

RESOLUTION NO. 02- 84 Z

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA; APPROVING A NON-USE VARIANCE OF SETBACK REQUIREMENTS TO PERMIT A CABANA BATH HOUSE SETBACK 4.5' (6.58' REQUIRED) FROM THE INTERIOR SIDE (EAST) PROPERTY LINE FOR PROPERTY LOCATED AT 8728 N.W. 169TH TERRACE, TOWN OF MIAMI LAKES, FLORIDA ("THE PROPERTY"); APPROVING A NON-USE VARIANCE OF SPACING REQUIREMENTS TO PERMIT THE AFOREMENTIONED CABANA BATH HOUSE SPACED 5.75' (10' REQUIRED) FROM THE COVERED TERRACE FOR THE PROPERTY; APPROVING A NON-USE VARIANCE OF SETBACK REQUIREMENTS TO PERMIT A SINGLE FAMILY RESIDENCE SETBACK 6' (6.58') REQUIRED FROM THE INTERIOR SIDE (WEST) PROPERTY LINE FOR THE PROPERTY; PROVIDING FINDINGS; PROVIDING FOR APPROVAL; PROVIDING FOR CONDITIONS OF APPROVAL; PROVIDING FOR RECORDATION; PROVIDING FOR APPEAL AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, pursuant to Section 33-311 of the Town Code ¹, **Luis and Celida Rodriguez** (collectively the "Applicant") have applied to the Town for approval of the following three non-use variances property located at 8728 NW 169th Terrace, Miami Lakes, Florida (the "Property"): 1) a non-use variance of setback requirements to permit a cabana bath house setback 4.5' (6.58' required) from the interior side (east) property line; 2) a non-use variance of spacing requirements to permit the aforementioned cabana bath house spaced 5.75' (10' required) from the covered terrace; and 3) a non-use variance of setback

¹ 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.

requirements to permit a single family residence setback 6' (6.58' required) from the interior side (west) property line; 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 non-use variances has been noticed for Tuesday, August 13, 2002 at 7:00 p.m. at Miami Lakes Middle School, 6245 Miami Lakeway North, Miami Lakes, Florida; and all interested parties have had the opportunity to address their comments to the Town Council; and.

WHEREAS, the Miami-Dade County Director of Planning and Zoning (the "Director"), in her capacity as Town Staff, has reviewed the application and recommends approval of the non-use variances with conditions, as set forth in the Memorandum dated August 13, 2002, (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 foregoing non-use variances maintain 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 foregoing non-use variances are compatible with the surrounding land uses.
- (3) That the foregoing non-use variances are not detrimental to the Town.

Section 3. Approval.

The Town Council approves request #1 for a non-use variance of Section 33-50 of the Town Code (setbacks) to permit a cabana bath house setback 4.5 (6.58' required) from the interior side (east) property line for the Property; request #2 for a non-use variance of Section 33-50 (setbacks) of the Town Code to permit the aforementioned cabana bath house spaced 5.75' (10' required) from the covered terrace for the Property; and request #3 for a non-use variance of Section 33-50 (setbacks) to permit a single family residence setback 6' (6.58' required) from the interior side (west) property line for the Property. The Council's approval is subject to the conditions enumerated below.

Section 4. Conditions of Approval.

The non-use variances are granted and the Applicant shall comply with the following conditions:

1. That a site plan be submitted to and meet with the approval from the Town of Miami Lakes upon the submittal of an application for a building permit and/or Certificate of Use and Occupancy; said plan to include among other things but not be limited thereto, location of structure or structures, exits and entrances, drainage, walls, fences, landscaping, etc.
2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "Detached Cabana Bath & Covered Open Terrace," as prepared by H.S., consisting of 1 sheet and dated 3/22/02 and an elevation plan, preparer unknown and dated received 5/8/02, as it pertains to the variance related construction. Except as may be specified by any zoning resolution applicable to the subject property, any future additions on the property which conform to Zoning Code requirements will not require further public hearing action.
3. That the use be established and maintained in accordance with the approved plan.

Section 5. Recordation.

The decision of the Town Council to approve the non-use Variance shall be recorded on the official zoning maps of the Town.

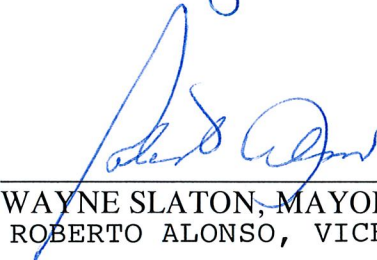
Section 6. Effective Date.

This resolution shall become effective immediately upon its adoption.

Section 8. Appeal.

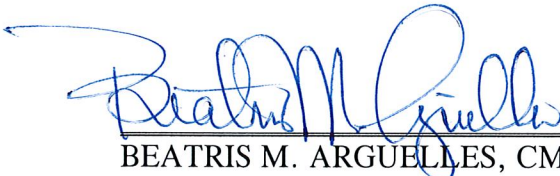
In accordance with Section 33-312 and 33-316 of the Town Code, the Applicant, or any aggrieved property owner in the area, may appeal the decision of the Town Council by filing of a notice of appeal in accordance with the Florida Rules of Appellate Procedure.

