



Planning Office
6601 Main Street • Miami Lakes, Florida 33014
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Staff Analysis and Recommendation

To: Planning and Zoning Board
From: Susana Alonso, AICP
Principal Town Planner
Re:
HEARING NUMBER: PZAV2019-0509
APPLICANT: Yamilee Martinez Fernandez
FOLIO: 32-2016-001-0740
LEGAL DESCRIPTION: SEVILLA ESTATES
PB 153-38 T-18406
LOT 74 BLK 1
LOT SIZE 6950 SQ FT

LOCATION: 8944 NW 168th St
Miami Lakes, Florida, 33018
ZONING DISTRICT: RU-1
Date: October 23, 2019

A. Request

In accordance with the Town of Miami Lakes Land Development Code (the “Town’s LDC”), Yamilee Martinez Fernandez (the “Applicant”) following reasonable accommodation from the Land Development Code:

An accommodation from Section 13-1606 to allow storage of a boat and boat trailer in the rear yard of a single-family home in a RU-1 district.

B. Background

The Applicant is requesting a reasonable accommodation to allow storage of a 25’ boat and trailer in the rear yard of their single-family home in a RU-1 District in order to accommodate the needs of their autistic child who uses the boat as a calming device. The property is a 6,950 square foot lot located on the south side of NW 168th Street one lot east of the intersection with NW 89th Pl. It is improved with a 2,279 square foot home, which was built in 2002. The home has a rear setback of 29.49 feet at its narrowest side and 31.22 feet at its widest, and interior side setbacks of 6.56 feet to the west and 12.04 feet to the east.

Sec. 13-1060 of the Land Development Code requires that boats and personal watercraft and trailers be stored in garages with the door fully closed. In 2005 the Town Council issued an amnesty program through which all properties that registered a boat by April 18, 2005 would be allowed to store that boat outdoors, as long as the boat met a set of conditions

enumerated under Sec. 17-1, and would be allowed to replace that boat with a new or smaller boat, as long as the new boat was registered within a 180-day time frame after purchase.

C. Staff Recommendation

Staff recommends approval with conditions for the proposal as shown in the attached plan, consisting of one page, stamped received on October 1, 2019. The recommended conditions are as follows:

1. Approval shall be substantially consistent with the attached plan stamped received on October 1, 2019.
2. A five-foot minimum setback shall be maintained from every interior property line.
2. This reasonable accommodation shall cease to exist upon termination of residence at the property of the disabled individual to whom it is granted.
3. This reasonable accommodation shall be reconsidered by the Planning Board two years from the date of issuance.

D. Property Information and Permit History

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

Future Land Use Designation: Low Density Residential

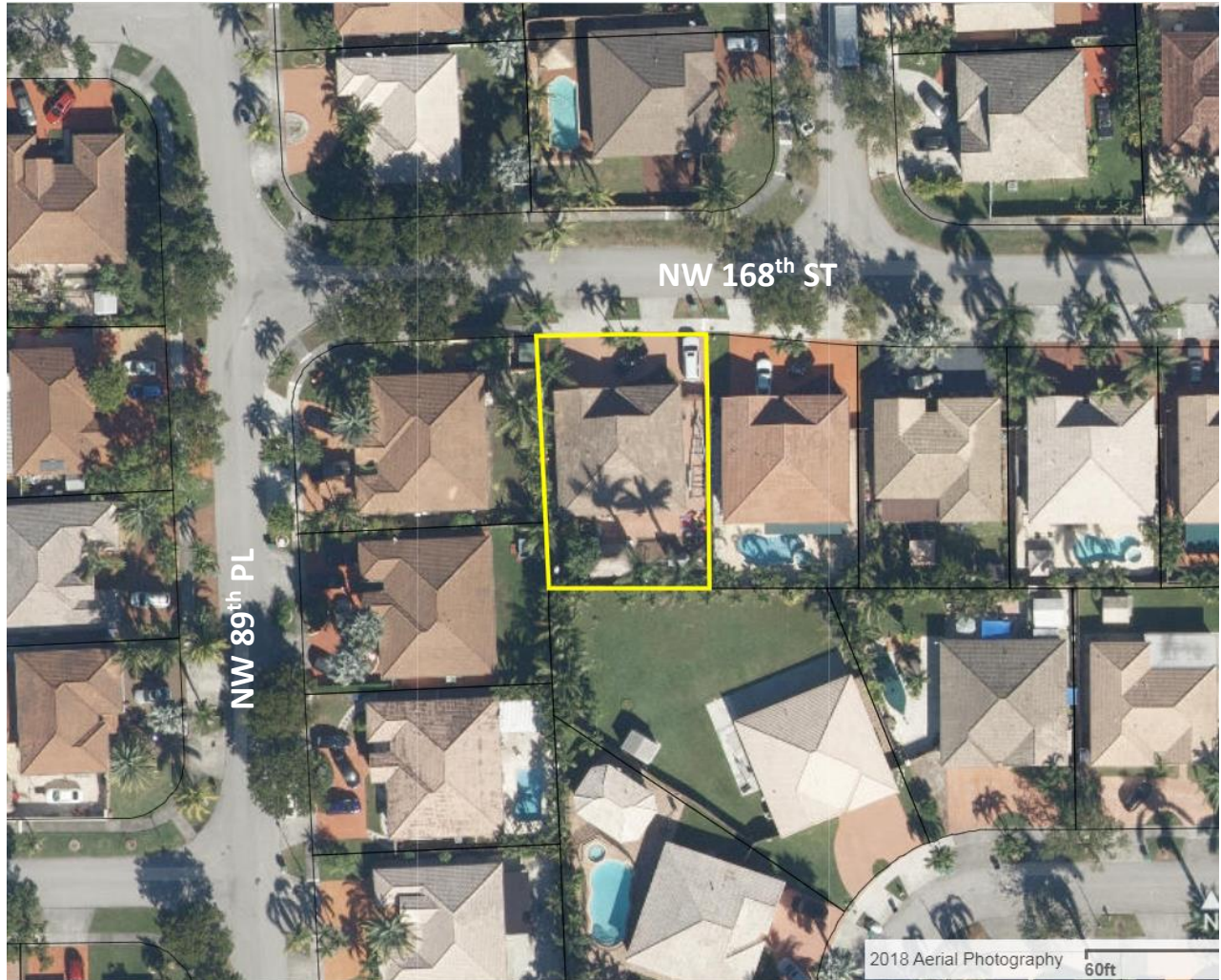
Subject Property:

