

MIAMI SHORES PLANNING AND ZONING BOARD

Planning and Zoning Department Staff Report

Hearing Date	July 24, 2014	Meeting Time	7:00 P.M.
File Number	PZ-6-14-2014115	Folio Number	11-3206-017-0530
Owner	Eugene Daley, 467 NE 100 th Street, Miami Shores, FL 33138-2446		
Applicant	Same		
Agent	None		
Property Address	467 NE 100 th Street		
Legal Description	AMD PL OF MIAMI SHORES SEC 4 PB 15-14 LOT 22 BLK 90 LOT SIZE 50.000 X 115 OR 20915-1562 12 2002 1 COC 21608-0220 08 2003 1	Assessor's Building Value	N/A
Property Sq. Ft.	5,750	Building Sq. Ft.	1,698
		Flood Zone	X
Zoning	R21	Future Land Use Designation	Single Family Residential
Existing Use	One-family dwelling	Comprehensive Plan Consistency	Yes
Existing Structure	1-story; 2 bed/1 bath	Year Built	1953
Subject	Pursuant to Articles IV, V, VI and VII of Appendix A Zoning, Sec. 400 Schedule of Regulations, Sec. 600 and Sec. 701. Site plan review and appeal on allegation of error. Non-masonry pool.		
Action Required	Approve, Approve with Conditions, or Deny the Application	Other Required Approvals	Village Building Permits
Staff Report	David A. Dacquisto, Director, Planning and Zoning	Report Date	July 9, 2014

Background

This is an appeal of an administrative decision however; it is also a request from staff for a Planning and Zoning Board, Zoning Code interpretation. The Planning and Zoning Board may determine that an appeal is not the appropriate request and may direct the applicant to apply for a variance.

The property is 50 ft. wide by 115 ft. deep. The size of the plot is not uncommon in Miami Shores but it smaller than average and does not conform to the current minimum plot width requirement of (75 ft.) or minimum area requirement of (7,500 sq. ft.). The existing residence, rear driveway and required setbacks leave little available open space in the rear yard. There is an open space in the rear yard of approximately 320 sq. ft. measuring 14 ft. by 23 feet.

The applicant is proposing to install a "Tidal Fit" swim spa in the rear yard. The swim spa is a self-contained unit similar in configuration to a hot tub. The swim spa is 14 ft. long, 7.5 ft. wide and 4.3 ft. deep. This swim spa would be partially underground with approximately 2 ft. above ground.

The swim spa qualifies as a swimming pool by definition under the Florida Building Code.

Florida Building Code Definition

Swimming pool, private. Any structure, located in a residential area, that is intended for swimming or recreational bathing and contains water over 24 inches (610 mm) deep including but not limited to inground, aboveground, and onground swimming pools, hot tubs, and nonportable spas. note that this change incorporates all types of pools/spas/etc. except for portable spas.

Code reference:

Sec. 523.1. Construction.

All buildings and structures shall be constructed, of materials approved under the Florida Building Code and according to the then most current version of the Florida Building Code:

- (1) Materials. Construction of all exterior walls and structural elements of a building shall be of stone, brick, tile, cement or cement products with the following exceptions:*
- a) Trim. Door and window spaces may be trimmed in any material.*
 - b) Architectural features. Non-structural architectural features may be constructed of other materials meeting the requirements of the Florida Building Code.*
 - c) Columns. Structural columns for entryways or patios, with sides unenclosed, may be constructed of metal.*
 - d) Trusses and joists. Trusses and joists may be constructed of metal or wood.*
 - e) Swimming pool enclosures. Swimming pool enclosures may be framed in metal with screen mesh roof and walls.*
 - f) Screened porches in residential districts. Screened porches in residential districts every part of which is situated to the rear of the main building and between the prolongations of the side lines thereof, may be framed in metal*

Miami shores has always interpreted this section and the code to require that swimming pools be constructed of concrete and this interpretation has been enforced by the Building Department and Code Enforcement.

Analysis

If the “swim spa” is a swimming pool and swimming pools must be constructed of concrete, then the proposed fiberglass “swim spa” is not permitted under the zoning code.

Staff found a range of self-contained swim spas of up to 25 ft. in length and 7.5 ft. in width.

The Planning and Zoning Board may consider the information provided and determine that a self-contained “swim spa” or hot tub, may be treated differently than a site built swimming pool using a liner of fiberglass or other material other than concrete. A fiberglass pool shell brought to the site should not be considered a self-contained unit as all other pool features must be added at the site.

Village staff has always treated hot tubs differently from swimming pools and has approved self-contained hot tubs for installation in Miami Shores.

The “swim spa” is required to provide all appropriate pool safety equipment required by the Florida Building Code.

Recommendation

Staff requests that the Planning and Zoning Board provide staff with an interpretation of the code and determine how “swim spas” are to be treated under the code.