

**ORDINANCE NO. 2021-118**

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW WEST SIDE SETBACK OF 5 FEET, WHERE 7.5 FEET ARE REQUIRED; REAR SETBACK OF 19 FEET FOR MAIN HOUSE, WHERE 25 FEET ARE REQUIRED; ALLOW PROPOSED LOT COVERAGE OF 31.2%, WHERE 30% LOT COVERAGE IS THE MAXIMUM ALLOWED FOR THE LEGALIZATION OF EXISTING IMPROVEMENTS AND CONVERSION OF A SINGLE FAMILY HOUSE INTO A DUPLEX; AND ALLOW 21 FEET REAR YARD DEPTH FROM THE REAR EAST SIDE OF THE MAIN HOUSE TO THE FRONT OF A PROPOSED ACCESSORY BUILDING, WHERE 25 FEET ARE REQUIRED; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-546, 98-547(a) and 98-2056(b)(2). **PROPERTY LOCATED AT 444 EAST 17 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 September 22, 2021 recommended approval of this ordinance.

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 west side setback of 5 feet, where 7.5 feet are required, contra to Hialeah Code of Ordinances § Sec. 98-546 that as relevant provides: "Side yard required. In the R-2 one- and two-family residential 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 7½ feet in width."; allow rear setback of 19 feet for main house, where 25 feet are required, contra to Hialeah Code of Ordinances § Sec. 98-547(a) that as relevant provides: "Rear yard required. (a) 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...”; allow 21 feet rear yard depth from the rear east side of the main house to the front of a proposed accessory building, contra to Hialeah Code of Ordinances § 98-547 (a) that as relevant provides: “Rear yard required. (a) 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,...”; and allow proposed lot coverage of 31.2%, 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.”. Property located at 444 East 17 Street, Hialeah, zoned R-2 (One-and Two-Family Residential District) and legally described as follows:

The North 100 feet of Lot 4, of GLADEVILLE, according to the Plat thereof, as recorded in Plat Book 7, at Page 45, of the Public Records of Miami-Dade County, Florida; less the West 12.5 feet and less the North 30 feet for right-of-way.

**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.

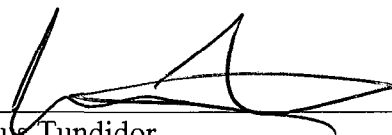
**Section 4: Severability Clause.**

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 12 day of October, 2021.

  
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Jesus Tundidor  
Council President

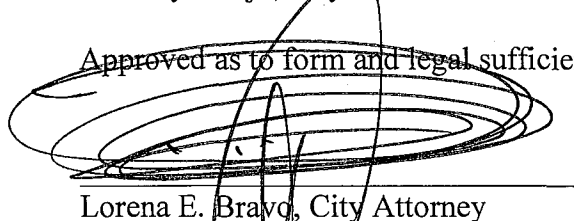
Attest:

Approved on this 21 day of October, 2021.

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

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

Approved as to form and legal sufficiency:

  
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Lorena E. Bravo, City Attorney

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.