6,950 square foot lot located on the south side of NW 168th Street one lot east of the intersection with NW 89th Pl. The site is improved with a single-family home constructed in 2002 according to Miami Dade County records. It is located at 8944 NW 168th St 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

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

Case Number C2019-1067 regarding boat and trailer storage is open and scheduled for special master.

E. Analysis

Section 13-764.3 of the Town LDC allows the Planning and Zoning Board to approve reasonable accommodation request(s) as provided by the federal Fair Housing Amendments Act (42 U.S.C. 3601, et. seq.) ("FHA") and Title II of the Americans with Disabilities Amendments Act (42 U.S.C. Section 12131, et. seq.) by a majority vote of the members of the Planning and Zoning Board present. In order to authorize any reasonable accommodation request, the Planning and Zoning Board members at the meeting shall establish whether the proposed reasonable accommodations sought are reasonable and necessary to afford the subject individual(s) with disabilities an equal opportunity to use

and enjoy the housing that is the subject of the request. The following factors shall be considered, among other relevant factors including judicial interpretation of disability law:

- a) **The disabled individuals shall establish that they are handicapped or disabled, as defined in the FHA or ADA, and therefore entitled to protection under the FHA or ADA, such that they have a physical or mental impairment which substantially limits one or more major life activities; or that they have a record of having such impairment, or that they are regarded as having such impairment.**

Analysis: The applicant has submitted a letter from a physician documenting the child's disability.

Finding: complies.

- b) **If a request for reasonable accommodation is submitted by an operator of a residence that provides housing to disabled individuals, the operator shall be required to establish that the operator is qualified to provide such housing to disabled individuals.**

Analysis: Not Applicable. The property is a privately-owned single-family home that houses a family as per Sec. 13-764.1.

Finding: Not Applicable.

- c) **The requesting party shall demonstrate that the requested accommodation is both reasonable and necessary (as interpreted by the courts) to afford the disabled individuals served by the housing an equal opportunity to use and enjoy the housing, including that the proposed accommodation is therapeutically necessary and actually alleviates the effects of a handicap or disability, with a site-specific assessment in regard to the particular property in that regard.**

Analysis: See section B and criteria "a" above. As per the letter submitted by the applicant, the child uses the boat as a therapeutic device. Staff recommend the reasonable accommodation be reconsidered in two years, when the child may have outgrown his need for the boat.

Finding: Conditionally Complies.

- d) **The requesting party shall demonstrate that the proposed accommodation does not constitute a fundamental alteration of the Town's zoning scheme or other Town program or policies, and that it does not impose an undue financial or administrative burden on the Town.**

Analysis: See sections B and C. the boat is under 25' and so meets the general conditions imposed to boats allowed under the 2005 amnesty.

Finding: Complies.