

RESOLUTION NO. 09- 714 Z

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, PERTAINING TO SEVERAL VARIANCE REQUESTS FILED BY MARTIN DEL REY, JR. AND MARILYN DEL REY IN ACCORDANCE WITH DIVISION 3.5 OF THE TOWN OF MIAMI LAKES LAND DEVELOPMENT CODE (THE "TOWN LDC"): 1) DENYING A REQUEST TO WAIVE DIVISION 6.7(b) OF THE TOWN LDC TO PERMIT OUTSIDE STORAGE, WITHIN AN ENCLOSED BACK YARD, OF AN EXISTING CARGO TRAILER; 2) DENYING A REQUEST TO WAIVE DIVISION 5.7(a)2 OF THE TOWN LDC TO PERMIT AN EXISTING 8 FOOT WIDE PAVED SIDE YARD DECK SETBACK .7 FEET FROM THE SIDE STREET (EAST) PROPERTY LINE; 3) DENYING A REQUEST TO WAIVE DIVISION 5.7(a)2 OF THE TOWN LDC TO PERMIT AN EXISTING 6.80 FOOT WIDE PAVED WALKWAY WITHIN THE REQUIRED INTERIOR (WEST) SIDE YARD; 4) DENYING A REQUEST TO WAIVE DIVISION 5.7(a)2 OF THE TOWN LDC TO PERMIT AN EXISTING PAVED SIDE YARD DECK SETBACK 0.70 FEET FROM THE INTERIOR (WEST) PROPERTY LINE; 5) WITHDRAWN; 6) GRANTING IN PART A REQUEST TO WAIVE DIVISION 5.7(a)3 OF THE TOWN LDC TO PERMIT AN EXISTING PAVED REAR DECK SETBACK 2.6 FEET FROM THE REAR (SOUTH) PROPERTY LINE; 7) DENYING A VARIANCE TO WAIVE DIVISION 5.7(a)3 OF THE TOWN LDC TO PERMIT AN EXISTING PAVED REAR DECK SETBACK 2.5 FEET FROM THE INTERIOR (WEST) SIDE PROPERTY LINE; 8) GRANTING IN PART A REQUEST TO WAIVE DIVISION 5.7(a)3 OF THE TOWN LDC TO PERMIT AN EXISTING 5 FOOT PAVED REAR DECK SETBACK APPROXIMATELY 10 FEET FROM THE SIDE STREET (EAST) PROPERTY LINE; 9) GRANTING A VARIANCE TO WAIVE DIVISION 5.7(a)5 OF THE TOWN LDC TO PERMIT A LOT COVERAGE OF 51% FOR IMPERVIOUS AREAS; 10) DENYING A REQUEST TO WAIVE DIVISION 5.3(a)2 OF THE TOWN LDC TO PERMIT THREE ACCESSORY STORAGE SHEDS; 11) DENYING A REQUEST TO WAIVE DIVISION 5.3(a)2 OF

THE TOWN LDC TO PERMIT AN EXISTING ACCESSORY STORAGE SHED #1 SETBACK 2.5 FEET FROM THE REAR (EAST) PROPERTY; 12) GRANTING A REQUEST TO WAIVE DIVISION 5.3(a)2 OF THE TOWN LDC TO PERMIT AN EXISTING ACCESSORY STORAGE SHED #1 WITH 8 FEET IN HEIGHT; 13) DENYING A REQUEST TO WAIVE DIVISION 5.3(a)2 OF THE TOWN LDC TO PERMIT AN EXISTING ACCESSORY STORAGE SHED #2 SETBACK 0.7 FEET FROM THE INTERIOR (WEST) SIDE PROPERTY LINE; 14) DENYING A REQUEST TO WAIVE DIVISION 5.3(a)2 OF THE TOWN LDC TO PERMIT AN EXISTING ACCESSORY STORAGE SHED #2 WITH 8 FEET IN HEIGHT; 15) DENYING A REQUEST TO WAIVE DIVISION 5.3(a)2 OF THE TOWN LDC TO PERMIT AN EXISTING ACCESSORY STORAGE SHED #3 SETBACK 0.7 FEET FROM THE INTERIOR (WEST) SIDE PROPERTY LINE; AND 16) DENYING A REQUEST TO WAIVE DIVISION 5.3(a)2 OF THE TOWN LDC TO PERMIT AN EXISTING ACCESSORY STORAGE SHED #3 WITH 8 FEET IN HEIGHT, FOR PROPERTY LOCATED AT 7740 NW 160 TERRACE, MIAMI LAKES, FLORIDA IN THE RU-1 ZONING DISTRICT; PROVIDING FINDINGS; PROVIDING FOR GRANTING IN PART AND DENYING IN PART THE REQUESTS, COLLECTIVELY REFERRED TO AS THE "VARIANCE"; PROVIDING FOR CONDITIONS; PROVIDING FOR APPEAL; PROVIDING FOR VIOLATION OF CONDITIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Division 3.5 of the Town of Miami Lakes Land Development Code (the "Town LDC"), Martin Del Rey Jr. and Marilyn Del Rey (the "Applicant") have applied to the Town of Miami Lakes (the "Town") for approval of variances to waive: 1) Division 6.7(b) of the Town LDC to permit outside storage, within an enclosed back yard, of an existing cargo trailer, where trailers are not permitted to be parked or to be stored at any place on any lot, common area or right of way within any residentially zoned area in the Town unless they are stored fully inside a garage with the garage door fully closed; 2)

