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**RESOLUTION NO. 2013-52**

**ZONING APPLICATION VPB-13-008**

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; DENYING THE SETBACK VARIANCE REQUEST FOR HUMBERTO & TALIA SEZUMAGA, 8130 SW 138TH STREET, TO PERMIT AN ADDITION WITHIN THE SETBACKS ON A PARCEL ZONED E-M; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Applicants, Humberto & Talia Sezumaga, made an application pursuant to section 30-30.6 of the Village's Land Development Code to obtain a variance of setback requirements to permit an addition within the setbacks on a parcel zoned E-M, bearing the address 8130 SW 138th Street, and folio number 3350220070140; and,

WHEREAS, the applicant seeks a setback variance to permit bedroom additions to an existing single-family home to setback 22.5 feet where 25 feet is required from the (west) side street property line; and,

WHEREAS, the existing single-family home was built in the 1960's on a corner lot; 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 May 20, 2013; and,

WHEREAS, the Mayor and Village Council finds, based on substantial competent evidence in the record, that the application for a setback variance should be denied as inconsistent with the standards delineated in 30-30.6, of the Land Development Code; and,

WHEREAS, based on the foregoing finding, the Mayor and Village Council determined to deny the application, 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 May 20, 2013, 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 applicants are requesting a variance of setback requirements to permit bedroom additions to an existing single-family home to setback 22.5' where 25' is required from the (west) side street property line on a parcel zoned Estate Modified Single-Family District (E-M). The subject property is a corner lot, consisting of a single-family three bedroom, two

1 bath home built in 1960 and located within the Green Briar Acres Subdivision. The  
2 applicants wish to remodel and increase the existing square footage of the home from 2,211  
3 sq. ft. to 4,292 sq. ft. to accommodate the family's needs. The applicants have obtained  
4 signatures in support of the variance request from the adjacent property owners.  
5

6 2. The property is a legally platted parcel located within the Green Briar Acres  
7 Subdivision. The property complies with the minimum lot size requirements for the zoning  
8 district and is of typical rectangular configuration. The Village Council found that there are  
9 no special conditions or circumstances which are peculiar to the land or existing structures  
10 on site.  
11

12 3. The Planning and Zoning Department found no special condition's contained on the  
13 site or in its configuration, which site is a legally platted, conforming parcel.  
14

15 4. Granting the request would provide the applicants a special privilege by allowing  
16 them to extend the principle structure into the setback by 2.5' as compared to the adjacent  
17 homes in the immediate neighborhood. The homes fronting SW 82<sup>nd</sup> Avenue have all been  
18 constructed with a 25' or greater setback. These homes along the avenue face the area into  
19 which the applicants request to encroach. Allowing the variance would be contrary to the  
20 requirements of 30-30.6(b).  
21

22 5. The property meets all zoning requirements as to lot size, depth, frontage etc.  
23 Therefore, there is no evidence in the record that the current use would result in an  
24 unnecessary hardship as there is no illegal nonconformity, nor any physical limitations to the  
25 land. The applicants are entitled to construct and or remodel a single family home within the  
26 permitted code provisions.  
27

28 6. The request is not in harmony with the general intent and purpose of the  
29 Comprehensive Plan because the setbacks of the proposed addition to the single-family  
30 home would not be compatible with the existing setbacks of the single-family homes in the  
31 surrounding neighborhood.  
32

33 7. No one spoke in opposition to the applicants' requests.  
34

35 8. The Village Council had not substantive disclosures regarding ex parte  
36 communications and the applicant raised no objections as to the form or content of any  
37 disclosures by the Council.  
38

39 Section 3. Conclusions of law.

40 Pursuant to Section 30-30.6 of the Code, the request for a variance is denied.  
41

42 Section 4. Order.

43 1. Pursuant to Section 30-30.6 of the Code, the request for a variance is denied, and the plans  
44 entitled "Sezumaga Residence at 8130 SW 138<sup>th</sup> Street, Miami, FL 33158" consisting of six sheets

1 dated stamped received April 4<sup>th</sup>, 2013, as prepared by Chisholm Architects –Planners-Interior  
2 Designers are disapproved.

3  
4 2. This is a final order.


5  
6 Section 5. Record.

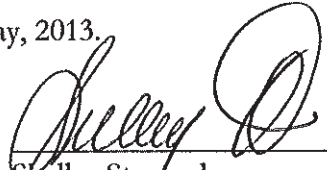
7 The record shall consist of the notice of hearing, the applications, documents submitted by  
8 the applicant and the applicants' representatives to the Village of Palmetto Bay Department of  
9 Planning and Zoning in connection with the applications, the county recommendation and attached  
10 cover sheet and documents, the testimony of sworn witnesses and documents presented at the  
11 quasi-judicial hearing, and the tape and minutes of the hearing. The record shall be maintained by  
12 the Village Clerk.

13  
14 Section 6. This resolution shall take effect immediately upon approval.


15 PASSED and ADOPTED this 20<sup>th</sup> day of May, 2013.

16  
17 Attest:

18   
19 Meighan Alexander  
20 Village Clerk

21   
22 Shelley Stanczyk  
23 Mayor

24 APPROVED AS TO FORM:

25   
26 Eve A. Boutsis  
27 Village Attorney

28  
29  
30 FINAL VOTE AT ADOPTION:

31  
32 Council Member Patrick Fiore NO  
33  
34 Council Member Tim Schaffer YES  
35  
36 Council Member Joan Lindsay YES  
37  
38 Vice-Mayor John DuBois YES  
39  
40 Mayor Shelley Stanczyk YES