



# CITY OF MIAMI GARDENS

## PLANNING AND ZONING DEPARTMENT

### GENERAL GUIDELINES AND PROCEDURES FOR FILING AN ADMINISTRATIVE VARIANCE/WAIVER APPLICATION

*The following is intended to provide general information; specific details and applicability shall be determined by referencing the City's Land Development Regulations.*

#### **Administrative Variance/ Waivers may be requested for the following:**

- (1) A reduction in the setback for a principal structure for not more than twenty-five (25) percent
- (2) A reduction in the setback of accessory structures for not more than fifty (50) percent of that required by the underlying district.
- (3) An increase in the lot coverage of accessory structures for not more than fifty (50) percent of that permitted by the underlying district.
- (4) A reduction in the spacing between principal and/or accessory structures on the same lot ; provided, however, in no event shall such spacing be less than five (5) feet.
- (5) An increase in fence, wall, hedge or building heights, and an increase in the FAR, lot coverage or both, of the principal structure, not to exceed twenty five (25) percent above that permitted by the underlying zoning district.
- (6) A reduction of the number of required off-street parking spaces of not more than, twenty-five (25%) percent of that required for the specific use.
- (7) A waiver of dimensional standards for off-street parking spaces that are provided in excess of the number required in this code..
- (8) Allowing required parking spaces to be located off-site
- (9) Allowing the contribution of funds in lieu of constructing required sidewalks, sidewalk widths.
- (10) Allowing the contribution of funds in lieu of compliance with landscape and buffering requirements.
- (11) Waiver or variation of the sign code regulations.
- (12) Use of barb wire, electrical elements or other hazardous materials on fence or walls in all districts, except in the R districts.
- (13) Variation or waiver of dumpster design standards.
- (14) Variances or waivers in association with a vested rights determination agreement.
- (15) Variances or waivers of street, alley, and lot design standards.
- (16) Variance or waiver of to allow a pump house or wire construction fence, masonry wall, or wood fence in right-of-way, or for continued occupation of same.
- (17) Variances to extend hours of operation up to two (2) additional hours for alcoholic beverage establishments, or for other establishments of which the City may have regulations governing hours of operations.
- (18) Variances or waivers for permits prior to right-of-way dedication.

### **Requirements for filing an application:**

The application for administrative Variance/Waiver shall be made by the owner of the property on a form prescribed by the Department. For the purposes of this section the term "owner" shall mean the person who owns and resides at, or owns and intends to reside at, the subject premises.

To file an application the following is required:

1. One (1) completed application form;
2. A certified land survey, performed in accordance with Florida Administrative Code, dated within one year proceeding the filing date of the application, providing such survey reflects all current conditions of the subject property;
3. Accurately dimensioned plans showing the location of the proposed construction in relation to the existing structure(s) and the general location and use of existing structures on property adjacent to the subject property;
4. Applications for single family, duplex, townhouse residences must include the completed Consent Form (see instruction below and see attachment to Application) AND plans signed by all required abutting and adjacent property owners.
5. A letter of intent explaining the reason and justification for the proposed administrative variance/waiver;
6. Photos of front, rear and sides of existing residence;
7. Additional plans as may be required by the Director;
8. Any other additional information that the Director may deem necessary for the fair and appropriate evaluation of the Application.

### **Consent form requirements:**

As part of the requirements for filing an application for Administrative Variance/Waiver for a single family, duplex, or townhouse residence a consent form with the contiguous property owner's signatures must be submitted. (see graphic on next page depicting which property owners are required to sign the consent form).

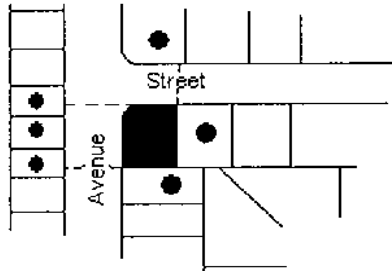
The signed consent of all contiguous property owners, including those located across the street(s) from the subject site, shall be submitted by the applicant on the attached form, and on the stie plan submitted for consideration. Except that, said consent shall not be required when a separating public right-of-way measures seventy (70) feet or greater, nor shall consents be required when a body of water completely separates the subject parcel from another parcel.

