

TOWN OF MIAMI LAKES, FLORIDA

MINUTES TOWN COUNCIL MEETING - ZONING

January 15, 2004

7:00 p.m.

Miami Lakes Town Hall
6853 Main Street
Miami Lakes, Florida 33014

1. **CALL TO ORDER:** Mayor Slaton called the meeting to order at 7:10 p.m.
2. **ROLL CALL:** In addition to the Mayor, the following Council Members were present at roll call: Mary Collins, Robert Meador, Nancy Simon, Michael Pizzi, Peter Thompson and Vice Mayor Roberto Alonso. The following staff members were also present: Town manager Alex Rey, Assistant Town Manager Rafael Casals, Planning Director Armando Valdes, Town Attorney Nina Boniske and Michael Marrero of the law firm Weiss, Serota, Helfman, Pastoriza and Guedes, PA; and Town Clerk Beatris Arguelles, CMC.
3. **PLEDGE OF ALLEGIANCE:** The Mayor led the pledge.
4. **NON-USE VARIANCES – PUBLIC HEARING:**

Prior to commencement of the hearings, the Town Attorney read the following into the record:

In accordance with the Town Code, the item(s) to be heard today has been legally advertised in the newspaper, notices have been mailed, and the property has been posted. Additional copies of the agenda are available here in the chambers. The record of the hearing on the application will include the documents prepared by the Miami-Dade County Department of Planning and Zoning, which serves as the Town planner. All these documents are physically present today, available to all interested parties, and available to the members of the Town Council who may examine them during the hearing.

If you wish to comment upon the application, please inform the Clerk by filling out the available sign-up form. An opportunity for persons to speak on each application will be made available after the applicant and Town planner have made their presentations on the application. All testimony, including public testimony and evidence, will be made under oath or affirmation. Additionally, each person who gives testimony may be subject to cross-examination. If you refuse either to be cross-examined or to be sworn, your testimony will not be considered. Parties have the right of cross-examination. The general public will not be permitted to cross-examine witnesses, but the public may request the Mayor to ask questions of staff or witnesses on their behalf.

Pursuant to the Town Charter, all persons who represent organizations are required by the Town laws to register as a lobbyist. If a lobbyist is not registered, the registration form may be obtained from the Town Clerk, and the form may be completed and the fee paid during this hearing.

The Town Council members have completed Ex-Parte Communication Disclosure Forms and have filed those forms with the Clerk seven days in advance of this hearing. They disclose communications with

the parties that have taken place regarding the application tonight, and are available for public review from the Clerk.

All persons should be advised that in Miami Dade County v. Omnipoint Holdings, Inc., the Florida Third District Court of Appeal held that the County standards for non-use variances, special exceptions, unusual uses, new uses requiring a public hearing and modification of conditions and covenants were invalid in that case. At the current time, the Town uses the County Standards. Applicants proceed at their own risk that these standards will be found to be ineffective as to the Town and that therefore any approval by the Town Council today may be nullified by the Court

This statement, along with the fact that all witnesses have been sworn, should be included in any transcript of all or any part of these proceedings

The Town Clerk performed the swearing in of witnesses.

A. ZV 04-01 – VICTOR MANUEL CORVO – 14463 NW 87TH PLACE - REQUESTING NON-USE VARIANCES AS FOLLOWS:

1. VARIANCE TO WAIVE 3' 0" OF THE MINIMUM REQUIRED 5' 0" REAR YARD SETBACK FOR SWIMMING POOLS IN ORDER TO CONSTRUCT THE ABOVE POOL 2' – 0" FROM THE REAR PROPERTY LINE

Town Attorney Nina Boniske read the Item into the record. She also advised the Mayor that a Resolution has been prepared and would be distributed to the Council should there be a motion to approve the item.

Mr. Victor Corvo, 14463 NW 87th Place addressed the Council. He stated that a few years ago, before his property was annexed to become part of Miami Lakes, he requested permission from Miami-Dade County to construct a pool. He was informed that the setbacks were 15" from the right and 10' from the other side. When the pool contractor was contacted, he was directed to the Town of Miami Lakes. He stated that he has support from his neighbors and Homeowners' Association.

Planning Director, Armando Valdes, stated that the property sits on a 5,000 square foot lot. The setback for a pool calls for 5' from the rear and 2' from the residence. The applicant is proposing 3' from the rear and 2.5' from the residence. He is recommending approval with the following conditions:

- 1- The rear setback from water's edge between the pool and Jacuzzi should be a minimum of tree feet,
- 2- The landscape in the rear yard be prepared by a landscape professional approved by staff shall be submitted and approved as part as the building permit for a swimming pool. The landscape plan shall identify all trees, plants removed, replaced or relocated with trees of equal size and if possible existing trees will be relocated on

site. Final building and zoning inspection shall not be issued until the approved landscape is in place,

- 3- A screen enclosure shall not be permitted around the swimming pool,
- 4- No slides or similar structure visible from surrounding properties shall be permitted,
- 5- The deck shall be constructed of pavers set in sand. The minimum setback of five feet shall be maintained from the side property line and three feet from the rear property line,
- 6- The swimming pool and deck shall be constructed of substantial compliance to the plans drawn by Jose R. Figueroa of R Hidalgo Architects and dated July 6, 2003. To revise such a plan shall be submitted to the building permit,
- 7- The applicant is to obtain a building permit within one year of this approval. If a building permit is not obtained by the time limit then this approval shall become null and void.

