



Department of Planning, Zoning and Code Compliance
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Staff Analysis and Recommendation

To: Planning and Zoning Board
From: Darby Delsalle, AICP
Director of Planning

Re:

HEARING NUMBER: VARH2018-0144

APPLICANT: Rudy Martinez

FOLIO: 32-2023-010-0140

LEGAL DESCRIPTION: LOT 14 IN BLOCK 33
OF MIAMI LAKES LAKE MARTHA SECTION,
ACCORDING TO THE PLAT THEREOF, AS
RECORDED IN PLATBOOK 86 AT PAGE 76, OF THE
PUBLIC RECORDS OF MIAMI DADE COUNTY
FLORIDA.

LOCATION: 7201 Miami Lakeway South
Miami Lakes, Florida, 33014

ZONING DISTRICT: RU-1

Date: April 17, 2018

A. Request

In accordance with the Town of Miami Lakes Land Development Code (the "Town's LDC"), Rudy Martinez (the "Applicant") is requesting the following variance:

A variance from Section 13-1509(b) of the Town's Zoning Code to locate a fence in a street side yard, 6 feet from the property line where a minimum 15 feet is permitted.

B. Background

The Applicant is proposing to build a six (6) foot aluminum picket fence around the side yard facing Dade Pine Avenue of an existing single-family home located on Miami Lakeway South. The main house is setback 23.6 feet from the street-side property line. The provision requiring the minimum fifteen (15) foot setback was adopted in 2004 (Ordinance No. 04-63). Replacing the prior County Code which permitted fences to be built to the property line, the new provision adopted by the Town reflected the prevailing development pattern of single family homes, principally east side of the Palmetto Expressway, as was required

by underlying private deed restrictions¹. This prevailing development pattern is evident when viewed in context of the fencing of the Applicant's neighbor to the north. That property has a fence setback fifteen (15) feet from the street side yard, a full nine (9) feet deeper than this request. It is worth noting, however, that the neighbor with the compliant fence has signed a letter in support of the applicant's request.

C. Staff Recommendation

Staff recommends denial for the proposal as shown in the attached plans, consisting of two pages, and stamped received on March 23rd, 2018, as it does not meet the variance criteria at section 13-305(f)(1).

D. Property Information and Permit History

Zoning District of Property: RU-1 – Single-Family Residential District

Future Land Use Designation: Low Density Residential

Subject Property:

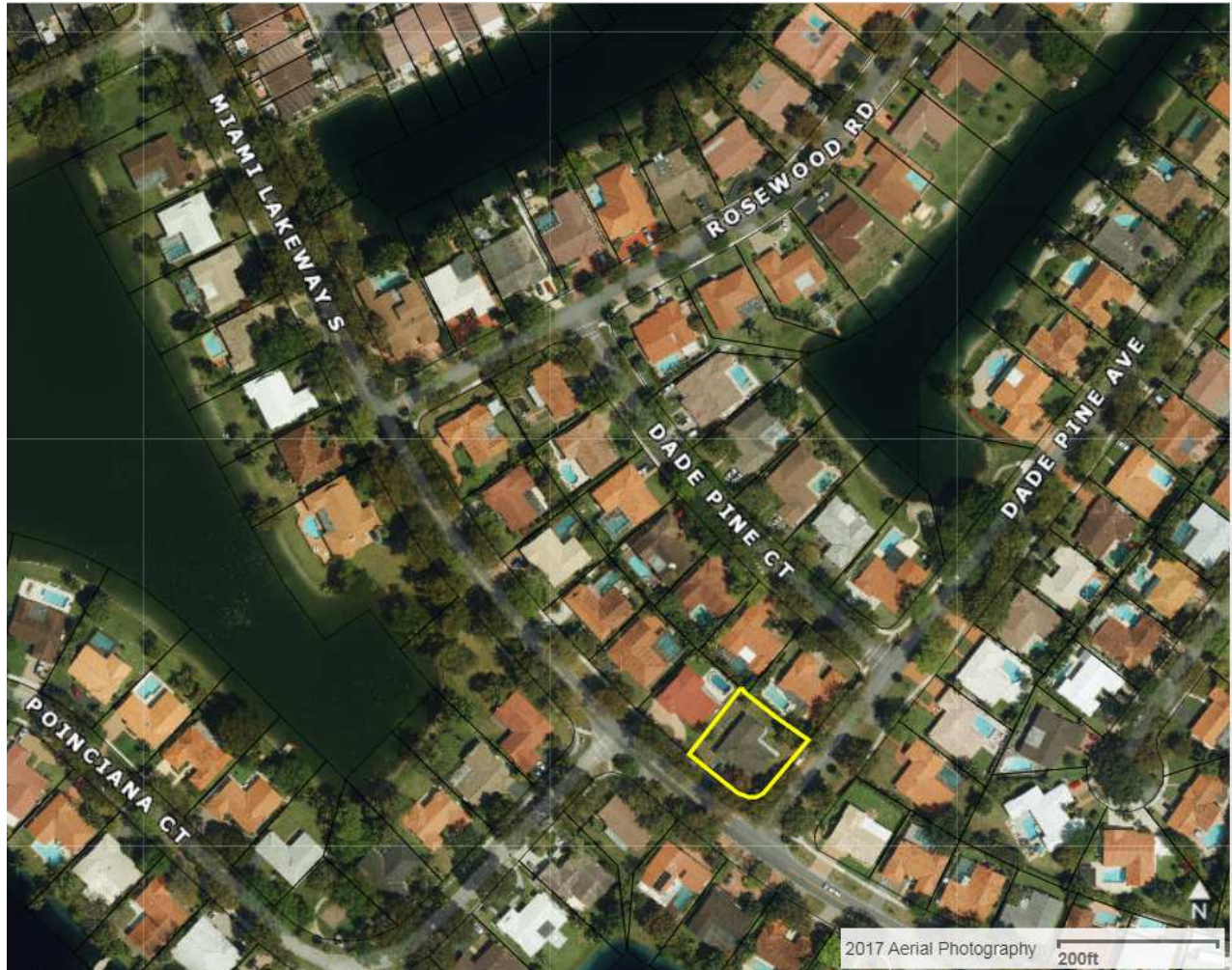
The subject parcel is a 11,000-square foot lot on the corner of Miami Lakeway South and Dade Pine Avenue. The site is improved with a single-family home constructed in 1970 according to Miami Dade County records. It is located at 7201 Miami Lakeway South within the Low Density Residential Future Land Use Designation and is zoned RU-1 (Single-Family Residential District).

