

# CITY OF CORAL GABLES

## -MEMORANDUM-

**TO:** PAT SALERNO  
CITY MANAGER

**DATE:** APRIL 6, 2009

**VIA:** EDWARD M. WELIBER  
BUILDING & ZONING DIRECTOR

**FROM:** MARTHA CALAZAR BIANCO  
ZONING OFFICIAL

**SUBJECT:** APRIL 6, 2009  
BOARD OF ADJUSTMENT  
SUMMARY

Please see below a summary of the April 6, 2009, Board of Adjustment case(s).

### Variance Request

The applicant requested a variance to allow the single-family residence to have a front setback of twenty-three feet, ten inches (23'10") vs. single-family residences must provide a minimum of twenty-five feet (25'0") as required by Section 4-101 (D) (a) of the Coral Gables "Zoning Code".

ADDRESS	CASE NO.	STAFF RECOMMENDATION	BOARD DECISION
4710 Orduna Drive	8695-Z	Denial	Approval

### Variance Request

The applicant requested three variances for the proposed generator 1) To be located in the side street yard vs. no accessory structure may be located in the area between the street and the main residential building as required by Section 5-101 (B) of the Coral Gables "Zoning Code".

2) Allow the proposed generator in the side street yard vs. in no case shall an accessory structure be located closer to the front or side street of a lot or building site than the main or principal building as required by Section 5-101 (C) of the Coral Gables "Zoning Code".

3) Grant a variance to allow the proposed standby generator to be at a maximum height of five and a half feet (5'6") to the top of the generator from actual grade, and to have an area of twenty-one square feet (21) vs. standby generators shall be limited to a maximum height of four feet (4'0") and may not exceed a ground area of twenty square feet (20) as required by Section 5-2801 (A) (14) of the Coral Gables "Zoning Code".

ADDRESS	CASE NO.	STAFF RECOMMENDATION	BOARD DECISION
755 Tiziano Ave.	8697-Z	Approval	Approval

Enclosure: Staff Report

Cc: Dona Lubin, Assistant City Manager  
Elizabeth L. Gonzalez, Zoning Technician

## STAFF REPORT FOR 4710 ORDUNA DRIVE

Architect/Engineer: David Wearne Johnson

Legal Description: Lot(s): 1 and 3 and all of Lot 2, Block: 109  
Coral Gables Country Club Section 5, PB/PG: 23/55

Present Owner(s): Luis and Camille Diaz

Present Use: Residential Use

Zoning District: Single-Family Residential (SFR)

Land Use Classification: Residential Use (Single-Family) Low Density

**APPLICANT'S PROPOSAL:** In connection with the proposed single-family residence at the subject property, the Applicant requests the following variance(s) pursuant to the provisions of Ordinance No. 2007-01 as amended and known as the "Zoning Code."

1. Grant a variance to allow the new single-family residence to have a front setback of twenty-three feet, ten inches (23'-10") vs. single-family residences must provide a minimum of twenty-five (25'-0") feet as required by Section 4-101(D)(4)(a) of the Coral Gables "Zoning Code."

**BOARD OF ARCHITECTS REVIEW:** All as shown on plans which have received Final approval by the Board of Architects on December 20, 2007.

**ADVERTISING:** This application was advertised in the Miami Daily Business Review on March 27, 2009. Letters were mailed to properties within one thousand feet of the subject property and the property was posted on March 27, 2009.

**STAFF OBSERVATION:** The Applicant is requesting to encroach one foot, two inches (1'-2") into the required twenty-five (25'-0") foot front setback area.

Plans were submitted for an addition and remodeling on the subject property. The plans approved by the City staff clearly indicate the required twenty-five (25'-0") foot front setback distance.

This property is not unique in size or configuration. Although the front property line is an arc, there are numerous building sites within the City with similar conditions, and the residences on these sites were built according to the prescribed setbacks in the Coral Gables "Zoning Code." Allowing the Applicant to maintain a reduced front setback area, would confer a privilege not afforded to other properties. An error in the construction of any portion of the residential building, or deviation from the approved plans due to dimensional inaccuracies, does not constitute a hardship. Approval of the requested variance would set a dangerous precedent for similar cases in the future.

After review of the plans submitted, the Zoning Division staff recommends **DENIAL** of Item No. 1 of the Applicant's request.

**STAFF RECOMMENDATION:** Pursuant to **Section 3-806 STANDARDS FOR VARIANCES** of the "Zoning Code," the Zoning Division staff finds and the Board of Adjustment shall find as follows in regard to the Applicant's proposal as presented in their application for a variance from the provisions of Ordinance No. 2007-01, as amended and known as the "Zoning Code," and makes the following recommendations:

1. That special conditions and circumstances do not 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. That the special conditions and circumstances would result from the actions of the Applicant.
3. That granting the variance requested will confer on the Applicant a special privilege that is denied by these regulations to other lands, buildings or structures in the same zoning district.
4. That literal interpretation of the provisions of these regulations would not deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these regulations, and would not work unnecessary and undue hardship on the Applicant (see also definition of "necessary hardship").
5. That the variance granted is not the minimum variance that will make possible the reasonable use of the land, building or structure.
6. That granting the variance will change the use to one that is not permitted in the zoning district or different from other land in the same district.
7. That the granting of the variance will not be in harmony with the general intent and purpose of these regulations and that such variance will be injurious to the area involved or otherwise detrimental to the public welfare.

