorized _______________________________ as the applicant/duly appointed agent to file this application and to receive all correspondence and represent the Affiant.

WITNESSES:

Signature
Isaac Valer
Print Name

Signature
Print Name

Sworn to and subscribed before me on the __18__ day of __February__ 2022__ as identification.

Affiant is personally known to me or has produced __FL DEP ASCU-52600__ as identification.

Notary

Commission Expires:

[Stamp]
LEASE

THIS LEASE ("Lease") is made as of the __________ day of December, 2021 ("Date of Lease"), by and between Lazaro Amaral and The Amaral Revocable Living Trust (collectively "Landlord"), and Hernandez Tattoo, Corp ("Tenant").

I. BASIC LEASE PROVISIONS AND DEFINITIONS

1.1 Premises. A commercial space described as 1675 NE 123rd St., North Miami, Florida 33181, consisting of approximately 535 interior square feet under air, as outlined on Exhibit A attached hereto and made a part hereof.

1.2 Building. The building in which the Premises is located.

1.3 Intentionally Omitted.

1.4 Intentionally Omitted.

1.5 Common Area. All areas from time to time designated by Landlord for the general and nonexclusive common use or benefit of Tenant, other tenants of the Building, and Landlord, including, without limitation, roadways, entrances and exits, loading areas, landscaped areas, open areas, park areas, service drives, walkways, atriums, courtyards, concourses, ramps, hallways, stairs, washrooms, lobbies, elevators, common trash areas, vending or mail areas, common pipes, conduits, wires and appurtenant equipment within the Building, maintenance and utility rooms and closets, exterior lighting, exterior utility lines, and Parking Facilities.

1.6 Parking Facilities. There is one parking space for the Premises behind the Premises.

1.7 Size of Premises. The size of the Premises, including the Building, are deemed to be the amounts set forth in this Article I and described in Exhibit A. Landlord and Tenant stipulate and agree that the size of the Premises and, Building are correct and shall not be remeasured.

1.8 Permitted Use. Tenant may use the Premises subject to and in accordance with the terms, covenants and conditions set forth in this Lease, and applicable governmental regulations, restrictions and permitting (without the necessity of obtaining any zoning changes, conditional use permits or other special permits), solely for a tattoo studio.

1.9 Delivery Date and Commencement Date. The Premises is to be delivered to Tenant ("Delivery Date") by January 3rd, 2022. The commencement date of this Lease, which includes the commencement of Tenant’s obligation to pay rent ("Commencement Date") is January 3rd, 2022.

1.10 Expiration Date. The date that is twenty-four (24) months following the Commencement Date.
Date of this notice: 05-20-2021

Employer Identification Number:
86-3979232

Form: SS-4

Number of this notice: CP 575 A

For assistance you may call us at:
1-800-829-4933

IF YOU WRITE, ATTACH THE
STUB AT THE END OF THIS NOTICE.

WE ASSIGNED YOU AN EMPLOYER IDENTIFICATION NUMBER

Thank you for applying for an Employer Identification Number (EIN). We assigned you EIN 86-3979232. This EIN will identify you, your business accounts, tax returns, and documents, even if you have no employees. Please keep this notice in your permanent records.

When filing tax documents, payments, and related correspondence, it is very important that you use your EIN and complete name and address exactly as shown above. Any variation may cause a delay in processing, result in incorrect information in your account, or even cause you to be assigned more than one EIN. If the information is not correct as shown above, please make the correction using the attached tear off stub and return it to us.

Based on the information received from you or your representative, you must file the following form(s) by the date(s) shown.

Form 1120 04/15/2022

If you have questions about the form(s) or the due date(s) shown, you can call us at the phone number or write to us at the address shown at the top of this notice. If you need help in determining your annual accounting period (tax year), see Publication 538, Accounting Periods and Methods.

We assigned you a tax classification based on information obtained from you or your representative. It is not a legal determination of your tax classification, and is not binding on the IRS. If you want a legal determination of your tax classification, you may request a private letter ruling from the IRS under the guidelines in Revenue Procedure 2004-1, 2004-1 I.R.B. 1 (or superseding Revenue Procedure for the year at issue). Note: Certain tax classification elections can be requested by filing Form 8832, Entity Classification Election. See Form 8832 and its instructions for additional information.

IMPORTANT INFORMATION FOR S CORPORATION ELECTION:

If you intend to elect to file your return as a small business corporation, an election to file a Form 1120-S must be made within certain timeframes and the corporation must meet certain tests. All of this information is included in the instructions for Form 2553, Election by a Small Business Corporation.
If you are required to deposit for employment taxes (Forms 941, 943, 940, 944, 945, CT-1, or 1042), excise taxes (Form 720), or income taxes (Form 1120), you will receive a Welcome Package shortly, which includes instructions for making your deposits electronically through the Electronic Federal Tax Payment System (EFTPS). A Personal Identification Number (PIN) for EFTPS will also be sent to you under separate cover. Please activate the PIN once you receive it, even if you have requested the services of a tax professional or representative. For more information about EFTPS, refer to Publication 966, Electronic Choices to Pay All Your Federal Taxes. If you need to make a deposit immediately, you will need to make arrangements with your Financial Institution to complete a wire transfer.

The IRS is committed to helping all taxpayers comply with their tax filing obligations. If you need help completing your returns or meeting your tax obligations, Authorized e-file Providers, such as Reporting Agents (payroll service providers) are available to assist you. Visit the IRS Web site at www.irs.gov for a list of companies that offer IRS e-file for business products and services. The list provides addresses, telephone numbers, and links to their Web sites.

To obtain tax forms and publications, including those referenced in this notice, visit our Web site at www.irs.gov. If you do not have access to the Internet, call 1-800-829-3676 (TTY/TDD 1-800-829-4059) or visit your local IRS office.

IMPORTANT REMINDERS:

* Keep a copy of this notice in your permanent records. This notice is issued only one time and the IRS will not be able to generate a duplicate copy for you. You may give a copy of this document to anyone asking for proof of your EIN.

* Use this EIN and your name exactly as they appear at the top of this notice on all your federal tax forms.

* Refer to this EIN on your tax-related correspondence and documents.

If you have questions about your EIN, you can call us at the phone number or write to us at the address shown at the top of this notice. If you write, please tear off the stub at the bottom of this notice and send it along with your letter. If you do not need to write us, do not complete and return the stub.

Your name control associated with this EIN is HERN. You will need to provide this information, along with your EIN, if you file your returns electronically.

Thank you for your cooperation.
Return this part with any correspondence so we may identify your account. Please correct any errors in your name or address.

Your Telephone Number ( ) - ___________ ___________ 

DATE OF THIS NOTICE: 05-20-2021
EMPLOYER IDENTIFICATION NUMBER: 86-3979232
FORM: SS-4 NOBOD

INTERNAL REVENUE SERVICE
CINCINNATI OH 45999-0023

HERNANDEZ TATTOO CORP
1485 NE 121 STREET APT D112
NORTH MIAMI, FL 33181

Keep this part for your records. CP 575 A (Rev. 7-2007)
13-44-1856690

Issued To: Hernandez Nieves, Carlos Stiven
1485 NE 121 Street
North Miami, FL 33161

Mail To: Carlos Stiven Hernandez Nieves
1485 NE 121 Street
North Miami, FL 33161

Owner: Hernandez Nieves, Carlos Stiven

Tattooing - Artist

Dade
Amount Paid: $60.00
Date Paid: 10/14/2021
Issued Date: 12/01/2021
Expires On: 11/30/2022

Issued By:
Department of Health in Dade County

(305) 623-3500

Original Customer: Hernandez Nieves, Carlos Stiven (NON-TRANSFERABLE)
DISPLAY CERTIFICATE IN A CONSPICUOUS PLACE

13-44-1856690

Issued To: Hernandez Nieves, Carlos Stiven
1485 NE 121 Street
North Miami, FL 33161

Mail To: Carlos Stiven Hernandez Nieves
1485 NE 121 Street
North Miami, FL 33161

Owner: Hernandez Nieves, Carlos Stiven

Tattoos - Artist

Dade
Amount Paid: $60.00
Date Paid: 10/14/2021
Issued Date: 12/01/2021
Expires On: 11/30/2022

Issued By:
Department of Health in Dade County

(305) 623-3500
Awards this Certificate of Completion to

Carlos Stiven Hernandez Nieves

Bloodborne Pathogens and Communicable Diseases

This training is approved by the Florida Department of Health for tattoo artist licensure under section 381.0775, F.S. and Chapter 61J2-28, F.A.C.

Crucial Completed: 13 Aug 2021

No. 4037 13 13 08 2021
Local Business Tax Receipt
Miami–Dade County, State of Florida
—THIS IS NOT A BILL — DO NOT PAY

7334115
RECEIPT NO.
NEW BUSINESS
7628325

EXPIRES
SEPTEMBER 30, 2022
Must be displayed at place of business
Pursuant to County Code
Chapter 8A – Art. 9 & 10

7334115
BUSINESS NAME/LOCATION
HERNANDEZ TATTOO CORP
1675 NE 123RD ST
NORTH MIAMI, FL  33181-2702

7334115
OWNERS
HERNANDEZ TATTOO CORP
C/O CARLOS STEVEN HERNANDEZ
PRFR
Employee(s)  1

7334115
SEC. TYPE OF BUSINESS
213  TATTOO STUDIO

7334115
PAYMENT RECEIVED
BY TAX COLLECTOR
45.00   01/18/2022
0202-22-001621

7334115
This Local Business Tax Receipt only confirms payment of the Local Business Tax. The Receipt is not a license, permit, or a certification of the holder’s qualifications, to do business. Holder must comply with any governmental or nongovernmental regulatory laws and requirements which apply to the business.

7334115
The RECEIPT NO. above must be displayed on all commercial vehicles – Miami–Dade Code Sec 8a-276.
For more information, visit: www.miamidade.gov/taxcollector
ANNUAL OPERATING PERMIT

No. 22126-00125
Expires: February 28, 2023

Permit Use: Business Offices
Issued To: HERNANDEZ TATTOO CORP

Located At:
1675 NE 123 RD
NORTH MIAMI, FL 33161

This Permit is issued in accordance with Section 14-39 of the Miami-Dade County code under conditions set forth therein. Violations of the aforementioned will be grounds for immediate revocation.

