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RESOLUTION NO. 2011-84
ZONING APPLICATION VPB-11-006

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; DENYING APPLICANTS, RUBEN J. AND MARIA A. RICARDO; REQUEST FOR A VARIANCE PURUSANT TO SECTION 30-30.6 OF THE VILLAGE'S CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Applicants own vacant land at 8004 SW 158th Terrace, Folio number 3350270380050, and desire to build a single family home with a lot coverage of 20.7 percent, where a maximum of 16 percent is permitted; and, a reduction of open space to 79.2 percent where 84 percent is required on a parcel zoned E-1; and,

WHEREAS, a public was held by the Village Council on December 12, 2011, and Planning Director Darby Delsalle testified that the application did not meet the definition of hardship for a variance pursuant to Section 30-30.6; and,

WHEREAS, applicant explained that he may not have a hardship with the land but that he had a personal hardship due to the health of his son; and,

WHEREAS, the public hearing was conducted on December 12, 2011.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1. A public hearing was held on December 12, 2011, on the Applicant's request pursuant to Division 30-30.6, of the Village's Land Development Code, relating to the Village's variance procedures. The Village Council moved to deny Applicant's application, without prejudice. The motion passed on a vote of three to two (Councilman Fiore and Councilman Tendrich voting against the motion.)

Section 2. Findings of Fact. The hearing on Applicant's was held on December 12, 2011. Planning Director Darby Delsalle testified that several of the criteria of 30-30.6 was not met by the applicant. The criteria include the following:

- (1) the existence of special conditions or circumstances which are peculiar to the land and which are not applicable to other lands, structures or buildings in the same zoning district;
- (2) that any special conditions and circumstances do not result from the actions of the applicant;
- (3) that the granting of the variance will not confer upon the applicants any special privilege that is denied by Chapter 30 to other lands, buildings, or structures in the same zoning district;
- (4) that financial considerations are not a factor for consideration;
- (5) a literal interpretation of the Code would deprive the applicants of rights commonly enjoyed by other properties;
- (6) that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure; and
- (7) that the granting of the variance will be in harmony with the general intent of the Comprehensive plan and Chapter 30 and that the variance will not be injurious to the area involved or otherwise

1 detrimental to the public welfare. These criteria had not been met by applicant. Applicant testified
2 to the needs of his ill son and admitted that there was no hardship with the land.
3

4 **Section 3.** Order.

5
6 The Council denied the variance request, based upon the testimony of the Planning
7 Director, the staff report, and Applicant's testimony. There was a finding that the application was
8 not consistent with the criteria of 30-30.6. The application was denied, without prejudice.
9

10 **Section 4.** Record.

11 The record shall consist of the notice of hearing, the applications, documents submitted by
12 the applicant and the applicant's representatives to Village's Department of Planning and Zoning in
13 connection with the applications, the county recommendation and attached cover sheet and
14 documents, the testimony of sworn witnesses and documents presented at the quasi-judicial hearing,
15 and the tape and minutes of the hearing. The record shall be maintained by the Village Clerk.
16

17 **Section 5.** This resolution shall take effect immediately upon approval.

18 **PASSED and ADOPTED** this ^{12th} 5th day of December, 2011.

19
20 Attest: Meighan Alexander
21 Meighan Alexander
22 Village Clerk

Shelley Stanczyk
Shelley Stanczyk
Mayor

23
24 APPROVED AS TO FORM:

25 Eve A. Boutsis
26
27 Eve A. Boutsis,
28 Village Attorney

29
30 FINAL VOTE AT ADOPTION:

31
32 Council Member Patrick Fiore NO
33
34 Council Member Howard Tendrich NO
35
36 Council Member Joan Lindsay YES
37
38 Vice-Mayor Brian W. Pariser YES
39
40 Mayor Shelley Stanczyk YES