



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

To: Honorable Mayor and Honorable Councilmembers
From: Edward Pidermann, Town Manager
Subject: Canopy encroachments into required rear yards
Date: May 19, 2020

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, RELATING TO ATTACHED CANOPIES FOR SINGLE-FAMILY AND TWO-FAMILY BUILDINGS; AMENDING CHAPTER 13, "LAND DEVELOPMENT CODE", AT ARTICLE V, "ALLOWABLE ENCROACHMENTS INTO THE REQUIRED YARDS AND EXCEPTIONS TO THE MAXIMUM PERMITTED HEIGHTS", AT SECTION 13-1506, "CANOPIES,"; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

A. BACKGROUND

At the March 3, 2020, Planning Board meeting, a New Business item was introduced directing staff to explore a recommendation to the Town Council to increase the allowable encroachment for attached canopies for properties where detached accessory structures are impractical.

On April 7, 2020 the Planning Board in their capacity as the Local Planning Agency, recommended to approve the ordinance as presented.

On April 21, 2020 the Town Council moved the item on first reading.

The Town code currently allows attached canopies to encroach into a required rear yard (i.e. the required rear setback) a maximum of seven (7) feet. The current code also allows for accessory buildings, such as gazebos and detached canopies, to cover a maximum 20 % of the required rear yard up to a maximum 350 square feet, but they must be separated from the main structure by a minimum of either 10 feet or six (6) feet in zero lot line districts, as well as five (5) feet from all property lines.

Current single-family trends to add summer kitchens in rear yards have increased demand for accessory buildings, but the current LDC requirements make them unfeasible or impractical in yards with rear setbacks below 25 feet. This has resulted in several variance requests over that last five years, requesting either decreases in the distance from the accessory building to the main structure or increased encroachments for attached canopy or open porch structures.

This report and attached ordinance reflect Planning Board direction to staff to provide a recommendation to the council adding options in the LDC regarding increasing the allowable encroachment for attached canopies for properties where detached accessory structures are impractical

B. PROPOSED CHANGES

Sec. 13-1. Definitions and references. - Added definitions for *awning* and *canopy*

Sec. 13-1506. Canopies. - Increase allowable encroachment of an attached canopy into the required rear yard from seven (7) feet to a maximum of 50% of the existing rear setback, while restricting additional detached structures in cases where attached canopies are larger than seven (7) feet.

C. EVALUATION

In single-family residential districts the minimum required rear setback for the main structure (the residence) is 25 feet. Oversized lots can afford to increase this setback, and the Town includes many properties, that have setback as large as 40 or even 50 feet, but most standard-sized 6,000 to 7,500 square foot lots are built to the 25-foot setback line. Current LDC requires any accessory structure a minimum 5-foot setback from the interior side and rear property line, which leaves 20 feet available for accessory buildings; Since the accessory structure must also be separated from the main structure by a minimum of ten feet, it follows that the accessory structure can only be 10 feet wide. The square footage allowed by the LDC for accessory buildings is 20 % of the required rear yard or 350 square feet which-ever is smaller. 7,500 sf lots are usually 75 feet wide, and the required rear yard is, therefore,

$$25' \times 75' = 1,875 \text{ sf}$$

The allowable size of the accessory building is therefore,

$$1,875 \text{ sf} \times 20 \% = 375 \text{ sf}, \rightarrow \text{ which is greater than the maximum } 350 \text{ sf} \rightarrow \text{ so } \mathbf{350 \text{ sf}}.$$

In order for the property to avail itself of the allowable square footage for the accessory structure, while complying with all other setback and distance separation requirements, the gazebo would have to be built as 10' x 35', i.e. a structure three and a half times longer than wide, five feet from the rear property line and parallel to it for almost half of its length.

Similarly, in the 6,000 sf lots, which are usually 60 feet wide,

$$25' \times 60' = 1,500 \text{ sf}$$

The allowable size of the accessory building is therefore,

$$1,500 \times 20 \% = \mathbf{300 \text{ sf}}$$

And similarly, in order for the property to avail itself of the allowable square footage for the accessory structure while complying with all other setback and distance separation requirements, the gazebo would have to be built as 10' x 30', also a structure three times longer than wide, five feet from the rear property line for half its length.

