

**RESOLUTION NO. 05-328Z**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, APPROVING A VARIANCE FILED IN ACCORDANCE WITH DIVISION 3.5 OF THE TOWN LAND DEVELOPMENT CODE TO WAIVE SECTION 4.2(E) OF THE LAND DEVELOPMENT CODE WHICH REQUIRES A REAR SETBACK OF 25' IN ORDER TO CONSTRUCT A BEDROOM/FLORIDA ROOM AND ATTACHED OPEN TERRACE WITH A REAR SETBACK OF 16'-0" IN THE REAR OF THE EXISTING SINGLE FAMILY RESIDENCE LOCATED AT 14300 LAKE CRESCENT PLACE, MIAMI LAKES, FLORIDA; PROVIDING FINDINGS; PROVIDING FOR APPROVAL; PROVIDING CONDITIONS OF APPROVAL; PROVIDING FOR APPEAL; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Division 3.5 of the Town of Miami Lakes (the "Town") Land Development Code ("LDC"), Esther MacNamara (the "Applicant") has applied to the Town for approval of the following variance: to waive Section 4.2E of the LDC, which requires a rear setback of 25' in order to construct a bedroom/Florida room and attached open terrace with a rear setback of 16'-0" in the rear of the existing single family residence located at 14300 Lake Crescent Place, legal description: Folio # 32-2024-005-0460; Lot 17, Block 2-A of "Miami Lakes Section 2, Plat Book 76, Page 70 of the Public Records of Miami-Dade County, Florida; and

**WHEREAS**, Division 3.5 of the LDC sets forth the authority of the Town Council to consider and act upon an application for a variance; and

**WHEREAS**, in accordance with Division 3.9 of the LDC proper notice has been mailed to the appropriate property owners of record; the public hearing on the Variance has been noticed for Tuesday, July 19, 2005 at 7:00 p.m. at Miami Lakes Middle School, 6425 Miami Lakeway

North, Miami Lakes, FL 33014; and all interested parties have had the opportunity to address their comments to the Town Council; and

**WHEREAS**, Town Staff has reviewed the application and recommends approval of the variances, with conditions, as set forth in the Staff Analysis and Recommendation dated July 11, 2005 (the “Staff Analysis”), 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.**

- (a) In accordance with Division 3.5(f) of the Town Code, the Town Council, having considered the testimony and evidence in the record presented by all parties, finds that the Applicant meets all of the requirements of Division 3.5(f)(1)(a) thru (g) of the Town Code, which are as follows:
1. Variance Consistent with Authorized Powers. That the variance is in fact a variance as set forth in the Land Development Code and within the province of the Town Council; and
  2. Existence of Special Conditions or Circumstances. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district; and
  3. Conditions Not Created by Applicant. That the special conditions and circumstances do not result from the actions of the Applicant; and
  4. Special Privileges Not Conferred. That granting the variance requested will not confer on the Applicant any special privilege that is denied by this

Land Development Code to other similarly situated lands, buildings, or structures in the same zoning district; and

5. Hardship Conditions Exist. That literal interpretation of the provisions of this Land Development Code would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Land Development Code and would work unnecessary and undue hardship on the applicant. The purchase of property which is an illegal nonconformity with this Land Development Code shall not be considered a hardship for granting of a variance, nor shall conditions peculiar to the property owner be considered; and
6. Only the Minimum Variance Granted. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure; and
7. Not Injurious to Public Welfare or Intent of the Land Development Code. That the grant of the variance will be in harmony with the general intent and purpose of the Comprehensive Plan and this Land Development Code and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

**Section 3. Approval / Denial.**

- (a) The Town Council approves the variance request for a rear setback of 16' – 0" for a bedroom/Florida room and attached open terrace to the rear of an existing single family residence.

**Section 4. Conditions of Approval.** The Variance is granted subject to the following conditions:

1. The bedroom and Florida room portions of the addition shall be redesigned with a pitched roof that is integrated into the existing roof with matching tile. The open terrace portion may remain with a flat roof design.
2. The addition, with the exception of the above roof modification, shall be constructed in substantial compliance with the plans drawn by G.A. Rodriguez, Architect, signed and sealed on June 25, 2005.
3. The open terrace shall remain open on two (2) sides shall not be permitted to be enclosed unless a new variance is obtained.
4. The addition shall not have a separate wall or window mounted air conditioner.
5. The existing wood fence shall be stained, painted or replaced in accordance with Division 5.9 of the Town Code.
6. A landscape plan for the entire lot, prepared by a landscape professional, and approved by staff shall be submitted as part of the building permit for the roofed terrace. The landscape plan shall comply with the landscape requirements of Division 7.1 of the Town Code. Final Building and Zoning Inspection approvals shall not be issued until the approved landscaping is in place.
7. The applicant shall obtain a building permit within one year of the date of this approval. If a building permit is not obtained or an extension granted within the prescribed time limit then this approval shall become null and void.

**Section 5. Appeal.**

In accordance with Division 3.10 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.

**Section 6. Effective Date.**

This Resolution shall take effect thirty (30) days following the date it is filed with the Town Clerk. If during that time frame, the decision of the Town Council is appealed as provided in the Land Development Code and the Florida Rules of Appellate Procedure, the appeal shall stay the effectiveness of this Resolution until said appeal is resolved by a court of competent jurisdiction.

The Variance of the foregoing Resolution was moved upon the hardship standard in Division 3.5(f) of the Town Code by <sup>MARY</sup>Collins and Seconded by NANCY SIMON, and upon being put to a vote the motion carried with each Council Member voting as follows:

Mayor Wayne Slaton	<u>yes</u>
Vice Mayor Roberto Alonso	<u>yes</u>
Councilmember Mary Collins	<u>yes</u>
Councilmember Robert Meador	<u>yes</u>
Councilmember Michael Pizzi	<u>yes</u>
Councilmember Nancy Simon	<u>yes</u>
Councilmember Peter Thomson	<u>yes</u>

PASSED AND ADOPTED this 19 day of July 2005.

This Resolution was filed in the Office of the Town Clerk on this 19<sup>th</sup> day of July, 2005.

Wayne Slaton  
Wayne Slaton  
MAYOR

ATTEST:

Debra Eastman  
Debra Eastman, MMC  
TOWN CLERK

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

Ann Boniske  
Weiss Serota Helfman Pastoriza  
Cole & Boniske, P.A.  
TOWN ATTORNEY