If the applicant for an administrative adjustment is unable to obtain either the signed consent or objection of a neighboring property owner, the signature of that owner shall not be required if the applicant demonstrates the section has been complied with., OR; the applicant shall provide written mailed notice of the request for administrative variance or waiver to the abutting property owners. Such notice shall be deemed sufficient if it accurately describes the adjustment requested, if it informs the abutting property owners of the consequences of a failure to respond within a specified time, and if such notice is sent first class mail, return receipt requested, to the property owners of record, as reflected on the Miami-Dade County Property Appraiser's tax roll, as updated; and the applicant for the administrative adjustment shall present proof acceptable to the Administrative Official one of the following two events has occurred:

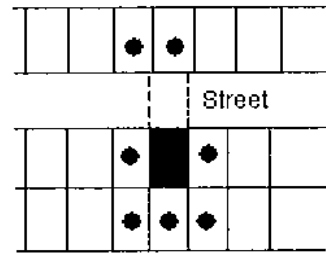
1. After thirty (30) days from receipt of notice, as indicated on the return receipt, the neighboring property owner has failed to respond; or
2. The United States Postal Service has returned the notice as undeliverable.

### Examples of required signatures on Consent Form

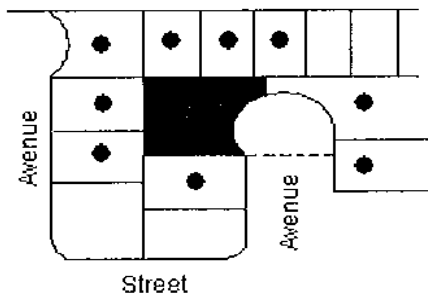
These depict typical situations which may apply to your lot.  
Dots indicate signatures that are required.



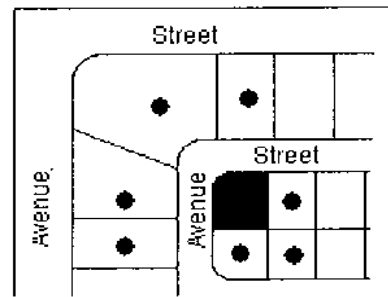
EXAMPLE 1



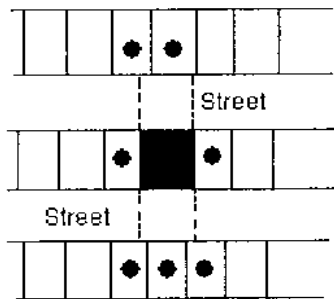
EXAMPLE 2



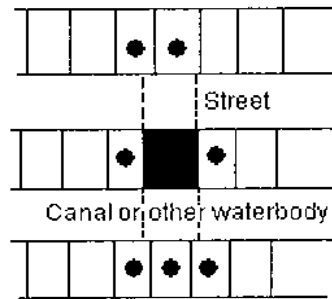
EXAMPLE 3



EXAMPLE 4



EXAMPLE 5



EXAMPLE 6

**Note:** Said consent shall not be required when a separating public right-of-way measures 70 feet or greater, nor shall consents be required when a body of water completely separates the subject parcel from another parcel.

**Inspection:**

Prior to making a decision, the City may inspect the subject property and the surrounding properties to determine what impact, if any, the proposed administrative Variance/Waiver will have on the adjoining lots.

**Review criteria and approval :**

The following standards will be considered when granting an approval or denial an administrative variance or waiver:

- (1) The architectural design, scale, mass, and building materials of any proposed structure or addition shall be aesthetically harmonious with that of other existing or proposed structures or buildings on the property;
- (2) The plan shall clearly illustrate water runoff solution(s) for the encroaching construction area;
- (3) The property owner shall certify in writing that any and all easement areas as shown on the recorded plat remain unencumbered by the encroaching construction, unless a release of interest by the easement holder(s) is obtained and submitted prior to permit issuance;
- (4) The applicant provides written certification from a registered architect or engineer that the existing encroaching construction complies, or can be made to comply with, all applicable construction codes, including but not limited to the Florida Building Code, and the applicable Fire Prevention Code;
- (5) Any reduction in the spacing requirement between a principal building and an accessory building or structure on the same lot shall not result in a situation that causes maintenance difficulty or an unsightly appearance;
- (6) The proposed accessory building or structure is a normal and customary accessory residential use;
- (7) The property owner certifies in writing that the type and placement of any proposed outdoor lighting fixtures shall comply with the Code and the Florida Building Code.
- (8) Notwithstanding the foregoing, no proposed administrative variance or waiver shall be approved where the Administrative Official determines that the proposed construction or addition:
  - A. Will not be in harmony with the general appearance and character of the subject block face or the block face across the street from the subject property or will result in a significant diminution of value of the adjacent property; or
  - B. Will be detrimental to the public welfare in that it will have substantial negative impact on public safety due to unsafe traffic movements, heightened pedestrian-vehicular conflicts, or heightened risk of fire; or
  - C. Creates materially greater adverse privacy impacts on adjacent residences than that permitted by the underlying district regulations.
  - D. Will not be inconsistent or in conflict with the express purpose and intent of the regulations being varied or waived.

