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RESOLUTION NO. 2012-96

ZONING APPLICATION VPB-12-007

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; GRANTING THE APPLICATION OF SIR GALLOWAY CLEANERS LOCATED AT 14601 SOUTH DIXIE HIGHWAY, IN WHICH THE APPLICANT REQUESTS A VARIANCE OF SIGNAGE REQUIREMENTS OF A PARCEL ZONED B-1; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the applicant made an application for a sign variance for the property located at 14601 South Dixie Highway, as described in the Village of Palmetto Bay Department of Planning and Zoning Recommendation, 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 Village Hall, 9705 East Hibiscus Street on December 17, 2012; and,

WHEREAS, the Mayor and Village Council finds, based on substantial competent evidence in the record, that the application for the sign variance is consistent with the Village of Palmetto Bay 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 public hearing on the present applications was held on December 17, 2012 in accordance with the Village's "Quasi-judicial hearing procedures." Pursuant to the testimony and evidence presented during the hearing, the Village Council makes the following findings of fact, conclusions of law and final order.

Section 2. Findings of fact.

1. The applicant is requesting a variance of signage requirements relating to the freestanding signage area: first to correct the deficiency of the 1981 resolution and grant the 30 square feet as originally intended by the Dade County Zoning Appeals Board and second to grant the applicants' request to add an additional 12.5 square feet to the primary (original monument sign). The property is located within the B-1 Limited Business District.

2. In 2009 the Village enacted its Land Development Code (LDC) and in so doing, rezoned the subject property as B-1, Estate Modified.

1 3. No testimony or evidence was presented during the public hearing to dispute
2 consistency with the Village's Comprehensive Plan.
3

4 4. The Council found that based upon the testimony of the applicant and his counsel
5 Michael Kesti, that the parcel is an irregularly shaped parcel and that the business is not viewable
6 from the US-1 corridor for signage purposes due to the shape of the parcel and obstructions from
7 existing structures, thus creating a situation, not of the applicant's causing, that would make the
8 request compliant with Criteria 2 of 30-30.6 (existence of special conditions or circumstances which
9 are peculiar to the land, structure, or building involved and which are not applicable to other lands,
10 structures or buildings in the same zoning district).
11

12 5. The Village adopts and incorporates by reference the Planning & Zoning
13 Department staff report, which expert report, is considered competent substantial evidence as it
14 relates *solely* to the approval of the increase to 30 square feet, as previously omitted from the
15 zoning resolution 4-ZAB-355-81 (October 28, 1981). The history and analysis relating to the 1981
16 resolution is adopted. The remainder of the recommendations of staff is rejected.
17

18 6. No one spoke in opposition to the applicant's requests.
19

20 Section 3. Conclusions of law.

21 A variance request is reviewed pursuant to Section 30-30.6(e) of the Village of Palmetto Bay's
22 Code of Ordinances.
23

24 1. The Village Council finds the request consistent with the criteria of subsections one
25 (1) through eight (8), of Section 30-30.6(e). In accordance with subsection (1), the variance is in fact
26 a variance allowed pursuant to the Village's Land Development Code and is within the province of
27 Village Council. There is no discrepancy with the Village's Comprehensive Code and is thus,
28 consistent with the Comprehensive Plan. No testimony or evidence was presented during the public
29 hearing to dispute consistency with the Village's Comprehensive Plan. Under the Village's zoning
30 code, a variance may be requested for amongst other things, Signage size limitations, as provided
31 under Section 30-100.6, of the Code of Ordinances.
32

33 2. The Village Council finds the request consistent with the criteria of subsection (2), in
34 that there exists a special condition(s) or circumstance(s), which is peculiar to the land, structure, or
35 building involved and which are not applicable to other lands, structures, or buildings in the same
36 zoning district.
37

38 3. The Village Council finds the request consistent with the criteria of subsection (3), in
39 that the special conditions and circumstances do not result from the actions of the applicant and is
40 due to the irregular lot size and location of the parcel and irregular shape of the property and
41 existing structures on the property precluding visual signage from the business to be seen from US
42 1.
43

1 4. The Village Council finds the request consistent with the criteria of subsection (4), in
2 that granting of the variance requested would not confer on the applicant any special privilege that is
3 denied by Chapter 30 to other lands, buildings, or structures in the same zoning district.
4

5 5. The Village Council finds the request consistent with the criteria of subsection (5), in
6 that financial difficulties or economic hardship is not a factor for determining whether a variance
7 should be granted.
8

9 6. The Village Council finds the request consistent with the criteria of subsection (6), in
10 that a literal interpretation of the provisions of Chapter 30 would deprive the applicants of rights
11 commonly enjoyed by other properties in the same zoning district under the terms of Chapter 30
12 and would work unnecessary and undue hardship on the applicant. The purchase of property, which
13 has an illegal nonconformity with Chapter 30, shall not be considered a hardship for the granting of
14 a variance, nor shall conditions peculiar to the property owner be considered.
15

16 7. The Village Council finds the request consistent with the criteria of subsection (7), in
17 that the variance granted is the minimum variance that will make possible the reasonable use of the
18 land, building, or structure.
19

20 8. The Village Council finds the request consistent with the criteria of subsection (8), in
21 that the grant of the variance will be in harmony with the general intent and purpose of the
22 Comprehensive Plan and Chapter 30, and that the variance will not be injurious to the area involved
23 or otherwise detrimental to the public welfare. The request may be considered in harmony with the
24 general intent and purpose of the Comprehensive Plan because the scale and size of the sign is
25 compatible with the character and height of other signs along US 1 in the immediate and
26 surrounding business district.
27

28 9. The Village Council accepts the recommendations of staff, as noted above.
29

30 Section 4. Order.
31

32 1. The Village Council grants the variance requests, that in the approval of the survey,
33 the same be substantially in accordance for that submitted for the hearing entitled "Proposed Sign:
34 Sir Galloway Cleaners" at 14600 South Dixie Hwy, Miami, Florida 33157, consisting of two sheets
35 date stamped received August 15, 2012, as prepared by Saul Signs, Inc., which requests an additional
36 sign area of 12.5 square feet to the existing free standing sign (which is authorized at 30 square feet),
37 with conditions pursuant to Section 30-30.6 of the Code.
38

39 2. This is a final order.
40

41 Section 5. Record.
42

43 The record shall consist of the notice of hearing, the applications, documents submitted by
44 the applicant and the applicant's representatives to the Village of Palmetto Bay Department of
45 Planning and Zoning in connection with the applications, the county recommendation and attached
46 cover sheet and documents, the testimony of sworn witnesses and documents presented at the

1 quasi-judicial hearing, and the tape and minutes of the hearing. The record shall be maintained by
2 the Village Clerk.

3
4 Section 6. This resolution shall take effect immediately upon approval.

5 PASSED and ADOPTED this 17th day of December, 2012. (Executed January 7th, 2013)

6
7
8 Attest: Meighan Alexander
9 Meighan Alexander
10 Village Clerk

Shelley Stanczyk
Shelley Stanczyk
Mayor

11
12 APPROVED AS TO FORM:

13
14 Eve A. Boutsis
15 Eve A. Boutsis
16 Village Attorney
17

18
19
20 FINAL VOTE AT ADOPTION:

- 21
22 Council Member Patrick Fiore YES
23
24 Council Member Tim Schaffer NO
25
26 Council Member Joan Lindsay YES
27
28 Vice-Mayor John DuBois YES
29
30 Mayor Shelley Stanczyk YES