



To: Ma. Matilde Chalgub, AIA; Spain, Dona

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

RE: Legal Opinion Regarding Building A Car Port

Date: May 20, 2015

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Pursuant to section 2-201(e)(1) and (8) of the City Code, and section 2-702 of the Zoning Code, I have reviewed the matter and issue the following opinion:

It is my understanding that the present legally non-conforming setback is at five feet from the property line. The applicant wishes to build a car port to ensure compliance with the off street parking requirement. The car port would not increase the legal non-conformity of the actual setback of the house as it sits on the property. Indeed, based on how the house sits on the property, the car port would be in an appropriate place. Moreover, it is your opinion that it would be historically appropriate as well. 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.

Based on these facts, and consistent with Article VI of the Zoning Code relating to legal non-conformities, as well as City Attorney Opinion 2014-036, it is my opinion and interpretation that you have the authority to approve this application without a variance if the Historic Preservation Board (following a recommendation from the Board of Architects) approves a special certificate of appropriateness. I would also note that the hearing before the Historic Preservation Board is quasi-judicial, and that the applicant or any affected party would have the right to appear and be heard (indeed, the City Commission also has the authority to review the matter if any affected party appeals). Accordingly, it is my view that there is more than sufficient process here to ensure that the matter is fully considered and that the carport is appropriate.

## Herbello, Stephanie

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**From:** Leen, Craig  
**Sent:** Wednesday, May 20, 2015 6:03 PM  
**To:** Herbello, Stephanie  
**Cc:** Ramos, Miriam; Figueroa, Yanneris; Chen, Brigette  
**Subject:** FW: 4701 Santa Maria Street

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:** Wednesday, May 20, 2015 5:59 PM  
**To:** 'Ma. Matilde Chalgub, AIA'; Spain, Dona  
**Cc:** Kautz, Kara; Ramos, Miriam  
**Subject:** RE: 4701 Santa Maria Street

Pursuant to section 2-201(e)(1) and (8) of the City Code, and section 2-702 of the Zoning Code, I have reviewed the matter and issue the following opinion:

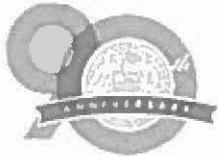
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Based on these facts, and consistent with Article VI of the Zoning Code relating to legal non-conformities, as well as City Attorney Opinion 2014-036, it is my opinion and interpretation that you have the authority to approve this application without a variance if the Historic Preservation Board (following a recommendation from the Board of Architects) approves a special certificate of appropriateness. I would also note that the hearing before the Historic Preservation

Board is quasi-judicial, and that the applicant or any affected party would have the right to appear and be heard (indeed, the City Commission also has the authority to review the matter if any affected party appeals). Accordingly, it is my view that there is more than sufficient process here to ensure that the matter is fully considered and that the carport is appropriate.

**Craig E. Leen, City Attorney**

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**From:** Ma. Matilde Chalgub, AIA [<mailto:mchalgub@chalgub.com>]  
**Sent:** Wednesday, May 20, 2015 5:22 PM  
**To:** Leen, Craig; Spain, Dona  
**Cc:** Kautz, Kara; Ramos, Miriam  
**Subject:** RE: 4701 Santa Maria Street

Mr. Leen,  
Did not hear back from you.  
I am meeting tomorrow morning with the client and would like to have the information for them.  
Thank you, MM

MARIA MATILDE CHALGUB, AIA/CNU/LEED AP  
ARCHITECT & URBANIST

**CHALGUB** INC ARCHITECTURE • INTERIOR DESIGN • URBANISM • TOWN PLANNING

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**From:** Leen, Craig [<mailto:cleen@coralgables.com>]  
**Sent:** Tuesday, May 19, 2015 11:45 AM  
**To:** Spain, Dona  
**Cc:** 'mchalgub@chalgub.com'; Kautz, Kara; Ramos, Miriam  
**Subject:** RE: 4701 Santa Maria Street

This may potentially be permissible under the analysis in CAO 2014-036. I am looking at it and will respond today. Here is the opinion I am referencing:

<http://www.coralgables.com/modules/showdocument.aspx?documentid=14006>

**Craig E. Leen, City Attorney**  
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**From:** Spain, Dona  
**Sent:** Thursday, May 14, 2015 5:15 PM  
**To:** Leen, Craig  
**Cc:** 'mchalgub@chalgub.com'; Kautz, Kara  
**Subject:** 4701 Santa Maria Street

Craig – attached is a survey of a single family home on Santa Maria Street. There are potential buyers that would like to purchase the house, but want to put a carport on the side of the house. Due to the platting of the lots, the setback would be considered the rear setback by Zoning. The issue is that the existing residence is five feet from the property line and is legally non-conforming. The code requires ten feet now. They want to line the carport up with the existing five foot setback. I don't have a problem with it architecturally, but if it's considered a variance, I don't believe I could recommend in favor of it since there isn't really a hardship. I believe that this is similar to others where you have ruled that a variance is not necessary since it is not increasing the non-conformity of the five foot setback.

Please let me know if you agree that a variance isn't necessary. I don't want them to buy the house with false expectations.

Thanks a lot. I copied the architect on this email.

Dona M. Spain  
Historic Preservation Officer  
City of Coral Gables, Florida  
(305)460-5095

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