In granting an administrative variance or waiver, the following conditions and safeguards deemed necessary to protect the interests of abutting property owners and, may include, but not limited to:

- (1) Landscape materials, walls, and fences as required buffering.
- (2) Modification of the orientation or deletion of any openings.
- (3) Modification of site arrangements.
- (4) Modification of plans.
- (5) Declaration of restrictive covenants limiting the use of the property.
- (6) Limitations on time or duration of approval of said variance or waiver, or for compliance.

## **Appeal**

The applicant, or any aggrieved property owner in the area, may appeal the decision of the Administrative Official to Zoning Appeals Board. In the event an appeal is made by an aggrieved property owner in the area, the Administrative Official may stop or suspend any construction authorized by the approval, until a decision has been made on the appeal. In the event the Administrative Official should determine that the suspension of the construction could cause imminent peril to life or property he or she may permit the construction to continue upon such conditions and limitations, including the furnishing of an appropriate bond, as may be deemed proper under the circumstances.

## **CONTACT INFORMATION**

For more information, questions, or to schedule an appointment to file an Administrative Variance/Waiver application please contact the Planning and Zoning Department, 1515 N.W. 167 Street, Building 5, Suite 160, Miami Gardens, FL, 33169, 305-622-8023 or email Nixon Lebrun, Planner at [nlebrun@miamigardens-fl.gov](mailto:nlebrun@miamigardens-fl.gov). or Cyril Saiphoo, Zoning Administrator at [csaiphoo@miamigardens-fl.gov](mailto:csaiphoo@miamigardens-fl.gov).

**OFFICE USE ONLY**

Date Received: \_\_\_\_\_

Process No. \_\_\_\_\_

Project Location: \_\_\_\_\_



**ADMINISTRATIVE VARIANCE/WAIVER APPLICATION**

**TYPE OF REQUEST:**

- A reduction in the setback for a principal structure for not more than twenty-five (25) percent
- A reduction in the setback of accessory structures for not more than fifty (50) percent of that required by the underlying district.
- An increase in the lot coverage of accessory structures for not more than fifty (50) percent of that permitted by the underlying district.
- A reduction in the spacing between principal and/or accessory structures on the same lot ; provided, however, in no event shall such spacing be less than five (5) feet.
- An increase in fence, wall, hedge or building heights, and an increase in the FAR, lot coverage or both, of the principal structure, not to exceed twenty five (25) percent above that permitted by the underlying zoning district.
- A reduction of the number of required off-street parking spaces of not more than, twenty-five (25%) percent of that required for the specific use.
- A waiver of dimensional standards for off-street parking spaces that are provided in excess of the number required in this code..
- Allowing required parking spaces to be located off-site.
- Allowing the contribution of funds in lieu of constructing required sidewalks, sidewalk widths.
- Allowing the contribution of funds in lieu of compliance with landscape and buffering requirements.
- Waiver or variation of the sign code regulations.
- Use of barb wire, electrical elements or other hazardous materials on fence or walls in all districts, except in the R districts.
- Variation or waiver of dumpster design standards.
- Variances or waivers in association with a vested rights determination agreement
- Variances or waivers of street, alley, and lot design standards.
- Variance or waiver of to allow a pump house or wire construction fence, masonry wall, or wood fence in right-of-way, or for continued occupation of same.
- Variances to extend hours of operation up to two (2) additional hours for alcoholic beverage establishments or for other establishments of which the City may have regulations governing hours of operations.
- Variances or waivers for permits prior to right-of-way dedication.