Based on the findings in paragraphs 1 through 7 above, the Zoning Division staff recommends **DENIAL** of Item 1 of the Applicant's proposal.

## STAFF REPORT FOR 755 TIZIANO AVENUE

**Architect/Engineer:** Paul A. Buzinec, A.I.A.

**Legal Description:** Lot(s): 28 through 30 inclusive, Block: 104  
Coral Gables Biscayne Bay Section 1, Plat A, PB/PG: 25/63

**Present Owner(s):** Jennie S. Malloy

**Present Use:** Residential Use

**Zoning District:** Single-Family Residential (SFR)

**Land Use Classification:** Residential Use (Single-Family) Low Density

**APPLICANT'S PROPOSAL:** In connection with the proposed single-family residence at the subject property, the Applicant requests the following variance(s) pursuant to the provisions of Ordinance No. 2007-01 as amended and known as the "Zoning Code."

1. Grant a variance to allow the proposed standby generator in the side street yard vs. no accessory building or structure may be located in the area between the street and the main residential building, or any part thereof, as required by Section 5-101(B) of the Coral Gables "Zoning Code."
2. Grant a variance to allow the proposed standby generator in the side street yard vs. in no case shall an accessory building or structure be located closer to the front or side street of a lot or building site than the main or principal building as required by Section 5-101(C) of the Coral Gables "Zoning Code."
3. Grant a variance to allow the proposed standby generator to be at a maximum height of five and a half (5'-6") feet to the top of the generator from actual grade, and to have an area of twenty-one (21) square feet vs. standby generators shall be limited to a maximum height of four (4'-0") feet and may not exceed a ground area of twenty (20) square feet as required by Section 5-2801(A)(14) of the Coral Gables "Zoning Code."

**BOARD OF ARCHITECTS REVIEW:** All as shown on plans which have received Final approval by the Board of Architects on March 3, 2009.

**ADVERTISING:** This application was advertised in the Miami Daily Business Review on March 27, 2009. Letters were mailed to properties within one thousand feet of the subject property and the property was posted on March 27, 2009.

**STAFF OBSERVATION:** The Applicant is requesting a variance for a proposed stand-by generator to be located between the side street and the main residential building, and to be located closer to the side street than the main residential building.

Staff has reviewed the plans submitted. Due to the location of the pool and the location of the large septic drain field in the rear and interior side of the property, staff has determined the side street, Erwin Road, to be the most feasible location for the proposed generator. The location proposed complies with the required fifteen (15'-0") feet side street setback. In addition, the electrical panel for the home is located closest to the side street, and would facilitate the wiring installation for the generator. The proposed location also provides ample space for servicing the unit.

The new streamline design incorporates the diesel fuel tank built beneath the unit. Due to the built-in tank, the overall height of the generator is 5 ½ feet, exceeding the allowable height by 1 ½ feet. The total area of the generator is twenty-one square feet, exceeding the allowable area by one foot. Both the height and the area the generator exceeds over the allowable amount is minimal, and the homeowner has agreed to add additional plants to the existing lush landscaping in order to completely screen the unit from street view.

Staff recommends APPROVAL of Items 1, 2 and 3 of the Applicant's request.

**STAFF RECOMMENDATION:** Pursuant to **Section 3-806 STANDARDS FOR VARIANCES** of the "Zoning Code," the Zoning Division staff finds and the Board of Adjustment shall find as follows in regard to the Applicant's proposal as presented in their application for a variance from the provisions of Ordinance No. 2007-01, as amended and known as the "Zoning Code," and makes the following recommendations:

1. That special conditions and circumstances do 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. That the special conditions and circumstances do not result from the actions of the Applicant.
3. That granting the variance requested will not confer on the Applicant a special privilege that is denied by this Ordinance to other lands, buildings or structures in the same zoning district.
4. That literal interpretation of the provisions of the "Zoning Code" would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the "Zoning Code," and would work unnecessary and undue hardship on the Applicant (see also definition of "necessary hardship").
5. That the variance requested is the minimum variance that will make possible the reasonable use of the land, building or structure.
6. That granting the variance will not change the use to one that is different from other land in the same district.
7. That the granting of the variance will be in harmony with the general intent and purpose of the "Zoning Code," and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Based on the findings in paragraphs 1 through 7 above, the Zoning Division staff recommends APPROVAL of Items 1, 2 and 3 of the Applicant's proposal.