

RESOLUTION NO. 2018-110

ZONING APPLICATION VPB-18-003

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; PURSUANT TO SECTION 30-30.6, VARIANCES, AND SECTION 30-50.4, E-M ZONING DISTRICT, AUTHORIZING AN INTERIOR SIDE SETBACK VARIANCE REQUEST FOR REYNALDO AND YANELIS PEREZ AT 7620 SW 160TH TERRACE TO PERMIT THE CONSTRUCTION OF A SWIMMING POOL AND COVERED TERRACE WITHIN THE INTERIOR SIDE SETBACKS OF A PARCEL ZONED ESTATE MODIFIED (E-M); AND PROVIDING AN EFFECTIVE DATE.

(Sponsored by Administration)

WHEREAS, the applicants, Reynaldo and Yanelis Perez made an application for a variance to reduce the interior side yard setback from 20 feet to 10 feet to construct a swimming pool, and from 15 feet to 10 feet to construct a covered terrace attached to an existing single-family home; 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 October 15, 2018; and

WHEREAS, the Mayor and Village Council finds, based on substantial competent evidence in the record, that the application for the variance is consistent with the Village of Palmetto Bay’s Comprehensive Plan and the applicable Land Development Regulations; and

WHEREAS, based on the foregoing finding, the Mayor and Village Council determined to grant 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 application was held on October 15, 2018 in accordance with the Village’s “Quasi-judicial Hearing

1 Procedures". Pursuant to the testimony and evidence presented during the
2 hearing, the Village Council makes the following findings of fact,
3 conclusions of law, and final order.

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5 **Section 2.** Findings of fact.

- 6
7 a. That the property is located at 7620 SW 160th Terrace.
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9 b. The requested variance is consistent with the Village's Comprehensive
10 Plan, as further specified in the Analysis Section of the Village's Staff
11 Report.
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13 c. After hearing testimony from staff, the applicant, the applicant's
14 experts, and the public, the Village Council found the variance
15 requests are consistent with the variance criteria at Section 30-30.6(e),
16 of the Village's Land Development Code.
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18 d. The Village adopts and incorporates by reference the Planning and
19 Zoning Department Staff Report, which expert report is considered
20 competent substantial evidence.
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22 e. The Village Council did not have any substantive disclosure regarding
23 ex-parte communications and the applicant did not raise any objections
24 as to the form or content of any disclosures by the Council.
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26 **Section 3.** Conclusions of law. The requested variance was reviewed
27 pursuant to Section 30-30.6(e) of the Village's Land Development
28 Regulations and was found to be consistent.
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30 **Section 4.** Order. The Village Council approves the variance
31 requests to reduce the interior side yard setback from 20 feet to 10 feet to
32 allow the construction of a swimming pool, and from 15 feet to 10 feet on
33 the same side to allow the construction of a covered terrace for the
34 property located at 7620 SW 160th Terrace, subject to the following
35 conditions:
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- 37 1. The 6-foot high masonry is required and remains to serve as a
38 privacy buffer between the pool, deck and terrace at ground level.
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- 2. A landscape plan is required that shows landscaping as depicted in the diagrams, with sufficient height and density of tree canopy to assure privacy and noise buffering between the two neighbors at the second-floor level, and that tree canopy is to be maintained by the applicant and successors.
- 3. The landscape plan and site plan shall continue to affirm that no existing oaks shall be removed or moved, and that this is a condition of approval of the request to be maintained by the applicant and successors, unless removal is for safety of habitat, property or persons.
- 4. The covered terrace is not to be enclosed or screened at the second-floor level within the 15-foot setback area.
- 5. The interior side setback variance cannot be used for any additions to the house or terrace, except the additions approved in the site plan for this hearing; however, any future requests for a variance hearing are not precluded or prejudiced by this condition.

This is the final order.

Section 5. Record. The record shall consist of the notice of hearing, the applications, documents submitted by the applicant and the applicants' representatives to the Village of Palmetto Bay 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 15th day of October 2018.

Attest:

DocuSigned by:
Missy Arocha
 Missy Arocha
 Village Clerk

DocuSigned by:
Eugene Flinn
 Eugene Flinn
 Mayor

1 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
2 USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY ONLY:

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DocuSigned by:
Dexter W. Lehtinen
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Dexter Lehtinen, Esq.
Village Attorney

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FINAL VOTE AT ADOPTION:

- Council Member Karyn Cunningham YES
- Council Member David Singer YES
- Council Member Larissa Siegel Lara YES
- Vice-Mayor John DuBois YES
- Mayor Eugene Flinn YES