



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

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**To:** Planning and Zoning Board

**From:** Brandon Schaad, AICP, LEED AP  
Director of Planning

**Re:** **HEARING NUMBER:** VARH2016-0012  
**APPLICANT:** Yenissee Mink  
**FOLIO:** 32-2016-002-1520  
**LEGAL DESCRIPTION:** Lot 15, Block 5, Royal Garden Estates,  
according to the plat thereof, as recorded in  
Plat Book 155, at Page 4 of the public records  
of Miami-Dade County, Florida  
**LOCATION:** 9014 NW 164<sup>th</sup> Street  
Miami Lakes, Florida 33018

**Date:** June 21, 2016

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### REQUEST(S)

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

1. A variance from Section 13-1506(2)a.1. to allow an open covered terrace 14.83 feet from the rear property line where the Code requires an open covered terrace to be set back a minimum of 18 feet from the rear property line.
2. A variance from Section 13-1507(2) to allow a 7 foot wide walkway on the east side of the property where the Code allows a walkway to be a maximum of 3 feet wide in the side yard.
3. A variance from Section 13-1507(2) to allow a 12 foot wide walkway in the southeast side of the property where the Code allows a walkway to be a maximum of 3 feet wide in the side yard.
4. A variance from Section 13-1507(2) to allow a walkway to be setback 1 foot in the southeast side of the property where the Code requires a walkway to be set back a minimum of 2 feet from the side property line.

5. A variance from Section 13-1507(3) to allow a deck to be setback 1 foot in the southeast side of the property where the Code requires a deck to be set back a minimum of 5 feet from the side property line.
6. A variance from Section 13-1507(2) to allow a 10.5 foot wide walkway on the west side of the property where the Code allows a walkway to be a maximum of 3 feet wide in the side yard.
7. A variance to from Section 13-1508(3) to allow a driveway 1.25 feet from the west side property line where the Code requires a minimum setback of 5 feet for a driveway from the side property line.
8. A variance to from Section 13-1508(6) to allow 76 percent impervious surface in the front yard where the Code allows a maximum of 60 percent impervious surface in the front yard.
9. A variance to from Section 13-1508(6) to allow 70 percent impervious surface in the west side yard where the Code allows a maximum of 60 percent impervious surface in the side yard.

**Summary of Proposal**  
**and**  
**Recommendation**

Request #1 - The Applicant is requesting a variance in order to construct an open covered terrace on the rear of the residence with a setback of 14.83 feet where the Code requires a setback of 18 feet for an open covered terrace.

Requests #2 through #9 - The Applicant is also requesting to legalize the concrete in the front, sides and rear yards that was poured without permits. Staff's research shows that the property was purchased by the current owner in 2001. A permit was obtained in 2002 for a circular driveway as seen in Exhibit 1. According to the surveys, sometime between 2002 and 2007 the remainder of the concrete was added to the property.

Royal Gardens Estates does not have a homeowner's association.

To date, the Town has received two written oppositions in response to this request.

