



Department of Planning, Zoning and Code Compliance  
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## Staff Analysis and Recommendation

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**To:** Planning and Zoning Board  
**From:** Darby P. Delsalle, AICP  
Director, Planning Department

**Re:** **HEARING NUMBER:** VARH2016-019  
**APPLICANT:** Jesus Reyes  
**FOLIO:** 32-2014-010-1110  
**LEGAL DESCRIPTION:** Lot 29, Block 5, MIAMI LAKES LOCH NESS  
SECTION, according to the Plat thereof as  
recorded in Plat Book 93, Page 45, of the  
Public Records of Miami-Dade County,  
Florida  
**LOCATION:** 7560 Loch Ness Drive  
Miami Lakes, Florida 33014

**Date:** February 28, 2017

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### REQUEST(S)

In accordance with the Town of Miami Lakes Land Development Code (the "Town's LDC"), Jesus Reyes (the "Applicant") is requesting the following variance:

A variance from Subsection 13-1509(b)(1)a. to permit a 6 foot high masonry fence within a required front yard facing a street where the Code does not otherwise permit.

## **A. Summary of Proposal**

The Applicant is requesting a variance to permit the construction of a CBS fence within the required 25 feet front setback facing a street on a cul-de-sac. As applied to this uniquely shaped lot, the Code identifies the front yard to be the first 25 feet along primary street frontage, that being Loch Ness Drive. The Applicant is requesting the proposed fence to be setback 12 feet (25 feet required) from the front property line facing the street (7560 Loch Ness Drive), excluding the front portion of the residence.

The configuration of the property is not typical to the neighborhood as it is triangularly shaped leaving a large, yet narrow side yard that is adjacent to a neighborhood park located at the end of the cul-de-sac. The rear of the property abuts the canal. The proposal includes continuous landscaping with hedges and trees in front of the fence minimizing its visual impact. No portion of the proposed masonry face encloses around the front façade of the home.

Included with the application package is a letter from the Loch Ness homeowner's association, Inc., supporting the applicant's request.

## **B. Staff Recommendation**

Taking into account the above factors, and as further analyzed in the variance criteria below, there exists a "Practical Difficulty" with regard to siting a masonry fence in manor consistent with most of the properties in the neighborhood. As such, staff recommends **conditional approval** provided:

1. The fence be setback 12 feet from the front property line;
2. No portion of the fence is located in front of the front façade of the home; and
3. A continuous landscape area is included and maintained with hedges and trees along the front facing of the fence,.

## **C. Background**

**Zoning District of Property:** RU-1 – Single-Family Residential District,

**Future Land Use Designation:** Low Density Residential

### **Subject Properties:**

The subject property is located at 7560 Loch Ness Drive, on a residential development adjacent to a canal on the southern part and the Palmetto Expressway on the northern side within Miami Lakes Loch Ness Section subdivision. The property is located within the Low Density Residential Future Land Use Designation and is zoned RU-1 (Single-Family Residential District).

**Surrounding Property:**

	Future Land Use Category	Zoning District
<b>North:</b>	Low Density Residential	RU-1
<b>South:</b>	Low Density Residential	RU-1
<b>East:</b>	Low Density Residential	RU-1
<b>West:</b>	Low Density Residential	RU-1

**Subject Property Location Map**



not to scale

**D. Open Building Permit(s) / Open Code Compliance Violation(s) / Zoning History:**

There are no open building permit applications or open code violations associated with this property.

**E. Variance Criteria Analysis**

Subsection 13-305(f)1 of the Town Land Development Code provides criteria for the consideration of non-use variance request(s) predicated upon a standard of “Practical Difficulty.” The decision of the Planning and Zoning Board shall balance the rights of property owners in the Town as a whole against the need of the individual property owner to deviate from the requirements of the Land Development Code based on an evaluation of the factors below. All of the factors should be considered and given their due weight, however no single factor is dispositive. All portions of this report are incorporated into this Variance Criteria analysis.

	<b>PRACTICAL DIFFICULTY VARIANCE FACTORS</b>
	<b>FACTOR</b>
a.	<p><b>Whether the Town has received written support of the specifically identified variance requests from adjoining property owners.</b></p> <p><i>Analysis:</i> The Loch Ness homeowner’s association, Inc., provided a letter supporting the applicant’s request.</p> <p><i>Finding:</i> Complies</p>
b.	<p><b>Whether approval of the Variance would be compatible with development patterns in the Town.</b></p> <p><i>Analysis:</i> See Section A, Summary of Proposal. Because of the irregular shape of the property, full compliance with Code provisions would deny the property owner the benefit of an enclosed yard area as enjoyed by other properties in the neighborhood. To mitigate the impact of the masonry fence, the applicant is proposing to off-set the structure 12 feet from the property line, fully landscape its facing to soften the view, and to keep the front façade of the home unobstructed. In this regard the request may be considered compatible with the development standards of the town.</p> <p><i>Finding:</i> Conditionally complies provided the inclusion of the landscape screening, no portion of the fence is located in front of the house, and it is setback 12 feet from the front property line.</p>
c.	<p><b>Whether the essential character of the neighborhood <i>would</i> be preserved.</b></p> <p><i>Analysis:</i> See Criteria “b” above and Section A, Summary of Proposal. The twelve</p>

	<p>(12) foot setback and the inclusion of the continuous landscaping of trees and hedge on this irregularly shaped lot brings the project into greater character with the aesthetics of the neighborhood.</p> <p><i>Finding:</i> Conditionally complies provided the inclusion of the landscape screening, no portion of the fence is located in front of the house, and it is setback 12 feet from the front property line.</p>
d.	<p><b>Whether the Variance can be approved without causing substantial detriment to adjoining properties.</b></p> <p><i>Analysis:</i> See Section A, Summary of Proposal. The location of the property at the end of a cul-de-sac, the proposed continuous landscaping with trees and hedges, the provided 12 foot setback, and the unobstructed view of the house façade all serve to mitigate any potential detriment that may occur to adjoining properties.</p> <p><i>Finding:</i> Conditionally complies provided the inclusion of the landscape screening, no portion of the fence is located in front of the house, and it is setback 12 feet from the front property line.</p>
e.	<p><b>Whether the Variance will do substantial justice to the property owner as well as to other property owners justifying a relaxation of this Land Development Code to provide substantial relief.</b></p> <p><i>Analysis:</i> See Criteria “b” above and Section A, Summary of Proposal. Approval of the request will allow the property owner to secure his/her property in a manner enjoyed by other property owners with standard lot configurations.</p> <p><i>Finding:</i> Conditionally complies provided the inclusion of the landscape screening, no portion of the fence is located in front of the house, and it is setback 12 feet from the front property line.</p>
f.	<p><b>Whether the plight of the applicant is due to unique circumstances of the property and/or applicant which would render conformity with the strict requirements of the Land Development Code unnecessarily burdensome.</b></p> <p><i>Analysis:</i> See Criteria “b” above and Section A, Summary of Proposal. The property is an irregular shaped lot. Denial of the request would result in an unnecessary burden on the property owner to secure his/her property in a manner enjoyed by other property owners with standard lot configurations.</p> <p><i>Finding:</i> Complies.</p>
g.	<p><b>The special conditions and circumstances which exist are the result of actions beyond the control of the applicant.</b></p> <p><i>Analysis:</i> See Criteria “b” and “f” above and Section A, Summary of Proposal. The property is an irregular shaped lot, leaving limited options for the owner to provide</p>

	fencing in a manner consistent with other properties in the neighborhood. <i>Finding:</i> Complies.
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