

City of Coral Gables
Workshop – Non-permitted Enclosed Residential Garages
Thursday, February 27, 2003, 6:00 p.m.
City Hall Commission Chambers
405 Biltmore Way
Coral Gables, Florida 33134

Planning & Zoning Board Members Present:

Cristina Moreno
Felix Pardo, Chair
Michael Steffens

Staff Members Present:

Elizabeth M. Hernandez, City Attorney
Eric Riel, Jr.: Planning Director
Walter Carlson, Assistant Planning Director
Dennis Smith, Assistant B&Z Director
Martha Salazar-Blanco, Zoning Administrator

Recording Secretary:

Frances Collado, Planning Department Administrative Assistant

The Planning and Zoning Board Chair, Mr. Felix Pardo called the meeting to order at 6:00 p.m..

Mr. Carlson, Assistant Planning Director explained the intent of the workshop:

- This is a discussion item at this time, and no recommendation is requested.
- Staff wishes to facilitate a dialog between the public, City Staff and the Board.
- Staff is seeking the Board's comments and direction before preparing a final proposal.
- Specific amendments will be presented to the Board at a future public hearing.

Mr. Carlson proceeded with a PowerPoint presentation regarding this topic. He addressed the problem as:

- Existing enclosed garages that were never permitted are required to come into compliance with both the Florida Building Code and the City's Zoning Code.
- This requires the conversion of the enclosure back to garage use, or the construction of a separate garage or carport on the property.

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- In some cases structural modifications are necessary to retain existing non-permitted garage enclosures which are extensive and costly.

Mr. Carlson explained that the workshop participants are:

- Residential property owners with pending violations issued by Code enforcement that were notified by letter (approximately 50 properties).
- Chairpersons of the Board of Adjustment and Code Enforcement Board were invited to participate.
- City Staff, including the City Attorney, Building and Zoning Department and the Code Enforcement Division are in attendance.

Background of the discussion topic:

- This issue was heard as a discussion item by the Board in January, 1999 and October, 2002. At the October meeting, the Board requested that Staff conduct a public workshop in order to solicit public input.

Staff meetings conducted:

- City Staff held a scoping meeting on January 23rd. The City Attorney, Building and Zoning Department and Code Enforcement Division representatives attended. Staff identified issues and possible solutions regarding non-permitted enclosed garages for discussion. The comments and recommendations provided by Staff at that meeting are as follows:

Issue 1:

- How can we determine when non-permitted garage enclosures were constructed?
- **Staff comment:** The date constructed was not considered an issue. All structures must comply with Florida Building Code and Zoning Code requirements, whether permitted or not permitted.

Issue 2:

- Whose burden of proof is it to show when a non-permitted garage enclosure was constructed?
- **Staff comment:** This was originally a concern, but is no longer an issue. All non-permitted structures must comply with current Code requirements before a City permit can be obtained.

Issue 3:

- If not constructed to current Florida Building Code requirements, are non-permitted structures required to be brought into compliance?
- **Staff comment:** Yes. This is a building code issue and there are no exceptions or variations by the City from these requirements.

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Issue 4:

- Can relief be awarded to non-permitted structures that are economically prohibitive to be brought up to the requirements of the Florida Building Code?
- **Staff comment:** No. The City cannot grant relief from building code requirements.

Issue 5:

- Should specific areas of the City be included in Zoning Code provisions that are proposed?
- **Staff comment:** Non-permitted enclosed garages are found throughout the City. Any Zoning Code provisions adopted should apply City-wide.

Issue 6:

- How do we define and determine specific districts of the City?
- **Staff comment:** It was recommended that all Zoning Code provisions apply city-wide, therefore, this is not an issue.

Issue 7:

- Are only small residential properties with restrictive physical characteristics primary candidates for relief?
- **Staff comment:** All properties should be eligible for provisions offered. Staff felt that certain physically restricted properties may require additional consideration in the Zoning Code.

Issue 8:

- Should provisions deal with “life safety” issues (Florida Building Code), as well as “quality of life” issues (Zoning Code)?
- **Staff comment:** The City can only amend Zoning Code (quality of life) provisions regarding non-permitted enclosed residential garages.

Alternative Solution 1:

- Create Zoning Code provisions permitting construction of garage or carport within property’s 25’ front setback.
- **Staff comment:** Not recommended, primarily for aesthetic reasons and the structure’s impact on adjacent properties and established neighborhood development patterns.