The Mayor opened the public hearing. There being no speakers opposed or in favor, the Mayor closed the public hearing.

The Town Clerk disseminated a letter for the record that she received from Elena Valdes Wilenchik (8709 NW 145 Terrace) in opposition to the approval of the variance.

Councilman Pizzi mentioned that residents are adding pools on the zero lot lots. He stated that he prefers to see something in writing from the Homeowners' Association and the immediate neighbors. The Mayor noted that the applicant has submitted a letter from the immediate neighbors. Councilwoman Collins asked the applicant if he is willing to move the trees and replant them or others similar to them. Mr. Corvo responded that he has considered relocating them to the side of the residence. Councilman Thompson requested that staff clarify if the pavers are all set in sand and if they are pervious. Mr. Valdes clarified that the pavers are semi-pervious. Vice Mayor Alonso expressed concern about the pavers being so close to the rear and the rear neighbors be affected by the water in the pool. He also asked the applicant how the pool will be moved in order to comply with the 3' setback. He stated that an area to walk around the pool is necessary. Councilman Meador asked if the coping will be closer to the rear. Mr. Valdes clarified that the setback is to the edge of the water. The Mayor commended the resident for complying with the conditions.

At the direction of the Mayor, the Town Attorney read the Resolution by title as follows:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, PARTIALLY APPROVING A NON-USE VARIANCE FILED IN ACCORDANCE WITH SECTION 33-311 OF THE TOWN CODE TO PERMIT A 3 FT REAR YARD SETBACK (2 FT. REAR YARD SETBACK REQUESTED (5FT. REQUIRED) IN ORDER TO PERMIT THE CONSTRUCTION OF A SWIMMING POOL ON THE PROPERTY ZONED RU-1Z AND LOCATED AT 14463 NW 87TH PLACE, MIAMI LAKES, FLORIDA; PROVIDING FOR FINDINGS; PROVIDING FOR CONDITIONS OF APPROVAL; PROVIDING FOR EFFECTIVE DATE AND PROVIDING FOR APPEAL

Councilman Pizzi moved to approve the application per staff recommendation and conditions. Councilman Thompson seconded the motion, which carried unanimously.

B. ZV 04-02 – LUIS F. FERNANDEZ – 15545 NW 82ND PLACE – REQUESTING NON USE VARIANCES AS FOLLOWS:

- 1. VARIANCE TO WAIVE 2” – 6” OF THE MINIMUM REQUIRED 7’ – 6” REAR YARD SETBACK FOR SWIMMING POOLS IN ORDER TO CONSTRUCT THE ABOVE POOL 5’ – 0’ FROM THE REAR PROPERTY LINE.**
- 2. VARIANCE TO WAIVE 2’-6” OF THE MINIMUM REQUIRED 10’0” SIDE YARD SETBACK FOR SWIMMING POOLS IN ORDER TO CONSTRUCT THE ABOVE POOL 7’ 6” FROM THE SOUTH SIDE PROPERTY LINE**

Town Attorney Nina Boniske read the Item into the record.

Mr. Luis Fernandez , 15545 NW 82nd Place related that he was relocated to Miami Lakes. At the time he purchased the house, he was informed that a pool could be constructed. He was given a copy of the covenant of restrictions for the subdivision. He stated that one of the amendments in the covenant of restrictions indicated that a pool could be constructed with a setback of 5’ from the rear and 7.5’ from the side. He stated that four years later he proceeded to apply for a permit and was informed that it did not meet the requirements. Mr. Fernandez urged the Council to approve his application with all conditions except for #1 and #4. He proceeded to explain that #4 requests a reduction of the deck side. Mr. Fernandez distributed an illustration to the Council explaining his reason for requesting that condition #4 be eliminated. He is also requesting that condition # 1 be eliminated which requests that a landscape professional prepare landscape plans. Mr. Fernandez stated that this will add a significant cost to the project. He assured the Council that the landscape will be done in a tasteful manner. He provided the Council with landscape plans from the pool contractor. He added that his adjacent neighbors are

supportive of this application. In addition, he submitted a letter of support from the Royal Palms Estates Homeowners' Association.