In addition to presenting an encumbrance on the rear neighbor with what would be perceived as a large structure close to the rear property line, this configuration is undesirable as well because it severely limits the available space for other accessory structures and amenities, such as swimming pools, which would inevitably, then, require variances to occur.

In these smaller rear yards, staff considered the following two alternatives as solutions:

1. Reducing the separation requirement between accessory buildings and main structures.
2. Increasing the allowable encroachment of attached canopies to 50 % of the existing rear setback, as an alternative to a detached structure.

The first option is already available to zero-lot-line districts, where accessory buildings require a distance separation of six (6) feet from the main structure. This option would allow the accessory building to have more proportional dimensions, i.e. 14' x 25' and 14' x 21' respectively, but still allows for a large structure very close to the rear property line.

The second option allows for the same or similarly sized structure, up to 12.5' x 28' in the 7,500 sf lots or 12.5' x 24' in the 60' lots, but attached to the main structure, and therefore 12.5 feet away from the rear property line. It creates a porch area large enough to house a summer kitchen and outdoor dining, while leaving more of the rear yard as an open unencumbered space.

D. STAFF RECOMMENDATION

Based on the analysis provided and other factors contained in this report, Staff recommends approval of the ordinance amending the maximum allowable encroachment for attached canopies from seven (7) feet to a maximum of 50% of the existing rear setback, while restricting additional detached structures in cases where attached canopies are larger than seven (7) feet.

E. ANALYSIS

The Land Development Code provides that all proposed amendments to the LDC shall be evaluated by the Administrative Official, the Local Planning Agency and the Town Council, and that, in evaluating the proposed amendment, the criteria in Subsection 13-306(b) shall be considered. All portions of this report are hereby incorporated into all portions of this analysis. The following is a staff analysis of the criteria as applied to this ordinance.

- 1. Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.**

Analysis: The proposed ordinance does not impact the above systems.

Finding: Complies.

2. Whether the proposal is in conformance with all applicable requirements of this Code of Ordinances, including this chapter.

Analysis: See Sections “A”, Background; “B”, Proposed Changes, and Section “C”, Evaluation and Study; of this report. The amendment allows for the same structure and lot coverage but merely shifts it closer to the main structure and away from the rear property line. In this light, the proposed ordinance conforms with the Town’s LDC’s. A review of the LDC’s found no conflicts.

Finding: Complies.

3. Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether such changes support or work against the proposed change in land use policy.

Analysis See Sections “A”, Background; “B”, Proposed Changes, and Section “C”, Evaluation of this report. There have been no changes to the LDC or development conditions that necessitate this change, however, the existing LDC encourages a condition that is undesirable.

Finding: Complies.

4. Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land use.

Analysis: See Sections “A”, Background; “B”, Proposed Changes, and Section “C”, Evaluation and Study; of this report. The proposed ordinance does not change the main permitted use of the property; instead, it provides an alternative to the existing regulation which force accessory buildings to be located in close proximity to the rear property line, diminishing their impact on rear neighboring properties.

Finding: Complies.

5. Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including schools, transportation, water and wastewater services, solid waste disposal, drainage, water supply, recreation, education, emergency services, and similar necessary facilities and services.

Analysis: The proposed ordinance does not impact the above systems.

Finding: Complies.

- 6. Whether, and the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of any groundwater aquifers, wildlife habitats, and vegetative communities.**

Analysis: The proposed ordinance does not impact the above systems.

Finding: Complies.

- 7. Whether, and the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.**

Analysis: See Sections “A”, Background; “B”, Proposed Changes, and Section “C”, Evaluation and Criteria 1, 2, and 4, of this report. Staff believes the opposite is true. The accommodation of outdoor amenities, such as summer kitchens and outdoor dining areas, is important for the protection of property values in the area. The current ordinance provides for an improved configuration of these amenities, reducing impact on neighboring properties.

Finding: Complies.

- 8. Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on such pattern shall be identified.**

Analysis: See Sections “A”, Background; “B”, Proposed Changes, and Section “C”, Evaluation and Study and Criteria 1, 2, and 4, of this report. The proposed ordinance would be consistent of existing land use patterns.

Finding: Complies.