Chief Darren A. Williams, Fire Marshal
Miami-Dade Fire Rescue Department
STATE OF FLORIDA
DEPARTMENT OF HEALTH
Tattooing Establishment License

13-44-2446837

Tattooing - Fixed Location

Issued To: Hernandez Tattoo Corp
1675 NE 123 Road
Miami, FL 33161

Mail To: Carlos Stiven Hernandez
1485 NE 121 Street
Miami, FL 33161

Owner: Hernandez, Carlos Stiven

County: Dade
Amount Paid: $200.00
Date Paid: 01/13/2022
Issued Date: 01/21/2022
Expires On: 01/20/2023

Issued By:
Department of Health in Dade County

(305) 623-3500

STATE OF FLORIDA
DEPARTMENT OF HEALTH
Tattooing Establishment License

13-44-2446837

Tattoos - Fixed Location

Issued To: Hernandez Tattoo Corp
1675 NE 123 Road
Miami, FL 33161

Mail To: Carlos Stiven Hernandez
1485 NE 121 Street
Miami, FL 33161

Owner: Hernandez, Carlos Stiven

County: Dade
Amount Paid: $200.00
Date Paid: 01/13/2022
Issued Date: 01/21/2022
Expires On: 01/20/2023

Issued By:
Department of Health in Dade County

(305) 623-3500

Original Customer: Hernandez Tattoo Corp (NON-TRANSFERABLE)
DISPLAY CERTIFICATE IN A CONSPICUOUS PLACE
SERVICE AGREEMENT

Effective Date: 01/11/2022

Customer name: Hernandez Tattoo Corp

Service locations: 1675 NE 123 Rd North Miami FL 33161

Phone number: 210-969-5842

Email/Fax: hernandeztattoo.booking@gmail.com

Contact: Carlos Hernandez

For and in consideration of the mutual promises herein contained, MEDICAL WASTE MANAGEMENT CORP., hereafter referred to as Contractor and Hernandez Tattoo Corp, hereafter referred to as Customer, agree as follow:

DISPOSAL SERVICE: Contractor will collect all Customer generated biohazardous waste in approved containers supplied by Contractor. Customer is responsible for sealing red bags securely within box provided and complying with all federal, state and local regulations. Contractor has the right to refuse any package not sealed, improperly packaged, overweight, leaking, damaged or known to contain corrosive, reactive or radioactive substances.

CUSTOMER RESPONSIBILITY AND LIABILITIES: Customer warrants that waste delivered or surrendered to MEDICAL WASTE MANAGEMENT CORP. will not contain any hazardous or toxic waste as defined by federal, state or local regulations and assumes for the same.

CONTRACTOR RESPONSIBILITIES AND LIABILITIES: Medical Waste Management Corp. shall indemnify and hold Customer harmless from any liabilities arising from the gross negligence of the Contractor. Responsibilities for transportation of Regulated Medical Waste collected from Customer shall transfer to Contractor at the time it is loaded on Contractor's vehicle. Contractor will provide Customer a copy of pick-up manifest and upon transporting and incinerations, a copy of Certificate of Destruction. Contractor is covered in its operations with complete insurance coverage, and all permits and licenses as required by local, state and federal regulations. Copies are available upon request.

BINDING EFFECT: This agreement shall be legally binding on the part of both Medical Waste Management Corp. and the Customer in accordance with the terms and conditions set out herein.

TERM: The term of this agreement shall be twelve months. Fees are due at the end of the billing cycle. Contractor and Customer shall have the right to terminate this agreement at the end of the initial term or any successive term, with 90 days’ written notice. After the initial term and any successive term, if notice is not given, contract is automatically renewed for additional successive term. If Customer breaches this agreement, Contractor has the right to, and Customer agrees to pay liquidated damages of 50% of the Customer’s average monthly charge multiplied by the number of months remaining on this agreement plus legal fees.

EXCUSED PERFORMANCE: Neither party shall be liable for failure to perform due to contingencies beyond its reasonable control, such as strikes, riots, fires or acts of God.

ASSIGNMENTS: This agreement shall be binding on the parties and their successors and assigns.

SERVICE SCHEDULE: Weekly, Biweekly. Every 28 days. Additional pickups at standard rate available upon request.

RATES: $35 per 15/30 gal box.
$9 per 2 gal sharp (as needed)
$10 per month for compliance training (optional)

Contractor: Medical Waste Management Corp.

Print Authorized Name: Daniel Fernandez

Authorized signature

Customer: Stiven Hernández

Print Authorized Name: Hernandez tattoo

Carlos stiven Hernández 01/12/22

Authorized signature, Title & Date
February 17, 2022

To whom it may concern,

I Carlos Stiven Hernandez Nieves, owner of Hernandez Tattoo Corp. hereby certify that I am requesting approval for a tattoo shop at the location 1675 NE 123rd St North Miami, FL 33181, which I have already signed the lease for 2 years. I have worked as a tattoo artist for the past 10 years in other tattoo shops. In the past 4 years I have traveled to many states for competitions and I have won numerous international awards. I have gained experience from all of my traveling. I am now ready to open my own tattoo shop and my shop would be an asset to the city of North Miami. My tattoo shop will have the best equipment and sanitation available to make sure that clients have the safest experience. As an artist I take pride in what I do and offer the most professional service to all of my clients. There will be no other services offered at my shop, I will only be performing tattoo's on my clients.

Sincerely,
### WALL LEGEND:

<table>
<thead>
<tr>
<th>Type</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Solid</td>
<td>Solid wall</td>
</tr>
<tr>
<td>Open</td>
<td>Open wall</td>
</tr>
</tbody>
</table>

### EXTERIOR WIND PRESSURE SCHEDULE

<table>
<thead>
<tr>
<th>Exterior Wall</th>
<th>Pressure Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Pressure Schedule 1</td>
</tr>
<tr>
<td>2</td>
<td>Pressure Schedule 2</td>
</tr>
</tbody>
</table>

### EXTERIOR & INTERIOR DOOR SCHEDULE

<table>
<thead>
<tr>
<th>Door Type</th>
<th>Pressure Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Pressure Schedule 1</td>
</tr>
<tr>
<td>2</td>
<td>Pressure Schedule 2</td>
</tr>
</tbody>
</table>

### NOTES:

1. Exterior doors are to be supplied by the Contractor.
2. Interior doors are to be supplied by the Owner.
3. All doors are to be pre-assembled and installed by the Contractor.
4. Door thresholds shall be installed by the Contractor.

### PARTITION SCHEDULE

<table>
<thead>
<tr>
<th>Partition</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Partition 1</td>
</tr>
</tbody>
</table>

### GENERAL NOTES:

1. All materials are to be in compliance with the manufacturer's specifications.
2. All workmanship is to be in compliance with the manufacturer's instructions.
3. All finishes are to be in compliance with the manufacturer's recommendations.
4. All fixtures are to be in compliance with the manufacturer's specifications.

---

**FLOOR PLAN**

- Alien Insurance Agency - Outlook

---

**123rd St Store**

- Florida, FL 33012

---

**A-2.1**

---

**About:** blank

---

1/1
NOTICE OF PUBLIC HEARING

May 5, 2022

Dear Property Owner:

Notice is hereby given that the City of North Miami has received and will consider the following request:

V-05-22 – FENCE HEIGHT AND OPACITY VARIANCE WITHIN FRONT YARD – 13485 NE 2ND AVENUE

A VARIANCE TO ARTICLE 5, DIVISION 12, SECTION 5-1210(A)(1) & (3) OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO: (1) ALLOW A 100% OPAQUE FENCE IN THE FRONT YARD SETBACK AND (2) ALLOW A 6-FOOT TALL FENCE WITHIN THE REQUIRED FRONT YARD AT THE PROPERTY LOCATED AT 13485 NE 2ND AVENUE WITHIN THE R-2 SINGLE FAMILY RESIDENTIAL DISTRICT; SAID VARIANCE IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.

The Board of Adjustment will hear this request on Wednesday, May 18, 2022 at 6:30 p.m. You are welcome to attend this meeting where you will be given an opportunity to express your support or concerns, if you so choose. The meeting will be held in the City Council Chambers on the second floor of the City Hall located at 776 Northeast 125 Street, North Miami, FL 33161.

The City is mailing notice of this request as a courtesy to the surrounding property owners. No response is necessary on your part. However, if you wish to respond and cannot attend the meeting, you may respond in writing to the Board of Adjustment, c/o Community Planning & Development Department, City of North Miami, 12400 NE 8 Avenue, North Miami, FL 33161. The application documents are available for review upon request in the Community Planning & Development Department.

Sincerely,

Derrick L. Cook, MBA
Zoning Manager
Community Planning & Development
To: The Board of Adjustment

From: Cameron Palmer, BURPl
Planner, Community Planning & Development Department

Through: Derrick Cook, MBA – Acting Director DATE: 05/11/2022

Date: May 18, 2022

V-03-22: FENCE HEIGHT AND OPACITY VARIANCE WITHIN FRONT YARD – 13485 NE 2ND AVENUE

APPLICATION SUMMARY

Applicant(s): Mervelie Souffrant (Property Owner)
Location: 13485 NE 2nd Ave, North Miami, FL 33161
Land Area: 12,000 square feet (0.28 acres +/-)
Folio Number: 06-2125-000-0180

Petition: A VARIANCE TO ARTICLE 5, DIVISION 12, SECTION 5-1210(A)(1) & (3) OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO: (1) ALLOW A 100% OPAQUE FENCE IN THE FRONT YARD SETBACK AND (2) ALLOW A 6-FOOT TALL FENCE WITHIN THE REQUIRED FRONT YARD AT THE PROPERTY LOCATED AT 13485 NE 2ND AVENUE WITHIN THE R-2 SINGLE FAMILY RESIDENTIAL DISTRICT; SAID VARIANCE IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.