Division 5.7(a)2 of the Town LDC to permit an existing 8 foot wide paved side yard deck setback .7 feet from the side street (east) property line where decks are not permitted within the required 15 foot side street setback; 3) Division 5.7(a)2 of the Town LDC to permit an existing 6.80 foot wide paved walkway, where 3 feet is permitted within the required interior (west) side yard; 4) to Division 5.7(a)2 of the Town LDC to permit an existing paved side yard deck setback 0.70 feet from the interior (west) property line where a 2 foot setback is required; 5) Withdrawn; 6) Division 5.7(a)3 of the Town LDC to permit an existing paved rear deck setback 2.6 feet from the rear (south) property line where a 5 foot setback is required; 7) Division 5.7(a)3 of the Town LDC to permit an existing paved rear deck setback 2.5 feet from the interior (west) side property line where a 5 foot setback is required; 8) Division 5.7(a)3 of the Town LDC to permit an existing 13 foot paved rear deck setback 2 feet from the side street (east) property line where decks are not permitted within the required 15 foot side street setback for the main structure; 9) Division 5.7(a)5 of the Town LDC to permit an existing lot coverage of 61% for impervious areas where 50% is permitted; 10) Division 5.3(a)2 of the Town LDC to permit three accessory storage sheds where only one is permitted; 11) Division 5.3(a)2 of the Town LDC to permit an existing accessory storage shed #1 setback 2.5 feet from the street side (east) property line where a 15 foot setback is required; 12) Division 5.3(a)2 of the Town LDC to permit an existing accessory storage shed #1 with 8 feet in height where 6 feet of height is permitted; 13) Division 5.3(a)2 of the Town LDC to permit an existing accessory storage shed #2 setback 0.7 feet from the interior (west, rear) side property line where a 2 foot setback is

required; 14) Division 5.3(a)2 of the Town LDC to permit an existing accessory storage shed #2 with 8 feet in height where 6 feet of height is permitted; 15) Division 5.3(a)2 of the Town LDC to permit an existing accessory storage shed #3 setback 0.7 feet from the interior (west, front) side property line where a 2 foot setback is required; and 16) Division 5.3(a)2 of the Town LDC to permit an existing accessory storage shed #3 with 8 feet in height where 6 feet of height is permitted, (collectively the "Variance") for property located at 7740 NW 160 Terrace, Miami Lakes, Florida, in the RU-1 zoning district, Folio #32-2015-023-0240, legally described as Lot 12, Block 2 of ROYAL LAKES ESTATES, according to the Plat thereof recorded in Plat Book 148, Page 44 of the Public Records of Miami-Dade County, Florida; and

WHEREAS, Division 3.5 of the Town 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 Town LDC, proper notice was mailed to the appropriate property owners of record; the public hearing on the Variance was noticed for Tuesday, January 20, 2009, at 6:00 P.M. at Miami Lakes Middle School, 6425 Miami Lakeway North, Miami Lakes, Florida 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 approval as to requests #1 and #12; denial without prejudice as to requests #2, #3, #4, #7, #10, #11, #12, #13, #14, #15, and #16; and modified approval as to requests #6, #8 and #9; as set forth in the

Town of Miami Lakes Staff Analysis and Recommendation, a copy of which is on file in the Town of Miami Lakes Clerk's Office and incorporated into this Resolution by 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.