- 9. Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and intent of this chapter.**

Analysis: See Sections “A”, Background; “B”, Proposed Changes, and Section “C”, Evaluation and Study and Criteria 1, 2, and 4, of this report. The proposed ordinance would be in the public interest by allowing accommodation of popular outdoor amenities in a manner that does not create additional conflict with neighboring properties.

Finding: Complies.

- 10. Other matters which the Local Planning Agency or the Town Council, in its legislative discretion, may deem appropriate.**

Analysis: See Sections “A”, Background; “B”, Proposed Changes, and Section “C”, Evaluation and all portions of this analysis. The Local Planning Agency and the Town Council may consider other appropriate factors to determine whether the proposed ordinance amendment is appropriate and consistent with the public interest. The Analysis Section addressed the conditions suggested by the Planning and Zoning Board.

Finding: As determined by the Town Council.

ATTACHMENT A

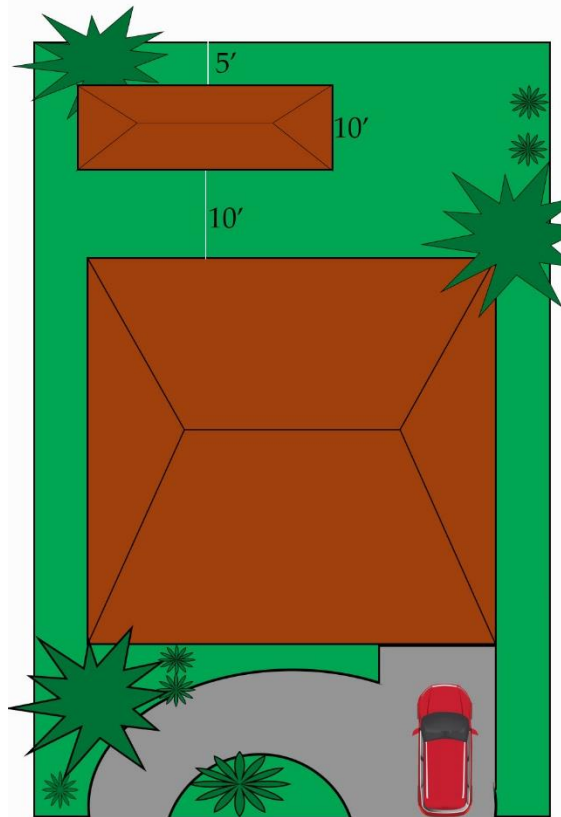


Figure 1. 10'x30' Detached canopy configuration on 60-foot lot.

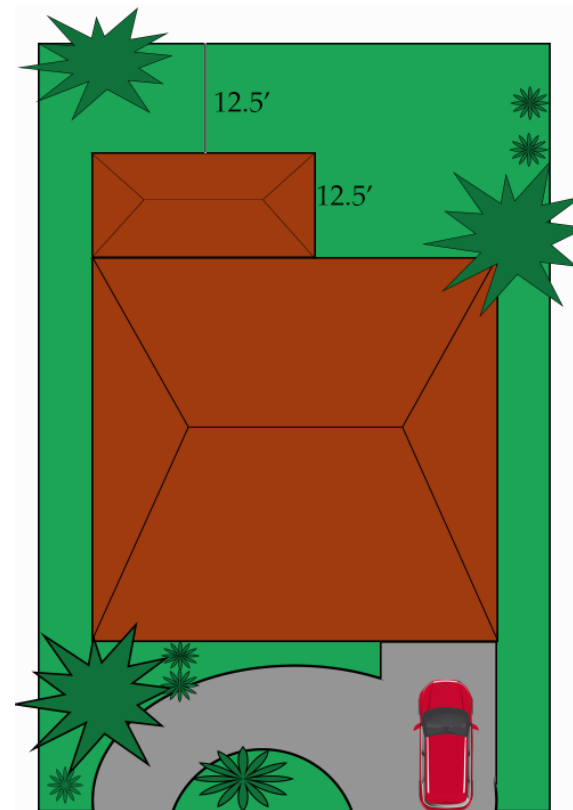


Figure 2. 12.5'x24' Attached canopy configuration as proposed on 60-foot lot