

RESOLUTION NO. 05-46

ZONING APPLICATION 05-6-VPB-1/05-59 (23-55-40)

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; APPROVING THE APPLICATION OF WILLIAM H. AND ELENA GUTIERREZ FOR ALTERNATIVE NON-USE VARIANCE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the applicants made applications for alternative non-use variance, as described in the Miami-Dade Department of Planning and Zoning Recommendation to the Village of Palmetto Bay, which is attached to this resolution; and,

WHEREAS, the village council of the Village of Palmetto Bay conducted a quasi-judicial hearing on the application at Southwood Middle School on June 13, 2005; and,

WHEREAS, the mayor and village council finds, based on substantial competent evidence in the record, that the application for alternative non-use variance is consistent with the Miami-Dade County comprehensive plan and the applicable land development regulations; and,

WHEREAS, based on the foregoing finding, the mayor and village council determined to grant the applications, as provided in this resolution.

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

Section 1. A hearing on the present applications was held on June 13, 2005 in accordance with ordinance. no. 02-03, entitled "Quasi-judicial hearing procedures." Pursuant to the hearing, the village council makes the following findings of fact, conclusions of law and order.

Section 2. Findings of fact.

1. The applicants are William H. and Elena Gutierrez. The property is single family residence located at 14401 SW 69 Court.
2. The applicants request approval to permit a swimming pool to be placed in front of the front (north) building line of the principal residence (not permitted); and, request approval to permit the swimming pool setback 15' from the interior side (east) property line (20' required).
3. The village council adopts the portions of the cover sheet to, and the county recommendation, entitled Zoning Hearings History, Comprehensive

Development Master Plan (CDMP), Neighborhood Characteristics, Site and Buildings and Neighborhood Services as its findings of fact.

Section 3. Conclusions of law.

1. The village council adopts the portions of the county recommendation, entitled Pertinent Requirements/Standards and Analysis as its conclusions of law.
2. The village council further concludes that the application for alternative non-use variance is consistent with the Miami-Dade County comprehensive plan and complies with the applicable land development regulation, §33-311(A)(4)(b)(NUV).

Section 4. Order.

1. The village council accepts the county recommendation at page 9 and staff recommendation at page 10. The application for alternative non-use variance is granted subject to the conditions, as follows:
 - a. That a site plan be submitted to and meet with the approval of the Director of the Department of Planning and Zoning upon the submittal of an application for a building permit and/or Certificate of Completion said plan to include, among other things but not be limited thereto, location of structure or structures, exits and entrances, drainage walls, fences, landscaping, and other requirements.
 - b. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "William Gutierrez Residence", as prepared by Ofelia Taboada, P.E., dated 10-28-04 and consisting of 2 sheets. Except as may be specified by any zoning resolution applicable to the subject property, any future additions on the property which conform to Zoning Code requirements will not require further public hearing action.
 - c. That the use be established and maintained in accordance with the approved plan.
 - d. That the applicant submit to the Department for its review and approval a landscaping plan which indicates the type and size of plant material prior to the issuance of a building permit and to be installed prior to final zoning inspection.
 - e. That buffering be provided along the interior side (east) property line in the vicinity of the swimming pool in the form of a hedge; not less than 3' high at the time of planting, which shall grow to and be maintained at a height of 6', consisting of silver or green buttonwood, golden dew drop, potocarpus, or equivalent, or a 6' high wall or wood fence, to be

installed prior to final zoning inspection for the proposed swimming pool.

2. For this and future applications, the calculation of the setbacks would be done, recognizing the front of the property as facing SW 69 Court.

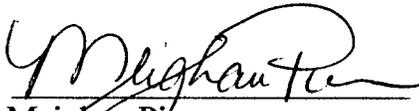
Section 5. Record.

The record shall consist of the notice of hearing, the applications, documents submitted by the applicant and the applicant's representatives to the Miami-Dade County Department of Planning and Zoning in connection with the applications, the county recommendation and attached cover sheet and documents, the testimony of sworn witnesses and documents presented at the quasi-judicial hearing, and the tape and minutes of the hearing. The record shall be maintained by the village clerk.

Section 6. This resolution shall take effect immediately upon approval.

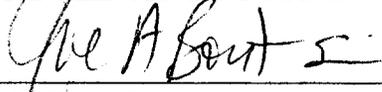
PASSED and ADOPTED this 13th day of June, 2005.

Attest:


Meighan Pier
Village Clerk


Eugene P. Flinn, Jr.
Mayor

APPROVED AS TO FORM:


Eve A. Boutsis
Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Ed Feller	<u>Yes</u>
Council Member Paul Neidhart	<u>Yes</u>
Council Member John Breder	<u>Absent</u>
Vice-Mayor Linda Robinson	<u>Yes</u>
Mayor Eugene P. Flinn, Jr.	<u>Yes</u>