1. In accordance with Division 3.5(f)(1) of the Town LDC, 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 criteria of Division 3.5(f)(1)(a) thru (g) of the Town LDC, which are as follows:
 - a. 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
 - b. 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
 - c. Conditions Not Created by Applicant. That the special conditions and circumstances do not result from the actions of the Applicant; and
 - d. 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
 - e. 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; and

- f. 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
 - g. Not Injurious to Public Welfare or Intent of the Town LDC. 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.
2. In accordance with Division 3.5(f)(2) of the Town LDC, the Town Council, having considered the testimony and evidence in the record presented by all parties, finds that the balance of the weight of the factors for consideration under practical difficulty does support approval of the variance requests #6, #8, #9 as modified and #12 as provided in 3.5(f)(2)(a) thru (g) of the Town LDC as follows:
- a. The Town has received written support of the specifically identified variance requests from adjoining property owners;
 - b. The variances are compatible with development patterns in the Town;
 - c. The essential character of the neighborhood will be preserved;
 - d. The variances can be approved without causing substantial detriment to adjoining properties;
 - e. The variances will do substantial justice to the property owner as well as to other property owners justifying a relaxation of this Land Development Code to provide substantial relief;
 - f. The plight of the applicant is not due to unique circumstances of the property and/or applicant which would render conformity with the strict requirements of the Land Development Code unnecessarily burdensome; and
 - g. The special conditions and circumstances which exist are not the result of actions beyond the control of the applicant.

3. In accordance with Division 3.5(f)(2) of the Town LDC, the Town Council, having considered the testimony and evidence in the record presented by all parties, finds that the balance of the weight of the factors for consideration under practical difficulty does not support approval of the variance requests #1, #2, #3, #4, #7, #10, #11, #13, #14, #15 and #16 as provided in 3.5(f)(2)(a) thru (g) of the Town LDC as follows:
 - a. The Town has received written support of the specifically identified variance requests from adjoining property owners;
 - b. The variances are not compatible with development patterns in the Town;
 - c. The essential character of the neighborhood will not be preserved;
 - d. The variances can not be approved without causing substantial detriment to adjoining properties;
 - e. The variances will not do substantial justice to the property owner as well as to other property owners justifying a relaxation of this Land Development Code to provide substantial relief;
 - f. The plight of the applicant is not due to unique circumstances of the property and/or applicant which would render conformity with the strict requirements of the Land Development Code unnecessarily burdensome; and
 - g. The special conditions and circumstances which exist are not the result of actions beyond the control of the applicant.

Section 3. Grant//Denial.

The Variance request to permit:

Trailer

1. outside storage, within an enclosed back yard, of an existing cargo trailer, where trailers are not permitted to be parked or to be stored at any place on any lot, common area or right of way within any residentially zoned area in the Town unless they are stored fully inside a garage with the garage door fully closed, is hereby denied with prejudice.

Street Side Yard Deck

2. an existing 8 foot wide paved side yard deck setback .7 feet from the side street (east) property line where decks are not permitted within the required 15 foot side street setback, is hereby denied with prejudice.

Interior Side Yard Deck

3. an existing 6.80 foot wide paved walkway, where 3 feet is permitted within the required interior (west) side yard, is hereby denied with prejudice.
4. an existing paved side yard deck setback 0.70 feet from the interior (west) property line where a 2 foot setback is required is hereby denied with prejudice.
5. Withdrawn

Rear Yard Deck

6. an existing paved rear deck setback 2.6 feet from the rear (south) property line where a 5 foot setback is required, is hereby granted- subject to the removal of that paving denied under requests 7 and 8.
7. an existing paved rear deck setback 2.5 feet from the interior (west) side property line where a 5 foot setback is required is hereby denied with prejudice.
8. a modified paved rear deck approximately 8-10 feet from the side street (east) property line where decks are not permitted within the required 15 foot side street setback for the main structure, is hereby granted.

