

RESOLUTION NO. 06- 479 Z

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, APPROVING REQUESTED VARIANCE(S) FILED IN ACCORDANCE WITH DIVISION 3.5 OF THE TOWN CODE TO PERMIT ACCESSORY STORAGE AND LATE REGISTRATION OF A BOAT AND USE OF PAVED AREAS (THE "VARIANCES"), FOR PROPERTY LOCATED AT 8983 N.W. 147th TERRACE, MIAMI LAKES, FLORIDA; PROVIDING FINDINGS; PROVIDING FOR APPROVAL; PROVIDING CONDITIONS OF APPROVAL; PROVIDING FOR APPEAL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Divisions 3.5 of the Town of Miami Lakes (the "Town") Land Development Code ("LDC"), Robert Diaz and Magaly Diaz (collectively, the "Applicants") have applied to the Town for approval of the following: a variance to permit the maintenance and use of paved areas pursuant to Divisions 5.7.A. and a variance to permit the accessory storage and late registration of a boat pursuant to Division 6.6.E (the "Variances"), for property located at 8983 N.W. 147th Terrace, Miami Lakes, FL 33018, Folio No. 32-2021-009-0130 (legally described as Lot 22 Block 5, FLORIDA TROPICAL ESTATES SEC 3, according to the Plat thereof, as recorded in Plat Book 141 at Page 24 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, October 17, 2006 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 denial of the Variance to permit the use of paved deck areas within the required side yards; modified approval of the Variance to permit a paved deck coverage of 65.20%; and approval with conditions of the remaining Variances as set forth in the Staff Analysis and Recommendation dated October 17, 2006 (the "Staff Analysis"), 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) **Variance.** 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 does not meet 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 Variance; and/or
- (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. Approval of the Variance is justified by practical difficulty on the part of the Applicant.

Section 3. Approval/Denial.

The Variance requesting the Town to permit the use of paved deck areas within the required side yard pursuant to Division 5.7.A.2 is denied. The Variance requesting the Town to permit the accessory storage and late registration of a boat pursuant to Division 6.6.E and use of paved areas pursuant to Division 5.7.A.3 and 5.7.A.5 are approved.

Section 4. Conditions of Approval.

The Variance is granted subject to the following conditions:

- (a) That only one boat is permitted to be stored or parked on the property, maintenance or repair of the boat is not permitted, and living or sleeping on the boat is prohibited.

- (b) That pursuant to Ordinance 04-64, a boat registration form be submitted, providing that the registered vessel not exceed 26 feet in length, 13.5 feet in height, and 96 inches in width. The registered boat or registered personal watercraft may be replaced with a boat or personal watercraft of equal or smaller length provided that the boat or personal watercraft is registered with the Town within 180 days of the date of purchase of the boat or personal watercraft. The boat or personal watercraft must be registered to the owner of the real property. Once the residence is sold no further boats or personal watercraft may be kept on the property unless the boat or personal watercraft complies with this Code.
- (c) That in the approval of the paved deck areas and accessory boat storage location, the same be in accordance with that submitted for the hearing entitled "Boundary Survey" for 8983 N.W. 147 Terrace, Miami Lakes, Florida, as prepared by P (3) S M. LLC, Professional Surveyors and Mappers; Job No. 0602-00049-001, and consisting of 1 sheet. Except as modified herein to allow a lot coverage of 65.30% for the total impervious areas (including brick pavers set in sand) of all the required yards. Except as may be modified by any zoning resolution applicable to the subject property.
- (d) That the Applicant shall cover the boat and screen the boat completely from view of the street by a privacy fence, wall, or shrubs measuring a maximum height of six feet. If the privacy fence, wall or shrubs do not completely screen the boat, the applicant shall be required to use planted or potted trees to further aid in screening the boat from view of the street. The place of boat storage or parking shall be to the rear of the front property line setback a minimum of 5' from the rear property line.
- (e) That upon issuance of a code compliance warning for violation of any of the conditions set forth in the approval, if no corrective action s taken by the applicant with the time frame set forth by the Town, then this approval shall become null and void.
- (f) 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 permit is issued for the boat.
- (g) The applicant shall maintain the boat storage area in a clean presentable manner, and obtain a permit and all requisite inspections for the maintenance and storage of a boat and paved areas, at the setbacks approved herein, within one year of the date of this approval. If a 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. Violation of Conditions.

Failure to adhere to the terms and conditions of this Resolution shall be considered a violation of the Town Code and persons found violating the conditions shall be subject to the penalties prescribed by the Town Code, including but not limited to, the revocation of the approval granted in this Resolution. The Applicant understands and acknowledges that it must comply with all other applicable requirements of the Town before they may commence construction or operation, and that the foregoing approvals in this Resolution may be revoked by the Town Council at any time upon a determination that the Applicant is in non-compliance with the Town Code.

Section 7. 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.

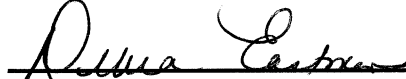
The foregoing resolution was moved upon the practical difficulty standard in Division 3.5(f)(2) of the Town Code by Robert Meador and Seconded by Roberto Alonso, and upon being put to a vote the motion carried with each Council Member voting as follows:

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

PASSED AND ADOPTED this 17th day of October, 2006.

This Resolution was filed in the Office of the Town Clerk on this 17th day of October,
2006.

ATTEST:

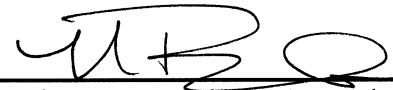


TOWN CLERK



Wayne Slaton
MAYOR

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



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