PASSED AND ADOPTED this 13th day of August 2002.



WAYNE SLATON, MAYOR
ROBERTO ALONSO, VICE MAYOR

ATTEST:



BEATRIS M. ARGUELLES, CMC
TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



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

Council voted _____ as follows:	
Mayor Wayne Slaton	_____
Vice Mayor Roberto Alonso	_____
Councilmember Mary Collins	_____
Councilmember Robert Meador	_____
Councilmember Michael Pizzi	_____
Councilmember Nancy Simon	_____
Councilmember Peter Thomson	_____

MIAMI-DADE COUNTY DEPARTMENT OF PLANNING AND ZONING
RECOMMENDATION TO THE TOWN OF MIAMI LAKES COUNCIL

APPLICANT: Luis & Celida Rodriguez

PH: Z02-103 (02-7-MLB-3)

SECTION: 16-52-40

DATE: August 13, 2002

COMMISSION DISTRICT: 13

ITEM NO.: A

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A. INTRODUCTION

o REQUESTS:

- (1) NON-USE VARIANCE OF SETBACK REQUIREMENTS to permit a cabana bathhouse setback 4.5' (6.58' required) from the interior side (east) property line.
- (2) NON-USE VARIANCE OF SPACING REQUIREMENTS to permit the aforementioned cabana bathhouse spaced 5.75' (10' required) from the covered terrace.
- (3) NON-USE VARIANCE OF SETBACK REQUIREMENTS to permit a single family residence setback 6' (6.58' required) from the interior side (west) property line.

A plan is on file and may be examined in the Zoning Department entitled "Detached Cabana Bath & Covered Open Terrace," as prepared by H.S., consisting of 1 sheet and dated 3/22/02 and an elevation plan, preparer unknown and dated received 5/8/02. Plans may be modified at public hearing.

o SUMMARY OF REQUESTS:

These requests will allow the applicant to maintain an existing cabana bathhouse setback closer than permitted from the interior side (east) property line and spaced closer than permitted from the existing single-family residence and will allow the existing single family residence to remain setback closer to the west property line than permitted.

o LOCATION:

8728 N.W. 169 Terrace, Town of Miami Lakes, Florida.

o SIZE: 65.85' x 98'

o IMPACT:

The approval of these requests will allow the applicant to maintain an existing single family residence and will provide an amenity for the residents. It will also provide protection from the elements for the residents while enjoying the rear yard area. However, the reduced spacing between the main residence and the cabana bathhouse and the reduced interior side setback area would visually impact the surrounding properties.

B. ZONING HEARINGS HISTORY:

In 2001, pursuant to Resolution No. 01-47-AV, the Town Council of the Town of Miami Lakes approved a non-use variance of setback requirements to permit a covered terrace addition to setback 17' from the rear (south) property line where 25' is required.

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):

The Adopted 2005 and 2015 Land Use plan designates the subject property as being within the Urban Development Boundary for **low density residential**. The residential densities allowed in this category shall range from a minimum of 2.5 to a maximum of 6.0 units per gross acre. This density category is generally characterized by single family housing, e.g., single-family detached, cluster zero lot line and townhouses. It could include low-rise apartments with extensive surrounding open space or a mixture of housing types provided that the maximum gross density is not exceeded.

D. NEIGHBORHOOD CHARACTERISTICS:

<u>EXISTING ZONING</u>	<u>EXISTING LAND USE DESIGNATION</u>
<u>SUBJECT PROPERTY:</u>	
RU-1, single family residence	Residential, 2.5 to 6.0 dua
<u>SURROUNDING PROPERTY:</u>	
<u>NORTH:</u> RU-1; single family residence	Residential, 2.5 to 6.0 dua
<u>SOUTH:</u> RU-1; single family residence	Residential, 2.5 to 6.0 dua
<u>EAST:</u> RU-1; single family residence	Residential, 2.5 to 6.0 dua
<u>WEST:</u> RU-1; abandoned residence	Residential, 2.5 to 6.0 dua

The subject residence is located in the west of the Town of Miami Lakes area, on the west side of SW 87 Avenue, south of the Canal. The lot is within the Serenity Point single-family subdivision, a recently developed neighborhood. There are new homes under construction immediately north of the subject property. A six (6) foot high wood fence lies along the east property line, adjacent to N.W. 87 Avenue.

E. SITE AND BUILDINGS:

Site Plan Review:	
Scale/Utilization of Site:	Acceptable
Location of Buildings:	Acceptable
Compatibility:	Acceptable
Landscape Treatment:	N/A

Open Space:	N/A
Buffering:	N/A
Access:	Acceptable
Parking Layout/Circulation:	Acceptable
Visibility/Visual Screening:	Acceptable
Energy Considerations:	N/A
Roof Installations:	N/A
Service Areas:	N/A
Signage:	N/A
Urban Design:	N/A

F. PERTINENT REQUIREMENTS/STANDARDS:

Upon appeal or direct application in specific cases, the Town Council shall hear and grant applications for **non-use variances** from the terms of the zoning and subdivision regulations and may grant a non-use variance upon a showing by the applicant that the non-use variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the land is required.

