



MIAMI SHORES

DEPARTMENT OF PLANNING & ZONING
10050 NE 2nd Avenue
Miami Shores FL 33037-2304
www.miamishoresvillage.com

David A. Dacquisto AICP, Director

Main Number: 305-795-2207 Fax Number: 305-756-8972

PLANNING BOARD WORKSHOP			
Miami Shores Village Town Hall Council Chambers 10050 NE 2nd Avenue Miami Shores			
Workshop Date		September 2, 2015	
Subject			
Decks, location, setbacks, building separation distance.			
Action Required		Provide code interpretation and guidance to staff in establishing setbacks for uncovered decks. Consider amending Appendix A Zoning to as necessary to address where decks may be constructed and setbacks, and to eliminate the separation distance between structures.	
Staff Report		David A. Dacquisto AICP, Director, Planning and Zoning	Report Date August 3, 2015

Background

The planning and zoning board is reviewing current zoning code regulations and considering options for the location of open decks and the setbacks that apply.

The zoning code contains regulations for Accessory buildings in the Schedule of Regulations:

The floor area of all roofed accessory structures shall not exceed the floor area of the dwelling on the same plot and may be further restricted by plot coverage regulation.

Location: In rear yard only as defined in Sec. 201, not less than 15 ft. from the main building and not less than 10 ft. from any plot line of contiguous plot that bounds a side or front yard or not less than 5 ft. from any other plot line; provided that on a corner plot the rear line of which adjoins a side line of a plot to the rear, no accessory building shall be located nearer to the side street line than a distance equal to the depth of front yard required on the plot to the rear, provided further, that a swimming pool enclosure may be located in any side yard but not less than 10 ft. from the side plot line; provided further, that no door of an accessory building opening on an alley shall be located not less than 20 ft. from the center thereof.

Accessory building shoreline setback; 15 ft.

Coverage: Not more than 20% of the area of a rear yard, shall be covered by roofed structures with roofs that are more than 50 percent open to the sky, except that fabric or

metal roofed structures permitted under Sec. 523.1(9) that are attached to the dwelling need not be included in computing said coverage. Fences, walls and hedges shall conform to the provisions of Article V.

The zoning code defines Accessory structure:

Accessory building or use. A building or use that is customarily incidental and subordinate to the principal building or use of a plot and is located on the same plot therewith.

The zoning code defines Rear yard:

Yard, rear. A yard extending across the full width of the plot and lying between the rear line of the plot and the building or group of buildings.

The zoning code defines Building:

Building. Any combination of materials forming any construction, the use of which requires location on the ground or attachment to something having location on the ground.

An attached deck does not require a separation distance from the residence; however if the deck is detached, the Schedule of Regulations under accessory buildings requires a separation distance between the accessory building and the residence:

not less than 15 ft. from the main building

The previous code limited accessory structures to no more than 20% of the rear yard. An accessory structure is any structure as identified above. There was an exception for pools and pool decks that meant that you could cover your entire back yard with both except for required setbacks. If you built a patio without a pool you could only cover 20% of the yard.

The Planning Board previously opined that any pool and deck or patio could cover the rear yard except for the required setbacks.

The last code revision modified the 20% rule to limit it to accessory structures with roofs.

This left open decks in a gray area. Previously if they were considered an accessory structure then they could only cover 20% of the rear yard. Now if they are considered an accessory structure they can cover the entire back yard except for the required setbacks that is if the 15 ft. separation distance between the residence and accessory structure is ignored. If they are attached to the residence does that make a difference? The current and prior codes do not adequately address the issue.

Analysis

In reviewing zoning it is important to remember to differentiate between rear and side yards and required rear and required side yards.

Rear and side yards are the entire area behind or beside a house.

Required rear and side yards are the required setbacks for example from a residence 15 ft. to the rear plot line and 10 ft. to the side plot line.

Prohibiting accessory structures in the front and side yards are common in zoning.