**APPLICANT INFORMATION:**

APPLICANT'S MAILING ADDRESS, TELEPHONE NUMBER:

Name of Applicant:

Mailing Address:

City:

State:

Zip:

Phone#:

E-mail:

**OWNER INFORMATION:**

OWNER'S NAME, MAILING ADDRESS, TELEPHONE NUMBER:

Owner's Name (Provide name of ALL owners):

Mailing Address:

City:

State:

Zip:

Phone#:

E-mail:

**DULY APPOINTED AGENT INFORMATION:**

CONTACT PERSON, MAILING ADDRESS, TELEPHONE NUMBER:

Contact Name:

Company:

Mailing Address:

City:

State:

Zip:

Phone#:

E-mail:

**PROJECT INFORMATION:**

1. **PROJECT NAME:**

2. **LIST FOLIO NUMBER OF ALL PARCELS:**

3. **ADDRESS OR LOCATION OF PROPERTY:**

(for location, provide general location i.e. NE corner of, etc.)

4. **CURRENT ZONING CLASSIFICATION:**

5. **LEGAL DESCRIPTION:**

(Provide complete legal description, i.e., lot, block, subdivision name, plat book & page number, or a metes and bounds description; if additional room is necessary please attach on separate sheet. NOTE: All legal descriptions must also be submitted as part of this application in an electronic MICROSOFT WORD format.)

6. **SIZE OF PROPERTY (in acres):**

(divide total sq.ft. by 43,560 for acreage)

7. **TOTAL BUILDING SQUARE FOOTAGE (total gross square footage):**

8. **IS CONTIGUOUS PROPERTY OWNED BY THE SUBJECT PROPERTY OWNER(S)?**

no  yes.

(If yes, please provide legal description on separate sheet)

9. **IS THERE AN OPTION** to purchase  or lease  the subject property or property contiguous thereto?

no  yes.

(If yes, identify potential purchaser or lessee and complete 'Disclosure of Interest' form)

10. **Has there ever been a public hearing held on this property?**  no  yes.

(If yes, provide applicant's name, date, purpose and result of hearing, and resolution number for all):

11. **Is this Zoning Application a result of a warning or violation notice?**  no  yes

(If yes, please submit copy of violation notice)

**OWNERSHIP AFFIDAVIT FOR INDIVIDUAL**

STATE OF

COUNTY OF

Before me, the undersigned authority, personally appeared , hereinafter the Affiant, who being first duly sworn by me, on oath, deposes and says:

1. Affiant is the fee owner of the property that is the subject of the proposed hearing.
2. The subject property is legally described as:
3. Affiant understands this affidavit is subject to the penalties of law for perjury and the possibility of voiding of any zoning granted at public hearing.

**Witnesses:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Affiant's signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

Sworn to and subscribed before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
Affiant is personally known to me or has produced \_\_\_\_\_ as  
identification \_\_\_\_\_.

Notary

(Stamp/Seal)

Commission Expires:

**OWNERSHIP AFFIDAVIT FOR CORPORATION**

STATE OF

COUNTY OF

Before me, the undersigned authority, personally appeared \_\_\_\_\_  
\_\_\_\_\_ hereinafter the Affiant(s), who being first duly sworn by me, on oath,  
deposes and says:

1. Affiant is the president, vice-president or CEO of the Corporation, or otherwise authorized to sign on behalf of the Corporation, doing business at the following address:
2. The Corporation owns the property which is the subject of the proposed zoning hearing.
3. The subject property is legally described as:
4. Affiant is legally authorized to file this application for public hearing.
5. Affiant understands this affidavit is subject to the penalties of law for perjury and the possibility of voiding of any zoning action granted at public hearing.

**Witnesses:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Affiant's signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

Sworn to and subscribed before me on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

Affiant is personally known to me or has produced \_\_\_\_\_  
as identification.

