



***Application No.:***

***V-2019-012***

**Attachment "A"**

**Consultant Report**

**9600 Dominican Drive**

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING A VARIANCE APPLICATION FROM THE PROVISIONS OF SEC. 3-168 (1) AND (2) OF THE TOWN CODE OF ORDINANCES RELATING TO FENCES FOR PROPERTY LOCATED AT 9600 DOMINICAN DRIVE; AND PROVIDING FOR AN EFFECTIVE DATE.

☐ **Fort Lauderdale Office** · 1800 Eller Drive · Suite 600 · Fort Lauderdale, FL 33316 · 954.921.7781(p) · 954.921.8807(f)  
☒ **Miami-Dade Office** · 10800 Biscayne Boulevard · Suite 950 · Miami, FL 33161 · 786.485.5200(p) · 786.485.1520(f)

Date: March 18, 2020

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To: Rafael G. Casals, ICMA-CM, CFM, Town Manager

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From: Alex A. David, AICP, Consultant Planner

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John M. Brannon

Subject: 9600 Dominican Drive  
(Application No. V-2019-012)

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Project: Variance of Fence Regulations (Sec. 3-168 - Walls, fences and hedges (1 and 2))

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CC: Sarah Sinatra Gould, AICP, Consultant Planner

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### **REQUEST**

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING A VARIANCE APPLICATION TO ARTICLE XI., SUPPLEMENTAL STANDARDS, SEC. 3-168 (1) AND (2) OF THE TOWN OF CUTLER BAY RELATING TO FENCES FOR PROPERTY LOCATED AT 9600 DOMINICAN DRIVE; AND PROVIDING FOR AN EFFECTIVE DATE.**

John Brannon is seeking approval of a variance from the provisions of Sec. 3-168 (1) and (2) of the Town Code of Ordinances relating to fences to permit an existing fence 6 feet in height where 4 feet in the front yard area is allowed and to permit the unfinished side outward where the finished side outward is required.

### **APPLICANT**

John J. Brannon

Staff Coordinator: Alex A. David, AICP  
Interim Community Development Director

### **PROPERTY INFORMATION**

Location: 9600 Dominican Drive

Folio Numbers: 36-6004-002-0240

Size: 16,500 sq. ft.

Legal Description:

This land referred to herein below is situated in the County of Miami-Dade, State of Florida, and is described as follows:

SOUTH CORAL HOMES SEC. 2

PB 57-11

Lots 2 and 3, Block 10

**BACKGROUND AND ANALYSIS**

The Applicant constructed a fence without obtaining a permit (*Exhibit "A"*). The fence cannot be permitted as the fence does not meet two requirements for fence height and placement of finished side. The fence was constructed adjacent to the front and side property lines at a height of 6 feet where only four feet is allowed (Sec. 3-168 (1)) and with the unfinished side outward (Sec. 3-168 (2)). Fences are only permitted to be four feet in height in the area between the front façade of the residence and the public right-of-way.





Mar 10, 2020 at 10:31:31 AM  
Town of Cutler Bay  
Code Compliance Officer D. Santiago

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### **VARIANCE REQUESTED**

The proposed request is seeking relief from the following code sub-sections:

Sec. 3-168. - Walls, fences and hedges.

All walls, fences and hedges placed within required yard areas shall conform to the following regulations, except where special requirements are set forth for specific buffering or screening purpose elsewhere in this article:

- (1) In residential districts, the maximum height for walls, fences and hedges shall not exceed four feet in height, measured from the final grade in front yards and six feet in height in side and rear yards.
- (2) Walls and fences shall be erected with the finished side outward.

**VARIANCE APPROVAL EVALUATION CRITERIA**

Section 3-36 of the Land Development Code outlines the variance approval standards that apply in this case and they are provided below along with a compliance evaluation of the subject variance request.

1. The variance will result in conditions that maintain and are consistent in all material respects with the intent and purpose of these Regulations, and that the general welfare, stability and appearance of the community will be protected and maintained.

The variance is not consistent with the requirements of Sec. 3-168 with respect to fence height and finished side outward and does not promote the general welfare, stability and appearance of the community. In addition, the six foot high fence adjacent to the public right-of-way and Applicant's driveway is considered a safety hazard as the sightlines are impeded.

2. The variance will be compatible with the surrounding land uses, and otherwise consistent with these Regulations and the Comprehensive Plan and will not be detrimental to the community.

The variance is not consistent with the Town Land Development Regulations (Sec. 3-168) or the Town Growth management Plan, specifically Objective FLU-4: The Town shall protect, maintain and improve its residential districts.

3. That the request for a variance is not based on an economic disadvantage to the owner or occupant of the property upon which the variance is sought.

The variance is not based on an economic disadvantage.

**RECOMMENDATION**

Town Staff recommends **Denial** of the Variance.

**EXHIBIT(S)**

- Exhibit "A" – Permit Action Report

pmPermitActions

## Permit Action Report

8/13/2019 2:56:22PM

Town of Cutler Bay

Permit #: CASE-03-19-7378

Permit type: ccase - CODE COMPLIANCE CASE

Address: 9600 DOMINICAN DR

Master permit #:

