

RESOLUTION NO. 02- 75 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 FAMILY ROOM, STUDY AND BATH ADDITION TO A SINGLE FAMILY RESIDENCE SETBACK VARYING FROM 14' TO 15.42' (25' REQUIRED) FROM THE REAR (WEST) PROPERTY LINE FOR PROPERTY LOCATED AT 14730 MAHOGANY COURT, TOWN OF MIAMI LAKES, FLORIDA ("THE PROPERTY"); AND A NON-USE VARIANCE OF LOT COVERAGE REQUIREMENTS TO PERMIT A LOT COVERAGE OF 37.93% (35% PERMITTED) FOR A SINGLE FAMILY RESIDENCE 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, **William B. Williford**, (the "Applicant") has applied to the Town for approval of the following non-use variances for property located at 14730 Mahogany Court, Miami Lakes, Florida (the "Property"): 1) a non-use variance of setback requirements to permit a family room, study, and bath addition to a single family residence setback varying from 14' to 15.42' (25' required) from the rear (west) property line; and 2) a non-use variance of lot coverage requirements to permit a lot coverage of 37.93% (35% permitted) for a single family residence.

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

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.

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 variance 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 the following requests for the Property: request #1, a non-use variance from Section 30-50 (setbacks) of the Town Code to permit a family room, study, and bath addition to a single family residence setback varying from 14' to 15.42' (25' required) from the rear (west) property line; and request #2, a non-use variance from Section 30-49, (lot coverage) to permit a lot coverage of 37.93% (35% permitted) for a single family residence. The Town's approval is subject to the following conditions.

Section 4. Conditions of Approval.

The non-use Variance is granted and the Applicant shall comply with the following conditions:

1. That a site plan be submitted to and meet 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 the submitted plan for the hearing entitled "addition to single family residence," as prepared by Donovan Pessoa, P.E., consisting of three sheets, dated, signed and sealed on 05/20/02. Except as may be specified by any zoning resolution applicable to the subject property, any future additions on the property which conform to the Zoning Code requirements will not require further public hearing action.

Section 5. Recordation.

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

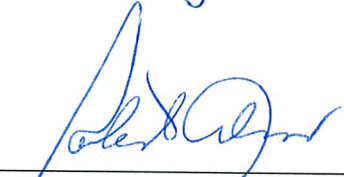
Section 6. Effective Date.

This resolution shall become effective immediately upon its adoption.

Section 7. Appeal.

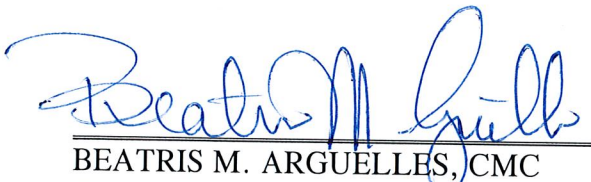
In accordance with Section 33-312 and 33-316 of the Town Code, the Applicant, or any aggrieved property owner in the area, may appeal the decision of the Town Council by filing of a notice of appeal in accordance with the Florida Rules of Appellate Procedure.

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	_____

EXHIBIT "A"

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

APPLICANT: William B. Williford

PH: Z02-138

SECTION: 23-52-40

DATE: August 13, 2002

COMMISSION DISTRICT: 13

ITEM NO.: 2

=====

A. INTRODUCTION

o REQUESTS:

- (1) NON-USE VARIANCE OF SETBACK REQUIREMENTS to permit a family room, study and bath addition to a single family residence setback varying from 14' to 15.42' (25' required) from the rear (west) property line.
- (2) NON-USE VARIANCE OF LOT COVERAGE REQUIREMENTS to permit a lot coverage of 37.93% (35% permitted) for a single family residence.

A plan is on file and may be examined in the Zoning Department entitled "Addition to Single Family Residence," as prepared by Donovan Pessoa, P.E., consisting of 3 sheets, dated signed and sealed on 5/20/02. Plans may be modified at public hearing.

o SUMMARY OF REQUESTS:

These requests will allow the applicant to construct an addition onto the existing single family residence that will be located closer than permitted to the rear (west) property line and will result in a greater lot coverage than permitted.

o LOCATION:

14730 Mahogany Court, Town of Miami Lakes, Florida.

o SIZE: 8,702.08 sq. ft.

o IMPACT:

The approval of these requests will provide additional living space for the residents and will enhance their enjoyment of their residence. However, the encroachment will affect adjacent properties.

B. ZONING HISTORY: None.

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>ZONING</u>	<u>LAND USE PLAN DESIGNATION</u>
<u>Subject Property:</u>	
RU-1; single family residence	Residential, 2.5 to 6.0 du
<u>Surrounding Properties:</u>	
NORTH: RU-1; single family residence	Residential, 2.5 to 6.0 du
SOUTH: RU-1; single family residence	Residential, 2.5 to 6.0 du
EAST: RU-1; single family residence	Residential, 2.5 to 6.0 du
WEST: RU-1; single family residence	Residential, 2.5 to 6.0 du

The subject lot is located within the Town of Miami Lakes. Similar single family homes surround the lot. There is a small neighborhood park to the northeast.

E. SITE AND BUILDINGS:

Site Plan Review:	
Scale/Utilization of Site:	Acceptable
Location of Buildings:	Acceptable
Compatibility:	Acceptable
Landscape Treatment:	N/A
Open Space:	Acceptable
Buffering:	N/A
Access:	Acceptable
Parking Layout/Circulation:	Acceptable
Visibility/Visual Screening:	N/A
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 Board 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.

The subject 8,702.08 sq. ft. property is located at 14730 Mahogany Court, Town of Miami Lakes, Florida, in an RU-1 zoning district. The applicant is seeking non-use variances to construct a family room, study and bath addition to an existing single family

residence. Said addition will setback varying 14' to 15.42' (25' required) from the rear (west) property line and will result in a lot coverage of 37.93% (35% permitted). 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** has **no objections** to this application. This application does not generate any new additional peak hour vehicle trips to the area.

The approval of these requests will allow the applicant to construct a family room, study, and bath addition onto the rear of the existing single family residence which will provide additional living space for the residents and will enhance their enjoyment of their residence. The proposed addition will be architecturally in keeping with the existing residence, will be well spaced from the adjacent residences, and will not adversely impact this neighborhood. The proposed 2.93% greater lot coverage than permitted is minor and will be in keeping with other requests approved in the vicinity of the subject site. The proposed setback and lot coverage requests are similar to other requests that have been granted on this block (Block 19), including a bedroom/bath addition setback 21' (25' required) from the rear property line on Lot 30, an addition setback 15.22' (25' required) from the rear property line on Lot 2, a master bedroom/bath addition setback 12.5' (25' required) from the rear property line which resulted in a lot coverage of 36% (35% permitted) on Lot 32, and a family room and covered terrace addition setback 20' (25' required) from the rear property line on Lot 33. In this regard, this application, which is **consistent** with the Master Plan, maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, will not detrimentally affect the stability and appearance of the community, and will be **compatible** with the surrounding area. As such, 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 "Addition to Single Family Residence," as prepared by Donovan Pessoa, P.E., consisting of 3 sheets, dated signed and sealed on 5/20/02. 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.

DATE INSPECTED: 07/08/02
DATE TYPED: 07/25/02
DATE REVISED: 08/05/02
DATE FINALIZED: 08/05/02
DO'QW:AJT:MTF:REM:JDR



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