Alternative Solution 2:

- Create provisions for properties which meet certain restrictive physical criteria.

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- **Staff comment:** Not recommended, however, a dedicated parking space within a property's front setback area to avoid a proliferation of on-street parking would be the best alternative.

Alternative Solution 3:

- Establishment of an amnesty program allowing for modification over time of enclosed garages back to garage use, or the construction of a new garage or carport.
- **Staff comment:** A one (1) year amnesty program encouraging property owners to comply with all building and Zoning Code requirements is the approach recommended by Staff.

Alternative Solution 4:

- Reduce City fees enabling modifications to converted garages so that life safety issues are addressed.
- **Staff comment:** Elimination or reduction of fees should be offered to encourage and assist property owners to comply with Florida Building Code and Zoning Code requirements.

Alternative Solution 5:

- Requirement for disclosure of information by property owners and realtors noticing potential buyers of existing non-permitted construction.
- **Staff comment:** A mandatory "Certificate of Compliance" program was not recommended. This would be costly and require additional Building and Zoning personnel. The City currently offers a voluntary zoning compliance review to prospective property buyers for a fee.

Draft Amendments:

- Staff prepared draft Zoning Code amendments based on the previous comments regarding issues and possible solutions. Staff is proposing the creation of Zoning Code Section 11-13, "Amnesty Program for Enclosed Residential Garages". This new section of the Code would include the following provisions:
 - Creates a one (1) year amnesty period and criteria for its implementation.
 - Only non-permitted garages constructed prior to January 1, 2033 would be eligible.
 - Amnesty provisions would be application city-wide.
 - Amnesty provisions are subject to compliance with all Florida Building Code and Zoning Code requirements.
 - Building and Zoning fees would be waived.

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Residents' Meeting & Concerns:

Mr. Carlson proceeded to explain that Planning Staff held a meeting on February 3rd with residents who had attended previous public hearings on this issue. The issues, possible solutions and draft Zoning Code amendments were provided for their comments. Six concerns were itemized regarding the draft provisions. He detailed the concerns of the residents to be as follows:

1. The draft provisions should specify that only the improvements necessary to bring an enclosed garage into compliance would be subject to Florida Building Code requirements, not the entire house.
2. Clarify that the maximum 8' side setback in subsection (c) 6 shall be for only one side of the property.
3. Include larger properties with amnesty provisions as provided in subsection (c) 6.
4. Provide differentiation between properties city-wide in order to apply separate amnesty criteria.
5. Clarify that all non-permitted enclosed garages constructed prior to January 1, 2003, whether currently cited or not, shall be eligible for amnesty provisions.
6. Clarify that applicable city fees shall be waived entirely, versus, only reduced.

Timeline:

- This item has been advertised as a public hearing item for the Planning and Zoning Board's March 12, 2003 meeting.

Public Notification:

- Public notification will be re-advertised in the local newspaper, and all previously notified property owners and workshop participants that request to be noticed will be included on mailing lists for the Planning and Zoning Board's meeting when this item is considered as a public hearing item.

Mr. Carlson presented a City map indicating the location those residences which have outstanding citations.

Mr. Dennis Smith, Assistant Building and Zoning Director, explained the parameters of a recent survey of violations which had taken place in the northern section of the City.

Each of the alternative solutions presented during the PowerPoint presentation was reviewed individually and discussed between Staff and the Board members analyzed.

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Mr. Pardo asked whether the cottage provision would come into effect in some parameter and Mr. Carlson responded that he was not sure that those provisions came into play in this scenario.

There was discussion with Ms. Moreno regarding the disclosure of a non-permitted enclosed garage

The Board was addressed by Mr. Christopher Zoller, a local realtor who clarified the fact that realtors and owners are obligated to disclose any material information of the property that effects the value of the property. Included in that would be unpermitted enclosed garages.

Discussion followed between the Board Chair and others regarding the parameters of the State law with regards to disclosure. Ms. Moreno maintained that her preference was to include in the City Zoning Code the specific language that the seller and the Realtor must disclose, the fact of the existence of a non-permitted enclosed garage.

Mr. Pardo continued to analyze whether the City Zoning Code is the appropriate place to enforce disclosure.

The City Attorney clarified that it was the law to disclose.

Mr. Dennis Smith explained that when performing a “courtesy inspection” they are looking for the very obvious things.

Mr. Carlson continued on with how presentation and continued with the Draft amendments as proposed.