Lot Coverage

9. an existing lot coverage of 51 % for impervious areas, is hereby granted.

Three Accessory Storage Sheds

10. three accessory storage sheds where only one is permitted, is hereby denied with prejudice.

Storage Shed #1, Street Side Yard

11. an existing accessory storage shed setback 2.5 feet from the street side (east) property line where a 15 foot setback is required is hereby denied with prejudice.
12. an existing accessory storage shed with 8 feet in height where 6 feet of height is permitted is hereby granted.

Storage Shed #2, Interior Side Yard (rear)

13. an existing accessory storage shed setback 0.7 feet from the interior (west) side property line where a 2 foot setback is required is hereby denied with prejudice.
14. an existing accessory storage shed with 8 feet in height where 6 feet of height is permitted is hereby denied with prejudice.

Storage Shed #3, Interior Side Yard (front)

15. an existing accessory storage shed setback 0.7 feet from the interior (west) side property line where a 2 foot setback is required is hereby denied with prejudice.
16. an existing accessory storage shed with 8 feet in height where 6 feet of height is permitted is hereby denied with prejudice.

Section 4. Conditions.

The approved Variance requests #6, #8, #9 and #12 are granted subject to the following conditions:

1. The site plan shall be submitted to and meet the approval of the Building Official, upon the submittal of a building permit application and/or Certificate of Use / Occupancy. The site plan shall include, but not be limited to, location of structure or structures, exits, entrances, walls, fences, and landscaping.
2. The approvals granted herein shall be in accordance with the submitted plan for the hearing entitled "Survey" for 7740 NW 169th Terrace, Miami Lakes, Florida, as prepared by Francisco L. Nunez, Professional Land Surveyor and Mapper, Registered Land Surveyor State of Florida, No. 6382, Job No. 0075, and consisting of two (2) sheet dated March 2, 1994 as modified by this resolution.
3. The Applicant shall comply with all code enforcement actions within 60 days of the effective date of this development approval. Failure to comply with

outstanding code enforcement actions within 60 days of the effective date of this development approval will recommence all code enforcement actions.

Section 5. Appeal.

In accordance with Division 3.10 of the Town LDC, the Applicant, or any aggrieved property owner, may appeal the decision of the Town Council by filing a Writ of Certiorari to the Circuit Court of Miami-Dade County, Florida, in accordance with the Florida Rules of Appellate Procedure.

Section 6. Violation of Conditions.

Failure to adhere to the terms and conditions contained in this Resolution in Section 4, if any, shall be considered a violation of the Town LDC and persons found violating the conditions shall be subject to the penalties prescribed by the Town LDC, including but not limited to, the revocation of any of the approval(s) granted in this Resolution. The Applicant understands and acknowledges that it must comply with all other applicable requirements of the Town LDC before it may commence construction or operation, and that the foregoing approval(s), if any, in this Resolution may be revoked by the Town at any time upon a determination that the Applicant is in non-compliance with the Town LDC.

Section 7. Effective Date.

This Resolution shall take effect 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 Town LDC 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.

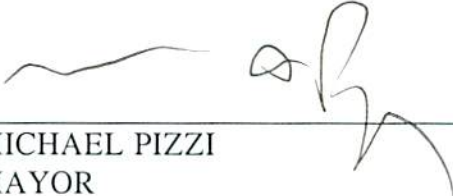
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The foregoing Resolution was adopted by motion as provided herein by Councilmember Michael Pizzi and seconded by Councilmember Mary Collins, by a vote of 5-2 with each Town Councilmember voting as follows:

Mayor Michael Pizzi	<u>yes</u>
Vice-Mayor Richard Pulido	<u>yes</u>
Councilmember Mary Collins	<u>yes</u>
Councilmember George Lopez	<u>yes</u>
Councilmember Robert Meador II	<u>yes</u>
Councilmember Nick Perdomo	<u>no</u>
Councilmember Nancy Simon	<u>no</u>

PASSED AND ADOPTED this 20 day of January 2009.

This Resolution was filed in the Office of the Town Clerk on this 3 day of February, 2009.




MICHAEL PIZZI
MAYOR

ATTEST:



DEBRA EASTMAN, MMC
TOWN CLERK

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



WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.L.
TOWN ATTORNEY