

**ORDINANCE NO. 2021-115**

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW A REAR SETBACK OF 12 FEET, WHERE 20 FEET ARE REQUIRED, AND TO ALLOW SIDE SETBACKS OF 5 FEET, WHERE 5.04 FEET ARE REQUIRED; AND ALLOW 38.6% LOT COVERAGE, WHERE 30% IS THE MAXIMUM ALLOWED; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-501, 98-502 AND 98-2056(b)(2). **PROPERTY LOCATED AT 6574 WEST 22 COURT, HIALEAH, ZONED R-3-5 (MULTIPLE-FAMILY DISTRICT) AND DEVELOPED AS R-1 (ONE-FAMILY 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 September 8, 2021 recommended approval of this ordinance; and

**WHEREAS,** the 5 foot setback is allowed since it is an existing condition from the time the property first got developed; the reduced rear setback allowed with the condition that the terrace remains open on three sides and the 38.6% with lot coverage allowed since it is just for the terrace.

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

**Section 1:** The below-described property is hereby granted a variance permit to allow side setbacks of 5 feet, where 5.04 are required, contra to Hialeah Code of Ordinances § 98-501, that as relevant provides: “In the R-1 one-family district, there shall be side yards, the width of each to be not less than ten percent of the average width of the lot, but in no case shall each such side yard be less than five feet one inch or more than 7½ feet in width...”; allow a rear setback of 12 feet, where 20 feet are required, contra to Hialeah Code of Ordinances §98-

502, that as relevant provides: "...In the R-1 one-family district ... a rear yard of a minimum depth of 20 feet to a rear lot line or front of accessory building..."; and allow 38.6% lot coverage, where 30% is the maximum allowed, contra to Hialeah Code of Ordinances § 98.2056(b)(2) that provides: "A maximum of 30 percent of the net residential land area may be covered with or occupied by the principal residential structure."; the 5 foot setback is allowed since it is an existing condition from the time the property first got developed; the reduced rear setback allowed with the condition that the terrace remains open on three sides, and the 38.6% lot coverage allowed since it is just for the terrace. Property located at 6574 West 22 Court, Hialeah, zoned R-3-5 (Multiple-Family District), and developed as R-1 (One-Family District) and legally described as follows:

Lot 9 Block 8, of THIRD ADDITION TO BARACOA, according to the Plat thereof, as recorded in Plat Book 132, at Page 78, 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.

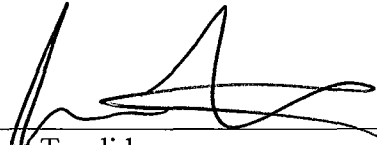
**Section 4: Severability Clause.**

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.

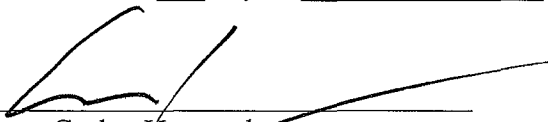
PASSED and ADOPTED this \_\_\_ day of \_\_\_\_\_, 2021.

  
\_\_\_\_\_  
Jesus Tundidor  
Council President

Attest:

Approved on this 21 day of October, 2021.

  
\_\_\_\_\_  
Marbelys Fatjo, City Clerk

  
\_\_\_\_\_  
Mayor Carlos Hernandez

Approved as to legal sufficiency and form:

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

  
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Lorena E. Bravo, City Attorney