

RESOLUTION NO. 04- 220 Z

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, APPROVING VARIANCES FILED IN ACCORDANCE WITH DIVISION 3.5 OF THE TOWN LAND DEVELOPMENT CODE TO WAIVE SECTION 33-104 OF THE TOWN CODE WHICH ALLOWS ONE 12 SQUARE FOOT FLAT WALL SIGN, IN ORDER TO INSTALL (1) A 38.5 SQUARE FOOT WALL SIGN AND (2) A 37.3 SQUARE FOOT DETACHED SIGN, LOCATED AT 8181 N.W. 154th STREET, 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"), AMC Delancey Lakes Plaza Partners (the "Applicant") has applied to the Town for approval of the following variances: to waive Section 33-104 of the Town Code, which only allows one 12 square foot wall sign, in order to install the following additional signage: (1) a 38.5 square foot wall sign over the main entrance of the building facing 154th Street ("Variance 1") and (2) a 37.3 square foot detached sign for the front of the property facing 154th Street ("Variance 2") (collectively, the "Variances"), for property located at 8181 N.W. 154th Street (legal description: Folio # 30-2015-003-0010; Tract "A" of MA at Miami Lakes, Plat Book 126, Page 40 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 Variances have been noticed for Thursday, October 14, 2004 and then continued to December 14, 2004 at 6:30 p.m. at

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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 partial approval of the Variances for the detached sign only, with conditions, as set forth in the Staff Analysis and Recommendation dated October 1, 2004 (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

with regard to the 38.5 square foot wall sign at 8181 N.W. 154th Street; and

(b) the Applicant does not meet all of the criteria in Division 3.5(f)(1)(a) thru (g) of the Town Code, but the Town Council determines that:

1. No objections have been filed by adjoining or directly affected property owners; and
2. The Variance is justified by practical difficulty on the part of the Applicant

with regard to the 37.3 square foot detached sign at 8181 N.W. 154th Street.

Section 3. Approval / Denial.

- (a) The Town Council approves the variance request for the 38.5 square foot wall sign.
- (b) The Town Council approves the variance request for the 37.3 square foot detached sign.

Section 4. Conditions of Approval.

- (a) The Variance for the 38.5 square foot wall sign is granted subject to the following conditions:

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1. If the Applicant wishes to illuminate the sign, the letters may be internally illuminated reverse channel letters as shown on the submitted site plan prepared by Bengis Signs, Inc. dated December 13, 2004.
2. The Applicant shall record the Resolution in the public records of the Clerk of the Circuit and County Court and shall return the original order to the Town Clerk before a building permit is issued for the sign.
3. The Applicant shall obtain a building permit within six (6) months of the date of this approval. If a building permit is not obtained within the prescribed time limit then this approval shall be deemed withdrawn and invalid.

(b) The Variance for the 37.3 square foot detached sign is granted subject to the following conditions:

1. The detached sign shall be setback a minimum of 10 feet from the property line and located as shown on the submitted site plan prepared by Bengis Signs Inc. dated May 26, 2004.
2. The detached monument sign shall be no higher than 5 feet to the top of the monument and no more than 8 feet long with reverse channel individually mounted letters. If the Applicant wishes to illuminate the sign, the letters may be backlit or the sign may be illuminated by ground mounted up lighting that is obscured from view by landscaping.
3. The Applicant shall record the Resolution in the public records of the Clerk of the Circuit and County Court and shall return the original order to the Town Clerk before a building permit is issued for the sign.
4. The Applicant shall obtain a building permit within six (6) months of the date of this approval. If a building permit is not obtained within the prescribed time limit then this approval shall be deemed withdrawn and invalid.

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

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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.

Variance 1 of the foregoing Resolution was moved upon the hardship criteria in Division 3.5(f)(1)(a) thru (g) of the Town Code by Pizzi and Seconded by Simon, and upon being put to a vote the motion carried 43 with each Council Member voting as follows:

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

PASSED AND ADOPTED this 14th day of December 2004.

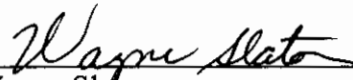
Variance 2 of the foregoing Resolution was moved upon the practical difficulty standard in Division 3.5(f)(2) of the Town Code by Collins and Seconded by Pizzi, and upon being put to a vote the motion carried 5-2 with each Council Member voting as follows:

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

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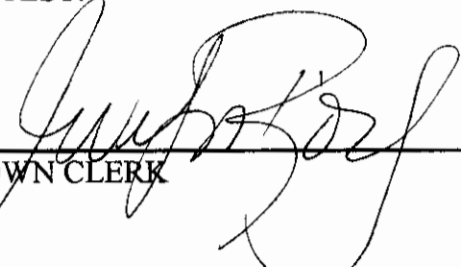
PASSED AND ADOPTED this 14th day of December 2004.

This Resolution was filed in the Office of the Town Clerk on this 14th day of December, 2004.



Wayne Slaton
MAYOR

ATTEST:



TOWN CLERK

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



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

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