Routing queue: ccase2 - Code Compliance Complaint/c

CUTLER BAY, FL 33189-1635

Group # - Name	Action Code	Action Description	Completion Date	Completion Code	Completed By	Comments
1 - COMPLAINT	ccintake	INTAKE OF CODE COMPLIANCE CO	2/28/2019		fduprey	Code received an anonymous phone complaint stating that property has built a new fence and that it is facing the wrong way.
2 - INITIAL CODE INSPECTI	investigat	INITIAL INVESTIGATION	3/3/2019		dsantiago	Upon initial inspection CO confirms complaint and notes that HO/contractor has failed to obtain the necessary permits for new fence which is a violation of FBC 105.1(8-1). Photos have been taken. Warning will be issued.
2 - INITIAL CODE INSPECTI	warning	COURTESY WARNING	3/3/2019		dsantiago	Warning issued (posted) stating that a permit must be obtained for fence. Comply by date: 03.08.19
2 - INITIAL CODE INSPECTI	fuinsp2	FOLLOW UP INVESTIGATION	3/11/2019		dsantiago	WWOP- fence. CW issued 03.01.19 CB 03.08.19
						03.11.19: CO has authorized an extension with a new comply by date: 03.18.19.

pmPermitActions  
8/13/2019 2:56:22PM

Permit Action Report  
Town of Cutler Bay

Exhibit "A" Page: 2

Permit #: CASE-03-19-7378  
Master permit #:

Permit type: ccase - CODE COMPLIANCE CASE  
Routing queue: ccase2 - Code Compliance Complaint/c

Address: 9600 DOMINICAN DR  
CUTLER BAY, FL 33189-1635

Group # - Name	Action Code	Action Description	Completion Date	Completion Code	Completed By	Comments
2 - INITIAL CODE INSPECTI	fuinsp3	FOLLOW UP INVESTIGATION	6/20/2019		dsantiago	<p>WWOP- fence. CW issued 03.01.19 CB 03.08.19 *extension given</p> <p>03.13.19: Amy Brannon has called in regarding questions for the permitting process. She was forwarded to building.</p> <p>03.15.19: Permit BRFE 03-19-1861 has been applied for and is in zoning. Zoning has disapproved as fence is over 4 ft in front of property. Permit is ready for corrections. John Brannon- 305-302-9822</p> <p>03.26.19: Permit requires corrections. CO notes that he has spoken with HO in person informing them to come into TOCB and pick-up corrections.</p> <p>04.01.19: Corrections for Permit BRFE 03-19-1861 have been picked up.</p> <p>04.08.19: Plans remain out with customer. CO will recheck 04.18.19</p> <p>04.18.19: Plans are still out for corrections. CO will recheck case 04.29.19</p> <p>04.29.19: CO notes that he has called and left message. HO needs 2 weeks for plans. If HO gets it done before he will let code know. CO will recheck case 05.14.19</p> <p>05.14.19: Case rescheduled due to magistrate.</p> <p>05.15.19: Plans need corrections. Plans are out with customer.</p> <p>05.22.19: Plans are out with customer. CO notes variance will be dropped off by 05.23.19</p>



pmPermitActions  
8/13/2019 2:56:22PM

Permit Action Report  
Town of Cutler Bay

Exhibit "A" Page: 3

Permit #: CASE-03-19-7378  
Master permit #:

Permit type: ccase - CODE COMPLIANCE CASE  
Routing queue: ccase2 - Code Compliance Complaint/c

Address: 9600 DOMINICAN DR  
CUTLER BAY, FL 33189-1635

Group # - Name	Action Code	Action Description	Completion Date	Completion Code	Completed By	Comments
2 - INITIAL CODE INSPECTI	fuinsp4	FOLLOW UP INVESTIGATION	8/12/2019		dsantiago	05.28.19: CO notes that we need to wait for planning approval. CO will reinspect after the next council meeting on 06.19.19 WWOP- fence. CW issued 03.01.19 CB 03.08.19 *extension given  06.20.19: CO notes he will speak with Alex David (Planning and Zoning)  06.25.19: CO notes that HO will come in by Friday 06.28.19 for variance.  07.01.19: CO notes to reschedule case on 07.09.19  07.09.19: CO notes to place for Thursday 07.18.19  07.18.19: CO notes that Santiago (Manager) is going to look into what to do next. Case Rescheduled for 07.24.19  07.04.19: CO notes that HO will come in on 07.25.19 John: 305-302-9822  07.29.19: CO notes that he will discuss with Santiago (Manager) before he addresses. HO came in to apply but realized that is will cost a lot of money so he will decide to proceed with variance or pull permit for fence.  08.01.19: CO provided an extension as they are waiting for Ralph to come back from vacation. CO will reinspect 08.12.19  08.12.19: CO notes to reschedule for Friday. 08.16.19
2 - INITIAL CODE INSPECTI	fuinsp5	FOLLOW UP INVESTIGATION			dsantiago	WWOP- fence. CW issued 03.01.19 CB 03.08.19 John- 305-302-9822
3 - CC MAINTENANCE	citation	ISSUE CITATION				

pmPermitActions  
8/13/2019 2:56:22PM

Permit Action Report  
Town of Cutler Bay

Exhibit "A" Page: 4

Permit #: CASE-03-19-7378  
Master permit #:

Permit type: ccase - CODE COMPLIANCE CASE  
Routing queue: ccase2 - Code Compliance Complaint/c

Address: 9600 DOMINICAN DR  
CUTLER BAY, FL 33189-1635

Group # - Name	Action Code	Action Description	Completion Date	Completion Code	Completed By	Comments
3 - CC MAINTENANCE	fuinsp3	FOLLOW UP INVESTIGATION				
3 - CC MAINTENANCE	fuinsp4	FOLLOW UP INVESTIGATION				
3 - CC MAINTENANCE	appeal	CITATION APPEAL				
4 - CODE HEARING	caseprep	CASE PREPARATION FOR HEARING				
4 - CODE HEARING	finorder	FINAL ORDER				
4 - CODE HEARING	lienrec	RECORDING OF LIEN				
4 - CODE HEARING	mitigation	PAYOFF OR LIEN REDUCTION PRO				
4 - CODE HEARING	rlien	RELEASE OF LIEN				
4 - CODE HEARING	closecase	CLOSE CASE				