PROJECT SUMMARY

The applicants and property owner, Mervelie Souffrant, is requesting a hardship relief from Article 5, Division 12, Section 5-1209(K)3 and Sec. 5-1210(A)(1) & (3) of the Land Development Regulations (LDRs), for the property located at 13485 NE 2nd Ave (south of NW 131st Street and east of NW 11th Avenue). At present, the fence exceeds the maximum allowed twenty-five (25) percent opacity and maximum height of 5-feet within the front yard of properties located within the R-2, Single-Family zoning district. The existing fence requires a variance to:
1. Exceed the maximum allowed twenty-five (25) percent opacity (solid) criteria that reduces the minimum required seventy-five (75) percent visibility (open space) of fences installed within the front yard of R-2 zoning district; and

2. Exceed the maximum allowed height of 5 feet in the front yard.

To address the safety concerns regarding pedestrian and driver visibility brought about by the current 6-foot fence in the front yard, the Building department together with the applicant has proposed to install two (2) periscope mirrors on each side of the front gateway along the driveway of the subject property. These mirrors will increase the visibility of pedestrians, cyclist, and other drivers by creating an indirect line of sight from the driveway on the subject site to the areas immediately east and west of the 6-foot high opaque fence.

**BACKGROUND**

The property is approximately 12,000 square feet (0.28 acres +/-) and is located on the east side of NE 2nd Avenue south of NE 135th Street. According to the Miami-Dade County’s Property Appraiser, the subject property contains a single-story residential building that totals approximately 1,403 square feet, constructed in 1986.

On May 19, 2014 the City approved and provided a building permit for a 5-foot 25% opaque picket fence along the front and side lot lines of the subject property. However on July 1, 2014 the City Building department finaled/approved and closed, in err, the building permit on the existing non-compliant 6-foot fence. Consequently, the non-conforming fence has existed for 8 years. On December 2, 2021 the Building Department discovered the approval error and re-opened the previously closed fence permit in an effort to rectify the negative safety impacts that persist due to the non-conforming fence.

Following numerous correspondence and meetings with the applicant and the City’s Building Department to discuss options to remedy the safety concerns of the as-built fence. The Building Official determined that the most reasonable course of action is to allow the fence to remain as-built in its existing location with the addition of a parabolic mirror and for the applicant to appear before the Board of Adjustment to request a variance for the as-built fence.

The applicant is hereby seeking a variance to deviate from the maximum allowed twenty-five (25) percent opacity (solid) criteria and 5-foot height maximum for fences installed within the front yard of R-2 zoning district, requiring Board of Adjustment (BOA) review for decision.

**PRIOR CITY CASES RELEVANT TO SUBJECT PROPERTY**

1. **BFE00-2014-00069**: Building permit finaled on July 1, 2014 to install a “aluminum picket fence 5 ft. on both side property lines.

2. The subject property has no open code violations.
SURROUNDING LAND USE CHARACTERISTICS

<table>
<thead>
<tr>
<th>Property</th>
<th>Future Land Use</th>
<th>Existing Zoning</th>
<th>Existing Use/Subdivision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site</td>
<td>Low Density Residential (35 ft., 5.1 du/ac)</td>
<td>R-2 Single-Family</td>
<td>Single-Family Home</td>
</tr>
<tr>
<td>North</td>
<td>Low Density Residential (35 ft., 5.1 du/ac)</td>
<td>R-2 Single-Family</td>
<td>Single-Family Home</td>
</tr>
<tr>
<td></td>
<td>-R-2 Single-Family</td>
<td></td>
<td>-Single-Family Home</td>
</tr>
<tr>
<td></td>
<td>-Unincorporated Miami-Dade County</td>
<td></td>
<td>- NE 135th Street</td>
</tr>
<tr>
<td>South</td>
<td>Low Density Residential (35 ft., 5.1 du/ac)</td>
<td>R-2 Single-Family</td>
<td>Single-Family Home</td>
</tr>
</tbody>
</table>

The subject property together with the surrounding properties is zoned R-2 single-family district providing a low-density residential neighborhood characteristic. The area classified as Low Density Residential on the Future Land Use Map is intended primarily for residential dwellings. Figure 1 and 2 illustrates the zoning map, and an aerial image of the subject property and its surroundings, respectively.

*Figure 1: North Miami Zoning Map*
ANALYSIS

Article 3, Division 6, Section 3-606 of the City’s LDRs authorizes the Board of Adjustment (BOA) to hear and grant or deny applications for variances from the terms of these LDRs. In evaluating this application for a variance, the BOA shall evaluate the proposed findings prepared by staff based upon the following standards. To authorize any variance from the terms of these LDRs, the BOA shall find that the applicant has demonstrated compliance with four (4) of the following six (6) standards:

1. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

   Yes. The building Department finaled the construction of a fence in 2014 that did not match the approved drawings. The permit was re-opened in December 2021 to address the safety issues created by the 100% opaque and 6ft tall fence within the front yard setback. While the particular condition regarding a front yard fence is not peculiar to the land or area, the circumstances and safety concerns surrounding the original erroneous approval from the Building Department in July 2014 gives the reason for this variance.

2. The unusual circumstances or conditions necessitating the variance request are present in the neighborhood and are not unique to the property.

   No. The unusual circumstance necessitating the variance is unique to the circumstances of the subject property.
3. That the requested variance maintains the basic intent and purpose of the subject regulations, particularly as it affects the stability and appearance of the City.

Yes. The basic intent and purpose of a fence is to mark a boundary, provide security, and/or provide a decorative function. The LDRs go further to state, “fences and walls shall be solely for the demarcation and separation of properties for privacy and use purposes”. Supplementary, the LDRs call out fence heights in which the fence may increase, or decrease based on the location, zoning, or use of the property, and if the fence is located at an intersection.

For this analysis, the property is not at an intersection, and the fence is permitted to be installed on the property lines. It is noted that the code anticipates circumstances where portions of fences may exceed the 5-foot maximum in the front yard, as per Section 5-1210 of the LDRs, decorative arches for gates may extend up to 12 inches above the approved fence with posts exteriors permitted up to 6 inches above the approved fence. Lastly, at the recommendation of the Building department a parabolic mirror will be installed to remedy the safety impacts of the fence and in an effort to maintain the purpose of the subject regulations in the LDRs.

4. The literal interpretation of the provisions of these LDRs would deprive the applicant of the rights commonly enjoyed by other properties in the same zoning district under the terms of these LDRs.

No. Whereas, the reasonable use of the land, building, or structure is not deprived by the installation of a fence that complies with LDRs, Section 5-1209(K)(3). Additionally, the application of the LDR requirements does not deprive the applicants of rights commonly enjoyed by other properties in the same zoning district to install a fence.

5. The variance requested is the minimum variance that will make possible the reasonable use of the land, structure, or building.

Yes. In that, the requested variance seeks to legalize the non-conforming fence that was finaled in err by City Building staff and has been built for over 6 years. The demolition and reconstruction of the fence is not a solution that will make reasonable use of the fence structure given the unique nature of the error made by the Building Department and the length of time the structure has existed due to this error. The addition of a periscope mirror to the property will mitigate safety issues with the existing 6-foot tall fence. As such the proposed variance is the minimum variance that will make possible the reasonable use of the fence and will legalize the existing non-conforming fence.

6. The granting of the variance will be in harmony with the general intent and purpose of these LDRs and such variance will not be injurious to the area involved.
The requested variance will legalize a non-conforming fence that does not meet the minimum LDR’s requirement for fences located within the front yard minimum setback area in a single family R-2 residential zone. Therefore, the purpose of the variance is not in harmony with the LDR’s general intent and purpose.

However, the placement of a parabolic mirror on the fence will mitigate potential injurious aspects of the non-conformity.

STAFF RECOMMENDATION

Pursuant to Article 5, Division 12, Section 5-1209(K)3 and Section 5-1210(A)(1) & (2) of the Land Development Regulations (LDRs), the applicants hereby seek a variance to deviate from the required twenty-five percent (25%) opacity (solid) minimum criteria permitting seventy-five percent (75%) visibility (open space) of fences installed within the front yard and the 5-foot fence height maximum in the R-2 zoning district.

City staff finds that the request satisfies (3) of the six (6) requirements where four (4) of six (6) is needed to allow staff to recommend an approval of the request. In light of these findings and the unique circumstances that has given way for this variance request, staff renders no recommendation to the Board.

PUBLIC NOTIFICATION/COMMENTS

In accordance with Subsections (A), (B) and (C) of Article 3, Division 3, Section 3-302 of the LDRs, notification of the applicant’s request was published in the Daily Business Review, posted on the property, and mailed to property owners within a 500-foot radius of the subject property.

- Mailed Written Notification: on or before May 5, 2022
- Published Newspaper Notification: on or before May 5, 2022
- Posted Property Notice: on or before May 5, 2022

To date, no comments were received from neighboring property owners within a 500-foot radius.

APPLICABLE LDR SECTIONS

- Article 3, Division 3, Section 3-302 (A), (B) and (C): Notice;
- Article 3, Division 6, Section 3-606 (A) and (B): Standards for Variances;
- Article 4, Division 2, Section 4-201: Purpose of Districts;
- Article 5, Division 12, Section 5-1209: Fences, walls and hedges;
- Article 5, Division 12, Section 5-1210: General standards for residential and residential office districts, nonresidential districts, safety barriers for swimming pools, and barbed wire;
- Article 6, Division 1: Nonconforming uses and structures; and
- Article 7, Section 7-101: Definitions.

ATTACHMENTS
Exhibit A: Application
Exhibit B: Letter of Intent
Exhibit C: Survey
Exhibit D: Existing Fence Photos
Instructions: Please print or type all information. The application must be filled out accurately and completely.