**Staff Recommendation**

**Request #1:** Staff recommends approval with conditions.

**Requests #2 through #9:** Staff recommends denial.

## **Background**

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

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

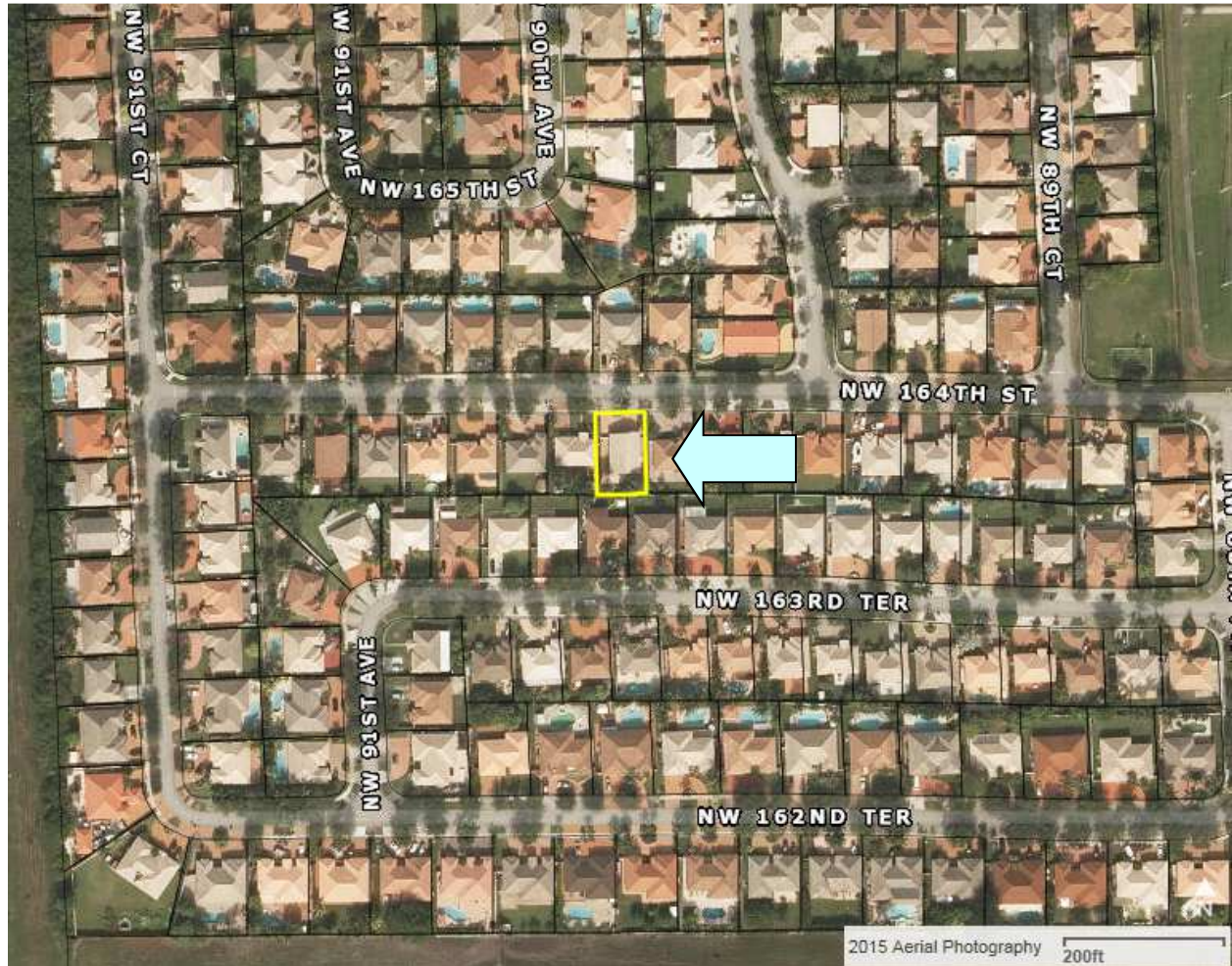
### **Subject Property:**

The site is a single-family property located at 9014 NW 164<sup>th</sup> Street. According to the Miami-Dade Property Appraiser information, the one-story home was built in 2001, consisting of approximately 1,584 square feet on a 6,000 square foot lot. The property is located within the Low Density Residential Future Land Use Designation and is zoned RU-1 (Single-Family Residential District).

### **Surrounding Property:**

	<b>Future Land Use Category</b>	<b>Zoning District</b>
<b>North:</b>	Low Density Residential	Single-Family Residential District, (RU-1)
<b>South:</b>	Low Density Residential	Single-Family Residential District, (RU-1)
<b>East:</b>	Low Density Residential	Single-Family Residential District, (RU-1)
<b>West:</b>	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 no open code violations associated with this property.

There are no open building permits 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.

	<b>PRACTICAL DIFFICULTY VARIANCE FACTORS</b>
	<b>FACTOR</b>
a.	<p><b>The Town has received written support of the specifically identified variance requests from adjoining property owners;</b></p> <p><i>Analysis: The Town has received two written oppositions in response to this request. <u>This criterion is not met.</u></i></p>
b.	<p><b>The Variance would be compatible with development patterns in the Town;</b></p> <p><i>Analysis: Request #1 - The proposed open covered terrace is typical of improvements throughout the Town, and the relatively small variance requested of about three feet, two inches will be unobtrusive. The requested variance is deemed to be compatible with development patterns in the Town.</i></p> <p><i>Requests #2 through #9 – The requested variances are not compatible with development patterns in the Town. It is important to the Town that property owners respect the Code and maintain the appropriate amount of green space in their required yards for drainage and aesthetics.</i></p> <p><u>This criterion is met with regard to Request #1; this criteria is not net with regard to Requests #2 through #9.</u></p>
c.	<p><b>The essential character of the neighborhood would be preserved;</b></p> <p><i>Analysis: Request #1 - The proposed open covered terrace is typical of improvements in backyards, and will be unobtrusive. The requested variance is deemed to be compatible with development patterns in the neighborhood.</i></p> <p><i>Requests #2 through #9 – The requested variances are not compatible with development patterns in the neighborhood. It is important to the Town that property owners respect the Code and maintain the appropriate amount of green space in their required yards for drainage and aesthetics.</i></p> <p><u>This criterion is met with regard to Request #1; this criteria is not net with regard to Requests #2 through #9.</u></p>
d.	<p><b>The Variance can be approved without causing substantial detriment to adjoining properties;</b></p>