G. NEIGHBORHOOD SERVICES:

DERM	No objection
Public Works	No objection
Parks	No objection
MDTA	No objection
Fire Rescue	No objection
Police	No objection
Schools	No comment

H. ANALYSIS:

This recommendation is being issued by the Miami-Dade County Planning and Zoning Department acting as staff to the Town of Miami Lakes. In this capacity staff notes that the Third District Court of Appeals has held invalid for Miami-Dade County, the Miami-Dade County zoning standards for non-use variances, special exceptions, unusual uses, new uses requiring a public hearing, and modifications of conditions and covenants. The Miami-Dade County Attorney's Office is seeking a review of the decision in the Florida Supreme Court. While the case is pending, the decision is presently in effect and binding on all parties in the unincorporated portions of the county. Its impact has been to suspend consideration of zoning applications in the unincorporated portions of the county for most special exceptions, unusual uses, non-use variances, and modification of conditions and covenants until the decision is modified or reversed or modified standards are enacted. The Town of Miami Lakes has zoning standards similar to those struck down by the Third District Court of Appeal but has decided to allow hearings under these standards to go forward. The Miami-Dade

County Planning and Zoning Department recognizes the binding effect of the court decision on all Miami-Dade County decisions but in rendering this recommendation makes no comment as to its legal impact on the zoning decisions of the Town of Miami Lakes. The recommendation is addressed only to the land use impacts of the application.

This application was deferred and revised from the July 9, 2002 meeting of the Town of Miami Lakes Council. The subject property is located at 8728 NW 169 Terrace, Town of Miami Lakes, Florida, with dimensions of 65.85' x 98' in the RU-1 district. The applicant is seeking to maintain an existing cabana bathhouse setback 4.5' (6.58' required, however, 5' had originally been advertised in error) from the interior side (east) property line and to maintain said structure spaced 5.75' (10' required) from the existing residence. An additional request has been included in this application to allow the existing single family residence to setback 6' (6.58' required) from the interior side (west) property line.

The Department of Environmental Resources Management (**DERM**) has **no objections** to this application and has indicated that it meets the Level of Service (LOS) standards set forth in the Master Plan. The **Public Works Department** also has **no objections** to this application and has indicated that this application meets traffic concurrency criteria for an Initial Development Order.


The approval of these requests would allow the applicant to provide an amenity for the residents, while enjoying the swimming pool in the rear yard area. Staff notes that the cabana bathhouse has been built at more than the required distance from the adjacent neighbors to the south. Although the applicant has provided more than the required setbacks to such neighbors the cabana bathhouse has been built at less than the required distance from the main residence. Staff is supportive of request #2 and is of the opinion that the approval of same will not negatively impact the surrounding properties since the impact will remain internal to the site. The setback variance for the cabana bathhouse located closer than permitted to the east property line does not have a negative impact on adjacent properties since the east property line abuts a landscaped tract (Tract J) which is adjacent to the side street and the structure does not block light or air and is buffered by a wooden fence. Staff recognizes that the covered terrace at the rear of the residence was previously approved by the Town Council of the Town of Miami Lakes, pursuant to Resolution No. 01-47-AV, to allow same to setback 17' from the rear property line. The cabana bathhouse was not shown on the plans that were submitted with the aforementioned application. Staff is supportive of the request to allow the existing single family residence to setback 0.58' closer to the west property line than permitted. Said encroachment is probably due to a surveyor's or construction error and does not adversely impact the adjacent property. Even with the covered terrace, the subject cabana bathhouse and single family residence, the applicants still comply with lot coverage requirements and a non-use variance for same is not necessary. As such, the approval of this application will not be overly intensive to the surrounding area. This application is **consistent** with the CDMP and **compatible** with the surrounding area. Accordingly, staff recommends approval with conditions of this application.

I. **RECOMMENDATION:** Approval with conditions.

J. **CONDITIONS:**

1. That a site plan be submitted to and meet with the approval from the Town of Miami Lakes upon the submittal of an application for a building permit and/or Certificate of Use and Occupancy; said plan to include among other things but not be limited thereto, location of structure or structures, exits and entrances, drainage, walls, fences, landscaping, etc.
2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "Detached Cabana Bath & Covered Open Terrace," as prepared by H.S., consisting of 1 sheet and dated 3/22/02 and an elevation plan, preparer unknown and dated received 5/8/02, as it pertains to the variance related construction. Except as may be specified by any zoning resolution applicable to the subject property, any future additions on the property which conform to Zoning Code requirements will not require further public hearing action.
3. That the use be established and maintained in accordance with the approved plan.
4. That the applicant apply for and obtain a building permit for the cabana bathhouse from the Town of Miami Lakes.

DATE INSPECTED: 06/18/02
DATE TYPED: 06/18/02
DATE REVISED: 06/18/02; 06/20/02; 07/01/02; 07/24/02
DATE FINALIZED: 07/29/02
DO'QW:AJT:MTF:REM:TA



Diane O'Quinn Williams, Director
Miami-Dade County Department of
Planning and Zoning