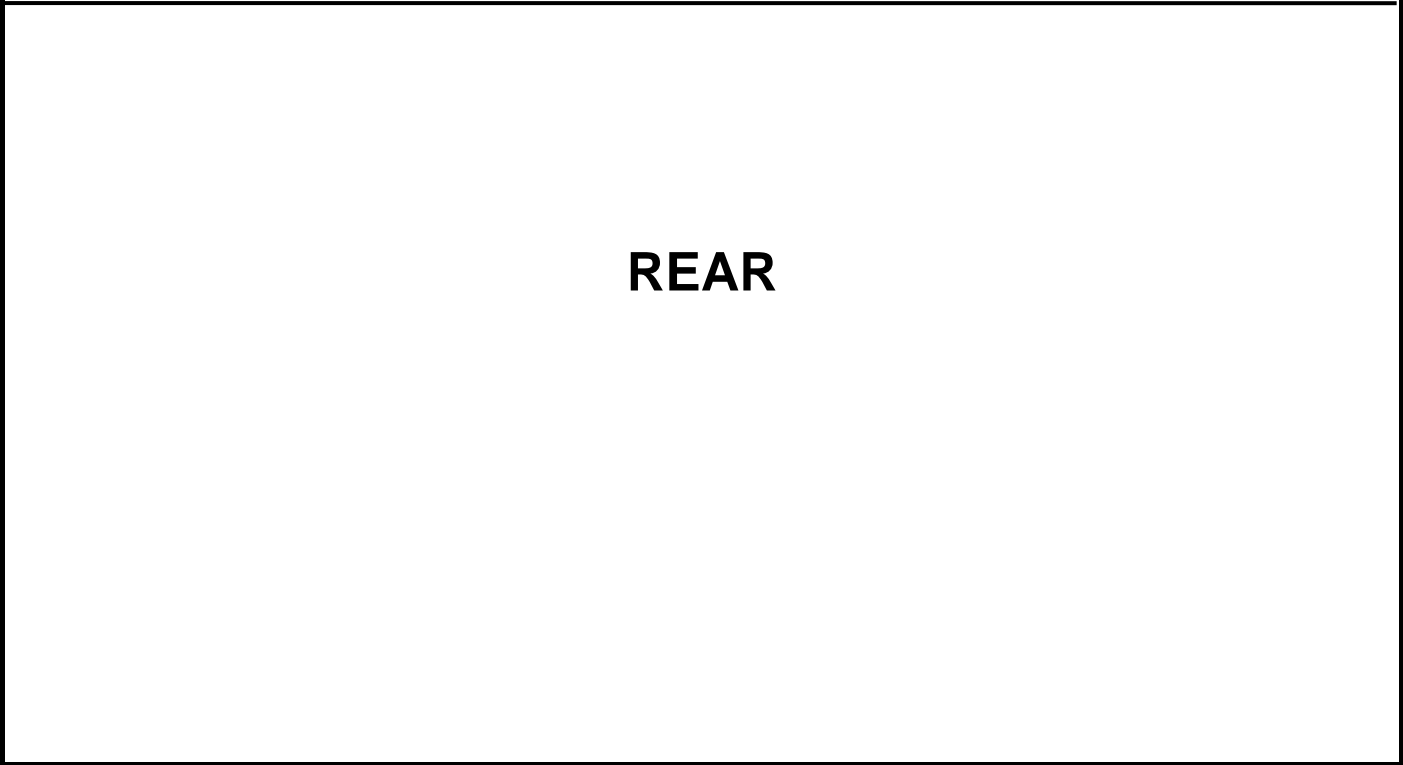
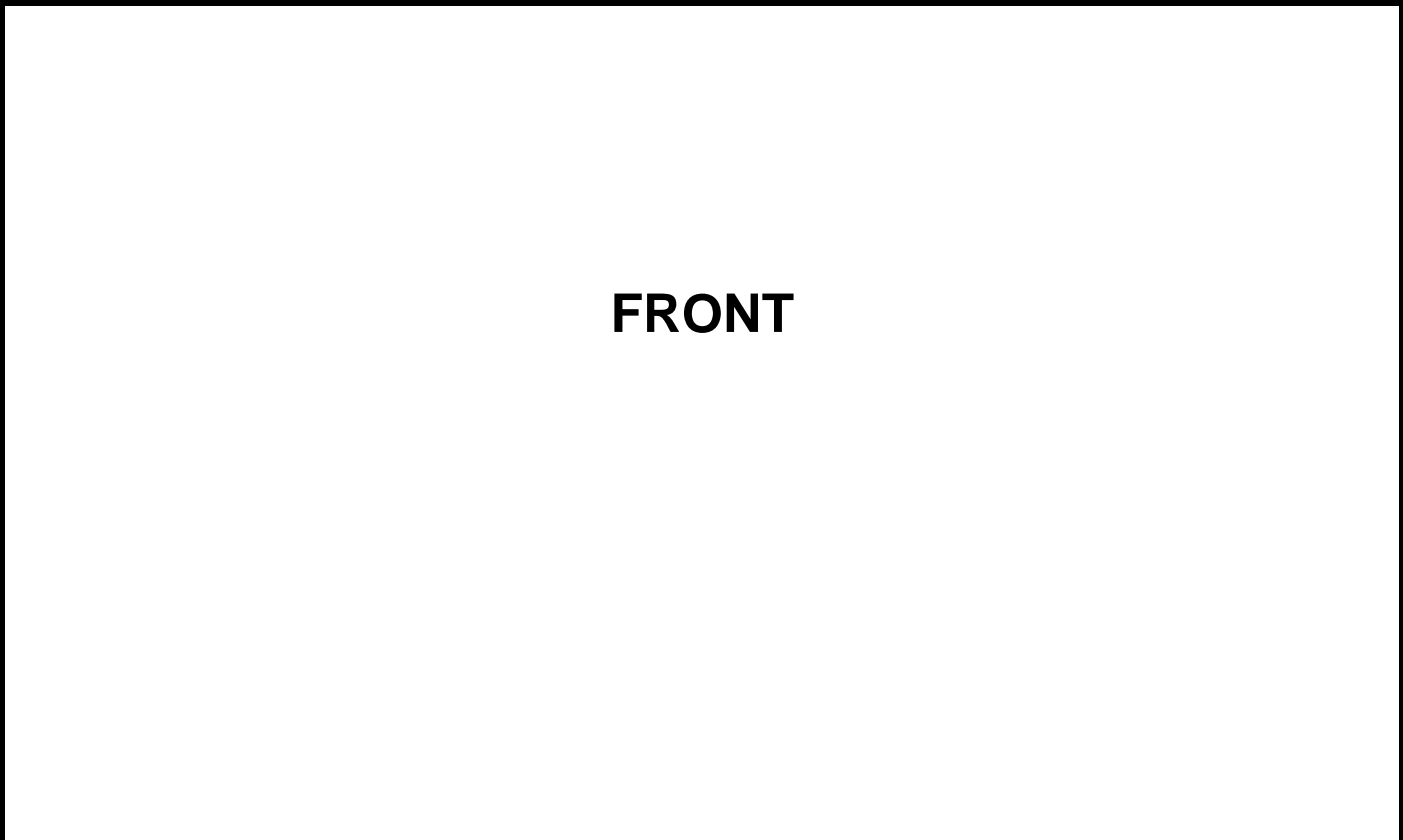
Notary

