

RESOLUTION NO. 04- 199 Z

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, APPROVING A NON-USE VARIANCE FILED IN ACCORDANCE WITH SECTION 33-311 OF THE TOWN CODE TO PERMIT A 5 FT. REAR YARD SETBACK (7 FT. 6 INCH REAR YARD SETBACK REQUIRED) AND A 7 FT. 6 INCH SIDE YARD SETBACK (10 FT. SIDE YARD SETBACK REQUIRED), ALL TO PERMIT CONSTRUCTION OF A SWIMMING POOL ON PROPERTY ZONED RU-1 AND LOCATED AT 15545 NW 82ND PLACE, MIAMI LAKES, FLORIDA; PROVIDING FINDINGS; PROVIDING CONDITIONS OF APPROVAL; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR APPEAL**

**WHEREAS**, pursuant to Section 33-311 of the Town Code<sup>1</sup>, Luis Fernandez (the “Applicant”) has applied to the Town for approval of the following non-use variances: to permit a 5 ft. rear yard setback for a swimming pool (7 ft. 6 inch rear yard setback required) (Request No. 1) and a 7 ft. 6 inch side yard setback for a swimming pool (10 ft. side yard setback required) (Request No. 2) as set forth in Application No. Z04-02 (collectively, the “Variance”); and

**WHEREAS**, Section 33-311 of the Town Code sets forth the authority of the Town Council to consider and act upon an application for a non-use variance; and

**WHEREAS**, in accordance with Section 33-310 (c) & (d), proper notice has been mailed to the appropriate property owners of record; the public hearing on the Variance has been noticed for Thursday, January 15, 2004 at 7:00 p.m. at Miami Lakes Town Hall, 6853 Main Street, Miami Lakes, Florida; and all interested parties have had the opportunity to address their comments to the Town Council; and

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<sup>1</sup> Pursuant to Section 8.3 of the Town Charter and Ordinance 2001-01, the applicable provisions of Chapter 33 of the Miami-Dade County Code of Ordinances serve as the Town’s Zoning Code.

**WHEREAS**, Town Staff has reviewed the application and recommends approval of the Variances with conditions, as set forth in the Memorandum dated January 8, 2004 (the “Memorandum”), attached as exhibit “A,” and incorporated into this Resolution by this reference.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals.**

The above recitals are true and correct and incorporated into this resolution by this reference.

**Section 2. Findings.**

In accordance with Section 33-311 (A) (4) (b) of the Town Code, the Town Council finds:

- (1) That the Variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations to protect the general welfare of the public, particularly as it affects the stability and appearance of the Town.
- (2) That the Variance is compatible with the surrounding land uses.
- (3) That the Variance is not detrimental to the Town.

**Section 3. Approval.**

The Town Council approves Request #1 (to permit a 5 ft. rear yard setback for a swimming pool) (7 ft. 6 inch rear yard setback required) and Request #2 (to permit a 7 ft. 6 inch side yard setback for a swimming pool) (10 ft. side yard setback required). Approval of the Variance is subject to the conditions set forth below.

**Section 4. Conditions of Approval.**

The non-use Variance is granted subject to the following conditions:

1. A landscape plan for the rear yard, prepared by a landscape professional, and approved by staff shall be submitted and be made part of the building permit for the swimming pool. The landscape plan shall identify all trees/plants to be

removed replaced or relocated. At a minimum any trees removed shall be replaced with trees of equal size and if possible existing trees shall be relocated on site. Final Building and Zoning Inspections shall not be issued until the approved landscaping is in place.

2. A screen enclosure shall not be permitted around the swimming pool.
3. No slides or similar structures which are visible from surrounding properties shall be permitted.
4. The deck shall be constructed of pavers set in sand. A French drain shall be constructed the full width of the property along the rear property line.
5. The swimming pool and deck shall be constructed in substantial compliance with the plans drawn by Kenneth R. Pfeiffer P.E. of Blue Water Pools of South Florida and dated November 30, 2003. Two revised sets of plans, which incorporate the above conditions of approval, shall be submitted for Building Permit.
6. The applicant shall obtain a building permit within one year of the date of this approval. If a building permit is not obtained within the prescribed time limit, then this approval shall become null and void.

**Section 5. Effective Date.**

This resolution shall become effective immediately upon its adoption.

**Section 6. Appeal.**

In accordance with Section 33-312 and 33-316 of the Town Code, the Applicant, or any aggrieved property owner in the area, may appeal the decision of the Town Council by filing of a notice of appeal in accordance with the Florida Rules of Appellate Procedure.

The foregoing Resolution was moved by Collins and Seconded by Collins, and upon being put to a vote the motion carried 7-0 with each Council Member voting as follows:

- Mayor Wayne Slaton Yes  
Vice Mayor Roberto Alonso Yes  
Councilmember Mary Collins Yes  
Councilmember Robert Meador Yes  
Councilmember Michael Pizzi Yes  
Councilmember Nancy Simon Yes  
Councilmember Peter Thomson Yes

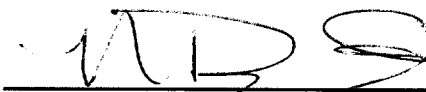
PASSED AND ADOPTED this 15<sup>th</sup> day of January 2004.

  
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WAYNE SLATON, MAYOR

ATTEST:

  
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BEATRIS M. ARGUELLES, CMC  
TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY  
FOR USE ONLY BY THE TOWN OF MIAMI LAKES:

  
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WEISS SEROTA HELFMAN PASTORIZA  
GUEDES COLE & BONISKE, P.A.  
TOWN ATTORNEY