TYPE OF APPLICATION:
☐ Special Exception  ☐ Appeal by Applicant
☐ Variance  ☐ Appeal by Aggrieved Party

PROPERTY OWNER'S INFORMATION:
Owner's Name: MERUELLE SOUFRANT
Mailing Address: 13485 NE 2nd Ave
City: NORTH MIAMI  State: FL  Zip: 33161
Phone #: 305-303-5457
E-mail Address: 

APPLICANT/DUTY APPOINTED AGENT INFORMATION:
Contact Name: MERUELLE SOUFRANT
Company Name: 
Mailing Address: 13485 NE 2nd Ave
City: NORTH MIAMI  State: FL  Zip: 33161
Phone: 305-303-5457
E-mail Address: mereloune35@gmail.com

PROJECT INFORMATION:
Project Name: Residential - single family fence in R-2
Address of Property: 13485 NE 2nd Ave
Folio Number(s): 06-2125-000-0180

Size of Property: Building Square Footage:

LEGAL DESCRIPTION:
25 52 41 .275AC M/L
975FT OF N700FT OF W160FT OF, 8210FT OF N1855-4558 03 1999 1,
COC 25930-3208 08 2007 1

PREVIOUS APPROVALS:
Previous approvals (list all previous approvals that substantial compliance/site plan modification/administrative modification is being sought): 

Date Approved: 

Date Approved: 

RCUD 3/25/22
OWNERSHIP AFFIDAVIT FOR INDIVIDUAL

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

Before me, the undersigned authority, personally appeared ___________ MERVELIE SOUFFRANT
hereinafter the Affiant, who being first duly sworn by me, on oath, deposes and says:

1. Affiant is the fee owner of the property that is the subject of this request.
2. The subject property is legally described as:

3. Affiant understands this affidavit is subject to the penalties of law for perjury and the possibility of voiding of the zoning approval.
4. The Affiant has authorized ___________________________________________ as the applicant/duly appointed agent to file this application and to receive all correspondence and represent the Affiant.

WITNESSES:

Signature
Print Name
Signature
Print Name

Sworn to and subscribed before me on the 25 day of March, 2022.
Affiant is personally known to me or has produced FL DL# ___________ as identification.
Notary Commission Expires:

[Signature]
OWNER'S LIMITED POWER OF ATTORNEY PERMITTING APPLICANT TO FILE FOR THE REQUEST

(INDIVIDUAL)

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

I, MERVELIE SOUTHERN, the fee owner, which is the fee owner of the property legally described below and which is the subject of the proposed request, do hereby grant limited power of attorney to ________________________ to file this application for the proposed request.

LEGAL DESCRIPTION:

________________________________________________________

________________________________________________________

________________________________________________________

________________________________________________________

WITNESSES:

Signature

Print Name

Signature

Print Name

Signature

Print Name

Sworn to and subscribed before me on the 25 day of March 2022, as identification.

Notary

Commission Expires.

Fee Owner's Signature

Print Name

Address

13485 NE 2 AVE

N Miami, FL 33161

ID Number

965-340-79-755-20
December 2, 2021

MERVELIE SOUFFRANT
EVENOU CHERY
13485 NE 2 AVE
NORTH MIAMI, FL 33161

Re: Permit Finalled in Error – Permit No. BFE00-2014-00069 (13485 NE 2 AVE – NORTH MIAMI, FL 33161)

Dear Property Owner/Agent,

The City of North Miami – Building Department has finalled your Permit No. BFE00-2014-00069 for the above address in error. Actual built conditions deviated from permitted documents issued on 05/19/2014. You are hereby formally notified that you have 90 days from the date of this notice to correct fencing at front of property to match permitted documents (see the attached for copy of your permitted documents). Failure to resolve this matter will result in code enforcement actions.

If you have any questions, please feel free to contact me at 305-339-6415 or via e-mail at jeanmarc@northmiamifl.gov.

Sincerely,

Mare Jean, P.E., C.B.O.
City of North Miami - Building Official

cc: Property File
To: Manager Theresa Therilus, Esq.

From: Marc (Mare) Jean, C.B.O., P.E., Building Official

Date: December 27, 2021

RE: Re - Opening of Fence Permit BFE00-2014-00069 (Marveilie Souffnant - Owner at 13485 NE 2 AVE)

On December 2, 2021, the Building Department discovered fence permit no. BFE00-2014-00069 (13485 NE 2 AVE - NORTH MIAMI, FL 33161), which was closed on July 1, 2014, was finalized in error on July 1, 2014. As-built conditions deviated from permitted documents issued on May 19, 2014. In essence, a 6 feet solid metal fence was built on the two sides of the property instead of a 5 feet metal picket fence. See enclosed 'EXHIBIT 1' illustrating deviation from permitted documents with annotations in 'RED'. Since then, there have been numerous phone conversations with Marveilie Souffnant, the property owner, explaining in detail the Building Department’s decision to re-open the closed fence permit. I explained to Marveilie that the Building Department will not hold her Certificate of Occupancy for her new addition, but the re-opening of the fence permit was necessary. With her fence presently constructed as a 6 feet high solid fence, this presents a danger to the oncoming sidewalk pedestrians due to an obstructed view of her car backing out of her driveway. On December 2, 2021, a representative from the Building Department visited the property to observe the as-built conditions of the fence and confirmed that a visual obstruction hazard exists. See enclosed 'EXHIBIT 2' illustrating as-built conditions of fence and danger to sidewalk pedestrians that exist with annotation in 'RED'.

During the conversation with Marveilie Souffnant, myself and you on December 15, 2021, we discussed the various options to remedy the deviation of the as-built fence conditions from the permitted documents. Marveile also meet with Marline Monestime, of Community Planning and Development, on December 20, 2021, to discuss the process to appear before the Board of Adjustment for a tentative date of February 2022. So far, the lowest price for the 500 feet Radius Survey is $370 from Rio Development Resources [telephone no.
305-498-1614). See enclosed ‘EXHIBIT 3’ e-mail correspondence verifying the price of 500 feet Radius Survey.

My recommendation to the Board of Adjustment will be that the fence stays as-is but a parabolic mirror will need to be installed and maintained for the life of the fence configuration. Also, would recommend that the parabolic mirror along with any hardware be weather and corrosion-resistant. So far, the price of the parabolic mirror (excluding mounting hardware and shipping charges) is $51. See enclosed ‘EXHIBIT 4’ illustrating a possible parabolic mirror that could be used with a possible location for mounting with annotation in ‘RED’.

Feel free to reach out to me if you need any assistance or clarification on this matter.
NOTICE OF PUBLIC HEARING

May 5, 2022

Dear Property Owner:

Notice is hereby given that the City of North Miami has received and will consider the following requests:

V-04-22 – VARIANCE TO THE MINIMUM DISTANCE SEPARATION – 631 NE 125TH STREET

A VARIANCE TO ARTICLE 5, DIVISION 22, SECTION 5-2203(B) OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW A BEAUTY SALON WITHIN ONE THOUSAND FIVE HUNDRED (1,500) FEET OF AN IDENTICAL OR SIMILAR USE AT THE PROPERTY LOCATED AT 631 NE 125TH STREET WITHIN THE C-3 COMMERCIAL DISTRICT; SAID VARIANCES ARE TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.

The Board of Adjustment will hear this request on Wednesday, May 18, 2022 at 6:30 p.m. You are welcome to attend this meeting where you will be given an opportunity to express your support or concerns, if you so choose. The meeting will be held in the City Council Chambers on the second floor of the City Hall located at 776 Northeast 125 Street, North Miami, FL 33161.

The City is mailing notice of this request as a courtesy to the surrounding property owners. No response is necessary on your part. However, if you wish to respond and cannot attend the meeting, you may respond in writing to the Board of Adjustment, c/o Community Planning & Development Department, City of North Miami, 12400 NE 8 Avenue, North Miami, FL 33161. The application documents are available for review upon request in the Community Planning & Development Department.

Sincerely,

Derrick L. Cook, MBA
Zoning Manager
Community Planning & Development
To: The Board of Adjustment

From: Cameron Palmer, BURPl
       Planner, Community Planning & Development Department

Through: Derrick Cook, MBA – Acting Director

Date: May 18, 2022

V-04-22 VARIANCE TO THE MINIMUM DISTANCE SEPERATION – 631 NE 125TH STREET

Application Summary

Applicant/Agent: Johanne Vital
Location: 631 NE 125TH Street
Land Area: 4650 square feet (0.11 acre)
Folio Number: 06-2230-007-0710

Petitions: A VARIANCE TO ARTICLE 5, DIVISION 22, SECTION 5-2203(B) OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW A BEAUTY SALON WITHIN ONE THOUSAND FIVE HUNDRED (1,500) FEET OF AN IDENTICAL OR SIMILAR USE AT THE PROPERTY LOCATED AT 631 NE 125TH STREET WITHIN THE C-3 COMMERCIAL DISTRICT; SAID VARIANCES ARE TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.

Project Summary

The subject property comprises of approximately 4,650 square feet (0.11 acres) and is located on the north side of 125th Street, east of West Dixie Highway and NE 6th Avenue. The rear of the property abuts an alley. According to Miami-Dade County Property Appraiser’s records, the Property is improved with a one-story retail structure containing approximately 4,650 square feet of retail space, the unit the applicant is seeking the variance for is 800 square feet in size and is currently vacant. The Applicant is not proposing any exterior modifications to the existing structure on the Property or the existing parking and landscaping improvements.
The applicant proposes to maintain the existing structure on the property and to operate a beauty salon. The Property is located in the C-3 Commercial zoning district. Pursuant to Section 5-2203 of the LDRs, hair salons and barber shops are permitted within the C-3 zoning district subject to a distance separation requirement of 1,500 feet to a similar or identical use. Accordingly, the applicant is seeking a variance from the minimum distance separation for the proposed salon use in the C-3 zone where other similar or identical uses already exist within 1,500 feet.

The subject property is located within an exempt parking areas as per Section 5-1404, which permits the redevelopment or change of use on a parcel within the boundaries of NE 126th Street to the north, 124th Street to the south, 9th Avenue to the east, and W Dixie Highway to the west.

The proposed beauty salon will operate six (6) days a week from 9:30am to 6:00pm with an undisclosed number of employees at present.

**Background**

The building on the property was originally constructed in 1951. Throughout the years, the building has been occupied with various retail and service uses. The previous occupants of the unit was a tattoo parlor.

