



To: Hung Nguyen; Dona Spain; Bridgette Thornton

From: Craig E. Leen, City Attorney for the City of Coral Gables *CL*

RE: Legal Opinion Regarding A Variance Not Needed On Improvement

Date: September 9, 2014

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I have reviewed this matter. The issue is whether this is an improvement to an existing legal non-conformity, which is allowed under Article 6 of the Zoning Code. Based on the information provided below, particularly the direction by the Board of Architects that this is preferable from a design perspective, it is my view that this should be allowed under Article 6 without need for a variance. This is also true because I have previously opined that the Board of Architects may impose reasonable conditions of approval for purposes of design, and that the applicant should be permitted to comply with these conditions. Here, the condition is reasonable in that there is already a legally non-conforming setback established by the garage, and this condition will not cause further intrusion beyond that already existing, legally nonconforming setback. In addition, it is preferable from a design perspective. Finally, an aggrieved party has a right to appeal a decision of the Board of Architects directly to the City Commission pursuant to the Zoning Code, so if a party is unhappy with a condition set by the Board of Architects, there is recourse to the City Commission. In light of all these circumstance, it is my opinion that the request should be allowed without need for a variance (assuming that other applicable provisions of the Zoning Code are satisfied).

## Parramore, Carol

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**From:** Leen, Craig  
**Sent:** Tuesday, September 09, 2014 11:35 AM  
**To:** Osle, Zilma; Parramore, Carol  
**Cc:** Thornton, Bridgette; Figueroa, Yaneris  
**Subject:** FW: 814 Santiago Street

**Importance:** High

Please place in the opinion folder.

**Craig E. Leen, City Attorney**

*Board Certified by the Florida Bar in  
City, County and Local Government Law*  
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**From:** Leen, Craig  
**Sent:** Tuesday, September 09, 2014 11:28 AM  
**To:** 'Hung Nguyen'; Spain, Dona; Thornton, Bridgette  
**Cc:** nazy@pjbarchitects.com; 'nazygiven@bellsouth.net'; Kautz, Kara; Ahouse, Emily  
**Subject:** RE: 814 Santiago Street  
**Importance:** High

I have reviewed this matter. The issue is whether this is an improvement to an existing legal non-conformity, which is allowed under Article 6 of the Zoning Code. Based on the information provided below, particularly the direction by the Board of Architects that this is preferable from a design perspective, it is my view that this should be allowed under Article 6 without need for a variance. This is also true because I have previously opined that the Board of Architects may impose reasonable conditions of approval for purposes of design, and that the applicant should be permitted to comply with these conditions. Here, the condition is reasonable in that there is already a legally non-conforming setback established by the garage, and this condition will not cause further intrusion beyond that already existing, legally non-conforming setback. In addition, it is preferable from a design perspective. Finally, an aggrieved party has a right to appeal a decision of the Board of Architects directly to the City Commission pursuant to the Zoning Code, so if a party is unhappy with a condition set by the Board of Architects, there is recourse to the City Commission. In light of all these circumstances, it is my opinion that the request should be allowed without need for a variance (assuming that other applicable provisions of the Zoning Code are satisfied).

**Craig E. Leen, City Attorney**

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**From:** Hung Nguyen [<mailto:hnguyen@welbaum.com>]

**Sent:** Tuesday, September 09, 2014 9:31 AM

**To:** Spain, Dona; Leen, Craig; Thornton, Bridgette

**Cc:** [nazy@pjbarchitects.com](mailto:nazy@pjbarchitects.com); 'nazygiven@bellsouth.net'; Kautz, Kara; Ahouse, Emily

**Subject:** RE: 814 Santiago Street

Thanks Dona. It wasn't just that the BOA allowed us to have the house go back to the current garage's setback. They asked for it because they wanted the dog area to be bigger and wanted the fence for the dog area to be flush with the current garage. This was not our idea to do this. Just an FYI.

Thanks.

Hung

**WELBAUM GUERNSEY**

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**From:** Spain, Dona [<mailto:dspain@coralgables.com>]

**Sent:** Tuesday, September 09, 2014 9:27 AM

**To:** Leen, Craig; Thornton, Bridgette

**Cc:** Hung Nguyen; [nazy@pjbarchitects.com](mailto:nazy@pjbarchitects.com); 'nazygiven@bellsouth.net'; Kautz, Kara; Ahouse, Emily

**Subject:** FW: 814 Santiago Street

Craig – this is the same project we discussed previously. You had said that allowing the new garage which will be built next to the old garage to have the same legally non-conforming setback would not need a variance. When the architect presented it to the Board of Architects, the board thought that the house should also be allowed to have the same setbacks. I'm copying the owner and the architect on this email. Do you think this would require a variance? Attached are the proposed plans.

Call me if you need to discuss.

Dona M. Spain

Historic Preservation Officer

City of Coral Gables, Florida

(305)460-5095

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**From:** Nazifa Given [<mailto:Nazygiven@bellsouth.net>]

**Sent:** Sunday, September 07, 2014 9:12 PM

**To:** Spain, Dona

**Cc:** Hung Nguyen; Hung Nguyen; Nazifa Given

**Subject:** 814 Santiago Street

Hello Dona, I hope this e-mail finds you well. Attached please find revised drawings based on the Board of Architect's comments. If you could please discuss the rear setback based on the Board's recommendation to match the existing rear setback with the city attorney, it would be greatly appreciated. I would like to re-submit the project to the BOA before this Friday to be heard one week from next Thursday, since the board will not meet next Thursday due to 9/11.

Thank you so much for your support and understanding of the project. Please let me know how I should proceed.

Best regards  
Nazy

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