He explained the 1 year amnesty program that is proposed and detailed the provisions of the draft code amendments.

He went stated that Staff had held a meeting on February 3rd with the residents that have been cited and explained their concerns.

Ms. Moreno advocated that those people that came forward should have an additional incentive, such as 18 months amnesty rather than 12 months.

Mr. Pardo was of the mind set that the provisions need to be addressing a specific area, otherwise other people could possibly take advantage of the amnesty program.

Mr. Carlson elaborated regarding the formula of arriving at the shown in Article 11. Sec. 11-13 (c) 6. (a.), that of the maximum building frontage of 75ft.. Mr. Carlson explained that the Code requires side setbacks of 20% of building frontage up to 20 feet (which is equivalent to a 100 foot building site). With 15 feet or less total side setback, the possibility of constructing a garage or carport.

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The Board reiterated that the key item justifying relief in the form of an amnesty program was the square footage of the primary structure.

Mr. Christopher Zoller addressed the Board again to explain the formula used to arrive at “adjusted” square feet.

Mr. Pardo explained that adjusted square feet (which includes various other things such as overhangs, etc.) should not be included and the wording.

6. (b) After great length of discussion the premise of 1500 sq. ft. rather than 1500 adjusted sq. ft. was the amount that the Board was willing to allow to be without having to provide a garage or carport.

The Board and Staff deliberated regarding whether compliance with the Building Code could be required for only the enclosed garages or the entire residence. Mr. Dennis Smith explained that only the area of the structure in violation would be required to be brought up to Code.

The Board requested the following changes to the draft Zoning Code amendments which were provided and discussed at that meeting. These changes have been incorporated into the revised amendments:

1. Item (c)6.-Change requirement for “apron swale” to “driveway approach”, and clarify language.
2. Item (c)6.-Eliminate items a, c and d, which established building frontage, side setback and front setback requirements as qualifications for relief from Zoning Code requirements provided in subsection (c)6.
3. Item (c)6.- Change “residence” to “primary structure” for purposes of calculating maximum square footage.
4. Item (c)6.-Remove “adjusted” from description of maximum 1,500 square foot size requirements of primary structure.
5. Item (c)8.-Require in Restrictive Covenant that if the primary structure is modified and exceeds the 1500 square foot threshold, a garage or carport must be constructed as required by the Zoning Code.

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The meeting was opened to the public.

Mr. Claudio Naranjo (829 Locust Street, Coral Gables, FL. 33134), mailing address: P.O. Box 170508, Miami Lakes, FL. 33017. Mr. Naranjo had a specific question regarding his particular property in relation to an enclosed garage. He was redirected to address his question to his architect, and because he does have a carport, he should have no problem. Additionally he could address any further questions to the Building & Zoning Department. He stated that he was in favor of the proposed amendments.

Mr. Ray Rancano 831 Monterey Street, Coral Gables, FL. 33134. Mr. Rancano has been the spokesperson for the residents in the surveyed area that is predominantly effected by the phenomenon of unpermitted enclosed residential garage. Mr. Rancano commended the Staff for their diligence in having the workshop and in addressing the concerns of the residents and arriving at viable solutions. He explained that he had been trying to get this workshop since 1998 since the survey of the area where his property is located.

He went on to commend Mr. Carlson and the Planning Department as well as the rest of Staff because of their great effort. He stated that the amendments essentially resolve their problem. He further explained that in his letter dated February 10th following the meeting with Staff on February 3rd, he wanted to withdraw his concerns which are numbered 5 and 6 as they were a misreading of the provisions of the ordinance. He believes that they are addressed in the provisions. Mr. Rancano expressed some concern regarding the enforcement of disclosing the fact about enclosed garages and said that he was aware of several sales of homes and this information had not been disclosed. He was very appreciative and wholeheartedly in support of the proposed amendments.

Mr. Christopher Zoller, 900 Bayamo Avenue, Coral Gables, FL. 33134. Informed the Board regarding the situation that his client was involved with in the purchase of her home. The property had an unpermitted enclosed garage and during the transaction the previous owner had received citation and never disclosed this information. Mr. Zoller stated that he believed that a variance provision needed to be included along with the proposed amendments which he supported.

Meeting adjourned at 7:50 p.m.

Attachments:

A. PowerPoint presentation.

Reviewed as to form and sufficiency

Walter Carlson
Assistant Planning Director

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