**Neighborhood Land Use Characteristics**

<table>
<thead>
<tr>
<th>Property</th>
<th>Future Land Use</th>
<th>Existing Zoning</th>
<th>Existing Use/Subdivision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site</td>
<td></td>
<td>C-3 Commercial District &amp; Planned Corridor Development Overlay Neighborhood Redevelopment Overlay</td>
<td>Commercial/Retail</td>
</tr>
<tr>
<td>North</td>
<td>Central Business Commercial (150 ft.) Planned Corridor Development Overlay Neighborhood Redevelopment Overlay</td>
<td></td>
<td>- Paved Alley</td>
</tr>
<tr>
<td>South</td>
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<td></td>
<td>- Commercial/Retail</td>
</tr>
<tr>
<td>East</td>
<td></td>
<td></td>
<td>- NE 125th Street</td>
</tr>
<tr>
<td>West</td>
<td></td>
<td></td>
<td>- Restaurant</td>
</tr>
</tbody>
</table>

Figure 1 is an aerial view of the subject property and surrounding uses and Figure 2 depicts the subject property within the C-3 zoning district and
Consistency with the City of North Miami Comprehensive Land Use Plan

The subject property is designated Central Business Commercial (150 ft) on the City’s adopted Future Land Use Map (FLUM). In accordance with Policy 1.21.5 of Objective 1.21 of the Future Land Use Element (FLUE) of the City’s Comprehensive Plan, this land use category is intended to provide land area for business, office, retail, service, light industrial and other commercial enterprises. Uses permitted in areas designated Central Business Commercial area are as follows:

1. (Residential) Mixed use.
2. Retail uses, including restaurants.
3. Office and business uses.
4. Professional offices and businesses.
5. Community facilities such as schools, museums, places of worship, child and adult day care centers, nursing homes, governmental administration, police and fire protection facilities, and libraries.
6. Passive parks and open space.
7. Nonprofit neighborhood social and recreational facilities.
8. Light industrial uses.

The applicant’s proposed beauty salon is considered a business use. As such, the applicant’s variance request conforms to the goals, objectives and policies of the Comprehensive Plan.

Compliance with the City of North Miami Land Development Regulations

The subject property is zoned C-3, Commercial District on the City’s Adopted Zoning Map. The property has already been developed as a one-story, 4650-square foot commercial structure. The applicant intends to provide a beauty salon within 1,500 ft of another identical or similar use which is contrary to Section 5-2203 of the LDR’s. Accordingly the application seeks relief of the LDRs by a Board of Adjustments (BOA) variance to the minimum distance separation requirement of 1,500 feet.

Criteria for granting variances: Article 3, Division 6, Section 3-606 of the City’s LDRs provides authority to the BOA to hear and grant or deny applications for variances from the terms of these LDRs. In evaluating an application for variances, the BOA shall find that the applicant demonstrates compliance with four of the six (6) items as listed below:

1. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.
2. The unusual circumstances or conditions necessitating the variance request are present in the neighborhood and are not unique to the property.
3. That the requested variance maintains the basic intent and purpose of the subject regulations, particularly as it affects the stability and appearance of the City.
4. The literal interpretation of the provisions of these LDRs would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these LDRs.
5. The variance requested is the minimum variance that will make possible the reasonable use of the land, structure or building.
6. The granting of the variance will be in harmony with the general intent and purpose of these LDRs and such variance will not be injurious to the area involved.

Analysis

As per Article 5, Division 22, Section 5-2204 of the City’s LDRs, to prevent the proliferation of one single type of use in the Downtown area, a distance limitation has been implemented on certain uses, including beauty salons. It is noted that the area immediately surrounding the subject property has approximately 14 beauty salons or barbershops within 1,500 feet. Upon reviewing this variance request, it is found to meet two (2) of the six (6) criteria set forth in Article 3, Division 6, Section 3-606, as demonstrated below:
✓ Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.
   No.

✓ The unusual circumstances or conditions necessitating the variance request are present in the neighborhood and are not unique to the property.
   Yes. There are approximately 14 existing beauty salons and/or barbershops within 1,500 feet of each other within the C-3 zoning district. Specifically the proposed use will be 415 feet to the east, 366 feet to the south, 393 feet to the west, and 900 feet to the north of similar or identical uses.

✓ That the requested variance maintains the basic intent and purpose of the subject regulations, particularly as it affects the stability and appearance of the neighborhood.
   No. The requested variance does not maintain the basic intent and purpose of the subject regulations. The purpose of the distance separation regulation is to prevent a proliferation of one type of use within the Downtown area. In doing so, the distance separation regulation encourages a healthy and diverse mix of commercial/retail uses required for a vibrant and active downtown.
   Having said that, it is noted that neither the stability nor the appearance of the neighborhood would be affected by the proposed variance.

✓ The literal interpretation of the provisions of these LDRs would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these LDRs.
   No. The literal interpretation of the provisions of these LDRs does not deprive the Applicant of rights commonly enjoyed by other properties in this area because the LDRs specifically state that any person or corporation who seeks to operate a Beauty Salon within the C-3 zoning district must meet the minimum distance separation.

✓ The variance requested is the minimum variance that will make possible the reasonable use of the land, structure, or building.
   Yes. The requested variance for relief from the distance separation is arguably a minimal variance, which will allow the Applicant to establish their proposed business. This is not to say that the subject property could not be reasonably used for another permitted use in the C-3 zoning district.

✓ The granting of the variance will be in harmony with the general intent and purpose of these LDRs and such variance will not be injurious to the area involved.
   No. The purpose of the LDRs is to regulate the location of hair salons, barber shops, consignment shops, convenience stores, tax preparation businesses, self-storage facilities and their effect on the aesthetics and economic viability of certain neighborhoods. As such, the LDRs intends to prevent the saturation and proliferation of such uses within a specific and limited commercial area. Therefore, the requested variance to deviate from the minimum distance limitation is not in harmony with the LDRs purpose and intent.
Conclusion

The requested variance petition to allow for a distance separation of less than the minimum required distance of 1,500 feet from another identical or similar use. In this case, the applicant’s request is to allow the proposed use approximately 415 feet to the east, 366 feet to the south, 393 feet to the west, and 900 feet to the north of identical or similar uses. The requested variance does not conform to the goals, objectives and policies of the City’s Comprehensive Plan. Furthermore, the proposed use will add to the 14 existing same or similar uses in 1,500 feet radius of the site. As such, the request only satisfies two (2) of the six (6) requirements where four (4) of six (6) is needed to allow staff to recommend an approval of the request. In light of these findings, staff recommends denial of this request to the Board. However, if the Board determines an action of an approval, consider the following condition with the approval:

1. That prior to commencement of the business operation, the applicant must obtain all necessary licenses and permits, such as building permits. Certificate of Use, Business Tax Receipt, etc. and must comply with each applicable LDRs requirements and city, county, state and federal regulations.

Public Notification/Comments

In accordance with Subsections (A), (B) and (C) of Article 3, Daily Business Review, posted on the property, and mailed to property owners within a 500-foot radius of the subject property to give them an opportunity to comment on the application if they so desire.

Mailed Written Notification: on or before May 5, 2022
Published Newspaper Notification: on or before May 5, 2022
Posted Property Notice: on or before May 5, 2022

No comments were received from neighboring property owners within the aforementioned radius.

Applicable Ordinances

Article 3, Division 3, Section 3-302 Subsections (A), (B) and (C);
Article 3, Division 6, Section 3-606;
Article 4, Division 2, Section 4-202;
Article 5, Division 14, Section 5-1402.
Article 5, Division 14, Section 5-1404.

Attachments

Exhibit A: Submitted Application
Exhibit B: Submitted Letter of Intent
Exhibit C: Submitted Survey and Plans
## TYPE OF APPLICATION:
- [ ] Special Exception
- [x] Variance
- [ ] Appeal by Applicant
- [ ] Appeal by Aggrieved Party

## PROPERTY OWNER'S INFORMATION:
- **Owner's Name:** North Miami Retail LLC
- **Mailing Address:** 210 71st St. #309
- **City:** Miami Beach
- **State:** FL
- **Zip:** 33141
- **Phone #:** 305.864.8885
- **E-mail Address:** ozi.nahum@elyseeinc.com

## APPLICANT/DOLY APPOINTED AGENT INFORMATION:
- **Contact Name:** Johanne Vital
- **Company Name:** So Cute Unisex Hair Salon LLC
- **Mailing Address:** 631 NE 125th St
- **City:** North Miami
- **State:** FL
- **Zip:** 33161
- **Phone:** 305-748-7900
- **E-mail Address:**

## PROJECT INFORMATION:
- **Project Name:** Boat Variance for Separation Distance Requirement
- **Address of Property:** 631 NE 125th St, North Miami, FL 33161
- **Folio Number(s):** 06-2230-007-0710

## Size of Property: Building Square Footage: 800

## LEGAL DESCRIPTION:
```
```

## PREVIOUS APPROVALS:
Previous approvals (list all previous approvals that substantial compliance/site plan modification/administrative modification is being sought):

<table>
<thead>
<tr>
<th>Description</th>
<th>Date Approved</th>
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</tbody>
</table>
STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

Before me, the undersigned authority, personally appeared  

__________________________
Haim Yehezkel

hereinafter the Affiant(s), who being first duly sworn by me, on oath, deposes and says:

1. Affiant is the president, vice-president or CEO of the Corporation, or otherwise authorized to sign on behalf of the Corporation, doing business at the following address:

North Miami Retail LLC

2. The Corporation owns the property which is the subject of this request.

3. The subject property is legally described as:

Folio # 06-2230-C7-0710

4. Affiant is legally authorized to file this application or the Affiant has authorized  

__________________________
Seanne Vikel

as the applicant/duly appointed agent to file this application and to receive all correspondence and represent the Affiant.

5. Affiant understands this affidavit is subject to the penalties of law for perjury and the possibility of voiding of any zoning action granted at public hearing.

WITNESSES:

Signature

orit Mimoun

Print Name

Fred Fisher

Signature

Print Name

Sworn to and subscribed before me on the 7th day of March, 2022.

Affiant is personally known to me or has produced ____________________________ as identification.

