



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

To: Planning and Zoning Board
From: Brandon R. Schaad, AICP, LEED AP
Director of Planning
Re: **HEARING NUMBER:** VARH2016-009
APPLICANT: Anibal and Ann Margaret Villar
FOLIO: 32-2015-012-0160
LEGAL DESCRIPTION: Lot 16, Block 21, 6th Addition of Royal Oaks,
according to the plat thereof, as recorded in
Plat Book 133 at Page 31 of the Public
Records of Miami-Dade County, Florida
LOCATION: 8325 NW 163rd Street
Miami Lakes, Florida 33016
Date: June 21, 2016

REQUEST(S)

In accordance with the Town of Miami Lakes Land Development Code (the "Town's LDC"), Anibal and Ann Margaret Villar (the "Applicant") is requesting the following variance(s):

1. A variance from Subsection 13-1512(a)(1)a. to allow a pool 5.05 feet from the rear property line where the Code requires a pool to be set back a minimum of 7.5 feet from the rear property line.

Summary of Proposal
and
Recommendation

The Applicant is requesting a variance in order to construct a pool in the back yard with a rear setback of 5.05 feet where the Code requires a pool to be set back 7.5 feet from the rear property line. The Applicant is requesting a variance of 2.45 feet.

The shape of the lot is such that there are two rear property lines that come to a point to form the back yard. The pool will be set back 5.05 feet from one rear property line and 5.15 feet from the other rear property line.

As the Applicant states in his Letter of Intent, there have been similar pool variances that have been granted in the immediate area. The Royal Oaks Homeowner's Association has approved the plans for the pool.

Staff Recommendation

Request #1: Staff recommends approval with conditions.

Background

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

Future Land Use Designation: **Low Density Residential**

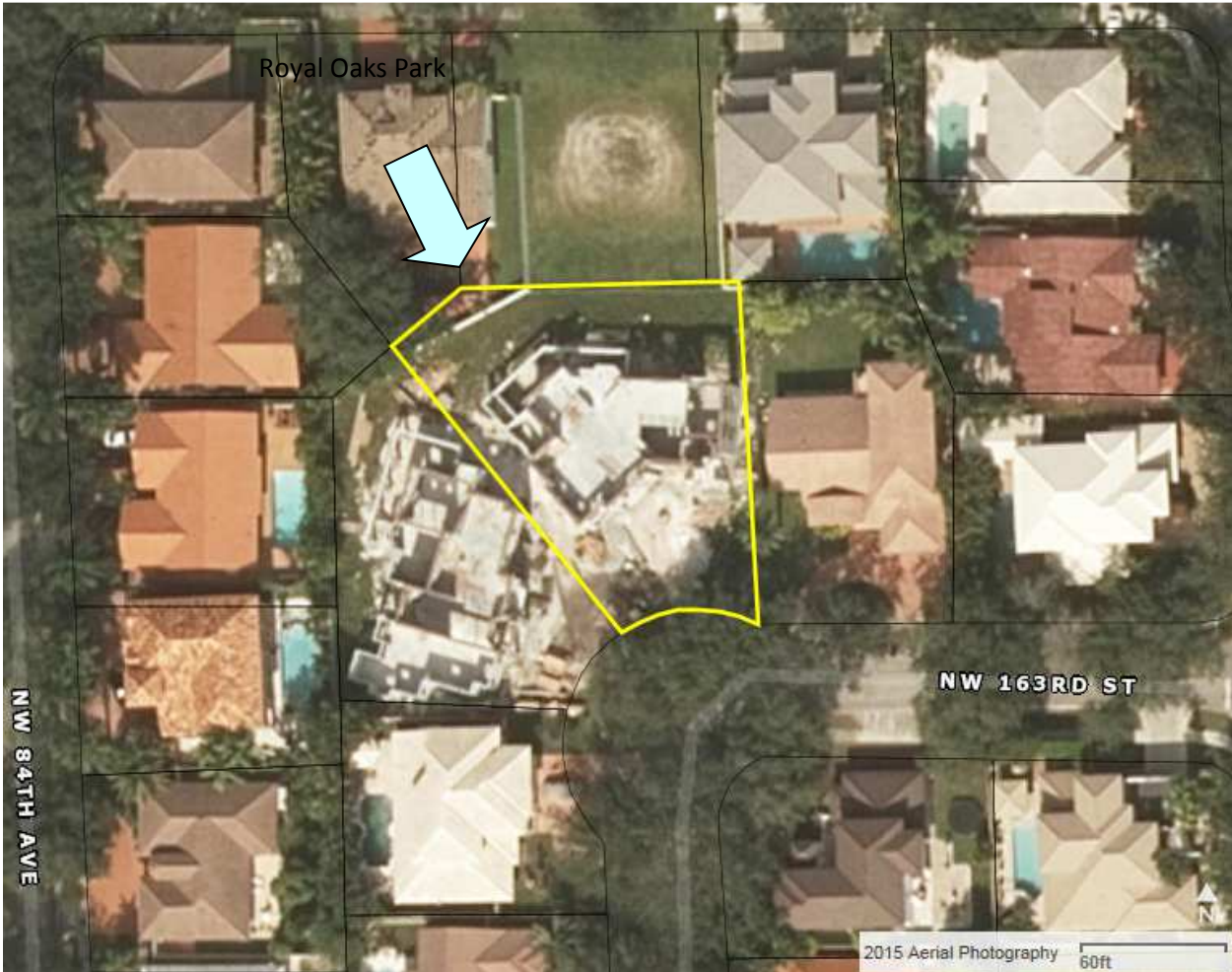
Subject Property:

The subject site is located at 8325 NW 163rd Street. It is currently under construction with a two-story, single-family dwelling. According to the Property Appraiser's data, the lot consists of 11,816 square feet. The property is located 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)

Subject Property Location Map



not to scale

The following information is provided for informational purposes only and shall not be considered by the Planning and Zoning Board in providing its determination:

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

There are several building permits associated with this property as it is under construction.

