

**RESOLUTION NO. 07-529Z**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, DENYING VARIANCES FILED IN ACCORDANCE WITH DIVISION 3.5 OF THE TOWN LAND DEVELOPMENT CODE TO (1) WAIVE DIVISION 4.3.D.9 OF THE LAND DEVELOPMENT CODE TO PERMIT A SETBACK OF 9.25 FEET FROM THE REQUIRED REAR PROPERTY LINE TO ALLOW AN ADDITION TO AN EXISTING TOWNHOME WHERE 15 FEET IS REQUIRED IN THE RU-TH TOWNHOME RESIDENTIAL DISTRICT; (2) WAIVE DIVISION 4.3.D.18 OF THE LAND DEVELOPMENT CODE TO PERMIT AN EXISTING TOWNHOME RESIDENCE OF 390.44 SQUARE FEET OF PATIO LIVING AREA, WHERE A MINIMUM OF 400 SQUARE FEET OF PATIO LIVING AREA IS REQUIRED FOR A RESIDENCE WITHIN THE RU-TH TOWNHOME RESIDENTIAL DISTRICT; AND TO (3) WAIVE DIVISION 4.3.D.17 OF THE LAND DEVELOPMENT CODE TO PERMIT AN EXISTING TOWNHOME RESIDENCE WITH A NON-METAL CANOPY, WHERE THE CODE REQUIRES A METAL FRAME (COLLECTIVELY, "THE VARIANCES"), FOR AN EXISTING TOWNHOME LOCATED AT 16010 KILMARNOCK DRIVE, MIAMI LAKES, FLORIDA; PROVIDING FINDINGS; PROVIDING FOR DENIAL; 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"), Claudia Spetsiotis (the "Applicant") has applied to the Town for approval of the following: (1) a variance to waive Division 4.3.D.9 of the Land Development Code to permit a setback of 9.25 feet from the required rear property line to allow an addition to an existing townhome where 15 feet is required in the RU-TH Townhome Residential District; and (2) a variance to waive Division 4.3.D.18 of the Land Development Code to permit an existing townhome residence of 390.44 square feet of patio living area, where a minimum of 400

square feet of patio living area is required for a residence within the RU-TH Townhome Residential District; and (3) a variance to waive Division 4.3.D.17 of the Land Development Code to permit an existing townhome residence with a non-metal canopy, where the Code requires a metal frame (collectively, the “Variances”), for an existing townhome located at 16010 Kilmarnock Drive, Miami Lakes, Florida, Folio # 32-2014-009-1220; legal description: Lot 79, Block 3 of MIAMI LAKES LOCH LOMOND EAST, as recorded in Plat Book 93, Page 44 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 has been noticed for Tuesday, May 22, 2007, 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, as set forth in the Staff Analysis and Recommendation dated May 22, 2007, (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)5.2.A 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 variances are in fact variances 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 the property is the same size and shape as other lots in the subdivision; and
  3. Conditions Not Created by Applicant. That the applicant could comply with the requirements as to what is permitted by the Code; and
  4. Special Privileges Not Conferred. That if hardship variances are granted the property would have a special privilege that is denied by this Land Development Code to other similarly situated lands, buildings, or structures in the same zoning district.
  5. Hardship Conditions Exist. That a literal interpretation of the provisions of this Land Development Code would not 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 not create unnecessary and undue hardship on the applicant; and
  6. Only the Minimum Variance Granted. That the requested variances are not necessary to allow the reasonable use of the land, building, or structure.
  7. Not Injurious to Public Welfare or Intent of the Land Development Code. That if granted the variances will not be injurious to the area involved or otherwise detrimental to the public welfare.

with regard to the Variances 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 and the Town Council determines that:
1. No objections have been filed by adjoining or directly affected property owners; and
  2. Approval of the variances is not justified by practical difficulty on the part of the Applicant.

**Section 3. Approval / Denial.**

- (a) Variance No. 1 requesting a waiver of Division 4.3.D.9 of the Land Development Code to permit a setback of 9.25 feet from the required rear property line to allow an addition to an existing townhome where 15 feet is required in the RU-TH Townhome Residential District is denied.
- (b) Variance No. 2 requesting a waiver of Division 4.3.D.18 of the Land Development Code to permit an existing townhome residence of 390.44 square feet of patio living area, where a minimum of 400 square feet of patio living area is required for a residence within the RU-TH Townhome Residential District is denied.
- (c) Variance No. 3 requesting a waiver from Division 4.3.D.17 of the Land Development Code to permit an existing townhome residence with a non-metal canopy, where the Code requires a metal frame is denied.

**Section 4. 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 5. 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.

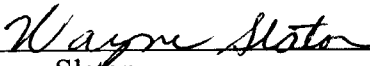
A motion to deny Variance 1, 2 and 3 of the foregoing Resolution was moved upon a failure to meet the practical difficulty standard in Division 3.5(f)(2) of the Town Code by

Councilmember Nancy Simon and Seconded by Councilmember Richard Pulido, and upon being put to a vote the motion to deny carried with each Council Member voting as follows:

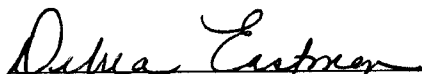
Mayor Wayne Slaton	No
Vice Mayor Mary Collins	No
Councilmember Roberto Alonso	No
Councilmember Robert Meador	No
Councilmember Michael Pizzi	Yes
Councilmember Richard Pulido	Yes
Councilmember Nancy Simon	Yes

PASSED AND ADOPTED this 22nd day of May, 2007.


This Resolution was filed in the Office of the Town Clerk on this 31st day of May, 2007.

  
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Wayne Slaton  
MAYOR

ATTEST:

  
\_\_\_\_\_  
Debra E. Eastman, MMC  
TOWN CLERK

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

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