(Stamp/Seal)

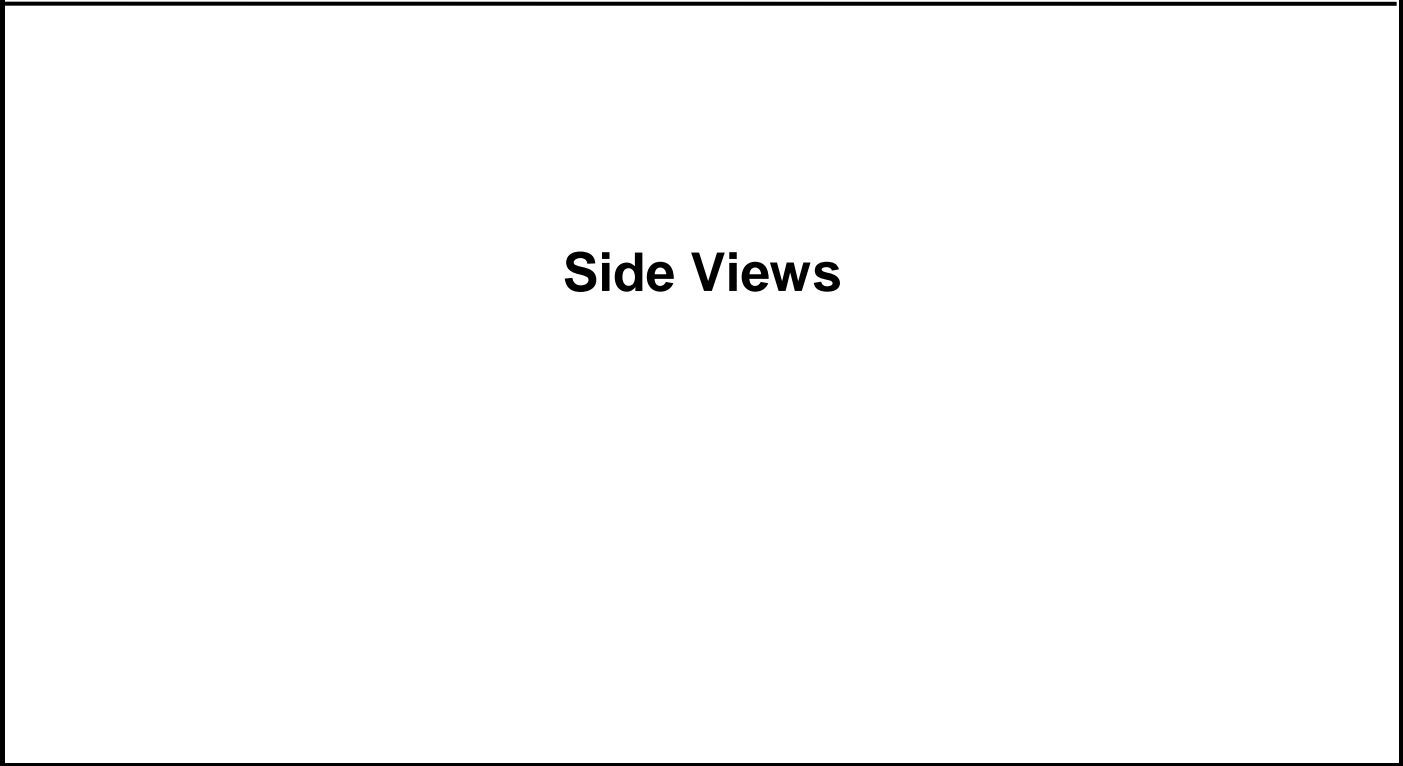