Surrounding Property:

	Future Land Use Category	Zoning District
North:	Low Density Residential	Single-Family Residential District, (RU-1)
South:	Low Density Residential	Single-Family Residential District, (RU-1)
East:	Low Density Residential	Single-Family Residential District, (RU-1)
West:	Low Density Residential	Single-Family Residential District, (RU-1)

¹ Subsequent amendments to the code (Ord. Nos. 08-102 and 13-156) provided exemptions to certain areas, principally west of the Palmetto Expressway, that were not developed under such covenants. The Applicant's property is east of the Palmetto Expressway.

Subject Property Location Map



not to scale

Open Building Permit(s) / Open Code Compliance Violation(s) / Zoning History:

There are currently no open permits or code violations on this property.

E. Analysis

Subsection 13-305(f)1 of the Town LDC allows the Planning and Zoning Board to approve non-use variance request(s) on the basis of practical difficulty on part of the Applicant by a majority vote of the members of the Planning and Zoning Board present. In order to authorize any variance on the basis of practical difficulty, the Planning and Zoning Board members at the meeting shall balance the rights of property owners in the Town as a whole against the need of the individual property owner to deviate from the requirements of the Land Development Code based on an evaluation of the factors below. All of the factors should be considered and given their due weight; however, no single factor is dispositive.

a) The Town has received written support of the specifically identified variance requests from adjoining property owners.

Analysis: The Town has received written support for this request from both adjacent neighbors and other neighbors on the same block. The letter with all the neighbor's signatures has been included as an attachment to this staff report.

Finding: Complies.

b) The Variance would be compatible with development patterns in the Town.

Analysis: See Section B, Background. The surrounding neighborhood was developed to provide for a fifteen (15) foot clear between any fencing along all side streets. This requirement was part of the deed restrictions that regulated development in the area prior to Town's incorporation and was later incorporated into the code in 2004.

Finding: Does not comply.

c) The essential character of the neighborhood would be preserved.

Analysis: See Section B, Background, and criteria "b" above. This configuration would be a departure from the existing development pattern of the neighborhood.

Finding: Does not comply.

d) The Variance can be approved without causing substantial detriment to adjoining properties.

Analysis: See Section B, Background, and criteria "b" and "c". The neighboring property to the north is fenced following the 15-foot setback requirement. Approval of this application would allow the fence for this property to project an additional nine (9) feet beyond the fence line established by the neighbor.

Finding: Does not comply.

e) The Variance will do substantial justice to the property owner as well as to other property owners justifying a relaxation of this Land Development Code to provide substantial relief.

Analysis: See Section B, Background, and criteria "b", "c" and "d".

Finding: Does not comply.

f) The plight of the applicant is due to unique circumstances of the property and/or applicant which would render conformity with the strict requirements of the Land Development Code unnecessarily burdensome.

Analysis: See Section B, Background, and criteria "b", "c" and "d". The lot is of typical size and configuration for the neighborhood. Based on the submittals of the applicant, the configuration of the property, and the analysis provided in this report, no unique circumstances that exist with regard to the property and/or the Applicant that would make conformance with Code provisions unnecessarily burdensome.

Finding: Does not comply.

g) The special conditions and circumstances which exist are the result of actions beyond the control of the applicant.

Analysis: See Section B, Background, and criteria “b”, “c”, “d”, and “f”. Based on the submittals of the Applicant, the analysis provided by this report ,there are no special conditions or circumstances which exist that are the result of actions beyond the control of the Applicant.

Finding: Does not comply.