An uncovered wood deck is an accessory structure by definition; however, is it an accessory structure or part of the house subject to setbacks for the principle structure if it is attached?

An accessory structure can be located 5 ft. from the rear plot line; a residence cannot be closer than 15 ft. to a rear plot line.

Often decks are next to a house but not physically attached, abutting. If it is detached does it need to be set 15 ft. from the house?

A wood deck if classified as an accessory structure cannot be located in the side yard. By definition a side yard is everything between the house and the side plot line. By contrast a required side yard for a house is the first 10 ft. measured from the side plot line towards the house.

If a house is located 15 ft. from the rear plot line, the minimum setback for the principal structure, can a deck be constructed in the rear yard? If detached cannot meet 15 ft. separation distance between structures. If attached cannot meet 15 ft. setback requirement for principal structure. If abutting or attached and accessory structure setback applies, notwithstanding the 15 ft. structural separation required, could be 10 ft. in depth and located 5 ft. from rear plot line, accessory structure rear plot line setback.

The separation distance between buildings was originally established to mirror the fire code. Buildings meeting the minimum separation distance did not require fire walls. The fire codes have changed over the years however, the separation requirement remains in many ordinances although the original reason is no longer there. In Minnesota the separation distance in many municipalities is 10 ft. because the Minnesota Fire Code required a 10 ft. separation distance not the 15 ft. required in Florida.

Possible Options

The following are various thoughts for your consideration. The first priority would be to decide:

1. If attached or abutting decks are accessory structures.
2. If an attached or abutting deck is part of the residence subject to residential setbacks.
3. Is a detached deck subject to 15 ft. separation distance between structures.
4. If attached or abutting decks should be regulated separately from the above.

Waterfront is different from non-waterfront. Maintain the 15 ft. setback for structures.

Consider allowing uncovered decks not over 30 inches above the existing grade or the level of the first floor whichever is less, that meet the required side yard setback to locate in the side yard as an exception to the requirement that all accessory structures be located in the rear yard.

May distinguish between decks on the ground or not more than 18 inches above the existing grade. And, decks that are located between 18 inches and 30 inches in height above the existing grade.

Consider specifying that attached or detached decks 30 inches or less above the existing grade have the same setback requirements as an accessory structure.

Consider differentiating such that attached or detached decks over 30 inches above the existing grade shall have the same setbacks as the principal structure.

Consider eliminating the separation distance between structures to allow more flexibility in the location of structures on a plot. The separation distance was already eliminated for pergolas.

Consider allowing an abutting or attached deck to project not more than 10 ft. into the required rear yard setback for the residence.

Consider permitting an attached or detached wood or wood composite deck not more than 30 inches above the existing grade to be constructed in a rear yard, provided such structure does not occupy more than 30% of the area of the required yard and provided it is not located closer than 5 feet to the rear, 10 ft. to an interior side lot line or 15 ft. from the side plot line on a corner property.

No accessory structure shall be located in the front yard or the required side yard.

When an accessory structure is attached or abutting to the principal building, it shall be considered as a part of the principal building, and it shall comply in all respects with the requirements of this chapter applicable to the principal structure.

Eliminate the setback requirement between structures.

Treat attached abutting unenclosed unroofed decks with floor surfaces no more than 30 inches above grade as accessory structures.

Treat attached abutting unenclosed unroofed decks with floor surfaces no more than 30 inches above grade as decks with standards separate from accessory structures.

An attached or abutting deck that is not more than 30 inches in height above the existing grade may extend up to 10 ft. into the rear yard notwithstanding setback requirements for the main structure.

Attached or abutting unenclosed unroofed decks with floor surfaces no more than 30 inches above grade may extend into the rear yard provided, however, that the projection extends no closer than five feet from the rear property line.

Notwithstanding any other provision in the zoning regulations to the contrary, an attached or abutting unenclosed unroofed decks with floor surfaces no more than 30 inches above grade may extend 10 ft. into the rear yard.