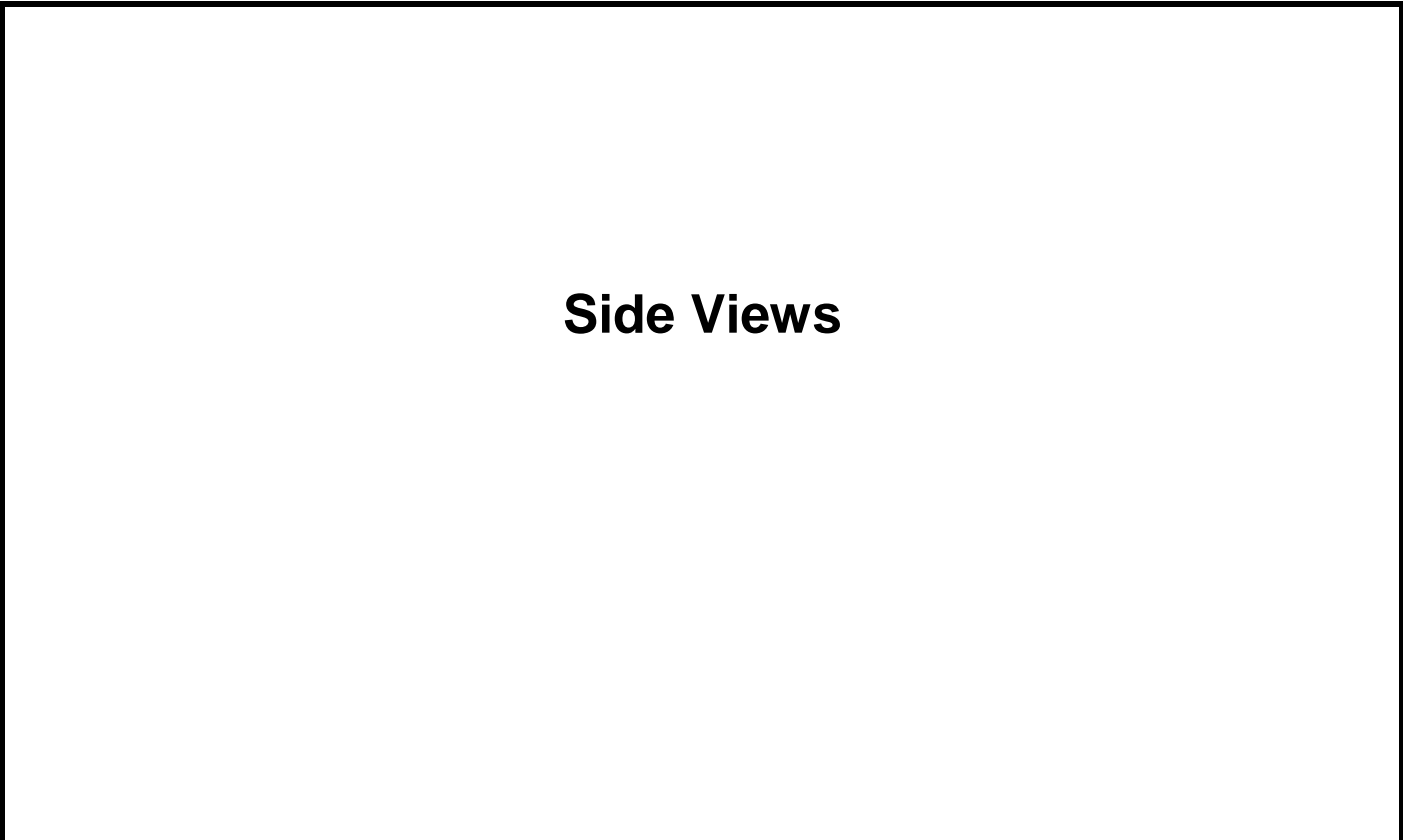
Commission Expires:



**PHOTOGRAPHS**



**PHOTOGRAPHS**



## APPLICATION CHECKLIST

The following items must be submitted with this application:

Required	Provided	Description
<input type="checkbox"/>	<input type="checkbox"/>	<b>Application</b> – <u>completely</u> filled out and properly executed. (Folio numbers are mandatory).
<input type="checkbox"/>	<input type="checkbox"/>	<b>Letter of Intent</b> - signed by the applicant, listing what is being requested, and reasons why applicant feels the request should be approved.
<input type="checkbox"/>	<input type="checkbox"/>	<b>Consent Form</b> – completed as instructed
<input type="checkbox"/>	<input type="checkbox"/>	<b>Boundary Survey</b> – One (1) required with every application, no older than 1 year. Must have legal description of property; depict dimensions; and depict all structures, easements, etc.
<input type="checkbox"/>	<input type="checkbox"/>	<b>Site Plan drawings</b> – Two (2) sets depicting all dimensions measured to property lines, signed by all required property owners.
<input type="checkbox"/>	<input type="checkbox"/>	<b>Floor Plan drawings</b> - Two (2) sets identify all rooms and dimensions.
<input type="checkbox"/>	<input type="checkbox"/>	<b>Building Elevation drawings</b> - Two (2) sets depicting architectural elevation and dimensions of proposed area of house subject to the Variance/Waiver.
<input type="checkbox"/>	<input type="checkbox"/>	<b>PDF files</b> of all plans, survey, renderings must be submitted in electronic format
<input type="checkbox"/>	<input type="checkbox"/>	<b>Photos</b> - Photos of front, rear and side views of existing house
<input type="checkbox"/>	<input type="checkbox"/>	<b>Other</b> – other information pertinent to evaluating the request
<input type="checkbox"/>	<input type="checkbox"/>	<b>Fees</b> – Pay fees

## FEE SCHEDULE

**Administrative Variance/Waiver Fees:**

Z220	Administrative variance/waiver – single family, duplex, townhouse residences	\$700.00	<input style="width: 100%;" type="text"/>
Z223	Administrative variance/waiver – multi-family, non-residential, commercial, industrial uses	\$3,072.00	<input style="width: 100%;" type="text"/>
Z224	All other requests	\$1,536.00	<input style="width: 100%;" type="text"/>
Z221	If result of warning/violation notice fee	DOUBLES	<input style="width: 100%;" type="text"/>

Note: should an application involved two (2) or more Variance/Waivers of a different category, the greater fee shall apply.

**Concurrency:**

CN01-Residential	6%	<input style="width: 100%;" type="text"/>
CN02-Commercial/Non-residential		

**Subtotal**

**City of Miami Gardens Surcharge:** 15%

**TOTAL** \$