

MIAMI SHORES PLANNING AND ZONING BOARD
Planning and Zoning Department Staff Report

Hearing Date	February 23, 2017	Meeting Time	7:00 P.M.
File Number	PZ-2-17-20174	Folio Number	11-3205-027-0600
Owner	Frederic Puren		
Applicant	Same		
Agent	Tom Robertson		
Property Address	9179 N Bayshore Drive		
Legal Description	5 53 42 BAY LURE PB 44-63 LOT 7 & LOT 8 BLK 4 LOT SIZE IRREGULAR OR 19889-0757 08 2001 1	Assessor's Building Value	N/A
Property Sq. Ft.	27,722	Building Sq. Ft.	N/A
		Flood Zone	AE9
Zoning	R35	Future Land Use Designation	Single Family Residential
Existing Use	Vacant Plot	Comprehensive Plan Consistency	To Be Determined
Existing Structure	N/A story; N/A bed/N/A bath	Year Built	N/A
Subject	Sec. 701 Appeal on allegation of error, determine land area requirement for residence on septic system		
Action Required	Approve, Approve with Conditions, or Deny the Application	Other Required Approvals	Planning board approval Village Building Permits
Staff Report	David A. Dacquisto, Director, Planning and Zoning	Report Date	February 15, 2017

Background

The appeal under Sec. 701 Appeal on allegation of error, is to determine the required land area requirement for a residence on a septic system.

Construction on this plot or lots will require separate planning board approval and building permits.

Sec. 701. - Appeal on allegation of error.

Any interested person may *appeal* to the planning board from any decision, order or determination by the director of planning and zoning (whether such action was affirmative, negative or conditional), alleging that such action was in error for specifically stated reasons.

Applicant is appealing the decision of the Planning Director that under the Comprehensive Plan a residence on a septic system must be located on a plot of not less than 15,000 sq. ft. in area with a density of not more than approximately 2.9 units per acre.

In planning and zoning where federal, state, county or local requirements vary, the regulations which are more restrictive or impose higher standards or requirements shall prevail.

Florida State requires that residences served by a septic system have a land area available of not less than 10,000 sq. ft.

Miami Dade County regulations require that residences served by a septic system have a land area available of not less than 15,000 sq. ft. and the land area may include off site land including the right-of-way.

The more restrictive prevails and in Miami Dade County generally a parcel of not less than 15,000 sq. ft. is required for residences served by septic system.

The Miami Shores Comprehensive Plan requires that residences served by a septic system have a plot area of 15,000 sq. ft.

A plot area of 15,000 sq. ft. as required by Miami Shores, is greater than 15,000 sq. ft. including right-of-way as required by Miami Dade County and therefore the Miami Shores requirement prevails.

Subject Parcel

The applicant has a letter dated January 31, 2017 from DERM. The letter clearly state in capital letters, **“THIS LETTER IS NOT DERM APPROVAL OF THE PROPOSED PROJECT.”** The letter is included in this packet that states:

DERM has no objection to the interim use of a septic tank and drainfield for the proposed development provided each lot complies with the minimum lot size requirements per Section 24-43.1 (b) of the Code. In accordance with the Code, the minimum lot size for a single family residence served by public water and a septic tank shall be 15,000 sq. ft. (gross). Based on the survey submitted, prepared by Blanco Surveyors Inc. (dated September 11, 2009), Lots 7 and 8 of Block 4 of Bay Lure have gross lot areas of 15,950 sq. ft. and 15,923 sq. ft. respectively, which are compliance the aforementioned Code requirements.

When calculating density, the entire land area is used for the calculation including right-of-way. The assessor calculates the plot as 27,722 sq. ft. or 13,861 sq. ft. per lot resulting in a density of 3.1 units per acre. When the right-of-way is included (2,075 sq. ft.) the total area of 15,936 sq. ft. results in a density of 2.7 units per acre, less than the 2.9 units per acre limit in the comprehensive plan.

It is less useful to calculate density based on one plot than to calculate it based on a plat because generally you look at the entire area included in a plat with multiple plots to determine the overall

residential density. If you include the entire plat in the calculation, you may arrive at a density higher or lower than the density derived from the subject plot.