There are no open code violations associated with this property.

Variance Criteria

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.

	PRACTICAL DIFFICULTY VARIANCE FACTORS
	FACTOR
a.	<p>The Town has received written support of the specifically identified variance requests from adjoining property owners;</p> <p><i>Analysis: The Town has not received any written support regarding this variance request. <u>This criterion is not met.</u></i></p>
b.	<p>The Variance would be compatible with development patterns in the Town;</p> <p><i>Analysis: The proposed pool would be compatible with development patterns in the Town. The Code allows pools in rear yards. The variance requested is the minimum needed to fit the pool in the oddly shaped back yard. <u>This criterion is met.</u></i></p>
c.	<p>The essential character of the neighborhood would be preserved;</p> <p><i>Analysis: The location of the proposed pool would not take away from the character of the neighborhood. The Code allows pools in rear yards. The variance requested is the minimum needed to fit the pool in the oddly shaped back yard, and the pool will not be visible to neighbors as there is an existing six foot high CBS wall at the northwestern property line (the setback from which the variance is requested). The other nearby property line, to the north, currently includes a chain link fence separating it from a vacant lot. Staff is recommending a condition that an opaque wall or fence must be installed to hide any view of the pool from that adjacent property. Additionally, there is no pool deck between the portion of the pool for which the variance is being sought and the property line. A deck would have a required setback of five feet, and thus actual improvements will be further from the property line than what the required deck setback would be. <u>This criterion is met if conditioned as recommended by Staff.</u></i></p>
d.	<p>The Variance can be approved without causing substantial detriment to adjoining properties;</p> <p><i>Analysis: As stated above, the Applicant is requesting the minimum variance needed, 2.45 feet, in order for the pool to fit in the oddly shaped back yard. There remains 5.05 feet from the pool to the rear property line. The pool will not be visible</i></p>

	<p>to neighbors as there is an existing six foot high CBS wall at the northwestern property line (the setback from which the variance is requested). The other nearby property line, to the north, currently includes a chain link fence separating it from a vacant lot. Staff is recommending a condition that an opaque wall or fence must be installed to hide any view of the pool from that adjacent property. Additionally, there is no pool deck between the portion of the pool for which the variance is being sought and the property line. A deck would have a required setback of five feet, and thus actual improvements will be further from the property line than what the required deck setback would be. <u>This criterion is met if conditioned as recommended by Staff.</u></p>
e.	<p>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;</p> <p><i>Analysis: In the letter of intent, the Applicant states that there have been similar pool variances that have been granted in the immediate area. Also, the Applicant is requesting the minimum variance needed, 2.45 feet, in order for the pool to fit in the oddly shaped back yard. There remains 5.05 feet from the pool to the rear property line. The pool will not be visible to neighbors as there is an existing six foot high CBS wall at the northwestern property line (the setback from which the variance is requested). The other nearby property line, to the north, currently includes a chain link fence separating it from a vacant lot. Staff is recommending a condition that an opaque wall or fence must be installed to hide any view of the pool from that adjacent property. <u>This criterion is met if conditioned as recommended by Staff.</u></i></p>
f.	<p>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; and</p> <p><i>Analysis: The unique circumstance that exists on this property is that it has an oddly shaped back yard. Nonetheless, given the large size of the lot and the large pool that is proposed, conformance with the Code would not be unnecessarily burdensome. <u>This criterion is not met.</u></i></p>
g.	<p>The special conditions and circumstances which exist are the result of actions beyond the control of the applicant.</p> <p><i>Analysis: The special condition that exists on the property, the oddly shaped back yard, is a result of actions beyond the control of the Applicant. However, as noted above, because these unique circumstances do not render conformity with the Code unnecessarily burdensome, <u>this criterion is not met.</u></i></p>

ANALYSIS

The Applicant is requesting a variance in order to construct a pool in the back yard with a rear setback of 5.05 feet where the Code requires a pool to be set back 7.5 feet from the rear property line.

The shape of the lot is such that there are two rear property lines that come to a point to form the back yard. The pool will be set back 5.05 feet from one rear property line and 5.15 feet from the other rear property line.

The variance requested is the minimum needed, 2.45 feet, to fit the pool in the oddly shaped back yard. There remains 5.05 feet from the pool to the rear property line. Additionally, there is no pool deck between the portion of the pool for which the variance is being sought and the property line. A deck would have a required setback of five feet, and thus actual improvements will be further from the property line than what the required deck setback would be.

The proposed pool would be compatible with development patterns in the Town and in character with the neighborhood. As the Applicant states in his Letter of Intent, there have been similar pool variances that have been granted in the immediate area.

Staff's analysis shows that this request meets four (4) of the seven (7) practical difficulty criteria for a variance, if the request is conditioned as recommended by Staff.

Therefore, based on the above analysis and other factors contained in this report, Staff recommends:

- **Request #1:** Approval with conditions.

CONDITION(S)

1. All work approved herein shall be in substantial compliance with the plans shown in Exhibit 1.
2. The Applicant shall obtain building permits for all requests approved herein, within one (1) year of the date of this approval. If said building permits are not obtained or an extension granted within the prescribed time limit, this approval shall become null and void.
3. Prior to approval of a final zoning inspection for the pool, the property owner shall have installed, and must perpetually maintain, an opaque fence or wall of at least six feet high along the northern property line.
4. All construction shall comply with the restrictions in the Town's noise ordinance.