	<p><i>Analysis: Request #1 – The requested variance for the open covered terrace is for about three feet, two inches (18 foot setback required versus about 14 feet, 10 inches proposed), which will not be seen from the street and will not be particularly noticeable from neighboring properties.</i></p> <p><i>Requests #2 through #9 would and do cause substantial detriment to adjoining properties. The aesthetics of the lot have been altered substantially with the addition of the concrete. And this amount of concrete affects drainage on adjoining properties and the stormwater system.</i></p> <p><u>This criterion is met with regard to Request #1; this criteria is not net with regard to Requests #2 through #9.</u></p>
e.	<p><b>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;</b></p> <p><i>Analysis: Request #1 – Because the requested variance will not cause a noticeable difference from normal improvements in properties in the area, the requested variance would do substantial justice to both the owner of the subject site and other property owners.</i></p> <p><i>Requests #2 through #9 would and do cause substantial detriment to adjoining properties. The aesthetics of the lot have been altered substantially with the addition of the concrete. And this amount of concrete affects drainage on adjoining properties and the stormwater system. These requested variances do not justify a relaxation of the Code.</i></p> <p><u>This criterion is met with regard to Request #1; this criteria is not net with regard to Requests #2 through #9.</u></p>
f.	<p><b>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</b></p> <p><i>Analysis: Requests #1 through 9 - There are no unique circumstances with the property and/or the Applicant that would render conformity with the Code unnecessarily burdensome. <u>These criteria are not met.</u></i></p>
g.	<p><b>The special conditions and circumstances which exist are the result of actions beyond the control of the applicant.</b></p> <p><i>Analysis: There are no special conditions or circumstances that exist that are the result of actions beyond the control of the Applicant. <u>These criteria are not met.</u></i></p>

## ANALYSIS

### Request #1 –

The Applicant is requesting a variance in order to construct an open covered terrace on the rear of the residence with a setback of 14.83 feet where the Code requires a setback of 18 feet for an open covered terrace.

The proposed open covered terrace is typical of improvements throughout the Town and the neighborhood, and will be relatively unobtrusive and neither visible from the street nor noticeably different than typical improvements throughout the area. Since not seen from the road, the requested variance would not cause substantial detriment to adjoining properties and would justify a relaxation of the Code.

### Requests #2 through #9 –

The Applicant is also requesting to legalize the concrete in the front, sides and rear yards that was poured without permits. Staff's research shows that the property was purchased by the current owner in 2001. A permit was obtained in 2002 for a circular driveway as shown in Exhibit 2. According to the surveys, sometime between 2002 and 2007 the remainder of the concrete was added to the property.

These requested variances are not compatible with development patterns in the Town or the neighborhood. The aesthetics of the lot have been altered substantially with the addition of the concrete and loss of green space. It is important that property owners respect the Code and maintain the appropriate amount of green space in their required yards for drainage and aesthetics.

To date, the Town has received two written oppositions in response to this request.

Staff's analysis shows that Request #1 meets four (4) of the seven (7) practical difficulty criteria if conditioned as recommended by Staff, while Requests #2 through #9 meet zero (0) of the seven (7) criteria.

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

- **Request #1:** *Approval with conditions that the lot be returned to its former configuration as shown in Exhibit 1 and that the terrace in the rear yard may remain;*
- **Requests #2 through #9:** *Denial.*

## CONDITION(S)

1. The open covered terrace approved herein shall be built in substantial compliance with the plans in Exhibit 1.



2. Within the required front yard, paving and other impervious areas (including the driveway) shall be modified as necessary to either: 1) comply with the approved plans for permit number B2002-0561 (included as Exhibit 2); or 2) comply with current LDC requirements (including the driveway approaches).
3. All paving/impervious areas in the required rear yard and in the required side yards shall be modified to comply with LDC requirements.
4. No permit for construction of the open covered terrace, as approved herein, shall be issued unless and until any permits required to comply with Conditions #2 and #3 herein are issued simultaneously.
5. No final zoning inspection of the covered terrace as approved herein shall be approved unless and until all work required under Conditions #2 and #3 has been completed and inspections for such work have been approved.
6. 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.
7. All construction shall comply with the restrictions in the Town's noise ordinance.