Notary  

Ori Nahum  

Commission Expires: August 30, 2025 (2026)
OWNER'S LIMITED POWER OF ATTORNEY PERMITTING APPLICANT TO FILE FOR THE REQUEST (CORPORATION)

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

On behalf of North Miami Retail LLC, a limited liability company, being first duly sworn, deposes and says that as the President, Vice-President, or CEO (circle one) of the aforesaid Corporation, which is the owner of the property legally described below and which is the subject property of the proposed request, does hereby grant limited power of attorney to Schonee Vital, as applicant, to file this application for the proposed request.

LEGAL DESCRIPTION:

P.O. Box 6-223 067-0710

WITNESSES:

Signature

Print Name

Signature

Print Name

Sworn to and subscribed before me on the 7th day of March, 2022.

Affiant is personally known to me or has produced as identification.

Notary Ori Nahum

Commission Expires: August 30, 2028

North Miami Retail LLC
Name of Corporation
210 71 St., #309 Miami Beach, Fl 33141
Address

By President, Vice-President or CEO (circle one)
LETTER OF INTENT

To whom it may concern,

This letter is to confirm our intent to do business with the public. So cute unisex Hair Salon LLC., will be providing hair supplies along with hair products:

1. Hair Products
2. Hair Extensions

The hours of operations will be Monday through Saturday from 9:30 am to 6:00pm.

Sincerely yours,

Johanne Vital
NOTICE OF PUBLIC HEARING

June 1, 2022

Dear Property Owner:

Notice is hereby given that the City of North Miami has received and will consider the following request:

**V-06-22 – RECREATIONAL VEHICLE PARKING IN THE R-4 RESIDENTIAL ZONING DISTRICT – 1400 NE 133RD ROAD**

A VARIANCE TO ARTICLE 5, DIVISION 12, SECTION 5-1405 OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW THE PARKING AN/OR STORAGE OF ONE (1) RECREATIONAL VEHICLE LOCATED AT 1400 NE 133RD ROAD WITHIN THE R-4 MULTIFAMILY RESIDENTIAL DISTRICT; SAID VARIANCE IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.

The Board of Adjustment will hear this request on **Wednesday, June 15, 2022 at 6:30 p.m.** You are welcome to attend this meeting where you will be given an opportunity to express your support or concerns, if you so choose. **The meeting will be held in the City Council Chambers on the second floor of the City Hall located at 776 Northeast 125 Street, North Miami, FL 33161.**

The City is mailing notice of this request as a courtesy to the surrounding property owners. No response is necessary on your part. However, if you wish to respond and cannot attend the meeting, you may respond in writing to the Board of Adjustment, c/o Community Planning & Development Department, City of North Miami, 12400 NE 8 Avenue, North Miami, FL 33161. The application documents are available for review upon request in the Community Planning & Development Department.

Sincerely,

Derrick L. Cook, MBA
Acting Director
Community Planning & Development
To: The Board of Adjustment

From: Cameron Palmer, BURPl
Planner, Community Planning & Development Department

Through: Derrick Cook, MBA – Acting Director

Date: June 15, 2022


APPLICATION SUMMARY

Applicant: Bella To (Property Owner)
Location: 1400 NE 133rd Road, North Miami FL 33161
Land Area: 9,675 square feet
Folio Number: 06-2229-022-0460

Petition: A VARIANCE TO ARTICLE 5, DIVISION 14, SECTION 5-1405 OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW THE PARKING AN/OR STORAGE OF A RECREATIONAL VEHICLE LOCATED AT 1400 NE 133RD ROAD WITHIN THE R-4 MULTIFAMILY RESIDENTIAL DISTRICT; SAID VARIANCE IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.

PROJECT SUMMARY

The applicant and property owner, Bella To, is requesting hardship relief from Article 5, Division 14, Section 5-1405(A)(1): Storage, maintenance and/or parking of trucks, boats and/or recreational vehicles, of the Land Development Regulations (LDRs), for the property located at 1400 NE 133rd Road (east of NE 14th Ave and on the south side of 133rd Road). The applicant is proposing the parking of a recreational vehicle in the rear yard of the subject property. The proposed use requires a variance to of the LDRs to permit the parking of a recreational vehicle within the R-4, Multifamily Residential zoning district.
BACKGROUND

The property is approximately 9,675 square feet and, according to the Miami-Dade County’s Property Appraiser, contains a single-story residential building that totals approximately 1,935 square feet constructed in 1948.

PRIOR CITY CASES RELEVANT TO SUBJECT PROPERTY

The subject property has the following open code violations:
1. CEODS-2022-00119: citation for the removal of outside storage
2. CERCV-2022-00206: citation for the unlawful parking of an RV

SURROUNDING LAND USE CHARACTERISTICS

<table>
<thead>
<tr>
<th>Property</th>
<th>Future Land Use</th>
<th>Existing Zoning</th>
<th>Existing Use/Subdivision</th>
</tr>
</thead>
<tbody>
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<td>R-4 Multifamily Residential District</td>
<td>Single-Family Home</td>
</tr>
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<td>- NE 14th Avenue</td>
</tr>
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<td></td>
<td></td>
<td>- Single-Family Home</td>
</tr>
</tbody>
</table>

The subject property together with the adjacent surrounding properties is zoned R-4 Multifamily District, lands to the west of NE 14th Avenue are within the R-2 Single Family District. Despite the differing districts, the majority of the surrounding properties consist of single-family homes constructed in the 1950s.

The area is classified as Low-Medium Residential on the Future Land Use Map and is intended primarily for multifamily residential dwellings. Figure 1 and 2 illustrates the zoning map, and an aerial image of the subject property and its surroundings, respectively.
Figure 1: North Miami Zoning Map

Figure 2: Aerial Image of Subject Property
ANALYSIS

At this time, the applicant is requesting a variance to allow the parking of a Recreational Vehicle within the rear yard of the subject property.

Article 3, Division 6, Section 3-606 of the City’s LDRs authorizes the Board of Adjustment (BOA) to hear and grant or deny applications for variances from the terms of these LDRs. In evaluating an application for variances, the BOA shall find that the applicant demonstrates compliance with four (4) of the six (6) items as listed below:

1. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

No. The property contains a legally nonconforming single-family residence that exists within the R-4 multifamily zoning district. As such, the R-4 development standards govern the site. However, the R-4 development standards prevents certain benefits allotted single-family residence located in the single-family district of R-1 and R-2 with regards to the parking of recreational vehicles. As a result, the R-4 development standards causes partiality to the existing nonconforming single-family with regards to not permitting recreational vehicle parking by way of administrative variance.

2. The unusual circumstances or conditions necessitating the variance request are present in the neighborhood and are not unique to the property.

Yes. As previously noted, the single-family home exists within the R-4 multi-family zoned district. The neighborhood is predominantly characterized by single-family residences within the multi-family zone. As such, the conditions necessitating the variance exists for most properties. The application for relief from the LDRs to permit the parking of a recreational vehicle within the rear yard denotes a typical standard of a single-family residence that is already anticipated by the LDRs for single-family uses (similar to the subject property’s existing use) within the R-1 and R-2 districts through the Administrative Variance process.

3. That the requested variance maintains the basic intent and purpose of the subject regulations, particularly as it affects the stability and appearance of the City.

Yes. The basic intent and purpose of the LDRs is to permit the parking only one (1) boat, boat trailer and one (1) travel trailer, motorcoach, converted and chopped van, motor home or recreational vehicle (provided they are lawfully registered to occupants of the residence) within a single-family residential zone. The LDR’s limitation of 1 recreational vehicle per lot or parcel is to maintain and protect the neighborhood aesthetics and character. Accordingly, multi-family zoning districts do not permit the parking of these vehicles as each lot is anticipated to have multiple residences and multiple boat or recreational vehicle parking would not be feasible on these properties and could negatively impact these neighborhoods’ aesthetic and stability.
However, given the subject property is occupied by a single-family dwelling it is akin to similar properties located within R-1 and R-2 districts. Whereas, single-family residential districts permit the parking one (1) boat, boat trailer or one (1) travel trailer, motorcoach, converted and chopped van, motor home or recreational vehicle.

Therefore the proposed parking of 1 recreational vehicle on the subject site occupied with a single-family dwelling meets the basic intent of the LDRs. Furthermore, staff does not anticipate the requested variance to adversely affect the stability and appearance of the neighborhood or the city.

4. The literal interpretation of the provisions of these LDRs would deprive the applicant of the rights commonly enjoyed by other properties in the same zoning district under the terms of these LDRs.

No. These LDRs do not permit the parking or storage of boats or recreational vehicles of any sort within the R-4 zoning designation.

That said, the existing single family residence is a non-conforming property that functions in the same manner as a single family residence in an R-1 or R-2 zoning district. As a result, the literal interpretation of these LDRs provisions prevent the applicant from rights commonly enjoyed by similar properties in the R-1 and R-2 zone.

5. The variance requested is the minimum variance that will make possible the reasonable use of the land, structure or building.

No. The denial of the requested variance does not prevent the reasonable use of the land, structure, or building.

6. The granting of the variance will be in harmony with the general intent and purpose of these LDRs and such variance will not be injurious to the area involved.

Yes. The variance request will have to meet the requirements outlined in Sec. 5-1405. Accordingly the proposed variance will be harmonious with the intent and purpose of the LDRs. In that, the proposed parking and/or storage of the recreational vehicle will comply with each of the LDRs standard listed below.

- no closer that than 2 feet to any lot line,
- located on a paved surface, and
- being screened from view from the street.

STAFF RECOMMENDATION

In light of these findings, staff renders no recommendation of the requested variance to the Land development Regulations (LDRs), Article 5, Division 14, Section 5-1405(A)(1), Storage, maintenance and/or parking of trucks, boats and/or recreational vehicles, to allow a the parking
of 1 recreational vehicle, as outlined in the application, within the subject property. However, if the Board finds criteria to approve the requested variance, staff request the following conditions:

1. That the recreational vehicle is parked/stored no closer than 2 feet to any lot line;
2. That the recreational vehicle is parked/stored on a paved surface; and
3. That the recreational vehicle is screened from view from the street.

