

ORDINANCE NO. 2020-043

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW PROPOSED LOT COVERAGE OF 34.7%, WHERE 30% LOT COVERAGE IS THE MAXIMUM ALLOWED; ALLOW A DISTANCE SEPARATION BETWEEN PROPOSED TERRACE AND THE FRONT UNIT OF 5 FEET, WHERE 25 FEET IS THE MINIMUM REQUIRED; ALLOW FRONT SETBACK OF 24.3 FEET AND REAR SETBACK OF 24.5 FEET, WHERE 25 FEET ARE REQUIRED; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-547(a) and 98-2056(b)(2). **PROPERTY LOCATED AT 318-320 EAST 38 STREET, HIALEAH, ZONED R-2 (ONE- AND TWO-FAMILY RESIDENTIAL DISTRICT.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of June 29, 2020 recommended approval of this ordinance; and

WHEREAS, the subject approvals are subject to the condition that the new terrace remains open on its three sides and the detached unit at the rear is kept as a single living unit.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: A variance permit is hereby granted to allow proposed lot coverage of 34.7%, where 30% lot coverage is the maximum allowed, contra to Hialeah Code of Ordinances § 98-2056(b)(2) that provides: “Residential density and open space requirements. A maximum of 30 percent of the net residential land area may be covered with or occupied by the principal residential structure.”, allow distance separation between proposed terrace on the rear unit and the front unit of 5 feet, where 25 feet is the minimum required; and allow front setback of 24.3 feet and rear

setback of 24.5 feet, where 25 feet are required, contra to Hialeah Code of Ordinances § 98-547(a) that as relevant provides: “In the R-2 one- and two-family residential district, every principal residential building shall provide a rear yard of a minimum depth of 25 feet to a rear lot line or front of an accessory building...” Property located at **318-320 East 38 Street, Hialeah, Florida**, and legally described as follows:

Lot 6, and the West 5 feet of Lot 5, Block 1 of SOLOMAN MANOR, according to the Plat thereof, as recorded in Plat Book 45, at Page 92, of the Public Records of Miami-Dade County, Florida

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 5: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 25 day of August, 2020.


Paul B. Hernandez
Council President

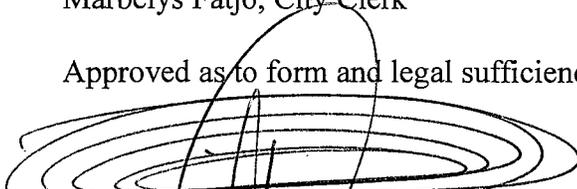
Attest:

Approved on this 3 day of September, 2020.


Marbelys Fatjo, City Clerk


Mayor Carlos Hernandez

Approved as to form and legal sufficiency:


Lorena E. Bravo, City Attorney

Ordinance was adopted by 4-0-3 vote with Councilmembers, Cue-Fuente, Garcia-Roves, Hernandez, and Tundidor, voting "Yes" and with Council Vice President De la Rosa, Council Member Perez and Council Member Zogby absent.