



To: Dona Spain, Historical Resources and Cultural Arts Director for the City of Coral Gables

From: Gustavo Ceballos, Assistant City Attorney for the City of Coral Gables

Approved: Miriam Soler Ramos, City Attorney for the City of Coral Gables MSR

RE: Legal Opinion Regarding 1223 Lisbon Street - Non-Conforming Setback

Date: May 20, 2019

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I have reviewed the matter and the site plan for the proposed additions to the home, located at 1223 Lisbon Street, Coral Gables, Florida, 33134 (the "Property"), and the proposed setback will not require a variance. The Property currently has an existing non-conforming rear setback of 3'- 8 ¾" due to the placement of the original detached garage structure. The proposed pool to be installed on the Property will maintain the existing 3'- 8 ¾" setback and align the rear of the pool with the existing non-conforming detached garage structure.

This falls within prior legal opinions given by the City Attorney's Office relating to historically designated structures and Article VI of the Zoning Code. If otherwise in conformity with the Zoning Code, the pool can be built along the established legally non-conforming setback line as long as (1) there is not further encroachment beyond the established legally non-conforming setback line, in this case the proposed 3'- 8 ¾" setback maintains the current legally non-conforming setback and does not increase the non-conformity, and (2) the Historic Preservation Board approves a Special Certificate of Appropriateness in a publicly noticed, quasi-judicial hearing. See, e.g., CAO 2015-048. The City Commission would also have authority to review the matter if any affected party appeals. As indicated in CAO 2015-048, "one purpose of Article VI is to ensure that properties are not penalized for legal non-conformities. This is particularly true for historic properties where the City has made a policy decision that these properties should be historically preserved as originally built, which substantially restricts an applicant from being able to modify the structure to comply with the current setback in an historically appropriate manner."

This opinion is based on the specific facts of this matter and the proposed plans and pursuant to Section 2-252(e)(1) and (8) of the City Code and Section 2-702 of the City's Zoning Code, authorizing the City Attorney's Office to issue opinions and interpretations on behalf of the City.