PUBLIC NOTIFICATION/COMMENTS

In accordance with Subsections (A), (B) and (C) of Article 3, Division 3, Section 3-302 of the LDRs, notification of the applicant’s request was published in the Daily Business Review, posted on the property, and mailed to property owners within a 500-foot radius of the subject property before or on June 2, 2022.

To date, no comments were received from neighboring property owners within a 500-foot radius.

APPLICABLE LDR SECTIONS

Article 3, Division 3, Section 3-302 (A), (B) and (C): Notice;
Article 3, Division 6, Section 3-606 (A) and (B): Standards for Variances;
Article 4, Division 2, Section 4-201: Purpose of Districts;
Article 5, Division 14, Section 5-1405(A)(1): Storage, maintenance and/or parking of trucks, boats and/or recreational vehicles;
Article 6, Division 1: Nonconforming uses and structures; and
Article 7, Section 7-101: Definitions.

ATTACHMENTS

Exhibit A: Application
Exhibit B: Letters of Intent & Site Photos
Exhibit C: Survey
Board of Adjustment Public Hearing Application

Instructions: Please print or type all information. The application must be filled out accurately and completely.

TYPE OF APPLICATION:
☐ Special Exception
☒ Variance
☐ Appeal by Applicant
☐ Appeal by Aggrieved Party

PROPERTY OWNER'S INFORMATION:
Owner’s Name: Bella T
Mailing Address: 1400 NE 133 Rd
City: North Miami State: FL Zip: 33161
Phone #: 786-342-9985 E-mail Address: tinamiami3@gmail.com

APPLICANT/DUALLY APPOINTED AGENT INFORMATION:
Contact Name: Same as above
Company Name:
Mailing Address:
City: State: Zip:
Phone: E-mail Address:

PROJECT INFORMATION:
Project Name: RV Parking Permit
Address of Property: 1400 NE 133 Rd, North Miami, FL 33161
Folio Number(s): 06-2229-022-0460

Size of Property: 9675 sq ft Building Square Footage: 1935 sq ft

LEGAL DESCRIPTION: Single Family Home.

PREVIOUS APPROVALS:
Previous approvals (list all previous approvals that substantial compliance/site plan modification/administrative modification is being sought):

Date Approved:

Received: 4/19/22
ZAVPR-2022-00009
OWNERSHIP AFFIDAVIT FOR INDIVIDUAL

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

Before me, the undersigned authority, personally appeared _______ hereinafter the Affiant, who being first duly sworn by me, on oath, deposes and says:

1. Affiant is the fee owner of the property that is the subject of this request.
2. The subject property is legally described as:

   Single-family home

3. Affiant understands this affidavit is subject to the penalties of law for perjury and the possibility of voiding of the zoning approval.
4. The Affiant has authorized _______ as the applicant/duly appointed agent to file this application and to receive all correspondence and represent the Affiant.

WITNESSES:

Signature: ____________________________________________
Print Name: Monica Daniels

Signature: ____________________________________________
Print Name: Cristina Panini

Sworn to and subscribed before me on the 14th day of April, 2023, as identification.

Notary: ____________________________________________
Commission Expires: 12-28-2022
OWNER'S LIMITED POWER OF ATTORNEY PERMITTING APPLICANT TO FILE FOR THE REQUEST
(INDIVIDUAL)

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

I, BELLA TO, the fee owner, which is the fee owner of the property legally described below
and which is the subject of the proposed request, do hereby grant limited power of attorney to DANNY NGUYEN
to file this application for the proposed request.

LEGAL DESCRIPTION:
Permitting Applicant (DANNY NGUYEN)
to file for the request of RV Park by
permit.

WITNESSES:

Monica Daniels  

Signature

Monica Daniels  

Print Name

Cristina Panunzi  

Signature

Print Name

Fee Owner's Signature

BELLA TO  

Print Name

1400 NE 133RD

Address

North Miami, FL 33161

Sworn to and subscribed before me on the 7th day of April, 2023.
Affiant is personally known to me or has produced Driver License as identification.

Notary  

Commission Expires: 12-28-2022

MONICA DANIELS
Notary Public - State of Florida
Commission # HH 205893
My Comm. Expires Dec 28, 2022
Joined through National Notary Assn.
City of North Miami
Department of Zoning
Community Planning
and Development

Date: 04-18-22

To Bella To,
1400 NE 133 RD
North Miami, FL 33161

To whom it may concern,

My name is Bella To, owner and resident of 1400 NE 133 RD, North Miami, FL 33161. Folio Number: 06-2229-022-0460

I have the RV for recreation and wish to park in my property. Since I have a long line of parking the recreation RV in my backyard, no effect daily living of the house or neighbor.

Thank you very much,

[Signature]
Bella To
LEGAL DESCRIPTION: LOT 20, BLOCK 3, OF GREEN OAKS, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 46, AT PAGE 78, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

SURVEYOR'S NOTES:
1) OWNERSHIP SUBJECT TO OPINION OF TITLE.
2) NOT VALID WITHOUT THE SIGNATURE AND RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
3) THE SURVEY DEPICTED HERE IS NOT COVERED BY PROFESSIONAL LIABILITY INSURANCE.
4) LEGAL DESCRIPTION PROVIDED BY CLIENT.
5) UNDERGROUND ENCROACHMENTS NOT LOCATED.
6) ELEVATIONS ARE BASED ON NATIONAL GEODETIC VERTICAL DATUM OF 1929.
7) OWNERSHIP OF FENCES ARE UNKNOWN.
8) THERE MAY BE ADDITIONAL RESTRICTIONS NOT SHOWN ON THIS SURVEY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.
9) CONTACT THE APPROPRIATE AUTHORITY PRIOR TO ANY DESIGN WORK FOR BUILDING AND ZONING INFORMATION.
10) ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.

ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.

PROPERTY ADDRESS: 1400 NE 133 RD., NORTH MIAMI, FL 33161

LEGAL DESCRIPTION: LOT 20, BLOCK 3, OF GREEN OAKS, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 46, AT PAGE 78, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

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NOTICE OF PUBLIC HEARING

June 1, 2022

Dear Property Owner:

Notice is hereby given that the City of North Miami has received and will consider the following request:

V-07-22 – A VARIANCE TO PERMIT A REDUCED SETBACK FOR A DRIVEWAY– 830 NW 121ST STREET

A VARIANCE TO ARTICLE 4, DIVISION 2, SECTION 4-203 OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW A REDUCTION FROM THE REQUIRED SIDE SETBACK OF 7.5 FEET (7.5′) TO THE PROPOSED SETBACK OF 1 FEET (1′) ON THE PROPERTY LOCATED AT 830 NW 121ST STREET IN THE R-2 DISTRICT; SAID VARIANCE IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.

The Board of Adjustment will hear this request on Wednesday, June 15, 2022 at 6:30 p.m. You are welcome to attend this meeting where you will be given an opportunity to express your support or concerns, if you so choose. The meeting will be held in the City Council Chambers on the second floor of the City Hall located at 776 Northeast 125 Street, North Miami, FL 33161.

The City is mailing notice of this request as a courtesy to the surrounding property owners. No response is necessary on your part. However, if you wish to respond and cannot attend the meeting, you may respond in writing to the Board of Adjustment, c/o Community Planning & Development Department, City of North Miami, 12400 NE 8 Avenue, North Miami, FL 33161. The application documents are available for review upon request in the Community Planning & Development Department.

Sincerely,

Derrick L. Cook, MBA
Acting Director
Community Planning & Development
To: The Board of Adjustment
From: Cameron Palmer, BURPl
Planner, Community Planning & Development Department

Through: Derrick Cook, MBA – Acting Director

DATE: 06/07/2022

Date: June 15, 2022

V-07-22 A VARIANCE TO PERMIT A REDUCED SETBACK FOR A DRIVEWAY – 830 NW 121ST STREET

Application Summary

Applicant/Agent: Valencia Delalue
Location: 830 NW 121 Street
Land Area: 7,857 sq. ft.
Folio Number: 06-2126-014-0110

Petition: A VARIANCE TO ARTICLE 5, DIVISION 1, SECTION 5-113 OF CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS (“LDRS”) TO ALLOW A REDUCTION FROM THE REQUIRED SIDE SETBACK OF 5 FEET (5’) FOR IMPERVIOUS OR CONCRETE SLABS TO A PROPERTY LINE TO A PROPOSED SETBACK OF 1 FEET (1’) ON THE PROPERTY LOCATED AT 830 NW 121ST STREET IN THE R-2 DISTRICT; SAID VARIANCE IS TO BE REVIEWED UNDER THE CRITERIA SET FORTH IN ARTICLE 3, DIVISION 6, SECTION 3-606 OF THE LDRS.

PROJECT SUMMARY

The applicant and property owner, Valencia Delalue, is requesting hardship relief from Article 5, Division 1, Section 5-113: Paving on side and rear yards, of the Land Development Regulations (LDRs), for the property located at 830 NW 121 Street. The applicant is seeking a variance to permit an existing driveway that encroaches into the required side yard setback resulting in a reduced setback to 1 ft from the west property line.
Pursuant to Article 5, Division 1, Section 5-113 of the Land Development Regulations (LDRs), no impervious area or concrete slabs are allowed within 5 feet of the property line in all districts, except that permeable pavement or pavers may be allowed within 3 feet of the property line subject to the approval of Community Planning and Development staff. The applicant is seeking a variance to deviate from the required 5 feet setback for impervious paving material. Accordingly, the request requires Board of Adjustment (BOA) approval.

**Background**

According to the Miami-Dade Property Appraisal website, the subject site is approximately 7,857 square feet and fronts the south side of NW 121st Street east of NW 8th Avenue. The site contains an existing one-story building constructed in 1949 that has a floor area of approximately 2,373 square feet.

The property has no open code violations. Previously violation CEBPR-2022-00302, was open on the subject property with regards to the existing non-conforming driveway which has subsequently led to the variance requested in this application.