Mr. Valdes explained that the applicant's home is on a cul-de-sac. He added that that staff has no problems with the pool itself. Their concern lies with the deck. Mr. Valdes stated that the code currently does not have deck requirements. However, in anticipation of deck setbacks being added to the code re-write it is an issue that should be addressed. Mr. Valdes stated that the landscape plan the applicant is submitting is sufficient, therefore, Condition #1 is no problem. Armando Valdes is recommending approval with the following conditions:

- 1- The landscape in the rear yard be prepared by a landscape professional approved by staff shall be submitted and approved as part as the building permit for a swimming pool. The landscape plan shall identify all trees, plants removed, replaced or relocated with trees of equal size and if possible existing trees will be relocated on site. Final building and zoning inspection shall not be issued until the approved landscape is in place,
- 2- A screen enclosure shall not be permitted around the swimming pool,
- 3- No slides or similar structure visible form surrounding properties shall be permitted,
- 4- The deck shall consist of pavers set in sand and shall be constructed as shown on the plans with the exception that a minimum of 5' setback shall be maintained along the north side and a 4' setback along the south side between the edge of the deck and the adjoining property lines. A French[]drain shall be installed the full length of the property along the rear.
- 5- The swimming pool and deck shall be constructed in substantial compliance with the plans as drawn by Kenneth R. Pfeiffer, PE of Blue Waters Pools of South Florida dated November 30, 2003. To revise such a plan shall be submitted top the building permit,
- 6- The applicant is to obtain a building permit within one year of this approval. If a building permit is not obtained by the time limit then this approval shall become null and void.

The Mayor asked if anyone present wished to speak for or against the project.

Raymond H. Pargo, 15540 NW 82nd Court informed the Council that he and the applicant are installing additional drainage.

The applicant stated that he appreciates the staff's concern. He asked them to reconsider the deck situation. He stated that he will comply with the conditions, but asked them not to impose the deck setback.

The Town Attorney clarified that additional cost to the applicant is not to be considered when approving or denying an application.

The Mayor closed the public hearing.

Councilwoman Collins inquired if the Homeowner's Association is aware of the conditions. The applicant responded that they are not aware of the conditions. Vice Mayor Alonso stated that he has no problems with the application. He asked the applicant to further explain the drainage. He added that he would like the applicant to submit the landscape plan into the record. Councilman Thompson asked staff if the covered patio area was a variance. Staff was not aware. He asked the owner if he has a permit for the covered area. The owner explained that the covered area was already on the house when he purchased it. Mayor Slaton asked Mr. Valdes if he thought the roof was built with the house. Mr. Valdes indicated that it did not appear to be an addition. Councilwoman Simon spoke in favor of the variance.

Mayor Slaton indicated that Staff should be responsible for approving the landscape not the Council. He also expressed concern about the roof structure. The Town Attorney suggested an amendment stating that the approval is conditioned upon the applicant providing evidence that the roof structure is a permitted structure. The Mayor stated that he is not going to hold the item for the structure compliance.

The Vice Mayor stated that illegal construction was probably not done considering the neighborhood. He asked Mr. Valdes to clarify the amendment. Mr. Valdes stated that with the amendment proposed, the rear colored areas (on the plans) may remain.

Councilman Pizzi agreed with the Vice Mayor that the structure is most likely legal.

At the direction of the Mayor, The Town Attorney read the Resolution into the record as follows:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, APPROVING A NON-USE VARIANCE FILED IN ACCORDANCE WITH SECTION 33-311 OF THE TOWN CODE TO PERMIT A 5 FT REAR YARD SETBACK (7FT 6 INCH REAR YARD SETBACK REQUIRED) AND A 7 FT. 6 INCH SIDE YARD SETBACK (20FT SIDE YARD SETBACK REQUIRED), ALL TO PERMIT CONSTRUCTION A SWIMMING POOL ON PROPERTY ZONED RU-1 AND LOCATED AT 15545 NW 82ND PLACE, MIAMI LAKES,

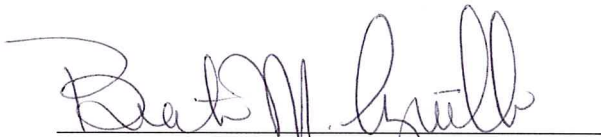
FLORIDA; PROVIDING FINDINGS; PROVIDING CONDITIONS OF APPROVAL; PROVIDING FOR AN EFFECTIVE DATE AND PROVIDING FOR APPEAL

Councilman Pizzi made a motion to approve the variance with all staff recommendations with modification to restate condition #4. Councilwoman Collins seconded the motion, which carried unanimously.

5. **ADJOURNMENT:** The meeting adjourned at 8:16 p.m.

Approved this 10th day of February, 2004

Attest:



Beatris M. Arguelles, CMC, Town Clerk



Wayne Slaton, Mayor