There was no survey in the packet submitted and staff is including one previously provided to staff for review. The survey, included in this packet shows 2 lots but there is no indication anywhere on the survey of what the square footage of each lot is. The plot on the survey is 166 ft. wide and is approximately 167 ft. in depth making each lot approximately 83.5 ft. wide and 167 ft. deep. Each lot is 13,861 sq. ft. (total plot area is 27,722 sq. ft.) as listed by the assessor and as shown on the survey.

DERM uses gross plot / lot area and this is based on the area of the plot / lot measured to the center line of the road.

Each lot is 13,861 sq. ft. and the area in front of the front plot line measured to the center line of the road is 2,075 sq. ft. The lot combined with the right-of-way have a total area of 15,936

The question for the board involves an interpretation of the Miami Shores Village Comprehensive Plan.

The comprehensive plan requires that plots on septic system have an area of 15,000 sq. ft. then the question is what constitutes a 15,000 sq. ft. plot for the purpose of septic systems under the comprehensive plan. Another question is on the wording of the section on single-family residential plots utilizing septic systems and whether the language is consistent with state statute on land area necessary for septic systems.

Should the comprehensive plan be interpreted to require 15,000 sq. ft. of area as DERM interprets it including the right-of-way?

The decision of the board will have broad applicability as there are several plots in the village that have similar areas and may be subject to subdivision depending on the decision of the board.

Miami Shores Village Comprehensive Plan
Chapter 1. Future Land Use Element

Single Family Residential:

Single family detached units at a density up to 6.0 units per acre except where Department of Environmental Resources regulations including septic tank standards require a lower density. Septic tank standards require a plot area of 15,000 square feet for installation of a septic system. The density for single family detached units on septic systems is approximately 2.9 units per acre.

Appendix A Zoning

Sec. 201. – Tense and number; certain words, terms defined.

Plot. A parcel of land, not necessarily coinciding with a lot or lots shown on a map of record, which is occupied or to be occupied by a building and, if any, its accessory buildings, or by a group of buildings having any yard or court in common and, if any, the buildings accessory to such group, together with the open spaces appurtenant to such building or group, and which parcel has frontage on a platted street.

Plot area. The total area of the normally dry land of a plot within the boundary lines thereof.

Plot area is defined as the dry area within the boundary lines of the plot. The boundary lines of the plot do not include the right-of-way and this is clearly shown on the survey.

Plot depth. The mean distance from the front street line of a plot to its rear line.

Street line. Any exterior line bounding a street.

Schedule of Regulations

<i>All R Districts</i>	<i>Minimum Plot Size</i>	<i>Width: 75 ft.; Area: 7,500 sq. ft.</i>
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Analysis

The board may consider if plot area for septic system is different than the plot area as commonly interpreted. For example, the code requires a minimum lot width of 75 ft. and this would have a depth of 100 ft. in order to arrive at the minimum area requirement of 7,500 sq. feet. Platted lots in Miami Shores start at 100 ft. in depth front plot/lot line (street line) to rear plot/lot line and the area calculation appears to have derived from this.

The area of each of the proposed plots is less than 15,000 sq. feet. The Miami Shores Comprehensive Plan requires a plot area of 15,000 sq. ft. for residences on septic systems. The requirement of Miami Dade County or the requirement of Miami Shores Village shall prevail as interpreted by the Planning Board.

Recommendation

Based on the information submitted and heard at the public hearing, the Planning Board may:

1. Uphold the decision of the planning director that the comprehensive plan prevails and that plots on septic system must be not less than 15,000 sq. ft. in plot area and that right-of-way is not considered part of the plot; or
2. Find for the applicant and determine that right-of-way is to be included in the calculation of plot area available for septic systems; and / or
3. Direct staff to draft language to amend the comprehensive plan to specifically include the right-of-way in calculating plot size for the purposes of compliance with the 15,000 sq. ft. area requirement for plots on a septic system or as determined by DERM. The amendment would be included in the current comprehensive plan update.