**Neighborhood Land Use Characteristics**

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</table>

The subject property together with the surrounding properties is zoned R-2 single-family district which is characterized by single-family residential houses. The area classified as Low Density Residential on the Future Land Use Map is intended primarily for residential dwellings. Figure 1 and 2 illustrates the zoning map, and an aerial image of the subject property and its surroundings, respectively.
Figure 1 – North Miami Zoning Map

Figure 2 – Aerial Image of Property
OVERVIEW OF REQUEST

The Applicant requests a variance to legalize the existing non-conforming driveway which deviates from the required minimum side setback within the R-2 Residential zoning district. The variance request involves a reduction of the minimum required side setback of ten feet (10’) along the west side of the property to 1 foot (1’) with pervious material placed within the 1 foot setback.

ANALYSIS

Article 3, Division 6, Section 3-606 of the City’s LDRs authorizes the BOA to hear and grant or deny applications for variances from the terms of these LDRs. In evaluating an application for variances, the BOA shall find that the applicant demonstrates compliance with four (4) of the six (6) items as listed below:

1. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

   Yes. It is noted that the existing non-conforming driveway aligns with a carport along the side of the house. The applicant’s carport is located in the 10 feet wide sideyard setback from the side of the house to the side property line (entire sideyard setback). City staff’s desktop analysis of surrounding properties found that nearby lots either have parking in the front yard or within carports in the sideyards with larger setbacks (15-16 feet), allowing the driveways leading to the carport to align with the curb cut while respecting the required sideyard setback of the R-2 zoning district.

   It is noted that with the existing lot configuration it would be impossible for the applicant to meet the sideyard setback and utilize the existing carport, as such creating a special condition specific to this lot and not otherwise applicable to other properties in the same zoning district.

2. The unusual circumstances or conditions necessitating the variance request are present in the neighborhood and are not unique to the property.

   No. The peculiar lot configuration or unusual circumstance/condition does not appear (from staff’s desktop analysis) to be prevalent in the neighborhood.

3. The requested variance maintains the basic intent and purpose of the subject regulations, particularly as it affects the stability and appearance of the city.

   Yes. The property is zoned R-2 with a Future Land Use designation of Low Density Residential. The proposed variance will legalize the existing nonconforming driveway. The existing nonconforming driveway use does not deviate from the allowed single-family use anticipated by the LDRs for a low density residential area. As such, the variance would allow the applicant to maintain the nonconforming driveway.
4. The literal interpretation of the provisions of these LDRs would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these LDRs.

Yes. Whereas, the reasonable use of the land, building, or structure is not deprived by the installation of a driveway that complies with Section 5-113 of the LDRs, it would remove the functionality of the existing carport and would require a comprehensive reconfiguration of the front yard.

5. The variance requested is the minimum variance that will make possible the reasonable use of the land, structure or building.

Yes. The requested variance will allow the applicant to legalize the existing non-conforming driveway. Without the variance, the applicant will be required to reconfigure the driveway and front yard which will include the removal of elements of the existing driveway to meet the LDRs minimum setback requirements.

It is also the minimum variance to make the use of the driveway and carport together when taking into consideration the location of the existing carport.

6. The granting of the variance will be in harmony with the general intent and purpose of these LDRs and such variance will not be injurious to the area involved.

Yes. The requested variance will legalize the existing non-conforming driveway installed without Building Permits. This process will allow for the property to be reviewed by the Building Department and a permit to be issued for the nonconformity. The driveway use is in harmony with the general intent and purpose of the LDRs and the reduced side yard setback is not injurious to the area.

CONCLUSION

The variance request to allow the reduction of the minimum required side setback 10’ to 1’ in the R-2, Residential District, meets the variance criteria established within Article 3, Division 6, Section 3-606. In light of these findings, staff recommends that the BOA approve this requested variance to allow the setback to be 1’ with the following condition:

1. That the applicant obtain a building permit and all necessary licenses prior to any driveway construction/reconfiguration works; and

2. That the applicant obtain approval of the existing condition from the City’s Public Works department.
PUBLIC NOTIFICATION/COMMENTS

In accordance with Subsections (A), (B) and (C) of Article 3, Division 3, Section 3-302 of the City’s LDRs, notification of the applicant’s request was published on the Miami Herald, posted on the property, and mailed to property owners within a 500-foot radius of the subject property to provide an opportunity to comment on the application if desired.

To date, no comments were received from neighboring property owners within a 500-foot radius.

Applicable Ordinances

Article 3, Division 3, Section 3-302 (A), (B) and (C): Notice;
Article 3, Division 6, Section 3-606 (A) and (B): Standards for Variances;
Article 5, Division 1, Section 5-113: Paving on side and rear yards; and
Article 6, Division 1: Nonconforming uses.

Attachments

Exhibit A: Application
Exhibit B: Plans and/or Survey
Board of Adjustment Public Hearing Application

Instructions: Please print or type all information. The application must be filled out accurately and completely.

TYPE OF APPLICATION:
- Special Exception
- Variance
- Appeal by Applicant
- Appeal by Aggrieved Party

PROPERTY OWNER'S INFORMATION:
Owner's Name: VALENCIA DELAVE
Mailing Address: 830 NW 121 ST
City: NORTH MIAMI State: FL Zip: 33168
Phone #: 305-608-0212 E-mail Address: VALENCIADELAVE1820@gmail.com

APPLICANT/DUALLY APPOINTED AGENT INFORMATION:
Contact Name: SAME AS ABOVE
Company Name: 
Mailing Address: 
City: State: Zip: 
Phone: E-mail Address: 

PROJECT INFORMATION:
Project Name: AFTER THE FACT DRIVEWAY
Address of Property: 830 NW 121 ST
Folio Number(s): 06-2126-014-0110

Size of Property: Building Square Footage: 

LEGAL DESCRIPTION:
NORTH SHORE HEIGHTS PB 40-62
LOT 11 & LOT 40 LESS W41.8 FT BLK 2
LOT SIZE 382.20 X 135 OR 21078-0975

PREVIOUS APPROVALS:
Previous approvals (list all previous approvals that substantial compliance/site plan modification/administrative modification is being sought):

Date Approved: 
Date Approved: 

REND 4/20/22
STATE OF FLORIDA
COUNTY OF MIAMI-DADE

Before me, the undersigned authority, personally appeared

__________________________ hereinafter the Affiant, who being first duly sworn by me, on oath, deposes and says:

1. Affiant is the fee owner of the property that is the subject of this request.
2. The subject property is legally described as__________________________

3. Affiant understands this affidavit is subject to the penalties of law for perjury and the possibility of voiding of the zoning approval.
4. The Affiant has authorized ___________________________ as the applicant/duly appointed agent to file this application and to receive all correspondence and represent the Affiant.

WITNESSES:

Signature

Print Name

Signature

Print Name

Sworn to and subscribed before me on the 20 day of April, 2022
Affiant is personally known to me or has produced FL Driver License as identification.

Notary ________________

Commission Expires: 03/01/2025
OWNER'S LIMITED POWER OF ATTORNEY PERMITTING APPLICANT TO FILE FOR THE REQUEST

(INDIVIDUAL)

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

Valencia Delacue, the fee owner, which is the fee owner of the property legally described below and which is the subject of the proposed request, do hereby grant limited power of attorney to ________________________________, to file this application for the proposed request.

LEGAL DESCRIPTION:

______________________________

______________________________

______________________________

______________________________

WITNESSES:

Signature:

Print Name:

Signature:

Print Name:

Fee Owner's Signature:

Print Name:

Affiant is personally known to me or has produced FL D648660-74-549-0 as identification.

Notary:

Commission Expires:
Administrative Variance

Instructions: Please print or type all information. The application must be filled out accurately and completely.

PROPERTY OWNER’S INFORMATION:
Owner’s Name: **VALENCIA DELAIGUE**
Mailing Address: **830 NW 121 ST**
City: **NORTH MIAMI** State: **FL** Zip: **33168**
Phone #: **305-608-0212** E-mail Address: **Valencia delaigue 820@Gmail**

APPLICANT/DUALLY APPOINTED AGENT INFORMATION:
Contact Name: **Same as above**
Company Name:
Mailing Address:
City: ___________________________ State: ___________________________ Zip: ___________________________
Phone: ___________________________ E-mail Address: ___________________________

PROJECT INFORMATION:
Project Name:
Address of Property:
Folio Number(s): **010-2126-014-3350**
Size of Property: **7,857** Building Square Footage: **2,087**
Reason for Admin. Variance: **Variance for driveway setbacks**

LEGAL DESCRIPTION:
**NORTH SHORE HEIGHTS PB 40-62**
**LOT 41 & LOT 50 CE 55 6/41.8 FT BLK 2**
**LOT SIZE 58.20 X 135 OR 21678-0875 02 2008**

PREVIOUS APPROVALS:
Previous approvals (list all previous approvals that substantial compliance/site plan modification/administrative modification is being sought):

__________________________________________ Date Approved: ___________________________
__________________________________________ Date Approved: ___________________________

**RND 4/6/22**
Owner Affidavit

I, Valene Valcin, being first duly sworn, depose and say that I am the legal owner of record of the property described and which is the subject of the proposed administrative variance, and that all statements and representations made are true and correct.

I understand that construction may not begin unless and until the variance is approved and building permit issued, and that all construction will be inspected for strict conformance to the plans submitted, Florida Building Code and to the variance specifications granted.

I acknowledge that I am subject to penalties of law, including the laws on perjury and to possible revocation of this variance for any false or misleading statements in this application.

Sworn to and subscribed to
Before me this 10 day
April 2022

Signature of Property Owner

My Commission Expires:

Signature of Notary

Notary Public State of Florida
Isiah C. Valcin
My Commission HH 099283
Expires 03/01/2026
Consent Form

Valencia Valencia have applied for an Administrative Variance to the Zoning Division of North Miami's Community Planning & Development Department, to permit a setback deviation for driveway.

We, the undersigned property owners, have read (or have had read to us) the information applicable to this request for an Administrative Variance from the Zoning code as applied to the City of North Miami and fully understand that by subscribing my name to this consent form, I am waiving any objection to the proposed construction as outlined above and as shown on the plans accompanying this application. I further certify that I have subscribed my name freely and without any duress or apparent misrepresentation on the part of the applicant to this form and to the plans accompanying this application.